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SENATE—*Tuesday, October 3, 1978*

(Legislative day of Thursday, September 28, 1978)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by Hon. GEORGE MCGOVERN, a Senator from the State of South Dakota.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

** * * Lord, to whom shall we go? Thou hast the words of eternal life."*—John 6: 68.

Our Father-God, like the faint-hearted disciples of old sometimes we are confused, uncertain and despairing. Only in Thy great power and wisdom can we find hope and strength. Thou has the word we need. Revive our flagging faith in Thee. Make strong our faith in one another. Let the morning light of Thy presence indwell us. Nourish our inner being by meditation upon all that is true and just and beautiful and of good report. Grant us patience, grace, and wisdom to persevere until our work is done. Then may we know Thy peace which is beyond all understanding.

We pray in the Redeemer's name. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., October 3, 1978.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable GEORGE MCGOVERN, a Senator from the State of South Dakota, to perform the duties of the Chair.

JAMES O. EASTLAND,
President pro tempore.

Mr. MCGOVERN thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. The Senator from West Virginia.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I have no need for my time.

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. The Senator from Tennessee.

THE FUTURE OF THE FREE ENTERPRISE SYSTEM

Mr. BAKER. Mr. President, I know of no one who better understands the dynamics of our complex economic system than the former Chairman of the Federal Reserve Board, Arthur Burns.

Dr. Burns recently delivered an address in Memphis, Tenn., entitled "The Future of the Free Enterprise System." I found the speech replete with historical perspective and insightful comment. Dr. Burns has provided one of the most cogent recounts of the evolution of the free enterprise system and the increasing role of Government that I have ever read. I commend it to the attention of my colleagues and ask unanimous consent that it be printed in the RECORD at this point.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

THE FUTURE OF THE FREE ENTERPRISE SYSTEM

Prediction of the economic future has always been a hazardous task. Noting this fact, a distinguished economic historian, Werner Sombart once remarked that "it is precisely the most gifted men who have made the most fundamental mistakes" in predicting the economic future. While I am by no means sure that "gifted men" are more prone to misjudge the future than are ordinary mortals, there is ample evidence that judgments of the future even by the ablest economists have often been mistaken.

Karl Marx, who revolutionized economic and political thinking over much of the world, provides an outstanding example.

Marx believed that certain tendencies inherent in capitalism would ultimately lead to its destruction. In his vision, small business firms would gradually disappear as capitalism evolved. The concentration of production in a diminishing number of large enterprises would be accompanied by concentration of wealth in fewer and fewer hands. The middle class would thus be destroyed and the masses proletarized. Inadequate consumption would lead to recurring epidemics of overproduction, and depressions of increasing severity would follow. As the misery of the proletariat deepened, resistance to capitalist exploitation would intensify and become more militant. With such powerful tendencies at work, the capitalist order was bound to collapse; it was only a matter of time when the capitalists would be expropriated and all instruments of production socialized.

Thus, according to Marx's theory, the failure of capitalism in its later stages to meet even elementary economic needs of the working masses would inevitably lead, although not without intense struggle, to the replacement of free enterprise by a socialistically planned regime.

In our own century, another great economist, Joseph Schumpeter, brilliantly challenged Marx's analysis. Schumpeter saw in capitalism a highly efficient engine of mass production and mass consumption. In his view the capitalist spirit expresses itself characteristically through innovation—that is, developing new commodities, devising new technologies, harnessing new sources of supply, devising new market strategies, forming new types of organization. The competition of new products and new ways of doing business against old products and customary procedures—that is the essence of the capitalist process. This competition of the new against the old is what really matters in the business world; it has been continuing at a rapid pace, and it accounts for the vast improvement in living standards wherever capitalism has flourished. Indeed, not only economic improvement, but the major achievements of modern times in the sciences and arts are, directly or indirectly, the products of capitalism.

Being a student of business cycles, Schumpeter was well aware of recurring business slumps and their spells of unemployment. But he regarded recessions as temporary phenomena that paved the way, so to speak,

to more effective utilization of resources and therefore to still higher standards of living. He went on to argue, nevertheless, that the great economic and cultural achievements of modern capitalism did not assure its future; on the contrary, the very success of capitalism would eventually cause its replacement by a socialist civilization. He thus accepted Marx's conclusion but not the analysis on which it was based.

According to Schumpeter, capitalism would be destroyed by factors growing out of its own inner processes. As business corporations became larger, they would become bureaucrat and impersonal. The entrepreneurial function of innovating would be largely assumed by trained specialists. Increasing affluence would provide both the means and the will to expand social programs and thus lead to a growing role of government. The intellectual class created and nourished by capitalism would become increasingly hostile to its institutions. Animosity toward free enterprise would be exploited by government officials seeking additional power for themselves. The general public would fail to support free enterprise because the issues debated in the the public arena are much too complex and often involve long-range considerations that go beyond popular concern. Even businessmen would become increasingly willing to accept the teachings of their detractors. In this social and political environment, capitalist enterprise would in time be undermined and finally replaced by socialism.

Thus, Schumpeter arrived at precisely the same conclusion as Karl Marx. But whereas Marx attributed the eventual coming of socialism to the failure of capitalism, Schumpeter attributed it to the outstanding success of capitalism.

When we turn from the theories of Marx and Schumpeter to recorded experience, several facts immediately stand out. First, we find that the nations practicing socialism in Marx's and Schumpeter's sense had either banished free enterprise under external military pressure, as in the case of Eastern Europe, or had undergone an internal revolution without ever developing a significant degree of free enterprise, as in the case of the Soviet Union and mainland China.

Second, we find that greater economic success has been generally achieved in nations that extensively practice free enterprise than in nations where it is prohibited or severely limited. The economic performance of the United States, West Germany, and France has been more impressive than that of the Soviet Union or East Germany or Poland. Likewise, the economic performance of Japan, Taiwan, or Brazil has clearly surpassed that of India, Sri Lanka, or Egypt.

Third, although Marx's analysis continues to appeal to many intellectuals, his elaborate theoretical structure has been discredited by experience. Instead of bringing economic misery to the masses, capitalism has produced vast improvements in their economic condition. True, socialism has triumphed in some countries, but the triumph was achieved in a far different way than Marx had envisaged.

On the other hand, Schumpeter's theory that capitalism would eventually be destroyed by its very success in improving the lot of people cannot be dismissed so readily. His prognosis may or may not turn out to be valid. But there is no denying that much of what has happened in recent decades in countries that boast of practicing free enterprise fits rather closely his theoretical model.

Let me speak more specifically about one prominent feature of Schumpeter's analysis—namely, the expanding role of government in economic life. The broad trend of American economic development has been toward increasing emphasis on the service industries, and the government has become the channel through which much of the public's demand for services is satisfied. As our economy has undergone industrialization and urbanization, there has been a steady increase in the interdependence of people—that is, in their reliance on the wisdom and enterprise, and also in their exposure to the folly and indolence, of their neighbors. In such an environment, social and economic problems often arise that cannot be adequately handled by private enterprise and governmental activities therefore tend to expand.

The spread of political democracy has accentuated the trend toward seeking governmental solutions of economic and social problems. With more people in the lower income groups taking advantage of the right to vote and with advocates of all sorts active in legislative halls, demands on the government have been mounting—to eliminate or regulate private monopoly, to conserve natural resources, to strengthen trade unions, to raise minimum wages, to protect the environment, to improve housing conditions, to protect unwary consumers, to subsidize agriculture or other industries, and so on and on.

The range of governmental activities has thus been steadily expanding and so too has the cost. In 1929 governmental expenditure—that is, the combined total of Federal State, and local spending—amounted to 11 per cent of the dollar value of our Nation's entire production of goods and services. The corresponding figure rose to 20 per cent in 1940, 23 per cent in 1950, 30 per cent in 1960, 35 per cent in 1970, and 37 per cent in 1977.

The sharply rising trend of governmental spending has, of course, involved a steady increase in the fraction of the nation's labor force that works directly or indirectly for the government. But our government affects the economy not only by employing people or by purchasing supplies and equipment from private industry. In addition, vast sums of money are transferred by the government to individuals not involved in current production—that is, beneficiaries of public retirement funds, unemployment insurance, medicare, aid to veterans, food stamps, etc. And our government also affects the economy by guaranteeing a variety of private loans and by regulating numerous industrial, commercial, and financial practices.

All these activities, particularly transfer payments and governmental regulation, have grown by leaps and bounds in recent years. Transfer payments, which were merely 3 per cent as large as the Nation's total wage and salary bill in 1930, rose to 11 per cent by 1965 and reached 21 per cent in 1977. The Federal Register, which records governmental regulations, ran to 3,400 pages in 1937, but swelled to about 10,000 pages in 1953 and 65,000 pages in 1977. At least 90 Federal agencies are now involved in issuing governmental regulations. Funds allocated for regulation in this year's Federal budget amount to $4.5 billion—more than twice the expenditure in 1974. This figure, of course, omits the expenditures on regulation by our State and local governments. And it omits also the enormous costs of compliance imposed on private industry. According to a recent investigation by the Center for the Study of American Business at Washington University, these compliance costs amounted to $63 billion in 1976.

The proliferation and increasing cost of governmental activities in our country have resulted in a growing burden of taxation—higher income taxes, higher sales taxes, higher property taxes, higher social security taxes. Even so, the willingness of our government to raise revenue by taxation has fallen distinctly short of its propensity to spend.

Since 1950 the Federal budget has been in balance in only five years. Since 1970 a deficit has occurred in every year. Budget deficits have thus become a chronic condition of Federal finance; they have been incurred in years when business conditions were poor and also when business was booming. Not only that, but the deficits have been mounting in size. In the fiscal year now ending, the deficit is likely to exceed $60 billion when "off-budget" outlays are included in the total—as they indeed should be. Instead of vanishing or diminishing as the economy improves, which was once accepted practice, the deficit has been increasing in the course of the current economic expansion.

The persistence of substantial deficits in our Federal finances is mainly responsible for the serious inflation that got under way in our country in the mid-sixties. Let us never forget the simple fact that when the government runs a budget deficit, it pumps more money into the pocketbooks of people than it takes out of the pocketbooks. That is the way a serious inflation is typically started and later nourished. And when the deficit increases at a time of economic expansion, as it has been doing lately, we should not be surprised to find the rate of inflation quickening. Of course, other factors—particularly, money creation by our central bank and the power wielded by trade unions—have played their part in the inflationary process.

The growing intervention of government in economic affairs that has taken place in the United States has been matched or exceeded by similar developments in other countries that we think of as continuing to practice free enterprise. The causes of this increasing peneration of government into the economic life of individual countries have been broadly similar—namely, industrialization and urbanization, increasing interdependence of people, faster communication through radio and television, rising expectations of people, wider participation of citizens in the political arena, and increasing reliance on government for the solution of economic and social problems.

The degree of government participation in economic life has thus been increasing in every industrial country outside the Socialist sphere. To cite some examples: government expenditure in the United Kingdom amounted to 34 percent of the gross domestic product in 1962 and to 44 percent in 1975. Corresponding figures in the case of West Germany are 34 and 42 percent; in the case of France, 36 and 40 percent; in the case of Canada, 29 and 41 percent; in the case of Australia, 24 and 32 percent. A similar trend appears also in Japan; but it is worth noting that governmental spending amounted to only 23 percent of the gross domestic product of Japan in 1975—a substantially lower figure than in any other major industrial country.

And just as the rapid expansion of governmental activities in the United States has been accompanied by persistent budget deficits, that too has happened in other industrial countries. Indeed, loose governmental finance and rapid inflation have often been practiced more intensively outside the United States, and they have recently become characteristic features of major economies that still boast of free enterprise.

The world-wide inflation that has been under way since the late 1960's has become a serious threat to the free enterprise system. The fact that inflation masks underlying economic realities makes it all the more insidious. For example, the trend of retail trade and housing starts began to weaken in the United States early in 1973, but many members of the business community paid little attention to that ominous development. Nor did they recognize that standard accounting practices, which rely on historical costs in reckoning inventories and capital consumption, were resulting in enormous overstatements of their profits. Caught up in the euphoria of inflation, they built up inventories out of all proportion to actual or pro-

spective sales, and thus set the stage for the subsequent sharp decline of production and employment. What happened in the United States was paralleled in greater or lesser degree in European industrial countries and in Japan.

The corrosive effects of inflation go far beyond the distortion of businessmen's perspective. Inflation erodes the purchasing power of everyone's money income. Inflation weakens the willingness of many people to save for the future. Inflation drives up the level of interest rates. And once businessmen become aware of the illusory element in profits, inflation adds to uncertainty about the future. In an inflation-ridden environment, businessmen have no good way of judging what their costs of production may turn out to be, or what prices they may be able to charge, or what profits, if any, will accrue when they undertake new investments. The risk premium that attaches to calculations of prospective profits from new investments therefore goes up. This discourages business capital investment and hampers the improvement of productivity.

Nor is that all. As the effects of inflation spread across the economy, they in time weaken the capital market. The classical view that inflation tends to favor business profits and therefore higher stock prices no longer fits today's world of powerful trade unions, high interest rates, and a governmental bias toward consumption. Recent experience in the United States and in other countries has demonstrated that persistent inflation adversely affects stock prices as well as bond prices. Even now, despite the recent upsurge in stock prices, the Dow-Jones industrial average is below the level reached in 1965; and in view of the huge rise in the general price level since then, the stock market has obviously suffered a severe depression.

As a result of the disappointing performance of the stock exchanges, the interest of investors in equity securities has greatly diminished during recent years. Some wealthy individuals, seeking a refuge from inflation, have turned to investing in works of art, or in real estate, or in foreign currencies, gold or other commodities. Many members of the middle class, being similarly disillusioned with equities, have sought an inflation hedge by purchasing a home or an extra house when they already owned one. But the many millions who lack financial sophistication, and even some who possess it, have found no better way to protect themselves against the ravages of inflation than to let cash pile up in the form of bank deposits or other liquid assets—with the result that the purchasing power of their monetary savings has generally kept eroding.

Many professional money managers, likewise discouraged by the behavior of common stock prices, have found solace in the high yields that have become available on corporate and government bonds. And they have also displayed some tendency to shorten the maturity of their investments, so that they could shift to higher-yield securities if faster inflation served to raise interest rates another notch or two in the future. With institutional as well as individual investors switching from common stocks to other investments, brokerage firms and investment advisory services have suffered reverses. Numerous firms of this type have closed down their operations or sold out to more enterprising members of their industry. These in turn have reacted to the declining interest in equities by becoming department stores of finance—that is, by offering to their troubled customers stock options, commodity futures, municipal bond funds, money market funds, tax shelters, and so on, in addition to the more traditional services. Adjustments of this type have enabled some brokerage and advisory firms to survive and even to prosper.

But what matters most for the future of our economy is the erosion of investor interest in equity issues. In 1965 corporate shares constituted over 43 per cent of all financial assets of American households; by 1977 they were down to 25 per cent. Between 1970 and 1975 the number of individual shareowners in our country fell from about 31 million to 25 million. More significant still, this decline was concentrated among young and middle-aged people. Net purchases of equity issues by private pension funds have also slumped in recent years. So-called "equity kickers", once a prominent feature of loans placed by insurance firms, have practically vanished. As a result of this declining interest in equities, the supply of venture capital has drastically diminished in our country. Public issues by small firms have dwindled and we rarely hear nowadays of the formation of new high-technology companies.

If the skepticism about equities that has marked recent years continues in the future, it will become difficult even for some well-established corporations to finance their long-term investment projects. This difficulty will be accentuated if internally generated funds continue to provide a reduced share of total financing needs—as has been the case during the past decade of high inflation. Furthermore, if business firms are forced to rely more heavily on short-term funds, the corporate economy will become more vulnerable to financial strains in the future. In such an environment a business recession could be even more disruptive than the recession we recently experienced.

In short, the changes wrought by inflation have already weakened the framework of our economic system. They threaten to do so to a greater degree if the inflationary bias of the economy is extended. I judge from the sluggishness of stock exchanges in other major industrial countries during the past decade that, with the exception of Japan, their experience has been similar to that of the United States. If inflationary trends should persist, the economies of these countries will also face a very uncertain future.

Serious as these longer-range economic consequences of inflation appear to be, there is even greater reason for concern about its impact on social and political institutions. Inflation has capricious effects on the distribution of income and wealth among a Nation's families and businesses. Inflation eventually leads to recession and extensive unemployment, and such adversities are generally followed by new measures of governmental intervention. Inflation robs people who in their desire to be self-reliant have set aside funds for the education of their children or their own retirement. Inflation hits many of the poor and elderly especially hard. More ominous still, by causing disillusionment and breeding discontent, inflation excites doubts among people about themselves, about their government, and about the free enterprise system itself.

Such anxieties tend to spread from one country to another. In particular, when the value of our own dollar depreciates in foreign exchange markets, as has happened again during the past two years, confidence in the international economy as well as in our own tends to weaken. The ultimate consequence of persistent inflation may therefore be a decline in both the scope and the efficiency of free enterprise on a world-wide scale.

At the beginning of this address, I reviewed the theories of capitalist evolution by Marx and Schumpeter. It is interesting to observe that while Marx visualized numerous developments that would weaken capitalism, persistent inflation was not among them. Nor was this threat to our free enterprise system foreseen by Schumpeter. Nor, for that matter, was it foreseen by Keynes; both he and his early followers were concerned about vanishing investment opportunities and unemployment, not about inflation. These failures of economic vision counsel humility in any judgments about the future; and yet I keep wondering whether the inflationary development that Schumpeter had failed to foresee may not be reinforcing the very processes on which he dwelt so provocatively.

Ours is still a dynamic and prosperous economy, but the prosperity around us has become uneasy and even joyless to many thoughtful citizens. Inflation is certainly our Nation's main economic problem, but it is by no means the only economic problem. Unlike earlier times, when we were troubled either by inflation or by unemployment, we have experienced in recent times a disconcerting rise of the general price level even when unemployment was extensive. And our social economy has been beset by other problems—among them a growing burden of taxes, excessive governmental regulation, excessive power of labor, restrictive business practices, depressed business profits, deteriorating central-city areas, decline of the work ethic, and widespread crime. Not all of these ills can be ascribed to inflation. And yet this factor has had a more ramifying influence on our economy than may appear at first glance.

I have already observed that inflation ultimately leads to recession. In turn, extensive unemployment creates an environment that is favorable to new or larger welfare programs and other increases in governmental spending—increases that often outlast the recession. Again, it is at least partly because of inflation that workers, particularly when they are well organized, can achieve increases in wages that far exceed improvements in productivity. It is at least partly because of inflation that the statutory minimum wage keeps rising—thereby causing unemployment among young people and breeding crime. It is at least partly because of inflation that many of our cities have suffered physical and cultural deterioration. And, needless to add, the poverty that persists in the midst of our plenty is in no small degree attributable to inflation.

The burden of taxes has also risen because of inflation. Although deficits at the Federal level of government have become our way of life, taxes have increased along with expenditures. Indeed, Federal revenues fell below 90 per cent of Federal expenditures in only seven years since 1946. Since our individual income tax is highly progressive, the tax burden on workers goes up, just as if Congress had legislated higher taxes, even when real wages remain constant—that is, when wages in dollars simply keep pace with increases in the consumer price level. The corporate income tax, to be sure, is essentially proportional; but under conventional accounting techniques, inflation creates phantom profits on which corporations have been paying many billions of dollars in taxes. And the consequences of inflation for the capital gains tax have been still more drastic. A recent study by Professor Martin Feldstein of Harvard indicates that in 1973 individuals paid taxes on more than $4.5 billion of capital gains from corporate shares; but when the costs of the shares are adjusted for increases in the general price level, it turns out that these individuals actually experienced a real capital loss of nearly $1 billion.

Human nature inevitably takes its toll. If intense effort or large financial risks are no longer compensated by the possibility of earning large rewards, the effort and the risks will be less readily undertaken. That is the condition toward which we have been generally moving. And it is precisely because a grim future may eventually become our lot and that of other nations still enjoying freedom that big government and

the disease of inflation that comes in its train must be resisted by an alert citizenry. This need is now more widely appreciated than at any time since World War II, but it is not yet understood widely enough.

There are some faint flickerings, however, that the American people are becoming less passive about the dangers facing our Nation. The recent tax revolt of California citizens may be a symptom of a general awakening of the middle class. Of late, many politicians have been vying with one another in proclaiming inflation as our Number One problem. Trade unions have been unable to persuade Congress this year that their market power needs strengthening. Much is heard these days in Congressional halls about the importance of reducing business taxes. A move to cut back rather than increase the tax on capital gains has won widespread support. And of late we have even witnessed some minor reductions within the still swelling total of Federal expenditures.

These are interesting and promising events. As yet, they are much too tenuous and uncertain to justify extrapolation. They nevertheless suggest that the time may be right for a serious attack on the inflation that has been plaguing our country. That will not be an easy task, but it will be even harder if we hesitate or delay. Once an economy has become engulfed by expectations of inflation, economic policy makers no longer have very good choices. Still, much can in time be accomplished with determined leadership.

Restrictive monetary and fiscal policies, if pushed far enough, are always capable of bringing inflation under control; they might, however, also unsettle the economy by bringing on extensive unemployment. To minimize that risk, it would be wise to supplement monetary and fiscal policies with carefully selected structural policies. A prescription for a balanced attack on the inflation problem might therefore run as follows in today's environment: first, that the Federal Reserve continue its present moderately restrictive monetary policy without interference by the Congress or the White House; second, that the budget for next year permit a substantial cut in the Federal deficit and that the move toward budgetary balance be completed within the following two years; third, that this and next year's increase in the salaries of Federal employees be scaled down to one-half the figure suggested by wage comparability studies; fourth, that the President cut his own salary by, say, 10 per cent and call on all Presidential appointees and members of Congress to do likewise; fifth, that the President reinforce these examples for the Nation by calling on top corporate executives to refrain from any increase in their compensation over the next two years; sixth, that a national center be promptly established for encouraging the organization of productivity councils across the nation, factory by factory and shop by shop, with a view of cooperation by management and labor in raising output per manhour; seventh, that we make a start towards blunting the cost-raising measures that we have allowed to flourish—such as tariffs, import quotas, farm price supports, and minimum wage laws, and that we also postpone the target dates that have been set for environmental and safety regulations.

In the course of my remarks this evening I have dwelt on the corrosive influence of inflation because I consider this the greatest danger to our free enterprise system. I am convinced that inflation is a disease that can be brought under control; but that will happen only when the will to do so becomes strong enough. In our country there is a powerful political constituency behind each of the government's spending programs, behind every tariff and import quota, behind every regulation that protests a particular group from the pressures of competition. We have powerful political constituencies in favor of perennially easy credit. We have powerful political constituencies in favor of other public or private arrangements that benefit some groups but raise prices to everyone. Our urgent need now is for a nationwide constituency that will fight for the permanent interest that we as a people have in a dollar of stable purchasing power.

Other nations—notably, Germany, Switzerland, and Japan—have demonstrated that inflation can be unwound. Even Great Britain has recently succeeded in reducing its inflation rate sharply. If we and other inflation-ridden nations succeed in curbing inflation within the framework of our basic institutions, we may yet experience a true economic renaissance in the Western world. On the other hand, if the present world-wide inflation continues, a command economy may eventually be the bitter fruit of this generation's complacency and neglect. It is the duty of each of us to do what we can to prevent this from happening.

SPECIAL ORDER

The ACTING PRESIDENT pro tempore. Under the previous order the Senator from Arizona (Mr. GOLDWATER) is recognized.

Mr. GOLDWATER. Mr. President, I have an order for 15 minutes.

Mr. BAKER. Would the Senator like to have the time I have remaining?

Mr. GOLDWATER. Yes.

Mr. BAKER. Mr. President, I yield the time remaining under the standing order to the distinguished Senator from Arizona.

ARE WE GETTING ENOUGH FOR OUR DEFENSE DOLLAR?

Mr. GOLDWATER. Mr. President, by all the best yardsticks of military strength, the Soviet Union is doing just fine for itself. Its nuclear arsenal is growing in bulk and sophistication, its conventional forces are now deployed worldwide with impressive technologies, and its allies seem to be cooperating rather than feuding with Moscow. Just recently Fidel Castro appeared in Addis Ababa to celebrate the anniversary of socialism's victory in Ethiopia—a disturbing sight for all those Americans who gave years to promoting our own alliance with this strategically important African state.

From all the testimony of American defense experts, on the other hand, our own military capabilities appear to be suffering. Secretary of Defense Brown seems to have adopted a more realistic tone, but even his measured appraisals of the Soviet threat hint at our weaknesses. More strident voices in this country warn of impending doom for us, should current military trends in Moscow's favor continue.

Yet, the American defense budget continues to grow. When one adds to the size of the Pentagon's direct funding, all the orders for military sales abroad, it is a fact that the defense industry of this country is not doing badly either. Indeed, one answer to growing Soviet power, according to a number of defense-oriented groups in this country, sounds all too familiar an echo from the domestic realm: sprinkle more money on the problem.

Well, for those of us who believe in a national defense second-to-none, but also believe that the almighty dollar cannot solve all our problems at home and abroad, there is trouble ahead for our military power, if we conceive of it in monetary terms alone. For any sound defense, a national commitment to spend vast sums of money must be matched by a governmental pledge to spend such money wisely. Are we getting enough for our defense dollar? After years of stalwart support and painstaking study of our defense establishment I must answer this question with a qualified "no." I qualify my answer, because there is no defense organization in the world with more talented civilian and military personnel, with more technological knowhow, and with more political accountability than ours. Yet, at the same time, partly because of its achievements, this same defense organization has been pampered by the President and the Congress into thinking that it has a measure of sacred-cow status in our national spending priorities. Like every sacred cow, the Department of Defense has grown fat—it has become a prime target for its critics and the despair of its friends.

What can we do about defense spending, aside from blind and savage cutting? We can offer constructive criticism and meaningful solutions. This I propose to do here.

Three major deficiencies exist in our defense planning, each of them conducive to military spending that is either unwise or downright wasteful. First, there is something of a mismatch between our weaponry and our foreign policy. Second, there is an unstudied and seemingly wasteful method of procurement. And third, there is duplication in the armed services.

A MISMATCH BETWEEN FOREIGN POLICY AND WEAPONS

Beginning with the mismatch between foreign policy and weapons, let us be frank: War is regrettably a central part of international relations and will remain so until such time as the world is more orderly. It has been a cardinal principle of American foreign policy since our founding that we would use our growing power to promote a world under law not violence. But even lawful behavior in domestic societies is supported by the power of organized governments, and the scanty civil behavior we find in international politics seems guaranteed by the power of nations. National power is still largely a result of military preparedness. National interests are still protected mainly through the agency of force. Even those well-advertised "limits" to military power in today's international community are enforced by the ability of nations to defend themselves by force if necessary. These facts are no license for militarism, of course, but they are reminders that a sound foreign policy must have adequate military means—including weapons—at its disposal. The "match" between foreign policy and weapons comes from our national security planning.

What is the condition of our national security planning today? Most people in this Government seem uninterested. Do

we even care about the concept of national security anymore? Some academics would have us believe that the very concept is less and less useful in today's "interdependent" world. Economics seem to be taking away some of the glamour from military planning. "The best and the brightest" head for the intricacies of trade these days rather than the ambiguities of national security.

It is doubtful we can so neatly separate military and economic power. Lest we forget, the lessons of the Yom Kippur war in 1973 had something to do with linkages between these two forms of power. And in any event, the world seems no more orderly today, no less sensitive to military considerations than in earlier times. Ideologies of progress should not blind us to the constant presence in world affairs of those primitive instincts toward violence that encourage aggression.

National security planning involves a trinity: Leadership, consensus, and institutions. One of these institutions is the Department of Defense which provides the instruments for deterrence and possible war. Of these instruments, modern weapons are obviously very important. Leadership determines a foreign policy to be supported by these weapons. In a world still beset by complicated conventional wars, ranging from civil disturbances to regional conflicts, the United States has been moving steadily toward greater reliance on nuclear weapons. Leaving aside the question of national consensus which, with leadership, provides the foundation for national security policy, we can still wonder whether such a nuclear emphasis is likely to enhance or diminish our military influence in an era of complex conventional warfare.

Even if we develop greater and greater nuclear flexibility, tactical, and strategic, are we not putting the weapons emphasis in the wrong place? Our neglect of the fundamental question, "What is national security in today's world?", may be responsible for our building arsenals of such foreboding power that they are irrelevant and powerless in future conflicts where our interests are at stake.

If we do not devote more energy to national security planning—and by this I mean public discussion in the Congress and elsewhere and not simply highly classified studies in the executive branch—we will not be able to make final judgments about the adequacy of our national defense. Weapons are means to foreign policy objectives. We are not clear on these objectives today. A lot of money can be wasted on an irrelevant defense.

What can the Congress do to take steps which might alleviate this condition? I have suggested on numerous occasions over the years that we should either combine the Foreign Relations Committee and the Armed Services Committee into one or we designate members of each committee to serve in an ad hoc capacity on the other committee. If we do this in both Houses, in my opinion, those people charged with the responsibility of authorizing and obtaining weapons systems will be in a better position to know what systems should be obtained if they have a better idea of what foreign policy is being discussed or, maybe, to put it another way, what policy planners, the National Security Council, Joint Chiefs, and so forth, are thinking of as possible theaters of war.

DEFICIENCIES IN WEAPONS PROCUREMENT

Even if we have no clear conception at this point about how our policy ends relate to military means, a second deficiency exists in our current defense planning. This is the deficiency of procurement of our weapons. It is very costly. It is also not subject to much public discussion. There is a tendency among all the military services to incorporate too many new technologies into weapons. One factor contributing to this tendency is the lack of adequate planning in the early stages of a weapons program, where missions are conceived and translated into system performance specifications. Examples include the Trident submarine, various high-performance aircraft, and the DDG–47 guided missile destroyer is (a destroyer that would have five anti-aircraft systems, three antisurface ship systems, five ASW systems, and six command and control systems). The desire to maximize weapons sophistication can result in cost overruns, delays in weapons construction, and antagonism between the services and private contractors.

Procurement problems like those mentioned relate to the first deficiency, a mismatch between national security planning and weapons. At the instigation of the Congress, the Office of Management and Budget has issued guidelines for Department of Defense procurement policy, guidelines endorsed by the Carter administration. I hope these changes will be meaningful ones. Increased funding for basic research and development is planned. More to the point of building sophistication into weapons systems without adequate national security guidance, decisions to develop major weapons systems have been postponed until the President, Secretary of Defense, and the Congress approve the weapon's purpose. Changes seem designed to insure that the Secretary of Defense will decide that missions are valid before the system is built, and that once such decisions are made, outside interference will be minimized.

Changes in procurement practices have usually focused on cost overruns and delays. With good reason. The latest proposed changes seem motivated by similar concerns. This represents an almost universal anxiety that the Department of Defense may be devouring itself in its own overhead, between costs incurred for personnel and weapons, because of poor management. We should not forget, however, that there is another dimension to waste, and that is buying what you do not need. Hopefully, the instigation of high-level review of missions for weapons in the Department of Defense and National Security Council, before these weapons are built in any quantity, will alleviate this form of waste. So many efforts like the latest one have been made in the past by other administrations. One becomes a bit skeptical about real change for the better. In this regard, the Senate Armed Services Committee has not held major hearings on defense procurement policies.

DUPLICATION IN THE ARMED SERVICES

Third and finally, a major deficiency in our current defense planning, again very costly, is duplication in the armed services. There has been some talk about this problem, usually put in terms so antagonistic to various branches of the military that the individual services have reacted in a defensive manner. Perhaps my observations will meet with a similar defensiveness—and deafness—in the Pentagon, but they stem from a belief that a strong national defense is one with the least fat in each dollar spent.

We maintain four separate air forces—the U.S. Air Force, Army, Navy and Marines. We train pilots in all these Air Forces. Why not train in only one at the basic level, and then specialize?

There is a lack of commonality between helicopters in the various services. An Air Force base can provide ammunition for the Army's AH–1G and AH–1S helicopters, but no Tow missiles and only limited repair. The Marine's Seacobra has relatively little commonality with the Army systems.

Today, helicopter training for the Air Force and the Army is accomplished under one school, Fort Rucker of the Army. The Navy and the Marines have resisted training helicopter pilots at this central school for reasons which seem to me rather senseless. They argue that flying a helicopter over water is much different from flying one over land so they have to train their own helicopter pilots. Now I happen to be helicopter-rated and just as I have applied the reason for a central training system for fixed-wing pilots. I argue for a central training system for helicopter pilots because the basics are the same. I do not care whether you are flying over water or land or what. We could give the pilots their basic training, then if the Navy or the Marines want to specialize a pilot's further training, that can be done, but I do not see anything but a wasteful program under the one we are practicing now.

Army reconnaissance aircraft cannot be processed at an Air Force base. This is because the mission equipment onboard such aircraft is either remotely controlled or reports its product to a specialized Army ground processor. Why not locate the ground processor at an Air Force base? The Army says it would still have to be sufficiently close to its corps or divisions in order to provide timely reporting in combat.

Navy and Air Force A–7's lack commonality in fuel, oil and parts. Navy and Air Force F–4's are not interchangeable, with differences in a number of items from their engines to the flight helmets of their crews. The Marine Corps and Army were unable to agree on a heavy lift helicopter configuration; even after Congress canceled the Army program, because of expense, the Army would not

join with the Marine program. Finally, the Marines and Air Force use different close air support aircraft, the Marines opting for the AV–8A V/STOL approach while the Air Force has gone with the A–10, a conventional takeoff and landing aircraft. Nonetheless, the mission of the two aircraft is the same.

Why not train in only one Air Force? Why not develop one standard weapons system? Why not have at least one new attack or fighter aircraft common to all the services? Why not one airlift command? We organized the Military Airlift Command to take care of the airlift problems of the services, but now what do we see? We see each service, the Army, the Navy, and the Air Force buying lift aircraft and while the Army and the Navy have not gotten into the C–141 or C–5 categories yet they are headed that way. Each service now has light personnel aircraft for personnel airlift in numbers far exceeding that which is actually needed. My argument is, if the Army needs people to travel from one Army base to another or the Navy needs to move Navy personnel over land between bases, let us turn it over to the Military Airlift Command and stop spending the money that we are now spending creating three different airlift forces.

Why not one test facility? Today we operate test facilities all over this country for the air and all of this could be done at one test base wherever that test base might be located. The giant facilities of Edwards Air Force Base, with their proximity to the ocean, to naval bases, and to aircraft manufacturers would, in my opinion, be the ideal place to locate the one air test facility instead of the several we now operate.

And here let me say something about conflicts within the services. The Unification Act of 1947 had as its main purpose the removal of conflicts between the different services. And while this has worked to a remarkable degree, it has not completely stamped out the politics that, understandably, go with the jealousies that exist between the services. I would never suggest that we try to stamp out this rivalry completely, because the great pride that men in uniform show for their organization creates an esprit de corps and service morale which is highly desirable.

Now, I do not want to seem nit-picking in this but I think that in any discussion such as I have engaged in here, it is necessary to point out that the Navy is not serving its own interests as well as it might. In effect, the Navy has three sets of concerns in its present structuring. It has the men of the submarine fleet who are well satisfied, because they have the equipment they need and it is probably the best equipment of its kind in the world. Then the Navy has the men who sail her surface ships—the ships that formed the original concept of our Navy as a force which would patrol the sea lanes and protect the national interests. Then within the Navy there is the so-called aviation group. And these men, understandably, look upon aviation as the most important mission the Navy serves. The aviation group numbers were increased tremendously during World War II when the carrier played such a dominant and vital role in the battles of the Pacific.

Frankly, I feel there is too much argument and dissension between the latter two groups over the question of what really constitutes the most important element of a modern Navy. To put it another way, I feel there is a lack of the kind of unanimity we must have to adequately fulfill the Navy's organizational role.

I would hope that the Navy officers involved would sit down with their Secretary and in conference with the Joint Chiefs of Staff or the National Security Council and lay out some kind of plans and concepts that will outline completely and understandably where the role of air power in the Navy starts and leaves off, and where the role of the ocean going battle vessel is to fit in. I want to see this happen, because we are having increasing difficulties in getting agreement when the Navy appears before the committees of Congress to present its needs for upcoming budgets. There is no question that similar situations could be discovered and pointed out in the other services, but I do not think any of them has developed to the point that has prompted me to make this brief discussion of the Navy.

Turning for a moment to duplication of weapons systems in NATO, the facts stagger all but the most bureaucratic imagination. A rapid growth of national European defense industries, in part fueled by worldwide arms sales competition, has led to proliferation of weapons systems performing similar missions. National research and development efforts in duplicated weapons costs the alliance a minimum of $10 billion per year by some estimates. Moreover excessive duplication in armaments has been judged by some to reduce NATO's tactical capacity by as much as 30 percent. Examples include the following:

Over 100 separate types of tactical missiles in use within the alliance.

More than 22 different antitank weapons exist in the NATO inventory.

Eight different surface-to-air missile systems.

Combat aircraft armed with a wide variety of missiles and gun systems.

Are there ways out of our major defense deficiencies? Can we take national security planning more seriously in public debate as well as in bureaucratic wranglings? Can we eliminate wasteful methods of procurement? Can we deal constructively—in our own defense establishment and abroad—with duplication? These are basic deficiencies with very costly consequences in terms of national strength and monetary outlays. They have been recognized as such for many years. The answer to these questions is "yes," but again with a qualification. We can solve these problems only if we remember that the most fundamental deficiency of all is our national security planning with its three essentials of leadership, consensus, and institutions. When properly directed toward achieving realistic foreign policy objectives, this planning can achieve wonders. We must address this first. Leadership, consensus and institutions can be mobilized for the goal of getting more out of our beleaguered defense dollar.

Mr. PROXMIRE. Will the Senator yield?

Mr. GOLDWATER. I am happy to yield.

Mr. PROXMIRE. I congratulate the Senator on a most constructive speech. There is no one in the Senate, Mr. President, who has a finer reputation and a more clearly earned reputation with regard to our military strength than Senator GOLDWATER. This morning he has made a wise and thoughtful statement on waste within the military. He has spoken about mismatch, about the four separate Air Forces, about the lack of commonality with respect to helicopters, fuel, oil, airlift, training, and the appalling duplication of weapons in NATO.

This is a message which I hope will ring loud and clear in the Pentagon. It is exactly the kind of message which makes sense from not ony a military but an economic standpoint.

If this statement is taken seriously it will mean a stronger military force.

I am not sure about the foreign policy objectives, whether we would agree on the importance of the SALT agreements, but that is something else. I think the contribution the Senator has made this morning is most useful, and I congratulate him on it.

Mr. GOLDWATER. I thank my friend from Wisconsin, with whom I find myself in almost constant agreement in this general field. In fact, he and I can remember years of attempting to consolidate the helicopter training in this country. I think we have a chance next year, because we finally have the Secretary of the Navy on our side.

I am for a powerful defense, the strongest defense we can put together. Frankly, the money end does not bother me except when we get to wasting. The Senator has sat in the Armed Services Committee with Senator BYRD and myself, and I am sure he would agree with us that we see waste.

Mr. President, I yield the floor and I suggest the absence of a quorum.

Mr. HARRY F. BYRD, JR. Will the Senator withhold that?

Mr. GOLDWATER. Mr. President, I withhold that.

SPECIAL ORDER

The ACTING PRESIDENT pro tempore. Under the previous order the Senator from Virginia (Mr. HARRY F. BYRD, JR.) is recognized for not to exceed 15 minutes.

THE NEED FOR A BALANCED BUDGET

Mr. HARRY F. BYRD, JR. Mr. President, it is becoming more obvious each day that there is a powerful movement under way in the United States to require the Federal Government to achieve and maintain a balanced budget.

Public opinion polls have shown that the people favor a balanced budget.

Furthermore, the desire of the people is communicating itself to their representatives in the State legislatures. The legislatures of 22 States already have

passed resolutions calling for a constitutional convention for the express purpose of framing an amendment to the Constitution mandating a balanced budget.

At the conclusion of my remarks, I shall ask unanimous consent to insert in the RECORD the names of the States whose legislatures have passed balanced budget resolutions, together with the number of the resolutions and the year of passage. All the actions have taken place in the period from 1975 to the current year, with considerable effort by the National Taxpayers Union, an organization which accurately perceived the public support for a balanced budget.

At this point, I will just observe that the States which have urged a balanced budget for the Federal Government are spread all across the country: from Oregon to Florida, from Louisiana to Pennsylvania. This is not a regional issue.

Recently, I met with State Senator Jason Bowe of Oregon, president of the National Conference of State Legislators. Senator Bowe, who, because of his office, meets often with State representatives from all across the Nation, stated that it was his conviction that the total of States calling for a constitutional convention to demand a balanced budget will reach 34—the required number for calling such a convention.

Bear in mind that 22 States already have acted. Only 12 more States are needed to force a constitutional convention.

Clearly, a strong move is afoot in this country to force the Federal Government to balance its books. Already a committee for a Balanced Budget Amendment has been organized with Governor James Longley, Independent of Maine, and former Treasury Secretary William E. Simon as cochairman.

Moreover, this movement is gathering strength right here in the Congress of the United States.

I might say that the able Senator from Wisconsin (Mr. PROXMIRE) has been the leader of that fight. I do not know of anyone who has done more in Congress to focus attention on this problem of Government spending and the need for a balanced budget than has the able Senator from Wisconsin.

Twenty-eight Members of the Senate are either sponsors or cosponsors of resolutions requiring a balanced budget. In the other body 155 Representatives are supporting such resolutions.

As chief sponsor of Senate Joint Resolution 51, one of the Senate measures calling for a balanced budget. I hope that hearings on my proposed constitutional amendment, as well as the proposals of others, will be made a priority matter by the Judiciary Committee after the convening of the next Congress.

Quite recently, there has been another demonstration of support for the balanced budget concept in the Congress. On July 31 of this year, during debate on legislation dealing with the International Monetary Fund, I introduced an amendment which read as follows:

> Beginning with Fiscal Year 1981, the total budget outlays of the Federal government shall not exceed its receipts.

This amendment was adopted by the Senate by a vote of 58 to 28—more than a 2-to-1 margin.

On September 14, in the House of Representatives, Congressman CHARLES GRASSLEY of Iowa introduced a motion instructing House conferees on the IMF bill to accept the Byrd amendment. Representative GRASSLEY's motion was adopted by a vote of 286 to 91—more than a 3-to-1 margin.

I think that the American taxpayers owe a great debt to Congressman GRASSLEY, of Iowa, for having forced this issue in the House of Representatives.

Subsequently, both the Senate and the House gave final approval to the bill, including the Byrd amendment, and it has now gone to the President for signature.

I noted this morning in the Washington Post a very interesting piece by Art Pine, Washington Post staff writer. The first paragraph says:

> President Carter may end up facing politician's nightmare at the start of the 1980 presidential race: Keep his old campaign promise to balance the federal budget in fiscal 1981, or risk violating the law.

The article ends up this way:

> It was so difficult to pass the IMF bill that Carter can't afford to risk a veto. Insiders say the president "now intends to sign the bill" within 10 days.

The President, the Post reporter indicates, would like to veto the bill because it has the balanced budget amendment in it.

> "We are not sure what it means," a top White House analyst confesses. "But it looks a little ominous."

The White House says it cannot understand what the Byrd amendment means. There are 16 words involved. Let me read those 16 words again.

> Beginning with fiscal year 1981, the total budget outlays of the Federal Government shall not exceed its receipts.

The Byrd amendment says spending shall not exceed receipts. Is that so difficult to understand?

Perhaps the Washington atmosphere does make it difficult for some in Government and in the Congress to grasp the meaning of those 16 words, but I will bet that almost every American housewife fully understands the meaning.

Total outlays shall not exceed receipts. The White House says it cannot understand what that means. Some of the Members of Congress say they do not understand what that means. I rather suspect that most American citizens understand those 16 words, "Beginning with fiscal year 1981, the total budget outlays of the Federal Government shall not exceed its receipts."

The President has the constitutional right to veto the balanced budget legislation—but if he does not, it becomes law.

During his campaign for the Presidency, Jimmy Carter pledged a balanced budget by 1981. I think that pledge by candidate Carter won him many votes, and indeed may have won him the Presidency.

Since taking office, the President has hedged on the timing of balanced budget commitment. But he has at no time stated that he has abandoned the goal of a balanced budget.

It is my hope that the approval of the Byrd amendment by the Congress, together with the widespread support for balanced budget resolutions in Congress and in the State legislatures, will strengthen the resolve of the administration to work toward a balanced budget by the year originally contemplated—fiscal year 1981 which begins October 1, 1980.

It is essential that the Federal Government put its financial house in order, that it balance its budget.

During the brief period since 1971, Federal spending has more than doubled—from $211 billion in 1971 to $448 billion in the current year.

The cumulative deficit for the 4 fiscal years ending this September will be $207 billion, more than triple the combined deficit for the preceding 4 years.

This is a calamitous po'icy. It has resulted in doubling the national debt in the last 8 years, to a level estimated at about $780 billion at the end of the current fiscal year.

This debt, in turn, forces the expenditure of more than $50 billion to pay the annual interest. The burden of debt interest has reached the point where it requires 20 cents of every individual and corporate income tax dollar just to pay the interest.

At the same time, the huge amounts which the Federal Government must borrow to finance its debt are a major drain on the money markets, creating upward pressure on interest rates and tying up funds which otherwise could be used for job-producing expansion in the private sector.

Thus the continued and accelerated deficit spending of the Federal Government fuels the fires of inflation and holds back private economic development.

We need to get the economy of the United States back on a sound basis. If we are to do this, we must follow policies that will inspire confidence in the minds of consumers and business men.

Consumers and business men cannot have confidence in an economy which is burdened with excessive Government spending and plagued with inflation and threats of inflation.

The road to a balanced budget is the only road to permanent recovery for our economy.

A few minutes ago I cited the fact that 22 State legislatures have called upon the Congress to call a constitutional convention to frame an amendment to the Constitution requiring a balanced budget. Action in just 12 more States would actually force such a convention.

It is my personal hope that such a convention will not be necessary.

The Congress should not stand by and wait for the call for a constitutional convention. The action of the States shows that in the field of fiscal policy, as in so many others, the people of this country are ahead of their leaders.

It is time for the leadership—specifically, the President and the Congress of the United States—to catch up, to hear the voice of the people, and to establish a sound fiscal policy.

Mr. President, I ask unanimous consent that a compilation of balanced budget resolutions enacted by State legislatures be printed in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

COMPILATION OF BALANCED BUDGET RESOLUTIONS ENACTED BY STATE LEGISLATURES

Alabama—Senate Joint Resolution 36, 1976.

Arizona—House Concurrent Memorial 2003, 1977.

Colorado—Senate Joint Memorial 1, 1978.

Delaware—House Concurrent Resolution 36, 1975.

Florida—Senate Memorial 234, 1976.

Georgia—House Resolution 469–1267 (Resolution Act No. 93), 1976.

Kansas—Senate Concurrent Resolution 1661, 1978.

Louisiana—House Concurrent Resolution 269, 1975.

Maryland—Senate Joint Resolution 4, 1975.

Mississippi—House Concurrent Resolution 51, 1975.

Nebraska—Unicameral Legislative Resolution 106, 1976.

Nevada—Senate Joint Resolution 2, 1977.

New Mexico—Senate Joint Resolution 1, 1976.

North Dakota—Senate Concurrent Resolution 4018, 1975.

Oklahoma—House Joint Resolution 1049, 1976.

Oregon—Senate Joint Memorial 2, 1977.

Pennsylvania—House Resolution 236, 1976.

South Carolina—Statute No. 775, 1976.

Tennessee—House Joint Resolution 22, 1977.

Texas—House Concurrent Resolution 22, 1977.

Virginia—Senate Joint Resolution 36, 1976.

Wyoming—House Joint Resolution 12, 1977.

Mr. PROXMIRE. Will the Senator from Virginia yield?

Mr. HARRY F. BYRD, JR. I am delighted to yield to my colleague.

Mr. PROXMIRE. Mr. President, I hope that the Senators will read this interesting statement by the Senator from Virginia. It is a very, very important statement, because what is going to happen in this country within the next very few days is that some 34 States are very likely to call for a constitutional convention. The Senator says 22 States already have. Only 12 States remain. That constitutional convention will have a great deal of public support for it.

I think we should recognize that there are problems with a constitutional convention. There is indecision on the part of legal scholars as to whether or not it can be contained and confined strictly to this purpose. I do not think it will be a runaway convention, but it will be one that cannot act in the measured way Congress can. For that reason, I hope that very careful, thoughtful consideration can be given to the Byrd amendment. I am delighted he has called attention to it.

I must say, in all honesty, I have some reservations. I am not sure about having a constitutional amendment calling for a balanced budget, although the Senator has put some safeguards in in case of a national emergency or economic cataclysm of some kind.

Mr. HARRY F. BYRD, JR. The constitutional amendment I have introduced provides that it can be set aside at any time Congress decides by a two-thirds vote that a national emergency exists.

Mr. PROXMIRE. I want to study that very carefully. We have to do something to prevent the ridiculously huge deficits we have suffered in recent years and the very clear inflationary effect of those deficits. I appreciate what the Senator is doing this morning in calling attention to what has happened, and I think very few Senators appreciate it. I think we are on the way toward a constitutional convention that could take this out of our hands, and to act on the Byrd amendment to see if we can develop an amendment that will be thoughtful, and economically sound, is obviously the way we should go. I congratulate the Senator and I hope he is able to make progress on his proposal.

Mr. HARRY F. BYRD, JR. I thank the Senator. In regard to the constitutional amendment introduced by the Senator from Virginia, I must say I have had a difficult time in my own mind, just as has the Senator from Wisconsin today, in reaching a conclusion and developing what appears to me to be a sound constitutional amendment.

For this reason, I delayed for years and years before introducing such an amendment. I believe the one that I introduced, Senate Joint Resolution 51, is a soundly based one and one which would be satisfactory.

In any case, however it is done, I think it would be better if it is done in Congress, but however it is done, it is vitally important that this country get a balanced budget. We have not had one for so many years. Our financial policy is in total disarray. As a result of that, we have this smashing inflation, which is eating so heavily into every worker's paycheck and into every housewife's grocery dollar.

I am convinced we will not get the cost of living under control until we get the cost of Government under control.

Mr. ROBERT C. BYRD addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from West Virginia.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a brief period for the transaction of routine morning business, with statements limited therein to 3 minutes each, and that the period not last beyond 10 minutes, at the conclusion of which the Senate then proceed to the consideration of House Joint Resolution 638.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MEMORIES OF GENOCIDE IN WEST GERMAN NEO NAZI REVIVAL

Mr. PROXMIRE. Mr. President, in yesterday's Washington Post an article by Mr. Wolfgang Wagner focused on the increasing public alarm in West Germany over the emergence of neo-Nazi groups. In fact Willy Brandt has urged the government to employ "heightened vigilance" against neo-Nazi activities.

Mr. President this is quite understandable. This region has a tremendous sensitivity to any and all indications of neo-Nazism.

It is difficult to forget the past. It was in Germany during World War II that the most gruesome and horrible eradication of human life took place. Over 6 million Jews and others were victims of the German war machine's genocide system. Then in 1946 the United Nations, determined that genocide be dealt with forcefully, declared it an international crime.

In 1954 the Federal Republic of Germany ratified the Genocide Convention. West Germany's ratification was based upon the "preventive" nature of the Genocide Convention, as well as the measures for punishment, cited in article I of the treaty. Article I makes genocide a crime whether committed during war or peace. The West German people realized the ongoing significance of article I.

Now as neo-Nazism emerges, the West Germans carefully scrutinize such groups' action, while protecting individual rights in their democracy.

It is not a simple, unemotional task. They are supported in their actions by a law that prohibits "idealization of Nazi ideology." Most important though, they have the firm base of the Genocide Convention that ultimately protects their citizens from the crimes of genocide.

Mr. President what do the actions of the West Germans illustrate to the United States?

They show us that we are indeed foolish if we ever allow ourselves to forget the historical realities of genocide.

They remind us that the world must be ever vigilant in the prevention of genocide.

Mr. President they show us that we must join the world community of nations to ratify the Genocide Convention. As the 83d nation to do so we will join West Germany in recognizing the international need to protect fundamental human rights.

DISASTERS IN WATER RESOURCE DEVELOPMENT

Mr. PROXMIRE. Mr. President, the Federal Government has been building water projects ever since 1824 when Congress gave the Army Corps of Engineers responsibility for maintaining the Nation's waterways. The other major water project construction agency, the Bureau of Reclamation, was created in 1902 in hopes that federally sponsored irrigation projects would encourage settlers to move into the arid West. These two agencies, aided and abetted by successive Congresses, have been going at it with a vengeance ever since.

Congress and the executive branch have been at odds over water policy for many years. Since the 1940's, various administrations have undertaken eight major efforts to review and reform the Nation's water policy. Changes have been slow to occur in the face of strong opposition from Members of Congress backed by the construction industry, smaller towns and cities that benefit from local

projects, and water conservancy districts in the Western States.

Advocates of reform have expressed the philosophy that the influence of individual Members of Congress on specific projects should be replaced with more concern for whether the Nation as a whole benefits from projects funded from national tax revenues. If just a certain group benefits from a project, then those beneficiaries should pay the costs. Congress, on the other hand, has continued to operate under a different philosophy that puts more emphasis on local and regional benefits and reflects less concern with having project beneficiaries share the costs.

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

Mr. ROBERT C. BYRD addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I yield to the Senator from Wisconsin my 3 minutes.

Mr. PROXMIRE. I thank the distinguished Senator.

The ACTING PRESIDENT pro tempore. The Senator is recognized.

Mr. PROXMIRE. Mr. President, for many years, the old congressional pork barrel has rolled merrily along, with only token opposition from a relative handful of individuals and groups who recognized the economic and environmental dangers associated with sustaining such a high rate of water project development. I am glad to say that this situation is gradually changing. At long last the taxpayers themselves are beginning to realize the beating they are taking at the hands of a few special interests.

Mr. President, I know that there are many projects in every public works appropriations bill that are worthwhile and beneficial. I dare say that every State has its share of good projects along with the bad. Unfortunately, it is those bad apples that spoil the rest of the barrel. And they are such bad apples, that the stench is finally reaching the noses of the taxpaying public that is footing the bill for the bad along with the good.

I am delighted that the Reader's Digest magazine has taken a special interest in these public works projects and the need to eliminate the worst offenders by reforming the policies that spawn them. In its September 1977 issue, Reader's Digest carried an outstanding article by James Nathan Miller showing how Federal dam builders are despoiling our economic and environmental well-being. Mr. President, I ask unanimous consent that the article, "Bitter Battle of the Waterways," be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

BITTER BATTLE OF THE WATERWAYS

(By James Nathan Miller)

Four years ago in the state of Georgia, the U.S. Army Corps of Engineers committed what may have been the worst tactical blunder of its 198-year history. In a full-dress field campaign, the Corps tried to steamroller a dam-building project on the Flint River, over the opposition of local citizens.[1] Unfortunately for the Corps, however, the leading citizen in the path of its steamroller was Georgia's governor, Jimmy Carter.

As is usually the case in such battles, the focus of the argument was the Corps's "benefit-cost analysis" of the Flint River project. Corps figures showed that the dam would produce $1.60 in benefits (mainly recreation, hydropower and flood control) for every dollar it would cost to build; the anti-dam people said that the dam was environmentally damaging, that the Corps's economic figures were phony, and that the project would actually lose money.

At first, Carter sided with the Corps. But then, at the urging of the dam's opponents, he asked the Corps to support its claims with additional data and analyses. What he found was what dam opponents have been discovering at Corps projects all over the country. As Carter later wrote, "It became obvious to me that none of the [Corp's] claims was true. The report was primarily promotional literature supporting construction. Population figures for future years in the area had been strangely doubled. Flood-control benefits had been increased by a factor of 287 percent since the initial estimates. In just a few months, the Corps more than quadrupled the economic benefits from recreation, and federal recreational advantages computed by the Corps were 1650 percent more than those originally computed by the National Park Service."

Ever since the Flint River fight (which Carter won by getting the dam killed), Carter has been calling for an end to unwarranted federal dam-building. One of his earliest actions as President was to issue a "hit list" of 32 water projects—$9.5 billion worth—that he wanted reviewed and, if necessary, canceled. After this review, he asked that nine projects be continued, five modified, and 18 canceled outright. He went on to suggest reforms that would force the cancellation of scores of others. All of which looks like the beginning of a long and bloody battle between the President and Congress. For the stakes run into the tens of billions of dollars, and the interests that want to keep spending this money form what has been called the most powerful lobby in Washington.

Is it possible that Carter can really end such a potent, time-honored institution as the pork barrel? If he keeps at it, in the long run he may just be able to pull it off. To see why, let's go back 75 years, to the beginning of America's dam-building era.

Gains and Losses. In 1902, Congress created the Bureau of Reclamation to irrigate the deserts and prairies of the arid and semi-arid regions in the Western half of the country. Then, in the 1920s and '30s, the Corps of Engineers began spreading the pork barrel nation-wide, with dams designed to prevent floods and to create barge canals.

The results of all this have changed the economic geography of America. Today, you can float a barge cross-country from Buffalo, N.Y., to Tulsa, Okla.—and still travel only a fraction of the Corps' 25,000-mile-long network of inland waterways. In the West, the 70-story high Hoover Dam on the Colorado—highest of the Bureau's 300-plus dams—supplies municipal water to Los Angeles, 250 miles away, and still has enough left over to irrigate 1500 square miles of former desert in Arizona, Nevada and California. Thanks to dams on the Columbia, once arid areas of central Washington are now fruit orchards. And during the past 40 years, hydropower dams of the Tennessee Valley Authority (TVA) have helped to retrieve a large part of Appalachia from poverty.

But these changes have brought enormous physical losses. For instance, observe the 735-mile stretch of the Missouri River between Sioux City and St. Louis, which the Corps has converted into a barge canal. To concentrate the flow in midstream, long dikes were built out from the shore; silt has filled the areas between the dikes, in the process smothering 200 square miles of the Missouri's natural backwaters, meanders and fish-and-game habitats.

Result: the obliteration of one of the great environmental and recreational resources of the central part of the nation. Similarly, the 670-mile Upper Mississippi between St. Louis and Minneapolis is now a series of 29 shallow, almost-stagnant lakes that are rapidly filling in with vegetation. In a few decades, the present open water will be marsh, the present marsh will be land, and the once mighty, free-flowing Mississippi will be a ribbon-like barge canal.

Bottom of the Barrel. What has it all added up to in costs and benefits to the nation as a whole? In 1968, Congress created the National Water Commission to find the answer. After five years of study, in 1973 the Commission issued its unanimous finding:

The Corps' toll-free canal system is essentially a special-interest subsidy that provides a few big bulk-hauling industries—mainly coal, oil and grain companies—with their own free transportation network.

Similarly with flood control: While some of the early dams provided needed protection for cities, the newer ones have proved mainly a device for converting swamps into developable acreage and conferring windfall profits on the swamps' owners. Indeed, said the Commission, the nation's flood losses had actually risen throughout the dam-building decades, as the dams encouraged more and more people to put developments on "protected" flood plains still subject to occasional inundation. Finally, said the Commission, once the early desert-greening projects were built, the Bureau's irrigation dams, rather than furthering the national interest, have provided low-cost water subsidies to farmers and landowners at the expense of non-subsidized farms and taxpayers everywhere.

What it amounts to is that in 75 years of construction, the Corps, the Bureau and the TVA have run out of economically justifiable projects and are now trying to justify working the third- and fourth-rate sites. This was vividly illustrated last year when the Bureau's brand-new, $71-million Teton Dam in Idaho's Upper Snake Valley collapsed, releasing a flood that killed 14 people.[2] A basic cause of the disaster: the Bureau, unable to find a decent dam site, built at a location so unsatisfactory that one of the Bureau's own geologists warned that the structure would never hold water.

The National Water Commission concluded that the Bureau should be entirely phased out of the dam-building business, and the Corps' role be radically reduced. Though Congress ignored this recommendation, today all over the country local politicians and citizens groups are beginning to recommend the same thing. For instance:

In South Dakota last year, farmers overwhelmingly voted into office opponents of a half-billion-dollar irrigation project being built for them by the Bureau; not only are their farms growing good crops without irrigation, but the project requires a 100-mile-long delivery canal that will wipe out or break up as many farms as it irrigates.

In Indiana this year, the legislature withdrew authority for the state to participate in the construction of two reservoirs in the Wabash River Basin that would have inundated up to 10,000 acres of good farm land.

In Florida last year, the governor and cabinet, citing extreme environmental damage

[1] See "The Fight to Save the Flint," The Reader's Digest, August '74.

[2] See "The Awful Truth About Our Federal Dams," The Readers Digest, June '77.

and lack of economic justification, formally petitioned Congress to de-authorize the Corp's Cross-Florida Barge Canal.

In Mississippi and Alabama, citizen opposition is growing against the most expensive project in Corps history: The Tennessee-Tombigbee Canal, intended mainly to provide a barge shortcut for a few Appalachian coal companies from the Tennessee River to the Gulf of Mexico via the Tombigbee River. This would involve slicing through a range of hills—a bigger earth-moving job than required for the Panama Canal. Early this year, under prodding from Carter, the Corps was forced to admit that the project will cost $1.6 billion and earn only 87 cents in benefits for each dollar of costs. Economists regard even these figures as grossly inaccurate. Says Paul Roberts, a Washington, D.C., economist who made a computer study of the Corp's figures: "The lowest possible estimate of costs that I can arrive at is $2.5 billion, and that means a return far below 87 cents on the dollar."

Pork-Barrel Power. The cure that Jimmy Carter proposes for all of this is simple but far-reaching: He wants Congress to write rules that would force the dam builders to provide honest benefit-cost analyses of their projects. What would this mean to the nation?

Right now, the Corps, the Bureau and the TVA have 342 projects under construction. The official total-cost estimate is $40 billion; but since final amounts are usually 50 to 100 percent more, the real cost, if all are built, will probably come close to $80 billion. If Carter's rules were adopted and scrupulously enforced, only a fraction of such projects would survive—saving taxpayers uncounted billions of dollars and rescuing thousands of miles of river valley from destruction.

What are the chances Congress will enact such rules? At first glance, they seem very small indeed. The reason, of course, is the power of the pork-barrel lobby. This power derives from a simple fact: The pork-barrel lobby is Congress itself.

Except in the Northeast (which gets very little river-and-harbor money), rearranging the federally owned rivers provides Congress with its most versatile instrument for attracting votes and campaign funds through dispensation of special favors. Indeed, so unashamed is the linkage between Congress and the barge companies, land speculators, dam builders, etc., that Washington's big dam-building lobby, the Water Resources Congress, lists 89 Congressmen among its vice presidents.

When Carter submitted his "hit list" last spring, not one Congressional leader in either party supported him. Even Rep. Morris Udall (D., Ariz.)—who a week earlier had been one of the signers of a letter asking the President to clamp down on pork-barrel spending—attacked Carter for issuing the list. The reason: It included a project in Udall's state.

End of an Era? So, judging by past experience, a betting man probably wouldn't put money on Carter's chances. But past experience may be an inaccurate guide. For one thing, with command of the anti-dam battle centralized in the White House for the first time in history, the dam builders suddenly find themselves under siege by their own bosses. The profound importance of this change was dramatized this spring when Cecil Andrus, Secretary of the Interior and thus boss of the Bureau of Reclamation, called for "the end of the dam-building era in America." That's not unlike the head of the AFL–CIO asking for the abolishment of labor unions.

Also, Carter has recruited into his Administration some of the country's most seasoned and knowledgeable dam fighters—members of the environmental movement who for years have been winning significant victories over the dam builders even when they were outsiders and their only weapon was the mimeograph machine. Indeed, as this article goes to press, Carter seems close to a precedent-shattering victory in the pork-barrel battle—the compelling of Congress to cancel a number of projects that are already under construction.

But probably the most important factor in Carter's favor is that the dam builders are being forced to take on projects whose deficiencies are becoming publicly and embarrassingly apparent. When a $71-million dam in Idaho collapses at its unsatisfactory site, when farmers in South Dakota ask to be spared the benefits of a half-billion-dollar irrigation project, and when the Corps is forced to admit that its most expensive canal to date will return only 87 cents on the taxpayer's dollar, it begins to look as if ending the dam-building era may be an idea whose time has finally come.

Mr. PROXMIRE. Mr. President, I urge my colleagues to think carefully about this article prior to any vote on a motion to override a Presidential veto of the fiscal year 1979 Public Works appropriations bill.

Mr. President, I thank the distinguished majority leader and I yield the floor.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is closed.

EXTENDING THE DEADLINE FOR RATIFICATION OF ERA

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of House Joint Resolution 638, which the clerk will state by title.

The legislative clerk read as follows:

Calendar No. 1159, House Joint Resolution 638, extending the deadline for the ratification of the Equal Rights Amendment.

The ACTING PRESIDENT pro tempore. The time for debate on this resolution is limited to 6 hours, to be equally divided and controlled by the Senator from Indiana (Mr. BAYH) and the Senator from Tennessee (Mr. BAKER) or his designee, with 1 hour on any amendment, except on two to be offered by the Senator from Virginia (Mr. SCOTT) relative to States' rescission of prior ratification, one amendment to be offered by the Senator from Virginia (Mr. SCOTT) requiring that the joint resolution be passed by a two-thirds vote of the Senate, and one amendment to be offered by the Senator from Utah (Mr. GARN) relative to prospective rescission of ratification, on each of which there shall be 4 hours debate, and with 30 minutes on any debatable motion, appeal, or point of order.

Mr. BAYH addressed the Chair.

The PRESIDING OFFICER (Mr. PROXMIRE). The Senator from Indiana.

Mr. BAYH. Mr. President, today the Senate begins its debate on House Joint Resolution 638, a joint resolution to extend the ratification period for the proposed equal rights amendment for another 3 years and 3 months beyond the current termination deadline set forth in the amendment's preamble.

It was not long ago that this Senate affirmed, on a vote of 84 to 8, a very basic concept: That all persons, regardless of their sex, are to be guaranteed full equality of rights as free individuals in a free and democratic society. Nor was it long ago that we proposed this concept to the several States for ratification as an amendment to the Constitution of the United States.

It seemed to me, as the principal Senate sponsor and floor manager of the equal rights amendment in 1972, that the statement was a rather elementary declaration of the obvious. It was simple, straightforward, and it left very little room for misinterpretation or misunderstanding.

Equality of rights under law shall not be denied . . . on account of sex.

That is what the equal rights amendment says. That is what it says and that is everything it says—equality of rights under law shall not be denied on account of sex.

It appeared, Mr. President, to be a statement so profoundly basic to the fundamental beliefs of this democracy that, to be perfectly honest, its very utterance seemed redundant.

The statement of equality contained in the equal rights amendment is a basic human truth in the United States. It is a truth so basic, so fundamental to American democracy, that it must serve as the touchstone of our judgment on the issue before us today, just as it did when the equal rights amendment stood on its merits before this body only 6 years ago. Let no one doubt for a minute that the issues before us today are those very same issues of justice, human equality, and individual liberty that were before this body in 1972. Let no one doubt for a minute that a rejection of House Joint Resolution 638 must be interpreted as no less than a rejection of the basic concepts of "liberty, justice and equality for all" upon which our Nation was founded.

I do not exaggerate, Mr. President. I do not overstate the facts. I say simply this: We cannot narrow the scope of our concern here today to a debate over constitutional procedures. We cannot deny the pursuit of basic national goals in the consideration of mere process.

There are fundamental constitutional questions to be addressed during the course of the debate on extension of the ratification period for the equal rights amendment. These questions are not limited to the power of Congress to extend this deadline, the right of States to rescind previous ratifications, or the size of the majority required for Congress to act on the extension question. These questions must be addressed, and they will be addressed, by myself and by many of my colleagues who will speak before this body during the course of this debate, on both sides of the issue.

But there is a larger question before us, one of far greater and lasting constitutional import. Is this Congress willing to intentionally and arbitrarily limit the pursuit of justice and equality for millions of American citizens? Is this Congress willing to turn the pursuit of justice and full equality into a race against the clock—to turn the quest for a clearer definition of basic constitutional rights into a pumpkin at the stroke of midnight for

no rational reason whatsoever? I think not, Mr. President. I pray not.

To establish our basic framework as a free society, our forebears fought an unprecedented, impossible and protracted war for independence. They placed no time limit on their willingness to fight and die for freedom. Their efforts continued from Lexington to Yorktown—or until the job was completed. The first 10 amendments to our Constitution, the Bill of Rights, which protect those basic individual liberties upon which our freedom was founded, were submitted to the people for ratification—with no time limit. To abolish slavery and guarantee full citizenship for millions of black Americans we fought a bloody war between the States. There was no time limit placed on the determined effort from Bull Run to Appomattox, nor on the ratification of those critical amendments which followed. The amendment which provided American women with the right to vote bore no time limit.

In fact, in the entire history of these United States, in war or peace, never have we placed a time limit on the struggle for equality and justice when it was denied to major segments of our citizenry. We must not start now by placing a time limit on the pursuit of full equality and justice for the women of America.

(Mr. RIEGLE assumed the chair.)

Mr. BAYH. Mr. President, as a recognition of the need to make equality under the law a reality for the women of our Nation, Congress in 1972 overwhelmingly passed the equal rights amendment to the Constitution. As part of what has become a procedural custom since 1917, Congress included in the preamble to the amendment a 7-year time limitation for ratification by State legislatures. This arbitrary time period of 7 years was adopted by Congress in the assumption that it would be a reasonable time period to assure full and open debate on such an important question as the legal equality of women. No one in Congress at that time could foresee that parliamentary tactics by a recalcitrant few would prevent the equal rights amendment from even reaching the floor for a vote in the bodies of some State legislatures.

Seldom has an issue been so cleverly misrepresented by opponents. I know this from firsthand experience in watching this measure ratified in the Indiana Legislature, which was the last State legislature to ratify.

State legislators and concerned citizens have been led to believe that ERA is designed to favor rape, foster homosexuality, commingle boys and girls in common toilet facilities, and force distraught mothers to leave the comfort of their homes and families and seek employment on the production line. Somehow, ERA was portrayed as no longer designed to accomplish equality of opportunity and justice for the women of America. It is to put this record straight that I urge my colleagues to join those of us who feel that we need additional time for ratification of the equal rights amendment.

The ERA has now been ratified by 35 of the necessary 38 States. Those States which have ratified include: Hawaii, New Hampshire, Nebraska, Delaware, Iowa, Idaho, Kansas, Texas, Tennessee, Alaska, Rhode Island, New Jersey, Wisconsin, Colorado, West Virginia, New York, Michigan. I note particularly that our previous Presiding Officer, the Senator from Wisconsin (Mr. PROXMIRE), and our present Presiding Officer, the Senator from Michigan (Mr. RIEGLE), represent States which have ratified the equal rights amendment and have been ardent supporters of this measure, as has the distinguished Senator from Connecticut (Mr. WEICKER), who just entered the Chamber and whose State also has ratified, along with Maryland, Kentucky, Massachusetts, Pennsylvania, California, Wyoming, South Dakota, Oregon, Minnesota, New Mexico, Vermont, Washington, Maine, Montana, Ohio, North Dakota, and Indiana. These States represent nearly three-quarters of the population of the United States.

The need for the ERA has not diminished since its enactment in 1972. Public opinion polls continue to show that a large majority of people in this Nation, as well as a majority in many of the unratified States support ratification of the ERA. Those of us in Congress who led the initial effort to secure congressional enactment of the ERA are unwilling to let the tactics of a few deprive American women of their right to legal equality. It is for that reason that we are now seeking to further the intent of the Congress in assuring a reasonable time for debate by extending the ratification period for another 3 years.

It is not really even a matter of debate as to whether equal rights for women remains a timely question. Current laws and regulations have not secured equal pay for equal work and women still face a wage disparity of nearly 40 percent as compared to similarly employed males. College-educated women earn on the average of $7,000 per year less than college-educated men performing the same tasks. Women who work outside the home or in, still face discrimination in pensions and health benefits. Pregnant women workers are still denied disability benefits. Discriminatory inheritance and tax laws still leave many of our older women destitute. In a common-law State, farm widows still find themselves paying inheritance tax on their husbands' estates, whereas, if she died first, the husband would owe no such tax. The Department of Justice has concluded a study which shows there are over 800 Federal statutes still on the books which discriminate on the basis of sex. The same is true in greater number with laws on the statute books of the 50 States of this Nation.

Most important—and I emphasize this to some who do not realize fully the importance of full ratification of the equal rights amendment, those who say we have enough progress—we stand to lose the gains we have made in the area of women's rights in both Congress and the Courts if we are now perceived as turning our back on the struggle for equality. Those of us who are determined to continue the struggle for equal rights do not think that 10 years is too long an effort to secure those rights. It took Congress nearly 50 years to enact the equal rights amendment; surely, we can give State legislatures 3 more years to debate this vital question. During that time, States can say yes to equal rights or they can say no, but they should not be deprived of an opportunity to continue debate on a timely question by a procedural act of a Congress sitting 7 years ago.

I. HISTORY OF 7-YEAR TIME LIMIT FOR THE ERA

Perhaps it would be helpful to our colleagues to take a brief look at this magic 7-year time limit and its history.

It is important to remember that of the 28 proposed constitutional amendments, only 10 have had time limitations. Indeed, it was not until the 18th or prohibition amendment in 1917, that Congress began the practice of placing a time limitation on constitutional amendments.

Although the proponents of the time limit initially talked of a period from 10 to 20 years, a limit of 7 years was finally adopted. The purpose of this initial time limitation, it appears from a reading of the legislative history of the time, was to prevent an amendment from being ratified over a long period of time, after the issue had lost its vitality.

I think it is important to understand the history, the background of choosing of the 7-year period. What was the evil that the 7-year limitation was designed to prohibit?

If we look further at the history, beginning with the passage of the 18th amendment in 1917, all amendments but one, the 19th, or women's suffrage amendment, have contained a 7-year limit for ratification. The 18th, 20th, 21st and 22d amendments all provided for ratification within 7 years in the body of the amendments themselves. From the 23d amendment to the present proposed equal rights amendment, the time period has appeared in the resolving clause, not in the actual amendment.

After the 18th amendment there is little record of the reasons for adding time limitations to any subsequent constitutional amendments. Indeed, Congress appeared to regard the time limit as a clearly procedural matter.

The addition of the time limitation to the equal rights amendment does not appear to be any exception to this general rule. The equal rights amendment was introduced originally in 1923 with no time limitation. The ERA was introduced in virtually every Congress since 1923 in similar form—I emphasize again—with no time limitation until 1970. In passing the ERA in the House of Representatives in 1971, there was very little debate on the time limitation, except to reflect the past assumption that such a limit was merely "customary."

And as I recall reading the CONGRESSIONAL RECORD and the debate that occurred in the House of Representatives at that time one of the concerns in the minds of our brethren and sisters in the House of Representatives had to be that the chairman of the House Judiciary Committee, Emanuel Celler, a great former Member of the body, had grave reservations about the absence of a time limit.

Interestingly the only mention of the 7-year limit in the Senate debate in 1970 came in a discussion by one of the amendment's proponents, Senator Marlow Cook, where he stated that "clearly the 7-year limit on ratification need not be added as it has only been infrequently used in the past." Senator Cook went on to cite a letter on the time limit from Yale Professor of Law Emeritus Thomas Emerson which stated:

There is in my judgment no need for such a provision. A limitation of this sort has been included in only four of the twenty-five amendments thus far adopted. These are the eighteenth, twentieth, twenty-first and twenty-second. No such provision appears in the nineteenth amendment, establishing women's suffrage, the most comparable to the amendment now before the Senate. Nor does any such provision appear in the last three amendments adopted—the twenty-third, twenty-fourth and twenty-fifth. It seems clear, therefore, that the seven year limitation has not been considered necessary in the past.

So spoke distinguished Professor Emerson.

Nevertheless, objections to the absence of a time limitation continued and later in the session amendments were proposed by Senator Sam Ervin and others adding a 7-year deadline for ratification.

In proposing the deadline of 7 years I think it is very relevant, considering Senator Ervin's present position on extension and considering his longtime opposition to the equal rights amendment itself, to note the basic reason Senator Ervin thought there should be a 7-year time limit placed on the equal rights amendment.

Here is what that great former colleague of ours said:

My other proposed alteration of the original purpose of the resolution would require that this resolution be ratified by three-fourths of the States within 7 years after submission by Congress to them for consideration. This is necessary because we still have floating around some unratified amendments that were submitted at the time of the original submission of the Bill of Rights. We have some other amendments that have been floating around since about 1860. There is no date for their expiration, no time limit for their ratification, and they could be ratified at any time. I do not think it is wise for Congress to submit a proposed constitutional amendment to the States without a time limit for its ratification.

So it certainly seems that the evil that Senator Sam Ervin was trying to avoid is far different than the effort that we are trying to establish here, namely, a short, reasonable additional time period so that this matter can be fully and completely debated.

However, despite the attempts to compromise, I wish to point out that no final vote on the resolution was taken by the Senate during the 91st Congress.

In the 92d Congress, the House passed House Joint Resolution 208 containing a 7-year provision in the resolving clause. No discussion of the inclusion of this provision appears in the floor debates on the date of passage, October 12, 1971, but as a sponsor of this proposal I can state for my colleagues that the provision was added to meet the arguments of the amendment's critics in both the House and the Senate.

It was done cavalierly, with little concern, with little worry, that this would ever be a limiting factor on ratification and continued discussion in the State legislatures.

On March 22, 1972, the Senate passed House Joint Resolution 208 with no further discussion of the time limit, by a vote of 84 to 8.

Now, we ask ourselves the key question, I think: Does Congress have the power to extend the deadline?

Mr. President, most of the constitutional scholars who testified before the House and Senate Judiciary Committees agreed that Congress does have the power to extend the deadline for ratification of the equal rights amendment under the powers given to Congress under article V.

Article V contains no express provisions dealing with the time in which a proposed amendment must be ratified. However, Supreme Court in *Dillon* v. *Gloss*, 256 U.S. 268 (1921), upheld the right of Congress to propose a time limitation.

The Court, in upholding the 7-year limit on the 18th or prohibition amendment stated in a unanimous decision that:

Of the power of Congress, keeping within reasonable limits, to fix a period for the ratification, we entertain no doubt. As a rule, the Constitution speaks in general terms, leaving Congress to deal with subsidiary matters of detail as the public interests and changing conditions may require; and Article V is no exception to the rule. Whether a definite period for ratification shall be fixed so that all may know what it is and speculation on what is a reasonable time may be avoided, is, in our opinion, a matter of detail which Congress may determine as an incident of its power to designate the mode of ratification.

The Court's opinion in Dillon was reaffirmed in Coleman against Miller (the latest case in this particular area) in 1939. That case involved the ratification by the Kansas Legislature in 1937 of the child labor amendment. Proposed by Congress in 1924, the child labor amendment did not include any time limitation. The ratification was challenged by members of the Kansas Legislature, who contended that after 13 years a reasonable time had elapsed and the ratification was inoperative. The Supreme Court, in an opinion by Chief Justice Hughes, reiterated that Congress has the power to determine what was a reasonable time for ratification and went on to hold that the question of what constituted a reasonable time was solely a matter for Congress, did not constitute a justiciable issue, and was not subject to review by the courts. The Court further stated:

In short, the question of a reasonable time in many cases would involve, as in this case it does involve, an appraisal of a great variety of relevant conditions, political, social and economic, which can hardly be said to be within the appropriate range of evidence receivable in a court of justice. . . . On the other hand, these conditions are appropriate for consideration by the political departments of the Government. They can be decided by the Congress with the full knowledge and appreciation ascribed to the national legislature of the political, social and economic conditions which have prevailed during the period since submission of the amendment.

Our decision that the Congress has the power under Article V to fix a reasonable limit of time for ratification in proposing an amendment proceeds upon the assumption that the question, what is a reasonable time, lies within the Congressional province.

Let me repeat, Mr. President, those closing words: "What is a reasonable time lies within the congressional province."

So spoke the Court in the words of Chief Justice Charles Evans Hughes.

Legal scholars testifying before my Subcommittee on the Constitution, as well as the Department of Justice in an extensive legal memorandum, concluded that if Congress has the power to determine what a "reasonable" time period is for ratification of an amendment, it clearly has the power to extend a deadline placed by an earlier Congress which could not possibly foresee the "relevant conditions, political, social, and economic" of today.

So, Mr. President, there is little doubt on legal or constitutional grounds, that Congress may extend the time limitation. The only question that remains, then, is a policy question—are the issues raised by the equal rights amendment still timely ones? I feel there are few who could answer this question in the negative.

There have been some supporters of the equal rights amendment, however, who have questioned the wisdom of an extension of the ratification period on the grounds that it would appear to be changing the rules in the middle of the game.

I appreciate this feeling of equity. It was the kind of feeling that I felt in my heart when this issue was first presented before I had the time to fully study what the rules of the game are.

I think we need to point out that the rule has been a changing one.

Before the 18th amendment, there was no time limitation at all on pending constitutional amendments. Congress began the custom of attaching time limitations to assure that the issue being raised by the amendment was a "timely" one. At first the time limit was placed in the body of the proposed amendment. Later, as is the case with the equal rights amendment, the time limit was placed in the resolving clause.

However, throughout this changing practice of time limitations, the constitutional rule was constant. Congress possessed the power to establish a reasonable time limit for the consideration of any proposed amendment. There are few who would deny that equal rights for women remains a timely issue today. Thus, Congress is completely within the constitutional rules in determining that 3 additional years is a reasonable time period in which to conclude the consideration of such a vital issue. I urge my colleagues to join in passing this reasonable time extension so that we may successfully culminate our efforts to lay a foundation of equality and justice for the women of these United States.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. SCOTT. Mr. President, I will say

at the outset that I am pleased to have the opportunity to debate this matter with my distinguished friend from Indiana. We serve together on the Subcommittee on the Constitution, he as the chairman and I as the ranking Republican member.

We seldom agree on the issues that come before the committee, but the distinguished chairman is always agreeable, and I am sure that in our debate today on this important matter the same kind of fairness will exist. Certainly that will be true on my side of the aisle.

Mr. President, I might mention that our colleague from Utah (Mr. GARN) has very strong views on this matter. His views and mine tend to generally coincide. So he, too, will be active in the debate today and tomorrow.

His principal amendment, a rescission amendment, will not be offered today but will be offered tomorow at 11 o'clock, as I recall, under the order that was agreed upon.

Mr. President, we have an unusual situation today, an effort to break new ground insofar as the Constitution is concerned.

The proponents of the joint resolution that is presently before us would have the time within which the States can act upon the proposed equal rights amendment extended beyond the 7-year period determined by the 92d Congress to be a reasonable time within which the several States could consider whether or not it could be ratified.

The 92d Congress approved House Joint Resolution 208 proposing an amendment to the Constitution relative to equal rights for men and women on March 22, 1972.

It was provided that the amendment would take effect 2 years after ratification by three-fourts of the several States. This time for ratification, therefore, will expire on March 22, 1979, and because of the short period remaining an effort is being made by the proponents of ratification to extend the time.

It would seem appropriate to bear in mind that within a year after the proposed amendment was submitted 30 of the State legislatures ratified the proposal. Since that time, however, only five States have ratified, while four have voted to rescind their ratification.

To the best of my knowledge, no State has ratified any proposed amendment to the Constitution after the specified time of 7 years, and I am going back, Mr. President, throughout our history. Let me repeat that no amendment to the Constitution has ever been ratified after a period of 7 years. In fact, the time has been much shorter.

If the proponents of the extension have their way, we would be amending the Constitution by a majority vote in direct conflict to article V of the Constitution. If the proponents have their way we would give the 15 States which have not ratified the proposal an additional period of more than 3 years within which to consider ratification, but we would not permit the 35 States, 4 of which have already rescinded their ratification, an opportunity to reconsider.

In my judgment, it is basically unfair when Congress has made a determination that 7 years is a reasonable time within which the State legislatures may respond to a congressional proposal, and then when action has not been taken within that framework to attempt to change the rules, to give one side an opportunity for further consideration without a corresponding opportunity for reconsideration by those with a different point of view.

We have had baseball on our minds a little bit recently, and it might well be compared with extra innings when only one team has the right to score.

But we are debating a far-reaching proposal. Article VI of the Constitution states, in part:

> This Constitution, and the Laws of the United States which shall be made in Pursuance thereof, and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land. . .

The Constitution is the basic, or supreme law of the land, and I am sure all Senators will agree that it should not be changed except upon mature deliberation. Our Founding Fathers had this in mind when they provided in article V for a two-thirds vote of both Houses of the Congress before an amendment could be adopted. This assured that two-thirds of the Members of the House which has a proportional representation would reflect the desire of the people for a change and that two-thirds of the Senate which represents the States would have two-thirds of the States concurring before an amendment would even be proposed for consideration by the legislatures of the several States.

The proposed equal rights amendment, of course, is an important matter upon which Members of the Senate may differ but the precedent the proposed extension by majority vote without any recommendation from the Judiciary Committee from which a similar bill was referred and the precedent that would be set for years to come is even more important.

As you know, Virginia was the most populous of the American colonies and the most populous of the States during the early years of the Union. Therefore, it might be helpful to review some of the thoughts of that period. A. E. "Dick" Howard, professor of law at the University of Virginia and executive director of the Virginia Commission on Constitutional Revision, recently compiled a two-volume book entitled, Commentaries on the Constitution of Virginia. I quote from his treatise beginning at page 1165:

> Constitutions are not immutable. No one recognized this better than did Thomas Jefferson, himself no mean constitutional draftsman. In 1816 Jefferson wrote a letter to Samuel Kercheval underscoring the need for reforms in Virginia's constitution. In that letter, he articulated his view of constitutional change and evolution in language that can hardly be improved upon. Remarking upon the tendency of some men to look at constitutions "with sanctimonious reverence, and deem them like the ark of the covenant, too sacred to be touched," Jefferson said:
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> "I am certainly not an advocate for frequent and untried changes in laws and constitutions. I think moderate imperfections had better be borne with; because, when once known, we accommodate ourselves to them, and find practical means of correcting their ill effects. But I know also, that laws and institutions must go hand in hand with the progress of the human mind. As that becomes more developed, more enlightened, as new discoveries are made, new truths disclosed, and manners and opinions change with the change of circumstances, institutions must advance also, and keep pace with the times."
>
> Jefferson proposed, therefore that the constitution should provide for revision at periodic intervals. Each generation, he thought, had "a right to choose for itself the form of government it believes most promotive of its own happiness."

That was the thinking of our third President written several years after he had completed his second term in office. The Constitution, of course, provides a mode for amendment and sets forth the procedure to be followed in article V. This reads in part:

> The Congress, whenever two-thirds of both Houses shall deem it necessary, shall propose amendments to the constitution, . . . which . . . shall be valid to all intents and purposes, as part of this constitution, when ratified by the legislatures of three-fourths of the several States. . . .

The quotation has omitted the reference to amendments by convention since the convention method has not been followed and is not relative to our discussion.

Article V of the Constitution plainly states that the Congress, whenever two-thirds of both Houses shall deem it necessary, shall propose amendments to this constitution. No doubt has ever been raised in the past that a two-thirds vote is necessary to propose a constitutional amendment for consideration by the several States. However, the joint resolution before us does not contain the words "two-thirds of each House concurring therein" that is contained in the original resolution.

Since the proposal was made in 1972, 35 States have agreed to the original proposal; of course, 29 of them agreed conditioned on the 7-year period for ratification set forth in the original resolution and four have rescinded their original ratification. Can Congress now by majority action amend the original joint resolution to extend the time without a two-thirds vote? I think not. We can compare this with an offer to contract with a number of people that is accepted by part of the people and then the offer is changed. Those who accepted under basic contract law would have an opportunity to reconsider, to determine whether they wanted to assent to the changed offer, and I believe that each State of the Union which has accepted the original proposal should have an opportunity to determine whether it wants to consent to a resolution wherein the time for acceptance is proposed to be changed from 7 years to 10 years and something over 3 months.

Perhaps this was expressed in a somewhat different manner by Prof. Charles L. Black, Jr. of Yale University Law School and I am quoting from several portions of his testimony. First:

> If the original resolution combined the

proposal of the amendment and the setting of the time, the integral package being then passed by two-thirds vote (and I understand this to have been true of the equal rights amendment) then it seems to me plainly right that a two-thirds vote of each House of Congress should be required for an extension. It may easily happen, in any given case, that a vote for the original resolution is cast partly on the ground that, in the view of the caster of the vote, the time is suitably limited. If this is not possible then that must be because the limitation of time in the first instance was utterly meaningless, an impermissible assumption. It is impermissible to assume that this question of time never matters to anybody; if that were so, why put it in? It cannot, therefore, be assumed that the original would surely have passed by the requisite two-thirds majorities if the time had been longer. On a constitutional question of this kind one cannot afford to guess, as to a particular amendment, what might have happened; one must rather follow a procedure which would always be suitable and fair.

Some few days after his original statement, dated October 28, 1977, Professor Black submitted a supplement indicating that until he saw the bill he had not known that a 7-year extension was proposed; and again I quote Mr. Black:

The legislative history seems to furnish support for the proposition that, as to this particular amendment, the time limitation was seriously considered as a significant part of the "proposal" being voted on; this supports again the condition that extension should require a two-thirds vote of each House, since evidence of serious attention to the seven year limit makes it quite plausible in this very case, that some affirmative votes may have been influenced by the time limit.

He later refers to the extension of time making the concept of "contemporaneous consensus" more difficult—a phrase used by the Senator from Indiana and in the Coleman case—and states that—

. . . it may be that a judicial court would hold this to be a "political question" in the sense of being finally committed to Congress but the anticipation of such a holding ought to increase rather than diminish, Congress' own sense of responsibility to the spirit as well as to the letter of the Constitution. To call a question of this kind "political" is to say, one fervently hopes, that anything goes.

If we believe, Mr. President, with Mr. Chief Justice Marshall that those who framed our Constitution and the people who adopted it employed words in their natural sense and to have intended exactly what they said then when we look at the phrase in article V "whenever two-thirds of both Houses shall deem it necessary" it necessarily follows that we need a two-thirds vote to pass the resolution before us.

We are not talking today about the merits or demerits of the equal rights amendment.

I heard the distinguished Senator from Indiana a few minutes ago quote Congressman Coller. It is my recollection that he voted against the equal rights amendment. I may be wrong. I am relying on my memory. But I was in the House of Representatives at that time and I voted for the equal rights amendment.

Congress passed a proposed equal rights amendment in 1972 and submitted it to the States for their consideration. It has not been ratified and the only reason the matter is before us today is because it is becoming increasingly difficult for the proponents to obtain ratification by any additional States. In my judgment, there are many things attempting to be done which are wrong. First, Congress operates under the committee system and our Judiciary Committee to which a similar joint resolution was referred has not acted. While hearings were had by the Subcommittee on the Constitution, the distinguished chairman of the subcommittee knows that if a vote had been taken in the subcommittee, it would have resulted in a 3 to 3 vote. Had the subcommittee been bypassed and the matter brought before the full committee, I doubt very much that any action would have been taken. Therefore, rather than to consider the Senate bill, a way has been found to bring the House-passed bill, passed by a majority vote in the other body, to the Senate for consideration and an effort is being made to have the measure adopted by a majority rather than by a constitutional two-thirds vote.

In my judgment, such action is inviting lawsuits.

The courts have said in years past that they did not invade the political jungle, they did not decide political questions. We may have reference to the Coleman case insofar as this being a political question to be decided by the Congress. But since that time we have had Baker against Carr, and we have had numerous decisions by the Supreme Court of the United States in which they have invaded the political arena.

I submit that the Court in 1939 and the Court in 1979 are far different. Changes have been made.

It would be preferable to wait until after March 22, 1979 when the present proposal expires and if the necessary three-fourths vote has not been obtained by that time and the Congress in its wisdom determines to resubmit an equal rights amendment, it can be submitted in a legitimate manner with some of the objectionable features removed; features that could well go beyond equal employment opportunities, equal civil rights of various kinds and eliminate any suggestion, legitimate or otherwise, that this proposal would authorize homosexual marriages, would authorize women to serve in the front lines of our military, would prevent separation by sex of toilets, locker rooms, as well as oftentimes giving preferential treatment to women in alimony, child care, and child support cases.

(Mr. JOHNSTON assumed the chair.)

Mr. SCOTT. There is no doubt in my mind, when I practiced law, that women were given preferential treatment in family law, and perhaps this is the proper thing to do. But if this amendment is passed this would not be proper.

The fact is, none of us know how far the courts will go in determining the full meaning of this amendment and I do not doubt that some individual will bring a suit saying that an adoption agency discriminated against two males, or two females, married to one another, who might want to adopt a child; that it would be a violation of the Constitution to refuse to place a child in a situation where two men were married to one another or where two women were married to one another.

I shall have a number of amendments to offer, Mr. President. One is inserting a provision for a two-thirds vote on the resolution; another provides recognition of the rights of States to rescind their ratification. Depending on the results of these votes, I have several others to offer, probably tomorrow. One relates to the retention of authority of the Congress and the President to continue to regulate personnel within the armed services; another is in the nature of a substitute to provide equal rights for men and women with two exceptions: one to permit the States to retain their right to regulate marriages and family relations, the other excluding personnel of the armed services from the scope of the amendment.

I do have an amendment that would reduce the time for ratification to December 31, 1978. That is a reduction of the time for ratification provided under present law but it would seem reasonable that if the Congress can extend the time for ratification, it should also have the right to reduce the time.

Another proposed amendment would extend the time for ratification but only until January 1, 1980, thereby giving the proponents the entire year of 1979 within which to obtain ratification by the required three-fourths of the States.

In conclusion, I venture to hope that each Senator will reflect seriously on the course of action under consideration today, a proposal to violate the Constitution, to amend it by majority vote rather than the specified two-thirds contained in article V. I would hope that our colleagues will reflect upon giving 15 States additional time to act without providing an equal opportunity for 35 States, that may have acted in haste, an opportunity to reconsider their action. As our friend and former colleague from North Carolina, Senator Ervin, said before our Subcommittee on the Constitution, "what is good for the political goose should be good for the political gander."

Mr. President, I reserve the remainder of my time.

Mr. KENNEDY. Mr. President, I ask unanimous consent to give my remarks seated.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, freedom and equality have been among the most basic and cherished principles of this country since its founding. Those principles gave the revolution its resolve over 200 years ago and have continued to provide substance for the Nation's progress since then. These principles are etched on the arches and the cornerstones of our monuments and engraved in the metal of our society. These concepts have unified us in times of war and have motivated us in times of peace.

The tragedy of history, however, is that reality belies the philosophy today as much as it did 200 years ago. It has become a fact of life that while all men

are equal, some are indeed more equal than others. During the last two centuries, major efforts were made to aline reality with the philosophy. We have abolished slavery, have guaranteed voting and civil rights, have outlawed discriminatory practices, and have attempted to enforce the protection of the rights of all.

While the efforts have been valiant and the struggles, at times, have been determined, we are today still attempting to correct the injustice and to discard the fiction. Six years ago, by an overwhelming majority of both Houses, we began a process which we all, at that time, had hoped would make equality for all something more than a maxim; something more than rhetoric; and something more than a birthright of a few. We proposed an amendment to the Constitution which stated that "equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex."

The language of the proposed amendment is simple and the words are clear. Our intent was to insure that a majority, 51.3 percent, of the citizens of this country, would have the same rights under the laws as the minority who passed those laws. We wished to insure that never again would any person be denied equal rights under the law for the sole reason that she had not been born a man. We wished to state clearly and unequivocally in the most important document of this Nation that never again would the rights guaranteed to one person be less than those guaranteed to another solely because that person was a woman.

I might mention at this point, Mr. President, that we are approaching the bicentennial of the American Constitution. It will be in only a few short years that we shall have the bicentennial celebration of perhaps the finest blueprint for the protection of individual rights and liberties of all mankind. It is interesting to see where the Constitution itself failed in important areas of protecting rights. Women did not have the right to vote under the Constitution of the United States. Indians were not granted the right to vote under the Constitution of the United States. Slaves were not granted the right to vote under the Constitution of the United States. In most States, ownership of property was required before a person was allowed to vote in many elections of this country. I think if we were to ask the American people about these particular factors, most Americans would not believe that the Constitution of the United States, which has been adjusted and perfected and modified in recent times to include protections for those individuals, had to be modified. So the proposal that we are addressing here today, I believe, is really a nonrevolutionary one. It is basically a continuing process by which we mean to insure that no segment of the American people will be discriminated against.

When the proposed amendment was passed, it included a provision for a ratification period of 7 years, similar to provisions which had been included in other proposed amendments. This provision would insure a reasonable time for debate and a reasonable time for the majority to work its will. We never expected that, in many instances, thoughtful discussion would be replaced by distortion and by scare tactics. We never expected that the will of the majority would be supplanted by the actions of a handful of legislators. If this issue had been left to the American people to decide, the equal rights amendment would be part of the Constitution today. Thirty-five States, which contain over three-fourths of the Nation's population, have ratified the proposed amendment. Polls have shown that a majority of Americans, throughout the country, support this amendment. Yet, unless the time for ratification is extended, once again a small number of people in a minority of the States may very well be deciding the issue.

I think the floor manager of the bill has reviewed in rather careful detail the whole issue of the 7-year proposal. It is a fact that only a small number of amendments, which the States have considered over a period of time, have ever had the 7-year provision.

In some of these amendments, the 7-year provision was added in the whereas clause, as is the case in this particular amendment, and in others it was included in the substance of the amendment.

In the recent constitutional amendment dealing with voting representation for the District of Columbia which was accepted by the Senate, the 7-year time period was actually added to the substance of the amendment. In the ERA amendment, it was not. As a matter of fact, the total debate and discussion about the meaning of the 7 years, I think, was less than eight words long and was mentioned only in the House of Representatives.

So, Mr. President, the history of the time limitation in these amendments has been substantially different.

I was here when the floor manager discussed the time that was actually necessary for the consideration of the protection of child labor. Some 13 years—some 13 years—for the attention of that particular amendment, although nearly all of the amendments which have been considered by the Congress have been passed within a 2-year period.

The Supreme Court, in its own review of the question about the time frame, has drawn, I think, an important distinction between including the time frame within the substance of the amendment and within the whereas clause.

The issue, actually, that we were talking about on this particular amendment was the time frame within the whereas clause, and it is difficult for me to really read very much into that inclusion, other than the general desirability which I think all Americans have, that any consideration of an amendment will be done in a timely fashion as it should be.

But certainly, when we consider at the present time the interest in this particular amendment, the debate and the discussion which is taking place in the States on this issue, clearly it is timely.

Clearly, it is an issue which is before the American people in terms of the public policy considerations.

Really, what is being asked now is for the several States to have the opportunity to make a judgment on this extremely important and worthwhile measure.

But I look forward to debating that particular issue as the various amendments are presented.

The sole reason for the time limitation, as the Supreme Court has recognized, is to insure that a reasonable time is provided for debate so that issues which have lost their vitality are not floating around indefinitely. Never before this Nation's history has a resolution to extend the time for ratification been presented, and never before has such an extension been so necessary.

No one—not even those who oppose the extension—can argue that the equal rights amendment has lost its vitality. On the contrary, the debate on this amendment is both heated and vigorous. Legal scholars and constitutional historians, now more than ever before, are bringing their research and opinions before us for our consideration. Recent studies have demonstrated that the equal rights amendment is now, more than ever before, of critical importance to the future of women. The U.S. Civil Rights Commission issued a report recently which documented "women's failure to make any significant strides toward economic and social equality with white men since 1960."

I think this again reiterates and underscores the currency of the debate and the discussion.

The commission found that the number of the indices which show that the disparity has lessened between men and women, not only had not been reduced, but that in instance after instance the disparity has actually grown.

I think that this will be a matter of importance and consequence to the legislatures in the several States which are continuing to consider it.

Mr. President, I ask my colleagues to consider these facts:

Women of all races can expect to earn less than 70 percent as much as white men similarly trained.

Women—and minority men—are more often unemployed; occupants of low prestige positions, they receive lower annual pay raises and, in disproportionate numbers, are found to be living in poverty more often than their white male counterparts.

Further, these factors often do not change even when the job qualifications, such as age and other factors, are the same as for white men.

In 1971, women earned 63 cents for every dollar men earned; by 1975, this figure was down to 57 cents.

So the figures were actually going in what must be considered a direction which would indicate further inequality.

Women make up more than 53 percent of the Nation's registered voters, yet hold only 9 percent of the approximately 7,500 State representatives' seats.

There is only one woman chief executive officer active in any public corpora-

tion in this country, and the number of women who sit on corporate boards—257, fail to represent the financial interests which female stockholders have in these companies.

So the figures continue, Mr. President, and there is no justification for this situation. There is no reason for women to continue to be relegated to the status of second-class citizens. As long as these kinds of statistics exist, the passage of the equal rights amendment is crucial.

There are those who continue to argue that women will lose "protection" by the passage of the equal rights amendment, but the facts speak for themselves:

In one State, a couple's home belongs only to the husband, even if the wife earns the wages, supports her spouse and pays for the place in which they live. The husband can do anything he wishes with the property, without consulting his wife, and she has no legal recourse.

In another State, widows who inherit farms they co-owned with their husbands must pay an inheritance tax, while widowers in the same situation do not.

In another State, courts have held that a woman who gives up the opportunity to develop her own earning power to help put her husband through graduate school, has no right to share in the earnings from his work.

In another two States, the husband can choose to leave his wife out of his will entirely.

This is protection? These examples only emphasize how urgently American women need the real protection of the equal rights amendment. That amendment would guarantee and protect the equal rights of women to work, to advance, to enter into contracts, and to own and to inherit property, to mention just a few.

There have been those who have argued that the resolution we are debating today is "unfair"—that somehow it is unfair to extend the time for ratification in spite of the crucial importance of the equal rights amendment. I am amazed that they can profess indignation at this so-called unfairness and at the same time ignore the way women have been treated and continue to be treated today.

Is it fair that the housewife has no coverage for disabilities which might prevent her from doing her job?

Is it fair that the housewife is not able to receive 1 penny for retirement pensions as a homemaker, and only able to share her husband's social security benefits after 20 years of marriage?

Is it fair that in many States the homemaker, if her husband dies without a will, inherits only a portion of his estate, and it may be as little as one-fifth?

Is it fair that a young girl can be denied the right to attend a public high school in Philadelphia because this academically superior technical school was reserved for boys only?

Is it fair that not only is there a quota set for the number of women who may serve in the military, but women are also required to have a higher educational level than men in order to be admitted. Thus, women are denied education, denied insurance, denied job training, and are denied loan benefits. Additionally, they are thus denied veteran and retirement benefits.

Is it fair that women college professors, with the same qualifications as their male colleagues, earn, on the average, $3,000 per year less?

Is it fair that in 42 States the laws say the one who earns a salary is the one who owns property acquired in a marriage, and thus a homemaker, with no outside earnings, who has no ownership rights?

Is it fair that over 50 percent of our Nation's citizens are denied constitution equality?

We are not talking merely about women's rights, we are talking about human rights. We are talking about rights which should have been guaranteed by the Constitution, long ago. It is time that we erase the last vestiges of inequality which have divided our Nation into a two-tiered structure of constitutional rights: the haves and the have nots. We cannot now retreat from our commitment to constitutional equality for all citizens. We have a responsibility to continue to make every effort to make equality under the law a reality for the citizens of this country, and to insure the ultimate ratification of this long overdue constitutional amendment.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER (Mr. HODGES). Does the Senator yield the floor?

Mr. KENNEDY. I yield the floor.

Mr. GARN. Mr. President, before I start my opening remarks, I would like to ask the distinguished Senator from Massachusetts one question, because he made a statement I would like to clarify. It leaves something hanging that I would like answered prior to my opening remarks.

The distinguished Senator from Massachusetts said that the Supreme Court had made a distinction between the time limit in the text and in the resolving clause, and I ask if he can cite the case. I am unaware of any case in which any precedents have been set by the Supreme Court for making a distinction between the time limit in the resolving clause and in the text.

Mr. KENNEDY. I was referring to the case of Coleman against Miller. The dicta of that particular case basically indicated that it was going to be up to Congress to determine the time factor and to make a decision regarding it. That was the case to which I referred.

Mr. GARN. I am not aware that that case made any distinction whatsoever or any reference to either the time limit in the text or in the resolving clause. It did make some reference to what the Senator says, but I feel very certain that it made no reference—and there are no cases—to a distinction between the text and the resolving clause.

Mr. BAYH. Mr. President, will the Senator yield?

Mr. GARN. I yield to the Senator from Indiana.

Mr. BAYH. I point out that a number of constitutional scholars who testified before our committee made a distinction. The distinction is rather clear: if the equal rights amendment is ratified, what actually goes into the Constitution will be the text, the one sentence text, of the equal rights amendment. In the amendments earlier described, which had the time limit in the body of the amendment instead of the resolving clause, the time limit itself was in the text. It went into the Constitution with the rest of the text in those instances.

So it is a matter of constitutional law, not procedural law, and I think the distinction made by the Senator from Massachusetts is real.

Mr. GARN. I would like the Senator to respond to further questions on this matter, so that my point is made clearly.

I am not arguing that some constitutional scholars before the Senator's subcommittee made the distinction. It is also fair to point out that other constitutional scholars, both in the House testimony and in the Senate testimony, disagree.

The point I make very strongly is that there has been no Supreme Court determination making a distinction. The particular case cited by the distinguished Senator from Massachusetts makes no distinction.

I do not dispute that there have been constitutional scholars testifying before the Senator's subcommittee and that they did make a distinction.

I ask this question of the Senator from Indiana: If the time limit were part of the text of the amendment itself and not the resolving clause, would Congress have the power to change it by simple majority vote?

Mr. BAYH. No, in my judgment it would not.

Mr. GARN. All right; I agree with the Senator on that.

I repeat: There is no Supreme Court decision making that distinction. The case recited does not make that distinction, but some constitutional scholars did and some did not.

However, the distinguished Senator from Indiana has indicated that he believes there is a distinction. In answer to my question, he said that if it were in the text, Congress then would not have the power to extend by a simple majority.

Having agreed with the Senator on that point, then I think it is important that we look at why the limitation was shifted to the resolving clause, and I am wondering if the Senator is aware that on the first occasion the time limit was shifted from the text to the resolving clause in the case of the 23d amendment. Prof. Noel Dowling, who drafted the amendment for Senator Estes Kefauver, clearly stated his reasons for putting the time limit in the resolving clause, and I think we will find that it was primarily stylistic. I quote Prof. Noel Dowling, perhaps one of the more respected constitutional scholars of his time, and he had this to say:

> The seven-year limitation is put in the resolution rather than in the text of the amendment. There is no doubt about the power of Congress to put it there; and it will be equally effective. The usual way, to be sure, has been to write the limitation into the amendment; but we hope such an unnecessary cluttering up of the Constitution can be ended.

In other words, the change was purely stylistic. A time limit has no business actually becoming part of the Constitution, since it has outlived its usefulness at the moment the last State ratifies. It was placed in the preamble as a step toward a more elegant Constitution, not a more powerful Congress. A time limit in the preamble was intended to have the same legal effect as a time limit in the text: to be reliable, predictable, tamper proof.

And again, his own words:

There is no doubt about the power of Congress to put it there; and it will be equally effective.

So I think as to the man who drafted the amendment the first time it was changed and taken from the text and put in the preamble obviously his words mean that he said. It was stylistic. He did not feel that it was necessary to have included time limits in the Constitution.

Mr. BAYH. I must say to my friend from Utah it is good to know what the distinguished professor said. But to suggest that a time limit in the resolving clause is the same as a time limit in the substance of the amendment itself is to not be able to differentiate between the meat of the nut and the shell, the wrapping of the package and the gift that is on the inside. What the Senator from Massachusetts was referring to is that the court very clearly said that the whole business of time limit is part of the power given to Congress to choose the mode of ratification and choosing the mode of ratification is procedural whereas the substance of the amendment itself is substantive, and the substance is supposed to be passed upon by this body and our colleagues across in the House of Representatives by two-thirds, whereas the procedural part, I suggest to the Senator, has traditionally and indeed can now be passed by majority vote. I guess we must have a difference of opinion on that.

Mr. GARN. We are going to debate that at much greater length when we get to that amendment, but I would say that the only difference between a fair trial and a lynching is procedure. I am rather interested that so many attorneys who constantly are talking about fair procedure in the law, how we must follow the rules—and that is what the law is all about—suddenly procedure is not important, it is not important at all, and we can change the procedure to fit a particular situation.

I will yield in a moment.

Extension supporters place great weight on the location——

Mr. BAYH. Mr. President, may I ask whose time? Is the Senator operating on his own time?

Mr. GARN. I am happy to operate on my own time.

The PRESIDING OFFICER. The Senator is operating on his own time.

Mr. BAYH. All right.

Mr. GARN. Extension supporters place great weight on the location of the 7-year language in the ERA resolution. They generally admitted if the time limitation were in the text of the amendment itself, Congress could not extend without releasing the previously ratifying States. A 7-year limit on the ERA, however, is not in the body of the amendment but in the preamble. Therefore, the argument goes in changing the time limit Congress is not tampering with the amendment itself which is all the States ever voted on.

This technical contention elevates form over substance, ignoring what really happened in the ratifying process.

Each State received from Congress a copy of the entire resolution including the preamble with the 7-year time limit. The whole package was on the bargaining table when the States agreed to ratify it.

One more point on this I think is rather interesting. If back in 1972 we talked about a 7-year time limit, I am sure there are a lot of our colleagues at that time who did vote for this on the basis of a time certain. I do not think there is any doubt about that. How many I do not know. But I am sure they did and if on one day we voted by two-thirds to approve the entire package, whether it is in the preamble or the text, and we set a 7-year time limit and some were induced to vote for it on that basis and it was passed, but the next day the supporters came back in with 1 day expiring and said: "We have changed our mind; we want 3 more years; we want to make it 10 years; now we only need a majority vote to extend it." I cannot imagine that anyone would have thought that was realistic at that time.

What difference does it make whether 1 day has passed or whether 6½ years have passed, that now we are looking at that package and saying what we originally passed by two-thirds now we only have to pass by majority vote.

The other day in my office proponents of the extension said: "Idaho's rescission could not be valid. They ratified by two-thirds. But now they rescinded by majority vote."

I am afraid I would have to agree with them, that it was not correct, that they should use the same means.

But that argument certainly should apply here. Those same proponents are saying it was originally sent to the States by two-thirds but now we only need a majority.

I wanted to make those points while the Senator from Massachusetts was here and clarify that before I use any more of my time. We will get back to this argument when we get to the two-thirds amendment by the Senator from Virginia. But I wish to now proceed to my opening remarks.

Mr. President, at the outset let me state so there is no doubt in anyone's mind that where I come from I am opposed to the equal rights amendment, but I also state at the same time during all of the years since it passed I have never been a lobbyist against it. In my position as mayor of Salt Lake City I was asked my opinion how I would vote if I had the opportunity, and I stated that I would vote against it, but I was in no public office where I could. I have never appeared before a legislature, even my own, asking that they vote against it. I have never written a letter. I have never made a telephone call.

My point is although I am personally opposed, I have never been an ardent activist in trying to defeat it at any time whatsoever.

I think that is an important distinction to be made here because in listening to my distinguished colleagues from Massachusetts and from Indiana I do not disagree with one thing they have said about the need for equal rights for women. There is no doubt there have been gross discriminations over the years in equal pay and credit, in divorce laws, in all sorts of areas. I grant that.

There is no question and there should not be any question in anyone's mind that there has been discrimination against women in the country, that they have not had equal rights. I do not disagree with what is trying to be accomplished. I disagree with the method. I think there is a great amount of energy put into passing of an equal rights amendment that opens up a lot of doors that I would not like to have opened up because of the fact it is so simple and so general, with the challenges of some people from equal bathrooms to you name it, which I do not happen to agree will be the results of an equal rights amendment if it is passed. I think there is a cleaner, faster way to do it.

So I want to establish those facts to begin with. Very simply I do not disagree with the goals. I do not disagree with what my two colleagues have said about the denial of rights to women. I do not disagree that they should be corrected. It is a matter of how we correct those particular issues

So I have not been an active participant for the last 6½ years. Less than a year ago when they started talking about extension it just hit me as a great surprise. I thought that will never get the time of day in the House of Representatives and the Senate. They would not consider that kind of an extension no matter how much they wanted a particular issue; no matter how valid the issue is; no matter how important it is to them, that someone who is fighting for civil rights, groups fighting for civil rights, would not try to come up with a proposal that denied people their civil rights, their opportunity to participate. I specifically refer to extension without rescission. We say they would not want it stacked in one direction so that only one side can win.

Let me at this point sum up my position by reading an editorial from the Denver Post, an avid supporter of the equal rights amendment for many, many years, and still continues to be so, because it sums up my position and why I am involved in this.

I got involved not because ERA was the issue or because I personally would vote against it if I had been in the Senate in 1972, but because of looking at the constitutional process and whether, if an extension is granted, it should be a fair extension.

The Denver Post, along with many other liberal newspapers, that support the ERA, and still support it, is opposed to rigging the rules, and that is what it says:

DON'T RIG RULES FOR ERA

Should the deadline for ratification of the Equal Rights Amendment be abruptly moved up to today from the original March 22, 1979, for the specific purpose of killing the proposal?

Of course not. No one has even suggested so grossly unfair a distortion of a supposedly neutral constitutional process to hand victory to one side of a bitter political debate.

But what has been demanded, and now approved by the U.S. House of Representatives Judiciary Committee is just as unfair to the other side. Under intense election-year pressure from ERA supporters, the committee has voted to extend the deadline by three years, three months and eight days.

That odd time figure is a supposed "compromise" with the original demand of ERA backers for seven more years. But the length of the extension is less important than the terms attached to it—and they are clearly designed to rig the rules utterly against ERA opponents.

This newspaper has consistently voiced editorial support for the ERA at both state and national levels. Indeed, as recently as May 30, we even approved the idea of a simple extension of the deadline because the ERA "is a right and just cause."

It is still right. It is still just. But the mounting debate over the extension proposal—particularly in the loaded fashion it emerged from the Judiciary Committee—has convinced us that this tactic is a dangerous and unfair means to this still noble end.

For it is now clear that the proponents aren't merely asking for more time for public consideration. They are demanding that the rules be rigged in "heads I win, tails we flip again, and again, and again," fashion. They want unlimited attempts for three more years to win ratifications in the 15 states which have still refused to approve the amendment. But they also seek to specifically prohibit any of the 35 states that have ratified from rescinding their approval as four have already tried to do.

Thus, it would be entirely possible in three years time to see 47 states on record against the ERA and only three ratifying—with the amendment still becoming the supreme law.

In the debate's heated rhetoric, opponents have protested "changing the rules in the middle of the game" and the supporters have replied "this is no game."

Indeed, amending the Constitution is no game. Which is exactly why it must be done with scrupluous fairness. Thus, a basic tenet of constitutional law has always been the requirement for "contemporaneous" approval of amendments by three-fourths of the states. That simply means they should all act within a reasonably limited time period to insure they actually reflect the will of the contemporary majority.

In actual fact, no successful constitutional amendment has ever taken more than four years to win the necessary majority. (The states rejected five proposals.)

Frankly, the arguments against the ERA continue to strike us as ranging from the insufficient to the preposterous. But the central point now is whether the many women and men who disagree with us also have a right to express their opinion in the political process.

If that process is distorted now, what's to keep it from being distorted by the passion of other political drives? Would the ardent feminists urging the present loaded proposal favor a similar "can't lose" approach for an amendment to outlaw abortion? Or to enact any of the dozens of proposals always floating around?

The ERA would not be necessary to "put women in the Constitution." They are already there, as fully as men. The ERA would reaffirm our national commitment to a fairer treatment of women in our national life. The fight for the amendment has led to many comparable state amendments (including in Colorado) and fairer treatment of women throughout law and society.

The amendment can cap those achievements by going all the way without an extension—if voters this November care enough to defeat legislative opponents in the holdout states. Sadly, this appears unlikely.

For this touchstone of the "women's movement" is now actively opposed by a growing movement of other women with more conservative goals. But a nation cannot condition the right of women to wield its political processes on their willingness to uphold liberal banners.

ERA will be an honored part of the Constitution if it passes fairly. But if Congress tries to rig the rules in its favor it will dishonor the very tenets of democracy that ERA itself enshrines.

That really sums up my opposition. I do no think there is any doubt but that we have the right to extend. Professor Black, Charles Black, sterling professor of law at Yale University, a distinguished constitutional lawyer, certainly reaffirms that.

This is a man who says he is a liberal, a liberal Democrat; that he favors ERA. He thinks it should be passed, but constitutionally he said to me yesterday that there are so many things wrong with this extension that he cannot keep them all straight in his mind.

But he says, and this is testimony before the House Judiciary Committee:

It is my view that in the entire silence of the Constitution on the subject Congress has the power to extend time for the ratification of an amendment. I see no reason at all why the body which set the time in the first place should not have this power. There certainly is a limit on what could be looked on as a "reasonable time," but a few more years would probably not raise any serious question on this.

He is not disputing the right of the body to extend.

It is rather interesting he concludes that, because the Constitution is silent on extension, but then the other side, which also assumes that, assumes that because it is silent on rescission, that we cannot do it. Well, you cannot have it both ways. You cannot say we can extend because the Constitution is silent, and then say we cannot have rescission because the Constitution is silent. The Constitution is silent on all sorts of things. That does not mean we cannot do them. The Constitution of the United States is a very short document. It does not cover everything under the Sun.

But he has three other opinions directly connected with this.

1. If the original resolution combined the proposal of the amendment and the setting of the time, the integral package being then passed by ⅔ vote (and I understand this to have been true of the Equal Rights Amendment) then it seems to me plainly right that a ⅔ vote of each House of Congress should be required for an extension.

He goes on to talk about another principle, and I will not quote all of him at this time, I will save it for the debate on each individual amendment:

Extension of time, in my view, must be for action on the amendment, and not simply for one kind of action on the amendment. The concept of "contemporaneous consensus" is more and more stretched and violated as more and more time passes with States having actually changed their minds on the merits of an amendment proposal.

The extension of time for ratification but not for rescission would be so grotesque that I should think that one would not have to reach the constitutional question, but if the question is reached I am firmly of the opinion that lopsided extension would be unconstitutional and that an amendment adopted in that fashion would be invalidly adopted. The right to rescind, in my view, arises by operation of law, and cannot be taken away by Congress.

Again, to get back, I do not know how many times in the last few weeks I have tried to establish that we do have the right to extend, and I do not object to an extension if it is a fair extension.

I will not take the time of the Senate now to go into more editorials, but they are numerous. They talk a great deal again from papers that support ERA but do not favor a loaded proposal as dishonoring the very purposes of ERA.

So the issue should not be ERA today. My two colleagues talked about it. That is not what is at issue. Every time I have asked a question of the proponents of ERA if they would be here lobbying for a stacked extension in favor of abortion, they throw their hands up in fright and say, "Of course not. That is a different issue." And they are right. It is a different issue. By what element of fairness and democracy can we say that we take just one issue and change the rules for that one? I do not understand the logic behind that.

No matter how much people want ERA, and there are a lot of Senators on my side who voted for ERA, who will do so again, who share my opinions on an unfair extension, we must, as a deliberative body, separate the issue at hand from the constitutional process. We cannot change the process to fit an issue whether we are for or against that particular issue. It simply cannot be fair in anybody's mind.

There are polls across the country that show that a majority of the people of America are in favor of ERA. I do not dispute that.

But there are also polls that have been taken that show they are not in favor of an unfair extension, that they are overwhelmingly in favor of rescission in any extension proposal.

So I think we reach there the fairness of the American people, and that they do understand. But I must plead with my colleagues for fairness, and for separating the particular issues. Again, the abortion example is overwhelming. None of these dedicated, sincere women that I know of who have been here lobbying for this extension, stacked in their favor, would not be here just as vociferously opposing an extension of time for an abortion amendment.

Mr. President, we cannot change the process to fit the issue. We must separate them. More important than abortions and the popular election of the President, which Senator BAYH and I agree on, more important than any of these individual issues, is the integrity of the constitutional process. That must be maintained.

One of the editorials talks about this process by suggesting, "Would you want

this kind of procedure placed in the hands of your worst enemy?"

I do not think so. I do not think anyone here would be in favor of that. That editorial happens to be from the New York Times. It says:

Once the rules are bent, all forces can play the same game. The next time around, on an amendment to forbid abortion, for instance, these same marchers would deeply resent a similar maneuver. The way to judge the wisdom of a procedure is to imagine your worst enemy having the benefit of it.

So we are going far beyond this particular issue. We are going to the future, and I say to my colleagues who so ardently support ERA and are willing to extend the time to make sure it passes by allowing only one side to vote that someday there will be some other issue before us that they will not like, and I wonder if the consistency will be there then, and if they will be willing to create an extension at that time. I seriously doubt it.

We have to get away from the merits or demerits or the substance of the particular issue, and look at the merits and the substance of the constitutional process.

Mr. President, at this time I reserve the remainder of my time and yield the floor.

AMENDMENT NO. 3673

(Purpose: To set December 31, 1978, as the deadline for the ratification of the equal rights amendment)

Mr. SCOTT. Mr. President, I call up my amendment No. 3673 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Virginia (Mr. SCOTT) proposes an amendment numbered 3673.

Mr. SCOTT. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER (Mr. NELSON). Without objection, it is so ordered.

The amendment is as follows:

On page 1, line 9, strike out "June 30, 1982" and insert "December 31, 1978".

Amend the title so as to read: "Joint resolution reducing the amount of time available for the ratification of the equal rights amendment.".

The PRESIDING OFFICER. Is this one of the Senator's amendments on which there was a time limitation agreement of 4 hours?

Mr. SCOTT. No, Mr. President, it is not. It would come under the 1-hour agreement.

Mr. President, this is a sort of "what's good for the goose is good for the gander" amendment. All it does is provide that House Joint Resolution 638 is amended by striking out "June 30, 1982" and inserting "December 31, 1978".

In other words, the right of the States to ratify the proposed constitutional amendment would be terminated as of the end of the current calendar year. It would reduce the time for ratification of the equal rights amendment, in that this amendment, the present ERA amendment approved by both Houses of Congress by a two-thirds vote in the House in 1971 and by a two-thirds vote in the Senate in 1972, so that the right of the requisite number of States to ratify it would be terminated December 31, 1978.

Many proponents of the equal rights amendment, I am sure, feel that this is not fair, because Congress has given the States 7 years within which to act upon the amendment, and it would take a portion, a little less than 3 months of that time away, because they now have until the 22d of March. But by the same token, the opponents of the ERA extension amendment believe that it is unfair to extend the time after 34 States have acted upon the original proposal.

But the proponents are going a step farther. They are extending the time for ratification, but not allowing any rescissions.

This question of rescission and extension has been discussed somewhat, Mr. President, but I think at this time it would be well to review that Prof. Charles Black of Yale Law School told the House of Representatives:

Extension of time in my view must be for action on the amendment and not simply for one kind of action on the amendment. The extension of time for ratification, not for rescission, would be so grotesque that I should think that one would not have to reach the constitutional question. But if the question is reached, I am privately of the opinion that lopsided extension would be unconstitutional and that an amendment adopted in that fashion would be invalidly adopted.

Mr. President, in regards to Professor Black's statement, Laurence H. Tribe, professor of law, Harvard University told the House Judiciary Committee:

I agree with most of what Charles Black said. It seems to me it is at least bizarre to construe the Constitution in such a way that the power of Congress to extend, which it seems to me is simply a corollary of the inability of Congress to bind its successors, somehow cuts for and not against ratification of the amendment. It seems to me it does cut both ways.

And although Congress might try to develop a lopsided procedure without offending the Constitution, I am not in agreement with the views which say that Congress must go only one way. I think it is clear that the period for further debate implies greater sympathy in viewing a State attempt to retract.

Mr. President, it seems as if Congress has allowed the equal rights amendment a reasonable time. It would appear it would be better for all concerned, if we would defeat the equal rights extension and allow the proponents to introduce another constitutional amendment in the Congress and begin their process once more.

However, Mr. President, if they want to extend the ratification period, I see nothing wrong in allowing us to attempt to reduce this period to December 31, 1978. Therefore, I urge the adoption of this amendment.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. BAYH. I believe my distinguished colleague from Michigan desires to be heard. I would just say to my colleagues I believe the amendment of my distinguished colleague from Virginia pretty well speaks for itself. If you are for equal rights for women, if you are for equal pay for equal work, if you are for equal access to our colleges and universities, if you are for equal treatment in the business community, if you are for equal treatment in the courts of the land, then you ought to oppose the amendment of my good friend from Virginia, Mr. President.

If, on the other hand, you feel that all those basic rights and elements of justice and equity in this country are out of style, then you ought to support the amendment.

Mr. RIEGLE. Will the Senator from Indiana yield me 2 or 3 minutes?

Mr. BAYH. I yield as much time as the Senator from Michigan desires.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. RIEGLE. I thank the Senator.

Earlier when I was the Chamber I heard my friend from Virginia, the author of this amendment, use the analogy of a baseball game. I am sure my friend recalls his reference to the baseball analogy where he said that to allow an extension would be akin to having extra innings added to the baseball game but only letting one team play or have the chance to score runs. I think that is a defective analogy in this case. I want to explain why I think so.

First of all, a time extension allowing States some additional period of time to consider this question is basically a neutral move. I realize that people who are strongly opposed to the equal rights amendment itself would contest that. But in fact, it is a neutral move because it does not in any way guarantee that even one additional State will elect to ratify, given a time extension. A time extension merely affords States the opportunity to consider the issue and lets both sides be heard, lets both sides present their points of view, and States then can choose as they will. The States are absolutely free to take, in the one case, the action of ratification, or, in the other case, the action of choosing not to ratify.

So both sides continue to play, both sides continue to have the right to be successful in putting forward their point of view. People who are opposed to ERA are not muzzled, they are not prevented from lobbying as effectively as they can, as they have in other States in the past, to persuade legislatures, indeed, not to ratify.

So the suggestion that an extension of time for States to consider this issue stacks the deck in favor of those of us who favor ERA is just wrong. I say it is just incorrect.

It merely means that States will have an opportunity, and citizens of States will have an opportunity, to debate the issue and to discuss it. Perhaps in some cases, and I certainly hope in the cases of at least three States—in fact, I would hope more—after looking at the serious merits of this issue they will decide to ratify, and they will decide to join the other 70 percent of the American population represented by those States which have already ratified in saying "Yes" to the equal rights amendment and attaching it to the Constitution.

I would hope that no one would suggest that an extension of time by itself somehow stacks the time against the people on one side in this issue or the other, because clearly it does not. It has not in the past and it will not in the future if there is a time extension.

I might say with respect to the amendment before us now, a time extension for the period which has been proposed by the Senator from Virginia clearly does not, I think, offer any significant period of time for this issue to be heard and debated. In fact, there is great question in my mind as to whether the 3-year period plus is in and of itself sufficient.

I do not understand why we need a time limitation at all. I think a fundamental human rights question such as this one is contemporaneous for an indefinite period, for as long as this country exists. I do not think there should be a time limit. Quite frankly, I would rather the time extension be longer than the period we are talking about. To make it less than that is to make it, in a sense, meaningless. To not have at least 3 years, a short period, or longer than that, available for States to consider this question would really render ineffective even the practical meaning of an extension period.

If one thing is clear from the debate that we are seeing across the country it is that the issue has not gone away, it has not become a dead issue by any means. As a matter of fact, the level of controversy and debate today is higher than it has been, I think, probably than at any point during the 7-year period, roughly, we have had so far to consider the issue. So any suggestion that somehow or another this is an issue which has lost its meaning or lost its intense public interest, or lost its validity as a question that the country ought to debate and settle, is totally at odds with what we see. In fact, it is an intensely debated issue, a profoundly important issue, and the country ought to have an additional period of time to sort through many of the arguments which have been put forward.

I might say while I have the floor at this particular time, though I will have more to say later, that most of the arguments I have heard from the opponents of the equal rights amendment, and I am not referring to opponents in the Chamber but outside the Chamber, are arguments that have trivialized the meaning of the equal rights amendment, throwing out the threats of men and women having to use the same restroom facilities, nonsense such as this, and taking what is a profoundly serious issue and pulling it down to a level of debate which is really unworthy of what is at stake.

As the Senator from Indiana has said, what is really at the heart of this issue are things like equal pay for equal work, which we do not have today; what is at the heart of this amendment are things like dealing with some 800 or so gender-based references in the Federal law that are there today in terms of making differentiations between people on the basis of sex. These are the kinds of basic issues.

And State laws. There are States in this Union where if a woman works and she is married her husband has the right, under State law, to go to her employer and ask that her wages be given directly to him. Where is the fairness in that? I daresay there is not a Senator in this Chamber, and I speak now to my male colleagues, who would, for a moment, stand for that provision in any law, any State law, if it were done the other way, if, in fact, the woman, a wife, had the right to go to an employer and have her husband's wages paid directly to her.

It is unfair either way. For the work that is done, the wages belong to the person who earns them.

That is one of the hundreds of illustrations that might be cited in terms of the inequities, the injustices, that have been built into our laws, Federal and State, over the course of nearly 200 years. The equal rights amendment is so simple, so direct, and to the point in terms of saying that we are going to put the citizens of this country, men and women alike, on the same legal footing. The notion that that can be somehow twisted and perverted to the point where it is used to frighten people, to say that somehow family life is endangered, or likely to be destroyed, is really outrageous. It is outrageous that that has happened.

One of the ways in which we deal with the outrageousness of those kinds of assertions is with the truth, by allowing the truth to challenge and to rebut and finally to overtake arguments of that kind. But for the truth to work, one needs time. We are out of time in this instance. We do not have enough time left between now and March of next year to secure, in my judgment, the final three States. Perhaps we will do it, but I think it is most unlikely. We need an additional period of time. I wish the time limit were to be an indefinite one, but that is not what has been proposed here.

I think what we have to do is accept the time period that has been put forward in the House language and to make that time period work. To make it any less than that is really, in effect, to kill the ERA, just as, I would say as I am on my feet at this point, would any move to attach a rescission amendment. The rescission amendment is a killer amendment. That is its purpose, that is its effect. No matter who offers it or how it is dressed up or what other rhetoric is wrapped around it, it is absolutely clear that any rescission amendment that is attached to this bill will kill ERA. That is the consequence of that issue and that vote when it arises. Anybody who confuses rescission with extension mixes two things together that are profoundly dissimilar. We shall debate that issue at a later time in terms of the opportunity to address the issue of why rescission is wrong from the point of view of the structure of law and precedent over our entire history, but also wrong in terms of its practical effect, the fact that it is a killer amendment, it is designed to kill ERA, and if it is passed, it will kill ERA. Let nobody misunderstand that.

As for the extension period, we cannot get by with anything less than what is in the bill that has come over from the House. We need the 3 years plus to consider this question. States ought to have the right to consider it fully and they ought to have the chance to act on it. State legislatures ought to act on it. They ought not to duck the issue. They ought to meet, they ought to debate the issue, and they ought to vote on it. Three years is a short enough period of time to allow that to happen.

I think it is essential that the remaining 30 percent of the American population have the opportunity to address this issue and have it voted up or down in their legislatures as much as the 70 percent of us who come from States who have ratified. Also, I think, we have a right to expect that the other States that have not yet dealt with this question will do so in a forthright manner so that we can act in a way that suits the broad national interest and not just the interest of a single State.

On that basis, I oppose the amendment of the Senator from Virginia and I hope it will be defeated.

Mr. SCOTT. Mr. President, I offered this amendment with the intention of withdrawing it at a later time. I just wanted to see the reaction of the proponents of the extension of time within which ratification should be made.

Of course, this is an unfair amendment. I would not offer such an amendment in a serious manner. But just as my amendment is unfair, so is the amendment unfair that would extend the time.

Mr. President, I withdraw the amendment.

Mr. BAYH. Will the Senator withhold before withdrawing so I can utilize the time that remains on the bill? If he insists on it, of course, he has the right to do so.

Mr. SCOTT. Mr. President, I am glad to withhold in order to give the distinguished Senator from Indiana time to discuss the matter, if I may do so and reserve the right to withdraw as soon as he has completed his remarks.

Mr. BAYH. I appreciate the courtesy of my friend from Virginia. I certainly do not want in any way to interfere with his desire to withdraw this amendment. I appreciate the fact that he was trying to make a point.

It seems to me that, at least speaking for myself and, I think, most of us who are enthusiastically supporting the extension, the point has best been made by the Senator's introducing this amendment and then withdrawing it because, by suggesting that we should cut down on the time limit, he is suggesting that a shorter period of time is reasonable. By wanting to extend the time limit, we are suggesting that we have not had sufficient time, and that is what the whole argument is all about.

Mr. SCOTT. Will the Senator yield at that point?

Mr. BAYH. I am glad to yield.

Mr. SCOTT. Is it not true that both Houses of Congress had established what they considered to be a reasonable time? The House voted in 1971, the Senate voted in 1972. So the period of 7 years was set by Congress and, apparently, that constituted what was considered to be a reasonable time.

The amendment has not been adopted and there is serious question as to whether it will be adopted within what the Senate considered to be a reasonable time. Now, the proponents will say, we have not gotten what we wanted so far, so, regardless of what is a reasonable time, let us take enough time to get an extra three votes.

Mr. BAYH. If the Senator will yield, does the Senator concede that Congress has the authority to establish a 7-year time period?

Mr. SCOTT. I do not have any doubt that Congress has the right, because the Supreme Court has said that 7 years is a reasonable period of time. I have no doubt about that.

I do have doubt about the legality of extending the time. I have very serious doubt about extending the time and not following article V of the Constitution, which requires a two-thirds vote. I do not believe we can extend the time by a mere majority. It is just like when we make a will. We make a valid will and we decide later we want to change it and we add a codicil. A codicil has to be executed with the same formalities as the original will. I believe if this is to be amended, it must be by the same formalities in the requirement of the Constitution as were true when the original joint declaration was passed. The joint declaration does recite two-thirds.

Mr. BAYH. I intend to address the two-thirds-vote question when that amendment is presented, and I previously briefly addressed myself to it in discussing the issue with the Senator from Utah. But as to the authority of Congress to act, if Congress has authority, what it does is legal.

The Senator from Virginia suggests that Congress has the authority to establish a 7-year time limit. Does he suggest that it does not have the legal authority to establish a 6-year time limit a 9-year time limit, a 10-year time limit, or a 10-year and 3-month time limit?

Mr. SCOTT. As the distinguished Senator from Indiana knows, the courts have used the phrase "contemporaneous consensus," speaking of getting a consensus of the vast majority of the people of the country at approximately, roughly, the same period of time. The courts have said that 7 years is a reasonable time. I am not sure what they might say with regard to 10 years had that been the original provision. I do not know whether it would have passed both the House and the Senate. It might have; it might not. I do not believe any of us knows, if a different time limit had been placed on it, in view of the fact that most recent amendments—I believe all except the child labor law since the turn of the century—have had provisions in them for 7 years.

Mr. BAYH. I suggest here again, if we are talking about the constitutional authority of Congress, the fact that the last couple or three amendments have had a 7-year time limit in the resolving clause is not relevant, is it?

What troubles me with the logic of my friend from Virginia, perhaps he can help me, is that we know over half, in fact 18 of the 26 constitutional amendments that are in the Constitution now, were sent to the States without any time limit at all.

It is rather difficult for me to understand how Congress can have the authority to say to the States, "Ratify this amendment with no time limit," yet it does not have the authority to say, "Ratify this amendment in 10 years and 3 months."

Mr. SCOTT. I believe, if the distinguished Senator would yield, if we do not put a time limit, then the courts would do it for us, if suit were brought and the question was properly presented to the courts, and they have, in effect, said it has to be within a contemporary period of time, a reasonable period of time, we can define a rule of reason, rather than a precise number of years. It is questionable about what the Court would do.

This matter has not been presented to the Court in recent times, not with the same nine individuals on the Court as are there today.

Many things have happened, as the distinguished Senator knows. The Court has invaded the political arena. They did it in the Powell case when the House did not seat a Congressman from New York, and in Baker against Carr, when the Court indicated that the apportionment in Tennessee was not fair to the people of that State.

So if the Congress does not put a time limitation, the courts will do it for them. I think, quite candidly, that is a good to have a time period. I feel that we are yielding some of our prerogatives to the Court when we do not put a time limitation. But Congress has already said 7 years is a reasonable time.

Now, when the necessary ratification has not been obtained, the distinguished Senator from Indiana and colleagues who favor his point of view say, "Let's add a little bit more to what we thought was a reasonable period of time back in 1971 and 1972, let's make it 10 years."

Then after 10 years and 3 months, if it has not been ratified, will they come back and say, "Let's get a couple more years?"

Just recently, we passed the District of Columbia full representation bill and there is a 7-year limitation on that. Are we setting a precedent whereby we will have that before us for the remainder of the century and maybe beyond? Will they be back asking for 10 years? "They gave 10 years to the equal rights amendment; we ought to get 10 years if the equal rights people get 10 years."

Where do we stop?

I think we have committed an act, and, if we are going to change it, I think Congress has the absolute right to make a change provided they do it in accordance with article V of the Constitution. I believe we are inviting judicial review by attempting to do it in some manner other than the manner that is specifically specified in article V of the Constitution.

Mr. BAYH. What the Senator is saying is that the Congress is completely within its rights under the Constitution to propose an amendment for ratification with no time limit, but that it cannot, on reflection, determine that the States should be allowed 10 years for ratification unless Congress acts with a two-thirds vote to make that determination.

Mr. SCOTT. I am saying that I believe it is unwise for the Congress to pass a proposed constitutional amendment, to submit it to the States, without having some time limitation. Nobody would know.

Now I do not believe the child labor amendment can legitimately be ratified at this time by the States. But I may be wrong. It has been a long time about 50 years, since it was submitted. The same people are not alive today that were alive at that time.

I was alive, but I do not know whether my distinguished colleague was alive 50 years ago, or not.

But the vast majority of the people in this country were not alive when that proposal was submitted to the people for ratification.

I have been a lawyer since 1935, but, in my judgment, it would be invalid to ratify that at this time. But, be that as it may, the courts would make the decision, not the Congress.

I think the Senator is right in putting a time limitation.

Mr. BAYH. Will the Senator please cite me his basis for saying the courts are going to decide this?

I have not had the good fortune of being a lawyer since 1935. I guess I am sort of a newcomer compared to others as far as my experience as a practicing lawyer, but——

Mr. SCOTT. I have not been a lawyer since 1935. I just mentioned I started school in 1935. I was not admitted to the bar until after I finished law school.

Mr. BAYH. Well, I am glad the Senator put the record straight.

The Senator from Indiana was not trying to diminish or increase the longevity of the distinguished Senator's experience as a lawyer.

But every case I have read, I say to my distinguished friend and colleague from Virginia, on this very issue suggests that the Court will not decide what is a reasonable time limit for ratification, but rather, that the courts will let the Congress decide, at least as long as it is reasonable. As long as the time limit adopted by Congress is reasonable and as long as the amendment is a viable issue, Congress may exercise its discretion. So we in Congress may agree as to whether we should extend the ratification period for the equal rights amendment, or not.

We may disagree on whether a two-thirds majority vote is required. We may even agree or disagree on the merits. But it seems to me that we have to agree that at least it is a viable issue still. It has not gone away.

Mr. SCOTT. Mr. President, if the distinguished Senator would yield, I would hope he would permit me at this time to withdraw the amendment. I have had one of our colleagues saying that he has to leave in about 3 hours and he would like the opportunity to vote on the next amendment.

I withdraw the pending amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. BAYH addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. BAYH. Mr. President, I ask unanimous consent that Nancy Barrow of Senator CHAFEE's staff be granted privilege of the floor during the debate and votes on this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRIBUTE TO SENATOR HODGES FOR SERVICE AS PRESIDING OFFICER

Mr. ROBERT C. BYRD. Mr. President, at 11:30 this morning, Senator KANEASTER HODGES, of Arkansas, who presently presides over the Senate, completed 100 hours of presiding over the Senate.

One of Benjamin Franklin's most favored passages of Scripture was that passage which says:

Seest thou a man diligent in his business? He shall stand before kings.

The Senator from Arkansas is a man who is diligent in his business.

One hundred hours in the chair: Reaching such a milestone in the Senate is one of the events that customarily is recognized in and of itself. Senator HODGES has done more than merely occupy the chair during this time. He is to be commended for the skill and graciousness with which he has carried out his duties as Presiding Officer, and I personally thank him for the aid he has given to assist in the progress of legislation, not only while he has presided but at other times as well.

I am not surprised at the efficiency and skill of Senator KANEASTER HODGES. A great English writer and critic, John Ruskin, once commented:

The first test of a truly great man is his humility.

Since Senator HODGES came to the Senate to serve in the place of the late John McClellan, everyone has been impressed by his humility as well as by his generous spirit, inquiring mind, diligence, and willing cooperation. These are the marks of a great man.

It is unfortunate that the Senate lost the talents of Senator McClellan, but I know that I speak the minds and hearts of my colleagues in saying how much we appreciate the presence of Senator HODGES and the good work done by him in the months he has been a Member of this body. Moreover, the people of Arkansas can take great pride in the fashion in which KANEASTER HODGES has carried on the work of his office and represented the interests of that State.

It has been a genuine pleasure to serve with Senator HODGES the past several months, and I am sure that every Senator will remember him in the years ahead. It is Arkansas' loss, the Senate's loss, and the Nation's loss that KANEASTER HODGES, under Arkansas law cannot continue to serve in the U.S. Senate after this Congress.

I once said that if I were the top general in the military and I had to select a squad to carry out a vital piece of strategy, I would select KANEASTER HODGES as the man to head up that vital effort. I said that out of his presence; I now say it for the RECORD.

The PRESIDING OFFICER (Mr. HODGES). The Chair thanks the majority leader for those very kind words.

Mr. GARN. Mr. President, I agree with the distinguished majority leader's remarks about the distinguished Senator from Arkansas.

EXTENDING THE DEADLINE FOR RATIFICATION OF ERA

The Senate continued with the consideration of House Joint Resolution 638.

AMENDMENT NO. 3671

(Purpose: To permit a State legislature to rescind a ratification of the equal rights amendment, and to recognize any rescission of such ratification made before the date this joint resolution becomes law)

Mr. SCOTT. Mr. President, I call up my amendment numbered 3671.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Virginia (Mr. SCOTT) on behalf of himself and Mr. GARN, proposes an amendment numbered 3671.

Mr. SCOTT. Mr. President, I ask that the clerk read the amendment in its entirety so there will be no misunderstanding as to what the provisions of the amendment are.

The legislative clerk read as follows:

On page 1, line 3, insert "(a)" immediately before "notwithstanding".

On page 1, immediately after line 9, add the following:

"(b) Any legislature which has ratified the article of amendment proposed to the States in such joint resolution may, by the same procedure required for ratification, rescind such ratification at any time prior to the ratification of the amendment by three-fourths of the several States. The Administrator of the General Services Administration shall certify to Congress each resolution of ratification or rescission of the article of amendment as received from the several States.

"SEC. 2. For the purpose of determining whether the article of amendment proposed to the States in House Joint Resolution 208 of the Ninety-second Congress has been ratified by the legislatures of three-fourths of the several States, no legislature of a State which has rescinded its ratification of such article of amendment by the same procedure required for ratification (without regard to whether the rescission occurred before or after the date on which this joint resolution becomes law) shall be counted as having ratified such article of amendment, unless such rescission occurs after the proposed article of amendment has been adopted, or such legislature again ratifies the article of amendment after the rescission.".

The PRESIDING OFFICER. The Chair inquires whether this is one of the amendments of the Senator from Virginia on which there is a 4-hour limitation.

Mr. SCOTT. Mr. President, it is my understanding that this is one of the two amendments on rescission for which I have 4 hours, to be equally divided. I may offer another amendment on the same question tomorrow. I hope it will not be necessary to offer the next amendment.

The PRESIDING OFFICER. The Senator from Virginia must designate on which of his amendments he is asking 4 hours. This is one of those amendments?

Mr. SCOTT. This is one of those amendments.

The PRESIDING OFFICER. All right.

Mr. SCOTT. Mr. President, the distinguished Senator from North Carolina has been seeking the floor, and before I make my opening statement on this amendment, I yield to the Senator from North Carolina (Mr. HELMS).

Mr. HELMS. I thank the Senator.

Mr. President, the confidence of the American people in the integrity of the Constitution is the cornerstone of our free society. Public consensus on the fairness of our constitutional procedures is essential for social harmony, and respect for law. Congress can have no more solemn duty that to effect a change in the supreme law of the land. Just as a constitutional provision is superior to ordinary acts of Government, so must a change in that Constitution be above the ordinary mechanics of political expediency.

One thing should be clear beyond all peradventure as this debate proceeds. The subject of today's debate is not—I repeat, it is not—equal rights for women, but equal rights under constitutional procedures. As the father of two daughters and the grandfather of one granddaughter, I am just as concerned that women enjoy equal rights and equal opportunities in our society as is any other Member of the Senate.

But the present responsibility of the Senate is the proper implementation of the amendment process under article V.

Congress is bound under the Constitution to propose amendments under procedures which are fair, reasonable, and which are capable of determining whether there exists a "contemporaneous consensus" on the amendments by the people. The proposal to extend the time for ratification of the "equal rights amendment" must meet this three-pronged constitutional test.

FAIRNESS

Hearings before the Senate Judiciary Committee revealed that 24 States which ratified the amendment clearly conditioned their ratification on the time limit initially proposed by Congress. An extension of that time limit seriously endangers the validity of those ratifications. As the New York Times commented:

"Any retroactive change in this time schedule, because the set period did not produce the desired result, would plainly offend the solemn spirit of the amendment process.

It often has been said—and I believe it to be eternally true—that the best test of the fairness of a procedure is to imagine one's worst adversary having the benefit of it. The precedent of extension being granted depending on which side is winning in order to influence the outcome of public debate strikes at the heart of the ratification process. The propriety of such a measure was reflected in the recent rejection by the American Bar Association's policymaking House of delegates of a proposal to support this extension legislation out of concern over its constitutionality.

I share the view of Prof. Erwin Gris-

wold, former dean of Harvard Law School, that public confidence in the Constitution could be undermined if this amendment were adopted after a last minute change in the rules established by Congress in a manner in which many persons of widely different views consider unfair.

REASONABLENESS

It was first asserted that an extended ratification period of 14 years and now 10 years, 3 months is reasonable in order to reach a national consensus. Yet, no amendment in this century has taken longer than 4 years to be ratified. The original Bill of Rights was ratified in a little more than 14 months. Thirty States ratified the "equal rights amendment" within the first year that it was proposed. Since that time, only five States have done so, and four have acted to rescind their earlier ratification. Every State that has refused to ratify the amendment has taken at least one vote on the issue. In my own State of North Carolina, the legislature has declined to ratify the amendment on three occasions. Reasonable men and women may disagree on whether 10 years, 3 months is a reasonable time to determine whether a national consensus exists. However, the history of previous amendments and the recent experience of this one suggests that the present time limitation has been sufficient and reasonable.

CONTEMPORANEOUS CONSENSUS

In Dillon against Gloss, the Supreme Court stated that a time limit on the ratification period was within the power of Congress to determine that a "contemporaneous consensus" existed on the amendment. Because only five States have ratified the equal rights amendment since 1973 and four States have withdrawn their ratification, any extension of time casts in doubt the assertion of a national consensus favoring the amendment.

Mr. President, the essential constitutional question is not whether extension is reasonable, but whether the existence of a "contemporaneous" consensus may be ascertained during a ratification period of 10 years, 3 months without a congressional recognition of the right of States to rescind. That is the question. That is the question that this Senate must confront in all seriousness and with a recognition of the perhaps dangerous precedent that it will set. It is for that reason that I, as a Senator from North Carolina, feel constitutionally obligated to oppose any extension of time for consideration of the proposed equal rights amendment unless the inherent right of States concerning rescission is recognized by this Senate.

SENATOR ERVIN'S TESTIMONY

My consideration of this issue has been guided by the expertise and scholarship provided to the House and the Senate Judiciary Committee's hearings at which the testimony of our former distinguished colleague from North Carolina, Sam J. Ervin, Jr., was paramount. I remember the morning of the Senate hearings well. The distinguished Senator from Indiana knows I accompanied my distinguished former colleague, Mr. Ervin, to that meeting over which the Senator from Indiana presided. There was spirited debate between the able Senator from Indiana and the former Senator from North Carolina, Mr. Ervin.

Senator Ervin testified that, and I quote him:

> The only reasonable interpretation of Article V of the Constitution, which governs the amendatory process, is that it permits a state which has ratified a proposed amendment to change its mind and rescind or withdraw its ratification at any time before three-fourths of the States have voted to ratify the proposed amendment.

Then there was Prof. Charles Black of the Yale Law School who observed, and I quote him:

> It would be entirely impermissible to extend the time for ratification without also extending the time for rescission.

Mr. BAYH. Mr. President, will the Senator yield? I do not want to interrupt him if he does not want to be interrupted. But he referred to his distinguished colleague from North Carolina and then moved on to others. I remember well that debate. I must say I think there are some rather interesting inconsistencies that I might like to ask the Senator about. But I do not want to interrupt his remarks, if he prefers that I wait until afterwards.

Mr. HELMS. If my friend from Indiana does not mind, let me finish my statement and then we will proceed. I would not want to consume more time than the distinguished Senator from Virginia wishes me to use.

I repeat, Prof. Charles Black of Yale Law School observed:

> It would be entirely impermissible to extend the time for ratification without also extending the time for rescission.

How can it be maintained that the States have no power to rescind, when Congress proposes to rescind its original action in setting the 7-year limit in the first place?

Without a clear recognition of rescission, we could have ratification by 37 States, rescission by 20, and then ratification by 1 more State requiring an amendment to go into effect with only 18 States actually approving it.

Mr. President, I do not propose to read the minds of those who support this extension. But I believe that this is precisely what they are willing to have happen.

Resolution of the issues involved in the amendment process should be made without consideration of the merits of any particular proposed amendment.

That needs to be said over and over again, because the fundamental question here is: "What are we doing to the constitutional process?" We are not debating the merits or lack thereof of the equal rights amendment. This Senator is not addressing himself to that issue at this time.

In 1971 and 1973 the Senate adopted a method of dealing with amendments to the Constitution which recognized the right of States to rescind. These decisions made just a few years ago, in the absence of the emotionalism surrounding the present debate, should and must be our guide today; otherwise, we will be guilty of intentional folly.

Of course, the substantial constitutional problems and potential litigation involved in the time extension proposal could be avoided if the Senate will just heed the advice of Senator Sam Ervin and consider the equal right amendment anew should it fail to obtain ratification within the original time period. That is all.

Is not a substantial reason for the failure of the amendment to achieve ratification due in large part to the amendment having become unnecessary as a result of Supreme Court decisions, State laws, and legislation enacted by Congress? Would it not be better to leave the remaining difficulties to be resolved by Congress and by the States?

In addition, there still remain serious problems in the minds of many Americans concerning the effect of the broad language of the amendment. With the apparent manpower failure of the Volunteer Army, can we say that the objection to women in combat service and the draft is not a legitimate concern?

I believe that were Congress to take a fresh start based upon the experience of the past several years, draft and propose a new amendment with qualifying language for such real and legitimate concerns, that the new amendment would obtain ratification in a matter of months and avoid the bitterness and division which we have recently experienced.

Mr. President, I thank the distinguished Senator from Virginia for yielding to me.

Mr. SCOTT. Mr. President, I appreciate the comments of my friend from North Carolina and would like now to address myself specifically to the rescission amendment. This is amendment 3671. It would permit a State legislature to rescind a ratification of the equal rights amendment and to recognize any rescission of such ratification made before the date of this joint resolution, the date it becomes law in the event it should become law, and rescissions made by State legislatures subsequent to that time.

The States, Mr. President, that have withdrawn their ratification, rescinded their ratification, are Nebraska, Idaho, Tennessee, and Kentucky.

I do not see the Senators from those States here on the floor. They may be listening over our listening device in the Senate offices. I would hope that the eight Senators from the States that have rescinded would support this amendment, as well as other Senators.

Of course, article V of the Constitution is silent on the subject of rescission. We all know that once a proposed amendment becomes a part of the Constitution it can only be repealed by subsequent constitutional agreement. There is a precedent for this. The 21st amendment repealed the 18th amendment.

If the resolution before us—and I am speaking of the principal resolution, not my amendment, rescission amendment—is adopted, and we allege that Congress can reverse itself prior to ratification and change the time limit previously set—and it was set at 7 years from the date of enactment, March 22, 1972—if it can do this under its article V powers, then should not the Congress apply the same

prerogative to the State legislatures if, in fact, the question is one for congressional determination?

I would like to quote from the testimony of Prof. Charles L. Black, Jr. He is professor of law at Yale University, and if he were here, I am sure he would like to hear his name bandied about as much as it has been today, but this is testimony that he gave before the House Judiciary Committee that was considering the ERA extension measure:

I don't believe this committee or the House or the Senate can possibly separate the question of rescission. Congress is proposing to rescind its original action in setting a 7-year limit.

It escapes my mind how anyone after that can with a straight face say that this situation is finally locked in as far as the States, but is a totally fluid one as far as Congress is concerned. If Congress rescinds the 7-year limitation, I think it is going to be very hard as a practical matter to argue, for any to argue, in the future that rescission is not available to the States, although Congress has in effect exercised the same right that calls for some special pleading that I don't think can be done.

Congressman TOM RAILSBACK, a senior member of the House Judiciary Committee, and a man whom I know well—we came to the House of Representatives at the same time—is a strong supporter of the proposed equal rights amendment. He appeared before our Judiciary Subcommittee on the Constitution to testify on the Senate version of the ERA extension. A part of his testimony is the following, and I am quoting Congressman RAILSBACK, from Illinois:

Without question, Congress, by its action on an extension resolution, is writing on a blank page of constitutional law. We must take care to write fairly and precisely so that the image we create will not come back to haunt us during the consideration of some future constitutional amendment. Though I have supported the equal rights amendment in principle and practice since voting for it in 1971, the issue of extending the time deadline for its ratification has implications far beyond the merits of this, or any, amendment. The extension resolution now pending before this subcommittee and the House of Representatives must be judged in this light.

The Congressman cited the editorial opposition of the New York Times, the Washington Post, the Washington Star, the Chicago Sun-Times, the Charlotte Observer, the Baltimore Sun, the New Republic, and a host of newspapers and magazines.

Clearly he feels that the reputation of Congress is at stake. He continues on:

Providing an extended period of years for ratification, but not for reconsideration by those states having earlier ratified, smacks of expedient rules-changing, to many Americans, such an action would suggest that Congress has decided to amend the Constitution by whatever means it finds necessary and at whatever the price. Despite the nobility of the ends sought by the proponents of the equal rights amendment, these ends do not, in my opinion, justify the use of means which give rise to the appearance of impropriety in the constitutional process. Use of such means can do little more than reinforce the resolve of those who oppose this amendment.

Opponents of a rescission amendment will point to the historical precedent of the 14th amendment's approval by Congress even though the State legislatures of New Jersey and Ohio had rescinded their ratifications.

The history of the 14th amendment was recited in detail in the House committee report on pages 13 and 14.

The 14th amendment was submitted by Congress to the States in June 1866. By July 1868, 29 States had ratified that amendment. At that time there were 37 States; 28 constituted the three-fourths majority required by the Constitution for ratification. However, the legislatures of two States, Ohio and New Jersey, had passed resolutions withdrawing their prior ratification of the amendment. On July 8, 1868, the Senate adopted a resolution requesting the Secretary of State to transmit to the Senate a list of the States which had ratified the amendment. In reporting to the Senate in compliance with the resolution, the Secretary drew attenion to the actions of the Ohio and New Jersey legislatures. Subsequently, the Secretary published a document reciting thet 29 States which had ratified, including Ohio and New Jersey. With respect to those two States, he observed:

It is deemed a matter of doubt and uncertainty whether such resolutions are not irregular, invalid, and therefore ineffectual for withdrawing the consent of the said 2 states . . . to the . . . amendment.

He then certified that:

If the resolutions of the legislatures of Ohio and New Jersey ratifying the aforesaid amendment are to be deemed as remaining in full force and effect, notwithstanding the subsequent resolutions of the legislatures of those States, which purport to withdraw the consent of said States from such ratification, then the aforesaid amendment has been ratified in the manner hereinbefore mentioned, and so has become valid, to all intents and purposes, as a part of the Constitution of the United States.

He thus indicated that the effectiveness of the amendment was contingent on the power of the State legislatures to withdraw their consent from the ratification.

The following day, July 21, 1868, Congress adopted a concurrent resolution declaring that the 14th amendment had been ratified. The resolution stated that whereas the 14th amendment had been ratified by the legislatures of 29 States (listing Ohio and New Jersey among them), the amendment was "hereby declared to be a part of the Constitution of the United States and it shall be duly promulgated as such by the Secretary of State."

But history will also show the vindictive nature and corruption of that particular Congress, a Congress which has yet to live down its reputation of slowing reconstruction in the South. This post-Civil War Congress lacked the stability to set a valid precedent for us today.

The recognition of the right to rescind would also appear to be necessary to any theory that a consensus be reached by three-fourths of the States in ratifying a constitutional amendment. The U.S. Supreme Court in a unanimous opinion in *Dillon* v. *Gloss* 265 U.S. 368 (1921) stated at page 375 that:

As ratification is but the expression of the approbation of the people and is to be effective when had in three-fourths of the States, there is a fair implication that it must be sufficiently contemporaneous in that number of States to reflect the will of the people in all sections at relatively the same period.

I think that heavily raises the question that the distinguished Senator from Indiana and I were discussing earlier: Is 7 years a reasonable time? That is what has been said in a number of instances, and the Supreme Court has indicated that Congress, in fixing 7 years, had established it as a reasonable time. Whether 10 years and 3 months is reasonable, or whether Congress can change the decision that it made as to a reasonable time in the 92d Congress to add more years to the reasonableness, may well depend on decisions of the courts if this measure is adopted.

If we adopt the view of the opponents of rescission, then it would seem contrary to the idea expressed by the Supreme Court that the will of the people at relatively the same period must be reflected in the approval of a constitutional amendment by three-fourths of the State legislatures.

Of course, one view of the right to rescind is that article V should be read to allow the State legislatures that prerogative and that Congress has no right to deny the validity of a rescission. The Supreme Court's logic in the Dillion case would seem to support this point of view. On the other hand, the case of *Coleman* v. *Miller*, 307 U.S. 433 (1939), containing four separate opinions, none of which appear to be by a majority of the Court, refers to rescissions as a "political question" which courts should studiously avoid.

However, we know that the Supreme Court since that time has gone into the thicket of political questions in *Baker* v. *Carr*, 369 U.S. 186 (1962); *Powell* v. *McCormick*, 395 U.S. 486 (1969); and, *United States* v. *Nixon*, 418 U.S. 683 (1974). In addition, scholars have begun to reject the classical political question doctrine. As Professor Bickel has written in "The Least Dangerous Branch," at pages 125 and 126:

Only by means of a play on words can the broad discretion that the courts have in fact exercised be turned into an act of constitutional interpretive process. The political-question doctrine simply resists being domesticated in this fashion. There is * * * about it * * * something greatly more flexible, something of prudence, not construction and not principle. And it is something that cannot exist within the four corners of Marbury v. Madison.

The case of *Hollingsworth* v. *Virginia*, 3 U.S. (3 Dallas) 378 (1798), an early Supreme Court case, indicated that questions regarding the amendment process under article V of the Constitution are justiciable rather than political questions.

There it was decided that the President plays no role in the amending process. The Court stated:

The negative (or veto) of the President applies only to the ordinary cases of legislation. He has nothing to do with the proposition or adoption of amendments to the Constitution.

The Court did not shrink from deciding that case under article V. It could have said let the Congress decide whether a President could sign or should sign a constitutional amendment or the weight to give the signature or lack of a signature. The Court could have said it is a political question, but it did not on that occasion do so. It is only the four-way split Supreme Court in 1939 which extensively discussed the political question doctrine with respect to constitutional amendments.

Most Senators know or are familiar with the reputation of former Solicitor General and dean of Harvard Law School Griswold.

Dean Griswold testified before the House Subcommittee on Civil and Constitutional Rights. Commencing on page 106 of that subcommittee's hearings, he states:

I have referred to Coleman v. Miller as a "case" rather than as a "decision," because it is extremely difficult to tell what, if anything, was there decided. There is an opinion written, by Chief Justice Hughes, which is designated as the "opinion of the court," but there were four members of the court (Justices Black, Roberts, Frankfurter, and Douglas) who concurred in an opinion that the case should be dismissed for want of standing on the part of the complainants, and two members of the court (Justices Butler and McReynolds) who dissented from the main opinion. Thus, there were six members of the Court who would not have reached the result stated in the so-called "opinion of the Court." This leaves only three justices who concurred in the decision expressed in that opinion.

I might add parenthetically, three out of the nine members of the Court.

Continuing:

The "opinion of the Court" in Coleman v. Miller reached the conclusion that the question (1) whether a State may ratify an amendment after it has rejected it, and (2) whether a ratification after more than twelve years comes within a reasonable time, are both political questions, within the ultimate authority of Congress, and that they are not justiciable, that is, that they are not within the competence of the courts.

From this, it could be contended that Congress alone can make the determination whether it can amend the time limitation, and can make such an amendment for whatever reasons it thinks appropriate or desirable. Although Coleman v. Miller can be read to support such a conclusion, I believe that it is a very slender reed on which to rely.

Quite apart from the question of what was 'decided' in Coleman v. Miller, it is clear that whatever decision was made there, if any, was based on the distinction between questions which are justiciable, that is, which are appropriate for decision by courts, and those which are political, where courts should not intervene. In this connection, it is appropriate to recall that Coleman v. Miller was decided in 1939. This was near the end of a period when the Court took a rather narrow view of the questions which were properly justiciable. Within the next few years, several other cases were decided. These included Colgrove v. Green, 328 U.S. 549 (1946), involving legislative districts and apportionment, and MacDougall v. Green, 335 U.S. 281 (1948), refusing to decide the question whether signatures on nominating petitions must be spread among several counties.

This approach was entirely changed by the decision in Baker v. Carr, 369 U.S. 186 (1962).

That is our well-known reapportionment case:

As is well known, the Court did deal with the question of legislative reapportionment, and, in effect, disapproved of the earlier cases in the area. The decision in Baker v. Carr has been extended and applied quite broadly, see *Gray* v. *Sanders*, 372 U.S. 368 (1963); *Wesberry* v. *Sanders*, 376 U.S. 1 (1964); *Reynolds* v. *Sims*, 377 U.S. 533 (1964); *Moore* v. *Oglivie*, 394 U.S. 814 (1969); *Hadley* v. *Junior College District*, 397 U.S. 550 (1970). The Court also held in *Bond* v. *Floyd*, 385 U.S. 116 (1966) that the question of a State legislature's refusal to seat a member-elect because of his expressed views presented a justiciable and not a political question. And this change of view was not limited to State matters. In *Powell* v. *McCormack*, 395 U.S. 486 (1969), the Court held that the political question doctrine did not bar its review of a challenge to an action by the House of Representatives excluding a member-elect.

Thus the conclusion in Coleman v. Miller, resting as it does on the political question doctrine, can no longer be regarded as having any particular vitality. Even if it can be regarded as a "decision" the foundation of that decision has been undermined by many more recent decisions of the Court dealing with the political question doctrine.

In summary, Dean Griswold states that amending the time limit at all would be a bad precedent, poor policy, and would be widely regarded as a breach of faith with the States. He adds that it will also be sure to result in litigation, and could well impair the chances that the amendment, if adopted, will be accepted and assimilated by our society.

In addition, I have a personal concern that the legislative branch will be inviting the courts to intervene in this matter and apply its powers of interpretation to what we are doing, in passing an extension, could result in a weakening of the powers of Congress to determine the incidents and details of the constitutional amendment process.

(Mr. ZORINSKY assumed the chair.)

Mr. SCOTT. I believe that we still have three coequal branches of the Government, three branches able to act only within their specific spheres set forth in the Constitution, the checks and balances, rather than turn over a matter as important as this to the courts, as the action now before the Senate would cause to happen.

We should therefore, while we have the opportunity, fashion a reasonable method of accomplishing what appears to be the will of the majority in passing this resolution.

Mr. President, our subcommittee was privileged to have as a witness on ERA extension our former colleague, the former Senator from North Carolina, Sam J. Ervin, Jr., who is widely recognized for his knowledge and love of constitutional government. Senator Ervin is of the strongly-held opinion that the notion that a State which has ratified ERA cannot change its mind and rescind its ratification is an unsupportable notion. He says that:

The notion ignores the fundamental difference between the delegated powers which Congress enjoys and the original powers which a state-legislature enjoys. Congress cannot take any action whatever unless it is authorized to do so either expressly or impliedly by a provision of the constitution of the United States.

I believe, Mr. President, if I might interpolate, Senator Ervin was talking about the Federal Government being a Government of delegated powers. He was thinking about the history of our country, in which we did have 13 sovereign States. We could have kept them separate. We could have balkanized the East Coast of this country. But those States, through a convention in 1787, combined to form a Federal Union. After the proposed Constitution was ratified, I believe 2 years later, by the necessary nine members—Rhode Island was not represented at the nominating convention, but later, of course, was admitted and is considered one of the original 13 States. In this document, they delegated powers to the Federal Government and the Federal Government only has such powers as are delegated to it by the Constitution or which can reasonably be inferred from the powers that are delegated.

Let me continue with Senator Ervin's statement:

A state legislature on the contrary can do anything it is not forbidden to do by the constitution of its state or by the constitution of the United States.

Neither the constitution of any state nor the constitution of the United States forbids a state to reserve its action in respect to a proposed amendment at any time before the amendatory process is complete, i.e., until the proposed amendment has been ratified by three-fourths of the states and thereby made a part of the constitution. Consequently, until that has happend, a state which has ratified ERA can change its mind and rescind its ratification, and a state which has rejected ERA can change its mind and ratify it.

Four of the states, Tennessee, Nebraska, Idaho, and Kentucky, have expressly rescinded their prior ratification of ERA, and thereby reduced to 31 the number of States whose ratifications of ERA are still valid.

This is the opinion of former Senator Sam Ervin. Whether or not the Supreme Court, and I would suspect if this resolution is passed, the matter will come before the Supreme Court, will agree without action in Congress that the States have a right to rescind, we do not know. We can look at the 10th amendment, however. We read there that the powers not delegated to the United States by the Constitution nor prohibited by it to the States are reserved to the States respectively or to the people, which gives credence to the opinion of Senator Sam Ervin.

Returning as they must to Dillon against Gloss, proponents argue that the conditions justifying ratification of ERA still exist, and that a reasonable time for its consideration has not expired. The record shows, however, that many of the States that ratified ERA in the early months following its submission did so without any real debate, without any committee hearings, without hearing the opinions and testimony of witnesses. They jumped on the political bandwagon of the day. Yet proponents say that the States need more time for ratifications. If that is the case, should we deny those States which ratified without debate the chance to reconsider the folly of their ratification without serious consideration of the merits of the proposed equal rights amendment? To deny those States the right to rescind, while extending the right to reconsider

to those States which have chosen not to ratify within 7 years appears untenable. This is especially true when we consider that 29 of the ratifying States conditioned their ratification upon completion of the process within 7 years. In order to be evenhanded, as a matter of good policy, if the Congress insists on an extension, it must, in good conscience, allow States the opportunity to rescind.

Last, there is an argument that article V authorizes the States only to ratify a proposed amendment, but does not authorize a rejection of it, and that, therefore, once a State has ratified, it has exhausted its power under article V. If we apply that argument to congressional power under article V, would it not also limit the authority of Congress to a single proposal of any given mode of ratification, so that a 7-year limit, once proposed in the choice of a mode, is a part of a power already exhausted by the Congress? Congress made its proposal regarding the amendment in 1972. Any subsequent action rests with the States.

Mr. President, I think this might be a good time to go back and just read this portion of Article V, because this is our Constitution. This is a document that we are sworn to uphold.

Article V relates to the amendment process:

The Congress, whenever two-thirds of both Houses shall deem it necessary—

There is the two-thirds vote—

shall propose Amendments to this Constitution, or on the Application of the Legislatures of two-thirds of the several States, shall call a Convention for proposing Amendments—

That is something that has never been done. We have never had a Constitutional Convention:

which, in either Case, shall be valid to all Intents and Purposes, as part of this Constitution, when ratified by the Legislatures of three-fourths of the several States, . . .

I would submit, Mr. President, that when the Congress proposes a constitutional amendment and it has been submitted to the States, then it is up to the States to take the next action.

We have the House of Representatives passing this measure in 1971. The House of Representatives represents the people of the individual States and of the Nation where there is proportional representation, where each Congressman represents a separate congressional district based on the population.

Then we have the measure proposed by the Senate, a body in which there are two Senators, regardless of the State's size, each representing a full State in the Union.

So this measure was put in so that before an article of amendment is proposed insofar as the Congress is concerned, we would have a majority of the representatives of the people, in the House, approving it by a two-thirds vote. We would have a majority of the States, as represented in the Senate, approving it by a two-thirds vote.

Even though the convention method has never been used, it is said on the application of the legislature of two-thirds of the States, nowhere in article V does it talk about a majority decision, only the words "two-thirds" appear wherever a fraction is used in article V of the Constitution.

For further guidance on the meaning of article V as applied to the question of ERA extension, we must turn again to Dillon against Gloss, which is the beginning and the end of a sound interpretation of article V of the Constitution.

Aside from the legal and constitutional question of rescission, there is a political policy question which must be faced here and now, as Prof. Jules B. Gerard of Washington University School of Law said before our Subcommittee on the Constitution, as the policy of permitting withdrawals of ratification, we can do no better than quote the leading text on constitutional amendments, Orfield's 1941 classic work "Amending the Federal Constitution," at page 72:

Ratification should not be more final than rejection. Ratification by less than three-fourths of the states is ineffectual. Such is the theoretical approach. But there are even stronger practical arguments. It is more democratic to allow the reversal of prior action. A truer picture of public opinion at the final date of ratification is obtained.

In Dillon against Gloss the Supreme Court found that there is a fair implication that ratification must be sufficiently contemporaneous in what today would be 38 States to reflect the will of the people in all sections at relatively the same period.

The facts are that the proposed equal rights amendment was ratified by 21 States. We talk about extending the time and I think this is important to recite.

When the various States that have ratified, ratified the proposed amendment, 21 States in 1972, 8 States in 1973, 3 States in 1974, 1 State in 1975, no States in 1976, 1 State in 1977, and none in 1978. Four of the States which had ratified, Tennessee, Nebraska, Idaho, and Kentucky, have rescinded their prior ratification of ERA in 1973, 1974, 1977, and 1978, respectively.

Would it not be fair to say at this time, when no States ratified in 1978, only one State ratified in 1977, when no States ratified in 1976, and only one in 1975, two States ratifying since 1975, could we not very well say that ERA is dead insofar as the people of the country are concerned?

I do not believe we should resurrect the dead here in the Senate by the passage of this resolution.

Since no prior constitutional amendment has required more than 4 years to ratify, we must ask whether any extension at all under these circumstances could lead to the adoption of the ERA within the reasonable time required by article V and the Dillon case. To extend the time for ratification without recognizing these States' rescission will detract from the concept of ratification at relatively the same period, or contemporaneous ratification. If rescission is recognized, then the Supreme Court is more likely to find that the ratification process truly reflects the sentiments of the people of the United States as expressed through their legislative assemblies in the several States.

Mr. President, the whole thrust of my amendment is to provide a recognition by the Congress of the rights of the several States to rescind their ratification of the proposed constitutional amendment in the event they have ratified it in the past and have now come to a differing opinion.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. SCOTT. Mr. President, I ask unanimous consent that the Senator from Utah (Mr. GARN) be added as a cosponsor of my amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

If neither side yields time, the time runs against both sides.

Mr. BAYH. Mr. President, I suggest the absence of a quorum, with the time to be charged against both sides equally.

The PRESIDING OFFICER. Is there objection?

The Chair hears none, and it is so ordered.

Mr. BAYH. This is on the amendment. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BARTLETT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BARTLETT addressed the Chair.

Mr. SCOTT. Mr. President, reserving the right to object, at the moment the distinguished floor manager in favor of the bill is not on the floor, and I just ask if he would have any objection to the Senator from Oklahoma proceeding at this time.

Mr. BAYH. I have no objection.

Mr. SCOTT. No objection.

The PRESIDING OFFICER. Who yields time?

Mr. SCOTT. Mr. President, I yield such time as he may consume, not exceeding 20 minutes, to the distinguished Senator from Oklahoma.

Mr. BARTLETT. Mr. President, the equal rights amendment was passed by Congress and submitted to the States for ratification during my campaign for the Senate well over 6 years ago. Since that time, ERA has lent itself to more emotional, irrational, and jargonistic debate than perhaps any measure in recent history. Certainly, none has been as prolonged.

We have before us now a matter which purports to be a continuation of the debate on ERA. I insist however, that it is not. The merits or faults of ERA which have been hurled at our legislatures for the last 6½ years have no place in our discussion today. The Senate is not being called to make another value judgment on ERA; it has done that already. Our discourse should be confined sclely to the merits or faults of extending the time of ratification. To this end, I would suggest that the merits here are few and the faults are many.

Joint Resolution 638 would extend the length of time permitted in the origi-

nal language of the equal rights amendment for the States' ratification by 3 years, 3 months, and 8 days. I believe this measure is dangerous and threatens the very nature of our system based on the constitutional rule of law. My arguments in opposition to the ERA extension measure are primarily twofold, with either avenue of opposition, when reasonably considered, offering sufficient cause to modify or kill this proposal.

On the one hand there is the matter of this measure's unconstitutionality. On the other, there is the decidedly partisan manipulation of the principles of the due process by which the American people establish their laws. In short, it is unprecedented, preferential, and wholly unfair, even by the standards so often applied to the arena of politics.

Mr. President, it is my intent to pursue these two avenues of opposition and to contribute to the argument that this measure runs in dangerous conflict with the interests of the American people.

I do not lay claim to particular authority on constitutional interpretation. However, the points of contention involved in this matter are fairly simple, if not basic, to our constitutional process, and their application to ERA extension should be plain.

There are four constitutional arguments which merit review. They concern the powers of Congress to extend the time of ratification, the requirement of a two-thirds vote to modify a constitutional proposition, the ability of States having ratified a constitutional amendment to rescind such action and the invalidation of the ratification of States which materially relied upon the original 7-year limitation. These points I will address in turn.

The question of Congress being able to extend the time of ratification for ERA, with or without additional stipulations, involves a wide range of disparate opinions. On this matter I would cite the opinion of former Senator Sam Ervin, longtime chairman of the Judiciary Committee:

> Congress has no powers except those granted to it by the Constitution either in express words or by necessary implication form express words. Since article V which governs its actions in proposing amendments, does not expressly or impliedly authorize Congress to extend the deadline fixed by it on March 1972, for the ratification by the required number of States of the Equal Rights Amendment, Congress has no power to take such action, and the proposal embodied in S.J. Res. 134 is clearly unconstitutional.

To substantiate this claim Senator Ervin cites the Supreme Court opinion of Afroyim against Rusk (1967). He states:

> Our Constitution governs us and we must never forget that our Constitution limits the Government to those powers specifically granted or those that are necessary and proper to carry out the specifically granted ones.

The Supreme Court in its 1921 ruling of Dillon against Gloss effectively declared that the proposal of an amendment by the Congress and its ratification by the States are treated by the Constitution as a single endeavor containing successive steps. Senate Joint Resolution 134 proposes two endeavors when the Supreme Court has declared an amendment must be achieved in one single endeavor.

This point disregards the fact that the second endeavor, now attempted in the form of Senate Joint Resolution 134, now occurs before a Congress 6½ years after the original passage by the 92d. Of course there has been a considerable turnover in the membership of Congress since that time, and correspondingly a considerable turnover in the views of the represented constituencies. To quote again from Senator Ervin's position:

> The power to fix a reasonable time for state action on a proposed consitutional amendment must reside in the Congress which submits it. It cannot be determined retroactively by a subsequent Congress motivated by the fact that the requisite number of states have refused to ratify it within the reasonable limit originally established.

Ignoring the opinion that a congressional move to extend the ERA ratification period in any form is unconstitutional, as did the House, there remain three questions which merit consideration in this issue if constitutional argumentatives are to be used.

The first of these questions concerns the percentage vote needed by both Houses of Congress to approve an amendment to the Constitution. On this question article V reads very plainly:

> The Congress, whenever two-thirds of both Houses shall deem it necessary, shall propose amendments to this Constitution . . . which . . . shall be valid to all intents and purposes, as part of this Constitution. . . .

Not to consider the ERA proposal to extend as an integral part of amending the Constitution in this instance is a serious misjudgment. The time limitation imposed upon the ratification, as in all former amendments, most recent being D.C. representation, was proposed as a reasonable and integral portion of the amendment that was weighed in consideration of the measure as a whole. Again, in Dillon against Gloss (1921) this precedent was established as follows:

> . . . (such amendments) should be considered and disposed of presently, (so that ratification occurs) within some reasonable time after the proposal.

The language of House Joint Resolution 208 reads as follows:

> Resolved by the Senate and House of Representatives . . . two-thirds of each House concurring therein, that the following article is proposed as an amendment to the Constitution of the United States, which shall be valid . . . as part of the Constitution when ratified by the legislatures of three-fourths of the several states within seven years from the date of its submission by Congress. . . .

Any amendment extending the ERA ratification time would address itself to this section, formerly considered by a two-thirds vote. It is therefore logical that this section, if amended and read confluently with the remainder of House Joint Resolution 208, would require a two-thirds vote. It is unfortunate that our colleagues in the House, even while under intense lobbying by special interests, did not recognize this issue.

A second point of concern is the constitutional ability of the States which have ratified ERA to later rescind that action. There have been several opinions from the Department of Justice that the States, subject to the Constitution, are powerless to rescind their ratifications. For that reason Congress should specifically provide that legislatures of the ratified States may withdraw their ratification.

Beyond the fairness of allowing both sides to continue in the debate of ERA, if an extension is granted, there is an important constitutional point to be counted.

Twenty-four of the 35 States, which have ratified ERA, have done so while consciously assenting to the 7-year time limit proposed by Congress. This was one of the expressed terms in its ratification. Surely, if the Congress did not provide the opportunity for ratified States to reconsider their action after a major change was instituted in the preamble of the amendment, a grave injustice would occur. Moreover, this injustice would probably be of sufficient magnitude to warrant the Supreme Court's nullification of all 24 ratifications. Even without a rescission clause in an ERA extension provision, there exists probable constitutional cause to strike all 24 States from the current tally.

The ERA lobby, which has propelled this measure to the floor, has argued that the constitutional parameters for ratification of amendments are unfair and arbitrary. To that line of reasoning there can only be one reply. The rule of law is the best means yet devised to guarantee justice for all people. To manipulate the law to suit the particular ends of a group, when the course of the law has been run, smacks of selfish accommodation of the meanest sort.

Mr. President, it would be an ill omen indeed to extend ERA without due consideration for the constitutional precepts and observance of law that has come before us. In my opinion, it would signal the coming rule of special interests, and destroy the fortitude upon which this country was established.

(Mr. CULVER assumed the chair.)

Mr. BARTLETT. Mr. President, the avenue of my objections to the extension of the ERA ratification period, other than the constitutional imperatives I mentioned earlier, concern the practical course of events that have transpired, since ERA was submitted for ratification, 6½ years ago. Quite simply, I mean to address certain incongruities involved in the methods that ERA supporters have used to manuever this measure through the Senate. Also involved here are matters of fairness which have received similar comments from many major news commentary in the country.

What strikes me immediately is the manner that this issue has placed before the Senate. The apparent haste, the absence of any debate, the filing of a cloture motion, and other seeming sleight-of-hand tricks have characterized the introduction of the ERA to the Senate. I would suggest that this is not a proper attitude to assume, while considering an unprecedented measure, bound to have a

profound effect on the future of our amending process to the Constitution.

Beyond the manner of introduction, there are many facets of the ERA extension which offend the sensibilities of reasonable people. The popular analogy of changing the rules of the game in the final inning to suit only one side is both fitting and accurate. I will not belabor the example though, for I think its point is obvious.

However, I would like to mention a number of points that should complement the argument against an extension to ERA ratification time.

Perhaps the most curious aspect of this entire measure is the mockery that this extension makes upon the intent of the entire equal rights movement. ERA contends to be about equality, particularly equality before the law. To turn around and ask for preferential treatment not granted to any group in history, seems to be hyprocritical.

How supporters who seek dignity through legal definitions can speak one way and then act another is beyond me. On those grounds alone, the American people and persons in the news media, who formerly supported the cause of ERA, have voiced strong opposition to the extension, and rightly so.

The PRESIDING OFFICER. The Senator's 20 minutes have expired.

Mr. BARTLETT. Will the Senator from Virginia yield me such time as I might use up to 5 minutes?

The PRESIDING OFFICER. Does the Senator from Virginia yield an additional 5 minutes?

Mr. SCOTT. I am glad to yield an additional 5 minutes to the Senator from Oklahoma.

Mr. BARTLETT. I thank the Senator from Virginia.

A rule of thumb often suggested as indicative of fairness, is to imagine the use of a tool or mechanism in the hands of your opponent. It is safe to say that ERA supporters would have a decidely different stand on the issue of an extended ratification if an amendment concerned abortion restrictions. Here an assumed contradiction reveals the purely partisan nature of the extension, which would be at the expense of our Constitution.

Perhaps though, the final criterion of reasonability, a matter which has apparently strayed from the attention of extension supporters, is the simple fact that the American people have apparently rejected ERA regardless of what it portends to be. This may be unfortunate, but it is, nevertheless, a reality.

In a recent poll by the Opinion Research Corp., the statistics tell the story. Sixty-one percent of those questioned felt that ERA had had a sufficient hearing and a fair chance for ratification. Twenty-six percent felt it had not. In addition, more State legislatures have rescinded ERA in the last 45 years than have ratified the amendment. National attitudes have apparently turned against ERA, in much the same way as they did for an amendment prohibiting the manufacture and consumption of alcohol in the 1920's. The 21st amendment for repeal of prohibition followed by only 14 years, the 18th, demonstrating that the course of American opinion may reverse itself 180° within the same generation.

Ironically, ERA supporters advocated an extension of 7 years when H.J. 638 was introduced, making a total of 14 years for the consideration of ERA. One might well speculate that an Equal Rights Amendment with a 7-year extension and a rescission clause would in a total of 14 years suffer the same fate as a prohibition amendment. That is the current trend.

The Founding Fathers and legislators before us, rightly proposed three-fourths ratification in a reasonable time period to reflect a contemporaneous and deeply established national consensus. This view is accorded by the 1939 ruling of Coleman against Miller which read that a "reasonable time is that period of time in which ratification reflects the contemporaneous views of the people." The Constitution, as law of the land, cannot be malleable and bent to serve distinctly partisan appeals over the will of the American people. It never has and we should hope it never will.

The deep and contemporaneous will of the American people has never taken longer than 4 years to be expressed. Indeed, the average time of ratification has been 14 months. If an extension is granted without provisions for rescission, a resulting amendment would not be contemporaneous and with trends that I have earlier cited, not have the deep consensus of the American people.

Mr. President, if this amendment is to be fair, and in compliance with our Constitution and the will of all American people, extension should not be approved. If the ERA debate need be continued, it should be done in accord with the amending procedure established in the Constitution, by a two-thirds vote. But, above all an extended debate should include the participation of all parties and reflect the nature of our system of government. To this end, a rescission provision must be approved.

Mr. President, I yield the floor.

Mr. SCOTT. Mr. President, I appreciate the remarks and the contribution made to the consideration of this amendment by the distinguished Senator from Oklahoma.

Mr. LEAHY. Mr. President, will the Senator yield for an insertion in the RECORD, not on this subject?

Mr. SCOTT. I am glad to yield briefly to the distinguished Senator from Vermont.

THE PRESIDENT'S RURAL HEALTH INITIATIVES

Mr. LEAHY. Mr. President, yesterday the White House took what I thought was a very good position on the whole area of rural health.

I stand before this body today to offer great praise to President Carter for his far-ranging rural health initiatives, which were announced by Vice President MONDALE on October 2 of this year.

Mr. President, history was made yesterday. The White House rural health initiatives are of historic significance for two reasons. First, because they represent the first time that an administration has attempted to coordinate and significantly improve the efficiency and availability of rural health services. Second, and most importantly, because they mark the unveiling of a rural conciousness within a President's office.

However, for all their glory these health initiatives are only a start, a marvelous beginning. A beginning to be followed by similar White House efforts in the areas of transportation, housing, water and sewer, economic development and communications. And most critically, the recent initiatives underscore the President's commitment to improve the Federal response to the long-ignored problems of rural America in a comprehensive manner. A commitment to be expressed through a White House rural policy which will set the framework for addressing the many pressing needs of our nonmetropolitan sector.

Mr. President, it is most appropriate that President Carter's rural focus begin in the area of health, for inadequate health service is perhaps the most serious of all rural agonies. These rural initiatives will do much to address this inadequacy in what is the most medically underserved sector of this Nation. A sector which suffers the highest rates of chronic illnesses, infant mortality rates 10 percent above the national average, and a severe shortage of health care personnel.

The President's rural health initiatives will begin to achieve these objectives through immediate tangible results. The White House has forged an agreement between the Department of Agriculture and the Department of Health, Education, and Welfare to use a set-aside of Farmers Home Administration money for the construction of nearly 300 rural health care centers over the next 5 years.

The recent initiatives have also brought about an agreement between HEW and the Department of Labor to train disadvantaged rural residents and migrant farmworkers to serve as preventive health care workers in rural areas.

Finally, the rural health initiatives will lean heavily upon the National Governor's Association to implement these interagency agreements. Reliance upon State governments for implementation is a wisely conceived strategy with an eye toward maximizing governmental efficiency.

Mr. President, to reiterate, I applaud the President's rural health initiatives. They mark the beginning of a new ERA in which this Government can finally begin to live up to its responsibility of providing equitable assistance to rural America. I deeply appreciate the President's rural efforts and strongly support them.

EXTENDING THE DEADLINE FOR RATIFICATION OF ERA

The Senate continued with the consideration of House Joint Resolution 638.

Mr. RIEGLE. Mr. President, I suggest the absence of a quorum, to be charged against the time on this side.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

Mr. HATCH. Can someone yield me time on the bill?

Mr. BAYH. How much time does the Senator wish?

Mr. HATCH. Not very much. Ten minutes. If I need more, I will ask for additional time.

Mr. BAYH. I yield 10 minutes, Mr. President.

Mr. HATCH. Mr. President, the proposed 27th amendment to the Constitution, the equal rights amendment, was approved by Congress nearly 7 years ago and submitted to the States for ratification. House Joint Resolution 208, proposing the amendment, stated:

> The following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of the three-fourths of the several States within 7 years from the date of submission by the Congress.

This language was followed by a semicolon which preceded the three sections of the proposed amendment.

By the end of the first week of submission, the amendment had been ratified by seven States. By the end of the first month, it had been ratified by 14 States. By the end of the first year, the equal rights amendment had been ratified by 3 States, only 8 shy of the requisite three-fourths majority.

In view of the gravity and infrequency of constitutional amendment, the absence of serious debate in these legislatures was notable. In the large majority of these State legislatures, no committee hearings were conducted, with floor discussion frequently minimal or absent entirely. The State of Hawaii may have set a new world's record in approving the amendment within several hours of congressional submission.

The ERA passed by margins in the earliest ratifying States which, in the words of one observer, "do not usually occur when complexities are considered."

Since March 22, 1973, the first anniversary of the equal rights amendment, only five additional States have ratified it, just slightly more than the four States which have attempted to rescind earlier ratifications. It is fair to say that, as the debate has become more extensive, the amendment has met with less success. Since 1973, the attention given by State legislatures to the amendment has increased substantially. In some States, the ERA has dominated entire legislative sessions, to the exclusion of all other business. The spectre of congressional extension has caused the Illinois State House, a body in which a majority have supported the amendment, to vote overwhelmingly to request Congress not to extend the time deadline.

In the 15 States which have never ratified the amendment, there have been a combined total of nearly 100 floor and committee rejections.

What is not at issue in the debate over House Joint Resolution 638 are the merits of the equal rights amendment. Congress has already spoken on this matter, and the States are in the process of doing the same. The issue, plain and simple, is the integrity of the governmental process. Those who support extension are quite correct: the equal rights amendment effort is not a game. Neither, however, is the legislative process nor the constitutional amendment process.

In testifying on extension before the House Judiciary Committee, Prof. Charles Alan Wright the distinguished constitutional scholar from the University of Texas, stated:

> Constitutional issues should be resolved on the basis of fundamental principles, not clever stratagems.

Perhaps this can best be kept in mind during these debates by supposing that, instead of the ERA being the object of attention, another amendment, about which one felt the opposite, was in its place. Although I understand that this will not be understood by all of our constituents, we must divorce in our own minds the equal rights amendment and the present resolution. Ask oneself if one would countenance these same procedures for any other amendment. Many of the decisions and precedents that develop during this debate will far outlive this Congress and this debate.

Article V of the Constitution, pertaining to its amendment, gives to Congress the power to "propose" amendments to the Constitution; determine whether or not ratification in the States shall be by legislatures or conventions; and establish "subsidiary matters of detail," including a "reasonable" time limit for ratification, *Dillon* v. *Gloss* 256, U.S. 368 (1920). Congress is entitled to initiate the search for the consensus required in order to amend the Constitution.

The power to fix the "reasonable" time reposes in the Congress that "proposes" the amendment, as was the case in Dillon, unless that Congress is silent as to a time limit, *Coleman* v. *Miller* 307 U.S. 433 (1938). Where the proposing Congress is silent, a subsequent Congress may specify the "reasonable" time.

Congress, which must obtain all of its authority directly from the Constitution, is nowhere in that document given authority to enact a law and impose it upon the amendment process in the manner of a statute of limitations. This is particularly true where the law is in contravention of terms contained in the amendment resolution itself. Congress has power only to "propose" terms of ratification, including time limits, and submit them to the States.

House Joint Resolution 638 runs counter to the most fundamental policies which underlie the amendment process. This process was viewed by the Founding Fathers as a means for protecting the State governments from the abuses of the National Government. An intransigent National Government could never pose a permanent obstacle to the determined efforts of the States to amend the Constitution. In the Federalist, No. 85, Alexander Hamilton, one of the staunchest advocates of a strong national government, observed:

> In opposition to the probability of subsequent amendments it has been urged that the persons delegated to the administration of the national government will always be disinclined to yield up any portion of the authority of which they were once possessed . . . we may safely rely upon the disposition of the state legislatures to erect barriers against the encroachments of the national authority.

Congress cannot use any housekeeping authority that it may have with respect to constitutional amendments as a pretext for increasing its substantive powers as against the States. The States are not only preeminent in the amendment process, but they are the sole participants in the process once an amendment has been submitted to them. From this point, any further action by Congress represents an intrusion by Congress into a sphere of activity reserved solely for the States.

Allowing Congress to impose a new time limit after an amendment has been submitted also violates the most basic constitutional precepts of "checks and balances" and "separation of powers." The implication of the argument of extension proponents is that, while the States may have a proper role as a "check" upon Congress with respect to the terms and text of a proposed amendment, the precise question of whether or not that text or those terms ever become part of the Constitution is one with respect to which Congress is unchecked. It is unchecked by the States; it is unchecked by the Executive; and, according to most extension advocates, it is unchecked by the courts.

House Joint Resolution 638 would amend the Constitution to make it possible for a determined Congress to inevitably prevail over the States; this is the exact reverse of what was contemplated by those who drafted that document.

According to Dillon, the proposal of an amendment and its subsequent ratification were to be treated "not * * * as unrelated acts," but as "succeeding steps in a single endeavour, the natural inference being that they are not to be widely separated in time." Extension proponents are now attempting to do in two endeavours what must constitutionally be done in a "single endeavour." The first "endeavour," House Joint Resolution 208 from the 92d Congress, having apparently spent its energy, Congress is now asked to participate in a second "endeavour," House Joint Resolution 638, to refuel the earlier "endeavour."

The constitutional role of Congress is limited to providing the initial propulsion for an amendment; there is no authority for us also to provide unlimited towing when the vehicle runs out of steam.

Dillon also observed that the basic justification for permitting Congress to establish time limits on ratification was "so that all may know what it is and speculation on what is a reasonable time may be avoided." "There is a fair implication that it must be sufficiently contemporaneous * * * to reflect the will of the people in all sections at relatively the same period, which of course ratification scattered through a long series of years would not do."

How is this policy possibly promoted by allowing Congress in its sole discretion to alter time limits that have been established in an amendment's original resolution? How can "speculation" be avoided when the constancy of a time limit is threatened continually by transitory political majorities and shifting interest group pressures?

The fact that the 7-year time limit is contained in the preamble of the resolution proposing the equal rights amendment rather than in the body of the amendment itself is of no material consequence. There is no question that the sole purpose for locating the limit in the resolving clause, as with every other constitutional amendment since the 23d, was to avoid "cluttering up" the Constitution with time limits that were outdated from the instant of an amendment's passage. Prof. Noel Dowling of Columbia Law School, the drafter of an identical provision in the resolution accompanying the 23d amendment, stated at the time:

> The seven-year limitation is put in the resolution rather than in the text of the amendment. There is no doubt about the power of Congress to put it there: and it will be equally effective. The usual way, to be sure, has been to write the limitation into the amendment: but we hope such an unnecessary cluttering up of the constitution can be ended.

The only further legislative comments on the geography of the time limit were made by Senator Kefauver, the author of the 23d amendment, who concurred in Professor Dowling's comments.

Even if a distinction could be made between a time limit in an amendment's preamble and a time limit in its body, I do not believe that Congress would be empowered now to enact changes in it. I argue this on two grounds: basic contract theory and constitutional policy.

Basic contract principles, which most of us would identify also with basic common sense, suggest that Congress cannot impose new conditions on the ratification procedures accompanying an amendment and expect to cumulate the ratifications of States accepting the old conditions and those accepting the new conditions. The proposal for a time extension is nothing more than a "reoffer" or "reproposal" to the States and necessitates a "reacceptance," or reratification by those 32 or 35 States which accepted the original package.

New Mexico and Montana and New Hampshire, and each of the other ratifying States did not unconditionally, and under all circumstances, agree to the inclusion of the equal rights amendment in the Constitution. What they said, more precisely, was that, if a sufficient number of their fellow States concurred in their approval within the 7-year span, they agreed to the inclusion of the equal rights amendment in the Constitution. They did not say that their ratification was to be considered good for all time, or even that it was to be considered good for as long as Congress wanted to keep it good.

Prof. Jules Girard of Washington University in St. Louis has concluded in a study that the 7-year limit was a "material consideration" in the ERA's ratification in at least 24 of the ratifying States. In Ohio, for example, the ratification reads:

> Whereas, both Houses of the 92nd Congress of the United States of America, at the second session of such Congress, by a constitutional majority of two-thirds of the Members of each House thereof, made a proposition to amend the Constitution of the United States in the following words, to-wit:

The language of the entire joint resolution follows, including the 7-year time limit.

What House Joint Resolution 638 is doing to the Ohio legislature and its Members, as well as to those in every other ratifying State, is saying, in effect:

> We, in Congress, do not much care that you may have been motivated to have voted for the amendment that we proposed perhaps in part because you considered the time limitation that accompanied it to have been a reasonable one. If this influenced your vote at all, that is your own fault. You should have known that we might change it on you. The fact that we have never done it before, and the fact that no one ever before thought that we had the power to change it is irrelevant.

Despite the convolutions of the Justice Department brief, the time limit is not "dispensable" language upon the basis of which States are not permitted to condition their ratifications. If Congress can impose conditions, and there is no doubt that they can, surely the States are allowed to regard these conditions as a consideration in their ratification.

In short, the States had every rational reason to suppose that the 7-year limit was binding upon Congress, and every rational reason to weigh the limit as a factor in arriving at their decisions. Congress cannot now "sandbag" them in the manner of a cheap con artist.

As Alexander Hamilton again noted in the Federalist, No. 85, the essential precondition for an amendment of the Constitution was that the "States be united in the desire of a particular amendment". The Constitution requires consensus for amendment—strong consensus. There is no proper way that this body can conjure up a true consensus in behalf of an amendment when it must total up the ratifications reached on behalf of amendments differing in important respects.

Mr. President, even if it were conceded that Congress had the authority to extend the ratification period, our work in this body would not be done. We would still be bound under article V not to extend the ratification period beyond a "reasonable" time. As stated in Dillon against Gloss:

> Ratification must be sufficiently contemporaneous to reflect the will of the people in all sections at relatively the same period.

As most of us recognize, no amendment to the Constitution has ever taken so long as 4 years to ratify. The entire "Bill of Rights" was ratified in 27 months, while the average time for subsequent amendments has been only 19 months. I am not sure that I can justify as "contemporaneous," or as a consensus, a state of affairs in which it may take more than 9 years for 8 out of a possible 20 nonratifying States to ratify an amendment.

When one considers the state of modern communications, the existence of national mass media, and the fact that the great majority of State legislatures now convene on an annual basis, the question of "contemporaneousness" looms larger. I believe that the burden falls heavily upon extension proponents to demonstrate that those States ratifying the ERA early are still participating in an active consensus, and that they are likely to continue to be participating in this for at least 3 more years. The burden is also upon them to demonstrate why an amendment should be sustained for a period nearly three times that of any other amendment in the history of our country.

To those who contend that the equal rights amendment remains a heated issue and that the debate must not now stop, I say, first of all, that the Constitution demands consensus, not controversy. Where there remains heat, the organic body of our Republic is not normally to be changed. Second, the plaintive calls for more debate strike as just a bit hypocritical. True debate involves the opportunity for give-and-take discussion by both sides in a disagreement. This is clearly not the objective of House Joint Resolution 638. While I plan to discuss the matter of rescission in greater detail later, suffice it to say the opposition to rescission by many extension advocates reveals clearly their desire that debate privileges be limited to one point-of-view only.

Let us bear in mind again Professor Wright's wise admonition: Constitutional issues should be resolved on the basis of fundamental principles, not clever legal strategies. I would add that they should also be resolved on the basis of fundamental fairness.

Our Nation has undergone several extremely troubling periods in recent years. The Constitution has rarely served us better than it did during the Watergate era. It served us well because it was no respecter of the existence of any higher short-term goals that would justify its subordination. The Constitution was more than a scrap of paper, containing often inconvenient provisions, to be circumvented in the pursuit of more important and more immediate objectives.

I suggest that we can only undermine the integrity of this document, and in turn the integrity of our system of Government, by manipulating it for the sake of short-term political goals. It is imperative that, when this body deals with the Constitution, it not only acts fairly and with maximum procedural regularity, but that it conveys this impression to the citizens of the country. The illusion of unfairness can be almost as damaging to the integrity of the Constitution

and to the respect accorded the Government as actual unfairness.

I urge my colleagues to heed the advice of the dean of the Harvard Law School, Erwin Griswold, when he urges us to "be guided by principle, and not by expediency." He warns that, "if Congress should proceed, at this late date, by this route, it may well impair the chances that the amendment, if adopted, will be accepted and assimilated by our society."

It is not the equal rights amendment that is at stake this week—that can always be resurrected—it is the Constitution. Long after the debate over the ERA is resolved, the Constitution will continue to reflect the treatment that we give it during this week. I urge my colleagues to reflect on this and proceed more cautiously than we are now doing.

Mr. President, I ask unanimous consent that a legal work by me entitled "The Intelligent Woman's Guide to the Equal Rights Amendment" immediately follow my statement.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE INTELLIGENT WOMAN'S GUIDE TO THE EQUAL RIGHTS AMENDMENT

I. Why the Equal Rights Amendment is not Necessary:

In 1924, Congress proposed to the states a child labor amendment to the Constitution, which would have empowered Congress to prohibit or regulate child labor by appropriate legislation.

The amendment was based on sound principles of morality and justice that were accepted by most Americans. It sought to keep children in school rather than mines and factories, and eradicate the evil of child labor.

Yet, the Child Labor Amendment was never adopted. Despite the merits of this proposal, it was ratified by only a handful of states and rejected by most.

If the American people opposed child labor and the exploitation of children, why did they oppose the Child Labor Amendment?

The answer is quite simple: The amendment became unnecessary as a result of Supreme Court decisions, numerous State laws, and major reform legislation enacted by Congress such as the Fair Labor Standards Act.

The American experience with the problem of child labor teaches us an important lesson about our Constitution. When it is not necessary to adopt a constitutional amendment, it is necessary not to adopt an amendment.

There are many ways to change the laws which govern us—through judicial interpretation, legislation, executive interpretation, custom and usage, as well as the amendment process.

A WORD ABOUT CONSTITUTIONAL AMENDMENTS

Constitutional amendments are a serious undertaking, because they involve a fundamental change of our basic law. They should not and cannot be taken lightly. It is for this reason that the Framers of the Constitution deliberately made the amendment process complicated and difficult. In their wisdom, they realized that a constitution easily amended is a constitution that will soon be unwieldly, encumbered by amendments which could have been adopted by simple legislation. As James Madison explained in Federalist 43:

The mode preferred by the Convention seems to be stamped with every mark of propriety. It guards equally against that extreme facility, which would render the Constitution too mutable; and that extreme difficulty, which might perpetuate its discovered faults.[1]

The failure of many states to follow the advice of the Framers and discourage the proliferation of amendments explains why so many state constitutions must be junked and rewritten. The ability of the Framers to envision the harmful effects of unnecessary amendments explains why so few amendments have been adopted since the Constitution was drafted in 1787—a mere 26.

As we look over the various amendments which have been added to the American Constitution, we observe that many of them were adopted in order to overcome a Supreme Court decision. The *Dred Scott* decision,[2] for example, led to the 13th and 14th Amendments; the decision in *Pollock* v. *Farmer's Loan and Trust Co.*[3] led to the 16th Amendment; *Minor* v. *Happersett* [4] led to the 19th Amendment, which gives women the right to vote.

In other instances, an amendment was deemed necessary because of a legislative failure to correct past abuses or because there was no other way to solve the problem. Thus the 22nd Amendment, which limits the President to two terms, was adopted in 1951 because Congress did not have the authority to limit the President's term of office by simple legislation.

BUT THERE ARE NO LEGAL BARRIERS TO EQUAL RIGHTS FOR AMERICAN WOMEN

There is no provision in the Constitution which prevents the American woman from enjoying the same rights as American men. There is no Supreme Court decision which prevents the American woman from enjoying the same rights as American men. There is no Federal law which prevents the American woman from enjoying the same rights as American men. Like the Child Labor Amendment, the Equal Rights Amendment is thus unnecessary because it has been rendered obsolete by judicial interpretation, legislation, executive interpretation, and to a large extent by custom and usage. In fact, there is already an equal rights clause in the Constitution.

LET'S LOOK AT THE RECORD

1. The Equal Protection Clause of the 14th Amendment.

Section 1 of the 14th Amendment prohibits any *state* from denying any person "the equal protection of the laws." As a result of judicial interpretation of the Due Process Clause of the 5th Amendment, this protection also prohibits the *federal* government from passing discriminatory legislation. As the Supreme Court stated in *Bolling* v. *Sharpe*, "the concepts of equal protection and due process, both stemming from our American ideal of fairness, are not mutually exclusive . . . As this Court has recognized, discrimination may be so unjustifiable as to be violative of due process." [5]

It is true, of course, that for many years the Supreme Court restricted the application of the Equal Protection Clause primarily to cases involving racial discrimination, and refused to place women under its full protection. Thus in Bradwell v. Illinois [6] and In Re Lockwood,[7] the Court upheld laws of Illinois and Virginia which prohibited women from practicing law. And in Goesaert v. Cleary,[8] the Court upheld a Michigan law prohibiting women from working as bartenders.

In the Bradwell case, the Court explained its position in this fashion:

The natural and proper timidity and delicacy which belongs to the female sex evidently unfits it for many of the occupations of civil life. The constitution of the family organization, which is founded in the divine ordinance, as well as in the nature of things, indicates the domestic sphere as that which properly belongs to the domain and functions of womanhood.[9]

The Court's language may seem quaint or foolish; and indeed it probably is by today's standards and practices. The point is that attitudes and beliefs about the role of the woman in American society have changed drastically in recent years. Neither the courts nor most Americans believe that the American woman should be denied the same rights and opportunities as their male counterparts. That is why today women can practice law or serve as bartenders in any state of the Union. The many state laws that once denied equal rights to women have been repealed, and are now part of the American past.

2. The Supreme Court's New View of the Equal Protection Clause

These dramatic changes in attitudes and beliefs toward the role of the woman are also reflected in recent decisions of the Supreme Court.

Just 16 years ago, in Hoyt v. Florida,[10] the Court upheld a state law which limited women's service on juries to those who had notified the (state) court of their willingness to serve. But in Taylor v. Louisiana,[11] decided in 1975, the Hoyt decision was overruled, on the ground that state laws regarding juries must apply to men and women in the same manner.

In his testimony on January 24, 1977, before the North Carolina legislature (which rejected the Equal Rights Amendment on March 1, 1977), Sam Ervin, former Senator and Chairman of the Constitutional Rights Subcommittee, pointed out that in eight cases since 1971, the Supreme Court has ruled:

that any law, federal or state, which makes any distinction whatever between the legal rights and responsibilities of men and women is unconstitutional unless the distinction is based upon reasonable grounds and is designed to protect women in some role they enact in life.[12]

What is a "reasonable" distinction under today's legal standards, according to the Court? In Reed v. Reed,[13] the Court indicated that, even if a state has a lawful interest, it may not advance that interest by a classification based solely on sex. Here, the Court held invalid a state probate law which gave males preference over females when both were equally entitled to administer an estate. Chief Justice Burger noted that, because the statute "provides that different treatment be accorded to the applicants on the basis of their sex, it thus establishes a classification subject to scrutiny under the Equal Protection Clause." [14] The Court then proceeded to rule that under equal protection standards, which require a classification to be reasonable and not arbitrarily related to a lawful objective, the classification in this instance was arbitrary. It was arbitrary, said the Court, because a classification based solely on sex was an arbitrary way of achieving the state's legitimate concern to eliminate controversies between otherwise equally qualified applicants for administration of estates.

In sum, the Reed case clearly shows that all laws which are based on classifications according to sex are inherently suspect in today's world, and are likely to fail the test of constitutionality unless they are (1) reasonable; (2) reasonably related to an objective; and (3) the objective is legitimate. Laws which work to the disadvantage of women, in other words, and seek to promote a legitimate concern which can be accomplished by some other means, are no longer acceptable in American law.

As former Senator Ervin concludes, after examining all of the cases:

Recent decisions of the Supreme Court interpreting the Due Process Clause of the Fifth Amendment, the Due Process and Equal Protection Clauses of the Fourteenth Amendment, and other constitutional provisions and recent federal and state laws

Footnotes at end of article.

nullifying invidious legal discriminations against women make it manifest that the Equal Rights Amendment is totally unnecessary.[15]

3. Recent Actions Taken by Congress and the Executive to Promote Equal Rights Opportunities for Women

Since the early 1960's, Congress has enacted more than 30 laws that are designed to increase the education and economic opportunities of women. Among the more significant measures passed between 1963–1974 are the following:

1. The Equal Pay Act of 1963. Prohibits discrimination on the basis of sex in the payment of wages for equal work on jobs that require equal skill, effort, and responsibility, and that are performed under similar working conditions.

2. Title VII of the Civil Rights Act of 1964, as amended by the Equal Employment Opportunity Act of 1972. Prohibits discrimination in employment, based on sex, with regard to hiring, job classification, promotion, compensation, fringe benefits, and discharge.

3. Civil Rights Commission Act of 1972. Expands the jurisdiction of the Commission to include sex discrimination.

4. Higher Education Act of 1972. Prohibits sex discrimination in education programs that receive federal support, and extends the Equal Pay Act to all educational institutions.

5. Revenue Act of 1971. Provides for the deduction of child care and household services cost from federal income tax returns, if such services are necessary to enable the taxpayer to be gainfully employed.

6. Comprehensive Health and Manpower Amendment Act of 1971 and Nurses Training Amendment Act of 1971. Prohibits the use of federal funds for health profession programs which discriminate on the basis of sex.

7. Enlistment and Commissioning of Women in the Coast Guard Reserve Act of 1973. Eliminates the concept of a Women's Reserve as a separate branch within the Coast Guard Reserve, and creates one Reserve, composed of both male and female members.

8. Small Business Act of 1973. Prohibits the SBA from practicing sex discrimination against any person or small business concern.

9. Comprehensive Manpower Act of 1973. Extends coverage of Title VI of the Civil Rights Act of 1964 to include sex discrimination among its prohibitions in regard to the expenditure of federal manpower funds.

10. Housing and Community Development Act of 1974. Forbids sex discrimination in housing and mortgage lending.

11. Federal Employees Compensation Act of 1974. Provides for equality of treatment for male and female federal employees in terms of benefits to spouses in cases of death or work injury.

12. Depository Institutions Amendments Act of 1974, including the Equal Credit Opportunity Act, which forbids discrimination based on sex or marital status in any aspect of credit transaction.

The 94th Congress enacted 22 laws which affect a woman's rights, including the Tax Reduction Act of 1975, which liberalized the allowable tax deduction for child care, and the Tax Reform Act of 1976, allowing a tax credit for child care expenses.

The Congress also revised the gift and estate tax structure to benefit surviving spouses, opened the major military academies for admission of women, assured the nondiscriminatory appointment of Cadets to the Coast Guard Academy, established a Center for the Prevention and Control of Rape in the National Institute of Mental Health, and prohibited sex discrimination under programs funded or authorized by the Federal Property and Administrative Services Act.

Legislative interest in the expansion of women's rights has continued without interruption in the 95th Congress. Since January 3, 1977, a number of bills affecting the rights of women has been introduced in the House of Representatives and the Senate. These include such proposals as S. 1628, a Senate bill to eliminate discrimination based on sex in the armed forces regarding job definition, and H.R. 4268, a House bill to establish multipurpose service centers for displaced homemakers.

EXECUTIVE ORDERS

Recent actions taken by the President and various executive agencies have also buttressed the opportunities and rights of women, particularly in the area of federal employment.

Executive Order 11478, for example, prohibits discrimination because of sex in federal employment. This order, which directs federal agencies to formulate employment programs assuring nondiscrimination, is administered by the Civil Service Commission.

Executive Order 11246 prohibits discrimination on the basis of sex by federal contractors or subcontractors. This order requires the inclusion of a nondiscrimination clause in contracts negotiated by the federal government and in federal construction contracts. It is enforced by the Office for Federal Contract Compliance, which forbids discrimination in employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff, termination, rates of pay, and selection for training.

This brief survey of federal court decisions, legislation, and executive orders clearly indicates that the federal government has been enthusiastically pursuing the goal of equal rights for women in recent years; and there is every indication that it will continue to do so in the years ahead. What these actions by federal officials show is a general pattern of expanded rights and opportunities for American women throughout the country. In these respects, legal steps taken by state and federal authorities to abolish discriminatory practices against women demonstrate the fact that the American woman is rapidly approaching full equality without the assistance of an Equal Rights Amendment.

Advocates of the Equal Rights Amendment concede the point that great strides have been made in recent years to grant equal rights for women, and that nearly every legal barrier denying equal opportunities has been removed by court decisions, legislation, and executive action. They nevertheless insist that the Amendment is necessary because it would permanently affix their rights to the Constitution without qualification, prevent a return to the old standards of equal protection, and nullify the last vestiges of discrimination.[16]

The appropriate response to this assertion is clear enough: The purpose of the amendment process is to correct present errors in the law, not to establish safeguards against theoretical problems which could conceivably arise in the future.

Moreover, problems which can be effectively solved through legislation should not be corrected by constitutional amendment. The amendment process is a means of last resort, an act of desperation, so to speak, and it is obvious that America has not reached an impasse in the national effort to keep the laws up-to-date with changing ideals and beliefs about the role of women in modern American society. In whatever respects Americans, as a people, have fallen short of establishing full and equal rights for women, it is not the fault of the Constitution.

II. Why the Equal Rights Amendment is not Desirable:

In order to end all discriminations against women, it is not necessary to abolish all legal distinctions between men and women. Yet this is precisely what the amendment seeks to accomplish. By abolishing all legal distinctions between men and women, the Equal Rights Amendment also abolishes a number of rights and privileges which women now enjoy. There is some question, therefore, whether women will enjoy any net gain of rights if the Amendment is adopted.

Section I of the Equal Rights Amendment states in no uncertain terms that, "Equality of Rights under the law shall not be denied or abridged by the United States or by any state on account of sex." The language of the amendment is absolute; it allows for no exceptions. The question which every thinking woman must ask herself, then, is whether there is a reasonable justification for any law based on distinctions between the sexes. If the answer is YES, then the Equal Rights Amendment must be viewed as an inappropriate means of achieving equal rights for women in all respects.

SCOPE AND MEANING OF THE EQUAL RIGHTS AMENDMENT: NEW RIGHTS AND NEW DUTIES

Because the proposed Equal Rights Amendment speaks in such broad terms, admitting to no variations, it is generally agreed among leading constitutional scholars that there is no way of discerning the ultimate reach of the Amendment.[17] Presumably, however, as former Senator Ervin has observed, "the ERA annuls every existing federal and state law making any distinction between men and women however reasonable such distinction might be in particular cases, and forever robs the Congress and the legislatures of the fifty states of the Constitutional power to enact any such laws at any time in the future."[18]

In the field of criminal law, for example, a number of observers have pointed out that all criminal laws based on distinctions between the sexes would be invalid under the Amendment. These would include seduction laws, statutory rape laws, laws prohibiting obscene language in the presence of women, laws designed to protect women from being forced into prostitution, laws against homosexual "marriages," and the Mann Act (federal white slave traffic).[19]

In the field of domestic relations laws, the impact of the Amendment would be far-reaching, and possibly disruptive or destructive of American family life as we know it today. The laws of the several states, for example, impose certain responsibilities on husbands, such as providing the family with a home and livelihood. Such laws take cognizance of the fact that not all women seek or enjoy economic self-sufficiency or a professional career outside the home, but prefer to be mothers and homemakers.

In this capacity, many women are at a keen disadvantage under the Equal Rights Amendment. The homemaker with little or no professional work experience would find that she would have a new financial obligation to support her husband just as he would have an obligation to support her. Obviously, she would lose her right to be supported under the Amendment, and would now be obliged (legally) to go to work to provide half the family income.

The homemaker whose marriage ended in divorce would face a number of additional setbacks. Aside from losing her right to be supported, she would be forced to leave the home in search of outside employment in order to support herself. She would also run a greater risk of losing custody of her children, because statutory and common law presumptions which award custody of the children to the mother would be invalid under the Equal Rights Amendment. Finally, even if she were awarded custody of children, she would have to confront the possibility of losing part or all child support payments from her former husband, inasmuch as child support sections of the criminal non-support laws, where only the male

Footnotes at end of article.

is liable for support, or a disproportionate share thereof, would no longer be valid under the Amendment. Since one out of three marriages today ends in divorce, it is difficult to escape the conclusion that a significant number of women would be adversely affected by the Equal Rights Amendment.

In countless other ways, the Equal Rights Amendment would threaten the continued existence of laws and customs which physically separate men and women, in keeping with the wishes of both sexes, such as separate schools, restrooms, dormitories, prisons, military quarters, hospital rooms, and locker rooms. To no avail, the advocates of the Amendment insist that the constitutional right of privacy would prevent these occurrences and allow for exceptions to the absolutism of the Amendment. Such an interpretation of the Amendment's meaning, however, ignores the basic rule of constitutional construction—that the most recent constitutional amendment takes precedence over all other provisions and judicial interpretations of the fundamental law. The right of privacy is not enumerated in the Constitution; rather it is the product of recent court decisions based on broad interpretations of certain provisions of the Bill of Rights. It would necessarily be subsumed under the clear and unequivocal requirements of the Equal Rights Amendment.

Finally, it should be noted that the Equal Rights Amendment would extend compulsory military service to women. Proponents of the Amendment agree that the Amendment would place women under the draft, and argue that women should not be exempt from serving in the military in defense of their country. It may well be that a large percentage of American women believe that the time has come to conscript women into the military. But this is not the issue. What the advocates of ERA fail to realize is that women in the armed forces under the Equal Rights Amendment would be subjected to the same physical and mental strain, the same brutalizing effects of combat, the same inconveniences and discomfort as the men, irrespective of their physiological and emotional differences. This is so because the absolutist language of the Amendment stipulates that both sexes must be treated the same in all respects.

Only one country in the free world, Israel, drafts women into the military. Unlike the United States, Israel is a small country with a small population. The national survival of the Israelis depends in large measure on the military services of the adult population.

Even so, Israeli women are not subjected to an equal rights amendment that would strip them of all dignity and self-respect by ignoring their uniquely feminine needs. They serve shorter terms than men and are exempted from service if they marry or have a child. They live in a separate barracks and are not exposed to combat conditions. Such amenities would be denied to American women serving in the military under the Equal Rights Amendment, since the Amendment prescribes an absolute equality and allows no distinctions based on sex, whether reasonable or unreasonable.

THE CONSTITUTIONAL RADICALISM OF THE EQUAL RIGHTS AMENDMENT

The American system of government is based on a division of powers between the national government and the various state governments. This is the so-called "federal" principle of our Constitution, which limits the powers of both the federal and the states' governments. It is an integral part of our grand design to protect individual liberty and encourage justice through limited government. The Framers of our Constitution believed—and history has supported them again and again—that a concentration of power is dangerous because it invites the abuse of power.

In accordance with these principles, certain powers are delegated to the national government, and others are reserved to the states. Traditionally, the states have regulated matters affecting the domestic or family life of their citizens. These include such laws as those relating to marriage, divorce, alimony, child support, the care and custody of children, property rights, and countless other areas of the law which fall within the purview of the health, safety, and welfare of the states' citizens. The power to interpret these laws has always remained in the state courts, except in those rare cases where a federal question of due process or equal protection of the law was involved.

But the Equal Rights Amendment changes this relationship between the federal government and the states; and herein lies the revolutionary character of the Amendment. If the Amendment is ratified, the great body of American domestic law—and we are talking here of thousands of laws throughout the country—will be transferred from the states to the federal government.

The Enforcement Clause (Section 2) of the Amendment authorizes Congress "to enforce, by appropriate legislation, the provisions" of Section 1. This means that after the ERA has been ratified, Congress will be free at any time to enact legislation that would nullify or supplant state laws dealing with the rights and duties of men and women. Under the Supremacy Clause of the Constitution, all laws of Congress are regarded as the supreme law of the land, and must take precedence over conflicting state laws.[20]

Likewise, the Supreme Court of the United States will displace the various state courts as the final arbiter of every law in the land, whether federal or state, which relates to the legal rights of men and women.

From a constitutional as well as sociological standpoint, then, the Equal Rights Amendment is the most revolutionary amendment that has ever been proposed. As two eminent legal scholars, Roscoe Pound and Paul Freund of the Harvard Law School conclude, the Equal Rights Amendment should be opposed because:

If anything about this proposed amendment is clear, it is that it would transform every provision of law concerning women into a constitutional issue to ultimately be resolved by the Supreme Court of the United States. Every statutory and common law provision dealing with the manifold relation of women in society would be forced to run the gauntlet of attack on constitutional grounds. The range of such potential litigation is too great to be readily foreseen, but it would certainly embrace such diverse legal provisions as those relating to a widow's allowance, the obligations of family support and grounds for divorce, the age of majority and the right of annulment of marriages, and the maximum hours of labor for women in protected industries.[21]

CONCLUSION

The question now presents itself: What do American women stand to gain under the Equal Rights Amendment? There is no precise answer to this question, of course, because it is impossible to foresee each and every advantage or disadvantage that will accrue under the Amendment. On balance, however, it is safe to say that women in America will lose far more rights than they will gain.

Certainly the Amendment would abolish the few remaining laws based on sex which are regarded as discriminatory by many women. And let's make no mistake about it. There are laws which tend to discriminate against women, as the opponents of ERA freely admit. These laws should be abolished, and can be abolished simply by repealing them. What the advocates of ERA fail to mention, however, is that the frequency of such laws has dramatically declined in recent years—so much so that the ERA proponents are increasingly hard put to find them. If past experience be our guide, then most of these laws are destined for repeal, whether or not ERA is ratified within the near future.

Moreover, it must be kept in mind that a large percentage of existing laws based on sexual distinctions work to the advantage of women, and bestow certain privileges which are acceptable to both sexes. Some laws based on distinctions between the sexes confer privileges, while others are discriminatory. The problem with the ERA is that it takes no account of these differences, and sweeps aside all laws based on sex, including those which lend aid and comfort to women.

To be sure, the Equal Rights Amendment, because it disallows all laws that are particularly advantageous to women, and imposes new obligations and duties on them, does not in the final analysis give the American woman greater opportunities and more rights than she presently enjoys. Indeed, it probably deprives her of more opportunities and advantages than it bestows.

In sum, the Equal Rights Amendment is unnecessary because it has already been preempted by major changes in the law and in judicial decisions which grant equal rights to women. It is undesirable because it deprives women of many rights which they now possess, imposes new obligations upon them which are neither wanted nor needed, and usurps the powers of the states by transferring vast powers to the federal government. For these reasons alone, it should be rejected.

FOOTNOTES

[1] *The Federalist* (Cooke ed.), p. 296.
[2] *Dred Scott* v. *Sanford*, 19 Howard 393 (1857).
[3] 157 U.S. 429 (1895).
[4] 21 Wallace 162 (1875).
[5] 347 U.S. 499 (1954).
[6] 16 Wallace 130 (1873).
[7] 154 U.S. 116 (1883).
[8] 335 U.S. 467 (1948).
[9] 16 Wallace 141.
[10] 368 U.S. 57 (1961).
[11] 419 U.S. 522 (1975).
[12] Senator Sam J. Ervin, Jr., "Why the Equal Rights Amendment Should Be Rejected," reprinted in *The Phyllis Schlafly Report*, Vol. 10, No. 9 (April, 1977), p. 3.
[13] 404 U.S. 71 (1971).
[14] *Ibid*, p. 75.
[15] "Why the Equal Rights Amendment Should be Rejected," p. 3.
[16] Writing in the *American Bar Association Journal*, Vol. 63 (June, 1977), p. 776. Deborah Williams argues that the Equal Rights Amendment "is necessary because such federal legislation as the Equal Credit Act of 1974 can be amended or repealed at the whim of Congress."
[17] According to Professor Paul Freund of the Harvard Law School, "The range of potential litigation is too great to be readily foreseen. . ." U.S. Senate, Committee on the Judiciary, report on *Equal Rights for Men and Women* (92d Cong., 2d Sess.), p. 44.
[18] Report on *Equal Rights for Men and Women*, p. 33.
[19] *See* Barbara Brown, Thomas I. Emerson, Gail Palk and Ann E. Freedman, "The Equal Rights Amendments," *Yale Law Journal*, Vol. 80, No. 5 (April, 1971), pp. 871–986. This comprehensive article seeks to project the full impact of the Amendment on existing law.
[20] *See also Katzenbach v. Morgan*, 384 U.S. 641 (1966); *Jones v. Alfred H. Mayer Co.*, 392 U.S. 409 (1968); *Sullivan v. Little Hunting Park*, 396 U.S. 229 (1969); and *Johnson v. Railway Express*, 421 U.S. 454 (1975), regarding the Supreme Court's broad interpretation of existing enforcement clauses in the Civil War Amendments.
[21] Report on "Equal Rights for Men and Women," p. 34.

Mr. HATCH. I thank the Chair.

Mr. BAYH. Mr. President, I have listened with a great deal of interest to the expressions of my colleagues on both sides of this issue. For the information of our colleagues who may be busy elsewhere, whose staff may be observing this debate in their offices, I might just suggest to my distinguished colleague from Virginia, that, if he sees no reason to the contrary, sometime in the relatively near future we should be prepared, either because of our disposition or because the time expires and we have no other alternative, to put the vote, the yeas and nays, on his amendment, then would my colleague advise us what the next order of business will be so that other Senators might be prepared?

Mr. SCOTT. Mr. President, I appreciate the inquiry from the distinguished Senator from Indiana. I would like to spend about 2 or 3 minutes further. But other than that, we can have a vote any time that the distinguished Senator from Indiana feels that he has made his contribution to this amendment before us. As soon as we have a vote on this rescission amendment, then we can move on to my amendment on two-thirds vote for final passage of the joint resolution.

I would hope we would have a vote on that. The distinguished Senator from Utah is here. I hope at that time when we complete the vote on two-thirds, that we might then go to his rescission amendment, in the event mine is not adopted, and I hope that that does not come to pass.

But then he would take part of his time tonight and the remainder in the morning, with an 11 o'clock vote on the amendment by the Senator from Utah.

Mr. BAYH. Perhaps we should ask the Senator from Utah if he has any objection to that plan of action.

Mr. SCOTT. Well, he is listening.

Mr. GARN. I agree with what the Senator from Virginia has said. We can vote on his rescission amendment. If it does not pass, then we will go to the two-thirds. Then with a 4-hour time limit on my amendment, if I did not use some part of the time today, there would obviously not be ample time before an 11 o'clock time limit to vote on mine in the morning. So I would like to bring it up today after the two-thirds vote.

Mr. BAYH. Mr. President, I appreciate my colleague's helping to advise the Senate what we might expect later on this afternoon.

I have some remarks I would like to address to the Senate on the issue of rescission which, of course, is the issue before us.

The distinguished Senator from Michigan may have some remarks to make, and I do not know who else might want to talk. But at that time I certainly hope we could dispose of the Senator's amendment one way or the other.

Mr. President, the key question before the Senate at this particular moment is the amendment of the Senator from Virginia, which would permit States which have ratified to subsequently change their mind.

I must confess to my colleagues that as a strong proponent of the necessity of extending the time limit, the idea of also permitting States to change their mind and to rescind had, on first hearing, a very equitable ring to it.

I worried about it a good deal and studied about it a good deal more, and have concluded that it would not be appropriate for us to accept a rescission amendment at this particular time.

The measure which we will be voting on tomorrow, that of our distinguished friend and colleague from Utah (Mr. GARN), is a prospective rescission amendment which, as I understand it, would deal only with those States that have an opportunity to ratify, and it would also give them an opportunity to rescind.

The Senator from Virginia, on the other hand, opens the whole Pandora's box and says that any of the 35 States or, for that matter, 36, 37 States that may subsequently ratify, are also given the right to rescind.

Let me ask my colleagues to permit me to share some thoughts with them on very strong feelings I have after a great deal of deliberation that this is just not good policy. It is not good law, based on anything we know from what the Congress has said, from what the courts have said, nor from what the Constitution has said.

I would be the first to admit that there are arguments on both sides and there is no absolute foolproof test for this.

I am suggesting that the preponderance of the precedents supports the contention of the Senator from Indiana. I do not believe the argument can be made beyond a reasonable doubt. But I think it can be made on the basis that I presented to the Senate.

The belief that it would be inappropriate to add a rescission amendment to the equal rights amendment, in my judgment, is supported on several bases.

It is supported by historical and judicial precedent. It is supported by congressional precedent. It is supported by the opinion of State officials, the Justice Department, other individuals whose advice has been sought during this process of extension, of particular concern to us, I think, during the process of rescission itself at the State level, because it seems to me what the State legislators were told at the time they rescinded is, indeed, relevant to what the full impact of their act should be, because it tells us what, indeed, might well have been on their minds at that time.

RESCISSION

The belief that it would be inappropriate to add a rescission amendment to the equal rights amendment is supported by historical and judicial precedent, by congressional precedent, and by the opinion of State officials whose advice was sought by State legislatures during the rescission process.

HISTORICAL AND JUDICIAL PRECEDENT

The view that States may not conditionally ratify an amendment has its roots in the views of one of our Constitution's framers, James Madison. During the debate over the ratification of the Constitution itself, Alexander Hamilton, who objected to such a conditional ratification, sought Madison's views. In a letter to Hamilton dated July 20, 1788, Madison states:

> The Constitution requires an adoption in toto and forever. It has been so adopted by the other States. An adoption for a limited time would be as defective as an adoption of some of the articles only. In short any condition whatever must vitiate the ratification.

The Supreme Court first addressed itself to the question of rescission in *Coleman* v. *Miller* 307 U.S. 433 (1939). In Coleman the Court clearly stated that the question of the right of a State to rescind is appropriately decided by the political branches of the Government. The Court went on to note that Congress historically had not approved a State's right to rescind.

The Coleman case concerned the child labor amendment and specifically dealt with whether an initial rejection by a State is conclusive. The Kansas State legislature rejected the child labor amendment in 1925 but then reversed itself in January 1937. State senators and representatives, opposed to the amendment, asked the State Supreme Court for a writ of mandamus to erase the endorsement of the ratification. The Kansas supreme court refused to issue the writ and held that although ratification would be irreversible, an original vote of rejection was not final. Specifically, the Kansas supreme court stated:

> From the foregoing and from historical precedent, it is also true that where a State has once ratified an amendment, it has no power thereafter to withdraw such ratification. (146 Kan. 390, P. 2nd 518 [1937])

The Supreme Court affirmed the Kansas supreme court decision in Coleman. Chief Justice Hughes, speaking for the majority, stated that:

> We think that in accordance with historical precedent the question of the efficacy of ratification by state legislatures, in the light of previous rejection or attempted withdrawal, should be regarded as a political question pertaining to the political departments with the ultimate authority in the Congress. . . .

The Court went on to say:

> Article V, speaking solely on ratification, contains no provision as to rejection.

In making its findings the Court in Coleman relied heavily on historical precedent with regard to Congress' treatment of rescission during the ratification of the 13th, 14th, and 15th amendments. In that instance, on July 20, 1867, the Secretary of State informed Congress that there were 28 States which had ratified the 14th amendment, but that two States, Ohio and New Jersey, had purported to rescind their prior ratifications, and that both North Carolina and South Carolina had ratified the amendment after previous rejections. This raised the question for the Congress as to whether the necessary three-fourths of the States—28 at that time—had ratified the amendment. The next day, Congress issued a concurrent resolution declaring the 14th amendment to be part of the Constitution, including the States of Ohio, New Jersey, North Carolina, and South Carolina. On the same day, Georgia ratified the amendment. However, the congressional

resolution did not take note of this action. A proclamation by the Secretary of State the following day included Georgia. After reviewing this history, the Court observed that:

[T]he political departments of the Government dealt with the effect of both previous rejection and of attempted withdrawal and determined both were ineffectual in the presence of actual ratification. (307 U.S. at 449)

While the Coleman case remains the major judicial commentary on rescission, other cases lend support to the argument that States may not condition their ratification. In both *Hawke* v. *Smith*, 253 U.S. 221 (1920), and *Lesser* v. *Garnett*, 258 U.S. 130 (1922), the Supreme Court upheld the concept that there is no such thing as conditional ratification. In Lesser against Garnett, the Court held:

The function of a state legislature in ratifying a proposed amendment to the Federal Constitution, like the function of the Congress in proposing the amendment, is a federal function derived from the Federal Constitution, and it transcends any limitations sought to be imposed by the people of a state.

The issue of whether ratification by the State legislature was final arose indirectly in connection with an attempt in Maine to subject the ratification of the 18th amendment by the State legislature to the State's initiative and referendum procedures. The Maine Supreme Court held that the amendment could not be subjected to a referendum. "Opinion of the Justices," 118 Me. 544 (1919). One of the reasons for the decision was the consideration that, under the precedent established in connection with the adoption of the 14th and 15th amendments, the legislation ratifying an amendment was final and could not be rescinded by the legislature or referendum in a State. "The ratification of the proposed amendment to the Constitution of the United States was complete, final, and conclusive so far as the State of Maine was concerned, when the legislature passed this resolve."

CONGRESSIONAL PRECEDENT

As stated earlier, upon being notified by the Secretary of State that the necessary States had ratified the 14th amendment, Congress passed a concurrent resolution declaring the 14th amendment to be part of the Constitution, including the States of Ohio, New Jersey—which had rescinded, and North Carolina and South Carolina—which ratified after earlier rejection. By this act, Congress determined that a State legislature may reconsider an earlier rejection of a proposed amendment. However, once a State has ratified, it has discharged itself from further consideration under the Constitution. The Supreme Court affirmed these results in Coleman.

The adoption of the 15th amendment involved problems analogous to those which arose on the occasion of the adoption of the 14th amendment. By the middle of February 1870, the 15th amendment had been ratified by 30 States, 1 more than the required number. Two of them, however, Ohio and Georgia, had originally rejected it; and one, New York, had attempted to rescind. A resolution rescinding New York's ratification of the 15th amendment was introduced in the Congress, but was reported back from the Senate Committee on the Revision of Laws on February 22, 1870, with a recommendation that it be indefinitely postponed.

Finally, on March 30, 1870, President Grant sent Congress a message advising it of the promulgation of the 15th amendment by the Secretary of State. The certificate of the Secretary of State listed 29 States including Ohio and New York as having ratified the amendment.

The House of Representatives signified its approval of the promulgation of the 15th amendment by adopting on July 11, 1870, a resolution to the effect that the amendment had become valid as a part of the Constitution. No similar action was taken in the Senate. The effect of this congressional action, or lack of action, was to permit the 15th amendment to become part of the Constitution.

The issue of whether a State can change the position of its legislature wtih respect to a constitutional amendment also arose in various degrees in connection with the adoption of the 16th 18th, and 19th amendments. However, in these instances the Secretary of State promulgated the ratifications without seeking congressional advice. The 18th amendment involved the possibility of rescission by referendum in Maine, and Tennessee sought to rescind its earlier ratification of the 19th amendment. In both cases the Secretary of State refused to recognize State efforts to rescind and Congress took no action to indicate its disapproval.

At about this time, in 1921 and 1924, the Wadsworth-Garrett amendments were introduced in the Congress to provide for a constitutional right to rescind. Statements were made by both Senator Wadsworth and Congressman Garrett, the prime sponsors, that made it clear that they felt the Constitution did not currently afford States the right to rescind. Neither House voted on the Wadsworth-Garrett amendments. Similar bills and resolutions were introduced in various Congresses. No action was taken on any of these individual proposals.

In 1971 and 1973, the Senate passed the Federal Constitutional Convention Procedures Act, designed to provide procedures for the proper calling and operation of a constitutional convention. The measure was never considered in the House but the Senate committee report clearly states that:

Congress previously has taken the position that having once ratified an amendment, a State may not rescind.

Also, the report contains strong language to the effect that the rescission provision recommended for convention-proposed amendments should not be applied to the equal rights amendment. Nor were these provisions to be applicable to amendments ratified through the more customary procedure of congressional proposal.

OPINION OF STATE OFFICIALS AND THE JUSTICE DEPARTMENT

In 1865, Thomas E. Bramlette, the Governor of Kentucky, commented upon the rejection of the 13th amendment by the Kentucky State Legislature:

Rejection by the present Legislative Assembly only remits the question to the people and the succeeding legislature. Rejection no more precludes future ratification than refusal to adopt any other measure would preclude the action of your successors. When ratified by the legislatures of three-fourths of the several States, the question will be finally withdrawn, and not before. Until ratified it will remain an open question for the ratification of the legislatures of the several States. When ratified by the legislature of a State, *it will be final as to such State;* and, when ratified by the legislatures of three-fourths of the several States, will be final as to all. *Nothing but ratification forecloses the right* of action. When ratified *all power is expended.* Until ratified the right to ratify remains." (Emphasis supplied)

During efforts to rescind earlier ratifications of ERA, the attorneys general of Michigan, Kansas, Kentucky, Ohio, and Idaho all advised their respective legislatures that if Congress adhered to precedent, efforts to rescind would be futile. (See Ed. W. Hancock, Attorney General of Kentucky: "Any attempt by the Kentucky General Assembly to repeal or rescind its approval of the Equal Rights Amendment would be futile.")

The Justice Department concludes that only a constitutional amendment can grant the right to rescind:

It has been argued that extension of the ERA ratification deadline would give rise to a right of rescission on the part of the states, or at least, Congress could amend the extension resolution to provide that the states may rescind their prior ratification. We believe that the first of these suggestions is erroneous as a matter of constitutional law, and that the second cannot be accomplished by any means short of proposing a new amendment to the Constitution. As to the basic question of a state's power to rescind after it has certified ratification, we conclude it may not. Article V speaks only in positive terms of ratification, and not rescission.

CONCLUSION

Despite one's determination of the constitutional question, the extension resolution does not prohibit a future Congress from counting rescissions. The resolution takes no position on rescission one way or the other because it would be inappropriate at this time for this Congress to seek to take away the right of a future Congress to make that determination. Thomas Emerson, Lines Professor of Law Emeritus at Yale University has stated:

In the first place, the question of whether further time to debate and act upon the Equal Rights Amendment is advisable must be decided on the basis of factors entirely independent of the right of a State to rescind. When that discussion is over and Congress comes to determine whether the requisite number of States have ratified, the issue of rescission will be presented. The matter will be decided on the basis of the situation as it then exists. That decision need not, indeed cannot, be made at this time.

Secondly, nothing that Congress can do now will resolve the issue. If a State has a constitutional right to rescind Congress cannot deprive it of that right by passing a resolution now. If a State does not have the right of rescission, as I believe, there is no need for Congress to act. On either theory Congressional action at this time is superfluous.

One of the most persuasive arguments is that we must have a finality to the process. Permitting a State to change its mind until three-fourths of the States have ratified would create uncertainty

and, indeed, chaos in the process. Legislatures could be subject to continuous pressure to change their most recent decisions, back and forth. In a recent law review article on rescission by Marc and Brenda Feigen Fasteau in the spring 1978 issue of the "Harvard Women's Law Journal," the authors caution that allowing rescissions until the 38th State ratifies might:

[M]ake it possible for opponents of amendments to achieve their end in some circumstances through technical manipulation of the session dates and procedures of the legislatures. If a state could rescind, it might do so after thirty-seven others had ratified. Hypothetically, that could be done on the last day before the ratification period expired by one of the only two legislatures then in session. This would preclude adoption of the amendment. Such a situation could arise, for example during the summer or Christmas period when most legislatures are out of session. The legislature in question, without prior warning to the others, could convene in a special session just to rescind; the thirty-eighth legislature could be in session to ratify that day; and the other twelve legislatures could be scattered far and wide, none able to convene in one day—all having relied in a genuine if unusual way on the ratification of the state now rescinding. Although this extreme hypothetical may be unlikely, it does illustrate the desirability of a rule providing finality as well as certainty.

Even constitutional scholars who testified before the House Judiciary Committee in opposition to extension, expressed strong opposition to rescission during such a period. One such legal scholar was William Van Alstyne who testified:

The ratification of Constitutional amendments is not a poker game. No state ought to consider an amendment to the Constitution under the misimpression from this body that it may do it with some sort of celebrity or spontaneity because it will always have this interval of additional years while other States are looking at it to reconsider.

That, in my view, is an atrocious way to run a Constitution. The policy that the States may consider it several times, within a reasonable time reject or table or put it over, but that when done, it is done irrevocably, is terribly important, it seems to me, to the integrity of the role of Congress and the States.

The most frequent argument that we hear with regard to the rescission amendment is that we should allow rescission because "it is not fair to change the rules in the middle of the game." This argument ignores one basic fact. The extension resolution does not say that States must only ratify the ERA. It provides that a State legislature may say yes or that it may say no to the ERA. The extension resolution merely continues the amending process on exactly the same fair basis it has been conducted up to now.

Indeed, if anything, our process has always made it more difficult for States to say yes rather than no. Once an amendment is sent to the States, 46 State legislatures begin consideration of the amendment at the committee level. In two States, amendments go directly to the floor; in the remaining two States, they go to joint committees. This totals 193 decisional units concerned with ratification. Affirmative approval of 140 of these units is required for the adoption of an amendment. In other words, it is always easier to defeat an amendment than to pass it.

The argument that States have ratified the ERA contingent upon a reliance upon the 7-year time limit appears to be specious at best. There is no documented legislative history from any State that would show ratification was contingent upon the 7-year limit. Indeed, the legislative history shows the opposite as far as rescission is concerned. The attorneys general of Michigan, Kansas, Kentucky, Ohio, and Idaho, as mentioned earlier, have all concluded that attempts to rescind, if Congress adhered to precedent, would be futile.

Despite the perception by some of the critics of extension that supporters of the ERA are attempting to change the rules, indeed exactly the opposite is true. What are the rules? Congress has always had the right to determine the definition of reasonable time—the formal extension of the time limit by the Congress is an exercise of that power. In the entire history of our United States constitutional law, no State rescission has been valid. It is the opponents who wish to "change the rules"; the rules that have been in effect for nearly 200 years on rescission. According to Harvard Law Professor Lawrence Tribe in testimony before the Subcommittee on the Constitution:

Finally, any suggestion that it is somehow unfair to "change the rules of the game" at the last moment without giving the players a chance to reconsider their prior moves should also be rejected as both self-serving and circular. The very question, after all, is what the "rules of the game" *are*. Are those rules, as historically understood, ones that make time limits impervious to change by Congress even if those limits are not included in the terms of the proposed amendment? Or is it the opponents of ERA who wish to alter the rules to achieve this effect? And are the rules of the game, as historically understood, ones that make state ratifications tentative, rescindable acts? Or is it again the opponents of ERA who wish to alter the rules to achieve this effect? It seems clear to me that, in both instances, the proponents of ERA are in fact playing by the rules that have long been in force while it is the ERA opponents who, having already lost in seventy percent of the state legislatures, now seek to change the rules in order to avoid any chance of losing in the three remaining states that would make the ERA part of the Constitution.

Mr. GARN. Mr. President, will the Senator yield for a question?

Mr. BAYH. I yield.

Mr. GARN. Speaking of the Madison principle, is the Senator aware that the letter from Madison to Hamilton, to which the Senator referred, was discussing the adoption of the Constitution itself and not an amendment?

Mr. BAYH. I think that is what I just got through saying, yes.

Mr. GARN. That is what I heard the Senator say. I just wanted to clarify it. Then, how can we cite it as authority for an interpretation of article V of the Constitution, which had not even been adopted at the time and had nothing to do with amendments? Article V is the thing we keep citing. Yet, we now say there is a parallel here, but article V had not been adopted at the time.

Mr. BAYH. I respectfully say to my good friend from Utah that none of the Constitution had been adopted at that time, but article V was a very important part of the Constitution, and there were two elements in the constitutional process that required ratification. One was ratification of the Constitution itself, and two was ratification of constitutional amendments, which was contained in article V.

I think it is a reasonable interpretation to suggest that whatever was meant by ratification of the Constitution was reasonably meant to be similarly given to Congress and the States so far as ratification of amendments thereto was concerned.

Mr. GARN. I suppose we change back and forth, depending on how the shoe fits; because I made the same argument in the subcommittee about the parallels between rescission adopted in the Constitutional Convention Procedures Act in 1971 and 1973 and was told that that was something different.

There is no need to prolong the argument, other than to say that I think it is a little unrealistic that, 200 years later, we draw that parallel.

I assume that the Senator is aware of what Madison said—that there was a conditional ratification totally ineffective; not as the Senator seems to be arguing in the case of ERA, that conditional ratification is effective. He is talking about conditional ratification.

Mr. BAYH. That is exactly what the Senator is suggesting. If you are permitting a rescission, you say that any State that ratifies a constitutional amendment does so conditionally because it can change its mind the next day, the next year, or 2, 3, or 4 years later. That is what I mean by conditional ratification.

Mr. GARN. I think most people interpret ratification as placing some condition on that ratification, not later having the right to change their mind on a ratification that had no particular conditions in it. In other words, they say they are going to ratify it, if it is ratified within 4 years, make some change. I think that is the difference between a conditional ratification and the parallel the Senator from Indiana is trying to draw here.

The point I want to make is that I think the Senator is drawing some parallel with respect to what Madison was thinking, and we both can argue what he was thinking. I make the point that it is drawing a parallel that neither of us can prove.

Mr. BAYH. We can only use our best judgment, and that does not necessarily mean they are identical.

The fact is that there are several ways in which a proposition can be adopted in a conditional ratification. It can be adopted with the proviso that a certain amendment thereto be incorporated within it. It can be adopted with the proviso that in a certain time limit, it must be accepted. Or it can be adopted, period, with the understanding that you can come back tomorrow and please the other

group of constituents by turning around and voting in the opposition direction and rescinding. That is the concern of the Senator from Indiana.

Mr. GARN. Or to say that when we go to a very unusual circumstance of extending when there are no precedents and another extension has been granted, then we should be able to attach conditions to that extension, period. The parallel follows there, too, and that is my argument. If we are going to extend without precedent, we should be able to go on and say that within that extension period, we will allow the States to vote either way, because of the long period of time, approaching a decade, and maybe they have changed their mind.

Mr. BAYH. I say to the Senator from Utah that I find the equity of his prospective rescission much more compelling than I do the logic he just now presented—that because it had been a long period of time, some of the States might have changed their minds. If that is what we are concerned about, if we are concerned about needing a consensus over a short period of time, then the Senator from Utah should join the Senator from Virginia and say:

> Let everybody rescind, because the first State that rescinded has a better chance of changing its mind than the States that may be given the right to rescind if the Senator from Utah has the votes tomorrow.

Mr. GARN. We simply are talking about the contemporary consensus. The longer the period goes, from 7 to 10 years or beyond, to 14, as orginally was asked, the less reliance you can have that was a contemporaneous consensus. That is the reason why, when you extend the period, when you change the rules over what the original agreement was by two-thirds of the Senate and the House, then you should put some equity and fairness into it and give these people a chance to see whether it really is a contemporaneous consensus or not.

Mr. BAYH. I hope to deal with the question of the rules change either later this afternoon or tomorrow.

I ask this of the Senator: If he is concerned about the time being dragged out, why is he not just as concerned about those States that voted early on to ratify as he is about the States that vote after the time extension is given?

Mr. GARN. I am just as concerned. The Senator may misinterpret my amendment. While it is not retrospective, and while it makes no attempt to go back and pick up the four States that have attempted to rescind or have rescinded, my amendment simply would say that, during the extension period, States would be able to vote either way, all 50 of them. So I am concerned about those States.

My argument is consistent, and it is a plea for fairness, that all States during the contemporaneous consensus—during that 3 years, 3 months—be allowed to vote either way. They do not have to; they do not have to reconsider it. It is just to say, in fairness, "You are allowed to reconsider it, if you wish, and you can ratify it or rescind it."

I make no attempt in my amendment to go back and recognize retroactive rescissions.

Mr. BAYH. It still would apply to all 35 States, then?

Mr. GARN. It would apply to all 50 States. That is the equity of my amendment—that all 50 would have an opportunity to make a determination during this unusual, precedent-setting extension.

Mr. BAYH. Let me address myself to this unusual, precedent-setting matter; because, in my judgment, the Senator from Utah is desirous of our establishing a much more significant and newer precedent than the Senator from Indiana is urging with the extension of a time limit. I think the two matters have to be considered on their own merits.

If one looks at the Constitution, if one looks at the judicial decisions, if one looks at what Congress has said, they have not always gone hand in hand. They have been treated separately, and it seems to me that that is the only way for us to treat them here.

I mentioned a moment ago what Mr. Madison had said and what Mr. Hamilton had said so far as the ratification of the Constitution is concerned. I cannot swear to that. I was not there. Unfortunately, the documentation is very slim. But I would think you could make a pretty good case from logic that, whatever our Founding Fathers meant so far as ratification of the Constitution is concerned, they also meant that the same standards should be applied so far as constitutional amendments are concerned. If somebody wants to disagree with that, they certainly are entitled to do so, but that is the contention of the Senator from Indiana when I say that I think it is relevant that Madison said there should be no conditions with the ratification. You either vote for it or against it; and if you vote for it, you ratify it. You cannot vote for it today and come back here tomorrow or a year from now and change your mind. To do that would lead to chaos.

The Supreme Court has spoken on this question. They first addressed themselves to the question of rescission in the case of Coleman against Miller, which was decided in 1939. That is not a recent case, but neither is it out of the dark ages of American jurisprudence. This case has been battered back and forth here quite a bit in our debate. I should like to refer to it again.

In Coleman, the Court clearly stated that the question of the right of a State to rescind is appropriately decided by the political branches of the Government. The Court went on to note that Congress historically had not approved a State's right to rescind.

I point out that as recently as 1969 in the Powell against McCormick case, which I think is a case referred to by my colleague from Virginia a moment ago, the Supreme Court 30 years after Coleman against Miller, nevertheless distinguished Coleman against Miller as good law with regard to Congress ultimate power to decide a political question.

It seems rather clear, as clear as it can be, that at least as of 1969 the ability of Congress to make that political determination as to whether a State has ratified and whether the constitutional amendment had been ratified were questions to be considered by Congress.

The Coleman case concerned, as some may recall, the child labor amendment and specifically dealt with whether an initial rejection by a State is conclusive. The Kansas State Legislature rejected the child labor amendment in 1925 but then reversed itself in January 1937. State senators and representatives, opposed to the amendment, asked the State Supreme Court for a writ of mandamus to erase the endorsement of the ratification.

They went to the Supreme Court of Kansas and asked that the decision for ratification by the legislature be stayed. The Kansas Supreme Court refused to issue the writ and held that although ratification would be irreversible, an original vote of rejection was not final.

I repeat that this is the Kansas Supreme Court speaking, when they said specifically:

> From the foregoing and from historical precedent, it is also true that where a State has once ratified an amendment, it has no power thereafter to withdraw such ratification.

To be sure that was a State supreme court, the Kansas State Supreme Court, making that decision, but I point out that in Coleman the Supreme Court of the United States affirmed the Kansas court decision, and none other than the Chief Justice himself, Chief Justice Charles Evans Hughes, speaking for the majority stated that—

> We think that in accordance with historical precedent the question of the efficacy of ratification by state legislatures, in the light of previous rejection or attempted withdrawal, should be regarded as a political question pertaining to the political departments with the ultimate authority in the Congress. . . .

The Court went on to say:

> Article V, speaking solely on ratification, contains no provision as to rejection.

So spoke the court in Coleman.

In making its findings the Court in Coleman relied heavily on historical precedent with regard to Congress treatment of rescission during the ratification of the 13th, 14th, and 15th amendments.

Mr. METZENBAUM. Mr. President, will the Senator yield?

Mr. BAYH. I am glad to yield to the distinguished Senator from Ohio at this time.

Mr. METZENBAUM. I thank the Senator from Indiana. In thanking him, I also wish to commend him for the tremendous leadership that he has given to this subject over a period of many years. He has not hesitated to be in the forefront. He has battled with the courage of his own convictions. By reason of that leadership the Senate is today and this week meeting head-on the issues of ratification of the equal rights amendment, from the standpoint of extending it, and the issues pertaining to rescission.

Mr. President, I rise to express my strong support for House Joint Resolution 638 to extend the deadline for the ratification of the equal rights amendment. To date 35 States, comprising almost three-fourths of the population of

this country, have ratified the amendment. A majority of Americans in many of the States that have not yet ratified the ERA support the amendment. Recent public opinion polls confirm that well over half of all Americans favor the equal rights amendment.

The will of the majority must be heard. I favor extension of the time for ratification, because I believe the equal rights amendment deserves a full and adequate hearing in the States.

ERA was first introduced in 1923. It passed the 92d Congress (H.J. Res. 208) in 1972 by an overwhelming margin, with a vote of 354 to 24 in the House and 84 to 8 in the Senate. The amendment continues to evoke widespread interest and debate, as I need not tell any Member of this body.

A time limit was not imposed on the ratification of a constitutional amendment until the year 1917. At that time, during consideration of the 18th amendment, a deadline was adopted for one reason: To prevent the proposed amendment from lingering beyond interest in its adoption, assuring that State ratifications occurred while the issues still had vitality. There can be no question that interest persists in the ratification of the equal rights amendment.

There can be no doubt that the issues remain fresh and contemporary.

This is an issue that causes the people of this country to be involved, that they wish to talk about, and that brings forth strong opinions on both sides of the issue. And there can be no doubt about the fact that the interest is of a high nature today and will continue to be. If anything it is my opinion that the interest in the ratification of the ERA has increased over the years rather than decreased.

The 7-year time limit for the amendment was purely arbitrary. That previous amendments have the same time restrictions suggests that the 7-year period has been employed out of habit, rather than on the basis of whether or not there is continuing public interest and debate on the issues.

There are those who argue that the ERA is no longer needed, because of recent court decisions and legislative activities. But all we have to do on that subject is to take a look at the facts, because these facts suggest exactly the opposite conclusion.

Let me discuss with the Senate a few recent Supreme Court cases to illustrate this point.

In 1974 in Kahn against Shevin the Supreme Court upheld a Florida law that permitted a tax deduction to widows, but denied it to widowers. In that same year in Geduldig against Aiello the High Court rejected a constitutional challenge to a California statute excluding pregnant women from a disability benefit program that covered nearly all other forms of disability. The following year in Schlesinger against Ballard the Court upheld a Navy regulation that provided for the mandatory discharge of male naval officers who had served 9 years without promotion, but allowed the discharge of female officers after 13 years.

My discussion of these cases indicates that I am concerned about sex discrimination whether it is directed at women or men. The achievement of fundamental fairness in our laws and in our everyday activities is my goal. And, we have a long way to go.

For example, the U.S. Commission on Civil Rights reports that over 800 sections of the United States Code involve discrimination on the basis of sex. A recent Commission study emphasizes the practical effect on women of continuing unequal treatment. The Civil Rights Commission study shows that the salaries of women are still only half those of white males. Moreover, women with college degrees, on the average, earn less than men with high school degrees.

Mr. SCOTT. Mr. President, will the Senator yield very briefly at that point?

Mr. METZENBAUM. I yield without yielding the floor.

Mr. SCOTT. Yes.

I was reading in a legal newspaper the other day about the average pay of women lawyers as compared to men lawyers. As the Senator knows, this is a profession which is not regulated, and the people are free to go to a man or a woman, an individual, of his choice. It indicated that the average pay was one-half for women, one-half the average pay for men. That is not because of any activtiy of the Government, because it is not a regulated profession insofar as the Federal Government is concerned.

I believe there are, perhaps, some natural prejudices that exist and that will continue to exist whether or not this amendment is adopted.

I just make that observation.

Mr. METZENBAUM. I appreciate the comment made by my good friend from Virginia. I recognize and I agree with him that there are prejudices that exist and will continue to exist. But I think there is a major distinction to be made between prejudices that exist and continue to exist and discriminatory legislation, discriminatory laws, discriminatory practices.

I think the question comes down to whether or not we give the sanction of law or permit there to be given the sanction of law to discriminatory practices. That is not too unusual from circumstances that exist in other areas of our country with respect to discriminatory practices. But the one thing that the United States has done, although we have not done too well, with respect to eliminating discrimination against blacks in this country in contradistinction to other nations such as South Africa, it has not been our Government policy to sanction the discrimination, and we have made every effort by our laws to eliminate those discriminatory practices.

I think the point the Senator from Virginia makes is a very appropriate one because it really highlights the issue. It says to us:

> We cannot eliminate prejudice. Prejudice is the kind of thing that is a matter of mind. It is sometimes a matter of action—it causes action, but it is more a matter of mind. But what we can do is say that you cannot have laws in this Nation, you cannot have regulations in this Nation, that have the sanction of law, that provide for discrimination between the sexes.

If we take that step forward by ratifying the ERA we will have indicated in another instance to the rest of the world that this country does not believe in discrimination as a matter of law either against blacks or against women and, hopefully, in no other area or segment of our community.

Mr. RIEGLE. Mr. President, will the Senator yield at that point?

Mr. METZENBAUM. I am very happy to yield to my friend from Michigan.

Mr. RIEGLE. I thank my friend from Ohio for yielding. I want to applaud the excellent statement he is making, but I want to draw to the attention of the Senate substantiation for the point the Senator from Ohio is making. I make reference to a book entitled, "Sex Bias in the United States Code," that is a report of the U.S. Commission on Civil Rights published in April of 1977.

What this document does—which runs roughly about 250 pages—is it goes directly to the distinction that the Senator makes, and that is that discrimination that is a matter of law, written law, as apart from practice or custom or the unfortunate kinds of individual bias that we sometimes see practiced for one reason or another in society at large, but that here we are talking about something much more direct, and that is discrimination by law and how we undertake to change that.

I commend this document to anyone who is in doubt about this because this document deals section by section with the roughly 800 different areas in the United State Code where differentiations are made on the basis of gender which both to the Civil Rights Commission and to myself seem totally unwarranted.

There are, for example, many in the area of the social security system, which was a very basic kind of program, and where if any program ought to be evenhanded and not make reference to gender, it ought to be a social security program. But there we find case after case where we see discrimination as a matter of practiced law, and that is what we are trying to deal with here.

I might also say before yielding back—and I thank the Senator for the courtesy of yielding to me—we have a whole raft of State laws across the country, as my friend from Virginia knows, where, for example, in some States a woman can be employed, have a job and earn a wage and, as a matter of law, State law, her husband can go to the employer and ask that her checks, her earnings, be sent to him.

I know of no reverse case where that exists, where a woman or a wife has the right to go and interdict the earnings of her husband. It ought not to exist either way.

But those are the kinds of laws that exist where discrimination has actually been written into statute, Federal and State, that one ought to try to deal with.

Frankly, having served with my friend from Virginia in the House before, and now in the Senate, I cannot understand

why the Senator from Virginia would countenance any differentiations in the law that are based on sex. My impulse would be that he would prefer that the law be evenhanded and be blind to the matter of gender in terms of deciding what the rights, privileges, and responsibilities are that are accorded by Federal law, and they ought to be applied equally regardless of race, regardless of sex or other factors of that sort.

Mr. SCOTT. Mr. President, if the Senator will yield briefly——

Mr. METZENBAUM. I yield again without giving up my right to the floor.

Mr. SCOTT. I will be glad to respond to the remarks that the distinguished Senator from Michigan made.

During the course of our hearings before the Subcommittee on the Constitution, I proposed and agreed to cosponsor a measure, a proposed constitutional amendment, that would guarantee to both males and females equal employment opportunities, and to provide a new proposed constitutional amendment that would eliminate some of the objectionable interpretations, whether they are accurate or inaccurate.

But I would call the distinguished Senator's attention to something he well knows: Under amendment XIV of the Constitution:

> No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

So if in fact a State law exists, as the distinguished Senator suggests—and I am not familiar with it—it is invalid, because it violates the provisions of the 14th amendment to the Constitution.

Mr. RIEGLE. If I may just continue for a moment, if the Senator from Ohio will yield further for a response, the great difficulty we have, if we are going to try to deal area by area, we were just talking about 800 different areas of the Federal Code where we have gender differentiations under the law, and trying to entrap each one by use of the 14th amendment would take decades of work; and I do not know that the Senator from Virginia would want to take the kind of time it takes to deal with what I gather he is acknowledging is a bad situation, and one that needs correcting.

Why not do it at one fell swoop? Why not pass an equal rights amendment that would have the effect of setting aside, and therefore requiring correction of, all those different situations at one time, rather than forcing the courts, which are overloaded now, to have to proceed step by step, case by case, with each one of those items?

Mr. SCOTT. I wonder if the Senator is suggesting that if this amendment is adopted, all discrimination will cease. It is in violation of the 14th amendment to do what he is talking about right now.

We have had a multitude of civil rights legislation over the past decade. I just received the latest volume of the United States Code; it was a replacement volume, it related to welfare and to individual rights, and I noted that it was twice the size, just in volume, of the one it replaced. We have passed an awful lot of laws on this subject.

But the 14th amendment refers to equal protection of laws. All we would do here would be pass another amendment, which apparently the States do not feel is necessary, and, on my own time, in just a minute, I would like to continue and amplify on that somewhat.

Mr. BAYH. Mr. President, will the Senator from Michigan or the Senator from Ohio or whoever has the floor yield to me for a couple of minutes?

Mr. METZENBAUM. Mr. President, are we on limited time?

The PRESIDING OFFICER. The Senator is correct; the time is limited. There is remaining on this amendment 16 minutes to the Senator from Virginia and 48 minutes to the Senator from Indiana.

Mr. METZENBAUM. I yield to the Senator from Indiana without losing my right to the floor.

The PRESIDING OFFICER. The Senator from Indiana controls the time.

Mr. BAYH. I, out of deference to the Senator from Ohio, have given him his lead.

Mr. METZENBAUM. It is his time, and I am giving it back to him.

The PRESIDING OFFICER. The Chair appreciates the clarification.

Mr. BAYH. I would just like to point out, from the standpoint of the record, that the Senator from Virginia has touched on a point which is one which immediately hit me when we first started considering this matter back about 1970 in the Constitutional Amendments Subcommittee, of which I happened to be chairman at that time.

The 14th amendment talked about persons, and the last time I had looked at women, I had seen persons, and felt that they ought to be covered under the 14th amendment.

But when you get to examining cases, the Supreme Court has never ruled that the 14th amendment covers women against discrimination. The Supreme Court, technically, has held correctly that what Congress had in mind at the time of the 14th amendment was discrimination against black persons. To the Supreme Court's credit, they have begun to relax a bit and extend it to other areas, but they have never yet cut the Gordian knot and said in so many words that the 14th amendment does apply to women.

Mr. SCOTT. If the Senator will yield, I have read that women can now go into men's locker rooms, reporters can, and that is a matter of the sex discrimination we are talking about.

Mr. BAYH. Where does it mention that in the 14th amendment?

[Laughter.]

Mr. SCOTT. I do not know that it mentions it, but——

The PRESIDING OFFICER. The Chair will remind all those in the gallery that they are guests of the Senate, and asks that there not be any disruption.

Mr. METZENBAUM. Mr. President, I wonder if I could get back the floor to continue my statement.

The PRESIDING OFFICER. The Senator from Indiana had asked a question regarding the application of the 14th amendment.

Mr. BAYH. Mr. President, I appreciate the courtesy of the Senator from Ohio in yielding.

Mr. METZENBAUM. I thank the Senator from Indiana for yielding to me.

From my own experiences I can confirm the unequal treatment women receive today. In hearings I chaired on the practices of property and casualty insurance companies, one witness testified that her automobile insurance rates increased when she became a widow—even though she had experienced no accidents or violations for as long as she had been driving—over 20 years. Another witness testified that her rates increased when she became divorced—despite an unblemished driving record. Her former husband's rates remained the same. There can be no question of the unfairness of these practices.

Mr. SCOTT. Mr. President, will the Senator yield at that point?

Mr. METZENBAUM. Without losing my right to the floor, and on your time.

Mr. SCOTT. As the Senator well knows, if he has children, and I assume that the distinguished Senator does have children——

Mr. METZENBAUM. I do.

Mr. SCOTT. The insurance rates for the male children, when they are teenagers or in their early twenties, are higher than those for female children.

Mr. METZENBAUM. But as the Senator from Virginia knows, I have heretofore stated I do not find it any better to have discrimination in favor of males or against males than I do to have the reverse of that. As far as I am concerned, I believe that the laws ought to treat all people equally in this country, whether they are women or men, whether they are black or white or brown or yellow or red, and I think that is what the whole issue is.

Mr. SCOTT. The distinguished Senator and I are in complete agreement on that matter.

Mr. METZENBAUM. I appreciate the Senator's comment on that, and I think it is a good starting point.

I see the equal rights amendment as an essential part of this Nation's commitment to full equality for all citizens. The words "all men are created equal * * *" Must be made to apply to women, too. If not, the promise of the American Revolution and our Constitution will remain unfulfilled.

What about the question of rescission?

This amendment (No. 3671) would permit a State legislature to rescind a ratification of the equal rights amendment, and to recognize any rescission made before the date this joint resolution becomes law.

This amendment would allow existing rescissions to become effective despite the fact that they were voted at a time when there was, and is, no precedent for recognizing such rescissions. The legislatures of Kentucky and Idaho voted to rescind their previous ratifications in the face of advice from their own State attorneys general that such action would be invalid.

Thus the amendment offered by my distinguished colleague from Virginia (Mr. SCOTT) would go far beyond the amendment on rescission that will be offered by the distinguished Senator from Utah (Mr. GARN). The Scott amendment would recognize both past rescissions and future rescissions. I am opposed to any rescission amendment for the reasons I will give. The reasons for opposing a retroactive rescission amendment are even stronger than the reasons for opposing a simple rescission amendment. The States which have already rescinded relied on nothing more than their own determination to ignore existing precedents. There can be no question, but that recognizing such actions woud be fundamentally unfair.

Now let me turn to my reasons for opposing this as well as any other rescission amendment.

First, in testimony before the Subcommittee on the Constitution of the Senate Judiciary Committee, constitutional scholars were virtually unanimous in their conclusions that an extension of the time period for ratification does not automatically give States a constitutional right to rescind previous ratifications. The two issues must be kept separate to avoid confusion.

Second, House Joint Resolution 638 takes no position on the rescission issue, and now is not the time to decide the question. Whether rescissions are constitutional or not, constitutional scholars testified that the appropriate time for Congress to decide the issue of rescission is after 38 States have ratified that amendment. That is the procedure Congress followed at the time the 14th amendment was ratified. The Supreme Court approved that approach in the landmark case of Coleman against Miller. In summary, the present 95th Congress does not have the legal authority to approve or disapprove the ultimate ratification of the ERA. Any decision now on that issue would not be binding on future Congresses.

Third, I oppose the rescission amendment to House Joint Resolution 638, because I believe there are substantial questions about the constitutionality of rescission. The Justice Department and several eminent legal scholars have testified that article V of the Constitution does not permit a State to rescind its ratification of a constitutional amendment. The language of the article speaks only of ratification, not rescission. In the past, two Supreme Courts of the States of Kansas and Maine have concluded that ratification of a proposed U.S. constitutional amendment is final and binding. A framer of the Constitution, James Madison, stated that ratification must be in toto and forever.

Further, Congress historically has denied a State's right to rescind when the issue has been presented to it, with the ratifications of the 14th, 15th, and 19th amendments. Finally, the Supreme Court recognized the right of Congress to ignore attempted rescissions in the case of Coleman against Miller.

In recent sessions of Congress, Members of this Chamber has recognized that a constitutional amendment is probably necessary for rescissions to be valid. Over the years several of our Members have offered amendments that would have allowed rescissions. For example, in 1921 and 1924 the Wadsworth-Garrett amendment to permit rescissions was offered but never adopted. During this decade a Senate bill would have allowed rescissions. It, too, failed. Not one legal precedent exists for recognizing a State's attempt to rescind its ratification of a proposed amendment.

I have a fourth reason for opposing the rescission amendment. I want to underscore the important policy consideration raised by my distinguished colleague from Indiana (Mr. BAYH). There must be some point at which the ratification process ends in every State. Allowing rescission will require State legislatures to consider and reconsider a proposed U.S. constitutional amendment. The drain on legislative time and resources would be enormous. Constitutional Scholar William Van Alstyne has warned against treating ratification like a poker game in which State legislatures fail to give serious attention to a proposed amendment, because they can always take up the issue again—and again and again.

I can well imagine in certain State legislative bodies where the votes were close with respect to rescission where they would come back and wheel and deal and they would attempt to get through the rescission that they could not have gotten through 2 months, 6 months, or a year earlier.

Finally, I believe the "fair play" argument has received much more attention—and weight—than it deserves. As Harvard Law School Prof. Laurence Tribe testified:

> Any suggestion that it is somehow unfair to "change the rules of the game" should be rejected as both self-serving and circular. It seems clear that the proponents of ERA are in fact playing by the rules that have long been in force while it is the ERA opponents who, having already lost in seventy percent of the state legislatures, now seek to change the rules in order to avoid any chance of losing in the three remaining States that would make the ERA part of the constitution.

Congress has always had the right to determine the appropriate "reasonable" time for ratification of proposed amendments. The rescission amendment is simply an attempt to pass this constitutional authority on to the States by giving them the right to decide when final ratification of an amendment occurs, if ever.

Similarly, it is absurd to suggest that some States relied on the 7-year period in deciding what action to take on ERA. The merits of ERA cannot be decided on the basis of whether there are 7 or 10 years for ratification. States who have ratified the amendment did so, because they support the principle of equality for women as well as men. The critical principle is that Congress has the right to set the time limit, not the States.

The proposed rescission amendment should be recognized for what it is—an attempt to kill ERA. Those who say they support ERA must prove it by voting against the rescission amendment. For myself, the principle of fair and equal treatment for all Americans is not debatable, it is essential.

Mr. President, at this time I ask unanimous consent that a summary of the report, heretofore mentioned by the distinguished Senator from Michigan, from the U.S. Commission on Civil Rights dated April 1977, entitled "Sex Bias In The U.S. Code," be printed in the RECORD at this time.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

SEX BIAS IN THE U.S. CODE

INTRODUCTION

Background

In 1972 the jurisdiction of the U.S. Commission on Civil Rights was expanded to include discrimination on the basis of sex. Under this mandate, the Commission issued in June 1974 a guide to Federal Laws Prohibiting Sex Discrimination.[1] The guide was recently revised and now includes a discussion on Federal regulations and laws which prohibit sex discrimination.

This report identifies and analyzes sex-based references in the United States Code, which forms the basis of Federal law in this country; it therefore addresses Federal laws which allow implicit or explicit sex-based discrimination. The Commission has issued this report to inform the public and to provide resource materials for private citizens, the President, and members of Congress who want to identify and eliminate sex-discriminatory provisions in the Code.

Women and the Constitution

The Constitution, which provides the framework for the American legal system, was drafted using the generic term "man." While the United States Supreme Court, the ultimate interpreter of the Constitution, might have determined that "man" also means "woman" in terms of rights, duties, privileges, and obligations under the Constitution, the Court instead has chosen on numerous occasions to deny to women certain rights and privileges not denied to men. The lead case historically in this area is *Bradwell* v. *Illinois*, 83 U.S. 130 (1872), which held that women need not be allowed the opportunity to practice law through admission to the State bar, with the reasoning that admission to a State bar—assuming the State's requirements of age, character, and knowledge were met—was not a right or privilege of national citizenship guaranteed to the citizens of each State by the 14th amendment. The result of the Court's decision was to uphold the State's determination that women were not to be allowed to practice law.

One means women have utilized to challenge this kind of reasoning has been to develop the potential of the equal protection clause of the 14th amendment. The Supreme Court historically has examined problems of equal protection by conceptualizing and labelling the category of interest at issue (race, economic status, nationality, sex) and then applying a standard of review to study and judge the legislation which is claimed to affect that category of people. State economic legislation that affects a category of people, for instance, need pass only a minimal standard: the legislation must be "rationally related" to a State policy. When the categories at issue are those of race, alienage, or national origin, then any legislation that isolates such a category is suspect (hence these categories are labelled "suspect classifications") and that legislation will be subject to "strict scrutiny," the highest judicial standard established.[2]

Many constitutional reformers contend that "sex" should be defined as a "suspect"

Footnotes at end of article.

classification. If this were to happen, then any legislation that treated women differently than men would have to meet the strict scrutiny test. The Supreme Court has so far been unwilling to establish sex as a suspect classification. As a result, sex discriminatory legislation need not withstand the strict scrutiny test when the effects of such legislation are evaluated by the Court.

Three recent cases involving legal rights based on the category of sex demonstrate the piecemeal manner with which the Supreme Court applies the equal protection clause and illustrate the need for more comprehensive protection. In *Kahn* v. *Shevin*,[3] the Court upheld a Florida law that permitted a tax deduction to widows but denied it to widowers. In *Geduldig* v. *Aiello*,[4] the Court decided that a California statute excluding pregnant women from a disability benefit program which covered nearly all other forms of disability was constitutionally valid. In a third decision, *Schlesinger* v. *Ballard*,[5] the Court upheld a Navy regulation that provided for mandatory discharge of male Navy officers who had served 9 years without promotion but discharged female officers after 13 years.

Although the Court permitted differential treatment on the basis of sex in these three areas, the Court has recently held (*Reed* v. *Reed*[6]) that arbitrary legislative choices based on sex, such as an Idaho statute that favors the male as executor in probate matters, are not constitutionally permissible. In *Frontiero* v. *Richardson*,[7] the Court expanded *Reed* by determining that sex-differential treatment of service personnel, which was premised on assumptions of dependency, violated the right to equal protection secured by the fifth amendment. A third case, *Weinberger* v. *Weisenfield*,[8] held invalid a social security statute that denied benefits to dependents of working women. The Court, noting the irrationality of discriminating between surviving parents, struck down the section that, quoting *Reed*, "provided dissimilar treatment for men and women who are similarly situated."

Because American society has developed few constitutional protections against laws and official practices which treat men and women differently, sex discrimination occurs in such diverse areas as employment, criminal law and administration, tax and retirement benefits, military service, consumer credit, public education, family support laws, property rights, mortgage finance, and Federal social security.

The equal rights amendment (ERA) has been proposed as a measure to ensure constitutional protection against all legislative sex discrimination. The amendment states simply that:

§ 1. Equality or rights under the law shall not be denied or abridged by the United States or by any State on account of sex.

§ 2. The Congress shall ha·e the power to enforce, by appropriate legislation, the provisions of this article.

§ 3. This amendment shall take effect two years after the date of ratification.

The basic tenet of the ERA is that sex should not be a factor which affects the legal rights of women or men. A report entitled *Equal Rights for Men and Women*, issued by the Senate Judiciary Committee,[9] indicated that proponents of the ERA accept only two exceptions to this general principle. These exceptions occur for: (1) situations which relate to the individual's constitutional right to personal privacy; and (2) situations which relate to a unique physical characteristic of one sex.

The first step of the two-step process for any constiutional amendment—vote of approval by two-thirds of both Houses of Congress—was completed on March 22, 1972, when the Senate approved the proposed amendment. Ratification—the second stage—must occur within 7 years. As of December 1976, 34 of the necessary 38 States have ratified the proposed amendment. If this second step is completed by 1979, the ERA will become the 27th amendment to the Constitution, but it will not become effective until 2 years after ratification. The rationale behind the delay was to permit the States and the Federal Government an opportunity to amend or rescind laws that discriminate on the basis of sex. Some States have already begun this task.

Progress also has been made through legislative revision of statutory law. In 1963 Congress began altering the legal status of women in the country with respect to sex-based discrimination with the enactment of the Equal Pay Act[10] and inclusion of a ban on sex and race discrimination in Ttile VII of the Civil Rights Act of 1964.[11] Since then, this country has witnessed the beginning of a national commitment to remove artificial barriers to women's development of their individual talents.

Nonetheless, the U.S. Code continues to define distinct spheres of action for men and women. In light of its previous commitment to equal opportunities for women and men, and the overwhelming majorities with which both Houses of Congress passed the ERA in 1971 and 1972, Congress clearly must assume leadership in amending the Code and enacting legislation to promote equal opportunity.

Martha Griffiths, a former member of Congress, has proposed that each standing committee of the House of Representatives, acting as a whole or by subcommittee, conduct a study of sex-based discrimination and possible remedies.[12] The Griffiths proposal, coupled with a similar resolution applicable to the Senate, and with provision for cooperation among committees working in the same or related areas, would be one appropriate method for accomplishing the elimination of sex-based differentials now explicit or implicit in the Code.

Congress, however, is not the only group responsible for statutory revision. Others who share this responsibility include the President, Executive agencies, and Presidential Commissions. The President[13] has a unique tool in the Executive order, which carries with it the weight of law, and has been employed in the past by Presidents to promote equal opportunities for women and men. For example, Executive Order No. 11246, as amended,[14] prohibits Government contractors and subcontractors from discriminating in employment because of race, national origin, religion, or sex; it also requires contractors to develop an affirmative action program to eliminate discriminatory practices and to remedy effects of past discrimination.

Executive agencies, statutorily empowered by Congress to issue their own rules, regulations, and guidelines, can also effect change. Because their primary role is implementation and enforcement of Federal legislation, their guidelines, rules, and regulations frequently serve as deterrents or catalysts to the development of equal opportunity. For example, the U.S. Equal Employment Opportunity Commission has issued guidelines on the subject of sex discrimination and job testing.[15] Although these guidelines do not have the weight of law, they are heavily relied upon by the courts.[16] Some Federal agencies have instituted programs and set up bureaus which specifically reflect the Federal Government's commitment to improve the economic and social conditions for women—for example, the Women's Bureau in the Department of Labor.

Presidential Commissions and Councils can promote issues such as equal rights. One such Commission currently in existence at the national level focuses on the rights of women: the National Commission on the Observance of International Women's Year was established by Executive Order No. 1183½ to coordinate and implement this Nation's observance of International Women's Year. Its report to the President includes recommendations for improving the status of women and eliminating sex discrimination. In addition, the Citizens' Advisory Council on the Status of Women was created by the President in 1969 to evaluate both Federal and local programs pertaining to women and to make recommendations concerning gaps in legislation and negative practices.

Structure, methodology, and recommendations

In 1973 the U.S. Commission on Civil Rights decided to study the status of women under Federal law. After many months of study by contractors and Commission staff, this report has been developed as an extensive, but not exhaustive, study of the United States Code and certain sex-based references contained within it.

This report is divided into two major parts. In Part One, two substantive areas of the law—Title 10, Armed Forces, and Title 42, Social Security—are examined in terms of: (a) the present status of women under the law, (b) the effect of the present law on women, and (c) recent changes or proposed changes in that law to alter the status of women. A third area, Income Tax, was included in an earlier draft of this report, however, it was deleted from this final version since substantial changes in the law resulted from the passage of the Tax Reform Act of 1976. Sex bias remains in the substantive tax law as in other areas not covered by the discussion here.

Throughout this discussion of sex bias under the U.S. Code, reference will be made to the "equality principle"—a term which embodies the basic tenets of the ERA—equal rights and justice for women and men under the law.

The two areas selected are merely examples of substantive issues indicative of the status of women under Federal laws. These areas affect a large portion of the female population and are sufficiently comprehensive to provide insight into a system of laws which needs revision. An analysis of the treatment of women under Title 18 (criminal law), particularly in terms of the crimes of rape and prostitution, would similarly reflect the status of women under law.

Part Two of the report is a detailed study of sex-based references and provisions in each Title of the Code. The basis for this survey was a computer printout furnished to the Commission by the U.S. Department of Justice, Justice Retrieval and Inquiry System (JURIS). To obtain the printout of more than 800 Code sections, the computer was programmed with 59 sex-based key words. These words in no way constitute the totality of sex-based terms in the Code, but they do define the limits of this study. Each Title will be identified by a descriptive phrase and the sex-based references, with their sections cited listed below. This will be followed by a discussion of the sex-based references and recommendations detailing necessary or desirable revisions. The following is a list of the key words employed:

SINGULAR

man, man's
woman, woman's
female
male
wife, wife's
husband, husband's
boy
girl
masculine
feminine
father, father's
mother, mother's

Footnotes at end of article.

widow, widow's
widower, widower's
widowhood
widowerhood
sex
mankind
daughter
son
widowed
daughter-in-law
son-in-law
brother
sister
crewman
midshipman
serviceman, serviceman's
seaman
cadet
master
sexual
sexually
businessman
chairman
spouse
servicewoman
brother-in-law
sister-in-law
mother-in-law
father-in-law
pregnancy
maternal
maternity
rape
prostitute
prostitution

PLURAL

Women, women's
females
males
wives
husbands
boys
girls
fathers
mothers
widows
widowers
sexes
daughters
sons
daughters-in-law
sons-in-law
brothers
sisters
crewmen
midshipmen
servicemen, servicemen's
seamen
cadets
businessmen
chairmen
servicewomen
brothers-in-law
sisters-in-law
mothers-in-law
fathers-in-law
prostitutes

Two major limitations in methodology affect the comprehensiveness of the second part of this report. First, only words included in the JURIS dictionary—from which the sample was drawn—were used. Deficiencies later discovered in the word list include the absence of pronouns: he, she, her, him, hers, and his. Many words are missing, including man, men, woman, and women as the prefix or suffix of many common words; in addition, the words "grandfather" and "grandmother" were not included. The second major limitation is that many statutes contain implicit sex discrimination not necessarily revealed by this word-scanning method.

The 59 words used for this study revealed 800 sections of the Code which contained either substantive sex-based differentials or terminology inconsistent with a national commitment to equal rights, responsibilities, and opportunities (the equal rights principle.) The only exception occurred in sections which specifically prohibit sex discrimination rather than differentiate between females and males.

The 800 Code sections were reviewed in conjunction with relevant legislative history, case law, and commentary. The statutes were divided into three categories: sections that they contain unnecesary sex-based references (e.g., "father" or "mother" when "parent" would suffice); sections that contain differentials neutralized by a preceding or subsequent definitional section; and sections that embody substantive differentials.

The Commission's recommendations reflect the fact that the use of masculine pronouns and other referrents in the Code reinforces the traditional view of women as members of the "other" sex. The Commission believes that sex-based terminology should be permitted in the Code in only three situations: (1) When no suitable sex-neutral term exists (aunt, uncle, nephew, niece); (2) when the reference is to a physical characteristic unique to some or all members of one sex (for instance, programs whose purpose is to improve prenatal and post partum care);[17] and (3) when a sex-based reference is required by the constitutional right to privacy (female customs officials perform body searches of women entering the country).[18]

With these narrow restrictions the Commission's recommendations for the sex-neutralization of language within the Code can be accomplished through consistent, sex-neutral drafting of each section, using sex-neutral terminology. Most recommendations which appear in Part Two deal with neutralizing terminology, although there are policy considerations involved in some of these changes. The Commission has not pointed out each case where such policy considerations exist. However, the final responsibility for such consideration rests with the Congress. The following is a list of specific recommended word changes:

SEX-SPECIFIC LANGUAGE

serviceman, servicemen
crewman
midshipman
enlisted man
laboring men and women
seamen
longshoremen
chairman
postmaster
plainclothesman
lineman
newsboy
she, her (reference to ship)
"to man" a vessel
duties of seamanship
lifeboat man
businessman
"husband" of the vessel
master
entryman
workman's compensation
salesman
watchman
Relationship Models
widow or widower
wife, wives/husband, husband's
brother/sister
daughter/son
mother/father
husband and wife
father/mother
grandfather/grandmother
stepbrother/stepsister
paternity
mother's insurance benefits
maternal welfare
Gender Models
man, living man
mankind
per man
prudent man
female/male
manpower
manmade
trained manpower

SEX-NEUTRAL LANGUAGE

services, service member, servicemembers
crew member
cadet, midshipperson
enlisted personnel, enlisted member, enlistee
workers, laborers
sailor, crew member
stevedores
chairperson, moderator, the chair, coordinator
post office director, postal director
plainclothesperson, officer, investigator
line installer, line repairer, line maintainer, line service attendent
newscarrier, newspaper vendor
it, its
to staff
nautical or seafaring duties
lifeboat person or operator
business person, executive, member of the business community, business manager
manager
captain, commanding officer
entry person, enterer
workers' compensation
salesperson, sales personnel, sales representative, sales agent, sales clerk
guard, watchperson, watcher, the watch patroller
surviving spouse
spouse, spouses, spouse's
sibling/siblings
child/children
parent
married couple
either parent
grandparents
stepsibling
parentage
child-in-care benefits
parental welfare
person, human, human being, living human
humanity, human beings, humankind
per person
prudent individual, person
person, individual
human resources
artificial, of human
origin, synthetic
trained work force

FOOTNOTES

[1] The Commission also held an extended hearing on issues affecting women and poverty; the findings from this hearing will provide the foundation for legislative and other recommendations to be issued in the future. In addition, the entire spring 1974 issue of the Commission's *Civil Rights Digest* was devoted to women's issues. The Commission subsequently issued a number of clearinghouse publications in addition to the *Guide*. These include *Mortgage Money: Who Gets It; Minorities and Women as Government Contractors; Women and Poverty;* and *Constitutional Aspects of the Right to Limit Childbearing*. The Commission currently is preparing a study of the problems associated with rape. Reports on women have also been issued by several State Advisory Committees.

[2] *But see* the discussion in Washington v. Davis, 426 U.S. 229 (1976), especially footnote 11 and its accompanying discussion.

[3] 416 U.S. 351.

[4] 417 U.S. 484 (1974). More recently, on Dec. 7, 1976, the Supreme Court also refused to invalidate under Title VII (1964 Rights Act as amended) an employer's health disability plan which excluded disabilities arising from pregnancy. The Court reaffirmed Geduldig. General Electric Co. v. Gilbert, 45 U.S.L.W. 4031.

[5] 419 U.S. 498.

[6] 404 U.S. 71 (1971). Shortly before the printing of this report, the Supreme Court, in a 7–2 decision, held in Craig v. Boren, 45 U.S.L.W. 4057 (Dec. 21, 1976), that an Oklahoma law that required men to be 21 before they could buy 3.2 percent beer, but allowed women to buy it at age 18, is unconstitu-

tional. In the majority opinion, Justice Brennan wrote: "to withstand constitutional challenge . . . classifications by gender must serve important governmental objectives and must be substantially related to achievement of those objectives."

[7] 411 U.S. 677 (1973).

[8] 420 U.S. 636 (1975).

[9] S. Rep. No. 689, 92d Cong., 2d Sess. (1972).

[10] 29 U.S.C. § 206 (1970).

[11] 42 U.S.C. § 2000e, *et seq.* (1970).

[12] H. Res. 108, 93d Cong., 1st Sess. (1973).

[13] The President has recently asked the Department of Justice to conduct a special study examining sex discrimination in the U.S. Code and Federal regulations, a study much broader in scope than this present report.

[14] 3 C.F.R. 169 (1974).

[15] 29 C.F.R. 1607 (1974).

[16] In the recent decision in General Electric v. Gilbert, 45 U.S.L.W. 4031 (Dec. 7, 1976), *supra* note 4, the Supreme Court held that part of EEOC's guidelines on sex discrimination which called for employers to provide health care benefits for disability arising from pregnancy to be invalid. It noted that these guidelines did not have the full force of law particularly where they were not based on the legislative history or intent, but were subsequently developed by EEOC.

[17] 42 U.S.C. §§ 289(d), 701, 2674(b) (2) (1970).

[18] 9 U.S.C. § 1582 (1970). It should be noted, however, that this statute, as currently written, suggests that only women's right to privacy need be protected. This is inconsistent with the equal rights principle.

The PRESIDING OFFICER. Who yields time?

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time? Should the time be divided equally?

Mr. METZENBAUM. To be charged equally.

The PRESIDING OFFICER. If there is no objection, the clerk will call the roll and the time will be charged equally to both sides.

The assistant legislative clerk proceeded to call the roll.

Mr. SCOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SCOTT. Mr. President, I believe we are about ready to vote. I would like to very briefly indicate that in my judgment we should not impose on the 15 States which have not ratified the equal rights amendment and have it come up over and over and over again, and not give the 35 States which have ratified the opportunity to reconsider.

In support of what I consider to be fair treatment, I again call the Senate's attention to the fact that 22 States did ratify in 1972, 8 States in 1973, 3 States in 1974, 1 State in 1975, none in 1976, 1 State in 1977, and none in 1978. Four States that have ratified have rescinded their prior ratification. It seems only fair that if we are going to be reasonably contemporaneous in acting upon the congressional proposal in the equal rights amendment, time should not be extended without a corresponding right on behalf of the legislatures that made their decision early in the game to have an opportunity to change their minds.

Mr. President, I have before me testimony by a young lady from the town of Vienna, Va. Her name is Connie Campanella. She appeared and testified and called to our attention the fact that, in a recent House resolution by the State of Illinois, the State of Illinois went on record as saying they did not want to consider this matter any more. Let me read the resolution:

HOUSE RESOLUTION 722

Whereas, The Joint Resolution passed by the United States Congress on March 22, 1972, stated that the proposed Equal Rights Amendment shall become part of the United States Constitution "when ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission by the Congress;" and

Whereas, No amendment to the United States Constitution has taken longer than four years for ratification; and

Whereas, The fifteen states that have not ratified the Equal Rights Amendment have considered it and rejected it time and time again, some of them as often as six times in six years; therefore, be it

Resolved, by the House of Representatives of the Eightieth General Assembly of the State of Illinois, that the House of Representatives of the State of Illinois urges the United States Congress not to adopt any resolution to extend the time period for ratification of the Equal Rights Amendment, and that copies of this resolution be transmitted to each member of the U.S. House of Representatives and the U.S. Senate.

Mr. President, we often say that this is a matter whose time has come. I say if the time has come, it has gone, because I do not believe the people of the country want this ERA amendment ratified.

Mr. BAYH. Will the Senator yield?

Mr. SCOTT. Yes, I am glad to yield.

Mr. BAYH. Is that resolution from the same Illinois State Legislature where courageously, three times, a majority voted to support the equal rights amendment, but because of that unique provision of the Illinois statutes where a majority does not pass anything as far as ratification is concerned, it did not ratify? Is that the same legislature that is now trying to hold the heat off from ratification?

Mr. SCOTT. I have only a copy of the resolution of the House of Representatives of the State of Illinois. I do not know the background. To me, the thing speaks for itself. It passed by a vote of 80 to 45.

Mr. President, I am willing to yield back the remainder of my time and to have a vote if the distinguished floor manager wishes.

Mr. RIEGLE. Mr. President, I should like just a minute or two, if I may.

Mr. BAYH. Certainly.

Mr. RIEGLE. I thank the Senator from Indiana for yielding.

Mr. President, I appreciate the debate we have been listening to and I know we are very close to time to vote.

I want to say again and emphasize the fact that any rescission amendment is a killer amendment. Its effect will be to kill the ERA, not just for a while, but I think at least for a generation. I have a daughter who will be 20 years old, as a matter of fact, this week. I have another daughter who is 15 and I have a son who is 10. I cannot, in any way, justify in my own mind or in words to them or anybody else that they ought to start out their adult lives on a different footing with respect to their standing under the law in this country. Unless we can pass the equal rights amendment, however, that is exactly what my two daughters and, for that matter, all the daughters of this country will face, as has been the case with their mothers, their grandmothers, and their great grandmothers, going back to the time this country began.

This is a basic, fundamental moral issue. The rescission amendment has to be understood for what it is; that is, an attempt to defeat ERA itself. If we should attach any rescission amendment, it is inconceivable to me that we would ever manage any kind of time extension in this session of Congress. I think time would run out next year and I think it will probably be 15 or 20 years, or longer, before we would ever really have a realistic hope of negotiating all the hurdles again.

I think it is time to face this issue and see to it that all the people of this country, regardless of what sex they might be, have the same standing under the law as of now. We can begin by defeating this rescission amendment and others that are offered and going on later and voting in the affirmative for the time extension.

I thank the Senator for yielding.

The PRESIDING OFFICER. Is all time yielded back?

Mr. BAYH. No, Mr. President, I do not think all time is yielded back.

I suggest the absence of a quorum, Mr. President.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GOLDWATER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

Mr. GOLDWATER. Mr. President, I just want to make a unanimous-consent request.

Mr. SCOTT. Mr. President, I am glad to yield, for a unanimous-consent request, to the distinguished Senator from Arizona.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. GOLDWATER. Mr. President, I rise to support the pending amendment.

The idea of allowing an extension period for the ratification of a proposed constitutional amendment which the people will not have approved after 7 years is bad enough. But to permit any State which has not ratified the ERA to have an additional 39 months to vote for it, while at the same time denying any State the right to rescind, is a constitutional disgrace.

Mr. President, I should point out that the ERA has already been given more time for consideration by the people than any amendment that has been added to the Constitution. None of the 26 amendments to the Constitution has taken more than 4 years to be ratified. In fact, only three amendments took more than 3

years. This means that the people in the several States have been more hesitant to ratify the ERA than any other amendment which has become a part of the Constitution.

By allowing the ERA to continue on for an additional 39 months beyond the already lengthy 7-year period for ratification will shatter all past precedent of our Republic.

To do this without permitting the people in the States to change their minds—to deny the States an opportunity to show that their prior approval was conditioned on ratification of the ERA within the original 7-year period—is undemocratic, unfair, and unworthy of a free people.

Mr. President, 29 States, which have ratified the ERA, expressly mentioned the time limit in their ratification documents. They consciously recognized the 7-year time limit as being one of the terms of their ratification agreements.

What they had before them in the State legislatures was a proposed constitutional amendment containing specific language saying that in order to be valid, the amendment must be ratified by three-fourths of the States, "within 7 years." That is what the States voted on and that is the concensus, the general understanding which influenced their votes, that advocates of the ERA now propose we destroy by providing for a time extension.

At the very least, these 29 States should be given an opportunity to express themselves on their original intent in approving the ERA. They should be able to prove whether or not they considered the 7-year time limit to be an indispensible condition of their ratifications.

It is a universally accepted principle that a legislative body cannot tie the hands of its successors. The argument that States can only ratify a proposed amendment and not rescind does not hold water. The same kind of reasoning would hold that Congress lacks any power to repeal legislation because the Constitution does not specifically authorize it to do so. But there is no provision of the Constitution that deprives the Congress of its right to repeal a prior statute, just as there is no part of the Constitution that prevents a State from withdrawing its approval to a proposed amendment.

If we attempt to pass the ERA time extension without providing for the right of rescission, the American people will see our action for what it is, an attempt to amend the Constitution by whatever means a majority in the Congress finds expedient.

Mr. President, this is no way to amend the Constitution. First, I do not think it is wise to allow proposed amendments to drag on and on. Second, it is totally arbitrary and unfair to make time extension a one-sided affair in which States are only allowed to decide in favor, but not against, the proposed amendment. I urge my colleagues to approve the pending amendment so that at least we can put a semblance of fairness into the extension idea.

I thank my friend from Virginia.

Mr. SCOTT. Mr. President, I yield 3 minutes to the distinguished Senator from Idaho.

The PRESIDING OFFICER. The Senator from Idaho.

ERA: THE QUESTIONS OF RESCISSION AND EXTENDING TIME FOR RATIFICATION

Mr. CHURCH. Mr. President, when the question of extending the time limit for the equal rights amendment first surfaced, months ago, I said that I would vote for extension only if the right to rescind were also included. I have carefully examined the arguments on both sides, but this remains my position.

Quite apart from the merits of the ERA, we are dealing here with the precedent-setting business of extending a time limit for amending the Constitution of the United States. It is essential that the procedure we adopt be even-handed, giving State legislatures the right to vote for or against. If we choose a formula which acknowledges only affirmative action, we set a most unfortunate precedent, which could affect amendments in the future having nothing whatever to do with equal rights for women.

I was an original cosponsor of the equal rights amendment. I voted for it when it was first approved by the Senate. My support for it remains firm, and I believe that it should be ratified by the States.

But when the Senate passed the ERA in 1972, it was clearly understood that a 7-year time period would be available within which the States would have to act. This time limit for the ratification of constitutional amendments has become customary during the last 50 years. Until the ERA came along, however, no constitutional amendment ratified during the past half-century has required the full 7 years.

Moreover, I am unaware of any other amendment, during this period, which has confronted Congress with the question of how to deal with State legislatures which changed their position within the allotted time and before the requisite approval of 38 States had riveted the proposed amendment into the Constitution.

Congress is now being asked to extend the 7-year time limitation period for the ERA amendment by an additional 3 years and 3 months. Moreover, we are being asked to extend the time, knowing full well that the legislatures of four States, Idaho, Nebraska, Tennessee, and Kentucky, having first voted to approve the amendment, have since voted to rescind or repeal that action.

Therefore, it is incumbent on Congress to decide how rescissions are to be treated. In fairness, if we are to allow State legislatures which have either rejected or failed to approve the amendment additional time to reconsider and vote for it, then it follows that we must also permit legislatures which have approved the amendment the same period of time to reconsider and vote against it. A constitutional procedure must confer equal treatment to both sides.

Because I support the ERA, I obviously disagree with the rescission action taken by some States, including my own. Nevertheless, it would be unjust if Congress were to extend the time to consider the ERA, but only for the purpose of ratification, not rescission. Regardless of the merits of the proposal, when it comes to amending the Constitution, I could never vote for a procedure which stacks the deck.

For this reason, I intend to vote for those proposals which explicitly recognize the right of rescission.

I thank the Senator for the time that he has given me.

The PRESIDING OFFICER (Mr. GLENN). Who yields time?

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I will not unduly delay anything here. I stated my position time and time again and I will speak at greater length on it tomorrow.

But in hearing the comments of the Senator from Michigan, I, too, am the father of a daughter who means a great deal to me. I like to think that of all 12-year-old daughters in the world, this one has to be the finest. But I also want to know that she is as equal today, and as an adult, as any other daughter anywhere in this country.

I like to think when she grows up she will have the same equality as our two sons.

Quite frankly, every time I look at that daughter, whom I love so very much, I really could not imagine voting any way differently from the way I have announced I am going to vote, and that, of course, will be voting with the distinguished Chairman of the Judiciary Subcommittee (Mr. BAYH).

I yield back to the Senator from Indiana.

Mr. GARN addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. GARN. Will the Senator from Virginia yield me 1 minute?

Mr. SCOTT. Of course.

Mr. GARN. Mr. President, I should like to respond to my distinguished friend from Vermont and my distinguished friend from Michigan.

I do not want anybody to leave here thinking that only those who are opposed to this matter have daughters. I would like everyone to know that I have two beautiful daughters; one is 19 and one is 16. I also have three sons. My wife also happens to be pregnant, and I hope it is a third daughter, so that I will have three sons and three daughters and treat the sexes equally in my own family.

Those of us who happen to be in favor of a fair extension do not lack any love for the female members of our families, and I did not want to let that go unsaid.

Mr. RIEGLE. Mr. President, will the Senator from Indiana yield me a minute or two of his time? Or will the Senator from Virginia yield?

Mr. SCOTT. I will be glad to yield 1 minute.

I might say that my wife is not pregnant.

[Laughter.]

Mr. RIEGLE. Mr. President, the Senator from Utah makes reference to his two beautiful daughters, and I am sure they are beautiful. But the problem is that they are not accorded the same equality under the law as his sons are or as mine are, because the law makes some very clear differentiations between men and women, on no basis other than whatever the alleged difference may be in terms of the fact they are of different sexes.

I hope that, apart from any other factor, we would at least recognize in the course of this debate that the law today is unequal and uneven. It applies differently for men and for women. Whether we want to admit it or not, we reconcile all the women in this country to a lesser set of opportunities insofar as the extent to which the weight of law is felt in their lives.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. RIEGLE. Will the Senator from Indiana yield me an additional minute?

Mr. BAYH. I yield.

Mr. RIEGLE. Their opportunities are less than they might be. They are not the same as they are for young men and men of all ages in our society.

As I said earlier, in this book, entitled "Sex Bias in the U.S. Code, a Report of the U.S. Commission on Civil Rights," if one wanted to read just one section, one could take the social security section and read about the inequities that are built into the law, which are wrong, unfair, unequal, and unjustified. They are there.

So I hope that at some point—possibly today, tomorrow, and Friday—we will get to a point in this country where we decide that we want one set of rules and one set of laws and one set of opportunities and responsibilities, as the law provides them, for all our young men and our young women, equally. We do not have that today.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. BAYH. I yield 2 or 3 minutes, if the Senator desires.

Mr. RIEGLE. I think I have made the points I want to make.

I hope very much that in the vote that is pending, in the vote tomorrow, and in the vote on Friday, we step into the future and acknowledge what we all know basically to be right, anyway—that people should be on the same footing under the law; that arbitrary distinctions based on gender or sex are not fair and not right; and the fact that they have gone on for a long time in no way justifies them.

I believe that when the votes are counted, despite the difficulties that some of these issues pose, there will be the votes to beat back all the rescission amendments, in recognition of the fact they are killer amendments. They will kill ERA dead as a doornail. I think that is becoming clear—if it is not already clear—to everyone here who has to cast a vote. I have great confidence that when the chips are down, as they will be in the hours ahead, the Senate will meet this test and will defeat the rescission amendments and will pass the ERA extension, albeit by what may turn out to be a slender margin.

I thank the Senator from Indiana for yielding.

The PRESIDING OFFICER. Who yields time?

Mr. GARN. Mr. President, will the Senator yield me 2 minutes, so long as there still is a discussion going on?

Mr. SCOTT. I am glad to yield 2 minutes to the distinguished Senator from Utah.

Mr. GARN. I should like to respond once more to the distinguished Senator from Michigan.

I made a speech earlier today, and I become frustrated and not being able to make the distinction between the substance of ERA and the issue before us, which is an unusual extension and whether that extension should be fair.

I said earlier, when the Senator was not here, that I agree that there are differences between men and women. I agree that there had been discrimination. I share everything he said about that problem and the need for correction. But that is not the issue.

We are not here debating ERA—at least, we should not be—and I want to reiterate that my opposition at this point is not to ERA or abortion or any other particular constitutional amendment. It is the process.

When we are talking about equal rights, do we allow equal rights to all citizens in this country, both male and female, in all 50 States, to continue the debate, so that we obtain a contemporaneous consensus during an extended period of time, or do we say that the only ones that have a right to continue to debate are 15 States who, over and over again, have said, "No" or refused to hear it? Are we going to continue to ask them over and over again but keep the 35 States locked into position? That is the issue.

I get tired continuing to hear the matter of equal rights. I do not know of anybody on this floor who disagrees with the need to have equal treatment for men and women. That should not be the issue. The issue is this: Are we going to have an extension that is fair and allows all people in all 50 States to continue to debate this important issue, and are we going to preserve the integrity of the constitutional amending process? Are we going to bend or stack the rules or rig the rules, as many of the liberal newspapers in this country are? That is the issue.

The PRESIDING OFFICER. The Senator's 2 minutes have expired. Who yields time?

Mr. RIEGLE. Mr. President, I ask the Senator from Indiana if he will yield 2 minutes?

Mr. BAYH. I yield 2 additional minutes.

Mr. RIEGLE. I thank the Senator for yielding.

I am pleased that my good friend from Utah and I can engage in this discussion, because the issue is squarely one of whether the remaining 15 States that have not yet ratified—I have looked at this question and have made an affirmative decision about it—will have a chance to continue to consider and debate and weigh and perhaps vote on the issue.

No deck is stacked. I think that is misleading terminology, because not one of those 15 States will be compelled to act if the extension is passed. There is no guarantee that one will act. Both sides are free to debate it, to make whatever arguments they wish. The State legislatures in those States are absolutely free to respond in any way they will to a time extension.

There is no guarantee here. There is no attempt to let one side talk and not the other. I assure the Senator that both sides will be most vocal, most active, most involved in that debate.

Whether or not three additional States, in the additional 3 years and 3 months, should decide that they want to join the other 35 States that have ratified, that is a decision they will have to make. But to suggest that the deck is being stacked and that somehow anybody can predict what the outcome will be, I think that is wrong. No one knows what the outcome will be.

As a matter of fact, whether the Senator likes it or not, ERA and rescission are linked together. They are not separable any longer—at least, in this Senator's view—because if the Senator from Utah's rescission amendment should be agreed to, and I hope it is not, he knows as well as I that the odds of that being reconciled in conference in the number of hours remaining in this session are unrealistic. It will not happen, and I do not think anybody here seriously believes it will happen.

That will sink ERA, and that may or may not be the Senator's intention; but that is the effect of his rescission amendment and any other rescission amendment on which we will be asked to vote.

The PRESIDING OFFICER. The Senator's time has expired. Who yields time?

Mr. BAYH. Mr. President, I yield a couple of minutes to myself.

There have been two or three times that I have heard some of our colleagues on the other side of this issue talk very persuasively and sincerely about preserving the integrity of the process.

I invite everyone here to imagine the kind of pressures that are going to be on all those State legislatures if we say, "now you ratify, now you don't."

There is something to say about finality as far as the integrity of the process is concerned. I think the worst thing that could happen would be for us to establish a precedent here by attaching an amendment to this extension resolution that would convey a signal to the legislatures that, "We really do not care what you do, when you ratify." That is something like putting on a shirt today. You can take it off and put on another one tomorrow. Our Constitution must be treated with more dignity.

When you ratify an amendment to the Constitution that is serious business, and that is why Madison said, when you are talking about ratification, you ratify it once and for all.

I can foresee if we open this up now—

we never had before—if for the first time in history we say to States, "All right, we are going to let you rescind," you can get right down to 37 States ratifying, someone rescinds, then you get another rescission, and then the pressure continues and everyone else rescinds.

I think it is time to ratify the ERA amendment, and start implementing it.

Mr. SCOTT. Mr. President, if I might just briefly respond, I do not believe Madison said you ratify once and for all. I believe he said there could not be conditional ratification, just as we in the Senate when we cast our vote, we say yes or no, we cannot condition our vote upon certain things happening. I believe that is what Madison had in mind.

And then when we talk about precedent, we set a time precedent of 7 years, and we have never at any time during the history of the country changed, as it is proposed to be done, and extended the time within which an amendment to the Constitution can be ratified. That is the precedent that we would set and we would hear this over and over again.

I am glad to yield back the remainder of my time. I ask for an affirmative vote.

Mr. BAKER. Mr. President, the question of whether or not States may withdraw or rescind their ratification of a constitutional amendment is one of the most controversial of the issues surrounding House Joint Resolution 638. The only aspect of the question that is completely clear is that the validity of rescissions has never been finally judged either by Congress or the courts in a manner which would permit us to rely, for all time, upon previous decision.

I am also aware that any decision made by the 95th Congress on this question will not be forever binding on subsequent Congresses and that the final decision on rescissions will be made, either by Congress or the courts when and if the 38th State has ratified the pending amendment. I believe, however, that widespread public interest in this question at this time demands that Congress take some policy stance on rescission in connection with House Joint Resolution 638.

I am troubled by proposals to recognize and validate rescissions of the equal rights amendment which have already taken place, in spite of the fact that my own State of Tennessee is one of four that have rescinded. I am concerned not because I disagree with the right of the Tennessee State Legislature to change its mind on the issue, but because I am inclined to feel that once Congress has set a specific time period for consideration of a proposed constitutional amendment by the States, it is not unreasonable to expect the States to be bound by their acts of ratification throughout that period. If Congress should decide to extend the time period for ratification of an amendment, however, I believe that it should also recognize a right to rescind during the extension period.

I will, therefore, oppose amendments too validate previous ratifications of ERA and support the amendment of the Senator from Utah (Mr. GARN) to grant a prospective right to rescind.

Mr. BAYH. I yield back the remainder of my time.

The PRESIDING OFFICER. All time is yielded back.

The question is on agreeing to the amendment.

Mr. GOLDWATER. I ask for the yeas and nays.

Mr. GARN. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Virginia. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. MATHIAS (After having voted in the negative). Mr. President, on this vote I have a pair with the distinguished Senator from South Carolina (Mr. THURMOND). If he were present and voting, he would vote "yea." If I were at liberty to vote, I would vote, "nay." I, therefore, withdraw my vote.

Mr. CRANSTON. I announce that the Senator from Colorado (Mr. HASKELL), the Senator from Hawaii (Mr. INOUYE), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from New York (Mr. MOYNIHAN) and the Senator from Rhode Island (Mr. PELL) are necessarily absent.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. PELL) and the Senator from New York (Mr. MOYNIHAN) would each vote "nay."

Mr. STEVENS. I announce that the Senator from New Mexico (Mr. DOMENICI), the Senator from Oregon (Mr. HATFIELD), the Senator from Kansas (Mr. PEARSON) and the Senator from South Carolina (Mr. THURMOND) are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon (Mr. HATFIELD), would vote "nay."

The PRESIDING OFFICER. Have all Senators on the floor voted? Apparently so.

The result was announced—yeas 26, nays 64, as follows:

[Rollcall Vote No. 436 Leg.]

YEAS—26

Allen	Ford	Long
Bartlett	Garn	McClure
Byrd, Harry F., Jr.	Goldwater	Nunn
	Hansen	Scott
Cannon	Hatch	Stennis
Church	Helms	Talmadge
Curtis	Huddleston	Tower
Danforth	Johnston	Wallop
Eastland	Laxalt	Zorinsky

NAYS—64

Abourezk	Gravel	Muskie
Anderson	Griffin	Nelson
Baker	Hart	Packwood
Bayh	Hatfield, Paul G.	Percy
Bellmon		Proxmire
Bentsen	Hathaway	Randolph
Biden	Hayakawa	Ribicoff
Brooke	Heinz	Riegle
Bumpers	Hodges	Roth
Burdick	Hollings	Sarbanes
Byrd, Robert C.	Humphrey	Sasser
Case	Jackson	Schmitt
Chafee	Javits	Schweiker
Chiles	Kennedy	Sparkman
Clark	Leahy	Stafford
Cranston	Lugar	Stevens
Culver	Magnuson	Stevenson
DeConcini	Matsunaga	Stone
Dole	McGovern	Weicker
Durkin	Melcher	Williams
Eagleton	Metzenbaum	Young
Glenn	Morgan	

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Mathias, against.

NOT VOTING—9

Domenici	Inouye	Pell
Haskell	McIntyre	Thurmond
Hatfield, Mark O.	Moynihan	
	Pearson	

So the amendment (No. 3671) was rejected.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. METZENBAUM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

(Later the following occurred:)

Mr. PELL. Mr. President, I ask unanimous consent that at the appropriate point in the RECORD the fact be noted that if I had been present and voting on the Scott amendment validating retroactive rescission I would have voted in the negative. I regret that Senate business delayed my coming to the floor and that I was not able to vote personally in this matter.

I thank the Senator for yielding.

Mr. BAYH. I appre iate the position of the Senator from Rhode Island. I know he is very busy on official business of the Senate and what is going on in Rhode Island, but I also appre iate his position with regard to the substance, as distinct from the procedures, the kind of distinction we are trying to make here.

(Conclusion of earlier proceedings.)

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on the amendment by Mr. SCOTT which is about to be called up——

The PRESIDING OFFICER. The Senate will please be in order. Senators will take their conversations to the cloakrooms, and clear the well, so that the majority leader may be heard. The Senate will be in order. The Senate will please be in order, so that we may proceed.

The majority leader is recognized.

AMENDMENT NO. 3679

(Purpose: To require that H.J. Res. 638 be passed by two-thirds of both Houses of Congress in order to take effect)

Mr. ROBERT C. BYRD. Mr. President, the Senator from Virginia (Mr. SCOTT) has an amendment numbered 3679 which will require adoption of the joint resolution by two-thirds of both Houses of Congress.

He is willing to agree to cut the time on this amendment in half. I, therefore, ask unanimous consent that the time on the amendment be limited to 2 hours rather than 4 hours, in accordance with the usual form.

The PRESIDING OFFICER. Is there objection?

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Mr. JAVITS. Mr. President, reserving the right to object, and I shall not object, I just wanted to get 20 minutes to speak on the resolution. Can the majority leader arrange that?

Mr. ROBERT C. BYRD. Yes; I can assure the Senator of that. It will have to be taken off the time on the resolution.

Mr. HEINZ. Mr. President, reserving

the right to object, assuming that the unanimous-consent request is agreed to, and the vote takes place in about 2 hours, may I ask what is the intention of the majority leader to do after that?

Mr. ROBERT C. BYRD. Will there be any other amendment to be called up tonight, may I ask my colleagues on both sides of the aisle?

Mr. SCOTT. Mr. President, it is perfectly satisfactory to me not to have any further amendments, but if I might say so, my suggestion was contingent upon keeping some Senators on the floor, that we would just cut the time in half provided we had Senators here listening to what we were saying. I think we could save time that way. It makes little difference how much time we take if nobody hears us.

Mr. HUDDLESTON. Mr. President, will the Senator yield? We are all listening in our offices; we have not missed a word.

Mr. HEINZ. Mr. President, further reserving the right to object——

The PRESIDING OFFICER. Will the Senator suspend until order is restored? Senators will take their conversations to the cloakrooms. The Senate will be in order, so that we may hear the discussion, please.

The Senator from Pennsylvania.

Mr. HEINZ. Mr. President, further reserving the right to object, would it be the majority leader's intention to continue with the ERA? That would certainly be amenable to this Senator, but Senator STEVENS and I would like to know, I think, whether you intend to go back on Eximbank. We would have no objection, I am sure, to continuing with ERA.

Mr. ROBERT C. BYRD. The Senator from Nevada (Mr. CANNON) finds it difficult to be here tomorrow afternoon to vote on amendments to the ERA resolution. I would like to accommodate him if I could by moving all of the amendments possible this evening, with the exception of the amendment by Mr. GARN which is scheduled for tomorrow morning. So if we could continue tonight, I would suggest that we do that, on the ERA.

Mr. SCOTT. Mr. President, reserving the right to object, and I am not sure I understood the distinguished majority leader, I understand it is the intention of the Senator from Utah (Mr. GARN), because of the time certain for a vote, that he start on his amendment, lay it down and discuss it in part tonight, and then finish it tomorrow. He has 4 hours on that amendment. Of course, he can speak for himself; he is here on the floor.

Mr. ROBERT C. BYRD. Well, yes. If he wishes to lay it down tonight, he may do so. My experience has been that Senators do not stay around for such discussion late at night.

Mr. GARN. Mr. President, reserving the right to object, and I will not object, I do not intend to discuss it at length tonight. After we have finished whatever other business we are going to do on ERA, I would like to call it up, make it the pending business, possibly speak on it about 5 minutes, and then defer further discussion until morning.

Mr. SCOTT. Mr. President, reserving the right to object, the members of the Judiciary Committee have been invited to a reception with the Attorney General, and I would hope we would have a good turnout at the Attorney General's reception at the Justice Department. Would the distinguished majority leader contemplate that there would be any other votes on any other matters tonight?

Mr. ROBERT C. BYRD. Oh, yes. May I say to the distinguished Senator, I was invited to that reception, too, but I am not going.

Mr. SCOTT. This is for retiring Members of the Senate.

Mr. ROBERT C. BYRD. I understand, and I would like to go, but at this juncture I just have to put the business of the Senate first. It might be that I would change my mind and go down for a few minutes. I would try to protect Senators if they would like to go down, and I think we should try to protect them; but I think we had better wrap up as much of the business on this matter as possible this evening.

Mr. SCOTT. When do we go back on the equal rights amendment?

Mr. ROBERT C. BYRD. First thing in the morning. Mr. GARN wants 2 hours in the morning, as I understand.

Mr. GARN. That is correct. We will go back in session at 9 o'clock, I believe.

Mr. ROBERT C. BYRD. That is correct.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia? Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I thank all Senators.

Mr. SCOTT. Mr. President, I call up my amendment No. 3679 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Virginia (Mr. SCOTT) proposes an amendment numbered 3679:

On page 1, line 5, insert "upon the adoption of this joint resolution by two-thirds of both Houses of the Congress in accordance with the requirements of article V of the Constitution," immediately before "the article of amendment".

Mr. SCOTT. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The Senate will be in order.

Mr. SCOTT. I hope Senators will not leave.

The PRESIDING OFFICER. The Senator's point is well taken. The Senate will be in order. Objection is heard to a lack of decorum in the Senate. May we have order please? Those engaged in conversation will please retire to the cloakrooms; other Senators will please take their seats and clear the well. The Senate will be in order.

The Senator from Virginia is recognized.

Mr. SCOTT. Mr. President, I appreciate the Senators remaining on the floor. This is an important amendment, I believe.

All the amendment says is that we should follow the provisions of the Constitution. All of us, when we took office, did indicate that we would support the Constitution of the United States.

Article V of the Constitution says:

The Congress, whenever two-thirds of both Houses shall deem it necessary, shall propose Amendments to this Constitution.

As I understand it, it is proposed that the resolution, the main resolution before us to extend the so-called equal rights amendment, would be decided by a majority vote. It would not be signed by the President. To me, that sounds like a sense of the Senate resolution. We do not have the signature of the President, and we do not have a two-thirds vote, on matters that do not have the effect of law. But we are talking about an amendment to the Constitution of the United States.

Article V, which is the article that relates to proposed amendments—and the Congress proposes the amendments, and the States act upon them—it is indicated in several places in article V that a two-thirds vote is necessary. Congress proposes by a two-thirds vote. If there is a convention held to amend the Constitution, two-thirds of the States have to request the calling of a convention.

When the proposal submitted by the Congress is acted upon by the States, there is a three-fourths vote required. So it is not reasonable for us, by majority vote, without any signature by the President, to pass a joint resolution that would change the Constitution.

I know the argument will be made that we are talking about the resolving clause; that we are not talking about the body of the Constitution. But the resolving clause or the premise has in it—speaking of the bill passed by the Congress in 1972 and which has been submitted to the States for ratification—two-thirds of both Houses concurring, and it also says, "shall be valid for all intents and purposes by three-fourths of the States."

To me it is illogical, in fact it is illegal, in my judgment—I am not suggesting a criminal offense at all—and I believe a court will hold it to be invalid if we pass by a majority vote an extension of the right of the States to ratify the so-called equal rights amendment.

I believe I should once again repeat article V of the Constitution. I know all of us have read the Constitution, we have read it many times, but sometimes we do not zero in on specific provisions.

The Congress, whenever two-thirds of both Houses shall deem it necessary, shall propose Amendments to this Constitution, or, on the Application of the Legislature of two-thirds of the several States, shall call a Convention for proposing Amendments, which, in either Case, shall be valid to all Intents and Purposes, as part of this Constitution, when ratified by the Legislatures of three-fourths of the several States.

Mr. President, we might wonder for a minute why this is in our basic law. We know that the Constitution says further on in article VI that:

This Constitution, and the Laws of the United States which shall be made in Pursuance thereof, and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land.

That is the supremacy clause, putting U.S. decisions made legitimately by our Federal Government ahead of those of the States and of the political subdivisions of the States.

This is our basic law that we would change by adding the so-called equal rights amendment.

This equal rights amendment was adopted on March 22, 1972. Therefore, it will expire, by its terms, on March 22, 1979.

The entire thrust of my amendment is that we have a two-thirds vote on final passage of this joint resolution. I have inserted within the body of the resolution the phrase, "upon the adoption of this joint resolution by two-thirds of both Houses of the Congress in accordance with the requirements of article V of the Constitution."

That is the only thing which has been added.

I believe when we consider whether or not to extend the time for ratification we should keep in mind that we are considering an unprecedented action. The Congress has never extended the time within which to pass a proposed constitutional amendment. Once the Congress has made the proposal, then the next step is up to the States because you have to have ratification by three-fourths of the States. Then there is a ministerial act of the administrator of submitting to the Congress a statement with regard to the States which have ratified the proposed amendment. This being recognized by the Congress, it is then made part of our Constitution.

We have passed the equal rights amendment. I voted for the equal rights amendment in 1971 when it was in the House of Representatives, not because I really believed that it was good for womanhood. I think there are plenty of laws that protect the women of this country. I believe the 14th amendment protects the women of the country. I think we have many, many laws on the subject. I think this is an unnecessary amendment.

But in 1971, when the House of Representatives voted on this measure, every piece of mail that came into my office asked that I support this proposal. The situation has changed entirely in the country since 1971. I believe the vast majority of the people now are opposed to the ratification of this amendment. The fact that we have had a lesser and lesser number of States ratifying it each year would form a basis for this opinion.

No State, as I recall, has ratified the proposal this year. One State ratified it last year. No State ratified it the year before that. One State ratified it the year before that. In the past 4 years, two States have ratified the proposed amendment to the Constitution. Four States have rescinded their previous ratification.

In my judgment, it is not something which the people of the country want at this time.

Mr. President, in my opinion we should keep in mind that we are considering an unprecedented action which, if passed, will establish a precedent for future proposals to amend the basic law of our Republic.

For example, we just recently passed a proposed D.C. representation bill. There was a provision in that bill that it had to be ratified by three-fourths of the States within 7 years. In 7 years will we have the supporters of D.C. representation coming back and saying, "Well, you gave more than 10 years to the proponents of equal rights. Why not give us at least 10 years, or maybe 15 years?"

The 7-year provision has been in all of the proposed constitutional amendments, as I understand it, that have been made during this century, all except one, the child rights amendment, and that has not been ratified by the States.

My aide tells me that the women's suffrage amendment did not include that provision.

Mr. President, the Constitution, and we are all sworn to uphold it—and I know we interpret the Constitution individually as we believe it is intended—has served us well for almost 200 years.

One of the reasons that it served us so well is that the participants at the convention in Philadelphia understood that there should be a reasonable method to amending the Constitution, but that the constitutional process should require more than the simple majority of the States or the Congress to propose amendments. If we think for a few minutes, if we have this done by two-thirds vote, in the House, that means that two-thirds of the Representatives of the people—and we have proportionate representation in the House—have indicated their approval of a proposed amendment. Then, when it comes over to the Senate and we, as Senators—of course, we represent people, but we are here on the basis of two Senators for each State. So we are representing our respective States. So we have two-thirds of the States' Representatives.

Then, as a further check on irrational deliberative action being taken, we have proposed constitutional amendments being adopted or being ratified by three-fourths of the State legislatures. All of this, if we take it together, indicates that we should not look lightly on proposed constitutional amendments.

I believe that it is the unavoidable and plain meaning of article V of the Constitution, that a two-thirds vote is required to extend the time limit on any constitutional amendment. The pertinent part of article V reads as follows:

> The Congress, whenever two thirds of both Houses shall deem it necessary, shall propose amendments to this Constitution which shall be valid to all intents and purposes, as part of this Constitution, when ratified by the Legislatures of three-fourths of the several States.

Mr. President, I submit that it requires no tortuous or fanciful reasoning, or one does not even have to be a constitutional expert, to understand the language of article V. It means what it says. Whenever, by two-thirds vote of both Houses of Congress, and only then when ratified by the legislatures of three-fourths of the States, shall an amendment become part of our Constitution.

As we know, the 92d Congress, by a two-thirds vote, proposed the equal rights amendment to the Constitution. Article V is clear that a two-thirds vote of both Houses was necessary to propose ERA to the State legislatures. It also is a fact that the proposed mode of ratification of all previous 26 amendments and all other proposed amendments were proposed by a two-thirds vote of the Congress. Therefore, there is a strong chain of precedents to the effect that a two-thirds vote is required when Congress chooses the mode of ratification. It has always been part of the same package, both the proposal of the amendment and the proposal of the mode of ratification.

Those who advocate an extension to the time limit on the ERA assert that Congress can extend the deadline by a simple majority vote in each House, because the time for ratification is a matter of procedure and not a matter of substance. I reject that contention and believe that the Supreme Court has done so as well. In *Dillon* v. *Gloss*, 256 U.S. 368, 65th Ed. 994 a 1921 case, the Court considered such a proposition and concluded that a proposed amendment by the Congress and its ratification by the States are not treated by the Constitution, "as unrelated acts, but as succeeding steps in a single endeavor."

This resolution attempts to do in two endeavors what the Supreme Court declares should be done as one:

> First, proposal and ratification are not treated as unrelated acts, but as succeeding steps in a single endeavor, the natural inference being that they are not to be widely separated in time. Secondly, it is only when there is deemed to be a necessity therefor that amendments are to be proposed, the reasonable implication being that when proposed they are to be considered and disposed of presently. Third, as ratification is but the expression of the approbation of the people and is to be effective when had in three-fourths of the states, there is a fair implication that it must be sufficiently contemporaneous in that number of states to reflect the will of the people in all sections at relatively the same period, which, of course ratification scattered through a long series of years would not do.

If we take that language of the Court and its language on page 376 of the opinion, we begin to see why a two-thirds vote is necessary for any extension of the time for ratification, once we assume that any extension may be allowed at all, which is in itself by no means clear. At page 376, the Court in Dillon stated:

> As a rule the constitution speaks in general terms leaving Congress to deal with subsidiary matters of detail as the public interests and changing conditions may require; and Article V is no exception to the rule. Whether a definite period for ratification shall be fixed so that all may know what it is and speculation on what is a reasonable time may be avoided, is, in our opinion, a matter of detail which Congress may determine as an incident of its power to designate the mode of ratification.

From this statement, we learn that whatever article V allows Congress to do with respect to setting a reasonable time for ERA, it must be done "as an incident of (our) power to designate the mode of ratification."

(Mr. PELL assumed the chair.)

Mr. SCOTT. Congress has determined that it should be done, that a reasonable time is 7 years. The courts upheld the 18th amendment when it referred to 7 years. This has been the custom, for the most part, since that time. Again, Mr. President, I want to state that I do not believe the Senate should extend the time limit but if it decides to plow new ground, if it decides to change the proposed constitutional amendment, then I believe that it must be done in the way that is provided in article V of the Constitution. That means by a two-thirds vote of both Houses of the Congress.

You know, I cannot help but think of the formality that is necessary in the execution of some contracts, the formality that is necessary in drawing a will. Later, we have a codicil. We all know that a codicil, an addition, a change, must be executed with the same formality as the original instrument. I believe that is true generally in a contract that must be unreceipted or a contract that has other special requirements.

When you change it, you change it in the same manner as the original. I believe that is true in the matter before us today, that we must, if we are intent on amending the Constitution or giving the States further time within which to consider this proposal, observe article V of the Constitution.

Again, Mr. President, I want to state that I do not believe the Senate should extend the time limit on the ERA, but if it decides to plow this new ground, I contend that it must do so only under the yoke and burden of two-thirds vote of both Houses of Congress.

The notion that Congress can extend the time limitation set by the 92d Congress by a majority vote flies in the face of the words of article V. If this resolution is passed, Congress will be allowing the advocates of this amendment 10½ years to achieve ratification, when article V clearly states that Congress cannot allow States to vote on any amendment except by two-thirds vote of both Houses.

Mr. President, I would hope that each of us would question not the merits of this particular amendment, but the evil to be done to the constitutional amendment process as a whole. I am comforted to know that I am in good company on this issue. Prof. William Van Alstyne of the College of William and Mary, Marshall-Wythe School of Law, testified on this matter.

I am not quoting him merely because that is the school my children attended, but it is a good school, the second oldest in the Nation. He says this:

> When Congress does reconsider and revise that deadline, however, I urge you that the extension ought not be made in the absence of a two-thirds majority of both Houses. That seems to me helpful, again, to the manifest reasonableness of altering the fundamental law by consensus of an extraordinary kind. If less than two-thirds of the Members of both Houses are now persuaded that the equal rights amendment remains timely, that there has not been a sufficient modification of social condition or law in the United States to have rendered it obsolete or moot in one sense or another, I think the recordation of a continuing two-thirds extraordinary majority more nearly fulfills the spirit of constitutional propriety, which is instinct in the explicit demand for a two-thirds majority in the original proposal.

Mr. STENNIS. Mr. President, would the Senator yield for a question?

Mr. SCOTT. Of course.

Mr. STENNIS. Mr. President, I have really been greatly impressed with the Senator's argument here. As he said, it is not only dealing with the Constitution, but there is a lot of commonsense tied to this matter.

Let me ask this question, according to the logic here, that only a majority vote is required to extend the time, does the Senator think that the Senate could have come along after submitting this matter for 7 years and let a majority of the Senate say, "Well, we are going to change that, we are going to make it 4 years"; does the Senator think by any imagination or commonsense that such an argument as that should apply?

Mr. SCOTT. Well, of course I do not think so.

Now, in line with what the distinguished Senator from Mississippi mentions, I offered an amendment this morning. My first amendment was to reduce the time so that instead of 7 years it would expire at the end of this calendar year.

Of course, I withdrew the amendment. I did offer the amendment just to make the very point that the distinguished Senator is making.

I do not believe that it would be fair to reduce it, I do not believe it would be fair to increase it, unless it is done by the regular constitutional means.

Mr. STENNIS. Yes.

Mr. SCOTT. And that is by a two-thirds vote of both Houses.

Mr. STENNIS. In other words, the Senate of the United States and the House submitted a proposition to the States in 1972, 7 years to pass on.

It is a very broad, sweeping subject. But now for a majority vote alone to come along and say, "No, we have changed our minds, we want to give a different package, a different proposition, a different submission to the States, we are going to make it additional years"——

Mr. SCOTT. If the distinguished Senator would yield briefly, I believe it is just inviting court actions by doing that.

Mr. STENNIS. Yes.

Mr. SCOTT. Because 29 of the States which have ratified the proposed amendment have conditioned it upon it all happening within the 7-year framework.

So that is another way to get into the courts.

Mr. STENNIS. Also, does it not say that in addition—I will just take 1 minute—in addition to that change, we are going to make those States that have cast their vote stand in status quo and we are not going to let anything change as to them, but we are going to stretch this thing out by a mere majority vote and make it apply to all the rest of the States; does that not express an absurdity on its face?

Mr. SCOTT. The Senator is, in my judgment, entirely correct.

It is like having an extra innning in a ball game where we have a tie and saying that one side can score, but the other side does not have any right to score.

It is a one-sided proposition. We would let the 15 States ratify, but we would not let the others reject.

Mr. STENNIS. I hope the Senator will yield me a brief few minutes at some appropriate time.

Mr. SCOTT. I will be glad to in just a matter of a very few minutes.

Mr. President, I was reading what the law professor from the College of William and Mary was saying, and it continues:

> It is entirely conjectural on my part—as it must be on all of our parts—as to whether any of the votes of the more than two-thirds Members of both Houses—

He is going back to 1971 and 1972:

> which originally joined in the formulation of the amendment were forthcoming partly because the original proposal provided for an expiration date after 7 years. But because it is speculative, we cannot assume that the enactment of that 7-year expiration date was without meaning to any Member of Congress.
>
> Supposing, then, that it may have been of plausible influence to some, persuading them to join in the original proposal with a greater sense of rightness and fitness to the task than otherwise, it seems to me more respectful of the requirements of article V that should an extension be made, it should enjoy the same consensus.

Mr. President, I have further comments, but we have a number of Senators who have asked to speak, and I will reserve the remainder of my time. If time permits, I will finish my discussion later on in the afternoon.

Mr. WEICKER. Will the Senator from Virginia yield 10 minutes?

Mr. SCOTT. I am glad to yield 10 minutes to the distinguished Senator from Connecticut.

Mr. WEICKER. I thank the distinguished Senator from Virginia.

Mr. President, I rise in support of the amendment offered by my distinguished colleague, Senator SCOTT, to require a two-thirds vote by the Senate and the House on House Joint Resolution 638, the ERA extension resolution.

I think I may be one of the few Members of this body who has had the opportunity to vote twice for the ERA, once in the House and again in the Senate. I am a strong supporter of the extension on its merits. In reviewing the arguments for and against extending the deadline for ratification, my concern has never been over the desirability of an extension but rather over the legal mechanics of enacting one. Not much is to be gained by such an extension if it is determined to be unconstitutional several years from now.

During my study of how the extension should be enacted, I have carefully reviewed the testimony of and consulted with constitutional scholars who have addressed this issue.

I have concluded that, as the original proposing resolution combining the amendment and the 7-year time limit was passed by a two-thirds vote, the strongest form of extension would be a joint resolution passed by a two-thirds

vote of both the House and the Senate rather than a simple majority vote by each body.

I recognize that constitutional authorities have reached differing conclusions as to the constitutionality of enacting an extension of a time limitation for ratification of a proposed constitutional amendment by a simple majority vote.

In reaching my own conclusion on this constitutional issue, I have found most convincing the arguments advanced by two distinguished constitutional scholars who are also my constituents, Profs. Guido Calabresi and Charles Black, Jr., of Yale Law School.

In a letter of July 13, responding to my request for his views on the subject, Professor Calabresi argues as follows:

The essential point is that the Constitution requires approval of any proposed amendment by two-thirds of the Congress and three-fourths of the states. For an amendment to be valid both of these must be present. Two-thirds of the Congress voted for E.R.A. but the vote was conditional on three-fourths of the states approving within seven years. There is no assurance that two-thirds of the Congress would have voted for E.R.A. had the time provided for state approval been any longer. (That language of the amendment itself—as against that of the proposing resolution—may not include the seven year restriction in no way alters this basic fact.) Accordingly, any extension of time would, in my judgment, require approval by two-thirds of each House of Congress. With such two-thirds majorities the first requirement would clearly be met.

Professor Black elaborates on this persuasive argument in his testimony of October 28, 1977, submitted to the House Judiciary Subcommittee:

If the original resolution combined the proposal of the amendment and the setting of the time limit, the *integral package* being then passed by ⅔ vote (and I understand this to have been true of the Equal Rights Amendment) then it seems to be plainly right that a ⅔ vote of each House of Congress should be required for an extension. It may easily happen, in any given case, that a vote for the original resolution is cast partly on the ground that, in the view of the caster of the vote, the time is suitably limited. If this is not possible then that must be because the limitation of time in the first instance was utterly meaningless—an impermissible assumption. It is impermissible to assume that this question of time never matters to anybody; if that were so, why put it in? It cannot, therefore, be assumed that the original would surely have passed by the requisite ⅔ majorities if the time had been longer. On a constitutional question of this kind one cannot afford to guess, as to a particular amendment, what might have happened; one must rather follow a procedure which would always be suitable and fair.

Mr. President, an extension of a time limitation for ratification of a proposed constitutional amendment is without precedent. I believe, notwithstanding the lack of guiding precedent, that there exists ample authority to conclude that an extension is constitutionally permissible. However, how that extension is enacted is not, as some may suggest, an unimportant procedural "matter of detail" not subject to serious debate.

While the time limitation of 7 years for ratification of the amendment by three-fourths of the States was indeed part of the resolving clause, and not the text of the amendment, the fact that the resolution passed by the U.S. Senate was not only in support of equal rights for women but also instructed as to how such a concept would become law (specifically passage of three-fourths of the States in 7 years) cannot be ignored.

Who is to know which, if any, Senator was influenced to vote for the resolution, because of the inclusion of the 7-year time limitation? Speaking for myself, the 7-year limitation had no bearing on my vote. However, I have concluded the time limitation on this controversial amendment cannot be construed as a matter of procedural detail rather than a matter of constitutional substance.

I am not in a position at this point to guess what influenced my colleagues on the floor of the Senate several years ago. I can only speak for myself, none other of the 99.

Therefore, I believe that if the time limitation is to be extended, it should be done in the same manner as we passed the original resolution.

Mr. President, while a strong supporter of the equal rights amendment, I advocate a means of enacting an extension that is perceived by some as an obstacle to ratification. I think this response reflects an attitude of disinterest in the constitutional propriety and, therefore, constitutional authority of an extension.

I agree wholeheartedly with the admonition of Professor Calabresi, who wrote:

What is proper constitutionally, however, does not depend on the desirability of *this* amendment. Subsequent Congresses are likely to use what is done now as precedent in other situations involving very different issues and this Congress must, therefore, be sure that it does not short-cut any Constitutional requirements. This is especially crucial since the role of the Supreme Court in overseeing the Amendment process has not been definitely settled, and the Congress may turn out to be the final arbiter of Constitutional legitimacy.

Mr. President, let me emphasize that I approach the extension issue as an ardent advocate of ERA—as one who, I might add, will vote against the rescission amendments—and my analysis of the proper procedure for extension is predicated on a concern that it not fail for violation of constitutional requirements. Adherence to proper procedures, however onerous, is better than taking any easier, riskier, and possible illegal route.

The question has been asked whether or not, if this two-thirds amendment fails, I will vote for the ERA. The answer is "yes," because, unfortunately, this issue will not be settled finally on this floor. It will be settled in the courts, in 1 or 2 years. However much time is taken to settle the issue will be wasted in the sense of pursuing this matter to its successful conclusion.

I realize that emotions run high on this issue, as they do on any issues confronting any generations; but there is one constant guidepost for all of us—the Constitution of the United States. It is the check against our emotions and the best possible source of assuring that the great principles which founded this Nation will be continued in all its future deliberations.

It is my prediction, on the floor of the Senate, that, even though it is not the most popular of the amendments—the final rescission amendment will get by far the closest vote, as it did in the House of Representatives——

The PRESIDING OFFICER. The Senator's 10 minutes have expired.

Mr. WEICKER. Mr. President, will the Senator yield me 1 additional minute?

Mr. SCOTT. I yield.

Mr. WEICKER. I predict that the ERA resolution as passed by the House, and as I suspect will be passed by the Senate—and I will vote for it—will fail constitutionally, because of our failure to pass it by a two-thirds vote. It is with a great deal of sadness, not elation, that I make the prediction, because I would far rather see that time used to do the matter right.

I yield the floor.

Mr. SARBANES. Mr. President, I yield 15 minutes to the distinguished Senator from New York.

Mr. JAVITS. Mr. President, 130 years ago, in a small town in New York State, the women's rights movement began. It was on July 19, 1848, that a small group of women convened the Equal Rights for Women Convention. After much deliberation, they adopted a series of resolutions in which they demanded the equal right for women to vote, to enter schools, colleges, and the professions, to hold public office, to control their own property, to earn a living, and to control their own earnings, to guardianship of their children, to make a will, to enter into contracts, to sit on juries, and to conduct businesses. They frankly stated that "* * * in entering upon the great work before us, we anticipate no small amount of misconception, misrepresentation, and ridicule * * *"—and how prophetic they were.

For now, after five generations, we are still debating women's rights. I am here today to urge that this debate, which is so vital throughout our Nation must not cease. Each of us has a duty to vote to continue the discussion which is taking place in each community of our Nation.

Equality of women under the law is not some current and yet passing issue. It goes to the essential principle on which our Nation has been founded—equality before the law and equality of opportunity.

In view of the long struggle, began in Seneca Falls well over a century ago, it seems that the least we can do is to permit this constitutional amendment to be considered by the States for this additional time period.

I am a cosponsor of this resolution and, therefore, feel compelled to state, as plainly as I can, why. Stripped of all the rhetoric—the issue is discrimination on grounds of sex even now not yet adequately reached by the U.S. Constitution and implementing laws.

No one in our society wants to be treated as a stereotype nor should they.

We are a society of individuals—each of us with our particular strengths and weaknesses. All the equal rights amendment does is to require each individual, regardless of his or her sex, to be treated as an individual. Particular characteristics or traits such as strength, intelligence, and the like, would be the basis for judgment, instead of sexual stereotypes which may not apply to that individual. This principle is already widely accepted with respect to many activities. To take one example, virtually everyone would consider it unjust and irrational to provide, by law, that a person could not be admitted to the practice of law because of his or her sex. The reason is that admission to the bar ought to depend upon legal training, competence in the law, moral character, and similar factors. Some women meet these qualifications and some do not. But the issue should be decided on the individual, not a group, basis. And, in such a decision, sex is irrelevant.

What is true of admission to the bar is true of all forms of legal rights. If we examine the various areas of law, one by one, most of us will reach the same conclusion in each case. Sex is an admissible category by which to determine the right to a minimum wage, the custody of children, and the right to ownership of property.

Our American society has always confined women to a different, and by most standards, an inferior status. The discrimination has been deep and pervasive. Yet in the past the subordinate position of more than half of the population has been widely accepted at natural or necessary or even divinely ordained.

Under our present legal systems, some laws exclude women from legal rights, opportunities, or responsibilities. Some are drafted as legislation conferring special benefits or protection on women. Many of the efforts to create a separate legal status for women stems from a good faith attempt to advance the interests of women. Nevertheless, and I must emphasize this, the preponderant effect has been to buttress the social and economic subordination of women as a class.

There are three basic reasons that women will always remain in this subordinate status unless the society treats women equally under the law. First, discrimination is a necessary concomitant of any sex-based law because a large number of women do not fit the female stereotype upon which such laws are based. Second, all aspects of separate treatment for women are inevitably interrelated; discrimination in one area creates discriminatory patterns in another. Thus a woman who has been denied equal access to education will be disadvantaged in the employment market even though she receives equal treatment there. Third, whatever the motivation the different treatment, the result is to create a dual system of rights and responsibilities each governed by a different set of values.

The issue for our consideration is whether to pass House Joint Resolution 638 and thereby to extend the period for ratification of the equal rights amendment. I frankly do not believe that there is a Senator present who does not believe that the role of women in our society is changing and that someday the equal rights amendment will be part of the Constitution. It took 50 years to secure the adoption of the 19th amendment. The equal rights amendment has been introduced in every Congress from 1923 until it was passed by the 92d Congress.

We, as a body, already have dealt with the pros and cons of the equal rights amendment, today we must consider question of extension and the other legal and constitutional questions surrounding that issue. Notably whether to act affirmatively to prevent rescission of ratifying resolutions at State legislatures. I have studied the questions, and after reviewing the language of the Constitution, reading the cases and opinions of eminent constitutional law scholars have reached these conclusions.

Mr. President, with respect to the issue now before us, I will state my position first, and then explain how I believe it is supported by historical and legal precedents.

After carefully studying the matter, it is my opinion that a resolution extending the time for ratification does not require a two-thirds vote. I reach this conclusion, after reviewing the Constitution, the cases and the opinions of constitutional law scholars.

The time limit of 7 years for ratification of the equal rights amendment was not contained in the actual amendment itself but instead was included in the proposing clause. By separating the time limit from the body of the proposed amendment itself, Congress retains the authority to review the limit should circumstances so warrant. Therefore, the limitation of time—and its change as proposed by this resolution—is merely a detail of ratification and Congress has the right by majority vote to determine these details.

It must be made very clear, that the resolution in no way changes the substance of the amendment as proposed by the 92d Congress. We are asked to vote only on procedure.

Article V expressly requires a two-thirds majority vote of each House only for proposing amendments to the Constitution. It is significant that no congressional supermajority vote is explicitly required by article V to propose the mode of ratification or the details of such a process. In *Dillion* v. *Gloss*, 256 U.S. 368, the Supreme Court stated;

> That the Constitution contains no express provision on the subject is not in itself controlling; for with the Constitution, as with a statute or other written instrument, what is reasonably implied is as much a part of it as what is expressed. An examination of Article V discloses that it is intended to invest Congress with a wide range of power in proposing amendments.

Prof. Ruth Bader Ginsburg of Columbia University, in her statement before the Senate Judiciary Committee made the following point about this matter:

> Thus, for example, should the Convention method be used to propose amendments, a procedure not yet employed, a separate resolution designating the mode of ratification and accoutrements thereto, would be required of Congress. For such a resolution, a simple majority should suffice. Bills specifying procedures for the Convention method of proposing amendments provide for congressional action by concurrent resolution, presumably passed by simple majority, on a variety of issues, including proposing the mode of ratification and incidental, related details. Nor has more than a simple majority been required to declare that an amendment submitted to the states has been ratified.

In fact, several legal scholars have suggested that Congress might have initiated a two-step process in proposing the ERA: First, a resolution containing the text of the amendment adopted by a two-thirds vote of each House; and second, a second resolution including the mode of ratification and a time limitation adopted by a simple majority vote of each House. However, the 92d Congress decided to combine the two steps in one resolution. The fact that these separate actions, one substantive and one procedural, were combined into one resolution does not alter the distinct character of each. Nor does it alter the requisite type of majority vote for each.

The foregoing interpretation of article V has been consistently followed by Congress since the original adoption of the Constitution. Amendments to a proposed constitutional amendment are adopted by a simple majority vote in each House. In fact, Riddick's Senate Procedure so states.

Statutes establishing the procedural rules for the conduct of the amending process, such as 1 U.S.C. 106(b) (procedure for official notice of receipt of ratification by the States and publication by the General Services Administrator) have been enacted by a majority vote.

In addition, the decision by Congress that a constitutional amendment has been ratified by three-quarters of the States, the culmination of the amending process, is made by a simple majority vote. Thus the controversial resolution accepting the 14th amendment as ratified by the necessary number of States was adopted by a simple majority vote in the 40th Congress.

Another example of where a simple majority vote would be required is when there is a question as to the reasonableness of the time taken by the States to reach the required three-quarters and there was no express time limit established. In this situation, the Administrator of General Services may submit the question of reasonableness of the time to Congress for resolution.

Congress would then, under the reasoning in Coleman against Miller 307 U.S. 433 (1939),[1] consider and decide whether ratification had taken place within a reasonable time. Some have pointed out that if such a determination

[1] In *Coleman* v. *Miller*, 307 U.S. 433 (1939), the Court held that in the case of a proposed amendment as to which neither the text nor the congressional proposing resolution contained any time limit, Congress should be exclusive judge of whether ratification by the requisite number of states had taken place within a reasonable time of the amendment's proposal.

would require a super-majority vote, it might well have the effect of depriving Congress of the ability to resolve the reasonableness question in a close case. It seems unlikely that the Constitution would confer upon Congress the duty to make the ultimate determination as to whether ratification had taken place, yet place a super-majority requirement on Congress which could prevent it from performing that duty.

In conclusion, past congressional practice is thus consistent with the position that a simple majority is all that is required on matters which relate to the mode of ratification. Logic and history support this conclusion.

We have all heard a great deal here today about the question of extension of the time limit for ratification.

The Supreme Court has held that decisions such as time limitations on ratification are political decisions in which it is bound by what Congress determines. But even if this were not clear, certainly there is no question about the fact that Congress has within its power the authority to establish a reasonable time by which the States may ratify a proposed amendment. This is entirely appropriate and constitutional. In defining what is a reasonable period of time the Supreme Court has held that ratification is the "expression of the approbation of the people," and that there is a fair implication that ratification must be sufficiently contemporaneous in the required number of States to reflect the will of the people in all sections during relatively the same period. While ratification scattered through a long series of years would not do.

The quotation I have given, Mr. President, is in substance from Dillon against Gloss which in my judgment, from reading a number of cases decided in 1921 by the U.S. Supreme Court, is very germane and pertinent to this particular proposition.

It seems to me, Mr. President, that nothing whatever has happened in the last 7 years on this particular issue to lessen interest in it. The issue remains as viable now as it was when we first passed the ERA. Certainly we can see that from what is happening outside in our own lobby, and throughout the country, which is live, current, and contemporaneous, debate. In projecting forward, I deeply believe Congress has every right to feel that there will be no lessening of interest, no change in the issue which one can see looking forward for the next 3 years.

I do not know how I would feel or how others would feel if there were a longer period of time. Three years seems to be an appropriate period of time in which to look ahead and to make the finding which Congress would, in effect, be doing when it votes this extension as indeed I hope it will, that as far as we can see for this period ahead there is no change in the considerations that will enter into the judgment of the people respecting this particular amendment.

Like the question of extension, I believe that the question of rescission is also a political question to be decided by Congress when and if the time comes for declaring that the amendment has been ratified. It should not be dealt with at this time, because we cannot bind subsequent conferees, and because all the precedents which we have before us indicate that rescission is not contemplated by article V of the Constitution.

In 1938, the Supreme Court decided *Coleman* v. *Miller*, the citation for which is 307 U.S. 433. That case goes to the issue of whether or not there should be the right to rescind a ratification. Now that case, which is probably as late as we have from the U.S. Supreme Court on this issue, I think bears out both my argument on the question of an extension of time where the original time is not specified in the amendment itself, and the question of the efficacy of a rescission. I shall quote from page 450 of the opinion, where the Court after reviewing State efforts at rescission that were not accepted by Congress, stated:

> We think in accordance with this historic precedent the question of the efficacy of ratifications by State legislatures in the light of previous rejection or attempted withdrawal should be regarded as a political question pertaining to the political departments, with the ultimate authority in the Congress in its exercise of its control over the promulgation of the adoption of the amendments.

It seems to me that states the law very authoritatively.

In that particular case, the Court cites the fact that when the 14th amendment was being considered the Legislatures of North Carolina, Georgia, and South Carolina first rejected the amendment. New governments were then elected in those States and these new legislatures ratified the amendment on given dates following the time of rejection.

Subsequently, two States—Ohio and New Jersey—which had ratified, rescinded their ratifications. Nevertheless, the Congress accepted the certification of the Secretary of State, which recited that three-fourths of the States ratified, and included all the States which were in question, and thereby declared the 14th amendment to be a part of the Constitution.

Mr. SCOTT. Mr. President, will the Senator yield on my time?

Mr. JAVITS. Let me just finish.

The list of the States as declared as having ratified included North Carolina, South Carolina, Ohio, and New Jersey, and the Court put that down as the decision by Congress of the political question, and would not go beyond that.

That, it seems to me, is what should control us in respect of this particular decision so that when we make the decision, as we stand now, and we may not make it, when an effort is made to certify the ratification by three-quarters of the States that is our privilege.

All I say is the Court holds that it is within our power to make the decision as to whether there has been effective ratification.

I yield.

Mr. SCOTT. Mr. President, I appreciate the Senator's yielding.

Is the Senator speaking of actions of the Congress in 1868?

Mr. JAVITS. Well, I am speaking of Congress in 1868, which is a precedent cited, I would say with approval, by the Supreme Court in Coleman against Miller. They relied upon the fact—if I may just finish—that this is the historic precedent because they say later on in the opinion at page 449:

> Thus, the political departments of the Government dealt with the effect of both previous rejection and of attempted withdrawal and determined that both were ineffectual in the presence of an actual ratification.

So all I say is they cited those precedents with approval.

Mr. SCOTT. I believe, Mr. President, if the Senator will yield——

Mr. JAVITS. I yield.

Mr. SCOTT (continuing). He is talking about Congress when Andrew Johnson was President, a reconstructive, a vindictive Congress at that time. He is speaking of the Coleman case where there was no majority opinion.

There were four separate opinions. We have had testimony before our Subcommittee on the Constitution by law professors who have indicated that the Coleman case is such a hodge-podge that—actually it is in the Constitution annotated as well as testimony that was given before our subcommittee that—really the decision was a three-man decision. It was called the decision of the court. Of course, there were nine members of the court and, frankly, I think we have to consider the situation as it existed, and certainly the distinguished Senator from New York is aware of the various activities immediately after the Civil War, and the feud between President Johnson and the Congress, the impeachment of the President and his trial in the Senate.

This is not the best Congress for us to emulate.

Mr. JAVITS. Well, Mr. President, I think the Senator completely disregards everything I said. I said I was not invoking that Congress. I was invoking the decision of the Supreme Court, the opinion of a court—as a lawyer, I cannot go behind that which determined the Court's action.

The Court adopted the principle that Congress had the power to decide this political question.

Reading the minority opinions, it is my understanding that a majority of the judges all agreed with the fact that at least this question was a political question. That is all I am arguing, that the Supreme Court in 1938 decided that this is a political question. So when we make the decision we make it on a political question, and as it is not incorporated in the amendment it becomes, in my judgment, and based, I think, upon these cases, a decision which can be made as to a mode of ratification by a majority of Congress, and that is the position for which I argue.

In summary, I believe that both the effort to require a two-thirds vote for an extension of time and the effort to establish the right of rescission are efforts to abort the ERA amendment and, therefore, they should be defeated, as I am strongly for the ERA amendment.

Mr. President, before closing, let me just say a word about the amendment itself. It is long overdue. It very ma-

terially affects over half of our population, and the first question I think one must ask aside from its innate justice is why is it necessary? An analysis of many State laws indicates that it is indeed very necessary in quite a few fields in which justice is not being done to women.

These particular categories of State legislation include the following areas: Terms and conditions of employment; minimum wage, special restrictions which are imposed upon women in respect to the types of employment they could have, and equal pay where there are five States which have neither an equal pay law nor a fair employment practices law covering sex discrimination in employment, strictly in that State—these are Alabama, Louisiana, Mississippi, North Carolina, and Texas—exclusions from certain occupations, the restriction on women's employment in certain circumstances such as night work, work involving heavy weight lifting, limitations respecting employment prior to and after childbirth and maximum hour laws for women in two States, Illinois and Ohio.

Then, there is discrimination in the various aspects of the administration of justice such as sex-based statutory or administrative policies in sentencing and parole. The law of torts in many States adheres to a rule that a woman has no cause of action for loss of consortium in the case of injury to her husband. Finally on issues of domestic relations there are many laws in our country—such as child support and alimony—which do not recognize the equality of women and which will yield only to a constitutional amendment.

So I think a constitutional amendment is long, long overdue, and we should finally do our utmost to get it enacted.

Mr. SARBANES. Mr. President, will the Senator yield on that point?

Mr. JAVITS. I yield.

Mr. SARBANES. I share the view of the Senator from New York. In the Dillon case the Court said:

> Of the power of Congress keeping within reasonable limits to fix a definite period for the ratification we entertain no doubt. As a rule, the Constitution speaks in general terms, leaving Congress to deal with subsidiary matters of detail as the public interest and changing conditions may require. And article V is no exception to the rule. Whether a definite period for ratification shall be fixed so that all may know what it is and speculation on what is a reasonable time may be avoided is, in our opinion, a matter of detail which Congress may determine as an incident of the power to designate the mode of ratification.

Now, when the congressional action is tied to the question of the mode of ratification in article V, it is separate from the two-thirds requirement which runs to the proposing of the amendment. The mode of ratification, which is dealt with in a separate part of article V and to which the two-thirds requirement does not apply, operates in a sphere in which a majority vote can apply. That is commonsense, too, because the fact of the matter is that if you want to propose a time limit which a two-thirds vote would be required to change, then you ought to include it within the text of the amendment.

If you want to put in a time period but maintain the option of changing it by majority vote, then you can include it, as was done here, in the preamble.

The other alternative is not to put in a time limit at all, so you reserve the maximum number of options for the Congress as it proceeds.

For those who felt that the time limit was an essential part of their support of the amendment, then the time limit should have been included in the text of the amendment, which was not done in this case.

In this time period, which is in the preamble, the Court has stated in the Dillon case that with respect to time it comes under the rubric of the mode of ratification, and under article V of the Constitution the two-thirds requirement is not applicable to that part of the amendment which refers to congressional action with respect to the mode of ratification.

So I think the line of argument which the Senator from New York has developed is one that ought to command the support of the Members of the Senate.

Mr. JAVITS. I thank my colleague.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. SCOTT. Mr. President, during our deliberations before the Subcommittee on the Constitution, we had our distinguished former colleague from North Carolina, Senator Sam Ervin, as one of our witnesses. Among other things—and he did comment at some length—he said:

> It is as clear as the noonday sun in a cloudless sky that a two-thirds vote is required.

This is a colleague for whom I believe all of us have respect.

Mr. President, the distinguished Senator from Utah (Mr. GARN) has been waiting to gain recognition. I yield 2 minutes to the distinguished Senator from Utah, and thereafter 5 minutes to the distinguished Senator from Mississippi.

The PRESIDING OFFICER. The Senator from Utah.

Mr. GARN. I thank the Senator from Virginia. I did want to respond to the distinguished Senator from New York in this way:

I will not take the time to respond in detail to the arguments you have made concerning Dillon and Coleman and these cases. Those arguments have been made twice today in response to arguments by other Senators, so I will not go through it all again, other than to say that Professor Charles Black, a Sterling professor of law at Yale University, believes rescission should be possible. But as far as precedents are concerned, I believe there are no precedents at all, let alone constitutional precedents.

I do want to take a moment to talk about this argument that some Senators have presented that there is some difference between putting the 7-year requirement in the text of the amendment and in the preamble to the resolution.

The first time it was done in the resolution, Senator Kefauver proposed it in connection with the 23d amendment, and at that time Noel Dowling, one of the most eminent legal scholars in the country said this:

> The seven-year limitation is put in the resolution rather than in the text of the amendment. There is no doubt about the power of Congress to put it there; and it will be *equally effective*. The usual way, to be sure, has been to write the limitation into the amendment; but we hope such an *unnecessary cluttering up of the Constitution* can be ended.

In other words, what he said was that the change was purely stylistic, that it does not make any difference. The argument, as I say, has been made twice before; I do not want to take the time of the Senate to put it in for the third time. But there are two distinguished constitutional scholars who have spent most of their lives studying constitutional law who believe otherwise. While we constantly hear the argument that it is a significant change, yet the man who wrote it says it is stylistic, that either way, it is equally effective.

I thank the Senator from Virginia.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. SARBANES. Mr. President, I yield myself 2 minutes to respond to the last argument.

The PRESIDING OFFICER. The Senator from Mississippi has been recognized.

Mr. STENNIS. Well, if the Senator wishes to proceed for 2 minutes, that will be all right.

Mr. SARBANES. I thank the Senator from Mississippi. The argument about equal effectiveness may apply to the use of the 7-year time period, but it does not really run to the question of extension as far as a majority vote or a two-thirds vote is concerned. That issue was really not a part of extension question.

The fact of the matter is that if you credit inclusion in the text of the amendment as requiring two-thirds, but in the preamble as requiring a majority, you retain the maximum options for Congress in respect to action in the future.

Whether place in the resolution or in the text, the time limitation sets up a framework within which a Congress that must presume the amendment as having been ratified can make the judgment whether it has been done within the contemporaneous period called for by the Court in the Coleman case. But that does not go to the question which we are confronted with, the limited and direct question with which we are confronted by the amendment proposed by the Senator from Virginia, namely: Do we require a straight majority or a supermajority for purposes of extending the time period?

In responding to that question, I think you have to perceive the difference between placing it in the preamble or in the text of the amendment. By so doing, you maintain for the Congress, in dealing with these matters in the future and in this instance, the maximum degree of flexibility.

Mr. GARN. Well, I want to rely on the very distinguished professors of law in this area who feel it is definitely unconstitutional unless it is extended by two-thirds.

If we had passed, in 1972, by a two-thirds vote, a 7-year ratification period, or whatever it is, but then the very next day simply said, "Some of us have decided we want to make it 3 years, or 4, or whatever," could we really have done that by a majority vote, or was not that two-thirds vote a part of what the States relied upon at that time?

Whether it is 1 day or 6 years, the principle ought to be the same: the Senate passed on the whole substance in relating it to the principle of ratification by two-thirds of the States.

Mr. BAYH. Mr. President——

Mr. STENNIS. Mr. President, I have been yielded time, and I yielded to the Senator from Maryland. May I proceed now?

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

Mr. STENNIS. Mr. President, I had been yielded 5 minutes. I yield back 1 minute to the Senator from Virginia, who wishes to make a point that goes with my argument.

Mr. SCOTT. Mr. President, the point I was going to make is that the parent resolution, that is, the joint resolution that was adopted in 1972 has, in the resolving clause, or in the preamble:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein.)

The two-thirds provision is in the preamble.

To me, it does not make a tinker's dam whether it is in the preamble or in the body. Mr. President, I ask unanimous consent that this joint resolution be printed in the RECORD.

There being no objection, the joint resolution (H.J. Res. 208, 92d Congress) was ordered to be printed in the RECORD, as follows:

Resolved by the Senate and House of Representatives of the United States of America in Congress assmbled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission by the Congress:

"ARTICLE —

"Section 1. Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex.

"SEC. 2. The Congress shall have the power to enforce, by appropriate legislation, the provisions of this article.

"SEC. 3. This amendment shall take effect two years after the date of ratification."

CARL ALBERT,
Speaker of the House of Representatives.
ALLEN J. ELLENDER,
President of the Senate pro Tempore.

Mr. STENNIS. Mr. President, here is tangible proof, here, as to this identical law when it was proposed.

But I would remind you, based upon the cold logic of the situation, that we are dealing with the Constitution of the United States and a proposed amendment thereto. I have been greatly encouraged here this afternoon with the attendance that we did have, that Senators from each side, on the major question, are nevertheless concerned about kicking the Constitution around hither and thither, 7 years or 5 years or 10 years, according to a majority vote or a two-thirds vote, whichever may serve the purpose for the time being.

There can be only one rule, and that rule, it seems to me unquestionably, particularly in this case where the matter was set in motion and submitted to the States as a 7-year governmental proposal of a constitutional amendment, certainly here, a basic part of this constitutional proposal will require the two-thirds vote, at least, and it cannot be used here to merely require a majority vote, so as to hold in position every State that has already acted, and say to them "We will have 3 more years, but you will be useless, what you say or do will be fruitless, you are frozen in stone. We are going to work on these other States, now, and provide 3 more years by a mere majority vote, at their disposal to do as they see fit."

It is a splitting up of a team of constitutional horses that go to make up this provision. It just does not have the logic, and it cannot stand as constitutional law of a sound kind.

I think, with all deference to everyone, it is a specious argument to say, "Well, because of this or because of that;" this is a constitutional amendment we are dealing with.

I remember one night here a proposal, and a vital, far-reaching one, to amend the Constitution that received 60 votes.

The negative votes were 30. The tabulation had been made. The addition had been completed. The clerk was turned in his position to hand the tabulation over to the Presiding Officer to read out and the door cracked open. Everyone more or less held their breath. This Senator addressed the Chair in a very low voice. The Chair recognized him and the Senator said, "No." He turned around and walked out. Unfortunately, that gentleman did not live very long. That one vote killed that proposed amendment and it never did get back to the floor again to be voted upon with anything like enough votes.

I very vividly remember it because of the seriousness, the fact that we were operating on the basic law of the land. So like it or not, I think we are all bound by this rule which would require uniformity.

The PRESIDING OFFICER. The Senator's 4 minutes have expired.

Mr. STENNIS. I thank the Chair.

Mr. BAYH. Does the Senator wish additional time? I yield 1 additional minute to the Senator.

Mr. STENNIS. I appreciate the courtesy of the Senator.

Mr. President, it seems to me like if there should be any doubt in anyone's mind, it would have to go in favor of what was the safer, sounder, more logical, more useful method of making additions to the time, if any are made. When we open up a precedent of letting the majority make it 3 more years, we will have the majority by the same force make it 3 less years. Where would we be then? Pandemonium. Nobody would know where we are. We better stay with the old rule.

Mr. GARN. Mr. President, I yield 1 minute to the distinguished Senator from Utah.

Mr. HATCH. Mr. President, I rise in support of the amendment offered by the distinguished ranking member of the Constitution Subcommittee, the Senator from Virginia (Mr. SCOTT). This amendment would require the passage of the immediate resolution by a vote of two-thirds of those present and voting.

While legal sophistry seems to be the order of the day with respect to House Joint Resolution 638, nowhere is this more evident than in the assertion that this body can undo by a simple majority what it originally did by a two-thirds majority.

If nothing else, one would think that the requirements of parliamentary aesthetics would demand a certain symmetry to the legislative process. Nowhere is it more clear that the sponsors of this resolution view the Constitution as nothing more than an inconvenient obstacle to short-term legislative objectives to be circumvented on whatever flimsy basis happens along.

What we are doing, specifically, in House Joint Resolution 638 is to amend House Joint Resolution 208 from the 92d Congress, which proposed the equal rights amendment to the States. Under article V of the Constitution, that resolution required, and it received, a two-thirds majority vote. The 95th Congress is now attempting the remarkable feat of reading into the minds of the 92d Congress to conclude that House Joint Resolution 208 would have received the two-thirds vote regardless of whether or not there had been an accompanying time limit. Alternatively, we are saying that the time limit in House Joint Resolution 208 was meaningless and that it could not possibly have affected any votes. We are second-guessing those who fashioned the coalition achieved during the 92d Congress and suggesting, not only that a similar coalition could have been achieved without the 7-year time limit, but that the 95th Congress is going to refashion the resolution in precisely that manner.

In *Powell* v. *McCormack*, 395 U.S. 486 (1969), the Supreme Court refused to speculate that a two-thirds majority, which had been achieved in the House in favor of the exclusion of a Member-elect, would also have been achieved had the more precise issue of "expulsion" been before that body. The Court ruled that the House could not circumvent a constitutionally required two-thirds vote for expulsions by recharacterizing them as "exclusions." Justice Brennan remarked,

> The attempt by the House to equate exclusion with expulsion would require . . . speculation that the House would have voted to expel Powell had it been faced with that question. . . . We will not speculate what the result might have been if Powell had been seated and expulsion proceedings subsequently instituted. (At 508)

I have addressed this point earlier, but I would like to emphasize that the time limit was originally placed in the preamble of the resolution, rather than in its body, solely to avoid "cluttering up" the Constitution with a provision that was outdated from the moment that it be-

came part of the Constitution. It was not placed there because it was a "detail," or because it was "dispensable," but simply because it was meaningless from the moment of ratification. It was not meaningless during the ratification process itself as many extension supporters argue.

The impact of House Joint Resolution 638 is not simply procedural, although I know of no distinctions in article V which permit Congress to enact procedural changes in the amendment process by any different means than substantive changes. But for passage of House Joint Resolution 638, the likelihood for success of the equal rights amendment is dim. It is obvious that this body would not undertake as extraordinary an action as this one if it were not directly related to the question of success or failure of the amendment. In short, the resolution of this issue is an important one, constitutionally speaking. If this body acts in one manner, the likelihood for success of the amendment is improved; if we act in the opposite manner, the likelihood for success is diminished. Dean Griswold of the Harvard Law School observes that this resolution is "essentially a part of the process of amending the Constitution." As such, he continues, "the Constitution is explicit that two-thirds majorities are required in both Houses of Congress."

It was not the text of the equal rights amendment alone that required and received the two-thirds vote; it was the resolution proposing the amendment. Had the House, during the 92d Congress, approved no time limit whatsoever, and had our predecessors in that Congress approved a 7-year limit, the other body would have been required to approve by a two-thirds vote the adoption of the time limit by itself, Jefferson's Manual, section 192.

It is *Dillon* v. *Gloss*, 256 U.S. 368 (1920) which first referred to Congress authority, under article V, to establish definite periods for ratification. It is interesting to note that the Court referred to this authority as a "matter of detail which Congress may determine as an incident to its power to designate the mode of ratification, Dillon at 376. If the authority to set a "reasonable" time for ratification is a function of Congress' authority to determine whether or not ratification shall be by legislature or convention, does the contention that the time limit can be changed, by any type of majority, also imply that the mode of ratification can be changed similarly? Faced with 15 seemingly intransigent State legislatures that refuse to ratify the ERA, can Congress decide, through another simple resolution, that those States are now to call conventions for the purpose of ratifying the amendment? If not, how can we change the terms of a subsidiary matter?

One of the most interesting paradoxes of House Joint Resolution 638—and there are certainly a number of them—is the argument that a two-thirds vote is unnecessary because extension of the ratification period does not involve a change in the substance of a constitutional amendment itself. At the same time, a legislative vehicle is chosen—a joint resolution requiring no Presidential signature—which is provided for nowhere else in the constitution than in article V, concerning the amendment of the Constitution. The very legislative form of House Joint Resolution 638 is born in article V, yet we are told that a simple majority vote is permissible because the resolution does not involve article V.

House Joint Resolution 638 attempts to circumvent both article V, as well as article I, section 7, concerning the role of the executive in the legislative process, by creating an entirely new breed of legislation. It is a breed that has never before been seen by this body and is not likely to be seen again, unless the proposed 27th amendment still lacks the right number of ratifications by 1982.

Mr. President, I urge my colleagues to consider the long term impact upon the Constitution of our actions during debate on this resolution. We simply cannot turn the Constitution on and off in order to suit the immediate policy preferences of the day. As observed by the distinguished chairman of the Constitution Subcommittee (Mr. BAYH) in his "separate views" on Senate bill 215 during the 92d Congress, the two-third requirement is a "traditional safeguard which has protected the integrity of the Constitution since 1789." Let us be careful not to dilute that safeguard during these debates.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. BAYH. Mr. President, I ask unanimous consent that Allison Wiley of Senator STONE'S staff; Judith Davidson of Senator SARBANES' staff; Tim McPike of Senator DECONCINI'S staff, and George Kuhn, of Senator MOYNIHAN'S staff be granted the privilege of the floor during the debate and vote on this amendment and amendments thereto.

Mr. GRIFFIN. And Mark Steinberg, of my staff, Mr. President.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAYH. Mr. President, I have listened with a great deal of interest to this debate. As always I am impressed with the sincerity of my brother and sister Senators and the intensity of their argument. I guess I am particularly sensitive to the argument of the opposition because I must confess that my first response, my first reaction, to some of these very questions was very much the same. That reaction changed once I had had a chance to study what the courts had said, once I had a chance to study the precedents, and also to apply what I feel is a little measure of commonsense.

I rely not on my own limited study of constitutional law, but on constitutional scholars like Thomas Emerson of Yale, Lawrence Tribe of Harvard, Ruth Bader-Ginsburg of Columbia Law School and Ronald Rotunda of the University of Illinois, and others who testified at some length, whose judgment I think is greatly respected.

The architect of the Declaration of Independence said it pretty well, I think, and, indeed, he as well as his contemporaries had a pretty good idea what they were talking about when they drafted the careful wording of the Constitution together. Thomas Jefferson said:

> The voice of the majority decides what is *res majoris partis*, which is the law for all councils, elections, et cetera, where not otherwise provided. (Manual of Parliamentary Practice § XLI.)

What Jefferson was saying in common everyday English was that under normal parliamentary procedures, under rules of this body and the other body, and under most all Democratic councils, a majority vote is to be assumed unless it is specifically designated otherwise.

To be sure, there are places in our Constitution where our Founding Fathers, I think with great wisdom, required a supermajority. We know what they are as far as treaties, advise and consent, and the other matters such as impeachment, which are critical matters before us from time to time.

(Mr. STEVENSON assumed the chair.)

Mr. BAYH. Mr. President, the amendment before us seeks to require a two-thirds vote of each House for final passage of House Joint Resolution 638, which would extend the deadline for ratification of the equal rights amendment until no later than June 30, 1982.

As we all so well know, the requirement of a super-majority is an exceptional constitutional procedure, only called in a very few instances. The Constitution is very explicit about those rare instances in which a super-majority is required. One such instance is when Congress proposes a constitutional amendment. House Joint Resolution 638 does not propose a constitutional amendment. Neither does it attempt to modify a proposed amendment. Rather this resolution is the vehicle for the exercising of Congress' separate powers under article V of the Constitution to determine the procedures of ratification, including the time limit. On procedural issues such as this, I have come to the conclusion, as many constitutional scholars have also, that no more than a simple majority can be required under our Constitution.

Let me take this opportunity to put the issue in context. Article V of the Constitution specifically empowers Congress to determine the "mode of ratification" of constitutional amendments. This authority is separate from Congress other powers to propose constitutional amendments under article V and to enact laws under article I. As a part of Congress power to determine the mode of ratification, the Supreme Court held in *Dillon* v. *Gloss*, 256 U.S. 368 (1921), that Congress may establish the time within which an amendment may be ratified. These article V actions as Dillon, held "subsidiary matters of detail" are not subject to the Constitution's very specific and limited super-majority requirement for proposing amendments.

The fact that Congress could only have proposed the ERA by a two-thirds vote is not relevant to this separate issue. The ERA was proposed under the limited grant of authority by the Constitution under article V that Congress might propose constitutional amendments only when "two-thirds of both Houses shall deem it necessary." House Joint Resolution 638 is proposed under the separate grant of authority in article V that the "mode of ratification may be proposed by the Congress" with no stated require-

ment for greater than a simple majority vote.

Past congressional practice is not extensive, but is consistent in supporting the role that a simpler majority vote is appropriate on matters concerning the procedures of ratification. In deciding the validity of State ratifications necessary for the adoption of the 14th amendment, the 39th Congress voted under a simple majority requirement. More recently, the Senate in the 92d and 93d Congresses voted by a simple majority on this very issue of time limits for ratification, as a part of its passage of the proposed Federal Constitutional Convention Procedures Act. That bill, however, was never considered by the House, and never became the law of our land, but it is relevant to note that the Senate adopted an amendment before its passage which established consistent with article V, that final passage of constitutional amendments by a convention should require a two-thirds majority while procedural issues remained governed by the general simple majority rule.

Both logical principles derived from article V and historical precedent lead to the conclusion that no more than a simple majority can be required for adoption of the strictly procedural content of House Joint Resolution 638. To require a super-majority on this procedural matter would be contrary to the Constitution and would be a dangerous precedent.

Mr. President and colleagues, I have often heard it argued that even if the Constitution does not appear to require a two-thirds vote on this resolution, nevertheless, in the interests of fairness, or symmetry, caution or whatever, we should self-impose that requirement.

I totally reject that suggestion—not only because I believe it is simply an attempt to reject the resolution, but also because it would set a precedent that could not be dismissed later as nonbinding on the grounds that it was established in the face of overwhelming contrary legal opinion. Such a precedent would have implications far beyond the extension issue. That precedent would be that Congress, in dealing with subsidiary matters of detail incidental to the amendment process, must act only if a two-thirds vote can be obtained. The interpretation is contrary to the sound and well-established principle that super-majorities are not to be implied from the Constitution, but rather, are required only in those few instances explicitly provided for in the Constitution.

When dealing with matters of detail incidental to the amendment process, it is particularly important, from a purely practical viewpoint that a super-majority not be required. For example, consider the situation when the Congress is called upon to vote as to whether a constitutional amendment has been ratified. In cases where there has been a dispute on this issue (the 14th and 15th amendments), Congress has assumed the right to resolve this, and the Supreme Court has recognized this as proper. If a super-majority is required on that vote, it is quite possible that Congress would be unable to muster a two-thirds vote on either the proposition that the amendment has been ratified or that it has not. In that case, the decision might very well be left to the General Services Administration. I think we would all agree that we should avoid creating a situation whereby a vital congressional decision would have to be delegated, by default, to a ministerial agency.

I think, without further comment on my part, some of our colleagues may be wondering "if the requirement of a super-majority is an exceptional constitutional procedure, only called for in rare instances, then exactly where and under what circumstances does the Constitution explicitly require a super-majority?" And, I am prepared to answer you.

Article V of the Constitution explicitly requires a super-majority of two-thirds or more in only four instances:

1. Constitutional amendments must be proposed by *two-thirds* of both Houses;
2. A Convention for proposing constitutional amendments can be called only upon application of the legislatures of *two-thirds* of the State;
3. Legislatures in *three-fourths* of the States must ratify a proposed Constitutional amendment in order for an amendment to be adopted; and
4. Alternatively, ratification may be accomplished by conventions in *three-fourths* of the State.

In addition, the Constitution elsewhere employs explicit terms to impose such extraordinary majority requirements. Article II, section 2 (two-thirds vote for approval of a treaty); article I, section 3 (two-thirds vote for a Senate conviction after an impeachment trial); article I, section 5 (expulsion of a member of Congress); article I, section 7 (override of a Presidential veto); Amendment XIV, section 3 (removal of "insurrection or rebellion" disability of member of Congress); and, Amendment XXV (denial of Presidential resumption of power after disability).

Thus, the proposal of the substantive text of an amendment and the actions required of Congress to take care of details of the ratification process are qualitatively different matters. The substances of the amendment clearly require a two-thirds vote. The procedural matters do not. Indeed, as I stated earlier, the Senate did attempt, on two occasions, to prescribe the details of the amending process by Constitutional Convention through legislation requiring only a simple majority.

To those of you who wish to elevate procedural matters to matters of substance, I say is to place a far greater burden on the constitutional amendment process than the drafters of the Constitution ever anticipated.

America was gifted in the 18th century with the greatest explosion of political genius we were ever to enjoy. Since then we have seen the equals of Washington, Adams, Jefferson, Madison, Hamilton, and Jay, but never have we had so dazzling a constellation of genius alive and vigorous at the same time.

But, the founders of our Constitution, who signed that crucial blueprint for the formation and control of our form of Government in the year 1787, did not address all the important issues of the day: The abolition of slavery was to be the work of a future generation.

Mr. President, equality of rights under the law for our men and women, and boys and girls, cannot wait for a future generation. We must act now to assure that our grandchildren will not be standing here in the next generation arguing for these same goals.

In conclusion, Mr. President and colleagues, we must keep in mind that the founders of our Constitution wanted to make the constitutional amendment process difficult; for that reason they placed certain extraordinary requirements at specific points in the process they thought were most important. They did not, however, want to make the process impossible; nor should Congress presume to add obstacles where none were intended. An imposition of a super-majority requirement where the Constitution does not require it would be a departure from nearly 200 years of constitutional history and would be a precedent of unpredictable dimensions.

In its every particular, the Constitution of the United States richly merits our praise and recognition: In the distinction of its authorship, in its excellence, clarity and brevity of form, in its perseverance, and in its remarkable adaptability to changing conditions.

It is my hope that the Senate will prevail in extending the deadline for ratification of the ERA and concur in my conclusion that a two-thirds vote on House Joint Resolution 638 by both Houses cannot constitutionally be required.

Mr. President, Thomas Jeffeson stated this conclusion most eloquently, I believe, and I can think of no greater constitutional scholar to call upon during this Bicentennial era—let me quote:

> The voice of the majority decides, for the *res majoris partis* is the law of all council, elections, et cetera, where not otherwise provided.—(Manual of Parliamentary Practice § XLI)

Mr. President, earlier, there was some reference made to the Federal Constitutional Convention Procedures Act, which would have permitted the amending of the Constitution by establishing a procedure in the event the necessary States petition Congress and Congress, under article V, is required to call a constitutional convention. The Federal Constitutional Convention Procedures Act, establishing the procedure under which that constitutional convention would operate, was passed by this body, not by two-thirds, but by a majority requirement. However it did not pass the House and never became law.

Mr. GARN. Will the Senator yield on that point for a comment that is pertinent to that very point?

Mr. BAYH. As soon as I am finished with this logic.

Mr. GARN. It is so pertinent to this point, it will fit right in, I say to the Senator.

Mr. BAYH. I am glad to yield to my friend from Utah. I have a suspicion what the question is going to be.

Mr. GARN. He should be aware of what I was about to say, because in testimony before the subcommittee, it was my distinguished colleague who talked a great deal, and I shall not take a great deal of time to quote his testimony again——

Mr. BAYH. I should be honored if he would.

Mr. GARN. The distinguished Senator proposed an amendment requiring a majority. He did not bring it to a vote, but withdrew it. I just point that out, that at least he had the intention in 1971, he felt very strongly about a simple majority and did not bring it to a vote. Also, he had an amendment cutting the time from 7 years to 4 years, and withdrew it.

Mr. BAYH. I respect the Senator's judgment and his logic, which is usually infallible, but I suggest that he look at what we were doing then. Using that as an argument, he is proving the case of the Senator from Indiana and the Senator from Maryland. The Senator from Indiana offered an amendment, which was not withdrawn, but which was passed by the Senate, which would require that two-thirds of that constitutional convention vote in favor of an amendment before it was sent to the States. A State convention would be performing the same function as the House and the Senate and the Senator from Indiana thought very strongly that a simple majority should not be sufficient in order to pass that substance. So he proposed, and a majority of our colleagues went along and we put into the Procedures Act, a requirement of a two-thirds vote on the substance.

Mr. GARN. I want to correct an error that I made.

Mr. BAYH. Let the Senator from Indiana finish.

Mr. GARN. While the Senator was talking, I did look and I stand corrected, he did not withdraw that amendment. It was the one on 4 years versus 7. To save him some breath, I wanted to make sure I was correct. I have it right before me and the Senator did not withdraw that one; he did withdraw the other.

Mr. BAYH. I knew the Senator from Utah did not make that mistake intentionally. If this Senator's record for making mistakes were as good as that of the Senator from Utah, he would be proud.

I want to point out, it is not the fact that I withdrew it or did not that is significant. I felt very strongly then and I feel strongly right now that when we are talking about the substance, when we are talking about the very fiber of what goes into the Constitution, I want a two-thirds majority. When we are talking about a constitutional convention, when we talk about the wrapping, the package, how it is submitted, how long, what is going to be the call of the convention, the very thrust of this Constitutional Convention Procedures Act, that was passed by this body by a majority vote. I think the Senator can see that Congress has consistently said that when you are talking about procedure as far as the Constitution is concerned, a majority is all right; but when you are talking about substance, that which we really live by—a super majority may be required. We really do not live by whether it is 7 years or no years as far as a time limitation is concerned.

We get all uptight and involved about what is a reasonable length of time. I find it very difficult to accept people suggesting that Congress should not have a right to suggest that 10 years and 3 months is not a reasonable length of time. The first 18 amendments of the Constitution had no time limit as far as Congress is concerned and assessing a reasonable length of time.

What we are talking about here is not procedure. We are talking about requiring a two-thirds majority. If it is the substance, that which we have to live by, if it becomes a part of the Constitution. That, to me, is a very real distinction.

One last point. There has been a good deal of discussion about the reliance, did States rely on the 7-year time limit? if anyone can make a case that my State of Indiana or any of the other 35 States that ratified this did so with the thorough understanding that the reason they were ratifying this was that they knew there was only going to be 7 years, or if, when we passed this in the Senate there had been any significant discussion at all about relying on the time limit, then I think changing it would be an entirely different situation. But contrary to that fact, the only thing written in the record, the only thing we have is the debate on the floor with Senator Marlow Cook, who was one of the principal sponsors of the equal rights amendment, who reminded the Senate that that time limit really was not necessary because it might not be binding in the final analysis.

He warned us of that at the time of the debate. I suggest to my distinguished friend from Virginia—I regret very much to have to take a contrary position to him on this—if he were talking about substance, what is in the law, that is one thing. But if he is talking about what is in the resolving clause, that is something else.

I listened to my distinguished colleague from Utah talk about this outstanding professor who helped Estes Kefauver when that first time limit was established. I think the Senator from Maryland hit the nail on the head. He did say he wanted to have the same effect, but the effect was to convey a desire to have this amendment considered in a 7-year time frame. But putting it in the resolving clause is much different from putting it in the basic text of the amendment.

I find much more persuasive going back to the time of our distinguished former colleague, Estes Kefauver, and finding out what that professor meant, to look at the kind of evil that the Senator who proposed the limit to this amendment was trying to rid us of or protect us from. I read from our distinguished former colleague, Senator Ervin, who said:

> My other proposed alteration of the original purpose of the resolution would require that this resolution be ratified by three-fourths of the States within seven years after submission by Congress to them for consideration.

Listen to why Senator Ervin put that 7-year time limit in there:

> This is necessary because we still have floating around some unratified amendments that were submitted at the time of the original submission of the Bill of Rights. We have some other amendments that have been floating around since 1860. There is no date for their expiration, no time limit for their ratification, and they could be ratified at any time. I do not think it is wise for Congress to submit a proposed constitutional amendment to the States without a time limit for its ratification.

In other words, Senator Ervin was talking about what the court in Coleman and Dillon considered, that Congress should have a reasonable time limit. Thinking in terms of reasonableness, Senator Ervin was contrasting the unreasonable example of an amendment that was passed 50 years ago or a hundred years ago, not one which, like the Equal Rights Amendment, is designed to deal with a very significant problem involving over half of the people of this country and which is a subject of very, very serious debate throughout this land.

I yield.

Mr. SCOTT. Mr. President, I appreciate the Senator yielding. He was speaking of the difference between having the amendment in the resolving clause and in the body of the amendment.

I wonder if the distinguished Senator can enlighten me a bit here, as the proposed constitutional amendment came from the House, the House having passed it the previous year, did it have the 7-year requirement in when it reached the Senate?

Mr. BAYH. The House measure did. There is very little, if any, discussion on that at all, which leads the Senator from Indiana to feel, very frankly, that if it had been a matter of much significance or consequence, at least somebody would have said something about it, as to why it was so important.

Mr. SCOTT. I wonder, in looking and reviewing a copy of literal print of the Constitution, I notice the 18th amendment does have a paragraph, it is called section 3, that includes that provision. Then we look further and find the same is true, section 6 in amendment 20. We find it, section 3 in the 21st amendment. Section 2 in the 24th amendment.

But I wonder, without going further, if it was not omitted merely so it would not be printed in the copies of the Constitution, if there was no intention to change its meaning in any way, but just to keep from cluttering up the Constitution, and if it would not have the same effect whether it is in the preamble or in the body of the proposed amendment.

Mr. SARBANES. If the Senator will yield, he can make that argument, but it is just as logical——

Mr. SCOTT. Now, Mr. President, I did not yield to the distinguished Senator from Maryland. I was asking a question of the chairman of our subcommittee, and if he would permit the chairman to answer the question I proposed to the Senate——

Mr. SARBANES. Will the chairman yield?

Mr. BAYH. I am glad to yield. I think what I said more recently was said earlier and more succinctly by the Senator from Maryland.

Mr. SARBANES. The Senator from Virginia can make the argument he made, but it is much more logical, has a great deal more commonsense, to perceive the placing of the time language, either in the text of the amendment or its placing in the preamble as having some significance.

Now, if the Senator wished to make the 7 years a matter of substance, if it was considered important enough in his mind to be a substantive consideration, it should have been placed in the text of the amendment. Since that was not done and it was placed in the preamble, it really falls under the court's language in the Dillon case as a matter of procedure. There the court recognizes the fact that there are different modes of ratification and gives to the Congress the power to carry out the modes of ratification, which would here be a power we can exercise by a simple majority vote, the two-thirds requirement attaching only to the proposal of the substantive amendment itself.

I thank the chairman for yielding.

Mr. BAYH. I hate to use comparisons that are perhaps so everyday that they do not give adequate respect to the Constitution. I was just sitting here thinking, trying to find an example that might help explain the distinction between the resolving clause, the preamble, and the text of the constitutional amendment.

Maybe it is oversimplistic, but I wonder if my friend from Virginia would agree that the example of a loaf of bread you pick up in the supermarket, which is wrapped in a nice wrapper, does provide a pretty good example.

That wrapper helps give it some more semblance of a healthy condition. But it is the bread we are after.

It seems to me that this is the whole purpose of the resolving clause: It is the means by which we get the constitutional amendment—the text that is going to go into the Constitution—how we get that to the State legislatures for ratification.

May I ask my friend from Virginia a question?

We have two modes of submitting. We also have two modes of ratifying. But if the mode of submitting the constitutional——

Mr. SCOTT. They go together.

Mr. BAYH. One, we are undertaking to deal with, at least partially here is where Congress proposes a constitutional amendment.

The other means of proposal is through a Constitutional Convention.

Does the Senator from Virginia feel the rules governing a Constitutional Convention should require a two-thirds vote to govern every step of procedure of that Constitutional Convention in ratifying or in proposing an amendment to the Constitution?

Mr. SCOTT. Of course, I have only the Constitution itself to go by.

It does require that the legislatures of two-thirds of the several States shall call a convention proposing amendments.

Mr. BAYH. If the Senator will yield, I do not want to mislead him, because what I am trying to suggest is that in the other mode of proposing a constitutional amendment, we have to establish a structure for running a national convention.

We have never done that before. We had one, of course, in 1787 to propose the Constitution. We have never called one to amend it.

So in order for the constitutional convention process to function, we would have to establish a procedure for running the convention, very similar to the procedure Congress follows to send a constitutional amendment to the States.

I would assume that it would be very difficult to run a constitutional convention if, procedurally, it required a two-thirds vote.

Mr. SCOTT. I would say that the original Constitution, if we look at the end, it says, "Done in convention by the unanimous consent of the States present, the 17th day of September in the Year of Our Lord 1778."

So it was done by unanimous vote in that instance.

Now, Mr. President, I had started introductory remarks, but we did have other Senators that wanted to speak. I am pleased that they did take advantage of that opportunity to share their expertise with the rest of us. But I would like to resume where I left off in my opening statement.

Mr. President. I cannot agree with the advocates of this resolution that time is not an important consideration when dealing in such crucial instruments as constitutional amendments. It plays a role in the decisionmaking of both the Member of Congress when he votes to propose an amendment and the individual States when they must decide whether to ratify it.

Prof. Charles Black of the Yale Law School discussed the issue of time and its impact on the process as well as the requirement of a two-third vote, during hearings before the House Judiciary Committee, and I should like to quote some of his remarks:

> If the original resolution combined the proposal of the amendment and the setting of the time limit, the integral package being then passed by 2/3 vote—

That is what was done in House Resolution 208 in 1971 and 1974:

> Then it seems to me plainly right that a 2/3 vote of each House of Congress should be required for an extension. It may easily happen, in any given case, that a vote for the original resolution is cast partly on the ground that, in the view of the caster of the vote, the time is suitably limited. If this is not possible then that must be because the limitation of time in the first instance was utterly meaningless—an impermissible assumption. It is impermissible to assume that this question of time never matters to anybody: if that were so, why put it in? It cannot therefore be assumed that the original would surely have passed by the requisite 2/3 majorities if the time had been longer. On a constitutional question of this kind one cannot afford to guess, as to a particular amendment, what might have happened; one must rather follow a procedure which would always be suitable and fair.

Mr. President, advocates of the ERA have already enjoyed a longer time period to persuade the States to ratify their amendment than any other amendment ever offered for addition to the Constitution in our history. We never have had an amendment adopted after the lapse of a 7-year period. One can only assume by such slogans as "no time limit on equality" that if ten and a half years is not sufficient, they will return to haunt us anew. I must wholeheartedly urge that some responsible time limit must be set for all constitutional amendments. This dog has had its day.

I can rely on no less a constitutional authority than a former Justice of the Supreme Court of his State, a former colleague of ours, Senator Sam Ervin, who urged the Senate not to extend the time for ratification. He stated:

> In the very nature of things, the power to fix a reasonable time for state action on a proposed constitutional amendment must reside in the Congress which submits it. It cannot be determined retroactively by a subsequent Congress motivated by the fact that the requisite number of States have refused to ratify it within the reasonable limit originally established. The 95th Congress has power to legislate for the future. It has no power to amend the past. And that is precisely what it would be trying to do if it undertook to amend a Congressional Resolution adopted on March 22, 1972, by stringing out seven years and inserting in its place fourteen stringing years.

I realize that we are not talking about 14 years. The bill that was before the Senate Judiciary Committee has yet to reach the floor of the Senate, and I doubt that it ever will. That is obvious by the method used to bring the House resolution before us.

It is fairly obvious to all that the 92d Congress designated the mode of ratification a long time ago by a two-thirds vote of both Houses. It should be just as obvious to all that the Supreme Court will consider this question at some future date. The Court will ask whether article V allows the 95th Congress to change the reasonable time limit passed by a two-thirds vote by the 92d Congress, with a mere resolution passed by a simple majority of both Houses. In other words, can one Congress change, by a mere majority vote, what was adopted by a two-thirds vote of both Houses? We know that a constitutional amendment must be proposed under article V by a two-thirds vote of both Houses and that at the same time and by the same instrument, the 92d Congress both designated the State legislatures as the mode of ratification and as an incident thereto set a reasonable time of 7 years. So we know that each House of the 92d Congress did at least three things by one two-thirds vote:

First, it proposed the equal rights amendment;

Second, it designated the mode of ratification as being submission to State legislatures;

Third, it set as a reasonable time limit, 7 years for ratification. It seems quite probable that the Supreme Court will not speculate as to what Congress could have done had it chosen not to do three things at once by a two-thirds vote. What does seem likely is that the Court will note

that it was done by a two-thirds vote, and is likely to conclude that it could only be undone by a two-thirds vote.

Mr. President, we can look at this copy of the joint resolution. It is all on one page. On the same page, adopted at the same time, is a provision in the resolving clause: "two-thirds of each House concurring." They did adopt a two-thirds vote.

Then it refers to this, also in the resolving clause: "ratified by the legislatures of three-fourths of the several States within 7 years after the date of submission to the Congress."

It is all part of one page. It was all adopted at the same time. I do not think it makes any difference at all whether it is in the preamble or elsewhere.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. SCOTT. Mr. President, I am almost through.

Mr. SARBANES. I yield the Senator 3 additional minutes.

Mr. SCOTT. I thank the distinguished Senator from Maryland.

That is the essence of the constitutional question presented by the two-thirds vote. But even those who believe that the Supreme Court would uphold an extension by a simple majority, might conclude that Congress should require a two-thirds vote for an extension.

On page 28 of the House report on House Joint Resolution 638, Erwin Griswold, former Solicitor General of the United States and former Dean of the Harvard Law School is quoted as saying:

> This seems to me to be essentially a part of the process of amending the Constitution, as to which the Constitution is explicit that two-thirds majorities are required in both Houses of Congress.

And in his statement before the House Judiciary Committee subcommittee considering ERA extension, he made the following point:

> The only thing that is clear about this question is that no one except five justices of the Supreme Court can answer it with authority. There is simply no decision which has dealt in any way with the power of Congress to amend a time limitation in a joint resolution proposing an amendment to the Constitution.

Mr. President, I hope the Senate will uphold the two-thirds requirement of article V of the Constitution. If not, in my judgment, the Court will encroach further upon the legislative field and invalidate the congressional action that we are taking tonight.

Mr. SARBANES. Mr. President, what is the time situation?

The PRESIDING OFFICER. The Senator from Indiana has 11 minutes remaining.

Mr. SARBANES. Mr. President, I ask unanimous consent that Richard Harris, of the Environment and Public Works Committee be granted the privilege of the floor during debate and votes on House Joint Resolution 638 and on House Joint Resolution 3073.

The PRESIDING OFFICER. Without objection it is so ordered.

Mr. SARBANES. Mr. President, I yield back the remainder of the time on this side, and I am ready to vote on the amendment.

Mr. SCOTT. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. STAFFORD (after having voted in the negative). On this vote I have a pair with the distinguished Senator from South Carolina (Mr. THURMOND). If he were present and voting he would vote "yea." If I were at liberty to vote, I would vote "nay." I withdraw my vote.

Mr. CRANSTON. I announce that the Senator from Alabama (Mrs. ALLEN), the Senator from Mississippi (Mr. EASTLAND), and the Senator from Colorado (Mr. HASKELL) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Nebraska (Mr. CURTIS), the Senator from New Mexico (Mr. DOMENICI), the Senator from Oregon (Mr. HATFIELD), the Senator from Kansas (Mr. PEARSON), and the Senator from South Carolina (Mr. THURMOND) are necessarily absent.

Mr. ROBERT C. BYRD. Mr. President, will the Chair ascertain if everyone has voted?

The PRESIDING OFFICER. Are there any Senators still wishing to vote?

The result was announced—yeas 33, nays 58, as follows:

[Rollcall Vote No. 437 Leg.]

YEAS—33

Baker	Hatch	Schweiker
Bartlett	Hayakawa	Scott
Bellmon	Helms	Stennis
Bumpers	Huddleston	Stone
Byrd, Harry F., Jr.	Johnston	Talmadge
Cannon	Laxalt	Tower
Danforth	Long	Wallop
Dole	Lugar	Weicker
Garn	McClure	Young
Goldwater	Nunn	Zorinsky
Hansen	Roth	
	Sasser	

NAYS—58

Abourezk	Gravel	Melcher
Anderson	Griffin	Metzenbaum
Bayh	Hart	Morgan
Bentsen	Hatfield, Paul G.	Moynihan
Biden	Hathaway	Muskie
Brooke	Heinz	Nelson
Burdick	Hodges	Packwood
Byrd, Robert C.	Hollings	Pell
Case	Humphrey	Percy
Chafee	Inouye	Proxmire
Chiles	Jackson	Randolph
Church	Javits	Ribicoff
Clark	Kennedy	Riegle
Cranston	Leahy	Sarbanes
Culver	Magnuson	Schmitt
DeConcini	Mathias	Sparkman
Durkin	Matsunaga	Stevens
Eagleton	McGovern	Stevenson
Ford	McIntyre	Williams
Glenn		

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Stafford, against.

NOT VOTING—8

Allen	Haskell	Thurmond
Curtis	Hatfield, Mark O.	
Domenici	Pearson	
Eastland		

So the amendment (No. 3679) was rejected.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. SARBANES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

WITHDRAWAL OF VOTE ON ROLLCALL NO. 437

(The following proceedings occurred the next day:)

Mr. DECONCINI. Mr. President, yesterday, on rollcall vote No. 437 I cast a "nay" vote. By my negligence I failed to pair that vote with the senior Senator from Mississippi (Mr. EASTLAND), as requested. I ask unanimous consent that my "nay" vote be withdrawn. Had the Senator from Mississippi voted, he would have voted "yea." I would have paired and neither vote would have been cast except as a pair. It would not change the outcome of the vote whatsover.

The PRESIDING OFFICER. Is there objection?

Mr. BAKER. Reserving the right to object, I shall not object. I appreciate the Senator's conferring with me in advance on this subject and explaining to me, as he has now to the Senate, that the failure to record the pair was inadvertence; that it does not affect the vote; that it does not contravene previous precedent and practice in permitting a Senator to vote after a rollcall is completed, but rather, in this case to withdraw a vote. There is no objection to the request on this side.

The PRESIDING OFFICER. Without objection it is so ordered.

Mr. DECONCINI. I thank the minority leader.

(The revised rollcall vote, in accordance with the foregoing order, is as follows:)

(ROLLCALL VOTE NO. 437 LEG.—AS REVISED)

The yeas and nays resulted—yeas 33, nays 57, as follows:

YEAS—33

Baker, Bartlett, Bellmon, Bumpers, Byrd, Harry F., Jr., Cannon, Danforth, Dole, Garn, Goldwater, Hansen.

Hatch, Hayakawa, Helms, Huddleston, Johnston, Laxalt, Long, Lugar, McClure, Nunn, Roth, Sasser.

Schweiker, Scott, Stennis, Stone, Talmadge, Tower, Wallop, Weicker, Young, Zorinsky.

NAYS—57

Abourezk, Anderson, Bayh, Bentsen, Biden, Brooke, Burdick, Byrd, Robert C., Case, Chafee, Chiles, Church, Clark, Cranston, Culver, Durkin, Eagleton, Ford, Glenn.

Gravel, Griffin, Hart, Hatfield, Paul G., Hathaway, Heinz, Hodges, Hollings, Humphrey, Inouye, Jackson, Javits, Kennedy, Leahy, Magnuson, Mathias, Matsunaga, McGovern, McIntyre.

Melcher, Metzenbaum, Morgan, Moynihan, Muskie, Nelson, Packwood, Pell, Percy, Proxmire, Randolph, Ribicoff, Riegle, Sarbanes, Schmitt, Sparkman, Stevens, Stevenson, Williams.

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—2

Stafford, against. DeConcini, against.

NOT VOTING—8

Allen, Curtis, Domenici, Eastland, Haskell, Hatfield, Mark O., Pearson, Thurmond.

So the amendment (No. 3679) was rejected.

Mr. ROBERT C. BYRD. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

● Mr. BAKER. Mr. President, I can think of few, if any, issues considered by the Senate in the last 12 years which

raised questions of law as complex or stimulated emotions so strong as this proposal to extend the time limit for ratification of the equal rights amendment.

In large part, the legal questions which have been posed as a result of House Joint Resolution 638 have never been answered before by Congress or the courts. Does Congress have authority to modify a resolution proposing a constitutional amendment by extending a time deadline for ratification? If so, how may that be accomplished? Will a joint resolution which requires no Presidential signature have the force and effect of law? May States rescind their previous ratifications? What is the proper role of the courts in this matter?

These and other issues go to the heart of the constitutional amendment process. The decisions we reach in response will affect that process forever and establish a precedent for dealing with similar questions arising in connection with future constitutional amendments.

House Joint Resolution 638 also raises serious questions of policy which the Senate must also weigh during this debate. Should the States have more time to consider the ERA? What will be the effect of granting such an extension on the controversy which has surrounded consideration of ERA in several States?

Unfortunately, there is no consensus of opinion among legal scholars on the constitutional issues raised by the extension to make our task any easier. Moreover, the emotion-charged atmosphere within which the Senate is acting on the extension further increases the difficulty of making wise and responsible decisions on the policy issues involved.

I have reviewed the arguments for and against extending the ratification deadline and I have talked with a good many Americans who hold views on both sides of the issue during the last few months. I would like to take this opportunity to express and explain the conclusions I have reached.

First, Mr. President, I want to reiterate my view that, despite the progress which has been made over the last 6 years in alleviating discrimination on the basis of sex by statute, State laws and Executive orders, equal protection under the law is not assured for all women in the absence of a constitutional amendment.

This is so, in my view, because the Supreme Court has traditionally shown reluctance to extend the applicability of the 14th amendment, which was clearly directed at racial discrimination, to legal discrimination on the basis of gender.

Second, it is my belief that Congress does have the power to alter the time period for ratification of a constitutional amendment.

Third, I believe that, in exercising that power, Congress must address the legal questions raised as judiciously as possible, without regard to the substance of the amendment now pending before the States.

Fourth, I believe that, constitutionally and from the standpoint of sound policy, House Joint Resolution 638 may be approved only by a two-thirds majority of both Houses of Congress.

I am aware that the House of Representatives rejected this point of view and that many proponents of House Joint Resolution 638 in the Senate believe that the time limit of 7 years contained in House Joint Resolution 208 as approved by the Congress in 1972 was merely a procedural detail, separate from the substance of the ERA itself and, as such, immune from the two-thirds vote requirement of article V.

I disagree with that analysis for several reasons. First, the time limitation was included in the resolution itself and, as such, it was an integral part of the proposal to amend the Constitution which could only be approved by a two-thirds majority. The 92d Congress could have separated the two questions—approving the text of the amendment with no time limitation by two-thirds vote and passing later by simple majority a resolution to limit the time for consideration of the amendment by the States. If that had been done, I do not believe that an extension or change in the time limit would require anything more than a simple majority vote.

But the time limit was included in the body of House Joint Resolution 208, and, in my view, to extend that time period is clearly to amend House Joint Resolution 208. I do not believe that Congress can amend by simple majority a measure which required a two-thirds vote for passage.

Second, Mr. President, it was clearly understood by Members of the 92d Congress that the amendment proposed in House Joint Resolution 208 would not take effect unless ratified within 7 years. The time limit was a condition upon which validity of the amendment itself hinged. I doubt that any of us could state with certainty that none of the Members constituting a two-thirds majority of the 92d Congress were influenced to support House Joint Resolution 208 by the inclusion of a 7-year time period for ratification.

Among the legal scholars who share the view that a two-thirds majority of both Houses of Congress should be required to pass House Joint Resolution 638 are three of the most distinguished constitutional law authorities who testified at the House Judiciary Committee's hearings on this issue. They are Erwin N. Griswold, former Solicitor General of the United States and former dean of the Harvard Law School; Charles L. Black, Jr., Sterling Professor of Law, Yale Law School; and Prof. William Van Alstyne, Marshall-Wythe School of Law, College of William and Mary.

Third, although we know from the opinion of the Supreme Court in *Coleman v. Miller* (307 U.S. 433 [1939]) that Congress has the power to fix a reasonable limit of time for ratification and that that decision should be made in view of "the political, social, and economic conditions which have prevailed during the period since the submission of the amendment," we do not know with certainty whether or not the extension proposed in House Joint Resolution 638 and the manner of its consideration will be justiciable issues.

We do know that, if the extension is approved, it will be challenged by opponents as quickly as possible. In view of this fact, I believe it is essential that Congress adhere to the spirit of article V and impose upon itself the constitutional two-thirds majority requirement. To fail to do so would be to increase the risk of having an extension overturned in the courts.

Last, Mr. President, even if the question of extension should prove to be nonjusticiable, it seems to me that the public has a right to know the equal rights amendment is still considered a timely issue by the same proportion of the Congress as is required to propose it to the States for ratification. I agree with the comment made on this issue before the House Judiciary Committee by Professor Van Alstyne:

> A self-imposed safeguard by Congress itself, that an extension of a period for ratification must also command the same extraordinary majority as was required by Article V to propose the amendment, seems to me a minimum fair standard for Congress to observe insofar as it means to hold the previously ratifying states to their acts of ratification and to disallow them an opportunity to reconsider in light of the longer period now to be allowed such states as did not ratify within the original seven-year period.

The question of fairness, Mr. President, is, I believe, the overriding policy question which the Congress must decide in this debate. Several of my colleagues have cited the evidence of a national opinion polls which show that, while a majority of Americans supports the equal rights amendment, a majority also feels that the States have had adequate time to consider it and that Congress should not approve an extension. Moreover, I believe that the opposition to extension which has been expressed by such editorial advocates of ERA as the New York Times, the Washiington Post, and the New Republic is clear indication that support for ERA does not necessarily mean support of an extension.

I am concerned, Mr. President, that the ultimate ratification of ERA will be jeopardized if there is widespread public perception that Congress has acted unfairly in granting an extension. Requiring approval by a majority similar to that which the Constitution demands for proposing an amendment is, in my view, the minimum which should be dictated by our sense of what is fair and just.

In conclusion, Mr. President, I will support an amendment to House Joint Resolution 638 to require a two-thirds majority for approval of the extension. If that amendment should fail then I believe that we must, in the interest of fairness, permit States to rescind their ratification of ERA during the extension period. If neither of these amendments is adopted, then I will oppose House Joint Resolution 638.●

● Mr. DANFORTH. Mr. President, in the State of Missouri, which has never ratified the equal rights amendment, my support for the amendment is well known. I can see no justification for tolerating legal discrimination against a man or a woman by reason of his or her sex, and I hope that the amendment is ratified by my State, and by the other States that have failed to ratify the amendment. If that does not happen by March 22, 1979, I would support a new effort to pass an equal rights amendment. However, I do

not support House Joint Resolution 638, which would extend the time limit for ratification by 3 years, 3 months, and 8 days, and when it is presented to the Senate I intend to vote against it.

Not long ago the Springfield, Mo. Leader and Press observed that "extension of the ratification period would violate the Nation's basic notion of fairness and—would wound the integrity of the amendment process." These are precisely my reasons for opposing House Joint Resolution 638.

In an article which appeared last year in the Louisiana Law Review—and which was thoughtfully submitted for the RECORD by Senator GARN, the author notes that the delegates to the Constitutional Convention "seem to have assumed that since the Constitution was a limitation on the powers of Congress, and on the powers of a majority of the States to harm the interests of a minority, it was important to protect the amending process from manipulation by Congress or even by a simple majority of the States." The author tells us further that proposals to give Congress nothing more than a ministerial role in the simple proposal of amendments nearly carried. Alexander Hamilton defended the arrangement that became law by stressing the limited congressional role and observing: "We may safely rely on the disposition of the State legislatures to erect barriers against the encroachment of the national authority." Grover Rees III, comment, 37 La. Law Rev. (1977).

In my opinion, House Joint Resolution 638 asks us to prove Alexander Hamilton wrong. Notwithstanding the efforts of the framers, we are asked to prove that the States can be manipulated and minority interests can be suffocated if it is done in the name of a good cause and if it is done in an election year.

On March 22, 1972, Congress—with two-thirds of each House concurring—proposed the equal rights amendment to the States, with the proviso that it would be valid when ratified by three-fourths of the States within 7 years. Professor Jules Gerard of the Washington University School of Law reports that at least 24 of the States which have since ratified the resolution expressly considered the 7-year limit when passing their resolutions of ratification.

Nonetheless, we are now asked to treat the 7-year limit as mere surplusage, write it out of the resolution, and write in "10 years, 3 months and 8 days." We are told that we can do so by a simple majority vote, since the time limit had the good fortune to be incorporated in the resolution proposing the amendment and not in the text of the amendment itself. And finally, we are asked to deny States an opportunnity to rescind previous ratifications, since the reconstruction Congress did not—and since, if we did give States the right to rescind, some of them might actually do it.

In other words, we are asked to tell the States and the people who oppose this amendment "You should have read the fine print." I cannot accept that. The practices which we are asked to endorse for the amending of the Constitution of the United States are practices which any one of us would roundly condemn if they were applied to the sale of pots and pans by door-to-door salesmen. How can we justify amending the Constitution in this way?

I, for one, cannot. I therefore support the amendment to require a two-thirds vote for passage of House Joint Resolution 638. And I support the amendments to allow States to rescind prior ratifications.

It seems very clear to me that any extension of time for ratification of the equal rights amendment—or any amendment—must be accomplished by a two-thirds vote of both Houses of Congress. I cannot accept the argument that a majority vote suffices because the 92d Congress had the misfortune to put the time limit in the resolution and not in the text of the amendment itself. This argument is a legalistic absurdity, lacking both common sense and legal justification. As Professor Gerard observed in testimony before Congress, article V draws no distinction between proposing an amendment and submitting it to the States for ratification—it is all one act. A two-thirds vote is required.

As for rescission, if we are truly serious about determining contemporaneous, consensus support for the equal rights amendment, then how can we fail to grant States the right to rescind ratifications? The process by which we amend the Constitution is not a race to a finish line—it is an attempt at determining consensus support for amending the fundamental law of the land. The power to amend the Constitution rests with the States and the American people—not with Congress. We have no power to amend the Constitution—and, whatever the cause, we have no right to rewrite the rules by which the Constitution is amended so as to force an amendment upon the States and the American people.

What we have been asked to do smacks of political expediency because it is political expediency. It is unfair. It is wrong. I oppose it.

Mr. President, I ask that the August 17 editorial from the Springfield, Mo. Leader and Press be printed in the RECORD.

The editorial follows:

MORE TIME? NO

The United States needs the Equal Rights Amendment.

But the nation does not need the House-approved extension of the time limit for ratification.

The failure of ERA and the push for more time, in fact, are sad testaments to much of what is wrong with American politics.

First, the extension is needed because American politics collapsed into an embarrasing, chaotic spasm of irrationality under the pressure generated by the fight over ERA.

Had the nation been spared the noisy nonsense about single-sex restrooms, homosexual marriage and reductions in widows' Social Security benefits; had the ratification process been able to deliver sensible, mature consideration by state legislatures; had craven and ambitious lawmakers been able to restrain themselves from shameless exploitation of fear, prejudice and misunderstanding . . .

. . . Then ERA would have passed, with states and months to spare.

Instead, the nation was wrung through the agony of seven years of blood-curdling struggle over the ERA, an amendment built on one simple sentence, a measure to establish finally and forever a simple and indispensable principle of national policy:

"Equality of rights under the law shall not be denied or abridged by the United States or by any state on account of sex."

So, with the amendment stalled a mere three states shy of the required 38 and the deadline of March 22, 1979, drawing near, the supporters went to Congress for an extension of seven years.

On Tuesday, the House approved an extension of 39 months beyond the deadline. If the bill survives the predictable Senate filibuster, the new deadline will be June 30, 1982.

The campaign to rescue ERA with more time arises from the best of motives. But the effort comes down to another instance of national willingness to sacrifice substance to form. The extension of time violates fundamental principles of fairness.

And in the long run, the violation of substantial fairness is as distressing as the collapse of reason that stalled ERA at 35 states.

Any political system based on consent of the governed demands that people believe that the game is played with an honest deck of cards. People must believe that everyone plays under the same rules.

To grant an unprecedented extension of time is the same as dealing one player new cards in the middle of a hand.

Moreover, the extension would corrupt the process of amending the Constitution.

The first blow to the integrity of the amending process is the House bill's refusal to allow states to rescind their ratifications during the 39 months. The door would be open to state legislatures willing to ratify ERA. The door would be shut to states that want to withdraw their ratification.

The second and deeper wound is the precedent that would be set. An extension of time would say nothing less frightening than this:

"When it comes to amending the Constitution, it isn't the mood of the nation that controls. Nor is it the formal action of the state legislatures. What matters is the willingness of Congress to juggle the rule to produce the desired result."

By extending the time, in other words, Congress would be assuming the power to say which amendment gets a second chance. Such authority, of course, crowds close upon the fundamental power settled in the states and the people, not in Congress: The power to amend the Constitution.

A main argument of the opponents of extension cuts deeper than many realize. This is the objection that the traditional seven years is a span sufficiently short to express the consensus of the nation.

The hidden edge to this argument is that the United States is a nation virtually without consensus. The collapse of consensus politics explains the failure of ERA to get 38 ratifications in seven years. And it explains the willingness of the House to step with a daring and dangerous arrogation of power to Congress.

Consensus is absent on a range of urgent questions, issues upon which there is no common sense of direction, no essential agreement on what is right. We grow dissatisfied with presidents, governors and mayors almost as quickly as we elect them. Public opinion is so uncertain of itself, its moods so delicate that a zealous minority can frighten the wits out of hundreds of legislators.

Yes, the course of ERA is sad: Fear won. Justice lost.

The nation proved itself blind to the clearest of compass readings. By the hundreds, politicians abandoned a great question to scramble for ignoble safety and mean advantage.

But extending the time would compound the tragedy.

Extension of time would undercut the in-

tegrity of the amendment process. It would do so in the service of a cause that is right, but beyond the nation's present capacity for justice.●

SENATOR ROBERT C. BYRD'S RESPONSE TO THE PRESIDENT'S ANNOUNCED INTENTION TO VETO THE PUBLIC WORKS APPROPRIATION BILL

Mr. ROBERT C. BYRD. Mr. President, President Carter announced this afternoon his intention to veto the public works appropriation bill for fiscal year 1979.

I regret this decision. I feel it is the wrong decision, and it is my hope that the Senate will override a veto on this important legislation.

This bill has been described by the President as "budget-busting" and "pork barrel." These are catch phrases. This bill should not be sacrificed on any altar of pseudo-waste. Tell the West Virginia coal miner or the Kentucky coal miner or the Tennessee coal miner, who has seen his house float away with the rising waters or rivers, that this bill was pork barrel. Tell the farmer out West who bends down to grasp rich soil and comes up with dust that this bill is a budget-buster.

Mr. President, one cannot by any stretch of the imagination measure the loss of human lives, destruction of property, and tremendous suffering by figures on an accountant's balance sheet down at the OMB.

The battlelines against Government waste must be drawn, and this Senate is doing that. But it is counterproductive and self-defeating to shelve legislation that relieves the potential for disaster, creates jobs, and results in lasting capital improvements for many communities.

This appropriations bill is well within the ceilings of the second concurrent budget resolution for the coming fiscal year. The budget resolution reflects a course of fiscal restraint charted by this Congress.

Its spending ceilings are considerably below the projected spending set forth in the President's budget as presented to the Congress in January.

Mr. YOUNG. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. ROBERT C. BYRD. Mr. President, this is a fiscally sound measure. It funds projects that have been under study and review for years. These projects do not come about overnight.

Let me relate a story. For more than two decades I have worked to obtain funds for the R. D. Bailey Dam in southern West Virginia. It has been an inch-by-inch struggle all the way. Next year it will finally be completed.

In April 1977, heavy rains drenched southern West Virginia. Millions of dollars in damage was sustained by communities along the banks of the Tug Fork, while the R. D. Bailey Dam—not yet completed—resulted in a savings of millions of dollars to communities along the Guyandotte River.

I do not call this porkbarrel. It stands to reason that one cannot call a bill a budget-buster without factoring in how much money the Federal Government has put out year after year in disaster relief money across the country.

I hope the House will overrride the veto so that the Senate will have an opportunity to express itself on this important matter.

This is a good bill. I hope that the Senate will override the veto, and if it overrides the veto this bill should become law.

Mr. RANDOLPH and Mr. BAKER addressed the Chair.

Mr. ROBERT C. BYRD. I yield first to the minority leader, and then to my senior colleague.

Mr. BAKER. Mr. President, I thank my chairman for letting me say these few words following on the majority leader's remarks.

I commend the majority leader for his statement. I agree with it, and I support his position.

No one in this Chamber, I believe, is more dedicated to prudent and sensible fiscal policies than the Senator from Tennessee. But by the same token, Mr. President, no one in this Chamber, I believe, except possibly the Senator from Maine (Mr. MUSKIE) and the Senator from Oklahoma (Mr. BELLMON), who are chairman and ranking minority member of the Budget Committee, have more dedication to the new concept that there must be a congressional budget. That budget spells out the priorities of Congress.

In this case the congressional budget is significantly below the administration budget, and I believe we have a better ordering of priorities than do they. I believe, as the majority leader points out, that the public works appropriation bill is well within that ordering of priorities. I believe the President was mistaken in suggesting that this is a pork-barrel measure, and I shall vote, when the matter is presented to the Senate, to override the President's veto.

Mr. ROBERT C. BYRD. I yield such time as he may require to my distinguished senior colleague from West Virginia, the chairman of the Public Works Committee.

Mr. RANDOLPH. Mr. President, I thank the majority leader. I appreciate the opportunity to speak only these few words on this important issue affecting so many Americans. The majority leader is correct, the President has been improperly advised. There is faulty reasoning at the White House. It is my conviction that both the Senate and the House will override the veto if and when the President acts.

Mr. President, the public works appropriation legislation is not just expenditures but investment paying dividends for the people of the United States and strengthening the economic base of our country.

I want to underscore what our majority leader has said about the R. D. Bailey Lake. It is an important project and one which he has led an often uphill fight, year after year, to bring it to fruition so that there might be protection of property, but more importantly protection of people.

I commend him and I commend also the minority leader (Senator BAKER) for having joined in this statement of opposition to the action of the President.

Mr. ROBERT C. BYRD. Mr. President, I thank my senior colleague, and I yield to the Senator from Louisiana.

Mr. JOHNSTON. Mr. President, I thank the majority leader, the minority leader, and other Senators for their support of this override.

I believe the Senate will override this veto, because to override is the proper decision. This bill is over $800 million less than the administration budget. It happens to be, with respect to the water projects, about $25 million more. But, Mr. President, the President is very ill-advised to veto this bill. We have made every effort to try to compromise the matter with him. We have done that over a period of months. There has been no give, and there has been very little talk.

Mr. President, I think the question is, who is going to decide on water projects? The prerogative, Mr. President, under the Constitution is ours. It is our duty, and I think under the Constitution it is our right, and a right I believe we will exercise, to override this veto. I hope we will do so resoundingly when it gets here from the House of Representatives.

Mr. PROXMIRE. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield to the Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, lest there be a feeling that there is no support of the President's position, let me say that I think the President is going to do exactly the right thing if he vetoes this measure. As I understand it, the report on the wire service a minute ago was that he had not acted as yet.

Mr. ROBERT C. BYRD. But he intends to. And I told him this morning we were ready to override it.

Mr. PROXMIRE. I hope he does, because I think if Senators will look at all the figures dispassionately and fairly, they will find that the bill was passed is $8.1 billion over the President's request. If Senators look at all the figures as objectively and fairly as they can, I do not think they can come to any other conclusion.

In a year in which inflation is the No. 1 issue in this country, it seems to me that this bill, which, of course, is the one bill that serves the special interests of Members of Congress, the House and the Senate, we should heed what the President is asking us to do, and recognize that by overriding his veto, if we do that, we will be departing from what, in my view, is a sound, sensible, reasonable position on the part of the President in

asking us not to have a public works program this year, but to work together with him and eliminate some of the projects which, in my view, are very hard to defend.

Several Senators addressed the Chair.

The PRESIDING OFFICER (Mr. SARBANES). The Senator from West Virginia has the floor.

Mr. ROBERT C. BYRD. I yield first to the Senator from Louisiana (Mr. JOHNSTON), and then to the Senator from Vermont (Mr. LEAHY).

Mr. JOHNSTON. Mr. President, just one question. I ask the Senator from Wisconsin, is it not a fact that the $1.8 billion of which he speaks involves taking all of the new projects and adding the estimated expenditures over a period of, in some cases, 20 or 25 years?

Mr. PROXMIRE. Well, yes.

Mr. JOHNSTON. Aggregating all those costs?

Mr. PROXMIRE. That is the way the bill came to us from the administration. That is what they did. That is why the administration had a bill which, even though we added to it greatly, the Senate's position seems to be under that of the administration, because what we have done is provide annual funding, while the President's bill provides cumulative totals. When you put them on the same basis, we are, at one point, $1.8 billion over what the President requested.

Mr. JOHNSTON. That does not influence nor reflect inflation, what we will spend 20 years hence, does it?

Mr. PROXMIRE. If we put them both on an annual basis, we are over the President's budget, too.

Mr. ROBERT C. BYRD. I yield now to the Senator from Vermont.

Mr. LEAHY. Mr. President, I expect Senators are more eager to hear, at this point, how many more votes there will be tonight and how long we will be here than about a possible Presidential veto; but, with all due respect to the majority leader and many other Senators who have spoken against the anticipated action of the President, I do not want to leave the impression that there is a total degree of unanimity with regard to that action. I am glad to hear the Senator from Wisconsin speak as he has. I, too, will vote to sustain the President in his veto, for reasons that I will debate at great length, I expect, at the appropriate time when the matter comes before the Senate.

I have also discussed my position with a large number of Senators during the past few days. I know that there are a number of other Senators who also intend to vote to sustain the President. All of them agree that sustaining this veto does not mean that every project that is in there is gone forever and ever. A lot of the same projects can come back in another bill and be accepted. But there are those who feel that too many tax dollars are being spent, and who feel we have to take responsibility, with the House and with the President, for facing the problems of this country.

I have spoken longer than I intended. I yield back to my good friend the majority leader.

Mr. ROBERT C. BYRD. I yield to the distinguished Senator from Colorado.

Mr. HART. I thank the majority leader.

Mr. President, unfortunately the President has chosen not only to veto the bill, but to express on all sides a great deal of misinformation about it.

If one were to listen to many of our colleagues and a great deal of what is said by the local press, one would come to the conclusion that this is $10 billion of small projects for the special interests of a great number of Senators around here. Mr. President, $6 billion plus of this is for energy-related projects, and has nothing to do with water at all. There is a great deal of information coming out of the White House that flatly misstates the figures, uses untrue arguments, and is based upon the 2-year-long ignorance that this administration has pursued with regard to western water interests—at least western, if not across the whole country. Flat ignorance.

I said a couple of days ago that if this attitude had prevailed over the past several decades, there would not be a State of Colorado. That is what is involved here.

I think it would be very tragic if this Congress fell apart into regionalism, because we consider legislation around here for New England interests in terms of home heating oil; we consider legislation around here for all States, all interests, all the various regions of this country, and those of us from the western part of the country understand that without projects of this sort, and study material for projects of this sort, which is legitimate and is necessary, we would not have a Western United States.

I think it behooves all of us and all of our colleagues on the House side to understand that these projects are not something that has come up since Jimmy Carter became President. They have a 75-year history in my part of the country, and they have payback provisions. It is one of the few features in anything that the Federal Government funds or buys that provides that money is paid back to the Treasury. The White House does not respond to that argument.

I think anything we can do on this side to help our colleagues on the House side to do what is right on this would be very, very important.

Mr. ROBERT C. BYRD. Mr. President, the Senate has on numerous occasions, this year and last, held up the President's hand on some very, very tough issues. Of course, it is the President's right and duty to veto a bill if, within his judgment and based on the facts before him, he should veto it. But the Congress, under the Constitution, has the right and duty to override that veto based on the facts it has, and if it feels it should do so. I urged the President not to veto the bill. I indicated to him that I felt confident that the Senate will override the veto. We will wait and see.

In any event, I thank all Senators.

EXTENDING THE DEADLINE FOR RATIFICATION OF ERA

The Senate continued with the consideration of the joint resolution.

Mr. ROBERT C. BYRD. I want to inquire as to whether or not any Senator wishes to call up an amendment to the ERA extension resolution this evening and have a rollcall vote on such amendment this evening.

Mr. GARN. Mr. President, if the distinguished majority leader will yield, as I outlined before, I do have 4 hours on my rescission amendment. Obviously, with a time certain vote at 11 o'clock tomorrow morning I think it would be wise for me to call it up this evening and make some of the arguments to which Senator BAYH can respond. I would not expect my colleagues to stay around. I would hope they might look at the RECORD in the morning. As far as I am concerned, obviously in my case there cannot be a rollcall vote until 11 o'clock tomorrow morning, by unanimous consent. I would propose to call it up when the majority leader has finished.

Mr. ROBERT C. BYRD. Then, Mr. President, there will be no further rollcall votes today.

There is a vote set on the amendment by Mr. GARN for 11 o'clock a.m. tomorrow, but there may be an amendment to the Garn amendment, though I am not sure.

Mr. President, what time does the Senate convene under the order previously entered?

The PRESIDING OFFICER. Under the order previously entered the Senate will convene at 9 a.m. in the morning.

Mr. ROBERT C. BYRD. Very well.

Mr. President, will be distinguished Senator from Utah get the floor and yield to me briefly?

The PRESIDING OFFICER. The Senator from Utah.

Mr. GARN. I yield to the distinguished majority leader.

Mr. ROBERT C. BYRD. I thank the distinguished Senator.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a brief period for the transaction of routine morning business, with statements limited therein to 3 minutes each.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

FEDERAL-AID HIGHWAY ACT OF 1978

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Sen-

ate proceed to the consideration of Calendar Order No. 764, the Federal-Aid Highway Act of 1978, which Mr. RANDOLPH and Mr. BENTSEN are prepared to take to conference.

Mr. BAKER. Mr. President, could I have just one moment?

Mr. President, there is no objection on this side of the aisle to proceeding to the consideration of the calendar order number identified by the majority leader.

Mr. RANDOLPH. Mr. President, may we have order?

The PRESIDING OFFICER. Will Members clear the aisles and please take their seats?

Without objection, the Senate will proceed to the consideration of S. 3073, which the clerk will state by title.

The assistant legislative clerk read as follows:

A bill (S. 3073) to amend title 23, United States Code, to authorize Federal-aid highway programs through fiscal year 1980, and for other purposes.

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The Senator from Texas.

Mr. BENTSEN. Mr. President, I ask unanimous consent that the third reading which occurred on S. 3073 on Thursday, September 28, last, be vitiated.

The PRESIDING OFFICER. Is there objection? Wtihout objection, it is so ordered.

UP AMENDMENT NO. 1982

Mr. BENTSEN. Mr. President, I send to the desk an unprinted amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Texas (Mr. BENTSEN) proposes an unprinted amendment numbered 1982.

Mr. BENTSEN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill insert the following:

TITLE IV—HIGHWAY REVENUE ACT OF 1978

SEC. 401. SHORT TITLE.

This title may be cited as the "Highway Revenue Act of 1978".

SEC. 402. 5-YEAR EXTENSION OF THE TAXES WHICH ARE TRANSFERRED INTO THE HIGHWAY TRUST FUND.

(a) GENERAL RULE.—The following provisions of the Internal Revenue Code of 1954 are amended by striking out "1979" each place it appears and inserting in lieu thereof "1984":

(1) Section 4041(e) (relating to rate reduction).

(2) Section 4061(a)(1) (relating to imposition of tax on trucks, buses, etc.).

(3) Section 4061(b)(1) (relating to imposition of tax on parts and accessories).

(4) Section 4071(d) (relating to imposition of tax on tires and tubes).

(5) Section 4081(b) (relating to imposition of tax on gasoline).

(6) Section 4481(a) (relating to imposition of tax on use of highway motor vehicles).

(7) Section 4481(e) (relating to period tax in effect).

(8) Section 4482(c)(4) (defining taxable period).

(9) Section 6156(e)(2) (relating to installment payments of tax on use of highway motor vehicles).

(10) Section 6421(h) (relating to tax on gasoline used for certain nonhighway purposes or by local transit systems).

(b) AMENDMENT OF SECTION 4041(c)(3).—Paragraph (3) of section 4041(c) of such Code (relating to rate of tax) is amended to read as follows:

"(3) RATE OF TAX.—The rate of tax imposed by paragraph (2) is 3 cents a gallon."

(c) AMENDMENT OF SECTION 6412(a)(1).—Section 6412(a)(1) of such Code (relating to floor stocks refunds) is amended—

(1) by striking out "1979" each place it appears and inserting in lieu thereof "1984"; and

(2) by striking out "1980" each place it appears and inserting in lieu thereof "1985".

SEC. 403. 5-YEAR EXTENSION OF HIGHWAY TRUST FUND.

(a) HIGHWAY TRUST FUND.—Subsections (c), (e)(1), and (f) of section 209 of the Highway Revenue Act of 1956 (relating to the Highway Trust Fund; 23 U.S.C. 120 note) are amended—

(1) by striking out "1979" each place it appears and inserting in lieu thereof "1984"; and

(2) by striking out "1980" each place it appears and inserting in lieu thereof "1985".

(b) CONFORMING AMENDMENTS TO LAND AND WATER CONSERVATION FUND.—Subsection (b) of section 201 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l-11) is amended—

(1) by striking out "1979" and inserting in lieu thereof "1984"; and

(2) by striking out "1980" each place it appears and inserting in lieu thereof "1985".

SEC. 404. BYRD AMENDMENT MADE APPLICABLE TO ALL APPORTIONMENTS.

(a) GENERAL RULE.—Subsection (g) of section 209 of the Highway Revenue Act of 1956 is amended to read as follows:

"(g) ADJUSTMENTS OF APPORTIONMENTS.—

"(1) ESTIMATES OF AMOUNT AVAILABLE FOR EXPENDITURE.—The Secretary of the Treasury shall from time to time, after consultation with the Secretary of Transportation, estimate the amounts which will be available in the Trust Fund (excluding repayable advances) to defray the expenditures which will be required to be made from the Trust Fund.

"(2) INITIAL PROCEDURE WHERE THERE IS SHORTFALL.—If the Secretary of the Treasury determines that, after all other expenditures required to be made from the Trust Fund have been defrayed, the amounts which will be available in the Trust Fund (excluding repayable advances) will be insufficient to defray the expenditures which will be required as a result of the apportionment to the States of the amounts authorized to be appropriated from the Trust Fund for any fiscal year—

"(A) he shall so advise the Secretary of Transportation, and

"(B) he shall further advise the Secretary of Transportation as to the amount which, after all other expenditures required to be made from the Trust Fund have been defrayed, will be available in the Trust Fund (excluding repayable advances) to defray the expenditures required as a result of the apportionment to the States for such fiscal year.

"(3) DETERMINATION OF PERCENTAGE.—The Secretary of Transportation shall determine the percentage which the amount referred to in paragraph (2)(B) is of the amount authorized to be appropriated from the Trust Fund for such fiscal year for apportionment to the States.

"(4) ADJUSTMENT OF APPORTIONMENTS.—Notwithstanding any other provision of law, the Secretary of Transportation shall (after determining a percentage for a fiscal year under paragraph (3)) apportion to the States for such fiscal year (in lieu of the amount which but for the provisions of this subsection would be so apportioned) the amount obtained by multiplying the amount authorized to be appropriated for such fiscal year by such percentage.

"(5) APPORTIONMENT OF AMOUNTS PREVIOUSLY WITHHELD FROM APPORTIONMENT.—Whenever the Secretary of the Treasury determines that there will be available in the Trust Fund (excluding repayable advances) amounts which, after all other expenditures required to be made from the Trust Fund have been defrayed, will be available to defray the expenditures required as a result of the apportionment of funds previously withheld from apportionment for any fiscal year, he shall so advise the Secretary of Transportation. The Secretary of Transportation shall apportion to the States such portion of the fund so withheld from apportionment as the Secretary of the Treasury has advised him may be so apportioned without causing expenditures from the Trust Fund to exceed amounts available in the Trust Fund (excluding repayable advances) to defray such expenditures. Any funds apportioned pursuant to the preceding sentence shall remain available for the period for which they would be available if such apportionment took effect with the fiscal year in which they are apportioned pursuant to the preceding sentence."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to fiscal years beginning after September 30, 1978.

SEC. 405. REQUIREMENT FOR A COST ALLOCATION STUDY.

(a) STUDY DIRECTED.—The Secretary of Transportation is hereby authorized and directed, in cooperation with the State highway departments, to undertake a full and complete investigation and study of—

(1) the costs occasioned in design, construction, rehabilitation, and maintenance of Federal-aid highways by the use of vehicles of different dimensions, weights, and other specifications, and by the frequency of such vehicles in the traffic stream;

(2) the proportionate share of such design, construction, rehabilitation, and maintenance costs attributable to each class of persons and vehicles using such highways; and

(3) the need for long-term or continuous monitoring of roadway deterioration to determine the relative damage attributable to traffic and environmental factors.

(b) EVALUATION BY CONGRESSIONAL BUDGET OFFICE.—To assist the Secretary of Transportation in the conduct of the investigation and study authorized and directed by subsection (a) of this section, the Congressional Budget Office is hereby authorized and directed to make an evaluation of—

(1) the procedures to be employed in determining the equitable allocation of highway costs;

(2) the information to be collected to apply the procedures identified pursuant to paragraph (1);

(3) any special studies essential to the conduct of the investigation which can be identified and completed within the deadlines established by this section; and

(4) the procedures to be employed to insure a continuing equitable allocation of highway costs after study termination.

The Congressional Budget Office shall report its findings to the Congress and to the Secretary of Transportation within 90 days after the date of the enactment of this section. These findings shall be employed by the Secretary as guidelines in the design of the investigation and study authorized and directed by subsection (a) of this section.

(c) REPORTS.—

(1) Within 180 days after the date of the enactment of this section, the Secretary of Transportation shall report to the Congress on a plan for the investigation and study. Such plan shall include, but not be limited to, the data to be gathered; the sources of such data; the method to be used to allocate costs; the method to be used to attribute revenues; the criteria to be employed in arriving at an equitable distribution of the tax burden; the agency or agencies responsible for performance and review of the study; a projected schedule for study performance; and the estimated costs of the study.

(2) On or before January 15, 1980, and January 15, 1981, the Secretary of Transportation shall report to the Congress the progress which has been made in carrying out the study and investigation required by this section. Such progress reports shall include, but not be limited to, a discussion of any changes from the study plan as submitted under provisions of this section and of preliminary findings of the investigation.

(3) The Secretary shall report to the Congress the findings and recommendations of the study no later than January 15, 1982. Such recommendations shall include any alternative tax structures which the Secretary believes would more nearly achieve and equitable distribution of the tax burden among classes of persons and vehicles using Federal-aid highways, and the projected impact of such structures on affected industries and other users.

SEC. 406. STUDY OF EXISTING HIGHWAY EXCISE TAX STRUCTURE AND OF POSSIBLE ALTERNATIVES TO SUCH EXISTING STRUCTURE.

(a) IN GENERAL.—The Secretary of the Treasury, in consultation with the Secretary of Transportation and the staff of the Joint Committee on Taxation, shall—

(1) review and analyze each excise tax now dedicated to the Highway Trust Fund with respect to such factors as ease or difficulty of administration of such tax and the compliance burdens imposed on taxpayers by such tax, and

(2) on or before April 15, 1982, report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate as to the matters set forth in paragraph (1) and other findings, as well as recommendations on—

(A) improvements in excise taxation which would enhance tax administration, equity, and compliance, or

(B) a new system of raising revenues to fund the Highway Trust Fund which would meet the objectives set forth in subparagraph (A).

The recommendations described in paragraph (2) shall be formulated in conjunction with the recommendations of the cost allocation study under section 405 of the equitable distribution of the highway excise taxes.

(b) INTERIM REPORTS.—The Secretary of the Treasury, in consultation with the Secretary of Transportation and the staff of the Joint Committee on Taxation, shall file an interim report with the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on or before April 15, 1980, and a second interim report on or before April 15, 1981.

Mr. BENTSEN. Mr. President, this amendment adds a title IV to the Senate bill authorizing an extension of the highway trust fund. This is an amendment which I understand has been cleared by all sides.

This amendment was approved today by the Committee on Finance. The amendment would extend the highway trust fund for 5 years, from September 30, 1979, through September 30, 1984. This amendment also extends the existing highway excise taxes—at the present law rates—for this 5-year period.

I ask unanimous consent to have printed in the RECORD at this point a table listing the present highway excise taxes allocated to the highway trust fund showing the present law tax rates and the tax rates scheduled under current law as of October 1, 1979, absent this legislation.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

TABLE 2.—ESTIMATED HIGHWAY TRUST FUND TAX REVENUES UNDER PRESENT LAW TAXES AND RATES, FISCAL YEARS 1977–84

[Millions of dollars]

Tax source	1977 (actual)	1978	1979	1980	1981	1982	1983	1984	1980–84 total
Gasoline, net [1]	4,254	4,377	4,567	4,714	4,820	4,915	5,009	5,101	24,559
Diesel fuel	454	512	583	638	688	747	832	924	3,829
Trucks, etc.	708	747	790	846	912	983	1,057	1,130	4,928
Truck, etc., parts	165	200	221	239	259	280	300	320	1,398
Tires, tubes, and tread rubber	813	837	866	893	921	950	982	1,015	4,761
Use tax on heavy vehicles	240	268	277	280	294	303	313	322	1,512
Lubricating oil, net [2]	76	86	87	88	88	89	89	90	444
Total net tax receipts	6,709	7,027	7,391	7,698	7,972	8,267	8,572	8,902	41,411

[1] Net of transfers to land and water conservation fund (motorboat fuels taxes) and refunds or credits (primarily farming use).

[2] Net of refunds or credit.

Note: Details may not add to totals due to rounding.

Mr. BENTSEN. Title V of the Surface Transportation Assistance Act as passed the House, H.R. 11733, also contains a 5-year extension of the highway trust fund and the present excise tax rates. The amendment that I am offering to the Senate bill is the same as in title V of H.R. 11733, except that the House provision to exempt taxicabs from the fuels taxes is omitted.

Thus, this amendment also includes the House bill modification of the Trust Fund "Byrd amendment," the requirement for a highway cost allocation study by the Department of Transportation, and a Treasury Department study of the existing highway excise structure.

Mr. President, at this point, I ask unanimous consent to have printed in the RECORD a summary of the provisions of this amendment, as well as, a table showing Treasury's projections of the highway trust fund tax revenues through fiscal year 1984, as extended by this amendment.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SUMMARY OF HIGHWAY TRUST FUND EXTENSION TITLE

("Highway Revenue Act of 1978")

5-YEAR EXTENSION OF HIGHWAY TRUST FUND AND HIGHWAY EXCISE TAXES

Title IV extends the Highway Trust Fund for 5 years, from September 30, 1979, through September 30, 1979, through September 30, 1984. It also postpones the scheduled rate reductions of the highway excise taxes allocated to the trust fund for 5 years, from October 1, 1979, to October 1, 1984.

MODIFICATION OF THE TRUST FUND "BYRD AMENDMENT"

The operation of the trust fund "Byrd Amendment," which currently provides for reductions in apportionments only for the Interstate System when anticipated trust fund revenues will be inadequate to cover existing expenditures, is modified so that any reductions will be made on a *pro rata* basis from *all* apportioned highway trust fund programs.

HIGHWAY COST ALLOCATION STUDY

Title IV also contains a requirement for a highway cost allocation study by the Secretary of Transportation, which is to determine the costs of Federal-aid highways occasioned by the use of different types of vehicles and the proportionate share of such highway costs attributable to each category of users and vehicles. A final report is due to the Congress on or before January 15, 1982.

STUDY OF HIGHWAY EXCISE TAX STRUCTURE

Finally, Title IV directs the Secretary of the Treasury, in consultation with the Secretary of Transportation and the staff of the Joint Committee on Taxation, to review and analyze each excise tax now dedicated to the Highway Trust Fund with respect to such factors as the ease or difficulty of administration and compliance burdens. This study is to be conducted in conjunction with the cost allocation study. A final report (to the House Ways and Means and Senate Finance Committees) is due on or before April 15, 1982.

TABLE 1.—*Excise taxes allocated to the highway trust fund and present law tax rates*

Excise tax (and section of the Code)	Present tax rate	Tax rates scheduled as of Oct. 1, 1979 [1]
Retailers: Diesel and special motor fuels (sec. 4041)	4 cents per gallon	1½ cents per gallon
Manufacturers:		
Gasoline (sec. 4081)	4 cents per gallon	1½ cents per gallon
Lubricating oil (sec. 4091)	6 cents per gallon	6 cents per gallon
Trucks, buses, trailers (sec. 4061(a))	10 percent of manufacturer's price	5 percent of manufacturer's price
Truck and bus parts (sec. 4061(b))	8 percent of manufacturer's price	5 percent of manufacturer's price
Tires for highway use (sec. 4071(a)(1)) [2]	10 cents per pound	5 cents per pound
Tubes (sec. 4071(a)(3))	10 cents per pound	9 cents per pound
Tread rubber (sec. 4071(a)(4))	5 cents per pound	None
Other: Use tax on highway vehicles in excess of 26,000 pounds gross weight (sec. 4481)	Annual tax of $3 per 1,000 pounds	None

[1] At that time, revenues would go into the general fund, absent legislation to extend the trust fund.

[2] Sec. 4071 also imposes a tax of 5 cents per pound for nonhighway tires, except for a tax of 1 cent per pound on "laminated tires" (not used on highway vehicles). Revenues from these two taxes also go into the trust fund but are not scheduled for a change in rate on Oct. 1, 1979.

NOTE.—Under the House and Senate energy tax bills (H.R. 5263 in conference), the excise taxes (except for the use tax on heavy highway vehicles) applicable to buses used in public transportation and school buses would be repealed; that is, the taxes on gasoline, diesel and other motor fuels; the taxes on the purchase of buses and bus parts; the tax on lubricating oil; and the taxes on tires, tubes and tread rubber.

Mr. BAKER. Mr. President, I would like to check with one Senator on this side. I suggest the absence of a quorum.

Mr. ROBERT C. BYRD. Will the Senator withhold that?

Mr. BAKER. I do.

Mr. PROXMIRE. Mr. President, may I make a brief statement on this particular bill, if the Senator will yield?

Mr. ROBERT C. BYRD. I yield.

Mr. PROXMIRE. The Senator from Texas and the Senator from West Virginia have worked very, very hard on this bill. I know how deeply and sincerely they feel this as entirely necessary and desirable.

As I understand it, however, in this bill, in its components, and we have various elements involved—we have mass transit, the highway program, and extension of the highway trust fund, all three—in each case, they are over the budget, but slightly over the budget, as I understand it.

Mr. BENTSEN. That is correct.

Mr. PROXMIRE. Mr. President, under these circumstances——

Mr. BENTSEN. As I recall, it was about $2.5 billion per fiscal year under the House version.

Mr. PROXMIRE. Yes; I understand that. As I say, the Senator has worked very conscientiously on this. But under the circumstances, in view of the paramount importance of inflation, and in view of the fact that in my judgment the highway expenditures have been one area where I think expenditures have been excessive, I just want to be recorded as voting no on this measure.

Mr. BENTSEN. Mr. President, as the Senator from Wisconsin has stated, we have fought long and hard to keep the expenditures down because of our concern about inflation. We came very close to the administration's recommendations in that regard and came in with approximately $2.5 billion per year less than the House. Obviously, we are going to have a tough conference over this matter.

Senator JENNINGS RANDOLPH of West Virginia has been a leading proponent in this fight for trying to see that we have fiscal responsibility in this regard and trying to see that the taxpayers get their full dollar's worth when it comes to expenditures on the highway system in this country. He has been a real leader as chairman of the Environment and Public Works Committee, and I have been delighted to be able to serve under his administration of that committee.

This amendment would extend the highway trust fund with the exact provisions of the House bill, with the one exception. This exception is the exemption of taxis from paying the Federal gasoline tax. The amendment was adopted by the Senate Finance Committee.

Mr. BAKER. If the Senator will yield to me, I see the distinguished Senator from North Carolina on the floor. I wonder if he had any further inquiry.

Mr. HELMS. Mr. President, I should like to confer with the Senator from Texas privately on this and I suggest we set it aside and go on to something else.

Mr. BAKER. If the Senator from Texas will yield to me for 1 minute, I shall take this opportunity, while the Senator from North Carolina is conferring with the Senator from Texas, to pay my tribute to the Senator from West Virginia for his diligent management of this bill, to the Senator from Vermont for his efforts in this respect, and to the other members of the Committee on Environment and Public Works.

I might point out to my colleagues and I intend to point out to any audience that will listen, that the Federal Highway Trust Fund, I believe, is the only pay-as-you-go program left in Government, the only place where we collect money in advance of spending it. I think that is something that has been with us a long time, and this program may very well be the last. I commend the distinguished chairman of the committee (Mr. (RANDOLPH) for his stewardship in this area over the years, and the distinguished Senator from Vermont (Mr. STAFFORD) for his collaboration as ranking Republican on the committee. I have been happy to support highway bills in the past and expect to continue supporting them.

Mr. ROBERT C. BYRD. Mr. President, I believe the distinguished Senator from Texas is now ready.

Mr. BENTSEN. I thank the distinguished majority leader.

Mr. President, since it is now cleared by leaders on both sides, I move the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The PRESIDING OFFICER. Are there further amendments to be proposed? If there be no further amendments to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, and was read the third time.

Mr. BENTSEN. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 11733.

The Presiding Officer laid before the Senate the following message from the House of Representatives on H.R. 11733, a bill—

To authorize appropriations for the construction of certain highways in accordance with title 23 of the United States Code, for highway safety, for mass transportation in urban and in rural areas, and for other purposes.

The PRESIDING OFFICER. Without objection, the bill will be considered as having been read twice. The Senate will proceed to its immediate consideration.

Mr. BENTSEN. Mr. President, I move that all after the enacting clause of H.R. 11733 be stricken and that the text of S. 3073, as amended, be substituted therefor.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Texas.

The motion was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. The bill

having been read the third time, the question is, Shall it pass?

The bill (H.R. 11733) was passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill passed.

Mr. BENTSEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BENTSEN. Mr. President, I move that the Senate insist on its amendment to H.R. 11733 and request a conference with the House of Representatives thereon, and ask unanimous consent that the Chair be authorized to appoint conferees on the part of the Senate in the manner designated by the Chair and that all conferees be designated for the purposes of title IV of the House measure and, further, that a majority of the conferees be required to sign the conference report.

The PRESIDING OFFICER. Without objection, it is so ordered.

The motion was agreed to and the Presiding Officer appointed the following conferees on the part of the Senate:

Conferees for Title I: Senators Randolph, Bentsen, Moynihan, Burdick, Culver, Stafford, Chafee, Domenici, McClure.

Conferees for Title II: Senators Cannon, Ford, Magnuson, Schmitt.

Conferees for Title III: Senators Proxmire, Williams, Sparkman, McIntyre, Brooke, Garn, Heinz.

Conferees for Title IV: Senators Bentsen, Hansen, Randolph, Moynihan, Burdick, Culver, Stafford, Chafee, Domenici, McClure, Cannon, Ford, Magnuson, Schmitt, Proxmire, Williams, Sparkman, McIntyre, Brooke, Garn, Heinz.

Mr. BENTSEN. Mr. President, I ask unanimous consent that these comments appear immediately after the appointment of the conferees on H.R. 11733.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BENTSEN. Mr. President, this is a unique conference because four committees of the Senate will be involved with two committees of the House on this matter. There is some overlap of jurisdiction among some of the areas on which conferees have been designated by title by the Chair.

In order that there be no misunderstanding about the authority of conferees, I would state that the Environment and Public Works Committee will be conferees on title I with an overlap with the Commerce Committee on 55-mile-per-hour speed limit and the Banking Committee on Interstate transfers. A majority of the conferees of each committee must agree to the resolution of an issue where there is an overlap of jurisdiction. Commerce conferees will be working with title II, Banking Committee conferees will be responsible for title III, and Finance conferees conferring only on title IV. All conferees will confer on title IV on the House-passed bill which touches the jurisdiction of all Senate committees represented on the conference except that the Commerce Committee shall be the sole committee dealing with 121 brake standard. It is still understood that a majority of all conferees must sign the conference report before it can be submitted in the Senate.

Mr. President, I move that consideration of S. 3073 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BENTSEN. I ask unanimous consent that the Secretary of the Senate be authorized to make such technical and clerical corrections as may be necessary in the engrossment of the Senate amendments to H.R. 11733 as amended.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RANDOLPH. Mr. President, may I be heard?

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. RANDOLPH. Mr. President, I want the RECORD to indicate the constructive leadership of the Senator from Texas (Mr. BENTSEN), who is the chairman of our Subcommittee on Transportation, and the Senator from Rhode Island for their magnificent work on this important transportation package. The members of the Subcommittee on Transportation as well as all members of the Committee on Environment and Public Works have worked diligently. We hope that it will not be many days until we shall have brought fruit from the conference with the House and can pass the conference report and place it on the President's desk.

I thank the Senator from Texas personally for his attention to this matter.

Mr. BENTSEN. I thank my great friend, the distinguished Senator from West Virginia.

Mr. BAKER. Mr. President, I commend the distinguished Senator from Vermont, the ranking member of the committee, and the distinguished Senator from Rhode Island, ranking member of the subcommittee, for their diligent effort in this matter.

Mr. BENTSEN. Let me say to the distinguished Senator that it is quit proper to do that. I might say it was a pleasure working with them and it was a very cooperative effort. They were very able and diligent in the duties they performed in that regard.

CONSIDERATION OF CERTAIN MEASURES ON THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Orders numbered 1162 and 1183.

Mr. BAKER. Mr. President, reserving the right to object, I shall not object. These items are cleared on our calendar as well. We have no objection to their consideration and passage.

The PRESIDING OFFICER. Without objection, it is so ordered.

INTERCOASTAL SHIPPING ACT AMENDMENTS

The bill (H.R. 6503) to amend the Intercoastal Shipping Act, 1933, and for other purposes, was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95-1240), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSES OF THE BILL

H.R. 6503 has two primary purposes. The first is to alter the power of the Federal Maritime Commission (FMC) to suspend general rate increases or decreases in the domestic offshore trades. This is intended to avoid unnecessary interruptions in rate increases or decreases which may be lawful; to provide for refunds if rate increases go into effect and are later found illegal; and to extend the suspension power in those cases where it is needed to protect legitimate interests of the shipping public.

The second is to expedite the decisionmaking process of the FMC in its regulation of the domestic offshore trades. This will assure that the shipping public receives the benefit of prompt adjudication of matters before the Commission, and that participants will be spared the time and expense of participating in unnecessarily long and complex proceedings.

To accomplish these dual objectives, H.R. 6503 would amend the Intercoastal Shipping Act of 1933 (the 1933 Act) as follows:

Permit common carriers in the domestic offshore trades to file, without being subject to suspension, annual general rate increases or decreases of 5 percent or less, as defined in the bill. This would limit the present discretionary suspension authority now contained in section 3 of the 1933 act. However, any general increases or decreases in rates could not become effective on less than 60 days' notice.

Extend the period of suspension from 4 months to 180 days for any rate changes not filed as part of a general rate increase or decrease and for that portion of such general rate changes exceeding 5 percent per year. This suspension period could be extended for an additional 60 days for good cause;

Coupled with this modification of its suspension authority, the Commission would be required, with respect to any unsuspended portion of such general rate increases which the Commission thereafter found to be unjustified in whole or in part, to order refunds to persons charged those rates before the date of the Commission's decision;

Require the Commission to periodically promulgate guidelines for the determination of reasonable rates of return, or profit, for common carriers subject to the 1933 act;

Require the Commission to explain in detail its reasons for instituting a hearing on rate changes in the domestic offshore trades, and publish such explanation in the Federal Register;

Expedite the hearing process by specifying that for purposes of the act and the Administrative Procedures Act it is unnecessary to hold full evidentiary hearing with the opportunity to present oral testimony and cross examine witnesses; and

Set time limits (identical to those prescribed for the suspension period) for completion of rate hearings, initial decisions and final decisions thereon, and failure to reach a final decision within the specified time would result in a presumption that the rates or other tariff matters are just and reasonable.

INTRODUCTION AND BACKGROUND

Under the 1933 act, the FMC is authorized to regulate the rates assessed by oceangoing common carriers between the noncontiguous or domestic offshore areas and the continental United States and between any two or more of these noncontiguous areas to insure that such rates are just and reasonable. These areas are: Alaska, Hawaii, Puerto Rico, U.S. Virgin Islands, Guam, American Samoa, Wake Island, Midway Island, Northern Marianas, and Johnston Island.

The major common carriers in the Hawaiian trade are Matson Navigation Co., and,

to a lesser extent, U.S. Lines. In the Puerto Rican trade, the major carrier to and from Atlantic/gulf ports is the Puerto Rico Maritime Shipping Authority (PRMSA), an agency of the Commonwealth of Puerto Rico. There is, however, according to the FMC, a very strong competing tug and barge operation, conducted by Trailer Marine Transport Corp., between Jacksonville/Miami/Lake Charles, and Puerto Rico. In addition, Seatrain Gitmo, Inc., a subsidiary of Seatrain Lines, offers service between Atlantic coast ports and Puerto Rico; and Sea-Land Service, Inc., offers service between Atlantic and gulf ports and Puerto Rico.

Matson and U.S. Lines, Inc., and to a minor degree, Sause Bros. Ocean Towing, serve the trade between Guam and the United States. American Samoa is served by an American-flag carrier (Farrell) and two foreign-flag carriers (Pacific Island Transport Line and Polynesian Lines). The Northern Marianas, which recently were brought under U.S. law, are served by several small carriers primarily by transshipment through Guam.

The Virgin Islands trade is served primarily via transshipment through Puerto Rico. The major carrier providing the portion of service between Puerto Rico and the Virgin Islands in Inter-Island Intermodal Lines. Alaska is served by several large carriers and numerous, smaller tug and barge operations. Most of these, however, offer joint service with a motor or rail carrier, and consequently are regulated by the Interstate Commerce Commission.

In addition to the foregoing major vessel operating common carrier service, numerous nonvessel operating common carriers (NVO's) serve the regulated domestic offshore trades. These are generally freight consolidators that neither own nor operate vessels, but that publish tariffs and hold themselves out to provide common carrier services to the public. They usually provide services for small-lot shipments, utilizing the underlying vessel services of the major vesel operating common carriers.

Of the 10 domestic offshore areas mentioned earlier, 3 are exempt from U.S. cabotage laws so that they may be served with foreign vessels. These three are the U.S. Virgin Islands, American Samoa, and the Commonwealth of Northern Marianas.

According to the FMC, overall, there are 283 domestic regulated carriers operating in the domestic offshore trades and there are 242 domestic carrier tariffs currently on file with the FMC. The discrepancy in these numbers is explained by the fact that many household goods carriers (NVO's) operate under the single tariff of one or two large associations of such carriers. A breakdown of carriers and tariffs into various categories is reflected in the charts which follow:

Domestic regulated carriers

Vessel operators	45
Nonvessel operators	84
Household goods	150
Passenger	4
Total	283

Domestic carrier tariffs

Vessels operators	87
Nonvessel operators	91
Household goods	55
Passenger	9
Total	242

NEED FOR THE LEGISLATION

Our domestic offshore areas are unique in their almost total dependence on ocean shipping for commerce with the continental United States. Consequently, carriers, shippers, and consumers in the States, Territories, and Possessions have especially compelling interests in the stability, reasonableness, and timeliness of ocean freight rates. In Hawaii, for example, every shopping trip for daily necessities and every major purchase of a house or car is affected by domestic ocean freight rates.

By its own admission, the FMC's track record in regulating domestic offshore rates is not enviable, chiefly because of deficiencies in existing law. As indicated by the following table, the rates under investigation in a formal proceeding always take effect before the end of the proceeding and the decision is often made on a record which is several years old.[1]

[1] Under present law the duration of the FMC's suspension power for applications for rate increases in the domestic trades is limited to 120 days. Although a challenged rate which goes into effect after the 120-day suspension period may be reduced prospectively if it is found unlawful at the conclusion of a proceeding on that issue, there is no authority under the 1933 act for the FMC to require a refund of that portion of the rate which went into effect at the end of the suspension period but was later found unlawful.

PROCEEDINGS INVOLVING GENERAL RATE INCREASES SINCE APRIL 1973

Docket No.	Carrier	Date filed before Commission	Suspended	Status	Months
73-22; 73-22, sub. 1; 74-36	Matson	Apr. 20, 1973	Yes	Decision issued July 5, 1978	63
75-38	PRMSA	Oct. 2, 1975	No	Remanded to ALJ prehearing conference on remand (June 6, 1978)	34
75-57	Matson	Dec. 3, 1975	No	Initial decision rendered (July 21, 1978)	31
76-43	Matson	Aug. 5, 1976	No	do	24
77-27	TMT	June 30, 1977	Yes	Pending initial decision	14
77-28	Gulf Caribbean	do	Yes	do	14
77-48	Sea-Land	Aug. 30, 1977	Yes	Discontinued Mar. 15, 1978	12
77-49	USL	Sep. 28, 1977	Yes	Hearing commenced (Aug. 8, 1978)	11
77-51	Matson	Sep. 29, 1977	No	do	11

The most egregious example of delay in the administrative process in this regard involves the above listed applications of Matson Navigation Company for general rates filed in Docket No. 73-22. Which the FMC consolidated with a later proceeding, Docket No. 73-22-1.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

OCEAN SHIPPING ACT OF 1978

The bill (H.R. 9998) to provide for the regulation of rates or charges by certain State-owned carriers in the foreign commerce of the United States, and for other purposes, was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95-1260), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of H.R. 9998 is to strengthen the provisions of the Shipping Act, 1916, and thus, the powers of the Federal Maritime Commission (FMC) to regulate the rate-cutting practices of state-controlled carriers operating as "cross-traders"[1] in the U.S. ocean-borne foreign trade. The reason for strengthening the 1916 Act to accomplish this is to preserve legitimate competition among all common carriers engaged in the foreign commerce of the United States; to ensure the survival of the American merchant marine; to provide a means to monitor, and check if necessary, the future penetration of state-owned carriers into the U.S. trade; and to maintain and promote our international trade.

As passed by the House on July 31 by a vote of 329 to 6, and reported without amendment by the Committee, H.R. 9998 would:

1. Prohibit state controlled carriers (as defined in the bill) operating as "cross-traders" in the U.S. trades from maintaining rates or charges in their tariffs that are below a level which is just and reasonable; and from maintaining classifications, rules, or regulations in such tariffs that would result in the carriage or handling of cargo at rates or charges which are below a level which is just and reasonable.

2. Enumerate various factors which the FMC may consider in its determination of justness and reasonableness.

3. Require controlled carriers to file all rates, charges, classifications, rules or regulations, including those which result in rate levels, at least 30 days before their effective date; and within 20 days of a request from the FMC, to file a justification of its existing or proposed rates, charges, classifications, rules, or regulations.

4. Grant the FMC authority to issue an order to a controlled carrier to show cause why its rates, charges, classifications, rules, or regulations should not be disapproved. Authority is also given to the FMC to suspend such rates, charges, classifications, rules, or regulations as long as: (i) suspensions are limited to the duration of the proceedings to determine lawfulness or to 180 days, whichever is the lesser; and (ii) at least 60 days' notice of suspension is given to the controlled carrier in the case of rates, charges, rules, or regulations already in effect.

5. Provide authority to the President to stay permanently any order of suspension or final order of disapproval by the Commission if he finds such action necessary for national defense or foreign policy reasons. The Commission is directed to transmit these orders to the President, who then has 10 days after receipt of transmission from the Commission, or until the effective date of the order, whichever is later, to exercise this authority.

6. Exempt from its provisions controlled carriers of a state which has received national or most-favored-nation treatment; that has subscribed to the statement of ship-

[1] "Cross-traders" are carriers which operate in a specific trade and do not fly the flag of the exporting or importing nation in that trade.

ping policy contained in note 1 to annex A of the Code of Liberalization of Current Invisible Operations of the OECD: rates, charges, classifications, rules, or regulations of any controlled carrier in any particular trade which are covered by an agreement approved under section 15 of this Act, other than an agreement in which all of the members are controlled carriers not otherwise excluded from the provisions of this subsection; rates, charges, classifications, rules, or regulations governing the transportation of cargo by a controlled carrier between the country by whose government it is owned or controlled, as defined herein; and the United States, or any of its districts, territories, or possessions; or a trade served exclusively by controlled carriers.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER TO HOLD BILLS AT DESK

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time as H.R. 11658, the Great Lakes Vessel Act, is received, it be held at the desk pending further disposition.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time as the bill H.R. 13988 is received, it be held at the desk pending further disposition.

The PRESIDING OFFICER. Without objection, it is so ordered.

ANADROMOUS FISH CONSERVATION ACT

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 415.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 415) entitled "An Act to amend the Anadromous Fish Conservation Act to include fish in Lake Champlain that ascend streams to spawn", do pass with the following amendment:

Strike out all after the enacting clause, and insert: That the Anadromous Fish Conservation Act, as amended (16 U.S.C. 757a-f), is amended by inserting immediately after the words "Great Lakes", wherever they appear therein, the words "and Lake Champlain".

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate concur in the House amendments.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia.

The motion was agreed to.

● Mr. STAFFORD. Mr. President, I am pleased to rise in support of S. 415, a bill to amend the Anadromous Fish Conservation Act. I would also like to note and express my appreciation for the work done on this legislation in the House by my able colleague Congressman JIM JEFFORDS. I know that he is, as am I, most interested in the potential benefits that these amendments will have for the future of anadromous fisheries in Lake Champlain.

The Anadromous Fisheries Act has been interpreted in the past not to apply to most of the species of fish in Lake Champlain which ascend its tributary streams to spawn. This amendment rectifies this situation and will enable those States located on the borders of Lake Champlain to utilize funds under the act to intensify research and meanagement of these impotrant fisheries resources.

The amendments will also enable the States involved to follow through in their efforts to implement a Federal-State comprehensive fisheries plan for the Lake. The implementation of this plan should be of great benefit to existing sport fisheries in Lake Champlain. It has been estimated that if implementation is successful it will provide the sport fisherman of both New York and Vermont with thousands of days of fishing for trout and other important sportfish.

Mr. President, I would also like to note that passage of this legislation will result in no additional cost to the Federal Government. It is estimated that the plan mentioned above which is to be developed and implemented by the States of New York and Vermont may in future years result in a cost of approximately $5 million, but this cost could be easily absorbed under the act's present $20 million level of authorization, since only $6 million is being appropriated at present.

This budgetary fact, coupled with the realization that Lake Champlain is one of the 10 largest freshwater lakes in the United States having a great potential for development of an andromous fishery, should convince each of my colleagues of the necessity and potential benefits of this legislation and I strongly encourage them to support S. 415.●

RESTORATION OF CITIZENSHIP TO JEFFERSON F. DAVIS

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on Senate Joint Resolution 16.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the resolution from the Senate (S.J. Res. 16) entitled "Joint resolution to restore posthumously full rights of citizenship to Jefferson F. Davis", do pass with the following amendments:

Strike out all after the resolving clause, and insert:

That, in accordance with section 3 of amendment XIV of the Constitution of the United States, the legal disabilities placed upon Mr. Jefferson F. Davis are hereby removed, and that Mr. Jefferson F. Davis is posthumously restored to the full rights of citizenship, effective December 25, 1968.

Strike out the preamble.

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate concur in the House amendments.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia.

The motion was agreed to.

The PRESIDING OFFICER. The Chair would like to state to the Senate that on the consideration of Senate Joint Resolution 16, the House amendment was concurred in by a two-thirds vote, as required by the Constitution.

ORDER TO HOLD BILL AT DESK

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time as it is received, H.R. 1839 be held at the desk pending further disposition.

The PRESIDING OFFICER. Without objection, it is so ordered.

H.R. 11870—TO AMEND THE ACT OF JULY 19, 1940, TO AUTHORIZE ADDITIONAL APPROPRIATIONS

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House on H.R. 11870.

The PRESIDING OFFICER laid before the Senate H.R. 11870, an act to amend the act of July 19, 1940, to authorize additional appropriations, and for other purposes.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the bill be considered as having been read the first and second times and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1983

(Purpose: To strike Section 2 of H.R. 11870)

Mr. ROBERT C. BYRD. Mr. President, I send to the desk an amendment on behalf of Mr. CANNON and ask that it be stated by the clerk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from West Virginia (Mr. ROBERT C. BYRD), for Mr. CANNON, proposes an unprinted amendment numbered 1983:

On page 1 strike lines 8 through 11; and on Page 2 strike lines 1 through 10.

● Mr. CANNON. Mr. President, after 1 day of hearings which thoroughly examined the domestic tourism promotion program of the United States Travel Service, the committee reported and the Senate passed S. 2552, on April 25. That bill authorizes $1,008,000 for that program for the fiscal year ending September 30, 1979. This amount, I might add, was requested by the administration.

The House never acted on S. 2552, but instead passed H.R. 11870 on September 25.

As passed by the House H.R. 11870 contains an authorization identical to that which is in S. 2552.

H.R. 11870 as has an additional section 2, however, which provides that:

Any branch office of the United States Travel Service which is established abroad shall be open to the public for purposes of providing information regarding travel and tourism in the United States; and

In determining the foreign countries in which to establish a branch office of the United States Travel Service the Secretary shall give primary consideration to the extent to which such office would contribute to regional economic develop-

ment in the United States through increased tourism.

Mr. President, both of those provisions relate to our regional travel offices located abroad. As such they involve considerations far beyond the modest $1,008,000 authorization for USTS domestic program. Moreover, the Senate never considered these matters, and when the issue of requiring USTS offices to be open to the public was raised in the House hearings the United States Travel Service witness recommended against such a requirement.

Given the failure of either body to explore the implications of the provisions of section 2 of H.R. 11870, USTS's opposition to being required to open all of its regional offices to the public, and the reasons underlying the present policy of essentially dealing with the travel trade, the wiser course is to delete the requirements of section 2 of H.R. 11870.

The limited resource of USTS regional offices require that expenditures be targeted to give the greatest return on the dollar. The return on the dollar in this sense is an incremental increase in the number of visitors from the market where the dollar was spent.

Some years ago, as the consequence of a thorough study by an independent management consulting firm, the decision was made that USTS could earn the greatest return on its investment by limiting the number of its regional offices to those markets which supplied the most visitors to the U.S.; and confining the activities of those offices to dealing with the travel trade in a marketing role, that is, tour development.

I stress that this decision in no way denied the validity of an information role with offices open to the public. Rather, it said given the meager size of your budget, this is the way to use it most effectively.

With its limited budget, that House provision would be wasteful, and possibly chaotic, in my judgment. USTS's overseas marketing program for fiscal year 1979 is tentatively in place, and this provision would require these offices to change their programs.

Mr. President, as I understand it, in travel industry parlance, "offices open to the public" to be effective must be ground floor, street front offices in a busy commercial section. With inflation, the depressed state of the dollar, et cetera, I would hate to think of what that would mean on the Champs Elysee, the Ginza, or Piccadilly.

As to the other provision in section 2, I submit, its meaning is unclear. Moreover there is no explanation in the House committee report. It too should be deleted because there have been no hearings to determine its ramifications, and it is too broad and imprecise to give USTS any guidance as to what the agency is to do.

For the foregoing reasons, Mr. President, I move that the Senate strike all after the first section of H.R. 11870, so that it would now read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 5 of the Act of July 19, 1940 (16 U.S.C. 18d), is amended by striking out and immediately after 1977, and by inserting immediately before the period at the end thereof the following: , and $1,008,000 for the fiscal year ending September 30, 1979.

I move that the Senate pass H.R. 11870, as amended.●

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the amendments be considered en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the amendment.

The amendment (UP No. 1983) was agreed to.

The bill was ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER TO HOLD BILLS AT THE DESK

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time as H.R. 13553, the coal leasing bill, is received, it be held at the desk pending further disposition.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I make the same request for H.R. 13167, the black lung tax bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. And the same request with respect to H.R. 13991.

The PRESIDING OFFICER. Without objection, it is so ordered.

FISH AND WILDLIFE IMPROVEMENT ACT OF 1977

Mr. ROBERT C. BYRD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 2329.

The Presiding Officer laid before the Senate a message from the House of Representatives announcing its disagreement to the amendments of the Senate to the bill (H.R. 2329) to improve the administration of fish and wildlife programs, and for other purposes, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. ROBERT C. BYRD. I move that the Senate insist upon its amendment and agree to the request of the House for a conference on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Messrs. CULVER, GRAVEL, HODGES, WALLOP and MCCLURE conferees on the part of the Senate.

GRANTING THE CONSENT OF CONGRESS TO THE HISTORIC CHATTAHOOCHEE COMPACT BETWEEN THE STATES OF ALABAMA AND GEORGIA

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House on H.R. 13692.

The PRESIDING OFFICER laid before the Senate, H.R. 13692, an act granting the consent of Congress to the Historic Chattahoochee Compact between the States of Alabama and Georgia.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the bill be considered as having been read the first and second times and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

TRIBALLY CONTROLLED COMMUNITY COLLEGE ASSISTANCE ACT OF 1978

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 1215.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 1215) entitled "An Act to provide for grants to tribally controlled community colleges, and for other purposes", do pass with the following amendment:

Strike out all after the enacting clause, and insert: That this Act may be cited as the "Tribally Controlled Community College Assistance Act of 1978".

DEFINITIONS

(1) "Indian" means a person who is a member of an Indian tribe and is eligible to receive services from the Secretary of the Interior;

(2) "Indian tribe" means any Indian tribe, band, nation, or other organized group or community, including any Alaskan Native village or regional or village corporation as defined in or established pursuant to the Alaskan Native Claims Settlement Act, which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians;

(3) "Secretary", unless otherwise designated, means the Secretary of the Interior;

(4) "tribally controlled community college" means an institution of higher education which is formally controlled, or has been formally sanctioned, or chartered, by the governing body of an Indian tribe or tribes, except that no more than one such institution shall be recognized with respect to any such tribe;

(5) "institution of higher education" means an institution of higher education as defined by section 1201(a) of the Higher Education Act of 1965, except that clause (2) of such section shall not be applicable;

(6) "national Indian organization" means an organization which the Secretary finds is nationally based, represents a substantial Indian constituency, and has expertise in the field of Indian education; and

(7) "full-time equivalent Indian student" means the number of Indians enrolled full-time, and the full-time equivalent of the number of Indians enrolled part-time (determined on the basis of the quotient of the sum of the credit hours of all part-time stu-

dents divided by twelve) in each tribally controlled community college, calculated on the basis of registrations as in effect at the conclusion of the sixth week of an academic term.

TITLE I—TRIBALLY CONTROLLED COMMUNITY COLLEGES

PURPOSE

SEC. 101. It is the purpose of this title to provide grants for the operation and improvement of tribally controlled community colleges to insure continued and expanded educational opportunities for Indian students.

GRANTS AUTHORIZED

SEC. 102. (a) The Secretary is authorized to make grants pursuant to this title to tribally controlled community colleges to aid in the postsecondary education of Indian students.

(b) Grants made pursuant to this title shall go into the general operating funds of the institution to defray the expense of activities related to education programs for Indian students. Funds provided pursuant to this title shall not be used in connection with religious worship or sectarian instruction.

ELIGIBILITY GRANT RECIPIENTS

SEC. 103. To be eligible for assistance under this title, a tribally controlled community college must be one which—

(1) is governed by a board of directors or board of trustees a majority of which are Indians;

(2) demonstrates adherence to stated goals, a philosophy, or a plan of operation which is directed to meet the needs of Indians; and

(3) if in operation for more than one year, has students a majority of whom are Indians.

TECHNICAL ASSISTANCE CONTRACTS

SEC. 104. The Secretary shall provide, upon request, technical assistance to tribally controlled community colleges either directly or through contract. In the awarding of contracts for technical assistance, preference shall be given to an organization designated by the tribally controlled community college to be assisted. No authority to enter into contracts provided by this section shall be effective except to the extent authorized in advance by appropriations Acts.

FEASIBILITY STUDIES

SEC. 105. (a) The Secretary is authorized to enter into an agreement with the Assistant Secretary of Education of the Department of Health, Education, and Welfare to assist the Bureau of Indian Affairs in developing plans, procedures, and criteria for conducting the feasibility studies required by this section. Such agreement shall provide for continuing technical assistance in the conduct of such studies.

(b) The Secretary, within thirty days after a request by any Indian tribe, shall initiate a feasibility study to determine whether there is justification to encourage and maintain a tribally controlled community college, and, upon a positive determination, shall aid in the preparation of grant applications and related budgets which will insure successful operation of such an institution.

(c) Funds to carry out the purposes of this section for any fiscal year may be drawn from either—

(1) general administrative appropriations to the Secretary made after the date of enactment of this Act for such fiscal year; or

(2) not more than 10 per centum of the funds appropriated to carry out section 106 for such fiscal year.

GRANTS TO TRIBALLY CONTROLLED COMMUNITY COLLEGES

SEC. 106. (a) Grants shall be made under this title only in response to applications by tribally controlled community colleges. Such applications shall be submitted at such time, in such manner, and will contain or be accompanied by such information as the Secretary may reasonably require pursuant to regulations. The Secretary shall not consider any grant application unless a feasibility study has been conducted under section 105 and it has been found that the applying community college will service a reasonable student population.

(b) The Secretary shall consult with the Assistant Secretary of Education of the Department of Health, Education, and Welfare to determine the reasonable number of students required to support a tribally controlled community college. Consideration shall be given to such factors as tribal and cultural differences, isolation, the presence of alternate education sources, and proposed curriculum.

(c) Priority in grants shall be given to institutions which are operating on the date of enactment of this Act and which have a history of service to the Indian people. In the first year for which funds are appropriated to carry out this section, the number of grants shall be limited to not less than eight nor more than fifteen.

(d) In making grants pursuant to this section, the Secretary shall, to the extent practicable, consult with national Indian organizations and with tribal governments chartering the institutions being considered.

(e) The Secreary shall report to Congress on January 15 of each year the current status of tribally controlled community colleges and his recommendations for needed action.

AMOUNTS OF GRANTS

SEC. 107. (a) Except as provided in section 110, the Secretary shall, for each academic year, grant to each tribally controlled community college having an application approved by him, an amount equal to $4,000 for each full-time equivalent Indian student in attendance at such college during such academic year, as determined by the Secretary in accordance with such regulations as he may prescribe, except that no grant shall exceed the total annual cost of the education program provided by such college.

(b) The Secretary shall make payments, pursuant to grants under this title, in advance installments of not less than 40 per centum of the funds available for allotment, based on anticipated or actual numbers of full-time equivalent Indian students or such other factors as determined by the Secretary. Adjustments for overpayments and underpayments shall be applied to the remainder of such funds and such remainder shall be delivered no later than July 1 of each year.

(c)(1) Each institution receiving payments under this title shall annually provide to the Sercetary an accurate and detailed accounting of its operating and maintenance expenses and such other information concerning costs as the Secretary may request.

(2) The Secretary shall, in consultation with the National Center for Education Statistics, establish a data collection system for the prupose of obtaining accurate information with respect to the needs and costs of operation and maintenance of tribally controlled community colleges. The Secretary shall report annually to the Congress on such needs.

EFFECT ON OTHER PROGRAMS

SEC. 108. Except as specifically provided in this title, eligibility for assistance under this title shall not, by itself preclude the eligibility of any tribally controlled college to receive Federal financial assistance under any program authorized under the Higher Education Act of 1965 or any other applicable program for the benefit of institutions of higher education, community colleges, or postsecondary educational institutions.

APPROPRIATIONS AUTHORIZED

SEC. 109. (a)(1) There are authorized to be appropriated, for carrying out section 106, $25,000,000 for each of the fiscal years beginning October 1, 1979, and October 1, 1980, and $30,000,000 for the fiscal year beginning October 1, 1981.

(2) There are authorized to be appropriated $3,200,000 for each of such three fiscal years, for the provision of technical assistance pursuant to section 104.

(b) Unless otherwise provided in appropriations Act, funds appropriated pursuant to this section shall remain available until expended.

(c) Nothing in this title shall be deemed to authorize appropriations for the fiscal year beginning October 1, 1978.

GRANT ADJUSTMENTS

SEC. 110. (a) If the sums appropriated for any fiscal year for grants under this title are not sufficient to pay in full the total amounts which approved grant applicants are eligible to receive under this title for that fiscal year, the amounts which such applicants are eligible to receive under this title for such fiscal year shall be ratably reduced. In case additional funds become available for making such payments for the same fiscal year, such reduced amounts shall be increased on the same basis as they were reduced. Sums appropriated in excess of the amount necessary to pay in full such total cligible amounts shall be allocated by ratably increasing such total eligible amounts.

(b) In any fiscal year in which the amounts for which grant recipients are eligible to receive have been reduced under the first sentence of subsection (a) of this section, and in which additional funds have not been made available to pay in full the total of such amounts under the second sentence of such subsection, each grantee shall report to the Secretary any unused portion of received funds ninety days prior to the grant expiration date. The amounts so reported by any grant recipient shall be made available for reallocation to eligible grantees on a basis proportionate to the amount which is unfunded as a result of the ratable reduction, but no grant recipient shall receive, as a result of such reallocation, more than the amount provided for under section 106(a) of this title.

REPORT ON CURRENT FACILITIES

SEC. 111. The Secretary shall, not later than ninety days after the date of enactment of this Act, prepare and submit a report to the Congress containing a survey of existing and planned physical facilities of tribally controlled community colleges, including in his report a survey of Bureau of Indian Affairs existing and planned facilities which may be used for tribally controlled community colleges without disruption of current Bureau programs.

STUDY OF FACILITIES NEEDS

SEC. 112. The Secretary shall conduct a detailed survey and study of the academic facilities needs of tribally controlled community colleges and shall report to the Congress not later than November 1, 1979, the results of such survey and study. Such report shall include any recommendations or views submitted by the governing body of any such college and by the governing body of the tribe, and shall include detailed recommendations by the Secretary as to the number, type, and cost of academic facilities which are required, ranking each such required facility by relative need.

MISCELLANEOUS PROVISIONS

SEC. 113. (a) The Navajo Tribe shall not be eligible to participate under the provisions of this title.

(b)(1) The Secretary shall not provide any funds to any institution which denies admission to any Indian student because such individual is not a member of a specific Indian tribe, or which denies admission to any Indian student because such individual is a member of a specific tribe.

(2) The Secretary shall take steps to recover any unexpended and unobligated funds provided under this title held by an institu-

tion determined to be in violation of paragraph (1).

RULES AND REGULATIONS

SEC. 114. (a) Within four months from the date of enactment of this Act, the Secretary shall, to the extent practicable, consult with national Indian organizations to consider and formulate appropriate rules and regulations for the conduct of the grant program established by this title.

(b) Within six months from the date of enactment of this Act, the Secretary shall publish proposed rules and regulations in the Federal Register for the purpose of receiving comments from interested parties.

(c) Within ten months from the date of enactment of this Act, the Secretary shall promulgate rules and regulations for the conduct of the grant program established by this title.

(d) Funds to carry out the purposes of this section may be drawn from general administrative appropriations to the Secretary made after the date of enactment of this Act.

TITLE II—NAVAJO COMMUNITY COLLEGE

SHORT TITLE

SEC. 201. This title may be cited as the "Navajo Community College Assistance Act of 1978".

CONGRESSIONAL FINDINGS

SEC. 202. The Congress after careful study and deliberation, finds that—

(1) the Navajo Tribe constitutes the largest American Indian tribe in the United States;

(2) the Navajo Tribe has, through its duly constituted tribal council and representatives, established a community college within the boundaries of the reservation;

(3) the population of the Navajo Tribe and the best area of the Navajo reservation requires that the Navajo Community College expand to better serve the needs of such population; and

(4) the Congress has already recognized the need for this institution by the passage of the Navajo Community College Act.

AMENDMENT

SEC. 203. (a) The Navajo Community College Act (25 U.S.C. 640c) is amended by striking out section 4 and inserting in lieu thereof the following:

"STUDY OF FACILITIES NEEDS

"SEC 4. (a) The Secretary shall conduct a detailed survey and study of the academic facilities needs of the Navajo Community College, and shall report to the Congress not later than August 1, 1979, the results of such survey and study. Such report shall include any recommendations or views submitted by the governing body of such College and by the governing body of the Navajo tribe, and shall include detailed recommendations by the Secretary as to the number, type, and cost of academic facilities which are required, ranking each such required facility by relative need.

"(b) Funds to carry out the purposes of this section may be drawn from general administrative appropriations to the Secretary made after the date of enactment of the Tribally Controlled Community College Assistance Act of 1978.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 5. (a)(1) For the purpose of making construction grants under this Act, there are hereby authorized to be appropriated such sums as may be necessary for the fiscal year beginning October 1, 1979, and for the two succeeding fiscal years.

"(2) Sums appropriated pursuant to this subsection for construction shall, unless otherwise provided in appropriations Acts, remain available until expended.

"(b)(1) There is further authorized to be appropriated for grants to the Navajo Community College, for any fiscal year beginning on or after October 1, 1979, for operation and maintenance of the college, an amount equal to $4,000 for each full-time equivalent Indian student (determined in accordance with section 2(7) of the Tribally Controlled Community College Assistance Act of 1978) which the Secretary of the Interior estimates will be in attendance at such college during such year.

"(2) No grant under this subsection shall exceed—

"(A) $4,000 for each such full-time equivalent Indian student in actual attendance at such college; or

"(B) the total annual cost of the education program provided by such college,

whichever is less.

"(3) The Secretary shall make payments, pursuant to grants under this subsection, in advance installments of not less than 40 per centum of the funds available for allotment, based on anticipated or actual numbers of full-time equivalent Indian students or such other factors as determined by the Secretary. Adjustments for overpayments and underpayments shall be applied to the remainder of such funds and such remainder shall be delivered no later than July 1 of each year.

"(c) The Secretary of the Interior is authorized and directed to establish by rule procedures to insure that all funds appropriated under this Act are properly identified for grants to the Navajo Community College and that such funds are not commingled with appropriations historically expended by the Bureau of Indian Affairs for programs and projects normally provided on the Navajo Reservation for Navajo beneficiaries.".

(b) Nothing in this title or in the amendment made by this title shall be deemed to authorize appropriations for the fiscal year beginning October 1, 1978.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. BAKER. Mr. President, I ask unanimous consent that a statement in respect to consideration of this measure by the distinguished Senator from New Mexico (Mr. DOMENICI) appear at this point in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR DOMENICI

I am very pleased at this time to express my strong support for S. 1215, the Tribally Controlled Community College Assistance Act of 1977, which we are considering today. I commend Senator ABOUREZK and the staff of the Select Committee on Indian Affairs for their successful effort to bring this most important legislation to the floor of the Senate before the close of the 95th congressional session. As they are aware, title II of the bill, which authorizes funding for the Navajo Community College, has been of particular interest to me for quite some time.

Representatives from the Navajo nation came to me in 1976 outlining the problems they encountered in implementing the Navajo Community College Act which was passed in 1971. In response to their concerns, I introduced S. 468, a bill to amend the act, P.L. 92-189. I am very pleased that many of my suggested revisions have been incorporated into the House-amended version of S. 1215. This language is acceptable to me, and many officials of the Navajo nation indicated their pleasure with the final form the bill has taken.

The version of the Tribally Controlled Community Assistance Act which we are now considering recognizes the need to treat Navajo Community College, as a separate entity, rather than grouping it with other tribally-controlled colleges. This distinction is justified by the fact that a separate authorizing bill especially for the Navajo Community College was passed in December, 1971.

Under this legislation, the Navajo Community College will be eligible for the same basic grants as contained in Title I of the measure. However, with respect to construction funds, the authorizing language states that the college shall receive "such sums as necessary.". It should be noted that this is not meant to be an open-ended commitment, since requests for construction funds must be thoroughly reviewed by the Secretary.

I am also quite pleased with the per pupil expenditure allowance of $4,000 contained in S. 1215. Although the Bureau of Indian Affairs has traditionally expended approximately $6,000 per student in support of comparabale bureau institutions of higher education, the BIA allocation, up until this time, has been a mere $2,600 per pupil. Title II of the House-amended version of S. 1215, by raising the per pupil allotment to $4,000, is a more realistic figure which will insure more equitable per pupil funding allowances for the Navajo Community College.

Title II of S. 1215 will help the Navajo Community College to meet the new challenges it is now facing and those it will encounter in the years ahead. Enrollment is rising rapidly and their is a great need for the college to complete its campus at Tsaile and to develop its satellite campus program. At Tsaile, funds are needed to construct additional housing to accomodate 900 resident students, an increase of approximately 600 over the present enrollment. Moreover, a student population of 900 will necessitate additional housing for faculty as well as ancillary staff and other personnel. Under this legislation, NCC officials will be able to formulate budgets which will accommodate the expansionary effort. Navajo Community College, the first college established in an Indian reservation, has done a very creditable job. The excellent performance of the administrators of the college and others involved in its operation warrants congressional support for needed expansions and improvements.

Again, I wish to thank the formulators of this legislation for their fine efforts to upgrade the quality of postsecondary Indian education institutions. I look forward to prompt and favorable action by my colleagues on S. 1215, the Tribally Controlled Community Assistance Act of 1977.

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate concur in the House amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia.

The motion was agreed to.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Marks, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

ENROLLED FROM THE HOUSE

At 4:46 p.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

S. 3467. An act to designate the U.S. Department of Agriculture's Pecan Field Station in Brownwood, Tex., as the "W. R. 'Bob' Poage Peacan Field Station".

The enrolled bill was subsequently signed by the President pro tempore (Mr. EASTLAND).

The message also announced that the House has passed the following bill, without amendment:

S. 2376. An act to authorize withholding from salaries disbursed by the Secretary of the Senate and from certain employees under the jurisdiction of the Architect of the Capitol for contribution to certain charitable organizations.

The message further announced that the House agrees to the amendment of the Senate to the amendment of the House to the bill (S. 682) to amend the Ports and Waterways Safety Act of 1972, and for other purposes.

The message also announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 11035. An act to incorporate the U.S. Capitol Historical Society;

H.R. 11580. An act to amend title 18, United States Code, to allow the transportation or mailing to a foreign country of material concerning a lottery authorized by that foreign country, and for other purposes;

H.R. 11945. An act to authorize the Secretary of the Army to return to the Federal Republic of Germany 10 paintings of the German Navy seized by the U.S. Army at the end of World War II;

H.R. 13416. An act to amend title 10, United States Code, to modernize the permanent faculty structure at the U.S. Military Academy, and for other purposes;

H.R. 13692. An act granting the consent of Congress to the historic Chattahoochee compact between the States of Alabama and Georgia;

H.R. 13989. An act to amend section 1445 (b) of the Food and Agriculture Act of 1977 to modify the formula for distribution of funds authorized thereunder for agricultural research; and

H.R. 13991. An act to provide for the United States to hold in trust for the Susanville Indian Rancheria of Lassen County, Calif., approximately one hundred and twenty acres of land.

HOUSE BILLS HELD AT THE DESK

The following bill was read by title and held at the desk, pursuant to order of September 27, 1978:

H.R. 11035. An act to incorporate the U.S. Capitol Historical Society.

The following bills were read by title and held at the desk, pursuant to order of October 3, 1978:

H.R. 13989. An act to amend section 1445 (b) of the Food and Agriculture Act of 1977 to modify the formula for distribution of funds authorized thereunder for agricultural research.

H.R. 13991. An act to provide for the United States to hold in trust for the Susanville Indian Rancheria of Lassen County, Calif., approximately one hundred and twenty acres of land.

HOUSE BILLS REFERRED

The following bills were read twice by title and referred as indicated:

H.R. 11580. An act to amend title 18, United States Code, to allow the transportation or mailing to a foreign country of material concerning a lottery authorized by that foreign country, and for other purposes; to the Committee on the Judiciary.

H.R. 11945. An act to authorize the Secretary of the Army to return to the Federal Republic of Germany 10 paintings of the German Navy seized by the U.S. Army at the end of World War II; to the Committee on Armed Services.

H.R. 13416. An act to amend title 10, United States Code, to modernize the permanent faculty structure at the U.S. Military Academy, and for other purposes; to the Committee on Armed Services.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. JACKSON (for Mr. HASKELL), from the Committee on Energy and Natural Resources, with an amendment:

S. 3078. A bill to authorize the Secretary of Energy to enter into cooperative arrangements to contain and to reduce potential radiation exposure from residual radioactive materials, and for other purposes (Rept. No. 95-1266).

By Mr. GLENN, from the Committee on Governmental Affairs, with an amendment:

S. 3412. A bill to provide for cost-of-living adjustments in the annuity of a retired Comptroller General, and for other purposes (Rept. No. 95-1267).

By Mr. ABOUREZK, from the Select Committee on Indian Affairs, without amendment:

S. Res. 574. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to consideration of S. 857, a bill to amend the act of September 30, 1950 (Public Law 81-874) to provide education programs for Native Hawaiians, and for other purposes. Referred to the Committee on the Budget.

S. Res. 575. An original resolution authorizing supplemental expenditures by the Select Committee on Indian Affairs (Rept. No. 95-1268). Referred to the Committee on Rules and Administration.

By Mr. HEINZ, from the Committee on Governmental Affairs, without amendment:

S. 3359. An act to amend the act commonly known as the Miller Act to raise the dollar amount of contracts to which such act applies from $2,000 to $25,000 (Rept. No. 95-1269).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. SPARKMAN, from the Committee on Foreign Relations:

Marshall W. Wiley, of Florida, to be Ambassador Extraordinary and Plenipotentiary of the United States to the Sultanate of Oman.

(The above nomination from the Committee on Foreign Relations was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

POLITICAL CONTRIBUTIONS STATEMENT

Nominee: Marshall W. Wiley.
Post: Ambassador to Sultanate of Oman.
Contributions, amount, date, and donee:
1. Self, none (except for checking $1 box on Tax Form 1040 in recent years).
2. Spouse, none (except for checking $1 box on Tax Form 1040 in recent years).
3. Children and Spouses, none.
4. Parents, deceased.
5. Grandparents, deceased.
6. Brothers and Spouses, none.
7. Sisters and Spouses, none.

By Mr. SPARKMAN, from the Committee on Foreign Relations:

Donald K. Petterson, of California, to be Ambassador Extraordinary and Plenipotentiary of the United States to the Somali Democratic Republic.

(The above nomination from the Committee on Foreign Relations was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

POLITICAL CONTRIBUTIONS STATEMENT

Nominee: Donald K. Petterson.
Post: Ambassador to Somali.
Contributions, amounts, dates, and donee:
1. Self, none.
2. Spouse, none.
3. Children and Spouses, none. Names, Susan, Julie, John Petterson.
4. Parents, names; Walter H. and Moriel F. Petterson, none.
5. Grandparents, Names.
6. Brothers and Spouses, None. Names; Robert L. Petterson, Walter S. Petterson.
7. Sisters and Spouses. Names.

By Mr. SPARKMAN, from the Committee on Foreign Relations:

Goodwin Cooke, of Connecticut, to be Ambassador Extraordinary and Plenipotentiary of the United States to the Central African Empire.

(The above nomination from the Committee on Foreign Relations was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

POLITICAL CONTRIBUTIONS STATEMENT

Nominee: Goodwin Cooke.
Post: Ambassador to Central African Empire.
Contributions, amount, date, donee:
1. Self, none.
2. Spouse, Barbara B., none.
3. Children and spouses, names, Alexander, Jennifer, none.
4. Parents, names; A. G. and Mary M. Cooke, none.
5. Grandparents, deceased, none.
6. Brothers and spouses, names; Nathaniel and Nancy L. Cooke, none.
7. Sisters and spouses, names; Sarah and Gilman S. Burke, none.

By Mr. SPARKMAN, from the Committee on Foreign Relations:

Richard W. Petree, of Virginia, to be the Alternate Representative of the United States for Special Political Affairs to the United Nations, with the rank of Ambassador.

(The above nomination from the Committee on Foreign Relations was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

POLITICAL CONTRIBUTIONS STATEMENT

Nominee: Richard W. Petree.
Post: U.S. Mission to the United Nations—Ambassador.
Contributions, amount, date, donee: (If none, write none.)
1. Self, none.
2. Spouse, none.

3. Children and Spouses, Names; Mr. and Mrs. R. W. Petree Jr., Susan H., Daniel H., none.

4. Parents, Names; Mrs. Noel H. Petree, none.

5. Grandparents, Names deceased.

6. Brothers and Spouses, Names; Col. and Mrs. Bruce E. Petree, Capt. and Mrs. Noel H. Petree, Jr., none.

7. Sisters and Spouses, non applicable.

Mr. SPARKMAN. Mr. President, as in executive session, I also report favorably sundry nominations in the Diplomatic and Foreign Service which previously appeared in the CONGRESSIONAL RECORD and, to save the expense of printing them on the Executive Calendar, I ask unanimous consent that they lie on the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The nominations ordered to lie on the Secretary's desk were printed in the RECORD of September 22, 1978, at the end of the Senate proceedings.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mrs. HUMPHREY (for herself and Mr. ANDERSON):

S. 3545. A bill to authorize and direct the Secretary of the Interior to acquire certain lands for the benefit of the Mille Lacs Band of the Minnesota Chippewa Indians; to the Select Committee on Indian Affairs.

ADDITIONAL COSPONSORS

S. 2941

At the request of Mr. MATHIAS, the Senator from Tennessee (Mr. BAKER) was added as a cosponsor of S. 2941, the marriage tax bill.

SENATE RESOLUTION 574—ORIGINAL RESOLUTION REPORTED WAIVING CONGRESSIONAL BUDGET ACT

Mr. ABOUREZK, from the Select Committee on Indian Affairs, reported the following original resolution, which was referred to the Committee on the Budget:

S. RES. 574

Resolved, that pursuant to section 402 (c) of the Congressional Budget Act of 1974, the provisions of section 402 (a) of such Act are waived with respect to consideration of S. 857, a bill to amend the Act of September 30, 1950 (Public Law 874, Eighty-first Congress) to provide education programs for Native Hawaiians, and for other purposes. This waiver is necessary in view of the Committee's inadvertence in providing an effective authorization date for the program authorized in section 4 of S. 857. The Committee intended fiscal year 1980 to be the effective authorization date. Such waiver will permit consideration of an amendment to section 4 of S. 857 to correct this oversight.

SENATE RESOLUTION 575—ORIGINAL RESOLUTION REPORTED AUTHORIZING SUPPLEMENTAL EXPENDITURES BY THE SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. ABOUREZK, from the Select Committee on Indian Affairs, reported the following original resolution, which was referred to the Committee on Rules and Administration:

S. RES. 575

Resolved, That section 1 of Senate Resolution 368, Ninety-fifth Congress, agreed to March 6 (legislative day, February 6), 1978, is amended by striking out "the close of the Ninety-fifth Congress to expend not to exceed $518,000 from the contingent fund of the Senate, of which amount not to exceed $12,000" and insert in lieu thereof "February 28, 1979, to expend not to exceed $621,600 from the contingent fund of the Senate, of which amount not to exceed $14,000".

SENATE RESOLUTION 576—SUBMISSION OF A RESOLUTION WAIVING CONGRESSIONAL BUDGET ACT

Mr. KENNEDY submitted the following resolution, which was referred to the Committee on the Budget:

S. RES. 576

Resolved, That the provision of section 303 (a) of the Congressional Budget Act of 1974 are waived with respect to consideration of an amendment relating to a refundable investment tax credit intended to be proposed by Mr. Kennedy (for himself and other Senators) to H.R. 13511. Such waiver is necessary in order to enable the Senate to consider changes in the investment credit in addition to those recommended by the Committee on Finance in H.R. 13511.

AMENDMENTS SUBMITTED FOR PRINTING

REVENUE ACT OF 1978—H.R. 13511

AMENDMENT NO. 3689

(Ordered to be printed and to lie on the table.)

Mr. MORGAN (for himself, Mr. HELMS, Mr. MATHIAS, and Mr. SARBANES) submitted an amendment intended to be proposed by them, jointly, to H.R. 13511, an act to amend the Internal Revenue Code of 1954 to reduce income taxes, and for other purposes.

AMENDMENT NO. 3690

(Ordered to be printed and to lie on the table.)

Mr. NELSON (for himself and Mr. WEICKER, Mr. HATHAWAY, Mr. PACKWOOD, Mr. MCINTYRE, Mr. HEINZ, and Mr. LEAHY) submitted an amendment intended to be proposed by them, jointly, to H.R. 13511, supra.

ACCELERATED AND SIMPLIFIED DEPRECIATION FOR SMALLER BUSINESSES

● Mr. NELSON. Mr. President, today I am submitting an amendment to the Revenue Act of 1978, H.R. 13511, on behalf of myself and Senators WEICKER, HATHAWAY, PACKWOOD, MCINTYRE, HEINZ, and LEAHY. I ask that the text of the amendment be printed in the RECORD following my remarks.

DESCRIPTION OF THE AMENDMENT

This amendment would allow businesses of all sizes to use a 3-year straight-line depreciation method on the first $25,000 of equipment and machinery purchased each year. Above that level, depreciation would have to be computed under the present system.

RETENTION OF INVESTMENT TAX CREDIT

Under the present law, a business receives a 10 percent investment tax credit for investment in assets with a useful life of 7 years or more. The credit is reduced to two-thirds for assets with a useful life of 5 or 6 years and to one-third for assets with a useful life of 3 or 4 years. The investment tax credit cannot be claimed for assets having a useful life of less than 3 years.

This proposal would permit a business to depreciate an asset in 3 years regardless of its normal useful life. Assets with a useful life of 7 years or more would receive full investment tax credit of 10 percent. Assets with a useful life of 5 or 6 years would receive two-thirds credit and assets with a useful life of 3 or 4 years would receive one-third credit. Thus, the amount of the investment credit to which a business would otherwise be entitled, under current law, would not be reduced because the business elected to use 3 year accelerated straight-line depreciation.

PURPOSE OF THE AMENDMENT

As a matter of historical background, it must be noted that the small business community has always been the cutting edge of the American free enterprise system.

However, during the past quarter-century economic forces and public policy have created a hostile environment for small business: increasing barriers to capital formation, massive and unnecessary paperwork, proliferating regulation, the spread of anticompetitive practices, and unequal treatment under the law. These conditions threaten the future of small enterprise in this Nation.

There are about 14 million business enterprises in the United States and 97 percent of them are "small business' according to the standards of the Small Business Administration.

Small business desparately needs to continue to make significant technological and innovative contributions to our Nation's economy. In order to maintain a viable small business community, the rate of capital recovery for business investment must be improved. To accomplish this goal, small business should be afforded a simplified method of depreciation.

This proposal will make available a massive simplification of depreciation for millions of U.S. businesses which are defined as small business. Second, small- and medium-size independent businesses which have difficulty obtaining outside capital, will be able to raise additional funds through internal generation of cash.

At present the average of asset lives is about 10½ years. This proposal would shorten the period of recovery to 3 years

for most businesses. A 10-year period is too long for smaller firms, particularly when inflation is reducing the value of the dollars they recover and simultaneously raising the prices on new and replacement equipment.

DIFFERING USE OF CAPITAL RECOVERY PROVISIONS OF THE INTERNAL REVENUE CODE

A series of studies have shown that even those small businesses which possess depreciable assets lag far behind in using the special capital recovery provisions of the law. A good example is the asset depreciation range (ADR) provision which allows a 20-percent shortening or lengthening of the "useful life" of equipment or machinery. The Finance Committee bill would increase the ADR range from 20 to 30 percent at an additional cost over present law of some $3 billion by 1983.

Capital intensive businesses such as manufacturing firms and utilities are most likely to take advantage of ADR. However, according to a 1974 Treasury study, only 0.7 percent of all corporations or 11,042 corporations out of a total 1.6 million corporations surveyed elected ADR. Only one-half of 1 percent of all corporations with less than $5 million in total assets elected ADR. Over 90 percent of all corporations with total assets of more than $1 billion elected ADR.

Clearly, ADR is used primarily by only the largest corporations and its application is quite narrow. The committee bill would continue this pattern of benefits without providing any relief for 99 percent of the Nation's corporations. The following table illustrates this point:

USE OF ADR SYSTEM BY BUSINESSES OF DIFFERENT SIZES

Size of total assets	Total number of firms in population	Firms electing ADR	
		Number	Percent
$1 to $500,000	1,493,000	5,482	1.0
$500,000 to $1M	56,000	1,064	2.0
$1M to $5M	42,000	1,788	5.0
$5M to $10M	5,000	665	13.0
$10M to $50M	4,000	991	28.0
$50M to $100M	625	304	49.0
$100M to $200M	396	242	61.0
$200M to $300M	156	107	69.0
$300M to $600M	203	167	82.0
$600M to $1B	88	80	91.0
Over $1 billion	166	152	94.0
Total	1,601,634	11,042	.7

Note: Only 0.7 percent of all corporations or 11,042 corporations out of 1,601,634 corporations surveyed elected to use ADR. Moreover, only ½ of 1 percent of all corporations with less than $5 million in total assets elected ADR.

Source: 1974 Statistics of Income, Department of Treasury.

Since big business already receives over 90 percent of the nearly $3 billion appropriated for ADR in the Finance Committee bill, small business should also be afforded a simplified method of capital recovery which would provide a greater after tax rate of return on investment to facilitate capital formation.

Although our proposal is limited to the first $25,000 of annual investment it is broadly applicable. The Joint Committee estimates that over 80 percent of all business enterprises purchase less than $25,000 in machinery and equipment each year.

The Finance Committee failed to adopt special depreciation provisions for small business contained in the House bill which would have increased the maximum deduction for additional first year depreciation from the present $2,000 to $5,000. In so doing the committee bill is totally devoid of any improvement in depreciation methods for small business.

Moreover, the general posture of the committee bill fails to achieve a proper balance between big and small business. In addition to an increase in depreciation deductions, the business tax reductions in the committee bill include an increase in the amount of tax liability that may be offset by the investment tax credit and substantial cuts in corporate tax rates. The committee bill distributes a disproportionate share of these benefits to larger businesses at the expense of the small business community.

In 1983, when the Revenue Act of 1978 reported by the Finance Committee becomes fully effective, small businesses—with less than $100,000 in taxable income—will receive, just are 10 percent of of the benefits, compared to almost 90 percent for the largest corporations which already possess most of the tax and economic advantages. The following table details the dollar amounts allocated to small- and medium-sized businesses, and also how these tax savings would be allocated on a percentage basis.

SMALL BUSINESS SHARE OF H.R. 13511 (WHEN FULLY EFFECTIVE IN CALENDAR YEAR 1983)

[Dollars in billions]

	Dollar amount to—		Dollar benefit to small business
	Small business[1]	Big business[2]	
Corporate rate reductions	[1] 1.1	6.2	15.5 percent.
Depreciation—30 percent ADR	(4)	2.8	
Investment credit—90 percent offset	(4)	.8	
Total	1.1	9.8	11.22.

[1] Small business (taxable income under $100,000).
[2] Big business (taxable income over $100,000).
[3] Millions.
[4] Negligible.

SUMMARY

The 14 million enterprises in the Nation which are considered small businesses are entitled to a larger share of the bill's corporate tax reductions. These firms also have the greatest need for faster capital recovery and have an overriding need for simplification of this area of the law. These businesses account for 55 percent of the jobs in the private labor force—59 percent if farming is included—48 percent of the business output, and 43 percent of the gross national product and more than half of all innovations.

In order to achieve a proper balance on the business side of the tax cut, small business should be given the benefit of the 3 year straight-line depreciation.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 3690

At the appropriate place in the bill, strike out Section 361, and insert in lieu thereof a new Section 361, as follows:

DEPRECIATION REFORM

SEC. 361(a). Section 167 of the Internal Revenue Code of 1954 (relating to depreciation) is amended by adding at the end thereof the following new subsection:

"(q) THREE-YEAR USEFUL LIFE, STRAIGHT-LINE DEPRECIATION.—

"(1) GENERAL RULE.—In the case of a taxpayer who has made an election under this subsection for the taxable year, the term 'reasonable allowance' as used in subsection (a) means (with respect to property which has a useful life of 36 months or more) an allowance based on a useful life of 36 months computed under the straight-line method (within the meaning of subsection (b)(1)).

"(2) $25,000 BASIS LIMITATION.—For purposes of this subsection, the basis (as determined under subsection (g)) of property placed in service during the taxable year shall, to the extent that such basis exceeds $25,000 for the taxable year, not be taken into account.

"(3) ELECTION.—An election under this subsection for any taxable year shall be made at such time, in such manner, and subject to such conditions as may be prescribed by the Secretary by regulations."

(b) Subsection (c) of section 46 is amended by adding at the end thereof the following new paragraph:

"(6) APPLICABLE PERCENTAGE IN THE CASE OF THREE-YEAR USEFUL LIFE, STRAIGHT-LINE DEPRECIATION.—Notwithstanding subsection (c)(2), in the case of property with respect to which an election under section 167(q) applies, the useful life of any such property for purposes of this subpart shall be the useful life determined without regard to section 167(q).".

EFFECTIVE DATE

(c) The amendments made by the foregoing sections of this Act shall apply in the case of property acquired after the date of enactment of this Act and placed in service in taxable years ending after the date of enactment of this Act.

(d) Section 179 of the Internal Revenue Code of 1954 is hereby replealed.●

EQUAL RIGHTS AMENDMENT DEADLINE EXTENSION—HOUSE JOINT RESOLUTION 638

AMENDMENT NO. 3691

(Ordered to be printed and to lie on the table.)

Mr. STEVENSON submitted an amendment intended to be proposed by him to Amendment No. 3675 proposed to House Joint Resolution 638, a joint resolution extending the deadline for the ratification of the equal rights amendment.

● Mr. STEVENSON. Mr. President, I was an original cosponsor of the equal rights amendment, and I continue to support its adoption.

The resolution to extend the time for ratification of ERA, however, raises an

issue distinct from the issue of equal rights and just as important. It is an issue of political due process.

An amendment to the Constitution aimed at securing fairness must itself be secured by means that are fair, and fairness requires the ratification process to produce a reasonably "contemporaneous" expression of the public's opinion. The Constitution requires as much.

Ten years for ratification is a long time. The public's opinion can change. An opinion expressed in the last State to ratify—as long as 10⅓ years after adoption of the amendment by Congress—does not assure a reasonably contemporaneous expression of opinion.

We are faced with this issue of due process by the efforts of ERA supporters to change the procedure established by law in order to secure the adoption of the amendment with more time. We are asked to give one side 3⅓ more years. An amendment approved by means which accorded one side more time and the other no time in which to seek rescissions could earn the disrespect of the public and disserve the very cause of equal rights it is intended to advance. It would be unfair. The equal rights amendment could paradoxically be procured by unequal methods.

In these unprecedented circumstances the States should be able to rescind their ratifications during the period of extension.

But the decision as to whether rescissions ought to be considered is a determination the Congress can only make at the time of purported ratification of the amendment. It is not clear that even the Congress is accorded by the Constitution power to approve rescissions. Any action by this Congress regarding rescissions would be premature, to say the least, misleading to the States and nonbinding upon the Congress in the future and the courts.

The approval of Senator GARN'S amendment would signify congressional approval of rescission. The defeat of this amendment would signify congressional disapproval of rescission. And the Congress can at this time make neither decision. It cannot bind a future Congress. If the Supreme Court concedes the Congress a voice on rescission and 38 States ratify, then the Congress will face the decision—no matter what we do now. Only then could the Congress make a wise decision, considering then when the requisite States have ratified, whether ratification expresses a contemporaneous opinion or whether rescissions deprived ratification of that effect. The Congress now should be neutral on the question of rescission. It should state that it is neutral. Otherwise Congress will imply a decision it cannot make and mislead the public. I, therefore, submit an amendment when states that the Congress expresses no opinion on the validity of a State's action to rescind its ratification. This amendment states the law. It states fact. It is the only course the Congress can take without misleading the public.

The legal basis upon which I recommend this course is open to no serious challenge.

The Congress in the case of the 14th amendment made a decision with respect to this very issue—the acceptance or rejection of rescissions after ratification by the requisite number of States. The Supreme Court in *Coleman* v. *Miller*, 307 U.S. 433 (1939), has stated that this question is "an open one for the consideration of the Congress when, in the presence of certified ratifications by three-fourths of the States, the time arrives for the promulgation of the adoption of the amendment." (307 U.S. 433, 454.) Never has the Congress purported to make the decision on rescission before the requisite ratifications have taken place.

Such guidance as has been provided by the Court in Coleman and earlier in *Dillon* v. *Gloss*, 256 U.S. 368 (1921), indicates that it is the responsibility of the Congress to insure that ratification represents a "reasonably contemporaneous expression" of the will of the people. Rescissions by States bear upon the issue. Logically and legally, as well, the "reasonably contemporaneous" determination can be made only by the Congress at the time of purported ratification. Only then can Congress evaluate the reasonableness of the period of time which has elapsed between congressional approval and ratification of the amendment. And only the Congress then can determine whether efforts to rescind by States ought to be taken into account in deciding whether the purported ratification represents a reasonably contemporaneous expression of the will of the people.

That determination may well be affected by the number of years during which the amendment has been considered, the number of States which have attempted to rescind their ratifications, and the procedures by which such rescissions were accomplished. These are facts not before the Congress now and facts without which a reasoned—and reasonable—policy with respect to rescission cannot be adopted. Nor can we, or should we, attempt to prejudge that question for the Congress or the Court which will have those facts before them.

House Joint Resolution 638 neither prohibits nor encourages rescission. But the amendment offered by Senator GARN, whether adopted or rejected, would be construed as an expression of congressional intent one way or the other and a signal to the States. Yet. such an expression would not be binding on a future Congress—and it would be premature. If forced to a vote one way or the other on the Garn amendment, I would vote for it as marginally preferable to voting against it in these circumstances.

This amendment is preferable. It in no way affects the rights of States to rescind, if they have that right, nor does it mislead States as to how rescissions will be received in Congress. Neither does it prejudge the justiciable issue of whether the Congress has any power to consider the effect of purported rescissions after the requisite number of States have ratified. It simply recognizes the facts and the law—that the determination as to the validity of rescissions lies with the Congress in the future, if at all.

Mr. President, I ask unanimous consent that the amendment be printed in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 3691

In lieu of the matter proposed to be inserted, insert the following: *"Provided, however,* That the Congress expresses no opinion with respect to the effect of the action of a legislature of any State in rescinding its ratification of such article of amendment".●

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BAYH. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate today, beginning at 2 p.m., to hold a markup session on S. 3242, the Boundary Waters Canoe Area Wilderness in Minnesota bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

NATIONAL AQUACULTURE ACT OF 1978

● Mr. WEICKER. Mr. President, I would like to again express my congratulations and gratitude to all those involved in both the House and Senate for expeditiously moving H.R. 9370, the National Aquaculture Act of 1978, through all of its hurdles and thus clearing the way for the President's signature.

I believe that aquaculture will be an important part of America's food industry in the near future.

Heavy pressures on the wild stocks of fish all over the world will eventually cause serious depletions. Additionally, increasing demands for seafood and a huge trade deficit due to imports of fish products makes aquaculture an attractive addition to the U.S. fisheries. Now is the time to start building our aquaculture industry with short-term Federal assistance.

I urge the President to join Congress and sign this important legislation.●

THE COURAGE OF MISS ALICE BRICKACH

● Mr. PELL. Mr. President, I would like to bring to the attention of my colleagues in the Senate an article which recently appeared in the Pawtucket (R.I.) Evening Times. It is an article detailing a dramatic display of courage by Miss Alice Brickach, of Pawtucket, since an automobile struck her down on October 30, 1977. Miss Brickach was hospitalized following the accident—a victim of severe brain damage. She was forced to re-

learn everything in life usually taken for granted. From that point on she began the long fight toward a return to good health and a normal life. Only a month ago did Miss Brickach become able to distinguish colors again. Just a few days ago, however, Alice participated in a Hiker's Club 10-mile walk along Newport's Cliff Walk—an example of the fortitude which has sustained her throughout the trying, difficult days since last October.

It is heartening to me to claim as a constituent a woman who has shown such tenacity and relentless spirit in the face of an overwhelming challenge and I congratulate Miss Brickach on her victory in this battle and extend to her my best wishes for the future.

Mr. President, I ask at this time that the article be printed in full in the RECORD, for the benefit of my colleagues in the Senate.

The article follows:

THE ROAD TO REALITY: I'VE COME A LONG WAY

(By Mike D'Ambra)

She can smell the fragrance of the flowers again, feel the freshness of the ocean spray.

She can tell time once again, or pick up a tomato knowing it is a tomato and its color is red.

Less than a year ago, Alice Brickach could do none of those things.

It's been a long, hard road back to reality.

When the Pawtucket woman completed a recent 10-mile hike with the Hikers Club of Rhode Island, she confided:

"People don't know what that means for me . . . how far I've come in 11 months.

On the night of Oct. 30, 1977, she was crossing Smith Street in Providence, near the State House, going to a concert at nearby Veterans Auditorium. She was struck by a car and badly injured.

"My brain was damaged," Miss Brickach said. "I was hospitalized for a long time. I'm still undergoing treatment.

"I had to learn everything in life all over again . . . I was like a newborn baby.

She couldn't distinguish colors. She had to learn again how to speak.

"I didn't know why I was in a hospital room. Then when I finally got home, I didn't even know what simple things, like a vegetable were," she said.

Her memory so failed her, she said, that she couldn't even name the parts of her body.

"Only about a month ago, I began to taste things again and to recognize colors," she said.

Miss Brickach, who is 54 and lives at 265 Evergreen St., Pawtucket, realizes she still has a long way to go to return to good health. But she's thankful for each forward step she's taken in the months since the accident.

Being able to join the Hikers Club for the 10-mile tour of Newport's Cliff Walk sustained her belief that she can overcome the obstacles resulting from the accident in much the same way she was able to overcome her earlier long fights against alcoholism.

"That's something I've been reluctant to talk about publicly, although people have been trying for years to get me to speak about it," she said. "Probably now is the right time, because if my story helps other people face up to their own adversities and to be grateful for the things they have, then the telling would serve a purpose."

Miss Brickach said the types of steps and the kinds of prayers she used to control alcoholism are much the same as those she is now using to return to a normal life.

Once, Alice Brickach seemed to have everything going for her.

A graduate of West High School and Bryant College, where she was trained as a secretary, she later earned a bachelor of science degree in business administration and a master of arts degree in education, guidance and counseling at the Univeristy of Rhode Island.

She was named secretary of the year by the Pawtucket Chapter of the National Secretaries Association in 1959. She won certification as a professional secretary in 1965.

She traveled extensively, to places like Mexico, South America, England, much of Europe, the Canary Islands, Israel. Her last job was as a department secretary in the department of pediatrics at Women & Infants Hospital, Providence.

Religious studies occupied much of her time, at such places as the Salamanca Summer Ecumenical Institute in Spain, the College of Preachers in Washington, the Carl Jung Institute in Switzerland, the School of Pastoral Care in Whitinsville, Mass

For 23 years she held posts of executive, confidential and administrative secretary at the Cumberland Engineering Co. Inc., South Attleboro. Many of her duties there were of a "prestige nature."

"Then, as I went to meetings and dinners I began to drink more and more. At home, when friends would come in to help with something, I'd have a cocktail. And when they asked why didn't I have something to eat, I'd have an extra cocktail. When you drink, there's a temporary rise in spirits. But after you reach a certain level and life seems pretty good, you seem to start going downward. I went downward."

She said after her boss of 23 years died, she went deeper and deeper in her depression.

The situation got so bad that her brother made her realize she was an alcoholic and insisted she get help through Alcoholics Anonymous.

"None of my friends thought of me as an alcoholic. But I was. I was frightened when I first called AA. I attended my first AA meeting alone at Grace Church in Providence," she said.

Through AA and the help of friends like the Rev. Aaron Usher of St. Martin's Episcopal Church and his wife, Miss Brickach was able to weather the storms of her first crisis, alcoholism. And the Ushers again came to her aid in her second crisis, the accident.

Recalling the accident now, she says that a few weeks before it happened an "inner voice" told her she'd "have a difficult time going through the door." She still doesn't know, with certainty, what that meant. Did it simply mean she wouldn't get to the concert? She didn't. Did it mean that despite the tragic accident her life wasn't meant to end?

What she does understand is that she's already come a long way on the road back to a normal life. The hike in Newport was a big step ahead.

"Everything is new to me now," she said, "the city, the state, the world—everything." ●

DAY OF BREAD

● Mr. DOLE. Mr. President, today, October 3, is the international "Day of Bread." In observance of this event, we join with all nations creeds and cultures around the world as the family of man giving thanks for the annual harvest, a tradition as old as civilization itself.

The problems are enormous and the goal may not be reached in our lifetime. But great strides are being made. Each year that fantastic equation involved in food economics production and distribution comes into sharper focus. I urge my colleagues to support measures on behalf of American agriculture and not to forget our less fortunate brothers in other countries.

In token of and as a reminder of these values, I join my colleague from Kansas in the House of Representatives (KEITH SEBELIUS) in offering each of you a simple and marvelous gift * * * a loaf of bread. We ask only that you enjoy the bread and hope it provides food for thought as well.

The Day of Bread Committee represented by Mr. Jerry Rees, president of the National Association of Wheat Growers, Mr. Roy Henwood, vice president of the Millers' National Federation, and Mr. Robert Wager, president of the American Bakers Association, will release from the mall today weather balloons, carrying wheat, flour, and bread. This will be a graphic demonstration of the spirit of the occasion.

We are told the balloons can rise to 65,0000 feet and travel 4 days to Europe. Ideally, all our surplus agricultural products should find their way to foreign markets in need. As in American agriculture, today's ceremony is subject to forces of nature beyond our control. The balloons, in order to have upward thrust, require a measured degree of inflation. If they rise too rapidly toward the Sun, they may burst. If drenched by rain, they may fall into the sea.

We can only hope that our shipment will touch land across the Atlantic and be recognized for the significance of the symbolism of their cargo. We are aware of the enormous risks and small chances for success. But in life, we will, nevertheless, try our very best. ●

NEW CNO SUPPORTS V/STOL

● Mr. HART. Mr. President, last Thursday the new Chief of Naval Operations, Admiral Hayward, addressed the National Aviation Club and Aero Club. In his remarks, he made some extremely important observations about the future of naval aviation. After defending the viability and utility of the large aircraft carrier, which I among others continue to question, he stated:

Has the hour arrived for another Billy Mitchell? Is there a new and better way to do the Navy's mission than to perpetuate this gargantuan of the seas (the large carrier)? Clearly, the time is now to insist that the Navy remove its blinders, if it has them on, and explore realistic alternatives to the future of tactical aviation.

We must not be wedded to conventional solutions to tomorrow's threat. The most promising near term development seems to be associated with vertical lift aviation, VSTOL, or as some call it—powered lift.

In other words, is there a way to do away with the catapult and arresting gear in the design of aircraft carriers in the future? Surely the Navy must not be found parochial on this issue; and let me assure you, we will not.

I have recently established a policy requiring that we pursue a program of VSTOL alternatives in just as aggressive a manner as the Department of Defense and Congress will permit.

Further, I am intent that we will examine ways in which to put more sophistication into our weapons themselves, minimizing the complexity of the airplane and the carrier to the maximum degree possible.

I am convinced we must capitalize on our technological superiority if we are to maintain our lead over the Soviet Union and to fulfill the basic mission of the United States Navy as it is understood by your countrymen.

We will not be found wanting. So for those of you who find particular encouragement in the concepts of smaller, more numerous and inexpensive ships, you will especially appreciate the manner in which the Columbia Encyclopedia suggests the dinosaur met its demise, and I quote:

". . . The inability of the large, clumsy dinosaurs to compete with the small, fleet mammels, which were gradually becoming more numerous at the time, contributed to the dinosaur's extinction."

The carrier is far from that situation today, but the suggestion is clearly worth heeding.

If the uniformed Navy adopts this viewpoint and puts it into practice, we will have made a major step toward a new naval aviation, one which, through dispersion of its aircraft onto a much larger number of ships, will not only be more survivable but also more flexible and useful.

The Senate's action on this year's defense authorization bill was fully in concert with the views of the new CNO. We included in that bill a four-point program for light carriers equipped with V/STOL aircraft. This year's Senate actions should permit us to have the first V/STOL carrier at sea within 2 years.

A most important policy which should logically result from the CNO's position is Navy acceptance of the AV–8B+, a naval version of the Marine Corps' Advanced Harrier V/STOL aircraft. It is only through this aircraft that we can have V/STOL in the Navy before the late 1990s. Indeed, the Navy's action in dropping the type A V/STOL from its plans, and the unrealistically high performance criteria for the type B V/STOL, suggest that incremental developments of the Harrier are probably the only way the Navy will ever have V/STOL.

Although the AV–8B+ is subsonic, it could be a fully viable Navy aircraft in the context of the CNO's statement that:

We will examine ways in which to put more sophistication into our weapons themselves, minimizing the complexity of the airplane.

With modern "smart" weaponry, such as long range and/or all-aspect air-to-air missiles, the AV–8B+ could be a match for supersonic aircraft in many situations. The AV–8B+ will not be able to replace the F–14, but it could certainly complement it effectively.

Admiral Hayward stated in his remarks that he will move forward with V/STOL as rapidly as the Department of Defense and the Congress will permit. I strongly urge my colleagues to support the CNO in moving forward as rapidly as we possibly can. If it requires twenty years to put V/STOL to sea in significant numbers, we are not likely to obtain any net gain vis-a-vis the Soviets. They will have had sufficient warning to prepare effective counters to our new posture. If we are to move effectively, we must move quickly. I hope the Navy, the Department of Defense and the Congress can and will work together to do so.●

FINANCIAL DISCLOSURE OF PATRICK J. AND MARCELLE P. LEAHY

● Mr. LEAHY. Mr. President, throughout my public life, I have made voluntary financial disclosures. This annual exercise is rarely a source of consternation save for my law school classmates who complain that I am a drag on the class financial average.

The format of the disclosure is the same as last year, and I ask to have printed in the RECORD.

Net assets of Patrick J. Leahy and Marcelle P. Leahy as of July 15, 1978

Equity (appraised value less outstanding mortgage balance) in Vermont home	$32,432.00
Equity (appraised value less outstanding mortgage balance) in McLean, Va., residence used by Leahy family during Senate session	17,000.00
Amount paid in and on deposit in Federal Retirement System as of July 1, 1978	13,719.39
Life insurance cash value	2,000.00
Total of all personal property (furniture, savings accounts, automobiles, clothing, etc.) less personal liabilities in the form of non-mortgage loans outstanding to Vermont banks	18,000.00
Total net assets	83,151.30
Total income in addition to Senate salary (reported in detail with Secretary of Senate)	8,525.00

	1977	1978
Net worth	$45,132.00	$83,151.34
Taxes paid previous year (Federal, Vermont, and local)	10,240.00	15,165.50
Outside income previous year	2,246.00	8,525.00

The increase in our net worth reflects, primarily, an increase in the appraisal of our Vermont and Virginia homes.

As noted in the statement, my wife and I paid a total of $15,165.50 in Federal, Vermont, and local taxes. As in previous years, however, my income tax return is available for inspection by anyone who wishes to do so.●

LETTERS OPPOSE H.R. 5285, SECTION 25

● Mr. ABOUREZK. Mr. President, the Senate may soon be asked to consider H.R. 5285, the Medicare-Medicaid Administrative and Reimbursement Reform Act. Section 25 of this bill would effectively exempt Professional Standards Review Organizations or PSRO's from the Freedom of Information Act (FOIA). PSRO's are local physician groups which review the quality and medical necessity of medicare and medicaid services performed by doctors and hospitals.

The purpose of section 25, first introduced as S. 3196 by Senator SCHWEIKER, is to reverse an April 1978 District Court decision that PSRO's are Federal agencies subject to FOIA.

There are many reasons for opposing section 25:

FOIA exemptions clearly protect patient confidentiality and internal PSRO deliberations;

Selected disclosure of PSRO data will help consumers make more informed choices in the health marketplace;

Selected disclosure will further PSRO program objectives to contain medical costs and enhance the efficiency and quality of health services under medicare and medicaid; and

Litigation is still pending making congressional action premature.

But an equally important reason for opposing section 25 of H.R. 5285 is the fact that no congressional committee has held any hearings on this provision and the specific issue of whether or not the PSRO program should be exempted from FOIA. Nor was the Senate Judiciary Subcommittee on Administrative Practice and Procedure, which has jurisdiction over FOIA, ever consulted on this amendment.

Instead, this provision was slipped into the bill in markup without any legislative record to support it and the Senate is now being asked to act on it in the rush to adjournment.

Before an entire Federal program is flatly exempted from FOIA, there needs to be a full public debate on all the complicated issues involved. Health planning agencies, State health regulatory agencies, major purchasers of health care, consumers and consumer groups are among the interested parties who want and need to be heard on this issue.

In recent weeks, other Senators and I have just begun to receive letters from these groups. Among others, they include the Consumer Coalition for Health, representing over 27 national consumer and labor organizations, as well as over 40 local health consumer groups, 30 health planning agencies and several hundred individuals, the Consumer Health Advocacy Program of Massachusetts, the Public Citizen Health Research Group, the Service Employees International Union, AFL–CIO, and the Western Massachusetts Health Planning Council.

Significantly, the National Governors Association's Committee on Health Information for Policy Development recommends against exempting the PSRO program from FOIA and calls instead for "further congressional action to assure the release" of more PSRO information.

Yet, these letters just begin to scratch the surface of public concern over a per se exemption of PSRO's from FOIA. And they strongly emphasize the need for thorough and careful deliberation, not the premature congressional action

which is being proposed in H.R. 5285, section 25, in the last hectic days of this Congress.

Mr. President, I ask that a sample of these letters be printed in the RECORD.

The letters follow:

CONSUMER COALITION FOR HEALTH,
Washington, D.C., September 13, 1978.

Re: Exemption of PSROs from the Freedom of Information Act—Section 25 of H.R. 5285

DEAR SENATOR:

We urge you to oppose Section 25 of the Medicare-Medicaid Administrative and Reimbursement Reform Act which will shortly be before the Senate. The section would bar all access to data of PSROs under the Freedom of Information Act, both to health planning agencies and the public. We believe that legislation is premature at this time; until the current litigation defining the application of FOIA exemptions is resolved Congressional action is inappropriate. If, after the litigation is over, Congress believes the proper balance has not been struck between the public's right to know and the need for privacy, then Congress can take corrective action. The current proposal is more of a meat axe, chopping off entirely the public's right to information. Proposed section 25 would completely exempt all PSROs from the FOIA.

In the current litigation, PSROs are considered agencies subject to the FOIA but there has been no decision on what information the PSROs will have to disclose. One thing is clear—the FOIA explicitly exempts disclosure of anything which would identify individual patients. Other FOIA exemptions protect trade secrets, commercial and financial information, privileged or confidential, by law and intra-agency memorandum not available to parties to litigation.

What the public and the health planning agencies need from the PSROs are the institutional profiles which give an overview of the kind, quantity and quality of services provided by the institution. This information is simply not available from any other source. Planners who make decisions without this information are often relying on educated guesses or incomplete data furnished by the institutions themselves, rather than the hard facts which PSROs collect. Individual citizens need these provider profiles to make intelligent choices when selecting a health care institution.

Sincerely,

HERBERT SEMMEL,
President.

CONSUMER HEALTH ADVOCACY
PROGRAM OF MASSACHUSETTS,
Boston, Mass., September 22, 1978.

Hon. JAMES ABOUREZK,
Subcommittee on Administrative Practice and Procedure, Senate Judiciary Committee, Russell Senate Office Building, Washington, D.C.

DEAR SENATOR ABOUREZK: I am writing in regard to the explicit FOIA exemption for PSROs contained in Section 25 of HR 5285, the Medicare-Medicaid Administration and Reimbursement Reform Act. If granted, this blanket exemption would serve to weaken, not strengthen the processes of quality assurance and cost containment. Moreover, it would completely undermine important efforts by individual consumers, consumer groups, and agencies to become better purchasers of health services whose cost is now almost 10 percent of GNP.

I know that others have commented on major procedural and legal flaws in the PSRO Amendment and so I will limit these remarks to some key assumptions that appear to underpin the FOIA-exemption argument. Some of them are spelled out on pages 27-28 of the Finance Committee report.

Assumption: Peer review "with some degree of privacy and candor" will encourage physician participation and contribute to effective program outcome.

Comments: There is no evidence to support this key assumption. Even the most unabashed PSRO participant-advocate would have to agree that the level of active physician involvement in the establishment of professional standards and the conduct of peer review is low. Dr. Alan Nelson, a leading PSRO pioneer and former head of HEW's National PSRO Council, has said that, at most, 10 to 20 percent of physicians take part in the process of standard setting (New England Journal of Medicine, p. 618, September 9, 1976). Moreover, if physician involvement in similar peer review programs in the private sector is any guide, the level of effort of physicians in the actual audit of services for professional quality and necessity is very small in comparison with that of nurses, medical record librarians, and clerical staff. Thus, even given the incentives of a competitive health insurance industry and the conditions of strictest confidentiality for individual practitioners and institutions, the degree of enthusiasm and participation in programs of self-review have been quite limited. In a recent rate hearing before the Massachusetts Division of Insurance we found out that, rhetoric aside, the utilization and peer review programs of Massachusetts Blue Shield have cut insurance claims by less than 1 percent in each of the last three years. It is significant that Blue Shield contracts with each of the five Massachusetts PSROs (wearing their private Foundation hats) to perform peer review. Thus, at least in Massachusetts, the PSROs have established something of a track record in the private sector, and the results are far from promising.

Finally, Dr. Nelson's description of the Utah PSRO program demonstrates with great frankness the disregard shown by PSRO members for data pinpointing problems in the delivery of quality medical care: "The responses by the audit committees and staffs (when the data were actually presented by the hospital to the staff) were almost invariably 'so what?' Where physician compliance for a particular criteria element was 70 percent or less, the response was almost always to question the validity of the criterion rather than to question whether performance within the institution might, indeed, be improved" (page 618).

Assumption: "The Secretary of HEW in his regular review of PSRO performance can . . . evaluate the review activities . . . and thus safeguard against any general indiscriminate or willful action or inaction by a given PSRO. . . ."

Comments: The HEW-monitoring system, including both regular statistical reporting as well as on-site inspection reports, provide no real hope for program accountability. HEW does not want to maintain in its files data broken down to the level of individual practitioners or institutions. Without detailed reporting, HEW's capability to spot anything but the most egregious problem is bound to be negligible. This is amply borne out by the experience of state Medicaid agency personnel who have repeatedly criticized HEW for lax administration and "boosterism" rather than program supervision. It is also borne out by the fact that in Massachusetts the PSRO system has yet to sanction a single physician or hospital for inadequate practice. Finally, defects in the current program are exemplified by the following quote from a September 1978 Newsletter put out by one of the Massachusetts PSROs: "PSRO review is performed on site at our hospitals by a physician and is then presented to the PSRO physician-review panel for final action. A letter is then sent to the intermediary and to the Chairman of the Utilization Review Committee of the specific hospital involved. Up to the present time, Medicare fiscal agents have not withheld payment of undocumented or inappropriate services in our hospitals because of Federal waiver provisions. . . ."

It is quite clear that reliance on HEW—with no recourse to public disclosure—would be unwarranted and unwise.

Assumption: The release of PSRO data would mislead rather than aid consumers.

Comments: It is true that considerable work remains to be done in the area of effective communication of complex data. Many consumer-oriented groups with technical and professional competence are eager to assist in the process of communication and interpretation. Unspoken, however, is the fact that much of the data and information currently generated by PSROs is sufficiently objective and straightforward to be of immediate use to consumers. Referring again to a Massachusetts PSRO, one medical review director notes that he has prepared a simple graph showing how the hospitals in his area scored on a monthly review of a set of major diagnostic categories in terms of: extent of inappropriate admissions; appropriate admissions but inappropriate treatment; appropriate admissions and treatments but excessive lengths of stay; and appropriate admissions and treatments but excessive preoperative days.

Conversely, some of the audit data circulating within the PSROs are so poorly compiled and presented that, at best, they present a superficial picture of indicators of cost and quality and, more likely, they yield a misleading impression.

In summary, Senator Abourezk, the arguments for secrecy of PSRO data are far from compelling. The actual track record of PSROs and PSRO prototypes is generally discouraging, and an atmosphere of total confidentiality seems to have contributed little or nothing to the performance of professional audit. Nor can one be at all certain that we are safe in the hands of HEW. Six years after the passage of PSRO legislation, the Department has still not promulgated final regulations concerning information disclosure despite the repeated urgings of consumer groups, state agencies, etc. And, lastly, the benefits that derive from public disclosure of objective hospital and practitioner information would be substantial in the immediate future, and given some attention to interpretation and communication capability, this information could be a very important element in a program of cost control and quality assurance.

Sincerely yours,

LAWRENCE J. KIRSCH,
Executive Director.

PUBLIC CITIZEN,
Washington, D.C., September 12, 1978.

"PSRO" SECTION OF THE TALMADGE HOSPITAL REIMBURSEMENT BILL EXEMPTING PROFESSIONAL STANDARDS REVIEW ORGANIZATIONS FROM THE FREEDOM OF INFORMATION ACT

DEAR SENATOR:

The Public Citizen Health Research Group urges you to oppose section 25 of S. 1470, which would prevent public access to information about the performance of doctors and hospitals. S. 1470, the Medicare-Medicaid Administrative and Reimbursement Reform Act, will be considered on the Senate floor in next few days as an amendment to H.R. 5285. This section would legislatively overrule a recent judicial decision that Professional Standards Review Organizations (PSROs) are Federal agencies subject to the Freedom of Information Act (FOIA) by completely exempting PSROs from the FOIA.

PSROs—local physician groups authorized by the Social Security Amendments of 1972—have two primary objectives: controlling the costs and improving the quality of health care. To these ends, PSROs use physician-

developed criteria to review the medical necessity of hospital services, which may not be reimbursed by Medicare or Medicaid without PSRO approval. In addition, PSRO physicians compare the quality of care given to groups of similar patients with pre-developed, objective standards. However, the effectiveness of PSROs is severely restricted by current HEW policy, which prohibits public disclosure of data about PSRO review of providers.

Section 25 should be opposed for the following reasons:

1. The litigation concerning PSROs and the FOIA is still pending. The FOIA has several exemptions protecting the right of personal privacy and other important interests which have not yet even been considered by the District Court. Further, there is certain to be an appeal to the D.C. Circuit U.S. Court of Appeals in which all issues, including whether PSROs are subject to the FOIA at all, will be reconsidered. This process is likely to take more than a year. In the interim, no PSRO will be in any way subject to the FOIA. Thus, the legal process may well render Section 25 unnecessary. Congressional action now would be premature.

2. Proponents of Section 25 argue that Congress never intended that PSROs be considered Federal agencies. In fact, the District Court ruled that PSROs are Federal agencies because Congress, in granting them substantial governmental authority, intended that PSROs be subject to the public information requirements of the FOIA. While Congress wanted PSRO review decisions to be made by local physicians rather than government bureaucrats, the legislative history also emphasizes the need for PSROs to be publicly accountable.

3. Subjecting PSROs to the FOIA should not discourage physician participation in PSROs nor result in invasions of personal privacy. There are at least four major categories of sensitive data which are clearly exempt from disclosure under the FOIA: (1) data which identifies individual patients; (2) records of subjective comments made by identified PSRO physician reviewers; (3) internal PSRO deliberations; and (4) records of enforcement proceedings. Thus, physicians performing PSRO review need not fear that their candid evaluations of other providers can be disclosed to the public.

4. Passage of Section 25 would be an endorsement of existing, secretive HEW policies which weaken market competition and undermine health planning activities mandated by Congress. Without access to objective PSRO data, based on criteria developed by physicians, people cannot make fully informed choices among individual physicians and hospitals. High quality health care providers should welcome such disclosure. Only providers which expect to be unfavorably reviewed by their peers should fear public scrutiny. Health planning agencies which are required by Congress to review the "appropriateness," including efficiency and quality, of existing health facilities, are now barred by HEW policy from access to PSRO studies of the efficiency and quality of particular hospitals.

5. All the groups which have been seeking access to PSDO data—literally hundreds of health planning agencies, state health regulatory agencies, and major purchasers of health care, as well as consumer groups—are entitled to a full public hearing before Congress considers exempting PSROs from the FOIA.

6. The FOIA and its exemptions are the product of years of debate, operational experience, and refinement in Congress, Federal agencies, and the courts. Flatly exempting a major Federal program from its requirements should be done only with great reluctance.

SIDNEY M. WOLFE, M.D.,
Director.
TED BOGUE, *Staff Attorney.*

SERVICE EMPLOYEES
INTERNATIONAL UNION,
Washington, D.C., September 19, 1978.

Hon. JAMES ABOUREZK,
Senate Office Building,
Washington, D.C.

DEAR SENATOR ABOUREZK: The Service Employees International Union representing close to 250,000 health care employees strongly urges you to oppose Section 25 of S. 1470, the Medicare-Medicaid Administrative and Reimbursement Reform Act, an amendment in the Senate to HR 5285. Section 25 would prevent public access to information concerning the performance of physicians and hospitals and legislatively overrule a recent court decision which held that Professional Standards Review Organizations (PSROs) are Federal agencies subject to the Freedom of Information Act (FOIA), exempting PSROs from FOIA.

We believe the following are the reasons Section 25 should be opposed:

1. Groups such as ours—major consumers of group hospital and health insurance plans, have need for PSRO data, and should be entitled to a full public hearing before Congress before PSROs are exempted from the FOIA.

2. Supporters of Section 25 argue that Congress never intended that PSROs be considered Federal agencies. The recent D.C. Federal District Court ruling that PSROs are Federal agencies subject to the Freedom of Information Act is certain to be appealed. Other litigation concerning PSROs and FOIA is still pending, as are a number of other exemptions protecting the right of personal privacy and other important interests subject to FOIA.

3. In any case, the following four categories of data should be exempt from FOIA disclosure: a) identification of individual patients; b) internal PSRO minutes; c) records of enforcement proceedings. Physicians participating in PSROs need not fear their evaluations of other providers would be made public.

4. As consumers active in health planning, we should like to have the ability to assist our union members in making fully informed choices based on objective PSROs data as to general physician and hospital choice.

Once again, we urge you to oppose Section 25 of S. 1470.

Cordially,

GEORGE HARDY,
International President.

WESTERN MASSACHUSETTS
HEALTH PLANNING COUNCIL,
September 26, 1978.

Re: H.R. 5285

Hon. EDWARD M. KENNEDY,
Old Senate Office Building,
Washington, D.C.

DEAR SENATOR KENNEDY: The purpose of this letter is to urge you to use your strong influence in the Senate to defeat an amendment to the Medicaid/Medicare Reform bill which would exempt HSROs from Freedom of Information requirements.

If this amendment, which was introduced by Senator Schweiker, passes it will have a very deleterious effect on the national health planning legislation that you championed.

As the chief staff person at my agency responsible for implementation of our Health Systems Plan, I am advising you that passage of the amendment to exempt HSROs from the Freedom of Information Act would make it practically impossible for Health Systems Agencies to engage in quality of care assessments or "appropriateness" reviews, both of which are mandated by P.L. 93-641.

HSAs are constantly being attacked by powerful provider interest groups for lacking adequate supporting data to justify proposed HSA changes in the health care system. The Schweiker amendments would intensify this problem by denying HSAs access to data needed to justify their positions and to refute the rhetoric of self-serving interest groups.

Please do your best to defeat this crippling amendment to the health planning process.

Best regards,

JOSEPH L. ROCHE,
Planning Coordinating.

NATIONAL GOVERNORS' ASSOCIATION,
September 14, 1978.

Mr. TED BOGUE,
Health Research Group,
Washington, D.C.

DEAR MR. BOGUE: The Health Policy Consortium is a group of Governors' representatives which provides policy advice to the National Governors' Association Committee on Human Resources. During the past year, a Committee on Health Information for Policy Development was formed by the Consortium. Your conversation with Michael Schonbrun—who chaired that committee—concerned some language in the draft report.

The federal government must recognize the need of planning and regulatory agencies to obtain all relevant available data so that decisions are made with the best and most current information. *Program data acquired with federal funds as part of a federal regulatory program should be publicly available at both the state and federal level. This includes data collected by PSROs* as well as by the Joint Commission on the Accreditation of Hospitals, (JCAH). *Any congressional effort to amend the federal Freedom of Information Act that would exempt this data from being released to state officials should be resisted. In fact, further congressional action to assure the release of such information should be pursued,* including the provision of Medicare deemed status to only those JCAH accredited facilities which release JCAH survey findings to the state survey agency. The role of the federal government is critical in this matter because it funds both directly (PSRO) and indirectly (JCAH) several programs which collect indispensable (and now frequently unavailable) health data. Changes in contracting provisions could assure release of these data. (emphasis added).

The report of the Committee is subject to further discussion and revision by the Consortium prior to its adoption and distribution to the Governors. All of the additional steps should be completed by the end of October, 1978 and I will be happy to share a copy of the final report with you at that time.

Thank you for your interest. Let us know if we can be of any further assistance.

Sincerely yours,

GERALD R. CONNOR,
Staff Director.

COMMITTEE ON HEALTH INFORMATION FOR POLICY DEVELOPMENT

Michael Schonbrun, Chairman, Assistant Director, Office of Medical Care Regulation and Development, 4210 East 11th Avenue, Denver, Colorado 80220, 303/388-6111 X359.

James Cooney, Director, Rhode Island Health Services Research, Inc., 52 Pine Street, Providence, Rhode Island 02906, 401/331-6105.

Louis Freedman, Deputy Director, Office of State Health Planning, Massachusetts Department of Health, Room 614, 600 Washington Street, Boston, Massachusetts 82111, 617/727-4164.

Hal Gordon, Chief, Division of Licensing and Certification, Third Floor, 201 West Preston Street, Baltimore, Maryland 21201, 301/383-2517.

William Shkurti, State House, c/o Senator Meschel, Columbus, Ohio 43215, 614/466-8287.●

ARMS SALES TO IRAN

● Mr. SPARKMAN. Mr. President, the executive branch recently proposed two

arms sales for Iran which raised a number of questions. The first proposed sale was for U.S. armament suites for 12 frigates which will probably be built in Europe because the sale of the entire system would cause the President's arms sale ceiling to be exceeded. The second was for the sale of 34 F–4Es and 1,000 SHRIKE missiles—sales which appeared to represent the first introduction of new advanced weapons systems into the Persian Gulf region.

As a result of the questions raised about these sales, I sent a letter to Secretary of State Cyrus Vance which requested certain information. I have now received a response from the State Department and I ask that the response be printed in the RECORD.

The response follows:

ARMAMENT SUITE FOR 12 FRIGATES

1. If the United States had no arms transfer ceiling, would Iran have requested purchase of the entire 12 frigates from the U.S. rather than just the arms suites?

It is possible, but not at all certain, that Iran would have asked to buy the 12 frigates, rather than just the armament suites from the United States if we had no arms transfer ceiling. There is a long tradition in Iran of diversifying purchases for the Iranian Navy. Examples of this are past major purchases of submarines, destroyers and fast patrol boats from the United Kingdom, France, and Germany. The Iranians also traditionally ask for competitive bids from as many sources as possible for non-critical items in order to be able to make the most of their available funds. It is of course impossible to know whether bids by American companies would have won out, but we understand that the American ships are priced higher than comparable European models.

What would have been the impact of the purchase of 12 Iranian frigates on the U.S. shipbuilding industry?

It is estimated that the 12 frigates, without the weapons suites, would have amounted to somewhat more than $2 billion. U.S. industry could have absorbed an order for twelve frigates, with beneficial impact on employment. U.S. firms have been licensed to bid on the frigates.

2. Is the Iranian Navy being upgraded to meet a Soviet naval threat or an Iraqi threat?

The Iranian Navy is being upgraded as part of a long-range program to provide for the defense of Iran, particularly in the Persian Gulf and Sea of Oman region; to protect the shipping lanes for oil and other goods from and to the Persian Gulf and beyond; and to assure continued stability in the Persian Gulf by providing a capability to meet any naval threat from any non-littoral power.

What does ACDA believe will be the impact on the regional naval balance of the purchase of the 12 frigates?

ACDA does not believe that the existing balance of power in the Persian Gulf will be disturbed by the Iranian purchase of 12 frigates. Iran already has more and better ships of this type than the other Gulf states. Since a comparable number of older ships is soon to be retired, this purchase would in fact provide only a qualitative improvement to the Iranian fleet, not a rise in force levels. While qualitative improvements may arouse some concern, it is significant that no new combat systems would be introduced into Iran as part of this sale.

Twelve modern frigates do imply an added capability to project Iranian power beyond the Persian Gulf. Gulf of Oman and Arabian Sea littoral states are sure to note the presence of an increasingly modernized Iranian fleet. In addition, India might well find the Iranian purchase of these 12 frigates disconcerting. However, improving Iranian-Indian relations and anticipated increases in Indian naval strength by the mid-1980s should tend to diminish Indian concerns.

Thus far, there has been no indication that any of the Persian Gulf or Indian Ocean littoral states view the Iranian frigate purchases with apprehension. These states seem to recognize Iran's desire for protecting the security of its oil exports and enhancing its international prestige and there appears to be no sense that a significant shift in the balance of power is going to take place as a result of this purchase.

F–4E/SHRIKE MISSILE

1. Does the sale of the SHRIKE missile to Iran represent the first introduction of advanced new weapons into a region of the world? If so, is the sale considered an exception to the President's arms transfer policy? Did the President make such an exception? If not, which country in the area has comparable anti-radiation missiles?

SHRIKE is not a "state of the art" anti-radiation missile. Standard ARM is more advanced and HARM, now under development, will be more advanced than either SHRIKE or Standard ARM. SHRIKE, however, will provide Iran a new combat capability.

Whether sale of SHRIKE to Iran represents a first introduction depends upon how Iran's region is defined. If the Soviet Union is included in Iran's region, the sale would not constitute a first introduction. If the Soviet Union is excluded, it becomes less clear.

From a different point of view, it can be argued that the relevant comparison is not with the anti-radiation capability of others in the region, but with the systems against which the capability is directed. Iraq's radar directed anti-aircraft capability is such that a counter-system like SHRIKE is clearly militarily justified.

Nevertheless, because of some of these uncertainties, the President approved the sale of SHRIKE as an exception to policy.

2. Will the sale of SHRIKE missiles to Iran set a precedent for the future sale to Iran of more sophisticated anti-radiation missiles such as the Standard ARM?

No. If the threat to Iran changes, we are prepared to review that decision, but no precedent of any kind will be set.

Will the F–4Es for sale to Iran contain wiring for anti-radiation missiles more sophisticated than SHRIKE?

No. The wiring needed for employment of Standard ARM or other more sophisticated missiles will not be included in these aircraft.

3. Would the SHRIKE missile be used primarily against mobile radar installations or is it likely that Iran would use the missile against fixed radar installations in neighboring countries?

Iraq poses the most likely threat to Iran and has better air defense capabilities than Iran.

The Iraqi SAM, AAA and electronic warfare capability would cause loss to Iran's air force in the event of conflict. Iran needs a radiation suppression capability weapons system to protect fighter aircraft performing interdiction and close air support to defending ground forces.

To obtain necessary air control over the battle area, an imperative for defense operations, Iran must have an effective capability to suppress the acquisition and guidance radars of enemy SAMs, AAA, fixed, and mobile air defense electronic systems.

What is ACDA's view on the impact of the sales on the Persian Gulf military balance?

ACDA believes that the sale of SHRIKE missiles to Iran will not significantly affect the military balance in the Persian Gulf region at this time.

Iraq's ground forces now have an important advantage over those of Iran due to the Iraqi mobile surface-to-air missile capability. The SHRIKE missiles, carried by unmodified F–4Es, would provide a minimum necessary defense against these SAMs, thereby allowing Iran's air force to protect its ground forces in the event of an Iraqi attack.●

PROPOSED ARMS SALES

● Mr. SPARKMAN. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $25 million or, in the case of major defense equipment as defined in the act, those in excess of $7 million. Upon such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulated that, in the Senate, the notification of proposed sales shall be sent to the chairman of the Foreign Relations Committee.

In keeping with my intention to see that such information is immediately available to the full Senate, I ask to have printed in the RECORD, the notification I have just received. A portion of the notification, which is classified information, has been deleted for publication, but is available to Senators in the office of the Foreign Relations Committee, room S–116 in the Capitol.

The material referred to follows:

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., September 29, 1978.

In reply refer to: I–7332/78ct

Hon. JOHN J. SPARKMAN,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding under separate cover Transmittal No. 78–104, concerning the Department of the Navy's proposed Letter of Offer to Australia for major defense equipment estimated to cost in excess of $7 million.

Sincerely,

ERNEST GRAVES,
Lieutenant General, USA, Director.

Separate cover: Transmittal No. 78–104 Policy Justification.

[Transmittal No. 78–104]

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective purchaser: Australia.

(ii) Total estimated value: Major Defense Equipment* [Deleted]; Other [Deleted]; Total [Deleted].

(iii) Description of articles or services offered: [Deleted].

(iv) Military department: Navy.

(v) Sales commission, fee, etc. paid, offered or agreed to be paid: None.

(vi) Date report delivered to Congress: September 29, 1978.●

PROPOSED ARMS SALES

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*As included in the U.S. Munition List, a part of the International Traffic in Arms Regulations (ITAR).

cess of $7 million. Upon such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sale shall be sent to the chairman of the Foreign Relations Committee.

In keeping with my intention to see that such information is immediately available to the full Senate, I ask to have printed in the RECORD the notification I have just received.

The material referred to follows:

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., October 2, 1978.

In reply refer to:
I-8035/78ct

Hon. JOHN J. SPARKMAN,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 78-102, concerning the Department of the Air Force's proposed Letter of Offer to Thailand for defense articles and services estimated to cost $15 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

ERNEST GRAVES,
Lieutenant General, USA, Director.

[Transmittal No. 78-102]

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective Purchaser: Thailand.

(ii) Total Estimated value:

	million
Major defense equipment *	$15
Other	0
Total	$15

*As included in the U.S. Munitions List, a part of the International Traffic in Arms Regulations (ITAR).

(iii) Description of articles or services offered: Four (4) F-5E aircraft.

(iv) Military Department: Air Force.

(v) Sales Commission, fee, etc. paid, offered or agreed to be paid: None.

(vi) Date report delivered to Congress: October 2, 1978.●

VISAS FOR RHODESIANS

● Mr. HATCH. Mr. President, a matter that is of great concern to me has reached a point where I feel I must speak out about the injustice that is being perpetrated by the State Department. I am speaking of the delay in granting visas to those members of the Salisbury Agreement that wish to come to the United States to explain their side of the issue. Reverend Sithole, one of the moderate black leaders of the agreement, and Prime Minister Ian Smith, the white leader of the agreement, desire to come to the United States and meet with leaders of this Nation to discuss the problems that face their nation.

The fate of Rhodesia, or Zimbabwe, may well be decided in the immediate future. The Carter administration, which I might add has based much of its foreign policy on moral issues, has refused the entry of these men, while in the past granting such entry for those who oppose the Salisbury Agreement. Earlier this year the administration granted a visa to Joshua Nkomo, the Soviet-backed guerrilla who has brazenly claimed reponsibility for shooting down a commercial jetliner. To deny entry to the moderate, pro-U.S. delegation is an insult to the American people and antithetical to all that this country stands for.

I take this opportunity to once again urge the administration to approve the visas for Reverend Sithole and Prime Minister Smith. The American public deserve the opportunity to hear this side of the issue, I know the people in the State of Utah desire to hear what these gentlemen have to say in behalf of their cause.●

"MEDI-GAP" INSURANCE SALES TACTICS

● Mr. CHILES. Mr. President, an excellent article in the Chicago Tribune of September 29, 1978 paints a vivid picture of the pitfalls faced by many older Americans as they purchase private health insurance to supplement medicare.

The incidents described, documented by an investigation undertaken by a team of Tribune reporters, are very similar to instances of overselling and unethical sales practices described to the Senate Committee on Aging during hearings earlier this year. Insurance salesmen misrepresenting policy benefits, suggesting they represent the Federal Government and the medicare program, using membership lists of senior citizen groups to identify potential "marks," switching policies from one company to another, and stacking policy on top of policy are only a few of the methods routinely used by some insurance salesmen to bilk the elderly.

This is a serious problem and I ask that the full text of the Tribune article be printed in the RECORD.

The article follows:

INSURANCE FIRMS THAT FEAST ON FEARS OF THE AGED

(Old age has no fixed term, and one may fitly live in it so long as he can observe and discharge the duties of his station.—Cicero, "On Old Age")

The car bounced along a rutted dirt road in eastern Tennessee, lurching past primitive log cabins and wooden shanties set amid mountainside farmland and green valleys.

Harry Maddox, 55, crack salesman for Associated Doctors, Inc., an insurance company in Nashville, was out beating the bushes for elderly customers. Maddox was unaware that the "trainee" salesman beside him was actually a Tribune reporter, William Gaines.

The territory seemed unpromising. But the mountains of eastern Tennessee are filled with old people, many of them worried about health costs and easily persuaded that they can buy protection for expenses not covered by Medicare, the government health insurance program for the elderly.

Before the day ended, Maddox would sell a health insurance policy to an aged backwoodsman so poor that he had no need for it—he already had 100 per cent coverage through Medicaid, the government insurance program for the indigent.

"I never say contract; I say it's an application," Maddox explained. "And I don't say I'm here to talk about your insurance. I say I'm here to talk about your Medicare and enroll you in our program.

"The other day, I was back in the hills and I went to this old woman's house and said, 'I'm here to enroll you.' She said, 'Praise the Lord. Praise the Lord.' "

Other people voice a less ecstatic reaction to this type of sales pitch.

Wisconsin's insurance commissioner, Harold R. Wilde, says that many salesmen are engaged in a "medi-scare" insurance racket, seeking to exploit the fears of old persons who suffer from poor health and have limited incomes.

"Countrywide, these problems add up to a multimillion-dollar ripoff of our senior citizens," he said. "They are nothing less than a national disgrace."

Robert A. Beck, chairman and chief executive officer of the Prudential Insurance Co. of America, said some companies are offering policies to supplement Medicare coverage that have unreasonably small benefits in relation to premium costs.

"Those few companies give a bad name to the whole industry," he said. "We have been lax, as an industry, in policing our fellow companies. . . . We should criticize them."

Few states have acted to curb the abuses. State insurance departments frequently are headed by former industry representatives, and consumer groups charge that many of them act more as protective associations for the industry than as guardians of the public interest.

The Tribune Task Force investigated "Medicare supplement" sales practices as part of a six-month examination of problems of the elderly.

Reporter Gaines worked as a trainee with the Tennessee firm and with Pioneer Life Insurance Co. in Illinois. He examined records showing that some insurance companies are paying less than 30 cents of every premium dollar in benefits for health insurance—compared with 63.6 cents paid by Prudential Insurance Co. and 55.6 cents by Mutual of Omaha under their policies for individuals. [The benefit return is higher in group plans, but most of the elderly do not qualify for such coverage.]

He found insurance salesmen masquerading as representatives of a senior citizen association to begin their pitch to prospective customers. And he watched as some salesmen persuaded old people to get rid of existing policies and buy policies they were selling.

Supplemental coverage has become a huge business in the 12 years since the enactment of Medicare, and its the principal source of income for some insurance companies. The reason for its popularity is that gaps in Medicare coverage can leave elderly persons with large out-of-pocket expenses for medical care.

The U.S. Senate Committee on Aging estimates that 63 per cent of the elderly—nearly 14 million persons—have some private health coverage for hospital care alone, and up to 55 per cent, or 12 million, have supplemental coverage for doctors' bills.

"Some [insurance salesmen] have represented themselves as federal employees of Medicare and suggested that Medicare will cover a lot less than is actually the case," said Sen. Lawton Chiles [D., Fla.], a committee member.

But sales can also be made without pretending to be a government worker, as Harry Maddox showed.

After maneuvering his car up a rocky creek bed and onto a dirt road, he saw an old man in his yard. Maddox slowed the car and waved.

"I'm Harry Maddox from Associated Doctors," he said. "Dr. Garber sent me to ask you about your Medicare. Do you have your Medicare?"

The old man, who gave his age as 72, said he had Medicare and Medicaid.

"Let's go inside and I'll explain what Dr. Garber has approved for you," Maddox said.

Dr. James Garber was the founder of Associated Doctors. Although his name presumably meant nothing to most prospective customers, Maddox invoked it routinely. [Dr. Garber died Aug. 20, about four months after Gaines toured the Tennessee backwoods with Maddox.]

When Maddox talks with prospective cus-

tomers, he does not mention that Associated Doctors is an insurance company. Louis "Buddy" Fortune, his boss in Nashville, had told Gaines earlier about the magic appeal of the name.

"It's like the doctors at the hospital are offering this thing," he said. "It removes the idea that some outside organization is involved."

Once seated in the old man's tumbledown shanty, Maddox acknowledged that the man had 100 per cent coverage under Medicaid. But Dr. Garber's plan, he explained, does not pay money to hospitals or doctors; it would provide "living expenses" if the man had to go into a hospital.

The old man's eyes lit up as Maddox dangled before him the prospect of "earning" $15 for every day spent in a hospital.

Soon he was hooked as surely as the dried worms on two fishing poles in a corner of the cluttered room; he agreed to buy a policy and to pay $43 for the first three months.

Later, at the home of a 78-year-old widow down the road, Maddox learned that she already had coverage with Pyramid Life Insurance Co. He tried to persuade her to get rid of that policy and buy his—a sales tactic barred by Tennessee law—but she refused.

It was not the best of days for Harry Maddox. He tried to find three old people who had answered a mail brochure offering free place mats—an inducement used by Associated Doctors to find prospects—but gave up after crossing a muddy field and tripping over an electrically charged wire.

"They just wanted the free place mats," he muttered. "I never give anybody the place mats. If they ask what happened I say, 'Why, didn't yours come in the mail yet?' "

"Buddy" Fortune, his boss, doesn't have to rely on place mats. "When I'm out of leads, I look through the phone book for old names," he said. "You know, like Lulu and Ella."

The elderly people who buy Associated Doctors policies apparently do not have a clear idea of what they are getting.

Records in the Tennessee Insurance Department show that only 22.7 cents of each dollar a person in that state pays for accident and health insurance is returned in benefits by the company. Nationally, Associated Doctors policyholders get back 32.3 cents on the dollar.

Associated Doctors advertises that it pays up to $300 per operation. But a look at the policy's fine print showed that the only way anyone can collect this much is by having cranial brain surgery—an operation that could cost more than $1,500.

Associated Doctors also says its basic plan covers hospital charges not covered by Medicare. But a person would have to be in a hospital more than 60 days to collect for any charges beyond the $144 Medicare deductible [$160 after Jan. 1], and the average hospital stay for a person over 65 is 11 days.

Salesmen push a provision that prescription drugs are covered, but the policy limits drug payments to $50 and calls for a $10 deductible.

After completing his work as a trainee, Gaines identified himself to Associated Doctors officials as a Tribune reporter and asked about the firm's sales tactics.

Thomas Campbell, assistant executive officer, said the company has never had a complaint about any of its salesmen using unethical practices.

He said he would not condone attempts to persuade old people to give up existing policies and buy Associated Doctors policies.

When asked why the company pays only $300 for brain surgery, Campbell said, "That is the price our actuaries set, and we have no control over what a doctor will charge."

Health insurance policies have become the most frequent subject of complaints received by many state insurance departments.

New Jersey recently charged 71 companies with selling policies carrying unreasonably small benefits in relation to premiums. Several years ago, Florida recalled more than 50,000 such policies, and only 18,000 qualified for reissue.

Insurance departments have listed these major problems with private health coverage: duplication of coverage, policies specifying flat dollar amounts of payment, without regard to rising costs; long waiting periods before protection begins; refusal to pay claims on grounds that the claimant suffered from a "pre-existing condition" when the policy was bought; and misleading advertising.

In Peoria, Gaines took a trainee position with the Ted Wurschmidt and Associates Agency, which represents Pioneer Life.

Wurschmidt, a former magazine sales crew chief, and his agents travel from town to town in rural Illinois, working out of motels. He explained that they get their leads on prospective customers through the Illinois Association of Senior Citizens, a not-for-profit corporation with 30,000 members that operates from a basement office in Peoria.

The relationship between Pioneer Life and the association is mentioned in the company's sales brochures, which explain that Pioneer pays the association for advertising space and solicits members for the association. Pioneer has a similar arrangement with a senior citizens association in Arizona.

The American Association of Retired Persons has much the same kind of tie-in with the Colonial Penn Insurance Company, a relationship that has inspired controversy on a national level. Some AARP members and a former officer have charged that AARP is only a "front" for Colonial Penn in selling its policies.

While posing as a trainee with Pioneer, Gaines sat in on a session in which Wurschmidt instructed his new salesmen in their work.

Wurschmidt told them to make use of the fact that prospects have joined the Illinois Association of Senior Citizens to help the salesmen "get in the door."

"It's the best possible presentation," Bill Taylor, one of his salesmen, said later. "I say I'm working with the senior citizens association. I ask to see their policies, then I get rid of those and sign them up for ours."

Taylor said there is no limit on how much he can sign. "I signed one man and his wife for a $3,400-a-year premium," he said. "When I tell them I've got information direct from Medicare, that's when they start listening."

Wurschmidt said old people are easy to sell because they are lonely and like having someone to talk with. "They trust us. It doesn't matter what policy you are writing; if they like you, you could sell them Hong Kong Mutual," he said.

Gaines went out with salesman Lynn Syrdale to see how the pitch worked as Syrdale called on a retired Caterpillar Tractor Co. employe and his wife in Bloomington.

"Hi! I'm Lynn Syrdale. I'm working with the senior citizens association, and I have this membership application you sent in," he began.

Syrdale did not identify himself as a Pioneer salesman; he talked about the association and then said: "We also have some health benefits. We have a plan that will pay 100 per cent of the actual charges. There is no limit." [Insurance experts say no private plan fills all of the gaps in Medicare.]

The Bloomington couple had a Metropolitan Life policy obtained through Caterpillar. The wife said her husband had had some serious illnesses for which all of the bills had been paid by insurance, but Syrdale convinced her she could use more coverage.

After leaving the house, Syrdale told Gaines: "Most other guys would have given up when they found out he had Caterpillar. It's the best insurance around, and they probably won't need more insurance than that. But he's been sick and she's worried."

Later, back at the motel, he boasted of his accomplishment. "How'd you like that presentation?" he asked. "Did you see how well it worked? They don't know what's happening until we slam it to them and then it's too late."

Last year, Pioneer paid more in commissions to salesmen than in benefits to policyholders, according to Illinois Department of Insurance records: 37.1 cents on the dollar to policyholders, 38.2 cents to salesmen.

When Gaines identified himself as a Tribune reporter to Pioneer's president, Peter Nauert, and asked about those figures, Nauert said they were misleading.

He said that many of the firm's policies were new, and thus a greater payout could be expected in subsequent years.

When asked about Wurschmidt's advice to trainees to use the association to "get in the door," he said that such a practice is against company policy.

Although Wurschmidt was sending out salesmen with names of prospective customers obtained through solicitation of membership in the association, Nauert said that practice had been forbidden.

He acknowledged, however, that salesmen were allowed to explain the benefits of the association and sign up new members as they solicited sales.

Clarence Reardon, founder and president of the association, said the organization has had few complaints about Pioneer.

Wurschmidt said his salesmen do not claim to work "for" the Illinois Association of Senior Citizens but say they work "with" the association. "That was the approach approved by the state Department of Insurance," he told The Tribune.

But Philip O'Connor, assistant to the Illinois insurance commissioner, said no such approval had been given Pioneer. "We are concerned about that kind of sales approach," he said.

In Atlanta, Gaines sought employment with Bankers Life and Casualty Co. agent Dwight DeLaPerriere, who told him there are more elderly prospects in the area than his company can handle.

"We give them the mirror test. Do you know what the mirror test is?" DeLaPerriere asked. "We put a mirror up to their nose, and if they are breathing we sign them."

Mrs. Lucille W. Lowry, 76, a widow who lives in the Otterbein Home, a Methodist retirement home near Lebanon, Ohio, has had much experience in dealing with Bankers Life salesmen.

They started calling on her in mid-1975. They talked with her, she said, showed her photos of their families, and drank Kool-Aid and coffee with her.

Sometimes three men would visit her together. From mid-1975 until April, 1977, they sold Mrs. Lowry 16 policies—eight for health and eight for life insurance.

She already had two life policies, bought in 1969 from another firm and each carrying an annual premium of $1,776. Her new policies brought her premiums to $12,750 a year. Her annual income was $13,428.

"I just didn't realize what was happening," Mrs. Lowry told a Tribune reporter. "They were such nice boys. . . . I'm just embarrassed by this whole thing."

Fortunately for Mrs. Lowry, one of her sons found out about the policies and filed complaints with state insurance authorities and the Senate Committee on Aging.

Bankers Life, expressing regret, apologized to Mrs. Lowry and her son, refunded the premiums, canceled the policies, and said it had dismissed an agent who forged the signatures of both Mrs. Lowry's sons on an application.

How To Buy "Medi-Gap" Coverage

The elderly are presented with a bewildering array of health insurance plans purporting to fill the gaps in Medicare coverage

There are many pitfalls in buying such in-

surance. Here are some tips from experts on what to watch for:

Make sure that the policy does not exclude from coverage the same things Medicare will not cover—out-of-hospital prescription drugs, most nursing home care, routine physical examinations, eyeglasses, hearing aids, and dental care. Most so-called "Medi-gap" policies do not cover these expenses, warns Elizabeth Hanford Dole, a member of the Federal Trade Commission.

Don't buy insurance for protection from the initial deductible amounts you are required to pay under Medicare. It's a better investment to protect yourself against catastrophic illness, Dole said.

Check the policy's waiting period. Some policies will cover new illnesses after just 80 days, but others have waiting periods of as long as six months before certain diseases are covered, according to Herbert S. Denenberg, former Pennsylvania insurance commissioner.

Equally important is the exclusion for an illness that existed before the insurance was bought. If the exclusion runs for more than one year, don't buy the policy, Denenberg advises.

If you have Medicaid, the government health care program for low-income people, you do not need any private health insurance, said Harold Wilde, Wisconsin insurance commissioner.

Don't replace an existing insurance policy with another because you think it is "out of date." Switching policies may subject you to new waiting periods and new exclusions.

Shop for insurance from various companies and buy the most complete coverage from one, rather than buying numerous policies that may give duplicate coverage.

Judge a policy on its worth and on your need, not on the approach of the salesman or the endorsement of a club or association.●

NATURAL GAS COMPROMISE

● Mr. KENNEDY. Mr. President, on Wednesday, September 27, 1978, the Senate passed the natural gas bill compromise. I voted against the compromise, as I have voted against similar measures consistently over the past year or more. My position has been that prices have been raised enormously in recent years, burdening consumers directly and indirectly with billions of dollars in higher costs. I could not vote to saddle them with additional billions of dollars in still higher costs when there seemed to be no good reason to do so.

Nevertheless, a number of the distinguished Senators who had shared my view a few months ago were persuaded to rethink their positions, enough of them to get the compromise through the Senate. The arguments from the Secretary of Energy, Dr. Schlesinger, and other members of the administration, stressed the critical nature of our domestic natural gas supply with prophecies of doom and gloom. These arguments did not ring true to me, but they apparently did to some other Senators.

Now I have become aware of two articles in the September 25 issue of "Oil & Gas Journal." It is too late for them to influence the debate, but I would like to share them with my fellow Senators. The substance of both is that there is so much gas around now—at present prices—that gas utilities are going back into the market to pick up customers.

If I may quote from the first article:

Distributors and long-line transmission companies are responding to the good news by reentering the market, some for the first time since the early 70's. Others are preparing their marketing strategies and petitioning state commissions to end gas hook-up moratoriums.

Instead of explaining why customers must be turned away, utilities now have gas for sale once more.

The article goes on to discuss the programs of specific companies—including Columbia Gas System, Northwest Pipeline, El Paso Natural Gas, and Consolidated Natural Gas—to get new residential and commercial business, and, indeed, to try to get back many of the industrial customers who have already switched to alternative fuels.

The second article covers the recent annual meeting of the Pacific Coast Gas Association in Seattle. One of the principal speakers was Harvey A. Proctor, chairman of the American Gas Association. Mr. Proctor announced that AGA is about to begin a national advertising campaign to sell consumers on the virtues and the bright future of natural gas:

Our advertising messages will assure our 45 million current customers, other potential customers, the financial community, investors, and opinion leaders from Government, business, and labor that abundant supplies of gaseous energy are available now and will be available well into the future.

According to Mr. Proctor, the advertising campaign is designed to support and complement "the reentry into certain markets now in progress by many AGA members."

Mr. President, I ask that these articles be printed in the RECORD. They paint a picture of the current natural gas situation which is completely different from that heretofore presented to us by the industry and the Department of Energy. Frankly, Mr. President, I think we have been had.

The articles follow:

U.S. GAS SUPPLY/DEMAND SEEN NEARING BALANCE

(By Randy Sumpter)

Natural gas supplies for U.S. residential, commercial, and high-priority industrial uses are approaching a rough balance with demand in some interstate markets.

Distributors and long-line transmission companies are responding to the good news by reentering the marketplace, some for the first time since the early 1970's. Others are preparing their marketing strategies and petitioning state commissions to end gas hook-up moratoriums.

Instead of explaining why customers must be turned away, utilities now have gas for sale once more.

Gas industry executives point out the mechanics of the supply/demand balancing act differ from market to market.

Most agree on the same underlying causes: High drilling and production rates and some supplemental-supply projects are stabilizing gas flow in the interstate system. Meanwhile, markets have shrunk under the impact of conservation, fuel-switching, and other factors.

There is no industry-wide consensus on what the long-term picture is.

Some industry officials say the present situation is only a 2-3 year breather. They feel Alaskan and more Canadian production, once it makes an appearance in the marketplace during the 1980's, will be needed and so will additional Lower 48 gas production spurred by phased deregulation of prices in the national energy plan.

Those supplies, they add, will be required by a growing residential and commercial market, a return to gas by some former industrial users, and depletion of older production.

Clearest industry-wide indicator that the supply/demand gas is closing comes from Federal Energy Regulatory Commission statistics compiled by Baker & Botts, a Washington, D.C., legal firm.

Although the official figures haven't been released, Baker & Botts says FERC's data will show firm curtailments for April 1977-April 1978 at 3.256 trillion cu. ft., compared with 3.379 trillion cu. ft. during the same 1976–77 period. Projected curtailments for 1978–79 will be at about the same level as the preceding 12 months.

At the same time curtailments are flattening, Baker & Botts adds, firm requirements reported are down almost 1 trillion cu. ft. from the 1973-74 level.

"It appears that the natural gas supply for interstate pipelines has stabilized," says a report drafted by the company. It adds that gas companies will take the opportunity to increase residential sales.

THE BALANCING ACT

Several large transmission companies agree with the report's conclusion. One of those is Panhandle Eastern Pipe Line Co., Houston.

"The combined effect of conservation and market shifting has reduced the requirements of the connected market to a level reasonably in balance with flowing volumes which have been enhanced by the surge in drilling," says Richard L. O'Shields, Panhandle Eastern president.

"This stability, boistered by a 30 percent increase in underground storage capacity since 1970, was clearly demonstrated last winter when the industry met market needs without disruption under weather conditions which were colder than the more celebrated winter of 1976-77."

O'Shields points out several encouraging signs on the supply side of the gas equation.

The industry added 11.8 trillion cu ft of gas reserve, exclusive of Alaska, during 1977, its best performance since 1968 when 13.7 trillion cu ft were added.

Production has remained relatively stable—more than 19 trillion cu ft/year since 1975. The rate of yearly decline in production also was arrested in 1976 and 1977, compared with the 6–8 percent decline of the immediately preceding years.

"What is even more encouraging are the facts behind these reserve and production numbers," O'Shields says.

He notes the rig counts has virtually doubled since 1970 and that the number of gas wells completed has almost tripled in the same time span.

Total successful U.S. gas wells also showed a 17.2 percent increase during the first half of 1978, compared with the same period in 1977, says the American Petroleum Institute's quarterly review of drilling statistics.

API reports the increase was to 5,940 from 5,068 wills.

"These trends are further illustrated by gas-well drilling footage which almost tripled through 1977," O'Shields says. "The offshore footage has remained relatively constant, mainly reflecting federal leasing schedules during this period.

"The suprge in onshore drilling footage clearly moves parallel with the price changes in the intrastate market beginning in 1973."

A SHRINKING MARKET

Studies by Panhandle Eastern show conservation apparently has played a big role in keeping demand in line with interstate supplies.

Interstate transmisison companies produced and purchased a record 14.2 trillion cu ft in 1972, according to Department of En-

ergy statistics. Preliminary reports for 1977 show that total has dropped to 10.9 trillion cu ft. Both totals exclude imports, which were about the same for both years at a little more than 1 trillion cu ft.

Within the smaller supply framework, there has been a 6 percent increase in the share of total consumption by high-priority residential and commercial markets and a roughly parallel decrease in market share for the industrial and power generation sector.

Industrial sector usage has declined 18.6 percent, from 10.2 quadrillion BTU's (quads) in 1970 to 8.3 quads in 1977.

Panhandle Eastern says the industrial market shrinkage is due to:

First-phase conservation such as lowering thermostat and modest rearrangement of process technology.

Virtual elimination of interruptible sales and some permanent shifts to alternate fuels, primarily oil.

Capital investment in facilities for the more efficient use of energy.

"Our studies show that conservation and efficiency is the biggest factor accounting for about two-thirds of the decline, and we believe this to be permanent," O'Shields says.

"Industrial managers have effectively responded to the influence of supply uncertainty and higher prices during the last 5 years."

Conservation has been an equally important influence in the residential and commercial market segment, where consumption has increased 5 percent to 7.5 quads from 7.1 quads. The increase, O'Shields says, mainly reflects new customers in the intrastate market.

"Of most significance, however, is the fact that annual consumption per meter has fallen from 129 Mcf in 1970 to 115 Mcf in 1977, a decline of 11 percent," he says.

"This dramatic reduction in use per meter can be attributed to dialing down thermostats and weatherizing dwellings with such things as storm windows and insulation. The information we receive from our utility customers strongly indicates this reduction also can be regarded as permanent."

MORE CUTS

Conservation will cut further into future market demand, according to Panhandle Eastern projections.

"With respect to the industrial market to date, conservation has reduced natural gas usage 12 percent to 15 percent compared with 1972 usage, and we believe that another 10 percent reduction is probable in the next few years," O'Shields says.

The additional reduction will come from more extensive process changes and from energy efficient equipment installed during modernization and expansion projects.

Total conservation-related reduction in the residential/commercial market will cut demand 20–25 percent below 1972 levels. About half that goal already has been reached.

Future savings in the residential/commercial market will come from increased use of insulation, installation of automatic thermostats, more efficient furnaces, and improvements in gas appliances.

NEW SALES

Few companies will venture estimates on how much of their industrial market has been permanently lost to alternate fuels. But some firms are betting they can recapture part of the lost, high-priority industrial demand.

Others are exploring new sales in residential and commercial market sectors.

Four such companies are Columbia Distribution Companies, (CDC), Columbus, Ohio; Northwest Pipeline Corp., Salt Lake City; El Paso Natural Gas Co., Houston; and Consolidated Natural Gas Co., Pittsburgh, Pa.

All four have spent heavily in the past or plan to do so to insure their supplies. They're either considering plans to reenter the marketplace or have already done so through their distributors.

Planning to recover some of its lost industrial market is CDC, seven affiliated distribution companies serving 1.83 million customers. CDC's market area includes Kentucky, Ohio, Maryland, New York, Pennsylvania, Virginia, and West Virginia.

CDC Chairman Marvin E. White sees the distribution group reentering the marketplace during 1979 or 1980. Market growth should continue into 1983, says a company planner.

One target for CDC's new marketing push will be the estimated 90 billion cu. ft./year in industrial sales the group has lost.

Another estimated 85 million cu. ft./year cut from residential and commercial sales since 1972–73 probably is permanently lost

CDC's sales during 1977 were 542.3 billion cu. ft., compared with 622.2 billion cu. ft. in 1976.

Benefitting CDC now is the $1 billion spent during the past 5 years by its parent, Columbia Gas System, in a search for new gas, mostly in the Southwest. The system plans to spend about $3 billion more on new gas supplies during the next decade.

Also hoping to recapture some of its lost industrial sales is Northwest Pipeline.

During the past 3 years, Northwest estimates it has lost about 11 percent of its annual sales volume to a combination of conservation, alternate fuels, and attrition. Sales in Washington, Oregon, Idaho, Nevada, Colorado, Utah, Wyoming, Arizona, and California now average about 1.1 billion cfd.

"The industrial sales loss to alternate fuels is a temporary situation," says Al Porter, Northwest Pipeline's executive vice-president.

Most of the loss is included in process gas sales to the Pacific Northwest's lumber industry. That market has been temporarily flooded by cheap residual fuel oil—a product of the current West Coast crude glut.

Porter doesn't think that will be the case in the early or mid-1980's when Northwest begins to market its share of North Slope and Canadian gas from the Alaska Highway trunk line in the Lower 48.

MATURE MARKETS

Also preparing to test sales potential, but in a tough, mature market is Consolidated Natural.

Consolidated, an integrated transmission company with five distribution affiliates, sells about 800 billion cu ft/year in Pennsylvania, Ohio, West Virginia, and Upstate New York.

Consolidated was one of the first major transmission companies to adopt a restrictive marketing policy back in 1970. At the same time, it undertook programs to improve its gas supply position which have required total capital spending of $961 million between 1970 and 1978.

"About 95 percent of our customers heat with gas," says J. Richard Kelso, the company's vice-president for marketing. "In addition, we have a very high-priority end-use profile in industrial sales.

"There's no power generation with gas on our system."

Normal attrition, fuel-switching and conservation have trimmed about 13 percent from the system's end-use consumption since 1973.

Consolidated plans gradual sales growth into new home and commercial construction. Greater sales opportunities are seen for the company in high-priority industrial uses, says Kelso.

Most of Consolidated's distributors already have launched their bids for a share in the new market or have asked state commissions for relief from gas hook-up moratoriums (OGJ, Jan. 23, p. 26).

Backstopping their marketing plans is a projected growth in gas supplies from Consolidated's participation in the Cove Point, Md., LNG terminal, exploration by its CNG Producing Co. subsidiary, and other efforts.

Consolidated plans to offer its distributors 10 percent more gas from these and traditional sources this year, bringing sales up to about 815 billion cu ft, Kelso says.

"That's about on target for our first year of market reentry," he adds. "We're looking at gradual increases (in supply) through 1982 which would bring us up in the 830–850 billion cu ft range.

"Basically, during the next 5 years, we see no difficulty in meeting the market. Beyond that, you get into a number of circumstances lacking definition."

OTHER MARKETS

Trying to keep pace with one of the fastest growing residential/commercial gas markets in the nation is El Paso Natural.

It sold about 1.2 trillion cu ft in 1977 to customers in West Texas, Arizona, the Las Vegas area of Nevada, and roughly half the California market. Sales for 1978 are projected at 1.1 trillion cu ft.

El Paso distributors have been attaching new residential/commercial customers all along except for short, state-imposed moratoriums in Arizona and New Mexico.

But there has been little apparent gas savings from conservation, a company spokesman says.

"Our customers may have better used their gas supplies, but the demand on our system is just as great now—in fact greater—than it was back in 1971 and 1972," the spokesman says.

"The cause is residential growth. I think we'll see it continue in this area for at least 5 years, possibly 10."

El Paso hopes to mount enough supply projects to at least hold its high-priority customers in the future. Those include the company's own exploration efforts in the Permian and San Juan basins as well as a proposed LNG project to import 1 billion cfd of Algerian gas at a Texas Gulf Coast terminal (OGJ, Aug. 14, p. 41).

SLACKENING DEMAND

Three other large transmission companies report slackening demand on their systems due conservation and fuel switching. Two need the stable demand situation while they put new supply projects in order.

One is ready to market new supplies this winter.

United Gas Pipe Line Co., Houston, says its gas sales have been tapering off for the past 2–3 years. It expects no demand increases during the next 3–5 years.

The company serves parts of Texas, Louisiana, Alabama, Mississippi, and Northwest Florida. It's the main supplier to Louisiana and Mississippi city gates.

United's sales in 1977 were 835 billion cu ft. Projected sales for 1978 are 810 billion cu ft. The company hopes to hold the supply/demand line above 750 billion cu ft until its Cotton Petroleum Corp. subsidiary can prove up more production.

"At that point (750 billion cu ft), high-priority customers—in this case, industrial load customers without alternate fuel capability—get cut," a United spokesman says.

He adds United hasn't had enough gas in years to test its true market demand.

But it believes most large-volume boiler fuel customers have switched to other fuels.

Transcontinental Gas Pipe Line Corp., Houston, also believes it has permanently lost a large-volume boiler fuel market of up to 1 billion cfd.

Transco serves 11 states, including all those along the Eastern Seaboard except Florida. Its sales average 1.5 billion cfd of long-term gas and another 200 MMcfd of emergency and short-term volumes. The system's Philadelphia-to-New York distributors consume about two-thirds of the total.

The company's gas supplies have declined continually since 1970, but some increases are expected this winter from Transco's own

drilling ventures and gas-purchase program in the Gulf of Mexico area.

The new volumes will be used first to back out emergency and short-term gas. After that, it will replace higher-priced supplemental supplies such as propane-air mixes and will then go to meet growing high-priority markets.

Northern Natural Gas Co., Omaha, also reports it's approaching a balance in supply/demand, mainly because it shed its low priority and electric-generation load, received a 15% conservation savings from its high-priority users, and added new gas reserves.

Those factors ought to stabilize the company's sales at 630-635 billion cu ft in 1978, says Dan Dienstbier, vice-president of supply. Sales in 1976 were 735 billion cu ft and 682 billion cu ft in 1977.

"We need a good breathing spell for the next 3-5 years," he says. "In 5 years, it'll be important to Northern Natural for Alaskan gas to be on the way."

Northern Natural is seeking 2 trillion cu ft of North Slope gas reserves and 200-250 MMcfd of Canadian gas.

LONG-TERM SUPPLY

Most transmission company executives agree there'll be enough gas during the next 2-3 years to prevent curtailments of essential usage and permit some sales growth in the higher-priority markets.

The future, once the interim breather period is over, is less certain. There's some speculation a gas surplus might develop as government regulations and higher prices slice away lower-priority markets and more conventional and supplemental supplies come on stream.

Additional supplies which could outstrip curtailed demand are:

About 3.3 billion cfd of Alaskan gas and surplus Alberta gas to be delivered to the Lower 48 market through the Alaska Highway gas line project, perhaps as soon as the 1983-84 heating season.

Excess intrastate deliverability which interstate lines could inherit under terms of the Natural Gas Policy Act of 1978 pending in Congress.

Higher Lower 48 production spurred by the act's gas deregulation provisions. The American Gas Association estimates this could result in additional production of 2.3 trillion cu ft in 1985, rising to 4.7 trillion cu ft in 1990. Cumulative additional production in those 2 years is estimated by AGA at 7.5 trillion cu ft and 26 trillion cu ft, respectively.

About 2 billion cfd from Petroleos Mexicanos' proposed Reforma fields-to-Reynosa, Tex., gas line project.

DOE PROJECTIONS

The Department of Energy projects the natural gas bill's provisions and the Alaskan gas line could increase interstate supplies to 12.1-12.3 trillion cu ft in 1985. Without those aids, DOE says, 1985 interstate supplies will be about 9.1 trillion cu ft.

DOE counts the effects of conservation and fuel switching as well as the backing out of some LNG and SNG supplies in its projection.

"The natural gas bill is projected to result in up to a 1 quad decline in the use of natural gas for the generation of electricity, and direct refinery boiler fuel use of gas is projected to decline by up to 0.8 to 0.9 quads," a department analysis says.

"While intrastate industrial and feedstock markets will continue to grow, there will nevertheless be excess gas available to interstate pipelines as a result of this fuel switching."

Under terms of the bill, incremental supply from Lower 48 production including the Outer Continental Shelf would range from 700 billion cu ft to 5 trillion cu ft by 1985, according to a variety of professional agency and Government studies cited by the analysis.

It says a 2 trillion cu ft addition is most likely.

DOE also estimates some of the 700 billion cu ft to 1 trillion cu ft of surplus annual deliverability from the intrastate market, mostly in Texas and Oklahoma, would flow into interstate lines.

"Without the natural gas bill to fully open the interstate market to producers, intrastate markets will remain saturated for the foreseeable future," the analysis says. "The rate of increase in drilling and reserve additions would be expected to decline until such time as the excess deliverability is reduced in the intrastate market.

"With the bill, the surplus in the intrastate markets will be quickly absorbed in presently curtailed interstate markets.

"The incentive prices in this bill would continue to promote the expansion of exploration and development that has characterized the recent past and lead to a significantly higher supply of natural gas."

Finally, the DOE projections add deliveries of about 800 billion cu ft in 1985 from the Alaska gas line project.

TRUE DEMAND

While industry and government can predict with some confidence what their future supplies might be, the demand issue is a more complex question. It takes on new dimensions when transmission companies say they can't be sure—after years of curtailment—what their true market demand will be at higher gas prices.

A United spokesman says his company might lose what's left of its industrial market at the higher incremental prices proposed in the natural-gas compromise.

"Deregulated prices would weed out some consumers—a good many of them large industries," he says. "That would start to happen about the time gas prices reached parity with No. 6 fuel oil or something a little higher than parity.

"I'd say that price would be between $1.70 and $1.90/MMBTU."

Transco is not certain what portion of the 1.3 billion cfd of curtailed gas sales on its system still exist as a market.

A company spokesman voices some reservations about the high-priority markets Transco hopes to reach in the future.

"Those markets are a function of the economy and the national energy policy," he says. The spokesman adds what oil import policy is set will have a lot to do with what high-priority gas markets materialize.

"Even though gas prices are going to increase, it may be in the country's best interest to use higher priced gas than rely on imported oil," he says. "It may be better, in fact, to develop synthetic gas from coal than to depend upon imports."

GLUT OR SHORTAGE?

Northern Natural's Dienstbier says an interstate gas-supply surplus is possible, but not probable.

"It's conceivable we could have a temporary surplus of interstate gas supplies by the mid-1980's or as early as 1982-83—if the national energy plan dries up intrastate gas, Alaskan volumes move to the Lower 48 on schedule, Canada decides to export in a timely fashion, and the Pemex project moves," he says.

"It's conceivable, but not at all probable. Without question, it would cause trouble in the summer months."

Other companies agree with Dienstbier that some summer surpluses might develop if that many supply shoes fall at the same or nearly the same time.

But Panhandle Eastern's O'Shields adds a cautionary note on the long-term supply picture.

"The supply improvement now being reported by our system and other pipelines arises more from accelerated rates of production from new offshore acreage than it does from an overall increase in the reserve to production ratio," he says.

"In contrast to industry experience in the 1950's and 1960's, the new reservoirs now coming into production are flowing at reserve depletion rates three to four times higher than was the case 20 years ago."

This condition, coupled with a relatively static market, is creating some surpluses of flowing gas. But the situation is only a short-term phenomenon.

"The fact is that high deliverability from new offshore fields and the accelerating pace of onshore drilling and production do not constitute a long-term solution to the gas supply problem," O'Shields says.

"While important and useful, the onshore drilling has been confined to field extensions and relatively easy to get production made economic by higher intrastate prices.

"The next phase of domestic drilling must concentrate upon exploration which is essential to restore and maintain the nation's reserve inventory."

Northwest Pipeline's Porter agrees that new long-term supplies are needed.

"Frankly, there isn't that much gas around—and not that much around in big bunches at a price that's more economical than the price we propose for Alaskan gas."

The transmission company's parent—Northwest Energy Corp.—will operate the Alaskan portion of the line project through a subsidiary and have a 10-15 percent equity interest. Northwest Pipeline wants a 100-MMcfd stake in the new supply.

"We see Alaskan gas as extremely competitive with—if not cheaper than—LNG and SNG," Porter says.

The asking price for Alaskan gas will be about $4.50/Mcf once inflation is factored in, while incremental nuclear energy will be in excess of $8/Mcf and probably closer to $12/Mcf, Porter adds.

"I think it's foolish to think—over the long haul—that Alaskan gas isn't needed," Porter says. "We do think it must be marketed on a rolled-in basis."

He says high-priority markets in the Southeast and Northeast will need the Alaskan gas more than markets elsewhere in the country.

No matter how the long-term supply/demand picture stacks up for the interstate lines, O'Shields has the soundest advice for the transmission and distribution industry.

"What we do in the next 12-24 months in effectively managing the new dimensions of supply and demand can be significant in avoiding even greater government intervention," he says.

"It is, therefore, essential that we examine our options and make intelligent choices."

U.S. GAS BILL PASSAGE SEEN ONLY AFTER ELECTIONS

Emphasizing the "positive benefits" of the compromise gas bill now before Congress, a U.S. gas industry leader has predicted that the bill eventually will be passed by Congress—but not until the November elections are out of the way.

Rufus W. McKinney, vice-president of federal government affairs for Southern California Gas Co., told the Pacific Coast Gas Association that despite misgivings on many provisions in the bill there is "real basis for optimism and hope for the natural gas industry as a whole."

Speaking at the PCGA's annual meeting in Seattle, McKinney said that if the industry will "focus our attention on the areas of fundamental agreement, there is reason to hope that the 30-year war over natural gas pricing will be over by the end of 1978."

The bill, he said, should be approved by a slim margin in the house. But final approval won't come before the elections. This would mean that President Carter would have to

call Congress back into session to act before the end of the year.

BASIS FOR OPTIMISM

McKinney's optimism about the industry's future is based on the fact that the administration and Congress are close to agreement on eventually removing federal price controls on new gas, on ending the distinction between interstate and intrastate gas markets, and on recognizing the need to have gas prices reflect approximate value in the marketplace.

The compromise bill, he said, largely abandons the concept of attempting to fix the price of gas "on the basis of some tortuous and never-ending process of finding the cost of producing it."

Rather it provides special price incentives to encourage finding and producing gas from "so-called high cost areas."

Also, its provision for pricing Alaska North Slope gas at $1.45/MMBTU with escalation will allow those involved in the Alaska Highway gas pipeline project "to get on with the job of making gas contracts and other financial arrangements necessary for construction of this massive project."

COMPLEX BILL

The bill, McKinney said, is unnecessarily complex.

It has "nearly incomprehensible definitions" of what constitutes new gas. And its varying price formulas that apply to varying artificial categories of gas have provided the principal basis for strong opposition to the bill.

"There is a justifiable fear that the bill will generate a monstrous paperwork burden that will be too much for many small producers and pipeline companies to bear," he said.

Also, litigation will result from the complex legislation.

This and added paperwork will escalate costs, eventually to be borne by the consumer.

Despite the objections, McKinney said, it is important to get the bill enacted into law promptly.

The Department of Energy is refusing to act on other important energy matters for fear of alienating support in Congress for the bill, McKinney said. This is perhaps the main reason final decisions have not been made by DOE on several large LNG proposals.

Also, the impasse over Mexican gas imports can be traced to the nation's unsettled gas pricing policies.

"The compromise bill is not perfect," he said. "But I believe it can be made to work if administered with an enlightened attitude toward the needs of the industry and with proper legislative oversight."

MARKET REENTRY

PCGA also heard another upbeat address from Harvey A. Proctor, chairman of the American Gas Association and executive vice-president of Pacific Lighting Corp.

Proctor said AGA has designed an advertising program to "recapture the communications initiative" with the general public—not merely react to gas shortages or emergencies.

This, Proctor said, is to accommodate the reentry into certain markets now in progress by many AGA members.

The stress will be on two themes: the "bright future of gas" and the benefits from the efficiency of gas.

"Our advertising message will assure our 45 million current customers, other potential customers, the financial community, investors, and opinion leaders from Government, business, and labor that abundant supplies of gaseous energy are available now and will be available well into the future," Proctor said.

The advertising will stress market reentry "in the replacement context," which means stressing the benefit of new, more efficient energy-saving gas appliances as replacements for older appliances.

"We will not, however, overtly seek new loads," Proctor explained. "This is in keeping with regulatory actions in many states. AGA advertising will continue to be sensitive to these policies." ●

THE LAFFER CURVE: WISDOM OF THE AGES

● Mr. HATCH. Mr. President, critics of the Kemp-Roth bill claim that it is based on the Laffer Curve, a new and untried idea. In truth, the idea is new only to the critics of the Kemp-Roth bill. The Laffer Curve has been a respected concept for centuries. Arabia was aware of it in the 14th century when Ibn Khaldun described it perfectly. His description appeared in Notable and Quotable in the September 29 issue of the Wall Street Journal, and I ask that the wisdom of the 14th century be printed in the RECORD.

The reprint follows:

NOTABLE & QUOTABLE

(NOTE.—Ibn Khaldun, the 14th Century Arabic philosopher, anticipates the Laffer Curve, in the chapter "Taxation and the reason for high and low tax revenues" in "The Muqaddimah", as translated by Franz Rosenthal in the Princeton University Press Bollingen Series, XLVIII, Vol. 2, copyright c1958, 1967. (Reprinted by permission of Princeton University Press)).

It should be known that at the beginning of the dynasty, taxation yields a large revenue from small assessments. At the end of the dynasty, taxation yields a small revenue from large assessments. . . .

When the dynasty follows the ways of group feeling and (political) superiority, it necessarily has at first a desert attitude, as has been mentioned above. The desert attitude requires kindness, reverence, humility, respect for the property of other people, and disinclination to appropriate it, except in rare instances. Therefore, the individual imposts and assessments, which together constitute the tax revenue, are low. When tax assessments and imposts upon the subjects are low, the latter have the energy and desire to do things. Cultural enterprises grow and increase, because the low taxes bring satisfaction. When cultural enterprises grow, the number of individual imposts and assessments mounts. In consequence, the tax revenue, which is the sum total of (the individual assessments), increases.

When the dynasty continues in power and their rulers follow each other in succession, they become sophisticated. The Bedouin attitude and simplicity lose their significance, and the Bedouin qualities of moderation and restraint disappear. Royal authority with its tyranny and sedentary culture that stimulates sophistication make their appearance. The people of the dynasty then acquire qualities of character related to cleverness. Their customs and needs become more varied because of the prosperity and luxury in which they are immersed.

As a result, the individual imposts and assessments upon the subjects, agricultural laborers, farmers, and all the other taxpayers, increase. Every individual impost and assessment is greatly increased, in order to obtain a higher tax revenue. Customs duties are placed upon articles of commerce and (levied) at the city gates, as we shall mention later on. Then, gradual increases in the amount of assessments succeed each other regularly, in correspondence with the gradual increase in the luxury customs and many needs of the dynasty, and the spending required in connection with them. Eventually, the taxes will weigh heavily upon the subjects and overburden them. Heavy taxes become an obligation and tradition, because the increases took place gradually, and no one knows specifically who increased them or levied them. They lie upon the subjects like an obligation and tradition.

The assessments increase beyond the limits of equity. The result is that the interest of the subjects in cultural enterprises disappears, since when they compare expenditures and taxes with their income and gain and see the little profit they make, they lose all hope. Therefore, many of them refrain from all cultural activity. The result is that the total tax revenue goes down, as (the number of) the individual assessments go down.

Often, when the decrease is noticed, the amounts of individual imposts are increased. This is considered a means of compensating for the decrease. Finally, individual imposts and assessments reach their limit. It would be of no avail to increase them further. The costs of all cultural enterprises are now too high; the taxes are too heavy, and the profits anticipated fail to materialize. Thus the total revenue continues to decrease, while the amounts of individual imposts and assessments continue to increase, because it is believed that such an increase will compensate (for the drop in revenue) in the end. Finally, civilization is destroyed, because the incentive for cultural activity is gone. It is the dynasty that suffers from the situation, because it (is the dynasty that) profits from cultural activity.

If (the reader) understands this, he will realize that the strongest incentive for cultural activity is to lower as much as possible the amounts of individual imposts levied upon persons capable of undertaking cultural enterprises. In this manner, such persons will be psychologically disposed to undertake them, because they can be confident of making a profit from them.

God owns all things.●

USDA CUTS REDTAPE

● Mr. MORGAN. Mr. President, it has come to my attention that Secretary of Agriculture Bob Bergland has taken action to reduce the redtape that has delayed and, in some cases prevented, farmers from receiving emergency loans from the Farmers Home Administration.

Previously, regulations required that county and State governments request disaster loan assistance with the Farmers Home Administration designating worthy counties as eligible for such assistance. Finally, USDA required that there should be at least 25 or more farm emergency loans in a county for such a county to receive the necessary designation.

Needless to say, this procedure was time consuming, causing much irritation to both farmers and local government officials. Also, farmers in many counties have been prevented from getting much deserved loan assistance because they happend to live in countries that bordered on affected areas.

Under the new procedure established by Secretary Bergland, designation of eligibility by county will no longer be required. State Farmers Home Administration directors will be able to authorize county offices to make emergency loans to any farmer showing a need for emergency credit to offset substantial loss caused by storm, flood, drought, or other natural disasters. State directors will act on the basis of available informa-

tion, including damage reports from county offices.

Mr. President, as chairman of the Rural Housing Subcommittee, I have heard numerous complaints about the operation of this program under the Farmers Home Administration. This was particularly true this past spring in western North Carolina when that region was struck by flood. I am pleased that the Secretary of Agriculture has so effectively demonstrated that redtape can be cut and I commend the Secretary for his efforts in this area.●

THE OIL SPILL LIABILITY AND COMPENSATION ACT

● Mr. KENNEDY. Mr. President, I am extremely pleased that the Senate today has an opportunity to consider vital legislation to establish a Federal fund to pay for clean-up costs and damages resulting from spills of oil and other hazardous substances. All of us remember well the *Argo Merchant* disaster in 1976, the worst tanker spill in U.S. history. In January of 1977, I introduced the Federal Tanker Safety and Marine Anti-Pollution Act. Part of this bill, providing for oil pollution liability and compensation, has been incorporated into the legislation before us this afternoon.

This legislation builds upon provisions of the Federal Water Pollution Control Act by assuring that third party damages resulting from spills will be compensated. It establishes a $200 million Oil Spill Liability Fund through a 3-cent per barrel fee on oil, and mandates a study of possible fee structures for a fund for other hazardous substances.

An important feature of this Fund is that it will provide compensation for claims which are not settled by the parties responsible for the spill because of limited liability. Equally important is that it will provide compensation when a spiller cannot be identified or located.

Those of us from New England are acutely aware of the need for this legislation. We depend heavily on the importation of fuel oil to heat our homes and fuel our industries. The chances of groundings, collisions, transfer mishaps, and low-level discharges have greatly increased with the proliferation of tankers and barges off the New England coast. Names like *Argo Merchant* and *Amoco Cadiz* are constant reminders of the tragic consequences of such accidents. And they are not isolated incidents. In 1976, the Coast Guard identified some 1,600 oil-pollution accidents in American waters. Over 23 million gallons of oil were spilled in these accidents.

The need for this legislation is compelling. Time is short for a conference, and some difficult issues must still be resolved. I am pleased that this legislation does not preempt the States from determining their own programs, liability limits and funding mechanisms, and I want to commend the Environment and Public Works Committee for taking on the difficult issue of hazardous substances.

It is my earnest hope that the conferees will be able to resolve these issues, and report a bill back before the end of this session. Those who have suffered the consequences of these tragic spills know that we cannot afford to wait another year.●

CAPITALISM IS THE ONLY FUTURE

● Mr. HATCH. Mr. President, many times in the past Government has managed to collapse the wealth-making process, bringing to an end civilized living. In many instances economic recovery required centuries. In an interesting article in the September 29 Wall Street Journal, Paul Johnson, historian and former editor of the New Statesman, points out that the people have always voted in favor of capitalism with their feet. The enemies of capitalism have always been intellectuals and politicians, because capitalism is a check on their power. As Mr. Johnson writes:

> It is almost inevitable that government, particularly an active, interventionist government, should view free enterprise with a degree of hostility, since it constitutes a countervailing power in the state. The tendency, then, is to cut free enterprise down to size, and this may be done in a number of ways.

Mr. Johnson describes some of the ways in which Government purposefully weakens capitalism in order to increase the Government's own power. Those of us in the Senate see these numerous ways and participate in them every day. One that we have brewing at the moment is to cause enough inflation that we can get away with imposing wage and price controls. From these controls we can move to credit allocation and neutralize the financial power of the banks and the corporations. The country's resources can then be allocated by us here in Washington to serve those needs which further the interests of Government. This is the way it has worked for ages.

In weakening our economy for the purpose of strengthening Government, we are contributing to the success of the Soviet Union. At some point it will become apparent that the Soviets can use pressure and threats to draw political and economic dividends from military predominance.

History seems to consist of free enterprise falling as a result of the success of Government. But when it falls, Government falls too because it has lost its productive base. By overfeeding on the private sector, Government destroys itself, thus again freeing economic activity from prescriptive and stiffling laws and regulations, taxation and debt monetization. As Mr. Johnson points out:

> It is no accident that the industrial revolution took place in late 18th century England. It was a period of minimum government. The industrial revolution—perhaps the most important single event in human history—seems to have occurred without the English government even noticing. By the time it did it was too late; happily—otherwise it would probably have stopped it.

Since government has never brought prosperity to anyone other than those in the government, to the extent that the world's poor have any future, it lies only in capitalism. Not state capitalism of a Fascist or Socialist kind, but individual capitalism in which people have a legal right to their own income.

I ask that Mr. Johnson's article be printed in the RECORD following these remarks.

HAS CAPITALISM A FUTURE?

(By Paul Johnson)

There were at least three economic "Dark Ages" in history, in which a sudden collapse of the wealth-making process led to the extinction, or virtual extinction, of civilized living, and the process of recovery was very slow and painful.

The last of these three Dark Ages extinguished Roman civilization in Western Europe, in the 5th Century A. D. It was not until the 13th Century that equivalent living standards were again achieved—the recovery thus took 800 years. Society again fell into a Malthusian trap in the 14th Century and again recovery was slow, though more sure this time, as intermediate technology spread more widely, and methods of handling and employing money became more sophisticated. Even by the first half of the 18th Century, however, it was rare for even the most advanced economies, those of England and Holland, to achieve 1 percent growth in any year. And there is a possibility (I myself would put it higher) that mankind would again have fallen into a Malthusian trap towards the end of the 18th Century if industrial capitalism had not made its dramatic appearance.

And it was dramatic. By the beginning of the 1780s, in England, an unprecedented annual growth rate of 2 percent had been achieved. During that decade, the 2 percent was raised to 4 percent. This was the great historic "lift off," and a 4 percent annual compound growth rate was sustained for the next 50 years, on average. Since this English, and also Scottish, performance was accompanied by the export of capital, patents, machine tools and skilled manpower to several other advanced nations, the phenomenon soon became international.

THE RIGHT FORMULA

In short, after nearly five recorded millenia of floundering about in relative or absolute poverty, humanity suddenly in the 1780s began to hit on the right formula: industrial capitalism. Consider the magnitude of the change over the last 200 years or less. We all know the wealth of present-day West Germany: All of us (I am sure) have seen it for ourselves. In the year 1800, in the whole of Germany there were less than 1,000 people with annual incomes of $1,000 a year or more. Or again, take France. France now has more automobiles per capita even than Germany, and more second homes per family than any other country in Europe. In the 1780s, four-fifths of French families spent 90 percent of their incomes simply on buying bread—only bread—to stay alive.

It is a profound error of fact, in my view, to see what Blake called the "dark, satanic mills" of the industrial revolution, as the enslavement of man. The factory system, however harsh it may have been, was the road to freedcm for millions of agricultural workers. Not only did it offer them an escape from rural poverty, which was deeper and more degrading than anything experienced in the cities, but it allowed them to move from status to contract, from a stationary place in a static society, with tied cottages and semi-conscript labor, to a mobile place in a dynamic one.

They voted for industrial capitalism with their feet not only because they felt in their bones that it meant a modest prosperity for their children and grandchildren—and on the whole they have been proved abundantly right—but because they knew it meant a new degree of freedom for themselves.

Indeed, the success of industrialization, despite all its evils, continues to persuade countless ordinary men and women, all over the world, to escape the poverty and restraints of rural status-society and to enter the free labor markets of the towns. It is

more marked in the free market economies, but it is marked everywhere. Short of evacuating the cities by force and terror, as is now apparently being practiced in parts of southeast Asia, there is no way to stop this human flood. There seems to be an almost irresistible urge in human beings to move away from the status society to contractural individualism—the central feature of industrial capitalism. And this operates even in totalitarian societies, as witness the efforts, for instance, of the Chinese and Polish governments to limit the urban explosions they are experiencing.

Well, then, if industrial capitalism is both unique in its wealth-producing capacity, and also has the endorsement of a popular mandate, why is it under threat? And who is threatening it?

First, and in some ways the most important, is that the free enterprise idea is losing, if it has not already lost, the intellectual and moral battle. In the 1950s, it was the prevailing wisdom among the leading thinkers of the West, that the growth of higher education was directly productive of industrial growth—that the more university graduates we turned out, the faster the GNPs of the West would rise.

This was the thesis outlined by President Clark Kerr of Berkeley, in his 1963 Godkin lectures at Harvard, and it was a thesis put forward with immense effect in Britain, by Sir Charles, now Lord Snow. Mr. Kerr said: "What the railroads did for the second half of the last century, and the automobile for the first half of this century, may be done for the second half of the 20th Century by the knowledge industry: that is, to serve as the focal point for national growth." And Mr. Kerr added that more graduates would not only mean a bigger GNP but act as a reinforcement for middle class democracy, with all its freedoms.

Now to speak of the "knowledge industry" was to ask for trouble. Knowledge is not a manufactured commodity. There is knowledge for good and knowledge for evil, as the Book of Genesis says. The 1960s, during which most nations doubled, and in some cases trebled, their university places, did not reinforce democratic freedoms or enlarge the GNP or strengthen the free enterprise system. They produced the student's revolts. They produced the Red Brigades. They produced an enormous explosion of Marxist studies. Industrial capitalism, and the free market system, is presented as destructive of human happiness, corrupt, immoral, wasteful, inefficient and, above all, doomed.

There is a second threat, what I call the "Ecological Panic." Now this movement, again, began with the best intentions. I well remember when Rachel Carson's work, "The Silent Spring," first appeared in The New Yorker, and the surprise and concern it rightly aroused. We were tending to ignore some of the destructive side effects of very rapid industrial expansion. The wave of concern that followed was justified, and the steps then taken, notably the clean air policies, and the policies for cleansing lakes and waterways, have been spectacularly successful.

But most of these were put in hand before the ecological panic started. Once ecology became a fashionable good cause, as it did in the late 1960s, reason, logic and proportion flew out of the window. It became a campaign not against pollution, but against growth itself, and especially against free enterprise growth—totalitarian Communist growth was somehow less morally offensive.

One of the most important developments of our time (I would argue) is the growth, as a consequence of the rapid decline of Christianity, of irrationalist substitutes for it. These are not necessarily religious, or even quasi-religious. Often they are pseudo-scientific in form, as for instance the weird philosophy of the late Teilhard de Chardin. The ecology panic is another example. It is akin to the salvation panic of 16th-Century Calvinism. When you expel the priest, you do not inaugurate the age of reason—you get the witch doctor. But whereas Calvinist salvation panic may have contributed to the rise of capitalism, the ecology panic could be the death of it.

A third factor in the future of capitalism is the growth of government. It is no accident that the industrial revolution took place in late 18th Century England. It was a period of minimum government. The industrial revolution—perhaps the most important single event in human history—seems to have occurred without the English government even noticing. By the time it did it was too late; happily—otherwise it would probably have stopped it.

It is almost inevitable that government, particularly an active, interventionist government, should view free enterprise with a degree of hostility, since it constitutes a countervailing power in the state. The tendency, then, is to cut free enterprise down to size, and this may be done in a number of ways. In the U.S. the characteristics technique is government regulation and legal harassment, and this of course has been far more pervasive and strident since the ecolobby swung into action. In Britain the technique is both through direct assault—nationalization—and slow starvation. In a way, nationalization is ineffective, since it allows the public to make comparisons between the performance of the nationalized sector and that of the free sector—nearly always to the latter's advantage. Starvation is more insidious. By this I mean the progressive transfer, by taxation and other government policies, of resources from the private to the public sector.

In 1955, for instance, public expenditure in Britain, as a proportion of GNP was just over 40%. By 1975, twenty years later, it has risen to nearly 60%.

The fourth factor, the trade unions, play an important part. In Britain, for instance, the trade unions can rightly claim that capitalism is inefficient, because they make sure it is inefficient. Ford workers in Britain, using exactly the same assembly line machinery as in West Germany, produce between 20% and 50% fewer automobiles.

The fifth threat—the threat from without—is bound to increase as the military superiority of the Soviet Union over the U.S. is reinforced. I have never thought that the Communist system would triumph by a direct assault. I have always assumed that it would first establish an overwhelming military predominance and then, by pressure and threats, begin to draw the political and economic dividends of it. If the U.S. opts out of the competitive arms race with the Soviet Union, while providing, as she supposes, merely for her own defense, then we must expect to see this fifth threat hard at work winding up industrial capitalism and free enterprise all over the world.

THE U.S. ROLE

Thus, when we ask "Has Capitalism a Future?" I answer: It all depends on the U.S. West Germany and Japan, it is true, have strong free enterprise economies; they also have a tradition of state capitalism, and would adapt themselves with surprising speed and readiness to a new collective order. France already has a huge public sector and a long tradition of dirigisme or etatisme. All three are Janus-faced. Britain, I believe, is profoundly anticollective and will remain so if it continues to be given the choice. But its private enterprise system is now very weak, and its business and financial elites are demoralized and defeatist.

I myself think that capitalism will survive, because of its enormous intrinsic virtues as a system for generating wealth, and promoting freedom. But those who man and control it must stop apologizing and go onto the ideological offensive. They must show to ordinary people that both the Communist world, and the Third World, are parasitical upon industrial capitalism for their growth technology. That without capitalism, the 200 years of unprecedented growth which have created the modern world, would gradually come to an end. We would have slow growth, then nil growth, then minus growth; and then the Malthusian catastrophe.

In short, those who wish to maintain the capitalist system must endeavor to teach the world a little history, and remind it, and especially the young, that though man's achievements are great they are never as solid as they look. If man makes the wrong choice, there is always another Dark Age waiting for him round the corner of time.●

CHARLOTTE MIX SCHOLARSHIP TRUST FUND

● Mr. MORGAN. Mr. President, Friday morning I will be welcoming to Washington eight students and two teachers from my home county of Harnett who will spend 4 days in Washington increasing their awareness of Latin cultures and their influence in the United States. Each of these students is an outstanding student of Spanish in one of our county's high schools and has been selected by his or her teachers for this unique experience.

I am delighted that these persons will be with us and pleased that such a program was made possible through moneys provided by the Charlotte Mix Scholarship Trust Fund headquartered in Buies Creek, N.C. However, I hasten to add that the Office of Smithsonian Symposia and Seminars provided invaluable help and the incentive for this program, and I thank the Office's Director, Wilton Dillon, and his assistant, Carla Borden, for their enthusiastic assistance. They certainly are dedicated to making the resources of the Smithsonian and this great city increasingly available to those outside the District, and I salute them for their commitment to this further increase and diffusion of knowledge.

The Charlotte Mix Scholarship Trust Fund is named for a very special lady who spent her entire life dedicated to the teaching of Spanish. She left a modest estate but her financial resources since her death have been directed toward scholarships to promote interest in the Spanish language and Latin cultures. Through the fund, her memory lives and the aims of her life have been extended and magnified.

The trustees of the Charlotte Mix Scholarship Trust Fund were friends of the benefactor, Charlotte Mix, and administer without compensation the income from the trust fund created with the proceeds from her estate. Robert L. King, a member of the board of trustees from Buies Creek, has been especially generous in giving of his time and personal resources to administer the fund.

I congratulate the participants in this seminar and welcome them to Washington for this exciting experience.

Students: Debbie Bell, Harnett Central High School; Fran Boyette, Dunn High School; Sandra Dziedzic, Erwin High School; Marlene Graham, Western Harnett High School; Nancy Lee, Harnett Central High School; Edward Mendoza, Western Harnett High School;

Angela Parker, Erwin High School; and Sandy Slusser, Dunn High School.

Teachers: Carmon Malone, Western Harnett High School; and Sonia Torres, Harnett Central High School.

CHARLOTTE MIX: THE BENEFACTOR

Charlotte Mix, a New Englander born shortly after the turn of the century, was a most unusual person and was even considered by some to be eccentric. Perhaps they were right, for her life fit no neat patterns.

This beloved teacher was called "Senorita Mix" by everyone though she was not of Spanish descent. And she enjoyed the appelation. It was a simple but effective acknowledgement of her dedication to the teaching of Spanish at Campbell College and promoting greater understanding of Latin cultures.

Her students adored her and they were willing to go to the extra mile for her, just as she went the extra mile for them. She lived well into her sixties, but her vitality belied her age and her energy was boundless. She taught Spanish in the classrooms, tutored after hours those who lagged behind, then invited students to her apartment to prepare Spanish food and talk informally of Spanish-speaking cultures. She organized a Spanish Club and the Senorita herself cheerfully, along side her students, undertook project after project to finance and promote its functions. Her teaching, her students, her Club, her College were her life, and her days and her life were full.

Upon her death, then President of Campbell College, Dr. Leslie H. Campbell, included these comments in his prayer offered at her funeral:

"We are grateful for the long hours beyond the call of duty she spent in laboring with those slow of learning, in lovingly prodding the indifferent and instilling inspiration in her youthful disciples to seek the truth that makes men free. . . . Thousands throughout the Land have learned the truth, through her precept and example, that it is more blessed to give then receive and that of those imperishable values, fath, hope and charity, the greatest of these is love."

Senorita Mix's indominable spirit and her love for the teaching of Spanish and Latin cultures still live through the Charlotte Mix Scholarship Trust Fund established with the proceeds from her modest estate. Its present trustees knew her well, and it was their recommendation that its income be used for ". . . educational scholarships . . . to persons expressing special interest in the study of the Spanish language, the history and culture of Spanish speaking people, or service to Spanish-speaking people."

PAUL L. BOERTLEIN II, PROJECT COORDINATOR

Paul L. Boertlein II, a resident of Washington, is serving without pay as project coordinator. He brings to this effort invaluable experience as a former member of the Staff of Washington College in Chestertown, Maryland, and as a field representative of the Close-Up Foundation which specializes in educational projects in Washington for high school students. He has spent countless hours and his own resources preparing the program, coordinating the selection of participants, arranging transportation and performing countless other tasks necessary to put a program of this sort together.

The assistance of the following organizations and individuals was essential to the success of the program:

Alton Gray, Superintendent, The Harnett County Board of Education, 700 Main Street, Lillington, North Carolina 27546.

Edgar Maya, Organization of American States, Public Information, Visitor Service, Washington, D.C. 20006.

Gudalupe Saavedra, National Council of La Raza, Suite 210, 1725 Eye Street, N.W., Washington, D.C. 20006.

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PROBLEMS OF U.S. POLICY IN AFRICA

● Mr. HATCH. Mr. President, the situation in southern Africa has continued to decline in recent months. Both Rhodesia and South Africa face crucial periods in their history. In Rhodesia the guerrillas are escalating the fighting, intent on toppling the Smith regime and with it any hope of a moderate, democratic form of government for the new republic of Zimbabwe. In South Africa, Prime Minister John Vorster has stepped down for health reasons, leaving former Defense Minister Pieter Wellem Botha to untangle the problems surrounding the government in Pretoria. The final outcome of the problems of these two nations will have an effect upon people throughout the world.

The United States has continued to pursue a policy in this area of the world that is opposite to what would be in this Nation's best interests. The raw materials that are produced in both Rhodesia and South Africa are essential to the economies of the free world. In an editorial in the Wall Street Journal on September 29, 1978, this is pointed out:

The United States is losing sight of its own interests in the area, which are strategic and economic. South Africa is a valuable trading partner. It occupies a decisive position on the world sea lanes. And it is our supplier of numerous key minerals which by a jcke of creation can otherwise be obtained only from the Soviet Union. It is even more important to the economies of our European allies.

I, along with many of my colleagues have been arguing that the position of the United States in this matter should be one of permitting the nations of southern Africa to work out their problems with an African solution. We have urged the administration to support those parties who espouse the concepts most acceptable to the Western World. In the same editorial in the Wall Street Journal the writer points out what direction U.S. policy should take:

A policy cut to those interests would look something like this: First, ignore the UN, which is dominated by other interests and other ideologies. Second, encourage South Africa to ameliorate its ruthless system, bearing in mind that other states on the continent also have awe-inspiring flaws. Third, do what we can to prevent any external power from interfering in the area, either unilaterally or in the guise of the UN. Fourth, allow the peoples of the area to sort out their own problems.

Mr. President, it is imperative that the United States heed the advice being offered by so many, advice that will protect our interests in Africa. The Soviet Union can afford to sit back and wait until the guerrilla forces wear the opposition out unless the United States takes a positive stand against those groups which support Marxist positions. The editorial concludes on a strong note:

This is not a policy that will bring about the moral redemption of South Africa. But it is a policy consistent with U.S. interests in the area. And it is infinitely better than our present policy of tagging along behind the UN majority, a policy likely to destroy real interests in the name of substituting one form of hypocrisy for another, and indeed, one form of racism for another.

Nothing could be closer to the truth. The ballot box has always been a better method to choose a government when compared to the gun. Mr. President, I ask that the editorial from the September 29 issue of the Wall Street Journal entitled "Out of Africa" be printed in the RECORD following these remarks.

OUT OF AFRICA

In almost his last act as Prime Minister of South Africa last week, John Vorster abrogated the UN-sponsored arrangements for the independence of South West Africa/Namibia. A new prime minister, former defense chief Pieter Willem Botha, was elected yesterday. The events thus put in motion provide yet another opportunity to rethink U.S. policy in the region.

South Africa will now proceed with its own plan for elections in its old League-of-Nations mandate. A new black majority government will be elected in November, with South Africa drawing up the rules and South African troops maintaining security. Mr. Vorster invited UN observers to watch if they like.

In the earlier negotiations conducted for the UN by five major Western powers, South Africa had made major concessions. It agreed to reduce its military force in the area to 1,500 men on the promise that the South West African People's Organization (SWAPO) would cease its guerrilla activities, which it has not. The South Africans also agreed to the introduction of UN troops to help with security and supervision of the elections.

But by now the South Africans feel double-crossed. The UN wants to delay the election, as SWAPO demands. This would give the guerrillas more time to intimidate the population; Chief Clemens Kapuuo, the leading Nambian black moderate, was assassinated last March, within weeks of the announcement of a black-white internal settlement in nearby Rhodesia. The UN also wants its military force built up to 7,500 troops, more than twice what the South Africans had been led to expect. And all of this was announced by the UN without the consultation the South Africans had been promised.

Assessments vary on the significance of these details, but it's not hard to understand South Africans' suspicions about letting such a force get its hands on a matter so vital to their security. Particularly when UN agencies have already recognized SWAPO as the sole representative of Nambia, and are subsidizing it to the tune of millions of dollars a year. The obvious danger is that the territory would be handed over to SWAPO, bound and gagged, without elections. This was the solution the UN approved in Mozambique and in West Iran.

The UN aside, the policies of the United States, Great Britain and so on seem determined to persuade the South African whites that there is no point in reform or compromise. We say we want peace in southern Africa, though racial and tribal conflict is endemic and the Russians and Cubans eager. We say we want democracy but ignore its suppression in the black states. We say we want majority rule, but when the whites offer it, as in Namibia and Rhodesia, we decide we want them to accommodate minority tribal factions that aim to impose by violence a one-party state. We need not be surprised if the South Africans are suspicious of things like the Namibia agreements.

The United States is losing sight of its own interests in the area, which are strategic and economic. South Africa is a valuable trading partner. It occupies a decisive position on the world sea lanes. And it is our supplier of

numerous key minerals which by a joke of creation can otherwise be obtained only from the Soviet Union. It is even more important to the economies of our European allies.

A policy cut to those interests would look something like this: First, ignore the UN, which is dominated by other interests and other ideologies. Second, encourage South Africa to ameliorate its ruthless system, bearing in mind that other states on the continent also have awe-inspiring flaws. Third, do what we can to prevent any external power from interfering in the area, either unilaterally on in the guise of the UN. Fourth, allow the the peoples of the area to sort out their own problems.

Buried beneath the international opprobrium on South Africa and the rhetoric of the "front-line" states is the fact that the country has been working on its day-to-day problems for a long time. South Africa is incomparably the strongest military power in the region, and if pressed it will fight. But it has also engaged in extensive if unrecognized interracial diplomacy, both domestic and external. It may be able to buy off many of its foes. The economies of the front line states would collapse without it; South Africa technicians are flown in daily, for example, in order to operate the port facilities in Mozambique.

This is not a policy that will bring about the moral redemption of South Africa. But it is a policy consistent with U.S. interests in the area. And it is infinitely better than our present policy of tagging along behind the UN majority, a policy likely to destroy real U.S. interests in the name of substituting one form of hypocrisy for another, and indeed, one form of racism for another.●

PRESIDENT'S THREAT TO VETO THE EX-IM BANK BILL

Mr. THURMOND. Mr. President, I was shocked and disappointed to learn this past weekend of President Carter's intention to veto the Export-Import Bank Act amendments because of a Senate-approved amendment exempting textiles from further tariff cuts. I believe the President is acting on bad advice. We must take action now to protect the textile and apparel industries from the growing onslaught of imports.

In my home State of South Carolina, 188,000 people depend on the textile and apparel industries for their livelihood. Nationwide, nearly 2.3 million people work in the fiber, textile, and apparel industries. If we cut the tariffs by 50 percent, we will cut off the paychecks to 500,000 of these workers. Can we afford to allow this to happen? The President apparently thinks so.

There is also talk that the sudden removal of textiles from the Multilateral Trade Negotiations will lead to the total collapse of our trade negotiations in Geneva. I simply cannot believe this, and I do not believe that the 56 of my colleagues who voted in favor of the amendment believe it either. If the trade negotiations are that unstable, then the underlying basis of America's negotiating position should be reassessed.

Mr. President, I can not speak loudly enough or strongly enough in favor of this amendment to remove textiles from the MTN. A Presidential veto of this bill could dangerously jeopardize 500,000 textile jobs. I promise that I will work to insure that the conferees keep this provision in the Ex-Im Bank bill, and I will work even harder to override a veto if necessary.

NEEDED: AN UNDERSTANDING OF THE FREE ENTERPRISE SYSTEM

Mr. HELMS. Mr. President, I have a friend down in North Carolina named Bill Burns, who, when formality is proper, is William L. Burns, Jr. Bill is a relatively young man, but his career of achievements is long and impressive.

Bill's father was one of the most respected bankers in North Carolina. Bill himself is president of Central Carolina Bank in Durham, and old and highly respected institution. Through the years, when a job needed doing for the community, Bill Burns did it—and he still is doing it. In short, he is a remarkable citizen.

Bill has always had an abiding faith in the free enterprise system, and an awareness of how essential it is that the system not be destroyed by ambitious politicians. He also understand economics as few other citizens do.

Only recently I ran across a letter to the editor published in the Durham Morning Herald on July 31 which was both refreshing and impressive. After reading a couple of paragraphs, I glanced down to see who had written it. Not surprisingly, Bill Burns had written it.

Mr. President, I want to share this letter with my colleagues; and I, therefore, ask unanimous consent that it be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

BANKER: THANKS FOR EDITORIALS

To the Editor:

It was refreshing to read two editorials recently in the Herald, on July 7, "Healthy Economy Needs Investors," and on July 8, "Aw, Shucks, Rich Folks Can Be Nice." It is not often that a businessman can read an editorial, except perhaps in the Wall Street Journal, where the editor gives such an in-depth viewpoint, and you actually touched on the two main cornerstones of our free enterprise system.

You are very correct in taking the position of Congressman William A. Steiger of Wisconsin in his effort to try to get the capital gains taxes back to the levels prior to the Tax Reform Act of 1976. There is no question that this is having a serious impact on the willingness of people to make investments. A case in point is with our own bank. We fortunately are not in need of capital, but our stock at the present time is selling at 77 percent of its book value (the value stockholders would receive in liquidation) and we are earning approximately 13 percent on our invested capital. If we had to raise new capital today, it would be at an interest cost of roughly 17 percent to the present stockholders.

The large capital gains tax approaching 50 percent and the unusually high tax on dividends, which has a maximum rate of 70 percent, are causing the price of common stocks—and particularly ours—to sell at ranges that make it too expensive for additional capital to be raised. These taxes in my judgment, are approaching a point of being confiscatory. Business needs capital to be efficient and increase productivity, and even a small business like ours has an investment of over $1,700 in fixed assets for each employee.

In regard to the comment about the present administration's disdain for the nation's wealthy, this leads one to believe that this group just does not understand our system. It is the successful corporations and businessmen that are providing vast sums of money for education, health care and every civic endeavor. The very people who are critical of the system are the very ones who are knocking on our door every day for a contribution to a project of a civic nature that they have a particular interest in. Here again, we have given over the last five years a total of $49,000 to Durham's United Fund, and this does not include $129,585 given by our employees over this same period.

The huge tax that has been alluded to previously and the lack of understanding of the free enterprise system and the profit motive—in Congress and through the media—have undermined the very thing that makes our standard of living, our productivity and our efficient services the envy of the whole world. Without the capital to continue productivity and attract investment, there will be no more golden eggs coming from the wealthy and the successful. If we don't do something now while there is still time, we can forget the great privilege we enjoy as Americans.

A. J. FLETCHER AND THE FREE ENTERPRISE SYSTEM IN AMERICA

Mr. HELMS. Mr. President, I have a dear friend down in Raleigh who will be 91 years young next week. His name is A. J. Fletcher. His father was a circuit-riding Baptist minister over in the mountains of North Carolina—and he, too, was a remarkable man. A year or so ago, I visited a church named for Rev. James Floyd Fletcher—a fitting memorial for a dedicated mountain preacher who did so much for so many.

One of these days, the Lord willing, I am going to undertake to write a book about Mr. A. J. Fletcher, son of that mountain preacher. Next week, when this fine man reaches his 91st birthday, I would be willing to wager that he will be at his desk at Capitol Broadcastnig Co. in Raleigh, making plans for that station's future 10 or 20 years in advance.

I speak on this matter, Mr. President, because of a couple of editorials broadcast by the television station which Mr. Fletcher heads—one on September 18, the other the following day. The texts of these editorials came to my desk while I was away last month following a bit of surgery in Raleigh.

Mr. A. J. Fletcher was one of the first broadcasters in the country to enter the field of television editorializing. That was back in 1960. I recall the day that the decision was made, because I was an associate of Mr. Fletcher at the time.

From the day that WRAL–TV's editorials began, nearly 18 years ago, to this good day, Mr. A. J. Fletcher has insisted that they defend the free enterprise system and explain to the viewers in WRAL–TV's audience the blessings of this system.

The editorial director of WRAL–TV is now a competent and articulate broadcaster named Joel Lawhon. It was Mr. Lawhon who prepared and aired the two editorials which I wish to share with my colleagues.

But, before asking unanimous consent that they be printed in the RECORD, I extend advance birthday greetings to

Mr. A. J. Fletcher, a fine American and a good friend.

Now, Mr. President, I ask unanimous consent that the texts of the two editorials be printed in the RECORD.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

WRAL-TV EDITORIAL

In our last editorial we quoted the computations of the National Taxpayers Union, based on official Treasury Department figures, showing that U.S. taxpayers are now on the hook for 9 trillion dollars. That means that each average taxpayer is now responsible for nearly $113,000 of government obligations!

It is inconceivable that Congress intended to saddle each average taxpayer with such a staggering debt, but that is exactly what Congress has done . . . and, worse, continues to do.

During any administration, it's easy for Congress to blame the President. But the truth is: only Congress has the authority to raise and spend money. So Congress cannot duck its responsibility.

And it's easy for *us* to blame Congress. But the truth is: only the people have the authority to send new members to Congress every two years. So we the people cannot duck our responsibility for repeatedly re-electing those who vote for ever greater spending and debt.

Congressmen will go right on voting for big spending and big debt as long as we reward them with re-election.

When we quit electing the big spenders, Congress should get the message.

WRAL–TV EDITORIAL

The National Taxpavers Union has just released the most startling figures we've ever seen on how much debt the American taxpayer has now been committed to by his government.

The study, based on official Treasury Department figures, reveals that, quote: "... U.S. taxpayers are now on the hook for at least 9 trillion dollars. That's almost $113,000 for each and every taxpayer." Unquote.

Yes, the average taxpayer is now responsible for nearly $113,000 of government obligations.

Here's how the figures break down.

The average taxpayer's share of the:

Public debt is	$9,012
Accounts payable	1,000
Undelivered orders	4,150
Loan and credit guarantees	2,612
Insurance commitments	21,662
Annuity programs	73,750
Other	724
Total	112,910

Few taxpayers would ever have guessed the amount was so large. Senator Harry F. Byrd of Virginia certainly hit the nail on the head when he said: "I am certain that not enough Americans are fully aware of the terrible conditions of federal finances."

CONCLUSION OF MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, has morning business been closed?

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

EXTENDING THE DEADLINE FOR RATIFICATION OF ERA

The Senate continued with the consideration of House Joint Resolution 638.

The PRESIDING OFFICER. The Senator from Utah.

Mr. GARN. Mr. President, I ask unanimous consent that the proceedings that have taken place in morning business and the passage of these bills not be taken from the time either on the amendment or time on the ERA extension bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3675, AS MODIFIED

Mr. GARN. Mr. President, I send a modification of my amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Utah (Mr. GARN) proposes an amendment numbered 3675, as modified.

Mr. GARN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 1, line 9, strike the period and insert the following: ": *Provided, however,* That at any time after this resolution becomes effective any State may rescind its ratification of the proposed article of amendment by the same processes by which it ratified the proposed amendment, except that no State may rescind when there are existing valid ratifications of such amendment by three-fourths of the States.".

Mr. GARN. Mr. President, for the record, I would just state that the modification is simply a reference. The amendment was drafted to the Senate extension of the equal rights amendment and not to the House Joint Resolution 638. The modification only refers to the nee reference in the House joint resolution and does not change any of the substance of the amendment.

Mr. President, I have been on the floor all day participating in debate at times and listening most of the time, and the testimony and the arguments of those who favor the extension of ERA are not surprising. They are no different than we heard before the subcommittee. They are no different than I have heard for weeks.

Certainly, Senators are entitled to present their arguments in favor of something, as I am entitled to present mine against. The thing that bothers me, in my original testimony on August 7, the main thrust of my testimony at that time was that we try very hard to separate the issue of ERA from the constitutional process.

I suppose I was rather naive to hope that could be done with an issue that people feel so strongly about, because over and over again for weeks I have been told that ERA is so important that we must extend it, in any event.

So we search back for cases like Dillon and Gloss and others for precedents. They are such weak precedents that it is almost unbelievable that people, because of their zeal to pass a particular amendment, can grab onto them as if they are some historic epistles from the Supreme Court, which they are not. I intend to review them. I will go through the legal justifications on the other side before we vote on this amendment tomorrow.

I think that what we really get down to and have to conclude, any of us, is that there are no precedents. The Constitution does not mention extension; it does not mention rescission. The case law is so thin and not directly to the point that neither side can really claim it.

There are those who sit in this Chamber all day and claim that extension is all right, that we have the right to do it because it does not specifically mention it in the Constitution, in article V; and then they turn it around and say that, on the other hand, it does not mention rescission, and therefore we cannot do that.

Well, you cannot really have it both ways. So we will continue to debate these nebulous, thin legal precedents on both sides; and when we are all through, it boils down to the fact that we are making political decisions here, and the first one is whether we should have an extension at all. This is as thin as the arguments against my rescission amendment.

However, it is going to boil down, when we make this political judgment, to whether we are making a fair and independent and considered judgment of fairness or, as I have said many times today, whether we are going to try to stack it so that only one side can win.

I have heard that the debate will continue, that it will go on and on. That is true in 15 States, but certainly not in 50.

That is the basic issue. It is not going to be a legal question. We are not going to prove it. The courts at some time in the future will do so. They will make a decision on whether this extension is constitutional. They will make a decision on whether it should have been passed by two-thirds. They will make a decision on whether States have the right to rescind or not.

So long as we are going to do something that is unprecedented, that never has been done before, it seems to me that, at the very least, as a political body making political decisions, we should make it fair, and that means rescission to allow States which have gone over this long period of time to make a decision.

I think there are some precedents that have nothing to do with Supreme Court cases or decisions, and I will read my testimony before the subcommittee, on August 7:

Mr. Chairman: I appreciate this opportunity to appear before you and the distinguished members of this committee. S. J. Res. 134 raises issues of overriding Constitutional importance and I am glad to participate in these hearings and trust that the witnesses who appear during the next three days will provide the best information available on all sides of the issues.

This testimony will not be a treatise on Constitutional law; there are experts enough on the Constitution who will testify before this committee or who have appeared before the House Judiciary Committee. What this testimony will be is a plea for detached, objective fairness. My testimony will be relevant to both the Constitutional questions and the policy questions, however, because in areas in which Constitutional language and history do not evidence a clear intent then matters of morality, philosophy, and wise policy are helpful in establishing what will become precedent and, perhaps, law.

It is very unfortunate that the issue of extension is being interwined with the merits of the Equal Rights Amendment (ERA) itself. For example, a recent flyer printed by the National Organization for Women (N.O.W.) says, "Opponents have been using the deadline as a weapon, shifting the dialogue from the merits of the ERA to the time limit itself." [1] I have friends who support ratification of ERA—I do not—but I hope that those who favor ratification will be able to detach their views on the amendment's merits from their views regarding fair and certain procedures. This distinction is critical, and it is a distinction that underlies much of American law, i.e. we have public rules regarding substance and public rules regarding procedure. We do not change our procedures to correspond with our views of substantive rightness or wrongness, wisdom or folly.

Most of the arguments today on the floor have not been dealing specifically with rightness or wrongness of the extension. We have heard great appeals for equal rights for women, and I do not know how many times I have said on the floor that I agree. That is not in dispute, whether or not women should have equal rights. They should, and I support that concept. It is merely a disagreement as to how we achieve those equal rights for all our citizens, regardless of sex.

It seems to me that we have not been totally able to detach our views from the merits or demerits of ERA to look at the procedure.

We do not prejudge the merits of an issue before submitting it to the judicial or legislative process and then, if we adjudge the issue as "good" or "bad", change the rules accordingly. Our judicial system takes good cases and bad under the same rules; our legislative process requires the Administration's bills, and the opposition's bills, and conservative and liberal bills to succeed or fail according to their merits without changing the formal process. Of course, the Administration and the opposition and others are free to lobby, cajole, campaign, and twist arms if necessary, but the formal process remains unbiased, unchanged, and—ideally—even untainted.

I think the merits of ERA must be separated from the issue of procedure. Certainly, because I oppose ERA, my position will be suspect, but I want to assure this committee and all others who read this statement that I will apply the same standard to all other Constitutional amendments. For example, I am a cosponsor with Senator Bayh and others of S.J. Res. 1, a proposed Constitutional amendment to provide for the direct election of the President, and if S.J. Res. 1 is ever placed in a position similar to that now faced by ERA my position would be the same. My position will be exactly the same with respect to S.J. Res. 14 and 15, the two proposed Constitutional amendments which I have introduced dealing with abortion. I feel very, very strongly about the need for these amendments because I believe abortion is a cancer growing in the body politic the like of which has not flared in this country since Dred Scott, but I would not change the process of amendment to favor these amendments. I think the abortion amendments are critical and urgent; I think for every day of delay in referring and ratifying these amendments we consent to our own Slaughter of the Innocents, but I am not willing to substitute my judgment for the judgment of the Congress and the various state legislatures, nor am I willing to skew the process to favor my own substantive views. This being my view, I can no more justify an extension of the deadline for ERA ratification because there can be "No time limit on equality" than I could justify a change of rules for the abortion amendments because "It is time for the killing to stop." This sloganeering is not the way in which to settle important Constitutional and policy questions.

Again, the proponents of the ERA extension would be here lobbying just as vigorously against an extension for abortion amendments.

It seems to me that we cannot change a constitutional process to fit a particular issue whether we happen to be for or against it. If we change the constitutional process for ERA, we should be changing it for any amendment that comes up in the future. We must treat them all the same. They should be debated, considered quietly, without an issue before us, and if we set up changes in the constitutional process, fine. But let us not change it just to fit the political expediency of a political amendment, regardless of what that amendment is.

It is very important to go back, where we talk about precedents, and look at what the Senate said. It is rather interesting. In 1971, we passed a Constitutional Convention Procedures Act, which certainly is not the same procedure as this. It is, to a point. Once the amendment has been proposed to the States, it makes no difference whether it is proposed by two-thirds of a Congress or two-thirds of a constitutional convention. The process is identical from then on. Three-fourths of the States are required to ratify:

Mr. Chairman, as I said at the beginning of my remarks, my plea is for detached, objective fairness. In this regard I believe it is important to remind the Senate of an earlier, analogous situation because I believe we can learn valuable lessons from the experience of the 92nd Congress. In late 1971 the Senate took up and passed S. 215, the Federal Constitutional Convention Procedures Act. The bill was designed to provide guidelines for what we might call the second track of Article V of the Constitution.

The first track is the traditional method of amending the Constitution, i.e., the Congress, by two-thirds vote of each house, refers amendments to the states which are valid as part of the Constitution when ratified by the legislatures of three fourths of the states (or by state conventions). The second track system, and the amending method to which the 1971 bill addressed itself, is the convention method, i.e. the method by which two-thirds of the state legislatures may petition the Congress for the convening of a Constitutional convention, and the proposals of the convention are then referred to the state legislatures for ratification. Second track amendments also require three-fourths of the state legislatures to ratify before they become part of the Constitution.

Both tracks are fully authorized under Article V, although the second track has never been used for the adoption of an amendment. Nevertheless, as of 1971 the states had made over 250 applications to Congress for the convening of a Constitutional convention.[2] The most serious applications for a convention (judging from the number of states which made petitions) included such diverse causes as direct election of U.S. senators, prohibition of polygamy, limitation of federal taxing power, reapportionment, and revenue sharing.

The express purpose of the 1971 Senate bill was "to provide the procedural machinery necessary to effectuate that part of article V of the Constitution of the United States which authorizes a convention called by the States to propose specific amendments to the Constitution." [3] I want to emphasize that the bill was intended to establish the machinery for the utilization of a fully legitimate and parallel (i.e. parallel to the traditional method) method of amendment, and that the reason and logic of the Federal Constitutional Convention Procedures Act are applicable, by analogy, to first track questions, such as that presented in the ERA extension case.

Perhaps the first thing to note about the 1971 act is that it was debated, and passed unanimously, without the heat and pressure that occurs when such debate takes place at a time when a particular amendment is pending. Naturally, the constituency of any pending amendment (and their opponents) made calm reflection difficult. This fact, which is all too self-evident now, was foreseen by the Judiciary Committee in 1971:

The committee urges passage of this bill now in order to avoid what might well be an unseemly and chaotic imbroglio if the question of procedure were to arise simultaneously with the presentation of a substantive issue by two-thirds of the State legislatures. Should article V be invoked in the absence of this legislation, it is not improbable that the country will be faced with a constitutional crisis the dimensions of which have rarely been matched in our history.[4]

Similar sentiment was spoken on the Senate floor when the bill was being debated. For example, the Chairman of this subcommittee, Mr. Bayh, made the following statement:

"I think it is vitally needed legislation. I say let us act now. Let us not wait until a constitutional crisis presents itself, when we may not be able to deal dispassionately and with wisdom with such an important matter as amending the Constitution of the United States." [5]

And a few minutes later, the then-junior Senator from Indiana repeated his hope for decisions made in a calm atmosphere:

"I agree with Senator Ervin that the ground rules for a constitutional convention ought—if at all possible—to be established before a convention is called to deal with a specific topic, lest views on the substantive issues color what should be neutral decisions about fair procedures. Let us set the ground rules in advance, at a time when we can agree objectively on what they should be. I also agree that we ought to take the middle ground in framing such a bill—avoiding both those procedures which make constitutional change too easy and those which stifle needed reform altogether." [6]

Before I go on, I want to make clear that Senator BAYH was not referring to the process we are talking about today. He was referring to a Constitutional Convention Procedures Act. But I certainly think that, with all the parallels we are drawing, his wisdom is exceedingly great on considering issues of this type, of a constitutional nature, at a time of calm deliberation; because I firmly and sincerely believe, beyond all shadow of a doubt, that if there were no issue before us and we were considering a rescission amendment for the future, prospectively, not trying to take advantage of a retroactive situation, there would be 75 to 80 votes, minimum, for rescission, considered at a time of calm deliberation.

But, again, we are not able to separate the views of those who are in favor, and frankly, the votes of some of those who are against ERA, from the process itself. Admittedly, both sides, if they had the

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Footnotes at end of article.

opportunity, would try to take advantage and change the process so that they could win or lose.

My point over and over again, for weeks, has been that I agree with the wisdom of my colleague on an admittedly different, but certainly parallel issue, because it deals with constitutional questions.

We can see, then, the stress that was placed on the issue of calm and objective reflection in 1971. However, the difference between the 92nd Congress and the 95th Congress is not that they desired objectivity more, but that they operated in a climate in which it was possible. Surely every member of this committee and every witness want to take an objective look at this issue (and some may even claim to do so), but I am afraid we are too close to the emotionalism and pressures that surround the substance of ERA. If I am right, then we can learn a great deal about what a truly objective analysis would produce by studying the arguments and conclusions of the 92nd Congress.

The 92nd Congress, in the Federal Constitutional Convention Procedures Act, dealt with three issues that are relevant to the bill at hand. Those three issues are rescission, the value of simple majority rule contrasted with supermajority rule, and timeliness of Constitutional petitions. Let me deal with these issues in order.

Let me tell you what was enacted as part of that and I read from the bill and the committee report:

The Federal Constitutional Convention Procedures Act (the Act) specifically authorized rescission. Section 13 of the Act was as follows:

Sec. 13. (a) Any State may rescind its ratification of a proposed amendment by the same processes by which it ratified the proposed amendment, except that no State may rescind when there are existing valid ratifications of such amendment by three-fourths of the States.

My colleagues if they were here, and they have all gone home, but it will not make any difference.

Mr. BAYH. Not all have gone home.

Mr. GARN. Senator BAYH and I have debated during the day and none of them were in the Chamber anyway, so we decided to let them go home.

Mr. BAYH. Mr. President, if the Senator will yield, let the record show the Senator from Indiana is here listening to every word.

Mr. GARN. I say the Senator from Indiana is with me. I said this language was adopted.

Mr. BAYH. And the Senator from Maryland, our distinguished Presiding Officer, is present.

Mr. GARN. This language was adopted unanimously by the Senate in 1971. Fifty-three sitting Senators today either approved or announced for that bill who are still here. And the language is identical to what I propose except that mine takes effect during this rescission only:

(b) Any State may ratify a proposed amendment even though it previously may have rejected the same proposal.

(c) (precludes judicial review and allows Congress to be the sole judge concerning ratification and rescission.)[7]

The report of the Judiciary Committee gave the reasoning for this provision, and I quote the entire section of the committee report entitled "Rescission of Applications and Ratifications":

The report of the Judiciary Committee gave the reasoning for this provision. I quote the entire section of the committee report entitled "Rescission of Applications and Ratifications." I want to make it clear that these are not JAKE GARN'S opinion. This is the committee report from 1971.

I quote:

The question of whether a State may rescind an application once made has not been decided by any precedent, nor is there any authority on the question.

It is interesting that in 1971 we said there were not any Precedents. Today we are dragging out Dillon against Gloss, a 1868 case, and 1939 cases, and suddenly they are historic precedents:

It is one for Congress to answer. (Note that this statement deals with an application of a state for a Constitutional *convention.*) Congress previously has taken the position that having once ratified an amendment, a State may not rescind.

The committee is of the view that the former ratification rule should not control this question and, further, should be changed with respect to ratifications. Since a two-thirds consensus among the States in a given period of time is necessary to call a convention, obviously the fact that a State has changed its mind is pertinent-

Mr. BAYH. Mr. President, will the Senator yield for a question?

Mr. GARN. In a moment. I will clarify it. I know what the Senator is going to say.

But I will allow him to state it for himself in just a moment.

An application is not a final action.

I am sure what my colleague, and If I am wrong he can correct me, is going to say is what the committee was saying at that time was speaking about an application from a State for a constitutional convention. There is no doubt about it. It is not referring to the instant situation we are talking about today. But I did want to finish the sentence and then I will be glad to yield.

Mr. BAYH. That was not the point.

Mr. GARN. Then I will be happy to yield when I finish the thought, because I would like it to go together.

An application is not a final action. It merely registers the State's views. A State is always free, of course, to reject a proposed amendment. On these grounds, it is best to provide for rescission. Of course, once the constitutional requirement of petitions from two-thirds of the States has been met and the amendment machinery is set in motion, these considerations no longer hold, and rescission is no longer possible.

This is the key point that applies directly.

Continuing to quote the committee:

On the basis of the same reasoning, a State should be permitted to retract its ratification, or to ratify a proposed amendment it previously rejected. Of course, once the amendment is part of the Constitution this power does not exist.[8]

It seems to me that the Judiciary Committee, in a time of calm analysis, adopted the fairest possible procedure. States that had once rejected an amendment would be free to change their mind and later ratify; those that had once ratified would be free to reconsider and, if desired, rescind the earlier action. No state would be irrevocably bound by its earlier decision until the Constitutional (or, in the case of applications for a convention, statutory) standard of three-fourths (two-thirds for applications) had been reached.

The standard contained in the Act was an attempt to codify fair play. It was an attempt to ensure that the debate continued full and healthy within each state for the entire time authorized. We are hearing a great deal about the need to "continue debate on a viable issue," but the fact remains that under the Constitutional scheme set forth by opponents of rescission the debate may continue only in those states which have not yet ratified the pending amendment. Persons living in states that have ratified the amendment must content themselves with writing letters to the editor. Why don't we adopt a method of amendment in which proponents and opponents of a proposed amendment may continue to participate in the active, meaningful debate until the amendment is ratified by the Constitutional three-fourths of the states? As N.O.W. says, "The issue (in this case, of ratifying the ERA) continues to be one of pressing concern, and the debate is, if anything, livelier than it was when the ERA was introduced in 1972."[9]

This statement may be true, but if the issue continues to "press" us into debate even "livelier" than before, why not permit opponents in the ratified states to participate? It is not the advocates of rescission who wish to cutoff debate, is the opponents because for them the debate may only continue in those states they have not yet won. In short, they say, ERA is an issue in only 15 states. Those of us who believe rescission is eminently just, want the debate to continue not only in the 15 states that have not ratified, but also in the four states that have rescinded and the 31 states that have ratified but have not rescinded. Are we now to prohibit continued debate? If so, we abandon a lofty principle adopted by the Senate in 1971 during a period of studied consideration of Constitutional principles for a position that is tainted with prejudice and which is adopted under intense political pressure.

The second issue raised in the Federal Constitutional Convention Procedures Act is that of simple majority versus supermajority. The issue in the Act is not identical to the issue being considered today by this committee, but it is analogous and it should control unless substantial objections are raised against it. I hold that it should control.

Section 10 of the Act, as reported from committee, provided that once a Constitutional convention had been convened (on the application of two-thirds of the States) then amendments could be proposed by a simple majority of the delegates. This position was defended by Senator Ervin who claimed that the supermajorities necessary to call the convention (two-thirds of the states) and ratify proposed amendments (three-fourths of the states) provided sufficient guarantee against unwise amendments and therefore the Act should follow the precedent of the Philadelphia Convention at which a simple majority vote carried a motion. This view was opposed however by those who claimed that since the convention was, in a sense, operating as Congress does when it debates and refers an amendment that the convention should operate under a two-thirds requirement as the Congress does on Constitutional amendments. The opposition was led by the junior Senator from Indiana, Senator Bayh, who proposed and managed the amendment which changed the bare majority requirement to a two-thirds requirement. The Bayh Amendment (Number 450) was adopted 45 to 39.[10]

Senator Bayh's arguments can be summed up best by citing the "Separate Views of Messrs. Bayh, Burdick, Hart, Kennedy, and Tunney" in the Senate report. Those interested in the Senator's floor statements, and his references to several excellent authorities, may refer to the Record.[11] The relevant part of the "Separate Views" follows:

Section 10, which permits the convention

Footnotes at end of article.

to propose amendments by a bare majority vote should be amended to require a two-thirds majority. As presently written, it undermines the traditional safeguard which has protected the integrity of the Constitution since 1789. That safeguard, of course, is Article V's requirement that amendments be proposed by two-thirds of the Congress. All Senators know very well the difference between persuading half and persuading two-thirds of our colleagues of the wisdom of a course of action. Article V's requirement guarantees that a decisive majority of the members of not one but two deliberative bodies agree that the amendment is the wisest means of dealing with a fundamental national problem, and that they come to that agreement before the amendment is submitted to the States. We should require that the convention act through the same decisive majority of its delegates. Only if such a broad consensus is reached at the time the amendment is drafted—a time when viable alternative amendments are still under consideration—can we be confident that there is widespread agreement that the specific language of the amendment proposed best fulfills its purpose. By allowing a bare majority of the convention to propose an amendment, the bill opens the door to the submission of a proliferation of amendments to the States.

It is true that three-quarters of the States must ratify any proposed amendment. But during ratification the States cannot make any changes in the proposal. It is presented to them in final form on a take it or leave it basis. In each State, only a majority of the legislature need be convinced that the particular amendment proposed is better than no amendment at all. Ratification, therefore, is simply not a substitute for the reasoned deliberation and the building of a substantial consensus which ought to precede the proposal of change in the basic framework of our political system. It is for this reason, we feel, that the founding fathers wisely required in Article V a two-thirds vote by each House before the Congress could propose an amendment, even though such an amendment, too, must subsequently be ratified by three-quarters of the States. Our own constitutional history demonstrates this principle. Since 1927, 28 constitutional amendments have been voted on by one or both Houses of Congress. Of those debated, only 7 finally won support from enough members of Congress to be proposed to the States. But of those 7, not one was rejected by the States. In fact, since 1789 only 5 proposed amendments—two of them part of the original Bill of Rights—have been rejected by the States.

For these reasons, proposals should be sent to the States for ratification only if approved by two-thirds of the delegates to the convention.[13]

There are, as I said, differences between the situation addressed by Senators Bayh, Burdick, Hart, Kennedy, and Tunney and the present situation. But it seems to me that anyone reading the views of these distinguished Senators with an open mind will be impressed with the emphasis that was placed on a supermajority. The majority of the Senate was certainly impressed because it passed the Bayh supermajority amendment on a 45 to 39 roll call vote. The votes of Senators who are members of the 95th Congress on the Bayh Amendment are shown in Appendix A.

I concede that the issues are not identical, but issues seldom are. I must say that the Bayh Amendment provides greatly needed help in assessing the current situation and that it should give pause to anyone who quickly concludes that an extension of a ratification deadline can be agreed to by a simple majority of the Senate and House. The Views and floor statements are replete with references to the necessity of a supermajority. And note that the supermajority requirement was placed in the Act at this point: after two-thirds of the States had petitioned for a convention and before it is known whether the states will assent to the specific amendment referred from the convention to the states. In the present case, it is being proposed by some that an extension can be granted after two-thirds of each house have referred an amendment to the states, and after the states have had seven years in which to act. It is my opinion that those who supported the Bayh Amendment in 1971 have established a standard for extension that, at a minimum, requires a two-thirds vote of each house.

Finally, the Federal Constitutional Convention Procedures Act provides some guidance on the issue of timeliness. The Act as reported from committee provided that both applications for convention and referred amendments would remain timely for seven years. The report stated:

Article V is silent on the question of how long a proposed amendment should remain available for ratification or rejection by the States. It is likewise silent on the question of how long applications for a convention should remain valid. There is general agreement that, to be meaningful, applications for a constitutional convention to propose an amendment on a single subject should be a contemporaneous recognition by the States of the need for solution of a constitutional problem. There is some difference of opinion about the time period that is an appropriate measure of this contemporaneity. In the recent past, in making provision for the ratification of amendments proposed by Congress, 7 years has been specified as the appropriate time period within which ratification should take place. The bill provides that the same period—7 years—shall be the valid period. A shorter time, for instance 1 or 2 years, would not afford the States adequate time for debate and deliberation on so fundamental a question as a proposed constitutional amendment. On the other hand, a much longer time, say 15 years, would not satisfy the reasoned desire for consensus.[13]

This language has been helpful to me, and I trust that it will be as helpful to those who say "No time limit on equality" or who press for a 14 year (unless their amendment remains unratified at the end of that time period) ratification deadline or who believe that the number of years that the amendment remained pending before Congress before being referred is somehow relevant to that question of contemporaneity and a reasonable ratification period.

The same Senators who opposed the simple majority vote in convention also opposed the 7 year deadline during which a state's convention call would remain valid. In the same Separate Views cited above, Senators Bayh, Burdick, Hart, Kennedy and Tunney had this to say about the 7 year deadline: I emphasize that they were addressing themselves to the period during which a convention call would remain contemporaneous and valid, not the period during which an amendment which had been referred to the states could remain pending.

We believe that a State's call for a convention should not remain effective for seven years, as section 5 of the bill now provides. The call for a convention, as Professor Paul A. Freund has said, should reflect "a contemporaneously felt need." Of course, enough time must be provided to give the State Legislatures an opportunity to consider joining the request. However, in our view, four years would be a sufficient length of time. The vast majority of the legislatures—33 at latest count—now meet annually. Even the 17 legislatures which meet only in alternate years would have two sessions in which to act.[14]

Senator Bayh introduced an amendment to change the convention-call rule from 7 years to 4 (Amendment No. 451[15]), but he never called it up.[16] "I would have preferred a shorter period of time than 7 years," said Senator Bayh, "so that if something is greatly concerning the country, it can be dealt with quickly." However, because the Senate had accepted Senator Bayh's earlier amendment and because the House had not yet considered the measure he did not call up his second amendment.

Mr. Chairman, the language of the Federal Constitutional Convention Procedures Act itself, its report, and its debate can serve as excellent guides for the current debate. I think the Act was a reasonable and reasoned piece of legislation that was debated, amended, and passed during a time of constitutional calm. Our present circumstances are not so peaceful—we are under extreme pressure to do that which is politically expedient. My fear is that our present tendency is to respond to the pressure and heat and I am afraid that by doing so we will warp neutral principles that were shaped during a time of calm analysis and which should remain strong, straight, and sure.[17]

AMENDING THE CONSTITUTION ACCORDING TO GALLUP AND HARRIS

Mr. Chairman, before I conclude my remarks and make my recommendation for resolution of the problem, let me address one other aspect of the issue. This aspect concerns the use of polling percentages as an argument for this or that option. An example of this is N.O.W.'s statement that "All reputable polls indicate that the vast majority of Americans, including those in the unratified states, want the ERA."[18]

It is true that the polls show wide support for ERA ratification. On July 17, 1978, Louis Harris wrote, "After a two-year period of serious erosion, support for passage of the Equal Rights Amendment to the Constitution has now risen to 55–38 percent, up from 51–34 percent back in January."[19] George Gallup's July, 1978, poll showed an even wider margin.[20] Gallup shows support for extension equally divided; Harris shows a majority favoring extension. This, of course, is interesting information and any politician worth his salt will pay attention to the numbers, but if these numbers have any relevance to the formal process of amending the United States Constitution it is not clear. Article V is explicit about the manner of ratification: after two-thirds of each house of Congress have passed a proposed amendment it is referred to the states, and the proposal becomes a part of the Constitution only when ratified by three-fourths of the state legislatures. The polls are relevant to this extent: if that many people want ERA ratified they should see that their state legislators vote for it and, if they do not, they have the option of replacing them with men and women who will do a better job of representing the people's views.

There are, then, the self-evident problems of conducting public policy according to the polls, but there are also polls which complicate what we are led to believe is a two-to-one mandate for ERA. For example, the Committee on the Status of Women commissioned a poll by Decision Making Information of California which showed that by a margin of 61–35 percent the American people opposed sending draft-age women into combat; by a margin of 65–23 percent they objected to transferring final power over marriage, divorce and child custody from the states to the federal government; by a margin of 51–44 percent they opposed making all school and college activities coeducational; and by a margin of 66–28 they opposed giving homosexuals the right to marry and teach in schools. Additional information on the survey, including the exact questions asked, appears in Appendix B.

I am well aware that the questions asked

Footnotes at end of article.

by Decision Making Information are very controversial in and of themselves. There is considerable debate about the effect of ERA on laws relating to homosexuals. Some believe that ERA will have no effect on such laws, others believe that laws making distinctions on what has become known as "sexual preference" will violate the express provisions of the Amendment, and others believe that the whole issue of homosexual rights and ERA is a bugaboo and irrelevant. For these reasons, we have state legislators making decisions based on the best information available to them. They can determine for themselves whether ERA will affect homosexual rights; they can decide about women, the draft, and their constituents' views; and they can make the other judgments that are implicit in any legislative decision but which are of extraordinary importance in any decision regarding an amendment to the federal Constitution.

Of course, Congress needs to be careful about playing this polling game. If we are going to make Constitutional decisions on the basis of the polls, we had better prepare to move in several areas, and do it quickly. A recent listing of Senate Joint Resolutions to amend the Constitution [21] shows the following:

Six joint resolutions to balance the budget; [22]

Four joint resolutions to restrict the terms of office of the President, Senators, and Members of Congress; [23]

Two joint resolutions calling for a change in the electoral college; [24] and one joint resolution which would establish a national referendum.[25]

We could ignore these resolutions (as we probably will, except for the change in the electoral college) with impunity if it were not for the polls, which show support for all of these measures.[26] My point, of course, is that you will not see the United States Senate running off to enshrine polled percentages in the Constitution. We are a long way from a balanced budget amendment, a restricted term amendment, and an initiative amendment. Why? Because we do not amend the Constitution according to Gallup and Harris. Naturally, we all know this about balanced budgets and restricted terms and national initiatives; my hope is that our knowledge is as sure in regard to ERA.

RECOMMENDATION

Mr. Chairman, I believe the best way for this committee to act is to report a joint resolution to the floor that is identical to House Joint Resolution 208, the original resolution containing the Equal Rights Amendment which was referred to the states on March 22, 1972, with one addition. The addition would permit states to rescind during the ratification period under the same conditions which were expressed in the 1971 Act.

If this is done, I will not propose or support any amendments to the resolution itself, i.e. I will neither propose nor support any amendments dealing with busing, school prayer, abortion, balanced budget, and so on. Also I will use what influence I have to see that my colleagues do not propose or support such amendments.

If a resolution reaches the floor and it does not have the above elements, I will have serious reservations about it and will support amendments designed to protect what I understand to be the integrity of the amending process. If these kinds of amendments are not successful then I believe it is my duty to support those efforts, under the rules of the Senate, which will provide for a thorough debate of the many issues surrounding extension.

FOOTNOTES

[1] Flyer printed by National Organization for Women, dated July 10, 1978 and entitled "National Lobby Day." (Hereinafter, N.O.W. flyer.)

[2] *See* table of "State Applications Calling for Convention to Propose Constitutional Amendments from 1787 to September 1971 by Subject Matter" in 117 *Cong. Rec.* 36754 (1971) (remarks of Senator Ervin).

[3] S. Rep. No. 92-336, 92d Cong., 1st Sess. 1 (1971).

[4] *Id.* at 2.

[5] 117 *Cong. Rec.* 36761 (1971) (remarks of Senator Bayh).

[6] *Id.*

[7] The Act is printed at 117 *Cong. Rec.* 36806 (1971).

[8] S. Rep. at 14, *supra* note 3.

[9] N.O.W. flyer.

[10] The vote is found at 117 *Cong. Rec.* 36770 (1971).

[11] Senator Bayh's remarks appear at 117 *Cong. Rec.* 36760–36770 (1971).

[12] S. Rep. at 18, *supra* note 3.

[13] *Id.* at 11.

[14] *Id.* at 19.

[15] 117 *Cong. Rec.* 36760 (1971).

[16] *Id.* at 36803.

[17] An identical Act was passed by voice vote in the 93rd Congress on July 9, 1973. 118 *Cong. Rec.* 22731 (1973).

[18] N.O.W. Flyer.

[19] The Harris Survey, July 17, 1978.

[20] The Gallup Poll, July 16, 1978.

[21] *Digest of Public General Bills and Resolutions*, 95th Cong., 1st Sess. (Final Issue, Part 2). Prepared by the Congressional Research Service, Library of Congress.

[22] S.J. Res. 2, 26, 50, 51, 53, 65.

[23] S.J. Res. 20, 25, 27, 28.

[24] S.J. Res. 1 and 8.

[25] S.J. Res. 67.

[26] The headlines of some of the polls are descriptive: "Huge Majority Backs Carter Goal of a Balanced Budget," The Gallup Poll, August 28, 1977. "Public to Congress—Retire the Electoral College," The Gallup Poll, February 19, 1977. "Majority of Voters now Favor Limit on Terms of Senators, Representatives," The Gallup Poll, December 4, 1977. "National Initiative Process Favored by 57% of Voters," The Gallup Poll, May 14, 1978.

APPENDIX A

Members of the 95th Congress who voted on S. 215, the Federal Constitutional Convention Procedures Act, and the Bayh amendment (No. 450) in the 92nd Congress:

Senator Bayh amendment, and final passage (S. 215):

Baker, no, yes.
Bayh, yes, yes.
Bellmon, n.v., yes.
Bentsen, yes, yes
Brooke, yes, yes.
Burdick, yes, yes.
Byrd, Va., n.v., n.v.
Byrd, W. Va., no, yes.
Cannon, yes, yes.
Case, yes, yes.
Chiles, no, yes.
Church, yes, yes.
Cranston, yes, yes.
Curtis, n.v., announced against, n.v., announced for.
Dole, no, yes.
Eagleton, yes, yes.
Goldwater, no, yes.
Gravel, n.v., n.v., announced for.
Griffin, no, yes.
Hansen, no, yes.
Hatfield, Mark, no, yes.
Hollings, no, yes.
Inouye, yes, yes.
Jackson, yes, yes.
Javits, yes, yes.
Kennedy, yes, n.v.*
Long, no, n.v.
Magnuson, yes, yes.
Mathias, n.v., n.v.
McGovern, yes, yes.
McIntyre, yes, yes.
Muskie, yes, yes.
Nelson, yes, yes.
Packwood, n.v., n.v.
Pearson, yes, yes.
Pell, n.v., n.v.
Percy, yes, yes.
Randolph, yes, yes.
Ribicoff, n.v., n.v., announced for.
Roth, no, yes.
Schweiker, yes, yes.
Sparkman, no, yes.
Stafford, yes, yes.
Stennis, no, yes.
Stevens, yes, yes.
Stevenson, yes, yes,
Talmadge, no, yes.
Thurmond, no, yes.
Tower, n.v., announced against, n.v., announced for.
Weicker, no, yes.
Williams, yes, yes.
Young, no, yes.
Total, 53.

Congressional Quarterly shows Senator Kennedy "Announced for or *CQ* poll for." See *Congressional Quarterly Almanac*, 92d Congress, 1st Session (1971) p. 41-S.

APPENDIX B

RESULTS OF NATIONAL SURVEY: EQUAL RIGHTS AMENDMENT—RELATED QUESTIONS

I'd like to now talk for a minute or two about a proposed amendment to the United States Constitution called the Equal Rights Amendment or ERA. It reads as follows: "Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex." Some favor it while others oppose it, but for different reasons.

1. *If* the ERA means that if a war were to occur, draft age women will be sent into military combat just like men, would you favor or oppose the Equal Rights Amendment?

	Percent
Favor	35
Oppose	61
Not sure	4

2. *If* the ERA means that final power over marriage, divorce and child custody will be transferred from the States to the federal government, would you favor or oppose the Equal Rights Amendment?

	Percent
Favor	23
Oppose	65
Not sure	12

3. *If* the ERA means that every school and college, including all their activities, must be coed, would you favor or oppose the Equal Rights Amendment?

	Percent
Favor	44
Oppose	51
Not sure	5

4. *If* the ERA means that homosexuals will be able to get marriage licenses and teach in schools, would you favor or oppose the Equal Rights Amendment?

	Percent
Favor	28
Oppose	66
Not sure	6

This national probability survey was conducted between March 26 and April 3, 1977, by Decision Making Information of Santa Ana, California. The study contains the results of 1,201 telephone interviews with adults (18 years and over) within the continental United States. The sample was drawn from the universe of households with telephones. All forty-eight states were included in the randomly selected sample. In general, random samples such as this yield results projectable to the entire universe of the adult population in the United States within ± 2.9 percentage points in 95 out of 100 cases.

Any release to the public of these results should include all of the above reporting minima along with the exact wording of the questions asked.

I am happy to yield now to my colleague for a question.

Mr. BAYH. I believe the hour is late. The only point the Senator from Indiana has to add to this debate can be added tomorrow. Unless the Senator from Utah wishes to proceed, I prefer to wait until the morning.

Mr. GARN. Mr. President, I will continue but not for a great deal of time. I agree with the Senator from Indiana. I also wish to defer until tomorrow morning, but having had debates on all sorts of other issues, if we waited until the morning with the time certain at 11 a.m., this material would not be available for the RECORD.

Mr. President, rescission, in my opinion and that of many other constitutional scholars, is a justiciable question; in other words, a legal one to be decided by the court, not the political branch, arising by operation of law.

Mr. President, it is my firm opinion that rescission is a justiciable question that arises by operation of law and which resides in the State legislatures and which this Congress cannot deny or abridge. Rescission is a question of law; it is not a question of policy such as those which reside in the legislative branch and which require the decisionmaker to weigh a great number of factors in determining the outcome. In this sense, rescission is probably not like the determination of a "reasonable time," for I think that the answer on the former should be made by the Court—which is fully competent to make such a determination—and the answer on the latter should probably be made by Congress which is better able to weigh the factors of reasonableness.

Of course, several distinctions and reservations need to be made about these conclusions—and these are reservations that spring immediately to mind. Certainly this short list does not exhaust the problems arising from my view of justiciability.

The first thing that needs to be said is that if Congress is in fact the competent body to decide the question of a reasonable period during which a proposed amendment will remain pending, then Congress conclusion must in fact be reasonable. Let us not delude ourselves into thinking that whatever Congress decides is, simply by the fact of congressional decision, reasonable. I do not know if the final arbiter of this question will decide that this extension we are now considering is reasonable or not. There is certainly reason for doubt. If we pass House Joint Resolution 638 as presently constituted we will be allowing the time for ratification to run for over 10 years. This may or may not be reasonable as I have said, but this much will be true: We will have an amendment pending for a time period more than 2½ times longer than the time that was taken to ratify the amendment which took the longest to be ratified. We will have a time period of over 10 years; that is 5 times longer than the time necessary to ratify the average amendment. And the 10-year pendency will be longer by about 50 percent than the specific time limit given to any other amendment.

This may be reasonable, but if it is, reason will have to be stretched to its limit.

I have said on many occasions that I am willing to support this resolution if it is amended to insure the integrity of the process by requiring a two-thirds vote and to promote fairness by adoption of my rescission amendment. This means that if the resolution is adequately and properly amended I have been willing to give the 10-year period the benefit of the doubt. This is not to say that I have no doubts about the reasonableness of the time; it is only to say that I have been willing to compromise and support the extension when properly amended.

Of course, this does not imply that I think the amended resolution would be constitutional, in fact, its constitutionality is a matter of extreme dubiousness. However, because of the interest of myself and millions of others I was willing to give the extension the benefit of the doubt. Of course, I am unable to do that unless the resolution is amended to take care of its most glaring inequities.

At the same time that I admit of Congress power to set a reasonable time, I am not at all sure that it can be done in the manner now recommended. That is, even if 10-plus years is reasonable, I am not sure at all that it can be done in this two-step manner. We all know that this procedure is unprecedented. Its uniqueness does not mean it is improper, but it certainly means at least these two things: First, that whatever we do ought to be done with the greatest care and thought and that we ought to follow the analogous procedures which certainly require a two-thirds vote and which are scrupulously fair. The second thing that we learn from this unique procedure is that generations of constitutional authorities and political activists never thought of this procedure; therefore, we can conclude that it certainly has the appearance of a desperate maneuver designed to twist processes that have heretofore been very clear and generally understood and accepted.

I repeat that, nobody has ever brought it up before until just this year.

One reason for doubting the legality—not to mention wisdom—of this extension is the teaching of Dillon against Gloss which stated that "proposal and ratification are not treated as unrelated acts, but as succeeding steps in a single endeavor, the natural inference being that they are not to be widely separated in time." Now what we have in this case is not a single endeavor, but two endeavors, and I question whether the Court is going to support such an undertaking. Certainly this resolution has all the signs of a resolution of referral, and of course it is widely separated in time from the original resolution and not a part of the same endeavor, but distinct. Why is it that I call this resolution essentially a resolution of referral? For this reason: Suppose a State, acting under the purported authority of this resolution, ratifies the Equal Rights Amendment in 1980. How is it able to do this unless Congress has proposed the amendment and it is available for ratification by the States? Well, it cannot ratify unless Congress—or a constitutional convention—has referred the proposal to the States for their consideration and possible ratification and in 1980 the only way that ERA would be pending before the States is under this resolution. It is clear then, that this resolution seeks to act as though it were in fact a resolution passed by two-thirds of each House and referring a proposal to the States. This resolution seeks to do what is normally done in the constitutional amendment process without meeting the same constitutional requirements set forth in the normal case.

The proponents of House Joint Resolution 638 think this resolution can do what the resolution in the regular case would do; that is, refer the amendment to the States for consideration, for that is exactly what it does, but they do not want it to meet the regular requirements. They insist that a two-thirds vote is not necessary and they further insist that this can be done in two, rather than a single, endeavors, as Dillon against Gloss teaches.

Another reason to doubt the constitutionality of this measure is found in the research of Prof. Jules R. Gerard. We now know that Professor Gerard has shown that the great majority of States that have ratified this proposed amendment expressly stated the 7-year limitation in their ratification document. This casts a dark shadow over the status of those ratifications during any period of extension. What the States were doing of course was simply accepting the offer of Congress to agree to this proposal. It may be well to remember what Congress actually said to the State legislatures—and everyone else—in 1972. Congress said,

> *Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein).* That the following article *is proposed* as an amendment to the Constitution of the United States, *which shall be valid* to all intents and purposes as part of the Constitution *when ratified* by the legislatures of three-fourths of the several States *within seven years* from the date of its submission by the Congress: [then setting out the three sections of the amendment]

This language is express, there is not much that is hidden or that must be dug out by implication. Congress, two-thirds of each house concurring, made an offer to the States. That offer would be effective if three-fourths of the States signaled their agreement within 7 years. Now, Congress comes along and seeks to amend its offer. It seeks to do so by a simple majority vote, which in and of itself is certainly unusual and probably unconstitutional and certainly unwise. It then seeks to hold States to an agreement that the States have never agreed to. No State (not to mention the 92d Congress) has ever given its consent to an offer regarding a constitutional amendment that was proposed in 1972 for a period of over 10 years. The principles supporting the original offer and subsequent acceptances are being seriously undermined by House Joint Resolution 638. We do not know what that resolution is or what it will do. We know this,

though: it is mischievous and intentionally unfair to gain the passage of one particular amendment.

Why I have introduced this amendment although I believe the best view is that rescission is a question for the Court to decide.

Mr. President: It is a fair question to ask me why I have introduced my rescission amendment if I believe the issue is to be decided by the Court. In short, this is why: Because my view may not be upheld by the Court.

I think that is obvious. There are many times we come to legal decisions or opinions, and we have great constitutional scholars on both sides of an issue, and they are constantly surprised by what the Supreme Court may say or do regardless of previous case law. Therefore, if the Court does not adopt my view, and I certainly have no crystal ball with which to divine the intent of the Court, then this amendment is absolutely proper and necessary. If, by chance, rescission is a matter for the Congress to decide, then this amendment establishes a minimum of fairness.

That has been my argument from the very beginning, confining my amendment to the instant case of extension, not trying to back up and take advantage of four States, stack it in favor of those who oppose by picking up the four States that have attempted to rescind or trying to make it continue past the extension period proposed by the House of 3 years, 3 months, and 8 days, and try to set a precedent for the future.

I am merely saying if we violate all the precedents, if we do something that has never been done before by extending, we can certainly take a step to make it fair. We have not done that before either.

Again I repeat how can we separate the two? How can you have it both ways, that somehow when the Constitution does not say anything about it we can find our way by majority vote to vote for extension, but we cannot vote for rescission because it also is not mentioned.

It alleviates some of the most glaring inequities that are otherwise inherent in this resolution. It makes a fair statement, it establishes a fair procedure, it allows both sides to participate fully in the debate, it demonstrates to the American people that Congress will not allow the rules to be rigged to exclude a substantial number of people and significant arguments from the public forum.

I may be wrong about rescission and justiciability. That is, the Court may not take the rescission case but leave the decision to Congress. If that is so, then it seems to me that the adoption of my rescission amendment is a moral and legal imperative for this Congress in order to make it fair.

October 3, 1978.

My Dear Senator Garn: I am glad to give you such thoughts as I have on certain Constitutional issues concerning your own amendment to the pending proposal to extend time for ratification of the Equal Rights Amendment, and also on another amendment to be voted on, which would impose a two-thirds vote requirement on the procedure for the adoption of the extension proposal.

Your amendment would provide that, during the period of something over three years during which the Equal Rights Amendment would still be pending, States might rescind their ratification of that Amendment. As you know, I come to this proposal of yours with the long considered and firmly held belief that rescissions by the States are valid and effective by operation of law, not only during the period set by your amendment, but also at any other time before the requisite three-fourths ratifications are assembled. You have in your hands a statement of my reasons for holding this position, and I will not repeat them here.

The relevant thing to say now in this connection is that your amendment seems both constitutional and prudent without regard to the position one takes on the overall validity of rescissions. The first and most obvious point to be made is that whatever I think, or whatever anyone else thinks, about the general question of the validity of rescissions there can be no guarantee that the Supreme Court or the Congress will agree. If one could be sure of this, then of course your amendment would be unnecessary. But the fact is that we cannot be sure of it. What your amendment does, therefore, is to provide for rescission during a period when it is most vitally needed, regardless of the future decision of Congress or the Court on the more general question.

I say "most vitally needed" because the aim of the Constitutional amendment process is to insure that there is something like a contemporaneous consensus among three-fourths of the States on the desirability of the adoption of a particular amendment. The threat to the reality of such a contemporary consensus obviously becomes greater as time is extended. This extension, if passed and upheld, could result in the Equal Rights Amendment being before the country for more than ten years, which is about two-and-a-half times as long as any amendment now in the Constitution has hitherto taken to be adopted, and some five times as long as the average period that has been required for ratification of amendments. Quite clearly, such pendency of any amendment for the length of time gives enhanced realism to the fear that a result favorable to the amendment be the product not of a contemporaneous consensus, but on the contrary, simply of the tacking together of consents given at widely separated times.

Your amendment, it seems to me, recognizes and to a modest extent deals with this threat. It annexes to the very instrument increasing the danger a provision that would at least partially neutralize that danger.

It seems to me that this characterization, which I believe to be correct, pretty well solves the problem of constitutionality. I am by no means sure that Congress has the power to effect this extension, but if it has that power, then it seems to me that it must have the power to annex to the act of extension any provision reasonably calculated to reduce the possible undesirable effects of an amendment's pending for such a long time. If Congress has the power to extend, then it has the power to extend on reasonable terms.

I understand that some question has been made of the propriety of this Congress' dealing with this question at all. I believe this concern can be dissipated by considering that your amendment addresses itself quite directly and specifically to a danger that is created by the very act of extension passed by this Congress. The Congress that passes the act of extension is, above all other Congresses, just the right one to state the terms on which extension will be provided for. Your amendment goes no further than this, and it seems to me that this Congress is just exactly the right one to deal with this. Your amendment does not deal affirmatively or negatively with the general question of the validity of recissions by the states, but only molds and modifies the provision for extension itself, by annexing to it a certain condition. I really can't understand how any Congress could be better than this one, the one that extends the time, for considering the terms on which extension will be granted.

I turn now to the merits of another amendment now pending which would require that this proposal for extension be passed by a two-thirds vote in both the Houses. It is my opinion that a two-thirds vote is required for this extension proposal. As I said in my testimony before the House Subcommittee, the original resolution that passed both Houses of Congress and sent ERA to the country was worded in a clearly and expressly conditional form, providing that the text of the amendment should have validity as part of the Constitution, if the ratification took place within seven years. This integral proposal—a proposal for validity conditioned on a certain time-limited event—was the only thing that anybody ever voted on or could have voted on; it was, in fact, the only proposal ever made to the States. It is impossible to know how many votes on the proposal were influenced by the inclusion of this time limitation. We do know that it was carefully considered and intended to have serious effect as a part of the proposal. But the main strength of my case is in the text of the proposal itself. It proposes that validity be conditional on ratification within seven years. That conditional proposal was the only proposal that ever passed. It seems to me plainly to follow that an alteration in the content of the proposal has to be passed by the same majority required to pass the proposal.

I think that if the act of extension were to have been offered on the day following the passage of the original proposal, and if it had been suggested that a simple majority vote was enough, the ludicrousness of this position would have been entirely clear, but I can't see why it would make any difference that a good deal of time has elapsed.

Some people say that this matter of time pending is a "mere" procedural matter. This kind of thing is somewhat hard to understand on the part of lawyers, because lawyers know that the difference between a lynching and a fair trial is only a matter of procedure. I would add that nothing could be more important than the following of meticulously correct procedure with respect to the amendment of the American Constitution—the basic document legitimating our government.

There are many other points that could be made about this extension proposal. But I believe I have covered the points of most pressing interest to you at this time.

Sincerely,

Charles L. Black, Jr.,
Sterling Professor of Law,
Yale Law School.

Mr. President, I think it is necessary at this point to clear up a few points for the record. Frankly, there have been several myths going around about the history and interpretation of article V.

The first of these myths is the myth of something called "Madison's Principle." Now, I have discussed this with some constitutional law scholars, and they agree that nobody had ever heard of "Madison's Principle" until just a few months ago, when the Assistant Attorney General of the United States unearthed a letter from James Madison to Alexander Hamilton, took it entirely out of context, misstated its conclusion, and elevated the remains into a sacred precedent.

What really happened was that New York was considering the adoption of the original Constitution. Some members of the New York Legislature were concerned

that the document contained no Bill of Rights, and they wanted to ratify the Constitution with the condition or proviso that a Bill of Rights be ratified by the other States. Madison replied that such a conditional ratification would not be enough to make New York a member of the Union. That is all that happened.

Several points need to be made about Madison's letter: First, it did not even purport to interpret article V, the provision for constitutional amendments. Indeed, article V had not even been adopted. The New York Legislature was discussing the ratification of the Constitution itself, not of any amendment to it. Senator BAYH has suggested that what Madison thought about the adoption of the Constitution must have been the same as what he thought about the ratification of amendments. But that suggestion cannot stand in the face of the clear action of the framers when they wrote two different articles for the two different procedures—article V for amendments to the Constitution, and article VII for the adoption of the Constitution itself by the 13 Original States. The two articles contain entirely different formulas and procedures, because they involve two entirely different situations. So even if Madison really had said that the States could not rescind, it would have had no bearing on article V, which is the only question before us today.

But even assuming for the sake of argument that Madison was talking about constitutional amendments, a close examination of his words tends to support the State right to rescind. What Madison said was that a conditional ratification is no ratification:

> A reservation of a right to withdraw if amendments be not decided on . . . is a conditional ratification, that . . . does not make N. York a member of the New Union, and consequently . . . she could not be received on that plan. Compacts must be reciprocal, this principle would not in such a case be preserved.

What Madison was saying was that if two parties to a compact ratify it with different thoughts in mind, there is no meeting of the minds, and so the compact is totally ineffective. Applying this reasoning to rescission, if a State ratified in the erroneous impression that it could rescind, its ratification would be totally ineffective. Instead, the proponents of extension without rescission would have us believe that a conditional ratification would be absolutely valid, as though it contained no condition at all. This is simply not what Madison was saying. The proponents of an unfair extension should be ashamed to give Madison's name to their novel and made-to-order "principle."

The second of the myths concerns the so-called "historic precedent" of the 14th amendment. I think it is important to review what actually happened on that day in 1868, to show how weak the precedent really is:

> In 1868, three-fourths of the legislatures had ratified the Fourteenth Amendment; Ohio and New Jersey, however, had rescinded before the last state had ratified. Nevertheless, both houses of Congress passed a resolution declaring the amendment to be part of the Constitution.

The Senate passed the resolution wthout debate and without a roll-call vote. The House debated only for a minute or two, rejecting a request that the Judiciary Committee consider the resolution. (It was almost referred to the Joint Committee on Reconstruction, but the House opted instead to pass it without any committee consideration whatever.) This was the Reconstruction Congress, and the members who voted—in a near-perfect party-line vote—that Ohio and New Jersey could not rescind were, virtually man for man, those who five months earlier had voted to impeach Andrew Johnson for refusing to obey unconstitutional orders.

A few thoughts on the 1868 resolution. First, it was not framed as a general statement on the right to rescind. Indeed, debate revealed more support for the proposition that these particular rescissions were invalid because the Democratic legislatures of Ohio and New Jersey did not truly represent the citizens of those states. Moreover, up to that moment in history nobody had suggested that Congress had any power over the amending process except to propose amendments and to designate the mode of ratification. The only prior controversy over the validity of an amendment—the Eleventh, in 1795—had been settled by the Supreme Court. The attempt for the Reconstruction Congress to judge whether its own proposal had been duly ratified can best be explained in light of the felt necessities of the time: this Congress not only impeached Johnson, it also proudly regarded several states as "conquered territory" and ruled them accordingly.

Most important, the Reconstruction resolution was never tested in court, not even implicitly. On the very day of its passage, Georgia ratified the Fourteenth amendment, bringing the total to three-fourths without Ohio and New Jersey, and rendering the rescission issue irrelevant. In 1939, three members of the Supreme Court referred to the congressional action with apparent approval; but the reference was unnecessary to the Court's decision, and was therefore a mere expression of personal opinion.

It should be stressed that the Reconstruction resolution is moot if the Supreme Court should recognize the validity of the ERA rescissions, it will not be compelled, either logically or practically, to raise questions about the validity of the Fourteenth or any other existing amendment.

The third myth concerns the case of Dillon versus Gloss. Contrary to what has been asserted, this case did not recognize any right in Congress to extend a ratification deadline. Dillon merely stated the obvious: That Congress has the power to limit its own proposals, by imposing a reasonable time limit in the first place.

Dillon did not hold that Congress could come back, after 35 States had voted on its original proposal, and change that proposal without giving the States a chance to indicate whether they liked the change.

On the contrary, Dillon affirmed the concept that a "contemporaneous consensus" was needed for ratification. As such, the only importance that case has for the present debate is to underscore the right of each State to rescind its ratification—especially if the period is extended beyond the original 7 years.

The fourth myth is that the whole amending process is a "political question" so that Congress can do anything it wants, constitutional or unconstitutional, and be immune to review by the courts.

The only case even suggesting that Congress decisions on constitutional amendments will not be reviewed by the courts is Coleman against Miller, a 1939 decision.

Coleman has been widely criticized, and has probably been implicitly overruled by much later and more reasoned Supreme Court decisions.

Powell against McCormack is perhaps the strongest case. Adam Clayton Powell had been denied his seat in the House, and he sued the Speaker of the House and won, despite the notion that this was a "political question" on which the House could do anything it wanted and be immune to judicial review. The Supreme Court reviewed the Speaker's rulings on the House rules, including his ruling that Powell could be excluded without a two-thirds vote.

If the Court will rule on the constitutionality of an internal House matter, can it be seriously argued that the Court will close its eyes while Congress tampers with the very structure of the Constitution? I think not. And I think it unfair to continue citing Coleman as if it were a respected and undisturbed precedent.

All of these myths are part of the central myth that this is a matter resolved by precedent, so that Congress need not consider the constitutionality or fairness of what it is doing. Mr. President, there are no precedents here. And the only thing that can be said about the weak and illogical precedents that have been advanced is what the Supreme Court said in Powell against McCormack:

> That an unconstitutional action has been taken before surely does not render that same action any less unconstitutional at a later date. . . . The relevancy of [such] cases is limited largely to the insights they afford in correctly ascertaining the draftsmen's intent. Obviously, therefore, the precedential value of these cases tends to increase in proportion to their proximity to the Convention in 1787.

The advocates of an unfair extension, a one-sided extension, have cited a few isolated incidents that began with the Reconstruction. Those precedents, if anything, shows why even more concern for fairness and constitutionality is needed when we are dealing with the Constitution than with ordinary legislation. And that is all we are asking for: simple fairness.

We are told that rescission is not provided for in the Constitution. The Senator from Indiana takes the floor, and tells us, with great emotion, that rescission is not mentioned in the Constitution.

Well, I know that. I can read the Constitution. But the power to repeal legislation is nowhere mentioned in the Constitution either. But we do it all the time. Not often enough, but we do it.

But, Mr. President, the Constitution did not mention rescission in 1971, either, when Senator BAYH proposed to us a bill establishing procedures for a constitutional convention. In that bill, the right of the States to rescind ratifications was clearly affirmed. Senator BAYH forgot to mention to us in 1971 that rescission was unconstitutional.

Well, of course it was not unconstitutional then, and it is not now. Senator BAYH pointed out to us in 1971 that there was no precedent against rescission either in the Constitution, or in any law, or in any court holding. Even if there is, he told us, we should reject such precedents.

What does he tell us today? That the Constitution prohibits rescission, that there is no law, and that the court precedents are against us. I do not see how he can seriously make these arguments.

Actually, I do know how he makes them. In 1971, he warned us against tampering with procedure while there is a substantive issue pending. He said:

> We should get all these things out of the way now while there is no issue pending. If we wait, we will be tempted to jigger the procedures to suit the issue at hand.

Senator BAYH was right in 1971. He understood himself and the rest of us very well. Here we are, jiggering the procedures in order to produce a predetermined substantive end. Senator BAYH knows that. He knows that there is nothing wrong with rescission, and in particular, he knows that there is nothing wrong with my rescission amendment, which deal only with the extension period. He is simply trying to gain a predetermined outcome. It is a perfectly natural impulse, as he recognized so well in 1971.

But, Mr. President, we should resist the impulse. Procedures are what distinguish civilized societies from the uncivilized, and we have procedures to be proud of in this country. Let us preserve them. Let us help Senator BAYH put his baser impulses behind him. Let us remove the discriminatory blemish from this extension resolution. Let us adopt my rescission amendment, so that the debate can go on unrestrained, in all 50 States.

My amendment sets no precedent on rescission in the abstract. I take no position on the acts of the four States which have already voted to rescind. I take no position on previously voted rescissions. I take no position on rescission to the District of Columbia Representation amendment, now pending before the States. I am of the opinion that these questions ought to be decided at a moment of calm reflection, when there is no pending (or at least critically pending) subject. That is what Senator BAYH urged us, and he was right. My amendment is strictly limited. It affects only the ERA, and affects that only during the extension period. Those who think that Congress, or a later Congress, ought to decide these issues should support my amendment. I ask only that, in sending this extension to the States, we do with a measure of fairness. By all means, let us adopt my fairness amendment.

I would like to speak for a moment about this charge that acceptance of a rescission amendment would somehow kill the ERA, that my amendment is a "killer amendment."

Mr. President, that is a truly devastating admission that proponents of ERA are making. They are saying, Mr. President, that the ERA has so little support in the States that to permit rescission is the same as killing it. They are saying that we cannot trust the legislatures of the 35 States that have already ratified. That the only way the ERA can become a part of the Constitution is to rig the rules, so that decisions can be made in only one direction.

This argument was effective in the House of Representatives. "Do not adopt rescission," proponents of House Joint Resolution 638 said, "because if you do, we will pull the bill off, and you will have killed it." Now that is a fine approach. But it worked. The House rejected rescission.

And what happens now? The Senator from Michigan stands on the floor of the Senate, and he tells us not to adopt rescission because it would require a conference with the House, and there is not time. Well, whose fault is it that it would require a conference? We tried to adopt rescission in the House. If we had, we could adopt it here, and there would be no need for a conference.

Even now, Mr. President, there would be no need for a conference. If we adopt rescission, the House could simply accept our position, by vote, and that would be the end of it. There would be no need for a conference. There would not even be a need for a two-thirds vote, though there ought to be.

I think there would be time for a conference. I see no reason why not. With the Senator from Indiana and the Senator from Michigan behind it, surely the House would accept it. After all, the House defeated rescission by only 30 votes, votes scared out of the members by a threat to kill the bill.

I resent being told that I am trying to kill the ERA. I am trying to permit an orderly debate on the merits of ERA, and debate that should go on in all 50 States of this great Nation. It is not fair to restrict it only to the 15 States which have not yet ratified. It is an act of gross discrimination against the citizens of 35 States not to permit rescission.

Consider the case of Hawaii: Hawaii ratified the same day the Congress passed the amendment in 1972, by unanimous votes in both houses. For nearly 7 years, the debate over ERA has gone on in the United States, but there has been no debate in Hawaii. The Senator from Michigan will not permit it. There was no debate prior to the vote in Hawaii. There were no hearings. The Senator from Michigan has spent a great deal of time today, on the floor of the Senate, talking about the merits of the ERA. That is fine, but it is not the issue here. The issue here is whether the citizens of Hawaii, and 34 other States are to be able to carry on a similar debate. I have no objection to the Senator making his arguments in favor of ERA in the 15 States which have not ratified. They are persuasive arguments; they need to be made. But there are those who have a different view of the ERA. They may be right, they may be wrong. But they have a right to make their arguments, and to make them in all 50 States. All we are saying, by my amendment, is that the full, frank, and free debate the proponents of ERA are always talking about can go on in all 50 States.

Let us stick to the issue here. It is the procedures for extension, not the merits of ERA.

Finally, Mr. Presidont, I would just like to say a word about the wisdom of proceeding in this way. It is quite clear to me that the proponents have the votes to pass the extension. They may not have the votes to defeat my rescission amendment; I do not think they have. But they will pass the extension. In doing so, they will do great violence to the traditions of restraint and consensus by which this country has always been governed. We are not dealing here with some simple statute. This is not a game of beanbag. This is the Constitution of the United States. That Constitution was adopted by a broad consensus, and it is that basic consensus that keeps us together as a nation.

As a part of that requirement for consensus, the Framers provided very strict and limited procedures for amending the basic document. Now we are engaged in an exercise of trivialization. We are saying that the subject matter of an amendment under consideration can be allowed to override the procedures. No one denies that this is a very basic departure from traditional procedure. No amount of rhetoric could possibly hide that fact.

And why, Mr. President? Why abandon procedures that have served us well? Why extend? Why deny rescission? Why insist that this "simple procedural change" can be done by a simple majority?

There is, there can be, but one reason. That is that the proponents of ERA know that the amendment cannot be ratified in any other way. It is as simple as that. And what does that tell us about the ERA? It tells us that the ERA does not have that broad consensus the Constitution requires. And so the proponents say "to hell with the Constitution." That is what they are saying. "Away with the procedures established by the Constitution, and by years of practice and tradition. Away with the restraint and the limits that have made this a great country."

I submit, Mr. President, that we are entering dangerous waters. It is not a question of the merits or demerits of ERA. It is a question of consensus.

There is no reason why the proponents could not start over, submit a new resolution to the States, with a new, 7-year time limit. They could even submit a new resolution with a 14-year time limit, if they could get it through the Congress. But they will not do that. And why, Mr. President? Because they must believe that they would not get 38 ratifications if they started over. And that is a devastating admission.

When push comes to shove, they must believe that they do not have the votes in the States, and so they rig the rules in the Congress, because they do have the votes here. That is a shameful way to proceed.

Mr. President, at this time my distinguished colleague from Indiana has been listening patiently, and I would stop to see if he has any questions or wishes to make any remarks at this time.

Mr. BAYH. I have listened with a great deal of interest to my esteemed colleague from Utah. I think that 1 day's CONGRESSIONAL RECORD can stand only so much redundancy, and inasmuch as he and I have pretty well debated some of these same issues and expressed our contrary points of view or differing points of view—neither one of us is contrary—I think perhaps the best position for the Senator from Indiana to assume is one back in his seat and let the Senator from Utah conclude as he sees fit, and then we can join issues again tomorrow.

Mr. GARN. Mr. President, I thank my distinguished colleague. I do not desire to take any more time this evening. I just wanted to give my colleague an opportunity to respond tonight if he wanted prior to adjourning until in the morning.

Mr. BAYH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. Does the Senator from Hawaii seek recognition?

Mr. MATSUNAGA. No, Mr. President.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAYH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GARN. Mr. President, while we are waiting for Senator BROOKE, I ask unanimous consent that the names of Senators ALLEN, BARTLETT, CURTIS, HATCH, HELMS, LAXALT, TOWER, SCOTT, BAKER, and STENNIS be added as cosponsors of my amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BROOKE. Mr. President, as a principal sponsor of Senate Joint Resolution 134, I am pleased and proud to have this opportunity to speak in support of extending the deadline for the ratification of the proposed equal rights amendment to the U.S. Constitution.

In passing the equal rights amendment in 1972, Congress recognized the urgent need to guarantee constitutional equality for women. During the 6 years following passage, 35 States, representing almost three-fourths of the Nation's population, have concurred and have ratified the ERA.

With less than 7 months remaining under the original deadline for ratification set by congressional legislation, the need for the equal rights amendment is stronger than ever. Indeed, in August of this year, the U.S. Civil Rights Commission published a report which showed that since 1960, women have been unable to make any significant strides toward economic and social equality with white males. According to the report, women still earn only half as much as white males, and women with college degrees earn less than men with high school degrees.

The Commission study also found that there is "virtually no financial ladder" for women, since there has been little or no improvement in the earnings of full-time working women between the ages of 20 and 44.

Of particular concern is the finding that women who head households are at least 50 percent more likely to be spending more than 25 percent of their income on housing than their white male counterparts. This means that these individuals and their families will have less money for other essentials, such as food, clothing, and medicine. And thus with the emergence of more and more female-headed households, we have all the makings of a major social tragedy.

Some opponents of the equal rights amendment maintain that our present statutory and constitutional provisions can remedy this disgraceful condition. However, a brief analysis of the law today underscores dramatically the arguments in support of granting explicit and full rights for women under the Constitution.

While no one can question that during the past 15 years Congress has enacted important legislation prohibiting sex discrimination, these enlightened measures have certainly not eliminated many of the discriminatory laws which still remain on the books. In fact, a report on the status of women under Federal law, issued last year by the U.S. Commission on Civil Rights, revealed 800 sections of the United States Code which contain either substantive sex based differentials or terminology inconsistent with a national commitment to equal rights, responsibilities, and opportunities.

And even in legislation which expressly forbids sex discrimination, there are major loopholes and problems. For example, title VII of the Civil Rights Act of 1964 (as amended), often cited as one of the reasons the ERA is not needed, prohibits sex discrimination in employment, but does not include coverage of the Federal Government. Such examples of inconsistency and incompleteness abound. And without a general policy in the basic law of the land against sex discrimination, the piecemeal, patchwork maze of statutory restrictions will aid the continuation of injustice toward women and girls in the United States.

The status of women under State law may be even worse. For instance, in many States today the common possession of a married couple are legally considered the property of the husband, resulting in countless economic inequities. And consider the example of family farmers who together spent a lifetime working a farm. If the wife dies first, the husband keeps the property without problem. But if the husband dies first, the wife must pay inheritance tax on her own farm, often an amount so large that she is forced to sell.

It is also readily apparent that the Supreme Court's application of the equal protection clause of the 14th amendment does not guarantee constitutional equality for women. Just last year the Supreme Court upheld the right of a public technological school in Philadelphia, Pa., to deny admission to Susan Vorsheimer solely because she is female, despite the fact that there is no other comparable school open to her. In this decision and in other recent decisions, the Court has upheld gender classifications. The Court has held that sex discrimination is not a "suspect" class under the equal protection clause of the 14th amendment, thus providing less protection for sex discrimination than other types of discrimination.

The most recent pronouncement regarding the judicial standard of review for sex discrimination was made by Justice Lewis Powell in delivering the opinion of the Court in the Bakke case where he said:

> The Court has never viewed such classification as inherently suspect or as comparable to racial or ethnic classifications for the purpose of equal-protection analysis.

Justice Powell's statement makes it crystal clear that we need to pass the equal rights amendment. Otherwise, women will continue to be, perhaps for generations to come, the victims of injustice and subjected to economic dependence.

Indeed, the examples I have cited, demonstrate convincingly that the ERA is more than a symbolic issue. It is the necessary first step toward correcting these pervasive patterns of economic injustice. And the extension of the ratification period is necessary for the survival of the ERA.

Public support for ratification of the equal rights amendment remains strong. The most recent Gallup poll shows Americans approve of the ERA by 58 to 31 percent, a nearly 2 to 1 margin. And, a recent Harris poll shows a 55 to 34-percent support for ERA. With respect to the ERA extension, these recent polls show that Americans favor extension 57 to 40 (Harris) and 43 to 40 (Gallup). In addition to national public opinion polls, polls have been conducted in some of the unratified States. These polls indicate that the citizens of these States support ERA although ratification has not been approved by their State legislature. Indeed, in North Carolina in 1977, polls showed that 60 percent of the people supported ERA, while only 19 opposed it.

Because of the demonstrated need for the equal rights amendment and because of its overwhelming public support, I have long been confident that the ERA would be ratified by March 22, 1979. But, regrettably, it now appears doubtful that the requisite 38 States will ratify it by that deadline. Part of the reason that ERA has not been ratified is that votes on ratification have not been allowed in some of the unratified States. For example, in one State it has never come to a committee vote in one House. While in others ERA has been held up in committee. An additional factor affecting

ratification is that four of the unratified States have enacted legislation requiring a majority vote of 60 percent or more by the legislature for ratification of a proposed constitutional amendment.

Thus this unfortunate situation compels legislation which would extend the deadline for ratification of the equal rights amendment. Such an extension would afford more time for debate and provide an oportunity for the unratified States to vote on whether to ratify the ERA.

I fervently hope that the passage of the ERA extension will serve only as a form of insurance policy and that the ERA will be ratified during the next 7 months. Indeed, I pray that it will be a catalyst for State action. Signaling State legislatures that they cannot avoid the issue and that "sooner or later" they will have to vote on the merits of the equal rights amendment. It is an anomaly to me that three of the unratified States have granted equal rights to the women of their State through enactment of a States equal rights amendment, while not extending that right to women throughout the country through ratification of this constitutional amendment.

Some have argued that passage of this legislation would "change the rules in the middle of the game." But clearly, as so many constitutional scholars have concluded, Congress has the discretion and the prerogative to extend the period within which ratification may occur. And as Laurence Tribe, professor of constitutional law at Harvard University, has said:

> A constitutional amendment is far too serious to see who beats who to the finish line . . . it's more than a game.

The Supreme Court has had two occasions to construe article V with regard to time limitations on the ratification process. In reviewing the validity of the 18th amendment, where Congress had imposed a 7-year deadline, the Court unequivocally stated that "(as to the) power of Congress keeping within reasonable limits, to fix a definite period for the ratification, we entertain no doubt." *Dillion* v. *Gloss*, 256 U.S. 368, 375 (1921). The Court further described the time limit as one of those "subsidiary matters of detail" which the Congress may deal with "as the public interests and changing conditions may require." Id. In *Coleman* v. *Miller*, 307 U.S. 433 (1939), the Court reiterated that the question of what constituted a reasonable period of time for purposes of ratification of a proposed amendment "lies within the congressional province." Id. at 454.

Equally compelling legal arguments for extension arise from an examination of the purpose of the 7-year limit. When Congress attached the 7-year period to the equal rights amendment it did so almost without discussion, merely following the tradition started with the 18th amendment. When the limit was first attached, however, it was discussed in detail. The stated purpose was to prevent the free-floating through State legislatures of proposals that had gone stale and lost vitality. It was essentially a housekeeping measure. One Senator pressed for a time limitation "so that we will not hand down to posterity a conglomerate mass of amendments floating around in a cloudy nebulous, hazy way." When Members of the 91st Congress discussed attaching the 7-year period to the equal rights amendment, it was for the same purpose—to insure that State legislatures will consider the amendment while it is still a matter of national concern and interest.

In my judgment, the central issue before the Congress today is not whether the equal rights amendment itself has merit. Nor is the Congress asked to consider an alteration of language in the text of a proposed amendment. The question is whether the public interest in full and informed debate and consideration of the proposed amendment and relevant political, social, and economic conditions require that an adjustment be made in "a matter of detail," the time for consideration of that amendment. The fervor with which proponents and opponents alike are currently debating the issue and the level of public awareness of the issue on the eve of the expiration of the original time period for consideration of the equal rights amendment make it clear that defeat of House Joint Resolution 638 would mean a premature end to debate and consideration of this amendment. Extension of the time for consideration for 3 additional years would permit a full airing of all sides of the issues and would still insure that the end result would reflect the contemporaneousness necessary for the valid ratification of a constitutional amendment.

The history of the 7-year limit reveals two more interesting legal points for extension. When the 7-year period was first used, it was incorporated right into the text of the amendment, which was voted on by the States. However, beginning with the 23d amendment, Congress removed the 7-year provision from the text placing it in a procedural "resolving clause." The ERA takes this form. The State legislatures consider only the substance of the amendments; Congress retained consideration of the time period for itself.

Legal scholars point to yet another indication in the language of the ERA that extension is entirely appropriate. When the 7-year period was first used, the language stipulated that the amendment would become part of the Constitution "only if" ratified within 7 years. Congress eliminated the "only if" language in the 25th and 26th amendments, and in the ERA. The clause simply states that the amendment would be valid "when ratified * * * within seven years * * *". Governmental testimony suggested that this revision reflects the change from using the 7-year limit as a deadline, to understanding it as setting out a guaranteed minimum period in which States may act.

Mr. President, it took 72 years to win for women the constitutional right to vote. And for 55 years the battle for constitutional equality has been fought. We simply cannot pause now. We cannot now place a time limit on our quest to secure one of the most fundamental human rights of this century.

I urge my colleagues in the Senate to vote for the extension of the ratification deadline for the equal rights amendment.

Mr. BAYH. Mr. President, I wish to express my deep appreciation to the Senator from Massachusetts (Mr. BROOKE) not only for his joining as a major sponsor of the ERA extension resolution, but for his long-time faithful toil in the vineyards attempting to consumate this effort that began so long ago. I am grateful to him, and I assume that the women of America are well versed and know the significant contribution he is making in their behalf.

Mr. BROOKE. I thank my distinguished colleague for his very kind and generous remarks.

ORDER FOR RECESS TO 8:45 TOMORROW AND TO RESUME DEBATE ON THE AMENDMENT OF SENATOR GARN

Mr. ROBERT C. BYRD. Mr. President, may I inquire as to whether or not there are any orders for the recognition of Senators on tomorrow morning?

The PRESIDING OFFICER. The Chair would inform the majority leader there are no such orders.

Mr. ROBERT C. BYRD. I thank the Chair.

Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 8:45 tomorrow morning, and that at 9 o'clock tomorrow morning the distinguished Senator from Utah (Mr. GARN) be recognized to proceed with the resumption of the debate on his amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I thank Senators for their patience.

RECESS UNTIL 8:45 A.M.

Mr. BAYH. Mr. President, in accordance with the order previously entered, I now move that the Senate stand in recess until 8:45 a.m. tomorrow.

The motion was agreed to; and at 8:15 p.m. the Senate recessed until tomorrow, Wednesday, October 4, 1978, at 8:45 a.m.

NOMINATIONS

Executive nominations received by the Senate October 3, 1978:

DEPARTMENT OF STATE

Henry David Owen, of the District of Columbia, to be Ambassador at Large.

Richard B. Parker, of Kansas, a Foreign Service officer of the class of Career Minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Kingdom of Morocco.

OVERSEAS PRIVATE INVESTMENT CORPORATION

J. Bruce Llewellyn, of New York, to be President of the Overseas Private Investment Corporation, vice Marshall Trammell Mays, resigned.

NATIONAL MEDIATION BOARD

George S. Ives, of Maryland, to be a member of the National Mediation Board for the term expiring July 1, 1981 (reappointment).

HOUSE OF REPRESENTATIVES—*Tuesday, October 3, 1978*

The House met at 12 o'clock noon.

Rev. Msgr. John J. Murphy of the National Shrine of the Immaculate Conception, Washington, D.C., offered the following prayer:

Heavenly Father, the hand of Your loving kindness powerfully, yet gently, guides all the moments of this day.

Look upon our Representatives in Congress assembled here and fill them with a sense of pride in their stewardship of Your sacred trust. Guide and bless their actions this day with patience and understanding. Give them the wisdom to know what is best for this Nation and the vision to pursue it.

Lead them to seek beyond their reach and give them the courage to stand before Your truth. Send Your spirit to unite them in faith that sharing in Your service they may rejoice in the mystery of Your presence.

And, finally, Father, grant to them and their families good health and continued happiness in the name of Your Son, our Lord, Jesus Christ. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a concurrent resolution of the House of the following title:

H. Con. Res. 727. Concurrent resolution directing the Clerk of the House of Representatives to make corrections in the enrollment of H.R. 8394.

The message also announced that the Senate agrees to the amendments of the House to bills of the Senate of the following titles:

S. 2916. An act to amend the Drug Abuse Office and Treatment Act of 1972 to extend the programs of assistance under that act for drug abuse prevention, education, treatment, and rehabilitation, and for other purposes;

S. 3384. An act to require foreign persons who acquire, transfer, or hold interests in U.S. agricultural land to report such transactions and holdings to the Secretary of Agriculture, and to direct the Secretary to assess and report the effects of such transactions and holdings; and

S. 3467. An act to designate the U.S. Department of Agriculture Pecan Field Station in Brownwood, Tex., as the "W. R. 'Bob' Poage Pecan Field Station," and to designate the U.S. Department of Agriculture Meat Animal Research Center located near Clay Center, Nebr., as the "Roman L. Hruska Meat Animal Research Center."

The message also announced that the Senate agrees to the amendments of the House to the Senate amendments of the Senate to bills of the House of the following titles:

H.R. 9370. An act to provide for the development of aquaculture in the United States, and for other purposes;

H.R. 11886. An act to amend title 38, United States Code, to increase the rates of disability compensation for disabled veterans, to increase the rates of dependency and indemnity compensation for their survivors, and for other purposes; and

H.R. 12028. An act to amend title 38, United States Code, to improve the housing programs of the Veterans' Administration.

The message also announced that the Senate agrees to the amendment of the House with an amendment to a bill of the Senate of the following title:

S. 1895. An act to amend the Natural Gas Pipeline Safety Act of 1968 to authorize appropriations for fiscal year 1979.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 8755. An act to make specific provisions for ball or roller bearing pillow block, flange, take-up, cartridge, and hanger units in the Tariff Schedules of the United States;

H.R. 9911. An act to continue until the close of June 30, 1981, the existing suspension of duties on certain forms of zinc;

H.R. 10587. An act to improve the range conditions of the public grazing lands;

H.R. 11686. An act to authorize appropriations for the Department of Energy for national security programs for fiscal year 1979, and for other purposes; and

H.R. 12165. An act to extend until the close of June 30, 1981, the existing suspension of duties on certain metal waste and scrap, unwrought metal, and other articles of metal.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 10587) entitled "An act to improve the range conditions of the public grazing lands," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. JACKSON, Mr. CHURCH, Mr. BUMPERS, Mr. MCCLURE, and Mr. LAXALT to be the conferees on the part of the Senate.

The message also announced that the Senate disagrees to the amendments of the House to the bill (S. 2570) entitled "An act to amend the Comprehensive Employment and Training Act of 1973 to provide improved employment and training services, to extend the authorization, and for other purposes," agree to a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. NELSON, Mr. WILLIAMS, Mr. KENNEDY, Mr. CRANSTON, Mr. HATHAWAY, Mr. RIEGLE, Mr. JAVITS, Mr. SCHWEIKER, Mr. HATCH, and Mr. CHAFEE to be the conferees on the part of the Senate.

The message also announced that the Senate disagrees to the amendments of the House to the bill (S. 3151) entitled "An act to authorize appropriations for the purpose of carrying out the activities of the Department of Justice for fiscal year 1979, and for other purposes," agree to a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. EASTLAND, Mr. KENNEDY, Mr. BAYH, Mr. ABOUREZK, Mr. DECONCINI, Mr. HATFIELD of Montana, Mr. THURMOND, Mr. MATHIAS, Mr. WALLOP, Mr. RIBICOFF, Mr. JACKSON, Mr. JAVITS, and Mr. PERCY to be the conferees on the part of the Senate.

The message also announced that the Senate had passed bills and joint resolutions of the following titles, in which the concurrence of the House is requested:

S. 147. An act for the relief of Dr. Lesley B. Tiongko Serrano, and their son Kenneth Neil Serrano;

S. 352. An act for the relief of Benjamin N. Mascarenas;

S. 454. An act for the relief of Nick F. Flangas, also known as Nikolaos Flengas;

S. 487. An act for the relief of Samson Kossivi Kpadenou;

S. 536. An act for the relief of Reynaldo S. Miranda;

S. 540. An act for the relief of Dr. Rolando Reyes Perez and his wife, Aurora Sevilla Alonza Perez;

S. 652. An act for the relief of Reina Estela Olvera;

S. 809. An act for the relief of Chatchai "Rick" Chatranon;

S. 1292. An act for the relief of Dr. Francisco Dozon and his wife, Luzviminda Dozon;

S. 1487. An act to eliminate racketeering in the sale and distribution of cigarettes, and for other purposes;

S. 2474. An act to amend the Public Health Service Act to extend through the fiscal year ending September 30, 1981, the assistance program for community health centers and migrant health services; assistance to venereal disease programs; genetic diseases program hemophilia programs; home health programs; and to extend through the fiscal year ending September 30, 1979, the assistance programs for comprehensive public health services; hypertension programs; disease control programs; lead-based paint poisoning programs; and to establish hospital-affiliated primary care centers; to provide for research and demonstration projects in primary health care; and for other purposes;

S. 3109. An act for the relief of Ricardo Rosas Salazar;

S. 3540. An act to rename the United States Federal building in Yakima, Wash., the "Justice William O. Douglas Federal Building"; and

S.J. Res. 166. Joint resolution to designate October 14, 1978, as "National Jogging Day."

The message also announced that Mr. MORGAN and Mr. STENNIS were appointed to the North Atlantic Assembly.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, D.C.,
October 2, 1978.

Hon. THOMAS P. O'NEILL, Jr.,
The Speaker, House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: I have the honor to transmit herewith a sealed envelope from the White House, received in the Clerk's Office at 4:13 p.m., on Monday, October 2, 1978, and said to contain H.R. 8149, "An act to provide customs procedural reform, and for other purposes," which is being returned to the House of Representatives by the President in response to a request by House Concurrent Resolution 725.

With kind regards, I am,
Sincerely,

EDMUND L. HENSHAW, Jr.,
Clerk, House of Representatives.

RETURN OF H.R. 8149 TO HOUSE OF REPRESENTATIVES FOR TECHNICAL CORRECTION—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER laid before the House the following message from the President of the United States:

To the House of Representatives:

Pursuant to House Concurrent Resolution 725, I am hereby returning the enrolled bill H.R. 8149, "An Act to provide customs procedural reform, and for other purposes," to the House of Representatives for the purpose of making a necessary technical correction.

JIMMY CARTER.

THE WHITE HOUSE, *October 2, 1978.*

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair desires to announce that pursuant to the authority granted the Speaker on Monday, October 2, 1978, the Speaker did on that day sign the following enrolled bills:

H.R. 8149. An act to provide customs procedural reform, and for other purposes;

H.R. 9945. An act to amend the act creating the Indian Claims Commission to repeal the provision limiting the activities of Commissioners during the 2 years following their terms of office; and

H.R. 11400. An act to authorize appropriations of specified dollar amounts for each of the National Science Foundation's major program areas (and certain subprograms), and to provide requirements relating to periods of availability and transfers of the authorized funds.

CONFERENCE REPORT ON H.R. 12050, TUITION TAX CREDIT ACT OF 1978

Mr. ULLMAN submitted the following conference report and statement on the bill (H.R. 12050) to amend the Internal Revenue Code of 1954 to provide a Federal income tax credit for tuition:

CONFERENCE REPORT (H. REPT. No. 95–1682)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 12050) to amend the Internal Revenue Code of 1954 to provide a Federal income tax credit for tuition, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Tuition Tax Credit Act of 1978".

SEC. 2. CREDIT FOR CERTAIN TUITION.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1954 (relating to credits allowable) is amended by inserting before section 45 the following new section:

"SEC. 44C. CERTAIN TUITION.

"(a) GENERAL RULE.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 35 percent of the tuition paid by him for the calendar year in which such taxable year begins to one or more eligible educational institutions for himself, his spouse, or any of his dependents (as defined in section 152).

"(b) MAXIMUM DOLLAR AMOUNT.—The maximum dollar amount allowable as a credit under subsection (a) with respect to tuition for any individual shall not exceed the applicable amount determined under the following table:

"Calendar year:	*Applicable amount:*
1978	$100
1979	150
1980 or 1981	250

"(c) APPLICATION WITH OTHER CREDITS.—The credit allowed by subsection (a) shall not exceed the tax imposed by this chapter for the taxable year, reduced by the sum of the credits allowable under a section of this subpart having a lower number or letter designation than this section, other than the credits allowable by sectons 31, 39, and 43.

"(d) PAYMENTS TAKEN INTO ACCOUNT.—

"(1) WHEN PAYMENTS MUST BE MADE AND EDUCATION FURNISHED.—Payments shall be treated as paid for any calendar year—

"(A) FOR 1978.—In the case of calendar 1978, only if such payments—

"(i) are made on or after August 1, 1978, and before February 1, 1979, and

"(ii) are for education furnished on or after August 1, 1978, and before January 1, 1979, or

"(B) FOR 1979 OR THEREAFTER.—In the case of any calendar year after 1978, only if such payments—

"(i) are made during such calendar year or during the 1-month period before or the 1-month period after such year, and

"(ii) are for education furnished during such calendar year.

"(2) TUITION MUST BE FOR GENERAL COURSE OF INSTRUCTION.—

"(A) IN GENERAL.—Tuition attributable to a course of instruction which is not a general course of instruction shall not be taken into account under subsection (a).

"(B) GENERAL COURSE OF INSTRUCTION DEFINED.—For purposes of subparagraph (A), the term 'general course of instruction' means a course of instruction for which credit is allowable toward—

"(i) a baccalaureate or associate degree by an institution of higher education, or

"(ii) a certificate of required course work at a vocational school,

but does not include any course of instruction which is part of the graduate program of the individual.

"(3) INDIVIDUAL MUST BE FULL-TIME STUDENT OR (FOR CALENDAR YEARS AFTER 1979) A QUALIFIED HALF-TIME STUDENT.—

"(A) IN GENERAL.—Amounts paid for the education of an individual shall be taken into account under subsection (a)—

"(i) for calendar year 1978 or 1979, only if such individual is a full-time student for such calendar year, or

"(ii) for any calendar year after 1979, only if such individual is a full-time student or a qualified half-time student for such calendar year.

"(B) FULL-TIME AND QUALIFIED HALF-TIME STUDENT DEFINED.—For purposes of this section—

"(i) The term 'full-time student' means any individual who, during any 4 calendar months during the calendar year, is a full-time student at an eligible educational institution.

"(ii) The term 'qualified half-time student' means any individual who, during any 4 calendar months during the calendar year, is a half-time student (determined in accordance with regulations prescribed by the Secretary) at an eligible educational institution. Regulations prescribed for purposes of the preceding sentence with respect to the determination of whether an individual is a half-time student shall not be inconsistent with regulations prescribed by the Commissioner of Education under section 411(a)(2)(A)(ii) of the Higher Education Act of 1965 for purposes of part A of title IV of such Act.

"(e) TUITION DEFINED.—

"(1) IN GENERAL.—For purposes of this section, the term 'tuition' means tuition and fees required for the enrollment or attendance of a student at an eligible educational institution, including required fees for courses.

"(2) CERTAIN AMOUNTS NOT INCLUDED.—The term 'tuition' does not include any amount paid, directly or indirectly, for—

"(A) books, supplies, or equipment for courses of instruction, or

"(B) meals, lodging, transportation, or similar personal, living, or family expenses.

"(3) AMOUNTS NOT SEPARATELY STATED.—If an amount paid for tuition includes an amount for any item described in subparagraph (A) or (B) of paragraph (2) which is not separately stated, the portion of such amount which is attributable to such item shall be determined under regulations prescribed by the Secretary.

"(f) ELIGIBLE EDUCATIONAL INSTITUTION.—For purposes of this section—

"(1) ELIGIBLE EDUCATIONAL INSTITUTION.—The term 'eligible educational institution' means—

"(A) an institution of higher education, or

"(B) a postsecondary vocational school.

"(2) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' means an institution described in section 1201(a) or 491(b) of the Higher Education Act of 1965 (as in effect on January 1, 1978).

"(3) POSTSECONDARY VOCATIONAL SCHOOL.—The term 'postsecondary vocational school' means—

"(A) an area vocational education school as defined in subparagraph (C) or (D) of section 195(2) of the Vocational Education Act of 1963 (as in effect on January 1, 1978), which

"(B) is located in any State.

"(4) MARITAL STATUS.—The determination of marital status shall be made under section 143.

"(g) SPECIAL RULES.—

"(1) TREATMENT OF CERTAIN SCHOLARSHIPS AND VETERANS' BENEFITS.—

"(A) OFFSET AGAINST TUITION DOLLAR FOR DOLLAR.—For purposes of this section, any amount received as a nontaxable scholarship or educational assistance allowance for any period shall be treated—

"(i) as used for tuition attributable to such period, and

"(ii) as tuition not paid by the taxpayer.

"(B) NONTAXABLE SCHOLARSHIP OR EDUCATIONAL ASSISTANCE ALLOWANCE DEFINED.—For purposes of subparagraph (A), the term 'nontaxable scholarship or educational assistance allowance' means—

"(i) a scholarship or fellowship grant (within the meaning of section 117(a)(1)) or similar award which is not includible in gross income, and

"(ii) an educational assistance allowance under chapter 32, 34, or 35 of title 38, United States Code.

"(2) TAXPAYER WHO IS A DEPENDENT OF ANOTHER TAXPAYER.—No credit shall be allowed to a taxpayer under subsection (a) for amounts paid for any calendar year for tuition for the taxpayer if such taxpayer is a dependent of any other person for a taxable year beginning in the calendar year in which the taxable year of the taxpayer begins.

"(3) SPOUSE.—No credit shall be allowed under subsection (a) for amounts paid for any calendar year for tuition for the spouse of the taxpayer unless—

"(A) the taxpayer is entitled to an exemption for his spouse under section 151(b) for the taxable year beginning in such calendar year, or

"(B) the taxpayer files a joint return with his spouse under section 6013 for such taxable year.

"(h) DISALLOWANCE OF CREDITED EXPENSES AS CREDIT OR DEDUCTION.—No deduction or credit shall be allowed under any other section of this chapter for any amount paid for tuition for any individual except to the extent that such amount exceeds the amount necessary for the allowance of the maximum amount which may be allowed under this section for tuition for such individual for the taxable year. The preceding sentence shall not apply to any amount paid for tuition by any taxpayer who, under regulations prescribed by the Secretary, elects not to apply the provisions of this section with respect to such tuition for the taxable year.

"(i) TERMINATION.—No credit shall be allowed under this section for education furnished after December 31, 1981."

(b) LIMITATION ON EXAMINATION OF BOOKS AND RECORDS.—Section 7605 of such Code (relating to time and place of examination) is amended by adding at the end thereof the following new subsection:

"(d) EXAMINATION OF BOOKS AND RECORDS OF CHURCH-CONTROLLED SCHOOLS.—Nothing in section 44C (relating to credit for tuition) shall be construed to grant additional authority to examine the books of account, or the activities, of any school which is operated, supervised, or controlled by or in connection with a church or convention or association of churches (or the examination of the books of account or religious activities of such church or convention or association of churches) except to the extent necessary to determine whether the school is an eligible educational institution within the meaning of section 44C(f)(1)."

(c) TAX CREDIT NOT TO BE CONSIDERED AS FEDERAL ASSISTANCE TO INSTITUTION.—Any educational institution which enrolls a student for whom a tax credit is claimed under this Act shall not be considered to be a recipient of Federal assistance under this Act.

(d) EXPEDITED REVIEW OF CONSTITUTIONALITY OF TUITION CREDIT.—

(1) CERTIFICATION OF QUESTIONS OF CONSTITUTIONALITY.—In any action brought in a district court of the United States, including an action for declaratory judgment of injunction relief, concerning the constitutionality of any provision of section 44C of the Internal Revenue Code of 1954 (relating to credit for certain tuition) or any other provision of such Code relating to such section, the district court shall certify immediately all questions of constitutionality of such provision to the United States Court of Appeals for the circuit involved, which shall hear the matter sitting en banc.

(2) APPEAL TO SUPREME COURT.—Notwithstanding any other provisions of law, any decision on a matter certified under paragraph (1) shall be reviewable by appeal directly to the Supreme Court of the United States. Such appeal shall be brought no later than 20 days after the decision of the Court of Appeals.

(3) EXPEDITED CONSIDERATION.—It shall be the duty of the Court of Appeals and of the Supreme Court of the United States to advance on the docket and to expedite to the greatest possible extent the disposition of any matter certified under paragraph (1).

(4) SEPARABILITY.—If any provision of section 44C of the Internal Revenue Code of 1954 (or any other provision of such Code relating to such section), or the application thereof to any person or circumstances, is held invalid, the remainder of such provisions, and the application of such provisions to other persons or circumstances, shall not be affected.

(e) DISREGARD OF REDUCTION OF TAX LIABILITY.—Any reduction in the income tax liability of any individual by reason of section 44C of the Internal Revenue Code of 1954 (relating to credit for certain tuition) shall not be taken into account for purposes of determining the eligibility of such individual or any other individual for benefits or assistance, or the amount or extent of benefits or assistance, under any Federal program of educational assistance or under any State or local program of educational assistance financed in whole or in part with Federal funds.

(f) CONFORMING AMENDMENTS.—

(1) The table of sections for subpart A of part IV of subchapter A of chapter 1 of such Code is amended by inserting immediately before the item relating to section 45 the following:

"Sec. 44C. Certain tuition."

(2) Subsection (c) of section 56 of such Code (defining regular tax deduction) is amended by striking out "credits allowable under—" and all that follows and inserting in lieu thereof "credits allowable under subpart A of part IV other than under sections 31, 39, and 43."

(3) Subsection (b) of section 6096 of such Code (relating to designation of income tax payment to Presidential Election Campaign Fund) is amended by striking out "and 44B" and inserting in lieu thereof "44B, and 44C".

SEC. 3. EFFECTIVE DATE.

The amendments made by section 2 of this Act shall apply to taxable years ending on or after August 1, 1978, with respect to amounts paid on or after such date for education furnished on or after such date.

And the Senate agree to the same.

AL ULLMAN,
J. J. PICKLE,
BARBER B. CONABLE,
JOHN J. DUNCAN,
Managers on the Part of the House.
RUSSELL B. LONG,
ABRAHAM RIBICOFF,
LLOYD BENTSEN,
DANIEL P. MOYNIHAN,
BOB PACKWOOD,
BILL ROTH,
BOB DOLE,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 12050) to amend the Internal Revenue Code of 1954 to provide a Federal income tax credit for tuition, submit the following joint statement to the House and the Senate in explanation of the effect of the action (other than action of a technical nature) agreed upon by the managers and recommended in the accompanying conference report.

ELIGIBLE EDUCATIONAL INSTITUTIONS

House bill

The House bill provided that only tuition paid to an eligible educational institution is eligible for the credit. The term "eligible educational institution" was defined in the House bill to mean (1) an institution of higher education, (2) a postsecondary vocational school, (3) a secondary school, and (4) an elementary school.

Senate amendment

The Senate amendment provides that only educational expenses paid to institutions of higher education and postsecondary vocational schools are eligible for the credit.

Conference agreement

The conference agreement follows the Senate amendment. Thus, under the conference agreement, only tuition paid to institutions of higher education and postsecondary vocational schools is eligible for the credit.

PERCENTAGE OF TUITION PAYMENTS ELIGIBLE FOR CREDIT

House bill

The House bill provided a nonrefundable credit against income tax for an amount equal to 25 percent of the tuition paid by the taxpayer for the calendar year in which the taxable year begins to one or more eligible educational institutions for himself, his spouse, or any of his dependents.

Senate amendment

The Senate amendment is generally the same as the House provision except that the credit is for an amount equal to 50 percent of the educational expenses paid by the taxpayer during the taxable year.

Conference agreement

The conference agreement provides a nonrefundable credit against income tax for an amount equal to 35 percent of the tuition paid by the taxpayer for the calendar year in which the taxable year begins to one or more eligible educational institutions for himself, his spouse, or any of his dependents.

MAXIMUM AMOUNT OF CREDIT

House bill

The House bill provided two sets of dollar limits on the maximum amount of credit for each calendar year to which the new section 44C applied. One set, which applied to institutions of higher education and postsecondary vocational schools, provided a maximum credit of $100 for 1978, $150 for 1979, and $250 for 1980. The other set, which applied to elementary and secondary schools, provided for a maximum credit of $50 for 1978, $100 for 1979, and $100 for 1980. Generally, under the House bill, payments were to be taken into account for purposes of determining the maximum amount of credit if they were made during the calendar year (or during the month before or after the calendar year) for education furnished during such calendar year.

Senate amendment

In general, the Senate amendment provides for a maximum credit of $250 for expenses allocable to education furnished before October 1, 1980, and $500 for expenses allocable to education furnished after September 30, 1980.

Conference agreement

The conference agreement provides, with respect to institutions of higher education and postsecondary vocational schools, a maximum credit of $100 for 1978, $150 for 1979, $250 for 1980, and $250 for 1981. Tuition payments are to be taken into account for pur-

poses of determining the maximum credit if they are made during the calendar year (or during the month before or after the calendar year) for education furnished during such calendar year.

DEFINITION OF TUITION

House bill

The House bill provided that the term "tuition" means tuition and fees required for enrollment or attendance of a student at an eligible educational institution, including required fees for courses. Under the House bill, tuition did not include amounts paid, directly or indirectly, for books, supplies, or equipment, for meals, lodging, transportation, or similar personal living or family expenses, or for education below the first-grade level (or for attendance at a kindergarten or nursery).

Senate amendment

The Senate amendment uses the term "educational expenses", but reaches results consistent with those reached by the term "tuition" in the House bill.

Conference agreement

The conference agreement provides that the term "tuition" means tuition and fees required for enrollment or attendance of a student at an eligible educational institution, including required fees for courses. Under the conference agreement, tuition does not include amounts paid, directly or indirectly, for books, supplies, or equipment, or for meals, lodging, transportation, or similar personal living or family expenses. Where an amount paid for tuition includes any amount (not separately stated) for an item which is not tuition, the portion attributable to such item is to be determined under regulations.

Under the conference agreement, as under the House bill and the Senate amendment, tuition attributable to education which is part of the graduate program of the individual shall not be taken into account.

ELIGIBLE STUDENTS

House bill

The House bill provided that payments may be taken into account only with respect to full-time and qualified part-time students. Under the House bill, a qualified part-time student was one who is taking, during any 8 months of the calendar year, at least one-half of the course of instruction required of a full-time student.

Senate amendment

The Senate amendment provides that payments may be taken into account only with respect to full-time and half-time students. Under the Senate amendment a half-time student is one who, during any 4 months of the calendar year, is a half-time student (determined in accordance with regulations prescribed by the Secretary of the Treasury). The Senate amendment provides that such regulations shall not be inconsistent with regulations prescribed by the Commissioner of Education for purposes of part A of title IV of the Higher Education Act of 1965. Under the Senate amendment expenses of a half-time student may not be taken into account unless paid or incurred after September 30, 1980.

Conference agreement

The conference agreement provides that tuition payments may be taken into account only with respect to full-time and half-time students. Under the conference agreement a half-time student is one who, during any 4 months of the calendar year, is a half-time student (determined in accordance with regulations prescribed by the Secretary of the Treasury).

The conference agreement provides that such regulations shall not be inconsistent with regulations prescribed by the Commissioner of Education for purposes of part A of title IV of the Higher Education Act of 1965. Under the conference agreement tuition payments with respect to a half-time student may not be taken into account unless paid or incurred for education furnished after December 31, 1979.

OFFSETS FOR SCHOLARSHIPS AND EDUCATIONAL ASSISTANCE ALLOWANCES

House bill

The House bill provided that any amount received as a nontaxable scholarship or educational assistance allowance was to be treated as used on a ratable basis for all expenses of the recipient for which such scholarship or allowance may be used, with the amount so used for tuition treated as an amount not paid by the taxpayer.

Senate amendment

The Senate amendment reduces the expenses which are eligible for the credit by the amount received as a nontaxable scholarship or educational assistance allowance. The reduction under the Senate amendment is on a dollar-for-dollar basis so that each dollar of such a scholarship or allowance reduces the eligible expenses by $1.

In addition, the Senate amendment reduces the amount of the credit for amounts received under subpart 1 or 2 of part A of title IV of the Higher Education Act of 1965.

Conference agreement

The conference agreement provides that the amount taken into account for tuition payments is to be offset on a dollar-for-dollar basis for the amount received as a nontaxable scholarship or educational assistance allowance.

DISALLOWANCE OF EXPENSES AS DEDUCTION OR ANOTHER CREDIT

House bill

The House bill provided that, unless the taxpayer elected not to have the credit for tuition apply for the taxable year, no deduction or credit was to be allowed for amounts paid for tuition except to the extent that such amounts exceeded the amount necessary for the maximum amount which may be allowed under the credit for tuition.

Senate amendment

The Senate amendment contains a similar provisions.

Conference agreement

The conference agreement includes the House provision.

TAXPAYER WHO IS A DEPENDENT OF ANOTHER TAXPAYER

House bill

The House bill provided that no credit was to be allowed for tuition paid for a taxpayer if the taxpayer is a dependent of another person.

Senate amendment

The Senate amendment contains a similar provision.

Conference agreement

The conference agreement includes the House provision.

CREDIT NOT TO BE CONSIDERED AS FEDERAL ASSISTANCE TO INSTITUTION

House bill

The House bill provided that an educational institution which enrolls a student for whom this credit is claimed is not to be considered to be a recipient of Federal assistance by reason of this credit.

Senate amendment

No provision.

Conference agreement

The conference agreement includes the House provision.

EXAMINATION OF BOOKS AND RECORDS

House bill

The House bill provided that the new credit for tuition was not to be construed as granting the Internal Revenue Service additional authority to examine the books and records of certain religious organizations.

Senate amendment

The Senate amendment contains the same provision as the House bill.

Conference agreement

The conference agreement includes this provision.

JUDICIAL REVIEW

House bill

The House bill provided a special procedure for testing the constitutionality of this credit for tuition.

Senate amendment

The Senate amendment contains the same provision as the House bill.

Conference agreement

The conference agreement includes this provision.

SEPARABILITY

House bill

No provision.

Senate amendment

The Senate amendment contains a separability provision with respect to this new credit.

Conference agreement

The conference agreement follows the Senate provision.

REPORTS TO CONGRESS

House bill

No provision.

Senate amendment

The Senate amendment provides for two reports to be made to the Congress with respect to the effectiveness of the Internal Revenue Service's enforcement of policies against racial and other discrimination in private education.

Conference agreement

Because the conference agreement does not provide a credit for tuition paid to elementary and secondary schools, the conference agreement does not include the Senate amendment.

EFFECTIVE DATE

House bill

The House bill provided that this credit was to apply to taxable years ending on or after August 1, 1978, with respect to amounts paid on or after such date for education furnished on or after such date.

Senate amendment

The Senate amendment provides the same effective date as the House bill.

Conference agreement

The conference agreement includes the House provision.

TERMINATION DATE

House bill

The House bill provided that no credit was to be allowed for any taxable year beginning after December 31, 1980.

Senate Amendment

The Senate amendment provides that no credit is to be allowed for any taxable year beginning after December 31, 1983.

Conference agreement

The conference agreement provides that no credit is to be allowed for education furnished after December 31, 1981.

PARTICIPATION OF PRIVATE SCHOOL CHILDREN IN ELEMENTARY AND SECONDARY EDUCATION ACT

House bill

No provision.

Senate amendment

The Senate amendment provides for increases in the participation of private school students in programs under titles I and IV of the Elementary and Secondary Education Act

of 1965, expands the bypass mechanism, and requires which Federal assistance for, and tuition tax credits with respect to, private elementary and secondary schools may have on public elementary and secondary schools.

Conference agreement

The conference agreement does not include the Senate amendment.

AL ULLMAN,
J. J. PICKLE,
BARBER B. CONABLE,
JOHN J. DUNCAN,
Managers on the Part of the House.

RUSSELL B. LONG,
ABRAHAM RIBICOFF,
LLOYD BENTSEN,
DANIEL P. MOYNIHAN,
BOB PACKWOOD,
BILL ROTH,
BOB DOLE,
Managers on the Part of the Senate.

PRIVATE CALENDAR

The SPEAKER. This is Private Calendar Day. The Clerk will call the first individual bill on the Private Calendar.

MORRIS AND LENKE GELB

The Clerk called the bill (H.R. 3084) for the relief of Morris and Lenke Gelb.

Mr. BAUMAN. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Maryland?

There was no objection.

IRENE HOFFMAN

The Clerk called the bill (H.R. 5612) for the relief of Irene Hoffman.

Mr. BAUMAN. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Maryland?

There was no objection.

BALL STATE UNIVERSITY AND THE AMERICAN ASSOCIATION OF COLLEGES FOR TEACHER EDUCATION

The Clerk called the bill (H.R. 1415) for the relief of Ball State University and the American Association of Colleges for Teacher Education.

Mr. ROUSSELOT. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

ROLANDO R. GAZA AND TERESITA C. GAZA

The Clerk called the bill (H.R. 2655) for the relief of Rolando R. Gaza and Teresita C. Gaza.

Mr. ROUSSELOT. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

THOMAS JOSEPH HUNTER AND ROSE HUNTER

The Clerk called the bill (H.R. 10600) for the relief of Thomas Joseph Hunter and Rose Hunter.

There being no objection, the Clerk read the bill as follows:

H.R. 10600

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2078 of the Revised Statutes (25 U.S.C. 68) shall not be applicable to—

(1) any sale by Thomas Joseph Hunter and Rose Hunter to the Papago Indian tribe, or to any member of that tribe, of the house that was purchased by Thomas Joseph Hunter and Rose Hunter on May 26, 1976, and that is situated on the Crown Jewell unpatented mining claim, located in the Quijota Mining District, as described in and according to the location notice thereof of record at page 236 in docket 318 in the office of the county recorder at Pima County, Arizona; or

(2) any leasing of said Crown Jewell unpatented mining claim by the Papago Indian tribe to Thomas Joseph Hunter and Rose Hunter.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

RENATE IRENE McCORD

The Clerk called the bill (H.R. 9568) for the relief of Renate Irene McCord.

There being no objection, the Clerk read the bill as follows:

H.R. 9568

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding the provisions of section 212 (a)(23) of the Immigration and Nationality Act, Renate Irene McCord may be issued a visa and admitted to the United States for permanent residence if she is found to be otherwise admissible under the provisions of the Act: *Provided,* That this exception shall apply only to a ground for exclusion of which the Department of State or the Department of Justice had knowledge prior to the enactment of this Act.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

KIM IN HUNG

The Clerk called the bill (H.R. 8810) for the relief of Kim In Hung.

There being no objection, the Clerk read the bill as follows:

H.R. 8810

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Kim In Hung may be classified as a child within the meaning of section 101(b)(1)(F) of the Act, upon approval of a petition filed in her behalf by William Tremitiere and Barbara Tremitiere, citizens of the United States, pursuant to section 204 of the Act: *Provided,* That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act. Section 204(c) of the Immigration and Nationality Act, relating to the number of petitions which may be approved, shall be inapplicable in this case.

With the following committee amendment:

On page 1, line 4, strike out the name "Kim In Hung" and substitute the name "Kim In Hyung".

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

The title was amended so as to read: "A bill for the relief of Kim In Hyung".

A motion to reconsidered was laid on the table.

JOHN F. JOHNSON

The Clerk called the bill (H.R. 9075) for the relief of John F. Johnson.

There being no objection, the Clerk read the bill as follows:

H.R. 9075

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That John F. Johnson, a postmaster at the United States Post Office in Beech Grove, Indiana, is relieved of liability to the United States in the amount of $767.98, representing losses resulting from the mailing at an improper rate during the period January 10, 1966, through June 30, 1968, of the Perry Township Weekly, a publication of Perry Publications, Incorporated, a corporation incorporated in the State of Indiana. In the audit and settlement of the accounts of any certifying or disbursing officer of the United States, full credit shall be given for the amount for which liability is relieved by this Act.

SEC. 2. (a) The Secretary of the Treasury shall pay, out of any money in the Treasury not otherwise appropriated, to John F. Johnson an amount equal to the aggregate of any amounts paid by him to, or withheld from sums otherwise due him by, the United States with respect to his indebtedness to the United States referred to in the first section of this Act.

(b) Not more than 10 per centum of the amount appropriated in subsection (a) of this section may be transferred, directly or indirectly, to any attorney or other agent as consideration for service rendered to John F. Johnson in connection with this claim. Any person violating the provisions of this subsection shall be fined out more than $1,000.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

RUSSELL W. ALLEN

The Clerk called the bill (H.R. 12555) for the relief of Russell W. Allen.

There being no objection, the Clerk read the bill, as follows:

H.R. 12555

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, the sum of $52,703.00 to Russell W. Allen of Presque Isle, Maine, in compensation for business losses incurred during calendar years 1976 and 1977, directly resulting from the restrictions placed on the interstate

movement of claimant's seed potatoes by the United States Department of Agriculture. This amount shall be in full and complete settlement of any and all claims against the United States for the calendar years 1976 and 1977, based upon the unjustified exercise of authority under the Federal Plant Pest Act of 1957 (7 U.S.C. 150dd; 71 Stat. 32).

SEC. 2. No part of the amount appropriated in this Act in excess of 10 per centum thereof shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of this Act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding $1,000.

With the following committee amendments:

Page 1, line 5, strike "the sum of $52,703.00" and insert "an amount not to exceed $52,703.00, to be determined by the Secretary of Agriculture," in lieu thereof.

Page 2, line 3, strike the word "unjustified".

The committee amendments were agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

CONCRETE INDUSTRIES (MONIER), LTD.

The Clerk called the Senate bill (S. 1006) for the relief of Concrete Industries (Monier), Ltd.

Mr. ROUSSELOT. Mr. Speaker, I ask unanimous consent that the Senate bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

DATRONICS ENGINEERS, INC.

The Clerk called the Senate bill (S. 1562) for the relief of Datronics Engineers, Inc.

Mr. BAUMAN. Mr. Speaker, I ask unanimous consent that the Senate bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Maryland?

There was no objection.

Mr. BAUMAN. Mr. Speaker, I ask unanimous consent that further call of the Private Calendar be dispensed with.

The SPEAKER. Is there objection to the request of the gentleman from Maryland?

There was no objection.

PERMISSION FOR MANAGERS TO FILE CONFERENCE REPORT ON H.R. 11318, SMALL BUSINESS ACT AND SMALL BUSINESS ACT INVESTMENT AMENDMENTS

Mr. ADDABBO. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight to file a conference report on the bill (H.R. 11318) to amend the Small Business Act and the Small Business Investment Act of 1978.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

AUTHORIZING WITHHOLDING FROM SALARIES FROM CERTAIN EMPLOYEES UNDER ARCHITECT OF THE CAPITOL

Mr. THOMPSON. Mr. Speaker, I ask unanimous consent that the Committee on House Administration be discharged from further consideration of the Senate bill (S. 2376) to authorize withholding from salaries disbursed by the Secretary of the Senate and from certain employees under the jurisdiction of the Architect of the Capitol for contribution to certain charitable organizations, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2376

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) for purposes of this Act, the term—

(1) "Secretary" means the Secretary of the Senate; and

(2) "Architect" means the Architect of the Capitol.

(b)(1) The Secretary and the Architect shall notify individuals whose pay is disbursed by the Secretary or who are employees of the Architect, including employees of the Botanic Garden or the Senate Restaurants of the opportunity to have amounts withheld from their pay pursuant to this section for contribution to national voluntary health and welfare agencies designated by the Chairman of the Civil Service Commission pursuant to Executive Order 10927, dated March 18, 1961.

(2) Upon request by such an individual specifying the amount to be withheld and one Combined Federal Campaign Center in the Washington metropolitan area to receive such amount, the Secretary, the Architect, or any other officer who disburses the pay of such individual, as the case may be, shall—

(A) withhold such amount from the pay of such individual; and

(B) transmit (not less than once each calendar quarter) the amount so withheld to the Combined Federal Campaign Center as specified in such request.

(c) The Secretary and the Architect shall, to the extent practicable, carry out subsection (b) at or about the time of the Combined Federal Campaign and other fundraising in the executive branch of the Federal Government conducted pursuant to Executive Order 10927, dated March 18, 1961, and at such other times as each such officer deems appropriate.

(d)(1) No amount shall be withheld under subsection (b) from the pay of any individual for any pay period if the amount of such pay for such period is less than the sum of—

(A) the amount specified to be withheld from such pay under subsection (b) for such period; plus

(B) the amount of all other withholdings from such pay for such period.

(2) No amount may be specified by an individual to be withheld for any pay period under subsection (b) which is less than—

(A) 50 cents, if the pay period of such individual is biweekly or semimonthly; or

(B) $1, if the pay period of such individual is monthly.

(e) This section imposes no duty, burden, or requirement upon the United States, the Senate, or any officer or employee of the United States, except as specifically provided in this section. Nothing in this section shall be deemed to consent to the application of any provision of law which has the effect of subjecting the United States, the Senate, or any officer or employee of the United States to any penalty or liability by reason of the provisions of this section. Any paper, form, document, or any other item filed with the Secretary under this section is a paper of the Senate within the provisions of rule XXX of the Standing Rules of the Senate.

(f) The Secretary and the Architect are authorized to issue rules and regulations they consider appropriate in carrying out their duties under this section.

Mr. THOMPSON (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the Senate bill be dispensed with and that it be printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, would the gentleman from New Jersey kindly explain what this bill is about, and why he seeks to bring the bill up under unanimous consent?

Mr. THOMPSON. Mr. Speaker, if the gentleman will yield, I will be happy to answer the gentleman's questions in the order in which they were asked. First, the bill authorizes the secretary of the Senate, and the Architect of the Capitol, to withhold voluntary contributions from an employee's salary, at the request of an employee, and to forward the amount withheld to the Combined Federal Campaign in the metropolitan area.

This bill parallels House Resolution 12, which was adopted in August of 1977, to cover House employees. This bill covers employees of the Senate and the Senate restaurants, and employees of the Architect and the Botanic Gardens. It is in the form of a bill, rather than a Senate resolution, because the disbursing regulations of the Architect must be changed by law, and were therefore beyond the scope of a simple resolution.

The second question you asked was why I am requesting that the committee be discharged of the bill, rather than having the committee markup and report the matter. The answer is twofold. First, the committee considered the same provisions a little over a year ago, and reported an essentially identical resolution covering House employees. The resolution was overwhelmingly adopted in August of 1977, and has been in operation since that time. The clerk has not experienced any difficulties in implementing the withholding provision, and the Senate and Architect's disbursing officers anticipate no difficulty.

Second, given the legislative responsibilities of House Members to deliberate on more weighty matters, and the extremely busy schedule of both the committee and the House, as well as the purely internal administrative nature of

this bill, I considered it appropriate to follow this procedure. I might add that the minority has been consulted and has no objections either to the bill or to this procedure for handling it.

Mr. BAUMAN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The Senate bill was ordered to be read a third time, was read the third time, and passed, a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. THOMPSON. Mr. Speaker, I ask unanimous consent that the gentleman from Maryland (Mr. BAUMAN) and I may be permitted to revise and extend our remarks, and that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of the legislation just passed.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

PORT SAFETY AND TANK VESSEL SAFETY ACT OF 1978

Mr. MURPHY of New York, Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the Senate bill (S. 682) to amend the Ports and Waterways Safety Act of 1972, and for other purposes, with a Senate amendment to the House amendment, thereto, and to concur in the Senate amendment to the House amendment.

The Clerk read the title of the Senate bill.

The Clerk read the Senate amendment to the House amendment, as follows:

In lieu of the matter proposed to be inserted by the House engrossed amendment, insert:

That this Act may be cited as the "Port and Tanker Safety Act of 1978".

SEC. 2. PORTS AND WATERWAYS SAFETY AND PROTECTION OF THE MARINE ENVIRONMENT.

The Ports and Waterways Safety Act of 1972 (Public Law 92-340, 86 Stat. 424) is amended to read as follows:

SECTION 1. SHORT TITLE.

"This Act may be cited as the 'Ports and Waterways Safety Act.'.

"SEC. 2. STATEMENT OF POLICY.

"The Congress finds and declares—

"(a) that navigation and vessel safety and protection of the marine environment are matters of major national importance;

"(b) that increased vessel traffic in the Nation's ports and waterways creates substantial hazard to life, property, and the marine environment;

"(c) that increased supervision of vessel and port operations is necessary in order to—

"(1) reduce the possibility of vessel or cargo loss, or damage to life, property, or the marine environment;

"(2) prevent damage to structures in, on, or immediately adjacent to the navigable waters of the United States or the resources within such waters;

"(3) insure that vessels operating in the navigable waters of the United States shall comply with all applicable standards and requirements for vessel construction, equipment, manning, and operational procedures; and

"(4) insure that the handling of dangerous articles and substances on structures in, on, or immediately adjacent to the navigable waters of the United States is conducted in accordance with established standards and requirements; and

"(d) that advance planning is critical in determining proper and adequate protective measures for the Nation's ports and waterways and the marine environment, with continuing consultation with other Federal agencies, State representatives, affected users, and the general public, in the development and implementation of such measures.

"SEC. 3. DEFINITIONS.—As used in this Act, unless the context otherwise requires—

"(1) 'Marine environment' means the navigable waters of the United States and the land and resources therein and thereunder; the waters and fishery resources of any area over which the United States asserts exclusive fishery management authority; the seabed and subsoil of the Outer Continental Shelf of the United States, the resources thereof and the waters superjacent thereto; and the recreational, economic, and scenic values of such waters and resources.

"(2) 'Secretary' means the Secretary of the department in which the Coast Guard is operating.

"(3) 'State' includes each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Canal Zone, Guam, American Samoa, the United States Virgin Islands, the Trust Territories of the Pacific Islands, the Commonwealth of the Northern Marianas, and any other commonwealth, territory, or possession of the United States.

"(4) 'United States', when used in a geographical context, means all the States thereof.

"SEC. 4. VESSEL OPERATING REQUIREMENTS.

(a) IN GENERAL.—Subject to the requirements of section 5, the Secretary may—

"(1) in any port or place under the jurisdiction of the United States, in the navigable waters of the United States, or in any area covered by an international agreement negotiated pursuant to section 11, establish, operate, and maintain vessel traffic services, consisting of measures for controlling or supervising vessel traffic or for protecting navigation and the marine environment and may include, but need not be limited to one or more of the following: reporting and operating requirements, surveillance and communications systems, routing systems, and fairways;

"(2) require vessels which operate in an area of a vessel traffic service to utilize or comply with that service;

"(3) require vessels to install and use specified navigation equipment, communications equipment, electronic relative motion analyzer equipment, or any electronic or other device necessary to comply with a vessel traffic service or which is necessary in the interests of vessel safety: *Provided*, That the Secretary shall not require fishing vessels under 300 gross tons or recreational vessels 65 feet or less to pose or use the equipment or devices required by this subsection solely under the authority of this Act;

"(4) control vessel traffic in areas subject to the jurisdiction of the United States which the Secretary determines to be hazardous, or under conditions of reduced visibility, adverse weather, vessel congestion or other hazardous circumstances by—

"(A) specifying times of entry, movement, or departure;

"(B) establishing vessel traffic routing schemes;

"(C) establishing vessel size, speed, draft limitations and vessel operating conditions; and

"(D) restricting operation, in any hazardous area or under hazardous conditions, to vessels which have particular operating characteristics or capabilities which he considers necessary for safe operation under the circumstances; and

"(5) require the receipt of prearrival messages from any vessel, destined for a port or place subject to the jurisdiction of the United States, in sufficient time to permit advance vessel traffic planning prior to port entry, which shall include any information which is not already a matter of record and which the Secretary determines necessary for the control of the vessel and the safety of the port or the marine environment.

"(b) SPECIAL POWERS.—The Secretary may order any vessel, in a port or place subject to the jurisdiction of the United States or in the navigable waters of the United States, to operate or anchor in a manner he directs if—

"(1) he has reasonable cause to believe such vessel does not comply with any regulation issued under this Act or any other applicable law or treaty;

"(2) he determines that such vessel does not satisfy the conditions for port entry set forth in section 9; or

"(3) by reason of weather, visibility, sea conditions, port congestion, other hazardous circumstances, or the condition of such vessel, he is satisfied that such directive is justified in the interest of safety.

"(c) PORT ACCESS ROUTES.—(1) In order to provide safe access routes for the movement of vessel traffic proceeding to or from ports or places subject to the jurisdiction of the United States, and subject to the requirements of paragraph (3) hereof, the Secretary shall designate necessary fairways and traffic separation schemes for vessels operating in the territorial sea of the United States and in high seas approaches, outside the territorial sea, to such ports or places. Such a designation shall recognize, within the designated area, the paramount right of navigation over all other uses.

"(2) No designation may be made by the Secretary pursuant to this subsection, if such a designation, as implemented, would deprive any person of the effective exercise of a right granted by a lease or permit executed or issued under other applicable provisions of law: *Provided*, That such right has become vested prior to the time of publication of the notice required by clause (A) of paragraph (3) hereof: *Provided, further*, That the determination as to whether the designation would so deprive any such person shall be made by the Secretary, after consultation with the responsible official under whose authority the lease was executed or the permit issued.

"(3) Prior to making a designation pursuant to paragraph (1) hereof, and in accordance with the requirements of section 5, the Secretary shall—

"(A) within six months after date of enactment of this Act (and may, from time to time thereafter), undertake a study of the potential traffic density and the need for safe access routes for vessels in any area for which fairways or traffic separation schemes are proposed or which may otherwise be considered and shall publish notice of such undertaking in the Federal Register;

"(B) in consultation with the Secretary of State, the Secretary of the Interior, the Secretary of Commerce, the Secretary of the Army, and the Governors of affected States, as their responsibilities may require, take into account all other uses of the area under consideration (including, as appropriate, the exploration for, or exploitation of, oil, gas, or other mineral resources, the construction or operation of deepwater ports or other structures on or above the seabed or subsoil of the submerged lands or the Outer Con-

tinental Shelf of the United States, the establishment or operation of marine or estuarine sanctuaries, and activities involving recreational or commercial fishing); and

"(C) to the extent practicable, reconcile the need for safe access routes with the needs of all other reasonable uses of the area involved.

"(4) In carrying out his responsibilities under paragraph (3), the Secretary shall proceed expeditiously to complete any study undertaken. Thereafter, he shall promptly issue a notice of proposed rulemaking for the designation contemplated or shall have published in the Federal Register a notice that no designation is contemplated as a result of the study and the reason for such determination.

"(5) In connection with a designation made pursuant to this subsection, the Secretary—

"(A) shall issue reasonable rules and regulations governing the use of such designated areas, including the applicability of rules 9 and 10 of the International Regulations for Preventing Collisions at Sea, 1972, relating to narrow channels and traffic separation schemes, respectively, in waters where such regulations apply;

"(B) to the extent that he finds reasonable and necessary to effectuate the purposes of the designation, make the use of designated fairways and traffic separation schemes mandatory for specific types and sizes of vessels, foreign and domestic, operating in the territorial sea of the United States and for specific types and sizes of vessels of the United States operating on the high seas beyond the territorial sea of the United States;

"(C) may, from time to time, as necessary, adjust the location or limits of designated fairways or traffic separation schemes, in order to accommodate the needs of other uses which cannot be reasonably accommodated otherwise: *Provided*, That such an adjustment will not, in the judgment of the Secretary, unacceptably adversely affect the purpose for which the existing designation was made and the need for which continues; and

"(D) shall, through appropriate channels, (i) notify cognizant international organization of any designation, or adjustment thereof, and (ii) take action to seek the cooperation of foreign States in making it mandatory for vessels under their control to use any fairway or traffic separation scheme designated pursuant to this subsection in any area of the high seas, to the same extent as required by the Secretary for vessels of the United States.

"(d) EXCEPTION.—Except pursuant to international treaty, convention, or agreement, to which the United States is a party, this Act shall not apply to any foreign vessel that is not destined for, or departing from, a port or place subject to the jurisdiction of the United States and that is in—

"(1) innocent passage through the territorial sea of the United States, or

"(2) transit through the navigable waters of the United States which form a part of an international strait.

"SEC. 5. CONSIDERATIONS BY SECRETARY.

"In carrying out his duties and responsibilities under section 4, the Secretary shall—

"(a) take into account all relevant factors concerning navigation and vessel safety and protection of the marine environment, including but not limited to—

"(1) the scope and degree of the risk or hazard involved;

"(2) vessel traffic characteristics and trends, including traffic volume, the sizes and types of vessels involved, potential interference with the flow of commercial traffic, the presence of any unusual cargoes, and other similar factors;

"(3) port and waterway configurations and variations in local conditions of geography, climate, and other similar factors;

"(4) the need for granting exemptions for the installation and use of equipment or devices for use with vessel traffic services for certain classes of small vessels, such as self-propelled fishing vessels and recreational vessels;

"(5) the proximity of fishing grounds, oil and gas drilling and production operations, or any other potential or actual conflicting activity;

"(6) environmental factors;

"(7) economic impact and effects;

"(8) existing vessel traffic services; and

"(9) local practices and customs, including voluntary arrangements and agreements within the maritime community; and

"(b) at the earliest possible time, consult with and receive and consider the views of representatives of the maritime community, ports and harbor authorities or associations, environmental groups, and other parties who may be affected by the proposed actions.

"SEC. 6. WATERFRONT SAFETY.

"(a) IN GENERAL.—The Secretary may take such actions as is necessary to—

"(1) prevent damage to, or the destruction of, any bridge or other structure on or in the navigable waters of the United States, or any land structure or shore area immediately adjacent to such waters; and

"(2) protect the navigable waters and the resources therein from harm resulting from vessel or structure damage, destruction, or loss. Such action may include but need not be limited to—

"(A) establishing procedures, measures, and standards for the handling, loading, unloading, storage, stowage, and movement on the structure (including the emergency removal, control, and disposition) of explosives or other dangerous articles and substances, including oil or hazardous material as those terms are defined in section 4417a of the Revised Statutes, as amended;

"(B) prescribing minimum safety equipment requirements for the structure to assure adequate protection from fire, explosion, natural disaster, and other serious accidents or casualties;

"(C) establishing water or waterfront safety zones, or other measures for limited, controlled, or conditional access and activity when necessary for the protection of any vessel, structure, waters, or shore area; and

"(D) establishing procedures for examination to assure compliance with the requirements prescribed under this section.

"(b) STATE LAW.—Nothing contained in this section, with respect to structures, prohibits a State or political subdivision thereof from prescribing higher safety equipment requirements or safety standards than those which may be prescribed by regulations hereunder.

SEC. 7. PILOTAGE.

"The Secretary may require federally licensed pilots on any self-propelled vessel, foreign or domestic, engaged in the foreign trade, when operating in the navigable waters of the United States in areas and under circumstances where a pilot is not otherwise required by State law. Any such requirement shall be terminated when the State having jurisdiction over the area involved establishes a requirement for a State licensed pilot and has so notified the Secretary.

"SEC. 8. INVESTIGATORY POWERS.

"(a) SECRETARY.—The Secretary may investigate any incident, accident, or act involving the loss or destruction of, or damage to, any structure subject to this Act, or which affects or may affect the safety or environmental quality of the ports, harbors, or navigable waters of the United States.

"(b) POWERS.—In an investigation under this section, the Secretary may issue subpenas to require the attendance of witnesses and the production of documents or other evidence relating to such incident, accident, or act. If any person refuses to obey a subpena, the Secretary may request the Attorney General to invoke the aid of the appropriate district court of the United States to compel compliance with the subpena. Any district court of the United States may, in the case of refusal to obey a subpena, issue an order requiring compliance with the subpena, and failure to obey the order may be punished by the court as contempt. Witnesses may be paid fees for travel and attendance at rates not exceeding those allowed in a district court of the United States.

"SEC. 9. CONDITIONS FOR ENTRY TO PORTS OF THE UNITED STATES.

"(a) IN GENERAL.—No vessel, subject to the provisions of section 4417a of the Revised Statutes, as amended, shall operate in the navigable waters of the United States or transfer cargo or residue in any port or place, under the jurisdiction of the United States, if such vessel—

"(1) has a history of accidents, pollution incidents, or serious repair problems which, as determined by the Secretary, creates reason to believe that such vessel may be unsafe or may create a threat to the marine environment; or

"(2) fails to comply with any applicable regulation issued under this Act, under section 4417a of the Revised Statute, as amended, or under any other applicable law or treaty; or

"(3) discharges oil or hazardous material in violation of any law of the United States or in a manner or quantities inconsistent with the provisions of any treaty to which the United States is a party; or

"(4) does not comply with any applicable vessel traffic service requirements; or

"(5) is manned by one or more officers who are licensed by a certificating state which the Secretary has determined, pursuant to section 4417a(11) of the Revised Statutes, as amended, does not have standards for licensing and certification of seafarers which are comparable to or more stringent than United States standards or international standards which are accepted by the United States; or

"(6) is not manned in compliance with manning levels as determined by the Secretary to be necessary to insure the safe navigation of the vessel; or

"(7) while underway, does not have at least one licensed deck officer on the navigation bridge who is capable of clearly understanding English.

"(b) EXCEPTIONS.—The Secretary may allow provisional entry of a vessel not in compliance with subsection (a), if the owner or operator of such vessel proves, to the satisfaction of the Secretary, that such vessel is not unsafe or a threat to the marine environment, if such entry is necessary for the safety of the vessel or persons aboard. In addition, paragraphs (1), (2), (3), and (4) of subsection (a) shall not apply if the owner or operator of such vessel proves, to the satisfaction of the Secretary, that such vessel is no longer unsafe or a threat to the marine environment, and is no longer in violation of any applicable law, treaty, regulation or condition, as appropriate. Clauses (5) and (6) of subsection (a) shall become applicable eighteen months after the effective date of this section.

"SEC. 10. APPLICABILITY.

"This Act shall not apply to the Panama Canal. The authority granted to the Secretary under sections 4, 5, 6, and 7 of this Act shall not be delegated with respect to the Saint Lawrence Seaway to any agency other than the Saint Lawrence Seaway Development Corporation Any other authority granted the Secretary under this Act shall be delegated to the Saint Lawrence Seaway Development Corporation to the extent he de-

termines such delegation is necessary for the proper operation of the Saint Lawrence Seaway.

"SEC. 11. INTERNATIONAL AGREEMENTS.

"(a) TRANSMITTAL OF REGULATIONS.—The Secretary shall transmit, via the Secretary of State to appropriate international bodies or forums, any regulations issued under this Act, for consideration as international standards.

"(b) AGREEMENTS.—The President is authorized and encouraged to—

"(1) enter into negotiations and conclude and execute agreements with neighboring nations, to establish compatible vessel standards and vessel traffic scervices, and to establish, operate, and maintain international vessel traffic services, in areas and under circumstances of mutual concern; and

"(2) enter into negotiations, through appropriate international bodies, and conclude and execute agreements to establish vessel traffic services in appropriate areas of the high sea.

"(c) OPERATIONS.—The Secretary, pursuant to any agreement negotiated under subsection (b) which is binding upon the United States in accordance with constitutional requirements, may—

"(1) require vessels in the vessel traffic service area to utilize or to comply with the vessel traffic service, including the carrying or installation of equipment and devices as necessary for the use of the service; and

"(2) waive, by order or regulation, the application of any United States law or regulation concerning the design, construction, operation, equipment, personnel qualifications, and manning standards for vessels operating in waters over which the United States exercises jurisdiction if such vessel is not en route to or from a United States port or place, and if vessels en route to or from a United States port or place are accorded equivalent waivers of laws and regulations of the neighboring nation, when operating in waters over which that nation exercises jurisdiction.

"SEC. 12. REGULATIONS.

"(a) IN GENERAL.—In accordance with the provisions of section 553 of title 5, United States Code, as amended, the Secretary shall issue, and may from time to time amend or repeal, regulations necessary to implement this Act.

"(b) PROCEDURES.—The Secretary, in the exercise of this regulatory authority, shall establish procedures for consulting with, and receiving and considering the views of all interested parties, including—

"(1) interested Federal departments and agencies,

"(2) officials of State and local governments,

"(3) representatives of the maritime community,

"(4) representatives of port and harbor authorities or associations,

"(5) representatives of environmental groups,

"(6) any other interested parties who are knowledgable or experienced in dealing with problems involving vessel safety, port and waterways safety, and protection of the marine environment, and

"(7) advisory committees consisting of all interested segments of the public when the establishment of such committees is considered necessary because the issues involved are highly complex or controversial.

"SEC. 13. ENFORCEMENT.

"(a) CIVIL PENALTY.—(1) Any person who is found by the Secretary, after notice and an opportunity for a hearing, to have violated this Act or a regulation issued hereunder shall be liable to the United States for a civil penalty, not to exceed $25,000 for each violation. Each day of a continuing violation shall constitute a separate violation. The amount of such civil penalty shall be assessed by the Secretary, or his designee, by written notice. In determining the amount of such penalty, the Secretary shall take into account the nature, circumstances, extent, and gravity of the prohibited acts committed and, with respect to the violator, the degree of culpability, any history of prior offenses ability to pay, and such other matters as justice may require.

"(2) The Secretary may compromise, modify, or remit, with or without conditions, any civil penalty which is subject to imposition or which has been imposed under this section.

"(3) If any person fails to pay an assessment of a civil penalty after it has become final, the Secretary may refer the matter to the Attorney General of the United States, for collection in any appropriate district court of the United States.

"(b) CRIMINAL PENALTY.—(1) Any person who willfully and knowingly violates this Act or any regulation issued hereunder shall be fined not more than $50,000 for each violation or imprisoned for not more than five years, or both.

"(2) Any person who, in the willful and knowing violation of this Act or of any regulation issued hereunder, uses a dangerous weapon, or engages in conduct that causes bodily injury or fear of imminent bodily injury to any officer authorized to enforce the provisions of this Act or the regulations issued hereunder, shall, in lieu of the penalties prescribed in paragraph (1), be fined not more than $100,000, or imprisoned for not more than ten years, or both.

"(c) IN REM LIABILITY.—Any vessel subject to the provisions of this Act, which is used in violation of this Act or any regulations issued hereunder, shall be liable in rem for any civil penalty assessed pursuant to subsection (a) and may be proceeded against in the United States district court for any district in which such vessel may be found.

"(d) INJUNCTION.—The United States district courts shall have jurisdiction to restrain violations of this Act or of regulations issued hereunder, for cause shown.

"(e) DENIAL OF ENTRY.—Except as provided in section 9, the Secretary may, subject to recognized principles of international law, deny entry into the navigable waters of the United States or to any port or place under the jurisdiction of the United States to any vessel not in compliance with the provisions of this Act or the regulations issued hereunder.

"(f) WITHHOLDING OF CLEARANCE.—The Secretary of the Treasury shall withhold or revoke, at the request of the Secretary, the clearance, required by section 4197 of the Revised Statutes of the United States, as amended (46 U.S.C. 91), of any vessel, the owner or operator of which is subject to any of the penalties in this section. Clearance may be granted in such cases upon the filing of a bond or other surety satisfactory to the Secretary.".

SEC. 3. STUDY OF MONITORING SYSTEMS.

(a) CONTENT.—The Secretary, in consultation with the Secretary of Commerce and other appropriate departments or agencies of the Federal Government, shall study the desirability and feasibility of possible shore-station systems for monitoring vessels, including fishing vessels, within the Fishery Conservation Zone as defined in section 3(8) of the Fishery Conservation and Management Act of 1976. Each system examined shall be capable of reporting vessel position, identification, course, and speed using either a land, sea, or space monitoring technique.

(b) REPORT.—Within two years after the date of the enactment of this Act, the Secretary shall report his findings to the Congress. This report shall describe the capabilities, limitations, and cost effectiveness of each monitoring system examined from the standpoint of both the Federal Government and any vessel owners who would be affected by the imposition of each approach. The report shall also include the Secretary's recommendations for a single, comprehensive, cost effective shore-station system for monitoring vessels within the Fishery Conservation Zone.

(c) APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for the purposes of this section, not to exceed $500,000 for the fiscal year ending September 30, 1979, and not to exceed $500,000 for the fiscal year ending September 30, 1980.

SEC. 4. IMPROVED PILOTAGE STANDARDS.

Section 4442 of the Revised Statutes of the United States (46 U.S.C. 214) is amended to read as follows:

"SEC. 4442. (a) The Secretary of the department in which the Coast Guard is operating shall, in accordance with subsection (b) of this section, establish eligibility requirements for the issuance of a Federal license to pilot any steam vessel.

"(b) No person may be issued a Federal license to pilot any steam vessel unless he—

"(1) is at least twenty-one years of age;

"(2) is of sound health and has no physical limitations which would hinder or prevent the performance of a pilot's duties;

"(3) agrees to have a thorough physical examination each year while holding such license;

"(4) demonstrates, to the satisfaction of the Secretary, that he possesses the requisite general knowledge and skill to hold such license;

"(5) demonstrates proficiency in the use of electronic aids to navigation;

"(6) maintains adequate knowledge of the waters to be navigated and knowledge of regulations for the prevention of collisions in such waters;

"(7) has sufficient experience, as determined by the Secretary, to evidence his ability to handle any vessel of the type and size which he may be authorized to pilot; and

"(8) meets any other requirement which the Secretary considers reasonable and necessary.

"(c) No Federal license to pilot a steam vessel shall be valid for a term longer than five years. Upon expiration of any such license, the holder may reapply for an additional term and may be reissued a license if he meets the requirements specified under subsection (b) of this section.".

SEC. 5. VESSELS CARRYING CERTAIN CARGOES IN BULK.

Section 4417a of the Revised Statutes of the United States, as amended (46 U.S.C. 391a), is further amended to read as follows:

"SEC. 4417a. (1) STATEMENT OF POLICY.—The Congress hereby finds and declares—

"(A) that the carriage by vessels of certain cargoes in bulk or in residue creates substantial hazards to life, property, the navigable waters of the United States (including the quality thereof) and the resources contained therein and to the adjoining land, including but not limited to fish, shellfish, and wildlife, marine and coastal ecosystems, and recreational and scenic values;

"(B) that existing standards for the design, construction, alteration, repair, maintenance, operation, equipping, personnel qualification, and manning of all such vessels, which use any port or place subject to the jurisdiction of the United States or which operate in the navigable waters of the United States, must be more stringent and comprehensive for the mitigation of the hazards to life, property, and the marine environment;

"(C) that existing international standards for inspection and enforcement are incomplete, that those international standards that are in existence are often left unenforced by some flag states, and that there is a need to prevent substandard vessels

from using any port or place subject to the jurisdiction of the United States or from operating in the navigable waters of the United States, for the mitigation of the hazards to life, property, or the marine environment;

"(D) that standards developed through regulations shall incorporate the best available technology and shall be required unless clearly shown to create an undue economic impact which is not outweighed by the benefits to navigation and vessel safety or protection of the marine environment;

"(E) that standards developed through regulations shall not impede or interfere with the right of innocent passage or any legitimate use of the high seas in accordance with recognized principles of international law; and

"(F) that the United States should continue to actively support and encourage efforts to obtain international agreements concerning navigation and vessel safety and protection of the marine environment.

"(2) DEFINITIONS.—As used in this section, unless the context otherwise requires—

"(A) 'Discharge' includes, but is not limited to, any spilling, leaking, pumping, pouring, emitting, emptying, or dumping, however caused.

"(B) 'Foreign vessel' means any vessel of foreign registry or operated under the authority of any nation other than the United States.

"(C) 'Hazardous material' means any liquid material or substance which is—

"(i) flammable or combustible; or

"(ii) designated a hazardous substance under section 311(b) of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1321); or

"(iii) designated a hazardous material under section 104 of the Hazardous Material Transportation Act (49 U.S.C. 1803).

"(D) 'Marine environment' means the navigable waters of the United States and the land and resources therein and thereunder; the waters and fishery resources of any area over which the United States asserts exclusive fishery management authority; the seabed and subsoil of the Outer Continental Shelf of the United States the resources thereof and the waters superjacent thereto; and the recreational economic, and scenic values of such waters and resources.

"(E) 'Oil' includes oil of any kind or in any form, including, but not limited to, petroleum, fuel oil, sludge, oil refuse, and oil mixed with wastes other than dredged spoil.

"(F) 'Person' means any individual (whether or not a citizen or national of the United States), or any corporation, partnership, association, or other entity (whether or not organized or existing under the laws of any State), and any Federal, State, local, or foreign government or any entity of any such government.

"(G) 'Public vessel' means a vessel which—

"(i) is owned, or chartered by demise, and operated by the United States or any foreign government; and

"(ii) is not engaged in commercial service.

"(H) 'Commercial service' means all types of trade or business involving the transportation of goods or persons, excluding the service performed by combatant vessels.

"(I) 'Secretary' means the Secretary of the department in which the Coast Guard is operating.

"(J) 'State' includes each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Canal Zone, Guam, American Samoa, the United States Virgin Islands, the Trust Territories of the Pacific Islands, the Commonwealth of the Northern Marianas, and any other commonwealth, territory, or possession of the United States.

"(K) 'United States', when used in a geographical context, means all the States thereof.

"(L) 'Vessel of the United States' means any vessel documented or numbered under the laws of the United States.

"(M) 'Tanker' means a vessel constructed or adapted primarily to carry oil or hazardous materials in bulk in the cargo spaces.

"(N) 'Crude oil tanker' means a tanker engaged in the trade of carrying crude oil.

"(O) 'Product carrier' means a tanker engaged in the trade of carrying oil, other than crude oil.

"(P) 'Major conversion' means a conversion of an existing vessel which substantially alters the dimensions or carrying capacity of the vessel; or changes the type of vessel; or substantially prolongs its life; or which otherwise so alters the vessel that it is essentially a new vessel, as determined by the Secretary.

"(Q) 'New' means, with respect to various types of vessels subject to subsection (7), a vessel—

"(i) for which the building contract is placed after June 1, 1979; or

"(ii) in the absence of a building contract, the keel of which is laid, or which is at a similar stage of construction after January 1, 1980; or

"(iii) the delivery of which is after June 1, 1982; or

"(iv) which has undergone a major conversion, which is contracted for after June 1, 1979, or construction work of which is begun after January 1, 1980, or completed after June 1, 1982

"(R) 'Existing' means, with respect to various types of vessels subject to subsection (7), a vessel which is not a new vessel.

"(S) 'Crude oil' means any liquid hydrocarbon mixture occurring naturally in the earth, whether or not treated to render it suitable for transportation, and includes crude oil from which certain distillate fractions may have been removed, and crude oil to which certain distillate fractions may have been added.

"(3) APPLICABILITY.—Except as provided in subsections (4) and (5), this section shall apply to any vessel—

"(A) regardless of tonnage, size, or manner of propulsion;

"(B) whether self-propelled or not;

"(C) whether carrying freight or passengers for hire or not;

"(D) which is a vessel of the United States, or which operates on or enters the navigable waters of the United States, or which transfers oil or hazardous materials in any port or place subject to the jurisdiction of the United States; and

"(E) which carries oil or any hazardous materials in bulk as cargo or in residue.

Any such vessel shall be deemed to be a steam vessel for the purposes of title 52 of the Revised Statutes of the United States and shall be subject to the provisions thereof.

"(4) EXCEPTIONS.—This section shall not apply to—

"(A) any public vessel; or

"(B) any vessel of not more than 500 gross tons, documented in the service of oil exploitation, which is not a tanker and which would be subject to this section only because of the transfer of fuel from fuel supply tanks of such vessels to offshore drilling or production facilities, if the crew member in charge of such transfer is certified as a tankerman: *Provided*, That if the crew member in charge of the transfer of fuel holds a valid license as a master, mate, pilot, engineer or operator, it shall not be necessary for the crew member also to be certificated as a tankerman or have a tankerman endorsement on his license; or

"(C) cannery tenders, fishing tenders, and fishing vessels of not more than 500 gross tons, used in the salmon or crab fisheries of the States of Oregon, Washington, and Alaska, when engaged exclusively in the fishing industry; or

"(D) any foreign vessel, not destined for, or departing from, a port or place subject to the jurisdiction of the United States, that is in innocent passage through the territorial sea of the United States or in transit through the navigable waters of the United States which form a part of an international strait.

"(5) FISH PROCESSING VESSELS.—This section shall not apply to vessels of not more than 5,000 gross tons used in the processing and assembling of fishery products in the fisheries of the States of Oregon, Washington, and Alaska, and such vessels shall be allowed to have on board flammable or combustible liquid cargo in bulk to the extent authorized, and upon such conditions as may be required, by regulations issued by the Secretary.

"(6) REGULATORY AUTHORITY.—

"(A) In accordance with the provisions of section 553 of title 5, United States Code, the Secretary shall issue, and may from time to time amend or repeal, regulations for the design, construction, alteration, repair, maintenance, operation, equipping, personnel qualification, or manning of vessels to which this section applies, as may be necessary for increased protection against hazards to life and property, for navigation and vessel safety, and for enhanced protection of the marine environment. The Secretary may issue differing regulations applicable to vessels engaged in the domestic trade, and may also issue regulations that exceed standards agreed upon internationally. The regulations issued by the Secretary under this subsection shall be in addition to any other regulations, issued under other provisions of law, that may apply to such vessels. The regulations issued by the Secretary under this subsection shall include, but need not be limited to, requirements relating to—

"(i) superstructures, hulls, cargo holds, or tanks, fittings, equipment, appliances propulsion machinery, auxiliary machinery, and boilers;

"(ii) the handling or stowage of cargo, the manner of such handling or stowage of cargo, and the machinery and appliances used in such loading or stowage;

"(iii) equipment and appliances for lifesaving, fire protection, and prevention and mitigation of damage to the marine environment;

"(iv) the manning of such vessels and the duties, qualifications, and training of the officers and crew thereof, in accordance with subsections (9), (10), and (11);

"(v) improvements in vessel maneuvering and stopping ability and other features which reduce the possibility of collision, grounding, or other accidents;

"(vi) the reduction of cargo loss in the event of a collision, grounding, or other accident; and

"(vii) the reduction or elimination of discharges during ballasting, deballasting, tank cleaning, cargo handling, or other such activity.

"(B) In issuing regulations under paragraph (A), the Secretary shall give due consideration to the kinds and grades of cargo permitted to be on board such vessel.

"(C) The Secretary, in the exercise of this regulatory authority, shall establish procedures for consulting with, and receiving and considering the views of—

"(i) interested Federal departments and agencies,

"(ii) officials of State and local governments,

"(iii) representatives of the maritime community,

"(iv) representatives of port and harbor authorities or associations,

"(v) representatives of environmental groups, and

"(vi) any other interested parties who are knowledgeable or experienced in dealing with problems involving vessel safety, port and waterways safety, and protection of the marine environment.

"(7) MINIMUM STANDARDS.—In issuing regulations pursuant to subsection (6), the Secretary shall require that any self-propelled vessel shall, as a minimum—

"(A) if a new crude oil tanker of 20,000 deadweight tons or above, be equipped with—

"(i) segregated ballast tanks which are protectively located;

"(ii) a crude oil washing system; and

"(iii) a cargo tank protection system consisting of a fixed deck froth system and a fixed inert gas system;

"(B) if a new product carrier of 30,000 deadweight tons or above, be equipped with segregated ballast tanks which are protectively located;

(C) if a new product carrier of 20,000 deadweight tons or above, be equipped with a cargo tank protection system consisting of a fixed deck froth system and a fixed inert gas system or, if such a product carrier carries dedicated products which are incompatible with such a cargo tank protection system, an alternate protection system as authorized by the Secretary;

"(D) if an existing crude oil tanker of 40,000 deadweight tons or above, not later than June 1, 1981, be equipped with—

"(i) segregated ballast tanks; or

"(ii) a crude oil washing system:

Provided, That compliance may be delayed for vessels operating with dedicated clean ballast tanks if of 70,000 deadweight tons or above until June 1, 1983, or until June 1, 1985, for all other such vessels;

"(E) if an existing crude oil tanker of 20,000 deadweight tons or above but less than 40,000 deadweight tons, fifteen years or older, not later than January 1, 1986, or the date on which it reaches fifteen years of age, whichever is later, be equipped with segregated ballast tanks or a crude oil washing system;

"(F) if an existing crude oil tanker of 20,000 deadweight tons or above, not later than June 1, 1983, be equipped with an inert gas system: *Provided*, That for a crude oil tanker of less than 40,000 deadweight tons not fitted with high capacity tank washing machines, the Secretary may grant an exemption, if the vessel's owner can clearly show that compliance would be unreasonable and impracticable due to the vessel's design characteristics: *Provided further*, That an existing crude oil tanker of 70,000 deadweight tons or above must be in compliance herewith not later than June 1, 1981;

"(G) if an existing product carrier of 40,000 deadweight tons or above, not later than June 1, 1981, be equipped with segregated ballast tanks or, in lieu thereof, may operate with dedicated clean ballast tanks;

"(H) if an existing product carrier of 20,000 deadweight tons or above but less than 40,000 deadweight tons, fifteen years or older, not later than January 1, 1986, or the date on which it reaches fifteen years of age, whichever is later, be equipped with segregated ballast tanks or may operate with dedicated clean ballast tanks;

"(I) if an existing product carrier of 40,000 deadweight tons or above, or an existing product carrier of 20,000 deadweight tons or above but less than 40,000 deadweight tons, which is fitted with high-capacity tank washing machines, not later than June 1, 1983, be equipped with an inert gas system: *Provided*, That an existing product carrier of 70,000 deadweight tons or above must be in compliance herewith not later than June 1, 1981;

"(J) if of 10,000 gross tons or above, not later than June 1, 1979, be equipped with—

"(i) a dual radar system, with short-range and with long-range capabilities and each with true-north features;

"(ii) an electronic relative motion analyzer, which is at least functionally equivalent to such equipment complying with specifications established by the United States Maritime Administration;

"(iii) an electronic position fixing device;

"(iv) adequate communications equipment;

"(v) a sonic depth finder;

"(vi) a gyrocompass; and

"(vii) up-to-date charts:

Provided, That the effective date of compliance with the requirement of clause (ii) shall be July 1, 1982, or such earlier date as agreed to intenationally and accepted by the United States;

"(K) if a new tanker of 10,000 gross tons or above, be equipped with—

"(i) two remote steering gear control systems operable separately from the navigating bridge;

"(ii) main steering gear control in the steering gear compartment;

"(iii) means of communications and rudder angle indicators on the navigating bridge, remote steering gear control station, and the steering gear compartment;

"(iv) two or more identical and adequate power units for the main steering gear;

"(v) an alternative and adequate power supply, either from an emergency source of electrical power or from another independent source of power located in the steering gear compartment; and

"(vi) means of automatic starting and stopping of power units with attendant alarms at all steering stations.

"(L) if an existing tanker of 10,000 gross tons or above, not later than June 1, 1981, be equipped with—

"(i) two remote steering gear control systems operable separately from the navigating bridge;

"(ii) main steering gear control in the steering gear compartment; and

"(iii) means of communications and rudder angle indicators on the navigating bridge, remote steering gear control station, and the steering gear compartment; and

"(M) if a crude oil tanker, which is engaged in the transfer of oil from an offshore oil exploitation or production facility on the Outer Continental Shelf of the United States, not later than June 1, 1980, be equipped with segregated ballast tanks, or may operate with dedicated clean ballast tanks or special ballast arrangements: *Provided*, That vessels subject to this paragraph shall comply fully with the other minimum standards of this section, where applicable; and

"(N) in accordance with relevant international agreements to which the United States is a party, exempt vessels from the minimum requirements established in this subsection for segregated ballast, dedicated clean ballast, or crude oil washing if he determines that shore-based reception facilities are a preferred method of handling dirty ballast, and that adequate facilities are readily available.

After the effective date of this Act, the installation of segregated ballast tanks, a crude oil washing system, or an inert gas system, required by regulations issued hereunder, on a vessel which is entitled to enegage in coastwise trade in accordance with section 27 of the Merchant Marine Act of 1920 (46 U.S.C. 883) shall be effected within the United States, its terriorities (not including trust territories), or its possessions, and vessels which fail to comply with this requirement shall thereafter not have the right to engage in the coastwise trade.

"(8) EVIDENCE OF COMPLIANCE.—

"(A) No vessel of the United States to which this section applies shall have on board oil or hazardous materials in bulk cargo or in residue until it has a Certificate of Inspection, issued under the provisions of title 52 of the Revised Statutes of the United States and such certificate has been endorsed to indicate that the vessel is in compliance with the regulations issued under this section. If any such vessel is found not to be in compliance, the Secretary shall notify the owner or agent of the vessel and indicate how the vessel may be brought into compliance.

"(B) No foreign vessel to which this section applies shall operate on or enter the navigable waters of the United States, or transfer oil or hazardous materials in any port or place under the jurisdiction of the United States, unless such vessel has been issued a Certificate of Compliance by the Secretary. The Secretary shall not issue such certificate until the vessel has been examined by the Secretary and found to be in compliance with the provisions of this section and the regulations issued hereunder. If such vessel is found not to be in compliance, the Secretary shall notify the owner or agent of the vessel and indicate how the vessel may be brought into compliance. The Secretary may allow provisional entry for the purposes of conducting examinations.

"(C) The Secretary may accept, in whole or in part, a certificate, endorsement, or document issued by any foreign nation pursuant to any treaty, convention, or other international agreement to which the United States is a party, as a basis for issuance of a Certificate of Compliance.

"(D) No vessel may carry any kind or grade of oil or hazardous materials in bulk as cargo or in residue unless its certificate is endorsed to allow such carriage. No such certificate may allow any vessel to carry any material prohibited by section 4472(3) of the Revised Statutes, as amended (46 U.S.C. 170).

"(E) A certificate issued under this section shall be valid for a period not to exceed twenty-four months and may be renewed as specified by the Secretary. The Secretary may issue a temporary certificate under this section in appropriate circumstances; except that the temporary certificate shall be valid for not more than thirty days. Any certificate shall be revoked or suspended if the Secretary finds that the vessel involved no longer complies with the conditions upon which the certificate was issued.

"(9) PERSONNEL AND MANNING STANDARDS FOR VESSELS OF THE UNITED STATES.—The Secretary shall prescribe standards for the manning of any vessel of the United States subject to the provisions of this section and the duties, qualifications, and training of the officers and crew thereof, including, but not limited to, standards relating to—

"(A) instruction in vessel and cargo handling and vessel navigation under normal operating conditions in coastal and confined waters and on the high seas;

"(B) instruction in vessel and cargo handling and vessel navigation in emergency situations and under accidental or potential accident conditions;

"(C) license qualifications by specific type and size of vessels;

"(D) qualification for licenses by use of simulators for the practice or demonstration of marine-oriented skills;

"(E) minimum health and physical fitness criteria for various grades of licenses and certificates: Provided, That the Secretary shall waive the applicability of such criteria to any individual holding a license or certificate in effect on the effective date of this subsection, including subsequent renewals thereof: Provided further, That, when such a waiver is granted, the Secretary may prescribe conditions or limitations to the license or certificate, or the renewal thereof, as he

may find reasonable and necessary for the safety of any vessel on which the individual may be employed;

"(F) periodic retraining, and special training for upgrading positions, changing vessel type or size, or assuming new responsibilities; and

"(G) determination of licenses and certificates, conditions of licensing or certification and period of licensing or certification by reference, amount of training completed, and regular performance testing.

"(10) TANKERMAN REQUIREMENTS.—

"(A) Any vessel of the United States having on board oil or hazardous materials in bulk as cargo or in residue shall have a specified number of the crew certificated as tankerman, as may be required by the Secretary, and such requirement shall be so noted on the Certificate of Inspection issued to the vessel.

"(B) Any foreign vessel having on board oil or hazardous materials in bulk as cargo or in residue shall have a specified number of personnel certificated as tankerman, or equivalent, as may be required by the Secretary, when the vessel transfers oil or hazardous materials in any port or place subject to the jurisdiction of the United States; and such requirement shall be noted in applicable terminal operation procedures. No transfer operations may take place unless the crew member in charge is capable of clearly understanding instructions in English.

"(C) The Secretary shall prescribe procedures, standards, and qualifications for the issuance of certificates or endorsements as tankerman, stating the kinds of oil or hazardous materials that can be handled with safety to the vessel and the marine environment.

"(D) Certificates or endorsements as tankerman shall be subject to suspension and revocation on the same grounds and in the same manner as provided for under the provisions of section 4450 of the Revised Statutes of the United States, as amended (46 U.S.C. 239).

"(11) PERSONNEL AND MANNING STANDARDS FOR FOREIGN VESSELS.—The Secretary shall issue regulations and procedures for the verification of manning, training, qualification, and watchkeeping standards promulgated by the certificating state of any foreign vessel which operates on or enters the navigable waters of the United States, and transfers oil or hazardous materials in any port or place under the jurisdiction of the United States. Such regulations and procedures shall include, but need not be limited to, provisions relating to—

"(A) the receipt through the Inter-Governmental Maritime Consultative Organization or from the certificating state of the English text of laws, decrees, orders, regulations, specimen licenses and certificates, and other pertinent documents pertaining to manning, training, qualification, and watchkeeping of seafarers;

"(B) the publication and distribution of, or otherwise making available to the public and appropriate enforcement personnel, copies of materials received as provided for in paragraph (A);

"(C) the evaluation, at intervals of not less than five years, of each foreign state's system for licensing and certification of seafarers, including study course content and duration, examination requirements and prerequisites for licensing and certification, and related controls;

"(D) determination, after the evaluation required by clause (C), of whether the foreign state, whose system for licensing and certification of seafarers was evaluated, has standards which are comparable to or more stringent than United States standards or international standards which are accepted by the United States;

"(E) publication in the Federal Register of each determination made pursuant to clause (D), together with a brief explanation of the reasons therefor; and

"(F) manning levels, based on vessel size and type of operation, when operating in the navigable waters of the United States, or in the safety zone in connection with utilization of deepwater ports.

"(12) MODIFICATIONS.—The Secretary may modify any regulation or standard prescribed under this section to conform to the provisions of an international treaty, convention, agreement, or an amendment thereto, which is ratified by the United States.

"(13) PROHIBITED ACTS.—

"(A) It is unlawful for any person—

"(i) to violate any provision of this section or any regulation issued under this section; or

"(ii) to refuse to permit any officer, authorized by the Secretary to enforce the provisions of this section, to board any vessel or to enter any shore area, place, or premises, under such person's control for purposes of inspection under this section; or

"(iii) to refuse to obey any lawful directive issued under this section.

"(B) It is unlawful for any vessel subject to the provisions of this section—

"(i) to operate in or on the navigable waters of the United States, or to use any port or place subject to the jurisdiction of the United States, while not in compliance with any provision of this section or any regulation issued hereunder; or

"(ii) to fail to comply with any lawful directive issued pursuant to this section.

"(14) ENFORCEMENT.—

"(A) CIVIL PENALTY.—

"(i) Any person who is found by the Secretary, after notice and an opportnuity for a hearing, to have violated this section or a regulation issued hereunder shall be liable to the United States for a civil penalty, not to exceed $25,000 for each violation. Each day of a continuing violation shall constitute a separate violation. The amount of such civil penalty shall be assessed by the Secretary, or his designee, by written notice. In determining the amount of such penalty, the Secretary shall take into account the nature, circumstances, extent, and gravity of the prohibited acts committed and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require.

"(ii) The Secretary may compromise, modify, or remit, with or without conditions, any civil penalty which is subject to imposition or which has been imposed under this section.

"(iii) If any person fails to pay an assessment of a civil penalty after it has become final, the Secretary may refer the matter to the Attorney General of the United States, for collection in any appropriate district court of the United States.

"(B) CRIMINAL PENALTY.—

"(i) Any person who willfully and knowingly violates this section or any regulation issued hereunder shall be fined not more than $50,000 for each violation or imprisoned for not more than five years, or both.

"(ii) Any person who, in the willful and knowing violation of this section or any regulation issued hereunder, uses a dangerous weapon, or engages in conduct that causes bodily injury or fear of imminent bodily injury to any officer authorized to enforce the provisions of this Act or the regulations issued hereunder, shall, in lieu of the penalties prescribed in subparagraph (i), be fined not more than $100,000, or imprisoned for not more than ten years, or both.

"(C) IN REM LIABILITY.—Any vessel subject to the provisions of this section, which is used in violation of this section or regulation issued hereunder, shall be liable in rem for any civil penalty assessed pursuant to paragraph (A) and may be proceeded against in the United States district court for any district in which such vessel may be found.

"(D) INJUNCTION.—The United States district court shall have jurisdiction to restrain violations of this section or regulations issued hereunder, for cause shown.

"(E) WITHHOLDING CLEARANCE.—The Secretary of the Treasury shall withhold or revoke, at the request of the Secretary, the clearance, required by section 4197 of the Revised Statutes of the United States, as amended (46 U.S.C. 91), of any vessel, the owner or operator of which is subject to any of the penalties in this subsection. Clearance may be granted in such cases upon the filing of a bond or other surety satisfactory to the Secretary.

"(15) INSPECTION.—

"(A) NATIONAL PROGRAM.—

"(i) The Secretary shall establish a national program for inspection of any vessel subject to this section. Each such vessel shall be inspected or examined at least once each year. Any such vessel over ten years of age shall undergo a special and detailed inspection of structural strength and hull integrity, as specified by the Secretary.

"(ii) An inspection or examination may be conducted by any officer authorized by the Secretary. If any such officer is not reasonably available, the Secretary may contract for the conduct of inspections or examinations in the United States and in foreign countries. Under such contract, an inspector may be authorized to act on behalf of the Secretary, except that no such inspector may issue a Certificate of Inspection or Certificate of Compliance, but may issue a temporary certificate.

"(iii) Notwithstanding the provisions of section 1 of the Act of June 19, 1886, as amended (46 U.S.C. 331), the Secretary shall prescribe by regulation reasonable fees for any inspection or examination conducted pursuant to this section outside the geographical limits of the United States, or which, when involving a foreign vessel, is conducted pursuant to the contract authority provided for in subparagraph (ii) of this paragraph. The owner or operator of any vessel inspected or examined by the Secretary or his designee shall be liable for such fees. Amounts received as fees shall be credited to the General Treasury.

"(B) VESSEL DOCUMENTS.—Any vessel subject to the provisions of this section shall have on board such documents as the Secretary deems necessary for inspection or enforcement under this section, including, but not limited to, documents indicating—

"(i) the kind, grade, and approximate quantities of any cargo on board;

"(ii) the shipper and consignee of the cargo;

"(iii) the points of origin and destination of the vessel; and

"(iv) the name of an agent in the United States authorized to accept legal process.

"(16) MARINE SAFETY INFORMATION SYSTEM.—

"(A) IN GENERAL.—The Secretary shall establish a marine safety information system which shall contain information with regard to any vessel subject to this section which operates on or enters the navigable waters of the United States, or which transfers oil or any hazardous materials in any port or place under the jurisdiction of the United States. In acquiring such information, the Secretary shall make full use of publicly available information. The Secretary may, by regulation, require any such vessel to furnish such data or other information as he deems necessary, in order to carry out the purposes of this subsection, including, but not limited to—

"(i) the names of any person with an ownership interest in such vessel;

"(ii) details of compliance with the financial responsibility requirements of applicable statutes or regulations;

"(iii) registration information, including all changes in the name of the vessel;

"(iv) the history of accidents or serious repair problems of the vessel; and

"(v) a record of all inspections or examinations of a vessel conducted under subsection (15).

"(B) INTERAGENCY COOPERATION.—The head of each department or agency of the Federal Government shall, upon a written request from the Secretary, furnish any available information which the Secretary deems necessary to confirm the information received pursuant to paragraph (A).

"(17) LIGHTERING.—

"(A) IN GENERAL.—After the effective date of regulations issued by the Secretary pursuant to paragraph (B), no vessel may transfer oil or hazardous materials in a port or place subject to the jurisdiction of the United States, if the cargo has been transferred from another vessel in the navigable waters of the United States or in the marine environment unless—

"(i) the transfer was conducted in accordance with regulations issued by the Secretary, and

"(ii) both the delivering and receiving vessels had, on board at the time of transfer, a Certificate of Inspection or a Certificate of Compliance, as would have been required under subsection (8), had the transfer taken place in a port or place subject to the jurisdiction of the United States.

(B) REGULATIONS.—The Secretary shall issue, and may from time to time, amend or repeal regulations for the transferring of oil or hazardous materials in the navigable waters of the United States or in the marine environment when such oil or hazardous material is destined for a port or place subject to the jurisdiction of the United States. Such regulations shall include, but need not be limited to—

"(i) minimum safe operating conditions, including sea state, wave height, weather, proximity to channels or shipping lanes, and other similar factors;

"(ii) prevention of spills;

"(iii) equipment for responding to any spill;

"(iv) prevention of any unreasonable interference with navigation or other reasonable uses of the high seas, as such uses are defined by treaty, convention, or customary international law;

"(v) establishment of lightering zones; and

"(vi) requirements for communication and prearrival messages.

"(18) TANK WASHINGS.—

"(A) No vessel may transfer a cargo in a port or place subject to the jurisdiction of the United States, if the vessel has arrived after having discharged tank washings containing oil or hazardous materials in violation of any law of the United States or in a manner or quantities inconsistent with the provisions of any treaty to which the United States is a party, in preparation for loading that cargo in any port or place subject to the jurisdiction of the United States.

"(B) The Secretary shall establish effective control and supervisory measures to implement the provisions of this subsection.

"(19) REPORT.—Within six months after the end of each calendar year, the Secretary shall submit to the Congress—

"(A) a report on the administration of this section during the preceding calendar year;

"(B) a summary of inspection and enforcement activities during the preceding calendar year; and

"(C) recomendations to the Congress for any additional legislative authority necessary to improve navigation and vessel safety and protection of the marine environment.".

SEC. 6. SAVINGS CLAUSE.

(a) Regulations previously issued under statutory provisions which are amended by section 2 of this Act shall continue in effect as though issued under the authority of the Ports and Waterways Safety Act of 1972, as amended by this Act, until expressly abrogated, modified, or amended by the Secretary. Any proceeding under title I of Public Law 92-340 for a violation which occurred before the effective date of this Act may be initiated or continued to conclusion as though such public law had not been amended by this Act.

(b) Regulations previously issued under statutory provisions which are amended by section 5 of this Act shall continue in effect as though issued under the authority of section 4417a of the Revised Statutes of the United States, as amended by this Act, until expressly abrogated, modified, or amended by the Secretary. Any proceeding under the provisions of section 4417a of the Revised Statutes of the United States, as it existed prior to amendment by this Act, for a violation which occurred before the effective date of this Act, may be initiated or continued to conclusion as though such section had not been amended by this Act.

(c) If a provision of this Act or the application of such provision to any person or circumstances shall be held invalid, the remainder of the Act and the application of such provision to persons or circumstances other than those to which it is held invalid shall not be affected thereby.

Mr. MURPHY of New York (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the Senate amendment to the House amendment be dispensed with and that it be printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from New York?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, will the gentleman from New York (Mr. MURPHY) assure me that the bill has been cleared with the minority and conforms with the memorandum the staff has prepared regarding the Senate amendment to the House amendment?

Mr. MURPHY of New York. Yes; it has been cleared.

Mr. BAUMAN. I thank the gentleman.

Mr. MURPHY of New York. Mr. Speaker, if the gentleman will yield still further, let me state, in explanation of the Senate amendment, that the Senate made several changes of a technical nature. For instance, in the amendments to the Ports and Waterways Safety Act, they added a section providing for a short title, as well as a section including definitions. In addition, they inserted a provision specifically requiring the Secretary to explain the reason for his determinations when he published in the Federal Register a notice regarding decisions as to designations of port access routes. The Senate also specifically permitted provisional entries of certain vessels which otherwise would be barred from U.S. waters if the owner or operator of the vessel proves that the vessel is not unsafe or a threat to the marine environment and if such provisional entry is necessary for the safety of the vessel or persons on board.

In connection with the $500,000 per year authorization for the study of offshore monitoring systems, the Senate returned to its authorization language providing for such an authorization to begin in fiscal year 1979, in lieu of the House provision for such authorization to begin in fiscal year 1980. This change is entirely consistent with the provisions of the Congressional Budget Act of 1974.

Finally, the Senate deleted as redundant a provision of the House authorizing the National Transportation Safety Board to participate as a party in interest to investigations of transportation related accidents on shore facilities, since that authorization already exists in present law.

Of the amendments which might be considered matters of substance, the House version inadvertently reduced the criminal sanction for imprisonment from 5 years to 1 year for willful and knowing violations of the Ports and Waterways Safety Act or the Tanker Vessel Act. The Senate amendment restores the sanction to a possible 5-year sentence, consistent with present law.

In another instance, the House amendment set certain specified dates for designated tanker vessels to install inert gas systems, a safety requirement designed to reduce the possibility of explosions. The dates set in the House version were erroneously keyed to the international marine pollution protocol. The Senate change correctly moves the compliance dates forward to make the provisions consistent with the international goals related to the protocol to the safety of life at sea.

In relation to operations involving Outer Continental Shelf operations, the Senate version authorizes tankers carrying oil from OCS platforms to operate with special ballast arrangements, as an alternative to segregated ballast tanks or dedicated clean ballast tanks, provided such vessels comply fully with all other applicable minimum standards. In addition, the Senate version expands the coverage of such requirements to all crude oil tankers engaged in such activities rather than limiting the requirement, as did the House version, to crude oil tankers of 20,000 tons or over.

Finally, the House version required that for offshore supply boats of 500 gross tons or less to be exempted from the requirements of the Tank Vessel Act, the crew member in charge of such a transfer must be certified as a tankerman. The Senate version added a proviso to the effect that if such a crew manager holds a valid license as a master, mate, pilot, engineer, or operator, it shall not be necessary for the crew manager also to hold a tankerman certificate or endorsement.

All of the Senate changes have been carefully evaluated and have been found acceptable by both the majority and the minority on the Merchant Marine and Fisheries Committee.

The Senate version makes no change to those provisions of the House version as recommended by the House Committee on International Relations.

Mr. BAUMAN. I thank the gentleman for his explanation.

Mr. Speaker, I withdraw my reservation of objection.

● Mr. DON H. CLAUSEN. Mr. Speaker, I want to add my support to S. 682, mark piece of maritime safety legisla- Safety Act of 1978. It is truly a landbetter known as the Tanker and Vessel

tion which will help protect our marine environment.

Over the past year, the Special Investigations Subcommittee of Interior has conducted hearings on the west coast. During two of our hearings, I became acutely aware of the need to protect our marine environment with respect to transporting Alaska North Slope crude oil.

In November I had an opportunity to view the vessel traffic safety system for the Port of Seattle, Wash., and Puget Sound in general. Mr. Speaker, after that particular Coast Guard briefing, I became an even stronger advocate for applying available technology to an improved VTS system such as the one viewed by our subcommittee.

On September 12, I voted in favor of H.R. 13311 which passed the House 366 to 6. S. 682 is a similar bill in that it would amend the Ports and Waterways Safety Act of 1972 and authorize entry conditions for tank vessels entering U.S. ports.

As a Member, representing a coastal congressional district, I believe in the need for improved marine safety standards. The Coast Guard and the Secretary of Transportation must have the authority to establish necessary fairways and vessel traffic separation schemes to provide safe access for access routes for our domestic ports.

Presently the United States daily imports approximately 8 million barrels of foreign oil. This amount coupled with 1.2 million barrels of crude from Alaska's North Slope must be transported by tanker.

It is absolutely essential our marine habitat be protected from oil spills. S. 682 helps toward achieving this goal.

S. 682 would apply minimum construction standards for foreign vessels entering U.S. navigable waters or using any port or place under U.S. jurisdiction.

Mr. Speaker, in closing, oil, be it Alaskan or foreign, has a devastating effect on marine habitat when it spills upon the waters.

S. 682 helps make the possibility of an oil spill less likely. I urge my colleagues to support its passage.●

The SPEAKER. Is there objection to the requset of the gentleman from New York?

There was no objection.

The SPEAKER. Is there objection to the initial request of the gentleman from New York?

There was no objection.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. Pursuant to the provisions of clause 3(b) of rule 27, and the order of the House of September 27 the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule 15 until Wednesday, October 4.

PERISHABLE AGRICULTURAL COMMODITIES ACT

Mr. RICHMOND. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 13345) to amend the Perishable Agricultural Commodities Act, as amended.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 23(b) of the Perishable Agricultural Commodities Act (7 U.S.C. 499c(b)) is amended (1) in the second sentence by inserting immediately before the period at the end thereof, the phrase "and to be furnished thereafter."; and (2) in the third sentence by striking out "$100" and inserting in lieu thereof "$150 plus $50 for each branch or additional business location as defined by the Secretary. Total annual fees for any applicant shall not exceed $1,000 in the aggregate.".

SEC. 2. (a) Section 1 of such Act (7 U.S.C. 499a) is amended by adding in subsection (6)(C) thereof after the word "commodity" the phrase "other than potatoes".

(b) The amendment made by subsection (a) of this section shall become effective on the date of enactment of this Act. However, such amendment shall not apply to any person, who on the day before such date of enactment was buying potatoes for processing only within the State where such potatoes were grown, for such additional period of time, not to extend later than January 1, 1982, as the Secretary may upon application prescribe, if the Secretary finds that compliance with such amendment on its effective date would cause undue hardship to such person or would otherwise not advance the public interest.

SEC. 3. (a) Section 1 of such Act (7 U.S.C. 499a) is further amended by striking from subsection (6)(B) the figure "$100,000" and inserting in lieu thereof the figure "$150,000"; and by striking from subsection (7) the figure "$100,000" and inserting in lieu thereof the figure "$150,000".

(b) The amendments made by this section shall become effective beginning with calendar year 1979.

SEC. 4. Section 13 of such Act (7 U.S.C. 499m) is amended by renumbering subsections (b) through (e) as subsections (c) through (f) and by adding a new subsection (b) as follows:

"(b) The Secretary or his duly authorized agents, in order to insure that the prompt payment provision of section 2(4) of the Act is being complied with, shall from time to time inspect the accounts, records, and memoranda of any commission merchant, dealer, or broker determined in a formal disciplinary proceeding pursuant to section 6(b) of the Act to have violated such provision. The Secretary may also require that any such commission merchant, dealer, or broker furnish, maintain, and from time to time adjust a surety bond in form and amount satisfactory to the Secretary as assurance that such commission merchant's, dealer's, or broker's business will be conducted in accordance with this Act and that such commission merchant, dealer, or broker will pay all reparation awards, subject to its right of appeal under section 7(c): *Provided, however,* That, if such surety bond is furnished, maintained, and adjusted as required by the Secretary, the Secretary shall not thereafter inspect the accounts, records, and memoranda, of such commission merchant, dealer, or broker pursuant to this subsection more than once a year. If any such commission merchant, dealer, or broker refuses to permit such inspection or fails or refuses to furnish, maintain, or adjust such surety bond, the Secretary may publish the facts and circumstances and/or, by order suspend the license of the offender until permission to make such inspection is given or such surety bond is furnished, maintained, or adjusted.".

The SPEAKER. Is a second demanded?

Mr. WAMPLER. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER. The gentleman from New York (Mr. RICHMOND) and the gentleman from Virginia (Mr. WAMPLER) will be recognized for 20 minutes each.

The Chair recognizes the gentleman from New York (Mr. RICHMOND).

Mr. RICHMOND. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, when the Congress, upon the produce industry's request, passed the Perishable Agricultural Commodities Act of 1920, it was its intent that this law would foster fair trading practices in the marketing of perishable commodities in interstate and foreign commerce. By all accounts, the regulatory program established under this law has, indeed, fully succeeded in meeting this goal. The amendments before us today are meant to guarantee that the program, which is self supporting, will have sufficient revenue to continue to do its job effectively.

Mr. Speaker, H.R. 13845 amends the Perishable Agricultural Commodities Act, commonly known as PACA, to increase the ceiling on the annual license fee which may be prescribed by the Secretary of Agriculture from the present $100 to $150 plus $50 for each branch or additional business location. However, the total annual fee may not exceed $1,000.

The bill would also amend the PACA to remove, in the case of potatoes, the present exemption from regulation of dealers who purchase perishable commodities for canning and/or processing within the State where grown. However, the Secretary is given discretion to postpone until as late as January 1, 1982, the application of this provision to any such potato dealer if the Secretary finds that compliance on the date of enactment would cause undue hardship to such dealer or otherwise not advance the public interest. In addition, the aggregate value of perishable agricultural commodities which a retail dealer may purchase or frozen fruits and vegetables which a broker may sell before being regulated under the act would be increased effective in calendar year 1979 from $100,000 to $150,000.

Finally, the bill would require the Secretary from time to time to inspect the records, and authorize the Secretary to require a surety bond, of any commission merchant, dealer, or broker determined in a formal disciplinary proceeding to have violated the prompt payment provision of the act. The Secretary would be obliged to inspect the records of such a person at least once, but, if a bond is required and furnished, not more frequently than once a year thereafter. The

Secretary is authorized to enforce this provision by publishing the facts and circumstances and/or suspending the license of any commission merchant, dealer, or broker who refuses to permit inspection or fails or refuses to furnish the required bond.

Mr. Speaker, the regulatory program carried out under the Perishable Agricultural Commodities Act fosters fair trading practices in marketing of perishable agricultural commodities across the Nation. It is financed out of a special fund in the U.S. Treasury in which are deposited the annual license fees collected from each commission merchant, dealer, and broker licensed under the act. Section 1 of this legislation would increase the statutory ceiling upon the annual license fees. That ceiling was last increased by Congress in 1969. This increase is needed according to the Department of Agriculture if the program is to remain solvent beyond fiscal year 1979.

In shifting from a flat statutory ceiling to a provision which would permit the Secretary to charge an additional amount per branch, it is the Agriculture Committee's intention to distribute the costs of the program equitably among the licensees. The Secretary would have the discretion to impose an additional fee upon the large operations which require more services or derive greater benefits under the act.

Section 2 of the bill would require firms purchasing potatoes in wholesale or jobbing quantities in interstate or foreign commerce to be licensed as dealers even though such potatoes are purchased for canning or processing in the State where grown. This provision is prompted primarily by the activities of large potato processing firms which over the past several years have been slow in paying, or have failed entirely to pay, for raw potatoes delivered to them by growers. Two large firms in particular have consistently failed to pay growers promptly, or failed to pay at all, for several million dollars worth of potatoes over the past several years. These firms remain some $7 million in arrears. Notwithstanding the large-scale operations of these firms which market nationwide, the Secretary has been unable to assist growers in seeking redress, because these firms processed the potatoes in the State where grown and thus were exempt from regulation. However, in order to prevent undue hardship to any firm presently operating, the Secretary of Agriculture is given discretionary authority to postpone the application of this provision to any person until not later than January 1, 1982, under such conditions as he may impose to protect growers.

The exemption for small retailers and brokers was initially incorporated into the act in 1962 and increased to $100,000 in 1969. Section 3 of this bill would increase to $150,000 the volume of perishable produce that can be purchased by a retailer, and of frozen fruits and vegetables which can be sold by a broker, before such retailer or broker becomes subject to regulation. The increase is needed to maintain the exemption of smaller retailers and brokers who have become subject to regulation due to inflation or to minor increases in business volume which do not warrant their being federally regulated. Increases in the wholesale price index for fresh and dried fruits and vegetables since 1969 more than justify this increase.

Some thought was given to increasing the exemption to as much as $200,000. However, the committee chose not to do so because: First, retail firms which handle over $150,000 per year in perishable agricultural commodities typically have an overall volume of more than $2.25 million, and thus are larger than the "mom and pop" type firms which the committee has determined should be exempt; and second, an increase in the exemption level to $200,000 would reduce the number of firms subject to licensing to the point that a greater increase in the annual license fee would be required.

Section 4 of the bill is designed to discourage recidivism on the part of firms which have been determined in formal disciplinary actions to have violated the requirement in the act that all perishable agricultural commodities purchased be promptly paid for. As noted above, chronic failure on the part of large potato processing firms to pay promptly, and in many cases to pay at all, for potatoes purchased has resulted in serious losses to growers. The committee understands that there have been other instances in which, notwithstanding disciplinary action, commission merchants, dealers, or brokers have persisted in failing to pay promptly for commodities purchased. Section 4 would require the Secretary from time to time to audit the accounts of any firm determined in a formal disciplinary proceeding to have violated section 2(4) of the act. The Secretary is also authorized to require a surety bond from such firms. If he does so, and the bond is furnished and maintained in form and amount satisfactory to the Secretary, the Secretary would not, after an initial audit, be authorized to audit such firms more than once a year. The Secretary would be authorized to publish the facts and circumstances and/or, by order suspend the license of any firm which refuses to permit audit or to furnish or maintain the surety bond.

Mr. Speaker, it is the judgment of the Committee on Agriculture that the PACA program, which is largely self-supporting, has served the perishable agricultural commodity industry well. It should be continued with adequate funding. This bill will facilitate that by increasing the authorized license fees by which this industry funds this important regulatory program. The committee is also satisfied that a serious need has been demonstrated for the other regulatory amendments which I have described.

I urge my colleagues to support the bill in order to insure a stable supply of perishable commodities for the American consumer at reasonable prices.

Mr. Speaker, I yield such time as he may consume to my distinguished colleague, the gentleman from California (Mr. PANETTA), who worked very diligently and at great length on this legislation. The gentleman from California will further explain the provisions of this bill before us.

Mr. PANETTA. Mr. Speaker, as a member of the Subcommittee on Domestic Marketing, Consumer Relations, and Nutrition, and the author of H.R. 13845, I would like to take this opportunity to describe the purpose and summarize the contents of this bill to amend the Perishable Agricultural Commodities Act.

As the chairman has pointed out, the basic objective of the Perishable Agricultural Commodities Act is to foster fair trading practices in the marketing of perishable commodities in interstate and foreign commerce and to aid in the enforcement of contracts for marketing these commodities. Fruits and vegetables—being highly perishable—need to be harvested, packaged, and distributed quickly. Because there are many opportunities for individuals or firms to take advantage of the unstructured way in which marketing of these commodities is conducted, this legislation was passed by Congress in 1930. PACA, therefore, establishes rules of fair trade so that those who buy and sell fresh and frozen fruits and vegetables may trade with confidence.

The PACA law is one of the few examples of really sensible Government regulation, because it does not tell buyers and sellers what kind of contracts they can make. What it does say is that once a contract is made, both sides must carry out their end of the bargain. This kind of protection is essential in the high-risk produce business, and H.R. 13845 will insure that it is continued. By increasing the licensing fee, removing the present exemption for dealers who purchase processed potatoes, and requiring the Secretary of Agriculture to inspect the records of any merchant, dealer, or broker who has violated the payment provisions, the bill will guarantee that the perishable agricultural commodities trust fund remain financially solvent and that unethical persons are punished.

H.R. 13845 contains the following provisions:

Section 1 increases the ceiling on the annual license fee from the present $100 to $150 plus $50 for each branch or additional business location. However, the aggregate annual fee is limited to a maximum of $1,000. This section clarifies the authority of the Secretary to require applicants for licenses to furnish information in addition to that contained in their applications. This section is needed to maintain the financial solvency of the program and has arisen primarily because the number of firms licensed has declined on the average of about 500 per year and the costs of administering the act have sharply increased. By shifting from a single statutory ceiling to a sliding scale of payments, it is the committee's intention to distribute the costs of the program equitably among licensees of varying sizes.

Section 2 removes the present exemption for the dealers who buy potatoes for canning and/or processing within the state where grown. While this amendment is effective upon enactment, the Secretary is given discretion to postpone until as late as January 1, 1982, its application to any person presently buying potatoes for processing if the Secretary finds that compliance on the effective date would cause undue hardship to

such person or not advance the public interest. This section is prompted primarily by the activities of large potato processing firms which over the past several years have been slow in paying, or failed to pay at all, for raw potatoes delivered to them by growers. In order to prevent undue hardship to any firm presently operating, the Secretary of Agriculture is given discretionary authority to postpone the application of this provision.

Section 3 increases from $100,000 to $150,000 the threshold value of perishable agricultural commodities which a dealer may purchase for sale at retail or of frozen fruits and vegetables which a broker may sell before such dealer or broker become subject to regulation under the Act. This increase is needed to maintain the exemption of small retailers and brokers who have become subject to regulation due to inflation or to minor increases in business volume which do not warrant their being federally regulated.

Section 4 requires the Secretary from time to time to inspect the accounts, records, and memoranda, and authorizes the Secretary to require a surety bond, of any commission merchant, dealer, or broker determined in a formal disciplinary proceeding to have violated the prompt payment provision of the Act. The Secretary would be obliged to inspect the accounts, records, and memoranda of such a person at least once, but, if the Secretary requires that a surety bond be furnished, the Secretary would not thereafter be authorized to inspect these records more than once a year. The Secretary is authorized to enforce this provision by publishing the facts and circumstances and/or suspending the license of any person who fails or refuses to permit the inspection or who fails to furnish the required bond.

Mr. Speaker, H.R. 13845 is supported by the administration, the United Fresh Fruits and Vegetables Association, and the National Potato Council. It will add no significant increase to Federal expenditures. And, most important, it will guarantee that PACA will continue to provide protection to this Nation's producers of fresh fruits and vegetables. I urge my colleagues to support it.

I want to thank the chairman for his assistance on this important bill and yield back the balance of my time.

Mr. WAMPLER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 13845 to amend the Perishable Agricultural Commodities Act.

The Perishable Agricultural Commodities Act has served well those engaged in the trading and marketing of perishable agricultural commodities. The PACA was enacted in 1930 to meet the marketing needs of the fresh fruit and vegetable industry. It is a self-sustaining program within USDA whose purpose is to provide the framework for settling disputes between buyers, sellers, and brokers and to suppress unfair and fraudulent practices in the marketing of fruits and vegetables in interstate and foreign commerce.

Fresh fruits and vegetables are perishable and seasonal. Weather and other hazards create wide fluctuations in both price and supply. The wide price variations along with the very informal method of doing business allow opportunity, on occasion for unscrupulous operators to take advantage of others in the business. The act seeks to discourage such activity by prohibiting such practices as the failure to deliver goods contracted for, the destroying without reasonable cause any shipment received for sale on consignment for the owner, or the failure to pay promptly for fruits and vegetables in interstate or foreign commerce.

The key to the administration of PACA is the license fee. Commission merchants, brokers, and dealers, including certain retailers and processors, are required to be licensed. The license to trade may be suspended or revoked for engaging in unfair trading practices.

Two types of sanctions are authorized under the act. First, the Department accepts complaints from injured parties and adjudicates disputes involving claims for financial damages resulting from violations of the fair trading principles of the act. The second sanction is disciplinary in nature and can include administrative proceedings by the Department to suspend or revoke licenses of persons who have engaged in unfair practices in violation of the act; the assessment of monetary penalties for misrepresentation of the quality, origin, grade, et cetera, of produce; and court actions for injunction and civil penalties for operating without a valid license.

License fee income pays the cost of the administration of the act, exclusive of the fee for the services of the Office of General Counsel. The present maximum fee authorization of $100 per year was established in legislation in 1969. There is now a need to increase the fee, because there is a decline in the number of firms licensed and the cost of administration is rising. There has been a substantial decline in the number of firms licensed as compared with 10 to 20 years ago; but despite this decline, the number of complaints filed under PACA and the requests for advice and assistance have remained relatively constant.

For these many reasons, I support this effort to increase the statutory ceiling upon the annual license fee from the present $100 to $150 plus up to $50 for each branch or additional business location up to an aggregate annual maximum of $1,000 per licensee. I think we must grant this fee increase in order to maintain the financial solvency of the program. Also, in shifting from a single statutory ceiling to this discretionary sliding scale of payments principle, costs of the program would be more equitably distributed among the licensees.

For similar inflationary reasons, I feel it wise to now raise from $100,000 to $150,000 the volume of produce that can be purchased by a retailer, and frozen fruits and vegetables which can be sold by a broker, before such retailer or broker becomes subject to regulation. Otherwise, smaller retailers and brokers who have become subject to regulation due to quite minor increases in business volume will be unduly regulated. Increases in the wholesale price index for fresh fruits and vegetables in recent years more than justify this increase in the exemption level.

For these reasons—program solvency and adjustment for inflation—I urge my colleagues to support the passage of H.R. 13845.

Mr. DON H. CLAUSEN. Mr. Speaker, will the gentleman yield?

Mr. WAMPLER. I yield to my distinguished colleague from California.

Mr. DON H. CLAUSEN. I thank the gentleman for yielding.

I want to compliment my colleagues on the House Agriculture Committee for presenting and advancing this legislation. As the committee report states and as those who have preceded me have stated, fair trading practices in the marketing of perishable agricultural commodities in interstate and foreign commerce need to be fostered and protected. This legislation amends the Perishable Agriclutural Commodities Act to accomplish this goal.

The legislation increases the statutory ceiling on the annual license fee from $100 to $150. These fees go into a special fund in the U.S. Treasury to be used for enforcement of the regulatory program. Recent increases in costs and an overall reduction in the number of firms participating in the program have made this increase in fees necessary to avoid having to draw on the program's reserve and to allow the program to remain solvent beyond fiscal year 1979. This approach is sound fiscal planning and I strongly endorse it. We have seen too many cases were a fund is not managed properly and is forced into bankruptcy.

The bill also increases the dollar limit on the volume of perishable produce a retailer can purchase and the amount a broker can sell before becoming subject to regulation. The increase is needed to maintain the small business exemption which the program has always had. Inflation and small increases in business volume have pushed many small retailers and brokers into the realm of Federal regulation when, in fact, their business has not lost its small business characteristics and do not warrant Federal regulation.

The Perishable Agricultural Commodities Act (PACA) program has played an important role in serving the perishable agricultural commodities industry. This legislation will allow it to continue in its role and to remain self-supporting.

I urge my colleagues to join me in supporting this legislation.

Mr. RICHMOND. Mr. Speaker, I yield 1 minute to the gentleman from Indiana (Mr. FITHIAN).

Mr. FITHIAN. Mr. Speaker, I rise in support of this bill.

Mr. Speaker, the House faces a decision on a piece of legislation which could be very important to young people in the Second District of Indiana. When we approve the amendments to the Perishable Agricultural Commodities Act, we will provide the legislative vehicle for an amendment which I hope will be adopted in conference to exempt a portion of the seed industry, including the hybrid seed corn industry, from the Farm Labor Contractor Regislation Act of 1963 (FLCRA).

Congress passed FLCRA in 1963 to protect migrant and seasonal workers who were being exploited by professional farm labor contractors. In 1974, Congress amended FLCRA by requiring such con-

tractors to be fingerprinted, to register annually with the Secretary of Labor and to designate the Secretary as their agent for service of process. Detailed information concerning the vehicles and housing provided for workers was required, as well as compliance with special insurance provisions and a medical examination for vehicle drivers.

Last year the Department of Labor made a series of decisions that extended the provisions of this act to people who are clearly not migrants by any reasonable definition and who were not intended to be included in the coverage provided by the act. These are young people, ranging in age from about 14 to 16 years, who work for an average of 10 days to 2 weeks each summer to detassel seed corn, eliminate "rogue" plants, and perform other functions related to seed production.

My district is the home for hundreds of these youngsters. Typically, they work within 30 to 40 miles of their homes and return home each evening. But as the act is now being construed by the Department of Labor, these youngsters would be defined as migrant farmworkers. The adults who drive them to the fields to work would have to be registered, as would the individuals who arrange for them to be employed.

The American Seed Trade Association estimates that more than 280,000 young people are engaged as temporary employees by the seed industry each year. Most of them do this to earn a little spending money during the summer months and to enjoy the companionship of other youngsters who work, too. Obviously, it was not the intent of Congress in passing FLCRA to affect these young people.

Senator CLARK of Iowa has introduced an amendment to FLCRA, which was included in the Senate version of PACA, to provide a narrow exemption that will exempt the seed industry to the extent that it uses student workers and community supervisors. If a corporation or a farmer uses both traditional migrant and seasonal farmworkers as well as students and other local temporary workers, it is the intention of this amendment that the corporation or farmer would be covered under FLCRA only to the extent that it acts as a farm labor contractor with respect to traditional migrant or seasonal farmworkers.

Although I believe in the goals of FLCRA, the application of its standards to young people who detassle corn in the summer is nothing short of ridiculous. This intrusion by the Federal Government into normal and healthy enterprise must be ended.

It is my hope that PACA conferees will accept the Senate amendment presented by Mr. CLARK and that this body will endorse that change in the bill. I do not intend to seek a committee amendment to the PACA today to accept the Clark language, but I wish to notify my Agriculture Committee colleagues and other Members of this body of my concern and determination to do something about this matter.

This is a question of commonsense, Mr. Speaker. This narrow amendment seeks to rectify a situation which the Congress did not intend to see develop. Young people should not be blocked from earning a few dollars in the summer and constructively working, simply because of a burdensome Federal regulation.

Mr. RICHMOND. Mr. Speaker, I have no further requests for time, and I yield back the remainder of my time.

Mr. WAMPLER. Mr. Speaker, I yield back the remainder of my time.

The SPEAKER pro tempore (Mr. MURTHA). The question is on the motion offered by the gentleman from New York (Mr. RICHMOND) that the House suspend the rules and pass the bill H.R. 13845, as amended.

The question was taken.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 3, rule XXVII, and the Chair's prior announcement, further proceedings under this motion will be postponed.

GENERAL LEAVE

Mr. RICHMOND. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill H.R. 13845, just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

RURAL TRANSPORTATION ADVISORY TASK FORCE

Mr. FITHIAN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 12917) directing the Secretary of Agriculture to compile and publish information relating to the adequacy of a transportation system to meet the needs of agriculture and rural development in the United States, and for other purposes, as amended.

The Clerk read as follows:

H.R. 12917

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress hereby finds and declares that—

(1) an adequate transportation system, made up of various modes of transportation, is essential to the overall success of the Nation's agricultural programs, to a sound program of rural development, and to the economic stability of the United States;

(2) the economical and efficient movement of agricultural commodities (including forest products) and agricultural inputs has been impeded by a shortage of railroad freight cars and motor trucks and by the deteriorated condition of many rail roadbeds throughout the United States;

(3) the economical and efficient movement of agricultural commodities (including forest products) and agricultural inputs is further threatened by the proposed abandonment by the railroad companies of thousands of miles of important railroad lines in the United States;

(4) the maintaining of an efficient and economical transportation system for agriculture and rural development in the United States has not received the priority attention which such system should have received; and

(5) the Secretary of Agriculture and the Secretary of Transportation have a responsibility to assume a more active role in representing the interests of agriculture and rural development in the United States in order to insure the availability of an adequate, efficient, and economical transportation system sufficient to meet the needs of agriculture and rural development in the United States.

SEC. 2. (a) There is hereby created in accordance with the provisions of this section a Rural Transportation Advisory Task Force (hereinafter referred to as the "Task Force").

(b) The Secretary of Agriculture and the Secretary of Transportation (hereinafter referred to as the Secretaries) shall serve as Cochairmen of the Task Force, which shall consist of fourteen members in addition to the Cochairmen, appointed by the Secretaries on the following basis:

(1) one to be selected from a list of qualified individuals recommended by the Secretary of Agriculture;

(2) one to be selected from a list of qualified individuals recommended by the Secretary of Transportation;

(3) one to be selected from a list of qualified individuals recommended by the Chairman of the Interstate Commerce Commission;

(4) one to be selected from a list of qualified individuals recommended by the chairman of the Committee on Agriculture, Nutrition, and Forestry, United States Senate;

(5) one to be selected from a list of qualified individuals recommended by the chairman of the Committee on Agriculture, United States House of Representatives;

(6) three to be selected from lists of qualified individuals recommended by carriers and associations of carriers, not to include more than one representative from each of the three transportation modes, rail, motor, and water;

(7) four to be selected from lists of qualified individuals recommended by the agricultural community, including agricultural shippers and associations of shippers; and

(8) two to be selected from lists of qualified individuals recommended by the academic community.

(c) Within fifteen days after the enactment of this section, the Secretaries shall solicit recommendations from the Chairman of the Interstate Commerce Commission; the chairman of the Committee on Agriculture, Nutrition, and Forestry, United States Senate; and the chairman of the Committee on Agriculture, United States House of Representatives. The Secretaries shall cause notice to be published in the Federal Register soliciting recommendations from which to make the selections required under subparts (6), (7), and (8) of subsection (b) of this section.

(d) Vacancies on the Task Force shall be filled in the manner prescribed for original selections.

(e) Members of the Task Force who are full-time officers or employees of the United States shall receive no additional pay on account of this service on the Task Force. While away from their homes or regular places of business in the performance of services for the Task Force, members of the Task Force shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5, United States Code.

(f) The Task Force shall be dissolved forty-five days after the publication of the final report required under section 4 of this Act.

(g) The Secretaries shall furnish such

supplies and clerical, administrative, and support as they deem necessary to enable the Task Force to carry out its responsibilities.

SEC. 3. (a) The Task Force may compile and publish an initial report which, if published, shall include recommendations for determining the essential transportation needs of agriculture on a continuing basis, for establishing a national agricultural transportation policy, and for methods of identifying impediments to a railroad transportation system adequate to meet the essential needs of the agriculture industry of the United States. Such report, if published, shall also include, but shall not be limited to, maps which identify the locations in the several States which the Task Force, on the basis of the importance of such locations within agricultural producing, marketing, or consuming areas, determines should receive railroad service: *Provided*, That this directive is not to be construed as requiring comprehensive line-by-line analyses of all branch lines.

(b) The report authorized in section 3(a) shall, if published, be published not later than one hundred and eighty days after the date of enactment of this Act. The Task Force shall submit copies of such report, if published, to the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Agriculture of the House of Representatives and shall provide for the widespread public dissemination of such report throughout the United States as soon as practicable after its publication.

(c) Within ninety days after the publication of the initial report described in section 3(a), or if such report is not published, within two hundred and seventy days after enactment of this Act, the Task Force shall announce dates for and hold public hearings at various locations throughout the United States, take such testimony and receive such evidence as it considers advisable for the purpose of obtaining the views of interested persons on such initial report or, if such report is not published, on recommendations for the final report required under this Act.

(d) Within one hundred and twenty days after the publication of the initial report described in section 3(a) or, if such report is not published, within three hundred days after enactment of this Act, the Task Force shall prepare and publish a summary of the testimony presented at such hearings, and shall provide for the widespread public dissemination of such summary as soon as possible following the publication thereof.

SEC. 4. (a) The Task Force shall prepare and publish, within four hundred and twenty days after the date of enactment of this Act, a final report including recommendations for determining the essential needs of agriculture on a continuing basis, for establishing a national agricultural transportation policy, for methods of identifying impediments to a railroad transportation adequate to meet the essential needs of the agriculture industry, and containing specific recommendations for a railroad transportation system adequate to meet the essential needs of the agriculture industry of the United States. In preparing such final report, the Task Force shall take into consideration the testimony received at the public hearing required under this Act.

(b) Copies of such final report shall be submitted to the Committee on Agriculture, Nutrition, and Forestry of the Senate, the Committee on Agriculture of the House of Representatives, and the Chairman of the Interstate Commerce Commission. The Task Force shall provide for the widespread public dissemination of such final report.

SEC. 5. The provisions of this Act shall become effective October 1, 1978.

The SPEAKER pro tempore. Is a second demanded?

Mr. GRASSLEY. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Indiana (Mr. FITHIAN) will be recognized for 20 minutes, and the gentleman from Iowa (Mr. GRASSLEY) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Indiana (Mr. FITHIAN).

Mr. FITHIAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 12917 would establish a 16-member rural transportation advisory task force, chaired by the Secretaries of Agriculture and Transportation. It would include members recommended by the Secretaries of Agriculture and Transportation, by the Interstate Commerce Commission, the Congress, and the transportation, agriculture, and academic communities. The task force would be authorized to publish within 180 days an initial report on the transportation needs of agriculture, and particularly on impediments to a railroad transportation system adequate to meet the needs of agriculture. After holding public hearings, the task force would be required to compile, within 420 days after enactment, a final report which addresses these issues and contains specific recommendations for a railroad transportation system adequate to meet the essential needs of American agriculture. The task force would be dissolved 45 days after publication of the final report.

An adequate system of transportation is vital to the economy of the United States, and particularly to the agricultural sector. Without such a system American farmers cannot continue to provide an abundance of food and fiber at reasonable prices for consumers here and abroad. Delays in the transportation of perishable commodities can result in substantial product losses and higher retail prices. Lack of transportation at peak harvest times often causes storage overflows and spoilage of commodities which must be stored in the open. Producers must absorb these direct losses as well as reductions in market prices caused by periodic gluts which result from transportation inefficiencies.

U.S. farmers also depend upon commercially produced inputs such as seed, fertilizer and other agricultural chemicals, machinery, and petroleum. These inputs must be available at the time of need. Late delivery can mean diminished production or even the complete loss of a crop. Modern agriculture cannot exist in the absence of an efficient transportation system.

National concern over the adequacy of the transportation system to meet the needs of agriculture is growing as rail car shortages, rail line abandonments, inefficient utilization of motor and water transportation, poor track maintenance, and other problems affecting the movement of agricultural inputs and products become more serious.

Chronic rail car shortages are a major problem that seems to have eluded all efforts toward solution. More than 10 percent of the rail mileage in the United States is currently classified by the ICC as potentially subject to abandonment. The primary candidates for abandonment are generally the light density, rural branch lines which serve agricultural producers. Abandonment of rail lines means that more agricultural inputs and products must be moved by truck. Equipment shortages and inefficiencies within the trucking industry, resulting primarily from regulatory requirements, further compound the problem.

The approach proposed in this legislation is not a quick remedy for the ills of agricultural transportation. There are no easy answers. However, this bill provides for a better mechanism than presently exists for finding the answers. The task force which it would create includes both the Secretaries of Agricultural and Transportation and the Chairman of the ICC. The task force must complete its work and report its recommendations to Congress within 14 months after enactment. Further action would be up to the Congress.

Mr. Speaker, as many of the Members know, the transportation situation for agriculture and rural areas has become so serious that a major new effort must be initiated at the earliest possible date. This bill is not a solution, but we do believe it is a constructive and practical first step toward finding a solution. I urge my colleagues to support prompt enactment of H.R. 12917.

Mr. GRASSLEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the problems of transportation for rural areas and the agricultural sector seem to get more complicated every year. And just when you think things cannot get any worse, they do. Railcar shortages are bad, but a complete shutdown of the rail system is devastating.

This bill is not offered as a solution for strikes or as the answer for boxcar shortages or rail abandonments. Frankly, it may not look like much of a bill to some of you. It sets up a task force to study the adequacy of the rural transportation system.

The fact that we do not have a brass band out here for the unveiling of a piece of legislation to end all the problems of transportation for agriculture and rural America is a big disappointment to you, I know. It is to me. I wish it could be done that way. Believe me, it would be cause for celebration.

The truth is, there are no easy answers here. Anyone who has gotten involved in this issue even a little bit knows just how true that is. The purpose of this bill is to set up a mechanism for a serious, organized, coordinated approach toward working out some answers.

It is not very flashy. It does not have much style. But we are deadly serious about it because it is a life or death matter for farmers and rural communities.

In farming, not having transportation when you need it is almost as bad as not

having transportation at all. If you cannot get delivery of machinery, or fertilizer, or seed, or chemicals when you need them, you are out of business. If you get a crop and cannot move it, or if the elevators cannot make room for you and you do not have a place to put it, you are up against it. You lose. It is serious business because it can mean your business—staying in or getting out. It is one of many factors that can make or break a farming operation.

Anything we can do that shows any promise at all of helping to solve some of the transportation problems in rural areas is worthy of our support. The task force proposed in this bill would be a one-shot operation. It would have 420 days to study the situation, to hold public hearings, to look at the possibilities and, finally, to make recommendations. Then it would be dissolved 45 days after its final report. It would be a 16 member committee jointly chaired by the Secretary of Agriculture and the Secretary of Transportation.

Obviously, it is not a panacea, but I think it is worth a try. A responsible, comprehensive effort could produce some substantial results—results that could be significant for the agricultural community and rural areas.

So, Mr. Speaker, I urge the adoption of this bill.

Mr. WAMPLER. Mr. Speaker, will the gentleman yield?

Mr. GRASSLEY. I yield to the distinguished ranking minority member of the Committee on Agriculture, the gentleman from Virginia (Mr. WAMPLER).

Mr. WAMPLER. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I rise in support of this legislation. It has been adequately described. I think we can all agree that an adequate system of transportation is vital to the economy of the United States, but nowhere is it more critical than in the agricultural sector.

Mr. Speaker, we take many things for granted in this country, and just accept them as a normal part of our daily routine until something happens to upset that routine. We wake up one morning and suddenly find that something we counted on is not there anymore. Rail transportation, for instance.

A rail strike hits us like a bucket of cold water in the face. It is a shock to our economic system. It is a sudden raising of our level of consciousness. It brings home to us how quickly things can come to a grinding halt.

The bill before us is not a response to the strike, but I think the disruption of the strike puts its purposes and objectives into better focus for us.

Transportation is something that is not taken for granted in many rural areas even in more normal times. Boxcar shortages, track deterioration, rail line abandonments, lack of truck service or resources for maintenance of rural roads and bridges are recurring and persistent problems for agriculture and rural communities in many parts of the country. We all recognize that an adequate system of transportation is vital to the economy of the United States, but nowhere is it more critical than in the agricultural sector. Efficient and timely delivery of agricultural inputs and products is essential to the agricultural and rural economies, and important to the consumer as well.

This legislation proposes a new approach to the problems of rural transportation—an orderly, responsible, and comprehensive effort to deal with some of the difficulties that have been plaguing farmers and rural residents. It is not presented as a cure-all, but as an attempt to move toward solutions through a mechanism that would involve all who are affected by or have some responsibility for the problems.

The bill would establish a 16 member rural transportation advisory task force jointly chaired by the Secretaries of Agriculture and Transportaton. Members would be selected from the transportation, agriculture and academic sectors and from nominees recommended by the Secretaries of Agriculture and Transportation, the chairman of the Interstate Commerce Commission, the House Committee on Agriculture, and the Senate Committee on Agriculture, Nutrition, and Forestry.

The task force would be required to look at the problems, to hold public hearings, to study various alternatives and approaches to the problems and to make specific recommendations, especially for a rail transportation system adequate to meet the essential needs of the agriculture industry. It would have 420 days in which to do this, and would be dissolved 45 days after publication of its final report.

Mr. Speaker, I believe this is an effort that deserves the support of all who are concerned about the transportation needs of agriculture and rural leagues to approve this legislation.

Mr. DON H. CLAUSEN. Mr. Speaker, will the gentleman yield?

Mr. GRASSLEY. I yield to the gentleman from California.

Mr. DON H. CLAUSEN. Mr. Speaker, I am certainly in support of the thrust of this legislation.

There is one thing about which I am concerned, and that, of course, relates to the establishment of the jurisdiction of our own Committee on Public Works and Transportation and what kind of coordinating role there would be between the two committees.

As we all know, we have a major program in highway development that has as one of its segments the farm-to-market highway system or the so-called secondary road system. I am assuming the Committee on Agriculture does take into consideration the fact that we have that jurisdiction, and that they will be coordinating their task force study with the subcommittees of the Committee on Public Works and Transportation.

Mr. GRASSLEY. Mr. Speaker, I will say to the gentleman from California (Mr. DON H. CLAUSEN) that I cannot speak for the gentleman from Indiana (Mr. FITHIAN), but for my own part there would be every effort made in the Committee on Agriculture to cooperate, and I think the letter to the Committee on Agriculture from Secretary Bergland printed in the committee report would reduce any doubt the gentleman might have that this bill would be used in a power play on the part of the Department of Agriculture to gain some lever from the Department of Transportation just because agriculture is the focal point of this study.

Mr. Speaker, I do not think the gentleman needs to be worried about that at all.

Mr. FITHIAN. Mr. Speaker, will the gentleman yield?

Mr. GRASSLEY. I yield to the gentleman from Indiana.

Mr. FITHIAN. Mr. Speaker, I want to give assurances to my friend, the gentleman from California (Mr. DON H. CLAUSEN) that what the gentleman from Iowa (Mr. GRASSLEY) says is certainly correct.

We feel that there has been insufficient attention given to the various impediments to the movement of grain and agricultural products, and this simply mandates that the Department of Agriculture, in cooperation with the Department of Transportation and the ICC, would study those impediments, tabulate them, and report back to the Congress, but in no way would the Committee on Agriculture or the Department of Agriculture then stray from the reservation into the area of public works, secondary roads, and so on.

Mr. DON H. CLAUSEN. Mr. Speaker, will the gentleman yield further?

Mr. GRASSLEY. I yield to the gentleman from California.

Mr. DON H. CLAUSEN. Then, if I gather the thrust of this particular study, its intent is to identify those bottlenecks in the total transportation system that are adversely inhibiting agriculture and the movement of agricultural commodities, and it is not necessarily addressed to the transportation segments that are to be built as a result of the authorizations that are coming from our committee; is that correct?

Mr. FITHIAN. If the gentleman will yield, I can assure the gentleman that that is in fact correct. We are trying to seek out and identify the impediments or the bottlenecks, as the gentleman put it, to the movement of agricultural goods.

Mr. DON H. CLAUSEN. I think with that kind of understanding and assurance from the managers of the legislation I can lend my support to the legislation pending before us.

Mr. GRASSLEY. I thank the gentleman from California for his support.

Mr. BAUMAN. Will the gentleman yield?

Mr. GRASSLEY. I yield to the gentleman from Maryland.

Mr. BAUMAN. I thank the gentleman for yielding.

Mr. Speaker, certainly the gentleman from Maryland is not one to in any way denigrate the problem of shipping agricultural products. Such commerce is a vital part of the economy in my congressional district. But I do want to ask a couple of questions.

Why do we have such a wide disparity in the estimate of the cost of this legislation between the USDA figures and the CBO figures? One is talking in terms of nearly $3 million, the other is talking about $300,000 or $400,000 over the same period. It seems to me that if we are going to pass a bill to create another task force to do another study, we ought to know what it is going to cost.

Mr. GRASSLEY. Mr. Speaker, if the gentleman will allow me to answer the question, that was before the bill was amended; and now, with the amendment, it will be in the lower figure.

Mr. BAUMAN. It will be the lower figure?

Mr. GRASSLEY. Mr. Speaker, I will ask the gentleman from Indiana: Am I right on that?

Mr. FITHIAN. Mr. Speaker, if the gentleman will yield, I want to assure my friend, the gentleman from Maryland (Mr. BAUMAN), that the original USDA estimate was made at the time when they interpreted the original language of the bill to require hearings and studies into every single possible obstruction to the movement of agricultural goods. Two changes in the bill have ensued: One, which my friend, the gentleman from Iowa, alludes to, was an amendment to title VI; and the other was stressing that it was to study and to review only those that would bring serious impact to agriculture. Therefore, the lower figure is the correct figure.

Mr. BAUMAN. Mr. Speaker, I thank the gentleman for his explanation, and if the gentleman will yield further, I have another question, and it pertains to the duplication that this task force may cause. I clearly remember, after the passage of the Northeast Emergency Railway legislation in 1973, that those of us who represent rural areas spent hundreds of manhours at hearings and meetings, and so on, which included agricultural commodities shipment studies under that act. The whole Northeast quadrant of the United States, from Chicago to Maine to the South, was studied in great depth, because the USRA had to determine which rails would be taken out of the eventual ConRail system and which were to be included.

I hope we are not going to replow all of that very expensive study by the Federal Government once again as a part of this task force study, and it raises the question as to whether this is necessary.

Mr. GRASSLEY. Mr. Speaker, I would expect that the task force would not break new ground again. Part of the job ought to be to first review what studies have already been made and build on those, as opposed to starting out fresh, anew. Perhaps the committee report should have made that point clear. Since it did not, let me assure you where this Member stands. I feel it should not repeat any earlier studies. We have not been quite that direct in our telling the Commission what they should do, but that would be my intent.

Mr. Speaker, I would ask the gentleman from Indiana (Mr. FITHIAN) if he would like to speak to that point.

Mr. FITHIAN. If the gentleman will yield, there is no intention. I can assure my friend, the gentleman from Maryland (Mr. BAUMAN), to start over and restudy rail abandonment and all of those problems. It is primarily looking at those real impediments to the agricultural sector and the movement of goods there.

Mr. Speaker, I would like to read a letter, dated August 31, 1978, that I received from the acting chairman of the Interstate Commerce Commission:

INTERSTATE COMMERCE COMMISSION,
Washington, D.C., August 31, 1978.

Hon. FLOYD FITHIAN,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN FITHIAN: Thank you for your letter of July 10, 1978, requesting the views of the Interstate Commerce Commission on H.R. 12917. This bill would require the Secretary of Agriculture to conduct a study of rail lines in the United States and make recommendations for a railroad transportation system adequate to meet the needs of the United States' agricultural industry.

As you know, this legislation is identical to S. 1835 which was passed with minor modifications by the Senate on June 8, 1978. Prior to its passage, the Commission testified in favor of S. 1835 before two separate Senate Subcommittees.

The Commission continues to support this legislation because it establishes a mechanism for identifying the rail service needs of the agricultural industry. This information could be quite beneficial in aiding the Commission in its attempts to solve grain car shortage problems.

Last year, the Department of Defense provided us with this sort of information, by identifying the major main line corridors which are essential to the national defense and the lines that provide direct access to military installations. This information has been valuable to the Commission in considering national defense needs in our decisions. A similar identification of the agricultural industry's needs could aid the Commission in its deliberations and could assist the Department of Transportation in meeting its planning responsibilities. This would ultimately benefit the farmer, the processor, and the consumer, as well as the rail industry.

Accordingly, the Commission supports the speedy enactment of H.R. 12917. If I can be of any further assistance to you on this matter, please contact me.

Very truly yours,
(Mrs.) BETTY JO CHRISTIAN,
Acting Chairman.

I think that carries the thrust of where we are going with this study.

Mr. GRASSLEY. I would just add at this point, for the sake of the concern of the gentleman from Maryland, that legislative history now supports what was originally intended by the authors and supporters of this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. FITHIAN. Mr. Speaker, I yield back the balance of my time.

Mr. GRASSLEY. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Indiana (Mr. FITHIAN) that the House suspend the rules and pass the bill H.R. 12917, as amended.

The question was taken.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 3, rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. FITHIAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill, H.R. 12917.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

FEDERAL ACCOUNTING AND AUDITING ACT OF 1978

Mr. BROOKS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 12171) to strengthen the right of access of the Comptroller General to public and certain private records, to allow for limited auditing of unvouchered expenditures, and for other purposes, as amended.

The Clerk read as follows:

H.R. 12171

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Accounting and Auditing Act of 1978".

UNVOUCHERED EXPENDITURES

SEC. 2. Section 117 of the Accounting and Auditing Act of 1950 is amended by adding at the end thereof the following new subsection:

"(e)(1) Notwithstanding any provision of law heretofore enacted permitting an expenditure to be accounted for solely on the approval, authorization, or certificate of the President of the United States or an official of a department or establishment, the Comptroller General shall be furnished such information as he may request and shall have access to such books, documents, papers, records, and other information relating to such expenditure as may be necessary to enable him to determine whether the expenditure was, in fact, actually made and whether such expenditure was authorized by law. The provisions of this paragraph shall not be superseded except by a provision of law enacted after the date of enactment of this paragraph and specifically repealing or modifying the provisions of this paragraph.

"(2) With respect to any expenditure accounted for solely on the approval, authorization, or certificate of the President of the United States or an official of a department or establishment and notwithstanding any previously enacted provision of law, no officer or employee of the General Accounting Office may release the findings of its audit of such expenditure or disclose any books, documents, papers, records, or other information concerning such expenditure to anyone not an officer or employee of the General Accounting Office, except to the duly established committees of the Congress having legislative or oversight responsibilities, under the rules of the House of Representatives or of the Senate, over the subject matter of the expenditure.

"(3)(A) Nothing in this subsection shall be construed as affecting the authority contained in subsection 8(b) of the Central Intelligence Agency Act of 1949, as amended.

"(B) The President may exempt from the provisions of paragraph (1) of this subsection financial transactions which relate to sensitive foreign intelligence or foreign counterintelligence activities; such an exemption may be given for a class or category of financial transactions. Financial transactions taken pursuant to subsection 8(b) of the Central Intelligence Agency Act of 1949, as amended, and financial transactions exempted from the provisions of paragraph (1) shall be reviewable by the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate."

ENFORCEMENT OF ACCESS TO RECORDS

SEC. 3. Section 313 of the Budget and Accounting Act, 1921, is amended by designating the existing paragraph as subsection (a), by deleting the last sentence thereof and by adding at the end the following new subsections:

"(b) If any information, books, documents, papers, or records requested under subsection (a) or any other provision of law or agreement granting the Comptroller General a right of access from any department or establishment have not been made available to the General Accounting Office within a period of twenty calendar days after the request has been delivered to the office of the head of the department or establishment involved, the Comptroller General, through any attorney designated by him, is authorized to bring an action in the United States District Court of the District of Columbia against the head of the department or establishment concerned to compel the furnishing of such material. The Attorney General is authorized to represent the defendant official in such actions.

"(c)(1) To assist in carrying out his functions, the Comptroller General may sign and issue subpoenas requiring the production of contractor and subcontractor records pertaining to negotiated contracts and records of other non-Federal persons or organizations to which he has a right of access by any law or agreement. Service of a subpoena issued under this subsection may be made by mailing a copy thereof by certified or registered mail, return receipt requested, addressed to such contractor, subcontractor, other non-Federal person, or organization at his or its residence or principal place of business.

"(2) In case of failure to obey a subpoena issued under paragraph (1), the Comptroller General, through any attorney designated by him, may invoke the aid of any district court of the United States in requiring the production of the records involved. Any district court of the United States within whose jurisdiction the contractor, subcontractor, or other non-Federal person or organization is found or resides or in which the contractor, subcontractor, or other non-Federal person or organization transacts business, may, in case of refusal to obey a subpoena issued under this section, issue an order requiring compliance therewith; and any failure to obey such order of the court shall be treated by the court as a contempt thereof.".

APPOINTMENT OF THE COMPTROLLER GENERAL AND DEPUTY COMPTROLLER GENERAL

SEC. 4. (a) Section 302 of the Budget and Accounting Act, 1921, is amended to read as follows:

"SEC. 302. (a)(1) There shall be in the General Accounting Office a Comptroller General of the United States who shall, from a list of persons submitted by the Commission described in subsection (b), be appointed by the President by and with the advice and consent of the Senate.

"(2) The Deputy Comptroller General shall perform such duties as may be assigned to him by the Comptroller General. During the absence or incapacity of the Comptroller General, or during a vacancy in that office, the Deputy Comptroller General shall act as Comptroller General.

"(b) Whenever, after the date of enactment of this subsection, a vacancy occurs in the Office of Comptroller General, there is established a commission to recommend individuals to the President for appointment to the Office of Comptroller General and whenever, after such date, a vacancy occurs in the Office of Deputy Comptroller General, there is established a commission to recommend individuals to the President for appointment to the Office of Deputy Comptroller General. Such commission shall in either case consist of—

"(1) the Speaker of the House of Representatives,

"(2) the President pro tempore of the Senate,

"(3) the majority and minority leaders of the House of Representatives and the Senate,

"(4) the Chairman and ranking minority member of the Committee on Government Operations of the House of Representatives and of the Committee on Governmental Affairs of the Senate, and

"(5) in the case of a vacancy in the office of Deputy Comptroller General, the Comptroller General of the United States.

Such Commission shall, after consultation with the President, submit to the President for consideration the names of not less than three persons for the office of Comptroller General: *Provided*, That the President, within his discretion, may request that additional names be submitted.".

(b) The first paragraph of section 303 of such Act (31 U.S.C. 43) is amended by striking out the first sentence and inserting in lieu thereof the following: "Except as otherwise provided in this section, the Comptroller General shall hold office for fifteen years and the Deputy Comptroller General shall hold office from the date of his appointment until the date on which an individual is appointed to fill a vacancy in the Office of Comptroller General. The Deputy Comptroller General may continue to serve until his successor is appointed.".

(c) The amendments made by this section shall not apply to persons occupying the positions of Comptroller General and Deputy Comptroller General on the date of enactment of this Act, but shall apply with respect to any vacancy in such positions occurring on or after such date, and shall apply to any person appointed to fill such a vacancy.

The SPEAKER pro tempore. Is a second demanded?

Mr. HORTON. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Texas (Mr. BROOKS) will be recognized for 20 minutes, and the gentleman from New York (Mr. HORTON) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas (Mr. BROOKS).

Mr. BROOKS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 12171 is designed to strengthen Congress oversight capabilities. It does this by enhancing the authority of the General Accounting Office to obtain information required in its oversight investigations. The bill also increases the role of Congress in selecting future Comptrollers General.

H.R. 12171 authorizes the Comptroller General to audit "unvouchered" expenditures which today are accounted for solely on the approval or certificate of the President or other executive branch officials. The purpose of the audits are to determine whether expenditures are made for the purposes authorized by law. Disclosure of such information will only be to congressional committees having appropriate legislative and oversight responsibilities.

At present, excluding funds expended by the CIA, over $23 million is spent annually through "unvouchered" expenditures by the White House, Treasury Department, National Science Foundation, HUD, and many other agencies. While necessary confidentiality must be preserved, where essential, neither Congress nor the public is being properly informed as to how this money is being expended.

In spite of the safeguards preserving confidentiality which are contained in this provision, the chairman of the permanent Select Committee on Intelligence has expressed concern over the possibility that sensitive intelligence information may be improperly disclosed. In consequence, an amendment has been included in this bill, which is acceptable to the chairman of the Intelligence Committee, which will exempt the CIA from the terms of this bill as well as sensitive foreign intelligence or foreign counterintelligence activities, if the President so determines.

Mr. Speaker, I submit for the RECORD at this time a letter from the gentleman from Massachusetts (Mr. BOLAND), chairman of the Permanent Select Committee on Intelligence:

PERMANENT SELECT COMMITTEE ON INTELLIGENCE,
Washington, D.C., October 3, 1978.

Hon. JACK BROOKS,
Chairman, Committee on Government Operations, Washington, D.C.

DEAR JACK: As you know, when H.R. 12171 was ordered reported from the Committee on Government Operations, I requested sequential referral on behalf of the Permanent Select Committee on Intelligence. I did so because of the serious concern with which the Committee viewed opening up to the General Accounting Office—with all its thousands of employees—various unvouchered accounts of the intelligence agencies. These accounts include expenditures which relate to the most sensitive and highly guarded activities of our Government—some of them known to but a few. Yet H.R. 12171 made no provision for the security of these vouchers nor did it limit the personnel who might have access to them.

At your request and in order not to prevent the consideration of H.R. 12171 in this Congress, I withdrew my request for sequential referral with the understanding that you would move to suspend the rules and pass H.R. 12171 with an amendment drafted by the Permanent Select Committee on Intelligence.

The language of that amendment provides that the President may exempt from review by the GAO those financial transactions which relate to sensitive foreign intelligence or foreign counterintelligence activities, but it does not exempt these transactions from any review. Rather, the amendment further provides that such transactions are reviewable by the House and Senate Intelligence Committees.

I believe I can say with assurance that the Subcommittee on Program and Budget

Authorization, chaired so ably by the gentleman from Missouri, Bill Burlison, will conduct what review of these transactions is appropriate in a thorough and responsible fashion. Thus, there wil be review, but it will occur under such procedures and protections as will ensure the essential secrecy of the many important activities in question.

Thus, I can say that H.R. 12171, as amended by the amendment you will offer, fully satisfies the security concerns of the Permanent Select Committee on Intelligence and of the intelligence community as to expenditures which go to the heart of our most sensitive intelligence efforts.

With every good wish, I am

Sincerely yours,

EDWARD P. BOLAND,
Chairman.

Mr. Speaker, the second provision of this bill strengthens the power of the GAO to enforce its statutory and other rights of access to Federal agency and Federal contractor records. While the law clearly gives the GAO the right to obtain all necessary records required to determine if moneys are being effectively expended, some agencies and contractors in the past have refused or resisted supplying such data. This bill authorizes the Comptroller General to seek the authority of Federal courts to compel production of records by Federal agencies, and also authorizes him to subpena appropriate records of Federal contractors, and recipients of Federal financing assistance.

Finally, the bill establishes a commission composed of the congressional leadership and the chairmen and ranking minority members of the House Government Operations and Senate Governmental Affairs Committees. This commission will submit not less than three potential nominees for Comptroller General to the President, from which he may appoint one for submission to the Senate for confirmation. The President may reject such list of names and request others.

The Comptroller General is an officer of the Congress, yet, he is presently nominated and appointed by the President. Congress should have a greater input into the appointment of future Comptrollers General—thus the basis for this provision.

As originally reported, H.R. 12171 altered the present arrangement for nominating and appointing the Deputy Comptroller General, which is presently the same as for the Comptroller General. The bill gave the Comptroller General the right to appoint his deputy. However, certain members of the other body objected to losing their confirmation authority.

In order that this important piece of legislation can be signed into law this Congress, an amendment is included in the bill before us to require the appointment of future Deputy Comptrollers General in essentially the same manner as the Comptroller General, which includes confirmation by the Senate.

In summary, Mr. Speaker, this bill will greatly increase the ability of Congress to carry out its oversight responsibilities by substantially improving the effectiveness of the General Accounting Office. I urge the House membership to support this bill by voting for suspension of the rules.

Mr. HORTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 12171 is a reasonable bill which would provide the General Accounting Office with the authority it needs to audit certain unvouched expenditures and with the increased strength it must have to enforce its statutory right of access to records of Federal departments and of non-Federal organizations such as contractors who receive Federal assistance. I should point out that the President may exempt the Central Intelligence Agency's financial transactions which relate to sensitive foreign intelligence or foreign counterintelligence activities.

Those features of the bill are acceptable in my view, but the provision I most like in the bill is the one that establishes a formal mechanism for consultation between the President and congressional officials in the appointment of future comptrollers general. This is a very important step forward and I support it without reservation.

Mr. Speaker, I believe H.R. 12171 is an excellent bill and I urge my colleagues to support it.

Mr. Speaker, I yield back the balance of my time.

Mr. BROOKS. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. BROOKS) that the House suspend the rules and pass the bill H.R. 12171, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill H.R. 12171, just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas

There was no objection.

MERCHANT MARINE ACT AMENDMENTS FOR GREAT LAKES VESSELS

Mr. MURPHY of New York. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 11658) to amend title XI of the Merchant Marine Act, 1936, to permit the guarantee of obligations for financing Great Lakes vessels in an amount not exceeding 87½ per centum of the actual or depreciated actual cost of each vessel, as amended.

H.R. 11658

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 509 of the Merchant Marine Act, 1936, as amended (46 U.S.C. 1159), is amended by striking the words "fourteen knots" in the fourth sentence, and inserting in lieu thereof the words "ten knots".

The SPEAKER pro tempore. Is a second demanded?

Mr. McCLOSKEY. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from New York (Mr. MURPHY) will be recognized for 20 minutes, and the gentleman from California (Mr. McCLOSKEY) will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York (Mr. MURPHY).

Mr. MURPHY of New York. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 11658, a bill that would correct a longstanding inequity that has adversely affected our Great Lakes fleet.

Pursuant to title XI of the Merchant Marine Act, 1936, as amended, the Maritime Administration of the Department of Commerce is authorized to guarantee commercial loans and mortgages to finance the cost of construction or reconstruction of U.S.-flag vessels. Under the title XI guarantee program, the vessel owner is required to make a downpayment of 25 or 12½ percent, and the Government guarantees private financing for the balance.

One of the general conditions for a 12½-percent downpayment is that the vessel must meet the size and speed requirements set forth in section 509 of the act.

Public Law 76–116, approved June 6, 1939, enacted the 14-knot requirement currently set forth in section 509. The purpose of this requirement in 1939 was to generally preclude barges, fishing boats, and other small craft from the benefits provided by section 509.

It was not until the Merchant Marine Act of 1970, that the Great Lakes received long overdue recognition as the fourth seacoast of the United States. That act also amended the title XI guarantee program downpayment requirement from 25 to 12½ percent for vessels meeting the requirements of section 509; including 14 knots. Through an oversight, at that time no thought was given to the characteristics of vessels operating on the Great Lakes.

It is clear that the most economical speed for a 1,000-foot bulk carrier in typical Great Lakes service is 12.8 knots. This vessel, moving at its most economical speed can transport 1 long ton of cargo 607 miles for every gallon of fuel burned. At 14 knots, however, it can transport the same ton only 503 miles. Requiring this higher speed can only lead to higher transportation costs that must eventually reflect in higher prices for the American consumer.

Because the distinctive characteristics of vessel operations on the Great Lakes dictate an optimum speed of less than 14 knots, these vessels have been inadvertently precluded from the more fav-

orable 87½-percent financing provided by the title XI guarantee program.

H.R. 11658 would correct this inequity.

Mr. Speaker, as the title XI guarantee program operates at a profit, the legislation will result in no cost to the Government. I am also pleased to inform the House that I am unaware of any opposition to the bill.

H.R. 11658 was reported unanimous, by voice vote, and has the strong bipartisan support of the committee. I strongly urge the House to support this worthwhile bill.

Mr. McCLOSKEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the minority supports the enactment of this bill.

● Mr. RUPPE. Mr. Speaker, I rise in support of H.R. 11658 which I cosponsored and which would, in its simplest terms, permit the guarantee by the United States of debt obligations for financing Great Lakes vessels in an amount not exceeding 87½ percent of the cost of constructing or reconstructing "such vessels" in U.S. shipyards. Incidentally, "such vessels" are also those which are constructed without construction-differential subsidy or with a subsidy that has been repaid.

When the Merchant Marine Act of 1970 first recognized the Great Lakes as the fourth seacoast and thus extended to that region the benefits of the title XI guarantee program enjoyed by other coastal regions since passage of the Merchant Marine Act of 1936, no thought was given to the realities of shipping in the lakes especially as they relate to matters of efficiency, economy, and geographic constraints and their impact on the 1936 criteria that a vessel be capable of a sustained speed of not less than 14 knots, or 16.1 statute miles per hour as speed is measured on the lakes. The additional criteria that a vessel be of not less than 3,500 gross tons is no burden.

Present-day Great Lakes vessels, especially the newer capital-intensive ore carriers, cannot meet the speed requirements of the 1936 act, nor is it of any advantage to do so—and thus title XI guarantees are limited to 75 percent of construction costs. Speed limitations well below the prescribed 14 knots exist in the major lake interconnecting channels and in affected harbors. In the open lakes the present speed requirement is of no practical value to industry or defense needs. In fact, the horsepower which would be needed to achieve the present requirement, which is in excess of generally calculated speed resistance curves associated with the high-block-coefficient ore vessels, would be prohibitive both as to cost of construction and fuel efficiency. Expressed in other terms a higher speed than that which is most economical and adequate for shiphandling would only lead to higher transport costs that must eventually result in higher prices for this Nation's consumer goods.

In addition to the principles of equity involved, for an industry whose newer vessels cannot exit the lakes due to Welland Canal and St. Lawrence Seaway lock limitations and so must be built in the upper lakes shipyards, the end result of reducing speed criteria to 10 knots is expected to be a stimulus to shipbuilding and a curb to further intrusions into the Great Lakes bulk trades by Canadian subsidized shipping.

In urging passage of this bill I should emphasize that the stimulus to U.S. industry in the midcontinent region is a guarantee and not a direct loan program.

Funds secured thereby and used for the financing of construction are obtained from the private sector—and vessels built or reconstructed thereby are subject to the buy-American provisions of the Merchant Marine Act of 1936.●

Mr. McCLOSKEY. Mr. Speaker, I yield back the balance of my time.

Mr. MURPHY of New York. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. MURPHY) that the House suspend the rules and pass the bill H.R. 11658, as amended.

The question was taken.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were refused.

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MURPHY of New York. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill H.R. 11658, just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

NUCLEAR REGULATORY COMMISSION AUTHORIZATION

Mr. UDALL. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 12355) to authorize appropriations to the Nuclear Regulatory Commission in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and section 305 of the Energy Reorganization Act of 1974, as amended, and for other purposes, as amended.

The Clerk read as follows:

H.R. 12355

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. (a) There is hereby authorized to be appropriated to the Nuclear Regulatory Commission in accordance with the provisions of section 261 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2017), and section 305 of the Energy Reorganization Act of 1974, as amended (42 U.S.C. 5875), for the fiscal year 1979 to remain available until expended $332,107,000 which includes $14,285,000 for contracts encompassing research, studies, and technical assistance on domestic safeguards matters, to be allocated as follows:

(1) for "Nuclear Reactor Regulation", $47,162,000 of which an amount not to exceed $2,350,000 is authorized to accelerate the effort in gas-cooled thermal reactor preapplication review;

(2) for "Inspection and Enforcement", $38,760,000;

(3) for "Standards Development", $14,480,000;

(4) for "Nuclear Material Safety and Safeguards", $26,885,000;

(5) for "Nuclear Regulatory Research", $163,470,000, of which an amount not to exceed $3,900,000 is authorized to accelerate the effort in gas-cooled thermal reactor safety research;

(6) for "Program Technical Support", $13,400,000;

(7) for "Program Direction and Administration", $27,950,000;

(b) Of the total amount authorized under section 1(a), the Commission may reprogram among program activities specified in subsection (a) an amount not exceeding $10,000,000 except that the amount transferred from any of the major program activities specified in subsection (a) shall not exceed 15 per centum of the amount so specified. Prior to any reallocation of an amount in accordance with the provisions of this subsection, where such an amount is in excess of $500,000, the Commission shall inform the appropriate congressional committees. Such reallocation may be made notwithstanding the limitations of subsection (a).

(c) No amount authorized to be appropriated by this Act may be used by the Commission to enter into any contract, providing funds in excess of $20,000 encompassing research, study, or technical assistance on domestic safeguards matters except as directed by the Commission, by majority vote, following receipt by the Commission of a recommendation from the Executive Director for Operations supporting the need for such contract.

SEC. 2. Moneys received by the Commission for the cooperative nuclear research programs may be retained and used for salaries and expenses associated with those programs, notwithstanding the provisions of section 3617 of the Revised Statutes (31 U.S.C. 484), and shall remain available until expended.

SEC. 3. Transfers of sums from salaries and expenses may be made to other agencies of the Government for the performance of the work for which the appropriation is made, and in such cases the sums so transferred may be merged with the appropriation to which transferred.

SEC. 4. Section 201(a)(1) of the Energy Reorganization Act of 1974 is amended by inserting the following new sentence after the sixth sentence thereof: "The presence requirement for quorum purposes and for taking action shall be waived in the case of any action of the Commission if all members of the Commission (whether or not present) have indicated in writing, in such form and manner as may be prescribed by the Commission, that they agree to such waiver with respect to such action and are unanimous with respect to the approval, or disapproval, as the case may be, of the proposed action.".

SEC. 5. Section 209 of the Energy Reorganization Act of 1974 is amended by adding the following new subsection at the end thereof:

"(d) The Executive Director shall prepare and forward to the Commission an annual report (for the calendar year 1978 and each succeeding calendar year) on the status of the Commission's programs concerning domestic safeguards matters including an assessment of the effectiveness and adequacy of safeguards at facilities and activities li-

censed by the Commission. The Commission shall forward to the Congress a report under this section prior to February 1, 1979, as a separate document, and prior to February 1 of each succeeding year as a separate chapter of the Commission's annual report (required under section 309(c) of the Energy Reorganization Act of 1974) following the calendar year to which such report applies.".

SEC. 6. (a) Chapter 14 of the Atomic Energy Act of 1954 is amended by adding the following new section at the end thereof:

"SEC. 170A. CONFLICTS OF INTEREST RELATING TO CONTRACTS AND OTHER ARRANGEMENTS.—

"a. The Commission shall, by rule, require any person proposing to enter into a contract, agreement, or other arrangement, whether by competitive bid or negotiation, under this Act or any other law administered by it for the conduct of research, development, evaluation activities, or for technical and management support services, to provide the Commission, prior to entering into any such contract, agreement, or arrangement, with all relevant information, as determined by the Commission, bearing on whether that person has a possible confict of interest with respect to—

"(1) being able to render impartial, technically sound, or objective assistance or advice in light of other activities or relationships with other persons, or

"(2) being given an unfair competitive advantage.

Such person shall insure, in accordance with regulations prescribed by the Commission, compliance with this section by any subcontractor (other than a supply subcontractor) of such person in the case of any subcontract for more than $10,000.

"b. The Commission shall not enter into any such contract agreement or arrangement unless it finds, after evaluating all information provided under subsection a. and any other information otherwise available to the Commission that—

"(1) it is unlikely that a conflict of interest would exist, or

"(2) such conflict has been avoided after appropriate conditions have been included in such contract, agreement, or arrangement; except that if the Commission determines that such conflict of interest exists and that such conflict of interest cannot be avoided by including appropriate conditions therein, the Commission may enter into such contract, agreement, or arrangement, if the Commission determines that it is in the best interests of the United States to do so and includes appropriate conditions in such contract, agreement, or arrangement to mitigate such conflict.

"c. The Commission shall publish rules for the implementation of this section, in accordance with section 553 of title 5, United States Code (without regard to subsection (a)(2) thereof) as soon as practicable after the date of the enactment of this section, but in no event later than 120 days after such date.".

(d) The table of contents for such chapter 14 is amended by adding the following new item at the end thereof:

"Sec. 170A. Conflicts of interest relating to contracts and other arrangements.".

SEC. 7. Notwithstanding any other provision of this Act, no authority to make payments under this Act shall be effective except to such extent or in such amounts as are provided in advance in appropriation Acts.

The SPEAKER pro tempore. Is a second demanded?

Mr. BAUMAN. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Arizona (Mr. UDALL) will be recognized for 20 minutes, and the gentleman from Maryland (Mr. BAUMAN) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Arizona (Mr. UDALL).

Mr. UDALL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, at the beginning of this Congress, as my colleagues know, the Interior Committee assumed primary jurisdiction over regulation of commercial nuclear power. The transfer of this authority from the Joint Committee on Atomic Energy was a significant event. I believe, in fact, that the history of nuclear development in America will mark the redistribution of the Joint Committee's powers as an event perhaps surpassing in significance the splitting of the AEC into the NRC and ERDA. I believe this, because the NRC in the beginning, in spite of its independent status, was controlled by the same forces that existed when nuclear regulation had to play second fiddle to nuclear promoters in the AEC and in Congress.

Any inclination by the NRC to become an objective regulator was stifled by the Joint Committee which held to the philosophy that the major obstacles to all out nuclear development had been resolved. In 1974 the nuclear optimists envisioned a clear road to plutonium recycle and to development of plutonium breeder reactors. They envisioned the equivalent of 1,200 large light water reactors in the year 2000. The current official estimate for the year 2000 predicts between 255 and 395 plants depending on economic circumstances. In any event the NRC came into being in a climate where those who questioned the basic assumptions that the problems were indeed solved were considered modern Luddites or worse.

This atmosphere created schizophrenia at the NRC. On the one hand the new agency was supposed to assure nuclear safety. But on the other, it perceived that it was not supposed to take actions which would interfere with realizing the dream of the nuclear optimists. In this atmosphere it is not surprising that the NRC was loath to raise questions that might rock the nuclear boat. Rather, such questions were raised mainly by those outside the Government. I would like to think that the many hearings held by the Interior, Commerce, and International Relations Committees have had something to do with flushing out the facts that showed there were major unresolved questions about the front and back ends of the fuel cycles, about nulcear proliferation, and about the economics of nuclear power.

With the joint committee gone, a more critical and I believe more healthy climate has developed. I know there are many who believe otherwise, but it seems to me that we are now laying the foundation for making good decisions as to just what role fission power will play in our energy future.

I personally accept that nuclear power will be with us for at least the next several decades. Given this fact, I view the role of the Interior Committee as being to insure that the NRC is, in fact, as well as in appearance an objective and even handed regulator. In addition, I believe it is incumbent on us to take legislative initatives to make the regulatory process both more efficient and more open to full public participation.

I think by doing these things we will develop confidence that the NRC will do the job we had in mind when in 1974 we legislated the Commission into being. Confidence in the objectivity of the NRC is indeed necessary if nuclear power is to play anything more than the minimal role determined by plants now in operation or under construction. We must, in sum, be able to believe that the Commission will take the costly and unpopular steps that will from time to time be necessary to assure adequate levels of safety.

It seems to me that after a rough beginning the NRC is indeed growing into the role we envisioned for it. I have watched this change over the last 4 years, and I think the Commission has come increasingly to believe it must look at issues without a predisposition to make findings of one kind or another.

Mr. Speaker, in considering the NRC's authorization request for fiscal year 1979 we have tried to take account of some of the problems that have beset the Commission. The bill before us today, H.R. 12355, would authorize fiscal year 1979 appropriations in the amount of $332,107,000 for the Nuclear Regulatory Commission. This bill which was also referred to and reported by the Committee on Interstate and Foreign Commerce, is the second annual authorization reported by the two committees. The total amount authorized by H.R. 12355 includes a recommendation from the Interstate and Foreign Commerce Committee that, in addition to the amount reported by the Interior Committee, an additional $1,152,000 be authorized for the NRC's Office of Nuclear Reactor Regulation. We have provided for a line item authorization rather than taking the lump sum approach that had been customary prior to the Interior Committee assuming jurisdiction in this area. The line item authorization allows us to exert better oversight over NRC expenditures than would be possible if a lump sum were specified.

The amount authorized by H.R. 12355 as reported by the Interior Committee would exceed by $285,000 the amount requested by the NRC in forwarding its budget proposal to the Congress. The committee added this amount pursuant to a request from the chairman of the Committee on International Relations. The purpose of these additional funds is to increase the ability of the NRC Office of Nuclear Material Safety and Safeguards to participate in activities relating to the safeguarding of nuclear exports.

The committee also stipulated that the Commission should reallocate funds among the amounts requested in order to increase the total effort on matters re-

lated to gas-cooled reactors. The additional amount would be expended in two offices, $1.5 million in the Office of Reactor Regulation and $1.5 million in the Office of Nuclear Regulatory Research.

The committee imposed a requirement that we believe will help assure that the Congress is provided a comprehensive overview of the Commission's activities involving security in the domestic nuclear industry. This is an area where we believe the Commission's performance does not fulfill our expectations. H.R. 12355 requires that the Executive Director for Operations prepare an annual report on the Commission's domestic safeguards programs, including an assessment of safeguards effectiveness and adequacy.

Another area of concern involves the Commission's contract research program in the area of domestic safeguards. We have found that there has been insufficient coordination of such research, with little indication that the eventual users of research results supported the proposal to conduct the research. To assure better coordination, H.R. 12355 requires no safeguards related contract be awarded for an amount in excess of $20,000 unless recommended by the Executive Director for Operations and approved by majority vote of the Commission.

Another point I would like to make concerns public funding of intervenors in nuclear licensing proceedings. I have come to appreciate that license applicants and Government agencies for one reason or another have not always presented the full story to those who make licensing decisions. This has convinced me of the essential role of intervenor groups in assuring that licensing decisions are made based on as complete a record as is possible. Because intervenor groups do make important contributions to the regulatory process, I believe that we must develop a procedure whereby they can be reimbursed for their expenses.

The question remains as to the best means of authorizing a program for funding of intervenors in nuclear licensing proceedings. Many of us have become convinced that the best approach would be to include this program as one element of the proposed nuclear licensing reform legislation that we will seek to enact in the next Congress. I believe that by providing for intervenor funding in this way, that some who now doubt its wisdom will come to see that it is, indeed, in the public interest and will expedite the nuclear licensing process.

Finally, Mr. Speaker, in bringing this legislation up under suspension of the rules, I was aware that we were precluding the gentleman from Missouri (Mr. CLAY) from offering an amendment which would protect employees of contractors and licensees from reprisal when they disclose potential health and safety dangers of the Nuclear Regulatory Commission. I subscribe to the goals of this amendment and wish we had considered the topic in committee markup. Nevertheless, the other body does have language in its bill dealing with the subject of whistleblower protection, language which I look upon sympathetically. Moreover, I hope that our committee can consider this topic as part of next year's authorization. I, for one, believe that the NRC must be able to protect its sources of information to do an effective job of protecting the health and safety of the American people.

That concludes my remarks, Mr. Speaker. I urge my colleagues to support H.R. 12355.

Mr. BAUMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 12355 as reported by the House Interior and Insular Affairs Committee upon which I serve as the ranking minority member on the Subcommittee on Energy and the Environment which considered this measure. Some changes were made to the Interior Committee bill by the Committee on Interstate and Foreign Commerce but I have been assured by the chairman of the Energy and Power Subcommittee, the gentleman from Michigan (Mr. DINGELL) that a particularly objectionable provision in the measure reported by that subcommittee is not included in the bill under suspension today.

The bill reported by the Interior Committee authorizes $330,955,000 for the Nuclear Regulatory Commission to cover its operations for fiscal year 1979. This figure reflects an increase of $285,000 over the administration's request of $330,670,000. The additional funding is an accommodation by the Interior Committee resulting from a request made by the Committee on International Relations that the Office of Nuclear Material Safety and Safeguards funding level be increased by $285,000 in order to enhance its ability to participate in activities relating to safeguards of nuclear exports.

Although this measure represents the Interior Committee's second product in authorizing appropriations for the Nuclear Regulatory Commission, I am pleased that it reflects more closely reasonable requests made by the administration and less of the legislative trivia that was contained in our first product. I commend Chairman UDALL for his efforts in bringing this about and urge him to continue to do so in future NRC authorization measures.

● Mr. SHARP. Mr. Speaker, H.R. 12355 was reported by both the Interior Committee and the Commerce Committee. In the course of its consideration of this bill, the Commerce Committee unanimously agreed to an amendment to provide an additional $1,152,000 to the Nuclear Regulatory Commission's authorization, increasing the total amount authorized for fiscal year 1979 from $330,955,000 to $332,107,000. Under the amendment, this money would specifically be provided to the Office of Nuclear Reactor Regulation so that it can hire an additional 35 full-time personnel.

The Office of Nuclear Reactor Regulation is responsible for issuing construction permits, operating licenses, amendments to operating licenses, licenses for waste storage and disposal facilities and for addressing unresolved safety questions. There is presently an enormous backlog of cases in each of these areas and this has inhibited this office's capability to effectively process these applications and address these issues. The Office had requested an increase of 100 full-time personnel to reduce this backlog, but the OMB authorized an increase of only 6 full-time personnel, which is the same level which existed in fiscal year 1977. The Acting Director of the Office of Reactor Regulation testified that the increase authorized by OMB would not significantly improve his Office's capability to deal effectively with its multiple responsibilities, and thus little progress could be made on these issues during fiscal year 1979.

We are all familiar with the present delays in the licensing process, and, while this amendment will not resolve them all, it will enable this office to increase its capacity to deal with the existing backlog. For example, there are presently over 150 unresolved generic safety questions, and the NRC's inability to expeditiously address them is adversely impacting on the processing of pending construction permits and operating license applications. With the funds authorized under this bill, the Commission will only be able to address most of the 40 unresolved generic safety issues in the most serious category, which is category A, and less than 15 percent of the issues in category B, and give little attention to those in categories C and D. Additionally, while the NRC was able to process over 200 license amendments in fiscal year 1977, there is a backlog of over 400. Moreover, during fiscal year 1979, the number of operating reactors is expected to increase by 12, from 65 to 77, and there are presently 99 applications for a construction permit.

In addition to these problems, the Department of Energy has announced its intention to submit license applications for all its waste storage and disposal facilities. This decision was announced after the NRC had submitted its budget request to the Congress and thus, the Commission was not able to include requests for additional personnel needed to handle this unantipicated applications.

The Commerce Committee expects that the personnel additions authorized under this amendment will result in an improvement in processing license applications and in reducing licensing backlogs. Additionally, it is anticipated that this increase in funding will better enable the Commission to process applications for waste management facilities and thereby lead to an expeditious resolution of this issue.

As the bill under consideration includes this amendment, we believe the Commission's authorization will be adequate to enable the Nuclear Regulatory Commission to more effectively exercise its responsibilities and alleviate the backlogs which presently exist in a number of important licensing areas, such as waste disposal and unresolved generic safety issues. Therefore, we support this bill as offered by the Interior Committee and urge its passage.●

● Mr. BROWN of Ohio. Mr. Speaker, I rise today in support of H.R. 12355, the bill authorizing appropriations to the Nuclear Regulatory Commission.

This bill, reported by the Interstate and Foreign Commerce Committee and the Interior and Insular Affairs Committee, authorizes an increase of funds to NRC for fiscal year 1979 over previous years. I support this increase, because it is a responsible one.

The Nuclear Regulatory Commission serves to require the safe development of nuclear plants and, by doing so, to make this additional source of energy available. But, the Commission has been plagued by a bureaucratic backlog of licensing cases so massive, it now takes 10 to 12 years for a plant to receive approval. These long, and in many instances unnecessary, delays are depriving the Nation of a productive energy source.

This bill is a thoughtful step in the right direction since it can help streamline the licensing procedures of the Commission, without compromising on safety. This bill authorizes the creation of 35 new positions for the express purpose of reducing the backlog of cases. In an age where we seem to pour more and more money into the bottomless hole of Government, this bill represents a change, however small. I am confident these new 35 regulators can make a difference. We have heard testimony that leadtimes can be reduced to 7 years—still a long wait—if the licensing procedure is reformed. We trust that this bill sends a signal to the Commission to make all possible administrative reforms to quicken the responsible licensing of powerplants.

I thank my colleague from New York (Mr. OTTINGER) for withdrawing his amendment to fund the intervention of interest groups before the Commission. While I recognize his good intentions, it is a dangerous thing for the Government to use tax revenues to finance one particular view before a regulatory commission. The intervenor provision would only have resulted in more delays and not in more safety, since most of the intervention would have been redundant. I am happy to see the bill reported without this amendment.

I wish to reiterate my support for H.R. 12355 and urge my fellow Congressmen to vote favorably on it.●

GENERAL LEAVE

Mr. UDALL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on the subject of the legislation now before us, H.R. 12355.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Arizona (Mr. UDALL) that the House suspend the rules and pass the bill H.R. 12355, as amended.

The question was taken.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were refused.

Mr. WALKER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 3 of rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of order is considered withdrawn.

URANIUM MILL TAILINGS

Mr. UDALL. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 13650) to authorize the Secretary of Energy to enter into cooperative agreements with certain States respecting residual radioactive material at existing sites, to provide for the regulation of uranium mill trailings under the Atomic Energy Act of 1954, and for other purposes, as amended.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE AND TABLE OF CONTENTS

SECTION 1. This Act may be cited as the "Uranium Mill Tailings Radiation Control Act of 1978".

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FINDINGS AND PURPOSES

SEC. 2. (a) The Congress finds that—

(1) uranium mill tailings located at active and inactive mill operations may pose a potential and significant radiation health hazard to the public, and that the protection of the public health, safety, and welfare and the regulation of interstate commerce require that every reasonable effort be made to provide for the stabilization, disposal, and control in a safe and environmentally sound manner of such tailings in order to prevent or minimize radon diffusion into the environment and to prevent or minimize other environmental hazards from such tailings;

(2) uranium mill tailings at certain inactive sites resulted in whole or in part from the production of uranium for sale under contract to the United States during a period when the potential radiation health hazard to the public was apparently not adequately recognized, although environmental hazards to water and air from such tailings were recognized by several Federal agencies and the States as early as 1960;

(3) all milling operations at such sites have terminated prior to 1973;

(4) in 1972 Congress authorized some remedial action for property and structures in Grand Junction, Colorado, found to be contaminated by such tailings; and

(5) it is in the public interest to provide financial assistance to the States and Indian tribes to undertake remedial actions concerning such inactive sites in order to eliminate or minimize such hazard.

(b) The purposes of this Act are to provide—

(1) in cooperation with the interested States, Indian tribes, and the persons who own or control inactive mill tailings sites, a program of assessment and remedial action at such sites, including, where appropriate, the reprocessing of tailings to extract residual uranium and other mineral values where practicable, in order to stabilize and control such tailings in a safe and environmentally sound manner and to minimize or eliminate radiation health hazards to the public, and

(2) a program to regulate mill tailings during uranium or thorium ore processing at active mill operations and after termination of such operations in order to stabilize and control such tailings in a safe and environmentally sound manner and to minimize or eliminate radiation health hazards to the public.

TITLE I—REMEDIAL ACTION PROGRAM

DEFINITIONS

SEC. 101. For purposes of this title—

(1) The term "Secretary" means the Secretary of Energy.

(2) The term "Commission" means the Nuclear Regulatory Commission.

(3) The term "Administrator" means the Administrator of the Environmental Protection Agency.

(4) The term "Indian tribe" means any tribe, band, clan, group, pueblo, or community of Indians recognized as eligible for services provided by the Secretary of the Interior to Indians.

(5) The term "person" means any individual, association, partnership, corporation, firm, joint venture, trust, government entity, and any other entity, except that such term does not include any Indian or Indian tribe.

(6) The term "processing site" means—

(A) any site, including the mill, containing residual radioactive materials at which all or substantially all of the uranium was produced for sale to any Federal agency prior to January 1, 1971 under a contract with any Federal agency, unless—

(i) such site was owned or controlled as on January 1, 1978, or is thereafter owned or controlled, by any Federal agency, or

(ii) a license (issued by the Commission or its predecessor agency under the Atomic Energy Act of 1954 or by a State as permitted under section 274 of such Act) for the production at such site of any uranium or thorium product derived from ores is in effect

on January 1, 1978, or is issued or renewed after such date; and

(B) any other real property or improvement thereon which—

(i) is in the vicinity of such site, and

(ii) is determined by the Secretary, in consultation with the Commission, to be contaminated with residual radioactive materials derived from such site.

"Any ownership or control of an area by a Federal agency which is acquired pursuant to a cooperative agreement under this title shall not be treated as ownership or control by such agency for purposes of subparagraph (A)(i). A license for the production of any uranium product from residual radioactive materials shall not be treated as a license for production from ores within the meaning of subparagraph (A)(ii) if such production is in accordance with section 108(b).

(7) The term "residual radioactive material" means—

(A) waste (which the Secretary determines to be radioactive) in the form of tailings resulting from the processing of ores for the extraction of uranium and other valuable constituents of the ores; and

(B) other waste (which the Secretary determines to be radioactive) at a processing site which relate to such processing, including any residual stock of unprocessed ores or low-grade materials.

(8) The term "tailings" means the remaining portion of a metal-bearing ore after some or all of such metal, such as uranium, has been extracted.

(9) The term "Federal agency" includes any executive agency as defined in section 105 of title 5 of the United States Code.

(10) The term "United States" means the 48 contiguous States and Alaska, Hawaii, Puerto Rico, the District of Columbia, and the territories and possessions of the United States.

DESIGNATION OF PROCESSING SITES

SEC. 102. (a)(1) Within one year after enactment of this Act, the Secretary shall designate all processing sites within the United States which he determines require remedial action to carry out the purposes of this Act. In making each such designation, the Secretary shall consult with the Administrator, the Commission, and the affected States, and in the case of Indian lands, the appropriate Indian tribe and the Secretary of the Interior.

(2) As part of his designation under this subsection, the Secretary, in consultation with the Commission, shall determine the boundaries of each such site.

(3) No site or structure with respect to which remedial action is authorized under Public Law 92-314 in Grand Junction, Colorado, may be designated by the Secretary as a processing site under this section.

(b) Within one year from the date of the enactment of this Act, the Secretary shall assess the potential health hazard to the public from the residual radioactive materials at designated processing sites. Based upon such assessment, the Secretary shall, within such one year period, establish priorities for carrying out remedial action at each such site. In establishing such priorities, the Secretary shall rely primarily on the advice of the Administrator.

(c) Within thirty days after making designations of processing sites and establishing the priorities for such sites under this section, the Secretary shall notify the Governor of each affected State, and, where appropriate, the Indian tribes and the Secretary of the Interior.

(d) The designations made, and priorities established, by the Secretary under this section shall be final and not be subject to judicial review.

(e)(1) The designation of processing sites within one year after enactment under this section shall include, to the maximum extent practicable, the areas referred to in section 101(6)(B).

(2) Notwithstanding the one year limitation contained in this section, the Secretary may, after such one year period, include any area described in section 101(6)(B) as part of a processing site designated under this section if he determines such inclusion to be appropriate to carry out the purposes of this title.

STATE COOPERATIVE AGREEMENTS

SEC. 103. (a) After notifying a State of the designation referred to in section 102 of this title, the Secretary, subject to section 113, is authorized to enter into cooperative agreements with such State to perform remedial actions at each designated processing site in such State (other than a site located on Indian lands referred to in section 105). The Secretary shall, to the greatest extent practicable, enter into such agreements and carry out such remedial actions in accordance with the priorities established by him under section 102.

(b) Each cooperative agreement under this section shall contain such terms and conditions as the Secretary deems appropriate and consistent with the purposes of this Act.

(c)(1) Except where the State is required to acquire the processing site as provided in subsection (a) of section 104, each cooperative agreement with a State under section 103 shall provide that the State shall obtain, in a form prescribed by the Secretary, written consent from any person holding any record interest in the designated processing site for the Secretary or any person designated by him to perform remedial action at such site.

(2) Such written consent shall include a waiver by each such person on behalf of himself, his heirs, successors, and assigns—

(A) releasing the United States of any liability or claim thereof by such person, his heirs, successors, and assigns concerning such remedial action, and

(B) holding the United States harmless against any claim by such person on behalf of himself, his heirs, successors, or assigns arising out of the performance of any such remedial action.

(d) Each cooperative agreement under this section shall require the State to assure that the Secretary, the Commission, and the Administrator and their authorized representatives have a permanent right of entry at any time to inspect the processing site and the site provided pursuant to section 104(b)(1) in furtherance of the provisions of this title and to carry out such agreement and enforce this Act and any rules prescribed under this Act. Such right of entry under this section or section 106 into an area described in section 101(6)(B) shall terminate on completion of the remedial action, as determined by the Secretary.

(e) Each agreement under this section shall take effect only upon the concurrence of the Commission with the terms and conditions thereof.

(f) The Secretary may, in any cooperative agreement entered into under this section or section 105, provide for reimbursement of the actual costs, as determined by the Secretary, of any remedial action performed with respect to so much of a designated processing site as is described in section 101(6)(B). Such reimbursement shall be made only to a property owner of record at the time such remedial action was undertaken and only with respect to costs incurred by such property owner. No such reimbursement may be made unless—

(1) such remedial action was completed prior to enactment of this Act, and unless the application for such reimbursement was filed by such owner within one year after an agreement under this section or section 105 is approved by the Secretary and the Commission, and

(2) the Secretary is satisfied that such action adequately achieves the purposes of this Act with respect to the site concerned and is consistent with the standards established by the Administrator pursuant to section 275(a)(1) of the Atomic Energy Act of 1954.

ACQUISITION AND DISPOSITION OF LANDS AND MATERIALS

SEC. 104. (a) Each cooperative agreement under section 103 shall require the State, where determined appropriate by the Secretary with the concurrence of the Commission to acquire any designated processing site, including where appropriate any interest therein.

(b)(1) If the Secretary with the concurrence of the Commission determines that removal of residual radioactive material from a processing site is appropriate, the cooperative agreement shall provide that the State shall acquire land (including, where appropriate, any interest therein) to be used as a site for the permanent disposition and stabilization of such residual radioactive materials in a safe and environmentally sound manner.

(2) Acquisition by the State shall not be required under this subsection if a site located on land controlled by the Secretary or made available by the Secretary of the Interior pursuant to section 106(a)(2) is designated by the Secretary, with the concurrence of the Commission, for such disposition and stabilization.

(c) No State shall be required under subsection (a) or (b) to acquire any real property or improvement outside the boundaries of—

(1) that portion of the processing site which is described in section 101(6)(A), and

(2) the site used for disposition of the residual radioactive materials.

(d) In the case of each processing site designated under this title other than a site designated on Indian land, the State shall take such action as may be necessary, and pursuant to regulations of the Secretary under this subsection, to assure that any person who purchases such a processing site after the removal of radioactive materials from such site shall be notified in an appropriate manner prior to such purchase, of the nature and extent of residual radioactive materials removed from the site, including notice of the date when such action took place, and the condition of such site after such action. If the State is the owner of such site, the State shall so notify any prospective purchaser before entering into a contract, option, or other arrangement to sell or otherwise dispose of such site. The Secretary shall issue appropriate rules and regulations to require notice in the local land records of the residual radioactive materials which were located at any processing site and notice of the nature and extent of residual radioactive materials removed from the site, including notice of the date when such action took place.

(e)(1) The terms and conditions of any cooperative agreement with a State under section 103 shall provide that in the case of any lands or interests therein acquired by the State pursuant to subsection (a), the State with the concurrence of the Secretary and the Commission, may—

(A) sell such lands and interests,

(B) permanently retain such land and interests in lands (or donate such lands and interests therein to another governmental entity within such State) for permanent use by such State or entity solely for park, recreational, or other public purposes, or

(C) transfer such lands and interests to the United States as provided in subsection (f).

No lands may be sold under subparagraph (A) without the consent of the Secretary and the Commission. No site may be sold under

subparagraph (A) or retained under subparagraph (B) if such site is used for the disposition of residual radioactive materials.

(2) Before offering for sale any lands and interests therein which comprise a processing site, the State shall offer to sell such lands and interests at their fair market value to the person from whom the State acquired them.

(f)(1) Each agreement under section 103 shall provide that title to—

(A) the residual radioactive materials subject to the agreement, and

(B) any lands and interests therein which have been acquired by the State, under subsection (a) or (b), for the disposition of such materials,

shall be transferred by the State to the Secretary when the Secretary (with the concurrence of the Commission) determines that remedial action is completed in accordance with the requirements imposed pursuant to this title. No payment shall be made in connection with the transfer of such property from funds appropriated for purposes of this Act other than payments for any administrative and legal costs incurred in carrying out such transfer.

(2) Custody of any property transferred to the United States under this subsection shall be assumed by the Secretary or such Federal agency as the President may designate. Notwithstanding any other provision of law, such property and minerals shall be maintained pursuant to a license issued by the Commission in such manner as will protect the public health, safety, and the environment. The United States shall not transfer title to property or interest therein acquired under this subsection to any person or State, except as provided in subsection (h).

(g) Each agreement under section 103 which permits any sale described in subsection (e)(1)(A) shall provide for the prompt reimbursement to the Secretary from the proceeds of such sale. Such reimbursement shall be in an amount equal to the lesser of—

(1) that portion of the fair market value of the lands or interests therein which bears the same ratio to such fair market value as the Federal share of the costs of acquisition by the State to such lands or interest therein bears to the total cost of such acquisition, or

(2) the total amount paid by the Secretary with respect to such acquisition.

The fair market value of such lands or interest shall be determined by the Secretary as of the date of the sale by the State. Any amounts received by the Secretary under this title shall be deposited in the Treasury of the United States as miscellaneous receipts.

(h) No provision of any agreement under section 103 shall prohibit the United States from disposing of any subsurface mineral rights by sale or lease (in accordance with laws of the United States applicable to the sale, lease, or other disposal of such rights) which are associated with land on which residual radioactive materials are disposed and which are transferred to the United States as required under this section if the Secretary takes such action as the Commission deems necessary pursuant to a license issued by the Commission to assure that the residual radioactive materials will not be disturbed by reason of any activity carried on following such disposition. If any such materials are disturbed by any such activity, the Secretary shall insure, prior to disposition of the minerals, that such materials will be restored to a safe and environmentally sound condition as determined by the Commission, and that the costs of such restoration will be borne by the person acquiring such rights from the Secretary or from his successor or assign.

INDIAN TRIBE COOPERATIVE AGREEMENTS

SEC. 105. (a) After notifying the Indian tribe of the designation pursuant to section 102 of this title, the Secretary, in consultation with the Secretary of the Interior, is authorized to enter into a cooperative agreement, subject to section 113, with any Indian tribe to perform remedial action at a designated processing site located on land of such Indian tribe. The Secretary shall, to the greatest extent practicable, enter into such agreements and carry out such remedial actions in accordance with the priorities established by him under section 102. Each such agreement, shall contain such terms and conditions as the Secretary deems appropriate and consistent with the purposes of this Act. Such terms and conditions shall require the following:

(1) The Indian tribe and any person holding any interest in such land shall execute a waiver (A) releasing the United States of any liability or claim thereof by such tribe or person concerning such remedial action and (B) holding the United States harmless against any claim arising out of the performance of any such remedial action.

(2) The remedial action shall be selected and performed in accordance with section 108 by the Secretary or such person as he may designate.

(3) The Secretary, the Commission, and the Administrator and their authorized representatives shall have a permanent right of entry at any time to inspect such processing site in furtherance of the provisions of this title, to carry out such agreement, and to enforce any rules prescribed under this Act.

Each agreement under this section shall take effect only upon concurrence of the Commission with the terms and conditions thereof.

(b) When the Secretary with the concurrence of the Commission determines removal of residual radioactive materials from a processing site on lands described in subsection (a) to be appropriate, he shall provide, consistent with other applicable provisions of law, a site or sites for the permanent disposition and stabilization in a safe and environmentally sound manner of such residual radioactive materials. Such materials shall be transferred to the Secretary (without payment therefor by the Secretary) and permanently retained and maintained by the Secretary under the conditions established in a license issued by the Commission, subject to section 104(f)(2) and (h).

ACQUISITION OF LAND BY SECRETARY

SEC. 106. (a) Where necessary or appropriate in order to consolidate in a safe and environmentally sound manner the location of residual radioactive materials which are removed from processing sites under cooperative agreements under this title, or where otherwise necessary for the permanent disposition and stabilization of such materials in such manner—

(1) the Secretary may acquire land and interests in land for such purposes by purchase, donation, or exchange, or under any other authority of law or

(2) the Secretary of the Interior may make available public lands administered by him for such purposes in accordance with other applicable provisions of law. Prior to acquisition of land under paragraph (1) or (2) of this subsection in any State, the Secretary shall consult with the Governor of such State. No lands may be acquired under such paragraph (1) or (2) in any State in which there is no (1) processing site designated under this title or (2) active uranium mill operation, unless the Secretary has obtained the consent of the Governor of such State. No lands controlled by any Federal agency may be transferred to the Secretary to carry out the purposes of this Act without the concurrence of the chief administrative officer of such agency.

(b) The value of any lands exchanged by the Secretary under this section shall be equal or if they are not equal, the values shall be equalized by the payment of money to the grantor or to the Secretary concerned as the circumstances require so long as payment does not exceed 25 per centum of the total value of the lands or interests transferred out of Federal ownership. The Secretary shall try to reduce the amount of the payment of money to as small an amount as possible.

FINANCIAL ASSISTANCE

SEC. 107. (a) In the case of any designated processing site for which an agreement is executed with any State for remedial action at such site, the Secretary shall pay not to exceed 90 per centum of the actual cost of such remedial action, including the actual costs of acquiring such site (and any interest therein) or any disposition site (and any interest therein) pursuant to section 103 of this title, and the State shall pay the remainder of such costs from non-Federal funds. The Secretary shall not pay the administrative costs incurred by any State to develop, prepare, and carry out any cooperative agreement executed with such State under this title, except the proportionate share of the administrative costs associated with the acquisition of lands and interests therein acquired by the State pursuant to this title.

(b) In the case of any designated processing site located on Indian lands, the Secretary shall pay the entire cost of such remedial action.

REMEDIAL ACTION

SEC. 108. (a)(1) The Secretary or such person as he may designate shall select and perform remedial actions at designated processing sites and disposal sites in accordance with the general standards prescribed by the Administrator pursuant to section 275 a. (1) of the Atomic Energy Act of 1954. Since the State must share in the costs of such remedial action, the State shall participate fully in the selection and performance thereof. Such remedial action shall be selected and performed with the concurrence of the Commission and in consultation, as appropriate, with the Indian tribe and the Secretary of the Interior.

(2) The Secretary shall use technology in performing such remedial action as will insure compliance with the general standards promulgated by the Administrator under section 275 a. (1) of the Atomic Energy Act of 1954 and will insure the safe and environmentally sound stabilization of residual radioactive materials. No such remedial action may be undertaken under this section before the promulgation of such standards.

(b) Prior to undertaking any remedial action under this title, the Secretary shall evaluate the mineral concentration of the residual radioactive materials at each designated processing site to determine whether, as a part of any remedial action program, recovery of such minerals is practicable. The Secretary, with the concurrence of the Commission, may permit the recovery of such minerals, under such terms and conditions as he may prescribe to carry out the purposes of this Act. Any person permitted by the Secretary to recover such minerals shall pay to the Secretary a share of the net profits derived from such recovery, as determined by the Secretary. Such share shall not exceed the total amount paid by the Secretary for carrying out remedial action at such designated site. After payment of such share to the United States under this subsection, such person shall pay to the State in which the residual radioactive materials are located a share of the net profits derived from such recovery, as determined by the Secretary. Such share shall not exceed the total amount paid by the State for carrying out remedial action at such designated site. The person recovering such minerals shall bear all the costs of such recovery. Any person carrying out mineral recovery activities under this

paragraph shall be required to obtain any necessary license under the Atomic Energy Act of 1954 or under State law as permitted under section 274 of such Act.

RULES

SEC. 109. The Secretary may prescribe such rules consistent with the purposes of this Act as he deems appropriate pursuant to title V of the Department of Energy Organization Act.

ENFORCEMENT

SEC. 110. (a)(1) Any person who violates any provision of this title or any cooperative agreement entered into pursuant to this title or any rule prescribed under this Act concerning any designated processing site, disposition site, or remedial action shall be subject to an assessment by the Secretary of a civil penalty of not more than $1,000 per day per violation. Such assessment shall be made by order after notice and an opportunity for a public hearing, pursuant to section 554 of title 5, United States Code.

(2) Any person against whom a penalty is assessed under this section may, within sixty calendar days after the date of the order of the Secretary assessing such penalty, institute an action in the United States court of appeals for the appropriate judicial circuit for judicial review of such order in accordance with chapter 7 of title 5, United States Code. The court shall have jurisdiction to enter a judgment affirming, modifying, or setting aside in whole or in part, the order of the Secretary, or the court may remand the proceeding to the Secretary for such further action as the court may direct.

(3) If any person fails to pay an assessment of a civil penalty after it has become a final and unappealable order, the Secretary shall institute an action to recover the amount of such penalty in any appropriate district court of the United States. In such action, the validity and appropriateness of such final assessment order or judgment shall not be subject to review. Section 402 (d) of the Department of Energy Organization Act shall not apply with respect to the functions of the Secretary under this section.

(4) No civil penalty may be assessed against the United States or any State or political subdivision of a State or any official or employee of the foregoing.

(5) Nothing in this section shall prevent the Secretary from enforcing any provision of this title or any cooperative agreement or any such rule by injunction or other equitable remedy.

(b) Subsection (a) shall not apply to any licensing requirement under the Atomic Energy Act of 1954. Such licensing requirements shall be enforced by the Commission as provided in such Act.

PUBLIC PARTICIPATION

SEC. 111. In carrying out the provisions of this title, including the designation of processing sites, establishing priorities for such sites, the selection of remedial action, and the execution of cooperative agreements, the Secretary, the Administrator, and the Commission shall encourage public participation and, where appropriate, the Secretary shall hold public hearings relative to such matters in the States where processing sites and disposal sites are located.

TERMINATION; AUTHORIZATION

SEC. 112. (a) The authority of the Secretary to perform remedial action under this title shall terminate on the date seven years after the date of promulgation by the Administrator of general standards applicable to such remedial action unless such termination date is specifically extended by an Act of Congress enacted after the date of enactment of this Act.

(b) The amounts authorized to be appropriated to carry out the purposes of this title by the Secretary, the Administrator, the Commission, and the Secretary of the Interior shall not exceed such amounts as are established in annual authorization Acts for fiscal year 1979 and each fiscal year thereafter applicable to the Department of Energy. Any sums appropriated for the purposes of this title shall be available until expended.

LIMITATION

SEC. 113. The authority under this title to enter into contracts or other obligations requiring the United States to make outlays may be exercised only to the extent provided in advance in annual authorization and appropriation Acts.

REPORTS TO CONGRESS

SEC. 114. (a) Beginning on June 1, 1980, and each year thereafter until June 1, 1986, the Secretary shall submit a report to the Congress with respect to the status of the actions required to be taken by the Secretary, the Commission, the Secretary of the Interior, the Administrator, and the States and Indian tribes under this Act and any amendments to other laws made by this Act. Each report shall—

(1) include data on the actual and estimated costs of the program authorized by this title;

(2) describe the extent of participation by the States and Indian tribes in this program;

(3) evaluate the effectiveness of remedial actions, and describe any problems associated with the performance of such actions; and

(4) contain such other information as may be appropriate.

Such report shall be prepared in consultation with the Commission, the Secretary of the Interior, and the Administrator and shall contain their separate views, comments, and recommendations, if any. The Commission shall submit to the Secretary and Congress such portion of the report under this subsection as relates to the authorities of the Commission under title II of this Act.

(b) Not later than July 1, 1979, the Secretary shall provide a report to the Congress which identifies all sites located on public or acquired lands of the United States containing residual radioactive materials and other radioactive waste (other than waste resulting from the production of electric energy) and specifics which Federal agency has jurisdiction over such sites. The report shall include the identity of property and other structures in the vicinity of such site that are contaminated or may be contaminated by such materials and the actions planned or taken to remove such materials. The report shall describe in what manner such sites are adequately stabilized and otherwise controlled to prevent radon diffusion from such sites into the environment and other environmental harm. If any site is not so stabilized or controlled, the report shall describe the remedial actions planned for such site and the time for performing such actions.

(c) Copies of the reports required by this section to be submitted to the Congress shall be separately submitted to the Committees on Interior and Insular Affairs and on Interstate and Foreign Commerce of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

ACTIVE OPERATIONS; LIABILITY FOR REMEDIAL ACTION

SEC. 115. (a) No amount may be expended under this title with respect to any site licensed by the Commission under the Atomic Energy Act of 1954 or by a State as permitted under section 274 of such Act at which production of any uranium product from ores (other than from residual radioactive materials) takes place.

(b) In the case of each processing site designated under this title, the Attorney General shall conduct a study to determine the identity and legal responsibility which any person (other than the United States, a State or Indian tribe) who owned or operated or controlled (as determined by the Attorney General) such site before the date of the enactment of this Act may have under any law or rule of law for reclamation or other remedial action with respect to such site. The Attorney General shall publish the results of such study, and provide copies thereof to the Congress, as promptly as practicable following the date of the enactment of this Act. The Attorney General, based on such study, shall, to the extent he deems it appropriate and in the public interest, take such action under any provision of this title or under any provision of law in effect when uranium was produced at such site to require payment by such person of all or any part of the costs incurred by the United States for such remedial action for which he determines such person is liable.

TITLE II—URANIUM MILL TAILINGS LICENSING AND REGULATION

DEFINITION

SEC. 201. Section 11 e. of the Atomic Energy Act of 1954 is amended to read as follows:

"e. The term 'byproduct material' means (1) any radioactive material (except special nuclear material) yielded in or made radioactive by exposure to the radiation incident to the process of producing or utilizing special nuclear material, and (2) the tailings or wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its source material content.".

CUSTODY OF DISPOSAL SITE

SEC. 202. (a) Chapter 8 of the Atomic Energy Act of 1954 is amended by adding the following new section at the end thereof:

"SEC. 83. OWNERSHIP AND CUSTODY OF CERTAIN BYPRODUCT MATERIAL AND DISPOSAL SITES.—

"a. Any license issued or renewed after the effective date of this section under section 62 or section 81 for any activity which results in the production of any byproduct material as defined in section 11 e. (2) shall contain such terms and conditions as the Commission determines to be necessary to assure that, prior to termination of such license—

"(1) the licensee will comply with decontamination, decommissioning, and reclamation standards prescribed by the Commission for sites (A) at which ores were processed primarily for their source material content and (B) at which such byproduct material is deposited, and

"(2) ownership of any byproduct material defined in section 11 e. (2) which resulted from such licensed activity shall be transferred to the United States.

Any license in effect on the date of the enactment of this section shall either contain such terms and conditions on renewal thereof after the effective date of this section, or shall comply with paragraphs (1) and (2) upon the termination of such license, whichever first occurs.

"b. (1) Any such license which is issued after the effective date of this section shall also contain such terms and conditions as the Commission determines to be necessary to assure that, prior to termination of such license and after the licensee has complied with the requirements of subsection a., any land (other than land owned by the United States) which is used for the disposal of such byproduct material shall be transferred to the United States, including both the surface estate and any interest in the subsurface estate which may be necessary to protect the public health, welfare, and the environment. Following the Commission's determination of compliance under subsection d.,

the Secretary of Energy or the Federal agency designated by the President under subsection c. shall assume title and custody of the byproduct material and land transferred as provided in this subsection. Such officer or instrumentality shall maintain such material and land in such manner as will protect the public health and safety and the environment. Such custody may be transferred to another officer or instrumentality of the United States only upon approval of the the President upon his determination that such officer or instrumentality meets the requirements of subsection c. Notwithstanding any other provision of law, such property and materials shall be maintained pursuant to a license issued by the Commission in such manner as will protect the public health, safety, and the environment.

"(2) In the case of any such license under section 62 which was in effect on the effective date of this section, the Commission may require, before the termination of such license, such transfer of land (as described in paragraph (1)) as may be necessary to protect the public health, welfare, and the environment from any effects associated with such byproduct material.

"(3) Material and land transferred to the United States as required under this subsection shall be transferred without cost to the United States (other than administrative and legal costs incurred in carrying out such transfer). The United States shall not transfer title to material or property acquired under this subsection to any person, unless such transfer is in the same manner as provided under section 104(h) of the Uranium Mill Tailings Radiation Control Act of 1978.

"(4) The provisions of this subsection respecting transfer of title and custody to land to the United States shall not apply in the case of lands held in trust by the United States for any Indian tribe or lands owned by such Indian tribe subject to a restriction against alienation imposed by the United States. In the case of such lands which are used for the disposal of byproduct material as defined in section 11 e. (2), the licensee shall be required to enter into such arrangements with the Commission as may be appropriate to assure the long-term maintenance and monitoring of such lands by the United States.

"c. The Secretary of Energy or such Federal agency as the President shall have custody of such property or material. The President shall not designate the Commission for such purposes.

"d. Upon termination of any license to which this section applies, the Commission shall determine whether or not the licensee has complied with all applicable standards and requirements under such license.".

(b) This section shall be effective three years after the enactment of this Act.

(c) The table of contents for chapter 8 of the Atomic Energy Act of 1954 is amended by inserting the following new item after the item relating to section 82:

"Sec. 83. Ownership and custody of certain byproduct material and disposal sites.".

AUTHORITY TO ESTABLISH CERTAIN REQUIREMENTS

SEC. 203. Section 161 of the Atomic Energy Act of 1954 is amended by adding the following new subsection at the end thereof:

"x. establish by rule, regulation, or order, after public notice, such standards and instructions as the Commission may deem necessary or desirable to ensure—

"(1) that an adequate bond, surety, or other financial arrangement (as determined by the Commission) will be provided, before termination of any license for byproduct material as defined in section 11 e. (2), by a licensee to permit the completion of all requirements established by the Commission for the decontamination, decommissioning, and reclamation of sites, structures, and equipment used in conjunction with byproduct material as so defined, and

"(2) that—

"(A) in the case of any such license issued or renewed after the date of the enactment of this subsection, to the maximum extent practicable, after termination of such license, no long-term maintenance and monitoring of such sites, structures, and equipment will be necessary; and

"(B) in the case of each license for such material (whether in effect on the date of the enactment of this section or issued or renewed thereafter), if the Commission determines that any such long-term maintenance and monitoring is necessary, the licensee, before termination of any license for byproduct material as defined in section 11 e. (2), will make available such bonding, surety, or other financial arrangements as may be necessary to assure such long-term maintenance and monitoring.".

COOPERATION WITH STATES

SEC. 204. (a) Section 274 b. of the Atomic Energy Act of 1954 is amended by adding "as defined in section 11 e. (1)" after the words "byproduct materials" in paragraph (1); by renumbering paragraphs (2) and (3) as paragraphs (3) and (4); and by inserting the following new paragraph immediately after paragraph (1):

"(2) byproduct materials as defined in section 11 e. (2);".

(b) Section 274 d. (2) of such Act is amended by inserting the following before the word "compatible": "in accordance with the requirements of subsection o. and in all other respects".

(c) Section 274 n. of such Act is amended by adding the following new sentence at the end thereof: "As used in this section, the term 'agreement' includes any amendment to any agreement.".

(d) Section 274 j. of such Act is amended—

(1) by inserting "all or part of" after "suspend";

(2) by inserting "(1)" after "finds that"; and

(3) by adding at the end before the period the following: ", or (2) the State has not complied with one or more of the requirements of this section. The Commission shall periodically review such agreements and actions taken by the States under the agreements to ensure compliance with the provisions of this section".

(e)(1) Section 274 of such Act is amended by adding the following new subsection at the end thereof:

"o. In the licensing and regulation of any activity which results in the production of byproduct material as defined in section 11 e. (2) under an agreement entered into pursuant to subsection b., a State shall require—

"(1) compliance with the requirements of subsections a. (2), b. (1), and b. (2) of section 83 (respecting ownership by the United States of byproduct material and land), and

"(2) compliance with standards which shall be adopted by the State for the protection of the public health, safety, and the environment from hazards associated with such material which are equivalent, to the extent practicable, or more stringent than, standards adopted and enforced by the Commission for the same purpose pursuant to sections 83 a. (1) and 84 a. and 275, and

"(3) procedures which—

"(A) in the case of licenses, provide for advance public notice, an opportunity for a public hearing with rights to present direct and rebuttal evidence and conduct cross-examination, and a written decision which is based only on evidence in the record and which is subject to judicial review;

"(B) in the case of rulemaking, provide opportunity for public participation in the form of written comments or a public hearing and which provide for judicial review of the rulemaking decision;

"(C) require the preparation for each license of a written analysis consistent with the policy and provisions of the National Environmental Policy Act of 1969 of the impact of the operations under such license on the environment, which shall be available to the public before the commencement of any such proceedings; and

"(D) prohibit any major construction activity with respect to such material, prior to complying with the provisions of subparagraph (C).

If any State under such agreement imposes upon any licensee any requirement for the payment of funds to such State for the reclamation or long-term maintenance and monitoring of such material, such agreement shall be amended by the Commission to provide that such State shall transfer to the United States upon termination of the license issued to such licensee the total amount collected by such State from such licensee for such purpose. If such payments are required, they must be sufficient to insure compliance with the standards referred to in paragraph (2). No State shall be required under paragraph (2) to conduct proceedings concerning any license or regulation which would duplicate proceedings conducted in such State by the Commission.".

(f) Section 274 c. of such Act is amended by inserting the following new sentence after paragraph (4) thereof: "The Commission shall also retain authority under any such agreement to make a determination that all applicable standards and requirements have been met prior to termination of a license for byproduct material as defined in section 11 e. (2).".

(g) Nothing in any amendment made by this section shall preclude any State from exercising any other authority as permitted under the Atomic Energy Act of 1954 respecting any byproduct material defined in section 11 e. (2) of the Atomic Energy Act of 1954.

(h)(1) On or before the date three years after the date of the enactment of this Act, notwithstanding any amendment made by this title, any State may exercise any authority under State law respecting byproduct material, as defined in section 11 e. (2) of the Atomic Energy Act of 1954, in the same manner, and to the same extent, as permitted before the enactment of this Act.

(2) An agreement entered into with any State as permitted under section 274 of the Atomic Energy Act of 1954 with respect to byproduct material as defined in section 11 e. (2) may be entered into at any time after the date of the enactment of this Act but no such agreement may take effect before the date three years after the date of the enactment of this Act.

AUTHORITIES OF COMMISSION RESPECTING CERTAIN BYPRODUCT MATERIAL

"SEC. 205. (a) Chapter 8 of the Atomic Energy Act of 1954 is amended by adding the following new section at the end thereof:

"SEC. 84. AUTHORITIES OF COMMISSION RESPECTING CERTAIN BYPRODUCT MATERIAL.—

"a. The Commission shall insure that the management of any byproduct material as defined in section 11 e. (2) is carried out in such manner as—

"(1) the Commission deems appropriate to protect the public health and safety and the environment,

"(2) conforms with applicable general standards promulgated by the Administrator of the Environmental Protection Agency under section 275, and

"(3) conforms to general requirements established by the Commission, with the concurrence of the Administrator, which are to the maximum extent practicable, comparable to requirements applicable to the possession, transfer, and disposal of similar hazardous material regulated by the Administrator under the Solid Waste Disposal Act.

"b. In carrying out its authority under this section, the Commission is authorized to—

"(1) by rule, regulation, or order require persons, officers, or instrumentalities exempted from licensing under section 81 of this Act to conduct monitoring, perform remedial work, and to comply with such other measures as it may deem necessary or desirable to protect health or to minimize danger to life or property, and

"(2) make such studies and inspections and to conduct such monitoring as may be necessary.

Any violation by any person other than the United States or any officer or employee of the United States of any rule or order of the Commission established under this section or section 83 shall be subject to a civil penalty in the same manner and in the same amount as violations subject to a civil penalty under section 234. Nothing in this section affects any authority of the Commission under any other provision of this Act.".

(b) The table of contents for such chapter 8 is amended by inserting the following new item after the item relating to section 83:

"Sec. 84. Authorities of Commission respecting certain byproduct material.".

AUTHORITY OF ENVIRONMENTAL PROTECTION AGENCY RESPECTING CERTAIN BYPRODUCT MATERIAL

SEC. 206. Chapter 19 of the Atomic Energy Act of 1954 is amended by inserting after section 274 the following new section:

"SEC. 275. HEALTH AND ENVIRONMENTAL STANDARDS FOR URANIUM MILL TAILINGS.—

"a. (1) As soon as practicable, but not later than one year after the date of enactment of this section, the Administrator of the Environmental Protection Agency (hereinafter referred to in this section as the 'Administrator') shall, by rule, promulgate standards of general application (including standards applicable to licenses under section 104(h)) for the protection of the public health, safety, and the environment from radiological and nonradiological hazards associated with residual radioactive materials (as defined in section 101 of the Uranium Mill Tailings Radiation Control Act of 1978) located at inactive uranium mill tailings sites and depository sites for such materials selected by the Secretary of Energy, pursuant to title I of the Uranium Mill Tailings Radiation Control Act of 1978. Standards promulgated pursuant to this subsection shall, to the maximum extent practicable, be consistent with the requirements of the Solid Waste Disposal Act.

"(2) As soon as practicable, but not later than eighteen months after the enactment of this section, the Administrator shall, by rule, promulgate standards of general application for the protection of the public health, safety, and the environment from radiological and nonradiological hazards associated with the processing and with the possession, transfer, and disposal of byproduct material, as defined in section 11 e. (2) of this Act at sites at which ores are processed primarily for their source material content, or which are used for the disposal of such byproduct material.

"(3) Standards promulgated pursuant to this section for nonradiological hazards shall, notwithstanding any other provision of this Act or any other law, be consistent with, to the greatest extent possible, the standards of the Solid Waste Disposal Act applicable to such hazards.

"(4) The Administrator may from time to time amend, modify, or change any standard promulgated under this section.

"b. (1) Before the promulgation of any rule pursuant to this section, the Administrator shall publish the proposed rule in the Federal Register, together with a statement of the research, analysis, and other available information in support of such proposed rule, and provide a period of public comment of at least thirty days for written comments thereon and an opportunity, after such comment period and after public notice, for any interested person to present oral data, views, and arguments at a public hearing. There shall be a transcript of any such hearing. The Administrator shall consult with the Commission and the Secretary of Energy before promulgation of any such rule.

"(2) Judicial review of any rule promulgated under this section may be obtained by any interested person only upon such person filing a petition for review within sixty days after such promulgation in the United States court of appeals for the Federal judicial circuit in which such person resides or has his principal place of business. A copy of the petition shall be forthwith transmitted by the clerk of court to the Administrator. The Administrator thereupon shall file in the court the written submission to, and transcript of, the written or oral proceedings on which such rule was based as provided in section 2112 of title 28, United States Code. The court shall have jurisdiction to review the rule in accordance with chapter 7 of title 5, United States Code, and to grant appropriate relief as provided in such chapter. The judgment of the court affirming, modifying, or setting aside, in whole or in part, any such rule shall be final, subject to judicial review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

"(3) Any rule promulgated under this section shall not take effect earlier than sixty calendar days after such promulgation.

(c) The table of contents for chapter 19 of the Atomic Energy Act is amended by inserting the following new item after the item relating to section 274:

"Sec. 275. Health and environmental standards for uranium mill tailings.".

AUTHORIZATION OF APPROPRIATION FOR GRANTS

SEC. 207. There is hereby authorized to be appropriated for fiscal year 1980 to the Nuclear Regulatory Commission not to exceed $500,000 to be used for making grants to States which have entered into agreements with the Commission under section 274 of the Atomic Energy Act of 1954 to aid in the development of State regulatory programs under such section which implement the provisions of this Act.

EFFECTIVE DATE

SEC. 208. Except as otherwise provided in this title the amendments made by this title shall take effect on the date of the enactment of this Act.

CONSOLIDATION OF LICENSES AND PROCEDURES

SEC. 209. The Nuclear Regulatory Commission shall consolidate, to the maximum extent practicable, licenses and licensing procedures under amendments made by this title with licenses and licensing procedures under other authorities contained in the Atomic Energy Act of 1954.

TITLE III—STUDY AND DESIGNATION OF TWO MILL TAILINGS SITES IN NEW MEXICO STUDY

SEC. 301. The Commission, in consultation with the Attorney General and the Attorney General of the State of New Mexico, shall conduct a study to determine the extent and adequacy of the authority of the Commission and the State of New Mexico to require, under the Atomic Energy Act of 1954 (as amended by title II of this Act) or under State authority as permitted under section 274 of such Act or under other provision of law, the owners of the following active uranium mill sites to undertake appropriate action to regulate and control all residual radioactive materials at such sites to protect public health, safety, and the environment: the former Homestake-New Mexico Partners site near Milan, New Mexico, and the Anaconda carbonate process tailings site near Bluewater, New Mexico. Such study shall be completed and a report thereof submitted to the Congress and to the Secretary within one year after enactment of this Act, together with such recommendations as may be appropriate. If the Commission determines that such authority is not adequate to regulate and control such materials at such sites in the manner provided in the first sentence of this section, the Commission shall include in the report a statement of the basis for such determination. Nothing in this Act shall be construed to prevent or delay action by a State as permitted under section 274 of the Atomic Energy Act of 1954 or under any other provision of law or by the Commission to regulate such residual radioactive materials at such sites prior to completion of such study.

DESIGNATION BY SECRETARY

SEC. 302. (a) Within ninety days from the date of his receipt of the report and recommendations submitted by the Commission under section 301, notwithstanding the limitations contained in section 101(6)(A) and in section 115(a), if the Commission determines, based on such study, that such sites cannot be regulated and controlled by the State or the Commission in the manner described in section 301, the Secretary may designate either or both of the sites referred to in section 301 as a processing site for purposes of title I. Following such designation, the Secretary may enter into cooperative agreements with New Mexico to perform remedial action pursuant to such title concerning only the residual radioactive materials at such site resulting from uranium produced for sale to a Federal agency prior to January 1, 1971, under contract with such agency. Any such designation shall be submitted by the Secretary, together with his estimate of the cost of carrying out such remedial action at the designated site, to the Committee on Interior and Insular Affairs and the Committee on Interstate and Foreign Commerce of the House of Representatives and to the Committee on Energy and Natural Resources of the Senate.

(b)(1) No designation under subsection (a) shall take effect before the expiration of one hundred and twenty calendar days (not including any day in which either House of Congress is not in session because of an adjournment of more than three calendar days to a day certain or an adjournment sine die) after receipt by such Committees of such designation.

(c) Except as otherwise specifically provided in subsection (a), any remedial action under title I with respect to any sites designated under this title shall be subject to the provisions of title I (including the authorization of appropriations referred to in section 112(b)).

The SPEAKER pro tempore. Is a second demanded?

Mr. BAUMAN. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Arizona (Mr. UDALL) and the gentleman from Maryland (Mr. BAUMAN) will be recognized for 20 minutes each.

The Chair recognizes the gentleman from Arizona (Mr. UDALL).

PARLIAMENTARY INQUIRY

Mr. UDALL. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gen-

tleman will state his parliamentary inquiry.

Mr. UDALL. Mr. Speaker, my motion to suspend the rules and pass the bill H.R. 13650, was intended to pass it as amended by the Committee on Interstate and Foreign Commerce. Is that the form of the bill that is now before us?

The SPEAKER pro tempore. The Chair will state that the Chair will so interpret the motion.

Mr. UDALL. Mr. Speaker, I thank the Chair.

Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 13650, the Uranium Mill Tailings Control Act. The legislation was introduced this session and affects a variety of groups; big and small companies in the uranium industry; the legislatures, agencies and budgets of many States; environmentalists, and thousands of citizens. It has been necessary to reach an agreement with all these groups, with the administration and with two committees of the House. We are here today nonetheless, with broad bipartisan support, and I think this support is an indication that the time for this piece of legislation is now.

H.R. 13650 provides for the Federal Government, the States and private industry to work together to control the production of uranium mill tailings, and to remedy problems caused by these tailings as a result of poor regulatory practices in the past. The tailings are hazardous and will remain so for thousands of years. Passage of H.R. 13650 will help insure that the many cases of distress and even possibly death which have been attributed to the inadequate control of these materials will not arise again.

To provide this assurance, we have suggested a two-part program, which is reflected in two separate titles of the bill. Title I is a remedial program to eliminate hazards presented by "orphan" uranium mill tailings. These tailings were created under Federal contract in the old Manhattan project and AEC days. The tailings were disposed of improperly and some spread into populated areas through their use as a construction material. Title I of H.R. 13650 provides that tailings at the production sites will be disposed of in conformance with today's standards, and that where inhabited sites are contaminated with tailings, the tailings will be removed. Costs of the program are to be split between the Federal Government and the States, with shares of 90 percent and 10 percent, respectively. Where tailings are located on Indian lands, the Federal Government will pay 100 percent of the costs.

Title II of H.R. 13650 clarifies the authority of the Nuclear Regulatory Commission to regulate the active disposal of uranium mill tailings and to apply minimum national standards to the uranium milling industry.

Title III provides a study for two orphan uranium mill tailings sites which can't be classified under title I of the bill because they are part of actively licensed uranium milling operations. The study is meant to determine whether the sites should be cleaned up under title I of the bill since they were created under Federal contract; or whether they should be under authorities addressed in title II, due to the fact that they are currently under active license. These are the only two piles of uranium mill tailings known to have been created completely under Federal contract and yet to be at actively licensed sites, and it was the decision of my committee and the Commerce Committee that they merited some special consideration. H.R. 13650 does not suggest that Federal relief could be provided for any other uranium tailings problems which are under active license.

I would like to thank our ranking minority, Mr. BAUMAN; the chairman and ranking minority of the Commerce Committees, Messrs. STAGGERS and BROWN, and my good friend Mr. DINGELL, who has put a great deal of effort into moving this bill through his very congested subcommittee this year.

Mr. Speaker, I reserve the balance of my time.

Mr. BAUMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of this very important measure. Without the untiring efforts of our colleague from Utah, DAN MARRIOTT, this measure might not be before us today. I commend the gentleman for his hard work in the Energy and Environment Subcommittee as well as the full Interior and Insular Affairs Committee in bringing about the expeditious consideration of this important measure.

The interest in providing for a Federal uranium mill tailings cleanup program has been aggressively pursued during the past 5 years by both congressional and public interest groups. The General Accounting Office has also been interested in this area and has issued three reports since May 1975 that have dealt with the subject of cleaning up radioactive uranium mill tailings. In a report published in June of this year, GAO states that in considering the effect of the mill tailings on the public's health and safety the most important factor is the effect of radiation emitted from these piles. It is estimated that approximately 85 percent of the total radioactivity originally in uranium ore remains in the tailings after removal of the uranium because radium and thorium—the principal contributors to radioactive emissions—were not normally removed from the uranium ore during milling. Of the two, radium is the most significant radioactive waste product in the tailings. It has a very long radioactive life, taking thousands of years before it loses its radioactivity. This loss—called radioactive decay—produces two distinct hazards. The first type is highly penetrating gamma radiation. Exposure to sufficient amounts of gamma radiation can cause cancer, such as leukemia. The second hazard—radon gas—produces other radoactive products which attach to particles in the air and are deposited in the lungs when inhaled. Exposure to large concentrations of these radon products can increase the risk of lung cancer.

Title I of the measure before us addresses the potential health effects of radiation at 22 inactive mill tailings sites in 9 States and establishes a Federal/State cooperative program to mitigate these health effects through stabilization of all such sites. Another important provision in title I is the one which provides for the extraction of residual uranium and any other valuable minerals contained in these tailings by private industry under controlled conditions.

Title II provides for clarification and reinforcement of the authority of the Nuclear Regulatory Commission to regulate the production and disposal of uranium mill tailings at active sites, and provides for the application of minimum Federal standards to such activities in States which regulate them under authority permitted pursuant to section 274 of the Atomic Energy Act of 1954.

I urge my colleagues to support this measure.

Mr. Speaker, I yield such time as he may consume to the gentleman from Colorado (Mr. JOHNSON).

Mr. JOHNSON of Colorado. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I rise in support of H.R. 13650, the "Uranium Mill Tailings Control Act of 1978."

The basic purpose of H.R. 13650 is to control, indeed eliminate, the further spread of these contaminated uranium mill tailings to areas where the public is exposed to the potentially harmful effects of the tailings. The only way to accomplish that is to address the source of the problem, the inactive and abandoned tailings piles themselves. This legislation creates a comprehensive program to accomplish that goal by either safely stabilizing the piles at their present locations, or by moving the piles to locations where there is no threat to the public health or safety.

These tailings piles contain the waste material which resulted from uranium production contracts between the Federal Government and private industry under the national uranium development and procurement program which emerged in the late 1940's and ran its course through the mid-1960's. At that time the Atomic Energy Commission (AEC) encouraged and promoted the production of uranium ore. The Federal Government bought the product, set the prices, chose the contractors, approved the processing sites and provided the necessary technology. The individual States did not participate in this program and were not a party to the formal contracts. Exclusive regulatory authority rested with the AEC—the Federal Government. The contracts did not include any payment for or provisions for disposal of the mill tailings, which were considered to be harmless at the time.

Although I have supported and continue to support full Federal financing of the tailings piles restoration program, the legislation before us sets up a joint Federal-State cost-sharing program with the Federal Government picking up 90 percent of the program costs and the State Governments paying the remaining 10 percent of the total costs. It is a necessary compromise if we are to move this legislation toward enactment and to get the restoration program underway.

My colleagues on the Interior and Commerce Committees are to be commended for their diligent efforts to move this legislation in a deliberate and responsible manner. The leadership on both sides of the aisle in both committees have been responsive to several concerns I raised during committee hearings and markup of the bill. Through the efforts of the staffs and committee members, my specific concerns are addressed in a positive manner in H.R. 13650, and I appreciate the thoughtful consideration and action which was afforded the issues I raised.

I urge my colleagues to vote in favor of suspending the rules and passing H.R. 13650.

Mr. BAUMAN. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. LAGOMARSINO).

Mr. LAGOMARSINO. Mr. Speaker, I rise in support of H.R. 13650, uranium mill tailings. It is my understanding that title II of this bill will clarify the authority of the Nuclear Regulatory Commission to regulate the uranium milling process and disposal of mill tailings, and that States authorized to license uranium milling through agreements with the NRC will be required to adopt control standards equal to or exceeding the Federal standards. I think this is an important feature of the bill which will close a loophole in existing law.

If I may, Mr. Speaker, I would like to ask the manager of the bill, the chairman of the committee, Mr. UDALL, if these provisions will apply if the mining is conducted under the 1872 mining law on national forest lands, and if so, will the NRC or the cooperating State be authorized to condition licensing approval or deny licenses on the basis of public health and safety?

Mr. UDALL. Mr. Speaker, if the gentleman will yield, the answer to the gentleman's question, as I understand it, is in the affirmative.

Mr. LAGOMARSINO. To both questions, is that correct?

Mr. UDALL. To both questions; that is correct.

Mr. LAGOMARSINO. Mr. Speaker, I thank the gentleman.

Mr. BAUMAN. Mr. Speaker, I yield such time as he may consume to the gentleman from Utah (Mr. MARRIOTT).

Mr. MARRIOTT. Mr. Speaker, I wholeheartedly support H.R. 13650, the Uranium Mill Tailings Control Act of 1978. As a member of the Interior Committee and Representative of the State of Utah that has three sites, I have been very active in the development of this legislation.

This bill represents the best efforts of the Interior and Interstate and Foreign Commerce Committees in drafting legislation to address the very serious problem posed by the presence of radioactive uranium mill tailings. The largest and most serious of these sites is found in downtown Salt Lake City, a mere 30 city blocks from our State Capitol Building. Here over 2.3 million tons of these radioactive tailings are located and the 130-acre site is not even fenced. The Department of Energy has identified 22 other sites where this same problem exists in 8 other States.

Just this year the State of Utah and EPA developed a new technique of measuring radiation. They took a reading at the No. 1 Fire Station in Salt Lake, which was built on tailings from the Vitro Chemical site and this is the highest reading ever taken. By comparison, the reading is seven times that found in an average uranium mine. A total of 17 sites in the Salt Lake Valley have been identified where tailings from the uranium mill site have been used in the construction of buildings or as fill. This represents a very high health hazard to over 400,000 people in the Salt Lake Valley alone.

This legislation, H.R. 13650, establishes a program whereby the Department of Energy and the affected States working as partners develop a plan for remedial action and disposal of the uranium mill tailings. A lot of the problems we are trying to resolve today, exist because the States were not involved originally ir this program. The funding formula of a 90–10 split represents an amount which guarantees that the cleanup will take place. It places the bulk of the burden clearly on the Federal Government who sponsored the program and has the States paying a proportionate share in terms of the benefits they received. The States share of 10 percent of the cost and their role in the development of the plan for remedial action and ultimate disposal assure that they will be active participants in this program.

My main concern all along has been that we develop a program that will clean up the sites and assure that we do not have the same problem at some later date. H.R. 13650 establishes a cleanup program, assures participation by the States, and gives NRC authority to see that it does not happen again. Finally, through this legislation we can solve a problem created by the Federal Government that has endangered the health and safety of our citizens for more than 20 years.

I urge my colleagues to adopt this very important legislation.

Mr. BAUMAN. Mr. Speaker, I have no further requests for time, and I reserve the remainder of my time.

Mr. UDALL. Mr. Speaker, I yield such time as he may consume to the gentleman from Indiana (Mr. SHARP).

Mr. SHARP. Mr. Speaker, the Commerce Committee in reporting this bill, included a number of provisions from the bill as reported by the Committee on Interior and Insular Affairs. Both committees, with strong bipartisan support, worked closely together to develop an effective bill agreeable to both committees. The chairman of that committee, the distinguished gentleman from Arizona (Mr. UDALL) has advised Subcommittee Chairman DINGELL and our committee that he supports the version reported by the Commerce Committee.

The bill deals with a very serious health problem growing out of over 140 million tons of uranium tailings located at active and inactive mills in several States. These sand-like wastes from uranium ore production contain naturally occurring radioactive elements. The decay of these elements leads to production of radon which diffuses into the atmosphere and exposes persons to radiation. Action must be taken to keep the radon from escaping from these piles.

The bill deals with this public health problem at both active and inactive mills.

INACTIVE MILLS

A number of mills produced uranium in the 1950's and 1960's for Federal agencies under Federal contract. Many closed in the early 1970's leaving over 26 million tons of tailings in generally unstabilized condition. While they were in operation, they were regulated by the former Atomic Energy Commission. But once operations ceased, the AEC control also ceased. Also, in those years the health hazards were apparently not fully realized, although there was considerable environmental concern beginning as early as 1960.

Title I of the bill authorizes a remedial action program to stabilize or remove the hazards associated with tailings at these sites. It provides that—

Within 1 year, the DOE designate sites for remedial action and establish a priority for cleanup based on the severity of the health hazard;

The DOE enter into agreements with the States and Indian tribes to clean up these sites;

The DOE pay up to 90 percent of the costs of cleanup, including acquisition costs for the mill site or for another site for the safe depository of these residual radioactive materials, with the States paying the remainder from non-Federal funds;

The DOE pay 100 percent of cleanup costs of Indian lands;

The Environmental Protection Agency promulgate standards concerning these hazardous materials which shall, to the maximum extent practicable, be consistent with the requirements of the Solid Waste Disposal Act;

The Attorney General conduct a study of each site to determine whether the owners thereof are liable, under laws in effect when the mills were operating, for all or part of such cleanup costs;

The DOE permit recovery of valuable minerals from the tailings during cleanup and provide for payments to the United States for a share of the profits from such minerals;

The final depository sites be transferred to the United States for permanent care and maintenance; and

The authority of this program shall terminate within 7 years of the promulgation of EPA standards.

This bill provides for annual authorizations and appropriations for this program. No funds are included for fiscal year 1978, because $3 million is provided in H.R. 11392 which is now awaiting floor action. The Department of Energy estimates the cost of the program at a 90 to 10 cost sharing is between $98 and $180 million.

ACTIVE MILLS

Title II amends the Atomic Energy Act of 1954 to provide for a comprehensive regulatory program at active mill operations to stabilize and control about 120 million tons of tailings derived under Federal contracts and commercial operations. The Nuclear Regulatory Commission licenses these mills today and indirectly the tailings. So-called agreement States are permitted under the 1954 act to regulate mills in those States. But the law does not cover the tailings. Thus, the mill license terminates; there is not an adequate basis for the NRC and the States to control the tailing.

Title II of the bill:

Redefines the term by "product material" in the 1954 lawmaking tailings subject to control;

Provides for NRC standards for the decontamination, decommissioning, and reclamation of mill sites before a license is terminated;

Provides for the transfer of sites, after cleanup, to the United States;

Provides for EPA standards; and

Provides for comparable standards and control by the agreement States so that all mills will be treated alike and will be regulated fully.

TITLE III

This title provides for a limited study of two specific sites in New Mexico to determine if the 1954 law, as amended by this bill, adequately regulates these two sites. If not, provision is made for DOE to take remedial action at a portion of such sites, but only after Congress has had an opportunity to review the situation.

No study is authorized for other active sites because they are regulated by the 1954 act as amended by the bill.

Finally, I want to stress that while the bill provides for the transfer of depository sites to the United States for long-term maintenance, it is not intended that the DOE, on its own initiative or at the direction of the NRC, spend any additional funds on these sites, other than funds for normal maintenance, monitoring, or possibly emergency work, without further specific authorization by Congress.

I urge that the House suspend the rules on H.R. 13650.

Mr. UDALL. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. BROWN).

Mr. BROWN of California. Mr. Speaker, I regret that I was detained from being on the floor during the debate of H.R. 12355.

I would like to inquire of the gentleman from Arizona (Mr. UDALL) if the gentleman is familiar with the provision in the Senate version of the Nuclear Regulatory Commission Authorization (S. 2584) that requires NRC and EPA to develop a preliminary planning study in the area of low-level ionizing radiation?

Mr. UDALL. If the gentleman will yield, I will say to the gentleman that, yes, as I understand it, that provision would require EPA and NRC to conduct a preliminary study that would eventually result in the design of a comprehensive Federal epidemiological study of the effects of low-level ionizing radiation. $500,000 is authorized therefor. The study is to be completed by April 1, 1979.

Mr. BROWN of California. Is there provision for such a planning study in the present bill, H.R. 12355?

Mr. UDALL. No. There is no such planning study in H.R. 12355. But I have watched the development of the Senate's provision with some interest. I know that you're very involved with health effects of low-level ionizing radiation. I also understand that as Chairman of the Subcommittee on Environment and the Atmosphere, you are working on the authorization of a related study.

Mr. BROWN of California. That is correct, Mr. Speaker, and I believe the NRC planning study could be usefully adapted through some slight modifications to coordinate with on-going efforts in this area.

Throughout the last year there has been growing congressional and public concern about the potential health dangers from exposure to low-level ionizing radiation. The provision in S. 2584 undoubtedly grew out of that concern.

In close cooperation with Mr. PAUL ROGERS of Florida, chairman of the Commerce Committee Subcommittee on Health and the Environment, we have developed a study to be directed by the Secretary of Health, Education, and Welfare. We had originally contacted and worked with the National Academy of Sciences on just a review of ionizing radiation research management, scientific peer review and future needs and direction of such research. However, when a memorandum from the White House directed the Secretary of HEW to undertake to formulate a comprehensive program of the biological effects of ionizing radiation, we sought to coordinate the two studies. At the present time, it is our intent to maintain this coordinated effort. All of the congressional, agency and National Academy of Science participants appear pleased with this arrangement.

Mr. UDALL. I understand therefore that you are trying to put together a strong program to determine and meet the needs of all Federal agencies in the area of radiological health effects. The NRC and EPA have tremendous regulatory responsibilities in this area which they have at times been hard-pressed to meet due to the lack of adequate data. Those agencies would do well to coordinate their study efforts with HEW and the Academy. Along with HEW's Bureau of Radiological Health, another regulatory body, they should perhaps be major participants in the design of any large- or small-scale epidemiological study.

Mr. BROWN of California. I think the regulatory agencies must play a major role in planning any upcoming research in this field. I would like to recommend that, when the House meets with the Senate in conference on their low-level radiation study provision, an effort be made to agree on an integrated approach to that study which will result in one comprehensive effort. I thank the gentleman.

Mr. UDALL. I appreciate and share the concerns of the gentleman from California. Clearly, it is important wherever possible to coordinate congressional initiatives of this sort. I trust that we can find a way for all of the studies to fit together. I can assure the gentleman that we will do our best to avoid duplication of effort, and develop a sound program on health effects of low-level ionizing radiation.

● Mr. BROWN of Ohio. Mr. Speaker, I rise in support of H.R. 13650, the Uranium Mill Tailings Radiation Control Act of 1978. This legislation is primarily designed to provide for the safe disposal of residual uranium mill tailings. These tailings are an unavoidable byproduct of the first stage of the nuclear fuel cycle. When uranium is extracted from raw ore, a radioactive, sandlike waste remains. This waste—called uranium mill tailings—can constitute a health hazard unless proper disposal methods are utilized. A large percentage of these tailings are left from mining done under Federal contracts supplying our atomic energy needs in the forties, fifties, and sixties. Now, sharing costs on a 90/10 basis with the affected States, the Federal Government can effectively do its part to safely dispose of these tailings, which were once thought to be harmless.

I remain concerned, however, about one provision in the bill which gives the Attorney General authority to study the liability (for remedial action costs), if any, of former owners or operators of former uranium processing sites. When these former owners or operators negotiated their cost-plus contracts with the Federal Government, a very small amount was set aside for tailings disposal because the tailings were not believed to be health hazards. The cost of remedial actions now contemplated to safely dispose of these tailings far exceeds that prior bargained-for amount, and will negate bargained-for profits.

After the study is completed, the Attorney General must exercise discretion tion under any appropriate law to require payment by a person found to be liable. I do not believe that the Attorney General should be empowered to enforce State laws in taking action against these former owners or operators. However, the majority has assured me that the Attorney General must exercise discretion in instituting any civil actions to recover remedial costs. Specifically, the majority has agreed that if the site is not currently owned or controlled by the persons who contracted with the United States, such civil action may be inappropriate. It is also my understanding with the majority that no new Federal authority is being conferred on the Attorney General by this provision of the bill.

With these understandings, I support H.R. 13650 and urge bipartisan support for this measure.●

Mr. UDALL. Mr. Speaker, I have no further requests for time, and I yield back the remainder of my time.

Mr. BAUMAN. Mr. Speaker, I yield back the remainder of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Arizona (Mr. UDALL) that the House suspend the rules and pass the bill H.R. 13650, as amended.

The question was taken; and on a

division (demanded by Mr. WALKER) there were—ayes 13, noes 0.

Mr. WALKER. Mr. Speaker, on that I demanded the yeas and nays.

The yeas and nays were refused.

So (two-thirds having voted in favor thereof), the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

ORDER OF BUSINESS

Mr. UDALL. Mr. Speaker, I had intended to make a motion on No. 13 on the list, H.R. 13553, Coal Leasing amendments. The minority is unwilling to go ahead until the gentleman from Michigan arrives, and the gentleman from Wyoming is not here. On the other bills we are expecting them both in a moment, and I would suggest that the Speaker go on to No. 14 on the list.

BLACK LUNG BENEFITS REVENUE ACT AMENDMENTS

Mr. WAGGONNER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 13167) to amend the Internal Revenue Code of 1954 to insure that the deduction for contributions to a black lung benefit trust be allowed for any such contributions which are made for the purpose of satisfying unfunded future liability, and for other purposes, as amended.

The Clerk read as follows:

H.R. 13167

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subsection (b) of section 192 of the Internal Revenue Code of 1954 (relating to contributions to black lung benefit trusts) is amended to read as follows:

"(b) LIMITATION.—The maximum amount of the deduction allowed by subsection (a) for any taxpayer for any taxable year shall not exceed the greater of—

"(1) the amount necessary to fund (with level funding) the remaining unfunded liability of the taxpayer for black lung claims filed (or expected to be filed) by (or with respect to) past or present employees of the taxpayer, or

"(2) the aggregate amount necessary to increase each trust described in section 501(c)(21) to the amount required to pay all amounts payable out of such trust for the taxable year."

(b) Paragraph (1) of section 192(c) of such Code (relating to special rules) is amended to read as follows:

"(1) METHOD OF DETERMINING AMOUNTS REFERRED TO IN SUBSECTION (b).—

"(A) IN GENERAL.—The amounts described in subsection (b) shall be determined by using reasonable actuarial methods and assumptions which are not inconsistent with regulations prescribed by the Secretary.

"(B) FUNDING PERIOD.—Except as provided in subparagraph (C), the funding period for purposes of subsection (b)(1) shall be the greater of—

"(i) the average remaining working life of miners who are present employees of the taxpayer, or

"(ii) 10 taxable years.

For purposes of the preceding sentence, the term 'miner' has the same meaning as such term has when used in section 402(d) of the Black Lung Benefits Act (30 U.S.C. 902(d)).

"(C) DIFFERENT FUNDING PERIODS.—To the extent that—

"(i) regulations prescribed by the Secretary provide for a different period, or

"(ii) the Secretary consents to a different period proposed by the taxpayer,

such different period shall be substituted for the funding period provided in subparagraph (B)."

(c) Subsection (c) of section 192 of such Code is amended by adding at the end thereof the following new paragraph:

"(5) DENIAL OF SECTION 162 DEDUCTION WITH RESPECT TO LIABILITY.—No deduction shall be allowed under section 162(a) with respect to any liability taken into account in determining the deduction under subsection (a) of this section of the taxpayer (or a predecessor)."

(d)(1) The first sentence of subparagraph (A) of section 6104(a)(1) of such Code (relating to inspection of applications for tax exemption) is amended by striking out "(other than in paragraph (21) thereof)".

(2) Subsection (b) of section 6104 of such Code (relating to inspection of annual information returns) is amended by striking out the last sentence.

(e) The amendments made by this section shall apply to taxable years beginning after December 31, 1977. Nothing in the amendments made by subsection (d) to section 6104 of the Internal Revenue Code of 1954 shall be construed to permit the disclosure under such section 6104 of confidential business information of contributors to any trust described in section 501(c)(21) of such Code.

The SPEAKER pro tempore. Is a second demanded?

Mr. DUNCAN of Tennessee. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Louisiana (Mr. WAGGONNER) will be recognized for 20 minutes, and the gentleman from Tennessee (Mr. DUNCAN) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Louisiana (Mr. WAGGONNER).

Mr. WAGGONNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 13167 modifies the present-law limitation on deductible contributions to irrevocable trusts established by coal mine operators to pay benefits to miners who are totally disabled by black lung disease.

Under present law, the operator generally is limited to funding current-year benefit payments and expected future payments on claims that have already been filed. Contributions and deductions are not allowed under present law with respect to the operator's liabilities for claims which are reasonably expected to be filed by past and present employees. The Ways and Means Committee has concluded that it is desirable to permit operators to set aside funds in these trusts with respect to future claim liabilities, in order to properly fund such trusts on a sound actuarial basis and to better secure benefit payments to miners.

Accordingly, the bill allows contributions and deductions to be made with respect to the amount of anticipated liabilities for claims filed, or expected to be filed in the future, by past or present employees of operators. The bill limits such contributions and deductions to amounts determined on the basis of reasonable actuarial methods and assumptions, and requires use of a level funding method. Also, the Treasury is authorized to issue regulations prescribing specific actuarial methods and assumptions which must be used in computing deduction limitations.

Present law exempts qualified black lung benefit trusts from Federal income tax, but provides that such trusts are not subject to the public disclosure requirements applicable to other tax-exempt organizations. The bill makes such trusts generally subject to the same requirements applicable to other exempt organizations with respect to public inspection of the exemption application for the trust and annual returns of tax-exempt trusts.

The Treasury Department is not opposed to this bill.

Mr. Speaker, I urge the adoption of H.R. 13167, in order to assure that black lung benefit trusts are properly funded so that there will be amounts available to pay benefits to miners who are totally disabled from black lung disease.

Mr. DUNCAN of Tennessee. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 13167, a bill to amend the Black Lung Benefits Revenue Act of 1977.

H.R. 13167 amends the Black Lung Benefits Revenue Act of 1977 by clarifying the scope of the black lung trust fund established in section 501(c)(21) of the Internal Revenue Code. The law allows coal mine operators who are liable to their employees under Federal or State black lung acts a tax deduction for contributions to a trust fund used solely to satisfy such liability. However, the current language is susceptible to several interpretations. The IRS has interpreted the current language to limit deductibility only for contributions with respect to the current and future liability of claims which have already been filed but not disapproved. H.R. 13167 clarifies that the proper limit on deductibility is the current and future liability of claims filed but not yet disapproved, as well as claims expected to be filed.

This amendment will enable coal mine operators to start contributing toward the payment of future black lung claims at an early date. Even though it may not be possible to identify exactly which miners will become eligible for black lung benefits, it is possible to use statistical methods to project the aggregate numbers of miners likely to qualify for benefits. The bill requires that the mine operators use accepted statistical practices in making their projections and contributions.

It also contains safeguards to prevent any misuse of the deduction feature by operators who might be tempted to make sporadic and uneven contributions to the trust fund in order to offset income in years of very high profits. The objective of this legislation is to permit operators to fund their black lung liability in a systematic manner rather than to provide a form of private income averaging.

The bill will permit coal mine oper-

ators the ability to use deductible trust fund contributions as part of their financial planning to meet their future black lung liability. It gives the operator the choice of purchasing insurance, establishing a trust fund, or paying claims out of current income, or any combination of these three alternatives.

Mr. Speaker, I urge the passage of H.R. 13167. The real beneficiaires of this bill are not the coal mine operators, but the disabled men and women whose benefits this bill will secure.

Mr. PERKINS. Mr. Speaker, will the gentleman yield?

Mr. DUNCAN of Tennessee. I yield to the gentleman from Kentucky.

Mr. PERKINS. Mr. Speaker, let me first compliment the distinguished gentleman from Tennessee (Mr. DUNCAN), the gentleman from Louisiana (Mr. WAGGONNER), and the other members of the Committee on Ways and Means who were responsible for bringing this legislation to the floor. This is legislation that is very much needed.

Mr. Speaker, I rise in support of the bill H.R. 13167. This is a good bill which will provide a reliable and a less expensive means by which a coal mine operator may secure his black lung liability.

The Black Lung Benefits Act, over which my Committee on Education and Labor has jurisdiction, places liability for payment of black lung benefits upon the individual coal mine operator who last employed the coal miner whose affliction with black lung disease gives rise to the benefits claim. Operators may purchase commercial insurance to secure their liability, or they may self-insure by posting a bond with the Department of Labor and satisfying the Department that they have the means to pay their claims. In the last series of amendments to the act, the Senate Finance Committee attached a provision to the Internal Revenue Code which permitted coal mine operators to establish tax-exempt trusts to secure their liability and to deduct contributions to these trusts currently, just as they may deduct insurance premiums. H.R. 13167 further amends the Internal Revenue Code to permit deductions for contributions necessary to fund future liability.

I believe this bill is absolutely necessary if these trusts are to be adequate self-insurance devices. I do not believe that a trust can be adequately funded which does not provide for claims which we know will be filed by miners who are now employed and their eligible survivors. I believe further that a properly funded trust is the best possible guarantee that currently employed miners who contract black lung disease will have their benefits waiting for them when they become eligible to collect benefits.

I am aware, Mr. Speaker, that dust levels in the mines are now mandated by law to be so low that miners should not contract black lung disease as so many thousands of them have in the past. But I believe that we would be remiss if we assumed that this provision of the law will guarantee that this terrible disease will be entirely eliminated from our coal mining population. I pray that it will be, but I cannot legislate based on my hopes and prayers alone.

These trusts are irrevocable and can be used only to pay benefits to victims of black lung disease and their survivors. Money placed in these trusts is money in the bank that will be there when claimants come forward 10, or 20, or 40 years down the road seeking their just benefits. I know of no better way to guarantee that the expectations and just demands of our currently employed miners for their black lung benefits will be met, than to permit coal mine operators to set aside current profits in trust and to give these set-asides the same tax treatment we give to insurance premiums.

These trusts are also preferable to commercial insurance in one very important way. Insurance policies can be cancelled. These trusts are irrevocable.

In addition, JOHN DUNCAN has told me and has told this House of the information he has received from one coal company that trust fund financing of its black lung liability will be half as costly as insuring this same liability. If that information is true, then I believe that self-insurance trusts will be especially beneficial to small operators or groups of small operators who simply cannot afford to pay for insurance and would be left with no way to secure their liability and to conform with the law. I never intended and I would hate to see the black lung law become a factor in forcing small operators out of business, leaving the coal industry the captive of a few large mining concerns. I cannot think of a better thing we could do for these small businessmen than to pass this legislation.

Mr. Speaker, I believe that H.R. 13167 is a constructive contribution to another of our goals, reducing the cost of energy and specifically of energy derived from coal. Although the Black Lung Benefits Act places the liability to pay black lung benefits on coal mine operators, I know that this cost must ultimately be passed on to the purchasers of coal and ultimately to the beneficiaries of the energy it produces. Reduce some of this black lung cost and that benefit too will be passed on to consumers. Reduce some of this cost and coal mine operators will have just that much more capital with which to open new mines and improve existing ones. This latter factor is of particular importance to the eastern underground mines who must compete with cheaper coal from strip mines and with oil and other fuels.

I support this bill, Mr. Speaker, and I hope all of my colleagues will join me in doing so. I salute my colleague from Tennessee on this very helpful contribution to the black lung program which I know he has supported since its original passage. Then again when small operators go out of business or go broke, there is no earthly reason why they should not be exonerated from liability. This legislation takes care of that situation and should be passed.

● Mr. DENT. Mr. Speaker, I support JOHN DUNCAN's bill, H.R. 13167, which will make section 501(c)(21) black lung self-insurance trusts workable in the real world.

When my Labor Standards Subcommittee originally began working on the problem of compensating black lung victims 10 years ago, we decided that the solution to the problem was to place the liability for claims filed by older miners on the Federal Government and to place the liability for claims filed by currently working miners on coal mine operators. The theory was that current profits would pay for current liability and that tax dollars would pay for the liability created retroactively. Coal companies had not planned for managing this liability and the public as a whole had had the benefit of the coal which produced the disease, therefore, we believed that the fairest thing would be to let the general public share that burden.

As the program has evolved, there have been several developments we could not have anticipated. First, there were many thousands more eligible claimants, both old miners and working miners, than we had originally anticipated. It was much more difficult to prove disability from the disease than we had thought and we did not anticipate that the agencies which administered the program would be as reluctant to approve claims as they proved to be. Accordingly, we have twice liberalized and extended the program and have made it a permanent program so that miners who are now working in the mines will know that they will be compensated if they contract the disease.

We also did not anticipate that so many of the old miners, those who had retired prior to enactment of the law in 1970, would today be filing claims. Accordingly, in the most recent series of amendments, we provided that all claims filed by miners or survivors of miners who retired prior to January 1, 1970, be paid out of the black lung disability fund which is financed by an excise tax on coal.

The result of this change, Mr. Speaker, is that the black lung liability of an individual coal mine operator is a liability for future claims, by-and-large. Retirees, who make up over 80 percent of the claimants with claims now pending at the Department of Labor, will receive their benefits from the black lung benefits fund in the Treasury, not from a coal mine operator.

I would be the last Member of this House to characterize black lung benefits as a pension in any way, shape, or form. But I must also acknowledge that there has been a very high incidence of black lung disease in the past and I must assume that there could continue to be, in spite of the efforts of mine operators and the Federal Government to reduce the levels of dust in the mines. The black lung program differs markedly from other workers compensation programs in which benefits depend on accidents which may or may not happen. Unfortunately, we know that many miners have contracted this disease in the past and the assumption underlying the entire program is that many of them may continue to do so. If that is the case, then these miners and their survivors are going to qualify for benefits and coal mine operators are going to pay them.

That brings me to another point about the black lung program, Mr. Speaker. The law requires that responsible operators, that is the operator who was the

last employer of the miner, guarantee that their claims will be paid. We subject them to a $1,000/day penalty if they do not. We allow them to secure their liability by commercial black lung insurance or by qualifying as self-insurers, but we do not allow them the option of not paying every single one of their claims. Section 501(c)(21) of the Internal Revenue Code, which we enacted in the recently-passed black lung amendments, provides for self-insurance trust funds to secure this liability. All that JOHN DUNCAN's bill does is allow realistic funding of these trusts, given the inescapable fact that most of the operator's liability is going to be a future liability.

There are two problems which have emerged with respect to commercial black lung insurance. First is the high cost of this insurance. The size of this liability for a coal mine operator is potentially quite large and naturally a commercial insurance company is going to charge quite a bit of money to write this kind of insurance. The Department of Labor annually reports on the program and on the cost of black lung insurance. The latest figures indicate that the highest reported price of this insurance is $42 per $100 of payroll. This cost is tremendosuly difficult for a coal operator, particularly a small one, to bear. The second problem with insurance is that it can be canceled by the insurer. This facet of commercial insurance could leave an operator without security for his claims and in violation of the law through no fault of his own. Self-insurance is considerably less costly, but could leave the operator faced with an unsupportable claims load in future years. A self-insurance trust can be funded in such a way to deal with this eventuality and has the additional benefit of being irrevocable. The Black Lung Act still requires that the operator secure all of his liability and is adequate protection against underfunding of these trusts. The fact that they are irrevocable and that any residue will revert to the Treasury is ample protection against overfunding or using them as a tax shelter.

Mr. Speaker, all the persuasive arguments point to support for H.R. 13167. It is essential that we enact it promptly in order to insure that section 501(c)(21), which we have already approved, can be made workable. I commend my colleague, JOHN DUNCAN, for his insight and for the understanding of the black lung program which his sponsorship of H.R. 13167 demonstrates. He has always supported the black lung benefits program and I am happy to urge my colleagues to support his bill.●

● Mr. MURPHY of Pennsylvania. Mr. Speaker, in considering the passage of H.R. 13167, the Black Lung Benefits Revenue Act amendments, I would appreciate the opportunity to share some thoughts on the need and value of this important legislation with my distinguished colleagues. In considering this bill and giving it my support I have considered the plight of so many of my friends and neighbors in western Pennsylvania who have either suffered from or sat helplessly by while a loved one suffered from the devastation of miners black lung. Even now, there are untold thousands who are still suffering. It is my profound hope that with the modern techniques at our disposal we will see an end to the coal dust that causes this debilitating disease and has robbed so many men of their manhood and so many families of their fathers and husbands. Science and the coal mine operators have made great progress in reducing the hazards faced in the past year and are to be commended for their efforts, but we must not forget those who are already afflicted, those we have not yet discovered, and the cost to the country in seeking the solution to the problem. This bill serves all three.

In passing the Black Lung Reform Act earlier this year to guarantee these miners justice, we have placed a financial obligation on the operators of those coal mines. H.R. 13167 brings that justice full circle by providing the financial incentives and structures to enable those coal mine operators to meet that obligation without imposing impossible financial burdens on them. By creating a means whereby the coal operators can elect to purchase insurance, establish a trust fund, or pay claims out of current income, we ease the financial burden on the coal operators while guaranteeing the miners and their families that the money will be there when they need to claim it.

By passing this bill we will at once protect the miner better than ever before, protect the consumer from greater costs passed on through programs less efficient and less effective than this one, and preserve much needed capital with which our coal operators can expand and improve mining operations. There is no doubt that without this bill the coal operators would face increased operating costs in assuming the financial obligation of black lung benefits. Just as surely, those costs would ultimately be passed on to the consumers of coal-generated energy. Without this bill, capital, much needed in the industry to expand and improve our coal mines, would be drained from it.

There is no doubt in my mind that coal, while having a long history as an important source of energy, is more than ever the fuel of the future. Its success will have much to say about the future successes of our country. With this bill we take a strong and positive step into that future.●

Mr. WAGGONNER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

GENERAL LEAVE

Mr. DUNCAN of Tennessee. Mr. Speaker, I ask unanimous consent that all Members may have permission to revise and extend their remarks on H.R. 13167, the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Louisiana (Mr. WAGGONNER) that the House suspend the rules and pass the bill H.R. 13167, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

IRC AMENDMENTS FOR REGULATED INVESTMENT COMPANIES

Mr. WAGGONNER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6877) to amend the Internal Revenue Code of 1954 with respect to the tax treatment of small business investment companies electing to be taxed as regulated investment companies, as amended.

The Clerk read as follows:

H.R. 6877

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DEFICIENCY DIVIDEND PROCEDURE FOR REGULATED INVESTMENT COMPANIES.

(a) GENERAL RULE.—Subchapter M of chapter 1 of the Internal Revenue Code of 1954 (relating to regulated investment companies and real estate investment trusts) is amended by adding at the end thereof the following new part:

"PART III—PROVISIONS WHICH APPLY TO BOTH REGULATED INESTMENT COMPANIES AND REAL ESTATE INVESTMENT TRUSTS

"Sec. 860. Deduction for deficiency dividends.

"SEC. 860. DEDUCTION FOR DEFICIENCY DIVIDENDS.

"(a) GENERAL RULE.—If a determination with respect to any qualified investment entity results in any adjustment for any taxable year, a deduction shall be allowed to such entity for the amount of deficiency dividends for purposes of determining the deduction for dividends paid (for purposes of section 852 or 857, whichever applies) for such year.

"(b) QUALIFIED INVESTMENT ENTITY DEFINED.—For purposes of this section, the term 'qualified investment entity' means—

"(1) a regulated investment company, and

"(2) a real estate investment trust.

"(c) RULES FOR APPLICATION OF SECTION.—

"(1) INTEREST AND ADDITIONS TO TAX DETERMINED WITH RESPECT TO THE AMOUNT OF DEFICIENCY DIVIDEND DEDUCTION ALLOWED.—For purposes of determining interest, additions to tax, and additional amounts—

"(A) the tax imposed by this chapter (after taking into account the deduction allowed by subsection (a)) on the qualified investment entity for the taxable year with respect to which the determination is made shall be deemed to be increased by an amount equal to the deduction allowed by subsection (a) with respect to such taxable year,

"(B) the last date prescribed for payment of such increase in tax shall be deemed to have been the last date prescribed for the payment of tax (determined in the manner provided by section 6601(b)) for the taxable year with respect to which the determination is made, and

"(C) such increase in tax shall be deemed to be paid as of the date the claim for the deficiency dividend deduction is filed.

"(2) CREDIT OR REFUND.—If the allowance of a deficiency dividend deduction results in an overpayment of tax for any taxable year, credit or refund with respect to such overpayment shall be made as if on the date of the determination 2 years remained before the expiration of the period of limitations on the filing of claim for refund for the taxable year to which the overpayment relates.

"(d) ADJUSTMENT.—For purposes of this section—

"(1) ADJUSTMENT IN THE CASE OF REGULATED

INVESTMENT COMPANY.—In the case of any regulated investment company, the term 'adjustment' means—

"(A) any increase in the investment company taxable income of the regulated investment company (determined without regard to the deduction for dividends paid (as defined in section 561)),

"(B) any increase in the amount of the excess described in section 852(b)(3)(A) (relating to the excess of the net capital gain over the deduction for capital gain dividends paid), and

"(C) any decrease in the deduction for dividends paid (as defined in section 561) determined without regard to capital gains dividends.

"(2) ADJUSTMENT IN THE CASE OF REAL ESTATE INVESTMENT TRUST.—In the case of any real estate investment trust, the term 'adjustment' means—

"(A) any increase in the sum of—

"(i) the real estate investment trust taxable income of the real estate investment trust (determined without regard to the deduction for dividends paid (as defined in section 561) and by excluding any net capital gain), and

"(ii) the excess of the net income from foreclosure property (as defined in section 857(b)(4)(B)) over the tax on such income imposed by section 857(b)(4)(A),

"(B) any increase in the amount of the excess described in section 857(b)(3)(A)(ii) (relating to the excess of the net capital gain over the deduction for capital gains dividends paid), and

"(C) any decrease in the deduction for dividends paid (as defined in section 561) determined without regard to capital gains dividends.

"(e) DETERMINATION.—For purposes of this section, the term 'determination' means—

"(1) a decision by the Tax Court, or a judgment, decree, or other order by any court of competent jurisdiction, which has become final;

"(2) a closing agreement made under section 7121; or

"(3) under regulations prescribed by the Secretary, an agreement signed by the Secretary and by, or on behalf of, the qualified investment entity relating to the liability of such entity for tax.

"(f) DEFICIENCY DIVIDENDS.—

"(1) DEFINITION.—For purposes of this section, the term 'deficiency dividends' means a distribution of property made by the qualified investment entity on or after the date of the determination and before filing claim under subsection (g), which would have been includible in the computation of the deduction for dividends paid under section 561 for the taxable year with respect to which the liability for tax resulting from the determination exists if distributed during such taxable year. No distribution of property shall be considered as deficiency dividends for purposes of subsection (a) unless distributed within 90 days after the determination, and unless a claim for a deficiency dividend deduction with respect to such distribution is filed pursuant to subsection (g).

"(2) LIMITATIONS.—

"(A) ORDINARY DIVIDENDS.—The amount of deficiency dividends (other than deficiency dividends qualifying as capital gain dividends) paid by a qualified investment entity for the taxable year with respect to which the liability for tax resulting from the determination exists shall not exceed the sum of—

"(i) the excess of the amount of increase referred to in subparagraph (A) of paragraph (1) or (2) of subsection (d) (whichever applies) over the amount of any increase in the deduction for dividends paid computed without regard to capital gain dividends) for such taxable year which results from such determination, and

"(ii) the amount of decrease referred to in subparagraph (C) of paragraph (1) or (2) of subsection (d) (whichever applies).

"(B) CAPITAL GAIN DIVIDENDS.—The amount of deficiency dividends qualifying as capital gain dividends paid by a qualified investment entity for the taxable year with respect to which the liability for tax resulting from the determination exists shall not exceed the amount by which (i) the increase referred to in subparagraph (B) of paragraph (1) or (2) of subsection (d) (whichever applies) exceeds (ii) the amount of any dividends paid during such taxable year which are designated as capital gain dividends after such determination.

"(3) EFFECT ON DIVIDENDS PAID DEDUCTION.—

"(A) FOR TAXABLE YEAR IN WHICH PAID.—Deficiency dividends paid in any taxable year shall not be included in the amount of dividends paid for such year for purposes of computing the dividends paid deduction for such year.

"(B) FOR PRIOR TAXABLE YEAR.—Deficiency dividends paid in any taxable year shall not be allowed for purposes of section 855(a) or 858(a) in the computation of the dividends paid deduction for the taxable year preceding the taxable year in which paid.

"(g) CLAIM REQUIRED.—No defiiency dividend deduction shall be allowed under subsection (a) unless (under regulations prescribed by the Secretary) claim therefor is filed within 120 days after the date of the determination.

"(h) SUSPENSION OF STATUTE OF LIMITATIONS AND STAY OF COLLECTION.—

"(1) SUSPENSION OF RUNNING OF STATUTE.—If the qualified investment entity files a claim as provided in subsection (g), the running of the statute of limitations provided in section 6501 on the making of assessments, and the bringing of distraint or a proceeding in court for collection, in respect of the deficiency established by a determination under this section, and all interest, additions to tax, additional amounts, or assessable penalties in respect thereof, shall be suspended for a period of 2 years after the date of the determination.

"(2) STAY OF COLLECTION.—In the case of any deficiency established by a determination under this section—

"(A) the collection of the deficiency, and all interest, additions to tax, additional amounts, and assessable penalties in respect thereof, shall, except in cases of jeopardy, be stayed until the expiration of 120 days after the date of the determination, and

"(B) if claim for a deficiency dividend deduction is filed under subsection (g), the collection of such part of the deficiency as is not reduced by the deduction for deficiency dividends provided in subsection (a) shall be stayed until the date the claim is disallowed (in whole or in part), and if disallowed in part collection shall be made only with respect to the part disallowed.

No distraint or proceeding in court shall be begun for the collection of an amount the collection of which is stayed under subparagraph (A) or (B) during the period for which the collection of such amount is stayed.

"(i) DEDUCTION DENIED IN CASE OF FRAUD.—No deficiency divided deduction shall be allowed under subsection (a) if the determination contains a finding that any part of any deficiency attributable to an adjustment with respect to the taxable year is due to fraud with intent to evade tax or to willful failure to file an income tax return within the time prescribed by law or prescribed by the Secretary in pursuance of law.

"(j) PENALTY.—

"For assessable penalty with respect to liability for tax of a qualified investment entity which is allowed a deduction under subsection (a), see section 6697."

(b) ASSESSABLE PENALTIES.—Section 6697 of such Code (relating to assessable penalties with respect to liability for tax of real estate investment trusts) is amended to read as follows:

"SEC. 6697. ASSESSABLE PENALTIES WITH RESPECT TO LIABILITY FOR TAX OF QUALIFIED INVESTMENT ENTITIES.

"(a) CIVIL PENALTY.—In addition to any other penalty provided by law, any qualified investment entity (as defined in section 860(b)) whose tax liability for any taxable year is deemed to be increased pursuant to section 860(c)(1)(A) (relating to interest and additions to tax determined with respect to the amount of the deduction for deficiency dividends allowed) shall pay a penalty in an amount equal to the amount of interest (for which such entity is liable) which is attributable solely to such increase.

"(b) 50-PERCENT LIMITATION.—The penalty payable under this section with respect to any determination shall not exceed one-half of the amount of the deduction allowed by section 860(a) for such taxable year.

"(c) DEFICIENCY PROCEDURES NOT TO APPLY.—Subchapter B of chapter 63 (relating to deficiency procedure for income, estate, gift, and certain excise taxes) shall not apply in respect of the assessment or collection of any penalty imposed by subsection (a)."

(c) LATE DESIGNATION AND PAYMENT OF CAPITAL GAIN DIVIDEND.—The first sentence of subparagraph (C) of section 852(b)(3) of such Code (defining capital gain dividend) is amended by inserting before the period at the end thereof the following: "; except that, if there is an increase in the excess described in subparagraph (A) of this paragraph for such year which results from a determination (as defined in section 860(e)), such designation may be made with respect to such increase at any time before the expiration of 120 days after the date of such determination".

(d) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Paragraph (3) of section 316(b) of such Code (relating to deficiency dividend distributions by a real estate investment trust) is amended—

(A) by striking out "section 859(d)" and inserting in lieu thereof "section 860(f)", and

(B) by striking out "REAL ESTATE INVESTMENT TRUST" in the paragraph heading and inserting in lieu thereof "REGULATED INVESTMENT COMPANY OR REAL ESTATE INVESTMENT TRUST".

(2) Paragraph (25) of section 381(c) of such Code is amended—

(A) by striking out "section 859(d)" and inserting in lieu thereof "section 860(f)",

(B) by striking out "section 859" and inserting in lieu thereof "section 860", and

(C) by srtiking out "REAL ESTATE INVESTMENT TRUST" in the paragraph heading and inserting in lieu thereof "REGULATED INVESTMENT COMPANY OR REAL ESTATE INVESTMENT TRUST".

(3) Subparagraph (C) of section 857(b)(3) of such Code is amended by striking out "section 859(c)" and inserting in lieu thereof "section 860(e)".

(4) Sections 6422(14) and 6515(5) of such Code are each amended—

(A) by inserting "regulated investment company or" before "real estate investment trust", and

(B) by striking out "859" and inserting in lieu thereof "860".

(5) Paragraph (5) of section 6503(i) of such Code is amended to read as follows:

"(5) Deficiency dividends in the case of a regulated investment company or a real estate investment trust, see section 860(h)."

(6) Part II of subchapter M of chapter 1 of such Code is amended by striking out section 859 and redesignating section 860 as section 859.

(7) The table of sections for part II of subchapter M of chapter 1 of such Code is amended by striking out the items relating to sections 859 and 860 and inserting in lieu thereof the following:

"Sec. 859. Adoption of annual accounting period."

(8) The table of parts for subchapter M of chapter 1 of such Code is amended by adding at the end thereof the following new item:

"Part III. Provisions which apply to both regulated investment companies and real estate investment trusts."

(9) The table of sections for subchapter B of chapter 68 of such Code is amended by striking out the item relating to section 6697 and inserting in lieu thereof the following:

"Sec. 6697. Assessable penalties with respect to liability for tax of qualified investment entities."

SEC. 2. EFFECTIVE DATE.

The amendments made by section 1 shall apply with respect to determinations (as defined in section 860(d) of the Internal Revenue Code of 1954) after the date of the enactment of this Act.

The SPEAKER pro tempore. Is a second demanded?

Mr. FRENZEL. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Louisiana (Mr. WAGGONNER) will be recognized for 20 minutes, and the gentleman from Minnesota (Mr. FRENZEL) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Louisiana (Mr. WAGGONNER).

Mr. WAGGONNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 6877 deals with inadvertent failures to satisfy distribution requirements imposed on mutual funds in order to qualify for conduit treatment under the tax laws.

Under present law, a mutual fund generally must distribute 90 percent of its income within its taxable year in order to qualify for conduit treatment. Under this conduit treatment, income tax is imposed at the shareholder level on distributions rather than at the mutual fund level since a qualified fund deducts the distributions in computing its taxable income.

H.R. 6877 would provide a deficiency dividend procedure in certain cases where a mutual fund fails to satisfy the distribution requirement. Under the procedure, a mutual fund could make qualifying distributions after the regular period when an audit adjustment results in a failure to meet the 90 percent distribution requirement.

A similar deficiency dividend procedure was adopted in the Tax Reform Act of 1976 for real estate investment trusts which are taxed similarly to mutual funds.

It is estimated that the bill will reduce budget receipts by about $200,000 in fiscal year 1979 and by less than $500,000 annually thereafter.

The Treasury Department supports this bill.

Mr. Speaker, I urge adoption of H.R. 6877.

Mr. FRENZEL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 6877, which establishes a deficiency dividend procedure for mutual funds.

A mutual fund will not be taxed if it distributes at least 90 percent of its taxable income. In practice, this requirement has sometimes not been satisfied because of audits made in subsequent years. In these cases, the mutual fund must pay taxes and interest even though no intent to evade taxes is involved.

The bill allows mutual funds to adjust their prior dividend distributions to take account of subsequent audit adjustments, where the adjustment is not due to fraud with intent to evade taxes or to willful failure to file an income tax return. Similar legislation was contained in the Tax Reform Act of 1976 for real estate investment trusts whose tax treatment is substantially the same as mutual funds.

I urge the bill's adoption.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. WAGGONNER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Louisiana (Mr. WAGGONNER) that the House suspend the rules and pass the bill H.R. 6877, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title was amended so as to read: "A bill to amend the Internal Revenue Code of 1954 to extend the deficiency dividend procedures to regulated investment companies.".

A motion to reconsider was laid on the table.

IRC AMENDMENTS FOR BANKS AND COOPERATIVES

Mr. WAGGONNER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 9192) to amend the Internal Revenue Code of 1954 to include the banks for cooperatives among the other financial institutions subject to the provisions of subsection 582(c)(1) and section 595(a) of such Code, as amended.

The Clerk read as follows:

H.R. 9192

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) paragraph (1) of section 582(c) of the Internal Revenue Code of 1954 (relating to bond, etc., losses and gains of financial institutions) is amended by adding at the end thereof the following new sentence: "The preceding sentence shall also apply in the case of a Bank for Cooperatives (operating under this title III of the Farm Credit Act of 1971 (12 U.S.C. 2121 et seq.))."

(b) Subparagraph (G) of section 172(b)(1) of such Code is amended by striking out "(organized and chartered pursuant to section 2 of the Farm Credit Act of 1933 (12 U.S.C. 1134))" and inserting in lieu thereof "(operating under title III of the Farm Credit Act of 1971 (12 U.S.C. 2121 et seq.))".

(c) The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

The SPEAKER pro tempore. Is a second demanded?

Mr. FRENZEL. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Louisiana (Mr. WAGGONNER) will be recognized for 20 minutes, and the gentleman from Minnesota (Mr. FRENZEL) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Louisiana (Mr. WAGGONNER).

Mr. WAGGONNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 9192 deals with the tax treatment of certain sales by the banks for cooperatives. These banks were created under the Farm Credit Act of 1933 to provide financing for agricultural cooperatives.

Under present law, the sale or exchange of a bond, debenture, note, certificate, or other evidence of indebtedness by a bank for cooperatives is treated as a sale or exchange of a capital asset giving rise to capital gain or loss. The bill, H.R. 9192, would provide that these sales by banks for cooperatives will result in ordinary, rather than capital, gains or losses. This treatment is consistent with the present law treatment of these sales by most other financial institutions.

It is estimated that the bill would reduce budget receipts by $2 million during the next 5 fiscal years.

The Treasury does not oppose the adoption of this bill.

Mr. Speaker, I urge adoption of H.R. 9192.

Mr. FRENZEL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 9192 concerning the taxation of securities sold by banks for cooperatives.

Generally, the sale or exchange of debt instruments by financial institutions is not treated as the sale or exchange of a capital asset. However, when banks for cooperatives sell or exchange debt instruments they are subject to capital gain or loss treatment.

Because of the types of investments held by banks for cooperatives they are attempting to diversify but the current tax treatment is producing very unfavorable results. The bill would treat banks for cooperatives like other financial institutions and not treat their security transactions as giving rise to capital gains and losses.

I urge its passage.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. WAGGONNER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Louisiana (Mr. WAGGONNER) that the House suspend the rules and pass the bill H.R. 9192, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title was amended so as to read: "A bill to amend the Internal Revenue Code of 1954 to extend to Banks for Cooperatives the provision providing for

ordinary loss and gain treatment on sales of bonds, etc."

A motion to reconsider was laid on the table.

IRC AMENDMENTS FOR REDEMPTION OF USRA CERTIFICATES

Mr. WAGGONNER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 10653) to amend the Internal Revenue Code of 1954 with respect to the redemption of United States Railway Association certificates of value issued to railroads in reorganization, as amended.

The Clerk read as follows:

H.R. 10653

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. USE OF EXPIRED NET OPERATING LOSS CARRYOVERS TO OFFSET INCOME ARISING FROM REDEMPTION OF CERTIFICATES OF VALUE OF THE UNITED STATES RAILWAY ASSOCIATION ISSUED TO MEMBERS OF SAME AFFILIATED GROUP.

(a) IN GENERAL.—Clause (iv) of section 374(e)(1)(A) of the Internal Revenue Code of 1954 (relating to use of expired net operating loss carryovers to offset income arising from certain railroad reorganization proceedings) is amended to read as follows:

"(iv) a redemption of a certificate of value of the United States Railway Association issued under section 306 of such Act to such corporation (or issued to another member of the same affiliated group (within the meaning of section 1504) as such corporation for their taxable years which included March 31, 1976),".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years ending after March 31, 1976.

SEC. 2. TRANSFERS TO CONRAIL NOT TREATED AS DISPOSITIONS FOR PURPOSES OF THE INVESTMENT CREDIT.

(a) IN GENERAL.—Subsection (b) of section 47 of the Internal Revenue Code of 1954 (relating to certain dispositions, etc., of section 38 property) is amended by striking out "or" at the end of paragraph (1), by striking out the period at the end of paragraph (2) and inserting in lieu thereof ", or", and by inserting after paragraph (2) the following new paragraph:

"(3) a transfer to which subsection (c) of section 374 (relating to exchanges under the final system plan for ConRail) applies."

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to taxable years ending after March 31, 1976.

The SPEAKER pro tempore. Is a second demanded?

Mr. FRENZEL. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Louisiana (Mr. WAGGONNER) will be recognized for 20 minutes, and the gentleman from Minnesota (Mr. FRENZEL) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Louisiana (Mr. WAGGONNER).

Mr. WAGGONNER. I yield myself such time as I may consume.

Mr. Speaker, H.R. 10653 relates to the reorganization, under which ConRail acquired the properties of 11 bankrupt northeastern and midwestern railroads. The Congress enacted legislation in 1976 to deal with the tax treatment of this special railroad reorganization. This bill deals with certain tax aspects of that organization which were not contemplated in 1976.

The bill relates to two problems arising from that reorganization. First, the bill clarifies a provision in the 1976 legislation so that a bankrupt transferor railroad may merge with other members of its affiliated group without affecting the availability of net operating losses incurred before the railroad properties were transferred to ConRail. Second, the bill provides an exemption from investment credit recapture on the transfers of property to ConRail. This second provision makes the treatment of investment credit recapture under the special ConRail reorganization parallel to that for corporate reorganizations in general.

It is estimated that the bill will reduce budget receipts by less than $5 million for the 5-year period 1979 through 1983.

The Treasury Department does not oppose the adoption of the bill.

Mr. Speaker, I urge adoption of H.R. 10653.

Mr. FRENZEL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 10653 which clarifies the tax treatment of certain corporations involved in the ConRail reorganization.

As part of the ConRail reorganization, corporations that transferred assets to ConRail were allowed to use their operating losses for extended periods of time for special limited purposes. Corporations contemplating restructuring are not certain that the extension will be available to corporations other than those that actually transferred their assets to ConRail. In addition, investment credit recapture is required under the current statute.

The bill allows the extended net operating loss benefits to be utilized for any corporation that was a member of the same affiliated group of corporations as the corporation that transferred its assets to ConRail. In addition, the bill treats the ConRail reorganization like other tax-free reorganizations by exempting transfers made pursuant to that reorganization from investment credit recapture.

The bill further facilitates the ConRail reorganization and I urge its passage.

Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

Mr. WAGGONNER. Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Louisiana (Mr. WAGGONNER) that the House suspend the rules and pass the bill, H.R. 10653, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title was amended so as to read: "A bill to amend the Internal Revenue Code of 1954 with respect to the redemption of United States Railway Association certificates of value issued to railroads in reorganization, and for other purposes."

A motion to reconsider was laid on the table.

IRC AMENDMENTS FOR TAXES ON STOCK OPTIONS

Mr. WAGGONNER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 12200) to amend section 422 of the Internal Revenue Code of 1954, as amended.

The Clerk read as follows:

H.R. 12200

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ELECTION TO TREAT QUALIFIED STOCK OPTIONS EXERCISED AFTER 1975 AS OPTIONS WHICH ARE NOT QUALIFIED.

(a) GENERAL RULE.—If the taxpayer—

(1) exercises a qualified stock option at any time after December 31, 1975, and

(2) elects the benefits of this section on or before the date prescribed by law (including extensions) for filing the return of tax under chapter 1 of the Internal Revenue Code of 1954 for whichever of the following is the later—

(A) the taxable year in which the taxpayer exercises such option, or

(B) the taxpayer's first taxable year ending after the date of the enactment of this Act,

then, for purposes of the Internal Revenue Code of 1954, such option shall be treated as an option which is not a qualified stock option.

(b) ELECTION IRREVOCABLE.—An election under subsection (a) shall be made in such manner as the Secretary of the Treasury or his delegate shall by regulations prescribe and, once made, shall be irrevocable.

(c) EFFECTIVE DATE.—This section shall apply with respect to taxable years ending after December 31, 1975.

The SPEAKER pro tempore. Is a second demanded?

Mr. FRENZEL. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Louisiana (Mr. WAGGONNER) will be recognized for 20 minutes, and the gentleman from Minnesota (Mr. FRENZEL) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Louisiana (Mr. WAGGONNER).

Mr. WAGGONNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 12200 deals with the treatment of qualified stock options. Generally, prior to enactment of the Tax Reform Act of 1976, qualified stock options meeting certain requirements of the tax law received favorable tax treatment in comparison with nonqualified stock options. Under the 1976 act, this favorable treatment generally was continued for qualified stock options exercised during a transitional period if the option had been granted before the com-

mittee made its decision to eliminate special treatment for qualified stock options.

Several changes made to the minimum tax and maximum tax by the Tax Reform Act of 1976 have created the possibility that, under certain circumstances, qualified stock options which are exercised during the transitional period might be treated less favorably than a nonqualified stock option. To avoid this result, H.R. 12200 would allow a taxpayer to elect to treat an otherwise qualified option as a nonqualified option.

It is estimated that the bill would reduce budget receipts by $5 million for fiscal year 1979 and, thereafter, less than $5 million annually through fiscal year 1981.

The Treasury Department does not oppose this bill.

Mr. Speaker, I urge adoption of H.R. 12200.

Mr. Speaker, I reserve the balance of my time.

Mr. FRENZEL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 12200 that allows holders of "qualified" stock option to treat the options as "nonqualified" options.

Prior to the Tax Reform Act of 1976 qualified stock options received more favorable tax treatment than nonqualified options. The 1976 act's changes had the affect of making certain nonqualified options preferable to qualified options. Because of these changes the bill allows taxpayers, who hold qualified options, an election with respect to qualified options exercised after December 31, 1975, in taxable years ending after that date.

The bill prevents taxpayers from being hurt by a subsequent change in law and I urge its adoption.

Mr. Speaker, I have no further requests for time and I yield back the balance of my time.

Mr. WAGGONNER. Mr. Speaker, I have no further requests for time and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Louisiana (Mr. WAGGONNER) that the House suspend the rules and pass the bill (H.R. 12200) as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title was amended so as to read: "A bill relating to the tax treatment of the exercise after 1975 of certain qualified stock options."

A motion to reconsider was laid on the table.

TAXES ON UNIFORMED SERVICES, UNIVERSITY OF HEALTH SCIENCES

Mr. WAGGONNER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 12606) to provide that annuity contracts purchased by the Uniformed Services University of the Health Sciences shall be entitled to the benefits of section 403(b) of the Internal Revenue Code of 1954.

The Clerk read as follows:

H.R. 12606

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That an annuity contract purchased by the Uniformed Services University of the Health Sciences for any employee who is a member of the civilian faculty or staff of such University shall, for purposes of section 403(b) of the Internal Revenue Code of 1954, be treated as an annuity contract purchased for an employee by an employer described in section 501(c)(3) of such Code which is exempt from tax under section 501(a) of such Code.

SEC. 2. The first section of this Act shall apply to service after December 31, 1977, in taxable years ending after such date.

The SPEAKER pro tempore. Is a second demanded?

Mr. FRENZEL. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Louisiana (Mr. WAGGONNER) will be recognized for 20 minutes, and the gentleman from Minnesota (Mr. FRENZEL) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Louisiana (Mr. WAGGONNER).

Mr. WAGGONNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 12606 deals with the tax treatment of annuities purchased by the Uniformed Services University of the Health Sciences for its civilian faculty and staff.

The University was established by the Congress under the Department of Defense to train medical students for the uniformed services. Its faculty and staff receive pay comparable to that received by the faculty and staff of medical schools in the Washington, D.C., area.

Because the University is a Federal instrumentality, annuities purchased for the faculty do not qualify for the income tax exclusion that applies to annuities purchased for employees of tax-exempt private or public schools. The bill extends the income tax exclusion to annuities purchased for employees of the University.

It is estimated that the bill would reduce budget receipts by less than $1 million annually.

The Treasury does not oppose the adoption of this bill.

Mr. Speaker, I urge adoption of H.R. 12606.

Mr. Speaker, I reserve the balance of my time.

Mr. FRENZEL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 12606, which allows annuity contracts, purchased for employees of the Uniformed Services University of the Health Sciences, to be favorably treated under section 403(b) of the Internal Revenue Code.

The University was established to provide trained medical personnel to the armed services. To make the University competitive the Secretary of Defense approved a tax-deferred annuity retirement program similar to that offered by other medical schools. However, the program did not qualify for tax referral under section 403(b) because the University is a Federal instrumentality and not a tax-exempt organization. The bill corrects this situation and I urge its immediate adoption.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Louisiana (Mr. WAGGONNER) that the House suspend the rules and pass the bill H.R. 12606.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

TAX EXEMPT STATUS OF NEW YORK PUBLIC EMPLOYEE RETIREMENT SYSTEMS

Mr. WAGGONNER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 12051) relating to the application of certain provisions of the Internal Revenue Code of 1954 to specified transactions by certain public employee retirement systems created by the State of New York or any of its political subdivisions as amended.

The Clerk read as follows:

H.R. 12051

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. QUALIFIED STATUS OF PARTICIPATING PENSION PLANS.

(a) GENERAL RULE.—A participating pension plan shall not be considered to fail to satisfy the requirements of section 401(a) of the Internal Revenue Code of 1954, and shall not be considered to have engaged in a prohibited transaction described in section 503(b) of such Code, merely because—

(1) during the period beginning on July 1, 1978, and ending on June 30, 1982, the plan acquires city indebtedness which meets the applicable requirements of section 2, or

(2) the plan continues to hold any city indebtedness acquired—

(A) pursuant to this Act or Public Law 94-236, or

(B) before November 26, 1975.

(b) ACQUISITION OF INDEBTEDNESS PURSUANT TO AGREEMENT.—The acquisition of city indebtedness by a participating pension plan under an agreement for the acquisition of city indebtedness meets the applicable requirements of section 2 if—

(1) the agreement is not disapproved by the Secretary under subsection (c), and

(2) the plan certifies to the Secretary (and furnishes to the Secretary and to the appropriate committees of the Congress such supporting information and documentation as the Secretary shall require) that the acquisition—

(A) is made under the agreement, and

(B) meets the applicable requirements of section 2 (determined without regard to the provisions of subsections (b), (c), and (f) of section 2).

(c) SIXTY-DAY PERIOD FOR DISAPPROVAL.—

(1) IN GENERAL.—Before entering into an agreement described in subsection (b), and before acquiring any city indebtedness not covered by such an agreement, the participating pension plan shall notify the Secretary of the proposed agreement of acquisition. If the Secretary determines (not later than 60 days after the date of such submission or

such shorter period as the Secretary may establish) that such agreement or acquisition does not meet any requirement of section 2, the Secretary shall disapprove such agreement or acquisition (as the case may be). For purposes of this subsection, an amendment, or a waiver of any provision, of such an agreement shall be treated as a new agreement.

(2) NOTIFICATION.—The Secretary shall, not later than the 10th day after the close of the period applicable under paragraph (1), notify the appropriate committees of the Congress of the determinations he has made with respect to the submission and the reasons on which such determinations were based.

SEC. 2. REQUIREMENTS.

(a) LIMITATIONS ON AMOUNT OF DEBT TO BE ACQUIRED.—

(1) PERCENTAGE LIMITATIONS.—As acquisition of city indebtedness by a participating pension plan does not meet the requirements of this section if—

(A) AGGREGATE LIMIT ON ACQUISITIONS BY CITY PLANS.—In the case of a city plan, the plan acquires any city indebtedness after June 30, 1979, and before the city plans meet the percentage limitation on holdings of city indebtedness applicable under this subparagraph for the 12-month period ending on the most recently preceding June 30. The percentage limitation on holdings of city indebtedness under this subparagraph is not met if the value of city indebtedness held by all city plans exceeds a percentage of the aggregate assets of all city plans equal to—

(i) 40 percent for the 12-month period ending on June 30, 1979,

(ii) 36 percent for the 12-month period ending on June 30, 1980,

(iii) 33 percent for the 12-month period ending on June 30, 1981, and

(iv) 30 percent for the 12-month period ending on June 30, 1982.

(B) LIMIT ON ACQUISITIONS BY EACH CITY PLAN.—In the case of a city plan, the plan acquires any city indebtedness which, when added to other city indebtedness held by such plan, would cause such holdings to exceed 50 percent of the assets of such plan at the time of the acquisition.

(C) LIMIT ON ACQUISITIONS BY STATE PLAN.— In the case of a State plan, the plan acquires any city indebtedness which, when added to other city indebtedness held by such plan, would cause such holdings to exceed 10 percent of the assets of such plan at the time of the acquisition.

(D) DETERMINATIONS OF WHETHER THE PERCENTAGE LIMITATIONS HAVE BEEN MET.—

(i) AGGREGATE LIMIT.—For the purpose of determining whether the percentage limitation on holdings of city indebtedness under subparagraph (A) has been met for any 12-month period described in that subparagraph, the plan shall use the arithmetic mean expressed as a percentage) of 4 fractions, the numerators of which are the value of city indebtedness held by all city plans as of the close of each calendar quarter within the 12-month period for which the determination is being made and the denominators of which are the value of the assets of all city plans as of the close of each such calendar quarter. If the percentage limitation under subparagraph (A) is not met for a 12-month period on the basis of the 4 fractions for the 4 calendar quarters within that 12-month period, the plan shall make a redetermination for that 12-month period as of the close of the first calendar quarter, if necessary, the second calendar quarter and, if necessary, the third calendar quarter following the 12-month period using the 4 fractions for the 12-month period and the fraction or fractions for the additional quarter or quarters. If the value of city indebtedness or plan assets is not available for any quarter at the time the determination of the fraction for that quarter is being made, the plan shall use a value derived from interpolations from the most recently available semiannual valuations.

(ii) PLAN LIMIT.—In making a determination of whether or not an acquisition of city indebtedness meets the requirements of subparagraph (B) or (C), the plan shall make determinations based on the most current data available as to the holdings of city indebtedness and on the basis of the most recently available semiannual valuation of assets of the plan.

(2) METHOD OF VALUATION.—For purposes of this subsection—

(A) city indebtedness is to be valued by the plan at its face value, and

(B) all other assets are to be valued by the plan under methods determined by the Secretary to be consistent with the methods of valuing assets for purposes of section 412 of the Internal Revenue Code of 1954.

(b) STANDARDS.—

(1) OVERALL STANDARD.—The overall standard used by the Secretary under this Act in determining whether or not to disapprove an agreement for the acquisition of city indebtedness under section 1(c) shall be the extent to which the acquisition of city indebtedness under the agreement will, in the case of a city plan—

(A) maintain the ability of the city—

(i) to make future contributions to the plan or trust, and

(ii) to satisfy its future obligations to pay pension and retirement benefits to members and beneficiaries of such plan or trust, and

(B) protect the sources of funds to provide retirement benefits for members and beneficiaries of the plan or trust.

(2) FACTORS TO BE TAKEN INTO ACCOUNT.—In determining whether or not to disapprove such an agreement the Secretary shall take into account (among other factors) the terms of the obligations which are to be acquired under the agreement.

(3) FISCAL PARTICIPATION BY PRIVATE SOURCES OR PUBLIC CREDIT MARKETS.—The Secretary shall disapprove any such agreement unless he has received assurances to his satisfaction that there will be significant participation in the acquisition of city indebtedness by the State, an agency of the State, or private sources, or through public credit markets.

(c) REQUIREMENTS WITH RESPECT TO FISCAL CONDITION OF THE CITY.—

(1) SUBSTANTIAL PROGRESS TOWARD A BALANCED BUDGET BY 1982.—An acquisition of city indebtedness by a participating pension plan during any fiscal year beginning after June 30, 1979, does not meet the requirements of this section unless the Secretary has determined for such fiscal year that the city is making substantial progress toward operating under expense budgets which do not show a deficit.

(2) PRINCIPLES TO BE APPLIED UNDER PARAGRAPH (1).—The Secretary shall make the determination required under paragraph (1) on the basis of—

(A) whether or not the requirements of paragraph (5) of section 103 of the New York City Loan Guarantee Act of 1978 (as such Act is in effect on the date of enactment of this Act) are being met, and

(B) the annual audited financial statements of the city prepared in accordance with generally accepted accounting principles (including principles applicable to municipal governments which provide for a clear division between operating outlays and revenues on the one hand and capital expenditures and revenues on the other hand) and in accordance with generally accepted auditing standards.

(d) PLANS HAVING NEGATIVE CASH FLOW.—

(1) IN GENERAL.—An acquisition of any city indebtedness by a city plan does not meet the requirements of this section if the plan would have a negative cash flow for the fiscal year of acquisition.

(2) SPECIAL RULES.—For purposes of paragraph (1)—

(A) cash flow shall be determined by the plan for each fiscal year, and also whenever the plan enters into an agreement which must be submitted to the Secretary under section 1(c) (including any amendment of, or waiver under, such an agreement),

(B) cash flow shall be determined in the same manner as provided in paragraph (3) of subsection (e), and

(C) the effect of completed and proposed acquisitions during the plan year on the cash flow shall be taken into account.

(e) REPORTS.—

(1) ANNUAL REPORT BY PLANS ON RECEIPTS, DISBURSEMENTS, HOLDINGS, AND CASH FLOW.—

(A) ANNUAL REPORT.—An acquisition of any city indebtedness by any participating city pension plan does not meet the requirements of this section unless, for each preceding plan year beginning after June 30, 1978, and ending more than 8 months and 15 days before the date of the acquisition, the plan has submitted an annual report which meets the requirements of paragraph (2) to the Secretary and to the appropriate committees of the Congress.

(B) PROJECTED CASH FLOW.—An acquisition of city indebtedness by any participating city pension plan for any plan year does not meet the requirements of this section unless the plan has submitted to the Secretary and to the appropriate committees of the Congress a statement showing the projected cash flow for the plan year.

(2) ANNUAL REPORT BY INDEPENDENT PUBLIC ACCOUNTANT.—An annual report does not meet the requirements of this paragraph unless it—

(A) includes an analysis of compliance by the plan throughout the fiscal year with the requirements of subparagraphs (A) and (B) of subsection (a)(1),

(B) is prepared in accordance with generally accepted accounting principles, and

(C) meets the requirements of paragraph (3) of section 103(a) of the Employee Retirement Income Security Act of 1974, as in effect on the date of enactment of this Act (without regard to the last 4 sentences of subparagraph (A) of that paragraph).

(3) RULES FOR DETERMINING CASH FLOW.—For purposes of paragraph (1)(B), the cash flow—

(A) shall take into account contributions and other income (such as dividends and interest) on the one hand and the payment of benefits and expenses on the other hand, and

(B) shall not take into account items properly chargeable to capital account (such as the proceeds from the sale or redemption of assets), other than—

(i) payment of principal during the period a debt is outstanding,

(ii) payment of principal at maturity or redemption, and

(iii) proceeds from the sale of obligations having a maturity of one year or less at the time of sale.

(f) CITY MUST COMPLY WITH REQUIREMENTS OF SECTION 103(7) OF NEW YORK CITY LOAN GUARANTEE ACT OF 1978.—An acquisition of city indebtedness by a city pension plan for any plan year does not meet the requirements of this section unless, at the time of the acquisition, the Secretary has determined that the requirements of paragraph (7) of section 103 of the New York City Loan Guarantee Act of 1978, as in effect on the date of enactment of this Act, have been met.

SEC. 3. NOTIFICATION OF PLANS AND CITY OF ACQUISITIONS WHICH FAIL TO MEET REQUIREMENTS

(a) NOTIFICATION OF PLANS AND CITY.—

(1) NOTICE OF FAILURE TO MEET REQUIREMENTS.—Whenever the Secretary determines

that an acquisition of city indebtedness has not met one of the requirements of section 2, he shall notify the participating plan or plans involved.

(2) NOTICE OF POSSIBLE PROSPECTIVE FAILURE.—The Secretary shall notify each participating pension plan and the city whenever he finds, based on information available to the Secretary, that a future acquisition of city indebtedness will fail to meet the requirements of section 2 because of the requirement of subsection (a)(1)(A) or (c) of that section, and he shall notify the participating pension plan concerned and the city whenever it appears that a future acquisition of city indebtedness by that plan will fail to meet the requirements of section 2 for any other reason.

(b) REGULATIONS.—The Secretary of the Treasury or his delegate is authorized to prescribe such regulations as may be necessary to carry out the provisions of this Act.

SEC. 4. DEFINITIONS AND SPECIAL RULES.

For purpose of this Act—

(1) PARTICIPATING PENSION PLAN.—The term "participating pension plan" means any city plan or State plan.

(2) CITY PLAN.—The term "city plan" means any of the following:

(A) the New York City employees' retirement system,

(B) the teachers' retirement system for the city of New York,

(C) the New York City Police Pension Fund, article 2,

(D) the New York City Fire Department Pension Fund, article 1-B, and

(E) the board of education retirement system for the city of New York.

(3) STATE PLAN.—The term "State plan" means any of the following:

(A) the New York State employees' retirement system,

(B) the New York State policemen's and firemen's retirement system, and

(C) the New York State teachers' retirement system.

(4) APPROPRIATE COMMITTEES OF THE CONGRESS.—The term "appropriate committees of the Congress"' means the Committee on Ways and Means of the House of Representatives and the Finance Committee of the Senate.

(5) REFERENCES TO PLAN INCLUDE REFERENCES TO TRUST.—A reference to a plan includes a reference to any trust forming a part thereof.

(6) CITY INDEBTEDNESS.—The term "city indebtedness" means any city obligation or any State financing agency obligation.

(7) CITY OBLIGATION.—The term "city obligation" means any indebtedness for money borrowed by the city.

(8) STATE FINANCING AGENCY OBLIGATION.—The term "State financing agency obligation" means any indebtedness for money borrowed by the State financing agency.

(9) STATE FINANCING AGENCY.—The term "State financing agency" means any agency or instrumentality of the State of New York duly authorized by such State to act on behalf of or in the interest of the city, and no other subdivision of the State, with respect to the city's financial affairs.

(10) CITY.—The term "city" means the city of New York.

(11) FISCAL YEAR.—The term "fiscal year" means a 1-year period beginning on July 1 or, where the Secretary determines it to be appropriate, the plan year of a participating pension plan.

(12) SECRETARY.—The term "Secretary" means the Secretary of the Treasury. Except as provided in section 3, no function, power, or duty of the Secretary under sectioin 1, section 2, or this section may be delegated.

(13) ACQUISITION.—The term "acquisition" includes—

(A) a purchase or an exchange (whether pursuant to a rollover or otherwise), and

(B) to the extent provided in regulations prescribed by the Secretary, any modification in the terms of an obligation or in the rights of the holder of an obligation.

SEC. 5. RELATIONSHIP OF THIS ACT TO PUBLIC LAW 94-236.

Effective on the date of the enactment of this Act, the waiver of the requirements of section 401(a) and 503(b) of the Internal Revenue Code of 1954 contained in subsection (a) of the first section of Public Law 94-236 shall not apply to acquisitions of city indebtedness on or after such date.

The SPEAKER pro tempore. Is a second demanded

Mr. FRENZEL. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Louisiana (Mr. WAGGONNER) and the gentleman from Minnesota (Mr. FRENZEL) will be recognized for 20 minutes each.

The Chair now recognizes the gentleman from Louisiana (Mr. WAGGONNER).

Mr. WAGGONNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in August, when the Congress approved and the President signed H.R. 12426, authorizing Federal guarantees of New York debt obligations issued to New York public pension plans, we took one step under a plan to let New York City use self-help to solve its financial problems. The bill before us today, H.R. 12051, is an additional step toward that same goal.

Basically, the bill provides a 4-year extension of the provisions in a 1976 act, Public Law 94-236. That act permits five New York City employee pension plans to buy and hold New York City obligations and obligations of the Municipal Assistance Corporation (MAC) without adversely affecting their status as qualified pension plans under the provisions of the Internal Revenue Code.

The extension of Public Law 94-236 is needed because it expires at the end of 1978, and it must be amended because it does not extend its protection to New York State employee plans in its present form.

This bill waives, until June 30, 1982, the provisions in the code which require that a qualified pension plan be for the exclusive benefit of the employees or their beneficiaries and which prohibit self-dealing between a plan and its sponsoring employer. The waiver will permit five city plans and three State plans to buy obligations issued by the city or MAC.

The bill provides standards and requirements with which the pension plans and the city must comply. The Secretary of the Treasury has the responsibility of disapproving an agreement between the city and the pension plans, if the standards that apply to the plans are not met. A pension plan's tax status is protected, however, if it acquires the obligations under the agreement and also certifies at the time of the acquisition that the applicable standards have been met.

The bill protects the interests of the employees who have earned benefits under the plans by limiting the involvement of the plans, by subjecting the finances of the plans and the city to the scrutiny of the independent public accountants, and by contributing to the principal source of financial strength for the plans—the financial strength of the city.

Mr. Speaker, this bill was approved by the Ways and Means Committee as a part of an overall plan to let the city of New York get back on its feet. I urge the House to approve it.

Mr. FRENZEL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 12051 which allows pension funds for certain employees of New York City and State, to continue to retain their tax-exempt status while assisting New York City during its period of financial difficulty.

In 1976, the Congress passed Public Law 94-236, which allowed five New York City pension funds to retain their tax-exempt status while purchasing obligations of New York City and its Municipal Assistance Corporation. The legislation was necessitated by New York City's severe financial situation.

Since enactment of Public Law 94-236 New York City's financial condition has improved and the employee pension funds have contributed significantly to this improvement. However, Public Law 94-236 will expire at the end of this year and additional legislation is necessary to enable the pension funds to continue their active participation in New York City's financial recovery.

H.R. 12051 has been approved by the Senate and requires the pension funds and New York City to comply with far more stringent rules than the bill originally considered by the Committee on Ways and Means.

H.R. 12051 allows five New York City pension funds and three pension funds for employees of New York State to retain their tax-exempt status, while they acquire specified debt obligations under an agreement the Secretary of the Treasury has not disapproved. The bill sets forth criteria for disapproval and requires congressional notification.

H.R. 12051 also imposes strict limitations on the amount of obligations that may be acquired by: First, all New York City pension funds jointly; and second, each New York City and State pension fund separately. The bill also requires the pension funds to meet specific cash flow requirements and to be audited annually. The requirements are new.

Pension funds that acquire debt obligations of New York City or the Municipal Assistance Corporation in a way that does not satisfy the requirements of H.R. 12051 can lose their tax-exempt status.

New requirements are also imposed on New York City to assure its fiscal responsibility. Thus, the Secretary of the Treasury will disapprove an agreement to purchase obligations of New York City in 1979, 1980, or 1981 unless he determines that the city is making substantial progress toward a balanced budget in 1982. Similarly, in 1982 an agreement will be disapproved by the Secretary un-

less he determines that the city's budget for 1982 does not show a projected deficit and the city's audited financial statements for the 3 previous years show substantial progress toward a balanced budget.

In summary, H.R. 12051 requires New York City and the affected pension funds to comply with strict financial reporting requirements and new standards of fiscal responsibility; while giving the pension funds the flexibility needed to assist New York City. I urge its immediate passage.

Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

Mr. WAGGONNER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Louisiana (Mr. WAGGONNER) that the House suspend the rules and pass the bill H.R. 12051, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

IRC AMENDMENTS RE TAX TREATMENT OF PUBLIC UTILITIES

Mr. WAGGONNER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 11741) to amend section 118 of the Internal Revenue Code of 1954 to clarify the treatment of contributions in aid of construction to regulated electric or gas public utilities.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. IN GENERAL.

Section 118(b) of the Internal Revenue Code of 1954 (relating to contributions in aid of construction) is amended—

(a) by striking out "water" in the portion of paragraph (1) preceding subparagraph (A) thereof and inserting in lieu thereof "electric energy, gas (through a local distribution system or transportation by pipeline), water,";

(b) by striking out "water" in paragraph (1)(B) and inserting in lieu thereof "electric energy, gas, steam, water,";

(c) by striking out "water" in paragraph (2)(A)(ii) and by inserting in lieu thereof "electric energy, gas, steam, water,";

(d) by striking out "property" in paragraph (3)(A) and by inserting in lieu thereof "line" and by striking out "a main water or sewer line" in paragraph (3)(A) and by inserting in lieu thereof "an electric line, a gas main, a steam line, or a main water or sewer line"; and

(e) by amending paragraph (3)(C) to read as follows:

"(C) REGULATED PUBLIC UTILITY.—The term 'regulated public utility' has the meaning given such term by section 7701(a)(33); except that such term shall not include any such utility which is not required to provide electric energy, gas, water, or sewerage disposal services to members of the general public (including in the case of a gas transmission utility, the provision of gas services by sale for resale to the general public) in its service area."

SEC. 2. EFFECTIVE DATE.

The amendments made by this Act shall apply to contributions made after January 31, 1976.

The SPEAKER pro tempore. Is a second demanded?

Mr. FRENZEL. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Louisiana (Mr. WAGGONNER) and the gentleman from Minnesota (Mr. FRENZEL) will be recognized for 20 minutes each.

The Chair recognizes the gentleman from Louisiana (Mr. WAGGONNER).

Mr. WAGGONNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 11741 deals with the tax treatment of contributions in aid of construction which are made to regulated electric or gas public utilities.

Under present law, contributions to the capital of a corporation are not includible in gross income of the corporation. However, the corporation would take a zero basis in property contributed by someone who was not a shareholder.

The Tax Reform Act of 1976 added a provision to specifically provide that nontaxable treatment applies to contributions in aid of construction to regulated public water and sewage utilities. This provision was added in response to the revocation of a long-standing Internal Revenue Service ruling which had treated contributions in aid of construction to regulated utilities as nontaxable contributions to capital. The bill, H.R. 11741, provides that contributions in aid of construction to regulated public gas and electric utilities would also be treated as nontaxable contributions to capital to these utilities.

Mr. Speaker, I urge the adoption of H.R. 11741.

Mr. FRENZEL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 11741 which excludes from income contributions in aid of construction received by regulated gas and electric utilities.

In 1975 the Internal Revenue Service ruled that contributions to regulated public utilities in aid of construction, were includible in income, thus changing its prior position. The Tax Reform Act of 1976 revised the IRS ruling in part by treating contributions in aid of construction to regulated public water and sewerage utilities as nontaxable contributions to capital. The bill extends the 1976 act's treatment to contributions in aid of construction that are received by regulated public gas and electric utilities. Property acquired with the excluded contributions would not be eligible for the investment tax credit or depreciation deduction.

Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

Mr. WAGGONNER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Louisiana (Mr. WAGGONNER) that the House suspend the rules and pass the bill, H.R. 11741.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

TAX TREATMENT OF TAX EXEMPT ORGANIZATIONS' TRADE SHOWS

Mr. WAGGONNER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 12828) to amend the Internal Revenue Code of 1954 to exclude from the definition of an unrelated trade or business qualified convention and trade shows activities carried out by an organization described in section 501(c)(3), as amended.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) paragraph (3) of section 513(d) of the Internal Revenue Code of 1954 (defining qualified convention and trade show activities for purposes of the tax on unrelated business income) is amended by adding at the end thereof the following new subparagraph:

"(D) SPECIAL RULES FOR SECTION 501(C)(3) ORGANIZATIONS.—In the case of an organization described in section 501(c)(3) which regularly conducts conventions as one of its substantial exempt purposes, if one of the purposes of such organization in sponsoring the convention is to educate persons engaged in the organization's field of endeavor with respect to products, services, techniques, or procedures in such field (or with respect to rules and regulations affecting such field)—

"(i) any activity of a kind traditionally conducted at such a convention shall be treated as a qualified convention and trade show activity, and

"(ii) such organization shall be treated as a qualifying organization described in subparagraph (C).

For purposes of this subparagraph, the term 'convention' includes a meeting or trade show."

(b) Subparagraph (B) of section 513(d)(3) of such Code is amended by inserting "or the education of persons engaged in the industry in the development of new products and services or new rules and regulations affecting the industry" after "industry in general".

(c) Subparagraph (C) of such section 513(d)(3) of such Code is amended by inserting before the period at the end thereof "or which educates persons engaged in the industry in the development of new products and services or new rules and regulations affecting the industry".

(d) The amendments made by this section shall apply to activities in taxable years beginning after October 4, 1976.

The SPEAKER pro tempore. Is a second demanded?

Mr. FRENZEL. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Louisiana (Mr. WAGGONNER) and the gentleman from Minnesota (Mr.

FRENZEL) will be recognized for 20 minutes each.

The Chair recognizes the gentleman from Louisiana (Mr. WAGGONNER).

Mr. WAGGONNER. Mr. Speaker, I yield myself time as I may consume.

Mr. Speaker, H.R. 12828 expands the exemption enacted in the Tax Reform Act of 1976 for income derived by labor unions and trade associations from convention and trade show activities, and extends the exemption to charitable organizations.

Under present law, exemption from the unrelated business income tax applies to income derived from "member shows" at which the products and services of the involved industry or trade group are displayed and sold. The Ways and Means Committee has concluded that the reasons which supported granting the member-show exemption in the 1976 act also support extending the exemption to income from "supplier shows," at which suppliers display and sell products and services affecting the industry or trade represented by the exempt organization.

In addition, the committee has concluded that there is no reason to treat charitable, educational, or religious organizations less favorably than labor unions or trade organizations with respect to income from convention activities. Accordingly, the bill provides rules for exemption of income from certain convention activities carried on by tax-exempt charitable organizations.

The provisions of the bill will reduce budget receipts by less than $1 million annually.

Mr. Speaker, I urge the adoption of this bill to provide appropriate rules for exemption of income derived by labor unions, trade associations, and charitable organizations from their annual conventions or other trade shows.

Mr. FRENZEL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 12828 concerning the treatment of trade show and convention income received by certain tax-exempt groups.

Tax-exempt organizations are subject to tax on their "unrelated business income." The Tax Reform Act of 1976 provided that in very limited situations, income received by organizations exempt from tax under section 501(c) (5) or (6) (relating to labor groups and business leagues respectively) from specified conventions and trade shows would not be subject to the unrelated business tax.

The bill extends the 1976 act's unrelated business tax exemption to income earned from specified trade shows and conventions by charitable, religious, and other organizations exempt from tax under section 501(c)(3).

The bill also exempts from the unrelated business tax, income earned by an organization from certain conventions and trade shows which are sponsored to educate people in the field concerning products, services, techniques, or procedures.

Mr. Speaker, I have no further requests for time, and I yield back the remainder of my time.

Mr. WAGGONNER. I have no further requests for time, and I yield back the remainder of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Louisiana (Mr. WAGGONNER) that the House suspend the rules and pass the bill H.R. 12828, as amended.

The question was taken; and (two-thirds having voted in favor thereof), the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. WAGGONNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Ways and Means Committee bills just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

UNITED STATES CODE, TITLE 18, AMENDMENTS, RE CIGARETTE SALE RACKETEERING

Mr. CONYERS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 8853) to amend title 18 of the United States Code to eliminate racketeering in the sale and distribution of cigarettes, and for other purposes, as amended.

The Clerk read as follows:

H. R. 8853

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That title 18, United States Code, is amended by inserting after chapter 113 the following new chapter:

"Chapter 114—TRAFFICKING IN CONTRABAND CIGARETTES

Sec.
"2341. Definitions.
"2342. Unlawful acts.
"2343. Recordkeeping, reporting, and inspection.
"2344. Penalties.
"2345. Effect on State law.
"2346. Enforcement and regulations.

"§ 2341. Definitions.

"As used in this chapter—

"(1) the term 'cigarette' means—

"(A) any roll of tobacco wrapped in paper or in any substance containing tobacco; and

"(B) any roll of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in subparagraph (A);

"(2) the term 'contraband cigarettes' means a quantity in excess of 30,000 cigarettes, which bear no evidence of the payment of applicable State cigarette taxes in the State where such cigarettes are found, if such State requires a stamp, impression, or indication to be placed on packages or other containers of cigarettes to evidence payment of cigarette taxes, and which are in the possession of any person other than—

"(A) a person holding a permit issued pursuant to chapter 52 of the International Revenue Code of 1954 as a manufacturer of tobacco products or as an export warehouse proprietor, or a person operating a customs bonded warehouse pursuant to section 311 or 555 of the Tariff Act of 1930 (19 U.S.C. 1311 or 1555) or an agent of such person;

"(B) a common or contract carrier transporting the cigarettes involved under a proper bill of lading or freight bill which states the quantity, source, and destination of such cigarettes;

"(C) a dealer—

"(i) who is licensed or otherwise authorized by the State where the cigarettes are found to account for and pay cigarette taxes imposed by such State; and

"(ii) who has complied with the accounting and payment requirements relating to such license or authorization with respect to the cigarettes involved; or

"(D) an officer, employee, or other agent of the United States or a State, or any department, agency, or instrumentality of the United States or a State (including any political subdivision of a State) having possession of such cigarettes in connection with the performance of official duties;

"(3) the term 'common or contract carrier' means a carrier holding a certificate of convenience and necessity, a permit for contract carrier by motor vehicle, or other valid operating authority under the Interstate Commerce Act, or under equivalent operating authority from a regulatory agency of the United States or of any State;

"(4) the term 'State' means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or the Virgin Islands;

"(5) the term 'dealer' means any person who sells or distributes in any manner any quantity of cigarettes in excess of 30,000 in a single transaction; and

"(6) the term 'Secretary' means the Secretary of the Treasury.

"§ 2342. Unlawful acts

"(a) It shall be unlawful knowingly to ship, transport, receive, possess, sell, distribute, or purchase contraband cigarettes.

"(b) It shall be unlawful knowingly to make any false statement or representation with respect to the information required by this chapter to be kept in the records of a dealer.

"§ 2343. Recordkeeping, reporting, and inspection

"Each dealer shall—

"(1) maintain such records of shipment, receipt, sale, and other distribution of cigarettes; and

"(2) submit to the Secretary such reports and information with respect to such records;

in such form and manner as the Secretary shall by regulation prescribe. Upon the consent of any dealer, or pursuant to a duly issued search warrant, the Secretary may enter the premises (including places of storage) of such dealer for the purpose of inspecting any records or documents required to be maintained by such dealer under this chapter, and any cigarettes kept or stored by such dealer at such premises.

"§ 2344. Penalties

"(a) Whoever violates any provision of this chapter or regulations promulgated thereunder shall be fined not more than $10,000, or imprisoned not more than two years, or both.

"(b) Any contraband cigarettes involved in any violation of the provisions of this chapter shall be subject to seizure and forfeiture, and all provisions of the Internal Revenue Code of 1954 relating to the seizure, forfeiture, and disposition of firearms, as defined in section 5845(a) of such Code, shall, so far as applicable, extend to seizures and forfeitures under the provisions of this chapter.

"§ 2345. Effect on State law

"Nothing in this chapter shall be construed to affect the concurrent jurisdiction of a State to enact and enforce cigarette tax laws, to provide for the confiscation of cigarettes and other property seized for violation of such laws, and to provide for penalties for the the violation of such laws.

"§ 2346. Enforcement and regulations

"The Secretary shall enforce the provisions of this chapter and may prescribe such rules and regulations as he deems reasonably necessary to carry out the provisions of this chapter.".

SEC. 2. The table of chapters of part I of title 18, United States Code, is amended by inserting immediately below the item relating to chapter 113 the following:

"114. Trafficking in Contraband Cigarettes 2341".

SEC. 3. (a) Section 1(b) of the Act of August 9, 1939 (ch. 618, 53 Stat. 1291 (49 U.S.C. 781(b))), is amended—

(1) by striking out "or" at the end of paragraph (2);

(2) by striking out the period at the end of paragraph (3) and inserting in lieu thereof "; or"; and

(3) by inserting after paragraph (3) the following new paragraph:

"(4) Any cigarette, with respect to which there has been committed any violation of chapter 114 of title 18, United States Code, or any regulation issued pursuant thereto.".

(b) Section 7 of the Act of August 9, 1939 (ch. 618, 53 Stat. 1291 (49 U.S.C. 787)), is amended—

(1) by striking out "and" at the end of subsection (e);

(2) by striking out the period at the end of subsection (f) and inserting in lieu thereof "; and"; and

(3) by inserting after subsection (f) the following new subsection:

"(g) The term 'cigarettes' means 'contraband cigarettes' as now or hereafter defined in section 2341 of title 18, United States Code.".

(c) Section 1961(1)(B) of title 18, United States Code, is amended by inserting after "sections 2314 and 2315 (relating to intrastate transportation of stolen property)," the following: "sections 2341–2346 (relating to trafficking in contraband cigarettes),".

SEC. 4. (a) Except as provided in subsection (b), this Act shall take effect on the date of its enactment.

(b) Sections 2342(b) and 2343 of title 18, United States Code, as enacted by the first section of this Act, shall take effect on the first day of the first month beginning more than 120 days after the date of the enactment of this Act.

The SPEAKER pro tempore. Is a second demanded?

Mr. BAUMAN. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Michigan (Mr. CONYERS) will be recognized for 20 minutes, and the gentleman from Maryland (Mr. BAUMAN) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Michigan (Mr. CONYERS).

Mr. CONYERS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 8853. Recognizing the Federal Government's obligation to aid the States in organized crime control measures, the purpose of this legislation is to create a federal criminal statutory framework to enable the Treasury and Justice Departments to assist the States in combatting cigarette racketeering, which has become a major source of income for organized crime and others engaged in the sale and distribution of contraband cigarettes.

The cigarette bootlegging proscribed by this legislation is the practice of purchasing large quantities of cigarettes in low tax States—primarily the tobacco-producing States of North Carolina, Virginia, and Kentucky—and transporting them to high tax States for resale without payment of the second State's tax. The cause of this problem is amazingly simple. Tax rates now range from 2 cents to 3 cents in North Carolina, Virginia, and Kentucky to 12 cents to 23 cents in 28 States. These disparities create a difference in price of up to $2.10 per carton and, hence, generally, the profit motive for cigarette bootlegging.

A total of 23 bills sponsored or cosponsored by 83 Members and introduced in the House during the 95th Congress were referred to the Subcommittee on Crime of the House Committee on the Judiciary.

In three lengthy hearings before the subcommittee, uncontroverted testimony by the Justice Department, Treasury Department (both of which support the bill) and additional witnesses clearly established that organized crime involvement in cigarette bootlegging has become a serious national problem which State law enforcement efforts have failed to adequately deter. Profits gained through cigarette racketeering by organized criminal elements are channeled into other illicit enterprises, such as narcotics. In addition, at least 34 States are now losing an estimated $400 million per year in evaded cigarette taxes.

H.R. 8853, as amended, establishes in its main provisions a four-pronged basis for Federal assistance to the States in combatting cigarette bootlegging.

First, the bill proscribes the act of bootlegging cigarettes by making it unlawful to knowingly ship, transport, receive, possess, sell, distribute, or purchase contraband cigarettes. "Contraband cigarettes" are defined as 30,000 cigarettes or more bearing no evidence of State cigarette tax payment in the State where they are found, which are in the possession of any person other than the specified various classes of excepted persons.

Second, the bill makes it possible for the Secretary of the Treasury to discover that cigarette bootlegging has occurred by requiring "dealers" (persons selling or distributing over 30,000 cigarettes in a single transaction) to keep records of shipment, receipt, sale and distribution and to submit to the Secretary of the Treasury such reports as the Secretary shall by regulation prescribe; authorizing the Secretary to enter dealers' premises upon consent or with a proper warrant to inspect required records or cigarettes stored on the premises and authorizing the seizure and forfeiture of contraband cigarettes and vehicles and other instrumentalities employed in the course of the illicit trafficking of cigarettes.

The bill provides a fine of up to $10,000 or imprisonment for up to 2 years, or both, for dealing in contraband cigarettes, knowingly making any false statements regarding information required to be kept in the records of dealers, or for violating any provision of this chapter or regulations promulgated thereunder.

Third, the bill authorizes seizure and forfeiture of contraband cigarettes involved in any violation of the provisions of this bill and makes all provisions of the Internal Revenue Code of 1954 relating to seizure, forfeiture and disposition of firearms applicable to seizure and forfeiture of contraband cigarettes.

Finally, the bill provides additional statutory basis for the Department of Justice to interdict organized cigarette racketeering by amending the "Racketeer Influenced and Corrupt Organization" (RICO) statute to include cigarette bootlegging as a specifically enumerated offense.

Cigarette bootlegging has steadily worsened since 1965, primarily because of the growing profit incentive provided by ever-increasing disparities in many States' cigarette tax rates. The undisputed testimony of virtually every witness corroborated the findings of several recent studies that cigarette bootlegging has become a major source of income for organized crime. Edgar N. Best, Deputy Assistant Director of the FBI, testified that cigarette bootlegging had become so lucrative—with profits of up to $126,000 per truckload—that all major organized crime families have taken a role in the trafficking of contraband cigarettes. He stated that estimates that organized crime controls 40 to 50 percent of all cigarette bootlegging may be "conservative." Hijackings, murder, corruption of public officials, the ruination of the businesses of thousands of cigarette wholesalers and retailers and the attendant loss of thousands of jobs, are the prevalent characteristics of organized crime involvement in cigarette bootlegging.

According to the Advisory Commission on Intergovernmental Relations (ACIR), a total of 34 States are losing almost $400 million in uncollected State cigarette taxes because of bootlegging. It must be emphasized that the major responsibility for enforcing State cigarette tax laws is now and must continue to be the burden of the States. The proposed legislation is designed to supplement current efforts by the States to combat cigarette smuggling, not to supplant them. States are encouraged to upgrade their capabilities in this regard, both in terms of increased resources and stronger State cigarette bootlegging statutes.

Nevertheless, because of the interstate nature of cigarette bootlegging, and the necessity of conducting surveillance and following actual shipments across State lines, cooperation among the States themselves has proved to be of limited effectiveness. The interstate character of illicit cigarette trafficking creates major jurisdictional limitations for State law enforcement agencies. Moreover, some State cigarette enforcement bureaus have been plagued by internal corruption. There also have been indications that some State and local law enforcement officials have harassed or refused to coop-

erate with agents from other States who entered to conduct surveillance in cigarette bootlegging cases.

It should be recognized that this bill will not eliminate cigarette bootlegging altogether. Since wide disparities among State cigarette tax rates provide the profit motive for cigarette bootlegging, the Subcommittee on Crime spent much time in its hearings taking testimony on "tax equalization" bills which have as their main objective the elimination of cigarette bootlegging through the equalization of State cigarette taxes by the application of a uniform Federal tax on cigarettes. It is recognized that the "tax equalization approach" by eliminating the profit motive, would likely eliminate cigarette bootlegging altogether. However, since the House Ways and Means Committee had jurisdiction over the tax equalization proposals, the Subcommittee on Crime did not attempt to report such provisions to the full Judiciary Committee.

It should also be noted parenthetically that the committee does not intend this bill to address the current exemption from State taxation of cigarette sales on Indian reservations, and nothing this bill is intended to affect any immunity from State tax held by any Indian or Indian tribe.

The question arose in the course of committee debate as to whether absence of specific reference to "interstate commerce" in the bill renders it constitutionally defective. In answer to this concern, I would like to insert into the record a letter from the Department of Justice and a legal memorandum from the American Law Division of the Library of Congress. Both of these documents state unequivocally that absence of the words "interstate commerce" from this bill does not render it constitutionally defective. Cigarette bootlegging by its very nature "affects interstate commerce". In fact, it is because of the interstate nature of the activity that this legislation was undertaken. Supreme Court decisions such as Perez versus United States and Heart of Atlanta Hotel versus United States clearly establish that cigarette bootlegging constitutes a class of activities which the Congress can constitutionally proscribe by criminal statute. In fact, the interstate nature of the problem provides the classic constitutional basis for Federal criminal jurisdiction. Even purely "intrastate" activities may be constitutionally proscribed by Federal criminal statute under modern case law if the activity "affects interstate commerce", as cigarette bootlegging does. This concept could conceivably come into play in instances where the knowing purchase, sale, shipment, transportation, possession, receiving or distributing of contraband cigarette is the focal point of prosecution pursuant to section 2342 of the bill.

The letter and memorandum follows:

DEPARTMENT OF JUSTICE,
Washington, D.C., October 2, 1978.

Hon. JOHN CONYERS, Jr.,
Chairman, Subcommittee on Crime, Committee on the Judiciary, House of Representatives, Washington, D.C.

DEAR CONGRESSMAN CONYERS: This is in response to your letter of September 18, 1978, requesting the formal views of this Department as to whether or not absence of specific mention of "interstate commerce" in H.R. 8853 renders it constitutionally defective.

We do not think the bill is constitutionally defective because of its failure to mention "interstate commerce" specifically. The interstate aspects of cigarette bootlegging is inherent in the activity. Congress' legislative efforts to make it a crime are premised on the interstate element: it is because of the interstate nature of the activity, and the inability of the States to control it, that the effort to legislate was undertaken. These factors are made clear, as you point out, by the legislative history of the bill. Therefore, the lack of a statement of findings and purposes relating to the interstate nature of bootlegging in this most recent version of the bill does not seem to us to be a defect. Most bills, after all, do not specifically set forth the findings of fact upon which they are based, and there is no requirement that they do so. *Perez* v. *United States*, 402 U.S. 146, 156 (1971).

Nor do we see a problem because in substantive provisions are not limited to interstate traffic in cigarettes. With respect to prospective criminal cases where an interstate element is shown, the bill is clearly constitutional. Should strictly intrastate activities become the subject of prosecution, we think any court would find, just as the Supreme Court did in *Perez, supra*, that the activities affect interstate commerce on the basis of the Congress' detailed findings as they appear in the legislative history of the legislation.

In *Perez*, the Court found that "[e]xtortionate credit transactions, though purely intrastate, may in the judgment of Congress affect interstate commerce." *Id.* at 154. According to the Court, Congress may deliberately write a law encompassing "more than the precise thing to be prevented" if necessary to prevent an evil. Finally, as a practical matter, the incidence of cases involving purely intrastate activities should be rare since the Department has repeatedly declared its intention to prosecute only when organized crime is involved.

In our view, the only question here is whether cigarette bootlegging is a class of activities within the power of Congress to regulate. The answer to the question is unlikely to depend on whether Congress restricts the bill's substantive provisions to transactions involving interstate activities or whether it attaches formal findings as a preamble.

Please let me know if I can be of any further assistance.

Sincerely,

JOHN C. KEENEY,
Deputy Assistant Attorney General, Criminal Division.

THE LIBRARY OF CONGRESS,
CONGRESSIONAL RESEARCH SERVICE,
Washington, D.C., September 18, 1978.

To: Subcommittee on Crime. Attn: Steven Raikin.

From: American Law Division.

Subject: Constitutionality of the Criminal Provisions of H.R. 8853 (Trafficking in Contraband Cigarettes) in Light of the Omission of any Statutory Reference to a Federal Jurisdictional Base.

This is in response to your request for a memorandum discussing the possible constitutional difficulties associated with the provisions of H.R. 8853 (Trafficking in contraband cigarettes) as agreed to by the Subcommittee on Crime because of the bill's failure to refer to any federal jurisdictional base such as the authority to regulate interstate and foreign commerce.

H.R. 8853 would make it unlawful to knowingly "ship, transport, receive, possess, sell, distribute, or purchase contraband cigarettes"; to knowingly "make any false statement or representation" in connection with records and statements required under the bill; to fail to "maintain such records of shipment, receipt, sale, and other distribution of cigarettes" or "to submit to the Secretary such reports and information with respect to such records"; or to violate any regulations promulgated under the bill.

As introduced, the bill contained a statement of findings and purpose declaring a congressional finding that, "there is a widespread traffic in cigarettes moving in or otherwise affecting interstate or foreign commerce . . ." and "there is a causal relationship between the flow of cigarettes into interstate commerce to be sold in violation of State laws and the rise of racketeering in the United States . . ." The statement of findings and purpose has been deleted from the bill as agreed to by the Subcommittee although it has been asserted that the hearings and report when printed will reflect evidence of and a congressional intent to combat the unlawful traffic in cigarettes moving in or otherwise affecting interstate commerce and to combat racketeering by attacking its unlawful traffic in cigarettes.

The absence of congressional findings within the language of the bill would not seem to raise constitutional difficulties, see *Heart of Atlanta Motel* v. *United States*, 379 U.S. 241, 252 (1964) ("While the Act as adopted carried no congressional findings the record of its passage through each house is replete with evidence of the burdens that discrimination by race or color places upon interstate commerce."); *Perez* v. *United States*, 402 U.S. 146, 156 (1971) ("We have mentioned in detail the economic, financial, and social setting of the problem as revealed to Congress. We do so not to infer the Congress need make particularized findings in order to legislate.")

The absence of a reference to interstate commerce in the definition of the offenses in the bill would likewise seem to pose no constitutional difficulty. In *Perez*, the Supreme Court found the extortionate credit provisions, which likewise make no express reference to interstate commerce, to be a valid exercise of the commerce power. As the Court noted there:

"The Commerce Clause reaches, in the main, three categories of problems. First, the use of channels of interstate or foreign commerce which Congress deems are being misused, as for example, the shipment of stolen goods (18 USC § 2312–2315) or of persons who have been kidnapped (18 USC § 1201). Second, protection of the instrumentalities of interstate commerce, as, for example, the destruction of an aircraft (18 USC § 32), or persons or things in commerce, as, for example, thefts from interstate shipment (18 USC § 659). Third, those activities affecting commerce. It is with this last category that we are here concerned. . . .

". . . Chief Justice Stone wrote for a unanimous Court in 1942 that Congress could provide for the regulation of the price of intrastate milk, the sale of which, a competition with interstate milk, affects the price structure and federal regulation of the latter. United States v. Wrightwood Dairy Co., 315 U.S. 110. . . . The commerce power, he said, "extends to those activities intrastate which so affect interstate commerce, or the exertion of the power of Congress over it, as to make regulation of them appropriate means to the attainment of a legitimate end, the effective execution of the granted power to regulate interstate commerce." Id. at 119. . . .

"In United States v. Darby, 312 U.S. 100 . . . , the decision sustained in Act of Congress which prohibited the employment of workers and the production of goods "for interstate commerce" at other than prescribed wages and hours, *a class of activities* was held properly regulated by Congress without proof that the particular intrastate activity against which a sanction was laid had an effect on commerce. A unanimous Court said: . . .

"sometimes Congress itself has said that a particular activity affects the commerce, as it did in the present Act, the Safety Appliance Act and the Railway Labor Act. In passing on the validity of legislation of the *class* last mentioned the only function of courts is to determine whether the particular activity regulated or prohibited is within the reach of the federal power." Id., at 120–121. . . .

"That case is particularly relevant here because it involved a criminal prosecution, a unanimous Court holding that the Act was 'sufficiently definite to meet constitutional demands.' Id. at 125. . . . Petitioner is clearly *a member of the class which* engages in 'extortionate credit transactions' as defined by Congress and the description of that class has the required definiteness. . . .

"In emphasis of our position that it was the *class of activities* regulated that was the measure, we acknowledge that Congress appropriately considered the 'total incidence' of the practice on commerce. [Katzenbach v. McClung, 379 U.S. 294, 301]

"Where the *class of activities is regulated* and that *class* is within the reach of federal power, the courts have no power 'to excise, as trivial, individual instances' of the class. Maryland v. Wirtz, 392 US 183. . . . *Perez* v. *United States*, 40 U.S. 46, 150–54 (1971)

From *Perez*, it would seem apparent that failure to expressly refer to interstate commerce within the definition of a criminal offense does not render the statute an invalid exericse of congressional authority to regulate interstate commerce.

CHARLES DOYLE,
Legislative Attorney.

Mr. Speaker, in closing, I would like to recognize the important contribution of the gentlewoman from New York, Ms. HOLTZMAN, the sponor of this legislation. She, together with Judiciary Committee Chairman RODINO and Subcommittee on Crime, Member TOM RAILSBACK, are to be commended, not only for sponsoring some of the major legislation in this area, but also for working so hard to help bring this legislation before the House as expeditiously as possible.

● Mr. GUDGER. Mr. Speaker, I rise in support of H.R. 8853 which was reported from the Judiciary Committee on which I have the privilege to serve. This bill is designed to make it a Federal crime to possess or sell 30,000 or more cigarettes in a State in which the taxes have not been paid as imposed by that State. The so-called bootlegging of cigarettes rises because of the disparity between the "high-tax States," such as New York, and the "low-tax States," such as North Carolina from which I was elected.

It should be clearly understood that it is not now, nor will it be under this bill, a crime to purchase any quantity of cigarettes in North Carolina, or any other "low-tax" State, and to sell them within that State—becomes a crime only when those cigarettes are transported into other States and are there sold without paying the proper tax of that State. Under the legislation being considered, the crime will occur as soon as such quantity of cigarettes are transported outside of the State where the lawful purchase was made.

Mr. Speaker, on last Friday, September 29, when the other body considered a similar bill to that before the House today, a complete substitute was offered by the Senator from Massachusetts, Mr. KENNEDY, who was managing the Senate bill. The CONGRESSIONAL RECORD of that date, beginning on page S16618, will reveal the provisions of the substitute and the proceedings thereon. The Senators from North Carolina, MORGAN and HELMS, the Senators from Kentucky, FORD and HUDDLESTON, the Senator from South Carolina, Mr. THURMOND, and the Senator from Oklahoma, Mr. BELLMON, all supported and commended the substitute as more effective legislation than that reported from the committee. Their substitute was designed to get at the criminal conspiracy and "racketeering" of contraband cigarettes, leaving the States to a traditional role of enforcing their laws to collect their taxes. The Governor of North Carolina, the Honorable Jim Hunt, when testifying on this bill before the House subcommittee, indicated that North Carolina was expanding its efforts to stop smuggling and to assist in law enforcement in other States. These efforts should continue, and Federal legislation should be aimed at the conspiracy and racketeering as proposed by the Senate-passed bill.

Mr. Speaker, our House committee report, on page 8, pointed out that the "contraband approach" would, at best, only reduce cigarette bootlegging by 30 percent. It would be my hope that the Senate-passed bill could be agreed to when it comes over to this body, or in conference. Due to the lateness in this session, I am voting for the House-reported bill to insure the possibility of enactment of legislation in this Congress.●

● Mr. RAILSBACK. Mr. Speaker, I rise in support of H.R. 8853, a bill to eliminate the serious problem of cigarette bootlegging.

As a member of the Judiciary Subcommittee on Crime, I have had the opportunity over the past months to review the troublesome issue of cigarette bootlegging. I first became aware of the seriousness of this problem almost a year ago through the informational efforts of the then Illinois Director of Revenue, Robert M. Whitler. From my communications with Mr. Whitler and the hearings our subcommittee has held, I have become convinced that the illegal trafficking in untaxed cigarettes is an interstate crisis that demands a prompt Federal solution.

Bootlegging's root cause is clear: The wide disparity in taxes on cigarettes among the States makes it highly profitable to purchase them in low-tax States and sell them illegally in high-tax States. The most visable consequence of this smuggling is the revenue loss to State and local governments—about $400 million each year nationwide. Illinois, 1 of the 14 States most seriously burdened by this problem, estimates its revenue losses at between $10 and $26 million annually despite the fact that its 12-cent-per-pack tax is lower than the tax in 21 other States. But the consequences of this problem extend far beyond the loss of government revenues.

Profits from bootlegging are a major source of income for organized crime, income used to fund other illegal activities such as drugs, loansharking, and prostitution. According to Time magazine, May 16, 1977, those who practice this form of smuggling may profit by as much as $1.5 billion annually. With such high stakes and only a minimal risk of apprehension because of the interstate nature of the operation, organized crime's involvement in cigarette trafficking can be expected to increase at the expense of legitimate wholesalers and retailers. Illinois calculates, for example, that bootlegging means a loss of between $30 and $75 million a year for private businesses within the State. In New York City alone, according to Forbes magazine, December 15, 1977, over half of the tobacco wholesalers and more than a quarter of the licensed retailers have gone out of business within the last decade largely because of competition from smugglers. Organized crime's exploitation of lawful commerce and their expansion into this area of illicit activity must be stopped. In my opinion, only Federal intervention will achieve that objective.

It has been suggested by some that the problem of cigarette bootlegging could be significantly reduced by increased State enforcement efforts alone. A few have even argued that State and local officials are not sincere in their resolve to eliminate illegal trafficking. I respectfully disagree with both of these assessments. New York, for example, already spends in excess of $1 million a year on cigarette tax collection. Illinois, like many States, has joined an interstate cooperative organization in an effort to pool its resources and overcome State territorial hurdles. As a member of the Interstate Revenue Research Center, which has offices in Indiana and consists of seven States, Illinois has received services and information crucial to the fight against cigarette bootlegging. One tip from the center led to a raid on December 23, 1976, by Illinois enforcement officials that netted more than 20,000 cartons of cigarettes bearing counterfeited tax stamps. But bootlegging is undeniably an interstate crime requiring a national commitment impossible at the State level because of jurisdictional limitations. Additional State efforts would be futile without Federal assistance.

The form Federal assistance should take is the subject of some disagreement. Those supporting the tax approach accurately state that by reducing the interstate tax differential on cigarettes, the incentive for cigarette bootlegging would be eliminated. Nonetheless, I opposed the uniform tax proposals pending before the subcommittee for the following reasons:

First. For residents of most States, such bills would impose significant tax increases. Congressman DRINAN's bill, for example, calls for a total Federal tax of 31 cents on each package of cigarettes. Twenty-three cents would be rebated to any State that eliminated its own tax. For Illinois, which is at the national tax rate average of 12 cents per package, the tax proposal would produce windfall revenue but would nearly double the tax on cigarettes our citizens now pay. The cost to citizens of lower-tax States, obviously, would be even higher.

Second. There is no guarantee under any of the Federal tax proposals that the disparities in tax rates actually will be eliminated. States are offered incentives

to drop their taxes, but they are not required to do so. It is possible, in fact, that they cannot be required to do so constitutionally.

Third. There is no realistic consideration given to the impact of local cigarette taxes on smuggling. Local taxes, when added to the cost of a State's tax on a package of cigarettes, increase the tax differential on cigarettes between the States, which makes smuggling an even more attractive enterprise. The Drinan bill does not address this city tax problem. And measures like those of Congressman JONES of Oklahoma say only that a State must eliminate city cigarette taxes to qualify for money from Federal tax collections. States like Illinois, which have provided home-rule authority for many local governments, will find that a difficult thing to do.

Fourth. Not all States face a cigarette smuggling problem. A significant tax increase, required by the Federal tax proposals, would be high prices for these States to pay for a problem that has had a beneficial effect on them. And the significant loss in State power required by the Federal tax proposals would be a high price for any State to pay.

Fifth. When they need revenue, most States look to the so-called discriminate or nuisance taxes. The cigarette taxes are among these. A person can avoid the tax simply by not buying the product on which it is applied. Federal tax proposals would eliminate State controls over cigarette tax rates.

Sixth. A State, once under the Federal collection umbrella, would be hard-pressed to back out. Under the Drinan proposal, for example, a State would have to levy 46 cents before it could add its own rate to secure additional revenues. This considers the loss of 23 cents in Federal revenue, the need to tax an additional 23 cents to make up for the Federal tax, and then an additional State tax.

In short, I sincerely believe that the disadvantages of the tax concept make it unacceptable at this time and a less offensive solution to the problem of bootlegging must be found.

I believe that the most realistic form of Federal assistance in combating this problem is the so-called contraband approach, an approach endorsed by virtually every witness that appeared before the subcommittee. The contraband approach, as contained in H.R. 8853, would impose Federal criminal penalties for the transportation of more than 30,000 cigarettes across State lines without payment of the applicable State taxes. Responsibility for enforcement would be delegated to the Secretary of the Treasury and violators could be fined up to $10,000, or imprisoned for up to 2 years, or both.

Supporters of the contraband approach include the Departments of Justice and Treasury, the National Governor's Association, the Advisory Commission on Intergovernmental Relations, the National Association of Tax Administrators, the National Tobacco Tax Association, and the National Association of Tobacco Distributors.

As a sponsor of legislation which tracks the contraband approach, I feel that it is the only acceptable solution to this growing interstate problem. To those who suggest that such a Federal criminal sanction for evasion of a State tax is unprecedented, I would only point out the existence of the Jenkins Act. This Federal law has for many years been an effective tool used by the States to halt mail order operations aimed at evading their cigarette tax laws. Further, those who point to estimates that a contraband law would only eliminate one-third of the bootlegging problem fail to recognize that the variables involved in such predictions render them conjectural at best. The fact remains that with the enactment of a Federal cigarette contraband law the mechanism will exist for a substantial, cross-jurisdictional effort to eradicate this major source of income for organized crime.

For this reason, I encourage my colleages on both sides of the aisle to support the pending legislation as a reasonable step toward solving the growing problem of cigarette bootlegging.●

● Mr. FISH. Mr. Speaker, on behalf of myself and my colleague from New York (Ms. HOLTZMAN) I rise in support of H.R. 8853 to eliminate racketeering in the sale and distribution of cigarettes.

I was first alerted to the danger presented by the illegal trafficking of cigarettes in my discussions with New York State Commissioner of Taxation and Finance, James H. Tully, Jr. As a result of his disclosures, Ms. HOLTZMAN and I introduced the legislation before the House today as a workable solution to this alarming problem.

As noted in the House Judiciary Committee report, the problem of cigarette bootlegging has steadily worsened since 1965, primarily as a result of the profit incentive provided by the State cigarette tax differentials. Congressional recognition of this problem is evidenced by the introduction of 20 similar measures in the House of Representatives in the 95th Congress.

Congressional interest in the pervasive and costly problem of cigarette bootlegging is not surprising. Revenue losses to individual States as a result of cigarette smuggling have approached the $400 million mark—34 States have suffered losses in tax revenue due to this illegal enterprise and 14 States have identified cigarette smuggling as a major problem.

Many of my colleagues are extremely aware of the devastating effects of illicit trafficking in their home States. Pennsylvania has lost $176 million over the past 10 years and is now losing on an average of $40 million annually. Illinois and Ohio have suffered losses of $25 million and $30 million, respectively, as a result of cigarette bootlegging.

My own State of New York provides the best example of the costly effects of these smuggling operations. Over 450 million packs of cigarettes are smuggled into New York State every year. Out of every two packs sold in New York City, one is bootlegged costing the taxpayers $85 million annually in lost tax revenues from legitimate sales. Over the past decade, New York State has incurred losses of over $600 million.

Job loss is frequently a result of the bootlegging operations. In New York it is estimated that one-half of the employees of cigarette wholesalers and vendors have lost their jobs as a result of the impact of illegal trafficking and one-third of the wholesalers have been forced out of business.

In the testimony presented to the Subcommittee on Crime, it was noted that organized crime involvement in cigarette bootlegging has become a serious national problem, second only to narcotics as a source of profits for their operations. Commissioner Tully also noted that there is evidence of organized crime involvement in bootlegging in at least 10 States. Congressional inaction would only succeed in contributing to the severity and the continuance of this thriving enterprise.

While many States, such as New York and Pennsylvania, have strengthened their enforcement programs, it appears that State law enforcement efforts have failed to adequately deter this problem. New York spends over $1 million annually just on cigarette tax enforcement. Increased interstate cooperation has also failed to have a significant effect on the sale of contraband cigarettes.

Mr. Speaker, the problems of cigarette bootlegging have reached serious proportions. The Department of Justice and the Department of the Treasury, who have historically opposed legislation of this nature, testified in general support of the remedy prescribed in H.R. 8853. This measure enjoys the support of the National Governor's Association, the Federation of Tax Administrators, and the Advisory Commission on Intergovernmental Relations. I urge my colleagues to recognize the need for Federal intervention in this area and vote to approve H.R. 8853.●

● Mr. DRINAN. Mr. Speaker, I rise in support of H.R. 8853, which would amend title 18 of the United States Code to enable the U.S. Treasury and Justice Departments to assist individual States in combating interstate cigarette bootlegging. I must, however, restate my firm conviction that this approach will not fully solve the problem of cigarette bootlegging. The prevention of this crime can only be brought about through eliminating economic incentives for bootlegging, and specifically by amending the Federal cigarette tax to eliminate wide price differentials between States.

The crime of bootlegging costs States upward of $500 million annually. The reason is simple: It is an offense which is relatively "safe," or undetectable. Criminals purchase large quantities of cheap cigarettes in a handful of States with very low tax rates, and transport them, usually over the interstate highways, to a State with a significantly higher tax. At that point, they are sold at a huge profit.

H.R. 10066, a cigarette tax reform bill which I introduced jointly with the gentleman from New York (Mr. PATTISON) last November, and which has been cosponsored by 15 Members of the House, attacks this problem at its root. This bill would amend the Internal Revenue Code to remove entirely the incentive for interstate cigarette smuggling by establishing a uniform Federal tax on cigarettes. Additional revenue thus generated would be rebated on a pro rata basis to States which refrain from imposing cigarette taxes of their own. In addition to elimi-

nating bootlegging, a major involvement of organized crime, this legislation would produce increased cigarette tax revenue for the States.

In testimony before the Subcommittee on Crime of the House Judiciary Committee, Mr. Glen R. Murphy, Director of the Bureau of Governmental Relations and legal counsel of the International Association of Chiefs of Police, endorsed H.R. 10066, saying that by establishing a uniform cigarette tax rate "the incentive to smuggle contraband cigarettes would be alleviated in its entirety. Such a program would meet the issue head-on at its outset, thus being a preventive measure."

At the same hearings, Mr. Wayne F. Anderson, Executive Director of the Council on Inter-governmental Relations, estimated that enactment of a pure law enforcement measure such as the one we are discussing today would optimistically only result in a 30 percent decline in the incidence of cigarette smuggling, while enactment of H.R. 10066 would totally eliminate the problem.

Thus Mr. Speaker, while I support passage of H.R. 8853 as an interim measure to control cigarette bootlegging, I remain convinced that reform of the cigarette tax would be the best possible solution to this serious problem. I will do all I can to ensure the passage of such legislation early in the 96th Congress.●

Mr. BAUMAN. Mr. Speaker, is it the intent of the gentleman from Michigan to ask general leave for all Members?

Mr. CONYERS. Mr. Speaker, I will do that, if I have not done it already.

Mr. BAUMAN. Mr. Speaker, I have no requests for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan (Mr. CONYERS) that the House suspend the rules and pass the bill, H.R. 8853, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. CONYERS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous matter, on H.R. 8853, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. CONYERS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1487) to eliminate racketeering in the sale and distribution of cigarettes, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The Clerk read the Senate bill as follows:

S. 1487

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

STATEMENT OF FINDINGS AND PURPOSE

SECTION 1. (a) The Congress finds that—

(1) there is widespread traffic in cigarettes moving in or otherwise affecting interstate or foreign commerce, and that the States are not adequately able to stop the movement into their States and the sale of such cigarettes in violation of their tax laws through the exercise of their police power;

(2) there is a causal relationship between the flow of cigarettes into interstate commerce to be sold in violation of State laws and the rise of racketeering in the United States;

(3) a Federal role in the fight against cigarette smuggling will assist the States in their law enforcement efforts and will be undertaken with the recognition that primary enforcement responsibility remains with the individual States;

(4) certain records maintained by persons possessing, selling, distributing, carrying, transporting, purchasing, or receiving cigarettes could have a high degree of usefulness in criminal investigations.

(b) It is the purpose of this Act to provide a timely solution to a serious organized crime problem and to help provide law enforcement assistance to individual States.

SEC. 2. Title 18, United States Code, is amended by inserting immediately after chapter 59 thereof the following new chapter:

"Chapter 60.—CIGARETTE TRAFFIC

"Sec.
"1285. Definitions.
"1286. Unlawful acts.
"1287. Enforcement and regulations.
"1288. Penalties.
"1289. Effect on State law.

"§ 1285. Definitions

"As used in this chapter—

"(a) 'Cigarette' means—

"(1) any roll of tobacco wrapped in paper or in any substance not containing tobacco, and

"(2) any roll of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in paragraph (1).

"(b) 'Contraband cigarettes' means a quantity of sixty thousand or more cigarettes, bearing no evidence of the payment of applicable State cigarette taxes in the State in which they are found, and which are in the possession of any person other than—

"(1) a person holding a permit issued pursuant to chapter 52 of title 26, United States Code, as a manufacturer of tobacco products or as an export warehouse proprietor or a person operating a customs-bonded warehouse pursuant to section 1311 or 1155 of title 19, United States Code, or an agent of such person;

"(2) a common or contract carrier: *Provided, however,* That the cigarettes are designated as such on the bill of lading or freight bill;

"(3) a person licensed or otherwise authorized by the State in which the cigarettes are found to deal in cigarettes and to account for and pay applicable cigarette taxes imposed by such State; or

"(4) an officer, employee, or other agent of the United States, or its departments and wholly owned instrumentalities, or of any State or any department, agency, or political subdivision having possession of the cigarettes in connection with the performance of his official duties.

"(c) 'Common or contract carrier' means a carrier holding a certificate of convenience or necessity or equivalent operating authority from a regulatory ageny of the United States or of any State.

"(d) 'State' means any State or the District of Columbia, Puerto Rico, or a territory or possession of the United States.

"(e) 'Secretary' means the Secretary of the Treasury or his delegate.

"(f) 'Person' means any individual, corporation, company, association, firm, partnership, society, or joint stock company.

"§ 1286. Unlawful acts

"It shall be unlawful for any person knowingly to possess, sell, distribute, transport, purchase, or receive contraband cigarettes.

"§ 1287. Enforcement and regulation.

"The Secretary shall enforce the provisions of this chapter and may prescribe such rules and regulations which are reasonably necessary to carry out the provisions of this chapter: *Provided, however,* That nothing contained in this chapter shall be interpreted as authorizing the Secretary to require persons who sell, distribute, transport or purchase cigarettes in the ordinary course of business to maintain records of such activities to the Secretary; except that the Secretary may require that any person involved in any transaction of a quantity of sixty thousand or more cigarettes shall note, on existing business records kept in the ordinary course of business, the identity and destination of the person receiving such cigarettes.

"§ 1288. Penalties

"(a) A person who knowingly violates section 1286 of this chapter shall be sentenced to a fine of not more than $100,000, or imprisoned for not more than five years, or both.

"(b) A person who knowingly violates any rules or regulations promulgated under section 1287 or knowingly makes any false statement or representation with respect to the information required by the Secretary to be kept in the records of a person, thereunder shall be sentenced to a fine of not more than $5,000, or imprisoned for not more than three years, or both.

"(c) Any contraband cigarettes involved in any violation of the provisions of this chapter shall be subject to seizure and forfeiture and all provisions of the Internal Revenue Code of 1954 relating to the seizure, forfeiture, and disposition of firearms, as defined in section 5845(a) of the Code, shall, so far as applicable, extend to seizures and forfeitures under the provisions of this chapter.

"§ 1289. Effect on State law

"(a) Nothing in this chapter shall be construed to affect the concurrent jurisdiction of a State to enact and enforce State cigarette tax laws, to provide for the confiscation of cigarettes and other property seized in violation of such laws, and to provide penalties for the violation of such laws.

"(b) Nothing in this chapter shall be construed to inhibit or otherwise affect any coordinated law enforcement effort by a number of States, through interstate compact or otherwise, to provide for the administration of State cigarette tax laws, to provide for the confiscation of cigarettes and other property seized in violation of such laws and to establish cooperative programs for the administration of such laws."

SEC. 3. Chapter 60 of title 18, United States Code, shall take effect on the date of enactment of this Act.

SEC. 4. The title analysis of title 18, United States Code, is amended by inserting immediately after the item relating to chapter 59 the following:

"60. Cigarette Traffic ..... 1285.".

SEC. 5. (a) Section 1(b) of the Act of August 9, 1939 (c. 618, 53 Stat. 1291), as amended (49 U.S.C. 781(b)), is amended by (1) striking out "or" at the end of paragraph

(2); (2) striking out the period at the end of paragraph 3 and inserting in lieu thereof "; or"; and (3) adding after paragraph 3 the following new paragraph (4) to read as follows:

"(4) Any cigarettes, with respect to which there has been committed any violation of any provisions of chapter 60 of title 18 or any regulation issued pursuant thereto."

(b) Section 7 of the Act of August 9, 1939 (c. 618, 53 Stat. 1291), as amended (49 U.S.C. 787), is amended by (1) striking out "and" at the end of subsection (e); (2) striking out the period at the end of subsection (f) and inserting in lieu thereof "; and"; and (3) adding after subsection (f), the following new subsection (g) to read as follows:

"(g) The term 'cigarettes' means 'contraband cigarettes' as now or hereafter defined in section 1285(b) of title 18.".

(c) Section 1961(1)(B) of title 18, United States Code, is amended by inserting after "sections 2314 and 2315 (relating to interstate transportation of stolen property)," the following: "sections 1285–1289 (relating to trafficking in contrabrand cigarettes),".

SEC. 6. (a) The Secretary of the Treasury is authorized and directed to carry out a study with a view to recommending to the Congress a program pursuant to which the several States would be encouraged to adopt and administer comprehensive laws establishing reasonable cigarette taxes and effective criminal provisions providing penalties for trafficking in contraband cigarettes in order to eliminate or control such trafficking.

(b) Such study shall include recommendations relating to the types and amounts of Federal assistance, including technical and financial, which should be provided under any such program. Such program shall, among other things—

(1) provide for the administration of such financial assistance by an appropriate State law enforcement agency;

(2) provide for review and analysis, on a continual basis, of cigarette tax-avoidance activities together with an analysis of the effectiveness of State law enforcement efforts to minimize such activities;

(3) incorporate and make recommendations with respect to innovative and advanced techniques to control cigarette tax-avoidance activities and contain a comprehensive outline of priorities for the improvement and coordination of all aspects of law enforcement and criminal justice in the area of trafficking in contraband cigarettes, including descriptions of: (A) general needs and problems; (B) existing law enforcement efforts; (C) available resources; (D) organizational systems and administrative machinery for implementing the plan; and (E) the direction, scope, and general nature of improvements to be made in the future;

(4) demonstrate the means by which a State may indicate its wilingness to assume the costs of improvements funded under any such program after a reasonable period of Federal assistance;

(5) set forth policies and procedures designed to assure that Federal funds made available under any such program will be so used as not to supplant State or local funds, but to increase the amounts of such funds that would, in the absence of such Federal funds, be made available for law enforcement and criminal justice efforts to control trafficking in contraband cigarettes;

(6) provide for such fund accounting, audit, monitoring, and evaluation procedures as may be necessary to assure fiscal control, proper management, and disbursement of funds received pursuant to such program.

(c) The Secretary shall, within the twelvemonth period following the date of the enactment of this Act report to the Congress the results of the study carried out pursuant to this section. Such report shall contain the recommendations, among others, of the Secretary in accordance with subsections (a) and (b) of this section.

SEC. 7. There is hereby authorized to be appropriated for the fiscal year beginning October 1, 1978, such sums as may be necessary to carry out the provisions of this Act.

MOTION OFFERED BY MR. CONYERS

Mr. CONYERS. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. CONYERS moves to strike out all after the enacting clause of S. 1487 and insert in lieu thereof the text of H.R. 8853, as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title was amended so as to read: "A bill to amend title 18 of the United States Code to eliminate racketeering in the sale and distribution of cigarettes, and for other purposes."

A motion to reconsider was laid on the table.

A similar House bill (H.R. 8853) was laid on the table.

APPOINTMENT OF CONFEREES

Mr. CONYERS. Mr. Speaker, I ask unanimous consent to insist on the House amendment to the Senate bill, S. 1487, and request a conference with the Senate thereon.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan? The Chair hears none, and, without objection, appoints the following conferees: Mr. CONYERS, Ms. HOLTZMAN, and Messrs. ERTEL, GUDGER, VOLKMER, RODINO, RAILSBACK, and ASHBROOK.

There was no objection.

COAL LEASING AMENDMENTS

Mr. KAZEN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 13553) to further amend the Mineral Leasing Act of 1920 (30 U.S.C. 201(a)), to authorize the Secretary of the Interior to exchange Federal coal leases and to encourage recovery of certain coal deposits, and for other purposes, as amended.

The Clerk read as follows:

H.R. 13553

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) notwithstanding any provision of law to the contrary and notwithstanding the provisions of section 2(a) (1) of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 201(a) (1)), the Secretary of the Interior is authorized to issue leases for coal on other Federal lands in the State of Utah to the lease applicant named in preference right lease applications serial numbers U1362, U1363, U1375, U5233, U5234, U5235, U5236, and U5237 upon surrender and relinquishment by the applicant of such preference right lease applications and all right to lease the lands covered by such applications, such surrender and relinquishment to be made in exchange for the lease or leases to be issued by the Secretary.

(b) Notwithstanding any provision of law to the contrary and notwithstanding the provisions of section 2(a)(1) of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 201 (a)(1)), the Secretary of the Interior is authorized to issue leases for coal on other Federal lands in the State of Wyoming to the owner or owners of Federal coal leases serial numbers W0313666, W0111833, W073289, W0312311, and W0313668, B-025369, W0256663, W5035, W0322794 covering lands in the State of Wyoming upon the surrender and relinquishment of such leases or portions thereof.

(c) The leases to be issued by the Secretary pursuant to the authority granted by subsections (a) and (b) of this Act and the leases or portions thereof or rights to leases to be exchanged therefor shall be of equal value. If such leases or portions thereof or rights to leases are not of equal value, the Secretary is authorized to receive, or pay out of funds available for that purpose, cash in an amount up to 25 per centum of the value of the coal lease or leases to be issued by the Secretary in order to equalize the value of the lease or lease rights to be exchanged.

(d) Any exchange lease issued by the Secretary under the authority of this Act shall contain the same terms and conditions as those leases surrendered, or in case of a surrendered lease right, the same terms and conditions as those to which the lease applicant would be entitled.

(e) This subsection does not require or obligate the Secretary to take any action or to make any commitment to a lessee or lease applicant with respect to issuance, administration, or development of any lease.

SEC. 2. Section 2(a)(1) of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 201(a)(1)), is further amended by striking the period at the end of the first sentence and inserting in lieu thereof the following: "; *Provided,* That notwithstanding the competitive bidding requirement of this section, the Secretary may, subject to such conditions which he deems appropriate, negotiate the sale at fair market value of coal the removal of which is necessary and incidental to the exercise of a right-of-way permit issued pursuant to title V of the Federal Land Policy and Management Act of 1976.".

SEC. 3. Section 3 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 203), is further amended by adding after the word "contiguous", the words "or cornering", and by deleting the period at the end of the second sentence thereof and adding the following clause: "except that nothing in this section shall require the Secretary to apply the production or mining plan requirements of section 2(d)(2) and 7(c) of this Act (30 U.S.C. 201(d)(2) and 207(c)). The minimum royalty provisions of section 7(a) of this Act (30 U.S.C. 207(a)) shall not apply to any lands covered by this modified lease prior to a modification until the term of the original lease or extension thereof which became effective prior to the effective date of this Act has expired."

SEC. 4. Section 37 of the Mineral Leasing Act of 1920 (30 U.S.C. 193) is further amended by the addition of the words "except as provided in sections 206 and 209 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2756, 2757–8), and" after "only in the form and manner provided in this Act," and before the word "except".

SEC. 5. Section 30 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 187) is further amended by striking the word "boy" and inserting in lieu thereof "child" and by striking the phrase "or the employment of any girl or woman, without regard to age,".

SEC. 6. (a) The Secretary of the Interior is authorized and directed within nine months of the date of enactment of this Act to evaluate and review the scenic, recreational, fish and wildlife, cultural, historic, and other public values of the reservoir in Johnson County, Wyoming, known as Lake De-Smet and the adjoining and adjacent coal properties. The Secretary's review and evaluation shall be for the purpose of determining

whether the Lake DeSmet property shall be acquired for public use and enjoyment by exchange for Federal coal lands.

(b) If the Secretary determines that the Lake DeSmet property shall be acquired, he is authorized, with the agreement of the owners of the property, to acquire the Lake DeSmet property by exchanging Federal coal lands, interests in Federal coal lands, or Federal coal leases.

(c) The exchange authorized by this section shall be for equal value. To the extent, if any, the value of the lands or interests exchanged are not equal the difference may be adjusted by the payment of money so long as the payment does not exceed 25 per centum of the total value of the lands or interests transferred out of Federal ownership. In determining the value of the Lake DeSmet property, the Secretary is authorized and directed to include the fair market value of the property, considering the acquisition cost of the lands, the value of the coal deposits, water rights and water resource developments, and capital and other appropriate improvements. The exchange of such properties shall be carried out expeditiously in accordance with the provisions of this section and other Federal land exchange authority to the extent such authority is applicable and consistent with this section.

(d) The Secretary is authorized to transfer any property acquired pursuant to this section (1) to the appropriate agency in the Department of the Interior for management and administration, or (2) to the State of Wyoming for recreational purposes and fish and wildlife management. Any conveyance to the State of Wyoming shall contain a reservation of all minerals to the United States and shall provide that, if the State ceases to use the property conveyed for fish propagation and wildlife management, title to such property shall revert to the United States.

SEC. 7. Effective October 1, 1979, there are authorized to be appropriated to the Secretary such sums as are necessary to carry out the purposes of this Act.

SEC. 8. The title of the Federal Coal Leasing Amendments Act of 1975 (Public Law 94–377) is hereby changed to the Federal Coal Leasing Amendments Act of 1976.

The SPEAKER pro tempore. Is a second demanded?

Mr. DON H. CLAUSEN. I demand a second, Mr. Speaker.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Texas (Mr. KAZEN) will be recognized for 20 minutes, and the gentleman from California (Mr. DON H. CLAUSEN) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas (Mr. KAZEN).

Mr. KAZEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 13553, as amended by the Committee on Interior and Insular Affairs, authorizes the Secretary of the Interior to acquire certain rights to coal leases on Federal lands in Utah by issuing to the holders of those rights leases on other lands. The holder of such rights would be required to surrender them. The surrendered rights would otherwise entitle the holder to a coal lease in an area in Utah which is considered to be environmentally sensitive. The rights are now held by a public utility which needs the coal. However, other Federal leases could be issued in an area adjacent to coal mining operations now being conducted by the utility and near existing electric power generating units. Development of the leases which might be issued to the utility in exchange for the surrendered rights would result in less environmental damage, particularly because needed transportation facilities already exist in the area. The Secretary would also be authorized to acquire undeveloped coal leases in Wyoming which are in an area required for construction of an interstate highway, by issuing new leases in exchange for the leases to be surrendered.

The bill also authorizes the Secretary to conduct a study of the Lake DeSmet area in Wyoming. This is an area which has high recreational, scenic, and wildlife values. The area is, however, scheduled for coal development. If the Secretary finds that the land in the Lake DeSmet area should be acquired, he is authorized to exchange federally owned coal lands or leases for the Lake DeSmet lands. Such an exchange could probably be made under existing law. However, because development in the Lake DeSmet area is planned for the near future, the committee felt that it required special attention at this time.

H.R. 13553 makes some other modifications in the Mineral Leasing Act which are required to give the Secretary of the Interior more flexibility in managing Federal mineral lands.

The bill would permit the Secretary to sell coal, the removal of which is necessary and incident to the exercise of a right-of-way across Federal lands. This would involve relatively small amounts of coal which could be sold at fair market value. Presently, coal may only be disposed of by lease issued through competitive bidding.

The Secretary would be authorized to adjust the boundaries of an existing lease by making small additions thereto. The added lands could be cornering the existing lease, as well as contiguous. He would not be required to impose the production and royalty requirements of the 1975 Coal Leasing Amendments Act on the lands covered by the original lease. This would permit the development of acreage which might otherwise be by-passed and left undeveloped.

The bill clarifies the authority granted the Secretary by the Federal Land Policy and Management Act to exchange federally owned minerals for privately owned mineral lands and his authority to sell mineral interests reserved to the United States underlying lands which are privately owned. The purpose of the provision is to permit the Secretary to resolve land title problems created by such mineral reservations in situations where no substantial mineral value is involved.

Finally, the bill repeals a provision of the Mineral Leasing Act which prohibits the employment of women in underground mines on Federal lands.

Mr. Speaker, H.R. 13553 would permit the Secretary of the Interior to manage federally owned mineral lands, and particularly coal lands, more efficiently. The bill imposes no requirements upon him. He is not required to make any of the three specific exchanges of coal leases and lands authorized in the bill. He may, however, make those exchanges if he finds it in the national interest to do so.

I urge approval of the bill.

Mr. DON H. CLAUSEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I have but a few remarks to make concerning this legislation.

It is important that the Members know the history of this legislation, what decisions were made at the subcommittee and committee levels and what lies ahead for this legislation and for coal development in general. I will speak only to the question of exchange authority regarding Federal leases since all are in agreement regarding the bill's other provisions: The noncompetitive sale of coal pursuant to a grant of a rights-of-way, the application of existing royalty in the case of a modified lease, the eligibility of cornered lands for inclusion in a modified lease, the clarification of the sale and exchange provision of the BLM Organic Act, and the repeal of a prohibition against the employment of females in underground mines.

As originally introduced, the exchange authority contained within Mr. RONCALIO's bill would have permitted the exchange of Federal coal leases for Federal coal leases in other areas when the original leases: First, posed significant adverse environmental, social and economic impact; or second, conflicted with a public purpose. The Department of the Interior objected to the broad authority contained within the first provision favoring instead exchange authority only in the case of a coal mining operation which the Department felt should not proceed and the operation could not be halted either by the application of the reclamation standards or the designation of the land as unsuitable for mining. The Department believes that exchange authority should provide the Department with an additional prohibitive tool under the Surface Mining Act and not with means of providing equitable relief to lessees unable to mine due to unsuitability designations under the act.

The Mines and Mining Subcommittee concluded that expansive, discretionary exchange authority was the proper course and so reported out the bill. However, the Interior Committee, after a heated debate adopted, by an extremely close vote, the Department's position. It became quite clear that neither position, that favoring broad authority or that favoring restricted authority could prevail under suspension.

Thus the committee reported out the bill now before us—a bill providing for only two sets of specific exchanges—one involving Utah Power & Light, the other concerning the Wyoming Highway Department. There is no provision for generic exchange authority.

I for one favor sufficient exchange authority to resolve the problems which I anticipate when final decisions are made by the Department regarding what lands are declared unsuitable for mining. Lest anyone have doubts as to the impact of these decisions, allow me to advise this

body of the results of a recent field test of some 21 draft regulations regarding unsuitability:

First. In Montana, some 32 percent of the coal reserves would be unsuitable.

Second. In Campbell County, Wyo., 51 percent of a test area would be unsuitable.

Third. In Converse County, Wyo., 26 percent of a test area would be unsuitable.

While I favor exchange authority sufficient to resolve all the problems expected, nevertheless, I am aware of the problems of such a course of action. The question of exchange authority is highly complex and controversial and should be dealt with in the 96th Congress along with other problems inherent in America's coal program. In the meantime however, we should permit exchanges in the two cases covered by the Interior Committee bill.

I thus support this bill, for the minor coal leasing problem it resolves, for the two emergency special exchanges it permits as well as for the questions it does not answer regarding generic exchange authority. That authority is too complex and controversial to be answered this year.

Mr. KAZEN. Mr. Speaker, I yield such time as he may consume to the gentleman from Wyoming (Mr. RONCALIO).

Mr. RONCALIO. Mr. Speaker, I thank the gentleman for yielding, and I wish to express my appreciation to him for the patience he has shown through the many difficult hours of negotiation and hearings on this complex legislation.

Mr. Speaker, I rise in support of H.R. 13553, which amends the Mineral Leasing Act in several ways to facilitate the orderly leasing and development of the Nation's coal resources. The provisions of sections 2–8 of H.R. 13553 authorize the exchange of existing coal rights for Federal coal leases in areas where the social, economic, and environmental aspects of development will be more acceptable, and remove obstacles to the orderly granting of rights of way and lease modifications. An additional provision removes the outmoded prohibition on employment of women miners in underground mines on Federal lands. These sections are noncontroversial, and have the full support of the administration, industry, and environmental groups. Similar provisions passed the Senate on September 20.

Section 6 of H.R. 13553 is of particular importance to the citizens of Wyoming as it directs the Secretary to conduct an expedited study of the feasibility of exchanging private coal lands and water rights in Johnson County, Wyo., for other Federal coal rights. The lands in question are in the vicinity of Lake De Smet, which is one of the few major bodies of water in the rapidly growing and nationally popular, Sheridan-Gillette-Big Horn Mountain region. Lake De Smet is nestled at the foot of the Big Horn Mountains in some of the loveliest country in all of Wyoming, and is adjacent to the Cloud Peak Primitive area. It is very popular for fishing, boating, and other forms of outdoor recreation.

For many years I have felt that these lands are far more significant for their scenic, wildlife, and recreational values than for coal development. As a result, I have endeavored to promote an exchange of the private coal and water rights held by Texaco, Inc. for Federal coal rights further out in the Powder River Basin, where the lands are not as scenic, and where coal can be mined with less impacts on the environment. In addition, mining in these areas would be facilitated by thicker coal seams and easier access to existing transportation systems. I am gratified to note that both Texaco, Inc. and the administration see merit in my proposal, and feel that the provisions of section 6 of H.R. 13553 provide an expedited means for the consideration of such an exchange. I especially wish to commend Texaco, Inc. for their public-spirited cooperation and corporate responsibility in pursuing such an exchange, and hope that my colleagues will wholeheartedly endorse the concept.

I would also note that the provisions of section 6, contrary to the estimates of the Congressional Budget Office, should not cause substantial revenue losses or costs to the Government. Approximately $600,000 will have to be spent to conduct the initial exchange study required by section 6, but that is all that is mandated. While there may be additional costs if the Secretary of Interior decides to exchange lands, such a decision is entirely discretionary with the Secretary. If an exchange were agreed upon, and ultimately involved the issuance of new Federal coal leases, revenues to the Government could actually increase, as a 12½-percent royalty on the coal would have to be paid to the Government. Further, as absolutely no party is committed to any exchange by section 6, the Secretary would be entirely free to negotiate exchange terms which would not involve substantial costs to the Government.

Finally, I submit that the alternative of allowing coal development in the Lake De Smet area could, in the long-run, involve far greater costs to Federal, State, and local governments to cope with the impacts of development than would ever be occasioned by channeling this development into an area that is already geared up to handle massive coal extraction.

While H.R. 13553, and the Senate passed bill are generally identical, there is one major difference between the two bills. Section 1 of the Senate bill gives the Secretary of Interior authority to acquire existing Fereral coal leases, or rights to leases, in exchange for the issuance of new Federal leases in areas where the social, economic, or environmental impacts of coal development would be more acceptable. This measure was originally in H.R. 13553 when Mr. Baucus and I introduced the bill on July 20. However, the Senate amended their version of the bill to allow exchanges only in cases where the adverse impacts desired to be avoided by the exchange cannot be "prevented or adequately mitigated under any provisions of the Surface Mining and Reclamation Act of 1977." Unfortunately, this restriction has encountered adamant opposition from certain House members who feel it might somehow be interpreted to imply that Congress has indicated no compensation will be due a coal lessee where the Secretary denies a mining permit or declares a lease to be unsuitable for surface mining under section 522 of the Surface Mining Act.

While I do not share this fear, and offered an amendment in committee to conform H.R. 13553 to the language of the Senate passed bill, I believe it has become apparent that we cannot achieve the two-thirds consensus necessary to pass the good reforms of sections 2–8 of H.R. 13553 in the House today, if we insist on the Senate version. On the other hand, we are informed that the administration and the other body will not accept a broad exchange provision that deletes the Senate proviso relating to the Surface Mining Act.

The administration feels the broader authority would undermine its ability to enforce the provisions of the Surface Mining Act, and lead to demands of compensation in the form of a new lease in many cases where the Secretary denies a mining permit or declares a lease to be in an area designated as unsuitable for surface mining. Thus, whereas opponents of the limited authority in the Senate bill feel it would imply Congress has prejudged the compensation issue in favor of the Secretary, the administration fears the broader authority might achieve the exact opposite result.

In view of these dramatically opposed points of view, and given the high profile, the issue has obtained, the committee agreed to defer the generic exchange issue so that it can be more carefully studied and debated next year. However, the committee did act to allow for exchanges in two urgent cases. The first involves rights to coal leases in southern Utah, where both the Secretary and the lease applicant concerned have agreed in principle to an exchange for new leases in northern Utah. This will channel development into an area which is less environmentally sensitive, and in closer proximity to existing transportation and powerplants. The second exchange would permit several Wyoming leaseholders to surrender all or portions of existing leases which underlie Interstate Highway 90 and two State highways. This exchange will eliminate a dispute, possible litigation, and costly rerouting of the existing roads which might occur if the existing leases were developed. While I would generally be opposed to legislation of such a specific nature, I feel the compromise which has been reached is in the best interests of all parties involved, given the limited time remaining in this Congress. However, I would strongly suggest, and hope, that the next Congress consider the broader exchange issue as soon as possible.

In this light, I heartily encourage my colleagues to support H.R. 13553 as reported by the Interior Committee. Its reforms will contribute significantly to an orderly Federal coal leasing and development program in the future.

Mr. PICKLE. Mr. Speaker, will the gentleman yield?

Mr. RONCALIO. I yield to the gentleman from Texas.

Mr. PICKLE. Mr. Speaker, I have a matter that I would like to bring to the attention of the committee. I have no opposition to this bill, and I would want to make that plain at the beginning.

In this country we have normally used the procedure of the highest price on any lease. I think we are reaching a point, however, where we, both as a committee and as a Congress, and perhaps the Department of Interior down the street, ought to give some consideration to leasing minerals in certain instances on a fair market price basis rather than the highest competitive bid. I do not want to change the procedure of the highest bid, because I think it has served the country well, and I am not advocating that. But at a time when we, the Congress, are mandating the use of coal and lignite, and at a time when we desperately need to use that mineral as one of our energy resources, it seems to me that we ought not to make it so difficult that communities can never really effect a lease simply because the bids might be too high.

Mr. Speaker, I am not without a district interest in this matter, because the city of Austin, Tex., and the area served by the Lower Colorado River Authority have been hard hit by high prices for 6 years. We are trying to get the use of lignite on a military facility adjacent to our city. The gentleman's committee a year ago passed a law making it legal to make leases on acquired land, changing an old 1920 provision of the law. And it was a good act. We are still limited, however, with the fact that we have competitive bidding. Here is a community that has been hard hit, by higher electric utility costs, as much as any other section of the country. We have Federal land where there is lignite that could help us, and yet we have to go on the basis of the highest bid. It seems to me that if it is publicly owned land, and if the lease would go to a publicly owned utility, such as a city, or a State river authority, then, in those instances, there ought to be some consideration given to the lease at something other than the highest competitive bid. That would be a departure, I would say to the gentleman, from past procedure, and I recognize that. But I think we are going to reach that point. It would be publicly owned land, owned by the people, it would be leased to a public facility without competitive bids. I would hope this procedure would be given consideration. I would say to the gentleman that we ought to start a study to determine how we can have certain guidelines and procedures that would allow this kind of leasing to a public facility without doing damage to the principle of the highest competitive bid between private parties.

Energy is that necessary to us; the mandating the use of coal is upon us, and if we do not take this approach we will find ourselves with some cities facing such competitive bids so high that they can never use it, and that would defeat the entire purpose.

So, I would ask the gentleman to take that thought with him back to his committee, and I hope he would release some of these same thoughts to the Department of the Interior. One final thing: I have discussed this with the gentleman from Arizona (Mr. UDALL), who indicates a sympathetic approach to the problem. He has not made any commitment because he recognizes that we would have to draw up Federal, specific guidelines that could be used, and under what circumstances they could be used. But, I think the time has come to start giving some thought to that, and I ask the gentleman to take that thought back into the committee with him.

Mr. RONCALIO. I thank the gentleman very much. It would seem to me that there is merit in what he says, especially in those instances where benefits would be inuring to the landholder. So, I hope the gentleman has good luck in that regard next year. If I can help him in my future capacity, I will be glad to do so.

Mr. PICKLE. I thank the gentleman.

Mr. UDALL. Mr. Speaker, will the gentleman yield?

Mr. RONCALIO. I will be happy to yield to the gentleman from Arizona.

Mr. UDALL. Mr. Speaker, I rise in support of H.R. 13553, a bill to further amend the Mineral Leasing Act of 1920, and I urge my colleagues to approve this measure. This is a bill that tries to solve the most serious problems en ountered by the coal industry under the 1975 amendments to the Mineral Leasing Act in addition to providing the Secretary of the Interior with authority to carry out lease exchanges in several environmentally sensitive areas.

There are four primary features of this legislation. Section 1 of the bill provides the Secretary of the Interior with authority to exchange several existing coal leases in Utah and Wyoming for other Federal coal leases of equal value. The Secretary's authority is discretionary, but the committee felt that these particular exchanges, due to the location of the existing leases, deserved further study. The Department of the Interior is interested in pursuing these exchanges, but current law requires that all leases be issued competitively.

I should point out that section 1 of the bill was the subject of a great deal of ontroversy in the Interior Committee. The language finally reported represents a compromise between two proposals for generic exchange authority considered in committee. It became very clear early in committeee debate that agreement on one or the other would not be forthcoming. The administration preferred generic authority that would allow exchanges of leases in environmentally sensitive areas, but would preclude the exercise of this authority where the Surface Mining Control and Reclamation Act (the strip mining law) could be utilized to prevent or mitigate adverse environmental consequences of mining. Many members of the committee felt that broader generic authority was needed, which resulted in a deadlock. To resolve this deadlock, I offered the present version of section 1. It provides the limited authority to accomplish the exchanges the administration is interested in, although it does so with specific authorizations rather than through generic authority.

Section 2 of the bill amends the Mineral Leasing Act to allow the Secretary of the Interior to sell small amounts of coal that would be used incidental to the exercise of a Federal right-of-way, without having to issue a competitive lease for that coal. This will prevent the waste of resources that was encouraged inadvertently when Congress enacted the 1975 amendments.

Section 3 of the bill is also a relatively technical change in the leasing law, allowing the modification of an existing lease by the addition of up to 160 acres of contiguous or cornering land, without subjecting the entire lease to the 12-percent "minimum royalty" of the 1975 amendments. There is no reason to discourage lessees from accepting such modifications by conditioning such modification on the payment of increased royalties on the entire lease.

The fourth major provision of H.R. 13553 is contained in section 6. This section provides for a study by the Secretary of the Interior of the Lake De Smet area in Johnson County, Wyo., for possible acquisition by the Federal Government in exchange for Federal coal leases of equal value. The Lake De Smet area is one of immense beauty, but it is also rich in coal. As of today, the area is privately owned and will certainly be mined for coal in the near future unless its owner can be persuaded to accept Federal coal in return. Like the exchange authority provided in section 1, the authority provided here is discretionary with the Secretary. I should also mention that all exchanges authorized by this bill must be voluntary exchanges or sales; no power of condemnation is included in the bill.

In addition to these four major provisions, H.R. 13553 makes several technical amendments to the Mineral Leasing Act that are important to the industry and the administration. The bill removes some uncertainty in the leasing law created by the 1975 amendments, allowing the coal industry to proceed to develop resources for all Americans to use. As all of us know, coal will be an important resource in this country for the next few decades. This bill represents a step, albeit a small one, toward meeting this Nation's energy needs. I hope my colleagues will join with me in supporting this legislation.

Mr. RONCALIO. In conclusion, Mr. Speaker, I hope Members will make themselves aware of efforts by USGS or other governmental agencies in appraising the value of the coal to be exchanged, or of the costs which can be considered as one of the value factors of the exchanges. So, these are not losses; these are newly created assets which will be used to exchange, because the expenses that the United States incurs is to be considered when an exchange is made for the Texaco property, which includes valuable water rights, coal lands, and improvements made on Lake De Smet

over the last 10 years, including a reservoir storage increase of 60,000 acre-feet per year of water over and above contractual obligations to water users on the two creeks involved.

I submit to my colleagues that one of the most important and vital acquisitions the United States of America and the State of Wyoming could make today is to acquire Lake De Smet, and the water rights for storage and use them judiciously in the decades to come. I know of nothing of greater value and service to the people of America and of Wyoming than this acquisition—that property in exchange for Federal coal rights on Federal land some 80 miles eastward. I think that is a most desirable exchange.

Again, I want to thank my good friend from Texas (Mr. KAZEN), the chairman, for his patience and understanding in having made this legislation possible.

Mr. KAZEN. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. KAZEN) that the House suspend the rules and pass the bill H.R. 13553, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

Mr. KAZEN. Mr. Speaker, I ask unanimous consent for the immediate consideration of the Senate bill (S. 3189) to further amend the Mineral Leasing Act of 1920 (30 U.S.C. 201(a)), to authorize the Secretary of the Interior to exchange Federal coal leases and to encourage recovery of certain coal deposits, and for other purposes, a similar bill to H.R. 13553.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 3189

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2(a)(1) of the Mineral Leasing Act of 1920, as amended (30 U.S.C. (a)(2)) is further amended by adding the following paragraph at the end thereof:

"Notwithstanding the requirement in this section that leases be awarded by competitive bidding or any other competitive bidding requirement of this or any other Act to the contrary, the Secretary is authorized to acquire Federal coal leases or rights to Federal coal leases, existing as of the date of enactment of this section, by purchase at fair market value as determined by him, or by exchange for another coal lease, subject to the provisions of subparagraphs (i) through (iv) of this paragraph. The authority granted by this paragraph is in addition to and does not restrict the existing authority of the Secretary to acquire coal and other mineral leases and rights to leases by exchange for another Federal mineral lease, or for modification of an existing coal lease. Nothing herein shall be construed as superseding, modifying, restricting, amending, or repealing the authority of the Secretary under any provisions of the Surface Mining Control and Reclamation Act of 1977 to purchase, acquire, or condemn lands adversely affected by past coal mining, to exchange coal leases involving alluvial valley floors or to designate any Federal lands as unsuitable for mining coal or other minerals.

"(i) The acquisition authority granted in this subsection may be exercised by the Secretary only upon a determination by him that (a) coal mining would result in unacceptable social, economic, or environmental impacts in the vicinity of the lands covered by a lease or proposed lease and that such impacts cannot be prevented or adequately mitigated under the authority of the Surface Mining Control and Reclamation Act of 1977, or other Federal laws, or (b) development of the lease would conflict with a specific proposal for use of the land for a public purpose and such use was not considered by the Secretary prior to issuance of the prospecting permit or lease.

"(ii) This section does not require the Secretary to exchange or purchase any lease. The authorities in this section may be exercised by the Secretary as to an applicant for a preference right lease only upon a determination by him that the application and permit upon which it was based has, in fact, met all of the requirements for a lease under the Mineral Leasing Act of 1920 (30 U.S.C. 201).

"(iii) If the Secretary decides to acquire an outstanding coal lease or right thereto by exchange, he is authorized to accept relinquishment of a lease issued under this Act, the Mineral Leasing Act for Acquired Lands (30 U.S.C. 271–276), or the Railroad and Other Right-of-Way Leasing Act of May 1, 1930 (30 U.S.C. 301–306) or a right to issuance of such a lease, in whole or in part, and to issue to the lessee or lease applicant, in exchange therefor, a coal lease which is to be a lease of equal value. If the value of the leases to be exchanged is not equal, the value shall be equalized by the payment of money to the grantor or to the Secretary as long as the payment does not exceed 25 percent of the total value of the lands or interest transferred out of Federal ownership. The Secretary shall try to reduce the amount of payment to as small an amount as possible. Leases issued pursuant to the exchange provisions of this subsection are subject to the provisions of this Act except as otherwise provided expressly in this subsection. A new lease issued in accordance with this subsection shall become effective only upon relinquishment of the outstanding lease or right to a lease.

"(iv) The Secretary shall issue such rules and regulations and establish such procedures within one hundred and eighty days as he deems necessary to carry out the provisions of this section. Such rules and regulations shall include but need not be limited to the standards that the Secretary shall employ for making the determination of those conditions under which he will purchase at fair market value, or exchange for another coal lease, requirements concerning information which must be submitted by a lessee or lease applicant, and requirements for public participation with respect to any proposed exchange including public meetings or hearings where the Secretary deems them necessary.".

SEC. 2. Section 2(a)(1) of the Mineral Leasing Act of 1920 as amended (30 U.S.C. 201(a)(1)) is further amended by striking the period at the end of the first sentence and inserting in lieu thereof the following: "*Provided,* That notwithstanding the competitive bidding requirement of this section, the Secretary may, subject to such conditions which he deems appropriate, negotiate the sale at fair market value of coal the removal of which is necessary incidental to the exercise of a right-of-way permit issued pursuant to title V of the Federal Land Policy and Management Act of 1976.".

SEC. 3. Section 3 of the Mineral Leasing Act of 1920 as amended (30 U.S.C. 203) is further amended by adding, after the word "contiguous", the words "or cornering" and by deleting the period at the end of the second sentence thereof and adding the following clause: "except that nothing in this section shall require the Secretary to apply the production or mining plan requirements of section 2(d)(2) and 7(c) of this Act (30 U.S.C. 201(d)(2) and 207(c)). The minimum royalty provisions of section 7(a) of this Act (30 U.S.C. 207(a)) shall not apply to any lands covered by this modified lease prior to a modification until the term of the origional lease has expired.".

SEC. 4. Section 37 of the Mineral Leasing Act of 1920 (30 U.S.C. 193) is further amended by the addition of the words "except as provided in sections 206 and 209 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2756, 2757–2758), and" after "only in the form and manner provided in this Act," and before the word "except".

SEC. 5. Section 30 of the Mineral Leasing Act of 1920 as amended (30 U.S.C. 187) is further amended by striking the word "boy" and inserting in lieu thereof "child" and by striking the phrase "or the employment of any girl or woman, without regard to age,".

SEC. 6. (a) The Secretary of the Interior is authorized and directed within nine months of the date of enactment of this Act, to evaluate and review the scenic, recreational, fish and wildlife, cultural, historic, and other public values of the reservoir in Johnson County, Wyoming, known as Lake DeSmet and the adjoining and adjacent coal properties. The Secretary's review and evaluation shall be for the purpose of determining whether the Lake DeSmet property shall be acquired for public use and enjoyment by exchange for Federal coal lands.

(b) If the Secretary determines that the Lake DeSmet property should be acquired, he is authorized, with the agreement of the owners of the property, to acquire the Lake DeSmet property by exchanging Federal coal lands, interests in Federal coal lands, or Federal coal leases.

(c) The exchange authorized by this section shall be for equal value. To the extent, if any, the value of the lands or interests exchanged are not equal the difference may be adjusted by the payment of money so long as the payment does not exceed 25 per centum of the total value of the lands or interests transferred out of Federal ownership. In determining the value of the Lake DeSmet property, the Secretary is authorized and directed to include the fair market value of the property, considering the acquisition cost of the lands, the value of the coal deposits, water rights and water resource developments, and capital and other appropriate improvements. The exchange of such properties shall be carried out expeditiously in accordance with the provisions of this section and other Federal land exchange authority to the extent such authority is applicable and consistent with this section.

(d) The Secretary is authorized to transfer any property acquired pursuant to this section (1) to the appropriate agency in the Department of the Interior for management and administration, or (2) to the State of Wyoming for recreational purposes and fish and wildlife management.

SEC. 7. The title of the Federal Coal Leasing Amendments Act of 1975 (90 Stat. 1083) is amended by striking "1975" and substituting "1976".

SEC. 8. The acquisition authority granted to the Secretary in sections 1 and 6 of this Act shall be limited to such amounts as are

provided in advance by appropriations Acts, and there are hereby authorized to be appropriated, beginning in fiscal year 1980, such sums as may be necessary to carry out the purposes of sections 1 and 6.

SEC. 9. Section 7 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 207) is further amended by adding the following three subsections at the end thereof:

"(d) All Federal coal leases issued prior to August 4, 1976 shall be subject to a royalty of 12.5 per centum of the value of the coal as determined by regulation on all coal produced by surface mining after the date of enactment of this amendment if:

"(1) the lease was subject to readjustment prior to the enactment of this amendment;

"(2) the Secretary has not—

"(A) readjusted the lease; or

"(B) informed the lessee that the lease will not be readjusted; and

"(3) the Secretary has approved a mining plan for all or part of the lease.

"(e) Before approving a mines plan, for the lease, the Secretary shall readjust the royalty rate of all other Federal coal leases issued prior to August 4, 1976, which are or become subject to readjustment in accordance with this Act.

"(f) This amendment does not affect the Secretary's authority to readjust terms and conditions of a lease other than those involving the royalty rate.".

MOTION OFFERED BY MR. KAZEN

Mr. KAZEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. KAZEN moves to strike all after the enacting clause of the Senate bill (S. 3189), and insert in lieu thereof the text of H.R. 13553, as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

A motion to reconsider was laid on the table.

A similar House bill (H.R. 13553) was laid on the table.

GENERAL LEAVE

Mr. KAZEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill H.R. 13553, just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

NONVOTING SAMOAN DELEGATE TO HOUSE

Mr. PHILLIP BURTON. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 13702) to provide that the Territory of American Samoa be represented by a nonvoting Delegate to the U.S. House of Representatives, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California (Mr. PHILLIP BURTON)?

There was no objection.

The Clerk read the bill, as follows:

H.R. 13702

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Territory of American Samoa shall be represented in the United States Congress by a nonvoting Delegate to the House of Representatives, elected as hereinafter provided.

SEC. 2. (a) The Delegate shall be elected by the people qualified to vote for the popularly elected officials of the Territory of American Samoa at the general Federal election of 1980, and thereafter at such general election every second year thereafter. The Delegate shall be elected at large, by separate ballot, and by a majority of the votes cast for the office of Delegate. If no candidate receives such majority, on the fourteenth day following such election a runoff election shall be held between the candidates receiving the highest and the second highest number of votes cast for the office of Delegate. In case of a permanent vacancy in the office of Delegate, by reason of death, resignation, or permanent disability, the office of Delegate shall remain vacant until a successor shall have been elected and qualified.

(b) The term of the Delegate shall commence on the third day of January following the date of the election.

SEC. 3. To be eligible for the office of Delegate a candidate shall—

(a) be at least twenty-five years of age on the date of the election;

(b) have been a United States citizen for at least seven years prior to the date of the election;

(c) be an inhabitant of the Territory of American Samoa, and

(d) not be, on the date of the election, a candidate for any other office.

SEC. 4. The legislature of American Samoa may determine the order of names on the ballot for election of Delegate, the method by which a special election to fill a vacancy in the office of Delegate shall be conducted, the method by which ties between candidates for the office of Delegate shall be resolved, and all other matters of local application pertaining to the election and the office of Delegate not otherwise expressly provided for herein.

SEC. 5. The Delegate from American Samoa shall have such privilege in the House of Representatives as may be afforded him under the Rules of the House of Representatives. Until the Rules of the House of Representatives are amended to provide otherwise, the Delegate shall receive the same compensation, allowances, and benefits as a Member of the House of Representatives, and shall be entitled to whatever privileges and immunities are, or hereinafter may be, granted to the nonvoting delegate from the Territory of Guam.

With the following committee amendments:

Page 2, delete lines 24 and 25 and insert in lieu thereof:

SEC. 4. Acting pursuant to legislation enacted in accordance with Section 9, Article II of the American Samoan Revised Constitution, the territorial government will determine the order of names on the ballot for election of Dele-.

Page 3, lines 11 through 20, delete section 5 and insert in lieu thereof:

SEC. 5. Until the Rules of the House of Representatives are amended to provide otherwise, the Delegate from American Samoa shall receive the same compensation, allowances, and benefits as a Member of the House of Representatives, and shall be entitled to whatever privileges and immunities that are, or hereinafter may be, granted to the nonvoting Delegate from the Territory of Guam: *Provided*, That the clerk hire allowance for the Delegate from American Samoa shall be a single per annum gross rate that is 50 per centum of the clerk hire allowance of a Member of the House of Representatives.

The committee amendments were agreed to.

● Mr. PHILLIP BURTON. Mr. Speaker, I rise in support of H.R. 13702. This legislation comes before us with a wide range of support and sponsorship from some 150 plus of our colleagues on both sides of the aisle.

The Territory of American Samoa is composed of seven islands totaling approximately 76 square miles, and is situated some 2,600 miles southwest of the State of Hawaii.

During the latter part of the 19th century, the Samoan Islands became an international issue which involved the United States, Germany, and Great Britain. In 1899, after 10 years of failure in resolving their respective interests, a special conference was called in Washington, wherein the question of partitioning the islands became apparent when Germany agreed to transfer certain political affiliations she had established with some Pacific islands, in return for British relinquishment of her rights over the Samoan Islands. Germany and Great Britain also agreed that the United States would have the exclusive right to deal directly with the inhabitants of the islands of Tutuila and Manua, referred to now as American Samoa.

In the years 1900 and 1904, the leading chiefs of American Samoa, by treaties of cession, granted to the United States full and complete sovereignty over the islands. It was not until February 20, 1929, that by joint resolution, Congress approved the treaties of cession, and assigned the administration of the territory under the authority of the President.

Since 1900, the territory was administered by the Department of the Navy. In June 1951, President Truman transferred the administration of the territory to the Secretary of the Interior.

Mr. Speaker, for the past several years the Samoan people have taken significant steps toward the need for greater self-government. Since 1963, by local initiatives, the people subjected themselves to an income tax similarly adopted by the territory of Guam, by selective usage of the U.S. Internal Revenue Code. For the past 18 years the people have had experience in drafting and adopting their own constitution, under the supervision of the Department of the Interior.

In 1970, the Samoan people held, for the first time, a territory-wide election of their delegate as their special representative to Washington. As you know, this special representative has no standing in the Congress, as it was the case with the territories of Guam and the Virgin Islands before their delegates were given nonvoting status by the Congress.

Mr. Speaker, the justification for direct territorial representation for American Samoa in Congress goes back to 1790, wherein the Congress provided for a nonvoting delegate from the territory South of the River Ohio, which later became the State of Tennessee. Since that time, some thirty other U.S. territories have been represented by nonvoting delegates to the Congress. Populations of the different territories have varied from as many as 5,000 to 259,000 when they were represented by nonvoting delegates.

Mr. Speaker, the rapidly changing economic and political conditions both in the Continental United States and the Pacific basin provide a compelling reason for direct representation of the

Territory of American Samoa in the House of Representatives. A nonvoting delegate from American Samoa can more effectively represent and interpret the needs and interests of the territory before Congress and other agencies of the Federal Government. Furthermore, the nonvoting delegate will relieve other Members of Congress of the necessity of dealing with individual problems and other subject areas that directly affect the economic and political interests of the territory.

Mr. Speaker, American Samoa is the only remaining territory under the American flag that does not have a voice in the Congress. I urge my colleagues to support this bill to symbolize our own faith and confidence in a people who have proven beyond measure their dedication and allegiance to the United States.

Cosponsors American Samoa Nonvoting Delegate (H.R. 13702(3)(4)(5), H.R. 13754, H.R. 13801, H.R. 13821).

Alaska, Ambro, Anderson, Ca., Annunzio, Ashley, AuCoin, Beard, RI., Bellenson, Bingham, Boggs, Bonior, Bonker, Brown, Ca., Yvonne Burke, John Burton, Phil Burton, Byron, Carney, Carr, Chisholm, Don Clausen, Clay, Collins, Ill., Conyers, Corman, Cornell, Corrada, Danielson, Ca., de Lugo, Dicks, and Diggs.

Dodd, Duncan, Oreg., Eckhardt, Edwards, Calif., Edwards, Okla., Ertel, Fascell, Fauntroy, Fenwick, Flood, Florio, Foley, Ford, Mich., Ford, Tenn., Fowler, Garcia, Gilman, Ginn, Glickman, Gonzalez Gore, Harkin, Harrington, Heftel, Holland, Holtzman, Howard, Ireland, Jenrette, Johnson, Calif., and Johnson, Colo.

Jones, N.C., Kastenmeier, Kazen, Kildee, Kostmayer, Krebs, Lagomarsino, Lederer, Leggett, Lehman, Levitas, Lloyd, Calif., Lujan, McCloskey, McFall, McHugh, McKay, Maguire, Markey, Marriott, Meeds, Metcalfe, Mikva, Miller, Calif., Mineta, Mitchell, Moakley, Moffett, Moss, Murphy, Pa., and Murphy, Ill.

Murtha, Myers, Michael, Nedzi, Nix, Oberstar, Oakar, Ottinger, Panetta, Patterson, Pease, Pepper, Perkins, Price, Pritchard, Quillen, Rahall, Rangel, Richmond, Risenhoover, Rodino, Roe, Roncalio, Rose, Roybal, Runnels, Russo, Ryan, St Germain, Santini, Sebelius, and Seiberling.

Sharp, Simon, Skubitz, Slack, Solarz, Stark, Stokes, Stratton, Studds, Symms, Thompson, Thornton, Traxler, Tsongas, Tucker, Udall, Van Deerlin, Vento, Waxman, Weaver, Weiss, Whalen, Wilson, Tex., Wilson, Calif., Winn, Won Pat, Young, Alaska, and Zeferetti.

TERRITORY AND AUTHORIZING STATUTE

North of the Ohio River—Northwest Ordinance of 1787.

Year nonvoting Delegate provided by the Congress (Territory/State)	Year census taken	Population
1790 (Tennessee)	1790	36,000
1798 (Mississippi)	1800	8,000
1800 (Indiana)	1800	6,000
1805 (Orleans—Louisiana)	1810	77,000
1805 (Michigan)	1810	5,000
1809 (Illinois)	1810	12,000
1812 (Missouri)	1810	20,000
1817 (Alabama)	1810	9,000
1819 (Arkansas)	1820	14,000
1822 (Florida)	1830	35,000
1838 (Wisconsin)	1840	31,000
1838 (Iowa)	1840	43,000
1848 (Oregon)	1850	12,000
1849 (Minnesota)	1850	6,000
1850 (New Mexico)	1850	62,000
1850 (Utah)	1850	11,000
1853 (Washington)	1860	12,000
1854 (Nebraska)	1860	29,000
1854 (Kansas)	1860	107,000
1861 (Colorado)	1860	34,000
1861 (Nevada)	1860	7,000
1861 (Dakota—North and South)	1860	5,000
1863 (Arizona)	1870	10,000
1863 (Idaho)	1870	15,000
1864 (Montana)	1870	21,000
1868 (Wyoming)	1870	9,000
1871 (District of Columbia)	1870	132,000
1890 (Oklahoma)	1890	259,000
1900 (Hawaii)	1900	154,000
1900 (Puerto Rico)	—	—
1902 (Philippines)	—	—
1906 (Alaska)	1900	64,000

South of the Ohio River—1 Statute 123 (1790).
Mississippi—1 Statute 549 (1798).
Indiana—2 Statute 58 (1800).
Orleans—2 Statute 322 (1805).
Michigan—2 Statute 309 (1805).
Illinois—2 Statute 514 (1809).
Missouri—2 Statute 743 (1812).
Alabama—3 Statute 371 (1817).
Arkansas—3 Statute 493 (1819).
Florida—3 Statute 654 (1822).
Wisconsin—5 Statute 10 (1838).
Iowa—5 Statute 235 (1838).
Oregon—9 Statute 323 (1848).
Minnesota—9 Statute 403 (1849).
New Mexico—9 Statute 446 (1850).
Utah—9 Statute 453 (1850).
Washington—10 Statute 172 (1853).
Nebraska—10 Statute 277 (1854).
Kansas—10 Statute 283 (1854).
Colorado—12 Statute 172 (1861).
Nevada—12 Statute 209 (1861).
Dakota—12 Statute 239 (1861).
Arizona—12 Statute 664 (1863).
Idaho—12 Statute 808 (1863).
Montana—13 Statute 853 (1864).
Wyoming—15 Statute 178 (1868).
District of Columbia—16 Statute 426 (1871).
Oklahoma—26 Statute 81 (1890).
Hawaii—31 Statute 141 (1900).
Puerto Rico—31 Statute 86 (1900).
Philippine Islands—32 Statute 694 (1902).
Alaska—34 Statute 169 (1906).
District of Columbia—84 Statute 848 (1970).

[From the Samoa News, Aug. 11, 1978]

CONGRESSIONAL DELEGATE

Congressman Burton's bill to establish an American Samoa Congressional delegate, similar to those of Guam and the Virgin Islands, is long overdue. Considering the territory's unique status within the federal system and the enormous influence that the federal government has upon life here, through funding and regulation, the territory must have some input into the federal decision-making process.

Currently, our Delegate at Large, A. P. Lutali, lacks any direct influence or status within the federal government. This is not due to the failure of the delegate but to the impotence of his position. Senator Fofo Sunia's proposal in the Fono to upgrade the delegate's position to that proposed by Congressman Burton demonstrates that both the federal and territorial governments are aware of this situation.

The development of self-rule in American Samoa can never be fully effective until the territory is able to present its case directly to Congress. The governor cannot administer the territory and also be expected to plead our case in Washington. As past history demonstrates, the net result is a part-time governor who is constantly scurrying between here and Washington. The direct election of a Congressional delegate will provide the territory with better local and federal government by permitting the two areas to be handled by separate full-time representatives of the people.

At last report the odds look good that American Samoa may have a Congressional delegate by the election of 1980. No longer will we have to rely on occasional administration support to direct Congressional attention to our problems. As the Governor said, "American Samoa has come of age."

Congressman Burton deserves our thanks for his concern about the future of the territory. He and his many co-sponsors have demonstrated that, although slow, Congress still has the best interests of the people at heart.

[Telegram]

Hon. PHILLIP BURTON,
House of Representatives

On behalf of the Government and people of American Samoa, I want to express our heartfelt gratitude for your faith in our political maturity and untiring efforts to afford us more meaningful representation in the United States Congress. For 78 years this U.S. territory has been under the understanding tutelage of the United States. The U.S. Congress has been in the forefront in encouraging political growth in these islands. The recent election of the Governor and Lt. Governor of American Samoa for the first time in the history of the Territory is an example of balanced growth in accordance with the aspirations of the Samoan people and the support of the U.S. Congress, participation of an elected delegate from this Territory puts us on a similar footing with other U.S. territories, it would also show to the other island countries or territories in the South Pacific formerly or presently under British, French, Australian or New Zealand administration that the United States also respects and appreciates the devotion and loyalty of the people of American Samoa to their mother country, the United States of America. We whole-heartedly support H.R. 13702 to provide American Samoa with a nonvoting delegate in the House of Representatives as one important step toward our full participation as part of the American family.

PETER TALI COLEMAN,
Governor.

Hon. PHILIP BURTON,
Chairman, Subcommittee on National Parks and Insular Affairs, Washington, D.C.:

The President of the Senate and the

Speaker of the House of Representatives of the legislature of the Territory of American Samoa wish to congratulate you Congressman Burton and your cosponsors for their faith in our political maturation in upgrading our delegate to the U.S. Government under your H.R. 13702. We the entire fono and the people of the territory support your magnificent faith in our ability to grow and represent ourselves before the Congress of the United States of America. We have had able and competent representation before you for 8 years now and this will enhance the future representation of our territory before your honorable bodies. We totally subscribe and approve heartily of what you and your colleagues are doing for us. Many thanks to you and your cosponsors and colleagues for this high honor that you have entrusted us with.

President SALANOA.

[From the Honolulu Star Bulletin, Aug. 19, 1978]

A SAMOAN DELEGATE TO CONGRESS

It looks as though American Samoa will soon gain the right to be represented in Congress by a non-voting delegate.

The House Subcommittee on National Parks and Insular Affairs have started the ball rolling with unanimous approval of a bill authorizing the position. It is expected that both houses of Congress will approve.

That would give American Samoa what Guam, Puerto Rico and the Virgin Islands already have. In each case, the representatives can introduce bills and vote in committee, but can't vote on the House floor. The same would be true of the Samoan delegate under the proposed legislation.

Samoa already has an elected delegate in Washington, but he only represents the territory before federal agencies. Representation of American Samoa in Congress is long overdue.●

● Mr. CORRADA. Mr. Speaker, I rise in strong support of H.R. 13702, a bill to provide a nonvoting delegate to the House of Representatives from the Territory of American Samoa.

At present, American Samoa is the only territory under the American flag which remains without a delegate in the Congress. As the sole elected representative of the American citizens residing in Puerto Rico and one of the four nonvoting delegates in the House, I would welcome a fellow delegate to represent the people of American Samoa.

The principle of representation and a voice for all American citizens in Congress should apply to the 31,000 residents of American Samoa. As a co-sponsor of this legislation, I urge my colleagues to support H.R. 13702 and to cast their votes in favor of its passage.●

● Mr. LAGOMARSINO. Mr. Speaker, I rise in support of H.R. 13702, which authorizes a non-voting Delegate for the American Samoans in the U.S. House of Representatives. For 8 years, the Samoans have elected their own delegate to Washington, D.C. but without official congressional recognition. As a consequence, the Samoan delegate has been severely restrained in performing his representative function for his constituents. Guam and the Virgin Islands experienced similar circumstances until Congress in 1973 recognized their delegates' plight and rightfully sanctioned their presence as part of the House of Representatives. The wisdom of this congressional action has been demonstrated time after time in the legislative activity and distinguished service of both the off-shore delegates.

The time has come to afford the people of American Samoa the same national representation as others residing in America's insular holdings. To do less denies the foundation of our Nation. H.R. 13702 builds a 7,000-mile bridge of understanding between Pago Pago and Washington—it assures that wherever the American flag flies, thereunder resides the principles of this great Republic. Accordingly, Mr. Speaker, I urge unanimous passage of H.R. 13702.●

● Mr. DON H. CLAUSEN. Mr. Speaker, I rise in support of H.R. 13702, which provides a nonvoting delegate from American Samoa to the U.S. House of Representatives. As a long-standing member of the Subcommittee on National Parks and Insular Affairs, I have always supported with enthusiasm the extension of more and more self-government to America's off-shore areas. For example, the 90th Congress afforded Guam and the Virgin Islands the opportunity to elect their own governors; and the 92d Congress extended that privilege, permitting those islands to elect their own delegates to the House of Representatives.

The 94th Congress passed legislation which will stand in history—the creation of the Commonwealth of the Northern Mariana Islands. Also in that memorable Congress, the peoples of Guam and the Virgin Islands were granted the right to compose their own constitutions. Moreover, the 94th Congress initiated action which was ultimately responsible in permitting the people of American Samoa to elect their own Governor. This is an impressive record in fostering the principles of American representative government, and I am proud to have played a role in this continuing experiment in American democracy.

Today, we have an opportunity to continue that experiment—to authorize the right of American Samoans to elect their own delegate to this august body. Guam and the Virgin Islands have enjoyed this privilege since 1973; equity demands that the Samoans do likewise. However, fairness is not the sole criterion justifying a Samoan congressional delegate. American Samoa is over 7,000 miles from Washington, D.C. It is very important that the Samoans have in our midst someone intimately familiar with their proud traditions and social distinctions; for without that knowledge—in spite of our best intentions—we could pass Federal legislation inimical to the preservation of Samoan culture. Admittedly, Samoa's population is considerably less than that of a congressional district; that is why H.R. 13702 only provides one-half the clerk-hire allowance for the Samoan delegate. On the other hand, without such congressional representation, it is impossible to bring the Samoan people under the umbrella of American federalism.

Mr. Speaker, this is worthy legislation—legislation which exemplifies American idealism. I urge my colleagues to join me in assuring passage of H.R. 13702.●

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. PHILLIP BURTON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous matter on the bill, H.R. 13702.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

GREAT BEAR WILDERNESS AREA

Mr. RONCALIO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 13972) to designate the Great Bear Wilderness, Flathead National Forest, and enlarge the Bob Marshall Wilderness, Flathead and Lewis and Clark National Forests, State of Montana, as amended.

The Clerk read as follows:

H.R. 13972

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in furtherance of the purposes of the Wilderness Act (78 Stat. 890), the area generally depicted on a map entitled "Great Bear Wilderness (Proposed)—Bob Marshall Wilderness Addition", dated September 1978, which is on file and available for public inspection in the Office of the Chief, Forest Service, United States Department of Agriculture, is hereby designated as the Great Bear Wilderness (approximately two hundred ninety thousand, five hundred seventy-one acres) within and as part of the Flathead National Forest, Montana, and enlarges the Bob Marshall Wilderness with an area comprising approximately sixty thousand acres within and as part of the Lewis and Clark National Forest, Montana.

SEC. 2. As soon as practicable after this Act takes effect, the Secretary of Agriculture shall file a map and a legal description of the Great Bear Wilderness and Bob Marshall Wilderness Addition with the Energy and Natural Resources Committee, United States Senate, and the Interior and Insular Affairs Committee, House of Representatives, and such description shall have the same force and effect as if included in this Act: *Provided, however,* That correction of clerical and topographical errors in such legal description and map may be made.

SEC. 3. The Great Bear Wilderness and Bob Marshall Addition shall be administered by the Secretary of Agriculture in accordance with the provisions of the Wilderness Act governing areas designated by that Act as wilderness areas, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this Act.

The SPEAKER pro tempore. Is a second demanded?

Mr. JOHNSON of Colorado. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Wyoming (Mr. RONCALIO) will be recognized for 20 minutes and the

gentleman from Colorado (Mr. JOHNSON) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Wyoming (Mr. RONCALIO).

Mr. RONCALIO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 13972, which completes congressional action on Montana's Great Bear Wilderness proposal—a proposal first advanced by the late Senator Lee Metcalf over 6 years ago. Pursuant to Public Law 94–557, the Forest Service was directed to study some 393,000 acres in the vicinity of the Middle Fork of the Flathead River—a designated "wild" river under the Wild and Scenic Rivers Act—for possible inclusion in the National Wilderness Preservation System. That study is now complete, and the Forest Service has recommended a Great Bear Wilderness of some 293,000 acres plus an addition of 66,000 acres to the existing Bob Marshall Wilderness. The committee reduced this proposal by some 10,000 acres to further accommodate snowmobile users and allow for the possible future development of copper and silver deposits otherwise H.R. 13972 is identical to the administration proposal.

The proposed Great Bear Wilderness forms a critical ecological link between Glacier National Park and the Bob Marshall Wilderness, and, if enacted into law, will complete habitat protection for the most significant grizzly bear range in the Lower 48 States. The U.S. Fish and Wildlife Service has proposed a "critical Grizzly Bear habitat" designation for the entire wilderness recommended by H.R. 13972.

In general, the area is comprised of rugged terrain with outstanding scenic, watershed, wildlife, and primitive recreation values. Besides the grizzly bear, the proposed wilderness contains important big game species such as the northern Rocky Mountain wolf and elk, and comprises, in the words of the Forest Service:

> One of the outstanding native fisheries for westslope cutthroat trout and Dolly Varden in the United States.

Wilderness will also protect a large segment of the Flathead River System drainage which produces an estimated 9 million acre feet of pure water each year.

Although the proposed wilderness contains significant timber, the Forest Service has recommended against harvest, citing very high logging and roading costs, unstable soils, and conflict with the Middle Fork Flathead River "wild" river designation, not to mention the adverse effect logging would have on wilderness species like the grizzly bear, wolf, wolverine and mountain lion. Timber harvest would also disrupt primitive recreation such as the hiking, horse travel, big game hunting and rafting, which currently accounts for more than 90 percent of the area's use.

Oil and gas potential also exists in the wilderness proposal, but the administration has concluded that wilderness values outweigh this potential, especially since the Great Bear is only one small segment of the 600 mile long Overthrust Belt.

To monitor public opinion and gain additional information on the proposed wilderness, my Subcommittee on Indian Affairs and Public Lands held a hearing on the administration proposal in Choteau, Mont., on September 17, 1978. Over three-fourths of the witnesses at that hearing testified in favor of the administration proposal, and this is in line with public input into the Forest Service's wilderness study process. According to the Forest Service, over 75 percent of public input was opposed to timber and oil and gas development, and 90 percent of the public opposed a power corridor through the area.

Clearly, there is overwhelming public support for the Great Bear Wilderness proposal, and I urge my colleagues' vote to give the Great Bear the protection it so clearly deserves.

Mr. JOHNSON of Colorado. Mr. Speaker, I have no request for time, but I emphasize to my colleagues that this bill has the support of both the Members of the House from the State of Montana. The gentleman from Montana (Mr. MARLENEE) is not present at this moment but he does support the bill.

I think that probably one of the most significant things about this bill is that it is the last wilderness bill that our colleague, the gentleman from Wyoming (Mr. RONCALIO) will be bringing to the floor of the House. I think that the Members of the House should be aware of the amount of time and effort the gentleman from Wyoming (Mr. RONCALIO) has spent during the last several years on wilderness bills traveling around the country, holding hearings—sometimes in out-of-the-way places—and I believe he certainly deserves the applause and the thanks of those of us who live in the western part of the United States for his efforts on behalf of a balanced wilderness program.

Mr. RONCALIO. Mr. Speaker, will the gentleman yield?

Mr. JOHNSON of Colorado. I yield to the gentleman from Wyoming.

Mr. RONCALIO. I thank the gentleman for yielding, and I just wish to take a half minute or so to make an observation and that is that this is a holiday and many of the members of the press obviously are vacationing because there are only three of them presently in the press gallery. Further, very few Members are here, as we can observe from the vacant seats in the Chamber, but, nevertheless, the Congressional Quarterly true to its form did not devote a special feature on how many Sundays the gentleman from Colorado (Mr. JOHNSON) spent holding hearings in the mountains of Colorado, or how many snow blizzards the gentleman from Arizona (Mr. UDALL) and I have gone through down in the Bear Creek Wilderness area, or in snow blizzards in Idaho, nor did the Congressional Quarterly devote any pages to the hearings held on Sundays in Colorado, or Montana, and Utah by the gentleman from Arizona (Mr. UDALL) or the weeks spent in Alaska. However the Congressional Quarterly this week, with great relish had a feature on congressional junkets in which it named every Member of the House who has taken a trip in the last 3 or 4 years, but not one lousy line of credit for the days worked on Saturdays and Sundays, or the countless hours worked by the gentleman from Colorado (Mr. JOHNSON) and I have given to the cause of proper land management in our committee alone.

I thought the observation was appropriate at this time and I beg the gentleman's indulgence for taking his time on it.

Mr. JOHNSON of Colorado. Mr. Speaker, I think that it is particularly appropriate that the House recognize the efforts that the gentleman from Wyoming (Mr. RONCALIO) has made, because I have been with him traveling and working, and the gentleman has received obloquies wherever he has gone on these wilderness trips. He even received a necklace of goat's dung, I believe, from some of his admirers out in Hawaii when he was holding hearings there. I might add that those in the State of Colorado, never quite showed their affection in that particular form. But he has been the recipient of a wide variety of awards in the course of his years as the chairman of this particular subcommittee, and those of us who have worked with him admire him and thank him for his perseverance, and we wish him good luck and Godspeed in his new venture.

Mr. Speaker, I reserve the balance of my time.

● Mr. BAUCUS. Mr. Speaker, I fully support a bill intended to culminate more than three decades of effort to protect a wild area in Montana known as the Great Bear Wilderness.

The Great Bear Wilderness is stunning mountain country astride the Continental Divide in northwestern Montana. To the north is Glacier Park. At its south are the Bob Marshall Wilderness and the Scape Goat Wilderness.

The 350,871 acres contained in my Great Bear proposal is a vital link between these natural areas. It links them together to provide one of the largest basically unroaded ecosystems left in the United States. Within this vast ecosystem, large animals such as the grizzly bear are able to conduct their daily movements and seasonal migrations unimpeded.

The importance of this area as a habitat ridge to free-flowing wildlife on the headwaters of critical spawning streams for cut-throat trout and Dolley Verdon cannot be overemphasized. The cutthroat is a threatened species in much of its former habitat. Establishment of the Great Bear Wilderness to insure enduring protection of its spawning streams would guarantee its survival in the Flathead River system.

There are other values involved. The public lands in this area are starkly beautiful mountain country. It supports populations of the threatened grizzly, the endangered timber wolf, elk, deer, black bear, lynx, moose, mountain goat, big horn sheep, ducks, grouse, marten, mink, otter, and numerous other species—in a variety seldom found in the lower United States. Further, the area's mountains, valleys, and streams are unexcelled for hiking, hunting, backpacking, horse-back trips, fishing, cross-country skiing, white-water boating,

photography, and other recreational pursuits associated with wilderness.

Many Montanans have sought wilderness designation of this area and its magnificent wild river since the early 1950's. That river, the upper portion of the middle fork of the Flathead River, was included into the National Wild and Scenic Rivers System in October 1976.

That same month, Congress passed a study bill for the Great Bear Wilderness mandating the Forest Service to conduct field studies of its suitability or nonsuitability for wilderness. That study is now complete. Field hearings have been held. Testimony pro and con have been submitted and I must emphasize that the vast majority of those testifying favored establishment of the Great Bear Wilderness.

In accordance with Public Law 94–557, the Department of Agriculture reviewed the Great Bear Wilderness study area in the Flathead and the Lewis and Clark National Forest in Montana. The Forest Service submitted its recommendation regarding the Great Bear area to the Congress last week. The Forest Service recommended designation of a Great Bear Wilderness of 293,571 acres on the Flathead National Forest and an addition to the existing Bob Marshall Wilderness of 66,300 acres on the Lewis and Clark National Forest. This would represent a total addition to the National Wilderness Preservation System of 359,871 acres. The Forest Service study determined that 26,660 are not suitable for wilderness and that a utility corridor through the proposed wilderness should not be recommended at this time.

Mineral studies indicates a moderate potential for submarginal copper and silver resources, and small potential for submarginal coal. The Interior Committee has deleted 3,500 acres because of mineral potential. Due to the high elevation and the history of fire occurrence, much of the area contains nonforest and unproductive forest land.

A request to leave the area unclassified to permit oil and gas exploration seems unnecessary. The Great Bear area is only a small part—a pinhead on the map—of the entire Lewis overthrust currently being explored. There is ample opportunity to test the area's potential as an oil and gas producer outside the boundaries of this wilderness proposal. There is no need, either, to exclude lands north of the Middle Fork River in the Schafer Meadows area because of a wilderness airstrip there. The Wilderness Act provides for the inclusion of pre-established uses of this type. The use of this airstrip for its present purposes should be continued.

I have stated that there is an overwhelming consensus for the inclusion of the Great Bear area into the National Wilderness Preservation System. As many of us know, no wilderness proposal is withcut controversy. One point requires comment. Future need for east-west utility corridors from eastern Montana-Wyoming coal fields to the user-load-centers in Washington and Oregon was recognized by the Forest Service. During the consideration of the Great Bear Wilderness study proposal during the 94th Congress, the late Senator Lee Metcalf urged the Forest Service and the Bonneville Power Administration (BPA) to jointly review corridor alternatives going through the study area and ones which would circumvent the study area.

On the basis of this joint study, the administration concluded that in the absence of additional evidence of immediate needs, it would be premature at this time to establish a utility corridor in the proposed wilderness. This view was strongly supported by public response and especially by the Montana Department of Natural Resources. Should further study and development confirm that a utility corridor through the Great Bear Wilderness is in the national interest, the President has the authority in section 4(d)(4) of the Wilderness Act of 1964, to create a corridor. At this time, Mr. Speaker, I would like to enclose in the RECORD a copy of an opinion by the Office of General Counsel of the U.S. Forest Service regarding the utility corridor issue.

That opinion follows:

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE GENERAL COUNSEL,
Washington, D.C., July 28, 1978.

Subject: Section 4(d)(4), Wilderness Act, 16 U.S.C. 1133(d)(4).

To: John R. McGuire, Chief, Forest Service:

This is in response to your memorandum of July 26, 1978, requesting our opinion as to the scope and applicability of Section 4(d)(4) of the Wilderness Act, 16 U.S.C. 1133(d)(4). Of particular interest is the applicability of this section to facilities for the transmission of electric power through designated utility corridors in the Great Bear area of Montana which is proposed for wilderness classification. Relevant portions of the Act state:

"(4) Within wilderness areas in the national forests . . . (1) the President may, within a specific area and in accordance with such regulations as he may deem desirable, authorize prospecting for water resources, the establishment and maintenance of reservoirs, water-conservation works, power projects, transmission lines, and other facilities needed in the public interest, including the road construction and maintenance essential to development and use thereof, upon his determination that such use or uses in the specific area will better serve the interests of the United States and the people thereof than will its denial. . . . 16 U.S.C. 1133(d)(4)."

This section enumerates a series of projects for which the President may authorize the "establishment and maintenance" within the boundaries of a designated wilderness area. This series may be subject to various interpretations.

The doctrine of *noscitur a sociis* may be applied to interpret this section. Under this doctrine, a word is interpreted according to its accompanying words. Thus words in a series of general meaning may be colored by the meaning of more specific words. Thus the terms "power projects, transmission lines" may be considered to relate to the previously enumerated water resource projects. However, it is our opinion that these terms are unambiguous and sufficiently descriptive by them in defining all forms of power projects and associated transmission lines. There is no more specific meaning than need be applied, and the doctrine is therefore inapplicable.

The phrase "and other facilities needed in the public interest" is likewise subject to various interpretations. An analogous doctrine of interpretation to that stated above is *ejusdem generis* whereby when general words follow an enumeration of specific things, such general words are construed as applying only to things of the same general kind as those specifically mentioned. In this situation, "other facilities" could likewise be construed as applying to water or power projects. Such a narrow construction would still apply "other facilities" to a wide range of projects including various forms of power transmission lines which may be constructed in a utility corridor. However, we interpret "other facilities" as being very broad and limited only by the phrase "needed in the public interest." Thus, any type of project which the President deems in the public interest may come within the purview of this section.

The legislative history supports this interpretation. The same or similar language of Section 4(d)(4) was contained in both the House and Senate versions of the Act. The Congress saw the issue as one of competitive land uses for wilderness areas:

"Serious consideration has been given to the various competitive uses. Provisions have been included in the bill for future modification in the wilderness system, or in regulations governing specific areas, if it is the finding of the President of the United States that a nonwilderness use is in the greater public interest than is wilderness use in some specific area. Congress itself can at any time enact legislation making changes."[1]

The object of this provision is to allow the President to override wilderness designation in those extraordinary circumstances where, in his opinion, construction of a project is more in the public interest than retention of the wilderness character of a site. Thus the test of the application of Section 4(d)(4) to a project is whether such a project is "needed in the public interest," and not whether it is of a particular type.

Section 4(d)(4) makes provisions for regulations to guide in making such determinations. Such regulations have not been promulgated by the Departments of Agriculture or of the Interior. To date, the President has never authorized a project under this section.

In conclusion, if the President determines it to be in the public interest to establish a facility for the transmission of power in a Great Bear Wilderness area, such a facility can be permitted under the provisions of Section 4(d)(4) of the Wilderness Act.

JOSEPH D. CUMMINGS,
Acting Director,
Natural Resources Division.

Wilderness designation has not been recommended for nearly 26,600 acres contained in the original Great Bear study bill. Of this, 23,160 acres reflect the impact of timber harvest and access activity and contain numerous small exclusions for better wilderness boundary definition. In addition, one contiguous area of 3,500 acres is not recommended for wilderness because of conflicts with avalanche control on the Teton Pass ski area. An additional 6,000 acres have been removed for snowmobile use.

I am pleased that my distinguished colleague from eastern Montana, Congressman MARLENEE, has joined with me today in the support of the Great Bear Wilderness Act. We believe the proposed Great Bear Wilderness meets the test of suitability, availability, need and manageability for such a designation. The overwhelming consensus supports the establishment of the Great Bear Wilder-

[1] Senate Committee on Interior and Insular Affairs, 88th Cong. 2d Sess., Report on S. 4 Establishing a National Wilderness Preservation System (Comm. Report No. 109), p. 12.

ness. Thus, I urge its immediate passage so that we might guarantee to future generations an enduring wilderness resource along the northern reaches of the Continental Divide in Montana.

I would like to thank TENO RONCALIO for his help, understanding, and assistance in the consideration of the Great Bear Wilderness Act. His counsel will be missed in this body, but particularly by his colleagues from the West.●

Mr. RONCALIO. Mr. Speaker, I have no requests for time and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wyoming (Mr. RONCALIO) that the House suspend the rules and pass the bill H.R. 13972, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

MODIFYING THE BOUNDARY OF THE CIBOLA NATIONAL FOREST

Mr. RONCALIO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 10679) to modify the boundary of the Cibola National Forest, and for other purposes, as amended.

The Clerk read as follows:

H.R. 10679

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled, That the exterior boundary of the Cibola National Forest in New Mexico be modified to include the following described lands:

A tract of land containing that part of the land described in the Elena Gallegos Grant, illustrated on maps on file with the Chief of the Forest Service, Department of Agriculture and the Director of the Bureau of Land Management, Department of the Interior, lying east of a line described as beginning at the closing corner between sections 35 and 36 of township 11 north, range 4 east on the south boundary of said grant and extending north 2,700 feet; thence east 1,515 feet; thence north 1,260 feet; thence east 755 feet; thence north 11,386 feet; thence south 89 degrees 56 minutes 15 seconds west, 2,286.41 feet; thence north 0 degrees 3 minutes 45 seconds west, 4,164.89 feet to the closing corner between sections 13 and 14 on the north boundary of said grant of said township; thence south 81 degrees 30 minutes east, 2,316.42 feet along the boundary of said grant to a point on the north boundary of said grant, which point lies north 81 degrees 30 minutes west, approximately 150 feet from the 7½-mile corner of said grant; consisting of 7,461.34 acres, more or less: *Provided, however,* That the tract of land described in this section shall not be included within the Cibola National Forest until the Secretary of Agriculture determines that the City of Albuquerque, New Mexico, has acquired a tract of land containing approximately 640 acres located immediately to the west of such tract for open space or city park use.

SEC. 2. (a) The following tract of land consisting of approximately 6,423 acres is hereby designated as "Intended Wilderness": a tract of land containing that part of the land described in section 1 lying east of a line beginning at the closing corner between sections 35 and 36 of township 11 north, range 4 east, on the south boundary of such grant and extending north 2,700 feet; thence east 1,515 feet; thence north 1,260 feet; thence east 3,160 feet; thence north 4,125 feet; thence north 42 degrees east, 4,480 feet; thence north 1,710 feet; thence west 3,235 feet; thence north 19 degrees west, 2,350 feet; thence west 1,400 feet; thence north 3,820 feet to a point on the north boundary of such grant; thence south 81 degrees 30 minutes east, 150 feet along the boundary of such grant to the 7½-mile corner.

(b) Interests in the tract of land designated as "Intended Wilderness" in subsection (a) shall, when acquired be part of the Sandia Mountain Wilderness as designated by section 2 of the Endangered American Wilderness Act of 1978 (92 Stat. 40; 16 U.S.C. 1132 note), and the Secretary shall publish a notice of such classification in the Federal Register. The portion of Sandia Mountain Wilderness added by this Act shall be administered by the Secretary of Agriculture in accordance with applicable provisions of the Wilderness Act (78 Stat. 890; 16 U.S.C. 1131 et seq.), except that any reference to the effective date of such Act shall be deemed to be a reference to the date of the enactment of this Act.

SEC. 3. For the purposes of section 7 of the Act of September 3, 1964 (78 Stat. 903, as amended; 16 U.S.C. 4601–9) the boundary of the Cibola National Forest, as modified by section 1 of this Act, shall be treated as if it were the boundary of that Forest on January 1, 1965.

SEC. 4. (a) Subject to valid existing rights, lands owned by the United States in the tracts of land described in section 1 are hereby added to the Cibola National Forest and shall be administered in accordance with the laws, rules, and regulations applicable to the National Forest System.

(b) Land acquired by the Secretary of the Interior within the boundaries of Cibola National Forest as extended by this Act shall be transferred to the Secretary of Agriculture, shall be added to the Cibola National Forest, and shall be administered in accordance with the laws, rules, and regulations applicable to the National Forest System.

SEC. 5. Effective October 1, 1979, there are authorized to be appropriated not more than $12,000,000 from the Land and Water Conservation Fund for the acquisition of lands added to the Cibola National Forest by section 1 of this Act.

The SPEAKER pro tempore. Is a second demanded?

Mr. JOHNSON of Colorado. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Wyoming (Mr. RONCALIO) and the gentleman from Colorado (Mr. JOHNSON) will be recognized for 20 minutes each.

The Chair now recognizes the gentleman from Wyoming, Mr. RONCALIO.

Mr. RONCALIO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 10679, which extends the boundary of the Cibola National Forest and designates an intended wilderness area in New Mexico. This tract consists of 7,461 acres and is bordered on the north, east, and south by the Cibola National Forest. Most of the area is characterized by steep, rough topography which is similar to the contiguous national forest lands, and as such, would be a suitable addition to the national forest system.

Of this 7,461 acres, H.R. 10679 would designate a 6,423-acre "intended wilderness," and after the land has been acquired, it would become a part of the existing Sandia Mountain Wilderness. Since this tract borders the Sandia Mountain Wilderness, it would form a cohesive, logical unit. The remaining 1,000 acres would serve as a staging area for those people using the wilderness area. An additional 640-acre tract below this area would be purchased by the city of Albuquerque and would be managed for open space or city park purposes.

If this bill is enacted, we will have stopped the encroachment on the Sandia Mountains, and the beauty of the Sandias will be there for all generations. This legislation has the support of the New Mexico delegation, the administration, the State of New Mexico, the city of Albuquerque, the environmental groups involved, and the landowner.

Mr. Speaker, I urge my colleagues to support passage of H.R. 10679.

Mr. JOHNSON of Colorado. Mr. Speaker, I have no requests for time.

However, let me say that the gentleman from New Mexico (Mr. LUJAN) was particularly enthusiastic about this piece of legislation which he sponsored. He urges its adoption, and I urge its adoption.

Mr. Speaker, I yield back the balance of my time.

Mr. RONCALIO. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wyoming (Mr. RONCALIO) that the House suspend the rules and pass the bill H.R. 10679, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title was amended so as to read: "A bill to amend the boundary of the Cibola National Forest, designate an intended wilderness area, and for other purposes.".

A motion to reconsider was laid on the table.

Mr. RONCALIO. Mr. Speaker, I ask unanimous consent that the Committee on Interior and Insular Affairs be discharged from further consideration of the Senate bill (S. 553) to enlarge the boundary of the Cibola National Forest, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wyoming?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 553

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the exterior boundary of the Cibola National Forest in New Mexico be modified to include the following described lands:

1. A tract of land in townships 13 and 14 north, range 16 and 17 west, of the New

Mexico principal meridian in New Mexico, beginning at a point from which the southwest corner of section 34, township 14 north, range 17 west, bears north 89 degrees 52 minutes west 1,717.32 feet;

thence south 0 degrees 56 minutes east 1,307.46 feet to the southwest corner of the Fort Wingate Army Depot;

thence south 89 degrees 45 minutes east 897.60 feet;

thence south 89 degrees 57 minutes east 2,643.30 feet;

thence north 89 degrees 48 minutes east 5,272.08 feet;

thence north 89 degrees 51 minutes east 6,596.70 feet to the southeast corner of Fort Wingate Army Depot which bears north 89 degrees 51 minutes east 1,320.66 feet and south 1,328.58 feet from the northwest corner of section 6, township 13 north, range 16 west;

thence north 0 degrees 42 minutes west 12,945.12 feet; then due west 15,175.51 feet to the west boundary of the Fort Wingate Army Depot;

thence south 0 degrees 35 minutes west 2,598.32 feet;

thence south 0 degrees 23 minutes west 5,195.52 feet;

thence south 0 degrees 32 minutes west 3,872.88 feet to the point of beginning, containing an area of 4,556 acres, more or less. The southwest and southeast corners of Fort Wingate Army Depot mentioned in the above description are the same as was installed as of November 19, 1971, and mentioned in the Mann survey, United States Department of the Interior, Bureau of Land Management plat dated September 9, 1957.

2. Township 14 north, range 15 west, section 3, all lying south of Interstate 40; section 4, all lying south of Interstate 40; section 5, all; section 8, all; section 9, all; section 10, all lying south of Interstate 40; section 11, all lying south of Interstate 40; section 12, all lying south of Interstate 40; section 13, all lying south of Interstate 40; section 14, all; section 15, all; section 16, all; section 17, all; section 20, all; section 21 all; section 22, all; section 23, all; section 24, all; section 25, all; section 26, all; section 27, all; section 28, all; section 29, all; section 32, east half; section 33, all; section 34, all; section 35, all; section 36, all; containing 14,476.06 acres, more or less.

3. Township 10 north, range 4 east, section 2, south half northeast quarter, southeast quarter; section 11, northeast quarter, north half southeast quarter, southeast quarter southeast quarter; containing 520 acres, more or less.

4. That portion of the Elena Gallegos grant lying east of a line described as beginning at the closing corner between sections 35 and 36 of township 11 north, range 4 east, on the south boundary of said grant and extending north 2,700 feet, thence east 1,515 feet, thence north 1,260 feet, thence east 3,160 feet, thence north 4,125 feet, thence north 42 degrees east 4,480 feet, thence north 1,710 feet, thence west 3,235 feet, thence north 19 degrees west 2,350 feet, thence west 1,400 feet, thence north 3,820 feet to a point on the north boundary of said grant, thence south 81 degrees 30 minutes east 150 feet along said grant boundary to the 7½ mile corner, containing 6,423 acres, more or less.

SEC. 2. Subject to valid existing rights, all lands owned by the United States in the areas described in section 1 of this Act are hereby added to the national forest, and shall be administered in accordance with the laws, rules, and regulations applicable thereto.

SEC. 3. For the purposes of section 6 of the Act of September 3, 1964 (78 Stat. 903), the boundary of the Cibola National Forest, as modified by section 1 of this Act, shall be treated as if it were the boundary of that forest on January 1, 1965.

MOTION OFFERED BY MR. RONCALIO

Mr. RONCALIO. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. RONCALIO moves to strike out all after the enacting clause of S. 553 and to insert in lieu thereof the provisions of H.R. 10679, as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title was amended so as to read: "A bill to amend the boundary of the Cibola National Forest, designate an intended wilderness area, and for other purposes.".

A motion to reconsider was laid on the table.

A similar House bill (H.R. 10679) was laid on the table.

TOIYABE NATIONAL FOREST, NEVADA

Mr. RONCALIO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 13221) to extend the boundaries of the Toiyabe National Forest in Nevada, and for other purposes, as amended.

The Clerk read as follows:

H.R. 13221

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That to aid in the protection and management of the various resources of the lands in the Lake Tahoe Basin, including the protection, improvement, and maintenance of the watershed, wildlife, recreation, and natural environment values of such lands, and to promote the management and protection of such lands under principles of multiple use and sustained yield, the boundaries of the Toiyabe National Forest are extended to include the area described in section 2 of this Act. Subject to any valid claims now existing and hereafter maintained, any lands of the United States within such area are hereby added to such national forest and shall be subject to laws and regulations applicable to the national forests.

SEC. 2. This Act shall be applicable to the following lands:

(a) a tract of land, referred to as the "Whittell property", situated in section 10, lot 2, township 13 north, range 18 east, Mount Diablo meridian, Nevada, containing 34.4 acres more or less;

(b) a tract of land, referred to as the "Kahle property", situated in sections 23, 26, and 27, township 13 north, range 18 east, Mount Diablo meridian, Nevada, containing 20 acres more or less, as shown on a map entitled "Kahle property—September 1978" on file in the Office of the Chief, Forest Service, United States Department of Agriculture, Washington, District of Columbia; and

(c) a tract of land, referred to as the "Jennings property", situated in sections 22 and 23, township 13 north, range 18 east, Mount Diablo meridian, Nevada, containing 25 acres more or less, as shown on a map entitled "Jennings property—September 1978" on file in the Office of the Chief, Forest Service, United States Department of Agriculture, Washington, District of Columbia.

SEC. 3. Funds appropriated and available for acquisition of lands, waters, and interests therein, in the National Forest System pursuant to section 7 of the Land and Water Conservation Fund Act of 1965 (78 Stat. 903, as amended; 16 U.S.C. 4601–9) shall be available for the acquisition of any lands, waters, and interests therein, within the area described in section 2 of this Act.

SEC. 4. Section 3 of the Act entitled "An Act to extend the boundaries of the Toiyabe National Forest in Nevada, and for other purposes", approved August 5, 1970 (84 Stat. 694), is amended—

(1) by striking out "Not to exceed $12,500,000 of the funds" and inserting in lieu thereof "Funds"; and

(2) by striking out "section 6" and inserting in lieu thereof "section 77".

The SPEAKER pro tempore. Is a second demanded?

Mr. JOHNSON of Colorado. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Wyoming (Mr. RONCALIO) and the gentleman from Colorado (Mr. JOHNSON) will be recognized for 20 minutes each.

The Chair recognizes the gentleman from Wyoming (Mr. RONCALIO).

Mr. RONCALIO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 13221. This bill provides the legislative authority to add three sites, totaling 80 acres and referred to as the Whittell property, and Kahle and Jennings gaming sites, to the Toiyabe National Forest in Nevada.

The entire Whittell estate consists of over 400 acres of which all but 35 acres are within the Toiyabe National Forest, and the administration recommends extending the boundary to include the remaining 35 acres. The Kahle and Jennings sites consist of a 20-acre parcel and a 25-acre parcel located in South Shore Lake Tahoe.

As most of us are aware, Lake Tahoe is one of the largest and oldest pure alpine lakes in the world covering 193 square miles of land in Nevada and California. Unfortunately, the beauty of this lake and surrounding area are being endangered by increased sewage from over development and automobile congestion.

Funding for the purchase of the Kahle and Jennings sites has been appropriated in separate legislation which has passed the House this year. H.R. 13221 extends the boundary so that when the funds are available these sites will be within the Toiyabe National Forest boundary for classification purposes.

The Committee on Interior and Insular Affairs amended H.R. 13221 by reducing the acreage from 5,649 to approximately 80 acres. With this amendment, the boundary includes only three specific sites, and alleviates the concern of the administration that the bill could potentially result in unwarranted appropriations at a future time.

Mr. Speaker, I urge my colleagues to support the passage of H.R. 13221 with the committee amendment.

GENERAL LEAVE

Mr. RONCALIO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill H.R. 13221, presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wyoming?

There was no objection.

Mr. JOHNSON of Colorado. Mr. Speaker, I yield such time as he may consume to the gentleman from Nevada (Mr. SANTINI).

Mr. SANTINI. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, these remarks are shared by both gentlemen from California, Mr. JOHNSON, and Mr. MCFALL.

Today we are considering one of the most important steps toward effective preservation of the natural values of the Tahoe basin. Lake Tahoe, one of the world's largest and most beautiful alpine lakes, has been seriously threatened during the last few years by steadily increasing development along its shores. Many steps have been taken to slow and control that development. This bill will assist the Federal Government in its attempt to correlate those efforts. This bill does not authorize expenditure of funds for property. The purpose of the bill is to place those properties within the boundaries of the Toiyabe National Forest. The funding for that purchase will come from land and water conservation funds already authorized by this Congress. The House and Senate both have approved wording in their respective versions of the Interior Appropriations bill which will, when approved as part of the conference report, earmark funds for those purchases.

The bill also includes a boundary change which will allow the Forest Service to complete its purchase of another site, the Whittell Estate. A little more than 34 acres of the 400 total acres in this parcel lies outside of the current Forest Service boundaries. The Forest Service has already negotiated completion of that purchase.

In both cases, this bill will, by including the property within the Forest Service boundaries, allow that agency to properly administer this valuable property.

The bill does have one additional provision. It lifts the ceiling placed on spending for the purchase of lands within the current boundary of the Toiyabe National Forest. With this change, the Forest Service can place those lands alongside other inholdings to determine spending priorities. The provision does not require the agency to make additional purchases, it simply allows it to do so if those purchases are essential to effective continued management of the national forest system.

During the last 2 years, negotiations have continued between the States of California and Nevada to resolve the problems in the current bi-State compact which allowed the approval of the projects now threatening the area. Just last month, after extensive negotiations which involved Members of Congress and representatives of the administration, the two States tentatively agreed to revision of the compact. Next year, both States will be asked to ratify those revisions. This bill will demonstrate the support of Congress for their efforts to resolve their differences.

● Mr. JOHNSON of California. Mr. Speaker, H.R. 13221 which is on the Suspension Calendar today is directly related to plans to deal with growth in the Lake Tahoe Basin on the California-Nevada border. The measure is therefore of particular interest to everyone concerned about maintaining the beauty of Lake Tahoe which is one of the largest and finest Alpine lakes in the world.

The purpose of the legislation is to extend the boundaries of the Toiyabe National Forest in Nevada to include three parcels of land on the east side of Lake Tahoe. These parcels contain a total of only about 80 acres, but two of them would be the sites for large new hotels and gambling casinos, if not acquired by the Forest Service.

Because of its remarkable beauty, Lake Tahoe has drawn people from throughout the Nation and the world. Over the years, more and more housing and recreational facilities have been built to meet the increasing demand. The Tahoe Basin has become more and more crowded, and today faces problems of congestion, water pollution, and traffic which are typical of urban areas.

In 1969, under a California-Nevada bi-State compact, a regional planning agency was established to address these growth problems. In the course of time many came to believe that the structure of that regional planning agency needed to be strengthened. After several efforts, a set of proposals to revise the Tahoe Regional Planning Agency has now been negotiated, with the Governors of Nevada and California giving their respective approvals. It must now be ratified by the legislatures of the two States.

The revised bi-State compact would prohibit any future siting and construction of additional gaming casinos. But even as this agreement was being worked out, private developers were proceeding with plans to build large new casino-hotels on two parcels on the Nevada side of Lake Tahoe. These are the 25-acre Jennings property and the 20-acre Kahle property.

Court suits were filed to stop construction of these new gaming facilities, but it became clear that the best way to accomplish that result is to purchase the Jennings and Kahle properties with public funds so that they can be ultimately used in a way that will better serve the interests of the public in the Tahoe Basin.

The legislation before us today simply provides the necessary authorization for the Forest Service to acquire these two parcels, along with another 35-acre parcel known as the Whittell property. Our friend, the distinguished Member from Nevada, has introduced this measure with our full support.

Appropriation of funds for acquisition of these parcels is not at issue today. Funds have already been included in the conference report on the Interior appropriations bill.

Mr. Speaker, the situation at Lake Tahoe is a difficult one. There are divergent views about what the future of the Tahoe Basin should be and how future development should be managed. However, with regard to the acquisition of these so-called casino sites, there is general agreement that it should be done.

Some 65 percent of the land in the Lake Tahoe Basin is already held and managed by the Forest Service, so that this minor expansion of national forest boundaries is entirely in line with the program we have been following for many years. Lake Tahoe is widely recognized as one of our great national resources, and the American people have a clear interest in its preservation.

For these reasons, Mr. Speaker, I join in urging support for H.R. 13221.●

● Mr. LEGGETT. Mr. Speaker, as we wade through the 25 bills on the Suspension Calendar this afternoon, I think it is important that my colleagues pay particular attention to H.R. 13221. This is a modest bill at first glance, but one which will ultimately have a far-reaching impact, not only for residents of California and Nevada, but for all Americans. Simply put, adoption of this measure will help assure the preservation and enhancement of Lake Tahoe as one of the world's great natural assets.

While many westerners are familiar with the charms of this national treasure, possibly some of my colleagues are less familiar with Lake Tahoe's characteristics and I would like to take a moment to review them with you.

Tahoe is the biggest high-mountain lake in North America, third deepest lake in North America, and one of the clearest lakes in the world. Geologists regard it as a primordially pure alpine lake with certain characteristics shared by only one other body of water—Lake Baikal in the Soviet Union. The 25,000-year-old lake—considered youthful by scientists—covers 193 square miles with water so clear that objects can be seen at a depth of 100 feet or more. Located in the Sierra Nevada Range at an elevation of 6,225 feet, the lake is 21 miles long, 12 miles wide and reaches depths of 1,645 feet.

Surrounding the shoreline is a basin of approximately 200,000 acres. Located on the border of California and Nevada, the lake and basin occupy portions of both States. Sixty-eight percent of the land is in public ownership. The Nevada portion of Tahoe covers 50,000 acres. Of this the State owns 6,047 acres, or 12 percent in parklands, while 21,081 acres are held by the U.S. Forest Service; 22,000 acres are in private ownership. On the California side the Federal holdings amount to 106,717 acres. Another 43,000 acres are privately owned, and 5,394 acres are owned by the State.

Lake Tahoe is a unique and priceless scenic resource. It is an environmentally sensitive area, and without proper land-use control there will be substantial erosion of sediments into the lake, fouling of the air, and destruction of sensitive ecosystems.

Until the 1960's, Lake Tahoe, with its fragile environment, was used primarily as a quite summer resort. It consisted of a few motels, rustic cabins, three small casinos on the Nevada side of the border, and supported a peak summer-time population of about 36,000. Today, Lake Tahoe is one of the West's most popular vacation spots. More than 15 million

visitors come to the basin each year for its beauty, summer sun, winter skiing, and Nevada's gambling and shows. The permanent population is now estimated at 45,000 and existing guidelines allow for a peak summer, population of 475,000. In midsummer some 55,000 cars a day drive across the State line at South Shore.

Today Tahoe's air quality generally compares to that of the urban San Francisco bay area. As measured around parking lots, the levels of carbon monoxide and hydrocarbons on some days exceed those in downtown Los Angeles. Because the basin is bowl-shaped, air inversions that are common in summer trap pollutants. The result is a choking, congested environment similar in many respects to Los Angeles. Needless to say, these conditions are a radical change from the conditions of 20 years ago and substantially threaten the very elements which attract our citizens to the lake.

A major contributor to the growth of the population at the lake is Nevada's casino gambling. The high profits to be realized from this enterprise and its proximity to the millions of northern Californians has created substantial pressure for continued casino expansion at Lake Tahoe.

Frankly, the Lake Tahoe basin cannot handle more people without suffering irreversible damage.

The resulting negative impacts directly related to this possible growth include deterioration of air and water quality, the destruction of delicate ecosystems, and substantial public expenditure costs relating to added needs for highways, sewer treatment, low and moderate income housing, and the delivery of other public services. The unsolved problems of sewage treatment disposal and the inadequately controlled land uses are resulting in the irreversible destruction of a priceless natural resource.

The States of California and Nevada recognized the problems posed by runaway growth and inadequate planning in the Lake Tahoe basin in 1965 and formed the Lake Tahoe Joint Study Committee. This ultimately lead to the Tahoe regional planning compact. While this body made some progress, most observers agree that it has been inadequately structured to cope with the pressures for further growth in the basin. Last year a crisis situation developed when California officials threatened to discontinue funding of the planning group.

I am happy to report that California's Gov. Jerry Brown and Nevada's Gov. Mike O'Callaghan were brought together by my good friend, Charles Warren, the chairman of the Council on Environmental Quality, with the encouragement of my colleagues in the House, BIZZ JOHNSON, JOHN MCFALL, and JIM SANTINI, and California's senior Senator, ALAN CRANSTON. After months of negotiations a new regional planning agreement has been reached. To make this excellent concept work, Federal participation is necessary. This is certainly appropriate as Lake Tahoe is truly a national resource.

To make the new agreement work, action is required by this Congress on three measures. First, we must agree to extend the boundaries of the Toiyabe National Forest in the Lake Tahoe area by some 80 acres. Associated with this action is the authorization of a purchase of 400 acres commonly known as the Whittell Estate. Second, we must appropriate funds to make the land purchase. Last, we must consent to the planning agreement once it is ratified by the two State legislatures.

The first action we face today. The acquisition of this land will place land vulnerable to casino development into U.S. Forest Service jurisdiction. This is the key to restricting the continued deterioration of this scenic wonder and will demonstrate our commitment to play a full partnership role in a solution to the Tahoe problem.

I am happy to report that the Senate has receded to the House position in the Interior appropriations bill concerning the purchase of the two private properties at Lake Tahoe. This will provide $12,500,000 in Federal funds to match a similar amount that will be put up by the States of Nevada and California. This matching arrangement again demonstrates the commitment of the three parties to an agreement resolving this problem.

Mr. Speaker, I am pleased that Nevada, California, and the Federal Government have acted so responsibly on such a difficult issue. All parties are to be commended.

While references to the recently concluded Camp David summit have been all too prevalent over the past weeks, I truly believe that this agreement forged by Charlie Warren can be compared to President Carter's efforts with the Egyptians and the Israelis. Charlie should be singled out for special praise as we move a step closer today in resolving the Lake Tahoe dilemma.

I urge my colleagues to join me in supporting this vital legislation.●

Mr. JOHNSON of Colorado. Mr. Speaker, I have no further requests for time, and I yield back the remainder of my time.

Mr. RONCALIO. Mr. Speaker, I yield back the remainder of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wyoming (Mr. RONCALIO) that the House suspend the rules and pass the bill H.R. 13221, as amended.

The question was taken; and (two-thirds having voted in favor thereof), the rules were suspended, and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

FEDERAL PHYSICIANS' COMPARABILITY ALLOWANCE ACT

Mrs. SPELLMAN. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 990) to amend title 5, United States Code, to provide special allowances to certain physicians employed by the United States in order to enhance the recruitment and retention of such physicians, as amended.

The Clerk read as follows:

S. 990

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Physicians Comparability Allowance Act of 1978".

SEC. 2. (a) Subchapter IV of chapter 59 of title 5, United States Code, relating to allowances, is amended by adding at the end thereof the following new section:

"§ 5948. Physicians comparability allowances

"(a) Notwithstanding any other provision of law, and in order to recruit and retain highly qualified Government physicians, the head of an agency, subject to the provisions of this section and such regulations as the President or his designee may prescribe, may enter into a service agreement with a Government physician which provides for such physician to complete a specified period of service in such agency in return for an allowance for the duration of such agreement in an amount to be determined by the agency head and specified in the agreement, but not to exceed—

"(7) $7,000 per anum, if, at the time the agreement is entered into, the Government physician has served as a Government physician for twenty-four months or less, or

"(2) $10,000 per annum if the Government physician has served as a Government physician for more than twenty-four months.

"(b) An allowance may not be paid pursuant to this section to any physician who—

"(1) is employed on less than a half-time or intermittent basis,

"(2) occupies an internship or residency training position,

"(3) is a reemployed annuitant, or

"(4) is fulfilling a scholarship obligation.

"(c) The head of an agency, pursuant to such regulations, criteria, and conditions as the President or his designee may prescribe, shall determine categories of positions applicable to physicians in such agency with respect to which there is a significant recruitment and retention problem. Only physicians serving in such positions shall be eligible for a allowance pursuant to this section. The amounts of each such allowance shall be determined by the agency head, subject to such regulations, criteria, and conditions as the President or his designee may prescribe, and shall be the minimum amount necessary to deal with the recruitment and retention problem for each such category of physicians.

"(d) Any agreement entered into by a physician under this section shall be for a period of one year of service in the agency involved unless the physician requests an agreement for a longer period of service. No agreement shall be entered into under this section later than September 30, 1979, nor shall any agreement cover a period of service extending beyond September 30, 1981.

"(e) Unless otherwise provided for in the agreement under subsection (f) of this section, an agreement under this section shall provide that the physician, in the event that such physician voluntarily, or because of misconduct, fails to complete at least one year of service pursuant to such agreement, shall be required to refund the total amount received under this section, unless the head of the agency, pursuant to such regulations as may be prescribed under this section by the President or his designee, determines that such failure is necessitated by circumstances beyond the control of the physician.

"(f) Any agreement under this section shall specify, subject to such regulations as the President or his designee may prescribe, the terms under which the head of the agency and the physician may elect to terminate such agreement, and the amounts, if any, required to be refunded by the physician for each reason for termination.

"(g) For the purpose of this section—

"(1) 'Government physician' means any

individual employed as a physician who is paid under—

"(A) section 5332 of this title, relating to the General Schedule;

"(B) section 5361 of this title, or similar statutory authority, relating to administratively determined pay for certain specially qualified scientific or professional personnel;

"(C) section 3 of the Tennessee Valley Authority Act of 1933 (16 U.S.C. 831b), relating to the Tennessee Valley Authority;

"(D) title 4 of the Foreign Service Act of 1946 (22 U.S.C. 861–890), relating to the Foreign Service;

"(E) section 10 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403j), relating to the Central Intelligence Agency;

"(F) section 121 of title 2 of the Canal Zone Code, relating to the Canal Zone Government and the Panama Canal Company; or

"(G) section 2 of the Act of May 29, 1959 (Public Law 86–36, as amended, 50 U.S.C. 402 note), relating to the National Security Agency; and"

"(2) 'agency' means an Executive agency, as defined in section 105 of this title, and the District of Columbia government.

"(h)(1) Any allowance paid under this section shall not be considered as basic pay for the purposes of subchapter VI and section 5595 of chapter 55, chapter 81, 83, or 87 of this title, or other benefits related to basic pay.

"(2) Any allowance under this section for a Government physician shall be paid in the same manner and at the same time as the physician's basic pay is paid.

"(i) Any regulations, criteria, or conditions that may be prescribed under this section by the President or his desgnee shall not be applicable to the Tennessee Valley Authority, and the Tennessee Valley Authority shall have sole responsibility for administering the provisions of this section with respect to Government physicians employed by the Authority.".

(b) The analysis for chapter 59 of such title is amended by adding at the end thereof the following:

"5948. Physicians comparability allowances.".

(c) No agreement shall be entered into under section 5948 of title 5, United States Code, as added by subsection (a), before the 60th day after the date of the enactment of this Act. No such agreement shall provide for the payment of any allowance under such section for any pay period beginning before the later of—

(1) such 60th day, or

(2) October 1, 1978.

The amendments made by this Act are repealed, unless specifically extended by Act of Congress, effective on September 30, 1981."

The SPEAKER pro tempore. Is a second demanded?

Mr. LEACH. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentlewoman from Maryland (Mrs. SPELLMAN) will be recognized for 20 minutes, and the gentleman from Iowa (Mr. LEACH) will be recognized for 20 minutes.)

The Chair recognizes the gentlewoman from Maryland, Mrs. SPELLMAN.

Mrs. SPELLMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, S. 990, as amended, provides the heads of executive agencies with discretionary authority to offer service agreements to certain categories of Federal physicians in order to alleviate recruitment and retention problems which are currently being experienced.

The so-called doctor draft had enabled the uniformed services to meet their needs for medical officers. When it ended in 1973, a supplemental "variable incentive pay" of up to $13,500 a year was developed by the Department of Defense, and Congress in 1974, through Public Law 93–274, authorized it on a temporary basis to insure adequate recruitment and retention of medical officers in a draft-free environment. The legislation, which expires next October, also covers physicians in the Public Health Service Commissioned Corps.

In 1975, when the Veterans' Administration experienced difficulties in meeting its needs for well-qualified physicians, especially in some critically short specialities, the concept of a salary addon was also extended to the VA physicians in the form of "special pay" under a bill passed by the Congress. This temporary legislation provides for "special pay" up to $13,500 for a 4-year employment contract. Since it, too, expires next October, Congress is working on additional temporary extensions.

No authority to provide "special pay" has been given to agencies employing general schedule physicians. S. 990 is an attempt to meet this need.

The Civil Service Commission in a general statement on the recruitment and retention of Federal physicians, which was submitted to the committee, stated

Information from agencies and our own records show that virtually all Federal agencies experience extreme difficulty in recruiting and retaining physicians. The nationwide register of medical officers that is maintained by the Civil Service Commission contains just over 1,000 eligibles. This figure is deceptive, because an individual applicant may be on the register for positions at more than one grade level or for more than one specialty. Even more troublesome is the fact that about 44 percent of the physicians referred on certificates issued by the Commission to agencies are unavailable for placement. A large number of "nonavailables" decline placement because of an undesirable geographical location of the position or the relatively low salary level. To overcome the shortage of available physicians, the Commission found it necessary to issue 93 noncitizen hire authorities in fiscal year 1977. As you may know, the Commission can only issue such authorities when there are no U.S. citizens available to fill the vacancies.

Since the vast majority of Federal physicians in the competitive service are employed by the Department of Defense and the Department of Health, Education, and Welfare, the Commission has granted direct hire authorities to these agencies to combat the difficulties encountered in recruiting qualified physicians. This special recruitment flexibility is an addition to the authority to pay special rates worldwide to medical officers, which currently is applicable to all agencies.

Upon the recommendation of the Civil Service Commission, the committee adopted new language which makes major modifications in the bill. The primary changes makes the bill applicable only to physicians, and unlike VA and uniformed physicians who may receive up to $13,500 per annum in special pay and allowances, these physicians may receive no more than $7,000 per annum if they have served the Government for 2 years or less up to $10,000 per annum if the physician has served the Government for more than 2 years. Further, the agency must show these physicians to be in categories which have been identified as having recruitment and retention problems. Such categories are to be identified by the head of the agency in accordance with regulations, criteria, and conditions as may be prescribed by the President or his designee and the bonus contracts are to be administered on a discretionary basis. The committee endorsed this change as it is consistent with the rationale underlying bonus authorities now provided physicians in the Veterans' Administration and the uniformed services. Additional modifications that were recommended by the Civil Service Commission make the authority for entering into contract agreements end on September 30, 1979, the same date as proposed in the 1979 budget for the Veterans' Administration, with all contracts terminating as of September 30, 1981.

Mr. Speaker, I urge this bill be promptly enacted.

Mr. Speaker, I yield back the balance of my time.

Mr. LEACH. Mr. Speaker, I have no requests for time and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Maryland (Mrs. SPELLMAN) that the House suspend the rules and pass the Senate bill, S. 990, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

A motion to reconsider was laid on the table.

OSAGE INDIANS OF OKLAHOMA

Mr. RONCALIO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 11894) to amend certain laws relating to the Osage Tribe of Oklahoma, and for other purposes, as amended.

The Clerk read as follows:

H.R. 11894

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 9 of the Act of June 28, 1906 (34 Stat. 539, 545), as amended, is further amended to read as follows: "There shall be a quadrennial election of the officers of the Osage Tribe as follows: A principal chief, an assistant principal chief, and eight members of the Osage Tribal Council shall be elected to succeed the officers elected in the year 1974 at a general election to be held in the town of Pawhuska, Oklahoma, on the first Monday in June 1978, and on the first Monday in June of each fourth year thereafter, in a manner to be prescribed by the Secretary of the Interior, and said officers shall be elected for a period of four years commencing on the first day of July following the election. In case of a vacancy in the office of principal chief or other officer by death, resignation, or otherwise, the vacancy shall be filled in a manner to be prescribed by the Osage Tribal Council. In the event of a common disaster and a quorum of five of the Osage Tribal Council does not survive, the Secretary shall appoint

a principal chief and/or the number of councilmen necessary to complete a total of eight, to serve until the next quadrennial election. The Secretary is hereby authorized to remove from the council any member or members for good cause, to be by him determined, after the party involved has had due notice and opportunity to appear and defend himself. The tribal government so constituted shall continue in full force and effect until January 1, 1984, and thereafter until otherwise provided by Act of Congress.".

SEC. 2. (a) The first paragraph of section 3 of the Act of June 24, 1938 (52 Stat. 1034, 1035), as amended, extending the mineral estate reserved to the Osage Tribe by the Act of June 26, 1906 (34 Stat. 539), is further amended by striking the phrase "until the eighth day of April 1983, and thereafter until otherwise provided by Act of Congress" and substituting, in lieu thereof, the phrase "in perpetuity".

(b) The second paragraph of section 3 of the Act of June 24, 1938 (52 Stat. 1034, 1035), as amended, is amended by striking the phrase "unless otherwise provided by Act of Congress" and inserting, in lieu thereof, the phrase "and thereafter until otherwise provided by Congress".

(c) The fourth paragraph of section 3 of the Act of June 24, 1938 (52 Stat. 1034, 1036) is amended by striking the phrase "January 1, 1984" and inserting, in lieu thereof, the phrase "January 1, 1984 and thereafter until otherwise provided by Congress".

SEC. 3. (a) The Act of February 5, 1948 (62 Stat. 18) is hereby repealed.

(b) Any Osage Indian having received a certificate of competency under paragraph 7 of section 2 of the Act of June 28, 1906 (34 Stat. 539, 542); section 3 of the Act of March 2, 1929 (45 Stat. 1478, 1480); or the Act of February 5, 1948 (62 Stat. 18), may make application to the Secretary of the Interior to revoke such certificate and the Secretary shall revoke such certificate: *Provided*, That revocation of any certificate shall not affect the legality of any transactions heretofore made by reason of the issuance of any such certificate. Restrictions against alienation of lands heretofore removed are not reimposed.

(c) Sections 3 and 4 of the Act of February 27, 1925 (43 Stat. 1008, 1010–11); and section 4 of the Act of March 2, 1929 (45 Stat. 1478, 1480); and sections 1 and 3 of the Act of June 24, 1938 (52 Stat. 1034) are hereby amended by striking, wherever they occur, the phrases "of one-half or more Indian blood", "of more than one-half Indian blood", "of one-half or more Osage Indian blood", and "or who is one-half or more Osage Indian blood".

SEC. 4. In order to conserve natural resources and provide for the greatest ultimate recovery of oil and gas underlying the Osage mineral estate, the Secretary of the Interior is authorized to establish rules and regulations under which oil and gas leases producing from a common source of supply may be unitized.

SEC. 5. (a) Section 8 of the Act of April 18, 1912 (37 Stat. 86, 88), is hereby amended to read as follows: "Any person of Osage Indian blood, eighteen years of age or older, may dispose of his Osage headright or mineral interest and the remainder of his estate (real, person, and mixed, including trust funds) from which restrictions against alienation have not been removed by will executed in accordance with the laws of the State of Oklahoma: *Provided*, That the will of any Osage Indian shall not be admitted to probate or have any validity unless approved after the death of the testator by the Secretary of the Interior. The Secretary shall conduct a hearing as to the validity of such will at the Osage Indian Agency in Pawhuska, Oklahoma. Notice of such hearing shall be given by publication at least ten days before the hearing in a newspaper of general circulation in Osage County, Oklahoma, and by mailing notice of such hearing to the last known address of all known heirs, legatees, and devisees. The cost of publication shall be borne by the estate. The rules of evidence of the State of Oklahoma shall govern the admissibility of evidence at such hearing. All evidence relative to the validity of the will of an Osage Indian shall be submitted to the Secretary within one hundred and twenty days after the date of the petition for approval of such will is filed with the Secretary, unless for good cause shown the Secretary extends the time: *Provided*, That such time shall not be extended beyond six months from the date of the first hearing. For purposes of determining the validity of any will, the Secretary is hereby granted the same subpena power as is vested in the courts. All costs of obtaining witnesses and evidence before the Secretary shall be borne by the party producing such witnesses or evidence, subject to such costs being taxed to the estate in the event that the District Court of the State of Oklahoma having jurisdiction should determine such costs beneficial to the whole estate. Notwithstanding any appeal from the decision of the Secretary, approval of such will by the Secretary shall entitle it to be admitted to probate without further evidence as to its validity or, upon disapproval thereof, the heirs may immediately petition for letters of administration in the district court. No appeal from the order of the Secretary approving or disapproving any will shall stay the issuance of letters testamentary or of administration: *Provided*, That such letters shall not confer power to sell any restricted assets by virtue of any provision in such will, pay or satisfy legacies, or distribute property of the decedent to the heirs or beneficiaries until the final determination of the appeal, but all other action taken by the district court pending said appeal shall be valid and binding. No court except a Federal court shall have jurisdiction to hear a contest of a probate of a will that has been approved by the Secretary. Such appeals shall be on the record made before the Secretary and his decisions shall be binding and shall not be reversed unless the same is against the clear weight of the evidence or erroneous in law.".

(b) Section 3 of the Act of April 18, 1912 (37 Stat. 86), is hereby amended to read as follows: "That the property of deceased and of orphan minor, insane, or other incompetent Osage Indians, such incompetency being determined by the laws of the State of Oklahoma which are hereby extended for such purpose to all Osage Indians, shall, in probate matters, be subject to the District Court of Oklahoma having jurisdiction. A copy of all papers filed in the district court shall be served on the Superintendent of the Osage Agency at the time of filing, and said Superintendent is authorized, whenever the protection of the interest of the Osage Indian requires, to appear in the district court. The Superintendent of the Osage Agency or the Secretary of the Interior, whenever he deems the same necessary, may investigate the conduct of executors, administrators, guardians, or other persons having charge of the estate of any minor, incompetent, or deceased Osage Indian. Whenever he shall be of the opinion that the estate is in any manner being dissipated, wasted, or permitted to deteriorate in value by reason of the negligence, carelessness, or incompetency of the executor, administrator, guardian, or other person in charge of the estate, the Superintendent of the Osage Agency or the Secretary is authorized, and it shall be his duty, to report said matter to the district court, take the necessary steps to have such case fully investigated, and prosecute any remedy, either civil or criminal, as the exigencies of the case may require. The costs and expenses of any civil proceedings shall be a charge upon the estate of the Osage Indian or upon the executor, administrator, guardian, or other person in charge of the estate of the Osage Indian and his surety, as the district court shall determine. Every bond of the executor, administrator, guardian, or other person in charge of the estate of any Osage Indian shall be subject to the provisions of this section and shall contain therein a reference hereto: *Provided*, That no guardian shall be appointed for a minor whose parents are living unless the estate of said minor is being wasted or misused by such parents: *Provided further*, That no land shall be sold or alienated under the provisions of this section without approval of the Secretary.".

(7) Section 7 of the Act of February 27, 1925 (43 Stat. 1008, 1011), as amended, is hereby further amended to read as follows: "Hereafter none but heirs of Indian blood and children legally adopted by a court of competent jurisdiction and parents, Indian or non-Indian, shall inherit from Osage Indians any right, title, or interest to any restricted land, moneys, or Osage headright or mineral interest.".

(d) Notwithstanding the provisions of subsections (a), (b), and (c) of this section, disposition of any Osage headright or mineral interest shall be subject to the provisions of section 7 of this Act.

SEC. 6. (a) With the approval of the Secretary of the Interior, any person of Osage Indian blood, eighteen years of age or older, may establish an inter vivos trust covering his headright or mineral interest except as provided in section 8 hereof; surplus funds; invested surplus funds; segregated trust funds; and alloted or inherited land, naming the Secretary of the Interior as trustee. An Osage Indian having a certificate of competency may designate a banking or trust institution as trustee. Said trust shall be revocable and shall make provision for the payment of funeral expenses, expenses of last illness, debts, and an allowance to members of the family dependent on the settlor.

(b) Property placed in trust as provided by this section shall be subject to the same restrictions against alienation that presently apply to lands and property of members of the Osage Tribe, and the execution of such instrument shall not in any way affect the tax-exempt status of said property.

SEC. 7. After passage of this Act, a person not of Osage Indian blood, except a child legally adopted by an Osage Indian in any court of competent jurisdiction and the lineal descendants of such adopted child, subject to the stipulation that such adopted child or his lineal descendants cannot alienate his Osage headright or mineral interest and the devolution thereof is limited to intestacy, will, or inter vivos trust the same as if he were of Osage Indian blood, is prohibited from receiving more than a life estate in an Osage headright interest owned by an Osage Indian, such adopted child or his lineal descendants, whether such interest is received by will, inter vivos trust, or Oklahoma law of intestate succession. Upon the death of such recipient, the Osage headright or mineral interest shall vest in the remaindermen thereof who are of Osage Indian blood, adopted children, and/or lineal descendants of such adopted children designated by the will or inter vivos trust of the deceased Osage Indian, his adopted child, or the lineal descendants of such adopted child. If such instrument does not designate remaindermen thereof who are of Osage Indian blood, adopted children, and/or lineal descendants of such adopted children, or if the deceased died intestate, the Osage headright or mineral interest shall vest in his heirs pursuant to the Oklahoma law of intestate succession, subject to the above limitations. On the death of the non-Osage beneficiary or heir, except in the case of adopted children or lineal descendants of such adopted children, such Osage headright or mineral interest shall vest in the Osage Tribe and the Tribe

shall pay the estate of the non-Osage beneficiary or heir the market value of such Osage headright or mineral interest. Payments under this section shall be made from Osage tribal mineral funds authorized to be expended by section 8(b) hereof.

SEC. 8. (a) Any individual right to share in the Osage mineral estate (commonly referred to as "headright") owned by a person not of Indian blood may not, without the approval of the Secretary of the Interior, be sold, assigned, or transferred. Sale of any such interest shall be subject to the right of the Osage Tribe to purchase it within forty-five days at the highest legitimate price offered the owner thereof.

(b) Prior to the time and tribal mineral income is segregated for distribution to individual headright owners, the Secretary of the Interior, at the request of the Osage Tribal Council, may direct the use of any such income for the purchase of Osage headright interests offered for sale to the Osage Tribe pursuant to this section or vested in the Osage Tribe pursuant to section 7 of this Act.

SEC. 9. Under such regulations as the Secretary of the Interior may prescribe, the heirs and legatees of any deceased owner of an Osage headright or mineral interest, real estate on which restrictions against alienation have not been removed, and funds on deposit at the Osage Agency may be determined by the Secretary if such aggregate interests do not exceed $10,000: *Provided*, That no court of competent jurisdiction has undertaken the probate of the deceased's estate and a request for such administrative determination has been made to the Secretary by one or more of the heirs or legatees.

The SPEAKER pro tempore. Is a second demanded?

Mr. JOHNSON of Colorado. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Wyoming (Mr. RONCALIO) will be recognized for 20 minutes, and the gentleman from Colorado (Mr. JOHNSON) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Wyoming (Mr. RONCALIO).

Mr. RONCALIO. Mr. Speaker, I yield myself such time as I may consume.

GENERAL LEAVE

Mr. Speaker, I ask unanimous consent that all Members may have 5 legislation days in which to revise and extend their remarks on H.R. 11894, the legislation under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wyoming?

There was no objection.

Mr. RONCALIO. Mr. Speaker, H.R. 11894 amends, supplements, and modifies several laws affecting the Osage Tribe of Indians of Oklahoma.

Principally because of the discovery of large oil deposits on the Osage Reservation in the early 1900's, a large body of Federal law has grown up controlling the internal affairs of that tribe, including their tribal government; the use, disposal, and descent of their property; and their membership. These laws have both protected and restrained the Osage in their internal matters.

Among other things, the bill:

First. Extends the life of the tribal government in perpetuity;

Second. Extends in perpetuity the reservation of the mineral interest of the reservation to the tribe;

Third. Extends the trust status of Osage lands and the homestead tax exemption indefinitely; and

Fourth. Modifies and streamlines the Federal law controlling the descent and distribution of Osage trust property and interests in Osage tribal mineral rights.

I want to emphasize to the Members that, with minor exceptions, the provisions of the bill affect only the internal affairs of the tribe and do not impact on any outside interest.

I want to clarify one point for the Members. The Interior Committee reported two bills dealing with the Osage; H.R. 11894 which is currently under consideration and H.R. 3924. H.R. 3924 dealt with tax matters and was jointly referred to the Ways and Means Committee.

A similar Senate bill, S. 1081, is pending before the House and incorporates the provisions of both House bills. We attempted to secure the approval of the Ways and Means Committee to pass the Senate bill, containing the tax provisions in lieu of the House bill. They objected. Therefore, after passage of the House bill, H.R. 11894, I will move to take up the Senate bill and insert the language of the House-passed bill.

Mr. Speaker, I reiterate that the provisions of H.R. 11894 relate solely to the internal affairs of the Osage Nation and do not affect any outside interest.

I urge passage of the bill.

COMMITTEE ON WAYS AND MEANS,
Washington, D.C., October 2, 1978.

Hon. MORRIS K. UDALL,
Chairman, Committee on Interior and Insular Affairs, U.S. House of Representatives

DEAR MR. CHAIRMAN: This is in reference to your letter of September 25, 1978, in which you ask whether the Committee on Ways and Means would object to the consideration by the House of the bill H.R. 4384. The bill would exempt any Osage Indian headright or mineral interest (including income derived therefrom) from Federal and State income, estate and inheritance taxes.

It appears, on review of the present law regarding taxation of Osage Indians, that they are taxed somewhat differently than other tribes. However, the different tax treatment appears to be based on the fact that the Osages claim their property rights under a Federal statute different than the General Allotment Act of 1887 (under which most tribes claim their property rights), and that their present tax treatment may have been intended as a part of the statute establishing their property rights. A number of judicial and administrative decisions (including Supreme Court cases) have been concerned with determining the taxation of Osages, and it appears that this bill may overturn those decisions.

Further, while the Committee has considered and approved bills in the past regarding taxation of Indians, to my knowledge they have dealt only with limited issues of whether payments of grants or judgments by the government should be subject to income tax. I am not aware of a previously approved bill that would have granted the kind of broad exemption involved in H.R. 4384.

I believe that it would not be in the best interests of the Committee to concur in the bill at this time. It would make a significant change in the relatively long-standing rules regarding taxation of Osages, and, I believe, warrants hearings before the Committee on Ways and Means. I believe that both the Treasury and the officials of the affected State government should be allowed to present their views on the matter. Treasury most certainly would like to be heard on a broad exemption of this sort.

If I may be of further assistance, please let me know.

Sincerely,

AL ULLMAN,
Chairman.

Mr. JOHNSON of Colorado. Mr. Speaker, I have no requests for time. I know of no opposition to the bill, and I urge its passage. I yield back the balance of my time.

Mr. RONCALIO. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wyoming (Mr. RONCALIO) that the House suspend the rules and pass the bill H.R. 11894, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

Mr. RONCALIO. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1081) to amend the laws relating to the Osage Tribe in Oklahoma, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wyoming?

There was no objection.

The Clerk read the Senate bill as follows:

S. 1081

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 9 of the Act of June 28, 1906 (34 Stat. 539, 545), as amended, is further amended to read as follows:

"SEC. 9. There shall be a quadrennial election of the officers of the Osage Tribe as follows: A principal chief, an assistant principal chief, and eight members of the Osage Tribal Council shall be elected, to succeed the officers elected in the year 1974 at a general election to be held in the town of Pawhuska, Oklahoma, on the first Monday in June 1982, and on the first Monday in June of each fourth year thereafter, in a manner to be prescribed by the Secretary of the Interior, and said officers shall be elected for a period of four years commencing on the first day of July following the election. In case of a vacancy in the office of principal chief or other officers by death, resignation or otherwise, the vacancy shall be filled in a manner to be prescribed by the Osage Tribal Council. In the event of a common disaster and a quorum of five of the Osage Tribal Council does not survive, the Secretary shall appoint a principal chief and/or the number of councilmen necessary to complete a total of eight, to serve the next quadrennial election. The Secretary is hereby authorized to remove from the council any member or members for good cause, to be by him determined, after the party involved has had due notice and opportunity to appear and defend himself. The tribal government so constituted shall continue in full force and effect until January 1, 1984, and thereafter until otherwise provided by Act of Congress.".

SEC. 2. (a) The first paragraph of section 3 of the Act of June 24, 1938 (52 Stat. 1034, 1035), as amended, extending the mineral estate reserved to the Osage Tribe by the Act

of June 26, 1906 (34 Stat. 539), is further amended by striking the phrase "until the eighth day of April 1983, and thereafter until otherwise provided by Act of Congress" and substituting, in lieu thereof, the phrase "in perpetuity".

(b) The second paragraph of section 3 of the Act of June 24, 1938 (52 Stat. 1034, 1035), as amended, is amended by striking the phrase "unless otherwise provided by Act of Congress" and inserting, in lieu thereof, the phrase "and thereafter until otherwise provided by Congress"

(c) The fourth paragraph of section 3 of the Act of June 24, 1938 (52 Stat. 1034, 1036) is amended by striking the phrase "January 1, 1984" and inserting, in lieu thereof, the phrase "January 1, 1984 and thereafter until otherwise provided by Congress".

SEC. 3. (a) The Act of February 5, 1948 (62 Stat. 18) is hereby repealed.

(b) Any Osage Indian having received a certificate of competency under paragraph 7 of section 2 of the Act of June 28, 1906 (34 Stat. 539, 542); section 3 of the Act of March 2, 1929 (45 Stat. 1478, 1480); or the Act of February 5, 1948 (62 Stat. 18), may make application to the Secretary of the Interior to revoke such certificate and the Secretary shall revoke such certificate: *Provided*, That revocation of any certificate shall not affect the legality of any transactions heretofore made by reason of the issuance of any such certificate. Restrictions against alienation of lands heretofore removed are not reimposed.

(c) Sections 3 and 4 of the Act of February 27, 1925 (43 Stat. 1008, 1010–1011); and section 4 of the Act of March 2, 1929 (45 Stat. 1478, 1480); and sections 1 and 3 of the Act of June 24, 1938 (52 Stat. 1034) are hereby amended by striking, wherever they occur, the phrases "of one-half or more Indian blood", "of more than one half-Indian blood", "of one-half or more Osage Indian blood", and "or who is one-half or more Osage Indian blood".

SEC. 4. In order to conserve natural resources and provide for the greatest ultimate recovery of oil and gas underlying the Osage mineral estate, the Secretary of the Interior is authorized to establish rules and regulations under which oil and gas leases producing from a common source of supply may be unitized.

SEC. 5. (a) Section 8 of the Act of April 18, 1912 (37 Stat. 86, 88), is hereby amended to read as follows: "Any person of Osage Indian blood, eighteen years of age or older, may dispose of his Osage headright or mineral interest and the remainder of his estate (real, person, and mixed, including trust funds) from which restrictions against alienation have not been removed by will executed in accordance with the laws of the State of Oklahoma: *Provided*, That the will of any Osage Indian shall not be admitted to probate or have any validity unless approved after the death of the testator by the Secretary of the Interior. The Secretary shall conduct a hearing as to the validity of such will at the Osage Indian Agency in Pawhuska, Oklahoma. Notice of such hearing shall be given by publication at least ten days before the hearing in a newspaper of general circulation in Osage County, Oklahoma, and by mailing notice of such hearing to the last known address of all known heirs, legatees, and devisees. The cost of publication shall be borne by the estate. The rules of evidence of the State of Oklahoma shall govern the admissibility of evidence at such hearing. All evidence relative to the validity of the will of an Osage Indian shall be submitted to the Secretary within one hundred and twenty days after the date of the petition for approval of such will is filed with the Secretary, unless for good cause shown the Secretary extends the time: *Provided*, That such time shall not be extended beyond six months from the date of the first hearing, or purposes of determining the validity of any will, the Secretary is hereby granted the same subpena power as is vested in the courts. All costs of obtaining witnesses and evidence before the Secretary shall be borne by the party producing such witnesses or evidence, subject to such costs being taxed to the estate in the event that the District Court of the State of Oklahoma having jurisdiction should determine such costs beneficial to the whole estate. Notwithstanding any appeal from the decision of the Secretary, approval of such will by the Secretary shall entitle it to be admitted to probate without further evidence as to its validity or, upon disapproval thereof, the heirs may immediately petition for letters of administration in the district court. No appeal from the order of the Secretary approving or disapproving any will shall stay the issuance of letters testamentary or of administration: *Provided*, That such letters shall not confer power to sell any restricted assets by virtue of any provision in such will, pay or satisfy legacies, or distribute property of the decedent to the heirs or beneficiaries until the final determination of the appeal, but all other action taken by the district court pending said appeal shall be valid and binding. No court except a Federal court shall have jurisdiction to hear a contest of a probate of a will that has been approved by the Secretary. Such appeals shall be on the record made before the Secretary and his decisions shall be binding and shall not be reversed unless the same is against the clear weight of the evidence or erroneous in law.".

(b) Section 3 of the Act of April 19, 1912 (37 Stat. 86), is hereby amended to read as follows: "That the property of deceased and of orphan minor, insane, or other incompetent Osage Indians, such incompetency being determined by the laws of the State of Oklahoma which are hereby extended for such purpose of all Osage Indians, shall, in probate matters, be subject to the District Court of Oklahoma having jurisdiction. A copy of all papers filed in the district court shall be served on the Superintendent of the Osage Agency at the time of filing, and said Superintendent is authorized, whenever the protection of the interest of the Osage Indian requires, to appear in the district court. The Superintendent of the Osage Agency or the Secretary of the Interior, whenever he deems the same necessary, may investigate the conduct of executors, administrators, guardians, or other persons having charge of the estate of any minor, incompetent, or deceased Osage Indian. Whenever he shall be of the opinion that the estate is in any manner being dissipated, wasted, or permitted to deteriorate in value by reason of the negligence, carelessness, or incompetency of the executor, administrator, guardian, or other person in charge of the estate, the Superintendent of the Osage Agency or the Secretary is authorized, and it shall be his duty, to report said matter to the district court, take the necessary steps to have such case fully investigated, and prosecute any remedy, either civil or criminal, as the exigencies of the case may require. The costs and expense of any civil proceedings shall be a charge upon the estate of the Osage Indian or upon the executor, administrator, guardian, or other person in charge of the estate of the Osage Indian and his surety, as the district court shall determine. Every bond of the executor, administrator, guardian, or other person in charge of the estate of any Osage Indian shall be subject to the provisions of this section and shall contain therein a reference hereto: *Provided*, That no guardian shall be appointed for a minor whose parents are living unless the estate of said minor is being wasted or misused by such parents: *Provided further*, That no land shall be sold or alienated under the provisions of this section without approval of the Secretary.".

(c) Section 7 of the Act of February 27, 1925 (43 Stat. 1008, 1011), as amended, is hereby further amended to read as follows: "Hereafter none but heirs of Indian blood and children legally adopted by a court of competent jurisdiction and parents, Indian or non-Indian, shall inherit from Osage Indians any right, title, or interest to any restricted land, moneys, or Osage headright or mineral interest.".

(d) Notwithstanding the provisions of subsections (a), (b), and (c) of this section, disposition of any Osage headright or mineral interest shall be subject to the provisions of section 7 of this Act.

SEC. 6. (a) With the approval of the Secretary of the Interior, any person of Osage Indian blood, eighteen years of age or older, may establish an inter vivos trust covering his headright or mineral interest except as provided in section 8 hereof; surplus funds; invested surplus funds; segregated trust funds; and allotted or inherited land, naming the Secretary of the Interior as trustee. An Osage Indian having a certificate of competency may designate a banking or trust institution as trustee. Said trust shall be revocable and shall make provision for the payment of funeral expenses, expenses of last illness, debts, and an allowance to members of the family dependent on the settlor.

(b) Property placed in trust as provided by this section shall be subject to the same restrictions against alienation that presently apply to lands and property of members of the Osage Tribe, and the execution of such instrument shall not in any way affect the tax-exempt status of said property.

SEC. 7. After passage of this Act, a person not of Osage Indian blood, except a child legally adopted by an Osage Indian in any court of competent jurisdiction and the lineal descendants of such adopted child, subject to the stipulation that such adopted child or his lineal descendants cannot alienate his Osage headright or mineral interest and the devolution thereof is limited to intestacy, will, or inter vivos trust the same as if he were Osage Indian blood, is prohibited from receiving more than a life in an Osage headright interest owned by an Osage Indian, such adopted child or his lineal descendants, whether such interest is received by will, inter vivos trust, or Oklahoma law of intestate succession. Upon the death of such recipient, the Osage headright or mineral interest shall vest in the remaindermen thereof who are of Osage Indian blood, adopted children, and/or lineal descendants of such adopted children designated by the will or inter vivos trust of the deceased Osage Indian, his adopted child, or the lineal descendants of such adopted child. If such instrument does not designate remaindermen thereof who are of Osage Indian blood, adopted children, and/or lineal descendants of such adopted children, or if the deceased died intestate, the Osage headright or mineral interest shall vest in his heirs pursuant to the Oklahoma law of intestate succession, subject to the above limitations. On the death of the non-Osage beneficiary or heir, except in the case of adopted children or lineal descendants of such adopted children or lineal descendants of such adopted children, such Osage headright or mineral interest shall vest in the Osage Tribe and the tribe shall pay the estate of the non-Osage beneficiary or heir the market value of such Osage headright or mineral interest. Payments under this section shall be made from Osage tribal mineral funds authorized to be expended by section 8(b) hereof.

SEC. 8. (a) Any individual right to share in the Osage mineral estate (commonly referred to as "headright") owned by a person not of Indian blood may not, without the

approval of the Secretary of the Interior, be sold, assigned, or transferred. Sale of any such interest shall be subject to the right of the Osage Tribe to purchase it within forty-five days at the highest legitimate price offered the owner thereof.

(b) Prior to the time and tribal mineral income is segregated for distribution to individual headright owners, the Secretary of the Interior, at the request of the Osage Tribal Council, may direct the use of any such income for the purchase of Osage headright interests offered for sale to the Osage Tribe pursuant to this section or vested in the Osage Tribe pursuant to section 7 of this Act.

SEC. 9. Under such regulations as the Secretary of the Interior may prescribe, the heirs and legatees of any deceased owner of an Osage headright or mineral interest, real estate on which restrictions against alienation have not been removed, and funds on deposit at the Osage Agency may be determined by the Secretary if such aggregate interests do not exceed $10,000: *Provided,* That no court of competent jurisdiction has undertaken the probate of the deceased's estate and a request for such administrative determination has been made to the Secretary by one or more of the heirs or legatees.

SEC. 10. An Osage Indian or his estate is exempt from the payment of all estate, inheritance, and income taxes on any Osage headright or mineral interest and the income derived therefrom.

MOTION OFFERED BY MR. RONCALIO

Mr. RONCALIO. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. RONCALIO moves to strike all after the enacting clause of S. 1081 and insert in lieu thereof the text of H.R. 11894, as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title was amended so as to read: "A bill to amend certain laws relating to the Osage Tribe of Oklahoma, and for other purposes."

A motion to reconsider was laid on the table.

A similar House bill (H.R. 11894) was laid on the table.

PUEBLO INDIANS OF SANTA ANA

Mr. RONCALIO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3924) to declare that the United States holds in trust for the Pueblo of Santa Ana certain public domain lands, as amended.

The Clerk read as follows:

H.R. 3924

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all right, title, and interest of the United States in the following lands situated within Sandoval County in the State of New Mexico are hereby declared to be held by the United States in trust for the benefit and use of the Pueblo of Santa Ana:

NEW MEXICO PRINCIPAL MERIDIAN

Township 13 North, Range 3 East

Section 1:
Lots 1, 8, 9, 10,
South half north half,
South half,
Section 3:
Lots 9, 10, 11, 12,
South half north half,
South half,
Section 4:
Lots 9, 10, 11, 12,
South half north half,
South half,
Section 5: All of that portion lying east of the west boundary of the right-of-way of New Mexico Highway 44,
Section 9:
East half west half,
East half,
Section 10: All,
Section 11: All,
Section 12: All,
Section 13: All,
Section 14: All,

Section 15: North half northwest quarter, southeast quarter northwest quarter, northeast quarter southwest quarter northwest quarter, north half northwest quarter southwest quarter northwest quarter, southeast quarter northwest quarter southwest quarter northwest quarter, north half northwest quarter southeast quarter southwest quarter northwest quarter, northeast quarter southeast quarter southwest quarter northwest quarter, northeast quarter, north half northeast quarter northwest quarter northeast quarter southwest quarter, north half northeast quarter northeast quarter southwest quarter, north half southwest quarter northeast quarter northeast quarter southwest quarter, southeast quarter northeast quarter northeast quarter southwest quarter, northeast quarter southeast quarter, north half northwest quarter southeast quarter, southeast quarter northwest quarter southeast quarter, northeast quarter southwest quarter northwest quarter southeast quarter, north half northwest quarter southwest quarter northwest quarter southeast quarter, north half southeast quarter southwest quarter northwest quarter southeast quarter, northeast quarter northeast quarter southwest quarter southeast quarter, northeast quarter southeast quarter southeast quarter, north half northwest quarter southeast quarter southeast quarter, southeast quarter northwest quarter southeast quarter southeast quarter, north half southwest quarter northwest quarter southeast quarter southeast quarter, north half northeast quarter southwest quarter southeast quarter southeast quarter, north half southeast quarter southwest quarter southeast quarter southeast quarter; excluding existing rights-of-way,

Section 23: Northeast quarter northwest quarter northeast quarter northwest quarter northwest quarter northwest quarter northwest quarter, north half northwest quarter northwest quarter northwest quarter northwest quarter, north half northeast quarter southeast quarter northwest quarter northwest quarter, north half northeast quarter northwest quarter, southeast quarter northeast quarter northwest quarter, north half southwest quarter northeast quarter northwest quarter, southeast quarter southwest quarter northeast quarter northwest quarter, northeast quarter northeast quarter southeast quarter northwest quarter, north half northwest quarter northeast quarter southeast quarter northwest quarter, north half northeast quarter, southeast quarter northeast quarter, north half southwest quarter northeast quarter, north half southeast quarter southwest quarter northeast quarter, southeast quarter southeast quarter southwest quarter northeast quarter, north half southwest quarter southeast quarter southwest quarter northeast quarter, north half northeast quarter southwest quarter southwest quarter northeast quarter, northeast quarter northeast quarter southeast quarter, northeast quarter northwest quarter, northeast quarter southeast quarter, north half northwest quarter northwest quarter northeast quarter southeast quarter, north half southeast quarter northwest quarter northeast quarter southeast quarter, northeast quarter northeast quarter southeast quarter southeast quarter, north half northwest quarter northeast quarter southeast quarter southeast quarter, southeast quarter northeast quarter southeast quarter southeast quarter, north half northeast quarter northeast quarter southeast quarter southeast quarter; excluding Rec. PP CL 10/10/62 and existing rights-of-way,

Section 24: North half, southeast quarter, northeast quarter southwest quarter, north half northwest quarter southwest quarter, southeast quarter northwest quarter southwest quarter, north half southwest quarter northwest quarter southwest quarter, southeast quarter southwest quarter northwest quarter southwest quarter, north half southwest quarter southwest quarter northwest quarter southwest quarter, north half northeast quarter southwest quarter southwest quarter, north half southeast quarter northeast quarter southwest quarter southwest quarter, north half southeast quarter southwest quarter, southeast quarter southeast quarter southwest quarter, northeast quarter southwest quarter southeast quarter southwest quarter; excluding existing rights-of-way,

Section 25: North half northeast quarter northeast quarter northeast quarter northwest quarter, northeast quarter northeast quarter, northeast quarter northwest quarter northeast quarter, north half northwest quarter northwest quarter northeast quarter, northeast quarter northwest quarter northwest quarter northeast quarter, north half southwest quarter northwest quarter northwest quarter northeast quarter, north half northeast quarter southwest quarter northwest quarter northeast quarter, north half southeast quarter northwest quarter northeast quarter, southeast quarter southeast quarter northwest quarter northeast quarter,

Township 13 North, Range 4 East

Section 3:
Lots 4, 5, 6,
West half northeast quarter,
Northwest quarter,
Section 4: All; including bed of Jemez River,
Section 5:
Lots 1, 2, 3, 4, 5
Northwest quarter northwest quarter,
South half northwest quarter,
South half,
and bed of Jemez River,
Section 6:
Lots 1, 2, 3, 4,
East half west half,
East half,
and bed of Jemez River,
Section 7: All,
Section 8:
Lots 3, 4, 5,
North half,
Southwest quarter,
Northwest quarter southeast quarter,
Section 9:
Lots 5, 6, 7, 8 and bed of Jemez River lying north of the
North boundary of the Angostura Grant,
Section 17:
Lots 10, 11, 12, 13.
Northwest quarter.
Section 18:
Lots 2, 3,
East half northwest quarter,
Northeast quarter,
Township 14 North, Range 3 East
Section 6: Bed of the Jemez River.
Township 14 North, Range 4 East
Section 17: All,
Section 18: East half east half,
Section 19: East half east half,
Section 20: All,
Section 21: West half,
Section 27: Southwest quarter southwest quarter,
Section 28:
Northwest quarter,
South half,
Section 29: All,

Section 30: East half east half,
Section 31:
East half northeast quarter,
Southwest quarter northeast quarter,
Northwest quarter northwest quarter,
South half northwest quarter,
South half,
and bed of Jemez River,
Section 33: All,
Section 34:
South half northeast quarter,
Northwest quarter,
South half,
Section 35:
Lot 9,
West half southwest quarter, containing 16,249.98 acres more or less.

(b)(1) The lands described in paragraph (2) of this subsection consisting of approximately 2240.14 acres shall continue to be subject to Public Land Order 873, entitled "An Order Withdrawing Public Lands for Use of the Department of the Army in Connection with the Jemez Canyon Dam and Reservoir Project", issued by the Secretary of the Interior on November 14, 1952, until such lands, or any portion thereof, are determined by the Secretary of the Army to be no longer needed for the purpose for which the lands were reserved under such order. The Secretary of the Army shall publish notice of any such determination in the Federal Register.

(2) The lands described in subsection (a) of this section which are subject to Public Land Order 873 are the following lands:

NEW MEXICO PRINCIPAL MERIDIAN

Township 13 North, Range 3 East

Section 1:
Lots 1, 8, 9, 10,
South half northeast quarter,
Southeast quarter northwest quarter,
Northeast quarter southwest quarter,
Section 5:
Lots 1, 2, 3, 4,
Northwest quarter northwest quarter,
South half northwest quarter,
Southwest quarter,
West half southeast quarter,
Lot 5, that part lying north of the east-west quarter section line,
Section 6:
Lots 1, 2, 3,
Northeast quarter,
East half northwest quarter,
Northeast quarter southwest quarter,
North half southeast quarter,
Southeast quarter southeast quarter,
Section 8:
Lots 3, 4, 5,
West half northeast quarter,
Northwest quarter,
North half southwest quarter,
Northwest quarter southeast quarter,
Section 17:
Lots 10 and 11,
Lot 12, that part lying east of the north-south quarter section line,

Township 14 North, Range 4 East

Section 31:
Southwest quarter northeast quarter.
Northwest quarter northwest quarter,
South half northwest quarter,
South half.

SEC. 2. The Secretary of the Interior shall publish in the Federal Register the boundaries and descriptions of the lands declared to be held in trust by this Act.

SEC. 3. All of the right, title, and interest of the United States in all minerals, including gas and oil, underlying the lands hereby declared to be held in trust for the Pueblo of Santa Ana, are hereby declared to be held by the United States in trust for the benefit and use of the Pueblo of Santa Ana.

SEC. 4. (a) Nothing in this Act shall deprive any person of any valid existing right of use, possession, contract right, interest, or title which that person may have in any of the trust lands within the purview of this Act, or of any existing right of access to public domain lands over and across such trust lands, as determined by the Secretary of the Interior. All existing mineral leases involving lands declared to be held in trust by this Act, including oil and gas leases, which may have been issued or approved pursuant to Federal law, prior to enactment of this Act, shall remain in force and effect in accordance with the provisions thereof. Notwithstanding any other provisions of law, all applications for mineral leases involving such lands, including oil and gas leases, pending on the date of enactment of this Act shall be rejected and the advance rental payments returned to the applicants.

(b) Those persons holding grazing permits from the United States Bureau of Land Management in the grazing unit known as the Bernalillo Community Allotment (Number 551), Sandoval County, New Mexico, as of the date of enactment of this Act are hereby granted the right to continue those grazing rights, subject to all otherwise applicable terms, conditions, rules, and regulations of the Bureau of Land Management governing such grazing rights, for a period of not to exceed ten years. Such grazing rights shall be administered by the Bureau of Land Management in accordance with applicable rules and regulations governing such rights on the Federal public domain, and may be canceled by the Bureau of Land Management in accordance with its regulations for failure to meet the terms and conditions of the existing permits, or failure to abide by applicable rules and regulations. Grazing fees shall be payable by the permittees to the Bureau of Land Management at prevailing rates, which fees shall be remitted by said Bureau to the Pueblo of Santa Ana within 30 days of receipt. Such grazing rights shall be nontransferable, except that they may be relinquished at any time to the Pueblo of Santa Ana. In the event of cancellation or relinquishment of said grazing rights as provided above, such rights shall not be renewed, nor shall any new permits be issued: *Provided, however,* That no grazing fees shall be payable by the said existing permittees for the first five years following enactment of this Act.

(c) Subject to subsections (a) and (b) of this section, any property held in trust under this Act for the Pueblo of Santa Ana shall be administered in accordance with the laws and regulations applicable to other property held in trust by the United States for the Indian tribe of such pueblo.

SEC. 5. (a) Any and all gross receipts derived from, or which relate to, the property declared to be held in trust by this Act which were received by the United States subsequent to the acquisition by the United States of such property and prior to the date of the enactment of this Act (including State school lands referred to in section 7), from whatever source and for whatever purpose, shall, as of the date of enactment of this Act, be deposited to the credit of the Pueblo of Santa Ana and may be expended by such tribe for such beneficial programs as the tribal governing body may determine.

(b) All gross receipts (including, but not limited to, bonuses, rents, and royalties) hereafter derived by the United States from any contract, permit, or lease referred to in section 4(a) of this Act, shall be administered in accordance with the laws and regulations applicable to receipts from property held in trust by the United States for Indian tribes.

SEC. 6. All property declared to be held in trust for the benefit and use of the Pueblo of Santa Ana pursuant to this Act, and all the receipts therefrom referred to in section 5 of this Act, shall be exempt from Federal State, and local taxation so long as such property is held in trust by the United States. Any distribution of such receipts to tribal members shall neither be considered as income or resources of such members for purposes of any such taxation nor as income or resources or otherwise utilized as the basis for denying or reducing the financial assistance or other benefits to which such member or his household would otherwise be entitled to under the Social Security Act or any other Federal or federally assisted program.

SEC. 7. (a) For the purpose of improving the land tenure pattern and consolidating Santa Ana Pueblo lands, the Secretary of the Interior is authorized and directed to acquire, by purchase or exchange, under such regulations as he may prescribe, all State school lands in township 13 north, range 3 east, sections 2 and 16; township 14 north, range 3 east, section 36; and township 14 north, range 4 east, section 32, State of New Mexico, containing 2004.05 acres, more or less; and interests therein, including improvements, mineral rights, and water rights. In exercising his authority to acquire such lands by exchange, the Secretary is authorized to utilize unappropriated public lands in the State of New Mexico. The properties so exchanged shall be of approximately equal value, and the Secretary may accept cash from or pay cash to the State of New Mexico in such an exchange in order to equalize the values of the properties exchanged.

(b) The Secretary may execute any title documents necessary to effect the exchanges authorized by this section.

(c) Title to all lands acquired under the provisions of this section shall be taken in the name of the United States in trust for Santa Ana Pueblo.

SEC. 8. (a) Notwithstanding any other provision of this Act, during the 3 years following enactment of this Act, the Secretary may, after giving the tribe 30 days written notice and after consulting with the tribe, enter on the lands described in the first section of this Act to identify, investigate, examine, and remove any paleontological resources from such lands: *Provided,* That no explorations, surveys, or excavations shall be authorized within a 200-yard radius of the following shrines or religious sites:

(1) Santiyaku 'Ke Kura (Santiago's Corral);
(2) Santiyaku Ka' me (Santiago's Home);
(3) Santiyaku 'Kaisru (Santiago's Field);
(4) 'Tsitsi Sruwii (Water Snake Head);
(5) Tuyuuna (Snake Head Shrine-Canjilon Hill);
(6) Shayeka Kauwatsesruma (Hunter Shrine);
(7) 'Kuyan 'Kapesru (Old Lady Sits Shrine);
(8) Huchaniitse (White House Shrine);
(9) Dyadyn Tsinautani (Bobcat Point);
(10) 'Kasreri 'Kumiyeisruma (Clown Point);
(11) Chapiyu 'Ka 'kuyanisru (Chapiyu's Trail);
(12) Shawiti 'tsuyu (Parrot Point);
(13) Hane 'Kai (Sacred Clown Society Shrine);
(14) Yusrkuma (Corn Cob Shrine);

Such resources so removed are the property of the United States and shall be administered under laws applicable to federally owned resources. Paleontological resources on such lands that are not removed from the lands pursuant to this section shall be managed in a manner that will permit the greatest possible public benefits, use, and study of the resources, consistent with tribal law and practices.

(b) Any lands excavated pursuant to this section shall be reclaimed and restored to their original condition by the Secretary, as nearly as he determines may be practicable.

The SPEAKER pro tempore. Is a second demanded?

Mr. JOHNSON of Colorado. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Wyoming (Mr. RONCALIO) will be recognized for 20 minutes, and the gentleman from Colorado (Mr. JOHNSON) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Wyoming (Mr. RONCALIO).

Mr. RONCALIO. Mr. Speaker, I yield myself such time as I may consume.

GENERAL LEAVE

Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill H.R. 3924, under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wyoming?

There was no objection.

Mr. RONCALIO. Mr. Speaker, H.R. 3924 would provide for the return of approximately 16,000 acres of land to the Santa Ana Pueblo Tribe of New Mexico.

These lands were occupied, controlled, and used by the Pueblo for economic and religious purposes from before the arrival of the Spanish explorers until 1937. At that time, the land was erroneously taken from the Pueblo when the regional grazing committee, established under the Taylor Grazing Act of 1934, asserted jurisdiction over the land under the assumption that they were part of the public domain.

The Bureau of Indian Affairs, rather than asserting the title of the Indians, acquiesced in the taking and filed an application with the committee for a grazing permit on behalf of the Pueblo. The permit was initially denied on the grounds that the land was needed for "qualified Native applicants" who turned out to be local non-Indians. Eventually, 6,500 acres of the land was permitted to the Pueblo and is now used by them for grazing purposes.

The rest of the land is currently under permit to local cattlemen or used by the Corps of Engineers for reservoir purposes.

The enactment of this legislation is necessary to remedy the erroneous taking of the land and to vest title in the tribe to secure their economic use of the land and permit them to better protect the numerous sacred religious shrines which are located on the land.

The bill also provides some protection to the non-Indian permittees of the land, preserves all valid existing rights and would permit the Secretary of the Interior to remove and protect significant prehistoric remains.

In addition, it would authorize the Secretary to acquire, through purchase or exchange, approximately 2,000 acres of State school lands for the Pueblo.

Mr. Speaker, as the report of the Department of the Interior admits, these lands are rightfully the Pueblo's. Of major significance is the fact that there are numerous shrines on the land in daily use by members of the Pueblo in the practice of their traditional religion. These shrines have been and are subject to outside interference and desecration.

I urge enactment of the bill.

Mr. JOHNSON of Colorado. Mr. Speaker, the gentleman from Wyoming (Mr. RONCALIO) has explained the contents of the bill quite clearly. I have no requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wyoming (Mr. RONCALIO) that the House suspend the rules and pass the bill H.R. 3924, as amended.

The question was taken; and on a division (demanded by Mr. BAUMAN) there were—ayes 4, noes 5.

Mr. RONCALIO. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to the provision of clause 3(b) of rule XXVII, and the prior announcement of the Chair, further proceedings on this motion will be postponed.

The point of order is considered withdrawn.

PUEBLO INDIANS OF ZIA

Mr. RONCALIO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 10240) to declare that the United States holds in trust for the Pueblo of Zia certain public domain lands, as amended.

The Clerk read as follows:

H.R. 10240

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all right, title, and interest of the United States in the following lands situated within Sandoval County in the State of New Mexico are hereby declared to be held by the United States in trust for the benefit and use of the Pueblo of Zia:

NEW MEXICO PRINCIPAL MERIDIAN

Township 14 North, Range 1 East

Section 3:
Lots 2, 3, 4,
Southwest quarter northeast quarter,
West half southeast quarter,
Southwest quarter,
Southeast quarter southeast quarter,
South half northwest quarter,
Township 15, North, Range 1 East.
Section 10: Lot 4,
Section 11: South half south half,
Section 13:
Southeast quarter,
West half,
Section 14: All,
Section 15:
Lots 1, 2, 3, 4,
Southwest quarter,
West half southeast quarter,
Section 22: All,
Section 23:
West half northeast quarter,
Northeast quarter northeast quarter,
Southeast quarter,
West half,
Section 24: North half north half,
Section 26: North half northwest quarter,
Section 27: All,
Section 34:
Southwest quarter,
Northwest quarter,
Northeast quarter,
Containing 4,848.13 acres, more or less.

SEC. 2 The Secretary of the Interior shall publish in the Federal Register the boundaries and descriptions of the lands declared to be held in trust by this Act.

SEC. 3. All of the right, title, and interest of the United States in all minerals, including gas and oil, underlying the lands hereby declared to be held in trust for the Pueblo of Zia, are hereby declared to be held by the United States in trust for the benefit and use of the Pueblo of Zia.

SEC. 4. (a) Nothing in this Act shall deprive any person of any valid existing right of use, possession, contract right, interest, or title which that person may have in any of the trust lands within the purview of this Act, or of any existing right of access to public domain lands over and across such trust lands, as determined by the Secretary of the Interior. All existing mineral leases involving lands declared to be held in trust by this Act, including oil and gas leases, which may have been issued or approved pursuant to Federal law, prior to enactment of this Act, shall remain in force and effect in accordance with the provisions thereof. Notwithstanding any other provision of law, all applications for mineral leases involving such lands, including oil and gas leases, pending on the date of enactment of this Act shall be rejected and the advance rental payments returned to the applicants.

(b) Subject to the provisions of subsection (a) of this section, the property declared to be held in trust by this Act for the benefit and use of the Pueblo of Zia shall hereafter be administered in accordance with the laws and regulations applicable to other property held in trust by the United States for the Indian tribe of such pueblo.

SEC. 5. All gross receipts (including, but not limited to, bonuses, rents, and royalties) hereafter derived by the United States from any contract, permit, or lease which relates to the property declared to be in trust by this Act received subsequent to the enactment of this Act shall be administered in accordance with the law and regulations applicable to receipts from property held in trust by the United States for Indian tribes.

SEC. 6. All property declared to be held in trust for the benefit and use of the Pueblo of Zia pursuant to this Act, and all the receipts therefrom referred to in section 5 of this Act, shall be exempt from Federal, State, and local taxation so long as such property is held in trust by the United States. Any distribution of such receipts to tribal members shall neither be considered as income or resources of such members for purposes of any such taxation nor as income or resources or otherwise utilized as the basis for denying or reducing the financial assistance or other benefits to which such member or his household would otherwise be entitled to under the Social Security Act or any other Federal or federally assisted program.

SEC. 7. (a) The Secretary may execute any title documents necessary to effect conveyances authorized by this Act.

(b) Title to all lands acquired under the provisions of this Act shall be taken in the name of the United States in trust for the Pueblo of Zia.

SEC. 8. The transfer and conveyance of title shall be subject to the following roadway right-of-way to be for the use and benefit of adjacent private landowners, the Bureau of Land Management, its permittees, lessees, successors, and assigns:

(1) Access road through Zia Allotment: A road right-of-way 50 feet wide over that portion in southeast quarter section 13, north half section 24, southeast quarter section 23, north half section 26, and north half section 27, all in township 15 north, range 1 east, New Mexico principal meridian.

Beginning at intersection of State Road 44, thence southwesterly 1,600 feet to a point of curve, thence westerly 2,100 feet to a point of curve, thence southerly 1,100 feet to a point of curve, thence southwesterly 2,400 feet to a point of curve, thence southerly 2,640 feet to a point of curve, thence southerly 8,500 feet to a point of curve near the west section line

of section 27, road being 3.5 miles long (approx.). Distances to a curve are scaled distances (approx.) from U.S.G.S. Quadrangle Sheet, Sky Village N.E. Quadrangle, and San Ysidro Quadrangle.

The description was compiled from U.S.G.S. Quadrangle maps dated November 1960, and this is only a paper survey.

(2) Gypsum Mine Access Road: A road right-of-way 50 feet wide, over that portion in southeast quarter of section 13, northeast quarter section 24, west half section 13, and northeast quarter section 14, all in township 15 north, range 1 east, New Mexico principal meridian.

Beginning at the intersection of Gypsum mine access road and access road through lands known as Zia Allotment being 500 feet southwesterly from State Road 44, thence northwesterly 6,500 feet near the east line of section 14. Distances to the termination of road are scaled distances (approx.) from U.S.G.S. Quadrangle Sheet, San Ysidro Quadrangle.

This description was compiled from U.S.G.S. Quadrangle map dated November 1960, and this is only a paper survey.

SEC. 9. (a) Notwithstanding any other provision of this Act, during the 3 years following enactment of this Act, the Secretary may, after giving the tribe 30 days written notice and after consulting with the tribe, enter on the lands described in the first section of this Act to identify, investigate, examine, and remove any paleontological resources from such lands: Provided, That no explorations, surveys, or excavations shall be authorized within a 200-yard radius of the following shrines or religious sites:

(1) Tiam (Eagle Peak, Eagle Rock, Eagle Point);

(2) Hu-nah-'kah-'kah-Warish (Cherry Spring);

(3) Pah-Pah (Grandma);

(4) Ku-Mah-Yah-Wish (Mudhead);

(5) Punaya;

(6) Grash-Yeh-Tey-Sham (White Points).

Such resources so removed are the property of the United States and shall be administered under laws applicable to federally owned resources. Paleontological resources on such lands that are not removed from the lands pursuant to this section shall be managed in a manner that will permit the greatest possible public benefit use, and study of the resources, consistent with tribal law and practices.

(b) Any lands excavated pursuant to this section shall be reclaimed and restored to their original condition by the Secretary, as nearly as he determines may be practicable.

The SPEAKER pro tempore. Is a second demanded?

Mr. JOHNSON of Colorado. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Wyoming (Mr. RONCALIO) will be recognized for 20 minutes, and the gentleman from Colorado (Mr. JOHNSON) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Wyoming (Mr. RONCALIO).

Mr. RONCALIO. Mr. Speaker, I yield myself such time as I may consume.

GENERAL LEAVE

Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill H.R. 10240, presented for consideration today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wyoming?

There was no objection.

Mr. RONCALIO. Mr. Speaker, H.R. 10240 provides for the return of approximately 4,850 acres of land to the Zia Pueblo Tribe of New Mexico.

All the land involved in the bill were occupied, controlled and used for economic and religious purposes of the Zia Pueblo from before the arrival of the Spanish explorers until 1936. There are five major sacred shrines used by the Zia Pueblo in their religious worship on the subject lands.

The land was erroneously taken in 1936 and included in a grazing district under the Taylor Grazing Act of 1934 under the assumption that they were public domain. The Bureau of Indian Affairs failed to assert the title of the Pueblo and acquiesced in their inclusion in the grazing district. The BIA did submit an application for a grazing permit on behalf of the Zia Pueblo and, in 1938, the land was permitted to the Pueblo. They have been continuously in the use of the Pueblo since then.

The legislation is needed to secure the economic use of these lands by the Pueblo and to protect and preserve the religious shrines on the land and the Pueblo use of such shrines.

The committee amended the bill to permit the Secretary of the Interior to preserve and remove significant pre-historic remains on the land. In addition, all valid existing rights are protected.

Mr. Speaker, I urge passage of the bill.

Mr. JOHNSON of Colorado. Mr. Speaker, the gentleman from Wyoming has explained the bill quite adequately, and we on this side endorse it.

Mr. Speaker, in passing I would state that the American Indians are going to lose a great friend when the gentleman from Wyoming retires, because he has spent a great deal of time and effort in trying to ameliorate a number of conditions which should never have arisen. The gentleman, I think, is leaving a legacy of justice to the American Indians, as well as fairness to the American people.

There has been a great deal said lately about how the American Indian has been pampered, and that all the treaties should be abrogated. The gentleman from Wyoming has been much more balanced and intelligent in his approach to Indian affairs than that. I think he will be sorely missed next year when we consider Indian matters again.

Mr. Speaker, I yield back the balance of my time.

Mr. RONCALIO. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wyoming (Mr. RONCALIO) that the House suspend the rules and pass the bill H.R. 10240, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

Mr. RONCALIO. Mr. Speaker, I ask unanimous consent for the immediate consideration of the Senate bill (S. 2358) to declare that the United States holds in trust for the Pueblo of Zia certain public domain lands, a similar bill to H.R. 10240.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wyoming?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2358

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all right, title, and interest of the United States in the following lands situated within Sandoval County in the State of New Mexico are hereby declared to be held by the United States in trust for the benefit and use of the Pueblo of Zia;

NEW MEXICO PRINCIPAL MERIDIAN

Township 14, North Range 1 East

Section 3:
Lots 2, 3, 4,
Southwest quarter of northeast quarter.
West half of southeast quarter,
Southwest quarter,
Southeast quarter of southeast quarter,
South half of northwest quarter,
Township 15 North, Range 1 East
Section 10: Lot 4,
Section 11: South half of south half,
Section 13:
Southeast quarter,
West half,
Section 14: All,
Section 15:
Lots 1, 2, 3, 4,
Southwest quarter,
West half of southeast quarter,
Section 22: All,
Section 23:
West half of northeast quarter,
Northeast quarter of northeast quarter,
Southeast quarter,
West half.
Section 24: North half of north half,
Section 26: North half of northwest quarter,
Section 27: All,
Section 34:
Southwest quarter,
Northwest quarter,
Northeast quarter,
Containing 4,848.13 acres, more or less.

SEC. 2. The Secretary of the Interior shall publish in the Federal Register the boundaries and descriptions of the lands declared to be held in trust by this Act.

SEC. 3. All of the right, title, and interest of the United States in all minerals, including gas and oil, underlying the lands hereby declared to be held in trust for the Pueblo of Zia, are hereby declared to be held by the United States in trust for the benefit and use of the Pueblo of Zia.

SEC. 4. (a) Nothing in this Act shall deprive any person of any valid existing right of use, possession, contract right, interest, or title which that person may have in any of the trust lands within the purview of this Act, or of any existing right of access to public domain lands over and across such trust lands, as determined by the Secretary of the Interior. All existing mineral leases involving lands declared to be held in trust by this Act, including oil and gas leases, which may have been issued or approved pursuant to Federal law, prior to enactment of this Act, shall remain in force and effect in accordance with the provisions thereof. Notwithstanding any other provisions of law, all applications for mineral leases involving such lands, including oil and gas leases, pending

on the date of enactment of this Act shall be rejected and the advance rental payments returned to the applicants.

(b) Subject to the provisions of subsection (a) of this section, the property declared to be held in trust by this Act for the benefit and use of the Pueblo of Zia shall hereafter be administered in accordance with the laws and regulations applicable to other property held in trust by the United States for the Indian tribe of such pueblo.

SEC. 5. All gross receipts (including, but not limited to, bonuses, rents, and royalties) hereafter derived by the United States from any contract, permit, or lease which relates to the property declared to be in trust by this Act received subsequent to the enactment of this Act shall be administered in accordance with the laws and regulations applicable to receipts from property held in trust by the United States for Indian tribes.

SEC. 6. All property declared to be held in trust for the benefit and use of the Pueblo of Zia pursuant to this Act, and all the receipts therefrom referred to in section 5 of this Act, shall be exempt from Federal, State, and local taxation so long as such property is held in trust by the United States. Any distribution of such receipts to tribal members shall neither be considered as income or resources of such members for purposes of any such taxation nor as income or resources or otherwise utilized as the basis for denying or reducing the financial assistance or other benefits to which such member or his household would otherwise be entitled to under the Social Security Act or any other Federal or federally assisted program.

SEC. 7. (a) The Secretary may execute any title documents necessary to effect conveyances authorized by this Act.

(b) Title to all lands acquired under the provisions of this Act shall be taken in the name of the United States in trust for the Pueblo of Zia.

SEC. 8. The transfer and conveyance of title shall be subject to the following roadway right-of-way to be for the use and benefit of adjacent private landowners, the Bureau of Land Management, its permittees, lessees, successors, and assigns:

(1) Access road through Zia Allotment: A road right-of-way 50 feet wide over that portion in southeast quarter section 13, north half section 24, southeast quarter section 23, north half section 26, and north half section 27, all in township 15 north, range 1 east, New Mexico principal meridian.

Beginning at intersection of State Road 44, thence southwesterly 1,600 feet to a point of curve, thence westerly 2,100 feet to a point of curve, thence southerly 1,100 to a point of curve, thence southwesterly 2,400 feet to a point of curve, thence southerly 2,640 feet to a point of curve, thence southerly 3,500 feet to a point of curve near the west section line of section 27, road being 3.5 miles long (approx.). Distances to a curve are scaled distances (approx.) from U.S.G.S. quadrangle sheet, Sky Village northeast quadrangle, and San Ysidro quadrangle.

The description was compiled from U.S.G.S. quadrangle maps dated November 1960, and this is only a paper survey.

(2) Gypsum Mine access road: A road right-of-way 50 feet wide, over that portion in southeast quadrant of section 13, northeast quadrant section 24, westerly quadrant section 13, and northeast quadrant section 14, all in township 15 north, range 1 east, New Mexico principal meridian.

Beginning at the intersection of Gypsum mine access road and access road through lands known as Zia Allotment being 500 feet southwesterly from State Road 44, thence northwesterly 6,500 feet near the east line of section 14. Distances to the termination of road are scaled distances (approx.) from U.S.G.S. quadrangle sheet, San Ysidro quadrangle.

This description was compiled from U.S.G.S. quadrangle map dated November 1960, and this is only a paper survey.

SEC. 9. (a) Notwithstanding any other provision of this Act, during the three years following enactment of this Act, the Secretary may, after giving the tribe 30 days written notice and after consulting with the tribe, enter on the lands described in the first section of this Act to identify, investigate, examine, and remove any paleontological resources from such lands: *Provided*, That no explorations, surveys or excavations shall be authorized within a 200-yard radius of the following shrines or religious sites:

(1) Eagle Peak, Eagle Rock, or Eagle Point (Tiam);

(2) Cherry Spring (Hu-nah-kah-kah-Warish);

(3) Grandma (Pah-Pah);

(4) Mudhead (Ku-Mah-Yah-Wish);

(5) Punaya; and

(6) White Points (Grash-Yeh-Tey-Sham).

Such resources so removed are the property of the United States and shall be administered under laws applicable to federally owned resources. Paleontological resources on such lands that are not removed from the lands pursuant to this section shall be managed in a manner that will permit the greatest possible public benefit, use and study of the resources, consistent with tribal law and practices.

(b) Any lands excavated pursuant to this section shall be reclaimed and restored to their original condition by the Secretary, as nearly as he determines may be practicable.

MOTION OFFERED BY MR. RONCALIO

Mr. RONCALIO. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. RONCALIO moves to strike all after the enacting clause of S. 2358 and insert in lieu thereof the provisions of H.R. 10240, as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

A similar House bill (H.R. 10240) was laid on the table.

GENERAL LEAVE

Mr. RONCALIO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to insert their remarks in the RECORD on the bill H.R. 11894, and I ask unanimous consent that I be permitted to include extraneous matter in the RECORD on that measure immediately after my remarks.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wyoming?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 3, rule XXVII, and the order of the House of September 27, 1978 further proceedings on the following motions to suspend the rules will be postponed until tomorrow, Wednesday, October 4, 1978. It will be the unfinished business of the House, and the motions will be voted upon in the following order:

H.R. 13845, by the yeas and nays;

H.R. 12917, by the yeas and nays;

H.R. 12355, de nova;

H.R. 3924, de nova.

FINANCIAL INSTITUTIONS REGULATORY ACT OF 1978

Mr. ST GERMAIN. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for consideration of the bill (H.R. 13471) to strengthen the supervisory authority of Federal agencies which regulate depository institutions, to prohibit interlocking management and director relationships between financial institutions, to amend the Federal Deposit Insurance Act, to restrict conflicts of interest involving officials of financial supervisory agencies, to control the sale of insured financial institutions, to regulate the use of correspondent accounts, to establish a Federal Bank Examination Council, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Rhode Island (Mr. ST GERMAIN).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 13471, with Mr. MCCORMACK in the chair.

The Clerk read the title of the bill.

The Chairman, pursuant to the rule, the first reading of the bill is dispensed with.

The CHAIRMAN. The gentleman from Rhode Island (Mr. ST GERMAIN) will be recognized for 30 minutes and the gentleman from Iowa (Mr. LEACH) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Rhode Island (Mr. ST GERMAIN).

Mr. ST GERMAIN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the Congress has been promising the American public financial reform longer than most Members of this House have been in office.

It is time we delivered on this often-delayed promise. It is time we delivered without equivocation and more soft-soap without more amendments designed solely to help a few bankers and ignore the broader interest of the public.

H.R. 13471 does meet the public's demand for a safe, sound and responsive financial system. If it is passed, without weakening amendments, all of us can go home and tell our constituents—the people who use banking services—that we have repaired the weaknesses in our regulatory system—weaknesses that have been apparent in the much-publicized failures of U.S. National Bank in San Diego; the Franklin National in New York; the Hamilton National Bank in Chattanooga, and in a host of smaller banks across the Nation. And we can say that we did not place our heads in the sand and ignore the serious loopholes which allowed Bert Lance to play nationwide banking games to the detriment of himself, the banking customers, and the banking system.

Should this Congress fail to act before sine die or if it allows this legislation to be watered down, the go signal will be out for all the high flyers in the financial

community. After all this time and all this talk, it would be difficult to convince anyone that the Congress was really serious about controlling banking abuses and providing public interest regulation. Failure to act now would be one of the biggest black marks against the 95th Congress.

Mr. Chairman, H.R. 13471 is a reasonable bill and one which is supported by mounds of testimony, and literally weeks of markup at both the subcommittee and full committee levels. Many of the issues have been before us for more than a decade and they are the subject of studies and investigations by the Congress, the regulatory agencies and the executive branch.

Among other things, this bill would:

Upgrade and sharpen the machinery of Federal financial regulation;

Place ceilings on borrowings by bank insiders;

Prohibit overdrafts by executive officers and directors;

Place greater responsibility on boards of directors to oversee their financial institution;

Establish firm conflict of interest standards for policymaking officials who regulate financial institutions;

Give the financial supervisory agencies power to monitor and regulate takeovers of federally insured institutions;

Prohibit preferential treatment on loans to bank insiders where banks have placed their funds on deposit in correspondent accounts;

Provide additional disclosure to the supervisory agencies and the public of material facts on activities of banks and bank officials;

Provide mutual savings banks with the right to obtain a Federal charter, thus bringing this group of financial institutions under the dual Federal-State chartering system enjoyed by all other depository institutions;

Provide better coordination among financial supervisory agencies;

Limit access by the Federal Government to an individual's bank records without due process;

Prohibit bank holding companies from engaging in property and casualty insurance business, with exemptions for small communities and small holding companies;

Allow federally chartered thrift institutions to offer transaction accounts where States allow such accounts;

Make permanent the prohibition on credit card surcharges.

TITLE 1

Mr. Chairman, title 1 of this legislation recognizes the simple fact that financial institutions are chartered to serve the "convenience and needs" of the community—the needs of the public.

Title 1 attempts to assure that the purposes for which these charters were issued are carried out—first by giving the Federal supervisory authorities the tools necessary to protect the public, the community and the depositors' funds; and second, by providing some statutory guidelines against turning banks into insider playpens.

Unfortunately, Mr. Chairman, some are more interested in protecting the directors of these financial institutions than the public. Some have argued in recent days that the regulators should not have the power to initiate removal powers against directors for personal dishonesty and for willful and continuing disregard of the safety and soundness of the institution. Mr. Chairman, the regulators have asked the Congress for these powers to enable them to carry out their responsibility and to avoid the necessity of meat-axe approaches to cease and desist orders. By moving against the "bad apples" on an individual basis, the regulators avoid the unfairness of tarring the entire board and the great difficulty of moving against the entire institution.

Mr. Chairman, it is a traumatic experience for a community to lose its banking services, and that is why it is so important that we retain in title 1 the ability to reach the bad apples, rather than shutting down the entire institution. We give the regulators a scalpel, rather than a meat-axe and everyone is better served—the banking industry, the public and the community.

Others have suggested that we hamstring and delay the enforcement procedures by providing for de novo trials in the district courts. Such a move would not only overload the courts, but would assure expensive, time-consuming processes which would defeat the efforts to implement protections against unsound and unsafe banking practices. The enforcement actions come under the Administrative Procedures Act to assure fair and equitable treatment—a process familiar throughout the Federal regulatory structure.

On September 27, Secretary of the Treasury W. Michael Blumenthal strenuously objected to efforts to load the bill up with requirements for de novo trials on enforcement actions of the banking agencies and I quote from the Secretary's letter:

> We strongly oppose such an amendment on the grounds that it introduces needless duplication and expense in the regulatory process.

Mr. Chairman, I also want to place in the RECORD letters from the Chairman of the Federal Home Loan Bank, Robert McKinney; Chairman of the Board of Governors of the Federal Reserve System, G. William Miller; the Comptroller of the Currency; the Acting Chairman of the Federal Deposit Insurance Corporation, and National Credit Union Administrator Lawrence Connell opposing any amendments to title 1 providing for de novo trials:

> FEDERAL HOME LOAN BANK BOARD,
> *Washington, D.C., September 19, 1978.*
>
> Hon. FERNAND J. ST GERMAIN,
> *Chairman, Subcommittee on Financial Institutions Supervision, Regulation and Insurance, U.S. House of Representatives, Washington, D.C.*
>
> DEAR MR. CHAIRMAN: This is in response to your letter of September 13, 1978, requesting our comments on certain amendments which will be offered to Title I of H.R. 13471 when that bill is under consideration by the full House of Representatives. The amendments would affect only the Bank Board, and would afford any institution or person against whom a cease and desist, penalty or removal order was issued to obtain a full trial *de novo* in U.S. District Court. At present, appeals of final orders may be taken only to a U.S. Court of Appeals.
>
> We wish to state our very strong opposition to these amendments. In our opinion, they would provide no greater degree of protection to litigants, but would greatly hamper the Bank Board's enforcement efforts.
>
> The amendments would impose a state of affairs similar to the situation existing before the enactment of the Finanical Institutions Supervisory Act of 1966, which gave the Bank Board its present enforcement powers. Under the prior law, associations could, in effect, either have an administrative hearing with appeal to the U.S. Court of Appeals, or a trial in U.S. District Court. As former Bank Board Chairman John Horne testified before the Senate Banking Committee in October of 1966, this situation was highly unsatisfactory for a number of reasons.
>
> First, it fragmented enforcement, putting supervisory power in the hands of the nation's District Court judges, regardless of their familiarity with financial institutions, rather than with the Bank Board, the agency that has overseen the sound operations of thousands of savings and loan associations for decades.
>
> Second, and more importantly, it led to tremendous delay. As any litigant knows, the safeguards of the judicial process can be used to delay the final result in a case for a period of many years. In one enforcement case commenced in January of 1962, some three years were spent in motions and extended pretrial discovery procedures. The case ultimately took twelve years to resolve. More recently, in *City Federal Savings and Loan Association* v. *Crowley* 373 F. Supp. 644 (D. Wisc. 1975), a case which was the result of the Bank Board's cease and desist order to the association to sue its officers and directors for restitution of funds fraudulently obtained, litigation in a District Court trial lasted 6 years.
>
> Obviously, the amendments would be totally unsuited to prompt correction of illegal practices or unsafe operations, and their adoption, judging by past experience, would probably double the amount of time necessary to enforce correction of violations of statutes and regulations. Further, they would put an even greater strain on the judicial system which is already overburdened with case backlogs.
>
> This proposal seems to exist as a result of two erroneous assumptions. First, it appears that the due process protections of the Administrative Procedures Act are being regarded as a nullity. The fact is that the quantum of due process afforded cases proceeding from administrative law judge to agency board to U.S. Court of Appeals is fully on a par with cases which commence with trial courts.
>
> Administrative law judges are not agency puppets, and agency boards are not pawns of their staffs. Furthermore, U.S. Courts of Appeal, applying the substantial evidence test, are vigilant and effective in protecting individual rights. Congress has vested many administrative agencies with the quasi-judicial powers possessed by the Bank Board—including such bodies as the other Federal financial regulatory agencies, the SEC, the FCC and the NLRB—and its willingness to permit regulators to continue to exercise those powers would seem to argue strongly that they have exercised them, subject to U.S. Court of Appeals review, in a manner consistent with the law. No additional amount of justice would accrue from the procedure the amendments would impose—only expense and delay.
>
> The second erroneous assumption seems to be that the Bank Board is somehow peculiarly inclined to arbitrary conduct and that its enforcement efforts should thus be restrained by the *de novo* trial requirement. There is simply no evidence of this. The record is devoid of any overreaching or abusive

behavior by the Bank Board in its cease and desist or other enforcement proceedings.

Some have referred to a recent case in support of their argument that the Bank Board acts in an arbitrary manner. In this case the Bank Board ordered an institution, Gulf Federal Savings and Loan Association of Jefferson Parish, Metairie, Louisiana, to make restitution to over 400 mortgage borrowers. The Bank Board took this action after determining that the association, in violation of the home mortgage contracts, overcharged borrowers $90,000 in interest payments on their mortgage loans. We believe our cease and desist order, requiring restitution, to be a proper exercise of our authority to protect the public and correct violations of law. We are confident that our judgment will be upheld in the U.S. Court of Appeals to which the appellants have brought the order for review.

To conclude, it is our profound hope that these amendments will be defeated and Title I passed with its enforcement empowerments unaltered. We are convinced that having the more precise and flexible powers in Title I would enable the Bank Board to deal with supervisory problems currently beyond its reach, as well as to correct problems in a more effective manner. The need for these powers is a real one, as we believe we have documented in testimony before the House and Senate Banking Committees. That we would use them in a fair and responsible way is, I think, clear from the record we have built up over the past eleven years.

Sincerely,

ROBERT H. MCKINNEY,
Chairman.

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM,
Washington, D.C., September 21, 1978.

Hon. FERNAND J. ST GERMAIN,
Chairman, Subcommittee on Financial Institutions, Supervision, Regulation and Insurance, Committee on Banking, Finance and Urban Affairs, House of Representatives, Washington, D.C.

DEAR CHAIRMAN ST GERMAIN: This is in response to your request for comments on certain proposed amendments to Title I of H.R. 13471, The Financial Institutions Regulatory Act of 1978, that may be offered on the floor of the House of Representatives. The proposed amendments would provide that judicial review of a cease and desist order, removal order, or civil money penalty issued by the Federal Home Loan Bank Board shall be by trial *de novo* in a United States district court. You have requested comments on the effect of a similar amendment with respect to the Board's enforcement powers.

The Board would oppose the creation of trial *de novo* judicial review of Board enforcement actions because the imposition of an additional layer of judicial review on the enforcement process would impair the effectiveness of administrative enforcement tools, would severely tax both agency and judicial resources, and is not necessary to protect the individual or institution involved. Under present law, judicial review of such actions is provided in the United States Courts of Appeals on the basis of an administrative record, which is developed at a formal Administrative Procedure Act hearing. The present system is the preferable method of providing judicial review. This view is consistent with the findings of the Administrative Conference of the United States, which in its 1972 study of the administrative imposition of civil money penalties, generally disapproved of judicial review of such agency actions by trial *de novo* in favor of review of the action in a United States Court of Appeals on the record developed before the agency. (Recommendations and Reports of the Administrative Conference of the United States, Volume 2 Recommendation 72-6 (1972)). The recommendation of the Administrative Conference applies with equal force to agency enforcement actions other than the imposition of civil money penalties.

Judicial review of cease and desist orders, removal orders, and civil money penalties would significantly inhibit the administration of the banking laws and would require needless duplication and waste or agency resources. *De novo* review would require the appropriate agency to prove its case twice, once within the agency and again before the district court, and would thus double the burden on agency enforcement personnel, attorneys, and witnesses. Moreover, as the Administrative Conference report in support of the Conference's recommendations on civil money penalties found, the prospect of full-scale district litigation with respect to every agency enforcement action may cause the agency to enter into settlements of such actions that are not in the public interest and that permit respondents with substantial resources to avoid penalties called for by law. Thus, the proposed amendments are not consistent with the purposes of H.R. 13471, which is designed to strengthen the supervisory authority of the Federal banking agencies, but would significantly impede that supervisory authority.

Furthermore, *de novo* review in the district court of enforcement actions would not provide the respondents in such actions with any additional meaningful procedural protection. On the contrary, the providing of an additional forum for judicial review would result in additional expense and delay for the individual or institution involved, which would have to re-try its case in the district court. As the United States Court of Appeals for the District of Columbia Circuit recognized with regard to the system of *de novo* district court review of the termination of civil service employee:

"Duplication, delay, expense and despair for the employee-litigant are inherent in such a system. The interposition of the district court serves, it seems to us, no viable purpose, *Polcover* v. *Department of the Treasury*. 477 F.2d 1223, 1227 (D.C. Cir. 1975)."

Indeed, the requirement of a *de novo* trial in district court does not necessarily preclude the granting of summary judgment by the district court. *See Hackley* v. *Roudebush*, 520 F.2d 108 (D.C. Cir. 1975). Consequently, *de novo* review may not provide a respondent with any additional opportunity to present evidence but would clearly impose substantial delay and expense.

In addition, the proposed amendments would increase the burden on the nation's Federal court system. The banking agencies initiate a large number of enforcement proceedings and the enactment of H.R. 13471 would not appear to diminish the number of such proceedings. Under the proposed amendments, each proceeding may result in a civil trial in a Federal district court and may significantly increase the burden on those courts. The extent of this burden was recognized by the Administrative Conference, which found that, as of 1972:

"[A]doption of the Second Hoover Commission's recommendation (to transfer civil penalty cases to the courts) would obviously create overwhelming problems for federal district courts already staggering under the weight of over 80,000 civil cases and approximately 9,000 civil trials a year. [footnote omitted] Administrative Conference Report 926."

Judicial review of enforcement actions would, furthermore, run counter to the recent legislative and judicial trend favoring review of all administrative actions in the Courts of Appeals based on the record developed at the agency level. A recent line of court cases has prevented parties from seeking review of agency actions (regulations as well as orders) in district court and has required review of such actions in the Federal appeals courts. *E.g., Investment Company Institute* v. *Board of Governors*, 551 F.2d 1270 (D.C. Cir. 1977). In addition, in recent legislation and proposed legislation, Congress has expressed its preference for court of appeals judicial review. Occupational Safety and Health Act of 1970, 29 U.S.C. § 651, 660; S. 2640, 95th Cong., 2d Sess. (review of adverse actions against civil service employees). Finally, as the Supreme Court has made clear, judicial review of agency actions by means of trial *de novo* in district court is not necessary to assure the constitutional rights of the respondents against whom the agency action is directed. *Atlas Roofing Co.* v. *Occupational Safety and Health Review Commission*, 430 U.S. 442 (1977). In view of the substantial flaws found by Congress, the courts, and the Administrative Conference in *de novo* district court review procedures, such review procedures for cease and desist orders, removal orders, and civil money penalties issued by the Board appear unwarranted and would not be advisable.

Sincerely,

G. WILLIAM MILLER,
Chairman.

COMPTROLLER OF THE CURRENCY,
ADMINISTRATOR OF NATIONAL BANKS,
Washington, D.C., September 18, 1978.

Hon. FERNAND J. ST GERMAIN,
Subcommittee on Financial Institutions Supervision, Regulation and Insurance, Committee on Banking, Finance and Urban Affairs, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your request for our comments on proposed amendments by the National Savings and Loan League to Title I of H.R. 13471. This title would strengthen the supervisory authority of the federal bank regulatory agencies over financial institutions. In particular, the agencies would be granted the authority to impose civil money penalties for violations of laws and implementing regulations and strengthen agency power to issue cease and desist and removal actions. The title would require that a civil money penalty may only be assessed and collected by written notice with the opportunity for a formal administrative hearing under the Administrative Procedure Act at the request of the bank or person charged. The determination of the agency head, following his or her receipt of an administrative law judge's recommendation would be subject to review in a U.S. Circuit Court of Appeals.

The proposed League amendments would require a trial *de novo* at the district court level before the Federal Home Loan Bank Board would be permitted to assess a civil money penalty or issue a cease and desist or removal order. You have asked for our view in the event that similar language is offered for the other federal banking agencies. In a letter to Senator Proxmire dated May 12, 1977, this Office recommended incorporating into S. 71 the civil money penalty assessment procedure which is now contained in Title I of H.R. 13471. We based our support for this procedure, which was adopted by the Senate in S. 71, on the recommendation of the Administrative Conference of the United States entitled "Civil Money Penalties as a Sanction," 1 C.F.R. § 305.72-6 (1972).

At this time I want to repeat our strong support for Title I as passed by the House Banking Committee. Adoption of the trial de novo procedure, supported by the League, would seriously weaken our ability to respond quickly to illegal or improper activities by banks and their individual officers and directors.

In its explanation of its proposed amendments, the League cites the Second Hoover Commission's report of 1955 as precedent for instituting the trial de novo procedure where the proceeding before the administrative agency is strictly judicial in nature.

Perhaps in response to this 1955 recom-

mendation, by 1971, the "vast majority" of administrative agencies were required to be successful in a trial de novo in federal district court before a civil money penalty could be imposed. (Report to the Committee on Compliance and Enforcement Proceedings, Administrative Conference of the United States in Support of Recommendation 72-6, p. 4 (July 31, 1972)). In the Preamble to its recommendation, the Administrative Conference stated that "the already critical overburdening of the courts argues against flooding them with controversies of this type. . . ." The Conference pointed out that, because of "mitigating circumstances" and the substantial time, effort and expertise such litigation often requires in cases which usually involve less than $1,000, agencies settle well over 90 percent of their cases by means of compromise, remission or mitigation. Therefore, practically speaking, the League's proposed amendments would encourage this out-of-court settlement process. To quote again from the Preamble:

"Settlements are not wrong per se, but the quality of the settlements under the present system is a matter of concern. Regulatory needs are sometimes sacrificed for what is collectible. On the other hand, those accused sometimes charge that they are being denied procedural protections and an impartial forum and that they are often forced to acquiesce in unfair settlements because of the lack of a prompt and economical procedure for judicial resolution. Moreover, several agency administrators warn that some of the worst offenders, who will not settle and cannot feasibly be brought to trial, are escaping penalties altogether."

And the Report to the Conference's Committee on Compliance and Enforcement, in its "most significant findings," determined that settlements reached under the trial de novo system are, as a rule, "substantially inferior to those that would occur under an administrative imposition scheme."

Finally, according to the Report, imposition of civil money penalties through trial *de novo* often is unfair to the alleged offender who, "too often [is] forced to acquiesce in an unfair settlement because of the unavailability of already overburdened courts." Ironically, while the League argues that its proposed amendments would assure the accused his or her "day in court," the Report concluded that the trial *de novo* system often leads to the opposite result. "By settling, the accused forfeits his right to individual review." Moreover, the possibilities for "arbitrariness, lack of uniformity, and discriminatory exercises of authority are unnecessarily accentuated" under trial *de novo*.

Title I itself contains a safeguard designed to lessen the chances that an unfair civil money penalty might be imposed by one of the federal banking agencies. In its determination of the amount of the penalty to be assessed, the agency would be required to take into account the size of the financial resources and good faith of the institution or person charged, the gravity of the violation and the history of previous violations.

The League amendments also would substitute the trial *de novo* process for the present administrative determination of cease and desist and removal authority which was instituted by the Financial Institutions Supervisory Act of 1966. Adoption of this proposal would greatly interfere with this Office's responsibility to act when activities by banks—and their individual officers and directors—do not conform to the high standards of personal conduct and fiduciary responsibility which are imposed by the national banking laws.

Perhaps the strongest argument against tampering with the present A.P.A.-based system is the likelihood that the enormous delay inherent in a judicial resolution of the highly technical matters involved in cease and desist and removal actions could very well bring our enforcement efforts to a halt. Such delay has, in the past, been measured not in months—but in years. Meanwhile, during the long period of litigation, the serious bank problems which caused the federal agency to initiate the action might continue to fester. Under the terms of the League's proposed amendment, the trial court would be granted the authority to stay, "temporarily," the administrative order pending disposition of the trial or appeal. This feature could prove particularly troublesome where the subject of a cease and desist order is insider abuse. For example, a bank officer might argue that he or she is unable to obtain credit—except from the bank in question—and that "irreparable harm" would result. Or, this Office may have determined that a bank must increase its capital or level of liquidity. If a judge, acting without the necessary expertise, were persuaded to stay the order, the bank would be left without any restraints on its actions pending the outcome of the litigation.

Another consideration which argues against replacing the present system with a trial *de novo* requirement is the limitation upon the resources of this and other agencies. Such a requirement would discourage the use of our cease and desist and removal powers due to the time and expense which litigation would entail. And the cease and desist avenue is the mainstay of our enforcement effort—there is no practical substitute. Civil money penalties, for example, are intended to be used as a "behavior influencing" not as a punitive device.

Implicit in the League's suggested amendment is the argument that the present system is unfair. But this argument ignores the procedural safeguards contained in the Administrative Procedure Act. For example, judicial and prosecutorial functions are separate and the APA's *ex parte* communications rule imposes the same prohibitions in administrative proceedings as exist in judicial proceedings. And a fundamental tenet of due process is a speedy trial. In addition, the public trial may embarass bank borrowers and other innocent parties. The bank itself might be adversely affected.

Finally, Title I of the bill would require that the agency provide an opportunity for a hearing in connection with the suspension or removal of individuals indicted or convicted of specified crimes. Under the bill, the regulatory agency would be required to notify the offending individual of the grounds for dismissal, including the reasons why the indictment or conviction is one that the agency has determined poses a threat to the interests of an institution's depositors. This should enable an individual to obtain a meaningful hearing and review under the procedures contained in this title to meet the objectives spelled out in *Feinberg* v. *FDIC*, 420 F. Supp. 109. (D.C. 1976)

Please do not hesitate to contact us if we can be of further assistance.

Sincerely,

JOHN G. HEIMANN,
Comptroller of the Currency.

FEDERAL DEPOSIT INSURANCE CORPORATION,
Washington, D.C., September 26, 1978.

Hon. FERNAND J. ST GERMAIN,
Chairman, Subcommittee on Financial Institutions Supervision, Regulation and Insurance, Committee on Banking, Finance and Urban Affairs, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: You have requested our comments on amendments to Title I of H.R. 13471, the "Financial Institutions Regulatory Act of 1978," which have been proposed by the National Savings and Loan League. The National League amendments would provide for a trial *de novo* in Federal district court with respect to orders of the Federal Home Loan Bank Board imposing a civil money penalty, as well as cease-and-desist or removal orders. This means that all questions of fact and law involved in the administrative proceeding would be reconsidered and redetermined by the District court and thereafter the District court's decision would be reviewable by the appropriate court of appeals and then by the Supreme Court.

In brief, we firmly believe that adoption of the National League's amendments, if applied to the banking agencies, would severely undercut their cease-and-desist and removal authority under section 8 of the Federal Deposit Insurance Act. In effect, such amendments would be tantamount to deleting most of Title I and repealing existing authority in section 8 to initiate cease-and-desist and removal proceedings for violations of law or other unsafe and unsound banking practices. We believe this to be the case because of the lengthy delays which the National League amendments would build into present administrative enforcement procedures which in our opinion already provide adequate due process safeguards.

Under present law when a banking agency issues a cease-and-desist order, two possibilities arise. The agency may enter into a consent settlement with the bank. Otherwise an administrative hearing is held on the record before an independent administrative law judge, followed by a review of his recommended decision by the agency head. Thereafter, all final administrative cease-and-desist orders are reviewable by the appropriate U.S. Court of Appeals under the scope of review provisions set forth in Section 706 of the Administrative Procedure Act. Essentially, these provisions authorize the Court of Appeals to set aside agency action which it finds to be—

"(A) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law;

"(B) contrary to constitutional right, power, privilege, or immunity;

"(C) in excess of statutory jurisdiction, authority, or limitations, or short of statutory right;

"(D) without observance of procedure required by law;

"(E) unsupported by substantial evidence in a case . . . reviewed on the record of an agency hearing provided by statute; or

"(F) unwarranted by the facts to the extent that the facts are subject to trial *de novo* by the reviewing court."

The existing review procedure has been found workable over the past thirty-two years since the Administrative Procedure Act was adopted. Courts routinely defer to agency expertise in enforcing statutes they are particularly suited to administer. Coupled with such deference are the time-honored doctrines of ripeness, abstention, exhaustion of remedies and primary jurisdiction. The courts have consistenly perceived their role of review in the regulatory scheme in accord with the Administrative Procedure Act and the above doctrines:

"On judicial review of a final determination made by an administrative agency, it is not the function of [the] district court to reweigh evidence, nor is it permitted to substitute its judgment for that of the examiner." *Jaegar* v. *Stephens*, 346 Supp. 1217 (D.C. Colo. 1971).

"Administrative determination is not to be tested by [the] standard of whether [the] court would reach the same conclusion upon independent study of evidence in the record." *Phillips Const. Co.* v. *U.S.*, 354 F. 2d. 843 (Ct. Cl. 249) (1968).

As to removal orders, present law authorizes a U.S. District Court to stay the effectiveness of summary removal orders pending completion of administrative proceedings.

Moreover, ultimate enforcement of any administrative removal order, summary or final, depends on the injunctive powers of the Federal judicial system. Likewise, administratively imposed civil money penalties are ultimately enforceable only through the Federal district courts.

We believe that due process rights of individuals affected by administrative enforcement proceedings would be more than adequately protected by present law as amended by Title I of H.R. 13471. The Administrative Procedure Act contains a number of procedural safeguards, such as the separation of the judicial and prosecutorial functions and prohibitions on *ex parte* communications similar to those applicable with respect to judicial proceedings. Moreover, Title I of the bill would require agency hearings in connection with the suspension or removal of individuals indicted or convicted of certain crimes, thereby implementing the requirements of *Feinberg* v. *FDIC*, 420 F. Supp. 109 (D.C. 1976).

As alluded to earlier, we believe that the National League amendments would build into present administrative enforcement machinery the potential for lengthy delays in implementing corrective actions pursuant to administrative findings without significantly increasing due process protection for banks or their officers, directors or shareholders. If every factual issue determined in administrative proceedings has to be retried in court, not only would the court dockets be further burdened, but prompt resolution of situations adversely affecting bank solvency would be difficult to achieve. Moreover, historical recognition of the concept of special administrative expertise underlying the entire independent regulatory structure at the Federal level would be largely negated.

Another important consideration is that *de novo* review at the District Court level would highlight in public the bank's problems which necessitated the administrative enforcement proceedings, such as mismanagement, violations of law, weak loan portfolio or illegal insider transactions. Untimely disclosure of sensitive information of this nature would create the potential for a run on the bank, thereby nullifying agency efforts to obtain corrective action which could maintain the bank as a functioning entity in the community.

For these reasons we strongly recommend that the House reject the National League's proposed amendments.

Sincerely,

JOHN G. HEIMANN,
Acting Chairman.

NATIONAL CREDIT UNION ADMINISTRATION,
Washington, D.C., September 22, 1978.

Hon. FERNAND J. ST GERMAIN,
Chairman, Subcommittee on Financial Institutions Superfision, Regulation and Insurance, U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your request for comments on thee proposed amendments to Title I of H.R. 13471, the Financial Institutions Regulatory Act of 1978, relating to the enforcement powers of the Federal Home Loan Bank Board. Having reviewed the amendments, I would strongly object should a similar amendment to the Federal Credit Union Act be offered.

The amendment, by providing for a new trial in a Federal District Court, negates the administrative process utilized by this Administration pursuant to Section 203 of the Federal Credit Union Act (12 U.S.C. 1786). It would provide no useful purpose, will cause additional delays in the regulatory process, increases the costs and expenses of both the individual or institution involved and the agency, and unnecessarily imposes an additional burden on the judicial system. Further, the scope of review of a U.S. Circuit Court of Appeals under 5 U.S.C. 706 is not as limited as the Explanation of Proposed Amendments, Draft B-9/11/78, seems to impart. Nor is an individual or institution deprived of "a day in court" under present procedures as implied in the draft explanation.

It is my opinion that at the present time, the language of Section 206 of the Federal Credit Union Act is sufficient to protect the interests of individuals and institutions subject to the jurisdiction of the National Credit Union Administration while providing the agency with the ability to carry out its regulatory responsibilities.

If you find additional comments are needed, I would be pleased to provide further details as to our position.

Sincerely,

LAWRENCE CONNELL,
Administrator.

Much of the lobbying efforts by the banks have been aimed at the insider limitations imposed under title I. The banks have argued that the American public served by 10,000 State-chartered institutions does not need these protections—just the 4,700 national banks.

We feel strongly that insider limitations should be industrywide and that there is no justification for exempting State-chartered banks which are insured by the Federal Deposit Insurance Corporation. Insider problems and abuses have been found in all classes of banks and they are by far the No. 1 cause of bank failures. To exempt 10,000 banks, in the face of this evidence, would be legislative game-playing which would only delude the American public into thinking that we had really addressed the insider problem.

Mr. Chairman, State laws governing insider borrowing vary greatly and in many States these standards are vague and meaningless. This title provides a nationwide standard which says that the borrowings of a single insider may not exceed 10 percent of the capital accounts of the bank. A fair and generous limitation which assures that the public—the community—will have an opportunity at the loan window and that all loan funds will not flow simply to those lucky enough, affluent enough, and powerful enough to enjoy an insider's role at their local financial institution.

Mr. Chairman, insider problems have created the biggest drain on the FDIC insurance fund, and we must face the fact that State-chartered, federally insured banks have deposits of $403 billion. To exempt these institutions from the insider limitations would be the height of folly.

Mr. Chairman, I place in the RECORD an excerpt from the committee report dealing with the serious problems which could be created if the House exempted these insiders in the State banks:

State laws have varying standards and definitions concerning single borrower and insider limits, with many ranging from 25% of capital accounts and up. Although self-dealing and insider abuses have been demonstrated to be the No. 1 cause of banking problems and failures and thus the No. 1 impact on the Federal insurance fund, existing Federal law provides no real industrywide control over this practice.

Efforts to exempt 9,000 State-chartered banks from limits on insider borrowing were rejected on a 26-to-16 vote and your committee decided that all banks—insured by the Federal Deposit Insurance Corporation—should be treated on an equal basis.

In considering effective regulation, the need to include State-chartered, federally insured institutions under this provision is intensified by the fact that 80 percent of the failures between 1970 and 1976 were State-chartered banks.

State-chartered banks maintain over $400 billion in deposits, a substantial portion insured by the Federal Deposit Insurance Corporation. With the magnitude of this potential impact on the insurance fund, your committee believes that the FDIC and the Federal Reserve should have a full range of powers to limit insider abuses in institutions over which they have supervisory jurisdiction.

The inclusion of federally insured institutions under the 10-percent limitation assures that bank insiders in a given community or area will be treated alike. Your committee believes that this uniform standard will make it much easier for examiners to establish control over insider abuses and to back up their enforcement efforts with bank insiders. The efforts to provide a new emphasis on control of insider abuses are compromised when the insiders of a bank on one side of the street may borrow three times as much from their institution as the officers and other insiders may at the bank across the street —as would be the case if different limitations applied to state banks.

The importance of equal treatment among the various classes of banks is further highlighted by the fact that many holding companies have a multitude of different institutions under their ownership. It is not uncommon for bank holding companies to have national banks, State member banks, and State nonmember banks within their structure. Clearly, all of these subsidiary institutions have an impact on the holding company regardless of whether they are National or State banks and the application varied insider standards could only complicate the already difficult problems associated with regulations of holding companies.

TITLE 2

Mr. Chairman, there is a need to improve, to strength title 2 of this legislation to make certain that we can challenge anticompetitive interlocks between banks and insurance companies.

This provision was knocked out of the original subcommittee bill on a very close vote, and it is my intention to reoffer this on the floor when we reach the amendatory process.

The free flow of credit is essential to consumers, to homebuyers, to job-producing industries, to the entire community. To allow the giants of the industry—insurance companies and banks—to threaten this flow through tight-knit interlocking directorates endangers our entire economy.

Mr. Chairman, I am sure we will see parliamentary maneuvers and other devices to attempt to block the will of the House in ending these anticompetitive and anticonsumer arrangements. But, it is my intention to make every effort to allow the Members to cast their votes against these unhealthy interlocks and to give the Justice Department a full role in pursuing antitrust issues involving financial institutions.

Mr. Chairman, I place in the RECORD a copy of a letter from John H. Shenefield,

Assistant Attorney General, Antitrust Division, Department of Justice:

U.S. DEPARTMENT OF JUSTICE,
Washington, D.C., September 25, 1978.

Hon. FERNAND J. ST GERMAIN,
Chairman, Subcommittee on Financial Institutions Supervision, Regulation and Insurance, Committee on Banking, Finance and Urban Affairs, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: We understand that H.R. 13471, the "Financial Institutions Regulatory Act of 1978", is being scheduled to receive consideration by the full House of Representatives. The Department of Justice strongly urges that Title II of this legislation be amended by the House to restore prohibitions on anticompetitive interlocks between depository institutions and other firms with which they compete, and the concurrent authority of the Attorney General to enforce prohibitions on interlocks between depository institutions that were contained in earlier versions of the legislation. We are certain that the interests of consumers of financial services will be better served with the inclusion of these procompetitive features

We think the time is clearly at hand to adopt simple language designed to eliminate the ability of banking institutions to continue to claim an immunity for their anticompetitive interlocking directorates with other types of firms. The competitive dangers of interlocks between competing firms have long been recognized. The need for independent business decisions by persons without conflicting interests is critical to effective competition. Therefore, Congress wisely chose to legislate general prohibitions against such interlocks. Recently, however, a court upheld the claim that there exists a special immunity for anticompetitive interlocks between banking institutions and other types of firms. Such an immunity is not only inconsistent with the public interest but also is inconsistent with the limitations Congress has placed on acquisitions by bank holding companies of competing financial firms. Unless the deleted language is reinserted, these institutions will be permitted to continue to claim an immunity for anticompetitive interlocks with the same firms they would not be allowed to acquire. We perceive no basis for continuing to permit such claims of immunity and we strongly urge reinstatement of the language in Title II which would prevent them.

We also urge restoration of the concurrent authority of the Attorney General to enforce Title II's modernized prohibitions against interlocks between depository institutions. We have previously expressed our concerns with the technical sufficiency of the amendment made by the Subcommittee which significantly reduced the role of the Attorney General in this area. These will not be repeated now. Suffice it to say that even if technically perfected, serious limitations on the Attorney General's independent enforcement authority should not be imposed. The Attorney General's concurrent authority is part of an effective and efficient enforcement program under current law. Spectres of dispute and duplication which may have brought on the elimination of the Attorney General's concurrent authority to enforce Title II's prohibitions on interlocks between depository institutions have no basis in fact. On the contrary, the record of the 64 years of concurrent authority under present law demonstrates that concurrent authority presents no problems in the interlock area. There has been no substantial interference by the Attorney General with primary enforcement by the Federal Reserve Board, nor have duplicative or conflicting actions been brought. Accordingly, we strongly urge that the concurrent enforcement authority of the Attorney General be restored in the final version of this bill.

The concerns discussed in this letter are of the utmost importance in preserving and promoting competition among institutions offering financial services. We know that the enhancement of competition in this and other areas in a goal that Congress shares with the Administration and the American people. The unjustifiable deletion of these provisions from Title II can only weaken antitrust enforcement against anticompetitive interlocking directorates. All parties, but most particularly consumers of financial services, will benefit from their restoration.

Sincerely yours,
JOHN H. SHENEFIELD,
Assistant Attorney General, Antitrust Division.

TITLE 6

Mr. Chairman, last Friday, I inserted in the RECORD a series of case histories drawn from the files of the Federal Deposit Insurance Corporation, illustrating the critical need to give the regulators more information and more authority in takeovers of financial institutions—CONGRESSIONAL RECORD, September 29, pages 32671–32677.

Our subcommittee has investigated this question at length and conducted field hearings in San Antonio, Tex., in December of 1976 after a series of rapid and uncontrolled takeovers had created serious banking problems in that State. In Texas, fly-by-night operators, without putting up a dime of their own funds, took over banks, milked them through quickie insider loans, and then let the institutions collapse—to the detriment of depositors, the community, and the Federal Deposit Insurance Fund.

Mr. Chairman, it is important that the regulators have authority to gather information on these bank grabs and to prevent unsavory and obviously unqualified high flyers from raiding these institutions. Mr. Chairman, I hope my colleagues will reject any efforts to weaken this title as some bankers have suggested.

TITLE 18

Mr. Chairman, much controversy centers on this title and rightfully so because variable rate mortgages are the most blatant anticonsumer issue to come before the Congress this session. The title should be stricken from the bill.

To allow savings and loan institutions to raise the interest charges after the contract is signed places an unfair and unconscionable burden on the consumer, the homeowner. More importantly, these VRM instruments are inflation boosters—nothing less than a means to index inflation.

Mr. Chairman, if we allow this inflationary tool for the thrift industry, we are opening the door for the indexing of inflation throughout the economy—a dangerous step. If wage earners are forced to pay higher and higher monthly charges on their mortgages through this indexing, it is only reasonable to assume that these homeowners will be seeking a similar indexing in their wage contracts and we will be off on the not-so-merry roller coaster of higher and higher inflation.

Mr. Chairman, I place in the RECORD excepts from a September 22 letter from the Consumer Federation of America on the VRM issue:

EXCERPTS FROM LETTER

I. Title XVIII would require the Federal Home Loan Bank Board to authorize Alternative Mortgage Instruments (AMIs), including Variable Rate Mortgages (VRMs), for federally chartered savings and loans associations. It is important to note that the phrase "Alternative Mortgage Instruments" is nothing more than a code word for VRMs. The S&L industry has no interest in marketing other types of AMIs that are variations on the standard fixed rate mortgage, such as Gradual Payment Mortgages (GPMs) and Reverse Annuity Mortgages (RAMs). Although in principal CFA recognizes the potential benefits of GPM and RAMs, we are vigorously opposed to VRMs.

The Federal Home Loan Bank Board and the S&L industry have alluded to the fact that consumers may want a "choice" between the traditional fixed rate mortgages and other alternatives. While CFA agrees with this conclusion, it is clear that consumers do *not want* a VRM. As a study undertaken by the FHLBB indicated, an overwhelming majority of home buyers (82 percent) do not want VRMs even if offered at ½ percent lower interest rate than the fixed rate. (That ½ percent differential is not even offered with the vast majority of VRMs). Allowing federal S&Ls to market VRMs would render so called "consumer choice" meaningless. Since lenders have a strong incentive to market VRMs and borrowers lack the financial sophistication relative to lenders to judge the suitability of this extremely complicated instrument, the likelihood is great that borrowers will be manipulated down the VRM road.

Proponents also argue that if VRMs are not allowed, mortgage funds will dry up having a devastating impact on the entire home industry. Nonsense! Thrift institutions must commit 80 percent of their portfolio to residential mortgages if they wish to enjoy the privileges (including Regulation Q) which thrifts are allowed.

Specifically, CFA's opposition to VRMs is based on the following:

(1) As acknowledged by the Hunt Commission, VRMs shift the interest rate risk from the lender to the borrower who is least able to anticipate, assess and adjust to interest rate trends in the economy which are enormously complex. No index ever proposed for a VRM system has been anything but extremely complicated even for savvy economic experts, let alone the typical consumer. To have to evaluate the potential impact of one or more such indices would open up new opportunities for unfair manipulation of consumers by lenders.

(2) As acknowledged by former Federal Home Loan Bank Board Chairman Thomas Bomar, VRMs pose discriminating effects for women, racial minorities and the elderly who traditionally do not have the upward economic mobility to demonstrate to cautious underwriters that not only can they meet the current monthly payment, but that additionally they can absorb future mortgage interest rate increases.

(3) Alternative approaches for alleviating the cyclical boom and bust crisis of the thrift industry should be explored including tax incentives, direct subsidies, potential credit allocations, etc. It is particularly curious, however, that the present frenzy for the VRM comes not in the wake of the "bust" phase of the cycle, but rather immediately following the most successful year ever for the thrift industry.

● Mr. LONG of Louisiana. Mr. Chairman, I would like to see clarification of an issue which relates to the enforcement provisions in title I—specifically the right of a bank or a savings and loan or a credit union to pay the legal

expenses of its officers or directors should it so choose.

As the gentleman from Rhode Island knows, there has been much controversy associated with the new supervisory authority which would be created under title I. For the first time, Federal regulatory agencies would have the authority to institute proceedings directly against major stockholders or officers of a financial institution. By creating this additional power for the regulatory machinery, the bill also expands the personal liability of an institution's officers and directors.

Many of my constituents have expressed concern over the broad implications of title I. A question which occurs frequently—and which I would like to discuss for the purpose of establishing a record—is the ability of these officers and directors to sustain the personal burden of legal costs which could result from the need to defend their actions in an administrative or review proceeding. Certainly it would be our concern that the management of financial institutions have adequate safeguards to protect their legal rights in circumstances which could lead to penalties, or cease and desist orders, or even removal from office. Respondents should have a fair opportunity, under normal circumstances, to defend their decisions or actions when they find them at issue in supervisory disagreements.

It would be my understanding that officers and directors who become involved in a disciplinary action could receive assistance from the institution or association for payment of their legal costs. This would in no way require the institution to come to the defense of its members, but would insure that it would have an opportunity to properly pay the legal fees to defend officers and directors if it feels they have acted in good faith in the affairs of the institution. I ask the manager of this bill, Mr. ST GERMAIN, if this statement accurately characterizes congressional intent on the matter of legal fees.●

Mr. ST GERMAIN. Mr. Chairman, the gentleman from Louisiana (Mr. LONG) has raised an important issue relating to the supervisory powers given the financial institution supervisory agencies in title I of H.R. 13471. As you know, these agencies have long asked for more flexible powers to use in their regulation of financial institutions. Presently, they argue that their choices are limited to using heavy artillery or jawboning. The powers contained in this bill will give these agencies more flexibility to move against individuals who may be the real cause of the problems in a bank, a savings and loan, or a credit union.

When a dominant individual—either the major stockholder or a powerful chief executive officer for example—totally dominates an institution it is more appropriate for the agencies to move against that individual rather than the institution itself. If that individual is disregarding law and regulation, is threatening the soundness of the institution by his actions, or engages in unsafe practices, the agency should be able to move swiftly—but with due regard to the rights of the individual—to stop those practices. This means that the individual should bear the consequences of his actions. He should be paying any civil money penalty assessed. He should be responsible for expenses incurred in challenging an action by the agency. The Senate report on S. 71—which contains very similar authority—however does recognize that some cases may be different. The report stated:

> However, it may be appropriate in some cases—where the safety of the institution is not at stake—for the institution to pay the costs of attorneys' fees to insure that regulatory intrusion into legitimate managerial prerogative does not occur by the use of the new powers contained in the bill.

This, I believe, is appropriate.

Mr. LEACH. Mr. Chairman, will the gentleman yield?

Mr. ST GERMAIN. I yield to the gentleman from Iowa.

Mr. LEACH. Mr. Chairman, I would like to ask for a clarification of the intent of the language on page 117 beginning on line 23 and page 120, lines 10 to 13.

In my State, and I know it is true in many others, there are a number of small banking institutions. They are typically owned by a small group including the operating officers and a few others. They are not really very profitable but they provide a livelihood for the officers and a priceless community service. When existing officer owners want to retire, it is customary to sell their stock to someone who is willing to take over and continue the service to the community. Often the prospective purchaser is a junior officer from that bank or some other who is qualified but lacks cash and must either obtain a loan to buy the stock or enter into an agreement with the existing owner to pay it off gradually out of earnings.

Looking at the language I have referred to, one fears that the regulators would reject such a proposed acquisition because the would-be purchaser is not wealthy enough to step in and buy the bank with his own assets. If this is the intent we may see many small banks closing their doors or being forced to sell out to large holding companies. Could the gentleman assure me that the intent of this language is not to erect an artificial barrier to the transfer of smaller banks to conscientious individuals intent or preserving community oriented banking services?

Mr. ST GERMAIN. Let me assure the gentleman that his fears are unfounded. Having studied the causes of many bank failures and what we have termed the "rent a bank" schemes, I am convinced we should have criteria of safety and soundness applied in bank acquisitions, as we do in new chartering.

One criteria I would apply is that the purchaser have some equity in the transaction. I sincerely believe the purchaser should have something at risk that gives him the personal motivation to operate the institution for the constructive benefit of the community so that his equity will be preserved and grow.

But let me point out two things to the gentleman. First, we set no fixed amount of equity. Five, 10, or 15,000 dollars of equity might be quite sufficient in some instances while an investment of one or two hundred thousand in another institution might be a very cheap price to pay for control. We expect the administrators to exercise broad judgment in these matters.

Second, you must read the language you referred to in relation to all the other criteria set forth for consideration. What we are asking is that the prospective purchaser demonstrate that he intends to run the institution conscientiously and not purely for his personal gain. The gentleman and the regulators have followed our investigations in this field long enough to know that it is the "rent a bank" types we are trying to cut off at the pass. There is no intent that these authorities be exercised in any arbitrary way to deny the right of acquisition to well qualified and well-intentioned parties whose only shortcoming is a lack of cash.

Mr. LEACH. I thank the gentleman.

Mr. STANTON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, before commenting on the bill, I want to commend the subcommittee chairman, Mr. ST GERMAIN, and the ranking minority member, Mr. ROUSSELOT, as well as the members of their subcommittee for the outstanding job they have done to produce the legislation we have before us today. Although there will be a number of amendments offered, I assure this House that this bill is better than the average you have come to expect from the Banking Committee over the years.

This is not to say that I endorse every provision in the bill. It is too massive and treats such a diversity of subject matter that most will find some fault. However, I am really pleased to be able to say that it is a much more reasonable and workable response to the problems it addresses than any of the draft proposals that preceded it.

Mr. Chairman, the committee changed this bill's title from "The Safe Banking Act" to "The Financial Institutions Regulatory Act" because we did not want to suggest that there is anything implicity unsafe about our banking system. However, I want to make it clear that most of the new regulatory authorities are badly needed. Although it may not always be apparent to the casual observer, banking is a dynamic industry. Not only does the form of the industry change with such things as holding companies, REIT's, and credit card operations, but also the types of services and loans needed by the community are constantly changing. Add to this such problems as the growing need to serve nationwide—and international—needs of corporate customers, and it is easy to see why periodic adjustments in the rules and regulations are needed. Many of those proposed in this bill are long overdue.

A lot of the controversy associated with this bill, as with other proposals we have had to deal with in the banking field this year, relate to the question of States rights and the values of the dual banking system. We have long taken pride in our dual banking system because

of our belief that it offered the best possible opportunities for innovation in service to the public and because it preserved for the States an opportunity to shape some financial institutions to meet the unique needs of our diverse areas. Increasingly, however, we are finding that because of their size and the scope of their activity, some aspects of State bank operations may well need to be coordinated with national policies. One need only consider an institution like Manufacturer's Hanover which operates throughout the world to realize that State charters are not synonomous with small size. Your committee struggles constantly to find appropriate ways to deal with issues without impinging on the dual banking system—not always successfully. My point is that Members should recognize these problems for what they are and weigh the merits of proposed solutions against possible damage to long-cherished concepts. Since this bill was reported, the committee has gone even further in reporting a Fed membership bill which would impose uniform reserve requirements on all banks over $100 million to strengthen the Fed's ability to control the money supply. More and more, this issue will be before us, and I urge Members to consider each individual proposal in light of the long-term trend. In my view, we should not erode our dual banking concept except for the most compelling reasons.

Time does not permit me to discuss as many specific points of the bill as deserve attention but there are a few I would mention.

Titles VIII and IX taken together are a basically reasonable approach to tightening up on insider dealings. Essentially, they call for reports to the banks' boards of directors which will facilitate and encourage closer supervision by the boards of dealings with officers and directors. In addition, transmission of these reports to the supervisory agencies will enable them to detect any abuses.

Unfortunately, and perhaps inadvertently, the way title IX is now written all the reports coming to the supervisory agencies would be available to the public. The chairman assured us, when he and Mr. DERRICK offered an amendment to title VIII, that all the information would remain confidential. Of course, there are literally thousands of perfectly legitimate credit transactions between banks and their officers and directors for personal and business reasons. To expose the details of these transactions for public scrutiny would be an invasion of privacy which was not intended. Therefore, we will offer an amendment to title IX to correct this.

I am deeply disturbed about title XIII, the banking holding company amendment.

To begin with, the committee report on pages 32 and 33 purports to explain the amendment. I was a cosponsor with the gentleman from Ohio (Mr. ASHLEY), of the language you see in the bill. Our amendment was adopted in committee by a vote of 41 to 3 in preference to an amendment offered by the gentleman from New York (Mr. HANLEY). The disturbing thing is that despite this vote record and our submission of report language explaining our amendment, the majority staff on its own changed the explanation so that it now reads as if the defeated amendment had carried. Not only is the amendment improperly described, there are statements in the report addressing matters never discussed by the committee.

I dislike dragging committee laundry out on the House floor, but I think it is a serious matter when misrepresentations of a committee's actions are made a part of our official records by arbitrary staff action.

I regret to say it must be brought up here because a letter of protest to the committee and subcommittee chairmen was virtually ignored. A three-page letter from the gentleman from Rhode Island quibbed over details of the amendment but never addressed the crucial question of why his staff arbitrarily altered the language we submitted and steadfastly refused to let our staff see the report before its filing.

Mr. Chairman, we in the minority are accustomed to being walked on once in a while, but this transgression was against 41 members of our committee including the distinguished sponsor of the amendment who I know shares my indignation.

But let me turn to the amendment and the current situation. By the adoption of this section, the Congress will be settling a question that has been in dispute and litigation for years. It was necessary for our committee to balance on one hand the fact that insurance has been routinely provided by bank holding companies since their inception in the 1920's against the fact that, on the other hand, insurance services are also provided to millions of Americans through the independent agency system consisting of numerous small businessmen operating in highly competitive and unconcentrated markets.

The amendment offered in committee by the distinguished gentleman from Ohio (Mr. ASHLEY) and myself represents a careful balancing of these concerns. It assures that the independent insurance agency system will not be adversely impacted by the entry of bank holding companies into the insurance business.

I think it is important to recognize that all parties in interest had to compromise in developing this amendment. It is probably true that no one is entirely happy with the amendment but everyone can live with it. Because of that, I do not want to see it further modified by amendments here. I am really upset to find out that the insurance agents are pushing for some amendments and I shall oppose them vigorously at the proper time.

Finally, I would like to mention title XVII, a title which I sponsored and for which I received warm support from both sides of the aisle. This is the Financial Regulation Simplification Act of 1978. It establishes a policy for the issuance of regulations dedicated to the reduction and simplification of regulations. In addition, it provides for a review of existing regulations with the objective of conforming them to the policy guidelines.

While we may not see any mass paper burning as a result of this title, I believe it represents a meaningful first step in a long overdue effort to reduce the paperwork and redtape burdens.

● Mr. WHALEN. Mr. Chairman, the legislation now before us, the Financial Institution's Regulatory Act, is a complex bill, for the most part dealing with relatively esoteric questions of banking regulation. One title, however, is of direct and immediate concern to every American and is one with which I have been involved personally.

I am referring, of course, to title XI, the Right to Financial Privacy Act of 1968.

Title XI represents an enormous step forward in the protection of the rights to privacy of American citizens. I am delighted to see this legislation come to the floor of the House.

During the 93d Congress, Senator CHARLES MATHIAS of Maryland first proposed the Bill of Rights Procedures Act. Its primary purpose was to prevent warrantless Government searches of bank, credit, medical, telephone toll billing, and other records that reveal the nature of one's private affairs. This was the first legislative proposal ever to address the problem of access to third party records.

At the start of the 94th Congress, Senator MATHIAS reintroduced the Bill of Rights Procedures Act with our former colleague, the Honorable Charles A. Mosher, serving as the chief House sponsor. I was pleased to join as a cosponsor of that measure (H.R. 214). The bill underwent more than 40 days of hearings and markup in the House Judiciary Subcommittee on Courts, Civil Liberties and the Administration of Justice, but was reported out of subcommittee too late to reach the floor in 1976.

At the start of the 95th Congress I accepted Senator MATHIAS' invitation to replace former Congressman Mosher as the chief House sponsor of the Bill of Rights Procedure Act. Upon its introduction in January, the new bill, H.R. 215, was referred jointly to the Judiciary and the Banking Committees.

Mr. Chairman, the first drafts of the Right to Financial Privacy Act were derived directly from title I of H.R. 2151 Bill of Rights Procedures Act. As Senator MATHIAS and I have testified, we are pleased to have our bill serve as the model for this legislation.

While H.R. 13471 differs in many details from H.R. 215, the essential elements remain the same. Most important, the new legislation preserves our basic principle that third party records of a personal nature, in this case bank and credit records, should not be accessed by Government agents except with the knowledge of the subject individual or else with the supervision of the courts.

This is a crucial concept. It returns to the individual some measure of control over dissemination of records that contain very detailed information about one's daily life. And it puts the courts into a proper role of resolving conflicts

between a citizen's rights to privacy and society's needs for information.

Moreover, it also restores the record holders, the banks, and credit card companies to their proper role as impartial custodians of records. I know that the financial community welcomes this opportunity to get out of the middle of disputes between customers and Government. And they surely will welcome being able once again to assure their clients that they can have a reasonable expectation that the confidentiality of their records will be maintained. Surely, everyone will benefit from the establishment of a clear set of rules and procedures.

Mr .Chairman, I wish to commend the gentleman from Nebraska (Mr. CAVANAUGH) for his initiative and determination in pushing the right to financial privacy through the Banking Committee. I also want to commend the chairman and the ranking minority members of both the full committee and the subcommittee for the support and encouragement they gave to the privacy advocates who worked on title XI.

Also, I think we should acknowledge the tremendous efforts of two unsung heroes of this legislative undertaking, NED PATTISON and BARRY GOLDWATER, JR. NED, a former member of the Civil Liberties Subcommittee and now as a member of the Banking Committee, gave the panel the benefit of his considerable expertise in the subject of bank record privacy. And BARRY's knowledge, gained as a former member of the Privacy Protection Study Commission and coauthor of the Privacy Act of 1974, also provided great insight for the negotiators to draw upon.

Both Members, Messrs. PATTISON and GOLDWATER, played crucial roles in reconciling the sometimes divergent positions of the administration and the various members of the Banking Committee. Without their quiet and behind the scenes contributions, I doubt that title XI would ever have made it to the floor this year.

It is my hope that the Senate conferees have the vision and responsibility to accept title XI, which was not in the original Senate banking bill. I know that Senator MATHIAS has already begun an effort to persuade his colleagues to support the Right to Financial Privacy Act, and I trust that he will be successful.

Enactment of the Financial Institution's Regulatory Act, with title XI, will be a major step forward in the protection of citizens' rights to privacy. Much legislative work still remains to be done in other areas of privacy. Nevertheless, passage of H.R. 13471 will help to resolve many of the problems which now exist with respect to bank and credit records. I urge my colleagues to join in supporting this important legislation. ●

● Mr. REUSS. Mr. Chairman, the Banking, Finance and Urban Affairs Committee has been working on legislation to reform and restructure financial regulation since the early days of the 94th Congress. H.R. 13471 is the culmination of this long process and it should be passed overwhelmingly by the House.

H. R. 13471 has wide bipartisan support. After the mark-up was completed, the committee voted unanimously—44 to 0—to include the provisions in a clean bill and H.R. 13471 was sent to the House on a 34 to 5 vote. Certainly, there are differences of opinion on various sections and titles, but these votes make it very clear that the committee—both the majority and the minority—feel it is essential to enact financial regulatory legislation this session. As you are aware, the Senate last year passed a supervisory bill—S. 71—and thus we will have a vehicle with which to go to conference when the House adopts H.R. 13471.

Many of the core provisions of this bill are supported by the financial regulatory agencies which want and need additional powers to control abuses all too apparent in the highly publicized bank failures of recent years. I am happy to see that Secretary of the Treasury W. Michael Blumenthal has endorsed major titles of H.R. 13471.

Mr. Chairman, those of us on the Banking Committee who have participated in studies and investigations of problem and failed banks over the years can testify to the critical need to control abuses by bank insiders and to provide the regulators of all banks some statutory guidelines in this the No. 1 problem area. In the wake of case after case of banking problems brought on by excesses of the insiders, it is clear that the Congress must provide industry-wide standards, not piecemeal guidelines.

The St Germain subcommittee has done an excellent job on this issue and title 1, drafted in the subcommittee and endorsed without change by the full committee, does limit borrowings by insiders to no more than 10 percent of capital accounts of any bank. It is a fair standard that applies to all insiders alike whether they are national bank or State bank insiders. We should oppose any effort to weaken this title or to provide any segment of the industry an advantage over another by adopting inequitable and uneven guidelines to insider borrowings.

Mr. Chairman, I hope that the House will see fit to adopt H.R. 13471 without major change so that we can proceed to an early conference with the Senate and have this bill on the President's desk before sine die. It is the product of some of the most extensive studies and hearings ever conducted in the Banking Committee and every title, every detail, and every comma of this legislation was combed over in the longest mark-up sessions in the recent history of the committee.●

○ Mr. ROUSSELOT. Mr. Chairman, it was almost exactly a year ago, on September 28, 1977, at the beginning of the hearings on what was then known as the "Safe Banking Act," that I made the following comments regarding the massive proposal which the Subcommittee on Financial Institutions faced at that time:

1. It seems clear to me, from reading the statements of representatives of the various bank regulatory agencies, that there is a consensus as to how to proceed with this legislation. There is broad agreement that practically all of S. 71 should be enacted without undue delay. Most of the provisions of that bill have been before the Congress for two years or more and are relatively noncontroversial. (I would add at this time that the notable exception to which I alluded was and remains title VI, which pertains to letters of credit and on which there had been no hearings in either the House or Senate prior to its surprise insertion in S. 71.)

2. (The second point was that H.R. 9086 contained many new proposals and that the Subcommittee should take the necessary time to understand all of the ramifications of the bill. The Subcommittee and full Committee both proceeded in a thorough and deliberate manner and, as a result, a number of ill-considered provisions were dropped or significantly amended during the markups.)

3. Finally, I would like to stress that the purpose of my suggestion (to proceed promptly on S. 71) is not to delay the legislation. On the contrary, it is my belief that a thorough treatment of the new provisions of H.R. 9086 need not result in a delay of those provisions of S. 71 which are seasoned and which are overdue to be enacted. However, if we do not separate the essential provisions of S. 71 from the rest of H.R. 9086, we run the risk that there will be no supervisory legislation at all.

Unfortunately, the trimming back of the "Safe Banking Act" to something approaching manageable proportions was an arduous and time-consuming task and, as we approach the end of the 95th Congress, it must be candidly admitted that there is indeed a distinct possibility that yet another Congress may have passed without the enactment of basic legislation to augment the supervisory powers of the agencies which are charged with protecting the safety and soundness of the Nation's depository institutions. It may not be too late to achieve enactment of a reasonable bill, but I would suggest that this is not the time to try anything too fancy.

The following is a relatively brief discussion of the major title in the bill and of the major amendments which are likely to be offered. The list is not an exhaustive one, but I hope that my colleagues will find it useful in preparing for consideration of amendments, which is presently scheduled for tomorrow, October 4:

TITLE I—SUPERVISORY AUTHORITY OVER DEPOSITORY INSTITUTIONS

1. Some banks and savings and loans oppose the extension of the cease and desist authority of the supervisory agencies to individual officers and directors and the provision for civil money penalties against such officers and directors. An amendment reducing this authority or strengtening procedural safeguards may be offered.

2. Many State-chartered banks, as well as State bank supervisors have opposed the application of Federal insider loan limits to State-chartered institutions. It seems elementary that, under the dual banking system, the responsibility for the supervision and regulation of State-chartered institutions rests with the appropriate State authorities. It is, therefore, difficult to understand why this bill contains a provision which constitutes such a fundamental breach of the existing lines of authority, especially since no compelling need has been demonstrated. An amendment to limit the applicability of the Federal standards is likely to be offered.

TITLE II—INTERLOCKING DIRECTORS

The full Committee voted to delete certain amendments to the Clayton Act which pertain to interlocking directorates among financial institutions. One amendment would have eliminated a potential overlap between

title II of this bill and section 8 of the Clayton Act. A second amendment would have resolved a lawsuit which the Justice Department has been litigating for years and which involves the issue of interlocks between depository institutions and insurance companies. A majority of the Committee believed that these issues were beyond the jurisdiction and competence of the Banking Committee and voted to delete the Clayton Act amendments altogether. It is possible that an amendment to restore these provisions may be offered. It would seem clear that the Committee of the Whole will have its hands full in trying to finish this bill and that regardless of their views on this bill, Members will be reluctant to venture too far afield.

TITLE IV—CONFLICTS OF INTEREST

This title, which places restrictions on the postemployment activities of members of the agencies which supervise depository institutions, may be, as its proponents suggest, a fair provision to apply to those officials. Nevertheless, there is broad support for a more comprehensive bill, such as H.R. 1 and S. 555, which have already been passed by both the House and the Senate and which would apply conflict of interest restrictions to members of independent agencies and supervisory and regulatory bodies throughout the government. Therefore, an amendment may be offered to delete this title in order to avoid enactment of a piecemeal title which singles out the members of a few Federal agencies for special treatment.

TITLES VI AND VII—CHANGE IN BANK CONTROL, CHANGE IN SAVINGS AND LOAN CONTROL

Many banks object to the grant to the Federal supervisory agencies of authority to disapprove a proposed change in control. Under this title the appropriate supervisory agency would be provided with detailed information concerning persons who seek to acquire control, which is defined as power to vote 25 percent or more of the voting stock or to direct the management or policies of an institution. The agency would then have 60 days to disapprove the change in control, such determination to be made in accordance with standards set forth in the Act and subject to reveal by a U.S. Court of Appeals. An amendment may be offered to confine the disapproval authority of title VI to foreign takeovers of domestic institutions. Any amendment to title VI could affect title VII, because the Committee has endeavored to maintain consistency between the two titles.

TITLE VIII—CORRESPONDENT ACCOUNTS

One of the strangest provisions of the entire bill is the new section 106(b)(2)(G)(iii) which would be added, as part of title VIII of this bill, to the Bank Holding Company Act of 1970. This provision, which can be found at the top of page 140 of H.R. 13471, would require each insured bank to include in its reports to the FDIC submitted pursuant to subsection (k)(1) of the Federal Deposit Insurance Act a list of the names of executive officers and 10 percent shareholders and of the aggregate amounts of extensions of credit to such officers and shareholders.

Members who were concerned that personal financial information might be disclosed under the Freedom of Information Act—a legitimate concern in view of the fact that this bill also contains a widely heralded "Right to Financial Privacy Act"—sought assurances that the information supplied to the FDIC could not be made public under the Freedom of Information Act, and these assurances were given by Subcommittee Chairman St Germain. These assurances vanish, however, when one looks at title IX, "Disclosure of Material Facts." Lo and behold, the very same information which we were assured would not be disclosed under the Freedom of Information Act would be disclosed to the public under title IX. An amendment will be offered to correct this anomaly.

TITLE XI—RIGHT TO FINANCIAL PRIVACY

This title would be a major piece of legislation in its own right. The purpose of this title is to establish that the customer of a depository institution has a legitimate expectation of privacy in his or her financial records. It attempts to protect the customer's right of privacy and, at the same time, to permit Federal law enforcement agencies to obtain access to financial records needed for legitimate law enforcement purposes. By establishing that the customer has a right to go to court to challenge the agency's effort to obtain the records, this title would help to clarify an area of the law which has been the subject of a great deal of litigation in recent years. The major outstanding differences concern provisions governing the sharing of financial records among Federal agencies. The Justice Department has proposed a number of amendments which would liberalize the restrictions on interagency access contained in the Committee bill.

TITLE XII—CHARTERS FOR THRIFT INSTITUTIONS

Mutual savings banks, which are presently chartered in 17 States, would be permitted under this title to convert to a Federal charter and, in that event, would be supervised by the Federal Home Loan Bank Board. Banks in savings bank States have expressed concern that Federally-chartered savings banks would enjoy more liberal branching powers than those which apply to banks. An amendment reducing the ability of Federal mutual savings banks to branch is likely to be offered. It is also likely that an amendment will be offered to clarify the intent of this title to authorize conversions from State- to Federally-chartered mutual savings banks and not from mutual to stock institutions. Another amendment may be offered to impose upon Federally-chartered mutual savings banks a requirement that they maintain a Federally-prescribed level of investment in housing.

TITLE XIII—HOLDING COMPANIES

The title adopted by the Committee was intended to prohibit bank holding companies from providing insurance as principal, agent, or broker, except: (1) for credit life or credit disability insurance; (2) for any insurance sold in a community of less than 5,000 population; (3) for any insurance activity in a community where the bank holding company demonstrates that there are inadequate insurance facilities; (4) where insurance already is being sold by a company owned directly or indirectly by a bank holding company as of June 6, 1978; or (5) for any insurance agency activity engaged in by a bank holding company or any of its subsidiaries with assets of less than $50 million. An amendment is likely to be offered which would disallow applications pending as of June 6, 1978, some of which have subsequently been approved by the Federal Reserve Board.

TITLE XVI—TRANSACTION ACCOUNTS

It is likely that an amendment will be offered to confine the grant of transaction account authority to Federally-chartered thrift institutions located in New York, and perhaps in New Jersey, rather than in all States where State-chartered institutions have been granted such powers.

TITLE XVIII—ALTERNATIVE MORTGAGE INSTRUMENTS

Federally-chartered savings and loans are presently the only type of depository institution which is completely forbidden to offer alternative mortgage instruments. Title XVIII would eliminate this disparity by permitting Federally-chartered savings and loan associations to offer alternative mortgage instruments in States which permit their chartered savings and loans to do so. The Federal Home Loan Bank Board would be required to prescribe consumer safeguards, including documented choice between alternative and conventional fixed rate mortgage instruments, prohibitions against prepayment penalties, and limitations on interest rate increases. The Bank Board has also indicated that it would restrict the ability of Federal associations to offer two of the instruments, the variable rate mortgage (VRM) and the roll-over mortgage (ROM) to States where such authority is necessary to maintain the competitive balance between Federally-chartered and State-chartered institutions. At present the Bank Board would be most likely to approve these instruments in five States: California, Massachusetts, Ohio, Connecticut, and Wisconsin. The ability of Federal savings and loans to compete with their State-chartered counterparts and the ability of these institutions to provide mortgage credit needed to finance housing would be greatly enhanced by the passage of this title.

There is also a substantial likelihood that additional titles will be offered. At the present time these include one title which would exempt agricultural credit from the Truth-In-Lending Act and another title which would permit commercial banks to underwrite municipal revenue bonds.

On the whole the balance between the desirable and the undesirable features of this bill is a delicate one. Accordingly I strongly recommend that my colleagues pay close attention to the results of the voting on the major amendments and reserve judgment on final passage until action on the amendments has been completed.●

● Mr. VENTO. Mr. Chairman, we have under consideration today a most significant piece of legislation which is the culmination of exhaustive hearings over many months.

The bill, H.R. 13471, the Financial Institutions Regulatory Act which updates law dating back to the 1930's after the banking debacle of the Great Depression. While from time to time there have been substantial changes dealing with commercial banks, mutual savings banks, savings and loan institutions, credit unions, bank holding companies, and their regulatory agencies, there has been to my knowledge no such sweeping change as contemplated by this bill.

Without going into the sordid events of bank failures, rigging, insider deals, and a variety of abuses of trust which have wracked the financial institutions of this country in recent years, it became painfully apparent that substantial revision of the regulatory systems was essential.

Under the able leadership of our colleague (Mr. ST GERMAIN) from Rhode Island, the Financial Institutions Subcommittee has drafted a bill which has the general support of American Bankers Association, the U.S. League of Savings Associations, National Association of Mutual Savings Banks, the AFL–CIO, and the Independent Insurance Agents of America. This unique accomplishment attests to the skill of the gentleman from Rhode Island and the collective wisdom and diligence of the subcommittee members and staff. I commend them for their monumental achievement.

The bill strengthens the supervisory authority of Federal banking regulatory agencies, limits borrowing by bank insiders and bans interlocking directorates among depository institutions. It also attempts to improve the operation of the Federal banking regulatory agencies by first, restricting conflicts of interest in-

volving bank regulatory officials; second, creating a financial institution examination council; third, requiring the agencies to simplify and coordinate their regulations; and fourth, upgrading the National Credit Union Administration.

In addition, it requires banks to issue publicly available annual reports concerning insiders and insider borrowing, regulates the use of correspondent accounts, controls the sale of financial institutions and protects customers' right to financial privacy. It also makes a variety of other changes in banking laws.

While I am in general support of the bill, I will rise later in opposition to the provision which permits Federal savings and loan associations in certan States to offer variable rate mortgages to homeowners. I strenuously object to this provision.

I hope, however, that the House will overwhelmingly adopt the bill so that we can enact yet in the closing days of this Congress this legislation which will restore national confidence in the integrity of our financial institutions.●

● Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I rise in support of H.R. 13471. We have long needed financial regulatory reform and the product which has emerged from the Banking Committee is a workable and reasonable approach to the long-standing problems in this area.

We have ample evidence of the need for action and I hope that H.R. 13471 is adopted without the legislation being gutted with special amendments trying to convey special benefits on individual segments of the financial community. This bill is carefully worked out after months of hearings and markup and the House must face up to its responsibility in providing the public with the necessary safeguards and protections and to assure a safe and sound financial system.

Mr. Chairman, I am particularly happy that the legislation has emerged from committee with a strong title on disclosure. For too long, the banking industry and its regulators have operated as a secret society and it has been difficult for the public and the Congress to judge the performance of institutions which have so much to do with the public welfare. The bill will require disclosures of insider activities and this will have a salutary effect on controlling abuses in this area. Happily many regulators, after years of support for the tightest secrecy, are beginning to see the value of public disclosure. A speech by former FDIC Chairman George Le Maistre on June 22 is illustrative of the changed attitude in support of more information for the public and I quote this excerpt:

EXCERPT OF SPEECH BY CHAIRMAN GEORGE LE MAISTRE, CHAIRMAN, FEDERAL DEPOSIT INSURANCE CORPORATION, ENTITLED "PROBLEM BANKS AND BANKING PROBLEMS"

Many regulators, and I include myself in this group, were mistaken about the extent of public disclosure of a bank's financial condition that could be sustained by a bank without damage. To be sure, there were exceptions during this period (1973–1975 recession). The hemorrhage of funds from Franklin National Bank did follow closely on the heels of sensational disclosures with respect to Franklin's condition, and, particularly, its operations in foreign exchange markets. However, it should be noted that it was other banks and large corporations, not small depositors, which lost confidence in Franklin. At the same time, we at the FDIC were genuinely surprised at the calm reaction of depositors in the face of extensive disclosures of fraud and unsound operations in other financial institutions. Not only was the public, including small investors and large sophisticated investors, secure in the face of these disclosures in the press, the public received without fright and rather welcomed the far more extensive disclosure requirements proposed by the SEC and the banking agencies.

The long and short of this, it seems to me, is that the adversity of the period which we recently went through, combined with the pressure of the SEC for further disclosure and the bad news revealed in the press, demonstrated conclusively that the banking system can tolerate far more disclosure than most bankers and bank regulators have ever thought.

Mr. Chairman, when a banking bill comes to the floor we always hear a multitude of questions about how the legislation will affect this bank and that savings and loan association.

This time, Mr. Chairman, I hope we will have a little attention focused on the consumer—the user of banking services rather than just on the banking institutions.

H.R. 13471 is not so much a banking bill as it is a consumer bill—legislation designed to assure the American public that it has a financial system that meets the test of soundness and responsiveness to community needs.

Since financial institutions provide the lifeblood of communities—money and credit—the public's need for laws to assure a safe, sound, and responsive financial system is obvious. The credit and money powers of a banking institution can often decide whether there are jobs, whether a local industrial plant can stay afloat, whether a small businessman can get the needed funds to modernize, whether the farmer will have the loans to plant and market his crops and whether the individual consumer has a chance to own a home or to send his children to school. When these bank services are lost or diminished through failures, abuses, anticompetitive situations, mismanagement, or poor regulation the impact on a community and a neighborhood can be severe.

H.R. 13471 should be enacted and weakening amendments and special exceptions for various segments of the financial industry should be rejected.●

○ Mr. PATTERSON of California. Mr. Chairman, I rise in support of the Financial Institutions Regulatory Act of 1978. This important legislation is the result of 2 years' work of the Financial Institutions Subcommittee and the full Banking, Finance and Urban Affairs Committee. The 20 titles contained in this bill are the result of a number of hearings and discussions between members of the committee and the regulatory agencies as well as with consumer groups and the financial institutions industry. This legislation deserves the support of the Members of this body.

Of particular importance are the amendments to current supervisory authority contained in title I. The additional powers and the limits on insider loans contained in this title will assure that financial institutions fill their fiduciary trust role. A number of bank failures that have occurred in the past few years can be directly attributed to abuse practices in insider dealing. The tools given to the Federal Reserve, the Comptroller, the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board and the Credit Union Administration will assist these agencies in taking direct action when abusive practices are found.

Title II, Interlocking Directors and title IV, Conflicts of Interest, set standards for boards of directors and for future employment regulators. These titles will help to assure that this Nation's financial institutions are supervised by directors who do not have other, competing interests. It will provide an impetus to institutions to seek directors who have the time and commitment to do a thorough job of assuring the safe and sound operation of the institution. The restrictions on employment of former regulators will help to stop the current revolving door practice between regulatory agencies and the industry regulated by such agencies.

I would particularly like to address the authority for alternative mortgage instruments granted in title 18. As one of the authors of this title, I would urge my colleagues to support the innovative mortgage authority contained in this title. Title 18 would authorize federally chartered savings and loan associations to offer alternative mortgages in those States where State chartered institutions now offer and use such mortgage instruments. It is designed to correct a competitive disadvantage which currently exists in some four or five States. In addition, the title mandates certain consumer safeguards to be used in conjunction with use of such alternative mortgage instruments.

I plan to offer a perfecting amendment to title 18 which will, I believe, meet the concerns raised by some of my colleagues and which will refine the language of the title. My amendment affects the language and effect of the title in the following ways.

First, the amendment changes the current language in section 1801 to clearly set a competitive disadvantage standard. This will assure that the authority granted under this title will be limited to those States where a competitive disadvantage exists because State chartered institutions in those States are actively offering alternative mortgage instruments.

Second, my amendment places important consumer safeguards right into the statute. This will assure that these safeguards are not modified unless Congress acts. Major consumer protections included are:

First. Documented choice. Prospective borrowers are given a clear choice and documentation on the rates and terms of the fixed-rate mortgage and the alternative mortgage.

Second. Interest rate limitations. Interest on variable rate mortgages cannot increase more than 0.5 percent in 1 year on variable rate mortgages cannot in-

crease more than 0.5 percent in 1 year nor more than a total of 2½ percent over the entire life of the loan. In addition, when interest is increased, borrowers must be given 45 days notice and are allowed to extend the life of the loan rather than take an increase in payments. The borrower also has the choice of paying off the mortgage with no prepayment penalty.

Third. Percentage of loan limitations. A federally chartered savings and loan may not have more than 50 percent per year of their mortgage loans by dollar amount in variable rate mortgages and rollover mortgages.

Fourth. Limitations on offering period of variable rate mortgages. Any Federal savings and loan association choosing to offer variable rate mortgages must offer them for a 4-year period or such time as determined by the Federal Home Loan Bank Board. The institution cannot offer such instruments only at times of increasing interest rates, but must offer them for a continuous period.

Finally, my perfecting amendment to title 18 contains both a reporting provision and a sunset clause. The Federal Home Loan Bank Board must report to the Congress within 3 years on the effects of this title. In addition, the authority for alternative mortgages expires at the end of 4 years, so Congress will have a chance to review the program.

I cannot overemphasize how important the provisions of title 18 and my amendment are. The alternative mortgage instruments are important tools for housing Americans. While the fixed-rate mortgage is still a valuable tool and will meet the needs of many Americans who are purchasing homes, we need to expand the options for those who cannot meet the terms required by this mortgage. The younger person who is buying his or her first home may be better served by a graduated payment mortgage. The older person, who lives on a fixed income, would be able to maintain his or her standard of living by taking a reverse annuity mortgage. The person transferred on a job and forced to resettle at a time of high interest rates might be better served by a variable rate mortgage. For these reasons, I urge my colleagues to support title 18 and my amendment.

I would also like to share with you the comments of some labor, government, housing industry people who support title 18. It has been my experience that, while some of the national associations and groups oppose this title, those people in the field in States where alternative mortgage instruments are being offered believe they are working to the benefit of the people and the local economy.

The comments follow:

BUILDING AND CONSTRUCTION TRADES COUNCIL OF ORANGE COUNTY,
Santa Ana, Calif., July 10, 1978.

W. DEAN CANNON, Jr.,
Executive Vice President,
California Savings & Loan League,
Los Angeles, Calif.

DEAR DEAN: As indicated in our phone conversation of June 20th, the variable rate mortgage problem was brought to the attention of our Executive Board.

They support your position and hope by so doing it will help your amendment to pass through Congress.

Please let me know if there is anything else we can do to help.

Sincerely yours,

ALFRED R. GRAY,
Executive Secretary.

SAN DIEGO-IMPERIAL COUNTIES LABOR COUNCIL,
San Diego, Calif., August 31, 1978.

Hon. ROBERT H. MCKINNEY,
Chairman, Federal Home Loan Bank Board,
Washington, D.C.

DEAR MR. CHAIRMAN: We are in strong support of your proposed regulations to allow Federal S&Ls in California to issue variable rate mortgages. We are well aware of the fact that Federal S&Ls in our state are at a competitive disadvantage with banks and State S&Ls.

Here in San Diego County the Federal S&Ls, primarily San Diego Federal and Home Federal, are the major source of home construction financing. These institutions in providing construction funds assure many jobs for the working men and women of our unions.

We are very concerned over the future possibility that the supply of construction funds from Federal S&Ls will be reduced if they are not allowed to make variable rate mortgages. We also know that the issuance of variable rate mortgages makes them more saleable to Eastern mortgage purchasers and will help provide additional funds for the construction of homes here in San Diego as well as in other parts of California.

With a very severe housing shortage in our area, and an urgent need for more homes and apartments, we urge that the authorization for VRMs for Federal S&Ls be approved as soon as possible.

Sincerely,

R. R. RICHARDSON,
Secretary-Treasurer.

LUCKEY ENTERPRISES,
San Diego, Calif., September 25, 1978.

The SECRETARY,
Federal Home Loan Bank Board,
Washington, D.C.

DEAR MR. SECRETARY: As head of one of the largest black contracting firms over the last 26 years in San Diego, I want to add my voice to those of many other homebuilders in this area in support of the Federal Home Loan Bank Board's recently proposed regulations to allow federal savings and loan associations in California to offer alternative mortgage instruments like the VRM.

Over the years, the lending institutions whch have been of greatest assistance to my business in providing construction funds and mortgages for housing projects have been federal savings and loans based in San Diego.

During the past eight years alone, my firm has been involved in the construction of nearly 400 housing units, many of them designed for moderate income homebuyers or renters.

In fact, anyone involved in housing construction in this area knows that a major share of home construction and mortgage credit is made available by federal savings and loans.

Frankly, San Diego is continuing to experience a severe housing shortage, the consequences of which touch most closely members of the area's minority community.

It is for this reason that I strongly support any measures which will keep open and adequate, the flow of available home financing funds from the federal savings and loans in San Diego to both home builders and homebuyers.

The fact is, California's state-chartered savings and loans have had the authority to provide alternative mortgage instruments such as the VRM to housing consumers for three years now. However, because federal savings and loans play such a predominate role in lending in housing, especially in San Diego, they need the same kinds of powers to keep up with the mortgage credit needs of our fast growing community.

I am particularly pleased that the Federal Home Loan Bank Board's proposals for alternative mortgage instruments contain a long series of safeguards for the consumer. After all, the consumer, the homebuyer, is the one who stands to lose the most from a shortage of mortgage credit.

Without the hedge against inflation which the VRM and other alternative mortgages provide, as proposed by the board, the day may come, sooner than any of us believe, when federal savings and loans like those here in San Diego, will have to slow down their acquisition of savings deposits. And, this in turn would have a negative impact on the availability of home financing funds which are so critical to San Diego's housing needs.

Again, as a major black builder, deeply concerned about the need for adequate housing in San Diego's minority neighborhoods, I urge strongly that the Federal Home Loan Bank Board's proposed regulations to permit federal savings and loans in California to offer VRMs and other alternative mortgage instruments be adopted as soon as possible. I also am in support of the legislation now before the Congress, to accomplish much the same thing.

Sincerely,

ANDREW E. LUCKEY.

PACIFIC SCENE, INC.,
September, 22, 1978.

Congressman JERRY PATTERSON,
House Office Building,
Washington, D.C.

DEAR SIR: We have recently become aware of pending regulations before the Federal Home Loan Bank Board which would allow federal savings and loan associations to offer variable rate mortgages, and other mortgage instruments.

As a major home builder in San Diego County, and throughout California, I would like to affirm my support to these proposed regulations, and underscore the very critical and continuing need to provide funds for housing at reasonable rates.

On my way to work this morning, I listened to a radio announcer extol the virtues of some "very affordable" homes starting at $86,900. We are all too familiar with what has happened to skyrocketing home prices.

For our own part, we are offering some very attractive and livable duplex type homes, on zero lot lines, starting at $35,900. We are very much aware how difficult it has become for young people to acquire that first home, and to start building the equity which is the foundation upon which this county was built.

Through the years, we have enjoyed a very close and harmonious relationship with one of California's finest federal savings and loan associations. They have provided us with construction and final financing at competitive rates that have helped make us one of the top builders in the state.

Now, however, we find that they are unable to deliver something that state chartered associations can: the variable rate mortgage. Conventional home loan rates have been in double digits for several months, and with continued upward pressure on a prime rate of 9½%, it is unlikely that we will see any downward trend in these rates for at least the remainder of this year, and possibly for the greater part of 1979.

Variable rate mortgages, with all their built in safeguards, offers consumers, builders, and lenders alike the opportunity to continue with business as usual, during all periods of advancing or declining mortgage rates. And why should federal savings

and loans not have the same tools as state chartered associations to meet the needs of their borrowers and builders? I submit to you that they should and must have these tools as a basic competitive right.

Another very compelling argument for variable rate mortgages comes to my mind. Recently, the Superior Court in California struck down a due on sale clause in a savings and loan association's deed of trust. With competition for savings forcing associations to pay ¼% more than government T bills, and other premium rate certificate savings accounts, the cost of money to a savings and loan is increased by short term competition for savings. In the past, associations were able to modify long term mortgage rates to more current rates on the sale of a property to a new owner. The action of the courts may take away this possibility. Variable mortgage rate loans would tend to correct this inequity, and would be fair to both borrower and lender alike.

It is imperative to the economy of our country that mortgage funds continue to be made available at acceptable and reasonable rates. We believe that you have it within your power to take a major step towards the accomplishment of this objective by passing these regulations.

By copies of this letter to our representatives in Washington, we earnestly solicit their efforts in our behalf, and ask them to make their feelings known to the members of the FHLBB who will be making this critical decision.

Thank you for your consideration.

Sincerely,

TAWFIQ N. KHOURY.●

● Mr. GARCIA. Mr. Chairman, I would like to submit this letter for the record. This letter is from Chairman McKinney of the Federal Home Loan Bank Board to Hon. HENRY S. REUSS, making reference to the importance of savings and loans institutions in the housing production in our Nation. I believe that the letter speaks for itself:

FEDERAL HOME LOAN BANK BOARD,
Washington, D.C., August 29, 1978.

Hon HENRY S. REUSS,
Chairman, Committee on Banking, Finance and Urban Affairs, Washington, D.C.

DEAR MR. CHAIRMAN: It is our understanding that floor action on H.R. 13471, the Financial Institutions Regulatory Act, may occur in early September. Accordingly, we would like at this time to give you our understanding of Title XII, which would authorize Federal charters for mutual savings banks.

As you may recall, the Bank Board originally had urged a statutory requirement that sixty percent of Federal MSB assets be invested in housing We would still prefer this approach and, similarly, we would, as we have said before, also strongly prefer not to see included in the Title the provision creating a tie-in for Federal MSBs on State non-discrimination laws. The fact that the percentage route has been explicitly rejected, however, indicates that the Bank Board should not impose regulatorily on MSBs under our jurisdiction a flat requirement that a particular percentage of their assets be devoted to home finance. If this is not the intention of Congress, we should be advised otherwise.

Nevertheless, in reading the language of Title XII, and the explanation of it in the Committee Report (No. 95-1383), we perceive a strong, clear intention that Federal MSBs must be oriented primarily toward providing home finance. This is evidenced very directly in the proposed reference to such institutions in § 5(a) of the Home Owners' Loan Act. Federal MSB charters would be made available "in order to provide local mutual thrift institutions in which people may invest their funds and in order to provide for the financing of homes . . ." The Bank Board would be directed in granting the charters to give "primary consideration to the best practices of local mutual thrift and home-financing institutions in the United States."

This intention is also displayed in the limited nature of the grandfathering the Title would extend to converting MSBs. Although they would be authorized to continue to carry on any activities they were in engaged in on December 31, 1977, and to retain or make any investment of a type they held on that date, they could do so only to the extent permitted by the Bank Board. Under no circumstances, however, could an institution have equity, corporate bond and consumer loan investments in such an amount that the ratio of those investments to total assets exceeded the average such ratio for the five-year period immediately preceding the filing of the institution's conversion application.

Finally, the Committee Report is quite clear, emphasizing strongly that the Bank Board should exercise its chartering, regulatory and supervisory powers in such a way that Federal MSB investments reflect the fact that the Federal Home Loan Bank System is firmly committed to the housing needs of this country. In addition, the Report expreses the expectation that the Bank Board would use the Community Reinvestment Act to enhance the housing and community related orientation of Federally-chartered MSBs.

In implementing the mandate of Title XII, as we have indicated, we would not impose a rigid requirement that a certain percentage of an MSB's assets be invested in housing. Strong orientation toward housing would, however, be regarded as a *sine qua non* of obtaining a Federal charter. Obviously, it would be clearly improper for the Bank Board to force MSBs under its jurisdiction to be mirror images of Federal S&Ls, and to do so would not be our intention.

We would, however, intend to scrutinize MSB activities and investment authority to evaluate their compatibility with a commitment to housing, and to regulate accordingly. The bottom line for some institutions definitely could be a considerable increase in the level of their housing finance involvement, for we regard this as the Title's intent.

Sincerely,

ROBERT H. MCKINNEY,
Chairman.●

Mr. STANTON. Mr. Chairman, I have no requests for time and I yield back the balance of my time.

Mr. ST GERMAIN. Mr. Chairman, I have no further requests for time and I yield back the balance of my time.

Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. FASCELL) having assumed the chair, Mr. MCCORMACK, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 13471) to strengthen the supervisory authority of Federal agencies which regulate depository institutions, to prohibit interlocking managment and director relationships between financial institutions, to amend the Federal Deposit Insurance Act, to restrict conflicts of interest involving officials of financial supervisory agencies, to control the sale of insured financial institutions, to regulate the use of correspondent accounts, to establish a Federal Bank Examination Council, and for other purposes, had come to no resolution thereon.

GENERAL LEAVE

Mr. ST GERMAIN. Mr. Speaker, I ask unanimous consent that I may be permitted to revise and extend my remarks and to include extraneous material, and that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on the general debate on the bill H.R. 13471, which was just under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Rhode Island?

There was no objection.

INTERNATIONAL DAY OF BREAD

(Mr. SEBELIUS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SEBELIUS. Mr. Speaker, today is the International Day of Bread, a time when people throughout the world come together to give thanks for the annual harvest in their native lands. Bread, which is made from wheat, and is the staff of life, symbolizes all food and man's dependence upon the soil, the sun, the rain, and the practice of agriculture.

This day is made possible by our wheat growers, flour millers, wholesale and retail bakers, and all the allied trades of the wheat flour industry. These groups have set aside personal and competitive interests to donate money, time and hard work for a nonprofit public service program. That they have done so voluntarily without commercial recognition for 10 consecutive years is a remarkable achievement.

The National Day of Bread Committee is dedicated to improving the public's awareness of nutrition by publishing educational materials and by bringing leaders together for an exchange of ideas on food and related problems. For the 10th consecutive year, the national committee and 31 regional committees are winding up 6 months of educational efforts through the schools, the news media and civic groups. Bakers in 26 States are giving free bread and nutrition information to families, in hopes that they will improve their diets through meals adequately balanced with the four basic food groups.

Today, I am once again sending a loaf of French bread to each of my distinguished colleagues. These loaves come with the compliments of the wheat growers, millers, and bakers who comprise the National Day of Bread Committee. Because of the efficiencies they have achieved in farming, milling, and baking, no American needs fear a shortage of bread, our most basic food.

The key to this abundance is the farmer who produces wheat and other grains. Today the farmers of the world are harvesting the second largest wheat crop on record. The United States is harvesting a record corn crop, a record rice crop, and a record soybean crop. The farmer has achieved this amazing record of productivity despite the fact that price for most grains still remain below the cost of production.

Mr. Speaker, I would like to point out that our grain exports make it possible

for this country to continue to play a significant role in the fight to alleviate hunger and malnutrition throughout the world. These same exports contribute significantly toward reducing our balance of trade deficit. Yet, the goal of the National Day of Bread Committee will never be completely fulfilled until the day when no child goes to bed hungry; and when no family has to fear for its daily bread. This is a Herculean task.

Since 1940 American farm output has more than doubled. We can easily grow much more. This year we had to implement a set-aside program for both wheat and feedgrains because our grain surplus was not effectively marketed. As a result, prices were depressed. Even with the wheat set-aside, the United States produced about 10.5 billion loaves of bread in 1977. Yet, we must continue to find ways to get the food to the people who need it, and at the same time make increased production attractive to the producers in our relatively free enterprise society.

As the Representative of the First District of Kansas, which produces more wheat than any other State, I will continue to work for programs that will enhance the economic returns to producers of food and fiber and to our agricultural economy. I would like to commend my distinguished colleagues for passing the Wheat and Wheat Foods Research and Nutrition Education Act as title XVII of the Food and Agricultural Act of 1977. The thrust of that legislation will complement the programs of the National Day of Bread Committee.

This year, as a symbolic gesture of international brotherhood, we are launching three weather balloons from the Washington Mall. Each will contain a payload of wheat, flour, and bread. Joining with me in the event will be the distinguished Senator from the Wheat State, ROBERT DOLE; Jerry Rees, executive vice president of the National Association of Wheat Growers; Roy Henwood, vice president of the Millers' National Federation; and Robert Wager, president of the American Bakers Association. We hope the launching will call attention to the United States' bountiful harvest and recognize our responsibility to feed this country's and the world's hungry.

Mr. Speaker, in many ways, this balloon launching epitomizes the spirit of this day. Ideally, the balloons should rise to 65,000 feet and travel 4 days before touchdown in Europe. This feat can be done, as the Double Eagle II proved in August. But, as in agriculture itself, much depends on the weather. Nature may spoil the attempt. If the balloons rise too rapidly into the heat of the Sun, they may become overinflated and burst. We can only hope that our symbolic cargo will touch land, be discovered, and recognized for what it means.

Finally, Mr. Speaker, I hope this "Day of Bread" will provide food for thought as well as nourishment. The Lord has provided us with another bountiful crop. As we eat, let us pay tribute to the farmer for he is the backbone of the Nation.

RETIREMENT OF ADM. ISAAC C. KIDD, JR.

(Mr. DAN DANIEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. DAN DANIEL. Mr. Speaker, yesterday the U.S. Navy and the free world's military community suffered a grievous loss with the retirement of Adm. Isaac C. Kidd, Jr., Commander in Chief, Atlantic and U.S. Atlantic Fleet and Supreme Allied Commander, Atlantic.

That's a whale of a title, and it takes a whale of a man to fill the job. In Ike Kidd, such a man was found. In his four decades of service to his country, Admiral Kidd has seen the Navy through three wars and the upheaval of transition which inevitably followed. That he has performed so ably in so many areas is a tribute to his versatility and leadership qualities. That he is both highly respected and loved is a tribute to the total man.

An interview with Admiral Kidd, printed in last Saturday's Ledger-Star in Norfolk, Va., reveals that this gentleman also retained some of the characteristics of a famous forebear whose surname he bears. I commend the article to our colleagues' reading, and respectfully request that it be printed in the RECORD at this point.

FROM BAPTISM ON A BATTLESHIP TO NAVY'S SECOND MAN

NORFOLK.—It was a fitting introduction to life for Isaac C. (Ike) Kidd: baptism in the ship's punch bowl aboard the battleship Pennsylvania in 1919.

The son of a Navy officer who died as an admiral at Pearl Harbor, Kidd was to spend 40 years of his life in uniform and would rise to be the Navy's second ranking officer.

Monday, the four-star, 59-year-old Kidd will retire. Hundreds of friends and fellow officers, many of whom have been stung by his icy tongue and warmed by his personal touch, will be here to say farewell.

They will remember him most for his obsession for naval readiness.

As a flag officer he trailed Soviet ships in the Mediterranean, anchoring his flagship in the midst of eight Russian war vessels "He just wanted to let them know the 6th Fleet was there," remarked a staff aide.

Another time he took a group of men in a small boat from his flagship and surprised other ships in the fleet by boarding and "capturing" their vessels. The captains and crews awakened to an angry admiral's voice over the loudspeakers asking why their night watches were sleeping.

Another time he put red stars and fishay shoulder boards on his uniform and posed as "Kidovsky" of the Soviet Navy. It was a Navy Day appearance in Oklahoma City in 1969 and Kidd spoke as if he were addressing a Navy Day audience in Russia.

One of Kidd's ancestors particularly would have liked his dramatic style.

That would have been the infamous Capt. William Kidd, the Scottish privateer and pirate of the 16th century. Adm. Kidd likes to recall tales of his forefather, even though the pirate was hanged in 1701 at London's Executive Deck.

"I didn't know that until I took the children down on one of those tour boat rides on the Thames," said Kidd. "The little fellow giving his spiel pointed to Execution Dock and (said) the last man hung there was William Kidd."

Kidd's adventures are but niches in his career. He is most noted as a fast action man, a work lover and a professional who doesn't have time to stop.

Monday he steps aside. Since May 1975 he has been here as chief of NATO's supreme allied command Atlantic, chief of the U.S. Atlantic Command and commander of the U.S. Atlantic Fleet. He was the boss of 207,000 Navy personnel, handled 280 ships, 2,080 aircraft and kept watch over 12 million square miles of the Atlantic Ocean.

His successor is Adm. Harry D. Train II, previously commander of the 6th Fleet.

Friends will be what he'll miss most, said Kidd.

"It is, I think, as the end grows near, a common bond, a common language, a common set of values that give you friends. Your word is as good as your bond and you count on a fellow and it's the respect that I have for those people.

"It's the admiration. It's the affection of dealing with real pros, whatever their particular line of work, whether it be the fourth estate or electromagnetic technology or hydroacoustics, or whatever.

"It's the people."

Kidd has been part of the Navy since the day he was christened in 1919 aboard the battleship.

He was continuously surrounded by Navy men on their way up. The family dinner table was a forum for discussions on the merits of battlewagons, flattops, torpedo tubes and and destroyer designs.

There were three Army generals in the family. One of his great-great-grandfathers was chief of engineers on the Union side during the Civil War.

His father was Rear Adm. Isaac C. Kidd, commander of Battleship Division One. He was killed Dec. 7, 1941, aboard his flagship, the USS Arizona, when the Japanese attacked Pearl Harbor. He was the first and only flag officer killed in action and was posthumously awarded the Congressional Medal of Honor.

The man who taught young Kidd how to fish and about small boatsmanship was a young lieutenant named Arleigh Burke.

Burke, who became chief of naval operations, will be in Norfolk Monday as one of the primary speakers at Kidd's retirement.

They met on the Pacific Coast where Burke was assigned to record hits on a target towed by a tug.

"I'd go down with my father regularly on Saturdays when he'd go to the ship and he'd drop me off on this tug," said Kidd.

"I'd get on the tug and fish while the tug would shuttle back and forth. And that was where one A. A. Burke—dear man—used to hold school on me."

Schooling and academics were never Kidd's favorites.

"I had no desire to go to the Naval Academy," he said.

When he graduated from St. Albans School for Boys in Washington, he accepted a football scholarship to Ohio State.

"The roar of the crowd was the most important thing in the world to me," said Kidd, who had played center at St. Albans. "And Ohio State was on top in those days."

But Ohio coaches wanted Kidd to have an operation on his knees right away, and Kidd began having second thoughts. (His knees still bother him today.)

He knew his father wanted him to go to the Naval Academy. "But he never exerted the slightest pressure in that direction," he said.

Kidd went back to a prep school in Washington, crammed for the Academy exam and won an appointment. At that time, there

were several competitive positions for the Academy.

Kidd wasn't scholastically outstanding at the school, but he did excel in lacrosse and wrestling. He graduated with one of six commendations presented by the college's officers.

If he had any doubt about a Navy career, it was resolved when his father was killed. In 1944, 12 days after Pearl Harbor, Kidd graduated from the Academy and then helped train naval aviators.

His first ship was the destroyer Cowie. He recalls being "petrified" his first time at sea, and, "When I tell you old Ike was scared to death, I'm not kidding."

Kidd said he gradually got used to the action. He was aboard when the Cowie later engaged in head-to-head combat with the crack Herman Goering Tiger Tank Battalion, one of the strangest Naval battles in U.S. history.

It came about on the coast of Sicily while allied troops were landing and didn't get the air support they were supposed to receive. The Cowie and another destroyer moved into shallow water, trained their 5-inch guns on the Tiger tanks and started firing.

The tanks fired back. "Fortunately they still had armor-piercing ammunition from their desert campaign with Rommel's African Corps," said Kidd. "This ammunition is going right through the destroyers and out the other side without going off."

Kidd said he spent the rest of that night catching German parachute flares in a sand bucket.

"We've got a Bureau of Ordnance civilian aboard whose job it was to get a sample of these remarkable German flares. And this civilian and I are out on the forecastle, each with buckets of sand in which to catch the flares because they burn like hell.

"Here we are . . . with those damn guns going off in 40 different directions . . . the bombs coming down . . . the ships moving all over the area to the brightest spot.

"I never felt like such a jackass in all my life."

Kidd later served aboard the USS Putnam, saw action in Leyte Gulf, Saipan and Tinian. He was at Iwo Jima on radar picket duty and fire gun support. He rescued the few survivors of the USS Twiggs, sunk by a kamikaze, and assisted in the salvage of the battleship Pennsylvania.

In April 1946 he reported to the staff of commander, destroyers, Atlantic Fleet and organized the destroyer gunnery and engineering schools. He served in the Bureau of Naval Personnel and aboard the USS Salem. He commanded the USS Ellyson.

He returned to the Naval Academy as aide to the superintendent in 1953, then returned to sea from 1956 to 1958. Through 1960 he was assistant head of the China-Northeast Asia Strategic Plans and Police Division, went on to the National War College and then the 6th Fleet as its commander.

During the Cuban missile crisis, Kidd practically "lived" at the Pentagon with a telephone at his ear. He received directions from President Kennedy, Defense Secretary Robert McNamara and others.

Kidd described his role in those days when the United States blockaded Soviet ships from taking missiles to Cuba, as being "very modest . . . nothing more complicated than that of a telephone talker. But I was intrigued as the way in which the best brains in the country worked, applying their best judgments to these fine grain details to be sure in their hearts and minds that no stone was left unturned to prevent a war from occurring."

Adm. Hyman Rickover, with whom Kidd worked for many years, brings only words of praise from Kidd. "Oh dear, I've got nothing to say but good things about him," said Kidd.

Rickover would sometimes call Kidd several times a day when Kidd was serving as chief of naval materiel.

"Depending on the gravity of my most recent transgression, I could always gauge by his opening broadside (what mood Rickover was in). For example, he would say, 'You're (Kidd's) appointment to this job has set the Navy back anywhere from five to 25 years.'

"But you know, more times than not, he was right."

Rickover, says Kidd, "has got a heart as big as a house," but "one would almost think, bless his heart, he just goes out of his way to keep that fact hidden."

Kidd's hardest Navy job, his biggest project. What was it?

"Learning how to be a CNM (chief of naval materiel)," he says without hesitation. "Because I wasn't then and even after four years, I don't think that I'm a competent businessman."

And that's what the CNM's job is. "It's mind boggling, considering the money you were responsible for dispensing"—$25 billion yearly in hardware alone.

The Navy contracts, they involved running about 10,000 daily, were a problem. But one of the areas in which Kidd drew praise is the comment from a fellow officer that the admiral was always interested in knowing the things the Navy bought worked.

"The Navy is at sea, not in Washington," he said. "Not in factories, nor banks. It's at sea. It's a national asset and astute managers are not going to dazzle the Soviets to death with their dancing or footwork.

"We can bring off a financial coup in contracting, but golly, unless the projectile or missile goes down the barrel the correct direction, we're in deep trouble."

Kidd has six grown children, three sons and three daughters. He will leave Norfolk next week for a Washington apartment. He'll "take a breather" for awhile with his wife, Marie Angelique.

COLORADO RIVER ENVIRONMENTAL IMPACT STATEMENT

(Mr. EVANS of Colorado asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. EVANS of Colorado. Mr. Speaker, I wish to bring to your attention a Senate amendment in the Interior appropriations bill vital to continued development of water resources along the Colorado River.

The amendment allows the continued construction of authorized and funded water projects if a final environmental impact statement has been filed on each project. This language was made necessary by a court suit filed in June of this year requesting a comprehensive EIS on the entire Colorado River Basin and requesting an injunction on all projects in Colorado, Utah, Arizona, and Nevada now under construction.

I believe the amendment will not alter the purpose of the NEPA Act. A satisfactory EIS will still be required on each project at the planning stage. Rather, the amendment will eliminate the unintended result of stopping projects under construction for the sake of long-term planning studies.

The amendment was accepted by the House conferees and I strongly urge your support.

I believe the following factsheet explains the problem and possible consequences of a failure to accept the Senate amendment.

COLORADO RIVER ENVIRONMENT IMPACT STATEMENT

(By Congressman FRANK EVANS)

On June 21, 1978, suit was brought in U.S. District Court against the Bureau of Reclamation Commissioner, and the Secretary of the Interior, to require the Federal Government to prepare a comprehensive enviromental impact statement on all present and future dam building, other water projects, and operations throughout the entire Colorado River Basin. The suit also moves to enjoin construction of new projects until the river basin EIS is completed.

The plaintiffs argue that (a) water resource development in the Colorado River Basin is a series of related Federal activities with cumulative environmental impacts and (b) NEPA section 102(2)(c) as interpreted in Kleppe v. Sierra Club (1975) 427 U.S. 390 now requires a comprehensive impact statement when federal plans or proposals involve such cumulative or synergistic environmental impacts.

INJUNCTIVE RELIEF

The injunctive relief asks that all land transactions, site clearance and preparation, and construction be halted until the EIS is complete.

The plaintiffs list seven projects presently in the building stage and thirteen projects which have entered construction status this year. These include Colorado's Dallas, Dolores, and the San Juan-Chama Projects.

PROJECTS UNDER CURRENT CONSTRCTION

Central Arizona Project—First Stage.
Central Utah Project—Jensen Unit.
Central Utah Project—Strawberry Aqueduct and Collection System (Bonneville Unit).
Lyman Project.
Navajo Indian Irrigation Project.
San Juan—Chama Project—Collection and Diversion Unit.
Southern Nevada Water Project—second stage.

PLANNED OR NEW CONSTRUCTION STARTS

Central Arizona Project—Granite Reef Aqueduct Transmission System.
Central Arizona Project—Havasu Pumping Unit.
Central Arizona Project—Salt-Gila Aqueduct.
Central Utah Project—Diamond Ford Power System (Bonneville).
Central Utah Project—Leland Bench Unit (Bonneville).
Colorado River Basin Salinity Control Project Grand Valley Unit.
Colorado River Basin Salinity Control Project Las Vegas Wash Unit.
Colorado River Basin Salinity Control Project Paradox Valley Unit.
Dallas Creek Project.
Dolores Project.
San Juan-Chama Project—Collection and Diversion Unit.

COLORADO RIVER BACKGROUND

The Colorado River is over 1,400 miles long. It has 28 major tributaries and covers 242,000 square miles, or 8 percent of the Continental U.S. land mass. It passes through seven States: Colorado, Wyoming, Utah, New Mexico, Nevada, Arizona, and California.

Since the 1920's the Federal Government has been in continuous negotiations and con-

sultations with the Western states to assist in their water resources and development.

The use of water in the Colorado River Basin is contracted principally by three documents. Each of these documents were developed after long and arduous negotiation. They involve seven States and two nations:

The Colorado River Compact of 1922 apportions the beneficial use of the river between the upper and lower basin states.

The Mexican Water Treaty of 1944 guarantees the delivery of 1,500,000 acre feet of Colorado River water to Mexico.

The Colorado River Basin Compact divides beneficial use of the Colorado River between the four upper basin states.

Congress recognized that to implement these water sharing agreements and secure economic development was beyond the West's economic resources.

In the Colorado River Storage Act of 1956, Congress authorized feasibility studies for a number of proposed Colorado River projects. Now, twenty years later two of these projects are in beginning construction and two others are in final planning stages.

COLORADO PROJECTS

Two of the Colorado projects listed for an injunction by the suit have completed the final site specific EIS's and are in construction phase, two others are in advance planning stages.

	Authorized	Status	EIS	Cost (million)	Completion date
Dallas	1968	construction started	1976	$189	1981
Dolores	1968	construction started	1976	57	1983
Animas-La Plata	1968	preconstruction	1979	300	—
San Miquel	1968	final planning	1979	80	—

QUESTIONS CONCERNING BASINWIDE EIS

Objections to the requested river-wide EIS are that it will take three years or longer, and will far exceed the $4,550,000 requested.

The expressed purpose of the statement is to assess cumulative impacts of water resource development and examine various alternatives ranging from stopping all water projects to continued development of presently planned projects.

It is arguable whether a degree of scientific and socio-economic expertise exists to make any real contribution to our state of knowledge on an entire river basin. Attempting to integrate and assess thousands of hypothetical scientific, socio-economic, and environmental variables into a coherent, useful document covering 242,000 square miles, a 1400 mile river, and 28 major tributaries is questionable.

Considering water projects alone, there are hundreds of possible build, modify, or not build, combinations, each of which would have to be assessed.

The consequences of this suit are immense. Even though each water project listed in the suit has final, satisfactory EIS, an injunction could delay them for the duration of the study and every river basin in the country could be subject to similar suits.

INFLATION

In the event an entire river basin EIS is required, the resulting delay in construction could result in prohibitive cost over-runs. With a construction inflation factor of 12 percent per annum, the costs of these projects could increase by 36 percent to 48 percent, fatally damaging currently acceptable cost-benefit ratios.

CONCLUSION

In order to preclude further proceedings in the law suit and settle the question of the necessity of a river basin EIS on the Colorado River, representatives of the affected states asked the Senate to pass an amendment to the Interior appropriations bill.

Although this represents legislating on an appropriations bill, it was felt necessary because of the pressure of time.

THE PROBLEM OF ILLEGAL IMMIGRATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. CORCORAN) is recognized for 5 minutes.

● Mr. CORCORAN of Illinois. Mr. Speaker, today I am introducing legislation which addresses the problem of illegal immigration into the United States. Recent studies confirm the fears that persons who reside illegally within this country are draining the economy and contributing to our unemployment problems.

This fear is widespread in my congressional district. The results of a recent districtwide questionnaire indicate that my consitutents consider the illegal alien problem to be one of the five most serious ones facing the United States today.

My bill's main feature addresses one of the more critical problems—that of supporting illegal aliens on welfare rolls. It would amend title XVI of the Social Security Act to provide a 5-year residency requirement for aliens receiving SSI benefits. It would also amend the Immigration and Nationality Act to require any immigrant—other than a political refugee—to have a sponsor who will support him for 5 years or to have other means of support.

Mr. Speaker, the need to address the illegal alien problem soon is imperative, because we do not know how severe a problem we have. This legislation would control welfare benefits to these persons, thereby establishing a cornerstone for future action. ●

CHICAGO'S 1978 COLUMBUS DAY PARADE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

● Mr. ANNUNZIO. Mr. Speaker, on Monday, October 9, Chicagoans will celebrate the discovery of America 486 years ago by Christopher Columbus with a gigantic parade to be televised by WGN-TV. It is anticipated that some 1 million persons will attend the parade and watch the floats, bands, and marching units in person, and as many as 3 million will watch the event on television.

The voyage of Christopher Columbus marked one of history's most challenging and rewarding explorations, and the theme for this year's parade, "The Portals of History," honors the accomplishments of those courageous settlers who came after him, and honors the Italians who emigrated to America and helped to make our Nation the greatest the world has ever known.

The President of the United States, the Honorable Jimmy Carter; and the mayor of Chicago, the Honorable Michael A. Bilandic; have issued proclamations commemorating the discovery of America by Columbus, and copies of those proclamations follow:

COLUMBUS DAY, 1978—BY THE PRESIDENT OF THE UNITED STATES OF AMERICA—A PROCLAMATION

Nearly five centuries ago an Italian navigator in the service of Spain gazed beyond the wisdom of his time and sailed west to rap at the portals of the New World. Yearly, in gratitude, we celebrate this incomparable achievement of Christopher Columbus. We honor too the courage, self-sacrifice, and perseverance that propelled him on that voyage.

These qualities can fairly be held as a standard for the people of the United States of Ameirca. When they have been foremost in our spirit, they have produced the finest moments in the history of our Republic. Let us continue to hold them fast so that we may always be open to new wisdom, but courageous and persevering in defense of the ideas we hold dear.

On October 9 we again honor the memory of Christopher Columbus and the ever-young promise of the New World.

In tribute to his achievement, the Congress of the United States, by joint resolution approved April 30, 1934 (48 Stat. 657), as modified by the Act of June 28, 1968 (82 Stat. 250), asked the President to proclaim the second Monday in October of each year as Columbus Day.

Now, therefore, I, Jimmy Carter, President of the United States of America, do hereby designate Monday, October 9, 1978, as Columbus Day. I invite the people of this Nation to observe that day in their schools, churches, and other suitable places with appropriate ceremonies to commemorate his great adventure.

I also direct that the flag of the United States be displayed on all public buildings on the appointed day in memory of Christopher Columbus.

In witness whereof, I have hereunto set my hand this seventeenth day of August, in the year of our Lord nineteen hundred seventy-eight, and of the Independence of the United States of America the two hundred and third.

JIMMY CARTER.

OFFICE OF THE MAYOR,
City of Chicago.

PROCLAMATION

Whereas, the annual Columbus Day Parade will be held on Monday, October 9; and

Whereas, as in past years the parade and the day's festivities will be under the auspice of the Joint Committee of Italian Americans, of which Dr. James F. Greco is president and James E. Coli is chairman of the board of trustees; and

Whereas, Columbus Day is set aside in tribute to the noted Genoese explorer and navigator, Christopher Columbus, and in recognition of the role of Italian Americans in furthering the progress of our city and the Nation:

Now, therefore, I, Michael A. Bilandic, Mayor of the City of Chicago, urge all citizens to take cognizance of the Joint Committee's invitation to join in the COLUMBUS DAY observance and the parade on Michigan Avenue.

Dated this 6th day of September, 1978.

MICHAEL A. BILANDIC, *Mayor.*

Mr. Speaker, Monday's Columbus Day celebration will begin with a concelebrated mass at Our Lady of Pompeii Church at 9 a.m. The principal celebrant will be Most Rev. Alfred L. Abramowicz, D.D. The concelebrants will include Rev. Enrique Balerini, C.S., Rev. Francis Cerniglia, Rev. Kenneth Velo, Rev. Anthony Corrano, C.S., Rev. John DiVito, C.S., Rev. Msgr. Edward M Pellicore, Rev. Lawrence Cozzi, C.S., Rev Peter Corbellini, C.S., Rev. DaiZovi, C.S., Rev. Gino Dalphia, C.S., Rev. Salvatore DeVita, C.S., Rev. August Feccia, C.S., Rev. Louis Gandolfi, C.S., Rev. Leonard Mattei, Rev. Daniel F. Montalbano, and Rev. Angelo Calandra, C.S. The homily will be given by Rev. Dominic Valentino, and the master of ceremonies is Rev. Bruno Massacavollo, C.S.

Following the mass, there will be a wreath laying ceremony at 10:30 a.m. at the Columbus statute in Arrigo Park. At 3:15 p.m., following the parade, the Order of Sons of Italy in America will lay a wreath at the Columbus statue in Grant Park.

Chicago's monumental Columbus Day parade will step off from the corner of Clark Street and Wacker Drive at 1 p.m. and will include 157 floats, bands, and marching units depicting the theme of the parade Traditional native costumes of Italy will be worn by participants in the parade representing the culture of various parts of the Italian peninsula. Theme coordinator Mrs. Frank R. Petrone, authentic Italian costume chairman Dr. Mary Ellen Batinich, and float personnel committee chairman Lawrence Spallitta are to be commended for their splendid job in helping to make the parade an outstanding success. Christopher Columbus, the father of all immigrants, will be portrayed this year by Patrick Pisano, Elmwood Park, Ill.

Our guests of honor this year will be the Honorable Benjamin R. Civiletti, U.S. Deputy Attorney General, who is representing President Carter; and former Ambassador to Italy, the Honorable John A. Volpe. Ben Civiletti ranks as the second-highest law enforcement officer in our Nation, and has also served as Assistant Attorney General for the Justice Department's Criminal Division. He has compiled a splendid record of achievement and is serving our country and our people with distinction and dedication. John Volpe, president of the National Italian American Foundation, in addition to previous service as Ambassador to Italy has also served as the Governor of Massachusetts and as Secretary of Transportation.

In addition to our honored guests, the parade will be led by the Honorable Michael A. Bilandic, mayor of Chicago; the Honorable James R. Thompson, Governor of Illinois; the Honorable George W. Dunne, president of the Cook County Board of Commissioners; Patrick S. De Moon, general parade chairman for 1978; and the Honorable Jerome A. Cosentino, a commissioner of the Metropolitan Sanitary District; Congressman MARTIN Russo of the Third District of Illinois; and virtually every Italian American political leader in the Midwest, the Italian American War Veterans of Illinois, and many other political dignitaries, civic leaders, members of the judiciary, businessmen from the community, labor leaders, and others too numerous to mention.

Each year the Joint Civic Committee of Italian Americans, comprised of more than 40 Italo-American civic organizations in the Chicagoland area, sponsors the Columbus Day parade and other related activities. Many local groups cooperate with the Joint Civic Committee in this community-wide tribute to Columbus, and Anthony Sorrentino, consultant for the Joint Civic Committee, has helped to coordinate the various activities of the parade for any years.

One of the highlights of Chicago's Columbus Day celebration is the selection of the queen of the parade. This year, Michelle Piragine of Chicago, was chosen to reign as queen of the Columbus Day parade.

Judged on her beauty, poise, and personality, Michelle Piragine, as winner of the Columbus Day Queen contest, won $500 from the Joint Civic Committee of Italian Americans, $100 from Mr. Patrick S. De Moon, general chairman of the 1978 Columbus Day parade; $100 from the Women's Division of the Joint Civic Committee, an all-expense-paid weekend trip to New York from the DaPrato Travel Agency, the queen's crown and a trophy, as well as a certificate and Columbus Day necklace from the Joint Civic Committee, and a bouquet of roses.

The members of the queen's court are Laurie Cattinari, Villa Park, Ill.; Linda Consolo of Chicago; Leslie J. Rasmussen, Naperville, Ill.; and Lisa Marie Alfieri, Melrose Park, Ill.

Judges for the Columbus Day Queen contest were Franz Benteler, a violinist and orchestra leader; Joseph Caliendo, a designer furrier; Don Case, a public relations and advertising executive; Robert Clementi, attorney and former national commander of the Italian American War Veterans; Celeste Del Giudice, airline passenger sales clerk and 1975 Columbus Day Queen; John DoCurro, a contract manager; Rose Farina, a producer and program coordinator at the Richard J. Daley Center; and Adrienne Marie Levatino, a writer, former director of housing and rehabilitation in Evanston, Ill., and member of the Woman's Board and the Junior Associates of St. Joseph Hospital.

The parade will be sponsored over WGN–TV by Anthony Paterno, of Paterno Imports; Dominick Di Matteo, of Dominick's Finer Foods; Alphonso Di Benedetto, of the Banco di Roma; George Miceli of the Fontana D'Or; and First Federal Savings & Loan Association of Chicago. The telecast of the parade will be narrated by Domenick Di Frisco and Vince Lloyd, narration prepared by Mrs. Frank R. Petrone, and the reviewing stand commentators will include James L. Coli, Louis Farina, and Charles Porcelli.

The Columbus Day parade and related festivities will close with a reception at the Fontana D'Or in honor of all of the guests, the officers, subcommittee chairmen, and members who participated in making this event a grand success.

As honorary parade chairman on this ninth celebration of Columbus Day as a national holiday, I commend the members and officers of the Joint Civic Committee of Italian Americans for their dedication, careful planning, and hard work that went into the creation of a grand event such as the Chicago Columbus Day parade. Our city and our people are proud of these outstanding citizens and of the work they are completing.

Mr. Speaker, the officers and members of the 1978 Chicago Columbus Day Parade Committee are as follows:

Patrick S. Demoon, general chairman 1978.
Congressman FRANK ANNUNZIO, honorary parade chairman.

Commissioner Jerome A. Cosentino, grand marshal.

HONORARY CHAIRMEN

Hon. Michael A. Bilandic, mayor, City of Chicago.
Hon. George W. Dunne, President, Cook County Board of Commissioners.
Dr. Teodoro Fuxa, Consul General of Italy.
Hon. James R. Thompson, Governor, State of Illinois.

JCCIA OFFICERS

Dr. James F. Greco, President.
Joseph Tolitano, 1st Vice President.
Jerome N. Zurla, 2d Vice President.
Rudy L. Leone, 3d Vice President.
James L. Coli, 4th Vice President.
Charles C. Porcelli, 5th Vice President.
Anthony Morizzo, Treasurer.
Charles Carosella, Secretary.
Sam Cerniglia, Sgt.-at-Arms.

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Angelo Fosco.
Joseph Lizzadro, Jr.
Rev. Armando Pierini, C.S.
Mayor John C. Porcelli.
Judge Philip Romiti.
Cong. MARTIN A. RUSSO.

EXECUTIVE ASSISTANT TO THE PRESIDENT

James E. Coli.

ASSISTANTS TO THE PRESIDENT

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PRESIDENT CARTER'S REQUEST FOR EXTENSION OF AUTHORITY TO WAIVE APPLICATION OF COUNTERVAILING DUTIES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. VANIK) is recognized for 5 minutes.

● Mr. VANIK. Mr. Speaker, today, together with my colleague Mr. Steiger, I am introducing a bill, cosponsored by the majority of the Subcommittee on Trade, which permits the extension of the authority of the Secretary of the Treasury to waive the imposition of countervailing duties on foreign subsidized imports. Under this bill, the waiver authority would be extended to August 1, 1979, only if the President notifies the Congress on or before January 2, 1979, that a multilateral agreement or agreements have been concluded which meet basic U.S. objectives. The objectives which the agreements are specifically required to address and about which the President must notify Congress are that new international rules have been worked out which would discipline the use of internal and export subsidies affecting U.S. agricultural and industrial trading interests and which establish procedures for timely resolution of disputes over the use of subsidies. In addition, the President would have to notify that all the other agreements under negotiation in the multilateral trade negotiations have been substantially completed.

In the Trade Act of 1974, Congress mandated timely countervailing duty action by the Secretary of the Treasury against foreign subsidized imports into the United States. At the same time Congress included authority for the Secretary of the Treasury to waive countervailing duties during the 4-year period which expires next January 2 for the express purpose of enabling the negotiation in the MTN of international rules on the use of subsidies affecting international trade.

Substantial progress has been made on a subsidies/countervailing duty code, but a number of major issues of serious concern to agricultural and industrial interests remain outstanding. The leaders at the Bonn summit established a December 15 target date for conclusion of the MTN, including an agreement or agreements establishing international rules on the use of and procedures relating to subsidies and countervailing duties. Recently, however, the member States of the European Communities have indicated that the MTN may not be concluded by December 15 unless U.S. authority to waive countervailing duties is extended to include the 90 legislative days provided in the Trade Act for congressional consideration on implementing legislation. Existing waivers affect about $289 million of European agricultural exports to the United States.

We, frankly, do not understand nor hold in very high regard this kind of threat by the Council of Foreign Ministers of the European Community. First of all, a primary goal of our European trading partners, to date, has been the inclusion of an injury test in our countervailing duty law. The European Communities' stance to end the negotiations because of the imposition of countervailing duties on only 1 percent of European exports to the United States for a few months hardly seems consistent with one of their primary MTN interests.

Moreover, 4 years ago when Congress provided the waiver authority, the entire international trading community was put on notice that Congress wanted the waiver to act as an incentive for the achievement of adequate disciplines on the use of subsidies in international trade. Indeed, this waiver authority was structured to end 1 year before the President's negotiating authority for the very reason for it to act as an incentive for the MTN to treat this important issue in a timely fashion. Consequently, recent threats by our European trading partners regarding the consequences to us of the imminent end of the waiver authority are wholly unjustified, if not contradictory.

Nevertheless, after nearly 4 years of work with important progress having been made more recently, our negotiators find themselves in a tenuous situation. On the one hand they tell us that agreements are very close to completion which would substantially meet congressional interest in controlling the use of subsidies so American products in international trade face fair competition. On the other hand, our major trading partners are threatening to break off these negotiations if we invoke a law which they consider to be illegal under international rules.

To resolve this dilemma, staffs of the Trade Subcommittee and the affected executive branch departments have been exploring ways in which this situation could be resolved so that U.S. interests in both the short and long runs could be best served.

On September 28, the President transmitted a message and draft bill to the Congress requesting extension of the waiver authority until August 1, 1979, if he notifies the Congress by January 2 that a code on subsidies/countervailing duties has been reached and the MTN as a whole has been substantially completed. This request was preceded by discussions between Ambassador Strauss, the President's Special Representative for Trade Negotiations, the Senate and House leadership and leaders of the committees involved. Staff level discussions also took place based upon our understanding of the request and upon the response of the leadership regarding the terms under which the Congress would be least likely to oppose such an extension. It was clear that any such extension would have to be subject to certain conditions preserving the original intent for granting the waiver authority.

The bill that accompanied the President's September 28 message failed to include the kinds of conditions and requirements which we feel are necessary to convince this body that U.S. interests are adequately protected while, at the same time, affording the President sufficient flexibility to achieve the agreements.

We feel that the bill we submit today treats the difficult issues that exist. Our bill would allow only a limited period of time for the extension to run. It plainly ties the use of the extension to the achievement of two key features of a subsidy discipline which, as an absolute minimum, are necessary if it is to have a chance of winning congressional support. And, finally, our bill would require substantial completion of the various MTN agreements before the President could use the extension authority.

We have undertaken this challenge of seeking a way to obtain subsidy disciplines and to satisfy the major concerns of our colleagues because we feel that no unnecessary obstacles should be allowed which would obstruct the conclusion of an agreement disciplining internal and foreign subsidy practices that adversely affect U.S. agricultural and industrial trading interests. We do this with the renewed intent that U.S. producing interest not face unfair and subsidized competition in the U.S. market or abroad. We hope that the terms under our bill would permit your support of a timely passage.●

INACTION ON OUR MISSING IN ACTION

(Mr. GILMAN asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

The SPEAKER pro tempore. Under a previous order of the House the gentleman from New York (Mr. GILMAN) is recognized for 60 minutes.

Mr. GILMAN. Mr. Speaker, I rise to speak tonight, joined by many of my dedicated colleagues in the House, on a topic which is painful to all of us—the MIA issue—an issue which has sown distrust and discouragement among us, and one which has, for some, taken on the proportions of a crusade, and rightly so.

Mr. Speaker, there are still 2,500 men unaccounted for as a result of the war in Vietnam. Their fates are uncertain and we have turned our backs on them. No doubt, many of my colleagues are weary of hearing us speak on this issue, and many cast a jaundiced eye on the premise that any men are still alive. So be it. They can content themselves with the verdict that all 2,500 are dead; I cannot. I cannot go one day without wondering if one, just one of those men is alive, wondering what has happened to all those men who were captured, where they are, what conditions they are enduring, how much longer they will survive.

Some of us have risen on this floor before this body on many occasions, too many occasions, to voice our opposition to our Nation's policies in regard to our missing in action. And today we continue to assert that our Government has not fulfilled its obligations to the families of our missing men, and has denied them the rights—the human rights—which our Nation so vigorously seek throughout the world.

This issue has singled out our families as victims of bureaucratic maneuvers, ignorance and a striking lack of compassion. That a small delegation can bluntly state to the Vietnamese that they believe, and that our Nation believes, that all Americans in Southeast Asia are dead, and expect the families of the missing to accept that pronouncement without regret is a tragedy which I find difficult to reconcile or forgive.

The most recent trip to Vietnam by several Members of the House proved once again that the administration and some in Congress are more willing to court Vietnam and curry favor with a regime of torture and barbarism than grant even the most meager consideration to the families of our missing. Is our administration so calculating as to believe that Vietnam is of some special value to us at this time? Is this administration so naive as to believe that doing business with Vietnam is worth disgracing the honor of our missing? Has our Nation become so mercenary that we are prepared to betray the families of our 2,500 missing in the interests of trade?

Several of us joining in this special order tonight were denied the opportunity to accompany the gentleman from Mississippi, (Mr. MONTGOMERY), on his recent special committee trip to Hanoi. We were told, in no uncertain terms, that our minority opinion on the MIA issue was unacceptable, and that the Members chosen represented a more palatable opinion. That omission speaks more loudly than our being named to that delegation. It is a further indication of our Nation's priorities. It is a demonstration of the administrations decision to move rapidly toward friendly relations with Vietnam as we abandon all hope for our MIA's.

We have been told on countless occasions, and in many ways, by the Departments of State and Defense that the MIA issue is a closed issue: In short, that we are wasting our time in further pursuit of information; the Government of Vietnam, having stated unequivocally that there were no more prisoners being held and that no more remains were available. Yet, 11 boxes were turned over to our Nation just last month, bearing the remains of 11 servicemen. Where did those remains come from? Are we to believe that those remains materialized suddenly? It is obvious that our MIA's are being used as pawns in a nauseating game, and that the administration is condoning it.

Vietnamese refugees have come forward within the past few months, testifying courageously, under oath, that they have seen live Americans as recently as April, 1977. In response to an advertisement placed in some Vietnamese newspapers and magazines, by a Vietnamese refugee, many refugees have written explaining their experiences with live sightings of caucasian prisoners. My good colleague from California (Mr. DORNAN) during the past few weeks has placed their responses in the CONGRESSIONAL RECORD, and they indicate that there is more information to be obtained, even at this late date.

I have been recently informed that the Government of Vietnam has propaganda—films, presented before TV audiences—holding our MIA's up to public ridicule. There have also been reports that Americans are being held for ransom, until our Government will provide assistance. These reports come from credible individuals, individuals who have nothing to gain by coming forth. And the disturbing aspect of these reports is that they are coming in duplicate, in many instances, in triplicate, from refugees and former officials, and still, our Government, reluctant to be proven wrong, denies these reports, dismisses the refugees as fabricators, and maintains a stance that "no one is still alive."

Some of our officials contend that these refugees reports are cruel to the families of our missing, raising false hopes and expectations. I submit that it is the Government's lack of concern and attention to this issue that is cruel and unforgiveable.

The Vietnamese have not been candid with us from the start. Out of 2,500 uncounted for, we have received a meager 76 remains since the end of the war. The Department of Defense has categorized our missing in action into five categories.

The first, category No. 1 is that group of servicemen who have been confirmed by the Vietnamese or Laotians as captives.

Category No. 2 includes those who we suspect to have been captured by the enemy.

Category No. 3 reflects those whose fates are doubtful.

Category No. 4 includes those whose fates are unknown.

Category No. 5 encompasses those who are unrecoverable.

Out of these categories, 165 are still in category No. 1; 1,126 in No. 2; 343 in No. 3; 426 in No. 4; and 435 in No. 5.

Subsequent to the Woodcock Commissions return in March of 1977, 14 remains in category No. 1 have been returned; that is, 14 servicemen who were confirmed captives of the enemy. After the Vietnamese have stated on all occasions that none of their former captives were being held, I find it hard to reconcile this return of remains. It is obvious that the Vietnamese had custody of our servicemen even after they had vigorously denied holding any persons.

While we face the perfidy of the Vietnamese Government. We find ourselves in the unsure posture of fighting our own Government as well. The matter of change in status by route of presumption of death hearings is the cruellest procedure that the Department of Defense has yet devised. Even though many of our missing were known to have been captured and prisoners, the Department of Defense continues its procedures, designating them as presumed dead. To me this is a travesty of justice. A presumption of death, as defined by the Department of Defense means that our servicemen may be presumed dead simply on the basis that no further information has been forthcoming, and that there is not proof that Americans are still alive in Southeast Asia. DOD is relentless in its pursuit of a foregone conclusion: and our MIA and POW families are forced to submit to the unjust procedures.

The case of naval pilot Nicholas Brooks is a prime example. I have worn Lieutenant Brooks' bracelet for many years. Nick's plane was downed over Laos on January 2, 1970. Reports in the Brooks file indicate that Nick escaped from the enemy after being captured and that he was last seen just prior to escape. Yet Brooks is not listed as POW or in category No. 1 despite his capture. The Defense Department designates him as missing in action. DOD denied the Brooks family a separate hearing to reconsider Nick's case as a POW and the Defense Department insists that Nick must be designated as presumed dead. Why? Simply because these review cases are "unfinished business."

The Department places a higher premium on clearing up the unfinished business than on the life and love of our families. When several Members of the House joined me in an amendment last year to eliminate funding for the resumption of status reviews, the amendment was soundly defeated. Even then our Nation was preparing to abandon our missing men.

After the Brooks presumption hearing is completed—it is scheduled for this week—what will become of his case? What do we tell the Brooks family knowing that Nick had been captured by the enemy that neither he nor his remains had been returned and knowing that our government wishes to presume him dead, so that another file can be marked "closed" and so that this issue can be finally swept under the rug.

Mr. Speaker, since the end of the war in 1975, we have received the remains of our servicemen, piecemeal—a trickle at a time. We are all aware of the tragic misinterpretation of facts that led to the death of Tucker Gougleman—how the government turned its back on him, and how he died, in custody, in 1976. His remains were returned to the Woodcock Commission in March, 1977. I am submitting to the RECORD a list of our returns; note how meager they are and note, too, how paltry is the ratio between these and our men still missing:

Returns since end of war:	
Early 1974	23
December, 1975	3
Two Marines in the fall of Saigon	2
Woodcock Commission findings	11
Remains received in September, 1977, including Tucker Gougleman	22
Montgomery mission, September, 1978	11
Laos government remains, Montgomery mission, Sept. 1978	4
	76

In December of 1976, after 15 months of investigations, the majority of the House Select Committee on Missing Persons in Southeast Asia prematurely concluded that no one was alive in Southeast Asia, and decided that the select com-

mittee had run its course. And yet, since the filing of those conclusions, the Vietnamese have seen fit to return more than 50 remains to us when it proved beneficial to them; and despite their pledges of cooperation, the Vietnamese hold these remains until some U.S. delegation decides to pay a respectful visit to that country. The MIA Select Committee stated in its final report in December 1976, that the United States should be grateful for the recovery efforts made by the Vietnamese; in comparing the amount of recovered remains in our other wars, the figure of approximately 2,500 seems small.

In pointing to the 4-percent figure of still missing, the select committee concluded that:

> By the standards of any war in which the United States has ever participated, the efforts to search for and recover lost American servicemen in Indochina was truly outstanding. In both World War II and Korea the number of Americans missing in action and whose bodies were not recovered reached 22 percent of the total number of servicemen killed. In Indochina, the total was only 4 percent.

Because the Department of Defense seems to be content with this 4-percent figure, must the families of our MIA be content? Despite our offers of assistance to the Vietnamese of technical advice on recovery of remains, we have not had any positive response, nor have any invitations to international organizations been extended. Such conduct is obviously one not of cooperation, but of disdain—disdain for a basic humanitarian concern.

Mr. Speaker, my colleagues and I have made many requests and recommendations to the Departments of State and Defense, for helping to resolve this issue. To date there has been a lack of action. What is urgently needed is a coordinated comprehensive effort to secure information on the fates of our missing men.

It is essential that refugees fleeing Vietnam be more fully questioned by Immigration personnel and by Intelligence officials to ascertain if they have seen live Americans in Vietnam or Laos. Too little if any of this kind of questioning is being done at present. We need more personnel to carry out the interrogations and need to document accurate accounts by these refugees.

The Departments of Defense and State should be more sympathetic toward the plights of our MIA families and should not dismiss their concerns. I am not satisfied that enough has been done, and the injustice of these status reviews only adds to the burdens that our families are bearing.

Intelligence reports, no longer of any sensitive nature, should be promptly declassified. The families should have access to the materials that were previously held in secret. Families have the right to know all about their missing. The uncorrelated material, which the Department of Defense claims is not sensitive, has been delayed many times, and the publication of these volumes is stalled. Why?

We should insist that the Government of Vietnam allow international search teams to visit the crash sites to seek the remains of our missing.

The United States cannot and must not succumb to the recent flirtations by the Socialist Republic of Vietnam. The Vietnamese understand our concern for our missing, but continue to allow these remains to trickle out one by one. Until the Vietnamese demonstrate a strenuous all-out effort to recover these remains, until the Vietnamese provide us with a reasonable accounting of our missing, let us not rush headlong into normalcy of relations and let us not allow the Vietnamese to use our men as pawns.

More important, let us determine the validity of recent statements which have come to our attention concerning the detention of prisoners in Vietnam.

And I urge my colleagues in the Congress not to betray our national interests by leading the Vietnamese to believe that they are doing a good job of accounting, and that the Congress is pleased with their accomplishments. For the families of our missing are far from pleased—and many of us in the Congress and throughout the Nation are not pleased and we are going to continue our fight against this insentivity and injustice.

Mr. Speaker, I pray, that if there is but one man still alive in Vietnam or Laos, that he forgives our Government for our actions, and that someday he will be able to see this country for which he fought, suffered, and died, little by little each day.

Mr. Speaker, ther are other Members desiring to add their voice in support of this issue. I recognize the gentleman from Florida (Mr. YOUNG), the gentleman from New York (Mr. LENT), the gentleman from California (Mr. WILSON) and all of whom have submitted their remarks on this issue.

Mr. LAGOMARSINO. Mr. Speaker, will the gentleman yield?

Mr. GILMAN. I am happy to yield to the gentleman from California.

Mr. LAGOMARSINO. Mr. Speaker, I thank the gentleman for yielding. I want to compliment the gentleman on holding this special order.

Mr. Speaker, the MIA issue serves to illuminate two questions—one a foriegn policy issue, the other, our obligation to honor those who have made the supreme sacrifice for their country.

The foreign policy issue is whether to normalize relations with "the Socialist Republic of Vietnam." In this context, the MIA issue is quite revealing of the character of the regime with which the Carter administration so eagerly desires relations.

In recent years it is difficult to think of a more gruesome spectacle than the Vietnamese Communists dangling the remains of our honored dead as bait in an attempt to extract economic aid from the United States. What a coincidence! Each time an American delegation went to Hanoi to discuss the normalization of relations, the Vietnamese Communists would just happen to present to them the newly found remains of a few more Americans. How clever! The Vietnamese begrude us that which no civilized nation ever would, (defiling the dead in the process) and then win our gratitude when they finally do that which they should have done in the first place.

However, instead of responding with outrage at these cynical attempts to manipulate the hopes of those who grieve for their missing loved ones; these cruel gestures have been pathetically hailed as signs of genuine desire on the part of the Vietnamese Communists to cooperate. It is beyond our purpose today to examine what could possibly account for the Carter administration's ardent desire to normalize relations with such a callously brutal regime. I would just say that normalization of relations dishonors those who gave their lives to oppose the carnage and conquests of that regime.

I mentioned a national obligation raised by the MIA issue to those who gave "the last full measure of devotion" for their country in the Vietnam war. I think it is appropriate to reflect upon what we owe to our Nation's soldiers, who are after all, the ultimate guardians of our liberties. One of the best places to turn is a speech given by Gen. Douglas MacArthur at West Point on May 12, 1962. At the twilight of his life, MacArthur looked back on those who had "drained deep the chalice of courage"—the American fighting man:

> As I listened to those songs of the glee club, in memories' eye I could see those staggering columns of the first world war, bending under soggy packs on many a weary march, from dripping dusk to drizzling dawn, slogging ankle deep, through mire of shellpocked roads; to form grimly for the attack, blue lipped, covered with sludge and mud, chilled by the wind and rain, driving home to their objective, and for many, to the judgment seat of God. . . .
>
> Always for them: duty, honor, country. Always their blood, and sweat, and tears, as we sought the way and the light. And 20 years after, on the other side of the globe, again, the filth of murky foxholes, the stench of ghostly trenches, the slime of dripping dugouts, those boiling suns of relentless heat, those torrential rains of devastating storms, the loneliness and utter desolation of jungle trails, the bitterness of long separation from those they loved and cherished, the deadly pestilence of tropical disease, the horror of stricken areas of war.

MacArthur goes on to say that "the long gray line has never failed us." Let us not now fail them by forgetting the MIA's. For were we to do so:

> . . . A million ghosts in olive drab, in brown khaki, in blue and grey, would rise from their white crosses, thundering those magic words: duty, honor, country.

Mr. GILMAN. Mr. Speaker, I want to thank the gentleman from California (Mr. LAGOMARSINO) for his contribution and for his consistent efforts in trying to resolve this very difficult issue.

Mr. MOORE. Mr. Speaker, will the gentleman yield?

Mr. GILMAN. I am pleased to yield to the gentleman from Louisiana.

Mr. MOORE. Mr. Speaker, I thank the

gentleman from New York, Mr. GILMAN for yielding, and I commend him for having taken this time tonight to call again to the attention of this body and the American people this very great problem.

Representing the 6th district of Louisiana, I have learned much to my disappointment that I have constituents who are still lost and unaccounted for in Vietnam, Laos, and Cambodia. No satisfactory accounting has been made, and no remains of many of these constituents have been returned. I am, therefore, directly interested in these particular individuals, as well as the other 2,500 the gentleman from New York (Mr. GILMAN) has just referred to.

I am directly interested, and for that reason I am taking part in this special order this evening.

Due to my interest, I was selected by the Speaker as one of the eight Members of Congress to serve on the Special Committee on Southeast Asia chaired by the gentleman from Mississippi (Mr. G. V. (SONNY) MONTGOMERY).

Our committee visited Vietnam and Laos from August 21 through August 26, 1978. We spent a total of 6 days in these two countries. That gave us an opportunity which we took advantage of to meet face to face with at least a number of officials of Vietnam and Laos, including the Prime Minister of Vietnam, Pham Van Dong; the Vice Minister, Phan Hien; Vu Hoang, Chairman of the Vietnam MIA Committee; and in Laos, the Acting Foreign Minister, Kham Phay Boupha; the Deputy Prime Minister, H. E. Phoumi Vichit; and the Head of MIA Matters, Kham Pason Chou Nlamany.

As a result of that visit and those discussions, a report dated September 7, 1978, was filed by the committee. I did not sign that report. I opposed several of its findings, and I filed separate views.

As a result of my personal observations, conversations, and experiences during this visit, I have reached five conclusions.

First, I did not say and cannot say that all Americans missing in Southeast Asia are in fact dead. I have no evidence that any are alive, but quite to the contrary, before we can make a conclusion they are all dead, I believe we should have such evidence. In my opinion, that evidence does not exist. Therefore, I could not make such a finding on behalf of myself or this House or the U.S. Government.

Second, I found that the attitude of Laos and Vietnam has changed dramatically from what was reported in briefings prior to our visit that we could expect. I believe very strongly that Vietnam and Laos have now determined that it is clearly in their best interests to have better relations with the United States. It does not take a very deep study to understand why. During their current military problems with Cambodia and China, and with their severe economic problems, with their rationing of food and clothing at this very moment, they need help, and they think they can get it from us. And so suddenly they have an interest in improving relations and making friends with the United States.

Third, I firmly believe they will produce more information and more remains in the future only and so long as it suits their own selfish personal interests. They are not doing this as a humanitarian gesture but as a calculated political gesture. If we think their motivations are anything more than that, we are making a very serious mistake in dealing with a dedicated Communist nation, because time after time we have had it confirmed that these are dedicated, sincere Communists, people who have one interest and one interest only, and that is in the furthering of their own nation and saving of their own skins. They have absolutely no interest in the United States whatsoever, in my humble opinion, other than what they can get from us to help them.

Fourth, I am firmly convinced that they have in their possession now or they could easily get additional information on the remains of many more of the 2,500 unaccounted for servicemen who are still missing.

In some instances it is going to be difficult to get information, but it could be done. But they have refused to allow our own inspection teams or even international inspection teams to make visits to crash sights or grave sights. In any case I am convinced they have the information now from their military records, from interviews with villagers, and from personal effects to tell us what happened to a number of these missing men.

Fifth and finally, I am convinced that we now need to go forward in the United States to press formally for a total accounting. We will never have an accounting of all 2,500, but certainly we could get information on a great many more than we have gotten so far. Now is the time to do that because they want something from us, and it is in their best interests to work with us. Second, I am also firmly convinced that we can work with interests in Laos and invite them to go through the records and spend some time in studying our joint personnel recovery and identification records in laboratories in Honolulu. I think that would be most beneficial.

The Vietnamese were there in July. According to our visit to that laboratory, our personnel feel that visit was most beneficial, that the Vietnamese did learn, the Vietnamese did go back with certain technical information to make their work in the recovery and identification of the remains possible, and they did seem to be interested. Again, I know of course, that interest is in their own self-interest.

I have written to the Secretary of Defense and the Secretary of State on September 21, 1978, urging that this invitation be issued to Laos. The only thing that Laos has ever done was the four remains they turned over to us on August 26, 1978, in Laos. This was the first time they have shown any interest. To be sure, it is in their own self-interest to do so, but we should follow through immediately by inviting them and seeing to it that they attend this laboratory. It is my information that in fact the invitation has been issued.

I had the opportunity on September 19, 1978, to meet with Secretary of State Cyrus Vance and to personally make an appeal to him that we move now for an accounting and to see that the Laotians are invited. The Secretary said he understood the request, and he issued the invitation.

Mr. Speaker, I again commend the gentleman from New York (Mr. GILMAN) for having taken this time, and I simply offer at this time my observations and conclusions. The results of my observations and experience is that they do have information that they have not given us, that now is the time, the appropriate time, the advantageous time for them to do so, provided we maintain our resolve to gain that information from them.

Mr. GILMAN. Mr. Speaker, I want to thank the gentleman from Louisiana (Mr. MOORE) for his contribution this evening, for his having taken the time to join the select committee, the special committee, the Montgomery committee, which went to Hanoi, and for having so graciously spoken out with an independent voice, a voice which was heard by the familes of the missing in action, and I hope that the gentleman from Louisiana will continue with his efforts as he so ably has demonstrated tonight.

Mr. McDONALD. Mr. Speaker, will the gentleman yield?

Mr. GILMAN. I yield to the gentleman from Georgia, who has shown his concern for our missing in action over a long period of time.

Mr. McDONALD. Mr. Speaker, I am pleased today to join the gentleman from New York (Mr. GILMAN) in this special order on our MIA's in Southeast Asia. The MIA's are the cruelest residue of the bitter conflict in Southeast Asia. As is well known, we recently received some additional remains of our MIA's. We are told by the Communist Vietnamese Government that those are all the remains of which they are aware. Are we to forever play a game of suddenly being told that there is additional information and more remains whenever it suits them? Are the American families who still await news of loved ones to remain pawns in the game of how Hanoi can convince the United States to recognize it and render financial aid? I should hope not. It was bad enough that we engaged in a no-win war with no goal in mind and lost so many brave Americans and ended up deserting our allies.

How can we believe the Hanoi Government? Two individuals recently supplied testimony—Lt. Col. A. D. Shinkle, USAF (Ret.). and Mr. Ngo Phi Hung—indicating the presence of additional Americans in Vietnam. This information should be evaluated forthwith and the proper steps taken. This is the Hanoi Government that delivered former prisoners of the war with France to Morocco in 1971 long after all prisoners were supposedly exchanged. There is a long history of Communist perfidy in this regard. There are still hundreds of unresolved cases regarding our troops

in the Korean war. Officially, they are listed as dead, but humors continue to crop up that they were taken to a special camp for foreigners located near Vladivostok, in the U.S.S.R.

Prisoners of war taken by Communist nations are always considered to be propaganda pawns. During both the Korean and Vietnam wars our prisoners were tortured in order to get confessions of carrying out "germ warfare" and other so-called "war crimes". Conversely, Communist nations consider their own men who are taken prisoner to be traitors. Stalin, during World War II, refused to permit the International Red Cross to arrange exchange of mail or even delivery of food to Red Army prisoners. This contributed to the high fatality rate of the Red Army prisoners. This policy of the Communist nations has also resulted in many of their men refusing to return home after a war or even offering to fight for their supposed enemies. Ever since World War II ended, the subject of prisoners and missing servicemen has been a bone of contention between the Communist nations and the United States—particularly with the Soviet Union. In incident after incident we have had planes shot down, ships fired upon, and in the case of *Pueblo*, a ship captured. In case after case, Americans were seen alive or in rafts after these incidents and the Soviets would deny such had ever happened. Americans are still rumored to be held at this special camp for foreigners near Vladivostok and others have been sighted by third parties in other camps. The Soviets have never been helpful in answering questions in these cases. Only in cases where we have been able to confront the Soviet Government with post cards, letters, or other concrete evidence, have they been willing to admit to holding someone in camp.

In view of the foregoing, I, personally, hold out little hope of gaining additional information from the Hanoi Government, but I also feel we should not let up the pressure for 1 second either officially or unofficially in our efforts to learn more about our MIA's, but at the same time we should not be duped into selling our national treasure and national honor for scraps of information. We should continue to expose to the world the inhuman policies of the Hanoi Government in this regard.

Mr. GILMAN. Mr. Speaker, I thank the gentleman from Georgia (Mr. McDONALD) for his contribution, and I want to express to the gentleman our appreciation for his continuing concern.

Mr. BAUMAN. Mr. Speaker, would the gentleman yield?

Mr. GILMAN. I am pleased to yield to the gentleman from Maryland.

Mr. BAUMAN. I thank the gentleman for yielding.

Mr. Speaker, I want to commend the gentleman from New York (Mr. GILMAN) for taking this time this evening, even at this late hour, to discuss this issue.

Mr. Speaker, I have been greatly concerned by the fact that, in essence—although every Member of this Congress has the right to express his own opinion—the recent visit by the Special Committee to Vietnam and its subsequent findings and the statements made by its members have contributed greatly to a conclusion which I strongly oppose and which I think is strongly opposed by the majority of this House and of the American people. I do not think that Americans want to renew any relationship with these Communist nations, nor do they in any way approve of any assistance or aid or trade with these two despotic tyrannies in Asia. The factor that has been described graphically by my colleague, the gentleman from New York (Mr. GILMAN) and my colleague, the gentleman from Louisiana (Mr. MOORE) the brutal and very deeply felt issue of our missing loved ones in action, probably has no parallel in history, and certainly it is sickening to all of the civilized world.

I would hope that the people of America will understand that the expressions here tonight by the Members who have participated, and those who will enter statements in the record, are far more in keeping with the majority view in this country. I do not think any of us who have talked with parents or loved ones who have lost people in this tragic war will ever rest until we finally get an accounting, and a full accounting, of all the facts regarding the disappearance of these people.

Again, I commend the gentleman from New York for taking this time.

Mr. GILMAN. I thank the gentleman from Maryland (Mr. BAUMAN) for his continuing efforts and concern on this issue, and his having so courageously spoken out so frequently on behalf of the families of the missing in action.

Mr. DORNAN. Mr. Speaker, will the gentleman yield?

Mr. GILMAN. I am pleased to yield to the gentleman from California (Mr. DORNAN) who has been an outstanding and courageous leader on this issue.

Mr. DORNAN. Mr. Speaker, I wanted to join in this special order of the gentleman from New York (Mr. GILMAN). My special order will follow, but in case our special orders are separated at any point, I do want to be on record on the gentleman's special order as saying that over the years, since this is my first time in Congress, I have felt a depth of sincerity in the gentleman's working with the family members and that he would be the last one to give up hope, that he would be in the vanguard, in the lead of hope, that he would never tell these families they were grubbing for money, and that he would be always telling them that as long as there was a sign he would be the last one in Congress or in the Senate to give up, he would be the last one pleading for some recognition from our Government.

I cannot tell the gentleman how proud I am to be working with him in this Congress on many issues, and how I hope the Vietnamese will have the good sense to accept the letter that was cosigned by us and that was carried to the Vietnamese by the Montgomery trip of last month and that the Vietnamese will allow the gentleman from New York and me to visit Vietnam in either December of this year or in January of next year so that we may appeal to them, so that we would take the lead for our Nation, and that regardless of their ideology that in some areas certainly they would be as forthcoming as the gentleman and I know they could be on this issue.

I look forward to traveling with the gentleman to that far off country to try to change their hearts, and if there is information that they can give these families or some indication of doing something other than just executing the prisoners who are remaining if they are alive, that they will do something to win the hearts of the American people and show us that although millions of their young men ended up missing in action, that because they do have information on these men they will yield to the gentleman's and my pleadings over the years and yield to the pleas of the family members who have men missing in Vietnam and Laos, and do something actually to help heal the wounds of this war.

Mr. GILMAN. Mr. Speaker, I thank the gentleman from California (Mr. DORNAN) for his kind remarks.

I, too, hope and pray that our joint request to be invited to visit Hanoi will be honored by the Vietnamese.

● Mr. YOUNG of Florida. Mr. Speaker, in August a congressional delegation traveled to Vietnam and following the members return, there has been a great deal of interest in the possibility of normalizing relations with that country. Due to the present volatile situation with China and the full-scale conflict going on with Cambodia, the Communist Government in Vietnam is in deep trouble and needs to find "friends" in other parts of the world. The Vietnamese economy is very unstable and there is a shortage of food and raw materials; these are problems that the Communists are not able to correct with their own plans. The government is headed by the same individuals who fought for years to take over South Vietnam and now that they are in control, want to get needed assistance from a nation they once fought so viciously.

For obvious reasons, the Vietnamese were very cordial to the members of that congressional delegation, but little actual progress was made in the settlement of the POW/MIA situation. As far as I am concerned it is important that the Vietnamese realize their cooperation must be improved. The situation concerning American POW/MIA is not acceptable. The Department of Defense still carries 282 as POW/MIA; 165 men are listed in category I, those on whom they expect the other side to provide information; category II is comprised of 1,126 missing Americans on whom the other side is suspected of having information. Additionally, there are 1,205 individuals for whom our Government is supposed to be seeking an accounting. As of Septem-

ber 21, 1978, the total number of Americans unaccounted for was 2,495.

Mr. Speaker, maybe some day this problem will be resolved, but that time has not yet arrived. Normalization and diplomatic recognition should not be considered until we see more definite proof that the Vietnamese Government is acting in good faith as to the fate of missing Americans. Thousands of American families do not know the fate of their loved ones and look to our Government to find out for them. We are talking about much more than cold, hard statistics here—we are deeply concerned with someone's husband, father, son or brother.

For just one example, a family from the Sixth Congressional District of Florida has received a report on the downed flight that their son was supposedly on. Half of the crew of the crashed plane were never accounted for although shortly after the plane's remains were located, there were reports of four captured men who were seen in the vicinity of the crash site.

The names of the crew members were furnished to the Vietnamese in 1973, 1974, and 1975, and the name of this family's son again in 1978, but the family continues to wait for some final word as further official information has not been forthcoming. This story is tragically repeated throughout our Nation and many of my colleagues have families of missing Americans residing in their districts.

There are too many uncertainties about this situation and it is up to Vietnam to do more to settle them. There are too many instances of live sightings that have not been accounted for by the Communist Government in Vietnam. Recent testimony given to the International Relations Subcommittee on Asian and Pacific Affairs by a recently-escaped Vietnamese businessman dealt with Americans who he claims were alive and being held captive as late as April 1977. The congressional delegation asked whether international search teams would be allowed to come into Vietnam. The response was no.

It appears that the Vietnamese are not going to give us the information they have until they get more from us—this "more" could be recognition, trade, and foreign aid. As my colleagues well know, I am a strong opponent of any kind of direct or indirect U.S. aid to Vietnam and have made repeated legislative attempts to stop it. I remind my colleagues that this government we are talking about possibly recognizing and reopening trade with is the same Communist government that was responsible for killing 50,000 Americans and for torturing and starving thousands held as prisoners of war. It is the same government that has not made a satisfactory accounting of those Americans listed as missing in action.●

● Mr. LENT. Mr. Speaker, I commend my colleague from New York (Mr. GILMAN) for reserving this special order in the House of Representatives today. I am proud to join with him in this appeal to every American to stand fast in support of our fellow Americans still listed as missing in action in Southeast Asia. It is tragic that our own Government is slowly abandoning these courageous servicemen who have given so much to their Nation.

Steadily, the Carter administration is changing the status of those men from "missing in action" to "killed in action." It is a sad irony of our times that the Carter administration, which professes such deep devotion to human rights, should be the agent for this callous and deplorable policy. Not content with that, at the same time the administration is attempting to move toward "normalization" of relations with the Communist regime of Vietnam which continues to deny knowledge of the fate of those still missing. Yet, every time an official American party goes to Vietnam, the regime manages to offer the remains of a few more Americans as a token of its "good will." To date, the Vietnamese have surrendered the remains of only 76 Americans out of some 2,500 originally classified as missing in action. Questioned about the rest, the Vietnamese shrug, talk about impenetrable jungles, uncooperative peasants, and say they know nothing more.

Mr. Speaker, I do not believe the Vietnamese Communists. Their claims of no information are contradicted time and again by the testimony of scores of refugees from South Vietnam who have fled the cruelty of the Communist regime. Report after report has told of living Americans being seen as prisoners. Many of these reports have surfaced years after U.S. troops had left Vietnam. Yet the Carter administration seems to place no faith in such accounts from refugees who have no reason to try to mislead us. Instead, it relies on the word of the Vietnamese Communists who have everything to gain by concealing the truth from us.

My colleague from California (Mr. DORNAN) has recently brought to our attention a new series of reports from refugees involving Americans seen in Vietnam. He notes that one such report contains the account of a witness who overheard a North Vietnamese guard say that the Americans were being given good treatment because they "might be useful later." The Defense Intelligence Agency has been informed of this report. Surely this is a lead which should be followed up. Yet, there has been no indication from the Carter administration that it is making any move to do so, open or covert.

Instead, under White House orders, the Defense Department continues its self-defeating policy of declaring these missing men killed in action, rather than challenging the Communist regime to verify the claims made in the reports. Columnist Jack Anderson, in a July 16, 1978 article on MIA's said he has interviewed several refugees who have never been questioned by American officials about their reports. I cannot understand such a lack of interest.

Mr. Speaker, my great fear is that in this cold-blooded eagerness to close the files on the MIA's, some living Americans who have already endured many years of imprisonment will be abandoned and left to their fate; abandoned by the country for which they gave everything. My strong belief is that as long as there is even a scrap of doubt about the fate of even one American missing in action, we should not slam shut the door on those about whom we have no information. And, surely, at this time, there are many doubts and many unanswered questions about the MIA's.

The proper course for our Government is to continue to pressure the Communist regime in Vietnam to provide us with more information. Most importantly, we must never so much as suggest even the faintest concession—through any kind of assistance or "normalization" of relations—until the Vietnamese Communists account fully for every one of those brave Americans whose fate is still hidden from their long-suffering families.

Mr. Speaker, to this course I will continue to devote my fullest efforts. I urge all of my colleagues to join with those of us here today in that pledge. We can do no less for those men who have given so much.●

● Mr. BOB WILSON. Mr. Speaker, we would all like to believe that the current Vietnamese regime is, at long last, being honest with us in terms of our servicemen still listed as missing in action in Southeast Asia. I pray that is the case, but am afraid it simply is not so.

Because of the efforts of many dedicated individuals, such as the recent congressional delegation which journeyed to Vietnam, additional information has been forthcoming and I sincerely hope that this is just the first step toward greater candor and cooperation on the part of the Vietnamese.

Unfortunately, the record since the peace treaty would lead me to believe otherwise. There are still many unanswered questions. As the memory of the tragedy and horror of Vietnam fades, we cannot allow ourselves to simply close and lock the door behind us. We must continue as a nation and as individuals, to demand a full accounting of those who did not return home.

During the July annual meeting of the National League of Families of American Prisoners and Missing in Southeast Asia, I had the opportunity to hear a most remarkable presentation by Mr. Ngo Phi Hung, a Vietnamese businessman who escaped from Vietnam in February of this year. Mr. Hung's assertions of the existence of a large group of live American prisoners in Vietnam as recently as early 1977 are indeed astounding.

I have been following very closely the investigation of Mr. Hung and the information he provided. Regardless of the final determination of the credibility of Mr. Hung, his appearance on the scene only serves to reemphasize that we must not abandon our efforts. It is only too clear that Vietnam has not yet exerted sufficient effort toward the MIA ques-

tion and we must make use of all the intelligence capabilities and diplomatic channels at our disposal to pursue the Hung and any other leads.

To my colleagues in the House and to all Americans, I say, let us proceed with renewed vigor toward this end, keeping an open mind to any new initiatives by either party which might bring tangible results. In this spirit, however, we must also keep foremost in our minds that any help or cooperation we receive from the current Communist regime is being provided, not in the interest of peace or humanitarianism, but only as a way to advance their own interests and to enhance their national treasury. So long as we have our eyes wide open, we should not turn our backs on any information source or any new avenue of communication. We must rededicate our full resources to getting a complete accounting of the fate of these men.●

● Mr. LLOYD of California. Mr. Speaker, I join my colleague from New York (Mr. BEN GILMAN) in his efforts to resolve the Vietnam missing in action issue. While some progress has been made at various intervals to recover the remains of those still missing, positive and continuous action on the part of the State Department must be encouraged.

We, as representatives of the people, owe our servicemen's families every consideration and support, and, as Americans, we are dutybound by honor to leave no one behind on the battlefield until every resource at our disposal is exhausted. And even then, only begrudgingly and with heavy heart.

I for one do not advocate unreasonable normalization, nor outright capitulation, but rather exploration of every diplomacy available to this Government toward another with which the original conflict has been concluded, and the events of armed aggression are history.

I personally view with skepticism reports that any American has survived these many years in captivity, or by evading in the countryside. But, I cannot rule out that which I cannot provide absolute proof in my belief. Therefore, and in all good conscience and faith that unexpected events do occur, I urge those whose task has been mandated, to follow every lead, investigate thoroughly every report, and expend every means at their disposal in reaching conclusions.

Please join me, and others of this body—the MIA issue is not closed.●

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

The following Members (at the request of Mr. LEACH), to revise and extend their remarks, and to include extraneous matter to:

Mr. CORCORAN of Illinois, for 5 minutes, today.

(The following Members (at the request of Mr. ST GERMAIN) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.
Mr. METCALFE, for 5 minutes, today.
Mr. GONZALEZ, for 5 minutes today.
Mr. VANIK, for 5 minutes today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. BROWN of Ohio, during debate on H.R. 12355, Nuclear Regulatory Commission authorization, and during debate on H.R. 13650, uranium mill tailings.

(The following Members (at the request of Mr. ST GERMAIN), and to include extraneous matter:)

Mr. MAZZOLI.
Mr. GONZALEZ in three instances.
Mr. ANDERSON of California in three instances.
Mr. SISK.
Mr. FISHER.
Mr. SIKES.
Mr. NATCHER.
Mr. DODD.

SENATE BILLS AND JOINT RESOLUTION REFERRED

Bills and joint resolution of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 147. An act for the relief of Dr. Lesley B. Tiongko Serrano, and his son Kenneth Neil Serrano; to the Committee on the Judiciary;

S. 352. An act for the relief of Benjamin N. Mascarenas; to the Committee on the Judiciary;

S. 454. An act for the relief of Nick F. Flangas, also known as Nikolaos Flengas; to the Committee on the Judiciary;

S. 487. An act for the relief of Samson Kossivi Kpadenou; to the Committee on the Judiciary;

S. 536. An act for the relief of Reynaldo S. Miranda; to the Committee on the Judiciary.

S. 540. An act for the relief of Dr. Rolando Reyes Perez and his wife, Aurora Sevilla Alonzo Perez; to the Committee on the Judiciary;

S. 652. An act for the relief of Reina Estela Olvera; to the Committee on the Judiciary;

S. 809. An act for the relief of Chatchai "Rick" Chatranon; to the Committee on the Judiciary;

S. 1292. An act for the relief of Dr. Francisco Dozon and his wife, Luzviminda Dozon; to the Committee on the Judiciary;

S. 3109. An act for the relief of Ricardo Rosas Salazar; to the Committee on the Judiciary; and

S.J. Res. 166. Joint resolution to designate October 14, 1978, as "National Jogging Day"; to the Committee on Post Office and Civil Service.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 3467. An act to designate the U.S. Department of Agriculture's Pecan Field Station in Brownwood, Tex., as the "W. R. 'Bob' Poage Pecan Field Station."

ENROLLED BILLS SIGNED

Mr. THOMPSON, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 8149. An act to provide customs procedural reform, and for other purposes; and

H.R. 9945. An act to amend the act creating the Indian Claims Commission to repeal the provision limiting the activities of Commissioners during the 2 years following their terms of office; and

H.R. 11400. An act to authorize appropriations of specified dollar amounts for each of the National Science Foundation's major program areas (and certain subprograms), and to provide requirements relating to periods of availability and transfers of the authorized funds.

BILLS PRESENTED TO THE PRESIDENT

Mr. THOMPSON, from the Committee on House Administration, reported that that committee did on October 2, 1978 present to the President, for his approval, bills of the House of the following title:

H.R. 8149. To provide customs procedural reform, and for other purposes;

H.R. 8588. To reorganize the executive branch of the Government and increase its economy and efficiency by establishing Offices of Inspector General within the Departments of Agriculture, Commerce, Housing and Urban Development, the Interior, Labor, and Transportation, and within the Community Services Administration, the Environmental Protection Agency, the General Services Administration, the National Aeronautics and Space Administration, the Small Business Administration, and the Veterans' Administration, and for other purposes;

H.R. 9945. To amend the Act creating the Indian Claims Commission to repeal the provision limiting the activities of Commissioners during the 2 years following their terms of office;

H.R. 11005. To provide authorization of appropriations for the U.S. International Trade Commission for fiscal year 1979;

H.R. 11400. To authorize appropriations of specified dollar amounts for each of the National Science Foundation's major program areas (and certain subprograms), and to provide requirements relating to periods of availability and transfers of the authorized funds;

H.R. 12928. Making appropriations for energy and water development for the fiscal year ending September 30, 1979, and for other purposes; and

H.R. 12934. Making appropriations for the Departments of State, Justice, and Commerce, the Judiciary, and related agencies for the fiscal year ending September 30, 1979, and for other purposes.

ADJOURNMENT

Mr. ST GERMAIN. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 2 o'clock and 56 minutes p.m.), under its previous order, the House adjourned until tomorrow, Wednesday, October 4, 1978, at 10 o'clock a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

5076. A letter from the Executive Director, National Center for Productivity and Quality of Working Life, transmitting a report on a violation of the Anti-Deficiency Act, pursuant to section 3679(i)(2) of the Revised Statutes, as amended; to the Committee on Appropriations.

5077. A letter from the Deputy Assistant Secretary of Defense (Installations and Housing), transmitting notice of the location, nature, and estimated cost of two construction projects proposed to be undertaken by the Air National Guard, pursuant to 10 U.S.C. 2233a(1); to the Committee on Armed Services.

5078. A letter from the Deputy Assistant Secretary of Defense (Installations and Housing), transmitting notice of the location, nature, and estimated cost of five construction projects proposed to be undertaken by the Naval and Marine Corps Reserve, pursuant to 10 U.S.C. 2233a(1); to the Committee on Armed Services.

5079. A letter from the Comptroller General of the United States, transmitting a list of reports issued or released by the General Accounting Office during August 1978, pursuant to section 234 of the Legislative Reorganization Act of 1970; to the Committee on Government Operations.

5080. A letter from the Assistant Administrator for Legislative Affairs, Agency for International Development, Department of State, transmitting the third semiannual report on participation by small business firms in procurement under A.I.D programs, pursuant to section 602 of Public Law 94–329; to the Committee on International Relations.

5081. A letter from the Assistant Secretary of the Treasury for Legislative Affairs, transmitting project performance audit reports of the International Bank for Reconstruction and Development and Group of Controllers' evaluation reports by the Inter-American Development Bank, pursuant to section 301(e)(3) of the Foreign Assistance Act of 1961, as amended (87 Stat. 718); to the Committee on International Relations.

5082. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Air Force's intention to offer to sell certain defense equipment to Thailand (transmittal No. 78–102), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on International Relations.

5083. A letter from the Administrator, Energy Information Administration, Department of Energy, transmitting a quarterly report for the period April-June 1978, on imports of crude oil, residual fuel oil, refined petroleum products, natural gas and coal; reserves and production of crude oil, natural gas, and coal; refinery activities; and inventories; together with data on exploratory activity, exports, nuclear energy, and electric power, pursuant to section 11(c)(2) of Public Law 93–319, as amended; to the Committee on Interstate and Foreign Commerce.

5084. A letter from the vice president for Government affairs, National Railroad Passenger Corporation, transmitting the Corporation's financial report for the month of June 1978, pursuant to section 308(a)(1) of the Rail Passenger Service Act of 1970, as amended; to the Committee on Interstate and Foreign Commerce.

5085. A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting copies of orders suspending deportation under the authority of section 244(a)(1) of the Immigration and Nationality Act, together with a list of the persons involved, pursuant to section 244(c) of the act; to the Committee on the Judiciary.

5086. A letter from the Secretary of Transportation, transmitting a report that no transactions were negotiated under the authority of section 303(e) of the Federal Aviation Act of 1958, as amended, during fiscal year 1978; to the Committee on Public Works and Transportation.

5087. A letter from the Administrator of General Services, transmitting a report on the building project survey for Omaha, Nebr., requested by a resolution of the House Committee on Public Works and Transportation adopted April 25, 1978; to the Committee on Public Works and Transportation.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. ULLMAN: Committee of conference. Conference report on H.R. 12050 (Rept. No. 95–1682). Ordered to be printed.

Mr. ULLMAN: Committee on Ways and Means. H.R. 9281. A bill to amend the Internal Revenue Code of 1954 with respect to the tax treatment of expenses in attending foreign conventions; with amendment (Rept. No. 95–1684). Referred to the Committee of the Whole House on the State of the Union.

Mr. STRATTON: Committee on Armed Services. H.R. 13903. A bill to amend title 10, United States Code, to provide that a member of the Board of Regents of the Uniformed Services University of the Health Sciences whose term of office has expired shall continue to serve until a successor is appointed (Rept. No. 95–1685). Referred to the Committee of the Whole House on the State of the Union.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. EILBERG: Committee on the Judiciary. S. 2247. An act for the relief of Eugenia Cortes; with amendment (Rept. No. 95–1683). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. CORCORAN of Illinois:

H.R. 14215. A bill to amend title XVI of the Social Security Act to provide a 5-year residency requirement for aliens receiving SSI benefits, and to amend the Immigration and Nationality Act to require any immigrant (other than a political refugee) to have a sponsor who will support him for 5 years or to have other means of support; jointly, to the Committee on Ways and Means and the Judiciary.

By Mr. NEAL:

H.R. 14216. A bill to amend the Public Health Service Act to provide for loans for students in programs for the training of physician assistants and to provide for the allocation of a certain amount of the National Health Service Corps Scholarship funds for scholarships for physician assistants, and to provide for a study of the cost-effectiveness and supply and demand for physical assistants; to the Committee on Interstate and Foreign Commerce.

H.R. 14217. A bill to amend title 18 of the United States Code to prohibit a Government officer or employee from causing the distribution of slogans or messages with checks or money from the United States; to the Committee on the Judiciary.

By Mr. SKUBITZ:

H.R. 14218. A bill to amend title 44, United States Code, to provide for the designation of certain institutions of higher education as depository libraries of Government publications; to the Committee on House Administration.

By Mr. STOKES (for himself, Mr. BEVILL, Mr. BRODHEAD, Mr. BUCHANAN, Mrs. BURKE of California, Mr. BURKE of Florida, Mrs. CHISHOLM, Mr. CLAY, Mr. CONYERS, Mr. CORNWELL, Mr. DELLUMS, Mr. DICKINSON, Mr. EDWARDS of Alabama, Mr. EVANS of Georgia, Mr. FARY, Mr. FLIPPO, Mr. FRENZEL, Mr. HAWKINS, Mr. MITCHELL of Maryland, Mr. NICHOLS, Mr. PATTERSON of California, Mr. PRICE, Mr. RINALDO, and Mr. STEERS):

H.R. 14219. A bill to authorize the Commissioner to make a grant for the purpose of constructing a building at Tuskegee Institute in memory of Gen. Daniel "Chappie" James, Jr.; to the Committee on Education and Labor.

By Mr. VANIK (for himself, Mr. ULLMAN, Mr. GIBBONS, Mr. ROSTENKOWSKI, Mr. JONES of Oklahoma, Mr. MIKVA, Mr. FISHER, Mr. STEIGER, Mr. CONABLE, Mr. ARCHER, and Mr. FRENZEL):

H.R. 14220. A bill to extend temporarily the authority of the Secretary of the Treasury to waive the imposition of countervailing duties; to the Committee on Ways and Means.

By Mr. FRASER:

H. Res. 1395. Resolution relating to the need to establish a Museum of the District of Columbia for compiling, researching and documenting the history of the planning, development, institutions, events, and resident population of the Nations Capital; to the Committee on the District of Columbia.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

488. By the SPEAKER: A memorial of the Legislature of the State of California, relative to the Federal Mine Safety and Health Act of 1977; to the Committee on Education and Labor.

489. Also, memorial of the Legislature of the State of California, relative to human rights; to the Committee on International Relations.

490. Also, memorial of the Legislature of the State of California, relative to social and economic relations with the Republic of China; to the Committee on International Relations.

491. Also, memorial of the Legislature of the State of California, relative to citizen band radio interference; to the Committee on Interstate and Foreign Commerce.

492. Also, memorial of the Legislature of the State of California, relative to granting the California Short-Doyle/Medi-Cal program special project status; to the Committee on Interstate and Foreign Commerce.

493. Also, memorial of the Legislature of the State of California, relative to the United States Submarine Veterans of World War II; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

552. By the SPEAKER: Petition of the Council of the United Ute Indian Tribes, Ignacio, Colo., relative to the Public Works for Water and Power Development and Energy Research Appropriation Act for fiscal year 1979; to the Committee on Appropriations.

553. Also, petition of the Constitutional Convention of Hawaii of 1978, Honolulu, relative to exempting Hawaii from the multilingual requirements of title III of the Voting Rights Act; to the Committee on the Judiciary.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 11545

By Mr. MOORE:

—Page 14, line 2, strike out the semicolon and all that follows down through line 4 and insert in lieu thereof a period.

H.R. 13471

By Mr. MATTOX:

—Page 174, line 8, delete "section 1115)" and insert "sections 1115 and 1120)".

—Page 179, strike out line 15 and all that follows thereafter through page 180, line 4, and insert in lieu thereof the following:

(2) shall be used only for the purpose of considering whether to issue an indictment or presentment by that grand jury, or of prosecuting a crime for which that indictment or presentment is issued, or for a purpose authorized by rule 6(e) of the Federal Rules of Criminal Procedure;

(3) shall be destroyed or returned to the financial institution if not used for one of the purposes specified in paragraph (2); and

(4) shall not be maintained, or a description of the contents of such records shall not be maintained by any Government authority other than in the sealed records of the grand jury, unless such record has been used in the prosecution of a crime for which the grand jury issued an indictment or presentment or for a purpose authorized by rule 6(e) of the Federal Rules of Criminal Procedure.

H.R. 13471

By Mr. PATTERSON of California:

—Page 196, line 17, insert "California, Connecticut, Massachusetts, Ohio, or Wisconsin" immediately after "State".

—Page 196, line 17, insert "California" immediately before "State".

—On page 196, strike out line 16 and all that follows through page 197, line 24, and insert in lieu thereof the following:

"SEC. 1801. Subject to the rules and regulations of the Federal Home Loan Bank Board, Federally-chartered savings and loan associations may offer alternative mortgage instruments in their home State if the Federal Home Loan Bank Board determines that Federal associations require authority to make such loans to prevent competitive disadvantage with State-chartered savings and loan associations within such State. Such authority may include Reverse Annuity Mortgages, Graduated Payment Mortgages, Variable Rate Mortgages and Rollover Mortgages.

SEC. 1802. Consumer Protections. The Federal Home Loan Bank Board shall prescribe rules and regulations to define and carry out the terms and purposes of this Title. Such rules and regulations shall provide adequate consumer safeguards and protections including, but not limited to, the following:

(a) DOCUMENTED CHOICE.—Prospective graduated payment mortgage, variable rate mortgage, and rollover mortgage borrowers shall receive a comparison of rates and other terms of the alternative mortgage instrument with the fixed-rate mortgage instrument. Such borrowers shall also be given the option to select a fixed-rate mortgage instrument, and such option shall be documented.

(b) INTEREST RATE INCREASE LIMITATIONS.—Interest on variable rate mortgages shall not increase more than 0.5 percent per annum, and on rollover mortgages shall not exceed a cumulative annual increase of 0.5 percent, and on both shall not increase more than 2.5 percent over the term of the loan. Lenders are not required to increase interest, but decreases shall be mandatory. Rate changes on variable rate mortgages shall occur only in response to movements of Federal Home Loan Bank Board approved indices.

(C) NOTIFICATION OF INTEREST RATE INCREASES.—Variable rate mortgage and rollover mortgage borrowers shall receive written notice 45 days in advance of any rate increase, at which time they may request that payments remain the same with loan maturity extended to a maximum of 40 years from origination date. When in receipt of notice of increase and prior to the effective date of the increase, the borrower shall have the right to prepay the balance of the mortgage loan with no prepayment penalties.

—At the end of the first paragraph in Section 1802 add the following new paragraph:

"Subject to the rules and regulations of the Federal Home Loan Bank Board, federally chartered savings and loan associations in California may offer variable rate mortgage and rollover mortgages. The regulations shall include documented choice between fixed rate and variable or rollover mortgage, prohibitions on prepayment penalties and limitations on interest rate increases.".

(d) PAYMENT LIMITATIONS.—Payment amounts on graduated payment mortgages may not be changed more than once a year. Payments in any year under a graduated payment mortgage shall be no more than 7.5 percent higher than the payments in the previous year. Such borrowers shall be given at least a one-time right to convert to a fixed-rate at their original rate of interest and maturity of date.

(e) PERCENTAGE OF LOAN LIMITATIONS.—Not more than 50 percent of a federally chartered savings and loan association's home mortgage loans by dollar amount made or purchased in any calendar year shall be in variable rate mortgages and rollover mortgages.

(f) LIMITATIONS ON OFFERING PERIOD.—If a federally chartered savings and loan association elects to offer variable rate mortgage instruments at any time, it must continue to offer such instruments to all applicants for a continuous period of four years or whatever time the Federal Home Loan Bank Board determines is appropriate. After such a continuous period of offering both fixed and variable rate mortgages, a savings and loan association may elect to discontinue variable rate mortgages indefinitely. However, upon election to resume offering variable rate mortgages, a savings and loan association shall again be required to offer both fixed and variable rate mortgages for a continuous period of four years or whatever time period the Federal Home Loan Bank Board determines is appropriate.

SEC. 1803. The Federal Home Loan Bank Board shall report to Congress not later than three years after enactment of this Title on the progress and effects of this authority, including its assessment of this experience and any impact on interest rates. The authority granted under this Title shall expire at the end of four years after date of enactment unless renewed by Congress.

—Strike out section 1802 and insert in lieu thereof the following:

SEC. 1802. Section 5(c) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464) is amended by inserting immediately after the first undesignated paragraph thereof the following new paragraph:

"Subject to the prohibitions, limitations, and conditions as the Board may prescribe by regulation, any association may make and invest in graduated payment mortgages, reverse annuity mortgages, variable rate mortgages, and roll-over mortgages in all States where such associations are authorized to do business. The Board shall require maximum consumer safeguards in adopting any regulations which allow associations to make and invest in graduated payment mortgages, reverse annuity mortgages, variable rate mortgages, and roll-over mortgages. The regulation shall require that any reverse annuity mortgage shall contain provisions which protect the mortgagor from loss of the property in the event funds available under the annuity are depleted. The regulation shall further require that whenever an association offers a graduated payment mortgage, a reverse annuity mortgage, variable rate mortgage, or roll-over mortgage to an individual it shall also offer a conventional mortgage to such individual.".

EXTENSIONS OF REMARKS

NATIONAL 4–H CLUB WEEK

HON. WILLIAM H. NATCHER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 3, 1978

● Mr. NATCHER. Mr. Speaker, it is with a sense of pride and deep appreciation that I salute the 4–H Clubs of America during this their National 4–H Club Week. Their theme this year is "4–H Freedom To Be."

Mr. Speaker, I come from a rural State, the great Commonwealth of Kentucky, so I am well aware of the intrinsic value of the 4–H Clubs, but what is so gratifying is, that from an inauscicious beginning around the turn of the century, this organization has grown and spread to every corner of these United States. Their work is known and experienced in urban and rural areas, encompassing people of every conceivable background in a myriad of projects.

Their pledge has guided them to the exemplary performance of their chosen duty. I would like to take this opportunity to comment on each point of this pledge.

My Head to Clearer Thinking: These young people, through guidance from county extension agents, vocational agriculture teachers, local 4–H leaders, and other 4–H Club members, are learning

the value of research and a scientific attitude toward the problems of the farm, home, and city.

My Heart to Greater Loyalty: The ability and integrity of our youth is vital to the future strength of America. To be involved in the betterment of our country makes for an informed and public-spirited citizenry. 4–H programs in all States are focusing on many of the important national concerns of today.

My Hands to Larger Service: It is through service to family, community, and Nation, that the valuable training and character development is brought to fruition. The satisfaction of "helping" knows no bounds. Last year, 4–H members enrolled in over 9 million projects, averaging about 2 projects per member. Projects such as food production, energy-mechanical, science-engineering, conservation of natural resources, community development, health, youth employment and career exploration, consumer education, home and family living were undertaken and implemented.

My Health to Better Living, For My Club, My Community, My Country, and My World: "To learn to do by doing" characterizes these young people who place an emphasis on individual perfection and intellectual honesty with a sense of public duty in the conduct of their lives. These young people are thoroughly and carefully preparing themselves, through participation in 4–H Club projects to meet the moral, economic, and scientific challenges of tomorrow. Their dedication to improving family standards, both economically and spiritually, stands as a testament to their work.

Mr. Speaker, as I said before, I come from Kentucky and I would like to state, with a great deal of pride, participation in Kentucky's 4–H program reached an alltime high last year, with 167,000 youth enrolled in 4–H Clubs and 4–H special interest groups, and another 51,000 youth involved in 4–H expanded food-nutrition education programs for low-income city youth. A conservation of natural resource project in one county credits 4–H with a successful reforestation program.

Mr. Speaker, may I take this opportunity to extend to all the people who make the 4–H Club program work, a grateful thank you from the Nation and my own sincere appreciation for the dedication and determination of these young people.●

CHIEF OF NAVAL OPERATIONS SAYS DINOSAURS WERE DURABLE—SO ARE CARRIERS

HON. ROBERT L. F. SIKES

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 3, 1978

● Mr. SIKES. Mr. Speaker, in an address to the National Aviation Club and Aero Club in Washington on September 28, Adm. Thomas B. Hayward, the chief of naval operations, made some apt points about the aircraft carrier and its continuing role in warfare.

In the House, we are accustomed to having the carrier likened to sitting ducks, turkeys, and other species of the animal world—even dinosaurs. Probably those who use the terms in a disparaging way have never matched wits with either ducks or turkeys on a freezing morning in the woodlands. They can be extremely wary and difficult to bag.

A comparison of a carrier with a dinosaur is something new but, again, it is intended to convey ineptness and inability to protect itself. Admiral Hayward shows quite clearly that this is not the case. Dinosaurs ruled the animal world for nearly 100 million years—on land, in the sea, and in the air. The admiral does not predict 100 million years of survivability for the carrier, but he does bring out the fact that dinosaurs also were powerful, speedy, and extremely well armored.

Admiral Hayward's statement provides valuable references. It answers questions on the direction the Navy is taking in the development of new technologies in the carrier field. Far from being complacent or parochial, the present-day Navy officers are looking at various promising approaches to maintenance of supremacy on the high seas. Carriers of various types are undergoing close scrutiny to determine capabilities. I consider the statement by the chief of naval operations to be highly important and I urge my colleagues to review it carefully. I submit it for reprinting in the RECORD:

REMARKS BY ADMIRAL T. B. HAYWARD

It may seem strange to have the Chief of Naval Operations appear before the Aero Club and National Aviation Club speaking not as the CNO but as an amateur zoologist—but the fact is, this noon I want to talk a bit about a favorite subject of mine, the dinosaur. As you know, dinosaurs have been much in the news of late, at least dinosaurs of the naval variety, as have other creatures in the animal world, incongruously finding themselves spoken of in numerous articles on the editorial pages—creatures like "sitting ducks", and "turkeys", and other rare species with unmentionable names.

Now reports about "sitting ducks" and "turkeys" are not particularly troublesome to me, but I must admit to having more than a bit of difficulty with the dinosaur, because as everyone knows, the dinosaur is extinct—and I worry about that.

So after reading one particularly troublesome piece the other day, I decided to do a bit of research about dinosaurs, and it brightened my day up considerably. For you know, dinosaurs weren't so unsuccessful after all. They ruled the animal world for nearly 100 million years—not a hasty or premature departure by any means. An encouraging thought to this naval officer.

As a group, dinosaurs were powerful, speedy, and extremely well armored. In short they were highly survivable. At sea, the Plesiosaurus pretty much ruled the waves while the Tyranasaurus Rex and his relatives projected power over most of the earth. In fact, recent fossil finds even tell us of a flying dinosaur with a wing span of more than 50 feet—that's 12 feet larger than our new F–18 Hornet.

About the only thing that could reasonably challenge a dinosaur was another dinosaur. With that knowledge, we in the United States Navy take a certain amount of comfort.

You recognize the analogy, of course, to that gargantuan of the seas—the aircraft carrier.

I regard as unfortunate the use of such careless hyperbole when discussing an issue so critical to our national naval strength, and our defense posture as the aircraft carrier? A turkey? I'll be damned. A sitting duck? No way! But a dinosaur—perhaps. For the carrier is powerful, fast, well armored, and highly survivable. And though it is gradually becoming a rare species, it is yet to be extinct. God help us if in this century it is.

So, with the future of our carrier force having figured so prominently in the news recently it seems appropriate at this point in time for the Chief of Naval Operations to be heard on the issue of the aircraft carrier to set the record straight about its true value in today's naval strategy—not because I stand here before you wearing wings and voicing parochialism as an ex-commanding officer of one of our better dinosaurs, the USS AMERICA, but because I represent the views of your operational commanders as one who recently commanded your Seventh Fleet and the U.S. Pacific Fleet—to tell you explicitly what the professional naval officers assessment is today of the true value of the aircraft carrier.

We all know it to be a popular game these days to direct criticism at us stodgey old carrier Admirals who are wedded to the past, just as were the battle ship Admirals of yore, steeped in our tradition of ultra conservatism. The truth is, those who voice such blatant platitudes do so in the safety and comfort of knowing how popular it is to needle the "brass" while having no responsibility whatsoever for executing the naval strategy that unfolds. One should be required to compare objectively these carelessly expressed views with those held by the men who wear the uniform of the naval service, those who have been there and who speak unanimously of the vital importance of today's carrier force strength and you would get . . . the time has come for much more public debate involving facts, avoiding the shallowness of fuzzy strategic thinking of which we have a plethora these days.

First, it is important to recognize that the United States Navy today is considerably out-numbered by that of the Soviet Union. This substantial imbalance pertains even when both sides include their allied naval forces. Yet we still maintain a margin of superiority for several reasons: our qualitative, technological edge—our superb submarine force—and most especially our ability to control the air in its totality due to the presence of our sea based tactical air. Make no mistake about it—the margin of difference between ourselves and the Soviets today, at sea, resides in our carrier based offensive capability.

In historical perspective we are all well aware of the carrier's significant contribution to victory during World War II, and the high value of the carrier aircraft during Korea and Vietnam. Not to be overlooked in the post World War II environment is the frequency with which U.S. policy makers turned to the use of naval power structured around our aircraft carrier battlegroups—as in Lebanon, or the India-Pakistani crisis, and the Arab-Israeli conflicts. Henry Kissinger recently summed up his evaluation during an address before the Naval War College at Newport recently when he said, "In the crises in which I was involved, the use of naval power—particularly the carrier—turned out to be almost invariably the crucial element." These views do not pertain solely to the Atlantic and Mediterranean. We can and should reflect back to the period following Vietnam, when virtually no residual presence on the mainland of Southeast Asia. A large inventory of bases and aircraft was left behind under North Vietnamese control and considerable uneasiness existed with respect to what the future might hold. About all we had left was an off-shore pres-

ence maintained largely by the carrier striking forces of the Seventh Fleet.

More than any other force these carriers provided the stability necessary to reorient our Asian defense policy with a lower but still credible profile. They maintained a presence maintained largely by the carrier striking forces of the Seventh Fleet.

More than any other force these carriers provided the stability necessary to reorient our Asian defense policy with a lower but still credible profile. They maintained a presence in the South China Sea; reinforced our position in Northeast Asia, and continued to give substance to our alliance with Japan.

Now what about that "sitting duck" complex—the carrier's vulnerability? It seems to me the real question that needs to be asked is, "compared to what?" Can there be any rational questioning as to which would be harder to locate and attack: a fixed-site shorebased airfield or a carrier at sea: an ammuntion depot, a truck park, or a mobile naval force? I don't see how. The carrier wins, hands down in that comparison.

Likewise, in weighing the arguments about the degree of vulnerability between one category of ship and another, there can be no question but that the carrier is the least vulnerable of all ship types. While its large size can make it more detectable and discernible to a radar scope, on the other hand, radars can be spoofed and misled—a task neither too complex nor overwhelming.

And we build them tough in anticipation of going in harms way. The flight deck and hangar decks are constructed of one-inch thick highyield steel, with an additional 2½-inch armored deck below them, designed to protect the carrier from major caliber, semi-armor piercing explosives. These ships are designed with over 2000 watertight and shock resistant compartments for the sole purpose of controlling and limiting damage. Missile and torpedo protection is accomplished with side-plating and new energy absorbing hull designs. And extensive fire-fighting capability is built throughout the ship, with highly redundant systems of all kinds within the engineering and propulsion systems.

To give you a feel for the carrier's durability, during a major flight deck accident aboard USS Enterprise in 1969, nine 500-pound bombs exploded on the flight deck, the equivalent of six Soviet cruise missiles—yet Enterprise could have commenced flight operations within hours had the situation so demanded.

Which brings us to the issue of comparability between our overseas base structure and the availability of aircraft carriers. Contemporary history shows that time and time again we have had to defend our interests overseas with inadequate numbers of bases and enormous problems related to base security.

Take the case of Vietnam. Time allowed the United States to build a massive complex of air bases in Southeast Asia at a cost of over $525 million for runways, taxiways, parking aprons, etc. This did not include the cost of logistics support facilities such as harbors and ports, petroleum and ammunition storage and other support required by the TACAIR units. Nor does it include the high cost of defense installations had the situation so warranted. Notwithstanding this heavy investment, the vulnerability of air bases in South Vietnam was a major problem that led to the loss of over 400 allied aircraft to ground attack alone. An additional 4000 aircraft were damaged due to such action. Not one seabased air asset was lost or damaged on board any of our aircraft carriers as a result of enemy action. Furthermore, today our operational overseas base structure has been reduced from the 105 that existed ten years ago to less than 40 today. It is questionable that this trend can, or will be, reversed. In short, all military systems and installations are vulnerable to attack and damage—the aircraft carrier standing out as least vulnerable of them all—hardly a sitting duck!

Then there is the issue of cost. Believe me, no one has more heartburn than I when it comes to talking about $2 billion anythings. The aircraft carrier is expensive. But we need to keep its high cost in reasonable perspective—compared to what? The Metro? Super Dome? Or that new house of yours? Three factors deserve our consideration.

To begin with, one needs to understand that the acquisition of ships is not expressed in today's dollars as you and I understand them. Let me explain. By virtue of the budgeting rules of the congress, the services are required to fully cost out the price of any weapon system proposal at the time the item is first requested of the congress. This requirement impacts uniquely on ship building costs in that in general, one can anticipate that it will be seven years or more from the time of appropriation until a ship's construction costs are terminated. In essence at least seven years of inflation are built into the original cost estimate which you and I hear about so frequently. That is to say, while the Navy might ask the congress to authorize and appropriate a carrier today at the cost of about 1.7 billion dollars, its real cost in today's dollars, if there were no inflation to consider, would be more like one and a quarter billion dollars, a substantial reduction.

Another way to look at the mis-perception of the high cost of the aircraft carrier created by the fact of inflation can be seen by considering how one might amortize the cost of an aircraft carrier over its lifespan. For instance, in 1961 the United States Navy built the USS ENTERPRISE, our first nuclear attack carrier, at an end cost of about $450 million dollars. At that time, there was the characteristic criticism levied against the exorbitant cost of that carrier, just as is common today. Yet, we expect ENTERPRISE to be in the force for 45 years, which means that its initial acquisition costs amortizes out over its lifespan at 10 million dollars a year. Quite a bargain! It is my personal view that today's apparently high cost carrier will appear equally as fiscally prudent in the year 2000, a point at which the carrier will have reached only its half life.

Lastly, there is the frequently held view that it is the high cost of carriers that prevents the Navy from getting on with constructing other ships; that it is the high cost of carriers that inexorably compels the Navy to reduce its overall size because funds do not remain to buy the vast number of other ships so badly needed. Compare that judgment with the fact that over the past 20 years the Navy's investment in aircraft carriers has been but 5.4 percent of our total ship building costs. 5.4 percent! Hardly a major proportion of our ship construction budget.

Which leads me to a final question—has the hour arrived for another Billy Mitchell? Is there a new and better way to do the Navy's mission than to perpetuate this gargantuan of the seas? Clearly, the time is now to insist that the Navy remove its blinders, if it has them on, and explore realistic alternatives to the future of tactical aviation. We must not be wedded to conventional solutions to tomorrow's threat. The most promising near term development seems to be associated with vertical life aviation, VSTOL, or as some call it—powered lift. In other words, is there a way to do away with the catapult and arresting gear in the design of aircraft carriers in the future? Surely the Navy must not be found parochial on this issue; and let me assure you, we will not. I have recently established a policy requiring that we pursue a program of VSTOL alternatives in just as aggressive a manner as the Department of Defense and Congress will permit. Further, I am intent that we will examine ways in which to put more sophistication into our weapons themselves, minimizing the complexity of the airplane and the carrier to the maximum degree possible. I am convinced we must capitalize on our technological superiority if we are to maintain our lead over the Soviet Union and to fulfill the basic mission of the United States Navy as it is understood by your countrymen. We will not be found wanting. So for those of you who find particular encouragement in the concepts of smaller, more numerous and inexpensive ships you will especially appreciate the manner in which the Columbia Encyclopedia suggests the dinosaur met its demise, and I quote:

". . . The inability of the large, clumsy, dinosaurs to compete with the small, fleet mammals, which were gradually becoming more numerous at the time, contributed to the dinosaur's extinction."

The carrier is far from that situation today, but the suggestion is clearly worth heeding.●

ILLEGAL IMMIGRATION II

HON. B. F. SISK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 3, 1978

● Mr. SISK. Mr. Speaker, a new environmental coalition has been formed here in Washington to deal solely with the difficult question of illegal immigration. The Environmental Coalition of North America, founded in 1970, has created a coalition of environmental organizations within its working group on immigration. It operates under the auspices of the National Parks and Conservation Association, a prominent and important national environmental and conservation organization of over 40,000 members.

The director of the coalition is Ms. Gerda Bakalis, a longtime freelance writer, consultant, and advocate of sound population and resource policies. In December of 1977, prior to joining the coalition, Ms. Bakalis wrote an article entitled, "Illegal Immigration: The New Environmental Battleground." The article appeared in the NPCA Journal. I commend the following excerpts to the attention of my colleagues:

Immigration Policy: The New Environmental Battlefield

Not so very long ago an article about United States immigration policy would have seemed out of place in a publication on environmental concerns: too social, surely, and outside the realm of interests of a relationship dedicated to the preservation of the natural habitat.

That the United States has a severe population problem may come as a surprise to people who constantly read about the declining birth rate in our nation. Most significant, however, has been the steady growing influx of immigrants, both legal and illegal, who join our ranks each year.

Legal immigration, however, is but a small part of the immigration picture. There is widespread agreement that far more people settle here illegally than legally, though no precise information is available. In 1975, 767,000 illegal aliens were apprehended, but it is believed that apprehension rates are no better than one out of three or four illegal entry attempts. Estimates of illegal aliens now residing here vary from a low of four million to nearly twenty million, with eight million a most frequently cited estimate.

Many of the border crossers settle in the nearby states of the Southwest and in California, where there is a tradition of importing agricultural laborers at harvest time. Recent estimates place 1.7 million illegal residents in California and about 800,000 in Texas.

But other Latin American nationals—from the Dominican Republic, Colombia, Peru, Ecuador—are also pouring in, in record numbers. They tend to settle in the Eastern Seaboard areas, especially in the New York metropolitan region and in Florida, where they blend in with the large communities of Spanish-speaking legal residents from Puerto Rico and from Cuba. It is believed that the New York area is home of 1.5 million aliens, New Jersey to 300,000, and Florida to nearly half a million. There is also an influx from non-Spanish-speaking countries of the hemisphere—Haiti, Jamaica, British Guiana. They are joined by growing numbers from the overpopulated lands of Asia—the Philippines, Korea, Hong Kong, Thailand, India, Iran. Nigeria leads the African nations in the number of illegal immigrants it contributes.

Environmentalists concerned with the undesirable consequences of unchecked population growth have a lot to worry about. Most of the would-be immigrants are young people in the prime of their reproductive years who come from societies that value large families. Demographic projections suggest that if we add another 800,000 illegal residents to our ranks every year, they and their offspring will contribute 40 million more people by the year 2000.

Until quite recently, the problem of out-of-control immigration received very little public attention. The immigrant has traditionally been an object of sympathy and even affection for most of us, a reminder of our immigrant past.

What has turned the tide from indifference to a measure of concern in American public opinion has been primarily the economic downturn and the perceived threat of the newcomers taking jobs away from Americans.

Former INS Commissioner Chapman estimates that illegal immigrants hold at least one million well-paying jobs. Senator Robert Packwood (R-Oreg.) has stated that our unemployment rate could be cut 1 percent if it were not for the employment of illegals.

In the public discussions on the subject of uncontrolled illegal immigration the most powerful and convincing imperatives for revising our inadequate policies have been largely ignored. The arguments of thoughtful environmentalists are not only valid and bolster the case for immigration restraints, but they are surely the best, devoid of the unfortunate tinge of xenophobia that is beginning to permeate the issue in many forums.

While pioneering a lifestyle that mindlessly disregards the conservation of natural resources, Americans have at least shown a measure of responsibility by greatly cutting back on their reproduction rate and limiting population growth. These efforts, of course, are reduced to naught by unchecked immigration. It is nothing short of suicidal to allow more and more people to share this dysfunctional lifestyle and thus accelerate our run toward ecological disaster.

More and more, our own fantastic riches no longer suffice to support us in the style to which we have become accustomed. We are increasingly dependent upon other nations to supply us with the essentials to maintain our level of comfort. Already we import more than 50 percent of our oil, and the demand shoots up with every new consumer. We could do nothing that would be more counter-productive than to teach millions of would-be Americans how to live a l'Americaine when the need is clearly for Americans to learn how to live a less wasteful life more in harmony with ecological reality.

The disparity between the standard of living in the highly developed nations and that of the underdeveloped world must be narrowed. This major ethical challenge demands large-scale sacrifices on our part. But neither our collective guilt over our bounty nor our moral commitments to the world's less favored people justify the ultimate sacrifice from us—the social and ecological ruin of our land. Yet this is the inescapable consequence of our present policy of timid immigration law enforcement and of our continued refusal to guard our borders, as other nations do.

Is the issue of an ever increasing flow of illegal immigrants into our land really one of concern to environmentalists? Is it genuine? Now that NPCA has forthrightly opened this debate by injecting environmental arguments into the escalating controversy on immigration policy, the question is often asked of us. It is asked by earnest young men and women, enthusiastic and valued colleagues in the battle to preserve a livable habitat for our future generations, and it deserves a careful answer.

Oh, how we would like to reassure them, to say, "No, it isn't a problem for us"! So we review the figures once again: more than a million illegal entrants were apprehended in 1977, and probably as many or more avoided detection. No matter how we add it up, this continued stream of newcomers makes up a major, ever larger proportion of our national population growth and defeats our best efforts to conserve resources and plan rationally for our future.

The evidence to that effect comes from these environmental activists themselves, for they directly experience the adverse effects of increased population pressure upon their special areas of involvement.

Conservationists bent upon preserving some open space must compete against developers in a market of soaring land prices. Between 3 million and 5 million acres of farmland are already being lost to development every year, and the need to lay aside some unspoiled natural acreage becomes more urgent even as spiraling costs make it harder and harder to accomplish this goal.

Those among us devoted to the protection of the nation's existing public parks and forests must jealously guard them from being overrun by ever larger throngs of visitors seeking a measure of solitude and escape from the spreading megalopolis. They must do constant battle with commercial interests that, driven by accelerating demands for lumber, threaten to decimate what remains of our forest lands.

Mobile crowds in cars endanger flora and fauna, and many more species may be lost as man encroaches further upon their habitats and support systems. Their protection requires increasingly stringent regulation.

Under the combined impact of rapid population growth and mismanagement, water may well become the first vital natural resource to give out completely. Severe shortages have plagued the Southwest and have become critical as the Sun Belt continues to attract more people, including a large proportion of illegal immigrants. Environmentalists have had to fight back a steady barrage of destructive "solutions" that offer short-term relief at an ecologically disastrous price.

The unresolved energy crisis continues to be fueled by our expanding population and consumption. Despite the lack of a safe nuclear disposal system, despite the known and the suspected dangers, nuclear energy has taken hold. Environmentalists pushing vigorously for the development of renewable energy sources are up against the press of immediate needs that must be met but allow little lead time for the implementation of more rational policies.

Alas, despite the moral attractiveness of such a plan, it is abundantly clear that we cannot resolve the problem of out-of-control illegal immigration by trading off self-sacrifice against an inforceable immigration policy. A quick calculation should convince us. If we manage to achieve a 25 percent across-the-board per capita decrease in consumption by all of today's Americans over the remaining years of the twentieth century, we could share our more spartan lifestyle with some 56 million additional people. Yet, by the year 2000, our own natural population growth, augmented by 400,000 legal immigrants every year, will have added at least another 45 million Americans to our numbers. If the present net illegal immigration were to continue during that period, another 20 million or more people would have been added to our population, more than offsetting any gains from frugality. Moreover, at current growth rates, Mexico's population of 65 million will have more than doubled by then, with much of the unmanageable increase spilling across our borders, swamping our efforts to economize and to stabilize our natural increase at home.

Nor can we count on being rescued by a neverending succession of technological miracles. Environmentalists know all too well that new scientific triumphs have a way of ultimately turning against us. We remember that DDT produced immediate wonders in disease control and in agriculture, only to leave us a long-term legacy of degradation and harm, as malign as it had been insidious. The Green Revolution, which only a few years ago held the promise of plentiful food for expanding populations, is now reaping a harvest of new plant pathologies and economic problems that are ever more difficult and costly to overcome.

Recently Governor George Ariyoshi of Hawaii requested authority to limit the further settlement of people from the mainland to his island-state. He had in mind a state-by-state immigration quota for would-be immigrants. Citing the small size of the island and a lack of resources, he explained that "the state cannot accommodate every person who may wish to live here. It's that simple." While the request raised eyebrows among constitutional experts, it caused no consternation in the environmental community. The little state has limited job opportunities, and continued industrial development and job creation would seriously imperil both the special environment and the cultural uniqueness of these Pacific isles. The environmental principles, readily understood in the microcosm, apply equally to the macrocosm that is the United States.

Given time and a determination to act responsibly, human inventive genius can work in harmony with nature to harness all its bounty and enhance the quality of human life. But a spiraling population, crying out with immediate needs that cannot wait, leaves us no time to develop environmentally appropriate technologies; instead, it sends us scurrying after the quick technological fix that disrupts natural processes and undermines economic security. Thus, rapid and unplanned population growth in a highly advanced society, where awesome unproven technologies can be unleashed to satisfy immediate needs, can be more dangerous to the survival of the human race than population explosions in more primitive countries.

(NOTE: Ms. Bakalis first became interested in the problem of illegal immigration when as a medical worker in the inner city of Newark, New Jersey, she worked with a large clientele of medically indigent illegal aliens.)

ENVIRONMENTAL COALITION FOR NORTH AMERICA

Working group on illegal immigration

Participants, With Current Affiliations

Anthony Wayne Smith, Chairman, Environmental Coalition for North America, President and General Counsel, National Parks and Conservation Association.

Elvis J. Stahr, President, National Audubon Society.
Ellen Kelly, Chairman, National Affairs and Legislation Committee, The Garden Club of America.
John A. Hoyt, President, The Humane Society of the United States.
Justin Blackwelder, President, The Environmental Fund, Inc.
Donald Mann, President, Negative Population Growth, Inc.
Fred G. Evenden, Executive Director, The Wildlife Society, Inc.
Richard H. Pough, President, Natural Area Council, Inc.
Marion Parks, Environment Forum.
Hamilton Pyles, Executive Director, Natural Resources Council of America.●

PERSONAL EXPLANATION

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 3, 1978

● Mr. MAZZOLI. Mr. Speaker, I was absent on Friday, September 29, 1978. Had I been present, I would have voted: "nay" on Roll No. 856, that the House concur in Senate amendment No. 9 with an amendment to the conference report on H.R. 12934, to appropriate $355,392,000 to meet annual obligations of membership in international multinational organizations; "aye" on Roll No. 857, that the House recede and concur with the Senate on amendment No. 123 to the conference report on H.R 12934, which expresses the sense of the Congress that the Attorney General should use his parole authority under the immigration law to admit 14,000 Cambodian refugees over the next 2 years; "aye" on Roll No. 858, House Resolution 1348, providing for the consideration of H.R. 10909, the Clinical Laboratory Improvement Act; and "aye" on Roll No. 859, an amendment to H.R. 14042, fiscal year 1979 Department of Defense appropriation authorization, that sought to delete $209 million from the naval vessels procurement authorization to be used to settle shipbuilding claims.●

A CONSTITUENT CONCERN

HON. JOSEPH L. FISHER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 3, 1978

● Mr. FISHER. Mr. Speaker, during my 4 years as a Member of Congress, I have been contacted by various businesses and individuals in the 10th District concerning what I believe to be an abuse of privilege by members of congressional staffs.

Specific complaints involve the writing of personal letters, often financial in nature, on congressional stationery. While not specifically stated, the implication often is that congressional pressure may be brought to bear. I am certain that these letters are written without the knowledge of the Member.

I do not believe this is an appropriate use of congressional resources. I urge my colleagues to bring this matter to the attention of their staffs in the hope that these abuses will not continue.●

SENATE—*Wednesday, October 4, 1978*

(Legislative day of Thursday, September 28, 1978)

The Senate met at 8:45 a.m., on the expiration of the recess, and was called to order by Hon. ROBERT C. BYRD, a Senator from the State of West Virginia.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Let integrity and uprightness preserve me; for I wait on Thee.—Psalms 25: 21.

O God, our Father, we thank Thee for the gift of another day, for work to do and strength with which to do it. Through the long toiling hours give us grace to be true to Thee and true to ourselves. May we walk humbly with Thee and work wisely with our colleagues. Keep us from resentment and vindictiveness and from every evil attitude which shrivels the spirit and dwarfs the soul. Lift us up in the light of Thy presence and keep us there doing our best for our country and Thy kingdom until the shadows lengthen and the night descends. There in Thy mercy renew us by rest and the assurance of hearts at peace.

We pray in the name of Him who gave Himself completely to others. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., October 4, 1978.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable DENNIS DECONCINI, a Senator from the State of Arizona, to perform the duties of the Chair.

JAMES O. EASTLAND,
President pro tempore.

Mr. DECONCINI thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. The Senator from Tennessee.

THE JOURNAL

Mr. BAKER. Mr. President, I ask unanimous consent that the Journal of the proceedings to date be approved.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I do not have any need for my time.

The ACTING PRESIDENT pro tempore. The Senator from Tennessee is recognized.

RHODESIAN VISAS

Mr. BAKER. Mr. President, some weeks ago I offered an amendment to the Security Assistance Act that would have reinstated the Secretary of State's discretion to review the visa applications of members of the Communist party, terminating the requirement that those applications be approved automatically. The State Department, arguing against my amendment, a view that eventually prevailed in conference, said that requiring the Secretary of State to make a recommendation on the visa of a Communist leader would subject the Communists to awkward, cumbersome, and bureaucratic procedures.

Mr. President, for once the State Department really knows what it is talking about. After 2 incredible weeks of watching the State Department fumble around the visa applications of Prime Minister Ian Smith and Reverend Sithole, which they do have the authority to review, I am willing to concede the point that each application that has to go through the State Department sets in motion the most awkward, cumbersome, and bureaucratic decisionmaking process I have ever seen. No wonder they do not want to subject the Communists to it.

That is worth considering at another time, Mr. President, but the real point is important, and someone down there ought to consider it. The point is that if the State Department is not concerned about the unfettered entry into this country of the Communists, then they have no right to be concerned about the entry of two men who are struggling against all odds to establish a biracial government in Rhodesia. That the course Smith and Sithole have chosen is different than the one the State Department would choose for them is irrelevant. That the State Department is so insecure in its fear that the American people will be exposed to views not in accord with their own is silly.

The visit here of Prime Minister Smith and Reverend Sithole may not change the policy of the United States toward the tragic conflict in Rhodesia, but it will give those of us in the Congress and

the American public, who want to listen, the opportunity to listen to their side of the story. If the State Department does not want to listen, that is their problem; they do not have to. But I, many of my colleagues and many of the American public would like that opportunity, and I would encourage the State Department and the administration to cease its obstruction of that opportunity and cease it promptly.

The Washington Star last night and the Washington Post this morning in two excellent lead editorials make the point nicely Mr. President. I ask unanimous consent, that both editorials be inserted at this point in the RECORD, and I invite the attention of my colleagues to them.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From The Washington Post, Oct. 4, 1978]

A VISA FOR IAN SMITH

It is a shabby game the United States is playing with Ian Smith, prime minister of Rhodesia, over his attempt to visit the United States. Invited two weeks ago by friendly senators to present his case for more American support, he was expected to arrive this week. But the State Department, otherwise the champion of an open visa policy, has so far refused him permission to come. Why?

The State Department says that to honor Mr. Smith's Rhodesian passport would violate the sanctions voted against his "illegal" government by the United Nations. Yet the passports of Rhodesian students are regularly accepted, and the legal loophole of "exceptional humanitarian grounds" surely fits a visit by someone trying to end a bitter war. Must the United States be "purer" than Zambia, which has several times admitted Mr. Smith? President Carter himself has suggested giving him a tourist visa, which would not imply recognition of his regime. But the State Department, claiming that a visit now would undermine "delicate negotiations," defers decision. Thus does it nourish the suspicion that it wishes to keep Mr. Smith from expanding the ranks of those who feel that the American aim is to promote a guerrilla victory.

Yesterday, news reports indicated that the State Department might consider granting a visa if Mr. Smith agreed to attend the administration's long-sought all-parties conference. If it is all right for the Department to try to win Mr. Smith and his black colleagues in Salisbury to the American course, then Mr. Smith should have the reverse opportunity. And if the department wants to practice persuasion, let it simply co-sponsor the senators' invitation. After all, more than a visa is involved. The main reason the Salisbury government has resisted American policy is its fear that the United States is too committed to pleasing certain countries in black Africa to give a moderate government with whites in it a fair shake. That fear is only confirmed by the visa shell game.

Finally, one must ask how it looks to the guerrillas to see the United States treating Ian Smith like dirt. The other day the guerrillas shot down a civilian Rhodesian airliner and then murdered some survivors of the crash. Does not the diplomatic gesture reinforce the atrocity by proclaiming white Rhodesians pariahs who somehow exist outside the bounds of ordinary civilities? This is a desperate time in Rhodesia—a time to give first priority to halting a war that threatens tragedy for blacks as well as whites. That means, in this instance, showing Ian Smith—and everyone else in Rhodesia/Zimbabwe—that the United States has the whites' legitimate interests at heart. That is what the visa question is really about.

[From The Washington Star, Oct. 3, 1978]

VISAS FOR RHODESIANS

Whatever else was set before President Carter at breakfast Sunday morning, it was accompanied by a distasteful aperitif: reports in the papers that the State Department continues to dawdle disgracefully over visa applications from Prime Minister Ian Smith and his colleagues in the Rhodesian interim government and may eventually deny them.

The issue has been joined for quite a while. Sen. S. I. Hayakawa and 26 senatorial colleagues invited the Rhodesians to this country 17 days ago—an invitation to which the Rev. Ndabaningi Sithole responded favorably six days later.

It is Senator Hayakawa's aim, as he put it in the letter of invitation, to afford the Rhodesian officials various American forums, "so that we, both government officials and the general public, may see and hear you and evaluate your plans, hopes and aspirations."

But the United States shuns the Rhodesian regime diplomatically, and at times seems to side with the Patriotic Front insurrectionaries who aspire to overthrow it. The U.S. also subscribes to the spottily-enforced legal sanctions imposed on Mr. Smith by the United Nations. Technical problems aplenty can be made about the visas; and where the means of obstruction exist the State Department is not without will to obstruct.

The technical problems, however, are scarcely insurmountable. U.S. doors are not shut to Rhodesians—even members of the interim government. Bishop Abel Muzorewa, a member of the executive council of the interim government, sojourned in this country at midsummer. If he was admitted, why not his fellow members of the transitional regime?

The answer, it seems, is that in the State Department's view—or at least that of some upper-level policymakers—there are, as one spokesman put it, "Rhodesians and Rhodesians." There are, additionally, the UN sanctions, which in the manner of such things undertake to interfere with the sovereign judgment of its members on who may come and go across their borders. Another excuse we hear is the fear that visas for Rhodesian officials might imply official diplomatic reception.

All of these excuses are flimsy and probably camouflage political and ideological hostility. For notwithstanding substantial movement in Salisbury towards a new constitution and a new political order in which Rhodesian blacks would soon obtain majority power, the U.S. has not concealed its partiality to the guerrillas.

Setting aside the issue of who is to be master of Rhodesia's future, in short, the usual myopia is at work. Given their heads, certain of the African policymakers at the State Department would make pious piffle of everything President Carter and his administration have had to say about free movement of peoples. No issue of human rights exceeds the issue of free immigration from the Soviet Union, for example. No practical issue of international political rights exceeds in importance the right of a fragile regime, struggling for recognition and stability, to take its case to the American people and their elected representatives.

Admittedly, the exposure of the Rhodesian interim government might make it more difficult for the U.S. to persist in opposing it. And for that risk, some in the State Department have no stomach.

There are signs, fortunately, that the principles involved in the Rhodesian visa application are more clearly understood at the White House than in the defensive recesses of State, where the wagons are drawn in a tight circle against Mr. Ian Smith.

At a breakfast with newsmen last week, President Carter suggested that the visas would probably be granted. We took that as a delicate signal that the president, at least, is willing to run the risk of allowing us a fuller first-hand look at the views, personalities and demeanor of the men who now constitute the transition government in Rhodesia. We gather that President Carter, if not others, understands the connection between the visa issue and the larger issues of human rights to which his administration has given so much attention.

May we not expect, then, that when the cumbrous wheels of Foggy Bottom have ceased their legalistic spinning, the result will be a chance for the Rhodesians to come here and state their case for better or worse?

We are confident that this will be the case. The opposite result would be a disastrous confession of official timidity.

ORDER OF PROCEDURE

Mr. ROBERT C. BYRD. Mr. President, I will ask that the Senate proceed to the ERA extension, thus giving a little additional time.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. GARN. Mr. President, I thank the distinguished majority leader. However, I do not feel it would be fair to start until the other side is represented.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that I may retrieve my time under the standing order.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I yield to the distinguished Senator from Wisconsin.

Mr. PROXMIRE. I thank the distinguished majority leader.

THE GENOCIDE CONVENTION: A STEP TO STOP CAMBODIAN GENOCIDE

Mr. PROXMIRE. Mr. President, ever since the revelations of the atrocities occurring in Cambodia, Americans have been expressing their horror and outrage at this gross violation of human rights. The crucial question they ask is this: What can I, as a U.S. Senator, do to stop the genocide in Cambodia?

Mr. President, I ask that same question of the U.S. Senate: What can we do?

Cambodia—Democratic Kampuchea—is one of the most closed and insulated nations in the world today. We have no economic ties with Phnom Penh, so economic sanctions are useless. We have no political ties with Phnom Penh, so political sanctions are also useless.

The People's Republic of China is the one nation reportedly having any influence on Cambodia. According to Monday's Christian Science Monitor:

> Some observers suggest China has been increasingly concerned that the often harsh policies of Cambodia's present rulers will alienate the population. The Chinese are believed to favor a less repressive "United front" government.

There is some irony in this, considering the reports of human rights abuse in the People's Republic of China. But

any lessening of terror in Cambodia would be welcome.

What can we do to improve the human rights situation in Cambodia?

One concrete action the U.S. Senate can take is ratification of the Genocide Convention. Admittedly this is only a small step and would not automatically halt the genocide in Cambodia. It would strengthen our diplomatic position, however, when we criticize the Cambodian regime. It would be a sign of our solidarity with the civilized nations of the world—the nations that have ratified the Genocide Convention.

Mr. President, ratification of this treaty would put the United States on record with 82 other nations condemning genocide. We must ratify the Genocide Convention.

THE TENNESSEE-TOMBIGBEE WATERWAY: A LESSON IN FEDERAL MISMANAGEMENT OF WATER RESOURCE DEVELOPMENT

Mr. PROXMIRE. Mr. President, for the last several days I have been pointing out the reasons why President Carter should veto the public works appropriations bill and why the Congress should sustain his veto. I am delighted that the President officially announced his veto of the bill late yesterday afternoon.

Today I want to address my remarks to one of the projects which the administration has not opposed but which nevertheless exemplifies all that is wrong with water resource development in areas where such development is not only unnecessary but positively destructive.

President Carter has specifically singled out 33 particularly bad projects funded in this year's public works bill: 27 new construction starts and 6 of the original "hit list" projects. Unfortunately, relatively little attention has been paid to other projects in the bill which the administration supported, but which are nevertheless equally undesirable from an economic and environmental point of view.

The Tennessee-Tombigbee Waterway is just such a project. This year's bill provides $156 million for construction of this billion-dollar ditch running through the Deep South backwoods of Alabama and Mississippi. The $156 million may seem like a drop in the bucket compared to the $10.1 billion appropriated by the bill as a whole. Yet the total extent of the Federal commitment represented by this one line item is officially estimated at $1.4 billion over the lifetime of the project. Outside experts peg the final cost even higher: From $2.5 to $3 billion.

That means that for a number of years, that will be a continuing contribution to inflation in this country.

The project will provide no flood control and no hydropower. It has been justified to Congress solely on the basis of projected savings to shippers who will use the canal. In the process, construction of this project will cause major social and environmental damage and result in net loss to the taxpayers of 70 cents for $1 spent.

Mr. President, in its September 1978 issue, Readers Digest published an article by James Nathan Miller outlining in some detail the process by which this project has grown into the most expensive public works boondoggle in American history. I have already received scores of letters from angry citizens who have read this article and want to know why Congress continues to support such an outrageous waste of their tax dollars. After reading the article, I can well understand why my constituents are angry. I am impressed by the fact that if this project is one of the ones for which the administration did request funds for fiscal year 1979, then the 33 which it opposes must be disasters of unparalleled magnitude.

Mr. President, I ask unanimous consent that the Readers Digest articles "Trickery on the Tenn-Tom" be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

TRICKERY ON THE TENN-TOM

(By James Nathan Miller)

The Tennessee River forms a great U as it flows from the Appalachians to its meeting with the Ohio. (See map, page 140.) When barges heading downriver for the Gulf of Mexico to get to the bottom of the U, less than 500 miles from the Gulf, they must then turn northward and travel another 1117 miles on the Tennessee, Ohio and Mississippi to reach New Orleans.

In 1971, Congress appropriated funds for a shortcut—a 232-mile navigation link connecting the bottom of the U to an old, narrow, winding waterway (which dates back to the early 1900s) on the Tombigbee River. The latter runs for 217 miles until it reaches the Gulf at Mobile Bay. The decision to build this Tennessee-Tombigbee Waterway was controversial for two reasons.

First, to elevate barges over the divide between the valleys of the Tennessee and the Tombigbee requires excavation of a 27-mile-long canyon—a bigger earth-moving job than the digging of the Panama Canal. And even after this "divide cut" has been carved out, another 205 miles of new canals and channels—including ten locks and five dams—would have to be built to reach the old waterway on the Tombigbee.

The second catch: Who will use the new canal? It will run through a piny-backwoods area that has plenty of railroads to serve what little industry the region supports. As for its chances of luring away the big north-south barge traffic that now uses the Mississippi, transportation experts scoff at the idea. South of Cairo, Ill., the Mississippi offers bargemen the most efficient stretch of freight-carrying river in the United States. It has no locks to delay traffic, and the sweeping bends in its 300-foot wide channel permit the passage of up to 45 barges lashed together into a single giant flotilla—the equivalent of a dozen 100-car freight trains—pushed by a single towboat. In contrast, the 200-foot-wide authorized channel on the Tombigbee, into which the new canal would dump its load, is so constricted by locks and knotted by hairpin bends—as well as bridges with less than 150-foot clearance—that the biggest tow it can handle is six barges.

What sold Congress on such a scheme? The chief promoter of the Tenn-Tom (as the waterway is known in the South) is Sen. John C. Stennis (D., Miss.). Not only is Stennis one of the half-dozen most powerful barons of the Senate, but until early this year he was chairman of the subcommittee that oversees the budget of the U.S. Army Corps of Engineers, the nation's canal-building experts. Starting in 1945, the Corps gave the Tenn-Tom its indispensable support with a series of benefit-cost analyses certifying the project as eminently sensible. These analyses gave Tenn-Tom a "b-c ratio" of between 1.08 and 1.24 to 1—that is, the Corps said, the waterway would produce $1.08 to $1.24 in benefits for every $1 in costs. It was on the basis of these ratios that, in 1972 the Corps started digging the Tenn-Tom.

But today the project, still only about 15-percent complete, is involved in a complication that may blow the lid off the whole U.S. pork-barrel program. A group of environmental organizations have joined the Louisville & Nashville Railroad in suing to halt construction of the Tenn-Tom, charging the Corps with economic and political fakery in promoting it. The explosiveness of the suit stems from the nature of its documentation—records from the Corps' own files describing how the agency works with Congress to promote its canal and dam projects.

BACK OF THE ENVELOPE

In 1970, the Corps told Congress the Tenn-Tom would cost $323 million. Only six years later, as construction picked up steam and bids were coming in, the estimate had quadrupled, to $1.36 billion. How had the Corps missed a full $1 billion in its original estimate?

In the Corps' file is a secret study of its estimating methods on the Tenn-Tom, conducted by the U.S. Army Audit Agency (AAA) in 1976. Its basic finding was that the early estimates the Corps gave Congress were essentially back-of-the-envelope calculations—hundreds of millions of dollars' worth of costs whose supporting data consisted solely of unexplained, scribbled notations saying, "Use this figure." For example: In 1973, without explanation, the Corps estimated the cost of one excavating job at 45 cents per cubic yard of earth removed. Two years later, again without explanation, the figure was doubled to 92 cents a yard. The change boosted the cost of this single job from $72 million to $135 million.

Yet when the auditors formally requested the documentation behind this and a large number of other estimates, the Corps' answer included such explanations as: "lost," "apparently destroyed," "not found after an exhaustive search," and "not prepared in a manner which can be readily followed by persons unfamiliar with the calculation methods used."

How did the Corps explain such haphazardness? "The implication of the [AAA] report is that cost estimating is an exact science," wrote the Corps' Maj. Gen. Ernest Graves. "That is not correct."

FICTIONAL BENEFITS

Did the Corps estimate the project's benefits as haphazardly as the costs? Take a look at two of its studies.

In 1945, the Corps collected field data on all shippers who might use the waterway, then estimated who actually would use it, and how much each might save in freight charges. These theoretical savings were then claimed as transportation benefits.

In 1950, when Congressional investigators asked to see the field data, the Corps said it could not supply them. It claimed it had destroyed the analysis sheets for some 7000 potential shipments, and only 154 sheets remained. However, after checking the surviving 154 analyses, the investigators concluded: "If these are a fair sample, it may be unequivocally asserted that most of the 1945 estimate of new tonnage [claimed for the Tenn-Tom] was worthless."

Indeed, it would appear that most of the benefits had been made up out of thin air. For example, the Corps had credited the aluminum industry with a $647,000 saving in the transportation of bauxite. But aluminum-industry officials told the investigators

they had no intention of using the Tenn-Tom. Sugar producers (for whom the Corps claimed $533,000 in benefits) said that "no economic advantage would accrue to the sugar industry if the waterway existed." Similar findings were made for every commodity checked, causing the investigators to scale down the Corps' claimed benefits from $1.13 on the dollar to 27 cents.

In 1975 the Corps, claiming $58 million in annual transportation benefits, hired an outside consulting firm, A. T. Kearney, Inc., of Chicago, to update its field data. Kearney's findings have left outside economists baffled. The company found that most of the previously claimed shipments would actually not move by the Tenn-Tom. But then it discovered $60 million worth of hitherto unclaimed shipments that it said would move by the canal; these shipments allowed the Corps to claim huge, new transportation benefits to offset the enormous cost of the project. Where did Kearney find these shipments? This is impossible to answer, for two reasons.

First, both the Corps and Kearney refused to name the companies they claim will make the shipments. (To do so, they say, might reveal the companies' trade secrets.) Nevertheless, through a bit a detective work, I have identified three specific companies that were claimed: Southern Services (which arranges for coal shipments by Mississippi River barges), the Aluminum Company of America and the Hammermill Paper Company. All three told me emphatically that they have no plans to use the Tenn-Tom.

Second, the main new commodity categories discovered by Kearney are extremely difficult to check. For instance, one (for which $5.8 million annually is claimed) is identified only as "Miscellaneous, Including Undisclosed Traffic." Another (this one worth about $10 million in annual benefits) is coal that Kearney predicts will be exported to Japan through Mobile. But when I asked Kearney for the reasoning behind this prediction, I found the company had made no studies either of future Japanese coal imports or of future U.S. coal production in the region served by the canal.

What, then, *is* the Tenn-Tom's true benefit-cost ratio? Prof. Robert Haveman, a leading authority on water-resource economics, has made a detailed study of all the Corps' documents on the Tenn-Tom, including the Kearney report. His verdict: "I am confident that a proper economic analysis would give the waterway no better than a .30-to-1 b-c ratio"—that is, a *loss* of 70 cents on the dollar.

FOOLING CONGRESS

In February 1975, the Corps' top officers told Congress that their latest estimate of the Tenn-Tom's cost was $815 million. However, Corps documents show that, at the time, their actual estimate was more than $1 billion. Why didn't they give Congress the true figure?

After investigating, the AAA concluded: "Increased costs were not reported in order to reduce the 'emotional impact' of any big cost increase, and to negate the effect the increase would have on the project's benefit-cost ratio."

Is the AAA justified in implying that the Corps' top brass deliberately lied to Congress in giving its $815-million estimate? Here's what the Corps' documents show:

On October 7, 1974—four months before the Corps' testimony—the chief planner at the Corps' Atlanta headquarters wrote a memo reporting that the agency's new estimate had gone over the $1-billion mark and, as a result, "the project could well have some problems in Congress this year." Pointing out that "in regard to benefits we have gone about as far as we can without new field data," he recommended "a new economic re-analysis." Shortly thereafter, the Kearney firm was hired to do its new benefit study.

On December 20, 1974, a senior Corps official recommended that "we hold the federal cost under $1 billion. It has less emotional impact."

On January 6, 1975—seven weeks before the Corps' Congressional statement, while negotiations were in progress with Kearney—an official in the Corps' Atlanta headquarters wrote that the question of what estimate to use for the Tenn-Tom had been discussed with Maj. Gen. John W. Morris, the Corps' Deputy Chief of Engineers: "It was decided that, since we were doing a new economic analysis, we should hold off on the big cost increase until an integrated economic report is completed and submitted. The estimate to be used is $815 million."

When I asked the Corps to comment on the AAA charge that it had deliberately provided a false estimate, the Corps refused—"on the advice of counsel."

THE OLD PORK BARREL

Congress's two main committees responsible for overseeing the Tenn-Tom's progress are the subcommittees on public works of the Senate and House appropriations committees. These subcommittees are made up mainly of legislators devoted to the promotion of dam and canal building. Until recently, their chairmen were Senator Stennis and Rep. Joe L. Evins (D., Tenn.)—both also vice presidents of the Water Resources Congress, a private lobby group for dams and canals. Two documents shed light on how Stennis and Evins regarded their oversight responsibility on the Tenn-Tom:

On February 11, 1976—a week before the Corps was due to reveal to Congress its half-billion-dollar ($815-million to $1.36-billion) cost jump on the Tenn-Tom—Maj. Gen. Carroll N. LeTellier of the Corps met with the senior members of the House subcommittee to discuss the Corps' upcoming testimony. To the subcommittee's chairman, the project's total cost was apparently of no interest. Said a Corps memo:

"Chairman Evins indicated the appropriations hearings will proceed rapidly this year and the only question that will be asked is 'how much money do you want?'" When General LeTellier said the most the Corps could spend effectively on the project during the year would be $155 million, Evins protested that the figure was too low—whereupon, "Under pressure from Chairman Evins, General LeTellier stated that the Corps could probably use in excess of $200 million."

Late last year, Congress's General Accounting Office (GAO) wrote a critique of the Tenn-Tom's benefit-cost analysis that found it to contain gross exaggerations of the waterway's benefits. When Stennis got word of the report, he made a phone call to Elmer B. Staats, head of the GAO. The critical report was killed the next day.

FOR THE FUTURE

What can be done about the whole mess?

Congress should call a temporary halt to the Tenn-Tom's construction until it can definitively determine whether the waterway is worth building. If the answer is "no," Congress should kill the project permanently by de-authorizing it. The $390 million spent so far is only a fraction of what's still to be spent. (Outside experts believe its ultimate cost will be between $2.5 and $3 billion).

President Carter should appoint a blue-ribbon panel of economists to investigate how the data for the Tenn-Tom's benefit-cost analyses were collected, analyzed and communicated. The same panel should also fulfill a promise Carter made in June: to investigate how *all* the big canal-and-dam-building agencies—including the TVA, the Bureau of Reclamation, the Soil Conservation Service—draw up *their* cost-benefit analyses. There is strong evidence that these agencies use the same methods as the Corps.

If the panel finds that the facts of the Tenn-Tom case are typical, Congress should begin debate on a new waterway policy for the nation. For it would seem to be an appalling waste of public funds to continue spending more than $3 billion a year on a river-improvement program whose records are routinely destroyed, whose benefits evaporate under serious examination, and whose costs are figured on the back of an envelope.

Mr. PROXMIRE. Mr. President, I yield the floor.

Mr. ROBERT C. BYRD. Mr. President, I yield back my time and suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

(Mr. PROXMIRE assumed the Chair.)

Mr. DECONCINI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR

Mr. DECONCINI. Mr. President, I ask unanimous consent that Mr. Tim McPike have the privilege of the floor during the equal rights amendment debate and votes.

THE PRESIDING OFFICER. Without objection, it is so ordered.

ABSENCE OF SENATOR EAGLETON ON OFFICIAL BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I wish to announce that the senior Senator from Missouri (Mr. EAGLETON) is absent from the Senate today and will be absent from the Senate tomorrow on official business. Mr. EAGLETON has been appointed to the delegation representing the United States of America to attend the funeral of His Holiness John Paul in Rome.

EXTENDING THE DEADLINE FOR RATIFICATION OF ERA

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of the resolution to extend the deadline for ratification of the equal rights amendment, which the clerk will state.

The assistant legislative clerk read as follows:

Calendar No. 1159, House Joint Resolution 638, extending the deadline for the ratification of the Equal Rights Amendment.

The Senate resumed consideration of the resolution

AMENDMENT NO. 3675

The ACTING PRESIDENT pro tempore (Mr. DECONCINI). Under the previous order, the Senator from Utah (Mr. GARN) is recognized to resume debate on his amendment.

Mr. GARN. Mr. President, I yield 1 minute to the Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, I thank the senior Senator from Utah.

I ask unanimous consent that two members of my staff, Mr. Ron Tammen

and Shirley Snyder, be granted the privilege of the floor during debate on the Scott amendment on the military with respect to ERA.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. PROXMIRE. I congratulate the distinguished Senator from Utah and the Senator from Indiana for one of the best debates I have seen in a long time on the "Today Show" on this issue.

Mr. GARN. I thank the distinguished Senator from the Banking Committee. That will get him no votes on the Banking Committee.

Mr. President, in a moment, I shall yield to the distinguished Senator from Illinois. First, I should like to explain what Senator BAYH and I agreed to.

Under the unanimous-consent agreement, we had agreed that there would be no tabling motions or supplemental, modifying or secondary motions to my amendment. Senator BAYH and Senator BYRD both treated me very fairly in allowing this issue to come before us and have an up-or-down vote.

However, under that unanimous-consent agreement, it is possible to allow a substitute to be offered. Senator STEVENSON, of course, was not a party to the leadership agreement, so he is certainly within his full rights to offer a substitute to my amendment. However, under the unanimous-consent agreement, it would not be possible for him to have any debate, but just a vote at the expiration of time at 11 a.m. Senator BAYH and I felt that that was unfair, even though we could vote with no debate. So we jointly agreed to allow him 10 minutes, equally divided, 5 minutes from Senator BAYH's time, 5 minutes from mine.

I ask unanimous consent that the Senator from Illinois be allotted 10 minutes to discuss his substitute, equally divided.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. STEVENSON. Mr. President, I thank the distinguished Senator from Utah for his understanding and his generosity.

I have two amendments, one of which is amendment No. 3687, which I do not intend to offer.

The amendment I do intend to offer is a substitute, to be voted on just before the Garn amendment at 11 o'clock. It is amendment No. 3691.

These amendments are in substantially the same form.

Mr. President, it would not be prudent for the Congress to suggest that one State, the 38th to ratify an amendment to the Constitution, could alter the organic law of all 50 States, regardless of the opinion of the Nation and regardless of the circumstances which had intervened over a decade after approval of the amendment by the Congress, and, Mr. President, it would not be fair.

In these extraordinary circumstances which are before us, the States should be able to rescind their ratifications during the period of extension, assuming that period of 3 years is approved by the Congress.

So my good friend from Utah seeks earnestly to reconcile the imperatives of equal rights with those of due process and downright commonsense.

I commend him for that and if my own substitute fails, I will vote for his amendment.

Both he and the distinguished Senator from Indiana are authorities on the ratification process for the Constitution and, like all authorities on the Constitution, would, I believe, concede that the decision as to whether rescissions ought to be considered is a determination the Congress can only make at the time of the purported ratification of the amendment.

It is not clear that even then the Congress is accorded by the Constitution power to approve rescissions.

Mr. President, the approval of Senator GARN's amendment would signify congressional approval of rescission. The defeat of his amendment would signal congressional disapproval of rescission. And that is the dilemma the Senate faces today.

The Congress can at this time make neither decision. It cannot bind a future Congress.

If the Supreme Court concedes the Congress a voice on rescission and 38 States do ratify, then the Congress will face the decision no matter what we do today, and only then could the Congress decide with finality whether ratification expresses a contemporaneous opinion or whether rescissions deprive ratification of that effect.

So, Mr. President, the Congress should be neutral on the question of rescission. It should state that it is neutral, otherwise Congress will imply a decision it cannot make and mislead the public.

The amendment I offer states that the Congress expresses no opinion on the validity of a State's action to rescind its ratification. This amendment states the law. It states that. It is the only course the Congress can take without misleading the public.

The legal basis upon which I commend this course to the Senate is open to no serious challenge.

The Congress in the case of the 14th amendment made a decision with respect to this very issue, the acceptance or rejection of rescission, after ratification by the requisite number of States.

The Supreme Court in Coleman against Miller stated that this question is "an open one, one for the consideration of the Congress, when in the presence of certified ratifications by three-fourths of the States, the time arrives for the promulgation of the adoption of the amendment."

Never has the Congress purported to make the decision on rescission before the requisite ratifications have taken place. Such guidance has been provided by the Court in Coleman, and earlier in Dillon against Gloss, indicates it is the responsibility of the Congress to insure that ratification represents a reasonably contemporaneous expression of the will of the people.

Rescissions by State, logically and legally, the "reasonably contemporaneous" determination can be made only by the Congress at the time of purported ratification. Only then can Congress evaluate the reasonableness of the period of time which has elapsed between congressional approval and ratification of the amendment.

Only the Congress then can determine whether efforts to rescind by States are to be taken into account in deciding whether the purported ratification represents a reasonably contemporaneous expression of the will of the people.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. GARN. Mr. President, it was for 10 minutes, 5 minutes equally from each side. We should, under the unanimous-consent agreement, have 5 minutes remaining.

The PRESIDING OFFICER. Does the Senator from Utah yield an additional 5 minutes to the Senator from Illinois?

Mr. GARN. My request was to yield him 10 minutes, 5 minutes to be taken from each side, and that was agreed to. So he should still have 5 minutes.

The PRESIDING OFFICER. I thank the Senator for the clarification.

The Senator from Illinois.

Mr. STEVENSON. I thank the Senator for that clarification.

House Joint Resolution 638 neither prohibits nor encourages rescission. But the amendment offered by Senator GARN, whether adopted or rejected, would be construed as an expression of congressional intent, one way or the other, and a signal to the States. Yet such an expression would not be binding on a future Congress. It would be premature.

This amendment, Mr. President, is preferable. It in no way affects the right of States to rescind if they have that right. Nor does it mislead States as to how rescissions will be received in Congress. Neither does it prejudge the justiciable issue of whether the Congress has any power to consider the effect of purported rescissions after the requisite number of States ratify.

It simply recognizes the facts. It recognizes the law. It recognizes the truth, that the determination as to the validity of rescissions lies with the Congress in the future, if at all.

I thank the Senator once more for his understanding and his generosity.

I yield back the time remaining that he yielded to me.

Mr. GARN. Mr. President, as I stated just a few minutes ago, there is no objection to this process. Senator BAYH and I both agreed to allow Senator STEVENSON to do this. But I think we must recognize that Senator STEVENSON is relying on the same weak precedents and almost nonexistent court decisions that both sides of this extension rely upon.

His amendment is innocuous by itself. It merely says:

> That the Congress expresses no opinion with respect to the effect of the action of a legislature of any State in rescinding its ratification of such article of amendment.

I said yesterday that both these issues, two or three issues, whether it is constitutional to extend by majority vote, whether it is constitutional to rescind, will ultimately be decided by a court.

So, I take no great exception to his saying we take no position, except what I have been trying to say for several weeks, and where I think my distinguished colleague from Illinois misses the point is that if his amendment is successful after all these weeks of work by Senator BAYH and myself, and others on both sides of this issue, we will be denied to even have the opportunity to express our opinions on whether there should be rescission during this extended period of time.

I also would disagree with my distinguished colleague, on the basis that this sets any precedent, in consulting with Prof. Charles Black, the distinguished constitutional scholar from Yale that has been quoted a great deal in this debate.

He feels very strongly that the constitutional right to rescind does exist and does not want Congress to take any position. That is why my amendment was specifically designed not to address itself to previous rescissions that four States have attempted to do. It was not intended to go beyond in any manner or express any sense of the Senate so far as other amendments or future precedents are concerned. It is very strictly and narrowly defined in order to confine it to the extension period.

The rationale for that has been the extension itself rests on just as rocky ground as two-thirds does, as rescission does. The courts will have to determine these particular issues.

However, again looking at fairness, does it make any sense to use all these precedents to extend and then use the same precedents to deny rescission, when there are no precedents on either subject to stretch these very thin precedents as far as you can, and then say that we are not going to attempt to mitigate the problems of extension without making it also fair?

Mr. President, the Stevenson amendment is premised on a novel, and flawed, view of the amending process. This theory would insert a third step into the two-stage ratification process set out in article V of the Constitution. In addition to proposal by Congress and approval by the States, we would have a third step in which the amendment would be sent back to Congress for a final approval or rejection. At this third stage of the amending process, Senators would presumably make speeches on the merits of the amendment itself, just as Senators have addressed themselves to the merits of the ERA in this debate, instead of confining themselves to the complex constitutional issues of extension and rescission.

Perhaps the framers should have adopted such a three-stage amending process. But they did not. They created only the two steps of proposal by Congress and approval by the States. And Congress can no more create a third stage in the amending process than it could vote to have two Presidents, or three houses of Congress.

Just imagine what a circus atmosphere would prevail at this final tally conducted by Congress. We would examine not only the merits of the amendment itself, but also whether we liked the way the rescinding States had gone about their battles and whether they were very important States.

No, Mr. President, if Congress does have the power to say anything at all about the State right to rescind, it is a function of the right to limit our own proposals. That is what my amendment would do: mitigate the unfairness of the extension by reducing the chances that a State that ratified in 1972, in a flurry of enthusiasm—a State that has been trying for 10 years to withdraw its consent—will be counted as part of a fictitious "consensus" in 1982. The Stevenson substitute would defeat the essential purpose of my amendment, and it should be rejected. This Congress, right here, today, is taking a position on extension, and it is this Congress and not some future Congress that has the responsibility to mitigate the unfairness of extension by allowing the debate to continue in all 50 States.

I say again that if this amendment is agreed to, all the agreements and the fairness we have worked out among Senator BAYH, Senator BYRD, myself, and others would be mitigated. We would not have the opportunity to vote up or down on my amendment and accept the results of that up or down vote, win or lose, on either side.

I hope that my colleagues when this vote occurs at 11 o'clock, will defeat the Stevenson substitute.

Mr. BAYH. Mr. President, I will be very happy to yield whatever additional time the Senator from Illinois desires during this debate, realizing the unique parliamentary position that he is in, and I suppose the Senate as a whole is in.

Before doing that, I want to make certain that I do not misrepresent the position of my distinguished friend from Utah, the major proponent of this rescission amendment.

My understanding is this: First, if this rescission is adopted, it is his contention that then every State will have a right to rescind. I assume that is not an oversimplistic statement.

Mr. GARN. No. That is correct. They would not be obligated to consider it.

Mr. BAYH. They would have the right to rescind.

I assume he believes that if that is the case, under the Constitution, according to the way he reads the law—the statutory congressional action and the courts—he believes that within the framework of the Constitution right now, the States do have and can be given the right to rescind.

Mr. GARN. That is my belief and the belief of Prof. Charles Black. However, in every debate I have said that both he and I and others believe that those issues ultimately will have to be decided in the courts.

Mr. BAYH. The Senator has been very fair in that.

I point out before addressing this question to my distinguished friend and colleague and neighbor from Illinois, that I think there the issue is rather clearly drawn; whereas, the Senator from Utah says there is a constitutional basis for rescission and, indeed, he would provide a specific statutory basis which would be supported by the Constitution, which would provide this right to rescind.

The position of the Senator from Illinois—and I do not want to make this interpretation, but I have discussed this with him and listened to his presentation—is that we really cannot decide that right now; that whether or not there is a right to rescind, we do not know whether it is Coleman against Miller or going back as far as Dillon against Gloss; whether it is what Congress has said in response to this particular factual situation of rescission being presented to it; that, that is a decision that cannot be decided by any of us, regardless of how we vote here, whether we accept the amendment of the Senator from Utah or reject it; that the final determination lies with the Members of this body and our colleagues in the House after the requisite 38 States have ratified.

Is that an accurate explanation, although perhaps not as succinct as the Senator's explanation, as to where we are?

Mr. STEVENSON. Mr. President, will the Senator yield?

Mr. BAYH. I am glad to yield to the Senator such time as he may desire.

Mr. STEVENSON. Yes, that is my position.

I go one step further in this amendment, which has been modified from the amendment that I submitted earlier.

This amendment states that Congress is neutral on the question as to whether States have the right in these circumstances to ratify. It goes beyond that, to make Congress neutral on the question as to whether Congress will have any power, after purported ratification by the 38th State, to determine whether rescissions should be considered. It is neutral on both propositions.

The weight of opinion, as the distinguished Senator from Indiana has said, is that Congress—not now, but after ratification by the 38th State—will have to determine whether the ratification process produced a reasonably contemporaneous expression of public opinion. In making that determination, it will consider rescissions or decide not to consider rescissions. But the Supreme Court has not made it clear that Congress will have even that power. All that has been made clear is that Congress today, not now or when it adopts the amendment at the beginning of the ratification process, does not have the power to make any determinations with respect to the right of the States to rescind ratifications.

Both Senators have recognized this.

The Senator from Utah in a statement of September 29 in this Chamber said:

> It is true that the Congress sitting at the time 38 States appear to have ratified will make the judgment on rescission.

My good friend from Indiana in a letter to his colleagues said:

> If a State ratifies and then rescinds, it is up to the Congress sitting at the time the 38 States ratify to determine whether those States are to be counted.

So, I say in this amendment, if that is indeed the case, and I believe it to be the case—though Congress may not even have power then, since it has not been decided by the court—the Congress should not now express a misleading opinion. It will do so if it approves the Garn amendment by implying to the States that they do have the right to rescind; it will do so by defeating the Garn amendment and implying in those circumstances that they do not have the right to rescind.

It is a dilemma for the Members of the Senate either way they vote. Either way the Senate votes the public will be misled, by implying one way that they can rescind and by implying the other way that they cannot rescind.

So, the only straightforward course, it seems to this Senator, is to declare neutrality, as all the authorities and both my friends concede, Congress is neutral at this point. The amendment states the law.

Mr. BAYH. I concur with my good friend from Illinois that I believe his amendment does restate the law as it is right now. Inasmuch as that is the case, I have a real question in my mind as to why is it necessary to add that to an extension amendment that has already passed the House of Representatives and which if it is added to this particular amendment is going to seriously impede the process of extending the time period. We are right on the adjournment period. I am sure the Senator from Illinois is very much aware of the intricacies involved once a change has been made. The opponents to the equal rights amendment as well as to extension in this Chamber have within their rights to press and exercise a wide range of parliamentary tactics, many of which have not been used up until now. We open up the whole parliamentary book once again if there is a change. Inasmuch as we are just restating the law, I ask my friend if maybe he has not accomplished the purpose by putting in the record what he has desired to accomplish without opening up the Pandora's box of parliamentary procedure again.

(Mr. MORGAN assumed the chair.)

Mr. STEVENSON. Mr. President, if the Senator will yield another minute, I think the answer to that is that our speeches, much as we would wish to think they are, are not listened to by the American public. It will be the action today of the Senate that is heard by the American people and by the States that represent them. Unhappily that action would be one of two decisions on the Garn amendment, either of which is misleading to the American public. To approve the Garn amendment will imply what we cannot imply; namely, that they have the right to rescind. To defeat the Garn amendment also will imply what we cannot imply, that they do not have the right to rescind.

So it is to be honest with the American public, not by making speeches and then voting to the contrary, voting for rescission or against rescission after declaring we can do neither, that I offer this amendment.

As for the parliamentary problems, I cannot imagine what they are. I cannot see the need for a conference because it is incredible to this Senator that the other body would not readily accept an amendment of the Senate which simply states the law, and the law as it has been interpreted by both the opponents and the supporters of the ERA.

What, I ask my friend, possible reason could there be for a parliamentary difficulty or obstacle or delay when the proposition is only accepting or rejecting an incontrovertible statement of the law, fact, and truth?

Mr. BAYH. I must say to my friend from Illinois I think what he says as far as the Senator from Indiana is concerned makes a great deal of sense. I must say to him very honestly that our brothers and sisters in the House of Representatives do not share that. They are adamantly opposed to this. I asked them if they would be prepared to accept it so we can get on to this. They are unwilling to do so, which then puts us in that never, never land, that hiatus status, neither one of us want to get into. If indeed it is just a clear restatement of the present law, which I think it is, then I have to say that maybe the response I got from our mutual friend, DON EDWARDS, "If it is so clear why do we need to add to it?" is pretty difficult to rebut, in my judgment.

I say to my friend from Illinois, it seems to me that what the implication of our action is to the States is pretty hard to tell. I do not know what the people out there in those State legislatures are going to interpret by our action here today. It is rather clear—I think it is uncontrovertible—that if the action of the Senate is to support the Garn amendment, there will be no question that then there is a fair interpretation that this is giving to the States the right to rescind because that is what I have said, and that is what the Senator from Utah has said will be the consequence of this.

But, on the other hand, as the major opponent or one of the major opponents of the rescission amendment and one of the major proponents of the extension, I have been as honest and direct with this body that I know how to be and anyone listening to my voice or anyone else's voice who is responsibly debating this on the other side of this issue has to have heard us say that we do not know what the answer to this is, that the proper time to decide is after the necessary three-fourths of the States have ratified. I do not know how anyone could infer from turning down the rescission amendment and passing an extension that we are doing anything other than supporting the Constitution and the law as it is at present.

I read to my good friend, which is not necessary, but once in a while I have to remind myself just exactly what we are doing here and just for at least my edification, if not anyone else's, let me just read what we are talking about passing on Friday if the Garn amendment is turned down.

The article of amendment proposed to the States in such joint resolution, that is House Joint Resolution 208 of the 92d Congress, 2d session, to the contrary, the article of amendment proposed to the States in such joint resolution shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States not later than June 30, 1982.

That does not say anything about rescission. It is the specific identical language of the measure as it was proposed, and it would seem to me that the question of the rescission is very much as it is now and will be after the ratification by the Senate of the extension.

How does the Senator conclude that, if I may ask?

Mr. STEVENSON. Mr. President, if the Senator will yield on his time 1 more minute, the resolution itself is neutral, but it is not the resolution but the amendment of the Senator from Utah that is before us now. That is not neutral. That expresses a policy of the Senate in support of rescission in these circumstances. It is the action of the Senate, after all the debate and no matter what we say on all sides of that issue, that will be heard by the American public and will be listened to in the States.

That action will be one of two actions: It will be either an affirmation of the right to rescind, however incapable we are of approving that right, or it will be the defeat of that affirmation. In that case it will signify to the States that they cannot rescind, however incapable we are of making that decision now.

So this amendment which I offer simply states the truth, that we can make neither decision; it would send no misleading and deceptive message to the States.

As for the other body, if the "brothers and sisters," to whom the Senator referred, were to reject this resolution with an amendment which merely states the truth as they have enunciated it, then they would be accepting a very heavy responsibility. They would be accepting the defeat of their own amendment because they reject the statement by the Senate of their own position, which they have reiterated time and again, namely, that we cannot make a decision one way or the other with respect to rescission now.

I cannot believe that, feeling as they do about the wisdom of extending the time for ratification, they would defeat a resolution to extend that time because it contained a statement of their own policy. I cannot believe they do not still wish to be honest with the States and honest with the American people. If so, why then the responsibility would be theirs and not mine for having offered an honest statement of policy and one which for both supporters and opponents is the only policy which can constitutionally and fairly be expressed by this body.

Mr. BAYH. I must say I find myself with a good deal of sympathy for the recently stated logic of my friends from Illinois about the immediate reaction of our friends and colleagues in the House. However, as one who is charged with the rather sober responsibility of trying to see that the equal rights amendment is pursued on as fair and as equitable a

basis as it can be, and not getting log-jammed in the last minute, I hope the Senator will understand why I have to give more deference to their opinion than to the opinion of the Senator, as much as I would like to support his effort right now.

May I ask the next question, I guess, which should not be now—perhaps now may not be the exact time to ask this question, but while we are at least discussing this I think it is at least relevant. Let me ask my friend from Illinois, the understanding is desired that after we are through here there be nothing written that changes the law as far as what will actually happen relative to the question of rescission; that it will be a matter for determination by the Congress sitting when 38 legislatures have ratified the equal rights amendment.

How can the Senator say, with all his good judgment, that he would prefer, if his amendment is not adopted, to support the Garn position by saying unequivocally you have a right to rescind, over a neutral position with regard to what the implication may be, the neutral position of the extension provision, which is absolutely neutral? It does not say anything about rescission. Yet, the Senator from Illinois is prepared to go along writing a record here that says we will permit rescission.

I find that difficult to weigh on the scales as it comes out with my friend from Illinois being with my friend from Utah instead of with his colleague from Indiana on the final question of rescission.

Mr. STEVENSON. Mr. President, the Senator has posed the dilemma for me. The reason why I offer this amendment is that I do not want to make a choice between two unacceptable options. If I am forced to that choice, I have to accept the less unacceptable, and in these unique circumstances—I emphasize "unique." There is no precedent for a 10-year period in which to ratify, and ratification has never taken more than half that time— I have to conclude that it is less unreasonable to signify rescission than to signify no rescission. Otherwise, we would be stating theoretically that a 38th State, one State, could alter the organic law of all 50 States regardless of the opinion of the Nation in circumstances in which, say, 30 States in that final year have rescinded their ratification.

The last ratification may take place many, many years after the approval of the Congress. We are changing the rules to permit one side more time. If we are going to do that, fairness, not the Constitution but fairness, would require me to signify that in changing it for one side, the other side ought to have some time also in which to seek rescission of ratifications; the reasonably contemporaneous expression of opinion which the Constitution suggests requires no less. If I have to make a choice between two impossible decisions, I will take the one which signifies my own personal feelings about fairness, what the Constitution seems to permit and, perhaps, to require.

I would prefer not to do so. I would prefer not to send either of two signals that we cannot fairly send.

Mr. BAYH. Mr. President, will the Senator yield for a question?

Mr. STEVENSON. Yes, I yield to the Senator from Indiana.

Mr. BAYH. Does the Senator believe that regardless of the outcome—let us assume the worst case result here, let us assume the Senator from Utah wins this debate here, this vote, theoretically by one vote, the vote of my friend from Illinois, so his vote is a deciding factor, a very critical factor here—or let us assume the opposite or assume either, with or without the support of the Senator from Illinois by a one-vote margin we vote to permit rescission or by a one-vote margin we say nothing about rescission, either way.

Does the Senator from Illinois believe that the rescission efforts of the States should stop?

Mr. STEVENSON. I doubt, Mr. President, that the rescission efforts in the States will stop, but certainly if Congress signifies, by defeating the Garn amendment, that there is no right to rescind, those efforts will be impeded, and they will be impeded by a deceptive message from the Congress. I do not have any doubt about that, but I do not think they will stop.

Mr. BAYH. Let me suggest to my friend from Illinois, if I may further interrupt him, that a careful reading of what has actually been happening in the States shows that those States that did rescind were advised by the attorneys general of those States that even if they went ahead and acted, it was going to be null and void, nonconsequential. Yet despite that strong opinion from the leading legal opinion of their States they went ahead and rescinded.

I suggest to my friend—I do not know what is going to happen in the States—if we pass an extension resolution that says nothing about rescission, where the principal sponsors of that reolution are saying that rescission is a matter not to be decided now but by a subsequent Congress, I do not see how the rescission effort is going to be blunted in any way by a neutral action here when it has not been blunted by specific legal advice to the contrary up to now.

Mr. STEVENSON. Well, I suggest to my friend that it is not the State attorneys general who make the final decision as to whether there is or is not a right of rescission. According to the Senator from Indiana, and I quote him:

> If a State ratifies and then rescinds, it is up to Congress, at the time that the 38th State ratifies, to determine whether or not those States are to be counted.

Now, if, as the Senator from Indiana indicates, at the time the 38th State ratifies it is Congress that determines, why we let it be determined ultimately that Congress will approve rescission based on action we take today? Why not simply have no policy?

Mr. BAYH. Let me say to my friend that there has not been a word uttered by the Senator from Indiana that contends that the question of rescission is resolved just by not voting in the affirmative. We have that decision to make a hundred times a year, where someone proposes an amendment that we do not think is a proper amendment, so we vote against it. That does not mean we are taking a position 180 degrees in opposition to the amendment.

But that does not mean either that I am going to persuade the Senator from Illinois to desist from his amending effort, which he has a right to do, or that there is a great inconsistency between an amending effort, on the one hand, and supporting prorescission on the other, which is certainly much less neutral than voting for an extension resolution that says nothing whatever about rescission.

I appreciate the position of the Senator, but it is my very strong position that is what the law already says, and I am reluctant to muddy the parliamentary waters, because all this carefully crafted effort can go right down the drain. So I shall reluctantly oppose the Senator's genuine and sincere effort.

Mr. GARN. Mr. President, I am going to yield in a moment to the distinguished Senator from Mississippi, the Chairman of the Armed Services Committee, but before I do I want to make one quick statement, so that my position is not distorted or misrepresented.

I feel very strongly that the Senator from Illinois makes some very good points. I just want to emphasize that I agree with him on neutrality except on this issue.

I have made no attempt, and I know of no one else who has made any attempt, for a rescission amendment during the constitutional process in the 7-year period set up by Congress. I make no effort to prejudice that period of time, or to go to the future, as to other amendments that may come up.

We are simply dealing with the fact that we have a very unusual procedure that has never been requested before to extend the time on ratification of a constitutional amendment. Because of that, I apply my amendment only to that unusual procedure. Both of them are admittedly unusual. That is the rationalization that they go together, and do not prejudice other actions before or in the future.

I think that Congress, and ultimately the courts, will eventually have to answer the overall question on the process.

Mr. BAYH. Mr. President, if the Senator will yield——

Mr. GARN. Very briefly, because the Senator from Mississippi has been waiting patiently for 40 minutes.

Mr. BAYH. I appreciate the position the Senator is in here, but I do not think it is fair or accurate for the Senator from Utah, in the light of the position of the Senator from Illinois, to regard his amendment as having a neutral effect.

The fact of this amendment is that for the first time in history, if the amendment is agreed to, we are going to be able to say to the States, "You have a right to rescind."

Frankly, I do not know whether they have a right to rescind or not. I have real policy questions as to the issue of "Now you do it, now you don't." I have constitutional questions about that. But I also say that every time this matter has been decided before by the Supreme Court, it was left to Congress to be the final au-

thority. That was not back in the 1800's, it was in 1939, when the Supreme Court made the determination that what Congress had done previously was a sacramentally acceptable mode under the Constitution (Coleman against Miller). And it was reaffirmed in Baker against Carr (1962) and United States against Powell in 1969.

The Senator from Utah is attempting to change that. He can talk all he wants about how this is the first time we have had an extension, and indeed it is, and I can argue that it is still a reasonable time limit, but there is no way of dispelling the fact that this is a positive effort to give the States the right to rescind.

I do not believe any of us can do that. I think it holds out false hopes to the States that want to rescind, and I do not think it is a proper constitutional interpretation.

Mr. GARN. The Senator is correct, that this would give the States the right to rescind during the 3 years, 3 months, and 8 days' extension period.

It is also positive that whether this is a fair extension or not none of us can answer here; but there is also the fact that it is an effort to give a 3 years, 3 months, and 8 days extension and stacking it so that only one side can win.

The Senator is correct; it is not up to either of us to decide whether or not this is a fair extension. I yield 10 minutes to the Senator from Mississippi.

Mr. STENNIS. I thank the Senator from Utah.

Mr. President, I really want to commend all my colleagues who have worked on this matter. They are familiar with the fact that it is a big subject, and it certainly deserves our best efforts.

I commend especially our colleague from Utah (Mr. GARN), who has really drawn this issue sharply, pointedly, definitely, and puts it right up to this body as to how we will vote. I hope we do not follow the suggestion of the Senator from Illinois, but will meet this issue head on.

Mr. President, with all deference to everyone, this proposed amendment to the Constitution has failed. To date it has failed to be adopted by the necessary number of States. That is admitted. There is not enough time in days and months to rally to the cause and get the necessary number of States within the 7 years; so the plea is, as a practical matter, now, leaving aside the constitutional evaluation, what can be done to save the situation?

The proposal is to get up some kind of a plan that will hold steady and keep the votes that the proponents already have. They do not want to lose a single State, and I do not blame anyone for that. So the second proposal is, "Hold fast to those you have, and extend the time under circumstances where you can get more." That is exactly the substance of this proposal.

There is another angle: "Wait a minute; we may not have the votes to pass such a proposal as that by two-thirds majority; well, we don't have to do that, we will just take it with a majority vote."

That is a shortcut and a byroad, but that is what we are asked to accept here, lock, stock, and barrel. I do not personally blame the gentlemen who are reflecting that proposal here, but I point out that it is a dangerous course to follow. We are just flipping up, here, amendments to change this and change that as if it was a small revenue bill, or a small appropriation, more or less treating it like you would a fish and game law or a hunting license requirement, or something of that kind. Let us remember that this is the Constitution of the United States that we are dealing with.

We cannot get away from that fact. The Garn amendment merely proposes that for this proposal, for this equal rights amendment, a certain rule shall apply in view of the situation that we are in, that being that time is almost up and the amendment proposal has failed to be adopted.

Here is a quickie plan. It will apply to the States which have already voted, hold up the few which are yet to pass on it, and witihn 3 years' time maybe they can get enough.

He does not propose to adopt a permanent rule about rescission. That is a broad subject which worries me greatly. I do not know where I would stand right now on a broad, permanent rule on this matter of rescission. But we are not talking about a permanent rule. This is purely limited to this emergency situation now. What are we going to do?

I know there are a lot of political pressures and political questions involved here. That is all right. I hope every proposal to amend the Constitution will always attract a lot of interest. But let us be careful in what we do here. The only rule of care, if we are going to pass this proposal at all, is to limit the matter to an equal balance of fairness.

Whoever heard reconsidering a matter and not letting any Senator vote who has already voted for a bill, but, nevertheless, we want to reconsider the vote and work on those who voted against our position, putting the matter up to them. It is to hold what we have, add what we can, and we might pass the matter.

I am repeating this point about amending the Constitution, amending article V, which sets out all these provisions, which clearly has the two-thirds rule as part of the Constitution so far as amendments are concerned. That is so as much as the preamble to the Declaration of Independence and the Constitution itself.

"Maybe it will not serve all purposes now, but, if we cannot get the proposal through in 7 years, give us a longer time." Seven years is a long time by most standards. I think perhaps we ought to adopt a rule or try to get an agreement on a rule which would not extend it for over 3 years. However, that is not before us at this time. The question is, what are we going to do with this matter, this baby that is already part born? What are we going to do to bridge that situation?

The Garn amendment assumes, more or less, that the resolution is going to pass, but merely provides that as to this case there shall be the power to rescind.

We are submitting it to a different group of people. We are submitting it under conditions which may be more favorable than heretofore for its passage. My goodness alive, let us not create the precedent of extending the time for some States but denying any kind of action in the same breath for the other States. All States ought to have the right to pass on this second submitted proposed amendment.

I believe that is the main point of my argument. Regardless of how Senators vote on the amendment on its merits, or did vote on its merits when originally submitted, regardless of whether Senators are going to vote for or against an extension of time for 3 years, by all means let us get together and safeguard the processes of amending the Constitution so far as this proposal on equal rights is concerned, going on down the road neither turning to the left nor to the right so far as handling this amendment is concerned.

We have much talent in this field among our membership. If we want a permanent rule with reference to the adoption of amendments, that is another matter and they can bring in a proposal in that field if they so wish.

It causes me to think that, in these days of so-called added enlightenment, and certainly with the rapidity of communication, we ought not to be talking about 7 years for any proposal, much less adding 3 years to that. We ought to try to adopt some kind of a rule with reference to the time that we allow. We ought to clarify the law about this rescission.

It would make me feel good if the Senator from Indiana would listen to what I am saying.

Mr. BAYH. I have been listening to what my good friend has to say. He is very eloquent, but I do not find him persuasive. I have been listening to him.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. GARN. Mr. President, I yield an additional 2 minutes to the Senator from Mississippi.

Mr. STENNIS. Mr. President, I do not believe the point made here can be refuted in logic and in commonsense. It is that kind of consideration that we must adopt when it comes to the matter of amending the Constitution of the United States.

I marvel at all the winds of change we have had for 200 years. The Constitution has been preserved and has been protected largely from rash or ill-considered amendments of any kind dumped into all of this change. But now when we have so many groups which are organizing nationwide, putting in their claims for specific changes, laws, whatever the subject may be, concentrating with all the power of publicity, communications and money legitimately spent, that it leaves the hundred people who comprise this body, together with all the other matters which are poured in here for us to consider, almost at the personal mercy of these various groups.

When I say matters we already have, I am not talking idly. I know of one appropriation bill this year, which will be on the floor in a few days, which has 3,300 different line items in it. That is

three thousand three hundred line items which we will have to consider.

Let us move along and pass the Garn amendment. I hope the Stevenson amendment, in this case, will not receive enough support and we can get to the very innards of this matter on the Garn amendment.

Mr. President, I did not vote for House Joint Resolution 208 which was adopted in 1972 and originally submitted the so-called equal rights amendment to the States for ratification or rejection. I do not intend to vote for House Joint Resolution 638 which would extend the time which the States would have for the ratification of ERA.

House Joint Resolution 638, in my considered judgment, involves much more than the merits of ERA and its extension. It involves serious and basic questions of constitutional law. When we deal with changes in our Constitution we should exercise great care to act in a manner which insures the constitutional integrity of our action. We should not charge off into unchartered waters without first carefully considering the consequences of our action.

With this in mind, I want to discuss a serious and basic question of constitutional significance and importance which I think we must face and answer satisfactorily if our action on House Joint resolution 638 is to be free from inherent questions of illegality. This is a matter of such substance that I believe it should be considered carefully by each Member of this body.

The Constitution of the United States is a compact or agreement by and between the people of the Nation. It is the final authority, the supreme law of the land. Article V of the Constitution establishes the procedure for the adoption of an amendment to the Constitution. The portion of it which is material to this discussion provides in no uncertain terms that:

> The Congress, whenever two-thirds of both Houses shall deem it necessary, shall propose amendments to this Constitution . . . which . . . shall be valid to all intents and purposes, as part of this Constitution, when ratified by the legislatures of three-fourths of the states, or by conventions in three-fourths thereof, as the one or the other mode of ratification may be proposed by the Congress.

A threshold question is whether or not this language permits a State which has ratified an amendment to rescind its act of ratification. An even more narrow question is whether an extension of the time period available for ratification by the States would empower ratifying States to rescind during the period of extension. This is the first issue I desire to discuss.

What is the history of this amendment? It was submitted to the States more than 6 years ago with a 7-year deadline for ratification. Thirty States ratified the amendment during the first year. Since that time five additional States have acted favorably on the amendment and four States—Idaho, Nebraska, Tennessee, and Kentucky—have attempted to rescind their acts of ratification. It does not do any violence to the realities of the situation to assume that additional States might have voted to rescind if they had not been faced with the position of the Department of Justice that such attempted rescissions were ineffective. The original 7-year period for ratification will expire on March 22 of next year.

I believe, Mr. President, that under the clear language of article V, States have a right to rescind their acts of ratification. Ratification should not be any more final than rejection. If we allow a State which has rejected the amendment to change its mind and ratify it, there is no practical or legal argument which could or should deny the reversal of a prior ratification. Certainly a truer picture of the public opinion at the final date of ratification would result if reversal is permitted.

Our distinguished former colleague, Senator Sam Ervin, of North Carolina, who is also a former Justice of the Supreme Court of North Carolina and a recognized authority on constitutional law, addressed himself to this question in a recent analysis of ERA extension.

He said:

> The only reasonable interpretation of Article V of the Constitution, which governs the amendatory process, is that it authorizes a state which has rejected a proposed amendment to change its mind and vote to ratify the same and permits a state which has ratified a proposed amendment to change its mind and rescind or withdraw its ratification at any time before three-fourths of the states have voted to ratify the proposed amendment and thus made it a part of the Constitution. This view rejects the unfair and illogical claim of the advocates of ERA and permits the states to continue the search for truth until the amendatory process is consummated. And this is so rgeardless of whether the resultant questions are political questions for Congress or judicial questions for the courts.

I agree with Senator Ervin completely. I believe that a retroactive change in the time schedule set by Congress for the approval of an amendment by the States because the original period set did not produce the desired result offends both the letter and the spirit of the Constitution. This is particularly true if we extend this time without also giving the States which have already acted affirmatively the right to rescind their actions. It does not comport with equity or basic fair play that one side—the States which have not approved the amendment—should be allowed to change positions while the other—the ratifying States—should be denied this right.

Let us remember that the States have already had over 6 years to act on this amendment. That itself tells us that there is a serious question about it in the minds of the public. The average time for the ratification of other amendments that have been adopted was under 2 years. As a matter of fact, all previously approved amendments were ratified in less than 2 years with the exception of one that took 3 years and 6 months and one that took 3 years and 11 months.

The Supreme Court has held in *Dillon* v. *Gloss*, 256 U.S. 368 (1921), that in order for a constitutional amendment to be validly adopted there must be a submission of the proposed amendment to the States followed by ratifications "sufficiently contemporaneous * * * to reflect the will of the people in all sections at relatively the same period." Submission and contemporaneous approval is what is required. Nothing more and nothing less will satisfy the requirements of the constitutional process. This is why the one-way extension now before us is not only unfair but is of very questionable legality.

If we are going to change the rules by which the ratification process is to be conducted, it seems to me that it would be grossly unfair to pass a resolution which extends the period for ratification but does not give those States which have previously acted the right to rescind. To provide an extended period for ratification but not for rescission suggests, in my opinion, political expediency. It would seem to say that the Congress has decided to get this amendment ratified by whatever means are necessary and available.

Let us remember that this extension resolution as now written does not really extend the national debate on whether this amendment should be adopted. It allows only the States which have not approved or have rejected the equal rights amendment to participate in the continuing debate. Those States which have voted to approve the amendment are excluded from this debate because they are powerless to take any further action with regard to the amendment.

I believe that States have the inherent right to rescind their ratifications. However, the Department of Justice has ruled otherwise. Under these circumstances, it is most advisable that the Congress specifically authorize the ratifying States to rescind their ratifications during the extension period which is provided. That is why I strongly support the amendment which would accomplish this.

I say again that, if the time period for the ratification of ERA is to be extended at the 11th hour, then certainly those States which have already ratified should be given the right to reconsider and, if they wish, to rescind their acts of ratification. This, I believe, is in harmony with the spirit of the Constitution. It is in harmony with the concept that there be contemporaneous ratification. It is in harmony with the simple principles of justice and fair play.

Mr. GARN. I thank my distinguished colleague from Mississippi.

Mr. President, I believe it is necessary at this point to clear up a few things for the record.

Yesterday, as I sat here in the Chamber, I saw all kinds of precedents proclaimed for what we were doing, justifications. I said that what we got down to was really a basic element of fairness. I said it many times, that we were taking a very unusual and unprecedented step in extending. It is also unusual to apply rescission. Both of them are unusual. They will be decided by the courts.

If my colleagues and proponents on the other side would simply admit that, "We are for ERA and, therefore, this is why we want this process," rather than trying to cover the issue with most unbelievable reaching out for precedents—

talk about thin ice, not the opinions of the Senator from Utah, but constitutional scholars—the precedents are extremely thin.

Frankly, there have been several myths going around about the history and interpretation of article V. The first is one called Madison's principle. I have discussed this with some constitutional law scholars and they agree that no one had heard of the principle until a few months ago when the Assistant Attorney General of the United States unearthed a letter from James Madison to Alexander Hamilton, took it entirely out of context, misstated its conclusion, and elevated the remains into a sacred precedent.

What really happened was that New York was considering the adoption of the original Constitution. Some members of the New York legislature were concerned that the document contained no bill of rights, and they wanted to ratify the Constitution with the condition or proviso that a bill of rights be ratified by the other States. Madison replied that such a conditional ratification would not be enough to make New York a member of the Union. That is all that happened.

They wanted to apply a condition to it. That is like a State in ratification saying, "No, we will only ratify if we are given an extra Senator, or only ratify if the time is concluded in 3 years."

I do not think anybody disagrees; you cannot place a condition on it. That is all Madison said. That is all that happened, what really happened.

Several points need to be made about Madison's letter: First, it did not even purport to interpret article V, the provision for constitutional amendments which we have talked about so much. Indeed, article V had not even been adopted.

Indeed, the Constitution had not even been adopted. So we take a letter from one man to another, from Madison to Hamilton, before a Constitution has been adopted. Somehow, we stretch that to prove a point that rescinding is not allowed. It is incredible that we can stretch a letter that far.

I hope, with regard to the letter that I have from Professor Black 200 years from now, somebody is not going to haul it out, using that as some unusual precedent.

The New York legislature was discussing the ratification of the Constitution itself, not of any amendment to it. Senator BAYH has suggested that what Madison thought about the adoption of the Constitution must have been the same as what he thought about the ratification of amendments. But that suggestion cannot stand in the face of the clear action of the Framers when they wrote two different articles for the two different procedures—article V for amendments to the Constitution, and article VII for the adoption of the Constitution itself by the 13 original States. The two articles contain entirely different formulas and procedures, because they involve two entirely different situations. So even if Madison really had said that the States could not rescind, it would have had no bearing on article V, which is the only question before us today.

But even assuming for the sake of argument that Madison was talking about constitutional amendments, a close examination of his words tends to support the State right to rescind. What Madison said was that a conditional ratification is no ratification.

> A reservation of a right to withdraw if amendments be not decided on . . . is a conditional ratification, that . . . does not make N. York a member of the New Union, and consequently . . . she could not be received on that plan. Compacts must be reciprocal, this principle would not in such a case be preserved.

That is what Madison said. How we can interpret it beyond what he said, I really do not know.

Let me move to another one of the myths. The second myth concerns the so-called historic precedent of the 14th amendment. I think it is important to review what actually happened on that day in 1868 to show how weak a precedent it really is.

We have heard a great deal about Ohio and New Jersey, how Congress refused to accept their rescission. There is no question about that; they did. The Senate held no debate on it, passed it by a voice vote. The House had no hearings, no debate, about 1 or 2 minutes on the floor, and rejected them. There is no doubt that they did reject, but it is academic, because Georgia, that very day, became the 28th State to ratify. So it is academic, because no one has ever submitted that rescissions were applicable after a constitutional three-fourths of the States had agreed to an amendment.

I do not see any great precedent. Congress at that time, a reconstruction Congress, the same one that wanted to impeach Andrew Johnson, trying to force him to obey unconstitutional orders, said those two were not going to be accepted, but it did not make any difference. It would not now, after 38 States ratify ERA. No one is contending that Congress should accept rescissions at that time.

The third myth concerns the case of Dillon against Gloss. Contrary to what has been asserted, this case did not recognize any right in Congress to extend a ratification deadline. Dillon merely stated the obvious: That Congress has the power to limit its own proposals, by imposing a reasonable time limit in the first place.

Dillon did not hold that Congress could come back, after 35 States had voted on its original proposal, and change that proposal without giving the States a chance to indicate whether they liked the change.

Again, they said we can limit our proposals, but they certainly did not say, I think, by limitation, we can take what is said and stretch it by this point to bring that old case in and say they meant something other than we have proposed in the first place.

On the contrary, Dillon affirmed the concept that a contemporaneous consensus was needed for ratification. I do not think there is any disagreement on that. We disagree about how long a period it should be.

As such, the only importance this case has to the present debate is to underscore the right of each State to rescind the ratification, especially if the period extended beyond the original 7 years. I repeat. I have never considered, even in my head, that I should try to put in a rescission amendment during this 7-year period, trying to give the States a right to rescind. The only thing that prompted me was the unusual step of asking for an extension; that prompted my rescission amendment.

The fourth myth is that the whole amending process is a "political question" so that Congress can do anything it wants, constitutional or unconstitutional, and be immune to review by the courts.

I have said, over and over again, that I think the courts will review all of our action.

The only case even suggesting that Congress's decisions on constitutional amendments will not be reviewed by the courts is Coleman against Miller, a 1939 decision which has been quoted on both sides of the aisle in favor of extending without rescission.

Coleman has been widely criticized, and has probably been implicitly overruled by much later and more reasoned Supreme Court decisions.

Powell against McCormack is perhaps the strongest case. Adam Clayton Powell had been denied his seat in the House, and he sued the Speaker of the House and won, despite the notion that this was a "political question" on which the House could do anything it wanted and be immune to judicial review.

The Supreme Court reviewed the Speaker's rulings on the House rules, including his ruling that Powell could be excluded without a two-thirds vote.

If the Court will rule on the constitutionality of an internal House matter, can it be seriously argued that the Court will close its eyes while Congress tampers with the very structure of the Constitution, and say that this is merely a political question, to be decided by Congress, when we know very well that both Houses, are to be allowed to pass judgment on their own membership? But they did interfere, and they overruled the House of Representatives.

I think it is unfair to continue citing Coleman as if it were a respected and undisturbed precedent.

I am happy to yield.

Mr. BAYH. I do not want to interrupt the very articulate presentation of my friend from Utah. I have sat here very patiently and listened to him present his case very forcefully and have resisted the temptation to make what I feel to be strong rebuttals that can be made.

When my friend cites the Powell case supporting his contention about Coleman, I suggest that he go back and see what the Court actually said about Coleman. The Court actually held in Powell that Coleman was a distinct case from that and should not be considered; that the right of Congress under Coleman to make that kind of political decision was distinct and separate from the decision made on Powell.

So in 1969, the Court was holding that Coleman is still good law.

Mr. GARN. On this question, I do not think so. I believe Powell merely cited Coleman.

Mr. BAYH. I ask my friend to look at it.

Mr. GARN. It was cited from another point. There was no discussion on this. Can the Senator cite anything from Powell? I doubt that he can.

Mr. BAYH. I can tell exactly what Powell said relative to Coleman. If we are going to use Powell to try to prove Coleman, we had better look at what the Court said in Powell, and Powell, quoting Coleman, said Coleman is to be distinguished from Powell. It is not the same as Powell. In other words, Coleman is still good law applicable to that situation, which is the kind of situation we have here, not a question of whether the House can deny one of its Members his seat.

Mr. GARN. In other words, Powell is separate from Coleman.

I say to the Senator, even if we are stretching it, good heavens, if he can stretch a letter from Madison to Alexander Hamilton, we can place some interpretations on Coleman and Powell, too.

Mr. President, I should like to speak for a moment about this charge that acceptance of a rescission amendment would somehow kill the ERA, that my amendment is a "killer amendment."

Mr. President, that is a truly devastating admission that proponents of ERA are making.

They are saying, Mr. President, that the ERA has so little support in the States that to permit rescission is the same as killing it. They are saying that we cannot trust the legislatures of the 35 States that have already ratified. That the only way the ERA can become a part of the Constitution is to rig the rules, so that decisions can be made in only one direction.

This argument was effective in the House of Representatives. "Do not adopt rescission," proponents of House Joint Resolution 638 said, "because if you do, we will pull the bill off, and you will have killed it." Now that is a fine approach. But it worked. The House rejected rescission.

And what happens now? The Senator from Michigan stands on the floor of the Senate, and he tells us not to adopt rescission because it would require a conference with the House, and there is not time.

Well, we talk about a contemporaneous consensus. It seems to me that when we talk about that principle, and everybody has talked about it, are we afraid of the outcome? Are we unwilling to trust the States? Are we telling them simply that we will lock it up one side and not allow the other?

That is exactly what we are doing. That is what this exercise is all about. It is to stack the rules, as I have encountered over and over again, the very liberal newspapers in favor of ERA who pleaded with us, "Don't stack the rules, don't make the same mistake the House of Representatives did."

That is the bottom line. That is what this is all about.

It is just incredible that we can even consider an undemocratic, unfair way of doing things, particularly when the discussion is equal rights for women, that we are denying equal rights to men and women in 35 States, saying that "because your legislature may be entirely different people than, undoubtedly, it was years ago, now simply cannot be heard again, that we are going to allow the debate to only continue in 15 States."

Mr. President, I am happy to yield at this time to Senator GOLDWATER for 3 minutes.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. GOLDWATER. I thank my friend from Utah.

Mr. President, I rise to support the amendment offered by my friend from Utah (Mr. GARN).

The idea of allowing an extension period for the ratification of a proposed constitutional amendment which the people will not have approved after 7 long years is bad enough. But to give any State which has not ratified the ERA an additional 39 months to vote for it, while at the same time denying any State the right to rescind, is a constitutional disgrace.

Mr. President, the ERA has already been given more time for consideration by the people than any amendment that has become a part of the Constitution. Not one of the 26 amendments to the Constitution has taken more than 4 years to be ratified.

Extending the time limit for the ERA will shatter all past history of our Republic.

And if we fail to allow the States to withdraw their prior approval, we will speak with a crooked tongue. Just 5 years ago, in July of 1973, the Senate approved a bill providing that any State may rescind its ratification of a proposed amendment by the same process by which it ratified the proposal, until there were valid ratifications by the required three-fourths of the States.

This language was contained in S. 1272 of the 93d Congress and we passed the bill without a single dissent. The Garn amendment would merely reaffirm the latest word of the Senate on the subject.

Mr. President, more than 20 States, which have ratified the ERA, expressly mentioned the time limit in their ratification documents. They consciously recognized the 7-year time limit as being one of the terms of their ratification agreements.

What they had before them was a proposal that clearly said it must be ratified by three-fourths of the States "within 7 years" in order to be valid. At the very least, these States should be given an opportunity to prove whether or not they considered the 7-year time limit as an indispensible condition of their ratifications.

Mr. President, I am not today addressing the issue of whether any of the four States, Idaho, Nebraska, Tennessee, and Kentucky, which have already rescinded their prior ratification of the ERA, have a power to do so. I personally believe they do, but that is not the matter now before the Senate.

To regard a State's ratification as conclusive when made within the originally-provided 7-year period is one thing. To treat it as conclusive after Congress extends the period is an arbitrary invasion of States rights.

If we pass the ERA time extension without providing for any right of rescission, the American people will view our action as a steamroller tactic, an attempt to amend the Constitution by whatever means are expedient.

Mr. President, this is no way to amend the Constitution. It is completely unfair to provide for a one-sided time extension in which States are only allowed to approve, but not reject, the proposed amendment. I urge my colleagues to approve the Garn amendment so that we can restore a sense of decency to the legislation.

Mr. President, I yield the floor.

Mr. GARN. Mr. President, I yield the floor at this time.

Mr. BAYH. Mr. President, I yield to the distinguished Senator from Montana for 10 minutes.

The PRESIDING OFFICER. The Senator from Montana.

Mr. PAUL G. HATFIELD. I thank the Senator from Indiana.

Mr. President, shortly all of us will cast our votes on the proposal of the Senator from Utah (Mr. GARN) to introduce "fair play" in to the equal rights amendment ratification process by amending the joint resolution extending the period of ratification to permit States which have already submitted certificates of ratification to rescind them.

Thus far, we have wrangled for hours with available precedents, legislative and judicial, in what everyone recognizes to be a case of constitutional first impression. Let us make no pretense of what we are about. Proponents of the extension resolution—myself included—want to see the equal rights amendment become the supreme law of the land on the question of sexual discrimination. Likewise, opponents want to see the amendment fail and are using every available means to that end. Our various motives should be examined, rather than merely questioned, and I shall have more to say on that at a later time. This is clearly, a political question and process for which no apology need be made, for both are within the province of this Congress under the express terms of article V.

We must, however, look beyond the moment to consider the ultimate consequences of our actions on the continuing fate of the amendment in particular and the amending process in general; our oaths, more than our offices demand it.

The debate taken thus far has made one thing remarkably clear: In the matter of State power to reconsider and rescind prior ratification, this amendment—to be made in rather than outside the course of the proposing process—takes us into virgin constitutional territory.

Let me put the issues, as I see them, raised by this amendment:

First, was House Joint Resolution 208, which established the initial ratification period, a substantive compact or a procedural framework? Is it so absolute in

its terms that any modification can be said to be a novation, so that the process begins anew, or a "subsidiary matter of detail" admitting of extension on a congressional finding of "reasonableness"?

Second, does a State's power of reconsideration and rescission exist independent of congressionally prescribed terms of ratification; that is, do the silence of article V and the force of general reservations of powers to the States and the people permit such an interpretation?

Or, on the other hand, do the express grants of article V to the Congress to make the determination as to whether or not a reasonably contemporaneous consensus has been reached demand that this amendment be rejected?

Third, can any expression made by this Congress on such power bind our successors who must necessarily adjudicate the question upon ostensible ratification?

Fourth, on balance, would a general congressional validation of the principle of rescission, made in the context of a specific amendment, serve as a wise and durable constitutional precedent for the future?

Fifth, will whatever action we take as a Congress on this question be subject to judicial review?

The first thing that all the precedents I have consulted tell me that nothing we do today, tomorrow, or Friday will seal immediately the fate of the rescission issue. If we do nothing, review of certificates of ratification—and resolutions of subsequent rescission—will begin in the 96th Congress. If, as I believe we must, we find that the substance of the equal rights amendment is politically, socially, and economically alive and a reasonable extension of time for ratification will not offend the principle of reasonableness nor the opportunity for the expression of a contemporaneous concensus by the States, we will pass the resolution and the review will begin in the 98th Congress. In either case, the question of a State's subsequent withdrawal of prior ratification will arise again but in earnest, since four States have already attempted just that.

The question must be asked, What ultimate effect would the addition of the Senator from Utah's amendment have upon that review? Article V, House Joint Resolution 208 and the resolution before us say no more about any State's "right" to vitiate a prior rejection by ratification than a "right" to nullify a prior ratification by rescission. If the latter can be found to exist constitutionally independent of conditions of ratification, can its mere recitation in the context of this amendment bolster it? More seriously, if the "right" to rescind is indeed a condition of ratification within the sole power of Congress as a "subsidiary matter of detail" to be prescribed by resolution, will its inclusion in House Joint Resolution 638 in any way resolve or even uncomplicate the review undertaken by the 98th Congress, since it must go forward upon apparent ratification by the 38th State regardless of subsequent rescissions? In short, would either of those bodies be irretrievably bound by our actions? In light of all that has been and will be said on the subject, to ask these questions is to answer them.

Extension of the period of ratification itself is the core issue upon which constitutional challenge will, and must, rest in this case. No one can argue that it has been held clearly constitutional for Congress to fix an initial reasonable period for ratification. Seven years on the 18th amendment is reasonable and 13 at the finish on the child labor amendment proposal was not unreasonable, that much is clear. Whether Congress can do what we propose, by the means we propose, is the matrix of the matter; corollary questions, in the nature of findings and their probity, will contribute to ultimate resolution.

Mr. President, all of this is to say that my friend's amendment to this resolution of extension should be rejected, for the simple reason that it is, for constitutional purposes, irrelevant. We are divided on the question of whether extension is constitutionally permitted. If the view is taken that the States' power to rescind prior ratifications exists independent of Congress article V powers, either express or implied, this amendment adds nothing of substance. If the view is taken that even as a "matter of subsidiary detail" the initial ratification period, once fixed, binds all parties to the amending process, the "contract" expires at the close of that "reasonable" period, extension thus being no more than a unilateral offer by Congress to change conditions of performance. If that is the case, then Congress will have done nothing; an amendment expressing the sense of this body as to the merits of rescission in a proposed nullity would be worth even less. If, on the other hand, as the weight of history and precedents seems to indicate, we can extend the ratification period on an appropriate finding of reasonableness and changed circumstances, the amendment will not hasten review of the rescission question before 1982.

As Dean Griswold has stated, there are only five people on this Earth who can say for certain whether the issue of extending the time for ratification of a proposed constitutional amendment already *in vivo* is a "political question" susceptible of judicial review. None of us knows whether Coleman against Miller or Powell against McCormack is the last word on the subject. That review will occur, if at all, not earlier than March 22, 1979. If it is reviewable at all, it must be ripe, and that will simply not happen until the apparent 38th certificate of ratification has been received. The traditional method of counting those certificates will proceed, 35 having been received. Were I in the position of supporting the general principle of rescission, as raised in the context of this amendment, I would want that day to arrive sooner, rather than later.

Mr. President, the controversy over Congress' power to extend the period of ratification is an honest one. The past is our only guide and we are in unfamiliar territory. We must simply decide whether we can do it by finding a constitutional basis for it. I believe that such a basis exists and will address myself to it at an appropriate time. As to the issue of rescission: if it has independent merit as a component of the ratification process, this is the place to make that decision but, I submit, hardly the time.

I believe that the time has come for an honest and vigorous joining of the battle. If any of my colleagues believe that the Constitution is ill-served by not permitting States to withdraw prior ratifications of proposed amendments through a given "reasonable" time, then this period must be allowed to expire and the question of subsequent rescissions litigated immediately, should three more States ostensibly ratify this amendment before the period expires. Failing that, the issue of whether legislation to permit rescission in general in any future proposed amendment should be in the form of statute or constitutional amendment could be taken up.

Hard cases make bad law. This is such a case. If fairness is in truth the paramount concern, those who advocate rescission must array history, equity and logic in a manner which will defeat House Joint Resolution 638, not dress up a political wolf in constitutional sheep's clothing. I believe we have a definite responsibility either to demonstrate a sound basis for extending the time limit for ratification, guided by constitutional principles developed in analogous circumstances, or, by force of reason, to show those principles not only inapplicable but also wanting. In the hours ahead, I intend to try to show why the equal rights amendment is alive and worthy of further consideration by the States. I ask my worthy opponents to make the same effort in their cause. Whether States can validly withdraw prior ratifications of the equal rights amendment is not given to us to decide; nothing we say or do today can change that.

The PRESIDING OFFICER. Who yields time?

Mr. BAYH. Mr. President, I yield 12 minutes to the distinguished Senator from Arkansas.

Mr. HODGES. Mr. President, the debate and votes on House Joint Resolution 638 are historic, dealing with issues never before the subject of legislation in the Congress; namely, extension of a previously legislated deadline for consideration of a constitutional amendment and, second, whether to allow States to rescind previous ratification of the amendment.

Certain legal principles are well established. The Constitution of the United States, in article V, gives the Congress the power to propose amendments and to determine the mode of ratification. The Supreme Court has additionally determined that Congress has the implied power under article V to impose a time limitation on the ratification process. *C. F. Dillon* v. *Gloss*, 256 U.S. 368 (1921) and *Coleman* v. *Miller*, 307 U.S. 433 (1939). The only limit placed upon the Congress is that ratification must occur within "a reasonable time" after the amendment is proposed. The Supreme Court in those cases clearly in-

dicated that it is up to the Congress, not the courts, to determine the length of a reasonable time. In determining a reasonable time for ratification, the Supreme Court has laid down certain objective guidelines which must be considered by the Congress. And, so deciding, Congress should not look to the merits of the equal rights amendment. The merits are to be decided by the States. The principal guideline to be followed by Congress is whether the issue under consideration remains vital and sufficiently contemporaneous so that debate and legislative consideration should be allowed to continue or whether the proposed amendment has become a dormant issue which can no longer respond to the needs and objectives which generated its initial proposal. In looking at whether the time period is reasonable, the basic question to be decided is one of continued vitality of the issue.

The intensity of feeling on both sides of this issue, the volume of mail, and recent polls indicate that this is a very much alive and contemporaneous issue. Thus, the basic criteria is met with regard to any test under Supreme Court precedent.

What then of States that have attempted to rescind? The problem has arisen in the past, the issue being decided when the requisite number of States have ratified an amendment to the U.S. Constitution, regardless of whether some later rescinded. The Supreme Court clearly has held that it is a matter for determination by the Congress as to whether or not a rescission should be allowed. In no case previous to this time has rescission been allowed. There are very good and persuasive policy reasons for not allowing rescission once a State has ratified, the most basic being that of James Madison who stated that the one responsibility of a State under the Constitution with respect to a constitutional amendment is to ratify it, and upon ratification the State loses all right and control then over its relationship to the amendment.

This still leaves open the question of the legality or propriety of allowing rescission during an extension, either of which is unprecedented. The logic of previous decisions would indicate that the Supreme Court would hold that these are legislative questions, both whether to grant an extension and whether to allow a rescission during that extended period of time. Therefore, with no clear and compelling legal precedent, the issue becomes a policy determination by the Congress.

In this U.S. Senate on March 22, 1972, the equal rights amendment, House Joint Resolution 208, passed this body by the overwhelming margin of 84 to 8. The amendment was very quickly ratified by a substantial number of States. What has happened in the interim? Why has an issue that passed both Houses of Congress so easily in 1972, and easily and rapidly passed a majority of the State legislatures, become so emotionally laden, volatile, and intensely personal?

In part this has to do with the times in which we live, and the erosion of faith in our institutions. The Vietnam war raised substantial questions about our military institution and an erosion of faith in it. Watergate had similar results in terms of our political establishment. Rampant inflation has aroused similar questions with respect to our economic institutions. Even so, an overwhelming majority of Americans are enjoying unequaled opportunity and material prosperity. We have far more materially, but are enjoying it less. What has set in is an era of profound disillusionment in what heretofore constituted basic institutions, as well as a sense of frustration and anger. Increasing domination of our lives by the governmental bureaucracy, at the local, county, State, and national levels, has intensified these feelings of frustration and goallessness.

There are those who have made millions of dollars exploiting our feelings of helplessness, anger, frustration, loss of faith, the failure of materialism to provide for our deeper personal needs. This exploitation takes the form of hate mongering, demagoguery, and the distortion of the facts. This is not to say there are not issues on which people genuinely will differ, nor that people of good faith and intention are not on both sides. What I speak of is intentionally fueling emotions by distorting facts and preying on uncertainties that I have mentioned before, that I see so clearly at work now on the ERA issue.

Let me give two quick examples of what I mean. First is the rumor which has circulated in Arkansas that if ERA passes parents will have to give their children up at age 3, to be put in "State run" day schools where they will be taught homosexuality. The second is a mimeographed petition which I have received a number of, which reads in part: "The equal rights amendment, as interpreted by the radical feminist (NOW and IWY) and by outstanding constitutional lawyers (Yale and University of Chicago law schools)—(parenthetically, a Yale professor is an authority also cited by the opponents of ERA)—would serve as a legal basis for many practices contrary to laws of God—such as homosexuality, abortion, and the forcing of women to accept the same responsibilities as men. If a man, or group of men, initiate and pass such legislation, they commit sin, and will not escape retribution for their acts." Other equally inflammatory issues include complaints such as one man wrote from Arkansas, "I don't like the idea of women going to war, or both sexes using the same restroom."

Let me make it perfectly clear that if I had the remotest idea or thought for 1 minute that any of these things were going to take place as a result of the ERA, I would oppose it to the utmost of my ability. With this type of fabrication, distortion and inflammatory tactics, I can certainly understand why a number of people are opposed to ERA. However, these simply are not the facts.

Frankly, several months ago I had hoped the issue would not come before the Senate. Many of us thought the House of Representatives would kill it, or at least include rescission in the resolution, and that it would then be drawn down. But as Carrie Chapman Catt wrote in 1911:

> When a just cause reaches its floodtide—whatever stands in the way must fall before its overwhelming power.

Up to a week ago, I had substantial legal problems with extending a previously set time, and if it were extended, I believed that the basic notion of fairplay should allow for recission.

I worried about the establishment of precedents. But I have spent a week reading, talking, and attempting to think through the problem. I have read all the letters, telegrams, and cards received in our office—and there have been many. The correspondence from constituents has changed my mind.

Let me relate two incidents to the Senate as an Arkansas State representative, Paul Van Dalsen, was a great force and power in the Arkansas Legislature. Under redistricting, he no longer represented only rural counties, but also part of the Little Rock area of Pulaski County. He was asked once about how he handled the woman voter. He said:

> Like we do in the hills—we keep them home by keeping them barefoot and pregnant.

He was defeated on that statement alone.

I am very close to both of my children. When my daughter, who is now 9, was 7 years old, she picked out an office in our law building, claimed it as her own, and declared her intention to be a lawyer. One day she came to me with tears in her eyes. She had been told by her classmates at school that women could not be lawyers.

What kind of social structure produces these results? Can it be remedied in any way?

People very close to me for whom I have great love and respect oppose ERA. They are concerned with the deterioration in our culture of family, with abortion, with loss of belief in America, with a decline in moral standards, and with lessening of faith in God. I too, am concerned with these trends. If I thought for a minute that the family unit would stabilize, or religious faith deepen, or moral standards rise, or patriotism flower by defeating ERA, I would join the front ranks against it. These trends, however, are the result of forces and directions unrelated to the emanicipation of women.

It is folly, wishful thinking, willful distortion, or simply delusion to blame the decline of the family on the emancipation of women. Any theory of the family that requires every women to be subservient to the man or every woman to be the bearer of children. the drawer of water, and preparer of food, and nothing else, cannot stand in a culture where one-half of our work force is now female.

Suddenly, as I wrestled with this problem, it came to me like a bolt of lightning. This is a simple matter of equality. A democracy, where one-half of the citizens by virtue of being born female, are second-class citizens under many of its laws, customs, and attitudes, is in fact thereby one-half a nation, one-half a democracy.

Why is equality of women such a fearful concept? Because, it is held out, or perceived, or intentionally distorted as sameness. Leave out the emotional baggage over "military service" and "toilet facilities."—inflammatory words which play on our emotions. There has been in the past and continues to exist discrimination against women. From 1972 to 1977, the ratio of women's earnings to men has actually declined. In fact, women today face a wage disparity of nearly 40 percent as compared with similarly employed men. Women college graduates earn on the average $7,000 a year less than men.

Under the estate tax laws in Arkansas, there is a presumption, despite the fact that land is held in both men's and women's names, that the husbands have earned the money to pay for the land, and that the women who have worked in the home have contributed nothing and are therefore entitled to no rights under the estate tax laws. No value is given to the wife's efforts.

I will not, I do not concede to those who oppose the ERA that they alone represent the preservation of the family—or that ERA will erode religion. It is true that there are isolated passages in the Bible that speak of a woman's role as subservient to man.

But there are also passages that say the Sun goes around the Earth. One cannot isolate one passage from the Bible and get the truth anymore than one can listen to one note and feel the power of Beethoven's Ninth Symphony—or take 1 square inch and see the beauty of Mona Lisa. In the Bible, as in Christ—there is neither east nor west—slave nor free—male nor female!

The ERA is not an appropriate battleground for the very legitimate concern which I share—of preservation of the family—belief in God—love of country.

Therefore, when the issue is so fundamental that it relates directly to over one-half of our Nation, and also equally to the male half—for no one truly has freedom unless all do—then earlier concerns over legal precedents pales into insignificance.

Those who love democracy should never fear plowing new ground when it is in the cause of extension of equality. It is that courage that brought about our American Revolution—that ended slavery—that gave women the right to vote—that brought minorities into the status of equal members.

The equality of women should be incorporated into the Constitution. It should be a burning torch held high—a legal and moral beacon of equality—not sameness—where the equality of women is not subject to the whim or will of a subsequent legislature or President. I will vote against rescission. I will vote for extension.

I thank the Chair.

Mr. BAYH. Mr. President, feeling that any elaborate response to the distinguished Senator from Arkansas would only diminish the impact of his very perceptive and eloquent statement, I will resist the temptation to appraise what he has just said.

I would point out that as a lawyer, as a minister, and as a colleague in this body, he comes well qualified to address this question.

I yield to the distinguished Senator from Colorado (Mr. HASKELL), saying only that when he walked through the door this morning I was really surprised to see him—pleasantly surprised.

I confess to talking with him more than once yesterday. He is involved in a very difficult campaign in his State, and it is not very long to election. As we all know, there are probably 48 hours of scheduled campaigning in each 24 hours at this particular time going on in Colorado.

I have to say to the Senator that when he asked me, "Is my vote going to make a difference? Are you sure, do you absolutely know you are going to need me? If you do, I will come back," I said, "Floyd, I cannot tell you that. It is too uncertain. I do not know for certain that we need you."

Despite that fact, the Senator from Colorado is here. He has put the issue, the interest of the equality for men and women of this country, above his own personal campaign expediency, and I salute him for his courageous position.

Mr. HASKELL. Mr. President, I thank my good friend from Indiana immensely, and I am pleased to be back.

I ask unanimous consent that Diana Aldridge of my staff have the privileges of the floor during the debate and vote on this measure.

The PRESIDING OFFICER (Mr. PAUL G. HATFIELD). Without objection, it is so ordered.

Mr. LEAHY. Mr. President, I ask unanimous consent that David Julyan of my staff have the privileges of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HASKELL. Mr. President, the battle for equality is a familiar one in this country. We have fought many fights for civil, voting, and human rights. Almost 7 years ago our Nation engaged in another battle—one which involves the equality of half our citizenry. In 1972, the U.S. Congress launched the unprecedented equal rights amendment, hopeful that it would travel through untroubled waters. We had no reason to believe that the proposed amendment would require more than 7 years to be ratified.

This morning I have flown in from my State of Colorado to cast my vote against the amendment we are now considering. I do so with the knowledge that my vote coincides with my longstanding conviction that "equal rights under the law shall not be abridged or denied by the United States or by any State on account of sex."

The equal rights amendment has been ratified by 35 of the 38 States needed for full ratification. Colorado was among the first to do so—ratifying the amendment on April 21, 1972. It has the support of both major political parties, over 200 national organizations, the last six Presidents, and—according to national polls—a clear majority of the American citizenry.

My conviction that Congress has the authority to extend the ratification period is based on determinations reached by the Department of Justice and various leading constitutional scholars who have painstakingly researched the legality of this matter.

Their conclusion that Congress does, indeed, have the discretion to enact an extension is established in Dillon against Gloss, and Coleman against Miller. In Dillon against Gloss, the Supreme Court recognized that, under article V, Congress has the power and responsibility to assure that the amendment has been ratified "within some reasonable time after the proposal." In determining a reasonable length of time, Congress is to consider whether a proposed amendment has lost its vitality through lapse of time and to extend the period within which ratification will occur if it deems that such an extension is warranted in view of relevant political, social, and economic conditions.

It would be difficult for the amendment's proponents and opponents alike to deny the topical political, social, and economic relevancy of the equal rights amendment. The issue remains one of great national visibility and interest. House Joint Resolution 638 will guarantee that the equal rights amendment will not expire prior to full and fair national consideration of the amendment's merits.

To those who would question whether or not we are are attempting to "change the rules in the middle of the game," I would admonish that the question here is one of human rights. Our country has quite rightly advocated human rights throughout the world. I firmly believe that the defeat of this amendment today will once again demonstrate our devotion to the principle of human rights in our own country for over half our citizenry.

I thank the Senator from Indiana.

The PRESIDING OFFICER. Who yields time?

Mr. BAYH. Mr. President, I yield 1 minute to the Senator from Michigan.

The PRESIDING OFFICER. The Senator from Michigan (Mr. RIEGLE) is recognized.

Mr. RIEGLE. Mr. President, I thank the Senator for yielding the time.

I want to begin by saying how touched I was by the profound and beautiful statement of the Senator from Arkansas that was just made.

I think most of the points that relate to this issue were discussed wholly in the debate yesterday.

I only wish to make and emphasize one or two things. Any amendment that is adopted today is a killer amendment. Whatever anyone's intention is in offering it, we ought to understand that if we go to conference with a different version from the one that has been sent over from the House that literally there is not the time left to reconcile the two versions. In the end, the effect of any amendment passing the Senate is that we will not be able to extend the ratification period for the ERA.

So I hope and pray that each colleague, who thinks the equal rights amendment is necessary and right in his heart of hearts and who thinks that the country ought to have the additional 3

years and 3 months to consider it, will put aside other considerations, whether they are on rescission amendments or other kinds of amendments. That is the only way we can keep alive and protect this essential opportunity to see that the women of this country have the chance for the same justice under the law that the men now enjoy.

The PRESIDING OFFICER. Who yields time?

Mr. BAYH. What is the time situation, Mr. President, if I may ask?

The PRESIDING OFFICER. The Senator from Utah has 5 minutes; the Senator from Indiana has 8 minutes.

Mr. BAYH. I yield 1 minute to the Senator from New York.

Mr. JAVITS. Mr. President, I shall be very brief, because the time is short.

I have really researched the question of this amendment respecting rescission, and I believe, its adoption would be contrary to the practice of 200 years, during which the courts have held that the decision as to rescission or the operation of it is a political decision to be made by Congress. I believe that Congress should decide the rescission question at the time when Congress must decide whether the amendment has or has not been ratified; that the question should not be precluded by a decision made now, and that the cases sustain that.

As has been properly pointed out, if we adopt this amendment now, it may result in stalling the ERA in conference or killing it, because those who favor ERA may be put off, as it were, by the rescission amendment, which is contrary to the established law, which makes this a political decision of the Congress.

For 200 years, Mr. President, we have held, when faced with this particular question, that rescission would not be in order and, therefore, I hope the Senate will reject this amendment.

Mr. BAYH. Mr. President, I yield 2 minutes to the Senator from Illinois.

Mr. PERCY. Mr. President, under normal circumstances, the Senator from Illinois would be supportive of the substitute offered by my colleague (Mr. STEVENSON). But these are not normal circumstances. The Senator from Illinois also happens to feel that Senator GARN deserves an up-or-down vote on his amendment. I felt that was going to come, and I think we have a duty to go right on record and resolve this issue of rescission one way or the other. It is not an easy choice for any of us to make. During the past few months, I have personally met with several thousand representatives on both sides of this issue. I have heard and considered very persuasive arguments both for and against rescission and have great respect for the intensity of feeling both sides have and for the time and effort they have invested, at great personal sacrifice, to espouse their cause without any thought of personal gain.

The decision the Senate will make on the question of a time extension for ratification of the equal rights amendment is a significant one. We are not only debating the future of the equal rights amendment, knowing that the outcome of this measure will materially affect the future of the amendment itself. What we are considering is Congress' interpretation of article V of the U.S. Constitution. What is determined here this week will therefore affect not only the future of the ERA, but future interpretations of article V.

It has been established that the Supreme Court has given Congress the power to determine time limits for ratification of constitutional amendments. Many of the opponents of the time extension resolution agree that Congress has the power to do this. It has also been agreed by this body, as indicated by yesterday's vote, that Congress has the power to pass this resolution by a simple majority vote.

The overriding question facing us today is whether or not Congress may allow rescission of prior ratifications by the States. As we all know, Congress has previously refused to accept rescission of prior amendments to the Constitution; namely amendments 14, 15, and 19. And, as we also know, the courts and Congress rely heavily on past legislative history in making future determinations. In view of past history, for Congress to now decide that rescission is legal would be setting a new precedent. What we determine here today will be used by future Congresses and the courts in determining future legislation and judicial decisions.

I deeply believe in the equal rights amendment. I believe those of us who were original proponents of it should do everything we can to see that this principle becomes a part of our Constitution, and I intend to do what I can to see that Illinois supports this change in our Federal Constitution, which will, after all, only bring it into conformity with the Illinois State Constitution. I also realize that a vote for rescission is a vote against the ERA. As I understand it, the House will never accept a rescission amendment to the time extension resolution, and without a time extension, ERA is killed in effect for now.

As I have stated in Illinois many times, I believe that women should have available to them the same choices available to men and not be discriminated against because of sex.

To the most ardent proponents however, a warning: ERA is an important symbol but no panacea. Change will only come about, not overnight, but gradually, as with equal employment opportunities legislation. But to the most ardent opponents of ERA, I respectfully say, time will show that many of the fears expressed and arguments used against ERA will hopefully prove unfounded. Those of us supporting ERA will have an obligation to work to prevent their coming to fruition.

For these reasons, Mr. President, I intend to vote against the substitute offered by my colleague from Illinois, and also intend to vote against the rescission amendment and hope that both will be defeated.

Mr. BAYH. Mr. President, I yield the remaining 5 minutes to myself.

The PRESIDING OFFICER. The Senator has 4 minutes. The Senator from New York ran over.

Mr. BAYH. Mr. President, just in summary, let me point out that we have been told here over the past several years that it is unfair to change the rules, and most of us are raised on a foundation of fairness from the first words we hear. So perhaps in closing we ought to look at what the rules really are.

What are the rules as far as time is concerned? This is not what BIRCH BAYH or JAKE GARN says, but it is what the Supreme Court of the United States has said. It said in one case, and affirmed it in another, as recently as 1939:

> As a rule the Constitution speaks in general terms, leaving Congress to deal with subsidiary matters of detail as the public interests and changing conditions may require; [1] and Article V is no exception to the rule. Whether a definite period for ratification shall be fixed so that all may know what it is and speculation on what is a reasonable time may be avoided, is, in our opinion, a matter of detail which Congress may determine as an incident of its power to designate the mode of ratification.

That is what the Supreme Court has said.

Congress did pass ERA with a 7-year time limit. We thought it was reasonable then; as the Court has said in Dillon and Coleman that the Congress is the ultimate body to determine what is reasonable. We now reassess what is reasonable, and assume because of changing circumstances that 10 years is a reasonable time.

If we look at what has happened historically, we must understand that 8 constitutional amendments have had a 7-year time limit, and 18 have had no time limit whatsoever. If Congress can reasonably prescribe no time limit for consideration, it seems to me we can reasonably follow the rules and suggest that a 10-year limit is adequate.

What are the rules as far as rescission is concerned? The fact of the matter is that not just in one instance, but in the case of the 14th amendment, in the case of the 15th amendment, and in the case of the 19th amendment States have tried to rescind, and each time they tried to rescind that rescission was not counted. Based on the 100-year history of rescission, the rules state that rescission shall not be counted. So those who propose this amendment are the ones who want to change the rules.

The PRESIDING OFFICER. The Senator has 1 minute remaining.

Mr. BAYH. Let us look at the substance of what is fair. Is it fair to deny the women of this country equal rights, equal opportunity, and equal justice? Is it fair, as we look at what has actually happened, for the State of Illinois, on several occasions, to have had a majority vote to ratify, and yet not ratify because those are the rules in Illinois; or in Idaho, to ratify by two-thirds and rescind by a majority? Is that fair? And most significantly of all, is it fair for Congress to suggest that we can make this determination now? That is a misrepresentation; regardless of whether we accept the amendment of the Senator from Utah or whether we accept the contention of the Senator from Indiana the final decision will be made by the Congress after the necessary three

fourths of the State legislatures have ratified.

Let us not convey to the people of this country that we have a right to speak to the question of rescission at this time. This is going to be determined by the Congress after the necessary 38 States have ratified.

Mr. GARN. First, Mr. President, let me say I am sorry the Senator from Arkansas is no longer on the floor. I applaud his speech. He gave an excellent speech on equal rights, and I agree with everything he said. The only thing we do not agree on is the question of rescission. But I do not want to be painted into the corner of disagreeing with him on the question of equal rights, because we are completely in accord on that subject.

Finally, Mr. President, I would just like to say a word about the wisdom of proceeding in this way. It is quite clear to me that the proponents have the votes to pass the extension. They may not have the votes to defeat my rescission amendment. But they will pass the extension. In doing so, they will do great violence to the traditions of restraint and consensus by which this country has always been governed. We are not dealing here with some simple statute. This is not a game of beanbag. This is the Constitution of the United States. That Constitution was adopted by a broad consensus, and it is that basic consensus that keeps us together as a nation.

As part of that requirement for consensus, the framers provided very strict and limited procedures for amending the basic document. We are saying that the subject matter of an amendment under consideration can be allowed to override the procedures. No one denies that this is a very basic departure from traditional procedure. No amount of rhetoric could possibly hide that fact.

And why, Mr. President? Why abandon procedures that have served us well? Why extend? Why deny rescission? Why insist that this "simple procedural change" can be done by a simple majority?

There is, there can be, but one reason. That is that the proponents of ERA know that the amendment cannot be ratified in any other way. It is as simple as that. And what does that tell us about the ERA? It tells us that the ERA does not have that broad consensus the Constitution requires. And so the proponents say "Forget the Constitution." That is what they are saying:

> Away with the procedures established by the Constitution, and by years of practice and tradition. Away with the restraint and the limits that have made this a great country.

I submit, Mr. President, that we are entering dangerous waters. It is not a question of the merits or demerits of ERA, despite the fact that for 2 days we have constantly heard that on this floor. We should have been debating the procedures, and not interjecting any particular amendment into it.

Again I repeat, some day the abortion amendment may be in this same position. I wonder then if we will be hearing the pleas for extension.

We simply cannot bend the Constitution to fit each particular issue, whether we are for or against it. Imagine that these procedures were sought to be changed for the benefit of your worst enemy on another issue.

We are not doing that. I have not been able to communicate that, and separate the issue of ERA or abortion or any other amendment from the constitutional process.

What we are looking at here is a question of consensus. There is no reason why the proponents could not start over, submit a new resolution to the States, with a new, 7-year time limit. They could even submit a new resolution with a 14-year time limit, if they could get it through the Congress. But they will not do that. And why, Mr. President? Because they must believe that they would not get 38 ratifications if they started over. And that is a devastating admission.

When push comes to shove, they must believe that they do not have the votes in the States, and so they rig the rules in the Congress, because they do have the votes here.

I believe this is a shameful way to proceed, and that at the very least we need to consider the Constitution, which is superior to any individual issue, and fight in a fair-mannered way and not to try to stack the deck so that only one side can win. That is all this rescission amendment is about. It is not trying to go backward and pick up the four States that have already tried to rescind.

That would be unfair on my part. It is not projecting itself to future amendments. It is merely addressing itself to an individual, unusual situation of an unprecedented extension, in trying to make that fair because we are changing the rules, both ways. We are changing the rules by extending. Nobody can really refute that. We are also changing the rules if we allow rescission. Maybe what we are saying is that two wrongs do not make a right, and the extension should not be granted at all. I do not know. But that is all I have pleaded for and it has nothing to do with the equal rights amendment, for or against.

Mr. SCHWEIKER. Mr. President, I was a cosponsor of the proposed equal rights amendment and I continue to support its ratification. I have decided to vote for legislation to extend the ratification period provided that it treats all States equally. It should permit all States to reconsider their previous votes, not just those States which have rejected the ERA. Those States which have previously rejected the ERA should have the chance to change their minds and ratify and those which have already ratified should have a chance to change their minds and rescind ratification.

Basic fairness dictates that if the rules are to be changed in the middle of the game both sides must be treated equally. The extension legislation, if it is to be fair, must permit all States to reconsider their vote, not just those which rejected ratification.

No matter how much I believe in the need for the ERA, I cannot in good conscience ignore the fact that an extension of the time for ratification of a constitutional amendment represents an unprecedented action and must be considered very carefully in that light.

I have grave reservations about supporting any extension of the time for ratification, both because it is unprecedented and because I question whether Congress should do by simple majority vote what originally required a two-thirds majority to accomplish. But my belief in the ERA has led me to conclude that I can support extension legislation as long as it contains a fairness provision allowing all States an equal opportunity to reconsider their actions on the ERA.

To me, this is the only fair approach. The New Republic, in its December 17, 1977 issue, said:

> Proponents of the ERA contend that once a state legislature has endorsed a proposed Constitutional amendment, it cannot change its mind. So far, the Justice Department has supported the position that rescissions are ineffective. But this position is harder to maintain if proponents of the amendment are allowed to extend the time limit indefinitely. It doesn't seem quite fair that one side can change its mind, but the other cannot. It also undermines the apparent purpose of the ratification machinery that three-fourths of the states approve of a new amendment simultaneously.

Any time we try to change the basic law of the land, we should be absolutely certain that the constitutionally required three-fourths of the States are contemporaneously in accord with the action proposed by Congress. If we provide an extension but tie the hands of the States which now might feel the ERA is an ill-advised measure, we can never be sure we have the three-fourths consensus required to justify a change in the Constitution of the United States.

I want to be sure we do not do violence to the very process by which we amend the basic law of the land in our efforts to have the ERA adopted. As the New York Times said in a July 4, 1978 editorial, proponents of the extension should consider the fact that—

> Once the rules are bent, all forces can play the same game . . . The way to judge the wisdom of a procedure is to imagine your worst enemy having the benefit of it.

Approval of an extension without a provision for rescission might work to the benefit of the ERA in the short-run, but in the long-run I believe it would work to the detriment of our country.

GARN AMENDMENT NO. 3675

Mr. DECONCINI. Mr. President, today the purpose of the amendment by the distinguished Senator from Utah is to say yes to any State legislature that would rescind its ratification of the proposed equal rights amendment during the period of extension of the deadline for ratification.

The amendment of the distinguished Senator from Utah is contrary to article V and, if adopted, would cause considerable unfairness in the amending process.

This amendment is, in 1978, hopelessly premature. If the States have a right under article V to rescind their ratifications of the proposed equal rights amendment, then there was nothing that the 95th Congress could have done in its final session to deprive them of such a right. And the reverse, Mr. President, is also true. If the States do not have a right of rescis-

sion under article V, then the 95th Congress was not able to afford them that right.

We can also be assured that, if and when necessary, the issue of attempted rescission will be raised in a future Congress. I say "if and when necessary" because the problem of prospective rescission may never demand a final solution. There was no assurance that there will be attempts at rescission during the extension period. Neither was there assurance that any attempts will represent votes that will be necessary to assure adoption of the proposed equal rights amendment.

Mr. President, we ought to have postponed the debate today. We ought to have allowed a future Congress to decide the issue if and when the issue needs to be decided. If the able Senator from Utah was in error and had he prevailed today the amendment process would have been needlessly confounded. We should not have been forced upon such a course unless absolutely necessary, and that was not the case here.

But, Mr. President, I voted against the amendment. I did so because the language and the history of article V lead me to one conclusion: Under our Constitution a State legislature does not have a right to rescind its ratification of a proposed amendment. The lawfulness of attempted rescission must be tested against article V. As the Supreme Court agreed in Coleman against Miller, a State legislature has the power to ratify a proposed amendment that it once rejected.

The article, which gives to each legislature a power to ratify, does not command that the power is extinguished because of an earlier rejection by that legislature.

On the other hand, there is no expression in the article that a State legislature has the power to rescind its ratification of a proposed amendment. Instead, the language only allows a legislature to ratify the proposed amendment should it desire to amend the Constitution.

There is no power of rescission in the article, even though it would have been simple and easy for the framers to have outlined such a right.

The absence of language that would have granted to the State legislatures a power of rescission is conclusive. The argument advanced in this Senate against such a conclusion was that, under unusual conditions, a State legislature ought to have an implied power of rescission. After all, there is nothing more inherent about a sovereign government than possession of the power to rescind its own action. And, because the amending of the Constitution resembles the making of laws, a State legislature should be able to nullify the action of its predecessor.

But the idea that a State legislature has some type of implied power of rescission is based on a misunderstanding of article V. It was decided long ago in *Hollingsworth* v. *Virginia*, 3 U.S. (Dall.) 378, 381 (1789), that the amending process outlined in the article is not analogous to the making of laws. That case held that the President need not approve amendments to the Constitution because "(t)he negative of the President applies only to the ordinary cases of legislation. He has nothing to do with the proposition, or adoption of amendments to the Constitution."

The difference between the amending process in article V, and the making of laws is so well established that it requires little further elaboration. I will be brief and give only one other example, this one from the case of *Hawke* v. *Smith*, 253 U.S. 221, 229 (1920). There the Supreme Court said:

> Ratification by a state of a constitutional amendment is not an act of legislation within the proper sense of the word. It is but the expression of the assent of the state to a proposed amendment.

As a consequence, the State legislatures are only able to participate in the amending process because of the language of article V. The article is both a source and a limitation of their rights. It has given them a right to ratify but not to rescind, and that is the end of it. There is no constitutional power of rescission.

Mr. President, the history of the article also carrys the same message against rescission. That history is well stated in a thorough study of the matter by John Harmon of the Justice Department. He concluded that there was a near universal rule against rescission.

The rule developed early in our Nation's history. At the Constitutional Convention in Philadelphia James Wilson argued that the people—acting through State conventions—were the only power that could ratify the proposed Constitution. That of course, did come to pass; the Constitution was ratified by the people acting through State conventions.

According to Professor Farrand, Wilson then said:

> It is possible that not all the states, nay that not even a majority, will immediately come into the measure; but such as do ratify it will be immediately bound by it, and others as they may from time to time accede to it. I Farrand at 127.

No other member of the Convention disagreed with the statement.

Wilson's idea was directed at the process of adopting the proposed Constitution but the Committee of Detail went further. It actually reached—and decided—the question which was being considered today: Does a State have a power to rescind its ratification of a proposed amendment? The Committee of Detail said no. Once again, I quote Farrand:

> The ratification of the reform is—after the approbation of congress—to be made by a special convention (in each State) recommended by the assembly to be chosen for the express purpose of considering or approving and rejecting it in toto: And this recommendation may be used from time to time. II Farrand at 148.

Again and again, Mr. President, there were similar comments at the Convention. Alexander Hamilton submitted a plan that would have required that State conventions ratify an amendment "if the convention of the State should think the plan ought to take effect among nine ratifying States. * * *" Nathaniel Gorham apparently gave the suggestion an early death, however, with a number of criticisms. He argued, in part, that "the different and conditional ratifications will defeat the plan altogether." Later the same day, Hamilton made another suggestion that would have made ratification—via a Convention of Deputies—"binding and conclusive upon the State. * * *" That proposal, too, was rejected, but for reasons that are irrelevant to the problem of rescission.

Such was the intent of the framers and such is the law of the land, Mr. President. Thus, we would have done injury to the Constitution had we attempted to permit rescissions, whether they occurred in the past or are still to occur in the future. The framers had a rule that conditional ratifications were unlawful. And yet, the amendment of the distinguished Senator from Utah would have allowed conditional ratifications. It would have destroyed a rule which has persisted for nearly two centuries. In effect, the Senator from Utah would have told each State legislature that it may approve the equal rights amendment subject to the condition that it may later withdraw that approval. And that, Mr. President, is a condition in the truest sense of the word. Black's Law Dictionary defines condition as a "future and uncertain event upon the happening of which is made to depend the existence of an obligation. * * *"

Mr. President, the members of each State legislature that has ratified or will ratify the proposed equal rights amendment have the obligation to understand their role under the Constitution. By the actual language of article V they are to ratify the proposed equal rights amendment, and nothing else. And the 7-year time limit is in the preamble or the resolving clause to the equal rights amendment, not in the equal rights amendment itself. The State legislatures have no right to consent to the time limit. Their function under article V does not allow them to approve of material which is located in the resolving clause.

Article V forbids rescissions, Mr. President, and what does or does not exist in the resolving clause cannot change that plain fact. Therefore, I voted against the amendment of the able Senator from Utah.

● Mr. MATHIAS. Mr. President, the rescission by a State of a constitutional amendment is not prohibited by the Constitution. It would seem to be contemplated as a possibility by the Supreme Court when Chief Justice Charles Evans Hughes said that the issue "should be regarded as a political question pertaining to the political departments with the ultimate authority in the Congress.* * *" I am not, therefore, prepared to say that such a rescission is beyond the purview of the Constitution.

At the same time, I am aware of the authoritative view of James Madison: "The Constitution requires an adoption in toto and forever." That opinion was expressed in 1788 when the original ratification of the Constitution was the question before the country. It is, however, only by implication that the Madison dictum is applied to the ratification of amendments.

The constitutional practice for 191

years has been consistent in following the Madison rule. Courts have cited it and Congress has applied it. The general perception of the law has been that rescission is not appropriate after ratification.

Whatever may be the outer limits of constitutional theory, the legislatures of the several States surely acted in full knowledge of the settled precedent. As each successive State completed the ratification process, it is reasonable to assume that it depended on the irrevocable commitment of the States that preceded it. Had the rules been understood otherwise, the results might have been the same or they might have been different. It is obviously impossible to indulge in such speculation at this time.

It is my conclusion, therefore, that to allow rescission at this stage of consideration would be to change the rules in the middle of the game. That I am not prepared to do.

This debate has raised an interesting and important issue, but its place is at the point of congressional approval of a resolution of amendment and not after 49 States have acted one way or the other. It is a matter we should examine closely before we consider another amendment to the Constitution.●

● Mr. HATCH. Mr. President, I rise in strong support of the amendment offered by my friend and colleague from Utah (Mr. GARN) concerning the permissibility of rescissions of the equal rights amendment. The immediate amendment would apply only to prospective rescissions.

Unlike Congress, State legislatures are permitted under our form of government to do anything that they are not forbidden to do under the Federal—or their State—constitutions. As observed by Justice Frankfurter:

> With respect to a State action the search is not for a specific constitutional authorization . . . rather, we must find clear incompatibility with the United States Constitution. *New York* v. *O'Neill* 359 U.S. 1 (1959).

This basic principle has as its foundation the 10th amendment of the Constitution which states:

> The powers not delegated to the Untied States by the Constitution nor prohibited by it to the States, are reserved to the States respecively, or to the people.

Nowhere in article V of the Constitution, or anywhere else in that document, is there language that prohibits the States from rethinking or rescinding the ratification of a proposed constitutional amendment, until that point that the amendment officially becomes part of the Constitution.

The act of any single State in ratifying has no positive effect upon the constitutional status of a proposed amendment until combined with a similar act from at least 37 other States, see Rottschaeffer, "Handbook on American Constitutional Law" at 394–5.

The right of a State legislature to reconsider its own actions is implicit in its right to prescribe its own rules of procedure, as well as in the inherent nature of an independent legislative body. Nowhere, for example, in the U.S. Constitution, from which this body derives all of its powers, is there reference to our right to repeal or rescind legislation. Yet, while we do not engage in these practices as often perhaps as we should, there is no question of our authority to do them.

Nor is the constitutional amendment process any different in this respect. While it has been held that, under article V, the States, technically perform a Federal function in their participation in the amendment process, see *Leser* v. *Garnet* 258 U.S. 130 (1922), there is no basis for the argument that they are somehow denied their full freedom of action as a result. As observed by judge, now Justice John Paul Stevens in 1975:

> The failure to prescribe any particular ratification procedure . . . is certainly consistent with the understanding that State legislatures should have the power and the discretion to determine for themselves how they should discharge the responsibilities committee to them by the Federal Government . . . the term "ratified" merely requires that the decision to consent or not to consent to a proposed amendment be made by each legislature, or by each convention, in accordance with procedures which each such body shall prescribe. *Dyer* v. *Blair* 390 F. Supp 1291 (1975).

Not least among the problems posed by House Joint Resolution 638 is its implication that, while a Congress cannot bind succeeding Congresses with a time limit expressly contained in the preamble of a constitutional amendment, a State legislature can bind its successors forever by the ratification of an amendment.

In effect, we would permanently tie the hands of the citizens and legislatures of certain States to engage freely in discussion and debate on matters of national importance, while allowing free rein to the citizens and legislatures of more favored States. A better policy, and one implied by the Constitution, is that the citizens and legislatures should never be forced to relinquish their liberties of thought or action so long as the amendment process is underway.

Even if one is not persuaded that the silence of the Constitution on rescission speaks in its behalf, under the basic principles of federalism, I would suggest that doubts be solved by reference to other constitutional principles, such as those expressed in our first amendment. It is the premise of that amendment that the Republic is well served by free and open public discussion. What matter is more enduringly important to the Republic than the amendment of its constitution? If the policy of the first amendment is a sound one—and I certainly believe that it is—where is it more critical that such discussion occur? Should not doubts as to the precise meaning of a constitutional provision be resolved in favor of more public discussion than in favor of less discussion?

Let me briefly address the merit of the supposed precedents that supporters of House Joint Resolution 638 have repeatedly dragged out in opposition to rescission. While the Justice Department, in an extremely strange brief, argues that rescission is unconstitutional in the absence of an amendment of article V, most rescission opponents are satisfied to claim that the issue is a "political question" for resolution by Congress alone. The not-so-sturdy foundation for this argument is the 40-year-old decision of *Coleman* v. *Miller* 307 U.S. 433 (1939).

The "opinion of the Court" in Coleman was that the question of whether or not a State may ratify an amendment after it has rejected it is a "political question," and, as such, is a matter within the authority of Congress. Dean Griswold of the Harvard Law School, in testimony before the House Judiciary Committee, carefully referred to Coleman as a "case," rather than as a "decision" because:

> It is extremely difficult to tell what, if anything, was there decided. There is an opinion written by Chief Justice Hughes, which is designated the opinion of the Court. But, there are four members of the Court who concurred in an opinion that the case should be dismissed for want of standing on the part of complainants, and two members of the Court who dissented from the main opinion. Thus, there were six members of the Court who would not have reached the result stated in the so-called opinion of the Court. This leaves only three Justices who concurred in the decision expressed in that opinion.

Further, the basic "political questions" doctrine has been sharply eroded since Coleman, a case in which the divisions of New Deal politics undoubtedly exercised a major influence. Relying upon the "political questions" doctrine 7 years later, the Court in *Colgrove* v. *Green*, 328 U.S. 549 (1946) rules that legislative apportionment was a nonjusticiable "political question" reserved for the State legislatures.

In 1962, the Court radically transformed the "political questions" doctrine in deciding that apportionment was no longer a matter reserved solely for the States, *Baker* v. *Carr*, 369 U.S. 186 (1962). The doctrine was eroded still further in 1969 when the Court decided that the remnants of the doctrine did not prohibit it from reviewing a challenge of an action of the House in excluding a Member-elect, *Powell* v. *McCormack*, 395 U.S. 486 (1969). This, despite the fact that, unlike rescission, the Constitution spoke directly to the authority of the Congress to "determine the rules of its proceedings," "to be the judge * * * of the qualifications of its own Members," and "to punish * * * and expel a Member." What is left of the doctrine was dissipated further in *United States* v. *Nixon*, 418 U.S. 683 (1974) in which the Court decided that a dispute within the executive branch between the President and the Special Prosecutor presented a controversy for the resolution of the courts.

Dean Griswold summarized his assessment of Coleman against Miller today as follows:

> The conclusion . . . resting as it does on the political questions doctrine can no longer be regarded as having any particular vitality. Even if it can be regarded as a decision, the foundation of the decision has been undermined by many more recent decisions of the Court dealing with the political question doctrine . . . *Coleman* v. *Miller* is of dubious standing now.

I will not dwell at length on the other major "precedent" used by rescission opponents to justify their position. That is the reconstruction precedent during

which the 40th Congress is alleged to have ignored the rescission of two States in pronouncing upon the ratification of the 14th amendment. The circumstances involved here are discussed in some detail in Ramsey & Corwin, "The Constitutional Law of Constitutional Amendment," 26 Notre Dame Lawyer 185, 201 (1951); and comment, "On Rescinding Ratification of Proposed Constitutional Amendments—A Question for the Courts," 37 La. L. Review 896, 905 (1977).

With respect to these occurrences, it is worth remembering simply that the question of rescission was basically a moot one at the time of the amendment's ratification with the requisite three-fourths of the States having approved with or without the rescissions. Further, it is worth recalling the words of Professor Dietze of Johns Hopkins who has written of the reconstruction's "Degradation of Civil Rights Through Amendments of Dubious Procedural Validity." The reconstruction, in his words, was characterized by a "toll in lives, liberty, and property, as well as by a tenuous existence of institutional guarantees of freedom, such as federalism, the separation of powers, and judicial review," Gotfried Dietze, "America's Political Dilemma (The Johns Hopkins Press, 1968).

I note too the words of Justice Brennam in Powell against McCormack:

> That an unconstitutional action has been taken before surely does not render that same action any less unconstitutional at a later date. (at 546).

There is no constitutional justification for treating a simple matter of procedural regularity, such as rescission, as a "political question." Article III, section 2, extends the judicial power to all "Cases arising under the Constitution." I am hard-pressed to discover any more critical constitutional matter than the means by which the document can itself be changed. While I am one of those who believes that the judiciary has usurped many of this body's legitimate prerogatives in recent years, I do not perceive, however, that the Constitution contemplated placing the resolution of amendment disputes in the sole discretion of its most political branch.

Even if it is conceded that Congress is going to sit as a court in judgment of its own amendment proposals, Prof. Charles Black of Yale Law School reminds us that it is not also true that—

> All questions concerning the lawfulness of the amendment process are to be resolved in purely political terms.

This body is still bound by the Constitution in determining the lawfulness of rescissions.

Putting "political question" doctrines and precedents aside for the moment, let us look to the purpose of the amendment process to determine the efficacy of rescission. The crucial element in the ratification of the Constitution is consensus. The requirement of "contemporaneousness" is to insure that this consensus is an active one at the time of final ratification. The Constitution requires not a simple consensus, but an overwhelming consensus—active agreement by three-fourth of the States.

House Joint Resolution 638, without the Garn amendment, would create, at best, a contrived, an artificial consensus. Counted toward the constitutional consensus would be States actively fighting inclusion in that group. As observed by Grover Rees, the author of several scholarly articles on the constitutionality of rescission, those States denied the opportunity both to rescind and to hold Congress to the original time limits, are "truly being dragged, kicking and screaming into * * * consensus."

How many of us in this body would want to be held, or would consider it fair to be held, to each of the positions and each of the statements that we expressed a decade ago? When this representative body makes decisions, we do not attempt to aggregate the votes of each Member who may have supported or opposed that decision in the past. All that counts is the sentiment of Members at the time that we make our decision. As with the amendment process, one of us cannot change our mind after the decision is made and attempt to have it nullified, but until the decision, each of us is free to change our minds as we wish.

The amendment of the Constitution is simply the collective expression of the citizens of the United States, through their States, on the condition of the political order. How can we deny to them the same opportunity, when the amendment of the Constitution is at stake, that we take for granted in deciding upon relatively trivial matters each day? The constitutional amendment process is not, in the words of one witness, a "lobster trap" into which an unwary State can get in but not out; rather, it is the highest expression of the most fundamental values and principles of our Nation. Its alteration is far too important a matter to be achieved through clever legal ploys and expedient power politics.

In the words of Professor Black:

> Extension of time . . . must be for action on the amendment, and not for simply one kind of action.

Even if one regards rescission as impermissible during the original ratification period, it is quite a different issue to regard it as such during a time extension. Even if we can assume that rescinding States had no reason to believe in the propriety of their action during the 7-year period, it is just as true that no State had reason to believe that any form of action would be proper beyond that time limit. The expectations of States with respect to rescission during the original time period becomes irrelevant when that time period is suddenly and unexpectedly extended.

It is unfair to hold rescinding States to the original bargain, while extending an unforeseen "windfall" of time to other States. Repeated opportunities for reconsideration cannot, by any concept or fair play, or by any principle or constitutional law, be extended to only those States for whom reconsideration may possibly promote the successful passage of an amendment.

I would like to clarify that my personal opinion is that the Garn amendment is not a prerequisite to States having the right to rescind. I believe that this is entitled to them under the Constitution regardless of our resolution of this amendment. It is important nevertheless to make clear to them, in view of the doubts that have been raised by House Joint Resolution 638 and the Justice Department brief, that this is in fact an option that is open to them. The right of State legislatures to rescind is, in my reading of the Constitution, one totally in the discretion of State legislatures not the Congress. The Garn amendment is, of course, not addressed to this broader question, but simply states the sense of Congress that, in the case of the extension period for the equal rights amendment, rescissions will be honored without question.

Mr. President, no amendment in the history of our Republic has ever been approved without the unrescinded ratifications of least three-fourths of the States of the Union. This is a policy that should be maintained if we are not going to adopt as a part of our Constitution a new political doctrine of phantom majorities. The consensus of the sort necessary to amend this document must be real and an active consensus. Not a paper consensus, and not one stitched in erratic bits and pieces over a lengthy period of years. We can do no more destruction to the Constitution than by tolerating its amendment when the consensus remains absent. The sole purpose of the pending amendment to House Joint Resolution 638 is to insure that such a consensus, in fact, exists. It is the minimum that this body owes the constitutional process. I urge its adoption.●

● Mr. BROOKE. Mr. President, I vigorously oppose the Garn amendment which would provide for prospective rescission. For I believe this amendment is inconsistent with historical, legal, and congressional precedents.

HISTORICAL AND CONGRESSIONAL PRECEDENTS

In its 200-year history, Congress has consistently taken the position that ratification of a constitutional amendment is final and that rescissions are invalid. This position found its roots in the thoughts of James Madison, one of the principal architects of the Constitution. In 1788 in a letter to Alexander Hamilton, Madison cautioned New York that--

> The Constitution requires an adoption *in toto* and for ever. It has been so adopted by the other states. An adoption for a limited time would be as defective as an adoption of some of the articles only. In short, any condition whatever must vitiate the ratification.

During ratification of the 14th amendment, 28 States were needed for ratification, 29 had ratified, but two of these States had attempted to rescind their ratification. Congress declared the 14th amendment ratified, listing the two States which attempted to rescind among those which had ratified the amendment.

New York attempted to rescind its

ratification of the proposed 15th amendment, but was nonetheless listed as a ratifying State by the Secretary of State, and the ratification was accepted by Congress.

In the case of the 19th amendment, the Congress took no action after the Secretary of State certified the amendment as ratified despite an attempted rescission by Tennessee.

Over the last 50 years, several bills and contitutional amendments have been introduced to recognize the right of States to rescind. None have ever been enacted. The Wadsworth-Garrett amendment, introduced in 1921 and 1924, would have allowed States to rescind their prior actions until three-fourths of the States had ratified. Both sponsors of the amendment agreed that their amendment was necessary to remedy a defect in the Constitution. Neither House voted on these amendments.

JUDICIAL PRECEDENTS

The Supreme Court in *Coleman* v. *Miller* 307 U.S. 433 (1939) stated that the question of the right of States to rescind is one for the Congress to decide. The Court stated:

> We think that in accordance with historical precedent the question of the efficacy of ratification by state legislatures, in the light of previous rejection or attempted withdrawal, should be regarded as a political question pertaining to the political departments, with ultimate authority in the Congress . . .

The Court went on to say:

> Article V, speaking solely on ratification, contains no provision as to rejection.

In addition to the Coleman case, in both *Hawke* v. *Smith* 253 U.S. 221 (1920), and *Lesser* v. *Garnett* 258 U.S. 130 (1922), the Supreme Court upheld the concept that a State may place no condition on its ratification, saying in Lesser against Garnett:

> The function of a state legislature in ratifying a proposed amendment to the Federal Constitution, like the function of the Congress in proposing the amendment, is a federal function derived from the Federal Constitution; and it transcends any limitations sought to be imposed by the people of a State.

The Maine Supreme Court, in Opinion of the Justices 118 Me. 544 (1818) aff'd sub nom *Hawke* v. *Smith* 253 U.S. 221 (1920), stated that the act of a legislature in ratifying an amendment was final and binding and is not subject to rescission either by the legislature itself or by popular referendum.

THE RIPENESS QUESTION

While my analysis of the various legal, congressional, and historical precedents leads me to believe that rescissions are to be ignored in the ratifying process, this extension resolution does not prohibit a future Congress from counting rescissions. The resolution takes no position on rescission one way or the other because it would be inappropriate at this time for this Congress to seek to take away the right of a future Congress to make that determination. Thomas Emerson, lines professor of law emeritus at Yale University has stated:

> In the first place the question of whether further time to debate and act upon the Equal Rights Amendment is advisable must be decided on the basis of factors entirely independent of the right of a State to rescind. When that discussion is over and Congress comes to determine whether the requisite number of States have ratified, the issue of rescission will be presented. The matter will be decided on the basis of the situation as it then exists. That decision need not, indeed cannot, be made at this time.
>
> Secondly, nothing that Congress can do now will resolve the issue. If a State has a constitutional right to rescind Congress cannot deprive it of that right by passing a resolution now. If a State does not have the right of rescission, as I believe, there is no need for Congress to Act. On either theory Congressional action at this time is superfluous.

Of all the arguments against the Garn amendment, the inappropriateness of congressional action at this time is perhaps the most persuasive.

CONCLUSION

Some opponents continue to argue that the proponents of the extension legislation are changing the rules of the game. They insist that States have ratified the ERA contingent upon a reliance upon the 7 year time limit and that if there is an extension there must be a provision for rescission. But this argument appears to be specious at best.

There is no documented legislative history from any State that would show ratification was contingent upon the 7 year time limit. Indeed, the legislative history shows the opposite as fas as rescission is concerned. The attorneys general of Michigan, Kansas, Kentucky, Ohio, and Idaho have all concluded that attempts to rescind, if Congress adhered to precedent, would be futile.

Indeed, despite the perception by some of the critics of extension that supporters of the ERA are attempting to change the rules, exactly the opopsite is true. What are the rules? Congress has always had the right to determine the definition of reasonable time—the formal extension of the time limit by the Congress is an exercise of that power. In the entire history of our U.S. constitutional law, "no State rescission has been valid." It is the opponents who wish to "change the rules"; the rules that have been in effect for nearly 200 years on rescission. According to Harvard Law Professor Lawrence Tribe in testimony before the Subcommittee on the Constitution:

> Finally, any suggestion that it is somehow unfair to "change the rules of the game" at the last moment without giving the players a chance to reconsider their prior moves should also be rejected as both self-serving and circular. The very question, after all, is what the "rules of the game" are. Are those rules, as historically understood, ones that make time limits impervious to change by Congress even if those limits are not included in the terms of the proposed amendment? Or is it the opponents of ERA who wish to alter the rules to achieve this effect? And are the rules of the game, as historically understood, ones that make state ratifications tentative, rescindable acts? Or is it again the opponents of ERA who wish to alter the rules to acheive this effect? It seems clear to me that, in both instances, the proponents of ERA are in fact playing by the rules that have long been in force while it is the ERA opponents who, having already lost in seventy percent of the state legislatures, now seek to change the rules in order to avoid any chance of losing in the three remaining states that would make the ERA part of the Constitution.

Mr. President, I urge my colleagues to vote against the Garn amendment on rescission.●

● Mr. GRIFFIN. Mr. President, I agree with the thrust and recitation of the Stevenson amendment.

If the Garn amendment is rejected and the ERA extension is enacted, the action of this Congress will not bind or preclude a future Congress with respect to the question of rescission. But that will be the case, as the Stevenson amendment suggests, whether or not the Stevenson amendment is adopted.

To vote for Stevenson now would be a meaningless act in terms of substance. But procedurally, it would have a profound impact. The Stevenson amendment is being offered as a substitute for Garn. If adopted, it would displace the Garn amendment. Accordingly, if Stevenson were adopted, it would thereby deprive the Senate of an up and down vote on the Garn amendment.

Even though I shall vote against the Garn amendment, I believe the Senate should have the opportunity to work its will with respect to it.●

Mr. CRANSTON. Mr. President, I would like to address for a moment the amendment proposed by Senator STEVENSON as a substitute for Senator GARN'S rescission amendment.

While I do not disagree with the essence of the Senator from Illinois' amendment—which simply reiterates the view of many that only the Congress sitting at the time of ratification of the amendment by the legislatures of three-fourths of the States can determine the effect of rescissions—I think it would be a serious mistake for the Senate to include this amendment in House Joint Resolution 638.

It adds nothing to the resolution of a critical nature—it is merely an expression of nonopinion. Yet, amendment of the resolution in this manner would force us into a conference with the other body. Given the short amount of time remaining to deal with this issue, this procedural maneuver could well result in failure of the resolution during this Congress.

Mr. President, I would like to speak briefly on the rescission question.

I have consistently been a supporter of the ERA. I voted for the passage of the original resolution in 1972. I am, however, acutely aware that any action taken by the 95th Congress on the extension and the related issue of rescission will establish a significant constitutional precedent, with ramifications beyond the present debate over the ERA.

Accordingly, I have weighed carefully the various arguments on the extension itself and, in particular, the issues relating to the rescission question.

The principal argument advanced by the proponents of a rescission amendment is basically a nonlegal argument: It is the assertion that it is "only fair" to permit States to rescind their prior ratifications.

Yet, in reviewing the constitutional, congressional, and judicial history of the issue, every indicator weighs against recognizing a power of a State which has affirmatively ratified an amendment to the constitution to reverse itself, and, rescind its ratification.

Let me review, briefly, the constitutional, congressional, and judicial precedents on the issue.

In looking to constitutional history for guidance on the question of rescission, scholars agree that the only original framer of the Constitution who addressed the matter was James Madison. During the constitutional ratification debates in the State of New York, Madison stated, in a letter to Alexander Hamilton, that a State's ratification must be unconditional and irrevocable.

Throughout our country's history, Madison's principle has been upheld and accepted. Congress has consistently taken the position that a State's attempt to rescind is ineffectual. That conclusion was reached in connection with congressional action involving the 14th amendment, the 15th amendment, and the 19th amendment.

The Supreme Court cited these precedents in the Coleman case, which affirmed the decision of the Kansas Supreme Court which stated that a ratification, once given, cannot be withdrawn.

Mr. President, it was the Coleman case which made it clear that the Congress sitting at the time the State ratifications are presented is the interpreter of article V as to whether the requisite number of States have approved an amendment.

Mr. President, it is my view that there is no constitutional basis for attaching a rescission amendment to the pending resolution. Indeed, the constitutional precedents weigh against permitting such an amendment.

Moreover, such an amendment—permitting a State to reverse its ratification—would, in my opinion, do damage to the seriousness which the ratification process requires. Permitting rescission would make any State ratification merely conditional and tentative, rather than a final and important act of a State legislature.

I therefore oppose the pending amendment and all amendments which seeks to establish a right of to rescind ratification.

Mr. DOLE. Mr. President, the Senator from Kansas has been a longtime supporter of the equal rights amendment. I voted for it when it passed the Congress 7 years ago, and I have since spoken out in its behalf in a variety of contexts and in a number of ways, most significantly as a member of the Republican platform committee in 1976.

That platform reaffirmed the support of the Republican Party for the equal rights amendment. It also made note that the Republican Party was the first national party to endorse ERA back in 1940.

AN ENTIRELY DIFFERENT QUESTION

However, the equal rights amendment is not the issue which we are debating today. Rather, the question is on extending the time limit for ratification of the amendment. That is an entirely different question and a much more difficult issue. Regardless of my support for ERA, I have serious reservations about this extension, its constitutional implications, and the procedural precedents involved.

Over the last several months the offices of most Senators have seen many supporters and opponents of the extension. Most of the extension opponents were also opponents of the equal rights amendment on the merits. Likewise, the proponents of the extension, were also proponents of the amendment.

Certainly, that is to be expected—oftentimes our views on substantive issues affect our views on procedure. However, in this instance the procedural questions have an importance of their own—an independent significance—and thus should be considered apart from the merits of the equal rights amendment.

As Members of the U.S. Senate and as Representatives charged with upholding the Constitution, we should be particularly concerned with procedure and precedent. The considerations that brought us to support or oppose ERA should not also be determinative of our position on the procedures.

For these reasons the Senator from Kansas is led to support the prospective rescission amendment offered by the Senator from Utah. It is a reasonable corollary to the extension proposal. Of course, extension proponents have asked that I oppose this amendment. Some have even questioned my commitment to ERA since I announced that position. One extension proponents stated that if I were really for the ERA, I should be willing to do anything in my power to see it ratified. In light of our responsibility to defend the procedural integrity of the amendatory process—I cannot agree.

DUBIOUS MEANS AND DESIRABLE ENDS

The proposition of extending the deadline without rescission confuses dubious means with desirable ends. The one does not justify the other. And since I believe that the dubious means may come back to haunt us, I have sincere problems with the entire procedure which we are considering today.

Basically, we are being asked to change the rules, without allowing States to change their minds. However, a rescission amendment would obviate much of the unfairness involved with the ERA extension, and if a rescission amendment is adopted, I will support the extension despite my reservations.

A DIFFICULT ISSUE

Certainly, this is a difficult issue for this Senator—and the situation is only made worse by my support for ERA on the merits. In my view, this prospective rescission amendment will improve the extension proposal.

The VICE PRESIDENT. Under the previous order, the hour of 11 o'clock having arrived—

AMENDMENT NO. 3691

(Purpose: To clarify the congressional intent of the joint resolution with respect to the effect of a State legislature's action of rescission)

Mr. STEVENSON. Mr. President——

The VICE PRESIDENT. The Senator from Illinois.

Mr. STEVENSON. Mr. President, I call up my amendment in the nature of a substitute, Amendment No. 3691.

The VICE PRESIDENT. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Illinois (Mr. STEVENSON) proposes Amendment No. 3691 in the nature of a substitute to the Garn amendment No. 3675, as modified:

In lieu of the matter proposed to be inserted, insert the following: *"Provided, however*, That the Congress expresses no opinion with respect to the effect of the action of a legislature of any State in rescinding its ratification of such article of amendment.".

Mr. STEVENSON. Mr. President, I ask for the yeas and nays.

The VICE PRESIDENT. Is there as sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The VICE PRESIDENT. The question is on agreeing to the amendment of the Senator from Illinois in the nature of a substitute to the amendment of the Senator from Utah, as modified. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Hawaii (Mr. MATSUNGA), is necessarily absent. I further announce that the Senator from Missouri (Mr. EAGLETON), is absent on official business.

Mr. STEVENS. I announce that the Senator from California (Mr. HAYAKAWA) and the Senator from Kansas (Mr. PEARSON), are necessarily absent.

Mr. ROBERT C. BYRD. Mr. President, will the Chair ascertain that every Senator in the Chamber has voted?

The VICE PRESIDENT. Have all Senators voted?

The result was announced—yeas 4, nays 92, as follows:

[Rollcall Vote No. 438 Leg.]

YEAS—4

Morgan	Schmitt	Stevenson
Pell		

NAYS—92

Abourezk	Chiles	Hansen
Allen	Church	Hart
Anderson	Clark	Haskell
Baker	Cranston	Hatch
Bartlett	Culver	Hatfield,
Bayh	Curtis	Mark O.
Bellmon	Danforth	Hatfield,
Bentsen	DeConcini	Paul G.
Biden	Dole	Hathaway
Brooke	Domenici	Heinz
Bumpers	Durkin	Helms
Burdick	Eastland	Hodges
Byrd,	Ford	Hollings
Harry F., Jr.	Garn	Huddleston
Byrd, Robert C.	Glenn	Humphrey
Cannon	Goldwater	Inouye
Case	Gravel	Jackson
Chafee	Griffin	Javits

Johnston	Muskie	Sparkman
Kennedy	Nelson	Stafford
Laxalt	Nunn	Stennis
Leahy	Packwood	Stevens
Long	Percy	Stone
Lugar	Proxmire	Talmadge
Magnuson	Randolph	Thurmond
Mathias	Ribicoff	Tower
McClure	Riegle	Wallop
McGovern	Roth	Weicker
McIntyre	Sarbanes	Williams
Melcher	Sasser	Young
Metzenbaum	Schweiker	Zorinsky
Moynihan	Scott	

NOT VOTING—4

Eagleton	Matsunaga	Pearson
Hayakawa		

So the amendment (No. 3691) was rejected.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The VICE PRESIDENT. The question is on agreeing to the amendment No. 3675, as modified, offered by the Senator from Utah.

Mr. GARN. I ask for the yeas and nays.

The VICE PRESIDENT. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The VICE PRESIDENT. The clerk will call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask that the clerk repeat the name after each response.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Missouri (Mr. EAGLETON) is absent on official business.

Mr. STEVENS. I announce that the Senator from Kansas (Mr. PEARSON) is necessarily absent.

I further announce that, if present and voting, the Senator from Kansas (Mr. PEARSON) would vote "yea."

The VICE PRESIDENT. Have all Senators voted?

The result was announced—yeas 44, nays 54, as follows:

[Rollcall Vote No. 439 Leg.]

YEAS—44

Allen	Ford	Morgan
Baker	Garn	Nunn
Bartlett	Goldwater	Roth
Bellmon	Hansen	Sasser
Bentsen	Hatch	Schweiker
Byrd, Harry F., Jr.	Hayakawa	Scott
	Helms	Stennis
Cannon	Hollings	Stevens
Chiles	Huddleston	Stevenson
Church	Jackson	Talmadge
Curtis	Johnston	Thurmond
Danforth	Laxalt	Tower
Dole	Long	Wallop
Domenici	Lugar	Young
Eastland	McClure	Zorinsky

NAYS—54

Abourezk	Durkin	Inouye
Anderson	Glenn	Javits
Bayh	Gravel	Kennedy
Biden	Griffin	Leahy
Brooke	Hart	Magnuson
Bumpers	Haskell	Mathias
Burdick	Hatfield, Mark O.	Matsunaga
Byrd, Robert C.		McGovern
Case	Hatfield, Paul G.	McIntyre
Chafee		Melcher
Clark	Hathaway	Metzenbaum
Cranston	Heinz	Moynihan
Culver	Hodges	Muskie
DeConcini	Humphrey	Nelson
Packwood	Ribicoff	Stafford
Pell	Riegle	Stone
Percy	Sarbanes	Weicker
Proxmire	Schmitt	Williams
Randolph	Sparkman	

NOT VOTING—2

Eagleton	Pearson

So the amendment (No. 3675), as modified, was rejected.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. BAYH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD addressed the Chair.

The VICE PRESIDENT. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, can I ascertain at this time if other amendments are expected to be called up on the ERA extension this afternoon?

Mr. SCOTT. I answer the distinguished majority leader by saying yes, a number of amendments; and under our time agreement, I would call up first my rescission amendment.

Mr. ROBERT C. BYRD. I thank the Senator.

Mr. BAYH. Mr President, may we have order in the Senate?

The VICE PRESIDENT. The Senate will be in order

Mr. BAYH. Mr. President, as one who was intimately and even emotionally involved in the debate that surrounded this issue and while there are so many of us here, I would like to say that never before in my 16 years in the Senate have I been involved in the debate of an issue which I felt was so significant and yet in which the parties on both sides, the colleagues on both sides of the aisle, were so courteous and so cooperative.

I appreciate that on the side of my friend from Utah, and I want to say on this side that I think we had a perceptive debate, confined to the issues, and it was the Senate of the United States acting in its finest tradition.

Mr. ROBERT C. BYRD. Mr President, would the distinguished Senator from Virginia submit one of his amendments at this time? Would he care to do that, so that Senators, while they are here, would know what the next vote is going to be?

Mr. SCOTT. Mr. President, may we have the attention of the Senate? I will take only a minute.

The PRESIDING OFFICER (Mr. CHILES). If Senators wish to leave the floor, will they do so? The Senate will be in order.

Mr. SCOTT. Mr. President, I hope they will remain.

The PRESIDING OFFICER. The Senator will please suspend for a moment.

The Chair said if they wish to leave.

Mr. ROBERT C. BYRD addressed the Chair.

The PRESIDING OFFICER. Will the Senator suspend? Let the galleries be cleared, and then we can have order.

Mr. SCOTT. Mr. President, first, I commend as highly as I can the distinguished Senator from Utah. He fought a good fight, and he did obtain 44 "yes" votes. Unfortunately, 44 was not enough.

Mr. President, I have three more amendments to offer. The first is another rescission amendment. It is No. 3688, for which we have 4 hours of debate. Certainly, it is not my intention to utilize the entire 4 hours.

This amendment would provide that the rights of States to rescind would commence at the time of the extension of time within which to ratify. It would become effective on March 22, 1979, and it is retreating somewhat from the amendment offered by the distinguished Senator from Utah.

I hope we might be able to pick up an extra 5 or 6 votes, so that we could do equity by permitting all 50 States to participate.

Mr. STENNIS. Mr. President, may we have order? It is really impossible to hear the Senator.

The PRESIDING OFFICER. The Senator is correct. May we have order in the Senate?

Mr. STENNIS. Mr. President, if the Senator will yield, will he repeat the difference between his amendment and the one on which we just voted?

Mr. SCOTT. The difference, Mr. President, is that the right to rescind would not commence until the date of the expiration of the present time within which to ratify the equal rights amendment. It would exist during the time of the extension that is being considered by the Senate today. To me this is an equalizing amendment, giving to all of the 50 States the same right during the period of extension in the event the joint resolution that is before us is adopted, rather than to restrict any action on the ERA extension to only 15 States which have not acted favorably on it.

The second amendment that would be offered immediately after the rescission amendment, unless another Senator desires to offer an amendment, is one to exclude military personnel from the provisions of House Joint Resolution 638. This amendment is No. 3668. The third and last amendment that I would propose to offer would provide for a 1-year extension of the resolution before us rather than the 3 years plus 3 months that is provided. This third amendment is No. 3672. These are the amendments that I would propose to be called up in the order mentioned but, of course, reserve the right to offer other amendments to the joint resolution.

And any Senator who desires to join in the debate for adoption of these amendments will certainly be welcome to do so.

AMENDMENT NO. 3688

(Purpose: To permit a State legislature to rescind its ratification of the equal rights amendment after March 22, 1979)

Mr. SCOTT. Mr. President, I call up now my amendment No. 3688 and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. INOUYE). The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Virginia (Mr. SCOTT) proposes an amendment numbered 3688:

On page 1, line 3, insert "(a)" immediately before "notwithstanding".

On page 1, immediately after line 9, add the following:

"(b) Any legislature of a State which ratifies the article of amendment proposed to the States in such joint resolution may, by the same procedure required for ratification, rescind such ratification at any time after March 22, 1979 and before the ratification of the article of amendment by three-fourths of the several States. The Administrator of General Services shall certify to Congress each resolution of ratification or rescission of the article of amendment as received from the several States.".

Mr. SCOTT. Mr. President, I ask unanimous consent that it be in order to request a rollcall vote on all three of the amendments that I have proposed to offer.

Mr. ROBERT C. BYRD. With one show of seconds.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SCOTT. Mr. President, I ask for the yeas and nays on each of the three amendments.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. May I inquire, is this the last of the Senator's four amendments?

Mr. SCOTT. Yes, Mr. President, this is the last of them. On the first one we have 4 hours for debate under the agreement and on the other two we have 1 hour of debate, of course to be evenly divided.

I do not have any intention of taking anywhere near the amount of time that is allocated under the agreement.

Mr. President, the amendment of the Senator from Utah to allow rescission by the State legislatures from the date of the passage of this resolution received more votes than the amendment that I offered yesterday that would have recognized the validity of those rescissions which have already occurred to date, that is, the rescissions that were made by the States of Kentucky, Tennessee, Idaho, and Nebraska.

If we do not adopt a rescission amendment of some sort, I expect that these States, one or more of the four States which have enacted rescission amendments, or States which may offer rescissions amendments sometime in the future, may cause the validity of their rescissions to be brought into court, and we may have a judicial decision rather than a legislative decision.

Mr. President, as we all know under our Constitution, our Federal Government is a Government of limited power, limited by the authority that is delegated to it expressly and impliedly, and the power of Government not given to the Federal Government, either expressly of impliedly, is reserved to the States and to the people under the 10th amendment.

It would seem reasonable to me that if they have the rescissory power, then they have the authority when they are not forbidden by the Constitution to rescind. When the Congress has not spoken on the right to rescind—it is not included in any provision of the Constitution, the Constitution being silent on rescission—the States have the right to rescind any measure that they adopt prior to the time that a proposed constitutional amendment is adopted by the necessary 38 States.

But even the more generous rescission amendment, offered by the Senator from Utah, than the rescission amendment that I had offered yesterday, was not adopted. It was disapproved by a vote of 54 in opposition to 44 in favor of the amendment.

The amendment that I now offer should be even more reasonable. It should obtain more votes because all it does is ask for equity and fair treatment for all of the 50 States rather than restricting the right to act to only the 15 States which have not yet adopted or ratified the equal rights amendment.

The amendment would recognize rescission by State legislatures which occur after the period of extension begins. In other words, after March 22, 1979, any State would have a chance to debate the merits of the proposed equal rights amendment to ratify it, those which have not ratified, to rescind their ratification if any of the legislatures of the 35 States which have ratified should after March 22, 1979, choose to rescind their ratification.

In my judgment this is fair treatment to all of the States. It is fair treatment to the State that I represent. It is fair treatment to the States that are represented by the other Members of this body.

Senators from most States which have ratified thus far may want to provide their State legislatures a chance to vote, to exercise their will on this question, in a manner that would give a truly contemporaneous consensus that the Supreme Court spoke of, if there is a consensus.

Otherwise your State, if you represent 1 of the 35, is going to be excluded from exercising its judgment during the period of extension, these roughly 3 years and 3 months.

In suggesting to each Senator that they let their own State express its will, if the State does not want to rescind it will be under no compulsion to rescind. If it does wish to rescind, it will have an opportunity to rescind its prior legislative action. It will have a constitutional, legitimate role to play.

Mr. President, let me just remind the Senate of the States that would be locked in unless this amendment is agreed to, and the right of rescission is adopted during the period of extension only. During the period of extension each of the 50 States will have an opportunity in a contemporary manner to exercise its discretion. The States are: Hawaii, a State represented by the distinguished Senator (Mr. INOUYE) occupying the chair at this time; Delaware, New Hampshire, Ihado, Kansas, Nebraska, Tennessee, Alaska, Rhode Island, New Jersey, Texas, Colorado, Iowa, West Virginia, Wisconsin, New York, Michigan, Maryland, Massachusetts, Kentucky, Pennsylvania, California, Wyoming, South Dakota, Oregon, Minnesota, New Mexico, Vermont, Connecticut, Washington, Maine, Montana, Ohio, North Dakota, and Indiana.

Mr. President, I hope the Senate and each Senator will reflect very seriously on this matter. It is an important matter, one that I believe each Senator will want to reflect upon and determine what is in the best interest of his State, in the best interest of the Nation as a whole, what is in the best interest of the American people, the people regardless of whether they are male or female and, frankly, I believe that the 14th amendment provides for equality of the sexes as well as equality in any other manner. But we are not debating here today the merits or the demerits of the equal rights amendment. We are only debating the question of the right of extension.

This particular amendment addresses itself only to the period of extension, and it would provide for the right to rescind by the 35 States which have ratified, and the right to ratify, if they see fit, by the 15 States or the necessary portion of the 15 States which have not previously seen fit to ratify the amendment.

It would also permit the four States which have rescinded to once again bring before their State legislatures the question of rescission. The rescission that has already been made by those four States would not be recognized by this amendment as valid, but their right to bring the matter up again could validly be exercised.

Mr. President, I reserve the remainder of my time.

Mr. RIEGLE. Mr. President, I rise in opposition to the amendment. It seems to me that for all practical purposes the Senate has already expressed itself on this amendment. I know we have not voted on the exact wording. But just moments ago we dealt with a rescission amendment and the only difference that I see between the two is the fact that the rescission period would be eligible to start as of March 22, 1979, whereas with the Garn amendment the rescisison period would begin as soon as the resolution was passed by this Congress.

So I think it is a distinction without a difference. I think what we have here is for all practical purposes the same amendment we just acted upon.

I am somewhat at a loss to see why the Senate, having just expressed itself in a rather substantial way, would view this particular amendment any differently from the way it did the one we just acted upon. The vote on that amendment was not that close, 54 to 44 I believe.

I suspect the Senate will not vote any differently. I do not say that in a disrespectful way to my friend from Virginia because he obviously thinks there is a difference here. But I would have to take the contrary position.

I think the same arguments we have heard at length against rescission apply in exactly the same fashion in this instance, whether it is a Garn or a Scott proposal.

I do think it is important to note that

there simply is not the time to take a different version of this resolution to a Senate-House conference with any hope of bringing it back in the week that is left to resolve the issue. That is just the practical state of affairs. There are others in the Chamber who have been here far longer than I have, who know that in the closing days of the session, when you have literally a week left, it is extremely impractical to try to take a matter as complex as this one into a Senate-House conference. We would have to try to get the conferees together, to try to reach an accord on a basic difference of opinion, to take the agreement, if one can be reached, back to the two bodies, and then go through all the parliamentary difficulties of bringing that agreement to a vote, I say it is impractical.

That is why any amendment at this point is a killer amendment. Whether that is the intention of the sponsor or not, that is clearly the effect.

So this particular rescission amendment, if it were to pass, will kill ERA deader than a doornail. That is exactly its effect. So we ought not to misunderstand what that kind of rescission amendment would have the effect of doing and what its ultimate purpose would be.

Now as to the point that was made by my friend from Virginia with respect to the 14th amendment being an adequate means to insure equity under Federal law, it just does not work that way. I wish it did. I wish he were right on that point. He is not right on that point in terms of the conditions we find in effect today in this country and, presumably, the conditions we would continue to find in effect for a very long time.

I have here a book which is a report of the U.S. Commission on Civil Rights. This particular book was published in April of last year. The title of it is "Sex Bias in the United States Code." I will not at this moment read verbatim from this document, but I recommend it to everyone who has a serious interest in this debate.

The Civil Rights Commission has gone to great lengths to examine the United States Code. They have found some 800 gender-based differentiations under the law where women are treated differently from men. We could go through this section by section, but probably one of the most telling sections that ought to be read by everyone deals with differing applications of the social security law. It seems to me that if there is one place where men and women ought to stand on exactly an equal footing, it ought to be in the area of social security, because of the profound importance of that program to the citizens of the country.

But for page after page, this report goes on to relate instances where the social security program does not function in an equitable way. That ought to be corrected.

It has been said, "Why don't you bring actions in court, and use the 14 amendment as the basis for such actions?" Mr. President, who knows how long that will take, and why should we have to pursue that course? Why should we have inequities built into the law having no justification in terms of any kind of sensible foundation or moral justification?

That just has to do with Federal law. Let us take the case of the State laws. We have 50 different sets of State laws across the country, and in a number of States we have laws that are also discriminatory against women. As our floor leader in this debate, the Senator from Indiana (Mr. BAYH) pointed out just a few moments ago we have great inequities in the inheritance laws. In certain States farms and other property may be jointly held and developed over a period of a lifetime. But if the husband dies and the wife is the surviving partner, there is a much more discriminatory tax impact than if the wife were to die first and the husband were the survivor.

There is no common sense whatsoever to that. It is an outrage that such laws exist today. We can go on debating this subject day after day but that kind of practicial inequity is a fact of life across the 50 States, worse in some States than others.

There are States where, if a woman is married and has a job and earns a wage, the husband, can actually go to her employer and ask that her check be given directly to him. He can take the check and do whatever he wants with it.

That is an absolute outrage. There is no State in the Union, by the way, where it happens the other way around, where a wife could go to her husband's employer and collect his check for the work he does.

These are monstrous, prehistoric elements of State laws that we ought to do away with.

That is the beauty of the equal rights amendment. It deals with all of those problems at once. And the language of the equal rights amendment is so clear and so simple: In essence, what it says is that men and women shall receive the same treatment under the law. How anyone can really protest that is beyond me.

But we come back to the practicality of the present moment. We have before us an extension measure, to give the 15 States that have not yet decided to ratify an additional period of time to debate and discuss and to tackle this issue. But we are in the final week of this session of Congress. You know, we could have taken this issue up a long time ago. There is no reason to wait until now. We could just as well have taken it up 5 or 6 months ago; but we did not. Here in the Senate we were tied up with the Panama Canal Treaty debate, we were tied up with the labor reform law debate, and we have been tied up with other items. Large quantities of time have been used, so that the energy bill, the natural gas filibuster, and many other bills have been pushed down to the end of the Legislative Calendar, including the equal rights amendment extension. We find ourselves with literally a week and a couple of days to go in this session of Congress. Here we have a proposition that has come through all the stages in the House of Representatives and it comes to us as a reasonable formulation. If we can pass it, the States can have the additional time to reconsider this issue.

But to think seriously at this point about attaching any rescission amendment, or for that matter any other amendment, would kill the ERA. The Senator from Illinois earlier offered another amendment which would also require a conference. Let there be no misunderstanding that any amendment at this point is a killer amendment.

I think frankly that is why the Senate, a little while ago, took a look at the Garn amendment, which had been thoroughly discussed, debated, and evaluated, and voted it down. I talked with a number of colleagues, and there is no one in any doubt about the meaning of the Garn amendment. The Senate took a look at the Garn amendment and decided in its wisdom, it was a bad amendment and ought not to be passed, and it has been turned aside.

Now we have the same thing again. The Scott amendment before us is basically the Garn amendment; the only difference is timing. The question is whether States could start to rescind in a month or so or sometime next March. I do not think it makes any difference, in practical effect, and that is why I say that what we are really dealing with is the Garn amendment brought back to life. Now we are going to have to go through the same debate again, and presumably go through the same exercise of resolving the issue; but it seems to me we are being asked to vote on basically the same proposition.

So I would hope that Senators who are within earshot, or staff members representing the Senators would look to see where we are at this point.

We have an opportunity before us to extend the time period for States and the country to consider the equal rights amendment and decide whether we want to put women on the same footing under the laws of this country that men enjoy. As I said yesterday, and as PAT LEAHY said, and I believe KANEASTER HODGES said earlier, those of us who have children, who have sons and daughters alike, feel very strongly about wanting to make sure that our daughters are able to start out on the same footing under the law as our sons.

I have a daughter who will be 20 years old within a week, who will be finishing college and who will presumably be going into the job market. I have another daughter aged 15 and a son who is 10. I find absolutely not a scrap of justification for leaving in place Federal laws or State laws that say that my son will have an elevated status under the law that is not available to my daughters. That is an outrageous proposition. But that is the current law.

It would be just as outrageous if it were the other way around, if women were to have an elevated status under the law greater than that available to

men. Why not put everyone on the same footing? Why should there be a difference? Why should we make any differentiation on the basis of sex?

Of course, the question is raised about other things having to do with race or region and other things that ought not to have any bearing whatsoever on the question of a person's status under the law. That is why this is so fundamental and so basic.

(Mr. HODGES assumed the Chair.)

Mr. RIEGLE. We talk about contemporaneousness. What could be more contemporary than the issue of equal justice under the law? That is the current issue on my mind all the time. It does not lose its vitality. In fact, what we are attempting to do here is to catch up with ourselves, to try to bring the country to the point that I think was really envisioned by the Founding Fathers and the Founding Mothers. That was the question of providing a set of legal guarantees and safeguards that would apply equally to every citizen in the land. But we got off on a different foot.

For many years women were not allowed to vote. It is significant, that when we ratified the amendment to the Constitution to provide women the right to vote, we did not attach a time limit. There was no time limit, none at all. Not 7 years, not 5 years, not 20 years. There was no time limit because there should not have been a time limit. Why have a time limit? The basic issue of whether a woman should have the right to vote in this country lays right at the heart of our system of justice. It is so fundamental that it would make no sense to have a time limit.

Quite frankly, I do not think it makes any sense to have a time limit on the equal rights amendment. I wish the extension were for an indefinite period. I wish the extension were for as long as it takes for 38 States to decide that it is time that we give the women of this country the same rights under the law that men enjoy.

If we can succeed in beating back the rest of the amendments which will be offered in the remaining time, and if we are successful with our vote on Friday to extend the time limit, we will then have provided an additional period of time for 15 States to consider the issue, to debate it, to debate it fully, and to decide whether or not they wish to ratify.

I must say to my friend from Utah, who is not in the Chamber right now but who has been very diligent in arguing his side of the argument (Mr. GARN), the fact that there may well be a time extension, and I hope we will vote one on Friday, does not prejudice either side in terms of the debate that will ensue over the next 3-plus years. Both sides will argue their point of view, both sides will be heard. There is no guarantee that even a single additional State will ratify. There is no guarantee in the world.

I hope they will. I hope we will have at least three. I would hope we would have more than that. But there is no guarantee. When this issue is taken up, if it is taken up, the State legislatures can say yes or no.

As I have listened to the debate by people on the other side of this issue, I get the feeling that the opponents of the extension are saying that if it passes, State legislators will only have the right to say yes. That is not true. They not only have the right to say yes; they have the right to say no. The extension is neutral in its effect.

A lot of the propaganda I have heard, a lot of arguments generated outside this Chamber, would tend to lead people to a different judgment. They would tend to lead people to the view that somehow or another only one side is going to have the chance to be heard. That is just patently untrue. Both sides will be heard. Both sides should be heard. Legislatures will have a chance to make their own independent decision and they will either choose to ratify or not to ratify. It is as simple as that.

The country needs this time, however. It needs this time to debate this issue and to deal with some of the misinformation which has been circulated.

Somebody handed me a newsletter today called the Phyllis Schafly report. I do not know if I still have it or not because I showed it to another Senator earlier—here it is. "How the Pentagon Promotes ERA." It is apparently written by someone called Brig. Gen. Andrew J. Gatset, U.S. Army, retired.

On this are comments made by people who have read it and were obviously alarmed about what was contained in it.

I think this is a good example of the kind of misinformation which is circulated on this issue, a lot of it designed to scare people, to create the impression that somehow families would be weakened.

The Senator from Arkansas (Mr. HODGES) was eloquent earlier this morning when he described some of the misconceptions that have been actively promoted in his State of Arkansas about the equal rights amendment.

We are talking about equity under the law, the same set of laws for men and women. That is all it is. It is as simple as that.

Yes, that does scare some people to death, but not for those phony reasons, the question of men and women having to use the same toilet facilities, which is, of course, not what ERA means. It goes to more fundamental things.

The ERA goes to the question of unequal pay for equal work. Should a woman in this country doing the exact same job as a man be paid less money, less money not because she does an inferior job, as she may well be doing a better job. But she is paid less money for what reason? Because she happened to have been born a woman.

That is an outrageous proposition, but it is a hard fact of life in 50 States today.

That is why it is difficult to have patience with amendments at this stage of the game.

Mr. SCOTT. Will the Senator yield briefly?

Mr. RIEGLE. I yield.

Mr. SCOTT. Senator CANNON, just before he left the Chamber, indicated he had to leave at 12:30. I am willing not to extend our debate in order to accommodate him. I do not know that either of us will say anything that has not been said before. Could the Senator agree not to take more than 5 additional minutes and I will agree to take not more than 5 minutes additionally? Then we could wind up this debate and have the vote at 12:30.

Mr. RIEGLE. Let me say to my friend from Virginia I have no purpose or desire to unduly prolong the debate. I must say, however, that Senator BAYH, who is really the leader in this effort, would have to respond to the point of the Senator. I would not want to try and respond in his behalf because he and I were not able to discuss the issue of whether other Senators wanted to be heard or wanted to speak. Before I would feel in a position to yield back the remainder of the time, I would want to check with him. Perhaps he can be located.

I am quite prepared to not speak longer at this point. It is not my intent to want to delay a vote.

If I may, I will finish my remarks, but let me see if we can locate Senator BAYH.

I am advised that at least two additional Senators have asked for time to speak on this amendment. I want to make sure their rights are protected.

Mr. SCOTT. Mr. President, let me assure the Senator I do not want to preclude any Senator on either side from speaking. I brought the matter up merely because one Senator (Mr. CANNON) did indicate he wanted to vote on it and he would have to leave at 12:30. That was the only purpose in my bringing up the matter.

Mr. RIEGLE. Let me say to the Senator I have asked the staff to inquire of the other Senators who indicated a desire to speak. We will see if we can locate them and see if they want to be heard at this time on this amendment. If so, perhaps we can work out an arrangement where that can be done.

I also shall endeavor to see if there might be any other commitment made by Senator BAYH for handling the issue for our side that I am not aware of. Certainly, I want to accommodate Senator CANNON or any other Senator who has a particular time problem.

I conclude, then, at this point, Mr. President, by saying that what we have before us is a very fundamental and basic issue. After all the discussion and evaluation and historic precedents having to do with previous constitutional amendments, and the ratification process and attempts to rescind, we work our way back to a very fundamental, basic question of equity under the law. Here we sit, as lawmakers, writing the law, perfecting the law, in large measure guarding the law, along with the courts, who, of course, have a different kind of stewardship than we do. What more basic issue could come before us as a body of lawmakers than to see that we make the law in a way that is equal, carries equal weight, equal privileges, equal protections for each citizen in our land?

I would think that the fact that we do not have that situation today, that we

have unequal laws based on sex, would almost create a rush within us to come here to set other things aside and deal with that issue. It is, I would say, an effort to make a more perfect union. That means to make better law. I cannot think of better law than equal law. That is what we are about here. That is what this whole debate boils down to. It is just that simple and it is just that direct.

Mr. President, I am prepared to conclude my remarks at this point. Perhaps the Senator from Virginia would like to speak. Otherwise, I shall enter a quorum call to see if I can determine whether other Senators wish to speak.

Mr. SCOTT. I do want the opportunity to respond to my distinguished colleague.

Mr. President, the distinguished Senator from Michigan refers to a time extension as being neutral. That is all I am attempting to do, be neutral. I should say that, during that time extension that is provided—and the joint resolution before us does not go to the merits of ERA at all. It was decided in the 92d Congress that two-thirds of the House and two-thirds of the Senate were in favor of submitting the so-called equal rights amendment to the States for their consideration for ratification.

I happened to be one on the House side who voted in favor of this proposal. I did that because, at that time, back in 1971, when the House of Representatives considered the measure, I did not receive one letter in opposition. I did not receive one telephone call in opposition. The various ladies' organizations were in favor of the measure. I, frankly, was not in favor of it, but when the vote was taken and it was passed by a 10 to 1 majority in the House—in the House, you know, you run for election every 2 years. I did not feel like flying in the face of unanimous opinions, insofar as contacts with our office were concerned, that were in support.

If we look back at that resolution, section 1 says equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex. On the surface, this is an innocuous, a harmless, a good amendment to the Constitution. The distinguished Senator spoke of having a daughter who is 20 years old. I have a little granddaughter who is 9 months old. Her life is just beginning. Certainly, I want my little granddaughter and, in fact, all women to have equal employment opportunities. I would want them to have an equal opportunity to enjoy all the good things of life. As ranking member of the Subcommittee on the Constitution, I offered, during the hearings, to join with the chairman, the Senator from Indiana (Mr. BAYH), in offering a substitute constitutional amendment that would protect the rights of women and would spell out a little more what we were talking about.

I do not know whether my little granddaughter, if this amendment is adopted, will be drafted or not. There is no exception made with regard to service in the military. The former Chief of Naval Operations, the former Chairman of the Joint Chiefs of Staff, Admiral Moorer, appeared before our subcommittee. He expressed considerable concern and talked at length; he testified before our subcommittee at length about this matter. He felt it would be a very severe handicap to the military if women were put in the front lines—not because of the incompetence of the women, but because of the compassion of the men. He indicated that the men soldiers, if they saw a young woman who was in combat, wounded, would not pass her by if military success depended upon it. They would stop and they would have compassion on this woman comrade, more so than they would on a male comrade. Well, we might have a difference of opinion on that, but that was the feeling of the man who, for a number of years, was the No. 1 military man in the entire country.

The distinguished Senator from Michigan said the time extension is neutral. That is all I am asking for—neutrality, fairness. Lawyers talk about quid pro quo, something for something. If we are going to extend the time within which the States can ratify—and they have had or will have on the 22d of March, 7 years—more time than has ever been taken in the history of the country for the ratification of an amendment. If we are going to extend the time for more than 3 years, permit 15 States the right to consider for an additional 3 years and 3 months whether they want to ratify it—I expect all or substantially all of them have considered this during the 7 years' time, but it will be brought back before them again. They will be lobbied by the White House and by others to try to push this through. To me, this whole thing is not neutral unless we say to the legislatures of the other 35 States, "You, too, have the opportunity to decide, yes or no, in a contemporary manner."

The courts have spoken of the period of time within which the States consider a matter, that it must be in a contemporary manner. That is why some of the proposed constitutional amendments that are already pending cannot validly be ratified, because they have been on the books for 50, 100, or 150 years.

Mr. President, I do hope that serious consideration will be given by my colleagues.

I am willing to yield back the remainder of my time if the distinguished Senator from Michigan is in a position to yield back his time.

Mr. RIEGLE. Mr. President, I checked with Senator BAYH. He indicates that there are others who wish to speak and perhaps they can speak later.

In an effort to accommodate Senators who may only be able to vote now, he is prepared to have us yield back the remainder of our time.

So, Mr. President, seeing no one else seeking time on our side, I yield back the remainder—

Mr. STENNIS. Will the Senator yield?

Mr. RIEGLE. Yes.

Mr. STENNIS. For my information, which amendment is now referred to?

Mr. SCOTT. It is very short. Let me just read the proposed amendment. It says:

> Any legislature of a State which ratifies the article of amendment proposed to the States in such joint resolution may, by the same procedure required for ratification, rescind such ratification at any time after March 22, 1979 and before the ratification of the article of amendment by three-fourths of the several States.

That is the gist of it.

Mr. STENNIS. That is No. 3688.

Mr. SCOTT. That is right.

The PRESIDING OFFICER. Does the Senator yield back his time?

Mr. SCOTT. Mr. President, I yield back the remainder of my time. I believe we have asked for a rollcall vote.

Mr. RIEGLE. Mr. President, I, likewise, yield back the remainder of my time on this side.

The PRESIDING OFFICER (Mr. HARRY F. BYRD, JR.). The question is on agreeing to the amendment of the Senator from Virginia. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Alabama (Mrs. ALLEN), and the Senator from Iowa (Mr. CULVER) are necessarily absent.

I further announce that the Senator from Missouri (Mr. EAGLETON) is absent on official business.

Mr. STEVENS. I announce that the Senator from Kansas (Mr. PEARSON) and the Senator from New Mexico (Mr. SCHMITT) are necessarily absent.

The PRESIDING OFFICER. The Senate will be in order.

The Chair inquires whether each Senator present has voted.

The result was announced—yeas 39, nays 55, as follows:

[Rollcall Vote No. 440 Leg.]

YEAS—39

Baker	Goldwater	Nunn
Bartlett	Hansen	Roth
Bentsen	Hatch	Sasser
Byrd, Harry F., Jr.	Hayakawa	Schweiker
	Helms	Scott
Cannon	Hollings	Stennis
Chiles	Huddleston	Stevens
Church	Jackson	Talmadge
Curtis	Johnston	Thurmond
Danforth	Laxalt	Tower
Dole	Long	Wallop
Eastland	Lugar	Zorinsky
Ford	McClure	
Garn	Morgan	

NAYS—55

Anderson	Haskell	Metzenbaum
Bayh	Hatfield, Mark O.	Moynihan
Bellmon		Muskie
Biden	Hatfield, Paul G.	Nelson
Brooke		Packwood
Bumpers	Hathaway	Pell
Burdick	Heinz	Percy
Byrd, Robert C.	Hodges	Proxmire
Case	Humphrey	Randolph
Chafee	Inouye	Ribicoff
Clark	Javits	Riegle
Cranston	Kennedy	Sarbanes
DeConcini	Leahy	Sparkman
Domenici	Magnuson	Stafford
Durkin	Mathias	Stevenson
Glenn	Matsunaga	Stone
Gravel	McGovern	Weicker
Griffin	McIntyre	Williams
Hart	Melcher	Young

NOT VOTING—6

Abourezk	Culver	Pearson
Allen	Eagleton	Schmitt

So the amendment (No. 3688) was rejected.

Mr. SCOTT. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SCOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3668

(Purpose: To propose an amendment to the Constitution of the United States to provide that equality of rights under law may not be denied on account of sex, except that the power of the Congress and the President to regulate the military forces shall not be affected)

Mr. SCOTT. Mr. President, I call up my amendment 3668 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Virginia (Mr. SCOTT) proposes an amendment numbered 3668.

Mr. SCOTT. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 1, beginning with the comma on line 2, strike out through the period on line 9 and insert the following: "(*two-thirds of each House concurring therein*), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by legislatures of three-fourths of the several States:

"ARTICLE —

"SECTION 1. Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex.

"SEC. 2. The provisions of section 1 of this article shall not affect the power of the Congress and the President to regulate the military forces of the United States, including the power to regulate the selection of members of the military forces.

"SEC. 3. The Congress shall have the power to enforce this article by appropriate legislation.

"SEC. 4. This article shall take effect on the date two years after the date of its ratification.

"SEC. 5. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within seven years from the date of its submission to the States by the Congress.".

Amend the title so as to read: "Joint resolution proposing an amendment to the Constitution of the United States to provide that equality of rights under the law may not be denied on account of sex, except that the power of the Congress and the President to regulate the military forces shall not be affected.".

Mr. SCOTT. Mr. President, this is a substitute proposed constitutional amendment which if passed would provide for constitutional protection of equal rights for men and women with the exception that Congress and the President would have the authority to regulate personnel within the Armed Services.

It would have to be passed by two-thirds vote in both Houses and be ratified by three-fourths of the States.

That sounds like a rather lengthy period of time to start over again. But I submit that some of the States which have not ratified the amendment have not done so, because of fear of the language within which it is couched.

Some are concerned, because it might mean that their daughters would be drafted, that they might be put in the front lines in the event of war, just as the men are. We could very well argue the other side that men and women are equal, having one in the front lines facing the enemy is no worse than having someone of the opposite sex in the front line facing the enemy.

But Admiral Moorer as you know, Mr. President, was our No. 1 military man for a period of several years and was chairman of the Joint Chiefs of Staff. He is a man who has spent more than 35 years in the service, I think, perhaps closer to 40 years. He has devoted his life to serving his country in the military. He appeared before our Subcommittee on the Constitution and testified against the extension, but he devoted practically all of his time to the field in which he has expertise, perhaps as much expertise as any Member of the Senate, or any man, any individual in the country. This is the field that he spent a lifetime in. He expressed concern that in the midst of a battle, if there were a charge toward the enemy and some of the soldiers would fall, the men would be inclined to stop and to help a comrade who was female more readily than they would a comrade who was male.

So he was saying that the men, in effect, because of their compassion, would not make as good soldiers with women fighting alongside of them as they would if in combat duty there were only males.

It is my understanding that under existing law women are prevented from serving in combat.

In a report issued by the Library of Congress on March 9, 1978, it states:

It is generally accepted today that the Equal Rights Amendment would require Congress to treat men and women equally with respect to the draft, if a draft should be reinstated. That would mean that both men and women who meet physical and other requirements, and who are not exempt or deferred by law, would be subject to being called into the service.

I realize, of course, we do not have a draft law now, but we could have women who would ask for combat service. Under the present law that would be denied to them. But under this proposed amendment it could be construed, and the Library of Congress after research concluded, that it would be contrary to law to exclude them from combat service.

I do not believe that any of us wants to see this. I say that, and yet I know there are some exceptions in the Senate, but the vast majority of us would not want to see women in the combat service of the military. We certainly do not believe that women should be treated equally as far as combat service is concerned.

Military experts have testified that women would actually be a hindrance in combat in some instances.

Mr. President, it seems reasonable to assume that women will be drafted into the Armed Services if the equal rights amendment is ratified by the necessary number of States, without this qualification being included in the joint resolution now before us.

In March of 1972, when the original equal rights amendment was before this body, Senator Sam Ervin from North Carolina offered a similar amendment to the one that is before us today.

The amendment was defeated. Upon its defeat, Senator Ervin addressed the Senate with these words:

I am sure the fathers and mothers of America are delighted to know that the Senate of the United States has voted to draft their daughters into the military service of this country.

That would not be true today since we do not have a military draft, but otherwise, as indicated before, if the draft law were reinstated there could be no distinctions as to sex, and in the choice of the services it is doubtful that there could be any distinction at all.

I believe, Mr. President, there are differences in the male and female, differences that we cannot change and many of us would not want to change if we could. But, Mr. President, among the other Senators who spoke out on that day in favor of the Ervin amendment was the distinguished chairman of the Armed Services Committee, Senator STENNIS.

His words in support of the amendment before us are just as meaningful today as they were nearly 7 years ago. He said this:

The real effect of the women's rights resolution is a very seriously proposed constitutional amendment, and it poses a very grave question from the standpoint of national security as well as the treatment of womanhood.

The Senator from Mississippi added:

How many Senators would want to see the young women of this country, many of them mothers of small children, living in barracks, wearing combat boots, carrying M–16 rifles and hand grenades, driving tanks, going through boot camp?

Mr. President, if we adopt the resolution without amendment, that is what it will require, because the U.S. Army would not be allowed to exclude women from combat or other hazardous duties on the basis of sex since that would discriminate against them, and the present resolution requires absolute sameness in treatment regardless of sex.

Mr. GOLDWATER. Mr. President, will the Senator yield at the point?

Mr. SCOTT. I will be glad to yield to my distinguished friend from Arizona.

Mr. GOLDWATER. Mr. President, I listened to the Senator, and I interrupt only to insert some facts that have occurred since the period of 1972.

As the Senator knows, I have always resisted women going into combat. However, today we are training women in the U.S. Military Academy, the Naval Academy, the Air Force Academy, and in the Merchant Marine.

The point I want to make—and I hope

the Senator will listen because it does present an obstacle to what the Senator is trying to do—it was either this year or last year when the Chairman of the Joint Chiefs of Staff appeared before our committee. I see our distinguished chairman on the floor. I asked the Chairman of the Joint Chiefs if he would help me draft legislation to prevent women from ever going into combat. Well, he said, "Senator, we have a new problem. You have to write a new definition of combat," which sort of took me by surprise, because he said:

When I was commanding General of the Seventh Air Force in Vietnam I presented over 200 Purple Hearts. We do not give Purple Hearts except to people wounded in combat. These were women serving as nurses in hospitals, serving as nurses on ambulances, and so forth, which the North Vietnamese bombed. So before you talk about preventing women from going into combat we have to have a new definition of it.

Let me add a little bit further that I am not opposing what the Senator is proposing to do, but just entering some arguments that could be used very effectively against him. We have trained and graduated, I believe, in the neighborhood of 40 women pilots in the Air Force; I do not know how many helicopter pilots from Fort Rucker in the Army. We have these women who graduated from Jet School. At least two of them are instructing men and other girls in the necessary training for jet fighters at Williams Air Force Base in my State.

In my old Air National Guard outfit we have a woman, a girl I should say, flying as a lieutenant, as a copilot on a KC–135. Here is another point that you have to consider and others have to consider.

Mr. SCOTT. I wonder if the distinguished Senator might yield just briefly, Mr. President? The provision of the amendment states that—

It shall not affect the power of the Congress and the President to regulate the military forces of the United States, including the power to regulate the selection of members of the military forces.

So it does not go into the specifics.

Mr. GOLDWATER. I understand that. But we already have a regulation, we have an Army regulation, and a law that prohibits a woman from going into combat.

A few more words and then I will yield back. We have a young woman flying copilot on a KC–135 tanker.

Now, let us say this tanker is ordered to duty in Germany, and hostilities break out, the tanker is ordered to refuel an aircraft engaged in hostilities, and the aircraft is shot up by enemy fighters or ground-to-air missiles. This person is engaged in combat, and yet we would not consider it that.

Look at it another way. We have been flying, in the past year or two, supplies to the Middle East when trouble arose. If that happens again, there will unquestionably be women in the crews. This is not in a declared war; it is not in a war. We are merely flying supplies to our friends in the Middle East, and yet one of these aircraft is shot down and a woman is killed, or badly wounded.

I merely bring these things up, not that I am opposing what the Senator is trying to do, but to give some background on some very new and recent problems involving what we do with a woman who is trained to fight and does fight in a war.

There are many positions women can fill in our forces that I am completely in favor of their filling, but I have always found it personally repugnant that one of my grandsons might have to fight alongside a woman in a war, or fly alongside a woman in a war. Not that they are not good; frankly I would rather fight against a man than a woman any day. But the thought is repugnant to me, and I think it is repugnant to most males anywhere in the world.

I merely wanted to bring up these points we had considered in the Armed Services Committee.

(Mr. BAYH assumed the Chair.)

Mr. SCOTT. I appreciate the comments of the distinguished Senator from Arizona. I know of his background in the armed services and on the Armed Services Committee, and I know that he has taken the floor on several occasions to defend equality of rights of women; particularly I recall the case of the women flyers. So this contribution is appreciated.

Mr. President, I yield to the distinguished Senator from Mississippi.

Mr. STENNIS. Mr. President, I certainly appreciate the remarks being made about this problem that lies within the language about the new conditions of women in the military, with bearing arms in battle, and so forth, and I agree with the Senator from Arizona in his remarks about it.

If this amendment is going to become a part of the Constitution of the United States, in order to avoid very, very serious constitutional questions, there ought to be some language that would preserve the power for the Congress—the Congress—to enact legislation with reference to selection of the members of our military forces. That is the reason why I am supporting the amendment of the Senator from Virginia, and it is the reason why I think it is so relevant and so necessary.

This does not take anything away from the equal rights amendment; it just preserves the existing rights and responsibilities that the Congress has under the Constitution now.

I strongly support this portion of the amendment, Mr. President. As I have said many times before, it is my firm belief and conviction that the overwhelming majority of women in this country seek equality of the sexes and not absolute sameness. The pending amendment by Senator SCOTT would permit such equality without requiring that women as a matter of law be subject to the same compulsions of men as far as the requirements for and conditions of military service are concerned.

At the present time we are operating, it is true, under an All Volunteer Force, an All Volunteer Army. We are all aware that there are rather serious problems connected with this as of now. We are not certain what turn it may take. It certainly may be necessary at some indeterminate time in the future that we have to reimpose some form of Selective Service Act and draft. I do not predict that this will come about. I merely say it is not an unreasonable possibility, and that some time, while perhaps not just in this form, we are certainly going to have to deal with the idea of prescribing the conditions and the uses to which female military members can be put. Therefore, we ought to make that exception now, and that reservation, that the power still rests with Congress and the responsibility rests with Congress.

If the draft should be reimposed, and if ERA as now written should become a part of the Constitution, I think that the result would be that men could not be drafted for military service unless women were subject to the draft in the same manner and to the same extent. The only way we could then continue the military draft to provide for the defense of our country and to meet our treaty commitment would be to draft men and women on an equal basis and without any distinction between them. I believe that few, if any, Members of this body would want this to happen.

In addition, Mr. President, if this resolution is ratified without this or a similar amendment, the military forces would not be permitted to exclude women from combat service or other hazardous duty because that would constitute discrimination on the basis of sex. This situation could be averted if we adopt the amendment giving the Congress and the President power to regulate the military services and the selection of members of the military.

This amendment would not preclude women from being in the military forces; it would just permit them to be excluded from the more hazardous duties if Congress should see fit.

Mr. President, any Senator who seriously considers now the picture of young women being taken prisoners in combat will realize, I feel sure, why this amendment is necessary and desirable for that additional reason. We should not put our military services in the position where they are compelled, as a matter of law, to send young women into combat and to serve other hazardous duty to the same degree and extent as men.

This is not a question of equality; it is a question of commonsense, physical hazards, and physical survival considerations. The only fair, reasonable, and sensible solution to this problem, I submit, is to adopt this amendment permitting reasonable distinctions between men and women based upon recognized differences between them as far as selection for and conditions of service in the military is concerned.

I urge the support of Senators for the passage of this important amendment, to give certainty, clarity, and clearness to the proposed amendment should it become a part of the Constitution, and put this power and responsibility, I repeat for emphasis, or to leave it at least, in the hands of Congress.

That is the substance of what I would

have to day. I could elaborate on it, but I do have another mission, now, that it is compelling that I attend to.

I thank the Senator from Virginia very much.

Mr. SCOTT. Mr. President, I appreciate the contribution of the distinguished chairman of the Senate Armed Services Committee. I have been privileged to serve on his committee during the time I have been in the Senate, and I know of his concern that we have a military force second to none.

I thank the Senator very much.

Mr. STENNIS. Thank you, Senator.

(Mr. METZENBAUM assumed the chair.)

Mr. SCOTT. Mr. President, if I may now continue with the statement that I was making before the Senator from Arizona asked me to yield, it would seem reasonable to heed the warnings of Senator STENNIS that he made when the Senate was considering the bill in 1972. We just heard now his further statement. This distinguished Senator, the chairman of the Armed Services Committee, knows what he is talking about.

Of course, the proponents of the ERA that is before the States for ratification may say that it is not certain that women would be compelled to serve in combat units. Of course, that is true; they may not be compelled to serve in combat units. It is the uncertainty of the language that is of concern to me.

But let us once again turn to the Library of Congress report, which states:

Still uncertain under the ERA, however, is whether women would be compelled to serve in combat units. Proponents believe that the ERA would mandate equal opportunity for women in the military and that training programs would have to be the same unless individuals show certain physical differences or incapacities requiring different treatment. Under this approach ERA may require assignment of physically able women to combat units.

Therefore, there is a reason for concern that women will have to be assigned to direct combat roles in the field in the same manner and in the same number as men. This would adversely affect the efficiency and discipline of our forces. If women were not assigned to duty in the field, overseas, or on board ship, but were entering the armed services in large numbers, this could result in a disproportionate number of men serving more time in the field and on shipboard, because of reduced number of positions available for their assignment.

Traditionally, the doctrine of military necessity has been cited as reason enough for judicial reluctance to interfere with military decision-making.

The military has, according to a recent Library of Congress report on women in combat, assumed that—

Congressional and military decisions to exclude women from combat have been rational and sensible. Recognizing that national defense is a major concern to the American people and that Congress is empowered to provide for the common defense, the courts have generally refrained from interfering in this area of legislative prerogative.

However, if the present proposal is adopted and ratified by the States, we will have equal rights for women but will also have a military that may compel people to serve on the front lines regardless of sex. Any attempted action to prevent this by the Congress, if the proposed amendment to the Constitution is adopted, would then be contrary to the Constitution and would be invalid.

Let me conclude my opening statement by again citing the Library of Congress. It states:

If the policies of the Armed Services were to not assign women to combat and a challenge was made in the courts, there would be several possible outcomes.

One might be to overturn the armed services' policies and require that women be assigned to combat on the same basis as men.

Mr. President, I reserve the remainder of my time.

Mr. PROXMIRE. Will the Senator from Indiana yield me 10 minutes in opposition to the amendment?

Mr. BAYH. I am glad to yield to the Senator from Wisconsin as much time as he desires.

Mr. PROXMIRE. Mr. President, I will make four points in opposition to this amendment.

First, it should be noted that this amendment really is a substitute for the original ERA text, House Joint Resolution 208, approved by Congress on March 22, 1972. As such it effectively kills off not only the current extension resolution, House Joint Resolution 638, but redrafts and significantly changes the entire ERA amendment. This is not just an amendment to give the Congress and the Pentagon the opportunity to rewrite regulations in spite of the amendment. It goes much further than that.

Second, by establishing a special exemption for the military forces, this amendment would dilute the effects of the ERA amendment by denying equal rights to women in the Nation's largest employer—the U.S. military establishment.

Third, this amendment resurrects a debate that has occurred on a number of occasions and with the same result—rejection of any special exemptions for the military. Exemption of women from compulsory military service was defeated by a Senate vote of 73 to 18 in March of 1972. Likewise, an amendment to exempt women from combat duty was defeated 71 to 18 the same day in the Senate. The prior year the House voted 265 to 87 against an exemption of women from the draft. This matter has been debated in 1970, 1971, 1972, this year and last year with a variety of House and Senate reports addressing the issue.

Fourth, even granting the need to once again debate this matter, the substantive arguments against women in uniform have dissipated substantially in recent years so that there now is a clear understanding, not only of the rights, but of the need for women in the military. Let us take a look at some of these issues that lie at the heart of this amendment.

Mr. President, we had hearings before the Joint Economic Committee on this which were most impressive on the remarkable contribution women are making right now in the military. It is really a story that has not been told widely enough. Women are making the volunteer Army work. Without women the volunteer Army would have been a conspicuous failure. As a matter of fact, the only way the volunteer Army will be able to work in the future is to give women more opportunities than they have had. What it shows is that women, because they have to be a high school graduate are better educated, their intelligence tests higher, their absence from work is less, even including the absence because of pregnancy. So all the way across the board women are making and have made an outstanding contribution and they can make a much better contribution in the military providing for a stronger armed force.

WOMEN AND THE DRAFT

The critical question raised by this amendment is "Will women be subject to the draft?" The answer is clear. Yes, women will be subject to the draft, should we have one at some future point in our history. Women and men would have to be treated alike under the provisions of ERA.

Having said that, however, it is important to understand what will not be required under ERA. ERA will not require that all women must serve in the military any more than all men must serve. Women who are conscientious objectors, who are unqualified for medical reasons, those with dependents, or mothers with children will not automatically be subject to the draft any more than men with particular exemptions would be. Congress would be required to create sex neutral exemptions—such as an exemption for all parents of children under 18. The exemptions would apply to both men and women.

Women may volunteer for military service, including combat duty, under ERA just the same as men but this duty need not and will not be arbitrary. Women will not have to serve in any capacity where they are not fitted.

Now let us think about this for a minute. If women are allowed equal access to the military during peacetime as volunteers and if they carry an equal responsibility during wartime and the draft, what does this mean? Well, it means that we will have a more efficient, more capable fighting force. Today military women lose less on the job time per capita than men and this includes time off for pregnancy. Women have better retention rates than men, cost less to support than men, and have higher morale as expressed in lower AWOL rates. They are much less a discipline problem than men mainly due to far lower rates of involvement with alcohol and drugs. From every perspective, therefore, women are good for the military in peacetime and during war. Since all women now must meet a higher educational standard than men before they can enlist, more women will mean a more educated military force and in today's modern world that cannot help but improve our capability.

WOMEN TOO WEAK?

Now what about the image of a frail, untrained, weak willed, shy woman having to fight with heavy equipment in a cold, wet, foxhole in Korea? This is the imagery many like to conjure up to argue

against ERA. This, of course, is patently absurd. In the next war every civilian may be subject to the full effects of warfare even more gruesome than front line soldiers. There is no place to hide from the blast of a nuclear weapon, the radiation pattern spreading out downwind, the fire storms, the contamination of water and food sources, the panic and death that would be commonplace. Technology has let us all share a new burden of warfare.

Even on the battlefield of a conventional war, technology has displaced brute strength as the edge of victory. Tanks, trucks, heavy weapons, are now fitted with serving devices—that is, with power assist mechanisms that reduce the requirement for brute strength. And fewer and fewer soldiers find themselves in the front lines. Depending on the definition of combat, only 10 to 15 percent of our defense manpower consists of front line troops.

We should not overlook a point I made before when considering women in combat. Only women with the proper skills, training, strength, and capabilities determined by our military chiefs as sufficient for combat will be allowed to engage in combat. Only women with the same minimum skills as men will be allowed in combat and then, of course, only on a volunteer basis. There are many men who do not qualify with the minimum standards of strength, training, and determination to be allowed in combat. There are many women who do qualify. If the choice is between an unqualified man and a qualified woman, there should be no hesitation to make the obvious choice for the good of our Nation.

When it comes to having a soldier next to me, in my judgment, regardless of what my good friend from Arizona said, it would not matter to me whether the soldier is female or male; it would depend greatly on whether that soldier is capable, alert, and competent to do the job. We know there are some men who are not capable, not competent, and some men who are. The same applies to women. This would be the basis for determination under ERA, not what their sex is, but what their ability is.

PROTECTIONISM FOR WOMEN

What lies behind this attitude of wanting to protect women from the dangers of warfare? It certainly is chivalrous, it is decent, it is humane, it is the product of our society, and it is sexist. Why sexist? In the words of one woman's group, this protectionism "by denying us our total equality with men, perpetuates the insidious discrimination based on sex that now exists in every area of our lives. We are not asking for protection that implies an elitist sexist attitude of the superior capability and intelligence of men in setting national policy. We are asking for protection of our right to become directly involved in these issues and to determine for ourselves the kind and quality of lives we will lead."

RIGHT OF CITIZENSHIP

Military service is one of the more onerous duties of citizenship. The call to defend and die, if necessary, the right to serve or to refuse to serve, is central to the concept of democracy. To deny women this most fundamental of rights, to assert by legislation that women should be less concerned with the affairs of the world or the protection of our Nation, to claim that they have less a right to sacrifice their lives in defense of this Nation, is to deprive women of a fundamental place in our society.

ERA will not require any great intellectual jump for the Armed Forces. In the past several years, Congress and the Defense Department have been moving steadily toward full participation by women in the military. Many job classifications have been opened up to women. Women now serve in combat-related occupations. By virtue of the legislation just passed on the fiscal year 1979 Military Procurement Authorization Bill, women will be allowed shipboard duty. They are now permitted to serve as missile launch officers. They are flying jet aircraft and, according to the record, doing as well as or slightly better than the men in the program.

I repeat, they are doing as well in flying jet aircraft or better, according to the record.

Thus, ERA will not disrupt this developing pattern of greater participation by women.

EMPLOYMENT DISCRIMINATION

Now, Mr. President, let us look at this issue from a different perspective. The Defense Department is the largest employer in the country. There are 2.1 million uniformed personnel and one million civilians in the defense system. If women are excluded from full participation in the military, the Federal Government would be encouraging a subtle type of discrimination. Without equal treatment in job classifications, women are discriminated against in advancement. Promotions follow certain career patterns that are often blocked to women. The problem is even more severe when one considers that women have been penalized by not being allowed to participate in the education and veterans benefits available to so many men. The G.I. bill, medical care in Veterans hospitals, home loans, life insurance policies, job preference, remedial training—all of these benefits commonly available to men in the service, have been denied women through the device of limited participation. The fixed percentage barriers to the number of women in the military undoubtedly have had a profound effect on women in the opportunities lost.

EQUAL RIGHTS FOR MEN, TOO

Mr. President, equal rights for women really means equal rights for men. Exempting a woman from the draft or from military service is a form of discrimination against men. It means more men would be called. It means more men would die. If both men and women have a duty to serve their country, then burden sharing is the only appropriate answer.

One last point, Mr. President. I ask a question for my colleagues to consider. During World War II, Russian women served in combat positions in tank corps and in the Soviet air force. They actively participated in combat operations, and women's units won many awards. In Indochina, women served next to men as our adversaries. Unfortunately for us, we found how tough and strong and effective they were. My question is: "Are you any less dead if killed by a woman than a man?" Does it make any difference to the enemy if the hand that pushes the button belongs to a female rather than a male? Is the order to attack any less real when offered by a woman? Frankly, war has become so impersonal that distinctions of gender are no longer relevant. Capability, efficiency, numbers, weapons count—not gender. And that basic fact is the reason why this pending amendment must be defeated.

Mr. President, I thank the distinguished Senator from Indiana for yielding me time and I yield the floor.

Mr. BAYH. Mr. President, I should like to express my appreciation to my colleague from Wisconsin for presenting what I feel is a very balanced, reasoned, and accurate description of what I have found to be the most sensitive part of the Equal Rights Amendment issue. Having struggled with this for a good number of years back in 1969 or 1970, I had the good fortune of chairing the Subcommittee on Constitutional Amendments at that time. At that time I suppose I had all of the old stereotypes, and perhaps I still have, in my mind, the feeling that some of us like to have regarding chivalry. But the more I got to studying it, the more the real world in which we live—not the King Arthur and Sir Galahad and Lady Guinevere world, but the real world in which we live, came into focus and the more I became convinced that this certainly was no reason for us to back away from a commitment to equality of rights under the law for women.

I listened to my good friend and colleague from Mississippi exhort the Senate to consider how terrible it would be to see our daughters bleeding and dying on the battlefield. That, indeed, would be a horrible spectacle. It is equally horrible to this Senator to envision a similar spectacle, only exchanging our sons for our daughters as those who bear the tragedy.

In the hearings on extension which I had the good fortune to chair, one of our outstanding military leaders, Admiral Moorer, quoted extensively by Senator SCOTT, testified before our committee. Admiral Moorer said very much what Senator SCOTT said earlier, that the effectiveness of the men in combat with women would be deterred because, if a woman were wounded and lay bleeding on the battlefield, a man might be deterred into lending assistance to this woman, thus, the efficacy of our battle units would be decreased. On that point, I asked the Admiral:

> I have not had the privilege of serving in combat. I did wear a pair of combat boots. I am not sure they did anything more for our country than leave a set of footprints on occasion. But I have talked to a good number of men who have had that privilege, and I think the record of history from day one until now is replete with examples where men would stop to lend aid and comfort to fallen comrades who were men.

Indeed, many American soldiers, who were men, gave their lives going to the assistance of other men. To suggest that that feeling of compassion has a line

drawn where women are treated differently from men when one or the other lies dying on the battlefield, I think, is to convey an entirely erroneous picture.

Does the Senator from Vermont want to be heard? I would be glad to yield at this time.

I would like to make one additional comment afterward as to the very perceptive remarks of the Senator from Wisconsin.

I yield to the Senator from Vermont.

Mr. LEAHY. I appreciate that.

Mr. President, in the closing moments of the 95th Congress, the Senate is considering one of the most important human rights issues of this decade, the guarantee of equal rights and opportunities to women. Over a century ago, through the 14th amendment, equal rights and protection of the law were guaranteed to this country's blacks. Fifty years ago women were given the right to vote by the 19th amendment. In fact, just 10 years ago that privilege was broadened to include 18-year-olds. During the 1960's, Congress, with the rest of the country, wrestled with and thoroughly debated numerous civil rights bills. We redressed historic discrimination through the Civil Rights Act of 1964, the Equal Employment Opportunity Act of 1972, the Voting Rights Act of 1965, the Equal Pay Act of 1963, to cite just a few.

This country has consistently been in the forefront of human rights issues. We have recognized the problems inherent in this country—social, legal, and economic inequities faced by the minority population. We have actively sought to redress and rectify the sources of discrimination. Recently this Nation has taken upon itself the role as watchdog of human rights issues in the international community.

In 1972 Congress passed the equal rights amendment which would guarantee to the women of this Nation the same rights, the same opportunities, and the same recognition before the law as have been historically afforded men. The ERA is simple, straightforward, and, in print, seemingly noncontroversial. Congress sent the amendment to the States for ratification confident that the people would embrace the amendment, and adopt it with the assurance that, with ratification by the 38th State, women would constitutionally be guaranteed the same rights and opportunities as men.

Mr. President, this has not been the case. This simple amendment, which must be ratified by next March, has been the victim of distortion, vitriolic emotionalism, and misapprehension over its effects. Both opponents and proponents have fueled a fire that still rages.

Thirty-five States have ratified the amendment. Four States have since rethought their adoption and voted to rescind it. Several others have expressed the desire to rescind their vote. I am proud to say, my own State of Vermont has ratified the equal rights amendment. In fact, was one of the first States in the country to do so.

I support the ERA and I am a cosponsor of the joint resolution to extend the ratification deadline which we have debated.

This appears to me a relatively simple question. We have been asked to extend the time period for the States to guarantee equal rights to clearly half of this country's population. I have long been concerned that each of our citizens enjoys equal status in this Nation. It is vital that equal opportunities be afforded to all citizens regardless of race, religion, or sex. I believe the ERA would guarantee equal rights to all people, men and women.

Questions about the constitutionality of such an extension have been raised. Some opponents of the extension pressed for a rescission provision to allow those States that have changed their minds on equal rights to do so. Other opponents have voiced the need for a two-thirds vote by the Houses of Congress on this joint resolution.

I do not believe that extending the ratification period would create an uncomfortable precedent. Many constitutional experts have testified that, although the Constitution is silent on this question, an extension would not run counter to the basic tenets of the amending process.

The Constitution, while providing for State ratification of amendments, does not allow those States that have adopted a constitutional amendment to rescind the vote. The U.S. Supreme Court has stated that the decision to allow for rescission rests with Congress. I do not believe that an extension resolution should contain a rescission provision. This amendment is itself an important constitutional matter, one which must not be taken lightly. Can we truthfully change our minds on the guarantee of equal rights? I also do not believe that this resolution requiries a two-thirds vote by either body.

This amendment deserves a full, fair, and rational hearing before all the State legislatures. The extension resolution would provide that opportunity.

Mr. President, I am the father of a 12-year old daughter. I would like to think that she would have the same rights when she grows up as my two sons are now guaranteed, and the opportunities that those rights now insure. It is incumbent upon this Senate to continue to show its concern for equality for all people of this country and the world. The opportunity is at hand. But time is running short. We must now recognize and state to the world that there can be no time limit on equality.

Mr. PROXMIRE. Will the Senator from Indiana yield to permit me to ask the distinguished author of the amendment. the Senator from Virginia, a question?

Mr. BAYH. Yes.

Mr. PROXMIRE. Mr. President. would the Senator from Virginia enlighten this Senator on the effect of this amendment?

Section 5 on page 2 of the amendment reads:

"SEC. 5. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within seven years from the date of its submission to the States by the Congress.".

This amendment starts on line 2 and, therefore, wipes out the resolution that was before us. So I take it, what the effect of this amendment would be would not only be to provide for a modification of ERA as it affects the military, that is section 2 of the articles, but, in addition, it would provide in section 5 that we have an entirely new amendment; in other words, it would wipe out ERA, now pending, and start over to get ratification of a different ERA version; is that correct?

Mr. SCOTT. Mr. President, the distinguished Senator, of course, is correct.

This is a substitute. It is an amendment in the nature of a substitute.

I have expressed the opinion that we cannot validly extend the time limit, that we are inviting court action by attempting to do that. It would require a two-thirds vote, as is stated in the amendment.

But the primary purpose does relate to the military. Everything that the distinguished Senator has inquired about, the answer is in the affirmative.

Mr. PROXMIRE. I thank the Senator.

Mr. BAYH addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. BAYH. I guess when we get right down to it, Mr. President, what the Senator from Wisconsin is saying, and what I feel in the bottom of my heart, is what those who have been there can say, and no others really can. That is, that war is hell. It is hell for our sons and it is hell for our daughters.

We can ask the combat nurses who died, or lived a living death and then survived, from Bastogne, or Bataan. or recently Da Nang, and that is the unfortunate fact of life and death.

Mr. SCOTT. Will the Senator yield at that point?

Mr. BAYH. I am glad to.

Mr. SCOTT. I wonder if the Senator during his service, during his basic training, was not asked the question, as I was, "Do you want to go overseas?" I said, "No." A psychiatrist asked the question, "But you will go, won't you?" And I said, "Yes." He said, "You're normal."

So I think that is the way most people feel.

Mr. BAYH. That could be.

When they asked me the question, I said, "Yes," and they probably wondered whether I was qualified to serve, or not.

But, be that as it may, I think it is important to understand that in what we are talking about here, there is very little difference in what exists now. Congress, this body, has the right to draft women now, if we need them to defend our country. We hope we do not have to draft anybody else.

I think the Senator from Wisconsin was absolutely on target when he pointed out that the volunteer army which we have today would be a signal failure if it were not for women who are permitted to volunteer.

As was pointed out, the quality of women is higher than of men; and the irony is that the debate on the military

has focused on not sending women into combat, not having women killed on the battlefield. Very little attention has been given to the fact that we now discriminate against women who want to volunteer. The women who want to volunteer have to meet a higher standard.

Not only are we denying them an equal opportunity to serve their country, but also, of equal significance, we are denying them an array of benefits that are very important and come as a result of service, not the least of which is qualification for certain jobs in civilian life. In certain instances, a veteran is given preference over a nonveteran.

Mr. President, before concluding, I ask unanimous consent to have printed in the RECORD some remarks that were made by the Senator from Indiana in March of 1972, at the time the equal rights amendment was being considered and passed. I do so because I think that if a court ever looks at what we really meant so far as the effect of the equal rights amendment on women is concerned, it probably would look to see what some of the principal sponsors said at the time the amendment was being ratified.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

The equal rights amendment requires that those exemptions would have to be sex-neutral exemptions rather than those that apply to one sex.

What type of exemptions are you talking about, Senator BAYH? Well, it is entirely possible that Congress would establish an exemption in which any parent could be exempted from the draft. Ridiculous, you say? Well, throughout most of the 1950's and 1960's this is exactly an exemption that applied to men and women—it did not apply to women because they were not subject to the draft, but it did apply to every man. Any father was exempted. So that exemption could exist under the equal rights amendment. Any parent, mother or father, could claim that exemption and not be subjected to the draft.

Congress could also provide that the parent who has the primary duty of rearing the children or caring for the home would be exempt. In the judgment of the Senator from Indiana, this would be perfectly constitutional under the equal rights amendment. Congress would be excluding the parent there, whether it be mother or father; but, indeed, we can look around at most of the homes around the country and in some of these homes the wage earner and the mother has the primary responsibility for rearing the children and taking care of the house, and she could claim this sex-neutral exemption.

Congress could take a further look and provide that no more than one parent in any family would be subject to conscription.

Then, let us move past the exemptions. Let us look at those who are not able to claim an exemption and those who are subject to the draft. What size burden are we really talking about? Does every 17-, 18-, or 19-, or 22-year-old woman feel that she is going to be drafted?

Let us look at the facts as they are today as far as men are concerned. Let us take the 1971 draft call, the most recent draft call. There were, in 1971, 1.9 million men in this country eligible for the draft; 50.5 percent, or over half of those, were rejected for induction for one reason or another; 24.9 percent were rejected at induction.

So when we get right down to it, less than 25 percent of the men of this country were ever subjected to the draft in the first place. That number was between 400,000 and 500,000. Of this almost 500,000-man pool of men subjected to the draft after the various rejections, only 98,000 were ever called, and only 94,000 of these were ever inducted.

In other words, 5 percent of the eligible males in the country were inducted into the Army last year. Less than 15 percent—and I wish the Senator from Mississippi were here to verify this, because we are concerned about combat—out of that pool, 5 percent out of almost 2 million men were assigned to combat branches. That means that less than 1 percent of the eligible males in the whole country that were ever assigned to a combat unit.

It might be fair to say that is about the same risk women would be subjected to, except it would be fairer to assume that the sex-neutral standards that would be established by the Armed Forces on the basis of physical competence would exclude an even greater percentage of women because of the ordinary physical standards required, such as pushups, chins, running, and other physical and combat characteristics that are necessary for any member of the armed services.

Now, of this less than 1 percent—and if you look at all of the physical rejections that could occur, you would get down to significantly less than 1 percent of all the women in the pool who would be drafted in the first place—would they be assigned to combat duty?

Admittedly, there is no way we can guarantee they would not be, but in the judgment of the Senator from Indiana, they would be assigned to duty as their commanders thought they were qualified to serve. Just as 85 percent of those who are now in the armed services and who are men are not assigned to combat duties, so the commander would not need to send a woman into the front trenches if he felt that it would not be in the best interests of the combat unit to make such an assignment.

I want to suggest that I hope the time will not come when we have women drafted and sent into combat. I hope the time will not come when they are drafted, very frankly. But I suggest that right now we have a significant number of women in all of our military services who are serving with distinction, and many of them are serving in combat zones. You ask a nurse serving in an Army hospital in Da Nang whether she is in a combat zone or not, and whether she might be spirited away or detained by the V.C., and I am sure she will tell you that is something she has thought about.

If we look at the kind of confrontation which may develop, God forbid, if we ever get involved in a nuclear exchange, then find me a noncombat zone, for I think that is where most of us would want to be.

I think the experience of other nations which have conscripted women might be of help in our deliberations on this subject. I have looked at this situation in Israel. I am sure many people may feel that Israeli women, having been conscripted, are sent into combat. That is really not the case. Women who are conscripted are given combat training, and why should they not be, in the event their position is attacked. But those women are not sent into combat areas, and the Senator from Indiana suggests that with very few exceptions that would be the case here if the equal rights amendment passes.

At this time, I ask unanimous consent to have printed in the RECORD a letter addressed to me from Col. Stella Levy, a military attaché to the Israeli Embassy, describing in more detail the condition which actually exists with respect to women in the armed services of Israel.

Mr. BAYH. I suggest we are not talking about just a one-way street. In passing an equal rights amendment and thus raising the possibility that some of the women of this country are going to be drafted into the armed services, we are not just talking about a pure sacrifice on the part of the women. We are talking about a sacrifice; yes. We are talking about a responsibility; yes. But we are also talking about a significant benefit to be derived as a result of this service for the country.

I suggest that right now we are operating under a very unfortunate dual system, in which everyone admits that women volunteer and no one can deny that numbers of them now serve in combat zones but the quality and the criteria that must be met by a woman to gain admission to the armed services are different than those for a man. Even if a woman wants to volunteer today, she has to meet a higher standard.

We permit men to volunteer at age 17. A woman cannot volunteer until she reaches 18, despite the fact that most people believe that a woman matures significantly in advance of a man.

A woman, before she is even considered in our services today, must have a high school diploma. That is not true for a man. So the first impact of the equal rights amendment as far as the military services are concerned would be to say that any woman who wants to serve her country will have the same opportunity to do so, and will be either admitted or denied admission on the basis of the same grounds used to admit or deny men.

I want to look at what this means, because there are significant benefits that are denied to women of this country because of the way that they are denied equal access to the military services, either voluntarily or by conscription.

The GI educational bill which has provided the greatest reservior of talent that this country has ever known, is the first example that comes to mind. This talent has been primarily limited to men, because the services have been primarily limited to men. I wonder how many young women would make the same choice that the Senator from Indiana and many other young men made. When trying to weigh whether I should volunteer or not, one of the things I considered was not only what I could do in the Army, but that if I went in the Army and served my country for a certain period of time, it would permit me, on my own self-reliance, to provide an educational opportunity for myself. Most young women in this country do not have that choice today. This amendment would give them that choice.

It would also give them the benefit of GI loans for homes, farms, and businesses. There are hundreds of thousands, in fact millions of our citizens today who finance the purchasing of a farm, a home, or a business, not because they have any unique talent, but because they have had the opportunity to serve in the U.S. Armed Forces. We do not make this financial capacity available to young women who may want to take advantage of it as well.

GI life insurance is another benefit that is gained if you serve in the Armed Forces. We would make the same benefit available to women. Veterans' mortgage insurance, up to $30,000 guarantee on a mortgage, would be made available to young women as well as young men, as would nonservice-connected death benefits.

Perhaps the most insidious type of discrimination that results because of the way our Army is treated today is in the employment area. If you are a veteran, the Veterans' Administration seeks to assist you in seeking employment. There are a number of job opportunities, on-the-job apprentice training, and other tools provided. We know that there are certain types of employment by our U.S. Government where, if you are a man and you have been in the military, you get X number of points added to your score, to get the job over someone who may be a woman and

has never been a veteran, even if that woman is smarter than you are and gets a higher score on the intellectual part of the test. By the time you add those points for service to your country, the woman goes to the bottom of the list.

What we are saying is not that this is bad. If persons serve their country, give them the extra points. They earned them. But make opportunity available on an equal basis to the young women of this country. To suggest that this is all a one-way street, I think, is to suggest something that really is not borne out by the facts.

Mr. BAYH. Mr. President, I am certain that others probably said it better then than I, and I am certain that the Senator from Wisconsin said it with a greater degree of specificity than the Senator from Indiana has said it so far.

However, basically, one of the significant things we were trying to do at that time was to point out that although it would be impossible to guarantee that no woman would be sent into combat against her will, it certainly was the very strong intention of Congress to leave this decision to the battlefield commanders, not to Congress. If a battlefield commander thought a woman would not be effective in a combat role, then she should not be sent into that position. The Senator from Wisconsin said that neither should a man who would not be effective in a combat role be sent into combat.

As he also pointed out, it is very difficult to determine where the combat zones might be in the next war. Unfortunately, they might be in downtown America, where civilians are as much combatants as the military. We hope and pray that we are wise enough to prevent that from happening.

Mr. President, if there ever were a person who had the credibility to judge this, it probably was the man who uttered these words:

Like most old soldiers, I was violently against women soldiers. I thought a tremendous number of difficulties would occur, not only of an administrative nature but others of a more personal type that would get us into trouble. None of that occurred. In the disciplinary field they were a model for the Army. More than this, their influence throughout the command was good.

That was said by a famous soldier, who later became a five-star general and then became President of the United States, by the name of Dwight D. Eisenhower.

I salute the Senator from Wisconsin for putting this whole issue in proper perspective.

The PRESIDING OFFICER. Who yields time?

Mr. SCOTT. Mr. President, the yeas and nays have been ordered. I have no desire to debate the matter further. In the event the distinguished Senator from Indiana is willing to yield back his time, I am agreeable to yielding back my time and having an immediate vote.

Mr. BAYH. The Senator from Indiana yields back his time.

Mr. SCOTT. I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. EASTLAND (when his name was called). On this vote I have a pair with the distinguished Senator from Nevada (Mr. CANNON). If he were present and voting, he would vote "nay." If I were at liberty to vote, I would vote "yea." I withhold my vote.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Alabama (Mrs. ALLEN), the Senator from Nevada (Mr. CANNON), and the Senator from Colorado (Mr. HASKELL) are necessarily absent.

I further announce that the Senator from Missouri (Mr. EAGLETON) is absent on official business.

Mr. STEVENS. I announce that the Senator from Kansas (Mr. PEARSON) is necessarily absent.

THE PRESIDING OFFICER (Mr. SASSER). The Senate will be in order. Has any Senator not voted?

The result was announced—yeas 14, nays 79, as follows:

[Rollcall Vote No. 441 Leg.]

YEAS—14

Bellmon	Helms	Talmadge
Curtis	Laxalt	Thurmond
Garn	McClure	Tower
Hansen	Scott	Zorinsky
Hatch	Stone	

NAYS—79

Anderson	Griffin	Morgan
Baker	Hart	Moynihan
Bartlett	Hatfield, Mark O.	Muskie
Bayh	Hatfield, Paul G.	Nelson
Bentsen	Hathaway	Nunn
Biden	Hayakawa	Packwood
Brooke	Heinz	Pell
Bumpers	Hodges	Percy
Burdick	Hollings	Proxmire
Byrd, Harry F., Jr.	Huddleston	Randolph
Byrd, Robert C.	Humphrey	Ribicoff
Case	Inouye	Riegle
Chafee	Jackson	Roth
Chiles	Javits	Sarbanes
Church	Johnston	Sasser
Clark	Kennedy	Schmitt
Cranston	Leahy	Schweiker
Culver	Long	Sparkman
Danforth	Lugar	Stafford
DeConcini	Magnuson	Stennis
Dole	Mathias	Stevens
Domenici	Matsunaga	Stevenson
Durkin	McGovern	Wallop
Ford	McIntyre	Weicker
Glenn	Melcher	Williams
Goldwater	Metzenbaum	Young
Gravel		

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Eastland, for.

NOT VOTING—6

Abourezk	Cannon	Haskell
Allen	Eagleton	Pearson

So the amendment (No. 3668) was rejected.

(Later the following occurred):

Mr. DANFORTH. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. BAYH. I am glad to yield to my friend from Missouri.

Mr. DANFORTH. Mr. President, my position on the equal rights amendment and its extension is this: I have previously supported and do now support, ratification of the equal rights amendment. I oppose extension of the time for the States to ratify it.

It was my belief before I cast a vote on the immediately previous amendment that the thrust of that amendment was to start back at square 1 on ratification of the equal rights amendment.

Therefore, I voted aye. However, on that vote, my further understanding of it is inconsistent with my position.

Mr. SCOTT. Will the Senator yield for just a minute before he changes his vote?

Mr. DANFORTH. Certainly.

Mr. SCOTT. Certainly, I am not going to object to his changing his vote.

The proposed amendment did provide that we would start over again. The distinguished Senator might want to review the language.

Mr. DANFORTH. Yes, but it is my understanding that it is not the same amendment and that there is an exclusion for the military.

Mr. SCOTT. That is right. It was the same except for the exclusion of the right of the President and Congress to regulate personnel in the military.

Mr. DANFORTH. That is inconsistent with the position that I have previously taken.

Therefore, Mr. President, I ask unanimous consent, since changing the vote on the last amendment would not change the outcome, that my vote be changed and that I be recorded as voting in the negative.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

(The foregoing rollcall vote reflects the above order.)

AMENDMENT NO. 3672

(Purpose: To set January 1, 1980, as the deadline for the ratification of the equal rights amendment)

Mr. SCOTT. Mr. President, I call up my amendment 3672 and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Virginia (Mr. SCOTT) proposes an amendment numbered 3672:

On page 1, line 9, strike out "June 30, 1982" and insert "January 1, 1980".

Mr. SCOTT. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The Senate will be in order.

Mr. SCOTT. Mr. President, this amendment is a very simple one. It reads simply:

On page 1, line 9, strike out "June 30, 1982" and insert "January 1, 1980".

In effect, what this would do would be to change the time within which, the extension of time within which, the proposed joint resolution can be acted upon by the respective States from June 30, 1982, to January 1, 1980.

The amendment is somewhat in the nature of a compromise. I believe it is a fair compromise. It changes the termination date for States to ratify the equal rights amendment to January 1, 1980. It would afford the proponents of the amendment the remainder of this year and all of next year in which to obtain the necessary number of votes from the State legislatures, obtain ratification by the State legislatures, in order to make the proposed amendment a part of the Constitution.

We have talked a number of times about what is a reasonable time within which to determine the question. Congress in 1971 and in 1972 said 7 years. Now we would change the time just prior to the expiration of the 7 years, which the previous Congresses determined to be a reasonable time, to add an additional 3 years and almost 3 months.

My amendment would permit an extension, even though I believe it is still subject to challenge in the courts because, as I understand it, we are not doing it by requiring a two-thirds vote, and we are not doing it by having the resolution as passed being signed by the President. We are doing it by a route that we oftentimes take to show a sense of the Congress by a sense-of-the-Congress resolution. In my own judgment, whether we are in favor of the ERA proposed amendment or not, we are not at it in the right way.

Even the proposed amendment that I offer extending the time to January 1, 1980, could very well face a court challenge. But by extending it so that the proponents can once again go before the State legislatures, but not back and forth as they have been doing for the past several years; they have only obtained two additional States ratifying within the past 4 years, and it does appear that the State legislatures do not want to ratify the amendment within a reasonable period of time, that this would give them all the remainder of 1978 and all of 1979. In other words, they would have 14 to 15 months remaining.

Before acting on it, let us for a moment review some aspects of the extension question. As researched and set forth in a report by the Library of Congress on August 22 of this year, the report indicates that three basic questions arise when considering the ratification extension for the proposed equal rights amendment.

One, does the Congress have the power to extend the time by a majority vote, without presenting a joint resolution calling for a two-thirds vote? This could very well cause a court action to be brought.

Second, if Congress has the authority, should it extend the period after the lapse of seven years that was determined by the 92d Congress to be a reasonable time?

Third, if Congress chooses to extend the time limitation, by what legislative method would the extension have to be approved?

Mr. President, I have said on several occasions that under article V of the Constitution the only way we can extend the time, the only way we can tinker with the Constitution—and I do not think of the Constitution as sacred scripture or anything of that nature, but I do think it is the basic law of our land, and the supremacy clause in article IV indicates that it is.

Article V says:

> The Congress, whenever two-thirds of both Houses shall deem it necessary, shall propose Amendments to this Constitution.

When we extend the deadline for action—favorable action, the proponents hope—we are really amending the Constitution. I do not think it makes any difference whether it is 7 years, as specified in the premise, or whether it is in the body of the amendment.

Mr. President, this amendment is in the nature of a compromise that I believe is eminently fair and equitable. It would change the termination date for states to ratify the equal rights amendment to January 1, 1980. In other words it would afford the proponents of the amendment the balance of this year and all of the next year within which to obtain ratification by the necessary number of States.

Mr. President, even this proposal may face a court challenge. Before acting on it, let us for a moment review some aspects of the extension question, as researched and set forth by a Library of Congress report of August 22 of this year.

The report indicates that three basic questions arise when considering the ratification extension for the proposed equal rights amendment.

First. Does the Congress have the power to extend the time, second, if Congress has such authority, should it extend the ratification deadline, and third, if Congress chooses to extend the deadline, by what legislative method would the extension have to be approved?

The first question regarding congressional authority to extend the deadline for ratification has never been addressed specifically by earlier congresses or the courts. Article V of the Constitution sets forth the method of amending the Constitution; however, it does not mention any time limits for ratification of a proposed amendment. The Supreme Court in *Dillon* v. *Gloss*, 256 U.S. 368 (1921), held that under article V of the Constitution, Congress, in proposing an amendment, may fix a reasonable time for ratification. Beginning with the 18th amendment and continuing until the 23rd, except for the 19th amendment (the woman's suffrage amendment) for which no time limit was set, 7-year limits were included in the substantive provisions of amendments.

Then, beginning with the 23d amendment, time limits were included as a part of the resolving clause of the underlying resolution proposing a constitutional amendment, as is the case of the proposed equal rights amendment. Therefore, there is no disagreement that the Congress has the power to set a reasonable time limit for ratification of a proposed amendment.

With respect to the actual time limit set for ratification of a proposed amendment, the Supreme Court has held that 7 years is reasonable (Dillon against Gloss) and the Congress can make the final determination, with respect to an amendment which originally had no time limit, on the reasonableness of the time within which a sufficient number of States must act (Coleman against Miller, 307 U.S. 433 (1939)). For example, since 1900 only one amendment, the proposed child-labor amendment submitted in June 1924, has not been ratified by the requisite number of States. Since this proposed amendment had no time limit, it is still pending before the States. If this proposed amendment were ratified by the requisite number of States, it would then be up to the Congress to decide if its ratification was completed within a reasonable amount of time.

The question in relation to the proposed ERA is whether Congress, once it has set a time limit, can extend that time period. The Coleman decision can be construed that a succeeding Congress can determine the validity of the time period only when no time limit has been set by the proposing Congress.

It can also be argued that the only role for the Congress in the amendment process is that of proposing amendments and, then, perhaps deciding on ratification if no time limit is set. Congress, therefore, has no authority to interfere with the ratification process once begun. Another argument is that the States when ratifying relied on the 7-year deadline and it would be unfair to these States to change the time limit.

Question: Has a reasonable period of time been given to ratification of the proposed equal rights amendment or should the Congress extend the deadline?

Answer: Opponents of the extension state that a reasonable time has been given for ratification. We contend that the purpose of the reasonable time rule articulated by the Supreme Court in Dillon was that there be a contemporaneous consensus; that is, all the ratifications of the several States should have occurred sufficiently close together to reflect a consensus of three-fourths of the several States at a given point in time. Mr. President, 30 States ratified the ERA during the first year.

It would appear the trend is against ratification, Mr. President as demonstrated by the fact that four States have rescinded their prior ratifications. The fact is that every State legislature has considered ERA and worked its will according to its constitutional process. In the 15 unratified States, 24 committee votes and 59 floor votes have taken place since the proposed amendment was submitted to the States for ratification.

Mr. President, in this day of mass communications, wherein the written and spoken word is instantaneously transmitted to all precincts in the Nation—every hamlet, every city, every rural area—it would appear that 7 years is more than reasonable in which to achieve the legislative objectives of the ERA supporters. However my amendment would permit action on ratification until January 1, 1980.

Should the ERA not be ratified by March 22, 1979—which is the present deadline—some observers feel that several options remain open for the passage and ratification of an equal rights amendment. If an extension is not passed by the Congress, one alternative is to seek the enactment of a new amendment. One that might relate to employment opportunities, that might define in more detailed form what the proponents are seeking to accomplish.

Congress can, for example, defeat the extension and, after the time limit expires, pass a revised version of the ERA

that would be more acceptable to the States. Already the States have had more time than has ever been taken in the history of the Nation for any amendment that was ultimately adopted as a part of the Constitution.

Mr. President, I believe there is a middle ground, and that involves a simple 1-year extension that would at least be in keeping with the spirit of the Constitution in terms of being contemporaneous as well as timeliness.

I have no doubt that if three-fourths of the States still have not ratified the ERA amendment within the 3-year period sought by its supporters, they will return again to seek further extension ad infinitum.

I do not believe the Founding Fathers intended an indefinite or perpetual time limit on amendments despite the absence of reference in the Constitution as to the time element.

On the other hand the extension of this amendment for another year would afford supporters of ERA an opportunity for further efforts of obtaining ratification.

Mr. President, we ought to be reminded that never before has the Congress extended the time limit for ratifying a constitutional amendment.

So the Nation's lawmakers will be setting a major precedent if we go along with the 39-month extension. It is a precedent that I believe would violate the wishes of most Americans and run some serious risks.

Mr. President, more than a year and a half has passed since the last State, Indiana, approved this amendment.

This situation strongly suggests that the ERA has, in effect, lost its momentum and that an extension will not accomplish anything except to raise more questions than it answers.

Certainly the ERA advocates cannot state that the amendment has not received enough attention and more time is needed to debate its merits so they can be better understood.

Mr. President, I reserve the remainder of my time.

Mr. BAYH. Mr. President, I listened with a great deal of interest to the proposal of our friend and colleague from Virginia that we extend the period for ratification to what would amount to, really, 1 year instead of 3 years and 3 months.

I think sooner or later all of us who are called upon to make a decision on this issue are going to have to decide in our own minds whether the preponderance of evidence, the preponderance of need, is on the side of trying to give adequate time for ratification of the equal rights amendment, or whether adequate time is not necessary.

I think all of my colleagues know that I do not come to that argument with total objectivity. Having been involved in this ERA battle for a long period of time, I think it is important to get it ratified.

I accept the sincerity of those who may differ with the Senator from Indiana. However, it seems to me that that is what the issue is before us now on the amendment of the Senator from Virginia, and indeed on the issue that will finally be before us on Friday when we vote on the ERA extension itself.

If, indeed, we believe it is important to ratify the equal rights amendment, then why go too hastily? If it is important to talk to the country and to talk to the State legislatures about what ERA really means, then let us have enough time to make intelligent displays and presentation of the facts. If we are concerned about what I have to, as discourteous as it may be, describe as "the big lie technique," so eloquently described by the Senator from Arkansas this morning, then let us have a reasonable time to address the specious issues that were raised. If we are concerned with State legislatures, mothers, fathers, families, ministers, and concerned citizens who have really been convinced that to be for ERA is to be in bed with the Devil, then give us a reasonable opportunity to convince them that this is really Gods' work, not that of Satan.

I do not belittle this issue, because I think the opposition has been very effective in playing on the heartstrings, in picking those very sensitive areas of American life. They have dwelt on the sanctity of the American home, the deep feeling we have for motherhood and wives and daughters. Certain religious and moral values; they have zeroed in on, really, the treasure chest of American life. And what have they said?

They have suggested that to be for ERA is to be for tolerance toward those who would commit the heinous crime of rape against the women of this country. They have suggested that to be for ERA is to make homosexuality the way of life for main street America. They have suggested that to be for ERA is to really be for a movement that is designed to take mothers out of their homes, away from their children, and coerce them into leaving that environment in which many millions of American women, mothers, workers in the home, feel very comfortable.

One of these women actually went on television in Indianapolis when the Indiana Legislature was trying to ratify ERA and did ratify ERA and had the audacity to tear up her social security card and say to the women of my State, "Get on those legislators, because if they ratify ERA and it goes into the Constitution, all of you older women in Indiana are going to lose your social security."

That is the kind of specious argument which we have a chance, now, if this extension passes, to refute. Give us a reasonable opportunity, a reasonable timeframe to put the record straight, and then let the State legislators vote up or down.

This extension has no guarantee that the State legislatures in question, or the legislators in question, are going to vote yea or nay. It does have a guarantee that the good judgment of the average American citizen is going to have a chance to work.

Mr. SCOTT. Will the Senator yield on that point?

Mr. BAYH. Perhaps the Senator should yield long enough to catch his breath. I am glad to yield to the Senator from Virginia.

Mr. SCOTT. I appreciate that. We all know the provision of the joint resolution which was adopted, which we are proposing to extend, provides equality of life under the law shall not be denied or abridged by the United States or any State on account of sex.

Would it not follow logically that with regard to the social security law there could be no distinction between male and female; that if there is any distinction existing today which would give added protection to women, then that distinction would be eliminated?

I am not familiar enough with the social security law to argue this point, but as I understand it there were many laws in the past when a woman who had to stand on her feet for a given number of hours would have to have a rest period. This was discrimination but not the type of discrimination that continued.

We were talking about the women in the military a while ago.

The broad language of this bill gives many of the opponents concern, even about marriage. The distinguished Senator mentioned homosexuality. There are people of both sexes who feel they can marry somebody of their own sex. They would not have any children through that union, but they could adopt children. It might well be unlawful to say that two men living together or two women living together, whether we say they are married or not, if a court says, "We are not going to place a child in a home where two men live together as husband and wife, or two women live together as husband and wife, because that would not be the proper home in which to place the children."

That would mean discrimination based on sex and it might be declared unlawful to prevent a child from being placed with a homosexual couple.

I think that is realistic, it could happen. We know just the other day one of our courts said you could not bar women from the men's dressing room. I do not know whether that will be appealed or not.

Males and females are different, and I believe some reasonable distinction should be made, but this amendment leaves no room for distinction.

I thought the Senator was discussing the question of interpretations. I do not believe any of us, including the distinguished Senator from Indiana or myself, can forecast the future insofar as what interpretations will be given to this matter by the courts. I think this indicates some of the dangers.

I know we are not debating the merits of the proposed constitutional amendment, or at least that is not the purpose today because both houses of Congress in 1971 and 1972 voted for this proposal. All we are considering now is whether or not the time should be extended. My amendment would reduce the time to January 1, 1980.

I appreciate the distinguished Senator yielding for these comments.

Mr. BAYH. I am always glad to yield to my friend from Virginia. I must say, in listening to his concerns I think it increases the concerns of the Senator from Indiana that we need to have a

reasonable time to consider the ERA. The horror story constantly repeated is that the ERA would force a child into a homosexual marriage home, is exactly the kind of bogus issue, I say with all respect to him, that has made it necessary for us to have more time to discuss this.

Look at this entire homosexual issue as it relates to the equal rights amendment. I think it is critical to distinguish discrimination against homosexuals, which is an entirely different issue, from discrimination against women. If the equal rights amendment becomes law, this will not prohibit a State from saying, "There can be no marriage between two men." What it says is that if ERA becomes law, the State will have to be consistent and say, "There can be no marriage between two men nor can there be a marriage between two women."

I know that some of the supporters of the equal rights amendment have been concerned about discrimination directed toward women homosexuals. Thus, very frankly, the issue has been made more difficult to handle and made more controversial.

I think it is important to recognize, if we are talking about the equal rights amendment, we are not saying that a State cannot make it illegal to participate in a homosexual act. That is an entirely different issue. If the equal rights amendment passes, we are saying that whatever the legislature says has to be applied across the board to women homosexuals the same as it is applied to male homosexuals. Unfortunately, this has not been the case in some instances.

Mr. President, I do not want to dwell on this overly long. It seems to me that, right here, we are talking about some of the kind of insidious discrimination that the population is not generally aware of. We do have a dual standard in the way our laws have been applied, even as to certain moral or social values, that our society has accepted by a rather sizable majority.

Whether that social value is right or wrong is another question for debate, but it certainly should be readily accepted that whatever social value is accepted by society, it should apply to men and women alike, and if it is wrong to participate in a homosexual act, you cannot say it is wrong for women to participate in it but let the men go free. Everybody has to be treated equally.

I have found it to be the ultimate in hypocrisy and discrimination for us to have, in almost every statute book in every State, a law that says it is illegal to participate in prostitution. I have never been personally involved in that kind of activity, but the way I understand it, it is the old story of taking two to tango. If you are going to have an illegal act involving prostitution, there have to be a man and a woman involved. But, usually, when they raid the house or the establishment, they sweep into the police van all the women who are there and the door is open for all the men to go home to mother out the back door.

It seems to me we had better put it on top of the table, and if it is wrong to participate in certain types of antisocial activity, then it is wrong for men and it is wrong for women.

Mr. SCOTT. Mr. President, I agree with the interpretation of the distinguished Senator from Indiana as being a proper interpretation. However, we are going to have many, many judges interpret this matter. We have the words "equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex." It does not have the details that the distinguished Senator refers to.

We had one of our former colleagues, a former member of the Committee on the Judiciary, appear before the Subcommittee on the Constitution. I shall share just one paragraph of what former Senator Ervin of North Carolina had to say. He says:

> Advocates of ERA lay the flattering unction to their souls that existing rights of privacy are impliedly enshrined in preceding constitutional provisions and will not be impaired by its ratification. They ignore the constitutional reality that a subsequent amendment nullifies every preceding constitutional provision inconsistent with it and that ERA condemnation of all legal distinctions based on sex will invalidate all laws requiring segregation on the basis of sex in restrooms, prisons, Army pup tents, Army barracks, and the battlefield. What ERA will do to existing laws regulating marriage is obvious. These laws clearly fall under its ban because they deny the legal right to marry to two male homosexuals or two female lesbians solely on account of their sex.

Whether Senator Sam is right in his fear or not, or whether the distinguished chairman of the Subcommittee on the Constitution is right, I do not know. I think these words are so general in nature that it is impossible for either him or me to say with any degree of certainty just how the courts will interpret them.

I do not disagree with the statement that the Senator has made, but I am not sure whether he is right or whether he is wrong. I am not arguing that he is wrong. I am saying that when you only have one sentence here, and that sentence says, "equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex," it is very difficult to know just how, when specific cases are presented, that will be interrupted by the courts.

I thank the Senator for yielding.

Mr. BAYH. I appreciate the comments of my friend from Virginia. I remember the position of our former distinguished colleague from North Carolina on this issue very clearly, inasmuch as I was present on the floor when it was debated and discussed, and I have a great deal of respect for his judgment. That does not mean that I always agree with his conclusion.

Mr. SCOTT. This was his testimony before our subcommittee just a few weeks ago.

Mr. BAYH. I recall that well, having had the opportunity to be there. I have a similar difficulty with his rationale now as I did when it was debated right here, in this very spot.

Mr. SCOTT. I thought both Senators were very courteous and very polite.

Mr. BAYH. The interesting thing is that, in the warm glow of seeing my friend, Sam Ervin, again for the first time in some time at our subcommittee on the Constitution hearings, he mentioned to me that he was in the process of going through some of the real battles that he had been involved in to protect some of the basic individual liberties of American citizens. He said, "You know, I found you were there with me on those fights."

Indeed, I was, and proud to be counted there. That does not mean that I agree with the distinguished gentleman's assessment on all things.

I think it is fair to say, first of all, that one anticipates that the courts will make a reasonable interpretation of whatever the amendment says if they choose to, which may not be the case. To me, it is rather clear what is meant here. Let us assume that one argues the other side of this question, that it is not as clear on what is meant as the Senator from Indiana perceives it to be. The Court, in that instance, under any reasonable rule of judicial interpretation that I have ever seen, would go to the legislative history behind the constitutional amendment in question. Although Senator Ervin, at the time the debate was going on, expressed his position, he lost. It was not even close.

There were not a handful of Senators that agreed with his interpretation of the equal rights amendment. Eighty-four Members of the U.S. Senate agreed with the Senator from Indiana in his interpretation.

That does not mean that our judgment is infallible, but it does mean that if a court looks for the legislative history in trying to clear up any questions about the impact of ERA on homosexual marriages or the right of State legislatures to deal with the questions of rape or homosexual acts, the interpretation placed on this area of the law by the Senator from Indiana and some 84 Members of the Senate is going to be the decision that the court will have to reach, because that is what the legislative history says was meant. I think the Senator from Virginia is very familiar with the way the court looks to the legislative history and that the meaning is not clear.

Mr. SCOTT. I agree with the distinguished Senator that a judge should look at the legislative history. I also agree that they generally do. Certainly, the highest court in our land generally does.

But it is persuasive on the courts.

They are not bound by what is said on the floor of the House of the Senate by an individual Member of the House or the Senate. They may very well look at the commonly-understood meaning that is attached to the words that are in a bill.

So I think making legislative history is quite important. But I do not believe that it is the total answer to the question. I feel that this wording could lead to some of the things that some of the sponsors feel are wrong.

I certainly hope my distinguished friend from Indiana is correct in his forecast as to the courts relying on legislative history and doing what is the right thing under all the circumstances.

Mr. BAYH. Again, I appreciate the thoughts of the Senator from Virginia.

I think the very fact that we have had

this colloquy here in which I sense we are reasonably close to the interpretation of what I believe the equal rights amendment was designed to accomplish could well be helpful in the event the court was not able to make that determination for itself.

I just might, for the record, read exactly what was said at that time, because that was the specific legislative history. Because I am the one to say it, I guess I have to quote myself.

Mr. SCOTT. Does the Senator want me to read that for the benefit of the Senate so he would not have to face this embarrassment?

Mr. BAYH. I am not too sure the Senator would want to be associated with it.

Mr. SCOTT. I might not agree with it, but I would read it as an accommodation to the Senator.

Mr. BAYH. I think my friend would agree with this.

I will just read it in here. As we look at legislative history, the court looks to the principal sponsor, the manager of the bill, who happens to be in a unique situation, and there I was. I said at that time:

> The equal rights amendment would not prohibit a State from saying that the institution of marriage would be prohibited to men partners. It would not prohibit a State from saying the institution of marriage would be prohibited from two women partners. All it says is that if a State legislative makes a judgment that it is wrong for a man to marry a man, then it must say it is wrong for a woman to marry a woman—or if a State says it is wrong for a woman to marry a woman, then it must say that it is wrong for a man to marry a man. . . .
>
> But the equal rights amendments does not prohibit a State from saying it shall be against the law of the State for any citizens therein to participate in a homosexual act—period. What the equal rights amendment does prohibit is for a State to say that if women participate in homosexuality, that is bad, but if men participate in homosexuality, that is all right.

So I think maybe I have unnecessarily repeated myself here, but I did quote specifically from the CONGRESSIONAL RECORD as of March 21, 1972.

Now, I want to, if I might conclude my remarks, because I did not anticipate they would take this much time.

But I think the very fact they did indicates that this is a matter that concerns a number of people out there in the countryside that are going to be talking to State legislators. So I think it is important for us to have a reasonable length of time.

I appreciate the Senator from Virginia's wanting to compromise. I accept that as a normal way of legislating, that we try to accommodate and reach a reasonable consensus.

I would just suggest that inasmuch as the initial extension period in the resolution that was introduced in the House, which is now before it, in companion legislation that was introduced by myself and the Senator from Minnesota, the Senator from Michigan, both Senators from Massachusetts, and a number of other Senators, the companion legislation in the Senate required a 7-year time limit, and that it is in the spirit of compromise that the vehicle which passed the House and is now before the Senate requires 3 years and 3 months.

With all respect, in deference to my friend from Virginia, I normally like to compromise. But I think the compromise has already been made here.

As I said earlier, if we make a reasonable effort to ratify, let us provide enough time to make the case and then let the legislatures vote it up or down.

With that thought in my mind, and with reluctance, I would feel inclined to oppose the amendment of my distinguished friend and colleague from Virginia.

Mr. SCOTT. Mr. President, of course, the distinguished Senator should vote his conviction. I believe that extending the time to January 1 1980, is going part of the way toward the desired extension.

I would hope my amendment would be approved by the Senate. I am not overly optimistic about that happening.

But I did intend to offer another amendment, which I will not offer, because it contains other statements. But I would ask the distinguished floor leader if he might not agree with this portion, not agree with it for the purpose of amending the resolution before us, but agree with it for the purpose of making legislative history?

One phrase in there, in the proposed amendment, which I am not going to offer, indicates, or states this:

> And shall not affect the power of the States to regulate marriage and the family relationship.

Would the distinguished Senator, for the purpose of legislative history, and I have taken that out of the context of the entire amendment, it is a two-page amendment, but just that one phrase, I gather from what the distinguished Senator has said in the last few minutes that he would agree with that. I would ask him directly whether or not he agrees with it.

Mr. BAYH. Well, the domestic laws, laws in the area of domestic relationship, have traditionally been laws of State jurisdiction. It certainly would not change that. It would say, in essence, the States may legislate what in their judgment suits the needs, equities, justice, of their constituents, as far as domestic relationships are concerned so long as they do not discriminate between sexes.

Mr. SCOTT. Shall not affect the power of the States to regulate marriage and the family relationship.

Mr. BAYH. Except that if the ERA does become law, this will affect the States' ability to pass laws in that regard that may discriminate.

One of the concerns that the Senator from Indiana has, and all of us who are for equal rights have, is that those laws dealing with domestic relationships, that I think for good intents and purposes were passed to try to help women, in this day and age hinder women. The whole business of custody of children, who pays alimony, who does not, those things, it seems to me should be considered on the merits of each case.

Mr. SARBANES. Will the Senator yield?

Mr. BAYH. To the extent the State legislature moves in this area and says, "You have to give all men and women the benefit of the doubt," the ERA would say, "No, you have to judge each case on its merits as to whether the father or the mother, the husband or wife, should be in the strongest position."

I yield to the Senator from Maryland.

Mr. SARBANES. Well, to underscore the point the Senator from Indiana is making, this is an equal rights amendment for men and women. It is not an equal rights amendment for women or for men. It is an equal rights amendment for both men and women. In fact, in some areas, the discrimination has been against men rather than against women.

Generally speaking, there is a whole host of areas in which discrimination has been against women, and I think that is the impetus for seeking to correct this, and that is long, long, long overdue in this country. But we should not lose sight of the fact that the amendment itself is an equal rights amendment for men and women, which is as it should be, in my opinion.

Mr. BAYH. The Senator is accurate. I point out that this is not an unusual circumstance in today's world, where you have the very kind of situation to which the Senator from Maryland is referring, where you have a union between man and woman.

I hasten to add that one could incorporate by reference what it says in the Judiciary Committee report on ERA. But we felt and still feel that the court would be very hesistant to become involved in the kind of ongoing marital relationship——

Mr. SCOTT. The Senator is speaking of the 1972 report.

Mr. BAYH. Yes. It was designed to determine what the equal rights amendment was supposed to be all about.

We said at that time that certainly the court would not want to become involved in the specific relationships of an ongoing marriage that was being fruitful and productive; but you would not say that the husband was to provide 50 percent and the wife 50 percent of support, that that is a personal relationship. But if this marriage were dissolved, then the court says it is going to look at the facts.

If the husband is a day laborer or works at the local Dairy Freeze or Dairy Queen, making the minimum wage, and he happens to be married to a woman who is a professor at the State college or is a doctor or is very wealthy in her own right, when that marriage is dissolved, the State law that says the man has to provide support for the woman or for the children cannot stand. You have to look at the merits. If the woman is better qualified to support the children, then she should be called upon to do that, as she is capable of doing.

That is really what we are trying to get at here, that each situation needs to be handled on its own. As the Senator from Maryland pointed out very accurately, sometimes this is going to be an asset, and the equity has been directed against the husband.

Mr. SCOTT. In Virginia, generally, the problem arises with regard to child custody. The general rule is that the welfare of the mother is the paramount issue. But where parents are fit to care for the child, the child is awarded to the woman, in Virginia.

Mr. President, I am ready to yield back the remainder of my time and to have a vote at this time, if the distinguished Senator from Indiana is ready for a vote.

Mr. BAYH. Mr. President, I am just about ready. I did not really intend to occupy this much of the Senate's time.

I think some of these inconspicuous inconsistencies and hypocrisies are really the basis for the need of the equal rights amendment. The fact is that I think many Americans, a lot of people in the States, just are not aware of some of these things because they are not involved personally.

Mr. President, one matter that has been of deep concern to me—and it is in the domestic area—was raised by the distinguished Senator from Arkansas in his very telling message this morning, when he pointed out that in some States there can be a farm husband and a farm wife working together. If anybody has ever seen a union of man and wife as a team, it is in American agriculture. Any of us who had or have the good fortune to be there know what that is all about. Yet, despite the fact that this is a common effort, involving some women driving the tractor, milking the cows, driving the truck, and doing the work that men do, in some States, when there is a dissolution, either by divorce or by death, the court rules that the common property is that of the husband and does not consider that the wife has made any contribution to that estate. That is inequitable, and it is that kind of inequity that we are trying to get rid of.

Mr. SCOTT. Mr. President, I yield back the remainder of my time.

Mr. BAYH. I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Alabama (Mrs. ALLEN), the Senator from Nevada (Mr. CANNON), the Senator from Colorado (Mr. HASKELL), and the Senator from Minnesota (Mrs. HUMPHREY) are necessarily absent.

I further announce that the Senator from Missouri (Mr. EAGLETON) is absent on official business.

I further announce that, if present and voting, the Senator from Minnesota (Mrs. HUMPHREY) and the Senator from Nevada (Mr. CANNON) would each vote "nay."

Mr. STEVENS. I announce that the Senator from Kansas (Mr. PEARSON) is necessarily absent.

The PRESIDING OFFICER. Have all Senators who are in the Chamber wishing to vote voted? Are there any Senators waiting to vote who have not had an opportunity to vote?

All Senators wishing to vote have voted.

The result was announced—yeas 10, nays 84, as follows:

[Rollcall Vote No. 442 Leg.]

YEAS—10

Curtis	Goldwater	Scott
Danforth	Hatch	Tower
Eastland	Helms	
Garn	Laxalt	

NAYS—84

Abourezk	Hansen	Moynihan
Anderson	Hart	Muskie
Baker	Hatfield,	Nelson
Bartlett	Mark O.	Nunn
Bayh	Hatfield,	Packwood
Bellmon	Paul G.	Pell
Bentsen	Hathaway	Percy
Biden	Hayakawa	Proxmire
Brooke	Heinz	Randolph
Bumpers	Hodges	Ribicoff
Burdick	Hollings	Riegle
Byrd,	Huddleston	Roth
Harry F., Jr.	Inouye	Sarbanes
Byrd, Robert C.	Jackson	Sasser
Case	Javits	Schmitt
Chafee	Johnston	Schweiker
Chiles	Kennedy	Sparkman
Church	Leahy	Stafford
Clark	Long	Stennis
Cranston	Lugar	Stevens
Culver	Magnuson	Stevenson
DeConcini	Mathias	Stone
Dole	Matsunaga	Talmadge
Domenici	McClure	Thurmond
Durkin	McGovern	Wallop
Ford	McIntyre	Weicker
Glenn	Melcher	Williams
Gravel	Metzenbaum	Young
Griffin	Morgan	Zorinsky

NOT VOTING—6

Allen	Eagleton	Humphrey
Cannon	Haskell	Pearson

So the amendment (No. 3672) was rejected.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. BAYH. I am glad to yield to the Senator from New York.

Mr. MOYNIHAN. Mr. President, most of what we do here, whatever our intentions, transitory. Taxes rise and fall; programs grow and die; even wars come to an end. Only on the rarest of occasions does there come before us a matter which is fundamental, in the sense that it charges the way we live now and for the foreseeable future.

Such a matter is the status of women in our society. It is by now clear that we are living through a fundamental change in the condition of women. The equal rights amendment is both the manifestation and the legal embodiment of this change, and as such I have been from the outset, and remain, its enthusiastic supporter.

In his seminal study of family life, "Centuries of Childhood," Philippe Aries wrote that:

> The great demographic revolution in the West, from the eighteenth to the twentieth century, has revealed to us considerable possibility of change in structures hitherto believed to be invariable because they were biological.

So with the condition of women: That which was viewed as invariable because biological, is now seen to be the product of a particular era, particular technology, and particular beliefs.

"Women's Lib" has, of course, become a slogan, but we are speaking of nothing less than the liberation of women from the view that biology is destiny—that women's sole proper role in the economy is as housewife and mother, and her proper role in society subservient to her husband, finding fulfillment exclusively in her domestic capacity. Last year, 56 percent of all women in America worked outside the home, and women now make up 42 percent of the U.S. labor force. Since 1965, 25 million women have joined the labor force. These astonishing figures reveal that the terminology of revolution—words such as "liberation"—is not inapposite.

Aries wrote of the change in fundamental concepts of the individual, the family, and the child. The change through which we are now living is no less fundamental, for it revises not only our social practices but our very conception of women. This cannot but be troubling to many—not least to many women, confronted now with choices their mothers never faced. Those men who have, as fathers, or brothers, or indeed even as sons, talked with women facing these new choices will be aware of how troubling they can be; yet one cannot escape an equal awareness that this is the kind of trouble which life will consist of whenever it offers real options.

Before us are several issues: The extension of the ratification period for the equal rights amendment and, probably, the questions of the margin by which the extension must be passed and of whether States which have ratified may rescind their action. My own views are clear. I favor the extension. I believe—as did the House of Representatives—that a majority vote is sufficient to pass it, as it does not affect the substance of the amendment. And I shall vote against the legislation which purports to permit rescission, as that I think is an issue which is not properly before us at this time.

I realize that to many here, the ERA, both in substance and symbol, is anathema. To me, the change which ERA represents is a source of pride in our society—still the world's freest and most open, to men and to women of all races. We are fortunate, I believe, to live in such an era. Its problems are the problems of progress; its challenges are the challenges of freedom; and it strikes me as entirely natural that in this time, as in all matters of human rights, our country provides a model for men and women throughout the world.

Mr. BAYH. Mr. President, I move to reconsider the vote by which the last amendment was rejected.

Mr. METZENBAUM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAYH. Mr. President, while some of our colleagues are present, perhaps, in an effort to expedite consideration of this matter as well as to provide as much convenience to the Senate and our colleagues as we possibly can, may I propose a possible way of doing both?

Mr. McCLURE. Mr. President, I wonder if we could have order in the Senate so we can hear the Senator.

The PRESIDING OFFICER. The Senate will be in order.

Mr. BAYH. I have a feeling, which may be erroneous, that we are hearing, at

least I am hearing, my own arguments coming back again in my own voice. I do not know whether the Senator from Virginia would want to associate himself with that on the other side of the aisle or not. I do know there are some of our colleagues who may want to be heard. If so, if they will let us know, we will try to arrange that.

I would like to propound the following unanimous-consent request: that as soon as all Senators who want to be heard this afternoon on this issue, the equal rights extension, have been heard, that we withdraw the equal rights amendment from consideration and let the leaders provide us with other business which is of an urgent nature for consideration;

Further, that we come in on Friday at 8 a.m., and have from 8 a.m. until 10 a.m. to debate the equal rights amendment, the time thereon to be equally divided between the Senator from Virginia and the Senator from Indiana, 1 hour to each; and that, pursuant to the order previously entered, this measure may be finally disposed of by a yea-and-nay vote at 10 a.m.

Mr. BAKER. Mr. President, did the Senator make that as a formal unanimous-consent request?

Mr. BAYH. Yes; it was rather elongated, but that was a formal unanimous-consent request.

Mr. BAKER. Mr. President, reserving the right to object, I am sure you have, but have you discussed this with the majority leader?

Mr. BAYH. Yes.

Mr. BAKER. Mr. President, I see no particular difficulty with that. I have discussed it in general terms with the distinguished Senator from Virginia, who is managing the opposition. He is on the floor and can speak for himself; but I believe I correctly state that he has no objection to that procedure.

Mr. SCOTT. Mr. President, if the Senator will yield, I have no objection at all. Frankly, I do not believe anyone's opinion will be changed during the period of time between 8 and 10 o'clock. I doubt that many Senators will be on the floor at that time to listen to what is said, and I believe that our colleagues will have sufficient time to reflect on their final vote based on the information they now have before Friday at 10 o'clock. But I have no objection to the unanimous-consent request.

Mr. McCLURE. Mr. President, reserving the right to object, I wonder if the Senator could inform the Senator from Idaho if the request would leave the majority leader with the authority to bring up any matter that he might wish, or is it simply that he would then, in the ordinary course and under the usual rules, propose to the Senate that certain matters be made the pending business?

Mr. BAYH. The unanimous-consent request propounded by the Senator from Indiana would not change other matters or other parliamentary situations, but I would like to amend it to suggest that from the standpoint of expediting the equal rights amendment extension, we should go to third reading this afternoon, since we must do that before 10 o'clock tonight anyway. When we dispose of this, let us go to third reading and then determine what the leaders will do between now and 8 o'clock Friday, at which time we come in for 2 hours equally divided, and then, pursuant to the previous unanimous-consent request, have a vote up or down at 10 a.m. Friday.

Mr. McCLURE. Mr. President, further reserving the right to object, I would propound a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. McCLURE. That is whether or not, under this procedure, the majority leader would have any other authority to bring up any matter that he has under the existing rules.

Mr. SCOTT. Mr. President, might I respond to say that the distinguished minority leader (Mr. BAKER) has agreed to be here at 8 o'clock, and as minority leader he can protect us as he does, as is usually the case.

Mr. McCLURE. I wonder, Mr. President, if I could have the ruling of the Chair on the parliamentary inquiry.

The PRESIDING OFFICER. Granting this request would not give the majority leader additional authority to bring up legislation. He should just bring up this under the usual procedures.

Mr. McCLURE. And it would still require either unanimous consent or a motion, or have to be a privileged matter, before it could be brought up under this unanimous-consent request?

The PRESIDING OFFICER. The Senator is correct.

Mr. McCLURE. I thank the Chair.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Indiana?

Mr. BAKER. Mr. President, reserving the right to object, I have the rather strong feeling that before we proceed to third reading and the granting of this request, we ought to at least make another effort to consult with the majority leader. For instance, I would like to know what he has in mind to bring up this afternoon before we lay this matter aside.

So before the Chair announces the ruling, I would like to have a little further opportunity to discuss the matter with the majority leader.

Mr. BAYH. Mr. President, if I might interject here, this request of the Senator from Indiana is not made at the insistence of the majority leader, but really by the Senator from Indiana, as one who is deeply involved with ERA, but also knows there is other important business awaiting the consideration of the Senate, and that is why I make this request. I asked the majority leader whether he had any objection; he did not approach me on this.

The PRESIDING OFFICER. Is there objection?

Mr. HARRY F. BYRD, JR. Mr. President, reserving the right to object, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HARRY F. BYRD, JR. What is the status of the export-impost legislation?

The PRESIDING OFFICER. The bill goes back on the calendar.

Mr. HARRY F. BYRD, JR. Pardon?

The PRESIDING OFFICER. That bill is on the Senate calendar.

Mr. HARRY F. BYRD, JR. A further parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HARRY F. BYRD, JR. If this legislation is disposed of, does the Senate then automatically go back to the Export-Import Bank legislation?

The PRESIDING OFFICER. No, it would require action by the Senate to get it off the calendar and back before the Senate.

Mr. HARRY F. BYRD, JR. I thank the Chair.

Mr. BUMPERS. Mr. President, has the unanimous consent now been propounded in its final form?

The PRESIDING OFFICER. The unanimous-consent request has been propounded, and the Chair was about to ask again whether there is objection.

Mr. BUMPERS. Mr. President, reserving the right to object, could we have it propounded again, now that everybody is on the floor?

Mr. BAYH. Mr. President, I ask unanimous consent that as soon as all Senators who desire have availed themselves of the opportunity to speak on the extension of the equal rights amendment this afternoon, this measure go to a third reading, and that thereupon the Senate be discharged from further consideration of the ERA extension until 8 a.m. Friday, at which time we will once again make the equal rights amendment extension the pending order of business, and there will be a 2-hour time limit to be equally divided between the Senator from Virginia and the Senator from Indiana, after which there will be a rollcall vote on final passage of the ERA extension at 10 a.m. Friday.

The PRESIDING OFFICER. Is there objection?

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, this has not been cleared with me. I reserve the right to object, I do object at the moment, and I suggest the absence of a quorum.

The PRESIDING OFFICER. Objection is heard.

Mr. SCOTT. Mr. President, if the Senator will withhold that request, I yield such time as he may consume, not exceeding 20 minutes, to the distinguished Senator from Arkansas.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. BUMPERS. Mr. President, I thank the Senator from Virginia for yielding.

Mr. President, I hope what I have to say will not be covering too much ground that has been covered before, but this morning I did not get an opportunity to speak before we voted on the amendment of the Senator from Utah to permit rescission during the extension period, if extension is agreed to.

I know that every thoughtful Member of this body has been agonizing for some time about how to vote on rescission and whether or not to vote for the extension. Certainly, I am among that group. I do not know of any issue that I have

agonized more over in the past week than I have this one, especially the amendment this morning that would permit rescission.

I voted against rescission, Mr. President, but the reason I did is because I also intend to vote against extension.

I would not vote for extension without rescission. It is not all just a matter of fairplay. I am not at all sure the Senate accomplished what it thought it accomplished this morning in voting against rescission.

I do think that this body is mixing up the ratification procedure with the merits of this amendment, and it is to that point I address myself.

The thing that has set this country apart from those which have coup d'etats and change constitutions overnight is our respect for institutions which have been built on tradition and precedent. And, it is those institutions that have sustained us through the Watergate proceedings, and finally got us out of the Vietnam war. Yet now, we are dealing with a matter which is vital to the future of the constitutional process in this country on whether we believe ERA is meritorious or not.

When I was Governor of my State, the very first administration measure that I sent to the legislature was one to ratify the equal rights amendment, and we almost succeeded. Right now, Arkansas is one of the States of the Union which has not ratified. Whether it will or not is anybody's guess.

Mr. President, I championed the equal rights amendment as Governor of my State for a very simple reason, and that was because many women in this country strongly feel they are second-class citizens, and it is true that women are indeed discriminated against. I daresay that most of the Senators who sit in this Chamber, both those who voted for or against the rescission this morning, discriminate in their own offices against women. If you do not believe that, look at the pay schedules.

Women of this country have a very legitimate complaint. I recognize it and I have tried to deal with it as best I could in my limited way. As my wife told me so poignantly the other morning when I told her I was going to vote against the extension, she said, "This problem is not going to go away." And indeed, it is not. It does not make any difference whether we vote to extend, and I feel sure the Senate is going to vote to extend, the country will have another 39 months to consider the matter. But even if we voted against the extension the problem is not going to go away. It is not going to go away until the women of this country have the rights, the legitimate rights, that they seek and are entitled to.

But there is more to what we are doing here today than just that. The process we are involved in here is, in effect, an abrogation of both the Constitution and Supreme Court precedents. When this amendment was adopted 7 years ago this Congress at that time said, "Seven years is a legitimate length of time in which to consider this." They were responding to a 1921 decision called Dillon against Gloss, which has been cited here numerous times. What did the Supreme Court say in that decision?

It said, it is the duty and the responsibility of the Congress with respect to the ratification process to insure that ratification represents "a reasonably contemporaneous expression of the will of the people."

And that Congress said, "Seven years is an adequate time for the people to express their will."

I am not saying that Congress was right or wrong. If they had said 10 years I would have no objection. If they had said 7, 8, 9, 10, anything that could reasonably be construed as contemporaneous, I would have no objection.

Mr. President, what we are saying when we extend the time for ratification of this amendment is that that Congress was wrong, and that 7 years is not enough. What we are laying the groundwork for is for the 97th Congress in 1982 to say we are wrong, that 39 months is not a long enough extension, and the period for ratification should be extended another 39 months, and 3 years following that the next Congress will say, "That is not long enough because this is a meritorious amendment and it ought to be ratified," and extend it an additional period of time.

What we are saying to the States is, "This is a meritorious amendment and you should recognize it. We are going to keep sending it back to you until you do. Until you see the light, Congress is going to keep extending."

What we are saying is that a contemporaneous period of time may be 7 years or it may be 70 years. It depends on how the Congress may feel at a given moment and how much political pressure the Congress is subjected to at any given moment.

Then, Mr. President, there is the question of rescission. As I said, I voted against the right to rescind this morning. I did so with considerable trepidation. But, as I said, If we are going to vote for extension, I would also vote to rescind. But does the vote this morning, which prohibits the right to rescind, bind any future Congress? Of course it does not. Does it bind the States? Of course it does not. Do you think the vote this morning, Mr. President, is going to keep any State in the Union from rescinding if that happens to be the will of that State? Everybody, every constitutional scholar, has pretty much agreed, following the words and the leadership of James Madison 200 years ago, that you cannot rescind once you ratify. The Constitution says, "ratify," and it is silent on rescission.

Yet, in spite of what most constitutional scholars in this country believe to be the law prohibiting rescission, four States have already rescinded.

What if the States, first of all, are not intimidated? Let us assume, first of all, that the four States that have already rescinded elect to stay rescinded. Just to make the case interesting, assume that four more States join them and say, "We don't care what Congress said on October 4, 1978, at 11 a.m., we are going to rescind."

No amendment to the Constitution is ratified until it comes back to Congress and Congress promulgates that amendment. What are we going to do? I tell you what we are going to do: We are going to do whatever we think is right.

I say "we." Some of us may not be here after today. But assume that I am here in 1982, when the 39-month extension is up and this thing comes back to us and they say, "We finally got three more States to ratify, but unfortunately, four more States rescinded, so what we have are 38 States that ratified; that meets the constitutional requirement of 75 percent of the States, but eight of those States have rescinded."

Talk about a debate. The one this morning will look like child's play compared to what is going to happen then.

So what are we doing? We are destroying what has been a very small, but mostly orderly process for ratifying amendments. We cannot bind a future Congress any more than that Congress that set a 7-year term on this thing can bind us. So I suspect, Mr. President, that we are going to face that issue in 1982, those of us who are here.

Let me ask another question: Assume Congress submits an amendment to prohibit abortion under any circumstances. Let us assume that next year, Congress adopts an amendment that says abortions are illegal under any circumstances and we submit it to the States for 7 years. Let us assume further that, at the end of 7 years, 35 States have said, "we agree with this amendment."

Who is going to be up here pleading to extend and not to extend? The pressures on both sides will be intense. I have listened to the pros and cons of ERA for 7 years. I have heard some very intelligent, cogent arguments. I have heard them for the last 2 days in my office, I have heard them on the floor of the Senate. I am just giving the scenario of what can happen in the future when we start tinkering with the orderly processes of constitutional government and we start doing it on the emotions of the day.

Depending on the issue, the roles could all be reversed and the people who want just 3 more years to give three more States the chance to ratify a constitutional amendment to prohibit abortion would be pleading against extension.

Mr. President, I do not denigrate anybody who feels strongly for or against any issue, but simply say we cannot deal with these things in a vacuum. We have to set some precedents. We do not have many precedents in the ratification process, but I shall tell one precedent that we have. That is that the 14th, 15th, and 19th amendment were all adopted after at least one State had rescinded. But we have never been presented with a proposition where 4, 5, or maybe 10 States do.

What are we going to do if 3 more States ratify this amendment and the 31 States that have not yet rescinded do so in this 39-month period? I know that is not going to happen. But when we are establishing precedents upon which the fundamental basis of this Government stands and we start tinkering with it

because of the emotions of the day, we set ourselves up for all kinds of trouble in the future.

Mr. President, I know that a lot of what I have said this afternoon might be misunderstood and misconstrued. I have tried to point out, and I want to say it again, that I respect people's right to feel as strongly as they want to feel about any issue. It is a fundamental right. In my opinion, that government is best which provides the most personal freedom to its people. That personal freedom involves the right to feel as strongly as they want about any given issue. What I am saying is that Congress is setting a precedent. I know we cannot bind future Congresses, just as past ones have not bound us. There are times when precedents ought to be changed. The Brown decision of 1954, which overturned Plessy agains Ferguson, which had been scripture for so many years, was right. And we are admittedly not overturning very much precedent here. But what we are doing is destroying what little precedent we do have in the whole ratification process, and I think we will regret it.

I come from a household that is just about as strongly ERA as you can get, but I have come down on the position I am taking simply because I think we are setting a precedent that is going to come home to haunt us.

I thank the Chair. I yield the floor.

Mr. SCOTT addressed the Chair.

Mr. McCLURE. Mr. President, will the Senator yield?

Mr. SCOTT. I shall in just a moment. Let me make just a brief statement, then I am glad to yield to my friend from Idaho.

As far as I know, there are no further amendments and after the Senators who are on the floor express themselves on this matter, I believe we can go to third reading. Before we do that and before yielding, I should like to thank Neil McDonald of the staff of the Senate Committee on the Judiciary for his help to me during the time consumed in considering this joint resolution. Neil was a big help to me.

Mr. President, the Senator from Idaho had asked that I yield to him, but apparently he has left the floor. I am ready to go to third reading, but I believe the Senator from Indiana had a unanimous-consent request that has not been resolved.

Mr. BAYH. Mr. President, I ask unanimous consent that various letters from law professors across the country and others expressing strong feelings about the equal rights amendment be printed in the RECORD (prior to going to third reading.)

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DEAR SENATOR: The validity or not of purported rescission of a state's ratification of the proposed Equal Rights Amendment is a separate question, not resolved one way or the other, by a vote for extension. Time is "of the essence" with respect to extension. That issue cannot be postponed to another cision on rescission at this juncture. Grapday. But no deadline forces debate and depling with rescission today, when the question is not yet ripe for decision, when Congress has only a crystal ball to guide it, would be speculative and unwise. It would represent a highly dubious effort by this Congress to tie the hands of the future Congress sitting when the question is ripe and can be decided on the basis of facts, not conjuncture—the Congress sitting when three-fourths of the states or more have voted to ratify.

The Department of Justice has taken the position that Article V itself recognizes only one state act—ratification, an act that cannot be accompanied by strings or conditions. The precedent set by Congress in the case of the 14th Amendment (when New Jersey and Ohio were counted, although they purported to rescind), the treatise writers, and Supreme Court expression (particularly a footnote in *Coleman* v. *Miller*) provide support for the Department of Justice view. While the Department of Justice offers compelling historical, jurisdictional and political reasons for its analysis, the issue is not free from doubt. Law teachers who say with security that Congress has authority to extend the time for ratification and that a simple majority vote in both Houses suffices, are not equally secure on the rescission question.

That very insecurity, reflected in respectable arguments made on both sides, counsels against any attempt by Congress to resolve the matter now. For one thing, it is not at all clear that Congress has the authority to rule finally on the issue. It may be an issue for the courts, ultimately the Supreme Court, to determine. Moreover, even if Congress, not the Court, is the appropriate final arbiter, it would not be this Congress, it would be the Congress sitting when 38 states have ratified. Further, since a cloudy gray zone of Constitutional interpretation is involved, it seems wisest to avoid anticipating questions that may become moot. Assume six or seven additional states ratify, for example. In that event, the validity of rescission in the ERA context would become academic.

We therefore conclude that the efficiency of rescission is not appropriately addressed at this time. The matter should be deferred, left for unfettered consideration with full knowledge and appreciation of the precise circumstances existing when the ratification process is completed.

Sincerely,

THOMAS I. EMERSON,
Yale University Law School.
LAURENCE TRIBE,
Harvard Law School.
RUTH BADER-GINSBURG,
Columbia University Law School.
NORMAN DORSEN,
New York University Law School.

OFFICE OF THE GOVERNOR,
Trenton, N.J., October 3, 1978.

Hon. BIRCH BAYH,
Russell Senate Office Building, Washington, D.C.

DEAR SENATOR BAYH: As you know, the House of Representatives has approved House Joint Resolution 638 which will extend the period during which states can ratify the Equal Rights Amendment. I sincerely hope that the Senate will now act expeditiously to approve the Resolution without any recission provision.

I do consider this an important social and economic issue illustrated by the fact that 35 states representing three-fourths of the nation's population have ratified the Equal Rights Amendment. These numbers indicate, I believe, that the majority of the population support the passage of this amendment and that the broad based support for the social and economic changes implicit in the E.R.A. justify a further extension of time.

Without a constitutional amendment, progress and efforts we have made in New Jersey could be undermined and an important incentive and momentum lost. I realize the schedule now facing you and the number of major legislative items with which you must deal in the closing weeks of this session, but I would still urge you to do all that you can to ensure expeditious action and passage of this important provision. I pledge whatever assistance I can be to you on this matter.

Sincerely,

BRENDON T. BYRNE,
Governor.

Attempts to amend the ERA extension in order to permit rescission of ratifications or to approve prior rescissions are of highly questionable propriety and unwise as a matter of constitutional policy. I hope that you will firmly set your course against any such debilitating amendments.

ANTHONY G. AMSTERDAM,
Stanford Law School.

MIAMI, FLA.,
October 3, 1978.

Hon. BIRCH BAYH,
Subcommittee on the Constitution, Senate Judiciary Committee, U.S. Senate Office Bldg., Washington, D.C.

In our view, Congress would be acting prematurely if at this time it passed on the question of State rescission of ERA ratification. Congress should not address the matter until three-quarters of the States have arguably ratified the amendment.

KENNETH CASEBEER,
PATRICK GUDRIDGE,
DENNIS LYNCH,
ERWIN STOTZKY,
University of Miami School of Law.

EUGENE, OREG.,
October 2, 1978.

Hon. BIRCH E. BAYH,
Chairperson, Subcommittee on the Constitution, Senate Judiciary Committee, U.S. Senate, Washington, D.C.

DEAR SENATOR BAYH: As a law professor teaching constitutional law at the University of Oregon Law School, I am concerned about Congress attempting at this to determine whether a State can rescind its ratification of a constitutional amendment, unless each of three objections to this step can be adequately answered. I think that such an attempt would be both unwise and improper.

First, the present Congress cannot impose its interpretation of the Constitution on later Congresses. A later Congress presented with the claim that a proposed amendment had been properly ratified and should be promulgated as a constitutionally imposed duty to reach its own conclusion as to whether the constitutionally required ratification had occurred. Any attempt now to bind the later Congress would be an exercise of a power that Congress does not possess.

Second, the Constitution requires that an amendment become part of the Constitution when ratified by three-quarters of the States, although Congress has expressed power to determine whether ratification is to be by convention or legislative action. Ratification itself is a constitutional mandate and the determination of what counts as ratification is a matter of constitutional interpretation not congressional choice. Even though the Congress and not the courts may bear final responsibilities for the constitutional interpretation of what constitutes ratification, many of the reasons for courts avoiding unnecessary constitutional decisions would seem to apply to Congress.

Third, as a very important constitutional issue on the effect of the State's attempted rescission should be decided on its own terms, if any overreaching Congress attempted to decide the issue in the context of the compromise that extends the time available for ratification. This act would appear to make constitutional interpretation a matter of

political compromise rather than principled decision. Political compromise is a proper, integral part of reaching legislative decisions, but political compromise does not have and should not be made to appear to have a place in constitutional interpretation. The Congress would be failing in its responsibilities as well as creating an unfortunate precedent if it made this decision appear to be a part of such a compromise.

Hopefully, these quickly gathered thoughts will be helpful in your deliberations.

C. EDWIN BAKER,
Assistant Professor of Law.

WASHINGTON, D.C.,
October 2, 1978.

Senator JAMES EASTLAND,
Capitol Hill, D.C.:

Eighty thousand social workers from fifty States urge vote no rescission, yes extension.

NATIONAL ASSOCIATION
OF SOCIAL WORKERS.

STERLING, VA.,
October 1, 1978.

Senator JAMES EASTLAND,

Many Mormon Woman oppose rescission, pray you will vote no, we will remember.

MORMONS FOR ERA.

MADISON, WIS.,
October 3, 1978.

Senator BIRCH BAYH,

Regarding ERA extension the Constitution and good sense imply that the question of rescission should be left to Congress in evaluation to completed ratification. It should not be part of the extension bill.

MARK TUSHNET,
University of Wisconsin Law School.

PHILADELPHIA, PA.,
October 2, 1978.

Hon. BIRCH BAYH,
Senate Office Building,
Washington, D.C.

It is extremely doubtful whether State legislative action purporting to rescind a prior ratification of a pending constitutional amendment is constitutionally effective. In these circumstances it would in my view be inappropriate for Congress explicitly to invite such rescission in extending the ratification period for the equal rights amendment.

PAUL BENDER,
Professor of Law, University of Pennsylvania Law School.

CAMBRIDGE, MASS.
October 2, 1978.

Senator BIRCH BAYH,
U.S. Senate,
Washington, D.C.:

It would be a serious mistake to attempt to "authorize" rescission of ratification of the equal rights amendment at this point. The constitutionality of such an "authorization" would not be at all clear. The general problem of rescission may have to be resolved later. To address it now, however, might put a cloud on the time extension for ratification of the amendment.

RICHARD PARKER,
Assistant Professor of Constitutional Law, Harvard Law School.

CAMBRIDGE, MASS.
October 2, 1978.

Senator BIRCH BAYH,
U.S. Senate,
Washington, D.C.:

Strongly urge passage of time extension for ERA amendment without delay now for debate on position against rescission of previous ratifications. Latter issue can be resolved later if and when enough ratifications obtained to make it relevant.

VERN COUNTRYMAN,
Harvard Law School.

OMAHA, NEBR.,
October 2, 1978.

Senator BIRCH BAYH,

DEAR SENATOR: I believe there is some doubt about the constitutional power of Congress to rescind the prior ratification of the States of the equal rights amendment. In any event, the proper time to consider this issue is when the 38th State has ratified.

Prof. KENT J. NEUMEISTER,
Creighton University School of Law.

NEW HAVEN, CONN.,
October 2, 1978.

Senator BIRCH BAYH:

The undersigned, who are all teachers of constitutional law at Yale Law School are concerned about the Garn amendment to the resolution extending the time of ratification of the equal rights amendment and to some of the arguments advanced in its behalf. We believe that Congress has the constitutional power reasonably to extend the time for ratification of ERA. But we do not believe that the more difficult and obscure question of the possible rescission by the States of their votes for ratification would be implied by a vote of Congress for extension of time for ratification.

We therefore urge Congress to reject any provision that would authorize rescission by the States. For Congress to take such action at this time would be unprecedented and unwise. As a matter of constitutional law, any notion that rescission must be allowed if an extension is granted is in our opinion erroneous.

PAUL GEWIRTZ,
EUGENE V. ROSTOW,
BARBARA D. UNDERWOOD,
Yale Law School.

ANN ARBOR MICH.,
October 2, 1978.

Senator BIRCH BAYH:

I am writing in connection with the Congressional debates over the proposed extension of time in which the States will have to ratify the ERA. In my opinion, there are at least some doubts as to whether Congress has the constitutional authority to authorize States to rescind prior ratifications of the ERA. In any event, I surely believe that it would be ill-advised for Congress to act now on the question of rescission. This is a matter that can be resolved by congressional and or judicial action if and when 38 States have ratified the ERA. On these points I would concur with the views already given by Professor Lawrence Tribe.

HARRY D. EDWARDS,
Professor of Law, University of Michigan Law School.

CAMBRIDGE, MASS.,
October 2, 1978.

Senator BIRCH BAYH,
U.S. Senate Bldg.,
Washington, D.C.:

I have serious doubts concerning the constitutionality of any congressional authorization of States to rescind their ratifications of the equal rights amendments as the complex issue of States' power to rescind would be better resolved at a later date whether by the courts or by Congress. It should not be appended to an extension of time for ratification of the equal rights amendments.

MARTHA FIELD,
Professor of Constitutional Law, University of Pennsylvania Law School.

Mr. STAFFORD. Mr. President, the Equal Rights Amendment is a necessary legal and moral cornerstone of the effort to end sex discrimination in the United States.

But, ERA is more than a law—it is a symbol, as well.

It is a symbol of the concept that women are equal partners with men, and have the right to share fully both the privileges and the responsibilities of our society.

That is why I voted for enactment of ERA 6 years ago. It is why I will vote again this week for the extension of the time period for ratification of the equal rights amendment.

It is also why I oppose efforts to require a two-thirds vote of the Congress for the extension of time, and why I also oppose efforts to attach an amendment to provide specific authority for States that have ratified ERA to rescind that action.

Any State that wants to change its mind can do so, without any new language in the law. Then, it will be up to Congress to decide what to do about any such rescissions.

The fundamental political imperative involved in all of this is simply that time is running out on this session of the Congress, just as time is running out on the effort to win final ratification of ERA.

Last-minute amendments offered to the ERA extension, no matter how honorable their intention might be, have the additional strong probability of killing the extension effort by delay in the final hours of this session of the Congress.

My commitment to the cause of ERA is so unyielding that I cannot support any effort that has the possible effect of killing the ERA extension.

The need for ERA is just as great now as it was when it was enacted 6 years ago. Further, it is clear to me that a solid majority of adult Americans support ERA, and also support congressional extension of the March 1979 deadline for ratification.

As a lawyer and a legislator, I am convinced also that there is no clear constitutional or legal barrier to extending the deadline for ratification.

Extending the time limit for ratification is both a reasonable and acceptable way to lengthen the time period for national debate on this issue.

Sex discrimination still abounds in our country. Earlier this year, a report issued by the U.S. Civil Rights Commission provided new evidence that women have failed to make any significant gains toward economic and social equality with white men since 1960.

The report showed that women earn barely more than half as much as men; that women are held down on the bottom rungs of the financial ladder in the job market and in the business world, and that women make up 53 percent of the Nation's registered voters, but hold only 9 percent of the seats in State legislatures.

The need for ERA is also made clear in a study of current Federal laws. A review of the United States Code last year revealed more than 800 laws that had the cumulative effect of assigning women to subordinate roles because of their sex.

State laws are also permeated with sex discrimination.

The Civil Rights Act and other legislation have helped to reduce discrimination against women, but no piece of legislation has the legal or moral impact—

or the permanance—of a constitutional amendment.

The need for ERA has also been demonstrated in the practical sense by the inconsistent decisions that have been handed down by the courts in response to legal tests of laws that attempt to deal with sex discrimination.

ERA is needed as a fundamental and permanent standard that will tell judges, legislators, employers, unions, educators, and all other citizens that our Nation will no longer tolerate less than equality for more than half of our population.

The equal rights amendment is not just about women's rights—it is about human rights. Each citizen—man and woman alike—of our Nation benefits when the country renews its pledge to protect basic rights, dignity, and liberty.

I think we all understand what ERA is about. ERA is about ending discrimination against women.

The real issue, then, in the ERA debate is one of simple fairness.

Mr. NELSON. Mr. President, I support House Joint Resolution 638, which would extend the ratification period for the equal rights amendment for 3¼ more years.

Like most Members of Congress, I was and still am an enthusiastic supporter of the equal rights amendment. However, several legal issues have arisen in connection with the effort to extend the ratification period for ERA which have caused some of those who support ERA to hesitate on the issue of extension. I thought it would be useful to review the most troublesome legal issues concerning extension and then briefly discuss the substantive reasons why an extension of the ratification period is reasonable and necessary.

As I see it, the essential legal questions concerning ratification are: First, can Congress constitutionally extend the period during which the equal rights amendment must be ratified to include an additional 3¼ years; second, if the extension is deemed constitutional, can it be accomplished by a simple majority vote in both Houses of Congress or must there be a two-thirds majority; and third, would a 3¼-year extension grant to the States a right to rescind their previous ratifications which they would not otherwise possess. None of these questions has ever been definitively answered by the Supreme Court or any other court and all have been debated by legal scholars. What follows is my own best judgment as to what the answers to the questions would ultimately be, based on a review of the relevant case law and constitutional argument.

First. Congress can constitutionally extend the period during which the ERA must be ratified to include an additional 3¼ years.

Article V of the U.S. Constitution reads in pertinent part:

> The Congress, whenever two-thirds of both houses shall deem it necessary, shall propose Amendments to this Constitution, or, on the Application of the Legislatures of two-thirds of the several States, shall call a Convention for proposing Amendments, which in either Case, shall be valid to all Intents and Purposes, as Part of this Constitution, when ratified by the Legislatures of three-fourths of the several States, or by Conventions in three-fourths thereof, as the one or the other mode of Ratification may be proposed by the Congress.

Article V contains no reference to the time period within which an amendment must be ratified. Nor does it state that Congress has the power to set a time period for ratification.

In *Dillon* v. *Gloss*, 256 U.S. 368, 375 (1921), the Supreme Court held that "the fair inference of implication from Article V is that ratification must be within some reasonable time." In Dillon, which dealt with the 18th amendment (prohibition), the Supreme Court also held that Congress possessed the authority to include a time limitation in the text of a proposed constitutional amendment. The Court stated, "Congress is left free to define" what constitutes a reasonable time in the case of any particular amendment and that the determination of reasonable time is "a matter of detail" which Congress may decide, "incident to its power to designate the mode of ratification," in the manner "the public interests and changing conditions may require." 256 U.S. at 371, 376.

The plaintiffs in *Coleman* v. *Miller*, 307 U.S. 433 (1939), sought to invalidate Kansas' ratification of a proposed constitutional amendment to forbid child labor which had occurred more than 12 years after the submission of the amendment to the States. The plaintiffs argued that more than a reasonable time had elapsed between the submission of the amendment to the States and Kansas, ratification, thus causing the amendment, which lacked a stated ratification time limit, to lose its "vitality."

The Court held that Congress, not the Court, ought to decide the timeliness issue. The Court said that the determination of whether or not an amendment had been ratified within a "reasonable" time was an "essentially political" judgment, for it involved "an appraisal of a great variety of relevant conditions, political, social and economic." 307 U.S. at 453–4. The Court then stated that, "Congress * * * has the final determination of the question of whether by lapse of time its proposal * * * has lost its vitality prior to the required ratifications." 307 U.S. at 456. Further, "the decision by the Congress * * *would not be subject to review by the Courts." *Id* at 454.

The "political question" doctrine has shrunken in scope since 1939 but the holding of Coleman versus Miller was cited with approval by the Supreme Court in *Baker* v. *Carr*, 396 U.S. 186, 210 (1962) as an example of the type of case which ought to remain a "political question" entrusted to the determination of Congress.

Prof. Ruth B. Ginsburg has explained how Dillon and Coleman bear on the general issue of extension of time as follows:

> In *Dillon*, the Court upheld against constitutional challenge the authority of Congress to include a time limitation in the very text of a proposed amendment. In *Coleman*, the Court confirmed the prerogative of Congress to consider and resolve the question of timeliness when the time arrives for the promulgation of the adoption of the amendment. 307 U.S. at 454. In short, Congress could deal with timeliness as a threshold matter, as *Dillon* held, or as an ultimate question, as *Coleman* declared. There should be little doubt, given the range and breadth of power and responsibility Article V invests in Congress, that a middle course may also be pursued. In lieu of a fixed period set in the text of the proposed amendment, or a total "wait and see" approach with no time frame at all suggested at the onset of the ratification process, Congress could preliminarily establish a time schedule, a schedule subject to extension when necessary and proper, in light of "the public interests" and "relevant conditions." *Dillon* v. *Gloss*, supra, 307 U.S. at 453–4. Statement of Professor Ruth Ginsburg on Extending the Ratification Period for the Propcsed ERA before Subcommittee on Civil and Constitutional Rights of the House Committee on the Judiciary—November 8, 1977, p. 5–6.

House Joint Resolution 208, 92d Congress, second session (1972), which proposed the ERA to the several States, fits clearly within Ginsburg's analytical framework:

> HOUSE JOINT RESOLUTION 208
>
> Proposing an amendment to the Constitution of the United States relative to equal rights for men and women.
>
> Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), that
>
> The following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission by the Congress:
>
> "Section 1. "Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex."
>
> "Section 2. The Congress shall have the power to enforce, by appropriate legislation, the provisions of this article."
>
> "Section 3. This amendment shall take effect two years after the date of ratification."

Although Professor Ginsburg overstates the case when she speaks of the 7-year period as merely a "preliminary time schedule," it seems clear that since the 7-year period is not included within the text of the amendment itself but only appears in the proposing clause—which was not submitted to the States for approval—Congress can, in the exercise of its plenary power over the amendment process, extend the period for 3¼ years, if it deems such an extension "reasonable" in light of present circumstances.

It has been argued, particularly by Prof. Charles Black of Yale, that even if the 7-year provision was not included in the text of the ERA itself, it nonetheless was part of the "package" which all those who voted on ERA thought they were voting on and that they had a "right to rely" on the 7-year time limitation. I believe that this argument does not seriously question Congress' constitutional power to extend the time period. It is relevant only to the issue of whether or not such an extension is desirable.

Second. The extension can be accomplished by a simple majority vote in both Houses of Congress.

Article V requires Congress to approve proposed constitutional amendments by a two-thirds vote. It has been argued

that this provision also applies to other votes by both Houses of Congress taken pursuant to their article V responsibilities, such as the vote which would have to be taken in order to extend the ratification period for 3¼ more years. I believe that this argument is wrong, for the following reasons:

First, where the Constitution requires supermajorities its language is narrow and specific. As has been pointed out by the Justice Department in its memorandum to the Counsel for the President regarding extension, at page 21:

> * * * even a cursory review of the other constitutional provisions which impose super-majority requirements demonstrates that in every case the question to be addressed by Congress is clearly specified and the consequence of a failure of Congress to muster the requisite number was clearly foreseen and contemplated.

Examples of constitutional provisions requiring a two-thirds vote in addition to the approval of proposed amendments are article II, section 2 (approval of treaties); article I, section 3 (conviction after impeachment); article I, section 5 (voting to expel a Member of Congress); article I, section 7 (override of a veto); 14th amendment, section 3 (removal of disability of Members of Congress after they have participated in an insurrection against the United States); 25th amendment (Presidential resumption of power after disability). The extension of time to ratify an amendment should not be included with these exceptions in the absence of the express intent of the framers of the Constitution.

Second, imposition of the two-thirds requirement on all congressional votes required under article V would lead to anomalous results. For example, let us assume that Congress approved a proposed constitutional amendment with no express time limit on ratifications. Suppose it were to be ratified by the 38th State some 20 years after congressional approval. Finally, assume that a majority but not two-thirds of both Houses of Congress then believed that more than reasonable time had elapsed and that the amendment had lost its vitality. If the two-thirds rule applied, the amendment would have to take effect anyway. This seems unreasonable, and, in the absence of authoritative guidance by the case law, the principle of simple majority rule for the "subsidiary questions" under article V is preferable.

This conclusion is buttressed by two instances of what might be termed "negative" legislative history regarding article V "subsidiary questions." In 1868, Congress decided by concurrent resolution that the 14th amendment had been duly ratified by the States. There is no indication in the legislative history that Congress thought that this had to be done by a two-thirds vote—78 Cong. Globe 4266 (1868). Also, in 1971, Senator Ervin proposed a bill to govern the State convention method of amending the Constitution. The bill, S. 215, 92d Congress, first session (1971), was not enacted into law. It was, however, passed in the Senate by a wide margin. There is no indication in the legislative history that anyone thought a two-thirds vote would be required to pass the bill—volume 117, CONGRESSIONAL RECORD, pages 35764, 35988, 36442, 36753, 36803, 36804 (1971).

Third. A 3¼-year extension would not grant to the States a right of rescission of prior ratifications.

This is an issue which has provoked much debate. Granting the States 3¼ more years to ratify an amendment without simultaneously allowing States the right to rescind prior ratifications seems to many to be unfair. Professor Black has referred to this proposal as "grotesque." Yet, once again, I am unable to find any reason to doubt the constitutional power of Congress to do precisely that.

The popular debate over whether or not a State may rescind its prior ratification of a constitutional amendment misconceives the real nature of the issue as it is likely to arise sometime in the future.

The question is not whether or not a State may rescind its prior ratification of a constitutional amendment but rather whether Congress, in the exercise of its plenary power over the amendment process, is free to disregard a purported State rescission and certify that the State has ratified a given amendment. History and precedent both testify to Congress' power to do so.

As was noted in *Coleman* v. *Miller*, 307 U.S. 433, 447–50 (1939), New Jersey and Ohio purported to rescind their prior ratifications of the 14th amendment. In 1868, there were 37 States and 28 States were needed to ratify constitutional amendments. On July 21, 1868, Congress adopted a concurrent resolution stating that the 14th amendment had been duly ratified by 29 States, among them New Jersey and Ohio, and declaring the amendment to be a part of the Constitution of the United States—81 Cong. Globe 4266, 4295–96.

The ratifications of New Jersey and Ohio were thus vital to the achievement of the necessary two-thirds vote. It does not overstate the case to note that if Congress did not have the constitutional power to disregard purported rescissions, then the 14th amendment is not legally a part of the U.S. Constitution. Recognizing this, the Supreme Court in Coleman approvingly cited this process as an example of Congress power over the amendment process—307 U.S. at 447–450.

The general understanding over the years has been that a State may not rescind its prior ratification. Senator Wadsworth, in 1924, proposed a constitutional amendment to allow States to rescind—volume 65, CONGRESSIONAL RECORD, page 4492 (1924). More recently, in a floor statement, Senator BAYH declared that a State may not rescind—volume 120 CONGRESSIONAL RECORD, page 5574 (1974). I believe that this doctrine mistakes Congress general practice of disregarding rescissions for a legal obligation to do so. Coleman holds that Congress has plenary power over the amendment process. If it chose not to disregard a State's rescission and thus not to certify a rescinding State as having ratified an amendment, that too would be within its plenary power.

If Congress may disregard rescissions, I see no legal distinction between disregarding them after 6 years or 9 years. Therefore, an extension of the time allowed for ratification, if legal in itself, would have no impact on the rescission issue.

Fourth. A 3¼-year extension ought to be supported.

I believe that extension ought to be supported. The enactment of ERA is as necessary and desirable now as in 1972. The evidence for this assertion is voluminous and can only be briefly touched on here. Lacking the authoritative guidance that ERA would provide, the response of the courts in general and the Supreme Court in particular to sex discrimination issues has, in recent years, been uncertain and inconsistent. Compare *Kahn* v. *Shevin*, 416 U.S. 351 (1974) (State tax exemption for widows but not widowers held not to violate 14th amendment), *Schlesinger* v. *Ballard*, 419 U.S. 498 (1975) (5th amendment not violated by forcing male naval officers to retire after 10 years without a promotion while at the same time allowing female officers to retire after 13 years without a promotion) and *Vorchheimer* v. *School District of Philadelphia*, 532 F. 2d 880 (3d Cir. 1976), *aff'd by an equally divided Court*, 97 S. Ct. 1671 (1977) (existence of single sex public high school held not to violate the 14th amendment) with *Craig* v. *Boren*, 429 U.S. 190 (1976) (State law forbidding sale of "3.2" beer to males under 21 and females under 18 held to violate the 14th amendment) and *Califano* v. *Goldfarb*, 430 U.S. 199 (1977) (social security widow/widower survivor benefits distinction held to violate 5th amendment).

According to Professor Ginsburg,

> Gender lines still pervade the laws and regulations of the nation and the states.

The U.S. Department of Labor points out,

> The earnings gap between women and men continues to widen * * * In 1956, fully employed women's earnings were 63 percent of men's earnings; in 1970 they were 59 percent U.S. Dept. of Labor, 1975 *Handbook on Women Workers*, p. 4.

When all is said and done we are, after all, addressing ourselves to issues of justice and equality on these issues there should be no compromise and no equivocation.

The proposed amendment is simple and straightforward. It provides:

> Equality of rights under the law shall not be denied or abridged by the United States or by any state on account of sex.

This is an issue of such fundamental import that, the time for consideration should be extended. In my judgment this can be done pursuant to the law and the Constitution.

Mr. BAYH. Mr. President, I am prepared to go to third reading. I yield back my time.

Mr. SCOTT. I yield back my time.

The PRESIDING OFFICER. All time having been yielded back, the joint res-

olution is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed for a third reading and was read the third time.

Mr. ROBERT C. BYRD. I move to reconsider the vote by which the measure went to third reading.

Mr. BAYH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I want to take this opportunity to compliment the distinguished Senator from Indiana (Mr. BAYH) for his untiring efforts, his persistence, diligence, and ability in pressing the equal rights extension resolution to the stage of third reading which it has just reached. He is entitled to a great deal of credit and, although I have not made my decision as to what my final vote on the extension will be, I nevertheless salute him.

I want to compliment Mr. SCOTT of Virginia, who has led the opposition in a very able manner and who has contributed tremendously to the overall debate.

I think that both sides, the opponents and the proponents, are to be commended. I personally want to congratulate them and thank them for the manner in which they have conducted their work and for their approach. I think it is one of the finest debates that I have been privileged to listen to while I have been in the Senate.

Mr. BAYH. Will the Senator yield?

Mr. ROBERT C. BYRD. Yes.

Mr. BAYH. Mr. President, I would like to say, on behalf of all of us who have been involved for a good long period of time in trying to continue the process of ratification of the equal rights amendment, that we are deeply indebted to the majority leader for the special effort he made to accommodate the legislative schedule so that this matter could be before the Senate and we could go through what we have gone through here in the last couple of days. A very stirring airing of the differing points of view.

Without your willingness to cooperate and indeed, provide leadership so that we could make this the pending order of business and put it before the Senate, this would not have been possible.

To those who are for the ERA, let me say, we owe you a deep debt of gratitude.

Mr. ROBERT C. BYRD. Mr. President, I want to thank the distinguished minority leader, the distinguished minority whip, and others on the minority side, who cooperated in arriving at a time agreement which made it possible for the Senate to complete its work on the measure, as it has now, there being only one remaining vote on the measure, that being final adoption.

Mr. BAKER addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. BAKER. Mr. President, I join the majority leader in extending my congratulations to the managers on both sides.

I would add to that, Mr. President, the distinguished Senator from Utah (Mr. GARN), who managed one of the significant amendments to this resolution and who brought it to a vote at a time certain and faced the issue squarely.

There are heated disagreements on both sides of the aisle in respect to this extension, but I believe that the Senate has approached the matter in a responsible way. I am pleased we have reached this point under the leadership of the distinguished Senator from Indiana, the distinguished Senator from Virginia, and others who participated fully in this debate.

My thanks to the majority leader for his help and assistance in seeing we reached this point in this way.

Mr. ROBERT C. BYRD. Mr. President, I also want to express felicitations and thanks to the distinguished Senator from Utah (Mr. GARN).

Mr. BAYH. If the Senator would permit my one additional observation, I would like to say to my friend, the minority leader, that the Senator from Indiana, and those of us who are in support of the extension of ERA, are not unmindful of the effort he made in a spirit of cooperation to make it possible for this matter to be before the Senate. We are deeply appreciative of his efforts.

ORDER OF PROCEDURE

Mr. ROBERT C. BYRD. Mr. President, there is a conference report on Treasury and Postal Services that is about to be called up. Mr. WEICKER and Mr. CHILES are ready to do that shortly.

Mr. CHILES is securing the papers, without which he cannot actually call up the conference report. He should be ready shortly.

Mr. President, I ask unanimous consent that it be in order to order the yeas and nays on the adoption of the conference report.

The PRESIDING OFFICER. Is there objection? The Chair hears none.

Mr. BAKER. Mr. President, I ask for the yeas and nays on the conference report.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. WEICKER. Mr. President, I ask unanimous consent that Peter Goldfarb, of my staff, be granted privilege of the floor during debate and voting on this matter.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WEICKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

DESIGNATION OF OCTOBER 8, 1979, AS "FIREFIGHTERS' MEMORIAL SUNDAY"

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House on House Joint Resolution 685.

The PRESIDING OFFICER laid before the Senate House Joint Resolution 685, a joint resolution to designate October 8, 1979, the Sunday of "Fire Prevention Week" as "Firefighters' Memorial Sunday."

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the joint resolution be considered as having been read the first and second times and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1984

Mr. THURMOND. Mr. President, I send to the desk an amendment to this resolution.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from South Carolina (Mr. THURMOND) proposes an unprinted amendment numbered 1984.

Mr. THURMOND. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the preamble insert the following:

Whereas jogging is an excellent form of exercise that provides opportunities for a graduated program of physical fitness for most individuals regardless of age, sex, or level of fitness;

Whereas numerous medical authorities believe that a regular, sensible jogging program improves the function of heart, blood vessels, and lungs, and serves as an advisable supplement to a weight-reducing or weight control program;

Whereas a postive correlation exists between the development of a fit body and the ability to experience an enriched and more satisfying life;

Whereas over three hundred thousand persons all across America participated in hundreds of fun runs and fitness clinics last year and countless other individuals participated in jogging and running as a leisure time activity which is beneficial and enjoyable: Now, therefore, be it

At the end of the joint resolution add the following:

Sec. 2. That the president is authorized and requested to issue a proclamation declaring October 14, 1978, as "National Jogging Day", and calling upon the people of the United States and interested groups to celebrate such day by embarking upon or containing a program of regular exercise, participation in sports and games for fitness and fun.

Sec. 3. That, in honor of the important role played by inventors in promoting progress in the useful arts and in recognition of the invaluable contribution of investors to the welfare of our people, February 11, 1979, is hereby designated "National Inventors' Day". The President is authorized and requested to issue a proclamation calling upon the people of the United States to celebrate such day with appropriate ceremonies and activities.

Mr. THURMOND. Mr. President, this amendment already has passed the Senate and has been sent to the House. It will just save time for us to amend the pending joint resolution with this amendment and act on both at once. There is no objection on the part of anyone I know of. Both sides have cleared this.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. WEICKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

(Later the following occurred:)

The PRESIDING OFFICER. The Senate will now resume its consideration of House Joint Resolution 685.

The Senate resumed the consideration of the joint resolution, the amendment was ordered to be engrossed, and the joint resolution was read the third time, as follows:

A joint resolution (H. J. Res. 685) to designate October 7, 1979, the Sunday of "Fire Prevention Week" as Fire Fighters' Memorial Sunday".

The PRESIDING OFFICER. The joint resolution having been read the third time, the question is, Shall it pass?

The joint resolution was passed.

The PRESIDING OFFICER. Without objection, the preamble will be appropriately amended and the title will be appropriately amended.

The title was amended so as to read:

"Joint resolution to designate October 7, 1979, the Sunday of 'Fire Prevention Week' as 'Firefighters' Memorial Sunday'; to designate October 14, 1978, as 'National Jogging Day'; and to designate and authorize the President to proclaim, February 11, 1979, as 'National Inventors' Day'.".

Mr. ROBERT C. BYRD. I move to reconsider the vote by which the joint resolution was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of the Senate amendments to House Joint Resolution 685.

The PRESIDING OFFICER. Without objection, it is so ordered.

(Conclusion of subsequent proceedings.)

QUORUM CALL

Mr. WEICKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CHILES. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

TREASURY, POSTAL SERVICE, AND OTHER AGENCIES APPROPRIATIONS, 1979—CONFERENCE REPORT

Mr. CHILES. Mr. President, I submit a report of the committee of conference on H.R. 12930 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 12930) making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1979, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of October 4, 1978.)

Mr. CHILES. Mr. President, the conference report has been printed as House Report No. 95-1673.

New budget authority recommended by the conference is $8,983,261,000. This is a reduction of $220,000,000 below the President's fiscal-year 1979 amended budget estimates. It is an increase of $348,961,000 above the House bill and $2,136,000 above the Senate bill. The substantial increase above the House bill is the result of a budget amendment for $543,000,000 which was submitted following House consideration. This amendment provides for reimbursement of expenditures for social services provided by the States prior to October 1, 1975, under titles I, IV, VI, XIV, and XVI of the Social Security Act.

TITLE I

For title I of the bill, providing appropriations for the Treasury Department, the conference agreement is $3,732,222,000. This is an increase of $542,775,000 above the House bill and $4,900,000 above the Senate bill.

For the Office of the Secretary, the conferees allowed $31,300,000. This is an increase of $175,000 above the House bill and a reduction of $100,000 below the Senate bill.

The increase of $543,000,000 for reimbursement to the States for social services will increase the budget authority for the Bureau of Government Financial Operations to $717,000,000.

The conferees expressed concern over the growing menace of airborne smuggling of narcotics. The conference agreement for the U.S. Customs Service is $430,600,000. This includes $4,500,000 for acquisition of an additional high performance interceptor aircraft to combat this increasing problem. For the U.S. Secret Service, the conferees allowed $134,800,000.

For the Internal Revenue Service, the conferees allowed $2,046,200,000. This is a reduction of $1,100,000 below the President's budget estimate.

TITLE II

The conference agreement for title II, the Payment to the U.S. Postal Service, is $1,785,176,000. This is a reduction of $44,818,000 below the budget estimate and the House bill and reflects the decision on first-class postage by the Postal Rate Commission and the Board of Governors of the Postal Service in May 1978.

TITLE III

The conference agreement for title III, the Executive Office of the President, is $70,119,000. This is an increase of $1,004,000 above the House bill and a reduction of $1,190,000 below the Senate bill.

The conference agreement provides $16,711,000 for the White House Office; $2,500,000 for the Domestic Policy Staff; $28,200,000 for the Office of Management and Budget; and $3,000,000 for the Office of Federal Procurement Policy.

TITLE IV

For title IV, Independent Agencies, the conference agreement is $3,395,744,000. This is a reduction of $150,000,000 below the House bill and $1,574,000 below the Senate bill.

The agreement provides $8,000,000 for the Federal Election Commission. No funds are included for the National Center for Productivity and Quality of Working Life. The authorizing legislation for the Center expired on September 30, 1978.

For the General Services Administration, the agreement provides $165,350,000 for the Federal Supply Service; $74,000,000 for operating expenses of the National Archives and Records Service; $39,245,000 for the Federal Preparedness Agency; $14,800,000 for general management and agency operations; $2,600,000 for Indian trust accounting; and $90,000,000 for administrative and staff support services. The agreement for the construction activity under the Federal buildings fund includes $75,198,000 for construction of a Federal office building in Boston, Mass., and a direct appropriation of $21,150,000 for construction of a Federal office building and parking facility in Savannah, Ga.

The agreement includes 50 additional auditors for GSA which are sorely needed. I believe the Members are well aware of the highly publicized improprieties which have taken place at GSA. Testimony before the Governmental Affairs Subcommittee on Federal spending practices revealed that over $66 million of taxpayers money is estimated to have been wasted annually due to corruption and illegal activities. To date, 18 persons have been indicted and it would appear that many more are to come. This is an agency with over 36,000 personnel and multibillion dollar procurement responsibilities. The additional auditing personnel are sorely needed to assist Administrator Jay Solomon in his reform measures.

There were a number of general provisions considered by the conferees. The agreement includes a provision establishing a ceiling of 5.5 percent on wage increases during fiscal year 1979 for gen-

eral schedule, military, and prevailing rate employees. It also provides that no increases will be granted to personnel whose salary is $47,500 or above.

The agreement includes a provision to extend eligibility for employment with the U.S. Government to Cambodian and Laotian refugees paroled into the United States. The agreement also expresses the sense of the conferees for departments and agencies to use extreme caution in the purchase of goods and services where prices have risen in excess of the Office of Federal Procurement Policy guidelines.

The agreement does not include the provision in the Senate bill to restrict the ability of the President to adjust oil imports under the Trade Expansion Act of 1962. The conferees were assured by Secretary of the Treasury Blumenthal and Secretary of the Department of Energy Schlesinger that no decision would be made concerning the advisability of adjusting oil imports without thorough consultations with the Congress.

The agreement similarly does not include the across-the-board reduction of 2 percent that was included in the Senate bill. The conferees noted that over $2.7 billion of the sums contained in this bill were for mandated items such as the Federal Government payments for annuitants health benefits and the payment to the civil service retirement and disability fund. The conference agreement is a reduction of $220,000,000, or 2.4 percent, below the President's budget estimate. It was the view of the conferees that the additional reduction—an across-the-board cut of 2 percent—could not be achieved in a responsible manner.

Mr. President, this has been a summary of the conference report. At this time, I move the adoption of the conference report on H.R. 12930.

I yield to the distinguished ranking member of the committee, Mr. Weicker.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. WEICKER. Mr. President, I join with Senator CHILES, in support of the conference report for Treasury, Post Office appropriations for fiscal year 1979. In my view, this conference report represents a reasonable compromise with the House of Representatives and more important provides adequate but not lavish funding for the Government Departments and Agencies involved.

As my colleague has noted, this report sets funding levels that are $220 million or approximately 2½ percent below the President's budget request for fiscal year 1979.

We have arrived at that funding level after months of detailed review of the President's budget requests. We heard testimony from countless witnesses and marked up the bill line by line, agency by agency. This is the kind of responsibility that we on the Appropriations Committee are charged with and have carried out diligently under the leadership of the Senator from Florida. I, for one, think that this kind of approach is the most responsible way to review and control Federal spending. And let me say that I agree with those who want to reduce spending. But wielding a meat axe arbitrarily across the Federal budget does not make sense. You have to make a line-by-line, program-by-program, even project-by-project review of that budget to get at the waste or unnecessary programs.

Let us bear in mind that the agencies we are dealing with in this bill are not the big spenders of the Federal Government; rather they are the revenue raisers like the Treasury Department, the IRS, the Customs Service, et cetera. I would guess that if you polled the citizens of this country as to which agencies they think do a good job and in which the public has highest confidence, many of the agencies in this bill would head the list.

Therefore, I urge my colleagues to adopt the conference report.

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CHILES. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHILES. Mr. President, there is no further discussion. I move the adoption of the conference report.

The PRESIDING OFFICER. The question is on agreeing to the conference report. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Alabama (Mrs. ALLEN), the Senator from Nevada (Mr. CANNON), the Senator from Montana (Mr. HATFIELD), the Senator from Minnesota (Mrs. HUMPHREY), the Senator from Hawaii (Mr. INOUYE), and the Senator from Colorado (Mr. HASKELL) are necessarily absent.

I further announce that the Senator from Missouri (Mr. EAGLETON) is absent on official business.

I further announce that, if present and voting, the Senator from Minnesota (Mrs. HUMPHREY) and the Senator from Nevada (Mr. CANNON) would each vote "yea".

Mr. STEVENS. I announce that the Senator from New Mexico (Mr. DOMENICI), the Senator from Arizona (Mr. GOLDWATER) and the Senator from Kansas (Mr. PEARSON) are necessarily absent.

Mr. ROBERT C. BYRD. Mr. President, would the Chair ascertain whether all Senators present have voted. We have been having problems.

The PRESIDING OFFICER. Have all Senators voted? Have those Senators present in the Chamber voted? Apparently so.

The result was announced—yeas 70, nays 20, as follows:

[Rollcall Vote No. 443 Leg.]

YEAS—70

Abourezk	Brooke	Chafee
Anderson	Bumpers	Chiles
Bayh	Burdick	Church
Bellmon	Byrd, Robert C.	Clark
Bentsen	Case	Cranston
Culver	Kennedy	Randolph
Curtis	Leahy	Ribicoff
Danforth	Long	Riegle
DeConcini	Magnuson	Sarbanes
Eastland	Mathias	Sasser
Ford	Matsunaga	Schweiker
Glenn	McGovern	Sparkman
Gravel	McIntyre	Stafford
Griffin	Melcher	Stennis
Hart	Metzenbaum	Stevens
Hathaway	Morgan	Stevenson
Hayakawa	Moynihan	Stone
Heinz	Muskie	Talmadge
Hodges	Nelson	Weicker
Hollings	Nunn	Williams
Huddleston	Packwood	Young
Jackson	Pell	Zorinsky
Javits	Percy	
Johnston	Proxmire	

NAYS—20

Baker	Hansen	Roth
Bartlett	Hatch	Schmitt
Biden	Hatfield, Mark O.	Scott
Byrd, Harry F., Jr.	Helms	Thurmond
Dole	Laxalt	Tower
Durkin	Lugar	Wallop
Garn	McClure	

NOT VOTING—10

Allen	Goldwater	Humphrey
Cannon	Haskell	Inouye
Domenici	Hatfield, Paul G.	Pearson
Eagleton		

So the conference report was agreed to.

Mr. CHILES. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. WEICKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The clerk will state the first amendment in disagreement.

The legislative clerk read as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 30 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed to be inserted by said amendment, insert:

SEC. 613. (a) No part of the funds appropriated for the fiscal year ending September 30, 1979, by this Act or any other Act may be used to pay the salary or pay of any individual in any office or position in the legislative, executive, or judicial branch, or in the government of the District of Columbia, at a rate which exceeds the rate (or maximum rate, if higher) of salary or basic pay payable for such office or position of September 30, 1978, if the rate of salary or basic pay for such office or position is—

(1) fixed at a rate which is equal to or greater than the rate of basic pay for level V of the Executive Schedule under section 5316 of title 5, United States Code, or

(2) limited to a maximum rate which is equal to or greater than the rate of basic pay for such level V (or to a percentage of such a maximum rate) by reason of section 5308 of title 5, United States Code, or any other provision of law or congressional resolution.

(b) For purposes of subsection (a), the rate or maximum rate (as the case may be) of salary or basic pay payable for September 30, 1978, for any office or position which was not in existence on such date shall be deemed to be the rate or maximum rate (as the case may be) of salary or basic pay payable to individuals in comparable offices or positions for such date, as determined under regulations prescribed—

(1) by the President, in the case of any office or position within the executive branch or in the government of the District of Columbia;

(2) jointly by the Speaker of the House and the President pro tempore of the Senate,

in the case of any office or position within the legislative branch; or

(3) by the Chief Justice of the United States, in the case of any office or position within the judicial branch.

(c) For purposes of administering any provision of law, rule, or regulation which provides retirement, life insurance, or other employee benefit, which requires any deduction or contribution, or which imposes any requirement or limitation, on the basis of a rate of salary or basic pay, the rate of salary or basic pay payable after the application of this section shall be treated as the rate of salary or basic pay.

Mr. CHILES. I move that the Senate concur in the amendment of the House of Representatives to the amendment of the Senate numbered 30.

The motion was agreed to.

The PRESIDING OFFICER. The clerk will state the second amendment in disagreement.

The legislative clerk read as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 31 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed to be inserted by said amendment, insert:

SEC. 614. (a) No part of any of the funds appropriated for the fiscal year ending September 30, 1979, by this Act or any other Act, may be used to pay the salary or pay of any individual in any office or position in an amount which exceeds the rate of salary or basic pay payable for such office or position on September 30, 1978, by more than 5.5 percent, as a result of any adjustments which take effect during such fiscal year under—

(1) section 5305 of title 5, United States Code;

(2) any other provision of law if such adjustment is determined by reference to such section 5305; or

(3) section 5343 of title 5, United States Code, if such adjustment is granted pursuant to a wage survey (but only with respect to prevailing rate employees described in section 5342(a)(2)(A) of that title).

(b) For the purpose of administering any provision of law, rule, or regulation which provides premium pay, retirement, life insurance, or other employee benefit, which requires any deduction or contribution, or which imposes any requirement or limitation, on the basis of a rate of salary or basic pay, the rate of salary or basic pay payable after the application of this section shall be treated as the rate of salary or basic pay.

Mr. CHILES. I move that the Senate concur in the amendment of the House to the amendment of the Senate numbered 31.

The motion was agreed to.

DEPARTMENT OF DEFENSE APPROPRIATIONS, 1979

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 1188, H.R. 13635, making appropriations for the Department of Defense.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 13635) making appropriations for the Department of Defense for the fiscal year ending September 30, 1979, and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on Appropriations with amendments.

Mr. ROBERT C. BYRD. Mr. President, will the distinguished chairman allow me to ask unanimous consent, with his indulgence and that of his minority counterpart (Mr. YOUNG), to proceed for not to exceed 10 minutes on another bill which has been cleared on both sides of the aisle, and which can be disposed of, I understand, in less than 10 minutes?

Mr. STENNIS. Mr. President, reserving the right to object, and I shall not object, I understand H.R. 13635, the Department of Defense appropriations bill, is already the pending order of business before the Senate.

The PRESIDING OFFICER. The Senator is correct.

Mr. STENNIS. And I am recognized?

The PRESIDING OFFICER. That is correct.

Mr. STENNIS. Mr. President, I have no objection.

NATIONAL VISITORS CENTER IMPROVEMENT ACT OF 1978

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 1095, with the understanding that it will not exceed 10 minutes, and that Mr. STENNIS retains his right to the floor.

Mr. BAKER. Mr. President, reserving the right to object for just one moment.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. BAKER. Mr. President, we have no objection to proceeding to the consideration of this item under the conditions specified by the majority leader.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 2995) to facilitate the implementation of section 703 of the Railroad Revitalization and Regulatory Reform Act of 1976, to provide for the conversion of a part of the National Visitor Center to railroad passenger service, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Environment and Public Works and the Committee on Commerce, jointly, with amendments as follows:

On page 1, line 6, strike "1964" and insert "1968";

On page 2, line 11, strike "Act" and insert "title";

On page 2, line 15, after "terminal" insert "and intercity bus terminal";

On page 3, line 14, strike "subsection" and insert "paragraph";

On page 3, line 17, strike "Act" and insert "title";

On page 4, line 1, strike "Act." and insert "title;";

On page 4, line 3, strike "subsection" and insert "paragraph";

On page 4, line 19, strike "Station."; and" and insert "Station;";

On page 4, beginning with line 20, insert the following:

(3) by adding "and" at the end of paragraph (7); and

On page 4, line 22, strike "(3)" and insert "(4)";

On page 4, line 22, strike "subsection" and insert "paragraph";

On page 4, line 24, strike "The" and insert "the";

On page 5, line 1, strike "Act" and insert "title";

On page 5, line 9, strike "subchapter" and insert "title";

On page 5, line 11, strike "Act" and insert "title";

On page 5, line 21, strike "Act" and insert "title";

On page 5, line 22, strike "There" and insert "For the fiscal year 1979, there";

On page 6, beginning with line 18, strike through and including line 25, and insert in lieu thereof the following:

SEC. 7. Section 4(h) of the Department of Transportation Act (49 U.S.C. 1653(h)) is amended by—

(1) adding at the end of subparagraph (4) thereof the following new sentence: "Sums appropriated and remaining available to the Secretary following completion of the design and plan functions under this subsection shall be used for the preconstruction planning of the intermodal terminal to be constructed pursuant to this subsection."; and

(2) adding at the end thereof the following new subparagraph:

"(6) There is authorized to be appropriated to the Secretary, for the fiscal year 1979, for the purposes of construction of an intercity bus facility to be located at the Union Station in the District of Columbia, not to exceed $30,000,000, such sums to remain available until expended. On January 1 and July 1 of each year beginning with 1979, the Secretary shall submit to the Congress a status report to that date on the planning, design, construction, and operation of the aforesaid intercity bus facility, provided that the construction authorized by this section shall not be commenced until the Secretary of Transportation has reached a contractual agreement for use and rental payment with the potential users.".

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Union Station Improvement Act of 1978".

SEC. 2. Section 101 of the National Visitor Center Facilities Act of 1968 (40 U.S.C. 801) is amended—

(1) by inserting "(a)" before the first sentence; and

(2) by inserting at the end thereof the following new subsections:

"(b) At the request of the Secretary of Transportation, the Secretary shall assign to the Secretary of Transportation the lease of the facilities which the Secretary entered into pursuant to subsection (a) of this section, together with all rights in, to or concerning Union Sation, incuding, without limitation, the purchase option required by section 102(a)(5) of this title.

"(c) After the lease is assigned to the Secretary of Transportation pursuant to subsection (b) of this section, the Secretary of Transportation shall operate, or cause to be operated, as a rail passenger terminal and intercity bus terminal, that portion of the premises not sublet to the Secretary for operation of the National Visitor Center. The Secretary of Transportation may make such alterations to the premises and provide, or cause to be provided, such services as he or she deems necessary or desirable for the benefit of rail passengers.

"(d) After the lease is assigned to the Secretary of Transportation pursuant to subsection (b) of this section, the Secretary may sublease from the Secretary of Transportation, that portion of the facilities required

for the continued operation of the National Visitor Center, as the Secretary and the Secretary of Transportation may agree upon.

"(e) After the lease is assigned to the Secretary of Transportation pursuant to subsection (b) of this section, the Secretary of Transportation is authorized to acquire by lease, purchase condemnation, or otherwise any property interest (including, without limitation, contract rights and real property) related to the Union Station but not held by the United States which the Secretary of Transportation deems necessary to carry out this Act or section 4(h) of the Department of Transportation Act (49 U.S.C. 1653(h)).".

SEC. 3. Section 102(a) of the National Visitor Center Facilities Act of 1968 (40 U.S.C. 802(a)) is amended—

(1) by striking paragraph (3) and inserting in lieu thereof the following:

"(3) After the lease is assigned to the Secretary of Transportation pursuant to section 101(b) of this title, the Secretary of Transportation shall complete or cause to be completed, the parking facility, including approaches and ramps for adequate circulation, to accommodate automobiles, buses, and other transportation as appropriate, in the air space northerly of and adjacent to the existing Union Station building, and such structure shall continue to be leased to the United States as a part of the facilities to be leased to the United States pursuant to section 101(a) of this title;";

(2) by striking paragraph (4) and inserting in lieu thereof the following:

"(4) The Secretary of Transportation may authorize the Company to cease further construction of the new railroad passenger station in the area beneath and adjacent to the parking facility referred to in paragraph (3) of this subsection. The Company is further authorized, upon request of the Secretary of Transportation and without regard to any other law, to assign to the Secretary of Transportation all of the Company's rights and obligations (including, without limitation, occupancy, operation, and maintenance) in, to, or concerning a rail passenger station at Union Station (including, without limitation, the old Union Station building, the concourse, and the new rail passenger station now operated by the Company) and, upon the effectiveness of such assignment, to cease operations of a rail passenger station at Union Station;"

(3) by adding "and" at the end of paragraph (7); and

(4) by striking paragraph (8) and inserting in lieu thereof the following:

"(8) the rental paid by the Secretary under the sublease entered into pursuant to section 101(d) of this title shall be a fair and equitable share of the cost of renting or purchasing and operating and maintaining Union Station, taking into account the respective fair market rental values and operating and maintenance costs of the spaces sublet to the Secretary and of the remainder of Union Station.".

SEC. 4. Section 103 of the National Visitor Center Facilities Act of 1968 (40 U.S.C. 803) is amended by striking out "under this title" after "leased", and inserting in lieu thereof "or subleased under section 101(d) of this title and operated as a National Visitor Center".

SEC. 5. Section 109 of the National Visitor Center Facilities Act of 1968 (40 U.S.C. 807) is amended by striking out the full text thereof and inserting in lieu thereof the following:

"(a) There are authorized to be appropriated to the Secretary, to remain available until expended, such sums as are necessary for the operation and maintenance of the National Visitor Center including, without limitation, payment of rent under the sublease entered into pursuant to section 101(d) of this title.

"(b) For the fiscal year 1979, there are authorized to be appropriated to the Secretary of Transportation, to remain available until expended, $30,000,000 to carry out the purposes of this Act.

"(c) The Secretary of Transportation is authorized to use funds received from the operation of the facilities through subleases, concessions, or similar activities, to pay the cost of leasing, operating, maintaining, and, if the purchase option is exercised, purchasing Union Station pursuant to this Act.

"(d) The Secretary of Transportation is authorized to expend funds appropriated pursuant to section 704(a)(2) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 854(a)(2)) to carry out the purposes of this Act without regard to the matching funds requirement of section 703(1)(B) of such Act (45 U.S.C. 853(1)(B)).".

SEC. 6. Section 110 of the National Visitor Center Facilities Act of 1968 (40 U.S.C. 808) is amended by striking the second word of the first sentence and substituting in lieu thereof "Secretary of Transportation".

SEC. 7. Section 4(h) of the Department of Transportation Act (49 U.S.C. 1653(h)) is amended by—

(1) adding at the end of subparagraph (4) thereof the following new sentence: "Sums appropriated and remaining available to the Secretary following completion of the design and plan functions under this subsection shall be used for the preconstruction planning of the intermodal terminal to be constructed pursuant to this subsection."; and

(2) adding at the end thereof the following new subparagraph:

"(6) There is authorized to be appropriated to the Secretary, for the fiscal year 1979, for the purposes of construction of an intercity bus facility to be located at the Union Station in the District of Columbia, not to exceed $30,000,000, such sums to remain available until expended. On January 1 and July 1 of each year beginning with 1979, the Secretary shall submit to the Congress a status report to that date on the planning, design, construction, and operation of the aforesaid intercity bus facility, provided that the construction authorized by this section shall not be commenced until the Secretary of Transportation has reached a contractual agreement for use and rental payment with the potential users.".

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that Jerry Cohon, of my staff; Joe Bowman, of the Environment and Public Works Committee staff, and Doug Swinson, of the Commerce Committee staff be granted the privileges of the floor during the consideration of the pending legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOYNIHAN. First, I express the appreciation of the Committe on Environment and Public Works to our distinguished chairman of the Armed Services Committee who has given us this time for this purpose. It will not delay him long.

Mr. President, I rise with my colleague from Wyoming to bring to the Senate the Union Station Improvement Act of 1978. I do this on behalf of the committee which judges that we have no choice but to go forward in a matter and complete an effort which commenced a decade ago and which at the very least has been characterized by a great deal of unwelcome surprises and extraordinary increases in anticipated costs.

Mr. President, we have before us the Union Station Improvement Act of 1978, S. 2995. I accept the administration's characterization of this act as the best approach for withdrawing from the current, untenable situation at Union Station and for providing the Nation's Capital with the comprehensive surface transportation facility it needs.

It is my responsibility, as that member of the Environment and Public Works Committee charged with oversight of buildings and grounds matters, to present and defend this bill. Yet I cannot avoid feeling more than slightly uncomfortable, given the confusion which has characterized the recent history of Union Station. One is reminded of Lewis Carroll's "Through the Looking Glass," wherein the White King, after suffering a terrible tumble, exclaimed to his Queen, "The horror of that moment, I shall never, never forget!" And the Queen answered, "You will, though, if you don't make a memorandum of it." This, then, is my memorandum, lest we forget.

Our difficulty—not without precedent—is the product of congressional generosity, bureaucratic ineptness and, well, just plain dimness. The story began in 1968 with the enactment of the National Visitor Center Facilities Act, a sensible attempt by Congress to provide information and parking for tourists. This was an excellent plan that was particularly attractive in 1968 when the passenger demand for rail service was low and projected to decline further in the future. This plan soon encountered, however, a series of stops and starts and tortuous negotiations among the many interested parties. The decade since initiation of the plan has seen a cost overrun of almost 200 percent with a simultaneous reduction inter alia of more than 75 percent in the scope of the parking facilities that were a central feature of the plan. There have been at least two lawsuits and a major reorganization of the Northeast's rail passenger industry also involved. We have seen incomprehensive events such as a delay of months while architectural plans were completed—for a project that had been underway for 6 years.

I could continue this litany of misjudgments, mishandlings, mistakes, but the point of this story is that today, in spite of $43 million in expenditures and the efforts of myriad Government agencies, we have an unfinished, deteriorating parking garage attached to a crumbling building that is drastically underused by tourists and yet incapable of accommodating the now large and growing numbers of rail passengers.

Yet we may be near an end to our travail. The Departments of Transportation and Interior have arrived at a plan for the use of Union Station which seems to satisfy the needs of both the growing number of passengers in transit through Washington, and visitors to the city.

Mr. President, the Union Station Improvement Act would authorize $60 million, to which the Department of Transportation has pledged to add almost $23 million from unexpended northeast cor-

ridor improvement funds. This $83 million is the cost we must bear to correct past mistakes and to finish the original task. At the same time we improve considerably the city's transportation network. I believe the administration can best speak for itself in describing the need for this latest proposed solution to the situation at Union Station. The Committees on Commerce, Science and Transportation and on Environment and Public Works have found the administration's views persuasive; and they have found the plan preferable to the House's alternative, which, it seems to us, does not adequately handle the present terminal facilities in their now disjointed array.

I ask unanimous consent that Secretary Adams' testimony before the Environment and Public Works Committee and a letter from Secretary Adams to Vice President Mondale in his capacity as President of the Senate, be printed in the RECORD following my remarks. I further ask that an extended enumeration of the events surrounding the National Visitor Center be printed in the RECORD following Secretary Adams' remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. MOYNIHAN. The Congress must stand in outrage at the recent history of Union Station. We cannot and will not allow such abuses to continue. This latest proposal seems sensible; but it must also be the last.

Finally, Mr. President, I would like to say that there is one large change in the situation at Union Station which we contemplate. That is bringing a bus terminal facility into the complex so that we will have rail connections throughout the city and to National Airport; we will have bus connections throughout the Nation as well as throughout the metropolitan area, and we will have rail connections throughout the Nation. Truly, it will be an important center and in the end I think we will forget some of the mishaps along the way and be rather proud of what we have done, particularly in restoring to prime condition one of the great public buildings of the Nation's Capital, Burnham's Union Station.

EXHIBIT 1

STATEMENT OF BROCK ADAMS

Mr. Chairman and Members of the Committee: I am pleased to be able to appear before you today with our proposal to complete and improve the Washington Union Station/National Visitor Center complex and to put an end to a very vexing problem.

Back in 1968, when the Congress passed the Visitor Center Act, Union Station appeared to be nearing the end of its useful life as a railway passenger terminal. Since the late 1940's, train travel had decreased significantly. However, as the need for a railway terminal seemed to be waning, the need for improved accommodations for visitors to the Nation's Capital was becoming more and more urgent. The Congress recognized the trend of the times by designating the Union Station building as the National Visitor Center.

Nevertheless, since the inception of the National Visitor Center, transportation trends have changed while the Visitor Center has been underutilized. In view of the environmental and energy-related benefits of rail transportation, the Congress in 1974 authorized the Northeast Corridor Improvement Project. This is a $1.75 billion Federal commitment to the preservation and enhancement of intercity rail passenger service in the heavily populated Atlantic Seaboard region. As a direct and desired result of this Federal commitment, Amtrak patronage at Union Station is expected to increase significantly from its current level. Also, with the completion of the Metro Red Line from Dupont Circle to Silver Spring, and the corresponding rerouting of Metrobuses, Union Station has already become an important link in Washington's public transit network. In view of these changes, the Secretary of the Interior and I have agreed on the need for a more rational allocation and application of Federal resources.

The practical problems at Union Station today are serious and require immediate attention. The Interior Department, through the National Park Service, is saddled with a facility which is too large for its needs. Train passengers must walk long distances, approximately one-third of a mile from the front door on Columbus Plaza to the train loading platforms.

In addition, work has been suspended on the parking garage and improvements to the main building. For this reason, there is no place for potential rail passengers or Visitor Center users to park—a further obstacle to increased use of the facility. Exposed structural elements in the unfinished facilities are physically deteriorating. Conditions in the buildings have become hazardous for employees, visitors and rail passengers. Repairs are essential even if the present use of the building is to continue. In other words, the present facilities are less than adequate for current and future needs.

For more than a year now, Secretary Andrus and I have been discussing this problem, and have agreed that the Department of Transportation should assume control of Union Station and should quickly complete and reconfigure this facility as a transportation and visitor center.

We have also agreed on the necessity to complete the near-term repairs expeditiously, the nature of the long-term work and the timing for completion, the general allocation of space in the building, and who will own and operate the station.

What we present for your consideration is a coordinated proposal that we believe will meet the needs of all of the potential users of the complex: tourists, commuters and long distance travelers. I must emphasize that it will cost money and is going to take some time to complete. However, our best judgment is that our proposal is a workable plan which everyone can live with and which can be performed within the proposed funding and time schedules.

Now, I would like to explain what we propose to do and give you the basic facts and figures. (You may wish to follow along in the reference books we have supplied for your information.)

First of all, immediate repairs are essential to the parking garage, the southeast ramp, and the main building. These structural supports and fire protection measures are needed immediately to insure the integrity of the garage, ramp, and the Station itself, and to stop the deterioration which every day adds to the ultimate cost of completing these facilities. These urgent remedial efforts will help to preserve the National Visitor Center and rail terminal alike. (Note pictures in reference book.)

Second, the completion of the parking garage will include minor changes in design to expand the planned parking capacity from 1,200 to 1,400 cars for rail travelers and visitors to the National Visitor Center.

Third, our program includes railway station improvements which will expedite passenger processing, provide appropriate waiting areas, upgrade public services and other amenities, and allow for revenue-producing concessions. Under our proposal the upgraded rail terminal will provide the elderly and handicapped and all other rail passengers with direct and expeditious access from Columbus Plaza to the trains by reducing the physical distances by approximately 50 to 60 percent. Making the station accessible to elderly and handicapped persons is consistent with the Architectural Barriers Act of 1968, Section 16 of the Urban Mass Transportation Act of 1964, as amended, and Section 504 of the Rehabilitation Act of 1973. Our program also provides for rail use of the Station's west wing and concourse.

Fourth, on-site roadway improvements will include completing the partially constructed southeast ramp which provides a local bus access to the garage. A taxi queuing ramp will be constructed on the east side of the Station to reduce congestion in Columbus Plaza and adjacent city streets. Again, these roadway improvements will benefit all users of the facility.

Fifth, long-term repairs to the main building would include a modernized electrical distribution and branch circuit system; a new roof and roof drainage system; a new heating system; and long-term structural system repairs. (Note pictures of exposed wiring which creates a safety hazard.)

Sixth, non-construction costs would pay for the Government's possible acquisition of certain property interests at the Station to carry out our recommended program.

As you can see from the attached summary of costs for the recommended construction program, the price tag is not a small one. We estimate that approximately $30 million in new authority will be required to rehabilitate the old Station building, complete construction, and provide a usable facility for rail passengers and visitors. I am not particularly pleased with this figure, but I think it is a realistic one. It would be our intention to put the contract out for competitive bids, with fixed price requirements, to protect as much as possible against cost escalation and inflation. The cost estimate assumes that construction begins in January 1979. Of course, there will be cost increases if that date is not met.

The Department of Transportation is willing to contribute an additional $22 million from funds already authorized for the Northeast Corridor Project bringing the total project cost to $52 million. Given the troubled history of the complex, I see no possibility of collecting the capital funds required from the variety of other Federal and local entities involved with the complex. Any attempt to do so would only further delay an already much delayed project.

If the plan is approved, Secretary Andrus and I are prepared to implement this program immediately.

This concludes my prepared statement Mr. Chairman. I would be happy to answer any questions you or any of the members of the Committee may have at this time.

SECRETARY OF TRANSPORTATION,
Washington, D.C., February 22, 1978.

Hon. WALTER F. MONDALE,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: There is transmitted herewith a proposed bill:

"To facilitate the implementation of section 703 of the Railroad Revitalization and Regulatory Reform Act of 1976, to provide for the conversion of a part of the National Visitor Center to railroad passenger service, and for other purposes."

The bill provides for the Secretary of the Interior to assign the lease of Union Station to the Secretary of Transportation and provides to the Secretary of Transportation the

necessary authority to complete the renovation of Union Station for use as both a National Visitor Center and rail passenger station. A brief history of the problems surrounding Washington Union Station and the National Visitor Center since 1968 will make clear the need for this legislation.

Pursuant to the National Visitor Center Facilities Act of 1968, the Department of the Interior leased the old Union Station building from Terminal Realty Baltimore Company for a term of twenty-five years with an option to purchase. Under a separate agreement, Terminal Realty Baltimore Company is building a replacement railroad station behind the old station. The Department of the Interior then engaged a contractor to manage the construction of the National Visitor Center facilities. Construction was begun with inadequate and incomplete drawings and specifications. Long delays, major cost overruns, and a severe shortfall of funds have resulted. The Department of the Interior has terminated its contracts with the contractor as of November 15, 1976, leaving an unusable and deteriorating 1200-car garage, an unfinished public transit facility, and an unfinished and inadequate replacement railroad station. That is a totally unacceptable situation for visitors and transportation users alike.

In 1968 when the National Visitor Center was planned, intercity rail passenger ridership was declining sharply and no major improvements in rail passenger service were contemplated. With the initiation of the Northeast Corridor Improvement Project in 1976, that circumstance has been reversed dramatically. The Department of Transportation will expend $1.75 billion to improve intercity rail passenger service in the Northeast Corridor, which is expected to increase rail passenger ridership significantly. The current facilities at Union Station, which is the southern terminus of the improved system, cannot accommodate the expected increase in passenger use. In order to serve adequately the increased ridership, Union Station should be reconfigured to return most of the space for use as a railroad passenger station. Because the dominant long-term use of the facility is for transportation, the Secretary of Transportation should have jurisdiction over the station and should be responsible for completing renovation of Washington Union Station.

In order to insure completion of the needed facilities at Union Station and to facilitate the long-term use of Union Station for both a transportation terminal and a National Visitor Center, the proposed bill would:

(1) provide for the assignment of the lease presently held by the Department of the Interior on Union Station to the Department of Transportation at the request of the Secretary of Transportation;

(2) authorize the Department of Transportation to acquire any property necessary to carry out the purposes of the Act;

(3) provide for the sublease of portions of Union Station to the Department of the Interior for the continued operation of the National Visitor Center;

(4) require the Department of Transportation to complete the needed facilities at Union Station;

(5) authorize the Washington Terminal Company to assign its rights and obligations to operate a rail passenger terminal at Union Station to the Department of Transportation; and

(6) authorize the appropriation to the Secretary of Transportation of $30,000,000 in addition to funds available for the Northeast Corridor Improvement Project to carry out the purposes of the Act and authorize the Secretary to use for these purposes funds appropriated for the improvement of non-operational portions of Northeast Corridor stations without regard to the matching funds requirements of section 703(1)(B) of the Railroad Revitalization and Regulatory Reform Act of 1976.

The proposed legislation will not have an adverse impact on the environment, nor will it have an inflationary impact on the economy.

The Office of Management and Budget has advised that there is no objection from the standpoint of the Administration's program to the submission of this proposed legislation to Congress.

Sincerely,

BROCK ADAMS.

BRIEF ENUMERATION OF THE EVENTS SURROUNDING THE NATIONAL VISITOR CENTER

1. The National Visitor Center Facilities Act of 1968, PL 90-264, was enacted on March 122, 1968. Train passenger population had declined during the 60's, the number of visitors to Washington had steadily increased (and was expected to double by 1980), and Union Station seemed an appropriate and convenient site for a visitor center comlpex.

2. The 1968 Act provided that the station was to be converted and that a parking facility for approximately 4,000 vehicles would be built for $16 million, to be paid by the Baltimore and Ohio Railroad and the Penn Central Railroad, the two parent companies of the Washington Terminal Company. The Department of Interior would lease the completed Center from the owners for $3.5 million per year for 25 years. The owners would finance the $16 million construction cost from private sources at no more than 7 percent interest.

3. A formal agreement was entered into on December 18, 1968, by the Department of Interior with the B & O and Penn Central companies.

4. The owners were unable to secure financing at the 7 percent rate and were advised to wait until interest rates fell to an acceptable level.

5. Penn Central declared bankruptcy on June 21, 1970, further complicating the search for financing.

6. Nothing substantial occurred until September 1972, when a new agreement was executed which lifted the ceiling on financing to 7½ percent, and specified that the project must not exceed $16 million even if that limit forced a scaling down of the original plans.

7. A loan was secured in April 1973 from a consortium of New York banks, at the 7½ percent rate.

8. Prices had increased dramatically since 1968, and the 1973 loan was understood to permit construction of a parking facility of only 2,000 spaces, one-half the 1968 figure, for the same price.

9. At the behest of the Department of Interior, Congress passed an amendment to the 1968 Act in July of 1973, which appropriated $8.68 million to be spent by Interior to complete renovation of the Union Station building—the total from private and Federal sources now being $24.68 million for the National Visitor Center project.

10. At about the same time it became known that the original parking garage costs had risen from $11 million to $17 million, and that the new sum would pay for only 1,750 spaces. By fall of 1973, this estimate was further reduced to 1,200 spaces.

11. Work on the parking facility stopped in the fall of 1973 until the cost problems could be examined and solved.

12. In November 1973 the House Buildings and Grounds subcommittee recommended that $22.5 million of the $24.68 million so far approved, be put toward the garage instead of $17 million. It also recommended an additional $12.9 million in federal funds for work on the station itself, bring the total for the project to some $37.5 million in private and public funds.

13. A description from Interior's historical account of the situation at that time is illuminating:

"Late in 1973, construction costs were accelerating at approximately $84,000 a month, according to the contractor. The energy crisis further complicated the condition and affected delivery of materials. Where subcontractors and suppliers had been giving firm 60-day bid prices, their bids were now good for seven days. Steel bars were increasing in price. Time required for deliveries of steel pilings had increased from four to seven months."

14. Construction recommenced in late 1973, but all came to a halt once more in 1974 when Amtrak filed a suit against the owners in June charging failure by them to provide an adequate passenger terminal and alleging a fault in the owner's property title. The New York banks withdrew their $16 million loan from the owners in August. The owners terminated the 1972 Agreement as of August 31.

15. The Justice Department filed suit against the owners in September 1974, but quickly lost its case.

16. It was estimated that it would cost some $20 million to terminate the project, so Interior decided to enter into a new agreement with the owners.

17. The Congress in 1974 adopted yet another amendment to the 1968 Act, which authorized the $12.9 million additional spending. Several other sources were also tapped (e.g., Federal Aid Highway Act funds, an UMTA grant, a Federal Highway Administration grant) to bring total funding, including private loans and Congressional appropriations, to a new level of $43 million.

18. Work commenced again but was soon delayed again. A further quote from Interior:

"The effects of delays toward completion during this shutdown were not unlike those which occurred previously. For instance, revised cost estimates on conversion of Union Station (Project 1) were delayed for months early in 1975 because full architectural plans were not available. As a result, decisions on the scope of work had to be delayed. It was also necessary to slip target dates for starting most conversion work as the amount of available funding had not been determined. None of the $12.9 million authorization of 1974 had been made available and the supplemental appropriation process then anticipated would consume at least 90 days before the funds could be obligated. Plans for the parking garage were based on anticipation of the Urban Mass Transportation grant of about $5.5 million to the District of Columbia, but the amount and time of availability were uncertain."

19. On May 11, 1976, the construction company presented Interior with a new price increase of $4.9 million for completion of the 1,200 space parking garage. By May 26 the company's overrun had risen to $6 million. Work on the garage was again suspended.

20. By June 13, the company's estimate was up to $6.4 million for the garage. It also presented overruns on the southeast ramp costs in September and October.

21. The renovation of the station building itself was completed on July 1, 1976—in time for the Bicentennial, but lacking several major repairs required to keep the old building standing. The parking garage and southeast ramp stand uncompleted, their skeletons bare to the sun.

● Mr. LONG. Mr. President, S. 2995, the Union Station Improvement Act of 1978, which was referred jointly to the Committees on Commerce, Science, and Transportation and Public Works and Environment, has been reported jointly by those committees, with a recommendation that, as amended, the bill be passed.

This legislation represents an accommodation between the Secretaries of Transportation and Interior on use and occupancy of floor space in the visitors center, provides for necessary renovations and structural repairs to the main building, provides for completion of the parking garage, transit deck, and service ramp associated with the visitors center, and provides for relocating the baggage and ticketing facilities for rail service inside the concourse.

The Department of Transportation intends to complete this work from: First, $22 million in funds already authorized under the northeast corridor improvement project in title VII of the Rail Revitalization and Regulatory Reform Act of 1976; and second, a new authorization of $30,000,000 provided in this bill. In addition, both Senate committees that considered this bill added an additional $30,000,000 authorization to provide funds for the development of Union Station into a model, intermodal transportation facility through the inclusion of an intercity bus terminal.

The recent history of Union Station is, in a word, deplorable. I want to emphasize that our committee is concerned about the manner in which this project has been managed over the past few years. It has become a classic boondoggle. There have been changes in specifications, cost overruns, strikes, law suits, and in fact, at one point when funds were exhausted, the contractor simply walked off the job.

With such a background, and having already spent $53 million on the Union Station complex, I can understand a certain reluctance that some Senators may have to an even deeper financial commitment. These points were made during our hearings and the Department of Transportation, while it was aware of all the previous problems, told the committee it was confident the remaining work could be performed satisfactorily within the dollar amounts contained in the bill. As additional protection against recurrence of these problems, the committee bill requires the Department to report to the Congress every 6 months on the progress being made on the work at Union Station.

This legislation also provides funding for the inclusion of an intercity bus terminal as part of a model, intermodal transportation facility. There was some question initially regarding an authorization for the bus facility in the upcoming fiscal year. After considering the question the committee decided that the way to insure construction of the bus terminal, in conjunction with the other work on the station, was to provide an authorization for the coming fiscal year.

One of the most serious problems in the unfortunate construction program at Union Station has been the lack of a coordinated construction plan. The changes in plan specifications, the changes in size of the transit deck and parking garage, the absence of an integrated "start to finish" building program will all be borne out by the record to be the principal factors in that fiasco. To now permit the construction program to go forward at Union Station, hoping to add the bus terminal later, will surely produce the same cost overruns and construction delays that have plagued us previously.●

Mr. MOYNIHAN. Mr. President, Senator WALLOP of our committee has been concerned with the terms on which bus facilities will be made available, concerned, as he is throughout our committee proceedings, certainly, that the public interest be protected, and that no more subsidy, if any, be provided than is absolutely necessary to obtain the service.

The Senator has entered into a colloquy with Senator LONG, of the Finance Committee, on this matter. I ask unanimous consent that the colloquy be printed in the RECORD as part of our understanding of what it is we have done today.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WALLOP. The report which accompanies this bill contains the views of both committees concerning the construction of an intercity bus facility. I understand that one of the first steps to be taken by the Department of Transportation toward the construction of an intermodal terminal is a preconstruction analysis. The Department is then expected to develop an agreement with the bus companies that requires them to pay a fair rental on that portion of the Visitors Center used by the bus companies as well as the bus docks in the terminal. Would the distinguished Senator from Louisiana clarify the two committee's intentions concerning capital cost recovery as an element of that fair rental value?

Mr. LONG. In considering the proposal to provide the intercity bus industry with a terminal facility at Union Station, both the Commerce Committee and the Committee on Environment and Public Works agreed to provide guidance on the matter of appropriate financial participation in the project by the intercity bus carriers.

The Department of Transportation should have wide latitude in the negotiation of contractual agreements with the bus carriers. And the committees do not wish to specify the exact terms and conditions of the lease agreements which may result. The committees expect, however, that before funds are appropriated and expended on the construction of a terminal facility, the Department of Transportation should enter into a lease agreement with the bus carriers for the use of the terminal authorized by this act, for a fair and reasonable rental which may or may not incorporate an element of capital cost recovery.

It is recognized that in use and occupancy agreements at Federal facilities, capital contribution is a factor in determining fair rental agreements. The Department of Transportation may find that recovery of capital costs would be equitable, or would be inequitable, or that agreements with the bus companies, providing for a fair rental based in part on capital cost recovery, cannot be negotiated. In any event, the semiannual reports to the Congress should include this aspect of the negotiations.

The committees expect that the Department's preconstruction analysis of the design and operating alternatives should focus on and insure the most cost-effective facility with the accompanying agreements protecting both the interest of the Federal Government and the financial integrity of the bus carriers.

The committees further recognize that this Union Station project is a unique undertaking, and that the terms of the rental agreements should not be construed as precedent setting for such future undertakings.

Mr. WALLOP. I take it then that in use and occupancy agreements at Federal facilities, capital cost contributions are a factor in determining fair rental. If capital contributions are not included in the agreements for the use and occupancy of bus facilities, that fact will be explained in the Department's semiannual reports to the Congress.

Mr. LONG. That is correct.

Mr. WALLOP. Will the Senator from New York yield?

Mr. MOYNIHAN. I am happy to yield.

Mr. WALLOP. I have just a brief comment. My concern is not only the amount of money that we are spending on it but the fact that we are not in any way about to attempt to recoup some of the Federal investment in what is a private building. Under no other circumstances would I agree to such a thing except it is, as the Senator said, one of the great buildings of America. I would remove the word "public" because it is, in fact, a private possession, not the Federal Government's.

Mr. MOYNIHAN. The Senator is altogether correct. His concern is appropriate and characteristic. May I ask him if he feels that the arrangement does leave it to the Secretary of Transportation to negotiate an agreement which hopefully will be a satisfactory one?

Mr. WALLOP. It leaves it up to him if he should so desire, but it expresses it in ultra-mildest terms. I would have, had I been given an opportunity, gone into much stronger recommendations to the Secretary. This is what I was able to get Senator LONG, of the Commerce Committee, to agree to. Therefore, I think it is better than not doing anything at all. But it does cause this Senator some considerable concern that we are about to do this, to provide, in effect, a subsidy to those bus companies, leave them with their downtown properties to dispose of as they see fit in their capital investment, and provide an extra $30 million to a private corporation in America with no real solid Senate encouragement that they go on and recoup it. But I stand by the colloquy on which I agreed with Senator LONG.

Mr. MOYNIHAN. I thank my distinguished friend.

Mr. STAFFORD. Will the Senator yield?

Mr. MOYNIHAN. I yield.

Mr. STAFFORD. Mr. President, while I support passage of S. 2995, I do so with reluctance. This legislation authorizes an expenditure of some $80 million for the completion of the National Visitors Center here in Washington.

This project has evolved into one that I can only characterize as shocking and discouraging. Its cost to date exceeds $60,000,000. More shocking still is the fact that the Visitor's Center project was sold to the public and the Congress as one that would be financed entirely with privately raised capital, with the Federal Government only taking a lease on the property. Yet here we are confronted with a project that will cost some $140,000,000.

Nevertheless, I have come to the conclusion reluctantly that this legislation provides the only reasonable solution to this difficult issue. The bill will provide repairs to assure that Union Station, or its roof, will not collapse. It will provide up-to-date heating and electrical systems. It will increase the viability of the facility as a train station, returning it partially to the arrangement that existed for over 60 years. And this bill will provide a test for an intermodal transportation facility.

In closing, I shall comment briefly on the bus company aspects of this bill. The Committee on Environment and Public Works discussed this aspect of the bill at considerable length before it approved the addition of up to $30 million for a bus facility. "Grudging" approval is the best description of our committee's action. To help explain our views on the bus facility, I ask unanimous consent that the position of the Committee on Environment and Public Works, as printed in the report on this legislation, be included at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

VIEWS OF THE COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

The costs associated with the conversion of Union Station to a Visitor's Center have been much more than anticipated when the concept was first conceived. Approximately $61 million has been spent to date on the project. This is astronomical when it is remembered that the original proposal called for an expenditure of less than $16 million, all private funds.

The problems which beset the National Visitor's Center are legendary. Cost overruns and changes in concept drove the price to these much higher levels. We still do not have a completed facility to show for this expenditure. The building itself has not been repaired. The train facilities are only in a temporary station and the parking garage and associated ramps stand uncompleted. This is a sorry mess and one by which hopefully an experience has been learned.

However, the project needs to be completed in a reasonable way, to get the best use possible for visitors, and travelers by train and bus. For this reason, the committee endorses the amendment of the Committee on Commerce, Science, and Transportation to authorize up to $30 million for construction of a bus facility.

Since the rental payments of the bus companies will in part reflect the cost of the bus deck, it is hoped that the bus companies will work with the Department of Transportation to procure the most cost-effective design, one that serves the bus companies as well as the taxpayers.

The committee has included language that is designed to assure the development of the most cost-effective project for the construction of the bus facility. The committee has been informed by the Department of Transportation that it will take approximately 6 months to complete the preconstruction analysis for the bus terminal. In the development of this analysis, the Department of Transportation is expected to consult with interested bus users, with the District of Columbia, Amtrak, and other interested parties. The committee expects that bus construction appropriations will not be sought until that report is completed; and that funds so appropriated will not be expended until there is a contract signed with the bus companies providing for a reasonable rental. The committee notes that this procedure will assure the public that the bus companies will work with the Department of Transportation to develop the most cost-effective solution.

The sum of up to to $30 million is authorized for the bus facility. But the committee notes that a number of alternatives exist that could well be provided at less cost, thereby holding down the rental charge to the bus companies.

The roof at Union Station leaks and is in need of repair. It presents a safety hazard to employees and patrons of the Center and train facilities. Further, the foundation of the building and rear wall in the concourse are structurally deficient and need extensive renovation. These maintenance matters must be remedied with the first funds allocated out of the $30 million authorized in section 5 of this legislation.

The original administration proposal provides for the construction of a steamline from the Capitol steamplant to Union Station. Any estimate of the cost of construction of this steamline is vague at best and it is unclear whether the cost is included in the $30 million authorization. The committee, therefore, recommends that the provision in the act for the steamline be eliminated and no consideration be given to such construction.

The committee has provided an authorization to convert Union Station back to a train facility. The authorization provided is designed to provide all the necessary costs associated with this conversion. The acquisition from the Washington Terminal Co. of rights to the temporary station and other facilities shall come from appropriations made under this authorization. This, however, does not change the current lease payments to the Washington Terminal Co. under which the Federal Government will take ownership after 25 years under this lease arrangement.

Mr. McCLURE. Will the Senator from New York yield?

Mr. MOYNIHAN. Not more than 2 minutes.

Mr. McCLURE. I thank the Senator for yielding.

Mr. President, there is much more to be said about this boondoggle than has been said here today.

Mr. MOYNIHAN. Will the Senator let me interrupt him for 1 moment?

Mr. McCLURE. Of course.

Mr. MOYNIHAN. I ask unanimous consent, Mr. President, that the committee amendments be agreed to en bloc and considered original text.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee amendments were agreed to en bloc.

Mr. McCLURE. Mr. President, the Senator from Idaho, some years ago, as a new member of the Committee on Public Works, attempted to find out why the cost of overruns on this building project were as great as they were. In spite of all the best efforts that the staff and I could make, we could never find out who had been responsible for the original estimates. After about 2 years of trying, they finally pinned the blame on an architect who had died the year before.

Mr. President, that is exactly what happens in buildings built by the Government time after time and the Committee on Environment and Public Works has not gotten to the bottom of it. I think we should get to the bottom of it. The difficulty and the tragedy is that we do not have enough time to focus on something as small as a waste of $50 million.

Mr. President, I cannot support this bill. I am sorry, but there is no way that the Senator from Idaho can put his signature on something that is as rife with corruption, mismanagement, and outright bad judgment as is this building project. Having gone up the hill and back down again, I am sorry to say I do not think Congress has discharged its responsibility, either.

Mr. MOYNIHAN. Mr. President, I certainly do not wish to dissociate myself from what the Senator from Idaho says. I shall not join him in what he will do, which is not support this matter. I might ask him if he wants to use the word "corruption." I think "mismanagement" has been taken to the point of culpability here, but we do not know of corruption. We also do not know of no corruption.

Mr. McCLURE. Yes, but perhaps we should know. When there are this many million dollars floating around with as obviously great loopholes as there are in what has been done here, it suggests to the person of average intelligence that there may be a little more to it than meets the eye.

Mr. MOYNIHAN. I should like to say to the Senator that I agree with him. I should like to say that I am going to leave this floor and call the Secretary of Transportation and say we have done something with great reluctance and that we expect him to read what we have said here and tell us what he thinks. In particular, I have had long experience—well, I have been in government a while. I have had some experience with construction. I have never seen the phenomenon of a project just left one-half finished and walked away from by the contractor, the Hyman Co., just walked away from as if there were no relationship beyond tomorrow, that there was no accumulated sense of finishing things and taking a loss once in a while, if you have to, to maintain a relationship. I do not think any contractor would do that with a private firm, but it was done with us. And it is a scandal.

I said to our committee that if we consider what has happened 500 yards from our committee room, think, my God, what goes on in Colorado 2,000 miles away.

Mr. McCLURE. Will the Senator yield?

Mr. MOYNIHAN. I am happy to yield.

Mr. McCLURE. I do not mean to belabor the subject, but this project, which is now $60 million to date, is more than double what it is supposed to have been.

Mr. MOYNIHAN. The Senator is essentially correct.

Mr. McCLURE. We are adding another $80 million to go with the $60 million that is already gone?

Mr. MOYNIHAN. The Senator is correct.

Mr. McCLURE. When a contractor walks off the job in these circumstances, you have to expect that he believes he is going to get better paid to go back than he would have if he finished the job.

Mr. MOYNIHAN. I am sure the Senator would like to know that GAO has used the opportunity of this calamity to go over to the construction and make a very strong set of recommendations as to how it might be avoided in the future.

I yield to the Senator from Rhode Island.

Mr. CHAFEE. Mr. President, how much time have we left?

The PRESIDING OFFICER. The Senator's 10 minutes have expired.

Mr. CHAFEE. May I have 1 more minute?

Mr. STENNIS. We do not want to limit the Senators. I yield 4 minutes, equally divided.

Mr. CHAFFE. Mr. President, I thank the Senator from Mississippi.

I wish to express my reluctant support for passage of S. 2995, legislation that would authorize an expenditure of some $80 million in new money to complete the National Visitors Center here in Washington.

It is shocking and discouraging, I believe, that this project has become such a costly one; over $60,000,000 has already been spent on this project. It is more shocking when we remember that this project was sold to the Congress originally as one that would be financed entirely by privately raised funds, with the Federal Government to take a lease on the property.

I have, nevertheless, reluctantly come to the conclusion that this legislation is the only reasonable solution to this perplexing problem. This legislation will assure that Union Station will not collapse. It will provide both modern heating and electrical systems. It will make the facility more useful as a train station, returning it partially to the arrangement that existed for over 60 years. And it will provide a test for a truly intermodal transportation facility.

I should like to discuss briefly the bus-terminal aspects of this bill. The Committee on Environment and Public Works evaluated this aspect of the bill more than any other before it approved the addition of up to $30 million for a bus facility. I believe reluctant approval is the best description. To help explain our views on the bus facility, I ask unanimous consent that excerpts from the Committee on Environment and Public Works, report on this bill be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

EXCERPTS FROM THE VIEWS OF THE COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Since the rental payments of the bus companies will in part reflect the cost of the bus deck, it is hoped that the bus companies will work with the Department of Transportation to procure the most cost-effective design, one that serves the bus companies as well as the taxpayers.

The committee has included language that is designed to assure the development of the most cost-effective project for the construction of the bus facility. The committee has been informed by the Department of Transportation that it will take approximately 6 months to complete the reconstruction analysis for the bus terminal. In the development of this analysis, the Department of Transportation is expected to consult with interested bus users, with the District of Columbia, Amtrak, and other interested parties. The committee expects that bus construction appropriations will not be sought until that report is completed; and that funds so appropriated will not be expended until there is a contract signed with the bus companies providing for a reasonable rental. The committee notes that this procedure will assure the public that the bus companies will work with the Department of Transportation to develop the most cost-effective solution.

The sum of up to $30 million is authorized for the bus facility. But the committee notes that a number of alternatives exist that could well be provided at less cost, thereby holding down the rental charge to the bus companies. . . ."

Mr. CHAFEE. Mr. President, I point out to the Senate that originally, the estimate on this was $16 million, all private funds, so this has really gotten out of hand.

Mr. MOYNIHAN. I thank my distinguished colleague.

Mr. President, with more reluctance than I have yet experienced in this Chamber, I move the passage of the bill as amended.

The PRESIDING OFFICER. The question is on the engrossment and a third reading of the bill.

The bill was ordered to be engrossed and read a third time.

The bill was read the third time.

● Mr. CANNON. Mr. President, we are all aware of the unfortunate history of the Union Station Building during the last 10 years. From original design plans that contemplated a National Visitors Center, renovated train station, and intermodal terminal facility for intercity buses, we have witnessed cost overruns, strikes, changes in specifications and finally, abandonment by the contractor. The result is a rather large public facility which is only partially complete and partially in operation.

While the operational aspects of the center remain incomplete, the physical characteristics of the building require immediate attention. The roof leaks, plaster is falling from the walls and ceiling, the electrical system is in poor condition, steel beams at the site of the incomplete transit desk are deteriorating from exposure to the elements and the loose inlaid stones in the ceiling at the front of the visitors center threaten the lives of innocent pedestrians and visitors.

We have already spent $52 million of the taxpayers money on that facility. The benefit of those expenditures will be lost unless we make a financial commitment to see the job through. I hope, and expect, that the work can be completed by the Department of Transportation within the funding this bill provides, as was indicated at our committee hearing.●

UP AMENDMENT 1985

(Purpose: To clarify fiscal year authorization of appropriations)

Mr. MOYNIHAN. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The bill has gone to third reading. There has to be a request for unanimous consent that this bill be so amended.

Mr. MOYNIHAN. Let me request unanimous consent.

The PRESIDING OFFICER. Without objection, third reading will be vitiated and the amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New York (Mr. MOYNIHAN) proposes an unprinted amendment numbered 1985.

Mr. MOYNIHAN. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 5, line 22, strike "For the fiscal year 1979," and insert in lieu thereof "Beginning with fiscal year 1979,".

On page 7, line 13, strike "for the fiscal year 1979,", and insert in lieu thereof "beginning with fiscal year 1979,".

Mr. MOYNIHAN. Mr. President, I move the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. McCLURE. Mr. President, the Senator from Idaho will not request a rollcall vote but I do want my dissent to be noted. If there were a rollcall, I would be voting "nay" on this bill.

Mr. WALLOP. Mr. President, I want the RECORD to show my dissent.

Mr. MOYNIHAN. If the amendment has been adopted——

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The PRESIDING OFFICER. If there be no further amendments to be proposed, the question is on engrossment and third reading of the bill.

The bill was ordered to be engrossed and to be read a third time.

The bill was read the third time.

Mr. MOYNIHAN. I move the adoption of the bill.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

The bill (S. 2995), as amended, was passed as follows:

S. 2995

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Union Station Improvement Act of 1978".

SEC. 2. Section 101 of the National Visitor Center Facilities Act of 1968 (40 U.S.C. 801) is amended—

(1) by inserting "(a)" before the first sentence; and

(2) by inserting at the end thereof the following new subsections:

"(b) At the request of the Secretary of Transportation, the Secretary shall assign to the Secretary of Transportation the lease of the facilities which the Secretary entered into pursuant to subsection (a) of

this section, together with all rights in, to, or concerning Union Station, including, without limitation, the purchase option required by section 102(a)(5) of this title.

"(c) After the lease is assigned to the Secretary of Transportation pursuant to subsection (b) of this section, the Secretary of Transportation shall operate, or cause to be operated, as a rail passenger terminal and intercity bus terminal, that portion of the premises not sublet to the Secretary for operation of the National Visitor Center. The Secretary of Transportation may make such alterations to the premises and provide, or cause to be provided, such services as he or she deems necessary or desirable for the benefit of rail passengers.

"(d) After the lease is assigned to the Secretary of Transportation pursuant to subsection (b) of this section, the Secretary may sublease from the Secretary of Transportation, that portion of the facilities required for the continued operation of the National Visitor Center, as the Secretary and the Secretary of Transportation may agree upon.

"(e) After the lease is assigned to the Secretary of Transportation pursuant to subsection (b) of this section, the Secretary of Transportation is authorized to acquire by lease, purchase, condemnation, or otherwise any property interest (including, without limitation, contract rights and real property) related to Union Station but not held by the United States which the Secretary of Transportation deems necessary to carry out this Act or section 4(h) of the Department of Transportation Act (49 U.S.C. 1653(h))."

SEC. 3. Section 102(a) of the National Visitor Center Facilities Act of 1968 (40 U.S.C. 802(a)) is amended—

(1) by striking paragraph (3) and inserting in lieu thereof the following:

"(3) After the lease is assigned to the Secretary of Transportation pursuant to section 101(b) of this title, the Secretary of Transportation shall complete or cause to be completed, the parking facility, including approaches and ramps for adequate circulation, to accommodate automobiles, buses, and other transportation as appropriate, in the air space northerly of and adjacent to the existing Union Station building, and such structure shall continue to be leased to the United States as a part of the facilities to be leased to the United States pursuant to section 101(a) of this title;";

(2) by striking paragraph (4) and inserting in lieu thereof the following:

"(4) The Secretary of Transportation may authorize the Company to cease further construction of the new railroad passenger station in the area beneath and adjacent to the parking facility referred to in paragraph (3) of this subsection. The Company is further authorized, upon request of the Secretary of Transportation and without regard to any other law, to assign to the Secretary of Transportation all of the Company's rights and obligations (including, without limitation, occupancy, operation, and maintenance) in, to, or concerning a rail passenger station at Union Station (including, without limitation, the old Union Station building, the concourse, and the new rail passenger station now operated by the Company) and, upon the effectiveness of such assignment, to cease operations of a rail passenger station at Union Station;"

(3) by adding "and" at the end of paragraph (7); and

(4) by striking paragraph (8) and inserting in lieu thereof the following:

"(8) the rental paid by the Secretary under the sublease entered into pursuant to section 101(d) of this title shall be a fair and equitable share of the cost of renting or purchasing and operating and maintaining Union Station, taking into account the respective fair market rental values and operating and maintenance costs of the spaces sublet to the Secretary and of the remainder of Union Station.".

SEC. 4. Section 103 of the National Visitor Center Facilities Act of 1968 (40 U.S.C. 803) is amended by striking out "under this title" after "leased", and inserting in lieu thereof "or subleased under section 101(d) of this title and operated as a National Visitor Center."

SEC. 5. Section 109 of the National Visitor Center Facilities Act of 1968 (40 U.S.C. 807) is amended by striking out the full text thereof and inserting in lieu thereof the following:

"(a) There are authorized to be appropriated to the Secretary, to remain available until expended, such sums as are necessary for the operation and maintenance of the National Visitor Center including, without limitation, payment of rent under the sublease entered into pursuant to section 101(d) of this title.

"(b) Beginning with fiscal year 1979, there are authorized to be appropriated to the Secretary of Transportation, to remain available until expended, $30,000,000 to carry out the purposes of this Act.

"(c) The Secretary of Transportation is authorized to use funds received from the operation of the facilities through subleases, concessions, or similar activities, to pay the cost of leasing, operating, maintaining, and, if the purchase option is exercised, purchasing Union Station pursuant to this Act.

"(d) The Secretary of Transportation is authorized to expend funds appropriated pursuant to section 704(a)(2) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 854(a)(2)) to carry out the purposes of this Act without regard to the matching funds requirement of section 703(1)(B) of such Act (45 U.S.C. 853(1)(B))."

SEC. 6. Section 110 of the National Visitor Center Facilities Act of 1968 (40 U.S.C. 808) is amended by striking the second word of the first sentence and substituting in lieu thereof "Secretary of Transportation".

SEC. 7. Section 4(h) of the Department of Transportation Act (49 U.S.C. 1653(h)) is amended by—

(1) adding at the end of subparagraph (4) thereof the following new sentence: "Sums appropriated and remaining available to the Secretary following completion of the design and plan functions under this subsection shall be used for the preconstruction planning of the intermodal terminal to be constructed pursuant to this subsection."; and

(2) adding at the end thereof the following new subparagraph:

"(6) There is authorized to be appropriated to the Secretary, beginning with fiscal year 1979, for the purposes of construction of an intercity bus facility to be located at the Union Station in the District of Columbia, not to exceed $30,000,000, such sums to remain available until expended. On January 1 and July 1 of each year beginning with 1979, the Secretary shall submit to the Congress a status report to that date on the planning, design, construction, and operation of the aforesaid intercity bus facility, provided that the construction authorized by this section shall not be commenced until the Secretary of Transportation has reached a contractual agreement for use and rental payment with the potential users.".

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. CHAFEE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MOYNIHAN. Mr. President, once again, I thank the chairman of the Committee on Armed Services.

ETHICS IN GOVERNMENT ACT OF 1978

Mr. RIBICOFF. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 555.

The PRESIDING OFFICER (Mr. NUNN) laid before the Senate the amendments of the House of Representatives to the bill (S. 555) to establish certain Federal agencies, effect certain reorganizations of the Federal Government, to implement certain reforms in the operation of the Federal Government and to preserve and promote the integrity of public officials and institutions, and for other purposes.

(The amendment of the House is printed in the RECORD of September 27, 1978, beginning at page 32020.)

Mr. RIBICOFF. Mr. President, I move that the Senate disagree to the amendments of the House of Representatives, agree to the conference requested by the House on the disagreeing votes of the two houses thereon, and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to and the Chair appointed Mr. RIBICOFF, Mr. JACKSON, Mr. MUSKIE, Mr. PERCY and Mr. JAVITS conferees on the part of the Senate.

CIVIL SERVICE REFORM ACT OF 1978—CONFERENCE REPORT

Mr. RIBICOFF. Mr. President, I submit a report of the committee of conference on S. 2640 and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. SARBANES). The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2640) to reform the civil service laws, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the proceedings of the House of Representatives.)

Mr. RIBICOFF. Mr. President, for the past 2 weeks, the Senate and House conferees and their staffs have worked long and hard to integrate and perfect the civil service reform bills passed by their respective Houses. The result is a bill and conference substitute of which the Senate, the Congress, and the President can be most proud.

In brief, the Civil Service Reform Act of 1978 accomplishes the following:

Codifies the merit system principles and subjects employees who commit prohibited personnel practices to disciplinary action;

Provides for an independent Merit Systems Protection Board and special counsel to adjudicate employee appeals and protect the merit system;

Provides new protection for whistleblowers who disclose illegal or improper Government conduct;

Streamlines the processes for dismissing and disciplining Federal employees;

Establishes new performance appraisal systems and a new standard for dismissal of employees who are not performing acceptably;

Creates a Senior Executive Service to manage and supervise Federal programs;

Provides a merit pay system for GS–13 to GS–15 managers to that increases in pay are linked to quality of performance; and

Creates a statutory base for labor-management relations, including the establishment of a Federal Labor-Management Relations Authority.

Mr. President, this bill constitutes the most comprehensive reform of the Federal civil service system since passage of the Pendleton Act of 1883. A competent, well-managed, and highly motivated civil service is a foundation stone of effective and just Government. The public has a right to an efficient Government, which is responsive to its needs as perceived by elected officials. At the same time, the public has a right to a Government which is impartially administered. This balanced bill will, I think, help accomplish these objectives. It is a tremendously important step toward making the Federal Government more effective and more accountable to the American people.

Both the Senate and the House conferees worked with a spirit of dedication and a bent toward sensible compromise. I should especially like to thank the Senate conferees; Senator PERCY, the ranking minority member of the Governmental Affairs Committee; Senator EAGLETON, Senator SASSER, Senator CHILES, and Senator HUMPHREY for the majority; Senator JAVITS, Senator STEVENS, and Senator MATHIAS for the minority. I much appreciated their support and the long hours they spent in perfecting the conference substitute.

Mr. SASSER. Mr. President, I rise in strong support of the conference report on S. 2640.

This legislation is the product of a year's work by the administration and the Congress. The compromises reached by the conference committee are a testimonial to the spirit of cooperation shown throughout the debate by all involved.

S. 2640 is a good, sound, sensible civil service reform bill. It makes changes in the civil service that are long needed, and it gives our Government a strong framework on which to build its personnel system in the coming years.

Mr. President, there has not been a major comprehensive overhaul of the civil service system since the Pendleton Act was passed in 1883. In the last 95 years, piecemeal change has been lumped on top of piecemeal change—each time, the change was well-meaning in the short run, but there was little effort made to see whether the system itself was being served. Thus, our civil service system has become a mass of rules and regulations that are often contradictory and contrary to the national interest. This legislation changes all of that.

As chairman of the Senate Subcommittee on Civil Service and General Services and a member of the Committee on Governmental Affairs, I participated actively in the hearings and mark-up of this legislation. I believe that, out of those hearings, Congress has gained a sound understanding of the problems in the civil service system, and I can say confidently here today that the conference report we bring to the Senate addresses these problems in a comprehensive and reform-minded manner.

One of the most important changes in this bill is that we have lowered the standard of evidence needed to uphold the dismissal of an employee who has been fired for poor performance. This change is designed to boost employee morale by allowing Government supervisors to get rid of those employees who are not doing the job. The appeals procedure is streamlined so that months of delay do not ensue simply to dismiss one incompetent employee.

The bill will strengthen personnel management by giving authority to a new Office of Personnel Management to run the executive branch. And the bill strengthens the merit system by codifying the merit system principles and establishing a Merit System Protection Board to insure that employees are not treated arbitrarily. Within the Merit Board there will be a special counsel, who for the first time in our Nation's history will offer protection to Government whistleblowers from reprisal by their superiors.

The most far-reaching innovation is the establishment of the Senior Executive Service. I am pleased that Congress has gone on record as supporting a full-fledged, governmentwide Senior Executive Service. The SES will apply proven management incentive techniques to the Federal Government, where civil service regulations have too often in the past served as obstacles to the development and retention of top managers.

The conference report sets up a system of merit pay for middle level Government managers. These employees will have their pay raises determined by evaluations of their performance, rather than on the length of their service.

Finally, Mr. President, the conference report establishes a responsible and balanced system of labor-management relations for Federal employees. These employees will now be authorized by law to set up procedures for adjudicating their grievances. An independent Federal Labor Relations Authority will administer the labor relations program.

Mr. President, this legislation takes great strides in improving the Federal personnel system. Our goal when we began civil service reform was to reshape the civil service into a system where merit was rewarded and incompetence unprotected. The reforms in this conference report are a historic step in creating a civil service system that truly serves the American public while offering necessary protections to the millions of men and women who dedicate their careers to public service.

Mr. PERCY. Mr. President, the conference report on the Civil Service Reform Act, adopted by the Senate earlier this evening, represents a fair and carefully considered compromise between the House and Senate versions of this legislation, maintaining key reforms aimed at making the Federal Government a more vital and effective instrument of public policy. As a conferee, I am pleased to fully support this final document.

It is now over 7 months since S. 2640, the Civil Service Reform Act, was first introduced in the Senate by Senators RIBICOFF, SASSER, JAVITS, and me. During that period, the legislation has been examined from every conceivable angle and perspective. Changes have been made to correct weaknesses pointed out by many Members of this Chamber as well as the House of Representatives. The statesmanship and concern for the public good, as well as the rights of employees that has been demonstrated in both Houses of Congress throughout this long proceeding has been impressive, and a credit to those in both Houses who have been involved in the process.

The legislation, as it has emerged from conference, will establish a new Senior Executive Service, not as a 2-year experiment as proposed by the House, but rather as a firmly established element in the Federal personnel structure, with full recognition by Congress of its status as a full, ongoing program.

Likewise, a new system of merit pay for Federal managers GS–13 through 15 will be established to reward competence rather than longevity in dispersing career rewards.

At the core of the legislation, the conference agreed to provisions expediting and easing the process for disciplining and removing unfit Federal employees. Rather than the current procedure under which a supervisor must prove by a "preponderance of evidence" that an employee's performance has not been up to par, the conference decided to adopt the long recognized "substantial evidence" test, under which greater deference would be accorded the judgment of agency supervisors in assessing the work of employees, and a standard of reasonableness would be substituted for the strict legalese which has so rigidified the current system.

This single reform alone is worth the tremendous effort that has been put into this legislation.

Finally, in the area of Federal labor-management relations, the proposal that has been worked out with the House of Representatives, I believe, represents a fair balance between the rights of employees to form and participate in bargaining units. already recognized under law through Executive Order 11491, and the need of the Government to maintain the efficiency of its operations.

I am gratified that my colleagues have adopted the report of the conference committee.

Mr. STEVENS. I rise in support of the civil service reform conference report. Although the conference bill is drastically different from the administration's proposal, most of the President's fundamental reform measures remain in the legislation. The Civil Service Commission will be replaced by the Office of Personnel Management and the Merit Systems Protection Board. A Senior Executive Service was approved for senior managers and provisions for Federal

Labor Management Relations were accepted. Both Houses of Congress rejected the administration's proposals to reduce veterans' preference in the civil service.

All of my amendments have been accepted by the Senate-House conference. Some of the major changes will serve to diffuse the threat of political domination of the Federal service. Other significant changes will improve the rights of employees in collective bargaining units and the Senior Executive Service.

Senator MATHIAS and I developed three provisions to reduce political manipulation and unwarranted management force:

First. The independent Merit Systems Protection Board will be authorized to strike down improper rules or regulations developed by the Office of Personnel Management. The Merit Board will eliminate any rule or regulation which would violate merit principles or result in prohibited personnel practices upon agency implementation.

Second. The Office of Personnel Management will be required to post all new rules and regulations as an early warning of impending changes to the Federal personnel system. The provision will assure adequate notification to all employees and exclusive representatives affected by the changes.

Third. The Office of Personnel Management will be required to approve all performance appraisal systems developed by agencies. The approval must consider each system's effectiveness, objectivity, and compliance with merit principles. All performance appraisal systems will be required to identify the specific skill levels, responsibilities, and individual actions that will be considered in performance evaluation.

I recommended other changes which were accepted by the conference to enforce employee rights and insulate senior managers from unwarranted political influence.

Some of these changes include:

Judicial review will be provided for the Federal Labor Relations Authority's decisions on unfair labor practices.

Attorney fees will be authorized to prevailing parties in decisions by an arbitrator or the Federal Labor Relations Authority.

Half of the Senior Executive Service positions will be classified as career reserved and will not be available for political appointment. Also, 70 percent of the members must be composed of career civil servants who have had 5 continuous years of service prior to appointment in the SEC.

Boards reviewing the qualifications or performance of a career civil servant in the SEC must contain a majority of career members.

Inserted a provision to protect pension rights of Reserve officers who currently qualify for retirement but have not reached the mandatory age of 60 years.

Considering the substantial revisions made in the area of employee rights and protection from unwarranted political influence. I have decided to support the conference report and urge its adoption.

Mr. President, I move that the Senate adopt the conference report.

The PRESIDING OFFICER (Mr. NUNN). The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. RIBICOFF. Mr. President, I move to reconsider the vote by which the conference report on S. 2640 was agreed to.

Mr. HOLLINGS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ENERGY AND WATER DEVELOPMENT APPROPRIATION ACT

Mr. LEAHY. Mr. President, yesterday, President Carter announced his intention to veto the Energy and Water Development Appropriation Act. I applaud and support his decision.

If ever there were a bill which deserved to be vetoed, this bill is it. The bill has hidden costs of billions of dollars. It mandates the hiring of 2,300 new bureaucrats who will cost the taxpayers millions of dollars and who are not needed. It uses funding procedures which disguise the true cost of these water projects. It abolishes the Water Resources Council which is now responsible for developing and coordinating a sensible water policy for the Federal Government.

The bill is budget-busting and inflationary. It represents pork-barrel politics at its worst and I believe it is exactly the type of fiscally irresponsible legislation which the voters have been telling us all year to stop. It is hypocritical for us in the Congress to make speeches calling for fiscal restraint and belt tightening, to promise our constituents that we will lead the fight to control inflation and bring sanity to the Federal deficit and then to turn around and propose a measure such as this.

I have gone to the people in Vermont and explained that because of the immediate and pressing economic problems facing our country we will not be able to spend Federal dollars on many worthwhile programs. I have promised Vermonters that I will make the difficult choices as their elected representative as to which programs are funded and at what levels. I have told Vermonters that we must all sacrifice a little if we, as a Nation, are to successfully launch our Government on the right track as we approach the 21st century.

I have done all this and I have been pleased, no, more than pleased, I have been proud at the way they responded.

Vermonters, like the rest of the Nation, understand and are willing to help bring our country around. They are willing to see cuts in important Federal programs, even programs in which they have a personal interest. But they are only ready to make these sacrifices when they believe that others are sacrificing, too. If some are to suffer so that others will prosper neither Vermonters, nor this Senator will be content.

This bill is a disservice to our constituents. We are appropriating billions of dollars that perpetuate a method of governing whose time has long since past. The President is ready to sign a public works bill which provides $2.5 billion for water projects with total costs of more than $35 billion, including 26 new water project starts. President Carter has already said that he is not vetoing this bill because of the energy research and development funding provisions. The President will not sign, and neither would I, a bill which adds to these carefully selected and justifiable projects additional projects which are economically unsound, have not received sufficient study to justify funding, or have been previously reviewed in detail and dropped. He will not continue the tradition of pork-barrel politics even though to do so might be the politically expedient thing to do. We must put a stop to this type of politics and we must stop it now.

Many leading newspapers have recognized the problems with this bill and have printed editorials denouncing it and supporting the President's decision to veto it. I ask unanimous consent that these editorials be printed in the RECORD.

Mr. President, this is a bad bill. I opposed it in committee, I voted against it on the floor, and I intend to do all I can to see the President's veto is sustained by this body.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

[From the Providence Journal-Bulletin, Sept. 7, 1978]

MONTH OF PAINFUL DECISIONS DUE IN CONGRESS

Congress, which returned to work yesterday, has a month in which to avoid a "do-nothing" reputation. Under the prodding of a President whose own reputation will look even worse unless he can command some crucial votes, the legislators may buckle down and make some painful decisions. The Democratic leadership needs those decisions to bolster its own record.

What will redeem the Congress in this second year of the Carter administration? Most of all, passage of the bills that make up the administration energy program. Congressional deadlock may reflect the split of the whole country over measures that should be taken to prepare for dwindling oil reserves. But Congress is the institution supposed to resolve deadlocks.

Mr. Carter is applying pressure for acceptance of the compromise on natural gas deregulation, which has been the chief bone in the legislative throat. That will free a large part of the energy "package" even though the Senate may keep the wellhead tax bottled up.

If the measures on which the administration pins its hopes fail to reduce the consumption of oil, then the ripples of oil impact will further engulf the sinking dollar. Europeans, at least, are basing their judgment of the administration on its ability to achieve conservation goals it once urged on everyone else.

An even tougher fight looms over the tax reduction bill, already passed by the House, with a $16.3 billion price tag. Mr. Carter is unhappy with cuts that seem to favor the rich. But the most important aspect is relief on capital gains—or faster depreciation for new plant—to stimulate investment in job-creating facilities.

If the President wins enough support to sustain his veto of a $2 billion nuclear-powered aircraft carrier, he must still redesign the defense appropriation bill to assure passage. He may be helped in his Civil Service Reform bill by scandals in the GSA, which accent the difficulties in getting rid of dishonest or unproductive workers.

More vetoes should be exercised on bills like the college tuition tax credit and the public works bill that includes unnecessary dams and water projects. Vetoes in the right places may help redeem Jimmy Carter's reputation; and they may not necessarily hamper his relations with Congress, once members learn he can wield real presidential clout.

[From the Providence Journal-Bulletin, Aug. 31, 1978]

CARTER SHOULD DEFEND HIS NATIONAL WATER POLICY

In the steamy lassitude of a Washington summer, a joint congressional committee has been quietly but diligently at work wrecking President Carter's new national water policy. Not only would Congress deny the President's hopes to reshape that policy to conserve water and to cap the annual gusher of federal spending on pork-barrel water projects, but the legislators are bending over backward to do just the opposite.

The Congress seems determined to force a veto from the President on a $10.1 billion public works appropriations bill that includes several dam projects Mr. Carter thought he had killed last year, in his first fight to stem the tide of water projects spending.

Both houses, in their separate authorization bills, have reversed the President's proposals to make state and local governments pay more of the cost of such projects, as a means of encouraging conservation. The two bills go the other way.

Where Mr. Carter attempted to set up more stringent rules for cost-benefit analyses which are supposed to show which projects are justifiable and which are not, the bills loosen the rules.

Where the President sought to continue the Water Resources Council and buttress it with new duties to review all new water projects critically, the Congress would kill funding for the agency and direct the President to hire 2,300 bureaucrats to oversee traditional projects. The hypocrisy of this action was blatantly demonstrated by the House appropriations subcommittee chairman, a Democrat, and the ranking minority member, who argued that dissolving the council would "save $1,320,000," and be in keeping with Mr. Carter's desire to eliminate unnecessary bureaucracy. Hiring 2,300 new bureaucrats will cost 25 or more times that amount.

Additionally, the bills run directly against the President's policy by increasing the share of federal spending on dredging projects, waiving in some cases unfavorable cost-benefit ratio findings, and authorizing certain projects that have not yet even been studied by the Army Corps of Engineers.

While cost-benefits ratios are a controversial subject, they are also the standard and best method of deciding the usefulness of a project. For Congress to substitute its own political judgment for objective analysis is a gratuitous insult to the taxpayers' intelligence and economic welfare, and makes a farce of congressional pretensions to concern over inflation and budgetary responsibility.

Another insult emerges with the inclusion of private interest legislation including authorization of a $45 million dredging project to deepen and widen nine miles of Gulfport Harbor in Mississippi, for the sole benefit of E. I. duPont de Nemours & Co., which is building a plant there.

The clear intent of Congress is to throw down the gauntlet to President Carter, challenging him on who will decide how much federal money is spent where and on what water projects. If Mr. Carter really wants to show the country a new image of decisiveness and strength, he will veto this monstrous pork barrel, and he will be as noisy about it as its authors have been quiet and furtive.

[From the Detroit Free Press, Sept. 10, 1978]

PORK BARREL: CARTER IS RIGHT IN OPPOSING A MONSTROUS WORKS BILL

No Federal spending measure passed this year is more outrageous and indefensible than the public works bill soon to hit the president's desk. Mr. Carter has virtually promised to veto it. That will give him an A-plus for courage and responsibility, and give Congress a last chance to muster what statesmanship it can and sustain his veto.

The bill represents a major double-cross of the president by Congress. It restores six unnecessary water projects, costing $375 million, that Congress agreed to kill last year in a compromise with Mr. Carter, who wanted to eliminate 18 of them. The bill also doubles the number of new construction starts proposed by Mr. Carter—to 53 projects, costing $1.2 billion; and it mandates the hiring of 2,300 new employes, whom the Army Corps of Engineers says it doesn't even need or want.

Even as public works bills go, this one is a zinger. It kills the president's proposed Water Resources Council, which would have brought some rationality and cost-effectiveness to planning future water projects. It includes funds for dredging marinas and yacht harbors, and for irrigation projects that will benefit a handful of landowners at a cost to the federal taxpayer of $1 million per landowner.

Meanwhile, an equally obnoxious measure is coming up fast behind this one—Jaws II at the pork barrel, so to speak. That is a bill, passed by the Senate and soon to reach the House floor, authorizing construction or planning of 67 more projects. Those projects will show up in future public works appropriations bills.

The Corps of Engineers has not yet finished studying, or determined a need for, nearly half of the projects packed into the bill. On others, Congress has arbitrarily altered the Corps' figures to make the projects appear economic when they are not, and altered cost-sharing arrangements so the federal government will pick up a bigger share of the tab than usual.

There are, it should be noted, a few sane voices to be heard. Rep. James Blanchard, D-Mich., fought a brave but losing battle to delete the offending projects from the public works bill. Another Michigan Democrat, Rep. David Bonior, is mounting an effort to delete the worst features from, or defeat, the authorization bill. But every member of the Michigan delegation ought to swing behind such efforts.

To go on financing economically unjustified and environmentally damaging projects is a basic misuse of public funds. Even more hurtful for Michigan is that each project represents a subsidy paid by this state's taxpayers to another part of the country, chiefly the Sunbelt, which is causing us quite enough problems as it is.

It's a funny thing: all the oratory about inflation and the taxpayers' burden—everything one hears when Congress is asked to approve welfare reform or environmental regulations, for instance—vanishes when the public works bills come up. Wouldn't it be refreshing if, just this once, enough congressmen stopped drooling over the pork barrel to sustain the president's veto, and to head off the worst of the projects being eyed for the future? We're hoping.

[From the Ann Arbor News, Sept. 4, 1978]

CARTER NEEDS MORE HELP IN DAM FIGHT

Michigan's Rep. David E. Bonior, D-Mt. Clemens, has earned applause from voters/taxpayers in and outside of his district for support he is giving President Carter in one of the toughest disputes Carter has gotten into with Congress.

Everyone who's angry about government's contributions to inflation, or who follows environmental issues with interest, should remember that Carter has made a major effort last year to stop traditional congressional pork-barreling with dams and other water projects.

Basically, Carter thought he had won congressional agreement to forget at least eight water projects of very dubious financial and environmental merit. He followed up this year with proposals for federal/state cost-sharing of future water projects, and for procedures to review future proposals from environmental and realistic economic standpoints.

During the past few weeks, Congress has almost totally wrecked Carter's efforts to put water-related public works planning on a relatively rational basis.

When the House approved a $10.3 billion public works bill, Bonior complained that 45 per cent of the new projects it would support have not even been approved by the Army Corps of Engineers; 13 per cent alter or ignore cost-benefit measures of economic soundness; 12 per cent increase the federal share of project costs; and 3 per cent involve no state cost-sharing.

The only other congressman who stood up and voiced a complaint was Rep. Robert W. Edgar, D-Pa.

Earlier, before the final House vote on its public works bill, Edgar tried, at Carter's request, to win support for an amendment to delete the eight projects supposedly killed last year. "It is with a little bit of fear and trembling that I stand before the House today," Edgar said when making that effort. "I ask to remove eight sacred cows from the House public works appropriation. It simply isn't done." He was right; his amendment lost by 142-234.

This area's Congressmen, Rep. Carl D. Pursell, R-Plymouth and Rep. Bob Carr, D-East Lansing, to their credit, both voted for Edgar's unsuccessful amendment and against passage of the House public works bill.

The Senate's $10.1 billion public works bill, which features a plant to enlarge the federal bureaucracy by 2,300, mainly for the Army engineers, plus six of the supposedly dead water projects, drew "yes" votes from both Sen. Donald W. Riegle and Sen. Robert P. Griffin.

Since those votes, a $10.1 billion public works bill (officially known as an energy and water development bill), containing little the President sought and much he opposed, has been approved by Senate/House conferees and by the Senate.

The House will vote on it in a few days.

Deceivingly, this amount is $916 million less than Carter requested. Congress accomplished this sleight of hand by ignoring 26 new water projects Carter does want, while including those he doesn't want. Further, Congress applied its customary technique of providing only first-year funding for new water projects. Carter wanted an honest bill that would reflect full costs to the federal government.

If Carter means what he's been saying lately about porkbarreling on water projects, he will veto this mess. To prevent his veto from being overriden in Congress, he will need a lot more support there of the sort Bonior and Edgar have voiced. But it won't be heard unless members of Congress hear more from voters/taxpayers.

[From the Boston Globe, Sept. 4, 1978]

A CHALLENGE TO THE PRESIDENT

It's been suggested in some quarters that President Carter's new resolve to veto unacceptable congressional legislation is all part of a public relations gambit designed to bolster his popularity. But there would be nothing but substance involved in a presidential decision to veto the public works authorization and appropriation bills now being crafted in Congress.

Together they would decimate the laudible national water policy Carter proposed in June, aimed at trimming at least some of the pork in the Congressional barrel.

Carter's policy was hardly revolutionary: it failed to go as far as most environmentalists wanted. Yet, it did call for the first time for a more rational weighing of the costs and benefits of massive federal water projects; it did require that states and localities benefiting from such projects undertake serious efforts to conserve the water they produce; it did suggest that projects particularly desired by states have a modest state contribution to their construction costs.

At a time in which the public is clamoring for more efficiency in government, these proposals seemed especially sensible. So what has Congress done?

Well, it has moved to approve a $10.1 billion bill that contains many water projects that fail Carter's modest standards, or that have not even been judged by them. For some projects, it has specifically waived the cost-sharing provisions usually included. House and Senate versions of the authorization bills contain 120 new projects, including many that have not been reviewed at all by the Corps of Engineers. Even the old and outmoded cost-benefit analyses that have traditionally been required have been ignored in some cases.

Most of the projects are in the West. And it is often said that easterners just don't understand that region's water problems. Maybe so. But certainly the whole country understands the need now for rudimentary effiiency in government. Except apparently the members of Congress. They are clearly posing a direct challenge to the President's desire to set national policy. He should meet it.

[From the Philadelphia Evening Bulletin, Sept. 11, 1978]

A "PORK BARREL" TO DUMP

Ready to help irrigate a lot of fruit farms in Colorado—at $1.4 million each? Do you feel better knowing that each farmer's share is just $71,000—with interest-free U.S. loans available?

How about helping with an additional $200 million in taxes to pay and provide side benefits for 2,300 more federal employes? Congress insists the U.S. Army Corps of Engineers and the Department of Interior hire them to work on billions of dollars in public works projects that lack economic and environmental justification. Army and Interior say they don't need the extras.

Does it upset you that Congress is demanding that billions of tax dollars be spent on a water diversion project in California although the federal courts have directed that no work be done on it?

As bizarre as all this may sound, it will happen unless President Carter vetoes a public works bill that Congress it now polishing into final form to dump on his desk. Congress is sure it has Mr. Carter on the run. It figures it can make him swallow his pledge and accept this example of "pork barreling" at its worst.

The questionable projects Congress has stuffed into this public works bill will cost about $2 billion, although this amount doesn't show in the legislation. The price tag affixed by Congress is a "token" $103 million, a mere down payment. Congress has for generations gotten dubious projects through with this device. The congressmen involved plead for support from their colleagues, explaining that very little money is involved. After a few years of this, they switch and argue that the Federal Government now has so much invested in their pet project that it would be wasteful to drop it. During the passage of one West Coast water supply project through Congress its cost went from a "token" $7 million to an actual figure in excess of $200 million.

Most of the "pork barrel" projects in the new legislation were initially challenged by the Water Resources Council, an agency created by President Carter to screen projects as part of his unprecedented public works reform effort. The finding was that these challenged projects should be paid for—if at all—by private individuals or by state or local governments.

Congress's response to this challenge to its traditional "pork barreling" is to move to eliminate the Water Resources Council by deleting its appropriation from the public works legislation. Here is a display of arrogance that, of itself, merits the President's veto.

So we hope Mr. Carter does veto this bill. It is wasteful. It is, as we said, a raw showing of political arrogance on the part of Congress. We also hope that, when the time comes, you will tell your representatives in Washington that this is a bad piece of legislation—and that President Carter's veto should stick.

DEPARTMENT OF DEFENSE APPROPRIATIONS, 1979

The Senate resumed consideration of the bill.

Mr. STENNIS. Mr. President, I propose to make a fairly brief statement on the bill as a whole and I hope that the Senator from North Dakota, who is the ranking minority member of our subcommittee, will then seek recognition. For the time being, Mr. President, I make the usual unanimous-consent request that the committee amendments be agreed to en bloc and the bill as amended be considered as original text.

May we have quiet, Mr. President? I see a lot of people on the floor, but they are not Senators.

The PRESIDING OFFICER (Mr. HART). The Senate will be in order.

Mr. STENNIS. I ask unanimous consent that the bill as amended be considered as original text for the purpose of further amendment, with the understanding that no points of order be considered as having been waived by reason thereof.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee amendments agreed to, en bloc, are as follows:

On page 2, line 11, strike "$9,123,499,000" and insert "$9,110,896,000";

On page 2, line 19, strike "$6,456,450,000" and insert "$6, 949,532,000";

On page 3, line 3, strike "$2,015,900,000" and insert "$6,949,532,000";

On page 3, line 12, strike "$7,507,195,000" and insert "$7,489,391,000";

On page 3, line 20, after "Corps," insert "and expenses authorized by section 2131 of title 10, United States Code,";

On page 3, line 21, strike "$546,650,000" and insert "$541,800,000";

On page 4, line 4, after "Corps," insert "and expenses authorized by section 2131 of title 10, United States Code,";

On page 4, line 6, strike "$226,825,000" and insert "$226,900,000";

On page 4, line 13, after "class," insert "and expenses authorized by section 2131 of title 10, United States Code,";

On page 4, line 15, strike "$83,725,000" and insert "$83,100,000";

On page 4, line 23, after "Corps," insert "and expenses authorized by section 2131 of title 10, United States Code,";

On page 4, line 24, strike "$186,325,000" and insert "$185,250,000";

On page 5, line 7, after "duty," insert "and expenses authorized by section 2131 of title 10, United States Code,";

On page 5, line 9, strike "$788,900,000" and insert "$755,100,000";

On page 5, line 16, after "duty," insert "and expenses authorized by section 2131 of title 10, United States Code,";

On page 5, line 17, strike "$256,477,000" and insert "$253,877,000";

On page 6, line 2, strike "$10,139,838,000" and insert "$10,079,838,000";

On page 6, line 13, strike "$9,155,421,000" and insert "$9,031,659,000";

On page 6, line 24, strike "$11,691,754,000" and insert "$11,573,156,000";

On page 7, line 15, strike "$733,475,000" and insert "$731,400,000";

On page 7, line 25, strike "$9,243,892,000" and insert "$9,186,267,000";

On page 8, line 9, strike "$3,034,350,000" and insert "$3,019,495,000";

On page 8, line 16, beginning with the colon, strike through and including the word "Services" in line 20;

On page 9, line 3, strike "$416,900,000" and insert "$410,200,000";

On page 9, line 13, strike "$386,500,000" and insert "$364,450,000";

On page 9, line 24, strike "$19,900,000" and insert "$19,600,000";

On page 10, line 10, strike "$386,500,000" and insert "$386,700,000";

On page 11, line 2, strike "$789,700,000" and insert "$783,700,000";

On page 11, line 23, strike "$932,700,000" and insert "$932,000,000";

On page 12, line 24, strike "$87,500,000" and insert "$89,500,000";

On page 13, line 9, strike "$1,648,000" and insert "$1,750,000";

On page 13, beginning with line 17, strike through and including the comma in line 19;

On page 14, line 15, after the colon, insert the following:

Provided further, That restrictions contained within appropriations or other provisions of law limiting the amounts that may be obligated or expended for rentals, construction, or other services or supplies are hereby increased to the extent necessary to reflect downward fluctuations in currency exchange rates from those used in preparing the applicable budget submission: *Provided further,* That contracts or other obligations entered into payable in foreign currencies may be recorded as obligations based on the currency exchange rates used in preparing budget submissions, and adjustments to reflect fluctuations to currency exchange rates may be recorded as disbursements are made:

On page 15, line 15, strike "833" and insert "834";

On page 16, line 8, strike "$917,401,000" and insert "$971,708,000";

On page 16, line 25, strike "$738,100,000" and insert "$734,000,000";

On page 17, line 18, strike "$1,528,400,000" and insert "$1,511,100,000";

On page 18, line 11, strike "$1,071,456,000" and insert "$1,293,100,000";

On page 18, line 12, strike "$59,400,000, of which";

On page 18, line 14, beginning with "and" strike through and including "1978/1980"," in line 16;

On page 19, line 11, strike "$1,591,000,000" and insert "$1,623,800,000";

On page 20, line 2, strike "$4,381,100,000" and insert "$4,287,200,000";

On page 20, line 16, strike "$1,983,800,000" and insert "$1,988,500,000";

On page 21, line 7, strike "$274,800,000" and insert "$55,000,000";

On page 21, line 10, after the semicolon, insert "for the VSTOL support ship, $45,-000,000;";

On page 21, line 12, strike "for the CVN 71 nuclear aircraft carrier program, $2,129,-600,000;";

On page 21, line 13, after the semicolon, insert "for the LHA program, $70,000,000;";

On page 21, line 17, after the semicolon, insert "for the T-AGOS SURTASS ship program, $98,000,000;";

On page 21, line 19, strike "$769,400,000" and insert $987,400,000";

On page 21, line 20, strike "$5,688,000,000" and insert $3,760,600,000";

On page 22, line 19, strike "$2,617,150,000" and insert "$2,642,450,000";

On page 23, line 4, strike "$349,000,000" and insert "356,000,000";

On page 23, line 21, strike "$6,966,507,000" and insert "$6,569,307,000";

On page 24, line 11, strike "$1,595,700,000" and insert "$1,551,800,000";

On page 24, line 15, strike "(INCLUDING TRANSFER OF FUNDS)";

On page 25, line 5, after the semicolon, strike through and including line 8, and insert "$2,410,612,000.";

On page 25, line 23, strike "266,800,000" and insert "$272,200,000";

On page 26, line 9, strike "$2,652,304,000" and insert "$2,530,197,000";

On page 26, line 18, strike "4,463,860,000" and insert "4,450,060,000";

On page 26, line 21, after the comma, insert "and $26,000,000 which shall be derived by transfer from "Research, Development, Test, and Evaluation, Navy 1978/1979",";

On page 27, line 3, strike "(INCLUDING TRANSFER OF FUNDS)";

On page 27, line 7, after the semicolon, strike through and including "1978/1979"," in line 10;

On page 27, line 21, strike "$885,144,000" and insert "$886,638,000";

On page 29, line 2, strike "$13,092,000" and insert "$14,362,000";

On page 32, line 1, strike "in an amount not exceeding $298,682,000,";

On page 33, line 13, strike "and";

On page 33, line 17, after "amended" insert a semicolon and the following:

and (1) expenses of disinterment, transportation, and reinterment of such remains of United States citizens and of members of their immediate family buried with them in the Canal Zone as the Secretary of the Army may direct

On page 38, line 17, after the comma, insert the following:

and in addition to the limitation contained above, for all other direct costs (excluding all transportation outside the United States): (a) in excess of 66⅔ per centum of such costs during fiscal year 1979, (b) in excess of 33¼ per centum of such costs during fiscal year 1980, and (c) in any amount after September 30, 1980;

On page 48, line 5, strike "in this Act";

On page 49, beginning with line 17, strike through line 20 and insert in lieu thereof the following:

SEC. 837. (a) The Secretary of Defense shall require all prime contractors receiving contract awards of $500,000 or more from the Department of Defense to file a report with the Secretary at the end of the year showing the amount of Department of Defense work (in terms of dollars) each such contractor had performed by subcontractors during such year and to identify the State or States in which each subcontractor performed the work subcontracted to it.

(b) The Secretary of Defense shall submit a report annually to the Congress showing, on a State-by-State basis, the total amount of Department of Defense funds paid to subcontractors, during the year for which the report is submitted, by the prime contractors described in subsection (a).

On page 53, line 24, beginning with "or" strike through and including page 53, line 4, and insert in lieu thereof the following: (f) reimbursement of any physician or other authorized individual provider of medical care in excess of the eightieth percentile of the customary charges made for similar services in the same locality where the medical care was furnished; or (g) any service which is not medically or psychologically necessary to prevent, diagnose, or treat a mental or physical illness, injury, or bodily malfunction as assessed or diagnosed by a physician, dentist, clinical psychologist, certified psychiatric mental health nurse specialist, certified nurse-midwife, or other certified nurse practitioner, as appropriate, except as authorized by section 1079(a)(4) of title 10, United States Code.

On page 55, beginning with line 17, strike through and including page 56, line 7, and insert in lieu thereof the following:

SEC. 852. (a) None of the funds appropriated by this Act shall be obligated under the Competitive Rate Program of the Department of Defense for the transportation of household goods to or from Alaska or Hawaii.

(b) None of the funds appropriated by this Act shall be obligated for any payments to any low rate setting freight forwarder for transportation services furnished beginning November 1, 1978, for transportation of more than 80 percent of the estimated tonnage of commercial through household goods over any traffic route to or from a rate setting area under the Competitive Rate Program of the Department of Defense: *Provided*, That the limitations shall not apply to a traffic route over which less than 30,000 pounds of estimated tonnage will be transported: *Provided, further*, That this limitation shall not apply to shipments to or from a rate setting area in the United States in which the total number of outbound shipments under the program during the period November 1, 1976, through April 30, 1977, was less than 3 percent of the total number of outbound shipments during that period.

On page 57, beginning with line 3, strike through and including line 11;

On page 57, line 12, strike "854" and insert "853";

On page 58, line 19, strike "855" and insert "854";

On page 58, line 22, strike "856" and insert "855";

On page 59, line 1, strike "857" and insert "856";

On page 59, line 7, strike "858" and insert "857";

On page 59, beginning with line 12, insert the following:

SEC. 858. None of the funds appropriated by this Act may be used for the consolidation or realignment of advanced or undergraduate pilot training squadrons of the Navy as currently proposed by the Department of Defense.

On page 59, beginning with line 16, strike through and including line 23, and insert in lieu thereof the following:

SEC. 859. None of the funds appropriated by this Act shall be available to pay costs of transportation for cargo or for mail (inside the United States and to, from, or between points overseas) of any catalogs, merchandise or goods of the Army and Air Force Exchange Service, the Navy Resale System, or the Marine Corps Exchange except where such goods or merchandise are transported in a carrier leased, chartered, or owned by the Government in space not appropriate for transportation of any nonexchange cargo awaiting transportation from the point of embarkation; nor are appropriations available to pay costs of scheduled movement of carriers leased, chartered, or owned by the Government in excess of reasonably anticipated requirements for transportation of nonexchange cargo: *Provided*, That nothing contained in this section shall preclude the use of appropriated funds for the payment of transportation costs to and in Alaska and Hawaii.

On page 60, beginning with line 16, strike through and including page 61, line 2;

On page 61, line 7, after the semicolon, strike through and including line 9, and insert "$12,700,000.".

Mr. STENNIS. Mr. President, I ask unanimous consent that Rex Buffington, a member of my personal staff, be accorded the privilege of the floor during consideration of this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STENNIS. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized at the proper time to make such technical corrections in the engrossment of the Senate amendments to H.R. 13635 as may be necessary.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STENNIS. Mr. President, several Senators have asked me about how long this may take. Of course, it is very difficult to say or even make a suggestion, but we have had the utmost consideration of this bill over a period of months. The most recent meeting of our subcommittee and committee was within the last week and we had very good discussions and consideration. I think perhaps there will not be many amendments. Later, should it be the pleasure of the Senate, I shall propound, or the leader for us, will propound a unanimous-consent request for controlled time.

But the shortness of the notice that this bill was coming up this afternoon would suggest that that should not be requested now.

Mr. President, the Committee on Appropriations has carefully considered H.R. 13635, the defense appropriations bill, and recommends an appropriation of $116,316,635,000 in new budget authority for the Department of Defense for fiscal year 1979.

Many difficult funding choices were required in order to arrive at this recommendation, but we believe that it establishes a level of spending that will be adequate for our national security while it is commensurate with our available resources, and the priorities in our budget.

Mr. President, this bill does not contain any funds to build a new aircraft carrier. The fiscal year 1979 defense appropriations bill as passed by the House included funds to build a fifth nuclear-powered aircraft carrier. While the full Appropriations Committee here in the Senate was considering the bill, the President on August 17 vetoed the fiscal year 1979 military procurement authorization bill which contained the authorization for the carrier. On September 7, an attempt to override the President's veto failed in the House. A new authorization bill has subsequently passed both Houses which deleted the authorization for the carrier and included authorization for the Navy to pay $209,000,000 for payment of settlements in shipbuilding claims disputes.

Mr. President, the final phase of the consideration of that authorization bill has not passed the House as of now, but I understand it is up, or will be up, and that, probably, all the money figures have

already been settled, and the matter is expected to pass, without doubt, this afternoon. The authorization bill has passed the Senate, and by a very large vote, and has been sent to the House.

The committee has deleted the $1,930,000,000 from the appropriations bill which was originally authorized for the carrier. We have also added the authorized amount of $209,000,000 for settlement of shipbuilding claims.

Those claims having been recently debated and approved here on the floor.

The Committee on Appropriations has spent many hours examining the various programs submitted in the administration's budget. The Defense Subcommittee held 20 separate sessions of hearings from February to April of this year, and the 12,500 pages of transcript that were taken at these hearings fill 6 volumes.

Mr. President, this is a large appropriations bill, probably the largest ever considered by the Congress.

I understand that is correct, even in peacetime or wartime. In order to convey the magnitude of the task facing the committee, let me point out that the defense budget request considered by the committee included 3,519 separate, distinct line items.

That means that more than one member had to make a judgment of some kind and in some depth on that many separate, distinct line items.

This includes 560 line items in military personnel and retired pay—and those items were all considered, too, largely by our Senate Armed Services Committee—697 in operation and maintenance, 1,458 in procurement, and 804 in research and development. Even those numbers do not reveal the total picture, for the military personnel and operation and maintenance accounts are further subdivided into numerous pieces. But I believe the figures clearly demonstrate the high level of effort required.

It certainly reveals the high levels of the cost of our national defense program, which we believe is necessary. I can say with confidence there has not been any item or any weapon of any significance here that has been proven to be actually needed that has been denied.

I mean by that, I am not talking about the exact number of guns or the exact number of ships.

The President saw fit to veto the bill with reference to the legislation. I do not mention that in criticism. But my point is that there has been no loophole or soft spots left in any way that could be called a deficiency on a necessary item this year in our national security picture, and that includes a lot of points beyond our own immediate perimeter of our 50 States.

I know, too, Mr. President, there has been a real effort in the last 8 months to eliminate the fat from this present budget request.

I will mention the details of some of the reductions made by the committee later in my remarks. At this point, let me say that we have pruned the request of low-priority projects that are less vital to our national security than others. This bill as reported by the committee is almost $3 billion below the President's budget request. I hope that there will not be an attempt to apply any across-the-board percentage reductions to this bill.

Now, Mr. President, one-third of the $3 billion amount, though, is covered in the deferment of a nuclear powered submarine, the Trident. That was not rejected in any way after being recommended by the President, but it was agreed all the way around that it would not make progress this year, to be put in the 1979 budget, and delay production or slippage.

So that accounts for $1 billion of this $3 billion.

Now, it is not unusual, according to the record, for an immense bill anywhere near this size to have reductions made by the Congress of $1.5 billion, $2.5 billion, $3 billion, as shown by the actual totals for recent years.

There is a lot of change of circumstance that comes about after a budget is made up, in the fall months of the preceeding year. There are a lot of slippages, as I referred to, as to the Trident submarine, and other changes of conditions that justify these reductions. Some of it is just due to the application of some prudence and some ideas in trying to save something, save some funds that were not essential.

Mr. President, fiscal year 1979 has already begun. Everyone is aware that this bill has been delayed because of the President's veto of the Defense Authorization bill. Back in August, the Appropriations Committee had almost finished marking up this bill when word of the veto came. We were forced to suspend our deliberations until the authorization question was settled.

I hope that the Senate can now proceed expeditiously on this bill, so that we can go to conference with the House, which already has passed this bill, and agree to the conference agreement. If this bill is not passed before Congress adjourns, the Department of Defense will have to operate under a continuing resolution, probably for the next 6 months. Since the House has already passed the fiscal year 1979 Defense Appropriations bill, this means that the Department of Defense can operate only at the fiscal year 1978 appropriations level or the level of the House fiscal year 1979 bill, whichever is lower. Many important new programs and new initiatives scheduled to begin on October 1, 1978, cannot take place, and will not take place until this bill is passed. I cannot think of anything that would cause greater loss by attrition and waste and other delays than to fail to pass this appropriation bill sometime very early in the new fiscal year.

The tragedy would be not only that they cannot start any new program that has been authorized, but also, there would be all kinds of related delays and added costs that go with delay. It would stop in its track, we might say, any plan they have for getting new programs in operation.

I think we should—and I know we can—avoid this situation about the delay by moving forward now and getting these figures settled.

While not all of the Senate will be content with every recommendation in this bill, the committee has tried to be prudent while meeting the challenges which face us. Mr. President, I believe that this bill deserves the support of the entire Senate. I hope that the amendments proposed will be few, and that debate on this bill will be adequate but not prolonged.

OVERALL RECOMMENDATIONS

Mr. President, a moment ago I mentioned that the committee had made every effort to eliminate unnecessary programs from the budget request. The $116,316,635,000 in new budget authority contained in this bill is $2,983,648,000 below the budget request and $2,702,643,000 below the House allowance. This is a reduction of 2.5 percent below the administration's budget request, and 3.6 percent above the amounts appropriated for the Defense Department in fiscal year 1978. The bill recommended by the committee will result in outlays of $77,257,000,000 in fiscal year 1979. These outlays, plus outlays of $27,386,000,000 from prior year Defense appropriations, will result in total Defense outlays of $104,643,000,000 in fiscal year 1979. In addition to the $116,316,635,000 in new budget authority contained in this bill, the committee proposes transfers from prior year accounts totaling $111,000,000, so that the amount recommended actually totals $116,427,635,000.

By organization, the recommended bill provides $29,371,625,000 for the Department of the Army, $38,933,323,000 for the Navy Department, $33,059,604,000 for the Department of the Air Force, $4,872,245,000 for the Defense agencies and related items, and $10,079,838,000 for retired military pensions.

By title, the committee's recommendations include: $27,096,221,000 for military personnel appropriations, $10,079,838,000 for retired military personnel, $37,034,742,000 for operation and maintenance accounts, $29,972,377,000 for procurement, $11,976,457,000 for research and development, including the small special foreign currency program, $100,800,000 for working capital funds, and $56,200,000 for the Central Intelligence retirement fund and for miscellaneous other programs. This bill does not include funds for military construction, family housing, foreign military assistance, civil defense, or nuclear weapons production—all of which are included in other appropriations bills.

MAJOR CHANGES FROM HOUSE BILL

There are a very large number of changes in the bill before the Senate, when compared to the House bill. For convenience, the committee summarized and highlighted the major changes on pages 5 through 9 of its report. I shall insert those pages in the RECORD at the end of my statement, since they provide a convenient summary.

DEFENSE BILL IN RELATIONSHIP TO THE SECOND CONCURRENT RESOLUTION ON THE BUDGET

Mr. President, on page 11 of the committee report there is a table comparing the amounts in the bill with the committee allocation of amounts in the first concurrent resolution. The bill as reported is $6.0 billion below the budget authority allocation and $5.4 billion be-

low the outlay allocation made by the Appropriations Committee to the Defense Subcommittee. I shall insert the table at the conclusion of my remarks.

I must advise the Members that this is not as great a savings as it may first appear, since the committee currently expects to receive a supplemental request of $2.1 billion. This amount includes current estimates of the impact of the 5.5 percent pay raise effective October 1, 1978, for military and civilian personnel. If the total of this supplemental is added to the amounts recommended in the bill, total funds would be $3.9 billion below the resolution in budget authority and $3.3 billion below in outlays. On the basis of past history, however, reductions will be made to the supplemental request both within the executive branch and by the Congress. For these reasons, the committee is confident that amounts ultimately appropriated for the Department of Defense in fiscal year 1979 will be well within the level contained in the second concurrent resolution for fiscal year 1979.

Mr. President, this year the Senate is in the position of having completed action on the second concurrent resolution for fiscal year 1979 before completing final action on several of the fiscal year 1979 appropriations bills. The second concurrent budget resolution reduced the amount for National Defense in the first concurrent resolution by $1.7 billion in budget authority and $3.3 billion in outlays. The full Appropriations Committee has not completed the allocation of the functions to the subcommittees. However, I am confident that the requirements for this bill and the pay supplemental can be accommodated under the lower figure of the second concurrent resolution.

Mr. President, all of us on the subcommittee have worked very hard to bring about that situation. I think it should be the established policy of Congress, and it has been.

As one who has been watching the expenditures of many billions of dollars—really, hundreds of billions of dollars—for a good number of years, I commend highly the Senator from Maine (Mr. MUSKIE) and all other members of the Congressional Budget Committee for the very splendid application they give to their onerous responsibilities and the gravity of their work. They persevere; they hold out. They are well informed. They have a good staff. They have proved to be a very valuable asset to the Senate in consideration of the massive matters to which I have referred.

It is not possible for just 100 people, the 100 Members of this body, to take on all the matters that come to us from the States—and we are here primarily to represent the States and the people—and all the matters that come in with respect to policies around the globe and policies with regard to domestic affairs, and the consideration of thousands of items of this kind. The day has passed when it can be done adequately, systematically, without some hard work, splendid work, along the lines of the Congressional Committees on the Budget. I believe that, without doubt, the closing of the gap, the reduction of the deficit that has been made here in the last few years, has been due largely to the work of this committee and the influence they have had. They have pointed the way and have inspired.

I speak from experience and say that it is a great encouragement to someone who works on these voluminous bills during the year to know that we do have a system to which our very fine Members apply themselves, with competent staffs, to bring order out of chaos and save money and apply some prudence, a little thrift here and there, and get control of our fiscal affairs.

It cannot be done all at once. You cannot balance the budget simply by cutting drastically one department or anything of that kind. I think that to try to balance the budget in one year would throw our economy into such disarray that it would require the expenditure of many extra billions of dollars to right the terrible wrong we would inflict on the operation as a whole. The orderly way, the reasonable way, is to do it as this committee system is pointing out, trying to carry on here from year to year.

At the same time, I feel certain that there is no area of our defense that has been neglected this year. They talk about the MX, and so forth, but nothing has been neglected or left out. They have had attention, and a reasonable sum of money is being appropriated for that purpose—not as much as some think should be, not as much as the contractors think should be, but, as a whole, it is a balanced operation.

SUMMARY OF ITEMS IN THE BILL

The funds recommended in the committee bill buy two basic things—the day-to-day pay and operating costs of our military forces and, second, investment in new items of military equipment, including both research and development of new weapons and equipment, as well as actual procurement.

The massive labor by many members of the full committees, 12 months of it, that has gone into this bill and the preceding authorization bill, which is the foundation of the appropriation bill, is astounding. Every facet of our vast research and development program—now costing $12 billion, in round numbers, in the Department of Defense alone—has been examined by competent staff members of our authorizing and Appropriations Committee and by Members of this body who have become knowledgeable and efficient in this field.

I claim a lot of credit here for the Armed Services Committee's work, and I am not talking about work that I do but work that is done by these subcommittees, and I was talking about research and development and the work reflected here by that subcommittee as chaired now by the Senator from New Hampshire (Mr. MCINTYRE), one of the most valuable Members of this body. He and I do not vote together on many things. But the man has knowledge. He is a natural worker, and he knows how to turn it out, and he knows how to get results. There is no way to truly value the amount of money that he saves and the legislative stimulus that he gives this research and development work.

We have been fortunate, I think, over a period of years in having outstanding men as directors of our research and development in the Department of Defense, including our present holder of that office.

The bill includes recommendations of $64,130,963,000 for the pay and operating costs of active duty military, Reserve forces, and Department of Defense civilians. This amount includes $27,096,221,000 for the pay and allowances of our military personnel, and $37,034,742,000 for operation and maintenance costs. These operation and maintenance funds meet the day to day operating costs of aircraft and ships, provide for the utilities and upkeep on our military bases, and include the pay of most Defense Department civilian employees.

In the first category, the recommended funds will pay for an active Army of 16 divisions and 6 separate brigades, a Navy with 453 commissioned ships in the active fleet and 5,213 active and reserve aircraft, 3 active Marine Corps divisions, each with an associated aircraft wing, and an Air Force with 9,157 active and reserve aircraft and 1,054 ballistic missile launchers.

Manpower funded in this bill is: 2,055,750 in the active forces and 812,575 in the reserve components, for a total of 2,868,325. In addition to the military manpower, funds are included for a total of 1,005,500 civilian employees of the Department of Defense. This is a reduction of 2,000 from the budget request, and funds the full authorization of civilian manpower for fiscal year 1979.

Now I shall turn to the second aspect of the purpose of the funds in this bill: the development and proceurement of new weapons and equipment for our armed forces. The committee recommends $41,934,472,000 for these programs, which are a key part of the modernization needed by our military establishment. This amount consists of $11,962,095,000 for research and development and $29,972,377,000 for procurement.

The committee recommends a total of $2,530,197,000 for Army research and development. This includes $113.5 million for ballistic missile defense advanced technology; $75.7 million for the division air defense gun; $62.8 million for the surface-to-surface missile system; $177.4 million for the advanced attack helicopter; $228.4 million for the patriot surface-to-air missile; $78.4 million for tank development; and $55.2 million for the joint tactical communications program.

A total of $4,491,060,000 is recommended for Navy research and development. This includes $174.6 million for basic research; $152 million for the Tomahawk cruise missile; $135.9 million for the fleet ballistic missile system; $273.7 million for the Trident missile; $20 million for extra low frequency communications; $175.8 million for the advanced Harrier (AV–8B) aircraft; $498.6 million for the F–18 fighter aircraft; $80.0 million for the surface effect ship; and $95 million for the LAMPS antisubmarine helicopter.

For Air Force research and development, the committee recommends $4,067,600,000. This includes: $96.7 mil-

lion for basic research; $158.2 million for advanced intercontinental ballistic missile technology; $105.0 million for advanced ballistic re-entry systems; $58.3 million for strategic bomber enhancement; $237.8 million for the air launched cruise missile; $73.0 million for space defense; $64.9 million for B–52 squadrons; $107.9 million for the F–16 fighter aircraft; $86.8 million for the precision location and strike system; and $169.5 million for the space shuttle.

The Defense agencies will receive $914,238,000 as recommended by the committee. This includes $49.1 million for basic research; $91.5 million for strategic technology; $98 million for tactical technology; $154 million for nuclear effects and tests; and $73.6 million for major innovations.

In the area of procurement, some of the major programs include the following:

For the Army, $136.9 million for 78 AH–1S helicopters; $33 million for 8 CH–47C cargo helicopters; $323 million for 129 UH–60A Blackhawk utility helicopters; $72.3 million for 608 improved Hawk missiles; $165 million for 75 U.S. Roland missiles and 3 fire units; $42.3 million for 5,270 Tow anti-tank missiles; $44.5 million for 550 M113A1 armored personnel carriers; $39 million for advanced procurement for the infantry fighting vehicle; $300.5 million for 110 XM–1 tanks; $343.6 million for 410 M60A3 tanks; $42 million for the tactical fire direction system; $12.3 million for 9 position/Azimuth determining systems; and $21.2 million for 75 universal engineering tractors.

For the Navy, the committee recommends: $166.3 million for the purchase of 12 A–6E attack aircraft; $150.1 million for 6 EA–6B aircraft; $61 million for 6 AZ–E attack aircraft; $688.8 million for 36 F–14A fighter aircraft and $145.6 million in advance procurement funds for the F–14A; $429.5 million for 9 F–18 fighter aircraft and $55 million in advance procurement funds for the F–18; $168.1 million for 14 CH–53E cargo helicopters; $279.7 million for 12 P–3C anti-submarine warfare aircraft; $181.1 million for 6 E–2C aircraft; $27.4 million for 22 CTX utility aircraft; $55 million in advance procurement for the *Trident* nuclear submarine; $142.1 million for 223 MK–48 torpedoes; $1,493.1 million for 8 FFG guided missile frigates; $325.6 million for 1 SSN–688 class nuclear submarine; $318 million for 1 AD destroyer tender; $98 million for 3 T-AGOS ocean surveillance ships; and $191 million for 1 T–ARC cable layer ship.

For the Air Force, the committee recommends: $638.6 million for 120 A–10 aircraft and $33.6 million for advance procurement of the A–10; $1,225.6 million for the purchase of 78 F–15 aircraft and $81.4 million in advance procurement funds for the F–15; $1,191.3 million for the purchase of 120 F–16 fighter aircraft and $43.9 million in advance procurement funds for the F–16; $143.5 million for 2 Advanced Tanker/Cargo Aircraft; $190.2 million for 3 AWACS Early Warning Aircraft and $44.1 million in advance procurement funds for the AWACS; $67.5 million for 8 C–130H aircraft; and $120.5 million for 12 TA–7D trainer aircraft.

The bill also includes $10,079,838,000 for retired military personnel. There will be approximately 1,264,700 retired persons on the rolls in fiscal year 1979. The $14,362,000 recommended for the special foreign currency program provides dollars for the purchase from the Treasury of excess foreign currencies which are used to finance defense programs overseas. The committee recommends $100,800,000 for the Army and Air Force stock funds for purchase of war reserve materials.

The final items funded in the bill are $43,500,000 to meet the unfunded liabiilty of the CIA retirement pension fund, and $12,700,000 to support the Intelligence Community staff, an independent body responsible to the Director of Central Intelligence for oversight of the entire Intelligence Community and associated programs.

DEFENSE IN COMPARISON WITH OTHER FEDERAL AGENCIES

Earlier in my remarks I stated that this is probably the largest appropriations bill ever considered by Congress. To put this statement in the proper perspective, I would like to conclude my remarks with a comparison of the increase in spending for national defense and other Federal agencies over the last decade.

Outlays for national defense have shrunk during the 10-year period 1969–1979 from 43 percent of the total Federal budget outlays in fiscal year 1969 to 23.5 percent in the bill for fiscal year 1979 pending before you.

Since fiscal year 1969, the cost of the Federal Government has gone up $315.7 billion—from $184.5 billion to $500.2 billion estimated in the President's budget for fiscal year 1979. Of that total increase only $38.4 billion, or 12.2 percent, is attributable to national defense spending. The remaining 87.8 percent, or $277.3 billion, is attributable to non-military functions.

Since fiscal year 1969, nondefense programs, including Federal outlays for human resource items—education, manpower, health—including medicare and medicaid, income security—including individual benefits—have increased from 57 percent of the total budget to 76 5 percent. In dollar terms, the increase in the last 10 years for nondefense functions was $277.3 billion, from $105.1 billion to $382.4 billion.

Thus, while national defense costs were rising by 48 percent over the past 10 years—from $79.4 billion to $113 billion—the total of other government expenditures was climbing from $105.1 billion to $382.4 billion—an increase of 264 percent.

And the defense share of both the total Federal budget and the gross national product continues to decline. In fiscal year 1979, for example, proposed defense outlays will constitute only 23.5 percent of the total budget—down roughly 20 percent from the fiscal year 1969 level of 43 percent of the total budget. Between 1969 and 1979. national defense outlays will decline from 8.8 percent of the gross national product to 5.2 percent. During this same period outlays for the nondefense portion of the budget rose from 11.6 to 16.8 percent of the gross national product.

Moreover, defense spending has been rising far less rapidly than any other major item in the budget.

For example, during the past 10 years:

Federal expenditures for education, manpower and social services jumped 304 percent, from $7.5 billion to $30.4 billion.

Income security programs increased 329 percent, from $37.3 billion to $160 billion.

Health services, including medicare and medicaid, increased by 322 percent, from $11.8 billion to $49.7 billion.

Interest on the national debt increased by 210 percent, from $15.8 billion to $49 billion.

The following table shows the details of all these figures.

Mr. President, for the benefit of the Members I ask unanimous consent that the description of these items and a table containing the budget outlays by function be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SIGNIFICANT ITEMS AND MAJOR CHANGES TO HOUSE BILL

The Committee recommends the following major actions, particularly with respect to the House Bill:

MILITARY PERSONNEL

Junior Enlisted Travel Allowances—Recommends against providing $103.1 million requested in the budget to extend overseas travel allowances to dependents of junior enlisted personnel.

Reenlistment Bonus Payments—Recommends in favor of the budget proposal to begin paying the Selective Reenlistment Bonus on a lump-sum basis during fiscal year 1979.

Separation of Officers Due to Failure of Promotion—Recommends against the House proposal to put a 1-year moratorium on the involuntary separation of officers due to failure of promotion.

Military Personnel in Non-Appropriated Fund Activities—Recommends a reduction of 1,900 military personnel currently assigned to military resale activities. These military personnel will be reassigned to combat positions.

Naval Selected Reserve—Recommends funding an average strength of 76,400 for the Naval Selected Reserve instead of 51,400 as proposed in the budget.

Enlistment and Reenlistment Incentives for the Selected Reserve—Recommends an addition of $24.5 million to the budget request for enlistment and reenlistment incentives for the Reserve Components.

OPERATION AND MAINTENANCE

Currency Revaluation—Recommends establishment of a $500 million fund to accommodate losses or gains that occur in Defense operations as a result of fluctuations in currency exchange rates.

Inflation in Operation and Maintenance Accounts—Recommends reducing budget request of $1.5 billion by $620 million.

Material Readiness—Recommends increases totaling $145 million for depot maintenance and overhaul of equipment to improve material readiness.

Commissary Subsidy—Recommends a three-year phase-out of appropriated fund support for military commissaries.

Elimination of Subsidy for Transportation for Exchange Goods Overseas—Eliminates $79.0 million requested for transportation of military exchange goods overseas on a space required basis.

Consolidation of Undergraduate Helicopter

Pilot Training—Recommends against the consolidation proposed in the President's budget.

Reimbursement to Physicians Under CHAMPUS—Recommends raising the allowable payments to physicians from the 75th to the 80th percentile on the schedule of charges for similar services in the same locality.

PROCUREMENT

Army:

AH–1S attack helicopter—Recommends $136.9 million for the procurement of 78 helicopters.

CH–47C cargo helicopter—Reccommends $33.0 million to buy 8 aircraft.

UH–60A utility helicopter—Recommends $323.0 million to buy 129 aircraft.

Improved HAWK missile—Recommends $72.3 million to procure 608 missiles.

U.S. ROLAND missile—Recommends $165.0 million to procure 75 missiles and 3 fire units.

TOW antitank missile—Recommends $42.3 million to buy 5,270 missiles.

M113A1 armored personnel carrier—Recommends $44.5 million to buy 550 vehicles.

XM1 tank—Recommends $300.5 million to buy 110 tanks.

M60A3 tank—Recommends $343.6 million to procure 410 tanks.

Infantry Fighting Vehicle—Recommends $39.0 million for advance procurement.

Tactical fire direction system—Recommends $42.0 million in procurement funds.

Position/azimuth determining system—Recommends $12.3 million to buy 9 systems.

Universal Engineer Tractor—Recommends $21.2 million to procure 75 tractors.

Procurement of Ammunition, Army—Adds $221.6 million over House allowance.

Navy:

A–6E attack aircraft—Recommends $166.3 million to buy 12 aircraft.

EA–6B aircraft—Recommends $150.1 million to procure 6 aircraft.

A7–E attack aircraft—Recommends $61.0 million to buy 6 aircraft.

F–14A fighter aircraft—Recommends $688.8 million to buy 36 aircraft and $145.6 million for advance procurement.

F–18 fighter aircraft—Recommends $429.5 million to buy 9 aircraft and $55.0 million for advance procurement.

CH–53E cargo helicopter—Recommends $168.1 million to buy 14 aircraft.

P–3C ASW aircraft—Recommends $279.7 million to procure 12 aircraft.

E–2C aircraft—Recommends $181.1 million to procure 6 aircraft.

CTX utility aircraft—Recommends $27.4 million to procure 22 aircraft.

C–9 transport aircraft—Recommends no funds.

TOW antitank missiles—Recommends $8.3 million to buy 1,320 missiles for the Marine Corps.

MK–48 torpedo—Recommends $142.1 million to buy 223 torpedoes.

MK–15 close-in weapons system—Recommends $46.6 million to procure 19 systems.

Long-lead Aegis air defense system components—Recommends no funds to procure long-lead Aegis air defense system components.

Trident nuclear submarine—Submarine is not authorized. Recommends $55.0 million for advance procurement.

SSN—688 class nuclear submarine—Recommends $325.6 million for one ship.

FFG guided missile frigate—Recommends $1,493.1 million for eight ships.

AD destroyer tender—Recommends $318.0 million for one ship.

LPH conversion—Recommends $45.0 million.

LHA advance procurement—Recommends $70.0 million.

T–AGOS ship—Recommends $98.0 million for three ships.

T–ARC cable layer—Recommends $191.0 million for one ship.

Air Force:

A–10 close air support aircraft—Recommends $638.9 million to buy 120 aircraft and $33.6 million for advance procurement.

F–15 fighter aircraft—Recommends $1,225.6 million to procure 78 aircraft and $81.4 million for advance procurement.

F–16 fighter aircraft—Recommends $1,191.3 million to buy 120 aircraft and $43.9 million in advance procurement funds.

Advanced tanker/cargo aircraft (ATCA)—Recommends $143.5 million for 2 aircraft.

E–3A AWACS aircraft—Recommends $190.2 million to buy 3 aircraft and $44.1 million for advance procurement.

C–130H cargo aircraft—Recommends $67.5 million to procure 8 aircraft.

TA–7D trainer aircraft—Recommends $120.5 million to buy 12 aircraft.

E–4A airborne command post—Recommends $10.0 million in advance procurement funds.

TR–1 reconnaissance aircraft—Recommends $10.2 million in advance procurement funds.

Aircraft modifications:

EF–111—Recommends $151.3 million.

Civil Reserve Airlift Fleet (CRAF)—Recommends $7.5 million.

Air launched cruise missile—Recommends $156 9 million to procure 24 missiles.

Ground launched cruise missile—Recommends $20.2 million.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION

Army:

Ballistic Missile Defense System Technology—Deletes the budget request of $114.0 million for Systems Technology part of the Ballistic Missile Defense program.

Tank Gun Cooperative Development—Adds $27.5 million to the requested $8.0 million for adaptation of the German 120mm gun for the XM–1 tank.

Food Technology—Restores $4.1 million for food technology research.

Vehicle Engine Development—Adds $3.0 million to fund continued development of a high technology diesel engine of the 1500 horsepower class.

VIPER—Restores $4.3 million for a total of $6.3 million for the VIPER shoulder fired anti-tank weapon.

ROLAND—Provides the budget request of $22.7 million for the ROLAND anti-air weapon system.

CHAPARRAL—Provides the budget request of $.1 million rather than the authorized amount of $10.1 million.

Navy:

Trident I—Adds $8.2 million to the Trident I missile development request of $191.8 million for accelerated development of a new reentry vehicle.

ELF (SEAFARER)—Provides $20.0 million for continued development of the SEAFARER communications system.

SSBN–X—Adds $3.0 million for a study of an alternative to the present ballistic missile submarine.

AV–8B Engineering Development—Adds $87.4 million for a total of $123.0 million to continue engineering development of the Marine Corps AV–8B V/STOL fighter.

F–18A—Adds $25.0 million for a total of $498.6 million to continue engineering development of the Navy F–18A fighter aircraft.

AEGIS—Adds $11.0 million for a total of $25.4 million for enhanced capability for the AEGIS shipboard anti-air warfare system.

Ship Improvements—Adds $16.2 million for various improvements to Navy ships and additional anti-submarine capabilities for merchant ships.

Surface Effect Ship (SES)—Adds $80.0 million for continued development of a Navy prototype surface effect ship of the 3,000 ton class.

V/STOL Light Carrier Design—Adds $25.0 million to begin design of a new light V/STOL aircraft carrier for the Navy.

Air Force:

Advanced Medium Short Take Off and Landing Aircraft—Adds $14.0 million to continue advanced development of options for a short take off and landing aircraft.

Theater Ballistic Missile—Provides $20.0 million for the Theater Ballistic Missile Program, including the Pershing missile transferred from the Army and initial work on a mobile missile.

KC–135 Aircraft—Provides $9.0 million for reengining.

B–1 Bomber—Provides $55.0 million for testing the B–1 bomber.

Cruise Missile Carrier—Provides the authorized amount of $20.6 million for continued study of the cruise missile carrier.

Defense Agencies:

Assault Breaker—Provides $19.4 million for the Assault Breaker Program, which was formerly under development by the Army.

Charged Particle Beam Technology—Provides $12.0 million for continued development of Charged Particle Beam Technology Program formerly funded in the Navy appropriation.

COMPLIANCE WITH SECTION 308 OF THE BUDGET CONTROL ACT

Section 308(a) of the Budget Control Act (Public Law 93–344) requires that this Committee include in its report specific budgetary information on the status of recommended appropriations relative to the first concurrent resolution. The following table provides these data:

BUDGETARY IMPACT OF H.R. 13635[1]

[In millions of dollars]

	Budget authority		Outlays	
	Committee allocation	Amount in bill	Committee allocation	Amount in bill
I. Comparison of amounts in the bill with the committee allocation to its subcommittees of amounts in the 1st concurrent resolution for 1979: Subcommittee on Defense	122, 300	[4] 116, 317	110, 000	[2] [4] 104, 643
II. Summary by functional category of 1978 budget amounts recommended in the bill: 050—National defense		116, 317		[2] 104, 643
III. Financial assistance to State and local governments for 1979 in the bill				
IV. Projections of outlays associated with budget authority recommended in the bill:				
1979				[3] 77, 257
1980				19, 912
1981				7, 908
1982				3, 830
1983				7, 412
Future year				

[1] Prepared by the Congressional Budget Office pursuant to sec. 308a, Public Law 93–344.

[2] Includes outlays from prior year budget authority.

[3] Excluded outlays from prior year budget authority.

[4] Excludes $85,000,000 in budget authority and $17,000,000 in outlays for reappropriated funds.

While the above indicates that appropriations recommended by the Committee result in levels $6.0 billion below the resolution in budget authority and $5.4 billion in outlays, it should be pointed out that an additional $2.4 billion has yet to be considered. This amount, to be transmitted next year as a supplemental budget request, includes current estimates for the impact of the October 1, 1978, pay raises for military and civilian personnel. On the basis of past history, however, reductions will be made to the current estimate for the supplemental request, both by the Department and by the Congress. The Committee is certain that amounts ultimately appropriated for the Department of Defense in fiscal year 1978 will be well within the levels for budget authority and outlays contained in the first concurrent resolution for fiscal year 1979.

BUDGET OUTLAYS BY FUNCTION—10-YEAR COMPARISON (FISCAL YEARS 1969–79)

[In millions of dollars]

	Fiscal year 1969			Fiscal year 1979 (President's Budget)			
	Amount	Percent of total budget	Percent of GNP [1]	Amount	Percent of total budget	Percent of GNP [1]	Amount and percentage increase from fiscal years 1969 to 1979
National defense (050)	79,418	43.0	8.8	117,779	23.5	5.2	Up 38,361 or 49 percent.
(Department of Defense—051)	(77,872)	(42.2)	(8.6)	(115,200)	(23.0)	(5.1)	(Up 37,328 or 48 percent).
Education, training, employment, and social services (500)	7,538	4.1	.8	30,421	6.1	1.3	Up 22,883 or 304 percent.
Health (550)	11,758	6.4	1.3	49,677	9.9	2.2	Up 37,919 or 322 percent.
Income security (600)	37,281	20.2	4.1	160,024	32.0	7.0	Up 122,743 or 329 percent.
(General retirement and disability insurance—601, 602)	(30,020)	(16.3	(3.3)	(120,391)	(24.1)	(5.3)	(Up 90,371 or 301 percent.)
(Public assistance—604)	(4,679)	(2.5)	(.5)	(27,807)	(5.6)	(1.2)	(Up 23,128 or 494 percent.)
Interest (900)	15,793	8.6	1.8	48,991	9.8	2.2	Up 33,198 or 210 percent.
General government and all other functions	32,760	17.7	3.6	93,282	18.7	4.1	Up 60,522 or 185 percent.
Total	184,548	100.0	20.4	500,174	100.0	22.0	Up 315,626 or 171 percent.[2]
10-yr comparison of defense outlays to total outlays:							
National defense (050)	79,418	43.0	8.8	117,779	23.5	5.2	Up 38,361 or 48 percent.
(Department of Defense—501)	(77,872)	(42.2)	(8.6)	(115,200)	(23.0)	(5.1)	(Up 37,328 or 48 percent.)
Federal Government other than defense	105,130	57.0	11.6	382,395	76.5	16.8	Up 277,265 or 264 percent.
Total	184,548	100.0	20.4	500,174	100.0	22.0	Up 315,626 or 171 percent.[2]

[1] Using GNP estimates of $903.7 billion for fiscal year 1969 and $2,274.6 billion for fiscal year 1979.
[2] Of the total increase of $315.6 billion, 12.2 percent is attributable to National defense while 87.8 percent is attributable to nonmilitary functions.

Note: Columns may not add due to rounding.
Prepared by the Congressional Budget Office at the request of the Senate Appropriations Committee.

Mr. STENNIS. Mr. President, if I may just add this word, there is no time limitation on this bill now. As things roll along here, I believe we will move fast. We might ask for a time limitation later. But we might finish, too, a little later.

I hope the Senator from North Dakota will seek recognition.

Mr. YOUNG addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

Mr. YOUNG. Mr. President, I wish to associate myself with the views expressed by the distinguished chairman of the Defense Appropirations Subcommittee, Mr. STENNIS, on this appropriations bill. I wish to take a few minutes to briefly highlight some of the major items in this bill and to make a few overall comments.

As the Chairman indicated this Defense bill is $116,316,635,000 as reported by the committee, which is $2,983,-648,000 below the President's budget request and $2,702,643,000 below the House bill. This bill would also be approximately $2.5 billion below the second concurrent resolution.

The Defense Appropriations Subcommittee considered more than 3,000 line items in determining its recommendation for this bill. I will highlight some of these items later.

First, I will make a few comments on our overall defense posture.

This Defense Appropriations bill has to be considered austere in view of the over $2 billion reductions that I mentioned earlier. It is apparent from intelligence information, as well as from the press, that the Russians are continuing to increase their spending for military purposes. The effect of this increased spending has been a vastly increased overall military power of the USSR and the Warsaw Pact nations.

I believe that we still remain superior to the Russians today. However, we could become a second rate power in the not too distant future. When we analyze the growth of the military power of the Russians and the eastern block nations, we can only conclude that their objective is to gain military superiority over the United States and soon. In some categories they are far superior to us now.

We have spent huge sums of money on research and development. Our purpose in spending funds in this most vital area is to insure that our forces have the most modern and most effective weapons possible.

Sometimes it may appear that we lose sight of this objective when we spend approximately $3.5 billion on developing the B–1 bomber, only to cancel the program before building the first production bomber. This same thing has happened with many other important weapons systems. After spending over $6 billion on the overall ABM system, we hurriedly dismantled it. The Russians, on the other hand, have not only kept their ABM system around Moscow but have continued to improve it.

While the Russians continue to build up their huge advantage in modern, powerful tanks, we are just beginning to start production of our new modern tank.

For years our military planners worked with the West Germans to develop a common new and more powerful tank. After much disagreement, the West Germans decided to develop their own tank. The West Germans today are producing their Leopard tank, while we are still spending huge amounts of money to further develop our new tank, which we are only beginning to produce this year.

The development of the neutron bomb has been very controversial in this country. However, our NATO allies feel very strongly that the neutron bomb is necessary to stop a Russian and Warsaw Pact countries attack spearheaded by their 3-to-1 advantage in powerful modern tanks over United States and NATO forces. In the past 2 years our military and civilian officials have testified in support of developing a neutron bomb. However, the President has not favored this development and is doing little to proceed with its development. By abandoning this weapon and such other weapons as the B–1 bomber, the nuclear carrier, and the ABM defense system, we have very little bargaining power left with the Russians in the SALT talks. It is very unlikely that our negotiators will be able to attain a reasonable SALT agreement under the handicaps the administration has imposed on them.

President Carter opposed the construction of a nuclear carrier this year and proposes to request a conventional carrier next year. The conventional carrier which he proposes is a poor substitute for the nuclear carrier we abandoned and would cost almost as much to construct. A conventional carrier would, of course, burn oil, which is scarce, and would require supporting tankers as opposed to a nuclear carrier which would not need to be refueled for approximately 13 years.

It is almost tragic to permit our naval power to be drastically reduced while the U.S.S.R. continues to build a powerful naval force. A few years ago the U.S. Navy had 800 ships in the active fleet; today, this appropriations will support only 457 ships. If this country is to continue as a world power and maintain the freedom of the seas, an increased shipbuilding program mut be initiated immediately.

Mr. President, I would like to now turn my comments to a few highlights of the bill. This bill goes a long way to providing the funds necessary to maintain our personnel strengths in all of the services and the Department of Defense. It also provides funds to maintain the readiness of our forces and their equipment. There are funds included to procure helicopters,

missiles, tanks, and ammunition for the Army.

The Navy will have funds to buy six different types of combat aircraft and to build a few ships.

The Air Force will be permitted to procure eight different types of aircraft, as well as the air launched Cruise missile.

The committee has recommended almost $12 billion for research and development by the services and the Defense Department.

I believe this bill represents the best balance of funding possible considering the limitations in the administration's budget request.

Mr. President, I hope that the Senate will approve this bill substantially as reported by the committee.

I yield the floor.

Mr. STENNIS. Mr. President, I thank the Senator from North Dakota, and I wish to thank him, also, for the long hours, days, and months of work and rework that he has done on this bill. He has been faithful to the last letter and figure, as ranking minority member of cur subcommittee, which is just some of the things he does on the Committee on Appropriations.

I value his counsel and support greatly, and the Senate owes him a debt.

Mr. President, we have all this information here for the membership. We have the report. These statements have outlined the matters that have been put in, and I would be glad, and we would be glad, to answer questions.

I know of only one amendment. No one has definitely mentioned any amendment to me except one, and that is a relatively small matter. But we are ready to answer questions about anything we might be asked in or out of the bill.

As I say, this is no matter to be sneezed at. I am told this is the largest appropriation bill that has ever been presented to the Senate in wartime or peacetime. Of course, it carries figures here that have been blown up, inflated, especially in the last 5, 6, or 7 years.

We are in an expensive venture here. The security perimeter of our country is not just at the borderline of our States. But especially since the end of World War II and thereafter the perimeter has spread around most of the major parts of the world.

As I say, Mr. President, I do not know of anyone else who wants to speak. The Senator from Alaska was making inquiry a minute ago. Does the Senator want to speak? Is he prepared? The Senator is prepared, I suppose, to offer an amendment on his matter.

Mr. GRAVEL. I thank the distintinguished Senator from Mississippi. This is such a small item costwise that it will not begin to measure up to the historical moment with respect to this bill.

UP AMENDMENT NO. 1986

(Purpose: To provide appropriations for the Interoceanic Canal Study Council)

Mr. GRAVEL. I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The Clerk will report the amendment of the Senator from Alaska.

The assistant legislative clerk read as follows:

The Senator from Alaska (Mr. GRAVEL) proposes an unprinted amendment numbered 1986:

At the appropriate place in the bill insert the following new title:

TITLE —

INTEROCEANIC CANAL STUDY COUNCIL

For the necessary expenses, in accordance with law, of the Interoceanic Canal Study Council; $700,000.

Mr. GRAVEL. Mr. President, that is the whole amendment. What it would do would be to fund the council, which authorization passed the Senate unanimously and had support on all sides and actually had the contribution of all parties, including the distinguished Senator from Tennessee (Mr. BAKER) and others who, I think, made an improvement on the specific language.

From a military point of view, a sea-level canal offers quite significant strategic and logistical advantages over the present canal. It would be almost totally invulnerable to long-term interruption by military attack, whereas the present locks canal can be incapacitated for as long as 2 years with relative ease. This means that the canal's important role in providing logistical support to military operations in the Pacific area would be wholly dependable. To get some sense of what this would be worth in dollar values, we may observe that since its inception in 1904 the U.S. Government has expended $5.31 billion—or approximately six times the net civilian investment in the canal—to defend the canal. These defense expenditures, as important as they are for the present locks canal, could be greatly reduced for a sea-level canal because of its invulnerability.

In addition, a sea-level canal could be transited by our aircraft carriers, which are too large for the present facility. At present, a carrier task group moving from one ocean to the other must send part of its force around South America while the remainder transits the canal, only to lie idle for 10 days while the rest of the force catches up.

As an example of the strategic shortcomings and military inefficiency of the present canal, let us assume there is an emergency in the Mediterranean which calls for reinforcement from a carrier task group stationed on the West Coast.

Under present conditions, the task group's cruiser and 15 of its destroyers would sail through the canal, reaching Gibraltar in 15 days. Meanwhile, the carrier and an additional 10 destroyer escort would steam the additional 5,000 miles around Cape Horn, not reaching Gibraltar for 25 days.

If a sea-level canal were available, the entire carrier task group could reach Gibraltar in 15 days, at a savings of 47,000 barrels of fuel and $870,000. The strategic flexibility this would provide our Navy would be equivalent to adding an entire carrier task group to our arsenal. In effect, this would provide us an additional $20 billion in defense capability at no extra cost to the taxpayer.

The national defense import of this, I think, is very significant because we have spent over $5 billion defending the present situation. If this study shows that we should have, and economically we can have, a sea-level canal, I think the assumption is that we would avoid that kind of expenditure.

Second, aircraft carriers cannot presently transit the canal. The cost of sending them around the Cape is quite significant. In fact, using a scenario given to me by the Department of Defense, I might say, and it is not breaching a confidence to say, that the Chairman of the Joint Chiefs of Staff told me personally this would be a tremendous advancement to our defense posture in the world, that we would be saving 15 days in steaming time, and about 47,000 barrels of fuel, which would amount to $870,000.

We are asking for an initial funding here of $700,000. We would obviously have to come into a supplemental next year for the balance of the study moneys.

I say to the managers of the bill that in accepting this if there is a problem in this, I would expect them to not wait 2 minutes in discussing it in conference, and to drop it. This is not a controversial item. I represent it as not being a controversial item. If it turns out to be a controversial item there would be no reason to carry it any further in the deliberations of the conference.

So I hope the managers of the bill will accept this amendment. It will save a year's time in the deliberations, and that year's time is expensive to the defense posture. It is expensive just in the transportation of oil because putting the oil through the present canal is costing about $2 more than it should, and that amounts to about $365 million of this year of excess wastage in the economic marketplace.

I think the savings in defense are even more considerable than they are in the energy picture.

Mr. STENNIS. Mr. President, as I said, if I may have the attention of the Membership, this is not a large sum of money, but it certainly has relation to every facet of our economy, including our military security.

The idea of an oceanic canal study has been approved here this year in legislation that passed the Senate and the House. As I understand, the conference report has been agreed on and is actually being circulated now for signature and filing here as soon as tonight; is that correct?

Mr. GRAVEL. That is the whole premise.

Mr. STENNIS. So on the matter being authorized this is such a fresh authorization that it makes it even more valid.

I am willing to recognize it as being authorized and ready to be passed on.

I have conferred briefly here with the Senator from North Dakota, and we are not in disagreement on this matter.

I yield to the Senator from North Dakota, Mr. President, for him to say a word about this item.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. YOUNG. I think this amendment has considerable merit. I have studied it, and I think we should accept it and take it to conference.

Mr. STENNIS. I thank the Senator.

Mr. CRANSTON. Mr. President, I would just like to say one word with respect to the Senator's persisting very wisely on a very important issue. I think a sea-level canal will be found to be a very important step for us to take for economic reasons and for national defense reasons. I will not go into further detail because I know the Senate is moving along and seeking to deal with this bill swiftly.

But I do want to thank the Senator for doing something that helps his State and my State and, I think, will help every State in the Union.

Mr. GRAVEL. I thank my colleague.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Alaska.

The amendment was agreed to.

Mr. GRAVEL. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. STENNIS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. PROXMIRE. Mr. President, will the manager of the bill yield briefly?

Mr. STENNIS. Yes; I am glad to yield to the Senator from Wisconsin.

Mr. PROXMIRE. May I ask the Senator from Mississippi is there language in here for a project known as Seafarer which, as I understand it, is a communication program to communicate with our ships at sea, which would be located possibly in Wisconsin or Michigan or other parts of the country in the Middle West? At least that is one of the areas being considered.

I am anxious to ascertain whether, if this is the case—as the Senator knows, this is very, very controversial out in my section of the country—there are funds in here for deployment or strictly for research and development.

Mr. STENNIS. Well, Mr. President, the Senator is certainly entitled to a full answer on this matter. He has been very diligent in his application to the problem.

I refer now to page 181, Mr. President, of our report filed on this bill, to the paragraph designated ELF (Seafarer), and I read these two sentences:

The House deleted all funding for the Extremely Low Frequency (ELF) communications program.

That is the program to which the Senator from Wisconsin has referred.

The committee recommends the authorized level of $20,000,000 and concurs in the authorization language restricting the obligation of these funds.

For that authorization language, Mr. President, to which the report refers, I read now from page 33 of H.R. 10929, the authorization bill, beginning with line 15 on page 33, which reads as follows:

SEC. 202. None of the funds authorized to be appropriated by this Act may be obligated or expended in connection with the continued advanced development of the extremely low frequency (ELF) communications system unless the President certifies to the Congress in writing that the use of funds for such purpose is in the national interest, that a site has been selected for the deployment of such system, and that the President has approved such site for the deployment of such system.

Mr. President, this language is intended to and does preclude the expenditure of any of this money for deployment until all of these matters have been done by the President. In other words, the answer to the Senator's question is that the money is not for deployment, under the express terms of the limitation, until the President has certified to Congress in writing as I have indicated, and that is the way that the Armed Services Committees of the House and Senate, in their conference, settled this matter.

Mr. PROXMIRE. I wanted to be sure; I understand that there is $20 million here, and the Senator has very clearly explained that this would not be expended for deployment until the President in writing certifies that it is in the national interest.

Is it the judgment of the distinguished Senator from Mississippi that that means, supposing the President certified in writing to Congress that it was in the national interest to begin deployment in Michigan, which is the area, I understand, most likely at the present time; would that mean some of these funds could be used for deployment, or would they be restricted to research and development?

Mr. STENNIS. Well, the words here are very clear that

none of the funds authorized to be appropriated by this Act may be obligated or expended in connection with the continued advanced development of the extremely low frequency (ELF) communications system unless the President certifies to the Congress in writing that the use of funds for such purpose is in the national interest, that a site has been selected for the deployment of such system, and that the President has approved such site for the deployment of such system.

All of those things must precede any kind of money being spent for deployment. If there is any money left over, it could certainly be argued with logic that all of this having been complied with, he could use the remainder for that purpose.

The President knows the terms of this law. I know that he knows them. I have heard him discuss them, and he is thinking in terms of this money solely within the terms of the research and development activity, and does not have any intention now of spending it except for that purpose.

Mr. PROXMIRE. I appreciate that explanation.

Mr. STENNIS. If there is some of the money left over, it seems like he could proceed.

Mr. PROXMIRE. I honestly hope that the President does not proceed with deployment, because once the beginning is made, it is very hard to turn back.

Mr. STENNIS. Yes.

Mr. PROXMIRE. And as I say, there is the strongest, deepest opposition I have ever seen to a defense activity. Of course, the people in our State as well as the State of Michigan are extremely patriotic; they recognize the importance of our defense. But they are overwhelmingly concerned about this, and are very anxious that before Congress decides to move ahead in their particular area, there be an opportunity for their representatives to be heard on the floors of the House and Senate; and I hope we can be assured of that.

Mr. STENNIS. I think the Senator has ably represented his people in this matter, and I think the Congress is in sympathy with his position. This is the way it was settled, this language I have just read. The President considers it a highly important matter, if I understand him correctly, and I know that is what he said, and wants to proceed, but as of now he only has in mind this R. & D. work.

I thank the Senator from Wisconsin very much. I certainly know of his interest and his fine work. Of course, in this bill technically the money is appropriated to the Navy, but at the same time Mr. Carter is President of the United States. He did it; and it will not move without his consent.

Mr. President, I understand that the Senator from Alaska (Mr. STEVENS) has a matter. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1987

(Subsequently numbered amendment No. 3814)

(Purpose: Fund junior enlisted travel benefits)

Mr. HOLLINGS. Mr. President, I call up an amendment and ask that it be reported.

The PRESIDING OFFICER. The clerk will state the amendment of the Senator from South Carolina.

The legislative clerk read as follows:

The Senator from South Carolina (Mr. HOLLINGS) proposes an unprinted amendment numbered 1987: On page 2, line 11, strike out the numeral——

Mr. HOLLINGS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2, line 11, strike out "$9,110,896,000" and insert in lieu thereof "$9,157,325,000"

On page 2, line 20, strike out "$6,949,532,000" and insert in lieu thereof "$6,958,500,000"

On page 3, line 3, strike out "$2,000,375,000" and insert in lieu thereof "$2,007,275,000"

On page 3, line 12, strike out "$7,489,391,000" and insert in lieu thereof "$7,522,081,000"

Mr. HOLLINGS. Mr. President, this amendment pertains to the junior enlisted travel allowance, particularly for our troops in Europe.

I am somewhat distressed that I do not have a "Dear Colleague" letter on this subject. We have been in budget hearings all day and in conference on the Corporation for Public Broadcasting, and everybody understands the exigencies of the closing days in trying to move on these matters. I had no idea, and was unprepared because we only completed on yesterday the defense appropriation markup.

But this amendment goes to the very heart of our readiness that the President was speaking about. It goes to basic equity—I am confident that if I had a "Dear Colleague" letter this amendment would pass overwhelmingly, because it goes to the basic equity of the treatment of our men in uniform, and I say that advisedly.

It goes to the true concerns of the leadership within the Pentagon. From time to time we all have friends working on defense budgets that become disturbed about something that just really is not right, that needs correction; and with respect to this particular provision of some $95 million, I have been contacted by no less than the Deputy Secretary of Defense, the Secretary of the Army, and all the other leaders of the particular services, because they cannot explain this. They are embarrassed by it.

They feel that it is an outrage, and I feel the same way.

I know the Senator from Alaska is going to be along soon. I had no idea that we were going to move so quickly and we had to get these amendments up.

If you have ever traveled to Europe, Mr. President, and have seen our installations there and our personnel, and the Senator from Alaska and myself had the occasion to do that just a few months ago, if you go into Germany, for example, and see the provisions made for our military and their dependents, you will see exactly what I am speaking of.

When they rent an apartment, what do they have? The first thing that impresses me is that there are absolutely no fixtures whatsoever. I mean there are no closets, for example, no stove, no washing machine, no dryer. None of them have the normal facilities which we find for not only our service personnel in this country but everyone concerned. Even in low-income groups there is a washing machine available to help them with the wash. The poor American serviceman's wife comes over and he is immediately in a dickens of a fix because he finally found a vacant place in crowded conditions but, of course, there is no furniture and he has to start building closets and everything else of that kind. He starts then mortgaging, signing notes, and becomes overobligated, way over and above any kind of pay he is receiving there.

In essence, you see them living in some instances in cold and in many instances in squalor—I am not trying to speak dramatically—you see them living in squalor over there. Then they look at you as a Senator and ask, "Can you do something about it?" You make a pledge that if you ever get the opportunity you will fight in the Congress until the cows come home to bring attention to this particular predicament. I did not see any isolated situation, but I did see the typical.

I have been checking it out over the years to try to provide for it. Fortunately, they faced up to it on the House side and the $59 million is in the bill. I can tell the Senate exactly how that was computed.

We talk about normal travel, about reinstating $95 million in the Defense Department Appropriations Act for the purpose of providing normal travel entitlements to junior enlisted military members assigned to overseas locations in accordance with the President's budget request.

Mr. President, at this particular point I want to add the distinguished Senator from New Jersey (Mr. CASE) as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HOLLINGS. If you ask yourself what is normal travel to us in lay life, inexperienced with the general allowances, normal travel includes cost of moving a limited amount of the household goods, the automobile transportation cost, the dislocation allowance, the dependents' travel, plus the overseas station allowances, the cost-of-living allowance and the housing allowance.

We had some discussion in the Appropriations Committee because at one time when we were marking this up this was considered and rejected, but the truth of the matter is there were five Senators there and there was tremendous confusion as to whether or not, with the information at hand, the $95 million included, if you please, a regular cost of living and housing allowance.

At the time we were talking about it in the Appropriations Committee they said, "Heavens, you are going to bring over thousands and thousands of additional personnel and then it is going into millions and millions more." Staff did not have the information at the particular time. Since that time we realize that $95 million does include the cost-of-living allowance and the housing allowance.

The amount ordinarily would have been $87,971,000, but the House reduced the net allowance for household goods. They said the net allowance should not exceed 1,500 pounds for the junior enlisted serviceman overseas. So that reduced the $87,971,000 to an amount there of $79,800,000. We add to that the $15,116,000 for the overseas station allowance and both the cost-of-living and housing allowance for the $95 million encompassed in this particular amendment.

The amount, then, is pretty well fixed in the House bill.

Let us go to the personnel themselves because there is the great, great injustice with that group. You could see the anomalous situation, Mr. President, where we sit in the Budget Committee and we think of every scheme and every financial gimmick to make the Volunteer Army work. The truth of the matter is I did not support the Volunteer Army. I have some questions about it's working. But as a loyal Senator to the military, to our defense, and to our country, I think I ought to make every financial endeavor possible to make sure it was not money that was involved.

With respect to enlistments, they have been down. With respect to enlistments with respect to allowances, and everything else we put in over $5 million in all kinds of enlistment-type programs, a half million bucks just billed into the Volunteer Army, advertising and everything else in the world, only to cancel it out with this negative, embarrassing, if you please, policy.

What occurs? The junior enlisted folks get over there and have no allowance. They stretch themselves financially, and if they do not go AWOL, which many have done, due to financial circumstances and have just come back home, they certainly do not do one thing—they do not reenlist.

So we dutifully go back up to the Defense Appropriations Subcommittee and we dutifully go back to the Budget Committee and say: "If we could only have a few more million dollars here and there we could entice them to change the program around so that we would get them reenlisted." We have such a great investment. We take these great men who are highly trained. We have a half million bucks in them, and those are not just the pilots. We really have an investment in them when we get to the Air Force. But this would average out to $200,000 or $300,000 at least per man. You get him in for 3 years and then the next thing is you look around and cancel him out by displaying the most inequitable, inconsiderate kind of situation you can possibly think of. That is to not make the allowance but allow it at the same time.

I will never forget discussing this with some base commanders. I was being a little hardheaded at first and used to what I thought was the military.

I said, "General, if they are not allowed, do not allow it. How do you get them all over here and get them in these financial predicaments and everything else, and the next thing is they resort to drugs and we put more money into the drug program. They go AWOL and we put more money into military discipline. They do not reenlist and we put more into reenlistments. I see where the source of this problem is. Cut it off at the source. Just do not allow it."

Well, you try to stop the young married soldier going overseas from having his wife, and there is no law, as they say down home, to keep that wife from following along.

They will do just that. They will mortgage, they will borrow from mama, from daddy, and do everything possible to follow along. This is a young fellow who

has just come in, he is just getting married, the wife is expecting, she wants the husband present when the baby comes along. They want to live and love and grow together and serve together. The policy of the Army is for that, morale-wise. They say morale goes up if the fellow is not running after the frauleins. I used to have to lock them up for chasing frauleins when I was there. They could not get in there and associate with them. So we had all kinds of criminal penalties for—I even forget the word now. I am getting past the word, but they could not associate with the frauleins. We do not want them chasing the mademoiselles, the frauleins, or anybody else. We want them with the families.

So there is a general policy of allowing the dependents to follow along and stay with the soldier—except for what? The very soldier that we are bidding for, that we have given all the promises to, that we have seduced and induced and gotten overseas.

Here we have 20,000 eligible dependents for the E–4's,E–3's, E–2's, and E–1's. That is the junior enlisted group.

Mr. President, that allowance, when you get to an E–4 and the distinguished Senator and present occupant of the chair, the Senator from Georgia (Mr. NUNN)—having been a leader in trying to develop an alert and trained and responsive, dynamic volunteer Army, and having worked on personnel problems—will understand my comment.

You bring in an E–4 and you put him in Europe. If he is over there for over 2 years, then he already has that entitlement. But if you bring an E–4 over there who is generally a younger fellow and he has had 18 months in and has reached this particular status, he is working side by side with the other one. Invariably, his family is there, his buddy's family is there. His buddy is receiving an allowance and he is having to borrow and skimp and finance up to the hilt.

You cannot tell me anything that will destroy a serviceman's morale, destroy his readiness any quicker than that kind of treatment. This is definitely an inequity.

Let us go to those that would be involved. For example, Mr. President, presently—I think I should emphasize this—there are 377,400 dependents overseas. Of the 377,400 dependents overseas, and I might as well describe overseas—the distinguished Senator from Hawaii was here just a minute ago. This includes Alaska, Japan, and Europe. I asked our friends in the military how many we had in Europe. In Europe, we have 122,500 in the Army, 10,000 dependents in the Navy, 88,800 Air Force dependents, and 1,000 Marine dependents, for a total of 222,300. That is the number, Mr. President, in Europe now.

I see I am probably going to have a live quorum to get this to the Senators' attention, because we have to have somebody listening. We cannot skirt over this lightly.

Of those eligible, there are 29,200 potential junior enlisted dependents. Twenty-four thousand of those would be in Europe. Of the 24,000 potential junior enlisted dependents for Europe, 20,000 are already there. So this bill would only take care of the 4,000 additional.

We are going to hear an argument here in just a little while that this is a terrible thing; we do not know, really, what we are going to do if they start spilling over in NATO, and the Warsaw forces come forward, and there is an attack: Senator, how are you going to get rid of all these dependents? That argument presumes that the amendment we are presenting is causing the problem. If that is a problem, then let us go ahead and correct that in an even-handed and dutiful fashion, but let us not blame this particular amendment for putting dependents overseas, families, where the soldier is faced with the problem; am I going to save my family or am I going to do my duty as a soldier?

That is the question they want to pose to us.

If you get all the dependents over there with the military, you cannot have it both ways. One way is, you cannot have the morale and the official policy under the national Congress and under the distinguished chairman's leadership in Armed Services and on the Appropriations Committee, the official policy is to have those dependents in Europe. That is what we think is necessary and is wise and is fair.

So, Mr. President, the official policy is to bring these dependents and have them there.

As I say, right now we have 222,300. If our concern is what we are going to do, then let us promulgate a plan and program for evacuation and consider that separately.

I do not treat that lightly. I have some question and misgivings there because it is not easy.

But then we get right down to the "common sensical" fact of life. If we are going to act like families, then how will we move all the German families of the German soldiers? Obviously not. It comes down to this: They are not going to remove families out of Europe. To have a ready army, they have to be there.

There is going to be a problem for the French troops, the Norwegian troops, the Danish troops, the German troops.

Now, please, if we get the Turks and the Greeks back in NATO, the Greek and Turkish troops, anybody and everybody, they are there. They are under the gun and their families are there.

So, realizing the physical situation on the ground, the assignment of dependents, really, it is a civilian-populated area in Europe, does not create a problem because the problem was already there by the millions before we got there with the 222,300. Everybody understands that.

So, now, we do not have a serious problem. This is what we were told, that all of a sudden we were going off on a new departure and we were going to, all of a sudden, give a problem to the military. All of a sudden, we were going to hinder our readiness, because there was a matter of deep concern with all of these dependents in Europe. How were we going to contend with them if they started to spill over the front line there and coming forward into Germany and elsewhere. And that if that problem exists, then adding to the already civilian population, to the already 22,000-some military dependents who are there, adding only 4,000 is not going to create a new problem.

On the contrary, it is going to make evenhanded, equitable, fair, and justifiable, the policy in our Government as promulgated by the Congress that we allow the military dependents to follow on.

Now, let us get to the actual facts.

Under the provisions of 37 United States Code 404, 406, members of the military are provided specific entitlements for travel of their dependents and transportation of normal personal possessions in connection with permanent change of station (PCS) moves. The entitlements have not, however, accrued to junior enlisted personnel—in the grade of E–3 and below and E–4 with under 2 years of service—who have been excluded originally by law and currently by policy. The Department of Defense is proposing the extension of normal enlisted entitlements to these junior personnel when an overseas PCS move is ordered. The necessary funding of $103 million has been included in the fiscal year 1979 budget request.

Fundamental to the proposal to extend these entitlements in connection with overseas movements is the increasing need to address the debilitating effect that their denial is having on our young forces stationed abroad. Faced with either separation from their dependents for up to 2 years or the substantial financial burden of moving their households overseas at their own expense, these young enlisted people are subjected to demoralizing hardship which affects their performance and their retention outlook. For the vast majority who have elected the financial sacrifice of keeping their families together overseas at their own expense, the initial outlay for transportation and the eroding value of the dollar abroad conspire to place him in a financial posture which degrades his effectiveness and embarrasses both him and his country.

Let me emphasize here the devaluation of the dollar. It is crucial where a fellow tried and has some financing.

We all look in despair in every financial report we get from the Budget Committee on how, next to the mark, and next to the Swiss franc, and others, the dollar has devalued since January 1 of this year.

Rather than some economist telling us, I would have a few E–4's and E–3's and E–2's and E–1's, and privates, come before a Budget Committee or an Armed Services Committee, or any other kind of body such as this U.S. Senate, and let them tell us in real terms what that devaluation means, because he has got it. He brought his family over last year. He is in a Catch-22 situation. He is trying to qualify and stay over there throughout a 2-year period in order to get in as a E–4, probably get up, and then if he does not do that as an E–4, and he remains an E–1, E–2, or E–3—and we need them, they are the guts of our military over

there, they are the ones that are fighting and in the front line—if he is over there, and that devaluation has come, he has to send the wife back home and say how he has to sacrifice for the country, with all the millions and billions of dollars going for everything imaginable, for all the programs in the United States, but we cannot take care of his family, which is the official policy, only they just do not allow it for him.

There are approximately 168,500 junior military personnel stationed overseas. Of this number, it is estimated that only about 26,000 have dependents and desire those dependents to accompany them to an authorized oversea station. Service estimates indicate that between 75 and 80 percent of the dependents of these young members are already in place overseas at their own expense. The extension of the travel entitlement would therefore address the financial situation of some 20,000 junior enlisted families without affecting the size of the overseas dependent population. For the remaining families, the added dependents overseas that the entitlement is projected to permit are only 2 to 3 percent of the number there now and would have little or no impact on overseas support or evacuation requirements—especially in view of their dispersal worldwide. This is attested to by field commanders and Department of State officials.

It is important to remain aware that the exercise of the entitlement for all personnel is subject to the control of "command sponsorship" wherein the cognizant oversea commander approves the travel of dependents. Such approval is contingent upon the availability of adequate housing (on or off post/base) and support facilities. Command sponsorship would apply to junior enlisted personnel if the Department's budget request were approved making adequate local housing and support a condition of exercising the entitlement. The approval of funding for junior enlisted travel entitlements will not increase the number of dependents overseas where adequate housing does not exist and will not be the basis for any special requests for additional housing construction.

I know our distinguished chairman is as concerned about this as I am. I am reading word for word the Department of Defense directive on this score. This was requested by our Commander in Chief, the President of the United States.

I am going to restate this, because there was so much undecided that we could not determine it when we were considering it before our Appropriations Committee. The Department of Defense says:

> The approval of funding for junior enlisted travel entitlements will not increase the number of dependents overseas where adequate housing does not exist and will not be the basis for any special request for additional housing construction.

I think that should be emphasized, because we do not want to get into some open-ended situation with respect to construction costs, different allowance costs, where we thought this problem was solved and we got into a spending program of hundreds of millions of dollars:

> The funding request directly addresses an increasingly serious hardship for a significant portion of our military forces.

This is the front line—"significant portion." That is tactful language. That is for the front line.

If you have not been there, I can tell you who this bill is for—for those in the front line. The generals, the admirals, and the field grade are not going to be wandering around on any patrol at night on the front line in any DMZ. They do not have to say "significant." It is the very heart and guts of a fighting force:

> The funding request directly addresses an increasingly serious hardship for a significant portion of our military force. Unlike earlier requests, the FY 1979 proposal is restricted to a group which, as a class, is faced with choosing between two highly undesirable alternatives: separation or financial drain. This dilemma is incompatible with our retention efforts and with the maintenance of a motivated and effective fighting force overseas.

Who says that? No one other than Gen. Bernie Rogers, the Chief of Staff of the Army; Secretary Clifford Alexander, the Secretary of the Army; Gen. Lewis Allen of the Air Force; the Secretary of the Air Force; Adm. Thomas Haywood, Chief of Naval Operations; Secretary of the Navy Graham Claytor; and our Commander in Chief, the President of the United States.

They called; the Deputy Secretary of Defense, Dr. White, who has this responsibility. All Senators have problems going to conference committees and markups. This has been going on for a week, and he got in touch with me early today, desperately, and said he would help me prepare a "Dear Colleague" letter or anything else.

If there is a single need in the military, this is it. Budgetwise? Mr. President, this was in the President's budget request, so we do not start off with whether we had to fit it in, in the House or in the Senate. It was approved in the first concurrent resolution; it was approved in the second concurrent resolution.

Since that time, we just knocked out of this particular bill $1.9 billion, and Congress has sustained the knocking out of $1.9 billion. On what basis? The basis given, and the best we can say—everyone has individual reasons—is for readiness. We worked hard all year long to have our forces ready. We did not think we had neglected readiness when we provided in our budget resolutions or anything else.

However, be that as it may, the President, in knocking out the $1.9 billion, said, "Wait a minute. We need a carrier, but we need readiness even more. So, in order of priority, I am asking to please forestall and let us agree on a carrier." I think he is for a conventional rather than a nuclear carrier.

The need is there. But let us do this for readiness purposes now. We made pledges to NATO when we went last year. The President met with economic ministers, and this year it was reaffirmed.

The distinguished Senator from Georgia (Mr. NUNN), the present occupant of the chair, knows that we all, as a group, are working better this year than last year and better last year than the year before.

I have been to NATO conferences, and there is an increased alarm and concern among our NATO allies about our readiness. We have agreed to an across-the-board general increase of 3 percent in our defense budgets. The Senate committee provided that 3 percent increase, and the conference committee was slightly under that amount.

However, be that as it may, let there be no doubt that it is the intent of this Senator, and I am sure of Congress, to help the President in his pledge to NATO.

Ninety-five million dollars is necessary for that pledge and for that doughboy, for the fellow in the front line, who has just been persuaded, seduced, or however you want to describe it. You can have pretty movies and dinners, and you can go to school and you can do this and all the other things, and the promises are made—and you can see the world, by the way. They do not mention this, but they think they can see the world with their families, because they know they are over there. That fellow joins to see the world. It is almost like a tourism ad to bring him in. He knows the families are there, and he finally finds out that his wife cannot go along. He has just been married. Maybe there is a change of mind, or what have you. For his morale and his readiness, he tries to keep his family together. He is in a Catch-22 situation. Everybody is provided for and everybody is riding around and everybody is getting support from their national Congress, except the junior enlisted grade. It is a disgrace.

I will go into it further, Mr. President. I have many other factors here. I wish we could somehow get a call to Senators that we have an important matter here. I do not want to disturb anyone who is trying to catch up on his mail and is making calls.

This amendment really never should have been called until we had a "Dear Colleague" letter and everybody understood it. I have no question with respect to a budgetary basis, morale basis, defense basis, policy basis, decency basis, equity and fairness basis— any kind of basis you want. If they understand this particular thing, we are going to have just about 100 Senators voting for it.

The distinguished Senator from Mississippi, the chairman, and the distinguished Senator from North Dakota readily agree that it is needed.

I never have heard convincing arguments as to why it should not be put in here, in the U.S. Senate, so that we can show our concern for readiness.

I yield at this point so that I can listen to the arguments if there are any.

Mr. STENNIS. Mr. President, I have inquiries about other possible amendments. I do not really have any hard facts on this. I just do not know. But I suppose something will develop soon.

I want to share the information I have about any amendments that may be brought up.

Mr. President, this matter now goes to the very innards of one of the gravest problems I think that we are confronted with in Western Europe, and that is the rapidly growing numbers of dependents that we are bringing in there more and more every year.

So far as I know, I have never been able to get a very satisfactory explanation of what might be a workable plan to get those dependents out of there on short notice considering all the other things that are going to have to go on at the same time should there be a real threat or belief of a threat that an attack is imminent or just probable or just might be.

This is no new matter with me. It has concerned me for years. I thought about the lack of availability to bring those dependents out and at the same time have the cargo space for the things that we must have there, and this is no fun. This is no joke. They have plans about that.

But you know and the Soviets know if it comes to a choice between getting the dependents out and bringing supplies in—in the first place they ought not to be driven to such a choice—but the safety of the wives and children of those who are in uniform is going to come first or almost first as far as they are concerned.

I do not know, and I have asked this question, of any definite treaties with other nearby nations that we have where we would have a right in this time of distress or thought to be distress to land these people and take care of them there as a matter of right. We might do it as a matter of good neighbor.

But I have noticed, too, from year to year, and I have never said anything much about it, but year to year we have a growing number of dependents in Western Europe. For whatever reason we have gotten on the fringe of one reason now, for this coming in, of children of privates and corporals. But even leaving those out, I have never been satisfied at all that we should have so many dependents over there who are an added burden, and no one knows that any better than the Soviets themselves.

I just have a few figures here. I want to see some real hearings about this matter that will dig in and get the facts not on the dollar alone, but on the need, and the way out of there should the emergency arise or deep concern about it. Of course, our allies over there do not want us to be leaving ahead of time. They want all the stability and the solidarity of our continuing to be there without fear or not any rush home because their dependents have to stay there. That is home. Why all that added up unnecessary burden?

I have figures here showing the dependents in Western Europe and I have argued here many days and nights over a period of years against amendments that sought to bring home a great part of the military personnel of Western Europe. I remember a few years ago a resolution was introduced to reduce by one-half, I believe, our military men in Western Europe, and 44 Members of this body signed that resolution.

It never did pass, but that shows how hot the water was. Then we had many votes here on it. I remember one was 52 to 47, or something like that. But anyway this is no new matter. This has grown and grown, and the number of dependents there is something we could do something about.

In 1968, according to these figures given me, the military personnel in Western Europe was 317,000, to use round numbers. In 1978, it is 285,000. That is 32,000 less military men than 10 years ago. But the dependents have risen, increased 110,000.

While we are pulling down the military this amount, we are running up the dependents almost four times as much as we are pulling down the military.

That requires some kind of an explanation right there, and we have not had any hearings on this. But a figure that is accepted as approximately correct is each of these dependents in Europe costs, the Army itself estimates these totals, $8,000 per person per year that the Federal Treasury is paying out now on the average for these dependents.

We are not just arguing here about $100 million that they want to pitch in extra from last year in this bill. We are talking about real money here. That is the net cost, according to the present plans, so far as I know, $8,000 per year for each dependent in Western Europe.

By the way, this $100 million we are arguing about now, according to the figures they have given me, $14 million of that—is that $14 million? Is that correct? I just wanted to check. It is unbelievable. $14 million of this extra $100 million that the Senator has spoken of so eloquently, and he is a man of great compassion, $14 million is going for the expense of taking the automobiles over there of the families of these dependents.

I have already talked about what the Budget Committee is doing for us, and I think that is one item that the Budget Committee would not approve.

But of this $100 million, $14 million of that is for the cost of transportation only for automobiles.

The best information I can get is just a little of this $100 million is going to go for housing. It does not purport to be a housing program. This is just for travel for these dependents and their household goods.

I am told by the military that they advise these privates and PFC's not to take their families, but if they go on and do it anyway, why, they want to pay this money. You know, of course, that if they want to pay the travel next year or sometime soon, they are going to want more housing and other costs of being over there.

So I just decided somebody had to raise the issue. In my mind, issue No. 1 is not the money, but it is this crowded, crowded, crowded condition over there of our dependents, increasing the hazard for all and the hazard of those in military uniform, and the probabilities of their being affected should there be an attack is being increased by these dependents being there.

I just wanted to see further, too, what the actual meaningful arrangements are with reference to getting them out, and where can they take them. This is no time to make these long trips to America, load the plane up then with ammunition, I suppose, and go back with more military equipment. What kind of an added hazard have we built up there? There may be some pluses about it, but I will tell you right now there are plenty of minuses about this program.

I have seen it increase, as I said, and somebody had to challenge it.

I considered having a closed session here on this matter should there be an amendment filed, but I do not like to ask for closed sessions. The fact of the matter is I do not think it would make much difference whether it was open or closed. It all goes out. The money is not secret, of course, but any plans for evacuation or other things or lack of plans would be.

Now, back to this matter of future costs. This thing is going up and up and up. In the last 5 years we have put up $1.2 billion over there in construction programs, and there is now a backlog in Europe of $5.8 billion for more construction.

Here it is 30 years since the formation of NATO, and I was here when it was first debated, and I voted for it, and I have been proud of that vote ever since, and I am now, but I just was not born yesterday either. I know something must be done if all these are the facts, something has to be done, toward righting a situation, making a stronger and firmer policy and stop loosely spending these hundreds of millions of dollars.

I do not believe the security of the Nation rests on whether or not we have this $14 million for these automobiles being carried over there or not. I do not believe it myself.

Now, going back to the figures, the best I can get is this housing, if we are going into a policy now of building housing ourselves over there, why $1 billion is the smallest amount you can begin to think of. There are indications already that medical care is certainly marginal, and I do not like to discount it, and I do not say it is inadequate, but certainly not oversupplied with medical care and facilities for these dependents.

Now, in a peacetime environment, I tell you things that are adequate now in a peacetime environment over there would be wholly inadequate should the thing change as to be a prospective war environment. I think it ought to be looked into by Congress.

The House of Representatives Committee on Appropriations does fine work. They did not look into this. They have not looked into it yet. The amount is in their bill. My idea is to get into this thing—we never do have the ideal way—but leave this money out of our bill, go to conference, and there we will hear them out and ask them to hear us out and try to get something, some kind of a figure, whatever our judgment is, to apply for the intervening year, and then have someone conduct hearings that will go to the bottom of this whole issue of the number of men needed in a military way and what do they need and what do their families need, those we are going to supply for dependents, and what do they need in the way of housing that they do not have or medicine or other things.

I hope it includes the idea that we are going to reduce these dependents, we are going to reduce these numbers that we are spending this $8,000 per year on for each department, I mean, that we are go-

ing to get a firm policy some way as to privates and PFC's that we do not have to take their families to Europe and pay out all this money to them merely to get the enlistment.

I do not believe we are that thin yet. If we are, there is something rotten in Denmark; there is something the matter.

Just letting them carry their dependents over there against the advice of their commanding officers is not the way to build up a military unit. Of course, they see it some different and have to do the best they can.

I do not treat this thing lightly. This is not a matter of just saving some money alone. I want to bring this thing out in the open and get the facts and then get a policy on this matter because right here in all this overflow of dependents over there we are planting the germ of serious trouble in the months and years to come on our NATO venture.

I do not claim to have any knowledge or much knowledge on anything, but I know a little about human nature, and I can tell when discipline is not strong enough, when the hard things to do are not insisted on enough. I think we have to take a second look at these matters and see what can be done. I hope I am not totally wrong.

I yield the floor.

(Mr. MUSKIE assumed the chair.)

Mr. YOUNG. Mr. President, I am one of the Members of the Senate who voted several years ago to bring back some of our troops from Europe. There is more reason to bring them back now than there was then. We have over 600,000 military dependent and civilian personnel in NATO, of which 335,000 are dependents. The cost of currency devaluation for our military establishment in relation to the yen and the mark for this calendar year so far is $841,993,000. This item is added cost for inflation just for currency devaluation.

The amendment of my good friend from South Carolina, though he has the best of intentions, would aggravate this situation even more. It would cost us more money. We would encourage more dependents to move over there. In fact, we have more people in NATO now than we have in the whole State of North Dakota.

And we have other problems associated with it. Drugs are becoming more and more of a problem; and the more people we get over there, the more problems we will have. In the Berlin brigade alone, it is estimated that 40 percent of them use drugs now.

We have to decide whether we are going to have a military force over there in the true sense of a military force—and not be burdened by all of these dependents, with this tremendous expense—or cut down on our forces in NATO.

Mr. President, I yield the floor.

Mr. HOLLINGS. Mr. President, you have heard the arguments. The Senator from North Dakota and the Senator from Mississippi talked about the votes to bring back the troops.

I think there was a time when we could have done that. I had hoped for it. I voted for it. I talked on this floor about it, because I had talked, on our trips to NATO, with our leaders in Europe, and had been told by them that the military was causing a domestic political problem.

So Servan-Schreiber came here, and he told us, before DeGaulle said get out:

> How would you feel, years after a war, if you had people walking up and down in uniforms, down your main streets, like an occupied country?

So we thought, look, this is a tripwire. If we could bring it down to 100,000, as the Senator from North Dakota and the Senator from Mississippi have said, if we could have no dependents and bring it down to 100,000—Senator Mansfield and I wanted to bring it down to 50,000, and put them right in the front line, and keep our commitments to NATO, so that if we had Americans lost in the first wave of hostile action, the country would have been committed.

I thought that would be the best policy, and if we could get moving, that that would have been the best policy all around. But time and circumstances have changed, and now somehow that crowd has become frightened and concerned, and in a sense sobered up.

Before, I could get no idea of them contributing to our defense and participating in NATO. Where they used to have a draft, they got rid of it. Where they had had NATO commitments, they got rid of them, and told us to remove our forces. If Torrijos was as big as France, he would have said, "U.S.A. get out." That was the way it was, get out and get out ipso facto, you might say, immediately.

But, by gosh, you cannot do that now. You have to take some semblance of awareness, concern, and sobriety, and pick it up:

> There is a tide in the affairs of men which, taken at the flood, leads on to fortune.

You have to take this particular glimmer of interest, which is for us. We never did say we had them there to save some Europeans; we had them there "to save the free world," to save Americans, and a way of life. It was not just a generous thing to do; it was fundamental to our national defense, our domestic defense, that if we were going to fight, we start on somebody else's soil.

That is the way it stands today. Now that we have that interest, and that we have the Volunteer Army, you cannot do it. I would not vote to start withdrawing. There would be all kinds of changes in general policy. There would be weakening, debilitating—as they say, destabilizing; that is the word of the Senator from New Hampshire. That is a good word; I never knew about that word before I got up here to Washington, but here you learn a good vocabulary as you go along.

That would be destabilizing. Suppose we did move with the Mansfield amendment; there would be panic. We would lose our entire foreign policy.

So certainly the Senator from Mississippi and the Senator from North Dakota are not standing on this floor tonight and saying, "Withdraw from Europe, pass the Mansfield amendment." If they were really serious about it, I would dee-double-dare them to.

Mr. STENNIS. Mr. President, will the Senator yield

Mr. HOLLINGS. No, I am going to complete my song. If they really, now, want Congress to bring in this specter, now, and say, "Oh, we have to get out of there," as I told you earlier, I did not vote for that volunteer army, but by George we have got them, and I am going to support them. I am not going to say, "Wait a minute, we have got to have hearings." It is a real problem, now, just to bring 4,000 home with their dependents. Does anybody believe the distinguished chairman does have the hard facts?

I have them. Let me read them to you. They are available. We have Mr. McConnell, the staff man of our Senate Appropriations Committee. He has files of facts. He can give you more facts than you ever want to hear of on this appropriation bill. He is a whiz at it.

Mr. President, if you do not have hard facts, I am going to give it to you like groceries, because that is what I am doing, delivering a message on behalf of the military, and I am proud of it.

Here is what they say—and you can step out of the room; they have the Department of Defense right out here in the anteroom. If you want hard facts, they have notebooks that thick. "Ask any question; I will give you the answer."

We do not have to have hearings, we are having hearings now. Here is what it is:

> Increase in dependent services, based on military and zone data: 168,300 junior enlisted members overseas.

That is fact No. 1. No "about 335,000," Senator from North Dakota; I can give you the exact facts of what we have over there. We just added them up outside: 228,000. I can give them to you on a breakdown by service. Hard facts. Hard facts, no ifs and maybes.

Mr. YOUNG. Will the Senator yield?

Mr. HOLLINGS. No, I am going to give you these hard facts. I do not want to be disrespectful, and I am going to yield when I can complete this statement; 224,200 in short tour areas. These are hard facts; 224,200 in the short tour areas; I guess that is Korea and all those places where you have short tours and have no dependents.

I do not know whether you can go up there in Alaska, Senator STEVENS and Senator GRAVEL, those islands up there, way on the point, Kiska and other places of that kind; but the short tours, there are 224,200. This is expense levels. We have the arithmetic, that is what I want to give you; we do not have to have a hearing. We know what they show; 144,200 members overseas in areas where they may be accompanied by dependents.

Now, 22.6 percent of the junior members, 22.6 percent have dependents, and of those, of 144,300 by the decimal of .226, you multiply it out, and that equals, for the arithmetic and the hard facts, 32,600 of the enlisted junior members overseas expected to have dependents.

Are we opening up the door, or not? We know the facts, and we can give them

to you. You are going to come down, Senators, if you will only bear with me.

Of the 24,000 eligible in Europe, 20,000 are there. We wrote the policy, and they are there, we are paying for them, and have been paying for them. This did not happen yesterday or last year, it happened since we got this volunteer army and started running the ads saying, "See the world, come join us, be educated, do all of these things."

We have the volunteer army, and the simple answer to the distinguished Senators is, what will happen if you get them out, you will lose everybody, and you have got no army. That is what will happen.

Then we will go to the draft mentioned by the Senator from Georgia, or whatever else he was suggesting. There is no mystery to this kind of situation. We will have to go to the draft. That is what will happen.

Nobody will go over there except those who are induced to go over there, and these are the ways by which we get them there.

With 20 percent you get into command sponsorship; 20 percent, according to the Department of Defense, will not elect command sponsorship, so we multiply the remaining 80 percent. We multiply 32,600 by 80 percent and we have 26,100 expected actually to elect to be accompanied. That is the Department of Defense. That is how we get the 26,100 who expect, or will elect, to be accompanied by dependents.

What is the average or the ratio? 1.5 dependents per member. That has been the experience with some 228,000. We can look at the actual cold, hard facts; 1.5 times 26,100 is 39,200 potential number of junior enlisted dependents overseas. Of that 39,200 worldwide, not just Europe, 29,900 are there under the policy of the Senator from Mississippi, under the policy of the Senator from North Dakota, and the Senator from South Carolina. We have one policy. We have been sending those dependents and there has never been a motion made that I can remember in the last several years, much less the last several months, to cut back on them. We got them there.

The Senator from Georgia mentioned concern with the volunteer Army, that we might have to go to some kind of draft choice or some kind of universal military service. We do not know. But while we have the policy, the policy is there and there is no notion to cut it back.

We have an anticipated increase, then, of 39,200 minus the 29,900 who are already there, or 9,300 dependents. Actual fact.

The average family size is 1.5. Therefore, only a 6,200 family increase could be expected.

Now we look at Europe, after we get down to the 6,200.

About 24,000 of the 39,200 potential junior enlisted dependents would be in Europe. Twenty thousand of the 24,000 are already in Europe. They are in a noncommand sponsored status.

That is where we are right at this minute, and the amendment goes to those 4,000 over there.

What do they say about that?

I asked, and I said I would be delighted to listen to the arguments. They said that 40 percent are using drugs. Why use them? If I saw the unfairness of this, I might want to pop a little pill or smoke one of those joints, or whatever they are. The truth of the matter is I am scared of an aspirin tablet.

The fact is, if you want to cut down on the use of drugs, let us vote for this particular amendment.

Mr. President, I ask unanimous consent that the senior Senator from South Carolina (Mr. THURMOND) be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HOLLINGS. Mr. President, another thing is about the devaluation.

Are we going to blame these frontliners, really the guts of the military, who are staying out there pulling the guard duty, walking in the cold, trying to go back to a freezing cold flat? I saw this. I wish the Secretary of the Senate were here in the Chamber. He saw it. We traveled together. We had other members of the staff and they saw it.

It is a disgrace to go over there and say you are a U.S. Senator and you cannot do anything about it or, even more, that we ought to start hearings. After the President has asked for it, after all the military chiefs have asked for it, after the House has considered it, to come now and say what we need is facts is something else. As experienced as they are, the senior member who knows the military from one end to another to say, "We do not have the facts," is something else. I cannot say that. I would not want to go overseas and say the chairman of the committee and the ranking member said they did not know, or they had to get facts.

Let me go over each one of these particular points. We started off and we said it was a rapidly growing number, that we did not know where they were.

It is not a rapidly growing number. The answer to that is no, you are not starting the policy. I have given you the rollcall. I have multiplied out the percentages for you. I have told you who is affected. I have told you how they are trying to get over there, and now I am trying to give you the hard facts.

The next thing that they started, and we want to give them the facts, was all of a sudden I heard something about automobiles. All of a sudden we had $14 million in automobiles. Well, the hard, cold fact, Mr. President, is that under the allowance they get $713 for an automobile. If you can look at the number of dependents over there and average it out with the troops, you might have 100,000 cars. Are the 4,000 additional dependents to make for an evenhanded, equitable, defensible policy by our military to be blamed. Did anyone produce an amendment in Armed Services, Defense Appropriations, the Budget Committee, to adopt a policy and stop the policy for cars?

The only thing we had for cars were cars for the Supreme Court Justice. I can call down to a department and the Assistant Secretary or the Under Secretary will come up and they will send him up in a car. When I tried to get cars for the judicial branch, we could not get them.

Now I have been educated. We find we have them over there for the lieutenants, the captains, the majors, the commanders, the lieutenant commanders, the captains in the Navy, the generals and the admirals. They all must have cars. My poor crowd does not have any cars. At least they do not get any allowance. But that is the policy now.

My amendment is not to cut out automobiles. We spend $14 million and the Budget Committee, he said, would not stand for it. I am on that Budget Committee and I would stand for it. Why? Because the Congress voted a volunteer Army. When you have a volunteer Army, there are all kinds of emoluments and treatments. You cannot treat them like they were treated back in 1940 and 1941 when I went in as a buck private in Santa Rosa Island at Pensacola, Fla. We stayed in two blue uniforms that they gave us for the entire summer until our skin was blue. At the end of the summer, you received $1 a day. Are we going back to my Army, to the chairman's Army? No way. We will never get back there.

We cannot turn back now. We have a volunteer Army and we have them off of welfare. The chairman of the House Armed Services Committee, the late Mendel Rivers, got comparability pay back in the 1960's because we found what? Because we found these same GI's not only getting their pay but getting food stamps at the same time. Now we are trying to correct a similar kind of inequity.

If you want to change that policy about the cars, take them away from them.

They get a dislocation allowance of $647, an actual fact. How can I walk out of a public broadcasting markup and in 3 minutes I have all the figures, with no hearings, no notifications?

"We have to sit back and study this serious matter." I had this information in 3 minutes' time. I walked on the floor and here it is. I just got it a minute ago. But I am confident because of the Pentagon's interest they are giving me the facts.

One-hundred forty-seven dollars for dislocation. That is for helping to move, get new curtains, help the wife and everything else. Does anybody act like that is a mystery? They have always had moving expenses.

The actual household goods are reduced down now to the 1,500 pounds. That is what we called for. We cut back $8 million through the 1,500-pound limitation. That is $1,215 there. Actual facts.

Then we get $279 for the tickets for the dependents. That is the tickets. If this fellow Laker keeps putting on these specials, we might have a big economy move. We might send them over on something like that, because I am confident that is less than the cost for which we are spending in the military. Let them all go United or whatever it is going to be if we keep cutting down on the costs there. These are the facts—an allowance of $2,350.

Now, Mr. President, mind you, $8,000 it was said. That is not the case that

we have $8,000 per family over there. You have $8,000 for the man here in the States, in this country. I can tell you what it costs for that family. Down at Parris Island; in Beaufort, S.C.; in Fort Jackson, in Columbia, S.C., at the air base in Sumter, at Fort Dix, N.J.—I can tell you what it is going to cost at all these places. It is not $8,000 in additional amount. I am telling you now that they estimated that at $2,350 per family and not the $8,000. The $8,000 is another figure. My counter to that is that is the figure for the man here in this country.

So let us not blame my poor folks, my little 4,000 additional junior enlisted men that we are finally going to give equal treatment, equal justice under the law. I do not want to hear it. I do not want to hear it. I would be embarrassed now to go over there in that cold and freeze, and say, "Son, when you get off that guard duty, freezing, and come back to that freezing apartment up there on the 4th floor—where we saw them, and they had the baby and did not have anything but a little gadget to heat the bottle with. That is all the electrical conduit can take. When they put in another machine, remember, to wash the clothes, it knocked out the whole electrical system. He was renting for $300 a month at that time. That was the best he could get and trying not to knock out the electricity to get the baby's bottle warm.

I have seen it and I am embarrassed by it. We are going to stand here tonight until enough Senators listen. We are not going fast this evening. We may have to get some live quorum calls and other things to get some people here to listen.

What is the other argument? The other argument was that at that time, we had a backlog of $5.8 billion in construction. Let us be fair. Where is that backlog in construction? They have the facts. That is hardened sites for the planes. That is these POMCUS sites, also for the equipment storage, and for readiness. We are moving it all up front at NATO.

We have protection for the POMCUS sites, ammunition storage, we have fuel storage. Do not blame $5.4 billion on dependents. Let us be fair with our colleagues in the Senate and do not give the wrong impression that we have $5.4 billion in construction costs for housing.

All of a sudden, when I ask just for a little allowance for the 4,000, I hear drugs, I hear health care, I hear Mansfield amendment, I hear $5.4 billion in construction, I hear every kind of extraneous argument except something that pertains actually to what we are talking about. And then come around and actually say we do not have defense treaties with nations to take care of these people as a matter of rights. We ought to have some treaties to get to these dependents.

What is war but the breach of a treaty? Who really thinks seriously we are going to have a treaty that is going to take care of dependents and that dependents are going to have any rights? There is not any such thing. Let us get realistic, gentlemen.

We are not going to argue, when we are allowing the other 20,000 these allowances, and we are trying to take care of the frontline soldiers, to come on now and say, wait, we ought to hold up because this is a serious problem, and let us not move on this one until we have hearings.

Well, let us not move on this one until we get treaties to protect the dependents. It would not be worth it if you had a treaty and a hearing and voted for it, to throw it away. If they are going to have law, that is the first treaty to be violated and you know it and I know it.

So there is no use to go through a charade and say, oh, now, we in the U.S. Senate have looked out for the dependents in Europe; we have now negotiated a treaty and we have had it ratified in the Senate and we can all go back home and feel comfortable that the dependents have been protected. Someone, somewhere, very shortly, back home is going to write the counterpart of our good friend John Kennedy's book, "While England Slept." It is going to be entitled "While the United States Slept." Because we have been sleeping. The defenses are down, down, down. I do not take second spot to anybody about my concren there.

I am not trying to overweight the dollar with devaluation. I am not trying to add to the drug problem. I am not adding to the construction problem. I have given the actual facts in the Department of Defense statement. All of these things have been given to you. All we are trying to do is awaken America that the volunteer army costs money.

I was rather interested this morning to see an editorial relative to the Humphrey-Hawkins bill. We do not want to get off on that particular subject, but I never thought we would finally get that sobriety out of a good liberal newspaper, I say to the Senator from Maine.

(Mr. STONE assumed the chair.)

Mr. HOLLINGS. They say that the trouble with government is it should not overpromise or promise those things that they cannot do. That is the liberal dilemma in America today. The new ship has been constructed. The liberals have constructed it, but they do not know how to run it. They are still running around avoiding the responsibility of running the ship by trying to invent new ones that do not exist.

They are overpromising everything. If we could have labor reform, everybody would be a member of a union; that is what the president of the AFL–CIO said to the Congress. He said on national TV:

> I can get those southern mills and bring them in line and get them organized. If I can get Humphrey-Hawkins, everybody will have a job.

Poor Mrs. Coretta King—I am alluding to a few other things because I need time, I hope my staff is working a little to get some votes.

I said to Mrs. King, we would do way more if we could pass FRITZ MONDALE'S child care center bill. He and I fought for it. I know about nutrition. I know where that unemployment starts. It starts, Mr. President, in the mother's womb. Everyone has—this Senator has 13 billion brain cells; that Senator has 13 billion brain cells. Ten billion of the 13 billion are developed in the first 5 months in the mother's womb. And we have found from the studies made by Dr. Cravietto down in Mexico, by those at the Mayo Clinic, Nevin Scrimshaw at MIT, Dr. Charles Evan Lowe and others. There are as many as 20-percent less brain cells developed. There is a lack of protein synthesis of the nerve cells and the brain cells. So the child is born.

Twenty percent of the 10 billion brain cells are 2 billion brain cells and it is like dropping a TV set on the floor and picking it back up and putting it on the desk. You turn on the TV set and somehow, it does not work. It is the circuitry—you do not know exacty where it is. It might take days or weeks to find the circuitry problem. It is what we call in medicine generalized brain damage—not local or focal, but actual generalized brain damage. They cannot concentrate, that child is not educable. They cannot assimilate.

So we put them in the schools and give them CETA and training, and all these other things. Opportunity, they call it, job opportunity. They want to force it by law.

If we fed that expectant mother at the time of her pregnancy, we would have started to do something for minority jobs in America. That is where we start, because thereafter the brain develops for another 5 years.

Nutrition is important there, and environment is important there, and child care centers are important there.

They are talking about family assistance. That is the local econometric crowd.

I have heard enough of this nonsense. We cannot throw dollars at it.

Congress does not want to admit it, but if we could take those little children away from their hovels and desperate circumstances and put them in day care centers, then they would grow strong bodies and minds, they would be educable and have ambition and we would not have to worry about them competing.

They are competing in my State now. Forty percent of the textile employment is minority black employment. They are coming along, and in other industries. So we are beginning at the beginning.

But we cannot pass a law for it to bring it down to x percentage. The law says to bring it down. Once it gets below the 6 percent, get it down to 4.5 percent, and management and industry begins to compete with the skilled labor and it raises the price, and inflation, and the fellow down the ladder on the rungs, he has less and less chance. He is not going to get employed.

The economy will not take care of it under that formula. We know that. But they do not want to admit it. They do not want to say so. They want to force these things. They do not want to work at them.

It was Hubert Humphrey who said that "Amercia, and the road to freedom, was not the 100-yard dash, but the endurance contest."

But they do not want to endure. They want quick fixes, and there are none in the Volunteer Army, to get back to the subject.

Hard facts. The hard fact is the Volunteer Army costs, and we are paying those expenses.

We let them have dependents over there for the morale problem, for the fairness problem, for the readiness problem. I would say if the Pentagon does not have a plan for the evacuation of dependents, if the NATO forces, the German Command, does not have any kind of evacuation or movement plan or alert plan for their civilian population, then fire the whole kit and caboodle is all I can say because they are under the gun. It is getting bigger and growing. They have these SALT talks going on all the time. I know what I tell them at home, Mr. President. Oh, yes, I am so much for SALT II, SALT I has worked so well. It has been a disaster. They built up everything in the world. I can go down the list of weaponry there, too.

If we had any example of where we are going, we are going to have to do something about NATO, we are going to have to do something about the dependents. But when they come, when we have got them leaving, why does the commander not tell them? Because he does not have the money or the wherewithal to tell them to do otherwise.

Then they get them over there. So the dependents have increased 110,000.

True, I agree with the distinguished Senator from Mississippi, they have increased. But he has watched it and I have watched it. We have been here during that period of time, and we have approved of it and we have provided the money for it.

What money? Actual facts: $278 and the ticket to fly; $1,215, household goods. Dislocation funds, and $713 cash for the car, to move the car. He can take his car over.

Any time they want to put a disallowance on that, we will debate it. But do not put off the $4,000 for him, paying through the nose, not reenlisting, and cost us more than the $2,300 we asked for on a readiness basis.

The President knocked out $1.9 billion. We are only asking this for the troops and the readiness.

A motion was made, can you imagine, in the Senate Appropriations Committee, not for this, but by the chairman himself, for $200 million for inflation.

That was not approved, because we are trying budgetarily—you do not know the hard time we have squeezing the defense budget.

I voted to do away with the commissary allowance. Can they not allow me to have some credibility with the military?

I voted to do away with the 1 percent kicker. I had to go around to get it. What do you think the military thinks about me on that score?

Well, I have a conscience. I thought those were right, I still think they are right.

So when I see this kind of dilemma, I want them to know somebody here, and we have been rushed on this particular score, is able at least to put up an amendment and get somebody to listen to it.

Now, I will get to the workable plan. We are increasing the hazard by dependents being there. We are increasing the hazard.

Mr. President, that is the policy. I am not increasing the hazards. This amendment is not increasing the hazards. This just makes it a fair, complete, equitable policy.

It takes a policy that is inequitable, that is unfair, not evenhanded, and makes it evenhanded.

I have spoken about the backlog of construction, and medical care in peacetime environment. That costs.

We have a Volunteer Army. They are going to need medical care. Now, when the child gets sick, or the wife, we try to make allowances.

I have talked to those commanders and those wives. Now we try to make it. Our commanders are human. They want their troops behind them. If they are worth their salt at all, the first thing they have to do is take care of a man's food, his family, and what-have-you.

If I did not, by God, send a meal quick, when we were in the last war and get it out to my troops quick, I was a sorry commanding officer. I stayed with mine in the line. We censored the mail and took care of the personal needs.

Everybody knows that in any command position, if you have been there, the first thing you look out for is your troops.

By gosh, when they try to look out for them, we will give them a hearing and tell them about inflation, and we do not have treaties with other countries, and all these other things.

Some kind of hearings, the gentleman said. What do they need for housing and for medical?

Oh, no, no, no. The chairman of the Defense Appropriations Committee, the chairman of the Armed Services, the ranking minority member, they know what they need. They cannot make this junior Senator from South Carolina believe they do not know what they need. They know what they need. They do not need a hearing for it. They have got a firsthand knowledge. They know what they need in housing and medical.

We cannot defend our policy there. We cannot defend it on any score.

I did not hear any kind of real defense. I listened to them as carefully as if we had instant replay, like the football games.

Some day we will have instant replay in the U.S. Senate, so we can punch the button and take the argument, so there will not be any misunderstanding what was intended and what was said.

I did my dead level best in a fair fashion to note it down.

What in the world is the next thing? They had some other things here that were taken down. I think I have covered those for the moment. We have some other Senators coming to the floor. But, mind you me, I have gone down with these actual facts and I have read everything with respect to the construction costs, how we got to the actual costs, what the policy is, what they are trying to do now.

I should add that for an E–3, with 1 year's service, wife and child, in Frankfort, they are trying at the present time to give $58.50 from command funds. They are trying to give him a housing allowance, in these junior grades, of $114 and a basic quarters allowance of $140.50, and $2.84 a day regardless of rank. They are stretching money around to try to do it now.

Let us take the policy we have and be realistic and be honest with ourselves and put the money to it. That is all this amendment says. It does not change any policy, really. It says you have them over there now; you bring them, anyway.

The commanders have to contend with them. It did not just happen. We did not grow up to 110,000 additional dependents in the last 2 or 3 years. This is back in 1969, almost 10 years ago, when we were discussing the Mansfield amendment.

Then we passed the Volunteer Army measure and we put the money to it, under all kinds of enlistment programs. We started paying for this and making this allowance. Let us not act as though we have discovered something like a GSA scandal.

Now we have $14 million—I will have to look at that. I cannot dispute that fact. We have put several thousands of cars under the allowance. If somebody wants to cut it, cut it for everybody. In order to get this thing fair across the board, let us agree to it, but I cannot agree, and will not agree, until we are decent and right and equitable in this matter.

I yield temporarily, Mr. President.

Mr. THURMOND. Mr. President, I have tremendous respect for the chairman of the Senate Armed Services Committee, the distinguished Senator from Mississippi. It is very rare that we are not together on almost all military matters. However, I feel that the amendment of the distinguished junior Senator from South Carolina is fair and should be adopted. My remarks will be very brief.

In the first place, the Defense Department has requested funds this year for travel for dependents of junior enlisted personnel.

Second, the House has approved this request.

This amendment will allow military personnel of E–4 rank and under to have dependents accompany them on overseas assignments. I feel it is not fair to allow it for dependents of officers and noncommissioned officers and deny it to junior enlisted personnel. Times have changed, and I think we have to recognize that.

I believe the military service is no longer a temporary job. It is much more a career service now, since we have done away with the draft. If people are expected and asked to make it a career, then it seems to me they must be allowed travel for their families.

The situation today is quite different from past circumstances in the military, in many ways. No longer do we have young men pulling short overseas tours. Rather, the career personnel in even these lower grades are staying overseas longer and will be the heart of any fighting unit.

It is not easy to recruit these days. I think this will assist in recruiting, because if a young fellow knows he can take his wife with him, that will be an added inducement for him to join a branch of the military.

Also, I feel it will help to retain personnel in the service. If they know they

can take their wives and families with them, it will assist in retaining people in the service and will insure to the benefit of the service in the end.

The $95 million referred to by both speakers includes more than just travel expenses. The $95 million, I am informed, includes transporting those household goods, transporting the vehicles, and the cost of entitlements for living expenses and housing allowances if housing is unavailable on that post. In view of that, the $95 million is not only for travel but would cover this entire package.

Mr. President, I feel that it is just simple justice that we adopt this amendment.

I repeat, times have changed. I repeat, we no longer have the draft. I repeat, we must recruit these people and we must retain them. It costs too much to be recruiting and training new people continually.

We will come out better in the end, I believe, if we will adopt this amendment.

Mr. President, for those reasons, I favor the amendment.

Mr. STENNIS. Mr. President, I do not know of anyone else who wants to speak. We are ready to vote, if the Senator is.

Mr. HOLLINGS. Mr. President, we are not going to do that. I might as well be straight with my friend from Mississippi. We are not going to vote for quite a little while. We are going to be checking. He has been checking; I have not.

Just to give a chance to the fellows who are fighting the fight, the fellows in the front line of Europe, we are not going to vote now. We are going to talk, if we have to talk all evening long on this score.

We do not want to be arbitrary and interrupt the leadership. If they have anything they want to bring to the floor, let them do so. Maybe in that way I can formulate a letter to inform Senators. I am in a heck of a fix. I want to be adequate, but you cannot do that if you cannot get the ears of Senators.

Mr. President, the Department of Defense appropriation request includes approximately $103 million to extend that travel entitlement to junior enlisted travel. Actually, that $103 million has been reduced to the $95 million amount. The reduction comes in particular allowance on the hard fact that on the weight allowance on household goods, reduced to 1,500 pounds, it removed $8.1 million from the bill.

The junior enlisted personnel pay out of their pockets all costs associated with moving. Those who elect to bring their families overseas are spending, on the average, between $1,200 and $1,500 for transportation and household establishment costs.

The initial outlay of money plus the rise in the value of many foreign currencies against the dollar have left many of the junior enlisted community virtually impoverished. Many have had to return to the United States.

Mr. President, let me momentarily yield the floor. I yield the floor.

Mr. INOUYE. Mr. President, I would like to raise a matter which has been discussed at some length by the members of the Senate Committee on Appropriations, which is of much concern to me. This matter is the Defense Department's competitive rate program, which applies to the international movement of household goods of military personnel.

I had prepared some report language on this subject for consideration at the markup of the defense appropriations bill for fiscal year 1979, which I had also shared in a draft form with the Department of Defense. At this point, I would like to have printed in the RECORD a copy of the proposed report language and a copy of my letter of August 14, 1978, to Mr. Paul Riley, Deputy Assistant Secretary of Defense (Supply, Maintenance, and Services) and the response I received to that letter from Dr. John P. White, Assistant Secretary of Defense for Manpower, Reserve Affairs, and Logistics, on August 16, 1978.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

PROPOSED REPORT LANGUAGE ON THE COMPETITIVE RATE PROGRAM (CRP)

The Committee supports the Defense Department's efforts to improve the efficiency of its procurement of moving services for military personnel and their dependents, through the promotion of greater competition, where this effort has resulted in considerable savings or cost avoidances. However, the Committee is of the opinion that there is room for further improvement in the structuring and implementation of the Competitive Rate Program (CPR). In fact, if the CRP is not modified in some ways, the result may very well be the widespread failure of many companies, which are the backbone of the Defense Department's moving system, the agents for the forwarders.

Already, in some regions of the country, the Defense Department's shipments are being handled on a cash-only basis. In addition, one of the flag-berth operators' associations has increased the indemnity bond to cover nonreceipt of payment from shippers, due to their nonreceipt of payments from forwarders or their agents, from $100,000 to $200,000. Furthermore, because of the failure of some of the forwarders setting the low rates, some agents have been forced to close their doors. The present situation is intolerable and the Defense Department, as well as the Military Traffic Management Command (MTMC), must accept some of the responsibility for the adverse economic impact of the CRP on the household goods moving and storage industry. This is not to say that the Defense Department is capable of regulating the industry or that DoD should take steps to bail out companies that cannot survive in a competitive and equitable economic environment.

The Committee directs the Defense Audit Service, with the cooperation of the staff of DoD and MTMC, to perform a joint study with the General Accounting Office (GAO), which should focus on several charges.

First, the Committee is aware that in those areas where the low-cost carriers have cancelled their rates, the military has been forced to go to the next higher bids filed with MTMC. Many times MTMC has had to go to third, fourth or even higher bids. These are sometimes higher than what would have been filed under the previous system, the noncompetitive, so-called "me-too" or "equal distribution" system. In addition, the Committee believes it to be unfair to the industry to withhold the names of the forwarders setting the low rates on traffic channels. This prevents the forwarders from making well-informed decisions on the basis of the reputation and service capability of the low-bidding forwarders. Furthermore, the Committee has heard reports that local transportation officers have had difficulty getting shipments serviced in Germany, England, Japan, Guam, Italy, the Philippines and from many hinterland areas in the United States. The Committee has also been advised that in some cases MTMC has forced forwarders to move their total volume of goods for a six-month cycle in less than that amount of time. In one particular case, MTMC required a forwarder to move the goods in as little as two and a half months. The Committee believes that the methodology, as reflected in practice should be reassessed and that necessary changes should be made in the structure of the CRP, as it is expanded by MTMC.

Second, the DoD could improve its chances of receiving better service from the moving and storage industry through better and more comprehensive planning of temporary and permanent, charge-of-station moves. This can be accomplished by examination of the following items. One, there is presently no way for a forwarder or carrier to adequately plan to logistically support a low bid, assuming it has the financial capability to do so. The military does not guarantee specific amounts to be moved; it only provides estimates. Two, the military does not preadvise where, when or how much will come from a given area. Now, many agents have refused to participate in the CRP because they cannot do business in such an uncertain environment. Or if they have been compelled to participate in the program, because they could not afford to sit out a six-month cycle without any military business, they have done so with serious reservations. The federal government, including DoD, has a responsibility to be fair and more specific in soliciting bids for the procurement of services from the private sector and where this is possible, the Defense Department should take steps to correct the problems outlined above.

Third, in addition to evaluating the allegation of non-compensatory rate-filing, and some forwarders have admitted to members of the Committee that they filed predatory rates, the Defense Audit Service and the GAO should examine the financial status of agents participating in the CRP, compare their status before the CRP to their status now, and determine what the remaining agency capability is in relation to that level necessary to handle the Defense Department's business.

Fourth, the Defense Audit Service and the GAO should assess the adequacy of the performance bonds required by MIMC under DoD procurement regulations. At this time, the performance bond requirement, as a part of the Tender-of-Service contract of the forwarder, states that the forwarder agrees to provide MIMC an annual performance bond or $25,000 or 2½ percent of gross annual revenue derived from DoD international through Government bill of lading (ITGBL) shipments, whichever is greater. The data used to support the present performance bond requirement is the forwarder's gross annual revenue from the previous year. This practice worked well under the "equal distribution" system, but does not provide adequate protection for the federal government, nor does it treat companies whose business has contracted under a current cycle of the CRP in an equitable manner. In one case, if Columbia Export Packers (CEP) had not participated heavily in the CRP during the year previous to its declaration of bankruptcy, then its performance bond would not have been set at a record-high level at $250,000 and, a far lower bond would have been insufficient to cover the losses of the federal government. This particular case raises the issue of whether the bonds are large enough to be effective. In fact, it would be beneficial if the

Department would look into this case to determine whether CEP closed its doors because it filed non-compensatory rates and whether the bond was, indeed, sufficient to cover losses the federal government was forced to absorb. In addition, the Department and MIMC should consider the merits of basing the bond requirement on more current data.

Fifth, the Defense Audit Service and the GAO should determine the feasibility and advantages of setting up a joint service office to handle loss and damage claims filed in connection with the movement of military household goods. The Committee is of the opinion that there may be some savings associated with the installation of a central claims office, which could provide a further, final check on the payment of fraudulant claims. However, it is not the intent of the Committee to impose a burden on the individual servicemember. It does, nonetheless, want this suggestion evaluated because members of the industry have come forward with the suggestion on the basis of long years of experience in handling DoD shipments.

Finally, the Committee believes that the Defense Audit Service-GAO study should be performed as quickly as possible, without compromising the effort to examine each charge in some detail. With regard to the methodology of the study, there are several options available. The GAO and the Defense Audit Service could compare the low rates filed on certain traffic channels under the CRP with those filed under MIMC's Direct Procurement Method (DPM). If volumes are not comparable, then investigators could use the DPM rates used during certain cycles of the CRP, when MIMC was forced to revert to the DPM. In this way, the study could focus on those traffic channels where it is most likely that non-compensatory rates were filed. In addition, the GAO and the Defense Audit Service should avail themselves of the financial information of the agents for forwarders filing the low rates, or those formerly under contract with the successful, low-bidding forwarders. These agents may be quite willing to cooperate by sharing propriety information with the federal government.

The Committee expects the completed report to be forwarded to the Armed Services and Appropriations Committees of both bodies of the Congress.

WASHINGTON, D.C.,
August 16, 1978.

Hon. DANIEL K. INOUYE,
U.S. Senate,
Washington, D.C.

DEAR SENATOR INOUYE: Your letter of August 14th to Mr. Paul Riley of my staff transmitted for comment proposed language on the Competitive Rate Program to be included in the committee report on the Defense Appropriations Act for Fiscal Year 1979. I appreciate the letter, and the efforts which your staff, especially Ms. Crockett, have devoted to working with mine on this issue.

I gather that we do not have a dispute on the policy and methodology behind CRP, but on the way it has been put into practice. On this I hear conflicting reports. On one hand it appears that more, not less, small businesses are participating in the program. This contradicts the concern that large firms will buy in, drive out competition, and then later demand extortionate rates. On the other hand, the material attached to your letter does raise issues that we should investigate fully; and, if investigation substantiates the allegations of damage, we should find ways to mitigate the problems. The Department of Defense, while it is not responsible for the viability of moving firms, obviously does not want to create gratuitous problems for those who wish to do business with us.

As you know, the Department now has a study of the CRP in progress, as does the GAO. I believe that we should continue and expand these efforts, focusing on how well the current CRP works, and whether the allegations concerning predatory rates, excessive bonds and so forth are justified. To allow us to do this we will continue our current program plans but delay the application to Alaska and Hawaii by six months. When we are armed with better information on how the program actually works, we should be able to agree on when and how to expand it further.

Concerning the proposed language of the report, I am concerned that it raises a number of points which we are not in a position to substantiate. Further, the proposed joint Defense Audit Service/General Accounting Office study strikes me as cumbersome and time-consuming. I agree in principle that the matter merits further study, and that the objective is to avoid creating an intolerable atmosphere for business while still protecting the interests of the taxpayer. We will pursue our analysis, and keep you informed, during the next several months.

Sincerely,

JOHN P. WHITE,
Assistant Secretary of Defense (Manpower Reserve Affairs and Logistic).

WASHINGTON, *D.C., August 14, 1978.*

Mr. PAUL H. RILEY,
Deputy Assistant Secretary (Supply, Maintenance and Services), Office of the Assistant Secretary of Defense (Manpower, Reserve Affairs and Logistics), Department of Defense, Washington, D.C.

DEAR MR. RILEY: I wish to share with you a copy of some proposed report language, which I intend to offer for inclusion in the Senate Committee on Appropriations' report to accompany the Defense Appropriations bill for FY 1979, regarding the Defense Department's management of the Competitive Rate Program (CRP).

I believe that a member of my staff, Ms. Shannon Cockett, has discussed most of the items mentioned in the language with Mr. Paul Hyman of your staff, as well as with Mr. Lytle of your staff. In addition, I am advised that she has discussed with you the need for a written statement or comments in writing from you on this matter.

As I understand the situation, Department officials and staff may have no objection to a joint Defense Audit Service-General Accounting Office study, but you, as well as others responsible for the management of the program, would strongly object to any delay in further expansion of the CRP, while such a study is conducted.

I sympathize and support the Department's position so far as it promotes competition and the attainment of savings in the movement of household goods of military personnel and their dependents.

However, I believe that Department officials, as well as those of the Military Traffic Management Command (MTMC), have made some very serious mistakes in the implementation and structuring of this program. The policy and the methodology appear sound. Yet where the theory has been put into practice, problems of a rather grave nature have resulted. I feel very strongly that the staff of the Department of Defense and that of MTMC share an administrative responsibility and, perhaps, a moral obligation, to reassess the CRP. I do not believe that all the grievances of the household goods moving and storage industry are legitimate. But enough evidence and data has come to my attention to suggest that many necessary improvements should be made in the program to accommodate the practical complaints of industry representatives.

In addition, I wish to bring to your attention copies of some correspondence and other data provided by industry members, as your staff requested, which you may find of some interest. One enclosure concerns the bankruptcy of Columbia Export Packers (CEP). The other is the handling of a bid under the CRP and a service contract between MTMC and the Bekins Company. In addition, I have enclosed for your comments a message sent out regarding the present "chaotic" situation affecting military shipments of 19 forwarders for transportation between the continental United States and the United Kingdom. This latter case brings up one other point which is extremely important. I cannot understand the rationale for the practice of withholding the name of the forwarder setting the low rate on a traffic channel under the CRP, once the low bid has been accepted by MTMC. This practice has resulted for all practical purposes, in an effective requirement that companies try to meet the low rate filed on a traffic channel without the information they need to allow them to make a prudent decision. For example, a company considering the merits of meeting the low rate under the CRP could make a better decision if it knew the company setting the rate. On that basis, a company could take into account the reputation, as well as the agency network of a forwarder or, in other words, its capability to adequately meet its service requirements. What is the legal basis for denying this information? Finally, I have enclosed for your comments some information about the current participation of forwarders in the CRP, as well as the CRP's disastrous impact upon agnets in my State.

The purpose behind my request for your written comments on the suggested language is Senator Stennis' often-expressed opinion that the Defense Subcommittee members should have the Defense Department's written comments on a proposed change or an amendment affecting any defense program.

I would greatly appreciate your assistance in responding by letter to my request, before the full Committee markup of the Defense Appropriations bill on Wednesday morning, in accord with all applicable rules and regulations.

Thank you for your attention to this important matter.

Aloha,

DANIEL K. INOUYE,
U.S. Senator.

SAVINGS FORECAST BY DOD FOR THE FIRST 12 MONTHS OF THE COMPETITIVE RATE PROGRAM FOR GERMANY

1. DOD forecasted a saving of 25 million dollars for the first twelve months of the the Competitive Rate Program for Germany.

2. The forecast was based on a reduction in the average rate of $66.49 under the old system, to $46.25 under the first filing under the Competitive Rate Program for Germany.

3. The reduction or savings, in the rate, $20.24 per one hundred pounds (cwt), was applied to the total number of pounds anticipated to and from Germany for 12 months, to arrive at a projected reduction in total cost for Germany freight in an amount of 25 million dollars.

4. Based on historical statistical data available to MTMC before the start of the Competitive Rate Program in Germany, the method for projecting the saving was sound for the following reasons:

(a) The average of the rates filed by ITGBL carriers could be used as a basis for estimating costs because all carriers operated at the same rate during the period the rates were effective.

(b) Costs incurred were directly related to the rates because no carrier could charge more than the rate filed.

(c) The average cost never exceeded the average of the rates filed. In fact, historical statistics data indicated that the average cost is constant at about 90 percent of the average rate filed.

5. With a consistent pattern of costs versus rates, MTMC could safely forecast that by

a reduction in the rate a corresponding reduction in costs would occur for the period of time that the rates remained in effect.

6. The reasons for their forecast of saving for the first 12 months of the Competitive Rate Program not being valid are as follows:

(a) The rates filed are effective for only 6 months of the 12-month period.

(b) The level of rates to apply the last 6 months for Germany increased from 46.25 to 56.58. This increase was not projected by MTMC.

(c) The levels for Germany of 46.25 and 56.58 respectively, were used only by those carriers that had agreed to those rates. The majority of carriers filed higher rates. The higher rates were not considered by MTMC in their cost projection. The carriers at the low rates of 46.25 and 56.58 did not handle all of the shipments for Germany because some found the rates to be non-compensatory and cancelled their rates, or in some cases did not accept shipments because they had exhausted their resources. The result was that carriers that filed at higher rates received shipments at a considerably higher cost to the Government that had been forecasted. Due to the level of rates for Germany changing from the average low rates filed, the true cost to the Government can only be determined after all the carriers have been paid for shipments handled.

7. There was and is not now any statistical data available to MTMC to project costs or savings for freight shipments that are handled by carriers at multiple levels of rates during any six months period, or any period that the rate levels fluctuate with each shipment handled.

8. The attached Chart No. 1, is a comparison of average rate levels for areas of the world other than Germany, with the average rate levels filed for Germany under the Competitive Rate Program, with the average rate based on costs paid by the DOD for the movement of Code 4 shipments from June 1976 thru March 1978.

9. The chart statistics regarding costs paid were taken from the Quarterly Reports prepared by MTMC entitled "The Military Traffic Management Command's Worldwide Traffic Summary."

10. The average level of rates shown on the charts are taken from the carrier rates filed and accepted by MTMC for each of the period indicated.

11. The Chart indicates:

(a) The level of rates for other areas of the world excluding Germany, have remained constant and the costs for those areas have remained constant and predictable.

(b) The level of rates for Germany under the Competitive Rate Program has changed each six months and bears no relationship to the costs incurred. The cost has consistently increased in each three-month period reported regardless of the level of the rates filed.

(c) The savings of the Government realized from the CRP can only be factually ascertained after the carriers are paid and each GBL analyzed for cost paid.

12. In summary, MTMC cannot project and defend a cost saving that is based on a reduction in the average of low rates filed in response to a Competitive Rate Program wherein multiple levels of rates are actually utilized to handle the shipments.

Chart No. 2 identifies the apparent cost saving that can be attributed to the CRP for Germany during the 12 months that actual costs have been recorded by MTMC.

Reference the Chart, the following assumptions were made:

(a) MTMC states that an average 40 percent of total Code 4 shipments worldwide applied to Germany traffic.

(b) The average cost for all Code 4 traffic during the preceding 12 months before the start of the CRP was 59.39 cwt.

(c) The average level of rates for all areas of the world except Germany, remained constant during the 12 months after the start of the CRP.

(d) The average cost per cwt for these countries remained constant in line with the rates.

(e) The average level of rates for Germany changed drastically during the 12 months reported.

(f) The average cost per cwt. for Germany could not be projected against the rate filed for Germany because of the multiple level of rates and their use could not be predicted.

(g) The true average cost per cwt. for Germany would be determined only by a 100 percent review and extension of costs paid against each GBL accomplished by the Military Services.

It should be noted in the chart that the average cost per cwt. in the first quarter of 47.30 cwt. is close to the MTMC projected cost of 46.25 cwt. However, the cost in the succeeding 3 quarters continued an upward trend to reach in the 4th quarter an average cost of 56.62 cwt. This upward trend destroys the forecast of savings stated by MTMC.

Based on the reported cost during the 12 months shown on the chart, it is apparent that the actual savings is close to $10,000,000, not the $25,000,000 reported and defended by MTMC.

DOD has reported a saving in the amount of 27.9 million dollars to date from the Germany Competitive Rate Program. They have developed the actual costs thru March 1978, reflected on Chart No. 2, which indicates a possible saving of 10 million dollars to date, a variance of 17.9 million dollars in their stated savings of 27.9 million.

We do not know the basis of claim for 27.9 million to date as savings in light of costs incurred. We believe, however, that in fairness to the industry, MTMC should make public the basis for the claim so that it can be related to the actual costs paid under the CRP.

[Charts mentioned in text not reproducible in Record.]

Household Goods Shipping Problems

July 27, 1978.

1. Newly assigned personnel to this base are being seriously inconvenienced by the late arrival of their household goods. Carriers are sending messages extending the required delivery date (RDD) two and three times on the same shipment by as much as a week at a time. Some inbound shipments are as much as 40 days late.

2. When our Traffic Management Office (TMO) investigates the reason for the lateness of a shipment, they are, in most cases, told that they had awarded the shipment to a reduced rate carrier and that that carrier is now on suspension for shipments remaining in the warehouse after the RDD. Attachment one contains detailed information as to what we feel is the contributing factor.

3. In addition, most major carriers have extended their embargoes on accepting outbound bookings for household goods until the second week in August. Some carriers have not been able to accept bookings for the entire month of July. At this point, Chanute has not experienced any case where we could not move the member's shipment from his residence on the desired pick up date. We understand, however, that this is not the case at a number of other CONUS bases where TMOs are unable to effect pick ups from quarters.

4. The Carrier Evaluation Rating System (CERS), as originally conceived, was a system that we thought would enhance service to the military member. When the system changed to allow a carrier to file a low rate regardless of his CERS score, this began the deterioration of the system in concert with reduced service for the member.

5. The reduced rate system is also becoming a problem in the international shipment area. A considerable amount of correspondence dealt with by the TMO seems to draw us into a big rate war and then the majority of the carriers bail out. Comments regarding the current international shipment dilemma are addressed in more detail in attachment two.

6. Dissatisfaction with the movement of their property, in a career filled with many moves, could be another factor in the early loss of potential career airmen and officers. This fact should be evaluated in light of any possible savings from cut rate carriers. Economy is certainly important but the pendulum has swung too far in that direction. The person now being hurt the most by these programs is not the moving company or agent, but the military member whose furniture is mistreated and who is inconvenienced by delays in receiving his shipment.

7. The above information is furnished your office in the hope that, perhaps through Air Force Transportation channels, these thoughts could be injected at meetings/conferences attended by your staff.

For the commander:

FRANCIS J. SACONE,
Colonel, USAF, Deputy Commander for Resource Management.

Low Cost Carriers

Many bases throughout the CONUS have companies who have filed a Section 22 (a lower rate than the military tariff). These rates are filed mainly by companies whose objective is to circumvent the Carrier Evaluation Rating System (CERS).

(a) An example would be as follows:

(1) Bekins Van Lines—CERS score 100.

(2) North American Van Lines—CERS score 98.

(3) Fly By Night Van Lines—CERS score 75.

(b) Bekins Van Lines and North American Van Lines should get shipments but Fly By Night has filed a Section 22 at 10, to often as much as 30%, under the normal rate. This leads to other moving companies lowering their rate to be competitive.

(c) The companies who file a Section 22 are quickly saturated with business from a military installation as that installation is forced to use the low cost carrier. Shipments remain in the warehouses past the required delivery date and they (the company) are suspended for 30 days. The TMO attempts to find someone else to take the shipment from that company but no one else can be found as all other companies are busy. Also, the money in moving household goods is in the packing, not the line haul and the new agent/company will make little money on taking this shipment. A case in point is last year we had a young obstetrician (Captain) coming on duty from Baltimore MD, whose shipment took 54 days to reach Chanute because the shipment was given to a cut rate carrier who was suspended.

(d) The private owner-operator under lease to the moving company absorbs the major portion of this rate decrease with the agent taking a share and the national moving company taking the smallest share.

(e) Owner operators will ask, when they are located by a military installation, of the agent who wants him to haul Sgt/Col X's shipment this question, "Is this a cut rate base?". If the answer is yes and the agent has 4 shipments to load, the driver winds up taking a $50.00 cut per shipment or $200.00 less. He breaks even on the hauling, perhaps getting his gas money back. If he cannot get rid of the shipment expeditiously at its destination, either through the base or an agent, he sometimes spends one or two days trying to drop off a 600 pound shipment. This would be due to the

(1) member not being at the station

(2) member not having quarters

(3) agents warehouse is full and he has to drive 50 miles out of his way to put the shipment in a government approved warehouse.

Keeping in mind that he is working for $0 on this haul and is wasting time, he is probably thinking about his $800.00 a month payment on his tractor plus the $500.00 he has paid for a new tire. To top this off, he is the one who offloads the furniture at residence and frequently is unable to find any helpers from the local manpower. In many cases the above situation is avoided due to the owner-operator not wanting this harassment.

(f) Owner-operators are leaving the industry in droves. Companies have vans but no one to drive them. There are moving companies who sell 30,000 to 40,000 dollar tractors for 3,000 dollars down, and then repossess them 4 and 5 times in the course of 18 to 20 months.

INTERNATIONAL SHIPMENTS

Under a new system started last year in Washington, *one* carrier wins the entire pot on shipments to certain countries, with other companies who "me-too" the same rate after the first company, obtaining an equalizing share if the first company cannot handle the shipment, i.e., ABC Van Lines, 100% for Germany, and X, Y and Z Van Lines, at the same rate, would rotate turns if ABC Van Lines could not handle the shipment.

(a) Local agents sometimes sign 40 to 50 "Letters of Intent" with companies, hoping that one of the 40 or 50 will win the pot, to insure they have signed with a winner. The company that wins has to bid low to win. The next thing he says is that he will have to lower his compensation to his agent.

(b) We have companies filed here with local agents for overseas on this competitive rate program we've never heard of. If they have boxes and an agent, the TMO has to give them shipments.

After being told by Washington of who won, the TMO sets up his books to award shipments to those carriers. They (the companies) can, however, after 60 days withdraw their rates. This is what is happening. We started with one carrier to Germany (100% Allied Van Lines) and 5 equalizing carriers, in case Allied could not handle the shipments. The 5 equalizing carriers have dropped out of the program; Allied no longer has any boxes left (due to being awarded all shipments to Germany) and the TMO (after working for months accepting Letters of Intent via writebacks to 150 companies) goes to a roster and awards the shipment to a company who has filed a rate that will allow him a fair margin of profit.

Mr. INOUYE. Mr. President, I believe that it is particularly important that the Defense Department look into what I believe are very serious problems with the implementation of the competitive rate program. I would also like to raise two other problems, which have come to my attention since mid-August, when the Senate Committee on Appropriations discussed the CRP.

The first is the cost savings associated with the CRP. Members of the international household goods moving industry have raised questions about the cost savings claimed to have been achieved by the Department of Defense after the initiation of the CRP. At this point in the RECORD, I would like to have inserted a copy of a brief paper on the savings forecasted for the CRP by DOD. The point of this paper is that the Department of Defense and its Military Traffic Management Command (MTMC) may not have adequately addressed the actual costs associated with the CRP. In fact, the allegation is made as follows:

DOD has reported a savings in the amount of $27.9 million to date from the Germany Competitive Rate Program. They have developed the actual costs through March 1978 . . . which indicates a possible savings of $10 million to date, a variance of $17.9 million in their stated savings of $27.9 million.

I say to my colleagues, I believe that this is a very serious allegation and one which the Defense Department should have to address. The Defense Department has justified the CRP on the basis of two major factors. The first is improved service under the CRP for the military member. The second is the cost savings claimed by DOD under this program. I have heard many reports, some from MTMC itself and from the Department of Defense, about service problems, such as the carriers or forwarders being unable to meet required delivery dates for the movement of household goods. But the question of the cost savings for the CRP is one on which both the proponents of the CRP and the detractors of the CRP share a common interest. We should find out whether the CRP is working, in the way the Defense Department claims it is.

It is for this reason, that I ask that the Defense Department study the cost savings question and the problems mentioned in my proposed report language. I agree with Dr. White's criticism, however, that a joint DOD–GAO or Defense Audit Service-GAO study effort might prove too "cumbersome". For that reason, I respectfully request that DOD perform the study as it sees fit but that the Defense Department be required to report back to the Committees on Armed Services and the Committees on Appropriations of the House and the Senate on a date certain with its findings on the CRP. I suggest that this study be completed by the Defense Department in time for submission with the President's recommended budget for fiscal year 1980.

The only other matter I wish to raise is one that is of particular concern to the States of Alaska and Hawaii. Early this spring, Secretary of Defense Harold Brown agreed to delay the application of the CRP to the States of Alaska and Hawaii until completion of an economic impact study. However, there is still the possibility that the Defense Department would try to apply the carrier evaluation rating system (CERS), which applies to the movement of household goods of military personnel within the Continental United States. I am informed that the CERS program has changed so much this year, that it is now no different from the CRP. I submit as some indication of this a copy of a letter from a local transportation management office at an Air Force base in the State of Illinois. What I ask is that the Defense Department not be allowed to apply CERS to the States of Hawaii and Alaska if there is no appreciable difference between CERS and CRP at this point in time.

I thank Senator STENNIS and my colleagues very much for their consideration of my requests.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to proceed for not to exceed 10 minutes, on another matter.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. And that the Senator from South Carolina may retain his right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider the nomination of Mr. Donald E. O'Brien, of Iowa, to be U.S. district judge for the northern and southern district of Iowa.

There being no objection, the Senate proceeded to the consideration of executive business.

The PRESIDING OFFICER. The nomination will be stated.

THE JUDICIARY

The assistant legislative clerk read the nomination of Donald E. O'Brien, of Iowa, to be U.S. district judge for the northern and southern districts of Iowa.

The PRESIDING OFFICER. Without objection, the nomination is considered and——

Mr. THURMOND addressed the Chair.

Mr. CULVER. Mr. President, will the Chair withhold on that, please?

The PRESIDING OFFICER. The Chair withholds ruling on the nomination.

Mr. CULVER. I appreciate that.

I think the Senator from South Carolina was seeking recognition.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. THURMOND. Mr. President, today the Senate has been asked to confirm the nomination of Donald E. O'Brien of Sioux City, Iowa to be a U.S. district judge for the northern and southern districts of Iowa. I rise to support this nomination. In doing so, I am pleased to extend my Senatorial courtesy to the distinguished Senators from the State of Iowa (Mr. CLARK and Mr. CULVER).

The nomination is presented for consideration by the Senate as a result of a poll of the members of the Senate Judiciary Committee. I agreed to this poll at the request of the chairman of the Senate Judiciary Committee, the distinguished Senior Senator from Mississippi (Mr. EASTLAND) and the distinguished Senator from Iowa (Mr. CULVER).

It should be stated for the record that this nomination was not without controversy. In fact, at the nomination hearing, which was conducted today, the nominee was formally opposed by representatives of the American Bar Association. The representatives testified that Mr. O'Brien was, in their opinion, not qualified for the position to which he seeks. The American Bar Association testimony, as I understand it, although I should state for the RECORD I was not present at this hearing, the opposition

testimony was based on two grounds: one, alleged unprofessional conduct with respect to a criminal trial which occurred in 1955; and second, partisan political activity on the part of the nominee.

Mr. President, this morning's Washington Post on page A–4, carries an article concerning this nomination. The Post article states that Mr. O'Brien is "now a member of the Democratic National Committee," and also was "President Carter's campaign manager in Michigan in 1976."

Mr. President, I ask unanimous consent that this article be printed in the RECORD at the close of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. THURMOND. I also ask unanimous consent that the résumé supplied to the committee by the nominee also be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. THURMOND. Mr. President, I am reminded of the statements of candidate Jimmy Carter and particularly his remarks in a speech to the Economic Club of Detroit, Mich., on October 15, 1976. Mr. Carter said flatly at that time in offering his 16-point plan for crime reduction and control that, among other things, "We must appoint all judges and U.S. attorneys strictly on the basis of merit, not politics." In his formal announcement of his candidacy for the Presidency in Atlanta on December 12, 1974, Governor Carter said, "All Federal judges, diplomats, and other major officials should be selected on a strict basis of merit." In his platform proposal to the Democratic meeting in New York City on June 16, 1976, he said, "All Federal judges and prosecutors should be appointed strictly on the basis of merit without any consideration of political aspects or influence. Independent blue ribbon judicial selection committees should be utilized to provide recommendations to the President when vacancies occur from which the President must make a selection."

Mr. President, as I understand it, the American Bar Association testimony was based on two separate investigations. My staff informs me that the American Bar Association representatives were questioned very closely by members of the Judiciary Committee about their position. So much so, in fact, that I wonder seriously whether or not the questions posed to the ABA representatives could not help but have a chilling effect on the future interests of the American Bar Association in providing the Members of the Senate with their views on proposed judicial nominations.

In the coming months, President Carter will have the opportunity to send to the Senate more than 150 nominations for Federal district court or appellate court positions, in addition to existing vacancies already occurring before the recent passage of the Omnibus Judgeship legislation. I would hope and expect due care and consideration will be given to all of these nominations and that political as well as ethnic, racial or sex balance will be sought by the administration in sending its nominations to the Senate.

Mr. President, in closing, I do not object to this nomination. I understand that testimony received by the committee from the State Bar Association of Iowa and other distinguished legal representatives, strongly supported the candidate. I again state that I have no objection to the accelerated procedure which has been employed to secure Senate confirmation of this candidate, but I do state here and now that I expect the same privileges and courtesies to be extended to other Senators regardless of their party affiliation, as they support nominations in the future, and I expect and hope that we can work constructively with the American Bar Association and other interested parties who take the time and trouble to provide us with their views on these nominations.

I yield the floor.

EXHIBIT 1

ABA, WHITE HOUSE CLASH ON JUDGESHIP

(Charles R. Babcock)

The American Bar Association is taking on the Carter administration in a rare public fight over a politically connected choice to fill a federal judgeship in Iowa.

ABA officials are scheduled to testify today, at a Senate Judiciary Committee hearing, against the nomination of Donald E. O'Brien, a Sioux City attorney who was President Carter's campaign manager in Michigan in 1976 and is now a member of the Democratic National Committee.

O'Brien was found "not qualified" in two separate ABA investigations over the past year, bar association officials said yesterday. The prime issue raised against the administration candidate was not his politics, but his conduct in a murder case 23 years ago, they said.

The defendant in the case was sentenced to life imprisonment in 1955. But the conviction was overturned in 1972 because it was determined that he gave an involuntary confession after being drugged in a mental hospital.

O'Brien was the county prosecutor at the time, and the ABA charges, in testimony prepared for today's hearing, that the nominee gave its investigators "evasive" answers about whether he received a 1955 letter from the institution informing him that the suspect had been drugged when he confessed.

O'Brien's version of the case "was sharply contradicted" by other lawyers involved, according to the testimony, and the case file in the prosecutor's office disappeared.

In addition, the investigations, by Thomas E. Deacy Jr. and Don H. Reuben, found that O'Brien used tactics "that might possibly be appropriate to a highly charged political campaign," but not to dealing with other attorneys.

The nomination also received wide publicity "suggesting overtones and innuendos of political favoritism and politics in connection with the federal judicial appointment process," the ABA said.

Justice Department officials countered yesterday that O'Brien was one of five candidates selected for the job by a judicial commission in Iowa, and that the state bar association also supports the nomination.

Justice spokesman Terry Adamson said that both the state bar association and Attorney General Griffin B. Bell considered O'Brien's role in the drugged confession case before approving the nomination.

This is the first instance of the ABA testifying against a Carter administration judicial nominee. "We think this is of national concern," one ABA official said yesterday. "If they can get this one [information] down, what's going to happen with those 152 new judgeships?"

Congress is near passage of a bill that would give Carter the power to name 152 new district and court of appeals judges—the largest patronage package in federal judicial history.

The 55-year-old O'Brien was U.S. attorney in Iowa during the Kennedy and Johnson administrations.

EXHIBIT 2

DONALD E. O'BRIEN

Born: September 30, 1923, Marcus, Iowa.

Legal Residence: Iowa.

Marital Status: Married, Wife—Ruth Mahon, 4 children.

Education: 1941–1943, Trinity College; 1945–1946, Sioux City, Iowa; and 1946–1948, Creighton University, LL.B. degree.

Bar: 1948, Iowa.

Military Service: 1943–1945, Army Air Force.

Experience: 1948–1959, Private Practice, Sioux City, Iowa; 1955–1958, County Attorney for Woodbury County, Iowa; 1959–1960, Municipal Judge, State of Iowa; 1960–1961, Private Practice; 1961–1967, United States Attorney Northern District of Iowa; 1967 to present, Private Practice; 1977 to present, April 1978, Special Counsel for House of Representatives, Small Business Committee.

Office: O'Brien, Galvin & O'Brien, 922 Douglas Street, Sioux City, Iowa 51101, Telephone: 712—255–0147.

Home: 3140 Norman Drive, Sioux City, Iowa 51104, Telephone: 712—277–4293.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. CULVER. Mr. President, I rise in support of the President's appointment of Donald J. O'Brien for U.S. District Judge for the northern and southern districts of Iowa. This meets an enormous need in our State where the backlog of cases has grown in the past year despite the best efforts of two full time judges and one part time judge to handle the caseload of a State of nearly 3 million people.

I especially appreciate the bipartisan support for this nomination because it affirms the merit of the selection procedure for Federal judges, district attorneys and marshals set up in our State by Senator CLARK and myself with the cooperation of the Iowa State Bar Association.

Under this procedure the recommendations for filling Federal judgeships is entrusted entirely to a bipartisan commission consisting of five attorneys and four distinguished lay citizens, three of the attorneys being appointed by the Iowa State Bar Association. The two Senators who formerly would have named the judges, attorneys and marshals, under terms of the charter, simply certify the commission's selections to the President without recommendation. Understand that all of the selections made by the Commission—five, in this case—are adjudged by the Commission qualified for the Federal bench.

If the American Bar Association is to go against the nomination of an Iowa judge against the recommendations of the nonpartisan Iowa Judiciary Selection Commission and the strong endorsement of the Iowa State Bar Association its case against the nominee should be strong. The ABA's case was weak. It was a rehash of old material, investigated by the

Judiciary Selection Commission and the Iowa State Bar Association and discredited as a reason for denying Mr. O'Brien's confirmation. In the confirmation hearing today former Republican Congressman Wiley Mayne, a prominent Sioux City attorney who has known Mr. O'Brien professionally and personally for 30 years, gave strong support to the qualifications of Mr. O'Brien for the Federal judgeship. He further gave strong endorsement to the nonpartisan method of selection by which Mr. O'Brien was one of the five chosen as qualified for the judgeship. Mr. Mayne, speaking as the designated representative of the Iowa State Bar Association and its past president, pointed out convincingly that the ABA attempted veto of the O'Brien nomination was not only an injustice to an experienced and highly qualified nominee for the judgeship but a regrettable blow against the progressive movement toward nonpartisan selection of Federal judges in Iowa.

I am confident that, if confirmed, Mr. O'Brien's tenure on the Federal bench will be characterized by distinguished service.

Mr. President, I ask unanimous consent to include other materials from the Senate Judiciary Committee hearing on this nomination.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATEMENT OF SENATOR JOHN CULVER

It is my privilege to present to you President Carter's nominee for the position of United States Judge for the Northern and Southern District of Iowa, Mr. Donald E. O'Brien of Sioux City.

In March of 1977, Senator Clark and I, in cooperation with the Iowa State Bar Association, created by charter a bi-partisan state commission to consider the qualifications of candidates for federal judgeships, thus removing the process from partisan politics. The Iowa Federal Judiciary Selection Commission, thus formed, consists of five lawyers and four laymen, three of the attorneys having been selected by the State Bar Association.

On October 1, 1977, after thorough examination of professional and personal qualifications and interviews of numerous applicants, the Judiciary Selection Commission selected five qualified attorneys to be considered for the position of U.S. District Judge for the Northern and Southern Districts of Iowa. Mr. O'Brien was one of five widely respected names submitted to Senator Clark and me and certified by us, under terms of the charter, "without prejudice," to the President.

It is important to bear in mind that Mr. O'Brien and the other four individuals submitted by the Commission were carefully screened and chosen on the basis of merit, rather than political considerations.

Mr. O'Brien is a practicing attorney in Sioux City with a depth of trial experience in both criminal and civil law. In addition to this, he has served as county attorney, municipal judge, U.S. District Attorney, and as special counsel to the Small Business Administration. His personal integrity and professional qualifications for the judgeship have been attested to by a long list of distinguished judges and attorneys in the state, many of whom have been involved in cases with him. He has the strong support of the Iowa State Bar Association.

Three federal judges are currently handling the caseload in Iowa, a state of nearly three million people. There is an urgent need for filing this federal court vacancy. Mr. O'Brien's record has been intensively reviewed by both the state Judiciary Selection Commission and the Iowa State Bar Association. In the absence of compelling new evidence to the contrary, he has the full support of Iowa's two U.S. Senators. We believe he will make an outstanding judge.

STATEMENT OF SENATOR DICK CLARK

Good morning. I appreciate the opportunity to appear before you this morning to introduce Donald E. O'Brien of Sioux City, Iowa, who has been nominated for the position of Federal District Judge for the Northern and Southern Districts of Iowa.

I want to give you some background on the process by which Don O'Brien was selected. In early 1977, Senator Culver and I, with the active participation of the Iowa Bar Association, decided to set up the Iowa Federal Judicial Selection Commission. The commission's duty was to propose qualified candidates for presidential nomination as federal judges, U.S. attorneys and U.S. marshals for the state of Iowa. Our purpose in setting up the commission was to ensure that the positions were filled by people of professional ability and integrity.

The commission is made up of nine members, three chosen by the Iowa Bar Association from their membership, and the other six chosen by Senator Culver and myself. We attempted to choose a broad cross-section of Iowans to serve and I believe we succeeded.

According to the commission's charter, all proposed nominees were to possess:

"1. All the qualifications required by law;

2. The personal qualities of integrity, sound physical health, objectivity, emotional stability, honesty, fairness, compassion and community respect; and

3. The professional qualities of judicial temperament, legal experience and outstanding legal ability."

Late last year, the Judicial Selection Commission certified a list of five nominees, including Don O'Brien, who they felt fulfilled these requirements and were qualified for the position of federal district judge. Senator Culver and I submitted this list to President Carter, who chose Don O'Brien as his nominee.

Don O'Brien has broad legal experience in his own law practice, as Woodbury County attorney, as a municipal judge and as a U.S. attorney for Iowa. I have known Don for many years—he is widely respected in Iowa and has been endorsed strongly by the Iowa Bar Association.

The Judicial Selection Commission proposed Don O'Brien, along with their other choices, as a result of a thorough, rational and impartial process.

He has been approved by the President and the Justice Department as well and I support his nomination.

IOWA FEDERAL JUDICIARY SELECTION COMMISSION

I am Earle Grueskin, and I am the Chairman of the Iowa Federal Judiciary Selection Commission. The Iowa Federal Judiciary Selection Commission was formed by charter by the Iowa State Bar Association and Senators John Culver and Dick Clark, both of Iowa. It is a bi-partisan commission established to screen and interview candidates for the positions of U.S. District Judge, U.S. Attorney, and U.S. Marshall. The Commission's charter provides for the submission of the names of qualified candidates for those positions, should vacancies occur, to the President of the United States. Three members of the nine-member commission are appointed by the Iowa State Bar Association, and three each by Senators Clark and Culver. I have been Chairman of the Commission since its first meeting in March of 1977.

The Iowa Federal Judiciary Selection Commission has interviewed candidates for five positions since its inception. We successfully completed screening for the positions of U.S. Attorney, Northern District of Iowa; U.S. Attorney, Southern District of Iowa; U.S. Marshall, for both the Northern and Southern Districts of Iowa; and U.S. District Judge, Southern District of Iowa. In each case, we have submitted not more than five names and the President has made a selection from each list provided.

The Commission has had an excellent working partnership with the Iowa State Bar Association, enlisting their resources and staff in processing the many names that have come before it. In all instances, we have had the support of Senators Clark and Culver in our attempts to make qualified names available for federal appointments.

We personally interviewed every candidate for each position named. Last October, the Commission completed screening and interviews for the vacancy in the bench for U.S. District Judge, Southern Division of Iowa. The Commission submitted the names of five men we estimated as qualified for that position. One of those submitted was Donald E. O'Brien of Sioux City, Iowa, the name before you today. Mr. O'Brien was questioned at our hearing concerning his background, his experience, his personal life, his financial status, his personal law practice, his record as County Attorney for Woodbury County, Iowa, his experience as Municipal Judge in Sioux City, and his additional work as U.S. Attorney, Northern District of Iowa. Mr. O'Brien was frank and cooperative in response to all questions, in the judgment of the Commission. I believe I should also point out that the history of the Triplett case was also reviewed, and the explanation of Mr. O'Brien's relations to that case was examined. In every instance, he answered questions in a satisfactory manner. At the conclusion of the hearing, it was felt that Donald E. O'Brien was qualified to be named to the list submitted to the President for consideration as U.S. District Judge.

We are aware that the American Bar Association has stated that they do not consider Mr. O'Brien qualified for the position. That information was made available to us earlier this year. I wrote immediately to Mr. Thomas Deacy, who represented the A.B.A. at that time, in the review of Mr. O'Brien. I asked him to let me know, as Chairman of the Commission, what material or evidence he had encountered that would lead him to make such a judgment. I offered the entire record of the Commission to the A.B.A. to effect a review of the decision they had made. Mr. Deacy said that he was not able to review the material, and he also stated that confidentiality prohibited him from discussing the case with me. A later review by Don Rueben of Chicago for the A.B.A. was made of Mr. O'Brien's record, and I held a short conversation with Mr. Rueben by phone. Mr. Rueben did not request any of our Commission's records beyond my answering two or three questions for him.

The Iowa State Bar Association, as you know, has endorsed the nomination of Mr. O'Brien, and they do, in last, express the opinion that he is qualified to be U.S. District Judge.

I might offer, as an aside, the opinion of a native of the same city in which Mr. O'Brien has resided nearly all of his life, that being Sioux City. "It is my personal opinion that he is held in high regard, not just as an attorney, but also as an excellent citizen, a man of high character, and one who is respected." These opinions come from people in all areas of life in Sioux City, and support the many endorsements which have been sent unsolicited to this Committee and to the President.

The Iowa Federal Judiciary Selection Commission consists of six men and three women; five of the men are attorneys. I am

the only one of the men who is not a member of the Bar. Yet, I feel the Commission, lawyer and non-lawyer alike, is satisfied that the name of Donald O'Brien is one that we have confidence will be an excellent addition to the ranks of U.S. District Judge.

Thank you for allowing me to participate in this hearing.

STATEMENT OF WILEY MAYNE, ESQ.

I appear here today in support of the nomination of Donald E. O'Brien at the request of the officers of the Iowa State Bar Association and on behalf of the Association. I am a past president of the Association and am still active on its committees and advisory council. I have also been active in the American Bar Association, including two years as a member of the ABA House of Delegates, and have been a fellow in the American College of Trial Lawyers since 1957.

Iowa does not have an integrated bar in which membership in the state bar association is compulsory. Nevertheless, some 4,000 lawyers, or approximately 97 percent of those admitted to practice in Iowa, voluntarily join the Association each year, which is by far the highest percentage of any voluntary bar association in the United States.

The ISBA is interested in this nomination for several reasons. First, because the Association participated in the process through which the nominee was recommended to the President and is in a position to vouch for its thoroughness, reliability and integrity. When Senators Clark and Culver, at the request of the newly-elected President, formed a commission to consider the qualifications of candidates for federal judgeships, they invited the ISBA to appoint three of the five lawyer members of the commission. The Association responded by appointing three outstanding lawyers and offering to bear all the expenses of the commission including office and secretarial assistance.

The Association also brought considerable expertise and long experience to this task, as Iowa has since 1963 nominated its state trial and appellate judges through non-partisan commissions, half of whom are lawyers elected by lawyers, and half laymen appointed by the governor. Passage of the judicial amendment removing judge selection from partisan politics, and its successful implementation, have been major projects of the ISBA. Iowa was the first state to adopt such merit selection of both trial and appellate judges. The commission method has been such an outstanding success in our state courts that the Association welcomed the President's suggestion that a similar approach be used for the appointment of federal judges.

The commissioners appointed by the Senators and the Association were without exception Iowans of great distinction and achievement. I have been personally acquainted with four of the lawyer members and two of the lay members for many years and know them to be citizens of the highest character and ability. They worked long hours, interviewing many candidates, and conferring together in many meetings, as Chairman Grueskin has testified. At the end of this arduous, painstaking and time-consuming process (which the Association's officers have found to be thorough and reliable) the Commission emerged with the names of five lawyers and judges who they recommended as qualified, one of whom, Donald O'Brien, has now been nominated by the President. The ISBA commends the President for preserving the credibility and integrity of the commission method and respectfully urges this subcommittee to do likewise by reporting this nomination favorably.

The Association is also interested in confirmation with all reasonable speed because of the pressing need to fill a vacancy which has now existed since August 15, 1977. During the ensuing 14 months a heavy backlog of untried criminal and civil cases has accumulated, which obviously cannot be remedied until a new judge assumes his duties. Iowa is already seriously understaffed with only three district judges to serve a population of more than three million, and continued delay in filling this vacancy will further impair the sound administration of justice.

I trust the subcommittee will permit me to add my own expression of support for this nomination. Since February 1, 1946, I have been continuously engaged in trial practice in the state and federal courts in Sioux City, Iowa, with the exception of eight years of service in the U.S. House of Representatives, 1967–75 representing Iowa's 6th District. I have tried many cases against Donald E. O'Brien since he came to the Sioux City bar 30 years ago and have had an opportunity to observe his performance as a county (prosecuting) attorney, United States district attorney and as a trial lawyer in private practice first hand. He has been a highly capable, successful and completely honorable member of the legal profession in all of my dealings with him and he enjoys that reputation at the Sioux City bar. He would certainly bring to the trial bench a wealth of diversified courtroom experience in our state and federal courts, an experience at least equal to that of most federal judges at the time of their appointment. It is my considered judgment that he is well qualified to be a federal district judge and his nomination should be confirmed.

Mr. WALLOP. Mr. President, the Judiciary Committee held hearings today on the nomination of Donald E. O'Brien to be U.S. district judge for the northern and southern districts of Iowa. I understand the nomination was agreed to. Mr. O'Brien was recommended to the President by the Iowa Federal Judiciary Selection Commission which was established by the Iowa State Bar Association and the distinguished Senators from Iowa, Messrs. CLARK and CULVER. However, the nomination is not without opposition. The very creditable American Bar Association's Standing Committee on the Federal Judiciary unanimously opposes this nomination. They expressed concerns about Mr. O'Brien's conduct as county prosecutor in the Triplett murder case in 1955. They also point out the extent to which Mr. O'Brien has been involved in Democratic Party politics. He is currently a member of the Democratic National Committee and in previous years managed statewide political campaigns for the late Robert Kennedy, the late Senator and Vice President Humphrey, Senator GEORGE MCGOVERN, and President Carter.

Mr. President, having weighed the testimony and other evidence before the committee, I have decided, subject to some reservations I will discuss in a moment, to support this nomination. I do so because I believe the Iowa Federal Judiciary Selection Commission acted conscientiously and objectively and in the interests of the people of Iowa when it recommended Mr. O'Brien for this position.

Mr. President, Mr. O'Brien is not to be criticized or penalized for his political activities. It is indeed ironic, however, that our President, who had promised to remove politics from the judicial selection process, has instead gone ahead and rewarded a longtime party supporter with a judicial nomination. I cannot emphasize enough that my vote for Mr. O'Brien is on the basis of the recommendations of the Iowa Federal Judicial Selection Commission and of Senators CULVER and CLARK. It is not intended to, nor should it be taken as, a green light to the President to recede from his laudable and important policy objective of selecting Federal jurists solely on the basis of merit.

Before closing, I would like to commend the American Bar Association for its consistently high quality assistance in its review of the qualifications of nominees for Federal judgeships. I would encourage the ABA to persist in its efforts in screening aspirants for the Federal bench. Their services will be essential to us in filling the judgeships created by the omnibus judgeship bill.

Mr. CULVER. I yield back the time and ask for a vote on the nomination.

The PRESIDING OFFICER. All time is yielded back. The question is, Will the Senate advise and consent to the nomination of Donald E. O'Brien, of Iowa, to be U.S. district judge for the northern and southern districts of Iowa?

The nomination was confirmed.

Mr. CULVER. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CULVER. Mr. President, I ask unanimous consent that the President of the United States be notified of the confirmation of the nomination.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CULVER. I thank the Chair.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEPARTMENT OF DEFENSE APPROPRIATIONS, 1979

The Senate continued with the consideration of the bill.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on the amendment by Mr. HOLLINGS there be a 2-hour limitation equally divided between Mr. HOLLINGS and Mr. STENNIS, with the time to begin running in the morning at 9 a.m., a vote to occur at such time after the time is consumed.

Mr. BELLMON. Mr. President, reserving the right to object, I need to make certain that this is agreeable with the minority leader.

Mr. ROBERT C. BYRD. I just talked to Senator YOUNG.

Mr. BELLMON. We are in touch with the minority leader.

Mr. ROBERT C. BYRD. I withhold the request temporarily.

In the meantime, Mr. President, if the distinguished Senator from South Carolina and the chairman and ranking mi-

nority member have no objection, I ask unanimous consent that the amendment by Mr. HOLLINGS be temporarily laid aside without any prejudice to the rights of Mr. HOLLINGS, and that Mr. MORGAN be allowed to call up his amendment. Mr. MORGAN is willing to go with a 30-minute time limitation on it, to be equally divided between Mr. MORGAN and Mr. STENNIS.

Now, I see the minority leader is here.

Mr. STENNIS. Mr. President, if the Senator will yield, and I will not object, the minority leader is here and if you can close all of these matters, a special time for the Hollings amendment, whatever time you agree on, then we will have it locked up.

Mr. BAKER. Mr. President, do I understand the majority leader is going to repeat his request?

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the amendment by Mr. HOLLINGS be temporarily laid aside, that it be placed again before the Senate in the morning at 9 o'clock, and that there be a 2-hour time limitation on it to be equally divided between Mr. HOLLINGS and Mr. STENNIS, and that in the meantime——

Mr. HOLLINGS. Can I get the yeas and nays?

Mr. ROBERT C. BYRD. Does the Senator want to ask for the yeas and nays now?

Mr. HOLLINGS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. ROBERT C. BYRD. Could we have an agreement on Mr. HOLLINGS' amendment?

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. ROBERT C. BYRD. Now, Mr. President, I ask unanimous consent that there be a time limitation on the amendment by Mr. MORGAN of 30 minutes to be equally divided between Mr. STENNIS and Mr. MORGAN.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The Senator from North Carolina.

Mr. MORGAN. Mr. President, I yield to the Senator from West Virginia.

The PRESIDING OFFICER. The Senator yields to the Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I thank the Senator from North Carolina for yielding, but we will have to wait until we can hear from Mr. STEVENS before we proceed with a time agreement on his amendment.

Mr. STENNIS. Mr. President, I think the Senator from North Carolina is ready to go. Senator NUNN is here and he is going to represent the committee.

The PRESIDING OFFICER. The Senator from North Carolina.

UP AMENDMENT NO. 1988

Mr. MORGAN. Mr. President, I send an amendment to the desk and ask the clerk to report the amendment.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from North Carolina (Mr. MORGAN) proposes an unprinted amendment numbered 1988.

Mr. MORGAN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2, line 20, strike the figure "$6,949,532,000" and insert in lieu thereof "$6,951,332,000."

On page 4, line 6, strike the figure "$226,900,000" and insert in lieu thereof "$246,800,000."

On page 9, line 13, strike the figure "$364,450,000" and insert in in lieu thereof "$365,200,000."

Mr. MORGAN. Mr. President, I do not believe this will be a rollcall vote, for the benefit of any of those who might be waiting on this particular amendment.

Mr. STENNIS. Mr. President, may we have order now? The Senator is entitled to be heard. I believe this will be brief.

The PRESIDING OFFICER. The Senator is correct. The Senate is not in order. The Senate will be in order.

The Senator from North Carolina.

Mr. MORGAN. Mr. President, my amendment deals with the Naval Reserve. This has been a source of some concern to the Senate. It was last year and it has been for a number of years.

The Department of Defense, through some studies, established the requirement of over 90,000 drilling naval reservists as a maximum or desirable strength. The requested average strength for fiscal year 1979 by the administration was only 51,400, a reduction of over 40 percent from last year's authorization.

Now, Mr. President, the House Committee on Armed Services and the Senate Committee on Armed Services, through a subcommittee chaired by the distinguished Senator from Georgia as subcommittee chairman, considered this request very carefully and set the authorized strength again at 87,000, which was the same as it was last year.

This year both the House and Senate Armed Services Committees expressed concern that reductions in the Naval Reserve strength could lead to losses of vital capabilities and critical types of units with highly professional and technical skills.

For the third year in a row the House Appropriations Committee rejected the budget request to reduce the drill strength of the Naval Reserve and instead appropriated funds for the full strength of 87,000. The committee stated that:

The recommended selected reserve strength of 87,000 is provided because studies of the required Navy Reserve strength levels have indicated that this level is necessary to conduct the reserve upon mobilization.

I ask the Senate to support this amendment to stabilize the Naval Reserve at its present authorized strength of 87,000 to prevent a deterioration of the Navy's already marginal capability to meet its commitments in a time of national need.

We have compromised this force down to well below what we need to maintain an adequate naval defense posture and this frustration comes at a time when our relative military strength is steadily declining.

I think now is the time to hold the line, especially when we are operating on a total force concept which is made up of the regulars as well as the reserves and, as a matter of fact, over half of the combat units in the Army are made up of reserves.

So I strongly urge that this amendment be adopted.

Mr. President, I ask unanimous consent that the names of the Senator from West Virginia (Mr. RANDOLPH), the Senator from Utah (Mr. GARN), and the Senator from Georgia (Mr. NUNN) be added as cosponsors of this proposal.

The PRESIDING OFFICER (Mr. PROXMIRE). Without objection, it is so ordered.

Mr. MORGAN. Mr. President, I reserve the remainder of my time.

Mr. NUNN. Mr. President, I do not know whether the Senator from Mississippi wants to speak at this point. If he does not, I will make a brief statement about this amendment.

The PRESIDING OFFICER. Does the Senator from Mississippi yield to the Senator from Georgia?

Mr. STENNIS. I yield to the Senator from Georgia, and ask him to represent the committee.

Mr. NUNN. Mr. President, I would recommend that the committee accept this amendment. This amendment by the Senator from North Carolina really brings the appropriation for the Naval Reserve to the level of the authorizations. The authorizations on the Naval Reserve have been steadily cut for approximately 3 years. We felt this year, in the authorizing committee and the Subcommittee on Manpower which handled this matter, that it was time to stabilize the Naval Reserve, so that they can perform the mission for which they are envisioned.

So I would recommend that the committee accept this amendment. It would not exceed the authorized level. The House has this provision in its appropriation bill, and I believe it is in the best interest of the Naval Reserve.

Hopefully, if they are stabilized for a couple of years, the Navy will be able to give them more meaningful missions. The biggest problem we have had with the Naval Reserve, after looking at it over a period of years, is that the Navy has not given them as meaningful missions as they are capable of performing.

Mr. BELLMON. Mr. President, will the Senator yield for a question?

Mr. NUNN. I yield to the Senator from Oklahoma.

Mr. BELLMON. What is the cost of the amendment?

Mr. NUNN. I defer to the Senator from North Carolina on that question. It would be about 10,000 people difference. What would that total cost be?

Mr. MORGAN. Let me see. I will have to compute it. Just a minute.

Mr. NUNN. It is basically the cost of paying about 10,000 or 12,000 people for their weekly drill in summer camp.

Mr. MORGAN. Twenty-two million dollars.

Mr. NUNN. Twenty-two million dollars.

Mr. BELLMON. Does the amendment ask for $22 million?

Mr. MORGAN. Twenty-two million, four hundred thousand dollars.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from North Carolina.

Mr. THURMOND. Mr. President, will the Senator yield me 2 minutes?

Mr. MORGAN. Yes, of my time.

Mr. THURMOND. Mr. President, I rise in support of this amendment. The Naval Reserve was cut last year and the year before——

The PRESIDING OFFICER. Will the Senator use the microphone, so he can be heard?

Mr. THURMOND. The administration has cut the Naval Reserve each year for a number of years, and Congress has had to restore it. As I understand, all this amendment does is provide the appropriation for the finding by the Armed Services Committee of the number in the Naval Reserve. That would seem the sensible thing to do. Otherwise, the work of the Armed Services Committee in fixing the size of the Naval Reserve would be a nullity. It is my hope that this amendment will be accepted.

Mr. YOUNG. Mr. President, I believe the able Senator from Mississippi, the chairman, is agreeable to this amendment. I have no objection. It is in the authorization bill, it is in the House bill, and I suggest we accept it.

Mr. MORGAN. Mr. President, I ask unanimous consent that the name of the Senator from Montana (Mr. PAUL G. HATFIELD) be added as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MORGAN. I am ready to yield back the remainder of my time, if the managers of the bill are.

The PRESIDING OFFICER Do the Senator from Mississippi and the Senator from North Dakota yield back their time?

Mr. STENNIS. I yield back our time on the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from North Carolina.

The amendment was agreed to.

Mr. MORGAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question recurs on agreeing to the unprinted amendment of the Senator from South Carolina (Mr. HOLLINGS).

The Chair is in error; that amendment has been laid aside until 9 o'clock tomorrow.

Mr. ROBERT C. BYRD. Mr. President, Mr. STEVENS has an amendment which he is ready to call up now, I understand. He is agreeable to a 30-minute time limitation thereon, to be equally divided between himself and Mr. STENNIS, if that is agreeable.

Mr. STENNIS. Yes, that is all right.

Mr. ROBERT C. BYRD. So I make that unanimous-consent request.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The Stevens amendment is in order.

Mr. STENNIS. If the Senator will yield, it is going over until tomorrow.

Mr. ROBERT C. BYRD. I did not understand that. The Stevens amendment?

Mr. STENNIS. Yes; that is what I talked to you about. Senator EAGLETON asked, you see.

Mr. ROBERT C. BYRD. That is the same amendment?

Mr. STENNIS. Yes.

Mr. BAKER. Are you ready to take up yours?

Mr. STEVENS. I will be happy to take mine up tonight if there is not going to be a rollcall vote. I will be more than willing to have a time agreement on it.

Mr. ROBERT C. BYRD. It has already been agreed to. I understood you wanted 30 minutes.

Mr. STEVENS. Fine.

The PRESIDING OFFICER. Without objection, there is a 30-minute time limitation on the Stevens amendment, to be considered tomorrow.

Mr. ROBERT C. BYRD. Do you want it before the Hollings amendment?

Mr. STENNIS. Well, I do not know that there would be time. There is an hour to the side, if that time is used.

Right after the Hollings amendment, is that all right?

Mr. STEVENS. Yes.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that upon the disposition of the Hollings amendment tomorrow, Mr. STEVENS be recognized to call up his amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I would inquire as to whether or not there are any other amendments, and I would ask the respective cloakrooms to assist the joint leadership in helping to ascertain the answer to this question. For the moment, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I make this proposal: I ask unanimous consent—we have ascertained that there are no further amendments—I ask unanimous consent that upon the disposition of the amendment by Mr. STEVENS tomorrow, the Senate proceed immediately to third reading, without further debate, motion, or amendment, and that the Senate then proceed immediately without further motion or debate to final passage.

Mr. STENNIS. With a rollcall.

The PRESIDING OFFICER. Is there objection?

Mr. BAKER. Could we have a reservation just for one moment, Mr. President?

The PRESIDING OFFICER. Reservation is heard.

Mr. BAKER. Mr. President, reserving the right to object, and I will not object, as far as we can ascertain by inquiring in the cloakroom and through consultation with the distinguished ranking Republican member of the Appropriations Committee, with the minority whip, and with others I see on the floor, I cannot ascertain that there are any other amendments. I believe if we got into a problem with that tomorrow, we might be able to find some way out, but at this moment I will not object.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask for the yeas and nays on passage of the bill.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ROBERT C. BYRD subsequently said: Mr. President, I wish to modify the time agreement on the defense appropriation bill as follows:

Provided that following the disposition of the amendment by Mr. STEVENS, Mr. MCGOVERN be recognized to call up his amendment; that there be a 10-minute time limitation thereon, to be equally divided between Mr. STENNIS and Mr. MCGOVERN; and that the remainder of the order then be as was entered.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR CONSIDERATION OF THE TAX BILL TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that tomorrow upon the disposition of the defense appropriation bill, the Senate proceed to the consideration of the tax bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. That bill is Calendar Order No. 1187.

LEGISLATIVE PROGRAM

Mr. ROBERT C. BYRD. Mr. President, there will be no more rollcall votes tonight. Are there any orders for the recognition of Senators?

The PRESIDING OFFICER. There are no orders for recognition of Senators tomorrow.

Mr. ROBERT C. BYRD. There are none?

The PRESIDING OFFICER. There are none.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a brief period for the transaction of routine morning business at this time, with statements limited therein to 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Marks, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

ENROLLED BILLS SIGNED

At 3:28 p.m., a message from the House of Representatives delivered by Mr. Hackney, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

S. 2916. An act to amend the Drug Abuse Office and Treatment Act of 1972 to extend the programs of assistance under that act for drug abuse prevention, education, treatment, and rehabilitation, and for other purposes;

S. 3384. An act to require foreign persons who acquire, transfer, or hold interests in agricultural land to report such transactions and holdings to the Secretary of Agriculture and to direct the Secretary to analyze information contained in such reports and determine the effects such transactions and holdings have, particularly on family farms and rural communities, and for other purposes;

H.R. 1337. An act to amend the Internal Revenue Code of 1954 with respect to excise tax on certain trucks, buses, tractors, et cetera, home production of beer and wine, refunds of the taxes on gasoline and special fuels to aerial applicators, and partial rollovers of lump sum distribution;

H.R. 10965. An act to revise, codify, and enact without substantive change the Interstate Commerce Act and related laws as subtitle IV of title 49, United States Code, "Transportation"; and

H.R. 12603. An act to amend the Great Lakes Pilotage Act of 1960 in order to relieve the restrictive qualification standards for U.S. registered pilots on the Great Lakes.

The enrolled bills were subsequently signed by the President pro tempore (Mr. EASTLAND).

The message also announced that the House has passed S. 553, an act to enlarge the boundary of the Cibola National Forest, with amendments in which it requests the concurrence of the Senate.

The message further announced that the House has passed S. 3189, an act to further amend the Mineral Leasing Act of 1920 (30 U.S.C. 201(a)), to authorize the Secretary of the Interior to exchange Federal coal leases and to encourage recovery of certain coal deposits, and for other purposes, with an amendment in which it requests the concurrence of the Senate.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to H.R. 12930, an act making appropriations for the Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain independent agencies, for the fiscal year ending September 30, 1979, and for other purposes; that the House recedes from its disagreement to the amendments of the Senate numbered 14 and 15 to the bill and concurs therein; and that the House recedes from its disagreement to the amendments of the Senate numbered 30 and 31 to the bill, and concurs therein each with an amendment in which it requests the concurrence of the Senate.

The message further announced that the House has passed S. 1487, an act to eliminate racketeering in the sale and distribution of cigarettes, and for other purposes, with amendments in which it requests the concurrence of the Senate; that the House insists upon its amendments and requests a conference with the Senate on the disagreeing votes of the two Houses thereon; and that Mr. CONYERS, Ms. HOLTZMAN, Mr. ERTEL, Mr. GUDGER, Mr. VOLKMER, Mr. RODINO, Mr. RAILSBACK, and Mr. ASHBROOK were appointed managers of the conference on the part of the House.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 8810. An act for the relief of Kim In Hyung;

H.R. 9075. An act for the relief of John F. Johnson;

H.R. 9192. An act to amend the Internal Revenue Code of 1954 to extend to Banks for Cooperatives the provision providing for ordinary loss and gain treatment on sales of bonds, etc.;

H.R. 9568. An act for the relief of Renate Irene McCord;

H.R. 10600. An act for the relief of Thomas Joseph Hunter and Rose Hunter;

H.R. 10653. An act to amend the Internal Revenue Code of 1954 with respect to the redemption of United States Railway Association certificates of value issued to railroads in reorganization, and for other purposes;

H.R. 11658. An act to amend title XI of the Merchant Marine Act, 1936, to permit the guarantee of obligations for financing Great Lakes vessels in an amount not exceeding 87½ per centum of the actual or depreciated actual cost of each vessel;

H.R. 11741. An act to amend section 118 of the Internal Revenue Code of 1954 to clarify the treatment of contributions in aid of construction to regulated electric or gas public utilities;

H.R. 13972. An act to designate the Great Bear Wilderness, Flathead National Forest, and enlarge the Bob Marshall Wilderness, Flathead and Lewis and Clark National Forests, State of Montana; and

H.R. 14026. An act to provide means for the acquisition and retention of title to certain lands by the village corporation organized pursuant to the Alaska Native Claims Settlement Act for the Natives of the village of Kake, Alaska, and for other purposes.

At 6:10 p.m., a message from the House of Representatives, delivered by Mr. Hackney, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to H.R. 11302, an act to authorize appropriations for environmental research, development, and demonstrations for the fiscal year 1979, and for other purposes.

The message also announced that the House has passed S. 1081, an act to amend the laws relating to the Osage Tribe in Oklahoma, with amendments in which it requests the concurrence of the Senate.

The message further announced that the House has passed S. 2358, an act to declare that the United States holds in trust for the Pueblo of Zia certain public domain lands, with an amendment in which it requests the concurrence of the Senate.

The message also announced that the House recedes from its disagreement to the amendment of the Senate to H.R. 7843, an act to provide for the appointment of additional district and circuit judges, and for other purposes, and concurs therein with an amendment in which it requests the concurrence of the Senate.

The message further announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to H.R. 12255, an act to amend the Older Americans Act of 1965 to provide for improved programs for older persons, and for other purposes.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to H.R. 11445, an act to amend the Small Business Act and the Small Business Investment Act of 1958.

The message further announced that the House disagrees to the amendment of the Senate to H.R. 11733, an act to authorize appropriations for the construction of certain highways in accordance with title 23 of the United States Code, for highway safety, for mass transportation in urban and in rural areas, and for other purposes; agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. JOHNSON of California, Mr. ROBERTS, Mr. HOWARD, Mr. ANDERSON of California, Mr. ROE, Mr. ULLMAN, Mr. ROSTENKOWSKI, Mr. CORMAN, Mr. HARSHA, Mr. SHUSTER, and Mr. CONABLE were appointed managers of the conference on the part of the House.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 6877. An act to amend the Internal Revenue Code of 1954 to extend the deficiency dividend procedures to regulated investment companies;

H.R. 12051. An act relating to the application of certain provisions of the Internal Revenue Code of 1954 to specified transactions by certain public employee retirement systems created by the State of New York or any of its political subdivisions;

H.R. 12171. An act to strengthen the right of access of the Comptroller General to public and certain private records, to allow for limited auditing of unvouchered expenditures, and for other purposes;

H.R. 12200. An act relating to the tax treatment of the exercise after 1975 of certain qualified stock options;

H.R. 12555. An act for the relief of Russell W. Allen;

H.R. 12606. An act to provide that annuity contracts purchased by the Uniformed Services University of the Health Sciences shall be entitled to the benefits of section 403(b) of the Internal Revenue Code of 1954;

H.R. 12828. An act to amend the Internal Revenue Code of 1954 to exclude from the definition of an unrelated trade or business qualified convention and trade show activities carried out by an organization described in section 501(c)(3);

H.R. 13167. An act to amend the Internal Revenue Code of 1954 to insure that the deduction for contributions to a black lung benefit trust be allowed for any such contributions which are made for the purpose of satisfying unfunded future liability, and for other purposes;

H.R. 13221. An act to extend the boundaries of the Toiyabe National Forest in Nevada, and for other purposes; and

H.R. 13702. An act to provide that the Territory of American Samoa be represented by a nonvoting Delegate to the U.S. House of Representatives, and for other purposes.

HOUSE BILLS REFERRED

The following bills were read twice by their titles and referred as indicated:

H.R. 6877. An act to amend the Internal Revenue Code of 1954 to extend the deficiency dividend procedures to regulated investment companies; to the Committee on Finance;

H.R. 8810. An act for the relief of Kim In Yung; to the Committee on the Judiciary;

H.R. 9075. An act for the relief of John F. Johnson; to the Committee on the Judiciary;

H.R. 9192. An act to amend the Internal Revenue Code of 1954 to extend to Banks for Cooperatives the provision providing for ordinary loss and gain treatment on sales of bonds, et cetera; to the Committee on Finance;

H.R. 9568. An act for the relief of Renate Irene McCord; to the Committee on the Judiciary;

H.R. 10653. An act to amend the Internal Revenue Code of 1954 with respect to the redemption of United States Railway Association certificates of value issued to railroads in reorganization, and for other purposes; to the Committee on Finance;

H.R. 11741. An act to amend section 118 of the Internal Revenue Code of 1954 to clarify the treatment of contributions in aid of construction to regulated electric or gas public utilities; to the Committee on Finance;

H.R. 12051. An act relating to the application of certain provisions of the Internal Revenue Code of 1954 to specified transactions by certain public employee retirement systems created by the State of New York or any of its political subdivisions; to the Committee on Finance;

H.R. 12200. An act relating to the tax treatment of the exercise after 1975 of certain qualified stock options; to the Committee on Finance;

H.R. 12555. An act for the relief of Russell W. Allen; to the Committee on the Judiciary;

H.R. 12606. An act to provide that annuity contracts purchased by the Uniformed Services University of the Health Sciences shall be entitled to the benefits of section 403(b) of the Internal Revenue Code of 1954; to the Committee on Finance;

H.R. 12828. An act to amend the Internal Revenue Code of 1954 to exclude from the definition of an unrelated trade or business qualified convention and trade show activities carried out by an organization described in section 501(c)(3); to the Committee on Finance;

H.R. 13221. An act to extend the boundaries of the Toiyabe National Forest in Nevada, and for other purposes; to the Committee on Energy and Natural Resources; and

H.R. 13702. An act to provide that the Territory of American Samoa be represented by a nonvoting Delegate to the U.S. House of Representatives, and for other purposes; to the Committee on the Judiciary.

HOUSE BILLS HELD AT THE DESK

The following bills were read by title and held at the desk, by unanimous consent:

H.R. 11658. An act to amend title XI of the Merchant Marine Act, 1936, to permit the guarantee of obligations for financing Great Lakes vessels in an amount not exceeding 87½ per centum of the actual or depreciated actual cost of each vessel;

H.R. 12171. An act to strengthen the right of access of the Comptroller General to public and certain private records, to allow for limited auditing of unvouchered expenditures, and for other purposes;

H.R. 13167. An act to amend the Internal Revenue Code of 1954 to insure that the deduction for contributions to a black lung benefit trust be allowed for any such contributions which are made for the purpose of satisfying unfunded future liability, and for other purposes; and

H.R. 13972. An act to designate the Great Bear Wilderness Flathead National Forest, and enlarge the Bob Marshall Wilderness, Flathead and Lewis and Clark National Forests, State of Montana.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on today, October 4, 1978, he presented to the President of the United States the following enrolled bills:

S. 2916. An act to amend the Drug Abuse Office and Treatment Act of 1972 to extend the programs of assistance under that act for drug abuse prevention, education, treatment, and rehabilitation, and for other purposes;

S. 3384. An act to require foreign persons who acquire, transfer, or hold interests in agricultural land to report such transactions and holdings to the Secretary of Agriculture and to direct the Secretary to analyze information contained in such reports and determine the effects such transactions and holdings have, particularly on family farms and rural communities, and for other purposes; and

S. 3467. An act to designate the U.S. Department of Agriculture's Pecan Field Station in Brownwood, Tex., as the "W. R. 'Bob' Poage Pecan Field Station."

COMMUNICATIONS

The PRESIDING OFFICER laid before the Senate the following communications, together with accompanying reports, documents, and papers, which were referred as indicated:

EC–4397. A communication from the Deputy Assistant Secretary of Defense (Installations and Housing), reporting, pursuant to law, on two construction projects to be undertaken by the Air National Guard; to the Committee on Armed Services.

EC–4398. A communication from the Deputy Assistant Secretary of Defense (Installations and Housing), reporting, pursuant to law, on five construction projects to be undertaken by the Naval and Marine Corps Reserve; to the Committee on Armed Services.

EC–4399. A communication from the Assistant Secretary of Defense, reporting, pursuant to law, the contract award dates for the period September 15, 1978, through December 15, 1978; to the Committee on Armed Services.

EC–4400. A communication from the Secretary of Housing and Urban Development, transmitting, pursuant to law, the third semiannual report on the Energy Conservation Standards for New Buildings Program; to the Committee on Banking, Housing, and Urban Affairs.

EC–4401. A communication from the Vice President, Government Affairs, National Railroad Passenger Corporation, transmitting, pursuant to law, a report for the month of June 1978, on: First, the total itemized revenues and expenses, second, revenues and expenses of each train operated, and third, revenues and total expenses attributable to each railroad over which service is provided; to the Committee on Commerce, Science, and Transportation.

EC–4402. A communication from the Administrator, Energy Information Administration, Department of Energy, transmitting, pursuant to law, a report for the period April through June 1978 concerning imports of crude oil, residual fuel oil, refined petroleum products, natural gas, and coal; reserves and production of crude oil, natural gas, and coal; refinery activities; and inventories; to the Committee on Energy and Natural Resources.

EC–4403. A communication from the General Counsel, Department of Energy, reporting, pursuant to law, a meeting related to the International Energy Program; to the Committee on Energy and Natural Resources.

EC–4404. A communication from the Acting Secretary of the Interior, reporting, pursuant to law, concerning the President's report concerning the suitability of the Penobscot River in Maine for addition to the National Wild and Scenic Rivers System; to the Committee on Energy and Natural Resources.

EC–4405. A communication from the Administrator, U.S. Environmental Protection Agency, transmitting, pursuant to law, the Agency's report entitled "Control of Combined Sewer Overflow in the United States"; to the Committee on Environment and Public Works.

EC–4406. A communication from the Administrator, General Services Administration, transmitting, pursuant to law, a prospectus which proposes the acquisition of space by lease in Boston, Massachusetts; to the Committee on Environment and Public Works.

EC–4407. A communication from the Administrator, General Services Administration, reporting, pursuant to law, on the feasibility and need for construction of a Federal building in Omaha, Nebraska; to the Committee on Environment and Public Works.

EC–4408. A communication from the Administrator, General Services Administration, transmitting, pursuant to law, a prospectus which proposes the renewal of a lease for space presently occupied at the Ballistic Missile Center, 106 Wynn Drive, Huntsville, Ala.; to the Committee on Environment and Public Works.

EC–4409. A communication from the Secretary of the Army, transmitting, pursuant to law, a report on administration of ocean dumping activities for 1977; to the Committee on Environment and Public Works.

EC–4410. A communication from the Secretary of Commerce, transmitting, pursuant to law, the Department's report on the 10 percent minority business enterprise requirement of the $4 billion round II local public works (LPW) program; to the Committee on Environment and Public Works.

EC–4411. A communication from the Executive Secretary to the Department of Health, Education, and Welfare, transmitting, pursuant to law, revision of final regulations (45 CFR 232.13) prescribing standards for good cause for refusing to cooperate in establishing paternity and securing child support; to the Committee on Finance.

EC–4412. A communication from the Chair-

man, U.S. International Trade Commission, transmitting, pursuant to law, its fifteenth quarterly report on trade between the United States and the nonmarket economy countries; to the Committee on Finance.

EC-4413. A communication from the Special Representative for Trade Negotiations, transmitting, pursuant to law, a report of the Industry Policy Advisory Committee on the U.S.-Indian bilateral trade agreement, which was entered into on July 26, 1978; to the Committee on Finance.

EC-4414. A communication from the Special Representative for Trade Negotiations, transmitting, pursuant to law, a report of the Industry Policy Advisory Committee on the United States-Mexican bilateral trade agreement, which was entered into on December 2, 1977; to the Committee on Finance.

EC-4415. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, international agreements other than treaties entered into by the United States within 60 days after the execution thereof; to the Committee on Foreign Relations.

EC-4416. A communication from the Assistant Administrator for Legislative Affairs, Agency for International Development, Department of State, transmitting, pursuant to law, the third semiannual report on the participation of small business firms in procurement under programs of the Agency for International Development; to the Committee on Foreign Relations.

EC-4417. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "The Payroll Allotment Program Needs A Second Look," September 29, 1978; to the Committee on Governmental Affairs.

EC-4418. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Development of a National Make-Or-Buy Strategy—Progress and Problems," September 25, 1978; to the Committee on Governmental Affairs.

EC-4419. A communication from the Secretary of Energy, transmitting, pursuant to law, a report concerning the Department's experience under section 501 of the Department of Energy Organization Act, which prescribes certain administrative procedures for rulemakings; to the Committee on Governmental Affairs.

EC-4420. A communication from the Secretary of Health, Education, and Welfare, transmitting, pursuant to law, a report on the National Health Service Corps; to the Committee on Human Resources.

EC-4421. A communication from the Director, National Institute of Education, Department of Health, Education, and Welfare, transmitting, pursuant to law, a report entitled "Compensatory Education Study: Final Report to Congress"; to the Committee on Human Resources.

EC-4422. A communication from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, orders suspending deportation, as well as a list of persons involved; to the Committee on the Judiciary.

EC-4423. A communication from the Director, Administrative Office of the U.S. Courts, transmitting, pursuant to law, the third report on the operation of the speedy trial plans and the operation of Pretrial Services Agencies established in 10 district courts on a demonstration basis; to the Committee on the Judiciary.

PETITIONS

The PRESIDING OFFICER laid before the Senate the following petitions and memorials, which were referred as indicated:

POM-807. A resolution adopted by the Military Order of the Purple Heart, Daytona Beach, Fla., relating to military discharges; to the Committee on Armed Services.

POM-808. A resolution adopted by the Military Order of the Purple Heart, Daytona Beach, Fla., relating to the disabled, handicapped, and conscientious objectors; to the Committee on Armed Services.

POM-809. A resolution adopted by the Military Order of the Purple Heart, Daytona Beach, Fla., relating to the U.S. Navy; to the Committee on Armed Services.

POM-810. A resolution adopted by the Military Order of the Purple Heart, Daytona Beach, Fla., relating to national defense; to the Committee on Armed Services.

POM-811. A resolution adopted by the Military Order of the Purple Heart, Daytona Beach, Fla., relating to national health insurance; to the Committee on Armed Services.

POM-812. A resolution adopted by the Military Order of the Purple Heart, Daytona Beach, Fla., relating to burial at sea; to the Committee on Armed Services.

POM-813. A resolution adopted by the Military Order of the Purple Heart, Daytona Beach, Fla., relating to veterans preference; to the Committee on Armed Services.

POM-814. A resolution adopted by the Military Order of the Purple Heart, Daytona Beach, Fla., relating to veterans employment; to the Committee on Armed Services.

POM-815. A resolution adopted by the Military Order of the Purple Heart, Daytona Beach, Fla., relating to trade with Cuba; to the Committee on Armed Services.

POM-816. A resolution adopted by the Military Order of the Purple Heart, Daytona Beach, Fla., relating to national health service; to the Committee on Armed Services.

POM-817. A resolution adopted by the Military Order of the Purple Heart, Daytona Beach, Fla., relating to Fort Drum, N.Y.; to the Committee on Armed Services.

POM-818. A joint resolution adopted by the Legislature of the State of California; to the Committee on Commerce, Science, and Transportation:

"ASSEMBLY JOINT RESOLUTION No. 66

"Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to enact legislation requiring manufacturers to include parts necessary to prevent interference from citizen band radio transmissions on electronic home entertainment equipment; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-819. A joint resolution adopted by the Legislature of the State of California; to the Committee on Environment and Public Works:

"ASSEMBLY JOINT RESOLUTION No. 96

"Whereas, the salmon and steelhead resources in the Klamath and Trinity Rivers are endangered because of habitat degradation and inadequate regulation; and

"Whereas, many California Indians depend in large part on these fishery resources; and

"Whereas, the economies of the Klamath River and Trinity River area and the ocean fisheries are greatly affected by the manner in which fishery resources of those rivers are managed, protected, and enhanced; and

"Whereas, the State of California has undertaken an ambitious program of restoring the fishery resources of this area; and

"Whereas, the United States Department of the Interior and the California Fish and Game Commission have instituted an interim closure of the fishery; and

"Whereas, there is a need for a greater opportunity for California Indians, state and local officials, and the general public to study and comment on the regulations pertaining to fishing in the Klamath and Trinity Rivers prior to their adoption; and

"Whereas, regulations are difficult or impossible to enforce without an increased federal enforcement effort and greater cooperation of all parties concerned; and

"Whereas, an ultimate resolution of the issues involved may take years and require litigation or congressional action to establish the extent of California Indian fishing rights, while without a management plan to protect and enhance the fishery the resource will continue to decline; and

"Whereas, to achieve long-term enhancement of the Klamath River salmon resource a cooperative management plan needs to be established to protect the resource until the long-term enhancement plan is in place; and

"Whereas, in the context of the extremely complex overlaps of jurisdictional, economic, and cultural interests which exist in the Klamath River basin a greater degree of cooperation among the parties is essential if the fishery is to be protected and enhanced, and

"Whereas, the Indian tribes in the Klamath River basin have established tribal fishing rights which have been reaffirmed by the courts but the scope of the tribal fishery has not been clearly established; and

"Whereas, the Indian tribes are sovereign entities, possessing the right of internal self-government and self-determination and thus the sole right to allocate their share of the tribal fishery among themselves, with whatever federal government involvement is necessary and appropriate; now, therefore, be it

"Resolved by the Assembly and the Senate of the State of California, Jointly, That the Legislature of the State of California respectfully requests that the United States Department of the Interior and the California Fish and Game Commission quickly promulgate new regulations adequate to protect the fishery resources and traditional Indian fishing rights in the Klamath and Trinity River watersheds; and be it further

"Resolved, That the Legislature of the State of California requests that such regulations include no unnecessary restrictions on Indian subsistence and ceremonial fishing or on recreational fishing because of the great importance of such fishing to Indians in the area and to the economy of the area, and because of the minimal impact of such fishing on the fishery resources; and be it further

"Resolved, That the Legislature of the State of California respectfully requests the United States Department of the Interior and the Congress of the United States to take no actions which might jeopardize any reserved right to fish for the benefit of entire tribes which Indians may have in the Klamath and Trinity Rivers and which they may exercise in the future; and be it further

"Resolved, That the Legislature of the State of California requests that such regulations include whatever restrictions may be necessary on other taking and on habitat degradation; and be it further

"Resolved, That the Legislature of the State of California requests that these regulations be enforced strictly and fairly; and be it further

"Resolved, That the Legislature of the State of California requests the United States Department of the Interior and the California Fish and Game Commission to consult fully with all interested parties, including representatives of all affected California Indians, local officials and the general public, to conduct public hearings in the Klamath and Trinity River area, and to utilize fully the information they receive in such consultations and hearings before adopting further regulations or a long-term management and enhancement program; and be it further

"*Resolved*, That the Legislature of the State of California requests that all appropriate state and federal agencies and representatives of Indian tribes and other interested parties cooperate to develop a fishery enhancement program for the Klamath and Trinity Rivers; and be it further

"*Resolved*, That the Legislature of the State of California requests that such regulations prohibit as necessary commercial fishing in the watersheds of the two rivers because of its relatively great impact on the resources until enhancement of the resource can be demonstrated to warrant such commercial fishing; and be it further

"*Resolved*, That the Legislature of the State of California has no intention of affecting by this resolution the precise legal status of some or all of the Indian fisheries or to intervene into the internal affairs of the Indian tribes involved, and be it further

"*Resolved*, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Secretary of the Interior, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM–820. A joint resolution adopted by the Legislature of the State of California; to the Committee on Foreign Relations:

"ASSEMBLY JOINT RESOLUTION No. 102

"Whereas, the obstruction, harassment, and imprisonment of Soviet dissidents, Jews, Christians, and other minorities who seek religious freedom and the right to emigrate, offends the conscience of the American people; and

"Whereas, the oppressive and discriminatory acts of the Soviet government violates internationally agreed upon principles of human rights: and

"Whereas, the Soviet government's deplorable treatment of Anatoly Scharansky and Alexander Ginzburg offends the conscience of a free people; and

"Whereas, the holding of the 1980 Olympic Games in Moscow severely politicizes the ideals of the Olympic Games; now, therefore, be it

"*Resolved by the Assembly and Senate of the State of California, jointly*, That the sustained interest of the American people be conveyed to the Soviet government regarding the oppression and imprisonment of Soviet dissidents, the lack of religious liberty, and the inability of people to freely emigrate; and be it further

"*Resolved*, That it is in the best interests of human rights and of the freedom-loving people of the world, that the International Olympic Committee withdraw from Moscow the 1980 Olympic Games, and place them in another country which adheres to the principles of human rights; and be it further

"*Resolved*, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Congressman from California in the Congress of the United States, to the United States Olympic Committee, to the International Olympic Committee, and to the Soviet Ambassador to the United States."

POM–821. A joint resolution adopted by the Legislature of the State of California; to the Committee on Human Resources:

"ASSEMBLY JOINT RESOLUTION No. 80

"Whereas, there is considerable national support to maintain and enhance a viable fishing industry in this country; and

"Whereas, national concern has been expressed by legislation to aid the construction of commercial fishing boats and by proposed legislation to provide funds both for commercial fishing boat construction and for onshore commercial processing facilities; and

"Whereas, recreational boating provides necessary recreational opportunity to millions of Americans; and

"Whereas, recreational boating is an important industry providing jobs and income through boatyards, boat manufacturers, marinas, and numerous support activities; and

"Whereas, the Department of Labor interpretation of the 1972 Amendments to the Longshoremen's and Harbor Workers' Compensation Act extends the coverage of such act to persons engaged in marine activities not previously covered by the Longshoremen's and Harbor Workers' Act; and

"Whereas, this interpretation includes, but is not limited to, the activities of fishhouses and boatyards servicing the fishing industry and recreational boating industry; and

"Whereas, fish companies and boatyards are now forced to carry, in addition to state workers' compensation insurance, longshoremen's and harbor workers' insurance coverage is either excessively priced or unobtainable; and

"Whereas, the imposition of this coverage has created a severe hardship on fish companies and boatyards; and

"Whereas, private insurance carriers have canceled the insurance coverage for many fishhouses and boatyards; and

"Whereas, some boatyards have been forced out of business, not being able to insure employees, while others are going without compensation coverage for employees and others carrying such coverage have been forced to pay rates in excess of 600 percent of 1974 fishhouses and boatyards; and

"Whereas, this increased cost of doing business will force boatyards either to go out of business, curtail their services, or pass their increased costs to fishermen and recreational boating, thereby making it exceedingly difficult to have fishing vessels constructed or repaired; and

"Whereas, this increased cost of doing business will force fish companies either to go out of business, curtail their services, or pass their increased costs on, thereby decreasing the price for fish paid to fishermen and increasing the price of fish to the consumer; and

"Whereas, Congress is considering legislation that can solve this crippling problem; now, therefore, be it

"*Resolved, by the Assembly and Senate of the State of California, jointly*, That the State of California petitions Congress to pass the legislation being considered before more unnecessary damage is done to the commercial fishing industry and the recreational boating industry; and be it further

"*Resolved*, That the Chief Clerk of the Assembly transmit a copy of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM–822. A joint resolution adopted by the Legislature of the State of California; to the Committee on Human Resources:

"ASSEMBLY JOINT RESOLUTION No. 79

"Whereas, the State of California has been innovative in the area of mine health and safety; and

"Whereas, the State of California has enacted comprehensive laws and regulations for mine and tunnel safety; and

"Whereas, the Tom Carrell Memorial Tunnel and Mine Safety Act (see Sec. 7950 et seq. of the Labor Code) establishes the jurisdictional basis for the Division of Industrial Safety to classify mines, hold prejob safety conferences, certify safety representatives and other related tasks; and

"Whereas, the surface mining or harvesting of rock, sand and gravel in California differs from coal mining in West Virginia, Ohio, Wyoming, Colorado or New Mexico; and

"Whereas, the Federal Mine Safety and Health Act of 1977 (Public Law 91–173, as amended by Public Law 95–164), establishes safety enforcement laws and regulations which conflict with those established under the Tom Carrell Memorial Tunnel Mine and Safety Act of 1972, subjecting California rock, and sand and gravel producers to double jeopardy in terms of conflicting laws, regulations and penalties; now, therefore, be it

"*Resolved by the Assembly and Senate of the State of California, jointly*, That the Legislature of the State of California respectfully memorializes the President and Congress of the United States to amend the Federal Mine Safety and Health Act of 1977 (Public Law 91–173, as amended by Public Law 95–164, so as to avoid duplication of efforts and conflicting laws, regulations and penalties and permit the State of California's Division of Industrial Safety to be the sole safety enforcement agency in the state; and be it further

"*Resolved*, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM–823. A concurrent resolution adopted by the Legislature of the Territory of American Samoa; to the Committee on Energy and Natural Resources:

"S.C.R. No. 105

"Whereas, the entire Fono, on behalf of the people of American Samoa, would like to gratefully thank and commend the United States 95th Congress for its trust and confidence in the political maturation of our Territory by its generous expression represented by H.R. 13702. in which the Delegate from the Territory of American Samoa would be elevated to an equivalent status with our sister Territories of Guam and the Virgin Islands; and

"Whereas, we are very thankful of the expression of political trust included in the bill, and we would like to respectfully address two elements of the bill, subsections 3 (b) and (c), referring to the requirement of U.S. citizenship for 7 years and the requirement to be an inhabitant of the Territory, both of which must be met to be eligible to become a candidate for the office of Delegate; and

"Whereas, at this time probably less than 1 percent of the citizenry are U.S. citizens and still as loyal U.S. Nationals we have free access to the U.S. and maintain a U.S. armed forces enlistment rate of about 3 times that of any of the 50 states; and

"Whereas, it is recognized that this would be exactly equivalent as provided for the Territories of Guam and the Virgin Islands under 48 USC 1713 (b) and (c) we would like to ask for an escalating citizenship requirement, if the requirement could not be dropped in its entirety, perhaps 2 years for 1980, 4 years for 1982, 6 years for 1984 and 7 years for 1986, giving the people an opportunity to be put on notice that in order to run they must acquire the required citizenship; and

"Whereas, concerning the requirement to be an 'inhabitant' of Territory may invite court tests, may we respectfully suggest perhaps a two-year residency requirement for voting, just as in our Constitution (Article II, § 7, Qualifications of Electors); and

"Whereas, we, the Fono, wish to especially thank those sponsors of the bill, particularly Subcommittee Chairman Phillip Burton and

his, at last count, 151 co-sponsors for their political, and financial, trust and confidence in the political maturity the Territory has acquired under the 78-plus years under American guidance and tutelage.

"Now, therefore, be it resolved by the Senate of the Territory of American Samoa, the House of Representatives concurring:

"That, the entire Fono wishes to thank and commend the 95th Congress of the United States for their trust and confidence in the Territory of American Samoa in introducing H.R. 13702 which grants the Territory an equivalent Delegate with our sister Territories of Guam and the Virgin Islands, strongly urge its passage; and

"Be it further resolved, that we merely respectfully suggest the two amendments mentioned above if the Congress in its ultimate wisdom deem them worthy, yet strongly urge the passage of H.R. 3702 in any event; and

"Be it further resolved, that the Secretary of the Senate is directed to send copies of this resolution to: Honorable Congressman Phillip Burton, Chairman of the Subcommittee on National Parks and Insular Affairs; Honorable Morris K. Udall, Chairman Committee on Interior and Insular Affairs; Honorable Henry M. Jackson, Chairman Senate Energy and National Resources Committee; Mr. Edmund L. Henshaw, Jr., Clerk of the House of Representatives; Mr. Francis R. Valeo, Secretary of the Senate; Honorable Cecil D. Andrus, Secretary of the Interior; Honorable James A. Joseph, Under Secretary of Territorial Affairs; Honorable Ruth C. Van Cleve, Director of Territorial Affairs; Honorable Peter Tali Coleman, Governor of American Samoa; Honorable A. P. Lutali, Delegate-at-Large to the U.S. Government, and to each of the co-sponsors through the office of the Delegate-at-Large."

POM-824. A resolution adopted by the Constitutional Convention of the State of Hawaii; to the Committee on the Judiciary:

"RESOLUTION NO. 33

"Whereas, in 1975, the United States Congress amended the Voting Rights Act, and such Amendments were designed to encourage full participation in the electoral process by the citizens of the country; and

"Whereas, one of the amendments to Title III of the Act requires the States to provide voting assistance to certain foreign language minority groups with high illiteracy rates; and

"Whereas, the guidelines of the United States Justice Department recognized four sub-groups of Asian-Americans, the Japanese, Chinese, Filipinos and Koreans, but failed to consider the various dialects spoken by the sub-groups; and

"Whereas, to comply with the intent of the Congressional mandate, Hawaii accommodated such dialects in providing voter materials in the 1976 elections; and such assistance included printing registration and voting forms and informational materials in Ilocano, Japanese and Chinese, and providing persons to orally assist members of the Japanese, Chinese and Filipino subgroups at the polls; and

"Whereas, Hawaii's State and County governments expended more than $500,000 to provide the required multi-lingual assistance in the 1976 elections; and

"Whereas, statistics compiled by the Office of the Lieutenant Governor reveal that only 191 persons requested foreign language ballots in the 1976 elections; and

"Whereas, the Voting Rights Act defines an illiterate person as one who has not completed the fifth elementary grade in any school, but there are many individuals in Hawaii who have learned to read and write the English language without formal education; and such individuals would therefore not require a foreign language ballot; and

"Whereas, another reason for the low demand for foreign language ballots may be the substantial decline in the illiteracy rate in English of the foreign language subgroups since 1970; and

"Whereas, the experience of the 1976 elections indicates that the printing of voter information forms and ballots in foreign languages is a financial burden on the State, especially when the cost-effectiveness ratio of such assistance is very low; and

"Whereas, to this date, the Constitution of the State has not been translated into any foreign language; and to comply with the Voting Rights Act, the Office of the Lieutenant Governor must provide multilingual voter information and material with respect to the amendments to the State's Constitution proposed by the Constitutional Convention of Hawaii of 1978; and

"Whereas, since 1963, the Office of the Lieutenant Governor has developed and conducted various voter registration and education prgorams, and such programs have been successful, as indicated by the 6 percent increase in voter turnout between the 1974 General Election and the 1976 General Election; and

"Whereas, in Hawaii, the voter information programs of the Office of the Lieutenant Governor have been more effective than the multi-lingual requirements of Title III of the Voting Rights Act in promoting voter participation; now, therefore,

"Be it resolved by the Constitutional Convention of Hawaii of 1978 that the United States Congress be requested to exempt Hawaii from the multi-lingual requirements of Title III of the Voting Rights Act, as amended in 1975; and

"Be it further resolved that duly authenticated copies of this Resolution be transmitted to the Congress of the United States, the Members of Hawaii's Congressional Delegation and the Lieutenant Governor of Hawaii."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. LONG, from the Committee on Finance:

Finance Committee Allocation of Fiscal Year 1979 Budget Totals (Rept. No. 95-1270).

By Mr. EASTLAND, from the Committee on the Judiciary, without amendment:

H.R. 12556. An act for the relief of Batavia Turf Farms, Inc. (Rept. No. 95-1271).

CIVIL SERVICE REFORM ACT OF 1978—CONFERENCE REPORT

Mr. RIBICOFF, from the committee of conference, filed a report on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2640) to reform the civil service laws (Rept. No. 95-1272).

By Mr. McINTYRE, from the Committee on Banking, Housing, and Urban Affairs, with an amendment and an amendment to the title:

S. 3499. A bill to extend the authority for the flexible regulation of interest rates on deposits and accounts in depository institutions and to provide that there shall be no differential with respect to transaction accounts (together with additional views) (Rept. No. 95-1273).

By Mr. ANDERSON, from the Committee on Energy and Natural Resources, with an amendment:

H.R. 12250. An act to designate the Boundary Waters Canoe Shea Wilderness, to establish the Boundary Waters Canoe Area Mining Protection Act, and for other purposes (Rept. No. 95-1274).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. JACKSON, from the Committee on Energy and Natural Resources:

Thomas S. Williamson, of the District of Columbia, to be Deputy Inspector General of the Department of Energy.

(The above nomination from the Committee on Energy and Natural Resources was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Mr. JACKSON. Mr. President, the Committee on Energy and Natural Resources yesterday approved the nomination of Thomas S. Williamson, Jr., to be Deputy Inspector General of the Department of Energy. I ask unanimous consent that his biography and statement to the committee be printed in the RECORD at this time.

I also ask unanimous consent that his sworn financial statement together with a letter from Lynn R. Coleman, General Counsel of the Department of Energy, regarding Mr. Williamson's compliance with the Department's conflict of interest provisions be printed in the RECORD at this time.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

BIOGRAPHICAL SKETCH OF THOMAS S. WILLIAMSON, JR. (NOMINEE TO BE DEPUTY INSPECTOR GENERAL OF THE DEPARTMENT OF ENERGY)

I was born on July 14, 1946, and I was principally raised in Piedmont, California. I went East for college where I attended Harvard University. During my undergraduate years my main academic interests were African politics and economic developments; also I participated in student government and intercollegiate football. Following graduation in 1968, I continued my studies in African affairs at Oxford University as a Rhodes Scholar. However, before completing my degree program, I decided to forsake academia and seek job experience in Africa. I spent the summer of 1970 in the Cameroun as a Crossroads Africa group leader and then made my way to Ethiopia where I was hired by an Ethiopian company engaged in training U.S. Peace Corps volunteers.

I returned home to California in the fall of 1971 to begin law school at the University of California at Berkeley. After weathering the rigors of first year, I qualified for the California Law Review and served on the editorial board.

Since my graduation from law school in 1974, I have been employed as an associate by the law firm of Covington & Burling in Washington, D.C. I concentrated on communications law in my first year of practice, but more recently I have specialized mainly in litigation and representing states (principally Oklahoma, New York and Massachusetts) in matters arising from federal programs under the Social Security Act such as Medicare and Medicaid.

STATEMENT

I would like to begin by stating how honored I am to appear before you today. Although I have practiced law solely in the private sector since my graduation from law school, I left my home state of California and began my legal career in the District of Columbia in large part because of the potential opportunities to enter government service. Accordingly, your consideration of my nomination to be the Deputy Inspector General of the Department of Energy represents a major step in the realization of my long held desire to play a direct role in trying to promote the public interest.

I would like to express to you briefly my

general understanding of the Office of the Inspector General and the role of the Deputy Inspector General. It seems clear from the applicable legislation that the Office was designed to assure that the Department of Energy will strive to achieve maximum efficiency and honesty in the operation of its programs and the enforcement of its regulations. My sense of the unique function of the Inspector General is to provide the Congress and the Secretary with independently conceived and forthrightly stated reports on waste, abuse and fraud relating to the Department's activities. Also, I concur wholeheartedly with the previously stated views of the current Inspector General to the effect that the Office must function as an exemplar of high professional standards and uncompromising integrity in its investigation and analysis of issues and controversies.

It appears to me that the Deputy Inspector General should be especially concerned with staying informed about the full range of investigations and audits being conducted by the Office as well as shouldering a major portion of the responsibility for actively supervising and assisting staff in the field. This degree of awareness and involvement is essential to permit the Deputy to oversee the Office and be responsive when called upon by the Congress or the Secretary in the absence of the Inspector General.

In conclusion, I regard fulfilling the duties of the Inspector General's Office as a singularly important challenge in an area of vital concern to the public and the future of this country. And, if confirmed, I promise to make my very best effort to vindicate the trust and confidence that would have been placed in me.

FINANCIAL STATEMENT

Assets

Cash on hand and in banks	$500.00
Real estate interests—add schedule*	111,000.00
Personal property	15,000.00
Total assets	126,500.00

Liabilities

Notes payable to banks—unsecured	10,866.92
Notes payable to relatives	12,000.00
Real estate mortgages payable—add schedule*	88,709.51
Chattel mortgages and other liens payable	5,572.78
Total liabilities	117,149.21
Net worth	9,350.79

*Please see Attachment A.

1. List sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services and firm memberships or from former employers, clients, and customers.

None. However, at the time I resign from Covington & Burling, I will receive a certain sum as severance pay in accordance with the firm's customary procedures for departing associates. This sum will include my accrued vacation pay, if there is any. Although I do not know the exact amount of the total severance payment, I have been advised that it will not exceed $5,000.00.

2. Are any assets pledged? (Add schedule.)
No.

3. Are you currently a party to any legal action?

No. However, if I have time to do the research and prepare the papers, I may bring suit against the District of Columbia and the Sheraton Park Hotel to recover the cost of damages to my car caused by a falling tree.

4. Have you ever declared bankruptcy?
No.

5. Has the Internal Revenue Service ever audited your Federal tax return? If so, what resulted from the audit?
No.

STATEMENT FOR COMPLETION BY PRESIDENTIAL NOMINEES

Name: Williamson, Thomas Samuel, Jr.

Position to which nominated: Deputy Inspector General of the Department of Energy.

Date of birth: 14 July, 1946. Place of birth: Plainfield, New Jersey.

Marital status: Married. Full name of spouse: Rahel Maile.

Name and ages of children: None.

Education

Institution; Dates attended; degrees received; and dates of degrees

Boalt Hall, U.C. Berkeley Law School, Berkeley, CA., 9–71–6–74; J.D.; 6/74.

Oxford University, Balliol College, Oxford, England, 10–68–12–69; None; N/A.

Harvard College, Cambridge, MASS., 9–64–derive from previous business relationships 6–68; B.A., 6/68.

Piedmont—Jr. and Sr. High School, Piedmond, CA., 9–58–6–64; High School Diploma; 6/64.

Employment record

List below all positions held since college, including the title and description of job, name of employer, location, and dates; Please see attachment B.

Honors and awards

List below all scholarships, fellowships, honorary degrees, military medals, honorary society memberships, and any other special recognitions for outstanding service or achievement:

Rhodes Scholar (1968).

California Law Review—(Note and Comment Editor) (1973–74).

Phi Beta Kappa, Harvard College (1968).

Harvard National Scholarship (1964–68).

General Motors Scholarship (1964–68).

Francis H. Burr Scholarship (outstanding scholar athlete of Harvard Class of 1968).

All-Ivy Football (safety) (1967).

All-East Football (safety) (2nd Team) (1967).

Memberships

List below all memberships and offices held in professional, fraternal, business, scholarly, civic, charitable and other organizations:

Organization; office held (if any); and dates

District of Columbia Bar; None; 1975 to present.

California Bar; None; 1975 to present.

Neighborhood Legal Services Program, Washington, D.C.; Member, Board of Directors; 1977 to present.

Washington Council of Lawyers; Member, Board of Directors; 1977 to present.

Lawyers' Study Group; None; 1975 to present.

Communications Task Force of the National Conference of Black Lawyers; Treasurer; 1975 to present.

Published writings

List the titles, publishers and dates of any books, articles, or reports you have written:

1. "The Constitutionality of Reindicting Successful Plea Bargain Appellants on the Original, Higher Charges" 62 California Law Review 258 (1974).

2. I was the principal author of the "Youth Services" section of the D.C. City Council's Task Force Report on the Department of Human Resources. The report was made public in January of 1978.

3. In 1969, while working as an evaluation consultant for the Peace Corps, I wrote a report on a training program for volunteers being sent to Ethiopia.

Qualifications

State fully your qualifications to serve in the position to which you have been named (attach sheet). Please see Attachment C.

Future employment relationships

1. Indicate whether you will sever all connections with your present employer, business firm, association or organization if you are confirmed by the Senate. Yes.

2. As far as can be foreseen, state whether you have any plans after completing government service to resume employment, affiliation or practice with your current or any previous employer, business firm, association or organization. I have no such plans.

3. Has anybody made you a commitment to a job after you leave government? No.

4. Do you expect to serve the full term for which you have been appointed? Yes.

Potential conflicts of interest

1. Describe any financial arrangements or deferred compensation agreements or other continuing dealings with business associates, clients or customers who will be affected by policies which you will influence in the position to which you have been nominated. None.

2. List any investments, obligations, liabilities, or other relationships which might involve potential conflicts of interest with the position to which you have been nominated. None.

3. Describe any business relationship, dealing or financial transaction (other than taxpaying) which you have had during the last 10 years with the Federal Government, whether for yourself or relatives, on behalf of a client, or acting as an agent, that might in any way constitute or result in a possible conflict of interest with the position to which you have been nominated.

In the spring of 1975 I assisted with litigation involving the duPont corporation in a matter relating to the merger of du Pont with its former investment holding company, Christiana Securities Company. In late 1975 I also did preliminary litigation work for the Westinghouse Corporation in connection with an SEC suit arising from the sale of Westinghouse's major appliance division.

4. List and describe any lobbying activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat or modification of any legislation at the national level of government or for the purpose of affecting the administration and execution of national law or public policy. Please see Attachment D.

5. Explain how you will resolve any potential conflict of interest that may be disclosed by your responses to the above items. Please see Attachment E.

ATTACHMENT A

REAL ESTATE OWNERSHIP AND MORTGAGE SCHEDULE

My wife, Rahel Haile, and I jointly own our home at 1663 Primrose Road, N.W., Washington, D.C. We purchased the house on March 31, 1978, and it constitutes our only real property asset. The mortgage on the house amounts to $88,800.00 borrowed from Standard Federal Savings and Loan Association of Gaithersburg, Maryland. The terms of the mortgage are 9⅜% interest per annum over a 30-year period. The current unpaid balance is $88,709.51.

ATTACHMENT B

EMPLOYMENT RECORD

September 1974 to present: Associate, Covington & Burling, 888 Sixteenth Street, N.W., Washington, D.C. 20006. My duties include legal research and counsel for a variety of public and private clients I analyze regulations, interpret statutes, research case law and draft memoranda.

August 1973 to September 1973: Summer associate, Kaplan, Livingston, Goodwin, Berkowitz & Selvin, 450 North Roxbury Drive, Beverly Hills, California. I reviewed con-

tracts, researched legal issues and prepared memoranda.

January 1973 to May 1973: Law clerk, Public Advocates, 433 Turk Street, San Francisco, California 94102. My responsibilities included researching legal issues, interviewing clients, and investigating bases for potential lawsuits.

July 1972 to August 1972: Summer associate, Pettit, Evers & Martin, 600 Montgomery Street, San Francisco, California 94111. I did legal research for the firm.

October 1970 to June 1971: Training division manager, Alem Public Relations Consultants, P.O. Box 3732 Addis Ababa, Ethiopia. I supervised the division of the company engaged in training U.S. Peace Corps volunteers for service in Ethiopia

June 1970 to August 1970. Group leader, Operation Crossroads Africa, 150 Fifth Avenue, New York, N.Y. 10011. I was responsible for 16 American and Camerounian students who were working and traveling in the Cameroun. I made travel arrangements, maintained the funds for group expenses, arranged for building supplies and generally acted as liaison with government officials.

January 1970 to June 1970: Evaluation consultant, Office of Planning and Evaluation, Department of Health, Education, and Welfare, Washington, D.C. I assisted in the planning of a program to use minority graduate students and recipients of HEW services as evaluators of HEW programs. I primarily acted as liaison between the Central Office and Regional Offices, and between the Regional Offices and the contracting firm that was selected to operate the program.

July 1969 to September 1969: Evaluation consultant, U.S. Peace Corps, 806 Connecticut Avenue, N.W., Washington, D.C. 20006. I observed Peace Corps training programs in the States and overseas. I prepared narrative evaluation reports based on interviews of trainees, training staff and Peace Corps staff.

June 1968 to September 1968: Assistant to the president, Opportunity Enterprises Corporation (OPEN) (now defunct), San Francisco, California. I assisted the president of OPEN by drafting and responding to correspondence, reviewing reports on various social service projects, and preparing presentations for meetings with leaders of government and private industry.

ATTACHMENT C

PERSONAL QUALIFICATIONS

My qualifications for the position of Deputy Inspector General of the Department of Energy are based on my experiences as an attorney, evaluator, and administrator. Most of my legal experience has been in the area of litigation where I have frequently been called upon to organize and carry out extensive factual investigations. In several instances these investigations have focused on whether a state or corporate client has complied with federal law and regulations. In addition, in the course of preparing cases, I have been required to analyze and interpret complex federal legislative and regulatory schemes. Although I have principally dealt with matters arising under the Social Security Act and the Health Resources and Planning Development Act, I believe the skills I have gained will allow me to develop promptly an understanding of energy-related laws and regulations and effectively assist in their implementation and enforcement.

I have also supervised and participated in evaluations of governmental programs. Most recently, during the second half of 1977, I coordinated the staff members of the D.C. City Council's Task Force on the Department of Human Resources who studied the nature and quality of services provided to delinquent youths by the District of Columbia. And several years ago in 1969 I was employed by the Peace Corps to evaluate training programs for volunteers in the States and abroad. Also, during 1970 I worked on the design of programs to evaluate the effectiveness of human services furnished by agencies of the Department of Health, Education and Welfare in different regions of the country. These experiences acquainted me with a variety of approaches to obtaining information about the effectiveness of governmental program operations in the field.

Finally, I have had limited experience as an administrator. In 1970 and 1971 I was the manager of the training division of Alem Public Relations Consultants, an Ethiopian company which formerly trained Peace Corps volunteers. The staff under my supervision ranged from 10 to 60 persons depending on the size of the training program we were handling. My time at Alem permitted me to gain some background in coordinating and motivating staff groups with diverse professional skills.

ATTACHMENT D

AFFECTING THE ADMINISTRATION AND EXECUTION OF LAW OR PUBLIC POLICY

Except for possibly having signed a letter urging repeal of the "Byrd amendment" which permitted importation of Rhodesian chrome, I have not engaged in any activity during the past five years for the purpose of directly or indirectly influencing the passage, defeat or modification of any legislation. However, in the course of my duties as an attorney, I have engaged in activities for the purpose of affecting the administration and execution of law or public policy. During my first year at Covington & Burling, I represented broadcast interests seeking enforcement of the cable television regulations of the Federal Communications Commission. Also, during my first year I assisted in a securities case that was settled between Westinghouse and the Securities and Exchange Commission. The case arose from statements relating to the sale of Westinghouse's household appliance division. In addition, I did research for a lawsuit involving a challenge to the merger of an investment holding company (Christiana) into its operating affiliate (du Pont). Du Pont was our client.

For approximately seven months in 1976 I was a full-time legal services lawyer at the District of Columbia Neighborhood Legal Services Program. While there on loan from Covington, I occasionally represented indigent clients in actions brought against the Social Security Administration, the Veterans Administration and local welfare agencies.

When I returned to Covington in the summer of 1976, I began representing states in administrative and judicial proceedings in which the states were attempting to obtain reimbursement for expenditures for "social services" provided to welfare recipients. I have also represented states in matters relating to Medicaid, the National Health Planning and Resource Development Act and the Food Stamp Program. In addition, during the summer of 1977 I participated in an investigation of the District of Columbia's Department of Human Resources.

In recent months, my clients have included the following: a class of black furniture plant employees suing under Title VII of the Civil Rights Act, an airline trade association desiring to resist a union subpoena, a hospital opposing decertification as a kidney transplant center, and tobacco industry groups questioning the authority of the Civil Aeronautics Board to prohibit cigar and pipe smoking on commercial aircraft.

ATTACHMENT E

SAFEGUARDS AGAINST CONFLICTS OF INTEREST

If confirmed, I would resign my position as an associate at Covington & Burling and completely sever my employment relationship with the firm. In addition, during my first year in office, I would disqualify myself from the following types of cases or matters:

1) Department of Energy proceedings or investigations where Covington & Burling is acting as counsel for the party to the proceeding or the subject of the investigation;

2) Department of Energy proceedings or investigations where the private party is a client of Covington & Burling for whom I have personally provided legal services in any respect.

Also, of course, I intend to comply fully with all federal laws and regulations as well as the President's policy guidelines relating to conflicts of interest.

DEPARTMENT OF ENERGY,
Washington, D.C., September 22, 1978.

Hon. HENRY M. JACKSON,
Chairman, Committee on Energy and Natural Resources, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your request for an opinion as to the effect of the conflict of interest provisions contained in Title VI of the Department of Energy Organization Act (Pub. L. 95–91) on the financial holdings of Thomas S. Williamson, Jr., who has been nominated to be Deputy Inspector General in the Department of Energy.

Section 602(a) of the Department of Energy Organization Act (the "Act") prohibits supervisory employees of the Department of Energy from knowingly receiving compensation from, holding any official relation with, owning the stocks or bonds of, or having any pecuniary interest in any energy concern. "Energy concern", defined in section 601(b) of the Act, is described in terms of entities "significantly engaged in the business of a variety of activities related to energy production, distribution, sale, research, and development, as well as entities engaged in such research and development functions pursuant to DOE-funded programs irrespective of whether they otherwise are engaged in such "business." The term also includes any entity holding an interest in property from which energy resources are commercially produced or obtained.

We have reviewed the list of financial holdings Mr. Williamson has provided to the Committee. Since Mr. Williamson himself has no financial holding in any entity which has been determined to be an energy concern, no action is required on his part to comply with section 602(a) of the Act.

If I can be of further assistance, please do not hesitate to contact me.

Sincerely,

LYNN R. COLEMAN,
General Counsel.

By Mr. CANNON, from the Committee on Commerce, Science, and Transportation:

Marvin S. Cohen, of Arizona, to be a member of the Civil Aeronautics Board.

(The above nomination from the Committee on Commerce, Science, and Transportation, was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. WILLIAMS, from the Committee on Human Resources:

J. Clay Smith, Jr., of the District of Columbia, to be a Member of the Equal Employment Opportunity Commission.

Armando M. Rodriguez, of California, to be a Member of the Equal Employment Opportunity Commission.

(The above nominations from the Committee on Human Resources were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests

to appear and testify before any duly constituted committee of the Senate.)

By Mr. CULVER, from the Committee on the Judiciary:

Carin Ann Clauss, of Virginia, to be U.S. District Judge for the District of Columbia.

B. Avant Edenfield, of Georgia, to be U.S. district judge for the southern district of Georgia.

Donald E. O'Brien, of Iowa, to be U.S. district judge for the northern and southern districts of Iowa.

ADDITIONAL SPONSORS

S. 3044

At the request of Mr. DURKIN, the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 3044, a bill to amend title IV of the Higher Education Act of 1965 to establish a system of student tuition advances to be repaid as an income tax imposed by the Internal Revenue Code of 1954, and for other purposes.

S. 3359

At the request of Mr. CHILES, the Senator from Maryland (Mr. MATHIAS) and the Senator from Tennessee (Mr. SASSER) were added as cosponsors of S. 3359, a bill to amend the act commonly known as the Miller Act to raise the dollar amount of contracts to which such act applies from $2,000 to $25,000.

SENATE JOINT RESOLUTION 155

At the request of Mr. ZORINSKY, the Senator from Minnesota (Mrs. HUMPHREY) was added as a cosponsor of Senate Joint Resolution 155, to increase the price support for milk, wheat, corn, soybeans, and cotton to not less than 90 percent of the respective parity prices therefor, and for other purposes.

SENATE JOINT RESOLUTION 159

At the request of Mr. WALLOP, the Senator from Colorado (Mr. HASKELL) was added as a cosponsor of Senate Joint Resolution 159, providing for congressional disapproval of implementation of national water resources policies, and for other purposes.

SENATE RESOLUTION 569

At the request of Mr. PERCY, the Senator from California (Mr. HAYAKAWA), the Senator from Iowa (Mr. CLARK), and the Senator from Oregon (Mr. MARK O. HATFIELD) were added as cosponsors of Senate Resolution 569, to eliminate certain items in the design of the Hart Senate Office Building.

AMENDMENT NO. 3684

At the request of Mr. METZENBAUM, the Senator from Massachusetts (Mr. KENNEDY) and the Senator from New York (Mr. JAVITS) were added as cosponsors of amendment No. 3684 intended to be proposed to H.R. 5285, an act to amend the Tariff Schedules of the United States with respect to the tariff treatment accorded to film, strips, sheets, and plates of certain plastics or rubber.

SENATE RESOLUTION 577—SUBMISSION OF A RESOLUTION WAIVING CONGRESSIONAL BUDGET ACT

Mr. HART submitted the following resolution, which was referred to the Committee on the Budget:

SENATE RESOLUTION 577

Resolved, That (a) pursuant to section 303(c) of the Congressional Budget Act of 1974, the provisions of section 303(c) of such act are waived with respect to the consideration of amendments to H.R. 13511 offered by Senator Hart relating to modifications in the Internal Revenue Code pertaining to the rate of Federal spending.

AMENDMENTS SUBMITTED FOR PRINTING

FULL EMPLOYMENT AND BALANCED GROWTH ACT OF 1978—S. 50

AMENDMENTS NOS. 3692 THROUGH 3767

(Ordered to be printed and to lie on table.)

Mr. HATCH submitted 116 amendments intended to be proposed by him to S. 50, the Full Employment and Balanced Growth Act of 1978.

REVENUE ACT OF 1978—H.R. 13511

AMENDMENT NO. 3808

(Ordered to be printed and to lie on the table.)

Mr. DANFORTH (for himself, Mr. BELLMON, Mr. BENTSEN, Mr. BUMPERS, Mr. CHILES, Mr. DECONCINI, Mr. EAGLETON, Mr. HODGES, Mr. PACKWOOD, and Mr. STEVENS) submitted an amendment intended to be proposed by them, jointly, to H.R. 13511, an act to amend the Internal Revenue Code of 1954 to reduce income taxes, and for other purposes.

AMENDMENT NO. 3809

(Ordered to be printed and to lie on the table.)

Mr. NELSON (for himself, Mr. WEICKER, Mr. HATHAWAY, Mr. PACKWOOD, Mr. MCINTYRE, Mr. HEINZ, and Mr. LEAHY) submitted an amendment intended to be proposed by them, jointly, to H.R. 13511, supra.

● Mr. NELSON. Mr. President, today I am submitting an amendment to the Revenue Act of 1978, H.R. 13511, on behalf of myself, Senator WEICKER, Senator HATHAWAY, Senator PACKWOOD, Senator MCINTYRE, Senator HEINZ, and Senator LEAHY. I ask unanimous consent that the text of the amendment be printed in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 3809

At the appropriate place in the bill, strike out Section 361, and insert in lieu thereof a new Section 361, as follows:

DEPRECIATION REFORM

SEC. 361. (a) Section 167 of the Internal Revenue Code of 1954 (relating to depreciation) is amended by adding at the end thereof the following new subsection:

"(q) THREE-YEAR USEFUL LIFE, STRAIGHT-LINE DEPRECIATION.—

"(1) GENERAL RULE.—In the case of a taxpayer who has made an election under this subsection for the taxable year, the term 'reasonable allowance' as used in subsection (a) means (with respect to property which has a useful life of 36 months or more) an allowance based on a useful life of 36 months computed under the straight-line method (within the meaning of subsection (b)(1)).

"(2) $25,000 BASIS LIMITATION.—For purposes of this subsection, the basis (as determined under subsection (g)) of property placed in service during the taxable year shall, to the extent that such basis exceeds $25,000 for the taxable year, not be taken into account.

"(3) ELECTION.—An election under this subsection for any taxable year shall be made at such time, in such manner, and subject to such conditions as may be prescribed by the Secretary by regulations.".

(b) Subsection (c) of section 46 is amended by adding at the end thereof the following new paragraph:

"(6) APPLICABLE PERCENTAGE IN THE CASE OF THREE-YEAR USEFUL LIFE, STRAIGHT-LINE DEPRECIATION.—Notwithstanding subsection (c)(2), in the case of property with respect to which an election under section 167(q) applies, the useful life of any such property for purposes of this subpart shall be the useful life determined without regard to section 167(q).".

EFFECTIVE DATE

(c) The amendments made by the foregoing sections of this Act shall apply in the case of property acquired after the date of enactment of this Act and placed in service in taxable years ending after the date of enactment of this Act.●

AMENDMENT NO. 3810

(Ordered to be printed and to lie on the table.)

Mr. STONE submitted an amendment intended to be proposed by him to amendment No. 3809 intended to be proposed to H.R. 13511, supra.

●Mr. STONE. Mr. President, I send to the desk an amendment to Senator NELSON's hospital cost containment measure and ask that it be printed.

Mr. President, this amendment would provide greater recognition for the voluntary cost control efforts being made by individual hospitals than does the Nelson measure, in its present form. It would exempt from the mandatory controls individual hospitals that are meeting the voluntary goal even if the State in which the hospital is located is not exempted from the controls.

The Nelson measure would put hospital cost controls into effect if the voluntary goal is not met on a nationwide basis in 1978 or subsequent years. Individual States would be exempted from the controls if they met the voluntary national goal. This amendment would go further and provide a greater incentive for hospitals to reduce their costs.

With this amendment, each hospital would be capable of avoiding mandatory controls by meeting the voluntary goal the hospital industry has set for itself. Efficiently managed hospitals would not come under mandatory cost controls as a result of being combined with grossly inefficient hospitals. But States would continue to be exempted if they met the voluntary national goal.

This amendment would not require any additional data collection, personnel, or other redtape to administer. The data which the HEW Secretary would require from each hospital in order to administer the State exemption provision of the Nelson measure would be sufficient to administer exemptions for individual hospitals meeting the voluntary goal.

HEW estimates that this amendment would save hospital consumers an amount somewhere in between the amount saved by the voluntary effort and the amount saved by the Nelson measure, assuming that the voluntary

effort fails in 1979. The difference in the savings, however, would result from the application of the more stringent mandatory controls to hospitals which are meeting their commitments under the voluntary effort. I do not think that this is fair, especially if, with this legislation, we intend to recognize the success of the voluntary effort and impose controls on hospitals only in the event that this effort fails.

Mr. President, I urge the Members of the Senate to support this amendment to allow individual hospitals which are meeting the voluntary cost containment goal to be exempted from mandatory cost controls.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT No. 3810

The proposed amendment to section 2 of H.R. 5285 is amended by adding at the end of paragraph (cc)(1) the following sentence:

"Notwithstanding the foregoing provisions of this paragraph, a hospital shall be exempt from such limits if the Secretary find that such hospital has held the rate of increase in its expenses (other than expenses arising from increases in the average hourly regular wage rate for nonsupervisory employees) to a level at or below the maximum allowable rate specified under paragraph (2) of this subsection for hospital expenses (other than increases arising from increases in the average hourly wage rates for nonsupervisory employees) in the United States."●

AMENDMENT NO. 3811

(Ordered to be printed and to lie on the table.)

Mr. STONE submitted an amendment intended to be proposed by him to amendment No. 3809 intended to be proposed to H.R. 13511, supra.

● Mr. STONE. Mr. President, I send to the desk an amendment to the Nelson hospital cost containment measure and ask that it be printed.

Mr. President, this amendment would require the Secretary of HEW to adjust the States' voluntary hospital cost containment goals to allow for cost increases which result from substantial population growth and from the higher rates of hospital utilization by persons age 65 and older. HEW's guidelines recognize that persons over age 65 utilize hospital care at four times the rate of persons under age 65.

The Nelson measure, in its present form, would apply voluntary goals to all States without adjusting the maximum allowable rate of increase to reflect increasing or decreasing population, or changes in the "mix" of population—the relative percentage of persons over age 65 compared with the percentage under age 65—both of which have a significant effect on total hospital expenses.

It is possible that a particular State could meet the 2-percent requirement without any cost containment effort because of a decreasing population, or because of a level population but a decrease in the population over age 65. These conditions would naturally result in decreasing a State's hospital cost expenses.

Conversely, a State whose population is increasing and is experiencing a net gain in population age 65 or older, could be subject to the mandatory controls, in spite of substantial cost containment efforts.

This unfair situation would be remedied by my amendment, and I urge you to support it. It is my understanding that the administration does not oppose this amendment and I hope that it will be acceptable to Senator NELSON and the managers of the bill.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT No. 3811

Paragraph (cc)(1), as added by the proposed amendment to Section 2 of H.R. 5285, is amended by striking out the words "goals established in paragraph (2)" and inserting in lieu thereof the words "goals established in subparagraph (2)(A)."

Paragraph (cc)(1), as added by the proposed amendment to Section 2 of H.R. 5285, is further amended by striking out the words "the maximum allowable rate specified under paragraph (2)," and inserting in lieu thereof the words "the adjusted maximum allowable rate specified under subparagraph (2)(B)."

Paragraph (cc)(2), as added by the proposed amendment to Section 2 of H.R. 5285, is amended by redesignating it as subparagraph (cc)(2)(A), and making conforming redesignations within such subparagraph.

Paragraph (cc)(2), as added by the proposed amendment to Section 2 of H.R. 5285, is further amended by adding the following new subparagraph:

"(B) The goals established in subparagraph (A) of this paragraph shall be adjusted by a formula established by the Secretary to take into account the estimated impact of substantial changes in population on the total expenses (other than expenses arising from increases in the average hourly wage rates for nonsupervisory employees) of hospitals located in a particular State. The formula established by the Secretary pursuant to the preceding sentence shall be such that it will increase or decrease the maximum allowable rate of increase in total hospital expenses (other than expenses arising from increases in the average hourly wage rates for nonsupervisory employees) to the extent necessary to compensate for anticipated deviations of hospital utilization experience in a particular State from hospital utilization experience in the United States arising from changes in population. For this purpose, the Secretary shall assume that changes in population in a particular State and in the United States in a calendar year will be identical to the changes estimated by the Bureau of the Census in the last twelve-month period for which the Bureau of the Census has issued estimates of the populations of individual States. In determining the effect of such changes in population on hospital utilization, the Secretary shall take into account the higher rates of utilization of inpatient hospital services by individuals 65 years of age and over and such other factors as he deems feasible and appropriate." ●

AMENDMENT NO. 3815

(Ordered to be printed and to lie on the table.)

Mr. HATCH (for himself, Mr. STEVENS, Mr. CURTIS, Mr. EASTLAND, Mr. TOWER, Mr. YOUNG, Mr. DOMENICI, Mr. SCHMITT, Mr. HELMS, Mr. GARN, Mr. GOLDWATER, and Mr. HAYAKAWA) submitted an amendment intended to be proposed by them to H.R. 13511, supra.

TARIFF ON FILM, STRIPS, SHEETS, AND PLATES OF CERTAIN PLASTICS OR RUBBER—H.R. 5285

AMENDMENT NO. 3810

(Ordered to be printed and to lie on the table.)

Mr. STONE submitted an amendment intended to be proposed by him to amendment No. 3478 intended to be proposed to H.R. 5285, an act to amend the Tariff Schedules of the United States with respect to the tariff treatment accorded to film, strips, sheets, and plates of certain plastics or rubber.

● Mr. STONE. Mr. President, I send to the desk an amendment to Senator NELSON's hospital cost containment measure and ask that it be printed.

Mr. President, this amendment would provide greater recognition for the voluntary cost control efforts being made by individual hospitals than does the Nelson measure, in its present form. It would exempt from the mandatory controls individual hospitals that are meeting the voluntary goal even if the State in which the hospital is located is not exempted from the controls.

The Nelson measure would put hospital cost controls into effect if the voluntary goal is not met on a nationwide basis in 1978 or subsequent years. Individual States would be exempted from the controls if they met the voluntary national goal. This amendment would go further and provide a greater incentive for hospitals to reduce their costs.

With this amendment, each hospital would be capable of avoiding mandatory controls by meeting the voluntary goal the hospital industry has set for itself. Efficiently managed hospitals would not come under mandatory cost controls as a result of being combined with grossly inefficient hospitals. But States would continue to be exempted if they met the voluntary national goal.

This amendment would not require any additional data collection, personnel, or other redtape to administer. The data which the HEW Secretary would require from each hospital in order to administer the State exemption provision of the Nelson measure would be sufficient to administer exemptions for individual hospitals meeting the voluntary goal.

HEW estimates that this amendment would save hospital consumers an amount somewhere in between the amount saved by the voluntary effort and the amount saved by the Nelson measure, assuming that the voluntary effort fails in 1979. The difference in the savings, however, would result from the application of the more stringent mandatory controls to hospitals which are meeting their commitments under the voluntary effort. I do not think that this is fair, especially if, with this legislation, we intend to recognize the success of the voluntary effort and impose controls on hospitals only in the event that this effort fails.

Mr. President, I urge the Members of the Senate to support this amendment to allow individual hospitals which are meeting the voluntary cost containment

goal to be exempted from mandatory cost controls.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT No. 3810

The proposed amendment to section 2 of H.R. 5285 is amended by adding at the end of paragraph (cc)(1) the following sentence:

"Notwithstanding the foregoing provisions of this paragraph, a hospital shall be exempt from such limits if the Secretary find that such hospital has held the rate of increase in its expenses (other than expenses arising from increases in the average hourly regular wage rate for nonsupervisory employees) to a level at or below the maximum allowable rate specified under paragraph (2) of this subsection for hospital expenses (other than increases arising from increases in the average hourly wage rates for nonsupervisory employees) in the United States."●

AMENDMENT NO. 3811

(Ordered to be printed and to lie on the table.)

Mr. STONE submitted an amendment intended to be proposed by him to amendment No. 3478 intended to be proposed to H.R. 5285, supra.

● Mr. STONE. Mr. President, I send to the desk an amendment to the Nelson hospital cost containment measure and ask that it be printed.

Mr. President, this amendment would require the Secretary of HEW to adjust the States' voluntary hospital cost containment goals to allow for cost increases which result from substantial population growth and from the higher rates of hospital utilization by persons age 65 and older. HEW's guidelines recognize that persons over age 65 utilize hospital care at four times the rate of persons under age 65.

The Nelson measure, in its present form, would apply voluntary goals to all States without adjusting the maximum allowable rate of increase to reflect increasing or decreasing population, or changes in the "mix" of population—the relative percentage of persons over age 65 compared with the percentage under age 65—both of which have a significant effect on total hopsital expenses.

It is possible that a particular State could meet the 2-percent requirement without any cost containment effort because of a decreasing population, or because of a level population but a decrease in the population over age 65. These conditions would naturally result in decreasing a State's hospital cost expenses.

Conversely, a State whose population is increasing and is experiencing a net gain in population age 65 or older, could be subject to the mandatory controls, in spite of substantial cost containment efforts.

This unfair situation would be remedied by my amendment, and I urge you to support it. It is my understanding that the administration does not oppose this amendment and I hope that it will be acceptable to Senator NELSON and the managers of the bill.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT No. 3811

Paragraph (cc)(1), as added by the proposed amendment to Section 2 of H.R. 5285, is amended by striking out the words "goals established in paragraph (2)" and inserting in lieu thereof the words "goals established in subparagraph (2)(A)."

Paragraph (cc)(1), as added by the proposed amendment to Section 2 of H.R. 5285, is further amended by striking out the words "the maximum allowable rate specified under paragraph (2)," and inserting in lieu thereof the words "the adjusted maximum allowable rate specified under subparagraph (2)(B)."

Paragraph (ee)(2), as added by the proposed amendment to Section 2 of H.R. 5285, is amended by redesignating it as subparagraph (cc)(2)(A), and making conforming redesignations within such subparagraph.

Paragraph (cc)(2), as added by the proposed amendment to Section 2 of H.R. 5285, is further amended by adding the following new subparagraph:

"(B) The goals established in subparagraph (A) of this paragraph shall be adjusted by a formula established by the Secretary to take into account the estimated impact of substantial changes in population on the total expenses (other than expenses arising from increases in the average hourly wage rates for nonsupervisory employees) of hospitals located in a particular State. The formula established by the Secretary pursuant to the preceding sentence shall be such that it will increase or decrease the maximum allowable rate of increase in total hospital expenses (other than expenses arising from increases in the average hourly wage rates for nonsupervisory employees) to the extent necessary to compensate for anticipated deviations of hospital utilization experience in a particular State from hospital utilization experience in the United States arising from changes in population. For this purpose, the Secretary shall assume that changes in population in a particular State and in the United States in a calendar year will be identical to the changes estimated by the Bureau of the Census in the last twelve-month period for which the Bureau of the Census has issued estimates of the populations of individual States. In determining the effect of such changes in population on hospital utilization, the Secretary shall take into account the higher rates of utilization of inpatient hospital services by individuals 65 years of age and over and such other factors as he deems feasible and appropriate." ●

OIL POLLUTION LIABILITY AND COMPENSATION ACT OF 1978—S. 2083

AMENDMENT NO. 3812

(Ordered to be printed and to lie on the table.)

Mr. STAFFORD (for himself, Mr. GRAVEL, Mr. MOYNIHAN, Mr. JAVITS, and Mr. RIEGLE) submitted an amendment intended to be proposed by them, jointly, to S. 2083, a bill to establish a uniform and comprehensive legal regime governing liability and compensation for damages and cleanup costs caused by oil pollution, and for other purposes.

Mr. STAFFORD. Mr. President, on behalf of myself and Senators GRAVEL, MOYNIHAN, JAVITS, and RIEGLE I am submitting an amendment to S. 2083. Since Senator MUSKIE and I are seeking to dispose of S. 2083 through the Consent Calendar, it is extremely unlikely that there will be an opportunity for this amendment to be brought to the floor for a vote. However, we all know that the closing days and hours of a Congress are characterized more by the unexpected than the expected, so I am introducing the amendment to insure that I am not inadvertently foreclosed from bringing it up if the opportunity arises and if I wish to proceed.

I ask unanimous consent that the text of the amendment be printed in the RECORD at this point.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT No. 3812

On page 52, line 14, insert a new subsection as follows:

"(12) the term "release" includes but is not limited to, any setting free, whether intentional or not, of a substance from a container, vessel, tank, pond, yard, dump or any other device or safeguard which is intended to confine, restrain or in any way reduce the substance's potentiality for harm."

On page 52, lines 24 and 25 delete the following: "or a hazardous substance".

On page 53, line 1 insert the following between "Act" and "shall": "or from which a hazardous substance is released".

On page 53, line 13, insert a new subparagraph as follows:

"(C) All costs incurred by the United States Government, a State or local government or any person in removing a released hazardous substance, including the taking of such actions as may be necessary to minimize or mitigate damage to the public health or welfare, including but not limited to fish, shellfish, wildlife, public and private property, and".

On page 53, line 15 after the word "discharge" insert "or release".

Mr. STAFFORD. Mr. President, this amendment requires a word of explanation.

As S. 2083 was reported by the Comittee on Environment and Public Works, it established a system of liability and compensation for the discharges of two classes of materials; oil and oil products; and, hazardous substances. But in order for the liability and compensation provisions to apply, the subtance discharged, whether it is oil or any one of the 300 or so hazardous susbtances, must enter the navigable waters.

This requirement is sensible when dealing with oil. Economy and competition demand that oil be transported in bulk, which in turn means that it is usually transported in waterborne commerce by oceangoing supertankers, coastal oil barges or inland oil barges. A spill of oil is virtually certain to enter navigable waters. But hazardous substances are transported by rolling stock as well as barges. They are handled at a variety of facilities both near and far from water. And, although oil tends to cause harm when spilled in large volume, hazardous substances released in only small quantities can cause ruinous harm, whether they enter the water or not.

A very large number—perhaps a majority—of the incidents involving oil are not discharges which enter the navigable

waters. The Love Canal incident in Niagra Falls, N.Y., does not involve a navigable water. In Michigan, where PBB contamination has wrought an estimated $75 million in damages, the substance has entered the navigable waters only because it pervades the entire environment. In Hardeman County, Tenn., wells are contaminated by a variety of exotic chemicals, but not the navigable waters. In the arid southwest, a spill would almost certainly fail to enter navigable waters—regardless of the harm it might do—simply because there are so few of them.

Hazardous substances are released not just by accidents on or around vessels, but from derailed tankcars, overturned tanktrucks, abandoned landfills, and industrial accidents. In Ohio, a ruptured pipeline released 25,000 gallons of phenol. In Michigan, a tanktruck ruptured, releasing 4,700 gallons of sulphuric acid waste. In Texas a freight train derailed, spilling butyl alcohol, butyl acetate, and styrene. In Delaware, New Jersey, Maine, and Tennessee we know of cases where drinking water supplies are contaminated by abandoned waste disposal areas, but the navigable waters remain unaffected.

In point of fact, imposing liability for only those discharges which enter the navigable waters ignores not only a major part of the problem, but perhaps the bulk of the problem. For this reason, my amendment would expand the liability and compensation coverage of S. 2083 to include "releases" of hazardous substances, whether the substance enters a navigable water or not.

From my view, we are not discussing merely environmental legislation, but simple justice. The plain truth is that throughout the United States exotic and toxic chemicals are entering the environment and damaging peoples lives and livelihoods. Despite nearly a decade of legislation, despite hundreds of thousands of hours of work, despite the expenditure of billions for cleanup equipment, despite the profits that companies are making from manufacturing, transporting, and disposing of these chemicals, the people who are hurt—the innocent bystanders—are given nothing but a sympathetic ear. Sometimes even that is refused.

My amendment does not attempt to impose liability or provide compensation for personal injuries. That issue is too complex to be dealt with here. Rather, it deals only with economic losses, which can be more easily demonstrated and proved.

I have thus far forborne pressing this amendment to avoid jeopardizing S. 2083. While I believe the coverage mandated by that bill falls short of what is required, it is nevertheless a first step in the right direction. I will continue to forbear as long as that is appropriate, but if the circumstances require I will call the amendment up. If and when that happens, I hope my colleagues will join me in supporting it.

Mr. President, I ask unanimous consent to have printed in the RECORD a recent article from the Washington Post on this subject.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Sept. 4, 1978]

OOZING EARTH—PAYING FOR CLEANUP OF BURIED CHEMICALS POSES NEW NIGHTMARE FOR OFFICIALDOM

(By Bill Richards)

The first inkling that something had gone wrong in rural Hardeman County, Tenn., came last winter when the local kitchen sinks started turning brown.

Then came reports from puzzled residents of the southwestern Tennessee farming region that their well water had developed a peculiar insecticide-like odor. When a rash of unexplained cases of stomach cramps and dizzy spells hit the area, federal and state health investigators moved in.

Their discovery—some 350,000 leaky 55-gallon drums of legally buried chemical waste on a nearby ridgetop owned by the Chicago-based Velsicol Chemical Co.—is likely to add another chapter to what is rapidly becoming a recurring chemical-age nightmare.

Velsicol admits that between 1965 and 1972 it dumped chemical waste at the site from its Memphis pesticide plant. But a company spokesman insists there is no concrete proof the 17 chemical contaminants identified thus far in the local well water came from its dump. Moreover, Velsicol says its dumping was perfectly legal under state laws at the time.

That leaves federal and state officials with a virtual sea of toxic chemicals—including some known carcinogens—apparently flowing into the local water supply and no clear villain on whom to place the blame.

If the Hardeman County problem seems Herculean it is by no means unique. Across the nation, new stores of nearly forgotten, highly toxic chemical waste seem to be oozing into the headlines every week. Federal officials estimate there may be as many as 400 more suspicious hazardous waste sites around the country. And no one seems to know who will pay to clean them up.

Some recent examples:

Authorities in Michigan, nervously keeping tabs on toxic chemicals leaking from a company dump in Montague into Lake Michigan, recently checked and were horrified to discover it could cost $100 million to clean up similar hazardous waste sites around the state. "There's no way we're going to ask the taxpayers to ante up for that," said a state official.

In Massachusetts, health officials got an emergency $1.3 million from the state legislature to remove 17,000 barrels of toxic chemicals leaking from an abandoned lot in Lowell into the Merrimac River the water source for several downstream communities. State officials are pledged to try to recover the cleanup money from financial backers of the bankrupt disposal firm and those who originally shipped the waste to the site. But a state official concedes glumly: "We're not holding our breath waiting to get paid."

In the widely publicized Love Canal situation in Niagara Falls, N.Y., officials have estimated that preliminary cleanup costs alone will run to $8 million. "And that," says an Environmental Protection Agency official "is just to make the area livable. We're not even talking about relocation costs."

Nearly 200 families may eventually have to be permanently moved out of the area where thousands of drums of cancer-causing chemicals have leaked into backyards and basements.

Who will pay? "There's no provision for the federal government to come riding to the rescue," says Fred Lindsey, an EPA official in charge of the agency's implementation section.

"It's kind of confusing," admits another EPA official. "I guess the one who pays is whoever gets left holding the bag."

That could include, says EPA's senior hazardous waste official Steffen Plehn, any of an estimated 425,000 firms which generate toxic chemical waste, or the 25,000 or so firms that transport it, or another 25,000 firms that store, treat or dispose of it.

Beyond that broad spectrum, Plehn admits, the focus of the blame becomes less clear. "If a company is still legally tied to the stuff, then I guess it's theirs," says Plehn. "If they've been able to unload it, then I guess the blame goes with it."

In the end, Plehn said, the answer may lie with efforts by EPA to set up a national trust to pay to clean hazardous waste sites. The trust would come from a per-ton tax on waste as it is dumped and would be held for emergencies such as the Love Canal disaster.

The problem with such a solution, however, is that it will tax waste generators who may be complying with the law today for the environmental sins of others in the past. "It's not fair, and more important it probably isn't legal," complained a chemical industry official who asked not to be identified.

Thus far, only Michigan has sought to force chemical waste generators to pay for the cleanup of hazardous sites, even though they may not be directly involved in the problem.

Earlier this year Michigan Attorney General Frank Kelly went to court to recoup $1 million the state spent to clean out a site in Pontiac. The site was so dangerous, officials said, that a spell of hot weather could have caused some of the chemicals to explode and send a toxic chemical cloud floating over the city's wealthy suburbs.

The state's efforts to force the issue were sidetracked, however, when about 17 big waste generators, including such names as Ford and Dow-Corning, agreed to come up with an out-of-court settlement.

Right now Michigan is closely watching another site owned by the Hooker Chemical and Plastics Corp. in Montague. There, quantities of C-56—a chemical building block for several carcinogenic pesticides—is leaking into White Lake, an arm of Lake Michigan.

Hooker's disposal site, as well as others in the state, may be legal, said Stewart Freeman, an assistant state attorney general. "But even assuming it is legal we can still say: all right you contain it or you pay for it," he said.

Hooker also operated the Love Canal site in Niagara Falls before deeding the site to a local school district under threat, according to the company, of condemnation proceedings against it.

Under a preliminary agreement, Hooker agreed to pay up to $280,000 to help clean up the Love Canal site. A company spokesman said Hooker also is spending several hundred thousand dollars on its Montague, Mich., disposal site where 11,000 tons of toxic chemicals are buried.

But the spokesman said Hooker will not admit legal liability in either case. "There's no way you could get us to say we're responsible for what happened at Love Canal," he said. Hooker or any company would "fight like hell" in court if the cleanup bills were turned over to them, he said.

That test could come in Tennessee. So far no one has formally blamed Velsicol for the polluted water in Hardeman County. But state officials note there does not appear to be another source for the unusual array of chemicals—including suspected carcinogens such as chlorobenzine, tetrachloroethelene and toluene—that have turned up in the area's water. In addition, a still-unreleased

federal study has also concluded that chemicals from Velsicol's disposal site have leaked into nearby wells.

Velsicol officials are preparing to do their own study of the situation. Some have even hinted darkly that perhaps local residents put the chemicals in the wells themselves in an effort to force blame on the company.

"This is a puzzle and all the parts aren't together yet," says one Velsicol official. "We do know that once that ridge was supposed to be an ideal dumping location. Now there's some question whether it was so ideal after all."

DEPARTMENT OF DEFENSE APPROPRIATIONS—H.R. 13635

AMENDMENT NO. 3813

(Ordered to be printed and to lie on the table.)

Mr. McGOVERN submitted an amendment intended to be proposed by him to H.R. 13635, an act making appropriations for the Department of Defense for the fiscal year ending September 30, 1979, and for other purposes.

AMENDMENT NO. 3814

(Ordered to be printed.)

Mr. HOLLINGS (for himself, Mr. THURMOND, and Mr. CASE) proposed an amendment to H.R. 13635, supra.

ADDITIONAL STATEMENTS

CARTER ADMINISTRATION BLOCKED MEXICAN GAS DEAL

● Mr. HATCH. Mr. President, I would like to call the attention of the Senate to a recent article in the Wall Street Journal. At a time when we need additional supplies of natural gas, the administration stepped in and blocked a deal between American companies and the Mexican Government that would have resulted in more needed energy resources for our country. The administration was afraid that the deal, if allowed to proceed, would dramatize how much the administration is holding the price of American gas below the world market price. It of course would be an embarrassment. To avoid it, the administration chose to severely embarrass the President of Mexico and other Mexican political leaders who stuck their neck out in favor of the gas deal.

Anyone who is out of work this winter or in a cold home as a result of insufficient energy supplies can thank the Carter Administration. And if the Mexican Government comes more under the influence of left-wing, anti-American extremists, we can remember what the Wall Street Journal calls "one of the great gut punches to Mexican President Jose Lopez Portillo and Mr. Diaz Serrano" delivered by the Carter administration.

Here we have yet another case where the narrow ideological interests of the current administration took precedence over the welfare of the American people and our allies in other countries. I ask that the article be printed in the RECORD.

The article follows:

GAS FIASCO AND FUTURE RELATIONS

"By now, the saga of the Great Mexican Natural Gas Snafu is fairly well known, but the fray is far from over. Unfortunately, the implications of the collapsed deal go well beyond natural gas, and its failure may be the harbinger—if not the direct cause—of many future failures in U.S.-Mexican relations, which are rapidly becoming more crucial to both countries.

"The same kind of domestic political considerations (both U.S. and Mexican) that killed the gas agreement are almost certain to color future U.S.-Mexican relations on a variety of other issues. And the arrogance with which the U.S. tried to pressure Mexico into conforming to our will only fueled the mistrust and resentment that Mexican leaders long have felt for their giant neighbor to the north.

"U.S. negotiators barely concealed their attitude that they had the Mexicans where they wanted them. "Where else can they sell their gas?" was the quote attributed to one senior U.S. official at a particulary crucial time in the negotiations. But, says Tenneco's Mr. Ketelsen, 'the U.S. seriously miscalculated the position of Mexico—both in terms of its ability to find a market for its gas and of its ability to raise capital for petroleum development without U.S. help.'

"Not only that, the U.S. Energy Department—either carelessly or callously—also delivered one of the great gut punches to Mexican President Jose Lopez Portillo and Mr. Diaz Serano. Both men stuck their political necks way out by proposing the sale of nationalized Mexican petroleum to the U.S. in the first place. (Nationalist-leftist rhetoric against the sale was hot, and Mr. Diaz Serrano had to make an impassioned plea for the proposal to Mexico's Congress.)

"So by blocking the sale agreement, the U.S. forced Senors Lopez Portillo and Diaz Serrano to do exactly what the anti-U.S. leftists had been demanding all along: convert Mexican industry to gas and turn use of the resources inward.

"Despite the urgency of the Mexican-U.S. situation, the same political dynamics that killed the gas deal are likely to surface again and again. For example, it is almost impossible to develop policy regarding the crucial illegal immigration question with the best interests of the two countries as the foremost consideration. Political priorities must go first to those special interests with a stake in the situation: organized labor, employers of the immigrants, and Mexican-Americans already in the U.S.

"Important trade policies controlling imports and exports are just as certain to be heavily influenced by the interests of U.S. unions and manufacturers. And domestic U.S. political considerations come first in deciding issues as vital to Mexico as water—how much the U.S. will let trickle down to Mexico and how clean it will be when it gets there.

"Because of its proximity, there is probably no country in the world that must deal with the U.S. on as many different agencies and departments, and in the face of as many vested interests. To Abraham Lowenthal, head of the Latin American program at Washington's Woodrow Wilson Center, the Mexican gas case suggests that many of the most important U.S. policies affecting Latin America aren't even formed with Latin America in mind.

"For their part, U.S. officials aren't conceding any mistakes on the gas deal. 'It wasn't simply a domestic political problem,' says Steve Bosworth, Deputy Assistant Secretary of State for International Resources and Food Policy. 'We're also concerned about the price of Canadian gas. As the Canadians decide what price they're charging, they would obviously take into consideration what we're paying the Mexicans.' (Of course, the U.S. has also miffed Algeria and Indonesia with delays of liquefied natural gas projects for similar reasons, but our dealings with those countries are hardly as vital as with Mexico.)

"And many U.S. officials believe the Mexican gas deal will be revived as soon as Congress passes a gas-pricing measure. 'I don't think the deal is dead,' says one senior U.S. official. 'I think it will still fly. I'll admit it suffered from an unfortunate convergence of events, but I think the basic balance of interest remains favorable to an agreement.' "●

VA HEALTH-CARE APPROPRIATIONS FOR FISCAL YEAR 1979

● Mr. CRANSTON. Mr. President, on September 20, 1978, the Senate passed the HUD-Independent Agencies conference report. I have been sincerely concerned this year about the adequacy of the fiscal year 1979 appropriations for the Veterans' Administration, particularly for its hospital and medical care system. The Senate-passed version of the HUD-Independent Agencies appropriations legislation, H.R. 12936, included only $25.8 million more than the administration's extremely stringent budget request for VA health-care accounts for medical care, research, administrative and operating expenses, construction, and grants to State extended-care facilities. The House-passed bill included $158.3 million more than the administration's budget request for those accounts.

On August 4, 1978, during the Senate debate on H.R. 12936, I expressed my concern about the inadequacy of the Appropriations Committee's recommendations for VA health-care appropriations and described the discussions that I had had with my colleague, the Senator from Wisconsin (Mr. PROXMIRE), chairman of the HUD-Independent Agencies Subcommittee, regarding the amounts recommended for veterans health-care services.

At that time, the ranking minority member of the Veterans' Affairs Committee (Mr. STAFFORD) and I engaged in a colloquy with my distinguished colleague from Wisconsin (Mr. PROXMIRE); and we received assurances from him that he would review very carefully in conference the appropriations levels for the VA health-care accounts and would evaluate the House-passed figures in light of the needs I had detailed to him with regard to the VA hospital and medical system.

It is quite clear, from the compromise reached in the House-Senate conference on H.R. 12936 with respect to the VA's health-care accounts, that the chairman, being the honorable and reasonable man I know him to be, has fulfilled his promises to Senator STAFFORD and me. I am very grateful for his assistance. Recognizing the overly restrictive nature of the administration's budget request for VA health care, the conferees have agreed to increases totaling $77.2 million more than the Senate-passed amounts and $103 million over the administration's request in the following appropriations accounts: in medical care, an increase of $54.7 million; in medical and prosthetic research, an increase of $10.2 million; in construction, an increase of $34.0 mil-

lion; in grants for construction of State extended-care facilities, an increase of $5 million; and in medical administration and miscellaneous operating expenses, a decrease of $797,000.

The overall increase is consistent with the views I expressed during the August 4 colloquy that an increase of at least $100 million over the administration's request should be agreed to.

These increases will help to maintain, and in some respects improve, the quality of care in the VA hospital and medical system. I believe that an additional $40 to $50 million could have been well-used by the VA to make further much-needed improvements and to provide more cost-effective care through shortened lengths of inpatient stays and more intensified care. Nevertheless, although H.R. 12936, as agreed upon by the conferees, does not provide funding for VA health care at levels I believe more desirable, I supported the conference report.

Mr. President, I believe that the $103 million increase represents a significant achievement; and I would like to express my great appreciation to the Senator from Wisconsin (Mr. PROXMIRE) and the ranking minority member of the subcommittee (Mr. MATHIAS) for their excellent efforts and their willingness to consider carefully the points made by Senator STAFFORD and me.●

THE RHODESIAN VISAS

● Mr. DOLE. Mr. President, during the past 24 hours, both the Washington Post and Washington Star newspapers have carried lead editorials advocating immediate approval of visa requests by Mr. Ian Smith and Mr. Ndabaningi Sithole, both members of the ruling executive council in Rhodesia. They are persuasive commentaries, accurately reflecting the widespread objections to the administartion's policy of—as the Post puts it—"treating Ian Smith like dirt."

I agree with these sentiments. Last month, I joined with 26 other Senators in extending a formal invitation to the leaders of the biracial interim government in Rhodesia to visit the United States. To date, the State Department has directly thwarted the Rhodesians' ability to accept that invitation. It is an unhappy intrusion on the right of the American people, and of Congress, to have full access to all sources of information on the tragic Rhodesian conflict.

A MATTER OF FAIRNESS

If there ever was an opportunity for the United States to demonstrate genuine objectivity and even-handedness in regard to the Rhodesian situation, it is now. The legitimate members of the ruling executive council in Rhodesia have requested visas, so that they may enter the United States and tell their own story to the American people. They have been specifically invited for talks by one-third of the Senate. In the interest of fairness and equity, they deserve the chance to appear in this country, as the leaders of the opposition guerrilla forces did earlier this year. They deserve the opportunity to persent their case to the public, and let the American people be the judge of their situation, and of the policies of this administration.

I firmly believe that our present posture toward Rhodesia may well become the most tragic legacy of this administration's foreign policy program. The continuing indifference of our Government toward the biracial transition in Rhodesia does not reflect neutrality. It works only to the favor of the rebels—those who promise to "turn ballot boxes into military targets," if free elections are held. Further delay in mustering Western support for the internal settlement only courts disaster. It is not difficult to imagine the blood-bath that will ensue if guerrilla forces prevail. The senseless massacre of plane crash survivors by guerrilla forces last month gives clear indication of that. Let there be no mistake about it—a collapse of the peaceful transition formula would surely be a burden on the American conscience for years to come.

CONGRESSIONAL MANDATE

There is no real question where Congress stands on this issue. Last March, I introduced Senate Concurrent Resolution 69, endorsing the internal settlement and calling on the President to work toward garnering international support for this peaceful, biracial arrangement. Since then, in two successful rollcall votes on related legislation, the Senate has demonstrated prevailing sentiment in support of the internal settlement.

There is no justification for delaying a final State Department decision on visas for Mr. Smith and Mr. Sithole. There is no justification for turning a clear-cut administrative function into a political test of nerves. The element of objectivity and fairness involved in the final decision is obvious enough. I urge the Secretary of State to grant immediate approval of entry visas for all members of the ruling executive council who have requested them.

Mr. President, I ask that editorials from the October 3 Washington Star, and the October 4 Washington Post be printed in the RECORD.

The editorials follow:

[From the Washington Post, Oct. 4, 1978]

A VISA FOR IAN SMITH

It is a shabby game the United States is playing with Ian Smith, prime minister of Rhodesia, over his attempt to visit the United States. Invited two weeks ago by friendly senators to present his case for more American support, he was expected to arrive this week. But the State Department, otherwise the champion of an open visa policy, has so far refused him permission to come. Why?

The State Department says that to honor Mr. Smith's Rhodesian passport would violate the sanctions voted against his "illegal" government by the United Nations. Yet the passports of Rhodesian students are regularly accepted, and the legal loophole of "exceptional humanitarian grounds" surely fits a visit by someone trying to end a bitter war. Must the United States be "purer" than Zambia, which has several times admitted Mr. Smith? President Carter himself has suggested giving him a tourist visa, which would not imply recognition of his regime. But the State Department, claiming that a visit now would undermine "delicate negotiations," defers decision. Thus does it nourish the suspicion that it wishes to keep Mr. Smith from expanding the ranks of those who feel that the American aim is to promote a guerrilla victory.

Yesterday, news reports indicated that the State Department might consider granting a visa if Mr. Smith agreed to attend the administration's long-sought all-parties conference. If it is all right for the Department to try to win Mr. Smith and his black colleagues in Salisbury to the American course, then Mr. Smith should have the reverse opportunity. And if the department wants to practice persuasion, let it simply co-sponsor the senators' invitation. After all, more than a visa is involved. The main reason the Salisbury government has resisted American policy is its fear that the United States is too committed to pleasing certain countries in black Africa to give a moderate government with whites in it a fair shake. They fear is only confirmed by the visa shell game.

Finally, one must ask how it looks to the guerrillas to see the United States treating Ian Smith like dirt. The other day the guerrillas shot down a civilian Rhodesian airliner and then murdered some survivors of the crash. Does not the diplomatic gesture reinforce the atrocity by proclaiming white Rhodesians pariahs who somehow exist outside the bounds of ordinary civilities? This is a desperate time in Rhodesia—a time to give first priority to halting a war that threatens tragedy for blacks as well as whites. That means, in this instance, showing Ian Smith—and everyone else in Rhodesia/Zimbabwe—that the United States has the whites' legitimate interests at heart. That is what the visa question is really about.

[From the Washington Star, Oct. 3, 1978]

VISAS FOR RHODESIANS

Whatever else was set before President Carter at breakfast Sunday morning, it was accompanied by a distasteful aperitif: reports in the papers that the State Department continues to dawdle disgracefully over visa applications from Prime Minister Ian Smith and his colleagues in the Rhodesian interim government and may eventually deny them.

The issue has been joined for quite a while. Sen. S. L. Hayakawa and 26 senatorial colleagues invited the Rhodesians to this country 17 days ago—an invitation to which the Rev. Ndabaningi Sithole responded favorably six days later.

It is Senator Hayakawa's aim, as he put it in the letter of invitation, to afford the Rhodesian officials various American forums, "so that we, both government officials and the general public, may see and hear you and evaluate your plans, hopes and aspirations."

But the United States shuns the Rhodesian regime diplomatically, and at times seems to side with the Patriotic Front insurrectionaries who aspire to overthrow it. The U.S. also subscribes to the spottily-enforced legal sanctions imposed on Mr. Smith by the United Nations. Technical problems aplenty can be made about the visas; and where the means of obstruction exist the State Department is not without will to obstruct.

The technical problems, however, are scarcely insurmountable. U.S. doors are not shut to Rhodesians—even members of the interim government. Bishop Abel Muzorewa, a member of the executive council of the interim government, sojourned in this country at midsummer. If he was admitted, why not his fellow members of the transitional regime?

The answer, it seems, is that in the State Department's view—or at least that of some upper-level policymakers—there are, as one spokesman put it, "Rhodesians and Rhodesians." and Rhodesians." There are, additionally, the UN sanctions, which in the manner of such things undertake to inter-

fere with the sovereign judgment of its members on who may come and go across their borders. Another excuse we hear is the fear that visas for Rhodesian officials might imply official diplomatic reception.

All of these excuses are flimsy and probably camouflage political and ideological hostility. For notwithstanding substantial movement in Salisbury towards a new constitution and a new political order in which Rhodesian blacks would soon obtain majority power, the U.S. has not concealed its partiality to the guerrillas.

Setting aside the issue of who is to be master of Rhodesia's future, in short, the usual myopia is at work. Given their head, certain of the African policymakers at the State Department would make pious piffle of everything President Carter and his administration have had to say about free movement of peoples. No issue of human rights exceeds the issue of free immigration from the Soviet Union, for example. No practical issue of international political rights exceeds in importance the right of a fragile regime, struggling for recognition and stability, to take its case to the American people and their elected representatives.

Admittedly, the exposure of the Rhodesian interim government might make it more difficult for the U.S. to persist in opposing it. And for that risk, some in the State Department have no stomach.

There are signs, fortunately that the principles involved in the Rhodesian visa application are more clearly understood at the White House than in the defensive recesses of State, where the wagons are drawn in a tight circle against Mr. Ian Smith.

At a breakfast with newsmen last week, President Carter suggested that the visas would probably be granted. We took that as a delicate signal that the president, at least, is willing to run the risk of allowing us a fuller first-hand look at the views, personalities and demeanor of the men who now constitute the transition government in Rhodesia. We gather that President Carter, if not others, understands the connection between the visa issue and the larger issues of human rights to which his administration has given so much attention.

May we not expect, then, that when the cumbrous wheels of Foggy Bottom have ceased their legalistic spinning, the result will be a chance for the Rhodesians to come here and state their case for better or worse?

We are confident that this will be the case. The opposite result would be a disastrous confession of official timidity.●

MRS. MONDALE'S ADDRESS BEFORE THE FOURTH FEDERAL DESIGN ASSEMBLY

● Mr. PELL. Mr. President, on Friday, September 22, Mrs. Joan Mondale addressed the fourth Federal Design Assembly which was held in the magnificent central court of the Pension Building. Her remarks about the improving quality and sensitivity of design are important ones for us to ponder. I ask that they be printed in the RECORD.

The benefits gained from living and working with good design around us have a subtle yet very profound effect on our mental and physical well-being.

I urge my colleagues to read these thoughtful comments that are excerpted from Mrs. Mondale's speech.

The address follows:

EXCERPTS FROM JOAN MONDALE'S SPEECH TO THE FOURTH FEDERAL DESIGN ASSEMBLY

In our culture, when you can't measure something it tends to be considered unreal. When I think about design I realize how similar it is to the air we breathe. It is everywhere in our lives and it is as difficult to measure in terms of quality.

Have you noticed how much more readily we all acknowledge the presence of pollution in the air when the air quality is given a number? To many people, smog was a figment of hypochondriacs imaginations until the air quality index was devised—it doesn't matter that we don't know what those mysterious numbers of the index really mean, the fact that we can measure air quality has made it something we can talk about.

Design quality needs to be talked about—changing standards, and new criteria in design mean that more frequent communication is necessary. Meetings like yours are an important link—not only between agencies, but between government and the private sector and even between departments in the same agency.

The fact that you have chosen to hold the design assembly here in the Pension Building tells us something about our society. It was only a few years ago that this building was considered obsolete; some even pronounced it ugly. But we are reassessing our values and our priorities. Today we admire the energy efficiency of the clerestorey windows in this building. They allow for a total exchange of air in two minutes!

"Energy efficiency" is a new term in our vocabulary. Only recently fresh air and natural light were considered unreliable. Even inefficient. Beautiful old buildings like this one were being demolished all over the United States. There was plenty of energy to burn and a seemingly inexhaustible supply of building materials. It seemed cheaper to build than to repair. But how quickly times change.

We have learned to cherish the best from our past. We recognize that preserving our built environment is as important as conserving our natural resources. Perhaps the energy crisis will have some good side effects. There is no need to apologize for changing our minds about what is beautiful and useful. For let's face it—as the conditions in the "real world" change—design criteria must change.

Good design is not static—it is as subtle and fleeting as life itself, continually shifting and adapting to new conditions. This change-able-ness is what keeps design alive and answering the needs of society.

Design is visual communication. Design says just as much as the written or spoken word. This week Max Cleland took me on a tour of the Veterans Admiinstration Building. Offices were filled with murals and hallways with color and art. Max told me of the weeks and months he spent in VA hospitals—those dreary, depressing surroundings convinced him that color and design were vital parts of life. He felt that the Veterans Hospitals were too often guilty of communicating a basic disinterest in patients and sending the message through a drab and disheartening environment. The long dimly lit hallways of the VA Building punctuated only by closed doors made you feel helpless, defeated and rejected. Max knew that bringing life and color to those corridors was an important priority.

Today a photo-directory of the staff greets you at the door—not just names but faces too. And you know you have come to an agency that is open, friendly unintimidating and willing to help. Graphics, color, interior design, art all are being used by the VA to convey a message about its policies and attitudes.

Well, this is a perfect setting for your meeting. This great towering space gives our thoughts and imagination room to soar—to be creative and innovative. So I am letting my imagination run free and I have an idea to offer.

There is—let's admit it—a lot of mediocre design. But there is also a lot of quality design coming out of government offices. Be it a new building plan or a renovation, a new landscape design, or even a design for a brochure or stationery, we should recognize that quality and reward that excellence. It doesn't cost anything. It might just be a certificate. But it will be a recognition that a project is well designed, well planned—and well appreciated.

I wish you a productive and informative session today—and I look forward to learning from your final report.●

CURRENT U.S. POPULATION

● Mr. PACKWOOD. Mr. President, I wish to report that, according to U.S. Census Bureau approximations, the total population of the United States as of October 1, 1978, is 219,446,709. In spite of widely publicized reductions in our fertility levels, this represents an increase of 1,635,650 since October 1 of last year. It also represents an increase of 152,188, that is, in just the last month.

Over the past year, therefore, we have added more than enough people to fill the city of Detroit, Mich. In the last month, we have added more than enough people to fill the city of Tacoma, Wash.●

GOLD IS UNIQUE COMMODITY IN WEST CORNWALL

● Mr. RIBICOFF. Mr. President, Martin Gold, born and brought up in New York City, wanted to see some of the world. So he joined the Navy and went on to try his hand at journalism, politics, speculating in futures, public relations, management consulting, and lobbying. He earned a degree in Asian studies, represented West German and Japanese corporations and then, like a lot of people who have been nearly everywhere and done a lot of things, decided that what he really wanted was to live in a pleasant little village, be his own boss, and take up a more thoughtful kind of pursuit, something like selling antique furniture and books.

The rustic life, only a dream for most men, became a reality for Martin Gold. Eight years ago he and his wife moved to West Cornwall, in scenic, peaceful Litchfield County in Connecticut. They bought the old Masonic Hall, stocked it with antiques and books and, most importantly, became well-liked personalities in their new community. Mr. Gold's neighbors are delighted he came to live with them. As Hartford Courant reporter Joseph Tracey has written:

If Martin D. Gold didn't live in West Cornwall the good citizens of that charming village would have to go out and find him, for he's part of the community's character.

Today selling antiques and books—his volumes number 40,000—are not Martin Gold's only interests. He is a justice of the peace, performing marriages for $5 "and up," and he owns "The Lure of the Litchfield Hills," a quarterly that he hopes to resume publishing soon. Traveling around Connecticut when he has the time, Martin Gold gives lectures, buys and sells antiques at furniture sales, engages in some politcal activity, and is working to conserve his Housatonic Valley. In short, Martin Gold is a unique

person with a spirited, endearing manner, an original, one of the many creative, interesting personalities who make Litchfield County such a colorful attractive place. Martin Gold also happens to be the Democratic town chairman of the town of Cornwall.

Mr. President, I ask unanimous consent that an article by Joseph Tracey about Martin Gold printed in the Hartford Courant October 1, 1978, be printed in the RECORD.

The article follows:

ON HOUSATONIC SHORES LIVES MARTIN D. GOLD, A 24-CARAT CHARACTER

(By Joseph Tracey)

If Martin D. Gold didn't live in West Cornwall the good citizens of that charming village would have to go out and find him, for he's part of the community's character.

He is, primarily, owner of the most cluttered antique shop on earth, purveyor of rare books, justice of the peace, editor and publisher of the oldest historical magazine in the country, which is issued now and then, political activist, and friend of mankind.

He's had a full career: newspaper reporter, congressional staff member, public relations counsel, management consultant, lobbyist, politician, political adviser, specialist in rare books, and a few other things along the way. Except for an elevator ride, ownership of a freight car load of eggs could be added to the list.

He's a remarkable man. There's no one quite like him.

Entering West Cornwall from the east the first thing one sees is a huge, barn-like building with a large sign reading "Martin D. Gold, Antiques and Books." It's the largest building in the village and was once the local Masonic Hall. The first floor is filled with antiques of every description and vintage. They even flow out to a small front porch.

Among the items on the porch are two hand-propelled lawnmowers which, hardly antiques, are certainly vintage. Asked what anyone would want with them Martin allowed that he didn't know "but somebody might want to make lamps out of them." They've been on the porch a long time.

The lawnmowers are deceptive. His antiques are the real thing.

The second floor is books. At least 40,000, probably more. Some are rare, some are just old, and some only a few years old. The business, in fact, grew out of Martin's love of books. He's a bibliophile and has a fantastic private collection.

Despite the disarray of his antiques, Martin runs the business in a most orderly manner. He displays a sign that says "Our Prices Are Fair But Firm," and there's no bargaining. A woman came in, picked up several books and the bill came to a little over $20. She protested that one book sold for $2.95 when it was published and Martin was charging $12 for it.

"Madam," he said, "the Gutenberg Bible sold for $3 when it was published." She had picked a first edition of a book long out of print, old but not rare and extremely difficult to find now.

In the book business old is not rare, Martin explains. "More than a hundred years ago it was common practice for churches to print their ministers sermons. The books are old, but not rare. There are some relatively recent books that are rare, such as some of Ernest Hemingway's, particularly a private edition of 'Death in the Afternoon' which Hemingway autographed and gave to friends."

Martin Gold came to West Cornwall about eight years ago to leave a hectic life behind. He didn't leave it behind. He brought it with him. He is just as busy now as ever, maybe even busier.

A native of New York, he served in the Navy during World War II, stationed in Georgia and working for a newspaper as a sideline. After discharge he enrolled in the University of Georgia's School of Journalism.

"I liked Georgia, and the university has a very good journalism school. Besides, I wanted to get away from New York and see some of the world."

His stay in journalism school wasn't long because he took a spare time job with the Atlanta Journal and quickly discovered he was learning more working for the newspaper than he was in class. "You know, some of the professors had never worked for a newspaper," he says.

"Not that there wasn't anything to learn. It was simply that the newspaper job was teaching me more, so I changed my major to political science. I've always been interested in government, how it works, what it does, and international affairs, so I took my degree in political science."

He went from Georgia to New York University and a master's degree in Asian studies, with emphasis on Japan and China. Then on to the University of Chicago to work for a doctorate, but he gave up his studies to campaign for the late U.S. Sen. Paul Douglas of Illinois.

"Sen. Douglas was one of the post-war liberal Democrats. He was a fine man, I admired him very much, and decided to join the campaign to get him nominated and elected. After he was elected I became a member of his staff."

Asked how a nice Jewish boy from the Bronx would end up in Georgia he replied "Damn it, I'm from New York, not the Bronx. I worked in the Bronx, but I lived in New York." People who live in Manhattan regard the other four boroughs of the city as someplace else.

While working for Sen. Douglas in Washington, Martin got to know a lot of people—he seems to know everyone anyway—particularly some important and influential congressmen. He thinks well of the Congress, noting that the average member works hard, puts in long hours studying proposed legislation and attending endless, countless committee meetings, and tries to do the best job possible.

"People don't hear about that. But when a congressman gets in trouble it's news, everyone hears about it, and thinks congressmen are playboys or crooks or anything but hard-working people doing a difficult job."

After his stint with Sen. Douglas, Martin became a public relations counsel, and later entered "the more sophisticated realm of management consultant," thence went into the lobbying industry, a difficult and frustrating way to make a living.

"People think of lobbying as a dirty business, underhanded, lavishly entertaining legislators and government officials, handing out expensive gifts, bribes, and things like that. The truth is quite different. Sure, some lobbyists will go to any lengths trying to get what they want, but most represent honest clients with legitimate interests, and they're often a help to congressmen, providing them with facts and information they need to consider upcoming bills, facts and information they might not be aware of otherwise."

As a lobbyist his principal clients were firms in West Germany and Japan, and he has stories galore to tell. One he recalls best was the case of a part for the motor of farm tractors made by a West German firm. The Tariff Commission ruled that the part could be used for other engines a well and therefore came under a non-farm tariff.

He spent a lot of time arguing his case before the commission and got absolutely nowhere.

"The matter was finally resolved by legislation," he recalls and was settled in his client's favor. He still has the files on the case. They're about the size of an unabridged dictionary.

In 1960 Martin took an active role in John Kennedy's campaign for the presidency and became what can only be described as a Kennedy worshiper. In his personal library he has every book written by or about the Kennedys, including a first edition of John Kennedy's first book, "Why England Slept."

"Given time, Jack Kennedy would have been a great president," he says with unshakeable conviction.

He was also a great admirer of Sen. Robert Kennedy and belonged to a small group that met with him every Friday night to discuss various issues, primarily urban problems. Asked if the senator even talked about his brother's assassination, Martin replied:

"One night after a meeting we all had a little too much to drink and one member of the group asked Bobby what he thought really happened.

"The senator said his family has spent a fortune having the matter investigated and they were convinced that Oswald did it alone, on his own. They were certain there was no conspiracy.

"That was the only time it was ever mentioned.

"There are a lot of people who believe differently, but in any kind of catastrophic event there are always some things that can't be explained, and the first thing people think is 'conspiracy.' Frankly I believe Oswald did it on his own. Sure, he wasn't a good shot. It was just a case of fate that he hit his target."

He sees no conspiracy in the murder of Sen. Kennedy, either, and believes that if it hadn't happened the senator would have been elected president and would have been "an excellent one."

From the capitol Martin went back to New York to become assistant to Herman Badillo, then borough president of the Bronx, later a congressman and now New York deputy mayor. At one point he was asked to run for Congress and seriously considered the proposition. But he is no dummy and so checked around and learned that redistricting was in the works and the seat he would be running for was scheduled for elimination, so if he ran he would be running for something that wasn't going to exist.

About the eggs. Martin decided at some point that he would dabble in futures. For the uninitiated that's buying something that hasn't been produced yet, particularly farm products, at a given price then becoming extremely religious and praying that when delivery is made whatever you've bought has risen thrillingly over the price you paid for it.

Martin decided eggs were the thing. When delivery time approached, the price of eggs wasn't exactly what Martin, or the chickens, had in mind. So he went to his broker and got out by a hair. Undaunted, he asked about soy bean futures and was advised that he should stick with the eggs.

Riding down on the elevator he was accompanied by some Oriental businessmen and they were talking business, the business being soy beans. Bells rang. Soy beans are a principal product of Asia, and the businessmen weren't talking eggs.

He went back up to the broker's office and bought soy bean futures. Sure enough, the price of soy beans went way up, Martin made money, and the broker who had been convinced he was dealing with a madman decided that he was really dealing with a smart operator.

Martin was indeed sharp. He took his money and got out of the futures business.

His next move was to West Cornwall, a lovely village at the foot of the Lithchfield Hills. He bought a small building which housed a restaurant and package store and added books and antiques. He found selling food, liquor, books and antiques a bit much, so he sold the place and acquired the old Masonic Hall which is, to put it mildly, huge, but he's managed to fill it to overflowing.

He and his wife, a former Chicago school

teacher, operate the business. Martin roams around the state a bit, participating in antique shows or giving lectures, or participating in political meetings and becoming involved in all sorts of things, most of the variety he thought he was leaving behind when he left New York.

He bought the magazine "The Lure of the Litchfield Hills," a quarterly which hasn't appeared for quite a few quarters because of production and financial problems, but he intends to resume publication.

His main concern at the moment is opposition to a proposal to make a 41-mile stretch of the Housatonic River part of the National Wild & Scenic River System, a plan he originally supported until he read the fine print. The stipulations would require, among other things, eating and sanitary facilities, and easements by property owners along the river to allow access to it, he says.

He sees it as the ruination of West Cornwall, claiming it would turn the village into "another Coney Island," a judgment he admits is rather harsh but not entirely inaccurate.

Where the river flows through West Cornwall it's quite shallow, hardly usable for swimming, but Martin and many others envision hoards of people descending on the village, followed by fast food enterprises, hot dog stands, all the other appurtenances of a resort, and a beautiful village littered with trash.

"We depend on the tourist trade," he says, "but we've got all we can handle. There are only two restaurants here and both are used to capacity. We just don't have the facilities to accommodate hoards of people, and it would be changing the village completely.

"And the people who own property along the river have been generous in allowing people access to it, though all too often their generosity has been abused."

The issue involves six communities along the river and won't be resolved for about two years, but Martin is quite ready for the battles that are sure to come. And Martin is no loser.

He lives in a graceful old house that overlooks, but is not on, the "mighty Housatonic" as he calls it, though it flows about as much as tub water passing through the village, under its picturesque covered bridge.

As a justice of the peace he's married couples on the bridge, under the bridge, even in the river, though when doing that he stands on a rock while the being married stand in the water. Price of a marriage: $5 "and up." Five bucks is just a plain old routine marriage. Martin declines to say what the "and up" is.

Undoubtedly it's the special touch of Martin D. Gold.●

THE INFLATIONARY IMPACT OF THE SECOND BUDGET RESOLUTION, FISCAL YEAR 1979

● Mr. HATCH. Mr. President, spokesmen for the current administration are attempting to place the blame for inflation on the private sector in order to justify the imposition of controls. I believe that the American people and the news media are becoming too sophisticated to fall for this tired old line. For example, an editorial in the September 4 issue of the Detroit News clearly and strongly explains that it is the monetization of the Government's budget deficit that causes inflation. The editorial in the Detroit News is the best and most concise explanation of inflation that I have seen. I ask that it be printed in the RECORD.

The editorial follows:

DEFICITS AND INFLATION

"Nine senators—Proxmire, Hatch, Hayakawa, DeConcini, Bentsen, Roth, Stone, Harry Byrd Jr., and Thurmond—proposed to cut the 1979 federal budget to $540 billion, which is still 7 percent higher than the 1978 budget. But the Senate Budget Committee decided on $557 billion, which would guarantee a federal deficit in 1979 of $40 billion. Perhaps more.

"You can be absolutely positive, therefore, that high-rate inflation will continue. Because of that huge deficit, it must continue. Mandatory wage and price controls can make it appear that inflation has been restrained, but that is only an illusion, like doctoring a pressure gauge to make it appear that the pressure in the boiler is less than what it actually is. Even an apprentice knows you can get blown to bits doing that sort of thing.

"Why do large federal deficits cause inflation?

"To begin with, consider the nation's money supply, which includes not just the dollars in your wallet and all the other dollars in circulation but also the money in demand deposits, specifically checking accounts. Those accounts contain not just that part of income deposited by individuals and businesses, but also loans taken out by individuals and businesses and credited to their checking accounts.

"Banks, of course, can't go around lending as much money as they would always like. They are restricted by their reserves at Federal Reserve Banks. These reserves plus the currency in circulation constitute what is called the monetary base, and it is the monetary base that in the end governs the nation's supply of money.

"The Federal Reserve Board, which oversees the Federal Reserve Banks, is empowered to determine the size of the monetary base by engaging in 'open-market operations'—which refers to the buying or selling of federal government securities in the open market.

"* * * When the Federal Reserve Board buys government securities through open-market operations, it issues a check to the seller, not out of some kind of special fund it has but simply by making a bookkeeping entry. What does this mean? It means that the Federal Reserve Board, in effect, creates money out of nothing.

"When the sellers of these securities deposit those Federal Reserve checks, the banking system's reserves are increased, which in turn enables the banks to increase the volume of loans they can make or the amount of government securities they can buy.

". . . When the federal government spends more money than it collects in taxes, it must borrow from the banking system to make up the difference. But if the government borrowed only people's savings (which is what you do when you take out a bank loan), interest rates would go through the roof because the government borrows such enormous sums.

"So to forestall a surge in interest rates, the Federal Reserve Board expands the nation's monetary base by increasing Federal Reserve credit, thus permitting the agency to buy government IOU's with its own special bookkeeping money, money it created out of nothing.

"The result is an increase in the money supply that is not matched by the production of goods, so we have excess money chasing a limited amount of goods. And the stage is set for what economists call 'demand-pull' inflation.

"To fail to acknowledge this central fact, as many people do, is to ignore a fundamental truth that should be carved in large letters across the face of the U.S. Capitol: Inflation is the futile attempt by a nation to consume more than it produces.

"So when you hear anybody, whether an intellectual or a clod, try to blame inflation on big business, big labor, big importers, big consumers, or any other popular hobgoblin, look that person in the eye and give it to him straight: Only the U.S. government can control the amount of dollars around. Therefore only the U.S. government can control the inflation it deliberately caused and deliberately feeds." ●

SUNSET LEGISLATION

● Mr. HAYAKAWA. Mr. President, I have long been a supporter of the "sunset" approach for review of our Federal programs, and I am pleased that the Senate has taken the opportunity this week to consider the Sunset Act of 1978.

Many of my constituents have written to me to express their dismay and anger upon discovering yet another Federal program that appears to be unnecessary. There is a feeling that the Congress, without giving thought to the tax burdens placed on each American family, approves almost any program regardless of the small benefit, if any, to be gained. The taxpayers are demanding that we Senators examine more carefully new and existing Government programs. These demands are a reflection of the growing lack of confidence on the part of American people in their Government.

The Budget Act of 1974 imposed a process on the Congress for improved consideration and review of the Federal budget. The Sunset Act is a second step in the same direction. It provides us with the necessary tools to respond to the demands for more responsible program authorization, and thus to instill greater confidence in the citizens of our country for their representatives in Washington.

The commitment to legislative review of Government programs which is the basis of the Sunset Act is not unique. The Legislative Reorganization Act of 1946 directed congressional committees to "exercise continuous watchfulness" over the agencies under their jurisdiction. However, with the growth of the Federal Government and its programs, it has become increasingly difficult to fulfill that oversight requirement in the careful and organized manner that is needed today.

The Sunset Act provides a timetable for legislative review that insures examination of Federal programs on a regular basis. Related programs are grouped together for review in order to discover any unnecessary overlap in agency jurisdiction, and to allow programs to be altered, expanded and terminated in accordance with national policy. The Congress will be forced to examine each program on a timely basis under the Sunset schedule, or cause it to be terminated without giving it proper consideration.

There are many who have expressed doubt that the Sunset process will actually improve the congressional oversight function. Their doubt is not unfounded. Even the Sunset process cannot force us to give each issue the indepth study re-

quired for thorough review. There may still be the temptation to allow a perfunctory review to suffice when the legislative calendar becomes crowded, or to terminate only minor programs with small constituencies. But I view the commitment to Sunset procedures as a promise to carry out careful examinations and insure responsible program authorization and funding.

I must express, however, my objection to the proposal to include "tax expenditures" in the Sunset process. Tax expenditures are defined by the Budget Act as "revenue losses attributable to provisions of the Federal tax laws which allow a special exclusion, exemption, or deduction from gross income or which provide a special credit, a preferential rate of tax, or a deferral of tax liability." This lengthy definition means that the personal exemption you claim when preparing your income taxes is a gift of the Government and, therefore, an expense of the Federal Government. To include these so-called expenditures in the Sunset process is sure to increase the uncertainty surrounding the tax treatment of investment expenditures and income, and result in retarding capital investment and economic growth. This is a step our Nation cannot afford. It will permit the Congress to raise taxes by simply refusing to reconsider or reauthorize certain exemptions or deductions. We cannot subject the American people to tax increases without the benefit of thorough examination and debate by the Congress.

It is my hope that my colleagues will join me in support of this measure without including tax expenditures in the Sunset process, and make this needed commitment to regular thorough reexamination of our Federal programs.●

LEGISLATIVE VETO

● Mr. TOWER. Mr. President, I wish to call to the attention of my colleagues in this body the action of the House of Representatives on September 28 in rejecting the conference report on H.R. 3816, the Federal Trade Commission Amendments of 1978. This conference report was rejected, because it failed to contain an effective legislative veto.

On August 11, Senators NUNN, SCHMITT, and MORGAN, who coauthored with me S. 3296 to provide congressional review of each rule proposed by the Federal Trade Commission, joined me in writing the Senate conferees on H.R. 3816 urging that they recede to the House position. We stressed that there was in the Senate active bipartisan support of the legislative veto of FTC regulations.

Mr. President, the legislative veto is an attempt to make the bureaucracy more responsive to the will of the citizens of this country who are sick and tired of too much Government and its cost.

Clearly, one of the biggest problems of modern Government is the attempt to gain some supervisory control over the independent regulatory commissions such as the Federal Trade Commission. These commissions are neither answerable to the President nor the Congress when they in effect write laws under their substantive rulemaking authority. The FTC's use of this power to override actions by State legislatures as well as Congress has created a considerable amount of concern in the small business community. It is not hard to understand why.

Since congressional debate on this issue is likely to continue next year, I urge my colleagues when they return home after adjournment to listen to their constituents' complaints about Government regulation and then discuss with them possible solutions. If they do, I am confident that they will find, as the overwhelming majority of the Members of the House have found, the American people, particularly the small business community, want a bridle such as the legislative veto put on the uncontrolled bureaucracy.

The State legislatures are certainly getting this message. The National Journal reports that 34 States have some form of legislative veto, most of them adopted in the past few years.

Mr. President, I will reintroduce the Federal Trade Commission Regulatory Review Act next year and will welcome the support of the Members of this body for prompt adoption of the proposal.●

TAXATION OF FRINGE BENEFITS

● Mr. HATCH. Mr. President, the Revenue Act of 1978 will soon be debated on the floor of the Senate. At that time, I intend to offer an amendment to permanently prohibit the Treasury Department from issuing future regulations that would include employee fringe benefits as part of gross income.

I was pleased this week to see that the October issue of Money magazine contains a particularly interesting and enlightening article written by Edward E. Scharff that clearly reveals the attitude of the Internal Revenue Service toward the taxation of fringe benefits. It further emphasizes the responsibility of Congress to act now to protect the American taxpayer from IRS regulations. Mr. Scharff makes the following observations about the role that IRS Commissioner Jerome Kurtz and his agency are taking with regard to the taxation of fringe benefits:

The issue has become so volatile that Kurtz and other Administration officials now refuse to be interviewed on fringe benefits. But Kurtz's aides make it plain that if Congress fails to act decisively, Kurtz will be ready to take tough measures in 1980. Moreover, they note, the present congressional ban merely precludes IRS officials from issuing new guidelines on the subject. It does not prevent IRS agents from taking matters into their own hands. Most agents are well aware of their boss' sentiments regarding fringe benefits. It is unlikely that they will wait for Kurtz to announce a formal policy before taking action.

The time has come to put an end to these unsolicited efforts by the Internal Revenue Service to heap a heavier tax burden on the shoulders of millions of American taxpayers. If we acquiesce now, the Internal Revenue Service will not hesitate to usurp Congress' authority of taxation. I do not believe the American people will tolerate an additional and burdensome tax that is harshly imposed by our unelected bureaucracy.

I would like to call this article to the attention of my colleagues by requesting that it and the Money poll be printed in the RECORD.

The articles follow:

THE BATTLE OVER TAXING FRINGE BENEFITS

In the tax audit of the future, you may find yourself pelted with questions like these: Have you parked your car in a free company lot or eaten meals in a subsidized cafeteria? Have you received discounts on your employer's products, used the firm's box at the football stadium, driven a company car on weekends or gone swimming at a company-sponsored recreation center?

Trivial or not, such benefits or "perks" (for perquisites) could and should be taxed like other income, says the Internal Revenue Service. It believes that untaxed fringe benefits cost billions in tax revenues, though it has no data to support that. Despite sharp opposition from business and labor groups, the IRS wants to pressure Congress into letting it crack down on a wide range of traditionally untaxed benefits. Congress has ordered the IRS to put the issue on hold, but the IRS' continued badgering of taxpayers may require new legislation next year defining more precisely which fringe benefits are tax free and which are not.

Unlike the "three-martini lunch" that President Carter has taken aim at, most of the untaxed fringes the IRS now wants to trim back affect working people at all income levels. The airline clerk who gets free travel passes, the auto salesman who has personal use of a demonstrator model, the department store worker who gets merchandise discounts and the college professor whose children get free or reduced tuition—all would be hit with tax increases, along with the executive who eats in an executive dining room or gets unusually generous medical benefits. The list of untaxed perquisites troubling the IRS includes nearly every form of nonmonetary compensation except those specifically exempt by law—chiefly employer contributions to health, life and disability insurance.

At issue, says the IRS, is a growing inclination among U.S. workers to seek untaxed fringe benefits instead of additional, fully taxed pay increases. Last summer, for instance, federally employed air traffic controllers staged an irksome work slowdown principally because they wanted more free international travel. IRS Commissioner Jerome Kurtz argues that if tax-free fringe benefits are ignored, they could expand as they have in Britain, where companies often help employees hold down tax liability by paying modest salaries supplemented by lavish perks.

Many people believe such fears are groundless. Former Treasury Secretary William E. Simon, for one, says IRS auditors already eliminate most egregious tax abuses. Adds Carl D. Harnick, a tax partner in the accounting firm of Arthur Young & Co.: "The irony is we have an excellent tax system as is. By trying to tax fringes, the IRS risks a failure in enforcement, which would alienate the public's confidence."

Most tax professionals also believe a crackdown on perks is sure to fall heaviest on those who can least afford more tax. A recent study by Hay Associates, a Philadelphia-based management consulting firm, shows that the less a worker earns, the larger the percentage of his total income fringe benefits are apt to represent.

The law says Americans must pay tax on all kinds of income—cash or otherwise—unless it is specifically exempted. Right now, IRS

agents have broad discretion in determining what constitutes a person's taxable income. And the courts have generally supported the IRS' right to define all kinds of compensation as income. Last November, the Supreme Court upheld an IRS ruling that meal money allotted to New Jersey state troopers on the road was extra income, not reimbursement for a working expense. Implicit in the decision was the IRS' right to collect back taxes from the troopers for the past several years. The IRS was about to exact that penalty when Congress intervened, telling the IRS to proceed no further with new fringe benefit policy until Congress could consider the problem.

In fact, the tax code is so clear on the taxability of most fringe benefits that the IRS freely admits that its own spotty record of enforcement is largely to blame for its failure to collect. Most untaxed fringes have become matters of tradition: The exemption for airline employees' free travel, for instance, rests on a 1921 IRS ruling covering railroad employees. Discounts for department store workers have long been treated as a tax-free gift from the employer, even though store workers consider discounts an integral part of their compensation.

The fringe benefits issue was first raised not by reform-minded Carterites but by Donald C. Alexander, IRS commissioner in the Ford Administration. Alexander says he wanted to issue more stringent and uniform guidelines in response to IRS agents' inquiries about how such perks should be treated. His proposals were vetoed by then Treasury Secretary Simon, who explains: "While I favor a radically simplified tax system, I don't think ad hoc solutions by the IRS are the answer."

Simon's views aren't shared by the Carter Administration, however. Soon after Commissioner Kurtz suggested a renewed assault on fringe benefits last spring, field agents began demanding more withholding taxes from a number of airlines, auto dealers and companies with subsidized cafeterias to cover the fringe benefits in question. Both management and labor reacted angrily, appealing to Congress for relief. To gain time to study the matter, Congress quickly passed legislation forbidding the IRS to issue any new directives to agents on the fringe benefits issue before 1980. (Congress, of course, is hardly oblivious to the pleasures of fringe benefits: members enjoy subsidized dining rooms, free gym facilities and, in some cases, limousines and travel junkets.)

What happens next is far from certain. The fringe benefits controversy has graduated from a battle of legal principle to a showdown between two branches of government. The Constitution gives Congress the authority to levy new taxes, and many on Capitol Hill feel that by attacking a variety of items not taxed before, the IRS also is attacking that congressional prerogative. Says an indignant Capitol Hill tax aide: "The IRS' approach here is typical of our faceless bureaucracy—an insidious attitude toward the democratic process." The IRS, on the other hand, feels it is simply following the letter of the law.

The issue has become so volatile that Kurtz and other Administration officials now refuse to be interviewed on fringe benefits. But Kurtz's aides make it plain that if Congress fails to act decisively, Kurtz will be ready to take tough measures in 1980. Moreover, they note, the present congressional ban merely precludes IRS officials from issuing new guidelines on the subject. It does not prevent IRS agents from taking matters into their own hands. Most agents are well aware of their boss' sentiments regarding fringe benefits. It is unlikely that they will wait for Kurtz to announce a formal policy before taking action.

One man anxious to settle the question is J. J. Pickle, the Texas Democrat who chairs the House Ways and Means Committee task force on fringes. Pickle says he wants to propose "safe harbor" legislation, allowing most existing benefits that have gone untaxed to remain that way but preventing their proliferation. Above all, he wants to discourage unions from asking management for extra fringe benefits, other than those now legally tax-exempt, in lieu of additional wage increases.

Such a compromise solution might not please many people, Pickle admits. Lobbying against taxation of fringe benefits will probably be intense. The airlines, for example, employ 300,000 people around the country, all fiercely possessive of their free air-travel privileges. Airline managements support their employees; taxing them on free travel might indirectly push up ticket prices, says William M. Hawkins, vice president of the Air Transport Association of America. Despite the legendary prosperity of jet pilots, many airline employees work for lower wages than they might otherwise because of the free travel. The cost of employee travel to the airlines is negligible, Hawkins says, because employees fly free only in unsold seats, but the savings to the public from lower labor costs may be substantial.

Similar arguments are cited by most industries affected by the proposed crackdown. Says Raymond Bilger, a vice president of Sears, Roebuck & Co.: "When our people invite guests in, we want them to see a Sears refrigerator in the home. The employee discount is an important benefit to the company, as well as to the employees."

But the IRS does not find such arguments persuasive. If untaxed travel passes are helping the airlines keep down ticket prices for the public, for example, that amounts to an unlegislated taxpayer subsidy, the agency says.

The tax loss from any one untaxed fringe benefit may be modest, but in the aggregate the losses probably do add up to the loose IRS estimate of "billions." The Treasury Department plans to conduct a survey to produce harder figures, but any estimate it produces will be suspect. How can the agency place a tax value on an airline employee's free travel, for example, when even the paying customer can choose from a confusing array of discount and standby fares? Even free plane rides are easy to assess compared with some other perks Commissioner Kurtz has talked of taxing: free parking in company lots, food at company picnics and Christmas parties, taxi fare and supper money for employes required to work after hours. Kurtz clearly wants to limit the untaxed fringes to those that would cost more to tax than they would produce in revenue. Magnanimously, Kurtz says that he might not go through with taxing your share of the company picnic or the office Christmas bash.

Most tax analysts feel the fringe benefits issue offers more in the way of administrative headache than potential tax revenue. Says Donald E. Sullivan of the management consulting firm of Towers Perrin Forster & Crosby: "You really question the political acumen of an administration that goes after cafeteria lunches. In terms of revenue, this stuff is peanuts." Adds Michael F. Klein Jr. of Price Waterhouse & Co.: "Taxing fringe benefits is fine—in theory—but without comprehensive tax reform it just creates more inequity."

Most tax professionals doubt that Congress will soon support any broad tax-reform measures. They note that IRS agents already have taken a harder stand against executive abuses—such as unreported use of corporate jets or country club memberships for personal purposes—but that's always been clearly illegal. The agency also has extracted some back taxes from auto dealers for salesmen's demonstrator models, but the dealers are challenging the IRS, contending the demonstrators are vital sales tools.

To simplify matters, tax professionals say employees would be wise to keep records showing that benefits that look like taxable perks are tied to job performance, especially since IRS agents can disallow any tax deduction for which there are no records.

If the government decides to pull the chain on fringe benefits, it may be hard to distinguish those that are significant from those that aren't. For instance, if it seems unfair to tax someone's free parking space in back of a suburban office building, is it fair to tax an executive's private Manhattan garage space, which could easily be worth $200 a month?

"At the bottom of this issue is the question of what constitutes a fringe benefit," says Carl Harnick of Arthur Young & Co. "What some people might see as a fringe benefit, others might see as just a quicker, cheaper way of getting things done."

THE MONEY POLL: TAXPAYERS WITH SHORT FUSES

Even without being harassed by the IRS to report company picnics and such as income, *Money* subscribers seem to be approaching the end of their patience with taxes. In a random survey of 201 subscribers completed early last month, nearly 90% of them described their feelings about taxes in words ranging from "concerned" to "outraged":

	Percent
Outraged	19
Upset	21
Concerned	46
Resigned, accepting	10
Unconcerned, calm	2
Pleased	0
No answer	2

This is the first of a series of telephone surveys to be conducted for us by Beta Research Corp. of Syosset, N.Y. Each month a new sampling of 200 or so subscribers will be sounded out on subjects close to their wallets. From time to time we will report on their changing views. This first time around, the responses often amounted to a resounding consensus.

For example, 69% said they would support a tax-cutting referendum like Proposition 13 if it came to a vote in their state. That's a bigger majority than the proposition mustered in California.

We asked if a proposal now before Congress for a big cut in the capital gains tax would affect subscribers' behavior if it became law. Over half said yes, and 14% specifically said they'd invest more.

There was also solid agreement on the state of the economy: 78% rated it not good. Asked to name the main issue facing the country, 70% said inflation. Inflation has led 30% of the group to invest more in real estate and more than one-fifth to remodel or add onto their present homes instead of buying new ones. Although it's hard to save money during inflation and frustrating to see the value of savings eroded, almost half of those polled are putting more money away. Only 19% said they've adopted the inflation psychology of buying things now before prices go up, but another 12% are thinking about doing so.

Money subscribers typically do well financially. In this sampling their median household income was $25,600 a year. Most rated their financial status as good or excellent. Even so, they griped about making ends meet. "Man, I'm just barely making it," said a $60,000-a-year Minneapolis advertising man. "And I really resent budgeting for things." The subscribers are more optimistic about their own economic future than about the country's. Only 22% thought the U.S. economy would improve in the next 12 months, while 41% thought it would get worse—yet just 12% saw their own standard

of living deteriorating between now and 1980, and 40% thought it would rise. (The remainder expected no change.)

To be sure, a significant minority of readers have already taken anti-inflation measures that suggest a lower living standard. For example, 43% are doing more at-home entertaining, 60% are cutting back on heat or air conditioning, and 42% say they're spending less on vacations. Perhaps even more significantly, 21% said an additional member of the household had gone to work.

Most people blamed the government for inflation. "Congress should cut back on unnecessary spending," said John M. Soyars, 68, a Whittier, Calif. welding salesman. Alan Baumbach, 33, an electronic switching specialist for the phone company in Florida, wants wage and price controls tried again. But one way or another, President Carter took most of the lumps. Snapped a Victorville, Calif. office supplies executive, "I think Carter is a flake." ●

PROPOSED ARMS SALES

Mr. SPARKMAN. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $25 million or, in the case of major defense equipment as defined in the act, those in excess of $7 million. Upon such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulated that, in the Senate, the notification of proposed sales shall be sent to the chairman of the Foreign Relations Committee.

In keeping with my intention to see that such information is immediately available to the full Senate, I ask to have printed in the RECORD the notification I have just received. A portion of the notification, which is classified information, has been deleted for publication, but is available to Senators in the office of the Foreign Relations Committee, room S–116 in the Capitol.

The material follows:

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., October 3, 1978.

In reply refer to: I–2322/78ct.

Hon. JOHN J. SPARKMAN,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding under separate cover Transmittal No. 78–67, concerning the Department of the Army's proposed Letter of Offer to the United Kingdom for major defense equipment estimated to cost in excess of $7 million.

Sincerely,

ERNEST GRAVES,
Lieutenant General, USA,
Director.

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective purchaser: United Kingdom.

(ii) Total estimated value: Major defense equipment,* [Deleted], other [Deleted], total [Deleted].

(iii) Description of articles or services offered: [Deleted].

(iv) Military department: Army.

(v) Sales commission, fee, etc. paid, offered or agreed to be paid: None.

(vi) Date report delivered to Congress: October 3, 1978.

*As included in the U.S. Munitions List, a part of the International Traffic in Arms Regulations (ITAR).

SHOCKWAVES IN THE BROADCASTING INDUSTRY

Mr. GOLDWATER. Mr. President, on September 25, 1978, the U.S. Court of Appeals for the District of Columbia Circuit decided Central Florida Enterprises, Inc., against Federal Communications Commission. This 3-to-0 decision by a panel of the court will—appropriately—send shock waves throughout the broadcasting industry in this country—both radio and television.

Anyone, who is interested in the stability of the broadcast industry and its ability to serve the public interest, should be alarmed at this decision, which ignores 44 years of practice.

It is not my purpose, Mr. President, to belabor the decision itself, nor the facts upon which the decision rests. My purpose is to alert the Senate to the pressing need for legislation to clarify and restate the ground rules for renewal of broadcast licenses in this country.

Mr. President, reduced to its simplest terms, Central Florida, as written, creates practically insurmountable obstacles to the challenged renewal of the broadcast license of the majority of persons who have more than one such license or any other media interest. And this is true regardless of whether the licensee complies completely with the terms of his license and the rules and regulations of the FCC including the multiple and cross ownership rules.

Mr. President, within this Chamber, I suspect we would find a great diversity of views as to the quality of our broadcast industry: we might find some who want to restructure the industry; we might find some who feel that no person should have more than one broadcast license.

But I would expect that no Member of this body wants to accomplish change in the industry structure by expropriation without compensation. And that is what this court decision means.

Expropriation—without compensation—is inevitable to the vast majority of incumbent licensees if Central Florida remains the law of the land. Such a result is Robin Hoodism gone mad.

Mr. President, I am well aware that there likely will be further judicial review of the Central Florida case by the full court appeals or the Supreme Court or both. But if the laws passed by Congress are so vague as to admit of such draconian interpretations by a panel of appellate judges, we in the Congress have a duty to restate our policies in terms that are clear and unmistakable.

Mr. President, as a member of the Communications Subcommittee, I will seek early hearings on the subject. I am not settled yet on what the specifics of those hearings should be, but believe they should be broad enough to cover the subject of renewals generally, and comparative hearings involving incumbent licensees particularly, so that the Congress—and not the courts and not the FCC—can determine what the broadcasting industry structure in this country ought to be.

If we in the Congress want to restructure, let us say so. If we are satisfied with the present structure, let us say so.

Let us not, however, turn our backs while the broadcasting industry is altered beyond recognition by a handful of jurists, however wise, however well intended.

Rightly or wrongly, broadcasting is the public's business. And the public's business should be handled openly, straightforwardly, by the elected representatives of the people.

Mr. President, I ask to have printed in the RECORD an article on the court decision appearing in the current issue of Broadcasting magazine.

The article follows:

COURT UPSETS FCC'S POLICY ON RENEWALS

The U.S. Court of Appeals in Washington last week, in an opinion that has set off alarms in the offices of broadcast licensees from coast to coast, caustically criticized the FCC for giving incumbents in comparative renewal proceedings a preference simply because of their incumbency. The Communications Act, the court said, precludes such a preference. Thus, the door to challenges to renewal applicants—which had appeared to be closing—may have been flung wide open.

In the opinion, the court reversed the commission's orders renewing the license of Cowles Broadcasting Inc.'s WESH–TV Daytona Beach, Fla., and denying the competing application of Central Florida Enterprises, Inc., and directed the commission to hold further proceedings. The court said the commission's decision was not supported by the record or by applicable law. The decision marks the first time that court has reversed the FCC in a comparative renewal case.

Some broadcasting industry observers were comparing the decision in its impact on broadcasting to the WHDH–TV Boston decision in January 1969. In that case, the commission for the first time denied the renewal of a broadcast license, and granted a competing application—that of Boston Broadcasters Inc. (now WCVB–TV). However, that case was unusual in a number of respects—enough to make it hard to cite as precedent.

What makes the WESH–TV decision particularly significant is that it vacates a commission order that had been hailed by some communication attorneys as going far toward providing the kind of license-renewal protection broadcasters had been seeking from Congress (BROADCASTING, Jan. 10, 1977). As a result, the decision can be expected to spark renewed interest on the part of broadcasters in the work of Congress in rewriting the Communications Act.

Indeed, the court, in a footnote, suggests legislation. It says that if comparative renewal hearings are to be treated differently from hearings involving only new applicants, an amendment to the hearing provisions of the Communications Act would probably be required.

And Representative Lionel Van Deerlin (D-Calif.), chairman of the House Communications Subcommittee, which is working on the rewrite, says the Cowles decisions "should help" the project. "As long as the law continues to be made in the courts," he said, "broadcasters are vulnerable."

Judge Malcolm R. Wilkey, who wrote the opinion in which Associate Judge Spottswood W. Robinson III and U.S. District Judge Thomas A. Flannery joined, said that to warrant a clear advantage in a comparative hearing, a renewal applicant would have to demonstrate a "superior" record of service.

And even then, he indicated, a challenger might prevail on the basis of such comparative criteria as diversification of media ownership and integration of ownership and management.

The level of concern on the part of the broadcasting industry was high last week. Vincent Wasilewski, president of the National Association of Broadcasters, said the decision was "the most disturbing from an industry stability standpoint in a long time, more than WHDH-TV." And a communications lawyer, who seemed to be echoing the thoughts of many of his colleagues, said: "This case is an open invitation to groups to form and challenge renewal applicants, on speculation either that the commission will be intimidated or encouraged to grant competing applications or that the grant of a renewal application will be reversed."

One other comparative renewal case is pending before the court—that involving the Tribune Co.'s WPIX (TV) New York. The commission, by a 4–3 vote, renewed the station's license and denied the competing application of Forum Communications Inc. And that case contains some of the same elements as the WESH-TV proceeding, including disputes over WPIX's past programing and the preference Forum should be given on a diversification of ownership of media issue.

Strategy for dealing with the Cowles decision was already being prepared last week. M. C. Whatmore, chairman of the board of the Cowles parent, Cowles Communications Inc., said the decision will be appealed. Commission attorneys were studying the matter, and while they had not yet made a recommendation, there was some feeling that a petition for rehearing by the circuit's full nine-court bench might be wise. One lawyer noted that the court in the Cowles case appears to read the law differently from other panels of the court, as well as the Supreme Court, in other cases. A clarification would help, he said.

The FCC's decision on whether or not to appeal could become as controversial as the earlier question of whether to renew WPIX had been. Commissioner Robert E. Lee, who was a member of the majority in the WPIX and WESH-TV decisions, said he will "encourage the commission to go to the Supreme Court. It's a far-reaching decision. It encourages the filing of competing applications . . . I certainly don't like it," he said. On the other hand, Commissioner Joseph Fogarty, who was in the WPIX minority but was not on the commission when WESH-TV was decided, not only would accept "graciously" the remand of the WESH-TV decision, but he hopes to persuade the commission to ask the court to defer consideration of the WPIX case until the commission has developed a new record in the Cowles proceeding.

Appeals to Congress and the courts are not the only options. Some commission officials say the problems created by the Cowles decision, in terms of leaving licensees virtually vulnerable to challenges at renewal time, are of the commission's own making and that the commission can develop policy, even without legislation, that would restore to licensees a legitimate expectancy of renewal.

One commission official, who takes a less fevered view of the Cowles decision than most communications attorneys—he calls it "relatively significant"—said last week the commission has been "victimized by its own ad hoc-ery"—its unwillingness or inability over the years to develop a policy for governing comparative renewal cases. (Another official said that the commission made decisions on a case-by-case basis, building a "house of cards" that finally collapsed.)

Thus, he said, the commission should move "quickly" to establish a policy on comparative renewal proceedings, one that would contain clear criteria on which to make judgments. What's more, he said, it should be related to the commission's newspaper-broadcast crossownership policy, which speaks of the benefits of diversification of media ownership at the same time that it permits existing crossownerships to continue. (He noted that the commission, when it adopted its crossownership policy, did not relate it to the manner in which it handles comparative renewal matters.) And he said the commission should be prepared to adhere to such a policy; while most broadcasters do a good job and deserve renewal, he said, there are some "bad apples." And attempting to protect them, he said, could weaken the renewal system.

The commission, in the WESH-TV case, had attempted to assure renewal applicants a "renewal expectancy." In what it called a "clarification" of an earlier action renewing the WESH-TV license, it held that broadcasters could protect themselves against challengers at renewal time by providing "substantial" service—service that is "favorable and substantially" above a level of mediocrity that might "just minimally warrant renewal." "Superior" service, which the court (in the Citizens Communications case, in 1971) had said would assure renewal applicants "a plus of major significance," was not necessary.

That decision, plus earlier ones denying applications by challengers seeking to displace licensees at renewal time, appeared to cause a falling off of such challenges.

But Judge Wilkey and his colleagues have now rejected the commission's effort to translate "superior"—with its definition of "far above average"—into the less demanding "substantial."

If the commission believes that "substantial" service will justify renewal "more or less without regard to comparative issues" or that such performance is entitled "to a plus of major significance, it is plainly mistaken," Judge Wilkey wrote. "Lawful renewal expectations are confined to the likelihood that an incumbent will prevail in a fully comparative inquiry."

What's more, he breathed new judicial life into the adjective, "superior," saying that "superior" past performance might be expected to prevail "absent some clear and strong showing under the comparative factor." On the other hand, he said, "average" performance, "solid" or not, would not offer much protection. It could not be expected to warrant renewal or even be of particular relevance unless it could be shown that the challenger's performance would be no more satisfactory, he said.

Particularly troublesome to mulitple and newspaper owners was the court's criticism of the commission for its treatment of the advantage it conceded Central enjoyed in the areas of diversification of ownership of media and integration of ownership and management. (Central, which is headed by E. William Crotty, a lawyer in Daytona Beach, is composed principally of area business and professional people, including two blacks, and some would work at the station.) These are issues on which multimedia licensees would be at a disadvantage in most contests in which a challenger is seeking to enter the ranks of broadcast ownership.

"Simply on the basis of a wholly noncomparative assessment of Cowles' past performance as 'substantial,' the commission confirmed Cowles' 'renewal expectancy,'" Judge Wilkey wrote. "Even were we to agree (and we do not agree) with the commission's trivialization of each of Central's advantages, we still would be unable to sustain its action here."

Throughout the opinion, Judge Wilkey, who is considered a conservative member of the court, expressed criticism of the manner in which the commission has approached comparative renewal proceedings. The "paradoxical history" of those proceedings, he said at one point, "reveals an ordinarily tacit presumption that the incumbent licensee is to be preferred over competing applicants." And since the Communications Act precludes any preference based solely on incumbency, he added, "the practical bias arises from the commission's discretionary weighting of legally relevant factors."

At another point, Judge Wilkey said flatly that the commission "dislikes the idea of comparative renewal proceedings altogether"—a statement he said was based on remarks the commission itself has made—"at least those that accord no presumptive weight to incumbency per se." And he made that point in observing that the commission "disfavors use" of its 1965 policy statement on comparative broadcast hearings, which calls for the application of such criteria as diversification of ownership of media and integration of ownership and management. The court said that although the statement was designed to deal with new applicants only, it has governed comparative-renewal proceedings "more or less by default."

Judge Wilkey suggests that the commission may not be solely at fault for the practice he was criticizing. Until recently, he said, the commission's actions renewing the licenses of incumbents and denying the applications of challengers "were routinely affirmed by this court." The general phenomenon, he added, "has been rationalized into what we have called on occasion 'a renewal expectancy.'"

To Judge Wilkey and his colleagues, the commission's handling of the facts in the case "makes embarrassingly clear that the FCC has practically erected a presumption of renewal that is inconsistent with the full hearing" required by law.

The court supported that statement with the following analysis of the commission's resolution of the issues in the case.

The commission concluded that Cowles had moved its main studio from Daytona Beach to Orlando without commission authorization, in violation of the agency's rules. But the commission held that the violation was mitigated by two factors: The move was not made in "deliberate defiance" of the rules, and Central had not demonstrated that service to Daytona had suffered as a result of the move. The commission was directed to reconsider the weight to assign Cowles' "plain violation" of a rule.

Neither the commission nor the administrative law judge who conducted the comparative hearing had made findings regarding two persons who were principal officers both of Cowles and each of five subsidiaries that had pleaded no contest to mail fraud charges. The court also said it is "troubled" by Central's charges that the inquiry into the mail fraud issue was curtailed. The court directed the commission to consider those matters on remand.

RARE II DRAFT ENVIRONMENTAL IMPACT STATEMENT

● Mr. LAXALT. Mr. President, the public comment period about the Forest Service's RARE II Draft Environmental Impact Statement ended on October 1, 1978. This review will have a profound impact in many areas of Nevada as well as throughout the West. We must now await the final stage of RARE II, which is findings and recommendations from the U.S. Forest Service to the President and the Congress. If I may, I would like to bring to the attention of my colleagues two basic points that I have stressed since the beginning of the RARE II process.

As I see it, the whole objective of the RARE II process is to arrive at some

final decision about the future use of the remaining roadless areas in the National Forest System. To the degree that this process can resolve the allocation decisions of some of these areas, two equally important objectives are achieved. First, we remove some of the uncertainty concerning the land base for nonwilderness forest uses, such as timber harvesting, mineral and energy exploration and development, and grazing. Second, we assure that wilderness values of key areas are, in fact, recognized, and these areas are included in the National Wilderness Preservation System.

Mr. President, from my perspective, RARE II will be an exercise in futility if the basic issues we confront in resource management are narrowly perceived and defined. I believe we must recognize that decisions to allocate land and resources to specific uses are meaningless if that use is not viewed in terms of its impact on people. I further believe that we must all understand that resource use is a dynamic rather than a static process.

For instance, how do we meet the ever-increasing demands which are being placed upon the National Forest System for timber, grazing, mineral exploration, and wilderness? In short, the demand for scarce resources by a variety of uses is escalating at an alarming rate, and we must ask ourselves how do we allocate the forest areas in an equitable fashion? In my view, this is the crux of the RARE II process. We cannot isolate wilderness from the other related issues. The whole resource management process is interrelated, and it would not be in the national interest to narrowly define and limit any of these issues.

Many of my Nevada constituents want assurances now on how exactly the RARE II process will affect them before it is complete. At this point, unfortunately, no one really knows what the eventual outcome of this process will be. The inventory phase of this program, completed last November, identified some 66 million acres of "roadless" land. I am hopeful that the current phase of the public evaluation program will generate enough information to foster consensus among the forest using groups sufficient to settle, once and for all, a large portion of this total. Public participation in this review process is both helpful and important.

It is my hope that a majority of the inventoried "roadless" areas be allocated to either nonwilderness or wilderness categories and that very few areas be placed in the future study category. Much of this will depend on whether or not accurate information is used to arrive at the final decisions and whether or not we can arrive at a consensus about specific "roadless" areas. I am sure we all agree that we need to make management decisions about the areas in question based on a thorough and objective assessment of factual information, which I hope the review process will generate.

If we are to arrive at timely decisions in the RARE II process it would appear to be necessary that all sides must take off the blinders and give some attention to the other side's point of view. Hopefully, the tendency of resorting to extravagant rhetoric will avoid a continuation of the current heated controversy. Misinformation, rumor, and innuendo only serve to obscure the critical issues and result in increased polarization which now permeates many of the relationships between forest user groups. This brings me back to my initial point—that we must look at the total picture concerning resource management: All the factors are interrelated.

Mr. President, the final RARE II recommendations of the Forest Service are scheduled to be presented to the Congress in January. We have been assured that this schedule will be met. It is my hope that the Congress will then consider these recommendations in a timely and expeditious fashion. The eventual size of the Natural Wilderness System, the economic vitality of many local communities, and the equitable management of our forest resources hang in the balance.

Mr. President, I ask that a copy of my letter to Chief McGuire of the U.S. Forest Service about the RARE II Draft Environmental Impact Statement and the Nevada supplement be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

SEPTEMBER 21, 1978.

Mr. JOHN R. MCGUIRE,
Chief, Forest Service, Department of Agriculture, Washington, D.C.

DEAR CHIEF MCGUIRE: While it is desirable that some truly deserving portions of our land be protected for future generations, I am sure that you will agree with me that such desires must be tempered with prudence. Further, I am sure you will agree that there is a demand for a careful accounting and balancing of the positive and negative aspects of creating wilderness areas to guarantee that we are not robbing Peter to pay Paul.

As you are aware, a wilderness designation is a very exclusive proposal. It bans many potential economic benefits which might result fom mining, grazing, or other uses. And its bars access to the land for all but the most hardy of individuals. I am of the opinion that wilderness proposals be subjected to careful, detailed study before restrictions are placed on the land and it is withdrawn from multiple uses.

I would like to turn now to some specifics of the Forest Service's RARE II Draft EIS.

On page 26 it is stated that Western wilderness serves a national demand and that this fact emphasizes the need to select additional Western areas. I question the validity of this statement and would like to point out that it is a fallacy to claim this would serve a national need since people living in the East rarely visit Western wilderness and in many instances cannot afford the cost associated with a Western wilderness experience.

Also on page 26 there is a discussion of an ideal wilderness system. What is an ideal wilderness system? There appears to be an assumption in the draft EIS that there is presently too little wilderness, and I am not at all sure that I am in agreement with this.

On page 36, the point is made that wilderness designation will have ramifications far beyond those areas that are actually recommended for wilderness because of provisions contained in the Clean Air Act as amended.

I urge that areas selected for recommendation for inclusion in the wilderness system be done so with extreme care so as not to preclude development of land adjacent or in proximity to these areas.

On page 47, the statement is made that wilderness designation would restrict, to some extent, or occasionally prohibit the development of mineral and energy resources. I submit that wilderness designation would completely inhibit development of mineral and energy resources and I feel that any recommendation that would place mineralized areas in the wilderness system is completely contrary to the intent of the Wilderness Act of 1964 as well as the public interest.

On page 48 of the Draft EIS, the discussion of the Alternative J, it is stated that even with all areas recommended for wilderness, mineral and energy development will not be completely eliminated until 1984 and development of established claim after that date may occur. This would appear not to be the case as spelled out in the preceding paragraphs.

Further, on page 48, it is stated that roadless areas allocated to further planning will have "short-term effects on the mineral and energy resource" and that these areas will continue to be managed in a roadless, undeveloped condition until allocation decisions have been made through the land management planning process. This would appear to completely restrict mineral and energy exploration and development activities until the process is completed, and I object to this type of management. Areas not recommended for wilderness designation should be managed under multiple use principles and efforts should be encouraged to develop additional information on the mineral and energy resources of these areas.

On page 51, under the discussion of economics, I feel that an economic analysis should be an integral part of the final environmental statement. For example, the economics of mineral and energy resource development should be made readily available. Further, in this regard, in the discussion on the effect on the balance of payments of the RARE II Program, no mention is made of hard rock minerals.

I would like to turn now to specifics of the Nevada Supplement to the Draft EIS.

All of the ten alternatives offered under the RARE II Draft EIS present some problems for Nevadans. Many are unacceptable because they fail to properly consider Nevada interests. Of the ten, however, Alternative H is perhaps the most workable because it takes into consideration regional and local concerns and emphasizes surface resources and mineral and energy potential. At the same time, it meets the demands for protecting truly remarkable tracts of primeval property.

Few would argue that Wheeler Peak in White Pine County, the Ruby Mountains in Elko County, and Arc Dome in Nye County are not among the most enchanting areas in Nevada and worthy of enhanced protection. However, there are problems, and I cannot in good conscience give my endorsement to any of them at this time. To begin with, all three areas are subject to grazing by cattle, and Nevada ranching interests would pay a penalty if the land was withdrawn from use. Additionally, all three areas have amounts of known mineral deposits, e.g. tungsten, gold and silver. I am told that uranium studies are underway in the Arc Dome area.

Before I could consider supporting any of the three possible wilderness areas I have mentioned, I would need more specific information, in two areas especially. First, there is a need for a full scale professional evaluation of the areas for potential mineral and energy values. Until we can say with certainty that the areas are of no significant worth in this regard, we should not act to close them off. And second, the Forest Service should assess the potential impact of the Clean Air Act requirements on recommended wilderness areas, which as I mentioned previously is a problem that the Draft EIS unfortunately does not address. As you know,

stringent air quality demands of wilderness areas could have severe economic impacts on activities in surrounding areas.

Between now and the time the Forest Service sends its recommendations to Congress next year, I am hopeful you will give further detailed study to the three areas I have noted as possible wilderness areas. It would make a tough decision much easier. For my part, I am asking Nevadans interested in Mount Wheeler, Arc Dome and Ruby Mountains for specific input on the areas. I intend to keep an open mind until all the information is available.

Additionally, I would like to make the following comments about the Nevada Supplement to the Draft EIS as it impacts Eastern Nevada, and particularly the White Pine County sector.

Eastern Nevada, and particularly White Pine County, are at this moment severely depressed areas with significant unemployment and in all probability this condition will exist for some time unless a new economic base can be found to offset the situation.

Citizens of the area are currently involved in considerable efforts toward finding some types of development that will maintain the economy of Eastern Nevada. To accomplish this end, it is essential that the communities of the area be able to utilize land and other resources in a realistic and intelligent manner.

The designation of any White Pine County federal land as instant wilderness or for wilderness study would certainly preclude the establishment of virtually any of the types of development needed to maintain the area's economy. Further, to establish a wilderness classification for any lands in the central portion of White Pine County would effectively sentence the citizens and the communities to permanent status of economic depression, would result in the reduction of vital services to the area, and could eventually make ghost towns of communities which otherwise might be able to sustain their existence as job-producing areas of agriculture, commerce, service, and mining.

Those areas of Eastern Nevada with which I am familiar and which are under consideration for wilderness study or designation as listed in the Nevada Supplement do not qualify as "wilderness" under the most liberal definition of that term or of the Wilderness Act. These include designated areas such as White Pine Creek (4–364–369 and 4–838–839); Ward Mountain (4–370); Schell Creek Range (4–353–358); and Mount Moriah (4–351–352 and 4–837).

At this point, I would like to take the opportunity to point out that the remoteness and difficulty of access to much of the Eastern Nevada area designated under RARE II are such that they are "defacto wilderness" and further restrictions would not appreciably improve or alter their status; rather, it would only increase the difficulty for the fortunate few to enjoy them on occasion. It would appear that the legal and regulatory problems, and attendant costs, in designating the areas defined in Eastern Nevada as possible wilderness cannot be justified in any projected increase of citizen use of the lands. Therefore, I urge that the Forest Service, before designating any portion of White Pine County as RARE II wilderness, give careful and close attention to the long-range, potential permanent and devastating effect upon the economy of Eastern Nevada.

I am aware and concerned that the RARE II Program has created a potentially explosive political controversy in Nevada and in the West because the lands being studied have been closed (some of them since the RARE I Program in 1970), to any use that might be considered to violate "wilderness" concepts. Sportsmen have been kept out of the forest areas as have been timbermen, miners, and explorers for oil and gas. I strongly object to this policy which has denied Nevadans and the nation the benefits of recreation, timber, minerals, and oil and gas from these lands locked up without the Congressional approval, which in my view, is required by law.

I recognize that time is now an important factor inasmuch as the Forest Service is to make its recommendations known to the Congress by the first of next year. With this in mind, and because of the detailed information I have requested from you, perhaps the Forest Service should consider Alternative B of the Nevada Supplement as its recommendation. We could then consider those areas of Nevada which are worthy of consideration for inclusion in the Wilderness System pursuant to the provisions and procedures of the Wilderness Act of 1964.

In conclusion, the Forest Service has a long and successful history in the multiple-use administration of public lands for the benefit of the greatest number of citizens. I would suggest that for it to become trapped into becoming the guardian of large acreages for the stylized benefit of a select few would be unfortunate for the agency as well as the citizens.

Thank you for the opportunity to comment.

Sincerely,

PAUL LAXALT
U.S. Senator.

Mr. LAXALT. Mr. President, I also ask that the following excerpts from a statement by Jack M. Allen, president of the Independent Petroleum Association of America, regarding RARE II be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

RARE II FOLLOW-UP

We support the Forest Service goals of reaching decisions on RARE II lands quickly so that nonwilderness lands will be available for multiple use activities. However, haste to complete the program for the sake of making quick decisions should not preclude thorough study and evaluation basic to rational management decisions on National Forest lands. Careless work on RARE II could be a costly mistake in more ways than tax dollars. Independent producers urge that sufficient time be taken to collect thorough and credible data on the mineral, oil, and gas potential of all RARE II lands so that wilderness trade-offs are intelligent and do not aggravate further the national energy problem.

The Roadless Area Review and Evaluation has not been an examination of just "roadless areas" but rather has included many areas with roads and other non-wilderness features; consequently, lands which should now be available for multiple use have been tied up in the RARE II study process. The Forest Service has expanded the meaning of wilderness beyond that intended by Congress. The phrases "untrammeled by man"; "an area of undeveloped Federal land retaining its primeval character and influence without permanent improvements"; "affected primarily by the forces of nature, with the imprint of man's work substantially unnoticeable;"; "has outstanding opportunities for solitude or a primitive and unconfined type of recreation" (sec. 2(c) of the Wilderness Act) have all been ignored arbitrarily with the effect that unqualified lands have been added to the RARE II study. The Forest Service has confused the definition of wilderness and the intent of Congress by including in the study areas marred by activities which are prohibited in other wilderness areas. This duplicity of application is contrary to the intent of the wilderness review and a manipulation which stretches the statute.

Forest Service interpretation of "wilderness" has deterred consideration in RARE II of any criteria other than wilderness criteria. If, as RARE II officials have said recently, it is not a wilderness planning process but one option among many land use planning options, wilderness consideration should not stop those multiple uses which are compatible with wilderness—such as exploration and development for critically needed oil and gas supplies. As Dr. Thomas C. Nelson, Deputy Chief of the Forest Service said at the IPAA Annual Meeting in October, 1977," . . . oil, gas and mineral production, in some cases, is the highest and best use of the land."

Many specific discrepancies have surfaced since RARE II was instituted. In a memo dated June 27, 1977 to Regional Foresters, Forest Service Chief John McGuire instructed that "Areas of significant current mineral activity . . . should not be included [in the RARE II inventory] . . . Do not include areas with significant leases issued under the 1920 Leasing Act (O&G, Geothermal, Coal, Phosphate, etc.). . . ." This has not been the policy. According to the Department of Energy RARE II Energy Resource Assessments, Forest Service Region 4 contains 156 high-value tracts, the highest concentration being in the Idaho-Wyoming portion of the Overthrust Belt. USGS estimates undiscovered recoverable oil and gas resources within this region to be between 1.5 and 3.0 billion barrels of oil and 7.3 and 12.0 Tcf of gas. All 1.8 million RARE II acres in that area were rated "very important" in the DOE report. These areas were not only included in the inventory but also have been made unavailable for exploration or development because of unreasonable access restrictions. "Current mineral activity" has been narrowly interpreted. This policy is contrary to the continued multiple use concept intended during the inventory and is obviously contrary to the national interest.

A later memorandum to regional personnel dated June 30, 1977 sheds further light. "Significant leases" was clarified to "include other areas otherwise meeting the inventory criteria and covered by leases without 'a no surface occupancy' stipulation only if the development and occupancy rights have not been exercised. If and when these rights are exercised, the area or portion affected will be deleted from the inventory unless specific provisions can be made to avoid surface occupancy which would make the area unmanageable for its natural conditions." This clearly authorizes abrogation of contractual rights expressed in existing leases and must not be tolerated as federal policy.

The Wilderness Act empowers the Secretary to protect the "wilderness character of the land consistent with the use of the land for the purposes for which they are leased, permitted, or licensed" (sec. 4(d)(3)). Furthermore, "Nothing in this Act shall prevent within national forest wilderness areas any activity, including prospecting, for the purpose of gathering information about mineral or other resources if such activity is carried on in a manner compatible with the preservation of the wilderness environment" (sec. 4(d)(3)). The Act speaks for itself. The legislative history also clearly shows that while wilderness potential is not to be sacrificed to permanent impairment, mineral exploration activities should be permitted. The inclusion in the Wilderness Act of these "Special Provisions" from which the above quotations were taken states Congress's intent that these activities continue; it should not be ignored. . . .

The Department of Energy was given sixty days in which to complete a minerals evaluation on all RARE II lands. That is not

enough time to adequately assess even one tract, given accessibility and use of proper equipment, let alone try to compile data on all tracts. Several Forest Service Regions contain lands for which there was no available data and are currently thought to be of low potential. What would the assessment of the Overthrust Belt have been just a few years ago? The Department of Energy prefaced its report by saying, "All of its major elements . . . could have been done with greater reliability and precision had more time been available," and expects to "have additional opportunities in subsequent stages of RARE II to refine its estimates. . . ." Hopefully, such opportunities will be available so that these lands are not irretrievably lost to oil and gas exploration by premature classification as wilderness.

The U.S. Geological Survey and Bureau of Mines were also called upon to provide energy potential data. The Geological Survey was so displeased with its data that it has not been released to the public. In requesting that it be made public, IPAA has learned that USGS personnel were forced by time constraints to present much of the information orally without supporting documents at four meetings with field personnel as they looked over RARE II maps and charted areas with energy potential. Some of the results were jotted down in note form; very little was documented. This is an embarrassment to those who have a long record of preparing detailed, verified, competent data. It casts a shadow over the validity of the entire RARE II process. . . .

Another concern among independent producers is that there is no vehicle for releasing from RARE II those lands determined as nonsuitable for wilderness. While the Forest Service is empowered with the authority to include these areas within the protective arms of the wilderness study, instant release remains a question. It would seem logical that the non-suitable lands are within the realm of Forest Service land use planning. Thus, when an area is determined nonsuitable for one type of management, it should be immediately available for another, in this case, multiple use; this should apply especially to those areas for which available data indicates multiple use potential. The entire Overthrust Belt is one such area and should be released immediately. . . . To allow adequate time to thoroughly study and verify natural resource potential, especially energy, the January 1, 1984 sunset on minerals activities on wilderness lands required in Sec. 4(d)(3) should be repealed. . . . Finally, the legislative proposal should contain an assurance that RARE II decisions will be consistent with national policy goals. In preserving national forest lands for the enjoyment of future generations, policy-makers must not deprive these future generations of the essential energy resources necessary to a strong and healthy economy.

Mr. LAXALT. And finally, Mr. President, I ask that two papers, one by Richard L. Dixon, a graduate of the University of Nevada's Mackay School of Mines, the other by W. L. Fisher, State geologist of Texas, both concerning the U.S. mining industry, the existing natural resource scarcity, and the adverse effects of land withdrawals, also be printed in the RECORD. I hope my colleagues will have the opportunity to read them and give them careful consideration.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE U.S. MINING INDUSTRY AND LAND WITHDRAWALS

(By Richard L. Dixon)

The United States is among the most industrialized nations on earth and enjoys a high standard of living because of its minerals base. With only about 5% of the world's population, and 7% of the world's land area, the U.S. consumes nearly 30% of the world's mineral production. In recent years our world leadership has been challenged, and we can no longer heavily depend on foreign sources of minerals, the life-blood of our industrial economy. To develop a strong reliance on foreign sources of minerals only invites an OPEC-like action amongst the foreign minerals producers, while aggravating the balance of payments deficit. According to U.S. Bureau of Mines projections (see attached graph), the U.S. requirements for minerals will rise sharply in the next two decades. Because of political instability and expropriation by mineral-rich foreign nations, American corporations have understandably deferred making large capital investments in overseas mining ventures. It has become imperative to develop our domestic mineral resources in order: (1) to maintain an acceptable standard of living, (2) to curb the flow of dollars out of the U.S. (3) to cool the devastating inflationary spiral, and (4) to guarantee our survival as a free and strong nation.

The domestic mineral shortage faced by our country has been worsened by the widespread and hasty withdrawal of public lands from mineral entry. In the past ten years alone, over one-half of the public domain lands west of the Mississippi River have been withdrawn from mineral location and exploration! The situation has become so critical that former Secretary of the Interior, Thomas Kleppe, reported in a document published early in the Carter administration that "in effect that the United States is committing economic suicide by pulling more and more potentially-valuable mineral-rich lands off the productive rolls."*

The day of the prospector discovering a "bonanza" right at the earth's surface is passed, except perhaps in remote parts of Alaska and Canada. The modern prospector applies new concepts and uses many sophisticated geophysical and geochemical exploration tools to locate tell-tale signs of mineralization. If he finds encouraging clues, the property may be further tested by exploratory drilling. Where a "discovery" is made, an intensive drilling program may be warranted to establish the size (tonnage) and grade (metal content) of the deposit. Then follows a bulk sampling program and pilot testing to determine if the metals in the deposit are recoverable by conventional milling methods. At this stage a formal engineering and economic feasibility study may be conducted to evaluate whether or not the deposit can be mined by known methods at a profit. If a rigid engineering and economic analysis of the deposit indicates an acceptable rate of return on investment, a mine may be developed. The amount of time from a mineral "discovery" until a mining property is into actual production is known as lead time, which can involve as much as 5 to 10 years. The uninformed individual who says that a Wilderness area may be opened to mineral exploration in the event of a national emergency simply does not understand the concept of lead time, nor does he realize the tremendous thought, effort, risk, and expense to locate a mineral deposit. In order to locate deposits of critical minerals which are strategic to this nation, public lands must be available for exploration.

While the Forest Service's RARE II (Roadless Area Review and Evaluation) program is being completed, multiple-use access and activities on 66.4 million acres of National Forest Lands are prohibited. Most of this acreage is in the 12 western states. Excluding RARE II, the amount of Forest Service land in New Mexico is already withdrawn from multiple-use and presently in Wilderness or administratively endorsed Wilderness is enormous. It is enough to form a strip one mile wide and over 1,860 miles long. When one includes RARE II for New Mexico, it is enough to form a strip of land one mile wide with a length of nearly 4,700 miles. Nationwide, the area of National Forest Lands already in Wilderness would form a corridor 7½ miles wide from New York to Los Angeles. Inclusion of RARE II creates a swath 42 miles wide that would stretch from coast to coast. Expressed in another way, existing Wilderness and RARE II, that is, Forest Service lands reserved exclusively for long-distance hikers, could form a one-mile wide band that would encircle the earth over four times at the equator!

For the most part, the American public is unaware of this proposed withdrawal of public lands and not cognizant of the calamitous economic impact if these lands become permanent Wilderness. The attached page from the 1977 annual report of Day Mines, Inc., succinctly describes the problem. While the preservation of certain areas with true Wilderness qualities is desirable and justified, withdrawals should not be made which deny people, both locally and nationally, their right to a decent standard of living. It is time that 97% of the United States population who do not use Wilderness be given factual information regarding the ruinous withdrawals of public lands. Multiple-use of public lands is the status which benefits the majority of people and which insures an adequate supply of natural resources and diversified recreational opportunities.

*Final report of the Task Force on the Availability of Federally-Owned Mineral Lands.

ENERGY AND MINERAL SUPPLIES: IS THE U.S. ABILITY TO PRODUCE DECLINING?

(By W. L. Fisher)

The role of energy and mineral production in the history of the U.S. economy, as indeed in world history, is fundamental. Without the generous endowment of natural resources and the will and the ingenuity to develop these resources for domestic and world markets, American history, and America as it is today, would have been drastically different.

Such was our success in exploiting natural resources and in developing a materials system that during two generations of time in the middle part of this century, we saw increasingly intensive consumption of materials and rapid rises in the major economic indicators, paced by the availability of a vast number of energy and mineral raw materials at decreasing relative prices.

Such a pattern was addictive. And it persists in political quests even though such quests are eclipsed by current realities, because it gave rise to unparalleled affluence. Perhaps it even gave rise to a sense of guilt, particularly of the kind so commonly associated with second-generation unearned affluence. By the middle 1960's we had reached the national conclusion that our exploitation and utilization of material resources were unduly taxing the quality of other resources—water, air, and land.

We began, and continue, to moralize about our relative volume of material consumption without always fully appreciating that our historic pattern of intensive consumption coincided with our historic pattern of in-

tensive production and that our basic economy is driven by our levels of productivity. The extractive act of mining, though it had in all its history temporarily touched less than 0.2 percent of the nation's land surface, became an act of pillage in the eyes of many.

Our society as a whole seems to have put a lot of distance between itself and the material reality of a "hole in the ground." As little as a half century ago, a very substantial part of the nation's population earned its livelihood by directly winning a resource from the earth—by farming, by timbering, by mining and other pursuits. Now less than 4 percent of the population feeds the rest of the nation and a goodly part of the world as well. A progressively smaller and smaller percentage of the population is involved in the direct production of goods—and a much smaller percentage has any direct involvement with winning the food, materials, energy, and mineral resources the nation uses, demands, and needs.

Has removal from this direct involvement left us ignorant of the necessity? Has our dedicated pursuit of goals in one area left us unmindful of the impact of this pursuit on other areas?

At least a bit of evidence and a larger amount of personal intuition suggests to me the answer may well be yes. A reasonable, and to me an alarming, case can be made that we are losing our ability to produce.

For reasons good or otherwise, few would dispute that over the past decade we have passed statutes, and with fervor, have promulgated regulations that constrain and, in many cases, severely limit where and how energy and mineral materials can be explored for, how they can be extracted, how they can be processed, and how they can be used. Indeed, many actions actually prohibit mineral exploration, development, and utilization. And over this same period of time we have seen reduced exploration and reduced discovery. We can note that the actual level of domestic production has declined for a large number of energy and mineral resources, and our percent of world production has declined for an even larger number. But our per capita and total requirement for consumption continue to rise and so does our reliance on foreign produced materials.

It would be an over-simplification to conclude that constraining legislation and regulations are the sole cause of our declines in material production; but it would be folly, in my view, not to recognize the rather significant contribution they have made.

Let's examine some statistics for the 60 or so domestic energy and mineral commodities which we produce and consume to varying extent. Of these, we can note that over the past decade the U.S. percentage of total world production has declined for 80% of the commodities. Clearly, this is in part a function of significant increases in world production meeting an increasing world demand, and of itself, not disturbing. But a further look at domestic production statistics for these commodities shows that the absolute level of domestic production is declining for 50% of them.

The trends in production are not parallel by trends in consumption and demand—quite the contrary. Demand has decreased for fewer than 10% of these commodities and has increased or remained relatively stable for the rest. Increase has been generally in both total requirements and in per capita requirements.

For example, per capita requirement for raw steel last year was 10% greater than in 1960. By the year 2000, the USBM estimates per capita requirement will be 40% greater than now. Total requirement for raw steel is now a third greater than in 1960 and by year 2000 will be 70% greater than now.

Per capita requirements for iron ore in 2000 will be nearly 30% greater than now; total requirements will be nearly 60% greater. Our per capita consumption of energy is now 35% greater than in 1960 and total requirements are more than 60% greater, and even with the most effective conservation measures, will continue to rise in the future.

With declines in production and increases in demand we have seen and are seeing an increasing reliance on foreign production of an increasing number of commodities and in larger amounts. Twenty years ago there were 11 commodities for which imports supplied more than 50%; last year that list of commodities numbered 25. In 1960 imports were 10% of apparent consumption; in 1970 15%, and today about 20%. For more than 50% of the principal energy and mineral commodities we consume, the level of import dependency over the past decade has been and is increasing. For such basics as iron ore and petroleum, one volume of imports has doubled in the past decade. Although the percent of imports of apparent consumption has remained stable for nearly half of the commodities we consume, for only one major commodity—lead—has a clear trend of declining dependence been shown.

The same trends have occurred when we consider only the 15 to 20 basic raw materials such as petroleum, iron ore, aluminum, copper, lead, and zinc.

For 65% of these domestic consumption has increased; it has remained stable for 18% and declined for the same percentage. By contrast, domestic production for these most critical commodities has increased for only 12%, remained stable for 40% and declined for nearly one-half. Import levels have increased for 60% of these commodities, remained stable for 30%, and have declined for only 10%. U.S. exports have increased for a mere 6% of these commodities, remained stable for 47%, and declined for 47%. Clearly there are numerous and real benefits accruing from international trade and interdependence. Generally, the mix of domestic production and imports has been determined by price, and this market determination has, in my view, served the nation well. But to what extent has our progressive decline in production and increase in importation been a function of competitive pricing? What action, as a matter of policy, are we taking to render domestic production less competitive. A quadrupling of foreign oil prices since 1973 has been marked by a parallel decrease in total domestic energy production and several other commodities show the same recent history.

Production must obviously be preceded by exploration, discovery, and development. Although we lack detailed data on the volume of exploration and the rate of discovery for all mineral and energy commodities, some figures nonetheless are instructive. First, the case of metallic minerals. For the period of 1950 through 1970, an average of 2.6 major domestic discoveries per year were recorded. Since 1970, only two major discoveries have been posted. As there is an average of some 7 years from discovery to initial production, the full impact of this drastic drop in metal discoveries has yet to hit the domestic production statistics.

As another example we may consider oil and natural gas. From 1956 down through the early 1970's exploratory drilling dropped from more than 16,000 wells per year to fewer than 7,000. With the drastic decline in domestic exploration, it was not long before discoveries, reserve additions, and reserves began to decline. With reserve additions amounting to only one-third of production, it also was not long before physical decline in production began. Only in the past five years has this down-turn in domestic oil and gas exploration been reversed, and not yet has production decline been reversed. Even if exploration continues to accelerate, the lags from discovery to production mean several years will be involved in reversing production decline.

Just as oil and gas exploration declines of the late 50's led to reserve declines in the 60's and production declines in the 1970's so will similar impacts follow from exploration and discovery declines in metals and other mineral resources.

In 1975 our imports of non fuel, raw and processed minerals equalled our exports. This year our imports will exceed exports by $4 billion.

Our increases in crude oil imports have been dramatically presented; in the past two years that increase has been 80 percent (in current dollars).

Our increase in imports of raw and processed non fuel minerals carries little or no public perception; in the past two years that increase has been 40 percent.

Clearly, there are many factors involved in these trends in production, exploration, discovery, importation, and consumption. You appreciate these and it is not my intention to discount any. However, I would like to look at some other trends that I feel are critical but perhaps not widely evaluated.

While the impact of constraining legislation, regulation, and policy extends to all energy and mineral activity, it is most dramatic and relative to the Federal Estate. I shall emphasize the Federal Estate because with it's public visibility it is the first candidate for manifestation of public policy—an early warning system if you will. This would not be an exceptional consequence if the one-third of the U.S., and nearly all of the submerged continental shelf and slope, were not the repositories of such a significant part of our future mineral and energy endowment. Nearly half of the identified reserve of fossil fuels is in the Federal Estate and an even larger percent of the potential fossil fuel resources are federally owned. Last year the Federal Estate contributed a bare 13 percent of the total domestic production of energy, the bulk of which came from offshore of Louisiana, or from the lands leased in the 1950's and 1960's.

The Federal Estate further holds a substantial part of the national reserve of minerals other than fuels and perhaps the bulk of national mineral resources. Of some 26 critical non-fuel minerals, the DOI this year ranked the Federal Estate potential versus the non-federal potential as major for 21; a medium potential was shown for 4, and for only one—graphite—was the Federal vs. non-federal potential listed as minor.

Last year nonfuel mineral production from the Federal Estate (public and acquired lands) contributed about 3% of U.S. domestic production. How the Federal government allows or restricts mineral exploration and development on the Federal Estate will be a major determinant of the future level of domestic production.

Without question, the Federal government has numerous values of public lands to consider in addition to mineral values. Yet the question of the Federal Estate and its current and future role in carrying its share of the domestic production burden is appropriate. Is it now making its rightful contribution? Will it or, indeed can it, make a contribution in the future? A look at recent and current trends, relative to the Federal Estate, suggests that despite the fact that a most substantial part of our future domestic supply of energy and minerals is vested in the Federal Estate, it will probably contribute even less in the near future than it has in the past and today.

Perhaps the most telling expression relative to the Federal Estate has been the trend in availability of federally-owned mineral lands. Laws that govern development and control of onshore mineral resources on Federal lands can be divided into two basic categories—those under jurisdiction of the Mining Law of 1872 and those covered by Mineral Leasing Laws, most notably the MLA of 1920. These mineral laws have served the nation well, at least until recent years. The Mining Law, patterned after the Homestead Act, encourages prospecting for minerals especially in lands not specifically known to contain mineral deposits. The MLA allows for leasing non-competitively or, in areas where valuable minerals are known to exist, by competitive bidding.

Since the passage of these Acts, numerous congressional acts and executive policies have placed restrictions on the availability of federal lands for mineral exploration and development. These range from formal prohibition of mineral entry or leasing to varying degrees of restriction. Until recent years the degree of restriction was reasonable and impact on mineral availability was not extensive. However, this has changed drastically in the past few years. As recently as 1968, mineral development was formally prohibited or severely restricted on only about 18% of the Federal lands. Now this figure is well above 50%. In fact, at present only about 30% of Federal lands are available with no, or only slight, restrictions and a good part of these lands that are available are subject to agency planning which in itself commonly discourages mineral exploration and development. Again, it is the fact that one-third of the land area of the U.S. is in the Federal Estate and concentrated in areas of highest mineral wealth that makes recent trends in land availability particularly threatening to future domestic mineral and energy sufficiency.

A recent example is illustrative. Recent discoveries in the so-called Overthrust Belt of Utah, Wyoming and Idaho constitute a trend that may well be the most significant new oil and gas trend in a decade. Recent reports of DOI show that about half of the trend is either withdrawn from leasing or severely restricted. And now a suit has been filed in federal court to declare void all leases on Forest Service lands since 1970, because yet another regional impact study—RARE II—has not been completed. For a nation importing nearly $50 billion worth of energy this year, the benefits of such action seem distant to me.

Unless exploration access as well as a definite, even if small, mineral development reservation can be assured, we shall see a drastic reduction in the already relatively minimum role of the Federal Estate in domestic energy and mineral supply.

Some other trends are worth noting. The availability of leasable federal minerals is now practically nonexistent.

Consider this. Since 1969, we have leased on the average only about 7,000 acres of coal per year; for the eight years preceding 1969, we leased an average of 36,000 acres per year. A six-year moratorium on coal leasing persists. Future coal leasing, if and when it occurs, will be subject to considerably new constraints. Even burning the low sulfur coal of the west will require scrubbers to remove sulfur that may not exist.

These actions seem remarkably inconsistent with a national policy of massive coal production and conversion. Consider some other leasables. Since 1969, we have leased 130 acres of phosphate lands; for the eight years prior to 1969, 27,000 acres were leased. From 1961 through 1968, we leased 28,000 acres of potash lands and 21,000 acres of sodium lands; since 1969, no sodium and potash lands have been leased. For all the other leasables, we have been leasing 20 acres per year on the average since 1969; for the eight years before 1969, that rate was 2,000 acres per year. In short, Federal leasing now equals, in effect, zero leasing.

These trends are being reflected elsewhere. Since 1970, the number of active onshore leases supervised by U.S.G.S. has been declining at an average rate of 5% each year, compared to the number of leases supervised in the late 1950's and 1960's

Leasing in another important sector of the public domain—the Outer Continental Shelf—has been the subject of extensive debate in recent years. Despite extensive litigation and the assumption of much more elaborate leasing procedures, the pace of leasing in the 70's has matched or exceeded that of the 1960's. Approximately 3,000 tracts, largely in the Gulf of Mexico, have been leased since 1954; nearly half of this acreage has been leased since 1969. Nevertheless, leasing and development of the OCS has not been at a pace sufficient to arrest production decline. All projections of which I am aware, including projections in the President's NEP, show that 1985 production of oil, gas and liquids from the OCS will be below current levels. Despite several estimates that show the bulk of the nation's remaining oil and gas resources to lie offshore, only about 3% of the Continental Shelf, or 2% of the combined shelf and continental slope, has been leased to date, and this percentage includes state leases. This contrasts rather markedly with the approximately 30% worldwide offshore areas leased.

In conclusion, let me again state that I am mindful of the many factors that determine the rate and volume of energy and mineral materials that we consume and the mix of domestic production and imports that support that consumption. These factors generally vary from one commodity to another, and all are subjects for contingency planning.

The point I have attempted to make perhaps is not a specific subject for contingency planning. But it colors, in a fundamental way, those factors that are.

Undeniably, our overall production of energy and mineral materials and our domestic level of sufficiency are declining. While we may debate the appropriate mix of domestic sufficiency and foreign dependence, clearly it is critical that the nation be able to determine that mix on the basis of choice and options. But if, indeed, the declines we have been witnessing in recent years mean, if only in part, that our ability to produce is declining—which I believe it is—we will not be determining degrees of sufficiency and dependency as a matter of choice.

And this alarms me.

In 1770 Professor Alexander Tyler postulated cycles of democracy:

"The average age of the world's great civilizations has been 200 years. These nations have progressed through this sequence:

From bondage to spiritual faith;
From spiritual faith to great courage;
From courage to liberty;
From liberty to abundance;
From abundance to selfishness;
From selfishness to complacency;
From complacency to apathy;
From apathy to dependence;
From dependence back again to bondage."

This cycle is a prophecy of doom. The U.S., by virtue of domestic resources and capability can, as a matter of policy, deny it. But, in my view, we can do so only if we possess the ability to produce those quantities of energy and mineral resources we judge necessary.●

THE "HEART" OF THE HEART OF TEXAS

● Mr. TOWER. Mr. President, I would like to share with my colleagues a compelling story of civic pride and humanitarian goodwill. While the Congress of the United States, in the last days of the session, is involved with the worldly issues of a rising Federal deficit, threats of wage and price "standards" and the thought of a breakthrough in years of Middle East tensions, I think it is refreshing to realize that even during times of domestic and international uncertainty, Americans still have not lost their sense of obligation to their fellow man.

Such, Mr. President, is certainly the case in Marble Falls, Tex., just outside the State Capitol in Austin. In that community, the townspeople have initiated a truly remarkable program for certain of the citizens who are handicapped. It should make that town swell with pride. And it should make the rest of us mindful of what can be done in the spirit of community involvement and in that old—almost forgotten—tradition of brotherly love.

Mr. Speaker, I ask that the following article written by Mr. Carl R. Willeford be printed in the RECORD.

THE "HEART" OF THE HEART OF TEXAS

(By Carl R. Willeford)

Marble Falls, a small city situated on the banks of the Colorado River in a region of the Hill Country known as the "Heart of Texas," is unique in the nation. Through the concern the citizens of Marble Falls have toward the handicapped, they stand unequalled in making these special members of their community feel welcomed.

In October of 1977, the local governing body of Marble Falls learned that the City's population had almost doubled since the 1970 census and all signs pointed to continued growth. This new growth acted as the incentive for the City to update its Comprehensive Master Plan. Acting quickly and decisively, the local leaders decided to bypass the outside consulting firms of previous years, and put into action a city-wide group participation program that would allow the citizens themselves to have the active role in developing the new Master Plan. The City also hired a Planning Director to implement the program. Several committees were created to obtain suggestions directly from the local citizens. Then, the committees would report to the planner, who in turn would incorporate the responses into the Master Plan.

Determined, the Council was going to employ every method at their disposal to find out exactly what all of the residents of their City wanted. As a result of the responsibility and interest the citizens of Marble Falls have toward their City, 125 people volunteered to participate in the city-planning effort.

Following the examples of other cities, the usual committees on Housing, Human Resources, Healh, Public Protection, Parks and Recreation, Natural Resources, Utilities, Education, and the Economy were formed. When the planner was soliciting volunteers, handicapped people were asked to serve on the Health Committee, but there was a general reluctance and lack of enthusiasm. In trying to solve this perplexing problem of why the handicapped were unwilling to serve on a committee that they themselves would benefit, it was determined that many had become disillusioned from previous work on health committees.

"I've never seen a health committee yet that didn't drop everything else to either promote a new hospital, or expand an old one," said one handicapped person. Others responded similarly, "They have not got enough sense to realize that building hospitals takes years—not something for now." Virgil Brown, a paraplegic since his service in World War II, commented further:

"When my wife and I want to go over to Austin or San Antonio to eat out, I have to park outside and wait for Katie to run around the restaurant to see if they can accommodate my wheelchair. Sometimes that can be rather frustrating, like if it is 120 degrees in the shade, or pouring down rain. It's times like these that a new hospital is the furthest thing from my mind. I'd rather see something like a cheap, simple ramp. Something that could be done now and at very little cost," he added.

It was this comment by Mr. Brown that inspired the creation of a new committee, The Citizen's Committee For The Handicapped, that would deal exclusively with the needs of the handicapped. Mr. Brown was asked to co-chair the Committee along with Mrs. Donna Spaar, a Special Education teacher. Many of the other members of the Committee are also personally involved with the handicapped, either themselves or members of their family being handicapped.

With the help of the new Committee, the planner began to plan the City so that the local businesses and public facilities could accommodate the handicapped and more importantly, to design a method to let the handicapped know that these facilities were barrier free "at a glance." The plan, however, needed the backing of the City Council, the Chamber of Commerce, and the local businesses. After two intensive meetings, the following plan was set into motion to gain the needed support·

1. Design a bumper sticker promoting the City, as well as, spread awareness for the needs of the handicapped by linking the two together. This would certainly incorporate the support of the City Fathers.

2. In order that the business person will co-operate by removing obstacles that bar the handicaped, reward them with a large, ten inch, heart-shaped, red decal. This decal, if placed on the sign or window of the business, will allow the handicapped to see it "at a glance" and know that it is barrier free. This increase in business by those who are handicapped will also please the business person. "Heart" decals would only be awarded after careful inspection of compliance.

Now that the plan had been decided upon, the Committee in full force visited every business, every church and every public facility in the City. After the inspections and business owners were made aware of the problems of the handicapped, offers to help by making the necessary improvements were extended.

Once the business person was made aware of the obstacles that blocked the handicapped, many of them could be removed easily and inexpensively. At the Post Office, the Committee found that they could award a "Heart" if only the door would be adjusted to close slightly slower. The Marble Falls Postmaster quickly obliged. She had simply not been aware. While visiting one of the local supermarkets, the Committee could glide up the beautiful ramp, enter quickly through the automatic door, and shop leisurely among the wide, cleared aisles. But, with groceries in hand, they could not check out. The space was too narrow to accommodate a wheelchair. The store owners responded by widening the spaces by moving the counters as little as four inches apart. They had just not been aware!

In both instances there had been no costs or materials involved, merely an awareness by the businesses to recognize the special needs of part of their Community. Of course, some businesses might have to build small ramps, and others widen restroom doors; but, the awareness prompted by a small group of citizens has culminated into a vision that soon all businesses and public facilities will have the means to accommodate the many various kinds of handicapped, not just those who are confined to wheelchairs.

To help Marble Falls succeed in this effort, the Chamber of Commerce purchased the bumper stickers for the Committee. The City Council also helped by adopting building codes that all new businesses and public facilities must have three foot wide doors, not only at the entrance, but on the restroom doors as well. The handicapped are using the proceeds from the sale of the bumper stickers to help the City build ramps on public sidewalks with Green Thumb and CETA workers doing the labor.

Through the campaign of a new and innovative Committee, virtually the entire business community, other local residents, and the City leaders are not only aware of the special needs of the handicapped, but are taking action to make them feel as welcomed members of the Community. Whether it means building a ramp, or merely moving the counters further apart; Marble Falls is showing the nation its "Heart." In doing so, the City is making a plea that other cities in the nation will join them in making their community aware of the special needs of the handicapped by tearing down the barriers and showing a "Heart." Marble Falls is truly a unique City, for it is the "Heart" of the Heart of Texas.●

STATE DEPARTMENT GRANTS RHODESIAN VISAS

● Mr. BAKER. Mr. President, earlier today I entered into the record a statement encouraging the Department of State to approve the applications for visas for Prime Minister Ian Smith and Rev. Sithole of Rhodesia. While I will not presume any connection, it is my understanding that the State Department announced this afternoon that these visas will in fact be granted.

I commend the administration for this decision, Mr. President, and I believe that the visit to the United States of the officials of the transitional Government in Rhodesia will be of significant benefit and contribute greatly to an informed debate on the policies of this Government regarding that tragic conflict. I cannot help but note, however, that this is a decision the administration could and should have made over 2 weeks ago. I am concerned that the extended period of indecision constituted one more thinly veiled symbol of support for the guerrilla forces who have brought war to Rhodesia.

I will close Mr. President by again commending the distinguished Senator from California (Mr. HAYAKAWA) who is primarily responsible for developing this hopeful initiative.●

SCHOOL BUSING RULING

● Mr. CHILES. Mr. President, I would like to take a moment to draw my colleagues' attention to an important U.S. District Court ruling on the issue of busing to achieve racial balance in schools. Congress has expressed its intent in the matter by adopting the Eagleton-Biden amendment to the 1978 Labor-HEW Appropriations Act. This provision, to us Senator EAGLETON's words, was aimed at stopping the "mechanistic" approach the Department of HEW adopted by calling for extensive busing, based solely on the numbers of students of each race attending individual schools. The amendment prohibits the use of Federal funds to require, directly or indirectly, the transportation of students for compliance with title VI of the Civil Rights Act and thus, ended the Department's administrative practice of withholding local education agencies' funds until some sort of "statistical" racial balance had been achieved in each school, each grade level, by busing.

In the case of the school district of Marion County, Fla., the Department sought to establish a precedent which would have circumvented the intent of Congress in adopting the Eagleton-Biden language. Suit was filed against the school board on the basis that since the Eagleton-Biden provisions precluded administrative remedies to title VI violations, the Department of Justice would have to pursue the matter in court. U.S. District Court Judge Charles R. Scott concluded that with the respect to the Eagleton-Biden amendments, the absence of specific reference or debate concerning the Government's authority to bring a title VI-based lawsuit evidences congressional intent that such suits are not a viable alternative which would require limitation under the funding process.

I would like to commend the lower court for impeding this effort to take a back door approach on busing and express my hope that this ruling would be upheld, should the matter be appealed to a higher court. The Civil Rights Act of 1964 is a most significant step to end wholesale segregation in our Nation's schools system; it is a disservice to the spirit and intent of that worthwhile legislation to ignore the strides local education agencies have made in achieving an integrated, quality education system for all students, just to insure one or two schools whose student bodies do not reflect racial quotas match the statistical balance of the area.●

IRVING A. LEVINE

Mr. MATHIAS. Mr. President, in 1960, when I was a relatively young lawyer campaigning for election to the other body, and was shaking hands in Silver Spring, the Democratic precinct chairman appeared on the scene and welcomed me to the neighborhood in a spirit of open and friendly competition. From that first encounter a long and valuable friendship developed which lasted until yesterday when Irving A. Levine was stricken by a fatal heart attack.

In the meantime he had risen to membership on the Court of Appeals of Maryland where he was considered by laymen and lawyers in the words of Baltimore Sun columnist Peter Jay, "one of its ablest and most productive members." Before his elevation to Maryland's highest court his career was marked by a dedication to public service that was characterized by his early participation in the political process.

I ask that Mr. Jay's column commenting on Judge Levine's contribution to the administration of justice and the difficulty of filling his shoes be printed in the RECORD.

The article follows:

OF A JUDGE AND HIS SUCCESSOR

In addition to depriving his friends, family, and the state of a popular and vigorous man, the sudden death on Monday of Judge Irving A. Levine means two very specific things for the public process in Maryland.

It means that the state Court of Appeals has lost one of its ablest and most productive members, as well as one of the members of what might be loosely termed its liberal bloc. It also means the beginning of the usual political pulling and hauling over his replacement, a process which was already well under way by yesterday morning, only hours after Judge Levine's fatal heart attack at his Bethesda home.

On appearances, at least, Judge Levine was perhaps the least likely member of Maryland's highest court to be so stricken. He was only 54, physically trim, and although he was known as a high-pressure person, he was also a tennis player and a nonsmoker, and took care of himself.

But he was better known, both to his colleagues on the court and to members of the Maryland legal community, for his quick intelligence and well-written opinions. Though he was by no means doctrinaire in his approach to legal issues, he was a good Montgomery county liberal by instinct, and frequently found himself casting a key vote on the seven-member court as it grappled with difficult cases.

One of his recent opinions, for example, written for the majority on a 4 to 3 decision by the court, held the confession of a convicted murder suspect to be inadmissible as evidence at the trial because the suspect had been detained by police for more than 24 hours before he was formally charged. (The suspect was later retried, without the confession, and convicted again—an indication that justice didn't suffer if certain restraints are placed on police procedures.)

Judge Levine also wrote several opinions that substantially restricted the definition of libel and slander under Maryland law, thus, in practice, expanding freedom of expression.

Well, what happens now?

If this were not the middle of an election campaign, it would be simple. The Judicial Selection Commission could go right ahead, take applications from lawyers and judges interested in the Court of Appeals, and send a list to the governor for appointment. That may happen anyway, but there's a small potential hitch.

Under a recent amendment to the Maryland Constitution, appellate judges no longer have to undergo regular elections. Instead, they are now subject to confirmation by the state Senate. If they are confirmed, their names must then appear on the ballot, but they run only "against their records," not against an opponent.

If Acting Governor Lee were to appoint a new judge, the appointee would probably be expected to leave his current position (whether with a law firm or on one of the state's lower courts) and begin his service immediately on an interim basis. But if the Senate didn't confirm the appointment in the few days available to it next January after it convenes and before Mr. Lee leaves office, the incoming Governor—either Harry Hughes or J. Glenn Beall, Jr.—could withdraw it and submit the name of a prospective judge of his own choosing.

That could represent a considerable risk to any appointee, especially if Mr. Beall, the Republican candidate, were to be elected Governor. "I'll be darned if I'd accept an appointment under those circumstances," said one appellate judge yesterday.

On the other hand, the Court of Appeals needs to be at full strength. Cases heard by six judges that result in a 3 to 3 deadlock must be re-argued, at considerable expense to both the litigants and the state. (It is possible, however, for Chief Judge Robert Murphy to designate judges from the lower courts to fill in on the Court of Appeals, either for specific cases or for a period of time.)

On the Court of Appeals, Judge Levine represented a district encompassing Montgomery county and the four Western Maryland counties; his successor must come from the same district.

The most likely candidate is Judge Rita C. Davidson of the Court of Special Appeals, another Montgomery county liberal, who if appointed would be the first woman to serve on Maryland's highest court. (Her appointment would also open a vacancy on the intermediate court, which would be likely to go to either Judge John F. McAuliffe or Judge David L. Cahoon of the Montgomery county circuit court.)

But even for someone as well qualified as Judge Davidson, to accept an interim appointment under the existing circumstances would not be without an element of risk.●

CHANGE TO DEMOCRACY IN SPAIN

● Mr. HATCH. Mr. President, the United States has a duty to provide for the easy access of materials which would show the benefits of a free economy. These materials would assist in the fight to check the growing wave of Marxist thought in many countries experiencing their first taste of democracy. Many of these nations are throwing off the yoke of a totalitarian state, thus they are naive in the ways of making a free government and economy function in today's society.

I had the opportunity to read an article concerning this topic the other day and its impact so affected me that I felt I should share this with my colleagues. Last February, in the Christian Science Monitor an editorial appeared entitled "Spain's Thirst for Democratic Ideas." Written by Dr. Constantine C. Menges, it exhorts the U.S. Government and the private sector as well to provide materials to the new managers of government in Spain. Mr. Menges reasons that the dominance of material available is pro-Marxist, leaving the void between the totalitarian state and the free economy states of the Western World. The new managers and their staffs are eager to learn, but without materials they will quench their thirst with the wrong ideas:

Throughout the Spanish government, in the departments, the autonomous agencies and government corporations, there is a gradual and steady replacement of the Franco leadership by democratic politicians eager to make changes for the better. These new public managers and their staffs also want to know more about the methods used by other countries to accomplish similar purposes, so that they can explore whatever might be relevant to Spain.

This is the direction that the foreign policy should take in these areas. The people of Spain have a strong economy, but what they really need is the information in how to make it grow themselves. For too long the United States has attempted to "buy" the friendship of other nations, when what they desire in the long run is the advice in forming their government and institutions, but to still retain the ability to make these decisions themselves. This does not necessarily mean that they must be inundated with advisors and U.S. volunteers, what it means is that they will be able to see the advantages of a free economy and make the decision themselves.

Mr. President, I ask that the article from the February 27, 1978, edition of the Christian Science Monitor by Mr. Menges be printed in the RECORD.

The article follows:

SPAIN'S THIRST FOR DEMOCRATIC IDEAS

(By Constantine C. Menges)

I have just returned from Spain where I studied the next stages in the transition of 35 million people to democracy. The Spanish are proud of their unique achievement in replacing a long-entrenched dictatorship by using their own political traditions and the universal heritage of democratic values. Having successfully completed the first political tasks, Spain is now turning to the practical question of economic management and institutional change.

Difficult times lie ahead for Spain. The economy is in serious trouble; it must first be held together and then returned to vigor at the same time as new labor unions, employer groups and other institutions of pluralism take shape to replace the structures of the dictatorship. And, in spite of the budget deficits, the new leadership hopes to improve the way in which the major government agencies function, especially those such as health, education, and social security and tax administration which have an immediate and direct effect on millions of individuals.

As a result, there is an intellectual openness and curiosity about the experiences of other countries as the political parties, individuals and the press debate the specific changes which should be made in the arrangements inherited from the Franco period. Popular stores are filled with political books not available during the time of censorship and a number of the weekly news magazines carry analytic articles discussing new approaches to taxation, income redistribution, health care, social insurance, the entire range of practical issues.

Most of the newly published books on public issues, many of which are translations, offer Communist or Marxist values, analysis and proposals for change. As a result there is a large void between the practices of the former Franco regime and the Communist-Marxist critique because almost none of the rich experience and thought of the democratic countries is directly available to a new generation of public leaders and managers.

The United States and other democratic countries should find ways to make the best ideas, lessons and techniques of the free social market economies available to Spain. This sharing should include both the broad theme of variations in the relationship of public and private economic power as well as information about the more specific tasks of government. The democratic experience since World War III has produced an interesting variety of new approaches which try to blend private sector efficiency with public interest priorities such as decent living conditions and equal opportunity for the greatest number of citizens. A significant and stimulating literature by individuals of many democratic countries describing these reforms and their results, if made available soon, could provide a more complete spectrum of policy ideas for Spain's citizens and political leaders.

Even though few of the individuals currently at the center of events in Spain are able to sit down with a reading list in political economy, their staff parliamentary committees, party members and alert, open-minded writers would make use of this material because they have a thirst for new perspectives and insights which they can use. This applies especially, I found, to the Democratic Socialists in Spain who cling to

a general belief in Marxism while making clear that they recognize not only the political but also the social and economic failures produced by complete government economic management. They and others in the democratic center dare to move beyond old dogmas and they want to know about new and more practical economic arrangements which combine the maintenance of productivity with social justice.

Throughout the Spanish government, in the departments, the autonomous agencies and government corporations, there is a gradual and steady replacement of the Franco leadership by democratic politicians eager to make changes for the better. These new public managers and their immediate staffs also want to know more about the methods used by other countries to accomplish similar purposes, so that they can explore whatever might be relevant to Spain.

The United States should focus on the few tasks of government and share relevant aspects of its experience with Spain in areas such as economic management, tax collection, health, vocational training, education and social insurance. This should be done through small and brief exchange programs and seminars which involve in-depth discussion of similar and different problems, priorities and solutions. Ideally, this dialogue would stimulate both participants and provide each with new ideas and information. There would also be mutual value in the growth of cooperative relationships among professionals with similar responsibilities such as educators, health care professionals, labor union leaders, social workers, journalists and government managers.

These suggestions are not meant as an aid program. Spain is a modern country with a complex economy which provides a majority of its people with a European standard of living and social services. Instead, my proposal is meant to stimulate the American Government and private organizations to share their relevant experiences, ideas and methods at this time as Spain seeks ways to make its government more effective. The democratic leaders of Spain can then use whatever seems most helpful in accomplishing their goals.●

SENATOR PELL'S ROLE IN THE ACQUISITION OF THE MUSEUM OF AFRICAN ART BY THE SMITHSONIAN INSTITUTION

● Mr. HAYAKAWA. Mr. President, on October 8, 1978, in the city of Providence, our distinguished colleague, the senior Senator from Rhode Island, will be honored by the Board of Trustees and Director of Washington's Museum of African Art as well as by the citizens of his home State. Senator PELL is being recognized for the key role he played in the passage of legislation authorizing the merger of the Museum of African Art with the Smithsonian Institution. As chairman of the Senate Committee on Rules and Administration, Senator PELL presided over hearings on this matter of great importance to the cultural and aesthetic enrichment of our Nation. With his strong leadership, the way was cleared for the museum's collection and its historic buildings—some $10 million in aggregate value—to be presented as a gift to the Nation.

The museum's collection of 7,000 objects of African art, one of the most important in the United States, is extremely significant as a reflection of the ancient creative traditions of Africa, the heritage of so substantial a proportion of America's multiethnic population. But the museum is also important because African art has been a primary source of influence on the principal modern art movements of our time—cubism, fauvism, and German expressionism.

A debt of gratitude is owed to Senator PELL for his efforts to help preserve this institution and the heritage which it represents, and I am pleased to have this occasion to call attention to the Senator's contribution.●

THE POSSIBILITY OF A BREAKDOWN IN SALT II NEGOTIATIONS

● Mr. HATCH. Mr. President, last week Soviet Foreign Minister Andrei A. Gromyko and Secretary of State Cyrus Vance discussed the latest answer from Moscow to the U.S. proposal at the SALT negotiations in Geneva. These negotiation have been going on for quite some time and recent news reports indicate that a new treaty may be in the offing in the near future.

Should a new agreement be reached, it will be sent to the Senate for ratification. This has been the reason for the delay in signing a new agreement. The Founding Fathers of our Nation have entrusted the Senate with the power to ratify all treaties entered into by the United States. This power provides a check against any treaty that might not be in the best interests of the United States. For this reason the executive branch of the Government, which negotiates treaties, must attempt to arrive at a treaty that will gain the necessary two-thirds of the Senate for approval.

There has been a great deal of discussion concerning SALT II and the possible ramification of a failure to arrive at a new treaty. In the September 20, 1978 issue of the Salt Lake Tribune an editorial appears entitled "Failure of SALT II Negotiations Won't Mean Everything's Lost." The Tribune has taken a moderate position on the issue and I must commend them. It would be better for the United States to reject a treaty that would be detrimental to our security than to sign one for the sake of reaching an agreement. The Tribune points out that:

> Would SALT II failure trigger an instant resumption of the nuclear arms race with billions of additional dollars being spent on superfluous weapons? Would it mean the end of detente and return to the dangerous tests of national will, such as the Berlin blockade, that preceded it?
>
> Possibly the breakdown of SALT II would produce both scary results. But the chances are better that, with some minor adjustments, things would go on pretty much as they have under the first SALT treaty, which it should be remembered, expired almost a year ago.

It is the type of logical thinking that must be brought to the attention of the American public. The editorial concludes with some sound advice for all concerned:

> For the sake of more orderly management of the balance of nuclear terror, a SALT II treaty is by all means desirable. But failure to attain one won't mean that all is lost.

Mr. President, I ask that the above mentioned editorial be printed in the RECORD.

The news report follows:

FAILURE OF SALT II NEGOTIATIONS WON'T MEAN EVERYTHING'S LOST

Although the protracted Strategic Arms Limitation Talks (SALT II) are continuing despite strained relations between the United States and the Soviet Union, it is not far-fetched to speculate on what will happen if the negotiations fail to produce an acceptable new treaty.

Would SALT II failure trigger an instant resumption of the nuclear arms race with billions of additional dollars being spent on superfluous weapons? Would it mean the end of detente and return to the dangerous tests of national will, such as the Berlin blockade, that preceded it?

Possibly the breakdown of SALT II would produce both scary results. But the chances are better that, with some minor adjustments, things would go on pretty much as they have under the first SALT treaty, which, it should be remembered, expired almost year ago.

As noted in this space before, SALT I did not stop the nuclear arms race but merely redirected it. New weapons have been developed and old ones vastly improved during the more than five years since SALT I was signed. Without a treaty limiting the numbers and types of weapons there is reason to believe that a de facto balance of terror would be maintained, dictated by financial considerations and the horrible realities of a nuclear exchange.

Charles A. Sorrels, a senior fellow at the Brookings Institution, wrote in the Wall Street Journal that "If the SALT II talks (sic) broke down, a principal objective of the U.S. would be to establish incentives for renewing them, combining demonstrated will to compete (in the arms race) with an offer of restraint to be reciprocated . . ."

If that kind of policy was followed there would be only slight change from present conditions wherein the original treaty, though expired, is still adhered to by mutual agreement while a new pact is negotiated. The difference would be absence of a formal agreement mandating stability and rough parity of nuclear forces.

There are those who believe the United States would be better off without a SALT II treaty. They assume that advanced American technology and the willingness to exploit it would assure lasting "supremacy" over the Soviet Union in the strategic nuclear weapons field. Their hopes probably would not be realized any more than the fears of those who see a wasteful, out-of-control arms race beginning as soon as SALT II flops.

For the sake of more orderly management of the balance of nuclear terror, a SALT II treaty is by all means desirable. But failure to attain one won't mean that all is lost.●

TOWER AMENDMENT ON AGRICULTURAL EXPORTS TO EX-IM BANK BILL

● Mr. PERCY. Mr. President, I am a cosponsor of the amendment which directs the Export-Import Bank to increase its activities in the area of agricultural exports. As our trade deficit has increased and our balance of payments worsened, the export of agricultural goods has increasingly become the reliable and indispensable backbone of our national export effort.

Our farmers and farming industry have become the world leaders in production, efficiency and innovation—a great source of national pride as well as national income. Almost one out of every

three acres under cultivation in this country are producing for export and our surplus in agricultural trade is $12 billion, as compared with an overall trade deficit now approaching $30 billion.

Even the nonmarket countries of the Soviet Union and mainland China, despite enormous government investments in agriculture, cannot approach the efficiency and success of U.S. farmers and must turn to us to import millions of tons of agricultural commodities. We should make every effort to take advantage of this special economic strength.

Mr. President, the need to improve our agricultural export programs was the subject of a hearing in Chicago last spring chaired by my distinguished colleague from Illinois, Senator STEVENSON. Some of the suggestions made at that hearing were later incorporated into the Agricultural Export Trade Expansion Act recently passed by the Senate, which had my full support. I was interested to see that the President's message last week on the promotion of U.S. exports highlighted several of these approaches.

This amendment makes it clear that the resources and programs of the Export-Import Bank should be available as needed to supplement the activities of other Government agencies. It is another step in the effort to facilitate rather than impede the growth of American exports, and I commend the distinguished Senator from Texas (Mr. TOWER) for initiating this amendment.●

SALT AND ROSTOW ARTICLE

● Mr. BARTLETT. Mr. President, there are those who perceive a SALT II agreement, regardless of its asymmetries, as the keystone of détente, promising to postpone until 1985 any reoccurrence of the cold war. To those of my colleagues who share this line of reasoning, I would commend an article by Eugene V. Rostow entitled "SALT II: A Soft Bargain, A Hard Sell."

In his essay, Mr. Rostow places SALT II in historical perspective, and exposes many misconceptions. Above all, he contends that the cold war did not end with the signing of SALT I, and that detente has never really begun. Under the terms of SALT I he states that the Soviets developed a potentially superior MIRVing capability, greatly improved the accuracy of their ICBM forces—already superior in throw weight—made significant progress in their antisubmarine warfare, gave a mobile capacity to some of its ICBM force, developed an antisatellite capability, and continued to spend 20 times the amount we do on civil defense. He claims that we waited for the Russians to match our own restraint, but it has never come. Mr. Rostow believes, as it now appears, that SALT I permitted the Soviets to further their strategic position relative to ours. He warns that this type of accommodation we can ill afford.

Mr. President, I ask that Mr. Rostow's article be printed in the RECORD.

The article follows:

SALT II—A SOFT BARGAIN, A HARD SELL

(By Eugene V. Rostow[1])

My assignment today is to examine the SALT II agreement now in prospect, and to consider whether it is in the national security interest of the United States.

The subject of nuclear arms, strategic or tactical, is inherently repulsive, and raises difficult moral issues. We should all agree, I am sure, that it would be better to have a Treaty abolishing nuclear arms than one which aims only to limit them. In that connection, it is important to mention an episode every American should recall with pride: the 1947 offer of the Baruch Plan, which had been prepared by Dean Acheson and David Lilienthal. At that time, we had a monopoly of nuclear weapons. If we had wished to do so, we could have commanded the whole world to do our bidding. Instead, we offered to put our nuclear weapons and all we knew about nuclear science into the hands of an international agency, which would have developed nuclear energy for peaceful uses. The Soviet rejection of the Baruch Plan, along with its rejection of the Marshall Plan at about the same time, was a dismal turning point in the history of the Cold War, a signal of Stalin's decision that the Soviet Union would embark on an imperial course, rather than continue our World War II alliance through programs of peaceful postwar cooperation.

The proposal of the Baruch Plan was a singular event—bold, creative, and idealistic. I venture to predict that when the nations are tired of war and the risk of war again; bored with Empire; and exhausted by the intricacies and uncertainties of nuclear calculations, they will return to the simple ideas of the Baruch Plan I hope so.

Meanwhile, because of the Soviet decision, we have no choice but to maintain a deterrent nuclear capability, and to keep alive the hope of better days to come.

Our meeting today is part of a process of persuasion organized by the Administration on a national scale to explain SALT II to the American people. The effort is directed by a group of political and public relations experts in the White House. They are led by Hamilton Jordan, and generally known as the SALT Sellers.

If that SALT Sellers' message were not so fervent, I should applaud their effort. The government should take pains, I believe, to explain its policies to the people. But the SALT Sellers' campaign is excessive, apocalyptic. They claim too much for the agreement. The Administration and its supporters portray those who question SALT II as monsters of iniquity who oppose arms control and detente and lust for nuclear war with the Soviet Union. The issue presented by SALT, Senator George McGovern wrote recently, is that "the alternative to arms control and detente is the bankruptcy and death of civilization." The literature is full of comparable statements.

Before I comment on the security consequences of SALT II, let me clear away some of these highly charged political matters, so that we can address the realities of the SALT problem. The questions raised by the development of nuclear weapons are difficult and important. They should not be loaded down with the burden of political myth.

I

For nearly a century, there has been a current of opinion in Great Britain, the United States, and the English-speaking countries committed to the belief that arms limitation agreements are an important instrument of peace. The faith is shared in Scandinavia and the Netherlands, and it is tenaciously held, resisting the challenge of contrary experience.

Thus the arguments made for SALT today are exactly the same as those put forward in behalf of the Washington Naval Treaty of 1922 and the other arms limitation and arms reduction arrangements to which the Western governments devoted so much time, attention, and hope during the twenties.

The Washington Naval Treaty and its progeny led straight to Pearl Harbor. We, the British, and the French, lulled by the Treaty, and hard pressed in any event to find money for naval building programs, let our navies slide. We did not build our full quotas, or modernize our ships. The Japanese and later the Germans, on the other hand, took full advantage of their quotas. Some of us can remember what the phrase "pocket battleship" meant. The pocket battleship was a cruiser with the striking power of a battleship—a powerful modern man-of-war built within the tonnage limits of the Treaty.

The post-World War I arms limitation agreements—demilitarization of the Rhineland and the various naval agreements—failed to prevent World War II. I should go further. I conclude that those agreements helped to bring on World War II by reinforcing the blind and wilful optimism of the West, thus inhibiting the possibility of military preparedness and diplomatic actions that could have deterred the war.

Despite this melancholy history, we are told everywhere that the SALT II Treaty now in the final stages of negotiation will be "politically stabilizing;" and that the breakdown of the SALT negotiations or the rejection of the prospective Treaty by the Senate would "end detente," "bring back the Cold War," increase the risk of nuclear and of conventional war and revive "the arms race" which would cost us another $20, $70 or $100 billion.

These plausible and popular assertions, which tap the deepest and most generous instincts of the American people, are entirely without substance.

Let me try first to straighten out our vocabulary for talking about the phenomena we call "Cold War" and "detente." Every issue of every newspaper or magazine, every presentation of the TV or radio news, speaks of "the Cold War" as something which is over, and of "detente" as a political reality—a fragile reality, which might be snuffed out if we talk too loudly about human rights, but a reality nonetheless. Even our Secretary of State started his tour of duty last year by referring to "detente" as a political reality. You will notice that he has given it up. He talks about "detente" today largely as an aspiration of American foreign policy, not as an improvement in Soviet-American relations or a relaxation of tensions which has actually taken place.

The notion that Soviet-American relations have improved in recent years; that the Cold War is over; that negotiation has been substituted for confrontation, and all the rest of President Nixon's Orwellian language is a fiction—a figment of President Nixon's political imagination. Everyone yearned to believe him, and many people did. No one, after all, wants to hear the unpleasant news that things are what they are. Both President Nixon's successors have therefore found it expedient to follow his example in this respect, although their styles are decidedly less flamboyant.

The fact is that the Cold War is not over. On the contrary, it is worse than it has ever been, featured by Soviet threats and thrusts on a far larger scale than those of the simple

[1] Sterling Professor of Law, Yale Law School, New Haven, Conn., formerly Undersecretary of State for Political Affairs (1966–69), and now Chairman of the Executive Committee, Committee on the Present Danger.

days of the Berlin Airlift and the crisis in Greece. But as things got worse, we insist on telling each other that they are getting better. Nixon's way of talking about Soviet-American relations has become a habit. It has affected not only what we say, but also what we think, and therefore what we do.

We have had a SALT agreement with the Soviet Union since 1972. It expired in 1977, but we and the Soviet Union announced simultaneously that its terms remain in effect, despite the provisions of an American statute which specifies that the United States can undertake arms limitation obligations only by treaty or statute. Far from stabilizing world politics, SALT I has been part of the most turbulent and dangerous period of the Cold War.

Let me recall a few of the key episodes of the period which the present Administration claims was stabilized by the pervasive influence of SALT I.

The Soviet Union defaulted on its obligations as a guarantor of the peace agreements of 1973 in Indo-China. Those agreements, for which Mr. Kissinger received a Nobel Prize, were treated by the Soviet Union as scraps of paper. The final North Vietnamese invasions of South Vietnam in 1974 could never have taken place without Soviet equipment and other help.

Secondly, in May, 1972, the Soviet Union promised President Nixon to cooperate with him in seeking peace in the Middle East. It violated those promises by supplying, planning, encouraging, and even participating in the Arab aggression against Israel of October 1973. For the Soviet Union, that large-scale war was a strategic answer to our rapprochement with China the year before. It was intended not only to crush Israel, but also to outflank NATO, to neutralize Europe, and to drive us out of Europe and the Mediterranean. For the moment, the Soviet plan was defeated by the brilliant victory of Israel's armed forces, backed by supplies from the United States. But the Soviets patiently pursue their strategic goal.

So far as SALT itself is concerned, Secretary of State Rogers testified to the Senate that we had made a number of unilateral interpretations of the first SALT Treaty and that we should regard any breach of these policies by the Soviet Union as a violation of the "spirit" of the Treaty. All these unilateral interpretations of the Treaty were violated by the Soviet Union. We did nothing about them.

I could go on to talk about the Soviet role in the Bangladesh war, in Africa, and in other places. But the point is obvious, and by now beyond dispute. The Soviet Union is engaged in a policy of imperial expansion all over the world, despite the supposedly benign influence of SALT I, and its various commitments of cooperation to President Nixon in the name of "detente." The Soviet Union is pursuing that course with accelerating momentum. That momentum—we saw its most recent manifestations in Yemen and Afghanistan—results from two related forces: the startling buildup of Soviet strategic and conventional forces during the last sixteen years, and the paralyzing impact on American politics of our collapse in Vietnam.

The growth of Soviet military power during the last sixteen years is without parallel in modern history. It has been proceeding steadily at a rate of at least 4% to 5% a year in real terms. In strategic weapons, the Soviet rate of increase has been at least 8% a year. Increases compounded at the rate of 5% or 8% a year over so long a period make the Soviet military establishment formidable and sinister. Both our government and the British government have said formally that the Soviet military posture and dispositions are offensive in character, and cannot be explained by considerations of defense.

At the moment, the Soviet military budget is 40% to 80% more per year than our own in real terms. All such estimates and comparisons are inevitably skewed somewhat by the higher pay of our troops, and other special features of our society.

Secretary of Defense Brown has used the metaphor of the tortoise and the hare to describe the relative military positions of the United States and the Soviet Union. It is an apt metaphor. We were ahead. We rested on our oars, deceived by the illusion of "overkill," and cut our military budgets by at least 50%. The Soviets continued to move ahead, basing their programs on extensive research of extremely high quality. Now we are behind in almost every relevant category of military power—behind in production; behind in research; and behind in programming. Although the country is becoming conscious of the problem, and clearly favors restoring the United States to its Number 1 military position, our official hare is still sleeping under the tree.

The Carter Administration has proposed an increase of only 1.8% a year in the defense budget, and even that figure is the subject of heated argument, because of the differences between "new obligational authority," "authorization," "appropriation," and "expenditure." Suffice it to say that there is no way we could catch up to the Soviet Union at the rates proposed by President Carter and the Budget Committees of Congress. If we move only at that pace, we shall continue to fall behind in most of the relevant categories, thus increasing the risk of an irreversible slide toward war.

I believe that there is still time to head off the collision between the United States and the Soviet Union foreshadowed by these trends. Moderate rearmament, coupled with a vigorous and active diplomacy of solidarity with our allies and with China could stabilize world politics by containing the Soviet drive for hegemony. We and our allies, together with China and other countries which perceive the Soviet threat, have more than enough power and potential power to arrest the tide of anarchy, and restore a pattern of world order based on the Charter of the United Nations. But that goal cannot be achieved unless we participate as leader of the effort. Our nuclear arsenal is the indispensable foundation for any such program.

The success of such an effort will depend not upon SALT treaties but upon the reality of the military balance and the energy, self-confidence, and imagination of our diplomatic campaign. In that process, arms limitation agreements with the Soviet Union could play a modest part, if they are genuinely fair, balanced, and verifiable, and are not allowed to induce euphoria about "detente." But such agreements cannot significantly alter the cost of our defense programs. We must undertake now to spend quite a lot of money to restore the military balance. For years to come, the presence or absence of SALT II would not increase the cost of defense for the United States by up to $100 billion as proponents of SALT claim. Those figures of extra costs if the SALT negotiation fails, or if the Senate refuses to consent to the Treaty, are just as fanciful as President Nixon's claims of "detente."

II

Now let me turn to the substance of our problem today, the role of strategic nuclear weapons in modern politics and warfare, and how SALT II, as it has been described to us, would affect our security. For nuclear weapons do not exist in isolation. Their function can be understood only in relation to the entire process of world politics as we have witnessed it since the Second World War.

It is often said that the goal of our nuclear forces is deterrence—to deter the use of or the credible threat to use nuclear weapons in world politics. This is correct, although the proposition is often coupled with the erroneous assumption that deterrence is also the goal of Soviet nuclear policy.

Our policy of deterrence necessarily goes far beyond safeguarding the United States against the possibility of nuclear attack. We must also provide a nuclear guaranty for our interests in many parts of the world, and make it possible to defend those interests by diplomacy or by conventional forces.

The relationship between nuclear and conventional force deterrence is by no means simple, or mechanical. But it is fundamental. Effective American nuclear deterrence cannot alone keep the Soviet Union from using conventional forces, at least against targets they think we regard as secondary, like Vietnam or Ethiopia. In most such situations, except for massive attacks on our most vital interests, like Western Europe or Japan, defense has to be provided by conventional forces, at least in the first instance. But the absence of effective American nuclear deterrence would have a disastrous effect, denying all credibility to our conventional force deterrent.

The point is brought out by a quick review of our experience with the problem since 1945.

In the early post-war years, we had a monopoly of nuclear weapons. And for a decade or so after that—until the middle or late sixties—we had overwhelming nuclear superiority. Nonetheless, in that period we had to deal with a long series of Soviet-managed attacks on our interests, from the early threats to Iran, Greece and Turkey and the Berlin Airlift to the war in Korea, the Cuban Missile Crisis, the war in Indo-China, and the recurrent threats to our interests in the Middle East and Africa.

We dealt with those threats by diplomacy or, when diplomacy failed, by the use of or the credible threat to use conventional forces. But the nuclear weapon was always the decisive factor in the background. During the Berlin airlift, the shadow of our nuclear monopoly kept the Soviets from firing on the allied planes, and then persuaded the Soviet Union to end the blockade. The exercise had too many uncertainties and had become too risky, so the Soviet Union gave it up. In Korea, despite our nuclear monopoly, we used only conventional forces. But veiled nuclear threats altogether credible after the long and bitter war, persuaded the North Koreans to come to Panmunjon in the first place, and then finally brought those fantastic negotiations at least to the point of an armistice, which has held for more than twenty years.

The essence of the problem is illustrated by the Cuban Missile Crisis of 1962. There, the Soviet Union secretly undertook to introduce land-based nuclear missiles into Cuba, in violation of their assurances to us, and in the face of private and public warnings from the President of the United States. Such action would have altered the basic equation of nuclear deterrence, and gravely affected the credibility and effectiveness of American diplomatic warnings to the Soviet Union. At that time, we had unchallengeable nuclear superiority. If there had been a nuclear exchange, the Soviet Union would have suffered about 100 million casualties and the United States 10 million. We had equally obvious conventional force superiority in the area. If we had invaded Cuba, the Soviet Union could not have opposed the invasion effectively through the use of conventional or nuclear forces. By mobilizing an invasion force in Florida and instituting a limited naval blockade of Cuba, we demonstrated our will to insist on the evacuation of the Soviet missiles from Cuba, at a minimum. Confronted by these realities, the Soviet Union backed down.

Since 1962, the Soviet Union has been engaged in a massive military buildup, both in nuclear and conventional forces, designed to

reverse the force relationships which determined the outcome of the Berlin airlift, the Korean War, and the Cuban Missile Crisis.

The first result of that buildup was evident in Vietnam. In the late sixties and early seventies, our nuclear superiority was no longer so evident as it had been at the time of the Cuban Missile Crisis; indeed, superiority had given way to stalemate. Therefore the hints which brought the Korean War to an end could no longer determine the course of events in Indo-China.

This is the true moral of Vietnam, above and beyond a good many others about the failure to press for military victory. The deterioration of our nuclear advantage led to the erosion of our position, and profoundly affected the final stages of the conflict.

There can be no question that since Vietnam our nuclear position has slipped from stalemate to the borders of inferiority. While the experts argue about whether we are already inferior to the Soviet Union in overall nuclear power, they are agreed that if present trends continue we shall be significantly inferior—and soon. Some careful studies contend that the strategic force relationships which dominated the Cuban Missile Crisis will soon be reversed, unless we undertake a crash program immediately—that in the event of a nuclear exchange we should risk 100 million casualties, and the Soviet Union 10 million. It is not difficult to anticipate what would happen if we were to allow such a situation to develop. A perceptive student of the problem has remarked that confronting such a scenario, even General Curtis LeMay would advise "accommodation." Our foreign policy and conventional forces would be impotent, and we would acquiesce.

It is the first objective of Soviet policy to achieve such a situation. Soviet leaders believe it would enable them to determine the future course of world politics.

This—not nuclear war itself—is what our nuclear weapons program and the SALT negotiations are all about. Many tend to dismiss the vision of nuclear war as unthinkable. But the vision of Soviet political coercion, backed by astronomic nuclear and conventional forces, is far from unthinkable.

Obviously, no such situation should be allowed to develop. No President of the United States should ever be put into a corner where he would have to choose between the surrender of vital national interests and nuclear holocaust.

This is the political and military context in which we should examine the SALT Treaty. It provides the benchmark in terms of which we should evaluate the SALT proposals, when they are finally made. What effect will SALT II have on the race between the tortoise and the hare? Will it contribute to the restoration of our second-strike capability, which is now in question, or will it inhibit us in carrying out that essential task?

SALT II, like SALT I and the Vladivostok Agreement which was announced in 1974 and then withdrawn, seeks to specify equal Soviet and American ceilings for the numbers of launch vehicles and, within those ceilings, for the number of missiles which can be MIRVed. It does not attempt to limit the number of warheads each side may be able to launch, or the throw-weight of the vehicles, or the explosive power of the nuclear warheads. The root of this paradoxical state of things is that while satellite photography is presumably able to identify the number of launchers and to see whether they are MIRVed (although this is more doubtful) it cannot verify throw-weight, or the explosive power of warheads.

But second-strike capability, the essence of our deterrent, does not depend upon the number of nuclear launchers or upon the number of missiles which have been MIRVed. It depends upon a combination of factors—the number, size, and accuracy of warheads—which in turn depend upon the throw-weight and guidance systems of the missiles.

This feature of the draft agreement gives it an unreal character and it makes it more difficult to answer the fundamental question—does the Agreement permit us at all times to maintain an unchallengeable second-strike capability—that is, to threaten the Soviet Union with unacceptable levels of damage if it should attack us or our allies.

The proposed draft agreement, as it has been authoritatively anticipated in the press, has another feature which should be noted at the outset. It deals only with central strategic systems which could reach the United States. As Dean Rusk said of SALT I, it is a dam across half the river. We have vital permanent interests in Western Europe, Canada, Mexico, Japan, and other allied nations, and many other places can become critically important, depending upon circumstance. It does no good for us to spend thousands of hours fussing with the controversy over whether the Soviet Backfire can reach the United States while the plane also threatens Western Europe and the Middle East. For us, the problem is the same.

As you will recall, there was a certain asymmetry of numbers in the SALT Interim Agreement which expired last Fall. The Soviet Union was allowed to have more and larger missile launchers than we because we thought we could stay ahead in MIRVing and in accuracy.

Six fundamental developments, all adverse to our interests have taken place since 1972, when SALT I was signed.

First the Soviet Union has made extremely rapid progress in MIRVing their strategic missiles. Since their missiles have more throwweight than ours, this change raises the first problem—how many warheads are they deploying per missile? And what is the destructive power of each warhead? We know that some of their MIRVed land-based missiles have been tested with as many as 8–10 warheads, although ours are equipped with not more than 3. We know also that most warheads now in the Soviet arsenal have more than 20 times the destructive power of our warheads.

Mr. Paul Warnke and other spokesmen for the Administration tell us that we still have more warheads than the Soviet Union, and more accurate ones, too. I shall have something to say on the key issue of accuracy in a moment. On numbers, however, it is legitimate to question the assurance of the Administration. Remember that we are talking here about number derived from the interpretation of intelligence data. The best studies I know throw grave dobut upon the soothing conviction of Administration spokesmen. While the Administration never tells us that the warheads on which they place so much emphasis are much smaller in explosive power than those of the Soviet Union, it would hardly deny the fact if pressed. But the SALT Sellers' literature is written as if our warheads were equivalent for all purposes with those of our adversary. They are not.

The Administration tells us that the Soviet advantage in throw-weight and explosive power is compensated by American advantages in numbers of nuclear warheads, missile accuracy, and the numbers and capabilities of heavy bombers. The difficulty with these claims is that the compensating advantages are all disappearing, and disappearing rapidly.

The second basic change in the situation since 1972 is the recent improvement in the accuracy of the advanced Soviet missiles, developed for the purpose of knocking out our ICBM forces, planes on the ground, and ships in harbor. The Soviet government is now briefing its middle level leadership systematically to the effect that Soviet science has achieved a great breakthrough; that, as a result, the Soviet Union is now superior to the United States in military power; and that the effects of the breakthrough will soon be apparent in world politics. The area of "anti-missile missiles" is identified as that of the breakthrough: that is, the issue of the accuracy of such missiles.

Third, there are reports of corresponding importance and gravity about recent Soviet progress in anti-submarine warfare. With the cancellation of the B–1 placing more and more responsibility for deterrence on our submarine force, these reports are more than disturbing.

Fourth, the Soviet Union has made some of its ICBM force mobile, despite the assurances given to the Senate on that subject when SALT I was ratified. The President has said that the Soviet Union is already deploying mobile ICBMs. The experts agree that it is in a position to deploy them quickly and on a large scale.

Fifth, recent reports of Soviet progress in anti-satellite satellites—killer satellites. Such progress would endanger our chief means of intelligence, communications, and control. Secretary of Defense Brown has spoken out several times recently on this matter, and there is no need for me to underscore its importance. A Soviet attack on our satellites could be made without killing any people—and it could leave us blind.

Sixth, we must note the significance of Soviet civil defense programs. Even if imperfect, these programs reduce the effectiveness of our deterrent.

These six problems alone—and there are others—transform the problem of strategic deterrence. They introduce uncertainties into the calculations which have been the basis of our policy for thirty years. Our leaders advise us not to worry. They assure us that the Soviet rulers will still be restrained by knowledge of our capability to wreak fearful havoc on their society in retaliation for any unacceptable action. Our leaders tell us that if the Soviets cross certain lines, we can kill millions of them without risk to ourselves.

However plausible this argument may have been up to the time of the Cuban Missile Crisis, it has long since lost even the appearance of conviction. But Secretary of Defense Brown, Ambassador Paul Warnke, and other leaders of the Administration continue to repeat the McNamara Doctrine as gospel. It remains the heart of their argument for SALT II. Indeed, for all practical purposes it is the whole of it.

The Secretary of Defense has conceded that the Soviet rush forward in strategic weapons—both in numbers and in technology—may make our ICBMs vulnerable to a first strike in the near future. This will not mean the end of deterrence, he argues, because we can always respond from our submarines against Soviet cities (missiles launched from submarines are probably not now accurate enough to hit missiles or other military targets). This argument is of dubious comfort when our fixed-site and vulnerable missiles have become outclassed in numbers, size, destructive power, and survivability by Soviet missiles; when we have tossed away our advantage in bombers, and when our citizen population remains unprotected while the Soviet Union has persevered in air defense, anti-ballistic missile programs, and in civil defense and evacuation procedures.

I have always had the greatest difficulty in accepting Robert McNamara's theory of mutual assured destruction (MAD), according to which we and the Soviets would hold each other's cities and people hostage, thus preventing any first strike, and neutralizing nuclear weapons. I found it hard to imagine that the President of the United States would actually order the destruction of Moscow or Leningrad, whatever the provocation. But I find such a step nearly inconceivable if it

would result in the immediate destruction of New York and Washington, even if we were reacting to the destruction of our ICBMs. Secretary Brown's threat to blow up Soviet cities in retaliation for a Soviet first strike against our ICBMs would be less than credible if the Soviets had enough weapons left in reserve to blow up our cities, and possessed substantial enough reserves to dominate the post-war world. A Soviet arsenal of that size and technical sophistication would completely neutralize our nuclear forces and eliminate our second-strike capability. It would thereby make us vulnerable to Soviet political coercion.

III

How does the Carter Administration propose to deal with these emerging realities, which are fundamental to the safety of the Republic? In attempting to answer this question, we cannot consider SALT II alone, but must examine SALT in relation to the defense budget—and indeed to our foreign policy as a whole.

So far as new weapons systems are concerned, the record of the Administration is clear and consistent. For President Carter, new systems are like bulls in a bull ring. You know when the bull comes in that he is going to be killed sooner of later by the matador, although you cannot tell when or how. So it has been with President Carter. Our first new bomber in many years—B–1—has been canceled. The neutron warhead, which might have given NATO a firm shield for ten years, has been remitted to the shades. The United States has closed down the Minuteman III production line and delayed the initial operating capability of the missile which was supposed to replace it. MX is on ice for the time being. Furthermore, the Trident program has been stretched out.

The record is the same in the area of conventional forces and conventional weapons. The President assures us that all our Treaty obligations are still firm, and that we stand squarely behind our allies in the Pacific as well as in the Atlantic. But the former Chief of Naval Operations has testified that our Navy cannot guarantee the sea lanes beyond Hawaii. Secretary of Defense Brown recently told the Japanese that we could not assure the naval defense of Japan. And the Administration has proposed a further reduction in the Navy.

In short, Secretary of Defense Brown's celebrated American hare is still asleep, while the Soviet tortoise moves ahead steadily, propelled by the pressures of vast research programs, and the momentum of new generations of weapon systems.

Now, we are told, the Administration is about to agree to a SALT agreement whose terms, coupled with recent United States program decisions, would make it virtually impossible to maintain crisis stability or rough equivalence, or to reverse presently unfavorable trends. The limitations of the three-year protocol to the Treaty would affect us far more than the Soviets, if we decide to wake up from our sleep during that period. We have not introduced a new missile system since the late 1960s, while the Soviets have subsequently unveiled five. Furthermore, temporary agreements with the Soviet Union tend to become permanent—consider the case of SALT I, for example. The Administration is pinning its hopes for deterrence on the cruise missile, although it has not yet chosen a modern instrument for getting the cruise missile past Soviet air defense systems. Under the protocol would we ever be able to deploy it? And could we transfer it, or transfer the technology for making it, to our allies?

At the moment, as Paul Nitze has pointed out, we face the unattractive task of negotiating SALT III while having no modern bomber-cruise missile system capable of penetrating Soviet defenses, no follow-on to the aging and vulnerable Minuteman system on the boards, and a submarine missile force of less than 25 boats at sea, each constituting 4 percent of our reliable second-strike capability, and thus worth tremendous Soviet efforts to negate.

In the end, many of the proponents of SALT II at any cost fall back on another argument which I should mention in conclusion. It is better, they argue, to negotiate the best deal the Soviets are willing to give us, and thus preserve the outward forms of detente, because the strategic nuclear balance doesn't make any difference anyway. No one is going to fire nuclear weapons, they argue—so why worry?

The fallacies of this argument, and its frivolity, are appalling, even in an age which should have hardened us to foolish and frivolous arguments. International politics today, like international politics yesterday, and a thousand years ago cannot be dissociated from the real power balances which are its matrix. The nuclear balance is only one element in the equation. But in the Soviet view, as my friend and colleague, Paul Nitze, has recently said, "It is the fulcrum on which all the other levers of influence—military, political, and economic—rest." Can any prudent man or woman seriously advise the United States government that the Soviet view is wrong? Or that the United States should ignore a Soviet warning based on this theory? With the Soviet military establishment organized and equipped to fight and win nuclear wars, could we resist a Soviet ultimatum—or for that matter, a Soviet attack in Europe, the Middle East, Africa, or the Far East—under the threat of escalation to a level of violence where we could not meet the challenge?

I do not want to be misunderstood. I do not oppose arms limitation agreements with the Soviet Union as such. On the contrary, I think that, properly designed, they might serve a constructive purpose. But I do oppose the SALT II Agreement as it appears to be emerging from the negotiating table, and so does the Committee on the Present Danger, of which I am an officer. In our view, the Treaty now in prospect would not prevent the Soviet Union from neutralizing our second-strike capability, and would prevent us from restoring the nuclear deterrent on which national security ultimately depends.

The basis for our security is not the Treaty but the strategic force deterrence and the strategic and conventional force balance. We are much too preoccupied with SALT, at the expense of our concern with the realities of power. I have just returned from a trip to Europe, Iran, and China, where I talked at length with responsible governmental leaders. I can assure you that their concern was with the adequacy of our military establishment, the cohesiveness of our alliances, and the rationality and dynamism of our foreign policy—not with SALT, except as a self-imposed obstacle to restoring our military strength. Around the world, people are seriously worried about our state of mind. They wonder whether we have the understanding and will to defend ourselves and our interests in world politics, or whether we are in a mood of suicidal appeasement. As the brilliant leader of a moderate-sized country in Asia said recently, "the greatest external threat" to the security of his nation "is the weakness of the West. The West is paralyzed, and divided."

Our goal—the goal of every American—is a stable peace, and improved relations with the Soviet Union, a state of things based on mutual and reciprocal respect for the rules of the Charter of the United Nations regarding the use of force. This is what we mean when we use the word "detente." In nearly forty years in or near the foreign and defense policy establishment of the United States, I have never met a person who was not for detente or who favored war with the Soviet Union. The Russians who govern the Soviet Union are what they are. They will not change and we should not get hysterical about them. They take advantage of every opportunity to expand their power, so long as the risks are not excessive. As they say, they push at every open door. And they take a long view. We have to deal with them calmly, steadily, and patiently, with an eye on our national interests around the world.

The kind of SALT agreement the Administration is so frantically trying to sell the country is not a step toward detente or toward peace, but an act of appeasement which can only invite more Soviet pressure and more risk. It would freeze us in a position of inferiority, deny us the opportunity to redress the balance, weaken our alliances, and isolate us.

It would be a step toward war, not peace.●

ECONOMISTS OPPOSE THE ROTH-KEMP PROPOSAL

● Mr. KENNEDY. Mr. President, in anticipation of the forthcoming debate on the tax biil, Members of the Senate may be interested in the comments of a number of distinguished economists, representing opposition from all sides of the political and philosophical spectrum with respect to one of the issues we may be facing—the Roth-Kemp proposals for large additional tax reductions.

I therefore ask that a selection of comments from 24 economists may be printed in the RECORD.

The comments follow:

QUOTATIONS ON THE ROTH-KEMP PROPOSAL

1. Gardner Ackley, Professor, Department of Economics, University of Michigan:

"The deficit would grow to substantially above present levels. It could easily reach $80–100 billion.

"In my view, this is the most irresponsible policy proposal—seriously advanced by people who should know better—that I can recall during the nearly 40 years that I have been closely observing or participating in national economic policymaking. I am ashamed of my profession for the fact that a handful of its members have suggested or endorse this policy.

"The notion that we can enjoy the 'free lunch' of drastic tax cuts without expenditure cuts is both absurd and dangerous."

2. Roy Blough, Former Member, Council of Economic Advisers:

"To summarize: in my opinion, the Roth-Kemp proposal would not have the beneficial effects claimed for it by its sponsors; instead, it would have adverse and possibly disastrous effects on the economy."

3. Dr. Arthur F. Burns, American Enterprise Institute for Public Policy Research:

"If we now had a massive tax reduction that was not accompanied by a large reduction in governmental spending, the chances are that the effects would be serious; that is, that the rate of inflation would be magnified.

"They seek to cut taxes and apparently believe that expenditure will take care of itself. I deem it unwise to take that chance."

4. Otto Eckstein, President, Data Resources, Inc.

"The Kemp-Roth tax cut proposal sharply raises the risk of a major business cycle disturbance during the next 5 years.

"It has also been argued that the Kemp-Roth proposal would give such effective stimulus to the economy that the direct revenue loss would be offset through enlargement of the tax base. Our study suggests that this is most unlikely. Instead, we find that the Federal deficit would be enlarged by about

$100 billion in the peak year of 1983, and that the cumulated increase in the national debt would be $322 billion over the next 5 years."

5. Robert Eisner, Professor, Department of Economics, Northwestern University:

"A significant but modest tax cut is in order. The Kemp-Roth bill offers a tax cut which does little to reduce costs and is of such large magnitude that it does begin to threaten to add demand pressures to the supply factors which have been causing the current inflation."

6. Martin Feldstein, President, National Bureau of Economic Research, Inc.:

"If the current relative level of real Government spending is maintained and the money supply is increased to keep real interest rates approximately constant, a tax cut of the magnitude implied by the Kemp-Roth bill would be very inflationary."

7. William J. Fellner, American Enterprise Institute for Public Policy Research:

"Despite claims occasionally made, it would be quite unreasonable to proceed on the assumption that the contemplated tax cuts will not reduce the tax revenue. Tax rates can, of course, be high enough to create a presumption that in response to a rate reduction the labor and the capital input will rise in a proportion so high as to leave the tax revenue unchanged or to raise it. But any claim that we have arrived at this stage is wholly unsubstantiated."

8. John Kenneth Galbraith, Professor, Department of Economics, Harvard University:

"Your conservative, now radical, colleagues are, I'm afraid, reacting to tax reduction as some adolescents to sex. If some is good, total immersion must be perfect. One regrets, on occasion, the long arm of Keynes.

"The notion that the revenues can be recouped from added output is, of course, egregious and irresponsible nonsense."

9. Alan Greenspan, Townsend-Greenspan & Co., Inc.:

"Hence, any tax program must be associated with a programmed curbing of growth in outlays."

10. David L. Grove, Consulting Economist and President, United States Council of the International Chamber of Commerce, Inc.:

"While it might very well be an experiment well worth trying at some later stage, if inflation is ever brought under control, I believe it would be most dangerous to embark on the experiment in the current highly inflationary environment."

11. Walter W. Heller, Professor, Department of economics, University of Minnesota:

"To summarize, then, nothing in the history of tax cuts, econometric studies of taxpayer responses, or field surveys of incentives suggests that the effects of a big tax cut on the supply of output even begin to match its effects on the demand for output. A $114 billion tax cut in 3 years would simply overwhelm our existing productive capacity with a tidal wave of increased demand and sweep away all hopes of curbing deficits and containing inflation. Indeed, it would soon generate soaring deficits and roaring inflation."

12. Leon H. Keyserling, President, Conference on Economic Progress:

"As the proposal imports a permanent change in the Federal tax structure, it should be viewed in the long-range, and in that perspective I view it as entirely unsound and undesirable.

"This represents fiscal irresponsibility in the extreme; and adopting it would set in motion other efforts in the same direction with untold evil consequences in many directions."

13. Lawrence R. Klein, Professor, Department of Economics, University of Pennsylvania:

"We need a well-balanced, steady expansion rate, directed at several targets simultaneously. The Kemp-Roth proposals are extreme; they deal positively with some problems, negatively with others. When they are bad, they are very bad. They are not well-thought-out; they are very unprofessional and very one-sided. We can do much better by taking an option between the status-quo and the Kemp-Roth extreme."

14. Arthur Laffer, Professor, Department of Finance and Business Economics, University of Southern California:

"There's more than a reasonable probability that I'm wrong. But why not try something new?"

15. Arthur M. Okun, senior fellow, The Brookings Institution:

"In my considered professional judgment, the enactment of tax cuts of the size proposed in the Kemp-Roth plan with no changes in Federal spending policies would be likely to have disastrous effects on the American economy. I dare say that it would be the most irresponsible and ill-conceived fiscal action taken in the history of this Nation.

"There are, to be sure, incentive effects of tax cuts that point toward more work-effort and more saving but there are also income effects that operate in the other direction. When people receive higher after-tax incomes for a given amount of work, that enables them to enjoy more leisure; and that offsets much of the influence of the higher reward from additional work.

"Moreover, I have difficulty with their political strategy—if they believe the Federal budget needs to go on a diet, let them offer the menu to shed the poundage rather than proposing that we go out and buy clothes that are two sizes too small."

16. Joseph A. Pechman, director of economic studies, The Brookings Institution:

"The more likely effect of the Kemp-Roth bill would be to generate an extraordinarily large Federal deficit, which would in turn exacerbate the already excessive rate of inflation. Alternatively, it would be necessary to cut Federal expenditures drastically to avoid the inflationary effects of such a tax cut, but the authors of the Kemp-Roth bill have not linked expenditure reductions with their proposed tax cuts. If this is the real agenda, it is too important to remain hidden."

17. Rudolph Penner, American Enterprise Institute for Public Policy Research:

"There can't be two or three or four times more bang in a Kemp-Roth tax cut than we've had with any other."

18. Raymond J. Saulnier, Professor, Barnard College, Columbia University:

"If the merits of a deep and broadly based cut in taxes are to be evaluated without contemplating a reduction in spending increases, I must say it would be a wrong direction for public policy to take at this time."

19. Robert Solow, Professor, Department of Economics, Massachusetts Institute of Technology:

"To put it differently, Representative Kemp is crediting the Revenue Acts of 1962, 1964 and 1965 with the extra tax collections stemming from the normal growth of the economy, the Vietnam war boom, and the inflation of 1966–68. Unless he proposes to legislate a war as well as a tax reduction, he has simply misunderstood the process of revenue estimation."

20. Herbert Stein, American Enterprise Institute for Public Policy Research:

"A proposal for a large tax cut ordinarily raises the question whether we can 'afford' it—usually meaning whether it will be consistent with balancing the budget or following a sound fiscal policy defined in some other way. The discussion of Kemp-Roth has been diverted from this question by the claim that the bill would increase the revenue, in which case the question of affording it would not arise. If, as seems compelling to me, the Kemp-Roth bill would almost certainly reduce the revenue substantially as compared with what it would have been, this question has to be faced."

21. James Tobin, Professor, Department of Economics, Yale University:

"The Kemp-Roth bill is, in my opinion, an irresponsible and dangerous proposal. The extravagant claims on its behalf are wholly speculative, without analytical or empirical foundation. In particular, the alleged analogy to the Kennedy-Johnson tax cut of 1964 is inaccurate and misleading."

22. Paul A. Volcker, President, Federal Reserve Bank of New York:

"I nevertheless cannot support the idea of sharply reducing taxes without facing up at the same time to the question of the appropriate level of Government spending in the light of those tax reductions.

"The effect could only be an inappropriately large deficit and stimulus to purchasing power at a time when those policies could only aggravate inflationary pressures and stronger demands in credit markets. These damaging effects, in my judgment, would in present circumstances outweigh the favorable effects that might otherwise occur."

23. Henry C. Wallich, Member, Board of Governors, Federal Reserve System:

"Tax cuts of the order proposed by the Kemp-Roth plan, uncompensated as they are by expenditure cuts, I regard as highly inflationary. They would also tend to drive up interest rates and, after a short joy ride, plunge the economy into recession.

"The Kemp-Roth tax-cut proposals are not consistent, in my opinion, with a responsible fiscal policy."

24. Murray J. Weidenbaum, Director, Center for the Study of American Business, Washington University in St. Louis:

"Under the circumstances, however, I am also reluctant to endorse those econometric models that claim that the Roth-Kemp bill will, in a short period of time, actually increase Federal revenues. Frankly, the underlying uncertainty as to how millions of taxpayers will react in their economic activities to changes in tax rates is so great that no amount of econometric analysis will suffice. What is required, in my estimation, is an accompanying policy of restraint on Government spending."●

THE DEFENSE APPROPRIATION

● Mr. HATHAWAY. Mr. President, I very much appreciate the hard work of the Appropriations Committee with regard to the defense appropriations measure, the Senate report on which is now pending.

I am particularly appreciative of the efforts of Senator STENNIS, distinguished chairman of the Subcommittee on Defense Appropriations who, pursuant to my request, added $4.8 million to the budget to fund the continuation of Loring Air Force Base pending a reevaluation of the strategic value of Loring.

I am also pleased to see that the bill also contains $13.2 million for the continued procurement of 1,530 M–2 .50 caliber machine guns, produced by the Maremont Corp. of Saco, Maine. This appropriation will insure that U.S. Army's inventory in this much used weapon does not become depleted.

I am confident, Mr. President, that the moneys provided in this appropriation will enhance the security of this Nation.●

THEATER BALLISTIC MISSILES

Mr. BARTLETT. Mr. President, not since the Cuban missile crisis of 1962, have theater ballistic missiles attracted as much attention as they do now. Then,

as you will remember, the world watched as the Soviet Union gradually withdrew the medium range ballistic missiles (MRBM's) it had secretly deployed to Cuba.

Early the next year, partly as a condition for the Soviet missile withdrawal from Cuba, the United States withdrew its own Army Jupiter intermediate range ballistic missiles (IRBM's) from Italy and Turkey. Later in 1963, the United States withdrew its Thor intermediate range ballistic missiles from Great Britain where they had been under the joint control of the U.S. Air Force and the Royal Air Force.

Today, the Soviet Union is now deploying its new SS–20 mobile intermediate ranged ballistic missile. This mobile missile, a shorter version of a Soviet mobile intercontinental ballistic missile (ICBM) known as the SS–16, carries up to three multiple independently targeted reentry vehicles (MIRV's)—warheads capable of destroying London, Paris, or Peking. With a single, small warhead, the SS–20 could even strike the United States. The addition of the SS–20 to the force of Soviet SS–4 Sandal medium range ballistic missiles and SS–5 Skean intermediate range ballistic missiles has caused tremendous concern in Western Europe.

Western Europeans are bothered by the SS–20, along with the SS–4 and SS–5, because it is not currently the subject of arms control negotiations. It is an example of a "gray area" system such as the Backfire bomber—a system sufficiently flexible to handle both strategic and tactical missions and yet not limited at SALT because of ambiguities about its intercontinental capabilities. Europeans recognize that Soviet targeting of medium and intermediate range ballistic missiles against Western Europe and the People's Republic of China not only frees more Russian intercontinental weapons to deter and dissuade the United States, but also requires the United States and its nuclear allies to target theater and strategic weapons against the additional Soviet theater ballistic missiles.

The close relationship between strategic and theater ballistic missiles was made clear to Western Europe by the "missile gap" controversy of the early 1960's. The large number of Soviet ICBM's predicted by President Kennedy in his Presidential campaign, based on an Air Force analysis of Soviet missile developments following Sputnik, did not immediately materialize. The United States thus had substantial strategic nuclear superiority during the subsequent Cuban missile crisis. However, the massive Soviet missile activity which the Air Force had detected, and which included some ICBM tests, involved the development and deployment of large numbers of medium and intermediate range ballistic missiles which immediately posed a serious threat to our NATO allies. To our vital European allies, these missiles are every bit as "strategic" as are Soviet intercontinental ballistic missiles to the United States. Our "discovery" that the intercontinental ballistic "missile gap" did not yet exist was of no comfort in Europe, and our reserved attitude toward medium and intermediate range ballistic missiles served only to make the American nuclear umbrella less credible to some of our NATO allies.

One should remember that this was the period in which Europe began its extensive debate over whether an independent nuclear force was required. Following President Kennedy's decision to cancel the Skybolt missile, upon which Britain had planned to maintain its deterrent, President Kennedy put forth a proposal at the Nassau Conference for a multilateral force (MLF) which would place nuclear weapons on ships and submarines manned by crewmembers from all NATO nations including West Germany, but controlled by the United States. The MLF, however, never materialized. France and Great Britain continue to maintain small, independent nuclear deterrents, but the alliance in general is vitally dependent on the American nuclear umbrella.

Fears about the reliability of that nuclear umbrella were expressed by West German Chancellor Helmut Schmidt recently in an address before the International Institute of Strategic Studies. He noted that the end of American strategic nuclear superiority "magnifies the significance of the disparities between East and West regarding tactical nuclear and conventional weapons." Recognition of this theater imbalance has prompted remedial measures such as the recent agreement that all NATO members will increase their defense budgets by 3 percent. To some degree, enthusiasm about cruise missiles, particularly the ground launched cruise missile (GLCM) was promoted by the possibility that cruise missiles would be a relatively inexpensive counter to Soviet theater ballistic missiles. In fact, increased alarm at the growth of the Soviet theater ballistic missile force reflects the accelerating uncertainty over whether the cruise missile will prove survivable in the theater role even if the United States does not accept severe cruise missile restraints at SALT.

Ballistic missiles are those launched on a trajectory upward and are generally rocket powered, in contrast to cruise missiles which generally employ air-breathing jet engines and wings to obtain lift during a relatively flat flightpath. Some missiles, such as the rocket-powered short range attack missile (SRAM) have the characteristics of both ballistic and cruise missiles depending on how they are deployed.

The International Institute of Strategic Studies defines intercontinental ballistic missiles (ICBM's) as those with a range over 4,000 statute miles. Intermediate range ballistic missiles (IRBM's) have ranges between 4,000 and 1,500 statute miles, and medium range ballistic missiles (MRAM's) have ranges between 1,500 and 500 miles. Ranges below 500 statute miles belong to short range ballistic missiles (SRBM's). Cruise missiles with ranges over 350 statute miles are generally referred to as long range cruise missiles (LRCM's).

At present, the Soviet Union and the United States are negotiating cruise missile limitations in the SALT II protocol which would prohibit cruise missiles with ranges over 2,500 kilometers (1,553 miles) and ban deployment of any ground and sea or submarine launched cruise missiles, nuclear, or conventional, with ranges over 600 kilometers (373 miles). No such restrictions are placed on ground launched ballistic missiles of comparable ranges, although such restrictions are anticipated in SALT III.

At present, the Soviet Union has some 600 medium and intermediate range ballistic missiles. The United States and its NATO allies have none, although the French have 18 of their SSBS–2 intermediate range ballistic missiles. Both East and West undoubtedly deploy apart of their submarine launched ballistic missiles (SLBMS's) against European targets, but here again the Soviet Union has the lead with approximately 1,000 SLBM's, of which 950 are modern missiles limited under the SALT I interim agreement on offensive arms. The United States has 656, Great Britain 64, and France 64—a total for the West of 784.

The Soviet Union, which is presently deploying two new battlefield missiles—the SS–21 and the SS–22, provides approximately 1,200 of the 1,500 short range ballistic missiles available to the Warsaw Pact. The United States provides about 150 of the 400 short range ballistic missiles deployed with NATO and France.

The heart of the Western theater ballistic missile force consists of 180 Pershing short range ballistic missiles whose 450-mile range is comparable to that of the Soviet SS–12 Scaleboard. The 18 French SS–2 intermediate range ballistic missiles are comparable to the 100 Soviet SS–5 Skean IRBM's, however, the West has nothing like the 3,000-mile mobile SS–20, which with an additional stage becomes the SS–16 ICBM.

Recognition that NATO's theater ballistic missile force has not kept pace with the growth in Soviet theater nuclear capability has prompted improvements in the Perishing missile. The Perishing II now under development will be more accurate and may be deployed with an Earth penetrating warhead to be used in destroying enemy airfields. The range of the Perishing II, however, will be no greater than that of earlier Pershings.

The United States is now considering the advisability of developing and deploying medium and/or intermediate range ballistic missiles with NATO. In addition to the possibility of designing and building an entirely new missile, thought is being given to modifying the Pershing surface-to-surface missile, developing a ground attack version of the Patriot air defense missile, or even deploying versions of our Polaris or Minuteman strategic missiles. In addition to funding the Pershing II program, the Senate Armed Services Committee this year authorized an additional $2 million to be used to initiate preliminary design studies for a medium-ranged, mobile theater ballistic missile system. It is my hope that the administration will continue such a program in the fiscal year 1980 budget request.

The advantages of a new medium- or intermediate-range ballistic missile for

Europe are numerous. Such missiles would be able to counter, and therefore deter, the Soviet theater ballistic missile force. Taking advantage of new precision guidance technologies, our new theater ballistic missiles could attack heavily defended targets now intended for our dual capable attack aircraft. This would reduce aircraft losses and free a greater number of aircraft for support of NATO ground forces. Also, because the vast majority of NATO's nuclear weapons are intended for short-ranged artillery, the addition of medium- or intermediate-ranged missiles will free not only aircraft, but also strategic systems such as Poseidon submarines, from the theater mission. This will permit these strategic systems to strengthen U.S. strategic deterrence and thus enhance the credibility of the nuclear umbrella. In any case, the warheads on the Poseidon SLBM and on many aircraft are too large for most tactical uses. Furthermore, American commitment to a new theater ballistic missile may serve to persuade the Soviet Union to negotiate over the future of such systems and could serve as a bargaining chip in those negotiations.

In the next year or so, the United States will be contrasting the advantages, disadvantages, and cost effectiveness of various theater missiles, ballistic, and cruise. The outcome of that analysis will influence not only American tactical nuclear forces, but also the strategic deterrent posture of our nuclear allies.

Like the United States, Great Britain, and France are presently concerned about the viability of their strategic nuclear forces. Soviet air defenses and offensive missile capability threaten the survivability and penetrability of their aging bomber forces, and French fixed, land-based missiles are increasingly vulnerable. Unfortunately, also British and French submarine launched ballistic missiles lack the flexibility needed for theater use, and are extremely expensive.

Mobile land-based missiles, either ballistic or cruise or both, may offer a flexible, but less expensive means to shore up tactical and strategic nuclear deterrence. Cruise missiles offer potentially lower initial cost, some additional flexibility in targeting, and additional difficulties for Warsaw Pact air defenses. For our allies, difficulties in some technologies and in satellite mapping may reduce some of the advantages of cruise missiles. Ballistic missiles offer nearly absolute penetrability and rapid target engagement. The overall cost-effectiveness of cruise missiles versus ballistic missiles against different types of targets, defended and undefended, is still being studied. In my opinion, it is likely that a mixed-force of ballistic and cruise missiles will prove most cost effective, because the strengths of one approach compensate for the weakness of the other and thus create greater difficulty for Warsaw Pact defenses. I urge my colleagues to continue support for theater ballistic missile research and development.

LIZ CARPENTER ON ERA

Mr. WILLIAMS. Mr. President, as the Senate is engaged in this historic debate on the extension of the time period for ratification of the equal rights amendment, I would like to place before the Members of this body some comments by a remarkable person, Liz Carpenter, who is cochair of ERAmerica.

The comments contained in the article "Raising Consciousness for Mental Health" is the outgrowth of a seminar on Stress and Families sponsored by the National Advisory Committee on Mental Health Services and Women, the Harvard Study Group, and the Aspen Institute for Humanistic Studies. Unfortunately, I could not attend and have the honor of participating in this seminar, but I have heard firsthand of the enlightening experience from my wife, Jeanette, who chaired this conference.

I think it is of value to this debate to consider Ms. Carpenter's comments which illustrate some of the philosophical underpinnings of what the ERA movement is all about. I further believe that they demonstrate why so many women like Liz Carpenter who have been so successful in combating discrimination in their own lives, and through their own achievements, are working so tirelessly for the passage of the ERA amendment.

Mr. President, it is my strongest personal belief that simple justice is the most compelling argument in behalf of ERA. I think Ms. Carpenter's comments help to illuminate that most clearly.

Mr. President, I ask unanimous consent that the interview with Ms. Carpenter, as contained in the magazine "Evaluation and Change," be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

RAISING CONSCIOUSNESS FOR MENTAL HEALTH: AN INTERVIEW WITH LIZ CARPENTER

(By Susan Salasin)

A distinguished social activist and journalist describes the who, what, when, where, why, and how of converting social research findings into effective media communications and influential levels for public policy legislation.

SALASIN. Ms. Carpenter, recently at a luncheon for women concerned about the passage of ERA, the speaker who introduced you closed by saying, "And you all know what I mean when I say 'the force' is back in town." Your accomplishments as a reporter, as a media link between President and Mrs. Johnson and the press, as a founder of the National Women's Political Caucus, and as co-chair of ERamerica have given you a political and social preeminence that few can match. May I ask, how do you see yourself?

CARPENTER. How do I see myself? I feel what I am doing is significant, and therefore I enjoy doing it. It feeds my soul and propels me on. I believe so strongly that women today are coming alive, but that there are certain obstacles in the way that prevent them from realizing their hopes and dreams, and I would like to help them. That's where I can pay my tithe for the very blessed life I've lived, the experiences I've enjoyed, and the knowledge that has been pumped into me, really, through circumstances. No particular credit is due me; I just happened to be in the right place at the right time and was shaped by certain forces that made me receptive to them.

SALASIN. What are the dominant forces driving you?

CARPENTER. To some degree, indignation. Indignation that has come about through experience, through witnessing the new activism of women, and yet hearing from so many women as I travel about the country that they are still left out. So often the discrimination is intentional, but frequently it is totally unintentional. There's been a blindness to women as persons since the birth of this nation. It would have made a hell of a lot of difference if John Adams and Thomas Jefferson and Benjamin Franklin and the Founding Fathers had including the Founding Mothers among them. But it was an all-male, all-white group that met in Philadelphia and drew up the Constitution; women and slaves both were considered chattels under English common law, and that adaptation was made in forming the American Constitution. The discrimination inherent in this historical perspective tends to gnaw at women.

As we meet in seminars throughout this nation—and seminars are pulsating now with the many facets of "Who is woman, who is today's woman?"—many facets of the women's movement begin to fall into shape like pieces of a jigsaw puzzle. I think the fact that I'm 57 years old; that I had about 35 years of experience in the public arena of Washington, seeing it as a reporter and then, on the other side of the pad and pencil, as somebody working in the government with the Vice President, then the President in the White House; and that I have always been the kind of person that women's groups contacted for whatever they wanted from government—all have given me a real insight into women's needs. Caught up in the excitement of the women's movement—the passion of Bella Abzug, the wisdom of Shirley Chisholm, and the kind of deep perception and sensitivity of Gloria Stenem—you learn that none of these women has the whole answer, but pieces of each of them help put it together. And you find your own self.

I'm out of the Bible Belt, and because I had all the visible, approved things, like two children, a husband, and grey hair, I was acceptable to most of the people and was given a podium that was just waiting for me to jump on. To have failed to do so would have let down my sex, and really would have let down myself, because if there's going to be a women's movement in this country, I want to be part of it.

SALASIN. How do you evaluate yourself personally in terms of your pursuit and accomplishment of these goals? What are the standards that are important to you?

CARPENTER. It's very easy to get OD'ed on the women's movement. I find that it's addictive. So much needs to be done. There is a heady senso of adventuro and accomplishment in charting unexplored territories. Every piece of information that we get somehow makes something else seem clearer. We're hunting for our own heads. The movement holds a person, and it doesn't let go. Yet, as I see it now, we're down to the last stretch in the ratification of the Equal Rights Amendment. We have until March 22, 1979, to get three more states to add to the 35 that have ratified the ERA, and it is really rough going. Like others in the movement, I worry about my health to some extent because I'm pushing myself harder than I ever have, and I get a few danger signals that I shouldn't push myself so hard. But it's very difficult to be detached when I feel so desperately about what needs to be done. Women have been waiting 200 years for what we are now so close to accomplishing. We're important to the movement and needed by it, so we can't put it aside.

SALASIN. How, particularly as a woman, have you maintained your own mental health in the midst of a set of circumstances like this?

CARPENTER. Laughter is the balm. I was blessed with it when I grew up in a big family during the Depression. I had to laugh. My family had a delightful sense of humor and, because there were a number of children, we kidded each other and we

didn't take things all that seriously. My husband and my children also believed in what I was doing, and their supportiveness was helpful. Now that I'm alone and a widow, I have more time to go out and do these things without feeling guilty. I do get very tired, I must say, when I learn that we've lost a state or that some mediocre legislature is making it very, very difficult, I think, "Well, we just aren't going to win," and that makes me very depressed. But just about the time that happens, some young woman will walk up to me at a meeting and say, "I want to thank you for all you're doing," and again I know that I am doing it for some reason, and somehow that pat on the hand makes me take a deeper breath and go on.

SALASIN. It would appear that one of your special geniuses is in knowing who to contact to make things work or move. Can you tell us some of the strategies you use, or do you feel you play it by ear, particularly with reference to ERA?

CARPENTER. I guess my best teacher was Lyndon Johnson, because he was the man who was the number one graduate of Congress into the White House. He had been in Congress 34 years before he went to the White House, so he knew how to move forces and that everybody will respond to some carrot held out in front of him.

To some extent that's what we've tried to do in ERAmerica. We have put together a coalition of 120 organizations, not all of them women's organizations, beginning on the alphabetical list with the Amalgamated Meatcutters Union and going through the AFL–CIO, the Business and Professional Women's Clubs, the League of Women Voters, and on down to Zonta at the end. The coalition includes almost every organization that has ever done anything for human progress in this country, and all of our member organizations have membership at the state level.

Right now, the game is very much in the state legislatures, where we're being held back in Florida by 2 votes, in North Carolina by 2 votes, and in South Carolina by 5 votes. Making a change in about 16 legislators in 15 unratified states could win the Equal Rights Amendment. So, in the states where there'll be a vote before this fall, we're depending on persuasion and finding the right person at the grassroots level who can move each of these men.

Historically, women have been intimidated from stepping out of the old molds. Some of the strongest opponents of the suffrage struggle were women. They used a lot of the same arguments that the anti-ERA people use: that women would be masculinized by voting in an election; that suffrage would lead to all sorts of dangers; that women would become duplicate voters of their husbands. The women voter was pictured by all the cartoonists as a very masculine kind of person, and was laughed at. We're going through a lot of that again. And yet, I think that in five years, we'll look back and think how silly it was that we ever argued about those sixteen little words—"Equality of rights under the law shall not be denied or abridged . . . on account of sex." Sixteen words that my friend, columnist Erma Bombeck, says "haven't been so misunderstood since 'one size fits all.' "

SALASIN. To what do you attribute this sort creation of social programs during the Great Society era also ushered in the era of program evaluation, that the proliferation of program evaluation, that the proliferation of programs in education, poverty, and so many other fields heightened consciousness about making programs work, which then opened the door to the evaluator. You were in the White House then. What was the mood like? What did President Johnson really have in mind?

CARPENTER. For the last 20 years there has human beings, and if poverty or disease or ignorance blighted those human beings, you did not take care of them just by handing out a dole. To him it was worth the investment of some money, even knowing you were going to have some losses and disappointments among those people. That's what motivated him to create the poverty program, and the shame of it is that it was probably much more successful than people will ever know. Thirteen million people were lifted off the welfare rolls in that time, but the whole focus was on the nightmare and frustrations of Vietnam, so the successes of the Great Society were seldom recognized. At the time of Johnson's death, millions of letters poured into the LBJ Library from people who were in Headstart, the Job Corps, Medicare, or health programs, or who had somebody in their families in those programs, and all of these people had been helped by his caring about individuals. I guess it boils down to what you think government is for. Is government's obligation to help all of its citizens live up to their greatest potential? I think it is.

SALASIN. Did you ever hear the President, or others close to him, express any strong sentiment regarding the evaluation of these Great Society programs?

CARPENTER. Yes, I think he was constantly evaluating them, although we were so busy at the first stage, getting some programs off paper and into the country, that it was hard to stop to evaluate. Two formal, major evaluations have been undertaken since the social programs of the Kennedy and Johnson Administrations. A major symposium at the LBJ Library in 1976 brought an array of outstanding speakers, including Vernon Jordan, Arthur Schlesinger, Jr., Wilbur Cohen, and Douglass Cater, and a published critique resulted on all aspects of those domestic programs. Now under way at the LBJ School of Public Affairs is another evaluation on the administrative history of the Johnson years, taking legislation from its idea, through its creation, into legislation, and into action. It is the most massive study to follow so soon after a presidency.

SALASIN. Did you ever see any evaluation results directly enter into, or be considered in, presidential decision-making during the time that you were there?

CARPENTER. We didn't speak clinically so much, we talked in terms of flesh and blood, and, really, risks. We did know that everything was a risk and that we were not dealing with neat and tidy statistics. There were going to be some Job Corps kids who stole, and there were going to be some Job Corps kids who licked their past problems, learned skills, and got jobs. Generally, the media would always focus on the sordid side of the picture, but nobody thought everything was going to come up roses. As for evaluation studies and results, I was not conscious of them. I'm sure that there were studies made, and that the people from the different departments who were helping plan the programs would include some sort of sizing up, but "evaluation results" was not a term that was part of the White House lingo.

SALASIN. You've touched on one problem that I'd like to explore in a little more depth. Many people felt that a lot of these programs were oversold in the media initially, making expectations for the programs so high that the public was then dissatisfied with more modest, incremental gains and ended up feeling that the programs were a waste of money. How do you believe one steers a middle path? How would you tell the story in such a way that hope and support are aroused for programs, but with the sights kept clear about what might really be accomplished over time?

CARPENTER. Realistically, you have to spoon-feed the media. The media are lazy when it comes to going back to a program and seeing what happened, which is often a grey area. It's easy to announce the program—to cover the launching pad—but when you come back a year later and ask "What happened in the lives of these people?" you really are getting down to whether the program was a winner or a loser. Reporters would rather cover it statistically, a simple story like "X number graduated from the Job Corps today, compared with so many that entered and dropped out." They have neither the patience nor the assignment to go out and really do the kind of reporting job that would help evaluate a program. As a result, I think that people lose track of programs, and that's very sad, because the results are often exciting.

SALASIN. What do you think those who are concerned with promoting and presenting an accurate image of these programs could do to deal with the media, given the problems you've just described?

CARPENTER. It's very hard, because the people who are involved with the programs generally are not inclined to hawk them; they do not know how to deal with a very busy press, which a person practically has to take and shake and shout to in order to tell it what's happening. In the White House, we found that the best techniques was for Mrs. Johnson to go out, for instance, and visit a Teachers Corps project in Appalachia. Because she was news, and she was interested, the press would follow along with her. In such a situation she would do a great deal to lift those statistics off the paper, make them into flesh and blood, and help get the story across. It was not always a totally happy story, but we were dependent upon our First Lady to define the situation. We were almost staging things, in the best sense of the word. We were picking up on "show and tell," saying, "This is what is happening," and we just hoped and prayed that there wouldn't be a demonstrator out front who would detract from our idea by calling attention to another subject.

There has to be more effort, also, to try to find the kind of press that would be interested, because the story may not always have the best-known byline. Sometimes the best use of a story may be in the trade press; sometimes it may take a well-placed byline article by one of the people who is doing the evaluating or the programming. Sometimes you can lift the important points from a speech, and use them to provide background for reporters. It would be an unusual reporter who came in with any more than the tools of asking who, what, when, where, why, and how. The reporter starts off, really, terribly ignorant because he or she can't know about everything. He or she may be willing to learn, but you have to time your story right, and you certainly have to serve it up in a way that will capture that reporter's imagination.

Often the best way is not to tell the whole story, but to give one or two examples in the most human kinds of terms you can. I think of a young social worker in Texas who really brought to life the kind of job she had by saying, "When I go into a poverty home, I have learned not to sit on the upholstered couch, because there are fleas in it. I know when I look at a baby's crib, if the crib is sitting with all four legs in pans of water, there are rats there." I think that kind of thing—a word picture—makes people realize the plight better than to say there are 500 families living on incomes of less than $2,000 in the county.

Salasin. To what do you attribute this sort of resistance on the part of reporters to be more aggressive about seeking information?

Carpenter. For the last 20 years there has been somewhat of a tug-of-war between the print media and the picture media, and the print media have been scared they're going to be run out of business. There's a place for both. There's a big difference in the kind

of story each can tell. You know, you're lucky even with a major international story to have as much as three minutes on a television newscast, yet the *New York Times* or one of the other major papers will deal with it at much greater length. I think you tell different kinds of stories to each; not that the facts won't be the same, but you have to tailor the facts to the different media. The press has been going through that kind of frustration.

It also tends to run in fads: in the wake of Watergate, every reporter wanted to be Woodward and Bernstein. Right now, everyone is in a stage of overdoing the CPA reporting approach on every public servant. People want honesty, but that's not all. Television programs, for instance, might think they've covered "woman's story" if they've done a documentary on "cancer and women." Even that story, though, indicates that they're still more interested in a woman's body. It sounds brutal when I say that, given what a menace cancer is, but the day the media start wondering about women's brains, about what we're thinking, that'll be the day that we've really been discovered.

SALASIN. What sources of information do you turn to, to provide backup for the kinds of stories that you might want to do? Do you ever use professional journals and magazines, other newspaper articles? Do you rely more on well-placed, key informants? How do you seek out the information you need when you decide you want to do a certain kind of story?

CARPENTER. Often I hear it by word of mouth. A couple years ago, though, I was one of the few journalists at a meeting of the Stress and Families Project at Harvard, and I just yearned for my fellow reporters because of the story that was there. For me, the story was, "My gosh, we're really finding the key to why women are depressed." We are finding that they are the most depressed if they are at the bottom of the economic ladder, with several children, and an assembly-line, boring kind of job. And these women do seek help quicker than men. They're more willing to find help. The fact that some of the experts also said that one of the major problems is that women have felt like second-class citizens for so long was exciting to me because of my work for the Equal Rights Amendment. What if we could suddenly say emphatically in the Constitution, "You are equal"? There could be a sort of joyous rejuvenation of women everywhere, a lifting of spirits. So I thought there were half a dozen stories sitting around that seminar table, but how to get the reporter to come there is very difficult. I think that researchers often have to ask for a meeting with a newspaper's editorial board and say, "We think we have something interesting here, and we hope you'll staff it with knowledgeable, interested reporters." That's one way.

Generally, we all have a little bit of Sherlock Holmes in us. My own attitude is that, if I read something or hear something that excites me, I want to pursue it further. So, another thing to do would be to throw out a few of the hints and the clues to lead reporters on. Here is where I really worry about the government agency that doesn't have an excited person in contact with the press, making a survey of what the media outlets in the area are, and of how one might shape each article to the kind of audience each outlet has, because there's a different audience for each type of print media, and different ones again for radio and television. There are just lots of ways to handle a story, but unless an agency has a person trained in a particular field who thinks like a newspaper reporter, the stories in that field don't get out.

SALASIN. Most public officials seem to display a kind of schizophrenia regarding research and researchers, or evaluation and evaluators. On the one hand, they seem to feel it is somehow on the side of good to be informed about the latest research findings On the other hand, it seems that about the last person they would want to consult about what to do would be a researcher. Investment in research is one thing, but using research findings as a basis for action is another. Can you comment on this dilemma?

CARPENTER. I think public officials may be afraid they'll get into too long a conversation, because researchers are so scientifically accurate that they feel obliged to tell you everything. It seems to me that the researcher should think in terms of "what does it really mean in the path of mankind-ever-upward," then go into the evidence that brought him or her to that conclusion, and not be apologetic about his facts—to be braver about where the findings lead. The usual tendency of researchers, however, is to water things down more than public officials or newspapers find reasonable. They simply get into too many modifying clauses. The heart of the problem is for the researcher to concentrate on some segment for public consumption. Of course, he or she can continue to write journal articles of greater depth for fellow researchers and other professionals in the field.

SALASIN. In the case of your work for ERA, do you believe that research has had, or will have, anything to do with the resolution of what is essentially a value conflict? Or, to restate it, don't all decisions reaching high officials involve value conflicts, in which research is irrelevant unless it serves their particular cause?

CARPENTER. I don't know how much a state legislator is going to rely on research. He is very likely just to rely on who is sending the most mail, or on the degree of influence the person has who is stating things. When in doubt, he may do the cowardly thing. We have a few good state legislators, but our breed of public servant at the state level is very low. I say this sadly, after talking to many people at the state level. State officials have been timid and have felt a little "sissified" if they talked about women's issues. There are legislators who simply still feel uncomfortable, giggle, blush, when you talk to them straight about a woman's issue. Isn't it silly that this is so? But it is true. They might vote for something for nurses if it is promoted, as it traditionally is, by a sole woman legislator, but their approval is based on all the stylized reasons that have gone into making women feel put down in this country. So I don't feel that I'm involved in any really heady debate on values at the state level. I think I'm involved in arm-twisting, and I might as well face it.

SALASIN. Do you think the situation improves much at the federal level?

CARPENTER. Yes, you get a better IQ. The national stage also provides a wider spotlight than the statehouse. Generally, it attracts persons who have had some experience at the state level, but the more mediocre have been weeded out. This isn't always true, but the IQ is usually higher.

SALASIN. As you are aware, in the federal government at least $27 billion is spent annually on federal research and development. Over $140 million is spent on evaluation in the various areas of human resources. Questions are continually raised as to whether the benefits of this money extend to policy-makers, service providers, and the general public. I'd like to explore your views on how the scientific research community can better address media sources, policy-makers, and the public.

CARPENTER. Let me say, generally, you're absolutely right that studies that are very costly and done by very fine brains often end up on dusty shelves. I have a feeling that sitting on those shelves are a lot of really brilliant reports, but that they never got into the hands of the policy-makers. This is really a waste, and scary to me. I think of the Critical Choices studies that Nelson Rockefeller's outfit did. Yet government has never allowed itself to project its thinking—as the Rockefeller reports did—to the year 2000 and ask "What should we do about the environment?" and "What should we do about highways and transportation and all the other problems that plague us?" A few seminars were held, a few public officials heard them, but the Critical Choices studies were never really brought under the noses of the GOP's Wednesday Group or the Democratic Study Group or other kinds of avant-grade forces in the Congress that are more studious, that have a slightly longer attention span, and are able to move policy-makers. Congress does have soul-searchers, as well as just momentary publicists, but getting that valuable information into their hands still takes an awfully good public information program.

My experience tells me that, as the studies come out, when they're timely, a trained publicist or press officer who knows the language of the press should summarize the results and tell why the findings are important. Then it would be good to find friends in the public arena who will give voice to these findings, make speeches about them. Of course, the findings should be presented in the best form possible before congressional committees. I've read lots of testimony before congressional committees, and it generally is very dull. You have a podium there with press coverage. Instead of your witnesses saying, as usually happen, the safest, most careful bureaucratic thing, I would urge those testifying to follow the old New York Daily News rule: "Hit 'em in the eye with the lead—who the hell reads the second paragraph?" Now that may be against the nature of researchers, but it's also against the nature of congressmen to listen very long.

SALASIN. Let's take as an example the findings from the Stress and Families Study. As a member of the national advisory committee for this study, you know that it hits on the issues you care about the most: women, mental health, and justice. It's been found that poor women in their most productive years, ages 25 to 44, with small children, are at the greatest risk for depression and that, by and large, their children are experiencing mental illness at a greater rate and at a younger age than the rest of the population. How do you believe we should proceed in terms of making this information available?

CARPENTER. I'd look for every hearing on the Hill that the study touches. I would find the best possible witness I could, perhaps one of the researchers, and she might bring along an example—a depressed woman who knows what has happened to her and can talk about it in simple terms. Very few women are ever invited to testify before Congress. Anyone can testify as a concerned citizen, although most people don't know this route to airing their problems before the public. A government agency can be more effective if it presents people who are victims. However horrendous and crass that might sound, it helps if those people can tell their own stories. You just have to embody findings in flesh and blood. You have to warm up your audience to people. You don't really get cozy with sterile statistics.

SALASIN. What kinds of information need to be conveyed about a study like this? How should these findings about the plight of women be presented in the human, flesh-and-blood terms?

CARPENTER. Would love to see somebody, perhaps Dr. Howard Davis, think of—say—eight examples, title his speech something like: "Eight Depressed Women," and tell what they are like I would like to see a film by an imaginative producer talk about how people are caught in depression and how they find their way out. A premiere be-

fore interested, related groups could get attention. You also might condense the study into a graph and send it to the White House for the President to use in the State of the Union address. He won't necessarily use it, but someone else may read and use it. We work through channels too much in government, and often the person at the top doesn't want that. I think we've got to break some of the old protocols in order to get the story out.

SALASIN. Why do you think findings like the kind I've just described should be communicated? Is it just to gain support for a cause, or do we also serve the public in some way by providing this kind of enlightenment?

CARPENTER. The first and most important reason is that it's wasting money if we don't. Why should we invest in finding things out if we're just going to hoard the material? Second, because we owe that to our country. If we're a caring nation, which we certainly hope we are, and if this is a problem, how are we going to solve it if we don't first define the problem? Presenting such findings might attract all kinds of followers. I can see how businesses that are hiring women at low levels need to know more about what kinds of persons they're dealing with. It might help them in personnel problems and planning and in the way they allocate job assignments to know, for instance, that some blue-collar woman leads a grim, morbid life at home and is on the verge of taking an overdose of something because she can hardly stand to face one more day of the same thing. Job variations should be available to her. Now, who should know it more than her employer? And who is going to help him know it if the people who are doing the study don't tell him?

SALASIN. When do you feel these findings should be communicated? How can we take advantage of circumstances and timing? When is the best time to fit into other news events? Is there an advantage to holding onto findings until some judgment is made that the time is right, or more right, to release them?

CARPENTER. As an ordinary rule, I'd say release the findings as soon as they're completed or within two or three days. If you can set advance press releases for three to four days ahead, so that the stories can be done thoughtfully, that's a help. I've always felt that Mondays are a good time to break a story, because you don't have as much competition. If you want a long, thoughtful story in the Sunday paper, you have to get it to the press by Tuesday. There are arbitrary deadlines just in the working day of a reporter.

I think that you can take advantage of circumstances and timing. Sometimes, reading the newspapers and seeing what other events are taking place might give you an opening or an interest. If something came to light about a specific area having a high rate of depression of a high rate of suicides, for instance, it seems to me that the papers in that area would be very receptive to findings that touched on that subject. Hooking onto another story—commenting on current stories—is a very good technique to give the reader a sense of relativity.

Creating a regular beat for reporters can be a good thing when you don't have day-to-day news. Tell them, for example, that every Tuesday afternoon you will try to have a story, release new findings or a different set of evaluation reporters, and have it set up on a regular basis. It won't always make big news, but at least you will get a following of reporters with the habit of checking in. People doing evaluation don't have any reporters checking in. I think, also, a researcher's getting to know the agency information officer is a channel for getting out the news. The researcher should recognize that information officers are looking for stories that make the department alive.

SALASIN. Given the kinds of findings we're talking about, in the Stress and Families Project, where do you think these findings should be comunicated? In what kinds of media? What geographic locations? You've touched on some of this already, like in a particular workplace where there might be a high incidence of women working under these sorts of circumstances, but I wonder if you could expand on that point a little bit?

CARPENTER. Well, I think Ms. magazine is one outlet. They're very interested in everything new that's happening to women. I think that the New York Times is very interested in everything with historic perspective, and this study is a "first." Television is constantly preparing documentaries, and sometimes evaluators can provide a piece of information that fits into a larger subject. If possible, it's good to have on the staff somebody who knows the kinds of documentaries that are in the works, particularly the ones on health. That person could look at a health program and recognize that women's mental health fits into it, and thus tie the findings to the larger story. This takes an awful lot of vigilance, and it isn't something that a scientist or a researcher would want to be concerned with, so it takes a reporter—a leg person who see things through the eyes of "what's news"—to be constantly apprised of what is happening in the laboratory.

SALASIN. Are there many such people that you can think of?

CARPENTER. Yes, there are lots of them. There are more out-of-work reporters than you can imagine! And it's just foolish not to have somebody who does think like the press in that kind of job. Even if they don't know anything about research and evaluation, they have learned how to ask questions and their job is to translate what the researcher is doing for a wider audience. In other words, this person is being a reporter for the reporters, but his obligation is to the researcher. It seems to me that you've got to have a knowledgeable public information officer.

If I were handling the story of the stress study, I would want to expose some reporters to it, and introduce them to the kinds of people who did the studies, because all of them are interesting. I found myself constantly fascinated with the people at Harvard who were sitting around that seminar table talking a different tongue than I was talking: what shaped them, what made them, where did their interest stop and some else's have to begin? But knowledge just for knowledge's sake isn't worth a damn. It's simply got to be knowledge for human beings' sake, if you believe in the human race.

There could also be a guide sheet sent out to all newspapers that says, "If you are working on a story related to the following problems, this is who you contact." It would give the names of persons working on the mental health of women, the health factors involved in smoking, and all the different areas. This is a guide sheet that an editor can tack up on a bulletin board, and then, when a reporter is covering a suicide case in which he finds that the victim was depressed, he might very easily call you. It's really pretty far-reaching to think of a newspaper having the phone number of someone who works on mental stress of women, and the reporters covering the police beat being able to call such an expert. But that's when we'll be getting somewhere: when they call and ask, "Why? What were the factors that shaped this tragic figure?"

SALASIN. You touched on something that has continually been of concern to me—why newspapers devote so little relative time and space to social sciences in general. Foreign policy and local news seem to predominate, to make up the bulk of the news. Why, when there is a human interest angle to so much of social science research, is so little space devoted to it? Is it because research findings are not translated into the human terms that the newspapers can pick up?

CARPENTER. I think that they don't have the remotest idea that there are people out there studying social problems. They're just beginning to learn that. Reporters, except on the major newspapers, generally are not specialized in different fields; they are juggling a story on a beauty queen one minute and a story on the town murder the next. But I believe they don't know what is going on in social research; you have to tell them what you're doing, and you have to somehow get that story to them.

For instance, copies of Evaluation magazine could be sent with a covering letter to 25 newspapers in the country, just as a test, with a note saying, "Because we believe you might like to know about this." Maybe Evaluation magazine is a way to spread the word. Lifting an exceptional article out of it, or putting out a press release on what is in the current issue would be helpful to a newspaper, I think; it might just plant the kernel that's needed. Most major magazines, like Redbook, Ladies Home Journal and McCall's, pick up two or three of the major stories in each issue and send out a press release with a copy of the magazine, maybe five days before the magazine is published. So, lifting something from Evaluation and digesting it for a newspaper might get more attention for the magazine and more interest in the kind of work people are doing for it.

Additionally, you could offer some of those pieces for reprint. Or, you might pick out the public figures who handle legislation in this field and send them reprints with a note saying, "Because you are making speeches on this subject, you might like to use this paragraph," marking the paragraph that might lure them to read more of the story. Representative Paul Rogers speaks before many public forums and is an authority on health, he is called "the voice of health" in the House. Send a reprint to his office, to his speechwriter, and say that perhaps Rep. Rogers would like to refer to this work in some study group or in a forthcoming speech; say, "This looks like it would lend itself to a piece of a speech." He'd appreciate it. And you'd be putting it before somebody who's going to present it before the press.

SALASIN. All of this really circles around our summing-up topic: the issue of how the social scientist makes his information newsworthy, how he can best impact on policymakers, how he can develop better methods to make his research information more attractive. If you had to give a sort of free-associative grand overview of the several central and most powerful instincts you rely on as a journalist and activist, that have earned you the nickname, "the force," what do you think these would boil down to?

CARPENTER. Scientists must feel that what they are doing is significant or they wouldn't be pursuing clue after clue to get an answer. The time comes when they know that they've gotten some answer and that they can't stall forever in getting the whole answer. I think that it's at this point that they've got to excite other people, and they have an obligation to the citizens of this country to share the knowledge they have. To hoard it is selfish. To fail to publicize it because they're too timid is ridiculous. Lives may be made less happy because they were too frightened. Nobody is going to come around and beg for this information. They cannot just sit there like they're on Mount Olympus and wait. Nobody will come by. My feeling is that the scientist who fails to cast his bread upon the water is really committing a major sin, and he's shortchanging the country that has invested in his work. I'm trying to shame them into speaking out—you know, "What are you waiting for? The end of the world? One more small clue? Don't make us have to choke it out of you." They should surely feel some sense of obligation.

I feel that scientists, if their knowledge

is going to have any worth to the public, are going to have to expose themselves to the ways that others in the world think: the media, for example. Scientists simply have got to know some reporters. And they've got to be around them, and find out what makes a reporter think. It's not difficult to get to know members of the press, to try to figure them out. Attend their functions and talk with them, invite them in to ask questions, have a round-table and tell them, "We want to get to know you. Ask us what you'd like to know about what we're doing." It might be very revealing to a group of researchers to do something just that simple. You'd be amazed at the kinds of questions reporters would ask. And it would get scientists thinking about what it is that reporters are seeking that makes a good story.

SALASIN. Is there anything that you would like to say that we haven't touched on so far?

CARPENTER. I ought to say that I'm so pleased that the National Institute of Mental Health has really moved into the frontier, exploring the emotions and the thought processes that shape women. It's been a great unexplored area, and I'm terribly excited about the potential of the study, because I think the benefits can spill out in the marketplace, spill out into public good in many ways that we haven't even begun to guess.

SALASIN. I agree.

CARPENTER. The Department of Commerce, which is deeply involved in all facets of business, and the Department of Labor, which is involved in how people are used in the workforce, should be vitally interested in factors that affect persons who work, and in what makes them tick. Applying findings from the stress study could make the whole workplace a much more constructive area, and the workforce considerably happier. I would think that there ought to be a meeting between the persons who are the most involved in the stress study of women with persons in those two departments to talk about how the study can be applied to the areas that they're responsible for. Why not do just that?

THE TAX REVENUE ACT OF 1978

Mr. WALLOP. Mr. President, the Senate will soon consider H.R. 13511, the Tax Revenue Act of 1978. When the Revenue Act of 1978 comes before the Senate, I intend to introduce S. 3388 as a floor amendment to the bill.

Today, I would like to give the Senate an opportunity to consider the merits of this amendment, so that when the next bill comes to the floor, we can act quickly to adopt this needed change in the Tax Code. The amendment addresses the tax treatment given cost-share payments in two recently enacted environmental initiatives, the rural abandoned mines program and the Rural Clean Water Act. The Internal Revenue Service has notified the Soil Conservation Service that cost-share payments will be treated as gross taxable income in each program. Participation in these voluntary environmental programs will be severely restricted if the tax treatment intended for these payments is not clarified by Congress. My amendment will allow the cost-share incentive to work in both of these needed environmental programs by excluding cost-share payments from gross income. Without such a solution, the tax burden created by the taxation of cost-shares as gross income creates a disincentive that will surely destroy any hope of the successful implementation of these programs.

The amendment is graced by the cosponsorship of Senators from all over the country, including Senator METZENBAUM of Ohio, Senator MATHIAS of Maryland, Senator FORD of Kentucky, Senator HODGES from Arkansas, Senator DOMENICI of New Mexico, and Senator MELCHER from Montana. This amendment is distinguished by the broad support it has received from environmental, farm, water, and industrial organizations. Some of the environmental organizations supporting this measure include the National Wildlife Federation, the Sierra Club, the Environmental Policy Center, and Clean Water Action, the Illinois South Project, and the Appalachian Coalition. As many of my colleagues remember from the debate on the Surface Mine and Reclamation Act of 1977, Environmental Policy Center is a national spearhead environmental organization which gives high priority to surface mining and reclamation problems. Environmental Policy Center shares my concern that legislation is needed to change the tax treatment of cost-shares in the rural abandoned mines program or else this reclamation initiative will prove ineffective. Over half of the acreage eligible for participation in the reclamation activities in the RAMP program lie in the Appalachian States. Recognizing the importance of this reclamation program to all of Appalachia, the Appalachian Regional Commission has also voiced its support of this amendment. Finally, the American Mining Congress has formally endorsed this legislation, hoping that the enactment of the provision will assist the Soil Conservation Service in meeting its rural land reclamation objectives.

In addition to the Clean Water Action group, other water-related organizations such as the National Water resources Association and the Metropolitan Water District of Southern California have supported this legislation as a means to assist the implementation of the Rural Clean Water Act. A reflection of agriculture's interest in this program is demonstrated by the support of the National Farmers Union and the American Farm Bureau Federation have given this amendment. They recognize that the Nation's agricultural producers can only benefit from successful implementation of the RAMP and Rural Clean Water Act.

Mr. President, there are few issues that come before the Senate which are viewed in such a favorable light by so many diverse interest groups. Environmental programs are frequently characterized by controversy among various interest groups. Fortunately the leaders of our Nation's environmental, farm, water, and mining organizations agree that the rural abandoned mines program and the Rural Clean Water Act should be implemented as intended by Congress as positive incentive oriented programs to clean up the environment.

Mr. President, I believe that the endorsement provided by a wide range of interest groups and the support given by many concerned Senators indicate that this amendment is noncontroversial. It would be our hope that it could be accepted by the distinguished chairman of the Finance Committee, Senator LONG, and my good friend from Nebraska, Senator CURTIS, the ranking minority member of the committee. I call on other Senators who have supported beneficial environmental farm and water-related legislation in the past to assist me in passing S. 3388 as an amendment to the Tax Revenue Act of 1978 when that bill comes before the Senate.

By enacting this legislation the Senate will provide a clear signal that the Nation remains concerned about the problems of past surface mining and the quality of water in rural areas.

Mr. President, I ask unanimous consent that the letters of endorsement for my amendment be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

OCTOBER 4, 1978.

Hon. MALCOLM WALLOP,
U.S. Senate,
Washington, D.C.

DEAR SENATOR WALLOP: We are writing to commend you for your efforts to make two critical rural environmental programs more effective and useful. The two programs are the Rural Abandoned Mine Program (RAMP) and the Rural Clean Water Program. Both are new programs designed to solve severe water pollution and other environmental problems faced by rural America. The purpose of RAMP is to help landowners restore and reclaim abandoned minelands and to end the acid mine drainage and other pollution problems associated with abandoned mine sites. The purpose of Rural Clean Water is to assist farmers and other landowners in controlling the types of soil erosion which degrade agricultural and silvicultural land and which make farmers and foresters major polluters of the water.

Both programs provide cost share grants and other aid to rural landowners to assist them in addressing these problems. Such assistance is appropriate for two reasons. First, the conservation practices to be encouraged by these programs are not designed to increase significantly the profitability of the land or its market value. Those conservation practices which do significantly increase profits—and there are many—should be encouraged by other means, such as education. Second, most of the benefits of these programs will accrue to downstream users and the public-at-large, rather than the individual grant recipients.

Unfortunately, the Internal Revenue Service intends to treat grants under this program as income. This means that many landowners who accept grants will be pushed into higher tax brackets and forced to pay higher taxes even though they realize little or no economic gain from the grant. This circumstance is likely to frustrate the purpose of the RAMP and Rural Clean Water programs and to penalize those landowners who are doing the most to improve the environment.

We understand that you are submitting an amendment to the tax bill to correct this situation. The Wallop amendment has four elements.

First, it would exempt RAMP and Rural Clean Water grants from the gross income of the grant recipient.

Second, the expenditure of grant funds

would not be treated as an expense or capital expenditure for tax purposes. The landowner would realize no deductions or tax credits from the use of grant funds. An investment of the landowner's own funds would, of course, remain eligible for appropriate deductions or credits.

Third, when the landowner sold or transferred his land, the grants he received and invested would not affect the cost basis of the land for capital gains purposes. Any increases in land value resulting from RAMP or Rural Clean Water funds would be taxable as capital gains at the time of sale or transfer.

Fourth, these provisions would only apply to RAMP and the Rural Clean Water program. Other grant programs, with different goals and economic consequences, would not be affected.

The organizations joining in this letter represent a broad cross section of agricultural and environmental interests. We support the Wallop amendment as a sensible, moderate and carefully thought out adjustment to the tax code. We believe it will go a long way towards making rural environmental programs work as intended in the real world.

We thank you for your efforts and urge your colleagues to support them.

Sincerely,

LARRY SILVERMAN.

SEPTEMBER 19, 1978.

Hon. MALCOLM WALLOP,
U.S. Senate,
Washington, D.C.

DEAR SENATOR: This letter is in regard to S. 3388—A Bill to Exclude From Gross Income Payments Made Under the Rural Abandoned Mines Program, introduced by you on August 9.

The American Mining Congress supports this legislation. We are pleased that you have expeditiously acted to remedy an unforeseen problem that clearly was not intended by the authors of the Abandoned Mines Reclamation Program contained in Title IV of the Surface Mining Control and Reclamation Act of 1977.

On April 11, 1978, the Soil Conservation Service proposed regulations implementing the Rural Abandoned Mine Program authorized by Section 406 of the Surface Mining Act. As of this date the SCS regulations have not been promulgated, largely because of the question of how cost sharing payments to participating land owners will be treated for income tax purposes.

By letter of June 5, 1978, the Joint National Coal Association/American Mining Congress Committee on Surface Mining Regulations commented on the proposed regulations, and a copy of that letter is enclosed for your information. Your attention is respectfully directed to the comments on page two of the letter which expresses the Joint Committee's concern that cost-share payments may be taxed as ordinary income by the Internal Revenue Service. The Joint Committee stated that:

". . . such an interpretation would seriously affect the viability of the entire RAMP program and should be vigorously opposed".

When you introduced S. 3388, you stated:

". . . IRS has determined that cost sharing under the Rural Abandoned Mines Program will be treated as taxable income. The result of this action is an increase in the tax burden of participating land owners, and inevitably it will deter participation in the voluntary RAMP program."

Clearly, the Internal Revenue Service's determination thwarts the intent of the authors of Section 406 of the Surface Mining Act. The coal industry fully supports the Act's rural land reclamation objectives, and we are hopeful that your bill, if enacted, will be of great assistance to the Soil Conservation Service in administering this important program.

With warmest regards, I am,

Sincerely,

J. ALLEN OVERTON, Jr.,
President.

OCTOBER 2, 1978.

Hon. MALCOLM WALLOP,
U.S. Senate,
Washington, D.C.

DEAR SENATOR WALLOP: We have studied your bill, S. 3388, and are pleased to report that we not only endorse its provisions, we urge its enactment.

Further we commend you for identifying this legislative need, and thank you for the initiative to correct a deficiency that undoubtedly would make the program inoperative.

The positive effect that this legislation will have to encourage participation in programs under the Clean Water Act cannot be understated, and we strongly support your efforts in this important area to enhance our most precious natural resource.

Sincerely yours,

J. W. O'MEARA,
Executive Vice President.

THE TAX REVENUE ACT OF 1978

Mr. WALLOP. Mr. President, when the Senate considers the Revenue Act of 1978, I intend to introduce an amendment which would require foreign investors to pay capital gains on the sale or exchange of agricultural lands. The Senate is already familiar with the issue of foreign investment in agricultural lands, thanks to the hard work done by the Senate Agriculture Committee and the passage of the Agricultural Foreign Investment Act of 1978. Many Senators familiar with this issue of how foreign investors avoid taxation on profits from the sale of agricultural land have indicated their strong support of S. 3414. Over 30 Senators have agreed to cosponsor this bill, indicating their opposition to the present tax advantages offered nonresident alien investors. Today I would like to provide for the RECORD, and to those Senators interested in the subject, some studies and articles that review the tax treatment given foreign investors in farmlands.

Many Senators have been alarmed and amazed that foreign investors are able to purchase U.S. agricultural lands with the knowledge they will be able to escape paying capital gains taxes on the sale of these properties. For those interested in the subject of how foreigners escape paying capital gains taxes, I would like to have printed in the RECORD an article that appeared in International Tax Management Journal entitled, "How Foreigners Invest in U.S. Real Estate."

Mr. Langer's article on foreign investment in U.S. real estate deals with various tax incentives provided foreign investors. I will insert just those portions of the article that illustrate how foreign investors use capital gains tax loopholes to gain investment advantage over domestic farmers. I would also like to have printed for the benefit of my colleagues a portion of an outstanding piece of research by the Natural Resources Economics Division of the U.S. Department of Agriculture in cooperation with the Corporate Tax Branch in the Office of International Operations of the Internal Revenue Service. The study is titled, "Federal Taxation of and Incentives for Foreign Investment in U.S. Real Estate: An Introduction with Emphasis on Farm Land." It was printed in April of 1978. One of the most useful aspects of this study is an estimation of the tax incentive provided the individual foreign investors. The study calculates present worth of capital gains tax exemption.

Obviously, if an investor knows upon sale of land or other assets, he will not have to pay a capital gains tax, he is given initial advantage over potential investors faced by capital gains taxes on sale of that land. These calculations indicate how the avoidance of capital gains taxes can make a significant difference the amount the foreign investor is going to pay for agricultural and ranch land. The size of the incentive given the foreign investor depends upon the average rate of appreciation of farm land and the amount of time the land is held.

Let me give you one example: If the farm land appreciates at an 8 percent rate a year, the foreign investor will be willing to pay 4 to 15 percent more for farm land property because of the exemption for capital gains. The low figure of 4 percent assumes an effective rate of taxation on capital gains of 10 percent. The high figure of 15 percent assumes a capital gains tax of 30 percent. If the land appreciates at 10 percent a year, the foreign investor would be willing to pay 5.6 to 24 percent more than the domestic farmer because of the capital gains tax exemption. The table reprint in this article will allow Senators from various States to determine the size of the incentive provided foreign investors as it relates to the average rate of land appreciation in each county of their home State.

Finally, I think it is most useful to have printed two articles that have recently come out on the issue of treaty abuse and abuse of provisions of the Tax Code. One such article appeared in Tax Planning International Journal, whose title gives a very honest appraisal of the chaotic tax situation we face in dealing with foreign investors. The article is entitled "Treaty Shopping—the Use and Abuse of Tax Treaties." The article discusses how a nonresident alien in one country can shop around the world and decide which tax treaty will provide the most favorable benefits to his investment scheme. The individual can then proceed to set up a shell corporation in Barbados, the Netherlands, the Antilles, or some other tax haven.

Another article that appeared is entitled, "Tax Haven for Foreigners Buying U.S. Farm Land." It once agair discusses how provisions in the U.S. Tax Code and ill-conceived tax treaties enable foreign investors to reap sizable advantages over domestic farmers when they invest in U.S. farmlands.

Finally, I would like to have printed a study done for me by the Congressional Research Service's American Law Division, which reviews how through a process of oversight and neglect, provisions allowing foreign investors to escape paying capital gains tax became a part of our tax code.

Mr. President, I ask unanimous consent to have printed in the RECORD the various articles and the study I have mentioned.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

HOW FOREIGNERS INVEST IN U.S. REAL ESTATE

THE POSSIBILITY OF A TAX-FREE CAPITAL GAIN ON SALE OF THE PROPERTY

(1) U.S. tax consequences

What happens when the foreign corporation decides to sell the property? It may be possible to avoid any tax on the capital gain even if the foreign corporation has been engaged in U.S. business. Let's look at some examples.

Example (1): Global N.V. buys unimproved lands in 1975 for $1,000,000 and sells it in 1978 for $1,500,000. During the interim, Global holds the property solely for investment and does nothing to develop it. Global doesn't get any rental income from the property. It makes no elections to be taxed on a net income basis under either the Code or the treaty.

Result: Global is a foreign corporation not engaged in U.S. business. It is entitled to a tax-free capital gain.

Example (2): Global N.V. buys a warehouse in 1975 for $1,000,000 and sells it in 1978 for $1,500,000. At all times, the property is held subject to a net lease to a single tenant. From 1975 through 1977, Global elects each year to be taxed on a net income basis under the treaty. It makes no election for 1978.

Result: In 1978, Global is a foreign corporation not engaged in U.S. business. It pays a 30% tax on its gross rental income earned in 1978. The gain from the warehouse sale is a tax-free capital gain.

Example (3): Global N.V. buys a 24-unit apartment building in 1975 for $1,000,000. Its sole shareholder is Juan Sanchez, a nonresident alien. From 1975 to 1978, Global pays U.S. tax on a net income basis, but not because of any election. It does so because it is engaged in U.S. business and its income is effectively connected with its U.S. business. In 1978, Sanchez sells all of the shares of Global N.V. at a gain of $500,000 over his cost basis. He is not present in the United States for 183 days or more during 1978.

Result: The gain is not effectively connected with the conduct by Sanchez of a U.S. business. He is entitled to a tax-free capital gain on the sale of his shares.

Observation. Many buyers are unwilling to purchase shares, particularly shares of a foreign corporation. However, some transactions are handled that way. The buyer may demand and receive personal indemnifications or bank guarantees as well as a discount.

Example (4): Same facts as Example (3), except that Sanchez is unable to find a buyer for his Global N.V. shares. Instead, Global enters into a contract to sell the property for $1,500,000. Its adjusted cost basis after $150,000 of depreciation deductions is $850,000. The projected gain to the corporation is therefore $650,000.

Shortly before the closing on sale of the property, Global adopts a plan of complete liquidation under Section 337. The sale is then completed and the corporation is completely liquidated within 12 months after adopting the plan.

Result: Global pays no U.S. income tax on its gain from the sale. It may have some taxable income to the extent of recapture of excess accelerated depreciation.

What about Sanchez? There is no U.S. income tax to Sanchez at the shareholder level. He is a nonresident alien who is not present in the United States for 183 days or more during the year of liquidation. The gain is not effectively connected with the conduct by Sanchez of a U.S. business.

APPENDIX 2—ESTIMATES OF TAX INCENTIVES FOR THE INDIVIDUAL FOREIGN INVESTOR

THE PRESENT WORTH OF EXEMPTION FROM TAX ON CAPITAL GAINS

The model used in this analysis assumes an investor who is security minded, interested in a relatively long term investment, well informed, and interested in productive land used for cash crops or ranching.[1] The foreign investor is further assumed to examine historical data on farmland appreciation and rental income in the United States as a whole and in particular regions before making a judgment about the future. We have summarized such information in table 1 for the United States and four farming regions of potential interest to foreign investors.[2] The land appreciation for 1967–1977 ranged from 7 to over 14 percent per year. The conservative investor is unlikely to count on such favorable rates in the long term future. He will look at earlier periods when real farm income and farmland appreciation were generally lower. Considering the 20 year period 1957 to 1977, the anticipated future rates of land appreciation of most foreign investors, is likely to be covered by a range of 6 to 10 percent.

The present worth of future appreciation of the land investment will depend on the investor's rate of discount. For the security-minded investor this rate should be at least as high as the rate at which he can borrow funds secured by a farm mortgage. We assume a discount rate of 10 percent, somewhat higher than the mid-1977 rate on farm mortgage loans made by life insurance companies.

If the foreign investor is not exempt from the capital gains tax, the present value of the expected capital gains will be reduced by the amount of the capital gains tax. The amount of the reduction will depend on the investor's income taxable by the U.S. in the year the land is sold. Taxable income could be quite high even if the foreign investor's sole U.S. based income is capital gains from farmland investment. For example, with an annual appreciation rate of 6 percent, capital gains, before land selling costs, from an investment of $100,000 would be $79,000 after 10 years, and $100,000 is only a fraction of the investment required if the investor wants to purchase an adequate size farm unit in a cash grain or ranching area. Allowing for a 50 percent reduction of long term capital gains permitted for reporting such gains as taxable income, joint ownership by husband and wife, and the possibility of spreading the sale over a number of years we estimate a tax rate on capital gains, ranging from 10 to 30 percent.

Given the foreign investors anticipation of future farmland appreciation, his rate of discount and effective tax rate on long-term capital gains, the calculation of the present (discounted) worth of the capital gains tax is presented in table 2.[3] We show the present worth of the capital gains tax per $100 invested assuming a discount rate of 10 percent. The figures in table 2 give the percent by which an investor will reduce the purchase price for land because of the capital gains tax. Conversely, the figures also show how many percent more the investor would be willing to pay for farmland if he were exempt from the capital gains tax.

Even when confined by the range of our assumptions the present worth of the capital gains tax shows a wide range. If the investor discounts future income at 10 percent and anticipates average annual land appreciation at 8 percent the incentive will range from about $4 to $15 per hundred dollars invested. The interpretation of this result is that under the assumptions made, the foreign investor would be willing pay 4 to 15 percent more for farmland property because of the exemption from capital gains. The incentive would be no more than 9 percent if the investor anticipates at 6 percent rate of land appreciation and could be as high as 24 percent if he expects farmland to appreciate at 10 percent over an investment period of 20 years.

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[1] Paulsen, Arnold, Goals and Characteristics of Foreign Purchasers of Farmland in the U.S. Also Currie, Craig et al. Foreign Investment in Iowa Farmland, p. 124. Both in Foreign Investment in U.S. Real Estate, Economic Research Service, USDA 1976.

[2] Illinois and Mississippi for which land values are displayed in table 1 are among the 12 states which prohibit or have major limitations on foreign landownership. Illinois limits individual (but not corporate) foreign landownership to six years. Mississippi prohibits individual (but not corporate) alien landownership except by way of security for a debt. The data for Illinois and Mississippi are shown to provide a basis for anticipating returns for cash crop areas of the cornbelt and the Mississippi Delta, rather than for specific states. State prohibitions and limitations on alien landownership can be avoided by a variety of legal methods. They may however present some risk and expense, especially for the foreign investor who wishes to avail himself of the potential tax advantages available to foreign investors. For details see Foreign Direct Investment in the U.S. op cit. Vol. 8, Appendix M., Land Law.

[3] The present worth of the capital gains tax is given by:

$$\frac{T \times [0.95 \times 100\ (1+r)^n - 100]}{(1+\ )^n}$$

where T is the proportion of capital gains payable as tax.

0.95 is the proportion of sales proceeds retained by the seller after payment of sales commission and other sales costs.

r is the annual rate of land appreciation.

i is the rate of discount.

n is the number of years the investment is held.

The numerator of the above expression gives the amount of capital gains tax due on $100 invested. Since this tax is due n years after the investment is made, the denominator discounts the tax payment to an equivalent present value, as of the time the investment is made. The quotient is the present value of the capital gains tax per $100 invested. It is the percentage by which the investor will reduce the purchase price he bids for the land because of the capital gains tax.

TABLE 1.—VALUE PER ACRE AND ANNUAL RATES OF APPRECIATION OF FARMLAND

Period	All U.S. farm real estate	Farms and grazing land rented for cash: Central Kansas wheat [1]	Central Illinois cash grain [2]	Upper Mississippi Delta [3]	Montana grazing [4]
Years (dollars):					
Spring 1977	456	402	2,513	658	98
Spring 1967	161	173	655	333	30
Spring 1957	93	118	379	147	15
Compound annual rate of appreciation (percent): [5]					
1967–77	11.0	9.0	14.5	7.0	12.5
1957–67	5.5	4.0	5.5	8.5	7.0
1957–77	8.0	6.5	10.0	8.0	10.0

[1] Crop Reporting District 5, Central Kansas.
[2] Crop Reporting District 6, Central Illinois. For restrictions on alien land ownership in Illinois, see appendix footnote 2.
[3] Crop Reporting District 1, Northwest Mississippi. For restriction on alien land ownership in Mississippi, see appendix footnote 2.
[4] State of Montana except for crop Reporting District 1, Northwest Montana, where value and rentals of grazing land are affected by recreational demand and not typical of the rest of the State.
[5] Rounded to the nearest half percent.

Sources: U.S. farm real estate. Farm Real Estate Market Developments, CD–81, July 1976 and Supplement No. 2, March 1977, Economic Research Service, USDA. Farmland rented for cash, annual surveys conducted by the Economics, Statistics, and Cooperatives Service, U.S. Department of Agriculture.

TABLE 2.—PRESENT WORTH OF THE CAPITAL GAINS TAX PER $100 INVESTED IN FARMLAND, DISCOUNTED AT 10 PERCENT [1]

Years land is held:	Average annual rate of appreciation in land values: 6 percent	8 percent	10 percent
10	$2.7–$8.1	$4.1–$12.2	$5.6–$16.9
15	3.1– 9.2	4.8– 14.5	7.1– 21.3
20	3.0– 9.1	5.1– 15.3	8.0– 24.0

[1] The low figure in each cell assumes an effective rate of taxation of capital gain of 10 percent. The high figure assumes a 30-percent rate. See footnote 3 for method of calculation.

Treaty Shopping: The Use and Abuse of Tax Treaties

A hypothetical example may serve to illustrate what is meant by "treaty shopping". Assume than Juan Sanchez, a citizen and resident of Venezuela, buys a portfolio of $1 million worth of U.S. stocks. Venezuela, like some two-thirds of all Latin American countries, taxes its residents purely on a territorial basis. It imposes no income tax on foreign-source income. Thus, Sanchez will pay no Venezuelan taxes on his dividends or capital gains from the U.S. stocks. Venezuela gives him no foreign tax credit for taxes he pays abroad so he is anxious to pay the least possible amount of total taxes to other countries. Assume that his stocks produce an average dividend yield of 5 percent, or $50,000 per year. Let us assume that he is astute (or fortunate) and that he averages capital gains of 10 percent, or $100,000 per year. How will Sanchez be taxed?

If he invests directly—without using any intervening holding company—he will pay 30 percent U.S. withholding taxes on the dividends, i.e. $15,000 per year. His capital gains will be tax free. There is one serious problem, however: if he dies, the entire portfolio will be subject to U.S. estate tax. If the stocks are then worth $2 million, the U.S. estate tax will be about $380,000.

If Sanchez forms a holding company in a nontreaty country, his income taxes will remain the same, but by doing so he will eliminate the estate tax problem.

Suppose that his holding company qualifies as an international business company (hereinafter "IBC") in Barbados which has a favourable income tax treaty with the United States.[1] Under the Barbados-U.S. income tax treaty, dividends paid by U.S. corporations to Barbadian companies attract only 15 percent U.S. withholding tax (instead of the statutory 30 percent rate).[2]

The dividends are also subject to Barbadian tax, but the Barbados tax rate on an IBC is only 2½ percent which (for technical reasons) is not paid until the IBC pays dividends to Sanchez, its shareholder.[3] Thus, by interposing a Barbadian IBC as his holding company, Sanchez not only eliminates his potential U.S. estate tax problem, but he also reduces his overall tax bill from $15,000 to less than $9,000. He saves $6,000, per year, less the cost of maintaining his holding company.

To sum up, Sanchez is a resident of Venezuela which has no income tax treaty with the United States. He is not a resident of Barbados individually. He has made his holding company resident in Barbados for the purpose of using—or abusing—the income tax treaty between the United States and Barbados. Is this permitted? The answer is probably yes.

Despite many thousands of transactions involving various types of treaty shopping and treaty abuse, there are still no clear guidelines as to what is permissible and what is not. There is no provision in the Internal Revenue Code which directly seeks to prevent treaty shopping. However, some general rules and concepts of the tax law are used from time to time by the Internal Revenue Service to attack it.

For example, it is quite clear that the IRS does not recognize a nominee as the owner of an asset. If Sanchez bought the U.S. stocks personally and registered them in the name of a Swiss bank as his nominee, the IRS would treat Sanchez as the real owner for both income and estate purposes. However, if he forms an offshore holding company to own them, the result may be quite different.

The IRS has also attacked some attempts at treaty shopping on the ground that they were sham. It used that argument successfully to win cases against Ingemar Johansson and Aiken Industries. It lost a similar attack against Perry Bass. Let us look briefly at these cases:

Ingemar Johansson was a world heavyweight boxing champion from Sweden. Although Sweden had an income tax treaty with the United States, its provisions did not help him. In order to try to take advantage of an exemption provision contained in the Swiss-U.S. income tax treaty, he claimed that he had become a resident of Switzerland and that he was boxing in the United States as an employee of a Swiss corporation. The court held this was a sham and it taxed him.[4]

In 1960, Perry Bass, a Texan, transferred an undivided working interest in oil producing properties to a wholly owned Swiss corporation which was exempt from U.S. tax under the Swiss-U.S. income treaty. The Tax Court held that the Swiss corporation was a viable separate entity and that Bass was not taxable on its income. Everything concerning the maintenance of the Swiss corporation had been properly done and it had acted like a viable corporation.[5]

[The only other case which seems to deal with the question of treaty shopping involved the Suez Canal Company. The Court of Claims held that it was an Egyptian company, not French, and that it was therefore not entitled to benefits under the French-U.S. income tax treaty. By way of questionable dictum, the court added that since the company was not in fact subject to French taxes it was not entitled to any benefits under the French-U.S. treaty. It reasoned that the treaty was designed to prevent double taxation and could not be used to prevent any taxation at all.[7]]

A 1975 revenue ruling permited persons who were not residents of the Netherlands Antilles to form an Antilles corporation to invest in U.S. real estate through a U.S. limited partnership. It recognized the right of this Antilles corporation to certain benefits under the Netherlands Antilles—U.S. income tax treaty. Although the persons who formed the Antilles corporation could have become limited partners individually, they would then have had to file individual U.S. income tax returns. The Service recognized that as one of the acceptable business reasons for permitting the interposition of the Antilles corporation.[8]

Four recent letter rulings have fact patterns which involve treaty shopping. One deals with a Netherlands finance company owned by a so-called "country Y corporation".[9] The other three deal with Netherlands Antilles corporations which are owned respectively by a resident of Bermuda,[10] a nonresident alien from an undesignated country [11] and a resident of Honduras.[12] Each ruling involves the taxation of dividends to be paid on substantial direct ownership of stock in a U.S. corporation.

The treaties in question provide for a 15 percent rate on portfolio dividends and a special reduced rate of 5 percent on qualifying dividends from affiliates. In each case, the taxpayer was claiming entitlements to the 5 percent rate. Without ever discussing the subject of treaty shopping, each letter gives tacit approval to use of the treaty.

Each of these letter rulings carefully points out that the treaty country corporation is under no obligation to turn over the dividends it receives from the U.S. affiliate to its shareholder. This seems to be an attempt by the Service to distinguish the facts from the Aiken Industries case. Since each treaty country corporation involved is wholly-owned by a person from a nontreaty country it would seem that there is really not a material distinction.

The letter ruling involving the Netherlands finance company makes it quite clear that "treaty shopping" was a key purpose for establishing the finance company in the Netherlands. It states:

"The Netherlands was selected for incorporation because it is a financial center that imposes no withholding tax on interest paid by a Dutch entity to foreigners, and because of its favorable internal income tax structure and extensive network of tax treaties providing for favorable treatment of interest income paid to Dutch entities." [13]

The letter ruling involving the Antilles corporation owned 100 percent by a Bermuda resident suggests several "business reasons" for this structure, including the favorable regulatory tax and investment climate in the Netherlands Antilles. It points out that nothing would require the Netherlands Antilles corporation to turn over dividends received by it to any other person or entity and that the Netherlands Antilles corporation will exercise dominion and control over the dividends.[14]

Footnotes at end of article.

Although the letter ruling does not discuss treaty shopping, it is obvious that, if the Bermuda resident invested directly in the United States, the rate would have been 30 percent. We thus have a clear-cut example of what is in fact treaty shopping approved in a private ruling by the Service.

The OECD and U.S. model income tax treaties deal with the question of treaty shopping to a limited degree. Article 10 of the 1977 OECD model provides that the reduced rate of withholding on dividends to either 15 percent or 5 percent shall apply ". . . if the recipient is the beneficial owner of the dividends . . ." The same language also applies to articles 11 (interest) and 12 (royalties). This language had in fact been added in the revised text of these articles which was published by the OECD in 1974.

What does this language mean? Paragraph 12 of the new commentary on article 10 indicates that the reduced withholding rate in the source country is not available when an intermediary, such as an agent or nominee, is interposed between the beneficiary and the payer of the dividend, unless both the intermediary and the beneficial owner of the dividend are resident in the same treaty country. It adds that countries may make this language more explicit during bilateral negotiations.

If this language were to be incorporated into the Swiss-U.S. treaty it would mean that, when a dividend is paid from the USA to a Swiss bank acting as nominee for its client, the reduced treaty rate would be available only if the beneficial owner of the dividend is also a resident of Switzerland. In the case of Switzerland that result is already achieved under the withholding regulations.[15]

Article 10 of the 1977 OECD model does not make the reduced rate of tax conditional upon the dividends being subject to tax in the country of residence. This question can be settled by bilateral negotiations.[16]

The commentary on article 10 draws attention to a hypothetical case.[17] It does not mention specific countries. By doing so, however, the example can be made clearer:

Assume that the beneficial owner of dividends arising in the United States is a company resident in Switzerland. All or part of the capital of the Swiss company is held by shareholders who reside outside of Switzerland. It is the practice of the Swiss company not to distribute its profits in the form of dividends. The Swiss company enjoys preferential taxation treatment in Switzerland as a private investment company or base company.

Is it justifiable for the United States to allow a reduced rate of tax on dividends paid to such a Swiss holding or domiciliary company? The commentary does not take a position on this question. It merely suggests that it may be aprropriate during bilateral treaty negotiations to agree on special exceptions to the taxing rules laid down in article 10 in the case of such companies.

The Treasury has dealt with this hypothetical case in its U.S. model income tax treaty and in several recent treaties.

For example, under the Iceland-U.S. income tax treaty, if Iceland gives preferential tax rates to an investment or holding company, such a company will lose its treaty benefits with respect to dividends, interest, royalties and capital gains unless more than 75 percent of the capital is directly or indirectly owned by individual residents of Iceland or U.S. citizens.[18]

The Treasury Department's technical explanation of the treaty indicates that the purpose of the provision is to deal with potential abuse which could rise if the combination of low tax rates in Iceland and reduced U.S. tax rates or exemptions would enable third country residents to realize unintended benefits.[19]

Similar treaty language appears in existing U.S. income tax treaties with Finland,[20] Norway[21] and Trinidad[22] and in the 1977 U.S. model income tax treaty.[23] Such provisions also appear in most pending treaties.[24] Special treaty provisions deny the use of treaty benefits to Luxembourg holding companies[25] and to some Netherlands Antilles companies.[26]

Given sufficient time, the Treasury's treaty program may eventually stop third country residents from using treaty country investment and holding companies to obtain unintended treaty benefits.

The 1976 Treasury Department Report to the Congress on Foreign Portfolio Investment in the United States contains some interesting comments on the use of tax treaties by residents of nontreaty countries. It states:

". . . Treaties providing for reduced withholding rates induce foreign investors of countries without treaties with the United States to form either personal holding companies or trusts in the foreign treaty jurisdiction in order to have their investments in the United States receive favorable withholding tax treatment. These entities are then afforded the benefit of treaty tax rates applicable to the jurisdictions in which they are operating."[27]

Part of the problem may be that we do not always take a consistent position about the use of treaties by unintended beneficiaries. In the interest of taxpayer equity it must be said that the Congress should act promptly to terminate the unauthorized use of all U.S. tax treaties by persons not intended to benefit from them. Until Congress acts effectively to stop treaty shopping, however, there appears to be no reason not to continue to take advantages of these benefits along with others. In other words, the answer to the basic question posed at the outset appears to be that Juan Sanchez is still free to continue treaty shopping by using an investment or holding company in a suitable treaty country, particularly if he can find an acceptable business reason for doing so.

What could be done? For one thing, the Congress could enact legislation to prevent such treaty abuse. Treaties and federal laws have equal standing and, unless the Congress says otherwise, the latest in time has priority. In almost all cases, the Congress has given priority to treaties over federal laws but has the power to override treaty provisions if it so chooses.

Clearly, U.S. treaty partners might be very upset if the Congress unilaterally enacted legislation overriding treaties. However, it is doubtful that most of our treaty partners would object to "anti-abuse legislation" since the OECD has recently called upon all of its members to take steps to prevent the avoidance and evasion of taxes.

The law could follow the pattern suggested by our recent treaties and could eliminate exemptions and reductions of U.S. tax for treaty country corporations unless they are more than 75% owned by bona fide residents of that country or other countries having treaties with the United States and offering substantially similar benefits.

FOOTNOTES

[1] The 1945 United Kingdom-U.S. income tax treaty was extended to Barbados in 1959 with modifications. Subsequent protocols and the pending new U.K.-U.S. treaty do not apply to Barbados.

[2] Barbados-U.S. Income Tax Treaty, article VI(1).

[3] International Business Companies (Exemption from Income Tax) Act 1965 (No. 50 of 1965).

[4] Ingemar Johansson v. U.S., 64-2 USTC 9743 (5th Cir. 1967), affirming in part 62-1 USTC 9130 (S.D. Fla. 1961).

[5] Aiken Industries, Inc., 56 T.C. 925 (1971).

[6] Perry R. Bass, 50 T.C. 595 (1968).

[7] Compagnie Financiere de Suez et de L'Union Parisienne v. U.S., 74-1 USTC 9254 (Ct. Cl. 1974).

[8] Rev. Rul. 75-23, 1975-1 C.B. 290.

[9] Letter Ruling 7723035, March 14, 1977.

[10] Letter Ruling 7739080, July 1, 1977.

[11] Letter Ruling 7742048, July 22, 1977.

[12] Letter Ruling 7742058, July 25, 1977.

[13] Letter Ruling 7723035.

[14] Letter Ruling 7739080.

[15] Reg. § 509. 8.

[16] Commentary on article 10, ¶ 20.

[17] Commentary on article 10, ¶ 22.

[18] Iceland-U.S. Income Tax Treaty, article 27.

[19] 1 CCH Tax Treaties ¶ 3739, Technical Explanation, article 27.

[20] Finland (article 27).

[21] Norway (article 20).

[22] Trinidad and Tobago (article 16).

[23] 1977 U.S. model income tax treaty (article 16).

[24] Cyprus (article 26), Egypt (article 24), Israel (article 25) Morocco (article 24), South Korea (article 17) and the United Kingdom (article 16). The provision in the pending U.K.-U.S. treaty would also cover the use of U.S., "80-20 companies" by residents of third countries. The pending treaty with the Philippines does not deal with investment or holding companies.

[25] Luxembourg (article XV).

[26] Netherlands Antilles (article I of 1963 protocol).

[27] Treasury Department Report, Volume 1, p. 42.

Tax Haven for Foreigners Buying U.S. Farmland

(By David Gersch)

To most Americans, the Netherlands Antilles probably conjure up images of sunny beaches and happy tourists cultivating high-priced Caribbean tans. For wealthy Europeans, however, the Antilles offer much more. "With the Antilles as an offshore base," Antillean promotional literature proclaims, "foreigners can avail themselves of a sunny climate in U.S. realty."

Thanks largely to the U.S. Treasury Department, the Antilles are a tax haven where foreign investors can enjoy, along with the sun and surf, substantial U.S. tax breaks to shelter their investments in American land.

The Netherlands Antilles, consisting of two chains of islands in the West Indies, are the most flagrant example of how government encourages foreign investment in U.S. farmland. Because of the islands' favorable treaty status, a corporation formed in the Antilles pays no U.S. capital gains tax on the sale of American lands. Another treaty forbids the Antilles from taxing income from this real estate. Finally, dividends arising from the real estate profits paid by the Antillean corporation to its foreign shareholders are also exempt from U.S. taxes.

U.S. tax arrangements with the Netherlands Antilles are just a small part of a larger picture. Over the past two decades, the Treasury ha routinely negotiated tax treaties creating incentives for foreigners buying U.S. real estate.

According to one recent U.S. Department of Agriculture study, these incentives enable a foreigner to pay from 12 percent to 15 percent more for a piece of farmland than a U.S. farmer and get the same net return. These tax treaties are a hidden stimulant to the escalating foreign investment in farmland that has aroused concern in the farm states.

In the Antilles, these treaty benefits are enhanced by that country's very generous internal tax regulations and low tax rates. The combination of these low rates and treaty-created exemptions has created an offshore foreign investment paradise that the Antilleans are quick to advertise.

One Antillean trust company, Maduro & Curiel NV, sends out a pamphlet captioned "Strictly Confidential Memorandum, Re: Tax-Sheltered Investment in U.S. Realty,"

outlining how land investment schemes might work.

The Tax Haven Review, another Antillean promotional item, claims that "several methods of depreciation allowed by the U.S. fiscal authorities can shelter the cash flow income [from U.S. land], substantially lowering if not eliminating income tax exposure (at least in the early years of ownership.)"

The ease of forming Antillean investment companies, plus increasingly lucrative opportunities in American farmland, has proved to be a spur to foreign investment in the United States. A Government Accounting Office (GAO) study released in June found that, in three sample California counties, "of 8,786 acres of farmland classified as foreign-owned, 7,617 acres (87 percent) were owned by corporations incorporated in the Netherlands Antilles."

The report noted the possibility that American investors might also be using these Antillean front companies to buy U.S. farmland. It is hard to find out for sure, however, because Antillean law allows shareholders of investment corporations there to remain anonymous.

Examples of foreign investors using Antillean investment firms have peppered the press in recent months. Typical examples include the purchase of a large pecan operation in New Mexico by Swiss interests and the purchase of 25,000 acres of Georgia farmland, both through Antillean front corporations.

Apparently the Antilles tax haven came about partly by accident. Shortly after World War II, the U.S. Treasury began negotiating special tax treaties with other countries to work out inconsistencies in the way respective tax systems affected persons in one country doing business in another.

In 1948 the Treasury negotiated such a treaty with Holland, and seven years later this pact was extended to the Antilles, Holland's former colony. Since the Antilles have much milder tax laws than Holland, the result was windfall benefits for foreign interests using the islands as a staging point for their investments in the United States.

By 1960, Antillean investment companies held close to $6 million worth of American assets. Treasury officials were well aware of the loopholes. In a 1962 memo, then-Treasury Undersecretary Stanley Surrey, a highly respected tax policy expert, wrote of the Antilles' "widespread reputation as a 'tax haven' with laws specially designed to take full advantage of the treaty relationship with the United States." The memo pointed out that close to 1,000 foreign investment companies were incorporated in the Antilles at that time.

At first, Treasury considered ending the U.S. tax accords with the Antilles, but in the end settled for merely modifying certain provisions. These modifications did close some of the loopholes but apparently—and inexplicably—provided a new one.

It still is unclear why the Treasury did not act to close all the treaty tax breaks. The records of the Senate Foreign Relations Committee suggest that both the committee and the Treasury were lobbied by attorneys representing investors utilizing Antilles corporations.

Then, as now, lobbying efforts tried to play on old fears that the balance of payments would suffer from closing tax advantages for foreign investors. New York City tax attorney Charles Angulo argued, for example, that if all Antilles treaty loopholes were closed, the United States would lose out on $300 million of investment from abroad. The actual figure was closer to $20 million, Surrey estimated later.

In any case, many of the Antillean treaty tax loopholes survived Treasury's brief scrutiny. Last year an international tax expert, Bruce Zagaris, wrote that the "United States-Netherlands Antilles tax treaty and the Antilles tax laws provide major legal incentives for [the Antilles to be used] as a conduit for investment in American real estate."

Other tax treaties provide similar loopholes. A recent USDA analysis of the U.S. tax treaty with West Germany, for example, asserts: "The treaty . . . provides the opportunity for a German investor in U.S. real estate to produce higher after-tax returns than a U.S. investor faced with an identical rate of return."

Part of the problem is the laxity with which the Senate has screened these tax accords. Like other international agreements, tax treaties must receive Senate approval before being ratified by the president. In the past, the Senate has often rubberstamped tax treaties without thorough review. International tax law is complex and forbidding territory, which few senators are anxious to explore.

Recently, however, the Senate has shown a change of heart. On June 23, Senator Frank Church of Idaho led a group of colleagues, including Iowa Senator Dick Clark, in a floor fight against a provision in a proposed tax treaty with the United Kingdom that could have granted tax breaks for foreign-based multinational buying U.S. farmland.

Although the treaty cut back some existing loopholes, the controversial provision, article 9(4), would have enabled these multinational firms to juggle their U.S. income onto the books of their overseas operations, beyond the reach of state tax collectors. The National Farmers Union charged that article 9(4) would allow foreigners "to avoid the state income taxes to which American farmland owners are subject." Senator Clark agreed, adding that "the price of land could be bid up and the degree of absentee ownership could rise."

Although the Treasury attempted to dismiss these concerns, a 1975 USDA study confirms the opponents' apprehensions. "Vertically integrated firms have the capability through the use of alert internal pricing," the study concluded, "of accruing profits at the point in the firm at which the lowest tax rates apply." This is exactly the kind of finagling that the treaty would have hindered the states from stopping.

Such studies apparently have had impact at the Treasury. The department's new policy is to eliminate major real estate tax breaks for investors, a Treasury spokesperson says, adding that existing treaties will be modified as the opportunity arises.

This change in policy is encouraging, but it could take years to renegotiate existing treaties. Furthermore, why the loopholes were created in the first place is a question that remains unanswered.

The debate over article 9(4) also highlighted the administration's lack of sensitivity to the threat posed by foreign ownership of American farmland. The administration seems to welcome foreign investment regardless of how or where foreign dollars are used.

Foreign dollars may be beneficial on Wall Street, but in the Farm Belt they drive up the price of land beyond the means of the ordinary farmer. Unfortunately, economic experts in Washington don't seem to recognize the problem or care about it.

Though it received little notice in the press, the defeat of article 9(4) signals a renewed congressional interest in matters of foreign farmland investment and international tax policy.

With Senator Church (the leader of the U.K. treaty fight) moving up to the chair of the Foreign Relations Committee next year, it is unlikely the foreign investors in U.S. farmland will receive any special tax breaks in future treaties. Existing treaties, such as those with the Netherlands Antilles, should receive a critical scrutiny that has been lacking in the past.

Why Are Nonresident Aliens Not Taxed on Capital Gains?

Until 1936 nonresident aliens were taxable on their capital gains which were earned in the United States. Under the 1913, 1916 and 1918 income tax laws capital gains and losses were not distinguished from ordinary income for purposes of taxation. Nonresident aliens were taxed on the entire net income received from sources within the United States. In 1921 Congress provided that a taxpayer might elect to be taxed on capital gains at a special 12½ percent rate. Capital assets were defined as property acquired and held for profit or investment for more than two years. (Revenue Act of 1921, section 206). In section 217(a) of the Revenue Act of 1921, "Gains, profits, and income from the sale of real property located in the United States" were among the enumerated items on which a nonresident alien was subject to tax. This would seem to indicate that nonresident aliens were not subject to tax on their capital gains from the sale of securities. The same "sale of real property" language was used in the Revenue Acts of 1924, 1926, 1928, and 1932.

In 1934 Congress added "gains, profits, and income from the sale of personal property" to the list of items on which nonresident aliens were taxed. (Section 119(a)(6), Revenue Act of 1934).

In 1936 Congress distinguished between nonresident aliens engaged in a trade or business in the United States and those with no United States business or business office. Those nonresident aliens who did not engage in a trade or business within the United States and who did not maintain an office in the United States were taxed only on interest, dividends, rents, wages, salaries, annuities, and periodical gains, profits and income at a special rate of ten percent. (Section 211(a)). Those nonresident aliens who engaged in business in the United States or maintained an office in this country would be taxed on the same items of gross income and at the same rates as an American citizen. Gross income in the case of a nonresident alien was limited to income from sources within the United States. (Sections 211(b) and 212).

The committee report only briefly discusses the reasons for these changes. The House Report offered this brief explanation:

"In section 211, it is proposed that the tax on a nonresident alien not engaged in a trade or business in the United States and therein, shall be at the rate of 10 percent on his gross income from interest, dividends, rents, wages, and salaries and other fixed and determinable income. This tax (in the usual case) is collected at the source by withholding as provided for in section 143. Such a nonresident will not be subject to the tax on capital gains, including gains from hedging transactions, as at present, it having been found impossible to effectually collect this latter tax. It is believed that this exemption from tax will result in additional revenue from the transfer taxes and from the income tax in the case of persons carrying on the brokerage business." [1]

The Senate Report echoes the House Report.[2]

Although the committee reports and testimony at the hearings indicate concern with the effect of capital gains taxes on foreign participation in the securities market, the capital gains tax on the sale of real property was also eliminated in the case of nonresident aliens not engaged in a trade or

[1] U.S. Congress. House. Committee on Ways and Means. Revenue Bill of 1936. 74th Cong. 2d Sess. H. Rept. 2475 (1936).

[2] U.S. Congress. Senate. Finance Committee. Revenue Bill of 1936. 74th Cong. 2d Sess. S. Rept. 2156 (1936).

business in the United States, apparently without comment.

Changes in the taxation of nonresident aliens since 1936.

Except for placing a ceiling on the amount of income that could be taxed under the rules for nonresident aliens with no business or office within the United States, the 1938 revenue act made no significant changes in the taxation of nonresident aliens.

In enacting the Revenue Act of 1938, the Internal Revenue Code of 1939, and the First Revenue Act of 1941, Congress made changes in the rate of tax and the ceiling on the amount of income that could be taxed under the rules for nonresident aliens with no business or office within the United States. In 1942 the category of nonresident aliens taxed under the special rate and rules was redefined, eliminating the requirement that the alien have no office or place of business within the United States. Whether or not the person was engaged in a trade or business within the United States became the decisive factor in how a nonresident alien was taxed.

The next major change in the taxation of nonresident aliens occurred in 1950. Section 213 of the Revenue Act of 1950 subjected nonresident aliens not engaged in trade or business in the United States who were present in the United States for less than 90 days during the taxable year to a tax on the capital gains from sales or exchanges which occurred during the person's presence in the United States. Nonresident aliens not engaged in trade or business in the United States who were present in the United States for more than 90 days during the taxable year were subjected to a tax on any capital gains resulting from sales or exchanges any time during the taxable year.

The Internal Revenue Code of 1954 did not bring any major changes to the taxation of nonresident aliens. Nonresident aliens not engaged in the conduct of a trade or business within the United States were taxed on specifically enumerated types of income, not including capital gains income, at a flat rate of 30 percent. Nonresident aliens not engaging in the conduct of a trade or business within the United States who were present in the United States 90 days or more were subject to a 30 percent tax on any capital gains resulting from the sale or exchange of capital assets allocable to sources within the United States. (I.R.C. § 871). If the same individual were present in the United States less than 90 days, he or she would be taxed only on the capital gains resulting from transactions effected during his or her presence in the United States and allocable to sources within the United States. Nonresident aliens who received income in excess of a certain amount and those who engaged in a trade or business in the United States were subject to tax at the regular rates.

The next important change occurred in 1966 with the enactment of the Foreign Investors Tax Act of 1966. Designed to increase the equity of tax treatment accorded foreign investment, the 1966 Act dropped the test of being engaged in a trade or business as a standard for determining whether or not the flat rate or the regular individual rates would be applied to a nonresident alien. In its place the "effectively connected income" test was adopted.[3]

The general rule for determining whether income is effectively connected with the conduct of a trade or business in the United States is that all United States source income other than fixed or determinable periodical income is treated as effectively connected.

Fixed or determinable periodical income includes interest, dividends, rents, salaries, wages, premiums, annuities, compensation, remuneration and emoluments, and certain types of capital gains. To determine whether fixed or determinable periodical income is effectively connected, two factors must be examined: (1) is the income derived from assets used in or held for use in the conduct of a United States business, and (2) are the activities of the United States business a material factor in the realization of the income. Consideration is given to whether or not the income or asset involved was accounted for through the trade or business.[4]

Under this scheme a nonresident alien who has capital gains is taxed at regular rates if the capital gains are effectively connected with the conduct of United States business. Other capital gains which are not effectively connected with a trade or business are taxed only if the individual is present in the United States for at least 183 days during the taxable year.[5]

Transactions in stocks and securities through a resident broker without more do not constitute engaging in a trade or business within the United States. In certain cases deriving income from real property located within the United States and held for the production of income may not constitute engaging in a trade or business in the United States.

Where a nonresident aliens derives income from real property in the United States (including rents or royalties from mines, wells or other natural deposits) which would not otherwise qualify as income effectively connected with a United States trade or business, the nonresident alien may elect to treat such income as income effectively connected with the conduct of a United States trade or business. (Section 871(d).[6] Making the election means that the nonresident alien will not be taxed on his gross real property income at a flat rate of 30 percent, and instead will be taxed on net real property income at graduated rates. The election permits the utilization of deductions attributable to real property income, but it also means that the nonresident alien's capital gains resulting from the sale or exchange of the real property will be subject to tax. The election can be revoked only with the consent of the Secretary of the Treasury. If the election is revoked, a new election cannot be made for five years without the consent of the Treasury.

Since 1966, no significant changes have been in the taxation of nonresident alien's capital gains.

Possible ways to structure a law to provide for taxation of nonresident aliens' capital gains arising from real property transactions while not changing the manner of taxing capital gains arising from the sale of personal property.

It should be noted that in many cases nonresident aliens will be and are presently taxed on capital gains arising from real property transactions. Nonresident aliens who are present in the United States for at least 183 days of the taxable year are taxable on all their capital gains attributable to United States source income. Nonresident aliens who have capital gains effectively connected with the conduct of a United States trade or business are also subject to taxation on those capital gains. Under section 871(d) of the Internal Revenue Code, a nonresident alien can elect to be taxed on capital gains arising from real property transactions on property located within the United States.

[3] 8 Mertens, Law of Federal Income Taxation § 45.01; Internal Revenue Code Section 871.

[4] 2 CCH, Worldwide Income Taxes, Group 4, United States, § 55.

[5] Ibid. Internal Revenue Code Section 871 (a)(2).

[6] Section 882(d) contains the parallel provisions for foreign corporations.

THE RETIREMENT OF JUDGE J. MILTON QUARLES

Mr. THURMOND. Mr. President, a distinguished jurist, Judge J. Milton Quarles of Edgefield, S.C., retired recently after more than 20 years of service as probate judge, master in equity, and special referee for Edgefield County, S.C.

During his long career, Judge Quarles worked tirelessly for all the people of Edgefield County. His strength and his dedication as a judge were exemplary. He always rendered fair decisions as he strived to see that justice was done in all cases brought before his court.

Judge Quarles was always sensitive to the needs of the community. He carefully maintained all records in his charge, making sure that all but the most confidential were available to the public.

Judge Quarles served the people of Edgefield County well and constantly worked for their well-being. He was greatly respected by everyone who knew him, and his tenure on the bench had a profound effect on thousands of lives.

The selflessness and dedication of Judge Quarles were fully appreciated by the people of Edgefield County, and, when he stepped down from the bench, his chair was retired and presented to him.

Mr. President, in order to share the newspaper articles and remarks concerning the retirement of Judge Quarles, I ask unanimous consent that they appear in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Edgefield County (S.C.) Press, Aug. 10, 1978]

EDITORIAL COMMENT "MILTON QUARLES"

Many well deserved accolades are being hurled at the honorable J. Milton Quarles as he nears his retirement.

For 20 years he has served Edgefield County as probate judge, master in equity and special referee. He has done so with a great sense of responsibility to the people of the county.

While he has held a keen respect for the public's right to know, assuring that all the records, except those otherwise ordained by law, are public and fully accessible, he has also maintained a respect for privacy—a thin tightrope for any man to walk.

The county bar has commended him for his "fair and impartial decisions".

By his gracious help and interest in the historical value of the records in his care, Judge Quarles has made Edgefield a place where people like to come to search for their heritage.

Although he is a modest man, his service to the county is one of which he can be very proud.

We wish him and Mrs. Quarles every happiness in this new phase of their lives.

We also extend to Mr. G. Glenn Harling, newly elected probate judge who will take over the office, a successful period of service.

[Edgefield County News, Aug. 10, 1978]

JUDGE QUARLES HONORED BY LOCAL BAR ASSOCIATION

Judge J. Milton Quarles, Probate Judge and Master for Edgefield County for over twenty years, was recently honored by the Edgefield County Bar Association with a steak dinner at Pine Ridge Country Club. The event, which was occasioned by Judge's Quarles forthcoming retirement, was attended by all members of the local bar.

Several members noted that Judge Quarles had served with distinction and honor, rendering fair decisions in all the many varied matters which have come before his court. All expressed their appreciation for his years

of service to the people of his county and wished him well in his retirement years.

Following the dinner, a framed resolution of the Bar Association was presented to Judge Quarles. The text of the resolution is as follows:

State of South Carolina, County of Edgefield:

Whereas, J. Milton Quarles had tirelessly served in his capacity as Probate Judge and as Master and Special Referee for Edgefield County for a period of over 20 years, and,

Whereas, he has rendered services to all members of the Bar, and more particularly to the Edgefield County Bar, during such time, in the administration of estates, assisting in genealogical searches, performing marriages, handling guardianships, rendering fair and impartial decisions in partition, foreclosure and other property actions, and many other related duties above and beyond his role as Probate Judge and Master, and

Whereas, the Edgefield County Bar Association desires to recognize these duties and express its heartfelt thanks and sincerity to him for his many contributions,

Now, therefore, be it resolved that the Edgefield County Bar Association expresses its appreciation to the said J. Milton Quarles for his many acts and deeds, and wishes for him many happy years of well-deserved retirement.

Dated this 8th day of August, 1978, at Edgefield, South Carolina.

Signed and attested:
The Edgefield County Bar Association
Joe F. Anderson
Joe F. Anderson, Jr.
J. Roy Berry
John F. Byrd, Jr.
Charles W. Coleman
Henry M. Herlong, Jr.

[From the Edgefield County Press, Sept. 5, 1978]

JUDGE QUARLES HONORED

Probate Judge Milton Quarles was honored by the Edgefield County Courthouse employees last Wednesday with a surprise luncheon held at Pine Ridge Country Club. The flowers for the occasion were sent by Mr. Quarles children.

Butch Carter, County Administrator, spoke highly of Mr. Quarles and presented him with an engraved silver mug. Mr. Charles Lybrand, Chairman of the Country Council, retired Mr. Quarles' chair, which will be taken to the Quarles home. Mr. Jimmy Harling presented a beautiful silver tray to the judge which was engraved—J. Milton Quarles, Probate Judge, Edgefield County 1958–1978. On the back, "From Courthouse Group" had been engraved.

REMARKS BY H. O. CARTER

Judge Quarles, it is my honor to have this opportunity to recognize you as you retire from many, many years of public service to the citizens of Edgefield County. Not only have you provided service and assistance to the people of Edgefield County, but also to visitors from other counties in South Carolina and even visitors from out of state.

You have carried out your duties as Judge of Probate and Master admirably and efficiently. This is certainly proven by the many years you have served in the capacity and by the confidence bestowed in you by the citizens of our county.

I think many of us are not aware of the tremendous responsibility that goes along with this position. Each decision you made affected some human being's life, not to mention the extremely large sum of monies held in trust by you.

Your record indicates that you have always abided by the law and at the same time, was fair and just in your decisions and actions.

Your absence from the Probate Judge office will surely be felt by each of us in the Council office and, I'm sure, by all the citizens of Edgefield County.

We wish for you and your family many, many years of happy, leisure retirement.

THE 20TH ANNIVERSARY OF SOUTH CAROLINA EDUCATIONAL TELEVISION

Mr. THURMOND. Mr. President, South Carolina Educational Television celebrates its 20th anniversary this year. The anniversary is particularly significant as it was recently announced that South Carolina ETV holds a top ranking position not only in the United States but throughout the world.

Because of the tremendous impact all forms of the media have on our lives, it is heartening to know that excellent television is readily available to thousands of people on both open and closed circuit telecasts.

Today, in terms of overlapping student attendance, the public school enrollment for ETV instruction exceeds 1,500,000. But South Carolina ETV does not limit itself to public schools; college courses are broadcast for students as well as members of the general public.

Not only does South Carolina ETV telecast academic courses, but it has a full program of specialized training and updating in such varied fields as law enforcement, medicine, and business. These programs are transmitted by closed-circuit lines into schools, police stations, and business offices as well as by open-circuit telecasts from the various ETV stations around South Carolina.

Mr. President, in order to share a number of articles about South Carolina ETV with my colleagues, I ask unanimous consent that they appear in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

ETV LEADS THE FIELD

Despite its gratifying progress in recent years, South Carolina seldom has been in the forefront of public education. But in one particular field educational television, the Palmetto State holds a top ranking not only in the United States but throughout the world.

This month is an appropriate time for all South Carolinians to join in a bit of horn-tooting for their ETV establishment. September marks the 20th anniversary of that 1958 occasion when the state's first televised program was transmitted (by direct wire) from rudimentary studios into special classrooms at Columbia's Dreher High School.

Today, public school enrollment for ETV instruction, measured in terms of overlapping student attendance for various courses, exceeds 1,500,000. But this new dimension to teaching is only one aspect of the total ETV performance. In recent years, through cooperation with the University of South Carolina, ETV has moved effectively into the field of higher education, serving not only college and university students but members of the general public who seek to extend their educational horizons.

Furthermore, S.C. ETV provides a continuing and convenient mechanism for the dissemination of specialized training and updating in such varied fields as law enforcement, medicine, business, and industry—not only through closed-circuit lines into schools, police headquarters and other installations but through open-circuit telecasts from the various ETV stations about the state.

South Carolinians can take particular pride in realization that a number of nationally recognized programs are produced and originated here at ETV headquarters in Columbia. Among them are such bellringers as William F. Buckley's "Firing Line," and that favorite of the youngsters, "Studio See."

But rather than reciting the impressive array of state, regional, and national credentials won by S.C.ETV, we render our editorial salute on this 20th anniversary by quoting from a 1975 New York Times article which puts the picture in proper perspective:

"It will come as a surprise to a great many northerners to learn that South Carolina enjoys probably the most outstanding educational television network in the entire country."

Anyone who doubts the accuracy of that assessment need only observe the constant flow of domestic and foreign visitors who flock here to see educational television at its best.

[From the Columbia Record, Sept. 5, 1978]

HAPPY BIRTHDAY, ETV

An anniversary of considerable cultural significance to the history of South Carolina takes place this week.

It was exactly 20 years ago that the now highly acclaimed South Carolina Educational Television system came into being.

The beginning was a modest one, costing $65,000 and involving two courses—French and geometry—taught over a closed circuit to 300 students at Dreher High School in Columbia. In 1978, the total cost is $11.8 million, including $9.1 million in state funds. The closed-circuit ETV network now reaches throughout the state's public school system with a wide variety of courses at all educational levels.

As an instructional aide, ETV still generates controversy. In the hands of certain teachers, teaching certain courses, it is a decided plus. There is evidence, however, based in part, on first hand knowledge, that in some schools it is not being utilized as fully and as meaningfully as it might. In many ways its fullest potential as a teaching tool has yet to be realized in South Carolina.

Fifteen years ago, the ETV network started its first open circuit station (WNTV in Greenville). During the following years, open circuit stations signed on in a number of communities, including Columbia (WRLK named for the network's first executive director, the late R. Lynn Kalmbach).

One could go on and on reciting the pleasures South Carolinians have derived from the open circuit network. Masterpiece Theater. Live from Lincoln Center. Great Performances. Washington Week in Review. Some locally-produced programs like Firing Line, Studio See, Lowell Thomas Remembers and now Cinematic Eye are beamed nationally. In short, taste has been well served.

Unquestionably, ETV's open circuit has contributed mightily to the state's esthetic well-being.

As the saying goes, you've come a long way, baby. May you go a lot further. Happy anniversary.

[From the Spartanburg Herald-Journal, Sept. 17, 1978]

TWO GOOD DECADES FOR S.C.'s E-TV

South Carolina is recognized for superiority in several aspects of education.

Among these are its TEC system, its Vocational Rehabilitation Program, and its Educational Television.

E-TV has just celebrated the 20th anniversary of its first broadcast, shown in two classrooms at Dreher High School in Columbia.

SCETV is highly reputed, not only throughout the U.S., but internationally as well. It is the flagship station for such widely-known programs as "Lowell Thomas Remembers" and William F. Buckley's "Firing Line."

Its own production, "Studio See" has been shown on more than 200 public broadcasting stations.

SCETV also has a key role in a dramatic national program of transmitting by satellite over a broad geographic area.

In 1975, The New York Times said: "It will come as a surprise to a great many northerners to learn that South Carolina enjoys probably the most outstanding educational television network in the entire country."

Just two decades ago, that network was little more than a fantastic concept in the mind of the late John K. Cauthen, executive director of the S.C. Textile Manufacturers Assn.

He was a politically astute, knowledgeable, and determined man. He persuaded the leadership of the state that classroom television could become a great teaching tool.

In 1968, the Public Broadcasting Service was established, interconnecting all the nation's public television stations. S.C. ETV became the feeder point for all PBS stations in the Southern section of the country.

Its open-circuit channels (Channel 29 in this area) offer some of the finest cultural and entertainment programs anywhere.

Today, SCETV airs more than 100 courses for public schools, 65 for colleges and universities; and continuing-education programs in medicine, law enforcement and health sciences.

Alan Pifer, president of the Carnegie Corporation, declared recently that "South Carolina is the model for what educational technology should and can do in meeting educational needs of our changing society."

[From the Charleston Evening Post, Sept. 16, 1978]

20 YEARS OF SCETV

The South Carolina Educational Television Network celebrates the 20th anniversary of its first educational broadcast this week. Its first program was shown in two classrooms at Dreher High School in Columbia. Today SCETV airs more than 100 courses for public schools, 65 courses for colleges and universities, and continuing education programs in the fields of medicine, law enforcement and health sciences.

SCETV is the flagship station for programs shown throughout the Southeast and the nation, including "Lowell Thomas Remembers" and "Firing Line" with William F. Buckley. "Studio See", an SCETV production, has been shown on more than 200 public broadcasting stations.

SCETV also has contributed to the success of the Spoleto Festival. Its nightly broadcasts shown throughout the state helped generate interest. The network taped outstanding performances, such as Gian Carlo Menotti's "The Consul."

South Carolina enjoys one of the best educational television networks in the nation. SCETV has made valuable contributions to the citizens of South Carolina, and its achievements should be recognized. We congratulate SCETV on its 20th anniversary.

[From the Beaufort Gazette, Sept. 4, 1978]

FROM TINY STATION TO A PROFESSIONAL NETWORK

When South Carolina's Educational Television Network began 20 years ago, no one dreamed it would come to be such a sophisticated communications system serving so many South Carolinians.

S.C. ETV began in 1958 at Dreher High School in Columbia and consisted of closed circuit lessons to about 300 students. Today, farmers and surgeons, kindergarteners and senior citizens use the network to better their skills and lives.

The achievements of the network are many, and the beneficiaries of the professionalism are the people of South Carolina.

S.C. ETV which has a station in Beaufort, WJWJ, can be proud of its past and optimistic about its future.

[From the Yorkville Enquirer, Aug. 31, 1978]

S.C. ETV TO CELEBRATE 20TH ANNIVERSARY NEXT WEEK

During the 1958 school year 300 students were taught French and geometry in Columbia's Dreher High School. They were participants of the first teaching with television equipment in South Carolina's history. Twenty years later more than 300 professionals make up the South Carolina Educational Television force serving the Palmetto State via eight television and five FB radio stations, plus a maze of instructional closed-circuit television channels.

To celebrate 20 years of learning with television, S.C. ETV will broadcast ETV AT 20, five 90-minute specials the week of September 4 at 7:30 p.m. live from the Network Center in Columbia. ETV AT 20 is an exciting montage of entertainment and solid information. Locally the programs can be seen on ETV 30.

S.C. ETV's Assistant Director of Programming Jim Welch and News and Public Affairs Director Beryl Dakers will host the gala celebration which will trace the beginnings of Educational Television and the promise of a brighter future for public television in South Carolina. Viewers will have a special opportunity throughout the week to phone in pledges to join the ETV Endowment of South Carolina, a nonprofit organization dedicated to support better and more public television programs in the state.

On Monday, Welch and ETV Producer-Director Linda Durant will kick-off ETV AT 20 with the premiere of a production by Durant called "20 Years and Counting." The documentary consists of the flavor of ETV with emphasis on the Network's instructional, continuing education, local and national, and radio programming accomplishments. Faces from the past, pioneer television teachers and famous faces appear as well. And the program is not without humor. Several bloopers that have resulted in many laughs by ETV staff and viewers are included.

"It's a smorgasbord of who we are and where we've come from," says Durant. "I've been at ETV for 10 years. After producing this program, I have a new sense of pride in our network and a renewed challenge to continue what we have begun."

ETV President and General Manager Henry Cauthen will join host Welch after the debut of "20 Years and Counting" for an update on the future of ETV in South Carolina.

Tuesday's ETV AT 20 brings the world of the mysterious to live television as Welch and Dakers host well-known psychic Micki Dahne for the entire 90-minute program. Viewers who make a pledge to the ETV Endowment that night will have their cards placed in a fish bowl. Dahne will select cards at random and return viewers' calls live on the air.

As host of a daily radio talk show in Miami, Dahne is popular in predicting the future with a 90 per cent accuracy. When she appeared on ETV three years ago, estimates from Southern Bell indicated 80,000 phone calls were attempted.

The world of magic and music are in the spotlight on Wednesday night's ETV AT 20. Master magician Dixie Dooley, an expert on the life of the great Houdini, will perform several feats. His specialties include impossible levitations and an escape from a regulation straight jacket, a trick made famous by Houdini, and still considered a challenge each time it's done.

Franklin Ashley will be at the piano with his special brand of jazz. Ashley, a University of South Carolina professor, is author of a study of James Dickey, who will also join the 20th anniversary celebration. Author Dickey's national appearance, an original poem reading at President Carter's inauguration, will be among the topics of discussion.

Highlights of special ETV performances from Dave Brubeck to the University of South Carolina Concert Choir will be featured Wednesday and throughout the week by Co-host Dakers, Clyde Green, Director of the Office of ITV/Radio State Department of Education, will be among the guests with a unique look at the growth of electronic education in the state.

ETV's resident of the prime generation and host of the Network's most popular weekly show will be live in the studio Thursday night. Willie O. Freeland, "Willie the Digger," charming star of "The Garden Spot," will be ready to answer viewer questions and solve gardening problems in just a few seconds. Welch and Dakers will also host Robert Glazier, President of the Southern Educational Communications Association (SECA), and Robert Frierson, Station Manager of ETV affiliate WNSC TV–30 in Rock Hill.

SECA's development as a regional network and ETV's involvement in establishing SECA and the series "Lowell Thomas Remembers" and "Firing Line" will be traced by Glazier. As one of ETV's pioneers, Frierson will talk about the early days of ETV and the challenges of ETV's regional station centers in Rock Hill, Sumter and Beaufort.

ETV AT 20 on Friday night goes back in time before the Network was a glint in its founder's eye; back to classic films such as "Torment," Ingmar Bergman's first screenplay. Benjamin Dunlap, host of "Cinematic Eye," and now a national public television figure, will talk about his series making its debut across the country. Three years ago "Cinematic Eye" made its premiere in South Carolina as a serious but entertaining college credit course of film criticism. Today the ETV and University of South Carolina series is available to millions of public television viewers.

Bill Terrell, host of ETV's Emmy Award-winning "Job Man Caravan," will join the festivities with a look at the Network's public affairs programs. Columbia native and jazz guitarist Terry Rosen will liven up the party. Bill Hay, Director of the South Carolina Educational Radio Network, will be interviewed about the accomplishments of the network's five FB stations in the Palmetto State.

In all, the cream of the crop of Educational Television and Radio will be available to viewers of S.C. ETV the week of September 4. Phone lines will be open every night for pledges to the ETV Endowment. "ETV AT 20 will be the culmination of years of hard work and pride," says Producer Welch. "It's a firm statement of our commitment to serve the people of South Carolina, to entertain, inform and to additionally tease their interest about what we will bring them in the next 20 years."

[From Living in South Carolina, September 1978]

LEARNING LIVES!

Len Balthis, a 17 year old rising senior at Winyah High School in Georgetown, spent a steamy day this summer playing pool and talking with friends over dinner at Pawleys Island, much like thousands of other South Carolina teenagers. But Len's day at the beach was spent clothed as an 1850's teenage heir to three rice plantations. And his pool game began at 10 a.m. and dinner conversation ended at 5 p.m. under the watchful eyes of a South Carolina Educational Television Network crew video taping a segment of a South Carolina history lesson.

Len is one of many South Carolinians experiencing a television debut as the S.C. ETV

network produces more and more dramatic presentations and fewer "teacher in the studio" courses. Both modern technology and student attention spans have required S.C. ETV to provide more sophisticated productions in recent years. The first students to take French or Geometry by television 20 years ago next month at Dreher High School in Columbia, were as entranced with the television itself as with the information presented. Few of today's students are not regular TV viewers. Fortunately, modern equipment has enabled S.C. ETV to provide the information they need in a form which will keep them tuned in to the lesson.

For the most part this results in dramatizations of everything from a third grade social studies lesson to driver education instruction—two of the over 1100 programs to be produced at S.C. ETV this year. Portable video equipment allows these dramatizations to be placed in realistic settings. Len's pool table was actually located in a Pawleys Island beach house. However, the building was authentic enough to allow its use as a fashionable middle nineteenth century gentlemen's club.

"Using a teenager as the central figure in a S.C. history lesson about rice plantations and their importance to the state's economy provides the student someone with whom he can relate," notes history instructor and coproducer Danny Pipes. "Using what were old rice fields at Annandale Plantation for some of the scenes gives the student an accurate idea about living conditions of the time," he continued.

Instructional television is an excellent resource for teaching history, according to Pipes, because students are exposed to places they've seen in the past or may see in the future. The television presentation makes these familiar places come alive from a geographical and historical aspect, he explained, and may encourage the student to study historical locations on his own. Pipes was a social studies teacher at Heathwood Hall in Columbia until joining ETV two years ago.

S.C. ETV is also "on the road" in South Carolina and elsewhere to bring programs for entertainment or information at home during the evening hours. As its production capabilities have grown, the network has become a major source of programming for Public Broadcasting Service. PBS provides educational television stations nationwide with programs such as Sesame Street and Washington Week In Review. S.C. ETV produced programs such as the opera The Consul from the Spoleto Festival, the children's weekly series, Studio See, and the popular Lowell Thomas Remembers has brought good response from ETV viewers throughout the United States.

On the statewide level, the network provides a week-night public affairs program, Seven 30, where you can call in your questions to prominent public figures. Programs on gardening (The Garden Spot), wildlife (Carolina Wildlife), public issues (Palmetto Forum), and state government (Legislative Profile) in South Carolina are brought into your home by S.C. ETV.

S.C. ETV also provides a variety of continuing education courses including a complete Masters in Business Administration sequence in cooperation with the University of South Carolina. Special programs for business and industrial managers, law enforcement officials and those in the health field are provided regularly.

Schools and colleges receive programs over a special closed circuit (cable) system as well as the same channels which bring your family the evening schedule: WITV, channel 7, Charleston; WEBA–TV, channel 14, Allendale-Barnwell (with power provided by Edisto Electric Cooperative); WNTV, channel 29, Greenville; WJPM–TV, channel 33, Florence (with power provided by Pee Dee Electric Cooperative); WRLK–TV, channel 35, Columbia; WJWJ–TV, channel 16, Beaufort; WRJA–TV, channel 27, Sumter (with power provided by Black River Electric Cooperative); and WNSC–TV, channel 30, Rock Hill.

The network also offers a full in-school and at-home listening schedule over five FM radio stations: WMPR, Sumter; WSCI, Charleston; WEPR, Greenville; WLTR, Columbia; and WPRV, Rock Hill. A special subchannel on these radio stations provides the state's visually handicapped persons with 10 hours of programming each day.

A final component of the statewide communications system is a 24-hour per day weather radio service which alerts South Carolinians to immediate and future weather conditions.

[From the Independent/Daily Mail, Aug. 20–26, 1978]

MAJOR NETWORKS, EDUCATIONAL TV FACE SIMILAR OPERATING CONCERNS

COLUMBIA.—Educational television isn't totally unlike the three major networks in the problems it faces.

The three major networks aren't the only ones sweating out weekly program ratings—South Carolina's Educational network does too.

And escalating production costs which plague these networks are hitting ETV also.

ETV frequently must make changes according to the whims of the public it serves, noted Pat Dressler, director of information and publications. She related the following story to show ETV's concerns over what the public wants and expects from ETV viewing:

ETV officials made the decision to take the quiet, friendly Mr. Rogers, who starred in the "Mr. Rogers" show, off the air and put in its place a fast paced children's program, "The Electric Company." There was more than just a little reaction from the public.

Letters poured in from upset mothers who claimed they needed the quiet minutes of "Mr. Rogers" show for their children. Such was the outcry that "The Electric Company" was pulled off the air and "Mr. Rogers" once again had a place in the afternoon ETV lineup.

"Whatever your personal feelings about Mr. Rogers might have been," Ms. Dressler said with a shrug, "he definitely had a fan club."

But entertainment shows aren't the only ways ETV responds to the needs of the television viewing public. Harvey Teal, chief supervisor of resource development for South Carolina's Instructional Television (ITV) network, pointed to the large number of series ITV offers for both the elementary school child and the college student.

ITV first got its start in 1958 at Dreher High School in Columbia, Teal said. Since that time, growth has mushroomed to the point where in 1977 there were more than 1,500,000 series enrolled students in the South Carolina schools. The number includes, of course, students who are enrolled in more than one series.

ITV, under the supervision of the state Department of Education, offers programs both on open circuit viewing which is available throughout the state and closed circuit viewing which is available only at individual schools and colleges. Teal said ITV relies on help from advisory committees of school administrators and teachers in scheduling programs for student viewing on both closed circuit and open circuit television.

Plans are being made to expand closed circuit viewing to more schools, Teal said. With the addition of new equipment which will help improve signal quality, Teal said, "I can see nothing but continued growth for ITV. As the years have passed, we have obviously learned more about television for instructional use.

"The state of the art has improved all across the nation. And with better programs and better coverage, we can realistically expect continued growth for ITV."

But costs of programming are becoming more and more prohibitive, said Ms. Dressler. Some programs which have been acquired for use from other state networks are costing twice as much to use this year.

For that reason, ETV has had to look into additional ways to get funding for its needs.

One way has been to initiate a membership organization for ETV. The money from the memberships would be used. Ms. Dressler said, to purchase additional series for the South Carolina ETV network and to help with production costs for locally produced series.

"If the prices continue to go up as they have, then we are going to have to cut back. And it's hard to have to make that kind of decision because we feel that all our shows are important. The only solution is to, of course, find additional funding.

"The membership organizations are one solution. It's a way for the people of South Carolina to pay for their public television."

TV STARS IN ELEMENTARY SCHOOL CLASSES

Eyes turn towards the door as the television is rolled in. The children wait anxiously for their weekly program "Under the Blue Umbrella."

But the show isn't a favorite cartoon—it's a social studies lesson.

These children are first graders at Concord Elementary School. They are a part of 36,981 pupils throughout the state who are receiving their "Under the Blue Umbrella" lesson on South Carolina Instructional Television (ITV).

Although ITV is under the guidance of the South Carolina Dept. of Education, it is shown over South Carolina Educational Television (ETV), explained Dr. Sandra Gunter, "Under the Blue Umbrella" producer.

"Everything that goes into the public schools must be designed by the State Department of Education," Dr. Gunter said. "ETV provides the facilities and the network for the show."

Dr. Gunter has developed "Sandlapper's Corner" and "Under the Blue Umbrella" for ITV. A third show, "Under the Yellow Balloon," is being produced for airing in 1980.

"Sandlapper's Corner" and "Under the Blue Umbrella" are shows which are designed to teach the elementary school child about social studies.

"We found there was great need for social studies training for the elementary age child," explained Dr. Gunter. "Yet, many elementary school teachers did not have backgrounds in social studies training. For that reason, a television show was necessary."

Dr. Gunter began working on "Sandlapper's Corner" in 1972. The show, which focuses on historical spots throughout the state, aired in 1974.

There are 30, 15 minute shows in the "Sandlapper's Corner" series. During this past school year, Dr. Gunter said 40,270 South Carolina students watched the program. Interest in "Sandlapper's Corner" increases annually, she said, much to her surprise.

"As more and more children see the show, I thought that maybe it wouldn't be shown as often," she explained. "But, instead, the show is picking up viewers. More and more students are watching it."

In fact, "Sandlapper's Corner" has been rated as high as the sixth most used series in South Carolina public schools, Dr. Gunter said.

The name "Under the Blue Umbrella" means "everything under the sky," Dr. Gunter explained. This social studies series for the first grade student is shown only during the second part of the school year. "We felt like the students wouldn't be ready for the show until after they had been in school for awhile."

"Under the Blue Umbrella" is family oriented, said Dr. Gunter. "It's based on things the family needs and the things the family members do together."

In one episode the show focused on four different types of families—a family with two parents and children; a family with one parent and two children; a family where the child lived with grandparents and a family life of a child living in a children's home.

"These were different situations," said Dr. Gunter. "But still each child was a part of a family."

Other shows in the series concentrated on family life in different parts of the country, family life in an 1850s restored village in Georgia and family life on a farm.

"Under the Blue Umbrella" has been picked up by a number of educational TV stations throughout the nation to be used in other public school systems, said Dr. Gunter.

Mrs. Martha Axmann, a teacher at Anderson's Concord Elementary School, serves on the advisory council board which wrote "Under the Blue Umbrella" and which studies the effectiveness of the show.

"The show is written on the child's level and has children in it—both of which are important for a child this age," Mrs. Axmann explained. "The series begins with learning about 'me, myself and I' and the child in the family. The show branches out from there into community life and also deals with values and attitudes."

Teachers who use the series are provided with workbooks for the teacher and for each student, Mrs. Axmann pointed out. The use of these workbooks in planning exercises and activities for the student helps save the teacher time in planning for lessons, she said.

[From the The State, Sept. 4, 1978]

S.C. ETV Goes Live and Lively for 20th Anniversary

The last time she was here on TV, 80,000 people tried to call her and knocked out the phone circuits in three states.

Look out Ma Bell, 'cause Micki's back in town.

Miami psychic Micki Dahne will appear on all SCETV channels 7:30-9 p.m. Tuesday in a live broadcast that is part of ETV at 20. ETV's five-day celebration of its 20th anniversary.

In July 1975, when the circuit dust cleared, Southern Bell account manager Buddy Bateman wrote to Ms. Dahne that the phone calls generated by her appearances on ETV and on WIS-TV and Radio in Columbia "seriously affected our long distance switching center. Almost all of our equipment was being used in an attempt to process your calls which meant we could not properly serve our other subscribers."

The evening show produced some 21,000 phone calls from around the state (outside Columbia) with a projection of some 80,000 calls attempted. Phone service disruption throughout South Carolina spilled over into North Carolina and Georgia.

ETV has planned ahead this time. Viewers will again be invited to call with questions for Ms. Dahne, but this time they'll be asked to phone and leave their name and number. These will be put on slips in a fishbowl and Mrs. Dahne will choose as many as possible to call back live on-the-air.

Ms. Dahne, who writes for The National Enquirer (which claims she has a 98 percent accuracy rate) and has a weekly radio show in Miami, credits SCETV with supplying her start on television and said she has "very warm, very positive feelings about SCETV. I pray for them every night."

She has all sorts of things she wants to try on the show other than just "reading" for somebody, things like starting watches by thought, helping people take off weight ("We took 257 lbs. off 10 people over Thanksgiving, Christmas and New Year's."), and playing what she calls "mental charades" with callers.

"TV game shows are psychic games but people just don't think of them that way," she said, and if you consider such game shows as The Match Game and Family Feud, you realize that they do depend on making guesses of what the common response to a given stimulus will be.

She's not shy about telling you of the times she's been right in her predictions, which include a snow(!) in Miami, the Canary Islands two-plane crash. Patty Hearst's reappearance and the time of it. Totie Fields' leg amputation and later death and the re-opening of the Congressional Committee investigating Kennedy's assassination.

Here are Ms. Dahne's predictions made for The State Thursday:

About SCETV: "I have good feelings for them. I pick up a lot of changes in personnel. I feel it's gonna be a better year than last year and certainly better than the last three years. I love them at ETV and the warmth of the people in South Carolina. I think ETV's gonna grow.

"I'm still concerned about that same part of the building—the last time I said that, there was a fire and flood (ETV sources confirm an electrical fire in an older building) so I hope I'm wrong but I'm still concerned about it. Grants will be larger than they have been. Programming will be opening up a little more for children. They'll start showing better films."

About South Carolina: "I'm concerned about your governor and I don't even know who he is. There will be many more earthquakes and I'm worried about South Carolina and an earthquake. Last time I said the Arabs would be buying up South Carolina and they are and this will continue. Columbia will continue to grow."

About the near future in general: "This will be a year of tremendous experiments, of medical knowledge. I'm so right about the kids; now, we're watching these beautiful people come into office. There'll be a runoff between Kennedy and Ford. I love Jerry Brown, I think we're gonna hit a bad slump in the fall.

About Patty Hearst: "I predicted three years ago that Patty Hearst would become a heroine. (A nationwide movement is working for early release of the imprisoned heiress.) She won't be released early, but she's going to get away with it because of who her father is, her sentencing will be something light. She'll work for the government maybe or in a position in the church: she'll become very religious, she'll run the gamut."

On herself: "A tremendous amount of fame (that's already begun) and a tremendous amount of love not from one person but just from people who can identify with me."

In addition to the ETV appearance, Ms. Dahne will join Joan Barrett on WIS-TV's local talk show, Carolina Today, at 9 a.m. Wednesday. She also wants to give some private readings while she's in Columbia.

Hosts for the five live 90-minute specials this week are ETV's assistant director of programming Jim Welch and news and public affairs director Beryl Dakers. While tracing ETV's history, they'll also pitch for pledges to join the ETV Endowment, a non-profit organization supporting public television in the state.

Other guests during the week will include ETV president and general manager Henry Cauthen, Monday; magician Dixie Dooley, an expert on Houdini's life and illusions, Wednesday; Willie O. Freeland, of ETV's The Garden Spot and author of the About Gardens column in The State, Thursday; University of South Carolina professor and host of Cinematic Eye Benjamin Dunlap, Friday.

[From The Columbia Record, Sept. 2, 1978]

ETV Celebrates 20th Anniversary

During the 1958 school year, 300 students were taught French and geometry in Columbia's Dreher High School. They were participants of the first teaching-with-television experiment in South Carolina's history.

Twenty years later, more than 300 professionals make up the South Carolina Educational Television force which serves the Palmetto state via eight television stations, five FM radio stations and a maze of instructional closed-circuit television channels.

To celebrate 20 years of learning with television, Channel 35 will broadcast "ETV At 20," five 90-minute live specials at 7:30 p.m. Monday through Friday.

Monday evening's presentation will be "20 Years and Counting." The documentary consists of the flavor of ETV with emphasis on the network's instructional, continuing education, local and national, and radio programming accomplishments.

Faces from the past, pioneer television teachers and famous faces will be featured. And, the program is not without humor. Several bloopers which resulted in many laughs by ETV staff and viewers are included.

Tuesday's "ETV At 20" brings the world of the mysterious to live television along with well-known psychic Micki Dahne.

As host of a daily radio talk show in Miami, Dahne is popular for her predictions of the future. When she appeared on ETV three years ago, estimates from Southern Bell indicated 80,000 phone calls were attempted.

The world of magic and music are in the spotlight on Wednesday night. Master magician Dixie Dooley, an expert on the life of the great Houdini, will perform several feats. His specialties include impossible levitations and an escape from a regulation straight jacket.

Franklin Ashley will be at the piano with his special brand of jazz. Ashley, a University of South Carolina professor, is author of a study of James Dickey, who also will join the 20th anniversary celebration.

Highlights of special ETV performances—from Dave Brubeck to the University of South Carolina Concert Choir—will be featured Wednesday.

Thursday night, Willie O. Freeland, star of "The Garden Spot" will be ready to answer viewer questions and solve gardening problems. Robert Glazier, president of the Southern Educational Communications Association (SCEA), and Robert Fierson, station manager of ETV affiliate WNSC TV-30 in Rock Hill, will be guests.

SCEA's development as a regional network and ETV's involvement in establishing SECA and the series "Lowell Thomas Remembers" and "Firing Line" will be traced by Glazier.

As one of ETV's pioneers, Fierson will talk about the early days of ETV and the challenges of ETV's regional station centers in Rock Hill, Sumter and Beaufort.

"ETV At 20" on Friday night goes back in time before the network was a glint in its founder's eye—back to classic films such as "Torment" and Ingmar Bergman's first screenplay. Benjamin Dunlap, host of "Cinematic Eye" and now a national public television figure, will talk about his series making its debut across the country.

Three years ago "Cinematic Eye" made its premiere in South Carolina as a serious but entertaining college credit course of film criticism. Today the ETV and University of South Carolina series is available to millions of public television viewers.

Bill Terrell, host of "Job Man Caravan," will join the festivities with a look at the network's public affairs programs, and Columbia native and jazz guitarist Terry Rosen also will be on hand.

Bill Hay, director of the South Carolina Educational Radio Network, also will be interviewed about the accomplishments of the network's five FM stations in the Palmetto State.

[From the Greenville News, August 27, 1978]

ETV TO CELEBRATE 20TH YEAR ON AIR

On Sept. 8, 1958, the first educational television program was broadcast in South Carolina to two classrooms at Dreher High School in Columbia.

Twenty years later, the South Carolina ETV Network is programming statewide more than 100 courses for the public schools, more than 65 programs for colleges and universities, continuing education for medical, law enforcement and health sciences personnel, and public radio and television programming for those at home.

In addition, the network provides special services such as sub-channel radio programming for the visually handicapped, and the statewide weather radio system.

Next week ETV will celebrate its 20th anniversary with a series of 90-minute live programs each weeknight from 7:30 to 9 o'clock. Highlights from the network's past will be integrated with an opportunity for the public to show its support for ETV evening programs by contributing to the ETV Endowment of South Carolina.

Special guests will be featured, such as psychic Micki Dahne on Tuesday, SEVEN 30's most popular visitor to date, and on Thursday, Willie O. Freeland, ivy expert and host of "The Garden Spot," the program on ETV with the most viewers each week.

[From the Florence Morning News, Sept. 6, 1978]

THOM ANDERSON EDITORIAL

The South Carolina ETV operation is celebrating its 20th anniversary this week.

They got off to a good start with their Monday night presentation on ETV at 20, a ninety minute special each evening of the week, starting in the regular Seven 30 time slot.

Specials during the week will recall some of the highlights of the system's operations over the years and give some idea of what is in the future.

The shows are interesting and should make South Carolinians proud. Monday they reminded us how much material produced by the state ETV people had gone nationwide on PBS. It is one area in which we are leaders.

You may want to call in a pledge to contribute to the endowment for public television on the state level if you watch during the week. They will give you a toll-free number to call and the contribution is tax-deductible.

Funds from corporations, foundations and the state endowment make possible their programming such as Masterpiece Theater, the symphony and pops concerts and many other things that are an alternative to the sameness of commercial television.

[From the News-Reporter, Sept. 6, 1978]

ETV CELEBRATES 20TH ANNIVERSARY

During the 1958 school year 300 students were taught French and geometry in Columbia's Dreher High School. They were participants of the first teaching with television experiment in South Carolina's history. 20 years later, more than 300 programs make up the South Carolina Educational Television force serving the Palmetto state via eight television and five FM radio stations, plus a maze of instructional closed-circuit television channels.

To celebrate 20 years of learning with television, S.C. ETV will broadcast ETV AT 20, five 90-minute specials the week of September 4 at 7:30 p.m. live from the Network Center in Columbia. ETV AT 20 is a montage of entertainment and solid information.

S.C. ETV's Assistant Director of Programming Jim Welch and News and Public Affairs Director Beryl Dakers will host the celebration which will trace the beginnings of Educational Television and the promise of a brighter future for public television in South Carolina. Viewers will have a special opportunity throughout the week to phone in pledges to join the ETV Endowment of South Carolina, a non-profit organization dedicated to support better and more public television programs in the state.

FORT SCOTT NATIONAL HISTORIC SITE, KANSAS

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House on H.R. 13797.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 13797) to authorize establishment of the Fort Scott National Historic Site, Kansas, and for other purposes.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the bill be considered as having been read the first and second times and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

● Mr. DOLE. Mr. President. on August 16 the senior Senator from Kansas and I introduced S. 3421. That bill would authorize the Park Service to take over ownership and administration of historic old Fort Scott, Kans. Today, the Senate has the House-passed version of that legislation before it—which has been cleared for action on both the majority and minority side.

H.R. 13797 will assure the continued vitality of the old restored fort as an important link between the citizens of my State and their history. The old fort has a tremendous significance in the history of my State.

When this project was conceived, the city of Fort Scott was to own and operate the fort. Now, the restoration is in its final stages and all Federal moneys required for the fort have been authorized and appropriated.

Unfortunately, it has become apparent that the city of Fort Scott cannot effectively administer and operate the project. In order to protect the Federal investment in this project and in order to insure that the old fort will meet its potential as a valuable link to the past, this bill provides that the fort will be transferred to the Park Service.

Mr. President, I would like to thank the distinguished chairman and the ranking minority member of the Senate Energy Committee, Senators JACKSON and HANSEN, and the distinguished chairman of the Parks and Recreation Subcommittee, Mr. ABOUREZK, for their help and assistance in this matter. As they know, this project has been the subject of a great deal of attention from my good friend and fellow member of the Kansas delegation, JOE SKUBITZ. I know that I can speak for him in thanking these gentlemen for their assistance.●

The PRESIDING OFFICER. The bill is open to amendment. If there be no amendment to be proposed, the question is on the third reading of the bill.

The bill (H.R. 13797) was read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SUSANVILLE INDIAN RANCHERIA TRUST LANDS

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House on H.R. 13991.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 13991) to provide for the United States to hold in trust for the Susanville Indian Rancheria of Lassen County, California, approximately one hundred and twenty acres of land.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the bill be considered as having been read the first and second time, and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill is open to amendment. If there be no amendment to be proposed, the question is on the third reading of the bill.

The bill (H.R. 13991) was read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

KAKE, ALASKA, NATIVE LANDS

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House on H.R. 14026.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 14026) to provide means for the acquisition and retention of title to certain lands by the village corporation organized pursuant to the Alaska Native Claims Settlement Act for the Natives of the village of Kake, Alaska, and for other purposes.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the bill be considered as having been read the first and second time, and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, the need for this legislation, H.R. 14026, is clear and is the only viable solution to a serious problem presently encountered by the Natives of Kake, Alaska. It is vitally important that the Senate act to clear this legislation so that the entire com-

munity of Kake is not held hostage to Congress' program of operation. This legislation is the necessary result of a problem which arose subsequent to the enactment of the Alaska Native Claims Settlement Act when the Kake Tribal Corp. undertook the construction of a cold storage plant on land that the corporation understood would be conveyed to them. However, it was later determined that about 1.09 acres of the land on which the construction was taking place was, in fact, beneficially owned by the Kake IRA and another portion of the land, although presently owned by the United States, could be required to be reconveyed under section 14(c) of the Settlement Act and will only temporarily be conveyed to the Kake Tribal Corp.

Since construction began, the corporation has invested about $500,000 in the cold storage plant and has nearly exhausted all the monies it received under the Settlement Act. The plant is the major economic undertaking pursued by the corporation and would serve as a basis for the community's economy upon commencement of its operation. Further financing of the project, however, is jeopardized because of the problems with the land title. The Kake IRA, which beneficially owns part of the land, is willing to transfer title of this land to the corporation and has expressed its willingness through resolutions and correspondence. Because the land is held in trust by the U.S. Government for the benefit of the IRA, true ownership lies with the Federal Government and transfer of title, therefore, can only be accomplished through an act of Congress. The same action is required if title to that area designated as 14(c) land is to remain with the corporation.

H.R. 14026 would take care of the title problem by transferring fee simple title of the approximately 1.09 acres to the Kake IRA so that the IRA may, in turn, transfer title to the Kake Tribal Corporation. The bill also overrides the requirements of section 14(c), in this special case, so that the corporation may retain surface title to this land that will be conveyed under the Settlement Act. The solution is simple, yet very important to the completion of the cold storage plant and the establishment of a source of employment and economic stability for the community of Kake.

The House Subcommittee on Indian affairs and Public Lands held hearings on H.R. 14026 and the full committee favorably ordered the bill reported on September 20. The House passed the bill on Monday, October 2, by voice vote. I would hope that my colleagues could sympathize with the plight of the Kake Natives and agree to pass this legislation. H.R. 14026 has the support of both the chairmen and the ranking minority members of the Select Indian Affairs Committee and the Energy and Natural Resources Committee. The entire Alaskan delegation has worked hard to see this bill pass and I commend my colleagues, Senator GRAVEL and Congressman YOUNG, on their efforts on behalf of the Kake community.

● Mr. GRAVEL. Mr. President, I am very pleased to join with my colleague from Alaska in urging the passage of H.R. 14026. Perhaps what pleases me most is that with this bill's passage, we will be assuring the creation of many new jobs for the residents of Kake, Alaska.

The intent of this legislation is simple: It allows the Kake Indian Reorganization Act tribe to convey title to a piece of property held in trust for them by the Federal Government to the Alaska Native Claims Settlement Act Village Corporation. The result: the village corporation will be able to obtain additional financing to complete the construction of a cold storage plant in the village.

Kake is a community without an economic base. It has been dependent upon welfare, State and Federal jobs, seasonal construction jobs, and fishing. As a result of the ANCSA, the village has been undergoing a continual change in lifestyle. The change, or rather transition, is one from a nearly total subsistence lifestyle to that of a cash economy with all of its trappings and requirements. This transition has placed many small villages such as Kake under severe pressure to make good in the white man's world or lose much of what they have.

Creating jobs in such a community is no easy task. However, the leaders of this community have been trying to find ways in which they can keep their people in the village and provide them with the financial means now necessary to live in rural Alaska. For over 2 years the people of Kake have been in the process of constructing a cold storage facility in their village. They have a partially completed building which will store 1 million pounds of fish in the building and 200,000 pounds in five vans plus 250,000 pounds of bait products and a 50-ton icemaking capacity. It has been estimated that the cold storage plant, in an off season, could make in excess of $400,000 and, in a good season, in excess of $700,000.

I have been informed that the corporation has been discussing the project with other large fishing operations and have discussed the possibility of joint ventures and exporting most of the products to foreign countries. There is a small fishing fleet that can supply any and all products to the cold storage plant. And, as I have mentioned, they have more than enough local labor to process their products.

The Kake community is divided into three entities, under the Bureau of Indian Affairs, the Kake IRA owns the cannery and its property; under a municipality, the city of Kake which governs the city; under the Native Claims Settlement Act, the Kake Tribal Corp. which has the natural resources in timber, to put together a viable economic development plan for the community of Kake. The Kake IRA and the Kake Tribal Corp. has moved together with a cooperative attitude, understanding that Kake Tribal Corp. must be a separate entity from all others and yet understanding that it is to the advantage of both the IRA and the corporation (Kake Fisheries) to be side by side in a fishing operation to allow both to work to maximize benefits to the people of Kake. It was therefore decided that the Kake cold storage would be built next to the Kake cannery.

When construction of the cold storage facility began, the Kake Tribal Corp. was under the impression that they were to eventually receive title to the land on which the building was being constructed, under the provisions of the ANCSA. The initial financing for the structure came from corporation funds paid to them through the ANCSA. It became necessary for the corporation to obtain additional funding to complete the structure. During this process a title examination was conducted and it was found that the structure was in fact located partially on land (approximately 1.09 acres) which was beneficially owned by the Kake IRA, with legal title being vested in the United States in trust for the IRA. The IRA agreed to sell this 1.09 acres to the corporation, Kake Fisheries. However, it was the opinion of the solicitor of the Department of the Interior that title could not be transferred to the corporation without an act of Congress.

In this regard, I ask unanimous consent that a statement of the Department of the Interior made before the House Interior Committee during hearings on this bill be printed here for the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF THE INTERIOR,
Washington, D.C., September 13, 1978.

Hon. MORRIS K. UDALL,
Chairman, Committee on Interior and Insular Affairs, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your Committee's request for the views of this Department on H.R. 14026, a bill "To provide means for the acquisition and retention of title to certain lands by the village corporation organized pursuant to the Alaska Native Claims Settlement Act for the Natives of the village of Kake, Alaska, and for other purposes.".

We recommend the enactment of the bill.

Kake Tribal Corporation was incorporated pursuant to the Alaska Native Claims Settlement Act (ANCSA) of December 18, 1971 (85 Stat. 688). The principal economic development project launched by the Kake Tribal Corporation was the construction of a cold storage plant in the village. To date, the Kake Corporation has invested about $500,000 in this project, including practically all of the funds it has received under ANCSA.

Construction of the cold storage plant is well advanced on a site adjacent to that occupied by the fish packing plant owned by the Organized Village of Kake, an entity established under the Indian Reorganization Act of 1934 (25 U.S.C. 476 and 477).

H.R. 14026 applies to approximately four acres of land required for the cold storage plant. When construction of the plant was begun, the Kake Tribal Corporation believed that under the terms of ANCSA, it was entitled to receive unconditional fee simple title to the surface estate in the land.

This turned out not to be the case. Title examinations disclosed that a part (about 1.09 acres) of the tract on which the plant is being built is owned by the United States in trust for the Organized Village of Kake. Another part (less than one acre), though presently owned by the United States and destined to be conveyed initially to the Kake Tribal Corporation, consists of land in that category which the corporation is required to reconvey to the Organized Village of Kake under the provisions of section 14(c) of ANCSA (43 U.S.C. 1613(c)).

Land held in trust by the United States for an IRA entity, such as the Organized Village of Kake, can only be disposed of pursuant to a specific Act of Congress. There exists no general provision of law authorizing the Secretary of the Interior or the Organized Village of Kake to convey the portion of the Village's land that is needed for the cold storage plant being constructed by the Kake Tribal Corporation, even though the Organized Village of Kake has adopted resolutions expressing its desire for such a conveyance.

A third portion of land (about 2.2 acres) consists of Alaska State owned tidelands adjacent to the above lands and which we understand will be deeded to the City of Kake from the State and then from the City to the Organized Village of Kake pursuant to Alaska State Law (AS 38.05.320). As indicated above, there is no authority for a further transfer of this land from the Organized Village to the Village Corporation.

H.R. 14026 would do two things with respect to some 4 acres: (1) empower and direct the Secretary, upon the request of the Organized Village of Kake, to convey unrestricted and unencumbered fee simple title to that entity, so that it, in turn, might convey the same to the Kake Tribal Corporation, and (2) override the reconveyance requirements of section 14(c) of ANCSA, so as to permit the Kake Tribal Corporation to retain title to the surface estate in any such lands that are conveyed to it under ANCSA.

We would point out that H.R. 14026 relates only to lands within the tract required for the cold storage plant, about four acres in all, and provides, upon the request of the Kake IRA entity, for conveyance of fee simple title to any lands in such tract that are beneficially owned by it. The Kake IRA entity can then, in turn, convey the lands to the Kake Tribal Corporation.

A legislative solution to this problem is urgent for the Natives of Kake. They have invested the great part of what they have received under ANCSA in the cold storage plant. Their plans contemplated that the plant would be in operation by now, generating income and jobs for the village corporation. The title problems have prevented their receiving the financing they need to complete the plant, and now threaten to collapse the entire project.

If the Kake Tribal Corporation and its shareholders are to be spared the loss of thousands of dollars and of their premier project of their economic development program, it is essential that these title problems be solved without delay.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

FORREST J. GERARD,
Assistant Secretary.

Mr. GRAVEL. Mr. President, in sum, this bill empowers the Secretary of the Interior to convey title of this parcel to the IRA free of all encumbrances and further allows that that entity may, in turn, convey title to the Kake Tribal Corporation. Further, the bill overrides the reconveyance which is required under section 14(c) of the ANCSA. Without such provisions, it is very likely that the corporation established by the ANCSA will collapse. However, with this bill's passage, nearly 100 people in the village will have meaningful employment and the corporation will meet its obligation to its people. I fully support this measure and urge its passage by the Senate.

Thank you. ●

The PRESIDING OFFICER. The bill is open to amendment. If there be no amendment to be proposed, the question is on the third reading of the bill.

The bill (H.R. 14026) was read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

THOMAS JOSEPH HUNTER AND ROSE HUNTER

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Chair lay before the Senate a message from the House on H.R. 10600.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 10600) for the relief of Thomas Joseph Hunter and Rose Hunter.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the bill be considered as having been read the first and second time and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill is open to amendment. If there be no amendment to be proposed, the question is on the third reading of the bill.

The bill (H.R. 10600) was read the third time and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER TO HOLD H.R. 13650 AND H.R. 12171 AT THE DESK

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time as H.R. 13650 and H.R. 12171 are received, they be held at the desk pending further disposition.

The PRESIDING OFFICER. Without objection, it is ordered.

ORDER FOR COMMITTEE TO HAVE UNTIL MIDNIGHT TO FILE REPORT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources have until midnight tonight to file a report on H.R. 12250, the boundary waters canoe bill.

The PRESIDING OFFICER. Without objection, it is ordered.

REDUCED LEADERSHIP TIME TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow the time of the leaders be reduced to 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

SPECIAL ORDER FOR TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that after the two leaders have been recognized, Mr. Hart be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECESS UNTIL 8:30 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 8:30 tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

SPECIAL ORDER FOR FRIDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Friday, after the two leaders have been recognized under the standing order, Mr. Leahy be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

TIME-LIMITATION AGREEMENT TOMORROW—PUBLIC WORKS VETO

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time as the President's veto message on the public works appropriation bill is received from the House of Representatives, if the House overrides, the distinguished Senator from Louisiana (Mr. JOHNSTON) be authorized at that time or at any time as soon as possible thereafter, to proceed to the consideration of that matter and that, as to the debate on the override in the Senate, there be a time agreement as follows:

One hour under the control of Mr. PROXMIRE; 1 hour under the control of Mr. NELSON; 2 hours to be equally divided between Mr. JOHNSTON and the minority leader or his designee.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I talked with the majority leader of the House this afternoon, Representative JIM WRIGHT. He indicated that it was his understanding that the veto message will be sent up tomorrow morning about 10 o'clock; that, in that case, the House would proceed at about noon to the matter; and that if the House overrode the President's veto, the message would be immediately sent over to the Senate, in which case it ought to be received in the Senate by around 1:30 or 2 o'clock. Under the order entered just a moment ago, Mr. JOHNSTON, the chairman of the Public Works Appropriations Subcommittee in the Senate, would be authorized to proceed immediately to take up the matter and there would be a time agreement thereon which totals 4 hours, if all the time were to be consumed. This would mean that a vote would occur at somewhere between 5

and 6 o'clock or thereabouts, depending on when the measure gets over to the Senate and depending upon how much of the 4 hours is taken.

Am I correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. I thank the Chair.

Mr. President, I yield the floor.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will come in at 8:30 tomorrow morning.

There is one order for the recognition of a Senator.

DOD APPROPRIATIONS BILL

At 9 a.m., the Senate will resume consideration of the defense appropriation bill, at which time Mr. HOLLINGS will be recognized on his amendment, on which there is a 2-hour time limitation. The vote on that amendment will occur at 11 o'clock or prior thereto if time is yielded back. That will be a rollcall vote. The yeas and nays already have been ordered.

The amendment by Mr. STEVENS, on which there is a 30-minute time limitation, will then be called up; and upon the disposition of the Stevens amendment, the amendment by Mr. MCGOVERN, on which there is a 10-minute time limitation, will be called up. That will be a rollcall vote, I am satisfied. The bill will then go to third reading without further amendment, motion, or debate and will immediately be up for passage without further motion or debate and there will be a rollcall vote on final passage, it already having been ordered.

TAX BILL

Upon the disposition of the defense appropriations bill at around somewhere between 12 and 1 o'clock, I should think, or around noon, give or take a little, the Senate will take up the tax bill. There is no agreement thereon at this time. Numerous rollcall votes could ensue.

I would suggest that the Senate stay in late tomorrow night, as late as the managers of the bill feel that they can proceed, and that we come in early Friday. We will have the vote on the ERA extension Friday morning as already agreed to at 11 a.m., but the Senate will be on the tax bill.

The PRESIDING OFFICER. That agreement is 10 o'clock.

Mr. ROBERT C. BYRD. Ten o'clock. Very well.

Then the Senate will be on the tax bill the remainder of the day. For the most part other measures could be called up if cleared by all sides in the midst of that debate.

But then on Saturday the Senate will be in at 9 o'clock, and if the tax bill has not been completed by then the Senate will continue debate on the tax bill and hopefully complete the bill after those 2 or 3 days of debate and amendments, probably 3 days.

Mr. President, is there an order for recess over to noon Monday? There is an order to come in on Monday at a certain hour. I am not sure there is an order to recess on Saturday.

The PRESIDING OFFICER. There is no order for recess on Saturday at this time.

Mr. ROBERT C. BYRD. But the order is to convene on Monday at 9 a.m., is that correct?

The PRESIDING OFFICER. There is no order for convening on Monday.

Mr. ROBERT C. BYRD. Yes, there is. I have an order to convene daily next week at 9 o'clock all through the week, 6 days, 6 long days. The Lord created the Earth in 7, but we are going to work 6.

Mr. BAKER. He rested on the seventh.

Mr. ROBERT C. BYRD. That is right. He worked 6 days and rested on the seventh.

The PRESIDING OFFICER. The Journal shows an agreement for Tuesday but not for Monday.

UNANIMOUS-CONSENT REQUEST

Mr. ROBERT C. BYRD. All right. I ask unanimous consent that when the Senate completes its business on Saturday it stand in recess until the hour of 10 o'clock on Monday morning.

The PRESIDING OFFICER. Is there objection?

Mr. MELCHER. Mr. President, reserving the right to object, we have a hearing tomorrow on an issue or on a bill that is not in controversy and the majority leader and the minority leader have given no assurance that the hearing can proceed. We happen to have about seven Montana people who have come in for that hearing and if we are faced with an objection to meeting 2 hours after 8:45 a.m. we have a problem, Mr. President. I would like assurance that on a noncontroversial issue concerning a wilderness bill in the State of Montana we can hold our hearing, interrupted by numerous votes, but still complete it so the people who have flown in here at their own expense can be assured of presenting their point of view on the bill and get it concluded tomorrow.

Mr. BAKER. Mr. President, I did indeed have a conversation with the distinguished Senator from Montana just a few moments ago here on the floor when he asked me if it were possible to concur in a unanimous-consent request for the committee to meet on tomorrow beyond the 2 hours allocated under the rules. I advised the Senator at that time that at this hour I would not be able to contact the ranking minority member on the committee to ascertain his point of view and I felt I could not do that without consulting with him. Now, honestly, I think we can accommodate that requirement, and I will promise the Senator that in the morning I will try my best to do that. I have every expectation that we will be able to succeed. The measure that is described to me in our previous conversation is not, say, the d–2 lands bill or one of the other highly controversial measures, so I think there is every expectation that we can accommodate the Senator's request.

But I honestly cannot do it tonight. So I would hope the Senate would not object at this point and instead would renew his request in the morning, and I pledge to him I will do my very best to see if we can arrange it for him.

Mr. MELCHER. Mr. President, because the d–2 issue is controversial, and because there was objection to meeting after the 2 hours from the point of time that we went into session, it is now necessary for the Committee on Energy and Natural Resources to repeat the votes taken today under the assumption there was not any objection. So our hearing tomorrow must be set aside during that time it takes for the Committee on Energy and Natural Resources to repeat the votes during the allowed time, during the 2 hours' time, which necessitate that we set aside the hearing procedure for awhile to allow that to happen. That may take an hour or 2 and it really puts us into a position of having scheduled a meeting for the hearing to start at 9 a.m. tomorrow for these people to testify, which will probably take 3 hours, and in order for the Senate committee to meet to correct what was interrupted by the objection for the meeting this morning.

So, if I could have the assurance of the minority leader and the majority leader that they will protect my interest on this, and I can go ahead with the hearing, and not have to be present on the floor to make the motion, I would be glad to remove any objection.

Mr. ROBERT C. BYRD. Mr. President, I withdraw my request. But let me say to the distinguished Senator that in the morning if the distinguished minority leader can clear the matter on his side I will make the same effort on my side to try to accommodate the Senator.

Mr. BAKER. Mr. President, I will make an effort to clear that as best I can.

Mr. ROBERT C. BYRD. If I could do it tonight I would do it.

Mr. MELCHER. With that assurance I withdraw my objection, Mr. President.

ORDER FOR RECESS FROM SATURDAY, OCTOBER 7, 1978. UNTIL MONDAY, OCTOBER 9, 1978, AT 10 A.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent if the Senator has no objection, that when the Senate completes its business on Saturday it stand in recess until the hour of 10 o'clock on Monday morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I yield the floor.

SENATE TO CONVENE AT 9 A.M. MONDAY THROUGH SATURDAY OF NEXT WEEK

Mr. ROBERT C. BYRD. Now, Mr. President, has the order been entered already for the recess of the Senate daily until 9 o'clock the following morning throughout all of next week, including Saturday?

The PRESIDING OFFICER. The order has been entered.

Mr. ROBERT C. BYRD. I thank the Chair.

RECESS UNTIL 8:30 A.M.

Mr. ROBERT C. BYRD. Mr. President, I believe that is it. If there be no further business to come before the Senate, I move, in accordance with the order pre-

viously entered, that the Senate stand in recess until the hour of 8:30 tomorrow morning.

The motion was agreed to; and at 8:52 p.m., the Senate recessed until tomorrow, Thursday, October 5, 1978, at 8:30 a.m.

NOMINATIONS

Executive nominations received by the Senate October 4, 1978:

U.S. ARMS CONTROL AND DISARMAMENT AGENCY

Jane Cahill Pfeiffer, of Connecticut, to be a member of the General Advisory Committee of the U.S. Arms Control and Disarmament Agency, vice Joseph Martin, Jr., resigned.

NATIONAL COUNCIL ON THE HUMANITIES

The following-named persons to be members of the National Council on the Humanities for terms expiring January 26, 1984:

Charles V. Hamilton, of New York, vice Frank Everson Vandiver, term expired.

Louis J. Hector, of Florida, vice Martin Luther Kilson, Jr. term expired.

M. Carl Holman, of the District of Columbia, vice Hanna Holburn Gray, term expired.

Jacob Neusner, of Rhode Island, vice Sheldon H. Solow, term expired.

Mary Beth Norton, of New York, vice Richard R. St. Johns, term expired.

Sister Joel Read, of Wisconsin, vice Sidney Hook, term expired.

Leon Stein, of New York, vice Irving Kristol, term expired.

Harriet Morse Zimmerman, of Georgia, vice Jeffrey Hart, term expired.

CONFIRMATION

Executive nomination confirmed by the Senate October 4, 1978:

THE JUDICIARY

Donald E. O'Brien, of Iowa, to be U.S. district judge for the northern and southern districts of Iowa.

HOUSE OF REPRESENTATIVES—*Wednesday, October 4, 1978*

The House met at 10 a.m.

Rev. William S. Warford, Protestant Chaplain, Illinois Veterans' Home, Quincy, Ill., offered the following prayer:

God of our Fathers, who gave to us this wondrous land for our heritage, we pray Your manifold blessings upon it and upon us.

We thank You for men and women willing to dedicate themselves in service to their fellow man. Despite pressures, they labor to make this a better world than they found it.

Let Your presence be felt in this Chamber. Give to these men and women Your wisdom and Your courage. Let the glow of Your love make bright the obscured paths of days yet to come, that we may stride confidently into the future. Let us know the comfort of Your rod and Your staff. Make us to number our days that we may be given hearts of wisdom.

These things we ask in the name of Christ, Your Son. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment bills of the House of the following titles:

H.R. 6503. An act to amend the Intercoastal Shipping Act, 1933, and for other purposes;

H.R. 9998. An act to provide for the regulation of rates or charges by certain state-owned carriers in the foreign commerce of the United States, and for other purposes; and

H.R. 13692. An act granting the consent of Congress to the Historic Chattahoochee Compact between the States of Alabama and Georgia.

The message also announced that the Senate agrees to the amendments of the House to bills and a joint resolution of the Senate of the following titles:

S. 415. An act to amend the Anadromous Fish Conservation Act to include fish in Lake Champlain that ascend streams to spawn;

S. 1215. An act to provide for grants to tribally controlled community colleges, and for other purposes; and

S.J. Res. 16. Joint resolution to restore posthumously full rights of citizenship to Jefferson F. Davis.

The message also announced that the Senate agrees to the amendment of the House with an amendment to a bill of the Senate of the following title:

S. 1029. An act to authorize the Smithsonian Institution to construct museum support facilities.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 11733. An act to authorize appropriations for the construction of certain highways in accordance with title 23 of the United States Code, for highway safety, for mass transportation in urban and in rural areas, and for other purposes.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 2329) entitled "An act to improve the administration of fish and wildlife programs, and for other purposes," disagreed to by the House; agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. CULVER, Mr. GRAVEL, Mr. HODGES, Mr. WALLOP, and Mr. MCCLURE to be the conferees on the part of the Senate.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 11733) entitled "An act to authorize appropriations for the construction of certain highways in accordance with title 23 of the United States Code, for highway safety, for mass transportation in urban and in rural areas, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints for title I: Senators RANDOLPH, BENTSEN, MOYNIHAN, BURDICK, CULVER, STAFFORD, CHAFEE, DOMENICI, and MCCLURE; for title II: Senators CANNON, FORD, MAGNUSON, and SCHMITT; for title III: Senators PROXMIRE, WILLIAMS, SPARKMAN, MCINTYRE, BROOKE, GARN, and HEINZ; and for title IV: Senators BENTSEN and HANSEN; and for title IV (planning) of the House engrossed bill all of the aforementioned conferees to be the conferees on the part of the Senate.

The message also announced that the Senate had passed a joint resolution of the following title, in which the concurrence of the House is requested:

S.J. Res. 168. Joint resolution designating and authorizing the President to proclaim February 11, 1979, as "National Inventors' Day."

REV. WILLIAM S. WARFORD

(Mr. FINDLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FINDLEY. Mr. Speaker, when the pioneers left the State of Massachusetts and headed for the Midwest, they brought with them names for new communities; names like Pittsfield and Greenfield, and they brought the name of Quinzy, but they decided to mispronounce it as Quincy.

The community that bears the same name as that distinguished community in Massachusetts known as Quincy, is the home of our guest chaplain, the Reverend William S. Warford. Reverend Warford is a prominent Illinois clergyman. For the past 13 years he has served as pastor of the Illinois Veterans' Home in Quincy, Ill. He serves in many community activities. He organized the Western Illinois Council on Alcoholism. He has served the Illinois Council on Aging. He is a clergyman who works effectively in a myriad of worthy causes that reach well beyond what normally are considered to be the duties and responsibilities of a pastor. He enriches his flock. He enriches his community and I count it a great privilege to know he is my personal friend.

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 11318, SMALL BUSINESS ACT AND SMALL BUSINESS INVESTMENT ACT AMENDMENTS

Mr. ADDABBO. Mr. Speaker, I ask unanimous consent that the managers

may have until midnight tonight to file a conference report on the bill (H.R. 11318) to amend the Small Business Act and the Small Business Investment Act of 1978.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

HAPPY BIRTHDAY, MICKEY MOUSE!

(Mr. O'BRIEN asked and was given permission to address the House for 1 minute.)

Mr. O'BRIEN. Mr. Speaker, the world's most popular personality is 50 years old this year. He made his screen debut on November 18, 1928, as the star of the first sound cartoon "Steamboat Willie," at the Colony Theater in New York.

Since his debut five decades ago, Mickey has become an international personality whose success laid the financial foundation upon which Walt Disney built his creative empire.

For this reason, we owe a great deal to the animated, ubiquitous Mickey because without the wonderment and delight of Walt Disney's world, millions of Americans would be the poorer.

It is not often that we honor a mouse in the House, but in this situation, an exception is warranted because few entities have done more to uplift the spirits and hearts of Americans than Walt Disney and his miracle mouse.

Happy birthday, you remarkable rodent.

MICKEY MOUSE'S 50TH ANNIVERSARY

(Mr. MOORHEAD of California asked and was given permission to address the House for 1 minute.)

Mr. MOORHEAD of California. Mr. Speaker, in my district there is a resident of prodigious fame. In France, he is fondly referred to as Michel Souris; in Sweden, he is warmly called Musse Pig; in Italy, he is adoringly tagged Topolino and in America, he is known with great love and affection as Mickey Mouse.

Mickey was born nearly 50 years ago on November 18, 1928. Originally, he was the child of Walt Disney, but today, he is the child of all America, indeed the world.

Despite the fact that Mickey has never been franchised, I value him as a constituent because of his renown, his good reputation, his unflagging ebullience, and his indefatigable wit. I value Mickey because of all the beneficial contributions he has made to the well-being of so many Americans.

In his illustrious career as an international entertainer, as a great lover, scholar, soldier, sailor, singer, toreador, tycoon, jockey, prize fighter, automobile racer, aviator, farmer, soothsayer, mirthmaker and solver of the insoluable, Mickey has created more merriment and joy than any of his peers; he has provided more laughs than Congress and he has titillated more funny bones than the protruding corners of desks.

For the past 50 years, Mickey Mouse has been America's most animated ambassador of goodwill. He helped pull the country and its citizens out of the Great Depression. In the 1930's, his fan club numbered more than 1 million members. No doubt some of my colleagues were members of that group.

The password of the Allied Forces on D-Day, June 6, 1944, was "Mickey Mouse." In 1955, television paid tribute to the Great Mickey with the formation of the Mickey Mouse Club and a band of Mouseketeers.

In 1959, he became the official greeter at Disneyland and Disney World. Since then he has made numerous personal appearance over the globe.

It is with a degree of envy that I notice he is able to appear at different places at the same time. While he is already one of the world's great mirthmakers, with this ubiquity, he would certainly make the world's greatest political campaigner.

I am only glad he has never decided to run for office, especially in my district. I am not certain I could compete against an omnipresent and universally adored character.

In these days when cynicism is much easier and more chic than advocacy, it is often a simple thing to make fun of Mickey Mouse as being Mickey Mouse.

However, it would not be a simple task, nor an honest one, to denigrate and ridicule his contributions to the millions of persons who have been touched by his special magic during the last five decades.

It has been said that next to an abiding faith in providence, that a good and true humor is most comforting and soothing to the human condition.

During the past half century, Mickey Mouse has labored with a laugh and a twinkle for the uplifting of our souls, for the enlightening of our hearts and for the easing of our responsibilities. He has unquestionably made our lives better.

It is for this grand and beneficial design, carried out with glee and delight, that we salute Mickey Mouse on his 50th birthday.

We also want to congratulate his supporting cast—the people who give flair and life to Mickey; the people who have labored for half a century to keep their charge in good health, full of vibrancy, overflowing with brotherly love and in step with the times.

We take much enjoyment in extending a hearty happy birthday to a truly original American character, Mickey Mouse. We wish for him another 50 years as a national hero, an advocate of warmth and happiness, and a creator of laughs and broad smiles.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. MOORHEAD of California. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Speaker, I want to join in expressing my commendations on this historic occasion, but I would also observe something else that I think the taxpayers of America have learned very well, and that on too many occasions "Mickey Mouse" is alive and well in the Congress.

A TRIBUTE TO WALT DISNEY

(Mr. LAGOMARSINO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LAGOMARSINO. Mr. Speaker, during a 43-year Hollywood career, which spanned the development of the motion picture medium as a contemporary American art form, Walt Disney, a modern Aesop, established himself and his product as a genuine part of Americana.

David Low, the late British political cartoonist, called Disney "The most significant figure in graphic arts since Leonardo."

One of Disney's earliest and most famous creations was, of course, Mickey Mouse. No other character created by Disney has had more charm and appeal or has more accurately portrayed the spirit of things Disneyesque.

That ageless mouse will be 50 years old on November 18 and will celebrate his birthday on November 17 at the White House. In recognizing this event, we are in reality recognizing the entire Wonderful World of Disney and its universal popularity based on the virtues of imagination, optimism, and self-made success.

Walt Disney and Mickey Mouse are both folk heroes. Together, they have touched the hearts, minds, and emotions of millions of Americans. They have brought joy, happiness, and a universal means of communication to people of all nations.

Certainly that is a contribution to be lauded and appreciated by anyone concerned with the well-being of mankind.

Mr. RUDD. Mr. Speaker, will the gentleman yield?

Mr. LAGOMARSINO. I yield to the gentleman from Arizona.

Mr. RUDD. Mr. Speaker, there are those critics of the Congress who would suggest it is entirely appropriate that this organization honor the famed cartoon creature—Mickey Mouse.

These same detractors would undoubtedly go further and suggest that Congress is the best-financed chapter of the Mickey Mouse Clubs of America.

However, if they were being fair, they would not compare the Congress with Mickey Mouse and his group, Walt Disney Enterprises.

I am certain there are many, many Americans who devoutly wish the products of Congress were as tolerable as those products of Walt Disney and Mickey.

While we often dispense with things laughable, many of our actions result in frustration, anger, and dissatisfaction for Americans. This cannot be said of things Disney, for things Disney are eternally bright, always enchanting, and surfeited with smiles.

It is, therefore, appropriate for this House to extend best birthday wishes to an entity which has a perfect political rating, Mickey and his goofy friends.

CONFERENCE REPORT ON H.R. 12930, TREASURY-POSTAL SERVICE APPROPRIATIONS, 1979

Mr. STEED. Mr. Speaker, I call up the conference report on the bill (H.R. 12930) making appropriations for the Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain independent agencies, for the fiscal year ending September 30, 1979, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Oklahoma?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, I do so only to ask the Chair about the order of business. It was the impression of the gentleman from Maryland that the unfinished business before the House was the votes that were put off on yesterday.

The SPEAKER. Conference reports are privileged and can take precedent over unfinished business. The House will consider the Treasury-Postal Service appropriations conference report, managed by the gentleman from Oklahoma (Mr. STEED); the Older American Act amendments conference report; Environmental Protection Agency research and development amendments conference report; additional Federal judgeships conference report; and Small Business Administration authorizations conference report. These are all conference reports. Following the consideration of these conference reports, the unfinished business, the votes on suspensions from yesterday, will take place.

Mr. BAUMAN. I thank the Chair.

The SPEAKER. Is there objection to the request of the gentleman from Oklahoma (Mr. STEED) that the statement of the managers be read in lieu of the report?

There was no objection.

The SPEAKER. The Clerk will read the statement.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of September 29, 1978.)

Mr. STEED (during the reading). Mr. Speaker, I ask unanimous consent that the statement be considered as read.

The SPEAKER. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

The SPEAKER. The gentleman from Oklahoma (Mr. STEED) will be recognized for 30 minutes, and the gentleman from Ohio (Mr. MILLER) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Oklahoma (Mr. STEED).

Mr. STEED. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we are glad to have this conference report before us today. I would like to start out by explaining to the Members that when the House passed the continuing resolution to take care of the arrival of the fiscal year on October 1, these agencies were not made a part of it, and, therefore, the urgency of getting this report approved and signed by the President was made more urgent than usual because there are certain legislative requirements placed on the Treasury in the coming year. They cannot move on it until this conference report has been accepted.

The report contains $8,983,261,000, which is $348,961,000 more than the House figure and $2,136,000 more than the Senate figure.

The reason for most of this increase is in the fact that the one-time item of $543 million for payments to the States in connection with some welfare payments which had to be added in the Senate pursuant to the Social Security Act. The item was not ready for consideration when the bill passed the House, and it was added on over that. There was also a reduction brought on by the national defense and security items legislation not being finished, and therefore $174,100,000 that was provided in the House bill for that was taken out of the bill leaving this net increase of $348,961,000.

There are certain items that deal with the legislation we had to bring back in disagreement to be voted on separately I do not know of any serious objection to the remainder of the bill. The conferees were pretty much in agreement on almost all the items. There are some who feel that maybe we did not cut the budget enough, but I would like to call the attention of the Members to the fact that these agencies mostly are the Federal Government. They have very little to do with the programs of the Federal Government, and therefore this budget traditionally has always been a very tight budget. We think we have brought back a very tight budget this year.

Mr. Speaker, I recommend House approval of the conference recommendations.

Mr. ADDABBO. Mr. Speaker, will the chairman yield?

Mr. STEED. I yield to the gentleman from New York.

Mr. ADDABBO. Mr. Speaker, as one of the conferees I recall that in the conference and in the original Senate bill the Senate had actually legislated on an appropriation bill by placing a 5.5 percent cap on blue-collar workers. I understand that matter has come back to the House in disagreement, and the House will be given an opportunity to work its will as far as those provisions are concerned.

Mr. STEED. That is one of the items that we have brought back in disagreement, because it is legislation in an appropriation bill and therefore subject to a point of order that it originated here. So, the Members will be given an opportunity to vote separately on that particular amendment.

Mr. ADDABBO. I thank the chairman.

Mr. RYAN. Mr. Speaker, will the gentleman yield?

Mr. STEED. I yield to the gentleman from California.

Mr. RYAN. Mr. Speaker, I would like to ask the chairman, with respect to these Cambodian refugees, what the situation is in this bill on that.

Mr. STEED. Well, as the gentleman knows, the House had added the Cambodians and Laotians in Southeast Asia in addition the Vietnamese. Although we understood that only a very few people were actually involved, the House made it more inclusive than it had been heretofore as a matter of equity.

The other body cut out all of it except the waiver for the Vietnamese, but the conferees have prevailed and had the House version restored. Therefore, the conference report recommends that the House version be accepted.

Mr. RYAN. We have then what, a provision for the inclusion of up to—the last I saw—7,500 Cambodian refugees? Is that correct?

Mr. STEED. Well, it does not have anything to do with how many refugees or whether they can come in or not. It only authorizes agencies of the government to employ these people on the Federal work force if they desire. Without this waiver, even though they do come in legally as refugees, they would not be allowed to work for the Federal Government.

Mr. RYAN. Is it limited to the number of refugees who can be employed under this bill?

Mr. STEED. That would be limited only by the ability of those who need their help to hire somebody.

Mr. RYAN. I thank the gentleman from Oklahoma.

Mr. STEED. Mr. Speaker, I yield to the gentleman from Ohio (Mr. MILLER).

Mr. MILLER of Ohio. Mr. Speaker, I thank the gentleman from Oklahoma for yielding.

I would like to say from the beginning that I have not signed the conference report. I know of the work and the effort that has been put into this bill by the gentleman from Oklahoma and by the staff of our Treasury and Postal Service Subcommittee for Appropriations, Mr. Tex Gunnels and Mr. Bill Smith.

I think all of this work has to be taken into consideration, but there are other factors we also have to take into consideration, and one is that we do have a conference report that is $348.9 million over the House bill. I believe the gentleman from Oklahoma has expressed to the House why we have such a high amount over the House bill. It is because of the $543 million for the Bureau of Government Financial Operations that was not included in the original House bill for HEW claims.

But there is another reason why the Federal Government needs to take a fresh look at what we are taking responsibility for. These are social services programs that HEW has agreed to pay to the States. It would be difficult for the Federal Government to get out of the payment at the present time because it was authorized some time ago. But I think we need to look at such items as this when we are making the authorizations. There is very little we can do once it reaches this point.

But still there was another reason why I did not sign the conference report. The Senate had agreed to a 2 percent reduction to the Treasury and Postal Service appropriations bill, but the Senate re-

ceded to the House conferees and wiped out the 2 percent reduction.

We have put in a lot of effort attempting to reduce spending at the Federal level, but we find we continuously have conference reports that are returned to the House and the Senate that are over the amount of the bill when it left the House or Senate. This opportunity of reducing by 2 percent was there, but we had conferees from the Senate that were willing to back away and recede to the House. There were perfect opportunities in the conferences last year in the foreign operations bill and this year in the public works bill to reduce line items. With these percentage reductions some line items need not be reduced at all, while others can be reduced up to 5 percent under the language of the amendment. We make a list with high priority items at the top and the low priority items at the bottom, and we do not change any of the amounts on the high priority items but reduce up to 5 percent on the low priority items, and we average 2 percent, even then it is only on the nonmandatory spending.

I think it is important that the House realize that until we find some way to reduce spending we are not going to satisfy the taxpayers. I am not that happy with how we make a 2-percent reduction, but we have not found a better way. I believe it is essential on the balance of the bills that will be coming back as conference reports to the House that we have a reduction equal to what the House demanded when that bill left the House, and that would be to reduce the total nonmandatory sections by 2 percent.

Mr. Speaker, I yield back the balance of my time.

● Mr. ANDERSON of California. Mr. Speaker, today we are being asked to recede and concur with a Senate provision providing for a cap of 5.5 percent on comparability increases for blue collar Federal employees.

We are asking these employees to sacrifice salary increases that they would have gotten had they worked in the private sector, for the good of the Nation. We are, however, asking certain groups of these employees to make greater sacrifices than others.

Unlike Federal employees who are classified according to the GS scale, blue collar employees around the country receive their comparability increases at different times of the calendar year. Most such workers have already received their 1978 increases, usually exceeding 5.5 percent. And I note here that for blue collar employees, the increase is dependent on their regional area. Thus many employees around the country have gotten increases in excess of the 5.5-percent limit that is now being imposed.

But some employees, including those at the Long Beach Naval Shipyard, have not received their 1978 calendar year comparability increase. When they do, it will now be limited to 5.5 percent. Clearly an inequity, the problem becomes magnified when one considers that private sector increases have been greater in the Los Angeles area than in other parts of the country. So these workers, who deserve a larger increase just to keep pace, are instead receiving among the smallest. This is simply not right to my way of thinking.

A much more equitable approach to the implementation of this 5.5 percent pay cap, would have been to have it take effect on January 1, so that all Federal blue collar employees were treated equally.●

● Mr. STEED. Mr. Speaker, I offer the following table in connection with the bill, H.R. 12930, providing appropriations for the Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain independent agencies for the fiscal year ending September 30, 1979:

COMPARATIVE STATEMENT OF NEW BUDGET AUTHORITY

	New budget authority					Conference compared with—			
	Enacted, fiscal year 1978	Estimates, fiscal year 1979	House, fiscal year 1979	Senate, fiscal year 1979	Conference, fiscal year 1979	Fiscal year 1978 enacted	Fiscal year 1979 estimate	House bill	Senate bill
TITLE I—DEPARTMENT OF THE TREASURY									
Office of the Secretary	$30,314,000	$32,381,000	$31,125,000	$31,400,000	$31,300,000	+$986,000	−$1,081,000	+$175,000	−$100,000
Federal Law Enforcement Training Center	13,453,000	15,423,000	15,000,000	15,000,000	15,000,000	+1,547,000	−423,000		
Bureau of Government Financial Operations	156,576,000	717,687,000	174,000,000	717,000,000	717,000,000	+560,424,000	−687,000	+543,000,000	
Payments to the government of Guam	3,000,000					−3,000,000			
Bureau of Alcohol, Tobacco, and Firearms	128,632,000	135,522,000	131,322,000	131,322,000	131,322,000	+2,690,000	−4,200,000		
U.S. Customs Service	405,474,000	431,350,000	431,000,000	426,100,000	430,600,000	+25,126,000	−750,000	−400,000	+4,500,000
Bureau of Engraving and Printing	5,000,000					−5,000,000			
Bureau of the Mint	41,000,000	44,274,000	43,000,000	43,000,000	43,000,000	+2,000,000	−1,274,000		
Bureau of the Public Debt	120,331,000	183,411,000	183,000,000	183,000,000	183,000,000	+62,669,000	−411,000		
Internal Revenue Service:									
Salaries and expenses	129,908,000	135,670,000	135,000,000	135,000,000	135,000,000	+5,092,000	−670,000		
Taxpayers service and returns processing	661,702,000	694,445,000	694,000,000	694,500,000	694,500,000	+32,798,000	+55,000	+500,000	
Examinations and appeals	729,164,000	758,185,000	758,000,000	758,000,000	758,000,000	+28,836,000	−185,000		
Investigations and collection	444,070,000	459,000,000	459,000,000	458,400,000	458,700,000	+14,630,000	−300,000	−300,000	+300,000
Total, Internal Revenue Service	1,964,844,000	2,047,300,000	2,046,000,000	2,045,900,000	2,046,200,000	+81,356,000	−1,100,000	+200,000	+300,000
U.S. Secret Service	133,890,000	135,899,000	135,000,000	134,600,000	134,800,000	+910,000	−1,099,000	−200,000	+200,000
Total, title I, new budget (obligational) authority, Department of the Treasury	3,002,514,000	3,743,247,000	3,189,447,000	3,727,322,000	3,732,222,000	+729,708,000	−11,025,000	+542,775,000	+4,900,000
TITLE II—U.S. POSTAL SERVICE									
Payment to the Postal Service fund	1,787,288,000	1,829,994,000	1,829,994,000	1,785,176,000	1,785,176,000	−2,112,000	−44,818,000	−44,818,000	
TITLE III—EXECUTIVE OFFICE OF THE PRESIDENT AND FUNDS APPROPRIATED TO THE PRESIDENT									
Compensation of the President	250,000	250,000	250,000	250,000	250,000				
Office of Administration	174,000	7,279,000	7,279,000	7,279,000	7,279,000	+7,105,000			
The White House Office	17,580,000	16,907,000	16,907,000	16,711,000	16,711,000	−869,000	−196,000	−196,000	
Executive residence	2,236,000	2,575,000	2,575,000	2,575,000	2,575,000	+339,000			
Official residence of the Vice President	121,000	129,000	129,000	129,000	129,000	+8,000			
Special assistance to the President	1,327,000	1,280,000	1,280,000	1,280,000	1,280,000	−47,000			
Council of Economic Advisers	2,018,000	2,042,000	2,042,000	2,042,000	2,042,000	+24,000			
Council on Wage and Price Stability	2,100,000	1,753,000	1,753,000	1,753,000	1,753,000	−347,000			
Domestic policy staff	1,850,000	2,650,000	2,000,000	2,650,000	2,500,000	+650,000	−150,000	+500,000	−150,000
National Security Council	3,315,000	3,432,000	3,400,000	3,400,000	3,400,000	+85,000	−32,000		
Office of Drug Abuse Policy	1,200,000					−1,200,000			
Office of Management and Budget	31,199,000	28,353,000	28,000,000	28,200,000	28,200,000	−2,999,000	−153,000	+200,000	

	New budget authority					Conference compared with—			
	Enacted, fiscal year 1978	Estimates, fiscal year 1979	House, fiscal year 1979	Senate, fiscal year 1979	Conference, fiscal year 1979	Fiscal year 1978 enacted	Fiscal year 1979 estimate	House bill	Senate bill
Office of Federal Procurement Policy	1,890,000	4,040,000	2,500,000	4,040,000	3,000,000	+1,110,000	−1,040,000	+500,000	−1,040,000
Office of Telecommunications Policy	8,447,000					−8,447,000			
Unanticipated needs	1,000,000	1,000,000	1,000,000	1,000,000	10,000,000				
Total, title III, new budget (obligational) authority, Executive Office of the President and funds appropriated to the President	74,707,000	71,690,000	69,115,000	71,309,000	70,119,000	−4,588,000	−1,571,000	+1,004,000	−1,190,000
TITLE IV—INDEPENDENT AGENCIES									
Administrative Conference of the United States	935,000	1,062,000	1,062,000	1,062,000	1,062,000	+127,000			
Advisory Commission on Intergovernmental Relations	1,654,000	1,659,000	1,659,000	1,659,000	1,659,000	+5,000			
Advisory Committee on Federal Pay	220,000	232,000	232,000	232,000	223,000	+12,000			
Civil Service Commission:									
Salaries and expenses: Appropriation	117,082,000	120,815,000	120,500,000	120,500,000	120,500,000	+3,418,000	−315,000		
(By transfer)	(32,382,000)	(32,275,000)	(32,275,000)	(32,275,000)	(32,275,000)	(−107,000)			
Government payment for annuitants, employees health benefits	506,467,000	606,035,000	606,035,000	606,035,000	606,035,000	+99,568,000			
Payment to civil service retirement and disability fund	2,165,828,000	2,105,283,000	2,105,283,000	2,105,283,000	2,105,283,000	−60,545,000			
Federal Labor Relations Council	1,787,000	1,787,000	1,787,000	1,787,000	1,787,000				
Intergovernmental personnel assistance	20,000,000	20,000,000	20,000,000	20,000,000	20,000,000				
Total, Civil Service Commission	2,811,164,000	2,853,920,000	2,853,605,000	2,853,605,000	2,853,605,000	+42,441,000	−315,000		
Committee for Purchase of Products and Services of the Blind and Other Severely Handicapped	361,000	441,000	441,000	441,000	441,000	+80,000			
Federal Election Commission	7,610,000	8,224,000	8,000,000	8,224,000	8,000,000	+390,000	−224,000		−224,000
General Services Administration:									
Disposal of surplus real and related property, operating expenses	7,935,000	7,549,000	7,549,000	7,549,000	7,549,000	−386,000			
Federal building fund:									
Appropriation for construction of buildings				21,150,000	21,150,000	+21,150,000	+21,150,000	+21,150,000	
Limitation on availability of revenue:									
Construction of buildings	(69,392,000)	(17,630,000)	(53,780,000)	(113,978,000)	(113,978,000)	(+44,586,000)	(+96,348,000)	(+60,198,000)	
Alterations and major repairs	(200,000,000)	(200,000,000)	(200,000,000)	(200,000,000)	(200,000,000)				
Purchase contract payments	(98,000,000)	(100,473,000)	(100,473,000)	(100,473,000)	(100,473,000)	(+2,473,000)			
Rental of space	(487,000,000)	(506,137,000)	(506,137,000)	(506,137,000)	(506,137,000)	(+19,137,000)			
Real property operations	(472,804,000)	(472,874,000)	(472,874,000)	(472,874,000)	(472,874,000)	(+70,000)			
Program direction and centralized service	(68,343,000)	(69,847,000)	(67,500,000)	(67,500,000)	(67,500,000)	(−843,000)	(−2,347,000)		
Totals, Federal buildings fund new obligational authority				21,150,000	21,150,000	+21,150,000	+21,150,000	+21,150,000	
(Limitations)	(1,395,539,000)	(1,366,961,000)	(1,400,764,000)	(1,460,962,000)	(1,460,962,000)	(+65,423,000)	(+94,001,000)	(+60,198,000)	
Federal Supply Service	167,080,000	167,468,000	165,000,000	165,700,000	165,350,000	−1,730,000	−2,118,000	+350,000	−350,000
National Archives and Records Service:									
Operating expenses	69,874,000	75,308,000	73,000,000	74,000,000	74,000,000	+4,126,000	−1,308,000	+1,000,000	
Records declassification	1,565,000	1,565,000	1,565,000	1,565,000	1,565,000				
Total, National Archives and Records Service	71,439,000	76,873,000	74,565,000	75,565,000	75,565,000	+4,126,000	−1,308,000	+1,000,000	
Automated Data and Telecommunications Service, operating expenses	8,490,000	8,673,000	8,500,000	8,500,000	8,500,000	+10,000	−173,000		
Preparedness activities:									
Federal Preparedness Agency, salaries and expenses	40,202,000	213,345,000	213,345,000	39,245,000	39,245,000	−957,000	−174,100,000	−174,100,000	
Expenses, Defense Production Act	1,300,000	4,374,000				−1,300,000	−4,374,000		
General activities:									
General Management and Agency Operations, salaries expenses	13,599,000	14,476,000	13,800,000	14,800,000	14,800,000	+1,201,000	+324,000	+1,000,000	
Indian trust accounting	2,955,000	2,658,000	2,300,000	2,600,000	2,600,000	−355,000	−58,000	+300,000	
Allowances and office staff for former Presidents	671,000	771,000	771,000	771,000	771,000	+100,000			
Administrative and staff support services	83,682,000	91,390,000	87,000,000	91,000,000	90,000,000	+6,318,000	−1,390,000	+3,000,000	−1,000,000
Refunds under Renegotiation Act	1,000,000					−1,000,000			
Total, general activities	101,907,000	109,295,000	103,871,000	109,171,000	108,171,000	+6,264,000	−1,124,000	+4,300,000	−1,000,000
Total, General Services Administration	398,353,000	587,577,000	572,830,000	426,880,000	425,530,000	+27,177,000	−162,047,000	−147,300,000	−1,350,000

COMPARATIVE STATEMENT OF NEW BUDGET AUTHORITY—Continued

	New budget authority					Conference compared with—			
	Enacted, fiscal year 1978	Estimates, fiscal year 1979	House, fiscal year 1979	Senate, fiscal year 1979	Conference, fiscal year 1979	Fiscal year 1978 enacted	Fiscal year 1979 estimate	House bill	Senate bill
National Commission on Electronic Fund Transfers	200,000					−200,000			
National Center for Productivity and Quality of Working Life	2,900,000		2,700,000			−2,900,000		−2,700,000	
U.S. Tax Court: Salaries and expenses	8,188,000	8,715,000	8,715,000	8,715,000	8,715,000	+527,000			
Department of Defense:									
Defense Civil Preparedness Agency:									
Operation and maintenance	70,600,000	77,000,000	77,000,000	77,000,000	77,000,000	+6,400,000			
Research, shelter survey, and marking	21,000,000	19,500,000	19,500,000	19,500,000	19,500,000	−1,500,000			
Total, Defense Civil Preparedness Agency	91,600,000	96,500,000	96,500,000	96,500,000	96,500,000	+4,900,000			
Total, title IV, new budget (obligational) authority, independent agencies	3,323,185,000	3,558,330,000	3,545,744,000	3,397,318,000	3,395,744,000	+72,559,000	−162,586,000	−150,000,000	−1,574,000
Grand total, titles I, II, III, and IV: New budget (obligational) authority	8,187,694,000	9,203,261,000	8,634,300,000	8,981,125,000	8,983,261,000	+795,567,000	−220,000,000	+348,961,000	+2,136,000
(By transfer)	(32,382,000)	(32,275,000)	(32,275,000)	(32,275,000)	(32,275,000)	(−107,000)			
(Limitation)	(1,395,539,000)	(1,366,961,000)	(1,400,764,000)	(1,460,962,000)	(1,460,962,000)	(+65,423,000)	(+94,001,000)	(+60,198,000)	

Mr. STEED. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER. The question is on the conference report.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. MILLER of Ohio. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 247, nays 137, not voting 48, as follows:

[Roll No. 860]

YEAS—247

Abdnor	Butler	Fascell
Addabbo	Caputo	Findley
Akaka	Carney	Fish
Alexander	Carr	Fisher
Anderson, Calif.	Carter	Fithian
Anderson, Ill.	Cederberg	Flippo
Andrews, N.C.	Chisholm	Flood
Andrews, N. Dak.	Clay	Florio
Annunzio	Cohen	Flowers
Applegate	Collins, Ill.	Flynt
Aspin	Conte	Ford, Tenn.
Baldus	Conyers	Fowler
Beard, R.I.	Corcoran	Fraser
Bellenson	Corman	Frey
Benjamin	Cotter	Fuqua
Bennett	Daniel, R. W.	Garcia
Bevill	Danielson	Gaydos
Biaggi	Davis	Ginn
Bingham	Delaney	Gonzalez
Blanchard	Dellums	Gore
Boggs	Dent	Gradison
Boland	Derrick	Green
Bolling	Derwinski	Guyer
Bonior	Dicks	Hall
Brademas	Downey	Hamilton
Breaux	Drinan	Hanley
Breckinridge	Duncan, Oreg.	Hannaford
Brodhead	Duncan, Tenn.	Harris
Brooks	Early	Hawkins
Brown, Calif.	Eckhardt	Heckler
Brown, Mich.	Edwards, Calif.	Hefner
Burgener	Edwards, Okla.	Heftel
Burke, Fla.	Elberg	Horton
Burke, Mass.	Emery	Howard
Burlison, Mo.	English	Hubbard
Burton, Phillip	Erlenborn	Huckaby
	Evans, Colo.	Hyde
	Fary	Ireland
Johnson, Calif.	Myers, Michael	Sisk
Johnson, Colo.	Natcher	Skubitz
Jones, N.C.	Nedzi	Slack
Jones, Okla.	Nichols	Smith, Iowa
Jordan	Nix	Smith, Nebr.
Kastenmeier	Nowak	Solarz
Kazen	O'Brien	Spellman
Kildee	Oakar	Spence
Kindness	Oberstar	St Germain
Kostmayer	Obey	Staggers
Le Fante	Ottinger	Stanton
Lederer	Patten	Stark
Leggett	Patterson	Steed
Lent	Pattison	Steers
Lloyd, Calif.	Pease	Stokes
Long, La.	Pepper	Stratton
Long, Md.	Perkins	Studds
McCloskey	Pressler	Thompson
McCormack	Preyer	Thornton
McDade	Price	Traxler
McFall	Pritchard	Trible
McKinney	Quillen	Udall
Madigan	Rahall	Ullman
Mahon	Rangel	Van Deerlin
Mann	Reuss	Vander Jagt
Markey	Rhodes	Vanik
Marks	Richmond	Vento
Marlenee	Rinaldo	Waggonner
Marriott	Risenhoover	Walsh
Mazzoli	Robinson	Wampler
Meeds	Rodino	Watkins
Metcalfe	Rogers	Waxman
Meyner	Roncalio	Weiss
Michel	Rooney	Whalen
Mikulski	Rose	White
Mineta	Rosenthal	Whitehurst
Minish	Rostenkowski	Wilson, Bob
Mitchell, Md.	Roybal	Wilson, C. H.
Moakley	Ruppe	Wolff
Mollohan	Ryan	Wright
Moorhead, Pa.	Santini	Wydler
Moss	Scheuer	Yates
Murphy, N.Y.	Schulze	Yatron
Murphy, Pa.	Selberling	Zablocki
Murtha	Sikes	Zeferetti

NAYS—137

Archer	Clawson, Del	Fenwick
Armstrong	Cleveland	Foley
AuCoin	Coleman	Forsythe
Badham	Collins, Tex.	Fountain
Bafalis	Conable	Frenzel
Barnard	Cornell	Gammage
Baucus	Coughlin	Gephardt
Bauman	Crane	Giaimo
Beard, Tenn.	Cunningham	Gibbons
Bedell	D'Amours	Gilman
Bowen	Daniel, Dan	Glickman
Brinkley	de la Garza	Goodling
Broomfield	Devine	Grassley
Brown, Ohio	Dodd	Gudger
Broyhill	Dornan	Hagedorn
Buchanan	Edgar	Hammer-schmidt
Burleson, Tex.	Edwards, Ala.	Hansen
Burton, John	Ertel	Harsha
Cavanaugh	Evans, Del.	Hollenbeck
Clausen, Don H.	Evans, Ga.	Holt
	Evans, Ind.	Hughes
	Ichord	Mathis
	Jacobs	Mattox
	Jeffords	Mikva
	Jenkins	Miller, Ohio
	Jenrette	Moffett
	Kasten	Montgomery
	Kelly	Moore
	Kemp	Moorhead, Calif.
	Keys	Mottl
	Krebs	Myers, Gary
	LaFalce	Myers, John
	Lagomarsino	Neal
	Latta	Nolan
	Leach	Panetta
	Lehman	Pickle
	Levitas	Poage
	Livingston	Pursell
	Lloyd, Tenn.	Quayle
	Lott	Railsback
	Luken	Regula
	Lundine	Roberts
	McClory	Rousselot
	McDonald	Rudd
	Maguire	Runnels
	Martin	Russo
	Satterfield	
	Sawyer	
	Schroeder	
	Sebelius	
	Sharp	
	Shuster	
	Simon	
	Skelton	
	Snyder	
	Stangeland	
	Steiger	
	Stockman	
	Stump	
	Symms	
	Taylor	
	Treen	
	Volkmer	
	Walker	
	Weaver	
	Whitley	
	Winn	
	Wirth	
	Wylie	
	Young, Fla.	
	Young, Mo.	

NOT VOTING—48

Ambro	Harkin	Pettis
Ammerman	Harrington	Pike
Ashbrook	Hightower	Quie
Ashley	Hillis	Roe
Blouin	Holland	Sarasin
Bonker	Holtzman	Shipley
Burke, Calif.	Jones, Tenn.	Teague
Byron	Krueger	Thone
Chappell	Lujan	Tsongas
Cochran	McEwen	Tucker
Cornwell	McHugh	Walgren
Dickinson	McKay	Whitten
Diggs	Milford	Wiggins
Dingell	Miller, Calif.	Wilson, Tex.
Ford, Mich.	Mitchell, N.Y.	Young, Alaska
Goldwater	Murphy, Ill.	Young, Tex.

The Clerk announced the following pairs:

Mr. Ambro with Mr. Ashbrook.

Mr. Ashley with Mr. Hillis.

Mr. Blouin with Mr. Lujan.

Mr. Chappell with Mr. McEwen.

Mr. Dingell with Mr. Thone.

Mr. Ford of Michigan with Mr. Wiggins.

Ms. Holtzman with Mr. Young of Alaska.

Mr. Jones of Tennessee with Mr. Mitchell of New York.

Mr. McHugh with Mr. Dickinson.

Mr. Murphy of Illinois with Mr. Cochran of Mississippi.

Mr. Teague with Mr. Milford.

Mr. Whitten with Mrs. Pettis.

Mr. Charles Wilson of Texas with Mr. Walgren.

Mr. Krueger with Mr. Holland.

Mrs. Burke of California with Mr. Harrington.
Mr. Diggs with Mr. Byron.
Mr. Cornwell with Mr. Goldwater.
Mr. Harkin with Mr. McKay.
Mr. Miller of California with Mr. Tsongas.
Mr. Shipley with Mr. Sarasin.
Mr. Roe with Mr. Pike.
Mr. Bonker with Mr. Tucker.
Mr. Ammerman with Mr. Hightower.

Mrs. SCHRODER, and Messrs. FOLEY, GIAIMO, CAVANAUGH, WIRTH, LaFALCE, MAGUIRE, SKELTON, QUAYLE, EDGAR, LEHMAN, NEAL, RAILSBACK, SEBELIUS, WINN, GUDGER, YOUNG of Missouri, JEFFORDS, WHITLEY, SAWYER, WYLIE, LUNDINE, PICKLE. and BUCHANAN changed their votes from "yea" to "nay."

Mr. MOSS changed his vote from "nay" to "yea."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

AMENDMENTS IN DISAGREEMENT

The SPEAKER pro tempore (Mr. KAZEN). The Clerk will report the first amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 14: Page 17, line 15, strike out "The revenues and collections deposited into a fund" and insert "For additional expenses necessary to carry out the purposes of the fund established."

MOTION OFFERED BY MR. STEED

Mr. STEED. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. STEED moves that the House recede from its disagreement to the amendment of the Senate numbered 14 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 15: Page 17, line 19, insert "$21,150,000 to be deposited into said fund. The revenues and collections deposited into said fund."

MOTION OFFERED BY MR. STEED

Mr. STEED. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. STEED moves that the House recede from its disagreement to the amendment of the Senate numbered 15 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 30: Page 39, line 14, insert:

SEC. 613. (a) No part of the funds appropriated for the fiscal year ending September 30, 1979, by this Act or any other Act may be used to pay the salary or pay of any individual in any office or position in the legislative, executive, or judicial branch, or in the government of the District of Columbia, at a rate which exceeds the rate (or maximum rate, if higher) of salary or basic pay payable for such office or position for September 30, 1978, if the rate of salary or basic pay for such office or position is—

(1) fixed at a rate which is equal to or greater than the rate of basic pay for level V of the Executive Schedule under section 5316 of title 5, United States Code, or

(2) limited to a maximum rate which is equal to or greater than the rate of basic pay for such level V (or to a percentage of such a maximum rate) by reason of section 5338 of title 5, United States Code, or any other provision of law or congressional resolution.

(b) For purposes of subsection (a), the rate or maximum rate (as the case may be) of salary or basic pay payable for September 30, 1978, for any office or position which was not in existence on such date shall be deemed to be the rate or maximum rate (as the case may be) of salary or basic pay payable to individuals in comparable offices or positions for such date, as determined under regulations prescribed—

(1) by the President, in the case of any office or position within the executive branch or in the government of the District of Columbia;

(2) jointly by the Speaker of the House and the President pro tempore of the Senate, in the case of any office or position within the legislative branch; or

(3) by the Chief Justice of the United States, in the case of any office or position within the judicial branch.

(c) For purposes of administering any provision of law, rule, or regulation which provides retirement, life insurance, or other employee benefit, which requires any deduction or contribution, or which imposes any requirement or limitation, on the basis of a rate of salary or basic pay, the rate of salary or basic pay payable after the application of this section shall be treated as the rate of salary or basic pay.

MOTION OFFERED BY MR. STEED

Mr. STEED. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. STEED moves that the House recede from its disagreement to the amendment of the Senate numbered 30 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:

SEC. 613. (a) No part of the funds appropriated for the fiscal year ending September 30, 1979, by this Act or any other Act may be used to pay the salary or pay of any individual in any office or position in the legislative, executive, or judicial branch, or in the government of the District of Columbia, at a rate which exceeds the rate (or maximum rate, if higher) of salary or basic pay payable for such office or position for September 30, 1978, if the rate of salary or basic pay for such office or position is—

(1) fixed at a rate which is equal to or greater than the rate of basic pay for level V of the Executive Schedule under section 5316 of title 5, United States Code, or

(2) limited to a maximum rate which is equal to or greater than the rate of basic pay for such level V (or to a percentage of such a maximum rate) by reason of section 5308 of title 5, United States Code, or any other provision of law or congressional resolution.

(b) For purposes of subsection (a), the rate or maximum rate (as the case may be) of salary or basic pay payable for September 30, 1978, for any office or position which was not in existence on such date shall be deemed to be the rate or maximum rate (as the case may be) of salary or basic pay payable to individuals in comparable offices or positions for such date, as determined under regulations prescribed—

(1) by the President, in the case of any office or position within the executive branch or in the government of the District of Columbia;

(2) jointly by the Speaker of the House and the President pro tempore of the Senate, in the case of any office or position within the legislative branch; or

(3) by the Chief Justice of the United States, in the case of any office or position within the judicial branch.

(c) For purposes of administering any provision of law, rule, or regulation which provides retirement, life insurance, or other employee benefit, which requires any deduction or contribution, or which imposes any requirement or limitation, on the basis of a rate of salary or basic pay, the rate of salary or basic pay payable after the application of this section shall be treated as the rate of salary or basic pay.

Mr. STEED (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

The SPEAKER pro tempore. The gentleman from Oklahoma (Mr. STEED) is recognized for 30 minutes in support of his motion.

Mr. STEED. Mr. Speaker, this amendment deals with an action by the other body on the so-called white collar pay cap. What we are doing here is taking the language of legislation already passed by the House and Senate and which is now on the President's desk dealing with this subject and making the wording in this bill conform to that legislative action.

There is one difference, and that is a legal citation. The bill that was passed and went down to the White House had an error in a citation, and we made that correction. But otherwise this amendment, which has already been printed in the RECORD and is in the conference report, is identical with the wording of the bill that the Congress has already passed and sent to the White House.

Mr. HARRIS. Mr. Speaker, will the gentleman yield?

Mr. STEED. I yield to the gentleman from Virginia.

Mr. HARRIS. Mr. Speaker, I thank the gentleman for yielding.

Now that we have kept the cap in place in regard to those receiving more than $47,500, by denying comparability to that group have we not again used grade and pay compression and gradually worked down the line here and compressed the pay among grades 18, 17, and 16. As those salaries now get closer and closer together, have we not proceeded again to eliminate the incentive with respect to going from one grade to the other since it does not make any difference now whether one excels because they all get the same salary?

Mr. STEED. I think the gentleman is probably correct. But the understanding of what we are doing here is to try to take the decision that the House and the Senate have already made on this subject and make a technical correction. I am sure that all points the gentleman brings up were discussed then, and I want him to know that I am not one of the ardent advocates of this type of legislation. I am just trying to carry out what the Congress has already made plain in its wishes. I thought if we were going to have this, that it is only fair that this bill conform to the decision already made.

Mr. HARRIS. Will the gentleman yield further on that point?

Mr. STEED. I yield to the gentleman from Virginia.

Mr. HARRIS. I thank the gentleman for yielding.

Mr. Speaker, I agree with the gentleman's statement. As to the reluctance of starting this process, I think the gentleman probably recognizes, as I do, that this is a bad management process here. I know that the gentleman in a way has his hands tied by previous congressional action. I want to indicate my opposition to the procedure, and I believe that the gentleman's statements concur with mine, that it is a bad process to start but there is very little that the gentleman in the appropriation bill can do about it.

Mr. STEED. Mr. Speaker, I thank the gentleman for his statement.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Oklahoma (Mr. STEED).

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the last amendment in disagreement.

The Clerk read as follows:

Senate Amendment No. 31: Page 41, line 5, insert:

SEC. 614. No part of any of the funds appropriated for the fiscal year ending September 30, 1979, by this Act or any other Act may be used to pay for any increase in the salary or pay of any individual in any office or position to the extent that such increase is attributable to that portion of any adjustments which are to take effect during such fiscal year under—

(1) section 5305 of title 5, United States Code;

(2) any other provision of law if such adjustment is determined by reference to such section 5305; or

(3) section 5343 of title 5, United States Code (but only with respect to prevailing rate employees described in section 5342 (a) (2) (A) of such title),

which represents an increase in excess of 5.5 percent of the rate of salary or basic pay payable for such office or position on September 30, 1978.

Mr. STEED (during the reading). Mr. Speaker, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

MOTION OFFERED BY MR. STEED

Mr. STEED. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. STEED moves that the House recede from its disagreement to the amendment of the Senate numbered 31 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:

SEC. 614. (a) No part of any of the funds appropriated for the fiscal year ending September 30, 1979, by this Act or any other Act, may be used to pay the salary or pay of any individual in any office or position in an amount which exceeds the rate of salary or basic pay payable for such office or position on September 30, 1978, by more than 5.5 percent, as a result of any adjustments which take effect during such fiscal year under—

(1) section 5305 of title 5, United States Code;

(2) any other provision of law if such adjustment is determined by reference to such section 5305; or

(3) section 5343 of title 5, United States Code, if such adjustment is granted pursuant to a wage survey (but only with respect to prevailing rate employees described in section 5342(a)(2)(A) of that title).

(b) For the purpose of administering any provision of law, rule or regulation which provides premium pay, retirement, life insurance, or other employee benefit, which requires any deduction or contribution, or which imposes any requirement or limitation, on the basis of a rate of salary or basic pay, the rate of salary or basic pay payable after the application of this section shall be treated as the rate of salary or basic pay.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Mr. STEED (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

The SPEAKER pro tempore. The gentleman from Oklahoma (Mr. STEED) is recognized for 30 minutes in support of his motion.

Mr. STEED. Mr. Speaker, all this does is to bring the so-called blue-collar amendment attached to this bill by the other body in conformance with the language that has already been approved by the House in the military appropriation bill. But, in the military bill, it only applied to the blue-collar workers in the Department of Defense. This amendment here extends that same limitation to all blue-collar workers in all agencies of the Government. So the other body's insistence on this amendment rests on the fact that if you are going to put the blue-collar workers in the Military Establishment under this cap, then all of the other blue-collar workers in the Government should be likewise included. That is the purpose of this amendment.

Mr. HARRIS. Mr. Speaker, will the gentleman yield?

Mr. STEED. I yield to the gentleman from Virginia.

Mr. HARRIS. I thank the gentleman for yielding.

Mr. Speaker, I think now we are not talking about the $47,000 people; we are talking about the workingman. We are saying that, regardless of the cost-of-living increase, regardless of the pressures on the family budget, we are going to put a cap on the working blue-collar folks. And it seems to me that this is really a bad way for the Government, in this period of family budget crunches, to treat its blue-collar workers. I realize the position that the gentleman is in on this appropriation bill, because of the military appropriations; but I certainly would want to go on record that it is a very unfortunate move that we have now. By this move, we tell every blue-collar worker in our Government that we are going to treat him with something less than justice in this period of real family budget crunch. I think it is unfortunate today that we ratify this move.

Mr. STEED. Mr. Speaker, let me say this to the gentleman: I was not in support of the action in the military bill either, but that covered about 75 percent of all of the blue-collar workers in the Federal Government. This amendment only deals with the other 25 percent. I would feel a lot more comfortable if you put a cap on wages that would include everybody and not just single out those working for the Government.

But in view of the fact that the Congress has mandated its opinion in the defense bill and in spite of my disagreement with it, I think there is no way one can now oppose making it governmentwide. So, that is why we are bringing this back. We also felt that since we are bringing it back as a separate amendment and giving the House another opportunity to express itself on it, that is about the best that we can do under the circumstances.

Mr. ADDABBO. Mr. Speaker, will the chairman yield?

Mr. STEED. I yield to the gentleman from New York.

Mr. ADDABBO. Mr. Speaker, I had in the conference offered this amendment, but the best we could do was to bring it back in disagreement, because it is legislation on an appropriation bill. There have been no hearings; blue-collar workers and civil service employees have not had the opportunity to come forward and discuss the effect this cap would have. I hope some day that we can change the rule to stop this type of legislation in an appropriation, where a small group of conferees are legislating the will of the House. I hope that this amendment will be rejected.

Mr. STEED. The gentleman is a very valuable member, and ranking majority member, of our subcommittee, and has had a lot to do with putting this bill together. I could not agree with him more. It would make our job a lot easier and more comfortable if we had a way to avoid this legislating in an appropriation bill. It results in putting us into disagreement with the legislative committees. We would like to avoid that all we can, but there are times when we cannot avoid it.

Mr. MAHON. Mr. Speaker, will the gentleman yield?

Mr. STEED. I yield to the gentleman from Texas.

Mr. MAHON. Mr. Speaker, I want to express my total and complete agreement with the action of the subcommittee in agreeing to the amendment which is now being discussed. I realize there are two sides to the question in some respects, but it seems to me that the chairman has brought forth a recommendation here that ought to be approved by the House, and I believe it will be overwhelmingly approved.

It was approved in the Senate by a vote of 69 to 21, and approved in the House on the defense bill. So, I hope Members will support the Committee on Appropriations in regard to this matter.

The defense appropriations bill as passed by the House included a similar 5.5-percent pay raise cap on wage board employees of the Department of Defense.

The Defense Appropriations Subcommittee believed that such a limitation was necessary because about three quarters of all blue-collar workers are em-

ployed by the Department of Defense. These workers would probably have received pay increases from 8 to 12 percent without the cap while other workers, including uniformed personnel, were limited to the 5.5 percent. This situation would have been tolerable were it not for the fact that most wage board employees are receiving higher pay than prevailing rates for comparable work within a local wage area. This is occurring even though the wage board system was established to use the locally prevailing rate principle.

The reasons why this happens have been well documented in a number of studies.

Without discussing these in detail, I might just mention that they include a five-step pay schedule with the prevailing rate set at step 2, but most workers being paid at step 4 or 5. Also, a problem is a provision of law referred to as the Monroney amendment which allows wage rates to be improved from another part of the country. There are also a number of other features which can and do cause the Federal Government to pay more than the locally prevailing rate.

Under the circumstances, a 5.5-percent cap seems to be an equitable way to proceed pending some more substantive changes to the entire wage board pay system. This action will reduce the Federal budget in excess of $200 million this fiscal year.

Mr. DICKS. Mr. Speaker, will the gentleman yield?

Mr. STEED. I yield to the gentleman from Washington.

Mr. DICKS. Mr. Speaker, I just want to join my colleague from Virginia (Mr. HARRIS) in expressing my concern. We have singled out one segment of the economy to put on wage controls, even though we have other laws that would require them to receive a higher cost-of-living wage increase. I think it is really very unfair when we single out blue-collar workers.

I happen to represent a district where these people do an outstanding job and are just as hard hit by inflation as any other groups. It is really the same as saying, "We are going to control your wages. We are not willing to do that with the rest of the economy."

I deeply regret that this is the action, but I am realistic about any chances of overriding it on the House floor.

Mrs. SPELLMAN. Mr. Speaker, will the gentleman yield?

Mr. STEED. I yield to the gentlewoman from Maryland.

Mrs. SPELLMAN. Mr. Speaker, may I point out that as chairwoman of the subcommittee looking into the situation with respect to blue-collar pay and wage matter. We do know there are changes We spent one full year in going into the matter. We do know there are changes that need to be made in the scale, that there are several changes that need to be made in overtime pay and the Monroney amendment and so forth, but to drastically cut the salary at 5.5 percent is taking, without question, the wrong step.

Mr. STEED. May I say to the gentlewoman that the issue was resolved when the military appropriation bill was approved. Since that covers about 75 percent of the blue-collar work force, it puts us in a very awkward position now to say that the other 25 percent should not be treated the same way even though we have been opposed to the act in the first place. So, we tried to do what we think is the only thing we could have done in view of what the decision the House already made would indicate.

Mrs SPELLMAN. If the gentleman would yield further, I fully understand the position he is in, and do not consider him to be a villain in this piece at all. He is, in fact, dealing only with the 25 percent, but I do think that the issue is one which is larger than appears on the surface. The whole question is whether the standing committees, whether the committees that really are involved in the studies and understand every little nuance of each of these issues, are the ones to make the legislative decisions; or whether legislative decisions ought to be imposed by the Appropriations Committee.

If the Appropriations Committee is going to change the legislation, then maybe we do not even need the standing committees, or maybe, in view of the fact that we now have a Budget Committee setting a spending ceiling it is the Appropriations Committee that is no longer needed.

Mr. STEED. I would be more fervently in favor of the legislation staying where it belongs than with me. But the fact that this is in the bill now does not preclude the legislative committee from taking another type of action if it saw fit to do so.

I hope the time will come when our rules will be so written that those of us in the appropriation processes will not have these sorts of problems to wrestle with. We have enough problems with the responsibilities related to appropriations without getting into these other areas. But there are certain problems when the House backs these kinds of actions and we are stuck with them. And the legislative committee is in the same boat we are on this.

Mrs. SPELLMAN. I understand the gentleman's difficulties in this case and I thank him for his comments.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Oklahoma (Mr. STEED).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. WALKER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 284, nays 111, not voting 37, as follows:

[Roll No. 861]

YEAS—284

Abdnor	Applegate	Badham
Alexander	Archer	Bafalis
Ambro	Armstrong	Barnard
Anderson, Ill.	Ashbrook	Baucus
Andrews, N.C.	Aspin	Bauman
Annunzio	AuCoin	Beard, Tenn.
Bedell	Gore	Natcher
Beilenson	Gradison	Neal
Benjamin	Grassley	Nedzi
Bennett	Green	Nichols
Bevill	Gudger	Nix
Blanchard	Guyer	Nowak
Boland	Hagedorn	O'Brien
Bolling	Hall	Oakar
Bonior	Hamilton	Obey
Bonker	Hammer-schmidt	Panetta
Bowen	Hansen	Patterson
Brademas	Harrington	Pattison
Breaux	Heftel	Pease
Breckinridge	Hollenbeck	Pepper
Brodhead	Horton	Perkins
Brooks	Howard	Poage
Broomfield	Huckaby	Preyer
Brown, Calif.	Hughes	Price
Brown, Mich.	Hyde	Pritchard
Broyhill	Ichord	Pursell
Burgener	Ireland	Quayle
Burke, Fla.	Jacobs	Regula
Burleson, Tex.	Jeffords	Reuss
Burlison, Mo.	Jenkins	Rhodes
Butler	Johnson, Calif.	Rinaldo
Caputo	Johnson, Colo.	Risenhoover
Carr	Jones, N.C.	Roberts
Carter	Jones, Okla.	Robinson
Cavanaugh	Jordan	Rogers
Cederberg	Kasten	Roncalio
Clawson, Del	Kelly	Rooney
Cleve and	Kemp	Rose
Cohen	Kindness	Rostenkowski
Collins, Tex.	Kostmayer	Rousselot
Conable	LaFalce	Roybal
Conte	Lagomarsino	Rudd
Corcoran	Latta	Runnels
Corman	Le Fante	Russo
Cornell	Lederer	Ryan
Cotter	Leggett	Satterfield
Coughlin	Lent	Sawyer
Crane	Livingston	Scheuer
Daniel, Dan	Lloyd, Calif.	Schulze
Danielson	Lloyd, Tenn.	Sebelius
Delaney	Long, La.	Seiberling
Dent	Long, Md.	Sharp
Derrick	Lott	Shuster
Derwinski	Luken	Simon
Devine	Lundine	Skelton
Dodd	McClory	Skubitz
Dornan	McCloskey	Slack
Drinan	McCormack	Smith, Nebr.
Duncan, Oreg.	McDonald	Snyder
Duncan, Tenn.	McEwen	Staggers
Early	McFall	Stangeland
Edgar	McHugh	Stanton
Edwards, Okla.	McKinney	Steed
Eilberg	Madigan	Steiger
Emery	Maguire	Stockman
English	Mahon	Stratton
Erlenborn	Mann	Studds
Ertel	Markey	Stump
Evans, Colo.	Marks	Symms
Evans, Del.	Marlenee	Taylor
Evans, Ind.	Marriott	Thompson
Fary	Martin	Thornton
Fascell	Mattox	Traxler
Fenwick	Mazzoli	Treen
Findley	Meeds	Tucker
Fish	Meyner	Udall
Fithian	Michel	Ullman
Flood	Mikva	Vander Jagt
Florio	Miller, Ohio	Vanik
Flowers	Mineta	Volkmer
Flynt	Minish	Waggonner
Foley	Mollohan	Walker
Forsythe	Montgomery	Wampler
Fountain	Moore	Watkins
Fowler	Moorhead, Calif.	Weaver
Frenzel	Moorhead, Pa.	Whitten
Frey	Mottl	Wiggins
Fuqua	Murphy, Ill.	Winn
Gammage	Murphy, N.Y.	Wright
Gaydos	Murphy, Pa.	Wylie
Gephardt	Murtha	Yates
Giaimo	Myers, Gary	Yatron
Gibbons	Myers, John	Young, Fla.
Ginn	Myers, Michael	Zablocki
Glickman		
Goldwater		

NAYS—111

Addabbo	Brown, Ohio	Cunningham
Akaka	Buchanan	D'Amours
Anderson, Calif.	Burke, Mass.	Daniel, R. W.
Andrews, N. Dak.	Burton, Phillip	Davis
Ashley	Byron	de la Garza
Baldus	Carney	Dellums
Beard, R.I.	Chisholm	Dicks
Biaggi	Clausen, Don H.	Downey
Bingham	Clay	Eckhardt
Boggs	Coleman	Edwards, Ala.
Brinkley	Collins, Ill.	Edwards, Calif.
	Conyers	Evans, Ga.
		Fisher

Flippo	McKay	Smith, Iowa
Ford, Tenn.	Mathis	Solarz
Fraser	Metcalfe	Spellman
Garcia	Mikulski	Spence
Gilman	Mitchell, Md.	St Germain
Gonzalez	Mitchell, N.Y.	Stark
Goodling	Moakley	Steers
Hanley	Moffett	Stokes
Hannaford	Nolan	Trible
Harris	Oberstar	Vento
Harsha	Ottinger	Walsh
Hawkins	Patten	Waxman
Hefner	Pickle	Weiss
Holt	Pressler	Whalen
Holtzman	Quillen	White
Hubbard	Rahall	Whitehurst
Jenrette	Railsback	Whitley
Kastenmeier	Rangel	Wilson, Bob
Kazen	Richmond	Wilson, C. H.
Keys	Rodino	Wirth
Kildee	Rosenthal	Wolff
Krebs	Ruppe	Wydler
Leach	Schroeder	Young, Alaska
Levitas	Sikes	Young, Mo.
McDade	Sisk	Zeferetti

NOT VOTING—37

Ammerman	Hightower	Roe
Blouin	Hillis	Santini
Burke, Calif.	Holland	Sarasin
Burton, John	Jones, Tenn.	Shipley
Chappell	Krueger	Teague
Cochran	Lehman	Thone
Cornwell	Lujan	Tsongas
Dickinson	Milford	Van Deerlin
Diggs	Miller, Calif.	Walgren
Dingell	Moss	Wilson, Tex.
Ford, Mich.	Pettis	Young, Tex.
Harkin	Pike	
Heckler	Quie	

The Clerk announced the following pairs:

Mr. Santini with Mr. Thone.
Mr. Teague with Mr. Hillis.
Mr. Jones of Tennessee with Mr. Cochran of Mississippi.
Mr. John L. Burton with Mr. Dickinson.
Mr. Blouin with Mrs. Heckler.
Mr. Ammerman with Mr. Holland.
Mr. Chappell with Mr. Milford.
Mr. Van Deerlin with Mr. Lujan.
Mr. Shipley with Mrs. Pettis.
Mr. Roe with Mr. Quie.
Mr. Hightower with Mr. Sarasin.
Mr. Lehman with Mr. Pike.
Mr. Dingell with Mr. Moss.
Mr. Diggs with Mr. Harkin.
Mr. Ford of Michigan with Mr. Walgren.
Mr. Miller of California with Mr. Charles Wilson of Texas.
Mr. Kruger with Mr. Tsongas.
Mrs. Burke of California with Mr. Cornwell.

Messrs. CARNEY, BIAGGI, QUILLEN, YOUNG of Missouri, MOAKLEY, McDADE, Ms. KEYS, and Messrs. STARK, HEFNER, SIKES, HANLEY, LEVITAS, BURKE of Massachusetts, RAHALL, KREBS, and CHARLES H. WILSON of California changed their votes from "yea" to "nay."

Messrs. BRODHEAD, BADHAM, MARRIOTT, McCORMACK, and GUDGER changed their votes from "nay" to "yea."

So the motion was agreed to.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. Without objection, a motion to reconsider the votes by which action was taken on the conference report and the several motions is laid on the table.

Mr. WALKER. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

The question is on the motion to reconsider the votes by which action was taken on the conference report and the several motions.

Mr. STEED. Mr. Speaker, I move to lay on the table the motion to reconsider.

The SPEAKER pro tempore. The question is on the motion to lay on the table offered by the gentleman from Oklahoma (Mr. STEED).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. WALKER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 392, nays 4, not voting 36, as follows:

[Roll No. 862]

YEAS—392

Abdnor	Cornell	Hall
Addabbo	Cotter	Hamilton
Akaka	Coughlin	Hammer-schmidt
Alexander	Crane	
Ambro	Cunningham	Hanley
Anderson, Calif.	D'Amours	Hannaford
Anderson, Ill.	Daniel, R. W.	Hansen
Andrews, N.C.	Danielson	Harrington
Andrews, N. Dak.	Davis	Harris
Annunzio	de la Garza	Harsha
Archer	Delaney	Hawkins
Armstrong	Dellums	Heckler
Ashley	Dent	Hefner
Aspin	Derrick	Heftel
AuCoin	Derwinski	Hillis
Badham	Devine	Hollenbeck
Bafalis	Dicks	Holt
Baldus	Dodd	Holtzman
Barnard	Dornan	Horton
Baucus	Downey	Howard
Beard, R.I.	Drinan	Hubbard
Beard, Tenn.	Duncan, Oreg.	Huckaby
Bedell	Duncan, Tenn.	Hughes
Beilenson	Early	Hyde
Benjamin	Eckhardt	Ichord
Bennett	Edgar	Jacobs
Bevill	Edwards, Ala.	Jeffords
Biaggi	Edwards, Calif.	Jenkins
Bingham	Edwards, Okla.	Jenrette
Blanchard	Ellberg	Johnson, Calif.
Boggs	Emery	Johnson, Colo.
Boland	English	Jones, N.C.
Bolling	Erlenborn	Jones, Okla.
Bonior	Ertel	Jordan
Bonker	Evans, Colo.	Kasten
Bowen	Evans, Del.	Kastenmeier
Brademas	Evans, Ga.	Kazen
Breaux	Evans, Ind.	Kelly
Breckinridge	Fary	Kemp
Brinkley	Fascell	Keys
Brodhead	Fenwick	Kildee
Brooks	Findley	Kindness
Broomfield	Fish	Kostmayer
Brown, Calif.	Fisher	Krebs
Brown, Mich.	Fithian	LaFalce
Brown, Ohio	Flippo	Lagomarsino
Broyhill	Flood	Latta
Buchanan	Florio	Le Fante
Burgener	Flowers	Leach
Burke, Fla.	Flynt	Lederer
Burke, Mass.	Foley	Leggett
Burleson, Tex.	Ford, Mich.	Lehman
Burlison, Mo.	Ford, Tenn.	Lent
Burton, Phillip	Forsythe	Levitas
Butler	Fountain	Livingston
Byron	Fowler	Lloyd, Calif.
Caputo	Fraser	Lloyd, Tenn.
Carney	Frenzel	Long, La.
Carr	Frey	Long, Md.
Carter	Fuqua	Lott
Cavanaugh	Gammage	Luken
Cederberg	Garcia	Lundine
Chisholm	Gaydos	McClory
Clausen, Don H.	Gephardt	McCloskey
Clawson, Del	Giaimo	McCormack
Clay	Gibbons	McDade
Cleveland	Gilman	McDonald
Cohen	Ginn	McEwen
Coleman	Glickman	McFall
Collins, Ill.	Goldwater	McHugh
Collins, Tex.	Gonzalez	McKay
Conable	Gore	McKinney
Conte	Gradison	Madigan
Corcoran	Grassley	Maguire
Corman	Green	Mahon
	Gudger	Mann
	Guyer	Markey
	Hagedorn	Marks
	Marlenee	Pressler
	Marriott	Preyer
	Martin	Price
	Mathis	Pritchard
	Mattox	Purcell
	Mazzoli	Quayle
	Meeds	Quie
	Metcalfe	Quillen
	Meyner	Rahall
	Michel	Railsback
	Mikulski	Rangel
	Mikva	Regula
	Miller, Ohio	Reuss
	Mineta	Rhodes
	Minish	Richmond
	Mitchell, Md.	Rinaldo
	Mitchell, N.Y.	Risenhoover
	Moakley	Roberts
	Moffett	Robinson
	Mollohan	Rodino
	Montgomery	Rogers
	Moore	Rooney
	Moorhead, Calif.	Rose
	Moorhead, Pa.	Rosenthal
	Moss	Rostenkowski
	Mottl	Rousselot
	Murphy, Ill.	Roybal
	Murphy, N.Y.	Rudd
	Murphy, Pa.	Ruppe
	Murtha	Russo
	Myers, Gary	Ryan
	Myers, John	Santini
	Myers, Michael	Satterfield
	Natcher	Sawyer
	Neal	Scheuer
	Nedzi	Schroeder
	Nichols	Schulze
	Nix	Sebelius
	Nolan	Seiberling
	Nowak	Sharp
	O'Brien	Shuster
	Oakar	Sikes
	Oberstar	Simon
	Obey	Sisk
	Ottinger	Skelton
	Panetta	Skubitz
	Patten	Slack
	Patterson	Smith, Iowa
	Pease	Smith, Nebr.
	Pepper	Snyder
	Perkins	Solarz
	Pickle	Spence
	Price	St Germain
	Poage	Staggers
		Stangeland
		Stanton
		Stark
		Steed
		Steiger
		Stockman
		Stokes
		Stratton
		Studds
		Stump
		Symms
		Taylor
		Thompson
		Thornton
		Traxler
		Treen
		Trible
		Tucker
		Udall
		Ullman
		Vander Jagt
		Vanik
		Vento
		Volkmer
		Waggonner
		Walgren
		Walker
		Walsh
		Wampler
		Watkins
		Waxman
		Weaver
		Weiss
		Whalen
		White
		Whitehurst
		Whitley
		Whitten
		Wiggins
		Wilson, Bob
		Wilson, C. H.
		Winn
		Wirth
		Wolff
		Wright
		Wydler
		Wylie
		Yates
		Yatron
		Young, Alaska
		Young, Fla.
		Young, Mo.
		Zablocki
		Zeferetti

NAYS—4

Ashbrook	Goodling	Steers
Bauman		

NOT VOTING—36

Ammerman	Dingell	Roe
Applegate	Harkin	Roncalio
Blouin	Hightower	Runnels
Burke, Calif.	Holland	Sarasin
Burton, John	Ireland	Shipley
Chappell	Jones, Tenn.	Spellman
Cochran	Krueger	Teague
Conyers	Lujan	Thone
Cornwell	Milford	Tsongas
Daniel, Dan	Miller, Calif.	Van Deerlin
Dickinson	Pattison	Wilson, Tex.
Diggs	Pettis	Young, Tex.

So the motion to lay on the table a motion to reconsider the votes by which action was taken on the conference report and on the several motions was agreed to.

The result of the vote was announced as above recorded.

GENERAL LEAVE

Mr. STEED. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report (H.R. 12930) just agreed to.

The SPEAKER pro tempore (Mr. KAZEN). Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

HAPPY BIRTHDAY, MICKEY MOUSE

(Mr. ROUSSELOT asked and was given permission to address the House

for 1 minute and to revise and extend his remarks.)

Mr. ROUSSELOT. Mr. Speaker, the world's most popular personality is 50 years old this fall. He began his career on November 18, 1928, as the star of the first sound cartoon, "Steamboat Willie." Since that debut 50 years ago, Mickey Mouse has become one of the most well-known symbols of the 20th century. Mickey is loved by children of all ages, from toddlers to their great-grandparents.

Mickey Mouse is a little guy born out of the depression, who has taught us how to laugh. Mickey has captured our hearts in 118 cartoon shorts, and many full length films. He brilliantly portrayed a variety of roles, and he has had the untimely ability to bring smiles to generation after generation all over the world.

At the peak of Mickey's success was his starring role as the sorcerer's apprentice in "Fantasia." This movie was and still is a major artistic innovation. It interpreted music in shapes, colors, movements, and story. The animation techniques used were years ahead of their time and have yet to be matched.

Not only did Mickey Mouse entertain us all these years, but he has done great things for our country in his spare time as well. During World War II the Disney Studio suspended almost all commercial activity and concentrated on aiding the war effort. Mickey played his part by appearing in films and posters, supporting the effort and urging the purchase of war bonds. And, incredibly, the password of the Allied Forces on D-day, June 6, 1944, was none other than "Mickey Mouse."

After all these years Mickey's schedule has not slowed down. Today he still remains very busy, he is the official host at Disneyland in my home State of California, and at Walt Disney World in Florida. He appears in many parades, and other special activities, makes guest appearances on "The Wonderful World of Disney," not to mention being the emcee of the "New Mickey Mouse Club Show."

Mr. Speaker, if Mickey Mouse were here he would probably tell you that he owes much of his success to his creator, the late Walt Disney. Disney had an imagination that could only be labeled as genius. Walt Disney is a legend, a folk hero of the 20th century. His worldwide popularity was based on his imagination, optimism and self-made success in our free enterprise system. Walt brought more joy and happiness to the hearts, minds, and emotions of Americans than any other man in the past century and his memory continues to do so. If Walt Disney were here today he would probably tell you that he owes much of his great success to that little fellow we all love—Mickey Mouse. One of the finest tributes to Mickey was given by Walt when he said, "I hope we never lose sight of one fact * * * that this was all started by a Mouse."

"Happy Birthday Mickey Mouse." "See ya real soon." I want to join with my colleagues in hoping you celebrate many, many more.

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 6536, DISTRICT OF COLUMBIA RETIREMENT REFORM ACT

Mr. DELLUMS. Mr. Speaker, I ask unanimous consent that the managers on the part of the House may have until midnight tonight to file a conference report on the bill (H.R. 6536) to establish an actuarially sound basis for financing retirement benefits for policemen, firemen, teachers, and judges of the District of Columbia and to make certain changes in such benefits.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

CONFERENCE REPORT ON H.R. 12255, COMPREHENSIVE OLDER AMERICANS ACT AMENDMENTS OF 1978

Mr. BRADEMAS. Mr. Speaker, I call up the conference report on the bill (H.R. 12255) to amend the Older Americans Act of 1965 to provide for improved programs for older persons, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana (Mr. BRADEMAS)?

Mr. WALKER. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

The Clerk will read the report.

The Clerk commenced to read the report.

(For conference report and statement, see proceedings of the House of September 22, 1978.)

Mr. WALKER (during the reading). Mr. Speaker, I am sure that it was not intentional on the part of the reading clerk, but I think there is a section there beginning with 303(b), under which there is a subparagraph (2), that was skipped over inadvertently.

I would appreciate having that section read.

The SPEAKER pro tempore. The Clerk will so note.

The Clerk continued to read the report.

Mr. BRADEMAS (during the reading). Mr. Speaker, I renew my unanimous consent request that further reading of the conference report and statement be dispensed with.

The SPEAKER pro tempore (Mr. MANN). Is there objection to the request of the gentleman from Indiana?

There was no objection.

The SPEAKER pro tempore. The gentleman from Indiana (Mr. BRADEMAS) will be recognized for 30 minutes, and the gentleman from Vermont (Mr. JEFFORDS) will be recognized for 30 minutes.

The Chair recognized the gentleman from Indiana (Mr. BRADEMAS).

Mr. BRADEMAS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to report to the House that after negotiations in conference between the Committee on Human Resources of the other body and the Committee on Education and Labor on H.R. 12255, the Comprehensive Older Americans Act Amendments of 1978, we have reached an agreement which is embodied in the conference report now under consideration.

Mr. Speaker, I want first to express appreciation for the efforts of the members of the committee who have worked and cooperated in bringing this matter to a successful resolution.

In particular, Mr. Speaker, I would like to thank the distinguished chairman of the Education and Labor Committee, the gentleman from Kentucky (Mr. PERKINS), and the distinguished ranking minority member of the Education and Labor Committee, Mr. QUIE, for their important contributions to this bill.

Mr. Speaker, I should like at this point to express my appreciation for the fine work done by the members of the Subcommittee on Select Education who served as conferees on this measure, Mr. BEARD of Rhode Island, Mr. MILLER of California, Mr. KILDEE, Mr. HEFTEL, Mr. HAWKINS, Mr. BIAGGI, Mr. JEFFORDS, and Mr. PRESSLER.

I would be remiss, Mr. Speaker, if I did not also thank those Senate members of the conference committee as well, particularly Mr. EAGLETON, who has given outstanding leadership in the field of legislation to benefit America's older citizens, and Mr. WILLIAMS, Mr. KENNEDY, Mr. CRANSTON, Mr. CHAFEE, Mr. HAYAKAWA, and Mr. JAVITS.

The conference report, Mr. Speaker, is similar in many respects to H.R. 12255, the Comprehensive Older Americans Act Amendments of 1978, which the House passed on May 15 by an overwhelming margin of 361 to 6.

The conference report, like the House bill, would extend the Older Americans Act of 1965 for 3 additional years and would continue the authorizations for title II of the Domestic Volunteer Service Act of 1973, entitled "National Older American Volunteer Programs," for 3 years as well.

Total authorizations for all the programs extended by H.R. 12255 would be, as agreed in the conference measure, $1.160 billion for fiscal year 1979, $1.3275 billion for fiscal year 1980, and $1.555 billion for fiscal year 1981. These authorization levels, Mr. Speaker, are slightly lower than those contained in the bill passed by the House.

Briefly, Mr. Speaker, let me address the major provisions contained in the conference agreement on H.R. 12255.

ADMINISTRATION ON AGING

First, the importance of the Administration on Aging is underscored by designating that office as the visible advocate for the elderly in the Federal Government. The conference report stresses the importance of maintaining the Commissioner on Aging in a position of high visibility.

Second, the conference report, like the House bill, would strengthen the Federal Council on Aging in two ways. The Council would have an independent staff appointed by its Chairman, and the Commissioner on Aging and the Secretary of Health, Education, and Welfare

would be removed as ex officio members of the Council, allowing the Council to become a more independent advocate for the elderly.

STATE AND COMMUNITY PROGRAMS ON AGING

Third, as in the bill which the House passed, the conference report would consolidate the administration and planning of social services for the elderly, including senior centers and nutrition programs, under title III of the act, State and Community Programs on Aging.

The consolidation is an effort to enhance the effectiveness and efficiency of the act and to eliminate much of the duplication and paperwork which have burdened these programs in the past.

Each State and area agency on aging would develop a 3-year plan, as the House bill required, for social services, nutrition services and, where appropriate, senior centers in its area.

At least half the funds allotted for social services would be spent on services related to access, such as transportation, outreach, information and referral, in-home services like homemaker and health aides; and legal services, with some funds expended in each of these categories.

In addition, each State would be required to spend at least 1 percent, or $20,000, whichever is greater, of its social services allotment to establish and operate a nursing home ombudsman program.

Mr. Speaker, the conference report provides authorizations for State and community social services for the elderly, including senior centers, as follows: $300 million for fiscal year 1979, $360 million for fiscal year 1980, and $480 million for fiscal year 1981.

These authorizations are below the total level of funds provided separately in the House bill for social services, senior centers, legal services, and ombudsman services.

NUTRITION SERVICES

Fourth, the conference report, like the House bill, would consolidate the administration of nutrition services, both congregate meals and home-delivered meals, with other social services while retaining separate authorizations for the two nutrition programs. The authorizations, Mr. Speaker, are identical to those passed by the House: for congregate nutrition services, $350 million in fiscal year 1979, $375 million in fiscal year 1980, and $400 million in fiscal year 1981; and for home-delivered meals, $80 million in fiscal year 1979, $100 million in fiscal year 1980, and $120 million in fiscal year 1981.

TRAINING, RESEARCH, AND DISCRETIONARY PROJECTS

Fifth, the conference agreement contains, as did the House bill, a provision requiring the Administration on Aging to develop a national manpower policy on aging, to assess gaps in manpower and to provide grants to train personnel employed in programs serving the elderly.

Sixth, the conference report broadens the model project authority in the Older Americans Act to emphasize special research and demonstration projects in long-term care, as provided by the House bill. The Commissioner on Aging would be authorized to make grants to programs which would provide a continuum of services designed to support alternatives to institutional living.

The model project authority, Mr. Speaker, is also amended by the conference agreement to require that funds will be set aside for area agencies on aging to provide social services to elderly people during a major disaster. This new provision for disaster reimbursement was also included in the bill passed by the House.

With regard to programs in research and model projects, the conference agreement contains an important element from the House bill: that no research or demonstration funds may be transferred to offices in HEW outside the Administration on Aging, nor may such funds be used for research not authorized by the Older Americans Act.

COMMUNITY SERVICE EMPLOYMENT

Seventh, Mr. Speaker, the conference report, like the House bill, would expand eligibility for the Community Service Employment for Older Americans programs by allowing elderly individuals with incomes up to 125 percent of the poverty level to participate.

In addition, the conference agreement authorizes, as did the House bill, the Secretary of Labor to enter into an agreement with the Environmental Protection Administration to establish a Senior Environmental Employment Corps.

The authorizations for the Community Service Employment Program for fiscal years 1979 through 1981 are slightly below those passed by the House: $350 million, $400 million and $450 million respectively.

INDIAN TRIBES

Eighth, the conference agreement authorizes direct funding for Indian tribes. Like the House bill, this measure would give tribes the option to apply for grants to develop their own services for elderly Indians. For this program, such sums as may be necessary are authorized for each of fiscal years 1979 through 1981, provided that at least $5 million are appropriated before the program of separate grants to Indian tribes becomes effective.

WHITE HOUSE CONFERENCE ON AGING

Ninth, the conference report includes the provision in the House bill authorizing the President to call a White House Conference on Aging in 1981 to develop recommendations for further research and action in the field of aging and to provide a forum for older Americans and others for the development of a national policy on aging.

STUDY OF RADICAL AND ETHNIC DISCRIMINATION

Tenth, the conference agreement, again as provided by the House bill, requires the U.S. Commission on Civil Rights to undertake a study of discrimination based on race and ethnic background in federally assisted programs affecting older people. The Commission is required to make its report available to the Congress and to the President no more than 18 months after the enactment of this legislation, with recommendations for statutory changes and administrative action.

AGE DISCRIMINATION

Eleventh, the conference agreement contains provisions from the House bill to amend the Age Discrimination Act of 1975 in several important ways. This measure explicitly authorizes a private right of action which would allow persons who feel they have been the victims of discrimination because of age to seek judicial redress, following the exhaustion of their administrative remedies.

Mr. Speaker, in order to insure the continuation of services to elderly persons, the new legislation also allows the Secretary of HEW to bypass state agencies found in violation of the Age Discrimination Act from which agencies funds are being withheld by awarding program funds to other appropriate public or private nonprofit agencies.

Mr. Speaker, administration officials have belatedly advised me of their concern with two provisions of the Age Discrimination Act amendments retained in the final version of the bill: the requirement that HEW approve resolutions issued by other agencies under the Age Discrimination Act; and the requirement that every agency gather specific age data on its programs, submit such data to HEW, and that HEW submit a report to Congress evaluating the report of each agency.

The administration feels that it is not appropriate for HEW to clear the regulations of other agencies, and that the data and reporting requirements will substantially increase both costs and paperwork burdens.

However, the conferees agreed that the Secretary of HEW, charged with the primary responsibility to implement the prohibition against age discrimination, should play an important coordinating role to assure a uniform Federal policy in this regard.

I am confident of the administration's willingness to enforce the Age Discrimination Act, and I can assure the Department that the Subcommittee on Aging will monitor this situation closely to determine if future legislative action is necessary.

ACTION PROGRAMS

Twelfth, and last, the conference report would extend for 3 years the national older American volunteer programs administered by ACTION. The authorizations for the retired senior volunteer program RSVP are as follows: Fiscal year 1979, $25 million; fiscal year 1980, $30 million; and fiscal year 1981, $35 million. For the foster grandparent and senior companion programs, authorizations are fiscal year 1979, $55 million; fiscal year 1980, $62.5 million; and fiscal year 1981, $70 million.

Mr. Speaker, the House bill raised to $2 per hour the stipend for volunteers in the foster grandparent and senior companion programs. This provision is included in the conference agreement dependent upon adequate appropriations to finance the increase in stipend without cutting back the number of volunteers in the programs.

The conference agreement, like the House bill, also extends the eligibility for participation in these programs to individuals with an income no greater than 125 percent of the poverty level.

CONCLUSION

Mr. Speaker, to insure that elderly persons are able to obtain services appropriate to their individual needs, I urge Members of the House to give strong support to this measure.

This legislation builds solidly on the achievements of State and community agencies on aging to plan, coordinate, and provide a wide range of services to the elderly.

Mr. Speaker, in conclusion, I would once more remind my colleagues that the measure before us has enjoyed overwhelming bipartisan support during its consideration earlier this year. I trust that there will be equally strong support on both sides of the aisle for the conference report before us.

Mr. Speaker, I reserve the balance of my time.

Mr. JEFFORDS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the conference report.

I also want to commend the gentleman from Indiana (Mr. BRADEMAS) for his tremendous work on this bill, as well as the gentleman from Minnesota (Mr. QUIE) and the gentleman from Kentucky (Mr. PERKINS).

Mr. Speaker, I rise to strongly support the conference bill on the Older Americans Amendments of 1978. I feel that the House had an outstanding bill and the conference compromise bill does nothing to diminish my judgment of it. The bill is a positive step forward for the elderly of this Nation regardless of where they live.

I am particularly pleased with the emphasis that the bill places on meeting services and improving accessibility and transportation services for the elderly. I think the conferees took a giant step forward in that the rural elderly have just as many needs and require just as much assistance as those elderly persons living in urban areas. I think the bill attempts to bring balance toward both.

I am also particularly pleased that many of the provisions which I developed in the committee were retained by the conferees. I believe that the accommodations reached move toward greater flexibility in the programs and will ultimately result in better services for all elderly people.

I would like to add one note just to clarify legislative history. I would like to ask the gentleman from Indiana (Mr. BRADEMAS) to reaffirm with me that it is our feeling that the Congress never intended RSVP to be a poverty program, and that ACTION should not apply poverty-type guidelines to either the selection of volunteers or the selection of projects these volunteers will serve. For the sake of legislative history it should be clear that it is our intent that the ACTION Agency should issue no rules, regulations, or guidelines, or take any administrative action designed to reshape RSVP as a poverty program.

Mr. BRADEMAS. Mr. Speaker, if the gentleman will yield, I will say to the gentleman from Vermont (Mr. JEFFORDS) that the interpretation he has voiced is accurate and one with which I as chairman of the subcommittee concur.

Mr. JEFFORDS. Mr. Speaker, I thank the gentleman from Indiana (Mr. BRADEMAS).

Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. GREEN).

Mr. GREEN. Mr. Speaker, I simply want to commend the conferees for their excellent work. This is an important piece of legislation.

Mr. Speaker, I rise in support of the conference report to H.R. 12255, the Older Americans Act Amendments of 1978. The conference agreement extends Older Americans Act programs, the program of community service employment for older Americans, and the ACTION Foster Grandparents, Senior Companions, and RSVP programs for 3 years, through 1981. It authorizes a 3-year total of $4.1 billion for senior citizen programs. The measure also amends administration of the social services and nutrition programs of the Older Americans Act at both the Federal and local levels.

The Older Americans Act, which became law in 1965, is the only social service program designed solely for this country's senior citizen population. It set forth objectives for assisting older Americans, and established the Administration on Aging as a focal point agency for older people at the Federal level.

The conference agreement establishes a new program under the Older Americans Act to provide home-delivered meals to the elderly; strengthens programs for training personnel in the field of aging by requiring the development of a national manpower policy for aging; creates a program of model projects in long-term care to support alternatives to institutional living; provides direct funding to American Indian tribes to support services to elderly Indians; strengthens the Age Discrimination Act by authorizing a private right of action for judicial redress of age discrimination; and authorizes a White House conference on aging in 1981.

Also contained are provisions requiring that each nutrition project provide meals in a congregate setting and that home-delivered meals be based on a determination of need. The conference measure requires each project to establish outreach activities; specifies that guidelines be issued with respect to meal charges; and provides that funds from meal charges be used to increase the number of meals served. For home-delivered meals, the conferees agreed that area-wide agencies on aging must give consideration to organizations of proven ability which assure maintenance of effort of voluntary support. The legislation further stipulates that each project provide at least one "hot, or other appropriate" meal per day. The conferees deleted the separate authorization for multipurpose senior centers as contained in the House bill, but included it in the social service authorization.

At a senior citizens workshop I conducted in May for residents of the 18th Congressional District, representatives from various senior citizens organizations expressed their support for the early enactment of this legislation to improve the quality of life for older Americans.

Not only will this legislation help us to cultivate the vast resource we have in our older Americans, but it lets us help them in other aspects of their lives. Increased funding for senior citizen centers allows States and local jurisdictions to create new centers and improve existing ones so that our elderly can have a place to go and be with friends, meet new ones, and join in activities designed for their enjoyment. The centers are also ideal places for seniors to find out about the varied services this act will provide for them.

In addition, special counseling will be available so that older Americans can find out about programs in the areas of health, welfare, employment, volunteer programs, recreational activities, and legal services. Without such counseling, many senior citizens would not know where to turn to take advantage of the many services the Older Americans Act provides for them.

The legislation before us today will provide a variety of social and nutrition services to the elderly and will assist in the establishment of multipurpose senior centers. I urge my colleagues to vote in favor of the conference report to H.R. 12255.

Mr. JEFFORDS. Mr. Speaker, I yield such time as he may consume to the gentleman from South Dakota (Mr. ABDNOR).

Mr. ABDNOR. Mr. Speaker, I rise in support of the conference report to the Older Americans Act Amendments of 1978. This legislation is indeed important for America's seniors. But few realize just how significant this is for the rural elderly.

For the first time both Houses of Congress have recognized that the rural elderly represent more than a third of the Nation's elderly population; that in rural areas, 1 out of every 5 Americans is over 65 and that 1 of every 4 Americans over 65 live on farms or in rural communities with populations less than 2,500. There is indeed a rural America and a good part of its citizens are seniors.

This legislation provides a rural formula, by which each State reserves from its allotment an additional 5 percent of what is currently being spent for seniors in rural areas. This should improve the quantity and quality of services to rural seniors, but it is not the whole answer to the rural elderly problem.

Serious study must be given to how difficult and expensive it is to deliver services to senior adults in truly rural areas; that is, where the whole State is rural or virtually rural in nature. This legislation requires a study on the difference in costs, service delivery, and access between rural and urban areas. Moreover, model projects in rural areas are to be given special consideration.

Mr. Speaker, the Select Committee on Aging conducted several Older Americans Act oversight hearings into the problems of rural elderly—one was in my own district. I am very pleased to see that many of the problems of rural seniors are now being addressed. I hope this is only the beginning.

Mr. BRADEMAS. Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. BIAGGI), who has made very significant contributions to this legislation.

Mr. BIAGGI. Mr. Speaker, I congratulate the gentleman from Indiana (Mr. BRADEMAS), the chairman of the subcommittee, who is responsible for the processing and development of this legislation which is so essential to the elderly of this country.

Mr. Speaker, in 1965 when the Older Americans Act was first passed, it signaled the beginning of a new policy era in this Nation—the special needs of our senior citizens were recognized in Federal legislation. Today we consider legislation which demonstrates clearly the extent to which the elderly have become a force in this Nation. The 1978 amendments to the Older Americans Act have lifted this legislation and our commitment to the elderly into a position of prominence, and the act now has the necessary equipment to become the primary social service delivery vehicle for older Americans.

I have been involved with this legislation since I came to Congress. I was a cosponsor of the 1972 amendments which established the successful title VII nutrition program. In 1974 I joined as an original member of the House Select Committee on Aging. Two years later I became chairman of the Subcommittee on Human Services which has as its primary concern monitoring the effectiveness of the act. In the past 2 years, I have conducted numerous hearings in Washington and other areas around the Nation to assess if the act was achieving its mandate of serving the needs of the elderly.

Those hearings revealed the consensus from the aging network and from the elderly themselves that the act was struggling in the depths of mediocrity. Some felt the act was frustrated by inadequate funding, others by too much Federal meddling. The message was clear, the 1978 amendments must be more than token actions—they had to revive the program and provide it with the means to expand.

I joined the gentleman from Indiana, the chairman of the Select Education Subcommittee (Mr. BRADEMAS) as an original cosponsor of H.R. 12255. I participated in all the hearings, proposed various amendments, and as a conferee worked out the legislation we are considering today. We have compromised, but more in matters of philosophy than substance. I feel the final product before you is good and deserves your support. It is legislation of supreme importance to the elderly of this Nation, it confirms our efforts to keep our elderly active in their communities.

I will review some of the major highlights of this legislation:

We have made very essential improvements in the two main programs authorized by this legislation, namely the nutrition and community service employment programs.

The nutrition program is perhaps the most successful program now operating under the Older Americans Act. The program serves 450,000 meals per day to seniors. The meals provide a minimum of one-third of the required daily nutrition allowance. The program is a congregate one. These 1978 amendments strengthen it considerably by increasing the authorization level from $275 million in fiscal year 1978 to $350, $375, and $400 million for fiscal year 1979, 1980, and 1981 respectively. This should enable nutrition projects to expand and serve some of the 800,000 seniors who are currently waiting to participate in the program.

The biggest boost to the nutrition program is the establishment of a separate national home delivered meals program. This program will respond to the greatly underserved homebound elderly population. In April 1977, I conducted hearings which disclosed that less than 1 percent of all the homebound elderly were receiving Federal meals. That same hearing revealed that as many as 25 percent of all those in nursing homes are there due to an inability to maintain a proper diet. The cost of institutionalizing these persons is $300 to $400 million a year. For the combined amount of $200 million over 3 years we can provide home delivered meals for more than 10,000 elderly and allow them to remain home and avoid costly and inappropriate institutionalization.

Title V, the community services employment program, which provides part time employment for persons over the age of 55 is expanded considerably. Currently it is authorized at $200 million. The 1978 amendments increase that authorization to $350, $400, and $450 million in the next 3 years. As a result, the program, which has been cited as one of the most cost effective employment programs in existence, will be authorized to provide part time employment to almost double the 47,500 job slots over the next 3 years. This should step up the responsiveness of the Older Americans Act to the more than 5 million elderly who wish to be employed. The expansion of title V program is consistent with this Congress enactment of legislation striking mandatory retirement at age 65. That legislation curtailed age discrimination in employment; this legislation will provide employment for some of those same people.

In addition to expanding the programs currently operating under the Older Americans Act, the measure significantly improves the aging network established in the legislation. During oversight hearings on the measure, we heard time and time again about the problems of paperwork, fragmentation, and duplication. The comprehensive amendments of 1978 consolidate the local administration of the social services, nutrition programs and multipurpose senior centers under the area agency. Previously, the nutrition programs were administered by the State and the multipurpose senior centers were established by grants from the Administration on Aging. This consolidation should result in reduced paperwork and better planning and coordination of resources at the local level.

The Comprehensive Older Americans Act amendments mandate that 50 percent of each AAA's allotment must be expended for the delivery of services associated with access, in-home services and legal services. I had originally opposed the provision of priority services because I felt that the local areas were in the best position to determine local needs for services. Priority services were deleted in the House version of the reauthorization of the Older Americans Act but were included in the Senate version. The conferees compromised by including the services and providing for a waiver if an area agency demonstrates to the State agency that the priority services are already being furnished sufficiently to meet the need of the area. I still support my position that the decision on the use of funds should rest with the local groups delivering the social services; however, I do believe that the waiver permits flexibility that local agencies can work with.

Title IV of the Older Americans Act provides for training and research programs. The purpose of the programs is to train personnel to deliver services unique to needs of the aged and to develop programs that would be of benefit to the elderly. Early in the reauthorization process I proposed that the title IV programs train personnel to deliver services authorized by the nutrition and multipurpose senior center provisions. I am pleased that this provision is in the final language. It will serve to adequately train personnel, and bolster the quality of services delivered under these two programs.

The House version of the Older Americans Act reauthorization amendments provided for a 1-year reauthorization of the ACTION Older American Act volunteer programs. Complaints of ACTION's lack of commitment to these programs, substantiated by its failure to appeal budget cuts in the RSVP program, generated the support for putting ACTION "on notice." The conference language extends the program for 3 years but the agreement provides for regular oversight of ACTION's administration of the Older Americans Act programs. I assure you I plan to participate in this fully.

H.R. 12255 provides that participants in the Senior Companion/Foster Grandparent program will receive an increase in their stipends or allowances for the first time since 1969. The current stipend, $1.60 an hour, will be raised to $2 per hour providing funds appropriated are sufficient to maintain not less than the level of participants serving in the programs during the prior fiscal year. In the event that the appropriations are insufficient for an increase to $2, the Director of ACTION must increase them to the extent possible.

The original House bill upgraded the position of Commissioner on Aging to Assistant Secretary. This was to assure the highest aging official direct access to the Secretary of Health, Education, and Welfare. This provision is not included in the final language of the report. However, I did receive assurances from the

Secretary of Health, Education, and Welfare that current access problems would be taken care of administratively.

Perhaps the most important provision of the Comprehensive Older Americans Act amendments to our senior citizen population is the amendment to the Age Discrimination Act of 1975. The measure provides for a private right of action for violations of the act, eliminates the word "unreasonable" from the statement of purpose of the act, and provides for an alternative remedy where recipients of Federal funds are found in violation of the act. The Civil Rights Commission recently completed an age discrimination in Federal programs study. The study found that of the 10 Federal programs it examined, all 10 were guilty of some form of unjustified age discrimination.

The increasing number of elderly in this Nation must be viewed as an important future policy consideration for this Nation. Social services must be delivered efficiently and effectively. The Older Americans Act has the potential to do this. It has grown from a $7.5 million program in 1965 to a $1 billion annual program: These increases are necessary to meet the demands of a graying population. The manner in which we care for our elderly is reflective of our society. This bill is one we can be proud of. I urge its overwhelming passage by this House.

Mr. BRADEMAS. Mr. Speaker, I yield such time as he may consume to the gentleman from Minnesota (Mr. VENTO).

Mr. VENTO. Mr. Speaker, I rise in strong support of the Comprehensive Older Americans Act of 1978 conference committee. I commend the conferees, especially Representative BRADEMAS, the manager of H.R. 12255.

The myriad of programs within this authorization are vital to people in our society who have special needs associated with aging.

Of special interest to me, and I am sure other House Members, is the "long-term ombudsman" requirement that was agreed upon. Each participating State will expend 1 percent or $20,000, which ever is greater, for the establishment and operation of a "long-term-care ombudsman."

This will provide a special advocate for the elderly in nursing care or similar condition to monitor and prevent the neglect which has in some instances occurred. Older Americans have special problems that we must continue striving to address.

The "meals on wheels" in this legislation fulfills a need which will permit the elderly to remain in a home environment without the necessity of nursing home care. It represents a commonsense alternative, which will reduce overall costs and permit a degree of independence which the Federal Government should encourage. This provision is qualified and narrow, but it demonstrates recognition of the desired goal of providing the opportunity for the elderly to receive services at home.

These two examples are some examples of the major modifications reflected in the 3-year authorizations of the Older Americans Act.

Important as well is the reauthorization of the basic program and the new funds to enforce age discrimination that has been a sore point for too long.

Community service employment programs such as RSVP and the Senior Environment Employment Corps will also be encouraged to provide transition vehicles from public to private employment opportunities as a new thrust.

A number of studies are proposed in the legislation which I am certain will provide needed guidance to Congress and the American people as to the impact and needs of older Americans, and certainly these insights will complement the proposed White House Conference on Aging for 1981, that is to be enacted with this measure.

The total funding level represents a modest increase as we recognize the very substantial changes in the age of our population, which is increasingly in need of the services envisioned by the Older Americans Act.

I urge my colleagues to provide a positive vote that the conference report deserves, so that we might provide hope and dignity to the elderly that have sacrificed so much to build this Nation and our society.

Mr. BRADEMAS. Mr. Speaker, I thank the gentleman from Minnesota (Mr. VENTO) for his remarks.

Mr. Speaker, I yield such time as he may consume to the distinguished chairman of the Committee on Education and Labor, the gentleman from Kentucky (Mr. PERKINS).

Mr. PERKINS. Mr. Speaker, I rise in strong support of the conference report on H.R. 12255, a major bill to provide improved and expanded opportunities for our elderly citizens.

At the outset, Mr. Speaker, I wish to pay the highest compliments to the distinguished chairman of the Subcommittee on Select Education, our colleague, JOHN BRADEMAS. His active and concerned leadership is largely responsible for the excellence of this legislation. I would especially commend also our colleagues, MARIO BIAGGI for his work in helping to develop and strengthen important components of the Older Americans Act, and GEORGE MILLER for his untiring efforts on behalf of the nutrition programs for the elderly.

This has been a bipartisan effort and AL QUIE, the ranking minority member of the committee, and JAMES JEFFORDS, the ranking member of the subcommittee, have made great contributions. Members of the committee on both sides of the aisle are to be complimented.

The Committee on Education and Labor has a long and active history of concern for older Americans, recognizing their special problems and their special contributions to this country. As early as 1962, the committee held hearings on the establishment of an agency such as the present Administration on Aging and on authorizing special programs for the aging to be administered by such an agency.

Further hearings were held in the 88th Congress and on March 9, 1965, the Committee on Education and Labor took the lead in reporting out a bill to establish the Administration on Aging, and research, demonstration, and training programs to meet the special needs of the aged. That bill led to the Older Americans Act of 1965.

Our committee initiated and supported amendments in 1967 and 1969 to the Older Americans Act which strengthened State agencies on aging to provide more effective leadership and advocacy at the State level, authorized areawide model project programs, provided continued support for community service programs, and added foster grandparent and retired senior volunteer programs to the act.

A resolution to authorize the 1971 White House Conference on Aging was reported by the committee in 1968.

In 1971, the committee reported legislation to authorize a nutrition program for the elderly which became law in March 1972, and is now serving nutritious meals to over 200,000 older persons daily.

In 1972 and 1973, the committee reported out bills providing comprehensive amendments to the Older Americans Act. These bills and the subsequent amendments significantly strengthened the role of the Administration on Aging as a focal point of Federal concern for older persons and upgraded its organizational status, created a Federal Council on Aging, established a State/community coordinated planning and service system for the elderly, provided authority to lease, renovate, and construct multipurpose senior centers, and expanded most of the existing programs under the act.

The Older Americans Comprehensive Services Amendments of 1973 also established the older Americans community service employment program and amended several education and library acts to provide special programs for the elderly. In 1974, the committee reported out legislation to extend and improve nutrition programs for the elderly which also became law. In 1975, with enactment of Public Law 94–135, the committee amendment made significant improvements in the Older Americans Act, particularly in the title IX employment program. That act also contained provisions prohibited discrimination in federally assisted programs on the basis of age.

The Education and Labor Committee is deeply concerned with the implementation of the act. A number of oversight hearings have been held recently on major issues resulting from the administration of the Older Americans Act programs and this excellent bill reflects the committee's extensive study and work.

As the record clearly shows, concern for older Americans has been a priority in our committee. The recently enacted mandatory retirement bill is the most recent example of this. Within just a few days with final enactment of this conference report we will take still a further step to better meet the needs of our elderly citizens.

Mr. Speaker, the report before the House is very close to the House-passed bill. The conferees from both bodies were sensitive to budgetary constraints and where possible we took the lower authorization figure from the respective bills.

As a result, the total dollar authorization for fiscal year 1979 in the conference report—which amount to $1,160,000,000—is $110 million less than the House bill and $160 million less than the Senate version.

A similar pattern is followed in fiscal year 1980 and in fiscal year 1981 where the total dollar authorizations in the conference report are less than total dollar authorizations in the House-passed version which I should remind my colleagues passed the House by a vote of 361 to 6.

Mr. Speaker, as is always the case, a bill of this magnitude is the result of many compromises. The conference report does not contain all that I would have hoped for, but I do believe we have before us major and significant improvements.

One of my concerns over the years has been the plight of the rural elderly. While the conference report does not go as far as I would want it to in addressing this continuing problem, it does contain a number of improvements. The report requires States to make greater efforts in meeting the needs of the rural elderly. Furthermore, the Commissioner of Aging is directed to conduct a comprehensive study on the needs of the rural elderly. That study, along with studies which our committee will be conducting, I believe will provide a basis for still further legislative action on behalf of the rural elderly.

I am pleased the conference report contains an amendment which I offered to provide assistance to the elderly who are the victims of disaster. I believe, however, that more study of this problem is needed so that we can strengthen the amendment the next time we work on the Older Americans Act.

One of the major thrusts of this legislation is to consolidate many of the Older Americans Act programs. This will reduce redtape and paperwork and provide for more efficient delivery of services with the end result that we will reach more elderly citizens.

Whenever there is a consolidation there is always the concern that existing good local programs might be adversely affected. We have built-in safeguards for such nutrition programs. The conference agreement retains the provision in the House bill requiring the continued funding of existing nutrition projects if the projects meet the requirements and criteria established for the nutrition program.

I am pleased we were able to modify one Senate amendment to the employment program which may very well have caused considerable problems. The Senate amendment directed the Secretary of Labor to allocate title V funds to facilitate transferring of individuals from public service employment of the elderly to private sector jobs. It does not seem to me that the original amendment recognized the nature of the employment program for the elderly. At a time when we still have a totally unacceptable employment figure, it is not realistic to suggest that people in their seventies and eighties be expected to move into private employment. On the other hand, they can and do provide under title V important services to their communities through Green Thumb and other such program sponsors. The conference report, rather than mandating an allocation of moneys, simply provides permissive authority for the expenditures of funds for this purpose.

Mr. Speaker, this is an excellent bill, and I urge unanimous approval of the conference report.

● Mr. PEPPER. Mr. Speaker today the House will, I trust, give its final approval to one of the most important bills to come before the 95th Congress affecting the elderly in our country: The Comprehensive Older Americans Act Amendments of 1978, H.R. 12255.

I am pleased to lend my support to this legislation, which represents a renewed and strengthened commitment by Congress to improve the lives of older people. More than a billion dollars a year is authorized for each of the next 3 years for social services, nutrition, training and research, and part-time employment for millions of America's elderly. I am gratified that the compromise version reflects quite closely the recommendations made earlier this year by the Select Committee on Aging, which I have the privilege to chair.

Some of the major improvements in the Older Americans Act contained in this new legislation are as follows:

A 3-year extension of the act, with authorizations totaling almost $4 billion;

A major new initiative to vastly increase home-delivered meals to the homebound elderly;

A significant streamlining in the local and State administration of the act, to cut down on redtape and paperwork;

A major new program to demonstrate better ways to match older people with the long-term care services they need—a complete continuum from senior centers to nursing homes;

A strengthened program of legal services and nursing home ombudsman for the elderly;

Changes in the Age Discrimination Act that will make it easier for individuals discriminated against, because of their age in Federal programs to get relief; and

Extension of older volunteer programs in ACTION for 3 years.

At this point, Mr. Speaker, I want to call special attention to the efforts in this process of the gentleman from New York (Mr. BIAGGI) who serves on the Select Education Subcommittee and chairs the Aging Subcommittee on Human Services. The gentleman successfully offered a number of amendments to the bill, considerably strengthening its ability to assist older Americans in improving their lives, which are retained in the conference report. The gentleman's commitment, his persuasive advocacy, and his diligence in this unglamorous but vital process is deserving of special praise.

I also wish to commend the gentleman from Iowa (Mr. BLOUIN) who offered a series of amendments to improve the older volunteer programs under ACTION. The gentleman, who also serves on both the Aging and the Education and Labor Committees, had included in the bill an increase in the stipend for foster grandparents and senior companions from $1.60 to $2 an hour. This would be the first such increase since 1968.

Another member of both committees, the gentleman from Connecticut (Mr. SARASIN) contributed amendments in committee strengthening the bill's provisions dealing with multipurpose senior centers.

Other Aging Committee members serving on the Education and Labor Committee, and who assisted in the strengthening of the legislation are the gentleman from Rhode Island (Mr. BEARD) and the gentleman from North Carolina (Mr. ANDREWS).

Thus the bill under consideration today, Mr. Speaker, contains major initiatives toward assuring a decent, contributing place in society for our older citizens. I would like to single out a few provisions of the conference report for special attention and amplification.

STREAMLINING ADMINISTRATION

H.R. 12255 makes a number of changes which will reduce fragmentation among programs serving the elderly. It would consolidate the administration of what are now titles III, V, and VII of the act, covering social services, senior centers, and nutrition. One entity, usually the area agency on aging, would be given the responsibility for all of these programs. There should be one agency to coordinate and administer these programs—and to be held accountable for results. This is but a small dent in better coordination of 134 Federal programs affecting the elderly. The bill contains sufficient safeguards, I believe, to assure that ongoing nutrition projects will be able to continue their excellent work.

HOME-DELIVERED MEALS

Another major nutrition initiative is the inclusion of a separate meals-on-wheels, or home-delivered-meals program, to be operated as part of the nutrition program of the act. This will enable thousands of older Americans who cannot easily leave their homes to receive important nutrition services. The program's placement within the overall nutrition efforts of the Older Americans Act will enable those most in need of home-delivered meals to benefit from them.

SENIOR CENTERS

I am pleased to note, Mr. Speaker, the increased emphasis in the bill on the use of multipurpose senior centers as focal points for service delivery under the act. One important change is the ability to use senior center funds for staffing of centers. Funds are now restricted to paying for alteration, renovation, and new construction. New authority is also added for limited new construction, where no

existing structure is adequate, and for acquisition by long-term lease.

Conferees also accepted Senate language permitting mobile units to be used as senior centers.

However, the separate authorization for senior centers was deleted. I understand that the conferees have emphasized the importance of multipurpose senior centers in the aging network, and have noted their expectation that area agencies will continue to place appropriate emphasis on their development and expansion.

I wish to add my voice to those sentiments. Members of the Select Committee on Aging have evidenced special concern over the potential of senior centers to better the lives of older Americans. Initial funding for the former title V of the act—and later growth in those funding levels—came about in large part because of the determined efforts of several Aging Committee members, including the gentleman from California (Mr. ROYBAL).

I would also like to point out, Mr. Speaker, that one of the three categories of service on which an area agency must spend at least half of its social service funds under the act is "access." Although the bill describes "access" parenthetically as "transportation, outreach and information and referral," I submit that, for many older persons, a senior center is the main point of access to all other services and benefits. This is recognized elsewhere in the bill where centers are singled out for special consideration in designation by area agencies of focal points for comprehensive service delivery in the community. I urge the Administration on Aging to give careful consideration to the inclusion of senior center expenditures as one aspect of "access" in formulating regulations to implement this new law.

HEALTH

The bill before us includes two provisions which grew out of proposals I introduced, along with the gentleman from Maine (Mr. COHEN), ranking minority member of the Aging Committee's Subcommittee on Health and Long-Term Care, which I also chair.

NURSING HOME OMBUDSMAN

First, the bill gives statutory underpinning to the nursing home ombudsman program, which has been carried out under the model projects authority of the Administration on Aging, subject to the discretion of the Commissioner. The State agency will be required to establish and operate a long-term care ombudsman program, either directly or by contract or other arrangement with an appropriate public agency or private nonprofit organization. However, no organization which is responsible for licensing or certifying long-term care services in the State, or which is an association or affiliate of an association of long-term care facilities, will be eligible to operate the program.

The bill sets out required activities of the ombudsman program and the State agency, including requirements regarding access to records and confidentiality.

While we had proposed a separate, substantial authorization, the conferees have adopted the Senate provision in this regard, requiring the expenditure of at least 1 percent or $20,000, whichever is greater, of each State's social services funds for this purpose. While I preferred the House provision, I am confident that the approach adopted by the conferees will nevertheless provide substantially increased funding levels for the programs carried out in the States.

This provision will make clear the intent of Congress that the ombudsman program should have separate, defined authority. This distinction must be preserved intact.

LONG-TERM CARE PROJECTS

The bill also includes an important section providing for special projects in comprehensive long-term care. This provision is a synthesis of proposals put forward by the gentleman from Maine (Mr. COHEN) and me, and by others in both the House and Senate. The conferees adopted a compromise which, in my judgment, retains the best features of the House and Senate provisions. The final version would authorize the Commissioner to make grants to selected State agencies, area agencies on aging, institutions of higher education and other public agencies and private nonprofit organizations, to support the development of comprehensive, coordinated systems of community long-term care for older persons.

There is dual emphasis upon, first, services designed to support alternatives to institutional living, and second, the assessment of need, the development of a plan of care, and the referral of individuals in the delivery of long-term care services, including noninstitutional and institutional services, where appropriate.

As my colleagues are aware, the Select Committee on Aging has among its highest priorities the development of alternatives to institutionalization for the elderly. We have devoted a great deal of time and effort to the expansion of home health care, for example. I also believe that we must press forward to promote coordination in the delivery of services which currently exist, and to insure that elderly people have assistance in obtaining the services they need, both noninstitutional, community-based services and institutional care, where that is necessary or appropriate. This provision can do a great deal to accomplish both these goals: The creation of new services and the more effective use of services which now exist. It is most important that elderly persons have access to the services they need when they need them, and it is appropriate that the Administration on Aging have a major role in this process.

AGE DISCRIMINATION ACT

I am particularly pleased, Mr. Speaker, that the conferees have retained most of the amendments in the House bill to the Age Discrimination Act (ADA) of 1975.

This law forbids "unreasonable" discrimination on the basis of age in federally funded programs. In a study completed earlier this year, the U.S. Commission on Civil Rights concluded that unjustified age discrimination was present in every one of 10 major Federal programs it examined. The Commission identified a number of changes that were needed in the act itself before it goes into effect. These changes, as a result of an amendment offered by Congressman BIAGGI in full committee, were incorporated into the House version of H.R. 12255, and most were retained in the compromise version before us today. These amendments would modify the ADA to—

Eliminate "unreasonable" from the act's statement of purpose, in recognition of the fact that discrimination, by definition, is unreasonable.

Permit persons harmed by violations of the ADA to pursue a private civil suit for relief and permit the awarding of attorney's fees to persons who are successful in such suits.

Rechannel Federal funds for agencies found to be in violation of the ADA to alternative agencies, so that compliance sanctions do not harm program beneficiaries.

Require the submission to Congress of an annual report on progress in enforcing the goals of ADA.

Require age-specific data collection for beneficiaries in programs where it is not now being collected.

Require the Secretary of Health, Education, and Welfare to approve ADA regulations of other Federal agencies, to assure consistency from one agency to another.

One ADA amendment not approved by the conferees, Mr. Speaker, would have tightened the allowable exemptions to the act. The present exemptions are retained, but I believe that the deletion of the word "unreasonable" from the act's statement of purpose gives a good indication of how Congress intends the existing exemptions to be interpreted. The ADA must be viewed as a civil rights statute. As such, exceptions to it must be narrowly construed. I am particularly concerned with certain excuses for not serving older people put forward by program managers interviewed by the Civil Rights Commission in preparing its report. They include the so-called cost-effectiveness argument, which asserts that, since it is often more expensive to reach older clients, a program could reasonably conclude that it could concentrate on younger persons. Other managers argue that the existence of age-specific programs, such as the community service employment program for older Americans, justifies other, more general programs, such as those funded under the Comprehensive Employment and Training Act, ignoring the needs of older applicants.

Mr. Speaker, these excuses are nothing more than that. The deletion of the word "reasonable" from the statement of purpose makes that clear. Such practices are discriminatory. They will be prohibited under the new amendments.

OTHER IMPORTANT CHANGES

Numerous other provisions of the conference report deserve mention. Mr. Speaker, I will single out only a few of them.

New advocacy responsibility is spelled

out for all elements of the aging network, from the Commissioner to area agencies.

Assistance will be available, from discretionary funds controlled by the Commissioner, when a presidentially declared disaster disrupts services to older people.

States will be required to develop a specific formula for distributing the fund allocated to them under the act, and to publicize the formula for comment.

The Commissioner will undertake a study to determine the differences in costs of delivering services in rural and urban areas.

Direct funding to recognized American Indian tribes, to serve their elderly population, is authorized for the first time.

Older volunteer programs under ACTION are extended for 3 years, rather than the 1-year period in the House bill, but I am pleased that the conferees restated the House's intent that ACTION's commitment to these programs will receive "special scrutiny" in the next year. The Select Committee on Aging will do its part in such an oversight effort. The increase in foster grandparent and senior companion stipends, as I noted, is another important House feature retained in conference.

All of these provisions, Mr. Speaker, reflect recommendations made by the Select Committee on Aging earlier this year. I am pleased to see their inclusion in the conference report.

One item in the House-passed version which I regret was not included by the conferees was the change in reporting authority for the Commissioner on Aging. It is important, however, that this decision was made in light of assurances by the Secretary of Health, Education. and Welfare that the intent of the House language—to bring greater visibility and independence to the Administration on Aging—would be accomplished administratively.

I congratulate the House conferees, particularly the gentleman from Kentucky (Mr. PERKINS) and the gentleman from Indiana (Mr. BRADEMAS) for their invaluable contributions in bringing this major bill before the House.

Mr. Speaker, the Older Americans Act, even with the improvements incorporated in H.R. 12255, will not solve all of the health, income, and housing problems of senior citizens in America. There is some hope, however, that more people will receive services, more efficiently, and that the renewed advocacy called for in this legislation will bring about even better conditions for older people everywhere.

I urge the House to approve this essential legislation.●

● Mr. HAMMERSCHMIDT. Mr. Speaker, I rise in support of the conference report for H.R. 12255, to amend the Older Americans Act of 1965 to provide for improved programs for our Nation's elderly people. I wish to express my appreciation to Mr. BRADEMAS, Mr. JEFFORDS, and the other House conferees who worked so diligently to achieve the positions expressed in the House bill.

The Older Americans Act is the only Federal social service program which exclusively addresses itself to the needs of the elderly. I believe that the 30 million people over the age of 60 will be better served by the provisions of the 1978 amendments.

One of the most important improvements in the act is the consolidation of social service, nutrition, and multipurpose senior center programs. This consolidation will eliminate costly duplication and overlapping of programs. The expansion of the State and area plans to cover a 3-year time period will improve the administration of all the programs and, for the first time, provide an atmosphere in which "comprehensive planning and coordination" can actually occur. Both the consolidation and extended planning period will insure that more funds and staff time will be allocated directly to older Americans.

The nutrition projects funded under the Older Americans Act have received national acclaim, because of the impact they have made on the lives of thousands of older persons. The congregate meal sites provide not only nutritious meals, but also go a great distance toward reducing isolation. The increase in the authorization ($350 million in fiscal year 1979, $375 million in fiscal year 1980, and $400 million in fiscal year 1981) will allow thousands more to receive the benefits of this program.

Another improvement made by this year's amendments is the separate authorization for home-delivered meals. It has been estimated that there are between 3 and 4 million "frail elderly" who are homebound and would greatly benefit from home-delivered meals.

I am sure that anyone who has visited a senior center realizes the incalculable benefits they provide to the elderly. Modifications in this year's legislation for limited new construction and leasing will make these centers more available. And, for the first time, funds are available for the staffing of centers.

Although major health benefits for the elderly are contained in titles XVIII and XIX of the Social Security Act, neither medicare nor medicaid provide the total range of medical services required by the elderly. The 1978 amendments take one step in improving conditions by providing grants to authorized groups to develop comprehensive and coordinated systems of community long-term care. The emphasis of this model project are on easing the elderly's entry into the very complex health system, providing alternatives to institutionalization, guaranteeing that they receive the appropriate level of care, and monitoring and evaluating the adequacy of the services.

The community service employment program has been one of the finest employment programs developed by the Federal Government. The increased authorization—$350 million in fiscal year 1979, $400 million in fiscal year 1980, and $450 million in fiscal year 1981—is well justified.

The conferees of both the House and Senate are to be commended for their response to the needs of the rural elderly. For the first time, the allocation formula recognizes the increased expense in delivering social services in rural areas due to the low population density and the broader geographic areas. There is also a special emphasis placed on outreach activities in the rural areas. A study is also authorized to specifically address the differences in costs, service delivery, and access between rural and urban areas. Model project funds will also be utilized to gain a better understanding of the special needs of the rural elderly. The community long-term-care model project also specifies that there is an equitable distribution of funds between urban and rural areas.

For all these reasons and others that time does not permit, I urge your support.●

Mr. WAMPLER. I rise in support of the conference report on H.R. 12255 to amend the Older Americans Act of 1965 to provide for improved programs for older persons. I wish to commend the gentleman from Kentucky (Mr. PERKINS) and the gentleman from Minnesota (Mr. QUIE) and other House conferees for their outstanding efforts in representing the views of the House during the conference deliberations.

As the ranking minority member of the Committee on Aging, I am profoundly supportive of the decision of the conferees to reauthorize these worthwhile programs under the act for a 3 year period and to include the programmatic reforms necessary to secure and maintain the maximum independence and dignity of our Nation's elderly population.

The Older Americans Act has symbolized freedom of choice in opportunities available to the elderly—a segment of the population whose needs are as individualized and diverse as younger groups. For many, older years mean continued productivity through participation in the community service employment program or volunteer programs. For others, retirement may mean pursuit of avocational or leisure activities provided by a senior center or continuing education programs.

For some, independent living may be made possible through health and supportive social services provided by senior centers, area agencies on aging and nutrition projects. Unfortunately, older years bring poverty or loneliness for many, which may be minimized by increased employment opportunities, congregate meals, transportation, and other social services under the Older Americans Act. The Older Americans Act programs are an investment in the future well-being of all segments of the older population.

The major reforms contained in the Comprehensive Older Americans Act Amendments will assist State and local agencies in the development of comprehensive and coordinated services under title III grants for State and community programs on aging, which will include social services, congregate and home-delivered nutrition services, multipurpose senior centers, and legal services. In recent years we have witnessed an expansion in social services for the elderly through the national network of State and area agencies on aging and the participation of senior citizens and professionals on the local level.

Each area agency on aging will develop triennial plans for the development and delivery of social services which may include health, continuing education information, homemaker services, counseling, transportation, housing and residential repair, legal assistance, preventive health, long-term care, preretirement and second career counseling. At least 50 percent of the social service allotment will be expended for the delivery of transportation and other outreach services such as home services and legal services. Area plans will also designate, where feasible, a focal point, such as a senior center in every community to encourage coordination of services. Outreach efforts to identify eligible individuals, with special emphasis on the rural elderly, will be provided by area agencies. Area agencies on aging in my own district in southwestern Virgina have utilized local resources and initiatives to reduce the barriers of isolation which often separate the rural elderly from the mainstream of community life.

I am pleased that the intrastate formula for allocation of title III funds for rural areas must be 105 percent of the fiscal year 1978 funding level, which will assure the underserved rural communities of needed program expansion. The act also authorizes a study to determine unit cost differences between rural and urban service delivery and a study of special problems of the rural elderly. This provision as well as the new rural study under discretionary programs will greatly enhance the responsiveness of the act to the needs of the rural elderly.

States will establish a statewide long-term care ombudsman program to investigate and resolve complaints relating to health, safety, and welfare of elderly residents of long-term care facilities.

The act will also be improved through the congregate meals program and a separate authorization for home delivered meals. The conference agreement encourages participation in a congregate meal setting, unless homebound by reasons of illness, incapacitating disability, or extreme transportation problems. In order to preserve the voluntary aspect of new homebound meals programs, the conference agreement requires area agencies on aging to give consideration to volunteer organizations of proven ability in establishing the homebound meals programs. The value of the nutrition program in meeting the health and socialization needs of older Americans will be further augmented.

The conference agreement includes long-awaited improvements in the multipurpose senior center program. Under this program, more than 1,500 centers have been established or improved to provide a focal point for information, social services and a bridge to the community through meaningful activities for older citizens. In addition to provisions for acquisition alteration and renovation of existing facilities to serve as multipurpose senior centers. States will be able to approve the construction of new facilities in areas where suitable facilities are not available for leasing as a multipurpose senior center. This will particularly benefit rural areas which may have a scarcity of existing buildings to serve as senior centers.

The multipurpose senior centers will become focal points for the provision of a broad spectrum of services such as health, social, nutritional, and recreational facilities for the elderly.

With respect to critically needed legal assistance, area agencies on aging will enter into agreements with providers of legal services in the administration of programs designed to provide legal services to elderly individuals with social or economic needs.

A major provision of H.R. 12255, of which I am profoundly supportive, is the provision for assistance to elderly victims of weather-related disasters. I am especially pleased that the conference agreement provides for reimbursement to the States for funds made available to area agencies on aging to assist elderly victims of presidentially declared disasters. Hearings conducted by the Committee on Aging and available research demonstrate that the impact of personal property loss, physical injury and disrupted transportation are borne most heavily by older disaster victims, especially the frail elderly. Area agencies on aging have mobilized expediently and compassionately to provide transportation to relief centers, expand nutrition services, home delivered meals, home repair and assistance in completing the myriad of applications required for Federal disaster assistance.

A national manpower policy in aging, reflecting the present and future needs for training personnel is contained in title IV training, research, and discretionary project programs. Comprehensive provisions are established for appraising personnel and special training designed to meet the needs of service providers in rural areas and conducting studies related to the problems in the administration and operation of transportation services for the elderly. Special projects in comprehensive long-term care will be established on the community level to support alternatives to institutional living under title IV. The act authorizes community long-term care projects to assess the service needs of chronically ill or disabled older persons, to arrange for the most appropriate form of care, and reassess those needs periodically to facilitate changes in services when necessary. This provision would allow for an appropriate placement of patients both inside and outside institutions, would catalog available services within the community and match the services available with patient needs.

I am especially supportive of the conference agreement provisions to expand and improve the effectiveness of the community service employment program in meetings the needs of low-income older persons. Under title V community service employment critically needed employment opportunities will be available to older persons who wish to supplement retirement incomes while utilizing their talents and skills in community service. Innovative alternatives to retirement, such as job sharing and flexible scheduling designed to meet the needs of older workers through prime sponsors and private sector employers are included in the conference agreement. Title V also contains provisions for the transition of individuals employed in public service to employment with private sector business concerns. The stringent income eligibility requirements currently enforced in the senior community service employment program prohibit many older citizens who live a marginal poverty existence from participating in the program. In response to this demonstrated need, the conference agreement raises the income eligibility criterion to 125 percent of the poverty index.

In order to foster coordination of employment programs for the elderly on the State level, national contractors will submit program descriptions to State agencies on aging, prior to establishing new employment projects. The hold harmless level for national contractors will be updated to June 30, 1978. Fifty-five percent of amounts in excess of the fiscal year 1978 appropriations will be reserved for the States. The present funding level for the community service employment program provides 47,500 part-time community services employment positions to low-income persons age 55 and over to supplement their retirement income by remaining productive members of society. The cost effectiveness of the program to the community was illustrated by testimony provided to the Subcommittee on Retirement Income and Employment from the U.S. Forest Service which estimates that $4.5 million in conservation work was completed in 1 year by the participants in this agency's Older Americans Act employment program.

Mr. Speaker, I trust that the legislative reforms contained in H.R. 12255 will provide older Americans of today and the future the dignity, security, and independence which they deserve. Passage of the conference report on H.R. 12255 will demonstrate our commitment to these goals.

● Mr. GRASSLEY. Mr. Speaker, I am pleased to rise in support of this important extension of the Older Americans Act. As a cosponsor of the legislation, and a member of the Select Committee on Aging, I have been keenly interested in just how effectively programs providing direct services to the Nation's older citizens have been administered. This legislation, of course, not only extends nutrition, transportation, and other crucial services used daily by hundreds of thousands of our senior citizens but, in addition, various program titles are consolidated and other administratively oriented changes have been made which ought to improve further the administration of these basic services.

Of particular interest is the authorization of a special study of the needs of the rural elderly. This represents our first attempt to take a close look at the special problems of this group of senior citizens who, because of frequent isolation from others, and the lack of an effective rural transportation system, simply do not have the social and economic opportunities that those living in urban areas have.

Next to social security and medicare, this piece of legislation probably represents the most significant programs we in Congress have established to assist senior citizens. I, therefore, urge each of my colleagues to vote in favor of the Older Americans Act conference agreement.●

● Mr. ROYBAL. Mr. Speaker, I would like to take this opportunity to make a few remarks about the Comprehensive Older Americans Act Amendments of 1978, the reauthorizing legislation for the Older Americans Act. I believe that the record will show that in the 13 years since its enactment, substantial progress has been made in identifying the problems and in meeting the needs of this Nation's 23 million elderly citizens through the provisions of the Older Americans Act. It is the principle statute aimed specifically at improving the welfare and enhancing the quality of life of senior citizens through the implementation of programs providing such essential benefits as nutritious meals, transportation, legal assistance, and employment.

The conference committee, composed of members of the House Education and Labor Committee and the Senate's Committee on Human Resources deserve our praise for their diligence in seeking to improve the operation of Older Americans Act programs. As a member of the Select Committee on Aging, I am particularly pleased with the many significant contributions to the reauthorization proccess made by my colleagues and I. We spent numerable hours laboriously evaluating the performance of Older Americans Act programs. A wide range of sources, including experts in the field of aging, service providers, public officials, and senior citizens themselves were consulted in this endeavor. The legislative committees and the conference committee undertook a monumental task in combining and synthesizing the input received from the aging committees and other concerned spokespersons and organizations. I am confident, however, that because of the coordination and cooperation demonstrated by the members of the conference committee with the support of both Aging Committees, the Older Americans Act will invariably become a stronger, more effective document.

The package of amendments now before us promises to maximize both the quantity and quality of supportive services available to the elderly while simultaneously minimizing the cost to taxpayers. I would especially like to commend those changes, such as the consolidation of title V and VII under title III, aimed at reducing fragmentation in the delivery of the services provided by these programs. The funneling of program funds through the aging network should reduce administrative costs, thus freeing more resources to serve more elderly citizens. Currently, 60 percent of title VII funds are now administered in this manner. The available evidence indicates that this process has been successful in streamlining administration and has improved and expedited the provision of nutritional and other supportive services to program participants. I feel certain that consolidating the administration and planning of titles V and VII under title III will reduce, if not eliminate, the current gaps and duplication in service delivery, increase efficiency, and ultimately promote the well-being of this Nation's senior citizens.

I am most pleased with the increased authorization levels for all Older Americans Act programs. All testimony received by the Aging Committee supported the need for more funds, simply because existing moneys are ridiculously inadequate to serve all who wish to participate in Older Americans Act programs.

The availability of funds for limited new construction, staffing, and operation of multipurpose senior centers is another new provision I staunchly supported. Almost equally as important as this amendment, is the emphasis contained in the legislation on multipurpose senior centers as focal points for service delivery. I have long been an advocate of this concept, as another means of more efficient program operation.

I am also delighted that three of the new national contractors participating in the older American community service employment program represent minority groups.

Despite these welcome modifications in the act, I am disappointed that language of crucial importance to the poor and minority elderly was omitted from the legislation. For example, the special emphasis contained in the model projects, the nutrition, and the older American community service employment provisions and the stipulation that State agencies on aging give funding priority to area agencies that have significant concentrations or proportions of low-income and minority elderly were eliminated from the act. As a Representative from a district with a large proportion of minority elderly persons, I am deeply concerned that the elimination of this language will have a significant impact on my elderly constituents, along with the other, often forgotten, minority elderly individuals residing in this country. The Commission on Civil Rights eloquently defined this problem in their report on age discrimination:

> Members of minority groups, women, and handicapped individuals are often victims of compounded discrimination based on age, sex, race, national origin, and handicap. . . . The isolation, limited mobility, educational, and low income status that characterize the older population impose dramatically more burdens for its minority members who have been historically deprived of the opportunities and benefits that should be available to them. Program administrators are not taking sufficient steps to take into account the multiple problems faced by many older persons and to increase their opportunities for obtaining needed services and benefits.

When Congress passed the Older Americans Act of 1965, it acknowledged that persons who are old and who are members of minority and racial groups are deserving of special attention. In addition, program administrators were instructed to "give full and special consideration to older citizens with special needs in planning such programs, and, pending the availability of such programs for all older citizens, give priority to the elderly with the greatest economic and social need." Despite these provisions, the Subcommittee on Housing and Consumer Interests, which I chair, heard extensive testimony to the effect that the act has had but a slight impact on the lives of racial and ethnic minorities.

I am aware that many of my colleagues in Congress assert that the Older Americans Act was enacted to serve the needs of all elderly persons, regardless of income and the special hardships known to be experienced by the poor and minority elderly in securing supportive services. However, I have a different perspective of the proper role of Government in promoting the welfare of the elderly. I believe that, given our limited financial resources, the Government should tackle our most urgent problems first, including addressing the requirements of our most needy elderly. Our goal should be to widen the difference between the cost to the Government of providing supportive services and the benefits accruing to recipients, with the latter outweighing the former by as great a margin as possible. This will insure that optimal allocation of Federal resources as well as improved target efficiency is reaching as many of our needy elderly as possible. Therefore, to accomplish these objectives, Older Americans Act funds should first be applied to meeting the needs of our poor elderly and those further, or doubly disadvantaged by language and cultural barriers.

In conclusion, I would like to mention several positive aspects in the amendments which should impact favorably on the minority elderly. First, special attention must be given the minority elderly in new manpower training programs designed to improve the quality of the staff administering Older Americans Act provisions. In addition, the Federal Council on Aging is instructed to undertake a study which must include an analysis of the number and incidence of low-income and minority elderly participants in Older Americans Act programs and the Civil Rights Commission is required to conduct a comprehensive study of discrimination based on race or ethnic background in any Federal program, which affects older persons. I feel certain that these two studies will provide overwhelming evidence supporting the disproportionate representation of the minority elderly in Federal programs, which ought to spur congressional action to more adequately address the needs of the minority elderly in future legislation.●

● Mrs. COLLINS of Illinois. Mr. Speaker, I wish to express my enthusiasm for this legislation now before us which extends such Older Americans Act programs as community service employment for older Americans, ACTION Foster Grandparents, Senior Companions and RSVP (retired senior volunteer program). This legislative extension, H.R. 12255, also amends administration of the social services and nutrition programs of the act at both the Federal and local levels.

In particular, I commend the conference report for its direction that the National Information and Resource Clearinghouse will collect information on transportation services for the elderly in addition to its other chores. Repeat-

edly, senior citizen groups in Chicago have emphasized the importance of mobility to being able to continue an active, self-reliant life. Without special access features on public transportation vehicles for the aged and the handicapped, without shelters at bus stops and without security guards stationed on buses, the life of the elderly is reduced to frustration and dependence. The clearinghouse's involvement in collecting transportation services information will facilitate improvements in this area.

Title III's social services provisions add much-needed health screening services, preretirement and second career counseling and programs designed for the unique needs of the disabled elderly.

A proposal that I have supported from its inception and one that addresses a crucial need has been included in H.R. 12255—home-delivered meals to the elderly. I also strongly favor the report's strengthening of programs for training personnel in the field of aging by requiring the development of a national manpower policy for aging. Further, White House Conference on Aging is authorized in the bill for 1981.

I urge my colleagues to join me in approving this major legislative effort in behalf of our older Americans.●

● Mr. BONKER. Mr. Speaker, I rise in support of the Comprehensive Older Americans Act of 1978 conference report, which will provide expanded services to older people across the country. I would, however, like to stress the need for special consideration by State and local units on aging in allocating funds to senior centers.

I see great potential in the multipurpose senior center concept for meeting basic needs as well as stimulating activity and involvement in the community. However, despite its value, the multipurpose senior center concept funded under title V of the Older Americans Act in 1976, has remained a low priority in funding appropriations. Although title V funds were appropriated for acquiring, altering, or renovating multipurpose senior centers, part B of title V, which permitted grants for 3 years for initial staffing, was allowed to expire.

This has become quite a problem in my district in Washington State. Specifically, three rural communities have applied for construction and renovation funds for a multipurpose senior center. However, funding is extremely limited and block grant moneys are not available unless the senior citizens can identify enough funds to meet anticipated operating and staffing costs. This situation exemplifies that of many communities across the Nation. In a study conducted by the Select Committee on Aging of 400 area agencies on aging, it was determined that over 75 percent of the senior centers in their respective areas needed additional funds to cover basic operating costs.

Although many centers receive funds under titles II or VII of the act, coverage is primarily for maintenance of the building and minimal operating costs. The necessity for senior centers seems obvious to me. However, unless funding is allocated to provide the needed services, there is no point in funding a program to construct or renovate facilities. I strongly endorse the Select Committee on Aging recommendations to allow special consideration for senior centers in funding allocations.●

● Mr. HANNAFORD. Mr. Speaker, I rise in support of the conference report to H.R. 12255, the Older Americans Act Amendments of 1978. In doing so, I extend special thanks to Congressman JOHN BRADEMAS, whose able direction and assistance contributed to legislation which represents a welcome victory for the city of Long Beach, Calif.

As I testified before his Subcommittee on Select Education of the Education and Labor Committee on March 20, 1978, the city of Long Beach, which is the largest city in my congressional district, has clearly been one of the most innovative cities in terms of its programs for the elderly. The city is also unique in that its senior citizen population exceeds 20 percent of the total city population.

Long Beach has been working very hard to become an area agency on aging (AAA), and on March 14, 1978, I introduced H.R. 11527, which would help cities such as Long Beach to obtain that designation in order to better serve their elderly. The conference report to H.R. 12255 contains concepts that I recommended in my legislation, and I am proud to support this worthy legislation.

With the enactment of H.R. 12255, areas of general purpose local government that have applied for AAA designation and have been denied such designation are now provided with an appeals process. Thus, the applying unit will be given the right to a hearing under the auspices of the Commissioner on Aging, who would be empowered to: First, approve the State's decision, second, disapprove the State's decision, or third, take other appropriate action.

Another important revision to the Older Americans Act of 1965 which is contained in H.R. 12255 is a provision to revise a trigger mechanism for designating units of general purpose local government as planning and service areas. H.R. 12255 makes it possible for any unit of general purpose local government having a population of 100,000 or more to have the option of seeking designation as a PSA.

I commend the gentleman from Indiana for his work on this legislation.●

Mr. BRADEMAS. Mr. Speaker, I have no further requests for time.

Mr. JEFFORDS. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the conference report.

There was no objection.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. GUYER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 399, nays 3, not voting 30, as follows:

[Roll No. 863]

YEAS—399

Abdnor	Dent	Jeffords
Addabbo	Derrick	Jenkins
Akaka	Derwinski	Jenrette
Alexander	Devine	Johnson, Calif.
Ambro	Dicks	Johnson, Colo.
Anderson, Calif.	Dodd	Jones, N.C.
Anderson, Ill.	Dornan	Jones, Okla.
Andrews, N.C.	Downey	Jones, Tenn.
Andrews, N. Dak.	Drinan	Jordan
Annunzio	Duncan, Tenn	Kasten
Applegate	Early	Kastenmeier
Archer	Eckhardt	Kazen
Armstrong	Edgar	Kelly
Ashbrook	Edwards, Ala.	Kemp
Ashley	Edwards, Calif.	Keys
Aspin	Edwards, Okla.	Kildee
AuCoin	Eilberg	Kindness
Badham	Emery	Kostmayer
Bafalis	English	Krebs
Baldus	Erlenborn	LaFalce
Barnard	Ertel	Lagomarsino
Baucus	Evans, Colo.	Latta
Bauman	Evans, Del.	Leach
Beard, R.I.	Evans, Ga.	Lederer
Beard, Tenn.	Evans, Ind.	Le Fante
Bedell	Fary	Leggett
Bellenson	Fascell	Lehman
Benjamin	Fenwick	Lent
Bennett	Findley	Levitas
Bevill	Fish	Livingston
Biaggi	Fisher	Lloyd, Calif.
Bingham	Fithian	Lloyd, Tenn.
Blanchard	Flippo	Long, La.
Boggs	Flood	Long, Md.
Boland	Florio	Lott
Bolling	Flowers	Luken
Bonior	Flynt	Lundine
Bonker	Foley	McClory
Bowen	Ford, Mich.	McCloskey
Brademas	Ford, Tenn.	McCormack
Breaux	Forsythe	McDade
Breckinridge	Fountain	McEwen
Brinkley	Fowler	McFall
Brodhead	Fraser	McHugh
Brooks	Frenzel	McKay
Broomfield	Frey	McKinney
Brown, Calif.	Fuqua	Madigan
Brown, Mich.	Gammage	Maguire
Brown, Ohio	Garcia	Mahon
Broyhill	Gaydos	Mann
Buchanan	Gephardt	Markey
Burgener	Giaimo	Marks
Burke, Fla.	Gibbons	Marlenee
Burke, Mass.	Gilman	Marriott
Burleson, Tex.	Ginn	Martin
Burlison, Mo.	Glickman	Mathis
Burton, John	Goldwater	Mattox
Burton, Phillip	Gonzalez	Mazzoli
Butler	Goodling	Meeds
Byron	Gore	Metcalfe
Caputo	Gradison	Meyner
Carney	Grassley	Michel
Carr	Green	Mikulski
Carter	Gudger	Milford
Cavanaugh	Guyer	Miller, Ohio
Cederberg	Hagedorn	Mineta
Chappell	Hall	Minish
Chisholm	Hamilton	Mitchell, Md.
Clausen, Don H.	Hammer-schmidt	Mitchell, N.Y.
Clawson, Del	Hanley	Moakley
Clay	Hannaford	Moffett
Cleveland	Hansen	Montgomery
Cohen	Harkin	Moore
Coleman	Harrington	Moorhead, Calif.
Collins, Ill.	Harris	Moorhead, Pa.
Conable	Harsha	Moss
Conte	Hawkins	Mottl
Conyers	Heckler	Murphy, Ill.
Corcoran	Hefner	Murphy, N.Y.
Corman	Heftel	Murphy, Pa.
Cornell	Hillis	Murtha
Cotter	Holland	Myers, Gary
Coughlin	Hollenbeck	Myers, John
Cunningham	Holt	Myers, Michael
D'Amours	Holtzman	Natcher
Daniel, Dan	Horton	Neal
Daniel, R. W.	Howard	Nedzi
Danielson	Hubbard	Nichols
Davis	Huckaby	Nix
de la Garza	Hughes	Nolan
Delaney	Hyde	Nowak
	Ichord	O'Brien
	Jacobs	Oakar

Oberstar	Russo	Traxler
Obey	Ryan	Treen
Ottinger	Santini	Tribble
Panetta	Satterfield	Tucker
Patten	Sawyer	Udall
Patterson	Scheuer	Ullman
Pattison	Schroeder	Van Deerlin
Pease	Schulze	Vander Jagt
Pepper	Sebelius	Vanik
Perkins	Selberling	Vento
Pickle	Sharp	Volkmer
Pike	Shuster	Waggonner
Poage	Sikes	Walgren
Pressler	Simon	Walker
Preyer	Sisk	Walsh
Price	Skelton	Wampler
Pritchard	Skubitz	Watkins
Quayle	Slack	Waxman
Quie	Smith, Iowa	Weaver
Quillen	Smith, Nebr.	Weiss
Rahall	Snyder	Whalen
Rangel	Solarz	White
Regula	Spellman	Whitehurst
Reuss	Spence	Whitley
Rhodes	St Germain	Whitten
Richmond	Staggers	Wilson, Bob
Rinaldo	Stangeland	Wilson, C. H.
Risenhoover	Stanton	Wilson, Tex.
Roberts	Stark	Wirth
Robinson	Steed	Wolff
Rodino	Steers	Wright
Roe	Steiger	Wydler
Rogers	Stockman	Wylie
Rooney	Stokes	Yates
Rose	Stratton	Yatron
Rosenthal	Studds	Young, Alaska
Rostenkowski	Stump	Young, Fla.
Rousselot	Symms	Young, Mo.
Roybal	Taylor	Zablocki
Rudd	Thompson	Zeferetti
Ruppe	Thornton	

NAYS—3

Collins, Tex.	Crane	McDonald

NOT VOTING—30

Ammerman	Hightower	Roncalio
Blouin	Ireland	Runnels
Burke, Calif.	Krueger	Sarasin
Cochran	Lujan	Shipley
Cornwell	Mikva	Teague
Dellums	Miller, Calif.	Thone
Dickinson	Mollohan	Tsongas
Diggs	Pettis	Wiggins
Dingell	Pursell	Winn
Duncan, Oreg.	Railsback	Young, Tex.

The Clerk announced the following pairs:

Mr. Mollohan with Mr. Cochran of Mississippi.
Mr. Ammerman with Mr. Dickinson.
Mrs. Burke of California with Mr. Lujan.
Mr. Dingell with Mrs. Pettis.
Mr. Diggs with Mr. Runnels.
Mr. Ireland with Mr. Winn.
Mr. Blouin with Mr. Sarasin.
Mr. Cornwell with Mr. Pursell.
Mr. Dellums with Mr. Railsback.
Mr. Krueger with Mr. Roncalio.
Mr. Hightower with Mr. Wiggins.
Mr. Mikva with Mr. Tsongas.
Mr. Teague with Mr. Shipley.
Mr. Miller of California with Mr. Duncan of Oregon.

Mrs. FENWICK changed her vote from "nay" to "yea."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

DIRECTING CLERK OF HOUSE OF REPRESENTATIVES TO MAKE CORRECTIONS IN ENROLLMENT OF H.R. 12255

Mr. BRADEMAS. Mr. Speaker, I offer a concurrent resolution (H. Con. Res. 730) directing the Clerk of the House of Representatives to make corrections in the enrollment of H.R. 12255, and ask unanimous consent for its immediate consideration in the House.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 730

Resolved by the House of Representatives (the Senate concurring), That, in the enrollment of the bill (H.R. 12255) to amend the Older Americans Act of 1965 to provide for improved programs for older persons, and for other purposes, the Clerk of the House of Representatives shall make the following corrections:

(1) Redesignate subsection (i) of section 205 of the Older Americans Act of 1965, as proposed to be amended by section 102(e)(4)(B) of the bill, as subsection (h).

(2) in subparagraphs (B), (D), and (H) of section 307(a)(13) of the Older Americans Act of 1965, as proposed to be amended by section 103(b) of the bill, strike out "home-delivered" each place it appears therein and insert in lieu thereof "home delivered".

(3) In section 307(a)(15)(B)(ii) of the Older Americans Act of 1965, as proposed to be amended by section 103(b) of the bill, strike out "elderly" and insert in lieu thereof "older".

(4) In section 407(b)(2) of the Older Americans Act of 1965, as proposed to be amended by section 103(b) of the bill, strike out "such State agency" and insert in lieu thereof "the State agency".

(5) In section 321(b)(1) of the Older Americans Act of 1965, as proposed to be amended by section 103(b) of the bill, strike out "provisions" and insert in lieu thereof "provision".

(6) In section 411(b)(2)(C) of the Older Americans Act of 1965, as proposed to be added by section 104(b)(2) of the bill, strike out "persons" and insert in lieu thereof "individuals".

(7) In the last sentence of section 502(e) of the Older Americans Act of 1965, as proposed to be added by section 105(b)(2) of the bill, strike out "is authorized".

(8) In section 506(a)(1)(B) of the Older Americans Act of 1965, as proposed to be added by section 105(e)(1)(A) of the bill, strike out "shall" and insert in lieu thereof "may".

(9) In subsection (a) and subsection (b) of section 301 of the bill, strike out "federally assisted" each place it appears therein and insert in lieu thereof "federally-assisted".

(10) In section 401 of the bill, redesignate subsection (d) as subsection (e) and insert after subsection (c) the following new subsection:

(d) Section 305(b) of the Age Discrimination Act of 1975 is amended by adding at the end thereof the following new sentence: "Whenever the head of any Federal department or agency who prescribes regulations under section 304 withholds funds pursuant to subsection (a), he may, in accordance with regulations he shall prescribe, disburse the funds so withheld directly to any public or nonprofit private organization or agency, or State or political subdivision thereof, which demonstrates the ability to achieve the goals of the Federal statute authorizing the program or activity while complying with regulations issued under section 304.".

Mr. BRADEMAS (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the concurrent resolution be dispensed with, and that it be printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

Mr. JEFFORDS. Mr. Speaker, reserving the right to object, and I shall not object, I just wanted to alert the Members on this side of the aisle that I have reviewed the concurrent resolution and the corrections contained therein, and they are consistent with the understanding of this side as to the final version of the House bill and what was intended therein.

Mr. BRADEMAS. Mr. Speaker, if the gentleman will yield, the concurrent resolution is necessary in order to correct some omissions and printing errors in the enrolled bill.

Mr. JEFFORDS. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BRADEMAS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of the conference report on H.R. 12255, Comprehensive Older Americans Act Amendments of 1978.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

CONFERENCE REPORT ON H.R. 11302, ENVIRONMENTAL RESEARCH AUTHORIZATIONS

Mr. BROWN of California. Mr. Speaker, I call up the conference report on the bill (H.R. 11302) to authorize appropriations for environmental research, development, and demonstration for fiscal year 1979, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of September 20, 1978.)

Mr. BROWN of California (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the statement be dispensed with.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER pro tempore. The gentleman from California (Mr. BROWN) will be recognized for 30 minutes, and the gentleman from Pennsylvania (Mr. WALKER) will be recognized for 30 minutes.

The Chair recognizes the gentleman from California (Mr. BROWN).

Mr. BROWN of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise to urge the adoption by this House of the conference report on the bill, H.R. 11302, to authorize appropriations for environmental research, development, and demonstration for fiscal year 1979. This bill is the annual authorization bill for the research, development and demonstration programs of the Environmental Protection Agency.

This conference report recommends authorizations of $400,564,000, as compared to the authorization in the House bill of $433 million and the authorization in the Senate bill of $376 million. As you can see, we have reached a reasonable compromise between the two versions, and I urge my colleagues to vote for the adoption of this report.

Pursuant to its jurisdiction over environmental research and development, the Subcommittee on the Environment and the Atmosphere of the Committee on Science and Technology held hearings in February on EPA's programs. The resultant bill was reported by the Committee on Science and Technology on March 14, 1978 (H. Rept. 95–985). It passed the House on the 27th of April, 1978, by a vote of 367 to 33, and authorized $433 million as I mentioned above. On the 26th of May, the Senate, by voice vote, passed an amended version of the bill, which authorized $376 million for research programs in support of EPA's mission. All of the conferees agreed to the report before us, and it was filed on the 20th of September, 1978 (House conferees were Messrs. AMBRO, WIRTH, WALGREN, WATKINS, WALKER, FORSYTHE, and myself; Senate conferees were Messrs. CULVER, MUSKIE, HART, WALLOP, and MCCLURE).

Funds authorized in this bill will be used for research projects which will in turn support the pollution abatement mission of the EPA. We all know that the Environmental Protection Agency is often called upon to make regulatory decisions based on sparse information. The Administrator of EPA, Doug Costle, is poignantly aware of this himself, as he makes clear in the following statement, which was in a letter he wrote to Senator PROXMIRE dated June 12, 1978:

> I've had to make too many billion dollar decisions over the last year without the critical information this sort of investment made five years ago would have provided.

The same idea was expressed from another point of view by a witness before our subcommittee, Prof. J. Stuart Hunter of Princeton University, who said:

> Data, if it is of poor quality, becomes itself a pollutant of clear thinking and rational decisions.

These two quotations illustrate why we feel it is so important for EPA to have a solid, well-funded research program. We feel adoption of this conference report will be a step in that direction, and I urge your vote in favor of it.

I want to address another subject, and that is the degree to which EPA's research programs support their abatement activities. I believe that this situation is much better now than it used to be. There seems to be much more cooperation between the Office of Research and Development (ORD) and the various program offices. For instance, at hearing before our subcommittee on September 13, Tom Jorling, Assistant Administrator for Water and Hazards Materials, testified as to the improvement in relations between ORD and his office:

> This year I am happy to report the ad hoc discussions have resulted in a great deal of support from ORD to assist the water programs . . . This assistance includes development of test methods and of health and water quality criteria and analysis of industrial wastes. ORD has also been responsive in the support of land treatment and of the regulatory development under Section 301(h), a section of the new 1977 amendments of the Clean Water Act . . . Without their assistance, the Office of Drinking Water would not have been able to prepare the Agency's regulations. What I am detailing is a closer relationship between the program offices and ORD than occurred previously.

I am gratified to see these signs of increasing cooperation. I know that my colleagues feel the same way. I am convinced that a major reason for this increased cooperation is the annual authorization process, whereby the research program is given careful scrutiny each year. The conference report before us now is the culmination of this process for fiscal year 1979. We are about to begin again for 1980. I want you to know that we are going to continue this thorough oversight of EPA's programs.

As an example, you will notice that we have in this bill allocated the funds authorized among the various program categories. We feel that this is a proper distribution of resources, given the many missions with which the Agency is faced. In order to keep control over these allocations, section 2(c) of the bill restricts the transfer of funds from one research program to another. This is a provision that has been in the last several authorization bills for EPA.

Mr. Speaker, I would now like to say a few words about long-term research. The House, the Senate, and the conferees have agreed on the importance of long-term research to the Environmental Protection Agency. Certain research programs need continuity to provide stability to Agency activities. Indeed, many areas of vital interest to EPA—atmospheric chemistry, behavioral toxicology, and the whole question of the cause of cancer, to name just a few—will demand long-term research programs if progress is to be made. Notice I am not talking about basic research or academic research, although individual projects could, indeed, be very basic in nature and could be carried out at academic institutions. I am talking about research directly applicable and directly applied to the Agency's missions, but research which is also carried on to build up a solid, unassailable body of knowledge which does not now exist. Such research simply cannot be conducted in an on-again off-again, "pollutant of the week" type of atmosphere. There are a great many problem areas which the Agency is going to be facing for several years. Each of those areas should have associated with it a long-term research plan. Problems in areas such as atmospheric chemistry and the others mentioned above are simply not going to go away overnight. The Agency must recognize this and plan on conducting research accordingly. I want to assure all of you that we intend to follow up on this matter to make sure that the EPA research program is genuinely supportive of their needs over the years and not just their needs of the moment.

At the same time, we are, of course, cognizant of the fact that an Agency such as EPA has genuine short-term information needs which must be served. The nature of these needs is such that they will have to be addressed by the staff of the Office of Research and Development. Nevertheless, many of these needs can be satisfied by assembling existing information as opposed to beginning new research programs. The management of the Office of Research and Development is going to have to make decisions continuously as to how to handle short-term information requests. We intend to continue to oversee this process to insure that the long-term, fundamental mission of the Agency is not perverted by short-term demands.

At this time, Mr. Speaker, I would like to address several specific provisions in the conference report.

The conferees recommend $82,925,000 for water quality activities under the Federal Water Pollution Control Act. Areas specifically emphasized by the conferees include development of environmentally sound methods to control unwanted water weeds, research on the Great Lakes, and on the effects of dumping waste in the ocean. In the area of R. & D. on pollution control the conferees recommend emphasis on control of nonpoint source pollution, both industrial and urban runoff, as well as research on innovative ways of handling wastewater.

The conferees agreed to recommend $20 million for the safe drinking water research program. This should include $4 million for ground water research, to be assigned to the Kerr Laboratory, which the Agency has designated as their principal ground water research laboratory. Pursuant to that, the conferees believe that the research program should address problems that are widespread across the Nation, such as saltwater intrusion and leachate contamination. The conferees also believe that the Agency should direct research efforts into areas of need created by its own regulatory action, such as the need for extra water treatment to meet regulations promulgated under the Safe Drinking Water Act.

The conferees recommend $159,952,000 for air quality research activities authorized under the Clean Air Act. The conferees believe that this funding should support rigorous long-term research for improving our understanding of the relationship between adverse health effects and air quality. Also in this category, funds should be allocated to support a major study of air pollution in the Denver area, which has unique problems. This conference report also recommends that in the energy-related portion of the air quality research program, certain projects which the administration had recommended be transferred to DOE

shall be funded instead by EPA. This is addressed specifically in section 2(d) of the bill as modified in conference. The conferees intend that the EPA shall have the resources it needs to carry out its mandates under the Clean Air Act. Specifically, this means that they must have the resources and the authority to conduct full-scale demonstrations of emissions control technology.

In regard to this matter, I would like to call to the Members' attention a survey reported in Pollution Engineering magazine for July. The editors of that magazine contacted over 4,000 manufacturers of equipment and components related to pollution control technology and queried them as to the helpfulness of various Federal agencies. The following table summarizes the results of the poll. It is interesting to see that two-thirds of the respondents see EPA as helpful in supporting the market for control technology. In fact EPA is seen as the most helpful Federal agency by far. On the contrary, DOE is seen to be unhelpful by 60 percent of the respondents. This is not surprising, and not too damning, because DOE is not primarily in the business of developing control technology. But what this tells us is that we are right to insist on EPA having a lead role in the development of emission control technology.

TABLE—*Rank of Federal agencies in supporting the market for environmental control products and systems*

[In percent]

Agency	Helpful or somewhat helpful	Not helpful, indifferent, or hindrance
EPA	67.8	32.2
DOE	40.8	59.2
CEQ	27.5	72.5
DOC	50.8	49.2
Interior	35.7	64.3
HEW	26.4	73.6

Section 3 of the bill contains several special authorizations. Three programs in this section were in both the House and the Senate bills—a program authorizing grants for long term research, an authorization for a gulf coast air quality study, and a special study of the coordination and application of environmental research. The conferees also agreed to a new subsection 3(d), which had been added by the Senate. This language provided for a program of 75 percent matching grants to certain qualified citizens' groups who have been certified by the Governor of their State to conduct future studies of the environment and the quality of life on a statewide basis. The conferees accepted the basic Senate language with certain modifications to guarantee that the funds authorized would not be used to support single issue advocacy groups. What we intend by this is that these groups will undertake studies and make recommendations on a broad range of issues, and not get involved in questions currently in contention.

Section 4 contains authorization for programs of environmental research to be carried out at the National Bureau of Standards. These are the only funds not directed at the Environmental Protection Agency.

Section 5 deals with certain miscellaneous reports on research activities. It was not amended by the Senate.

Section 6 has to do with staff management and allows the Agency a certain flexibility in meeting its staffing needs. Specifically, by allowing additional slots for certain training programs. The conferees agreed to accept a Senate amendment giving special emphasis to education and training programs for women and minority groups.

Section 7 of the bill has to do with the reuse of wastewater. It authorizes $15 million for grants to demonstrate technologies or techniques to increase the availability of safe, high quality drinking water. This could include the interception of high quality water destined for agricultural use, the use of that water in a city drinking system, and then a return of that water after sufficient treatment to the agricultural use for which it was originally intended.

The conference report does not include section 6 of the Senate-passed bill, which dealt with coordination of ocean pollution research, development, and monitoring. The conferees concluded that the current interagency coordinating committee now developing a research plan is carrying out the process substantially similar to that contemplated under the Senate version of section 6. I want to emphasize that we intend to continue to assure ourselves that such coordination is, in fact, occurring.

Mr. Speaker, this concludes my brief remarks on the conference report before us now. I have not attempted to cover all of the items in detail; they are covered more completely in the printed report of the conferees, House Report No. 95-1593. Once again, I urge your votes in support of this conference report.

Mr. WALKER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to commend the distinguished chairman of the subcommittee for his work on this bill throughout this session of Congress and particularly for his work in this conference committee. I think he has provided outstanding leadership in the area of environmental research and development throughout this Congress.

Mr. Speaker, I rise in support of the conference report on the annual EPA research and development authorization bill, H.R. 11302. The conferees agreed to a total of $400,564,000 which may be compared with the House authorization of $433 million, and a Senate authorization of $376 million. This bill passed the House on April 27, 1978, on a recorded vote of 367 to 33. The Senate amended the House version of the legislation and passed it by a voice vote on May 26.

I would like to stress that the funds included in this bill will not be used for regulatory purposes, but rather are provided to conduct environmental research and development. Far too often in the past, our committee has discovered frequent instances of EPA regulations based on insufficient knowledge. It is the hope of our committee that adequate research will lead to better and more acceptable regulatory standards in the future. In fact, this belief is shared by many officials within the EPA itself. In a letter from EPA Administrator Douglas Costle of June 12, 1978, he said:

> I've had to make too many billion-dollar decisions over the last year without the critical information this sort of investment made five years ago would have provided.

During the course of our hearings, this year, one of our witnesses, Prof. J. Stuart Hunter of Princeton University, said:

> Data, if it is of poor quality, becomes itself a pollutant of clear thinking and rational decisions.

Our committee, through rigorous oversight hearings, has attempted to improve the quality and the coordination of EPA research and development activities. We have also attempted to instill within the heads of the various regulatory and enforcement divisions of EPA an understanding that research and development should be a full partner in any of their ongoing efforts.

The chairman of our subcommittee, the gentleman from California, has fully explained the results of the conference, and I do not feel that I have to reiterate all the details. However, there is one particular point that I would like to address for a moment. Included in section 3 of the bill is a program added by the Senate which provides 75 percent matching grants to qualified citizen's groups who have been certified by the Governor of their State to conduct future studies into the environmental quality and general quality of life on a statewide basis. The House conferees were first reluctant to accept this provision, because it was neither a proposal contained in the President's budget, nor had it been the subject of hearings on the House side. However, during the course of the conference we were persuaded by the Senate that this is an idea that might be worth trying.

We did accept the basic Senate premise with certain amendments. I want to emphasize that the funds are not to be used to support single issue advocacy groups. The conferees fully intend that the groups performing these studies will represent a broad cross-section of community interest, and are specifically prohibited from either lobbying activities or litigation involving issues before the group. It is our hope that the groups will undertake studies and make recommendations on a broad range of environmental quality of life issues, and not get involved in issues which are the subject of public controversy.

Mr. Speaker, this conference report represents a reduction of more than $32 million below the House-passed version of the bill. It is for research and development programs which we believe have specific national urgency and I urge the adoption of the conference report.

(Mr. WALKER asked and was given

permission to revise and extend his remarks.)

Mr. WYDLER. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from New York.

Mr. WYDLER. Mr. Speaker, I congratulate all those connected with the conference report, particularly the gentleman from Pennsylvania (Mr. WALKER) for the work he has done. I think the most outstanding contribution is the fact that they brought us back a bill $32 million less than the bill that left the House.

Mr. Speaker, I rise in support of the conference report on the annual EPA research and development authorization bill, H.R. 11302. When the House first considered this bill, on April 27, we approved $422 million for EPA environmental R. & D. efforts. The Senate later amended the House-passed version of the bill and approved $376 million. The conferees have agreed to a total authorization of $400,564,000 which is a reduction of more than $32 million from the original House version of this legislation.

Included in this authorization are $351 million for the Environmental Protection Agency's ongoing research and development program; $7 million for grants in support of long-term research; $15 million for a waste water recycling and reuse demonstration project; $3 million for grants for citizen's studies of the environmental and quality of life future in the various States; $1 million for the study of management of Federal environmental research and development; and $5 million for environmental research to be conducted at the National Bureau of Standards.

Mr. Speaker, there were a number of issues regarding the EPA R. & D. program which surfaced during the course of hearings held by the Subcommittee on the Environment and the Atmosphere and while they have not all been resolved by the conferees, I believe that the conference report will give the agency far better guidance concerning the implementation of research programs during fiscal year 1979.

The Committee on Science and Technology has been generally disturbed at the overlap and duplication of research and development efforts within the Federal Government and I am sure that the Subcommittee on the Environment and the Atmosphere will continue the intensive oversight activities which have marked their work on this year's budget request.

Mr. Speaker, like many Members of this House, I have received complaints from constituents that EPA regulations have been frequently made without sufficient data to justify the regulatory effort undertaken. I join with the gentleman from Pennsylvania (Mr. WALKER) who serves as the ranking minority member on the Environment and Atmosphere Subcommittee, in pointing out that only through a general improvement of the quality and coordination of research efforts will EPA reach a point where they will be able to regulate, not only in a more timely fashion, but also produce better regulations in the long run.

Mr. Speaker, I would like to take just a moment to commend the gentleman from Pennsylvania (Mr. WALKER) who has done an excellent job in this Congress as the ranking minority member of the subcommittee. He brought both a new approach and a new outlook to the problems confronting the subcommittee and throughout the Congress I have observed that he has done an excellent job in overseeing complex programs and resolving difficult issues. His efforts are deeply appreciated. Finally, Mr. Speaker, I would also like to commend the gentleman from Kansas (Mr. WINN) and the gentleman from New Jersey (Mr. FORSYTHE) who also serve on the Environment and Atmosphere Subcommittee and who, both, have contributed much to the deliberations of that subcommittee during the past year.

GENERAL LEAVE

Mr. BROWN of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on this conference report.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. BROWN of California. Mr. Speaker, I have no further requests for time, and yield back the remainder of my time.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the conference report.

There was no objection.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. WYDLER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 387, nays 15, not voting 30, as follows:

[Roll No. 864]

YEAS—387

Abdnor	Bellenson	Burleson, Tex.
Addabbo	Benjamin	Burlison, Mo.
Akaka	Bennett	Burton, John
Alexander	Bevill	Burton, Phillip
Ambro	Biaggi	Butler
Anderson, Calif.	Bingham	Byron
	Blanchard	Caputo
Anderson, Ill.	Boggs	Carney
Andrews, N.C.	Boland	Carr
Andrews, N. Dak.	Bolling	Carter
	Bonior	Cavanaugh
Annunzio	Bonker	Cederberg
Applegate	Bowen	Chappell
Archer	Brademas	Chisholm
Armstrong	Breaux	Clausen, Don H.
Ashbrook	Breckinridge	
Ashley	Brinkley	Clawson, Del
Aspin	Brodhead	Clay
AuCoin	Brooks	Cleveland
Badham	Broomfield	Cohen
Bafalis	Brown, Calif.	Coleman
Baldus	Brown, Mich.	Collins, Ill.
Barnard	Brown, Ohio	Conable
Baucus	Broyhill	Conte
Bauman	Buchanan	Conyers
Beard, R.I.	Burgener	Corcoran
Beard, Tenn.	Burke, Fla.	Corman
Bedell	Burke, Mass.	Cornell
Cotter	Johnson, Calif.	Pressler
Coughlin	Johnson, Colo	Preyer
Cunningham	Jones, N.C.	Price
Daniel, Dan	Jones, Okla.	Pritchard
Daniel, R. W.	Jones, Tenn.	Pursell
Danielson	Jordan	Quayle
Davis	Kasten	Quie
de la Garza	Kastenmeier	Rahall
Dellums	Kazen	Railsback
Dent	Kemp	Rangel
Derrick	Keys	Regula
Derwinski	Kildee	Reuss
Devine	Kindness	Rhodes
Dicks	Kostmayer	Richmond
Dodd	Krebs	Rinaldo
Dornan	LaFalce	Robinson
Downey	Lagomarsino	Rodino
Drinan	Latta	Roe
Duncan, Oreg.	Le Fante	Rogers
Early	Leach	Rooney
Eckhardt	Lederer	Rose
Edgar	Leggett	Rosenthal
Edwards, Ala.	Lehman	Rostenkowski
Edwards, Calif.	Lent	Rousselot
Edwards, Okla.	Levitas	Roybal
Eilberg	Livingston	Ruppe
Emery	Lloyd, Calif.	Russo
English	Lloyd, Tenn.	Ryan
Ertenborn	Long, La.	Santini
Ertel	Long, Md.	Sawyer
Evans, Colo.	Lott	Scheuer
Evans, Del.	Luken	Schroeder
Evans, Ga.	Lundine	Schulze
Fary	McClory	Sebelius
Fascell	McCloskey	Seiberling
Fenwick	McCormack	Sharp
Findley	McDade	Shuster
Fish	McEwen	Sikes
Fisher	McFall	Simon
Fithian	McHugh	Sisk
Flippo	McKay	Skelton
Flood	McKinney	Skubitz
Florio	Madigan	Slack
Flowers	Maguire	Smith, Iowa
Flynt	Mahon	Smith, Nebr.
Foley	Mann	Snyder
Ford, Mich.	Markey	Solarz
Ford, Tenn.	Marks	Spellman
Forsythe	Marlenee	Spence
Fountain	Marriott	St Germain
Fowler	Martin	Staggers
Fraser	Mathis	Stangeland
Frenzel	Mattox	Stanton
Frey	Mazzoli	Stark
Fuqua	Meeds	Steed
Gammage	Metcalfe	Steiger
Garcia	Meyner	Stockman
Gaydos	Michel	Stokes
Gephardt	Mikulski	Stratton
Giaimo	Mikva	Studds
Gibbons	Milford	Taylor
Gilman	Miller, Ohio	Thompson
Ginn	Mineta	Thornton
Glickman	Minish	Traxler
Goldwater	Mitchell, Md.	Treen
Gonzalez	Mitchell, N.Y.	Trible
Goodling	Moakley	Tucker
Gore	Moffett	Udall
Gradison	Mollohan	Ullman
Grassley	Montgomery	Van Deerlin
Green	Moore	Vander Jagt
Gudger	Moorhead, Calif.	Vanik
Guyer		Vento
Hagedorn	Moorhead, Pa.	Volkmer
Hamilton	Murphy, Ill.	Walgren
Hammerschmidt	Murphy, N.Y.	Walker
	Murphy, Pa.	Walsh
Hanley	Murtha	Wampler
Hannaford	Myers, Gary	Watkins
Harkin	Myers, John	Waxman
Harris	Myers, Michael	Weaver
Harsha	Natcher	Weiss
Hawkins	Neal	Whalen
Heckler	Nedzi	White
Hefner	Nichols	Whitehurst
Heftel	Nix	Whitley
Hillis	Nolan	Whitten
Holland	Nowak	Wilson, Bob
Hollenbeck	O'Brien	Wilson, Tex.
Holt	Oakar	Winn
Holtzman	Oberstar	Wirth
Horton	Obey	Wolff
Howard	Ottinger	Wright
Hubbard	Panetta	Wydler
Huckaby	Patten	Wylie
Hughes	Patterson	Yates
Hyde	Pattison	Yatron
Ichord	Pease	Young, Alaska
Ireland	Pepper	Young, Fla.
Jacobs	Perkins	Young, Mo.
Jeffords	Pickle	Zablocki
Jenkins	Pike	Zeferetti
Jenrette	Poage	

NAYS—15

Collins, Tex.	Kelly	Rudd
Crane	McDonald	Satterfield
Evans, Ind.	Mottl	Stump
Hall	Quillen	Symms
Hansen	Roberts	Waggonner

NOT VOTING—30

Ammerman	Duncan, Tenn.	Runnels
Blouin	Harrington	Sarasin
Burke, Calif.	Hightower	Shipley
Cochran	Krueger	Steers
Cornwell	Lujan	Teague
D'Amours	Miller, Calif.	Thone
Delaney	Moss	Tsongas
Dickinson	Pettis	Wiggins
Diggs	Risenhoover	Wilson, C. H.
Dingell	Roncalio	Young, Tex.

The Clerk announced the following pairs:

Mr. Ammerman with Mr. Cochran of Mississippi.
Mr. Dingell with Mr. Dickinson.
Mrs. Burke of California with Mrs. Pettis.
Mr. Diggs with Mr. Sarasin.
Mr. Blouin with Mr. Lujan.
Mr. Krueger with Mr. Wiggins.
Mr. Teague with Mr. Shipley.
Mr. Miller of California with Mr. Tsongas.
Mr. Hightower with Mr. Harrington.
Mr. Cornwell with Mr. Duncan of Tennessee.
Mr. D'Amours with Mr. Risenhoover.
Mr. Delaney with Mr. Roncalio.
Mr. Charles H. Wilson of California with Mr. Steers.
Mr. Moss with Mr. Runnels.

Mr. DUNCAN of Oregon changed his vote from "nay" to "yea."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON H.R. 11445, SMALL BUSINESS ADMINISTRATION PROGRAMS AND AUTHORIZATIONS

Mr. SMITH of Iowa. Mr. Speaker, I call up the conference report on the bill (H.R. 11445) to amend the Small Business Act and the Small Business Investment Act of 1958, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Iowa?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, will the gentleman explain what we are about to do here?

Mr. SMITH of Iowa. Mr. Speaker, if the gentleman will yield. This is the Omnibus Small Business Act of 1978. It contains a number of proposals that were combined into one act. Most of this bill is as it passed the House. The Senate did add a few provisions, however, which I will explain in due course.

Mr. ROUSSELOT. Is the bill basically the same?

Mr. SMITH of Iowa. It is basically the same as passed the House.

Mr. ROUSSELOT. I thank the gentleman for his explanation.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Iowa?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of September 29, 1978.)

Mr. SMITH of Iowa (during the reading). Mr. Speaker, I ask unanimous consent to dispense with further reading of the statement.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Iowa?

There was no objection.

GENERAL LEAVE

Mr. SMITH of Iowa. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on this conference report, and that I may include extraneous matter.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Iowa?

There was no objection.

The SPEAKER pro tempore. The gentleman from Iowa (Mr. SMITH) will be recognized for 30 minutes, and the gentleman from Massachusetts (Mr. CONTE) will be recognized for 30 minutes.

The Chair now recognizes the gentleman from Iowa (Mr. SMITH).

Mr. SMITH of Iowa. Mr. Speaker, I yield myself such time as I may consume.

I rise in strong support of this omnibus bill. It is without a doubt the most comprehensive small business bill ever considered.

(1) SBA PROGRAM LEVELS—FISCAL YEAR 1979

The bill leaves unchanged existing law establishing program levels and authorizations except it authorizes $1.635 billion to carry out the program levels, an increase of $28.25 million; sets the authorization for salaries and expenses at $200 million as proposed by the Senate, an increase of $12 million; and increases the program level for development company guarantees to $100 million.

I want to stress that most of these authorizations are for Federal Government guarantees of loans, debentures and bonds, and for some direct financial assistance to small business concerns. Although the direct financial assistance—primarily loans—results in Federal Government spending in the year in which it is made, in the aggregate over 90 percent of these loans will be repaid in subsequent years and thus results in income to the Federal Government in later years. In addition, SBA programs provide other benefits to the Federal Government such as the ability to obtain high quality goods and services at reasonable, competitive prices. Also, SBA loans are often used to create new jobs in the borrower's business and to expand the business. Such uses of loan proceeds, naturally, will result in additional tax revenue being received by the Federal, State, and local governments.

It also should be noted that the authorizations provided include a reserve for payment of losses or claims in future years, not just for payments in the current year. For example, the reserve for regular business guaranteed loans provided herein is 15 percent of the program level. This percentage is the rate used until the administration submitted its fiscal year 1979 budget, which reflected a 1.5-percent reserve to enable repurchases for claims occurring only in fiscal year 1979. The repurchase reserve calculation amounts to a difference of some $400 million in fiscal year 1979 authorizations in this bill as compared to the administration's request. There is no difference in the program cost; this bill merely authorizes budget authority for all anticipated repurchases of guaranteed loans made in fiscal year 1979, even if the repurchases do not occur until later years.

(2) AMENDMENTS TO FISCAL YEAR 1979 SALARY AND EXPENSE AUTHORIZATIONS

Of the total salaries and expenses for fiscal year 1979 the bill allocates $133.673 million for 10 specific functions:

First, $17 million for procurement assistance;

Second, $23,385,000 for management assistance;

Third, $2,172,000 for technical assistance;

Fourth, $2,300,000 for the execution of advocacy functions;

Fifth, $5 million for economic research;

Sixth, $660,000 for public communications;

Seventh, $4,500,000 for internal administration data management;

Eighth, $17 million for minority small business, including management and technical assistance;

Ninth, $53 million for finance and investment functions; and

Tenth, $8,000,000 for matching grants to small business development centers, and an additional $650,000 for the administration of the small business development center program.

The above amounts include $1 million for development of an indicative small business data base to enable SBA to compile a list of basic data developed partially by utilizing existing Government and private sources; but it probably will require additional independent research and compilation by SBA. Such a data base would include pertinent information on the small business such as its name and address, type of business, number of employees, et cetera. This information could then be used by SBA to selectively communicate with the small business community as to programs which might help the small business or to advise it of proposed regulations and solicit small business input.

(3) SBA PROGRAM LEVELS—FISCAL YEAR 1980

The bill establishes the following program levels for fiscal year 1980:

	Millions
7(a) Business	$4,125
Direct and immediate participation	459
Guaranteed	3,630
7(h) Handicapped	33
Direct and immediate participation	22
Guaranteed	11
7(i) EOL	166
Direct and immediate participation	73
Guaranteed	93

Development companies	160
Direct and immediate participation	50
Guaranteed	110
Investment company assistance	250
Direct and immediate participation	25
Guaranteed	225
7(1) Solar and energy conservation	75
Direct and immediate participation	30
Guaranteed	45
Total BLIF	4,809
Direct and immediate participation	695
Guaranteed	4,114
Disaster:	
Physical	(1)
Nonphysical	220
Surety bond guarantees (SBA share of program levels)	2,700
Pollution control bond guarantees	100

[1] Open ended.

To carry out fiscal year 1980 program levels, the bill authorizes $1,616 million. Of this amount, $42 million is to carry out the surety bond guarantees program; $4 million to pay claims on prior guarantees on the defunct lease guarantees program; and $232 million for salaries and expenses.

(4) SALARY AND EXPENSE AUTHORIZATIONS FOR FISCAL YEAR 1980

Of the total salaries and expenses for fiscal year 1980, the bill earmarks 10 specific functions:

First, $18,700,000 for procurement assistance;

Second, $27,000,000 for management assistance;

Third, $2,400,000 for technical assistance;

Fourth, $2,500,000 for execution of the advocacy function;

Fifth, $5,500,000 for economic research;

Sixth, $725,000 for public communications;

Seventh, $7,400,000 for internal administration data management;

Eighth, $17,200,000 for minority small business, including management and technical assistance;

Ninth, $58,300,000 shall be available for finance and investment functions; and

Tenth, $18,000,000 for matching grants to Small Business Development Centers, and an additional $650,000 for the administration of the Small Business Development Center program.

(5) SBA PROGRAM LEVELS—FISCAL YEAR 1981

The bill establishes the following program levels for fiscal year 1981:

	Millions
7(a) Business	$4,545
Direct and immediate participation	545
Guaranteed	4,000
7(h) Handicapped	37
Direct and immediate participation	25
Guaranteed	12
7(1) EOL	184
Direct and immediate participation	81
Guaranteed	103
Development companies	175
Direct and immediate participation	55
Guaranteed	120
Investment company assistance	278
Direct and immediate participation	28
Guaranteed	250
7(1) Solar and energy conservation	75
Direct and immediate participation	30
Guaranteed	45
Total BLIF	5,294
Direct and immediate participation	764
Guaranteed	4,530
Disaster:	
Physical	(1)
Nonphysical	242
Surety Bond guarantees (SBA share of program level)	3,500
Pollution control bond guarantees	110

[1] Open ended.

To carry out fiscal year 1981 program levels, the bill authorizes $1,789 million. Of this amount $59 million is to carry out the surety bond guarantees program; $4 million to pay claims on prior guarantees on the defunct lease guarantee program; and $254 million for salaries and expenses.

(6) SALARY AND EXPENSE AUTHORIZATIONS FOR FISCAL YEAR 1981

Of the total salaries and expenses for fiscal year 1981, the bill earmarks 10 specific functions:

First, $20,600,000 for procurement assistance;

Second, $30,500,000 for management assistance;

Third, $2,500,000 for technical assistance;

Fourth, $2,800,000 for the execution of advocacy functions;

Fifth, $6,100,000 for economic research;

Sixth, $800,000 for public communications;

Seventh, $8,000,000 for internal administration data management;

Eighth, $17,400,000 for minority small business, including management and technical assistance;

Ninth, $64,300,000 for finance and investment functions; and

Tenth, $20,000,000 for matching grants to Small Business Development Centers, and an additional $650,000 for the administration of the Small Business Development Center program.

(7) SBA PROGRAM LEVELS—FISCAL YEAR 1982

The bill establishes the following program levels for fiscal year 1982:

	Millions
7(a) Business	$5,000
Direct and immediate participation	600
Guaranteed	4,400
7(h) Handicapped	42
Direct and immediate participation	28
Guaranteed	14
7(1) EOL	204
Direct and immediate participation	90
Guaranteed	114
Development companies	191
Direct and immediate participation	61
Guaranteed	130
Investment company assistance	306
Direct and immediate participation	31
Guaranteed	275
7(1) Solar and energy conservation	75
Direct and immediate participation	30
Guaranteed	45
Total BLIF	5,818
Direct and immediate participation	840
Guaranteed	4,978
Disaster:	
Physical	(1)
Nonphysical	267
Surety bond guarantees (SBA share of program level)	4,000
Pollution control bond guarantees	125

[1] Open ended.

To carry out fiscal year 1982 program levels, the bill authorizes $1,943 million. Of this amount, $69 million is to carry out the surety bond guarantees program; $4 million to pay claims on prior guarantees on the defunct lease guarantee program; and $278 million for salaries and expenses.

(8) SALARY AND EXPENSE AUTHORIZATIONS FOR FISCAL YEAR 1982

Of the total salaries and expenses for fiscal year 1982, the bill earmarks 10 specific functions:

First, $22,600,000 for procurement assistance;

Second, $33,300,000 for management assistance;

Third, $2,800,000 for technical assistance;

Fourth, $3,100,000 for the execution of advocacy functions;

Fifth, $6,700,000 for economic research;

Sixth, $880,000 for public communications;

Seventh, $9,200,000 for internal administration data management;

Eighth, $17,600,000 for minority small business, including management and technical assistance;

Ninth, $70,700,000 for finance and investment functions; and

Tenth, $22,000,000 for matching grants to Small Business Development Centers, and an additional $650,000 for the administration of the Small Business Development Center program.

(9) DISASTER LOAN INTEREST RATES

The bill provides that for disasters occurring from October 1, 1978, until October 1, 1982, the interest rate on home-

owner natural disaster loans would be 3 percent on the first $55,000. The interest rate on all other natural disaster loans is set at 5 percent on the first $250,000. The rate on any natural disaster loans in excess of these special dollar limitations continues at cost-of-money to the Federal Government, currently 6⅝ percent.

(10) PRODUCT DISASTER LOANS

The bill amends SBA's Product Disaster Loan Program by clarifying that small business concerns which suffer substantial economic injury as a result of being unable to process or market a product due to disease or toxicity in the product from natural or other causes, are eligible for loan assistance.

(11) LOAN POOLING

The bill authorizes banks and private dealers to form a pool of any type of SBA guaranteed loans and to issue certificates of beneficial ownership in such pools. The certificates will be guaranteed by SBA in advance of their issuance and sale by the private dealer or bank. This is a pilot program and will automatically expire on January 1, 1980, unless extended by the Congress. Finally, SBA is required to report to the Small Business Committees of both the Senate and the House on the implementation of this program by September 30, 1979, so that the committees can evaluate its operation.

There should be no additional cost to the Federal Government for this program. A default on the certificates which would be the subject of a claim against SBA would be in the same dollar amount for which SBA would already be obligated under their guarantee on the loans which comprise the pool.

To safeguard investors and the Federal Government, SBA should institute proper internal controls and affix its seal to certificates guaranteed; no guarantee would be effective until the SBA seal has been affixed by SBA.

(12) LOCAL DEVELOPMENT COMPANY DEBENTURES

The bill provides for the formation of development companies that have: First, a full time professional staff, second, adequate accounting, legal, and business servicing capabilities; and third, an active board of directors, which meets on a regular basis and is actively involved in loan decisions and loan servicing. In addition to SBA's authority to make loans of up to $500,000 to the development company for each small business being assisted by the Company, SBA would be authorized to guarantee debentures issued by development companies with the above three capabilities. The amount of the debentures to be guaranteed may not exceed one-half of the project cost. The remaining one-half of the project cost would be required to be supplied from other sources.

(13) PROCUREMENT ASSISTANCE FOR ORGANIZATIONS OF HANDICAPPED

The bill extends the authority of nonprofit organizations of handicapped individuals to participate in small business procurement set-asides, but restricts the participation to fiscal years 1979 and 1980 and limits it to not more than $100 million per year. In addition, it requires the SBA to monitor and evaluate the program; directs the Administrator to require every Federal agency and department having procurement authority to take such actions as the Administrator deems appropriate if the Administrator and the Executive Director of the Committee for the Purchase From the Blind and Severely Handicapped find that the participation of such organizations of handicapped individuals has or may cause severe economic injury to for-profit small businesses; and delays until not later than January 1, 1980, the requirement that SBA prepare and transmit to the Small Business Committees of both the Senate and the House a report on the impact on for-profit small businesses of contracts awarded to such organizations of handicapped.

(14) ECONOMIC INJURY DISASTER LOANS

The bill amends section 7(b)(8) of the Small Business Act to clarify the intent that energy shortage loans be made available to those small businesses injured by any type of an energy shortage, regardless of the cause of the shortage, but expressly declares ineligible those small concerns which suffer an energy shortage due to strikes, embargoes or boycotts directly against them.

(15) RELATES TO THE OCCUPATIONAL SAFETY AND HEALTH ACT

The bill provides that:

First, no civil penalty shall be proposed or assessed for any first-instance safety or health violation which is of an other than serious nature if the employer cited for such violation has 10 or fewer employees and if the inspection which led to the citation of such first-instance violation resulted in the citation of such employer for less than 10 violations;

At this point I want to correct a technical error in the statement of the managers of this conference report with respect to the OSHA amendment. The explanatory statement in the conference report implies that in counting violations for the purpose of applying the amendment, only nonserious violations are to be counted. This is not correct. As is apparent from reading the language of the amendment, all violations, including serious, willful, repeat, failure to abate, and other violations, except "de minimis" violations, are to be counted in determining whether or not a small business employer is eligible for the exemption.

Second, no employer who has 10 or fewer employees shall be required to maintain the log of occupational injuries and illnesses, supplementary records, nor annual summary required by part 1904 of title 29 of the Code of Federal Regulations, except when the employer has been notified in writing that he or she has been selected to participate in a statistical survey of occupational injuries and illnesses, and shall be required to maintain the log of occupational injuries and illnesses; and

Third, the Secretary of Labor is directed to conduct a study of the collection and analysis of statistics dealing with work-related injuries and illnesses, and to, no later than 12 months after the effective date of this subsection, submit his study to the President of the Senate and the Speaker of the House of Representatives. Such study shall include the Secretary's evaluation of the effectiveness and accuracy of such procedures in determining the rate of incidence of work-related injuries and illnesses, especially with regard to employers of 10 or fewer individuals.

(16) SMALL BUSINESS DEVELOPMENT CENTERS

The bill provides for the statutory establishment of Small Business Development Centers which would provide management, technical and technological assistance to small businesses.

The bill authorizes SBA to make matching grants directly to any qualifying State government or agency thereof, any regional entity, any State-chartered development credit or finance corporation, any land-grant college or university, junior or community colleges, any college or school of business, engineering, commerce, or agriculture, or to any corporation formed by two or more of the above to provide management, technical and technological assistance to small business.

Grant applicants would be required to obtain matching funds on a 50–50 basis from non-Federal sources and would be entitled to a maximum grant based on the percent of the population to be served as compared to the total population of the United States.

The matching funds from non-Federal sources could not include any fees from small business, but they could include indirect costs or waived overhead for up to one-half of the contribution and the balance would have to be in cash.

The bill also provides that in order to participate in the Small Business Development Center program, a State must submit to SBA for approval a plan setting forth the budget, the region to be served, the services to be rendered, how such services will be delivered by each participating university, and any other assurances that SBA may, in its discretion, require.

SBA would make the decision on which universities or other applicants are eligible to participate in the State plan.

It also provides that centers must assist small businesses in solving problems concerning operations, manufacturing, engineering, technology exchange and development, personnel administration, marketing, sales, merchandising, finance, accounting, business strategy development, and other matters needed by small business for growth and expansion, innovation, increased productivity and management improvement, and for decreasing industry concentration.

A State center must make its services available as close as possible to small businesses by providing extension services and utilizing satellite locations and State and Federal small business related programs whenever possible.

A full-time staff, including a State director, business analyst, technology transfer agents, information specialists, and part-time professional people must be provided by a State center. The center also shall have access to laboratory and adaptive engineering facilities.

Services of a State center shall include: one-on-one counseling; assisting in technology transfer; maintaining in-

formation pertaining to Federal, State, and local regulations and providing technology development to assist small concerns with regulatory compliance; conducting and coordinating research into technical and general small business problems; providing a library containing current information and data needed by local small businesses; maintaining a working relationship with private consultants, the financial and investment communities; and small business groups; and conducting surveys for local small business groups to develop information pertaining to the local economy and the status of small business in that locality.

A State center shall continue to modify and upgrade its services in order to be responsible to the changing needs of the small business community.

Laboratories operated and funded by the Federal Government shall provide services and make their facilities available to centers on a reimbursable cost basis.

National Science Foundation funded innovation centers are authorized and directed to cooperate with Small Business Development Centers in their activities. The National Science Foundation shall submit an annual report to Congress concerning the performance of these innovation centers, with recommendations for their expansion and improvement.

It also authorizes SBA to appoint a National Advisory Board consisting of nine members, three of whom would be representatives of universities and six of whom would be representatives of the small business community. The board would advise SBA on the operation of the operation of the program.

The bill also authorizes either SBA or a firm retained by SBA to evaluate the Small Business Development Center program to measure quantitatively and qualitatively the impact on small businesses and the socioeconomic base of the regions served.

This program is established on a pilot base during fiscal years 1979 through 1982. It would be funded with grants of $8 million, $18 million, $20 million, and $22 million to the centers in each of those fiscal years, respectively, and in addition SBA would be authorized $650,000 per year for administration of the program.

(17) SBA ORGANIZATION

The bill authorizes the Administrator to appoint six Associate Administrators as follows:

First, an Associate Administrator for Finance;

Second, an Associate Administrator for Procurement Assistance;

Third, an Associate Administrator for Minority Small Business;

Fourth, an Associate Administrator for Investment;

Fifth, an Associate Administrator for Management and Technical Assistance; and

Sixth, an Associate Administrator for Disaster Loan Administration.

SBA now is authorized four associate administrators, and thus the bill authorizes two new ones and specifies the duties of both the old and the new ones.

(18) ADVOCACY AND ECONOMIC RESEARCH

The bill incorporates title II of Public Law 94-305 in the Small Business Act as a new section 22.

The Chief Counsel for Advocacy would continue to have five basic, statutory duties:

First, serving as a focal point for the receipt of complaints, criticisms, and suggestions concerning the policies and activities of the Administration and any other Federal agency which affects small businesses;

Second, counseling small businesses on how to resolve questions and problems concerning the relationship of small business to the Federal Government;

Third, developing proposals for changes in the policies and activities of any agency of the Federal Government which will better fulfill the purposes of the Small Business Act and communicate such proposals to the appropriate Federal agencies;

Fourth, representing the views and interests of small businesses before other Federal agencies whose policies and activities may effect small business; and

Fifth, enlisting the cooperation and assistance of public and private agencies, businesses, and other organizations in disseminating information about the programs and services provided by the Federal Government which are of benefit to small businesses, and information on how small businesses can participate in or make use of such programs and services.

In addition, the Chief Counsel would be required to transmit annually to the Congress and to the President a comprehensive report containing findings and specific recommendations.

Also, the SBA Administrator would be assigned the responsibility for establishing and maintaining an economic data base on small business and for publishing annually a report giving a comparative analysis and interpretation of the historic trends of the small business sector as reflected by such data.

(19) PRESIDENT'S REPORT ON SMALL BUSINESS AND COMPETITION

Each January the President would be required to submit a "Report on Small Business and Competition," focusing on the economic issues that affect the strength of the small business sector, the efficiency of the Nation's markets, and the state of competition in the economy. This report would examine the current role of small business in the economy; present a current and historical perspective of the economic variables influencing small business; identify economic trends affecting small business and the state of competition; examine the effects of, and problems caused by, policies, programs and activities of the Federal Government on small business and competition and recommend legislative and administrative solutions to such problems; and recommend a program for carrying out small business economic policy.

(20) EXECUTIVE LEVELS FOR SBA OFFICIALS

The Chief Counsel for Advocacy is elevated to an executive level IV and the two new Associate Administrators established at executive level V.

(21) STUDY OF SMALL BUSINESS CREDIT NEEDS

The Board of Governors of the Federal Reserve System, the Comptroller of the Currency, and the Federal Deposit Insurance Corporation, in consultation with the SBA Administrator and the Bureau of the Census, are directed to study the credit needs of small business to determine the extent to which commercial banks are meeting these needs. The results of these studies are to be reported to Congress no later than October 1, 1979, and shall include views as to the feasibility of surveying the number and dollar amount of loans made to small businesses by commercial banking institutions.

(22) VENTURE CAPITAL SMALL BUSINESS INVESTMENT COMPANIES

In order to provide additional capital to small business, the bill authorizes the licensing of a new category of SBIC's which would provide venture-type investments in small business concerns. These newly licensed SBIC's (for reference designated as Venture Capital Investment Companies or VCIC's) must have at least $1,000,000 in combined private capital and surplus at the time of licensing. SBA would guarantee or purchase debentures of VCIC's up to 300 percent of their capital and surplus, but not to exceed $35 million, except that if the VCIC has one or more SBIC's as a parent, the licensee and its parent company(s) combined could not receive more than $55 million. The VCIC debentures would be issued for terms up to 10 years and bear interest at 4 percent per anum. SBA would be authorized to pay to the holders of such debentures the difference between 4 percent and the cost of money to the Federal Government. The VCIC would be limited to a 9-percent fixed return on its investments, and would be required to pay to SBA 15 percent of any capital gain realized on portfolio securities.

If the VCIC does not use all of the proceeds of the federally purchased of guaranteed debentures to make venture-type investments in small concerns, it would be required to reimburse SBA for the interest subsidy received on such unused proceeds.

(23) WHITE HOUSE CONFERENCE ON SMALL BUSINESS

The bill authorizes the President to convene a White House conference on small business prior to June 30, 1980, to examine the problems and develop recommendations.

The bill also requires that not more than 1 year from the date on which the conference is convened, a final report of the conference be submitted to the President and the Congress. The report shall include the findings and recommendations of the conference as well as proposals for any legislative action necessary to implement the recommendations of the conference. The final report of the conference shall be made available to the public.

Finally, the bill authorizes the appropriation of $5 million for fiscal year 1979 to pay for the conference and provides that such appropriations shall remain available until expended.

This bill is the most comprehensive we ever have worked on in the Congress relating to small business. I believe that basically it is a good bill and should be supported by all Members. Some of the concepts in it are innovative and may need to be revised; however, I believe that we must address the problems which are causing hundreds of thousands of small businesses to fail annually, and to propose solutions to these problems.

I urge all Members to support this conference report.

Mr. Speaker, I reserve the balance of my time.

Mr. CONTE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of this conference report—to accompany H.R. 11445—and I urge its adoption. The conference report represents the final product of hours of deliberation, debate, and compromise between the managers on the part of both Houses.

The managers worked hard to come up with a satisfactory compromise—one that would address the differing concerns and desires expressed in the House and Senate versions, but one that would also fulfill the needs of the Small Business Administration and the small business community.

This is primarily a new authorization bill for the Small Business Administration and its programs. Title I of the bill makes minor changes in the fiscal year 1979 authorization and provides program levels and authorizations for fiscal years 1980, 1981, and 1982.

The version of the bill passed by the other body did not provide specific authorizations beyond fiscal year 1979. Out of respect for the requirements of the Budget Act and the needs of the Appropriations Committee and subcommittees to have authorizations well in advance, we insisted on a multiyear authorization bill; and we prevailed. The other body had amended fiscal year 1979 authorizations to provide additional salary and expense line-items or earmarks for specific SBA functions. This approach of earmarking by category and subcategory has already been adopted in the conference report on the SBA appropriations bill (H.R. 12934) and is adopted in this conference report for fiscal years 1979 through 1982.

As I explained last April during the House debate on this bill, we adopted the line-item program level approach in Public Law 95–89. Hearings we have held since that time have indicated that it has worked and will continue to work. We now have a better system of giving SBA direction, of exercising oversight, and of telling the Budget Committees, the Appropriations Committees, and the small business community just what the SBA will be doing in the foreseeable future.

The conference report also makes some changes in SBA's disaster loan interest rate—changes meant to address concerns expressed by the Budget Committee and the administration. Current law provides quite generous rates for physical disasters occurring between July 1, 1976, and October 1, 1978. Under these provisions homeowners pay 1 percent on the first $10,000 and 3 percent on the next $30,000. Businesses pay 3 percent on the first $250,000. These relatively low rates have resulted in an unprecedented huge demand for SBA disaster loans.

In an effort to alleviate this problem, the conferees agreed to raise the rates for disasters occurring after October 1, 1978. Under the new rates, businesses would pay 5 percent on the first $250,000 and homeowners would pay 3 percent on the first $55,000. The rate for amounts above these limitations will continue to be the cost of money to the Government—now 6⅝ percent.

The Senate version of this bill contained an amendment to the Occupational Safety and Health Act which would have provided to employers of 10 or less a flat exemption from the act's provisions—this was the so-called Bartlett amendment. Several objections were raised to this amendment; and, during the conference, I offered a compromise amendment aimed at answering the objections.

The original Bartlett amendment would have precluded investigations of the exempted employers even in cases of serious physical injuries or death. My amendment specifically provided that OSHA may investigate actual cases of serious physical injuries or death involving workingplace safety at an exempted workplace.

There were objections that the original amendment would have prohibited, not only safety inspection, but also health inspections. I do not believe that anyone really intended that, so my amendment specifically provided "the Secretary may conduct health investigations and health inspections."

The original exemption would have precluded a safety investigation even in the event of an employee complaint. My amendment permitted such an investigation providing that the complaint:

First, is filed with the Secretary or his authorized representative and the employer;

Second, is reduced to writing;

Third, sets forth with "reasonable particularity" the grounds for the complaint;

Fourth, is based upon a reasonable belief that a violation of a safety standard or an imminent danger exists; and

Fifth, that the violation creates a real probability that the result would be death or serious physical harm.

In addition OSHA could have inspected upon a written complaint based upon a reasonable belief that the employer has maintained the workplace with willful reckless disregard for employees' safety.

Objections were raised that the original exemption, albeit inadvertently, would have precluded the exempted employers from voluntarily participating in the various OSHA educational, training, or consultation programs. My amendment specifically provided that the otherwise exempted employers may voluntarily participate in these programs.

The original Bartlett amendment would have flatly prohibited all citations against the exempted employers. My amendment permitted citation of the otherwise exempted employers in cases where—

First, it is determined that a violating condition or imminent dangers exists;

Second, that it creates a "real probability" that the result would be death or serious physical harm; and

Third, that the employer, exercising reasonable diligence should have known of the violation.

In addition, a citation could be issued if OSHA determines that the employer has maintained the workplace with willful and reckless disregard for employee safety.

Mr. Speaker, despite the fact that my compromise answered all of the substantial objections raised and despite its acceptance by the majority of the Senate conferees, it was, I am sorry to report, rejected by the House managers. Instead, the conferees accepted language which merely codifies the provision contained in the Labor-HEW appropriations bill—provisions protecting small employers from citations for 10 or less nonserious first-instance violations.

Naturally, I preferred my own amendment. It would have provided meaningful relief from OSHA harassment of small firms. But, the conference report provision, because it provides for a change in the permanent statute rather than an appropriations rider, is better than nothing.

Title II of the conference substitute expands with limitations and extends through fiscal year 1982 SBA's pilot program for establishing small business development centers to provide management and technical assistance to small businesses. It adopts the House provisions for 50–50—rather than 75 to 25—matching grants and for limiting any one State's share to that State's proportionate population. It also adopts the other body's requirements for a State plan, phased-in funding, and continual evaluation.

Title III of the conference substitute represents a continuation of our efforts to expand and upgrade the advocacy function of the Small Business Administration and the role of the Chief Counsel for Advocacy. Both Houses strongly agreed that the advocacy function had to be emphasized and strengthened. Both Houses had passed specific and sound provisions for doing this. Title III of the conference substitute is really a coordination of the House and Senate provisions, rather than a compromise between them.

Title III also provides statutory authority for changes in SBA's internal organization. Whereas current law provides for only four Associate Administrators, this title provides for six Associate Administrators—one for each of the six major categories of SBA's duties and responsibilities. I should note here that while the conferees accepted the Senate provision for adding two additional Associate Administrators, we rejected the Senate provision for raising the executive levels for the Associate Administrators.

Title IV of the conference substitute authorizes SBA to license a new category of small business investment companies which would provide venture-type investments in small business concerns. These newly licensed companies must have at least $1 million in private capital. The SBA can guarantee or purchase debentures of up to 300 percent of the private capital; SBA would put up $3 for each $1 of private money—up to a maximum of $35 million per company—at a 4 percent interest rate. The maximum interest rate that could in turn be charged by any of these companies to a small business would be 9 percent. The SBA would be entitled to 15 percent of any capital gain realized by these companies.

This concept for a new tier of small business investment companies originated in the other body. Many of its more generous provisions have been deleted or watered down by the conferees. Frankly, however, many of the House managers were and are suspicious of it. We recognize small business' crying need for venture capital, but we are not entirely convinced that this is the way to go about it. This compromise was agreed to largely because it was the only vehicle readily available within the bounds of conference. This new program begs for continual and close oversight and I feel confident that such oversight will be forthcoming from our Small Business Committee.

Finally, title V of the bill establishes the statutory framework for the White House Conference on Small Business. This title, like title III, represents a coordination of, rather than a compromise between, the desires and provisions of the two Houses.

In summary, Mr. Speaker, your conferees have worked hard to resolve the differences between the two Houses. While we have made concessions, I believe we have ably defended and abided by the House desires and intent. This conference report is a compromise, but one developed and accepted only after long and careful deliberation. Like any compromise, it is not completely satisfactory to everyone; but, considered in its totality, it does provide a sound and workable authorization bill. I urge its adoption.

Mr. SMITH of Iowa. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. CORMAN).

Mr. CORMAN. Mr. Speaker, I have strong reservations about several of the provisions of H.R. 11445 as was amended by the Senate and reconciled in conference. I was a conferee on the bill but did not sign the conference report.

The Senate insisted on a wide variety of amendments excessively detailing the organization and internal functioning of SBA, stretching the Small Business Act to assist organizations of the handicapped with Federal procurements—beyond the benefits of the Wagner-O'Day Act—to the threat of small taxpaying businesses, and including nongermane changes to the occupational safety and health program.

The most troublesome part of the bill is title IV, venture capital. This title establishes an additional method for private investors to be subsidized by the Federal Government—venture capital investment companies, or VCIC's.

Already in operation are federally licensed small business investment companies, or SBIC's. SBIC's were intended to finance small business development by equity investments and long term loans.

Under the SBIC program the Federal Government provides up to $3 for each private dollar. The cost to the SBIC of the Federal money is the Federal borrowing rate, currently about 8.5 percent.

More attractive arrangements are provided the SBIC's for venture capital investments. If a SBIC will put 65 percent or more of its portfolio into equity investments, the Federal match is $4 to $1.

Unfortunately, the SBIC funds are increasingly being used for long term loans rather than venture capital. On a long term loan a SBIC can lend money at interest rates up to 15 percent on term of up to 20 years. In other words, SBIC's cannot only play the interest spread between their borrowing and lending rates but the Federal Government provides three-fourths of the lending dollars.

Now, venture capital investment companies are supposed to succeed where small business investment companies, including venture capital SBIC's, have failed. In fact, SBIC's can set up a VCIC subsidiary using SBIC stock purchased with $4 to $1 to capitalize partially a VCIC and further leverage the money by a 3 to 1 match under the VCIC proposal.

Although this new investment instrument is specifically intended to stimulate venture capital investments, a VCIC need only have 50 percent of its portfolio in equity investments, or 15 percent less than that required of the existing venture capital SBIC's.

The other half of their funds can be used for financing business debt. The VCIC's would borrow their money from the Federal Government at 4 percent, a rate less than half the present Federal borrowing rate. VCIC's could then lend the money to small businesses at up to 9 percent. If there is to be such a deep Federal subsidy why not make this 4 percent money available directly to small businesses rather than using a middle man VCIC whose cut is up to 5 percent.

I hope my colleagues and the President will consider carefully the implications of this sweeping legislation.

Mr. SMITH of Iowa. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. CONABLE. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 396, nays 10, not voting 26, as follows:

[Roll No. 865]

YEAS—396

Abdnor	Derwinski	Jenkins
Addabbo	Devine	Jenrette
Akaka	Dicks	Johnson, Calif.
Alexander	Dodd	Johnson, Colo.
Ambro	Dornan	Jones, N.C.
Anderson, Calif.	Downey	Jones, Okla.
Anderson, Ill.	Drinan	Jones, Tenn.
Andrews, N.C.	Duncan, Oreg.	Jordan
Andrews, N. Dak.	Duncan, Tenn.	Kasten
Annunzio	Early	Kastenmeier
Applegate	Eckhardt	Kazen
Archer	Edgar	Kemp
Armstrong	Edwards, Ala.	Keys
Ashbrook	Edwards, Calif.	Kildee
Ashley	Edwards, Okla.	Kindness
Aspin	Eilberg	Kostmayer
AuCoin	Emery	Krebs
Badham	English	Lagomarsino
Bafalis	Erlenborn	Latta
Baldus	Ertel	Le Fante
Barnard	Evans, Colo.	Leach
Baucus	Evans, Del.	Lederer
Bauman	Evans, Ga.	Lehman
Beard, R.I.	Evans, Ind.	Lent
Beard, Tenn.	Fary	Levitas
Bedell	Fascell	Livingston
Benjamin	Fenwick	Lloyd, Calif.
Bennett	Findley	Lloyd, Tenn.
Bevill	Fish	Long, La.
Biaggi	Fisher	Long, Md.
Bingham	Fithian	Lott
Blanchard	Flippo	Luken
Boggs	Florio	Lundine
Boland	Flowers	McClory
Bolling	Flynt	McCloskey
Bonior	Foley	McCormack
Bonker	Ford, Mich.	McDade
Bowen	Ford, Tenn.	McEwen
Brademas	Forsythe	McFall
Breaux	Fountain	McHugh
Breckinridge	Fowler	McKay
Brinkley	Fraser	McKinney
Brodhead	Frenzel	Madigan
Brooks	Frey	Maguire
Broomfield	Fuqua	Mahon
Brown, Calif.	Gammage	Mann
Brown, Mich.	Garcia	Markey
Brown, Ohio	Gaydos	Marks
Broyhill	Gephardt	Marlenee
Buchanan	Giaimo	Marriott
Burgener	Gibbons	Martin
Burke, Fla.	Gilman	Mathis
Burke, Mass.	Ginn	Mattox
Burleson, Tex.	Glickman	Mazzoli
Burlison, Mo.	Goldwater	Meeds
Burton, John	Gonzalez	Metcalfe
Burton, Phillip	Goodling	Meyner
Butler	Gore	Michel
Byron	Gradison	Mikulski
Caputo	Grassley	Mikva
Carney	Green	Milford
Carr	Gudger	Miller, Ohio
Carter	Guyer	Mineta
Cavanaugh	Hagedorn	Minish
Cederberg	Hall	Mitchell, Md.
Chappell	Hamilton	Mitchell, N.Y.
Chisholm	Hammer-schmidt	Moakley
Clausen, Don H.	Hanley	Moffett
Clawson, Del	Hannaford	Mollohan
Clay	Hansen	Montgomery
Cleveland	Harkin	Moore
Cohen	Harrington	Moorhead, Calif.
Coleman	Harris	Moorhead, Pa.
Collins, Ill.	Harsha	Moss
Conte	Heckler	Mottl
Corcoran	Hefner	Murphy, Ill.
Cornell	Heftel	Murphy, N.Y.
Cotter	Hillis	Murphy, Pa.
Coughlin	Holland	Murtha
Cunningham	Hollenbeck	Myers, John
D'Amours	Holt	Myers, Michael
Daniel, Dan	Holtzman	Natcher
Daniel, R. W.	Horton	Neal
Danielson	Howard	Nedzi
Davis	Hubbard	Nichols
de la Garza	Huckaby	Nix
Delaney	Hughes	Nolan
Dellums	Hyde	Nowak
Dent	Ichord	O'Brien
Derrick	Ireland	Oakar
	Jeffords	Oberstar
		Obey

Ottinger	Ruppe	Trible
Panetta	Russo	Tucker
Patten	Ryan	Udall
Patterson	Santini	Ullman
Pattison	Satterfield	Van Deerlin
Pease	Sawyer	Vander Jagt
Pepper	Scheuer	Vanik
Perkins	Schroeder	Vento
Pickle	Schulze	Volkmer
Pike	Sebelius	Waggonner
Poage	Seiberling	Wampler
Pressler	Sharp	Walker
Preyer	Shuster	Walsh
Price	Sikes	Wampler
Pritchard	Skelton	Watkins
Pursell	Skubitz	Waxman
Quayle	Slack	Weaver
Quie	Smith, Iowa	Weiss
Quillen	Smith, Nebr.	Whalen
Rahall	Snyder	White
Railsback	Solarz	Whitehurst
Rangel	Spellman	Whitley
Regula	Spence	Whitten
Reuss	St Germain	Wiggins
Rhodes	Staggers	Wilson, Bob
Richmond	Stange and	Wilson, C. H.
Rinaldo	Stanton	Wilson, Tex.
Risenhoover	Stark	Winn
Roberts	Steed	Wirth
Robinson	Steers	Wolff
Rodino	Steiger	Wright
Roe	Stockman	Wydler
Rogers	Stokes	Wylie
Roncalio	Stratton	Yates
Rooney	Studds	Yatron
Rose	Stump	Young, Alaska
Rosenthal	Taylor	Young, Fla.
Rostenkowski	Thompson	Young, Mo.
Rousselot	Thornton	Zablocki
Rudd	Traxler	Zeferetti
Runnels	Treen	

NAYS—10

Bellenson	Crane	Myers, Gary
Collins, Tex.	Jacobs	Symms
Conable	Kelly	
Corman	McDonald	

NOT VOTING—26

Ammerman	Hawkins	Sarasin
Blouin	Hightower	Shipley
Burke, Calif.	Krueger	Simon
Cochran	LaFalce	Sisk
Conyers	Leggett	Teague
Cornwell	Lujan	Thone
Dickinson	Miller, Calif.	Tsongas
Diggs	Pettis	Young, Tex.
Dingell	Roybal	

The Clerk announced the following pairs:

Mr. Ammerman with Mr. Cochran of Mississippi.
Mr. Dingell with Mr. Dickinson.
Mrs. Burke of California with Mrs. Pettis.
Mr. Blouin with Mr. Sarasin.
Mr. Krueger with Mr. Lujan.
Mr. Teague with Mr. Thone.
Mr. Miller of California with Mr. Shipley.
Mr. Hightower with Mr. Tsongas.
Mr. Cornwell wtih Mr. Leggett.
Mr. Diggs with Mr. LaFalce.
Mr. Roybal with Mr. Conyers.
Mr. Hawkins with Mr. Simon.

Mr. JACOBS changed his vote from "yea" to "nay."

Mr. MOORE and Mr. SEIBERLING changed their vote from "nay" to "yea."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON H.R. 7843, OMNIBUS JUDGESHIP BILL

Mr. RODINO. Mr. Speaker, I call up the conference report on the bill (H.R. 7843) to provide for the appointment of additional district and circuit judges, and for other purposes, and ask for its immediate consideration.

The SPEAKER pro tempore (Mr. KAZEN). The Clerk will read the conference report.

The Clerk read the conference report.

(For conference report and statement, see proceedings of the House of September 28, 1978.)

The SPEAKER pro tempore (Mr. KAZEN). The Clerk will report the Senate amendment.

The Clerk read the Senate amendment, as follows:

Strike out all after the enacting clause and insert:

That (a) the President shall appoint, by and with the advice and consent of the Senate, two additional district judges for the northern district of Alabama, one additional district judge for the middle district of Alabama, three additional district judges for the district of Arizona, two additional district judges for the eastern district of Arkansas, one additional district judge for the northern district of California, three additional district judges for the eastern district of California, one additional district judge for the central district of California, two additional district judges for the southern district of California, two additional district judges for the district of Colorado, one additional district judge for the district of Connecticut, one additional district judge for the northern district of Florida, three additional district judges for the middle district of Florida, five additional district judges for the southern district of Florida, five additional district judges for the northern district of Georgia, one additional district judge for the southern district of Georgia, two additional district judges for the southern district of Illinois, one additional district judge for the eastern district of Illinois, one additional district judge for the northern district of Indiana, one additional district judge for the southern district of Indiana, one additional district judge for the southern district of Iowa, one additional district judge for the district of Kansas, two additional district judges for the eastern district of Kentucky, four additional district judges for the eastern district of Louisiana, one additional district judge for the middle district of Louisiana, one additional district judge for the western district of Louisiana, one additional district judge for the district of Maine, two additional district judges for the district of Maryland, four additional district judges for the district of Massachusetts, three additional district judges for the eastern district of Michigan, two additional district judges for the western district of Michigan, one additional district judge for the district of Minnesota, one additional district judge for the eastern district of Missouri, two additional district judges for the western district of Missouri, one additional district judge for the district of Nevada, one additional district judge for the district of New Hampshire, one additional district judge for the district of New Jersey, one additional district judge for the district of New Mexico, one additional district judge for the northern district of New York, one additional district judge for the eastern district of New York, one additional district judge for the eastern district of North Carolina, one additional district judge for the middle district of North Carolina, one additional district judge for the western district of North Carolina, one additional district judge for the northern district of Ohio, one additional district judge for the southern district of Ohio, two additional district judges for the northern, eastern, and western districts of Oklahoma, two additional district judges for the district of Oregon, two additional district judges for the middle district of Pennsylvania, four additional district judges for the district of Puerto Rico, three additional district judges for the district of South Carolina, one additional district judge for the district of South Dakota, one additional district judge for the middle district of Tennessee, three additional district judges for the northern district of Texas, one additional district judge for the eastern district of Texas, five additional district judges for the southern district of Texas, one additional district judge for the western district of Texas, one additional district judge for the district of Utah, two additional district judges for the eastern district of Virginia, two additional district judges for the western district of Virginia, one additional district judge for the eastern district of Washington, one additional district judge for the western district of Washington, one additional district judge for the southern district of West Virginia, and one additional district judge for the western district of Wisconsin.

(b) The existing district judgeship for the eastern and western districts of Kentucky, heretofore provided for by section 133 of title 28 of the United States Code, shall hereafter be a district judgeship for the eastern district of Kentucky only, and the present incumbent of such judgeship shall henceforth hold his office under section 133, as amended by this Act.

(c) The existing district judgeship for the eastern and western districts of Washington, heretofore, provided for by section 133 of title 28 of the United States Code, shall hereafter be a district judgeship for the western district of Washington only, and the present incumbent of such judgeship shall henceforth hold his office under section 133, as amended by this Act.

(d) In order that the table contained in section 133 of title 28 of the United States Code will, with respect to each district therein, reflect the changes in the number of judgeships made by section 1 of this Act, such table is amended to read as follows:

"

Districts	Judges
Alabama:	
Northern	6
Middle	3
Southern	2
Alaska	2
Arizona	8
Arkansas:	
Eastern	3
Western	1
Eastern and western	2
California:	
Northern	12
Eastern	6
Central	17
Southern	7
Colorado	6
Connecticut	5
Delaware	3
District of Columbia	15
Florida:	
Northern	3
Middle	9
Southern	12
Georgia:	
Northern	11
Middle	2
Southern	3
Hawaii	2
Idaho	2
Illinois:	
Northern	15
Eastern	3
Southern	2
Indiana:	
Northern	4
Southern	5
Iowa:	
Northern	1
Southern	2
Northern and southern	1
Kansas	5
Kentucky:	
Eastern	5
Western	3

Louisiana:	
Eastern	13
Middle	2
Western	5
Maine	2
Maryland	9
Massachusetts	10
Michigan:	
Eastern	13
Western	4
Minnesota	5
Mississippi:	
Northern	2
Southern	3
Missouri:	
Eastern	4
Western	5
Eastern and western	2
Montana	2
Nebraska	3
Nevada	3
New Hampshire	2
New Jersey	10
New Mexico	4
New York:	
Northern	3
Eastern	10
Southern	27
Western	3
North Carolina:	
Eastern	3
Middle	3
Western	3
North Dakota	2
Ohio:	
Northern	9
Southern	6
Oklahoma:	
Northern	1
Eastern	1
Western	2
Northern, eastern, and western	4
Oregon	5
Pennsylvania:	
Eastern	19
Middle	5
Western	10
Puerto Rico	7
Rhode Island	2
South Carolina	8
South Dakota	3
Tennessee:	
Eastern	3
Middle	3
Western	3
Texas:	
Northern	9
Eastern	4
Southern	13
Western	6
Utah	3
Vermont	2
Virginia:	
Eastern	8
Western	4
Washington:	
Eastern	2
Western	5
West Virginia:	
Northern	1
Southern	3
Northern and southern	1
Wisconsin:	
Eastern	3
Western	2
Wyoming	1".

SEC. 2. The President shall appoint, by and with the advice and consent of the Senate, one additional district judge for the southern district of Florida, one additional district judge for the eastern district of Kentucky, one additional district judge for the district of Minnesota, and one additional district judge for the southern district of West Virginia. The first vacancy in the office of district judge in the judicial districts named in this section occurring five years or more after the effective date of this Act shall not be filled.

SEC. 3. The Director of the Administrative Office of the United States Courts is authorized to place five positions in grade 16, six positions in grade 17, and four positions in grade 18 of the General Schedule, in lieu of the four supergrade positions authorized by existing law and three positions allotted by the Civil Service Commission.

SEC. 4. The President shall appoint, by and with the advice and consent of the Senate, one additional circuit judgeship for the first circuit, two additional circuit judgeships for the second circuit, one additional circuit judgeship for the third circuit, three additional circuit judgeships for the fourth circuit, two additional circuit judgeships for the sixth circuit, one additional circuit judgeship for the seventh circuit, one additional circuit judgeship for the eighth circuit, ten additional circuit judgeships for the ninth circuit, one additional circuit judgeship for the tenth circuit, and two additional circuit judgeships for the District of Columbia.

SEC. 5. That section 41 of title 28 of the United States Code is amended to read in part as follows:

"The twelve judicial circuits of the United States are constituted as follows:

"Circuits	Composition
* * * * *	
Fifth	Alabama, Florida, Georgia, Mississippi, Canal Zone.
* * * * *	
Eleventh	Louisiana, Texas.
* * * * *	

SEC. 6. On the effective date of this Act the nine active circuit judges of the fifth circuit whose official station is located in the States of Alabama, Florida, Georgia, and Mississippi are assigned as circuit judges of the fifth judicial circuit as redesignated by this Act; and the six active circuit judges whose official station is located in the States of Louisiana or Texas are assigned as circuit judges of the eleventh judicial circuit as constituted by this Act. The seniority in service of each of the judges so assigned shall run from the date of his original appointment to be a judge of the fifth circuit as it existed prior to the effective date of this Act.

SEC. 7. A circuit judge in senior status of the old fifth circuit on the day of the effective date of this Act may elect to be assigned to either the new fifth circuit or to the eleventh circuit and he shall notify the Director of the Administrative Office of the United States Courts of the election made by him.

SEC. 8. Where on the day prior to the effective date of the new courts of appeal created by this Act any appeal or other proceeding has been filed with the Circuit Court of Appeals for the Fifth Circuit as constituted before such date—

(1) If any hearing before said court has been held in the case, or if the case has been submitted for decision, then further proceedings in respect of the case shall be had in the same manner and with the same effect as if this Act had not been enacted.

(2) If no hearing before said court has been held in the case, and the case has not been submitted for decision, then the appeal, or other proceeding, together with the original papers, printed records, and record entries duly certified, shall, by appropriate orders duly entered of record, be transferred to the circuit court of appeals to which it would have gone had this Act been in full force and effect at the time such appeal was taken or other proceeding commenced, and further proceedings in respect of the case shall be had in the same manner and with the same effect as if the appeal or other proceeding had been filed in said court.

SEC. 9. The President shall appoint, by and with the advice and consent of the Senate, five additional judges for the fifth circuit as redesignated herein and six additional judges for the eleventh circuit: *Provided*, That the appointments made under this section shall become effective on the date specified in section 12 of this Act: *And provided further*, That at the earliest practicable date after the date of enactment of this Act the President shall submit to the Senate of the United States his nominations for the additional judges authorized in this section and that after such submission the Senate shall proceed to consider such nominations at the earliest practicable date prior to the date specified in section 12 of this Act.

SEC. 10. Section 48 of title 28 of the United States Code is amended to read in part as follows:

"§ 48. Terms of court

"Terms or sessions of courts of appeals shall be held annually at the places listed below, and at such other places within the respective circuits as may be designated by rule of court. Each court of appeals may hold special terms at any place within its circuit.

"Circuits	Places
* * * * *	
Fifth	Atlanta, Birmingham, Jackson, Jacksonville, Miami, and Montgomery.
* * * * *	
Eleventh	New Orleans and Houston.
* * * * *	

Provided, however, That the court of appeals of the new fifth circuit is authorized to hold terms or sessions of court at New Orleans until such time as adequate facilities for the court are provided at Atlanta.".

SEC. 11. Section 46 of title 28, United States Code, is amended to read in part as follows:

"§ 46. Assignment of judges; panels; hearings; quorum

* * * * * *

"(c) Cases and controversies shall be heard and determined by a court or panel of not more than three judges, unless a hearing or rehearing before the court en banc is ordered by a majority of the circuit judges of the circuit who are in regular active service. A court en banc shall consist of all circuit judges of the circuit in regular active service.".

* * * * * *

SEC. 12. The creation of courts of appeals for the fifth circuit as redesignated herein and for the eleventh circuit including the exercise of jurisdiction conferred by this Act upon those courts, shall become effective on October 1, 1977.

SEC. 13. In order that the table contained in section 44(a) of title 28, United States Code, will, with respect to each circuit reflect the changes in the number of judgeships made by sections 4, 5, 6, and 9 of this Act, such table is amended to read as follows:

"Circuits	*Number of judges*
District of Columbia	11
First	4
Second	11
Third	10
Fourth	10
Fifth	14
Sixth	11
Seventh	9
Eighth	9
Ninth	23
Tenth	8
Eleventh	12.".

SEC. 14. Within one year from the date on which the last of the ten new judges authorized by this Act is appointed to the court of appeals for the ninth judicial circuit, the judicial council of the ninth circuit and the Judicial Conference of the United States shall, jointly or severally, submit to the Congress recommendations for such rulemaking authority or for such statutory amendments as may be necessary to provide for the effective and expeditious administration and disposition of the business of the court.

SEC. 15. (a) Section 1337, of title 28 of the United States Code, is amended to read as follows:

"§ 1337. Commerce and antitrust regulations; amount in controversy, costs

"(a) The district courts shall have original jurisdiction of any civil action or proceeding arising under any Act of Congress regulating commerce or protecting trade and commerce against restraints and monopolies: *Provided, however,* That the district courts shall have original jurisdiction of an action brought under and by virtue of paragraph (11) of section 20, chapter 1, or section 319, chapter 8 of title 49 of the United States Code, only if the matter in controversy for each receipt or bill of lading exceeds $10,000, exclusive of interest and costs.

"(b) Except when express provision therefor is otherwise made in a statute of the United States, where a plaintiff who files the case under and by virtue of paragraph (11) of section 20, chapter 1, or section 319, chapter 8, of title 49 of the United States Code, originally in the Federal courts is finally adjudged to be entitled to recover less than the sum or value of $10,000, computed without regard to any setoff or counterclaim to which the defendant may be adjudged, and exclusive of any interests and costs, the district court may deny costs to the plaintiff and, in addition, may impose costs on the plaintiff.".

(b) Subsection (b) of section 1445, of title 28 of the United States Code, is amended by striking the number "$3,000" and substituting therefor the number "$10,000".

(c) The chapter analysis of chapter 85, title 28, is amended in part to read as follows:

"1337. Commerce and antitrust regulations; amount in controversy, costs.".

SEC. 16. Such sums as may be necessary to carry out the purposes of this Act are hereby authorized to be appropriated.

Mr. RODINO (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

MOTION OFFERED BY MR. RODINO

Mr. RODINO. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. RODINO moves that the House recede and concur in the Senate amendment to the bill H.R. 7843 with an amendment, as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

That (a) the President shall appoint, by and with the advice and consent of the Senate, three additional district judges for the northern district of Alabama, one additional district judge for the middle district of Alabama, three additional district judges for the district of Arizona, two additional district judges for the eastern district of Arkansas, one additional district judge for the northern district of California, three additional district judges for the eastern district of California, one additional district judge for the central district of California, two additional district judges for the southern district of California, two additional district judges for the district of Colorado, one additional district judge for the district of Connecticut, one additional district judge for the northern district of Florida, three additional district judges for the middle district of Florida, five additional district judges for the southern district of Florida, five additional district judges for the northern district of Georgia, one additional district judge for the southern district of Georgia, three additional district judges for the northern district of Illinois, one additional district judge for the central district of Illinois, one additional district judge for the northern district of Indiana, one additional district judge for the southern district of Indiana, one additional district judge for the southern district of Iowa, one additional district judge for the district of Kansas, two additional district judges for the eastern district of Kentucky, four additional district judges for the eastern district of Louisiana, one additional district judge for the middle district of Louisiana, one additional district judge for the western district of Louisiana, one additional district judge for the district of Maine, two additional district judges for the district of Maryland, four additional district judges for the district of Massachusetts, three additional district judges for the eastern district of Michigan, two additional district judges for the western district of Michigan, one additional district judge for the district of Minnesota, one additional district judge for the eastern district of Missouri, two additional district judges for the western district of Missouri, one additional district judge for the district of Nevada, one additional district judge for the district of New Hampshire, two additional district judges for the district of New Jersey, one additional district judge for the district of New Mexico, one additional district judge for the northern district of New York, one additional district judge for the eastern district of New York, one additional district judge for the eastern district of North Carolina, one additional district judge for the middle district of North Carolina, one additional district judge for the western district of North Carolina, one additional district judge for the northern district of Ohio, one additional district judge for the southern district of Ohio, one additional district judge for the western district of Oklahoma, one additional district judge for the northern district of Oklahoma, two additional district judges for the district of Oregon, two additional district judges for the middle district of Pennsylvania, four additional district judges for the district of Puerto Rico, three additional district judges for the district of South Carolina, one additional district judge for the district of South Dakota, one additional district judge for the middle district of Tennessee, three additional district judges for the northern district of Texas, one additional district judge for the eastern district of Texas, five additional district judges for the southern district of Texas, one additional district judge for the western district of Texas, one additional district judge for the district of Utah, two additional district judges for the eastern district of Virginia, two additional district judges for the western district of Virginia, one additional district judge for the eastern district of Washington, one additional district judge for the western district of Washington, one additional district judge for the southern district of West Virginia, one additional district judge for the eastern district of Wisconsin, and one additional district judge for the western district of Wisconsin.

(b) The existing district judgeship for the eastern and western districts of Washington, heretofore provided for by section 133 of title 28 of the United States Code, shall hereafter be a district judgeship for the western district of Washington only, and the present incumbent of such judgeship shall henceforth hold his office under section 133, as amended by this Act.

(c) In order that the table contained in section 133 of title 28 of the United States Code will, with respect to each district therein, reflect the changes in the number of judgeships made by this section, such table is amended to read as follows:

"Districts	*Judges*
Alabama:	
Northern	7
Middle	3
Southern	2
Alaska	2
Arizona	8
Arkansas:	
Eastern	3
Western	1
Eastern and Western	2
California:	
Northern	12
Eastern	6
Central	17
Southern	7
Colorado	6
Connecticut	5
Delaware	3
District of Columbia	15
Florida:	
Northern	3
Middle	9
Southern	12
Georgia:	
Northern	11
Middle	2
Southern	3
Hawaii	2
Idaho	2
Illinois:	
Northern	16
Central	3
Southern	2
Indiana:	
Northern	4
Southern	5
Iowa:	
Northern	1
Southern	2
Northern and Southern	1
Kansas	5
Kentucky:	
Eastern	4
Western	3
Eastern and Western	1
Louisiana:	
Eastern	13
Middle	2
Western	5
Maine	2
Maryland	9
Massachusetts	10
Michigan:	
Eastern	13
Western	4
Minnesota	5
Mississippi:	
Northern	2
Southern	3
Missouri:	
Eastern	4
Western	5
Eastern and Western	2
Montana	2
Nebraska	3
Nevada	3
New Hampshire	2
New Jersey	11
New Mexico	4
New York:	
Northern	3
Southern	27
Eastern	10
Western	3
North Carolina:	
Eastern	3
Western	3
Middle	3
North Dakota	2
Ohio:	
Northern	9
Southern	6
Oklahoma:	
Northern	2
Eastern	1
Western	3
Northern, Eastern, and Western	2
Oregon	5

Pennsylvania:	
Eastern	19
Middle	5
Western	10
Puerto Rico	7
Rhode Island	2
South Carolina	8
South Dakota	3
Tennessee:	
Eastern	3
Middle	3
Western	3
Texas:	
Northern	9
Southern	13
Eastern	4
Western	6
Utah	3
Vermont	2
Virginia:	
Eastern	8
Western	4
Washington:	
Eastern	2
Western	5
West Virginia:	
Northern	1
Southern	3
Northern and Southern	1
Wisconsin:	
Eastern	4
Western	2
Wyoming	1".

SEC. 2. The President shall appoint, by and with the advice and consent of the Senate, one additional district judge for the eastern district of Kentucky, one additional district judge for the district of Minnesota, one additional district judge for the northern district of Ohio, and one additional district judge for the southern district of West Virginia. The first vacancy in the office of district judge in the judicial districts named in this section occurring five years or more after the effective date of this Act shall not be filled.

SEC. 3. (a) The President shall appoint, by and with the advice and consent of the Senate, one additional circuit judgeship for the first circuit, two additional circuit judgeships for the second circuit, one additional circuit judgeship for the third circuit, three additional circuit judgeships for the fourth circuit, eleven additional circuit judgeships for the fifth circuit, two additional circuit judgeships for the sixth circuit, one additional circuit judgeship for the seventh circuit, one additional circuit judgeship for the eighth circuit, ten additional circuit judgeships for the ninth circuit, one additional circuit judgeship for the tenth circuit, and two additional circuit judgeships for the District of Columbia.

(b) In order that the table contained in section 44(a) of title 28, United States Code, will, with respect to each circuit, reflect the changes in the number of judgeships made by this Act, such table is amended to read as follows:

"Circuits	*Number of judges*
District of Columbia	11
First	4
Second	11
Third	10
Fourth	10
Fifth	26
Sixth	11
Seventh	9
Eighth	9
Ninth	23
Tenth	8".

SEC. 4. Section 3 of the Act entitled "An Act to provide that chief judges of circuit courts and chief judges of district courts having three or more judges shall cease to serve as such upon reaching the age of seventy" (Public Law 85-593, approved August 6, 1958 (72 Stat. 497)), is amended by striking out ", except that the amendment made by section 136 shall not be effective with respect to any district having two judges in regular active service so long as the district judge holding the position of chief judge of any such district on such date of enactment continues to hold such position".

SEC. 5. (a) Section 46(c) of title 28 of the United States Code is amended—

(1) in the first sentence, by striking out "division" and inserting "panel" in lieu thereof, and

(2) by striking out the third sentence.

(b) The heading of section 46 of title 28 of the United States Code is amended by striking out "divisions" and inserting "panels" in lieu thereof.

(c) The item relating to section 46 in the table of sections for chapter 3 of title 28 of the United States Code is amended by striking out "divisions" and inserting "panels" in lieu thereof.

SEC. 6. Any court of appeals having more than 15 active judges may constitute itself into administrative units complete with such facilities and staff as may be prescribed by the Administrative Office of the United States Courts, and may perform its en banc function by such number of members of its en banc courts as may be prescribed by rule of the court of appeals.

SEC. 7. (a) The first section and section 2 of this Act shall take effect immediately upon the President's promulgation and publication of standards and guidelines for the selection, on the basis of merit, of nominees for United States district court judgeships authorized by this Act.

(b) The President may waive such standards and guidelines with respect to any nomination by notifying the Senate of the reasons for such waiver.

(c) Following the promulgation and publication of such standards and guidelines, no nomination or appointment to a United States district court judgeship may be invalidated on the basis of the President's failure to comply with this section or with any standards or guidelines promulgated under this section.

(d) This Act, other than the first section and section 2, shall take effect on the date of enactment of this Act.

SEC. 8. The Congress—

(1) takes notice of the fact that only 1 percent of Federal judges are women and only 4 percent are blacks; and

(2) suggests that the President, in selecting individuals for nomination to the Federal judgeships created by this Act, give due considerations to qualified individuals regardless of race, color, sex, religion, or national origin.

SEC. 9. (a) Section 1337 of title 28 of the United States Code is amended to read as follows:

"§ 1337. Commerce and antitrust regulations; amount in controversy, costs

"(a) The district courts shall have original jurisdiction of any civil action or proceeding arising under any Act of Congress regulating commerce or protecting trade and commerce against restraints and monopolies: *Provided, however*, That the district court shall have original jurisdiction of an action brought under section 20(11) of part I of the Interstate Commerce Act (49 U.S.C. 20 (11)) or section 219 of part I of such Act (49 U.S.C. 319), only if the matter in controversy for each receipt or bill of lading exceeds $10,000, exclusive of interest and costs.

"(b) Except when express provision therefor is otherwise made in a statute of the United States, where a plaintiff who files the case under section 20(11) of part I of the Interstate Commerce Act (49 U.S.C. 20(11)) or section 219 of part II of such Act (49 U.S.C. 319), originally in the Federal courts is finally adjudged to be entitled to recover less than the sum or value of $10,000, computed without regard to any setoff or counterclaim to which the defendant may be adjudged to be entitled, and exclusive of any interest and costs, the district court may deny costs to the plaintiff and, in addition, may impose costs on the plaintiff.".

(b) Subsection (b) of section 1445, of title 28 of the United States Code is amended by striking out "$3,000" and inserting in lieu thereof "$10,000".

(c) The item relating to section 1337 in the table of sections for chapter 85 of title 28 of the United States Code is amended to read as follows:

"1337. Commerce and antitrust regulations; amount in controversy, costs.".

SEC. 10. Section 5108(c)(3) of title 5, United States Code, is amended to read as follows:

"(3) the Director of the Administrative Office of the United States Courts, subject to the standards and procedures prescribed by this chapter, may place a total of 15 positions in GS-16, 17, and 18;".

SEC. 11. Notwithstanding any other provision of this Act, the first section and section 2 shall not take effect before November 1, 1978.

SEC. 12. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

Mr. RODINO (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

POINT OF ORDER

Mr. McCLORY. Mr. Speaker, I make a point of order on section 6 of the amendment which is being offered by the gentleman from New Jersey (Mr. RODINO).

The SPEAKER pro tempore. The gentleman will state it.

Mr. McCLORY. Mr. Speaker, I make the point of order that section 6 of the amendment offered by the gentleman from New Jersey is not a germane modification of the House bill and the Senate amendment thereto. Section 6 is an entirely new subject introduced under color of amendment contrary to clause 7 of rule XVI. Section 6 is not what is commonly known as a nongermane Senate amendment but rather is a nongermane House amendment.

Section 6 treats with the subject of "administrative units." Neither the House bill nor the Senate amendment treat with that subject. The Senate amendment did create a new 11th circuit. But the creation of new administrative units are very different subjects, the former being quite fundamental and the latter being—in the chairman's view—much less so. Moreover, while the Senate amendment dealt with the creation of one new circuit, the pending amendment deals with all circuits.

Finally, section 6 sets new law for en banc courts. The House bill did not. The Senate amendment did not. But the pending amendment says that the number of members of an en banc court may be set by rule of court. Current law—which neither body has sought to change—requires en banc courts comprised of all the judges.

For these reasons, section 6 is not germane.

The SPEAKER pro tempore. Does the gentleman from New Jersey (Mr. RODINO) wish to be heard on the point of order?

Mr. RODINO. I do, Mr. Speaker.

The SPEAKER pro tempore. The gentleman from New Jersey is recognized.

Mr. RODINO. Mr. Speaker, I urge, first of all, that the matter in section 6 is wholly appropriate to the subject matter of the bill, which includes matters pertaining to all 11 circuits, and there is no issue of germaneness, therefore. If it is outside of the scope of the conference, that is not relevant. We are in technical disagreement.

Mr. Speaker, I would urge, therefore, rejection of the point of order.

Mr. McCLORY. Mr. Speaker, I just point this out, as I did: It is not a question of technical disagreement; it is a question that there was nothing in the Senate bill and nothing in the House bill. The Senate bill did provide for splitting the fifth circuit. I guess that is what they are trying to accomplish here, but what in fact is occurring is that they are trying to develop an administrative procedure which will set up the courts themselves without any law, without any act on the part of this body, to do something.

In a sense, we are delegating a legislative authority to administrative bodies of the courts to enact legislation. So, it is for all circuits throughout the country. It is something that is entirely new. It is new in the Senate, it is new here, and it is entirely nongermane as far as our House rules are concerned in my opinion, Mr. Speaker.

Miss JORDAN. Mr. Speaker, may I be heard?

The SPEAKER pro tempore. The Chair recognizes the gentlewoman from Texas.

Miss JORDAN. Just briefly, Mr. Speaker, on the point of order, the question of germaneness is inappropriate to be raised at this time. This bill has as its total subject matter the creation of new district court judges and the creation of circuit judges, so "circuits" is viable, relevant subject matter of this conference.

The fact that this compromise proposal which is reported in the technical disagreement amendment proposed by the gentleman from New Jersey, the point that we did not talk about administrative units when the bill was before the House, is not applicable to a germaneness question. The question of circuits was a question with us, and we can do anything within the context of that general subject matter of circuits which is desirable to be done.

This particular administrative unit amendment is apropos and germane to the subject matter of circuits. The gentleman from Illinois is arguing the scope of the conference rather than a point of germaneness. Mr. Speaker, on the issue of germaneness, the gentleman from Illinois must be overruled.

Mr. McCLORY. Mr. Speaker, may I just respond to that statement simply in this way: We are not dealing in this bill with the subject of circuits. We are dealing with the subject of additional district court and additional circuit court judges for the Federal courts. The limited effect of the legislation before us was an amendment on that judgeship bill in the Senate with respect to one circuit, not all the circuits; so that this is not legislation dealing with division of the circuits. It is legislation dealing with additional judges.

May I say further that the subject of en banc courts is something upon which this body had better legislate independently. I do not see how we could possibly be delegating to an administrative body authority to decide legislation with respect to what is and what is not an en banc court, in contradistinction to what the law presently is, which is to the effect that all of the circuit judges represent the en banc court.

The SPEAKER pro tempore. The Chair is ready to rule.

The Chair agrees with the gentlewoman from Texas on the essence of her argument. The essential question, since the conferees reported in disagreement, is whether the proposed motion is germane to the Senate amendment. The Senate amendment was much broader than the House version.

The Chair has a little difficulty in really pinpointing the point that the gentleman from Illinois makes. It may be that he intends his point of order to lie against the motion under rule XXVIII, clause 5. Clause 5(b)(2) of rule XXVIII provides that a point of order may be made upon the offering of a motion to recede and concur with an amendment in an amendment of the Senate reported from conference in disagreement, but only if the Senate amendment or a portion thereof as proposed to be amended by such motion contains matter which would not have been germane if offered to the House bill when it was under consideration.

The Chair would note, however, that the nongermane Senate matter to which the gentleman refers, the split of the 5th circuit into a 5th and an 11th circuit, is not proposed to be included even in modified form in the motion offered by the gentleman from New Jersey.

The amendment proposed to the Senate amendment provides, in section 6, for the establishment of administrative units in any court of appeals with more than 15 active judges, but deletes any mention of an adjustment of the fifth circuit.

Section 6 appears to the Chair to be a new proposition, not a modification of the portion of the Senate amendment dealing with the fifth circuit. Therefore, a point of order under clause 5 of rule XXVIII does not apply in this instance.

The only appropriate test is whether the entire amendment proposed by the gentleman from New Jersey in his motion is germane to the Senate amendment as a whole, and it appears to the Chair that it is germane since the Senate amendment dealt with diverse subjects including appointment of additional district and circuit judges, a split of the fifth circuit, assignments and terms of the courts, and jurisdictional requirements.

For all of these reasons, the Chair will very respectfully overrule the point of order.

The gentleman from New Jersey (Mr. RODINO) is recognized for 30 minutes.

Mr. RODINO. Mr. Speaker, no concern of the Committee on the Judiciary is as central to its jurisdiction as the quality of justice in our Federal court system.

And today, after literally years of work and compromise, I believe we are in a position to achieve a landmark breakthrough in our efforts to improve the Nation's judicial machinery.

Mr. Speaker, the bill we report from conference today represents the result of an effort that began in 1972. It is a bill that will provide 152 new Federal judgeships—117 for the district courts and 35 for the circuit courts of appeals.

And it will mark a new beginning, as well, in the method of selecting district judgeships. The bill calls upon the President to promulgate and publish standards and guidelines for selection, on the basis of merit, of nominees for the district court bench. And it suggests to the President that he give due consideration for nomination to qualified individuals regardless of race, color, sex, religion, or national origin.

Mr. Speaker, there can be no mistaking the crisis situation facing the Federal courts. Congress has not acted to create additional judgeships in a decade. During that same period, however, the judicial workload has increased beyond reasonable expectations.

Some historical perspective may be useful: In 1950, there were 92,000 cases filed in the U.S. district courts. By 1972, that figure had risen to an annual level of 145,000 cases and had reached 163,000 cases a year ago. In the appellate courts, the situation is even more dire. In 1967, the year before the Congress last acted to provide additional circuit judgeships, there were 7,903 appeals filed in the circuit courts. That was an average of 90 appeals per judge. By last year, however, there were in excess of 19,000 total appeals filed or an alarming average of 197 appeals per judge.

Mr. Speaker, obviously simply adding more judgeships cannot be viewed as a total, comprehensive solution to the problems plaguing our court system. Additional administrative remedies must be tried and new tools are needed in addition to mere manpower. The Judiciary Committee has already undertaken the task of processing innovative legislation to place these tools in the hands of the bench. But clearly, no case can be made that this bill is not desperately needed at this time. The Chief Justice has warned that without it trials of civil cases may simply come to a halt in many parts of the country. The chief judges of the 11 circuits tell us that without immediate relief the quality of justice in their courts may be compromised to constitutionally shaky standards. Clearly, we must act now.

Mr. Speaker, we have a good bill. The conferees have met steadily since April 11 and we have crafted this legislation carefully. I urge the House to agree to the motion to recede and concur in the

Senate amendment with the conference committee amendment.

Mr. Speaker, I yield such time as he may consume to the gentleman from Kentucky (Mr. MAZZOLI).

Mr. MAZZOLI. Mr. Speaker, I thank the chairman, the gentleman from New Jersey (Mr. RODINO), for yielding to me and I rise in support of the conference report, and, in doing so, I wish to pay tribute to our chairman, the gentleman from New Jersey (Mr. RODINO), and to the gentleman from Texas (Mr. BROOKS) who acted as chairman of the conference committee for several of the meetings.

This conference report represents a very substantial effort on the part of the House conferees. I think we have brought to the House of Representatives, from the conference, a very supportable bill and I hope the House votes for it with enthusiasm. Again I would like to thank the gentleman from New Jersey, our chairman (Mr. RODINO), for the leadership he has shown in this matter.

Mr. McCLORY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, first of all, I want to attest to the diligence and the hard work of the Members in conference, and to indicate that our distinguished chairman of the Committee on the Judiciary, the gentleman from New Jersey (Mr. RODINO), served as the chairman of the conference committee. I wish to pay tribute also to all of those who participated in the conference. It was an extremely difficult subject to deal with both with regard to the number of judges and with respect to the other subjects that were raised, including, I might say, the subject of the fifth circuit, upon which there was strong disagreement but, under the ruling of the Chair, I guess we have enabled that subject to be resolved.

However, Mr. Speaker, I rise in opposition to the pending amendment. I did not sign the conference report. I would urge the Members to reject the pending amendment for several reasons. And this is not in condemnation of those who labored with our counterparts in the other body over very difficult subjects, but I do so for three specific reasons.

First of all, there are too many judges that are included in the conference report. We started out in the Committee on the Judiciary with a subcommittee that worked diligently on this, and we came up with a total of 81 judges—81 Federal district judges. These seemed to be warranted on the basis of statistics, on the basis of the resources and on the basis of the need.

Now, mind you, this is more than double the figure that the last Congress was authorizing. In the last Congress, we could not even get a bill through which would provide for 49 additional judges, and yet, in this Congress, just months later, we decided that 81 are needed. And I supported the committee on that, and went along with that. I think that the staff did an excellent job in their work in investigating the large request for additional Federal court judges.

Then when we got to the full committee, the number went up to 110. What we did was to lower the standards which we had originally adopted, which was that of 400 weighted case filings We had applied that standard across the board, to all the districts throughout the country, and on the basis of that, 81 judges seemed to be justified. But when we got to the committee, we lowered the standard to 350, and it was applied in order to come up with 110 additional Federal judges, plus 35 additional circuit court judges and court of appeals judges.

This is a large number of additional Federal judges. Today we have 398 Federal district court judges. By adding 110, you increase the number by more than 25 percent. That large number of judgeships was somewhat offset, however, by a provision in the House bill for their selection on the basis of merit.

Anyway, when we met with the Senate conferees, a motion was made in conference—since conferences are open these days, it is no secret what happened—to this effect: "You take all of our judges and we will take all of your judges."

Mr. Speaker, that seemed to be a rather inappropriate way for us, as studious persons who have worked diligently on this legislation, to resolve the differences.

I said, "Why do we not omit all of the additional judges recommended by the Senate, omit all of the extra ones which we had and which you did not have, and come in with that kind of recommendation?" That was a lot sounder. But my proposition was rejected. Instead of that, with one exception, I think, we accepted all the additional judges the Senate passed; and, with one exception, they accepted all the House passed, and we wound up with 117 additional Federal district court judges.

Mind you, less than 2 years ago we could not get a bill through this Chamber providing for 49 additional judges. Yet, here a few months later, we come in with a bill for 117 additional Federal judges.

Mr. SEIBERLING. Mr. Speaker, will the gentleman yield?

Mr. McCLORY. I yield briefly to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Speaker, I regret to say that the other body did not take all of the judges in the House bill. The distinguished gentleman from Wyoming (Mr. RONCALIO) had made a very good case for appointing another district judgeship for his State, and the Senate would not agree to it.

Mr. McCLORY. I thank the gentleman.

Mr. SEIBERLING. Because the Senators from his State would not accept it.

Mr. McCLORY. Mr. Speaker, I thank the gentleman. I think I mentioned that one exception was made on each side to the proposal to accept all of the additional judgeships voted by either House.

Mr. Speaker, let me get to my second point, and that is this: For the first time we were going to provide for the merit selection of Federal district court judges. We included in our bill from the House Committee on the Judiciary a method for the selection of Federal district court judges on the basis of merit. That was adopted here when we brought the measure to the House under suspension of the rules.

Then when the motion was made to go to conference, I offered a motion to instruct the conferees to hold fast to the House position with regard to merit selection. I might say, incidentally, that one of the strongest proponents of merit selection, and one who has raised that same issue here more recently is the distinguished gentleman from Ohio (Mr. SEIBERLING). Anyway, by a very decisive vote of 321 to 19, the conferees were instructed to insist on the House language with regard to merit selection.

Did we do that? No, we did not do that. We abandoned the requirement that we would adopt procedures. Instead of that, we substituted the meaningless language that the President is going to apply standards and guidelines. I assume that every President ever since the country was created applied some standards and guidelines—I hope so—but there are no procedures for the impartial identification of individuals of merit by which the people can evaluate and compare the President's nominees. It is hard to see how current practice fails to meet the standards and guidelines requirement but for the lack of formal publication of the present guidelines.

Mr. Speaker, in summary, with regard to that subject, we failed.

The third point on which we failed, it seems to me, is with respect to the subject of splitting the fifth circuit.

On the subject of the fifth circuit, it was a very difficult subject, and I know there are differences of opinion there. For those of us in the House who did not favor dividing the fifth circuit, the compromise raises serious, troublesome questions. I noted these questions before in my statement last Thursday, dissenting from the conference report, I tried earlier to do the chairman a favor by having section 6 ruled nongermane. But unfortunately, although he opposes dividing the circuit, he opposed my eliminating the section. Had the Chair ruled the amendment defective in view of section 6, I would have offered a motion of my own to recede and concur with an identical amendment except for the deletion of section 6. Then we could have had a bill free of the problems we have created for the fifth circuit and all other circuits as well. There is no question in my mind that the Senate would have agreed to my amendment, having no other choice. But now we have intentionally ambiguous language which will be used by judges who have previously announced that they disagree with the House position on the fifth circuit. How could we delegate to them this undefined power if we have such a difference of opinion? I fear that with section 6 the judges will be able to act faster than we can act to correct their mischief. I do not like to see the House position undercut. But I like it even less when our position is undercut by delegating our legislative role to the judiciary.

Therefore, Mr. Speaker, I cannot support this measure. In addition to these substantive points, we should consider the costs. When we talk about inflation, when we talk about Federal spending, think about the estimated $300,000 per

year for each of these Federal judges. This adds up to a figure of $40 million to $50 million a year, year after year after year, in perpetuity.

It seems to me that that is the kind of Federal extravagance which we certainly should not fall for at this time when we address the question of additional Federal judges.

I want to make one more point. We passed a bill here not too long ago which would remove diversity of citizenship jurisdiction from Federal courts which would have the effect of reducing the caseload in the Federal courts. We considered a bill here just the other day to augment the role and jurisdiction of magistrates, another opportunity for the Federal courts to handle the caseload without requiring more judges, and we have had other measures to try to reduce the caseload. But even in this case with regard to the so-called Carmack cases which are filed for the most part only in the district court of Massachusetts we did not even keep those "Federal question" cases in this bill. Nevertheless, we created an extra judgeship to handle these Carmack cases which are now taken away from the court. So on and on, it goes.

I say that we have failed on all points, on every score, and I think we would do a public service if we would reject this conference report and start over again and get a reasonable number of Federal judges, resolve squarely, openly, and unambiguously the question of the division of the circuits and retain the Carmack cases, which are "Federal question" cases, for the Federal courts. As we continue to pass laws reducing the judicial workload, we must ask ourselves why we need so many additional judgeships. We owe it to the taxpayers and we owe it to the courts to ask logical questions like that. But few are asking, and no one is answering.

Last Thursday, when the conference report was filed, I submitted dissenting views for the record. I ask that these views be made part of the record of this debate.

DISSENTING VIEWS OF MR. MCCLORY—H.R. 7843 CONFERENCE REPORT

Respectfully, I must dissent from the compromise amendment in the nature of a substitute that will be offered to H.R. 7843, the omnibus judgeship bill, because the House conferees failed to prevail on any of the three major issues to be resolved. First, the House took the position that judgeships should not be created solely on the basis of projected needs. The compromise amendment rejects that position. Second, the House took the position that district judges should be selected with the aid of merit selection procedures free from partisan or political influence. The compromise amendment guts the House proposal. Third, the House did not favor dividing the Fifth Circuit. The compromise amendment, if it has any discernible meaning, probably rejects the House position. In addition, to these House defeats, the maturation of various alternative solutions to the problem of overburdened courts has caused me to doubt the wisdom of this legislation. Additional judgeships are needed, but not in such excess. There follows below a more detailed explanation of my objections.

First, the compromise amendment contains too many district judgeships. The Members of the House should recall that the ten Members who constituted both the Judiciary subcommittee and the House conference committee made last year a painstaking, objective study of the needs for additional district court judgeships. On study, these ten Members unanimously reached the conclusion that only 81 additional district court judgeships were justified; H.R. 7843 as introduced by these ten Members, embodied their recommendation to the full Judiciary Committee. In making this recommendation, it is interesting to note that several of these ten Members recommended against judgeships in their own States even though such judgeships had been requested by the Judicial Conference or by local judges.

Although it is difficult to generalize from the Subcommittee's study of each of the 94 districts, two principles were clear: (1) The Subcommittee utilized the formerly time-honored standard of 400 weighted filings per judge to assess the district's workload, and (2) the Subcommittee rejected additional judgeships that could not be justified on the basis of current needs but only on the basis of projected needs.

It is now history that the Subcommittee recommendations were rejected in full committee in a bipartisan desire to add judgeships to service constituents. It is important to note, however, that a new standard was formulated in fashioning the Committee's recommendation to the House. Instead of the Subcommittee's standard of 400 weighted filings, the Committee accepted a lower standard if 350. And more important, the Committee did not reject the Subcommittee's policy precluding judgeships justifiable only on the basis of projected needs.

This policy against additional judgeships based solely on projected needs was based on several significant factors: (1) In the past, such projections by the Judicial Conference had proved to be unreliable; (2) in the present, such projections were again proving to be unreliable; (3) the projections in question were made only in 16 of the 94 districts as a political favor to justify certain judgeships that could not otherwise be justified; (4) the projects assumed that Congress would pass no legislation to ease the workload whereas Congress was then, as now, considering bankruptcy reform, the abolition of diversity jurisdiction, and the Magistrates Act, each of which might significantly ease the judicial workload; and (5) constitutionally, Congress cannot repeal judgeships which it has mistakenly created on the basis of erroneous assumptions.

Thus, when the Committee ultimately recommended 110 additional judgeships on the basis of a lowered standard, not a single judgeship was justified on the basis of projected needs. And inasmuch as H.R. 7843 passed the House under the suspension procedure which precluded further amendment, that became the House position.

In conference, the Senate pressed for the inclusion of nine additional judgeships approved by the Senate but not by the House. Only one of these nine judgeships met the lower standard applied first by the Judiciary Committee and then by the House. Moreover, seven of the nine judgeships were justifiable solely on the basis of projected needs. In four of the seven districts, recently released statistics were showing a decline in caseload as the conferees met to decide whether to accept the additional Senate judgeships. In fact, so discredited had the projected-needs methodology become that we had already received assurances from the Administrative Office of the United States Courts that the methodology would be abandoned in the future.

I circulated a memorandum to the House conferees analyzing the merits of the nine Senate judgeships, but after a discussion of whether the merits of these judgeships should be addressed, the majority decided that these judgeships should not be considered on their individual merits but should be accepted en bloc. But before the House conferees could offer a motion to yield on all the Senate judgeships en bloc, a Senate conferee indicated that the Senators from Wyoming would prefer not to have an additional judgeship for that district as provided by the House. Thereupon, in order to be symmetrical, it was agreed to accept all the judgeships with two exceptions. The additional judgeship for Wyoming provided by the House would be deleted, and the additional temporary judgeship for the southern district of Florida provided by the Senate would be deleted.

Although the net result of this was only to add seven judgeships to a bill already containing 110, the nature of the discussion had shown that we had gone too far. In deference to the majority of House conferees, I can well understand their plight. We had all tried to be reasonable, and for that we were dunned from every conceivable quarter. We had exercised our courage once, for which we received little gratitude.

That's an explanation. Unfortunately, it is not a justification. It was still open to us to defend the House position against judgeships predicated solely on the basis of projected needs. We should have done so.

Moreover, as we approach the end of the 95th Congress, it is appropriate to reflect on the record to see what we have done to make federal courts more efficient. It remains clear that federal judges are overburdened and that we must act to alleviate the problem. However, it appears that H.R. 7843 may well be an overreaction to that problem. It is only one of several bills designed to alleviate those burdens. While each remedy may have merit when examined in isolation, no one has yet to suggest that all of these workload-reduction remedies are compatible or necessary.

For example, H.R. 7843 would increase the number of district judges by about 30%! Yet the House passed legislation earlier this year to decrease the workload of the district judges by 25%! And that legislation—H.R. 9622, a bill to abolish diversity jurisdiction—still has a good chance of passing the Senate this year.

The point is that I have heard no one even suggest that we need to decrease the workload of the courts by 25% while increasing judgepower by 30%. Perhaps few note the relationship of these two bills lest Congress make the wrong choice by preferring to increase patronage rather than to decrease caseloads by allocating State-law cases to State courts.

In addition, the House is presently to consider another much-needed measure to reduce judicial burdens, S. 1613, a bill to permit magistrates to try civil cases and misdemeanors with the consent of the parties. Since their creation in 1968, magistrates have given valuable assistance to judges in meeting their burdens. Unfortunately, neither their past contributions nor their future contributions were properly taken into account in the Judiciary Committee or in conference in creating 117 new judgeships.

Proponents of the migstrates bill and of the judgeship bill should not be allowed to have it both ways. They should not be allowed to create judgeships as if magistrates did not exist and to expand magistrates' authority to hear cases as if no new judgeships would be created. I do not intend to suggest that the diversity bill or the magistrates bill is not needed. They are both necessary reforms—changes that should be made apart from their impact on judicial workloads. The vice I see is enacting the judgeship bill without reference to the impact of these much needed reforms. In my opinion, additional judgeships should be created only as a last resort.

The conferees' willingness to have it both ways was conclusively illustrated by their agreement to Section 9 of the compromise

amendment. On the one hand, the conferees agreed to one additional judgeship for Massachusetts because of the staggering number of minor Carmack cases and, on the other hand, agreed to rid that district of the trouble of handling these cases by increasing the jurisdictional amount for this class of cases so that they will have to be heard in the State court. Thus Massachusetts was given an additional judgeship to handle cases that are no longer there. In addition to having it both ways, this agreement violated the principle embodied in the House-passed diversity bill that federal cases should be heard in federal courts and State cases in State courts. The agreement was reached even though both floor managers of the diversity bill had informed the conferees by letter that such an agreement would be inconsistent with action taken by the House.

To this conferee, the disposition of the Carmack issue illustrates all too well how, in general terms, the compromise amendment fulfills—or fails to fulfill—our responsibility to the American people.

We should not forget that only two short years ago the House Judiciary Committee reported a district judgeship bill containing 49 additional judgeships. This relatively minor bill was itself blocked for political reasons — fear that President Ford might have the opportunity to make 49 appointments—until I offered an amendment to delay the effective date so that only the newly elected President could make the appointments. But even that approach did not satisfy some key Members on the majority side of the aisle. Since it was possible that President Ford might win the election, the bill was delayed in bringing it to the floor so that the House could not act on it before *sine die* adjournment.

Ironically, those who delayed then now bring us this bill—not with 49 but with 117 district judgeships. One need not be politically astute to conclude that the changes that have converted opponents of 49 into supporters of 117 occurred less in the judicial branch than in the executive branch.

The difference is even greater than it appears. The diversity bill and the magistrates bill were not in contemplation when the bill creating 49 judgeships was found to be politically unacceptable. Today, with the imminent enactment of these workload-reducing bills we are asked to support the creation of 117 additional district judgeships. That extravagant number, equal to 30 percent of all current judgeships, must surely embarrass the bill's supporters.

A similar story might be told regarding circuit judgeships. Whereas there was not enough time in the last Congress to process the bill creating 11 new judgeships, this bill would create 35—a 36 percent increase over the 97 circuit judgeships now existing.

As one conferee I cannot pretend that the judicial workload of the last two years can justify the Congressional about-face.

Second, the compromise amendment cripples the merit selection proposal of the House. When last year the judgeship bill was in subcommittee, the merit selection proposal was defeated on two separate votes. In all, while Mr. Seiberling, Mr. Hughes, Mr. Cohen, and I favored merit selection, Chairman Rodino, Mr. Brooks, Mr. Flowers, Miss Jordan, Mr. Mazzoli, and Mr. Wiggins opposed it. In full committee, when it became clear that it would pass, Chairman Rodino and Mr. Mazzoli switched their position to support it, and it passed 20 to 12. However, after the House accepted the proposal as part of the judgeship bill, I moved to instruct the House conferees—the group of ten that had previously rejected it—to insist on retaining the merit selection proposal as passed.

Although the House voted 321 to 19 to so instruct the House conferees, the House conferees quickly agreed to a compromise without ever requiring the Senate conferees to state their presumed reasons against the House proposal.

The House proposal for merit selection basically embraced two elements: "guidelines that would help identify individuals of merit and "procedures" for the impartial application of those guidelines. Such guidelines and procedures have been promulgated by the President with respect to court of appeals judges. However, the Senate has institutionally refused to cooperate with respect to district judges. But the majority of House conferees thwarted the House's attempt to coax the Senate into line by striking from the House proposal the "procedures" for impartial application of the guidelines. Thus whatever guidelines might be written, they need only be interested by the Senators themselves. This hardly meets President Carter's campaign promise that "all federal judges * * * should be appointed strictly on the basis of merit without any consideration of political aspect or influence." To place the Senators in charge of policing merit selection is like putting the proverbial fox in charge of the chicken coop.

The fact that the term "guidelines" has been enlarged to "standards and guidelines" is inconsequential, for it was clearly explained in the conference that "standards" means "guidelines" and that "guidelines" means "standards" and that neither embraces the concept of "procedures".

On occasion, Chairman Rodino has described the deletion of "procedures" for impartial selection and the addition of "standards" to guidelines as merely semantic changes. I certainly wish they were. I would like nothing better than to preserve the essence of the House proposal. It is imperative that we have such a proposal in view of the fact that the compromise amendment would create more judgeships at one time than ever before in our history. But unfortunately, Chairman Rodino was unable, for compelling personal reasons, to attend the conference discussions which made clear that these changes were not semantic but substantive. And in the end, the majority in the subcommittee last year that wanted no merit selection proposal at all favored the weak compromise language in conference while those favoring merit selection were once again in the minority.

The deletion of procedures for the impartial identification of individuals of merit means that the House proposal—endorsed 321 to 19—has been gutted. Although one element has been retained—the existence of standards and guidelines, the indispensible element has been dropped. Thus under the compromise amendment, a Senator need only proclaim his nominee to be qualified. That result differs little from what is done today.

And that is unfortunate. For the most recent three year period, the American Bar Association evaluates that judicial nominees totally unqualified outnumbered those exceptionally well qualified by two to one. Thus, there is, indeed, a problem that needs to be addressed. Procedures for impartial evaluation of prospective nominees would undoubtedly help. But the compromise amendment merely proposes the status quo in the guise of reform. In view of the unprecedented size of this legislation, the emasculation of the House merit selection proposal is most unfortunate.

Third, the compromise amendment contains intentionally unintelligible and highly mischievous language to resolve the issue of whether to divide the Fifth Circuit into two new circuits. The intentional ambiguity was agreed to so that both sides could claim total victory on this issue. But since legislation is not a game but a public trust by which we in Congress are authorized to guide conduct, there is something unbecoming, even jurisprudentially reprehensible, in issuing legal directives that we cannot explain and agree not to explain.

That would be enough to support opposition. But my doubts run beyond moral compunction. As with the issue of merit selection, I favored the House position, here that the Fifth Circuit not be divided. But I fear that an objective and independent onlooker could reasonably conclude that section 6 of the compromise amendment is a substantial rejection of the House position.

One might start with the fact that previously the Senate Judiciary Committee had reported out bills to divide the Fifth Circuit and the Ninth Circuit into divisions to facilitate the adimnistration of judicial business. Such divisions were authorized to have their own (a) chief judge, (b) council, (c) circuit executive, and (d) control over designation and assignment of judges within its division. The Senate Judiciary Committee Reports cogently argued that the above four features were necessary for administrative efficiency.

In conference, Senate conferees pressed similar proposals. The House conferees rejected them as embodying circuit division in everything but express designation. But now under the apparent pressure of losing the entire bill in the closing days of this Congress, the House conferees have succumbed to an almost identical, albeit less ornamented, proposal. The circuit would be permitted to "constitute itself into administrative units." Perhaps, those of us who do not favor circuit division can argue that "units" is something far different from "divisions." I hope so. But I do not see the validity of the argument now.

I am also concerned that the use of the phrase "constitute itself into" implies a structural change in the court itself. And, of course, the reference to "en banc courts"—the plural—only confirms my fear that a court may become two courts under this provision. Thus, I am led to doubt that the House fared well on this issue.

In summary, I must dissent for the above three reasons: (1) the House position against creating additional judgeships solely on the basis of projected needs was rejected, which is particularly aggravating in view of substantial reductions in judicial workloads that will result from the passage of other legislation presently under active consideration; (2) the House position in favor of merit selection was gutted, which is particularly troublesome inasmuch as the compromise amendment offers more judicial patronage than ever before in our history, and (3) the House position against dividing the Fifth Circuit was probably defeated by the adoption of what was thought to be intentionally ambiguous language but which is similar to previous Senate legislation and conference proposals which had the effect of dividing the Circuit.

Mr. WIGGINS. Mr. Speaker, will the gentleman yield?

Mr. McCLORY. I yield to my colleague on the Committee on the Judiciary, the gentleman from California (Mr. WIGGINS).

Mr. WIGGINS. I thank the gentleman for yielding. I hope that the gentleman will not take offense if I use his time to speak in opposition to the position he has just espoused.

Mr. Speaker, a conference requires compromise; that is why we reconvene to reconcile differences in points of view. When the House votes on compromise language worked out in conference, it should also do so in a spirit of compromise.

I support the compromise substitute in that spirit. It does not contain all that I would wish. I believe that too many judges are authorized under this

bill. That point was well made by the gentleman from Illinois.

It is true that the compromise substitute moderates in some respects the language which the House would have requested on merit selection, but, after all, that is entirely cosmetic anyway, and it matters not to me if cosmetic language is moderated to some extent.

Third and perhaps most fundamentally, a compromise was struck with respect to the fifth circuit which is necessary because that problem was the sticky wicket that was preventing a resolution of this most important bill. The decision by the conferees I think is a rational one. It allows the circuits to experiment by rule with a whole new problem, and that is the administrative problem of circuits containing more than 15 judges. It is presumptuous of us to know what the answer to that problem is, and dealing with that problem by rule, which can be changed if it turns out that the experiment is wrong, seems to me to be a wholly sensible approach to the problem.

I am prepared to agree with my distinguished friend that the House conferees have failed if he insists that we adhere to all of the positions which the House adopted. But, Mr. Speaker, we would be failing in a far more fundamental way if we defeated a bill absolutely which allows for the appointment of vitally necessary judges to conduct the judicial business of this country. That is the overriding reason why we should move forward, in my opinion, and approve the pending amendment.

I thank the gentleman for yielding.

Mr. McCLORY. I thank the gentleman.

Mr. TREEN. Mr. Speaker, will the gentleman yield?

Mr. McCLORY. I yield to the gentleman from Louisiana.

Mr. TREEN. Mr. Speaker, I am absolutely amazed at what we have done in the eastern district of Louisiana. It is a great temptation not to say anything about the district in which I live, especially to get up here and complain about the fact that we are getting these additional judges. But I am absolutely appalled that what we are doing in this bill is to increase the number of judges for the eastern district of Louisiana, which is essentially New Orleans and the surrounding area, from 9 to 13 judges. Presumably, the House committee, based upon the statistics in that judicial district, determined that an increase from 9 to 11, that is, an increase of 2 judges, was in order. I am wondering what justification there was to double the number of those judges, to give in to the Senate. I understand that we have to compromise, but I wonder about compromises such as this, as indicated by the gentleman from Illinois, where we just say, "Well, we will give you all the judges you want; you give us all the judges we want.

Presumably, this is supposed to be based upon some Federal analyses of need for Federal judges. When I started to practice law in the eastern district of Louisiana, we had two Federal judges. OK, that was 28 years ago, but I think those two Federal judges carried out their duties to around 1954 or 1955, when we added one. Since that time we have broken off the district, the middle district of Louisiana, which now will have two judges under this bill, which was part of the eastern district; so for that same geographical area that was served by two judges up to 1954 or 1955, we will now have 15 Federal judges.

Mr. Speaker, I am not a member of the committee. I did not have available to me the statistics and, as I say, I presume these statistics did support the 11 judges for the eastern district; but I can tell you this, a good friend of mine is a Federal judge, I will not name him, on that bench and he tells me that additional judges in the eastern district are not needed, not even one additional judge is needed, and that is a judge who is faced with the workload in that district. He says that the number of judges we have are amply sufficient to take care of the job. Yet we are in this bill about to increase the number of judges for the eastern district of Louisiana by almost 50 percent.

I know that we have caused some of the problems ourselves by adding jurisdiction, by taking more and more disputes to the Federal courts. At the same time over the years we have cut down the jurisdiction. We have curtailed diversity of citizenship. We have cut down on other things and given the magistrates more authority. We have a bunch of magistrates in that district.

I can tell you, based on what one of the Federal judges in that district said, that we do not need one additional judge in the eastern district of Louisiana. This bill gives us 4 more, a total of 13.

Mr. Speaker, for that reason, I am compelled to vote against this conference report.

Mr. McCLORY. Mr. Speaker, I thank the gentleman. I think the gentleman speaks very eloquently in providing sound reasons for rejecting the motion of the gentleman from New Jersey.

Mr. RODINO. Mr. Speaker, we did not merely swap all our judges for all of theirs. We eliminated Wyoming and we knocked out a sixth judge, a temporary judge for Florida Southern.

And we added judges not out of mere generosity, but because the caseload figures were 2 years more up to date by the the time we reached conference and those caseload figures were rising. I do not wish the House to believe that we merely ignored the figures.

In eastern Louisiana, there are weighted filings of 460 cases per judge. That is up by 31 cases per judge per year since we looked at the figures. We had 1976 figures. Now 1977 figures are available. There are 613 pending cases per judge—that is a total of 300 more cases then a year earlier. The figures are valid.

And let me make the following points with regard to the fifth circuit and merit selection.

FIFTH CIRCUIT

The Senate bill had included language to divide the court of appeals for the fifth circuit. The House bill had no such provision and quite frankly the House position was in opposition to the proposed split of the circuit. We felt that such a major legislative initiative should not be adopted without very close scrutiny—which time had not permitted in the Judiciary Committee. And we felt it would be unwise to isolate the problems facing one circuit without addressing in a consistent, uniform fashion the same problems facing all of the 11 circuits.

And beyond that, hearings before the Judiciary Subcommittee uncovered some serious opposition to the split, including opposition from judges on the bench itself.

But the Senate felt strongly that some attention be paid to the problems of large circuits, and we agreed it would be appropriate to address it in this bill. And so we have agreed to language whereby any court of appeals having more than 15 active judges may constitute itself into administrative units and may perform its en banc function by a lesser number of judges as the circuit may prescribe by rule. But we have not permitted autonomous divisions and we have not authorized anything the Congress may not itself review. We have not authorized more than one en banc court per circuit, but we have, I feel, gone a way toward allowing the administrative flexibility the large circuits will need to cope with their workloads in the future.

And the statement of managers on page 9 makes this clear—that we do not authorize two or more en banc courts:

> The conferees have every confidence that the language in section 6 will allow each circuit to administer its court in a manner which will further the administration of justice. The Congress always has the power to make necessary changes by appropriate legislation.

That is in the report.

The Judiciary Committee had on its agenda a continuing review of the problems facing all the circuits, and if revision of the circuit lines is indeed necessary, it is a matter we can address on a national basis. But we will do so only after long and careful and thorough hearings. I believe that only the language of the conference as agreed upon is really the appropriate step now.

MERIT SELECTION

The conference agreed to clarifying language based upon a very reasonable proposal offered by the gentleman from Kentucky (Mr. MAZZOLI), who has been in the forefront of this issue and who has been a leader in the fight for merit selection along with the gentleman from Ohio (Mr. SEIBERLING).

The language we adopted merely clarifies that we have in fact called upon the President to publish standards and guidelines for the merit selection of district judges.

The words "procedures and regulations" have become the words "standards and guidelines" but the effect is the same, the intent is the same and the language is agreeable to both Houses. We feel this language is not only acceptable, but is in keeping with what are, frankly, constitutional realities. We have no power to circumscribe the President's nominating authority, or to infringe upon the Senate's power to ad-

vise and consent. But, recognizing this, we nonetheless have provided strong direction to the President and we feel the conference agreement furthers significantly the cause of merit selection. We have reached a sound agreement that deserves the support of the House.

Mr. McCLORY. Mr. Speaker, will the gentleman yield further?

Mr. RODINO. The gentleman from Illinois (Mr. McCLORY), has his own time, I believe.

Mr. McCLORY. Mr. Speaker, if I may, I would just make this one statement: I realize the need for some additional judges. It is the surplusage of judges, the extremely large number of judges, that I am protesting.

There were a number of amendments that were offered in the committee. We rejected them because we only considered actual needs and not projected needs. We considered the latest figures, as the gentleman indicated, but when we got to conference, we considered and accepted Senate judgeships that did not meet our standards and which could only be justified on the basis of projected needs, contrary to the position we took in subcommittee, in full committee, and here on the floor.

Mr. Speaker, I would like to ask the gentleman from New Jersey (Mr. RODINO) this question: It is estimated that by eliminating diversity of citizenship as the basis for Federal court jurisdiction, the caseload will be reduced nationwide by 25 percent; is that not so?

Mr. RODINO. Mr. Speaker, I would remind the gentleman that while we passed that bill in the House, it has not—and may well not—pass the other body.

Mr. McCLORY. Mr. Speaker, will the gentleman yield?

Mr. RODINO. I yield to the gentleman from Illinois.

Mr. McCLORY. Mr. Speaker, I would just like to point out that legislation to reduce the caseload by 25 percent logically undercuts the need for a 30-percent increase in the number of judges.

Mr. RODINO. Mr. Speaker, I yield 3 minutes to the gentleman from Ohio (Mr. SEIBERLING).

Mr. SEIBERLING. Mr. Speaker, I strongly support the conference report and commend the distinguished chairman (Mr. RODINO) and acting chairman (Mr. BROOKS) of the conference and the other conferees for an outstanding job.

This is an important moment, Mr. Speaker, and I am proud to have been involved in the effort to improve the quality of justice in America and, in particular, to provide for the merit selection of district court judges.

Mr. Speaker, I will not respond to all the points made by the gentleman from Illinois (Mr. McCLORY), but as a coauthor of the merit selection provisions which passed this House by an overwhelming majority, I would just like to say that I do not agree with the gentleman that the conferees gutted the merit selection provisions of the House bill.

It is true that the word, "procedures," was dropped from the requirement that the President establish procedures and guidelines for the merit selection of judges and the word, "standards," was substituted. I feel that the word, "procedures," would have strengthened the language of the bill. But there is no way that the President, having promulgated standards and guidelines for the merit selection of judges, can do so without establishing some sort of procedure for implementing those standards and guidelines.

So it seems to me that provision for such a procedure is inherent in the conference report. Therefore, I feel that this is a very important step that requires, for the first time in our history, I might add, that judges be nominated on the basis of merit.

Mr. Speaker, I would like to point out that last week this House took another step to promote such a procedure, by requiring, in the Justice Department authorization bill, that the Attorney General establish procedures for identifying individuals who meet the President's standards and guidelines and transmitting the names of those he has identified to the President and to the Senate. While that does not bind the President in any way, and while the Attorney General already performs a similar role. putting it in a statute moves us a little more toward the kind of formalized procedure we had in mind.

Therefore, I feel that this conference report does in fact produce a new situation in which we will have more assurance that Federal judges will be selected on merit than we have had in the past.

Credit should go to the American Judicature Society and to the American Bar Association, which for the past 50 years, have urged adoption of a merit selection system.

Credit for our success in enacting provisions for merit selection at this particular time must go to President Carter who promised during his 1976 Presidential campaign:

> All Federal judges . . . should be appointed strictly on the basis of merit without any consideration of political aspect or influence. We can no longer afford tc treat the administration of justice as political patronage.

Shortly after his inauguration, President Carter took the first step in this direction by issuing an Executive order, which established advisory panels in each judicial circuit to prepare and submit to the President a list of names of individuals who are well qualified for appointment as court of appeals judges.

President Carter then wrote letters to Senators individually, urging them to establish their own merit selection advisory panels to advise them on possible nominees for district court judgeships in their States. The Senators from a dozen or so States have established such merit selection panels, which are now being used.

The bill reported out by the Judiciary Committee contained the Mazzoli-Seiberling-McClory amendment. conditioning the creation of the new district court judgeships upon the President's promulgation of "regulations to establish procedures and guidelines" for the selection, on the basis of merit, of the judges for the newly authorized district court judgeships. On February 7, 1978, the House of Representatives passed the omnibus judgeship bill containing that merit selection provision, under suspension of the rules. Two days later, the House voted 321 to 19 in favor of the McClory motion to instruct the conferees to insist upon the House merit selection provision. The conference report, on which we are voting today, conditions the creation of the 117 new district court judgeships upon the President's promulgation of "guidelines and standards" for the selection, on the basis of merit, of the new judges.

The House also spoke on merit selection last Thursday, when it approved 206 to 151 the Seiberling-McClory amendment to the Justice Department authorization bill to require the Attorney General to establish and implement advisory procedures: First, for the identification of exceptionally well qualified individuals who meet the merit selection "guidelines and standards" promulgated by the President; and second, for the submission of their names to the President and Senate for whatever consideration they deem appropriate.

There is, therefore, no question about the House's intention and wish that the President establish merit selection "procedures."

Several other points must be made about the merit selection provision of the conference report.

First, the distinguished chairman of the Judiciary Committee has said that the difference between "procedures and guidelines" and "guidelines and standards" is merely one of semantics.

Second, the President has inherent constitutional power to establish merit selection procedures. He does not need an explicit congressional authorization or mandate.

Third, in my opinion, in order to implement his "guidelines and standards," the President will have to establish and implement some system—some procedures—whereby he decides whose name to submit to the Senate as a nominee to fill a particular judicial vacancy.

Fourth, from his own standpoint, the President would be well advised to promulgate "procedures" for merit selection. Of course. it is not only perfectly proper for the President to consider the views and recommendations of the Senate or of individual Senators, it is unavoidable, since the Senate has the constitutional power and duty to advise on and consent to such nominations. However, the President is not required and should not be required. through custom or otherwise, to nominate only those individuals selected by the Senators.

Fifth, the purpose of establishing a merit selection system is, as I said when the House approved the omnibus judgeship bill, "to insulate the judicial selection process from undue political pressures."

Sixth, to carry out the spirit of the merit selection provisions, the President will do more than require certain minimal qualifications such as a reasonable number of years of experience in the active practice of law, good reputation, and good health.

Finally, President Carter will have an unprecedented opportunity to shape the face of justice for a whole generation. The judgeship bill will create 117 new district court judgeships, an increase of 30 percent. The appointment of these new judges will—more than any other action President Carter can take—affect the quality of justice in America. The public needs and deserves to have these judges chosen on the basis of merit and free of undue political influence.

Mr. Speaker, there is another matter which I would like, as one of the conferees, to bring to the attention of the House. For many judicial districts, and divisions, Federal law permits court to be held at any of several specified locations.

In response to the increasing caseloads and the difficulties in equitably allocating cases among judges at different locations, some district courts have recently ordered that cases filed at one location be transferred to another location.

For instance, in order to prevent the one district judge who sits in Akron, Ohio, from being swamped by a disproportionately large number of cases, the district court for the northern district of Ohio has ordered the random assignment of all cases filed in Akron and Cleveland. Since five judges sit in Cleveland, the result is that five-sixths of all cases filed in Akron will be assigned to Cleveland judges and one-sixth of all cases filed in Cleveland will be assigned to the Akron judge, unless the individual judges can arrange a "swap" of cases.

In view of the fact that the authorization of courthouses at several locations within a judicial district or division is intended for the benefit and convenience primarily of the litigants, attorneys, witnesses, and jurors, and secondarily of the judges, cases filed at one location should be heard and tried at that location, unless a transfer is necessitated by special circumstances or ordered pursuant to a proper legal motion.

When deciding on the assignment and utilization of judges, including the new judges authorized by this act, the district courts should make every reasonable effort to allocate the caseload equitably among all the judges of the court while insuring that, as far as possible, cases are heard and tried at the location at which they are filed. In general, this is best accomplished by the full-time or part-time assignment of judges to specific locations as necessary to accommodate the cases originating in each such location.

The SPEAKER pro tempore. The Chair will state that the gentleman from Illinois (Mr. McCLORY) has 14 minutes remaining, and the gentleman from New Jersey (Mr. RODINO) has 18 minutes remaining.

Mr. RODINO. Mr. Speaker, I yield 1 minute to the gentlewoman from New York (Ms. HOLTZMAN).

Ms. HOLTZMAN. Mr. Speaker, I rise in strong support of the conference report on the omnibus judgeship bill.

I wish to compliment the conferees, and especially the gentleman from New Jersey (Mr. RODINO), the very distinguished chairman of the Committee on the Judiciary.

This conference report, which creates 117 Federal judges and 35 Federal appellate judges nationwide, would significantly improve the quality of justice in Federal courts. It also is particularly important to the residents of New York State.

The conference report would create two more Federal district judgeships in New York—one in the northern district and one in the eastern district. Both are badly needed.

Since 1927, when the northern district was created, it has been allocated no additional judgeships. For 50 years, the district has had to make do with only two judges despite the fact that its population has risen by more than 50 percent and the case load has increased accordingly. As the author of the amendment adding this judgeship in the House Judiciary Committee, I am particularly gratified that the Conference Committee has recognized the need for it and decided to retain it in the conference report.

The problem of court congestion is especially severe in the eastern district which, with over 7 million people, is the third most populous Federal district in the United States. The New York City Bar Association has confirmed the problem and emphasized the need for corrective action. The one additional judgeship established here will help relieve the crowded court calendars in the eastern district.

The conference report also creates two additional appellate judgeships in the second circuit court of appeals, which serves the entire State of New York. These new positions will help cut down backlogs and congestion in that court and expedite the final disposition of cases that are appealed.

When courts are overworked and understaffed, they cannot process civil or criminal cases promptly. Justice delayed is often justice denied. By providing adequate judicial capacity, this conference report will help assure that the Federal courts in New York State can perform competently, effectively and fairly.

Mr. RODINO. Mr. Speaker, I yield 5 minutes to the gentleman from Indiana (Mr. JACOBS).

Mr. JACOBS. Mr. Speaker, it is altogether logical that this conference report would involve the Judiciary, because it is a shining example of the U.S. Government's Parkinson's law at work.

Ironically, this legislation, just on the district court level, would add, I think, about 117 additional judgeships. The most conservative figure on the cost per judge we hear is $250,000 a copy a year for the taxpayers to pay.

Now, note that figure of 117 additional judges, and look over the national debt for the last 10 years, and notice that just a few years ago the deficit or the addition to the national debt suddenly jumped to the magnitude of $100 billion a year. And note, too, that the principal issue before this country now is inflation. I do not know of anybody who disagrees with that any more.

Look at the coincidence. One hundred seventeen new district judges, about $100 billion a year addition to the national debt.

It has been said that the diversity of citizenship jurisdiction legislation which passed the House of Representatives this year and is pending before the Senate could cut the caseload by 25 percent for all of the Federal courts. At the same time, I hear my friend, the gentleman from New Jersey (Mr. RODINO) say:

> But that has not yet passed the Senate. The 25 percent load has not been cut.

Well, why has it not passed? I will tell you why it has not happened. Because it is easier to print the $50 billion a year from now to eternity—if we last that long and do not go bankrupt first—than it will cost to fund these additional judgeships.

The whole country is asking the U.S. Congress to quit wasting the taxpayers' money. It is rather like the people storming the Bastille and Louis XIV's ordering more icing on the cake. One hundred and seventeen additional district court political plums in this legislation, a lot of icing and a cool additional $50 million per year.

Now, we have a new Senate office building going up. I have heard talk that they want to put color television sets in every Congressman's office so that we can watch the black and white closed circuit coverage on the floor.

Has not anybody heard? Has not anybody got the word?

Six or seven years ago, when this whole judge thing started, I served on the Committee on the Judiciary. They came to me from the subcommittee that was handling this bill and they said:

> Look, we are going to have to delete a request for a district judgeship in Indianapolis. Do you have any objection?

I said, "Let me look at the figures."

I looked at the figures, my friends, and I came to the conclusion that four Federal judges in Indianapolis could do enough damage by themselves. So I said:

> No, I do not have any objection. I have more taxpayers than candidates for Federal judge in the 11th District of Indiana, and I will be very happy to go along with you.

Well, all hell broke loose. Newspapers back home reported that I did not want to do anything about the problems of the judiciary, et cetera, et cetera, ad nauseam. But I got a very subtle message that year, just before the 1972 election. It was brought to my attention that the Lugar administration in Indianapolis, the city, had a man they wanted to place in a new district judge job and if I did not relent and back down and get them that job, I would lose my own job. Well, I did not, and I did. I thought it was rather courageous. My mother said I was just stubborn. But the fact is that I was gerrymandered out of Congress in 1972 precisely because of my opposition to adding that political plum at that time.

Mr. Speaker, there is going to be a motion for a previous question in a few minutes, and I suggest to those adminis-

trative assistants who are watching this that they just slip in and tell the boss that we are going to have this vote on the previous question. I agree with those who say we should recommit this thing, defeat it altogether, and let our judiciary brethren and sistren go back to conference, sharpen their pencils, and chalk up one for the taxpayers. But at least on this previous question I ask a "no" vote so that I can offer the amendment that I have here before me that makes my sacrifice of willingly giving up my seat in Congress on behalf of the taxpayers not in vain.

Mr. McCLORY. Mr. Speaker, I yield 4 minutes to the gentleman from Ohio (Mr. KINDNESS).

Mr. KINDNESS. Mr. Speaker, I thank the gentleman from Illinois for yielding the time. I would like to say that if the overwhelming feeling that I was experiencing at the moment were not shame, it would be disappointment. This bill was a disappointment as it was being processed through the House Judiciary Committee. It was a disappointment to me to see how the pork barrel grew. It was a disappointment as it passed the House of Representatives; now, it is worse.

This judicial pork barrel bill incorporates the creation of judgeships that have been delayed for years and years. Why not delay it longer and do it somewhat right, at least? I would certainly urge defeat of the conference report, but first I would urge, along with the gentleman from Indiana, the defeat of the motion on the previous question so that he might offer his motion to delete that judgeship in Indiana. His sacrifice need not have been in vain as far as I am concerned, because I think it was a courageous act at the time he did it, and it would be now.

There are too many judgeships included in this bill that are not needed. We have talked about the additional judgeships, the additional duties under the Magistrates Act for magistrates to take some more of the burden off the Federal district judges. We have talked about the diversity jurisdiction bill, which would reduce considerably the case load in Federal district courts, but nobody has specifically emphasized, I guess, the bankruptcy bill, which conference report cleared the House the other day and which creates judges—and the bankruptcy cases are more numerous than all the civil and criminal cases in the Federal district courts combined.

What are these judges going to be doing with their time besides playing golf? We know that the figures that we had to deal with in the committee, and since then apparently in the conference, do indeed include projected figures in part instead of just real figures. I think we have conflicting information in many cases about whether there is the need for an additional judgeship.

This bill is supportableonly because of the goodies in it. Each Member of the House of Representatives had the opportunity to vote "no" on it when the bill passed the House overwhelmingly, and there were few of us who voted against it. I think it is time we awakened to the need to be responsible, as the gentleman from Indiana has suggested, to be responsible with the taxpayers' dollars. Certainly, this is an expense that will be ongoing.

These judges in these judgeships, once created, will be here for a long time, much longer than it takes to complete action on the diversity jurisdiction bill, to eliminate that much of the caseload. These judges will be around for life, and if they are not around for life in an active capacity, they will be around collecting their retirement. That is too much cost to ask the American taxpayers to assume for the political aggrandizement of those who want to see these additional judgeships created.

There is no sense in it; there is no reason. It is time to call a halt to such excesses. This is the kind of excess that causes the Congress to have such a low regard in the feelings of the American public. Why not now? This would be a responsible time to say "no" to something that ought not to be done on such a grand scale.

Mr. McCLORY. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois (Mr. HYDE).

Mr. HYDE. Mr. Speaker, worse than doing nothing about merit selection of judges is pretending that we are doing something. We have here the form of merit selection, but we certainly do not have the substance. The language of this bill requires the President to set standards and guidelines for merit selection which apply to the qualifications which potential judges might possess.

Now that might satisfy some people who will embrace the words "merit selection" in whatever context, but it is utter nonsense to assume this will provide merit selection because we are looking not only for qualifications, although we want and expect to get those, but we are looking for independence—independence from the Senator, from the traditional source of bounty for these Federal judgeships.

I filed last February a bill which is similar to many others. I refer to H.R. 11018. It provides for the establishment of a Commission on Federal Judicial Nominations and this would be independent of the Senators.

Here is what it provides:

Upon learning of a vacancy in its judicial district for the office of United States district judge, the Commission involved shall (1) give public notice of such vacancy, (2) undertake an active, systematic, and broad search for qualified persons, and (3) provide an opportunity for all interested parties to recommend persons to be considered as potential nominees, but no Senator shall, directly or indirectly, propose potential nominees to a Commission.

That is merit selection, not just a gesture toward the concept.

The way to be a Federal judge is to know one's Senator and be very friendly with him.

Mr. SEIBERLING. Mr. Speaker, will the gentleman yield?

Mr. HYDE. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Of course, it would be nice to have a Commission. My two Senators have appointed such a Commission.

But the American Bar Association, which for 50 years has been plugging for merit selection of judges, supports this bill, so I presume they feel there is some merit selection procedure provided.

Mr. HYDE. Mr. Speaker, if I may reclaim my time, I do not intend to abdicate my judgment to the ABA or anyone else. My commonsense tells me what is merit selection or what is not. My view is that most of the members of the ABA would like to be judges some day.

Also it is fascinating that we have finally been able to produce these 152 new Federal judgeships, although we have known of the urgency for many years. At least under this present administration we have found the time and the energy to get these 152 new Federal judgeships through. While I understand the administration's preference for a flexible merit system, I do not think this bill provides it at all. Therefore, I will be constrained to vote "no."

Mr. RODINO. Mr. Speaker, I believe that the gentleman from California has stated the case very eloquently for the adoption of this motion. I believe that when we consider the crisis situation the courts are now facing because of the mounting caseload, we will understand there is no responsible action this body can take other than to adopt this motion.

If the gentleman from Illinois is not going to use any more time, then I am going to move the previous question.

Mr. McCLORY. Mr. Speaker, I would yield myself 1 additional minute.

I would like to say this. It was about at this period in the last Congress that we decided not to act upon a judgeship bill which would have created 49 additional Federal judges. We decided at that time, at least the leadership decided at that time, that the matter could wait until early the following year, and then we could take action on the subject.

We are at about the same stage in the 95th Congress but, instead of 49 additional judgeships there are 152.

What I say is we would be very wise either not to act on this at this time or to reject this motion, and that we should take up the subject in January or February of next year and act on it promptly and reasonably, with a reasonable number of judges and not the excessive number contained in this legislation.

I yield back the balance of my time and I urge a "no" vote on the motion of the gentleman from New Jersey.

Mr. RODINO. Mr. Speaker, I move the previous question on the motion to recede and concur with an amendment.

The SPEAKER pro tempore. The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. JACOBS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 285, nays 114, not voting 33, as follows:

[Roll No. 866]

YEAS—285

Abdnor	Flowers	Moss
Addabbo	Flynt	Murphy, Ill.
Akaka	Foley	Murphy, N.Y.
Alexander	Ford, Mich.	Murtha
Ambro	Ford, Tenn.	Natcher
Anderson, Ill.	Fountain	Neal
Andrews, N.C.	Fowler	Nedzi
Annunzio	Frenzel	Nichols
Archer	Frey	Nix
Ashley	Fuqua	Nolan
Aspin	Gammage	Nowak
AuCoin	Garcia	Oberstar
Badham	Gaydos	Ottinger
Bafalis	Gibbons	Patten
Baldus	Gilman	Pattison
Barnard	Ginn	Pease
Baucus	Gonzalez	Pepper
Beard, R.I.	Goodling	Perkins
Bedell	Gore	Pike
Beilenson	Green	Pressler
Benjamin	Gudger	Preyer
Biaggi	Hall	Price
Bingham	Hammer-schmidt	Pritchard
Blanchard	Hanley	Quie
Boggs	Hannaford	Quillen
Boland	Harrington	Rahall
Bolling	Harris	Railsback
Bonior	Harsha	Rangel
Bonker	Hawkins	Reuss
Bowen	Heckler	Rhodes
Brademas	Hefner	Richmond
Breaux	Heftel	Rinaldo
Breckinridge	Hightower	Roberts
Brodhead	Holland	Rodino
Brooks	Hollenbeck	Roe
Broomfield	Holtzman	Rogers
Brown, Calif.	Horton	Roncalio
Brown, Mich.	Howard	Rooney
Broyhill	Hubbard	Rose
Buchanan	Huckaby	Rosenthal
Burgener	Hughes	Rostenkowski
Burke, Fla.	Ireland	Roybal
Burke, Mass.	Jenrette	Runnels
Burleson, Tex.	Johnson, Calif.	Russo
Burlison, Mo.	Johnson, Colo.	Ryan
Burton, John	Jones, N.C.	Santini
Burton, Phillip	Jones, Okla.	Sawyer
Butler	Jones, Tenn.	Scheuer
Carr	Jordan	Schroeder
Cavanaugh	Kastenmeier	Seiberling
Chappell	Kazen	Sikes
Chisholm	Kildee	Simon
Clausen, Don H.	Kostmayer	Skelton
Clay	Krebs	Smith, Iowa
Cohen	LaFalce	Snyder
Coleman	Lagomarsino	Solarz
Collins, Ill.	Le Fante	Spellman
Conte	Leach	Spence
Cornell	Leggett	St Germain
Cotter	Lehman	Staggers
Danielson	Lent	Stark
Davis	Lloyd, Calif.	Steed
de la Garza	Lloyd, Tenn.	Steers
Delaney	Long, La.	Stokes
Dellums	Long, Md.	Stratton
Dent	Luken	Studds
Derrick	Lundine	Taylor
Dicks	McCormack	Thompson
Dodd	McEwen	Thornton
Downey	McFall	Traxler
Drinan	McHugh	Treible
Duncan, Oreg.	McKinney	Tucker
Early	Maguire	Udall
Eckhardt	Mahon	Vander Jagt
Edgar	Mann	Vanik
Edwards, Calif.	Markey	Vento
Eilberg	Marks	Volkmer
Emery	Marriott	Waggonner
English	Martin	Walgren
Erlenborn	Mathis	Walsh
Ertel	Mazzoli	Watkins
Evans, Colo.	Metcalfe	Waxman
Evans, Ga.	Meyner	Weiss
Evans, Ind.	Mikulski	Whalen
Fary	Mineta	White
Fascell	Minish	Whitehurst
Fish	Mitchell, Md.	Whitley
Fisher	Moffett	Whitten
Fithian	Moore	Wiggins
Flippo	Moorhead, Calif.	Wilson, Bob
Flood		Wilson, C. H.
Florio	Moorhead, Pa.	Winn
Wirth	Wolff	Wright
Yates	Young, Alaska	Young, Mo.
Young, Fla.	Zablocki	Zeferetti

NAYS—114

Anderson, Calif.	Glickman	Murphy, Pa.
Andrews, N. Dak.	Goldwater	Myers, Gary
Applegate	Gradison	Myers, John
Armstrong	Grassley	Myers, Michael
Ashbrook	Guyer	O'Brien
Bauman	Hagedorn	Oakar
Beard, Tenn.	Hamilton	Panetta
Bennett	Hansen	Pickle
Bevill	Harkin	Poage
Brinkley	Hillis	Pursell
Brown, Ohio	Holt	Quayle
Byron	Hyde	Regula
Carney	Ichord	Robinson
Carter	Jacobs	Rousselot
Cederberg	Jeffords	Rudd
Clawson, Del	Jenkins	Ruppe
Cleveland	Kasten	Satterfield
Collins, Tex.	Kelly	Schulze
Conable	Keys	Sebelius
Corcoran	Kindness	Sharp
Corman	Latta	Shuster
Crane	Lederer	Skubitz
Cunningham	Levitas	Slack
D'Amours	Livingston	Smith, Nebr.
Daniel, Dan	Lott	Stangeland
Daniel, R. W.	McClory	Stanton
Derwinski	McCloskey	Steiger
Devine	McDade	Stockman
Dornan	McDonald	Stump
Duncan, Tenn.	McKay	Symms
Edwards, Ala.	Madigan	Treen
Edwards, Okla.	Marlenee	Ullman
Evans, Del.	Mattox	Van Deerlin
Fenwick	Michel	Walker
Findley	Miller, Ohio	Wampler
Forsythe	Mitchell, N.Y.	Weaver
Gephardt	Mollohan	Wylie
	Montgomery	Yatron
	Motti	

NOT VOTING—33

Ammerman	Fraser	Patterson
Blouin	Giaimo	Pettis
Burke, Calif.	Kemp	Risenhoover
Caputo	Krueger	Sarasin
Cochran	Lujan	Shipley
Conyers	Meeds	Sisk
Cornwell	Mikva	Teague
Coughlin	Milford	Thone
Dickinson	Miller, Calif.	Tsongas
Diggs	Moakley	Wilson, Tex.
Dingell	Obey	Young, Tex.

The Clerk announced the following pairs:

Mr. Giaimo with Mr. Caputo.
Mr. Ammerman with Mr. Kemp.
Mr. Blouin with Mrs. Pettis.
Mr. Moakley with Mr. Sarasin.
Mr. Shipley with Mr. Thone.
Mr. Teague with Mr. Milford.
Mr. Patterson of California with Mr. Coughlin.
Mr. Krueger with Mr. Dickinson.
Mrs. Burke of California with Mr. Cochran of Mississippi.
Mr. Cornwell with Mr. Miller of California.
Mr. Diggs with Mr. Lujan.
Mr. Dingell with Mr. Fraser.
Mr. Meeds with Mr. Tsongas.
Mr. Obey with Mr. Charles Wilson of Texas.
Mr. Mikva with Mr. Sisk.
Mr. Conyers with Mr. Risenhoover.

Mr. DUNCAN of Tennessee and Mr. LIVINGSTON changed their vote from "yea" to "nay."

Mr. VOLKMER and Mr. CHAPPELL changed their vote from "nay" to "yea."

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey (Mr. RODINO).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. McCLORY. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 292, nays 112, not voting 28, as follows:

[Roll No. 867]

YEAS—292

Abdnor	Fuqua	O'Brien
Addabbo	Gammage	Oberstar
Akaka	Garcia	Obey
Alexander	Gephardt	Ottinger
Ambro	Gibbons	Patten
Anderson, Ill.	Gilman	Patterson
Andrews, N.C.	Ginn	Pattison
Annunzio	Gonzalez	Pease
Archer	Goodling	Pepper
Ashley	Gore	Perkins
Aspin	Green	Pike
AuCoin	Gudger	Pressler
Bafalis	Hall	Preyer
Baldus	Hamilton	Price
Barnard	Hammer-schmidt	Pritchard
Baucus	Hanley	Pursell
Beard, R.I.	Hannaford	Quayle
Bedell	Harkin	Quie
Benjamin	Harrington	Rahall
Bennett	Harris	Railsback
Bevill	Harsha	Rangel
Bingham	Hawkins	Reuss
Blanchard	Hefner	Richmond
Boggs	Heftel	Rinaldo
Boland	Hightower	Risenhoover
Bolling	Holland	Roberts
Bonior	Hollenbeck	Rodino
Bonker	Holtzman	Roe
Brademas	Horton	Rogers
Breaux	Howard	Roncalio
Breckinridge	Hubbard	Rooney
Brinkley	Huckaby	Rose
Brodhead	Hughes	Rosenthal
Brooks	Ichord	Rostenkowski
Brown, Calif.	Ireland	Roybal
Brown, Mich.	Jenkins	Runnels
Buchanan	Jenrette	Russo
Burgener	Johnson, Calif.	Ryan
Burke, Fla.	Johnson, Colo.	Santini
Burke, Mass.	Jones, N.C.	Sawyer
Burlison, Mo.	Jones, Okla.	Scheuer
Burton, John	Jones, Tenn.	Schroeder
Burton, Phillip	Jordan	Seiberling
Carr	Kastenmeier	Sharp
Carter	Kazen	Shuster
Cavanaugh	Kildee	Sikes
Chappell	Krebs	Simon
Chisholm	LaFalce	Sisk
Clay	Le Fante	Skelton
Cohen	Leach	Smith, Iowa
Coleman	Leggett	Snyder
Collins, Ill.	Lehman	Solarz
Conte	Lent	Spellman
Corman	Levitas	Spence
Cornell	Lloyd, Calif.	St Germain
Cotter	Lloyd, Tenn.	Staggers
D'Amours	Long, La.	Stark
Danielson	Long, Md.	Steed
Davis	Luken	Steers
de la Garza	Lundine	Stokes
Delaney	McCloskey	Stratton
Dellums	McCormack	Studds
Dent	McDade	Thompson
Derrick	McEwen	Thornton
Dicks	McFall	Traxler
Dodd	McHugh	Treible
Downey	McKay	Tucker
Drinan	McKinney	Udall
Duncan, Oreg.	Madigan	Ullman
Early	Maguire	Van Deerlin
Eckhardt	Mahon	Vander Jagt
Edgar	Mann	Vanik
Edwards, Calif.	Markey	Vento
Eilberg	Marks	Volkmer
Emery	Marriott	Waggonner
English	Mathis	Walgren
Ertel	Mazzoli	Walsh
Evans, Colo.	Metcalfe	Watkins
Evans, Ga.	Meyner	Waxman
Evans, Ind.	Milford	Weaver
Fary	Mineta	Weiss
Fascell	Minish	Whalen
Fish	Mitchell, Md.	White
Fisher	Moakley	Whitley
Fithian	Moffett	Whitten
Flippo	Moore	Wiggins
Flood	Moorhead, Pa.	Wilson, Bob
Florio	Moss	Wilson, Tex.
Flowers	Murphy, Ill.	Wirth
Flynt	Murphy, N.Y.	Wolff
Foley	Natcher	Wright
Ford, Mich.	Neal	Yates
Ford, Tenn.	Nedzi	Young, Alaska
Fountain	Nichols	Young, Fla.
Fowler	Nix	Young, Mo.
Fraser	Nolan	Zablocki
Frenzel	Nowak	Zeferetti
Frey		

NAYS—112

Anderson, Calif.	Evans, Del.	Mottl
Andrews, N. Dak.	Fenwick	Murphy, Pa.
Applegate	Findley	Murtha
Armstrong	Forsythe	Myers, Gary
Ashbrook	Gaydos	Myers, John
Badham	Glickman	Myers, Michael
Bauman	Goldwater	Oakar
Beard, Tenn.	Gradison	Panetta
Bellenson	Grassley	Pickle
Bowen	Guyer	Poage
Broomfield	Hagedorn	Quillen
Brown, Ohio	Hansen	Regula
Broyhill	Hillis	Robinson
Burleson, Tex.	Holt	Rousselot
Butler	Hyde	Rudd
Byron	Jacobs	Ruppe
Carney	Jeffords	Satterfield
Cederberg	Kasten	Schulze
Clausen, Don H.	Kelly	Sebelius
Clawson, Del	Keys	Skubitz
Cleveland	Kindness	Slack
Collins, Tex.	Kostmayer	Smith, Nebr.
Conable	Lagomarsino	Stangeland
Corcoran	Latta	Stanton
Coughlin	Lederer	Steiger
Crane	Livingston	Stockman
Cunningham	Lott	Stump
Daniel, Dan	McClory	Symms
Daniel, R. W.	McDonald	Taylor
Derwinski	Marlenee	Treen
Devine	Martin	Walker
Dornan	Mattox	Wampler
Duncan, Tenn.	Michel	Whitehurst
Edwards, Ala.	Miller, Ohio	Wilson, C. H.
Edwards, Okla.	Mitchell, N.Y.	Winn
Erlenborn	Mollohan	Wydler
	Montgomery	Wylie
	Moorhead, Calif.	Yatron

NOT VOTING—28

Ammerman	Dingell	Pettis
Biaggi	Giaimo	Rhodes
Blouin	Heckler	Sarasin
Burke, Calif.	Kemp	Shipley
Caputo	Krueger	Teague
Cochran	Lujan	Thone
Conyers	Meeds	Tsongas
Cornwell	Mikulski	Young, Tex.
Dickinson	Mikva	
Diggs	Miller, Calif.	

The Clerk announced the following pairs:

On this vote:

Mr. Blouin for, with Mr. Ammerman against.

Mr. Krueger for, with Mr. Dingell against.

Until further notice:

Mr. Giaimo with Mr. Caputo.

Mr. Mikva with Mr. Cochran of Mississippi.

Mrs. Burke of California with Mr. Dickinson.

Mr. Biaggi with Mrs. Pettis.

Mr. Cornwell with Mr. Sarasin.

Mr. Diggs with Mr. Thone.

Mr. Conyers with Mr. Lujan.

Mr. Shipley with Mr. Kemp.

Ms. Mikulski with Mr. Teague.

Mr. Meeds with Mr. Tsongas.

Mr. Miller of California with Mrs. Heckler.

So the motion to recede and concur was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. RODINO. Mr. Chairman, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation relating to the conference report on the bill H.R. 7843, just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

APPOINTMENT OF CONFEREES ON H.R. 11733, SURFACE TRANSPORTATION ACT OF 1978

Mr. JOHNSON of California. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 11733) to authorize appropriations for the construction of certain highways in accordance with title 23 of the United States Code, for highway safety, for mass transportation in urban and in rural areas, and for other purposes, with a Senate amendment thereto, disagree to the Senate amendment, and agree to the conference asked by the Senate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California? The Chair hears none, and, without objection, appoints the following conferees: Messrs. JOHNSON of California, ROBERTS, HOWARD, ANDERSON of California, ROE, ULLMAN, ROSTENKOWSKI, CORMAN, HARSHA, SHUSTER, and CONABLE.

There was no objection.

PERMISSION FOR COMMITTEE ON JUDICIARY TO MEET TOMORROW MORNING UNTIL 12 O'CLOCK NOON DURING 5-MINUTE RULE

Mr. DANIELSON. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary may be permitted to meet tomorrow morning until 12 o'clock, even though the 5-minute rule may be in effect.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. ASHBROOK. Mr. Speaker, reserving the right to object, I would ask my colleague in these late days of the session, there is really nothing that has come out of the Judiciary Committee, is there?

Mr. DANIELSON. Mr. Speaker, if the gentleman will yield, I certainly concur with many of the things that are implicit in my colleague's comment, but the matter under consideration is a bill involving a substance known as Tris in which we are about one-third of the way through the bill and it is unfinished business which must be taken care of now or never.

Mr. ASHBROOK. Further reserving the right to object, if the committee is one-third of the way through the bill, the committee could not finish it tomorrow in those 2 hours, as hard as it is to get a quorum in that committee. Is that not correct?

Mr. DANIELSON. In my opinion we would be able to finish it tomorrow by 12:00.

Mr. ASHBROOK. Mr. Speaker, I further reserve the right to object.

Mr. BROYHILL. Mr. Speaker, will the gentleman yield?

Mr. ASHBROOK. I yield to the gentleman from North Carolina.

Mr. BROYHILL. Mr. Speaker, I would hope the gentleman from Ohio would not object. This is a bill many of us are interested in, and according to the gentleman from California, they are in the midst of markup on this bill and there is a good possibility it could be reported from the full committee and could be considered by the House next week. It is something of vital interest to many parts of our country and our economy, and I hope the gentleman would not object.

Mr. ASHBROOK. Mr. Speaker, further reserving the right to object, I would say there are many events on the floor that are going to be of rather significant interest to many; but in the interest of comity I will not object, and I withdraw my reservation of objection.

Mr. DANIELSON. I thank the gentleman.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The unfinished business is as follows: Pursuant to clause 3, rule XXVII, and the order of the House of September 27, 1978, the Chair will now put the question on each motion on which further proceedings were postponed, in the order in which that motion was entertained.

Votes will be taken in the following order:

H.R. 13845; H.R. 12917; H.R. 12355, and H.R. 3924.

The Chair will reduce to 5 minutes the time for any electronic vote after the first such vote in this series.

PERISHABLE AGRICULTURAL COMMODITIES ACT

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill H.R. 13845, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. RICHMOND) that the House suspend the rules and pass the bill H.R. 13845, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 399, nays 7, not voting 26, as follows:

[Rollcall No. 868]

YEAS—399

Abdnor	Benjamin	Burton, Phillip
Addabbo	Bennett	Butler
Akaka	Bevill	Byron
Alexander	Biaggi	Carney
Ambro	Bingham	Carr
Anderson, Calif.	Blanchard	Carter
Anderson, Ill.	Boland	Cavanaugh
Andrews, N.C.	Bolling	Cederberg
Andrews, N. Dak.	Bonior	Chappell
Annunzio	Bonker	Chisholm
Applegate	Bowen	Clausen, Don H.
Archer	Brademas	Clawson, Del
Armstrong	Breaux	Clay
Ashbrook	Breckinridge	Cleveland
Ashley	Brinkley	Cohen
Aspin	Brodhead	Coleman
AuCoin	Brooks	Collins, Ill.
Badham	Broomfield	Conable
Bafalis	Brown, Calif.	Conte
Baldus	Brown, Mich.	Corcoran
Barnard	Brown, Ohio	Corman
Baucus	Broyhill	Cornell
Bauman	Buchanan	Cornwell
Beard, R.I.	Burgener	Cotter
Beard, Tenn.	Burke, Fla.	Coughlin
Bedell	Burke, Mass.	Crane
Bellenson	Burleson, Tex.	Cunningham
	Burlison, Mo.	D'Amours
	Burton, John	

Daniel, Dan	Jones, Okla.	Rahall
Daniel, R. W.	Jones, Tenn.	Railsback
Danielson	Jordan	Rangel
Davis	Kasten	Regula
de la Garza	Kastenmeier	Reuss
Delaney	Kazen	Rhodes
Dellums	Kelly	Richmond
Dent	Keys	Rinaldo
Derrick	Kildee	Risenhoover
Derwinski	Kindness	Roberts
Devine	Krebs	Robinson
Dicks	LaFalce	Rodino
Dodd	Lagomarsino	Roe
Dornan	Latta	Rogers
Downey	Le Fante	Roncalio
Drinan	Leach	Rooney
Duncan, Oreg.	Lederer	Rose
Duncan, Tenn.	Leggett	Rosenthal
Early	Lehman	Rostenkowski
Edgar	Lent	Rousselot
Edwards, Ala.	Levitas	Roybal
Edwards, Calif.	Livingston	Rudd
Edwards, Okla.	Lloyd, Calif.	Runnels
Eilberg	Lloyd, Tenn.	Ruppe
Emery	Long, La.	Russo
English	Long, Md.	Ryan
Erlenborn	Lott	Santini
Ertel	Luken	Satterfield
Evans, Colo.	Lundine	Sawyer
Evans, Del.	McClory	Scheuer
Evans, Ga.	McCloskey	Schroeder
Evans, Ind.	McCormack	Schulze
Fary	McDade	Sebelius
Fascell	McEwen	Seiberling
Fenwick	McHugh	Sharp
Findley	McKay	Shuster
Fish	McKinney	Sikes
Fisher	Madigan	Simon
Fithian	Maguire	Sisk
Flippo	Mahon	Skelton
Flood	Mann	Slack
Florio	Markey	Smith, Iowa
Flynt	Marks	Smith, Nebr.
Foley	Marlenee	Snyder
Ford, Mich.	Marriott	Solarz
Ford, Tenn.	Martin	Spellman
Forsythe	Mathis	Spence
Fountain	Mattox	St Germain
Fowler	Mazzoli	Staggers
Fraser	Meeds	Stangeland
Frenzel	Metcalfe	Stanton
Frey	Meyner	Stark
Fuqua	Michel	Steed
Gammage	Mikulski	Steers
Garcia	Mikva	Steiger
Gaydos	Milford	Stockman
Gephardt	Miller, Ohio	Stokes
Giaimo	Mineta	Stratton
Gibbons	Minish	Studds
Gilman	Mitchell, Md.	Stump
Ginn	Mitchell, N.Y.	Symms
Glickman	Moakley	Taylor
Goldwater	Moffett	Thompson
Gonzalez	Mollohan	Thornton
Goodling	Montgomery	Traxler
Gore	Moore	Treen
Gradison	Moorhead, Calif.	Trible
Green	Moorhead, Pa.	Tucker
Gudger	Mottl	Udall
Guyer	Murphy, Ill.	Ullman
Hagedorn	Murphy, N.Y.	Van Deerlin
Hall	Murtha	Vander Jagt
Hamilton	Myers, Gary	Vanik
Hammer-schmidt	Myers, John	Vento
Hanley	Myers, Michael	Volkmer
Hannaford	Natcher	Waggonner
Hansen	Neal	Walgren
Harkin	Nedzi	Walker
Harrington	Nichols	Walsh
Harris	Nix	Wampler
Harsha	Nolan	Watkins
Hawkins	Nowak	Waxman
Hefner	O'Brien	Weaver
Heftel	Oakar	Weiss
Hightower	Oberstar	Whalen
Hillis	Obey	White
Holland	Ottinger	Whitehurst
Hollenbeck	Panetta	Whitley
Holt	Patten	Whitten
Holtzman	Patterson	Wiggins
Horton	Pattison	Wilson, Bob
Howard	Pease	Wilson, C. H.
Hubbard	Pepper	Wilson, Tex.
Huckaby	Perkins	Winn
Hughes	Pickle	Wirth
Hyde	Pike	Wolff
Ichord	Poage	Wright
Ireland	Pressler	Wylie
Jacobs	Preyer	Yates
Jeffords	Price	Yatron
Jenkins	Pritchard	Young, Alaska
Jenrette	Pursell	Young, Fla.
Johnson, Calif.	Quayle	Young, Mo.
Johnson, Colo.	Quie	Zablocki
Jones, N.C.	Quillen	Zeferetti

NAYS—7

Boggs	Kostmayer	Wydler
Collins, Tex.	McDonald	
Grassley	Murphy, Pa.	

NOT VOTING—26

Ammerman	Eckhardt	Pettis
Blouin	Flowers	Sarasin
Burke, Calif.	Heckler	Shipley
Caputo	Kemp	Skubitz
Cochran	Krueger	Teague
Conyers	Lujan	Thone
Dickinson	McFall	Tsongas
Diggs	Miller, Calif.	Young, Tex.
Dingell	Moss	

The Clerk announced the following pairs:

On this vote:

Mr. Krueger and Mr. Dingell for, with Mr. Blouin against.

Until further notice:

Mrs. Burke of California with Mr. Kemp.
Mr. McFall with Mr. Caputo.
Mr. Teague with Mr. Lujan.
Mr. Shipley with Mr. Skubitz.
Mr. Miller of California with Mr. Sarasin.
Mr. Diggs with Mrs. Pettis.
Mr. Conyers with Mr. Thone.
Mr. Ammerman with Mrs. Heckler.
Mr. Tsongas with Mr. Flowers.
Mr. Eckhardt with Mr. Cochran of Mississippi.
Mr. Moss with Mr. Dickinson.

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. RICHMOND. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 976) to amend the Perishable Agricultural Commodities Act, 1930, relating to practices in the marketing of perishable agricultural commodities, a bill similar to H.R. 13845, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore (Mr. EVANS of Colorado). Is there objection to the request of the gentleman from New York?

Mr. ASHBROOK. Mr. Speaker, reserving the right to object, my colleague, the gentleman from New York (Mr. RICHMOND), indicated the Senate bill is similar to the House bill. Does the gentleman mean it is similar or identical to the House bill?

Mr. RICHMOND. Mr. Speaker, if the gentleman will yield, it is basically similar.

Mr. ASHBROOK. What does the gentleman mean by "basically similar"?

Mr. RICHMOND. There is no real difference between the two.

Mr. ASHBROOK. No substantive difference?

Mr. RICHMOND. No substantive difference whatsoever.

Mr. ASHBROOK. There is nothing in that bill that would not be germane?

Mr. RICHMOND. Absolutely nothing.

Mr. ASHBROOK. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, I yield to the gentleman from Kansas (Mr. SEBELIUS).

Mr. SEBELIUS. Mr. Speaker, if the gentleman will respond, it is not our intention to pass the Senate bill as it stands?

Mr. RICHMOND. No. Mr. Speaker, if the gentleman from California will yield, we consider that language nongermane to our bill, and that will be stricken from the Senate bill.

Mr. SEBELIUS. So we are striking out everything after the enacting clause in the Senate bill that is before the House and substituting the language as passed by the House?

Mr. RICHMOND. The gentleman is correct.

Mr. SEBELIUS. Mr. Speaker, I thank the gentleman for yielding.

Mr. ROUSSELOT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York for the immediate consideration of the Senate bill?

There was no objection.

The Clerk read the Senate bill as follows:

S. 976

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. (a) Effective January 1, 1979, section 1 of the Perishable Agricultural Commodities Act, 1930 (7 U.S.C. 499a), is amended by—

(1) in subsection (6), striking out "$100,000" and inserting in lieu thereof "$200,000"; and

(2) in subsection (7), striking out "$100,000" and inserting in lieu thereof "$200,000".

(b) Section 1 of the Perishable Agricultural Commodities Act, 1930, is further amended by inserting in subsection (6) immediately after "(C) no person buying any commodity" the following: "other than potatoes", except that no person buying potatoes for processing solely within the State where grown shall be deemed or considered to be a dealer under subsection (6) of section 1, as amended by this subsection, until January 1, 1982.

SEC. 2. Section 3(b) of the Perishable Agricultural Commodities Act, 1930 (7 U.S.C. 499c(b)), is amended by—

(1) striking out "$100" in the third sentence and inserting in lieu thereof the following: "$300, plus $50 for each branch or additional business facility operated by the applicant in excess of twenty such facilities, as determined by the Secretary. Total annual fees for any applicant shall not exceed $1,000 in the aggregate";

(2) inserting immediately before the fourth sentence a new sentence as follows: "The Secretary may assess a single uniform license fee for all applicants, or the Secretary may assess a graduated fee based upon the amount or type of business conducted by the applicant or both.";

(3) inserting immediately after "referred to above:" in the fourth sentence the following: "*Provided*, That the amount of money accumulated and on hand in the special fund at the end of any fiscal year shall not exceed 25 percent of the projected budget for the next following fiscal year:"; and

(4) inserting "*further*" immediately after "*Provided*" in the fourth sentence.

SEC. 3. Section 3(b) of the Farm Labor Contractor Registration Act of 1963, as amended (78 Stat. 920, as amended; 7 U.S.C. 2042), is amended—

(a) by striking out the word "or" at the end of paragraph (8), striking out the period at the end of paragraph (9) and inserting in lieu thereof a semicolon and the word "or"; and

(b) by adding at the end thereof a new paragraph (10) as follows:

"(10) Any person who would be required to register solely because they are engaged in any such activity solely for the purpose of supplying full-time students or other persons whose principal occupation is not farmwork to detassel hybrid seed corn or sorghum for seed and to engage in other incidental farmwork for a period not to exceed four weeks in any calendar year: *Provided*, That such students or other persons are not required by the circumstances of such activity to be away from their permanent place of residence overnight: *Provided further*, That such full-time students or other persons, if under 18 years of age, are not engaged in providing transportation in vehicles caused to be operated by the contractor."

MOTION OFFERED BY MR. RICHMOND

Mr. RICHMOND. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. RICHMOND moves to strike all after the enacting clause of S. 976 and insert in lieu thereof the provisions of H.R. 13845, as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title was amended so as to read: "A bill to amend the Perishable Agricultural Commodities Act."

A motion to reconsider was laid on the table.

A similar House bill (H.R. 13845) was laid on the table.

GENERAL LEAVE

Mr. RICHMOND. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill, H.R. 13845, just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

RURAL TRANSPORTATION ADVISORY TASK FORCE

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill H.R. 12917, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Indiana (Mr. FITHIAN) that the House suspend the rules and pass the bill H.R. 12917, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 352, nays 49, not voting 31, as follows:

[Rollcall No. 869]

YEAS—352

Abdnor	Ashbrook	Bevill
Addabbo	Ashley	Biaggi
Akaka	Aspin	Bingham
Alexander	AuCoin	Blanchard
Ambro	Bafalis	Boggs
Anderson, Calif.	Baldus	Boland
	Barnard	Bolling
Anderson, Ill.	Baucus	Bonior
Andrews, N.C.	Bauman	Bonker
Andrews, N. Dak.	Beard, R.I.	Bowen
	Bedell	Brademas
Annunzio	Bellenson	Breaux
Applegate	Benjamin	Breckinridge
Armstrong	Bennett	Brinkley
Brodhead	Hannaford	Pattison
Brooks	Harkin	Pease
Brown, Calif.	Harrington	Pepper
Brown, Mich.	Harris	Perkins
Brown, Ohio	Harsha	Pickle
Broyhill	Hawkins	Pike
Buchanan	Hefner	Pressler
Burgener	Heftel	Preyer
Burke, Fla.	Hightower	Price
Burke, Mass.	Hillis	Pritchard
Burleson, Tex.	Holland	Pursell
Burlison, Mo.	Hollenbeck	Quayle
Burton, John	Holt	Quie
Burton, Phillip	Holtzman	Quillen
Butler	Horton	Rahall
Byron	Howard	Railsback
Carney	Hubbard	Rangel
Carr	Huckaby	Regula
Carter	Hyde	Reuss
Cavanaugh	Ichord	Rhodes
Cederberg	Ireland	Richmond
Chappell	Jeffords	Rinaldo
Chisholm	Jenkins	Risenhoover
Clausen, Don H.	Jenrette	Roberts
	Johnson, Calif.	Robinson
Clay	Johnson, Colo.	Rodino
Cohen	Jones, Okla.	Roe
Coleman	Jones, Tenn.	Rogers
Collins, Ill.	Jordan	Roncalio
Conte	Kasten	Rooney
Corcoran	Kastenmeier	Rose
Corman	Kazen	Rosenthal
Cornell	Kelly	Rostenkowski
Cornwell	Keys	Roybal
Cotter	Kildee	Runnels
D'Amours	Kindness	Santini
Daniel, Dan	Krebs	Satterfield
Daniel, R. W.	LaFalce	Sawyer
Danielson	Latta	Scheuer
Davis	Le Fante	Schroeder
de la Garza	Leach	Schulze
Delaney	Lederer	Sebelius
Dellums	Leggett	Seiberling
Dent	Lehman	Sharp
Derrick	Lent	Shuster
Dicks	Levitas	Sikes
Dodd	Livingston	Simon
Downey	Lloyd, Calif.	Sisk
Duncan, Oreg.	Lloyd, Tenn.	Skelton
Duncan, Tenn.	Long, La.	Slack
Early	Long, Md.	Smith, Iowa
Edgar	Lott	Smith, Nebr.
Edwards, Ala.	Lundine	Snyder
Edwards, Calif.	McClory	Solarz
Eilberg	McCormack	Spellman
Emery	McDade	Spence
English	McEwen	St Germain
Erlenborn	McFall	Staggers
Ertel	McHugh	Stangeland
Evans, Colo.	McKay	Stanton
Evans, Del.	Madigan	Stark
Evans, Ga.	Maguire	Steed
Evans, Ind.	Mahon	Steers
Fary	Mann	Steiger
Fascell	Markey	Stokes
Fenwick	Marks	Studds
Findley	Marlenee	Thompson
Fish	Marriott	Thornton
Fisher	Martin	Traxler
Fithian	Mathis	Trible
Flippo	Mazzoli	Tucker
Flood	Meeds	Udall
Florio	Metcalfe	Ullman
Flowers	Meyner	Van Deerlin
Foley	Michel	Vander Jagt
Ford, Mich.	Mikulski	Vanik
Ford, Tenn.	Mikva	Vento
Forsythe	Miller, Ohio	Volkmer
Fountain	Mineta	Waggonner
Fowler	Minish	Walgren
Fraser	Mitchell, Md.	Walsh
Frenzel	Mitchell, N.Y.	Wampler
Frey	Moakley	Watkins
Fuqua	Moffett	Waxman
Garcia	Mollohan	Weaver
Gaydos	Montgomery	Weiss
Gephardt	Moore	Whalen
Giaimo	Moorhead, Pa.	White
Gilman	Murphy, Ill.	Whitehurst
Ginn	Murphy, N.Y.	Whitten
Glickman	Murtha	Wilson, C. H.
Gonzalez	Myers, John	Wilson, Tex.
Goodling	Myers, Michael	Winn
Gore	Natcher	Wirth
Gradison	Neal	Wolff
Grassley	Nedzi	Wright
Green	Nichols	Wylie
Gudger	Nix	Yates
Guyer	Nowak	Yatron
Hagedorn	O'Brien	Young, Alaska
Hall	Oakar	Young, Fla.
Hamilton	Oberstar	Young, Mo.
Hammer-schmidt	Obey	Zablocki
	Ottinger	Zeferetti
Hanley	Panetta	

NAYS—49

Archer	Gammage	Myers, Gary
Badham	Gibbons	Patten
Beard, Tenn.	Goldwater	Rousselot
Broomfield	Hansen	Rudd
Clawson, Del	Jones, N.C.	Russo
Cleveland	Kostmayer	Stockman
Collins, Tex.	Lagomarsino	Stratton
Conable	Luken	Stump
Coughlin	McCloskey	Symms
Crane	McDonald	Taylor
Cunningham	McKinney	Treen
Derwinski	Mattox	Walker
Devine	Milford	Whitley
Dornan	Moorhead, Calif.	Wiggins
Drinan		Wilson, Bob
Edwards, Okla.	Mottl	Wydler
Flynt	Murphy, Pa.	

NOT VOTING—31

Ammerman	Hughes	Ruppe
Blouin	Jacobs	Ryan
Burke, Calif.	Kemp	Sarasin
Caputo	Krueger	Shipley
Cochran	Lujan	Skubitz
Conyers	Miller, Calif.	Teague
Dickinson	Moss	Thone
Diggs	Nolan	Tsongas
Dingell	Patterson	Young, Tex.
Eckhardt	Pettis	
Heckler	Poage	

The Clerk announced the following pairs:

Mr. Hughes with Mr. Sarasin.

Mr. Ammerman with Mr. Lujan.

Mr. Blouin with Mrs. Pettis.

Mrs. Burke of California with Mr. Dickinson.

Mr. Diggs with Mr. Cochran of Mississippi.

Mr. Dingell with Mr. Kemp.

Mr. Miller of California with Mr. Thone.

Mr. Patterson of California with Mrs. Heckler.

Mr. Teague with Mr. Caputo.

Mr. Shipley with Mr. Skubitz.

Mr. Ryan with Mr. Ruppe.

Mr. Krueger with Mr. Moss.

Mr. Nolan with Mr. Eckhardt.

Mr. Tsongas with Mr. Conyers.

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

The title was amended so as to read: "A bill directing the Secretary of Agriculture to compile and publish certain information relating to the adequacy of a transportation system to meet the needs of agriculture and rural development in the United States, and for other purposes."

A motion to reconsider was laid on the table.

Mr. FITHIAN. Mr. Speaker, I ask unanimous consent that the Committee on Agriculture be discharged from further consideration of the Senate bill (S. 1835) requiring the Secretary of Agriculture to conduct a study of the adequacy of the Nation's transportation system to meet the needs of American agriculture and rural development, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1835

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Congress hereby finds and declares that—

(1) an adequate transportation system, composed of various forms of transportation, is essential to the overall success of the Nation's agriculture, rural development, and economic stability;

(2) the economical and efficient movement of agricultural commodities has been impeded by a shortage of railroad freight cars and motor trucks and by the deteriorated condition of many rail roadbeds throughout the United States;

(3) the economical and efficient movement of agricultural commodities is threatened by the proposed abandonment of thousands of miles of railroad lines in the United States;

(4) the maintenance of an efficient and economical transportation system in rural America has not received the priority attention that such system should receive; and

(5) the Secretary of Agriculture (hereinafter referred to as the "Secretary") should assume a more active role in representing the interests of agriculture and rural development in the United States in order to ensure the availability of an adequate, efficient, and economical transportation system sufficient to meet the needs of agriculture and rural development in the United States.

SEC. 2. (a) The Secretary shall compile and publish an initial report containing the Secretary's recommendations for a railroad transportation system adequate to meet the needs of American agriculture. The initial report shall include, but not be limited to, maps that identify the locations in the several States that the Secretary determines should receive railroad services because of their importance as agricultural production, marketing, or consuming areas.

(b) The report required to be published under subsection (a) of this section shall be published not later than one hundred and eighty days after the date of enactment of this Act. The Secretary shall submit copies of such report to Congress and make the report available for widespread public distribution throughout the United States as soon as practicable after its publication.

SEC. 3. (a) Within forty-five days after the publication of the initial report required under section 2(a) of this Act, the Secretary shall announce dates for and hold public hearings at various locations throughout the United States to obtain the views of interested persons on such initial report.

(b) Within one hundred and twenty days after the publication of the initial report required under section 2(a) of this Act, the Secretary shall prepare and publish a summary of the testimony presented at the public hearings required under subsection (a) of this section. The Secretary shall make the summary available for widespread public distribution as soon as practicable after its publication.

SEC. 4. (a) The Secretary shall prepare and publish, within four hundred and twenty days after the date of enactment of this Act, a revised report containing recommendations for a railroad transportation system adequate to meet the needs of American agriculture. In preparing such revised report, the Secretary shall consider the testimony received at the public hearings required under section 3(a) of this Act.

(b) Copies of the revised report required under subsection (a) of this section shall be submitted to Congress, the Secretary of Transportation, and the Chairman of the Interstate Commerce Commission. The Secretary shall make the revised report available for widespread public distribution throughout the United States as soon as practicable after its publication.

(c) The Secretary shall review the revised report required under subsection (a) of this section from time to time, but at least once every three years, and shall make such revisions therein as the Secretary deems necessary or appropriate, after considering changed conditions at the local, national, and international levels that may have affected American agriculture, rural development, or transportation.

SEC. 5. The Secretary shall submit a report annually to Congress regarding the capability of the Nation's transportation system (including all forms of transportation) to meet the needs of American agriculture and rural development. The Secretary shall identify in such report any obstacles that may exist in meeting such needs, including, but not limited to, any obstacles that may exist to the movement of agricultural commodities in domestic and international markets. The Secretary shall include in such report recommendations for such legislative or other action as the Secretary deems necessary or appropriate to remove such obstacles.

SEC. 6. Whenever the Secretary determines that the proceedings of any Federal agency including, but not limited to, the Department of Commerce, the Department of State, the Department of Transportation, the Civil Aeronautics Board, the Federal Maritime Commission, and the Interstate Commerce Commission will likely affect American agriculture or rural development, the Secretary shall, to the extent permitted by law or regulation, participate in such proceedings as an advocate for an efficient and economical transportation system for American agriculture and rural development.

SEC. 7. The provisions of this Act shall become effective October 1, 1978.

MOTION OFFERED BY MR. FITHIAN

Mr. FITHIAN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. FITHIAN moves to strike out all after the enacting clause of S. 1835 and insert in lieu thereof the provisions of H.R. 12917, as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title of the Senate bill was amended so as to read: "A bill directing the Secretary of Agriculture to compile and publish certain information relating to the adequacy of a transportation system to meet the needs of agriculture and rural development in the United States, and for other purposes."

A motion to reconsider was laid on the table.

A similar House bill (H.R. 12917) was laid on the table.

GENERAL LEAVE

Mr. FITHIAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill H.R. 12917, just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

NUCLEAR REGULATORY COMMISSION AUTHORIZATION

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill H.R. 12355, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Arizona (Mr. UDALL) that the House suspend the rules and pass the bill, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

Mr. UDALL. Mr. Speaker, I ask unanimous consent for the immediate consideration of the Senate bill (S. 2584) to authorize appropriations to the Nuclear Regulatory Commission for fiscal year 1979, and for other purposes, a similar bill to H.R. 12355.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2584

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. (a) There is authorized to be appropriated to the Nuclear Regulatory Commission (hereafter in this Act referred to as the "Commission") to carry out its functions and authorities under the Atomic Energy Act of 1954 (42 U.S.C. 2017) and the Energy Reorganization Act of 1974 (42 U.S.C. 5875) for fiscal year 1979, to remain available until expended, $335,895,000 to be allocated as follows:

(1) For "Nuclear Reactor Regulation", not more than $46,880,000 of which amount $1,070,000 in addition to the level of activity in fiscal year 1978 shall be available exclusively for the Alternate Fuel Cycle activities described in section 5 of this Act and $2,080,000 shall be available exclusively for Advanced Reactors;

(2) For "Standards Development," not more than $14,945,000, of which amount $650,000 shall be available exclusively for Low Level Radiation activities, including those activities described in section 3 of this Act;

(3) For "Inspection and Enforcement", not more than $38,760,000;

(4) For "Nuclear Materials Safety and Safeguards," not more than $27,240,000, of which amount $8,127,000 shall be available exclusively for Nuclear Waste Disposal and Management activities, and $540,000 in addition to the level of activity in fiscal year 1978 shall be available exclusively for the Alternate Fund Fuel Cycle activities described in section 5 of this Act;

(5) For "Nuclear Regulatory Research," not more than $166,640,000, of which amount $2,500,000 shall be available exclusively for the implementation of the Improved Safety Systems Research plan required by section 205(f) of the Energy Reorganization Act of 1974 as amended, $4,448,000 shall be available exclusively for Nuclear Waste research activities, $330,000 in addition to the level of activity in fiscal year 1978 shall be available exclusively for the Alternate Fuel Cycle activities described in section 5 of this Act, and $18,833,000 shall be available exclusively for Advanced Reactor Research;

(6) For "Program Technical Support," not more than $13,480,000, of which amount $160,000 in addition to the level of activity in fiscal year 1978 shall be available to the Office of International Programs exclusively for the Alternate Fuel Cycle activities described in section 5 of this Act;

(7) For "Program Direction and Administration," not more than $27,950,000, of which amount $225,000 shall be available for equal employment opportunity activities, including support of four positions in the Office of Equal Employment Opportunity;

(b) No funds may be transferred from any major program category listed in subsection (a) to any other major program category

listed in such subsection if the total of the funds so transferred from that particular category would exceed $500,000, and no funds may be transferred to any major program category listed in subsection (a) if the total of the funds so transferred to that particular category would exceed $500,000, unless—

(1) a period of thirty calendar days has passed after the Commission has transmitted to the appropriate authorizing committees of the Congress a written report containing a full and complete statement concerning the nature of the transfer involved and the reason therefor; or

(2) each authorizing committee of the Congress referred to in paragraph (1), before the expiration of such period, has transmitted to the Commission written notice to the effect that such Committee has no objection to the proposed action. Such reallocation may be made notwithstanding the limitations of subsection (a), except that no reallocation pursuant to this subsection shall detract from sums specified in subsection (a) for particular activities under the major program categories. In no event, shall the total of sums reallocated pursuant to this subsection exceed $10,000,000 or 15 per centum of the program from which or to which the funds are transferred.

SEC. 2. (a) Subsection (b) of section 209 of the Energy Reorganization Act of 1974, as amended, is amended by adding at the end thereof the following sentence: "Notwithstanding the preceding sentence, each such director shall keep the Executive Director fully and currently informed concerning the content of all such direct communications with the Commission.".

(b) Section 209 of the Energy Reorganization Act of 1974, as amended, is amended by adding a new subsection (c) to read as follows and redesignating existing subsection (c) accordingly:

"(c) The Executive Director shall report to the Commission at semiannual public meetings on the problems, progress, and status of the Commission's equal employment opportunity efforts."

SEC. 3. (a) The Commission and the Environmental Protection Agency are authorized and directed to conduct a preliminary planning study and develop a design for an epidemiological research study of the health effects of low level ionizing radiation. In the conduct of such planning study, the Commission and the Environmental Protection Agency shall consult with appropriate scientific organizations and Federal and State agencies.

(b) Within thirty days after the date of enactment of this section, the Commission and the Environmental Protection Agency shall submit to the Congress a memorandum of understanding delineating their respective responsibilities in the conduct of the planning study authorized by subsection (a) of this section and allocating the sums authorized for this purpose by section 1(a)(2) of this Act. On or before April 1, 1979, such agencies shall submit a report to the Congress containing the results of such planning study. The report shall include an identification of the respective functions of the appropriate agencies and organizations to be involved in the implementation of the epidemiological research study as designed.

SEC. 4. The Commission is authorized and directed to undertake a comprehensive review of the existing process for selection and training of members of the Atomic Safety and Licensing Boards, including, but not limited to, the selection criteria, including qualifications, the selection procedures, and the training programs for Board members. The Commission shall report to the Congress on the findings of such review by January 1, 1979, and shall revise such selection and training process as appropriate, based on such findings.

SEC. 5. (a) There is hereby established within the personnel of the Commission a Fuel Cycle Evaluation task force which shall consist of representatives of appropriate Commission program offices and shall report directly to the Executive Director for Operations. Such task force shall monitor and assist the domestic international studies and evaluations of the various nuclear fuel cycle systems currently in progress.

(b) The Commission shall report to the Congress semiannually on the progress of domestic and international evaluations of nuclear fuel cycle systems including, but not limited to, a summary of the information developed by and available to the Commission on the health, safety, and safeguards implications of the leading fuel cycle technologies.

SEC. 6. (a) The Commission is authorized to provide grants to any State for the purpose of conducting an independent State review of any proposal to develop a long-term storage or disposal facility, including a test disposal facility, within such State for high-level radioactive wastes, non-high-level transuranium contaminated radioactive wastes, or irradiated nuclear reactor fuel.

(b) Any person, agency, or other entity proposing to develop a facility of a type described in subsection (a) of this section shall notify the Commission as early as possible after the commencement of planning for a particular proposed facility. The Commission shall in turn notify the Governor and the State legislature of the State of proposed situs whenever the Commission has knowledge of such proposal. At any time after such notification, such State may apply for a grant under this section.

(c) The Commission shall promulgate regulations to govern the issuance of grants under this section. Such regulations shall include provisions governing the amount of any such grants, taking into consideration the proposed level of State review and the continued development of the proposed facility. Any grant approved pursuant to this section shall not exceed the sum of $500,000, and any sums received by the State in excess of its actual costs shall be reimbursed to the Commission.

(d) Beginning in fiscal year 1979, there are authorized to be appropriated $500,000, to be available until expended, for the purpose of providing the assistance authorized by subsection (a) of this section.

SEC. 7. Title II of the Energy Reorganization Act of 1974, as amended, is amended by adding at the end thereof a new section to read as follows:

"EMPLOYEE PROTECTION

"SEC. 210. (a) No employer, including a Commission licensee, an applicant for a Commission licensee, an applicant for a Commission license, or a contractor or a subcontractor of a Commission licensee or applicant, may discharge any employee or otherwise discriminate against any employee with respect to his compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to a request of the employee)—

"(1) commenced, caused to be commenced, or is about to commence or cause to be commenced a proceeding under this Act or the Atomic Energy Act of 1954, as amended, or a proceeding for the administration or enforcement of any requirement imposed under this Act or the Atomic Energy Act of 1954, as amended;

"(2) testified or is about to testify in any such proceeding; or

"(3) assisted or participated or is about to assist or participate in any manner in such a proceeding or in any action to carry out the purposes of this Act or the Atomic Energy Act of 1954, as amended.

"(b)(1) Any employee who believes that he has been discharged or otherwise discriminated against by any person in violation of subsection (a) may, within thirty days after such violation occurs, file (or have any person file on his behalf) a complaint with the Secretary of Labor (hereinafter in this subsection referred to as the 'Secretary') alleging such discharge or discrimination. Upon receipt of such a complaint, the Secretary shall notify the person named in the complaint of the filing of the complaint and the Commission.

"(2)(A) Upon receipt of a complaint filed under paragraph (1), the Secretary shall conduct an investigation of the violation alleged in the complaint. Within thirty days of the receipt of such complaint, the Secretary shall complete such investigation and shall notify in writing the complainant (and any person acting in his behalf) and the person alleged to have committed such violation of the results of the investigation conducted pursuant to this subparagraph. Within ninety days of the receipt of such complaint the Secretary shall, unless the proceeding on the complaint is terminated by the Secretary on the basis of a settlement entered into by the Secretary and the person alleged to have committed such violation, issue an order either providing the relief prescribed by subparagraph (B) or denying the complaint. An order of the Secretary shall be made on the record after notice and opportunity for public hearing. The Secretary may not enter into a settlement terminating a proceeding on a complaint without the participation and consent of the complainant.

"(B) If, in response to a complaint filed under paragraph (1), the Secretary determines that a violation of subsection (a) has occurred, the Secretary shall order the person who committed such violation to (i) take affirmative action to abate the violation, and (ii) reinstate the complainant to his former position together with the compensation (including back pay), terms, conditions, and privileges of his employment, and the Secretary may order such person to provide compensatory damages to the complainant. If an order is issued under this paragraph, the Secretary, at the request of the complainant, shall assess against the person against whom the order is issued a sum equal to the aggregate amount of all costs and expenses (including attorneys' and expert witness fees) reasonably incurred, as determined by the Secretary, by the complainant for, or in connection with, the bringing of the complaint upon which the order was issued.

"(c)(1) Any person adversely affected or aggrieved by an order issued under subsection (b) may obtain review of the order in the United States court of appeals for the circuit in which the violation, with respect to which the order was issued, allegedly occurred. The petition for review must be filed within sixty days from the issuance of the Secretary's order. Review shall conform to chapter 7 of title 5 of the United States Code. The commencement of proceedings under this subparagraph shall not, unless ordered by the court, operate as a stay of the Secretary's order.

"(2) An order of the Secretary with respect to which review could have been obtained under paragraph (1) shall not be subject to judicial review in any criminal or other civil proceeding.

"(d) Whenever a person has failed to comply with an order issued under subsection (b)(2), the Secretary may file a civil action in the United States district court for the district in which the violation was found to occur to enforce such order. In actions brought under this subsection, the district courts shall have jurisdiction to grant all appropriate relief including, but not limited to, injunctive relief, compensatory, and exemplary damages.

"(e)(1) Any person on whose behalf an order was issued under paragraph (2) of subsection (b) may commence a civil action

against the person to whom such order was issued to require compliance with such order. The appropriate United States district court shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce such order.

"(2) The court, in issuing any final order under this subsection, may award costs of litigation (including reasonable attorney and expert witness fees) to any party whenever the court determines such award is appropriate.

"(f) Any nondiscretionary duty imposed by this section shall be enforceable in a mandamus proceeding brought under section 1361 of title 28 of the United States Code.

"(g) Subsection (a) shall not apply with respect to any employee who, acting without direction from his employer (or the employer's agent), deliberately causes a violation of any requirement of this Act or of the Atomic Energy Act of 1954, as amended.".

SEC. 8. The Commission shall report to the Congress on January 1, 1979, and annually thereafter on the use of contractors, consultants, and the National Laboratories by the Commission. Such report shall include, for each contract issued, in progress or completed during fiscal year 1978, information on the bidding procedure, nature of the work, amount and duration of the contract, progress of work, relation to previous contracts, and the relation between the amount of the contract and the amount actually spent.

COOPERATIVE RESEARCH FUNDING

SEC. 9. Moneys received by the Commission for the cooperative nuclear research programs may be retained and used for salaries and expenses associated with those programs, notwithstanding the provisions of section 3617 of the Revised Statutes (31 U.S.C. 484), and shall remain available until expended. Funds may be obligated for purposes stated in this section only to the extent provided in appropriation Acts.

TRANSFER OF FUNDS

SEC. 10. Transfers of sums from salaries and expenses may be made to other agencies of the Government for the performance of the work for which the appropriation is made, and in such cases the sums so transferred may be merged with the appropriations to which transferred.

APPROPRIATIONS

SEC. 11. Notwithstanding any other provision of this Act, no authority to make payments under this Act shall be effective except to such extent or in such amounts as are provided in advance in appropriation Acts.

SEC. 12. Section 11 e. of the Atomic Energy Act of 1954, as amended, is amended to read as follows:

"e. The term 'byproduct material' means (1) any radioactive material (except special nuclear material) yielded in or made radioactive by exposure to the radiation incident to the process of producing or utilizing special nuclear material, and (2) any radioactive material resulting from the processing of ores primarily for the extraction of source material.".

SEC. 13. Section 81 of the Atomic Energy Act of 1954, as amended, is amended by adding a new sentence at the end thereof as follows: "No license shall be required by the Commission for the transfer, receipt, acquisition, ownership, or possession of byproduct material as defined by section 11 e. (2) of this Act until three years from the date of enactment of this sentence.".

SEC. 14. Section 161 g. of the Atomic Energy Act of 1954, as amended, is amended by adding at the end thereof the following:

"The Department of Energy may accept donations of reclaimed land used for the disposal of byproduct material as defined in section 11 e. (2) of this Act. Land donated under this section shall not be subject to the provisions of title III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, nor to disposal under the Federal Property and Administrative Services Act of 1949, as amended. The President shall assign custody of such land to any agency authorized by law to manage land title to which is held by the United States.".

SEC. 15. Section 161 of the Atomic Energy Act of 1954, as amended, is further amended by adding at the end thereof a new subsection x. as follows:

"x. establish by rule, regulation, or order, in accordance with the requirements of section 181 of this Act, such standards and instructions as the Commission may deem necessary or desirable to ensure that funds will be made available by a licensee to permit the timely completion of all requirements established by the Commission for the decommissioning, decontamination, and reclamation and long-term maintenance and monitoring where necessary of sites, structures, and equipment used in connection with the generation or disposal of byproduct material and defined in section 11 e. (2) of this Act.".

SEC. 16. Section 274 b. of the Atomic Energy Act of 1954, as amended, is amended by adding "as defined in section 11 e. (1) of this Act" after the words "byproduct materials" in paragraph (1); by adding a new paragraph (2) to read as follows:

"(2) byproduct materials as defined in section 11 e. (2) of this Act.";

and by renumbering existing paragraphs (2) and (3) accordingly.

SEC. 17. Section 274 d. (2) of the Atomic Energy Act of 1954, as amended, is amended to read as follows:

"(2) the Commission finds that the State program is in accord with subsection o. of this section and is in all other respects compatible with the Commission's program for the regulation of the materials covered by the proposed agreement, and that the State program is adequate to protect the public health and safety with respect to such materials.".

SEC. 18. Section 274 e. of the Atomic Energy Act of 1954, as amended, is amended by adding a new paragraph (3) to read as follows:

"(3) Prior to the expiration of three years from the date of enactment of this paragraph, nothing in this Act shall preclude the exercise of State authority over byproduct material as defined by section 11 e. (2) of this Act. Except as otherwise permitted by Federal law, on or after three years from such date, a State may exercise authority for protection of the public health and safety from radiation hazards associated with such byproduct material only pursuant to an agreement or an amendment thereto entered into with the Commission in accordance with subsection b. of this section. Amendments to existing agreements to provide for the continuation of State authority over such byproduct material shall be subject to paragraphs (1) and (2) of this subsection and to subsection d. of this section.".

SEC. 19. Section 274 j. of the Atomic Energy Act of 1954, as amended, is amended by inserting after the words "with the State" the following: ", or that part of an agreement respecting any of the materials enumerated in subsection b. of this section,".

SEC. 20. Section 274 of the Atomic Energy Act of 1954, as amended, is further amended by adding at the end thereof the following new subsection:

"o. In the licensing and regulation of byproduct material as defined by section 11 e. (2) of this Act pursuant to an agreement entered into an accordance with subsection b. of this section, a State shall adopt and enforce substantive standards for the protection of the public health and safety from radiation hazards which are equivalent to, or more stringent than, standards adopted and enforced by the Commission for the same purpose, including requirements, standards, and criteria promulgated by the Commission and the Administrator of the Environmental Protection Agency pursuant to sections 84, 85, and 275 of this Act.".

SEC. 21. Chapter 8 of the Atomic Energy Act of 1954, as amended, is amended by adding a new section 83 to read as follows:

"SEC. 83. REMEDIAL ACTION, EXEMPTION, AND ENFORCEMENT.—

"a. Persons otherwise subject to the requirement of a license by section 81 of this Act shall be exempt from such requirement with respect to the ownership and possession of byproduct material as defined in section 11 e. (2) of this Act which is covered by a remedial action program conducted or approved by the Department of Energy.

"b. The Commission may require, by rule, regulation, or order, the Department of Energy or persons exempted by subsection a. of this section or section 81 of this Act from the requirement of a license for the ownership or possession of byproduct material as defined in section 11 e. (2) of this Act to conduct monitoring, perform remedial work or comply with such other measures as the Commission deems necessary or desirable to protect health or minimize danger to life or property in connection with the disposal and storage of such byproduct material: *Provided, however,* That after completion of a remedial action program for such material conducted or approved by the Department of Energy, any requirement involving significant physical modification of such a program shall be subject to concurrence by the Secretary of Energy: *And provided further,* That should said Secretary fail to concur, he shall provide notification thereof to the President in writing and if the President determines that compliance with such requirement is necessary to adequately protect health or minimize danger to life or property, such requirement shall take effect.

"c. The Commission may make such studies and conduct such inspections as it may deem necessary or desirable to ensure compliance with rules, regulations, and orders issued pursuant to subsection b. of this section. Persons violating any such rule, regulation, or order, and persons refusing to permit inspections conducted pursuant to this subsection, shall be subject to a civil penalty in an amount equal to that provided by section 234 a. of this Act. Notification and enforcement of such penalty shall be in accordance with sections 234 b. and c. of this Act.".

SEC. 22. (a) Chapter 8 of the Atomic Energy Act of 1954, as amended, is amended by adding at the end thereof a new section 84 to read as follows:

"SEC. 84. AUTHORITIES OF COMMISSION RESPECTING CERTAIN BYPRODUCT MATERIAL.—The Commission shall ensure that the management of any byproduct material as defined in section 11 e. (2) of this Act is carried out in such a manner as—

"(1) the Commission deems appropriate to protect the public health, safety, and environment from radiological and nonradiological hazards associated with the processing and with the possession and transfer of such material;

"(2) conforms with the applicable standards and criteria promulgated by the Administrator of the Environmental Protection Agency under section 275 of this Act; and

"(3) conforms to general requirements, established by the Commission, with the concurrence of the Administrator of the Environmental Protection Agency, which are at least comparable to requirements applicable to the possession, transfer, and disposal of similar hazardous material under the Solid Waste Disposal Act, as amended.".

(b) The table of contents for such chapter 8 is amended by inserting the following new item after the item relating to section 83:

"Sec. 84. Authorities of Commission respecting certain byproduct material.".

SEC. 23. (a) Chapter 19 of the Atomic Energy Act of 1954, as amended, is amended by inserting after section 274 the following new section:

"SEC. 275. HEALTH AND ENVIRONMENTAL STANDARDS FOR URANIUM MILL TAILINGS.—

"a. As soon as is practicable, but not later than eighteen months after the date of enactment of this section, the Administrator of the Environmental Protection Agency (hereinafter in this section referred to as the 'Administrator') shall, by rule, promulgate standards and criteria of general application for the protection of the public health, safety, and the environment from radiological and nonradiological hazards associated with the processing and with the possession and transfer of byproduct material, as defined in section 11 e. (2) of this Act at sites where ores are processed primarily for their source material content, or at sites which are used for the disposal of such byproduct material.

"b. Such generally applicable standards and criteria promulgated pursuant to this section for nonradiological hazards shall provide for the protection of human health and the environment as required by subtitle G of the Solid Waste Disposal Act, as amended: *Provided, however*, That no permit issued by the Administrator is required under this Act or the Solid Waste Disposal Act, as amended, for the processing, possession, transfer, or disposal of byproduct material, as defined in section 11 e. (2) of this Act.

"c. The Administrator may periodically revise any standard or criterion promulgated pursuant to subsection a. of this section. Any such revision shall be applied upon license renewal to persons holding on the date of promulgation of such revision a license for byproduct material as defined in section 11 e. (2) of this Act issued by the Commission or by a State exercising authority pursuant to section 274 b. (2) of this Act: *Provided, however*, That in no event shall such a revision be applied later than five years from the date of promulgation thereof.

"d. Implementation and enforcement of the standards and criteria promulgated pursuant to subsection a. of this section shall be the responsibility of the Commission in the conduct of its licensing activities under this Act. States exercising authority pursuant to section 274 b. (2) of this Act shall implement and enforce such standards and criteria in accordance with subsection o. of such section.

"e. Nothing in this Act applicable to byproduct material as defined in section 11 e. (2) of this Act shall affect the authority of the Administrator under the Clean Air Act of 1970, as amended, or the Federal Water Pollution Control Act, as amended.".

(b) The table of contents for chapter 19 of the Atomic Energy Act of 1954, as amended, is amended by inserting the following new item after the item relating to section 274:

"Sec. 275. Health and environmental standards for uranium mill tailings."

SEC. 24. Chapter 8 of the Atomic Energy Act of 1954, as amended, is amended by adding a new section 85 to read as follows:

"SEC. 85. The Commission may require by rule, regulation, or order, in accordance with the requirements of section 181 of this Act, that byproduct material as defined by section 11 e. (2) of this Act be disposed of on land to which title has been transferred to the State or the United States at the time of termination of any license for the generation or possession of such material upon finding that such action is necessary or desirable to protect health or minimize danger to life or property in connection with the disposal of such byproduct material. Any such rule, regulation, or order shall specify standards for the transfer of title to such land to the State or the United States, including: (1) standards to assure the completion prior to the transfer of title, of all requirements established by the Commission for the decommissioning, decontamination, and reclamation of sites, structures, and equipment on the land which are used in connection with the generation or disposal of byproduct material as defined in section 11 a (2) of this Act; (2) standards to minimize the need for future remedial work; (3) standards to minimize the cost, including the cost to the State or the United States, for any long-term care; and (4) standards to permit the reservation of rights by the transferor to the future reprocessing of byproduct material, as defined in section 11 e. (2) of this Act, and to the future use of the surface or subsurface estate, consistent with any standards or requirements promulgated by the Commission which are applicable to the generation, possession of transfer of byproduct material, as defined in section 11 e. (2) of this Act. This section shall not be construed as authorizing or requiring the transfer of title to Indian land."

SEC. 25. (a) The Commission, in cooperation with the Department of Energy, is authorized and directed to conduct a study of extending the Commission's licensing or regulatory authority to include categories of existing and future Federal radioactive waste storage and disposal activities not presently subject to such authority.

(b) Each Federal agency, subject to the provisions of existing law, shall cooperate with the Commission in the conduct of the study. Such cooperation shall include providing any necessary access to existing facilities and sites and providing any information needed to conduct the study which the agency may have or be reasonably able to acquire.

(c) On or before March 1, 1979, the Commission shall submit a report to the Congress containing the results of the study. The report shall include—

(1) a complete listing and inventory of all radioactive waste storage and disposal activities now being conducted or planned by Federal agencies;

(2) an assessment of the benefits of extending the Commission's licensing or regulatory authority to include categories of existing and future Federal radioactive waste storage and disposal activities not presently subject to such authority;

(3) an evaluation of the relative potential risk to the public health and safety and the environment from such categories of existing and future Federal radioactive waste storage and disposal activities;

(4) an evaluation of the feasibility and cost of extending the Commission's licensing or regulatory authority to include such categories of existing and future Federal radioactive waste storage and disposal activities, including the technical and other data requirements for licensing or regulation and the likely characteristics of the Commission's licensing or regulatory program;

(5) an evaluation of the national security implications of extending the Commission's licensing or regulatory authority to include such categories of existing and future Federal radioactive waste storage and disposal activities; and

(6) the Commission's recommendations concerning the categories of existing and future Federal radioactive waste storage and disposal activities, if any, which should be made subject to the Commission's licensing or regulatory authority and the type of authority which the Commission should be granted.

MOTION OFFERED BY MR. UDALL

Mr. UDALL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. UDALL moves to strike out all after the enacting clause of S. 2584 and insert in lieu thereof the text of H.R. 12355, as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title was amended so as to read: "A bill to authorize appropriations to the Nuclear Regulatory Commission in accordance with section 261 of the Atomic Engery Act of 1954, as amended, and section 305 of the Energy Reorganization Act of 1974, as amended, and for other purposes."

A motion to reconsider was laid on the table.

A similar House bill (H.R. 12355) was laid on the table.

PUEBLO INDIANS OF SANTA ANA

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill H.R. 3924, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wyoming (Mr. RONCALIO) that the House suspend the rules and pass the bill, H.R. 3924, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

Mr. UDALL. Mr. Speaker, I ask unanimous consent for the immediate consideration of the Senate bill (S. 2588) to declare that the United States holds in trust for the Pueblo of Santa Ana certain public domain lands, a bill similar to H.R. 3924.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2588

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all right, title, and interest of the United States in the following lands situated within Sandoval County in the State of New Mexico are hereby declared to be held by the United States in trust for the benefit and use of the Pueblo of Santa Ana:

NEW MEXICO PRINCIPAL MERIDAN

Township 13 North, Range 3 East

Section 1:
Lots 1, 8, 9, 10, South half north half, South half,
Section 3:
Lots 9, 10, 11, 12,
South half north half.
South half,
Section 4:
Lots 9, 10, 11, 12,
South half north half,
South half,
Section 5: All of that portion lying east of the west boundary of the right-of-way of New Mexico Highway 44,
Section 9:
East half west half,

East half,
Section 10: All,
Section 11: All,
Section 12: All,
Section 13: All,
Section 14: All,

Section 15: North half northwest quarter, southeast quarter northwest quarter, northeast quarter southwest quarter northwest quarter, north half northwest quarter southwest quarter northwest quarter, southeast quarter northwest quarter southwest quarter northwest quarter, north half northwest quarter southeast quarter southwest quarter northwest quarter, northeast quarter southeast quarter southwest quarter northwest quarter, northeast quarter, north half northeast quarter northwest quarter northeast quarter southwest quarter, north half northeast quarter northeast quarter southwest quarter, north half southwest quarter northeast quarter southwest quarter, southeast quarter northeast quarter northeast quarter southwest quarter, northeast quarter southeast quarter, north half northwest quarter southeast quarter, southeast quarter northwest quarter southeast quarter, northeast quarter southwest quarter northwest quarter northwest quarter southeast quarter, north half northwest quarter southwest quarter, southeast quarter northwest quarter northwest quarter northwest quarter south east quarter, north half southeast quarter southwest quarter northwest quarter southeast quarter, northeast quarter northeast quarter southwest quarter southeast quarter, northeast quarter southeast quarter southeast quarter, north half northwest quarter southeast quarter southeast quarter, southeast quarter northwest quarter southeast quarter southeast quarter, north half southwest quarter northwest quarter southeast quarter southeast quarter, north half northeast quarter southwest quarter southeast quarter southeast quarter, north half southeast quarter southeast quarter southeast quarter, north half southeast quarter southeast quarter southwest quarter: excluding existing rights-of-way.

Section 23: Northeast quarter northwest quarter northwest quarter, northeast quarter northwest quarter northwest quarter northwest quarter, north half northwest quarter northwest quarter northwest quarter northwest quarter, north half northeast quarter southeast quarter northwest quarter northwest quarter, north half northeast quarter northwest quarter, southeast quarter northeast quarter northwest quarter, north half southwest quarter northeast quarter northwest quarter, southeast quarter southwest quarter northeast quarter northwest quarter, northeast quarter northeast quarter southeast quarter northwest quarter, north half northeast quarter northeast quarter northwest quarter, southeast quarter northeast quarter northwest quarter, north half southeast quarter northeast quarter northwest quarter, southeast quarter southeast quarter northwest quarter, north half northwest quarter southwest quarter northeast quarter, southeast quarter southeast quarter southwest quarter northeast quarter, north half southwest quarter southeast quarter southwest quarter northeast quarter, north half northeast quarter southwest quarter southwest quarter northeast quarter, northeast quarter northeast quarter southeast quarter, northeast quarter northwest quarter northeast quarter southeast quarter, north half northwest quarter northwest quarter northeast quarter southeast quarter, north half southeast quarter northwest quarter northeast quarter southeast quarter, north half northeast quarter southeast quarter northeast quarter southeast quarter; excluding Rec. PP CL 10/10/16 and existing rights-of-way,

Section 24: North half, southeast quarter, northeast quarter southwest quarter, north half northwest quarter southwest quarter, southeast quarter northwest quarter southwest quarter northwest quarter, north half southwest quarter northwest quarter northwest quarter southwest quarter northwest quarter northwest quarter southeast quarter northwest quarter northwest quarter southwest quarter northwest quarter northeast quarter southwest quarter northwest quarter southwest quarter, north half northeast quarter southwest quarter northwest quarter southwest quarter, north half southeast quarter southwest quarter northwest quarter southwest quarter, southeast quarter southeast quarter northwest quarter southwest quarter northeast quarter, southeast quarter southwest quarter, excluding existing rights-of-way,

Section 25: North half northeast quarter northeast quarter northeast quarter northwest quarter, northeast quarter northeast quarter, northeast quarter northwest quarter northeast quarter, north half northwest quarter northwest quarter northeast quarter, northeast quarter northwest quarter northwest quarter northeast quarter, north half southwest quarter northwest quarter northwest quarter northeast quarter, north half northeast quarter southwest quarter northwest quarter northeast quarter, north half southwest quarter northwest quarter northeast quarter, southeast quarter southeast quarter northwest quarter northeast quarter,

Township 13 North, Range 4 East
Section 3:
Lots 4, 5, 6,
West half northeast quarter,
Northwest quarter,
Section 4: All; including bed of Jemez River,
Section 5:
Lots 1, 2, 3, 4, 5
Northwest quarter northwest quarter,
South half northwest quarter,
South half,
and bed of Jemez River,
Section 6:
Lots 1, 2, 3, 4,
East half west half,
East half,
and bed of Jemez River,
Section 7: All,
Section 8:
Lots 3, 4, 5,
North half,
Southwest quarter,
Southwest quarter,
Northwest quarter southeast quarter,
Section 9:
Lots 5, 6, 7, 8, and bed of Jemez River lying north of the
North boundary of the Angostura Grant,
Section 17:
Lots 10, 11, 12, 13,
Northwest quarter,
Section 18:
Lots 2, 3,
East half northwest quarter,
Northeast quarter,
Township 14 North Range 3 East
Section 6: Bed of the Jemez River,
Township 14 North, Range 4 East
Section 17: All,
Section 18: East half east half,
Section 19: East half east half,
Section 20: All,
Section 21: West half,
Section 27: Southwest quarter southwest quarter,
Section 28:
Northwest quarter,
South half,
Section 29: All,
Section 30: East half east half,
Section 31:
East half northeast quarter,
Southwest quarter northeast quarter,
Northwest quarter northwest quarter,
South half northwest quarter,
South half, and bed of Jemez River,
Section 33: All,
Section 34:
South half northeast quarter,
Northwest quarter,
South half,
Section 35:
Lot 9,
West half southwest quarter,
Containing 16,249.98 acres more or less.

(b)(1) The lands described in paragraph (2) of this subsection consisting of approximately 2,240.14 acres shall continue to be subject to Public Land Order 873, entitled "An Order Withdrawing Public Lands for Use of the Department of the Army in Connection with the Jemez Canyon Dam and Reservoir Project", issued by the Secretary of the Interior on November 14, 1952, until such lands, or any portion thereof, are determined by the Secretary of the Army to be no longer needed for the purpose for which the lands were reserved under such order. The Secretary of the Army shall publish notice of any such determination in the Federal Register.

(2) The lands described in subsection (a) of this section which are subject to Public Land Order 873 are the following lands:

NEW MEXICO PRINCIPAL MERIDIAN

Township 13 North, Range 3 East
Section 1:
Lots 1, 8, 9, 10,
South half northeast quarter,
Southeast quarter northwest quarter,
Northeast quarter southwest quarter,
Section 5:
Lots 1, 2, 3, 4,
Northwest quarter northwest quarter,
Lots 1, 2, 3, Northeast quarter, East half northwest quarter, Northeast
South half northwest quarter,
Southwest quarter,
West half southeast quarter,
Lot 5, that part lying north of the east-west quarter section line,
Section 6:
Lots 1, 2, 3,
Northeast quarter,
East half northwest quarter,
Northeast quarter southwest quarter,
North half southeast quarter,
Southeast quarter southeast quarter,
Section 8:
Lots 3, 4, 5,
West half northeast quarter,
Northwest quarter,
North half southwest quarter,
Northwest quarter southeast quarter,
Section 17:
Lots 10 and 11,
Lot 12, that part lying east of the north-south quarter section line,
Township 14 North, Range 4 East
Section 31:
Southwest quarter northeast quarter,
Northwest quarter northwest quarter,
South half northwest quarter,
South half.

SEC. 2. The Secretary of the Interior shall publish in the Federal Register the boundaries and descriptions of the lands declared to be held in trust by this Act.

SEC. 3. All of the right, title, and interest of the United States in all minerals, including gas and oil, underlying the lands hereby declared to be held in trust for the Pueblo of Santa Ana, are hereby declared to be held by the United States in trust for the benefit and use of the Pueblo of Santa Ana.

SEC. 4. (a) Nothing in this Act shall deprive any person of any valid existing right of use, possession, contract, right, interest, or title which that person may have in any of the trust lands within the purview of this Act, or of any existing right of access to public domain lands over and across such trust lands, as determined by the Secretary of the Interior. All existing mineral leases involving lands declared to be held in trust by this Act, including oil and gas leases, which may have been issued or approved pursuant to Federal law, prior to enactment of this Act, shall remain in force and effect in accordance with the provisions thereof. Notwithstanding any other provisions of law, all

applications for mineral leases involving such lands, including oil and gas leases, pending on the date of enactment of this Act shall be rejected and the advance rental payments returned to the applicants.

(b) Those persons holding grazing permits from the United States Bureau of Land Management in the grazing unit known as the Bernalillo Community Allotment (Number 551), Sandoval County, New Mexico as of the date of enactment of this Act are hereby granted the right to continue those grazing rights, subject to all otherwise applicable terms, conditions, rules and regulations of the Bureau of Land Management governing such grazing rights, for a period of not to exceed ten years. Such grazing rights shall be administered by the Bureau of Land Management in accordance with applicable rules and regulations governing such rights on the federal public domain, and may be canceled by the Bureau of Land Management in accordance with its regulations for failure to meet the terms and conditions of the existing permits, or failure to abide by applicable rules and regulations. Grazing fees shall be payable by the permittees to the Bureau of Land Management at prevailing rates, which fees shall be remitted by said Bureau to the Pueblo of Santa Ana within 30 days of receipt. Such grazing rights shall be nontransferable, except that they may be relinquished at any time to the Pueblo of Santa Ana. In the event of cancellation or relinquishment of said grazing rights as provided above, such rights shall not be renewed, nor shall any new permits be issued: *Provided, however,* That no grazing fees shall be payable by the said existing permittees for the first five years following enactment of this Act.

(c) Subject to subsections (a) and (b) of this section, any property held in trust under this Act for the Pueblo of Santa Ana shall be administered in accordance with the laws and regulations applicable to other property held in trust by the United States for the Indian tribe of such pueblo.

SEC. 5. (a) Any and all gross receipts derived from, or which relate to, the property declared to be held in trust by this Act which were received by the United States subsequent to the acquisition by the United States of such property and prior to the date of the enactment of this Act (including State school lands referred to in section 7), from whatever source and for whatever purpose, shall, as of the date of enactment of this Act, be deposited to the credit of the Pueblo of Santa Ana and may be expended by such tribe for such beneficial programs as the tribal governing body may determine.

(b) All gross receipts (including, but not limited to, bonuses, rents, and royalties) hereafter derived by the United States from any contract, permit, or lease referred to in section 4(a) of this Act, shall be administered in accordance with the laws and regulations applicable to receipts from property held in trust by the United States for Indian tribes.

SEC. 6. All property declared be held in trust for the benefit and use of the Pueblo of Santa Ana pursuant to this Act, and all the receipts therefrom referred to in section 5 of this Act, shall be exempt from Federal, State, and local taxation so long as such property is held in trust by the United States. Any distribution of such receipts to tribal members shall neither be considered as income or resources of such members for purposes of any such taxation nor as income or resources or otherwise utilized as the basis for denying or reducing the financial assistance or other benefits to which such member or his household would otherwise be entitled to under the Social Security Act or any other Federal or federally assisted program.

SEC. 7. (a) For the purpose of improving the land tenure pattern and consolidating Santa Ana Pueblo lands, the Secretary of the Interior is authorized and directed to acquire, by purchase, or exchange, under such regulations as he may prescribe, all State school lands in township 13 north, range 3 east, sections 2 and 16; township 14 north, range 3 east, section 36; and township 14 north, range 4 east, section 32, State of New Mexico, containing 2004.05 acres, more or less; and interests therein, including improvements, mineral rights, and water rights. In exercising his authority to acquire such lands by exchange, the Secretary is authorized to utilize unappropriated public lands in the State of New Mexico. The properties so exchanged shall be of approximately equal value, and the Secretary may accept cash from or pay cash to the State of New Mexico in such an exchange in order to equalize the values of the properties exchanged.

(b) The Secretary may execute any title documents necessary to effect the exchanges authorized by this section.

(c) Title to all lands acquired under the provisions of this section shall be taken in the name of the United States in trust for Santa Ana Pueblo.

SEC. 8. (a) Notwithstanding any other provision of this Act, during the three years following enactment of this Act, the Secretary may, after giving the tribe 30 days written notice and after consulting with the tribe, enter on the lands described in the first section of this Act to identify, investigate, examine, and remove any paleontological resources from such lands: *Provided,* That no explorations, surveys or excavations shall be authorized within a 200-yard radius of the following shrines or religious sites:

(1) Santiyaku 'Ke Kura (Santiago's Corral);
(2) Santiyaku Ka'me (Santiago's Home);
(3) Santiyaki 'Kaisru (Santiago's Field);
(4) 'Tsitsi Sruwii (Water Snake Head);
(5) Tuyuuna (Snake Head Shrine—Canjilon Hill);
(6) Shayeka Kauwatsesruma (Hunter Shrine);
(7) 'Kuyau 'Kapesru (Old Lady Sits Shrine);
(8) Huchanlitse (White House Shrine);
(9) Dya'dyu Tsinautani (Bobcat Point);
(10) 'Kasreri 'Kumiyeisruma (Clown Point);
(11) Chapiyu 'Ka'kuyanisru (Chapiyu's Trail);
(12) Shawiti'tsuyu (Parrot Point);
(13) Hane 'Kai (Sacred Clown Society Shrine); and
(14) Yusrkuma (Corn Cob Shrine).

Such resources so removed are the property of the United States and shall be administered under laws applicable to federally owned resources. Paleontological resources on such lands that are not removed from the lands pursuant to this section shall be managed in a manner that will permit the greatest possible public benefit, use and study of the resources, consistent with tribal law and practices.

(b) Any lands excavated pursuant to this section shall be reclaimed and restored to its original condition by the Secretary, as near as he determines may be practicable.

MOTION OFFERED BY MR. UDALL

Mr. UDALL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. UDALL moves to strike all after the enacting clause of S. 2588 and insert in lieu thereof the provisions of H.R. 3924, as passed, by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 3924) was laid on the table.

DEPARTMENT OF DEFENSE APPROPRIATION AUTHORIZATION ACT, 1979

Mr. PRICE. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 14042) to authorize appropriations for fiscal year 1979 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons and for research, development, test, and evaluation for the Armed Forces, to prescribe the authorized personnel strength for each active duty component and the Selected Reserve of each Reserve component of the Armed Forces and for civilian personnel of the Department of Defense, to authorize the military training student loads, to authorize appropriations for civil defense, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois (Mr. PRICE).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 14042, with Mr. ROSTENKOWSKI in the chair.

The Clerk read the title of the bill.

The SPEAKER pro tempore. When the Committee of the Whole rose on Friday, September 29, 1978, titles II through VIII had been considered as having been read and open to amendment.

Are there any further amendments to titles II through VIII?

Mr. ANDERSON of California. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to enter into a colloquy with the chairman of the Committee on Armed Services, the gentleman from Illinois (Mr. PRICE).

Mr. Chairman, as you know, it has been my intention to offer an amendment to this legislation requiring the Navy to conduct a study on several matters related to the problem of occupational exposure to asbestos by their civilian and military employees.

The need for the Government to move rapidly on the asbestos problem is great. A study just completed by the Natioinal Cancer Institute and the National Institute of Environmental Health Sciences, indicates that 17 percent of all cancer deaths in the United States each year will be associated with previous exposure to asbestos, and that 5 million workers continue to breathe significant amounts of asbestos fibers each day. The Defense Departmnt employs a significant numbr of workers who are exposed to asbestos, particularly in their naval shipyards.

Does the chairman agree with me that this represents a serious problem, and one that needs to be addressed?

Mr. PRICE. I certainly do. It is a serious problem. The Armed Services Committee appreciates the efforts of the gentleman from California, and Mr. EMERY, of Maine, and also Congressmen HANNAFORD and PATTERSON in calling attention to the problem. You have made an important contribution. Our committee is looking into the matter. The Navy has studies underway and we intend to follow developments closely and try to ascertain those same things that the Anderson amendment is designed to uncover. I will be glad to share with the gentleman the reports we receive from the Navy or other military services in the course of our review.

I might also point out, that it is our understanding that a naval directive insists that their worksites meet the asbestos standard that OSHA requires of the private sector.

Mr. ANDERSON of California. The chairman is correct on that point. And this is part of the problem. The Occupational Safety and Health Administration, and the National Institute for Occupational Safety and Health, have both recommended the establishment of more stringent standards. I have also endorsed stricter standards, and have maintained that the Federal Government should set the example for the private sector in establishing these healthier requirements. It pleased me to see, then, that the first recommendations report issued by the Interagency Task Force on Workplace Safety and Health said that where safety is concerned, Federal agency worksites should serve as models for private sector efforts. Stricter naval standards on asbestos would be right in line with this recommendation.

Mr. PRICE. I believe you will find that the Navy's present standards at least meet the minimum requirements set by OSHA.

The Navy itself is further studying their procedures, past and present, related to the handling of asbestos. The Navy has had one study in progress since 1976. It is examining over 9,000 individuals.

Mr. ANDERSON of California. I appreciate that fact, Mr. Chairman. It is one of the reasons I will not offer this amendment. I hope the Navy sees, and that in its investigation the committee will recognize, that it is not just the worker exposed to asbestos who is liable to become sick. We need a program that will assure the health and well-being of other workers located in the area where asbestos is being handled. The possibility of periodically monitoring these "peripheral" employees' health, should also be examined.

Mr. Chairman, presently, it is naval policy to use substitute materials for asbestos where they are available and appropriate. It is very important to me, and was central to this amendment, that we learn whether the price of the substitute may make, in the eyes of the Navy, such materials inappropriate. At what point does the cost become prohibitive?

Mr. PRICE. It does seem to me that this is a matter which the Navy must address and that the final decision may have to be made by the Congress. The committee will work to have the Navy and the GAO clarify this question in conducting their studies.

Mr. ANDERSON of California. I thank the chairman. Another set of employees we must not lose sight of, are those individuals in uniform who are serving in their country's defense aboard ships containing asbestos. They are being affected by the final matter my amendment would have addressed. Currently, the Navy does not remove asbestos from ships during their regularly scheduled overhaul, unless it is clearly in unserviceable condition. It seems to me that asbestos that is intact and safe when the ship leaves the shipyard, can become damaged, and thus a health hazard, during the course of normal operation. Wouldn't it be prudent to replace the material before a hazard-level is reached jeopardizing the health of our military? Asbestosis has been diagnosed among individuals who were exposed for only one day. Delaying total asbestos removal could contribute greatly, then, to the incidence of asbestos-related diseases we will be seeing in 20 years.

Doubtless, this could be achieved only at a great, though as yet undetermined cost. I wonder what that cost would be, and how this cost would compare with the $318 million in claims and litigation currently being faced by the Navy in compensation claims. Of course, these economic concerns are quite apart from the human suffering in sickness and death, that can be caused by exposure to asbestos.

Mr. PRICE. The gentleman from California raises important points which must be examined. Our committee has never lost sight of the welfare of the men and women in the Armed Forces. The Navy, of course, has a responsibility to consider the comparative cost of various actions it might take and also to consider the effects on operational readiness if ships' overhaul periods have to be extended. I think it is important to get the results of adequate studies before determining how to proceed. As the gentleman points out, it is possible that 1 day of exposure could result in asbestosis. We want to be sure we have confirmed adequate safety procedures so that removal of asbestos does not create those hazards we are trying to avoid.

I would caution those concerned also that $300 million in claims does not necessarily mean $300 million in liability for the Government. Before the taxpayers are saddled with such a cost, let us be very sure what the Government's liability is.

Certainly our committee will try to get to the bottom of these issues. I say again that the gentleman has performed a valuable service in raising these questions.

Mr. ANDERSON of California. I thank the chairman, and look forward to working with him in seeing that answers are provided to the questions we have brought up today. If they had been asked years ago, countless lives would have been saved. Their answers in the months ahead will form the core of the cohesive asbestos policy so badly needed by the Navy and the Nation.

Mr. TRIBLE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, at this time I would like to engage the chairman of the Committee on Armed Services, the gentleman from Illinois (Mr. PRICE), in a colloquy.

Mr. Chairman, there has been much discussion about the intent and consequences of section 811 of the Defense Appropriation Authorization Act.

I would ask my chairman to address this matter for a minute, if he would.

Mr. PRICE. Mr. Chairman, if the gentleman will yield, is the gentleman referring to the SLEP program?

Mr. TRIBLE. I am.

Mr. PRICE. Mr. Chairman, if the gentleman is referring to the SLEP program, the House Armed Services Committee recognizes the importance of maintaining a viable shipbuilding capability in this country at both public and private shipyards.

As the gentleman is aware, the General Accounting Office has recently completed a report which discusses cost estimates of the service life extension program (SLEP) on four of the Navy's older aircraft carriers. The report recommends that the decision to place the work in a public or private yard be validated again by the Navy.

H.R. 14042 requires that the Secretary of the Navy conduct a least cost study comparing the costs of the SLEP at a public or private yard. The study will also consider other factors in making recommendations for assignment of the SLEP to a shipyard.

A written report on the study will be reviewed by the House Armed Services Committee. The committee will consider cost as well as other factors in its consideration of approval for work to commence on the SLEP at either a public or private shipyard.

Mr. TRIBLE. Mr. Chairman, as the author of section 811, I agree with the gentleman from Illinois that the Navy should include all relevant factors in making its least-cost study. It was for this reason that I carefully drafted the original language of section 811 to reflect by intention that the Navy should compute the costs of factors such as recruiting and training new employees to overhaul the *Saratoga* at Philadelphia, the erosion of the shipbuilding base at Newsport News and the other shipyards which would lose ships to Philadelphia, and all other relevant factors.

It was for this and other reasons that I wrote Secretary of the Navy Claytor on June 27 of this year to bring to his attention serious deficiencies which existed in the original Navy cost comparison. In my letter, I went into great detail to explain to the Secretary what factors I expected the Navy to consider in its cost comparison and what information I expected the Navy to furnish as part of its report.

Subsequently, on July 19, 1978, 27 members of the House Armed Services Committee wrote a similar letter to the Secretary in which they criticized the original Navy study and concluded:

We trust that the Navy will promptly undertake a more indepth slep study and supply the detailed information requested by Congressman Trible so that the Navy can proceed with the important service life extension program.

Mr. Chairman, I include this Armed Services Committee letter of July 19, 1978, and my original letter to the Secretary of June 27, 1978, in the RECORD as a clear expression of the intention of the majority of the members of the House Armed Services Committee on what the Navy should consider in its least-cost study, including which items should be included as "other factors."

Mr. Chairman, the letters are as follows:

HOUSE OF REPRESENTATIVES,
Washington, D.C., June 27, 1978.

Hon. W. GRAHAM CLAYTOR,
Secretary of the Navy, Department of the Navy, Washington, D.C.

DEAR MR. SECRETARY: I have reviewed your letter of June 7, 1978, to Chairman Price and the Navy's cost comparison study of the proposed aircraft carrier Service Life Extension Program (SLEP). The study is incomplete, misleading, and advances conclusions for which there is no documentation. I am shocked that the Navy would propose to satisfy the clear mandate of the House of Representatives with such a sloppy and self-serving study.

To insure the facts and circumstances of the Navy's recommendation on the Saratoga are made available to the Congress, I request that you respond to the following points.

The cost figures submitted for the "basic shipbuilder conversion including contract modification allowances" stand alone and the study fails to show how these cost figures were derived. Please submit detailed information documenting the basic ship conversion costs advanced by the Navy's study, including but not limited to, the methodology, definitions, assumptions, and calculations employed in determining the work package, manday estimates, adjusted and unadjusted labor and overhead costs, investment costs in idle facilities and equipment, corporate tax loss, design and engineering costs, average hourly wage rates, profits, inflation, escalation, depreciation, start-up and training costs, crew support costs, crew impact on support facilities, necessary shipyard facility improvements, and the costs of incidental materials, utilities, facilities, maintenance support, labor fringe benefits, and any other factors included in the Navy's study.

On what evidence does the Navy base the assertion that Newport News Shipbuilding (NNS) cannot perform SLEP's 2, 3, and 4. I am advised by NNS that the yard does have the capacity and desire to complete this work in series as well as other Navy and commercial work.

Your letter indicates that "circumstances could evolve which would require Newport News to contribute to the [Trident] efforts". Please specify these circumstances and relate what action, if any, has been taken to investigate this possibility.

The SLEP work on the Saratoga will employ more than 2,000 skilled shipyard workers. The Navy's study fails to specify how Philadelphia Naval Shipyard (PNS) could hire and train enough employees to begin and complete this work on time. Please explain in detail how this can be accomplished and contrast your conclusions with prior experience at PNS.

Does the U.S. Department of Labor agree with the Navy that the Philadelphia labor market contains a sufficient number of persons who could be trained to do this work by 1980?

Would NNS encounter any problems in employing a sufficient number of skilled employees to perform this work?

In announcing his recommendation, Vice President Mondale indicated assignment of the Saratoga to PNS would create new jobs at that shipyard. In view of the fact that increasing PNS employment was a major factor in the Navy's recommendation to award the Saratoga to PNS, why did the Navy recommend that so much more work be reserved for the ship's force at PNS than at NNS?

Please indicate on a monthly basis by trade and skill level how many new employees PNS would have to hire to be ready to commence work on the Saratoga by October, 1980.

How many people would be employed during the same time period in each of the trades at PNS if PNS did no SLEP work?

How will the need for these new employees fluctuate as work on the Saratoga progresses?

By trade and skill level, what use will be made of the workers assigned to the Saratoga at PNS during periods of reduced demand for their services on the SLEP work? How much will it cost the Navy to keep these idle employees on the public payroll during these lull periods?

The Navy's study also fails to discuss the cost of recruiting and training the production workforce at PNS for the Saratoga. How much will it cost to: (a) recruit and (b) train these new employees? Did the Navy include these costs in its study? Would there be any comparable costs at NNS?

How long will it take to recruit and train these new employees in each of the shipyard trades at PNS?

The Navy's study asserts that ". . . shipyard manpower constraints require that 1474 of the 2903 personnel assigned to the ship remain with the ship during its availability." Please explain in detail what these "constraints" are and why a much smaller ship's force would be retained at NNS. I am advised that there is no reason why the same number could not be used at NNS and that during the second USS Enterprise overhaul at NNS some 2,000 crewmen were utilized during the overhaul period of approximately 18 months.

To what extent do the "constraints" at PNS include lack of sufficient skilled manpower?

To what extent do these "constraints" include the inability of PNS to finish the work on the Saratoga within the planned 28 months without the assistance of the larger ship's force?

Would the Navy perfer to retain only 300 members of the ship's crew on board during the overhaul if sufficient skilled manpower was available at PNS?

How many crew members would remain on ship if SLEP's 2, 3, and 4 are awarded to PNS?

Please provide a detailed explanation and calculation of how much it would cost to perform the SLEP work on the Saratoga with a ship's force of 300 at PNS or of 1474 at NNS.

Missing from the Navy's study was any discussion of the cost of training the ship's force to perform industrial support work. How much will this training cost and did the Navy include this factor in its analysis? How many fewer mandays would be required for civilians at NNS to complete the same industrial support work and what would be the comparable cost?

What evidence, if any, does the Navy have that the ship's force could provide the same quality of industrial support work which would be available at NNS?

What uses would be made of the crew members who would not remain with the Saratoga at PNS and NNS?

Your letter stated that the retention of a larger ship's force at PNS would "result in more continuity within the ship's force and enable a more orderly transition to an operating status upon completion of the SLEP." How is this conclusion justified in light of the recommendations of the GAO study, "Changes in Navy Ship Overhaul Practices Could Improve Fleet Capability and Crew Effectiveness," in which the GAO recommended that the Secretary of Defense direct the Navy to:

"Reduce ships' crews to the minimum number essential for maintaining safety of the ship and equipment during lengthy overhaul periods;

"Reassign trained and experienced sailors to the fleet to meet critical skill manpower requirements; (and)

"Establish the necessary managerial policies and procedures to use civilians in shipyards to do work now being done by ships' crews. . . ."

These recommendations were made because the high personnel turnover rate of crews reduced the perceived advantage of retaining a large ship's force—a conclusion directly in conflict with the Navy's argument to retain the crew.

In the same study, the GAO concluded "that the use of the highly trained Naval personnel to do industrial tasks, administrative, and support functions represents a waste of training and experience that is needed on operational ships and elsewhere in the Navy." Why did the Navy disregard this finding in the recommendation to retain 1474 crew members as PNS?

Please quantify by career specialty how much money the Navy will have spent to train the crew members who remain with the Saratoga to perform specialized tasks other than overhauling a ship.

To what extent are other operational ships and other units of the Navy experiencing manpower shortages in the career fields represented by the retained ship's force? How does the Navy justify retaining these crew members with the ship when their skills are needed elsewhere?

Your letter states that the recommendation to assign the Saratoga to PNS was "based upon all the relevant considerations of cost, operational availability, industrial capacity, and minimization of potential conflict between new construction and the SLEP program." The Navy's study does not discuss any of these factors. Please provide specific information on what assumptions and conclusions the Navy made concerning each of these factors as well as any other quantitative or qualitative factors which the Navy may have considered. In addition, please indicate what weight the Navy attached to each of these factors in making its recommendation.

What is the justification for constricting the civilian industrial capacity at NNS in exchange for providing 1174 Naval personnel with experience in overhauling one aircraft carrier?

The discussion of potential ship overhaul transfers to enable PNS to perform the SLEP work is lacking in detail. Please provide detailed information on each of the twelve ships involved, including: (a) ship number, name, and type; (b) scheduled shipyard(s), costs, and dates for overhaul of each of these ships prior to any decision to transfer the work to PNS; (c) scheduled cost and dates for overhaul of each of these ships at PNS; (d) number of naval and civilian mandays needed to complete these overhauls at PNS as contrasted with the originally scheduled shipyards; (e) where the ships would be overhauled if PNS does no SLEP's, does SLEP's 2, 3, and 4, or does all of the SLEP's; (f) the impact of the transfer of these ships to PNS on the originally designated shipyards and on our industrial capacity; and (g) the date on which a decision, if any, was made to transfer work on any of these ships to PNS and the justification for such a transfer.

In addition, please explain why more ships are needed to prepare PNS for SLEP's 2, 3, and 4 than to prepare for the Saratoga.

Please indicate how overhauling four destroyers will properly prepare PNS to perform the complex task of overhauling an aircraft carrier with its unique equipment and design.

The discussion of military personnel costs is also inadequate. Specifically, the Navy's study indicates that it will cost almost three times more to keep a crew member on the Saratoga at NNS than at PNS. Why are the relative crew costs higher at NNS and how did the Navy calculate each of the factors which were included in the military personnel costs?

Where will the crew members who remain with Saratoga be housed during its overhaul at PNS or NNS? How much will it cost to house these crew members?

The explanation of growth reserves and projected escalations is also inadequate. Why did the Navy assume different base months in determining escalation, how did the Navy calculate the cost of escalation, and why does the use of an earlier base month increase total costs at NNS?

I am advised that the Navy's SLEP project manager recommended that NNS overhaul the Saratoga. Please provide me with a copy of the report in which this recommendation was made and of all other relevant materials, reports, letters, documents, memoranda, and other materials commenting on the project manager's report.

Please outline in detail the deficiencies you found in the project manager's report and justify the Navy's decision to override this recommendation.

I am also disturbed by the apparent failure of the Navy to consider the relative efficiency and productivity of PNS and the NNS. Please discuss in detail why the Navy did or did not assume that NNS could overhaul the Saratoga in fewer mandays and the basis for this assumption.

PNS is now repairing the cruiser Belknap. I am advised that work on the Belknap has fallen considerably behind schedule and that costs are exceeding original estimates. What were the Navy's original cost estimates and work schedule for the Belknap? Why have these delays and cost overruns occurred?

Please explain why the Navy anticipates that PNS will not experience the same schedule slippage and cost overruns with the Saratoga as have occurred with the Belknap.

OMB Circular A-76 expresses the Government's general policy of relying upon private enterprise to supply its need for products and services in preference to engaging in commercial or industrial activity. This Circular permits the Government to provide a commercial product for its own use only if the procurement of the product would fall within one of the limited exceptions to this policy. Specifically, A-76 directs, "Government commercial activities *should not be started* or continued for reasons involving comparative costs unless savings are sufficient to justify the assumption of these and similar risks and uncertainties." (emphasis added) Since the Navy's study of the SLEP failed to identify any costs savings from assigning the Saratoga to PNS (OMB Circular A-76 requires a 10 percent cost savings as a minimum justification and, recently, a recommendation was made to raise this to 25 percent for facilities and materials), please explain in detail how the Navy justifies its recommendation to award the work on the Saratoga to the more expensive Government shipyard.

What "national interests" justify a recommendation to force a commerical shipyard to lay off skilled workers to allow a public shipyard to start a new activity and hire new employees at a greater cost?

Will the assignment of the Saratoga to PNS violate the Congressional and Department of Defense policy of performing no more than 70 percent of the Navy's ship maintenance and modernization work in public shipyards? What steps would the Navy have to take to avoid violating this policy?

In conclusion, I wish to underscore my view that the Navy's SLEP study does not satisfy the requirements of my "Saratoga Amendment" to the FY-79 Defense Authorization Act. Unless and until sufficient detailed information is supplied by the Navy with regard to the aircraft carrier SLEP and the destroyer modernization program, the Navy cannot proceed with these important programs.

Accordingly, I request that the Navy forthwith prepare and deliver to me and to the Chairman of the House and Senate Committees on Appropriations and Armed Services by July 12, 1978 a complete and detailed reply to the requests for information which I have made in this letter.

I further request that you closely review the preparation of the least-cost study of the destroyer modernization program to insure that this study contains, prior to its submission to Congress, information sufficient to satisfy the requirements of the "Saratoga Amendment."

Sincerely,

PAUL TRIBLE.

WASHINGTON, D.C., *July 19, 1978.*

Hon. W. GRAHAM CLAYTOR,
Secretary of the Navy,
Department of the Navy,
Washington, D.C.

DEAR MR. SECRETARY: As Members of the House Armed Services Committee, we wish to express our view that the Navy's study of the Service Life Extension Program for aircraft carriers does not satisfy the requirements of Section 811 of the 1979 Department of Defense Appropriation Authorization Act.

The Navy's study lacks essential information on how the cost estimates were calculated and offers no real justification for the Navy's decision on the awarding of the carrier SLEP work. Moreover, the study fails to discuss what impact the award of the SLEP work will have on the 70-30 sharing doctrine for ship overhaul work and on our private and public ship building base.

We understand that our colleague, Paul Trible, has forwarded to you a letter outlining in detail the many deficiencies in the Navy's study. We trust that the Navy will promptly undertake a more indepth SLEP study and supply the detailed information requested by Congressman Trible so that the Navy can proceed with the important Service Life Extension Program.

With kind regards and best wishes,

Very sincerely,

Sam Stratton, Charles H. Wilson, Abraham Kazen, Jr., Larry P. McDonald, Dan Daniel, Richard C. White, G. V. Montgomery, Harold Runnels, Richard H. Ichord, Charlie Whitley, Mendel J. Davis, Bill Nichols, Jack Brinkley, John B. Breckinridge, Bob Stump, Dave Treen, G. William Whitehurst, Robert W. Daniel, Jr., David F. Emery, Elwood H. "Bud" Hillis, Donald J. Mitchell, Marjorie Holt, William L. Dickinson, Floyd Spence, Robert E. Badham, Robin Beard, and Bob Wilson.

AMENDMENT OFFERED BY MR. DOWNEY

Mr. DOWNEY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DOWNEY: Page 34, line 14, insert "(a)" before "Notwithstanding".

Page 35, after line 5, insert the following new subsection:

(b)(1) The first section of the Act entitled "An Act to authorize the making, amendment, and modification of contracts to facilitate the national defense", approved August 28, 1958 (Public Law 85-804; 50 U.S.C. 1431), is amended by striking out the period at the end of the third sentence and inserting in lieu thereof ", except that, in the case of such an obligation in excess of $25,000,000 proposed to be made by the Department of Defense, the authority conferred by this section shall not be utilized to obligate the United States unless such committees have been notified in writing of such proposed obligation and, before the expiration of a period of 60 days of continuous session of Congress after the date on which such notice is transmitted to such committees, both Houses of Congress adopt a concurrent resolution approving such obligation.".

(2) The amendment made by paragraph (1) shall apply only with respect to proposed obligations of the United States under such Act of August 28, 1958, of which the Committees on Armed Services of the Senate and House of Representatives are notified after the date of the enactment of this Act.

Mr. DOWNEY (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD. I will explain the amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. DOWNEY. Mr. Chairman, the amendment I am offering today is designed to put teeth into the congressional review of future Public Law 85-804 settlements by the Department of Defense which exceed $25 million. It stems from my belief that the congressional review of the recent General Dynamics and Litton settlements was woefully deficient.

To review: $541 million of the more than $900 million that the Navy will pay General Dynamics and Litton is extraordinary contractual relief under Public Law 85-804. Enacted in 1958, this law allows the Government to modify contracts without regard to Government contract law or general contract law if such a modification will "facilitate the national defense."

Public Law 85-804 provides the executive branch with a power unmatched in the entire realm of contract law and provides it with vast discretion to utilize this power.

In 1973, Public Law 85-804 was amended to allow a one-House veto of any settlement above $25 million within 60 days of House and Senate Armed Services Committee notification.

My amendment will change the congressional review mechanism for large DOD settlements from a one-House veto to a two-House approval mechanism. In the future, when DOD proposes a Public Law 85-804 settlement above $25 million, both Houses of Congress would have to pass a concurrent resolution of approval within 60 days of committee notification for the settlement to take effect.

I offer the amendment for three simple reasons.

We must make the use of Public Law 85-804 by DOD for exceedingly large claims more difficult and foreboding. Let us help the Government's negotiators hang tough with the contractors and hang on to taxpayers' dollars.

We must force the Armed Services Committees and the Congress to focus on instances when Public Law 85-804 is used very liberally. In the case of the recent General Dynamics and Litton settlements, disapproval resolutions under the current procedure were tabled in the House Armed Services Committee with almost no debate and after only one brief hearing on each of the settlements. The Senate Armed Services Committee did no

better. Last Friday, my distinguished colleague SAM STRATTON summed up the situation when he said that this was tantamount to "not having a veto at all."

This amendment will not glut the legislative calendar. In the past 10 years, Public Law 85–804 has been invoked by DOD for contract modifications over $25 million only 3 times: In 1971 with Lockheed—$624 million—and this year with General Dynamics—$359 million—and Litton—$182 million.

In fact, this amendment will not affect one iota the primary purpose for Public Law 85–804. It is a convenient device for settling small contract snarls. Of the more than 3,000 Public Law 85–804 settlements by DOD in the past 10 years, less than 100 have been over $50,000.

Potential Public Law 85–804 settlements with Newport News and Lockheed, that may even dwarf the General Dynamics and Litton settlements, are now in the pipeline. If my amendment is not adopted, Congress once again may be denied the right to pass judgment directly on the use of Public Law 85–804 for large claims.

I agree with my colleagues who said last Friday that the deleting funds from the authorization bill was not the best way to raise the issue of the General Dynamics and Litton settlements.

However, it was the only way, and unless my amendment is adopted, it may remain the only way the full Congress can exercise its right to vote on huge Public Law 85–804 settlements.

Mr. Chairman, I am submitting other material that is precedent for this concurrent resolution, as follows:

According to the Congressional Research Service, between 1932 and 1977, Congress enacted 12 statutes which contain 17 concurrent approval provisions. Among them are:

ENERGY PRODUCTION AND CONSERVATION ACT OF 1976

Before final energy conservation standards for new buildings could be enforced, both Houses of Congress had to pass a concurrent resolution of approval within 90 days.

ENERGY POLICY AND CONSERVATION ACT OF 1975

Energy conservation contingency plans and any changes in the plans had to be approved by concurrent resolution.

EXIMBANK AMENDMENTS OF 1974

Financial assistance to Soviet Union aggregating $300 million or more needed concurrent resolution of approval.

TRADE ACT OF 1974

If the President wanted to waive the bill's standards for most-favored-nation status for a particular country—for a year—Congress had to approve by concurrent resolution.

FEDERAL HIGHWAY ACT OF 1956

State allocation levels for interstate highway funds had to be approved by concurrent resolution every 4 years for a 12-year period.

Mr. STRATTON. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I think the amendment of the gentleman from New York (Mr. DOWNEY) is a reasonable amendment. As the gentleman pointed out. the gentleman and I went down to defeat last week when we tried to exclude from this bill money that had been included for paying these ship claims. The reason I used for my opposition is that we had not been guaranteed by the Department of Defense that they had found a way of preventing this kind of thing from occurring in the future; but the side that opposed us said that the Department of Defense had indeed discovered a method to prevent claims of this kind from arising in the future; so since the House apparently accepted their point of view, what we hopefully face is a situation where we will not have any more claims of this kind; so perhaps the amendment of the gentleman from New York will never have to be put into operation. But we are still confronting in this bill $209 million that was included by the Committee on Armed Services as part of a total extraordinary payment of over $900 million to two shipbuilders, without any requirement for the approval of both Houses of Congress.

I think it makes sense that if the Congress is going to permit the Department of Defense to expend $900 million, we ought at least to have a vote on it. Under the present arrangement, however, there is no guarantee it will even come to a vote, as it did last week in this Chamber. We have votes on many less expensive programs than this $900 million. Why should we not insist on approving this kind of extraordinary bailout?

All that the gentleman from New York is suggesting is that if this extraordinary arrangement is resorted to in the future, we ought within 60 days to insist that it be approved by the Congress in the same way that we authorize other appropriations of money.

If we are to believe the Department of Defense, this kind of thing is not going to happen again, and if it does, it will happen very rarely. Well, if it happens that the Department of Defense is over-optimistic in its ability to prevent this sort of thing, and it turns out that we end up getting hundreds of millions of dollars through this extraordinary procedure, the very least that ought to be done, it seems to me, is to modify this law so that the House of Representatives and the Senate will be required to approve the expenditure of this kind of money, just the way we have to approve the expenditure of money that we spend, for example, in establishing a board to look into rural transportation needs or food stamps or anything else.

Mr. MONTGOMERY. Mr. Chairman, will the gentleman yield?

Mr. STRATTON. I am glad to yield to my friend, the gentleman from Mississippi.

Mr. MONTGOMERY. Mr. Chairman, let me ask the gentleman, Have we had hearings on the Downey amendment?

Mr. STRATTON. We have not had any hearings on it, but I think the House has had an opportunity, and certainly the committee has had an opportunity, to examine what happens in this case, and my feeling is that the amendment is a simple one and a sound one.

Mr. MONTGOMERY. In other words, we have not had hearings in the committee; is that correct? I hope this amendment will be soundly defeated.

Mr. STRATTON. No, we have not. The gentleman is absolutely correct.

Mr. LLOYD of California, Mr. Chairman. I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, on the face of it, what my colleague, the gentleman from New York (Mr. DOWNEY), is saying in this amendment sounds very sensible, and if we assume that all of the fault lies with those diabolically clever folks who contract with the poor uninformed Department of Defense and its people, then indeed we ought to go forward and agree to this amendment.

But, very frankly, the people who are involved in these negotiations for the settlement of claims happen to be all kinds of people, including the Congress itself. And therein lies the tale.

Now, in the Litton situation, this House and the other body mandated that we would use a new system to design ships, and indeed we did. We went down to Pascagoula, and we built ships down there with Litton, but Litton "didn't know a darned thing about building ships." The end product of that was that we had tremendous overruns. They have finally squared themselves away, and they do a good job today, but there is a learning process that goes into it.

In addition to that, I see this merely as an extension of the discussion that occurred on the Downey amendment of a few days ago, and I think that the situation was clearly resolved by this House when we said we are going to have these kinds of problems. We are going to have them, and I am sure they will occur in the future.

I am unhappy about the fact that we have the $15 million a copy fix for the C–5, but we had to do it. I am unhappy that we had to adjust the claims with General Dynamics on submarines, but we had to do it because the Navy itself has mandated many of those changes.

The problem with the C–5 was clearly through an insistence on the part of the Air Force that we were going to deliver that aircraft at exactly the weight they had committed themselves to, the results of which were that any aerodynamics engineer could have told us, "You have weakened the structure so perfectly"—and we did it perfectly, by the way—"and completely that you can be assured that it will cost $15 million to strengthen it."

If we had just taken it out of a chunk of the wing, we could have done it a lot cheaper. Lockheed did a hell of a job on the C–5, and the end product was that they had to come in and make the changes. The end product in the case of the ships that Litton built was that Litton had to come in and go through a learning process in order to build these ships.

We go through this routine all the time, and I think it is time that we admit to ourselves that it is going to happen again to us. Let us guard against this

through the oversight process, and let us review these matters with an understanding of what is already provided for in this kind of situation instead of trying to mandate that these errors will not occur.

Mr. Chairman, we cannot legislate morality, and I think that is precisely what we are involved in here.

Mr. DODD. Mr. Chairman, will the gentleman yield?

Mr. LLOYD of California. I yield to the gentleman from Connecticut.

Mr. DODD. Mr. Chairman, I would like to point out to my colleague, the gentleman from California (Mr. LLOYD), that I am in agreement with him on this point.

I also think it is worthwhile to mention the fact that our colleague, the gentleman from New York, has raised an important issue here, and I am not sure he is entirely wrong. But I do not think this is the proper place and time in which to write Public Law 85–804. This was a piece of legislation which came about as a result of the action of another committee of this Congress, the Committee on the Judiciary, along with the work of the Committee on Government Operations. I think it is entirely proper that those two committees, the committees of proper jurisdiction, ought to be the ones to look at this particular law and see whether or not we can implement it better or rewrite it in such a way so as to carry out the intent that the gentleman from New York states.

Second, I think it is important to mention to our colleagues here today that what we are trying to do is to encourage settlement, not to encourage court action. Court action is exactly the kind of alternative we would like to avoid, given the tremendous cost involved in that avenue. I think that to discourage settlement now would be contrary to the interests of the taxpayers of this country who are the ones who must carry the burden.

For those two reasons I would suggest to the gentleman from New York (Mr. DOWNEY) and the gentleman from New York (Mr. STRATTON) that the committees of proper jurisdiction look at this in the future.

● Mr. PRICE. Mr. Chairman, I oppose the amendment of the gentleman from New York (Mr. DOWNEY) and I shall be brief.

To begin with, the House, in voting down the earlier amendment regarding the shipbuilding claims, obviously concluded that the present procedure was adequate. It would be entirely inconsistent to vote in support of provisions under the present law and then to turn around and say that the law is inadequate.

The basic law itself has been on the statute books since 1958. As far as I know, the basic law has been used sparingly and worked very well. A modification in 1973, known as the Byrd amendment, provides for the review by the Armed Services Committees such as recently took place on the Electric Boat and Litton claims settlements.

It may be found that further modification of the law is desirable. But the House floor in the closing days of a session is obviously not the place to study complex provisions of law.

I would stress that this law is not entirely under the jurisdiction of the Committee on Armed Services. The Committees on Judiciary and Government Operations have important responsibilities in this area. In fact, the original bill creating Public Law 85–804 was reported from the Judiciary Committee.

I would certainly not want to see the law changed without recognizing the jurisdictional prerogatives of these other committees.

Any future 85–804 settlements proposed—and I do not know of any from the Defense Department that are expected—that exceed $25 million could not be approved until the passage of 60 days of continuous session. Therefore, there is no danger that settlements will be effected during the adjournment. There is no urgency to change the law at this time.

I would also point out that when we dispose of this amendment I intend to offer an amendment which is a modification of a Senate provision that provides for General Accounting Office audit of the Litton and Electric Boat settlements for which money is authorized in this bill. That amendment will require GAO to keep the committees currently informed of the results of the audit and submit an annual report to the Congress. It also provides that the contractors could not receive any combined total profits on the contracts on which the settlements were made. So, this is an additional safeguard on the 85–804 settlement that has been approved.

Finally, I would bring to the attention of the Members a letter I received signed by the Deputy Secretary of Defense, the Honorable Charles W. Duncan, stating the administration's opposition to the amendment.

Mr. Duncan states that the amendment would deprive the President of the use of the authority granted to him by the law "on matters of greatest and most urgent import to the national defense." Five years have passed since the enactment of the oversight provisions of Public Law 85–904 and the process has worked well, Mr. Duncan states. The Deputy Secretary also objects that the amendment is an unconstitutional invasion of authority normally reserved to the Executive and notes that the amendment comes within the category of provisions that the President objected to in his message to the Congress concerning the use of the legislative veto. Certainly, we do not want anything in the bill which would encourage another veto of this authorization measure.

Therefore, I ask the Members to oppose this amendment.

I would like to read the letter from the Deputy Secretary of Defense:

DEPUTY SECRETARY OF DEFENSE,
Washington, D.C., September 20, 1978.

Hon. MELVIN PRICE,
Chairman, House Armed Services Committee, Washington, D.C.

DEAR MR. CHAIRMAN: We understand that an amendment has been offered by Representative Downey to H.R. 14042, the Department of Defense Appropriation Authorization Act, 1979, that would amend Public Law 85–804, 50 U.S.C. s 1431 (Supp. V 1975), so as to delete the present mechanism under which the Congress is afforded an opportunity to disapprove certain exercises of the authority of that statute and substitute, in its place, provisions requiring that such exercises be affirmatively approved by both Houses of the Congress.

The Department of Defense opposes the enactment of this amendment.

In Public Law 85–804, the Congress has vested the President with broad authority and discretion to take contractual actions "whenever he determines that such action would facilitate the national defense." The amendment would effectively deprive the President of the use of that authority on matters of greatest and most urgent import to the national defense. Five years have passed since enactment of the existing provisions of Public Law 85–804 granting oversight to the Congress with respect to the use if that authority. We believe that the present process works well and has served the needs of both the Congress and the Executive Branch.

The amendment is also objectionable because it is an unconstitutional delegation of authority specifically reserved to the Executive by Article II, Section 3 of the Constitution. That provision charges the President to "take care that the laws be faithfully executed." Moreover, the amendment comes within the category of provisions to which the President objected in his message to the Congress of June 21, 1978 concerning the use of the "legislative veto."

For all the foregoing reasons, we urge that this amendment not be approved by the Congress.

Sincerely,

CHARLES W. DUNCAN.●

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. DOWNEY).

The question was taken; and on a division (demanded by Mr. DOWNEY) there were—ayes 11, noes 5.

RECORDED VOTE

Mr. DODD. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

The CHAIRMAN. A quorum of the Committee of the Whole has not appeared.

The Chair announces that a regular quorum call will now commence.

Members who have not already responded under the noticed quorum call will have a minimum of 15 minutes to record their presence. The call will be taken by electronic device.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 870]

Addabbo	Ashley	Brown, Calif.
Alexander	Barnard	Burke, Calif.
Ambro	Bingham	Burton, John
Ammerman	Blanchard	Byron
Anderson, Ill.	Blouin	Caputo
Andrews, N.C.	Boland	Cederberg
Applegate	Bolling	Chisholm
Archer	Bonker	Clawson, Del
Armstrong	Breaux	Clay

Cochran
Conyers
D'Amours
Delaney
Dickinson
Diggs
Dingell
Drinan
Early
Eckhardt
Edgar
Eilberg
Erlenborn
Ertel
Evans, Colo.
Evans, Del.
Evans, Ga.
Fish
Ford, Mich.
Forsythe
Fraser
Gibbons
Hagedorn
Harrington
Heckler
Holland
Hollenbeck
Holt
Huckaby
Ireland
Jenkins
Jones, N.C.
Jones, Okla.
Kastenmeier
Kemp
Krueger
Leggett
Lehman
Lott
Lujan
Lundine
McClory
McCloskey
McKay
Martin
Mathis
Mazzoli
Meeds
Michel
Mikva
Milford
Miller, Calif.
Mineta
Moss
Murphy, Ill.
Murphy, N.Y.
Neal
Nedzi
Pepper
Pettis
Pickle
Preyer
Quayle
Railsback
Reuss
Richmond
Risenhoover
Roncalio
Rosenthal
Runnels
Ruppe
Russo
Ryan
Santini
Sarasin
Scheuer
Seiberling
Shipley
Shuster
Sikes
Sisk
Skubitz
Smith, Nebr.
Stanton
Stokes
Teague
Thone
Traxler
Treen
Tsongas
Tucker
Udall
Wampler
Waxman
White
Whitley
Whitten
Wilson, C. H.
Wilson, Tex.
Yates
Yatron
Young, Alaska

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. ROSTENKOWSKI, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill H.R. 14042, and finding itself without a quorum, he had directed the Members to record their presence by electronic device, whereupon 302 Members recorded their presence, a quorum, and he submitted herewith the names of the absentees to be spread upon the Journal.

The Committee resumed its sitting.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from Connecticut (Mr. DODD) for a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 111, noes 275, not voting 46, as follows:

[Roll No. 871]

AYES—111

Abdnor
Andrews, N. Dak.
Ashbrook
AuCoin
Bedell
Bingham
Bonior
Breckinridge
Brinkley
Brodhead
Burton, John
Burton, Phillip
Carr
Cavanaugh
Chappell
Chisholm
Collins, Ill.
Collins, Tex.
Conte
Cornell
Cornwell
Dellums
Derwinski
Downey
Drinan
Early
Edgar
Edwards, Calif.
Edwards, Okla.
Evans, Ind.
Fisher
Fithian
Florio
Garcia
Glickman
Gore
Harkin
Hawkins
Hefner
Holtzman
Howard
Hughes
Jacobs
Jeffrette
Jones, N.C.
Jordan
Kasten
Kastenmeier
Keys
Kildee
Kostmayer
Leach
Lent
Lundine
McHugh
Maguire
Markey
Marks
Mattox
Meyner
Mikulski
Minish
Mitchell, Md.
Moffett
Mottl
Murphy, Pa.
Neal
Nolan
Nowak
Oberstar
Ottinger
Panetta
Pattison
Pike
Pressler
Pritchard
Pursell
Quayle
Rahall
Rangel
Rinaldo
Rodino
Roe
Roncalio
Rosenthal
Roybal
Russo
Ryan
Scheuer
Schroeder
Seiberling
Sharp
Smith, Iowa
Solarz
Spellman
Stark
Steers
Stokes
Stratton
Studds
Vanik
Vento
Volkmer
Walgren
Waxman
Weaver
Weiss
Whalen
Wirth
Wydler
Yates

NOES—275

Addabbo
Akaka
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Annunzio
Archer
Ashley
Aspin
Badham
Bafalis
Baldus
Barnard
Baucus
Bauman
Beard, R.I.
Beard, Tenn.
Bellenson
Benjamin
Bennett
Bevill
Biaggi
Blanchard
Boggs
Boland
Bolling
Bowen
Brademas
Breaux
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Butler
Byron
Carter
Cederberg
Clausen, Don H.
Clawson, Del
Cleveland
Cohen
Coleman
Conable
Corcoran
Corman
Cotter
Coughlin
Crane
Cunningham
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Davis
de la Garza
Dent
Derrick
Devine
Dicks
Dodd
Dornan
Duncan, Oreg.
Duncan, Tenn.
Edwards, Ala.
Emery
English
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Fary
Fascell
Fenwick
Findley
Fish
Flippo
Flood
Flowers
Flynt
Foley
Ford, Tenn.
Forsythe
Fountain
Fowler
Fraser
Frenzel
Frey
Fuqua
Gammage
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Ginn
Goldwater
Gonzalez
Goodling
Gradison
Grassley
Green
Gudger
Guyer
Hagedorn
Hall
Hamilton
Hammerschmidt
Hanley
Hannaford
Hansen
Harris
Harsha
Heftel
Hightower
Hillis
Holland
Hollenbeck
Holt
Horton
Hubbard
Huckaby
Hyde
Ichord
Jenkins
Johnson, Calif.
Johnson, Colo.
Jones, Okla.
Jones, Tenn.
Kazen
Kelly
Kindness
Krebs
LaFalce
Lagomarsino
Latta
Le Fante
Lederer
Leggett
Lehman
Levitas
Livingston
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Luken
McClory
McCloskey
McCormack
McDade
McDonald
McEwen
McFall
McKay
McKinney
Madigan
Mahon
Mann
Marlenee
Marriott
Martin
Mathis
Mazzoli
Metcalfe
Michel
Miller, Ohio
Mineta
Mitchell, N.Y.
Moakley
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Gary
Myers, John
Myers, Michael
Natcher
Nedzi
Nichols
Nix
O'Brien
Oakar
Obey
Patten
Patterson
Pease
Perkins
Pickle
Poage
Preyer
Price
Quie
Quillen
Railsback
Regula
Reuss
Rhodes
Risenhoover
Roberts
Robinson
Rogers
Rooney
Rose
Rostenkowski
Rousselot
Rudd
Runnels
Ruppe
Santini
Satterfield
Sawyer
Schulze
Sebelius
Shuster
Sikes
Simon
Skelton
Snyder
Spence
St Germain
Staggers
Stangeland
Stanton
Steed
Steiger
Stockman
Stump
Symms
Taylor
Thompson
Thornton
Treen
Trible
Tucker
Udall
Ullman
Van Deerlin
Vander Jagt
Waggonner
Walker
Walsh
Wampler
Watkins
White
Whitehurst
Whitley
Whitten
Wiggins
Wilson, Bob
Wilson, Tex.
Winn
Wolff
Wright
Wylie
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Young, Tex.
Zablocki
Zeferetti

NOT VOTING—46

Ammerman
Anderson, Ill.
Applegate
Armstrong
Blouin
Bonker
Burke, Calif.
Caputo
Carney
Clay
Cochran
Conyers
Delaney
Dickinson
Diggs
Dingell
Eckhardt
Eilberg
Evans, Colo.
Ford, Mich.
Harrington
Heckler
Ireland
Jeffords
Kemp
Krueger
Lujan
Meeds
Mikva
Milford
Miller, Calif.
Moss
Pepper
Pettis
Richmond
Sarasin
Shipley
Sisk
Skubitz
Slack
Smith, Nebr.
Teague
Thone
Traxler
Tsongas
Wilson, C. H.

The Clerk announced the following pairs:

On this vote:

Mr. Eilberg for, with Mr. Teague against.

Mr. Richmond for, with Mr. Krueger against.

Mr. Ammerman for, with Mr. Dingell against.

Mr. JONES of Oklahoma changed his vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. DORNAN

Mr. DORNAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DORNAN: Page 39, immediately after line 3, insert the following new section:

PROHIBITION ON USE OF FUNDS FOR ABORTIONS

SEC. 818. None of the funds authorized to be appropriated by this Act may be used to pay for abortions performed by any means except where the life of the mother is in danger if the fetus is carried to term, nor may such funds be used to promote or encourage abortion.

POINT OF ORDER

Mr. DAVIS. Mr. Chairman, I make a point of order against the amendment.

Mr. Chairman, I rise to make a point of order against the amendment on the basis of germaneness. In this bill, title I authorizes money for the procurement of major weapons systems for the Department of Defense.

Title II authorizes funds for R. & D. by the Department of Defense, and title VII authorizes funds for Civil Defense. However in the operation and maintenance of hospitals, medical clinics, payments for the services, and so forth, they are operated and paid for out of the O. & M. account and therefore not subject for authorization by this bill.

The amendment was introduced likewise on the appropriation bill. That is where it should have been, because that is where the moneys are, but, Mr. Chairman, to burden this bill with a nongermane amendment going to a limitation of funds that are not authorized by this bill is improper, and I would hope the Chair would sustain the point of order.

The CHAIRMAN. Does the gentleman from California (Mr. DORNAN) care to be heard on that point of order?

Mr. DORNAN. Yes, Mr. Chairman.

The distinguished gentleman from South Carolina did not mention title VIII. If my colleagues will turn to title VIII of this bill they will see a section entitled "Extension of Authority for Special Pay for Health Professionals." This impacts of course in some areas on abortion. On page 29 they will see the heading "Ceiling for Payments to Physicians Under CHAMPUS." It was this very program that first called my attention to

how far we had moved in supporting and encouraging abortion with Defense dollars, because it was under this program in a military medical journal where they began to outline how vigoriously they were going to move in the area of abortion far and beyond the movement we have seen, contrary to the wishes of the President and of Mr. Califano even in HEW.

So I believe it is not only germane, it is super-germane to this bill.

Mr. DAVIS. Mr. Chairman, if I may respond, I would say that this is legislative language that is needed to raise the pay and provide incentives for procurement almost of doctors, one might say, but to say that the money in this bill, that is in the O. & M. account, is the money that would be used for paying of abortions by paying for clinical facilities, by paying for instruments, and by paying for the operation itself—that would clearly come out of the O. & M. and not under the authorization of this bill.

Mr. DORNAN. Mr. Chairman, one final response. I would not have offered a mischievous amendment to a bill that this Congressman desires to see go through as expeditiously as any bill we have discussed since I have been here. I checked this out thoroughly with legislative counsel over several days and they assured me it was germane.

I rest and accept the judgment of the Chair.

The CHAIRMAN (Mr. ROSTENKOWSKI). The Chair is ready to rule.

The Chair has examined the amendment offered by the gentleman from California (Mr. DORNAN) and noted the arguments made by the gentleman from South Carolina (Mr. DAVIS). There are in title VIII authorizations for appropriations for certain programs involving military personnel as well as ceilings for payments and limitations with respect to the expenditure of funds involving personnel. It is for this reason and because of the specific provisions in title VIII mentioned by the gentleman from California that the Chair overrules the point of order and sustains the germaneness of the amendment.

The gentleman from California (Mr. DORNAN) is recognized for 5 minutes in support of his amendment.

Mr. DORNAN. I thank the Chair.

Mr. Chairman, I meant it sincerely when I said I believe this bill is one of the most important pieces of legislation we will vote upon. I have recently returned from 2½ weeks in the Soviet Union with the distinguished gentleman from California (Mr. LEGGETT) and I can assure this body that we saw first hand the excellent status of the Soviet military forces, at least those that we were allowed to observe in the seven cities that we visited. So I believe we must have as strong a defense as is humanly possible; as strong a defense as we have ever had in the history of this great and freest of nations.

There is very tragic irony this tragedy of using Defense dollars to snuff out unborn life. The President of the United States himself in one of his very effective town meetings in my city of Los Angeles on May 17 of the preceding year, 1977, said the following in response to a question by a Mrs. Mary Jergens. Under direct questioning of this American citizen who asked the President about his endorsement of a book called "Women in Need," the President responded to her question about confusion over his position on abortion. President Carter said very clearly and succinctly the following:

> I am against abortion. I think abortion is wrong and I'm doing everything I can as President to hold down the need for abortion. I don't think any woman and her partner ever have intercourse in order to create a child that's going to be destroyed by abortion.

Please note carefully the words of the President of the United States. This is the world leader who unashamedly in this House, standing here beneath God's name beneath that beautiful inspiration on the marble above you Mr. Speaker, turned to a great Mohammedan leader and a great Jewish leader and invoked the words of Jesus Christ to all of us: Blessed are the peace makers because they will be called the children of God. These precious defense dollars are for keeping peace not killing the children of God. Years ago we dropped the title "War Department" and started to use the more proper title "Defense Department" for those who serve to keep a fragile peace. All the funds authorized in our committee work here is to keep the peace of God, not to kill any innocent person born or waiting to be born on the face of the Earth.

To use our President's own words (No one) "creates a child that's going to be destroyed by abortion." The President continued on May 17, 1977 to remake, quote:

> Joe Califano, who now heads up the Department of HEW, feels the same way I do. And we proposed that the government not help to finance abortions.

I might add that I am still trying to find out what exactly Secretary of Defense Brown feels about this life and death health issue.

The President continued, and I will quote again exactly:

> And we proposed that the government not help to finance abortions,. . . .
>
> So, I am not in favor of abortions and have never been in favor, and I think if you read the whole book and read the whole foreward, that you would see that I haven't changed my position.

In President Carter's final words, in response to a frightening statement by Mary Jergens in which she said that it was projected that this beautiful and once highly ethical country of ours would have 3 million abortions by 1982, President Carter's response was:

> I think any abortions are too much.

And so do I, and so do most of you my distinguished colleagues especially those of you who serve on one of the finest committees in the House, and one on which I hope to serve some day. Eleven members of the majority, the chairman making it 12 have voted against abortion. Every one of the minority members except one, has voted to restrict abortions using HEW money. I know that you will take deserved flack in your districts if you are willing to cut off funds for the poor under HEW but shrink from cutting off death with defense moneys.

I am only asking you to do what you have already done before, to protect innocent life and be consistent in that noble struggle.

I can tell you that most of the heads of the chaplains in the services have written me thanking me for the Dornan amendment of August 9. I said mistakenly on the floor of the House last week that I had not received any negative mail, but that I found since was not exactly true. I have received three rather rude negative letters.

I have, however, received dozens of letters from defenders of innocent unborn life. One from a young marine captain I treasure. He wrote,

> I am proud to put on my uniform again each morning for the defense of my country because now our defense dollars no longer are going toward paying for death, but rather towards paying for protecting the peace.

What I want 20 Members to do tonight is to stand tall when I ask for a record vote. It will suffice if we pass this by a voice vote.

I ask the Members to leave the cloakrooms where they are watching the great American pastime of baseball to vote an end to what is becoming a replacement American pastime, sitting idly by watching an American abortion deathtoll of one to one and a half million babies a year.

Please tonight let us see 20 of you stand. As I said, I will settle for a voice vote, but, if necessary, again I will ask for that God-loving number of 20 to stand so that we can vote on this simple but vital amendment. And please remember that worldwide military funds for abortions were cut off at midnight last Saturday the 30th of September.

The Armed Forces of the United States of America are waiting for our direction. Let us move in the direction of the angels—in the direction of life. If we desire to maintain this fragile peace that we all cherish so deeply—then let us remove this curse of paying for the deliberate killing of innocent life with defense money that we should be authorizing only for our sacred mission of being the principal guardians of liberty.

Thank you, Mr. Chairman.

Mr. DOWNEY. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from California (Mr. DORNAN).

Mr. Chairman, I would just like to take 1 minute. I understand the gentleman's position on abortion, and I am opposed to abortion, also, but I cannot quite see the logic about the use of defense dollars to snuff out the lives of unborn children when there is at the same time ample money in this bill to snuff out two-thirds of the world's living population.

Mr. PRICE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I feel that the abortion amendment is not an appropriate one for this authorization bill. While I do not

oppose the language in principle, I strongly oppose placing in this bill an amendment which addresses itself solely to operation and maintenance funds. It is totally inappropriate.

In the interest of time, we are making every effort to produce a bill which will be approved without the necessity of a conference. Thus, I trust my colleagues will understand our position and assist us in enacting this needed legislation at the earliest possible date. To that end, let us limit amendments to this bill, and particularly this one which more appropriately should be considered in connection with appropriations legislation.

As we all know, we are into the new fiscal year and the Department of Defense is operating under a continuing resolution. That situation should not continue. Thus, I ask your cooperation in reporting out this bill in a form acceptable to both bodies. The amendment should be voted down.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. DORNAN).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. DORNAN. Mr. Chairman, I demand a recorded vote.

A recorded vote was refused.

So the amendment was rejected.

AMENDMENT OFFERED BY MR. PRICE

Mr. PRICE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. PRICE: Page 4, line 19, strike out "September 30" and insert in lieu thereof "October 31".

Mr. PRICE. Mr. Chairman, I ask for a vote on the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. PRICE).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. PRICE

Mr. PRICE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. PRICE: Page 34, after line 12, insert the following new section (and redesignate the succeeding sections accordingly):

SEA-BASED AIRCRAFT PLATFORM STUDY FUNDS

SEC. 812. The unobligated balance of $40,000,000 authorized to be appropriated in section 201 of the Department of Defense Appropriation Authorization Act, 1978 (Public Law 95-79; 91 Stat. 323), for conducting comprehensive evaluation studies of sea-based aircraft platforms shall after the date of the enactment of this Act be available and primarily applied toward performing any design work related to any such sea-based aircraft platform authorized by this Act.

Mr. PRICE. Mr. Chairman, I ask for a vote on the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. PRICE).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. PRICE

Mr. PRICE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. PRICE: At the end of the bill, add the following new section:

ABOLISHMENT OF WOMEN'S ARMY CORPS

SEC. 818. (a) Section 505 of title 10, United States Code, is amended by striking out subsection (d) and by redesignating subsection (e) as subsection (d).

(b) Chapter 307 of such title is amended by striking out section 3071 and by striking out of the table of sections at the beginning of such chapter the item relating to section 3071.

(c) Chapter 331 of such title is amended—

(1) by striking out "; Women's Army Corps" in the catchline of section 3209;

(2) by striking out the subsection designation "(a)" at the beginning of subsection (a) of section 3209 and striking out subsection (b) of such section;

(3) by striking out section 3215;

(4) by striking out "and the Women's Army Corps" in clause (1) of the third sentence of section 3220; and

(5) by striking out in the table of sections at the beginning of such chapter "; Women's Army Corps" in the item relating to section 3209 and by striking out the item relating to section 3215.

(d) Chapter 335 of such title is amended—

(1) by striking out ", in the Women's Army Corps," in subsection (a) of section 3283 and by striking out "and the Women's Army Corps" in subsection (b) of such section;

(2) by striking out clause (2) of section 3296(b) and redesignating clause (3) as clause (2);

(3) by striking out in the third sentence of section 3297(a) "a selection board considering promotion-list officers of the Women's Army Corps under section 3300 (a) or (b) of this title may include officers of the Regular Army in that corps whose regular or temporary grades are above major, and";

(4) by striking out section 3311; and

(5) by striking out in the table of sections at the beginning of such chapter the item relating to section 3311.

(e) Chapter 337 of such title is amended—

(1) by striking out "and the Women's Army Corps" and "or corps, as the case may be" in the first sentence of section 3363(g) and by striking out "or the Women's Army Corps" in the second sentence of such section;

(2) by striking out "and to the Women's Army Corps" in section 3364(a);

(3) by striking out "or the Women's Army Corps" and "or corps" in section 3364(b);

(4) by striking out "or the Women's Army Corps" in section 3364(c) each time it appears; and

(5) by striking out the second sentence of section 3383(b).

(f) Chapter 345 of such title is amended by striking out section 3580 and by striking out in the table of sections at the beginning of such chapter the item relating to section 3580.

(g) Section 3818 of such title is amended—

(1) by striking out clause (2) of subsection (a) and inserting in lieu thereof the following:

"(2) the appointment of a female warrant officer, or the enlistment of a female member, of the Regular Army."; and

(2) by striking out "of the Women's Army Corps" in subsection (c).

(h) Section 3848(d) of such title is amended by inserting "or" before "the Army Medical Specialist Corps" and by striking out "or the Women's Army Corps,".

(i) Section 3916(b) of such title is amended—

(1) by inserting "and" at the end of clause (1);

(2) by striking out "Women's Army Corps," in clause (2);

(3) by striking out the semicolon and the word "and" at the end of clause (2) and inserting in lieu thereof a period; and

(4) by striking out clause (3).

Mr. PRICE (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. PRICE. Mr. Chairman, I ask for a vote on the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. PRICE).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. PRICE

Mr. PRICE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. PRICE: At the end of the bill add a new section as follows:

AUDIT AND REVIEW OF CERTAIN FUNDS

SEC. . (a) Any funds authorized by this or any other Act to provide relief to contractors under authority of the first section of the Act entitled "An Act to authorize the making, amendment, and modification of contracts to facilitate the national defense", approved August 28, 1958 (72 Stat. 972; 50 U.S.C. 1431), in connection with contracts numbered N00024-69-C-0283, N00024-70-C-0275, N00024-71-C-0268, and N00024-74-C-0206 for the procurement for the United States of landing helicopter assault vessels (LHA), DD-963 vessels, and SSN 688 nuclear attack submarines, and paid by the United States to such contractors, shall be subject to such audits and reviews by the Comptroller General of the United States as the Comptroller General shall determine necessary to insure that such funds are used only in connection with such contracts and to insure that the prime contractors concerned do not realize any total combined profit on such contracts.

(b) No funds described in subsection (a) may be used to provide relief to any contractor described in subsection (a), in connection with contracts described in such subsection, to the extent that the use of such funds would result in any total combined profit on such contracts, as determined by the Comptroller General of the United States.

(c) The Comptroller General of the United States shall keep the appropriate committees of the Congress currently informed regarding the expenditure of funds referred to in subsection (a) and shall submit to the Congress annually, until the completion of the contracts referred to in subsection (a), a written report on the status of the contracts referred to in subsection (a), on the expenditure of the funds referred to in such subsection, and on the results of the audits and reviews conducted by the Comptroller General under authority of this section.

Mr. PRICE (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. PRICE. Mr. Chairman, I ask for a vote on the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. PRICE).

The amendment was agreed to.

Mr. PRICE. Mr. Chairman, I have opposed extraneous amendments to H.R. 14042 with the aim of getting the authorization bill passed as soon as possible so that the appropriation process can move forward. Our planned adjournment date is less than 2 weeks away.

With this aim in mind, I am offering four amendments to the bill which relate to provisions presently in the Senate bill.

I am proposing compromise amendments which would normally be offered in conference. I believe that they can be accepted by the Senate. We can thereby avoid the necessity of a conference and assure passage of the bill.

The first amendment merely changes the date from September 30, 1978, to October 31, 1978 for the report required from the Secretary of Defense regarding the executive branch decision on development of a survivable land-based ICBM system. The date has to be changed because of the delay in final passage caused by the veto of the original bill.

The second amendment would add to our bill the original section 812 of the earlier bill vetoed by the President. The provision allows leftover aircraft platform study funds, authorized in an earlier year, to be used toward the design of a platform authorized in the bill. Our committee had left this provision out as unnecessary. However, in the spirit of compromise, I am moving to retain the provision, as desired by the Senate. Approximately $6 million is left in this study account and the provision would merely allow some of it to be used for design work.

The third amendment, which is identical to that adopted by the Senate—with some very minor technical corrections—would disestablish the Women's Army Corps, and place female service members on equal footing with their male counterparts.

The amendment is supported by the administration and will cause no increases in budgetary requirements.

The amendment is consistent with the action previously taken by the House in approving modifications to the Defense Officer Personnel Management Act (H.R. 5503). Unfortunately, that bill will not be considered by the Senate this year.

The amendment would eliminate the statutory requirement for a separate, distinctive corps based on sex.

The fourth amendment relates to a General Accounting Office audit of the contract settlements effected by Public Law 85-804. These are the contract settlements which were the subject of an earlier amendment and for which the bill provides an additional $209 million in authorization to cover claims. An amendment to provide this authorization was approved on the Senate floor. I believe the basic purpose of having these funds audited by the General Accounting Office has merit. However, the wording of the Senate amendment allows for some uncertain interpretation. I have had some modifications made to assure that the amendment only applies to those shipbuilders involved in the claims settlement for which the additional $209 million is provided in the bill, and to assure that it applies only to specific contracts covered by the claims settlement.

The amendment provides that the funds authorized in connection with the settlement of those contracts shall be subject to audit and review by the Comptroller General to insure that such funds are used only in connection with such contracts and that they do not result in the prime contractors realizing any total combined profit on such contracts. It also provides that the Comptroller General keep the appropriate committees of Congress currently informed on the expenditure of funds and submit annual reports to the Congress on the results of his audit and review.

I have reviewed this modified language of the amendment with the Navy and am informed that it is acceptable to the Navy. I believe that this amendment, as modified, will still be acceptable to the Senate.

Because of the veto, this has been a long and difficult process for us, and I have tried my utmost to see that funds are authorized for the Department of Defense as soon as possible.

I hope the Members will cooperate with me in this procedure.

Mr. Chairman, there has been some concern expressed that unless the Defense authorization bill was enacted before October 1, 1978, a "gap" in coverage would result with respect to the general provisions that extend, for 2 years, expiring authorities—including special pay and bonuses for heath professionals and reenlistment and enlistment bonuses for enlisted personnel in critical skills. In other words. for example, there is concern that service members enlisted between September 30 and the date of enactment would not be entitled to, even if otherwise eligible for, a bonus. Or that health professionals, for example, normally entitled to special pay would not be entitled between September 30 and the date of enactment.

However, let me assure those who are concerned—particularly the enlisted personnel who are considering reenlistment and the health professionals who are approaching their end of obligated service—that this is not the case. If this bill is enacted in its present form (with regard to the extension of expiring authorities), the language is unambiguously clear and no such "gap" in coverage will occur. Certainly these provisions were intended from the beginning of consideration to continue—unbroken—the authority to provide special pays and enter into contractual agreement with service members in critical areas.

Mr. HANSEN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise to request answers of the chairman of the committee regarding certain provisions, if he would so indulge me for a moment, regarding section 816 of this bill, H.R. 14042.

Mr. Chairman, considering that no implementing legislation has been either officially submitted to nor acted upon by the U.S. Congress, is it your opinion that any use of the provision allowing for realinement or adjustment for defense purposes only, constitute authority for use of the funds to compensate for adjustments which might be advocated in anticipation of meeting any timetable deadlines provided by the Panama Canal Treaties of 1977?

Mr. PRICE. This bill would restrict funds authorized to be used for realinement to those only for defense of the zone or with legislation that may be enacted to implement the treaties.

Mr. HANSEN. Considering that no implementing legislation has been either officially submitted to nor acted upon by the U.S. Congress is it your opinion that the definition of the word defense which is used in section 816 of the bill being considered now means solely an impending military attack or a direct act of aggression by a foreign power and does not provide for any use of the funds herein authorized for use in anticipation of meeting any timetables or deadlines provided by the Panama Canal Treaties of 1977?

Mr. PRICE. For the actual defense of the zone, where security is threatened.

Mr. HANSEN. Considering that no implementing legislation has been either officially submitted to nor acted upon by the U.S. Congress is it your opinion that section 816 specifically exclude any use of funds provided by this legislation for implementation of the Panama Canal Treaties of 1977?

Mr. PRICE. Yes. That is my opinion.

Mr. HANSEN. Considering that no implementing legislation has been either officially submitted to nor acted upon by the U.S. Congress is it your opinion that the definition of the word defense which is used in section 816 of this bill means solely and imminent military attack or direct act of aggression by a foreign power?

Mr. PRICE. I believe defense would include a threat to the security of the zone.

Mr. HANSEN. Considering that no implementing legislation has been either officially submitted to nor acted upon by the U.S. Congress is it your opinion that in light of the fact that no implementing legislation has been delivered formally to the Congress and the fact that the Congress has on several occasions specifically stated that any expenditure of funds to implement the Panama Canal Treaties must be specifically approved by the entire Congress, could any of the funds be spent by the use of a contingency fund or transfer of funds, or the reprograming of funds in order to effect the implementation of the Panama Canal Treaties?

Mr. PRICE. Except pursuant to implementing legislation.

Mr. HANSEN. Considering that no implementing legislation has been either officially submitted to nor acted upon by the U.S. Congress is it your opinion that in light of section 816 could any funds be spent by the use of a contingency fund, emergency fund, the transfer of funds, or the reprograming of funds in order to effect the implementation of the Panama Canal Treaties (the termination of U.S. presence in the Panama Canal Zone).

Mr. PRICE. Funds could only be used for defense. Any other use would require prior congressional approval of implementing legislation.

Mr. HANSEN. Considering that no implementing legislation has been either officially submitted to nor acted upon by the U.S. Congress is it your opinion that none of the funds authorized in this bill may be used to terminate U.S. presence in the Panama Canal Zone or facilitate the implementation of the Panama Canal Treaties without the full consent of Congress?

Mr. PRICE. That is my opinion.

Mr. HANSEN. Considering that no implementing legislation has been either officially submitted to nor acted upon by the U.S. Congress is it your opinion that in light of the fact that no formal appropriation has been requested by the Department of Defense for the purpose of implementing or preparing to implement the Panama Canal Treaties of 1977 and also considering the fact that the Congress is due to recess for the year by the end of next week is it not in your opinion the intent of the committee when considering this legislation that no expenditure of funds be allowed by the use of a contingency fund, emergency fund, the transfer of funds, or the reprograming of funds for any purpose other than repelling a direct act of aggression by a foreign power and that this legislation does not provide for the use of funds for any purpose other than repelling a direct act of aggression by a foreign power and that this legislation does not provide for the use of funds to facilitate the implementation of the Panama Canal Treaties by allowing the expenditure of funds for construction in the Panama Canal Zone in order to move the 193d Infantry Brigade Headquarters, the 210th Aviation Battalion or other elements of our military command within the Panama Canal Zone in order to facilitate the implementation of the Panama Canal Treaties.

Mr. PRICE. In the absence of implementing legislation, the bill would authorize funds only for the defense of the zone.

Mr. HANSEN. Again, the defense of the zone as stipulated would require some sort of overt threat which would be considered to be of such significant nature that the U.S. military forces would have to meet it under a sense of urgency as such?

Mr. PRICE. Yes.

Mr. HANSEN. Mr. Chairman, I am very grateful for the gentleman's indulgence. The gentleman from Idaho desired to be assured there can be no action taken which would constitute implementation or preparation for implementation under the guise of "defense" considerations anything less than outright hostilities or an apparent military threat to the security of the canal and our military forces.

I appreciate receiving such assurance.

The CHAIRMAN. If there are no further amendments, under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore. (Mr. BRADEMAS) having assumed the chair, Mr. ROSTENKOWSKI, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 14042) to authorize appropriations for fiscal year 1979 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons and for research, development, test and evaluation for the Armed Forces, to prescribe the authorized personnel strength for each active duty component and the Selected Reserve of each Reserve component of the Armed Forces and for civilian personnel of the Department of Defense, to authorize the military training student loads, to authorize appropriations for civil defense, and for other purposes, pursuant to House Resolution 1368, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. ROUSSELOT. Mr. Speaker. I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 367, nays 22, not voting 43, as follows:

[Roll No. 872]

YEAS—367

Abdnor	Bonior	Coleman
Addabbo	Bonker	Collins, Tex.
Akaka	Bowen	Conable
Alexander	Brademas	Conte
Ambro	Breaux	Corcoran
Anderson, Calif.	Brinkley	Corman
Andrews, N.C.	Brodhead	Cornell
Andrews, N. Dak.	Brooks	Cornwell
Annunzio	Broomfield	Cotter
Applegate	Brown, Calif.	Coughlin
Archer	Brown, Mich.	Crane
Ashbrook	Brown, Ohio	Cunningham
Ashley	Broyhill	D'Amours
Aspin	Buchanan	Daniel, Dan
AuCoin	Burgener	Daniel, R. W.
Badham	Burke, Fla.	Danielson
Bafalis	Burke, Mass.	Davis
Barnard	Burleson, Tex.	de la Garza
Baucus	Burlison, Mo.	Dent
Bauman	Butler	Derrick
Beard, R.I.	Byron	Derwinski
Beard, Tenn.	Carney	Devine
Bellenson	Carr	Dicks
Benjamin	Carter	Dodd
Bennett	Cavanaugh	Dornan
Bevill	Cederberg	Downey
Biaggi	Chappell	Drinan
Blanchard	Clausen, Don H.	Duncan, Oreg.
Boggs	Clawson, Del	Duncan, Tenn.
Boland	Cleveland	Early
	Cohen	Eckhardt
		Edgar
		Edwards, Ala.
		Edwards, Okla.
		Emery
		English
		Erlenborn
		Ertel
		Evans, Del.
		Evans, Ga.
		Evans, Ind.
		Fary
		Fascell
		Fenwick
		Findley
		Fish
		Fisher
		Fithian
		Flippo
		Flood
		Florio
		Flowers
		Flynt
		Foley
		Ford, Mich.
		Ford, Tenn.
		Fowler
		Fraser
		Frenzel
		Frey
		Fuqua
		Gammage
		Gaydos
		Gephardt
		Giaimo
		Gibbons
		Gilman
		Ginn
		Glickman
		Goldwater
		Gonzalez
		Gore
		Gradison
		Grassley
		Green
		Gudger
		Guyer
		Hagedorn
		Hall
		Hamilton
		Hammer-schmidt
		Hanley
		Hannaford
		Hansen
		Harkin
		Harris
		Harsha
		Hawkins
		Hefner
		Heftel
		Hightower
		Hillis
		Holland
		Hollenbeck
		Holt
		Horton
		Howard
		Hubbard
		Huckaby
		Hughes
		Hyde
		Ichord
		Ireland
		Jacobs
		Jeffords
		Jenkins
		Jenrette
		Johnson, Calif.
		Johnson, Colo.
		Jones, N.C.
		Jones, Okla.
		Jones, Tenn.
		Jordan
		Kasten
		Kazen
		Kelly
		Keys
		Kildee
		Kindness
		Kostmayer
		Krebs
		LaFalce
		Lagomarsino
		Latta
		Le Fante
		Leach
		Lederer
		Leggett
		Lehman
		Lent
		Levitas
		Livingston
		Lloyd, Calif.
		Lloyd, Tenn.
		Long, La.
		Long, Md.
		Lott
		Luken
		Lundine
		McClory
		McCloskey
		McCormack
		McDade
		McDonald
		McEwen
		McFall
		McHugh
		McKay
		McKinney
		Madigan
		Mahon
		Mann
		Markey
		Marks
		Marlenee
		Marriott
		Martin
		Mathis
		Mattox
		Mazzoli
		Meyner
		Michel
		Mikulski
		Milford
		Miller, Ohio
		Mineta
		Minish
		Mitchell, N.Y.
		Moakley
		Moffett
		Mollohan
		Montgomery
		Moore
		Moorhead, Calif.
		Moorhead, Pa.
		Mottl
		Murphy, Ill.
		Murphy, N.Y.
		Murphy, Pa.
		Murtha
		Myers, John
		Myers, Michael
		Natcher
		Neal
		Nedzi
		Nichols
		Nix
		Nowak
		O'Brien
		Oakar
		Oberstar
		Panetta
		Patten
		Patterson
		Pattison
		Pease
		Perkins
		Pickle
		Pike
		Poage
		Pressler
		Preyer
		Price
		Pritchard
		Pursell
		Quayle
		Quie
		Quillen
		Rahall
		Railsback
		Regula
		Reuss
		Rhodes
		Rinaldo
		Risenhoover
		Roberts
		Robinson
		Rodino
		Roe
		Rogers
		Roncalio
		Rooney
		Rose
		Rosenthal
		Rostenkowski
		Rousselot
		Rudd
		Runnels
		Ruppe
		Russo
		Ryan
		Santini
		Satterfield
		Sawyer
		Scheuer
		Schroeder
		Schulze
		Sebelius
		Sharp
		Shuster
		Sikes
		Simon
		Skelton
		Skubitz
		Smith, Iowa
		Smith, Nebr.
		Snyder
		Solarz
		Spellman
		Spence
		St Germain
		Staggers
		Stangeland
		Stanton
		Steed
		Steers
		Steiger
		Stockman
		Stratton
		Studds
		Stump
		Symms
		Taylor
		Thompson
		Thornton
		Traxler
		Treen
		Trible
		Tucker
		Udall
		Ullman
		Van Deerlin
		Vander Jagt
		Vanik
		Vento
		Volkmer
		Waggonner
		Walgren
		Walker
		Walsh
		Wampler
		Watkins
		Waxman
		Weaver
		Whalen
		White
		Whitehurst
		Whitley
		Whitten
		Wiggins
		Wilson, Bob
		Wilson, C. H.
		Wilson, Tex.
		Winn
		Wirth
		Wolff
		Wright
		Wydler
		Wylie
		Yates
		Yatron
		Young, Fla.
		Young, Mo.
		Young, Tex.
		Zablocki
		Zeferetti

NAYS—22

Baldus	Holtzman	Ottinger
Bedell	Kastenmeier	Rangel
Bingham	Maguire	Roybal
Chisholm	Metcalfe	Seiberling
Clay	Mitchell, Md.	Stokes
Collins, Ill.	Myers, Gary	Weiss
Dellums	Nolan	
Forsythe	Obey	

NOT VOTING—43

Ammerman	Dingell	Moss
Anderson, Ill.	Edwards, Calif.	Pepper
Armstrong	Eilberg	Pettis
Blouin	Evans, Colo.	Richmond
Bolling	Fountain	Sarasin
Breckinridge	Garcia	Shipley
Burke, Calif.	Goodling	Sisk
Burton, John	Harrington	Slack
Burton, Phillip	Heckler	Stark
Caputo	Kemp	Teague
Cochran	Krueger	Thone
Conyers	Lujan	Tsongas
Delaney	Meeds	Young, Alaska
Dickinson	Mikva	
Diggs	Miller, Calif.	

The Clerk announced the following pairs:

On this vote:

Mr. Eilberg for, with Mr. Richmond against.

Until further notice:

Mr. Ammerman with Mr. Cochran of Mississippi.

Mr. Pepper with Mr. Goodling.

Mr. Krueger with Mrs. Pettis.

Mr. Mikva with Mr. Thone.

Mr. Delaney with Mr. Young of Alaska.

Mr. Phillip Burton with Mrs. Heckler.

Mr. Blouin with Mr. Kemp.

Mr. Dingell with Mr. Lujan.

Mr. John L. Burton with Mr. Caputo.

Mr. Shipley with Mr. Dickinson.

Mr. Teague with Mr. Breckinridge.

Mr. Diggs with Mr. Anderson of Illinois.

Mr. Conyers with Mr. Evans of Colorado.

Mr. Miller of California with Mr. Edwards of California.

Mr. Garcia with Mr. Fountain.

Mrs. Burke of California with Mr. Harrington.

Mr. Meeds with Mr. Tsongas.

Mr. Slack with Mr. Stark.

Mr. Moss with Mr. Sarasin.

Mr. THOMPSON changed his vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. PRICE. Mr. Speaker, I ask unanimous consent for the immediate consideration of the Senate bill (S. 3486) to authorize appropriations for fiscal year 1979 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons and for research, development, test and evaluation for the Armed Forces, to prescribe the authorized personnel strength for each active duty component and the Selected Reserve of each Reserve component of the Armed Forces and for civilian personnel of the Department of Defense, to authorize the military training student loads, to authorize appropriations for civil defense, and for other purposes.

The Clerk read the title of the Senate bill.

The SPEAKER per tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 3486

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Department of Defense Appropriation Authorization Act, 1979".

TITLE I—PROCUREMENT

SEC. 101. Funds are hereby authorized to be appropriated for fiscal year 1979 for the use of the Armed Forces of the United States for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons, as authorized by law, in amounts as follows:

AIRCRAFT

For aircraft: for the Army, $972,400,000; for the Navy and Marine Corps, $4,381,100,000; for the Air Force, $7,028,200,000.

MISSILES

For missiles: for the Army, $738,100,000; for the Navy, $1,583,700,000; for the Marine Corps, $23,100,000; for the Air Force, $1,626,500,000.

NAVAL VESSELS

For naval vessels: for the Navy, $4,470,500,000.

TRACKED COMBAT VEHICLES

For tracked combat vehicles: for the Army, $1,419,400,000; for the Marine Corps, $24,300,000.

TORPEDOES

For torpedoes and related support equipment: for the Navy, $366,800,000.

OTHER WEAPONS

For other weapons: for the Army, $109,000,000; for the Navy, $102,000,000; for the Marine Corps, $30,200,000; for the Air Force, $300,000.

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

SEC. 201. Funds are hereby authorized to be appropriated for fiscal year 1979 for the use of the Armed Forces of the United States for research, development, test, and evaluation, as authorized by law, in amounts as follows:

For the Army, $2,661,701,000.

For the Navy (including the Marine Corps), $4,504,268,000.

For the Air Force, $4,164,500,000, of which $10,000,000 may be obligated and expended only for the North Atlantic Treaty Organization Airborne Warning and Control System (AWACS) program, but such $10,000,000 may not be obligated or expended until at least one member country of the North Atlantic Treaty Organization (other than the United States) enters into a contract to purchase the AWACS aircraft.

For the Defense Agencies, $933,400,000, of which $27,600,000 is authorized for the activities of the Director of Test and Evaluation, Defense.

EXTREMELY LOW FREQUENCY (ELF) COMMUNICATION SYSTEM

SEC. 202. None of the funds authorized to be appropriated by this Act for the development of the Extremely Low Frequency (ELF) communication system may be obligated or expended for the development of such system unless the President certifies to the Congress in writing that the use of funds for such purpose is in the national interest, that a site has been selected for the deployment of such system, and that the President has approved such site for the deployment of such system, and in no event may any of the funds authorized to be appropriated by this Act be used for full scale development or construction of another test-bed facility for an Extremely Low Frequency (ELF) communication system.

REPORT RELATING TO DEVELOPMENT OF SURVIVABLE LAND-BASED INTERCONTINENTAL BALLISTIC MISSILE SYSTEM

SEC. 203. The Secretary of Defense shall, not later than September 30, 1978, report to the Committees on Armed Services of the Senate and the House of Representatives the decision of the executive branch regarding full scale development of a survivable land-based intercontinental ballistic missile system. In the event that no final decision regarding such matter has been reached by the executive branch by such date, the Secretary of Defense shall—

(1) notify such committees on or before such date that no final decision has been reached and the reasons why such decision has not been made;

(2) inform such committees of the technical, political, or other considerations necessitating a delay in making such decision;

(3) indicate the date the Secretary believes a final decision will have been made with respect to such matter; and

(4) submit a report to such committees once every 30 days on the status of the decision on such matter (including in each such report information relating to the matters contained in clauses (2) and (3) of this section) until a final decision by the executive branch has been made and such committees have been informed of such decision.

REPEAL OF FISCAL YEAR 1978 AWACS RESTRICTION

SEC. 204. Section 201 of the Department of Defense Appropriation Authorization Act, 1978 (Public Law 95-79, 91 Stat. 323), is amended by striking out ", but such $15,700,000 may not be obliged or expended until at least one member country of the North Atlantic Treaty Organization (other than the United States) enters into a contract to purchase the AWACS aircraft".

TITLE III—ACTIVE FORCES

SEC. 301. For fiscal year 1979, each component of the Armed Forces is authorized an end strength for active duty personnel as follows:

(1) The Army, 775,800.

(2) The Navy, 523,500.

(3) The Marine Corps, 190,000.

(4) The Air Force, 566,400.

TITLE IV—RESERVE FORCES

SEC. 401. (a) For fiscal year 1979, the Selected Reserve of each Reserve component of the Armed Forces shall be programmed to attain an average strength of not less than the following:

(1) The Army National Guard of the United States, 362,200.

(2) The Army Reserve, 195,750.

(3) The Naval Reserve, 87,000.

(4) The Marine Corps Reserve, 33,000.

(5) The Air National Guard of the United States, 92,150.

(6) The Air Force Reserve, 53,075.

(7) The Coast Guard Reserve, 11,700.

(b) The average strength prescribed by subsection (a) of this section for the Selected Reserve of any Reserve component shall be proportionately reduced by (1) the total authorized strength of units organized to serve as units of the Selected Reserve of such component which are on active duty (other than for training) at any time during the fiscal year, and (2) the total number of individual members not in units organized to serve as units of the Selected Reserve of such component who are on active duty (other than for training or for unsatisfactory participation in training) without their consent at any time during the fiscal year. Whenever such units or such individual members are released from active duty during any fiscal year, the average strength prescribed for such fiscal year for the Selected Reserve of such Reserve component shall be proportionately increased by the total authorized strength of such units and by the total number of such individual members.

EDUCATIONAL ASSISTANCE PROGRAM FOR ENLISTED RESERVES

SEC. 402. (a) Section 2132(b)(1) of title 10, United States Code, relating to eligibility for educational assistance, is amended—

(1) by striking out "automatically extended by two years" and inserting in lieu thereof "not less than six years"; and

(2) by striking out "eighth anniversary" and inserting in lieu thereof "last day of the term".

(b) Section 2135 of title 10, United States Code, is amended by striking out "1978" and inserting in lieu thereof "1980".

REENLISTMENT BONUS FOR MEMBERS OF SELECTED RESERVE

SEC. 403. (a) Subsection (a) of section 308b of title 37, United States Code, relating to reenlistment bonuses for members of the Selected Reserve, is amended to read as follows:

"(a) An enlisted member of a reserve component who—

"(1) has completed less than ten years of total military service; and

"(2) reenlists or voluntarily extends his enlistment for a period of three years or for a period of six years in a designated military skill, or in a designated unit, as determined by the Secretary concerned, in the Selected Reserve of the Ready Reserve of an armed force;

may be paid a bonus as provided in subsection (b).".

(b) Subsection (b) of such section is amended by inserting "an amount not to exceed" before "$450", before "$900", and before "$150".

(c) Subsection (g) of such section is amended by striking out "1978" and inserting in lieu thereof "1980".

BONUS FOR ENLISTMENTS IN THE SELECTED RESERVE

SEC. 404. (a) Chapter 5 of title 37, United States Code, is amended by inserting after section 308b the following new section:

"§ 308c. Special pay: bonus for enlistment in the Selected Reserve

"(a) Any person who, after September 30, 1978, enlists in the Selected Reserve of the Ready Reserve of an armed force for a term of enlistment of not less than six years, is a graduate of a secondary school, and has never previously served in an armed force may be paid a bonus as provided in subsection (b).

"(b) The amount and method of payment of a bonus to be paid under subsection (a) shall be determined in accordance with regulations prescribed under subsection (c), except that the amount of such bonus may not exceed $2,000 and—

"(1) one-half of the bonus shall be paid upon completion of the initial active duty for training of such person; and

"(2) the remainder of the bonus may be paid in periodic installments or in a lump sum, as determined by the Secretary concerned.

"(c) This section shall be administered under regulations prescribed by the Secretary of Defense for the armed forces under his jurisdiction and by the Secretary of Transportation for the Coast Guard when it is not operating as a service in the Navy.

"(d) A member who fails to participate satisfactorily in training with his unit during a term of enlistment for which a bonus has been paid to him under this section shall refund an amount which bears the same ratio to the amount of the bonus which has been paid to him as the unexpired part of such term of enlistment bears to the total length of such term of enlistment.

"(e) The Secretary of Defense shall submit a report to the Congress every three months stating the number of members of the Selected Reserve of the Ready Reserve who at the time of such report are serving a term of enlistment for which a bonus has been paid under this section and listing each unit of the Selected Reserve of the Ready Reserve to which any such member is assigned at the time of such report. The first such report shall be made not later than December 31, 1978.

"(f) No bonus may be paid under this section to any enlisted member who, after September 30, 1980, enlists in the Selected Reserve of the Ready Reserve of an armed force.".

(b) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 308b the following new item:

"308c. Special pay: bonus for enlistment in the Selected Reserve.".

RESTRICTION ON TRANSFER FROM READY RESERVE TO STANDBY RESERVE

SEC. 405. (a)(1) Section 269 of title 10, United States Code, relating to transfers from the Ready Reserve, is amended—

(A) by striking out "eligible to transfer" in subsection (a) and inserting in lieu thereof "transferred";

(B) by striking out the colon at the end of the third sentence in subsection (d) and inserting in lieu thereof a period;

(C) by striking out subsection (e) and inserting in lieu thereof the following:

"(e) Subject to subsection (g) and under regulations prescribed by the Secretary of Defense, and by the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy, a member in the Ready Reserve may be transferred to the Standby Reserve."; and

(D) by striking out subsection (f) and inserting in lieu thereof the following:

"(f) A Reserve who is qualified and so requests may be transferred to the Retired Reserve under regulations prescribed by the Secretary concerned and, in the case of the Secretary of a military department, approved by the Secretary of Defense.".

(2) The amendments made by paragraph (1) shall not apply with respect to a member of the Ready Reserve of an Armed Force who served on active duty (other than for training) before the date of the enactment of this Act.

(b) Section 271 of such title, relating to continuous screening of the Ready Reserve, is amended—

(1) by inserting "(a)" before "Under regulations";

(2) by striking out "significance" in clause (1) and inserting in lieu thereof "significant"; and

(3) by adding at the end thereof the following new subsection:

"(b) Under regulations to be prescribed by the Secretary of Defense, and by the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy, any member of the Ready Reserve who is designated as a member not to be retained in the Ready Reserve as a result of screening under subsection (a) shall, as appropriate, be transferred to the Standby Reserve, discharged, or, if such member is eligible and applies therefor, transferred to the Retired Reserve.".

(c)(1) Section 511(b) of such title, relating to terms of enlistments in Reserve components, is amended—

(A) in the first sentence—

(i) by striking out "the Secretary concerned" and inserting in lieu thereof "the Secretary of Defense, and by the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy"; and

(ii) by striking out "sections 451–473 of title 50, appendix" and inserting in lieu thereof "the Military Selective Service Act (50 U.S.C. App. 451–473)"; and

(B) in the second sentence—

(i) by inserting "not less than" in clause (1) before "two years" and by adding "and" at the end of such clause;

(ii) by striking out clause (2); and

(iii) by redesignating clause (3) as clause (2) and striking out "Standby Reserve" in such clause and inserting in lieu thereof "Ready Reserve".

(2) The amendments made by paragraph (1) shall not apply with respect to a person who enlisted as a Reserve for service in the Armed Forces under section 511(b) of title 10, United States Code, before the date of the enactment of this Act.

(d)(1) Chapter 37 of such title, relating to general service requirements, is amended by adding after section 651 the following new section:

"§ 652. Ready Reserves: requirement of notification of changes of status

"Under regulations to be prescribed by the Secretary of Defense, and by the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy, each member of the Ready Reserve who is not a member of the Selective Reserve shall notify the Secretary concerned of any change in such member's address, marital status, number of dependents, or civilian employment and of any change in such member's physical condition which would prevent him from meeting the physical or mental standards prescribed for his armed force.".

(2) The table of sections at the beginning of such chapter is amended by adding after the item relating to section 651 the following new item:

"652. Ready Reserves: requirement of notification of change of status.".

REPEAL OF REQUIREMENT FOR ANNUAL REPORT ON RESERVE FORCES

SEC. 406. (a) Section 264 of title 10, United States Code, is amended by striking out subsection (c).

(b)(1) Section 279 of such title is repealed.

(2) The table of sections at the beginning of chapter 11 of such title is amended by striking out the item relating to section 279.

TITLE V—CIVILIAN PERSONNEL

SEC. 501. (a) For fiscal year 1979, the Department of Defense is authorized an end strength for civilian personnel of 1,005,500.

(b) The end strength for civilian personnel prescribed in subsection (a) of this section shall be apportioned among the Department of the Army, the Department of the Navy (including the Marine Corps), the Department of the Air Force, and the agencies of the Department of Defense (other than the military departments) in such numbers as the Secretary of Defense shall prescribe. The Secretary of Defense shall report to the Congress within sixty days after the date of the enactment of this Act on the manner in which the initial allocation of civilian personnel is made among the military departments and the agencies of the Department of Defense (other than the military departments) and shall include the rationale for each allocation.

(c) In computing the authorized end strength for civilian personnel there shall be included all direct-hire and indirect-hire civilian personnel employed to perform military functions administered by the Department of Defense (other than those performed by the National Security Agency), whether employed on a full-time, part-time, or intermittent basis, but excluding special employment categories for students and disadvantaged youth such as the stay-in-school campaign, the temporary summer aid program and the Federal junior fellowship program and personnel participating in the worker-trainee opportunity program. Whenever a function, power, or duty, or activity is transferred or assigned to a department or agency of the Department of Defense from a department or agency outside of the Department of Defense, or from another department or agency within the Department of

Defense, the civilian personnel end strength authorized for such departments or agencies of the Department of Defense affected shall be adjusted to reflect any increases or decreases in civilian personnel required as a result of such transfer or assignment.

(d) When the Secretary of Defense determines that such action is necessary in the national interest, he may authorize the employment of civilian personnel in excess of the number authorized in subsection (a) of this section, but such additional number may not exceed 1¼ percent of the total number of civilian personnel authorized for the Department of Defense by subsection (a) of this section. The Secretary of Defense shall promptly notify the Congress of any authorization to increase civilian personnel strength under the authority of this subsection.

TITLE VI—MILITARY TRAINING STUDENT LOADS

S53. 601. (a) For fiscal year 1979, each component of the Armed Forces is authorized an average military training student load as follows:

(1) The Army, 50,738.
(2) The Navy, 57,996.
(3) The Marine Corps, 21,324.
(4) The Air Force, 44,410.
(5) The Army National Guard of the United States, 11,793.
(6) The Army Reserve, 5,959.
(7) The Naval Reserve, 991.
(8) The Marine Corps Reserve, 3,074.
(9) The Air National Guard of the United States, 2,471.
(10) The Air Force Reserve, 1,184.

(b) In addition to the number authorized for the Army in subsection (a), the Army is authorized a military training student load for fiscal year 1979 of not less than 17,205 to be utilized solely for One Station Unit Training.

(c) The average military training student loads for the Army, the Navy, the Marine Corps, and the Air Force and the Reserve components authorized in subsection (a) of this section for fiscal year 1979 shall be adjusted consistent with the manpower strengths authorized in titles III, IV, and V of this Act. Such adjustment shall be apportioned among the Army, the Navy, the Marine Corps, and the Air Force and the Reserve components in such manner as the Secretary of Defense shall prescribe.

REDUCTION OR REALIGNMENT OF THE TRAINING BASE

SEC. 602. (a) Notwithstanding any other provision of law, no action may be taken to effect or implement any substantial reduction of the training base (as defined in subsection (c)) or any substantial force structure realignment of the training base planned as a part of the fiscal year 1979 Defense manpower program unless and until the provisions of subsection (b) are complied with.

(b) No action described in subsection (a) with respect to a substantial reduction or realignment of the training base may be taken unless and until—

(1) the Secretary of Defense or the Secretary of the military department concerned notifies the Committees on Armed Services and Appropriations of the Senate and House of Representatives in writing of the specific reduction or realignment proposed;

(2) the Secretary of Defense or the Secretary of the military department concerned certifies that such reduction or realignment is in the best interest of the national security and provides for the most cost effective and efficient management of the training base, both in time of peace and in ability to meet mobilization requirements; and

(3) a period of thirty legislative days expires following the date on which the notification and certification referred to in clauses (1) and (2) have been submitted to such committees, during which period no irrevocable action may be taken to effect or implement such reduction or realignment.

For the purpose of clause (3), a legislative day is a day in which either House of Congress is in session.

(c) For the purposes of this section, the term "training base" means the composite of installations, posts, camps, stations, and bases that have as a primary or secondary mission the conduct of formal entry level, advanced individual, or specialty training.

TITLE VII—CIVIL DEFENSE

AUTHORIZATION FOR DEFENSE CIVIL PREPAREDNESS AGENCY

SEC. 701. There is hereby authorized to be appropriated for the programs of the Defense Civil Preparedness Agency for fiscal year 1979 for the purpose of carrying out the provisions of the Federal Civil Defense Act of 1950 the sum of $96,500,000.

CIVIL DEFENSE STUDY

SEC. 702. (a) From the funds authorized to be appropriated pursuant to section 701 of this Act, the sum of $200,000 shall be used for a study of the special defense needs of areas of the United States which contain significant elements of the United States strategic nuclear retaliatory forces or significant defense-related research laboratories or facilities.

(b) The study provided for in subsection (a) shall include the following:

(1) An identification of areas of the United States which, because they contain significant elements of the United States strategic retaliatory forces or significant defense-related research laboratories or facilities, are prime targets in case of a nuclear attack.

(2) A determination of what civil defense evacuation and shelter plans and warning systems are now available or are proposed to be made available to such areas.

(3) An evaluation of the effectiveness of such existing evacuation and shelter plans and warning systems.

(4) A determination of the feasibility of establishing more effective evacuation and shelter plans and warning systems for such areas and a determination of the potential costs and methods of financing such plans and systems.

(5) A detailed analysis of the specific effects of a nuclear attack on each such area.

(6) A determination of the need for educating, and the most effective methods of educating, the public in such areas on civil defense matters.

(c) The study required by this section shall be completed, and copies shall be filed with the Committees on Armed Services of the Senate and House of Representatives, before April 1, 1979.

TITLE VIII—GENERAL PROVISIONS

EXTENSION OF AUTHORITY FOR SPECIAL PAY FOR HEALTH PROFESSIONALS

SEC. 801. (a) The second sentence of section 2 of the Act entitled "An Act to amend chapter 5 of title 37, United States Code, to revise the special pay structure relating to medical officers of the uniformed services", approved May 6, 1974 (88 Stat. 96; 37 U.S.C. 302 note), is amended to read as follows: "The authority for the special pay provided by the amendments made by the first section of this Act shall expire on September 30, 1980.".

(b) Sections 302a(c) and 303(c) of title 37, United States Code, are each amended by striking out "September 1978" and inserting in lieu thereof "September 1980".

AUTHORITY FOR ENLISTMENT AND REENLISTMENT BONUSES

SEC. 802. (a)(1) Section 308(a) of title 37, United States Code, is amended—

(A) by inserting "(1)" after "(a)" and by redesignating paragraphs (1), (2), (3), and (4) as subparagraphs (A), (B), (C), and (D), respectively;

(B) by striking out "designated as having a critical military skill" in paragraph (1)(B) (as redesignated by subparagraph (A)) and inserting in lieu thereof "qualified in a military skill designated as critical"; and

(C) by adding at the end thereof the following new paragraph.

"(2) Notwithstanding paragraph (1)(B) of this subsection, a member who agrees to train and reenlist for service in a military skill which, at the time of that agreement, is designated as critical, may be paid the bonus approved for that skill, at the rate in effect at the time of agreement, upon completion of training and qualification in that skill, if otherwise qualified under this subsection and even if that skill is no longer designated as critical at the time the member becomes eligible for payment of the bonus.".

(2) The amendments made by paragraph (1) shall take effect on October 1, 1978.

(b) Sections 308(f) and 308a(c) of title 37, United States Code, are each amended by striking out "September 30, 1978" and inserting in lieu thereof "September 30, 1980".

EXTENSION OF AUTHORITY FOR SUBSISTENCE ALLOWANCE FOR MARINE CORPS PLATOON LEADER CLASSES

SEC. 803. The Act entitled "An Act to provide subsistence allowances for members of the Marine Corps officers candidate programs", approved November 24, 1971 (85 Stat. 491; 37 U.S.C. 209 note), is amended by striking out "September 30, 1978" and inserting in lieu thereof "September 30, 1980".

CAREER SEA PAY

SEC. 804. (a)(1) Effective October 1, 1978, chapter 5 of title 37, United States Code, relating to special and incentive pays, is amended by inserting after section 305 the following new section:

"§ 305a. Special pay: career sea pay

"(a) Under regulations prescribed by the President, an enlisted member of a uniformed service who is entitled to basic pay and who (1) is in pay Grade E-4 or above, and (2) has served more than three years of sea duty, is also entitled, while on sea duty, to special pay at the applicable rate under subsection (b).

"(b)(1) For sea duty performed during fiscal year 1979 or 1980, the monthly rates for special pay under subsection (a) are as follows:

"Years of sea duty:	*Monthly rate*
Over 3	$25
Over 5	35
Over 12	55

"(2) For sea duty performed during fiscal year 1981, the monthly rates for special pay under subsection (a) are as follows:

"Years of sea duty:	*Monthly rate*
Over 3	$25
Over 5	35
Over 7	45
Over 12	55".

(2) Effective October 1, 1981, subsection (b) of section 305a of title 37, United States Code (as added by paragraph (1), is amended to read as follows:

"(b) The monthly rates for special pay under subsection (a) are as follows:

"Years of sea duty:	*Monthly rate*
Over 3	$25
Over 5	35
Over 7	45
Over 9	55
Over 10	65
Over 11	75
Over 12	100."

(3) In determining the amount of sea duty to be credited to an enlisted member of a uniformed service for purposes of section

305a of title 37, United States Code (as added by paragraph (1)), the Secretary concerned shall credit such member with all periods of service by such member before October 1, 1978, during which such member served in a sea duty status.

(b)(1) Section 305 of such chapter is amended—

(A) by striking out all of subsection (a) that precedes the table therein and inserting in lieu thereof the following:

"(a) Except as provided by subsections (b) and (c) of this section, under regulations prescribed by the President, an enlisted member of a uniformed service who is entitled to basic pay may, while on duty at a designated place outside the 48 contiguous States and the District of Columbia, be paid special pay at the following monthly rates:";

(B) by adding at the end thereof the following new subsection:

"(c) A member receiving special pay under section 305a of this title may not be paid special pay under this section for the same period of service."; and

(C) by striking out "sea duty or" in the section heading.

(2) The table of sections at the beginning of such chapter is amended—

(A) by striking out "sea duty or" in the item relating to section 305; and

(B) by inserting after such item the following new item:

"305a. Special pay: career sea pay.".

(3) The amendments made by this subsection shall take effect on October 1, 1978.

(c) Any individual who on September 30, 1978, is an enlisted member of a uniformed service shall be eligible to receive special pay under section 305(a)(1) of title 37, United States Code, as in effect on September 30, 1978, for any period of sea duty performed by such individual during the period beginning on October 1, 1978, and ending on September 30, 1981, for which such individual does not receive special pay under section 305a of such title (as added by subsection (a)).

CHIEF OF ARMY DENTAL CORPS; AIR FORCE ASSISTANT SURGEON GENERAL FOR DENTAL SERVICES

SEC. 805. (a) Section 3040(b) of title 10, United States Code, is amended by inserting after the first sentence thereof the following new sentence: "The Assistant Surgeon General is Chief of the Dental Corps and is responsible for making recommendations to the Surgeon General and through the Surgeon General to the Chief of Staff on all matters concerning dentistry and the dental health of the Army.".

(b)(1) Chapter 307 of title 10, United States Code, is amended by adding at the end thereof the following new section:

"§ 3081. Dental Corps: Chief, functions

"(a) The Chief of the Dental Corps shall be an officer of that corps appointed as prescribed in section 3040 of this title.

"(b) Under such regulations as the Secretary of the Army may prescribe, all dental functions of the Army shall be under the direction of the Chief of the Dental Corps. All matters relating to dentistry shall be referred to the Chief of the Dental Corps.

"(c) The Chief of the Denal Corps shall—

"(1) establish professional standards and policies for dental practice;

"(2) initiate and recommend action pertaining to organization requirements and utilization of the Dental Corps and dental auxiliary strength, appointments, advancement, training assignment, and transfer of dental personnel; and

"(3) serve as the advisor to the Office of the Surgeon General on all matters relating directly to dentistry.

"(d) Under such regulations as the Secretary of the Army may prescribe, dental and dental auxiliary personnel throughout the Army shall be organized into units commanded by a designated Dental Corps officer. Such officer will be directly responsible to the commander of installations, organizations, and activities for all professional and technical matters and such administrative matters as may be prescribed by regulation.".

(2) The table of sections at the beginning of chapter 307 of title 10, United States Code, is amended by adding at the end thereof the following new item:

"3081. Dental Corps; Chief, functions.".

(c)(1) Chapter 807 of title 10, United States Code, is amended by adding at the end thereof the following new section:

"§ 8081. Assistant Surgeon General for Dental Services

"There is an Assistant Surgeon General for Dental Services in the Air Force who is appointed by the Secretary of the Air Force upon the recommendation of the Surgeon General from officers of the Air Force above the grade of major who are designated as dental officers under section 8067(b) of this title. The term of office of the Assistant Surgeon General for Dental Services is four years but may be increased or decreased by the Secretary of the Air Force.".

(2) The table of sections at the beginning of chapter 807 of title 10, United States Code, is amended by adding at the end thereof the following new item:

"8081. Assistant Surgeon General for Dental Services.".

CEILING FOR PAYMENTS TO PHYSICIANS UNDER CHAMPUS

SEC. 806. (a)(1) Section 1079 of title 10, United States Code, is amended by adding at the end thereof the following new subsection:

"(h) Payment of a charge for physician services for which a claim is submitted under a plan contracted for under subsection (a) may be denied because the charge is in excess of a predetermined charge level based upon customary charges made for similar services in the same locality only to the extent that such charge is in excess of the charge level that, on the basis of statistical data and methodology acceptable to the Secretary of Defense, in consultation with the Secretary of Health, Education, and Welfare, is equivalent to the 90th percentile of the customary charges made for similar services in the same locality during the last preceding calendar year elapsing before the start of the twelve-month period (beginning July 1 of each year) in which the claim for the payment is submitted.".

(2) Section 1086 of such title is amended by adding at the end thereof the following new subsection:

"(f) The provisions of section 1079(h) of this title shall apply to payments for physician services under a plan contracted for under subsection (a).".

(b) The amendments made by subsection (a) shall apply with respect to claims submitted for payment for services provided on or after the first day of the first calendar year beginning after the date of enactment of this Act.

MARINE CORPS COMMANDANT—MEMBER OF JOINT CHIEFS OF STAFF

SEC. 807. Section 141 of title 10, United States Code, is amended by—

(1) striking out "and" at the end of subsection (a)(3);

(2) striking out the period at the end of subsection (a)(4) and inserting in lieu thereof a semicolon and the word "and";

(3) adding after subsection (a)(4) a new clause (5) as follows:

"(5) the Commandant of the Marine Corps.";

(4) striking out subsection (c); and

(5) redesignating subsections (d) and (e) as subsections (c) and (d), respectively.

ASSIGNMENT OF WOMEN TO NAVAL VESSELS

SEC. 808. The last sentence of section 6015 of title 10, United States Code, relating to restrictions on the assignment of women members of the Navy, is amended to read as follows: "However, women may not be assigned to duty on vessels or in aircraft that are engaged in combat missions nor may they be assigned to other than temporary duty on vessels of the Navy except hospital ships, transports, and vessels of a similar classification not expected to be assigned combat missions.".

MILITARY TRAINING FOR FEMALE UNDERGRADUATES AT MILITARY COLLEGES

SEC. 809. (a) The Secretary of Defense shall require that any college or university designated by the Secretary of Defense as a military college shall, as a condition of maintaining such designation, provide that qualified female undergraduate students enrolled in such college or university be eligible to participate in military training at such college or university, but, notwithstanding any other provision of law, the Secretary of Defense may not require that, as a condition of maintaining such designation or for any other purpose, such college or university require female undergraduate students enrolled in such college or university to participate in military training.

(b) The Secretary of Defense shall prescribe such regulations as the Secretary determines necessary or appropriate to carry out the provisions of this section.

NAVY SHIPBUILDING POLICY

SEC. 810. (a) It is the policy of the United States to modernize the combatant forces of the United States Navy through the construction of advanced, versatile, survivable, and cost-effective combatant ships in sufficient numbers and having sufficient combat effectiveness to defend the United States against enemy attack and to carry out such other missions as may be assigned to the Navy by law. In order to achieve such policy, the Navy should develop plans and programs for the construction and deployment of weapon systems, including naval aviation platforms, that are more survivable, less costly, and more effective than those presently in the Navy.

(b) In order that the Congress may be kept currently informed regarding compliance with the policy expressed in subsection (a), the President shall include in all requests made to the Congress for the authorization of any ship for the combatant forces, including any aircraft carrier, (1) his conclusions with respect to the survivability, cost effectiveness, and combat effectiveness of such ship, (2) a recommendation whether such ship should be nuclear or conventionally powered, and (3) the reasons for such conclusions and recommendations.

(c) Title VIII of the Department of Defense Appropriation Authorization Act, 1975 (88 Stat. 408), is repealed.

CARRIER SERVICE LIFE EXTENSION PROGRAM AND DDG–2 DESTROYER CONVERSION

SEC. 811. (a) Notwithstanding any other provision of law and except as provided in subsection (b), the Secretary of the Navy may not take any action with respect to the use of either public shipyards or private shipyards for conversion, overhaul, or repair work under the Service Life Extension Program (SLEP) or under the program for the modernization of DDG–2 class guided missile destroyers, or for the employment of additional personnel for, or the transfer of additional personnel to, any public shipyard as a part of the necessary buildup of manpower for carrying out either such program, until—

(1) the Secretary of the Navy conducts a comprehensive least-cost approach study (A) comparing the costs of carrying out such programs at public shipyards with the costs

of carrying out such programs at private shipyards, and (B) evaluating such other factors as the Secretary of the Navy considers should be taken into account in assigning work in connection with the conversion, overhaul, repair, or modernization of vessels to public or private shipyards;

(2) a written report containing the results of such study is submitted, after the date of the enactment of this Act, to the Committees on Armed Services and on Appropriations of the Senate and the House of Representatives; and

(3) a period of sixty days of continuous session of Congress expires following the date on which such report is submitted to such committees.

(b) Nothing in this section shall prevent the Navy from conducting advanced planning or purchasing long lead items in connection with either program described in subsection (a) so long as such planning or purchasing is not related to the performance of work in connection with either such program at any particular shipyard.

(c) For purposes of subsection (a)(3), the continuity of a session of Congress is broken only by an adjournment of the Congress sine die, and days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of such sixty-day period.

SEA-BASED AIRCRAFT PLATFORM STUDY FUNDS

SEC. 812. The unobligated balance of $40,000,000 authorized to be appropriated in section 201 of the Department of Defense Appropriation Authorization Act, 1978 (Public Law 95-79; 91 Stat. 323), for conducting comprehensive evaluation studies of sea-based aircraft platforms shall after the date of the enactment of this Act be available and primarily applied toward performing any design work related to any such sea-based aircraft platform authorized by this Act.

CERTIFICATION OF CLAIMS

SEC. 813. Notwithstanding any other provision of law, none of the funds authorized to be appropriated for the Department of Defense by this or any other Act shall be used for the purpose of paying any contract claim, request for equitable adjustment to contract terms, request for relief under Public Law 85-804, or other similar request, which exceeds $100,000 unless a senior company official in charge at the plant or location involved has certified at the time of submission of such contract claim, request for equitable adjustment to contract terms, request for relief under Public Law 85-804, or other similar request, that such claim or request is made in good faith and that the supporting data are accurate and complete to the best of such official's knowledge and belief. The requirements of this section shall not apply to claims, requests for equitable adjustment to contract terms, requests for relief under Public Law 85-804, or other similar requests submitted before the date of enactment of this Act.

RESTRICTION OF CONTRACTING OUT COMMERCIAL AND INDUSTRIAL TYPE FUNCTIONS

SEC. 814. (a) The Secretary of Defense shall submit a report to the Committees on Armed Services of the Senate and House of Representatives providing the details of any proposed change in policy or regulations, from those in effect before June 30, 1976, regarding the determination of whether commercial or industrial type functions at Department of Defense installations located in any State, the District of Columbia, the Commonwealth of Puerto Rico, and Guam should be performed by Department of Defense personnel or by private contractors during the period beginning on October 1, 1978, and ending on September 30, 1979.

(b) No commercial or industrial type function at any Department of Defense installation referred to in subsection (a) shall be performed by private contractors unless such contractor performance began before the date of the enactment of this Act or performance would have been allowed by the policy and regulations in effect before June 30, 1976. The prohibition in the preceding sentence shall apply until the end of the sixty-day period beginning on the date the report required by subsection (a) is received by the Committees on Armed Services of the Senate and House of Representatives.

PROHIBITION OF SALE OF CERTAIN DEFENSE ARTICLES FROM DEPARTMENT OF DEFENSE STOCKS

SEC. 815. (a) Chapter 49 of title 10, United States Code, is amended by adding at the end thereof the following new section:

"§ 975. Prohibition on the sale of certain defense articles from the stocks of the Department of Defense

"(a)(1) Except as provided in subsections (b) and (c), the sale outside the Department of Defense of any defense article designated or otherwise classified as Prepositioned Material Configured to Unit Sets, as decrement stock, or as Prepositioned War Reserve Stocks for United States Forces is prohibited.

"(2) In this section, 'decrement stock' means such stock as is needed to bring the armed forces from a peacetime level of readiness to a combat level of readiness.

"(b) The President may authorize the sale outside the Department of Defense of a defense article described in subsection (a) if—

"(1) he determines that there is an international crisis affecting the national security of the United States and the sale of such article is in the best interests of the United States; and

"(2) he reports to the Congress not later than 60 days after the transfer of such article a plan for the prompt replenishment of the stocks of such article and the planned budget request to begin implementation of that plan.

"(c)(1) Nothing in this section shall preclude the sale of stocks which have been designated for replacement, substitution, or elimination or which have been designated for sale to provide funds to procure higher priority stocks.

"(2) Nothing in this section shall preclude the transfer or sale of equipment to other members of the North Atlantic Treaty Organization.".

(b) The table of sections at the beginning of chapter 49 of title 10, United States Code, is amended by adding at the end thereof the following new item:

"975. Prohibition on the sale of certain defense articles from the stocks of the Department of Defense.".

ASSISTANCE TO 1980 OLYMPIC WINTER GAMES

SEC. 816. (a) Notwithstanding any other provision of law, the Secretary of Defense is authorized—

(1) to provide logistical support and personnel services to the XIII Olympic winter games;

(2) to lend and provide equipment to officials of the Lake Placid Olympic Organizing Committee; and

(3) to provide such other services as the Lake Placid Olympic Organizing Committee may consider necessary and the Secretary may consider advisable.

(b) There is authorized to be appropriated to the Secretary of Defense for fiscal year 1979 an amount not to exceed $2,000,000 for the purpose of carrying out subsection (a). No funds may be obligated or expended for such purpose unless specifically appropriated for such purpose.

REALIGNMENT OF MILITARY INSTALLATIONS IN THE CANAL ZONE

SEC. 817. None of the funds authorized to be appropriated by this Act shall be used for the realignment of any military installation in the Canal Zone unless such use is consistent with the responsibility of, and necessity for, the United States to defend the Panama Canal or with legislation which may be enacted to implement the Panama Canal Treaties of 1977.

TECHNICAL AMENDMENT RELATING TO THE LIMITATION ON NUMBER OF ADMIRALS AND VICE ADMIRALS IN THE NAVY AND GENERALS AND LIEUTENANT GENERALS IN THE MARINE CORPS

SEC. 818. (a) The first sentence of section 5231(b) of title 10, United States Code, is amended by striking out "the active list of the Navy" and inserting in lieu thereof "active duty".

(b) Section 5232(b) of such title is amended by striking out "the active list of the Marine Corps" and inserting in lieu thereof "active duty".

COMMISSARY BAGGERS

SEC. 819. Notwithstanding any other provision of law, an individual who performs bagger or carryout service for patrons of a commissary of a military department may not be considered to be an employee for purposes of the Fair Labor Standards Act of 1938 by virtue of such service if the sole compensation of such individual for such service is derived from tips.

ABOLISHMENT OF WOMEN'S ARMY CORPS

SEC. 820. (a) Section 505 of title 10, United States Code, is amended by striking out subsection (d) and by redesignating subsection (e) as subsection (c).

(b) Chapter 307 of such title is amended by striking out section 3071 and by striking out of the table of sections at the beginning of such chapter the item relating to section 3071.

(c) Chapter 331 of such title is amended—

(1) by striking out "; Women's Army Corps" in the catchline of section 3209;

(2) by striking out the subsection designation "(a)" at the beginning of subsection (a) of section 3209 and striking out subsection (b) of such section;

(3) by striking out section 3215;

(4) by striking out "and the Women's Army Corps" in clause (1) of the third sentence of section 3220; and

(5) by striking out in the table of sections at the beginning of such chapter "; Women's Army Corps" in the item relating to section 3209 and by striking out the item relating to section 3215.

(d) Chapter 335 of such title is amended—

(1) by striking out ", in the Women's Army Corps," in subsection (a) of section 3283 and by striking out "and the Women's Army Corps" in subsection (b) of such section;

(2) by striking out clause (2) of section 3296(b) and redesignating clause (3) as clause (2);

(3) by striking out in the third sentence of section 3297(a) "a selection board considering promotion-list officers of the Women's Army Corps under section 3300 (a) or (b) of this title may include officers of the Regular Army in that corps whose regular or temporary grades are above major, and";

(4) by striking out section 3311; and

(5) by striking out in the table of sections at the beginning of such chapter the item relating to section 3311.

(e) Chapter 337 of such title is amended—

(1) by striking out "and the Women's Army Corps" and "or corps, as the case may be" in the first sentence of section 3363(g) and by striking out "or the Women's Army Corps" in the second sentence of such section;

(2) by striking out "and the Women's Army Corps" in section 3364(a);

(3) by striking out "or to the Women's Army Corps" and "or corps" in section 3364(b);

(4) by striking out "or to the Women's Army Corps" in section 3364(c); and

(5) by striking out the second sentence of section 3383(b).

(f) Chapter 345 of such title is amended by striking out section 3580 and by striking out in the table of sections at the beginning of such chapter the item relating to section 3580.

(g) Section 3818 of such title is amended—

(1) by striking out clause (2) of subsection (a) and inserting in lieu thereof the following:

"(2) the appointment of a female warrant officer, or the enlistment of a female member, of the Regular Army."; and

(2) by striking out "of the Women's Army Corps" in subsection (c).

(h) Section 3848(d) of such title is amended by inserting "or" before "the Army Medical Specialist Corps" and by striking out "or the Women's Army Corps,".

(i) Section 3916(b) of such title is amended—

(1) by inserting "and" at the end of clause (1);

(2) by striking out "Women's Army Corps." in clause (2);

(3) by striking out the semicolon and the word "and" at the end of clause (2) and inserting in lieu thereof a period; and

(4) by striking out clause (3).

AUDIT AND REVIEW OF CERTAIN FUNDS

SEC. 821. (a) Any funds authorized by this or any other Act to provide relief to contractors under authority of the first section of the Act entitled "An Act to authorize the making, amendment, and modification of contracts to facilitate the national defense", approved August 28, 1958 (72 Stat. 972; 50 U.S.C. 1431), in connection with contracts entered into prior to the date of enactment of this section for the procurement for the United States of landing helicopter assault vessels (LHA), DD-963 vessels and SSN 688 nuclear attack submarines, and paid by the United States to such contractors, shall be subject to such audits and reviews by the Comptroller General of the United States as the Comptroller General shall determine necessary to insure that such funds are used only in connection with such contracts and to insure that the prime contractors concerned do not realize any total overall profit on such contracts.

(b) No funds described in subsection (a) may be used to provide relief to any contractor described in subsection (a), in connection with any contract described in such subsection, to the extent that the use of such funds would result in any profit on such contract, as determined by the Comptroller General of the United States.

(c) The Comptroller General of the United States shall keep the appropriate committees of the Congress currently informed regarding the expenditure of funds referred to in subsection (a) and shall submit to the Congress annually, until the completion of the contracts referred to in subsection (a), a written report on the status of the contracts referred to in subsection (a), on the expenditure of the funds referred to in such subsection, and on the results of the audits and reviews conducted by the Comptroller General under authority of this section.

MOTION OFFERED BY MR. PRICE

Mr. PRICE. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. PRICE moves to strike all after the enacting clause of S. 3486 and insert in lieu thereof the provisions of H.R. 14042 as passed, as follows:

That this Act may be cited as the "Department of Defense Appropriation Authorization Act, 1979".

TITLE I—PROCUREMENT

SEC. 101. Funds are hereby authorized to be appropriated for fiscal year 1979 for the use of the Armed Forces of the United States for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons, as authorized by law, in amounts as follows:

AIRCRAFT

For aircraft: for the Arrmy, $972,400,000; for the Navy and Marine Corps, $4,381,100,000; for the Air Force, $7,028,200,000.

MISSILES

For missiles: for the Army, $738,100,000; for the Navy, $1,583,700,000; for the Marine Corps, $23,100,000; for the Air Force, $1,626,500,000.

NAVAL VESSELS

For naval vessels: for the Navy, $4,470,500,000.

TRACKED COMBAT VEHICLES

For tracked combat vehicles: for the Army, $1,419,400,000; for the Marine Corps, $24,300,000.

TORPEDOES

For torpedoes and related support equipment: for the Navy, $366,800,000.

OTHER WEAPONS

For other weapons: for the Army, $109,000,000; for the Navy, $102,000,000; for the Marine Corps, $30,200,000; for the Air Force, $300,000.

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

SEC. 201. Funds are hereby authorized to be appropriated for fiscal year 1979 for the use of the Armed Forces of the United States for research, development, test, and evaluation, as authorized by law, in amounts as follows:

For the Army, $2,661,701,000.

For the Navy (including the Marine Corps), $4,504,268,000.

For the Air Force, $4,164,500,000, of which $10,000,000 may be obligated and expended only for the North Atlantic Treaty Organization Airborne Warning and Control System (AWACS) program, but such $10,000,000 may not be obligated or expended until at least one member country of the North Atlantic Treaty Organization (other than the United States) enters into a contract to purchase the AWACS aircraft.

For the Defense Agencies, $933,400,000, of which $27,600,000 is authorized for the activities of the Director of Test and Evaluation, Defense.

EXTREMELY LOW FREQUENCY (ELF) COMMUNICATION SYSTEM

SEC. 202. None of the funds authorized to be appropriated by this Act for the development of the Extremely Low Frequency (ELF) communication system may be obligated or expended for the development of such system unless the President certifies to the Congress in writing that the use of funds for such purpose is in the national interest, that a site has been selected for the deployment of such system, and that the President has approved such site for the deployment of such system, and in no event may any of the funds authorized to be appropriated by this Act be used for full scale development or construction of another testbed facility for an Extremely Low Frequency (ELF) communication system.

REPORT RELATING TO DEVELOPMENT OF SURVIVABLE LAND-BASED INTERCONTINENTAL BALLISTIC MISSILE SYSTEM

SEC. 203. The Secretary of Defense shall, not later than October 31, 1978, report to the Committees on Armed Services of the Senate and the House of Representatives the decision of the executive branch regarding full scale development of a survivable land-based intercontinental ballistic missile system. In the event that no final decision regarding such matter has been reached by the executive branch by such date, the Secretary of Defense shall—

(1) notify such committees on or before such date that no final decision has been reached and the reasons why such decision has not been made;

(2) inform such committees of the technical, political, or other considerations necessitating a delay in making such decision;

(3) indicate the date the Secretary believes a final decision will have been made with respect to such matter; and

(4) submit a report to such committees once every 30 days on the status of the decision on such matter (including in each such report information relating to the matters contained in clauses (2) and (3) of this section) until a final decision by the executive branch has been made and such committees have been informed of such decision.

REPEAL OF FISCAL YEAR 1978 AWACS RESTRICTION

SEC. 204. Section 201 of the Department of Defense Appropriation Authorization Act, 1978 (Public Law 95-79, 91 Stat. 323), is amended by striking out ", but such $15,700,000 may not be obligated or expended until at least one member country of the North Atlantic Treaty Organization (other than the United States) enters into a contract to purchase the AWACS aircraft".

TITLE III—ACTIVE FORCES

SEC. 301.—For fiscal year 1979, each component of the Armed Forces is authorized an end strength for active duty personnel as follows:

(1) The Army, 775,800.

(2) The Navy, 523,550.

(3) The Marine Corps, 190,000.

(4) The Air Force, 566,400.

TITLE IV—RESERVE FORCES

SEC. 401. (a) For fiscal year 1979, the Selected Reserve of each Reserve component of the Armed Forces shall be programmed to attain an average strength of not less than the following:

(1) The Army National Guard of the United States, 362,200.

(2) The Army Reserve, 195,750.

(3) The Naval Reserve, 87,000.

(4) The Marine Corps Reserve, 33,000.

(5) The Air National Guard of the United States, 92,150.

(6) The Air Force Reserve, 53,075.

(7) The Coast Guard Reserve, 11,700.

(b) The average strength prescribed by subsection (a) of this section for the Selected Reserve of any Reserve component shall be proportionately reduced by (1) the total authorized strength of units organized to serve as units of the Selected Reserve of such component which are on active duty (other than for training) at any time during the fiscal year, and (2) the total number of individual members not in units organized to serve as units of the Selected Reserve of such component who are on active duty (other than for training or for unsatisfactory participation in training) without their consent at any time during the fiscal year. Whenever such units or such individual members are released from active duty during any fiscal year, the average strength prescribed for such fiscal year for the Selected Reserve of such Reserve component shall be proportionately increased by the total authorized strength of such units and by the total number of such individual members.

EDUCATIONAL ASSISTANCE PROGRAM FOR ENLISTED

SEC. 402. (a) Section 2132(b)(1) of title 10, United States Code, relating to eligibility for educational assistance, is amended—

(1) by striking out "automatically extended by two years" and inserting in lieu thereof "not less than six years"; and

(2) by striking out "eighth anniversary" and inserting in lieu thereof "last day of the term".

(b) Section 2135 of title 10, United States Code, is amended by striking out "1978" and inserting in lieu thereof "1980".

REENLISTMENT BONUS FOR MEMBERS OF SELECTED RESERVE

SEC. 403. (a) Subsection (a) of section 308b of title 37, United States Code, relating to reenlistment bonuses for members of the Selected Reserve, is amended to read as follows:

"(a) An enlisted member of a reserve component who—

"(1) has completed less than ten years of total military services; and

"(2) reenlists or voluntarily extends his enlistment for a period of three years or for a period of six years in a designated military skill, or in a designated unit, as determined by the Secretary concerned, in the Selected Reserve of the Ready Reserve of an armed force;

may be paid a bonus as provided in subsection (b).".

(b) Subsection (b) of such section is amended by inserting "an amount not to exceed" before "$450", before "$900", and before "$150".

(c) Subsection (g) of such section is amended by striking out "1978" and inserting in lieu thereof "1980".

BONUS FOR ENLISTMENTS IN THE SELECTED RESERVE

SEC. 404. (a) Chapter 5 of title 37, United States Code, is amended by inserting after section 308b the following new section:

"§ 308c. Special pay: bonus for enlistment in the Selected Reserve

"(a) Any person who, after September 30, 1978, enlists in the Selected Reserve of the ready Reserve of an armed force for a term of enlistment of not less than six years, is a graduate of a secondary school, and has never previously served in an armed force may be paid a bonus as provided in subsection (b).

"(b) The amount and method of payment of a bonus to be paid under subsection (a) shall be determined in accordance with regulations prescribed under subsection (c), except that the amount of such bonus may not exceed $2,000 and—

"(1) one-half of the bonus shall be paid upon completion of the initial active duty for training of such person; and

"(2) the remainder of the bonus may be paid in periodic installments or in a lump sum, as determined by the Secretary concerned.

"(c) This section shall be administered under regulations prescribed by the Secretary of defense for the armed forces under his jurisdiction and by the Secretary of Transportation for the Coast Guard when it is not operating as a service in the Navy.

"(d) A member who fails to participate satisfactorily in training with his unit during a term of enlistment for which a bonus has been paid to him under this section shall refund an amount which bears the same ratio to the amount of the bonus which has been paid to him as the unexpired part of such term of enlistment bears to the total length of such term of enlistment.

"(e) The Secretary of defense shall submit a report to the Congress every three months stating the number of members of the Selected Reserve of the Ready Reserve who at the time of such report are serving a term of enlistment for which a bonus has been paid under this section and listing each unit of the Selected Reserve of the Ready Reserve to which any such member is assigned at the time of such report. The first such report shall be made not later than December 31, 1978.

"(f) No bonus may be paid under this section to any enlisted member who, after September 30, 1980, enlists in the Selected Reserve of the Ready Reserve of an armed force.".

(b) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 308b the following new item:

"308c. Special pay: bonus for enlistment in the Selected Reserve.".

RESTRICTION ON TRANSFER FROM READY RESERVE TO STANDBY RESERVE

SEC. 405. (a)(1) Section 269 of title 10, United States Code, relating to transfers from the Ready Reserve, is amended—

(A) by striking out "eligible to transfer" in subsection (a) and inserting in lieu thereof "transferred";

(B) by striking out the colon at the end of the third sentence in subsection (d) and inserting in lieu thereof a period;

(C) by striking out subsection (e) and inserting in lieu thereof the following:

"(e) Subject to subsection (g) and under regulations prescribed by the Secretary of Defense, and by the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy, a member in the Ready Reserve may be transferred to the Standby Reserve."; and

(D) by striking out subsection (f) and inserting in lieu thereof the following:

"(f) A Reserve who is qualified and so requests may be transferred to the Retired Reserve under regulations prescribed by the Secretary concerned and, in the case of the Secretary of a military department, approved by the Secretary of Defense.".

(2) The amendments made by paragraph (1) shall not apply with respect to a member of the Ready Reserve of an Armed Force who served on active duty (other than for training) before the date of the enactment of this Act.

(b) Section 271 of such title, relating to continuous screening of the Ready Reserve, is amended—

(1) by inserting "(a)" before "Under regulations";

(2) by striking out "significance" in clause (1) and inserting in lieu thereof "significant"; and

(3) by adding at the end thereof the following new subsection:

"(b) Under regulations to be prescribed by the Secretary of Defense, and by the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy, any member of the Ready Reserve who is designated as a member not to be retained in the Ready Reserve as a result of screening under subsection (a) shall, as appropriate, be transferred to the Standby Reserve, discharged, or, if such member is eligible and applies therefor, transferred to the Retired Reserve.".

(c)(1) Section 511(b) of such title, relating to terms of enlistments in Reserve components, is amended—

(A) in the first sentence—

(i) by striking out "the Secretary concerned" and inserting in lieu thereof "the Secretary of Defense, and by the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy"; and

(ii) by striking out "sections 451–473 of title 50, appendix" and inserting in lieu thereof "the Military Selective Service Act (50 U.S.C. App. 451–473)"; and

(B) in the second sentence—

(i) by inserting "not less than" in clause (1) before "two years" and by adding "and " at the end of such clause;

(ii) by striking out clause (2); and

(iii) by redesignating clause (3) as clause (2) and striking out "Standby Reserve" in such clause and inserting in lieu thereof "Ready Reserve".

(2) The amendments made by paragraph (1) shall not apply with respect to a person who enlisted as a Reserve for service in the Armed Forces under section 511(b) of title 10, United States Code, before the date of the enactment of this Act.

(d)(1) Chapter 37 of such title, relating to general service requirements, is amended by adding after section 651 the following new section:

"§ 652. Ready Reserves: requirement of notification of change of status

"Under regulations to be prescribed by the Secretary of Defense, and by the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy, each member of the Ready Reserve who is not a member of the Selective Reserve shall notify the Secretary concerned of any change in such member's address, marital status, number of dependents, or civilian employment and of any change in such member's physical condition which would prevent him from meeting the physical or mental standards prescribed for his armed force.".

(2) The table of sections at the beginning of such chapter is amended by adding after the item relating to section 651 the following new item:

"652. Ready Reserves: requirement of notification of change of status.".

REPEAL OF REQUIREMENT FOR ANNUAL REPORT ON RESERVE FORCES

SEC. 406. (a) Section 264 of title 10, United States Code, is amended by striking out subsection (c).

(b)(1) Section 279 of such title is repealed.

(2) The table of sections at the beginning of chapter 11 of such title is amended by striking out the item relating to section 279.

TITLE V—CIVILIAN PERSONNEL

SEC. 501. (a) For fiscal year 1979, the Department of Defense is authorized an end strength for civilian personnel of 1,005,500.

(b) The end strength for civilian personnel prescribed in subsection (a) of this section shall be apportioned among the Department of the Army, the Department of the Navy (including the Marine Corps), the Department of the Air Force, and the agencies of the Department of Defense (other than the military departments) in such numbers as the Secretary of Defense shall prescribe. The Secretary of Defense shall report to the Congress within sixty days after the date of the enactment of this Act on the manner in which the initial allocation of civilian personnel is made among the military departments and the agencies of the Department of Defense (other than the military departments) and shall include the rationale for each allocation.

(c) In computing the authorized end strength for civilian personnel there shall be included all direct-hire and indirect-hire civilian personnel employed to perform military functions administered by the Department of Defense (other than those performed by the National Security Agency), whether employed on a full-time, part-time, or intermittent basis, but excluding special employment categories for students and disadvantaged youth such as the stay-in school campaign, the temporary summer aid program and the Federal junior fellowship program and personnel participating in the worker-trainee opportunity program. Whenever a function, power, or duty, or activity is transferred or assigned to a department or agency of the Department of Defense from a department or agency outside of the Department of Defense, or from another department or agency within the Department of Defense, the civilian personnel end strength authorized for such departments or agencies of the Department of Defense affected shall be adjusted to reflect any increases or decreases in civilian personnel required as a result of such transfer or assignment.

(d) When the Secretary of Defense determines that such action is necessary in the national interest, he may authorize the employment of civilian personnel in excess of the number authorized in subsection (a) of this section, but such additional number may not exceed 1¼ percent of the total number of civilian personnel authorized for the Department of Defense by subsection (a) of this section. The Secretary of Defense shall promptly notify the Congress of any authorization to increase civilian personnel strength under the authority of this subsection.

TITLE VI—MILITARY TRAINING STUDENT LOADS

SEC. 601. (a) For fiscal year 1979, each component of the Armed Forces is authorized an average military training student load as follows:

(1) The Army, 50,738.
(2) The Navy, 57,996.
(3) The Marine Corps, 21,324.
(4) The Air Force, 44,410.
(5) The Army National Guard of the United States, 11,793.
(6) The Army Reserve, 5,959.
(7) The Naval Reserve, 991.
(8) The Marine Corps Reserve, 3,074.
(9) The Air National Guard of the United States, 2,471.
(10) The Air Force Reserve, 1,184.

(b) In addition to the number authorized for the Army in subsection (a), the Army is authorized a military training student load for fiscal year 1979 of not less than 17,205 to be utilized solely for On Station Unit Training.

(c) The average military training student loads for the Army, the Navy, the Marine Corps, and the Air Force and the Reserve components authorized in subsection (a) of this section for fiscal year 1979 shall be adjusted consistent with the manpower strengths authorized in titles III, IV, and V of this Act. Such adjustment shall be apportioned among the Army, the Navy, the Marine Corps, and the Air Force and the Reserve components in such manner as the Secretary of Defense shall prescribe.

REDUCTION OR REALIGNMENT OF THE TRAINING BASE

SEC. 602. (a) Notwithstanding any other provision of law, no action may be taken to effect or implement any substantial reduction of the training base (as defined in subsection (c)) or any substantial force structure realignment of the training base planned as a part of the fiscal year 1979 Defense manpower program unless and until the provisions of subsection (b) are complied with.

(b) No action described in subsection (a) with respect to a substantial reduction or realignment of the training base may be taken unless and until—

(1) the Secretary of Defense or the Secretary of the military department concerned notifies the Committees on Armed Services and Appropriations of the Senate and House of Representatives in writing of the specific reduction or realignment proposed;

(2) the Secretary of Defense or the Secretary of the military department concerned certifies that such reduction or realignment is in the best interest of the national security and provides for the most cost effective and efficient management of the training base, both in time of peace and in ability to meet mobilization requirements; and

(3) a period of thirty legislative days expires following the date on which the notification and certification referred to in clauses (1) and (2) have been submitted to such committees, during which period no irrevocable action may be taken to effect or implement such reduction or realignment.

For the purpose of clause (3), a legislative day is a day in which either House of Congress is in session.

(c) For the purposes of this section, the term "training base" means the composite of installations, posts, camps, stations, and bases that have a primary or secondary mission the conduct of formal entry level, advanced individual, or specialty training.

TITLE VII—CIVIL DEFENSE

AUTHORIZATION FOR DEFENSE CIVIL PREPAREDNESS AGENCY

SEC. 701. There is hereby authorized to be appropriated for the programs of the Defense Civil Preparedness Agency for fiscal year 1979 for the purpose of carrying out the provisions of the Federal Civil Defense Act of 1950 the sum of $96,500,000.

CIVIL DEFENSE STUDY

SEC. 702. (a) From the funds authorized to be appropriated pursuant to section 701 of this Act, the sum of $200,000 shall be used for a study of the special defense needs of areas of the United States which contain significant elements of the United States strategic nuclear retaliatory forces or significant defense-related research laboratories or facilities.

(b) The study provided for in subsection (a) shall include the following:

(1) An identification of areas of the United States which, because they contain significant elements of the United States strategic nuclear retaliatory forces or significant defense-related research laboratories or facilities, are prime targets in case of a nuclear attack.

(2) A determination of what civil defense evacuation and shelter plans and warning systems are now available or are proposed to be made available to such areas.

(3) An evaluation of the effectiveness of such existing evacuation and shelter plans and warning systems.

(4) A determination of the feasibility of establishing more effective evacuation and shelter plans and warning systems for such areas and a determination of the potential costs and methods of financing such plans and systems.

(5) A detailed analysis of the specific effects of a nuclear attack on each such area.

(6) A determination of the need for educating, and the most effective methods of educating, the public in such areas on civil defense matters.

(c) The study required by this section shall be completed, and copies shall be filed with the Committees on Armed Services of the Senate and House of Representatives, before April 1, 1979.

TITLE VIII—GENERAL PROVISIONS

EXTENSION OF AUTHORITY FOR SPECIAL PAY FOR HEALTH PROFESSIONALS

SEC. 801. (a) The second sentence of section 2 of the Act entitled "An Act to amend chapter 5 of title 37, United States Code, to revise the special pay structure relating to medical officers of the uniformed services", approved May 6, 1974 (88 Stat. 96; 37 U.S.C. 302 note), is amended to read as follows: "The authority for the special pay provided by the amendments made by the first section of this Act shall expire on September 30, 1980.".

(b) Sections 302a(c) and 303(c) of title 37, United States Code, are each amended by striking out "September 1978" and inserting in lieu thereof "September 1980".

AUTHORITY FOR ENLISTMENT AND REENLISTMENT BONUSES

SEC. 802. (a)(1) Section 308(a) of title 37, United States Code, is amended—

(A) by inserting "(1)" after "(a)" and by redesignating paragraphs (1), (2), (3), and (4) as subparagraphs (A), (B), (C), and (D), respectively;

(B) by striking out "designated as having a critical military skill" in paragraph (1)(B) (as redesignated by subparagraph (A)) and inserting in lieu thereof "qualified in a military skill designated as critical"; and

(C) by adding at the end thereof the following new paragraph:

"(2) Notwithstanding paragraph (1)(B) of this subsection, a member who agrees to train and reenlist for service in a military skill which, at the time of that agreement, is designated as critical, may be paid the bonus approved for that skill, at the rate in effect at the time of agreement, upon completion of training and qualification in that skill, if otherwise qualified under this subsection and even if that skill is no longer designated as critical at the time the member becomes eligible for payment of the bonus.".

(2) The amendments made by paragraph (1) shall take effect on October 1, 1978.

(b) Sections 308(f) and 308a(c) of title 37, United States Code, are each amended by striking out "September 30, 1978" and inserting in lieu thereof "September 30, 1980".

EXTENSION OF AUTHORITY FOR SUBSISTENCE ALLOWANCE FOR MARINE CORPS PLATOON LEADER CLASSES

SEC. 803. The Act entitled "An Act to provide subsistence allowances for members of the Marine Corps officer candidate programs", approved November 24, 1971 (85 Stat. 491; 37 U.S.C. 209 note), is amended by striking out "September 30, 1978" and inserting in lieu thereof "September 30, 1980".

CAREER SEA PAY

SEC. 804. (a)(1) Effective October 1, 1978, chapter 5 of title 37, United States Code, relating to special and incentive pays, is amended by inserting after section 305 the following new section:

"§ 305a. Special pay: career sea pay

"(a) Under regulations prescribed by the President, an enlisted member of a uniformed service who is entitled to basic pay and who (1) is in pay grade E–4 or above, and (2) has served more than three years of sea duty, is also entitled, while on sea duty, to special pay at the applicable rate under subsection (b).

"(b)(1) For sea duty performed during fiscal year 1979 or 1980, the monthly rates for special pay under subsection (a) are as follows:

"Years of sea duty:	*Monthly rate*
Over 3	$25
Over 5	35
Over 12	55

"(2) For sea duty performed during fiscal year 1981, the monthly rates for special pay under subsection (a) are as follows:

"Years of sea duty:	*Monthly rate*
Over 3	$25
Over 5	35
Over 7	45
Over 12	55".

(2) Effective October 1, 1981, subsection (b) of section 305a of title 37, United States Code (as added by paragraph (1)), is amended to read as follows:

"(b) The monthly rates for special pay under subsection (a) are as follows:

"Years of sea duty:	*Monthly rate*
Over 3	$25
Over 5	35
Over 7	45
Over 9	55
Over 10	65
Over 11	75
Over 12	100".

(3) In determining the amount of sea duty to be credited to an enlisted member of a uniformed service for purposes of section 305a of title 37, United States Code (as added by paragraph (1)), the Secretary concerned shall credit such member with all periods of service by such member before October 1, 1978, during which such member served in a sea duty status.

(b)(1) Section 305 of such chapter is amended—

(A) by striking out all of subsection (a) that precedes the table therein and inserting in lieu thereof the following:

"(a) Except as provided by subsections (b) and (c) of this section, under regulations prescribed by the President, an enlisted member of a uniformed service who is entitled to basic pay may, while on duty at a designated place outside the 48 contiguous States and the District of Columbia, be paid special pay at the following monthly rates:";

(B) by adding at the end thereof the following new subsection:

"(c) A member receiving special pay under section 350a of this title may not be paid special pay under this section for the same period of service."; and

(C) by striking out "sea duty or" in the section heading.

(2) The table of sections at the beginning of such chapter is amended—

(A) by striking out "sea duty or" in the item relating to section 305; and

(B) by inserting after such item the following new item:

"305a. Special pay: career sea pay.".

(3) The amendments made by this subsection shall take effect on October 1, 1978.

(c) Any individual who on September 30, 1978, is an enlisted member of a uniformed service shall be eligible to receive special pay under section 305(a)(1) of title 37, United States Code, as in effect on September 30, 1978, for any period of sea duty performed by such individual during the period beginning on October 1, 1978, and ending on September 30, 1981, for which such individual does not receive special pay under section 305a of such title (as added by subsection (a)).

CHIEF OF ARMY DENTAL CORPS; AIR FORCE ASSISTANT SURGEON GENERAL FOR DENTAL SERVICES

SEC. 805. (a) Section 3040(b) of title 10, United States Code, is amended by inserting after the first sentence thereof the following new sentence: "The Assistant Surgeon General is Chief of the Dental Corps and is responsible for making recommendations to the Surgeon General and through the Surgeon General to the Chief of Staff on all matters concerning dentistry and the dental health of the Army.".

(b)(1) Chapter 307 of title 10, United States Code, is amended by adding at the end thereof the following new section:

"§ 3081. Dental Corps: Chief, functions

"(a) The Chief of the Dental Corps shall be an officer of that corps appointed as prescribed in section 3040 of this title.

"(b) Under such regulations as the Secretary of the Army may prescribe, all dental functions of the Army shall be under the direction of the Chief of the Dental Corps. All matters relating to dentistry shall be referred to the Chief of the Dental Corps.

"(c) The Chief of the Dental Corps shall—

"(1) establish professional standards and policies for dental practice;

"(2) initiate and recommend action pertaining to organization requirements and utilization of the Dental Corps and dental auxiliary strength, appointments, advancement, training assignment, and transfer of dental personnel; and

"(3) serve as the adviser to the Office of the Surgeon General on all matters relating directly to dentistry.

"(d) Under such regulations as the Secretary of the Army may prescribe, dental and dental auxiliary personnel throughout the Army shall be organized into units commanded by a designated Dental Corps officer. Such officer will be directly responsible to the commander of installations, organizations, and activities for all professional and technical matters and such administrative matters as may be prescribed by regulation.".

(2) The table of sections at the beginning of chapter 307 of title 10, United States Code, is amended by adding at the end thereof the following new item:

"3081. Dental Corps: Chief, functions.".

(c)(1) Chapter 807 of title 10, United States Code, is amended by adding at the end thereof the following new section:

"§ 8081. Assistant Surgeon General for Dental Services

"There is an Assistant Surgeon General for Dental Services in the Air Force who is appointed by the Secretary of the Air Force upon the recommendation of the Surgeon General from officers of the Air Force above the grade of major who are designated as dental officers under section 8067(b) of this title. The term of office of the Assistant Surgeon General for Dental Services is four years but may be increased or decreased by the Secretary of the Air Force.".

(2) The table of sections at the beginning of chapter 807 of title 10, United States Code, is amended by adding at the end thereof the following new item:

"8081. Assistant Surgeon General for Dental Services.".

CEILING FOR PAYMENTS TO PHYSICIANS UNDER CHAMPUS

SEC. 806. (a)(1) Section 1079 of title 10, United States Code, is amended by adding at the end thereof the following new subsection:

"(h) Payment of a charge for physician services for which a claim is submitted under a plan contracted for under subsection (a) may be denied because the charge is in excess of a predetermined charge level based upon customary charges made for similar services in the same locality only to the extent that such charge is in excess of the charge level that, on the basis of statistical data and methodology acceptable to the Secretary of Defense, in consultation with the Secretary of Health, Education, and Welfare, is equivalent to the 90th percentile of the customary charges made for similar services in the same locality during the last preceding calendar year elapsing before the start of the twelve-month period (beginning July 1 of each year) in which the claim for the payment is submitted.".

(2) Section 1086 of such title is amended by adding at the end thereof the following new subsection:

"(f) The provisions of section 1079(h) of this title shall apply to payments for physician services under a plan contracted for under subsection (a).".

(b) The amendments made by subsection (a) shall apply with respect to claims submitted for payment for services provided on or after the first day of the first calendar year beginning after the date of enactment of this Act.

MARINE CORPS COMMANDANT—MEMBER OF JOINT CHIEFS OF STAFF

SEC. 807. Section 141 of title 10, United States Code, is amended by—

(1) striking out "and" at the end of subsection (a)(3);

(2) striking out the period at the end of subsection (a)(4) and inserting in lieu thereof a semicolon and the word "and";

(3) adding after subsection (a)(4) a new clause (5) as follows:

"(5) the Commandant of the Marine Corps.";

(4) striking out subsection (c); and

(5) redesignating subsection (d) and (e) as subsections (c) and (d), respectively.

ASSIGNMENT OF WOMEN TO NAVAL VESSELS

SEC. 808. The last sentence of section 6015 of title 10, United States Code, relating to restrictions on the assignment of women members of the Navy, is amended to read as follows: "However, women may not be assigned to duty on vessels or in aircraft that are engaged in combat missions nor may they be assigned to other than temporary duty on vessels of the Navy except hospital ships, transports, and vessels of a similar classification not expected to be assigned combat missions.".

MILITARY TRAINING FOR FEMALE UNDERGRADUATES AT MILITARY COLLEGES

SEC. 809. (a) The Secretary of Defense shall require that any college or university designated by the Secretary of Defense as a military college shall, as a condition of maintaining such designation, provide that qualified female undergraduate students enrolled in such college or university be eligible to participate in military training at such college or university, but, notwithstanding any other provision of law, the Secretary of Defense may not require that, as a condition of maintaining such designation or for any other purpose, such college or university require female undergraduate students enrolled in such college or university to participate in military training.

(b) The Secretary of Defense shall prescribe such regulations as the Secretary determines necessary or appropriate to carry out the provisions of this section.

NAVY SHIPBUILDING POLICY

SEC. 810. (a) It is the policy of the United States to modernize the combatant forces of the United States Navy through the construction of advanced, versatile, survivable, and cost-effective combatant ships in sufficient combat effectiveness to defend the United States against enemy attack and to carry out such other missions as may be assigned to the Navy by law. In order to achieve such policy, the Navy should develop plans and programs for the construction and deployment of weapon systems, including naval aviation platforms, that are more survivable, less costly, and more effective than those presently in the Navy.

(b) In order that the Congress may be kept currently informed regarding compliance with the policy expressed in subsection (a), the President shall include in all requests made to the Congress for the authorization of any ship for the combatant forces, including any aircraft carrier, (1) his conclusions with respect to the survivability, cost effectiveness, and combat effectiveness of such ship, (2) a recommendation whether such ship should be nuclear or conventionally powered, and (3) the reasons for such conclusions and recommendations.

(c) Title VIII of the Department of Defense Appropriation Authorization Act, 1975 (88 Stat. 408), is repealed.

CARRIER SERVICE LIFE EXTENSION PROGRAM AND DDG–2 DESTROYER CONVERSION

SEC. 811. (a) Notwithstanding any other provision of law and except as provided in subsection (b), the Secretary of the Navy may not take any action with respect to the use of either public shipyards or private shipyards for conversion, overhaul, or repair work under the Service Life Extension Program (SLEP) or under the program for the modernization of DDG–2 class guided missile destroyers, or for the employment of additional personnel for, or the transfer of additional personnel to, any public shipyard as a part of the necessary buildup of manpower for carrying out either such program, until—

(1) the Secretary of the Navy conducts a comprehensive least-cost approach study (A) comparing the costs of carrying out such programs at public shipyards with the costs of carrying out such programs at private shipyards, and (B) evaluating such other factors as the Secretary of the Navy considers should be taken into account in assigning work in connection with the conversion, overhaul, repair, or modernization of vessels to public or private shipyards;

(2) a written report containing the results of such study is submitted, after the date of the enactment of this Act, to the Committees on Armed Services and on Appropriations of the Senate and the House of Representatives; and

(3) a period of sixty days of continuous session of Congress expires following the date on which such report is submitted to such committees.

(b) Nothing in this section shall prevent the Navy from conducting advanced planning or purchasing long lead items in connection with either program described in subsection (a) so long as such planning or purchasing is not related to the performance of work in connection with either such program at any particular shipyard.

(c) For purposes of subsection (a)(3), the continuity of a session of Congress is broken only by an adjournment of the Congress sine die, and days, on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of such sixty-day period.

SEA-BASED AIRCRAFT PLATFORM STUDY FUNDS

SEC. 812. The unobligated balance of $40,000,000 authorized to be appropriated in section 201 of the Department of Defense Appropriation Authorization Act, 1978 (Public Law 95–79; 91 Stat. 323), for conducting comprehensive evaluation studies of sea-based aircraft platforms shall after the date of the enactment of this Act to be available and primarily applied toward performing any design work related to any such sea-based aircraft platform authorized by this Act.

CERTIFICATION OF CLAIMS

SEC. 813. Notwithstanding any other provision of law, none of the funds authorized to be appropriated for the Department of Defense by this or any other Act shall be used for the purpose of paying any contract claim, request for equitable adjustment to contract terms, request for relief under Public Law 85–804, or other similar request, which exceeds $100,000 unless a senior company official in charge at the plant or location involved has certified at the time of submission of such contract claim, request for equitable adjustment to contract terms, request for relief under Public Law 85–804, or other similar request, that such claim or request is made in good faith and that the supporting data are accurate and complete to the best of such official's knowledge and belief. The requirements of this section shall not apply to claims, requests for equitable adjustment to contract terms, requests for relief under Public Law 85–804, or other similar requests submitted before the date of enactment of this Act.

RESTRICTION ON CONTRACTING OUT COMMERCIAL AND INDUSTRIAL TYPE FUNCTIONS

SEC. 814. (a) The Secretary of Defense shall submit a report to the Committees on Armed Services of the Senate and House of Representatives providing the details of any proposed change in policy or regulations, from those in effect before June 30, 1976, regarding the determination of whether commercial or industrial type functions at Department of Defense installations located in any State, the District of Columbia, the Commonwealth of Puerto Rico, and Guam should be performed by Department of Defense personnel or by private contractors during the period beginning on October 1, 1978, and ending on September 30, 1979.

(b) No commercial or industrial type function at any Department of Defense installation referred to in subsection (a) shall be performed by private contractors unless such contractor performance began before the date of the enactment of this Act or performance would have been allowed by the policy and regulations in effect before June 30, 1976. The prohibition in the preceding sentence shall apply until the end of the sixty-day period beginning on the date the report required by subsection (a) is received by the Committees on Armed Services of the Senate and House of Representatives.

PROHIBITION ON SALE OF CERTAIN DEFENSE ARTICLES FROM DEPARTMENT OF DEFENSE STOCKS

SEC. 815. (a) Chapter 49 of title 10, United States Code, is amended by adding at the end thereof the following new section:

"§ 975. Prohibition on the sale of certain defense articles from the stocks of the Department of Defense

"(a)(1) Except as provided in subsections (b) and (c), the sale outside the Department of Defense of any defense article designated or otherwise classified as Prepositioned Material Configured to Unit Sets, as decrement stock, or as Prepositioned War Reserve Stocks for United States Forces is prohibited.

"(2) In this section, 'decrement stocks' means such stock as is needed to bring the armed forces from a peacetime level of readiness to a combat level of readiness.

"(b) The President may authorize the sale outside the Department of Defense of a defense article described in subsection (a) if—

"(1) he determines that there is an international crisis affecting the national security of the United States and the sale of such article is in the best interests of the United States; and

"(2) he reports to the Congress not later than 60 days after the transfer of such article a plan for the prompt replenishment of the stocks of such article and the planned budget request to being implementation of that plan.

"(c)(1) Nothing in this section shall preclude the sale of stocks which have been designated for replacement, substitution, or elimination or which have been designated for sale to provide funds to procure higher priority stocks.

"(2) Nothing in this section shall preclude the transfer or sale of equipment to other members of the North Atlantic Treaty Organization.".

(b) The table of sections at the beginning of chapter 49 of title 10, United States Code, is amended by adding at the end thereof the following new item:

"975. Prohibition on the sale of certain defense articles from the stocks of the Department of Defense.".

ASSISTANCE TO 1980 OLYMPIC WINTER GAMES

SEC. 816. (a) Notwithstanding any other provision of law, the Secretary of Defense is authorized—

(1) to provide logistical support and personnel services to the XIII Olympic winter games;

(2) to lend and provide equipment to officials of the Lake Placid Olympic Organizing Committee; and

(3) to provide such other services as the Lake Placid Olympic Organizing Committee may consider necessary and the Secretary may consider advisable.

(b) There is authorized to be appropriated to the Secretary of Defense for fiscal year 1979 an amount not to exceed $2,000,000 for the purpose of carrying out subsection (a). No funds may be obligated or expended for such purpose unless specifically appropriated for such purpose.

REALIGNMENT OF MILITARY INSTALLATIONS IN THE CANAL ZONE

SEC. 817. None of the funds authorized to be appropriated by this Act shall be used for the realignment of any military installation in the Canal Zone unless such use is consistent with the responsibility of, and necessity for, the United States to defend the Panama Canal or with legislation which may be enacted to implement the Panama Canal Treaties of 1977.

TECHNICAL AMENDMENT RELATING TO THE LIMITATION ON NUMBER OF ADMIRALS AND VICE ADMIRALS IN THE NAVY AND GENERALS AND LIEUTENANT GENERALS IN THE MARINE CORPS

SEC. 818. (a) The first sentence of section 5231(b) of title 10, United States Code, is amended by striking out "the active list of the Navy" and inserting in lieu thereof "active duty".

(b) Section 5232(b) of such title is amended by striking out "the active list of the Marine Corps" and inserting in lieu thereof "active duty".

COMMISSARY BAGGERS

SEC. 819. Notwithstanding any other provision of law an individual who performs bagger or carryout service for patrons of a commissary of a military department may not be considered to be an employee for purposes of the Fair Labor Standards Act of 1938 by virtue of such service if the sole compensation of such individual for such service is derived from tips.

ABOLISHMENT OF WOMEN'S ARMY CORPS

SEC. 820. (a) Section 505 of title 10, United States Code, is amended by striking out subsection (d) and by redesignating subsection (e) as subsection (d).

(b) Chapter 307 of such title is amended by striking out section 3071 and by striking out of the table of sections at the beginning of such chapter the item relating to section 3071.

(c) Chapter 331 of such title is amended—

(1) by striking out "; Women's Army Corps" in the catchline of section 3209;

(2) by striking out the subsection designation "(a)" at the beginning of subsection (a) of section 3209 and striking out subsection (b) of such section;

(3) by striking out section 3215;

(4) by striking out "and the Women's Army Corps" in clause (1) of the third sentence of section 3220; and

(5) by striking out in the table of sections at the beginning of such chapter "; Women's Army Corps" in the item relating to section 3209 and by striking out the item relating to section 3215.

(d) Chapter 335 of such title is amended—

(1) by striking out ", in the Women's Army Corps," in subsection (a) of section 3283 and by striking out "and the Women's Army Corps" in subsection (b) of such section;

(2) by striking out clause (2) of section 3296(b) and redesignating clause (3) as clause (2);

(3) by striking out in the third sentence of section 3297(a) "a selection board considering promotion-list officers of the Women's Army Corps under section 3300 (a) or (b) of this title may include officers of the Regular Army in that corps whose regular or temporary grades are above major, and";

(4) by striking out section 3311; and

(5) by striking out in the table of sections at the beginning of such chapter the item relating to section 3311.

(e) Chapter 337 of such title is amended—

(1) by striking out "and the Women's Army Corps" and "or corps, as the case may be" in the first sentence of section 3363(g) and by striking out "or the Women's Army Corps" in the second sentence of such section;

(2) by striking out "and to the Women's Army Corps" in section 3364(a);

(3) by striking out "or the Women's Army Corps" and "or corps" in section 3364(b);

(4) by striking out "or the Women's Army Corps" in section 3364(c) each time it appears; and

(5) by striking out the second sentence of section 3383(b).

(f) Chapter 345 of such title is amended by striking out section 3580 and by striking out in the table of sections at the beginning

of such chapter the item relating to section 3580.

(g) Section 3818 of such title is amended—

(1) by striking out clause (2) of subsection (a) and inserting in lieu thereof the following:

"(2) the appointment of a female warrant officer, or the enlistment of a female member, of the Regular Army."; and

(2) by striking out "of the Women's Army Corps" in subsection (c).

(h) Section 3848(d) of such title is amended by inserting "or" before "the Army Medical Specialist Corps" and by striking out "or the Women's Army Corps,".

(i) Section 3916(b) of such title is amended—

(1) by inserting "and" at the end of clause (1);

(2) by striking out "Women's Army Corps," in clause (2);

(3) by striking out the semicolon and the word "and" at the end of clause (2) and inserting in lieu thereof a period; and

(4) by striking out clause (3).

AUDIT AND REVIEW OF CERTAIN FUNDS

SEC. 821. (a) Any funds authorized by this or any other Act to provide relief to any contractors under authority of the first section of the Act entitled "An Act to authorize the making, amendment, and modification of contracts to facilitate the national defense", approved August 28, 1958 (72 Stat. 972; 50 U.S.C. 1431), in connection with contracts numbered N00024-69-C-0283, N00024-70-C-0275, N00024-71-C-0268, and N00024-74-C-0206 for the procurement for the United States of landing helicopter assault vessels (LHA), DD-963 vessels, and SSN 688 nuclear attack submarines, and paid by the United States to such contractors, shall be subject to such audits and reviews by the Comptroller General of the United States as the Comptroller General shall determine necessary to insure that such funds are used only in connection with such contracts and to insure that the prime contractors concerned do not realize any total combined profit on such contracts.

(b) No funds described in subsection (a) may be used to provide relief to any contractor described in subsection (a), in connection with contracts described in such subsection, to the extent that the use of such funds would result in any total combined profit on such contracts, as determined by the Comptroller General of the United States.

(c) The Comptroller General of the United States shall keep the appropriate committees of the Congress currently informed regarding the expenditure of funds referred to in subsection (a) and shall submit to the Congress annually, until the completion of the contracts referred to in subsection (a), a written report on the status of the contracts referred to in subsection (a), on the expenditure of the funds referred to in such subsection, and on the results of the audits and reviews conducted by the Comptroller General under authority of this section.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

A motion to reconsider was laid on the table.

A similar House bill (H.R. 14042) was laid on the table.

AUTHORIZING CLERK TO CORRECT SECTION NUMBERS AND PUNCTUATION IN ENGROSSMENT OF HOUSE AMENDMENT TO S. 3486

Mr. PRICE. Mr. Speaker, I ask unanimous consent that in the engrossment of the House amendment to the Senate bill S. 3486, the Clerk be authorized to correct section numbers and punctuation.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

GENERAL LEAVE

Mr. PRICE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

DESIGNATING BUILDING IN RUSSELLVILLE, ARK., AS THE "HENRY R. KOEN FOREST SERVICE BUILDING"

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that the Committee on Agriculture be discharged from further consideration of the Senate bill (S. 2801) to designate the building known as the Ozark National Forest Headquarters Building in Russellville, Ark., as the "Henry F. Koen Forest Service Building," and ask for its immediate consideration in the House.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2801

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the building in Russellville, Arkansas, commonly known as the Ozark National Forest Headquarters Building, shall hereafter be known and designated as the "Henry R. Koen Forest Service Building". Any refrence in a law, map, regulation, document, record, or other paper of the United States to that building shall be held to be a reference to the "Henry R. Koen Forest Service Building".

● Mr. FOLEY. Mr. Speaker, this bill would authorize the naming of the Ozark National Forest Headquarters Building in Russellville, Ark., as the "Henry R. Koen Forest Service Building."

Henry R. Koen was for three decades a major force in the conservationist move to protect the Ozark National Forest. He was supervisor of that forest for 21 years. During his tenure, hundreds of thousands of acres were added to the forest, and he directed the planting of millions of trees. He also initiated a program, including a system of towers, telephones, and personnel, that was successful in the fight against forest fires.

Henry Koen was also instrumental in the development of the State forestry commission and for legislation which earmarked timber severance revenues for that commission.

His concern for our forests benefitted not only the Ozark National Forest, but every forest in the Nation. His life as a conservationist serves as an excellent model of service to our society and our environment.

I believe it is fitting that the Forest Service Headquarters Building of the Ozark National Forest be named in his memory. I urge my colleagues to support enactment of this bill.●

● Mr. HAMMERSCHMIDT. Mr. Speaker, I'm most appreciative for the distinguished chairman of the Agriculture Committee, Mr. FOLEY, for his initiative in bringing this bill to the floor. Also I thank my friend and colleague Mr. THORNTON for his cooperation. As the sponsor of legislation to designate the Ozark National Forest Headquarters building, in Russellville, Ark., as the "Henry R. Koen Forest Service Building," I would like to take a few minutes to share with my colleagues the many reasons why this gentleman's name is so deserving of this special tribute.

Henry R. Koen, now deceased, compiled a most distinguished record during his lifetime. Born in the center of the Ozarks, he joined the Forest Service in 1913, as a ranger in the Sylamore district of the Ozark National Forest, and spent the next 40 years trying to conserve our forestry resources.

For almost half of his life, he chose to serve the Forest Service in an exceptional fashion. The citizens of Russellville, Ark., have selected him overwhelmingly for this honor not only for his length of service, but for the number of his accomplishments. During his illustrious career, he earned the respect of all those who had the pleasure of working with him.

It would be impossible in the time alloted to enumerate all the endeavors on which he left his mark, however, let me stress that he is widely recognized as the "Father of Forestry in Arkansas." As supervisor of the Ozark National Forest for a longer period than any other person, a total of 17 years, he rendered indefatigable service and fought a lonely battle for the cause of conservationism in the Ozarks. Furthermore, he brought to the area a unique and deep understanding of the problems of forestry which included innovative and preventive measures to halt the disastrous spread of forest fires. Henry Koen displayed remarkable foresight, since under his direction, hundreds of thousands of acres were added to the forest during an era when timber was plentiful. His personal dedication toward the development of the Arkansas State Forestry Commission must be underscored.

It is interesting to note that in 1950, because of his significant attainments, the Henry R. Koen Experimental Forest was named in his honor. Even during his service as a Boone County Representative in the Arkansas Legislature, Henry R. Koen's overriding concern remained the preservation of Arskansas' forests.

On a personal note, I would like to mention that my father, who was engaged in the timber and lumber business, was a good friend of Henry Koen, and I can still recall the discussions the two of them had concerning forest management practices. I also am pleased that I, too, remember Mr. Koen and his con-

tribution to the management and preservation of our national forests.

The naming of the Forest Service Headquarters Building in Russellville, Ark., as the Henry R. Koen Forest Service Building is truly befitting for a man who devoted his entire adult life to insuring that our national forest system would be enjoyed by many future generations of Americans.●

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of the Senate bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

PERSONAL EXPLANATION

Mr. FOUNTAIN. Mr. Speaker, I wish the RECORD to show that I was unavoidably detained during rollcall No. 872, on the bill H.R. 14042, Department of Defense Appropriation Authorization Act, 1979; had I been present, I would have voted "aye."

MAGISTRATE ACT OF 1978

Mr. KASTENMEIER. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the Senate bill (S. 1613) to improve access to the Federal courts by enlarging the civil and criminal jurisdiction of United States magistrates, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin (Mr. KASTENMEIER).

The motion was ageed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the Senate bill S. 1613, with Mr. CORNWELL in the chair.

The Clerk read the title of the Senate bill.

The CHAIRMAN. When the Committee rose on Monday, October 2, 1978, all time for general debate had expired, and the committee amendment in the nature of a substitute had been considered as having been read and open to amendment at any point.

Are there any amendments?

AMENDMENT OFFERED BY MR. KASTENMEIER

Mr. KASTENMEIER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. KASTENMEIER: Page 15, line 10, strike out "April 30, 1978" and insert in lieu thereof "January 1, 1979".

Page 18, line 21, strike out "1978" and insert in lieu thereof "1979".

Page 18, line 24, strike out "1978" and insert in lieu thereof "1979".

Mr. KASTENMEIER. Mr. Chairman, this will not take 5 minutes.

Mr. Chairman, in brief, this amendment modifies the appropriation and authorization sections of the bill to conform to the House budget rules. I sought a waiver from the House Budget Committee and failed to obtain one. Subsequently, I agreed before the Rules Committee to introduce this amendment.

The amendment also provides that the bill's section relating to merit selection will become effective on January 1, 1979. This does not conflict with my agreement with the Budget Committee because no costs are involved with the procedures set forth in the bill. This separate effective date is necessary because many magistrates will be up for reappointment in 1979. The 1968 Magistrates Act was implemented in 1971, and a large group of magistrates was named to 8-year terms at that time.

Mr. RAILSBACK. Would the gentlemen yield for a question? I agree with your statement on the need for immediate implementation of merit selection procedures.

It is my impression that the legal aspects of this legislation would take effect immediately upon date of enactment The magistrates are out there already; some of them are already doing what this legislation allows. I would like to make it clear that there will not be an interim period—between the date of enactment and October 1, 1979—during which the legal effects of this bill would be held in limbo.

The reason for this is, as relates to the magistrates who are already working in the system, we are not talking about any costs at all. Thus an authorization or appropriation is not necessary.

I agree with the Budget Committee that any authorization or appropriation of new money, for some of the things mentioned in the Congressional Budget Office report can wait until October 1, 1979.

Mr. KASTENMEIER. I am in total agreement with your observations. Thank you for clarifying an ambiguous point—the new power granted to magistrates by this legislation take effect immediately upon the date of enactment. The authorization and appropriation of additional funds to carry out the purposes of this act do not take place prior to October 1, 1979.

Mr. Chairman, I know of no opposition to this amendment. I would appreciate an "aye" vote.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Wisconsin (Mr. KASTENMEIER).

The amendment was agreed to.

The CHAIRMAN. Are there any further amendments?

AMENDMENT OFFERED BY MR. WIGGINS

Mr. WIGGINS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WIGGINS: On page 11, strike lines 1–14, and insert in lieu thereof the following new language:

"(5) Notwithstanding the provisions of paragraphs (3) and (4) of this subsection, at the time of reference to a magistrate by the clerk of court under paragraph (2) of this subsection, the parties may further consent to appeal directly to the appropriate United States Court of Appeals in the same manner as an appeal from any other judgment of a district court. In this circumstance, the consent of the parties allows a magistrate designated to exercise civil jurisdiction under paragraph (1) of this subsection to direct the entry of judgment of the district court in accordance with the Federal Rules of Civil Procedure. Nothing in this paragraph shall be construed as a limitation on any party's right to seek review by the Supreme Court of the United States pursuant to Section 1254 of this title."

Mr. WIGGINS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. WIGGINS. Mr. Chairman, this amendment would do two things: First, it would correct an ambiguity. It appears that that "further consent" which is required by this subsection is for the magistrate to enter final judgment, but the intent of the drafters is that further consent is required in order to appeal directly to the court of appeals and that the judgment entered by the magistrate regardless whether the appeal is to the district court or the court of appeals is final. For purposes of a direct appeal to the court of appeals it is important that the magistrate's judgment be that of the district courts.

Second, in order to prevent gamesmanship on the part of attorneys, parties should give their consent as to where their appeal should go when they consent to go before the magistrate. The way the bill now reads, the parties may agree to skip over the district court and go directly to the court of appeals and may consent to this any time "prior to the entry of judgment." However, the likelihood of such consent would be faint because the litigant who may be losing may well want to change his mind and go to the district court, or the relationship may have broken down and the parties in the middle of a lawsuit may not even be speaking to each other, let alone consent to do what one party requests. The appeal route should be decided upon by the parties when they elect to use a magistrate and that is what this amendment so provides.

Mr. RAILSBACK. Mr. Chairman, will the gentleman yield?

Mr. WIGGINS. I yield to the gentleman from Illinois.

Mr. RAILSBACK. Mr. Chairman, I thank the gentleman for yielding.

I am familiar with the amendment, and I certainly have no objection to it. As far as I know, there are no objections to it on our side.

Mr. KASTENMEIER. Mr. Chairman, will the gentleman yield?

Mr. WIGGINS. I yield to the gentleman from Wisconsin.

Mr. KASTENMEIER. Mr. Chairman, I know of no opposition on this side to the gentleman's amendment.

I certainly agree with it. We had a colloquy in the full committee on at least one of the two points involved, if not both of them; and we developed an understanding that an amendment of this type would be in order.

Mr. Chairman, I compliment the gentleman from California (Mr. WIGGINS) on the amendment.

Mr. WIGGINS. Mr. Chairman, I thank the gentleman.

I urge an "aye" vote on the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. WIGGINS).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. WIGGINS

Mr. WIGGINS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WIGGINS: Page 18, immediately after line 18, insert the following new section:

SEC. 9. (a)(1) Subsections (a) and (b) of section 1332 of title 28, United States Code, are amended by striking out "$10,000" and inserting in lieu thereof "$25,000".

(2) Section 1332(a) of title 28, United States Code, is amended by striking out paragraph (1) and by redesignating paragraphs (2) through (4), and all references thereto, as paragraphs (1) through (3), respectively.

(3) The section heading for section 1332 of title 28, United States Code, is amended by striking out "Diversity of citizenship" and inserting in lieu thereof "Alienage".

(4) The item relating to section 1332 in the table of sections for chapter 85 of title 28, United States Code, is amended by striking out "Diversity of citizenship" and inserting in lieu thereof "Alienage".

(b)(1) Section 1331 of title 28, United States Code, is amended to read as follows:

"§ 1331. Federal question

"The district courts shall have original jurisdiction of all civil actions wherein the matter in controversy arises under the Constitution, laws, or treaties of the United States.".

(2) The item relating to section 1331 in the table of sections for chapter 85 of title 28, United States Code, is amended by striking out "; amount in controversy; costs".

(c)(1) Section 1332(c) of title 28, United States Code, is amended by striking out "section 1441" and inserting in lieu thereof "section 1335".

(2) Section 1332(d) of title 28, United States Code, is amended by inserting immediately after "section" the following: "and section 1335 of this title".

(3) Section 1335(a)(1) of title 28, United States Code, is amended by striking out ", of diverse citizenship as defined in section 1332 of this title," and inserting in lieu thereof "of diverse citizenship".

(4) Section 1335 of title 28, United States Code, is amended by adding at the end thereof the following new subsection:

"(c) For purposes of this section, the term 'claimants of diverse citizenship' means claimants who are—

"(1) citizens of different States;

"(2) citizens of a State and citizens or subjects of a foreign state;

"(3) citizens of different States and in which citizens or subjects of a foreign state are additional parties; or

"(4) a foreign state, as defined in section 1603(a) of this title, and citizens of a State or of different States.".

(5) Section 1342(1) of title 28, United States Code, is amended by striking out "diversity of citizenship" and inserting in lieu thereof "alienage".

(6) Section 1391(a) of title 28, United States Code, is amended—

(A) by striking out "wherein jurisdiction is founded only on diversity of citizenship"; and

(B) by striking out "in which the claim arose" and inserting in lieu thereof "in any judicial district in which a substantial part of the events or omissions giving rise to the claim occurred, or a substantial part of property that is the subject of the action is situated".

(7) Subsection (b) of section 1391 of title 28, United States Code, is repealed, and subsections (c) through (f) of such section, and all references thereto, are redesignated as subsections (b) through (e), respectively.

(8) Subsection (b) of section 1441 of title 28, United States Code, is repealed, and subsections (c) and (d) of such section, and all references thereto, are redesignated as subsections (b) and (c), respectively.

(9)(A) Section 23(a) of the Consumer Product Safety Act (15 U.S.C. 2072(a)) is amended—

(i) by striking out "subject to the provisions of section 1331 of title 28, United States Code as to the amount in controversy,"; and

(ii) by striking out the period at the end thereof and by inserting in lieu thereof ": *Provided*, That the matter in controversy exceeds the sum or value of $10,000, exclusive of interest and costs, except that no such sum or value shall be required in any such action brought against the United States, any agency thereof, or any officer or employee thereof in his official capacity.".

(B) Section 23 of the Consumer Product Safety Act (15 U.S.C. 2072) is amended by redesignating subsection (b) as subsection (c) and by inserting immediately after subsection (a) the following new subsection:

"(b) Except when express provision therefor is otherwise made in a statute of the United States, where the plaintiff is finally adjudged to be entitled to recover less than the sum or value of $10,000, computed without regard to any setoff or counterclaim to which the defendant may be adjudged to be entitled, and exclusive of interests and costs, the district court may deny costs to the plaintiff and, in addition, may impose costs on the plaintiff.".

(d) The amendments made by this section shall apply to any civil action commenced on or after the date of enactment of this Act.

Redesignate the following sections accordingly.

Mr. WIGGINS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. WIGGINS. Mr. Chairman, I will explain briefly what thi. amendment is.

This amendment simply inserts the text of a bill which has previously passed the House by an overwhelming vote. It also passed the committee by an overwhelming vote.

The only purpose in adding the text of that bill to this pending proposal is to facilitate its consideration in the other body.

Mr. Chairman, I do not believe that there is any controversy at all in this House about this amendment, and I would urge an affirmative vote on it.

Mr. RAILSBACK. Mr. Chairman, will the gentleman yield?

Mr. WIGGINS. I yield to the gentleman from Illinois.

Mr. RAILSBACK. Mr. Chairman, I thank the gentleman for yielding.

I want to compliment the gentleman in the well for offering an amendment which I think is designed to make certain that an action taken by the House by something like a 2-to-1 vote earlier will have a chance for enactment into law.

Mr. Chairman, I know of no objections on our side. At least, nobody has called to my attention any objections to the amendment. Therefore, Mr. Chairman, I am happy to accept it.

Mr. KASTENMEIER. Mr. Chairman, will the gentleman yield?

Mr. WIGGINS. I yield to the gentleman from Wisconsin.

Mr. KASTENMEIER. Mr. Chairman, I, too, would like to indicate my support for the amendment. I think it is appropriate, and it gives us another opportunity, which, indeed. the House should have, to have its will prevail.

Mr. Chairman, I know of no objection to the amendment on our side of the aisle.

Mr. WIGGINS. Mr. Chairman, I thank the gentleman, and I urge an affirmative vote on the pending amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. WIGGINS).

The amendment was agreed to.

● Mr. SEIBERLING. Mr. Chairman, it is with reluctance that I rise in opposition to the Magistrates Act of 1978. I have the deepest respect and fondness for the Judiciary Committee, which reported this bill and upon which I have the honor to serve, and for the distinguished manager of this bill (Mr. KASTENMEIER).

My dissenting views in the committee report explain my opposition to the Magistrates Act of 1978, and I will take only a moment of the House's time to summarize my views.

S. 1613 is unconstitutional, I believe, because it would give article III judicial power to magistrates in violation of the constitutional requirement that only article III judges may exercise article III judicial power. The Constitution does not give the Congress or the Courts the authority to delegate article III judicial power to magistrates or anyone else.

The Justice Department and the Judiciary Committee conclude that the bill is constitutional because it would not force any individual to surrender his or her right to a trial by an article III district court judge. In other words, the bill's advocates claim that no one's rights are infringed since there can be no trial by a magistrate unless the parties consent or waive their rights to have their case decided by a judge.

Underlying the argument in favor of constitutionality is the implicit assump-

tion that the requirement of an article III judge is a "personal right" which—like the right to a jury trial in certain cases or the privilege against self-incrimination—the individual may exercise or waive.

The assumption, of course, is erroneous. The "judicial power" clause of the Constitution is not an "individual right" or "personal right" belonging to the parties in cases pending in article III courts.

Instead, the "judicial power" clause is a requirement of the Constitution which, in effect, creates a right for society, for "the people," who have a legitimate interest in the administration of justice and in the proper functioning of the courts. The public has the right to have the Constitution obeyed. While the public does not have a right to force an individual to exercise—or to waive—his or her personal rights, the public does have the right to have the Government function in the manner specified in and required by the Constitution. While an individual may waive his or her personal rights, the individual may not waive the rights of the public or the requirements of the Constitution including the "judicial power" clause.

While my opposition to the Magistrates Act of 1978 is based principally on the issue of constitutionality, there are other reasons why I believe the bill should be rejected by the House.

The bill authorizes district court judges to select other persons who will exercise judicial power. That is allowing judges to select judges. All persons who are to be authorized to exercise article III judicial power in the Federal district courts should be appointed by the President by and with the advice and consent of the Senate. Does Congress understand that in this bill it is being asked to relinquish control—through the Senate's appointment role—over who is able to exercise the judicial power of the district courts?

Finally, this bill is unnecessary in light of the imminent completion of congressional action on the omnibus judgeship bill. With the creation of 117 new Federal district court judgeships, the caseload of the district judges will be greatly reduced. What justification can there be for creating, in addition, a whole new class of judge-appointed judges, with all the extra costs that will entail. At the very minimum, we should authorize no new Federal magistrates until after the new district judges are appointed and we see what the effect is on the efficiency of the district courts.●

● Mr. SANTINI. Mr. Chairman, I rise in support of S. 1613—we have before us the Magistrates Act of 1978, a bill which is deserving of our support and approval. The bill passed the Senate by a unanimous voice vote.

The legislation was amended in both subcommittee and the full Judiciary Committee and I would say that we have made improvements over the Senate version.

As amended, S. 1613 expands the authority of U.S. magistrates to try civil cases and certain less serious criminal offenses where the parties consent to the exercise of that jurisdiction.

While there is certainly some cost involved, the expedition of these cases would certainly result in a cost savings, as compared to waiting for these cases to be heard by the district court judge.

The bill has been widely endorsed by the Justice Department, the Judicial Conference of the United States, the American Bar Association, the American Trial Lawyers Association, the American College of Trial Lawyers, the Legal Services Corporation, and several bar associations.

I would urge my colleagues to support this bill.

Many Members have received correspondence from court reporters in their districts urging support of the Santini amendment to this bill. Let me emphasize that the Santini amendment is incorporated in the bill as it is before us today. Nevertheless, to clear up some questions about the provision, I would like to explain the amendment and the rationale behind it.

During markup of S. 1613 in the Subcommittee on Courts, the subcommittee adopted my amendment which is encompassed in section (4)(c)(6) of the bill before us. With my colleagues' permission, I would like to read the provision of the bill and provide some clarification of certain points. The section reads:

> Any proceeding conducted by a United States magistrate under this subsection shall be taken down by a court reporter appointed pursuant to section 753 of this title, if a district judge in such a proceeding would have been provided a court reporter under section 753, unless the parties with the approval of the judge or magistrate agree specifically to the contrary. Reporters referred to in the preceding sentence may be transferred for temporary service in any district court of the judicial circuit for reporting proceedings under this subsection, of for other reporting duties in such district court.

This provision applies to those proceedings which would have been heard by a district judge but have been referred to a magistrate by approval of the parties and the judge.

Under current law, section 753 provides that all proceedings in criminal cases had in open court shall be taken down by a court reporter, appointed pursuant to that section and that all proceedings in other cases had in open court shall be taken down by a court reporter, unless the parties with the approval of the judge shall agree specifically to the contrary.

To make it absolutely clear that section 753 would apply to proceedings under this section, the provision includes language consistent with section 753 which would allow parties with the approval of the judge to waive the use of a court reporter. This would preclude the necessity of using a court reporter in relatively unimportant proceedings where a transcript would not likely be needed.

Each U.S. magistrate already has access to tape recording equipment for use in proceedings conducted under 3060(f) and 3401(e) of title 18, United States Code. With respect to reportng of proceedings, these sections are not modified by the bill.

The bill would not require a 1-to-1 ratio of reporters to magistrates. Additional court reporters would be appointed only in such numbers as would be needed and would be approved by the Judicial Conference of the United States.

The committee report contains language clarifying the provisions, which includes the following:

> Implicit in this language is that the parties may agree to alternative means of preserving a record of the proceedings such as by electronic or sound recording devices.

This would allow the magistrate and parties to agree to use such alternative means if, for example, a court reporter is not immediately available to the magistrate and the matter is of so little importance that the time lost in waiting for a reporter to become available would be impractical.

The committee has recognized that the most important factor to be considered is the accuracy of the transcript. Every American citizen has a constitutionally guaranteed right to justice. That justice can only be served if these proceedings result in accurate transcripts. If a crucial word is blocked out or cannot be understood, the accuracy of any subsequent transcript of that proceeding could be questionable. Or, there are instances when sound recording equipment fails to operate correctly and goes unnoticed until the proceeding has been completed. What kind of transcript could this yield?

While the committee report provides that the parties and magistrate could agree to no record at all, this practice is not encouraged. It is not always possible to foresee whether a decision may be appealed. Without a transcript or any record, the appellate court has nothing to guide it.

In summary, I would say that this provision is aimed at protecting the constitutional rights of the parties involved in proceedings under this section.

At this point, I request permission to have the section of the committee's report dealing with this provision inserted in the RECORD at this point.

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6. *Paragraph (c)(6).*—This paragraph requires that a court reporter take down proceedings conducted under subsection (c) if such a reporter would be present were the case tried in the district court.

The use and appointment of a court reporter will be determined pursuant to existing law. Presently all court reporters for district courts are appointed pursuant to the Court Reporters Act of 1944 (28 U.S.C. § 753). Magistrates are not mentioned in section 753. The purpose of paragraph (c)(6) is to make clear that additional court reporters may be necessary and when necessary should be provided for the purpose of being used by a magistrate.

Nevertheless, the proposed legislation is sensitive to costs and does not intend an undue burden to be placed on the parties. For this reason it is provided in this paragraph that the parties, with the approval of the magistrate or district judge, may agree "to the contrary". Implicit in this language is that the parties may agree to alternative

means of preserving a record of the proceedings such as by electronic or sound recording devices. Although the committee does not encourage this practice, the parties (with the approval of the magistrate or judge) also may waive their right to a recording of any kind.

Also, a court reporter may be transferred, within the circuit, to a place of need. Further, in large geographic areas which are sparsely populated, reporters appointed pursuant to this section could travel the circuit providing services for several part-time magistrates. In addition, under section 753, temporary reporting services may be used or contractural reporting services provided. This language is not intended to require that one reporter be appointed for each magistrate or that there be a level of reporters for magistrates different than those used by district judges. Additional reporters may be appointed for use by the magistrate in such numbers as shall be determined from time to time by the Judicial Conference of the United States.

Considering the important nature of the evidentiary proceedings entrusted to magistrates by the Magistrates Act of 1976 and the increased range of duties authorized in the present bill, it appears that some further court reporting services will be needed by the magistrates. To the extent that the use of magistrates enables the courts to conduct a greater number of proceedings and to dispose of a greater volume of cases, there will necessarily have to be an increase in support services, such as court reporters, simply to process the increased output.

Present proceedings conducted by a magistrate under 3060(f) and 3401(e) of title 18, United States Code, are not affected. That is to say a magistrate may continue to use a court reporter or suitable sound recording equipment as is deemed appropriate.●

The CHAIRMAN. Are there additional amendments? If not, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore. (Mr. BRADEMAS) having assumed the chair, Mr. CORNWELL, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the Senate bill (S. 1613) to improve access to the Federal courts by enlarging the civil and criminal jurisdiction of United States magistrates, and for other purposes, pursuant to House Resolution 1322, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendmen in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the third reading of the Senate bill.

The Senate bill was ordered to be read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the Senate bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. ROUSSELOT. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 323, nays 49, not voting 60, as follows:

[Rollcall No. 873]

YEAS—323

Abdnor	Eckhardt	Kasten
Addabbo	Edgar	Kastenmeier
Akaka	Edwards, Ala.	Kazen
Alexander	Edwards, Calif.	Keys
Ambro	Edwards, Okla.	Kildee
Anderson, Calif.	Emery	Krebs
Andrews, N.C.	English	LaFalce
Andrews, N. Dak.	Erlenborn	Lagomarsino
Annunzio	Ertel	Le Fante
Archer	Evans, Del.	Leach
Ashley	Evans, Ga.	Lederer
Aspin	Evans, Ind.	Lent
AuCoin	Fary	Levitas
Baldus	Fascell	Livingston
Barnard	Fenwick	Lloyd, Calif.
Baucus	Findley	Lloyd, Tenn.
Beard, R.I.	Fish	Long, La.
Bedell	Fisher	Lott
Benjamin	Flippo	Luken
Bevill	Flood	Lundine
Biaggi	Florio	McClory
Bingham	Flowers	McCloskey
Boggs	Flynt	McCormack
Boland	Foley	McDade
Bonker	Ford, Tenn.	McFall
Bowen	Forsythe	McHugh
Brademas	Fountain	McKay
Breaux	Fowler	McKinney
Brinkley	Fraser	Madigan
Brodhead	Frenzel	Mahon
Brown, Calif.	Frey	Mann
Brown, Mich.	Fuqua	Marlenee
Brown, Ohio	Gammage	Marriott
Broyhill	Gaydos	Martin
Buchanan	Gephardt	Mathis
Burke, Fla.	Gibbons	Mazzoli
Burke, Mass.	Gilman	Metcalfe
Burleson, Tex.	Ginn	Meyner
Burlison, Mo.	Goldwater	Michel
Burton, Phillip	Gonzalez	Mikulski
Butler	Goodling	Milford
Byron	Gradison	Mineta
Carney	Grassley	Minish
Carter	Green	Mitchell, N.Y.
Cavanaugh	Gudger	Moakley
Cederberg	Guyer	Mollohan
Chappell	Hagedorn	Montgomery
Chisholm	Hall	Moore
Clausen, Don H.	Hamilton	Moorhead, Calif.
Clawson, Del	Hammer-schmidt	Moorhead, Pa.
Cleveland	Hanley	Murphy, Ill.
Cohen	Hannaford	Murphy, N.Y.
Coleman	Harkin	Murtha
Collins, Ill.	Harris	Myers, John
Collins, Tex.	Harsha	Myers, Michael
Conable	Hefner	Natcher
Conte	Heftel	Neal
Corcoran	Hightower	Nedzi
Corman	Holland	Nichols
Cornell	Hollenbeck	Nix
Cornwell	Holt	Nolan
Cotter	Horton	Nowak
Coughlin	Howard	O'Brien
Cunningham	Hubbard	Oberstar
D'Amours	Huckaby	Obey
Daniel, Dan	Hughes	Ottinger
Daniel, R. W.	Hyde	Panetta
Danielson	Ichord	Patten
Davis	Ireland	Patterson
de la Garza	Jacobs	Pattison
Dent	Jeffords	Perkins
Derrick	Jenkins	Pike
Derwinski	Jenrette	Pressler
Devine	Johnson, Calif.	Preyer
Dicks	Johnson, Colo.	Price
Downey	Jones, N.C.	Pritchard
Duncan, Tenn.	Jones, Okla.	Pursell
Early	Jones, Tenn.	Quayle
	Jordan	Quie
Quillen	Sharp	Vander Jagt
Rahall	Shuster	Vanik
Railsback	Sikes	Vento
Rangel	Simon	Volkmer
Regula	Skelton	Waggonner
Reuss	Smith, Iowa	Walgren
Rhodes	Snyder	Walker
Rinaldo	Solarz	Walsh
Risenhoover	Spellman	Wampler
Robinson	Spence	Watkins
Rodino	St Germain	Waxman
Roe	Staggers	Whalen
Rogers	Stangeland	Whitehurst
Roncalio	Stanton	Whitley
Rooney	Stark	Whitten
Rose	Steed	Wiggins
Rosenthal	Steers	Wilson, Tex.
Rostenkowski	Steiger	Winn
Rousselot	Stokes	Wirth
Runnels	Stratton	Wolff
Ruppe	Studds	Wright
Russo	Taylor	Wylie
Ryan	Thompson	Yates
Santini	Thornton	Yatron
Sawyer	Traxler	Young, Mo.
Scheuer	Treen	Zablocki
Schroeder	Trible	Zeferetti
Schulze	Tucker	
Sebelius	Ullman	

NAYS—49

Applegate	Kelly	Oakar
Ashbrook	Kindness	Pease
Bafalis	Kostmayer	Poage
Bauman	Latta	Roberts
Bellenson	Lehman	Roybal
Bennett	Long, Md.	Rudd
Bonior	McDonald	Satterfield
Carr	McEwen	Seiberling
Crane	Maguire	Stump
Dellums	Markey	Symms
Dodd	Mattox	Weaver
Dornan	Miller, Ohio	Weiss
Drinan	Mitchell, Md.	White
Glickman	Moffett	Wydler
Gore	Mottl	Young, Fla.
Hansen	Murphy, Pa.	
Holtzman	Myers, Gary	

NOT VOTING—60

Ammerman	Diggs	Pepper
Anderson, Ill.	Dingell	Pettis
Armstrong	Duncan, Oreg.	Pickle
Badham	Eilberg	Richmond
Beard, Tenn.	Evans, Colo.	Sarasin
Blanchard	Ford, Mich.	Shipley
Blouin	Garcia	Sisk
Bolling	Giaimo	Skubitz
Breckinridge	Harrington	Slack
Brooks	Hawkins	Smith, Nebr.
Broomfield	Heckler	Stockman
Burgener	Hillis	Teague
Burke, Calif.	Kemp	Thone
Burton, John	Krueger	Tsongas
Caputo	Leggett	Udall
Clay	Lujan	Van Deerlin
Cochran	Meeds	Wilson, Bob
Conyers	Mikva	Wilson, C. H.
Delaney	Miller, Calif.	Young, Alaska
Dickinson	Moss	Young, Tex.

The Clerk announced the following pairs:

Mr. Eilberg with Mrs. Pettis.

Mr. Richmond with Mr. Cochran of Mississippi.

Mr. Ammerman with Mr. Thone.

Mr. Slack with Mrs. Heckler.

Mr. Teague with Mr. Kemp.

Mr. Shipley with Mr. Lujan.

Mr. Dingell with Mr. Caputo.

Mr. Blouin with Mr. Dickinson.

Mr. Diggs with Mr. Harrington.

Mr. Conyers with Mr. Tsongas.

Mr. Miller of California with Mr. Sarasin.

Mr. Garcia with Mr. Anderson of Illinois.

Mrs. Burke of California with Mr. Badham.

Mr. Meeds with Mr. Broomfield.

Mr. Moss with Mr. Young of Alaska.

Mr. Delaney with Mr. Beard of Tennessee.

Mr. Clay with Mr. Hillis.

Mr. Giaimo with Mr. Bob Wilson.

Mr. Hawkins with Mr. Stockman.

Mr. Krueger with Mr. Skubitz.

Mr. Meeds with Mr. Leggett.

Mr. Mikva with Mr. Caputo.

Mr. Brooks with Mr. Burgener.

Mr. John L. Burton with Mr. Sisk.

Mr. Pepper with Mr. Charles H. Wilson of California.

Mr. Udall with Mr. Pickle.
Mr. Ford of Michigan with Mr. Duncan of Oregon.
Mr. Blanchard with Mr. Evans of Colorado.

Mr. LEHMAN and Mr. LONG of Maryland changed their vote from "yea" to "nay."

So the Senate bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. KASTENMEIER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include extraneous matter on the Senate bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

APPOINTMENT OF CONFEREES ON S. 1613

Mr. KASTENMEIER. Mr. Speaker, I ask unanimous consent that the House insist on its amendment to the Senate bill (S. 1613) to improve access to the Federal courts by enlarging the civil and criminal jurisdiction of U.S. magistrates, and for other purposes, and requests a conference with the Senate thereon.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin? The Chair hears none, and, without objection, appoints the following conferees: Messrs. KASTENMEIER, DANIELSON, SANTINI, ERTEL, RAILSBACK, BUTLER, and WIGGINS.

There was no objection.

WATER RESOURCES DEVELOPMENT ACT OF 1978

Mr. ROBERTS. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 13059) authorizing the construction, repair, and preservation of certain public works on rivers and harbors for navigation, flood control, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. ROBERTS).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 13059, with Mr. BARNARD in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee rose on Monday, October 2, 1978, all time for general debate had expired and the bill was considered as having been read and open to amendment at any point.

Are there any amendments?

AMENDMENT OFFERED BY MR. NOWAK

Mr. NOWAK. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. NOWAK: Page 49, after line 9, insert the following new section:

SEC. 117. (a) The Galveston Channel 40-foot project for navigation in Galveston Bay, Texas, authorized in accordance with section 201 of the Flood Control Act 1965 (Public Law 89–297), is hereby modified to provide that the non-Federal interests shall contribute 25 per centum of the costs of areas required by initial and subsequent disposal of spoil, and of necessary retaining dikes, bulkheads, embankments, levees, and spillways therefor. Credit shall be allowed in connection with the above project in an amount equal to the reasonable expenditure made by non-Federal interests in the acquisition of spoil areas and construction of necessary retaining dikes, bulkheads, embankments, levees, and spillways prior to the date of enactment of this section.

(b) The requirements for appropriate non-Federal interests to contribute 25 per centum of the construction costs as set forth in subsection (a) shall be waived by the Secretary of the Army upon a finding by the Administrator of the Environmental Protection Agency that for the area to which such construction applies, the State of Texas, interstate agencies, municipalities, and other appropriate political subdivisions of the State and industrial concerns are participating in, and in compliance with, an approved plan for the general geographical area of the dredging activity for construction, modification, expansion, or rehabilitation of waste treatment facilities and the Administrator has found that applicable water quality standards are not being violated.

Renumber the succeeding sections accordingly.

Mr. ROBERTS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. NOWAK. Mr. Chairman, this amendment would modify the Galveston Channel navigation project to provide that the Federal Government shall contribute 75 percent of the costs of necessary contain spoil disposal areas. The requirement for non-Federal interests to contribute 25 percent would be waived upon a finding by the Administrator of the Environmental Protection Agency that for the area to which the construction of the disposal areas applies, the State of Texas, interstate agencies, municipalities and other political subdivisions of the State and industrial concerns are in compliance with an approved plan for the construction of waste treatment facilities, and that applicable water quality standards are not being violated.

This provision is the same as that approved by Congress for navigation projects in the Great Lakes in 1970, and in various other projects since then. It recognizes the traditional Federal responsibility to maintain navigation and adjusts the cost sharing accordingly when changed circumstances make it necessary to construct contained disposal areas for dredged material rather than disposing of it in open water.

I urge adoption of the amendment.

Mr. ROBERTS. Mr. Chairman, will the gentleman yield?

Mr. NOWAK. I yield to the gentleman from New York.

Mr. ROBERTS. Mr. Chairman, we have studied the gentleman's amendment. This was an oversight on the part of the committee, and it should have been included. It puts this project in the same situation as other projects. I am happy that the gentleman offered the amendment.

Mr. NOWAK. I thank the gentleman.

Mr. DON H. CLAUSEN. Mr. Chairman, will the gentleman yield?

Mr. NOWAK. I yield to the gentleman from California.

Mr. DON H. CLAUSEN. Mr. Chairman, it is my understanding that the gentleman's amendment deals with a situation in the Galveston Bay area of Texas, and it is similar to other provisions we have in the bill dealing with the handling of some of the dredged material. Therefore, we find that it should have been included originally in the bill, and we are willing to accept it on this side.

Mr. NOWAK. I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. NOWAK).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. MURPHY OF NEW YORK

Mr. MURPHY of New York. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MURPHY of New York: Page 38, line 16, after "(e)" insert "(1)";

Page 39, after line 6, insert the following:

"(2) The Secretary of the Army, acting through the Corps of Engineers, is hereby authorized and directed to undertake construction of Stage I, New York City Water Tunnel No. 3, substantially in accordance with the plans contained in the appendix to the report of the Division Engineer on the Northeastern United States Water Supply Study, Part II, Technical Report, Section C, dated July 1977, subject to the review and approval of such plans by the Secretary of the Army, acting through the Chief of Engineers. There is authorized to be appropriated for initiation and partial accomplishment of this section the sum not to exceed $150,000,000.

"(3) Prior to the construction of the project authorized pursuant to subsection (2) of this section, the Secretary of the Army, acting through the Corps of Engineers, shall enter into an agreement with the appropriate non-Federal interests which provides that (1) such non-Federal interests shall repay the costs of the construction of such project in accordance with the provisions of the Water Supply Act of 1958 (Public Law 85–500); (2) such non-Federal interests will provide the Secretary with the lands, easements, and right-of-way necessary for the Secretary to construct such project; and (3) after such construction is completed, all right, title, and interest of the United States shall be conveyed to such non-Federal interests who thereafter operate and maintain such project."

Mr. MURPHY of New York. Mr. Chairman, my amendment will provide for funding for the desparately needed rehabilitation of the greater metropolitan New York City water supply system.

Historically, urban water supply has traditionally been the responsibility of local government. In recent years however, development of new supply, treatment and transmission has become in-

creasingly expensive and difficult of attainment. The supplies readily obtainable within the jurisdiction of cities have, for the most part, already been developed. New sources are at increasingly greater distances from the users; are across jurisdictional boundaries, and require extensive transmission facilities and sophisticated treatment. These parameters lead naturally to the emergence of integrated regional systems with the attendant capabilities for more efficient resource management, but with the added need for substantial capital outlays.

The time has come when the national interest is best served by maintaining and enhancing the viability of our great urban centers through the provision of sufficient, dependable water supplies.

In the East, it has been commonly understood that urban water supply is not a problem because of the abundance of water and that the area is water "rich." While the East is not lacking in rainfall, except during periods of drought similar to that which occurred during the 1960's, the major urban water supply problem is the transportation of water from available sources to the point of population density. Costly conduits, sometimes over a hundred miles in length are required to bring water to distribution systems that are now decrepit from age, overuse, and lack of maintenance. The burden of cost to assure safe, reliable water supply in these areas is overwhelming.

In 1965, the 89th Congress recognized that assuring adequate supplies of water for the great metropolitan centers of the United States had become a problem of such magnitude that the welfare and prosperity of this country required the Federal Government to assist in the solution of water supply problems. The Congress passed Public Law 89–298 authorizing the Secretary of the Army to prepare plans to meet the long-range water needs of the northeastern United States. This act authorized the U.S. Army Corps of Engineers to prepare plans which could provide for the construction, operation, and maintenance of facilities to accomplish this goal.

In July 1977, the corps completed its studies which encompassed the Washington, New York, and the Eastern Massachusetts-Rhode Island Metropolitan areas. This Northeastern United States Water Supply Study (NEWS) concluded that immediate action should be taken in all three locations if critical supply situations are to be averted.

The Metropolitan New York area has a long history of providing creative, innovative solutions for its water supply needs. Beginning with the development of the Croton system and expanding to the Catskill and finally the Delaware systems, the results have been acclaimed the world over as feats of a people's determination to overcome their problems.

Because of New York City's location, surrounded by salt water and having limited groundwater resources, the water supply system had to take advantage of the nearest surface water sources. This began with development of the Croton River within the Hudson River basin. As demands increased, the system was expanded and at present, includes sources over 100 miles from the city.

The city, recognizing that additional source of supply was only one part of the problem, took steps to assure that additional water could be transported when available from its main supply storage (Kensico Reservoir) to the demand center by initiating design of city tunnel No. 3. This tunnel which is planned to be constructed in stages phased to meet the growing demand for water throughout the city of New York, would augment the capacity of the city's primary water delivery system and make it possible to rehabilitate the existing system for reliable and continued service.

Nineteen reservoirs located in three drainage basins in eight counties of upstate New York comprise the existing sources on New York City's water supply system. The yield of these 19 reservoirs in the total system is 1,291 million gallons per day.

The city of New York has developed its present water system over a period of some 140 years and this entire system has been built entirely by New York funds but now, as I have mentioned earlier, it has become increasingly expensive and difficult for municipalities to expand their water supply system by themselves.

My amendment will provide New York City with a loan from the Federal Government, not a hand-out.

Presently, water is collected from three major basins and transmitted to the city by underground tunnels of extensive length and complexity. This system has served the city well and is the major building block for a much-needed rehabilitated water supply system capable of developing and delivering the quality of water needed by a great metropolitan center as we enter the 21st century.

This system is the largest municipal water supply system in the world—both in terms of people served and in terms of water used. And, it could fail.

The Board of Water Supply wrote to the Mayor that "the existing facilities have reached the limit of their capacity to deliver water where it is most needed. The present facilities are so fully committed that a cessation of flow in any of them would create a situation of grave proportions."

The present state of the New York City municipal water supply system is such that it lacks adequate delivery capacity, sufficient pressure in times of stress, and just plain reliability.

Water demands upon the system will continue to increase. Whether the demands are met through the proposed Hudson River taking project or from conservation practices, new conveyance facilities are critical to obtaining any increased yield from the system.

Particularly in the summer, the city's water supply demands are too great for the existing tunnels to handle.

Many experts have said that the tunnels and pipes that carry New York City water have eroded to the point that their operating days are numbered. It is a matter of sheer age. Tunnel No. 1 was built in 1917. Tunnel No. 2 was completed in 1936. There appears to be no technically feasible way to repair these facilities except to drain them of water, close them down and do the work. It has also been pointed out that the metal valves inside the tunnels that control the flow of water are worn down and must be replaced. The construction of the third city tunnel is to adequately provide a sure source of water to the residents of New York City. If the third city water tunnel is not completed, New York City faces an unimaginable disaster, the disaster being 8 million people could, in fact, be without water. There could be a massive, unimaginable evacuation.

The city initiated construction of tunnel No. 3 in 1970 and expended nearly $200 million when construction was halted in 1975 by the city's fiscal crisis. However, the city has continued to authorize funds for maintenance of the completed portions of the tunnel ($20 million in fiscal year 1978).

Construction of the third city tunnel will do many good things:

First. It will provide the necessary increased delivery capacity critical to obtaining any increased yield from the system to meet reasonable demands of the population.

Second. It will help to provide adequate pressure for such low points in the system as Brooklyn, Queens, and Richmond.

Third. It will provide an opportunity to shut down and repair the present system without interruption of service.

City officials have said that: "If either of the tunnels collapse, over half of the city could lose its water supply. The engineers are afraid if they are forced to close some of the tunnel valves—which have never been shut—they would never be able to get them open again." According to the board of water supply, constructing the first two stages of tunnel No. 3 would add sufficient backup security to the existing system to eliminate any possibility of disaster.

The Army Corps of Engineers, the Governor of the State of New York, the elected officials of the local governments involved, the representatives of the majority of the public interest and 27 environmental organizations in southeastern New York, the business and union interests and citizens in general have publicly offered support for construction of stage I of the third city tunnel and the first step of the corps' process for development of new supply.

Given the fact that the New York City system does have problems and could fail bringing untold harm, construction of the third city tunnel will provide the solution necessary to the security, health, and welfare of the 8 million citizens affected.

Mr. ADDABBO. Mr. Chairman, will the gentleman yield?

Mr. MURPHY of New York. I yield to the gentleman from New York (Mr. ADDABBO).

Mr. ADDABBO. Mr. Chairman, I commend the gentleman from New York (Mr. MURPHY) for offering this amendment. Water conduits have been a very seri-

ous question for New York. The fact is that we have had several close disasters with some of the old tunnels and some water conduits actually cracking and causing great damage. We are also experiencing some serious water pollution problems and cases of waters becoming infected.

I commend the gentleman from New York (Mr. MURPHY), I think this is an important amendment and urge its adoption.

Mr. MURPHY of New York. I thank my colleague, the gentleman from New York (Mr. ADDABBO).

Mr. NOWAK. Mr. Chairman, will the gentleman yield?

Mr. MURPHY of New York. I yield to the gentleman from New York (Mr. NOWAK).

Mr. NOWAK. Mr. Chairman, I rise in support of the amendment offered by my colleague and good friend, JACK MURPHY.

According to the 1973 National Water Commission report, 75 percent of the Nation's population now lives in metropolitan areas. Another 13 percent live in nearby communities. By the year 2000, it is expected that the proportion of the population in metropolitan areas will have grown to 85 percent.

The water resources available to meet future metropolitan needs are limited. The Nation's use of water has increased by two-thirds from daily withdrawals of just over 200 billion gallons in 1950 to an estimated 339 billion gallons in 1971.

The costs of providing metropolitan water supplies are high and are escalating rapidly at a time when immediate problems exert such great pressure on available revenues that the capital investment required for long-range water supply development is simply not available.

Nor is the development of new supply the only water need. Urban areas must provide for the distribution of developed supplies over ever-increasing distances. And, in addition, the extensive systems which have provided our cities with the quality and quantity of water unknown to the rest of the world are aging. Across the Nation, local governments are faced with the need for extensive system rehabilitation on which depends not only the quality of community life, but the very economic survival of urban America.

New York City is requesting authorization for a long-term Federal loan which will allow work to begin on completion of stage 1 of city water tunnel No. 3. The Corps of Engineers recommends this construction, and the proposal has the full support of Governor Carey.

It is anticipated that every penny advanced by the Federal Government for this project will be repaid with interest and that the infrastructure of one of the world's great cities will receive a tremendously important assist.

The House of Representatives which has long taken the lead in seeking solutions to the major water problems of this Nation can—by supporting the Murphy amendment—demonstrate its continued interest in the development of one of our most valuable natural resources and, more particularly, as that development relates to the critical problems of urban population.

Mr. Chairman, I urge adoption of the amendment.

Mr. ROBERTS. Mr. Speaker, I rise in opposition to the amendment. The gentleman says that this will cost $500 million. Again, we do not have the complete specifications on this project. It is a good project and we would like to work out something.

AMENDMENT OFFERED BY MR. ROE TO THE AMENDMENT OFFERED BY MR. MURPHY OF NEW YORK

Mr. ROE. Mr. Chairman, I offer an amendment to the amendment offered by the gentleman from New York (Mr. MURPHY).

The Clerk read as follows:

Amendment offered by Mr. ROE to the amendment offered by Mr. MURPHY of New York: Page 39, section "(2)" of Mr. Murphy's amendment, last line, substitute "$2,000,000" for "$150,000,000".

Mr. ROE. Mr. Chairman, as my good friends from New York have pointed out, the city has a vast supply of water on tap from a network of upstate reservoirs, but what the city really needs is this third city water tunnel. This tunnel is absolutely necessary to insure the reliability of the delivery system from the upstate sources.

The two existing tunnels, one carrying water under the West Side of Manhattan and the other under the East Side have been operating for 61 and 42 years respectively without ever being closed for inspection or repairs. As it has already been pointed out, if either of them were to fail, entire sections of the city would go thirsty.

A third tunnel would connect the present two at 78th Street in Manhattan and then proceed to Astoria, Queens, and Red Hook, Brooklyn, where a smaller main now carries water to Staten Island. The city would then provide full service to all boroughs with any two tunnels.

New York City has already spent $200 million of its own money on the third tunnel and stopped only when the capital budget evaporated in the 1975 fiscal crisis. An infusion of Federal money would at least enable the city to complete the hookup to Astoria.

The money we are allocating to New York City is not a handout—it is a loan. It will be paid back with interest on the same terms as all the other money New York has borrowed and is repaying the Federal Government. By lending New York City money, the Federal Government actually makes money.

More importantly, should one of the existing tunnels fail, a very real disaster would befall the people of New York. Whole sections of the city would be completely without water affecting millions of people.

The third city water tunnel has the overwhelming endorsement of the Army Corps of Engineers, 27 environmental organizations, the Governors of adjacent States, and the majority of the public and business interests within the city as well as the citizens in general.

I very strongly endorse granting New York City this loan in order for the city to complete this very vital project.

Mr. ROBERTS. Mr. Chairman, will the gentleman yield?

Mr. ROE. I yield to the gentleman from Texas.

Mr. ROBERTS. Mr. Chairman, I thank my good friend, the gentleman from New Jersey (Mr. ROE), for working out a compromise we can live with. We have to have a great deal of planning before we authorize the entire amount of money. This is a huge project for our largest city.

I am happy to recommend and accept the gentleman's amendment.

Mr. DON H. CLAUSEN. Mr. Chairman, will the gentleman yield?

Mr. ROE. I yield to the gentleman from California.

Mr. DON H. CLAUSEN. Mr. Chairman, my original thought was to oppose the amendment offered by the gentleman from New York (Mr. MURPHY) as it was offered in the amount of $150 million because, as has been stated the total funding involved would be in the vicinity of about $500 million. Furthermore, the whole project has a potential of costing somewhere between $4 and $5 billion. On the other hand, Mr. Chairman, I have met with some of the people from New York and they have pointed out the fact that in that area of the country there is presently developing a pending water crisis.

On balance, I think that the amendment offered by the gentleman from New Jersey (Mr. ROE) to the amendment offered by the gentleman from New York (Mr. MURPHY) is acceptable in that it at least will permit going forward with the advanced study and design phases of the project prior to any major commitment toward the construction of it. Therefore, I am perfectly willing to accept the gentleman's amendment.

Mr. CARTER. Mr. Chairman, will the distinguished gentleman yield?

Mr. ROE. I would be delighted to yield to the distinguished gentleman from Kentucky (Mr. CARTER).

Mr. CARTER. Mr. Chairman, I wish to thank the gentleman from New Jersey (Mr. ROE) for yielding to me at this time so that I may express my strong support for the Water Resources Development Act (H.R. 13059) and I want especially to commend the distinguished members of the committee for their fine work on this legislation.

In April 1977, Mr. Chairman, a devastating flood nearly tore the heart out of southeastern Kentucky. Virtually every person in Bell, Harlan, Knox, and Whitley Counties was touched in some way by this disaster. Thousands of families were left homeless, and personal and economic losses were staggering. Although floods are an annual threat along the Cumberland River Valley, the April 1977 disaster was the worst on record.

The residents of this area, with characteristic strength and courage, have rebuilt their homes and businesses out of the mud and debris. They have

pieced together their lives again with remarkable determination. They feel, however, that some action needs to be taken to minimize in years to come the threat of the floods that they have faced in the past.

I believe that their feelings are justified, and I believe that the value of human life needs to be taken into consideration here.

I have been working in support of legislation to provide an increased level of protection against flooding in this area, and I am pleased that this bill provides that authority. Section 147 authorizes the Corps of Engineers to undertake measures to assist the communities along the Upper Cumberland River—Pineville, Barbourville, Harlan, Cumberland, Williamsburg, Evarts, Loyall, Wallins Creek, and others—in improving flood protection.

I have pointed out the need for this legislation in various committee sessions, and many residents of Kentucky have also presented testimony concerning the problem.

The people who live in the communities along the Upper Cumberland River have made every effort at the local level to improve protection for their homes and businesses. I feel that we should do our part by helping them to accomplish what they are unable to do by themselves. This bill shows a recognition of the severe problem, and it enables the Corps of Engineers to provide some of the assistance that is so desperately needed.

I urge my colleagues to support this important legislation so that we can proceed as soon as possible with appropriate flood protection measures.

Mr. ROBERTS. Mr. Chairman, will the gentleman yield?

Mr. ROE. I am happy to yield to the distinguished gentleman from Texas (Mr. ROBERTS).

Mr. ROBERTS. Mr. Chairman, I thank the gentleman for yielding. I just wish to say that I have talked to the gentleman from New York (Mr. MURPHY), because I wanted to be sure that we are only talking about a total of $25 million, and not $150 million plus $25 million.

Mr. ROE. The gentleman is correct, although I am sure the city of New York would like to have the $25 million in addition to another $150 million, but this is only for $25 million.

Mr. ROBERTS. I thank the gentleman.

Mr. GREEN. Mr. Chairman, I rise in support of the Murphy amendment to H.R. 13059, the Water Resources Development Act of 1978, as modified by the Roe amendment. This amendment would authorize the expenditure of $25 million for the first stage of construction of New York City water tunnel No. 3.

Water tunnel No. 3 would augment the distribution of water to New York City from the Hudson River project. Unfortunately, the bill before us does not contain any authorization of construction funding for water tunnel No. 3. The Roe amendment would provide $25 million for stage 1 construction of this tunnel.

I want to emphasize that water tunnel No. 3 is a necessity, not a luxury, for New York City. The city presently has two tunnels through which its water flows. Water tunnel No. 1 was built in 1917, and tunnel No. 2 was built in 1936. Due to the high demand for water in New York City, neither of these tunnels has ever been closed for maintenance work. Indeed, the section valves in both tunnels, which are designed to close off sections of the tunnels for inspection and repair, have never been used for fear they would stick in the closed position.

Mayor Edward Koch emphasized the critical implications of a breakdown in either of the aging tunnels in a recent letter to me:

> According to the City's Board of Water Supply, now part of the New York City Department of Environmental Protection, parts of both tunnels exhibit severe flow and delivery problems. Were Tunnel No. 1 to close for some reason, Manhattan would be without an adequate water supply. Failure of Tunnel No. 2 would leave Brooklyn and Queens almost totally without water.

In view of such potential catastrophes, New York City began construction of City Water Tunnel No. 3 in 1970. To date, the city has spent nearly $200 million for Stage 1 construction and has budgeted $20 million for fiscal year 1979. For each of fiscal years 1980 through 1982, the city intends to spend $30 million.

The contributions made by the city will be enough only to maintain portions of the tunnel already built. Actual tunneling of Stage 1 of the tunnel is 90 to 95 percent complete. The estimated cost of completing Stage 1 of the 13.7-mile tunnel is $450 to $500 million.

I share the concern of my colleague from New York City, Mr. MURPHY, that additional studies of Water Tunnel No. 3 would be a wasteful contribution to escalating project costs. Further delay of this project is simply indefensible.

The $25 million provided in the Roe amendment to facilitate completion of Stage 1 is not a gift from the Federal Government to New York City. My colleagues should be aware that what we are talking about here is a loan. The city would repay the $25 million in project costs plus interest pursuant to the provisions of the Water Supply Act of 1958.

In closing, I want to point out that the addition of this $25 million loan to the Water Resources Development Act will not tilt the bill in favor of New York or the Northeast. Of the $1.25 billion authorized in this legislation, only 1.8 percen of what was previously authorized, or $23.7 million, will fund projects in New York State.

This money is critically needed to help avert a potential water supply crisis in New York City. The time to plan for such a contingency is now—not later, after a shortage has occured.

Completion of Water Tunnel No. 3 cannot be considered optional for New York City. I urge my colleagues to vote in favor of this amendment so that this vital project can move forward.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Jersey (Mr. ROE) to the amendment offered by the gentleman from New York (Mr. MURPHY).

The amendment to the amendment was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. MURPHY) as amended.

The amendment, as amended, was agreed to.

AMENDMENT OFFERED BY MR. FITHIAN

Mr. FITHIAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. FITHIAN: Page 39, after line 22, insert the following:
>
> "(c) The Lafayette Dam and Reservoir, Wabash River, Indiana, authorized by section 204 of the Flood Control Act of 1965 (Public Law 89-298), is not authorized after the date of enactment of this Act."

Mr. FITHIAN. Mr. Chairman, I ask the Members of the House to accept this deauthorization which has been accepted by the other side, supported both by our senior Senator, the Democrat, Senator BIRCH BAYH, and the junior Senator, the Republican, Senator DICK LUGAR.

There are several compelling reasons for deauthorization of the Lafayette Lake Project.

First, The Indiana congressional delegation is strongly in favor of deauthorization, as both U.S. Senators and 10 of the 11 Congressmen support deauthorization.

Second. The Indiana House of Representativs and the State senate recently passed a resolution deauthorizing the project at the State level, by votes of 89 to 4 and 32 to 14 respectively. Governor Otis Bowen signed this resolution on February 21, 1977. The State has, therefore, officially withdrawn all support from the project.

Third. The Congress blocked funds for the project in fiscal year 1977 and no funds have been requested for fiscal year 1978 and fiscal year 1979.

Fourth. The Army Corps of Engineers has placed the project on the inactive list.

Fifth. The Office of Management and Budget in the past indicated that it did not oppose immediate deauthorization of the project.

Sixth. The project is environmentally unsound and economically infeasible.

Seventh. The general public is decisively opposed to this project.

Eighth. The project cannot and will not be constructed.

In addition, the lack of deauthorization of the project is causing special problems in Tippecanoe County. Without Federal deauthorization, State and local officials will not pursue alternatives such as a State park or recreational area. Neither State nor local officials are willing or able to commit funds for an area in which a Federal project is still authorized.

Significantly, there are many other

problems caused by the lack of deauthorization. These include:

First. The uncertainty of deauthorization keeps the county, private developers, and residents of the Lafayette Lake area in a constant dilemma. There is a definite lack of initiative for development when the threat of the lake remains. People are reluctant to build onto their present homes. There is a flat prohibition against new construction in the area, except on existing lots. No new subdivisions are permitted.

Second. The Wildcat Valley is gradually becoming a "depressed area," not only in the markeplace definition of the term, but also in the potential and promise which such a productive and valuable area would normally achieve for itself.

Third. County officials have adopted a band-aid approach to bridge and road structures in the area; for example, construction of temporary structures. There is a great reluctance by the county to make major improvements or build permanent structures in areas that could later be condemned.

Fourth. Local farmers who work the land in the proposed take area are unwilling to take the financial risks necessary to purchase equipment, land and generally improve their farming operation. Full production, therefore, is not obtained.

Fifth. The Board of County Commissioners concluded that—

> The most significant damage being done by authorizations is the personal sense of loss incurred by the residents of the Wildcat Valley. To live under the constant fear of being forced from their homes is a severe cross to bear.

I strongly believe that it would be unfair and unjust for the Lafayette community to have to wait 8 years until Federal deauthorization is accomplished under the provisions of section 12 of Public Law 93–251. This law states that only projects which have not received funding for 8 consecutive years could be candidates for deauthorization. Immediate deauthorization is a practical means to resolve not only the day-to-day problems in the Wildcat Valley but also the long-range pressing problems of agricultural, commercial, residential, and recreational planning for the entire area.

It is in the Senate bill, and as I said, is supported by both of the Senators from the State of Indiana.

Mr. Chairman, I include the following correspondence for the information of the Members:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., August 29, 1977.

Hon. FLOYD FITHIAN,
1205 Longworth Office Building,
Washington, D.C.

DEAR FLOYD: Reference is made to your letter urging my support for the Lafayette Lake deauthorization as included in the Senate version of H.R. 5885, the River Basin Authorization Bill.

While it is not yet clear just how we will attempt to resolve the Senate-House differences on the subject of Locks and Dam 26, I understand your concern for the deauthorization of the Lafayette Lake project, and will do all I can to be of assistance.

Best regards,
Sincerely,

RAY.

U.S. SENATE, COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS,
Washington, D.C. August 5, 1977.

Hon. FLOYD FITHIAN,
U.S. House of Representatives,
Washington, D.C.

DEAR COLLEAGUE: I was glad to get your recent letter indicating your strong interest in the proposal for deauthorizing the Lafayette Dam project in Indiana.

As you will now know, there is some question as to just when, and in what form, the House will approve legislation on which to go to conference with our Water Resources Development Act.

You may be sure, however, that I will do my best to accommodate your wishes for retention of the Lafayette deauthorization when the conference is scheduled.

With official esteem and personal regards, I am

Truly,
JENNINGS RANDOLPH, *Chairman.*

SECRETARY OF THE ARMY,
Washington, D.C., May 14, 1977.

Hon. FLOYD FITHIAN,
House of Representatives,
Washington, D.C.

DEAR MR. FITHIAN: The Secretary of the Interior referred to me your letter dated February 28, 1977, requesting support for H.R. 4071, 95th Congress, 1st Session, a bill "To deauthorize the Lafayette Dam and Reservoir, Wabash River, Indiana."

A report request on H.R. 4071 from the House Committee on Public Works and Transportation was received by the Department of the Army and was forwarded to the Corps of Engineers for preparation of a report. At present, the Office of the Chief of Engineers is preparing a proposed report on behalf of the Army. After clearance by the Office of Management and Budget, we will send the report formally to the Committee in response to its request.

As an exception to our normal policy of not providing an Army position prior to coordinating a report with OMB, I can tell you that the Army does not oppose deauthorization of the Lafayette Lake project in view of the withdrawal of State support.

As you noted in yonr letter, Lafayette Lake is an "inactive" project. There are no funds for the project in the President's Fiscal Year 1978 budget, and we have no plans to recommend inclusion of funds for the project in subsequent budgets.

Sincerely,
CLIFFORD L. ALEXANDER, Jr.

U.S. SENATE,
COMMITTEE ON ENVIRONMENT
AND PUBLIC WORKS,
Washington, D.C., July 18, 1977.

Hon. FLOYD FITHIAN,
U.S. House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN: I was glad to get your recent letter and I appreciate your reminding me in that way of your interest in the proposal for deauthorization of the Lafayette Dam project in Indiana.

I fully supported the termination proposal when it was submitted to my Water Resources Subcommittee for inclusion in S. 1529 and when the bill was before the Senate.

It is not clear at this point just when, or in what form, the legislation will go to conference since some of the major elements of our bill have now been introduced independently in the House, as I am sure you are aware. I can assure you now, however, that I will work for retention of the Lafayette deauthorization in whatever measure ultimately becomes the conference vehicle.

Most sincerely,
MIKE GRAVEL,
Chairman, Subcommittee on
Water Resources.

Mr. ROBERTS. Mr. Chairman, I rise in opposition to the amendment.

I am in deep sympathy with the gentleman as far as his situation is concerned; but this is an authorizing bill and not a deauthorizing bill.

Mr. Chairman, we already have established a deauthorizing process in section 12 of the 1974 Flood Control Act. All of those projects which have not been funded for a period of 8 years can be deauthorized under its provisions.

I am not going to take the time of my colleagues at this point, Mr. Chairman; but I find the amendment objectionable, and I certainly urge its defeat.

Mr. DON H. CLAUSEN. Mr. Chairman, I move to strike the last word, and I rise in opposition to the amendment.

out an adequate water supply. Failure of

Mr. Chairman, I rise in opposition to the amendment. This committee has an established procedure for deauthorizing projects. This procedure works—over 450 projects have been deauthorized in accordance with this procedure.

In order to have a fair and equitable way to rescind prior approvals of water resources projects, we must be consistent in our approach to deauthorizations. Section 8 of the 1974 Water Resources Development Act established that equitable methodology. I supported that provision in 1974 and I support it now. I think the gentleman's amendment could jeopardize our earlier hard work to solve these difficult decisions relating to deauthorization of projects.

Therefore, Mr. Chairman, I urge my colleagues to defeat the amendment.

Mr. FITHIAN. Mr. Chairman, will the gentleman yield?

Mr. DON H. CLAUSEN. I yield to the gentleman from Indiana.

Mr. FITHIAN. Mr. Chairman, may I ask the gentleman this question: Is it, then, the position of the committee that the people in the area in the State of Indiana must then wait 6 years prior to deauthorization, for that is the situation, as I take it, from the chairman of the subcommittee and the distinguished ranking member?

Mr. DON H. CLAUSEN. That is the established procedure. I am assuming from what the gentleman says that a couple of years have elapsed since there were funds actually available in the appropriation bill; is that correct?

Mr. FITHIAN. If the gentleman will yield further, that is correct.

I would like to say that it seems to me that the gentleman has spoken to equity. It seems to me that we are locked into a mere procedure. There is no prospect of this project's ever being built, and everybody admits that and recognizes that. Therefore, what we are saying is that because of some procedure that we

have adopted, we at the Federal level should be then locked in to perpetuating an inequity at the local level when we all know it is not going to be constructed. I do not really see how we seek justice if we always revert back to the AE rule.

Mr. DON H. CLAUSEN. I defer to the other gentleman from Indiana, Mr. JOHN T. MYERS, who has a different point of view. I am sure he will be addressing that, so I yield back the remainder of my time.

Mr. JOHN T. MYERS. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I regret that I must take the floor this evening to be opposing the amendment offered by my friend, neighbor, and colleague from the Second District of Indiana (Mr. FITHIAN).

This particular reservoir is shared, as the gentleman has presented to you, by both of us. The dam would be built in the second district represented by the gentleman, and about two-thirds of the storage area for that reservoir would be in his congressional district. About one-third of the storage area would be in my congressional district, and I will admit most of the benefits would accrue to my congressional district because of the flood control provided by this reservoir.

The reservoir was authorized in 1965. When the gentleman from Indiana (Mr. FITHIAN) came to Congress 4 years ago, he soon came to me and asked me to help get funds for the reservoir, which I did. He was then in full support of Lafayette Lake. Since that time he has had a change of mind, which everyone is entitled to, and I shall not question his right to do this. But I do not know of a single reservoir in the country about which there is not some controversy; do you?

It is true the present Governor of Indiana is opposed to this reservoir, and about any other that might be built in the State of Indiana, but the mayor of the city of Lafayette where the reservoir and the dam is to be built talked to me last Sunday, and he urged me to tell the Members that he still supports the reservoir because it is going to be needed not only for flood control but for future water needs, for municipal and industrial water for the city of Lafayette. The mayor is a Democrat. He is of the same party as the gentleman from Indiana (Mr. FITHIAN). The Governor is a Republican, of the same party as I am. But as the Members can see, this is not a political issue.

I see no advantage whatsoever to deauthorizing at this time. The gentleman in his letter and statement today states that it is not fair to the people who own land in the area, that they want to build a subdivision and homes. The area we are talking about is in the flood plains. How often have we heard arguments here that we should not allow people to build in flood plains, to develop where they will have losses from floods. So this does not make any argument. Are we going to grant permits to have people build in flood plains and then come back and have to guarantee loan guarantees for flood control for these people? It does not make any sense to say, Yes, they should have the right to build in flood plains in this area.

The opponents of the reservoir suggest that we buy the land that would be flooded. They want to buy that land and then make it into a park area. So again the people occupying the area are not going to be able to use it if it is to be made into parkland. Eo even the opponents are undecided about what they want to do. They are not objecting to taking the land away from the landowners; they are just objecting to buying flood control for the people who live in my area and on down the Mississippi, on down to New Orleans.

There is a procedure for deauthorization. No one can make the prediction today that this reservoir is not going to be built. I am of a different opinion. I think sometime in the future we are going to have to build this both for flood control and municipal and industrial water as well.

I realize the hour is late. I am not going to take any more time. I regret there is a difference of opinion and judgment here between the gentleman from Indiana (Mr. FITHIAN) and myself—and others—but I urge that the Members follow the longstanding procedure established by this Congress—a procedure for deauthorizing public works or water projects. This is not the way to do that. If you open the door here and say, "Well, we will help good old FLOYD out because he is a good friend of mine"—I wish I could help him; if he were right, I would. But if you open the door here, where are you going to stop?

If we violate the procedure established by this House, where are we going to stop? So I urge a "no" vote on this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Indiana (Mr. FITHIAN).

The amendment was rejected.

● Mr. RUPPE. Mr. Chairman, I rise in support of the recommendations of the Committee on Public Works and Transportation with respect to H.R. 13059, the Water Resources Development Act of 1978. I appreciate the difficulty that committee has had in evaluating reports resulting from congressionally authorized studies when such reports prepared for consideration by the Congress are indefinitely held by the Office of Management and Budget without any indication of the administration's position on these matters.

One such issue involves a project for extension of the navigation season on the Great Lakes and Saint Lawrence Seaway as set forth in a report of the Chief of Engineers dated November 16, 1977. Actually that report and section 101(a) authorization would now provide congressional approval for winter navigation support by the Federal Government consisting of existing structural and nonstructural operational measures, such as icebreaking, to support a navigation season on the upper four Great Lakes and their connecting channels to about January 31.

This proposal is part of a more encompassing and involved survey, underway since 1970, that will advise on the feasibility of year-round navigation throughout the entire Great Lakes-seaway system with the objective, if economically and environmentally acceptable, of opening up the lakes to ocean commerce year round.

Since the inception of this effort I have withheld full endorsement of operations until able to obtain reasonable assurances that this effort would be cost beneficial, that it would materially stimulate the economy of the Great Lakes region and of the Nation with due regard for the legitimate concerns of affected local citizens, that both the social/human and environmental effects of winter navigation were responsibly addressed, and that in the event any unacceptable adverse effects are encountered that would significantly affect Great Lakes water levels and flows regimes or riparian interests, vessel movements would be terminated or satisfactorily adjusted.

To assist me in essential appraisals, I and my colleagues, and Corps of Engineers project managers, have had the benefit of General Accounting Office formal reports issued in 1973 and 1976 with two subsequent followup or monitoring reviews. The latest of these reviews that I requested was in my hands as recently as April 1978 and has provided me with reasonable satisfaction that the concerns I outlined have been addressed including the establishment of a 2.7 benefit/cost ratio for the program authorized by H.R. 13059.

Additionally and after vigorous prodding on my part over the years the cognizant Winter Navigation Board through its various work groups has tackled significant environmental issues with greater interest and vigor. A plan of study and appraisal is established that will be conducted concurrently with the first 3 years of operation. This includes a special study of shore erosion and structural damage contentions in the St. Mary's, St. Clair (and Lake St. Clair), and Detroit River sectors. Hopefully any necessary corrective construction proposals would follow promptly. With the cooperation of the Department of Interior through the initiative of its Fish and Wildlife Service I have promoted the organization of a cooperative State-Federal-citizen team that will be engaged in a continuing environmental assessment of the Great Lakes ecosystem, including the effects of winter navigation in its efforts.

With an eye to the future I have also promoted an effort to continue the existence of the Winter Navigation Board, a mechanism established by the Corps of Engineers at the inception of the current demonstration program. Such a board will serve as a coordinating overseer of the activities it first set in motion as an independent body or in the alternative will serve under the aegis of another established coordinating mechanism such as the Great Lakes Basin Commission.

In summary then I support this program as long as it materially contributes to the economic welfare of the Great Lakes region and of the Nation and is

consistent with national transportation policies that foster fast, safe and efficient systems at the lowest cost including the efficient utilization and conservation of the country's resources—with due regard for human or social effects in the local areas of operation.

I would make brief reference to section 174, that begins to address a human relaitons issue that has been pleading for equity since 1973. I can best express my support for this shoreline damage and indemnification study in the words of a witness to this subject at a hearing this past June which asserted that action of this kind "will help restore the confidence of a group of people who have felt that their own Government has 'let them down' and broken its promises." He further asserted that "Justice delayed is justice denied" with reference to his age that made him even more aware of the truth in these words. Our own Committee on Foreign Affairs members expressed shock, during hearings in 1973, that the United States should cloak itself in the immunity from liability enjoyed by the International Joint Commission whenever it may act to the detriment of the citizens of this country.

I only trust that the authorization, dependent upon future appropriations, will not inhibit the Corps of Engineers in directing other ongoing but related efforts toward accomplishment of the final cost assessment effort. I would urge my successors to focus on this matter in the months ahead.

I thank the chairman of the Public Works Committee for the consideration they have given to the Nation's needs and to matters of particular concern to me.

I urge my colleagues to support and pass this authorization bill.●

Mr. HAMMERSCHMIDT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of H.R. 13059, the Water Resources Development Act of 1978. I would like to congratulate the Committee on Public Works and Transportation for their hard work and dedication. I know that the Senate has been bringing a great amount of pressure upon the committee to go to conference on H.R. 8309—the Navigation Development Act—even though they added nearly 100 sections to that bill—in essence expanding H.R. 8309 to include a water resources development act. However, the public works leadership wisely recognized that no House initiatives would be enacted if they accepted the Senate's offer of a conference, unless we pass H.R. 13059, combine it with H.R. 8309, and then go to conference since there will be no other water resources initiatives this Congress.

Mr. Speaker, the projects contained in this bill will provide valuable flood control, navigation, hydroelectric power, economic development and recreation benefits to our Nation. The authorizations are in response to requests for help from our citizenry—based upon a real need for help. The administration would have us believe that these projects have no merit—that they provide nothing but political benefit. Apparently, they have never experienced the devastation of a flood and the human suffering it causes.

Fortunately, the Committee on Public Works and Transportation does recognize the need for these projects and that is why H.R. 13059 is before us today. It is a bill which responds to the people who need our help.

In my own district, the committee has included a provision which I sponsored which directs the Corps of Engineers to replace the existing bridge across Cane Creek in Logan County, Ark.

As a result of the construction of the Dardanelle Lock and Dam, a county highway bridge in Logan County across Cane Creek was adversely affected. Relocation studies concerning the structure were made and coordinated by the Corps of Engineers with local officials. Subsequently, an agreement was entered into which provided for the abandonment and removal of the bridge in view of the availability of alternative transportation access, low traffic levels and the cost of replacement.

However, more recent review has indicated that the construction of the bridge would have a significant beneficial effect on the economic condition of this rural area, which lost more than 14,000 acres of agricultural lands to the project. The bridge would provide a means for commercial feed and poultry trucks as well as milk tenders to serve their respective interests. From a standpoint of recreation, the bridge would provide a direct access to the Cane Creek public use recreation area, tying into the new Arkansas River bridge which is now being built at Clarksville. There is considerable room for development of these facilities to provide greatly expanded recreational opportunities once transportation to the site has been improved. Section 164 makes possible the recreational and economic benefits that were not clearly understood when the original decision not to relocate was made.

Mr. Chairman, H.R. 13059, the Water Resources Development Act of 1978 is an initiative which responds to the requests of our citizens for help. I recommend it to my colleagues and urge their favorable consideration.

AMENDMENT OFFERED BY MR. M'CLORY

Mr. McCLORY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. McCLORY: Page 77, after line 3, insert the following new section:

SEC. 170. (a) The first section of Public Law 92-367 is amended by repealing the final sentence.

(b) The second sentence of section 2 of Public Law 92-367. (86 Stat. 506) is amended by striking the "and" after "inspection" and striking the period after "property" and inserting in lieu thereof the following: "and (5) dams located within a State having an approved program under section 8 of this Act.".

(c) Public Law 92-367 (86 Stat. 506) is amended further by adding at the end thereof the following new sections:

"SEC. 7. There is authorized to be appropriated to the Secretary of the Army, acting through the Chief of Engineers (hereinafter referred to as the 'Secretary'), $15,000,000 for each of the fiscal years ending September 30, 1979, September 30, 1980, and September 30, 1981. Sums appropriated under this section shall be distributed annually among the States on the following basis: one-third equally among those States that have established dam safety programs approved under the terms of section of this Act, and two-thirds in proportion to the number of dams located in each State that has an established dam safety program under the terms of section 8 of this Act to the number of dams in all States with such approved programs. In no event shall funds distributed to any State under this section exceed 50 per centum of the reasonable cost for implementing an approved dam safety program in such State.

"SEC. 8. (a) In order to encourage the establishment and maintenance of effective programs intended to assure dam safety to protect human life and property, the Secretary shall provide assistance under the terms of section 7 of this Act to any State that establishes and maintains a dam safety program which is approved under this section. In evaluating a State's dam safety program, under the terms of subsections (b) and (c) of this section, the Secretary shall assure himself that such program includes the following:

"(1) a procedure whereby, prior to any construction, the plans for any dam will be reviewed to provide reasonable assurance of the safety and integrity of such dam over its intended life;

"(2) a procedure to determine, during and following construction and prior to operation of each dam built in the State, that such dam will be operated in a safe and reasonable manner;

"(3) a procedure to inspect every dam within such State at least once every two years;

"(4) a procedure for more detailed and frequent safety inspections, if warranted;

"(5) the State has or can be expected to have authority to require those changes or modifications in a dam, or its operation, necessary to assure the dam's safety;

"(6) the State has or can be expected to develop a system of emergency procedures that would be utilized in the event a dam fails or for which failure is imminent together with an identification for those dams where failure could be reasonably expected to endanger human life, of the maximum area that could be inundated in the event of the failure of such dam, as well as identification of those necessary public facilities that would be affected by such inundation;

"(7) the State has or can be expected to have the authority to assure that any repairs or other changes needed to maintain the integrity of any dam will be undertaken by the dam's owner, or other responsible party; and

"(8) the State has or can be expected to have authority and necessary funds to make immediate repairs or other changes to, or removal of, a dam in order to protect human life and property, and if the owner does not take action, to take appropriate action as expeditiously as possible.

"(b) Any program which is submitted to the Secretary under the authority of this section shall be deemed approved one hundred and twenty days following the receipt by the Secretary unless the Secretary determines that such program fails to reasonably meet the requirements of subsection (a) of this section. If the Secretary determines such a program cannot be approved, he shall immediately notify such State in writing, together with his reasons and those

changes needed to enable such plan to be approved.

"(c) The Secretary shall review periodically the implementation and effectiveness of approved State dam safety programs. In the event the Secretary finds that a State programs under this Act has proven inadequate to reasonably protect human life and property, he shall revoke approval of such State program and withhold assistance under the terms of section 7 of this Act until such State program has been reapproved.

"SEC. 9. There is authorized to be appropriated in the fiscal year ending September 30, 1979, or any fiscal year thereafter and remain available the sum of $20,000,000 to be placed in a revolving fund by the Secretary, such funds to be available for loans, on terms established by the Secretary, to any owner for any dam required to make repairs, to replace, or to make other safety improvements in such dam under any safety program approved under section 8 of this Act, if such owner can demonstrate to the Secretary that other funds are not reasonably available.

"SEC. 10. The head of any agency of the United States that owns or operates a dam, or proposed to construct a dam in any State, shall, when requested by such State, consult fully with such State on the design and safety of such dam and allow officials of such State to participate with officials of such agency in all safety inspections of such dam.

"SEC. 11. The Secretary shall, at the request of any State that has or intends to develop a dam safety program under section 8 of this Act, provide training for State dam safety inspectors. There is authorized to be appropriated to carry out this section $1,000,000 for the fiscal year ending September 30, 1979, and $500,000 during each of fiscal years ending September 30, 1980 and September 30, 1981.

"SEC. 12. The Secretary, in cooperation with the National Bureau of Standards, shall undertake a program of research in order to develop improved techniques and equipment for rapid and effective dam inspection, together with devices for the continued monitoring of dams for safety purposes. The Secretary shall provide for State participation in such research and periodically advise all States of the results of such research. There is authorized to be appropriated to carry out this section $1,000,000 for each of the fiscal years ending September 30, 1979, September 30, 1980, and September 30, 1981.".

Renumber succeeding sections and references thereto accordingly.

Mr. McCLORY (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. McCLORY. Mr. Chairman, the first amendment I offer arises out of a local situation in my congressional district involving a non-Federal dam—to be more specific, a dam which was privately constructed and is presently owned and operated by a private property owners' association. However the situation in my own district is characteristic of a problem that is national in scope. It appears that my constituency is among the first to encounter the problem and it is quite likely that similar circumstances will occur with greater frequency in other districts unless this body arrives at some sort of solution.

Before continuing, I would like to pinpoint the critical situation in the area of dam safety which I have attempted to address with this amendment. A national program of inspection of non-Federal dams was commenced by the Army Corps of Engineers at the direction of the President in December 1977, under the authority of Public Law 92–367, the National Dam Inspection Act of 1972.

Early results found that more than 10 percent of the dams inspected were hazardous and this high ratio of unsafe dams is expected to continue. Many non-Federal dams have been built where no safety or construction requirements apply. A noted expert in the area of dam safety has testified that at least 28 percent of the non-Federal dams have been constructed under such circumstances.

The dilemma we face is that once a dam is determined to be unsafe by the initial inspection, most often funds are not available for the necessary remedial measures in the way of rehabilitation and repair. Funds may not even be available for the detailed engineering studies necessary to ascertain the particular structural deficiences of the dam prior to repair, which is the case in my district.

The reason funds are not available is principally because almost all of the approximately 50,000 major dams in the country are non-Federal dams. Eighty-nine percent of our Nation's dams are owned by State governments or municipalities that may not have the budgetary resources to undertake repairs, or by private entities which often do not control the assets necessary to finance structural rehabilitation. So, the predicament we are faced with is that as more and more dams are being identified as unsound, it is becoming apparent that many dam owners are unable to finance corrective action, frequently in the millions of dollars, to prevent their dams from failing.

I certainly do not need to point out the tremendous toll in lives lost and property damaged as a result of recent dam failures. Buffalo Creek, W. Va., Rapid City, S. Dak., the Teton Dam in Idaho, and Toccoa Falls, Ga., are tragic reminders of recent disasters associated with dam failures; three of these dams were non-Federal structures. Since 1930 over 100 major dams have collapsed, killing hundreds of people and causing destruction to property worth literally billions of dollars.

The potential for the same sort of destruction still exists. In its 1974 national inventory, the corps classified roughly 20,000 dams as "hazardous," meaning that 40 percent of the dams across the country are so located that failure of the dam or misoperation of the discharge facilities could result in loss of human life and appreciable property damage.

Yet, the great majority of these dams have not received even a cursory examination under the inspection program initiated less than a year ago. Furthermore, of the dams that have been inspected, we are realizing that the State, municipal, and private owners cannot fund the necesssary repairs as I have already pointed out.

It seems clear that the primary responsibility for the inspection and regulation for safety of non-Federal dams should be assumed by the States. Unfortunately, many States are sorely deficient in this area. Well known dam safety experts, the Secretary of the Army and the General Accounting Office all have testified before the Environmental Energy, and Natural Resources Subcommittee of the Government Operations Committee, that a substantial number of States have inadequate or nonexistent safety programs, insufficient staff to perform inspections and minimal funding.

In its February 1978 report on dam safety, the Government Operations Committee included in its recommendations, the following provisions:

That the States should be encouraged and assisted by the Federal Government to create and improve their dam safety programs;

That the Congress should consider whether this should include any federal-financial assistance;

That minimum standards must be developed for state programs;

That consideration be given to a low cost federal loan program directed to rehabilitation and repair; and

That federal dam building agencies devise training and instruction programs for state dam safety program personnel.

My amendment is designed to act as an incentive for States to establish and implement effective dam safety programs and it incorporates many of the recommendations of the Government Operations Committee. First, the proposal authorizes $15 million for the next 3 fiscal years to be made available on a matching basis to States with approved dam safety programs. Second, it outlines the criteria upon which State programs will be approved by the Secretary of the Army acting through the Chief of Engineers.

Third, the amendment authorizes $20 million to be replaced in a revolving fund for the purpose of low-interest loans to be made available to the owner of any dam required to repair, replace, or make other safety improvements under an approved State dam safety program. In addition, the amendment provides funding for training programs for State dam safety inspectors. Finally, the amendment authorizes research in order to develop improved techniques and equipment for effective dam inspection.

The amendment which was printed in the RECORD on September 19, resembles a bill introduced in the other body by Senator JAMES MCCLURE of Idaho, who serves on the Public Works and Environment Committee in the Senate. The McClure bill, S. 2437 was adopted by the Senate by a voice vote on June 9th.

My amendment deletes the more controversial provisions of the McClure bill. The two principal differences should be mentioned at this point. The McClure bill establishes a Federal dam safety review board responsible for reviewing safety standards and procedures in the construction and operation of Federal dams and for monitoring implementation of State programs. I felt another Federal agency was largely unnecessary and accordingly, these functions were placed under the Secretary of the Army.

Perhaps the most important distinction to be drawn between these two pieces of legislation is that my amendment does not include provisions involv-

ing the serious question of liability insurance for dam owners. The proper role of the Federal Government in guaranteeing dam liability is a complicated problem which deserves serious study and in-depth consideration by the House Committee on Public Works.

I would like to say that in offering this amendment, it is certainly not my intention to circumvent consideration of the proposal in the House Public Works Committee. It is my understanding that the log jam of bills that plagues every committee late in the session prevented consideration of dam safety legislation. I have previously spoken with both the chairman and the ranking minority member on the committee about my amendment, and I urge them as well as the rest of the members serving on the Public Works Committee to consider the favorable action taken in the Senate, and the report of the Government Operations Committee and act upon the merits of my proposal.

The National Dam Safety Act, enacted by the Congress in 1972, was an attempt to deal wtih the problem of dam safety on a nationwide basis. Unfortunately, implementation of Public Law 92-367 was virtually ignored by the executive branch. The fundamental provision of the law, namely, inspection of all dams, was not even commenced until 5 years after enactment following the failure of the Toccoa Falls Dam in 1977.

Since late last year, the inspections that have been performed have revealed a high percentage of unsafe dams. Simultaneously, we have discovered that many owners of dams, who ought to be responsible for repairs, lack the financial capabilities to make them. By providing Federal incentives for States to implement effective dam safety programs, my amendment is an attempt to resolve this predicament which will repeatedly present itself in other districts. My amendment applies the principle of the old adage, "an ounce of prevention is worth a pound of cure," to the area of dam safety. And I urge my colleagues to demonstrate their sound judgment and foresight in supporting this amendment before another major dam failure is brought upon by a lack of adequate inspection procedures or an absence of funding for repair and rehabilitation of existing structures.

Mr. ROBERTS. Mr. Chairman, will the gentleman yield?

Mr. McCLORY. I am happy to yield to the distinguished gentleman from Texas.

Mr. ROBERTS. Mr. Chairman, my distinguished colleague makes a good point; but the gentleman keeps saying "non-Federal or state."

Is it not true the gentleman's amendment is designed to go on private property, nonpublic private property?

Mr. McCLORY. I say to the chairman, my amendment does both. It applies to State owned dams and municipalilty owned dams. Also, the revolving fund would relate to privately owned dams as well, so it would cover the whole gamut of publicly and privately owned dams.

It would also provide for dam inspection programs and contains other provisions that are rather comprehensive, but which I think are essential in order for us to resolve the problems resulting from this 1972 dam inspection program, in which we mandated dam inspections throughout the country. Now we are turning up daily with problems of dams considered unsafe on the basis of the corps initial inspections.

So I might say that in my district, for instance, where the corps and the Illinois Water Resources Board have ordered the lowering of the water level of Lake-in-the-Hills we are in a distressing situation, a very unhealthy condition. The bottom of the lake is now exposed, and all kinds of unhealthy aspects have developed as a result of this lowering of the water level. So it is quite an urgent situation.

I might say that the Property Owners Association has come up with some money of its own, but to come up with sufficient money in this kind of a situation is extremely difficult.

This is authorizing legislation; we are not appropriating money here. We are authorizing these funds on a very fair basis, it seems to me, on the basis of matching funds as between the Federal Government and the State with regard to State and municipally owned dams and on the basis of a revolving fund with regard to repairs that might be needed, including those that might be made by private property owners on privately owned dams.

So I urge the leadership members of the committee to accept this amendment and provide the kind of help that is earnestly and urgently needed by my constituents.

The CHAIRMAN. The time of the gentleman from Illinois (Mr. McCLORY) has expired.

(On request of Mr. ROBERTS, and by unanimous consent, Mr. McCLORY was allowed to proceed for 1 additional minute.)

Mr. ROBERTS. Mr. Chairman, will the gentleman yield?

Mr. McCLORY. I yield to the chairman of the subcommittee.

Mr. ROBERTS. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, we cannot even get the necessary money to take care of the publicly owned dams, and while I sympathize with the private owners of property, there is certainly no way we can do this. I certainly will have to oppose the gentleman's amendment.

I hope we will look at the amendment to be offered by the gentleman from Pennsylvania (Mr. SHUSTER), which will take care of the publicly owned property. That will stretch us, and probably that is all the money we can get.

The CHAIRMAN. The time of the gentleman from Illinois (Mr. McCLORY) has again expired.

(By unanimous consent, Mr. McCLORY was allowed to proceed for 1 additional minute.)

Mr. DON H. CLAUSEN. Mr. Chairman, will the gentleman yield?

Mr. McCLORY. I yield to the gentleman from California.

Mr. DON H. CLAUSEN. Mr. Chairman, I have been reading a copy of the gentleman's letter that he had written to the committee chairman, the gentleman from California (Mr. JOHNSON), and it states that the State of Illinois is precluded under statute from providing funds for privately owned dams except in instances where there is an emergency involving loss of life and property when a dam fails.

I conclude from that that this would be an after-the-fact set of circumstances, and, therefore, I would have to ask the gentleman this question:

Is there a known precedent for this kind of a request on privately owned dams in the country, or would this be precedent-setting?

Mr. McCLORY. Mr. Chairman, I think the whole subject is unprecedented, because we have not heretofore ordered the Corps of Engineers to inspect all these dams. So I think it may be precedent-setting, but I think it is going to be characteristic of what we are going to see happening and of what is happening all over the country.

Mr. DON H. CLAUSEN. Mr. Chairman, I am, of course, sympathetic with the gentleman's request.

I have to state, however, as the subcommittee chairman has said, that we have not had the kind of in-depth evaluation of where this would lead us.

I for one would personally pledge myself to take a hard look at this problem next year, because I think we are breaking new ground as far as dam safety is concerned. There is, of course, a prime responsibility for us to deal with the public sector and with government-owned reservoirs, and I would certainly work with the gentleman next year in getting hearings in depth on this subject.

AMENDMENT OFFERED BY MR. SHUSTER AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. M'CLORY

Mr. SHUSTER. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The clerk read as follows:

Amendment offered by Mr. SHUSTER as a substitute for the amendment offered by Mr. McCLORY: Page 91, after line 16, insert the following:

SEC. 199. (a) Section 4 of the Act entitled "An Act to authorize the Secretary of the Army to undertake a national program of inspection of dams", approved August 8, 1972 (Public Law 92-367; 33 U.S.C. 467s), is amended by inserting "(a)" immediately after "Sec. 4.", and by adding at the end thereof the following new subsection:

"(b) In any case where the Secretary determines that a dam inspected under this subdivision thereof, or any other such public subdivision thereof, or any other such public agency or instrumentality is in such a hazardous condition that it is a danger to human life or property, the Secretary is authorized to restore such dam to a safe condition if the State, political subdivision, or other public agency or instrumentality owning such dam, agrees prior to any such restoration (1) to repay to the United States, over a period not to exceed 50 years from the date of completion of the restoration, all costs of such restoration, together with interest, at a rate computed in accordance with section 301(b) of the Water Supply Act of 1958, and (2) to maintain such dam upon completion of such restoration in a safe condition.".

(b) The first section of Public Law 92-367 is amended by repealing the final sentence.

(c) The second sentence of section 2 of Public Law 92-367 (86 Stat. 506) is amended by striking the "and" after "inspection" and striking the period after "property" and inserting in lieu thereof the following: "and (5) dams located within a State having an approved program under section 8 of this Act.".

(d) Public Law 92-367 (86 Stat. 506) is amended further by adding at the end thereof the following new sections:

"Sec. 7. There is authorized to be appropriated to the Secretary of the Army, acting through the Chief of Engineers (hereinafter referred to as the 'Secretary'), $15,000,000 for each of the fiscal years ending September 30, 1979, September 30, 1980, and September 30, 1981. Sums appropriated under this section shall be distributed annually among the States on the following basis: one-third equally among those States that have established dam safety programs approved under the terms of section 8 of this Act, and two-thirds in proportion to the number of dams located in each State that has an established dam safety program under the terms of section 8 of this Act to the number of dams in all States with such approved programs. In no event shall funds distributed to any State under this section exceed 50 per centum of the reasonable cost for implementing an approved dam safety program in such State.

"Sec. 8 (a) In order to encourage the establishment and maintenance of effective programs intended to assure dam safety to protect human life and property, the Secretary shall provide assistance under the terms of section 7 of this Act to any State that establishes and maintains a dam safety program which is approved under this section. In evaluating a State's dam safety program, under the terms of subsections (b) and (c) of this section, the Secretary shall assure himself that such program includes the following:

"(1) a procedure whereby, prior to any construction, the plans for any dam will be reviewed to provide reasonable assurance of the safety and integrity of such dam over its intended life;

"(2) a procedure to determine, during and following construction and prior to operation of each dam built in the State, that such dam will be operated in a safe and reasonable manner;

"(3) a procedure to inspect every dam within such State at least once every two years;

"(4) a procedure for more detailed and frequent safety inspections, if warranted;

"(5) the State has or can be expected to have authority to require those changes or modifications in a dam, or its operation, necessary to assure the dam's safety;

"(6) the State has or can be expected to develop a system of emergency procedures that would be utilized in the event a dam fails or for which failure is imminent together with an identification for those dams where failure could be reasonably expected to endanger human life, of the maximum area that could be inundated in the event of the failure of such dam, as well as identification of those necessary public facilities that would be affected by such inundation;

"(7) the State has or can be expected to have the authority to assure that any repairs or other changes needed to maintain the integrity of any dam will be undertaken by the dam's owner, or other responsible party; and

"(8) the State has or can be expected to have authority and necessary funds to make immediate repairs or other changes to, or removal of, a dam in order to protect human life and property, and if the owner does not take action, to take appropriate action as expeditiously as possible.

"(b) Any program which is submitted to the Secretary under the authority of this section shall be deemed approved one hundred and twenty days following its receipt by the Secretary unless the Secretary determines that such program fails to reasonably meet the requirements of subsection (a) of this section. If the Secretary determines such a program cannot be approved, he shall immediately notify such State in writing, together with his reasons and those changes needed to enable such plan to be approved.

"(c) The Secretary shall review periodically the implementation and effectiveness of approved State dam safety programs. In the event the Secretary finds that a State program under this Act has proven inadequate to reasonably protect human life and property, the Secretary shall revoke approval of such State program and withhold assistance under the terms of section 7 of this Act until such State program has been reapproved.".

Renumber succeeding sections and references thereto accordingly.

Mr. SHUSTER (during the reading). Mr. Chairman, I ask unanimous consent that the substitute amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. SHUSTER. Mr. Chairman, it is with some reluctance that I offer this substitute in effect in opposition to the amendment offered by the gentleman from Illinois (Mr. MCCLORY).

I am very sympathetic with the problems which the gentleman from Illinois has outlined, and yet I have great difficulty as a member of the Committee on Public Works and Transportation with the notion that we are breaking this new ground and providing Federal funding for private dams without giving very, very careful consideration to such a precedent-setting move by this body.

So the substitute which I offer differs essentially in two respects from that offered by the gentleman from Illinois. First, it does not provide funding for private dams. It limits the funding to public dams. And, second, and very importantly in my judgment, it requires a payback from the authorities or facilities which receive these Federal funds, a payback with interest over a period of time, up to 50 years.

Now, there is no question in my mind that there is a serious problem in this country. There have been dam failures which have claimed lives and have cost millions of dollars in property damage. And it is true that the corps has inspected many dams across the United States. A frightening large number have been identified as hazardous to the public welfare. In my own congressional district, in the city of Altoona, there is a public impounding dam, and the corps has indicated that the rehabilitation measures necessary to correct deficiencies would cost the city of Altoona in excess of $2 million. I would like to be able to find that money for a city in my congressional district without their having to pay it back, without their having to pay any interest on it. And yet I cannot say, in good conscience—as a member of the committee which has seriously considered this matter now for many weeks and months—that we should turn over to localities funds to solve these problems without requiring the payback. On the other hand, I think we must do something. We must do something to make funds available so that these hazardous dams can be repaired.

So it seems to me that a reasonable compromise here, at least for starters, is to limit this to public dams, first, and, second, to require a payback, thereby making this a fiscally responsible measure.

Mr. ROBERTS. Mr. Chairman, will the gentleman yield?

Mr. SHUSTER. I yield to the gentleman from Texas.

Mr. ROBERTS. I thank the gentleman for yielding, and I want to commend the gentleman for his substitute because I think it goes as far as we can possibly go, within our legal scope. I am not sure we can even fund all of those projects, but at least it stays within the public sector, and so is a reasonable first step.

Mr. SHUSTER. I thank the gentleman.

Mr. ROBERTS. Mr. Chairman, I must advise my distinguished colleague, the gentleman from Illinois, that we gave it much thought, and we had to make it fit the law. I think it is something worthwhile, and I am happy to accept the gentleman's substitute.

Mr. SHUSTER. I thank the gentleman.

I know the gentleman has looked at the specific problem in Altoona, Pa., which I referred to, and the public dam there. And would the gentleman agree with me that this is the kind of project that should be funded under this program?

Mr. ROBERTS. Not only this, but we have several other public projects, and we will be very fortunate to take care of those which have already been condemned.

Mr. SHUSTER. Does the distinguished chairman agree with me that the type of project I have outlined in Altoona, Pa., should be funded under this program?

Mr. ROBERTS. Certainly. It is publicly owned, it has a pay-back provision, and should be funded.

Mr. SHUSTER. I thank the gentleman.

Mr. MCCLORY. Mr. Chairman, will the gentleman yield?

Mr. SHUSTER. I yield to the gentleman from Illinois.

Mr. MCCLORY. I thank the gentleman for yielding.

Mr. Chairman, I am very pleased indeed to note that my initiative has contributed to the substitute amendment that is being offered by the gentleman from Pennsylvania.

I would like to pose this question to the gentleman: The dam in my congressional district is owned by a property owners' association, which is wholly located within the municipal boundaries.

The CHAIRMAN. The time of the gentleman from Pennsylvania (Mr. SHUSTER) has expired.

(On request of Mr. MCCLORY and by unanimous consent, Mr. SHUSTER was allowed to proceed for 2 additional minutes.)

Mr. McCLORY. Is it my understanding that, if the property owners' association would convey the water and the dam to the municipality, that then the municipality would qualify under the gentleman's amendment?

Mr. SHUSTER. That is correct. That is my understanding. It would then be a publicly owned dam and it would qualify.

Mr. McCLORY. So that the dam located in my congressional district, just as the dam located in the gentleman's congressional district, would qualify for this Federal loan, grant, or condemnation program?

Mr. SHUSTER. That is my understanding.

Mr. McCLORY. I thank the gentleman. I will, of course, support the substitute amendment that the gentleman offers, and my amendment as amended by the substitute.

Mr. DON H. CLAUSEN. Mr. Chairman, will the gentleman yield?

Mr. SHUSTER. I yield to the gentleman from California.

Mr. DON H. CLAUSEN. Mr. Chairman, on the basis of the explanation, we are prepared to accept the gentleman's substitute amendment.

Mr. SHUSTER. I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. SHUSTER) as a substitute for the amendment offered by the gentleman from Illinois (Mr. McCLORY).

The amendment offered as a substitute was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. McCLORY), as amended.

The amendment, as amended, was agreed to.

AMENDMENT OFFERED BY MR. M'CLORY

Mr. McCLORY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. McCLORY: Page 78, line 9, immediately after "SEC. 173." insert "(a)".

Page 78, after line 17, insert the following new subsection:

(b) The Secretary of the Army, acting through the Chief of Engineers, shall inspect the Lake-in-the-Hills Dam, Lake-in-the Hills, Illinois, and perform detailed engineering studies to determine the structural integrity of the dam and spillway. A report shall be submitted to Congress, and a copy thereof furnished the Illinois Department of Transportation, Division of Water Resources, setting forth the results of such inspection and recommendations of the Secretary of the Army of the necessary measures to assure the safety of the dam, spillway, and surrounding areas.

Mr. McCLORY (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The CHAIRMAN. The gentleman from Illinois (Mr. McCLORY) is recognized for 5 minutes in support of his amendment.

Mr. ROBERTS. Mr. Chairman, will the gentleman yield?

Mr. McCLORY. I yield to the gentleman from Texas.

Mr. ROBERTS. Is this the amendment that would request a study into the matter that the gentleman's previous amendment was directed toward?

Mr. McCLORY. Well, it is an amendment that is virtually identical with the other language on page 78, but it applies to the dam in my district, whereas section 173 applies to the dam in another congressional district.

Mr. ROBERTS. I see nothing wrong with the gentleman's amendment. It is a study, and I see nothing wrong with it. As far as I am concerned, I am willing to accept it.

Mr. McCLORY. I thank the gentleman.

Mr. HARSHA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to ask the author of the amendment—this is the first time I have seen the amendment, and it is not clear to me—is he striking out section 173?

Mr. McCLORY. No, I am adding this to it, just following section 173. I mentioned section 173 because my amendment follows the same pattern as section 173.

Mr. HARSHA. Mr. Chairman, I have no objection to the amendment.

Mr. DON H. CLAUSEN. Mr. Chairman, will the gentleman yield?

Mr. HARSHA. I yield to the gentleman from California.

Mr. DON H. CLAUSEN. Mr. Chairman, in light of the explanation we have no problem with the amendment. We will be glad to accept it.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. McCLORY).

The amendment was agreed to.

Mr. BURKE of Massachusetts. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I take the floor at this time to have a colloquy with the distinguished chairman of the Public Works Committee, and ask him if he is acquainted with the problem in Mr. OTTINGER's district and out in Seattle and up in my district, in the parkway, where the OMB apparently has made some kind of rule interrupting authorization of funds of a project up there. I was wondering if the chairman can assure me that he will look into this problem.

Mr. ROBERTS. Mr. Chairman, I am somewhat familiar with the problems of both those projects. Of course, the distinguished chairman of the full committee would have to make that decision, but I would be happy to request the gentleman to ask our Investigations and Oversight Committee to look into the matter and give the gentleman a report.

Mr. BURKE of Massachusetts. I thank the gentleman.

Mr. BONIOR. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, we have heard in this brief discussion of the bill some remarks about procedures, and I rise in strong opposition to this bill. It is with regret that I do that, but I have some serious objections with what is being brought forward here.

Mr. Chairman, the U.S. Army Corps of Engineers has established an elaborate set of procedures to approve projects. These include many opportunities for review within the corps to insure that the proposed project is economically, structurally, and environmentally sound. It also allows many opportunities for comment by the general public, State and local governments, other Federal agencies, and interested parties such as environmental groups. While this process does not insure that all projects are perfect, it allows for better review and minimizes the possibilities that the projects will run into problems in the future, especially court cases.

This bill shortchanges this process by authorizing many projects which have not been completely reviewed by the corps. Of the 51 projects authorized for construction, 37 have not been reviewed by the Chief of Engineers. Forty-one percent of the funds for projects in this bill—$511.7 million—have not been approved by the Chief of Engineers.

PROJECTS AUTHORIZED FOR CONSTRUCTION WITHOUT REPORT OF CHIEF

Halstead, Kans., $4 million.
Cabin Creek, Ky., $21.8 million.
Parker Lake, Okla., $28.4 million.
Savannah Harbor, Ga., $6.6 million.
Brazos Harbor, Tex., $15.9 million.
Oakland Outer Harbor, Calif., $20.3 million.
John's Creek Tributary, Tenn., $10 million.
Ceasar Creek water supply, Ohio, $33 million.
Sacramento River bank protection, Calif., $25 million.
Saginaw River, Mich., $?.
East Fork Lake water supply, Ohio, $16.5 million.
Cherry Street and Walnut Street Bridges, Massillon, Ohio, $1.5 million.
Fort Randall Dam—Lake Francis Case pumped storage, S. Dak., $30 million (partial).
Fifteen Mile Bayou and Eight Mile Creek, Alaska, $20 million.
Sedro Wooley, Wash., $12 million.
Charleston Harbor extension, S.C., $4.5 million.
Harlan County Lake recreation facilities, Nebr., $4.8 million.
Corte Madera unit 4, Calif., $?.
Niobrara Highway No. 14, Nebr., $1.6 million.
Yazoo River, Miss., $.2 million annually.
Tug Fork, W. Va., *et al* $100 million; Tug Fork, W. Va. *et al* dredging, $10 million.
Water supply intake facility, Springfield, S. Dak., $2 million.
Fort Toulouse bank protection, Ala., $2 million.
San Juan, P.R., $13.5 million.
Moundville, Ala., $?.
Lake George, Ind., $3.9 million.
Cox's Park, Ky., $.65 million.
Dover Creek, $1.3 million.
Zumbro River, Minn., $1.8 million.
Cottonwood Branch road crossing, Tex., $2 million.
Cane Creek Bridge, Ark., $.35 million.
Albert Lea Lake, Minn., $4 million.
Washington Aqueduct, District of Columbia, $.18 million.
St. Thomas, VI, water supply, $4 million.
Old River, La., $?.
Mississippi River Gulf Outlet, La., $94.5 million.

Total, $496 million (plus amount unspecified in bill).

This bill also authorizes 16 projects for phase I design of which 10 have not been reviewed and cleared by the chief. Before phase I design is authorized, current policy requires a feasibility study by the Chief of Engineers that establishes that the project is engineeringly feasible, economic, and environmentally acceptable.

PROJECTS AUTHORIZED FOR PHASE I DESIGN WITHOUT A FEASIBILITY STUDY REPORT FROM THE CHIEF OF ENGINEERS

[Dollar amount for study only.]

Red Bank and Fancher Creeks, Calif., $.3 million.

Mamaroneck and Sheldrake River Basins, N.Y. and Byran River, Conn., $1.1 million.

Harrisburg, Pa., $.8 million.

Sacramento River navigation, Calif., $?.

Ashtabula Harbor, Ohio, $?.

Crescent City Harbor, Calif., $.4 million.

Kaw Lake, Okla., $1 million.

Tenkiller Ferry Lake, Okla., $1 million.

Englewood Lake, Okla., $1.1 million.

New York City water supply, N.Y., $10 million.

Total, $15.7 million.

Twelve percent of the funds for projects—$144.69 million—have never been studied by the corps at any level, and yet, we are authorizing over $140 million for construction. These projects have had absolutely no opportunity for public comment or agency review and have not had any environmental impact studies done.

PROJECTS AUTHORIZED FOR PHASE 1 DESIGN WITHOUT ANY FEASIBILITY STUDY REPORT FROM THE CORPS

Sacramento River Navigation, Ca.

Ashtabula Harbor, OH.

Crescent City Harbor, CA $.4 M.

Kaw Lake, OK $1 M.

Tenkiller Ferry Lake, OK $1 M.

Englewood Lake, OK $1.1 M.

PROJECTS AUTHORIZED FOR CONSTRUCTION WITHOUT REPORT FROM THE CORPS

Ceasar Creek Water Supply, OH $33 M.

Sacramento River Bank Protection, CA $25 M.

East Fork Lake Water Supply, OH $16.5 M.

Cherry Street and Walnut Street Bridges, Massilon, OH $1.5 M.

Sedro Woolley, WA $12 M.

Charleston Harbor Extension, SC $4.5 M.

Harlan County Lake Recreation Facilities, NE $4.8 M (No official Corps report).

Corte Madera Unit 4, CA $.

Niobrara Highway No. 14, NE $1.6 M.

Yazoo River, MS $.2 M annually.

Fort Toulouse Bank Protection, AL $2 M.

San Juan, PR $13.5 M.

Moundville, AL $.

Lake George, IN $3.9 M.

Cox's Park, KY $.65 M.

Dover Creek $1.3 M.

Cottonwood Branch Road Crossing, TX $2 M.

Cane Creek Bridge, AR $.35 M.

Albert Lea Lake, MN $4 M.

Washington Aqueduct, D.C. $.18 M.

St. Thomas, VI Water Supply $4 M.

Lynnhaven Inlet, VA $1.6 M.

Shedardstown, Bridge, On Yazoo River, MS $3.6 M.

Bluewater Ditch, East St. Louis Il, $2.2 M.

Winona, MN Bridge, $.58 M.

Yaquina Bay, OR $2.2 M.

Milligan Water Supply, TX $27,023.

$144.69 M including 3.5 M for Phase 1 studies.

In addition, there are many other projects in various stages of review by the corps including a number which have not been approved by the Secretary of the Army for a variety of reasons.

PROJECTS WITH THE SECRETARY OF THE ARMY THAT HAVE NOT BEEN SENT TO OMB

Des Moines River Basin, IA and MN, $7.9M.

Cazenovia Creek, NY $1.6M.

San Francisco Harbor, CA $10.7M.

Hocking River, OH $7.6M.

Oakland Harbor, CA $20.3M.

Chehalis River Basin, WA $1M (phase 1 authorization).

PROJECTS WITH THE CHIEF OF ENGINEERS

Eight Mile Creek, ARK, Fifteen Mile Bayou, ARK $20.2M.

PROJECTS WITH THE CHIEF OF ENGINEERS

Halstead, KA $4M.

Cabin Creek, WV $21.8M.

Parker Lake, OK $28.4M.

Savannah Harbor, GA $6.6M.

New York Water Tunnel, NY $10M.

Fort Randall Dam-Lake, SD $30M (partial).

Zumbro River, MN $1.8M (out to states and agencies for review).

Westchester County Streams, NY and CT $1.1M.

Harrisburg, PA $.82M.

PROJECTS WITH DISTRICT ENGINEER'S REPORT THAT HAVE BEEN SENT TO DIVISION ENGINEER

Brazos Harbor, TX $15.9M.

Burlington Dam, ND $30M.

PROJECTS WITHOUT COMPLETE DISTRICT ENGINEER'S REPORT

Red Bank and Fancher Creek, CA $.32M (phase 1).

Johns Creek Tributary, TN $10M (not expected to be finished until Fall 1980).

Milton, PA $2.5M (study stopped when it appeared the project would not be cost effective).

Galveston Harbor, TX $25M.

The committee states that one of the reasons for authorizing these projects before they have completed the review process is that the Office of Management and Budget (OMB) is holding projects up, that over the last 2 years only one project has been submitted to Congress. While it may be true that OMB did hold up review of some projects while the President was developing his water policy, OMB has made reports to the Secretary of the Army on most of these projects. The problem is that the Secretary has not sent them to Congress. OMB is holding only six projects presently and one of those it has had for only 1 week. The authorizations for those projects only amount to $73.65 million out of bill which authorizes over $1.2 billion.

PROJECTS PENDING APPROVAL BY THE OFFICE OF MANAGEMENT AND BUDGET

Pembina River, $.43 M.

Greenville Harbor, MS $20.4 M.

Great Lakes-St. Lawrence Seaway Winter Navigation $6.1 M.

Cleveland Harbor, OH $30.4 M.

Pembina River, $.43 M.

Biningham Waster Water Treatment, NY $73.65 M.

However, authorization of projects without adequate review is not the only modification in the authorization process. This bill authorizes eight projects without knowing the costs of the projects.

Section 103.—Phase I authorizations of navigation on Sacramento River; enlargement of Ashtabula Harbor.

Section 122.—Levee protection for Lake Pontchartrain in Jefferson Parish (modification of the existing authorization).

Section 143.—Modification of the authorization for the Burlington Dam and Reservoir on the Souris River in North Dakota $30 million is authorized for initiation and partial accomplishment of the modification authorized by this section but no total of the modified project is listed.

Section 151.—Actions as may be necessary to correct slope erosion along the banks of the Coosa River in Ekmore, Ala.

Section 155.—Actions as may be necessary to correct slope failures and erosion along banks of Black Warrior River near Moundville, Ala.

Section 133.—Operation and maintenance of sand bypassing facility as part of a navigation facility at Santa Cruz Harbor, Calif. at 100 percent Federal cost.

Section 172.—Modification of an authorized flood control project on the lower Mississippi River which allows the corps to construct auxiliary structures or other measures to insure the stability, dependability, and safety of the Old River Control Complex in Louisiana.

Section 184.—(Added during full committee markup) Compensation to owners of wells which are damaged by corps construction on a major waterway.

In addition, 11 percent of the projects—$140.753 million—alter the local cost sharing provisions. The corps has established a complex set of regulations which outline what cost a local community should cover as part of the project. This bill alters the provisions, giving some communities a huge subsidy. Federal regulations should be the same for all areas of the country. If one community has to raise a portion of the cost locally, other communities building similiar projects should be required to as well.

CORPS' POLICIES ON COST SHARING

The corps' policies in this regard are quite plain and are spelled out in, "Digest of Water Resources Policies," Department of the Army. Office of the Chief of Engineers dated January 1975. Page A–113 lists the local responsibilities in flood control projects:

(b) *Local flood protection.*—Local interests are required to provide all lands, easements, rights-of-way and all alterations and relocations to utilities, streets, bridges, buildings, storm drains, and other structures and improvements; hold and save the United States free from damages due to the construction works; and assure operation and maintenance of the works after completion. These requirements are known as the "a-b-c" requirements of local cooperation from their general description in section 103 of the 1936 FTC Act. Changes to railroad bridges and approaches are 100 percent Federal expense as authorized by section 3 of Public Law 526, 79th Congress.

Page 102 lists the local responsibilities for dredged materials:

11–6 *Dredged material disposal.*—In planning new navigation projects, the present policy is to require local interests to provide without cost to the United States all suitable areas required for initial and subsequent disposal of dredged material and all necessary retaining dikes, bulkheads, and embankments therefor, or the costs of such retaining works.

Page A–47 contains the following chart listing the local cost-sharing responsibilities:

TABLE A–5–1.—CORPS OF ENGINEERS COST-SHARING IN WATER RESOURCES PROJECTS

Project purpose	Construction cost participation (percent)		Land, easements, rights-of-way, and relocations	Operations and maintenance
	Federal	Non-Federal cash		
Navigation:				
Commercial—General navigation facilities	100	0	Non-Federal	Federal.
Commercial—Terminal facilities, berthing	0	100	do	Non-Federal.
Recreation—General navigation facilities	50	50	do	Federal.
Recreation—Service facilities, docks, slips	0	100	do	Non-Federal.
Flood control:				
Major reservoirs	100	0	Federal	Federal.
Local protection—Structural	100	0	Non-Federal	Non-Federal.
Local protection—Nonstructural	80	20	Shared	
Small reservoirs in lieu of local protection	100	0	Non-Federal	Do. Do.
Major drainage	50	50	do	Do.
Beach erosion control:				
Federally owned shores	100	100	Federal	Federal.
Public-owned shores	50	50	Non-Federal	Non-Federal.
Private shores—Publicly used	50	50	do	Do.
Private shores—Nonpublic use	0	100	do	Do.
Public shore parks	70	30	do	Do.
Hurican flood protection:				
Single purpose	70	30	do	Do.
Combined with beach erosion	70	30	do	Do.
Hydroelectric power	100	Repay		
Water supply	100	Rapay		
Irrigation	50	50		Do.
Recreation:				
Reservoir projects—Separable costs	50	50		Do.
Reservoir projects—Joint costs	100		Federal	Federal.
Nonreservoir projects	50	50	Non-Federal	Non-Federal.
Enhancement of recreational fish and wildlife and anadromous fish:				
Separable costs	75	25		Do.
Joint costs	100	0	Federal	Federal.
Anadromous fish—Federal program	100	0	do	Do.
Anadromous fish—Other	75	25		Non-Federal.
Enhancement of commercial fish: Excluding anadromous fish.	100	0	Federal	Fedreal.
Preservation of endangered species	100	0		Do.
Aquatic plant control:				
Reserach, planning, evaluation	100	0		
Control	70	30		
Wastewater management planning	75	25		

Source: Digest of Water Resources Policies, p. A–47, January 1977.

In spite of these clear cost-sharing requirements, this bill waives cost sharing in a number of cases

Section of bill	Project	Cost
108	Mobile Harbor, Ala., waives the 25-percent local match on dredge spoil disposal	(1)
111	Noyo, Mendocino County, Calif., waives the .5-percent local match on dredge disposal	(1)
115	Stamford Harbor, Conn., waives the 25-percent local match on dredge disposal	(1)
120	Intercoastal Waterway, Fla., waives the 25-percent local match on dredge disposal	(1)
131	Brunswick Harbor, Ga., waives the 25-percent local match on dredge disposal	(1)
101	Savannah Harbor, Ga., local interests shall be reimbursed at Federal expense of moving or modifying docks, bulkheads, warehouses, and towers necessary for construction	$2,800,000
116	East Fork Trinity River, Tex., Federal Government is to reimburse the Milligan Water Supply Corp., for the cost of locating a 3-in. waterline downstream	27,023
118	Mamaroneck Harbor, N.Y., Federa share of dredging should be 80 percent, usually 25 percent	(1)
119	Wenatchee, Wash., flood control project, authorizes the Corps to acquire land, easements, rights-of-way, and to carry out relocations subject to a legally binding agreement that lo al interest will repay these costs in not more than 50 equal annual installments including interest on the unpaid balance. Usually the local community must provide these lands prior to construction	(1)
125	Yazoo River, Miss., alteration of the Shepardstown Bridge entirely at Federal cost	3,600,000
133	Santa Cruz Calif., 100 percent Federal funding for a sand-bypassing facility	
137	Winona, Minn., 100 percent Federal funding for changes in 2 bridges as part of a flood control project	510,000
140	Buhne Point, Calif., 100 percent Federal funding for protection works to prevent shoreline erosion damage to public and private facilities. Normally would be 50 percent local funding and 100 percent local funding if the private facilities were not open for public use	1,000,000
142	Harland County Lake Republic River, Nebr., replace, renovate, and upgrade existing Federal facilities and provide for operations and maintenance including dredging, construction of breakwaters, replacement and extension of outdated water access facilities all at 100 percent Federal cost	4,800,000
145	Niobrara, Nebr., relocation of existing State highway No. 12 through the relocated town with necessary connection to highway No. 14 (does not mention local participation in the costs—20 yr after project)	1,600,000
147	Big Sandy River and Cumberland River in Kentucky and West Virginia, 100-percent Federal funding for flood control including Federal purchase of easements and right-of-way as well as dredging, clearing in order to protect against a flood of the magnitude of the April 1977 flood which occurs only once in more than 100 yr. In addition the Congress states that the benefits exceed the costs	(2)
150	Missouri River Springfield, S. Dak., 100-percent Federal funding to relocate the water supply intake facility which is subject to severe sedimentation	2,000,000
156	Lake George Hobart, Ind., demonstration project for the removal of silt, aquatic growth and other material at 100-percent Federal funding	3,900,000
141	Intracoastal Waterway, N.C., 100-percent fun ing for three bridges because the State of North Carolina says it cannot afford to pay 25 percent of the costs	19,276,000
112	Lynnhaven inlet near Virginia Beach, Va., the Federal Government shall repay the local government for 100 percent of the costs of repairing the channel that had scour holes as a result of increased velocity. Presently Corps cannot reimburse local government. Local communities are required to not hold the United States accountable for damages. Never asked the Corps to repair the damage	1,600,000
113	Massillon, Ohio, authorize the Corps to repair and reconstruct two bridges. Only mentions that locals shall own and operate as free bridges afterward leading to the assumption that they are not responsible for any of the repair costs	1,500,000
149	Greens Bayou near Houston, Tex., declares that a bridge is eligible for alternation even though this overrides Coast Guard practice	400,000
162	Rochester, Minn., flood control project changes in bridges including right-of-way and relocations at 100-percent Federal costs	1,890,000
164	Cane Creek, Logan County, Ark., replacement of a bridge apparently at 100-percent Federal costs	350,000
165	Albert Lea Lake, Freeborn County, Minn., demonstration project for removal of silt and aquatic growth at 100-percent Federal funding	4,000,000
184	Compensation to owners of wells that were damaged by major waterway construction	(1)
188	Replacement and expansion of existing lock near Merauz, La., at gulf of the Mississippi, 100-percent Federal costs of right-of-way acquisition, lands easements, and relocations of residences, industries, and utilities as well as bridges and tunnels	94,500,000
197	Little Calument River, Ill., local interests only have to pay 25 percent of the costs of maintenance of the channel, usually they pay 100 percent	(1)
	Total costs	143,800,000

[1] No amount listed.

[2] No percentage that is attributable to cost not usually paid for by the Federal Government is listed. Overall cost $110,000,000.

Perhaps the worst changes in normal corps' procedures are the alterations in cost-benefit ratios. One of the best ways to insure that corps' projects are cost effective is to require that the benefits from the project outweigh its costs. This bill sets the precedent of having Congress determine what the cost-benefit ratios of a project are, often with no evidence justifying that determination. In addition, the bill requires the corps to include certain regional development benefits when determining cost-benefit ratios. In the past the corps has not done this because a benefit to one region might harm the economy of another region. These are not mere adjustments in ratios. These changes mean that some economically unsound projects will be authorized and funded. One such project will cost $100 million while the total cost of another could reach $2.3 billion.

EXAMPLES OF ALTERATIONS IN COST-BENEFIT RATIOS IN THIS BILL

Section 101 Gulfport Harbor, Miss.:

For the purposes of economic evaluation of this project the benefits from such open water disposal shall be deemed to be at least equal to the costs of such disposal.

Section 107 Sacramento River, Calif.:

The evaluation and justification of the project shall be based on the overall benefits and costs of all project elements.

Section 135 Trinity River, Tex.:

Direct the Secretary of the Army, acting through the Chief of Engineers, to include estimates of net regional income benefit for the region surrounding the Trinity River using the best available techniques and data to quantify such benefits, and to identify, display and use such regional benefits to the Trinity River region on an equal basis with national economic development benefits for the purposes of computing the economic justification of this project.

In this project, the Army claims that such benefits are not calculable, but are intended to make uneconomic projects appear to be economically justified. Local beneficiaries defeated a bond issue in 1973 that was intended to defray the small non-Federal costs of the project.

Section 136 Colorado River, Tex.:

The benefits attributable to the diversion channel shall be deemed to at least equal its costs.

Section 147(c) Big Sandy River, Ky., and W. Va., and Cumberland River, Ky.:

Congress hereby finds that the benefits attributable to the objectives set forth in section 209 of the Flood Control Act of 1970 exceed the costs of the flood control measures authorized by this section.

Section 175 Schuylkill River Basin near Pottstown, Pa.:

Congress hereby finds that the application of provisions of section 209 of the Flood Control Act of 1970 result in the benefits from flood control measures authorized by this act exceed their economic cost.

The bill also provides $57.6 million for initial stages of development of water supply facilities and regional water conveyance systems. These would all be 100-percent Federal funding. This type of project is presently a local responsibility although Federal loans are available. The final costs on these projects will be much higher.

FUNDING FOR WATER SUPPLY FACILITIES IN THIS BILL

Portions of Section 103 would provide 100 percent Federal funding for the construction of treatment facilities and regional conveyance system of water for Kaw Lake, Tenkiller Ferry Lake, and Englewood Lake. $3.1 million is authorized for phase 1 design for these projects and another $5 million is authorized for advanced engineering and design for the projects after the completion of phase 1. Section 106 authorizes $33 million for 100 percent funding for public water supply system for Caesar Creek, Ohio and section 110 makes similar provisions for East Fork Lake, Ohio at a cost of $16.5 million. Together these sections provide $57.6 million for 100 percent funding for water supply systems which other communities must provide at least 100 percent local funding. Water supply requires 100 percent non-Federal reimbursement, and drinking water treatment and conveyance facilities such as those authorized in the bill are considered a non-Federal responsibility. Federal Loans are available to assist local communities especially those under $10,000 to finance these facilities, along with grants where necessary to keep costs to water-users to acceptable levels. In addition, no reference is made to water conservation measures as a goal of these water supply systems.

The committee estimates that the cost of the authorizations in the bill is about $1.25 billion. However, many of their cost estimates are not up to date and do not take into account the cost of inflation. The Congressional Budget Office estimated the effects of inflation by the time the projects were built and estimates the total cost of the new authorizations and studies in the bill to be about $2 billion. This does not include the costs of projects already authorized but modified by this bill including a project which could cost $2.3 billion. It does not reflect the final costs of these projects either. Once the Federal Government invests funds into a project, rarely are the funds to complete the project denied. There are many such projects in this bill which will increase the true cost of the bill dramatically. The phase 1 authorizations for planning and design amount to $33.5 million. There are 11 projects in this bill which have some estimates of total costs. The authorized costs—$140.91 million—amount to only 11 percent of the final costs of $1.25 billion.

Project	Cost authorized by bill	Total Cost [1]
Harrisburg, Pa.	$825,000	$66.2 M
Chehalis River, Wash.	1 M	54.1 M
Jekyll Island, Ga.	615,000	3.6 M
Red Bank and Fancher Creeks, Calif.	325,000	4.2 M
Tenkiller Lake, Okla.	1 M	100 M
Mamaronek and Sheldrake Streams, N.Y.	1.14 M	30.4 M
McNary lock and dam, Oregon	75 M	548 M
Fort Randall Dam—Lake Francis, S. Dak.	30 M	270 M
Burlington Dam	30 M	92 M
Kaw Lake, Okla.	1 M	82 M
Total	140.91 M	1,254.3 M

[1] 1978 cost figures.

Already, there is a tremendous backlog of authorized projects which have not been funded. The corps' backlog of such projects is 258 with a price tag of $10.746 billion. I find it difficult to justify authorizing new projects of questionable merit in light of this backlog.

There are some other questionable projects in this bill. It authorizes a project which was vetoed by President Ford because it was not cost-effective. Seventy-five percent of the benefits from one project would go to the DuPont Corp. at a cost of $23 million to the American public. In many cases, it reimburses local governments for projects they have already undertaken. It even provides $1.5 million to repair a bridge constructed in conjunction with a Federal project in 1951. There is a project which the Congress is authorizing which the local people voted against raising local matching funds for. In addition, many of these projects have serious environmental problems.

The public is upset about the waste of their hard earned tax dollar, and rightfully so. I believe that Congress has a responsibility to its constituents to make sure that the projects we authorize are cost-effective, meet social needs, and do not destroy our environment. I do not believe that this legislation fulfills that responsibility. I hope that my colleagues agree with me and will join me in opposing this bill.

Mr. EDGAR. Mr. Chairman, will the gentleman yield?

Mr. BONIOR. I yield to the gentleman from Pennsylvania.

Mr. EDGAR. Mr. Chairman, I thank the gentleman for yielding. I simply would like to associate myself with the remarks of the gentleman from Michigan (Mr. BONIOR), now in the well and to also congratulate the gentleman for his distinguished work on this particular subject, and to commend the gentleman for his minority views in the report, which I believe are very helpful, and I hope that my colleagues will read those remarks and understand the impact of the legislation that we will soon be voting on.

I hope we will vote down this legislation.

I rise in opposition to the Water Resources Development Act of 1978, H.R. 13059. As a member of the Public Works and Transportation Committee, I would like to disassociate myself from the philanthropy embodied in this legislation.

Frankly, I feel our constituents would be outraged at some of the provisions in this bill, recognizing that we are expecting a $38.8 billion budget deficit for the next fiscal year. Provisions in this bill should also outrage many of our colleagues who have worthy projects authorized in H.R. 13059. Adding nonworthy projects, approved solely on the basis of political decisions, is indefensible. If this bill is sent to the President with some of these budget-busting boondoggles, it would be a prime candidate for the veto.

I feel that the Federal Government has a legitimate and important role in providing financial help for water resource development. But I also feel that this role is demeaned by using H.R. 13059 as a vehicle for dispensing favors at the cost of our taxpayers.

In his minority views printed in the report accompanying this legislation, my colleague from Michigan (Mr. BONIOR) documented provisions of this bill which are unjustified. Some provisions subvert the project review process. Others waive provisions in law which protect the public purse from being raided, such as cost-benefit ratio standards. Some projects in this bill have open-ended authorizations. And other provisions in H.R. 13059 waive local matching requirements, a virtual cash Christmas present to a few select local communities with enough political influence in the Public Works and Transportation Committee to allow a free ride.

I urge my colleagues to read these minority views. Bills such as this one are responsible for giving water resource bills a bad reputation. This bill is not only an embarrassment, it is bad public policy. It deserves to be soundly rejected or returned to the committee for pruning.

Mr. DOWNEY. Mr. Chairman, will the gentleman yield?

Mr. BONIOR. I am happy to yield to the gentleman from New York.

Mr. DOWNEY. Mr. Chairman, I thank the gentleman for yielding and I would like to associate myself also with his remarks.

I personally believe that if we are ever going to achieve a balanced budget, we will have to look pretty hard at some of the bills we have been authorizing routinely over the years. It is clear to me that the gentleman from Michigan (Mr. BONIOR) has done just that. It is my hope that the rest of the committee follows his lead and excises some of the things that we really do not need.

Again I thank the gentleman for yielding.

Mr. FISHER. Mr. Chairman, will the gentleman yield?

Mr. BONIOR. I am happy to yield to the gentleman from Virginia (Mr. FISHER).

Mr. FISHER. Mr. Chairman, I also would like to associate myself with the remarks of the gentleman from Michigan (Mr. BONIOR) who is now in the well and to commend him for his minority statement in the report on this subject, which is, I believe, far and away the most perceptive and comprehensive statement I have seen on this subject. I have followed this field closely for many, many years and urge my colleagues to follow the lead that the gentleman has laid out for us.

Mr. BONIOR. Mr. Chairman, I thank the gentleman. The gentleman is very generous and I thank him for his remarks.

Mr. QUIE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong support of H.R. 13059, the Water Resources Development Act of 1978. This measure authorizes the construction, repair, and preservation of certain public works on rivers and harbors for navigation, flood control, and for other purposes.

One of the most important sections in this bill authorizes the construction of a flood control protection program on the South Fork of the Zumbro River at Rochester, Minn.

Just 3 months ago, 7 inches of rain in less than 6 hours sent flood waters 6 feet deep wirling through the city of Rochester. The rampaging South Fork of the Zumbro River left five people dead and caused damage estimated at $50 million.

Flash flooding knocked out power and telephone service to parts of Rochester, blocked roads to the city and forced the evacuation of more than 4,000 persons.

The swollen Zumbro continued to rise at the rate of 1 foot an hour as volunteers and police used boats to search house-to-house for people who were stranded. At the crest of the flood of Rochester, a record 29,400 cubic feet per second of water rushed through the city. According to the U.S. Geological Survey, that compares with the level equal to the flow of the Mississippi River in southeastern Minnesota during the summer.

By all accounts, it was a 100-year flood. Thousands of homes were damaged. Eighteen large businesses sustained damage; several of those were located in five shopping centers.

Rochester and Olmsted County were a part of a major Presidential disaster declaration and the Federal Disaster Assistance Administration was on duty to administer aid to the suffering and needy. The Department of Housing and Urban Development granted housing assistance to more than 1,000 people whose homes were damaged or destroyed by the floods.

Rochester has been hit with other major floods in 1965, 1962, 1955, and 1974, but none was as vicious and destructive as the one at Rochester on July 6, 1978. Since 1951, the South Fork of the Zumbro River has left its banks 11 times, an average of one flood every 1.5 years.

Rochester is subject to substantial damage of periodic flooding from the Zumbro River, because it meanders through the heart of the city and because four tributaries all merge within the city. One-third of Rochester is located on the flood plain.

Areas subject to inundation contain high-value residential and business developments together with public facilities, including hospitals, schools, churches, cultural centers, streets, sewage treatment facilities, and a municipal water pumping plant.

I urge the support of my colleagues for H.R. 13059, and its recommendation that we immediately authorize flood control construction for Rochester based on the plans substantially approved by the Army Corps of Engineers' Board of Review on April 5, 1978. The corps has said that if the flood project it is planning had been constructed on the night of July 6, damage to personal property and public buildings would have been minimal.

The recommended plan for construction consists of 9.3 miles of channel modifications, 2.6 miles of levees, interior drainage facilities, continued maintenance of flood regulations, flood insurance eligibility, flood warning system, and fish and wildlife compensation measures as well as recreational developments.

The overall flood protection plan for Rochester and vicinity includes a complementary plan now being developed by the Soil Conservation Service. It calls for a system of seven headwaters reservoirs and land treatment measures. SCS plans are being developed to fit the corps' plan.

It is my hope that this project which has a benefit cost ratio of 1.3 will become law. If approved, we have the opportunity to help people and reduce further risk of suffering and death. Rochester has "lucked out" many times in the past with only minor flooding, but there have been occasions where damage was severe. On July 6, the city fell prey to the rampaging waters of the Zumbro River and its tributaries: The luck ran out.

It can happen in Rochester again. Implementing a workable flood control project, as envisioned in H.R. 13059, will help protect this city of 57,000 from further threats of destruction and death.

I also want to touch briefly on two other projects that are of vital concern in this bill.

The first is a $4.9 million flood control project on the Root River Basin at Houston, Minn. Like so many other small communities in southeastern Minnesota, the Houston area suffered major damage due to springtime flooding on the Root River in 1965. The city of 1,100 people is consistently threatened by springtime flooding as well as summertime cloudbursts. Tons of agricultural topsoil are lost when the river spills over its banks. In 1965, flood waters crept into the city of Houston, damaging several businesses and causing damage in the millions.

In the wake of this disastrous flooding, the Chief of Engineers has recommended, and I strongly agree, that the levee project will help protect against future flooding.

Last, section 137 of the bill modifies the project for flood protection at Winona, Minn., authorized in 1971, to provide that changes to two bridges within the city limits made necessary by the project and its present plan of protection shall be accomplished at Federal expenses at an estimated cost of $580,000.

In 1971, during early stage of planning the flood control project, the Corps of Engineers advised Winona County and the Minnesota Highway Department that the final flood control plan would not affect bridge work on county State-aid Highway 17 crossing over Burns Valley Creek. The corps further said that the flood control project could be modified so it would be compatible with bridge construction. Having received this assurance, local interests went ahead with construction of the new bridge, satisfying corps standards.

In 1975, the corps raised their flood protective dike standards from 50 to 200 years (standard flood project). As a result, the city of Winona found that the corps' designs finished in 1976 for the flood control project affecting Burns Valley Creek required further bridge alterations.

Accordingly, this section makes the replacement and alteration of the bridges a Federal responsibility at this particular project.

All in all, the three projects I have spotlighted will help to protect several thousand people. In addition, cost benefit ratios are favorable and cannot be looked upon as a waste of Federal money. Rather they are an investment in protecting people's lives and property. I strongly urge the House to approve this bill.

Mr. COLEMAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the city of St. Joseph, Mo., has been working on a riverfront park in conjunction with the Corps of Engineers since 1963. When the project was initiated, St. Joseph agreed to share the cost of this project 50/50 with the Federal Government. At that time, it was understood by the parties that the city would be given credit for the cost of the land it had acquired for the project. Until October 3, 1977, the value of the land contributed by the local sponsor was always eligible to be counted towards the local share. On that date, however, the corps revised its previous policy. The corps calls this a "reinterpretation of statutory authority" but it should be called—as the citizens of St. Joseph view it—"changing the rules in the middle of the game." A number of projects have already been constructed by the corps under this statutory authority, but it does not intend to make

any effort to collect additional moneys from those communities, because their projects have already been completed. It seems most inequitable to reinterpret the law, apply it retroactively, but then only to certain projects. The city negotiated in good faith with the corps. It will have to come up with an additional $65,350 if we allow the corps to go back on its original agreement. I feel that St. Joseph should be treated no differently than any other cities which began their projects under the same statutory authority, but enjoy the good fortune of having completed their projects before the corps reinterpreted the law.

The Senate has adopted an amendment to H.R. 8309 which would rectify the problem which St. Joseph, Mo., is presently experiencing. It is also my understanding that section 181 of H.R. 13059, in more general terms, resolves this problem as well and that the report language on H.R. 13059 states specifically that the St. Joseph project is covered by this section.

I would, therefore, call on the chairman and conferees on this bill to support allowing the city of St. Joseph and the Corps of Engineers to go ahead with the Riverfront Park project under the terms of their agreement which was in effect prior to October 3, 1977, when the corps revised its policy and I support the Senate version which specifically resolves this issue for the city of St. Joseph.

Mr. DON H. CLAUSEN. Mr. Chairman, will the gentleman yield?

Mr. COLEMAN. I yield to the gentleman from California.

Mr. DON H. CLAUSEN. Mr. Chairman, the gentleman from Missouri (Mr. COLEMAN) testified before the committee and made reference to this matter. In response to his request and the request of other members the committee adopted a general amendment to correct this problem and it appears in section 181 of the bill. And, as he has previously alluded, the committee report lists the project of the gentleman as an example the type of recreational facility authorized by the general amendment.

Mr. Chairman, I certainly, for one, will accede to the gentleman's request and advance this matter in conference when we go to conference, because I think what the gentleman has stated with regard to the Senate version does coincide with the objective.

I would also add that if the local interests would convey title to the land to the Federal Government, the city could apply the value of this land to a portion of the local contribution for the project.

Mr. Chairman, I would ask the gentleman whether that sort of arrangement could be worked out with the local entity. That would be helpful, of course.

Mr. COLEMAN. Mr. Chairman, in answer to the gentleman, I will have to explore that matter, because the city would like to have the value of the land used as a contribution toward matching funds. We will explore that with the city officials. In any event, the Senate-adopted language which I hope the conferees will consider. It would clarify this whole matter.

Mr. ROBERTS. Mr. Chairman, will the gentleman yield?

Mr. COLEMAN. I yield to the gentleman from Texas.

Mr. ROBERTS. Mr. Chairman, I agree with the gentleman from California (Mr. DON H. CLAUSEN). If the local interests donated the land to the city, it could certainly be made a part of the project and then they would receive that type of credit for it.

Mr. COLEMAN. Mr. Chairman, I thank the gentleman from Texas (Mr. ROBERTS) and the gentleman from California (Mr. DON H. CLAUSEN).

Mr. LIVINGSTON. Mr. Chairman, will the gentleman yield?

Mr. COLEMAN. I yield to the gentleman from Louisiana.

Mr. LIVINGSTON. Mr. Chairman, I want to thank the gentleman from Missouri (Mr. COLEMAN) for allowing me these few moments to speak in behalf of the Water Resources Development Act of 1978. I also would like to take this opportunity to extend my personal thanks to the Public Works Committee leadership, Chairman JOHNSON, BILL HARSHA, RAY ROBERTS, and DON CLAUSEN for their outstanding work on this bill.

Over the past weeks I have heard negative comments for a variety of reasons regarding the bill's contents. Just briefly I would like to touch upon one major aspect of the legislation—it flood prevention provisions.

My district is in southern Louisiana, an area that has been devastated three times by floods since 1965. I daresay without the future assistance of public works flood prevention measures, the First Congressional District of Louisiana, and those of many of my colleagues, will again experience the heartbreak of natural disaster.

I know, firsthand, the devastation of a flood. And I tell my colleagues that this bill's benefits/cost figures, whatever they may be, always understate a project's worth to the Nation—to our people.

I urge the support of H.R. 12928 and commend again the committee's work in providing protection to so many of our Nation's communities through flood protection.

AMENDMENT OFFERED BY MR. VOLKMER

Mr. VOLKMER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. VOLKMER: Page 85, following line 12, insert the following new section:

SEC. 185. Section 221 of the Flood Control Act of 1970 (P.L. 91-611), as amended (42 U.S.C. 1962 d-5b) is further amended as follows:

Insert the following new sentence at the end of section 221(b): "Where the non-Federal interest is the State itself, performance and payment of damages may be contingent upon the legislative appropriations process of the States."

Delete the period at the end of the sentence contained in section 221(f) and add the following words at the end of that sentence: "or to contract with non-Federal interests for water supply storage under the Water Supply Act of 1958 (Public Law 85-500), as amended, (43 U.S.C. 39b) or for recreational development under the provisions of the Federal Water Project Recreation Act of 1965 (Public Law 89-722), as amended (16 U.S.C. 4601-12 et seq.)".

Renumber succeeding sections accordingly.

Mr. ROBERTS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD, and I ask that the gentleman explain it.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. VOLKMER. Mr. Chairman, this amendment to this water projects bill authorization does not cost you a penny. It does not cost anybody any money. It just makes sense. It is plain old commonsense.

This amendment was adopted in the Senate, and when the Senate added title IV to the Navigation Development Act, it approved an important change to the Flood Control Act of 1970. Since the provisions of the Bentsen-Eagleton amendment are not included in H.R. 13059, my amendment proposes to do so, and I would like to direct my colleagues' attention to a problem that affects 18 States.

Section 221 of the Flood Control Act as presently written into law requires the Corps of Engineers to enter into contractual agreements with State or local sponsors of Corps of Engineers projects, and these agreements establish conditions for cost-sharing and spell out other details of cooperative agreements.

The problem, Mr. Chairman, is that in some States, as in Missouri, it is illegal or unconstitutional for officers of the State to enter into such agreements. In the Ninth District of Missouri, in my district, for example, we have the Long Branch Lake project. That project is presently a little better than 72 percent complete, and the dam will be completed this year. Recreational development has been authorized, but under the Federal Water Project Recreation Act of 1965, 50 percent local cost-sharing is required for all recreation development and fish and wildlife management, as it should be.

In 1969, the Missouri General Assembly passed the Missouri Water Project Recreation Act to enable the State to enter into the necessary cost-sharing agreements with the Federal Government Corps of Engineers. The State, however, cannot enter into formal contracts until the general assembly under that law also passed an instructional joint concurrent resolution in 1976, which it did on Long Branch. When this was done and the contracts drawn up, the Corps of Engineers general counsel did not approve the agreement because repayment obligations remained contingent upon further legislative appropriations. * * *

What we have here is a Catch 22 situation. The Federal law requires the contractual obligation binding upon the State. The State constitution, however, says that one legislative body cannot bind

another beyond the 2 years. Eighteen States have that constitutional provision which I think is very sound in sound government. So recreational development must be carried out as part of the authorization. A cost-sharing contract must be entered into for this purpose under Federal law. However, the only entity in this case, the State, which can realistically be expected to pay the development costs is ineligible to participate, because of a State constitutional provision. My amendment would remedy this unworkable situation.

In the State of Texas, as was brought out in the CONGRESSIONAL RECORD when the Senator from Texas in the other body offered the amendment, the State constitution establishes a $400,000 ceiling on liability claims against the State. For the past 3 years Texas has been negotiating with the corps seeking to reach an agreement under section 221 for the State to provide dredge disposal sites. Although neither the State nor the corps can foresee the circumstances under which liability damage could exceed the $400,000 imposed by the State constitution, the open-end liability provisions of section 211 in the present Federal law prohibits the two parties from reaching an agreement.

Texas and Missouri are only two examples where this situation exists. The other States are West Virginia, North Carolina, Kentucky, Ohio, Indiana, Kansas, Colorado, Tennessee, Florida, Oklahoma, Nebraska, Illinois, Arkansas, New York, Virginia, and Arizona.

My amendment, however, will provide that in these States where there is not sufficient authority to enter into an open-end agreement, the extent of the State liability will be limited to that provided for in the State law or State constitution.

The CHAIRMAN. The time of the gentleman from Missouri has expired.

(By unanimous consent, Mr. VOLKMER was allowed to proceed for 2 additional minutes.)

Mr. VOLKMER. Mr. Chairman, this is identical language to that which was adopted in the Senate.

I would like to point out that there are presently, as I have been informed, this was all brought about by litigation which started in the State of Kentucky where there were several projects underway and a coalition which were opposed to the project brought suit against the corps, the United States and the State of Kentucky to prohibit the funding, because the agreements were in violation of the Constitution. As a result, at the present time the Corps of Engineers will not enter into any such agreements with any of the States.

I have been informed that the following projects are being held up:

The Big Walnut project in Indiana.

Deercreek Lake in Ohio.

Dillon Lake in Ohio.

Pete Creek Lake in Ohio.

C. J. Brown Dam and Reservoir in Ohio.

Michael J. Kerwin Dam and Reservoir in Ohio.

Alamo Lake in Arizona, and the John H. Kerr project in Virginia.

Mr. Chairman, as I say, there are two projects in Missouri, the Smithfield project in the district adjoining mine and also Long Branch, which is in my district, was brought to my attention.

Now, if we do not correct this in this section, I would like to briefly point out what is going to happen, what my people back in my district are going to see. They are going to see a dam built with millions of dollars of their money—not Federal money but their money, taxpayers' money; but it is going to be dry. They are not going to put any water in it, because you cannot put the water in it until you have the public recreational docks underway in the bill.

The CHAIRMAN. The time of the gentleman from Missouri has again expired.

(By unanimous consent, Mr. VOLKMER was allowed to proceed for 1 additional minute.)

Mr. VOLKMER. Mr. Chairman, as a result, what you will see there, they will see a dam built with millions of dollars laying dry until the agreement is worked out between the State and the Federal Government and it cannot be done. One of two things will happen. Either our State Constitution in Missouri is corrected, and that cannot be done easily, as we all know, it takes a couple years. It could not be done in any circumstances until 1980 right now.

The other is that we change this little provision in the Federal law which the Corps of Engineers has agreed to do, which will not cost you one penny, which will not cost them one penny, which makes sense.

Mr. Chairman, I move adoption of the amendment.

Mr. ROBERTS. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, section 221 of the Flood Control Act of 1970 requires that non-Federal interests enter into a binding contract, meaning a contract enforceable at law, to perform their required cooperation in connection with the Corps of Engineers water resources project. For example, if they purchase water supply storage space in a reservoir, they must agree to repay the cost over a period of time.

The gentleman's amendment would allow a State to make those obligations to repay subject to an appropriations committee of the State. Of course, the corps or the Government cannot take that illusory-type contract. If the State legislature did not appropriate the funds, the State would not owe the money. It would not be liable; yet it would be entitled to use the storage space constructed at Federal expense for that purpose.

My State is one of those States. We have no problem with the Corps of Engineers. We have been able to comply, as most of the others have, through such devices as setting up political subdivisions or bonding with the taxing authority. If the gentleman's State can issue bonds, they can comply with the contract.

We are aware of this problem. There is a section 221 provision in the Senate bill. It almost corrects the situation without leaving the Corps of Engineers hanging out in the breeze.

Mr. Chairman, if the gentleman will withdraw his amendment, I am sure we will try to work out something with my colleague who introduced the bill over on the Senate side in the conference.

Mr. DON H. CLAUSEN. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I rise in opposition to the gentleman's amendment. I regret that I must do so but I feel strongly that there needs to be uniformity in the contractual commitments made for water resource development projects. When Federal moneys are invested in a project certain commitments are made. However, if the gentleman's amendment was adopted, non-Federal interests would not be bound by any legal requirement to perform the required local commitments. In essence, they would be saying to the Federal Government, I will execute my part of the bargain when I feel like it.

Section 221 requires that non-Federal interests enter into binding agreements to execute the terms and conditions necessary to carry out their obligations in the construction of a water resource project. It was formulated in order to insure that commitments made at the time of the authorization of a project would be honored when it came time to construct the project. This was necessary, because prior to the adoption of section 221 large expenditures of Federal moneys for planning and design of projects were made but as the project was about to be constructed the local sponsors often reneged on their commitments. The effect of this was to have the Federal Government make a significant investment in a project which was not going to be built. I believe that it is equitable to require binding commitments to participate in these projects—especially when the taxpayers are providing at least 80 percent of the costs.

Mr. Chairman, in the past it was the absence of section 221 that stopped projects. Section 221 has worked; to adopt the gentleman's amendment would return us to the old days of squandering money and time on projects that would not be built.

Mr. Chairman, this is a provision that works and regretably I must oppose the gentleman's amendment for it is unwise and could have a deleterious effect on the program and lead to the expenditure of Federal dollars in a wasteful manner. I urge my colleagues to defeat the amendment.

Mr. VOLKMER. Mr. Chairman, will the gentleman yield?

Mr. DON H. CLAUSEN. I am happy to yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Chairman, I would like to ask this question of the gentleman on the matter of the "squandering of Federal dollars":

In the first place, we are talking about contracts between two governmental bodies, the State and the Federal Government through the Corps of Engineers, are we not?

Mr. DON H. CLAUSEN. The answer is "yes".

Mr. VOLKMER. That is all my amendment goes to, just the State government.

Now, I do not care what State government it is, the State government is funded solely by the same taxpayers who fund the Corps of Engineers. Who is the money being bartered away or given away to, other than the same people who are paying it in, whether it goes to a State project or a Federal project?

Mr. DON H. CLAUSEN. Mr. Chairman, the gentleman addresses the State tax sources, but we are talking about tax dollars which come from the Nation as a whole and the people that provide that money expect that it will be spent wisely—this is why section 221 was enacted. I have found on the basis of our own experience that there are a number of projects where we did not have the kind of a commitment, prior to 221, that insured that a project would be built, and as a consequence the Corps of Engineers was expending a number of dollars for various engineering designs; then when it came time for local interests to provide their share, the commitment was simply not there and the project died.

Mr. VOLKMER. Mr. Chairman, my next question is this: What do we do in my situation in Missouri where we have a constitutional prohibition?

In other words, as far as the legislative body is concerned, one legislative body cannot bind another, nor can the Governor or one of his department heads bind by agreement beyond the 2 years of the legislative body.

Are we then forever prohibited under the Federal law—and the courts are now so interpreting, and my attorney general has so interpreted—so that we can never have any arrangement with the Corps of Engineers to have any such co-sharing agreements for public recreational facilities on Corps of Engineers projects? Unless something is done, there just will not be any such agreements. Would the gentleman agree with me on that?

Mr. DON H. CLAUSEN. Mr. Chairman, the gentleman from Texas (Mr. ROBERTS) has offered a number of alternatives, and I will yield to him for a further explanation.

Mr. ROBERTS. Mr. Chairman, there are alternatives. They can certainly issue bonds. They can issue bonds in advance; they can put up the money in advance.

Mr. VOLKMER. No; they cannot.

Mr. ROBERTS. Mr. Chairman, I urge the Members to oppose this amendment.

Mr. VOLKMER. Mr. Chairman, I would like to say to the gentleman from Texas (Mr. ROBERTS) again that they cannot do that.

Mr. ROBERTS. Mr. Chairman, I ask for a no vote on the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Missouri (Mr. VOLKMER).

The question was taken; and on a division (demanded by Mr. VOLKMER) there were—ayes 4, noes 26.

So the amendment was rejected.

● Mr. LEGGETT. Mr. Chairman, as chairman of the House Subcommittee on Fisheries and Wildlife Conservation and the Environment I would like to give my support to the water resources projects authorization H.R. 13059 which is before us today.

Water resources in the form of lakes, reservoirs, groundwater, rivers, and estuaries are perhaps the most valuable asset of any nation. Huge quantities of fresh water are needed for domestic and industrial uses, and a major part of both essential transportation and recreational interests are supported by a system of waterways and lakes. The value of our Nation's water resources in these terms is readily obvious to one and all.

However, it is perhaps less obvious that water resources are equally important to the maintenance of fish and wildlife populations. Most species of fish and wildlife are totally dependent not only on the availability of water but on the availability of the right kind of water. For example, wading birds cannot survive without water of suitably shallow depth with a firm bottom sediment to stand on, fishing birds cannot feed on and fish cannot live in, water which is too turbid and full of silt, salmon cannot swim up a stream to spawn if there is a dam with no fish ladder, animals such as deer cannot drink from a stream if its banks are too high and steep.

The relationship between water resources projects which alter the quality of the water environment and fish and wildlife conservation has long been recognized. In past years projects have generally been carefully designed and carried out in such a way as to minimize any damage to fish and wildlife and to enhance the fish and wildlife values of newly modified waterways or lakes where possible. This has been done chiefly through the application of the Fish and Wildlife Coordination Act.

Unfortunately several factors have prevented the optimum provision of conservation measures for fish and wildlife in many water resources project plans.

The most important problem preventing such optimum conservation is the difficulty of estimating the value of fish and wildlife resources when performing a cost-benefit analysis. The values of water-borne commerce, and commercial and domestic water supplies are readily estimated with precision, while the value of recreational facilities may also be estimated although with a somewhat larger margin for error. However, the benefit of maintaining viable populations of fish and wildlife is truly inestimable except with regard to hunting and fishing values. Therefore, although we may all recognize that conservation of fish and wildlife is critically important in maintaining the quality of life on our planet, too little account is often taken of the need for conservation in the planning of a water resources project. The costs of modifying water projects to mitigate damages to fish and wildlife are readily apparent, while the benefits of mitigation are very difficult to assess and usually grossly underestimated. Therefore, there is always a temptation to minimize the mitigation aspects of a project in order not to create apparent adverse cost-benefit ratios.

Additional problems are encountered in maximizing conservation efforts during the development of water projects because the adverse effects of the project are often not and in fact cannot be identified until relatively late in the project development or even until after its completion. This problem arises because our knowledge of the relationships between fish and wildlife well-being and the many subtle characteristics of their water environment is highly imperfect. Minor changes in the water environment, such as a change in the type of silt carried by a river, or a small change in salt content, can have profound effects on fish and wildlife that even with the best scientific knowledge could not be predicted in advance.

H.R. 13059 has many important provisions which go a long way towards alleviating these problems.

Perhaps the most important provision of H.R. 13059 is the establishment of a means by which the adverse effects of water projects on fish and wildlife can be mitigated expeditiously, even if these effects are only identified after the project is completed. The bill provides that up to 10 percent of the cost of any project or $7.5 million whichever is lower can be added to the cost of the project by the Secretary of the Army at any time for the purpose of mitigating damage to fish and wildlife. However, funds could not be approoriated for this purpose unless the additional cost is approved by resolutions adopted by the Senate Environment and Public Works Committee, and the House Public Works and Transportation Committee. Presently, any such necessary or desirable mitigation measures require an act of Congress to authorize the additional costs and a second act appropriating funds before detailed planning and engineering studies can proceed. The mitigation provision in H.R. 13059 would shorten the time required for approval of mitigation measures, and consequently reduce delays in development of the water project itself. It would also reduce the possibility that some small but important mitigation measures may not be proposed for action in order to avoid such delays.

It should be noted that the $7.5 million ceiling on mitigation measures is a very conservative one that will not be sufficient to mitigate losses due to some large projects. However, it is with the smaller projects that mitigation measures are most prone to be ignored because of the need for congressional action. The 10 percent ceiling on mitigation costs adopted under this provision would also insure full congressional action in any proposal where the mitigation costs were more than an insignificant fraction of the total project costs.

Beside the general authority for mitigation measures H.R. 13059 contains numerous provisions in which mitigation measures are included as an integral part of the project itself. For example, the Smithville Lake project in Missouri will include replacement of the Trimble Wildlife Area, a key waterfowl habitat, the Obion Creek modifications in west Kentucky will include acquisition of 6,000 acres of land for fish and wildlife

management, and the advanced engineering design of the Sacramento River ship channel deepening in California will include various mitigation measures including perhaps a submerged sill to prevent saline water intrusion in upriver areas.

The phase I advanced engineering design study of the Sacramento River deepwater ship channel authorized $750,000 by H.R. 13059 is, I believe, a particularly worthy project. Sacramento is a rapidly growing port fulfilling a valuable role in moving goods and produce to and from the central valley of California. Unfortunately, the present channel is too shallow for the most modern vessels when fully loaded, and shippers have been forced to adopt the wasteful system of partially loading vessels at Sacramento and topping off the load at other west coast ports. Often the vessels are topped off with cargo brought by road or rail to the coast from the Sacramento area. This procedure is energy wasteful and more time consuming and costly than would be the case if the ships could be fully loaded in Sacramento.

Deepening the Sacramento River deepwater ship channel will have significant national economic benefits but will also have some actual or potential harmful environmental effects particularly the potential saline water intrusion into freshwater areas and the loss of marshland. It is with pleasure, however, that I note that the advanced engineering study will include studies of the necessary replacement of marshland and development of a design for a submerged sill to prevent saline water intrusion. I am satisfied that with these mitigation measures the channel deepening can be carried out without significant loss of fish and wildlife or environmental degradation.

Another worthy provision of H.R. 13059 also involves the Sacramento River. This provision adds several sections of the banks and levees of the river to those included in the Corps of Engineers existing authority to construct bank works for flood control and erosion protection. This addition is necessary to prevent water releases from the Shasta Dam from causing serious erosion and downstream sediment deposition. This project also includes a specific authorization for mitigation of fish and wildlife losses.

H.R. 13059 is an omnibus bill containing many provisions and covering numerous projects touching on all areas of the Nation. It does great credit to my colleagues on the Public Works Committee and particularly to my colleague from California, Chairman JOHNSON, that they have once again, as we have come to expect from other years, produced a single bill which so admirably serves the needs of all parts of the Nation for essential water resources projects.

H.R. 13059 is a particular achievement for two reasons. First, because it contains many sound environmental provisions. Second, because this year due to executive branch inaction the committee was faced with the unenviable task of considering essential water projects at an earlier stage of review than normal.

I am extremely happy to give H.R. 13059 my full support.●

● Mr. MILLER of Ohio. Mr. Chairman, I would like to encourage my House colleagues to approve the Water Resources Development Act of 1978 which includes language authorizing the important Logan-Nelsonville (Ohio) flood control projects.

I direct the attention of the House to page 30 of the bill where the bill authorizes the U.S. Army Corps of Engineers to undertake flood control projects at Logan and Nelsonville, Ohio, at an estimated cost of $7.650.000.

Approval of this particular section of the bill is absolutely essential to the economic welfare and continued business and industrial growth of the Hocking Valley. For more than a decade the joint communities of Logan and Nelsonville have pursued every available means to initiate meaningful flood control programs along the Hocking River. The history of the projects are marked with one step of progress, but, then, two steps of setbacks and unnecessary administrative delays. The communities have faced many bureaucratic obstacles in getting this legislation to the floor of the House, but their efforts have never weakened or faltered. It is due to the perserverance of those who support this work that the Water Resources Act before the House today includes language authorizing Logan-Nelsonville.

It is in that spirit of extending Federal asistance to those who need it most that I ask the House to approve the Logan and Nelsonville flood control authorization.

I would also like to underscore the importance of House approval of this bill since the measure includes language directing the corps to inspect the structural stability of Buckeye Lake Dam and levee. Such a study is paramount to corrective steps being undertaken by the corps to assure the safety and soundness of the dam.

Both the Logan-Nelsonville work and the Buckeye Dam study are in direct response to bills we introduced. I am grateful for action on our measures by the House Public Works and Transportation Committee and I want to express my sincere appreciation to the membership of that committee for its role in bringing the Water Resources Development Act to the House floor at this time.●

The CHAIRMAN. Are there any further amendments? If not, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. BRADEMAS) having assumed the chair, Mr. BARNARD, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 13059) authorizing the construction, repair, and preservation of certain public works on rivers and harbors for navigation, flood control, and for other purposes, pursuant to House Resolution 1325, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MRS. FENWICK

Mrs. FENWICK. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentlewoman opposed to the bill?

Mrs. FENWICK. I am, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mrs. FENWICK moves to recommit the bill, H.R. 13059, to the Committee on Public Works and Transportation.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The motion to recommit was rejected.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. VOLKMER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 303, nays 73, not voting 56, as follows:

[Roll No. 874]

YEAS—303

Abdnor	Boggs	Collins, Ill.
Addabbo	Boland	Corcoran
Akaka	Bonker	Corman
Alexander	Bowen	Cornwell
Ambro	Brademas	Cotter
Anderson, Calif.	Breaux	Coughlin
Andrews, N.C.	Brinkley	Cunningham
Andrews, N. Dak.	Brown, Calif.	Daniel, Dan
Annunzio	Brown, Ohio	Daniel, R. W.
Applegate	Buchanan	Danielson
Archer	Burgener	Davis
Armstrong	Burke, Fla.	de la Garza
Ashbrook	Burke, Mass.	Dent
Ashley	Burleson, Tex.	Derwinski
AuCoin	Burlison, Mo.	Dicks
Badham	Burton, John	Dornan
Bafalis	Burton, Phillip	Duncan, Oreg.
Baldus	Butler	Duncan, Tenn.
Barnard	Byron	Eckhardt
Baucus	Carney	Edwards, Ala.
Bauman	Carter	Edwards, Calif.
Beard, R.I.	Cavanaugh	Edwards, Okla.
Beard, Tenn.	Cederberg	English
Benjamin	Chappell	Erlenborn
Bennett	Chisholm	Ertel
Bevill	Clausen, Don H.	Evans, Del.
Biaggi	Clawson, Del	Evans, Ga.
Bingham	Cleveland	Fary
	Coleman	Findley
		Flippo

Flood	Long, La.	Robinson
Florio	Long, Md.	Rodino
Flowers	Lott	Roe
Flynt	Lundine	Rogers
Foley	McClory	Roncalio
Ford, Tenn.	McCormack	Rooney
Fountain	McDade	Rose
Fowler	McEwen	Rostenkowski
Fraser	McFall	Rousselot
Frenzel	McHugh	Roybal
Fuqua	McKay	Rudd
Gammage	McKinney	Runnels
Gaydos	Mahon	Ruppe
Gibbons	Mann	Russo
Gilman	Marks	Ryan
Ginn	Marlenee	Santini
Glickman	Marriott	Satterfield
Goldwater	Mathis	Sawyer
Gonzalez	Metcalfe	Scheuer
Goodling	Meyner	Schroeder
Gore	Michel	Sebelius
Green	Mikulski	Shuster
Gudger	Milford	Sikes
Guyer	Miller, Ohio	Simon
Hagedorn	Mineta	Skelton
Hall	Minish	Smith, Iowa
Hamilton	Mitchell, Md.	Snyder
Hammer-schmidt	Mitchell, N.Y.	Solarz
	Moakley	Spellman
Hanley	Mollohan	Spence
Hannaford	Montgomery	St Germain
Hansen	Moore	Staggers
Harris	Moorhead, Calif.	Stangeland
Harsha		Stanton
Hawkins	Moorhead, Pa.	Steed
Hefner	Murphy, Ill.	Stokes
Heftel	Murphy, N.Y.	Stratton
Hightower	Murphy, Pa.	Stump
Holland	Murtha	Symms
Hollenbeck	Myers, Gary	Taylor
Holt	Myers, John	Thompson
Holtzman	Myers, Michael	Thornton
Horton	Natcher	Traxler
Howard	Neal	Treen
Hubbard	Nichols	Trible
Huckaby	Nix	Tucker
Ichord	Nowak	Udall
Ireland	O'Brien	Vander Jagt
Jenkins	Oakar	Vanik
Jenrette	Oberstar	Waggonner
Johnson, Calif.	Ottinger	Walgren
Johnson, Colo.	Panetta	Walsh
Jones, N.C.	Patten	Wampler
Jones, Okla.	Patterson	Watkins
Jones, Tenn.	Pepper	Weaver
Jordan	Perkins	Weiss
Kastenmeier	Pike	White
Kazen	Poage	Whitehurst
Keys	Pressler	Whitley
Kindness	Preyer	Whitten
Krebs	Price	Wilson, Bob
LaFalce	Pritchard	Wilson, Tex.
Lagomarsino	Pursell	Winn
Latta	Quie	Wirth
Le Fante	Quillen	Wolff
Leach	Rahall	Wright
Lederer	Railsback	Wydler
Leggett	Rangel	Yatron
Lent	Regula	Young, Mo.
Levitas	Rhodes	Young, Tex.
Livingston	Rinaldo	Zablocki
Lloyd, Calif.	Risenhoover	Zeferetti
Lloyd, Tenn.	Roberts	

NAYS—73

Bedell	Evans, Ind.	Mazzoli
Beilenson	Fascell	Moffett
Blanchard	Fenwick	Mottl
Bonior	Fisher	Nedzi
Brodhead	Fithian	Obey
Brown, Mich.	Forsythe	Pattison
Broyhill	Gephardt	Pease
Carr	Gradison	Reuss
Cohen	Grassley	Rosenthal
Collins, Tex.	Harkin	Seiberling
Conable	Hughes	Sharp
Conte	Hyde	Stark
Conyers	Jacobs	Steers
Cornell	Jeffords	Stockman
Crane	Kelly	Studds
D'Amours	Kildee	Vento
Dellums	Kostmayer	Volkmer
Derrick	Lehman	Walker
Devine	McCloskey	Waxman
Dodd	McDonald	Whalen
Downey	Madigan	Wylie
Drinan	Maguire	Yates
Early	Markey	Young, Fla.
Edgar	Martin	
Emery	Mattox	

NOT VOTING—56

Ammerman	Aspin	Bolling
Anderson, Ill.	Blouin	Breckinridge
Brooks	Harrington	Sarasin
Broomfield	Heckler	Schulze
Burke, Calif.	Hillis	Shipley
Caputo	Kasten	Sisk
Clay	Kemp	Skubitz
Cochran	Krueger	Slack
Delaney	Lujan	Smith, Nebr.
Dickinson	Luken	Steiger
Diggs	Meeds	Teague
Dingell	Mikva	Thone
Eilberg	Miller, Calif.	Tsongas
Evans, Colo.	Moss	Ullman
Fish	Nolan	Van Deerlin
Ford, Mich.	Pettis	Wiggins
Frey	Pickle	Wilson, C. H.
Garcia	Quayle	Young, Alaska
Giaimo	Richmond	

The Clerk announced the following pairs:

Mr. Eilberg with Mr. Cochran of Massachusetts.

Mr. Richmond with Mr. Thone.

Mr. Ammerman with Mrs. Pettis.

Mr. Slack with Mr. Kemp.

Mr. Teague with Mrs. Heckler.

Mr. Shipley with Mr. Lujan.

Mr. Dingell with Mr. Caputo.

Mr. Blouin with Mr. Dickinson.

Mr. Diggs with Mr. Tsongas.

Mr. Clay with Mr. Sarasin.

Mr. Miller of California with Mr. Young of Alaska.

Mr. Garcia with Mr. Anderson of Illinois.

Mrs. Burke of California with Mr. Schulze.

Mr. Meeds with Mr. Frey.

Mr. Moss with Mr. Hillis.

Mr. Delaney with Mr. Steiger.

Mr. Krueger with Mr. Kasten.

Mr. Brooks with Mr. Quayle.

Mr. Mikva with Mr. Wiggins.

Mr. Ford of Michigan with Mr. Skubitz.

Mr. Giaimo with Mr. Fish.

Mr. Nolan with Mr. Broomfield.

Mr. Pickle with Mrs. Smith of Nebraska.

Mr. Charles H. Wilson of California with Mr. Breckinridge.

Mr. Ullman with Mr. Aspin.

Mr. Van Deerlin with Mr. Harrington.

Mr. Evans of Colorado with Mr. Luken.

Mr. DODD and Mr. BROWN of Michigan changed their vote from "yea" to "nay."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ROBERTS. Mr. Speaker, I ask unanimous consent that I may be permitted to revise and extend my remarks and include extraneous matter on the bill just passed, and that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

APPOINTMENT OF CONFEREES ON H.R. 8309, NAVIGATION DEVELOPMENT ACT

The SPEAKER pro tempore. The Clerk will report the title of H.R. 8309.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to House Resolution 1325, H.R. 8309 is considered as having been taken from the Speaker's table with the Senate amendments thereto, Senate amendments numbered 1, 4, 5, 6, and 7 shall be considered as having been disagreed to; Senate amendments numbered 2 and 3 shall be considered as having been agreed to; Senate amendment No. 8 shall be considered as having been concurred in with an amendment inserting in lieu of said Senate amendment the text of H.R. 13059, as passed by the House, and the House shall be considered as having insisted upon disagreement to Senate amendments numbered 1, 4, 5, 6, and 7, and having insisted upon its amendment to Senate amendment No. 8 and having requested a conference with the Senate thereon.

Without objection the Chair appoints the following conferees:

Messrs. JOHNSON of California, ROBERTS, BREAUX, GINN, MINETA, HARSHA, DON H. CLAUSEN, ULLMAN, ROSTENKOWSKI, BURLESON of Texas, WAGGONNER, JONES of Oklahoma, CONABLE, and FRENZEL.

As an additional conferee, Mr. BLOUIN, solely for consideration of those portions of section 102 and 103 of the House bill and modifications thereof committed to conference.

There was no objection.

A similar House bill (H.R. 13059) was laid on the table.

REPRESENTATIVE BONIOR'S VIEWS ON H.R. 13059 ON TARGET

● Mr. EDGAR. Mr. Speaker, I would like to share with my colleagues the views of my friend and colleague Representative DAVID BONIOR on the Water Resources Development Act, H.R. 13059. These views were published in the committee report accompanying this irresponsible legislation.

My colleague has done a great job of detective work in uncovering many provisions hidden in this bill which are clearly contrary to the public interest. I urge my colleagues to review the following minority views, and vote against this unjustifiable and inflationary bill:

MINORITY VIEWS OF HON. DAVID E. BONIOR

This will provides for a number of needed and worthwhile water resources projects as well as making some needed administrative changes. However, it also authorizes some economically and environmentally unsound projects. Even more importantly, it alters past corps practices especially in the area of cost-benefit ratios and cost-sharing. While the exceptions made in these particular cases may be justified on other than economic grounds. I believe that these provisions create a very bad precedent which could be applied in future projects. The public is upset about the waste and inefficiency in the Federal Government, and rightfully so. They do not support spending millions of their hard-earned tax dollars for projects which will benefit only a few large landowners or major corporations. We, as members of this committee, have a responsibility to the taxpayers to make sure that the projects which we authorize are cost-effective, meet social needs and do not destroy our environment. I do not believe that this legislation fulfills that responsibility.

I know that many projects that are authorized are never funded often because they are unsound projects. However, I do not believe that is a sufficient reason for neglecting our responsibility to prevent the authorization of wasteful projects. The best way to stop these projects is to make sure that they are never

authorized in the first place. Already, there is a tremendous backlog of authorized projects which have not been funded. The corps' backlog of such projects is 253 with a cost of $10.746 billion. I find it difficult to justify authorizing new projects of questionable merit in light of this backlog.

ADEQUATE REVIEW BY CORPS

In order to insure that projects are economically justified and meet the needs, the corps has set up a detailed review process. This committee authorizes a study of the problem and asks for a corps' recommendation before proceeding with authorization for phase 1 design or construction. Within the corps, the project must be reviewed by the District Engineer, the Division Engineer, the Board of Rivers and Harbors, the Chief of Engineers, the Secretary of the Army, and then sent to the Office of Management and Budget. Within this process, there is a 30-day period for public comment and a 90-day period for comment by the Governor of the State and affected Federal agencies once the report is viewed by the Board of Rivers and Harbors. This complex review process, while it may be lengthy, insures that all affected parties have input into the process and reduces the chances of bad projects being authorized. If we have set up such a complex process, I believe that we should use it. Many of the projects authorized by this bill have not completed that process. By authorizing them now instead of waiting for them to complete this process, we are in many cases denying public imput and comment by affected State and local governments as well as other Federal agencies. These comments could be very useful and alleviate future problems with the project. In many cases, we are authorizing projects without sufficient knowledge of the costs and long-term consequences. Many of the authorizations do not specify what the commitment of the local governments to the project is and what costs they will entail. Unfortunately, past experience has shown that in later bills, we may have to authorize modifications and future funding that might not be necessary if we had waited until the review process was complete before authorizing it.

Of the 51 projects authorized for construction, 37 have not been reviewed and approved by the Chief of Engineers. Many of these authorizations are based on no Federal study at all, while others are authorized in spite of an unfavorable review by the corps. These 37 projects have an estimated cost of almost $550 million without allowing for inflation.

PROJECTS AUTHORIZED FOR CONSTRUCTION WITHOUT REPORT OF CHIEF

Halstead, Kans., $5 million.
Cabin Creek, Ky., $26.9 million.
Parker Lake, Okla., $28.4 million.
Savannah Harbor, Ga., $6.6 million.
Brazos Harbor, Tex., $15.9 million.
Oakland Outer Harbor. Calif., $26.3 million.
John's Creek Tributary, Tenn., $10 million.
Ceasar Creek water supply, Ohio, $19 million.
Sacramento River bank protection, Calif., $25 million.
Saginaw River, Mich., $?.
East Fort Lake water supply, Ohio, $16.5 million.
Cherry Street and Walnut Street Bridges, Massilon, Ohio, $1.5 million.
Fort Randall Dam—Lake Francis Case pumped storage, S. Dak., $30 million (partial).
Fifteen Mile Bayou and Eight Mile Creek, Alaska, $20 million.
Sedro Wooley, Wash., $12 million.
Charleston Harbor extension, S.C., $4.5 million.
Harlan County Lake recreation facilities, Nebr., $4.8 million.
Corte Madera unit 4, Calif., $?.
Niobrara Highway No. 14, Nebr., $16 million.
Yazoo River, Miss., $2 million annually.
Tug Fork, W. Va., et al $100 million; Tug Fork, W. Va. et al dredging, $10 million.
Water supply intake facility, Springfield, S. Dak., $2 million.
Fort Toulouse bank protection, Ala., $2 million.
San Juan, P.R., $13.5 million.
Moundville, Ala., $?
Lake George, Ind., $3.9 million.
Cox's Park, Ky., $.65 million.
Dover Creek, $1.3 million.
Zumbro River, Minn., $18.8 million.
Cottonwood Branch road crossing, Tex., $2 million.
Cane Creek Bridge, Ark., $.35 million.
Albert Lea Lake, Minn., $4 million.
Washington Aqueduct, District of Columbia, $.18 million.
St. Thomas, VI, water supply, $4 million.
Old River, La.,$?
Mississippi River Gulf Outlet, La., $94.5 million.
Total, $541.38 million (plus amount unspecified in bill).

This bill also authorizes 16 projects for phase I design of which 10 have not been reviewed and cleared by the chief. Before phase I design is authorized, current policy requires a feasibility study by the Chief of Engineers that establishes that the project is engineeringly feasible, economic, and environmentally acceptable.

PROJECTS AUTHORIZED FOR PHASE I DESIGN WITHOUT A FEASIBILITY STUDY REPORT FROM THE CHIEF OF ENGINEERS

[Dollar amount for study only.]

Red Bank and Fancher Creeks, Calif., $.3 million.
Mamaroneck and Sheldrake River Basins, N.Y. and Bryan River. Conn., $1.1 million.
Harrisburg, Pa., $.8 million.
Sacramento River navigation, Calif., $?.
Ashtabula Harbor, Ohio, $?.
Crescent City Harbor, Calif., $.4 million.
Kaw Lake, Okla., $1 million.
Tenkiller Ferry Lake, Okla., $1 million.
Englewood Lake, Okla., $1.1 million.
New York City water supply, N.Y., $10 million.

AUTHORIZING PROJECTS WITHOUT COSTS LISTED

I do not believe that the Congress should authorize projects for which we do not know the costs involved. There are many such cases in this bill:

Section 103.—Phase I authorizations of navigation on Sacramento River; enlargement of Ashtabula Harbor.

Section 122.—Levee protection for Lake Pontchartrain in Jefferson Parish (modification of the existing authorization).

Section 143.—Modification of the authorization for the Burlington Dam and Reservoir on the Souris River in North Dakota $30 million is authorized for initiation and partial accomplishment of the modification authorized by this section but no total of the modified project is listed.

Section 151.—Actions as may be necessary to correct slope erosion along the banks of the Coosa River in Ekmore, Ala.

Section 155.—Actions as may be necessary to correct slope failures and erosion along banks of Black Warrior River near Moundville, Ala.

Section 133.—Operation and maintenance of sand bypassing facility as part of a navigation facility at Santa Cruz Harbor, Calif. at 100 percent Federal cost.

Section 172.—Modification of an authorized flood control project on the lower Mississippi River which allows the corps to construct auxiliary structures or other measures to insure the stability, dependability, and safety of the Old River Control Complex in Louisiana.

Section 184.—(Added during full committee markup) Compensation to owners of wells which are damaged corps construction on a major waterway.

In numerous sections of the bill, the 25 percent local match for disposal of dredging spoil is waived but no cost to the Federal Government is listed.

I believe that we should know the costs associated with all of these projects before authorizing them. In addition, in many projects we have authorized only a portion of the construction costs in this bill and will have to authorize the remainder in future bills. We should know what the total cost of a project is going to be before authorization. There are two glaring examples of where this bill will ultimately lead to the commitment of additional millions of dollars, they are: Section 101, the McNary Lock and Dam on the Columbia River in Oregon which is authorized for $75 million when the true cost which was contained in the first draft of the bill is $548 million and section 114, the Fort Randall Dam Lake Francis project. South Dakota where $30 million is authorized but where the total cost will be $257.9 million. In addition to these examples, the authorization of many phase 1 projects will lead to addditional authorization for construction of the project.

COST-BENEFIT RATIO

One of the best ways to insure that corps projects are cost effective is to require that the benefits from the project outweigh its costs. The Appropriations Committee requires that projects have at least a cost-benefit rato of 1 in order to have funds appropriated. This bill sets the precedent of having the Congress determine what the cost-benefit ratios of a project are often with no evidence, at least to this member of the committee, justifying that determination. In addition, the bill requires the corps to include certain regional development benefits as benefits when determining the cost-benefit ratios. The following are some of the examples in this bill:

Section 101 Gulfport Harbor, Miss.:

For the purposes of economic evaluation of this project the benefits from such open water disposal shall be deemed to be at least equal to the costs of such disposal.

Section 107 Sacramento River, Calif.:

The evaluation and justification of the project shall be based on the overall benefits and costs of all project elements.

Section 135 Trinity River, Tex.:

Direct the Secretary of the Army, acting through the Chief of Engineers, to include estimates of net regional income benefit for the region surrounding the Trinity River using the best available techniques and data to quantify such benefits, and to identify, display and use such regional benefits to the Trinity River region on an equal basis with national economic development benefits for the purposes of computing the economic justification of this project.

In this project, the Army claims that such benefits are not calculable, but are intended to make uneconomic projects appear to be economically justified. Local beneficiaries defeated a bond issue in 1973 that was intended to defray the small non-Federal costs of the project.

Section 136 Colorado River, Tex.:

The benefits attributable to the diversion channel shall be deemed to at least equal its costs.

Section 147(c) Big Sandy River, Ky., and W. Va., and Cumberland River, Ky.:

Congress hereby finds that the benefits attributable to the objectives set forth in section 209 of the Flood Control Act of 1970 exceed the costs of the flood control measures authorized by this section.

Section 175 Schuylkill River Basin near Pottstown, Pa.:

Congress hereby finds that the application of provisions of section 209 of the Flood Control Act of 1970 result in the benefits

from flood control measures authorized by this act exceed their economic costs.

ALTERATIONS IN LOCAL COST SHARING

Past water resources legislation and corps practices have determined what percentage of the costs of a project the local governments should pay. I believe that all projects should require that the local governments pay those costs. It is only fair that if one community must pay them, all communities must.

The corps' policies in this regard are quite plain and are spelled out in, "Digest of Water Resources Policies," Department of the Army, Office of the Chief of Engineers dated January 1975. Page A–113 lists the local responsibilities in flood control projects:

(b) *Local flood protection.*—Local interests are required to provide all lands, easements, rights-of-way and all alterations and relocations to utilities, streets, bridges, buildings, storm drains, and other structures and improvements; hold and save the United States free from damages due to the construction works; and assure operation and maintenance of the works after completion. These requirements are known as the "a-b-c" requirements of local cooperation from their general description in section 103 of the 1936 FTC Act. Changes to railroad bridges and approaches are 100 percent Federal expense as authorized by section 3 of Public Law 526, 79th Congress.

Page 102 lists the local responsibilities for dredged materials:

11–6 *Dredged material disposal.*—In planning new navigation projects, the present policy is to require local interests to provide without cost to the United States all suitable areas required for initial and subsequent disposal of dredged material and all necessary retaining dikes, bulkheads, and embankments therefor, or the costs of such retaining works.

Page A–47 contains the following chart listing the local cost-sharing responsibilities:

TABLE A–5–1. –CORPS OF ENGINEERS COST-SHARING IN WATER RESOURCES PROJECTS

Project purpose	Construction cost participation (percent)		Land, easements, rights-of-way, and relocations	Operations and maintenance
	Federal	Non-Federal cash		
Navigation:				
Commercial—General navigation facilities	100	0	Non-Federal	Federal.
Commercial—Terminal facilities, berthing	0	100	do	Non-Federal.
Recreation—General navigation facilities	50	50	do	Federal.
Recreation—Service facilities, docks, slips	0	100	do	Non-Federal.
Flood control:				
Major reservoirs	100	0	Federal	Federal.
Local protection—Structural	100	0	Non-Federal	Non-Federal.
Local protection—Nonstructural	80	20	Shared	Do.
Small reservoirs in lieu of local protection	100	0	Non-Federal	Do.
Major drainage	50	50	do	Do.
Beach erosion control:				
Federally owned shores	100	100	Federal	Federal.
Public-owned shores	50	50	Non-Federal	Non-Federal.
Private shores—Publicly used	50	50	do	Do.
Private shores—Nonpublic use	0	100	do	Do.
Public shore parks	70	30	do	Do.
Hurricane flood protection:				
Single purpose	70	30	do	Do.
Combined with beach erosion	70	30	do	Do.
Hydroelectric power	100	Repay		
Water supply	100	Rapay		
Irrigation	50	50		Do.
Recreation:				
Reservoir projects—Separable costs	50	50		Do.
Reservoir projects—Joint costs	100		Federal	Federal.
Nonreservoir projects	50	50	Non-Federal	Non-Federal.
Enhancement of recreational fish and wildlife and anadromous fish:				
Separable costs	75	25		Do.
Joint costs	100	0	Federal	Federal.
Anadromous fish—Federal program	100	0	do	Do.
Anadromous fish—Other	75	25		Non-Federal.
Enhancement of commercial fish: Excluding anadromous fish.	100	0	Federal	Federal.
Preservation of endangered species	100	0		Do.
Aquatic plant control:				
Research, planning, evaluation	100	0		
Control	70	30		
Wastewater management planning	75	25		

Source: Digest of Water Resources Policies, p. A–47, January 1977.

In spite of these clear cost-sharing requirements, this bill waives cost sharing in a number of cases.

Section of bill	Project	Cost
108	Mobile Harbor, Ala., waives the 25-percent local match on dredge spoil disposal	(1)
111	Noyo, Mendocino County, Calif., waives the 25-percent local match on dredge disposal	(1)
115	Stamford Harbor, Conn., waives the 25-percent local match on dredge disposal	(1)
120	Intercoastal Waterway, Fla., waives the 25-percent local match on dredge disposal	(1)
131	Brunswick Harbor, Ga., waives the 25-percent local match on dredge disposal	(1)
101	Savannah Harbor, Ga., local interests shall be reimbursed at Federal expense of moving or modifying docks, bulkheads, warehouses, and towers necessary for construction	$2, 800, 000
116	East Fork Trinity River, Tex., Federal Government is to reimburse the Milligan Water Supply Corp., for the cost of locating a 3-in. waterline downstream	27, 023
118	Mamaroneck Harbor, N.Y., Federal share of dredging should be 80 percent, usually 25 percent	(1)
119	Wenatchee, Wash., flood control project, authorizes the Corps to acquire land, easements, rights-of-way, and to carry out relocations subject to a legally binding agreement that local interests will repay these costs in not more than 50 equal an ual installments including interest on the unpaid balance. Usually the local community must provide these lands prior to construction	(1)
125	Yazoo River, Miss., alternation of the Shepardstown Bridge entirely at Federal cost	3, 600, 000
133	Santa Cruz Calif., 100 percent Federal funding for a sand-bypassing facility	
137	Winona, Minn., 100 percent Federal funding for changes in 2 bridges as part of a flood control project	510, 000
140	Buhne Point, Calif., 100 percent Federal funding for protection works to prevent shoreline erosion damage to public and private facilities. Normally would be 50 percent local funding and 100 percent local funding if the private facilities were not open for public use	1, 000, 000
142	Harland County Lake Republic River, Nebr., replace, renovate, and upgrade existing Federal facilities and provide for operations and maintenance including dredging, construction of breakwaters, renlacement and extension of outdated water access facilities all at 100 percent Federal cost	4, 800, 000
145	Niobrara, Nebr., relocation of existing State highway No. 12 through the relocated town with necessary connection to highway No. 14 (does not mention local participation in the costs—20 yr after project)	1, 600, 000
147	Big Sandy River and Cumberland River in Kentucky and West Virginia, 100-percent Federal funding for flood control including Federal purchase of easements and right-of-way as well as dredging, clearing in order to protect against a flood of the magnitude of the April 1977 flood which occurs only once in more than 100 yr. In addition the Congress states that the benefits exceed the costs	(2)
150	Missouri River, Springfield, S. Dak., 100-percent Federal funding to relocate the water supply intake facility which is subject to severe sedimentation	2, 000, 000
156	Lake George, Hobart, Ind., demonstration project for the removal of silt, aquatic growth and other material at 100-percent Federal funding	3, 900, 000
141	Intracoastal Waterway, N.C., 100-percent funding for three bridges because the State of North Carolina says it cannot afford to pay 25 percent of the costs	19, 276, 000
112	Lynnhaven inlet near Virginia Beach, Va., the Federal Government shall repay the local government for 100 percent of the costs of repairing the channel that had scour holes as a result of increased velocity. Presently Corps cannot reimburse local government. Local communities are required to not hold the United States accountable for damages. Never asked the Corps to repair the damage	1, 600, 000
113	Massillon, Ohio, authorize the Corps to repair and reconstruct two bridges. Only mentions that locals shall own and operate as free bridges afterward leading to the assumption that they are not responsible for any of the reapir costs	1, 500, 000
149	Greens Bayou near Houston, Tex., declares that a bridge is eligible for alteration even though this overrides Coast Guard practice	400, 000
162	Rochester, Minn., flood control project changes in bridges including right-of-way and relocations at 100-percent Federal costs	1, 890, 000
164	Cane Creek, Logan County Ark., replacement of a bridge apparently at 100-percent Federal costs	350, 000
165	Albert Lea Lake, Freeborn County, Minn., demonstration project for removal of silt and aquatic growth at 100-percent Federal funding	4, 000, 000
184	Compensation to owners of wells that were damaged by major waterway construction	(1)
188	Replacement and expansion of existing lock near Merauz, La., at gulf of the Mississippi, 100-percent Federal costs of right-of-way acquisition, lands easements, and relocations of residences, industries, and utilities as well as bridges and tunnels	94, 500, 000
197	Little Calument River, Ill., local interests only have to pay 25 percent of the costs of maintenance of the channel, usually they pay 100 percent	(1)
	Total costs	143, 800, 000

[1] No amount listed.

[2] No percentage that is attributable to cost not usually paid for by the Federal Government is listed. Overall cost $110,000,000.

These cost-sharing modifications relieve a number of specific communities of costs that, under existing law and practice, other communities must pay for similar projects. Within this bill, in some cases the normal local share provisions are retained and in other cases they are waived. All communities should be treated the same way under Federal laws.

CONSTRUCTION OF WATER SUPPLY FACILITIES

I am also concerned by parts of section 103 which would provide 100 percent Federal funding for the construction of treatment facilities and regional conveyance system of water for Kaw Lake, Tenkiller Ferry Lake, and Englewood Lake. $3.1 million is authorized for phase 1 design for these projects and another $5 million is authorized for advanced engineering and design for the projects after the completion of phase 1. Section 106 authorizes $19 million for 100 percent funding for public water supply system for Caesar Creek, Ohio and section 110 makes similar provisions for East Fork Lake, Ohio at a cost of $16.5 million. Together these sections provide $43.6 million for 100 percent funding for water supply systems which other communities must provide at least 100 percent local funding. Water supply requires 100 percent non-Federal reimbursement, and drinking water treatment and conveyance facilities such as those authorized in the bill are considered a non-Federal responsibility. Federal Loans are available to assist local communities especially those under $10,000 to finance these facilities, along with grants where necessary to keep costs to water users to acceptable levels. In addition, no reference is made to water conservation measures as a goal of these water supply systems.

LARGE PORTIONS OF BENEFITS ACCRUING TO ONLY A FEW INDIVIDUALS OR CORPORATIONS

I believe that the Federal Government should not be authorizing and funding projects which benefit only a few individuals or corporations at a huge cost to the American taxpayer. I agree with the Senate that it is an equitable national policy that such recipients should be required, at least through local agencies, to share directly in the project's costs, since they will be direct and major beneficiaries. In such cases, I agree that the local government should be required to cover at least 50 percent of the costs and would urge the corps to do a study of this problem.

It is my understanding that we have authorized such a project in this bill. Gulfport Harbor in Mississippi. This project would widen and deepen the harbor for a distance of 9 miles so that it can accommodate larger ships. This project would require the removal of 27 million cubic yards of material which would be dumped in the ocean. 75 percent of the benefits from this project are attributable to the E. I. DuPont de Nemours & Co. plant under construction. I cannot support the authorization of such a project without a substantially increased local cost sharing, especially considering that the Congress has determined that the benefits of the project outweigh the costs.

Section 193 states that no funds from local and State interests may be accepted or extended unless such acceptance and expenditure has been specifically authorized for that project by law. I do not see why the Congress needs to require that additional funds cannot be contributed to a project without specific authorization. It is my understanding that the Appropriations Committee has always had the ability to accept additional funds and has not.

I strongly support section 177 which deauthorizes study resolutions which have not been funded during the 90th Congress and any subsequent Congress prior to the 96th Congress. This will help eliminate paperwork and the survey resolution can always be reauthorized. Section 178 which requires the corps to compile all of the water resource development laws since November 8, 1966. I strongly support this section because it will make it easier to follow these laws.

CONCLUSION

In conclusion, this bill authorizes $1.25 billion in projects. Of that amount:

Forty-five percent ($557.08 million) have not been approved by the Chief of Engineers;

Thirteen percent ($161.08 million) modify the cost-benefit ratios not including the effects on two previously authorized projects;

Twelve percent ($143.753 million) alter local cost-sharing provisions; and

Three percent ($43.6 million) provide 100-percent funding for water supply systems.

Over 50 percent of the projects in this bill either have not been approved by the Chief of Engineers, after cost-benefits ratios or alter local cost-sharing plans not including those projects which do not have costs listed or which the effects on previously authorized projects is not known.

In addition, many of these projects have environmental problems which could delay the projects even if they are built, adding to the costs. This only relates to the costs for this year's authorization and not the final costs of the projects in this bill.

I cannot support this bill which makes few efforts to reform our water policy, increase cost efficiency or protect our environment. We can eliminate many porblems in the future by not authorizing the projects of questionable merit in this bill. While I would like to support many of the projects in this bill, I cannot support the bill because of the numerous problems with it.●

TERMINATING AUTHORIZATION OF NAVIGATION PROJECT ON COLUMBIA SLOUGH, OREG.

Mr. DUNCAN of Oregon. Mr. Speaker, I ask unanimous consent that the Committee on Public Works and Transportation be discharged from further consideration of the bill (H.R. 13803) to terminate the authorization of the navigation project on the Columbia Slough, Oreg., and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon?

Mr. DON H. CLAUSEN. Reserving the right to object, Mr. Speaker, I do so for the purpose of getting further clarification. The gentleman has discussed this matter with the committee, and this deals with the Columbia Slough navigation project in the Portland area and what he seeks is a deauthorization of the navigation inactive project in order that a low-level bridge may be constructed. Is that correct?

Mr. DUNCAN of Oregon. If the gentleman will yield, this is a bill which would deauthorize the navigation project on the Columbia Slough which was authorized in 1950. Deauthorization is supported by all of the members of the Oregon congressional delegation in the House and the Senate on both sides, by the city of Portland, the county of Multnomah, and the port of Portland. It is opposed by some members of the yacht club and some landowners along the slough, but it is a project that has been authorized since 1950. There has been no activity whatsoever on it. It meets the 4-year statute; it meets the 8-year statute; and, indeed, it will meet the 28-year statute.

Mr. DON H. CLAUSEN. Mr. Speaker, the committee this morning took action vacating their position and supports to the unanimous consent request.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon?

There was no objection.

The Clerk read the bill, as follows:

H.R. 13803

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the navigation project on the Columbia Slough, Oregon, authorized by section 101 of the River and Harbor Act of 1950 (64 Stat. 167) is not authorized after the date of enactment of this Act.

The bill was ordered to be engrossed and read a third time, was read the third time, passed, and a motion to reconsider was laid on the table.

REPORT ON RESOLUTION PROVIDING FOR THE AGREEING TO THE SENATE AMENDMENTS TO THE BILL H.R. 112, AMENDING THE INTERNAL REVENUE CODE OF 1954

Mr. DODD, from the Committee on Rules, submitted a privileged report (Rept. No. 95–1715) on the resolution (H. Res. 1349) providing for the agreeing to the Senate amendments to the bill (H.R. 112) to amend the Internal Revenue Code of 1954 to reduce the excise tax on the investment income of private foundations from 4 percent to 2 percent, which was referred to the House Calendar and ordered to be printed.

NATIONAL PARKS AND RECREATION ACT OF 1978

Mr. PHILLIP BURTON. Mr. Speaker, I ask unanimous consent that the Committee on Interior and Insular Affairs be discharged from further consideration of the Senate bill (S. 791) to authorize additional appropriations for the acquisition of lands and interests in lands within the Sawtooth National Recreation Area in Idaho, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. SEBELIUS. Reserving the right to object, Mr. Speaker, I do so for the purpose of asking the gentleman from California if he would explain to the House the situation of what we are up to.

Mr. PHILLIP BURTON. If the gentleman will yield, the situation, simply stated, is that the bill we passed earlier had been subject to a few minimal senatorial complaints, and this is an effort to provide a supplemental amendment. This would deal with a few minimal senatorial complaints about the legislation passed earlier by the House by a margin on the order of 9 or 10 to 1.

Mr. SEBELIUS. The list I have in my hand, as I showed the gentleman, is the list of changes that we made in working with the Senate?

Mr. PHILLIP BURTON. That is correct.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. SEBELIUS. I yield to the gentleman from California.

Mr. ROUSSELOT. I appreciate the gentleman's yielding.

Is this the giant omnibus park bill we have before us?

Mr. PHILLIP BURTON. If the gentleman will yield, that is correct.

Mr. ROUSSELOT. If the gentleman would yield further, we are dividing it?

Mr. SEBELIUS. We are dividing some of the things that were in the original bill, yes.

Mr. ROUSSELOT. We are dividing the bill? Did it get too big?

Mr. SEBELIUS. No. In fact, we worked with the Senate in trying to accomplish good for all of the Members and for the good of the country.

Mr. ROUSSELOT. For good of the country? Goodness.

Mr. SEBELIUS. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 791

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 13 of the Act of August 22, 1972 (86 Stat. 612; 16 U.S.C. 460aa–12) is amended by striking "$19,802,000" and inserting in lieu thereof "$47,802,000".

Mr. PHILLIP BURTON (during the reading). Mr. Speaker, I ask unanimous consent to dispense with further reading of the Senate bill and that it be printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

AMENDMENT OFFERED BY MR. PHILLIP BURTON

Mr. PHILLIP BURTON. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. PHILLIP BURTON:

Strike all after the enacting clause and insert in lieu thereof:

SHORT TITLE AND TABLE OF CONTENTS

SECTION 1. This Act may be cited as the "National Parks and Recreation Act of 1978".

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SEC. 2. As used in this Act, except as otherwise specifically provided, the term "Secretary" means the Secretary of the Interior.

AUTHORIZATION OF APPROPRIATIONS

SEC. 3. Authorizations of moneys to be appropriated under this Act shall be effective on October 1, 1978. Notwithstanding any other provision of this Act, authority to enter into contracts, to incur obligations, or to make payments under this Act shall be effective only to the extent, and in such amounts, as are provided in advance in appropriation Acts.

TITLE I—DEVELOPMENT CEILING INCREASES

SPECIFIC INCREASES

SEC. 101. The limitations on funds for development within certain units of the National Park System and affiliated areas are amended as follows:

(1) Agate Fossil Beds National Monument, Nebraska: Section 4 of the Act of June 5, 1965 (79 Stat. 123), is amended by changing "$1,842,000" to "$2,012,000".

(2) Andersonville National Historic Site, Georgia; Section 4 of the Act of October 16, 1970 (84 Stat. 989), is amended by changing "1,605,000" to "$2,205,000 for development.", and by deleting "(March 1969 prices), for development, plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuation in construction costs as indicated by engineering cost indices applicable to the types of construction involved herein.".

(3) Andrew Johnson National Historic Site, Tennessee: Section 3 of the Act of December 11, 1963 (77 Stat. 350) is amended by changing "$266,000" to "$286,0000".

(4) Biscayne National Monument, Florida: Section 5 of the Act of October 18, 1968 (82 Stat. 1188), is amended by changing "$2,900,0000" to "$6,565,000".

(5) Capitol Reef National Park, Utah: Section 7 of the Act of December 18, 1971 (85 Stat. 739), is amended by changing "$1,052,700 (April 1970 prices)" to "$1,373,000 for development.", and by deleting "for development, plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuations in construction costs as indicated by engineering cost indexes applicable to the types of construction involved herein.".

(6) Carl Sandburg Home National Historic Site, North Carolina: Section 3 of the Act of October 17, 1968 (82 Stat. 1154), is amended by changing "$952,000" to "$1,662,000".

(7) Cowpens National Battleground Site, South Carolina: Section 402 of the Act of April 11, 1972 (86 Stat. 120), is amended by changing "$3,108,000" to "$5,108,000".

(8) De Soto National Memorial, Florida: Section 3 of the Act of March 11, 1948 (62 Stat. 78), as amended, is further amended by changing "$175,000" to "$292,000".

(9) Fort Bowie National Historic Site, Arizona: Section 4 of the Act of August 30, 1964 (78 Stat. 681), is amended by deleting $550,000 to carry out the purposes of this Act.", and inserting in lieu thereof: "$85,000 for land acquisition and $1,043,000 for development".

(10) Frederick Douglass Home, District of Columbia: Section 4 of the Act of September 5, 1962 (76 Stat. 435), is amended by changing "$413,000" to "$1,350,000".

(11) Grant Kohrs Ranch National Historic Site, Montana: Section 4 of the Act of August 25, 1972 (86 Stat. 632), is amended to read as follows: "Sec. 4. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act, but not to exceed $752,000 for land acquisition and not to exceed $2,075,000 for development."; the additional sums herein authorized for land acquisition may be used to acquire the fee simple title to lands over which the United States has acquired easements or other less than fee interests.

(12) Guadalupe Mountains National Park, Texas: Section 6 of the Act of October 15, 1966 (80 Stat. 920), is amended by changing "$10,362,000" to "$24,715,000", and by adding the following new sentence at the end of the section: "No funds appropriated for development purposes pursuant to this Act may be expended for improvements incompatible with wilderness management within the corridor of the park leading to the summit of Guadalupe Peak.".

(13) Gulf Islands National Seashore, Florida-Mississippi: Section 11 of the Act of January 8, 1971 (84 Stat. 1967), is amended by changing "$17,774,000" to "$24,224,000", and by deleting the phrase "(June 1970 prices) for development, plus such amounts, if any, as may be justified by reason of ordinary fluctuations in construction costs as indicated by engineering costs indices applicable to the types of construction involved herein.", and inserting in lieu thereof "for development.".

(14) Harper's Ferry National Historical Park, Maryland-West Virginia: Section 4 of the Act of June 30, 1944 (58 Stat. 645), is amended further by changing "$8,690,000" to "$12,385,000".

(15) Hubbell Trading Post National Historic Site, Arizona: Section 3 of the Act of August 28, 1965 (79 Stat. 584), is amended by changing "$952,000" to "$977,000".

(16) Indiana Dunes National Lakeshore, Indiana: Section 10 of the Act of November 5, 1966 (80 Stat. 1312), is amended by changing "$8,500,000" to "$9,440,000".

(17) John Muir National Historic Site, California: Section 3 of the Act of August 31, 1964 (78 Stat. 753), is amended by striking out "$300,000 for land acquisition and restoration of the buildings thereon." and inserting in lieu thereof "$224,000 for land acquisition and $1,285,000 for development".

(18) For the preservation and protection of certain lands in Prince Georges and Charles Counties, Maryland: Section 4 of the joint resolution of October 4, 1961 (75 Stat. 783) is amended by inserting "(a)" after "SEC. 4." and by adding the following new subsection (b) at the end thereof:

"(b) In addition to such other sums as have been appropriated for such purposes, there is authorized $2,000,000 for development.".

(19) Longfellow National Historic Site, Massachusetts: Section 4 of the Act of October 9, 1972 (86 Stat. 791), is amended by changing "$586,000 (May 1971 prices)" to "$682,000 for development.", and by deleting "of the area, plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuations in construction costs as indicated by engineering cost indices applicable to the types of construction involved herein.".

(20) Pecos National Monument, New Mexico: Section 3 of the Act of June 28, 1965 (79 Stat. 195), is amended by changing "$500,000" to "$2,375,000".

(21) Perry's Victory and International Peace Memorial, Ohio: Section 4 of the Act of October 26, 1972 (86 Stat. 1181), is amended by changing "$5,177,000" to "$9,327,000".

(22) San Juan Island National Historical Park, Washington: Section 4 of the Act of September 9, 1966 (80 Stat. 737), is amended by changing "$3,542,000" to "$5,575,000".

(23) Sitka National Monument, Alaska: Section 3 of the Act of October 18, 1972 (86 Stat. 904), is amended by changing "$691,000 (June 1971 prices)" to "$1,571,000", by changing the comma following "development" to a period, and by deleting the remainder of the sentence following said period.

(24) Statue of Liberty National Monument, New York-New Jersey: Section 1 of the joint resolution of August 17, 1965 (79 Stat. 543), is amended by changing "$6,000,000" to "$24,000,000".

(25) Thaddeus Kosciuszko Home National Historic Site, Pennsylvania: Section 3 of the Act of October 21, 1972 (86 Stat. 1046), is amended by changing "$592,000" to "$742,000".

(26) Tuskegee Institute National Historic Site, Alabama: Section 104(e) of the Act of October 26, 1974 (88 Stat. 1463), is amended by changing "$2,722,000" to "$2,862,000".

(27) Whiskeytown-Shasta-Trinity National Recreation Area, California: Section 10 of the Act of November 8, 1965 (79 Stat. 1295), is amended by changing "$22,700,000" to "$24,649,000".

(28) William Howard Taft National Historic Site, Ohio: Section 3 of the Act of December 2, 1969 (83 Stat. 273), is amended by changing "$318,000" to "$1,888,000".

(29) Wilson's Creek National Battlefield, Missouri: Section 3 of the Act of December 16, 1970 (84 Stat. 1441), is amended by changing "$2,285,000 (March 1969 prices)," to "$5,640,000.", and deleting the remaining portion of the sentence following the period.

TITLE II—ACQUISITION CEILING INCREASES

ACQUISITION CEILINGS

SEC. 201. The limitations on appropriations for the acquisition of lands and interests therein within certain units of the National Park System are amended as follows:

(1) Big Cypress National Preserve, Florida: Section 8 of the Act of October 11, 1974 (88 Stat. 1258), is amended by changing "$116,000,000" to "$156,700,000".

(2) Buffalo National River, Arkansas: Section 7 of the Act of March 1, 1972 (86 Stat.

44), is amended by changing "$30,071,500" to "$39,948,000".

(3) Cumberland Island National Seashore, Georgia: Section 10 of the Act of October 23, 1972 (86 Stat. 1066), is amended by changing "$10,500,000" to "$28,500,000".

SAWTOOTH NATIONAL RECREATION AREA

SEC. 202. Section 13 of the Act of August 22, 1972 (86 Stat. 612), is amended by changing "$19,802,000" to "$47,802,000".

TITLE III—BOUNDARY CHANGES

REVISION OF BOUNDARIES

SEC. 301. The boundaries of the following units of the National Park System are revised as follows, and there are authorized to be appropriated such sums as may be necessary, but not exceed the amounts specified in the following paragraphs for acquisitions of lands and interests in lands within areas added by reason of such revisions:

(1) Bent's Old Fort National Historic Site, Colorado: to add approximately six hundred and twenty-two acres as generally depicted on the map entitled "Boundary Map, Bent's Old Fort National Historic Site, Colorado", numbered 417–80,007–A, and dated June 1976: $842,000.

(2) Cape Cod National Seashore, Massachusetts: To add approximately thirteen acres and to delete approximately sixteen acres as generally depicted on the map entitled "Cape Cod National Seashore Boundary Map", numbered 609–60,015 and dated February 1978.

(3) Chiricahua National Monument, Arizona: To add approximately four hundred and forty acres as generally depicted on the map entitled "Boundary Map. Chiricahua National Monument, Arizona", numbered 145–80,002, and dated August 1977: $294 000.

(4) City of Refuge National Historical Park, Hawaii: To add approximately two hundred and four acres as generally depicted on the map entitled "Boundary Map, City of Refuge National Historical Park, Hawaii", numbered 415–20, 007–C, and dated May 1978: $7,400,000.

(5) Coronado National Memorial, Arizona: To add approximately three thousand and forty acres and delete approximately twelve hundred acres as generally depicted on the map entitled "Land Status Map 01, Coronado National Memorial, Cochise County, Arizona", numbered 8630/80,001, and dated October 1977: $1,410.000.

(6) Eisenhower National Historic Site, Pennsylvania: To add approximately one hundred ninety-five and eighty-three one-hundredths acres as generally depicted on the map entitled '(Boundary Map, Eisenhower National Historic Site, Adams County Pennsylvania", numbered 446–40,001B, and dated April 1978: $166,000.

(7) Fort Caroline National Memorial, Florida: To add approximately ten acres as generally depicted on the map entitled "Boundary Map, Fort Caroline National Memorial, Florida", numbered 5310/80,000–A, and dated April 1978: $170,000.

(8) George Washington Birthplace National Monument, Virginia: To add approximately eighty-two and twenty-five one-hundredths acres as generally depicted on the map entitled "Boundary Map, George Washington Birthplace National Memorial, Virginia", numbered 332–30,000–B and dated September 1978: $450,000.

(9) Great Sand Dunes National Monument, Colorado: To add approximately one thousand one hundred and nine acres as generally depicted on the map entitled "Boundary Map, Great Sand Dunes National Monument, Colorado", numbered 140–80,001–A, and dated November 1974: $166,000.

(10) Gulf Islands National Seashore, Mississippi-Florida: To add approximately six hundred acres as generally depicted on the map entitled "Boundary Map, Gulf Islands National Seashore, Mississippi-Florida", numbered 20,006, and dated April 1978: $300,000.

(11) Hawaii Volcanoes National Park, Hawaii: To add approximately two hundred sixty-nine acres as generally depicted on the map entitled "Boundary Map, Hawaii Volcanoes National Park, Hawaii" numbered 80,000, and dated August 1975: $562,000.

(12) John Day Fossil Beds National Monument, Oregon: To add approximately one thousand four hundred and eleven acres, and to delete approximately one thousand six hundred and twenty acres as generally depicted on the map entitled "Boundary Map, John Day Fossil Beds National Monument, Oregon", numbered 177–30,000–B, and dated May (1978: $3,500,000. The Act of October 26, 1974 (88 Stat. 1461), which designates the John Day Fossil Beds National Monument is amended by deleting the second proviso of section 101(a)(2).

(13) Monocacy National Battlefield Maryland: To add approximately five hundred and eighty-seven acres as generally depicted on the map entitled, "Boundary Map, Monocacy National Battlefield", numbered 894–40,001 and dated May 1978: $3,500,000.

(14) Montezuma Castle National Monument, Arizona: To add approximately thirteen acres, and to delete approximately five acres as generally depicted on the map entitled "Montezuma Castle National Monument, Arizona", numbered 20,006, and dated April 1978.

(15) Oregon Caves National Monument, Oregon: To add approximately eight acres as generally depicted on the map entitled "Oregon Cave, Oregon" numbered 20,000, and dated April 1978: $107,000.

(16) Salem Maritime National Historic Site, Massachusetts: To add approximately fifteen one-hundredths of an acre as generally depicted on the map entitled "Salem Maritime National Historic Site Boundary Map", numbered 373–80,010, and dated February 1978: $67,500.

(17) Theodore Roosevelt National Memorial Park, North Dakota: To add approximately one hundred and forty-six acres, and delete approximately one hundred and sixty acres as generally depicted on map entitled "Boundary Map Theodore Roosevelt National Memorial Park-North Unit McKenzie County/North Dakota", numbered 387/80020, and dated July 1977.

(18) Tumacacori National Monument, Arizona: To add approximately seven acres, and delete approximately eleven-hundredths of an acre as generally depicted on the map entitled "Boundary Map, Tumacacori National Monument, Arizona" numbered 311–80,009–A, and dated March 1978: $24,000.

(19)(A) Tuzigoot National Monument, Arizona: To add approximately seven hundred and ninety-one acres as generally depicted on the map entitled "Master Proposal, Tuzigoot National Monument", numbered 378–30,000D, and dated January 1973: $1,350,000.

(B) The Secretary is authorized to acquire by donation, purchase with donated or appropriated funds, exchange or otherwise and subject to such terms, reservations, conditions applied to the acquired lands as he may deem satisfactory, the lands and interests in lands that are included within the boundaries of the Tuzigoot National Monument as revised by this paragraph. When so acquired, they shall be administered in accordance with provisions of law generally applicable to units of the National Park System, including the Act of August 25, 1916 (39 Stat. 535).

(C) In exercising his authority to acquire such lands and interests in lands by exchange, the Secretary may accept title to any non-Federal property within the boundaries of the national monument and in exchange therefor he may convey to the grantor of such property any federally owned property under his jurisdiction in the State of Arizona. The values of the properties so exchanged either shall be approximately equal, or if they are not approximately equal the values shall be equalized by the payment of cash to the grantor or to the Secretary as the circumstances require.

(20) White Sands National Monument, New Mexico: To add approximately three hundred and twenty acres, and delete approximately seven hundred and sixty acres as generally depicted on the map entitled "Boundary Map, White Sands National Monument, New Mexico", numbered 142/20,010–A, and dated November 1973.

(21) William Howard Taft National Historic Site, Ohio: To add approximately three acres as generally depicted on the map entitled "Boundary Map, William Howard Taft National Historic Site, Ohio", numbered 448–40,021, and dated January 1977.

(22) Wind Cave National Park, South Dakota: To add approximately two hundred and twenty-eight acres as generally depicted on the map entitled "Boundary Map, Wind Cave National Park, South Dakota", numbered 108–80,008, and dated July 1977: $227,000.

MAPS AND DESCRIPTIONS

SEC. 302. Within twelve months after the date of the enactment of this Act, the Secretary shall publish in the Federal Register a detailed map or other detailed description of the lands added or excluded from any area pursuant to section 301.

ACQUISITION AND DISPOSAL OF LANDS

SEC. 303. (a) Within the boundaries of the areas as revised in accordance with section 301, the Secretary is authorized to acquire lands and interests therein by donation, purchase with donated or appropriated funds, exchange, or transfer from any other Federal agency. Lands and interests therein so acquired shall become part of the area to which they are added, and shall be subjected to all laws, rules, and regulations applicable thereto. When acquiring any land pursuant to this title, the Secretary may acquire any such land subject to the retention of a right of use and occupancy for a term not to exceed twenty-five years or for the life of the owner or owners. Lands owned by a State or political subdivision thereof may be acquired only by donation.

(b)(1) Lands and interests therein deleted from any area pursuant to section 301 may be exchanged for non-Federal lands within the revised boundaries of such area, or transferred to the jurisdiction of any other Federal agency or to a State or political subdivision thereof, without monetary consideration, or be administered as public lands by the Secretary, as the Secretary may deem appropriate.

(2) In exercising the authority contained in this section with respect to lands and interests therein deleted from any such area which were acquired from a State. the Secretary may, on behalf of the United States, transfer to such State exclusive or concurrent legislative jurisdiction over such lands, subject to such terms and conditions as he may deem appropriate, to be effective upon acceptance thereof by the State.

(c) It is the established policy of Congress that wilderness, wildlife conservation, and park and recreation values of real property owned by the United States be conserved, enhanced, and developed. It is further declared to be the policy of Congress that unutilized, underutilized, or excess Federal real property be timely studied as to suitability for wilderness, wildlife conservation, or park and recreation purposes. To implement this policy, the Secretary, the Administrator of General Services, and the Director of the Office of Management and Budget shall establish a system with appropriate procedures to permit the Secretary full and early opportunity to make such studies and propose appropriate recommendations to disposing agen-

cies for consideration in connection with determinations of further utilization or disposal of such property under existing law. Each affected executive agency is authorized and directed to provide to the Secretary such advice and information relating to such studies as the Secretary may request.

OTHER AUTHORITIES

SEC. 304. The authorities in this title are supplementary to any other authorities available to the Secretary with respect to the acquisition, development, and administration of the areas referred to in section 301.

NAME CHANGE; CITY OF REFUGE NATIONAL HISTORICAL PARK

SEC. 305. The Act of July 21, 1955 (69 Stat. 376) is hereby amended to redesignate the City of Refuge National Historical Park as the Puuhonua o Honaunau National Historical Park.

BLACK HAMMOCK ISLAND

SEC. 306. The lot on Black Hammock Island, identified by warranty deed numbered 70–56903, recorded among the land records of Duval County, Florida, on November 23, 1970, owned by the Federal Government, shall, pursuant to the Act of December 18, 1967 (81 Stat. 656; 16 U.S.C. 19g, 19h), be deeded to the National Park Foundation to be sold at fair market value. The proceeds of such sale shall be remitted to the National Park Service for land acquisition and development of the Fort Caroline National Memorial.

ALLEGHENY PORTAGE RAILROAD NATIONAL HISTORIC SITE AND JOHNSTOWN FLOOD NATIONAL MEMORIAL

SEC. 307. (a) The Secretary is authorized to revise the boundaries of the Allegheny Portage Railroad National Historic Site and Johnstown Flood National Memorial in Pennsylvania to add approximately five hundred and twenty-six acres and sixty-seven acres respectively. Sections 302 and 303 of this Act shall be applicable to such boundary revision.

(b) In addition to amounts otherwise available for such purposes there are authorized to be appropriated not more than $2,743,000 for land acquisition and $4,280,000 for development to carry out the purposes of this section.

FORT LARAMIE NATIONAL HISTORIC SITE

SEC. 308. (a) The first section of the Act entitled "An Act to revise the boundaries and change the name of the Fort Laramie National Monument, Wyoming, and for other purposes", approved April 29, 1960 (74 Stat. 83), is amended to read as follows: "That in order to preserve the sites of historic buildings and roads associated with Fort Laramie, the boundaries of the Fort Laramie National Historic Site shall hereafter comprise the area generally depicted on the map entitled 'Boundary Map, Fort Laramie National Historic Site', numbered 375–90,001, and dated September 1977. The map shall be on file and available for public inspection in the office of the National Park Service, Department of the Interior".

(b) The first sentence of section 2 of such Act is amended by inserting between the words "boundary" and "described' the phrase "as depicted on the map.".

FORT UNION TRADING POST NATIONAL HISTORIC SITE

SEC. 309. (a) The first section of the Act entitled "An Act to authorize establishment of the Fort Union Trading Post National Historic Site, North Dakota and Montana, and for other purposes", approved June 20, 1966 (80 Stat. 211), is amended by deleting "located in Williams County, North Dakota, and such additional lands and interests in lands in Williams County, North Dakota, and Roosevelt County, Montana," and inserting in lieu thereof "located in the States of North Dakota and Montana," and by deleting "400 acres" and inserting in lieu thereof "570 acres as generally depicted on the map entitled 'Fort Union Trading Post, Montana-North Dakota', numbered 436–80,025, and dated February 1977".

(b) Section 4 of such Act is amended by deleting "$613,000 for the acquisition of lands and interests in lands and for the development" and inserting in lieu thereof "$280,000 for the acquisition of lands and $4,416,000 for development".

ADDITION OF DORCHESTER HEIGHTS TO THE BOSTON NATIONAL HISTORICAL PARK

SEC. 310 (a) Section 2(a) of the Boston National Historical Park Act of 1974 (88 Stat. 1184) is amended—

(1) in paragraph (6) by striking out "and" at the end thereof;

(2) in paragraph (7) by striking out the period and inserting in lieu thereof "; and"; and

(3) by inserting at the end thereof the following new paragraph:

"(8) Dorchester Heights, Boston.".

(b) Section 3(a) of such Act is amended—

(1) in paragraph (3) by inserting "and" after the semicolon;

(2) by striking out "(4) Dorchester Heights; and"; and

(3) by striking out "(5)" and inserting in lieu thereof "(4)".

(c) There are authorized to be appropriated such sums as may be necessary for the acquisition of lands or interests in lands designated by subsection (a) of this section as a component of the Boston National Historical Park, and for the development of such component.

(d) Section 2(d) of such Act is amended by deleting the period at the end of the last sentence and inserting: "and the Secretary is authorized to grant, in accordance with such terms and conditions as he deems necessary and consistent with the purposes of this Act, easements and rights-of-way to the Commonwealth of Massachusetts or any political subdivision thereof including the Boston Redevelopment Authority for purposes of the vehicular, pedestrian and utility access to that portion of the Boston Navy Yard outside the boundaries of the Park. Such grants of easements and rights-of-way shall be upon the express condition that the grantee convey to the United States the property known as Building No. 107, being a part of the Boston Navy Yard and owned by the Boston Redevelopment Authority.".

FORT CLATSOP NATIONAL MEMORIAL

SEC. 311. Section 2 of the Act of May 29, 1958 (72 Stat. 153; 16 U.S.C. 450mm–1), is amended to read as follows:

"SEC. 2. The Secretary of the Interior shall designate for inclusion in Fort Clatsop National Memorial land and improvements thereon located in Clatsop County, Oregon, which are associated with the winter encampment of the Lewis and Clark Expedition, known as Fort Clatsop, including the site of the salt cairn (specifically, lot number 18, block 1, Cartwright Park Addition of Seaside, Oregon) utilized by that expedition and adjacent portions of the old trail which led overland from the fort to the coast: *Provided*, That the total area so designated shall contain no more than one hundred and thirty acres."

ADAMS NATIONAL HISTORIC SITE, MASSACHUSETTS

SEC. 312. (a) In order to preserve for the benefit, education, and inspiration of present and future generations the birthplace of John Adams and John Quincy Adams, the Secretary is authorized to accept the conveyance, without monetary consideration, of the property known as the John Adams Birthplace at 133 Franklin Street, and the property known as the John Quincy Adams Birthplace at 141 Franklin Street, in Quincy, Massachusetts, together with such adjacent real property as may be desirable, for administration as part of the Adams National Historic Site in Quincy, Massachusetts. Together with, or following such conveyance, the Secretary is authorized to accept the conveyance, without monetary consideration, of furnishings and personal property relating to such birthplaces, after consultation with appropriate officials of the city of Quincy and with the owner or owners of such furnishings and personal property.

(b) The Secretary shall administer the properties acquired pursuant to subsection (a) of this section as part of the Adams National Historic Site in accordance with this section and the provisions of law generally applicable to national historic sites, including the Act of August 25, 1916 (39 Stat. 535) and the Act of August 21, 1935 (49 Stat. 666).

ADDITION OF EPPES MANOR TO PETERSBURG NATIONAL BATTLEFIELD

SEC. 313. (a) The Secretary is authorized to acquire the historic Eppes Manor, and such other lands adjacent thereto, not to exceed twenty-five acres, for addition to the Petersburg National Battlefield, as generally depicted on the map entitled "Petersburg National Battlefield, Virginia", numbered APMA 80,001, and dated May 1978.

(b) There are hereby authorized to be appropriated not to exceed $2,200,000 to carry out the purposes of this section.

ADDITION OF MINERAL KING VALLEY TO SEQUOIA NATIONAL PARK

SEC. 314. (a) It is the purpose of this section to—

(1) assure the preservation for this and future generations of the outstanding natural and scenic features of the area commonly known as the Mineral King Valley and previously designated as the Sequoia National Game Refuge and

(2) enhance the ecological values and public enjoyment of such area by adding such area to the Sequoia National Park.

(b)(1) In order to add to the Sequoia National Park (hereinafter in this section referred to as the "park") a certain area known as Mineral King Valley possessing unique natural and scenic values, there is hereby established as part of such park all lands, waters, and interests therein, constituting approximately sixteen thousand two hundred acres designated before the date of the enactment of this Act as the Sequoia National Game Refuge and as depicted on the drawing entitled "Boundary Map, Sequoia-Kings Canyon National Park", numbered 102–90,000 and dated April 1975. A copy of such drawing shall be on file and available for public inspection in the office of the Director, National Park Service, Department of the Interior. After advising the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate in writing, the Secretary is authorized to make minor revisions of the boundaries of the park when necessary by publication of a revised drawing or other boundary description in the Federal Register.

(2) The Sequoia National Game Refuge is hereby abolished and the Secretary of Agriculture shall transfer, without consideration, to the administrative jurisdiction of the Secretary, the area constituting such refuge, and any unexpended funds available for purposes of management of the refuge shall be available for purposes of management of the park.

(c)(1) Within the boundaries of the area added to the park pursuant to this section, the Secretary may acquire lands and interests in lands by donation, purchase with donated or appropriated funds, exchange, or transfer from other Federal departments or agencies.

(2) Where the private use of any property acquired pursuant to this subsection would, in the judgment of the Secretary, be compatible with the purposes of this section, the

Secretary may, as a condition of such acquisition, permit the owner or owners of such property to retain for themselves and their successors or assigns rights of use and occupancy. Such rights of use and occupancy shall be for not more than twenty-five years or for a term ending at the death of the owner or his or her spouse, whichever is later. The owner shall reserve such rights and elect the term to be reserved on the date of acquisition of the property. Except for so much of the property as is donated, the Secretary shall pay to the owner the fair market value of the property on the date of its acquisition, less the fair market value on that date of the right retained by the owner.

(3) A right of use and occupancy retained pursuant to paragraph (2) may be terminated by the Secretary upon his determination that the property or any portion thereof is being used in a manner which is incompatible with the purposes of this section. Such right shall terminate by operation of law upon notification by the Secretary to the holder of the right of such determination and tendering to him the amount equal to the fair market value of that portion which remains unexpired as of the date of such tender. In the case of any property which was used for noncommercial purposes during the ten calendar years immediately preceding the enactment of this Act, the commercial use of such property subsequent to the enactment of this Act shall be treated as incompatible with the purpose of this section. In the case of any property which was used for commercial purposes at any time during the ten calendar years immediately preceding the enactment of this Act, any substantial change or expansion of such commercial use subsequent to the enactment of this Act without the express approval of the Secretary shall be treated as incompatible with such purposes.

(4) In exercising his authority to acquire property under this section, the Secretary shall give prompt and careful consideration to any offer made by an individual owning property within the park to sell such property if such individual notifies the Secretary that the continued ownership of such property is causing, or would result in, undue hardship. Nothing in this section, or in any other provision of law, shall prevent the Secretary from exercising his authority to acquire property referred to in this subsection at any time after the date of the enactment of this Act.

(5) If any individual tract or parcel of land acquired is partly inside and partly outside the boundaries of the park the Secretary may, in order to minimize the payment of severance damages, acquire the whole of the tract or parcel.

(6) If the management plan prepared under subsection (e) provides for improved access to the area added to the park under this section, the Secretary is authorized to acquire, by donation, purchase with donated or appropriated funds, exchange or transfer from other Federal departments or agencies, the area comprising the road from State Route 198 to, and within, the Mineral King Valley together with a right-of-way for such road of a width sufficient to include improvements to the road and all bridges, ditches, cuts, and fills appurtenant thereto, but not exceeding a maximum average width of two hundred feet. Property acquired from the State or any political subdivision thereof may be acquired by donation only. With regard to routes of access to and within the Mineral King Valley, the Secretary shall take such measures as are necessary to protect against the effects of siltation on the ecosystem of the park.

(7) The Secretary shall report to the committees of the Congress named in subsection (b)(1) the action taken by him pursuant to this subsection. Such report shall contain information sufficient to inform such committees of—

(A) the acquisitions made by him pursuant to this subsection during the period covered by such report;

(B) his reasons why all of such property authorized to be acquired and not so acquired as of the date of such report, if any, have not been acquired; and

(C) his schedule of a timetable for the acquisition of such property referred to in subparagraph (B).

Such report shall be submitted before the expiration of the second fiscal year beginning after the date on which the comprehensive management plan is submitted to the committees of Congress pursuant to subsection (e).

(d)(1) The area added to the park by this section shall be administered in accordance with this section and the provisions of law generally applicable to units of the National Park System including the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. and following) and the Act of September 25, 1890 (26 Stat. 478; 16 U.S.C. 41 and following). Any other statutory authority available to the Secretary for the conservation and management of wildlife, wildlife habitat, and natural resources may be utilized to the extent he finds such authority will further the purposes of this section.

(2)(A) Except in the case of a lease or permit which the Secretary determines to be incompatible with the administration of the park pursuant to this section, any lease or permit on Federal land within the area added to the park under this section which is in effect immediately before the enactment of this Act shall continue in effect pursuant to its terms and conditions following the expansion of the park under this section.

(B) In the case of a lease or permit which is continued under subparagraph (A), upon notice to the Secretary by the lessee or permittee of his intention to seek renewal or extension of such lease or permit, the lease or permit shall be reviewed by the Secretary, and may be renewed or extended for an additional period of five years. Any such lease or permit shall be reviewed at the end of such renewal or extension period and may also be renewed or extended in the same manner for additional five-year periods thereafter. Any renewals or extensions of leases or permits shall be granted only to those persons who were lessees or permittees of record on the date of enactment of this Act, and any such lease or permit shall provide that the lease or permit may be terminated by the Secretary at any time if the Secretary determines that such lease or permit is incompatible with the administration of the park pursuant to this section or that the land is needed for park purposes.

(3) The Act of December 14, 1974 (88 Stat. 1660) is amended by inserting the following new section after section 4:

"SEC. 5. Notwithstanding any other provision of law, any federally owned lands incorporated within the boundaries of Sequoia National Park subsequent to the date of enactment of this Act, which entail project works, development, lands, or facilities which are components of Federal Power Commission Project Numbered 298, shall be subject to all provisions of this Act.".

(e)(1) Within two years from the date of enactment of this Act, the Secretary, in cooperation with the State of California, shall develop and submit to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate, a comprehensive management plan for the area added to the park under this section. In the preparation of such plan, the Secretary shall give appropriate consideration to the need for the development of additional recreational opportunities and other public uses which are consistent with sound environmental management of the area and the policies of the National Park Service.

(2)(A) In preparing the comprehensive management plan required by this subsection and in preparing any subsequent revision of such plan, the Secretary shall provide for full public participation and shall consider the comments and views of all interested agencies, organizations, and individuals.

(B) For purposes of insuring such full public participation, the Secretary shall provide reasonable advance notice to State and local governments, interested Federal agencies, private organizations, and the general public of hearings, workshops, meetings, and other opportunities available for such participation. Such notice shall be published in newspapers of general circulation in the localities affected by the development and management of the park, published in the Federal Register, and communicated by other appropriate means. The Western Regional Advisory Committee of the National Park Service (or a subcommittee thereof) shall also be utilized for purposes of facilitating public involvement.

(C) The Secretaries or Directors of all Federal departments, agencies, and commissions having a relevant expertise are hereby authorized and directed to cooperate with the Secretary in his development of such plan and to make such studies as the Secretary may request on a cost reimbursable basis.

(D) In preparing the comprehensive management plan required by this subsection, the Secretary shall consider technical information and other pertinent data assembled or produced by field studies or investigations conducted separately or jointly by the technical and administrative personnel of the Federal and State agencies involved in order to insure the permanent conservation of wildlife within the area added to the park by this section. Except in emergencies, rules and regulations pertaining to the management of wildlife within the area added to the park by this section shall be put into effect only after consultation with the State of California.

(f) There are hereby authorized to be appropriated such sums as may be necessary for the acquisition of land and interests therein described in this section.

(g) Effective upon the transfer referred to in subsection (b)(2), Public Law 85-648 (72 Stat. 604; 16 U.S.C. 45a-3) and section 6 of the Act of July 3, 1926 (44 Stat. 821; 16 U.S.C. 688) are hereby repealed. The repeal of such section 6 shall not be construed to prohibit or prevent the Secretary from exercising any authority applicable to the national parks respecting the protection of birds, game, or other wild animals.

(h) At such time as Walt Disney Productions shall agree to transfer title to any lands owned by the corporation within Mineral King Valley, and to hold the United States permanently free from any liability under or associated with the permit issued to it on January 10, 1966, as amended and revised, (i) the Secretary of Agriculture shall terminate the permit, and (ii) the Secretary of the Treasury is authorized to pay Walt Disney Productions not to exceed $1,200,000 as full reimbursement of funds expended by it under the terms of the permit, including costs incurred for land acquisition within Mineral King Valley. Nothing in this subsection or any payment made hereunder shall constitute an admission or acceptance of any liability on the part of the United States.

CUYAHOGA VALLEY NATIONAL RECREATION AREA

SEC. 315. (a) Section 2(a) of the Act of December 27, 1974, entitled "An Act to provide for the establishment of the Cuyahoga Valley National Recreation Area" (88 Stat. 1784) is amended by striking out "Boundary Map,

Cuyahoga Valley National Recreation Area, Ohio, numbered 90,000–A, and dated September 1976" and inserting in lieu thereof "Boundary May, Cuyahoga Valley National Recreation Area, Ohio, numbered 90,001–A, and dated May 1978,".

(b) Section 6(a) of such Act is amended by striking out "$41,100,000" and inserting in lieu thereof "$70,100,000".

(c) The first sentence of section 6(b) of such Act is amended to read as follows: "For the development of the recreation area, including improvements of properties acquired for purposes of this Act, there is authorized to be appropriated not more than $7,000,000".

(d) Section 2(e) of such Act is amended by adding the following at the end thereof: "In applying this subsection with respect to lands and interests therein added to the recreation area by action of the Ninety-Fifth Congress, the date 'January 1, 1978,' shall be substituted for the date 'January 1, 1975,' in each place it appears.".

(e) Section 4(f) of such Act is amended by inserting "(or intergovernmental organization)" after "local government" in each place it appears and by adding the following new sentence at the end thereof: "Assistance under this subsection may include payments for technical aid.".

(f) Section 2(a) is further amended by striking the period at the end thereof and adding the following, ": *Provided*, That with respect to the property known as the Hydraulic Brick Company located in Independence, Ohio, the Secretary shall have the first right of refusal to purchase such property for a purchase price not exceeding the fair market value of such property on the date it is offered for sale. When acquired such property shall be administered as part of the recreation area, subject to the laws and regulations applicable thereto.".

DELAWARE WATER GAP NATIONAL RECREATION AREA

SEC. 316. Section 2(a) of the Act entitled "An Act to authorize establishment of the Delaware Water Gap National Recreation Area, and for other purposes", approved September 1, 1965 (79 Stat. 612) is amended by adding the following at the end thereof: "Beginning on the date of the enactment of the National Parks and Recreation Act of 1978, the Secretary of the Interior is authorized to acquire for purposes of the recreation area established under this Act all lands and interests therein within the exterior boundaries of the area depicted on the drawing referred to in this subsection (including any lands within such exterior boundaries designated for acquisition by the Secretary of the Army in connection with the project referred to in this subsection). In exercising such authority, the Secretary of the Interior may permit the retention of rights of use and occupany in the same manner as provided in the case of acquisitions by the Secretary of the Army under subsection (d). On the date of enactment of the National Parks and Recreation Act of 1978, the acquisition authorities of any other Federal agency contained in this subsection shall terminate and the head of any other Federal agency shall transfer to the Secretary of the Interior jurisdiction over all lands and interests therein acquired by said agency under the authority of this Act, or any other authority of law which lands are within the exterior boundaries of the area depicted on the drawing referred to in this subsection. On the date of enactment of the National Parks and Recreation Act of 1978, all unexpended balances available to any other Federal agency for acquisition of land within the exterior boundaries referred to in the preceding sentence shall be transferred to the Secretary of the Interior to be used for such purposes. In carrying out his acquisition authority under this section the Secretary shall give priority to the following:

"(1) completion of acquisition of lands for which condemnation proceedings have been started pursuant to the authorization of the project referred to in this subsection;

"(2) acquisition of lands of beneficial owners, not being a corporation, who in the judgment of the Secretary would suffer hardship if acquisition of their lands were delayed;

"(3) acquisition of lands on which, in the judgment of the Secretary, there is an imminent danger of development that would be incompatible with the purposes of the recreation area;

"(4) acquisition of lands of beneficial owners, not being a corporation, who are willing to sell their lands provided they are able to continue to use it for noncommercial residential purposes for a limited period of time which will not, in the judgment of the Secretary, unduly interfere with the development of public use facilities for such national recreation area, pursuant to the authorization for such area;

"(5) acquisition of scenic easements when, in the judgment of the Secretary, such easements are sufficient to carry out the purposes for which such national recreation area was authorized; and

"(6) acquisition of lands necessary to preserve the integrity of the recreation area.".

GOLDEN GATE NATIONAL RECREATION AREA

SEC. 317. (a) Subsection 2(a) of the Act of October 27, 1972 (86 Stat. 1299), as amended (16 U.S.C. 459), is further amended to read as follows: "(a) The recreation area shall comprise the lands, waters, and submerged lands generally depicted on the map entitled 'Revised Boundary Map, Golden Gate National Recreation Area', numbered NRA–GG–80,003–K and dated October 1978. The authority of the Secretary to acquire lands in the tract known as San Francisco Assessor's Block number 1592 shall be limited to an area of not more than one and nine-tenths acres.".

(b) Section 3(i) of such Act is amended to read as follows:

"(i) New construction and development within the boundaries described in section 2(a) on lands under the administrative jurisdiction of a department other than that of the Secretary is prohibited, except that improvements on lands which have not been transferred to his administrative jurisdiction may be reconstructed or demolished. Any such structure which is demolished may be replaced with an improvement of similar size, following consultation with the Secretary or his designated representative, who shall conduct a public hearing at a location in the general vicinity of the area, notice of which shall be given at least one week prior to the date thereof. The foregoing limitation on construction and development shall not apply to expansion of those facilities known as Letterman General Hospital or the Western Medical Institute of Research.".

(c) Subsection 3(j) of such Act is amended to read as follows:

"(j) The owner of improved residential property or of agricultural property on the date of its acquisition by the Secretary under this Act may, as a condition of such acquisition, retain for himself and his or her heirs and assigns a right of use and occupancy for a definite term of not more than twenty-five years, or, in lieu thereof, for a term ending at the death of the owner or the death of his or her spouse, whichever is later. The owner shall elect the term to be reserved. Unless the property is wholly or partly donated to the United States, the Secretary shall pay to the owner the fair market value of the property on the date of acquisition minus the fair market value on that date of the right retained by the owner. A right retained pursuant to this section shall be subject to termination by the Secretary upon his or her determination that it is being exercised in a manner inconsistent with the purposes of this Act, and it shall terminate by operation of law upon the Secretary's notifying the holder of the right of such determination and tendering to him or her an amount equal to the fair market value of that portion of the right which remains unexpired. Where appropriate in the discretion of the Secretary, he or she may lease federally owned land (or any interest therein) which has been acquired by the Secretary under this Act, and which was agricultural land prior to its acquisition. Such lease shall be subject to such restrictive covenants as may be necessary to carry out the purposes of this Act. Any land to be leased by the Secretary under this section shall be offered first for such lease to the person who owned such land or who was a leaseholder thereon immediately before its acquisition by the United States.".

(d) In subsection 3(k) of such Act, following "June 1, 1971," insert "or, in the case of areas added by action of the Ninety-fifth Congress, October 1, 1978,"; and at the end of the subsection, add the following new sentence: "The term 'agricultural property' as used in this Act means lands which are in regular use for agricultural, ranching, or dairying purposes as of January 1, 1978, together with residential and other structures related to the above uses of the property as such structures exist on said date."

(e) Section 3 of such Act is amended by adding the following at the end thereof:

"(n) The Secretary shall accept and shall manage in accordance with this Act, any land and improvements adjacent to the recreation area which are donated by the State of California or its political subdivisions. The boundaries of the recreation area shall be changed to include such donated lands.

"(o) In acquiring those lands authorized by the Ninety-fifth Congress for the purposes of this Act, the Secretary may, when agreed upon by the landowner involved, defer payment or schedule payments over a period of ten years and pay interest on the unpaid balance at a rate not exceeding that paid by the Treasury of the United States for borrowing purposes."

(f) Section 4 of such Act is amended by adding the following at the end thereof:

"(e) No fees or admission charges shall be levied for admission of the general public to the recreation area except to portions under lease or permit for a particular and limited purpose authorized by the Secretary. The Secretary may authorize reasonable charges for public transportation and, for a period not exceeding five years from the date of enactment of this legislation, for admission to the sailing vessel Balclutha.

"(f) Notwithstanding any other provisions of law, in the administration of those parcels of property known as Haslett Warehouse, Cliff House Properties and Louis' Restaurant, the Secretary shall credit any proceeds from the rental of space in the aforementioned properties to the appropriation, if any, bearing the cost of their administration, maintenance, repair and related expenses and also for the maintenance, repair and related expenses of the vessels and the adjacent piers composing the National Maritime Museum, for major renovation and park rehabilitation of those buildings included in the Fort Mason Foundation Cooperative Agreement, and for a coordinated public and private access system to and within the recreation area and other units of the national park system in Marin and San Francisco Counties: *Provided*, That surplus funds, if any, will be deposited into the Treasury of the United States: *Provided further*, That notwithstanding any other provision of law, in the administration of said parcels the Secretary may, if he deems appropriate, enter into a contract for the management of said parcels of property with such terms and conditions as will protect the Government's interest, with excess funds being used as set worth above.".

(g) Section 5(b) of such Act is amended by changing the word "fifteen" to "seventeen".

POINT REYES NATIONAL SEASHORE

SEC. 318. (a) Section 2(a) of the Act of September 13, 1962 (76 Stat. 538) as amended (16 U.S.C. 459) is further amended as follows:

"SEC. 2. (a) The Point Reyes National Seashore shall consist of the lands, waters, and submerged lands generally depicted on the map entitled 'Boundary Map, Point Reyes National Seashore', numbered 612–80,008–E and dated May 1978.

"The map referred to in this section shall be on file and available for public inspection in the Offices of the National Park Service, Department of the Interior, Washington, District of Columbia. After advising the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate in writing, the Secretary may make minor revisions of the boundaries of the Point Reyes National Seashore when necessary by publication of a revised drawing or other boundary description in the Federal Register.".

(b) Section 5(a) of such Act is amended to read as follows:

"SEC. 5. (a) The owner of improved property or of agricultural property on the date of its acquisition by the Secretary under this Act may, as a condition of such acquisition, retain for himself and his or her heirs and assigns a right of use and occupancy for a definite term of not more than twenty-five years, or, in lieu thereof, for a term ending at the death of the owner or the death of his or her spouse, whichever is later. The owner shall elect the term to be reserved. Unless the property is wholly or partly donated to the United States, the Secretary shall pay to the owner the fair market value of the property on the date of acquisition minus the fair market value on that date of the right retained by the owner. A right retained pursuant to this section shall be subject to termination by the Secretary upon his or her determination that it is being exercised in a manner inconsistent with the purposes of this Act, and it shall terminate by operation of law upon the Secretary's notifying the holder of the right of such determination and tendering to him or her an amount equal to the fair market value of that portion of the right which remains unexpired. Where appropriate in the discretion of the Secretary, he or she may lease federally owned land (or any interest therein) which has been acquired by the Secretary under this Act, and which was agricultural land prior to its acquisition. Such lease shall be subject to such restrictive covenants as may be necessary to carry out the purposes of this Act. Any land to be leased by the Secretary under this section shall be offered first for such lease to the person who owned such land or was a leaseholder thereon immediately before its acquisition by the United States.".

(c) In subsection 5(b) of such Act, following "September 1, 1959," insert "or, in the case of areas added by action of the Ninety-fifth Congress, May 1, 1978,"; and at the end of the subsection, add the following new sentence: "The term 'agricultural property' as used in this Act means lands which were in regular use for, or were being converted to agricultural, ranching, or dairying purposes as of May 1, 1978, together with residential and other structures related to the above uses of the property.".

(d) Section 5 of such Act is amended by adding the following new subsection (c) to read as follows:

"(c) In acquiring those lands authorized by the Ninety-fifth Congress for the purposes of this Act, the Secretary may, when agreed upon by the landowner involved, defer payment or schedule payments over a period of ten years and pay interest on the unpaid balance at a rate not exceeding that paid by the Treasury of the United States for borrowing purposes.".

(e) Section 8 of such Act is renumbered section 9 and the following new section is inserted after section 7:

"SEC. 8. The Secretary shall cooperate with the Bolinas Public Utilities District to protect and enhance the watershed values within the seashore The Secretary may, at his or her discretion, permit the use and occupancy of lands added to the seashore by action of the Ninety-fifth Congress by the utilities district for water supply purposes, subject to such terms and conditions as the Secretary deems are consistent with the purposes of this Act.".

ANTIETAM NATIONAL BATTLEFIELD

SEC. 319. (a) In furtherance of the purposes of the Act entitled "An Act to provide for the protection and preservation of the Antietam Battlefield in the State of Maryland", approved April 22, 1960 (74 Stat. 79), and others Acts relative thereto, the Secretary is hereby authorized to acquire only scenic easements over the additional lands generally depicted on the map entitled "Boundary Map Antietam National Battlefield, Washington County, Maryland," numbered 302–80,005–A and dated June 1977.

(b) The Antietam National Battlefield Site established pursuant to such Act of April 22, 1960, including only scenic easements acquired pursuant to subsection (a) of this section, is hereby redesignated the "Antietam National Battlefield". The boundaries of such battlefield are hereby revised to include the area generally depicted on the map referenced in subsection (a) of this section, which shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior.

CHESAPEAKE AND OHIO CANAL NATIONAL HISTORICAL PARK

SEC. 320. Section 8(b) of the Act of January 8, 1971 (84 Stat. 1978) is amended by changing "$20,400,000" to "$28,400,000". The boundaries of the park are revised to include approximately 600 additional acres: *Provided, however,* That such additions shall not include any properties located between 30th Street and Thomas Jefferson Street in the northwest section of the District of Columbia.

ALIBATES FLINT QUARRIES AND TEXAS PANHANDLE PUEBLO CULTURE NATIONAL MONUMENT

SEC. 321. (a) The first section of the Act of August 31, 1965 (79 Stat. 587) is amended by adding at the end thereof the following: "The national monument shall comprise the area generally depicted on the map entitled 'Boundary Map, Alibates Flint Quarries', numbered 4382–80,021, and dated November 1976. Minor boundary adjustments may be made from time to time by the Secretary.".

(b) Section 3 of such Act is amended by deleting "$260,000" and inserting "$4,291,000"

(c) The Act of August 31, 1965 (79 Stat. 587) is hereby amended to redesignate the Alibates Flint Quarries and Texas Panhandle Pueblo Culture National Monument as the Alibates Flint Quarries National Monument.

FIRE ISLAND NATIONAL SEASHORE

SEC. 322. (a) Subsection 1(b) of the Act of September 11, 1964 (78 Stat. 928), as amended, is further amended to read as follows:

"(b) The boundaries of the national seashore shall extend from the easterly boundary of the main unit of Robert Moses State Park eastward to Moriches Inlet and shall include not only Fire Island proper, but also such islands and marshlands in the Great South Bay, Bellport Bay, and Moriches Bay adjacent to Fire Island as Sexton Island, West Island, Hollins Island, Ridge Island, Pelican Island, Pattersquash Island, and Reeves Island and such other small and adjacent islands, marshlands, and wetlands as would lend themselves to contiguity and reasonable administration within the national seashore and, in addition, the waters surrounding said area to distances of one thousand feet in the Atlantic Ocean and up to four thousand feet in Great South Bay and Moriches Bay and, in addition, mainland terminal and headquarters sites, not to exceed a total of twelve acres, on the Patchogue River within Suffolk County, New York, all as delineated on a map identified as 'Fire Island National Seashore', numbered OGP–0004, dated May 1978. The Secretary shall publish said map in the Federal Register, and it may also be examined in the offices of the Department of the Interior.".

(b) Section 2 of such Act is amended by—

(1) striking out "with one exception,";

(2) striking out "the sole exception" and substituting "an exception,"; and

(3) adding the following new subsection at the end thereof:

"(g) Notwithstanding the limitations of subsection (e)—

"(1) the authority of the Secretary to condemn undeveloped tracts within the Dune District as depicted on map entitled 'Fire Island National Seashore' numbered OGP–0004 dated May 1978, is suspended so long as the owner or owners of the undeveloped property therein maintain the property in its natural state.

(c) Section 7(b) of such Act is amended by striking the phrase "Brookhaven town park at", and inserting in lieu thereof: "Ocean Ridge portion of".

(d) Section 10 of such Act is amended by striking "$18,000,000", and inserting in lieu thereof "$23,000,000".

CUMBERLAND ISLAND NATIONAL SEASHORE

SEC. 323. Section 1 of the Act of October 23, 1972 (86 Stat. 1066), is amended by changing the phrase "numbered CU'S–40,000B, and dated June 1971,", to read "numbered CUIS 40,000D, and dated January 1978,".

TITLE IV—WILDERNESS

DESIGNATION OF AREAS

SEC. 401. The following lands are hereby designated as wilderness in accordance with section 3(c) of the Wilderness Act (78 Stat. 890; 16 U.S.C. 1132(c)), and shall be administered by the Secretary in accordance with the applicable provisions of the Wilderness Act:

(1) Buffalo National River, Arkansas, wilderness comprising approximately ten thousand five hundred and twenty-nine acres and potential wilderness additions comprising approximately twenty-five thousand four hundred and seventy-one acres depicted on a map entitled "Wilderness Plan, Buffalo National River, Arkansas", numbered 173–20,036–B and dated March 1975, to be known as the Buffalo National River Wilderness

(2) Carlsbad Caverns National Park, New Mexico, wilderness comprising approximately thirty-three thousand one hundred and twenty-five acres and potential wilderness additions comprising approximately three hundred and twenty acres, depicted on a map entitled "Wilderness Plan, Carlsbad Caverns National Park, New Mexico," numbered 130–20,003 B and dated January 1978, to be known as the Carlsbad Caverns Wilderness. By January 1, 1980, the Secretary shall review the remainder of the Park and shall report to the President, in accordance with section 3(c) and (d) of the Wilderness Act (78 Stat. 891; 16 U.S.C. 1132(c) and (d)), his recommendations as to the suitability or nonsuitability of any additional areas within the Park for preservation as wilderness, and any designation of such areas as wilderness shall be accomplished in accordance with said subsections of the Wilderness Act.

(3) Everglades National Park, Florida, wilderness comprising approximately one million two hundred and ninety-six thousand five hundred acres and potential wilderness additions comprising approximately eighty-one thousand nine hundred acres, depicted on a map entitled "Wilderness Plan, Everglades National Park, Florida", numbered 160-20,011 and dated June 1974, to be known as the Everglades Wilderness.

(4) Guadalupe Mountains National Park, Texas, wilderness comprising approximately forty-six thousand eight hundred and fifty acres, depicted on a map entitled "Wilderness Plan, Guadalupe Mountains National Park, Texas", numbered 166-20,006-B and dated July 1972, to be known as the Guadalupe Mountains Wilderness.

(5) Gulf Islands National Seashore, Florida, and Mississippi, wilderness comprising approximately one thousand eight hundred acres and potential wilderness additions comprising approximately two thousand eight hundred acres, depicted on a map entitled "Wilderness Plan, Gulf Islands National Seashore, Mississippi, Florida", numbered 635-20,018-A and dated March 1977, to be known as the Gulf Islands Wilderness.

(6) Hawaii Volcanoes National Park, Hawaii, wilderness comprising approximately one hundred and twenty-three thousand one hundred acres and potential wilderness additions comprising approximately seven thousand eight hundred and fifty acres, depicted on a map entitled "Wilderness Plan, Hawaii Volcanoes National Park, Hawaii", numbered 124-20,020 and dated April 1974, to be known as the Hawaii Volcanoes Wilderness.

(7) Organ Pipe Cactus National Monument, Arizona, wilderness comprising approximately three hundred and twelve thousand six hundred acres and potential wilderness additions comprising approximately one thousand two hundred and forty acres, depicted on a map entitled "Wilderness Plan, Organ Pipe Cactus National Monument, Arizona", numbered 157-20,001-A and dated January 1978, to be known as the Organ Pipe Cactus Wilderness.

(8) Theodore Roosevelt National Memorial Park, North Dakota, wilderness comprising approximately twenty-nine thousand nine hundred and twenty acres, depicted on maps entitled "Theodore Roosevelt National Memorial Park, North Dakota" (North Unit and South Unit) numbered 387-20,007-E and dated January 1978, to be known as the Theodore Roosevelt Wilderness.

MAP AND DESCRIPTION

SEC. 402. A map and description of the boundaries of the areas designated in this title shall be on file and available for public inspection in the office of the Director of the National Park Service, Department of the Interior, and in the Office of the Superintendent of each area designated in this title. As soon as practicable after this Act takes effect, maps of the wilderness areas and descriptions of their boundaries shall be filed with the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural resources of the United States Senate, and such maps and descriptions shall have the same force and effect as if included in this Act: *Provided*, That correction of clerical and typographical errors in such maps and descriptions may be made.

CESSATION OF CERTAIN USES

SEC. 403. Any lands which represent potential wilderness additions in this title, upon publication in the Federal Register of a notice by the Secretary that all uses thereon prohibited by the Wilderness Act have ceased, shall thereby be designated wilderness. Lands designated as potential wilderness additions shall be managed by the Secretary insofar as practicable as wilderness until such time as said lands are designated as wilderness.

ADMINISTRATION

SEC. 404. The areas designated by this Act as wilderness shall be administered by the Secretary of the Interior in accordance with the applicable provisions of the Wilderness Act governing areas designated by that Act as wilderness, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this Act, and, where appropriate, any reference to the Secretary of Agriculture shall be deemed to be a reference to the Secretary of the Interior.

SAVINGS PROVISIONS

SEC. 405. Nothing in this title shall be construed to diminish the authority of the Coast Guard, pursuant to sections 2 and 81 of title 14, United States Code, and title 1 of the Ports and Waterways Safety Act of 1972 (33 U.S.C. 1221), or the Federal Aviation Administration to use the areas designated wilderness by this Act within the Everglades National Park, Florida; and the Gulf Islands National Seashore, Florida and Mississippi, for navigational and maritime safety purposes.

TITLE V—ESTABLISHMENT OF NEW AREAS AND ADDITIONS TO NATIONAL TRAILS SYSTEM

Subtitle A—Parks, Seashores, Etc.

GUAM NATIONAL SEASHORE

SEC. 501. (a) The Secretary, through the Director of the National Park Service, shall revise and update the National Park Service study of the Guam National Seashore and, after consultation with the Secretary of the Department of Defense and the Governor of Guam, shall transmit the revised study within two years to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives including his recommendations and a series of options for congressional consideration each of which—

(1) will encompass the area from Ajayan Bay to Nimitz Beach including Cocos and Anac Islands and extending inland as far as the Fena Valley Reservoir and Mount Sasalaguan, and

(2) if implemented, will afford protection to the natural and historic resources of the area as well as providing visitor access and interpretive services.

(b) The Secretary, and the Secretary of the Department of Defense, shall take such actions as they may deem appropriate within their existing authorities to protect the resource values of the submerged lands within the area of the study referred to in subsection (a) of this section.

PINE BARRENS AREA, NEW JERSEY

SEC. 502. (a) For the purposes of this section—

(1) The term "Pine Barrens" means the area within the State consisting of approximately nine hundred and seventy thousand acres, described by the "Land and Water Line" appearing at Plate D of the 1976 Bureau of Outdoor Recreation Report (Department of the Interior) entitled "New Jersey Pine Barrens: Concepts for Preservation" (referred to hereinafter in this section as the "1976 BOR Report").

(2) The term "State" means the State of New Jersey.

(b) The Secretary shall prepare and, after appropriate public hearings (at least one of which shall be held within the Pine Barrens), submit to Congress within eighteen months after the date of enactment of this Act, a plan to conserve the natural resource values of the Pine Barrens, Congress shall have the power to disapprove such plan within one hundred and eighty days of its submission. If the Governor of the State notifies the Secretary in writing that the State wishes to participate in the preparation of the plan, the Secretary and such officers or citizens of the State as the Governor may designate shall jointly prepare the plan. If the States does not so participate, the Secretary shall consult with the Governor during the preparation of the plan.

(c) The plan shall—

(1) Provide for a resource assessment which determines the overall carrying capacity of the Pine Barrens. Such resource assessment shall include but not be limited to—

(A) water supply and water quality;

(B) natural hazards, including fire;

(C) endangered, unique, and unusual plants, animals, fish, and biotic communities;

(D) ecological factors relating to the production and enhancement of blueberry and cranberry production and other agricultural activity;

(E) air quality;

(F) scenic, esthetic, and open space resources of the Pine Barrens together with a determination of the overall policies required to maintain and enhance these resources;

(G) the outdoor recreation resources and potentials together with a determination of policies required to utilize, protect, and enhance these resources and potentials; and

(H) existing land use patterns throughout the Pine Barrens, as well as alternative beneficial uses of the Pine Barrens.

(2) Propose boundaries for the following areas, which shall be based upon the assessments referred to in subparagraphs (A) through (H) of paragraph (1) of—

(A) the overall Pine Barrens region, with due consideration given the "Land and Water Line" of the 1976 BOR Report, which should be comprehensively managed so as to conserve, protect, or enhance the ecological, wildlife, historical, agricultural, scenic, recreational, cultural, and educational resources of the Pine Barrens, and

(B) those subareas within such region which are of critical ecological importance and with respect to which immediate actions should be taken by the State or the Federal Government, or both, in order to protect such subareas from uses which are incompatible with the conservation, protection, and enhancement of the natural resources of such subareas.

(3) Recommend State and Federal actions which should be implemented to conserve, protect, and enhance the natural resource values of the Pine Barrens.

(d) There are authorized to be appropriated not to exceed $1,000,000 to the Secretary for the purposes of carrying out the planning activities required under subsection (c). From amounts so appropriated, the Secretary shall reimburse the State for reasonable costs incurred by the State in participating in the joint preparation of the plan.

(e) Pursuant to the intent of this section, the Secretary shall acquire certain lands within the Pine Barrens which are manifestly of critical ecological importance. Such lands shall include, but not be limited to, the area known as "the Plains" and described on pages 2 and 21 of the 1976 BOR Report, and may be acquired prior to the completion of the plan. Any lands so acquired shall be managed by the Secretary in a manner appropriate to conserve, protect, and enhance the natural resource values of the land until such time as he believes it in the best interests of proper ecological management to transfer such land to a qualified State or multijurisdictional Pine Barrens management agency having the authority and capability to plan for and manage land comprehensively in the Pine Barrens region. If the Secretary wishes to make such a transfer of any land acquired under this section, he shall make such transfer conditional upon

appropriate ecological management practices, enforceable by a right of reverter to the United States.

(f) For the purposes of acquiring land described in subsection (e), there are authorized to be appropriated not to exceed $25,000,000.

EDGAR ALLAN POE NATIONAL HISTORIC SITE

SEC. 503. (a) In recognition of the literary importance attained by Edgar Allan Poe, there is hereby authorized to be established the Edgar Allan Poe National Historic Site.

(b) The Secretary is authorized to acquire by donation, purchase or exchange the lands and buildings within the area described in subsection (c). The lands and buildings acquired by the Secretary under this section shall comprise the Edgar Allan Poe National Historic Site and shall be administered by the Secretary through the National Park Service. The Secretary shall administer, maintain, protect, and develop the site subject to the provisions of law generally applicable to national historic sites.

(c) The lands and buildings specified in subsection (b) comprise that area of Philadelphia, Pennsylvania, known as the Poe House complex and includes the house at the rear of 530 North Seventh Street, the adjoining three-story brick residence on the front of the land backing up to and including the building at 532 North Seventh Street, and the North Garden of approximately seven thousand and eighty square feet and the South Garden of approximately nine thousand three hundred and fifty square feet.

(d) As soon as the Secretary finds that a substantial portion of the acquisition authorized under subsection (b) has been completed, he shall establish the Edgar Allen Poe National Historic Site by publication of notice thereof in the Federal Register.

(e) There are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this section.

SAINT PAUL'S CHURCH, EASTCHESTER

SEC. 504. (a) In order to preserve and protect Saint Paul's Church, Eastchester, in Mount Vernon, New York, for the benefit of present and future generations, the Secretary may accept any gift or bequest of any property or structure which comprises such church and any other real or personal property located within the square bounded by South Columbus Avenue, South Third Avenue, Edison Avenue, and South Fulton Avenue, in Mount Vernon, New York, including the cemetery located within such square and any real property located within such square which was at any time a part of the old village green, now in Mount Vernon, New York.

(b) Any property acquired under subsection (a) shall be administered by the Secretary acting through the National Park Service, in accordance with this section and provisions of law generally applicable to units of the National Park System, including the Act approved August 25, 1916 (16 U.S.C. 1 and following) and the Act approved August 21, 1935. The Secretary, in carrying out the provisions of such Acts (i) shall give particular attention to assuring the completion of such structural and other repairs as he considers necessary to restore and preserve any property acquired in accordance with this section, and (ii) may enter into cooperative agreements with other public or private entities for the management, protection, development, and interpretation, in whole or in part, of the property so acquired.

KALOKO-HONOKOHAU NATIONAL HISTORICAL PARK

SEC. 505. (a) In order to provide a center for the preservation, interpretation, and perpetuation of traditional native Hawaiian activities and culture, and to demonstrate historic land use patterns as well as to provide a needed resource for the education, enjoyment, and appreciation of such traditional native Hawaiian activities and culture by local residents and visitors, there is established the Kaloko-Honokohau National Historical Park (hereinafter in this section referred to as the "park") in Hawaii comprising approximately one thousand three hundred acres as generally depicted on the map entitled "Paloko-Honokohau National Historical Park", numbered KHN–80,000, and dated May 1978, which shall be on file and available for public inspection in the appropriate offices of the National Park Service, Department of the Interior.

(b) Except for any lands owned by the State of Hawaii or its subdivisions, which may be acquired only by donation, the Secretary is authorized to acquire the lands described above by donation, exchange, or purchase through the use of donated or appropriated funds, notwithstanding any prior restriction of law.

(c) The Secretary shall administer the park in accordance with this section and the provisions of law generally applicable to units of the national park system, including the Acts approved August 25, 1916 (39 Stat. 535; 16 U.S.C. 461–467), and August 21, 1935 (49 Stat. 666; 16 U.S.C. 461 et seq.), and generally in accordance with the guidelines provided in the study report entitled "Kaloko-Honokohau" prepared by the Honokohau Study Advisory Commission and the National Park Service, May 1974, GPO 690–514.

(d) (1) In administering the park the Secretary may provide traditional native Hawaiian accommodations.

(2) The Secretary shall consult with and may enter into a cooperative management agreement with the State of Hawaii for the management of the submerged lands within the authorized park boundary, following the marine management policies of the State of Hawaii.

(2) Commercial, recreational, and subsistence fishing and shoreline food gathering activities as well as access to and from the Honokohau small boat harbor by motor boats and other water craft shall be permitted wherever such activities are not inconsistent with the purposes for which the park is established, subject to regulation by the Secretary.

(4) The Secretary shall consult with and may enter into agreements with other governmental entities and private landowners to establish adequate controls on air and water quality and the scenic and esthetic values of the surrounding land and water areas. In consulting with and entering into any such agreements, the Secretary shall to the maximum extent feasible utilize the traditional native Hawaiian Ahupua's concept of land and water management.

(e) In carrying out the purposes of this section the Secretary is authorized and directed to employ native Hawaiians.

(f) (1) There is hereby established the Kaloko-Honokohau Na Hoa Pili O Kalokohau (The Friends of Kaloko-Honokohau), an Advisory Commission for the park. The Commission shall be composed of nine members, appointed by the Secretary, at least five of whom shall be selected from nominations provided by native Hawaiian organizations. All members of the Commission shall be residents of the State of Hawaii, and at least six members shall be native Hawaiians. Members of the Commission shall be appointed for five-year terms except that initial appointment(s) shall consist of two members appointed for a term of five years, two for a term of four years, two for a term of three years, two for a term of two years, and one for a term of one year. No member may serve more than one term consecutively.

(2) The Secretary shall designate one member of the Commission to be Chairman. Any vacancy in the Commission shall be filled by appointment for the remainder of the term.

(3) Members of the Commission shall serve without compensation. The Secretary is authorized to pay the expenses reasonably incurred by the Commission in carrying out its responsibilities under this section on vouchers signed by the Chairman.

(4) The Superintendent of the park, the National Park Service State Director, Hawaii, a person appointed by the Governor of Hawaii, and a person appointed by the mayor of the county of Hawaii, shall serve as exofficio nonvoting members of the Commission.

(5) The Commission shall advise the Director, National Park Service, with respect to the historical, archeological, cultural, and interpretive programs of the park. The Commission shall afford particular emphasis to the quality of traditional native Hawaiian culture demonstrated in the park.

(6) The Commission shall meet not less than twice a year. Additional meetings may be called by the Chairman.

(7) The Advisory Commission shall terminate ten years after the date of enactment of this Act.

(g) There are hereby authorized to be appropriated not to exceed $25,000,000 for acquisition and $1,000,000 for development.

PALO ALTO BATTLEFIELD NATIONAL HISTORIC SITE

"SEC. 506. (a) In order to preserve and commemorate for the benefit and enjoyment of present and future generations an area of unique historical significance as one of only two important battles of the Mexican War fought on American soil, the Secretary is authorized to establish the Palo Alto Battlefield National Historic Site in the State of Texas.

(b) For the purposes of this section, the Secretary is authorized to acquire by donation, purchase, or exchange, not to exceed fifty acres of lands and interests therein, comprising the initial unit, in the vicinity of the site of the battle of Palo Alto, at the junction of Farm Roads 1847 and 511, 6.3 miles north of Brownsville, Texas. The Secretary shall complete a study and recommend to the Congress such additions as are required to fully protect the historic integrity of the battlefield by June 30, 1979. The Secretary shall establish the historic site by publication of a notice to that effect in the Federal Register at such time as he determines that sufficient property to constitute an administrable unit has been acquired. Pending such establishment and thereafter, the Secretary shall administer the property acquired pursuant to this section in accordance with this section and provisions of law generally applicable to units of the National Park System, including the Act of August 25, 1916 (39 Stat. 535) and the Act of August 21, 1935 (49 Stat. 666).

(c) There are authorized to be appropriated such sums as may be necessary for lands and interests in lands and $200,000 for development to carry out the provisions of this section.

SANTA MONICA MOUNTAINS NATIONAL RECREATIONAL AREA

SEC. 507. (a) The Congress find that—

(1) there are significant scenic, recreational, educational, scientific, natural, archeological, and public health benefits provided by the Santa Monica Mountains and adjacent coastline area;

(2) there is a national interest in protecting and preserving these benefits for the residents of and visitors to the area; and

(3) the State of California and its local units of government have authority to prevent or minimize adverse uses of the Santa Monica Mountains and adjacent coastline area and can, to a great extent, protect the health, safety, and general welfare by the use of such authority.

(b) There is hereby established the Santa Monica Mountains National Recreation Area (hereinafter referred to as the "recreation area"). The Secretary shall manage the recreation area in a manner which will preserve and enhance its scenic, natural, and histori-

cal setting and its public health value as an airshed for the Southern California metropolitan area while providing for the recreational and educational need of the visiting public.

(c)(1) The recreation area shall consist of the lands and waters and interests generally depicted as the recreation area on the map entitled "Boundary Map, Santa Monica Mountains National Recreation Area, California, and Santa Monica Mountains Zone", numbered SMM-NRA 80,000, and dated May 1978, which shall be on file and available for inspection in the offices of the National Park Service, Department of the Interior, Washington, District of Columbia, and in the offices of the General Services Administration in the Federal Office Building in West Los Angeles, California, and in the main public library in Ventura, California. After advising the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate, in writing, the Secretary may make minor revisions of the boundaries of the recreation area when necessary by publication of a revised drawing or other boundary description in the Federal Register.

(2) Not later than ninety days after the date of enactment of this Act, the Secretary, after consultation with the Governor of the State of California, the California Coastal Commission, and the Santa Monica Mountains Comprehensive Planning Commission, shall commerce acquisition of lands, improvements, waters, or interests therein within the recreation area. Such acquisition may be by donation, purchase with donated or appropriated funds, transfer from any Federal agency, exchange, or otherwise. Any lands or interests therein owned by the State of California or any political subdivision thereof (including any park district or other public entity) may be acquired only by donation, except that such lands acquired after the date of enactment of this section by the State of California or its political subdivisions may be acquired by purchase or exchange if the Secretary determines that the lands were acquired for purposes which further the national interest in protecting the area and that the purchase price or value on exchange does not exceed fair market value on the date that the State acquired the land or interest. Notwithstanding any other provision of law, any Federal property located within the boundaries of the recreation area shall, with the concurrence of the head of the agency having custody thereof, be transferred without cost, to the administrative jurisdiction of the Secretary for the purposes of the recreation area.

(3) The Administrator of the General Services Administration is hereby authorized and directed to transfer the site generally known as Nike Site 78 to the Secretary for inclusion in the recreation area: *Provided*, That the county of Los Angeles shall be permitted to continue to use without charge the facilities together with sufficient land as in the determination of the Secretary shall be necessary to continue to maintain and operate a fire suppression and training facility and shall be excused from payment for any use of the land and facilities on the site prior to the enactment of this Act. At such time as the county of Los Angeles, California, relinquishes control of such facilities and adjacent land or ceases the operation of the fire suppression and training facility, the land and facilities shall be managed by the Secretary as a part of the recreation area.

(d)(1) Within six months after the date of enactment of this Act, the Secretary shall identify the lands, waters, and interests within the recreation area which must be acquired and held in public ownership for the following critical purposes: preservation of beaches and coastal uplands; protection of undeveloped inland stream drainage basins; connection of existing State and local government parks and other publicly owned lands to enhance their potential for public recreation use; protection of existing park roads and scenic corridors, including such right-of-way as is necessary for the protection of the Mulholland Scenic Parkway Corridor; protection of the public health and welfare; and development and interpretation of historic sites and recreation areas in connection therewith, to include, but not be limited to, parks, picnic areas, scenic overlooks, hiking trails, bicycle trails, and equestrian trails. The Secretary may from time to time revise the identification of such areas, and any such revisions shall become effective in the same manner as herein provided for revisions in the boundaries of the recreation area.

(2) By January 1, 1980, the Secretary shall submit, in writing, to the committees referred to in subsection (c) and to the Committees on Appropriations of the United States Congress a detailed plan which shall indicate—

(A) the lands and areas identified in paragraph (1),

(B) the lands which he has previously acquired by purchase, donation, exchange, or transfer for the purpose of this recreation area,

(C) the annual acquisition program (including the level of funding) recommended for the ensuing five fiscal years, and

(D) the final boundary map for the recreation area.

(e) With respect to improved properties, as defined in this section, fee title shall not be acquired unless the Secretary finds that such lands are being used, or are threatened with uses, which are detrimental to the purposes of the recreation area, or unless each acquisition is necessary to fulfill the purposes of this section. The Secretary may acquire scenic easements to such improved property or such other interests as, in his judgment are necessary for the purposes of the recreation area.

(f) For the purposes of this section, the term "improved property" means—

(1) a detached single-family dwelling, the construction of which was begun before January 1, 1976 (hereafter referred to as "dwelling"), together with so much of the land on which the dwelling is situated as is in the same ownership as the dwelling and as the Secretary designates to be reasonably necessary for the enjoyment of the dwelling for the sole purpose of noncommercial residential use, together with any structures necessary to the dwelling which are situated on the land so designated, and

(2) property developed for agricultural uses, together with any structures accessory thereto as were used for agricultural purposes on or before January 1, 1978.

In determining when and to what extent a property is to be treated as "improved property" for purposes of this section, the Secretary shall take into consideration the manner of use of such buildings and lands prior to January 1, 1978, and shall designate such lands as are reasonably necessary for the continued enjoyment of the property in the same manner and to the same extent as existed prior to such date.

(g) The owner of an improved property, as defined in this section, on the date of its acquisition, as a condition of such acquisition, may retain for herself or himself, her or his heirs and assigns, a right of use and occupancy of the improved property for noncommercial residential or agriculture purposes, as the case may be, for a definite term of not more than twenty-five years, or, in lieu thereof, for a term ending at the death of the owner or the death of her or his spouse, whichever is later. The owner shall elect the term to be reserved. Unless the property is wholly or partially donated, the Secretary shall pay to the owner the fair market value of the property on the date of its acquisition, less the fair market value on that date of the right retained by the owner. A right retained by the owner pursuant to this section shall be subject to termination by the Secretary upon his determination that it is being exercised in a manner inconsistent with the purposes of this section, and it shall terminate by operation of law upon notification by the Secretary to the holder of the right of such determination and tendering to him the amount equal to the fair market value of that portion which remains unexpired.

(h) In exercising the authority to acquire property under this section, the Secretary shall give prompt and careful consideration to any offer made by an individual owning property within the recreation area to sell such property, if such individual notifies the Secretary that the continued ownership of such property is causing, or would result in, undue hardship.

(i) The Secretary shall administer the recreation area in accordance with this Act and provisions of laws generally applicable to units of the National Park System, including the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1 et seq.). In the administration of the recreation area, the Secretary may utilize such statutory authority available for the conservation and management of wildlife and natural resources as appropriate to carry out the purpose of this section. The fragile resource areas of the recreation area shall be administered on a low-intensity basis, as determined by the Secretary.

(j) The Secretary may enter into cooperative agreements with the State of California, or any political subdivision thereof, for the rendering, on a reimbursable basis, of rescue, firefighting, and law enforcement services and cooperative assistance by nearby law enforcement and fire preventive agencies.

(k) Notwithstanding any other provision of law, the Secretary is authorized to accept donations of funds, property, or services from individuals, foundations, corporations, or public entities for the purpose of land acquisition and providing services and facilities which the Secretary deems consistent with the purposes of this section.

(l) By January 1, 1981, the Santa Monica Mountains National Recreation Area Advisory Commission, established by this section, shall submit a report to the Secretary which shall—

(1) assess the capability and willingness of the State of California and the local units of government to manage and operate the recreation area,

(2) recommend any changes in ownership, management, and operation which would better accomplish the purposes of this section, and

(3) recommend any conditions, joint management agreements, or other land use mechanisms to be contingent on any transfer of land.

(m) The Secretary, after giving careful consideration to the recommendations set forth by the Advisory Commission, shall, by January 1, 1982, submit a report to the Committees referred to in subsection (c) which shall incorporate the recommendations of the Advisory Commission as well as set forth the Secretary's recommendation. Such report shall—

(1) assess the benefits and costs of continued management as a unit of the National Park System,

(2) assess the capability and willingness of the State of California and the local units of government to manage and operate the recreation area, and

(3) recommend any changes in ownership, management, and operation which would

better accomplish the purposes of this section.

(n)(1) The Secretary shall request the Santa Monica Mountains Comprehensive Planning Commission to submit a comprehensive plan, prepared in accord with this section and title 7.75 of the California Government Code (commencing with section 67450), for the Santa Monica Mountains Zone generally depicted on the map referred to in subsection (c) of this section for approval.

(2) The comprehensive plan shall include, in addition to the requirements of California State law—

(A) an identification and designation of public and private uses which are compatible with and which would not significantly impair the significant scenic, recreational, educational, scientific, natural, archeological, and public health benefits present in the zone and which would not have an adverse impact on the recreation area or on the air quality of the south coast air basin;

(B) a specific minimum land acquisition program which shall include, but not be limited to, fee and less than fee acquisition of strategic and critical sites not to be acquired by the Federal Government for public recreational and other related uses; and a program for the complementary use of State and local authority to regulate the use of lands and waters within the Santa Monica Mountains Zone to the fullest extent practicable consistent with the purposes of this section; and

(C) a recreation transportation system which may include but need not be limited to existing public transit.

(3) No plan submitted to the Secretary under this section shall be approved unless the Secretary finds the plan consistent with paragraph (2) and finds that—

(A) the planning commission has afforded adequate opportunity, including public hearings, for public involvement in the preparation and review of the plan, and public comments were received and considered in the plan or revision as presented to him;

(B) the State and local units of government identified in the plan as responsible for implementing its provisions have the necessary authority to implement the plan and such State and local units of government have indicated their intention to use such authority to implement the plan;

(C) the plan, if implemented, would preserve significant natural, historical, and archeological benefits and, consistent with such benefits, provide increased recreational opportunities for persons residing in the greater Los Angeles-Southern California metropolitan area; and

(D) implementation of the plan would not have a serious adverse impact on the air quality or public health of the greater Los Angeles region.

Before making his findings on the air quality and public health impacts of the plan, the Secretary shall consult with the Administrator of the Environmental Protection Agency.

(4) Following approval of the plan with respect to the Santa Monica Mountains Zone, upon receipt of adequate assurances that all aspects of that jurisdiction's implementation responsibilities will be adopted and put into effect, the Secretary shall—

(A) provide grants to the State and through the State to local governmental bodies for acquisition of lands, waters, and interests therein identified in paragraph (2)(B), and for development of essential public facilities, except that such grants shall be made only for the acquisition of lands, waters, and interests therein, and related essential public facilities, for park, recreation, and conservation purposes; and

(B) provide, subject to agreements that in the opinion of the Secretary will assure additional preservation of the lands and waters of the zone, such funds as may be necessary to retire bonded indebtedness for water and sewer and other utilities already incurred by property owners which in the opinion of the Secretary would if left outstanding contribute to further development of the zone in a manner inconsistent with the approved plan developed by the planning commission. No grant for acquisition of land may be made under subparagraph (A) unless the Secretary receives satisfactory assurances that such lands acquired under subparagraph (A) shall not be converted to other than park, recreation, and conservation purposes without the approval of the Secretary and without provision for suitable replacement land.

(5) Grants under this section shall be made only upon application of the recipient State and shall be in addition to any other Federal financial assistance for any other program, and shall be subject to such terms and conditions as the Secretary deems necessary to carry out the purposes of this section. Any jurisdiction that implements changes to the approved plan which are inconsistent with the purposes of this section, or adopts or acquiesces in changes to laws, regulations, or policies necessary to implement or protect the approved plan, without approval of the Secretary, may be liable for reimbursement of all funds previously granted or available to it under the terms of this section without regard to such additional terms and conditions or other requirements of law that may be applicable to such grants. During the life of the planning commission, changes to the plan must be submitted by the planning commission to the Secretary for approval. No such application for a grant may be made after the date five years from the date of the Secretary's approval of the plan.

(o) The head of any Federal agency having direct or indirect jurisdiction over a proposed Federal or federally assisted undertaking in the lands and waters within the Santa Monica Mountains Zone, generally depicted on the map referred to in subsection (c), and the head of any Federal agency having authority to license or permit any undertaking in such lands and waters shall, prior to the approval of the expenditure of any Federal funds on such undertaking or prior to the issuance of any license or permit, as the case may be, afford the Secretary a reasonable opportunity to comment with regard to such undertaking and shall give due consideration to any comments made by the Secretary and to the effect of such undertaking on the "findings" and purposes of this section: *Provided*, That no such expenditure shall be approved nor shall any such license or permit be issued which, in the judgment of the Secretary, would be inconsistent with the purposes of this section or the comprehensive plan approved by the Secretary.

(p) The Secretary shall give full consideration to the recommendations of the California Department of Parks and Recreation, the Santa Monica Mountains Comprehensive Planning Commission, and the California Coastal Commission.

(q)(1) There is hereby established the Santa Monica Mountains National Recreation Area Advisory Commission (hereinafter referred to as the "Advisory Commission"). The Advisory Commission shall terminate ten years after the date of establishment of the recreation area.

(2) The Advisory Commission shall be composed of the following members to serve for terms of five years as follows:

(A) one member appointed by the Governor of the State of California;

(B) one member appointed by the mayor of the city of Los Angeles;

(C) one member appointed by the Board of Supervisors of Los Angeles County;

(D) one member appointed by the Board of Supervisors of Ventura County; and

(E) five members appointed by the Secretary, one of whom shall serve as the Commission Chairperson.

(3) The Advisory Commission shall meet on a regular basis. Notice of meetings and agenda shall be published in local newspapers which have a distribution which generally covers the area. Commission meetings shall be held at locations and in such a manner as to insure adequate public involvement. Such locations shall be in the region of the Santa Monica Mountains and no more than twenty-five miles from it.

(4) Members of the Commission shall serve without compensation as such, but the Secretary may pay expenses reasonably incurred in carrying out their responsibilities under this Act on vouchers signed by the Chairperson.

(5) The Secretary, or his or her designee, shall from time to time but at least semiannually, meet and consult with the Advisory Commission on matters relating to the development of this recreation area and with respect to carrying out the provisions of this section.

(r) There are authorized to be appropriated such sums as may be necessary for acquisition of lands and interests in land within the boundaries of the recreation area established under this section, but not more than $15,000,000 for fiscal year 1979, $40,000,000 for fiscal year 1980, $45,000,000 for fiscal year 1981, $10,000,000 for fiscal year 1982, and $15,000,000 for fiscal year 1983, such sums to remain available until expended. For grants to the State pursuant to subsection (n) there are authorized to be appropriated not more than $10,000,000 for fiscal year 1979, $10,000,000 for fiscal year 1980, $5,000,000 for fiscal year 1981, and $5,000,000 for fiscal year 1982, such sums to remain available until expended. For the authorizations made in this subsection, any amounts authorized but not appropriated in any fiscal year shall remain available for appropriation in succeeding fiscal years.

(s) For the development of essential public facilities in the recreation area there are authorized to be appropriated not more than $500,000. The Congress expects that, at least until assessment of the report required by subsection (t), any further development of the area shall be accomplished by the State of California or local units of government, subject to the approval of the Director, National Park Service.

(t) Within two years from the date of establishment of the recreation area pursuant to this section, the Secretary shall, after consulting with the Advisory Commission, develop and transmit to the Committees referred to in subsection (c) a general management plan for the recreation area consistent with the objectives of this section. Such plan shall indicate—

(1) a plan for visitor use including the facilities needed to accommodate the health, safety, education and recreation needs of the public;

(2) the location and estimated costs of all facilities;

(3) the projected need for any additional facilities within the area;

(4) any additions or alterations to the boundaries of the recreation area which are necessary or desirable to the better carrying out of the purposes of this section; and

(5) a plan for preservation of scenic, archeological and natural values and of fragile ecological areas.

EBEY'S LANDING NATIONAL HISTORICAL RESERVE

SEC. 508. (a) There is hereby established the Ebey's Landing National Historical Reserve (hereinafter) referred to as the "re-

serve"), in order to preserve and protect a rural community which provides an unbroken historical record from nineteenth century exploration and settlement in Puget Sound to the present time, and to commemorate—

(1) the first thorough exploration of the Puget Sound area, by Captain George Vancouver, in 1792;

(2) settlement by Colonel Isaac Neff Ebey who led the first permanent settlers to Whidbey Island, quickly became an important figure in Washington Territory, and ultimately was killed by Haidahs from the Queen Charlotte Islands during a period of Indian unrest in 1857;

(3) early active settlement during the years of the Donation Land Law (1850–1855) and thereafter; and

(4) the growth since 1883 of the historic town of Coupeville.

The reserve shall include the area of approximately eight thousand acres identified as the Central Whidbey Island Historic District.

(b)(1) To achieve the purpose of this section, the Secretary, in cooperation with the appropriate State and local units of general government, shall formulate a comprehensive plan for the protection, preservation, and interpretation of the reserve. The plan shall identify those areas or zones within the reserve which would most appropriately be devoted to—

(A) public use and development;

(B) historic and natural preservation; and

(C) private use subject to appropriate local zoning ordinances designed to protect the historical rural setting.

(2) Within eighteen months following the date of enactment of this section, the Secretary shall transmit the plan to the President of the Senate and the Speaker of the House of Representatives.

(c) At such time as the State or appropriate units of local government having jurisdiction over land use within the reserve have enacted such zoning ordinances or other land use controls which in the judgment of the Secretary will protect and preserve the historic and natural features of the area in accordance with the comprehensive plan, the Secretary may, pursuant to cooperative agreement—

(1) transfer management and administration over all or any part of the property acquired under subsection (d) of this section to the State or appropriate units of local government;

(2) provide technical assistance to such State or unit of local government in the management, protection, and interpretation of the reserve; and

(3) make periodic grants, which shall be supplemental to any other funds to which the grantee may be entitled under any other provision of law, to such State or local unit of government for the annual costs of operation and maintenance, including but not limited to, salaries of personnel and the protection, preservation, and rehabilitation of the reserve except that no such grant may exceed 50 per centum of the estimated annual cost, as determined by the Secretary, of such operation and maintenance.

(d) The Secretary is authorized to acquire such lands and interests as he determines are necessary to accomplish the purposes of this section by donation, purchase with donated funds, or exchange, except that the Secretary may not acquire the fee simple title to any land without the consent of the owner. The Secretary shall, in addition, give prompt and careful consideration to any offer made by an individual owning property within the historic district to sell such property, if such individual notifies the Secretary that the continued ownership of such property is causing, or would result in, undue hardship.

Lands and interests therein so acquired shall, so long as responsibility for management and administration remains with the United States, be administered by the Secretary subject to the provisions of the Act of August 25, 1916 (39 Stat. 535), as amended and supplemented, and in a manner consistent with the purpose of this section.

(e) If, after the transfer of management and administration of any lands pursuant to subsection (c) of this section, the Secretary determines that the reserve is not being managed in a manner consistent with the purposes of this section, he shall so notify the appropriate officers of the State or local unit of government to which such transfer was made and provide for a ninety-day period in which the transferee may make such modifications in applicable laws, ordinances, rules, and procedures as will be consistent with such purposes. If, upon the expiration of such ninety-day period, the Secretary determines that such modifications have not been made or are inadequate, he shall withdraw the management and administration from the transferee and he shall manage such lands in accordance with the provisions of this section.

(f) There is hereby authorized to be appropriated not to exceed $5,000,000 to carry out the provisions of this section.

FRIENDSHIP HILL NATIONAL HISTORIC SITE

SEC. 509. (a) The Secretary is authorized to establish the Friendship Hill National Historic Site in the State of Pennsylvania, including the former home of Albert Gallatin, as depicted on the map entitled "FRHI–80000" dated February 1978. Said map shall be on file and available for public inspection in the offices of the Director, National Park Service, Washington, District of Columbia. The Secretary is authorized to acquire such land, improvements, and any personal property of cultural and historical value thereon by donation, purchase with donated or appropriated funds, or exchange.

(b) Pending establishment of the site and thereafter the Secretary shall administer property acquired pursuant to this section in accordance with the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1, 2–4), as amended and supplemented, and the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461–467), as amended.

(c)(1) There are hereby authorized to be appropriated from the Land and Water Conservation Fund, such sums as may be necessary to carry out the purpose of this section.

(2) For the development of essential facilities there are authorized to be appropriated for the fiscal year ending September 30, 1980, and for succeeding fiscal years, such sums as may be necessary to carry out the purposes of this section, but not to exceed $100,000. Within three years from the effective date of this section, the Secretary shall develop and transmit to the Committee on Interior and Insular Affairs of the House of Representatives and to the Committee on Energy and Natural Resources of the Senate a general management plan for the use and development of the site consistent with the purposes of this section, indicating—

(A) the lands and interests in lands adjacent or related to the site which are deemed necessary or desirable for the purposes of resource protection, scenic integrity, or management and administration of the area in furtherance of the purposes of this section and the estimated cost thereof;

(B) the number of visitors and types of public use within the site which can be accommodated in accordance with the protection of its resources; and

(C) the location and estimated cost of facilities deemed necessary to accommodate such visitors and uses.

THOMAS STONE NATIONAL HISTORIC SITE

SEC. 510. (a) The Secretary is authorized to acquire by donation, exchange, or purchase with donated or appropriated funds, the Thomas Stone home and grounds, known as Habre-de-Venture, located on Rose Hill Road near La Plata in Charles County, Maryland, for establishment as the Thomas Stone National Historic Site.

(b) The national historic site shall be established by the Secretary by the publication of notice to that effect in the Federal Register at such time that he determines he has sufficient ownership to constitute an administrable unit. After such publication, the site shall be administered by the Secretary pursuant to the provisions of this section and the provisions of the Act of August 25, 1916 (39 Stat. 535), as amended and supplemented (16 U.S.C. 1 et seq.), and the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461–467).

(c) To carry out the purposes of this section, there is hereby authorized to be appropriated not to exceed $600,000 for the acquisition of lands and interests therein and not to exceed $400,000 for development.

MAGGIE L. WALKER NATIONAL HISTORIC SITE

SEC. 511. (a) The Secretary is authorized to establish the Maggie L. Walker National Historic Site (hereinafter in this section referred to as the "historic site") in the city of Richmond, Virginia.

(b) The historic site shall comprise the area extending east from the western boundary of the Maggie L. Walker House at 113 East Leigh Street in Richmond, Virginia, to Third Street and extending north from an east-west line which coincides with the front property line of such house to an east-west line which coincides with the north side of the alleyway immediately at the rear of such house. Following timely notice in writing to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate of his intention to do so, the Secretary may make minor revisions in the boundaries of the historic site by publication of a map or other revised boundary description in the Federal Register.

(c) Within the boundaries of the historic site, the Secretary may acquire lands and interests therein by donation, purchase with donated or appropriated funds, exchange, or transfer from any other Federal agency. Any property within such boundaries owned by the State of Virginia or any political subdivision thereof may be acquired only by donation.

(d) When the Secretary determines that lands and interests therein have been acquired in an amount sufficient to constitute an administerable unit, he shall establish the historic site by publication of a notice to that effect in the Federal Register. Pending such establishment and thereafter, the Secretary shall administer the historic site in accordance with the Act of August 25, 1916 (39 Stat. 535), as amended and supplemented (16 U.S.C. 1, 2–4), and the Act of August 21, 1935 (49 Stat. 666), as amended (16 U.S.C. 461 et seq.). Funds available for the historic site shall be available for restoration and rehabilitation of properties therein in accordance with cooperative agreements entered into pursuant to section 2(e) of the Act of August 21, 1935, supra.

(e)(1) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section, but not more than $795,000 for acquisition of lands and interests in land and not more than $500,000 for the development of essential facilities.

(2) Within three complete fiscal years from the date of enactment of this section, the Secretary shall develop and transmit to the Committees referred to in subsection (b) a general management plan for the historic site consistent with the purposes of this section. Such plan shall indicate—

(i) facilities needed to accommodate the health, safety, and education needs of the public;

(ii) the location and estimated cost of all facilities; and

(iii) the projected need for any additional facilities.

CROW CREEK VILLAGE NATIONAL HISTORIC SITE

SEC. 512. (a) In order to preserve the prehistoric Indian site referred to as the Crow Creek Village and generally located near the confluence of Crow Creek and the old Missouri River channel in Buffalo County, South Dakota, there is hereby established the Crow Creek Village National Historic Site (hereinafter referred to as the "historic site").

(b) Within six months of the date of enactment of this section, the Secretary shall establish the boundaries of the historic site, which shall not exceed five hundred acres, by publication of the boundaries or other description in the Federal Register, and by submission of a map depicting the established boundaries to the Committee on Energy and Natural Resources of the Senate and to the Committee on Interior and Insular Affairs of the House of Representatives.

(c) Within the boundaries of the historic site, the Secretary is authorized to acquire lands and waters, or interests therein by donation, transfer, purchase with donated or appropriated funds, or exchange, except that any lands and waters or interests therein owned by the State of South Dakota or any political subdivision thereof may be acquired only by donation.

(d) The Secretary shall administer the property acquired pursuant to this section in accordance with the provisions of the Act of August 25, 1916 (39 Stat. 535), as amended and supplemented, and the Act of August 21, 1935 (49 Stat. 666), as amended and supplemented.

(e) Nothing in this section shall be construed as prohibiting the Secretary of the Army, after consultation with the Secretary, from taking such measures as he deems necessary to provide for erosion control within the historic site. The Secretary and the Secretary of the Army shall cooperate to ensure the compatible operation of the historic site and the existing facilities operated by the United States Army Corps of Engineers.

(f) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.

Subtitle B—Trails

SEC. 551. The National Trails System Act (82 Stat. 919; 16 U.S.C. 1241), as amended, is further amended as follows:

(1) In section 2(a) after "promote" insert "the preservation of,"; and after "outdoor areas" insert "and historic resources".

(2) In section 2(a) delete "(ii)" and the remainder of the sentence and insert "(ii) secondarily, within scenic areas and along historic travel routes of the Nation, which are often more remotely located.".

(3) In section 2(b) delete "and scenic" and insert ", scenic and historic".

(4) In section 3 redesignate subsection "(c)" as "(d)", and insert a new subsection (c) as follows:

"(c) National historic trails, established as provided in section 5 of this Act, which will be extended trails which follow as closely as possible and practicable the original trails or routes of travel of national historical significance. Designation of such trails or routes shall be continuous, but the established or developed trail, and the acquisition thereof, need not be continuous on site. National historic trails shall have as their purpose the identification and protection of the historic route and its historic remnants and artifacts for public use and enjoyment. Only those selected land and water based components of an historic trail which are on federally owned lands and which meet the national historic trail criteria established in this Act, are established as initial Federal protection components of a national historic trail. The appropriate Secretary may subsequently certify other lands, as protected segments of an historic trail upon application from State or local governmental agencies or private interests involved if such segments meet the national historic trail criteria established in this Act and such criteria supplementary thereto as the appropriate Secretary may prescribe, and are administered by such agencies or interests without expense to the United States.".

(5) In the new section 3(d) delete "or national scenic" and insert ", national scenic or national historic".

(6) Change the title of section 5 to read "NATIONAL SCENIC AND NATIONAL HISTORIC TRAILS".

(7) In section 5(a), insert in the first sentence after the word "scenic" the words "and national historic" and change the second sentence to read: "There are hereby established the following National Scenic and National Historic Trails:".

(8) In section 5(a)(1), in the first sentence, after the word "Appalachian", insert "National Scenic", and in section 5(a)(2), in the first sentence, after "Pacific Crest", insert "National Scenic".

(9) In section 5(a), delete paragraph (3) and insert in lieu the following new paragraphs:

"(3) The Oregon National Historic Trail, a route of approximately two thousand miles extending from near Independence, Missouri, to the vicinity of Portland, Oregon, following a route as depicted on maps identified as 'Primary Route of the Oregon Trail 1841–1848', in the Department of the Interior's Oregon Trail study report dated April 1977, and which shall be on file and available for public inspection in the office of the Director of the National Park Service. The Trail shall be administered by the Secretary of the Interior.

"(4) The Mormon Pioneer National Historic Trail, a route of approximately one thousand three hundred miles extending from Nauvoo, Illinois, to Salt Lake City, Utah, following the primary historical route of the Mormon Trail as generally depicted on a map, identified as, 'Mormon Trail Vicinity Map, figure 2' in the Department of the Interior Mormon Trail study report dated March 1977, and which shall be on file and available for public inspection in the office of the Director, National Park Service, Washington, D.C. The trail shall be administered by the Secretary of the Interior.

"(5) The Continental Divide National Scenic Trail, a trail of approximately thirty-one hundred miles, extending from the Montana-Canada border to the New Mexico-Mexico border, following the approximate route depicted on the map, identified as 'Proposed Continental Divide National Scenic Trail' in the Department of the Interior Continental Divide Trail study report dated March 1977 and which shall be on file and available for public inspection in the office of the Chief, Forest Service, Washington, D.C. The Continental Divide National Scenic Trail shall be administered by the Secretary of Agriculture in consultation with the Secretary of the Interior. Notwithstanding the provisions of section 7(c), the use of motorized vehicles on roads which will be designated segments of the Continental Divide National Scenic Trail shall be permitted in accordance with regulations prescribed by the appropriate Secretary.

"(6) The North Country National Scenic Trail, a trail of approximately thirty-two hundred miles, extending from eastern New York State to the vicinity of Lake Sakakawea in North Dakota, following the approximate route depicted on the map identified as 'Proposed North Country Trail-Vicinity Map' in the Department of the Interior 'North Country Trail Report', dated June 1975. The map shall be on file and available for public inspection in the office of the Director, National Park Service, Washington, D.C. The trail shall be administered by the Secretary of the Interior.

"(7) The Lewis and Clark National Historic Trail, a trail of approximately three thousand seven hundred miles, extending from Wood River, Illinois, to the mouth of the Columbia River in Oregon, following the outbound and inbound routes of the Lewis and Clark Expedition depicted on maps identified as 'Vicinity Map, Lewis and Clark Trail' study report dated April 1977. The map shall be on file and available for public inspection in the offices of the Director, National Park Service, Washington, D.C. The trail shall be administered by the Secretary of the Interior.

"(8) The Iditarod National Historic Trail, a route of approximately two thousand miles extending from Seward, Alaska, to Nome, Alaska, following the routes as depicted on maps identified as 'Seward-Nome Trail', in the Department of the Interior's study report entitled 'The Iditarod Trail (Seward-Nome Route) and other Alaskan Gold Rush Trails' Dated September 1977. The map shall be on file and available for public inspection in the office of the Director, National Park Service, Washington, D.C. The trail shall be administered by the Secretary of the Interior.

(10) In section 5(b) after "national scenic" wherever it appears insert "or national historic"; in the first sentence after the phrase "Secretary of the Interior," insert "through the agency most likely to administer such trail,"; delete the third sentence and delete that portion of the fourth sentence which precedes the numerical listing, and insert in lieu the following: "The studies listed in subsection (c) of this section shall be completed and submitted to the Congress, with recommendations as to the suitability of trail designation, not later than three complete fiscal years from the date of enactment of their addition to this subsection, or from the date of enactment of this sentence, whichever is later. Such studies, when submitted, shall be printed as a House or Senate document, and shall include, but not be limited to:".

(11) In section 5(b)(3) after the semicolon add "and in the case of national historic trails the report shall include the recommendation of the Secretary of the Interior's National Park System Advisory Board as to the national historic significance based on the criteria developed under the Historic Sites Act of 1935 (49 Stat. 666; U.S.C. 461);".

(12) In section 5(b)(8) delete the word "and" at the end of the sentence; in section 5(b)(9) change the period at the end of the sentence to a semicolon; and at the end of section 5(b) add the following new paragraphs:

"(10) the anticipated impact of public outdoor recreation use on the preservation of a proposed national historic trail and its related historic or archeological features and settings, including the measures proposed to ensure evaluation and preservation of the values that contribute to their national historic significance; and

"(11) to qualify for designation as a national historic trail, a trail must meet all three of the following criteria:

"(A) It must be a trail or route established by historic use and must be historically significant as a result of that use. The route need not currently exist as a discernible trail to qualify, but its location must be sufficiently known to permit evaluation of public recreation and historical interest potential. A designated trail should generally accurately follow the historic route, but may deviate somewhat on occasion of necessity to avoid difficult routing through subsequent develop-

ment, or to provide some route variation offering a more pleasurable recreational experience. Such deviations shall be so noted on site. Trail segments no longer possible to travel by trail due to subsequent development as motorized transportation routes may be designated and marked onsite as segments which link to the historic trail.

"(B) It must be of national significance with respect to any of several broad facets of American history, such as trade and commerce, migration and settlement, or military campaigns. To qualify as nationally significant, historic use of the trail must have had a far-reaching effect on broad patterns of American culture. Trails significant in the history of native Americans may be included.

"(C) It must have significant potential for public recreational use or historical interest based on historic interpretation and appreciation. The potential for such use is generally greater along roadless segments developed as historic trails, and at historic sites associated with the trail. The presence of recreation potential not related to historic appreciation is not sufficient justification for designation under this category.".

(13) In section 5(c), add the following at the end thereof:

"(20) Overmountain Victory Trail, extending from the vicinity of Elizabethton, Tennessee, to Kings Mountain National Military Park, South Carolina.".

(14) In section 5 delete subsection (d), and insert a new section 5(d) to read as follows:

"(d) The Secretary charged with the administration of each respective trail shall, within one year of the date of the addition of any national scenic or national historic trail to the System, and within sixty days of the enactment of this sentence for the Appalachian and Pacific Crest National Scenic Trails, establish an advisory council for each such trail, each of which councils shall expire ten years from the date of its establishment. The appropriate Secretary shall consult with such council from time to time with respect to matters relating to the trail, including the selection of rights-of-way, standards for the erection and maintenance of markers along the trail, and the administration of the trail. The members of each advisory council, which shall not exceed thirty-five in number, shall serve for a term of two years and without compensation as such, but the Secretary may pay, upon vouchers signed by the chairman of the council, the expenses reasonably incurred by the council and its members in carrying out their responsibilities under this section. Members of each council shall be appointed by the appropriate Secretary as follows:

"(i) a member appointed to represent each Federal department or independent agency administering lands through which the trail route passes, and each appointee shall be the person designated by the head of such department or agency;

"(ii) a member appointed to represent each State through which the trail passes, and such appointments shall be made from recommendations of the Governors of such States;

"(iii) one or more members appointed to represent private organizations, including corporate and individual landowners and land users, which in the opinion of the Secretary, have an established and recognized interest in the trail, and such appointments shall be made from recommendations of the heads of such organizations: *Provided*, That the Appalachian Trail Conference shall be represented by a sufficient number of persons to represent the various sections of the country through which the Appalachian Trail passes; and

"(iv) the Secretary shall designate one member to be chairman and shall fill vacancies in the same manner as the original appointment.".

(15) In section 5 add a new subsection (e) as follows:

"(e) Within two complete fiscal years of the date of enactment of legislation designating a trail as part of the system, and within two complete fiscal years of the date of enactment of this subsection for the Pacific Crest and Appalachian Trails; the responsible Secretary shall, after full consultation with affected Federal land managing agencies, the Governors of the affected States, the relevant advisory council established pursuant to section 5(d), and the Appalachian Trail Conference in the case of the Appalachian Trail, submit to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, a comprehensive plan for the acquisition, management, development, and use of the trail, including but not limited to, the following items:

"(1) specific objectives and practices to be observed in the management of the trail, including the identification of all significant natural, historical, and cultural resources to be preserved (along with high potential historic sites and high potential route segments in the case of national historic trails), details of anticipated cooperative agreements to be consummated with other entities, and an identified carrying capacity of the trail and a plan for its implementation;

"(2) an acquisition or protection plan, by fiscal year, for all lands to be acquired by fee title or lesser interest, along with detailed explanation of anticipated necessary cooperative agreements for any lands not to be acquired; and

"(3) general and site-specific development plans, including anticipated costs.".

(16) In section 6 in the first sentence delete "or national scenic" and insert ", national scenic or national historic", and in the second sentence delete "or scenic" and insert ", national scenic, or national historic".

(17) In section 7(a) in the first sentence delete "National Scenic Trails" and insert "national scenic and national historic trails"; in two instances in subsection (b), and in the first sentence of subsection (c), after "scenic", insert "or national historic"; in the fourth sentence of subsection (c), after "trail," insert "and within any high potential historic sites and high potential route segments of any national historic trail"; in subsection (c) in the second proviso, after "recreation" delete "or scenic" and insert ", national scenic, or national historic"; and in the fifth sentence after "recreation" delete "and scenic" and insert ", national scenic, and national historic"; in subsection (d) after "recreation" delete "or scenic" and insert ", national scenic, or national historic"; in subsection (e) after "scenic" in both instances where it appears insert "or national historic"; in subsection (h) in the first sentence after "recreation" delete "or scenic" and insert ", national scenic, or national historic", and in the second sentence after "scenic" insert "or national historic"; in subsection (i) after "recreation" delete "or scenic" and insert ", national scenic, or national historic".

(18) In section 7(c) at the end of the fourth sentence insert the following: "Where a national historic trail follows existing public roads, developed rights-of-way or waterways, and similar features of man's nonhistorically related development, approximating the original location of a historic route, such segments may be marked to facilitate retracement of the historic route, and where a national historic trail parallels an existing public road, such road may be marked to commemorate the historic route.".

(19) In section 7(e), in the first proviso, delete "within two years".

(20) In section 7(g), delete the second proviso entirely.

(21) At the end of subsection 7(g) add the following new sentence: "For national historic trails, direct Federal acquisition for trail purposes shall be limited to those areas indicated by the study report or by the comprehensive plan as high potential route segments or high potential historic sites.".

(22) In section 8 in the first sentence of subsection (a) after "establishing park, forest, and other recreation" insert "and historic" and after "administered by States, and recreation" insert "and historic"; and at the end of the first sentence insert the following: "The Secretary is also directed to encourage States to consider, in their comprehensive statewide historic preservation plans and proposals for financial assistance for State, local, and private projects submitted pursuant to the Act of October 15, 1966 (80 Stat. 915), as amended, needs and opportunities for establishing historic trails.".

(23) In section 10, strike "(a)(1)" and insert in lieu thereof "(a)"; strike "the subsequent fiscal year" and insert in lieu thereof "subsequent fiscal years"; strike the paragraph numbered "(2)" in its entirety; and add a new "subsection (c)" as follows:

"(c) There is hereby authorized to be appropriated such sums as may be necessary to implement the provisions of this Act relating to the trails designated by paragraphs 5(a)(3), (4), (5), (6), (7), and (8): *Provided*, That no such funds are authorized to be appropriated prior to October 1, 1979; *And provided further*, That, notwithstanding any other provisions of this Act or any other provisions of law, no funds may be expended for the acquisition of lands or interests in lands for the Continental Divide National Scenic Trail, the Oregon National Historic Trail, the Mormon Pioneer National Historic Trail, the Lewis and Clark National Historic Trail, and the Iditarod National Historic Trail.

TITLE VI—MISCELLANEOUS PROVISIONS

FACILITIES AT YELLOWSTONE NATIONAL PARK

SEC. 601. (a) The Secretary is hereby authorized to acquire and upgrade the concession facilities owned by the Yellowstone Park Company at Yellowstone National Park in the State of Wyoming.

(b) There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

RIDGELANDS AREA STUDY

SEC. 602. (a) In order to consider preserving in their natural condition appropriate segments of the Ridgelands east of San Francisco Bay for protection of the area's unique ecology and topography and for public outdoor recreation, the Secretary shall study, investigate, and formulate recommendations on the feasibility and desirability of establishing such area as a unit of the National Park System. The Secretary shall consult with the Secretary of Agriculture, the Chief of Engineers, Department of the Army, and any other appropriate Federal agencies, as well as with the East Bay Regional Park District, the Association of Bay Area Governments, and other State and local bodies and officials involved, and shall coordinate the study with applicable local and State plans and planning activities relating to the Ridgelands. Federal departments and agencies are authorized and directed to cooperate with the Secretary and, to the extent permitted by law, to furnish such statistics, data, reports, and other material as the Secretary may deem necessary for purposes of the study.

(b) The Secretary shall submit to the President and the Congress of the United States, within one year after the date of enactment of this Act, a report of his findings and recommendations. The report of the Secretary shall contain, but not be limited to, findings with respect to—

(1) the scenic, scientific, historic, natural, and outdoor recreation values of the Ridgelands, including their use for walking, hik-

ing, horseback riding, bicycling, swimming, picnicking, camping, forest management, fish and wildlife management, educational exhibiting, and scenic and historic site preservation;

(2) the type of Federal, State, and local programs that are feasible and desirable in the public interest to preserve, develop, and make accessible for public use the values identified;

(3) the relationship of any recommended national park, recreation area, or wilderness area to existing or proposed Federal, State, and local programs to manage in the public interest the natural resources of the entire San Francisco Bay area;

(4) alternative means of restoring and preserving the values inherent in the area under present ownership patterns; and

(5) the development of public land policies consistent with the protection of private open space land.

(c) There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.

PRESERVATION OF HISTORICAL AND ARCHEOLOGICAL DATA

SEC. 603. (a) Section 7(b) of the Act of June 27, 1960 (74 Stat. 220; 16 U.S.C. 469), is amended by striking out "and" following "1977;" and by striking out the period at the end thereof and substituting the following "; $500,000 in fiscal year 1979; and $1,000,000 in fiscal year 1980.".

(b) Section 7(c) of such Act is amended by striking out "and" following "1977;" and by striking out the period at the end thereof and substituting the following "; $3,000,000 in fiscal year 1979; and $3,000,000 in fiscal year 1980.".

(c) Section 7 of such Act is amended by adding the following at the end thereof:

"(d) Beginning with fiscal year 1979, sums appropriated as provided in this section shall remain available until expended.".

NEW AREA STUDIES, GENERAL MANAGEMENT PLANS, AND CONTRACTS

SEC. 604. The Act entitled "An Act to improve the administration of the National Park System by the Secretary of the Interior, and to clarify the authorities applicable to the System, and for other purposes" (84 Stat. 825) is amended as follows:

(1) At the end of section 8 add the following:

"For the purposes of carrying out the studies for potential new Park System units and for monitoring the welfare of those resources, there are authorized to be appropriated annually not to exceed $1,000,000. For the purposes of monitoring the welfare and integrity of the national landmarks, there are authorized to be appropriated annually not to exceed $1,500,000.".

(2) In section 9, change "eleven" to "twelve".

(3) Delete section 12(b) and insert in lieu the following:

"(b) General management plans for the preservation and use of each unit of the National Park System, including areas within the national capital area, shall be prepared and revised in a timely manner by the Director of the National Park Service. On January 1 of each year, the Secretary shall submit to the Congress a list indicating the current status of completion or revision of general management plans for each unit of the National Park System. General management plans for each unit shall include, but not be limited to:

"(1) measures for the preservation of the area's resources;

"(2) indications of types and general intensities of development (including visitor circulation and transportation patterns, systems and modes) associated with public enjoyment and use of the area, including general locations, timing of implementation, and anticipated costs;

"(3) identification of and implementation commitments for visitor carrying capacities for all areas of the unit; and

"(4) indications of potential modifications to the external boundaries of the unit, and the reasons therefor.".

(4) In section 12(c) delete "or exceeding five years" and insert "or of five years or more".

OAK CREEK CANYON AND CHIRICAHUA NATIONAL MONUMENT STUDIES

SEC. 605. (a) In recognition of the need for and desirability of protecting the Oak Creek Canyon, Yavapai, and Soldiers Wash-Mormon Canyon areas in Arizona as a unit or units of the national park system, the Secretary, in cooperation with the Secretary of Agriculture where national forest lands are involved, shall conduct a study to determine a suitable boundary for such unit or units of the System, including the areas referred to herein together with such lands as may be appropriate to provide for their protection and administration as a national monument or other unit of the National Park System. Such study shall be conducted in consultation with appropriate units of local government concerned and the Sedona-Oak Creek Canyon Interagency Task Force. Such study shall take into account existing patterns of use and activities in the area and the possible adverse impacts a National Monument designation in the area would have on multiple use activities important to the local economy.

(b) The Secretary, in cooperation with the Secretary of Agriculture where national forest lands are involved, shall conduct a study of the boundary of Chiricahua National Monument, Arizona, to determine the appropriate location of a boundary line for additions to the monument which includes such highly scenic features as Cochise Head and which is located to the extent practicable on natural topographic features.

(c) A report of each study conducted pursuant to subsections (a) and (b) of this section shall be submitted by the Secretary to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate not later than one year following the date on which funds are appropriated for the purpose of the study. Each report shall include a map or other description of the boundary determined as a result of the study, a description of the natural, scenic, and cultural features within the boundary, and the recommendation of the Secretary with respect to such further legislation as may be appropriate.

LAND AND WATER CONSERVATION FUND ACCOMPLISHMENTS REPORTING DATE

SEC. 606. (a) The first sentence of section 6(f)(7) of the Land and Water Conservation Fund Act (78 Stat. 897) is amended by inserting ", so as to be received by the Secretary no later than December 31," after the word "transmit".

(b) The third sentence of such section 6(f)(7) of such Act is amended by striking out the period and inserting in lieu thereof "by no later than March 1 of each year.".

HELLS CANYON NATIONAL RECREATION AREA

SEC. 607. The words "September 1975" in section 1(b) of the Act of December 31, 1975 (Public Law 94–199), are deleted and replaced with the words "May 1978," to clarify that the boundary between Saulsberry and Freezeout Saddles is the hydrologic divide.

IRVINE COAST-LAGUNA, CALIFORNIA STUDY

SEC. 608. (a) In order to consider preserving in its natural condition, the Irvine Coast-Laguna area, California from Newport Beach to Laguna Beach as generally depicted on the map entitled "Irvine Coast-Laguna Study Area", numbered IRV–90,000, and dated June 1978, and in order to consider protection of the area's unique ecology and topography, its watershed and marine environment, and public outdoor recreation opportunities, the Secretary shall study, investigate, and formulate recommendations on the feasibility and desirability of establishing such area as a unit of the National Park System, such as a park, recreation area, or seashore. The Secretary shall consult with other appropriate Federal agencies, as well as with the appropriate State and local bodies and officials involved, and shall coordinate the study with applicable local and State plans and planning activities relating to the area. Federal departments and agencies are authorized and directed to cooperate with the Secretary and, to the extent permitted by law, to furnish such statistics, data, reports, and other material as the Secretary may deem necessary for purposes of the study.

(b) The Secretary shall submit to the President and the Congress of the United States, within six months after the date of enactment of this section, a report of his findings and recommendations. The report of the Secretary shall contain, but not be limited to, findings with respect to—

(1) the scenic, scientific, natural, and outdoor recreation values of the Irvine Coast-Laguna area;

(2) the type of Federal, State, and local programs that are feasible and desirable in the public interest to preserve, develop, and make accessible for public use the values identified; and

(3) the relationship of any recommended national park, recreation area, or seashore area to existing or proposed Federal, State, and local programs to manage in the public interest the natural resources of the entire Irvine Coast-Laguna area.

(c) There is hereby authorized to be appropriated $50,000 to carry out the provisions of this section.

THEODORE ROOSEVELT INAUGURAL NATIONAL HISTORIC SITE

SEC. 609. The first section of the Act entitled "An Act to provide for the acquisition and preservation of the real property known as the Ansley Wilcox House in Buffalo, New York, as a national historic site", approved November 2, 1966 (Public Law 89–708), is amended by striking out "at no expense to the United States" and inserting in lieu thereof "at no direct operating expense to the Department of the Interior,".

THEODORE ROOSEVELT NATIONAL PARK

SEC. 610. The area formerly known as the "Theodore Roosevelt National Memorial Park", established by the Act of April 25, 1947 (61 Stat. 52), shall henceforth be known as the "Theodore Roosevelt National Park".

BADLANDS NATIONAL PARK

SEC. 611. The area formerly known as the "Badlands National Monument", established by Presidential Proclamation of January 25, 1939 (53 Stat. 2521), shall henceforth be known as the "Badlands National Park".

ALBERT EINSTEIN MEMORIAL

SEC. 612. The Secretary of the Interior is authorized to convey for nominal consideration to the National Academy of Sciences, United States Reservation 332A, located on the south side of Square Numbered 88 between 21st Street, 22d Street and Constitution Avenue in the District of Columbia to erect and maintain a Memorial to Albert Einstein. The title to said property shall remain with the National Academy of Sciences so long as the property is used for access. At such time as the property is no longer used for memorial purposes or public access is restricted, title to said property shall revert to the United States.

PEARSON-SKUBITZ BIG HILL LAKE

SEC. 613. The project for flood protection on Big Hill Creek, Kansas, authorized by the Flood Control Act of 1962, Public Law 87–874,

shall hereafter be known and designated as the "Pearson-Skubitz Big Hill Lake". Any reference in a law, map, regulation, document, or record, or other paper of the United States to such project shall be held to be a reference to the "Pearson-Skubitz Big Hill Lake".

ADVISORY COUNCIL ON HISTORIC PRESERVATION

SEC. 614. Section 212(a) of the Act of October 15, 1966 (80 Stat. 915), as amended (16 U.S.C. 470), is further amended by adding the following at the end thereof:

"There are authorized to be appropriated not to exceed $2,250,000 in fiscal year 1980."

TITLE VII—WILD AND SCENIC RIVERS ACT AMENDMENTS

Subtitle A—Addition of Segments

ADDITION OF PERE MARQUETTE SEGMENT

SEC. 701. Section 3(a) of the Wild and Scenic Rivers Act is amended by adding the following new paragraph at the end thereof:

"(16) PERE MARQUETTE, MICHIGAN.—The segment downstream from the junction of the Middle and Little South Branches to its junction with United States Highway 31 as generally depicted on the boundary map entitled 'Proposed Boundary Location, Pere Marquette Wild and Scenic River,'; to be administered by the Secretary of Agriculture. After consultation with State and local governments and the interested public, the Secretary shall take such action as is provided for under subsection (b) with respect to the segment referred to in this paragraph within one year from the date of enactment of this paragraph. Any development or management plan prepared pursuant to subsection (b) shall include provisions for the dissemination of information to river users and regulation of recreational and other uses of the river as necessary to protect its scenic, historic, and scientific values. For the purposes of carrying out the provisions of this Act with respect to the river designated by this paragraph, there are authorized to be appropriated not more than $8,125,000 for the acquisition of lands or interests in lands and $402,000 for development.".

ADDITION OF RIO GRANDE SEGMENT

SEC. 702. Section 3(a) of the Wild and Scenic Rivers Act is amended by adding the following new paragraph at the end thereof:

"(17) RIO GRANDE, TEXAS.—The segment on the United States side of the river from river mile 842.3 above Mariscal Canyon downstream to river mile 651.1 at the Terrell-Val Verde County line; to be administered by the Secretary of the Interior. The Secretary shall, within two years after the date of enactment of this paragraph, take such action with respect to the segment referred to in this paragraph as is provided for under subsection (b). The action required by such subsection (b) shall be undertaken by the Secretary, after consultation with the United States Commissioner, International Boundary and Water Commission, United States and Mexico, and appropriate officials of the State of Texas and its political subdivisions. The development plan required by subsection (b) shall be construed to be a general management plan only for the United States side of the river and such plan shall include, but not be limited to, the establishment of a detailed boundary which shall include an average of not more than 160 acres per mile. Nothing in this Act shall be construed to be in conflict with—

"(A) the commitments or agreements of the United States made by or in pursuance of the treaty between the United States and Mexico regarding the utilization of the Colorado and Tijuana Rivers and of the Rio Grande, signed at Washington, February 1944 (59 Stat. 1219), or

"(B) the treaty between the United States and Mexico regarding maintenance of the Rio Grande and Colorado River as the international boundary between the United States and Mexico, signed November 23, 1970.

For purposes of carrying out the provisions of this Act with respect to the river designated by this paragraph, there are authorized to be appropriated such sums as may be necessary, but not more than $1,650,000 for the acquisition of lands and interests in lands and not more than $1,800,000 for development.".

ADDITION OF SKAGIT SEGMENTS

SEC. 703. Section 3(a) of the Wild and Scenic Rivers Act is amended by adding the following new paragraph at the end thereof:

"(18) SKAGIT, WASHINGTON.—The segment from the pipeline crossing at Sedro-Woolley upstream to and including the mouth of Bacon Creek; the Cascade River from its mouth to the junction of its North and South Forks; the South Fork to the boundary of the Glacier Peak Wilderness Area; the Suiattle River from its mouth to the boundary of the Glacier Peak Wilderness Area at Milk Creek; the Sauk River from its mouth to its junction with Elliott Creek; the North Fork of the Sauk River from its junction with the South Fork of the Sauk to the boundary of the Glacier Peak Wilderness Area; as generally depicted on the boundary map entitled 'Skagit River—River Area Boundary'; all segments to be administered by the Secretary of Agriculture. Rip-rapping related to natural channels with natural rock along the shorelines of the Skagit segment to preserve and protect agricultural land shall not be considered inconsistent with the values for which such segment is designated. After consultation with affected Federal agencies, State and local government and the interested public, the Secretary shall take such action as is provided for under subsection (b) with respect to the segments referred to in this paragraph within one year from the date of enactment of this paragraph; as part of such action, the Secretary of Agriculture shall investigate that portion of the North Fork of the Cascade River from its confluence with the South Fork to the boundary of the North Cascades National Park and if such portion is found to qualify for inclusion, it shall be treated as a component of the Wild and Scenic Rivers System designated under this section upon publication by the Secretary of notification to that effect in the Federal Register. For the purposes of carrying out the provisions of this Act with respect to the river designated by this paragraph there are authorized to be appropriated not more than $11,734,000 for the acquisition of lands or interest in lands and not more than $332,000 for development.".

ADDITION OF UPPER DELAWARE SEGMENT; SPECIAL PROVISIONS

SEC. 704. (a) Section 3(a) of the Wild and Scenic Rivers Act is amended by adding the following new paragraph at the end thereof:

"(19) UPPER DELAWARE RIVER, NEW YORK AND PENNSYLVANIA.—The segment of the Upper Delaware River from the confluence of the East and West branches below Hancock, New York, to the existing railroad bridge immediately downstream from Cherry Island in the vicinity of Sparrow Bush, New York, as depicted on the boundary map entitled 'The Upper Delaware Scenic and Recreational River', dated April 1978; to be administered by the Secretary of the Interior. Subsection (b) of this section shall not apply, and the boundaries and classifications of the river shall be as specified on the map referred to in the preceding sentence, except to the extent that such boundaries or classifications are modified pursuant to section 705(c) of the National Parks and Recreation Act of 1978. Such boundaries and classifications shall be published in the Federal Register and shall not become effective until ninety days after they have been forwarded to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate. For purposes of carrying out the provisions of this Act with respect to the river designated by this paragraph there are authorized to be appropriated such sums as may be necessary.".

(b)(1) Notwithstanding any requirement to the contrary contained in section 6(c) of the Wild and Scenic Rivers Act, within one hundred and eighty days after the date of enactment of this Act, the Secretary shall publish in the Federal Register general guidelines for land and water use control measures to be developed and implemented by the appropriate officials of the States of New York and Pennsylvania (hereinafter referred to as the "directly affected States"), by the local political subdivisions, and by the Delaware River Basin Commission (hereinafter referred to as the "Commission"). The Secretary shall provide for participation in the development of the said general guidelines by all levels of State, county, and local government, and concerned private individuals and organizations, and also shall seek the advice of the Upper Delaware Citizens Advisory Council established in subsection (f) (hereinafter referred to as the "Advisory Council"). In each of the directly affected States, prior to publication of such general guidelines, public hearings shall be conducted by the Secretary or his designee, in the region of the Upper Delaware River designated by subsection (a) (hereinafter in this section referred to as the "Upper Delaware River").

(2) The Secretary may from time to time adopt amended or revised guidelines and shall do so in accordance with the provisions of paragraph (1) hereof.

(c)(1) Within three years from the date of the enactment of this Act, the Secretary, in cooperation with the Commission, the Advisory Council, the directly affected States and their concerned political subdivisions and other concerned Federal agencies, shall develop, approve, and submit to the Governors of the directly affected States a management plan (hereinafter in this section referred to as the "management plan" or "the plan") for the Upper Delaware River which shall provide for as broad a range of land and water uses and scenic and recreational activities as shall be compatible with the provisions of this section, the Wild and Scenic Rivers Act, and the general guidelines for land and water use controls promulgated by the Secretary under the provisions of subsection (b).

(2) The plan shall apply to the Upper Delaware River and shall set forth—

(A) a map showing detailed final landward boundaries, and upper and lower termini of the area and the specific segments of the river classified as scenic and recreational, to be administered in accordance with such classifications;

(B) a program for management of existing and future land and water use, including the application of available management techniques;

(C) an analysis of the economic and environmental costs and benefits of implementing the management plan, including any impact of the plan upon revenues and costs of local government;

(D) a program providing for coordinated implementation and administration of the plan with proposed assignment of responsibilities to the appropriate governmental unit at the Federal, regional, State, and local levels; and

(E) such other recommendations or provisions as shall be deemed appropriate to carry out the purposes of this section.

(3) Immediately following enactment of this Act, the Secretary, through the National Park Service or such other designee, shall develop and implement such interim programs as he shall deem necessary and appro-

priate to protect the Upper Delaware River and its environs and to protect the public health and safety. Such interim programs shall include provisions for information to river users, education and interpretation activities, and regulation of recreational use of the river.

(4) To enable the directly affected States and their political subdivisions to develop and implement programs compatible with the management plan, the Secretary shall provide such technical assistance to the said States and their political subdivisions as he deems appropriate.

(5) The Secretary shall promote public awareness of and participation in the development of the management plan, and shall develop and conduct a concerted program to this end. Prior to final approval of the management plan, the Secretary shall hold two or more public hearings in the Upper Delaware River region of each directly affected State.

(6) Upon approval of the management plan by the Secretary, it shall be published in the Federal Register and shall not become effective until ninety days after it shall have been forwarded to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate. The plan shall be administered by the Secretary in accordance with the provisions of this section and the Wild and Scenic Rivers Act. The Secretary is hereby granted such authority as may be required to implement and administer said plan.

(d) Notwithstanding any provision of the Wild and Scenic Rivers Act, the Secretary may not acquire more than a total of four hundred and fifty acres of land and interests in land for access, development sites, the preservation of scenic qualities, or for any other purposes: *Provided*, That the Secretary may acquire additional land and interests in land for such purposes not in excess of one thousand acres if such additional acquisition is recommended and provided for in the management plan as finally approved by the Secretary. The limitations contained in this section shall not apply under the circumstances set forth in subsection (e)(4) of this section. Prior to acquisition of any land or interests in land which has been used for business purposes during the annual period immediately preceding the date of the enactment of this Act, the Secretary shall first make such efforts as he deems reasonable to acquire easements or restrictive covenants, or to enter into any other appropriate agreements or arrangements with the owners of said land, consistent with the purposes of this section.

(e)(1) For the purpose of protecting the integrity of the Upper Delaware River, the Secretary shall review all relevant local plans, laws, and ordinances to determine whether they substantially conform to the approved management plan provided for in subsection (c) and to the general guidelines promulgated by the Secretary pursuant to subsection (b). Additionally, the Secretary shall determine the adequacy of enforcement of such plans, laws, and ordinances, including but not limited to review of building permits and zoning variances granted by local governments, and amendments to local laws and ordinances.

(2) The purpose of such reviews shall be to determine the degree to which actions by local governments are compatible with the purposes of this section. Following the approval of the management plan and after a reasonable period of time has elapsed, but not less than two years, upon a finding by the Secretary, that such plans, laws, and ordinances are nonexistent, are otherwise not in conformance with the management plan or guidelines, or are not being enforced in such manner as will carry out the purposes of this section (as determined by the Secretary), the Secretary may exercise the authority available to him under the provisions of paragraph (4) hereof.

(3) To facilitate administration of this section, the Secretary may contract with the directly affected States or their political subdivisions to provide, on behalf of the Secretary, professional services necessary for the review of relevant local plans, laws, and ordinances, and of amendments thereto and variances therefrom, and for the monitoring of the enforcement thereof by local governments having jurisdiction over any area in the region to which the management plan applies. The Secretary shall notify the appropriate State or local officials as to the results of his review under this section within forty-five days from the date he receives notice of the local government action.

(4) In those sections of the Upper Delaware River where such local plans, laws, and ordinances, or amendments thereto or variances therefrom, are found by the Secretary not to be in conformance with the guidelines or the management plan promulgated pursuant to subsections (b) and (c) of this section, respectively, or are not being enforced in such manner as will carry out the purposes of this section (as determined by the Secretary), the Secretary is hereby authorized to acquire land or interests in land in excess of the acreage provided for in subsection (d) of this section. Land and interests in land acquired pursuant to this subsection shall be restricted to the geographical area of the local governmental unit failing to conform with the said guidelines or management plan, and shall be limited to those lands clearly and directly required, in the judgment of the Secretary, for protection of the objectives of this Act. The total acreage of land and interests in land acquired pursuant to this subsection shall not in any event exceed the limitations contained in section 6(a) of the Wild and Scenic Rivers Act. This subsection shall apply notwithstanding the first sentence of section 6 (c) of the Wild and Scenic Rivers Act. Notwithstanding any limitation on amounts authorized to be appropriated for acquisition of land and interests in land which is contained in section 3(a)(21) of the Wild and Scenic Rivers Act or in any other provision of law, there are authorized to be appropriated such sums as may be necessary to carry out this subsection.

(f)(1) At the earliest practicable date following enactment of this Act, but no later than one hundred and twenty days thereafter, there shall be established an Upper Delaware Citizens Advisory Council. The Advisory Council shall encourage maximum public involvement in the development and implementation of the plans and programs authorized by this section. It shall report to the Commission and the Secretary from time to time during preparation of the management plan. Following completion of the management plan, it shall report to the Secretary and the Governors of the directly affected States no less frequently than once each year its recommendations, if any, for improvement in the programs authorized by this Act, or in the programs of other agencies which may relate to land or water use in the Upper Delaware River region.

(2) Membership on the Advisory Council shall consist of seventeen members appointed as follows: there shall be—

(A) six members from each of the directly affected States appointed by the Secretary from nominations submitted by the legislatures of the respective counties and appointed such that two members shall be from each of Orange, Delaware, and Sullivan Counties, New York, and three members shall be from each of Wayne and Pike Counties, Pennsylvania (at least one appointee from each county shall be a permanent resident of a municipality abutting the Upper Delaware River);

(B) two members appointed at large by each Governor of a directly affected State; and

(C) one member appointed by the Secretary.

The Secretary shall designate one of the aforesaid members to serve as Chairperson of the Advisory Council who shall be a permanent resident of one of the aforementioned counties. Vacancies on the Advisory Council shall be filled in the same manner in which the original appointment was made. Members of the Advisory Council shall serve without compensation as such, but the Secretary is authorized to pay expenses reasonably incurred by the Advisory Council in carrying out its responsibilities under this Act on vouchers signed by the Chairman.

(g) With respect to the land and water in areas which are not owned by the United States but which are within the boundaries of the segment of the Delaware River designated as a wild and scenic river under subsection (a), the Secretary is authorized to enter into contracts with the appropriate State or political subdivisions thereof pursuant to which the Secretary may provide financial assistance to such State or political subdivision for purposes of—

(1) enforcing State and local laws in such areas, and

(2) removing solid waste from such areas and disposing of such waste.

(h) Nothing in this section shall be construed as limiting the right to fish and hunt on any of the lands or waters within the boundaries of the Upper Delaware River in the manner provided in section 13 of the Wild and Scenic Rivers Act.

(i) There are hereby authorized to be appropriated to carry out the purposes of this section such sums as may be necessary.

(j) Where any provision of the Wild and Scenic Rivers Act is inconsistent with any provisions of this section, the provision of this section shall govern. In applying the provisions of section 6(g)(3) of the Wild and Scenic Rivers Act, with regard to "improved property", the date specified therein, shall, for purposes of the river designated in this Act, be the date of enactment of this Act (rather than January 1, 1967).

ADDITION OF MIDDLE DELAWARE SEGMENT

SEC. 705. Section 3(a) of the Wild and Scenic Rivers Act is amended by adding the following new paragraph at the end thereof:

"(20) DELAWARE, NEW YORK, PENNSYLVANIA, AND NEW JERSEY.—The segment from the point where the river crosses the northern boundary of the Delaware Water Gap National Recreation Area to the point where the river crosses the southern boundary of such recreation area; to be administered by the Secretary of the Interior. For purposes of carrying out this Act with respect to the river designated by this paragraph, there are authorized to be appropriated such sums as may be necessary. Action required to be taken under subsection (b) of this section with respect to such segment shall be taken within one year from the date of enactment of this paragraph, except that, with respect to such segment, in lieu of the boundaries provided for in such subsection (b), the boundaries shall be the banks of the river. Any visitors facilities established for purposes of use and enjoyment of the river under the authority of the Act establishing the Delaware Water Gap National Recreation Area shall be compatible with the purposes of this Act and shall be located at an appropriate distance from the river.".

ADDITION OF THE AMERICAN SEGMENT

SEC. 706. Section 3(a) of the Wild and Scenic Rivers Act is amended by adding the following new paragraph at the end thereof:

"(21) AMERICAN, CALIFORNIA.—The North Fork from a point 0.3 miles above Heath Springs downstream to a point approximately 1,000 feet upstream of the Colfax-Iowa Hill

Bridge, including the Gold Run Addition Area, as generally depicted on the map entitled 'Proposed Boundary Maps' contained in Appendix I of the document dated January 1978 and entitled 'A Proposal: North Fork American Wild and Scenic River' published by the United States Forest Service, Department of Agriculture; to be designated as a wild river and to be administered by agencies of the Departments of Interior and Agriculture as agreed upon by the Secretaries of such Departments or as directed by the President. Action required to be taken under subsection (b) shall be taken within one year after the date of the enactment of this paragraph; in applying such subsection (b) in the case of the Gold Run Addition Area, the acreage limitation specified therein shall not apply and in applying section 6(g)(3), January 1 of the calendar year preceding the calendar year in which this paragraph is enacted shall be substituted for January 1, 1967. For purposes of carrying out the provisions of this Act with respect to the river designated by this paragraph, there are authorized to be appropriated not more than $850,000 for the acquisition of lands and interests in land and not more than $765,000 for development.".

ADDITION OF MISSOURI SEGMENT

SEC. 707. Section 3(a) of the Wild and Scenic Rivers Act is amended by adding the following new paragraph at the end thereof:

"(22) MISSOURI RIVER, NEBRASKA, SOUTH DAKOTA.—The segment from Gavins Point Dam, South Dakota, fifty-nine miles downstream to Ponca State Park, Nebraska, as generally depicted in the document entitled 'Review Report for Water Resources Development, South Dakota, Nebraska, North Dakota, Montana', prepared by the Division Engineer, Missouri River Division, Corps of Engineers, dated August 1977 (hereinafter in this paragraph referred to as the 'August 1977 Report'). Such segment shall be administered as a recreational river by the Secretary. The Secretary shall enter into a written cooperative agreement with the Secretary of the Army (acting through the Chief of Engineers) for construction and maintenance of bank stabilization work and appropriate recreational development. After public notice and consultation with the State and local governments, other interested organizations and associations, and the interested public, the Secretary shall take such action as is required pursuant to subsection (b) within one year from the date of enactment of this section. In administering such river, the Secretary shall, to the extent, and in a manner, consistent with this section—

"(A) provide (i) for the construction by the United States of such recreation river features and streambank stabilization structures as the Secretary of the Army (acting through the Chief of Engineers) deems necessary and advisable in connection with the segment designated by this paragraph, and (ii) for the operation and maintenance of all streambank stabilization structures constructed in connection with such segment (including both structures constructed before the date of enactment of this paragraph and structures constructed after such date, and including both structures constructed under the authority of this section and structures constructed under the authority of any other Act); and

"(B) permit access for such pumping and associated pipelines as may be necessary to assure an adequate supply of water for owners of land adjacent to such segment and for fish, wildlife, and recreational uses outside the river corridor established pursuant to this paragraph.

The streambank structures to be constructed and maintained under subparagraph (A) shall include, but not be limited to, structures at such sites as are specified with respect to such segment on pages 62 and 63 of the August 1977 Report, except that sites for such structures may be relocated to the extent deemed necessary by the Secretary of the Army (acting through the Chief of Engineers) by reason of physical changes in the river or river area. The Secretary of the Army (acting through the Chief of Engineers) shall condition the construction or maintenance of any streambank stabilization structure or of any recreational river feature at any site under subparagraph (A)(i) upon the availability to the United States of such land and interests in land in such ownership as he deems necessary to carry out such construction or maintenance and to protect and enhance the river in accordance with the purposes of this Act. Administration of the river segment designated by this paragraph shall be in coordination with, and pursuant to the advice of a Recreational River Advisory Group which may be established by the Secretary. Such Group may include in its membership, representatives of the affected States and political subdivisions thereof, affected Federal agencies, and such organized private groups as the Secretary deems desirable. Notwithstanding the authority to the contrary contained in subsection 6(a) of this Act, no land or interests in land may be acquired without the consent of the owner: *Provided*, That not to exceed 5 per centum of the acreage within the designated river boundaries may be acquired in less than fee title without the consent of the owner, in such instance of the Secretary's determination that activities are occurring, or threatening to occur, thereon which constitute serious damage or threat to the integrity of the river corridor, in accordance with the values for which this river was designated. For purposes of carrying out the provisions of this Act with respect to the river designated by this paragraph, there are authorized to be appropriated not to exceed $21,000,000, for acquisition of lands and interests in lands and for development.".

SEC. 708. Section 3(a) of the Wild and Scenic Rivers Act is amended by adding the following new paragraph at the end thereof:

"(23) SAINT JOE, IDAHO.—The segment above the confluence of the North Fork of the Saint Joe River to Spruce Tree Campground, as a recreational river; the segment above Spruce Tree Campground to Saint Joe Lake, as a wild river, as generally depicted on the map entitled "Saint Joe River Corridor Map" on file with the Chief of the Forest Service and dated September 1978: to be administered by the Secretary of Agriculture. Notwithstanding any other provision of law, the classification of the Saint Joe River under this paragraph and the subsequent development plan for the river prepared by the Secretary of Agriculture shall at no time interfere with or restrict the maintenance, use, or access to existing or future roads within the adjacent lands not interfere with or restrict present use of or future construction of bridges across that portion of the Saint Joe designated as a "recreational river" under this paragraph. Dredge or placer mining shall be prohibited within the banks or beds of the main stem of the Saint Joe and its tributary streams in their entirety above the confluence of the main stem with the North Fork of the river. Nothing in this Act shall be deemed to prohibit the removal of sand and gravel above the high water mark of the Saint Joe River and its tributaries within the river corridor by or under the authority of any public body or its agents for the purposes of construction or maintenance of roads. The Secretary shall take such action as is required under subsection (b) of this section within one year from the date of enactment of this paragraph. For the purposes of this river, there are authorized to be appropriated not more than $1,000,000 for the acquisition of lands or interest in lands.".

Subtitle B—Studies

DESIGNATION OF THE KEN RIVER (NORTH FORK) FOR STUDY

SEC. 721. Section 5(a) of the Wild and Scenic Rivers Act is amended by adding the following new paragraph at the end thereof:

"(59) KERN, CALIFORNIA.—The main stem of the North Fork from its source to Isabella Reservoir excludng its tributaries.".

DESIGNATION OF THE LOXAHATCHEE RIVER FOR STUDY

SEC. 722. Section 5(a) of the Wild and Scenic Rivers Act is amended by adding the following new paragraph at the end thereof:

"(60) LOXAHATCHEE, FLORIDA.—The entire river including its tributary, North Fork.".

DESIGNATION OF THE OGEECHEE RIVER FOR STUDY

SEC. 723. Section 5(a) of the Wild and Scenic Rivers Act is amended by adding the following new paragraph at the end thereof:

"(61) OGEECHEE, GEORGIA.—The entire river.".

DESIGNATION OF CERTAIN SEGMENT OF THE SALT RIVER FOR STUDY

SEC. 724. (Section 5(a) of the Wild and Scenic Rivers Act is amended by adding the following new paragraph at the end thereof:

"(62) SALT, ARIZONA.—The main stem from from a point on the north side of the river intersected by the Fort Apache Indian Reservation boundary (north of Buck Mountain) downstream to Arizona State Highway 288.".

DESIGNATION OF THE VERDE RIVER FOR STUDY

SEC. 725. Section 5(a) of the Wild and Scenic Rivers Act is amended by adding the following new paragraph at the end thereof:

"(63) VERDE, ARIZONA.—The main stem from the Prescott National Forest boundary near Paulden to the vicinity of Table Mountain, approximately 14 miles above Horseshoe Reservoir, except for the segment not included in the national forest between Clarkdale and Camp Verde, North segment.".

DESIGNATION OF THE SAN FRANCISCO RIVER FOR STUDY

SEC. 726. Section 5(a) of the Wild and Scenic Rivers Act is amended by adding the following new paragraph at the end thereof:

"(64) SAN FRANCISCO, ARIZONA.—The main stem from confluence with the Gila upstream to the Arizona-New Mexico border, except for the segment between Clifton and the Apache National Forest.".

DESIGNATION OF FISH CREEK FOR STUDY

SEC. 727. Section 5(a) of the Wild and Scenic Rivers Act is amended by adding the following new paragraph at the end thereof:

"(65) FISH CREEK, NEW YORK.—The entire East Branch.".

DESIGNATION OF BLACK CREEK FOR STUDY

SEC. 728. Section 5(a) of the Wild and Scenic Rivers Act is amended by adding the following new paragraph at the end thereof:

"(66) BLACK CREEK, MISSISSIPPI.—The segment from Big Creek Landing in Forrest County downstream to Old Alexander Bridge Landing in Stone County.".

DESIGNATION OF THE SHEEPSCOTT RIVER FOR STUDY

SEC. 729. Section 5(a) of the Wild and Scenic Rivers Act is amended by adding the following new paragraph at the end thereof:

"(67) SHEEPSCOTT, MAINE.—The main stem from and including its headwaters to the village of Sheepscott including the West Branch.".

DESIGNATION OF THE CACAPON RIVER FOR STUDY

SEC. 730. Section 5(a) of the Wild and Scenic Rivers Act is amended by adding the following new paragraph at the end thereof:

"(68) CACAPON, WEST VIRGINIA.—The entire river.".

DESIGNATION OF THE ESCATAWPA RIVER FOR STUDY

SEC. 731. Section 5(a) of the Wild and Scenic Rivers Act is amended by adding the following new paragraph at the end thereof:

"(69) ESCATAWPA, ALABAMA AND MISSISSIPPI.—The segment upstream from a point approximately one mile downstream from the confluence of the Escatawpa River and Jackson Creek to a point where the Escatawpa River is joined by the Yellowhouse Branch in Washington County, Alabama, near the town of Deer Park, Alabama; and the segment of Brushy Creek upstream from this confluence with the Escatawpa to its confluence with Scarsborough Creek.".

DESIGNATION OF THE MYAKKA RIVER FOR STUDY

SEC. 732. Section 5(a) of the Wild and Scenic Rivers Act is amended by adding the following new paragraph at the end thereof:

"(70) MYAKKA, FLORIDA.—The entire river.".

DESIGNATION OF SOLDIER CREEK FOR STUDY

SEC. 733. Section 5(a) of the Wild and Scenic Rivers Act is amended by adding the following new paragraph at the end thereof:

"(71) SOLDIER CREEK, ALABAMA.—The segment beginning at the point where Soldier Creek intersects the south line of section 31, township 7 south, range 6 east, downstream to a point on the south line of section 6, township 8 south, range 6 east, which point is 1,322 feet west of the south line of section 5, township 8 south, range 6 east in the county of Baldwin, State of Alabama.".

DESIGNATION OF RED RIVER FOR STUDY

SEC. 734. Section 5(a) of the Wild and Scenic Rivers Act is amended by adding the following paragraph at the end thereof:

"(72) RED, KENTUCKY.—The segment from Highway numbered 746 (also known as Spradlin Bridge) in Wolf County, Kentucky, downstream to the point where the river descends below seven hundred feet above sea level (in its normal flow) which point is at the Menifee and Powell County line just downstream of the iron bridge where Kentucky Highway numbered 77 passes over the river."

AUTHORIZATION FOR STUDIES

SEC. 735. Paragraph (3) of section 5(b) of the Wild and Scenic Rivers Act is redesignated as paragraph (4) and is amended by striking out "$2,175,000" and substituting "$4,060,000". Such paragraph is further amended by adding the following at the end thereof: "There are authorized to be appropriated for the purpose of conducting the studies of the rivers named in subparagraphs (59) through (72) such sums as may be necessary.".

STUDY PERIOD

SEC. 736. Section 5(b) of the Wild and Scenic Rivers Act is amended by inserting the following new paragraph after paragraph (2):

"(3) The studies of the rivers named in paragraphs (59) through (72) of subsection (a) shall be completed and reports submitted thereon not later than five full fiscal years after the date of the enactment of this paragraph. The study of rivers named in paragraphs (62) through (64) of subsection (a) shall be completed and the report thereon submitted by not later than April 1981.".

Subtitle C—Authorizations for Funding

ELEVEN POINT RIVER

SEC. 751. Section 16(a) of the Wild and Scenic Rivers Act is amended by striking out "Eleven Point, Missouri, $4,906,500" and substituting "Eleven Point, Missouri, $10,407,000".

ROGUE RIVER

SEC. 752. Section 16(a) of the Wild and Scenic Rivers Act is amended by striking out "Rogue, Oregon, $12,447,200" and substituting "Rogue, Oregon, $15,147,000".

SAINT CROIX RIVER

SEC. 753. (a) Section 16(a) of the Wild and Scenic Rivers Act is amended by striking out "Saint Croix, Minnesota and Wisconsin, $11,768,550" and substituting "Saint Croix, Minnesota and Wisconsin, $21,769,000".

(b) Lands donated by the Northern States Power Company for inclusion within the Saint Croix River in Minnesota and Wisconsin shall not be considered as Federal land owned in fee simple for the purposes of section 6(b) of the Wild and Scenic Rivers Act: *Provided, however,* That this exception shall not apply in any instance in which the owner of lands offers to donate an interest sufficient to protect the natural values of the river to the Secretary.

SALMON RIVER

SEC. 754. Section 16(a) of the Wild and Scenic Rivers Act is amended by striking out "Salmon, Middle Fork, Idaho, $1,237,100" and substituting "Salmon, Middle Fork, Idaho, $1,837,000".

CHATTOOGA RIVER

SEC. 755. Section 3(a)(10) of the Wild and Scenic Rivers Act (relating to the Chattooga River in North Carolina, South Carolina, and Georgia) is amended by striking out "$2,000,000" and inserting in lieu thereof "$5,200,000".

Subtitle D—Amendments to Public Law 90-542

TECHNICAL AMENDMENTS

SEC. 761. Section 2(a) of the Wild and Scenic Rivers Act is amended by striking out "without expense to the United States" and by adding the following at the end thereof: "Upon receipt of an application under clause (ii) of this subsection, the Secretary shall notify the Federal Energy Regulatory Commission and publish such application in the Federal Register. Each river designated under clause (ii) shall be administered by the State or political subdivision thereof without expense to the United States other than for administration and management of federally owned lands. For purposes of the preceding sentence, amounts made available to any State or political subdivision under the Land and Water Conservation Act of 1965 or any other provision of law shall not be treated as an expense to the United States. Nothing in this subsection shall be construed to provide for the transfer to, or administration by, a State or local authority of any federally owned lands which are within the boundaries of any river included within the system under clause (ii).".

FEDERAL LANDS; COOPERATIVE AGREEMENTS

SEC. 762. Section 12(a) of the Wild and Scenic Rivers Act is amended by striking out the first sentence thereof and substituting: "The Secretary of the Interior, the Secretary of Agriculture, and the head of any other Federal department or agency having jurisdiction over any lands which include, border upon, or are adjacent to, any river included within the National Wild and Scenic Rivers System or under consideration for such inclusion, in accordance with section 2(a)(ii), 3(a), or 5(a), shall take such action respecting management policies, regulations, contracts, plans, permits, Federal assistance and other Federal actions affecting such lands, following the date of enactment of this sentence, as may be necessary to protect such rivers in accordance with the purposes of this Act. Such Secretary or other department or agency head shall, where appropriate, enter into written cooperative agreements with the appropriate State or local official for the planning, administration, and management of Federal lands which are within the boundaries of any rivers for which approval has been granted under section 2(a)(ii).".

MISCELLANEOUS TECHNICAL AMENDMENTS

SEC. 763. (a) Section 3(b) of the Wild and Scenic Rivers Act is amended by inserting after "one year from the date of this Act" the following: "(except where a different date is provided in subsection (a))".

(b) Section 6(g)(3) of such Act is amended by inserting after "January 1, 1967," the following "(except where a different date is specifically provided by law with respect to any particular river)".

(c) Section 16(b) of such Act is deleted in its entirety, and section 16(a) is renumbered as section 16.

LEASE OF FEDERAL LANDS

SEC. 764. The Wild and Scenic Rivers Act is amended by adding the following new section after section 14:

"SEC. 14A. (a) Where appropriate in the discretion of the Secretary, he may lease federally owned land (or any interest therein) which is within the boundaries of any component of the National Wild and Scenic Rivers System and which has been acquired by the Secretary under this Act. Such lease shall be subject to such restrictive covenants as may be necessary to carry out the purposes of this Act.

"(b) Any land to be leased by the Secretary under this section shall be offered first for such lease to the person who owned such land immediately before its acquisition by the United States.".

TITLE VIII—RECOGNITION OF THE HONORABLE WILLIAM M. KETCHUM

SEC. 801. Within the War in the Pacific National Historical Park, Guam, and the American Memorial Park, Saipan, the Secretary, acting through the Director of the National Park Service, and in consultation with the Governor of each area, is authorized to provide in each of these parks some form of appropriate recognition of the outstanding contributions and untiring commitments of the late Congressman William M. Ketchum of California toward the needs of the people of the insular areas. Fully cognizant of sacrifices that sometimes must be made in order to preserve the basic principles of democracy, Congressman Ketchum personally experienced the devastations of war, as he served with distinction in the United States military during the Second World War in the Pacific Theater and during the Korean Conflict. Congressman Ketchum, an individual of strong principle and commitment, through his leadership and active participation in the United States Congress, made substantial and invaluable contributions to the political and economic growth, development, and well-being of American Samoa, Guam, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and the Virgin Islands. In particular, he will be remembered for the key role he played in the passage of the historic Covenant to establish a Commonwealth of the Northern Mariana Islands in political union with the United States.

TITLE IX—JEAN LAFITTE NATIONAL HISTORICAL PARK

SEC. 901. In order to preserve for the education, inspiration, and benefit of present and future generations significant examples of natural and historical resources of the Mississippi Delta region and to provide for their interpretation in such manner as to portray the development of cultural diversity in the region, there is authorized to be established in the State of Louisiana the Jean Lafitte National Historical Park and Preserve (hereinafter referred to as the "park"). The park shall consist of (1) the area of approximately twenty thousand acres generally depicted on the map entitled "Barataria Marsh Unit-Jean Lafitte National Historical Park and Preserve" numbered 90,000B and dated April 1978, which shall be on file and available for public inspection in

the office of the National Park Service, Department of the Interior; (2) the area known as Big Oak Island; (3) an area or areas within the French Quarter section of the city of New Orleans as may be designated by the Secretary of the Interior for an interpretive and administrative facility; (4) the Chalmette National Historical Park; and (5) such additional natural, cultural, and historical resources in the French Quarter and Garden District of New Orleans, forts in the delta region, plantations, and Acadian towns and villages in the Saint Martinville area and such other areas and sites as are subject to cooperative agreements in accordance with the provisions of this title.

SEC. 902. (a) Within the Barataria Marsh Unit the Secretary is authorized to acquire not to exceed eight thousand acres of lands, waters, and interests therein (hereinafter referred to as the "core area"), as depicted on the map referred to in the first section of this Title, by donation, purchase with donated or appropriated funds, or exchange. The Secretary may also acquire by any of the foregoing methods such lands and interests therein, including leasehold interests, as he may designate in the French Quarter of New Orleans for development and operation as an interpretive and administrative facility. Lands, waters, and interests therein owned by the State of Louisiana or any political subdivision thereof may be acquired only by donation. In acquiring property pursuant to this Title, the Secretary may not acquire rights to oil and gas without the consent of the owner, but the exercise of such rights, shall be subject to such regulations as the Secretary may promulgate in furtherance of the purposes of this Title.

(b) With respect to the lands, waters, and interests therein generally depicted as the "park protection zone" on the map referred to in the section of this Title, the Secretary shall, no later than six months from the date of enactment of this Act, in consultation with the affected State and local units of government, developed a set of guidelines or criteria applicable to the use and development of properties within the park protection zone to be enacted and enforced by the State or local units of government.

(c) The purpose of any guideline developed pursuant to subsection (b) of this section shall be to preserve and protect the following values within the core area:

(1) fresh water drainage patterns from the park protection zone into the core area;

(2) vegetative cover;

(3) integrity of ecological and biclogical systems; and

(4) water and air quality.

(d) Where the State or local units of government deem it appropriate, they made cede to the Secretary, and the Secretary is authorized to accept, the power and authority to confect and enforce a program or set of rules pursuant to the guidelines established under subsection (b) of this section for the purpose of protecting the values described in subsection (c) of this section.

(e) The Secretary, upon the failure of the State or local units of governments to enact rules pursuant to subsection (b) of this section or enforce such rules so as to protect the values enumerated in subsection (c) of this section, may acquire such lands, servitudes, or interests in lands within the park protection zone as he deems necessary to protect the values enumerated in subsection (c) of this section.

(f) The Secretary may revise the boundaries of the park protection zone, notwithstanding any other provision of law, to include or exclude properties, but only with the consent of Jefferson Parish.

SEC. 903. Within the Barataria Marsh Unit, the owner or owners of improved property used for noncommercial residential purposes on a year-round basis may, as a condition of the acquisition of such property by the Secretary, elect to retain a right of use and occupancy of such property for noncommercial residential purposes if, in the judgment of the Secretary, the continued use of such property for a limited period would not unduly interfere with the development or management of the park. Such right of use and occupancy may be either a period ending on the death of the owner or his spouse, whichever occurs last, or a term of not more than twenty-five years, at the election of the owner. Unless the property is donated, the Secretary shall pay to the owner the fair market value of the property less the fair market value of the right retained by the owner. Such right may be transferred or assigned and may be terminated by the Secretary, if he finds that the property is not used for noncommercial residential purposes, upon tender to the holder of the right an amount equal to the fair market value of the unexpired term. As used in this section, the term "improved property" means a single-family, year-round dwelling, the construction of which was begun before January 1, 1977, which serves as the owner's permanent place of abode at the time of its acquisition by the United States, together with not more than three acres of land on which the dwelling and appurtenant buildings are located which the Secretary finds is reasonably necessary for the owner's continued use and occupancy of the dwelling.

SEC. 904. In furtherance of the purposes of this Title, and after consultation with the Commission created by section 907 of this Title, the Secretary is authorized to enter into cooperative agreements with the owners of properties of natural, historical, or cultural significance, including but not limited to the resources described in paragraphs (1) through (5) of the first section of this Title, pursuant to which the Secretary may mark, interpret, restore and/or provide technical assistance for the preservation and interpretation of such properties, and pursuant to which the Secretary may provide assistance including management services, program implementation, and incremental financial assistance in furtherance of the standards for administration of the park pursuant to section 906 of this Title. Such agreements shall contain, but need not be limited to, provisions that the Secretary, through the National Park Service, shall have the right of access at all reasonable times to all public portions of the property covered by such agreement for the purpose of conducting visitors through such properties and interpreting them to the public, and that no changes or alterations shall be made in such properties except by mutual agreement between the Secretary and the other parties to such agreements. The agreements may contain specific provisions which outline in detail the extent of the participation by the Secretary in the restoration, preservation, interpretation, and maintenance of such properties.

SEC. 905. Within the Barataria Marsh Unit, the Secretary shall permit hunting, fishing, (including commercial fishing), and trapping in accordance with applicable Federal and State laws, except that within the core area and on those lands acquired by the Secretary pursuant to section 902(c) of this Title, he may designate zones where and establish periods when no hunting, fishing, or trapping shall be permitted for reasons of public safety. Except in emergencies, any regulations of the Secretary promulgated under this section shall be put into effect only after consultation with the appropriate fish and game agency of Louisiana.

SEC. 906. The Secretary shall establish the park by publication of a notice to that effect in the Federal Register at such time as he finds that, consistent with the general management plan referred to in section 908, sufficient lands and interests therein (i) have been acquired for interpretive and administrative facilities, (ii) are being protected in the core area, and (iii) have been made the subject of cooperative agreements pursuant to section 904. Pending such establishment and thereafter the Secretary shall administer the park in accordance with the provisions of this Title, the Act of August 25, 1916 (39 Stat. 535), the Act of August 21, 1935 (49 Stat. 666), and any other statutory authorities available to him for the conservation and management of natural, historical, and cultural resources.

SEC. 907. (a) There is established the Delta Region Preservation Commission (hereinafter referred to as the "Commission"), which shall consist of the following:

(1) two members appointed by the Governor of the State of Louisiana;

(2) two members appointed by the Secretary from recommendations submitted by the President of Jefferson Parish;

(3) two members appointed by the Secretary from recommendations submitted by the Jefferson Parish Council;

(4) two members appointed by the Secretary from recommendations submitted by the mayor of the city of New Orleans;

(5) one member appointed by the Secretary from recommendations submitted by the commerical fishing industry;

(6) three members appointed by the Secretary from recommendations submitted by local citizen conservation organizations in the delta region; and

(7) one member appointed by the Chairman of the National Endowment for the Arts.

(b) Members of the Commission shall serve without compensation as such. The Secretary is authorized to pay the expenses reasonably incurred by the non-Federal members of the Commission in carrying out their duties.

(c) The function of the Commission shall be to advise the Secretary in the selection of sites for inclusion in the park, in the development and implementation of a general management plan, and in the development and implementation of a comprehensive interpretive program of the natural, historic, and cultural resources of the region. The Commission shall inform interested members of the public, the State of Louisiana and its political subdivisions, and interested Federal agencies with respect to existing and proposed actions and programs having a material effect on the perpetuation of a high-quality natural and cultural environment in the delta region.

(d) The Commission shall act and advise by affirmative vote of a majority of its members: *Provided*, That any recommendation of the Commission that affects the use or development, or lack thereof, of property located solely within a single parish or municipality shall have the concurrence of a majority of the members appointed from recommendations submitted by such parish or municipality.

(e) The Directors of the Heritage Conservation and Recreation Service and the National Park Service shall serve as ex officio members of the Commission and provide such staff support and technical services as may be necessary to carry out the functions of the Commission.

SEC. 908. (a) Effective October 1, 1979, there is authorized to be appropriated, to carry out the provisions of this Title, not to exceed $50,0000,000 from the Land and Water Conservation Fund for acquisition of lands, waters, and interests therein and such sums as necessary for the development of essential facilities.

(b) Within three years from the date of enactment of this Title, the Secretary, after consultation with the Commission, shall submit to the Committee on Interior and Insular Affairs of the House of Representatives, and the Committee on Energy and Natural

Resources of the Senate a general management plan for the park indicating—

(1) transportation alternatives for public access to the park;

(2) the number of visitors and types of public use within the park which can be accommodated in accordance with the protection of its resources;

(3) the location and estimated cost of facilities deemed necessary to accommodate such visitors and uses; and

(4) a statement setting forth the actions which have been and should be taken to assure appropriate protection, interpretation, and management of the areas known as Big Oak Island and Couba Island.

SEC. 909. The area described in the Act of October 9, 1962 (76 Stat. 755) as the "Chalmette National Historical Park" is hereby redesignated as the Chalmette Unit of the Jean Lafitte National Historical Park. Any references to the Chalmette National Historical Park shall be deemed to be references to said Chalmette Unit.

SEC. 910. By no later than the end of the first full fiscal year following the date of enactment of this section, the Secretary shall submit to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, a comprehensive report with recommendations as to sites within the Mississippi River Delta Region which constitute nationally significant examples of natural resources within that region.

TITLE X—URBAN PARK AND RECREATION RECOVERY PROGRAM

SHORT TITLE

SEC. 1001. This title may be cited as the "Urban Park and Recreation Recovery Act of 1978."

FINDINGS

SEC. 1002. The Congress finds that—

(a) the quality of life in urban areas is closely related to the availability of fully functional park and recreation systems, including land, facilities, and service programs;

(b) residents of cities need close-to-home recreational opportunities that are adequate to specialized urban demands, with parks and facilities properly located, developed, and maintained;

(c) the greatest recreational deficiencies with respect to land, facilities, and programs are found in many large cities, especially at the neighborhood level;

(d) inadequate financing of urban recreation programs due to fiscal difficulties in many large cities has led to the deterioration of facilities, nonavailability of recreation services, and an inability to adapt recreational programs to changing circumstances; and

(e) there is no existing Federal assistance program which fully addresses the needs for physical rehabilitation and revitalization of these park and recreation systems.

SEC. 1003. The purpose of this Title is to authorize the Secretary to establish an urban park and recreation recovery program which would provide Federal grants to economically hard-pressed communities specifically for the rehabilitation of critically needed recreation areas, facilities, and development of improved recreation programs for a period of five years. This short-term program is intended to complement existing Federal programs such as the Land and Water Conservation Fund and Community Development Grant Programs by encouraging and stimulating local governments to revitalize their park and recreation systems and to make long-term commitments to continuing maintenance of these systems. Such assistance shall be subject to such terms and conditions as the Secretary considers appropriate and in the public interest to carry out the purposes of this Title;

DEFINITIONS

SEC. 1004. When used in this Title the term—

(a) "recreational areas and facilities" means indoor or outdoor parks, buildings, sites, or other facilities which are dedicated to recreation purposes and administered by public or private nonprofit agencies to serve the recreation needs of community residents. Emphasis shall be on public facilities readily accessible to residential neighborhoods, including multiple-use community centers which have recreation as one of their primary purposes, but excluding major sports arenas, exhibition areas, and conference halls used primarily for commercial sports, spectator, or display activities;

(b) "rehabilitation grants" means matching capital grants to local governments for the purpose of rebuilding, remodeling, expanding, or developing existing outdoor or indoor recreation areas and facilities, including improvements in park landscapes, buildings, and support facilities, but excluding routine maintenance and upkeep activities;

(c) "innovation grants" means matching grants to local governments to cover costs of personnel, facilities, equipment, supplies, or services designed to demonstrate innovative and cost-effective ways to augment park and recreation opportunities at the neighborhood level and to address common problems related to facility operations and improved delivery of recreation service, and which shall exclude routine operation and maintenance activities;

(d) "recovery action program grants" means matching grants to local governments for development of local park and recreation recovery action programs to meet the requirements of this title. Such grants will be for resource and needs assessment, coordination, citizen involvement and planning, and program development activities to encourage public definition of goals, and develop priorities and strategies for overall recreation system recovery;

(e) "maintenance" means all commonly accepted practices necessary to keep recreation areas and facilities operating in a state of good repair and to protect them from deterioration resulting from normal wear and tear;

(f) "general purpose local government" means any city, county, town, township, parish, village, or other general purpose political subdivision of a State, including the District of Columbia, and insular areas;

(g) "special purpose local government" means any local or regional special district, public-purpose corporation or other limited political subdivision of a State, including but not limited to park authorities; park, conservation, water or sanitary districts; and school districts;

(h) "private, nonprofit agency" means a community-based, nonprofit organization, corporation, or association organized for purposes of providing recreational, conservation, and educational services directly to urban residents on either a neighborhood or communitywide basis through voluntary donations, voluntary labor, or public or private grants;

(i) "State" means any State of the United States or any instrumentality of a State approved by the Governor; the Commonwealth of Puerto Rico, and insular areas; and

(j) "insular areas" means Guam, the Virgin Islands, American Samoa, and the Northern Mariana Islands.

SEC. 1005. (a) Eligibility of general purpose local governments for assistance under this Title shall be based upon need as determined by the Secretary. Within one hundred and twenty days after the effective date of this Title, the Secretary shall publish in the Federal Register, a list of the local governments eligible to participate in this program, to be accompanied by a discussion of criteria used in determining eligibility. Such criteria shall be based upon factors which the Secretary determines are related to deteriorated recreational facilities or systems, and physical and economic distress, and many include but shall not be limited to, overcrowded or substandard housing conditions, current youth unemployment, minority population, age of housing, net increase in per capita income, population growth, unemployment rate, and rate of growth in employment per centum at or below poverty level.

(b) Notwithstanding the list of eligible local governments established in accordance with subsection (a), the Secretary is also authorized to establish eligibility, at his discretion and in accord with the findings and purpose of this Title, to other general purpose local governments in standard metropolitan statistical areas as defined by the Census: *Provided*, That grants to these discretionary applicants do not exceed in the aggregate 15 per centum of funds appropriated under this Title for rehabilitation, innovation, and recovery action program grants.

(c) The Secretary shall also establish priority criteria for project selection and approval which consider such factors as—

(1) population;

(2) age and condition of existing recreation areas and facilities;

(3) demonstrated deficiencies in access to neighborhood recreation opportunities, particularly for minority, and low-and moderate-income residents;

(4) public participation in determining rehabilitation or development needs;

(5) the extent to which a project supports or complements target activities undertaken as part of a local government's overall community development and urban revitalization program;

(6) the extent to which a proposed project would provide employment opportunities for minorities, youth, and low- and moderate-income residents in the project neighborhood and/or would provide for participation of neighborhood, non-profit or tenant organizations in the proposed rehabilitation activity or in subsequent maintenance, staffing, or supervision of recreation areas and facilities; and

(7) the amount of State and private support for a project as evidenced by commitments of non-Federal resources to project construction or operation.

GRANTS TO IMPLEMENT PROGRAM

SEC. 1006. (a) The Secretary is authorized to provide 70 per centum matching rehabilitation and innovative grants directly to eligible general purpose local governments upon his approval of applications therefor by the chief executives of such governments.

(1) At the discretion of such applicants, and if consistent with an approved application, rehabilitation and innovation grants may be transferred in whole or in part to independent special purpose local governments, private nonprofit agencies or county or regional park authorities: *Provided*, That assisted recreation areas and facilities owned or managed by them offer recreation opportunities to the general population within the jurisdictional boundaries of an eligible applicant.

(2) Payments may be made only for those rehabilitation or innovative projects which have been approved by the Secretary. Such payments may be made from time to time in keeping with the rate of progress toward the satisfactory completion of a project, except that the Secretary may, when appropriate, make advance payments on approved rehabilitation and innovative projects in an amount not to exceed 20 per centum of the total project cost.

(3) The Secretary may authorize modification of an approved project only when a

grantee has adequately demonstrated that such modification is necessary because of circumstances not foreseeable at the time a project was proposed.

(b) Innovation grants should be closely tied to goals, priorities, and implementation strategies expressed in local park and recreation recovery action programs, with particular regard to the special considerations listed in section 1007(b)(2).

LOCAL COMMITMENTS TO SYSTEM RECOVERY AND MAINTENANCE

SEC. 1007. (a) As a requirement for project approval, local governments applying for assistance under this Title shall submit to the Secretary evidence of their commitments to ongoing planning, rehabilitation, service, operation, and maintenance programs for their park and recreation systems. These commitments will be expressed in local park and recreation recovery action programs which maximize coordination of all community resources, including other federally supported urban development and recreation programs. During an initial interim period to be established by regulations under this Title, this requirement may be satisfied by local government submissions of preliminary action programs which briefly define objectives, priorities, and implementation strategies for overall system recovery and maintenance and commit the applicant to a scheduled program development process. Following this interim period, all local applicants shall submit to the Secretary, as a condition of eligibility, a five-year action program for park and recreation recovery that satisfactorily demonstrate:

(1) systematic identification of recovery objectives, priorities, and implementation strategies:

(2) adequate planning for rehabilitation of specific recreation areas and facilities, including projections of the cost of proposed projects;

(3) capacity and commitment to assure that facilities provided or improved under this Title shall thereafter continue to be adequately maintained, protected, staffed, and supervised;

(4) intention to maintain total local public outlays for park and recreation purposes at levels at least equal to those in the year preceding that in which grant assistance is sought beginning in fiscal year 1980 except in any case where a reduction in park and recreation outlays is proportionate to a reduction in overall spending by the applicant; and

(5) the relationship of the park and recreation recovery program to overall community development and urban revitalization efforts.

Where appropriate, the Secretary may encourage local governments to meet action program requirements through a continuing planning process which includes periodic improvements and updates in action program submissions to eliminate identified gaps in program information and policy development.

(b) Action programs shall address, but are not limited to the following considerations:

(1) Rehabilitation of existing recreational sites and facilities, including general system-wide renovation; special rehabilitation requirements for recreational sites and facilities in areas of high population concentration and economic distress; and restoration of outstanding or unique structures, landscaping, or similar features in parks of historical or architectural significance.

(2) Local commitments to innovative and cost-effective programs and projects at the neighborhood level to augment recovery of park and recreation systems, including but not limited to recycling of abandoned schools and other public buildings for recreational purposes; multiple use of operating educational and other public buildings; purchase of recreation services on a contractual basis; use of mobile facilities and recreational, cultural, and educational programs or other innovative approaches to improving access for neighborhood residents; integration of recovery program with federally assisted projects to maximize recreational opportunities through conversion of abandoned railroad and highway rights-of-way, waterfront, and other redevelopment efforts and such other federally assisted projects as may be appropriate; conversion of recreation use of street space, derelict land, and other public lands not now designated for neighborhood recreational use; and use of various forms of compensated and uncompensated land regulation, tax inducements, or other means to encourage the private sector to provide neighborhood park and recreation facilities and programs.

The Secretary shall establish and publish in the Federal Register requirements for preparation, submission, and updating of local park and recreation recovery action programs.

(c) RECOVERY ACTION PROGRAM GRANTS.—The Secretary is authorized to provide up to 50 per centum matching grants to eligible local applicants for program development and planning specifically to meet the objectives of this Title.

STATE ACTION INCENTIVE

SEC. 1008. The Secretary is authorized to increase Federal implementation grants authorized in section 1006 by providing an additional match equal to the total match provided by a State of up to 15 per centum of total project costs. In no event may the Federal matching amount exceed 85 per centum of total project cost. The Secretary shall further encourage the States to assist him in assuring that local recovery plans and programs are adequately implemented by cooperating with the Department of the Interior in monitoring local park and recreation recovery plans and programs and in assuring consistency of such plans and programs, where appropriate, with State recreation policies as set forth in statewide comprehensive outdoor recreation plans.

MATCHING REQUIREMENTS

SEC. 1009. The non-Federal share of project costs assisted under this Title may be derived from general or special purpose State or local revenues. State categorical grants, special appropriations by State legislatures, donations of land, buildings, or building materials and/or in-kind construction, technical, and planning services, but not from any Federal grant program other than general revenue sharing and the community development block grant program. Reasonable local costs of action program development to meet the requirements of section 1007(a) of this Title may be used as part of the local match only when local applicants have not received program development grants under the authority of section 1007(c) of this Title. The Secretary shall encourage States and private interests to contribute, to the maximum extent possible, to the non-Federal share of project costs.

CONVERSION OF RECREATION PROPERTY

SEC. 1010. No property improved or developed with assistance under this Title shall, without the approval of the Secretary, be converted to other than public recreation uses. The Secretary shall approve such conversion only if he finds it to be in accord with the current local park and recreation recovery action program and only upon such conditions as he deems necessary to assure the provision of adequate recreation properties and opportunities of reasonably equivalent location and usefulness.

COORDINATION OF PROGRAM

SEC. 1011. The Secretary shall (a) coordinate the urban park and recreation recovery program with the total urban recovery effort and cooperate to the fullest extent possible with other Federal departments and agencies and with State agencies which administer programs and policies affecting urban areas, including but not limited to, programs in housing, urban development, natural resources management, employment, transportation, community services, and voluntary action; (b) encourage maximum coordination of the program between appropriate State agencies and local applicants; and (c) require that local applicants include provisions for participation of community and neighborhood residents and for public-private coordination in recovery planning and project selection.

AUDIT REQUIREMENTS

SEC. 1012. Each recipient of assistance under this Title shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition of project undertakings in connection with which assistance under this Title is given or used, and the amount and nature of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit. The Secretary, and the Comptroller General of the United States, or their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient that are pertinent to assistance received under this Title.

AUTHORIZATION OF APPROPRIATIONS

SEC. 1013. There are hereby authorized to be appropriated for the purposes of this Title, not to exceed $150,000,000 for each of the fiscal years 1979 through 1982, and $125,000,000 in fiscal year 1983, such sums to remain available until expended. Not more than 3 per centum of the funds authorized in any fiscal year may be used for grants for the development of local park and recreation recovery action programs pursuant to sections 1007(a) and 1007(c), and not more than 10 per centum may be used for innovation grants pursuant to section 6 of this Title. Grants made under this Title for projects in any one State shall not exceed in the aggregate 15 per centum of the aggregate amount of funds authorized to be appropriated in any fiscal year. For the authorizations made in this subsection, any amounts authorized but not appropriated in any fiscal year shall remain available for appropriation in succeeding fiscal years.

Notwithstanding any other provision of this Act, or any other law, or regulation, there is further authorized to be appropriated $250,000 for each of the fiscal years 1979 through 1983, such sums to remain available until expended, to each of the insular areas. Such sums will not be subject to the matching provisions of this section, and may only be subject to such conditions, reports, plans, and agreements, if any, as determined by the Secretary.

LIMITATION OF USE OF FUNDS

SEC. 1014. No funds available under this Title shall be used for the acquisition of land or interests in land.

SUNSET AND REPORTING PROVISIONS

SEC. 1015(a) Within ninety days of the expiration of this authority, the Secretary shall report to the Congress on the overall impact of the urban park and recreation recovery program.

(b) On December 31, 1979, and on the same date in each year that the recovery program is funded, the Secretary shall report to the Congress on the annual achievements of the innovation grant program, with emphasis on the nationwide implications of successful innovation projects.

TITLE XI—NEW RIVER GORGE NATIONAL RIVER

SEC. 1101. For the purpose of conserving and interpreting outstanding natural,

scenic, and historic values and objects in and around the New River Gorge and preserving as a free-flowing stream an important segment of the New River in West Virginia for the benefit and enjoyment of present and future generations, the Secretary of the Interior (hereinafter referred to as the "Secretary") shall establish and administer the New River Gorge National River. The Secretary shall administer, protect and develop the national river in accordance with the provisions of the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1 et. seq.), as amended and supplemented; except that any other statutory authority available to the Secretary for the preservation and management of natural resources may be utilized to the extent he finds such authority will further the purposes of this Title. The boundaries of the national river shall be as generally depicted on the drawing entitled "Proposed New River Gorge National River" numbered NERI–20,002, dated July 1978, which shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior.

SEC. 1102. (a) Within the boundaries of the New River Gorge National River, the Secretary may acquire lands and waters or interests therein by donation, purchase with donated or appropriated funds, transfer, or exchange. Lands owned by the State of West Virginia or a political subdivision thereof may be acquired by donation only. The authority of the Secretary to condemn in fee, improved properties as defined in subsection (c) of this section shall not be invoked as long as the owner of such improved property holds and uses it in a manner compatible with the purposes of this Title. The Secretary may acquire any such improved property without the consent of the owner whenever he finds that such property has undergone, since January 1, 1978, or is imminently about to undergo, changes in land use which are incompatible with the purposes of the national river. The Secretary may acquire less than fee interest in any improved or unimproved property within the boundaries of the national river.

(b) On non-Federally owned lands within the national river boundaries, the Secretary is authorized to enter into cooperative agreements with organizations or individuals to mark or interpret properties of significance to the history of the George area.

(c) For the purposes of this Act, the term "improved property" means (i) a detached single family dwelling, the construction of which was begun before January 1, 1977 (hereafter referred to as "dwelling"), together with so much of the land on which the dwelling is situated, the said land being in the same ownership as the dwelling, as the Secretary shall designate to be reasonably necessary for the enjoyment of the dwelling for the sole purpose of noncommercial residential use, together with any structures necessary to the dwelling which are situated on the land so designated, or (ii) property developed for agricultural uses, together with any structures accessory thereto which were so used on or before January 1, 1977, or (iii) commercial and small business properties which were so used on or before January 1, 1977, the purpose of which is determined by the Secretary to contribute to visitor use and enjoyment of the national river. In determining when and to what extent a property is to be considered an "improved property", the Secretary shall take into consideration the manner of use of such buildings and lands prior to January 1, 1977, and shall designate such lands as are reasonably necessary for the continued enjoyment of the property in the same manner and to the same extent as existed prior to such date.

(d) The owner of an improved property, as defined in this Title, on the date of its acquisition, as a condition of such acquisition, may retain for himself, his heirs and assigns, a right of use and occupancy of the improved property for noncommercial residential, or agricultural purposes, or the continuation of existing commercial operations, as the case may be, for a definite term of not more than twenty-five years, or, in lieu thereof, for a term ending at the death of the owner or the death of his spouse, whichever is later. The owner shall elect the term to be reserved. Unless the property is wholly or partially donated, the Secretary shall pay to the owner the fair market value of the property on the date of its acquisition, less the fair market value of the property on that date of the right retained by the owner. A right retained by the owner pursuant to this section shall be subject to termination by the Secretary upon his determination that it is being exercised in a manner inconsistent with the purposes of this Title, and it shall terminate by operation of law upon notification by the Secretary to the holder of the right of such determination and tendering to him the amount equal to the fair market value of that portion which remains unexpired.

SEC. 1103. (a) Within two years from the date of enactment of this Title, the Secretary shall submit, in writing, to the House Committee on Interior and Insular Affairs, the Senate Committee on Energy and Natural Resources and to the Committees on Appropriations of the United States Congress, a detailed plan which shall indicate—

(i) the lands and areas which he deems essential to the protection and public enjoyment of the natural, scenic, and historic values and objects of this national river;

(ii) the lands which he has previously acquired by purchase, donation, exchange, or transfer for the purpose of this national river; and

(iii) the annual acquisition program (including the level of funding) which he recommends for the ensuing four fiscal years.

(iv) the feasibility and suitability of including within the boundaries of the national river, the section of the New River from Fayetteville to Gauluey Bridge, and reasons therefor.

SEC. 1104. The Secretary shall on his own initiative, or at the request of any local government having jurisdiction over land located in or adjacent to the Gorge area, assist and consult with the appropriate officials and employees of such local government in establishing zoning laws or ordinances which will assist in achieving the purposes of this Title. In providing assistance pursuant to this section, the Secretary shall endeavor to obtain provisions in such zoning laws or ordinances which—

(1) have the effect of restricting incompatible commercial and industrial use of all real property in or adjacent to the Gorge area;

(2) aid in preserving the character of the Gorge area by appropriate restrictions on the use of real property in the vicinity, including, but not limited to, restrictions upon building and construction of all types; signs and billboards; the burning of cover; cutting of timber; removal of topsoil, sand, or gravel, dumping, storage, or piling of refuse; or any other use which would detract from the esthetic character of the Gorge area; and

(3) have the effect of providing that the Secretary shall receive advance notice of any hearing for the purpose of granting a variance and any variance granted under, and of any exception made to, the application of such law or ordinance.

SEC. 1105. (a) Notwithstanding any other provision of law, no surface mining of any kind shall be permitted on federally owned lands within the boundary of the national river where the subsurface estate is not federally owned. Underground mining on such lands may be permitted by the Secretary only if—

(1) the mining operation will have no significant adverse impact on the public use and enjoyment of the national river;

(2) the mining operation will disturb the minimum amount of surface necessary to extract the mineral; and

(3) the surface is not significantly disturbed, unless there is no technologically feasible alternative.

(b) The harvesting of timber on federally owned lands within the national river boundary is prohibited, except insofar as it is necessary for the Secretary to remove trees for river access, historic sites, primitive campgrounds, scenic vistas, or as may be necessary from time to time for reasons of public health and safety.

(c) The owner of a mineral estate subject to this section who believes he has suffered a loss by operation of this section, may bring an action only in a United States district court to recover just compensation, which shall be awarded if the court finds that such loss constitutes a taking of property compensable under the Constitution.

SEC. 1106. The Secretary may permit hunting and fishing on lands and water under his jurisdiction within the boundaries of the New River Gorge National River in accordance with applicable Federal and State laws, and he may designate zones where, and establish periods when, no hunting or fishing shall be permitted for reasons of public safety, administration, fish or wildlife management, or public use and enjoyment. Except in emergencies, any rules and regulations of the Secretary pursuant to this section shall be put into effect only after consultation with the appropriate State agency responsible for hunting and fishing activities.

SEC. 1107. The Federal Energy Regulatory Commission shall not license the construction of any dam, water conduit, reservoir, powerhouse transmission line, or other project works under the Federal Power Act (41 Stat. 1063) as amended (16 U.S.C. 791a et seq.), on or directly affecting the New River Gorge National River, and no department or agency of the United States shall assist by loan, grant, license, or otherwise in the construction of any water resources project that would have a direct and adverse effect on the values for which such river was established, as determined by the Secretary. Nothing contained in the foregoing sentence, however, shall preclude licensing of, or assistance to, developments below or above the New River Gorge National River or on any stream tributary thereto which will not invade the area or diminish the scenic, recreation, and fish and wildlife values present in the area on the date of this section. No department or agency of the United States shall recommend authorization of any water resources project that would have a direct and adverse effect on the values for which such river was established, as determined by the Secretary, or request appropriations to begin construction on any such project whether heretofore or hereafter authorized, without advising the Secretary in writing of its intention to do so at least sixty days in advance, and without specifically reporting to the Congress in writing at the time it makes its recommendation or request in what respect construction of such project would be in conflict with the purposes of this section and would effect the national river and the values to be protected by it under this section.

SEC. 1108. Section 5(a) of the Act of October 2, 1968 (82 Stat. 910) is hereby amended to provide for study of three principal tributaries of the New River in West Virginia, by adding the following new paragraphs:

"(73) Bluestone, West Virginia.—From its headwaters to its confluence with the New.

"(74) Gauley, West Virginia.—Including the tributaries of the Meadow and the Cranberry, from the headwaters to its confluence with the New.

"(75) Greenbrier, West Virginia.—From its headwaters to its confluence with the New.".

SEC. 1109. Within three years from the date of enactment of this Title, the Secretary shall develop and transmit to the Senate Committee on Energy and Natural Resources and the House Committee on Interior and Insular Affairs, a general management plan for the protection and development of the national river consistent with the purposes of this Title, indicating—

(1) measures for the preservation of the area's resources;

(2) indications of types and general intensities of development (including visitor circulation and transportation patterns, systems and modes) associated with public enjoyment and use of the area, including general locations, timing of implementation, and anticipated costs;

(3) identification of and implementation commitments for visitor carrying capacities for all areas of the unit; and

(4) indications of potential modifications to the external boundaries of the unit, and the reasons therefor.

SEC. 1010. The Secretary of the Army shall cooperate with the Secretary of the Interior concerning the water requirements of the national river. The Secretary of the Army shall provide for release of water from the Bluestone Lake project consistent with that project's purposes and activities in sufficient quantity and in such manner to facilitate protection of biological resources and recreational use of the national river.

SEC. 1111. For the purposes of part C of the Clean Air Act, the State may redesignate the national river only as class I or class II.

SEC. 1112. There are hereby authorized to be appropriated such sums as may be necessary for the purposes of this Title, but not to exceed $20,000,000 for the acquisition of lands and interests in lands, and not to exceed $500,000 for development.

TITLE XII—FORT SCOTT NATIONAL HISTORIC SITE

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in order to commemorate the significant role played by Fort Scott in the opening of the West, as well as the Civil War and the strife in the State of Kansas that preceded it, the Secretary of the Interior may acquire by donation the land and interests in land, together with buildings and improvements thereon, known as Fort Scott, located in the city of Fort Scott, Bourbon County, Kansas: *Provided,* that the buildings so acquired shall not include the structure known as "Lunette Blair".

SEC. 2. When the site of Fort Scott has been acquired by the United States as provided in section 1 of this Act, the Secretary of the Interior shall establish such area as the Fort Scott National Historic Site, by publication of notice and boundary map thereof in the Federal Register.

SEC. 3. The Secretary of the Interior shall administer, protect, develop, and maintain the Fort Scott National Historic Site subject to the provisions of the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (39 Stat. 535), as amended and supplemented, and the provisions of the Act entitled "An Act to provide for the preservation of historic America sites, buildings, objects, and antiquities of national significance, and for other purposes", approved August 21, 1935 (49 Stat. 666).

SEC. 4. Sections 3 and 4 of the Act entitled "An Act to provide for the commemoration of certain historical events in the State of Kansas, and for other purposes", approved August 31, 1965 (79 Stat. 588), as amended, are hereby repealed: *Provided,* That all obligations pursuant to contracts for the development and construction of Fort Scott heretofore entered into by the city of Fort Scott to be paid with funds under the authority of section 3 of the aforesaid Act, shall be assumed by the Secretary: *Provided further,* That any remaining balance of funds appropriated pursuant to section 4 of the Act of August 31, 1965, as amended, shall be available for the purposes of carrying out this Act.

SEC. 5. In addition to such sums as might be made available to the historic site by the preceding section, effective October 1, 1979, there are hereby authorized to be appropriated such sums as may be necessary for the development of the Fort Scott National Historic Site, as provided in this Act.

Mr. PHILLIP BURTON (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the amendment be dispensed with and that it be printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The amendment was agreed to.

The Senate bill was ordered to be read a third time, was read the third time and passed.

A motion to reconsider was laid on the table.

AUTHORIZATION TO POSTPONE VOTES OTHERWISE IN ORDER ON TUESDAY, OCTOBER 10, 1978, TO THURSDAY, OCTOBER 12, 1978

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that any votes otherwise in order on Tuesday next may be postponed until Thursday, October 12.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. RHODES. Mr. Speaker, reserving the right to object, as I understand, the situation is that there will be no votes on Monday and no votes on Wednesday. The majority leader is asking that any votes which might occur on Tuesday also be carried over until Thursday, so that the membership will understand that if they are necessarily absent from the Capitol of the United States on Monday, Tuesday, or Wednesday, that there will be no votes. Is that the effect of the gentleman's request?

Mr. WRIGHT. Mr. Speaker, if the distinguished minority leader will yield, the gentleman is exactly correct in that there will not be any session on Monday and since there will be no votes by prior agreement on Wednesday, it seems appropriate that we should allow any votes otherwise appropriate on Tuesday to go over to Thursday, so Members would know in advance when the votes would occur. If this unanimous-consent request is agreed to, the Members would be sure there would be no votes on substantive matters. Conceivably, there could be votes under a procedural matter, if it could not be handled under the rule; but there would be no votes on substantive legislation on Monday, Tuesday, or Wednesday.

Mr. RHODES. Mr. Speaker, I withdraw my reservation of objection.

Mr. DERWINSKI. Mr. Speaker, I reserve the right to object.

Mr. Speaker, may I ask the majority leader, will this unusual Tuesday inactivity in any way affect the administration's votes, or bills the administration wishes passed? I am interested in the administration's position.

Mr. WRIGHT. Mr. Speaker, if the gentleman will yield, I am aware, as he always is, the gentleman has a grave and serious concern. I cannot respond with knowledge as to whether any administration positions would be adversely or favorably affected; but I think the gentleman could be certain that we will try to conduct all the business we can and get routine business behind us, so that we may be prepared to vote for or against the administration, or anybody or anything else we might want to vote for or against on Thursday next.

Mr. DERWINSKI. Mr. Speaker, further reserving the right to object, my point is that any frustration with delays should be aimed at the Speaker and the majority leader, rather than our beloved President.

Mr. WRIGHT. Upon my back I gladly take all opprobrium and blame and hereby absolve the President for this decision.

Mr. DERWINSKI. Mr. Speaker, I withdraw my reservation of objection.

Mr. BAUMAN. Mr. Speaker, reserving the right to object, as I understand the request of the majority leader, we will not be putting over any procedural votes, only those on substantive matters, until Thursday.

Mr. WRIGHT. Mr. Speaker, if the gentleman will yield, yes. I think that is all we really can do under the rules, if we were to proceed and continue with the legislative program we might expect.

Mr. BAUMAN. Mr. Speaker, I am unable to hear the majority leader because of constant noise behind me.

Would the gentleman repeat his statement?

The SPEAKER pro tempore. Would the gentlemen surrounding the gentleman from Maryland be orderly.

Mr. WRIGHT. Mr. Speaker, if the gentleman will yield further, as the gentleman from Maryland is aware, it would be impossible to conduct business without at least the conceivable possibility of some procedural vote that would be allowed under the rules.

The gentleman from Maryland is more conversant with those rules than almost anybody else in the House. For that reason I would not deign to presume to advise the gentleman from Maryland with respect to the possibilities that exist under the Rules of the House; but beyond that, no votes on substantive matters and no votes on legislation; that is the essence of the unanimous-consent request.

Mr. BAUMAN. Mr. Speaker, as the gentleman from Texas knows, the Committee on Rules will be voting on several resolutions dealing with procedural matters. It is my understanding these also would not be brought up on Tuesday or Wednesday for votes.

I am speaking about resolutions that would allow an extra day of suspensions and give the Speaker unlimited power of recess and possibly even the power to take from the table Senate-passed House bills and Senate amendments. I would think those are major matters that ought to be left for debate on Thursday rather

than to be treated as procedural matters to be voted on Tuesday or Wednesday.

Mr. WRIGHT. I will say to the gentleman that the Speaker has just advised me that it is the plan to bring those requests up on Friday of this week.

Mr. BAUMAN. I see.

Mr. YOUNG of Florida. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Florida.

Mr. YOUNG of Florida. Mr. Speaker, I thank the gentleman for yielding.

I would like to pose this question to the very distinguished majority leader:

When the majority leader made the comment some days ago about setting October 14 as a very definite target for sine die adjournment, was this delay of voting taken into consideration, and would this have any effect one way or the other on a sine die adjournment resolution?

Mr. WRIGHT. Mr. Speaker, this was taken into consideration. It is our belief that those matters remaining, assuming expeditious action in the other body on the tax bill and one or two other matters, could be accommodated by votes on Thursday, Friday, and Saturday of next week, permitting our adjournment on target on Saturday, October 14.

As recently as yesterday the majority leader of the Senate (Senator BYRD) reiterated his belief that the Senate would be able to complete its schedule in time for adjournment on October 14. It is my opinion that if the Senate can do it, we certainly can do it as well.

Mr. YOUNG of Florida. Mr. Speaker, will the gentleman yield further?

Mr. BAUMAN. I yield to the gentleman from Florida.

Mr. YOUNG of Florida. Mr. Speaker, I assume the majority leader means, of course, sine die adjournment, as opposed to an adjournment for recess?

Mr. WRIGHT. Mr. Speaker, in the context in which we have been talking, sine die adjournment is exactly what we hope and intend to achieve on the 14th of October. The gentleman is aware that nobody can give him an ironclad promise. We hope it can be done. We are striving to achieve it, we believe it is possible, and we intend to work toward that end.

There are things that conceivably could happen that would throw it off the track, but we hope those things will not happen.

Mr. YOUNG of Florida. Mr. Speaker, I thank the distinguished majority leader.

Mr. BAUMAN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

AMENDING AUTHORIZATION OF ESTABLISHMENT OF FORT UNION TRADING POST NATIONAL HISTORIC SITE, NORTH DAKOTA AND MONTANA

Mr. PHILLIP BURTON. Mr. Speaker, I ask unanimous consent that the Committee on Interior and Insular Affairs be discharged from further consideration of the Senate bill (S. 491) to amend the Act entitled "An Act to authorize establishment of the Fort Union Trading Post National Historic Site, North Dakota and Montana, and for other purposes", approved June 20, 1966 (80 Stat. 211), and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate bill as follows:

S. 491

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the first section of the Act entitled "An Act to authorize establishment of the Fort Union Trading Post National Historic Site, North Dakota and Montana, and for other purposes", approved June 20, 1966 (84 Stat. 211), is amended to read as follows:

"That, in order to commemorate the significant role played by Fort Union as a fur trading post on the upper Missouri River, the Secretary of the Interior may acquire by donation, purchase with donated or appropriated funds, or otherwise, the historic remains of Fort Union in the States of North Dakota and Montana, as he may deem necessary to accomplish the purposes of this Act: *Provided,* That the total areas so acquired shall not exceed four hundred and fifty acres.".

SEC. 2. The Act is further amended by repealing section 4 in its entirety and by adding the following new section 4:

"SEC. 4. The Secretary may not expend more than $73,000 from the Land and Water Conservation Fund for land acquisition nor more than $8,427,000 for the development of facilities at the site: *Provided,* That no funds for the development of said facilities, shall be authorized prior to October 1, 1978: *Provided further,* That no funds may be expended for reconstruction of historic remains for Fort Union unless the Secretary of the Interior has determined, on the basis of historical documentation satisfactory to him, that such reconstruction can be accomplished with a minimum of conjecture.".

Mr. PHILLIP BURTON. Mr. Speaker, I ask unanimous consent that the Senate bill be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. SEBELIUS. Mr. Speaker, reserving the right to object, I will ask the gentleman from California (Mr. PHILLIP BURTON) what we are doing here in this bill.

Mr. PHILLIP BURTON. Mr. Speaker, if the gentleman will yield, this unanimous-consent request is a commonplace procedure. It conforms with the House-passed bill, and that bill passed the House by a margin of about 9 to 1. This is being considered in terms of the omnibus bill.

Mr. SEBELIUS. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, can the gentleman from Kansas (Mr. SEBELIUS) explain to me what this bill does?

Mr. SEBELIUS. Mr. Speaker, if the gentleman will yield, this actually includes provisions that were contained in the omnibus bill.

Mr. ROUSSELOT. I thought we split that two ways.

Mr. SEBELIUS. That is right. This is the other way.

Mr. ROUSSELOT. So what we have done now is to split it three ways?

Mr. SEBELIUS. Perhaps the gentleman from California (Mr. PHILLIP BURTON) could explain it. To the best of my knowledge, there is only a two-way split, but maybe there is something lingering around here that we have not set our hands on.

Mr. ROUSSELOT. Mr. Speaker, further reserving the right to object, will the gentleman from California (Mr. PHILLIP BURTON) explain what we have done here? Is this divided or split among three bills?

Mr. PHILLIP BURTON. Mr. Speaker, if the gentleman will yield, it is divided. We did not include this in our earlier unanimous-consent request.

Mr. ROUSSELOT. Which piece does this include?

Mr. PHILLIP BURTON. This includes the Redwood National Park and a number of other very important pieces of legislation that have been authored by and approved by the House.

Mr. ROUSSELOT. The Redwood National Park, amongst others?

Mr. PHILLIP BURTON. Yes.

Mr. ROUSSELOT. Is that in this third bill?

Mr. PHILLIP BURTON. Yes.

Mr. ROUSSELOT. What does it include besides the Redwood National Park?

Mr. PHILLIP BURTON. Mr. Speaker, I am delighted to welcome again for the second time our distinguished colleague, the gentleman from Southern California (Mr. ROUSSELOT), to the Committee on Interior and Insular Affairs.

Mr. ROUSSELOT. I am glad to find out what is going on. California is my State, too. I just wondered what is in the bill besides the Redwood National Park.

Mr. PHILLIP BURTON. This permits consideration, as optional and additional, the Redwood National Park, the San Antonio Missions, the Golden Gate National Recreational Area, and a number of other very important national considerations.

Mr. ROUSSELOT. So it is now in three bills, or what?

Mr. PHILLIP BURTON. Four.

Mr. ROUSSELOT. Four?

Mr. SEBELIUS. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. Further reserving the right to object, I yield to the gentleman from Kansas.

Mr. SEBELIUS. The Thomas Stone National Historic Site, in Maryland, is in this bill also.

Mr. ROUSSELOT. It is in this one, too?

My colleague, the gentleman from Idaho, wants to know about the St. Joe compromise.

Mr. PHILLIP BURTON. It is not in

this bill. It is in the one we previously approved.

Mr. ROUSSELOT. So where is it now?

Mr. PHILLIP BURTON. It is on its way to the Senate.

Mr. ROUSSELOT. Does the gentleman mean that is the one we just approved?

Mr. PHILLIP BURTON. That is right.

Mr. ROUSSELOT. It is in the other bill.

It certainly is a clear-cut evaluation of what we are doing here. I appreciate my colleague explaining this in detail.

Mr. PHILLIP BURTON. We are always grateful to the gentleman from San Marino for his contribution to the efforts of the committee upon which I did not realize the gentleman served until the last 2 months.

Mr. ROUSSELOT. The Speaker feels I am on too many committees already, but I am thinking of joining the gentleman's committee.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. DERWINSKI. Mr. Speaker, reserving the right to object, has this procedure been cleared with the gentleman's little brother?

Mr. PHILLIP BURTON. No. But it does include the previously agreed upon unanimous-consent request for Kosciusko and his contribution to the commonwealth and our country.

Mr. DERWINSKI. My question is, has this been cleared with the gentleman's little brother?

Mr. PHILLIP BURTON. I can only respond that I do not understand the gentleman's question.

Mr. DERWINSKI. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

MOTION OFFERED BY MR. PHILLIP BURTON

Mr. PHILLIP BURTON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. PHILLIP BURTON moves to strike out all after the enacting clause of the Senate bill, S. 491, and to insert in lieu thereof the following:

DEFINITION

SECTION 1. As used in this Act, except as otherwise specifically provided, the term "Secretary" means the Secretary of the Interior.

AUTHORIZATION OF APPROPRIATIONS

SEC. 2. Notwithstanding any other provision of this Act, authority to enter into contracts, to incur obligations, or to make payments under this Act shall be effective only to the extent, and in such amounts, as are provided in advance in appropriation Acts.

TITLE I—FORT UNION TRADING POST NATIONAL HISTORIC SITE

SEC. 101. (a) The first section of the Act entitled "An Act to authorize establishment of the Fort Union Trading Post National Historic Site, North Dakota and Montana, and for other purposes", approved June 20, 1966 (80 Stat. 211), is amended by deleting "located in Williams County, North Dakota, and such additional lands and interests in lands in Williams County, North Dakota, and Roosevelt County, Montana," and inserting in lieu thereof "located in the States of North Dakota and Montana," and by deleting "400 acres" and inserting in lieu thereof "570 acres as generally depicted on the map entitled 'Fort Union Trading Post, Montana-North Dakota', numbered 436–80,025, and dated February 1977".

(b) Section 4 of such Act is amended by deleting "$613,000 for the acquisition of lands and interests in lands and for the development" and inserting in lieu thereof "$280,000 for the acquisition of lands and $4,416,000 for development".

TITLE II—REDWOOD NATIONAL PARK

SEC. 201. Section 10 of the Act of October 2, 1968 (82 Stat. 934), is amended by adding the following at the end thereof: "There are hereby authorized to be appropriated $5,000,000 for development of the park established under this Act; such amount shall be in addition to other amounts available for such purposes.".

TITLE III—PAUL H. DOUGLAS INDIANA DUNES NATIONAL LAKESHORE

SEC. 301. The Indiana Dunes National Lakeshore, authorized to be established by the Act entitled "An Act to provide for the establishment of the Indiana Dunes National Lakeshore, and for other purposes", approved November 5, 1966 (80 Stat. 1309), shall be known and designated hereafter as the "Paul H. Douglas Indiana Dunes National Lakeshore". Any reference to the Indiana Dunes National Lakeshore in any law, regulation, map, record, or other paper of the United States shall be deemed a reference to such lakeshore as the "Paul H. Douglas Indiana Dunes National Lakeshore".

TITLE IV—WILDERNESS

DESIGNATION OF AREA

SEC. 401. The following lands are hereby designated as wilderness in accordance with section 3(c) of the Wilderness Act (78 Stat. 890; 16 U.S.C. 1132(c)), and shall be administered by the Secretary in accordance with the applicable provisions of the Wilderness Act:

(1) Crater Lake National Park, Oregon, wilderness comprising approximately one hundred and twenty-seven thousand five hundred acres, depicted on a map entitled "Wilderness Plan, Crater Lake National Park, Oregon", numbered 106–20,006–F and dated May 1978, to be known as the Crater Lake Wilderness.

MAP AND DESCRIPTION

SEC. 402. A map and description of the boundaries of the area designated in this title shall be on file and available for public inspection in the office of the Director of the National Park Service, Department of the Interior, and in the Office of the Superintendent of the area designated in this title. As soon as practicable after this Act takes effect, a map of the wilderness area and a description of its boundaries shall be filed with the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the United States Senate, and such map and description shall have the same force and effect as if included in this Act: *Provided*, That correction of clerical and typographical errors in such map and description may be made.

ADMINISTRATION

SEC. 404. The area designated by this Act as wilderness shall be administered by the Secretary of the Interior in accordance with the applicable provisions of the Wilderness Act governing areas designated by that Act as wilderness, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this Act, and, where appropriate, any reference to the Secretary of Agriculture shall be deemed to be a reference to the Secretary of the Interior.

TITLE V—SAN ANTONIO MISSIONS NATIONAL HISTORICAL PARK

SEC. 501. (a) In order to provide for the preservation, restoration, and interpretation of the Spanish Missions of San Antonio, Texas, for the benefit and enjoyment of present and future generations of Americans, there is hereby established the San Antonio Missions National Historical Park (hereafter in this section referred to as the "park") consisting of Concepcion, San Jose, San Juan, and Espada Missions, together with areas and features historically associated therewith, as generally depicted on the drawing entitled "Boundary Map, San Antonio Missions National Historical Park", numbered 930–80,022–C and dated May 1978, which shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior, and in the offices of the Superintendent of the park. After advising the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives, in writing, the Secretary may make minor revisions of the boundaries of the park when necessary by publication of a revised drawing or other boundary description in the Federal Register.

(b) For the purposes of this section, the Secretary is authorized—

(1) to acquire by donation, purchase with donated or appropriated funds, or exchange, lands and interests therein constituting the following generally described areas in the historic missions district of the city of San Antonio, Texas—

(A) Mission San Jose y San Miguel de Aguayo;

(B) Mission Nuestra Senora de la Purisima Concepcion de Acuna;

(C) Mission San Francisco de la Espada;

(D) Espada Acequia, the section of approximately five miles along the west side of and parallel to the San Antonio River;

(E) Espada Dam and Aqueduct;

(F) Mission San Juan Capistrano;

(G) San Juan Acequia, on the east side of the San Antonio River; and

(H) such lands and interests therein which the Secretary determines are necessary or desirable to provide for public access to, and interpretation and protection of, the foregoing; and

(2) to enter cooperative agreements with the owners of any historic properties, including properties referred to in paragraph (1), in furtherance of the purposes of this section.

Each agreement under paragraph (2) shall provide among other things that the owner will hold and preserve the historic property in perpetuity and will not undertake or permit the alteration or removal of historic features or the erection of markers, structures, or buildings without the prior concurrence of the Secretary, and that the public shall have reasonable access to those portions of the property to which access is necessary in the judgment of the Secretary for the proper appreciation and interpretation of its historical and architectural value. Pursuant to such cooperative agreements and notwithstanding any other provision of law to the contrary the Secretary may, directly or by contract, construct, reconstruct, rehabilitate, or develop such buildings, structures, and related facilities including roads, trails, and other interpretive facilities on real property not in Federal ownership and may maintain and operate programs in connection therewith as he deems appropriate Any lands or interest therein owned by the Catholic Archdiocese of San Antonio, the State of Texas, or any political subdivision of such State, including the San Antonio River Authority, may be acquired by donation only.

(c)(1) With the exception of any property deemed necessary by the Secretary for visitor facilities or administration of the park, any owner or owners of improved property on the date of its acquisition by the Secretary may, as a condition of such acquisition, retain for themselves and their successors or assigns a right of use and occupancy of the property for noncommercial residential purposes, for twenty-five years, or, in lieu thereof, for a term ending at the death of the owner or his spouse, whichever is later. The owner shall elect the term to be reserved. The Secretary shall pay to the owner the fair market value of the property on the date of such acquisition less the fair market value on such date of the right retained by the owner.

(2) A right of use and occupancy retained or enjoyed pursuant to this subsection may be terminated with respect to the entire property by the Secretary upon his determination that the property or any portion thereof had ceased to be used for noncommercial residential purposes and upon tender to the holder of a right an amount equal to the fair market value, as of the date of tender, of that portion of the right which remains unexpired on the date of termination.

(3) The term "improved property", as used in this subsection, shall mean a detached, noncommercial residential dwelling, the construction of which was begun before January 1, 1978 (hereinafter referred to as a dwelling) is situated, the said land being in the same ownership as the dwelling, as the Secretary shall designate to be reasonably necessary for the enjoyment or the dwelling for the sole purpose of noncommercial residential use, together with any structures accessory to the dwelling which are situated on the land so designated.

(d) The Secretary is authorized and directed to take prompt and appropriate action in accordance with the provisions of this section and any cooperative agreement hereunder to assure the protection and preservation of the historical and architectural values of the missions and the areas and features historically associated therewith within the boundaries of the park. The park shall be administered by the Secretary in accordance with this section and provisions of law generally applicable to units of the National Park System, including the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1 et seq.) and the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461–467).

(e)(1) There is hereby authorized to be established by the Secretary, a San Antonio Missions Advisory Commission. The Commission shall be composed of seven members, each appointed for a term of two years by the Secretary, as follows:

(A) one member to be appointed from recommendations made by the Governor of the State of Texas;

(B) one member to be appointed from recommendations made by the County Commissioners of Bexar Conuty, Texas;

(C) one member to be appointed from recommendations made by the City Council of the City of San Antonio, Texas;

(D) one member to be appointed to represent non-Federal property owners whose property is operated and maintained in accordance with cooperative agreements with the Secretary pursuant to subsection (b)(2);

(E) one member from the membership of a local conservation or historical organization; and

The Secretary shall designate one member to be Chairman of the Commission and may fill any vacancy in the same manner in which the original appointment was made.

(2) Members of the Commission shall serve without compensation as such, but the Secretary may pay expenses reasonably incurred by the Commission and may reimburse members for reasonable expenses incurred in carrying out their responsibilities under this section on vouchers signed by the Chairman.

(3) All appointments to the Commission shall be made by the Secretary within six months after the date of the enactment of this Act and the Secretary, or his designee, shall from time to time, but at least semiannually, meet and consult with the Advisory Commission on matters relating to the park and with respect to carrying out the provisions of this section.

(4) Unless extended by Act of Congress, this Commission shall terminate ten years after the date of its first meeting with the Secretary or his designee.

(f)(1) There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this section, but not more than $10,000,000 for the acquisition of lands and interests in lands.

(2) For the development of essential public facilities there are authorized to be appropriated not more than $500,000. Within one year from the date of enactment of this Act, the Secretary shall develop and transmit to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate a final master plan for the development of the park consistent with the objectives of this section, indicating (A) the facilities needed to accommodate the health, safety, and interpretive needs of the visiting public; (B) the location and estimated cost of all facilities; and (C) the projected need for any additional facilities within the park.

TITLE VI—SAWTOOTH NATIONAL RECREATION AREA

SEC. 602. Section 13 of the Act of August 22, 1972 (86 Stat. 612), is amended by changing "$19,802,000" to "$47,802,000".

TITLE VII—GOLDEN GATE NATIONAL RECREATION AREA

SEC. 701. (a) Subsection 2(a) of the Act of Otcober 27, 1972 (86 Stat. 1299), as amended (16 U.S.C. 459), is further amended to read as follows: "(a) The recreation area shall comprise the lands, waters, and submerged lands generally depicted on the map entitled 'Revised Boundary Map, Golden Gate National Recreation Area', numbered NRA–GG–80,003–L and dated October 3, 1978. The Secretary is authorized to acquire approximately ten acres at the Playland-at-the-Beach area within the recreation area.".

(b) Section 3(i) of such Act is amended to read as follows:

"(i) New construction and development within the boundaries described in section 2(a) on lands under the administrative jurisdiction of a department other than that of the Secretary is prohibited, except that improvements on lands which have not been transferred to his administrative jurisdiction may be reconstructed or demolished. Any such structure which is demolished may be replaced with an improvement of similar size, following consultation with the Secretary or his designated representative, who shall conduct a public hearing at a location in the general vicinity of the area, notice of which shall be given at least one week prior to the date thereof. The foregoing limitation on construction and development shall not apply to expansion of those facilities known as Letterman General Hospital or the Western Medical Institute of Research.".

(c) Subsection 3(j) of such Act is amended to read as follows:

"(j) The owner of improved residential property or of agricultural property on the date of its acquisition by the Secretary under this Act may, as a condition of such acquisition, retain for himself and his or her heirs and assigns a right of use and occupancy for a definite term of not more than twenty-five years, or, in lieu thereof, for a term ending at the death of the owner or the death of his or her spouse, whichever is later. The owner shall elect the term to be reserved. Unless the property is wholly or partly donated to the United States, the Secretary shall pay to the owner the fair market value of the property on the date of acquisition minus the fair market value on that date of the right retained by the owner. A right retained pursuant to this section shall be subject to termination by the Secretary upon his or her determination that it is being exercised in a manner inconsistent with the purposes of this Act, and it shall terminate by operation of law upon the Secretary's notifying the holder of the right of such determination and tendering to him or her an amount equal to the fair market value of that portion of the right which remains unexpired. Where appropriate in the discretion of the Secretary, he or she may lease federally owned land (or any interest therein) which has been acquired by the Secretary under this Act, and which was agricultural land prior to its acquisition. Such lease shall be subject to such restrictive covenants as may be necessary to carry out the purposes of this Act. Any land to be leased by the Secretary under this section shall be offered first for such lease to the person who owned such land or who was a leaseholder thereon immediately before its acquisition by the United States.".

(d) In subsection 3(k) of such Act, following "June 1, 1971," insert "or, in the case of areas added by action of the Ninety-fifth Congress, October 1, 1978,"; and at the end of the subsection, add the following new sentence: "The term 'agricultural property' as used in this Act means lands which are in regular use for agricultural, ranching, or dairying purposes as of January 1, 1978, together with residential and other structures related to the above uses of the property as such structures exist on said date."

(e) Section 3 of such Act is amended by adding the following at the end thereof:

"(n) The Secretary shall accept and shall manage in accordance with this Act, any land and improvements adjacent to the recreation area which are donated by the State of California or its political subdivisions. The boundaries of the recreation area shall be changed to include such donated lands.

"(o) In acquiring those lands authorized by the Ninety-fifth Congress for the purposes of this Act, the Secretary may, when agreed upon by the landowner involved, defer payment or schedule payments over a period of ten years and pay interest on the unpaid balance at a rate not exceeding that paid by the Treasury of the United States for borrowing purposes."

(f) Section 4 of such Act is amended by adding the following at the end thereof:

"(e) No fees or admission charges shall be levied for admission of the general public to the recreation area except to portions under lease or permit for a particular and limited purpose authorized by the Secretary. The Secretary may authorize reasonable charges for public transportation and, for a period not exceeding five years from the date of enactment of this legislation, for admission to the sailing vessel Balclutha.

"(f) Notwithstanding any other provisions of law, in the administration of those parcels of property known as Haslett Warehouse, Cliff House Properties and Louis' Restaurant, the Secretary shall credit any proceeds from the rental of space in the aforementioned properties to the appropriation if any, bearing the cost of their administration, maintenance, repair and related expenses and also for the maintenance, repair

and related expenses of the vessels and the adjacent piers comprising the Maritime Historic Park, for major renovation and park rehabilitation of those buildings included in the Fort Mason Foundation Cooperative Agreement, and for a coordinated public and private access system to and within the recreation area and other units of the national park system in Marin and San Francisco Counties: *Provided*, That surplus funds, if any, will be deposited into the Treasury of the United States: *Provided further*, That notwithstanding any other provision of law, in the administration of said parcels the Secretary may, if he deems appropriate, enter into a contract for the management of said parcels of property with such terms and conditions as will protect the Government's interest, with excess funds being used as set forth above.".

(g) Section 5(b) of such Act is amended by changing the word "fifteen" to "seventeen".

TITLE VIII—THOMAS STONE NATIONAL HISTORIC SITE

SEC. 801. (a) The Secretary is authorized to acquire by donation, exchange, or purchase with donated or appropriated funds, the Thomas Stone home and grounds, known as Habre-de-Venture, located on Rose Hill Road near La Plata in Charles County, Maryland, for establishment as the Thomas Stone National Historic Site.

(b) The national historic site shall be established by the Secretary by the publication of notice to that effect in the Federal Register at such time that he determines he has sufficient ownership to constitute an administrable unit. After such publication, the site shall be administered by the Secretary pursuant to the provisions of this section and the provisions of the Act of August 25, 1916 (39 Stat. 535), as amended and supplemented (16 U.S.C. 1 et seq.), and the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461–467).

(c) To carry out the purposes of this section, there is hereby authorized to be appropriated not to exceed $600,000 for the acquisition of lands and interests therein and not to exceed $400,000 for development.

TITLE IX—RECOGNITION OF THE HONORABLE WILLIAM M. KETCHUM

SEC. 901. Within the War in the Pacific National Historical Park, Guam, and the American Memorial Park, Saipan, the Secretary, acting through the Director of the National Park Service, and in consultation with the Governor of each area, is authorized to provide in each of these parks some form of appropriate recognition of the outstanding contributions and untiring commitments of the late Congressman William M. Ketchum of California toward the needs of the people of the insular areas. Fully cognizant of sacrifices that sometimes must be made in order to preserve the basic principles of democracy, Congressman Ketchum personally experienced the devastations of war, as he served with distinction in the United States military during the Second World War in the Pacific Theater and during the Korean Conflict. Congressman Ketchum, an individual of strong principle and commitment, through his leadership and active participation in the United States Congress, made substantial and invaluable contributions to the political and economic growth, development, and well-being of American Samoa, Guam, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and the Virgin Islands. In particular, he will be remembered for the key role he played in the passage of the historic Covenant to establish a Commonwealth of the Northern Mariana Islands in political union with the United States.

TITLE X—EBEY'S LANDING NATIONAL HISTORICAL RESERVE

SEC. 1001. (a) There is hereby established the Ebey's Landing National Historical Reserve (hereinafter referred to as the "reserve"), in order to preserve and protect a rural community which provides an unbroken historical record from nineteenth century exploration and settlement in Puget Sound to the present time, and to commemorate—

(1) the first thorough exploration of the Puget Sound area, by Captain George Vancouver, in 1792;

(2) settlement by Colonel Isaac Neff Ebey who led the first permanent settlers to Whidbey Island, quickly became an important figure in Washington Territory, and ultimately was killed by Haidahs from the Queen Charlotte Islands during a period of Indian unrest in 1857;

(3) early active settlement during the years of the Donation Land Law (1850–1855) and thereafter; and

(4) the growth since 1883 of the historic town of Coupeville.

The reserve shall include the area of approximately eight thousand acres identified as the Central Whidbey Island Historic District.

(b)(1) To achieve the purpose of this section, the Secretary, in cooperation with the appropriate State and local units of general government, shall formulate a comprehensive plan for the protection, preservation, and interpretation of the reserve. The plan shall identify those areas or zones within the reserve which would most appropriately be devoted to—

(A) public use and development;

(B) historic and natural preservation; and

(C) private use subject to appropriate local zoning ordinances designed to protect the historical rural setting.

(2) Within eighteen months following the date of enactment of this section, the Secretary shall transmit the plan to the President of the Senate and the Speaker of the House of Representatives.

(c) At such time as the State or appropriate units of local government having jurisdiction over land use within the reserve have enacted such zoning ordinances or other land use controls which in the judgment of the Secretary will protect and preserve the historic and natural features of the area in accordance with the comprehensive plan, the Secretary may, pursuant to cooperative agreement—

(1) transfer management and administration over all or any part of the property acquired under subsection (d) of this section to the State or appropriate units of local government;

(2) provide technical assistance to such State or unit of local government in the management, protection, and interpretation of the reserve; and

(3) make periodic grants, which shall be supplemental to any other funds to which the grantee may be entitled under any other provision of law, to such State or local unit of government for the annual costs of operation and maintenance, including but not limited to, salaries of personnel and the protection, preservation, and rehabilitation of the reserve except that no such grant may exceed 50 per centum of the estimated annual cost, as determined by the Secretary, of such operation and maintenance.

(d) The Secretary is authorized to acquire such lands and interests as he determines are necessary to accomplish the purposes of this section by donation, purchase with donated funds, or exchange, except that the Secretary may not acquire the fee simple title to any land without the consent of the owner. The Secretary shall, in addition, give prompt and careful consideration to any offer made by an individual owning property within the historic district to sell such property, if such individual notifies the Secretary that the continued ownership of such property is causing, or would result in, undue hardship.

Lands and interests therein so acquired shall, so long as responsibility for management and administration remains with the United States, be administered by the Secretary subject to the provisions of the Act of August 25, 1916 (39 Stat. 535), as amended and supplemented, and in a manner consistent with the purpose of this section.

(e) If, after the transfer of management and administration of any lands pursuant to subsection (c) of this section, the Secretary determines that the reserve is not being managed in a manner consistent with the purposes of this section, he shall so notify the appropriate officers of the State or local unit of government to which such transfer was made and provide for a ninety-day period in which the transferee may make such modifications in applicable laws, ordinances, rules, and procedures as will be consistent with such purposes. If, upon the expiration of such ninety-day period, the Secretary determines that such modifications have not been made or are inadequate, he shall withdraw the management and administration from the transferee and he shall manage such lands in accordance with the provisions of this section.

(f) There is hereby authorized to be appropriated not to exceed $5,000,000 to carry out the provisions of this section.

TITLE XI—CAPE COD NATIONAL SEASHORE

SEC. 1101. Section 9 of the Act of August 7, 1961 (75 Stat. 284), as amended, is further amended by changing "$33,500,000" to "$38,000,000".

Mr. PHILLIP BURTON (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

CONGRESSMAN McDONALD ON TARGET IN OPPOSING CARTER'S LEAA NOMINEE

(Mr. ASHBROOK asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. ASHBROOK. Mr. Speaker, one of the worst nominations to come down the pike in the past 2 years, and we have had a number of them, is the Carter choice for Administrator of the Law Enforcement Assistance Administration (LEAA). Dean Norval Morris is about the worst possible choice which could have been conceived. His record is one of extreme leftist pronouncements, condoning lawbreaking on a wide scale while advocating throwing the book at the law-abiding citizens who own and legally and properly use firearms.

As a member of the Judiciary Committee's Subcommittee on Crime, I have more than passing interest in this office since this subcommittee has oversight on the LEAA. It would be like the fox guarding the chickens. We have enough liberal, fuzzy thinkers in Government now. We don't need one more.

My good friend and colleague, the gentleman from Georgia (Mr. McDONALD) appeared at the confirmation hearings and opposed this nomination. Characteristically, Mr. McDONALD's remarks were perceptive, accurate, and to the point. You will recall that LARRY McDONALD prophetically told of the infamous background of another Carter appointee, Andrew Young. He warned that Andrew Young would make exactly the kind of ludicrous statements and actions which have marked his unfortunate tenure as Ambassador to the United Nations.

I urge that all of the Members of the House read this most perceptive analysis of Dean Norval Morris who certainly would be the enemy of all American citizens who own firearms as well as being the exact opposite of the law and order type we should have heading that important agency. Mr. McDONALD's testimony was as follows:

STATEMENT OF HON. LARRY P. McDONALD IN RELATION TO THE HEARINGS ON THE CONFIRMATION OF DEAN NORVAL MORRIS AS ADMINISTRATOR OF THE LAW ENFORCEMENT ASSISTANCE ADMINISTRATION, SEPTEMBER 29, 1978

Mr. Chairman and distinguished Senators of the Committee:

Let me first express my appreciation for the opportunity to contribute to these Hearings. The position for which the nominee is being considered carries with it enormous discretionary power over the expenditure of nearly two thirds of a billion dollars annually. The purpose of the expenditure is said to be the "improvement and strengthening of law enforcement and criminal justice."

After a decade of existence, during which the Law Enforcement Assistance Administration has spent six billion dollars, we find that the federal presence is strongly, even intrusively felt at the state and local levels of law enforcement and criminal justice. However, we also find that crime has been essentially unaffected by these efforts.

In reviewing some of the published works of the nominee, Dean Norval Morris, I find that while much of what he has to say is of philosophic or academic interest, much is also completely out of step with, or contrary to, the views of our citizens and even of the Congress.

For example, Dean Morris takes a highly cavalier attitude towards state and local laws which support moral standards which bore him, yet he has told this Committee, "You don't want a moral neuter in this job," thereby indicating that it is all a question of whose moral standards are to be supported by law.

Dean Morris delivers his opinions in the form of "ukases," which are imperial decrees. It is his own choice of word, let us emphasize, and I am not certain that we are prepared to accept imperial edicts. In any event, let us be clear that it is not the function of the L.E.A.A. Administrator to impose his moral choices upon us or to determine the propriety of state and local laws.

Anyone who occupies the position of L.E.A.A. Administrator will have, next year alone, about $650 million with which to bring about a shift in law enforcement priorities. Over the past ten years, Dean Morris has consistently expressed his belief that gun-control measures leading to "a disarmed populace" must be a top-priority federal goal.

As he states in "The Honest Politician's Guide to Crime Control," pages 63–71, "Our five ukases on guns are designed for domestic disarmament. The task is prodigious. It may take a decade." In sharp contrast to his permissiveness in other directions, Dean Morris seeks "severe penal sanctions" to enforce citizen disarmament. While even asserting, "there can be no right of privacy" where his gun-control laws are concerned, he states, "We are confident this offends no Constitutional sanctity."

Hopefully, the members of this Congress will question his rather dismissal of the Bill of Rights.

Many of Dean Morris' other freely-expressed views are debatable. Those given to theological disputation may be intrigued with his assertion that the existence of the Mafia is no more susceptible to proof than is the existence of God. However, this does not address the problem of organized crime in a manner which most people would consider helpful.

If these Hearings have been reported correctly, then this Committee has been treated to the spectacle of Dean Morris' efforts to repudiate, modify, or otherwise put distance between himself and his widely-published views, and/or to claim that he would not dream of allowing these opinions to intrude upon his official behavior.

Whether or not these efforts represent an attempt to adapt, chameleon-like, to the political coloration of the Committee is a question this Committee is fully capable of deciding. More to the point, we must keep in mind that Dean Morris was nominated on the basis of his attitudes and opinions as expressed over the past decade or so. We must remember the vow made by this Administration to conduct a vendetta against privately-owned firearms. We must be aware that the institution headed by Dean Morris has been a wellspring of anti-gun propaganda. Dean Morris' close associate and collaborator, Franklin Zimring, has stated flat out, with regard to citizens who believe they have a right to possess firearms so long as they are not criminally misused, "We're coming to get their guns."

For all of these substantial reasons, I believe it would be naive to assume that Dean Morris will abandon his principles for any longer than it may take to secure Senate confirmation. Once in office, he will receive encouragement, support, and political protection from those who nominated him because they share his views on gun-control and other matters.

Earlier this year, as you know, we in the House reacted strongly to the efforts of an appointed Administration official to slip through a gun-control program which the Congress had repeatedly and categorically rejected. Yet this nominee is dedicated to precisely that sort of program. Surely there is no need to invite repeated confrontations of this nature.

In sum, Dean Morris may well be suited to an academic post dealing with theory and experimentation. However, he is, by his own statements, manifestly unsuitable for the position of Administrator of the Law Enforcement Assistance Administration. I urge the rejection of the name now placed in nomination before you.

THE DECLINE OF THE DOLLAR

(Mr. RUDD asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. RUDD. Mr. Speaker, the decline of the dollar is even more dramatic evidence of the need for Congress to end Federal deficits and balance the budget.

We can wait no longer.

Recurring Federal deficits have greatly increased the world dollar supply.

Our foolish renunciation of the gold standard several years ago allowed further unheard-of increases in the world dollar supply.

A run on the dollar, started by foreign central banks that now hold more than $120 billion of U.S. securities, could cause a major financial collapse in our country.

Congress must face and rectify this situation now.

I would like to include a good analysis of this situation at this point in the RECORD:

[From Dollars and Sense, National Taxpayers Union, September 1978]

THE DECLINE AND FALL OF THE AMERICAN DOLLAR

(By Mark Hulbert)

For twenty-five years after World War Two, the dollar was "as good as gold." Today, that is no longer true. The dollar has fallen to levels which would have seemed impossible only a few years ago. The dollar, as Stanley Karnow has put it, is only a pale green shadow of its former self.

The collapse of the dollar means that you must pay higher prices for imported goods. If you buy a 1978 Datsun or Toyota today, you will pay $500 more for it than when the '78 models were first introduced. Tourists are also painfully aware of the dollar's reduced purchasing power. In Tokyo, a cup of coffee costs $3.

THE DOLLAR AND "CONVENTIONAL WISDOM"

The dollar's plunge is the result, we are constantly told, of conditions beyond control. If it weren't for OPEC, so the story goes, the dollar would be strong. The massive U.S. balance of payments deficit is blamed on high-priced oil.

It takes only a few moments of reflection to recognize the emptiness of that explanation. Japan and West Germany, both of whom must import all of their oil, have large trade surpluses. The United States, on the other hand, has to import only 47 percent of its oil. Indeed, in spite of a 13 percent decline in U.S. oil imports over the past year, the dollar has nevertheless fallen more than 40 percent against the Japanese yen alone.

SUPPLY, DEMAND AND THE DOLLAR

The depreciating dollar is a simple matter of supply and demand: there just are too many dollars in the world economy. A declining dollar tells us in no uncertain terms that those holding dollars abroad want to hold them no more.

Can the increased world supply of dollars be attributed to a United States' balance of trade deficit? No.

The balance of trade, which measures exports and imports of goods and services, has been in surplus for most of the last decade. Those so ready to blame oil prices should look at the years 1973–1976, where in spite of the quadrupled oil prices, the United States still managed to export more goods and services than it imported.

The balance of *payments*, however, is the statistic to look at, for it measures, in addition to goods and services, the shifts of capital into and out of the United States. It has been consistently in deficit. In fact, the United States has had a balance of payments deficit for virtually every year since the 1950s.

For many years this deficit was justified due to the "dollar shortage" abroad. During this era, foreign governments and importers were eager to buy any dollars the U.S. produced. But by the end of 1976, the foreign market in dollars had reached its saturation point. Nevertheless, the U.S. increased the world's dollar supply in 1977 by an additional $35 billion. The foreign owners of dollars rebelled, forcing the dollar down. This year the U.S. will flood the world markets with yet another $30 billion. No wonder the dollar is falling.

WHO'S TO BLAME FOR THE DOLLAR'S DECLINE?

Can the dollar's decline be blamed on Congress' failure to pass energy legislation? No. The passage of Carter's energy legislation could at best have only a psychological effect on the exchange value of the dollar. This is because a reduction in our expenditures for oil would similarly reduce OPEC's deposits of Petrodollars in this country. Our balance of *trade* would be reduced, yet our balance of *payments* would probably stay about the same size. The long term effect on the dollar's value could be minimal.

OPEC is being used as a scapegoat with which to blame the dollar's decline. The fact that the administration and the media focus upon oil imports serves to disguise the true causes of the dollar's deprication.

As reported last year in *Dollars & Sense*, there is reason to believe that the energy crisis is in fact a disguised financial crisis. Now, ironically, the energy crisis is being blamed for causing that financial crisis itself!

When the conventional explanations for the dollar's decline are so palpably false, it behooves us to examine that decline more carefully. As we see it, the correct explanation must focus on two sets of interests, one political and one financial. Together, they support an increasing supply of dollars in the world.

POLITICS AND THE DOLLAR

The relationship between government budget deficits and the supply of dollars is very direct. A budget deficit can be financed in only two ways: through net savings in the economy (an excess of savings over investment) or through a balance of payments deficit. Because the excess of savings over investment is relatively fixed from year to year, an increase in the government's budget deficit, as a rule, translates *dollar for dollar* into an increased supply of dollars in the world.

A comparison of the budget and balance of payments deficits is revealing.

During periods of relative economic prosperity (e.g. 1971–74, 1977) investment takes up most of the savings, and the sizes of the two deficits correspond closely. During periods of slower economic activity, as during the recession of 1974–75, there is an excess of savings. It is only when there is a large excess of savings that a government deficit does not translate directly into a balance of payments deficit. That is why the $70.2 billion government deficit in 1975 did not translate into an equally large balance of payments deficit. Yet as the U.S. economy emerged from the recession, and investment picked up, the budget deficit remained almost as large, and consequently had to be financed through a larger balance of payments deficit. The result was a skyrocketing deficit in 1977. Congress is projecting a government deficit for 1978 in excess of $40 billion. Barring another recession, we will be increasing the world's supply of dollars by an almost equal amount.

Congress and the President have, by running the government increasingly beyond its means, created incredibly powerful constituencies for that spending. Even after the recession ended, and the conventional economic rationales for such large deficits no longer existed, our government did not have the political backbone to cut spending.

Congress and the President have, in the process, placed the United States economy in an increasingly vulnerable position. Contrary to the old political slogan, we do not "owe the national debt to ourselves." Foreign central banks have bought up Treasury securities and now own more than $120 billion worth.

A small but dramatic example of our resulting vulnerability came this past April. Foreign banks, which the Treasury expected to continue buying its bonds with the dollars they held, instead decided to sell $3 billion of the Treasury bonds they held and invest that money in the stock market. The Federal Reserve Bank was left with the no-win choice between buying up those securities, and thus fueling inflation, or letting their price drop, and thus letting interest rates rise. As Martin Mayer wrote in the August issue of *Atlantic*, foreign banks "can virtually dictate the price the American government—and thus American businesses and homeowners and consumers—must pay to borrow."

Congress and the Administration could cut our balance of payments deficits significantly by cutting our government's budget deficits. But to do so they would have to make tough political choices. Rather than do that, they have taken the easy way out—by settling for a cheaper dollar abroad and inflation here at home—while shifting the blame for their failures to oil prices and OPEC.

BANKS AND THE DOLLAR

The supply of dollars in foreign hands is now estimated to be about $600 billion. Besides the $120 billion in Treasury bonds, there are about $480 billion in what has become known as the Eurodollar market. The size of this Eurodollar market cannot be completely blamed on Congress and the President. They can be blamed for creating the conditions which made it possible.

We must turn to an examination of international banking to understand the phenomenal growth of the Eurodollar market. For a variety of reasons, the banks can realize much higher rates of return in international lending than in domestic lending. The Federal Reserve Board places interest rate ceilings and reserve requirements on the banks' domestic operations. Neither of these limitations exists on their international operations. As a result, the banks can not only create larger amounts of credit abroad with a given amount of actual dollars, but they can also realize much greater profit on what credit they do create.

THE DOLLAR AS A RESERVE CURRENCY

The Eurodollar market's growth was affected for many years by another international monetary role played by the dollar. The historical dominance of the U.S. economy in the world means that the dollar serves as the world's major reserve currency. Other countries use dollars as the store of wealth to back up their own currencies, and international trade is by and large conducted in dollars, not in the local currencies of the countries involved. OPEC oil, for example, is priced and sold in dollars, regardless of who is buying it.

As long as there was a "dollar shortage" in the world, every available dollar produced by the United States was grabbed by foreign countries either to be used as reserve against their currencies or to purchase exports from the United States. In other words, so long as there was a "shortage," the banks had fierce competitors abroad for a relatively small supply of dollars.

In the late 1960s and early 1970s that "dollar shortage" came to an end. It was marked by the collapse of the Bretton Woods monetary agreement of 1944. Under that agreement the value of the dollar was guaranteed by the U.S. government: dollars could be redeemed for gold at the U.S. Treasury. But as the dollar shortage turned into a dollar glut, more and more foreigners began to convert their dollars into gold. In 1971, Richard Nixon renounced the gold standard and the dollar's convertibility. The dollar since then has been tied to nothing. And because it is tied to nothing, there is no limit to the growth of the supply of dollars. Unlike gold, dollars can be created by the twirl of a printing press.

THE EURODOLLAR EXPLOSION

The renunciation of the gold standard had the effect of allowing unheard-of increases in the world's dollar supply. As such, it was a completely irrational response to a crisis that was itself created by too many dollars. Why was the gold standard renounced?

It was renounced because the multinational financial corporations recognized the huge profits that awaited them in international lending. To have maintained the gold standard would have required a drastic dampening of the U.S. production of dollars and, consequently, would have nipped in the bud this banking potential overseas.

The Eurodollar market in 1965 was only $16.3 billion. By 1970, as the dollar shortage came to an end but before the gold standard was renounced, the market had grown only to $83 billion. Since 1971, with all limits on the growth of the dollar supply gone, the Eurodollar market has literally exploded to an estimated $480 to $500 billion!!

The reserves that back up this huge amount were of course created by U.S. balance of payments deficits. And for that Congress and the President have a share of the blame. But once a threshold amount was reached, and the gold standard renounced, credit creation took over. According to James H. Hugon, economist for the Comptroller of the Currency, the actual dollar reserves backing up the Eurodollar market may be as small as $10 billion. That's a ratio of about 1:50, or 2 percent. In other words, the banks have created about 50 times more credit than they have in dollars. And Business Week reports that "it may really be that the Eurodollar markets can grow to any size needed to satisfy demand." Banks in the United States, on the other hand, with reserve requirements as high as 16 percent, can create much less credit with the dollars they have. No wonder the banks went multinational and created the Eurodollar market.

THE EURODOLLAR MARKET AND THE DOLLAR

Given an almost infinite possible expansion of credit in the Eurodollar market, it is fatuous to blame oil prices and the lack of a U.S. energy bill for the dollar's decline. Credit creation has been largely responsible for the increased supply of dollars which has led to the dollar's decline.

As Geoffrey L. Bell, senior adviser to J. Henry Schroder Wagg & Co., put it, "there is no way in which the recent changes in currency values can be accounted for by trade flows or inflation differentials."

Given this huge supply of dollars floating around the Euro-currency markets, foreign governments are helpless to stop the decline of the dollar against their currencies if the banks decide to sell dollars. Last year, for example, European and Japanese governments spent some $35 billion of their currencies trying to stop the decline of the dollar, and yet the dollar still depreciated by some 30 to 40 percent. In just the last week of July, 1978, Japan spent 200 billion yen trying to curb the fall of the dollar, and it nevertheless fell by 8 percent.

PROFITS ABROAD VS. PROFITS AT HOME

This incredible expansion of international banking activity has been crucial for the banks' growth. Foreign lending by the top 12 U.S.-based multinational banks has increased at a 30.4 percent rate per year since 1970, compared to only a 8.8 percent annual increase in domestic lending. Indeed, over 95 percent of the increase in earnings for the top 12 U.S. banks from 1970–1975 resulted from their international operations.

Not only has foreign lending grown faster than domestic lending, the banks have realized a much greater profit on their international operations. The top 12 U.S. banks in 1975 had loaned only 32% of their assets

abroad yet foreign loans accounted for 63% of their earnings. The top two banks, Bank of America and First National City Bank, in fact took losses on their domestic operations in 1975, receiving their *entire* profits from foreign operations. David Rockefeller's Chase Manhattan Bank received 78% of its earnings from international lending.

THE UNITED STATES' ECONOMIC POTENTIAL

What we are witnessing is a massive shift of capital away from the United States. Though the declining economic potential in the U.S. has been caused by other factors besides Eurodollar expansion, there can be no doubt that the outflow investment capital makes it more and more difficult for the United States to maintain a strong economy and a strong dollar.

If foreign investment in the U.S. were at a higher level, there would be a greater demand for the dollars produced each year. If the U.S. provided the opportunities for profitable investment competitive with international lending, the consequences of the U.S. increasing the dollar supply would not nearly be so pernicious. But the very creation of surplus dollars directly leads to a declining economic potential here at home. And as that potential declines, there is that much more incentive for the banks to shift capital abroad. The United States' economy is caught in a Catch-22 situation. In order to preserve profitability, much more investment is needed. But in order to compete for that additional investment, it must promise a high rate of return on investment.

To break out of that Catch-22, our government must make a concerted effort to increase the relative attractiveness of investment in the U.S. Current government programs, however, far from promoting such efforts, in fact hinder them. As George Gilder has written in the Sept., 1978 issue of *Harper's:*

"Economic policy focusses on stimulating aggregate demand for existing products rather than on promoting the supply of new ones. Investment credits and rapid depreciation allowances favor the recreation of current capital stock rather than the creation of new forms of capital and modes of production. Antitrust activity is directed chiefly against successful competitors (IBM) rather than against industries that refuse to compete (the steel industry) . . . Our taxation and subsidy systems artfully cushion failure, reward the creativity and resourcefulness chiefly of corporate lawyers and accountants, and wait hungrily in ambush for all unexpected and thus unsheltered business success."

Until the government reverses this trend, the economic potential of the U.S. will continue to be less than abroad, and our economy will continue to be starved for capital.

LOAN DEMAND ABROAD: THE CASE OF THE LDC'S

The irony of this situation should be obvious. At a time when the U.S. economy is being starved for capital, the U.S. banks are awash with liquidity. New York City, for example, had to struggle to borrow from its banks, yet those same banks were at the same time extending large numbers of incredibly risky loans to the Third World countries.

It is revealing to look at the patterns of bank lending in the less-developed countries (LDCs). Banking involvement in the LDCs tells us much about the shape of the emerging new world economic order.

Because of quadrupled oil prices, OPEC enjoys a massive trade surplus, on the order of $40 to $50 billion per year. Consequently, the oil-consuming nations have an equally large deficit to the OPEC countries. And most of that deficit is focussed in the LDCs.

Having received massive deposits of Petrodollars, the banks recycled large amounts to the LDCs so that they in turn could finance their balance of payments deficits. The borrowed money is spent by the LDCs for OPEC oil, then deposited by OPEC in the commercial banks, and is relent by the banks to the LDCs. In this process, the banks have become the middlemen, the insurer of all parties. The U.S. banks now have as much as $70 billion loaned to the LDCs, over a third of the total amount they have loaned abroad.

The nature of these loans is unique. Loans to corporations, for example, are usually self-liquidating, which means that the loans are invested in ventures which automatically create the means to repay the interest and principal. The LDCs, however, have used the loans to pay for their trade deficits, i.e., finance current consumption. The loans have not been used, as a rule, to finance long-term development. Indeed, 79 percent of the loans to the LDCs by private banks mature in five years or less! As a result, the countries will be in no position to service the debt at the termination of the loans. The LDCs simply have to take out further loans to service the debt previously incurred.

American Express has estimated that in 1977 one out of every four dollars borrowed by the LDCs was used to service already-existing debt. They estimate that by 1980, one out of every two dollars borrowed will be used to service debt. As the LDCs increasingly place themselves in debt to the banks, they commit themselves to greater debts in the future.

This is ideal for the banks, since it guarantees a continuing opportunity for high profits. And it is not unique to the LDCs. Italy and the United Kingdom and (to a lesser degree) most of the Southern European nations, have all borrowed heavily from the Eurodollar markets in the last five years. They are expected to continue borrowing large amounts. Interest charges alone on Italy's outstanding debt currently amounts to $1 billion a year.

The catch in all this is that as the banks expose themselves more and more in lending to governments, they have a greater stake in maintaining the economic vitality of the countries involved. What threats are there to that vitality?

DANGER SIGNS?

The biggest threat to the soundness of the multi-billion dollar debt pyramid is a reduction in prices. Not only would a reduction in prices place large strains on the debtor countries in serving their existing debt, it also would reduce the potential for the banks to loan more and more capital to them in the future. In order to prevent that eventuality, the banks want to increase the money supply still further.

Among the major industrialized nations, the U.S. has pursued one of the most rapid monetary growth policies since 1974. In the wake of the quadrupling of oil prices that year, Western Europe and Japan imposed more austere monetary polices than did the U.S. The result was that their expenditures for imports fell dramatically, resulting in large trade surplusses. The LDCs' balance of payments deficit grew to $29.5 billion in 1974, due largely to the increased oil prices. By 1975, the LDCs' balance of payments deficit had grown to $41 billion—a problem the banks blame on the slowdown in the growth of the world's money supply caused by Japan and Western Europe's policies.

There is thus a strong financial interest in forcing these surplus countries to pursue more rapid monetary growth. A declining dollar does just that. It induces Western Europe and Japan to increase their money supplies in order to prevent their exports from becoming more expensive. This in turn increases their expenditures for imports.

Conventional trade theory would point out that a falling dollar also adversely affects other nations' economies besides surplus countries, thus making their exports more expensive in the U.S. and American exports relatively cheaper in their countries. If so, then a falling dollar does little to preserve the economic vitality of the countries indebted to the banks. Yet an examination of what has actually occurred reveals another story. The dollar has significantly declined only against the Japanese yen, German mark, and Swiss franc—the currencies of those countries that were supposedly placing a damper on world trade. The other countries' currencies have either depreciated just as fast as the dollar or even faster. Indeed, 44 of the world's currencies are pegged to the dollar, so that a decline of the dollar does nothing to harm their export earnings. Of the currencies which are freely floating against the dollar, most have declined even faster.

INFLATION VS. ECONOMIC GROWTH

But does the increase in the world's monetary supply translate into real economic growth—i.e. into genuine growth in world trade? It appears on the face of it that the banks have confused inflation with economic growth. How can that be?

This confusion becomes comprehensible when we realize that the banks are not so much concerned with the present real value of their loans, but instead with their nominal value. The banks don't care if the increased "volume" of world trade derives from inflation or real increases in demand. As long as the price tag on that volume increases, a country's ability to service debt is increased and the banks' potential for further loans is maintained—even if the real value of those loans is less.

The Overseas Development Council has concluded that "worldwide inflation has substantially reduced the present real value of the LDC's debt burden. Due mainly to inflation, the ratio of debt outstanding to exports of nonoil exporting LDCs rose only 8% in 1972–6." The banks appear to be successful if their loans are good on the books, i.e. are all regularly serviced. From that perspective, inflation is relatively benign to the banks. We are suffering inflation while the banks maintain their opportunities for profit in international lending.

HOW THE BANKS DEAL WITH DEVALUATION

Conventional economic theory tells us that banks, because they are net monetary creditors, are in fact hurt by the devaluation of a currency. But though the banks are net creditors as a whole, they need not be creditors in each of the various currencies. And, as it turns out, the banks are not net creditors in dollars. They braced themselves for the dollar's decline by spreading their assets among a number of currencies.

This is to be expected. As speculators in the international currency exchanges, they would be poor bankers indeed if they let themselves lose massive amounts due to the devaluation of the dollar. Thus, the banks are not being hurt by the decline of the dollar: their dollar liabilities are dwindling just as fast or faster than their dollar assets.

THE DOLLAR, SDR'S, AND THE IMF

In the long-run, the dollar is dead. With a currency market allowing for a theoretically infinite expansion of credit, a growing need for an increased nominal value of world trade, and a Congress unwilling to cut back its government deficits, the supply of dollars in the world can only grow and grow. And there appears to be no way that demand for dollars could ever catch up. The price of the dollar, no matter what the short-term fluctuations, will in the long-run keep going down.

As it keeps declining, the need for dollars as a reserve currency will fall as well. Something else will have to step in and take its place. No other single country's currency is in large enough a supply to fill such a role. This void creates a huge financial power vacuum into which the banks stand ready to enter. What the multinational financial leaders would like to replace the dollar with as the world's reserve currency is the Special Drawing Rights (SDRs) of the International Monetary Fund (IMF). The SDRs would serve the same role as did gold under the Bretton Woods agreement, except you can't print gold. As a paper gold, SDRs, like the dollar at present, could be printed, at the whims of whomever controls it.

HYPER-INFLATION IN THE U.S.

The most dangerous of the risks inherent in the present situation is a banking collapse. A 2% reserve against loans is a small margin indeed against any loss of confidence in the financial system. Significant default could send investors clamoring for their deposits only to find that there are no reserves to back them up. And it is sobering to be reminded that international banks can and do collapse. Both the Franklin National Bank, the 20th largest bank in the U.S. at the time, and the Herstatt Bank of West Germany, went bankrupt in 1974.

When confronted with a run on their banks, what recourse would the bankers have? They would have to turn to their central banks in their home countries. In the Basle Agreement of 1974, the central banks of the ten largest industrial nations agreed that they would be the "lenders of last resort" in case of liquidity crises of the foreign branches of their countries' banks. This means that in the event of any run on the banks, the central banks will just print more money. By now the pattern begins to emerge: crisis that are caused by madly printing dollars are "resolved" by madly printing more dollars.

With this "safety net" strung out beneath them, the banks are now free to create even more credit through new loans. This will reduce their margin of reserves even further. As a result, the banking system and the debt pyramid it has created will become increasingly vulnerable to both depositor and borrower loss of confidence. Increasingly trivial events will be capable of sending shockwaves throughout the system and possibly sending that debt pyramid crumbling to the ground.

ONE HUNDREDTH ANNIVERSARY OF CURRY COLLEGE OF MILTON, MASS.

(Mr. BURKE of Massachusetts asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. BURKE of Massachusetts. Mr. Speaker, at the outset of Curry College's second century, Dr. William L. Boyle, Jr., was installed as the 12th president of the college on September 13.

Curry College of Milton, Mass., has completed a distinguished centenary of service since its foundation as a small suburban college south of Boston. Curry is now a thriving college of 1,200 students with a strong reputation for academic quality.

I wish now to insert for the RECORD and to associate myself fully with the text of President Boyle's inaugural address celebrating the 100th anniversary of the school's founding:

INAUGURAL ADDRESS, PRESIDENT BOYLE, CURRY COLLEGE, SEPTEMBER 13, 1978

In case anyone has not yet heard the good news, Curry College in this its centennial 1978–79 academic year has truly "arrived"—and its future is extremely bright! All of us associated with this strong, venerable New England institution and involved in helping assure its meaningful future are proud and enthusiastic to be in Curry's service.

Founded in 1879 and currently serving a relatively full complement of some 1,200 students in all, Curry will be actively celebrating its centennial throughout the promising new academic year now before us. While relatively old in years, Curry College today remains young and responsive in deed and promise as it begins its second century of providing quality individualized education to each and every one of its able students. All this, plus fine facilities, sound management, a distinguished faculty, a splendid metropolitan yet suburban Boston location, and the almost unique distinction currently among New England colleges of having fully occupied dormitories, bodes well for both my official launching as the 12th president of the college and for the exciting future progress we shall make together.

As you know, this particular presidential inauguration was intended from the outset to be strictly a Curry College "family" affair. Deliberately, low key and conducted with warm, pervasively loyal feelings for our institution, it is meant primarily for the college community—here present and soon to be reached via the printed word, literally around the world. I refer within that community not only to Curry students and alumni, of course, but every one of its board members, faculty, staff, friends, and neighbors—in a word, everyone who really "cares" about this fine old college.

As a long-established and worthy New England institution, Curry College can look back today upon its first century of educational service with justifiable pride. Along with its distinguished founder, Boston's Dr. Samuel Silas Curry, and Mrs. Curry, the roster of persons associated with our institution during its formative years reads like a veritable "who's who" of prominent New Englanders. For example, Alexander Melville Bell, father of the inventor of the telephone, was an associate founder, as you probably know. His famous son, Alexander Graham Bell, served as chancellor for over a decade and a half. Our initial board included such luminaries as Thomas Bailey Aldrich, the Rt. Rev. Philips Brooks, and William Dean Howells.

In terms of basic institutional philosophy, moreover, it was Dr. Curry himself who set Curry College and its successive generations of students upon a successful and consistent student-focused educational course by stressing quality individualized education from the very start as the keystone of our socially useful, professionally-oriented curriculum. In fact, let me quote briefly here from Dr. Curry, in a reflective passage printed on the back of your inaugural program: "Respect your ideals. Dare to dream, but be not an idle dreamer. Dare to do what you dream. Search your heart to know what you most desire to do, then do it, for you can become, by perseverance, what you long to be. Whatever longing is within you, consider prophetic of power, and persevere in the development of yourself." That quotation is one worth remembering!

Dr. Curry always saw the academic endeavor bearing his name as an effective, useful instrument primarily designed to help each of its students discover what they truly are, instead of the internal collections of what he termed "confusion, chaos, and discord" they sometimes may have believed themselves to be and, further, to help these students communicate clearly and harmoniously to others their innermost selves as they discover and so as true professionals what they really want to achieve in life.

I am proud to say that Curry's activist, individualized approach to quality education, along with its strong academic stress upon creative personal expression, has continued over a century with noted success. I am fully confident that a hundred years from now not only Curry College but this basic student-centered institutional philosophy, early set forth by Dr. Curry, will continue on this campus with ever-increasing excellence, relevance, and vigor.

As to Curry's present and especially its future, which is now largely in our own hands, the college continues to be a most worthy academic institution, ever stronger and responsive to the real educational and personal needs of each individual student it serves. It will continue to emphasize selected, personalized, quality academic programs which feature the traditional liberal arts plus those which integrate the liberal arts with actual experience, done with a consistently useful professional orientation. Moreover, the college has remained proudly independent and deliberately small over the years, and it shall likely remain so in the future—athough I for one would like to see the total number of students served gradually grow from the 1200 or so of today to approximately 1500. I expect to see too a renewed exploration soon of highly selective quality graduate degree programs which might be offered right here at Curry College!

In all, however, Curry will continue to maintain its overall academic focus as a proud four-year institution by doing a relatively few things, such as management, education, nursing, fine arts, and, of course, communication, among our other fine programs, extremely well. Through doing this, Curry has developed and maintained an institutional clarity as well as a strong national and New England reputation for academic quality.

Furthermore, Curry College will retain its basic residential character over the years ahead, and continue to improve its facilities, definitely including its dormitories. Happily, progress has been made already in this area during my time with you. The college must also serve with ever increased effectiveness and in a variety of ways its able non-resident as well as its resident students. Relatedly, I foresee a continuing enrollment growth here of quality students of all ages, especially via our varied and creative center for lifelong learning endeavors. Perhaps no better endorsement of the overall success and usefulness of Curry's basic operational concept, of course, in these times of loudly-cited shrinking collegiate enrollments generally, is our previously mentioned relatively full complement of over 1,200 able students currently attending this institution, particularly the majority of campus residential students doing so on a full-time basis. The real essence of success, after all, is that proverbial "bottom line" of service well rendered, the place where words give way to accomplishments!

Indeed, Curry College is a venerable New England academic institution which knows where it has been, where it is at, and where it is going, which in itself may tend to make it a relative rarity in academic 1978–79. This is a positive reality, by the way, which has to be conveyed clearly to all our publics with increased and innovative media impact.

Now and in the future, moreover, Curry will pursue the following familiar personalized educational objectives, which I have embellished upon: To reinforce in each and

every one of our students an active thirst for and love of learning, plus a development of those learning skills so increasingly necessary these days for a productive lifetime of inquiry; to contribute to the individualized development of critical, constructive thought as well as appreciative, sensitive interaction with other people and the environment; to help, as Dr. Curry himself might well have put it were he with us today, Curry students intelligently develop their own individual capabilities to relate effectively to an ever-changing society, to continually teach themselves, and to direct their lives so that their respective potential as unique, useful individuals is maximized; and to prepare our students to perform most competently and with personal integrity upon graduation in successful varied careers of their choice or in leading graduate schools.

Certainly the main points of Curry College's own latest "Acadamic Posture Statement," also embellished with my own inputs, should be cited briefly too as a guide to our bright institutional present and future. Curry's clear and, again, specifically student-oriented institutional mission is: "To educate competent beginning professionals in selected fields of endeavor who are grounded in the qualities and abilities fostered by the liberal arts." Our germane principles of implementation here, familiar too but important to us all, are that liberal arts and professional studies at Curry be fully implemented; that both experimental learning and classroom learning take place concurrently; that life experience as well as college experience be seen as deserving of academic credit; and that the students of Curry College have the option of selecting a traditionally structured or an individually planned program of study.

So, with pride in one hundred years of history behind us and with a clear institutional view toward a strong present as well as a bright future for Curry, I pledge every best effort throughout my presidency, one happily launched at the outset of the college's 1978–79 centennial year celebration, to maximize our traditional individualized academic quality, and varied supportive services as well, in the education of each and every Curry student, and in so doing, maximizing the strength, fiscal stability, overall reputation, and social usefulness of the entire institution. The coming challenges facing us and most small, independent colleges in America will be many, of course, but we here shall overcome them and prevail! This college, after all, will be essentially what we who "care," working proudly together with a renewed spirit of zest, enthusiasm, and enlightened forward momentum, make it—in our centennial academic year and well beyond. In this vital endeavor, I sincerely ask for your cooperation, friendship, and support as Curry College, now truly "arrived" as a venerable and worthy New England institution, one already strong relative to clear institutional objectives and sense of mission, increasingly becomes truly great. Thank you.

ENDANGERED SPECIES ON THE COLORADO RIVER

(Mr. EVANS of Colorado asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

● Mr. EVANS of Colorado. Mr. Speaker, this Congress has spent countless hours considering water resources development. It is fast becoming expert on the water problems of the West and especially the problems facing the arid Colorado River Basin.

The Colorado River is the lifeline of one-twelfth of the Nation's land mass. It provides the water supply for 17 million westerners in seven States and Mexico. Five million homes in the southern California area depend on Colorado River water. In the upper basin area of Wyoming, Colorado, Utah, and New Mexico development of coal, oil, gas, uranium, and other minerals is dependent upon continued access to Colorado River water.

The Endangered Species Act as presently construed by the courts represents one of the most serious threats the Colorado River has faced.

I would like to relate to this body the background of what I believe is a well intended act of Congress, but distorted by the Federal bureaucracy and manipulated by those opposing further development and use of Colorado River water.

On April 24, 1978, the Fish and Wildlife Service of the Department of the Interior proposed a rule to determine if the two Colorado River fish, the bonytail chub and the razorback sucker, should be placed on the endangered and threatened species list. The action was taken because of alleged alteration and destruction of the habitat which had greatly reduced the populations of both species. In addition, it was stated that the present possible modification of the habitat, that is, water diversion projects, would further threaten the species.

An environmental impact assessment of the proposed determination of endangered status for the bonytail chub and the razorback sucker was prepared by the Fish and Wildlife Service.

In that assessment, the Department of the Interior stated that, historically, the bonytail chub was found throughout the large turbid mainstream rivers of the Colorado Basin. The habitat alternates between swift water canyons and slow meandering sandy bottom stretches. The chub's preferred habitat appeared to be the eddies adjacent to fairly swift currents. Because the Colorado River has been greatly altered by dams and diversions of both mainstream and tributaries, much of the bonytail's original habitat has been eliminated.

Although large adult bonytails exist in Lakes Meade and Mohave, no young have been found. The Fish and Wildlife Service does suggest that some of the decline in chub population may be due to interspecific competition. Introduced species appear to be the most likely reasons for the decline.

The razorback sucker is also found throughout the Colorado River Basin. The razorback prefers slow backwater areas where it feeds on the bottom. Large numbers of adult razorbacks have been found in Lakes Meade, Mohave, and Havasu. Spawning has been observed, but no juveniles have been found.

The assessment asserts that the bonytail chub and the razorback sucker are confined to the larger river habitats of the Upper Colorado Basin near Delta, the Green River to the Wyoming border, the Yampa River in Colorado, the Gila River and its larger tributaries in Arizona, and portions of the Little Colorado River in Arizona.

At least 20 Federal water projects are proposed, in some stage of preimplementation, or adjacent to areas where the species occur. It includes 17 proposed projects by the Bureau of Reclamation and three by the Federal Power Commission.

LIST OF PROJECTS

1. Savery-Pot Hook in Colorado and Wyoming.
2. Sublette in Wyoming.
3. Bonneville in Utah.
4. Ute Indian in Utah.
5. Upalco in Utah.
6. Uintah in Utah.
7. Yellow Jacket in Colorado.
8. Grand Valley in Colorado.
9. San Miguel in Colorado.
10. Fruitland Mesa in Colorado.
11. Dominiquez in Colorado.
12. Uncompahgre in Colorado.
13. Dolores in Colorado.
14. CRSP Power Peaking in Colorado and Utah.
15. Western Energy Expansion.
16. Dallas Creek in Colorado.
17. West Divide in Colorado and Utah.
18. Cross Mountain-Juniper Springs in Colorado.
19. Yamcola in Colorado.
20. Sheephorn.

The assessment contends that the effects of these dams reach up to 50 miles below the actual structure, and that common impacts associated with the dams include the dampening of extreme fluctuations in temperature flow, reduction of silt loads, and increases in salt.

Section 7 of the Endangered Species Act requires all Federal agencies insure that actions authorized, funded, or carried out by them not jeopardize the continued existence of the species, or result in the destruction or modification of the critical habitat.

If any projects will adversely modify the habitat, those projects would have to be redesigned to eliminate the detrimental aspects of the projects. If this is impossible, the project may have to be abandoned.

COLORADO RIVER SQUAWFISH

To complicate the matter, a rare species of minnow, the Colorado River Squawfish has already been placed on the endangered list, and as of September 14, 1978, has had a critical habitat proposed more than 600 miles of river in eastern Utah and western Colorado. The identified rivers are: Colorado, Green, Yampa, and Gunnison.

The proposal to make the Colorado squawfish endangered was issued March 11, 1967, and it finally came under protection in 1974. Five million dollars had been appropriated for the squawfish recovery program.

At one time, the squawfish was so common that it was used as fertilizer and was speared with pitchforks in irrigation canals. It is considered by fishermen as a trash fish; inedible. In 1962, Federal and State fish officials conducted a major eradication program in the Flaming Gorge Reservoir in Wyoming. Everything from dynamite to chemical controls was used.

The squawfish feeds almost exclusively on other fish, including the bonytail chub, and the razorback sucker. Hence, by protecting the squawfish, we are endangering the other two fish.

COLORADO WATER RESOURCE DEVELOPMENT

The squawfish and chub are already beginning to affect economic and water development on Colorado's western slope.

The Colorado River Water Conservation District, the major water development agency in western Colorado, has applied to the Federal Energy Regulatory Commission for a preliminary permit to investigate the feasibility of a proposed Juniper-Cross Mountain hydroelectric project on the Yampa River in Moffat County, Colo. The Department of the Interior responded to the permit request with the following:

In our opinion the construction of the Juniper-Cross Mountain Dam would have significant adverse impact on the endangered endemic fisheries of the Yampa and Green River systems. Activities necessary to complete the planning, such as core drilling, road building, etc., would have significant adverse impacts on these endangered species. At the present time, it is likely the Department would oppose the construction of the project. This is based upon the anticipated destruction of habitat considered to be critical to two endangered species, the Colorado River squawfish and the humpback chub.

FERC would describe this correspondence as part of the consultation process. With the language in the act so strongly in favor of the endangered species, the so-called consultation process is not one of mutual discussion and exchange; instead, it is a process of threats and ultimatums.

The river district plans the construction of several reservoirs on the Yampa and White Rivers, and on the main stem of the Colorado River and its tributaries. Construction would allow for hydrogeneration of electrical energy, irrigation of arid lands, storage of water for use in connection with energy development, oil shale and coal, and other beneficial uses for people, including municipal and light industrial uses.

There is no specific, scientific evidence which explains the decline of these species. They exist in adult populations in various parts of the river, pools, and reservoirs; however, it is not known which changes in the chemistry, physics, or biological conditions of the water affect their reproduction. It is unclear to what extent the actual stocking practices of the Fish and Wildlife Service with game trout are affecting these four endangered species. It is also uncertain if one endangered species, for example the Colorado squawfish, is destroying the young and larvae of the other endangered species, for example the chub and the sucker. And finally, it is unknown as to how their habitat can be preserved.

We are being asked to stop all development in the Colorado River Basin for fish of no commonly accepted worth, when we do not know what is endangering them, and we are uncertain what mitigation could save them.

Clearly, placing the bonytail chub and razorback sucker on the endangered and threatened species list, and the proposed critical habitat for the already listed Colorado River squawfish makes the Endangered Species Act a critical issue in future water resources and economic development in the Colorado River Basin.

The Colorado River Water Conservation District has given notice of intent to file suit with the Department of the Interior. The district argues that stocking exotic or game fish by the State and Federal agencies is contributing to the destruction of threatened species or those proposed for endangered and threatened status. The conservancy district claims the Fish and Wildlife Services' policy of stocking predators is causing the decline of these species; not dams, diversion and irrigation.

TVA AGAINST HILL

The Supreme Court in a decision entitled Tennessee Valley Authority versus Hill (June 1978) has made it imperative that Congress reevaluate the Endangered Species Act. The Court literally interpreted section 7 of the act, that is, no Federal activity can take place which jeopardizes the continued existence of an endangered species or in any way destroys or modifies the habitat that is determined to be critical. The Court's ban is unqualified; therefore, all species listed have a first priority over all other Federal activities. The Court allowed a permanent injunction to remain in place, even though the dam was 80 percent complete at an expenditure of $116 million. The Court disregarded the House Appropriations Committee yearly review of the dam's progress, its awareness of efforts to prevent the destruction of the endangered species, and its continued appropriation of money for the dam.

The majority made it clear that the difference between the 1966 Endangered Species Act and the new legislation of 1973 that is critical to this issue was the removal of the language: "in so far as is practical and consistent with their primary purposes, Federal agencies should preserve the habitats of such endangered species on lands under their jurisdiction." The removal of that language from section 7, the Court felt, was a clear signal that the first and only priority, regardless of cost, is the preservation of the endangered species.

LEGISLATION

Nowhere in the Court opinion, was the major issue addressed. Is there a mechanism for attempting to evaluate the value of the biological entity versus the economic, social, and political value of the project which is going to be halted?

There are several attempts presently to create that structure. The question Congress must address is: Can the act be amended in a way which still provides a means of identifying, evaluating, and protecting endangered species without creating a structure that can be manipulated to stop the development of essential water and energy and transportation systems in this country.

The difficulty of striking that balance cannot deter our efforts to clearly define the congressional intent and illuminate the national consensus on costs and benefits of our endangered species commitment.●

STATUS OF THE CONGRESSIONAL BUDGET FOR FISCAL YEAR 1979

(Mr. GIAIMO asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

● Mr. GIAIMO. Mr. Speaker, the new 1979 fiscal year began October 1. The House Budget Committee has today notified the Speaker of the House on the current level of budget authority and estimated outlays and revenues in relation to the second budget resolution set in place on September 21. Throughout the year this current level will be updated and compared to the second resolution as Congress completes further spending actions.

In order to keep Congress advised of the effect of its spending and revenue actions compared to the overall totals set in the second budget resolution, section 308(b) of the Congressional Budget Act of 1974 requires periodic reports to be issued to the Congress. As chairman of the House Budget Committee, from time to time, I submit to Congress these parliamentarian's status reports reflecting the current level. Under the Budget Act, Congress is prohibited from considering any legislation that would cause the spending total in the second resolution to be exceeded or, the revenue floor to be breached.

The first report of the fiscal year reflects permanent appropriations and trust funds, outlays from balances of prior-year budget authority, and spending legislation that has already been enacted this session affecting fiscal year 1979. This includes: Fiscal year 1979 appropriations bills for transportation, military construction, and District of Columbia, as well as three supplemental appropriations bills for fiscal year 1978 (with fiscal year 1979 impact). In addition, entitlement legislation and other mandatory items requiring further appropriations action are included in the current level report.

Amounts remaining include $182,004 million in budget authority, $102,622 million in outlays; and $21,900 million in revenues when compared to the aggregates in the second resolution.

A copy of my letter to the Speaker and of the committee's report are attached:

COMMITTEE ON THE BUDGET,
Washington, D.C., October 3, 1978.

Hon. THOMAS P. O'NEILL, Jr.,
Speaker, House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: On January 30, 1976, the Committee on the Budget outlined the procedure which it had adopted in connection with its responsibilities under Sec. 311 of the Congressional Budget Act of 1974 to provide estimates of the current level of revenues and spending. I am herewith transmitting the status report under H. Con. Res. 683, the Second Budget Resolution for FY 1979. This report reflects the resolution of September 21, 1978, and estimates of budget authority, outlays and revenues based on all completed action on spending and revenue measures as of close of legislative business October 2, 1978.

Sincerely,

ROBERT W. GIAIMO,
Chairman.

REPORT TO THE SPEAKER OF THE U.S. HOUSE OF REPRESENTATIVES FROM THE COMMITTEE ON THE BUDGET ON THE STATUS OF THE FISCAL YEAR 1979 CONGRESSIONAL BUDGET ADOPTED IN H. CON. RES. 683 (REFLECTING COMPLETED ACTION AS OF OCT. 2, 1978)

[In millions of dollars]

	Budget authority	Outlays	Revenues
Appropriate level	555,650	487,500	448,700
Current level	373,646	384,878	470,600
Amount remaining	182,004	102,622	21,900

BUDGET AUTHORITY

Any measure providing budget or entitlement authority which is not included in the current level estimate and which exceeds $182,004 million for fiscal year 1979, if adopted and enacted, would cause the appropriate level of budget authority for that year as set forth in H. Con. Res. 683 to be exceeded.

OUTLAYS

Any measure providing budget or entitlement authority which is not included in the current level estimate and which would result in outlays exceeding $102,622 million for fiscal year 1979, if adopted and enacted, would cause the appropriate level of outlays for that year as set forth in H. Con. Res. 683 to be exceeded.

REVENUES

Any measure that would result in a revenue loss exceeding $21,900 million for fiscal year 1979, if adopted and enacted, would cause revenues to be less than the appropriate level for that year as set forth in H. Con. Res. 683.

CONGRESSIONAL BUDGET OFFICE,
U.S. CONGRESS,
Washington, D.C., October 3, 1978.

Hon. ROBERT N. GIAIMO,
Chairman, Committee on the Budget,
U.S. House of Representatives,
Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to section 308(b) and in aid of section 311(b) of the Congressional Budget Act, this letter and supporting detail provide an up-to-date tabulation of the current levels of new budget authority, estimated outlays and estimated revenues in comparison with the appropriate levels for those items contained in the most recently agreed to concurrent resolution on the 1979 budget. This report for fiscal year 1979 is tabulated as of close of business October 2, 1978.

Since the first Parliamentarian report for fiscal year 1979 yesterday, two veterans benefit bills have cleared Congress for the President's signature. Also, the President has signed several bills into law.

[In millions of dollars]

	Budget authority	Outlays	Revenues
1. Enacted	292,052	311,608	470,600
2. Entitlement authority and other mandatory items requiring further appropriation action	44,627	38,952	
3. Continuing resolution authority			
4. Conference agreements ratified by both Houses	36,967	34,319	
Current level	373,646	384,878	470,600
Second concurrent resolution	555,650	487,500	448,700
Amount remaining:			
Under ceiling	182,004	102,622	
Over floor			21,900

Sincerely,

ALICE M. RIVLIN,
Director.

PARLIAMENTARIAN STATUS REPORT SUPPORTING DETAIL, FISCAL YEAR 1979 AS OF CLOSE OF BUSINESS OCT. 2, 1978

[In millions]

	Budget authority	Outlays
I. Enacted:		
Permanent appropriations and trust funds	265,068	243,810
Outlays from balances of prior year authority associated with appropriation bills not yet included in Parliamentarian report:		
Labor-HEW		21,084
Treasury-Postal Service		304
Foreign assistance		2,623
Interior		4,829
Defense		27,386
Offsetting receipts (including amounts generated by current appropriation action)	−55,135	−55,135
Enacted this session:		
Appropriation legislation:		
Urgent supplemental appropriations, agriculture, 1978 (Public Law 95-330)		7
Transportation Appropriations, 1979 (Public Law 95-335)	8,802	15,493
Black lung supplemental appropriations, 1978 (Public Law 95-332)		25
2d supplemental appropriations, 1978 (Public Law 95-355)	40	970
Military construction appropriations, 1979 (Public Law 95-374)	3,881	3,155
District of Columbia appropriations, 1979 (Public Law 95-373)	258	287
Legislative branch appropriations, 1979 (Public Law 95-391)	1,118	1,146
HUD, independent agencies appropriations, 1979 (Public Law 95-392)	67,911	44,788
Other spending legislation:		
Emergency Agricultural Act (Public Law 95-279)	−42	699
Civil service:		
Survivor annuities (Public Law 95-317)		1
Restoration of certain survivor annuities (Public Law 95-318)	3	5
Agricultural Credit Act Public Law 95-334)		−16
New York City bonds loan guarantee fee collections (Public Law 95-339)	−3	−3
Outer Continental Shelf Lands Act amendments (Public Law 95-372)	150	150
Civil service retirement credit for Japanese Americans interned during World War I (Public Law 95-382)	1	(1)
Total, enacted	292,052	311,608
II. Entitlement authority and other mandatory items requiring further appropriation action:		
Function 050:		
Retired pay	10,127	10,086
Claims	90	87
Civilian and military pay raises	2,278	2,219
Survivor benefit reforms, retired military personnel (Public Law 95-397) (anticipated supplemental)	17	17
Function 150:		
Payment to Foreign Service retirement trust fund	25	25
Offsetting receipts	−25	−25
Pay raise limitation: Export-Import Bank		1
Function 300: Oregon and California grant lands	48	7
Function 350: Pay raise limitation: Federal Crop Insurance Corporation		(1)
Function 370:		
Pay raise limitation:		
Federal home loan banks		1
Federal Savings and Loan Insurance Corporation		(1)
Function 400:		
Retired pay, Coast Guard	174	174
Pay raise limitation:		
Panama Canal		1
St. Lawrence Seaway Corporation		(1)
Function 500:		
Grants to States for social services	2,578	1,903
Human development, social services	[2]785	[2]785
Unemployment trust fund, training		723
Function 550:		
Retired pay, Public Health Service	65	46
Grants to States for medicaid	11,253	8,036
Payment to health care trust fund	7,764	7,764
Offsetting receipts	−7,764	−7,764
Pay raise limitation, hospital insurance trust fund		4

PARLIAMENTARIAN STATUS REPORT SUPPORTING DETAIL, FISCAL YEAR 1979 AS OF CLOSE OF BUSINESS OCT. 2, 1978

[In millions]

	Budget authority	Outlays
Function 600:		
Food stamp program (anticipated supplemental)	143	143
Child nutrition programs (anticipated supplemental)	96	
Payment to social security trust fund (OASDI)	761	761
Offsetting receipts	−761	−761
Supplemental security income program	5,558	5,484
Special benefits for disabled coal miners	1,017	921
Assistance payments program	6,663	5,040
Federal unemployment benefits (FUBA)	885	870
Special benefits, DOL:		
Retirement	3	3
Federal employees	228	228
Black lung disability trust fund	422	378
Offsetting receipts	−96	−96
Payment to railroad retirement trust fund	313	313
Offsetting receipts	−313	−313
Regional rail transportation protective account	25	25
Pay raise limitation:		
Social security trust fund (OASI)		74
Civil service retirement trust fund		1
Railroad retirement trust fund		1
Railroad retirement account		1
Function 700:		
Veterans compensation and pensions (anticipated supplemental)	267	
Veterans readjustment benefits (anticipated supplemental)	431	280
Veterans disability benefits increase, H.R. 11886 (anticipated supplemental)	563	520
Housing assistance for disabled veterans, H.R. 12028 (anticipated supplemental)	8	8
Function 800:		
Payment to civil service trust fund	2,406	2,406
Offsetting receipts	−2,406	−2,406
Function 920: Allowance for civilian agency pay raise	1,000	980
Total, entitlement authority	44,627	38,952
III. Continuing resolution authority		
IV. Conference agreements ratified by both Houses:		
Agriculture appropriations, 1979 (H.R. 13125)	18,290	13,738
Public works appropriations, 1979 (H.R. 12928)	10,160	9,470
State, Justice, Commerce appropriations, 1979 (H.R. 129-34)	8,515	11,111
Foreign Service officers-special annuity computation (H.R. 12598)	1	1
Total, conference agreements	36,967	34,319
Total current level, as of Oct. 2, 1978	373,646	384,878
Concurrent resolution of Sept. 23, 1978	555,650	487,500
Amount remaining:		
Over ceiling		
Under ceiling	182,004	102,622

[1] Less than $500,000.

[2] Requires authorizing legislation for fiscal year 1979.

Note: Detail may not add due to rounding. ●

A RIDE ON THE BUS WILL CAUSE TAXPAYER FUSS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. GOLDWATER) is recognized for 5 minutes.

● Mr. GOLDWATER. Mr. Speaker, our offices receive loads of mail everyday, including many publications from trade associations with an interest in Government programs. Last week I happened to glance through the newspaper of the American Public Transit Association, when I stumbled across a most interesting article.

In Detroit, Mich., passenger buses will soon feature posters of artwork and poetry, along with all the advertisements for cigarettes, alcoholic beverages, and personal care products. According to the transit system's general manager:

Our goal is to make riding public transit a more enjoyable experience and the poetry and art bus cards will add a warm personal touch.

An example of the poetry to which Detroit's 90 million annual bus riders will be exposed is William Stafford's "Eskimo Sled":

In the back—Steady dogs
In the middle—Idiot dogs
In the front—One strong Smart Dog.

It is a beautiful poem Mr. Speaker. I understand verse on this order will be portrayed on transit buses in a number of other major cities in the near future.

While it is the intention of the transit authority to "create a more pleasant atmosphere" for its riders, I took note of the fact that funding for these poetry cards with artwork is being arranged for by the taxpayer. Under section 6 of the 1964 Urban Mass Transportation Act, the U.S. Department of Transportation has made a $62,225 grant for this program.

Let me say, Mr. Speaker, that I am all in favor of promoting the arts and broadening our cultural heritage in America. But I am not so sure the taxpayers had any idea their annual payments to the Federal Treasury would be used to display artwork and poems on the bus. Whatever happened to the priority of upgrading the safety of our passenger transit vehicles? Have we abandoned our commitment to making buses easier for the handicapped to use? I can think of a few communities which could have used this $62,225 for vans to transport senior citizens in locations where ordinary public transportation is not available.

It is commendable that a number of private organizations have contributed to the art and poetry in motion program. We in Government want to encourage their efforts, and our tax laws are structured to give them an incentive to take on projects of this type. But since DOT has made its grant already, I would only suggest that it consider making a poster for one of my own original poems:

While going from here to there
A passenger sure had a scare.
What's this on the bus?
A taxpayer fuss!
Our public officials beware! ●

A SCIENTIFIC EVALUATION OF THE NITRITE ISSUE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Virginia (Mr. WAMPLER) is recognized for 10 minutes.

● Mr. WAMPLER. Mr. Speaker, this morning I sponsored a press conference in the House Agriculture Committee room to permit a task force of eminent American scientists from CAST (The Council on Agricultural Science and Technology) to give their views and comments on "the Newberne (MIT) Report on the Effect of Dietary Nitrite in the Rat," and "The Draft Proposals Made by the Food and Drug Administration and the United States Department of Agriculture for Action on Nitrite Based on the Newberne Report."

I was happy to see a number of my colleagues present at that news conference, as it dealt with proposed Federal regulatory actions the scientific, social, and economic foundations of which are seriously disputed.

Inasmuch as a goodly number of my colleagues did not attend this news conference, I include the general text of the remarks made by CAST scientists at the news conference in the RECORD for the ready reference of those who could not attend this meeting:

SCIENTISTS COMMENT ON NITRITE ISSUE

AMES, IOWA.—In 1972, FDA pointed out that "Without nitrate, bacon is salt pork, frankfurters are bratwurst (fresh uncured sausage)[1] and ham is salty warmed-over roast pork. . . ." The FDA–USDA proposals made in August 1978 for phasing out nitrate due to its alleged carcinogenicity, however, imply that products without nitrite would be the same as current products with nitrite except for the lack of nitrite and the increased hazards from spoilage and food poisoning.

IMPACTS OF A NITRITE BAN

According to Richard V. Lechowich of Virginia Polytechnic Institute and State University, "the fact is that if nitrite were banned, consumers would be presented with new products that would not look, smell, or taste like the cured products now known. Without nitrite, there would be no frankfurters or wieners, no Vienna sausage, no bacon, no corned beef, no deviled ham, no pastrami, no canned ham, no chopped luncheon meats, no cold cuts. Also eliminated would be all kosher cured meat products."

Lechowich headed two different task forces of scientists appointed by the Council for Agricultural Science and Technology (CAST) to evaluate the nitrite issue. CAST is an association of 25 food and agricultural science societies.

Dan I. Padberg, an economist from the University of Illinois on the CAST task forces, says that "In the absence of nitrite the added expenses of handling uncured meat as fresh would be significant, but the principal economic effects would result from the changes in acceptability of the products to consumers. Consumers would not like some products without nitrite, and these would disappear. The preference for others would be reduced, and sales would consequently decrease. Probably none would be preferred without nitrite because if this preference existed they would already be sold in that way. Losses to producers, processors, and consumers from loss of nitrite in meat curing would be several billion dollars in each sector.

"As I see it," says Padberg, "the implications of withdrawal of nitrite would be very different from the implications of withdrawal of substances such as Red No. 2 and cyclamates. Withdrawal of these substances had little effect on product variety available to consumers, and there was general popular support for the initiatives that led to these bans. At present, most consumers probably do not understand what nitrite is, what it does in meat curing, or what would happen if it were withdrawn. Disappearance of the familiar products, however, would bring quick understanding, and widespread political reaction among consumers could be expected to be added to the complaints of producers and processors."

Robert E. Rust, extension meat specialist at Iowa State University, notes that the loss of cured meats would affect the planning of one-fourth to one-third of all meals. "Particularly hard hit," he says, "would be the lunch box and picnic meals. Cook books would need to be rewritten.

"If nitrite were banned," says Rust, "the consumer education program required to inform people about substitute meal planning and the new meat and safety requirements would require an estimated ten-fold increase in personnel and materials for several years."

Rust points out that "A further consequence of a ban of nitrite would be the development of black-market operations to produce the products certain consumers desire. There would also be an increase in home curing operations. Both of these developments would be associated with an increase in the hazard of botulism because some of the curing would be poorly done. There are frequent outbreaks of botulism from home-cured meats in Europe where nitrite either is not used or is used with poor control."

"The FDA–USDA proposal to warn consumers about the possible hazard of cured meat products during the phase-out of nitrite," adds Padberg, "would no doubt be received favorably by consumers, the principal reason probably being that the label tells them that some government agency is looking after their safety so that they don't need to worry about it themselves. A few consumers read the labels," he says, "but most don't."

NITRITE A BOTULISM PREVENTIVE

Lechowich, a specialist on botulism, says that "Botulism is fatal in about 50% of the cases reported from ingestion of meat products," but he points out that there are very few deaths due to botulism in the United States. "Our safety record is excellent," he says. "At present, the principal cause of botulism in the United States is consumption of vegetables, followed by fruits and meats in that order. Without proper use of nitrite in meat curing, consumption of meat could become the leading cause of botulism in the United States, as it is in Europe.

"Recent evidence that an infectious form of botulism is a cause of 'sudden death' in infants," says Lechowich, "leads to the suggestion that to deal with this hazard the practice of adding small quantities of nitrite to the milk fed to infants is a logical possibility for experimental testing. This practice, like the addition of nitrite to meat, would have no appreciable effect on the lifetime exposure to nitrite, but it could save some lives. Current evidence indicates that no more than 2% of the nitrite to which the body is exposed is due to cured meats. Almost all of the remainder is produced in

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[1] Note to editors: FDA's description of bratwurst as "fresh uncured sausage" is not quite correct. Actually there are at least two kinds of bratwurst. One is, indeed, fresh uncured sausage. The kind that resembles frankfurters, however, is cooked uncured sausage. There are also current reports of a cured cooked sausage being marketed as bratwurst.

the body by normal body processes. Obviously, then," he says, "there is little we can do to reduce our exposure to nitrite by eliminating the use of sodium nitrite in meat curing."

THE CANCER HAZARD

Nitrite is a very reactive ion. Most of the nitrite absorbed by the blood stream from the digestive tract probably reacts with hemoglobin and changes it to methemoglobin, which does not carry oxygen to the body (the hemoglobin is eventually regenerated). But some, according to Phillip Issenberg of the Eppley Cancer Institute at the University of Nebraska Medical Center, may react with certain organic nitrogen compounds to produce N-nitroso compounds. "N-nitroso compounds as a class," says Issenberg, "are highly potent carcinogens in experimental animals and are presumed similarly carcinogenic in humans although there is currently no evidence that any human cancer in the United States has resulted from exposure of the human population to such compounds in food and other environmental sources."

Issenberg points out that "In addition to preformed N-nitroso compounds (including nitrosamines) that are inhaled from the air, ingested in the food, and derived from other environmental sources, there is probably some synthesis of these compounds in the human body from the nitrite normally produced in the digestive tract. With by far the major part of the nitrite being produced in the digestive tract, most of the exposure to N-nitroso compounds as well as nitrite may well be due to formation of these compounds in the body.

"We have no knowledge of the significance of nitrite as a cause of human cancer," says Issenberg, "but we must raise an objection to the estimates of human cancer risk developed on the basis of Newberne's data by FDA and USDA for consumption of nitrite in cured meats. The FDA–USDA estimates are of very dubious validity because some of them are considerably higher than the incidence of all cancers from all causes that arise in the lymph system in the human population in the United States. If we take into account the information that less than one-fiftieth of the total exposure of the human body to nitrite is due to cured meats, and if nitrite from all sources contributes equally to the incidence of cancers in the lymph system, the FDA–USDA estimates are 10 to 450 or more times higher than the estimate we derive from human data on the assumption that all cancers arising in the lymph system are caused by nitrite."

THE NATIONAL CANCER POLICY ISSUE

The FDA–USDA proposals to phase out the use of nitrite in meat curing are mandated by the Delaney Clause, which is a part of food and drug law. "This legislation," says David Clayson of the Eppley Cancer Institute of the University of Nebraska Medical Center, "does not constitute a national cancer policy, but its effects on government regulation extend far beyond the stated purpose of preventing the addition to foods of substances found to cause cancer in humans or animals.

"We do have a de facto national cancer policy," says Clayson, "in the position that seems to be uniformly adopted by regulatory agencies that a substance that produces cancer in any amount no matter how large will also produce cancer in any amount no matter how small. FDA and USDA defend this policy in their proposals to ban nitrite.

"This policy," says Clayson, "is a convenient scientific hypothesis that we don't know how to verify. But we do have some evidence that leads us to question the validity of applying it as a general rule. We know, for example, that certain chemicals behave differently in the body at low doses than at high doses. That is, the way the body handles them chemically depends on the dose.

"I have spent my entire career studying the chemical induction of cancer," says Clayson, "and I feel strongly that we must protect ourselves against risks from cancer and other afflictions due to unnecessary exposure to chemicals. But at the same time I am afraid that when we have Delaney Clauses and de facto national cancer policies that cause us to take actions that are not scientifically sound and are not clearly in the national interest we are headed for trouble. In my opinion, if we don't take action soon to develop a national cancer policy based on the best understanding science can offer, the incessant alarms in the mass media about this or that chemical being a carcinogen can only lessen the public's concern about health risks due to chemicals that produce cancer. This will inhibit the further study of chemically induced cancer, and it could ultimately lead to abandoning attempts to protect public health from unnecessary risks caused by chemicals."

THE NEWBERNE STUDY

"The Newberne study with rats," according to Issenberg, "is flawed by some deficiencies in statistical analysis and by inadequate reporting of the experimental details including the content of nitrite and nitrosamines in the diets and water as consumed." Nonetheless, the results of the experiment as a whole are considered by Issenberg and other members of the CAST task force that reviewed the study to support Newberne's conclusion that "Despite the somewhat less than convincing case that nitrite is lymphomagenic in Sprague-Dawley rats, one cannot escape the distinct impression that nitrite does affect the lymphoreticular system of the rat. . . . While these observations require some consideration, the data are only suggestive and the biological significance of nitrite-associated lesions of the lymphoreticular system is unclear. There are suggestions, however, of sufficient magnitude and the study used sufficient animals to raise questions about the widespread use of relatively high concentrations in our food supply."

"Although we agree with Newberne's conclusion," says Issenberg, "we must take issue with the FDA–USDA position that the Newberne study is a positive finding of nitrite carcinogenicity against which there are no relevant negative findings. The FDA–USDA review of the literature has overlooked certain findings that do not agree with the results of the Newberne study. Further, the FDA–USDA contention that Newberne's data 'show that, even without evidence of the formation of nitrosamines, nitrites produced a statistically significant increase in cancer in the test animals' is misleading. The Newberne report gives no analyses for nitrosamines, and even if such analyses had been given one could not tell whether the lymphomas in the rats were caused by nitrosamines, nitrite, or some other substance related to nitrite."

Michael Gallo, a toxicologist and Director of Life Sciences with the consulting firm of Booz, Allen, and Hamilton, points out that "Lymphoid tumors are relatively common in Wistar rats but not in rats of the Sprague-Dawley strain, which Newberne used. Newberne found a relatively high incidence of lymphomas in the rats of the several groups that received no additions of nitrite in either diet or water. The lymphoid tumors in these rats were initiated by some unknown agent, perhaps a virus. The still greater incidence of these unusual tumors in rats receiving nitrite, at the same time as there was no appreciable increase in the numerous other kinds of tumors observed, suggests that, where lymphoid tumors were concerned, nitrite was acting as a modifying agent—an agent that modifies the incidence of tumors that are initiated by some other agent." Clayson points out in this connection that "It has been known for many years that even food is a modifying agent. More than 30 years ago, Tannenbaum found that permitting mice to ingest increasing quantities of food increased the incidence of mammary virsus-initiated tumors and benzo(a)pyrene-initiated skin tumors and sarcomas."

Kash Patil, a statistician with the University of Nebraska Medical School, points out that the overall statistical analysis of the Newberne data is of dubious validity because the nitrite effects are not independent of litter effects, a requirement in statistical theory for assigning probabilities. Patil made statistical tests on each of the six groups of rats within which comparisons of the nitrite effect on lymphomas may be made, and he reports that "I found the effect of nitrite on lymphomas was significant at the 1 in 20 probability level in only one comparison, and this comparison is not statistically valid because the two groups of rats receiving nitrite were from different litters than the group that did not receive nitrite." He notes also that "There are indications from the narrative of the Newberne report that all the rats receiving a given treatment were treated as a single homogeneous group instead of being assigned to blocks in which one or more rats receiving each of the treatments being compared were present. "If this is the way the experiment was conducted," says Patil, "none of the statistical comparisons are theoretically valid. We are unable to say what the probabilities would be, but the level of significance would be lower than any of those calculated."

TASK FORCE MEMBERS

The persons named in the foregoing text participated in the review of the Newberne study and the FDA–USDA proposals, Lechowich, Issenberg, and Padberg were members of the task force that produced the report on "Nitrite in Meat Curing: Risks and Benefits." Additional participants in this task force were Robert G. Cassens, University of Wisconsin; Joseph G. Sebranek, Iowa State University; John V. Spencer, Washington State University; and Robert M. Terrell, Texas A & M University.●

THE CONTINUING TRAGEDY OF OCCUPATIONAL HAZARDS AND DISEASE

The SPEAKER per tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

● Mr. ANNUNZIO. Mr. Speaker, during the month of June, the Chicago Sun-Times printed a series of articles on the dangers of working in many, many industries across the country, as well as the lack of enforcement of health and safety laws by the Occupational Safety and Health Administration. The first of those articles follows, as well as a copy of the Sun-Times editorial on this subject, which appeared in the June 18, 1978, edition:

THE WORKING WOUNDED

(By Bruce Ingersoll)

Millions of Americans are trading their health for a paycheck.

In trying to make a living, they are working their way into an early grave. No matter what their hours, the graveyard shift is their only shift.

Every year, 115,000 workers succumb to some deadly form of occupational disease or they are crushed, electrocuted, burned or

gassed to death in an industrial accident. Yesterday's toll was 315 dead; today's toll may drop, but tomorrow's more than likely will make up for it.

Anthony Mazzocchi, vice president of the Oil, Chemical and Atomic Workers International Union, insists that these victims were really "consigned to economic capital punishment." Premature death, sudden or lingering, was the sentence they drew for toiling in the poisonous fumes of a chemical plant, for going high up on a scaffold, for ladling out molten steel.

"It's roulette," Mazzocchi said. "You take your chances with your life. It's your job or your life, and that's a fact in the workplace."

Nearly 5.2 million Americans are injured on the job or afflicted with occupation diseases every year, according to the latest government survey, but the actual figure may be as high as 10 million.

These are the working wounded—the men and women who are maimed or otherwise disabled, who are partially deafened by the clatter of canneries and the clanging of forges, who are laid low by a whiff of hydrogen sulphide or repeated exposure to lead dust.

For these workers, the Occupational Safety and Health Act of 1970 has been a sham—a promise never kept.

Ostensibly, Congress wanted to assure safe and healthful working conditions for everybody, no matter whether he riveted steel or she carded cotton. The OSHA law, however, has not stopped the carnage. It deserves credit only for a slight—and statistically debatable—drop in injuries, illnesses and deaths.

The Occupational Safety and Health Administration, the agency in the Labor Department that was created to implement the act, has never had the money and thus the manpower to do what Congress had in mind.

As a result, 22 million Americans—one out of four workers—are now exposed to at least one of the toxic substances regulated by OSHA. As many as 50 million may have been similarly exposed in the past. What makes this so disturbing is that the perils of working with many of these substances have been known for years, even centuries, as these examples show:

Lead.—It may have been the first industrial health hazard to be recognized. The Romans sent criminals to the lead mines, knowing it would be a death sentence. Benjamin Franklin studied the symptoms of lead poisoning. And Dr. Alice Hamilton, Chicago's pioneer in occupational health, documented cases of lead colic and palsy among smelter workers and bathtub enamelers in 1910.

Yet, today a million workers are inhaling lead dust and vapor. The worst-off have to endure severe anemia, stomach disorders, reproductive damage, tremors, dulled senses and increased irritability.

What the Romans knew about lead poisoning was no help to Henry Chadwell, 34, an employee at the NL Industries lead smelter at Beech Grove, Ind., "My old lady can tell when I'm running high lead," he said. "I get grouchy and every time she says something I bite her head off."

Chadwell has not worked since February. "My abdomen hurt all the time like sharp gas pains. You can't sleep; you can't do nothing. It's a matter of record that lead attacks your kidneys and your nervous reflexes. At one time, I fought Golden Gloves. I used to be quick, but now I can't hit anything that ain't sitting still."

Benzo(a)pyrene.—In 1775, Sir Percivall Pott, the English surgeon, discerned a high rate of scrotal cancer among the chimney sweeps of London; yet today 18,000 coke-oven workers in U.S. steel mills are exposed to the same cancer-causing agent, benzo(a)-pyrene. These workers are dying of kidney cancer 7½ times more frequent than their fellow steelworkers.

Silica.—During the Depression, 470 men dropped dead while tunneling through a West Virginia mountain of almost pure silica. They were the victims of silicosis, a lung disease, and many of them were buried in a nearby field, two or three to a grave. Today, more than 45 years later, the lessons of this disastrous project are being relearned at foundries and other workplaces where 1.1 million workers are breathing in silica.

Arsenic, etc.—Today, some 130 years after arsenic was pinpointed as the cause of cancer among copper furnacemen, 1.5 million Americans are exposed to arsenic. And the list goes on: Today, 85 years after benzidine and other amines were found to cause bladder cancer among Germany dye makers, "thousands of American workers are still literally sloshing in them," according to Joseph K. Wagoner, cancer specialist for OSHA.

Noise.—More than 30 years ago, an Italian physician named Ramazzini described how copper workers were going deaf from their hammering. Yet today one out of three workers are being bombarded by noise levels above the OSHA limit.

For George Holmes, 62, efforts to quiet Ford Motor Co.'s metal-stamping plant at Chicago Heights came too late. He has lost half of his hearing. He once sang in the church choir but had to drop out. He couldn't hear well enough to carry a tune.

Even with a hearing aid, Holmes cannot use the telephone or enjoy television. When he is in the back yard, his wife has to send out the dog to fetch him for supper. Said Holmes: "It's just half of life—that's what it is."

Asbestos.—By 1930 it had been well-documented that asbestos causes asbestosis, a scarring of the lungs similar to silicosis. By 1955, it had been documented that asbestos causes lung cancer and, by 1960, that it causes mesothelioma, an invariably fatal cancer of the chest or abdominal lining.

Over the years, however, as many as 11 million Americans have been exposed to this so-called "miracle mineral" of 3,000 uses, including brake linings, insulation and the nose cones of spacecraft. Only recently did the government begin warning these workers that they had been playing roulette with their lives.

Accidents.—A flying wood chip in the eye of a Pilgrim ax-man may have been the first industrial accident in this country. Even today, logging is plagued by a high accident rate.

More than 70 years have elapsed since Sinclair Lewis, author of "The Jungle," exposed the horrendous loss of life and limb in Chicago's slaughterhouses and sausage factories, but today meat-packing, mechanized or not, is still maiming men and women. Of all industries, it has the highest rate of injuries and illnesses.

Another muckraker, William Hard, wrote "Making Steel and Killing Men" and tallied up the casualties at U.S. Steel Corp.'s South Works—46 killed and 368 disabled in 1906. Today, steel workers are still being disabled, and they are still dying.

And a disproportionate number of blacks are doing the dying, just as the newest immigrants once did. They are doing the dirtiest work, toiling in the fumes and heat of coke ovens. In 1971, for example, blacks held 91 per cent of the coke-oven jobs in the Pittsburgh area, and they died of cancer far more frequently than their fellow steel workers.

Accidents continue to take their toll, too. Nobody knows better than Mrs. Audrey Press. Her husband and son were killed within 12 months of each other in Youngstown Sheet and Tube Co.'s East Chicago mill.

When a fatality occurs, management in the mills and other industries is inclined to blame the dead man for his death. The bosses will call him careless or accident-prone. They will fault him for not abiding by the company rules on safety and health.

In some cases, the bosses are right. But labor officials are just as inclined to blame management. They will accuse the bosses of an overweaning preoccupation with profits—with the bottom line. They will berate the bosses for sacrificing workers to boost production. The truth, it usually turns out, lies somewhere in between.

Last year, industry spent $2.9 billion on health and safety, according to McGraw-Hill Publication Co. This amounted to only 2.1 per cent of total capital investment. Moreover, it was down from 2.8 per cent in 1972.

The steel companies spent $41 million last year, down from $193 million in 1972. "There are two ways to look at this," said David Simmons, secretary of the Chicago Area Committee on Occupational Safety and Health. "The steel companies solved most of their problems in 1972, or they soon realized that OSHA was going to be a toothless tiger. I prefer the latter explanation."

Even if OSHA had the might and manpower to force industry to eliminate all the historic, well-known hazards, workers would still keep on dying, Simmons pointed out. This is because neither government officials nor medical researchers can keep abreast of all the new toxic chemicals coming on the market. The proliferation of new chemical formulations and new processes has heaped thousands of hazards upon all the old hazards: asbestos, lead, coal dust, silica, arsenic.

The government's list of carcinogens (cancer-causing agents) numbers 2,128, and its registry of toxic chemicals, 28,000. The United States may lead the world in the mastery of modern technology, but its grasp of new health hazards is still medieval.

"When you're dealing with life and death—with cancer or no cancer—there's no place in our society for the concept of presuming a chemical innocent until it's proven carcinogenic," said OSHA's Wagoner.

With the backlog of untested chemicals growing daily, the workers are the ones who serve as guinea pigs. It amounts to a system of human experimentation.

"Why is it that all (occupational disease) epidemics are discovered by the workers?" said Mazzocchi. "A body in the morgue is the empirical evidence that doctors require."

He and other labor leaders insist that the worker has the right to know the perils of the chemical or substance he is working with. "Ninety per cent of the cancers are environmentally caused," Mazzocchi said. "We can conduct the best cancer-prevention program going if we win the right to know and the right to act on our knowledge."

Many companies would prefer to keep not only the worker in the dark but also the regulatory agencies. For years, companies have been tight-lipped about many new chemicals, arguing that their formulas are trade secrets.

Last year, it took workers at a Lathrop (Calif.) pesticide plant to bare one crucial secret—DBCP (dibromochloropropane) causes sterility. They were talking one day when they suddenly realized none of them had sired any children for several years. Only after sperm tests showed half the men to be sterile did it come out that one DBCP producer, Dow Chemical Co., had known for 20 years that the chemical causes reproductive failure in laboratory animals.

"If money is involved, those who know won't tell," said A. F. Grospiron, president of the Oil, Chemical and Atomic Workers. He then corrected himself. "Oh, they (Dow) did publicize it—in an obscure pharmaceutical journal."

OSHA and its sister agency, the National Institute of Occupational Safety and Health,

sound the alert whenever a new hazard crops up. "We used to have problems of the month, now its looks as if we have problems of the week," said Edward Baier, deputy institute director.

One of the latest problems of the week is NIAX, a chemical catalyst used in the manufacture of polyurethane foam. At 5 of 10 plants using NIAX, numerous workers have been complaining about urological disorders and pins-and-needles sensations in their hand and feet.

NIAX, it turns out, deadens the nerves leading to the bladder. The workers cannot sense when their bladders are full, making them susceptible to urinary infections and kidney damage.

The dreadful question is, what's next after NIAX? So far, nobody has been known to die from NIAX exposure. Will the next hazard prove deadly? Will it cause sterility like DBCP? Or mutations in the offspring of workers?

Or will it seep out of the workplace and affect the public at large? The perils of polyvinyl chloride, for example, did not stop at the plant gate. In three Ohio towns with PVC plants, state health officials detected a rash of birth defects. And the townsmen showed an abnormally high rate of tumors of the central nervous system.

Grospiron, the union president, maintains that this practice of treating workers as guinea pigs, unwitting as it may be, can no longer be tolerated.

"As I've said before, if we can age bourbon, scotch and other whiskies for 12 years, we can at least test chemicals five years before we put them to use.".

DANGER—AND DEATH—ON THE JOB

Congress best intentions aren't worth the paper the Federal Register is printed on if programs with worthy goals are not given the wherewithal to deliver.

Eight years ago, Congress approved the Occupational Health and Safety Act, a measure designed to guarantee the safety of the U.S. workplace.

The grotesque failure of that legislation—and the appalling toll in lives and health that results—has been documented by Sun-Times reporters Bruce Ingersoll and Michael Flannery, whose series begins today.

The landscape that series paints is peopled with grisly characters:

Male chemical-plant workers who develop breasts because they have been overexposed to powerful hormones on their jobs.

Coke-oven workers suffering such high intake of pollutants that they die of kidney cancer, for example, at 7½ times the rate for other steelworkers.

Plastics workers whose handling of one commonly used compound has apparently led to severe nervous-system disorders.

Saving workers from such needless grief is the job of the Occupational Safety and Health Administration, an agency created by that 1970 congressional action. Yet OSHA, plagued by insipid direction in past administrations and piddling budgets even now, has failed to do that necessary job.

OSHA's new director, Eula Bingham, has made a fairly auspicious start toward turning the agency around from nitpicking to solid, hard-hitting safety enforcement. Yet, as Ingersoll and Flannery point out, the national "constituency" Bingham must do more to protect is enormous:

Perhaps as many as 10 million American workers hurt on the jobs or ravaged by occupational diseases every year—115,000 killed, directly or indirectly. Life, it seems, is cheaper than safety.●

THE PLIGHT OF THE BERNSHTEIN FAMILY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. McHUGH) is recognized for 5 minutes.

● Mr. McHUGH. Mr. Speaker, it is my privilege to join today in a "vigil for freedom" sponsored by the Union of Councils for Soviet Jewry, a vigil on behalf of Soviet Jewish families and individuals who are being detained in the U.S.S.R. as a result of the repressive emigration policies of the Soviet Union.

The Helsinki Final Act, which the Soviet Union signed in 1975, committed 35 signatory nations to pursue policies consistent with basic principles of human rights, including the reunification of divided families whose members live in different countries, religious freedom, minority rights, and free travel between countries.

The Soviet Union's disregard for the human rights provisions of the accords has immeasurable human suffering, and I wish to draw attention today to the example of just one family that lives in torment because of repressive Soviet practices. Roman Lazarevich Bernshtein lives in Moscow, and wishes to emigrate to Israel to join his 73-year-old mother Sarah, who suffers from a heart ailment and has no one to help her. She arrived in Israel in 1975, and has been trying ever since to help her only son leave the Soviet Union. He was refused permission because he had been recalled into the army as an engineer for 2 years of service, and the 5 year waiting period after military service would not expire until 1976. In 1976, when the long awaited date arrived, he again applied for a visa and again was refused, in a clearly capricious action by a Soviet immigration official.

His mother writes from Israel:

On my knees, I beg you to help me in my agonizing torments. Help me to regain my dearly beloved son while I am still alive—the son whom I alone raised and cared for since he was three years old, because his father died in World War II at Stalingrad.

It is my earnest hope that the outcry of our vigil against such human suffering will move the Soviet Union to comply with the Helsinki Final Act and assist in reuniting the Bernshtein family and all other families in similar circumstances.●

LEGISLATION DIRECTING SECRETARY OF INTERIOR TO ACQUIRE CERTAIN LANDS FOR BENEFIT OF MILLE LACS BAND OF CHIPPEWA INDIANS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota (Mr. NOLAN) is recognized for 5 minutes.

● Mr. NOLAN. Mr. Speaker, today I am introducing legislation which directs the Secretary of the Interior to acquire a small, 25-acre parcel of land which is situated in Mille Lacs County, Minn. Upon acquisition, this land will be held in trust for the Mille Lacs Band of Chippewa Indians who reside nearby. This legislation, which has been simultaneously introduced in the Senate by my distinguished colleague, Mrs. HUMPHREY, will serve to dispel all confusion over rightful ownership of this tiny tract of land—confusion which dates back as far as 1871.

The 25-acre plot to which I refer is generally referred to as Government lot 4. Lot 4 was patented to the State of Minnesota on May 13, 1871, pursuant to the Swampland Act of September 28, 1850. The property later passed by deed from the State to the Lake Superior and Mississippi Railroad Co.—subsequently designated as the St. Paul & Duluth Railway Co.—which in turn deeded it to the Northwestern Improvement Co. This company then conveyed lot 4 to Mr. E. L. Trask who owned the land in 1901. By a contract for deed, Mr. A. P. Jorgenson obtained lot 4 from Mr. Trask in April of 1901. Some years later, this land was conveyed to Mr. Sherman A. Holbert. The confusion over the rightful ownership of lot 4 finds its foundation in Joint Resolution No. 40, which was passed by the U.S. Congress on May 27, 1898, and which "perpetually reserved the above property—lot 4—as a burial place for the Mille Lacs Indians, with the right to remove and reinter thereon the bodies of those buried on other portions of said former reservation."

Government lot 4 was never conveyed to the United States to be held in trust for the Mille Lacs Chippewa Indian community despite Joint Resolution 40 and several attempts by A. P. Jorgenson to sell this property to the United States. Consequently, title was further conveyed to its present owner, S. A. Holbert, who in recent years has undertaken efforts to develop lot 4 and adjacent properties.

In the course of the aforementioned development efforts, an appearance by S. A. Holbert and others before the Mille Lacs County Planning Commission was necessitated to address a provision of local ordinance. This meeting was also attended by Mr. Arthur Gahbow, chairman of the Mille Lacs Chippewa community. Mr. Gahbow's historical investigation of the area of Mille Lacs Lake, upon which is located lot 4, had revealed the existence of Joint Resolution 40, and it was his conviction that lot 4 rightfully belonged to the Mille Lacs Chippewa community.

I agree with Mr. Gahbow and, despite the fact the abstract of title to lot 4 does not make reference to the existence of Joint Resolution 40 of 1898, Mr. Holbert also believes rightful ownership of lot 4 belongs to the Mille Lacs Reservation. Furthermore, it is unanimous amongst all parties involved that lot 4 should be acquired, indeed, must be acquired by the United States to be held in trust for the Chippewa Indians residing at Mille Lacs.

The status of lot 4 has created unnecessary and undue hardships for all parties involved. I have heard reports claiming Sherman Holbert is a developer oblivious to the concerns of local Indian residents while, on the other side, Art Gahbow is an Indian who delights in thwarting the development efforts of non-Indians—nothing could be further from the truth. The real culprit in this case is the Federal Government which, in its infinite wisdom, reserved Government lot 4 for the Indians but did not actually acquire and pay for it. Hence, lot 4 belongs to Sherman Holbert because he

paid for it; and it belongs to the Chippewa Indians because legislative mandate reserved it from them in 1898.

The legislation I am introducing today again mandates the acquisition of Government lot 4 by the United States from Sherman Holbert to be placed in trust for the Chippewa Indians residing at Mille Lacs. This legislation has met with the approval of both the Indian community and Sherman Holbert. It is time we settle this matter once and for all rather than marking time while the U.S. Government makes up its mind and both the Indians at Mille Lacs and Mr. Holbert sit in limbo wondering when the saga will end.

Following is a draft of this legislation which I hope will be the short and sweet end to a long and sometimes bitter engagement:

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled,

SECTION 1. (a) The Secretary of the Interior is authorized and directed to acquire by purchase the following described lands, together with such lands adjacent thereto as the Secretary may determine necessary: Government Lot 4, Section 28, Township 43 North, Range 27 West, Fourth Principal Meridian, Mille Lacs County, Minnesota.

(b) Lands acquired by the Secretary pursuant to subsection (a) shall be held by the United States in trust for, and for the benefit and use of, the Mille Lacs Band of the Minnesota Chippewa Indians.

SEC. 2. There is authorized to be appropriated such sum as may be necessary to carry out the purposes of this Act. The purchase price of said lands shall be an amount equal to their fair market value.●

INTRODUCTION OF LEGISLATION TO TRAIN AFDC RECIPIENTS TO BE HOME HEALTH AIDES AND HOMEMAKERS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. ROGERS) is recognized for 5 minutes.

● Mr. ROGERS. Mr. Speaker, I am introducing today legislation to authorize several large-scale demonstration projects for the training and employment of AFDC recipients as homemakers and home health aides, in order to increase the availability of alternatives to institutional care for aged and disabled persons in the medicaid and medicare programs.

This bill is a companion piece to legislation introduced in the Senate by the chairman of the Subcommittee on Health of the Finance Committee, Senator TALMADGE of Georgia.

We currently spend staggering amounts of money in this country for nursing home care, over half of it through the medicaid program. Yet study after study indicates that a substantial number of persons in nursing homes either do not need to be there or could have avoided ending up there if adequate services had been available in the community to provide homemaker, shopping, home health, and similar kinds of services. At the same time, we have a number of people on our welfare rolls who would welcome the opportunity to be trained to provide useful and necessary care, and to be able eventually to be employed at a rewarding and satisfactory job in the health field. I think these two problems can both be effectively addressed if we take some of the mothers and unemployed fathers on AFDC, and using the expertise of our State health agencies, train them to provide necessary health and homemaker services to keep the elderly and disabled in the community and out of nursing homes.

My own State of Florida has indicated interest in participating in a project for the training and employment of AFDC recipients as homemakers and home health aides. They have been impressed, as have I, with the experience of the State of New Mexico where they experimented with a similar program.

The legislation would authorize demonstration projects in eight States for up to 5 years. The State health services agency designated by the Governor would carry out the project. The Federal Government would pay for 90 percent of the cost of the project through title XIX—medicaid. Following completion of the training, the AFDC recipients would be employed by public and nonprofit agencies and organizations, such as State or local health departments, to provide supportive services to the aged, disabled, retarded, and others who might face institutionalization unless services are available in the community.

I believe this kind of program has promise. It should be tried on a large enough scale that it can be properly evaluated. It is my hope that the legislation I am introducing today will be the first step in the right direction.●

IN OPPOSITION TO THE STATE DEPARTMENT'S DECISION TO GRANT A VISA TO IAN SMITH

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Illinois (Mrs. COLLINS) is recognized for 5 minutes.

● Mrs. COLLINS of Illinois. Mr. Speaker, I rise to express my strong disagreement with the administration's ill-advised decision to grant a visitor's visa to Ian Smith, and his cohorts in the renegade government that has ruled Rhodesia illegally since 1965. While I understand and identify with the administration's good intentions to seek a peaceful end to this tragic conflict, I fail to see what can possibly be gained by caving in under the pressures of those who fail to see oppression for what it is and instead are fooled by a charade of black masks in a theatre of the absurd.

There has been much talk of the need for the United States to demonstrate its even-handedness against charges that in consulting with the leaders of the Patriotic Front, we are taking sides in the fighting rather than seeking a peaceful transition to majority rule. The issue, however, has less to do with what "side" we are on than with what kind of future we envision for an independent Zimbabwe. Are we serious about our belief in free elections leading to majority rule and an end to all forms of racial discrimination? If the answer is yes, then we cannot in good conscience lend any support, symbolic or substantive to the so-called "internal agreement" signed in Salisbury on March 3 by Ian Smith and three unelected black leaders. For this agreement, as some of us who follow events in southern Africa accurately predicted in a letter to the President on March 20, is not a formula for majority rule, but is rather a cosmetic device to perpetuate the status quo and, as such remains a "recipe for civil war."

In the absence of a genuine transition to majority rule, no subterfuge will succeed in lending an aura of legitimacy to the Smith regime. The only one who will be fooled by the Smith visit is, perhaps, Ian Smith himself, who somehow seems to believe that if he can draw on the sympathy—and perhaps the latent racism—of certain misguided Americans, he can somehow hold on a little longer to one of the last remnants of colonial privilege in Africa.

Under these circumstances our responsibility consists in making it clear to Mr. Smith that we do not share his illusions about the future and that the sooner he comes to terms with reality, the better it will be for all Zimbabweans, black and white, who will ultimately have to learn to live together as equals.

I call on the administration to reverse this unfortunate decision in the interests of seeking an early end to this tragic conflict.●

EXPORT REGULATIONS: DO THEY HELP OR HURT THE AMERICAN ECONOMY?

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ROSTENKOWSKI) is recognized for 15 minutes.

● Mr. ROSTENKOWSKI. Mr. Speaker, on September 21 I commented briefly on the great success of Chicago's recent International Machine Tool Show, the largest trade fair ever assembled in the United States. I emphasized that the record volume of business generated by this show clearly demonstrates the confidence and faith business men and women have in the strength of our economy—a strength fostered in great measure by effective legislative action on the part of this Democratic Congress and the economic policies of President Carter.

However, the machine tool industry relies on both domestic and foreign markets to survive. That this show drew more than 100,000 business people from all over the world suggests this. But while the tool industry can meet the needs of its domestic markets, the industry is repeatedly frustrated in its attempts to effectively compete in foreign markets because of ill-advised and stringent interpretations of many of our export regulations.

Export markets are vital to the tool industry because world markets are not

as subject to our mercurial domestic business cycles where production orders double in times of prosperity but plunge drastically when national growth rates level off.

Therefore, in order to survive, this industry needs to become closely linked to world markets and business cycles in other countries to counteract the fluctuations of our domestic market.

Unfortunately and ironically the American tool industry is prevented from attempting to stabilize employment and production schedules because of the restrictive export regulations of its own Government. Specifically, the administration of multi-lateral export-control regulations, COCOM, is both ineffective and destructive to the American economy and American industry.

For, on the one hand, we have Eastern European nations eager to order advanced American machine tools. However, on the other hand, we have COCOM regulations which delay and block applications for export licenses and often work to destroy effective commerce between American industry and foreign markets.

Again—a point that bears repeating—is this is a commerce that can only enhance the economic stability of the United States.

Admittedly, the priniciple of export regulations is not wrong. These controls are useful and necessary at times. But in some cases, as with the machine tool industry, COCOM regulations are interpreted by agencies and departments of our government, particularly the Department of Defense, in the narrowest terms possible.

It seems that regulations that were designed to provide a clear vision for American foreign policy and the American economy are being interpreted myopically, sometimes blindly and often irresponsibly.

For it is naive at best and foolish at worst to assume that COCOM regulations prevent these countries, many of which are socialist nations, from obtaining the benefits of modern manufacturing technology. Instead, our Government prohibits American companies from selling technological products that are readily available throughout the Western World.

When hamstrung by stringent American export regulations, these Eastern European nations just buy from someone else, as did the Soviet Union when it obtained even more sophisticated equipment from other countries after being denied an export license for American equipment. I was even told of a French journalist who thanked some Americans for our country's cancellation of a substantial Soviet computer sale since the order then went to a French company. We need to look closely at export regulations that mock rather than protect the government that designed them.

There are myriad instances where export regulations have hurt not helped American industry, but a few examples will illustrate how some export regulations are being poorly administered. Last April our own Commerce Department sponsored an exhibit of American tool machine builders at a machine tool exposition in Moscow.

However, four major American tool compaines were unable to participate at this exhibit, one sponsored by its own government, because they received their export licenses too late to ship their machines to Moscow.

In most European countries, export licenses are obtained in a matter of weeks, but in America it takes several months or even years or never to get them.

Another COCOM error in judgment surfaced at Chicago's recent trade fair. An Hungarian official was standing in front of his country's exhibit of a multi-axis numerically controlled machine. These sophisticated machines have been available in the United States for some time, and several years ago the Hungarians tried to buy them here. But they could not because of unnecessarily stringent interpretations of our export regulations.

So, they just developed the technology themselves. They developed it so well that the Hungarians are now marketing that machine in the United States. Indeed, necessity is the mother of invention, but must another country's need mother our own inventions? This is a strange paradox indeed! First, our export regulations close a market for American industry. Then the domestic market is further eroded by competition from foreign industry selling equipment that was inspired and created by American industry.

I am asking, Mr. Speaker, that we address ourselves to these serious consequences for American industry and the American economy when export controls are unwisely considered and administered. These are, I believe, the kinds of "export consequences" that the President, in his statement of September 26, directed "the Departments of Commerce, State, Defense, and Agriculture to take * * * fully into account when considering the use of export control for foreign policy purposes." Specifically, he said that—

> Weight will be given to whether the goods in question are also available from countries other than the United States.

This is clearly the case for the American tool industry, and I ask why these obviously dangerous consequences for the American economy are not being taken into account in our Government's use of export controls?●

A VIGIL FOR FREEDOM: VLADIMIR AND MARIA SLEPAK

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. FASCELL) is recognized for 5 minutes.

● Mr. FASCELL. Mr. Speaker, I am pleased to be participating in a "Vigil for Freedom," a project organized by my distinguished colleague, Representative BRODHEAD. I regret, however, that the capricious emigration policies of the Soviet Union necessitate such a project for the third consecutive session of Congress. I took part in the first vigil, entitled "Orphans of the Exodus," which was inaugurated in the 94th Congress by Representatives EILBERG and HOLTZMAN. In the first session of this Congress, I participated in "Helsinki's Unfulfilled Promise," which was sponsored by Representative DRINAN. I only wish that this vigil in behalf of Soviet Jewish families and individuals denied the right to emigrate need not be repeated next year and that the Soviet Government would finally begin to abide by the humanitarian pledges they undertook in Helsinki.

Mr. Speaker, last year I rose to speak to my colleagues about the plight of an extraordinary and courageous Moscow couple—Vladimir and Maria Slepak. I related that the Slepaks and their son, Leonid, had been waiting to emigrate to join Maria's mother in Israel since 1970. Since 1977, they have also been separated from their eldest son, Aleksandr, who was allowed to join his American wife in Israel. Last year, I told my colleagues how the entire Slepak family was the target of systematic harassment by Soviet authorities. Unfortunately, since my participation in the last vigil, the Slepaks' lives have undergone great and tragic upheavals.

After his close friend Anatoly Scharansky was arrested in March 1977, Vladimir Slepak took his place in the Moscow Helsinki monitoring group as a representative of the Jewish emigration movement. He became an active member and helped to compile many of the group's documents on Soviet violations of the Helsinki accords.

Driven to desperation by 8 long years of visa refusals, the Slepaks, on June 1, 1978, hung from their apartment balcony a banner protesting their forced family separation. They were immediately arrested and charged with the crime of "malicious hooliganism." On June 21, 1978, Vladimir became the 13th Helsinki monitor to be convicted and was sentenced to 5 years in internal exile. Maria's trial was not held until July 26, 1978, and she, too, was found guilty. Her sentence, however, was suspended and, at least, the couple will be able to be together in Siberia.

This family's ordeal does not end here: Leonid, 20 years old, is threatened with prosecution on charges of draft evasion and the Slepaks' apartment in central Moscow—a stopping place for visiting American and Western supporters of human rights activists—may be taken away from them.

It is unfathomable to me that the government of one of the world's mightiest powers should be so threatened by a single family that it stops at nothing to literally destroy that family. As I said on the House floor the day Vladimir was convicted, the "crime" of the Slepaks was to try to exercise their rights. They were bold enough to stage a brief demonstration demanding the right to emigrate. In the eyes of the Soviet authori-

ties, this constitutes "malicious hooliganism." But the malice is neither Maria nor Vladimir Slepak's. It is the Soviet Government's.●

MULTIPLE USE OF PUBLIC LANDS IS VITAL IN ARIZONA

(Mr. RUDD asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. RUDD. Mr. Speaker, I have submitted my comments to the U.S. Forest Service, in connection with its RARE II wilderness project, in which I informed the Forest Service of the great importance of returning all lands in its RARE II inventory to multiple use for the benefit of all the people.

The RARE II inventory consists of more than 1.9 million acres of Arizona land within the National Forest System, which is roadless and undeveloped according to the Forest Service.

This acreage has been included in the inventory for study as possible wilderness, and the public comment period on the project closes on October 6.

Mr. Speaker, this Arizona Forest Service land has all been evaluated by the Department of Energy, and found to be important to our Nation's future energy needs. Some of the acreage is of critical importance because of its uranium potential.

In addition, the timber resources on this land are vital to our Nation's economy. According to data provided in the Forest Service's own Environmental Statement on the RARE II project, the Arizona acreage contains 428.5 million board feet per year of soft wood growing stock. More than 6.9 million board feet per year are harvested for wood products. Site productivity is also significant on much of this acreage.

Cattle growers have a vital stake in the multiple use of Arizona forest lands. Grazing permits will be unduly threatened by wilderness designation of any of the acreage now used for grazing. About 182,310 animal unit months of grazing are currently taking place on the RARE II forest lands in Arizona.

Motorized and nonmotorized recreation would also be severely affected by wilderness rather than continued multiple use allocation of these forest lands.

About 127,500 recreation visitor days occur in these areas each year. It is obvious that the wilderness concept, which greatly restricts access to public lands—especially to the old, the handicapped, and those who cannot afford horse or mule travel—will substantially reduce public enjoyment of these national forest areas.

I conducted a survey of all households in Arizona's Fourth Congressional District on this issue last year, asking my constitutents whether they wanted more forest areas designated as wilderness. Responses were received from 20,000 households representing more than 60,000 people, which is an excellent return according to professional poling standards. More than 90 percent of the responses opposed any further wilderness designation of public lands in Arizona.

I have compiled a tract-by-tract table, showing all the important resources available to the people in Arizona's national forests under the current multiple use concept, along with the various alternatives proposed by the Forest Service for action under this RARE II wilderness project.

This resource information, and the potential impact of the action that would be taken by the Forest Service under each of the 10 alternatives, clearly show the need to return all the RARE II acreage to multiple use, rather than allocating any of it to wilderness.

Such action will not preclude wilderness areas in Arizona national forests, which are now numerous. There are currently more than 600,000 acres of Arizona land within the Federal wilderness system, and tens of thousands of additional acres still retain all the pristine characteristics of wilderness.

Land that is now in a pristine wilderness state will stay that way under the multiple use concept, if the public wants it to remain undeveloped and it is properly manager by the Forest Service.

I would like to include the Forest Service's 10 proposed alternatives for action under the RARE II project, along with the resource table showing the possible impact of those alternatives and the current vital importance of the Arizona forest lands under multiple use management, at this point in the RECORD:

RARE II ALTERNATIVES

Alternative A—No action is to be taken at the present time; allocation decisions for the inventoried roadless areas will continue to be made through the Forest Service land management planning process.

Alternative B—All of the inventoried roadless areas are allocated to nonwilderness uses.

Alternative C—Output of commodities is emphasized by allocating roadless areas with high resource values to nonwilderness uses, but consideration is also given to areas with particularly high wilderness attributes ratings.

Alternative D—Wilderness attributes are emphasized through identification of roadless areas with high attribute ratings for wilderness, but consideration is also given to areas with especially high resource values.

Alternative E—Low-level achievement of landform, ecosystem, wildlife, and accessibility representation is identified for wilderness.

Alternative F—A moderate-level achievement for the same characteristics as alternative E is identified for wilderness; further planning is proposed for additional areas with high wilderness attribute ratings.

Alternative G—A high-level achievement of the same characteristics as alternatives E and F is identified for wilderness.

Alternative H—Appropriate roadless areas are identified for either wilderness or allocated to nonwilderness uses, reflecting the Forest Service's perception of regional and/or local issues.

Alternative I—Wilderness attributes are emphasized by identifying roadless areas with high attribute ratings for wilderness while giving secondary consideration to very high resource outputs.

Alternative J—All of the inventoried areas are identified for wilderness.

FOREST SERVICE RARE II PROJECT IN ARIZONA

Area code—Area name	RARE II Alternatives[1]										Timber			Livestock, grazing (aum)[4]	Recreation		Energy			
	A	B	C	D	E	F	G	H	I	J	Gross acres	Growing stock (bf/yr)[2]	Programed harvest (bf/yr)[2]	Site productivity (cf/acre/yr)[3]	Motor	Nonmotor (rvd)[5]	Oil/Gas	Uranium	Hydro[6]	Minerals
APACHE—SITGREAVES NATIONAL FOREST																				
3128—Escudilla Mountain	NA	NW	W	NW	NW	NW	NW	NW	NW	W	4,100	5,000,000	0	40	0	0	1,000	CP	NCP	NCP	No.
3129—Black River Canyon	NA	NW	W	W	W	NW	FP	NW	NW	W	11,630	10,000,000	0	30	400	0	1,000	CP	NCP	NCP	No
3130—Centerfire	NA	NW	W	W	W	NW	FP	NW	NW	W	13,101	5,000,000	0	30	400	0	0	CP	NCP	NCP	No.
3131—Bear Wallow	NA	NW	W	W	NW	FP	NW	NW	W	W	9,590	10,000,000	0	30	700	0	1,000	CP	NCP	NCP	No.
3132—Nolan	NA	NW	FP	W	NW	FP	NW	NW	W	W	6,640	5,000,000	0	26	600	0	0	CP	NCP	NCP	No.
3133—Campbell Blue	NA	NW	NW	NW	NW	NW	NW	NW	NW	W	7,020	5,000,000	0	26	800	0	0	CP	NCP	NCP	No.
3134—Mother Hubbard	NA	NW	W	W	NW	FP	NW	NW	W	NW	2,100	0	0	26	200	0	0	CP	NCP	NCP	No.
3135—Painted Bluffs	NA	NW	NW	NW	NW	NW	NW	NW	W	W	42,910	0	0	0	5,600	0	1,000	CP	NCP	NCP	No.
3136—Mitchell Peak	NA	NW	NW	NW	NW	NW	NW	NW	NW	W	35,670	5,000,000	0	13	2,300	0	1,000	CP	NCP	NCP	No.
3137—Pipestem	NA	NW	NW	NW	NW	NW	NW	NW	W	W	34,370	5,000,000	0	0	2,000	0	1,000	CP	NCP	NCP	No.
3138—Hell Hole	NA	NW	NW	NW	W	W	W	NW	W	W	15,470	0	0	13	1,900	0	1,000	CP	NCP	NCP	No.
3139—Lower San Francisco	NA	NW	NW	FP	NW	FP	W	W	FP	W	59,330	5,000,000	0	26	4,900	0	1,000	CP	NCP	NCP	No.

Footnote at end of tables.

FOREST SERVICE RARE II PROJECT IN ARIZONA—Continued

Area code—Area name	RARE II Alternatives[1]										Gross acres	Timber			Livestock, grazing (aum)[4]	Recreation		Energy			Minerals
	A	B	C	D	E	F	G	H	I	J		Growing stock (bf/yr)[2]	Programed harvest (bf/yr)[2]	Site productivity (cf/acre/yr)[3]		Motor	Nonmotor (rvd)[5]	Oil/Ras	Uranium	Hydro[6]	
APACHE—SITGREAVES NATIONAL FOREST—Continued																					
3140—Salt House	NA	NW	NW	FP	NW	FP	NW	NW	W	W	22,270	10,000,000	0	26	4,200	0	1,000	CP	NCP	NCP	No.
3141—Hot Air	NA	NW	NW	NW	NW	NW	NW	NW	NW	W	31,700	5,000,000	0	26	3,100	0	1,000	CP	NCP	NCP	No.
3142—Sunset	NA	NW	NW	NW	NW	W	W	NW	NW	W	29,040	0	0	0	6,000	0	1,000	CP	NCP	NCP	No.
Total											324,941	70,000,000	0		33,100	0	11,000				
COCONINO NATIONAL FOREST																					
3040—Jack's Canyon	NA	NW	NW	NW	NW	NW	NW	NW	NW	W	5,010	7,500,000	0	25	200	1,000	1,000	I	NCP	NCP	No.
3041—East Clear Creek	NA	NW	NW	NW	NW	NW	NW	NW	NW	W	1,730	15,000,000	0	25	0	0	1,000	I	NCP	NCP	No.
3042—Barbershop Canyon	NA	NW	NW	NW	NW	NW	NW	NW	NW	W	1,290	15,000,000	0	25	0	1,000	1,000	I	CP	NCP	No.
3043—Lower Jacks Canyon	NA	NW	NW	NW	NW	NW	NW	NW	NW	W	870	10,000,000	0	15	0	0	1,000	I	NCP	NCP	No.
3044—Hackberry	NA	NW	FP	FP	NW	FP	NW	NW	W	W	24,910	0	0	10	3,600	0	600	CP	NCP	NCP	No.
3045—Wet Beaver	NA	NW	FP	FP	NW	FP	W	NW	W	W	9,890	0	0	15	300	0	800	I	NCP	NCP	No.
3046—Fossil Springs	NA	NW	FP	FP	NW	FP	W	NW	W	W	14,090	0	0	15	100	0	100	I	CP	NCP	Yes.
3047—West Clear Creek	NA	NW	W	NW	NW	NW	NW	WN	W	W	33,660	0	0	10	1,300	0	100	I	NCP	NCP	No.
3048—Strawberry Crater South	NA	NW	W	NW	NW	NW	NW	NW	W	W	8,050	0	0	15	300	0	0	CP	NCP	NCP	No.
3049—San Francisco Peaks	NA	NW	NW	W	NW	FP	W	NW	W	W	17,980	35,000,000	0	25	100	0	200	CP	NCP	NCP	No.
3050—Kendrick Mountain	NA	NW	W	NW	NW	NW	NW	NW	W	W	2,200	30,000,000	0	25	0	0	100	CP	NCP	NCP	No.
3051—Padre Canyon	NA	NW	NW	NW	NW	NW	NW	NW	NW	W	9,910	0	0	15	700	200	100	I	NCP	NCP	No.
3052—Sycamore Canyon Wilderness contiguous	NA	NW	NW	W	NW	FP	NW	NW	W	W	2,650	0	0	15	100	0	0	I	NCP	NCP	No.
3053—Red Rock Secret Mountain	NA	NW	NW	W	W	W	W	W	W	W	47,480	110,000,000	0	25	200	100	400	I	NCP	NCP	No.
3054—Rattlesnake	NA	NW	NW	FP	NW	FP	NW	NW	W	W	32,870	0	0	15	2,500	0	100	I	NCP	NCP	No.
3055—Walker Mountain	NA	NW	NW	NW	NW	NW	NW	NW	NW	W	8,840	0	0	15	700	0	100	I	NCP	NCP	No.
3056—House Mountain	NA	NW	NW	NW	NW	NW	NW	NW	NW	W	20,770	0	0	15	1,800	300	200	I	NCP	NCP	No.
3057—Cimarron Hills	NA	NW	NW	FP	NW	FP	NW	NW	W	W	5,280	0	0	10	700	0	0	CP	NCP	NCP	No.
3058—Boulder Canyon	NA	NW	NW	W	NW	FP	NW	NW	W	W	4,550	0	0	10	600	0	200	CP	NCP	NCP	No.
3059—Strawberry Crater North	NA	NW	W	W	NW	FP	NW	NW	W	W	1,790	0	0	0	0	1,000	0	CP	NCP	NCP	No.
Total											253,820	222,500,000	0		13,200	3,600	7,100				
CORONADO NATIONAL FOREST																					
3109—Chiricahua Wilderness Contiguous	NA	NW	FP	FP	NW	FP	W	W	W	W	60,150	10,000,000	0	40	500	0	1,000	CP	NCP	NCP	No.
3110—Whitmire Canyon	NA	NW	NW	FP	NW	FP	NW	NW	W	W	5,080	0	0	0	2,900	0	2,000	CP	NCP	NCP	No.
3112—North End	NA	NW	NW	NW	NW	NW	NW	NW	NW	W	23,550	0	0	0	2,500	0	2,000	CP	CP	NCP	Yes.
3113—Mount Wrightson	NA	NW	W	NW	W	W	W	NW	NW	W	25,170	0	0	30	0	0	5,000	CP	CP	NCP	Yes.
3114—Tumacacori	NA	NW	NW	NW	NW	NW	W	NW	NW	W	51,490	0	0	10	1,700	0	3,000	CP	CP	NCP	Yes.
3115—Pajarita No. 1	NA	NW	NW	NW	NW	NW	NW	NW	NW	W	10,320	0	0	10	1,100	1,000	4,000	CP	CP	NCP	Yes.
3116—Pajarita No. 2	NA	NW	W	NW	NW	NW	NW	NW	NW	W	5,500	0	0	10	1,200	1,000	2,000	CP	NCP	NCP	No.
3117—Miller Peak	NA	NW	W	W	NW	FP	NW	W	W	W	22,510	0	0	0	0	0	0	CP	NCP	NCP	No.
3118—Brushy Peak	NA	NW	NW	NW	NW	NW	NW	NW	NW	W	8,480	0	2,000,000	10	1,800	1,000	1,000	CP	NCP	NCP	No.
3119—Canelo Hills	NA	NW	NW	NW	NW	NW	NW	NW	NW	W	8,650	0	1,000,000	10	2,900	2,000	1,000	I	NCP	NCP	No.
3120—Whetstone	NA	NW	NW	NW	NW	NW	NW	NW	FP	W	36,610	0	1,500,000	10	14,200	1,000	2,000	CP	NCP	NCP	No.
3121—Santa Teresa	NA	NW	NW	W	NW	FP	W	NW	W	W	27,160	1,500,000	0	15	1,200	800	2,000	CP	NCP	NCP	No.
3122—Winchester	NA	NW	NW	FP	NW	FP	NW	NW	W	W	14,100	11,500,000	0	5	2,700	2,200	1,800	CP	NCP	NCP	No.
3123—Mount Graham	NA	NW	NW	NW	NW	NW	W	NW	FP	W	55,090	10,000,000	0	50	0	1,000	14,000	CP	NCP	NCP	No.
3124—Galiuro Wilderness Contiguous	NA	NW	NW	NW	NW	NW	NW	NW	NW	W	22,130	17,500,000	0	5	3,400	200	200	CP	NCP	NCP	No.
3125—Little Rincon	NA	NW	NW	NW	NW	NW	NW	NW	W	W	11,560	0	0	0	1,000	0	1,000	CP	NCP	NCP	No.
3126—Rincon Mountains	NA	NW	NW	NW	NW	NW	NW	W	NW	W	62,930	0	0	0	8,700	14,000	2,000	CP	CP	NCP	Yes.
3127—Kane Springs	NA	NW	W	NW	NW	NW	NW	NW	NW	W	6,970	2,000,000	0	25	500	0	0	CP	NCP	NCP	No.
3200—Bunk Robinson Peak	NA	NW	NW	NW	NW	NW	NW	NW	NW	W	740	0	0	0	5,200	0	1,000	CP	NCP	NCP	No.
3201—Dragoon Mountains	NA	NW	NW	NW	NW	NW	NW	NW	FP	W	33,140	0	0	0	17,400	1,000	7,000	CP	NCP	NCP	No.
3901—Galiuro Additions	NA	NW	NW	FP	NW	FP	NW	W	FP	W	61,590	10,000,000	0	10	10,500	1,000	2,000	CP	NCP	NCP	No.
Total											552,920	62,500,000	4,500,000		79,400	26,200	54,000				

Footnote at end of tables.

FOREST SERVICE RARE II PROJECT IN ARIZONA—Continued

Area code—Area name	RARE II Alternatives[1]										Gross acres	Timber			Livestock, grazing (aum)[4]	Recreation		Energy			Minerals
	A	B	C	D	E	F	G	H	I	J		Growing stock (bf/yr)[2]	Programed harvest (bf/yr)[2]	Site productivity (cf/acre/yr)[3]		Motor	Nonmotor (rvd)[5]	Oil/Ras	Uranium	Hydro[6]	
KAIBAD NATIONAL FOREST																					
3050—Kendrick Mountain	NA	NW	W	NW	NW	NW	NW	NW	W	W	4,310	18,000,000	0	6	1,300	0	1,100	CP	NCP	NCP	No.
3060—Kanab Creek	NA	NW	FP	FP	W	W	W	W	W	W	73,330	0	0	0	900	0	2,000	----	----	NCP	
3061—Coconino Rim	NA	NW	NW	NW	NW	NW	NW	NW	NW	W	8,510	6,500,000	300,000	40	500	0	100	I	VI	NCP	Yes/critical.
3062—Saddle Mountain	NA	NW	NW	FP	NW	FP	W	W	W	W	39,190	0	0	0	100	0	700	I	VI	NCP	Do.
3063—Red Point	NA	NW	NW	NW	NW	NW	NW	NW	NW	W	7,960	10,000,000	700,000	50	0	0	0	I	VI	NCP	Do.
3064—Big Ridge	NA	NW	NW	NW	NW	NW	NW	NW	NW	W	8,850	10,000,000	800,000	40	0	0	0	I	VI	NCP	Do.
3065—Burro Canyon	NA	NW	NW	NW	NW	NW	NW	NW	NW	W	20,510	0	0	0	500	0	0	I	VI	NCP	Do.
3066—Willis Canyon	NA	NW	NW	NW	NW	NW	NW	NW	NW	W	8,730	0	0	0	9.6	0	0	I	VI	NCP	Do.
Total											171,390	44,500,000	1,800,000	----	3,310	0	3,900				
PRESCOTT NATIONAL FOREST																					
3080—Juniper Mesa	NA	NW	W	W	NW	FP	NW	NW	W	W	9,770	8,500,000	0	60	300	200	700	CP	NCP	NCP	No.
3081—Apache Creek	NA	NW	W	NW	NW	NW	NW	NW	NW	W	5,610	0	0	0	100	100	500	CP	NCP	NCP	No.
3082—Connell Mountains	NA	NW	NW	NW	NW	NW	NW	NW	NW	W	9,040	0	0	0	900	100	200	CP	NCP	NCP	No.
3083—Sheridan Mountain	NA	NW	NW	NW	NW	NW	NW	NW	W	W	37,380	0	0	0	4,100	200	300	CP	NCP	NCP	No.
3084—Granite Mountain	NA	NW	W	W	NW	FP	NW	W	W	W	8,580	1,500,000	0	50	400	1,000	3,000	CP	CP	NCP	Yes.
3085—Castle Creek	NA	NW	NW	W	NW	FP	W	W	W	W	28,600	0	0	0	2,300	200	1,000	CP	NCP	NCP	No.
3086—Fritsche	NA	NW	NW	NW	NW	NW	NW	NW	NW	W	14,660	0	0	0	1,300	300	1,000	CP	CP	NCP	Yes.
3087—Muldoon	NA	NW	W	NW	NW	NW	NW	NW	NW	W	5,160	0	0	0	600	200	400	CP	CP	NCP	Yes.
3088—Woodchute	NA	W	NW	NW	NW	NW	NW	NW	NW	W	5,540	500,000	0	70	300	100	300	CP	NCP	NCP	No.
3089—Black Canyon	NA	NW	W	NW	NW	NW	NW	NW	NW	W	10,420	2,000,000	0	50	100	100	200	CP	NCP	NCP	No.
3090—Ash Creek	NA	NW	W	NW	NW	NW	NW	NW	NW	W	8,430	3,000,000	0	50	9,000	200	600	CP	NCP	NCP	No.
3091—Grief Hill—I-17	NA	NW	W	NW	NW	NW	NW	NW	NW	W	12,280	0	0	0	500	200	300	CP	NCP	NCP	No.
3092—Arnold Mesa	NA	NW	W	W	NW	FP	NW	NW	W	W	28,000	0	0	0	300	1,000	1,000	CP	NCP	NCP	No.
3093—Pine Mountain Wilderness Contiguous	NA	NW	W	W	NW	FP	NW	NW	W	W	2,910	0	0	0	100	100	100	CP	NCP	NCP	No.
3094—Sycamore Canyon Wilderness Contiguous	NA	NW	W	NW	NW	NW	NW	NW	NW	W	8,280	0	0	0	400	100	300	CP	NCP	NCP	No.
3095—Blind Indian Creek	NA	NW	W	NW	NW	NW	NW	NW	W	W	27,040	1,500,000	0	50	3,400	500	3,000	CP	CP	NCP	Yes.
Total											221,700	17,000,000	0	0	24,100	4,600	12,900				
TONTO NATIONAL FOREST																					
3017—Pine Mountain Wilderness contiguous	NA	NW	W	W	NW	FP	NW	NW	W	W	7,050	0	0	0	1,000	100	100	CP	----	NCP	
3018—Superstition Wilderness contiguous	NA	NW	NW	FP	NW	FP	NW	NW	W	W	32,160	0	0	0	700	100	0	CP	CP	NCP	Yes.
3019—Sierra Ancha Wilderness contiguous	NA	NW	NW	NW	NW	NW	NW	NW	NW	W	11,520	500,000	300,000	23	300	100	200	CP	I	NCP	Yes/critical.
3020—Lime Creek	NA	NW	NW	NW	NW	NW	NW	NW	NW	W	43,050	0	0	0	4,000	100	300	CP	NCP	NCP	No.
3021—Hell's Gate	NA	NW	NW	W	NW	FD	NW	NW	W	W	30,400	500,000	0	15	2,400	100	100	CP	NCP	NCP	No.
3022—Salome	NA	NW	NW	NW	NW	NW	NW	NW	NW	W	30,470	500,000	300,000	23	2,200	100	200	CP	VI	NCP	Yes/critical.
3023—Cherry Creek	NA	NW	NW	NW	NW	NW	NW	NW	NW	W	12,130	0	0	0	1,400	0	100	CP	VI	NCP	Yes/critical.
3024—Boulder	NA	NW	NW	NW	NW	NW	NW	NW	W	W	45,000	5,000,000	0	23	2,900	200	300	CP	CP	NCP	Yes.
3025—Four peaks	NA	NW	NW	W	NW	FP	W	NW	W	W	55,010	5,000,000	0	23	1,600	0	300	CP	NCP	NCP	No.
3026—Goldfield	NA	NW	W	NW	NW	NW	NW	NW	NW	W	16,930	0	0	0	0	0	100	CP	NCP	NCP	No.
3027—Black Cross	NW	W	NW	NW	NW	NW	NW	NW	W	W	6,290	0	0	0	100	0	100	CP	NCP	NCP	No.
3028—Horse Mesa	NA	NW	W	NW	NW	NW	NW	NW	W	W	10,450	0	0	0	200	0	100	CP	NCP	NCP	No.
3029—Salt	NA	NW	NW	NW	NW	NW	NW	NW	NW	W	41,290	0	0	0	5,500	200	400	CP	I	NCP	Yes/critical.
3030—Picacho	NA	NW	NW	NW	NW	NW	NW	NW	NW	W	7,200	0	0	0	400	100	300	CP	I	CP	Yes/critical.
3016—Mazatzal Wilderness contiguous	NA	NW	FP	FP	NW	FP	NW	W	W	W	83,750	500,000	0	15	6,500	200	200	CP	NCP	NCP	No.
3092—Arnold Mesa	NA	NW	W	W	NW	FP	NW	NW	W	W	320	0	0	0	0	0	100	CP	NCP	NCP	No.
Total											433,020	12,000,000	600,000	----	29,200	1,300	2,900	----	----	----	
Grand total											1,957,791	428,500,000	6,900,000	----	182,310	35,700	91,800	----	----	----	

[1] NA=No action. NW=Non wilderness. FP=Further planning. W=Wilderness.
[2] Bf/yr=board feet per year.
[3] Cf/acre/yr=cubic feet per acre per year.
[4] Aum=animal unit months.
[5] Rvd=recreation visitor days.
[6] CP=commercial potential. NCP=no commercial potential. I=important. V=very important.

PERSONAL EXPLANATION

(Mr. CORNWELL asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. CORNWELL. Mr. Speaker, had I been present, I would have voted in the affirmative on the following pieces of legislation: H.R. 12930, H.R. 12251, H.R. 11302, and H.R. 7843.

Temporary poor health forced my absence from the House Chambers on these votes. However, my strong belief in the need of these bills is well known both by my colleagues and by my constituents.

CONFERENCE REPORT ON H.R. 6536

Mr. DIGGS submitted the following conference report and statement on the bill (H.R. 6536) to establish an actuarially sound basis for financing retirement benefits for policemen, firemen, teachers, and judges of the District of Columbia and to make certain changes in such benefits.

CONFERENCE REPORT (H. REPT. No. 95–1713)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 6536) to establish an actuarially sound basis for financing retirement benefits for policemen, firemen, teachers, and judges of the District of Columbia and to make certain changes in such benefits, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SHORT TITLE AND TABLE OF CONTENTS

SECTION 1. This Act, with the following table of contents, may be cited as the "District of Columbia Retirement Reform Act".

TABLE OF CONTENTS

Sec. 1. Short title and table of contents.

TITLE I—FINANCING OF RETIREMENT BENEFITS

PART A—FINDINGS AND PURPOSE; DEFINITIONS

Sec. 101. Findings and purpose.
Sec. 102. Definitions.

PART B—ESTABLISHMENT OF RETIREMENT BOARD AND RETIREMENT FUNDS

Sec. 121. District of Columbia Retirement Board.
Sec. 122. District of Columbia Police Officers and Fire Fighters' Retirement Fund.
Sec. 123. District of Columbia Teachers' Retirement Fund.
Sec. 124. District of Columbia Judges' Retirement Fund.
Sec. 125. Management of Retirement Funds.
Sec. 126. Payments from Funds.

PART C—FINANCING OF RETIREMENT BENEFITS

Sec. 141. Limitation on investment of Retirement Funds.
Sec. 142. Determination of Federal and District of Columbia payments to the Funds.
Sec. 143. Information about retirement programs.
Sec. 144. Federal and District of Columbia payments to the Funds.
Sec. 145. Reduction in Federal Contribution for excessive cost of Police Officers and Fire Fighters' Disability Retirement.
Sec. 146. Conforming amendments.

PART D—REPORTING AND DISCLOSURE REQUIREMENTS

Sec. 161. Personal financial disclosure by Board members.
Sec. 162. Annual reports.
Sec. 163. Retirement program summary description.
Sec. 164. Filing reports and furnishing information to participants.
Sec. 165. Reporting of participants' benefit rights.
Sec. 166. Public information.
Sec. 167. Retention of records.
Sec. 168. Additional information.
Sec. 169. Criminal penalties.

PART E—FIDUCIARY RESPONSIBILITY; CIVIL SANCTIONS

Sec. 181. Fiduciary responsibility.
Sec. 182. Liability for breach of fiduciary duty.
Sec. 183. Exculpatory provisions; insurance.
Sec. 184. Prohibition against certain persons holding certain positions.
Sec. 185. Bonding.
Sec. 186. Limitation of actions.
Sec. 187. Civil enforcement.
Sec. 188. Claims procedure.

TITLE II—CHANGES IN RETIREMENT BENEFITS

PART A—POLICE OFFICERS AND FIRE FIGHTERS' RETIREMENT BENEFITS

Sec. 201. Salary base period for computation of annuity.
Sec. 202. Creditable service for full-time officials of employee organizations.
Sec. 203. Requirements for optional retirement.
Sec. 204. Disability retirement.
Sec. 205. Recovery from disability.
Sec. 206. Survivor's annuities.
Sec. 207. Deferred annuities.
Sec. 208. Interest on refunds and on deposits for prior service credit.
Sec. 209. Cost-of-living adjustments of annuities.
Sec. 210. Authority to waive collection of overpayments.
Sec. 211. Commencing date of payment of annuities.
Sec. 212. Payment of annuities to minors and mental incompetents.

PART B—TEACHERS' AND JUDGES' RETIREMENT BENEFITS

Sec. 251. Cost-of-living adjustments of teach-judges' annuities.
Sec. 252. Cost-of-living adjustments of judges' annuities
Sec. 253. Interest on teachers' refunds and deposits.
Sec. 254. Interest on judges' redeposits.
Sec. 255. Restoration of teachers' annuities in the event of predeceased beneficiaries.
Sec. 256. Termination of teachers' disability annuities based on outside earned income.

TITLE I—FINANCING OF RETIREMENT BENEFITS

PART A—FINDINGS AND PURPOSE; DEFINITIONS

FINDINGS AND PURPOSE

SEC. 101. (a) The Congress finds that the retirement benefits authorized by various Acts of Congress for the police officers, fire fighters, teachers, and judges of the District of Columbia have not been financed on an actuarially sound basis. Neither Federal payments to the District nor District of Columbia appropriations have taken into account the long-term financial requirements of the District's retirement programs. As a result the annual budget cost to the District of Columbia for annuities and refunds of deductions is growing at a rapid rate and, in the case of the retirement program for police officers and fire fighters, is predicted to exceed the cost of salaries for active police officers and fire fighters by the year 2000.

(b) It is the purpose of this title—

(1) to establish separate retirement Funds for police officers and fire fighters, for teachers, and for judges of the District of Columbia;

(2) to establish a Retirement Board with responsibility for managing these Funds;

(3) to require that these Funds be managed on an actuarially sound basis in order to provide proper financing for the benefits to which the District's retired police officers and fire fighters, teachers, and judges are entitled;

(4) to require that the Retirement Board comply with reporting and disclosure requirements similar to those imposed under the Employee Retirement Income Security Act of 1974; and

(5) to provide for Federal payments to these Funds to help finance, in part, the liabilities for retirement benefits incurred by the District of Columbia prior to the establishment of self-government under the District of Columbia Self-Government and Governmental Reorganization Act.

DEFINITIONS

SEC. 102. As used in this title:

(1) The term "Mayor" means the Mayor of the District of Columbia.

(2) The term "Council" means the Council of the District of Columbia.

(3) The term "Speaker" means the Speaker of the House of Representatives.

(4) The term "President pro tempore" means the President pro tempore of the Senate.

(5) The term "Board" means the District of Columbia Retirement Board established by section 121 of this Act.

(6) The term "Custodian of Retirement Funds" means the Board, except that until such time as the members of the Board are first elected and the Board certifies pursuant to section 121(h) that it is assuming responsibility for the Funds established by this title, the term "Custodian of Retirement Funds" means the Director of the Office of Budget and Financial Management of the District of Columbia (established by Organization Order Numbered 30, Commissioner's Order Numbered 72–80, April 5, 1972 (D.C. Code, title 1—Appendix)).

(7) The term "retirement program" means—

(A) the program of annuities and other retirement and disability benefits for members and officers of the Metropolitan Police force and the Fire Department of the District of Columbia, but does not include the program of annuities and other retirement and disability benefits for members and officers of the United States Park Police force, the Executive Protective Service, or the United States Secret Service Division, under the Policemen and Firemen's Retirement and Disability Act;

(B) the program of annuities and other retirement and disability benefits for judges of the courts of the District of Columbia under subchapter III of chapter 15 of title II of the District of Columbia Code; or

(C) the program of annuities and other retirement and disability benefits for teachers in the public day schools of the District of Columbia.

(8) The term "State" means any State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, Wake Island, and the Canal Zone.

(9) The term "party in interest" means—

(A) Any person (including a member of the Board) having fiduciary responsibilities under this title;

(B) any person providing services to a Fund;

(C) the government of the District of Columbia;

(D) an employee organization; and

(E) a spouse, ancestor, lineal descendant, or spouse of a lineal descendant of any individual described in subparagraph (A) or (B).

(10) The term "Fund" means the District of Columbia Police Officers and Fire Fighters' Retirement Fund established by section 122, the District of Columbia Teachers' Retirement Fund established by section 123, or the District of Columbia Judges' Retirement Fund established by section 124.

(11) The term "current value" means fair market value where available (as determined in good faith by a fiduciary in accordance with regulations promulgated by the Board) or otherwise the fair value (as determined in good faith by a fiduciary in accordance with regulations promulgated by the Board), assuming an orderly liquidation at the time of such determination.

(12) The term "future value" means a liability for a given prior fiscal year expressed in terms of the price level expected to prevail in a given future fiscal year, adjusted at the rate of inflation used with regard to determinations made under section 142(a)(1).

(13) The term "qualified public accountant" means a person who is a certified public accountant, certified by a regulatory authority of a State.

(14) The term "enrolled actuary" means an actuary enrolled under subtitle C of title III of the Employee Retirement Income Security Act of 1974.

(15) The term "security" means a security as defined in section 2(1) of the Securities Act of 1933.

(16) The term "employee organization" means any labor union or any organization of any kind, or any agency or employee representation committee, association, group, or plan, in which individuals covered by a retirement program participate and which exists for the purpose, in whole or in part, of dealing with the government of the District of Columbia concerning such retirement program.

(17) The term "teacher" means a teacher as defined in section 13 of the Act entitled "An Act for the retirement of public-school teachers in the District of Columbia", approved August 7, 1946 (D.C. Code, sec. 31–733).

(18) The term "judge" means a judge as defined in section 11–1561(1) of title 11 of the District of Columbia Code.

(19) The term "participant" does not include an officer or member of the United States Park Police force, the Executive Protective Service, or the United States Secret Service Division, to whom the Policemen and Firemen's Retirement and Disability Act applies, and, unless the context requires otherwise, the term "beneficiary" does not include a beneficiary under such Act of any such officer or member.

PART B—ESTABLISHMENT OF RETIREMENT BOARD AND RETIREMENT FUNDS

DISTRICT OF COLUMBIA RETIREMENT BOARD

SEC. 121. (a) There is established, as an independent agency of the government of the District of Columbia, a board of trustees to be known as the District of Columbia Retirement Board which shall have exclusive authority and discretion (subject to the requirements of this title) to manage and control the Funds established by this title.

(b)(1) The Board shall consist of eleven members selected as follows:

(A) One member or officer of the Metropolitan Police force of the District of Columbia, to be elected by the members and officers of the Metropolitan Police force.

(B) One retired member or officer of the Metropolitan Police force of the District of Columbia, to be elected by the retired members and officers of the Metropolitan Police force.

(C) One member or officer of the Fire Department of the District of Columbia, to be elected by the members and officers of the Fire Department.

(D) One retired member or officer of the Fire Department of the District of Columbia, to be elected by the retired members and officers of the Fire Department.

(E) One teacher in the public day schools of the District of Columbia, to be elected by the teachers of the public day schools of the District of Columbia.

(F) One teacher in the public day schools of the District of Columbia who is retired, to be elected by the retired teachers of the public day schools of the District of Columbia.

(G) Two individuals appointed by the Council of the District of Columbia.

(H) Three individuals appointed by the Mayor.

A vacancy on the Board shall be filled in the manner in which the original selection was made.

(2) The first election of the Board members described in subparagraphs (A) through (F) of paragraph (1) shall be conducted within six months after the date of the enactment of this title in accordance with regulations which the Mayor shall promulgate. Thereafter, elections shall be conducted by the Board. In any such election, voting shall be by secret ballot, and each individual to be represented on the Board by the winner of such election shall be eligible to vote in such election.

(3)(A) Except as provided in subparagraph (B), the members of the Board shall each serve a term of four years, except that a member selected to fill a vacancy occurring prior to the end of the term for which his predecessor was selected shall only serve until the end of such term. A member may serve after the expiration of his term until his successor has taken office.

(B) Of the members of the Board who are first selected—

(i) two shall serve for a term of one year,

(ii) three shall serve for a term of two years,

(iii) three shall serve for a term of three years, and

(iv) three shall serve for a term of four years.

as determined by lot at the first meeting of the Board.

(4) No individual shall serve more than two terms as a member of the Board, except that an individual serving less than two years of a term to which some other individual was originally selected shall be eligible for two full terms as a member of the Board and an individual serving two years or more of a term to which some other individual was originally selected shall be eligible for only one full term as a member of the Board.

(5) Any individual who was selected as a member of the Board under subparagraph (A), (C), or (E) of paragraph (1) and who ceases to be a member or officer of the Metropolitan Police force, a member or officer of the Fire Department, or a teacher, as the case may be, may not continue as a member of the Board.

(6) No member of the Board may hold or be a candidate for any elective office in the District of Columbia.

(7) No member of the Board may have any personal interest, direct or indirect (except as a participant in a retirement program), in any transaction involving assets of the Funds established by this title and shall otherwise comply with the standards of conduct applicable to fiduciaries in the District of Columbia, as well as those standards of conduct established by part E of this title.

(8) Not less than two of the members of the Board appointed by the Mayor under paragraph (1) shall be individuals who have professional work experience in the banking, insurance, or investment industry.

(9) Any member of the Board may be removed from the Board by a vote of two-thirds of the members of the Board for a breach of fiduciary responsibility with respect to a Fund or for a violation of section 134.

(10) The Board shall elect one member of the Board to be chairman of the Board. The chairman shall be elected for a term of one year, but may be removed from such position by a vote of two-thirds of the members of the Board.

(11) The Director of the Office of Budget and Financial Management of the District of Columbia shall be an ex officio member of the Board, but shall not vote, shall not be eligible to be elected chairman of the Board, and shall not be counted for purposes of a quorum.

(c) Subject to the availability of appropriations therefor, each member of the Board shall be entitled to receive the hourly equivalent of the annual rate of pay in effect for the highest step of grade GS–15 of the General Schedule under section 5332 of title 5, United States Code, for each hour such member is engaged in the actual performance of duties vested in the Board, except that any member of the Board who is a full-time officer or employee of the District of Columbia or the United States shall not be entitled to receive pay under this subsection for performance of duties vested in the Board.

(d)(1) The Board shall meet at least once each calendar quarter at a regular and specified time. It shall meet at such other times as the chairman or any three members of the Board may prescribe.

(2) Any six members shall constitute a quorum for the transaction of the business of the Board.

(3) Except as otherwise provided in this title, action of the Board shall be determined by a majority vote of the members present and voting.

(e) The Board shall from time to time promulgate rules and regulations, adopt resolutions, issue directives for the administration and transaction of its business and for the control of the Funds established by this title, and perform such other functions as may be necessary to carry out its responsibilities under this title.

(f)(1) All administrative expenses incurred by the Board in carrying out this title, including compensation for the members of the Board, shall be paid out of funds appropriated for such purpose.

(2) The budget prepared and submitted by the Mayor pursuant to section 442 of the District of Columbia Self-Government and Governmental Reorganization Act shall include recommended expenditures at a reasonable level for the forthcoming fiscal year for the administrative expenses of the Board.

(3) The Mayor and the Council may establish the amount of funds which will be allocated to the Board for administrative expenses, but may not specify the purposes for which such funds may be expended or the amounts which may be expended for the various activities of the Board.

(g)(1) The Board shall engage the services of competent investment counsel or counsels who shall be qualified under the Investment Advisors Act of 1940. Such investment counsel or counsels shall be fiduciaries, to the extent designated by the Board, with respect to services rendered to the Board. Such fiduciary relationship shall be specified in a written agreement between the investment counsel or counsels and the Board.

(2) The Board may appoint such staff as it considers necessary to enable it to carry out its responsibilities under this title. The staff of the Board shall be appointed subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title

relating to classification and General Schedule pay rates, except that no staff member may receive pay in excess of the annual rate of basic pay in effect for GS–15 of the General Schedule under section 5332 of title 5, United States Code.

(h) Not more than ninety days after all initial members of the Board have been selected in accordance with subsection (b) of this section, the Board shall certify in writing to the Director of the Office of Budget and Financial Management of the District of Columbia that the Board is assuming responsibility for the Funds established by this title.

DISTRICT OF COLUMBIA POLICE OFFICERS AND FIRE FIGHTERS' RETIREMENT FUND

SEC. 122. (a) There is established a fund to be known as the District of Columbia Police Officers and Fire Fighters' Retirement Fund into which shall be deposited the following, which shall constitute the assets of the Fund:

(1) Any amount paid to the Custodian of Retirement Funds pursuant to the last sentence of subsection (d)(1) or to subsection (c)(5) of the Policemen and Firemens' Retirement and Disability Act or pursuant to the proviso in the paragraph under the heading "Policemen and Firemen's Relief Fund" in the Act of June 14, 1935.

(2) Any amount appropriated for such Fund under part C of this title.

(3) Any return on investment of the assets of such Fund. After September 30, 1978, or after the end of the thirty-day period beginning on the date on which funds are first appropriated to the District of Columbia Police Officers and Fire Fighters' Retirement Fund, whichever is later, all payments of annuities and other retirement and disability benefits (including refunds and lump-sum payments) under the Policemen and Firemen's Retirement and Disability Act shall be made from the Fund (except for any such payment which is made to an officer or member of the United States Park Police force, the Executive Protective Service, or the United States Secret Service Division, or to a beneficiary of any such officer or member.

(b)(1) The last sentence of subsection (d)(1) of the Policemen and Firemen's Retirement and Disability Act (D.C. Code, sec. 4–524(1)) is amended by striking out "Such" and inserting in lieu thereof "In the case of a member who is an officer or member of the Metropolitan Police Force or Fire Department of the District of Columbia, such deductions and withholdings shall be paid to the Custodian of Retirement Funds (as defined in section 102(6) of the District of Columbia Retirement Reform Act) and shall be deposited in the District of Columbia Police Officers and Fire Fighters' Retirement Fund established by section 122 (a) of such Act; and in the case of any other member, such".

(2) The proviso in the paragraph under the heading "Policemen and Firemens' Relief Fund" in the Act of June 14, 1935 (D.C. Code, sec. 4–502), is amended by inserting immediately before the period the following: ", except that all moneys required to be deposited with respect to officers and members of the Metropolitan Police force or the Fire Department of the District of Columbia shall be paid to the Custodian of Retirement Funds (as defined in section 102(6) of the District of Columbia Retirement Reform Act) for deposit in the District of Columbia Police Officers and Fire Fighters' Retirement Fund established by section 122(a) of such Act".

(3) The Act entitled "An Act to credit active service in the military or naval forces of the United States in determining eligibility for and the amount of benefits from the policemen and firemen's relief fund, District of Columbia", approved July 21, 1947 (D.C. Code, sec. 4–504a), is amended by inserting "or the District of Columbia Police Officers and Fire Fighters' Retirement Fund (established by section 122(a) of the District of Columbia Retirement Reform Act)" immediately after "District of Columbia," the first place it appears.

(c) The amendments made by paragraphs (1) and (2) of subsection (b) shall take effect at the end of the ninety-day period beginning on the date of the enactment of this Act. The amendment made by paragraph (3) of such subsection shall take effect on such date of enactment.

DISTRICT OF COLUMBIA TEACHERS' RETIREMENT FUND

SEC. 123. (a) There is established a fund to be known as the District of Columbia Teachers' Retirement Fund into which shall be deposited the following, which shall constitute the assets of the Fund:

(1) Any amount paid to the Custodian of Retirement Funds pursuant to the Act entitled "An Act for the retirement of public-school teachers in the District of Columbia", approved August 7, 1946, or under the Act entitled "An Act to authorize certain teachers in the public schools of the District of Columbia to count as creditable service for retirement purposes certain periods of authorized leave without pay taken by such teachers for educational purposes", approved June 27, 1960.

(2) Any asset transferred to such Fund under subsection (c).

(3) Any amount appropriated for such Fund under part C of this title.

(4) Any return on investment of assets of such Fund.

Annuities and other retirement and disability benefits (including refunds and lump-sum payments) payable from the District of Columbia teachers' retirement and annuity fund established by section 2 of the Act of August 7, 1946, shall continue to be paid from such fund until all amounts in such fund have been expended or transferred under subsection (c) to the District of Columbia Teachers Retirement Fund, and thereafter such benefits shall be paid from the District of Columbia Teachers' Retirement Fund.

(b)(1) The Act entitled "An Act for the retirement of public-school teachers in the District of Columbia", approved August 7, 1946, is amended—

(A) in the first section (D.C. Code, sec. 31–721)—

(i) by adding at the end of the first paragraph the following new sentence: "After the end of the ninety-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act, any amounts deducted and withheld pursuant to this paragraph shall be paid to the Custodian of Retirement Funds (as defined in section 102(6), of such Act) for deposit in the District of Columbia Teachers' Retirement Fund established by section 123(a) of such Act."; and

(ii) in the first sentence of the second paragraph, by striking out "Collector of Taxes, District of Columbia," and inserting in lieu thereof "Custodian of Retirement Funds";

(B) in section 2 (D.C. Code, sec. 31–722), by striking out "The" in the first sentence and inserting in lieu thereof "Until the end of the ninety-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act, the";

(C) in clause (ii) of paragraph (1) of section 5(b) (D.C. Code, sec. 31–725(b)(1)(ii), by striking out "returned to the teachers' retirement and annuity fund established under section 2 of this Act" and inserting in lieu thereof "repaid to the Custodian of Retirement Funds (as defined in section 102(6) of the District of Columbia Retirement Reform Act) for deposit in the District of Columbia Teachers' Retirement Fund established by section 123(a) of such Act";

(D) in section 9(a) (D.C. Code, sec. 31–729 (a)) by striking out "deposit in the fund" in the second proviso and inserting in lieu thereof "repay to the Custodian of Retirement Funds (as defined in section 102(6) of the District of Columbia Retirement Reform Act) for deposit in the District of Columbia Teachers' Retirement Fund established by section 123(a) of such Act,";

(E) in clause (ii) of section 9(b)(1) (D.C. Code, sec. 31–729(b)(1)), by striking out "returned to the teachers' retirement and annuity fund established under section 2 of this Act" and inserting in lieu thereof "repaid to the Custodian of Retirement Funds (as defined in section 102(6) of the District of Columbia Retirement Reform Act) for deposit in the District of Columbia Teachers' Retirement Fund established by section 123 (a) of such Act"; and

(F) in section 17 (D.C. Code, sec. 31–737) by inserting "(including any assets of the District of Columbia Teachers' Retirement Fund established by section 123(a) of the District of Columbia Retirement Reform Act)" immediately after "Act".

(2) Section 4 of the Act entitled "An Act to increase annuities payable to certain annuitants from the District of Columbia teachers' retirement and annuity fund, and for other purposes", approved September 2, 1958 (D.C. Code, sec. 31–744), is amended by inserting immediately before the period at the end of the first sentence the following: "until such time as all amounts in such fund have been expended or transferred under section 123(c) of the District of Columbia Retirement Reform Act to the District of Columbia Teachers' Retirement Fund established by section 123(a) of such Act and thereafter from the District of Columbia Teachers' Retirement Fund".

(3) The Act entitled "An Act to authorize certain teachers in the public schools of the District of Columbia to count as creditable service for retirement purposes certain periods of authorized leave without pay taken by such teachers for educational purposes", approved June 27, 1960 (D.C. Code, sec. 31–745), is amended by striking out "the deposit by such teacher to the credit of the teachers' retirement and annuity fund of the District of Columbia" and inserting in lieu thereof "payment by such teacher to the Custodian of Retirement Funds (as defined in section 102(6) of the District of Columbia Retirement Reform Act), for deposit in the District of Columbia Teachers' Retirement Fund established by section 123(a) of such Act,".

(c) Notwithstanding any other provision of law, any asset held in the District of Columbia teachers' retirement and annuity fund established by section 2 of the Act of August 7, 1946, may be transferred to the District of Columbia Teachers' Retirement Fund established by subsection (a).

(d) The amendments made by subsection (b) shall take effect at the end of the ninety-day period beginning on the date of the enactment of this Act.

DISTRICT OF COLUMBIA JUDGES' RETIREMENT FUND

SEC. 124. (a) There is established a fund to be known as the District of Columbia Judges' Retirement Fund into which shall be deposited the following, which shall constitute the assets of the Fund:

(1) Any amount deposited pursuant to subchapter III of chapter 15 of title 11 of the District of Columbia Code.

(2) Any asset transferred to such Fund under subsection (c).

(3) Any amount appropriated for such Fund under part C of this title.

(4) Any return on investment of the assets of such Fund.

(b)(1) Section 11–1561(4) of title 11 of the District of Columbia Code is amended by striking out "Judicial Retirement and Survivors Annuity Fund as provided in section 11–1570" and inserting in lieu thereof "Judges' Retirement Fund established by section 124(a) of the District of Columbia Retirement Reform Act".

(2) Section 11–1563(a) of such title 11 is amended by striking out "deposited in the fund in accordance with procedures established by the Commissioner" and inserting in lieu thereof "paid to the Custodian of Retirement Funds (as defined in section 102 (6) of the District of Columbia Retirement Reform Act) for deposit in the fund".

(3) Section 11–1564(d)(4) of such title 11 is amended in the first sentence by striking out "Judicial Retirement and Survivors Annuity Fund" and inserting in lieu thereof "Judges' Retirement Fund established by section 124(a) of the District of Columbia Retirement Reform Act".

(4) Section 11–1570 of such title 11 is amended—

(A) in subsection (a)—

(i) in the first sentence, by inserting immediately before the period "until such time as all amounts in such Fund have been expended or transferred to the District of Columbia Judges' Retirement Fund established by section 124(a) of the District of Columbia Retirement Reform Act"; and

(ii) by striking out the second and third sentences and inserting in lieu thereof the following: "Thereafter the retirement salaries, annuities, refunds, and allowances provided for in this subchapter shall be paid from such Fund.";

(B) in subsection (b)—

(i) by striking out "such funds" and inserting in lieu thereof "the District of Columbia Judicial Retirement and Survivors Annuity Fund";

(ii) by striking out "from the fund" and inserting in lieu thereof "under the first sentence of subsection (a)"; and

(iii) by striking out "fund" the second place it appears and inserting in lieu thereof "District of Columbia Judicial Retirement and Survivors Annuity Fund"; and

(C) in subsection (d), by inserting "(including moneys in the District of Columbia Judges' Retirement Fund)" immediately after "subchapter".

(c) Notwithstanding any other provision of law, any asset held in the District of Columbia Judicial Retirement and Survivors Annuity Fund may be transferred to the District of Columbia Judges' Retirement Fund established by subsection (a)

(d) The amendments made by subsection (b) shall take effect at the end of the ninety-day period beginning on the date of the enactment of this Act.

MANAGEMENT OF RETIREMENT FUNDS

SEC. 125. (a) The Custodian of Retirement Funds shall be the custodian of the assets of each Fund established by this title and shall manage and invest such assets in accordance with this title.

(b) The assets of each Fund shall be kept separate from other moneys which may be under the control of the Custodian of Retirement Funds, but need not be kept separate from the assets of the other Funds if the Board determines that commingling of such assets is advisable for investment purposes.

(c) The Board shall maintain, in an appropriate depository, a cash reserve for the Funds in an amount determined by the Board to be sufficient to meet current outlays for annuities and other retirement and disability benefits authorized to be paid from such Funds.

PAYMENTS FROM THE FUNDS

SEC. 126. The Mayor shall notify the Custodian of Retirement Funds of any payments to be made from the Funds established by this title for annuities or other retirement or disability benefits (including refunds and lump-sum payments), and the Custodian of Retirement Funds shall make such payments from the appropriate Fund.

PART C—FINANCING OF RETIREMENT BENEFITS

LIMITATION ON INVESTMENT OF RETIREMENT FUNDS

SEC. 141. (a) The assets of the Funds established by this title may not be invested in the following:

(1) Interest-bearing bonds, notes, bills, or certificates of indebtedness of the government of the District of Columbia, the government of the Commonwealth of Virginia, or the government of the State of Maryland, or the government of any political subdivision thereof, or of any entity subject to control by any such government or any combination of any such governments.

(2) Obligations fully guaranteed as to the payment of both principal and interest by the government of the District of Columbia, the government of the Commonwealth of Virginia, or the government of the State of Maryland, or the government of any political subdivision thereof, or of any entity subject to control by any such government or any combination of any such governments.

(3) Real property in the District of Columbia, Virginia, or Maryland.

(4) Loans, mortgages, bonds, notes, bills, or certificates of indebtedness secured, in whole or in part, by real property in the District of Columbia, Virginia, or Maryland.

(b) Until such time as the members of the Board are first selected and the Board certifies pursuant to section 121(h) that it is assuming responsibility for the Funds established by this title, the assets of such Funds may only be invested in the following:

(1) Interest-bearing bonds, notes, bills, or certificates of indebtedness of the United States Government, or obligations fully guaranteed as the payment of both principal and interest by the United States Government.

(2) Interest-bearing certificates of deposit issued by national, State, or District of Columbia savings and loan institutions.

DETERMINATION OF FEDERAL AND DISTRICT OF COLUMBIA PAYMENTS TO THE FUNDS

SEC. 142. (a)(1) The Board shall engage an enrolled actuary, who may be the enrolled actuary engaged pursuant to section 162(a)(4)(A), who shall, on the basis of the entry age normal cost funding method and in accordance with generally accepted actuarial principles and practices, make the following determinations with respect to each Fund:

(A) At the times specified in paragraph (2), the actuary shall determine the level percentage of payroll, expressed as a percentage (hereinafter in this title referred to as the "net normal cost percentage"), which shall be the percentage such that the amount equal to the product of such percentage and the present value of future compensation for participants in the retirement program were paid annually into the Fund from the date of hire of each participant in the retirement program until the date of such participant's death, retirement, or other withdrawal from employment covered by the retirement program is equal to the amount of the difference between (i) the present value of the future benefits payable from the Fund to such group, and (ii) the present value of all future employee contributions to the Fund.

(B) At the times specified in paragraph (2), the actuary shall determine the amount (hereinafter in this title referred to as the "accrued actuarial liability") that is the difference between (i) the present value (as of the line of the determination) of the future benefits payable from the Fund, and (ii) the sum of—

(I) the present value of all future employee contributions to the Fund; and

(II) the product of the net normal cost percentage and the present value of future compensation for participants in the retirement program."

(C) At the times specified in paragraph (2), the enrolled actuary shall determine the current value of the assets in the Fund.

(D) Each year, not later than 60 days prior to the date on which the Mayor is required to submit the annual budget for the government of the District of Columbia to the Council under section 442(a) of the District of Columbia Self-Government and Governmental Reorganization Act, the enrolled actuary shall determine—

(i) an estimate of the current annual active duty payroll;

(ii) the amount (hereinafter in this title referred to as the "future Federal obligation") that is the amount of the present value of the sum of the amounts authorized by section 144(a) to be appropriated to the Fund for fiscal years beginning on or after the date of the determination; and

(iii) the amount (hereinafter in this title referred to as the "net pay-as-you-go cost") that is the difference between (I) the amount of the obligation of the Fund during the next fiscal year for the payment of benefits payable from the Fund during such year, and (II) the amount of employee contributions to the Fund for such year.

The actuary shall also determine such additional information as the Board may require in order to make the determinations specified in paragraph (4) and in subsection (b).

(2) The actuary engaged by the Board pursuant to paragraph (1) shall make the determinations described in subparagraphs (A), (B), and (C) of such paragraph at the following times:

(A) Not later than sixty days after the date of the enactment of this Act.

(B) Upon a request by the Board or by the Director of the Office of Management and Budget.

(C) Not later than the end of the ninety-day period beginning on the first day of the third fiscal year occurring after the fiscal year in which the last such determination was made pursuant to any subparagraph of this paragraph.

(3) On the basis of the most recent determinations made under paragraph (1), the enrolled actuary shall certify to the Board each year, at a time specified by the Board, the following information with respect to each Fund for the next fiscal year:

(A) The net normal cost, which shall be computed as the product of the net normal cost percentage and the estimate by the actuary of the current annual active duty payroll.

(B) The accrued actuarial liability.

(C) The current value of assets in the Fund.

(D) The future Federal obligation.

(E) The net pay-as-you-go cost.

(F) The unfunded actuarial liability, which shall be computed as the difference between the accrued actuarial liability and the sum of the current value of the assets in the Fund and the future Federal obligation.

(4) The Board shall determine—

(A) the amount of the Federal payment for the next fiscal year for each Fund authorized to be appropriated under section 144(a); and

(B) on the basis of the most recent certification submitted by the enrolled actuary

under paragraph (3), the amount of the District payment for the next fiscal year for each Fund, as described under subsection (b).

(b)(1)(A) For the District payment for each Fund for each fiscal year through fiscal year 2003, the Board shall determine—

(i) the unfunded actuarial liability for such Fund as of the end of fiscal year 2003;

(ii) the unfunded actuarial liability as of October 1, 1978, in future value as of the end of fiscal year 2003 for such Fund; and

(iii) the amount equal to the lesser of (I) the net pay-as-you-go cost, and (II) the sum of the net normal cost and the amount of annual interest (computed at the valuation rate used in the determination under subsection (a)(1) on the unfunded actuarial liability, as computed under subsection (a)(3)(F).

(B) If the amount determined under subparagraph (A)(i) is equal to the amount determined under subparagraph (A)(ii), the amount of the District payment for the fiscal year for such Fund shall be the amount determined under subparagraph (A)(iii).

(C) If the amount determined under subparagraph (A)(i) is greater than the amount determined under subparagraph (A)(ii), the amount of the District payment for the fiscal year for such Fund shall be the amount equal to the sum of (i) the amount determined under subparagraph (A)(iii), and (ii) the amount of the level amortization payment that, if paid annually into the Fund through the next ten fiscal years (and accrued at the rate of interest used in the determinations under subsection (a)(1)), would reduce the amount determined under subparagraph (A)(i) to the amount determined under subparagraph (A)(ii) by the end of such ten fiscal years.

(D) If the amount determined under subparagraph (A)(ii) is greater than the amount determined under subparagraph (A)(i), the amount of the District payment for such Fund shall be the amount determined under subparagraph (A)(iii) reduced by the amount of the level amortization payment that, if paid annually for the next 10 years, would have a future value as of the end of fiscal year 2003 equal to the difference between the amount determined under subparagraph (A)(ii) and the amount determined under subparagraph (A)(i).

(E) The amount of a District payment determined under subparagraph (C) may not exceed the amount determined under subparagraph (A)(iii) by more than 10 percent of the net pay-as-you-go cost, in the case of a payment to the District of Columbia Police Officers and Fire Fighters' Retirement Fund, or by more than 30 percent of the net pay-as-you-go cost, in the case of a payment to the District of Columbia Teachers' Retirement Fund or to the District of Columbia Judges' Retirement Fund.

(F) Determinations under subparagraph (A) shall be made in accordance with generally accepted actuarial principles and practices.

(2) The amount of the District payment to each Fund for fiscal year 2004 and for each fiscal year thereafter shall be the sum of (A) the net normal cost, and (B) the amount of annual interest (computed at the valuation rate used in the determination pursuant to subsection (a)(1)) on the unfunded actuarial liability.

(c)(1) On the basis of the most recent determinations made under subsection (a)(4), the Board shall—

(A) not later than March 15 of each year through calendar year 2002, submit to the President and to the Congress a request for appropriation of the Federal payment for the next fiscal year for each Fund; and

(B) not less than 30 days prior to the date on which the Mayor is required to submit the annual budget for the government of the District of Columbia to the Council under section 442(a) of the District of Columbia Self-Government and Governmental Reorganization Act, certify to the Mayor and the Council the amount of the District payment for each Fund.

(2) The Mayor, in preparing each annual budget for the District of Columbia pursuant to section 442(a) of the District of Columbia Self-Government and Governmental Reorganization Act, and the Council of the District of Columbia, in adopting each annual budget in accordance with section 446 of such Act, shall include in such budget not less than the full amount certified by the Board under paragraph (1)(B) as being the amount of the District payment for the next fiscal year for each Fund. The Mayor and the Council may comment and make recommendations concerning any such amount certified by the Board.

(d)(1) Whenever any change in benefits under a retirement program is made, the Mayor shall engage an enrolled actuary, who may be the enrolled actuary engaged pursuant to section 162(a)(4)(A), to estimate the effect of such change in benefits over the next five fiscal years on (A) the net normal cost percentage with respect to the retirement program, (B) the accrued actuarial liability with respect to the retirement program, (C) the net pay-as-you-go cost with respect to the retirement program, and (D) the level of the District payments to the Fund. The Mayor shall transmit the estimates of the actuary under the preceding sentence to the Board and to the Speaker and the President pro tempore, and such change in benefits may not go into effect until the end of the thirty-day period beginning on the date such transmittals are completed.

(2) In the event a change in benefits under a retirement program is made that increases the present value of benefits payable from the Fund, a level amortization payment for a period not to exceed 25 years shall be paid by the District to the Fund such that the present value of the sum of such level amortization payments equals the increase in the present value of such benefits. Such payments shall be made in addition to any other payment to the Fund required to be made by the District, and such increase in present value of benefits payable from the Fund and such payments shall be disregarded in calculating the unfunded actuarial liability under subsection (b)(1)(A).

(e) Whenever the amount authorized to be appropriated to the District of Columbia Police Officers and Fire Fighters' Retirement Fund for any fiscal year under section 144(a)(1) is reduced under section 145(c), the District shall, beginning with the next fiscal year, pay a level amortization payment to such Fund for a period not to exceed ten years such that the present value (determined as of the beginning of the fiscal year for which such authorization is reduced) of the sum of such level amortization payments equals the amount of such reduction. Such payments shall be made in addition to any other payment to such Fund required to be made by the District and shall be disregarded in calculating the unfunded actuarial liability under subsection (b)(1)(A).

(f) The Comptroller General of the United States shall have access to all books, accounts, records, reports, files and other papers necessary to carry out the responsibility of the Comptroller General under section 736(a) of the District of Columbia Self-Government and Governmental Reorganization Act and under section 144(e) of this Act.

INFORMATION ABOUT RETIREMENT PROGRAMS

SEC. 143. Upon a request of the Board, the Mayor shall furnish to the Board such information with respect to retirement programs to which this title applies as the Board considers necessary to enable it to carry out its responsibilities under this title and to enable the enrolled actuary engaged pursuant to section 142(a) to carry out the responsibilities of the enrolled actuary under this title.

FEDERAL AND DISTRICT OF COLUMBIA PAYMENTS TO THE FUNDS

SEC. 144.(a) There is authorized to be appropriated from the revenues of the United States for fiscal year 1979 and for each fiscal year thereafter through fiscal year 2003—

(1) as the Federal payment to the District of Columbia Police Officers and Fire Fighters' Retirement Fund, the sum of $49,270,000, reduced by the amount of any reduction required under section 145(c);

(2) as the Federal payment to the District of Columbia Teachers' Retirement Fund, the sum of $15,510,000; and

(3) as the Federal payment to the District of Columbia Judges' Retirement Fund, the sum of $220,000.

(b)(1) Amounts appropriated as a Federal payment to a Fund established by this title shall not be subject to apportionment and shall be deposited in the appropriate Fund not more than thirty days after they are appropriated or thirty days after the beginning of the fiscal year for which they are appropriated, whichever is later.

(2) Amounts appropriated as a District of Columbia payment to a Fund established by this title shall be deposited in the appropriate Fund in equal quarterly installments, the first of which shall be made on the first day of the first quarter of the fiscal year, or on the first day thereafter that funds for such installment become available, and the remainder of which shall be made on the first day of succeeding quarters of the fiscal year, or on the first day thereafter that funds for such installments become available.

(c) If at any time the balance of any Fund established by this title is not sufficient to meet all obligations against such Fund, such Fund shall have a claim on the revenues of the District of Columbia to the extent necessary to meet such obligations.

(d) If, for any fiscal year, the Mayor and the Council do not carry out the requirements of subsections (c)(2), (d), and (e) of section 142 with respect to a Fund, no funds authorized to be appropriated for such Fund by this section shall be available for such Fund for such fiscal year.

(e)(1) In the year 2003, the Comptroller General shall determine whether the Federal share with respect to each Fund has been paid in full by payments made pursuant to appropriations authorized under subsection (a) of this section or, in the case the District of Columbia Police Officers and Fire Fighters' Retirement Fund, by payments made or to be made under section 142(e).

(2) For the purposes of this subsection, the term "Federal share", with respect to a Fund, means the accrued unfunded liability as of October 1, 1978, for members retired prior to January 2, 1975 and beneficiaries of such members.

REDUCTION IN FEDERAL CONTRIBUTION FOR EXCESSIVE COST OF POLICE OFFICERS AND FIRE FIGHTERS' DISABILITY RETIREMENT

SEC. 145. (a) After January 1 and before March 1 of each year beginning with calendar year 1981 and ending with calendar year 2002, the enrolled actuary engaged pursuant to section 142 shall, with respect to the District of Columbia Police Officers and Fire Fighters' Retirement Fund—

(1) determine the estimated present value (as of the date of the determination) of the cost to the Fund of the future benefits payable from such Fund for disability retire-

ments under subsections (f)(1) and (g)(1) of the Police and Firemen's Retirement and Disability Act to those officers and members of the Metropolitan Police force and the Fire Department of the District of Columbia who first became such officers or members on or before the end of the ninety-day period beginning on the date of the enactment of this Act and who were not retired on the first day of the preceding calendar year;

(2) determines the estimated present value (as of the date of the determination) of the cost to the Fund of the benefits referred to in paragraph (1) determined as if such officers and members retire or had retired under the provisions of subsection (f)(2) or (g)(5) of such Act, as in effect on the day after the end of the ninety-day period beginning on the date of the enactment of this Act, except that in making determinations under this paragraph, the enrolled actuary shall not take into account reductions pursuant to subsection (j)(3) of Police and Firemen's Retirement and Disability Act; and

(3) state whether the ratio of the amount determined under paragraph (1) to the amount determined under paragraph (2) is greater than 1.02.

The enrolled actuary shall report the determinations and statement made under paragraphs (1) through (3) for any year to the Board and to the Comptroller General of the United States not later than March 1 of such year.

(b)(1) The Board and the Comptroller General shall each transmit a copy of each report by the enrolled actuary under subsection (a) to the Speaker, the President pro tempore, the Mayor, and the Council not later than March 31 of the year in which the report is made, and each shall submit comments on such report.

(2) The Comptroller General shall include in his comments on each such report transmitted under paragraph (1) a statement of whether the determinations and calculation made by the enrolled actuary under subsection (a) were made in conformance with generally accepted actuarial practices and principles and whether such determinations and statement fairly present in all material respects the amounts described in paragraphs (1) and (2) of such subsection.

(c) Notwithstanding any other provision of this Act, with respect to the fiscal year commencing in any calendar year in which a report of the enrolled actuary under subsection (a), as transmitted to the Congress in accordance with subsection (b), includes a statement by the enrolled actuary under paragraph (3) of subsection (a) that the ratio of the estimates determined under paragraphs (1) and (2) of such subsection is greater than 1.02, the amount authorized by section 144(a)(1) to be appropriated to the Fund for such fiscal year shall be reduced. Such reduction shall be an amount equal to the product of the amount specified in such section and the ratio of the number of officers and members of the Metropolitan Police force and the Fire Department of the District of Columbia who retired during the preceding calendar year under subsections (f)(1) and (g)(1) of the Policemen and Firemen's Retirement and Disability Act to the number of officers and members of the Metropolitan Police force and the Fire Department of the District of Columbia who first became such members prior to the end of the ninety-day period beginning on the date of the enactment of this Act and who retired, died, withdrew by taking out a lump sum payment, or separated from active duty while eligible for a deferred annuity under the Policemen and Firemen's Retirement and Disability Act during such year.

(d)(1) Notwithstanding any provision of the Policemen and Firemen's Retirement and Disability Act or any other provision of this Act, in any case in which any officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia retires during calendar year 1979 or any subsequent calendar year through calendar year 2001 under subsection (f)(1) or (g)(1) of the Policemen and Firemen's Disability Act, the Board of Police and Fire Surgeons shall determine, within a reasonable time and in accordance with regulations which the Mayor shall promulgate, the percentage of impairment of such officer or member and shall report such percentage of impairment to the Police and Firemen's Retirement and Relief Board. In the case of such officer or member, such Board shall determine, within a reasonable time, the percentage of disability of such officer or member giving due regard to—

(A) the nature of the injury or disease;

(B) the percentage of impairment reported pursuant to the preceding sentence;

(C) the position in the Metropolitan Police force or the Fire Department of the District of Columbia held by the officer or member immediately prior to such officer or member's retirement;

(D) the age and years of service of the officer or member; and

(E) any other factor or circumstance which may affect the capacity of the officer or member to earn wages or engage in gainful activity in his disabled condition, including the effect of the disability as it may naturally extend into the future.

(2) The Police and Firemen's Relief Board, on or before January 31 of each calendar year from 1980 through 2002, shall make available to the Comptroller General and the enrolled actuary all determinations (including related documents and information) made during the preceding calendar year pursuant to paragraph (1) of this subsection in order to enable the Comptroller General and the enrolled actuary to make the determinations and statement required by this section.

CONFORMING AMENDMENTS

SEC. 146. (a)(1) Section 7 of the Act entitled "An Act for the retirement of public-school teachers in the District of Columbia", approved August 7, 1946 (D.C. Code, sec. 31-727), is repealed.

(2) Section 14 of such Act of August 7, 1946 (D.C. Code, sec. 31-734), is amended—

(A) in the third sentence, by striking out "The" and inserting in lieu thereof "Until such time as all amounts in the teachers' retirement and annuity fund have been expended or transferred to the District of Columbia Teachers' Retirement Fund established by section 123(a) of the District of Columbia Retirement Reform Act, the"; and

(B) by striking out the fourth sentence.

(3) Section 15 of such Act of August 7, 1946 (D.C. Code, sec. 31-735), is repealed.

(b) The proviso in the fourth paragraph (relating to District government retirement and relief funds) under the heading "Compensation and Retirement Fund Expenses" in the Act of July 31, 1953 (D.C. Code, sec. 31-716a), is repealed.

(c)(1) Section 7 of the Act entitled "An Act for the retirement of public-school teachers in the District of Columbia", approved January 15, 1920 (D.C. Code, sec. 31-707), is amended by striking out the second and third sentences of the first paragraph.

(2) Section 14 of such Act of January 15, 1920 (D.C. Code, sec. 31-715), is amended by striking out the third and fourth sentences.

(3) Section 15 of such Act of January 15, 1920 (D.C. Code, sec. 31-716), is repealed.

PART D—REPORTING AND DISCLOSURE REQUIREMENTS

PERSONAL FINANCIAL DISCLOSURE BY BOARD MEMBERS

SEC. 161. (a) Each member of the Board shall, within ninety days of his selection as a member of the Board and not later than April 30 of each year thereafter, submit to the Mayor, the Council, the Speaker, and the President pro tempore a personal financial disclosure statement with respect to the preceding calendar year. Such statement shall be in such form as the Council may by regulation require and shall contain such information with respect to the member's financial condition as the Council may by regulation require, including the following information:

(1) The amount and source of all income (as defined in section 61 of the Internal Revenue Code of 1954) received during the year.

(2) The identity and category of value of each liability owed, directly or indirectly, that exceeds $2,500 as of the last day of the year (excluding any mortgage that secures real property that is the principal residence of such member).

(3) The identity and category of value of any property held, directly or indirectly, in a trade or business or for investment or the production of income that has a fair market value of not less than $1,000 as of the last day of the year.

(4) The identity and category of value of any transaction, whether direct or indirect, in securities or commodities futures during the year in excess of $1,000 (excluding any gift to any tax-exempt organization described in section 501(c)(3) of the Internal Revenue Code of 1954), and the identity, date, and category of value of any purchase or sale, whether direct or indirect, of any interest in real or tangible personal property during the year the value of which exceeds $1,000 at the time of such purchase or sale (excluding any purchase or sale of any property that is the principal residence of such member or that is used as furnishings for such principal residence).

(5) The nature and extent of any interest during the year in any bank, insurance company, or other financial institution, or in any brokerage or other securities or investment company.

(6) The nature and extent of any employment during the year by any bank, insurance company, or other financial institution, or by any brokerage or other securities or investment company.

A member shall not be required to submit a personal financial disclosure statement to the Speaker and the President pro tempore for calendar years and calendar year 2003.

(b) For purposes of paragraphs (2), (3), and (4) of subsection (a), the member reporting need not specify the actual amount or value of each item required to be reported under such paragraphs, but shall indicate which of the following categories such amount or value is within:

(1) Not more than $5,000.

(2) Greater than $5,000 but not more than $15,000.

(3) Greater than $15,000 but not more than $50,000.

(4) Greater than $50,000 but not more than $100,000.

(5) Greater than $100,000.

ANNUAL REPORTS

SEC. 162. (a)(1)(A) The Board shall publish an annual report for each fiscal year (beginning with fiscal year 1979) with respect to each retirement program to which this title applies and with respect to the

Fund for such retirement program. Such report shall be filed with the Mayor, the Council, the Speaker, and the President pro tempore in accordance with section 164(a) and shall be made available and furnished to participants and beneficiaries in accordance with section 164(b).

(B) The annual report shall include the information described in subsections (b), (c), (d), and (e) and, when applicable, subsection (f), and shall also include—

(i) the financial statement and opinion required by paragraph (3) of this subsection; and

(ii) the actuarial statement and opinion required by paragraph (4) of this subsection.

(2) If some or all of the information needed to enable the Board to comply with the requirements of this title is maintained by—

(A) an insurance carrier or other organization which provides some or all of the benefits under the retirement program, or holds assets of the Fund for such retirement program in a separate account;

(B) a bank or similar institution which holds some or all of the assets of the Fund in a common or collective trust or a separate trust, or custodial account; or

(C) the Mayor (or the Police and Firemen's Retirement and Relief Board, established pursuant to section 122 of the Act of September 3, 1974, in carrying out the Mayor's responsibilities under the Policemen and Firemen's Retirement and Disability Act);

such carrier, organization, bank, or institution, or the Mayor, shall transmit and certify the accuracy of such information to the Board within one hundred and twenty days after the end of the fiscal year (or such other date as may be prescribed under regulations of the Board).

(3)(A) Except as provided in subparagraph (C), the Board shall engage an independent qualified public accountant who shall conduct such examination of any financial statements of the Fund, and of other books and records of the Fund or the retirement program, as the accountant may deem necessary to enable the accountant to form an opinion as to whether the financial statements and schedules required to be included in the annual report by subsection (b) of this section are presented fairly in confirmity with generally accepted accounting principles applied on a basis consistent with that of the preceding year. Such examination shall be conducted in accordance with generally accepted auditing standards and shall involve such tests of the books and records of the Fund and the retirement program as are considered necessary by the independent qualified public accountant. The independent qualified public accountant shall also offer his opinion as to whether the separate schedules specified in subsection (b)(2) of this section and the summary material required under section 164(b)(2) present fairly, and in all material respects, the information contained therein when considered in conjunction with the financial statements taken as a whole. The opinion by the independent qualified public accountant shall be made a part of the annual report.

(B) In offering his opinion under this section, the accountant may rely on the correctness of any actuarial matter certified to by an enrolled actuary if he so states his reliance.

(C) The opinion required by subparagraph (A) need not be expressed as to any statements required by subsection (b)(2)(G) prepared by a bank or similar institution or insurance carrier regulated and supervised and subject to periodic examination by a State or Federal agency if such statements are certified by the bank, similar institution, or insurance carrier as accurate and are made a part of the annual report.

(4)(A) The Board shall engage an enrolled actuary who shall be responsible for the preparation of the materials comprising the actuarial statement required under subsection (d) of this section.

(B) The enrolled actuary shall utilize such assumptions and techniques as are necessary to enable him to form an opinion as to whether the contents of the matters reported under subsection (d) of this section—

(i) are in the aggregate reasonably related to the experience of the Fund and the retirement program and to reasonable expectations; and

(ii) represent his best estimate of anticipated experience under the Fund and the retirement program.

The opinion by the enrolled actuary shall be made with respect to, and shall be made a part of, each annual report.

(C) In making a certification under this section, the enrolled actuary may rely on the correctness of any accounting matter under subsection (b) as to which any qualified public accountant has expressed an opinion if he so states his reliance.

(b)(1) An annual report under this section shall include a financial statement containing a statement of assets and liabilities, and a statement of changes in net assets available for benefits under the retirement program, which shall include details of revenues and expenses and other changes aggregated by general source and application. In the notes to financial statements, disclosures concerning the following items shall be considered by the accountant: A description of the retirement program, including any significant changes in the retirement program made during the period and the impact of such changes on benefits; the funding policy (including the policy with respect to prior service cost), and any changes in such policy during the year; a description of any significant changes in benefits made during the period; a description of material lease commitments, other commitments, and contingent liabilities; a description of agreements and transactions with persons known to be parties in interest; and any other matters necessary to fully and fairly present the financial statements of the Fund.

(2) The statement required under paragraph (1) shall have attached the following information in separate schedules:

(A) A statement of the assets and liabilities of the Fund, aggregated by categories and valued at their current value, and the same data displayed in comparative form for the end of the previous fiscal year.

(B) A statement of receipts in and disbursements from the Fund during the preceding twelve-month period, aggregated by general source and application.

(C) A schedule of all assets held for investment purposes, aggregated and identified by issuer, borrower, or lessor, or similar party to the transaction (including a notation as to whether such party is known to be a party in interest), maturity date, rate of interest, collateral, par or maturity value, cost, and current value.

(D) A schedule of each transaction involving a person known to be a party in interest, the identity of such party in interest and his relationship or that of any other party in interest to the Fund, a description of each asset to which the transaction relates; the purchase or selling price in case of a sale or purchase, the rental in case of a lease, or the interest rate and maturity date in case of a loan; expenses incurred in connection with the transaction; the cost of the asset, the current value of the asset, and the net gain or loss on each transaction.

(E) A schedule of all loans or fixed income obligations which were in default as of the close of the fiscal year or were classified during the year as uncollectable and the following information with respect to each loan on such schedule (including a notation as to whether parties involved are known to be parties in interest): The original principal amount of the loan, the amount of principal and interest received during the reporting year, the unpaid balance, the identity and address of the obligor, a detailed description of the loan (including date of making and maturity, interest rate, the type and value of collateral, and other material terms), the amount of principal and interest overdue (if any) and an explanation thereof.

(F) A list of all leases which were in default or were classified during the year as uncollectable and the following information with respect to each lease on such list (including a notation as to whether parties involved are known to be parties in interest): The type of property leased (and, in the case of fixed assets such as land, buildings, and leaseholds, the location of the property); the identity of the lessor lessee from or to whom the Fund is leasing; the relationship of such lessors and lessees, if any, to the Fund, the government of the District of Columbia, any employee organization, or any other party in interest; the terms of the lease regarding rent, taxes, insurance, repairs, expenses, and renewal options; the date the leased property was purchased and its cost; the date the property was leased and its approximate value at such date, the gross rental receipts during the reporting period, expenses paid for the leased property during the reporting period, the net receipts from the lease, the amounts in arrears, and a statement as to what steps have been taken to collect amounts due or otherwise remedy the default.

(G) The most recent annual statement of assets and liabilities of any common or collective trust maintained by a bank or similar institution in which some or all of the assets of the Fund are held, of any separate account maintained by an insurance carrier in which some or all of the assets of the Fund are held, and of any separate trust maintained by a bank as trustee in which some or all of the assets of the Fund are held, and in the case of a separate account or a separate trust, such other information as may be required by the Board in order to comply with this subsection.

(H) A schedule of each reportable transaction, the name of each party to the transaction (except that, in the case of an acquisition or sale of a security on the market, the report need not identify the person from whom the security was acquired or to whom it was sold) and a description of each asset to which the transaction applies; the purchase or selling price in case of a sale or purchase, the rental in case of a lease, or the interest rate and maturity date in case of a loan; expenses incurred in connection with the transaction; the cost of the asset, the current value of the asset, and the net gain or loss on each transaction.

(3) For purposes of subparagraph (H) of paragraph (2), the term "reportable transaction" means a transaction to which the Fund is a party and which is—

(A) a transaction involving an amount in excess of 3 percent of the current value of the assets of the Fund;

(B) any transaction (other than a transaction respecting a security) which is part of a series of transactions with or in conjunction with a person in a fiscal year, if the aggregate amount of such transactions exceeds 3 percent of the current value of the assets of the Fund;

(C) a transaction which is part of a series of transactions respecting one or more securities of the same issuer, if the aggregate amount of such transactions in the fiscal year exceeds 3 percent of the current value of the assets of the Fund; or

(D) a transaction with or in conjunction with a person respecting a security, if any other transaction with or in conjunction with such person in the fiscal year respecting a security is required to be reported by reason of subparagraph (A).

(c) The Board shall furnish as a part of an annual report under this section the following information:

(1) The number of individuals covered by the retirement program.

(2) The name and address of each member of the Board.

(3) Except in the case of a person whose compensation is minimal (as determined under regulations of the Council, which regulations the Council shall initially promulgate within ninety days after the date of the enactment of this Act) and who performs solely ministerial duties (as determined under such regulations), the name of each person (including any consultant, broker, trustee, accountant, insurance carrier, actually administrator, investment counsel, or custodian who rendered services to the Board or who had transactions with the Board) who directly or indirectly received compensation from the Board during the preceding year for services rendered to the Board or the participants or beneficiaries of the retirement program for which a Fund was established, the amount of such compensation, the nature of his services, his relationship, if any, to the District of Columbia government or any employee organization, and any other officer, position or employment he holds with any party in interest.

(4) An explanation of the reason for any change in appointment of any accountant, insurance carrier, enrolled actuary, or investment counsel appointed by the Board.

(5) Such other financial and actuarial information as the Council may by regulation prescribe.

(d) An annual report under this section for a fiscal year shall include a complete actuarial statement applicable to the fiscal year which shall include the following information:

(1) The date of the actuarial valuation applicable to the fiscal year for which the report is filed.

(2) The date and amount of the payments to the Fund for the fiscal year for which the report is filed and contributions for prior fiscal years not previously reported, including payments by the participants, the United States, and the District of Columbia.

(3) The following information applicable to the fiscal year for which the report is filed:

(A) The amounts determined under section 142(a)(1).

(B) The accrued liabilities.

(C) An identification of benefits not included in the calculation.

(D) A statement of the other facts and actuarial assumptions and methods used to determine costs.

(E) A justification for any change in actuarial assumptions or cost methods.

(4) The number of participants and beneficiaries covered by the retirement program.

(5) A certification of the amount of the payments to the Fund necessary to reduce the accumulated funding deficiency to zero.

(6) A statement by the enrolled actuary of any change in actuarial assumptions made with respect to the Fund during the year.

(7) A statement by the enrolled actuary of the estimated current value of vested benefits under the retirement program.

(8) A statement by the enrolled actuary that to the best of his knowledge the report is complete and accurate.

(9) A copy of the opinion required by subsection (a)(4).

(10) Such other information regarding the retirement program as the Council may by regulation require.

(11) Such other information as the enrolled actuary may determine is necessary to fully and fairly disclose the actuarial position of the Fund.

The actuary shall make an actuarial valuation of the Fund for every third fiscal year, unless he determines that a more frequent valuation is necessary to support his opinion under subsection (a)(4) of this section.

(e) A report under this section for a fiscal year shall include a statement prepared by the Board of—

(1) the relative riskiness of the investments during the fiscal year of the assets of the Fund;

(2) a comparison of the average return on the investments of the Fund during the year with the average return on the investments of other public pension funds during the year that have comparable asset valuation; and

(3) the average daily balance of, and the average rate earned by, assets of the Fund in each of any time or demand deposits during the year.

(f) If some or all of the benefits under the retirement program are purchased from and guaranteed by an insurance company, insurance service, or other similar organization, a report under this section shall include a statement from such insurance company, service, or other similar organization covering the fiscal year and enumerating—

(1) the premium rate or subscription charge and the total premium or subscription charges paid to each such carrier, insurance service, or other similar organization and the approximate number of persons covered by each class of such benefits; and

(2) the total amount of premiums received, the approximate number of persons covered by each class of benefits, and the total claims paid by such company, service, or other organization; dividends or retroactive rate adjustments, commissions, and administrative service or other fees or other specific acquisition costs paid by such company, service, or other organization; any amounts held to provide benefits after retirement; the remainder of such premiums; and the names and addresses of the brokers, agents, or other persons to whom commissions or fees were paid, the amount paid to each, and for what purpose.

If any such company, service, or other organization does not maintain separate experience records covering the specific groups it serves, the report shall include, in lieu of the information required by paragraph (2), a statement as to the basis of its premium rate or subscription charge, the total amount of premiums or subscription charges received from the Fund, and a copy of the financial report of the company, service, or other organization and, if such company, service, or organization incurs specific costs in connection with the acquisition, or retention of any particular Fund or Funds, a detailed statement of such costs.

RETIREMENT PROGRAM SUMMARY DESCRIPTION

SEC. 163. (a)(1) A summary description of each retirement program to which this Act applies shall be furnished to participants and beneficiaries as provided in section 164(b). The summary description shall include the information specified in subsection (b) of this section, shall be written in a manner calculated to be understood by the average participant or beneficiary, and shall be sufficiently accurate and comprehensive to reasonably apprise such participants and beneficiaries of their rights and obligations under the retirement program.

(2) A summary of any material modification in the terms of the retirement program and any change in the information required under subsection (b), written in a manner calculated to be understood by the average participant or beneficiary, shall be furnished in accordance with section 164(b)(1).

(b) Each summary description of a retirement program shall contain the following information: The name and type of administration of the retirement program; the name and address of the chairman of the Board, who shall be the agent of the Board for the service of legal process; the name, title, and address of each member of the Board; a description of the relevant provisions of applicable collective bargaining agreements; the retirement program's requirements respecting eligibility for participation and benefits; a description of the provisions providing for nonforfeitable pension benefits; circumstances which may result in disqualification, ineligibility, or denial or loss of benefits; the identity of any organization through which benefits are provided; the procedures to be followed in presenting claims for benefits under the retirement program; and the remedies available under the retirement program for the redress of claims that are denied in whole or in part.

FILING REPORTS AND FURNISHING INFORMATION TO PARTICIPANTS

SEC. 164. (a)(1) the Board shall file with the Mayor, the Council, the Speaker, and the President pro tempore—

(A) the annual reports for a fiscal year within two hundred and ten days after the end of such year;

(B) a copy of each summary description of a retirement program within one year after the date of the enactment of this Act; and

(C) a revised summary description of a retirement program, incorporating any material modification in the terms of the retirement program, incorporating any material modification in the terms of the retirement program, within sixty days after such modification is adopted or occurs.

The Mayor shall make copies of such retirement program descriptions and annual reports available for public inspection in an appropriate location. The Board shall also furnish to the Mayor, the Council, the Speaker, and the President pro tempore, upon request any documents relating to the retirement program or the Fund, including any bargaining agreement, trust agreement, contract, or other instrument under which the retirement program or Fund is operated.

(2)(A) The Mayor or the Council may reject any filing under this section within thirty days of such filing—

(i) upon determining that such filing is incomplete for purposes of this part; or

(ii) upon determining that there is any material qualification by an accountant or actuary contained in an opinion submitted pursuant to secton 162(a)(3)(A) or section 162(a)(4)(B).

(B) If the Mayor or the Council rejects a filing of a report under subparagraph (A), and if a revised filing satisfactory to the Mayor or the Council is not submitted within forty-five days after the determination under subparagraph (A) to reject the filing is made, and if the Mayor or the Council considers it in the best interest of the participants, then

the Mayor or the Council may take any one or more of the following actions:

(i) Retain an independent qualified public accountant on behalf of the participants to perform an audit.

(ii) Retain an enrolled actuary on behalf of the participants to prepare an actuarial statement.

(iii) Bring a civil action for such legal or equitable relief as may be appropriate to enforce the provisions of this title.

The Board shall permit any accountant or actuary so retained to inspect whatever books and records of the Fund are necessary for such audit.

(3)(A) Either House of Congress may reject any filing under this section within thirty days of such filing by adopting a resolution stating that such House has determined—

(i) that such filing is incomplete for purposes of this part; or

(ii) that there is any material qualification by an accountant or actuary contained in an opinion submitted pursuant to section 162(a)(3)(A) or section 162(a)(4)(B).

(B) If either House of Congress rejects a report under subparagraph (A) and if either a revised filing is not submitted within forty-five days after adoption of the resolution under subparagraph (A) rejecting the initial filing or such revised filing is rejected by either House of Congress by adoption of a resolution within thirty days after submission of the revised filing, then either House of Congress may, if it deems it in the best interests of the participants, take any one or more of the following actions:

(i) Retain an independent qualified public accountant on behalf of the participants to perform an audit.

(ii) Retain an enrolled actuary on behalf of the participants to prepare an actuarial statement.

The Board and the Mayor shall permit any accountant or actuary so retained to inspect whatever books and records of the Fund and the retirement program are necessary for performing such audit or preparing such statement.

(C) If a revised filing is rejected under subparagraph (B) or if a filing required under this title is not made by the date specified, no funds appropriated for the Fund with respect to which such filing was required as part of the Federal payment may be paid to the Fund until such time as an acceptable filing is made. For purposes of this subparagraph, a filing is unacceptable if, within thirty days of its submission, either House of Congress adopts a resolution disapproving such filing.

(b) Publication of the summary retirement program descriptions and annual reports shall be made to participants and beneficiaries as follows:

(1) The Board shall furnish to each participant, and to each beneficiary receiving benefits under the retirement program, a copy of the summary retirement program description and all modifications and changes referred to in section 163(a) within ninety days after he becomes a participant or in the case of a beneficiary, within ninety days after he first receives benefits. The Board shall furnish to each participant, and to each beneficiary receiving benefits under the retirement program, every fifth year an updated summary retirement program description described in section 163 which integrates all retirement program amendments made within such five-year period, except that in a case where no amendments have been made to a retirement program during such five-year period this sentence shall not apply. Notwithstanding the foregoing sentence, the Board shall furnish to each participant, and to each beneficiary receiving benefits under the retirement program, the summary retirement program description described in section 163 every tenth year. If there is a modification or change described in section 163(a), a summary description of such modification or change shall be furnished to each participant and to each beneficiary who is receiving benefits under the retirement program not later than two hundred and ten days after the end of the fiscal year in which the change is adopted.

(2) The Board shall make copies of the latest annual report and of any bargaining agreement, trust agreement, contract, or other instruments under which the retirement program or the Fund is operated available for examination by any participant or beneficiary in the principal office of the Board and in such other places as may be necessary to make available all pertinent information to all participants (including such places as the Council may by regulation prescribe).

(3) Within two hundred and ten days after the close of the fiscal year, the Board shall furnish to each participant, and to each beneficiary receiving benefits under the retirement program, a copy of the statements and schedules described in subparagraphs (A) and (B) of section 162(b)(2) for such fiscal year and such other material as is necessary to fairly summarize the latest annual report.

(4) The Board shall, upon written request of any participant or beneficiary, furnish a copy of the latest updated summary retirement program description, the latest annual report, and any bargaining agreement, trust agreement, contract, or other instruments under which the retirement program or Fund is operated. The Board may make a reasonable charge to cover the cost of furnishing such copies. The Council may by regulation prescribe the maximum amount that will constitute a reasonable charge under the preceding sentence.

(c) The Council may by regulation require that the Board furnish to each participant and to each beneficiary receiving benefits under the retirement program a statement of the rights of participants and beneficiaries under this title.

REPORTING OF PARTICIPANT'S BENEFIT RIGHTS

SEC. 165. (a) The Board shall furnish to any participant or beneficiary who so requests in writing, a statement indicating, on the basis of the latest available information—

(1) the total benefits accrued, and

(2) the nonforfeitable retirement benefits, if any, which have accrued, or the earliest date on which benefits will become nonforfeitable.

(b) A participant or beneficiary is not entitled to receive more than one report under subsection (a) during any twelve-month period.

PUBLIC INFORMATION

SEC. 166. (a) Except as provided in subsection (b), the contents of the descriptions, annual reports, statements, and other documents filed with the Mayor, the Council, the Speaker, and the President pro tempore pursuant to this part shall be public information, and the Mayor, the Council, the Speaker, and the President pro tempore shall each make such documents available for inspection in an appropriate location. The Mayor, the Council, the Speaker, and the President pro tempore may use the information and data in such documents for statistical and research purposes and may compile and publish such studies, analyses, reports, and surveys based thereon as may be considered appropriate.

(b) Information described in section 165(a) with respect to a participant or beneficiary of a retirement program may be disclosed only to the extent that information respecting that participant's or beneficiary's benefits under title II of the Social Security Act may be disclosed under such Act.

(c) Except to the extent that information which is protected from public disclosure under subsection (b), or which relates to personnel matters the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, is involved, all meetings of the Board shall be open to the public.

RETENTION OF RECORDS

SEC. 167. The Board shall maintain records on the matters required to be disclosed by this title which will provide in sufficient detail the necessary basic information and data from which the required documents may be verified, explained, or clarified, and checked for accuracy and completeness, shall include vouchers, worksheets, receipts, and applicable resolutions in such records, and shall keep such records available for examination for a period of not less than six years after the filing date of the documents based on the information which they contain. Except to the extent that information is involved which is protected from public disclosure under section 166(b), all such records shall be available for inspection by the public.

ADDITIONAL INFORMATION

SEC. 168. (a) In addition to the information specifically required to be furnished by this part, the Board shall furnish promptly such additional information as the Mayor, the Council, the Speaker, or the President pro tempore may request.

(b) The Board shall, at regular intervals to be determined by the Board, compile and publish all regulations then in effect which were issued by the Board or the Council under this title.

CRIMINAL PENALTIES

SEC. 169. Whoever willfully violates any provision of this part (other than sections 165 and 168), or any regulation or order issued under any such provision, shall be fined not more than $5,000 or imprisoned not more than one year, or both, execpt that in the case of such a violation by a person not an individual such person shall be fined not more than $100,000.

PART E—FIDUCIARY RESPONSIBILITY CIVIL; SANCTIONS

FIDUCIARY RESPONSIBILITIES

SEC. 181. (a)(1) The Board and each member of the Board shall discharge responsibilities with respect to a Fund as a fiduciary with respect to such Fund. The Board may designate one or more other persons who exercise responsibilities with respect to a Fund to exercise such responsibilities as a fiduciary with respect to such Fund. The Board shall retain such fiduciary responsibility for the exercise of careful, skillful, prudent, and diligent oversight of any person so designated as would be exercised by a prudent individual acting in a like capacity and familiar with such matters under like circumstances.

(2) A fiduciary shall discharge his duties with respect to a Fund solely in the interest of the participants and beneficiaries and—

(A) for the exclusive purpose of providing benefits to participants and their beneficiaries;

(B) with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent individual acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims;

(C) by diversifying the investments of the Fund so as to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so; and

(D) in accordance with the provisions of law, documents, and instruments governing the retirement program to the extent that

such documents and instruments are consistent with the provisions of this title.

(b) In addition to any liability which he may have under any other provision of this part, a fiduciary with respect to a Fund shall be liable for a breach of fiduciary responsibility of another fiduciary with respect to the same Fund—

(1) if he knowingly participates in, or knowingly undertakes to conceal, an act or omission of such other fiduciary, knowing such act or omission is a breach of fiduciary responsibility;

(2) if, by his failure to comply with subsection (a)(2) in the administration of his specific responsibilities which give rise to his status as a fiduciary, he has enabled such other fiduciary to commit a breach of fiduciary responsibilities; or

(3) if he has knowledge of a breach of fiduciary responsibility by such other fiduciary, unless he makes reasonable efforts under the circumstances to remedy the breach.

(c) Except as provided in subsection (f), a fiduciary with respect to a Fund shall not cause the Fund to engage in a transaction, if he knows or should know that such transaction constitutes a direct or indirect—

(1) sale or exchange, or leasing, of any property between the Fund and a party in interest;

(2) lending of money or other extension of credit between the Fund and a party in interest;

(3) furnishing of goods, services, or facilities between the Fund and a party in interest; or

(4) transfer to, or use by or for the benefit of, a party in interest, of any assets of the Fund.

(d) A fiduciary with respect to a Fund shall not—

(1) deal with the assets of the Fund in his own interest or for his own account;

(2) in his individual or in any other capacity act in any transaction involving the Fund on behalf of a party (or represent a party) whose interests are adverse to the interests of the Fund or the interests of its participants or beneficiaries; or

(3) receive any consideration for his own personal account from any party dealing with such Fund in connection with a transaction involving the assets of the Fund.

(e) A transfer of real or personal property by a party in interest to a Fund shall be treated as a sale or exchange if the property is subject to a mortgage or similar lien which the Fund assumes or if it is subject to a mortgage or similar lien which a party in interest placed on the property within the ten-year period ending on the date of the transfer.

(f) The prohibitions provided in subsection (c) shall not apply to any of the following transactions:

(1) Contracting or making reasonable arrangements with a party in interest for office space, or legal, accounting, or other services necessary for the establishment or operation of the Fund, if no more than reasonable compensation is paid therefor.

(2) The investment of all or part of a Fund's assets in deposits which bear a reasonable interest rate in a bank or similar financial institution supervised by the United States or a State, if such bank or other institution is a fiduciary of such Fund and if such investment is expressly authorized by regulations of the Board or by a fiduciary (other than such bank or institution or affiliate thereof) who is expressly empowered by the Board to make such investment.

(3) The providing of any ancillary service by a bank or similar financial institution supervised by the United States or a State if such bank or other institution is a fiduciary of such Fund and if—

(A) such bank or similar financial institution has adopted adequate internal safeguards which assure that the providing of such ancillary service is consistent with sound banking and financial practice, as determined by Federal or State supervisory authority, and

(B) the extent to which such ancillary service is provided is subject to specific guidelines issued by such bank or similar financial institution (as determined by the Mayor after consultation with Federal and State supervisory authority), and adherence to such guidelines would reasonably preclude such bank or similar financial institution from providing such ancillary service (i) in an excessive or unreasonable manner, and (ii) in a manner that would be inconsistent with the best interests of participants and beneficiaries of the retirement program.

Such ancillary services shall not be provided at more than reasonable compensation.

(4) The exercise of a privilege to convert securities, to the extent provided in regulations of the Council, but only if the Fund receives no less than adequate consideration pursuant to such conversion.

(5) Any transaction between a Fund and a common or collective trust fund or pooled investment fund maintained by a party in interest which is a bank or trust company supervised by a State or Federal agency, or a pooled investment fund of an insurance company qualified to do business in a State, if—

(A) the transaction is a sale or purchase of an interest in the Fund;

(B) the bank, trust company, or insurance company receives not more than reasonable compensation; and

(C) such transaction is expressly permitted by the Board or by a fiduciary (other than the bank, trust company, insurance company, or an affiliate thereof) who has authority to manage and control the assets of the Fund.

(g) Nothing in subsection (c) shall be construed to prohibit any fiduciary from—

(1) receiving any benefit to which he may be entitled as a participant or beneficiary in the retirement program, so long as the benefit is computed and paid on a basis which is consistent with the terms of the retirement program as applied to all other participants and beneficiaries;

(2) receiving any reasonable compensation for services rendered, or for the reimbursement of expenses properly and actually incurred, in the performance of his duties with respect to the Fund; or

(3) serving as a fiduciary in addition to being an officer, employee, agent, or other representative of a party in interest.

LIABILITY FOR BREACH OF FIDUCIARY DUTY

SEC. 182. (a) Any person who is a fiduciary with respect to a Fund who breaches any of the responsibilities, obligations, or duties imposed upon fiduciaries by this title shall be personally liable to make good to such Fund any losses to the Fund resulting from each such breach and to restore to such Fund any profits of such fiduciary which have been made through use of assets of the Fund by the fiduciary and shall be subject to such other equitable or remedial relief as the court may deem appropriate, including removal of such fiduciary.

(b) No fiduciary shall be liable with respect to a breach of fiduciary duty under this title if such breach was committed before he became a fiduciary or after he ceased to be a fiduciary.

EXCULPATORY PROVISIONS; INSURANCE

SEC. 183. (a) Any provision in an agreement or instrument which purports to relieve a fiduciary from responsibility or liability for any responsibility, obligation, or duty under this part shall be void as against public policy.

(b) Nothing in this subpart shall preclude—

(1) the Board from purchasing insurance for its fiduciaries or for itself to cover liability or losses occurring by reason of the act or omission of a fiduciary, if such insurance permits recourse by the insurer against the fiduciary in the case of a breach of a fiduciary obligation by such fiduciary;

(2) a fiduciary from purchasing insurance to cover liability under this part from and for his own account; or

(3) an employee organization from purchasing insurance to cover potential liability of one or more persons who serve in a judiciary capacity with regard to the Fund from which the annuities and other retirement and disability benefits of the members of such employee organization are paid.

PROHIBITION AGAINST CERTAIN PERSONS HOLDING CERTAIN POSITIONS

SEC. 184. (a) No person who has been convicted of, or has been imprisoned as a result of his conviction of, robbery, bribery, extortion, embezzlement, fraud, grand larceny, burglary, arson, a felony violation of Federal or State law involving substances defined in section 102(6) of the Comprehensive Drug Abuse Prevention and Control Act of 1970, murder, rape, kidnaping, perjury, assault with intent to kill, any crime described in section 9(a)(1) of the Investment Company Act of 1940 (15 U.S.C. 80a-9(a)(1)), a violation of any provision of this Act, a violation of section 302 of the Labor-Management Relations Act, 1947 (29 U.S.C. 186), a violation of chapter 63 of title 18, United States Code, a violation of section 874, 1027, 1503, 1505, 1506, 1510, 1951, or 1954 of title 18, United States Code, a violation of the Labor-Management Reporting and Disclosure Act of 1959 (29 U.S.C. 401), or conspiracy to commit any such crime or attempt to commit any such crime, or a crime in which any of the foregoing crimes is an element, shall serve or be permitted to serve—

(1) as a fiduciary, investment counsel, agent, or employee of any Fund established by this title; or

(2) as a consultant to any Fund established by this title;

during or for five years after such conviction or after the end of such imprisonment, whichever is the later, unless prior to the end of such five-year period, in the case of a person so convicted or imprisoned, his citizenship rights, having been revoked as a result of such conviction, have been fully restored, or the Board of Parole of the United States Department of Justice determines that such person's service in any capacity referred to in paragraph (1) or (2) would not be contrary to the purposes of this title. Prior to making any such determination the Board of Parole shall hold an administrative hearing and shall give notice of such proceeding by certified mail to the State, county, and Federal prosecuting officials in the jurisdiction or jurisdictions in which such person was convicted. The Board of Parole's determination in any such proceeding shall be final. No person shall knowingly permit any other person to serve in any capacity referred to in paragraph (1) or (2) in violation of this subsection. Notwithstanding the preceding provisions of this subsection, no corporation or partnership will be precluded from acting as an administrator, fiduciary, officer, trustee, custodian, counsel, agent, or employee, of any Fund established by this title, or as a consultant to any Fund established by this title, without a notice, hearing, and determination by such Board of Parole that such service would be inconsistent with the intention of this section.

(b) Whoever willfully violates this section

shall be fined not more than $10,000 or imprisoned for not more than one year, or both.

(c) For the purposes of this section:

(1) A person shall be deemed to have been "convicted" and to be under the disability of "conviction" from the date of entry of the judgment of the trial court or the date of the final sustaining of such judgment on appeal, whichever is the later event.

(2) The term "consultant" means any person who, for compensation, advises or represents a Fund or who provides other assistance to such Fund concerning the operation of such Fund.

(3) A period of parole shall not be considered as part of a period of imprisonment.

BONDING

SEC. 185. (a)(1) Each fiduciary of a Fund established by this title and each person who handles funds or other property of such a Fund (hereinafter in this section referred to as "Fund official") shall be bonded as provided in this section, except that no bond shall be required of a fiduciary (or of any director, officer, or employee of such fiduciary) if such fiduciary—

(A) is a corporation organized and doing business under the laws of the United States or of any State;

(B) is authorized under such laws to exercise trust powers or to conduct an insurance business;

(C) is subject to supervision or examination by Federal or State authority; and

(D) has at all times a combined capital and surplus in excess of such a minimum amount as may be established by regulations issued by the Council, which amount shall be at least $1,000,000.

Subparagraph (D) shall apply to a bank or other financial institution which is authorized to exercise trust powers and the deposits of which are not insured by the Federal Deposit Insurance Corporation only if such bank or institution meets bonding or similar requirements under State law which the Council determines are at least equivalent to those imposed on banks by Federal law.

(2)(A) The amount of such bond shall be the lesser of 10 percent of the amount of the funds handled by such fiduciary and $550,000, except that the amount of such bond shall be at least $1,000.

(B) The Mayor, after notice and opportunity for hearing to such fiduciary and all other parties in interest to such Fund, may waive the $500,000 limit.

(C) The amount of such bond shall be set at the beginning of each fiscal year.

(3) For purposes of fixing the amount of such bond, the amount of funds handled shall be determined by the funds handled by the person, group, or class to be covered by such bond and by the predecessor or predecessors, if any, during the preceding reporting year, or if the Fund has no preceding reporting year under this title, the amount of funds to be handled during the current reporting year by such person, group, or class, estimated as provided in regulations to be prescribed by the Council.

(4) Such bond shall provide protection to the Fund against loss by reason of acts of fraud or dishonesty on the part of the Fund official, directly or through connivance with others.

(5) Any bond shall have as surety thereon a corporate surety company which is an acceptable surety on Federal bonds under authority granted by the Secretary of the Treasury pursuant to sections 6 through 13 of title 6, United States Code. Any bond shall be in a form or of a type approved by the Council, including individual bonds or schedule or blanket forms of bonds which cover a group or class.

(b) It shall be unlawful for any Fund official to receive, handle, disburse, or otherwise exercise custody or control of any of the funds or other property of any Fund without being bonded as required by subsection (a), and it shall be unlawful for any Fund official or any other person having authority to direct the performance of such functions to permit such functions, or any of them, to be performed by any Fund official with respect to whom the requirements of subsection (a) have not been met.

(c) It shall be unlawful for any person to procure any bond required by subsection (a) from any surety or other company or through any agent or broker in whose business operations the Fund or any party in interest in the Fund has any control or significant financial interest, direct or indirect.

(d) Nothing in any other provision of law shall require any person required to be bonded as provided in subsection (a) because he handles funds or other property of a Fund to be bonded insofar as the handling by such person of the funds or other property of such Fund is concerned.

(e) The Council shall prescribe such regulations as may be necessary to carry out the provisions of this section.

LIMITATION ON ACTIONS

SEC. 186. (a) No action may be commenced under this title with respect to a fiduciary's breach of any responsibility, duty, or obligation under this part, or with respect to a violation of this part, after the earlier of—

(1) six years after (A) the date of the last action which constituted a part of the breach or violation, or (B) in the case of an omission, the latest date on which the fiduciary could have cured the breach or violation; or

(2) three years after the earliest date (A) on which the plaintiff had actual knowledge of the breach or violation, or (B) on which a report from which he could reasonably be expected to have obtained knowledge of such breach or violation was filed with the Mayor, the Council, the Speaker, or the President pro tempore under this title;

except that in the case of fraud or concealment, such an action may be commenced not later than six years after the date of discovery of such breach or violation.

CIVIL ENFORCEMENT

SEC. 187. (a) A civil action may be brought—

(1) by a participant or beneficiary—

(A) for the relief provided for a subsection (b) this section, or

(B) to recover benefits due to him under the terms of this retirement program, to enforce his rights under the terms of the retirement program, or to clarify his rights to future benefits under the terms of the retirement program;

(2) by a participant or beneficiary or the District of Columbia for appropriate relief under section 182; or

(3) by a participant or beneficiary or the District of Columbia (A) to enjoin any act or practice which violates any provision of this title or the terms of a retirement program, or (B) to obtain other appropriate equitable relief (i) to redress any such violations, or (ii) to enforce any provision of this title or the terms of a retirement program.

(b) If the Board fails or refuses to comply with a request for any information which the Board is required by this title to furnish to a participant or beneficiary (unless such failure or refusal results from matters reasonably beyond the control of the Board) by mailing the information requested to the last known address of the requesting participant or beneficiary within thirty days after such request, then the Board may, in the court's discretion, be liable to such participant or beneficiary in the amount of up to $100 a day from the date of such failure or refusal, and the court may order the Board to provide the required information and may in its discretion order such other relief as it considers proper.

(c) The Board may sue and be sued under this title as an entity. Service of summons, subpena, or other legal process of a court upon the chairman of the Board in his capacity as such shall constitute service upon the Board.

(d) In any action under this title by a participant, beneficiary, or fiduciary, the court in its discretion may allow a reasonable attorney's fee and costs of action to either party.

CLAIMS PROCEDURE

SEC. 188. In accordance with the regulations of the Council, the Mayor shall provide to any participant or beneficiary who has a claim for benefits under a retirement program denied—

(1) adequate written notice of such denial, setting forth the specific reasons for such denial in a manner calculated to be understood by such participant or beneficiary; and

(2) a reasonable opportunity for a full and fair review of the decision denying such claim.

TITLE II—CHANGES IN RETIREMENT BENEFITS

PART A—POLICE OFFICERS AND FIRE FIGHTERS' RETIREMENT BENEFITS

SALARY BASE PERIOD FOR COMPUTATION OF ANNUITY

SEC. 201. Paragraph (17) of subsection (a) of the Policemen and Firemen's Retirement and Disability Act (D.C. Code, sec. 4–521(17)) is amended—

(1) by striking out "twelve consecutive months of police or fire service," and inserting in lieu thereof "thirty-six consecutive months of police or fire service in the case of a member who is an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia and who first becomes such a member after the end of the ninety-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act, or over any twelve months of police or fire service in the case of any other member,"; and

(2) by inserting "or thirty-six consecutive months, as the case may be," immediately after "twelve consecutive months" the second place it appears.

CREDITABLE SERVICE FOR FULL-TIME OFFICIALS OF EMPLOYEE ORGANIZATIONS

SEC. 202. (a) Subsection (c) of the Policemen and Firemen's Retirement and Disability Act (D.C. Code, sec. 4–523) is amended by redesignating paragraphs (6) and (7) of such subsection as paragraphs (7) and (8), respectively, and by inserting after paragraph (5) the following new paragraph:

"(6)(A) Any period of time during which a member who is an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia is on approved leave without pay to serve as a full-time officer or employee of a labor organization shall be considered to be police or fire service for purposes of this section if such member files an election in accordance with subparagraph (B) and makes payments as described in subparagraph (C). The basic salary in effect at any time for the grade in which a member was serving at the time he entered on approved leave described in the preceding sentence shall be considered to be the basic salary in effect for such member for purposes of this section if the period of time when such member is on approved leave is considered to be police or fire service under this paragraph.

"(B) To be eligible to have any period of approved leave described in subparagraph (A) considered to be police or fire service for purposes of this section, a member described in such subparagraph must, not later

than the end of the sixty-day period commencing on the day such member enters on such approved leave or the effective date of this paragraph, whichever occurs later, file an election with the Mayor to have such period of approved leave considered to be police or fire service for purposes of this section.

"(C)(i) To have any period of approved leave described in subparagraph (A) occurring after the effective date of this section considered to be police or fire service, a member described in such subparagraph must each month deposit with the Custodian of Retirement Funds (as defined in section 102(c) of the District of Columbia Retirement Reform Act) for deposit in the District of Columbia Police Officers and Fire Fighters' Retirement Fund established by section 122(a) of such Act a sum equal to one-twelfth the annual new-entrant normal cost of the annuity of a member receiving the basic salary in effect during such month for the grade in which such member was serving at the time such member entered on such leave.

"(ii) To have any period of approved leave described in subparagraph (A) which occurred before the effective date of this section considered to be police or fire service, a member described in such subparagraph must deposit with the Custodian of Retirement Funds (as defined in section 102(c) of the District of Columbia Retirement Reform Act) for deposit in the District of Columbia Police Officers and Fire Fighters' Retirement Fund established by section 122(a) of such Act, in a manner to be determined by the Mayor, a sum equal to the new-entrant normal cost of the annuity of a member receiving the basic salary in effect during the period of such leave for the grade in which such member was serving at the time such member entered on such leave.

"(iii) The Mayor shall make an annual determination of the new-entrant normal cost for purposes of clauses (i) and (ii) according to information supplied by the actuary retained pursuant to section 142 of the District of Columbia Retirement Reform Act.

"(D) For purposes of this paragraph, the term 'employee organization' means any organization of any kind, or any agency or employer representation committee or plan, in which members or officers of the Metropolitan Police force or the Fire Department of the District of Columbia participate and which exists for the purpose, in whole or in part, of dealing with the government of the District of Columbia concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work.".

(b) The amendment made by subsection (a) shall take effect at the end of the ninety-day period beginning on the date of the enactment of this Act.

REQUIREMENT FOR OPTIONAL RETIREMENT

SEC. 203. (a) Subsection (h)(1) of the Policemen and Firemen's Retirement and Disability Act (D.C. Code, sec. 4–528(1)) is amended—

(1) by striking out "who completes twenty years of police or fire service" and inserting in lieu thereof "who is an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia and first becomes such a member after the end of the ninety-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act and who completes twenty-five years of police or fire service and attains the age of fifty years and any other member (other than a member who is an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia who first becomes such a member after the end of such ninety-day period) who completes twenty years of police or fire service."; and

(2) by striking out "twenty years: *Provided*" and inserting in lieu thereof "(A) twenty-five years, in the case of a member who becomes a member after the end of such ninety-day period, or (B) twenty years, in the case of any other member: *Provided*".

(b)(1) Paragraph (2) of subsection (h) of the Policemen and Firemen's Retirement and Disability Act (D.C. Code, sec. 4–528) is amended by striking out "in subsection (h)," and inserting in lieu thereof "under".

(2) Paragraph (3) of such subsection is amended by striking out "of this subsection (h)".

DISABILITY RETIREMENT

SEC. 204. (a) Subsection (g) of the Policemen and Firemen's Retirement and Disability Act (D.C. Code, sec. 4–527) is amended—

(1) in paragraph (2), by striking out "In any case in which the proximate cause of an injury incurred or disease contracted by a member" and inserting in lieu thereof "In any case involving a member who is an officer or member of the United States Park Police force, the Executive Protective Service, or the United States Secret Service Division, in which the proximate cause of an injury incurred or disease contracted by the member"; and

(2) by adding at the end thereof the following new paragraph:

"(4) A member who is an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia may not retire and receive an annuity under this subsection on the basis of the aggravation in the performance of duty of an injury incurred or a disease contracted in the performance of duty unless—

"(A) in the case of the aggravation of a disease, the disease was reported to the Board of Police and Fire Surgeons within thirty days after the disease was first diagnosed; or

"(B) in the case of the aggravation of an injury, the injury was reported to the Board of Police and Fire Surgeons within seven days after the injury was incurred or, if the member was unable (as determined by such Board) as a result of the injury to report the injury within such seven-day period, within seven days after the member became able (as determined by such Board) to report the injury.

The burden of establishing inability to report an injury in accordance with subparagraph (B) within seven days after such injury was incurred and of establishing that such injury was reported within seven days after the end of such inability shall be on the member claiming such inability. Any report under this paragraph shall include adequate medical documentation. Nothing in this paragraph shall be deemed to alter or affect any administrative regulation or requirement of the Metropolitan Police force or the Fire Department of the District of Columbia with respect to the reporting of any injury incurred or aggravated, or any disease contracted or aggravated, in the performance of duty.".

(b)(1) Subsection (f) of such Act (D.C. Code, sec. 4–526) is amended—

(A) by striking out "Whenever" and inserting in lieu thereof.

"(1) Except as provided in paragraph (2), whenever"; and

(B) by adding at the end thereof the following new paragraph:

"(2) Whenever any member who is an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia and who first becomes such a member after the end of the ninety-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act completes five years of police or fire service and is found by the Mayor to have become disabled due to injury received or disease contracted other than in the performance of duty, which disability precludes further service with his department, such member shall be retired on an annuity which shall be 70 per centum of his basic salary at the time of retirement multiplied by the percentage of disability for such member as determined in accordance with subsection (g)(5)(B)(ii) of this section, except that such annuity shall not be less than 30 per centum of his basic salary at the time of retirement.".

(2) Subsection (g) of such Act, as amended by subsection (a) of this section, is further amended—

(A) in paragraph (1), by striking out "Whenever" and inserting in lieu thereof "Except as provided in paragraph (5), whenever"; and

(B) by adding at the end thereof the following new paragraph:

"(5)(A) Whenever any member who is an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia and who first becomes such a member after the end of the ninety-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act is injured or contracts a disease in the performance of duty or such injury or disease is aggravated by such duty at any time after appointment and such injury or disease or aggravation permanently disables him for the performance of duty, he shall upon retirement for such disability, receive an annuity computed in accordance with subparagraph (B).

"(B)(i) In the case of any member who retires under this paragraph or paragraph (2) of subsection (f), the Board of Police and Fire Surgeons shall determine, within a reasonable time and in accordance with regulations which the Mayor shall promulgate, the percentage of impairment for such member and shall report such percentage of impairment to the Police and Firemen's Retirement and Relief Board.

"(ii) In the case of any member described in clause (i), the Police and Firemen's Retirement and Relief Board shall determine within a reasonable time the percentage of disability for such member giving due regard to—

"(I) the nature of the injury or disease,

"(II) the percentage of impairment reported pursuant to clause (i),

"(III) the position in the Metropolitan Police force or the Fire Department of the District of Columbia held by the member immediately prior to his retirement,

"(IV) the age and years of service of the member, and

"(V) any other factors or circumstances which may affect the capacity of the member to earn wages or engage in gainful activity in his disabled condition, including the effect of the disability as it may naturally extend into the future.

"(iii) The percentage of impairment or the percentage of disability for a member to whom this paragraph applies may be redetermined at any time prior to the time such member reaches the age of fifty and his annuity adjusted accordingly.

"(iv) The annuity of a member who is retired under this paragraph shall be 70 per centum of his basic salary at the time of retirement multiplied by the percentage of disability for such member as determined in accordance with clause (ii), except that such annuity shall not be less than 40 per centum of his basic salary at the time of retirement.

"(v) For purposes of this paragraph—

"(I) the term 'impairment' means any anatomic or functional abnormality or loss existing after maximal medical rehabilitation has been achieved; and

"(II) the term 'disability' means any actual or presumed reduction in or absence of ability to engage in gainful activity which is caused, in whole or in part, by an impairment."

(c) The amendment made by paragraph (1) of subsection (a) shall not apply with respect to officers and members of the Metropolitan Police force or the Fire Department of

the District of Columbia who apply for disability retirement under subsection (g) of the Policemen and Firemen's Retirement and Disability Act prior to the end of the ninety-day period beginning on the date of the enactment of this Act. The amendment made by paragraph (2) of subsection (a) shall not apply with respect to injuries incurred or diseases first diagnosed prior to the end of such ninety-day period.

RECOVERY FROM DISABILITY

Sec. 205. (a)(1) Subsection (j)(1) of the Policemen and Firemen's Retirement and Disability Act (D.C. Code, sec. 4–530(1)) is amended in the first sentence by striking out "shall cease" and all that follows in such sentence and inserting in lieu thereof "shall cease—

"(A) upon reemployment in the department from which he was retired.

"(B) one year from the date of the medical examination showing such recovery,

"(C) one year from the date of the determination that he is so restored, or

"(D) in the case of an annuitant who was an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia and who first became such a member after the end of the ninety-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act, upon a refusal by such annuitant to accept an offer of reemployment in the department from which he was retired at the same grade or rank as he held at the time of his retirement,

whichever is earliest.".

(2)(A) Such subsection (j)(1) is amended in the second sentence by striking out "in each of the two succeeding calendar years" and inserting in lieu thereof ", in each of two succeeding calendar years in the case of an annuitant who was an officer or member of the United States Park Police force, Executive Protection Service, or the United States Secret Service Division, or in any calendar year in the case of an annuitant who was an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia,".

(B) Subsection (j) of such Act is further amended by adding at the end thereof the following new paragraph:

"(3)(A) If any annuitant who is retired under subsection (f) or (g), who prior to such retirement was an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia, and who first became such a member after the end of the ninety-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act, receives, directly or indirectly, income from wages or self-employment, or both, in any calendar year after the calendar year in which he retired—

"(i) in an amount in excess of the difference between 70 per centum of the current earnings limitation and the amount of annuity payable to such annuitant during such year under each such subsection prior to the reductions provided for in this paragraph, then (except as provided in subparagraph (D)) the annuity of such annuitant shall be reduced by 50 cents for each $1.00 of such income received during such year in excess of such difference; and

"(ii) in an amount in excess of the difference between the current earnings limitation and the amount of annuity payable to such annuitant during such year under each such subsection prior to the reductions provided for in this paragraph, then (except as provided in subparagraph (D)) the annuity of such annuitant shall be further reduced by 20 cents for each $1.00 of such income received during such year in excess of such difference.

(B) For the purposes of subparagraph (A), the term "current earnings limitation", with respect to an annuitant, means the greater of—

"(i) the current annual salary for the position which such annuitant held immediately prior to the retirement of such annuitant; or

"(ii) the current entry level salary for active officers and members, divided by .7.

"(C) The reductions provided for in subparagraph (A) shall be made as follows:

"(i) Such reductions shall be pro rated over a period of twelve consecutive months, with equal amounts withheld from each payment of annuity during such twelve-month period.

"(ii) The twelve-month period during which such reduction is made shall begin as soon after the end of the calendar year involved as is administratively practicable (as determined in accordance with regulations which the Mayor of the District of Columbia shall promulgate).

"(D) If the Mayor of the District of Columbia determines that the level of income of an annuitant whose annuity would otherwise be reduced in accordance with subparagraph (A) has decreased significantly (other than in accordance with normal income fluctuations for such annuitant) during the period in which such reduction would occur, the Mayor may authorize the withholding during such period or any portion thereof of such lesser amount than the amount prescribed in such subparagraph as the Mayor considers appropriate or the Mayor may waive the requirements of subparagraph (A) if he finds that circumstances justify such waiver.

"(C)(i) Any annuitant who is retired under subsection (f) or (g) and who prior to such retirement was an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia shall at such times as the Mayor of the District of Columbia shall by regulation prescribe, submit to the Mayor a notarized statement containing such information as the Mayor shall by regulation require with respect to the income received by such annuitant from wages or self-employment, or both. After examining such statement, the Mayor may require such annuitant to submit to the Mayor a further notarized statement containing such additional information with respect to the income received by such annuitant from wages or self-employment, or both, as the Mayor deems appropriate.

"(ii) Any annuitant described in clause (i) who willfully furnishes materially false information with respect to his income in any statement required to be submitted under such clause shall forfeit all rights to his disability annuity. Any such annuitant who refuses or otherwise willfully fails to timely submit such statement as required by this subsection, payment of the annuity to such annuitant shall cease and such annuitant shall not be eligible to receive such annuity or any part thereof for the period beginning on the date after the final day for timely filing of such statement and ending on the date on which the Mayor receives such statement. Nothing in this clause shall affect any rights to a survivor's annuity under subsection (k) based upon the service of such annuitant.".

(b) Subsection (m)(2) of such Act (D.C. Code, sec. 4–533(2)) is amended—

(1) by inserting "(A)" before "If a member";

(2) by striking out the last sentence of such subsection and adding after "is based." the following: "The Commissioner shall not require employment questionnaires under subsection (j)(3)(C) or the medical examination of such member under subparagraph (B) after such member reaches the age of fifty."; and

(3) by adding at the end of such subsection the following new subparagraph:

"(B) The Mayor shall, by regulation, require any annuitant who was an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia and who retired before, on, or after the date of the enactment of the District of Columbia Retirement Reform Act under subsection (f) or (g) of this section to undergo, during each twelve-month period following the effective date of this subparagraph, at least one medical examination of the disability upon which the annuitant's retirement under subsection (f) or (g) is based. No such annuitant shall be required under such regulations to undergo a medical examination during any such twelve-month period during which the annuitant was required to undergo a medical examination under this subsection in connection with such annuitant's employment. Such annual examination shall be carried out by the Board of Police and Fire Surgeons or by a physician designated by the Board.

"(2) Such regulations shall further provide for notification by the Board of Police and Fire Surgeons to each such annuitant as to the time and place for such examination and the consequences of failure to appear and submit to such examination.

"(3) In any case in which the requirement to undergo a medical examination under this section would impose on an annuitant an undue hardship because of the physical or mental condition of such annuitant, the Mayor, by regulation, shall provide other means sufficient to determine the continuance of the disability on which such annuitant's retirement under subsection (f) or (g) is based.

"(4) Such regulations shall further provide that, in any case involving any such member so retired who refuses or otherwise fails to undergo any medical exam required by this section, payment of the annuity to such member shall cease and such member shall not be eligible to receive such annuity or any part thereof for any period commencing on the day next following the day on which such member was required to undergo such examination, and ending on the date on which such member undergoes such examination. Nothing in this paragraph shall be construed as affecting any rights to a survivor's annuity under subsection (k) based upon the service of such member.".

(c) The amendments made by subsections (a) and (b) shall take effect at the end of the ninety-day period beginning on the date of enactment of this Act. The amendment made by paragraph (2)(B) of subsection (a) shall apply with respect to income from wages or self-employment, or both, received directly or indirectly during calendar year 1978 or the calendar year after the year in which the member retires, whichever is later, and any calendar year thereafter.

SURVIVOR'S ANNUITIES

Sec. 206. (a)(1) Subsection (k) of the Policemen and Firemen's Retirement and Disability Act (D.C. Code, sec. 4–531) is amended—

(A) in paragraph (2)—

(i) by inserting "(A)" immediately after "40 per centum" the second place it appears, and

(ii) by striking out "computed," and inserting in lieu thereof "computed in the case of a member who was an officer or member of the United States Park Police force, the Executive Protective Service, or the United States Secret Service Division, or (B) of the adjusted average pay of such former member in the case of a member who was an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia;"; and

(B) by amending paragraph (3) to read as follows:

"(3) Each surviving child or student-child of any member who dies before retirement, or of any former member who dies after retirement, shall be entitled to receive an annuity equal to the smallest of—

"(A) in the case of a member or former member who is survived by a wife or husband—

"(i) 60 per centum of—

"(I) the member's average pay at the time of death, or

"(II) the basis upon which the former member's annuity at the time of death was computed in the case of a member who was an officer or member of the United States Park Police force, the Executive Protective Service, or the United States Secret Service Division, or the adjusted average pay of the former member in the case of a member who was an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia,

divided by the number of eligible children;

"(ii) $1,548; or

"(iii) $4,644 divided by the number of eligible children; and

"(B) in the case of a member or former member who is not survived by a wife or husband—

"(i) 75 per centum of—

"(I) the member's average pay at the time of death, or

"(II) the basis upon which the former member's annuity at the time of death was computed in the case of a member who was an officer or member of the United States Park Police force, the Executive Protective Service, or the United States Secret Service Division, or the adjusted average pay of the former member in the case of a member who was an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia.

divided by the number of eligible children;

"(ii) $1,860; or

"(iii) $5,580 divided by the number of eligible children.".

(2) Subsection (a) of such Act (D.C. Code, sec. 4–521) is amended—

(A) by striking out the period at the end of paragraph (4) of such subsection and inserting in lieu thereof the following: ", in the case of a member who was an officer or member of the United States Park Police force, the Executive Protective Service, or the United States Secret Service Division, or the surviving husband of a member or former member who was a member or officer of the Metropolitan Police force or the Fire Department of the District of Columbia if—

"(A) he was married to such member or former member (i) while she was a member, or (ii) for at least one year immediately preceding her death, or

"(B) he is the father of issue by such marriage."; and

(B) by inserting the following new paragraph immediately after paragraph (17):

"(18) The term 'adjusted average pay' means the average pay of a member who was an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia increased by the per centum increase (adjusted to the nearest one-tenth of 1 per centum in the Consumer Price Index for All Urban Consumers, published by the Bureau of Labor Statistics, between the month in which such member retires and the month immediately prior to the month in which such member dies.".

(b) The amendments made by subsection (a) shall apply with respect to survivor annuities under the Policemen and Firemen's Retirement and Disability Act for survivors of officers or members of the Metropolitan Police force or the Fire Department of the District of Columbia which commence on or after the first day of the first month which begins after the end of the 90-day period beginning on the date of the enactment of this Act.

DEFERRED ANNUITIES

SEC. 207. (a)(1) The Policemen and Firemen's Retirement and Disability Act is amended—

(A) by redesignating subsections (l) through (r) as subsections (m) through (s), respectively; and

(B) by inserting immediately after subsection (k) the following new subsection:

"DEFERRED ANNUITIES

"(l)(1) Except as provided in paragraph (2), any member who is an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia who completes five years of police or fire service and who is thereafter separated from his department, except for retirement under subsection (f), (g), or (h), shall be entitled to an annuity commencing on the first day of the month during which such member attains the age of fifty-five or on the first day of the first month beginning after such member's separation from his department, whichever month occurs later. Such annuity shall be computed at the rate of 2½ per centum of his average pay for each year of service up to twenty years of service and at the rate of 3 per centum of his average pay for each year of service after twenty years of service or, in the case of a member who first became such a member after the end of the ninety-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act, after twenty-five years of service, except that such annuity may not exceed 80 per centum of the average pay of such member.

"(2)(A) Any member who is an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia who completes five years of police or fire service and who is thereafter separated from his department (other than a member who retires under subsection (f), (g), or (h)) may elect, at the time of his separation, to receive a refund of the amount of deductions made from his salary under this section. Receipt of such refund by the member shall void all annuity rights under this section.

"(B)(i) Any member who, by electing to receive a refund under subparagraph (A), loses annuity rights under this section, may reestablish all such rights at any time prior to attaining the age of fifty-five by redepositing the amount of such refund plus interest computed in accordance with paragraph (3).

"(ii) If any member who receives a refund under subparagraph (A) is subsequently reappointed to any department whose members come under this section and elects, at the time of such reappointment, to redeposit the amount refunded to him under subparagraph (A) plus interest computed in accordance with paragraph (3), then credit shall be allowed under this section for such member's prior period of service. Such redeposit (and the required interest thereon) may, at the election of the member, be made in a lump sum or in not to exceed 60 monthly installments, except that if the member dies before depositing the full amount due under the preceding sentence, the requirements of such sentence shall be deemed to have been met.

"(3) The interest which is required by paragraphs (2)(B)(i) and (ii) of this subsection and by paragraph (2)(B) of subsection (d) to be paid by a member who redeposits the amount of previously refunded deductions shall be computed as follows:

"(A) Interest shall be paid at a rate which (as determined by the Mayor of the District of Columbia) is equal to the average rate of return on investment (adjusted to the nearest one-eighth of 1 per centum) for the District of Columbia Police Officers and Fire Fighters' Retirement Fund (established by section 122 of the District of Columbia Retirement Reform Act) for the period beginning on the first day of the first month which begins after the end of the service with respect to which the redeposit is made and ending in the last day of the month which precedes the month during which he redeposits the refund if he makes a lump sum payment or during which he makes the first monthly payment if he makes monthly payments, except that for so much of any such period which precedes October 1, 1980, the average rate of interest on interest-bearing obligations of the United States forming a part of the public debt (adjusted to the nearest one-eighth of 1 per centum) shall be used in determining the interest rate to be paid on redeposits under this section.

"(B) Interest shall be payable for the period beginning on the first day of the first month which begins after the end of the period of service with respect to which the redeposit is made and ending on the last day of the month which precedes the month during which he redeposits the refund.

"(C) If a member elects to make his redeposit in monthly installments, each monthly payment shall include interest on that portion of the refund which is then being redeposited.".

(2) Subsection (k) of such Act (D.C. Code, 4–531), as amended by section 206 of this Act, is further amended—

(A) in paragraph (2)—

(i) by striking out "or" the first place it appears, and

(ii) by inserting "or of any member entitled to receive an annuity under subsection (l) (regardless of whether such member is receiving such annuity at the time of death)," immediately after "after retirement,";

(B) in paragraph (3)—

(i) by striking out "or" the second place it appears, and

(ii) by inserting "or of any member entitled to receive an annuity under subsection (l) (regardless of whether such member is receiving such annuity at the time of death)," immediately after "after retirement,"; and

(C) in paragraph (6)—

(i) by striking out ", may," in the first sentence and inserting in lieu thereof "may",

(ii) by inserting ", and any member entitled to receive an annuity under subsection (l) of this section may at the time such annuity commences," immediately after "such retirement," in the first sentence,

(iii) by striking out "the retired annuitant's" in the first sentence and inserting in lieu thereof "such member's",

(iv) by striking out "the retiring" in the proviso in the first sentence and inserting in lieu thereof "such",

(v) by striking out "retiring" in the second and fourth sentences,

(vi) by striking out "retirement" in the last sentence and inserting in lieu thereof "election", and

(vii) by striking out "or (h)" in the last sentence and inserting in lieu thereof "(h), or (l), as the case may be".

(b) The amendments made by subsection (a) shall take effect at the end of the 90-day period beginning on the date of the enactment of this Act.

INTEREST ON REFUNDS AND ON DEPOSITS FOR PRIOR SERVICE CREDIT

SEC. 208. (a)(1) Subsection (d) of the Policemen and Firemen's Retirement and Disability Act (D.C. Code, sec. 4–524) is amended—

(A) in paragraph (2)—

(i) by striking out "Any member coming under the provisions of this section" and inserting in lieu thereof "(A) Any member who is an officer or member of the United States Park Police force, the Executive Protective Service, or the United States Secret Service Division,"; and

(ii) by adding at the end of such paragraph the following new subparagraph.

"(B) Any member who is an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia with less than five years of police or fire service who is separated from his department, except for retirement under subsection (f), (g), or (h), shall be refunded the amount of the deductions made from his salary under this section. The receipt of payment of such deductions by such member shall void all annuity rights under this section, except that if such member is subsequently reappointed to any department whose members come under this section and such member elects, at the time of such reappointment, to redeposit the amount refunded to him pursuant to the preceding sentence plus interest computed in accordance with subsection (1)(3), then credit shall be allowed under this section for the prior period of service. Such redeposit (and the interest required thereon) may be made, at the election of the member, in a lump sum or in not to exceed 60 monthly installments, except that if such member dies before depositing the full amount due under the preceding sentence, the requirements of such sentence shall be deemed to have been met.";

(B) in the proviso at the end of paragraph (3), by inserting immediately before the period ", except that if the member was an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia, no payment shall be made if no natural person is determined to be entitled thereto"; and

(C) in paragraph (4)—

(i) by striking out "after retirement", and

(ii) in the proviso at the end of such paragraph by inserting ", except that if the member was an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia, no payment shall be made if no natural person is determined to be entitled thereto" immediately before the period.

(2) Paragraph (5) of subsection (c) of such Act (D.C. Code, sec. 4–523(5)) is amended to read as follows:

"(5)(A) A member shall be allowed credit for government service performed prior to appointment in any of the departments mentioned in subsection (a)(1) of this section, if such member deposits a sum equal to the entire amount, including interest (if any), refunded to him for such period of government service. A member who is an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia shall deposit such sum, plus interest computed in accordance with subparagraph (B), with the Custodian of Retirement Funds (as defined in section 102 (6) of the District of Columbia Retirement Reform Act) for deposit in the District of Columbia Police Officers and Fire Fighters' Retirement Fund established by section 122(a) of such Act. All other members shall deposit such sum with the Mayor of the District of Columbia for credit to the revenues of the District of Columbia. If the member so elects, he may deposit the total amount of such refund in monthly installments not exceeding twenty-four, except that in the case of a member who is an officer or member of the United States Park Police force, the Executive Protective Service, or the United States Secret Service Division, such monthly installments shall be of equal amounts. No deposit shall be required for days of unused sick leave credited under subsection (h) of this section.

"(B) Interest required on deposits under this paragraph for members who are officers or members of the Metropolitan Police force or the Fire Department of the District of Columbia shall be computed as follows:

"(i) Interest shall be paid at a rate which (as determined by the Mayor of the District of Columbia) is equal to the average rate of return on investment (adjusted to the nearest one-eighth of 1 per centum) for the District of Columbia Police Officers and Fire Fighters' Retirement Fund (established by section 122 of the District of Columbia Retirement Reform Act) for the period beginning on the first day of the first month which begins after the end of the service with respect to which the deposit is made and ending on the last day of the month which precedes the month during which the deposit is made if he makes a lump-sum payment or during which he makes the first monthly payment if he makes monthly payments, except that for so much of any such period which precedes October 1, 1980, the average rate of interest on interest-bearing obligations of the United States forming a part of the public debt (adjusted to the nearest one-eighth of 1 per centum) shall be used in determining the interest rate to be paid on deposits under this paragraph.

"(ii) Interest shall be payable for the period beginning on the first day of the first month which begins after the end of the period of service with respect to which the deposit is made and ending on the last day of the month which precedes the month during which the deposit is made.

"(iii) If a member elects to make his deposit in monthly installments, each monthly payment shall include interest on that portion of the refund which is then being redeposited.".

(b) The amendments made by subsection (a) shall take effect at the end of the 90-day period beginning on the date of the enactment of this Act. The amendments made by paragraph (2) of subsection (a) shall not apply with respect to deposits made, in whole or in part, prior to the end of such 90-day period.

COST-OF-LIVING ADJUSTMENTS OF ANNUITIES

SEC. 209. (a)(1) The Policemen and Firemen's Retirement and Disability Act is amended—

(A) by redesignating subsections (m) through (s), as redesignated by section 207(a)(1)(A) of this Act, as subsections (n) through (t), repectively; and

(B) by inserting immediately after subsection (l), as added by the amendment made by section 207(a)(1)(B) of this Act, the following new subsection:

"COST-OF-LIVING ADJUSTMENTS OF ANNUITIES

"(m)(1) Each month the Mayor of the District of Columbia shall determine the per centum change in the price index. On the basis of this determination, and effective the first day of the third month which begins after the price index shall have equaled the rise of at least 3 per centum for three consecutive months over the price index for the base month each annuity payable under this section which—

"(A) is payable to a survivor of a member who was an officer or member of the United States Park Police force, the Executive Protective Service, or the United States Secret Service Division, and

"(B) has a commencing date on or before such effective date, shall be increased by 1 per centum plus the per centum rise in the price index. For purposes of this paragraph, the term 'base month' means the month for which the price index showed a per centum rise forming the basis for a cost-of-living annuity increase under this paragraph, except that, until the first cost-of-living annuity increase under this paragraph, the base month shall be the last month which was the base month for purposes of subsection (k)(7) before its repeal by section 209(b) of the District of Columbia Retirement Reform Act.

"(2) With respect to any annuity payable under this section which is payable to a member who was an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia, or to a survivor of any such member, the Mayor shall—

"(A) on January 1 of each year, or within a reasonable time thereafter, determine the per centum change in the price index published for December of the preceding year over the price index published for June of the preceding year, and

"(B) on July 1 of each year, or within a reasonable time thereafter, determine the per centum change in the price index published for June of such year over the price index published for December of the preceding year.

"(3) If in any year the per centum change determined under either paragraph (2)(A) or (2)(B) indicates a rise in the price index, then—

"(A) in the case of an increase under paragraph (2)(A), (i) each annuity described in paragraph (2) having a commencing date not later than March 1 of such year shall, effective such March 1, be increased by the per centum change computed under such paragraph, adjusted to the nearest one-tenth of 1 per centum, and (ii) each annuity described in such paragraph having a commencing date after such March 1 but before the effective date of the next increase in annuities under this paragraph shall, effective such commencing date, be increased by such per centum change, adjusted to the nearest one-tenth of 1 per centum, or

"(B) in the case of an increase under paragraph (2)(B), (i) each annuity described in paragraph (2) having a commencing date not later than September 1 of such year shall, effective such September 1, be increased by the per centum change computed under such paragraph, adjusted to the nearest one-tenth of 1 per centum, and (ii) each annuity described in such paragraph having a commencing date after such September 1 but before the effective date of the next increase in annuities under this paragraph shall, effective such commencing date, be increased by such per centum change, adjusted to the nearest one-tenth of 1 per centum.

"(4) The monthly installment of annuity after adjustment under this subsection shall be fixed at the nearest dollar, except that such installment shall after adjustment reflect an increase of at least $1.

"(5) For purposes of this subsection, the term 'price index' means the Consumer Price Index for all Urban Consumers published monthly by the Bureau of Labor Statistics."

(2) Subsections (m) (2) and (3) of the Policemen and Firemen's Retirement and Disability Act, as added by the amendment made by paragraph (1)(B) of this subsection, shall apply (A) to any increase after the effective date of such amendment in annuities payable under subsection (k) of such Act, except that with respect to the first date after the effective date of such amendment on which the Mayor is to determine a per centum change for the purpose of such an increase, such per centum change shall be determined by computing the change in the price index published for the month immediately preceding such first date over the price index published for the last month which was the base month for purposes of subsection (k)(7) of the Policemen and Firemen's Retirement and Disability Act before the repeal of such subsection by subsection (b) of this section, and (B) to any increase in each annuity payable under such Act having a commencing date after the effective date of such amendment.

(b) Subsection (k)(7) of the Policemen and Firemen's Retirement and Disability Act (D.C. Code, sec. 4–531(7)) is repealed.

(c) Section 301 of the District of Columbia Police and Firemen's Salary Act of 1953 (D.C. Code, sec. 4–518) is amended by adding at the end thereof the following new subsection:

"(e) This section shall not apply with re-

spect to officers and members of the Metropolitan Police force or the Fire Department of the District of Columbia who retire after the effective date of this subsection.".

(d) The amendments made by this section shall take effect at the end of the 90-day period beginning on the date of the enactment of this Act.

AUTHORITY TO WAIVE COLLECTION OF OVERPAYMENTS

SEC. 210. Subsection (o) of the Policemen and Firemen's Retirement and Disability Act, as amended by section 205(c) of this Act and redesignated by section 209(a)(1)(A) of this Act (D.C. Code, sec. 4–533), is amended by adding at the end thereof the following new paragraph:

"(3) Except in a case of fraud against the District of Columbia, the Mayor may waive collection of any amount less than $100 which was paid to an annuitant in excess of the amount to which such annuitant was entitled under this section.".

COMMENCING DATE OF PAYMENT OF ANNUITIES

SEC. 211. Subsection (p) of the Policemen and Firemen's Retirement and Disability Act, as redesignated by section 209(a)(1)(A) of this Act (D.C. Code, sec. 4–534), is amended by inserting after "accrues monthly" in paragraph (1) the following: "(except that an annuity accrues over any portion of a month after the commencing date of such annuity but before the first day of the next month and is payable for such month in an amount pro rated in a manner to be determined by the Mayor)".

PAYMENT OF ANNUITIES TO MINORS AND MENTAL INCOMPETENTS

SEC. 212. Subsection (p) of the Policemen and Firemen's Retirement and Disability Act, as redesignated by section 209(a)(1)(A) of this Act and amended by section 211 of this Act (D.C. Code, sec. 4–534), is amended by redesignating paragraphs (2) and (3) of such subsection as paragraphs (3) and (4), respectively, and by inserting after paragraph (1) the following new paragraph:

"(2) Payment due a minor, or an individual mentally incompetent or under other legal disability, may be made to the person who is constituted guardian or other fiduciary by the law of the State of residence of the claimant or is otherwise legally vested with the care of the claimant or his estate. If a guardian or other fiduciary of the individual under legal disability has not been appointed under the law of the State of residence of the claimant, payment may be made to any person who, in the judgment of the Mayor, is responsible for the care of the claimant, and the payment bars recovery by any other person.".

PART B—TEACHERS' AND JUDGES' RETIREMENT BENEFITS

COST-OF-LIVING ADJUSTMENTS OF TEACHERS' ANNUITIES

SEC. 251. (a)(1) Section 21(b) of the Act entitled "An Act for the retirement of public school teachers in the District of Columbia", approved August 7, 1946 (D.C. Code, sec. 31–739a(b)) is amended to read as follows:

"(b)(1) The Mayor shall—

"(A) on January 1 of each year, or within a reasonable time thereafter, determine the per centum change in the price index published for December of the preceding year over the price index published for June of the preceding year, and

"(B) on July 1 of each year, or within a reasonable time thereafter, determine the per centum change in the price index published for June of such year over the price index published for December of the preceding year.

"(2) If in any year the per centum change determined under either paragraph (1)(A) or (1)(B) indicates a rise in the price index, then—

"(A) in the case of an increase under paragraph (2)(A), (i) each annuity described in paragraph (2) having a commencing date not later than March 1 of such year shall, effective such March 1, be increased by the per centum change computed under such paragraph, adjusted to the nearest one-tenth of 1 per centum, and (ii) each annuity described in such paragraph having a commencing date after such March 1 but before the effective date of the next increase in annuities under this paragraph shall, effective such commencing date, be increased by such per centum change, adjusted to the nearest one-tenth of 1 per centum, or

"(B) in the case of an increase under paragraph (2)(B), (i) each annuity described in paragraph (2) having a commencing date not later than September 1 of such year shall, effective such September 1, be increased by the per centum change computed under such paragraph, adjusted to the nearest one-tenth of 1 per centum, and (ii) each annuity described in such paragraph having a commencing date after such September 1 but before the effective date of the next increase in annuities under this paragraph shall, effective such commencing date, be increased by such per centum change, adjusted to the nearest one-tenth of 1 per centum.".

(2) The amendment made by paragraph (1) shall apply to any increase after the effective date of such amendment in annuities payable from the District of Columbia technical retirement and annuity fund established by section 2 of the Act entitled "An Act for the retirement of public-school teachers in the District of Columbia", approved August 7, 1976 or from the District of Columbia Teachers' Retirement Fund established by section 123(a) of this Act, except that with respect to the first date after the effective date of such amendment on which the Mayor is to determine a per centum change, such per centum change shall be determined by commiting the change in the price index published for the month immediately preceding such first date over the price index published for the last month before such effective date for which the price index showed a per centum rise forming the basis for a cost-of-living annuity increase under section 21(b) of such Act of August 7, 1946, as in effect immediately before the amendment of such section by paragraph (1).

(b) Section 21(c) of the Act entitled "An Act for the retirement of public-school teachers in the District of Columbia," approved August 7, 1946 (D.C. Code, sec. 31–739a(c)), is amended—

(1) by striking out "governed by the commencing date of each annuity payable from the fund as the effective date of an increase" and inserting in lieu thereof "as provided in subsection (b)(2)"; and

(2) by striking out "from the fund" in paragraph (1) of such section.

(c) The amendments made by subsections (a) and (b) shall take effect at the end of the ninety-day period beginning on the date of the enactment of this Act.

COST-OF-LIVING ADJUSTMENTS OF JUDGE'S ANNUITIES

SEC. 253. (a) Section 11–1571(a) of title 11 of the District of Columbia Code is amended by inserting ", or who, before the next such increase first becomes payable under such section, receives such salary or annuity, either" immediately after "salary or annuity".

(b) The amendment made by subsection (a) shall take effect at the end of the ninety-day period beginning on the date of the enactment of this Act.

INTEREST ON TEACHERS' REFUNDS AND DEPOSITS

SEC. 253. (a)(1) The first section of the act "An Act for the retirement of public-school teachers in the District of Columbia", approved August 7, 1946 (D.C. Code, sec. 31–721) is amended—

(1) in the first paragraph by inserting "or the end of the 90-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act, whichever is earlier" immediately before the period at the end of the provision in the second sentence; and

(2) in the second paragraph—

(A) in the first sentence—

(i) by striking out "at 3 per centum per annum compounded as of December 31 of each year" and inserting in lieu thereof "computed in accordance with section 24(a) of this Act" and

(ii) by striking out "an interest rate of 3 per centum per annum compounded annually" and inserting in lieu thereof "the interest rate computed in accordance with section 24(a) of this Act"; and

(B) in the second sentence, by inserting "to the date of such death or separation or the end of the 90-day period beginning on the date of enactment of the District of Columbia Retirement Reform Act, whichever is earlier" immediately after "are made".

(2) Section 1A(b) of such Act (D.C. Code sec. 31–721a(b)) is amended by striking out "with interest at 4 per centum compounded annually" in the first sentence and inserting in lieu thereof ", with interest computed in accordance with section 24(b) of this Act,".

(3) Section 8 of such Act (D.C. Code, sec. 31–728) is amended in the first paragraph—

(A) in the second proviso in the sixth sentence—

(i) by striking out "the accumulated contributions and interest" and inserting in lieu thereof "(1) the accumulated contributions", and

(ii) by inserting immediately before the colon at the end of such proviso ", and (2) interest thereon computed in accordance with section 24(b) of this Act"; and

(B) in the seventh sentence, by striking out "with interest at 3 per centum per annum compounded annually".

(4) Section 9(a) of such Act (D.C. Code, sec. 31–729(a)) is amended—

(A) in the first proviso—

(i) by inserting "(computed to the date of separation or the end of the 90-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act, whichever is earlier)" immediately after "thereon", and

(ii) by inserting "(computed to the date of separation or the end of the 90-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act, whichever is earlier)" immediately after "interest" the second time it appears;

(B) in the second proviso, by inserting "(including the interest thereon) plus interest computed in accordance with section 24(c) of this Act" immediately before the colon at the end of such proviso; and

(C) in the third proviso, by striking out ", with interest at 3 per centum compounded annually".

(5) Section 10(f)(3) of such Act (D.C. Code, sec. 31–730(f)(3)) is amended by inserting after "interest" the first time it appears ", earned prior to the end of the 90-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act.".

(6) Such Act is further amended by adding at the end thereof the following new section:

"SEC. 24 (a) For purposes of determining the amount available to purchase an annuity under the second paragraph of the first section of this Act, interest shall be deemed to accrue on deposits at the following rates for the following periods;

"(1) Prior to the end of the 90-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act, interest shall accrue at the rate of 3 per centum per annum compounded as of December 31 of each year.

"(2) For the period beginning at the end of the 90-day period beginning on the date

of the enactment of the District of Columbia Retirement Reform Act and ending on September 30, 1980, interest shall accrue at a rate which (as determined by the Mayor of the District of Columbia) is equal to the average rate of interest on interest-bearing obligations of the United States forming a part of the public debt (adjusted to the nearest one-eighth of 1 per centum).

"(3) After October 1, 1980, interest shall accrue at an annual rate which (as determined by the Mayor of the District of Columbia) is equal to the average annual rate of return on investment (adjusted to the nearest one-eighth of 1 per centum) for the District of Columbia Teachers' Retirement Fund established by section 123 of the District of Columbia Retirement Reform Act.

"(b) Interest required on deposits under section 1A or 8 of this Act or under the Act of June 27, 1960, shall be computed as follows:

"(1) Interest shall be paid at a rate which (as determined by the Mayor of the District of Columbia) is equal to the average rate of return on investment (adjusted to the nearest one-eighth of 1 per centum) for the District of Columbia Teachers' Retirement Fund (established by section 123 of the District of Columbia Retirement Reform Act) for the period beginning on the first day of the first month which begins after the midpoint of the period with respect to which the deposit is made and ending on the last day of the month which precedes the month during which the deposit is made if he makes a lump-sum payment or during which he makes the first payment if he makes installment deposits, except that—

"(A) for so much of any such period which occurs between the end of the 90-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act and October 1, 1980, the average rate of interest on interest-bearing obligations of the United States forming a part of the public debt (adjusted to the nearest one-eighth of 1 per centum) shall be used in determining the interest rate to be paid on deposits; and

"(B) for so much of any such period which occurs prior to the end of the 90-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act, the rate of 3 per centum a year, compounded annually, shall be used in determining the interest rate to be paid on deposits.

"(2) Interest shall be payable for the period beginning on the first day of the first month which begins after the midpoint of the period with respect to which the deposit is made and ending on the last day of the month which precedes the month during which the deposit is made.

"(3) If a teacher elects to make his deposit in installments, each payment shall include interest on that portion of the refund which is then being redeposited.

"(c) Interest required on deposits under section 9(a) of this Act shall be computed as follows:

"(1) Interest shall be paid at a rate which (as determined by the Mayor of the District of Columbia) is equal to the average rate of return on investment (adjusted to the nearest one-eighth of 1 per centum) for the District of Columbia Teachers' Retirement Fund (established by section 123 of the District of Columbia Retirement Reform Act) for the period beginning on the first day of the first month which begins after the end of the service period with respect to which the deposit is made and ending on the last day of the month which precedes the month during which the deposit is made if he makes a lump sum payment or during which he makes the first payment if he makes installment deposits, except that—

"(A) for so much of any such period which occurs between the end of the 90-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act and October 1, 1980, the average rate of interest on interest-bearing obligations of the United States forming a part of the public debt (adjusted to the nearest one-eighth of 1 per centum) shall be used in determining the interest rate to be paid on deposits; and

"(B) for so much of any such period which occurs prior to the end of the 90-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act, the rate of 3 per centum a year, compounded annually, shall be used in determining the interest rate to be paid on deposits.

"(2) Interest shall be payable for the period beginning on the first day of the first month which begins after the end of the service period with respect to which the deposit is made and ending on the last day of the month which precedes the month during which the deposit is made.

"(3) If a teacher elects to make his deposit in installments, each payment shall include interest on that portion of the refund which is then being redeposited.".

(b) The Act entitled "An Act to authorize certain teachers in the public schools of the District of Columbia to count as creditable service for retirement purposes certain periods of authorized leave without pay taken by such teachers for educational purposes", approved June 27, 1960 (D.C. Code, sec. 31–745), is amended—

(A) by striking out "and interest"; and

(B) by inserting immediately before the colon at the beginning of the proviso "plus interest computed in accordance with section 24(b) of such Act of August 7, 1946".

(c) The amendments made by this section shall take effect at the end of the 90-day period beginning on the date of the enactment of this Act.

INTEREST ON JUDGES' REDEPOSITS

SEC. 254. (a) Subchapter III of chapter 15 of the District of Columbia Code is amended—

(1) in section 11–1561—

(A) in paragraph (9)(C) by inserting immediately before the semicolon at the end thereof "or the end of the 90-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act, whichever is earlier", and

(B) in paragraph (10)(C) by inserting immediately before the semicolon at the end thereof "or the end of the 90-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act, whichever is earlier"; and

(2) in section 11–1569(c) by inserting "or the end of the 90-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act, whichever is earlier" immediately after "such judge" and before the comma.

(b) Such subchapter III is further amended—

(1) in section 11–1563(b), by striking out "at 4 per centum per annum to December 31, 1947, and 3 per centum per annum thereafter, compounded on December 31 of each year" and inserting in lieu thereof "computed in accordance with section 11–1564(d)(2)";

(2) by amending section 11–1564(d)(2) to read as follows:

"(2) Interest on deposits under this subsection and section 11–1567(b) shall be computed as follows:

"(A) Interest shall be paid at a rate which (as determined by the Mayor of the District of Columbia) is equal to the average rate of return on investment (adjusted to the nearest one-eighth of 1 per centum) for the District of Columbia Judges' Retirement Fund (established by section 124 of the District of Columbia Retirement Reform Act) for the period beginning on the first day of the first month which begins after the end of the service period with respect to which the deposit is made and ending on the last day of the month which precedes the month during which the deposit is made if he makes a lump sum payment or during which he makes the first payment if he makes installment deposits, except that—

"(i) for so much of any such period which occurs between the end of the 90-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act and October 1, 1980, the average rate of interest on interest-bearing obligations of the United States forming a part of the public debt (adjusted to the nearest one-eighth of 1 per centum) shall be used in determining the interest rate to be paid on deposits;

"(ii) for so much of any such period which occurs between January 1, 1948, and the end of the 90-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act, the rate of 3 per centum a year, compounded annually, shall be used in determining the interest rate to be paid on deposits; and

"(iii) for so much of any such period which occurs prior to January 1, 1948, the rate of 4 per centum a year, compounded annually, shall be used in determining the interest rate to be paid on deposits.

"(B) Interest shall be payable for the period beginning on the first day of the first month which begins after the end of the service period with respect to which the deposit is made and ending on the last day of the month which precedes the month during which the deposit is made.

"(C) If a judge elects to make his deposit in installments, each payment shall include interest on that portion of the refund which is then being redeposited.

Interest may not be charged for a period of separation from the service which began before October 31, 1956."; and

(3) in section 11–1567(b), by striking out "at 4 per centum per annum to December 31, 1947, and 3 per centum per annum thereafter, compounded on December 31 of each year" and inserting in lieu thereof "computed in accordance with section 11–1564(d)(2)".

(c) The amendments made by this section shall take effect at the end of the 90-day period beginning on the date of the enactment of this Act.

RESTORATION OF TEACHERS' ANNUITIES IN THE EVENT OF PREDECEASED BENEFICIARIES

SEC. 255. (a) Section 5(b) of the Act entitled "An Act for the retirement of public school teachers in the District of Columbia" approved August 7, 1946 (D.C. Code, sec. 31–725(b)), is amended by adding at the end thereof the following new paragraph:

"(4) In the event an individual designated as a surviving widow or widower or as a survivor annuitant under this subsection predeceases the teacher designating such individual, the annuity of such teacher shall, effective the day after the death of such individual, be the amount it would have been if no such beneficiary had been named.".

(b) The amendment made by subsection (a) shall take effect on October 1, 1978, or at the end of the ninety-day period beginning on the date of the enactment of this Act, whichever is later.

TERMINATION OF TEACHERS' DISABILITY ANNUITIES BASED ON OUTSIDE EARNED INCOME

SEC. 256. Section 4 of the Act entitled "An Act for retirement of public school teachers in the District of Columbia" approved August 7, 1946 (D.C. Code, sec. 31–724) is amended by insreting after the second paragraph thereof the following new paragrapn:

"Notwithstanding the foregoing provisions of this section, if during any calender year an annuitant who is receiving a disability annuity under this section and who has not

reached retirement age (as defined in section 3) receives income from wages or self-employment, or both, in an amount not less than 80 per centum of the current rate of pay of the position occupied by the annuitant before retirement, the annuity of such annuitant shall be terminated by the Board of Education effective January 1 of the first calendar year after such calendar year, except that this sentence shall not apply with respect to income received during the year in which the annuitant retired. The annuity of any annuitant whose annuity is terminated under the preceding sentence shall be restored, at the rate which would have been in effect but for such termination, effective January 1 of any year following a year during which the amount of such annuitant's income from wages and self-employment is less than 80 per centum of the current rate of pay of the position occupied by the annuitant before retirement, or effective immediately if the Board of Education determines that, outside of normal fluctuations in such annuitant's income such annuitant's income is reduced to a level which on an annual basis is less than 80 per centum of such current rate of pay.".

"And the Senate agree to the same.

ABRAHAM RIBICOFF,
THOMAS F. EAGLETON,
JIM SASSER,
CHARLES MCC. MATHIAS, Jr.,
CHARLES H. PERCY,
Managers on the Part of the Senate.

CHARLES C. DIGGS, Jr.,
RONALD V. DELLUMS,
WALTER E. FAUNTROY,
ROMANO L. MAZZOLI,
STEWART B. MCKINNEY,
CHARLES W. WHALEN, Jr.
Managers on the Part of the House.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 6536) submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck out all the House bill after the enacting clause, and inserted a substitute text.

The Committee of Conference has agreed to a substitute for both the House bill and the Senate amendment to the text of the bill. Except for clarifying, clerical, and conforming changes, the differences are noted below:

NAME OF FUNDS

The House bill named the retirement fund for police and firemen as the "District of Columbia Policemen and Firemen's Retirement Fund".

The Senate amendment styled the fund as the "District of Columbia Police Officers and Fire Fighters' Retirement Fund".

The Conference substitute (Sec. 102(10)) conforms to the Senate amendments.

TRANSFER OF MONEYS FROM CURRENT FUNDS

The House bill required that current moneys in the Teachers' Retirement and Annuity Fund and in the Judicial Retirement and Survivor Annuity Fund shall be used to pay current benefits until expended.

The Senate amendment contained similar provisions, but allows the transfer of assets from the present teachers' and judges' fund to the new Fund created by this Act without first requiring the liquidation of present funds to pay current benefits.

The Conference substitute (Secs. 123 (a) and (c), 124 (a) and (c)) conforms to the Senate amendment.

DEPOSITS FOR CREDIT OF UNUSED SICK LEAVE

The House bill retained the provisions of current law and does not require a deposit to re-purchase retirement credits for unused sick leave of police and firefighters.

The Senate amendment repealed present law and required such a deposit.

The Conference substitute (Sec. 207(a)(1)) conforms to the House bill.

RESTRICTIONS ON INVESTMENT OF FUND ASSETS

The House bill prohibited investment of funds in D.C., Maryland, or Virginia government bonds, real estate, mortgages secured by real estate, or agencies.

The Senate amendment prohibited investment of funds only in D.C., Maryland, or Virginia government bonds and agencies.

The conference substitute (Sec. 207(a)(1)) conforms to the House bill.

METHOD OF FUNDING

The House bill provided for a net level percentage system of funding.

The Senate amendment provided for a modified net normal cost method of funding.

The Conference substitute (Secs. 142 and 145) conforms to the Senate amendment, amended (1) to allow the District of Columbia to benefit from savings resulting from better management of the retirement program; (2) to provide for a liquidation by the Federal Government of the unfunded liability on October 1, 1978 (rather than January 2, 1975, as provided in the Senate amendment) for those employees retired prior to January 2, 1975; and (3) to provide for certain reductions in the Federal authorization. These reductions occur if the management of the police and fire retirement program allows current abuses to persist, thus causing the cost of the Conference substitute to exceed 102 percent of the cost of the Senate provision.

ADDITIONAL ACTUARIAL DATA

The Senate amendment authorized the Retirement Board to require the enrolled actuary to provide additional data at the Board's request.

The House bill contained no such provisions.

The Conference substitute (Sec. 144(e)) conforms to the Senate amendment.

The House bill required the Mayor and Council to include in their annual budgets the amount requested by the Retirement Board.

The Senate amendment required the Mayor and the Council to include in their annual budgets at least the amount requested by the Board, and also allowed them to include comments and recommendations on the budget amount.

The Conference substitute (Sec. 142(b)(2)) conforms to the Senate amendment.

AUTHORIZED APPROPRIATIONS

As the Federal payment toward the Fund, the House bill authorized total appropriations of $768,900,000 between Fiscal Year 1978 and Fiscal Year 2003. The Senate amendment authorized a total of $2,001,250,000 between Fiscal Year 1978 and Fiscal Year 2003. The conference substitute authorizes total appropriations of $1,625,000,000 for Fiscal Years 1979 through 2003.

On a yearly basis, the Federal payment authorized in the House bill was $47,700,000 for Fiscal Year 1978 and declining amounts for each year thereafter. The Senate amendment authorized $80,500,000 for Fiscal Year 1978 and each succeeding year through 2003.

The Conference substitute provides (Sec. 144) for an authorized appropriation of $65 million Federal payment for Fiscal Year 1979 and each succeeding year through 2003.

PAYMENT OF FEDERAL CONTRIBUTIONS

The House bill provides for annual payment of Federal contributions within 30 days of the beginning of the fiscal year.

The Senate amendment provides for quarterly payments within 30 days of the beginning of each quarter.

The Conference substitute (Sec. 144(b)(1)) conforms to the House bill.

TERMINATION OF REPORT REQUIREMENTS

The Senate amendment terminated in the year 2003 (when Federal contributions ceased) the requirement of Board members to file personal disclosure statements with the Speaker and the President pro tempore.

The House bill contained no such provision.

The Conference substitute (Sec. 161(a)) conforms to the Senate amendment.

LIABILITY FOR BREACH OF FIDUCIARY DUTY

The House bill exempted a fiduciary from liability for breaches of fiduciary committed before or after his tenure as a fiduciary.

The Senate amendment provided that a former fiduciary would not be released from liability for a breach of fiduciary duty that occurred while the individual was a fiduciary.

The Conference substitute (Sec. 182(b)) conforms to the House bill.

FUNDS FOR CREDIT FOR UNION SERVICES

The House bill required the deposit with the Custodian of Retirement Funds of funds to purchase police and fire fighters' retirement credit for full-time union services.

The Senate amendment required the deposit of such funds with the Retirement Board.

The Conference substitute (sec. 202(a)(6)(C)(1)) conforms to the House bill.

ELIGIBILITY FOR INCREASED ANNUITY RATE

The House bill maintained the provisions of current law which increases the annuity rate for police and fire fighters from 2.5 percent to 3.0 percent after 20 years of service.

The Senate amendment increased the service requirement to 25 years.

The Conference substitute (Secs. 203(a) and 207(a)(1)) conforms to the Senate amendment, with a modification restricting its application to only those members hired 90 days after the date of enactment of this Act.

APPLICABILITY OF PERCENTAGE OF DISABILITY DETERMINATIONS

The House bill applied the new Percentage of Disability System only to those hired 90 days after the date of enactment.

The Senate amendment applied the changes to current employees.

The Conference substitute (Sec. 204(b)(2), 204(b)(5)) conforms to the House bill.

DETERMINATION OF IMPAIRMENT AND DISABILITY

The Senate amendment required that the Board of Police and Fire Surgeons shall determine "within a reasonable time" the percentage of impairment and of disability of any member retired under this Act.

The House bill contained no such provision.

The Conference substitute (Sec. 204(b)(5)) conforms to the Senate amendment.

The House bill provided that the percent of disability provisions shall not apply to injuries of police and fire fighters incurred, or applications filed, prior to 90 days after enactment of this Act.

The Senate substitute provided that the percent of disability provisions shall become effective 90 days after enactment of this Act.

The Conference substitute (Sec. 204(c)) conforms to the House bill.

APPLICABILITY OF INCOME REDUCTION RULES

The House bill applied the rules for reducing police and fire fighters disability annuities, based on outside earned income to employees hired 90 days after the date of enactment of this Act.

The Senate amendment applied the rules

to those employees retired 90 days after the date of enactment.

The Conference substitute (Sec. 205(a)(2)(B)) conforms to the House bill.

LIMITATION ON OUTSIDE EARNED INCOME

The House bill provided for a police or fire fighter disability retiree to be considered to be recovered from a disability if the disability retiree's earning power was restored. The bill also provided for a reduction in the annuity of 75 cents for each dollar earned over the current salary of the retiree's last position held.

The Senate amendment provided for no recovery from disability based on income. Also, the Senate amendment provided for a reduction in an annuity of 50 cents for each dollar earned over seventy percent of the current salary of the last position held, and 70 cents for each dollar earned over the current salary of the last position held. Finally, the Senate amendment permitted higher outside income for retirees from the lowest pay grades.

The Conference substitute (Sec. 205(a)) conforms to the Senate amendment, with an amendment to retain the House bill's provisions for recovery from disability.

INCOME REPORTS OF DISABLED RETIREES

The House bill required the Mayor to specify the time and contents of income reports required of police and fire fighter disability annuitants.

The Senate amendment required filing such reports between January 1 and March 1, and set minimum standards for same.

The Conference substitute (Sec. 205(a)(2)(C)(i)) conforms to the House bill.

PENALTY FOR NON-COMPLIANCE WITH INCOME REPORTING REQUIREMENT

The House bill terminated disability annuities in all cases of willful non-compliance with income reporting requirements.

The Senate amendment terminated disability annuities in cases of willful falsification of annual income reports, and suspended such annuities until corrected report is filed, in cases of other forms of willful non-compliance.

The Conference substitute (Sec. 205(a)(2)(C)(ii)) conforms to the Senate amendment.

ANNUAL PHYSICAL EXAMINATIONS

The House bill required annual medical examinations of police and fire fighters' disability retirees.

The Senate amendment directed the Mayor to issue regulations requiring such annual examinations, and provided for notice, waiver of the examination, and time of same.

The Conference substitute (Sec. 205(b)) conforms to the Senate amendment, amended to delete the provisions for waivers of such examinations in cases of permanent disbility.

EFFECTIVE DATES OF EARNED INCOME LIMITATIONS

The House bill, to meet the thrust of outside income earned by police and fire fighters annuitants after their disability retirement, applied limits to income earned in the year after the year of enactment of this Act.

The Senate amendment applied the limits to income earned in years after a member's retirement.

The Conference substitute (Sec. 205(c)) conforms to the Senate amendment, with an amendment to exempt income earned in the year in which a member retires.

AGE REQUIRED FOR DEFERRED ANNUITY

The House bill provided that a police or fire fighter who had been a member at least 5 years, but who terminated employment prior to normal retirement requirement, would receive a deferred annuity at age 55.

The Senate amendment required that a member attain age 55 to receive a full deferred annuity, but allowed a member to receive an actuarially-reduced annuity beginning at age 50.

The Conference substitute (Sec. 207(a)(1)) conforms to the House bill.

APPLICABILITY OF COST OF LIVING INCREASES

The House bill applied the new, cost-of-living increases for annuities to members who retire after enactment of this Act.

The Senate amendment applied the new cost of living increases to current as well as to future retirees.

The Conference substitute (Sec. 209) conforms to the House bill.

RULES FOR APPLYING COST OF LIVING INCREASES FOR TEACHERS AND JUDGES

The House bill granted the full cost of living increases to those who retire after the effective date of the increase.

The Senate amendment pro-rated the amount of cost of living increase based on the number of days that had elapsed after the effective date of the increase.

The Conference substitute (Secs. 251 and 252) conforms to the House bill.

TERMINATION OF TEACHER'S DISABILITY AMENDMENT

The Senate amendment terminated a teacher's disability annuity prior to normal retirement age if the teacher's earning power is comparable to the current rate of pay of the position occupied at the time the teacher retired on disability.

The House bill contained no such provision.

The Conference substitute (Sec. 251(c)) conforms to the Senate amendment.

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THOMAS F. EAGLETON,
JIM SASSER,
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CHARLES H. PERCY,
Managers on the Part of the Senate.

CHARLES C. DIGGS, Jr.,
RONALD V. DELLUMS,
WALTER E. FAUNTROY,
ROMANO L. MAZZOLI,
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CHARLES W. WHALEN, Jr.,
Managers on the Part of the House.

CONFERENCE REPORT ON H.R. 11318

Mr. ADDABBO submitted the following conference report and statement on the bill (H.R. 11318) to amend the Small Business Act and the Small Business Investment Act of 1958.

CONFERENCE REPORT (H. REPT. NO. 95–1714)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 11318) to amend the Small Business Act and the Small Business Investment Act of 1958, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

TITLE I—AMENDMENTS TO THE SMALL BUSINESS INVESTMENT ACT OF 1958

CHAPTER 1

SEC. 101. Section 303(c)(1) of the Small Business Investment Act of 1958 is amended to read as follows:

"(1) shares of nonvoting stock (or other corporate securities having similar characteristics), provided—

"(i) dividends are preferred and cumulative to the extent of 3 per centum of par value per annum;

"(ii) on liquidation of redemption the Administration is entitled to the preferred payment of the par value of such securities; and prior to any distribution (other than to the Administration) the Administration shall be paid any amounts as may be due pursuant to subparagraph (i) of this paragraph;

(iii) the purchase price shall be at par value and, in any one sale, $50,000 or more; and

"(iv) the amount of such securities purchased and outstanding at any one time shall not exceed—

"(A) from a company licensed on or before October 13, 1971, 200 per centum of the combined private paid-in capital and paid-in surplus of such company, or

"(B) from any such company licensed after October 13, 1971, and having a combined paid-in capital and paid-in surplus of less than $500,000, 100 per centum of such capital and surplus, or

"(C) from any such company licensed after October 13, 1971, and having a combined private paid-in capital and paid-in surplus of $500,000 or more, 200 per centum of such capital and surplus.

"The amount of such securities purchased by the Administration in excess of 100 per centum of such capital and surplus from any company described in clause (A) or (C) may not exceed an amount equal to the amount of its funds invested in or legally committed to be invested in equity securities. For the purposes of the subsection the term 'equity securities' means stock of any class (including preferred stock) or limited partnership interests, or shares in a syndicate, business trust, joint stock company or association, mutual corporation, cooperative or other joint ventures for profit, or unsecured debt instruments which are subordinated by their terms to all other borrowings of the issuer.".

SEC. 102. The last sentence of section 308(b) of the Small Business Investment Act of 1958 is amended to read as follows: "Such companies are authorized to invest funds not reasonably needed for their operations in direct obligations of, or obligations guaranteed as to principal and interest by, the United States, or in certificates of deposit maturing within one year or less, issued by any institution the accounts of which are insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation, or in savings accounts of such institutions.".

SEC. 103. The last sentence of section 317 of the Small Business Investment Act of 1958 is repealed.

SEC. 104. Section 301(d) of the Small Business Investment Act of 1958 is amended by inserting "or formed as a limited partnership," immediately after "statutes,".

SEC. 105. Section 302(a) of the Small Business Investment Act of 1958 is amended to read as follows:

"SEC. 302. (a) The combined private paid-in capital and paid in surplus of any company licensed pursuant to sections 301 (c) and (d) of this Act shall not be less than $150,000, provided however, that the combined private paid-in capital and paid-in surplus of any company licensed on or after October 1, 1979 pursuant to section 301 (c) and (d) of this Act shall be not less than $500,000. In all cases, such capital and surplus shall be adequate to assure a reasonable prospect that the company will be operated soundly and profitably, and managed actively and prudently in accordance with its articles.".

CHAPTER 2

SEC. 110. Section 410(4) of the Small Business Investment Act of 1958 is amended by—

(1) deleting the word "or" after the phrase "conditions of the contract,"; and

(2) deleting the period after the phrase "fails to make prompt payment" and insert-

ing in lieu thereof, "or (D) is an agent, independent agent, underwriter, or any other company or individual empowered to act on behalf of such person.".

SEC. 111. Section 411 of the Small Business Investment Act of 1958 is amended to read as follows:

"SEC. 411. (a) The Administration may, upon such terms and conditions as it may prescribe, guarantee and enter into commitments to guarantee any surety (the terms and conditions of said guarantees and commitments may vary from surety to surety on the basis of the Administration's experience with the particular surety) against loss, as hereinafter provided, as the result of a breach of the terms of a bid bond, payment bond, performance bond, or bonds ancillary and coterminous therewith, by a principal on any contract up to $1,000,000, subject to the following conditions:

"(1) the person who would be the principal of the bond is a small business concern;

"(2) the bond is required in order for such person to bid on a contract, or to serve as a prime contractor or subcontractor therein;

"(3) such person is not able to obtain such bond on reasonable terms and conditions without a guarantee under this section;

"(4) the Administration determines that there is a reasonable expectation that such person will perform the covenants and conditions of the contract with respect to which the bond is required;

"(5) the contract meets requirements established by the Administration for feasibility of successful completion and reasonableness of cost; and

"(6) the terms and conditions of any bond guaranteed under the authority of this part are reasonable in light of the risks involved and the extent of the surety's participation.

"(b) Subject to the provisions of this section, in connection with the issuance by the Administration of a guarantee to a surety as provided by subsection (a), the Administration may agree to indemnify such surety against a loss sustained by such surety in avoiding or attempting to avoid a breach of the terms of a bond guaranteed by the Administration pursuant to subsection (a); provided, however—

"(1) prior to making any payment under this subsection, the Administration shall first determine that a breach of the terms of such bond was imminent;

"(2) no payment by the Administration pursuant to this subsection shall exceed 10 per centum of the contract price unless the Administrator determines that a greater payment should be made as a result of a finding by the Administrator that the surety's loss sustained in avoiding or attempting to avoid such breach was necessary and reasonable; and

"(3) no new agreements to indemnify shall be entered into pursuant to this subsection subsequent to two years after the date of its enactment.

"(c) Any guarantee or agreement to indemnify under this section shall obligate the Administration to pay to the surety a sum not to exceed (1) in the case of a breach of contract, 90 per centum of the loss incurred and paid by the surety to or on behalf of the obligee, or to labor and materialmen, in fulfilling the terms of the contract as the result of the breach; or (2) in a case to which subsection (6) applies, the amount determined under subsection (b).

"(d) The Administration may establish and periodically review regulations for participating sureties which shall require such sureties to meet Administration standards for underwriting, claim practices, and loss ratios.

"(e) Pursuant to any such guarantee or agreement, the Administration shall reimburse the surety, as provided in subsection (c) of this section, except that the Administration shall be relieved of all liability if—

"(1) the surety obtained such guarantee or agreement, or applied for such reimbursement, by fraud or material misrepresentation, or

"(2) the total contract amount at the time of execution of the bond or bonds exceeds $1,000,000.

"(f) The Administration may, upon such terms and conditions as it may prescribe, adopt a procedure for reimbursing a surety for its paid losses billed each month, based upon prior monthly payments to such surety, with subsequent adjustments after such disbursement.

"(g) The Administration may at all reasonable times audit in the offices of a participating surety all documents, files, books, records, and other material relevant to the Administration's guarantee, commitments to guarantee, or agreements to indemnify any surety pursuant to this section.

"(h) The Administration shall administer this Part on a prudent and economically justifiable basis and establish such fee or fees for small business concerns and premium or premiums for sureties as it deems reasonable and necessary, to be payable at such time and under such conditions as may be determined by the Administration.

"(i) The provisions of section 402 shall apply in the administration of this section.".

SEC. 112. Section 502 of the Small Business Investment Act of 1958 is amended by adding at the end of paragraph (4) the following new sentence: "Community injection funds may be derived, in whole or in part, from—

"(A) State or local governments;

"(B) banks or other financial institutions;

"(C) foundations or other not-for-profit institutions; or

"(D) a small business concern (or its owners, stockholders, or affiliates) receiving assistance through bodies authorized under this title.".

TITLE II—AMENDMENTS TO THE SMALL BUSINESS ACT

CHAPTER 1

SEC. 201. Section 2 of the Small Business Act is amended by adding at the end thereof the following new subsection:

"(e)(1) With respect to the Administration's business development programs the Congress finds—

"(A) that the opportunity for full participation in our free enterprise system by socially and economically disadvantaged persons is essential if we are to obtain social and economic equality for such persons and improve the functioning of our national economy;

"(B) that many such persons are socially disadvantaged because of their identification as members of certain groups that have suffered the effects of discriminatory practices or similar invidious circumstances over which they have no control;

"(C) that such groups include, but are not limited to, Black Americans, Hispanic Americans, Native Americans, and other minorities;

"(D) that it is in the national interest to expeditiously ameliorate the conditions of socially and economically disadvantaged groups;

"(E) that such conditions can be improved by providing the maximum practicable opportunity for the development of small business concerns owned by members of socially and economically disadvantaged groups;

"(F) that such development can be materially advanced through the procurement by the United States of articles, equipment, supplies, services, materials, and construction work from such concerns; and

"(G) that such procurements also benefit the United States by encouraging the expansion of suppliers for such procurements, thereby encouraging competition among such suppliers and promoting economy in such procurements.

"(2) It is, therefore, the purpose of section 8(a) to—

"(A) foster business ownership by individuals who are both socially and economically disadvantaged;

"(B) promote the competitive viability of such firms by providing such available contract, financial, technical, and management assistance as may be necessary; and

"(C) clarify and expand the program for the procurement by the United States of articles, equipment, supplies, services, materials, and construction work from small business concerns owned by socially and economically disadvantaged individuals.".

SEC. 202. (a) Section 8(a) of the Small Business Act (15 U.S.C. 637(a)) is amended to read as follows:

"SEC. 8(a)(1). It shall be the duty of the Administration and it is hereby empowered, whenever it determines such action is necessary or appropriate—

"(A) to enter into contracts with the United States Government and any department, agency, or officer thereof having procurement powers obligating the Administration to furnish articles, equipment, supplies, services, or materials to the Government or to perform construction work for the Government. In any case in which the Administration certifies to any officer of the Government having procurement powers that the Administration is competent and responsible to perform any specific Government procurement contract to be let by any such officer, such officer shall be authorized in his discretion to let such procurement contract to the Administration upon such terms and conditions as may be agreed upon between the Administration and the procurement officer. Whenever the Administration and such procurement officer fail to agree, the matter shall be submitted for determination to the Secretary or the head of the appropriate department or agency by the Administrator;

"(B) to enter into contracts with such agency, as shall be designated by the President within 60 days after the effective date of this paragraph, to furnish articles, equipment, supplies, services, or materials, or to perform construction work for such agency. In any case in which the Administration certifies to any officer of such agency having procurement powers that the Administration is competent and responsible to perform any specific procurement contract to be let by any such officer, such officer shall let such procurement contract to the Administration upon such terms and conditions as may be agreed upon between the Administration and the procurement officer. If the Administration and such procurement officer fail to agree on such terms and conditions, either the Administration or such officer shall promptly notify, in writing, the head of such agency. The head of such agency shall have five days (exclusive of Saturdays, Sundays, and legal holidays) to establish the terms and conditions upon which such procurement contract may be let to the Administration, and shall communicate in writing to the Administration the terms and conditions so established. Within five days (exclusive of Saturdays, Sundays, and legal holidays) after the receipt of such written communication, the Administration shall decide whether to perform such procurement contract or withdraw its prior certification that the Administration is competent and responsible to perform such contract; and

"(C) To arrange for the performance of such procurement contracts by negotiating or otherwise letting subcontracts to socially and economically disadvantaged small business concerns for construction work, services, or the manufacture, supply, assembly of such articles, equipment, supplies, materials, or parts thereof, or servicing or processing in connection therewith, or such management services as may be necessary

to enable the Adminstration to perform such contracts.

"No contract may be entered into under paragraph (B) after September 30, 1980.

"(2) Notwithstanding subsections (a) and (c) of the first section of the Act entitled 'An Act requiring contracts for the construction, alteration, and repair of any public building or public work of the United States to be accompanied by a performance bond protecting the United States and by additional bond for the protection of persons furnishing material and labor for the construction, alteration, or repair of said public buildings or public work.' approved August 24, 1935 (49 Stat. 793), no small business concern shall be required to provide any amount of any bond as a condition of receiving any subcontract under this subsection if the Administrator determines that such amount is inappropriate for such concern in performing such contract: *Provided,* That the Administrator shall exercise the authority granted by the paragraph only if—

"(A) the Administration takes such measures as it deems appropriate for the protection of persons furnishing materials and labor to a small business receiving any benefit pursuant to this paragraph;

"(B) the Administration assists, insofar as practicable, a small business receiving the benefits of this paragraph to develop, within a reasonable period of time, such financial and other capability as may be needed to obtain such bonds as the Administration may subsequently require for the successful completion of any program conducted under the authority of this subsection;

"(C) the Administration finds that such small business is unable to obtain the requisite bond or bonds from a surety and that no surety is willing to issue such bond or bonds subject to the guarantee provisions of Title IV of the Small Business Investment Act of 1958; and

"(D) the small business is determined to be a start-up concern and such concern has not been participating in any program conducted under the authority of this subsection for a period exceeding one year.

"This paragraph shall not apply after September 30, 1980.

"(3) Any small business concern selected by the Administration to perform any Federal Government procurement contract to be let pursuant to this subsection shall, when practicable, participate in any negotiation of the terms and conditions of such contract.

"(4) For purposes of this section, the term 'socially and economically disadvantaged small business concern' means any small business concern—

"(A) which is at least 51 per centum owned by one or more socially and economically disadvantaged individuals; or, in the case of any publicly owned business, at least 51 per centum of the stock of which is owned by one or more socially and economically disadvantaged individuals; and

"(B) whose management and daily business operations are controlled by one or more of such individuals.

"(5) Socially disadvantaged individuals are those who have been subjected to racial or ethnic prejudice or cultural bias because of their identity as a member of a group without regard to their individual qualities.

"(6) Economically disadvantaged individuals are those socially disadvantaged individuals whose ability to compete in the free enterprise system has been impaired due to diminished capital and credit opportunities as compared to others in the same business area who are not socially disadvantaged. In determining the degree of diminished credit and capital opportunities the Administration shall consider, but not be limited to, the assets and net worth of such socially disadvantaged individual.

"(7) No small business concern shall be deemed eligible for any assistance pursuant to this subsection unless the Administration determines that with contract, financial, technical, and management support the small business concern will be able to perform contracts which may be awarded to such concern under paragraph (1)(C) and has reasonable prospects for success in competing in the private sector.

"(8) All determinations made pursuant to paragraphs (4), (5), (6) and (7), shall be made by the Associate Administrator for Minority Small Business and Capital Ownership Development.

"(9) Within ninety days after the effective date of this paragraph, the Administration shall publish in the Federal Register rules setting forth those conditions or circumstances pursuant to which a firm previously deemed eligible by the Administration may be denied assistance under the provisions of this subsection: *Provided,* That no such firm shall be denied total participation in any program conducted under the authority of this subsection without first being afforded a hearing on the record in accordance with chapter 5 of title 5, United States Code.

"(10) The Administration shall develop and implement an outreach program to inform and recruit small business concerns to apply for eligibility for assistance under this subsection.

"(11) To the maximum extent practicable, construction subcontracts awarded by the Administration pursuant to this subsection shall be awarded within the county or State where the work is to be performed.

"(12) To the maximum extent practicable the Associate Administrator for Minority Small Business and Capital Ownership Development shall submit, no less frequently than annually, a year estimate of the dollar amounts and types of contracts required for the efficient use of any program conducted under the authority of this subsection, to each agency which may participate in such program.".

(b) Not later than June 30, 1980, the General Accounting Office shall submit to the Congress a report which, with respect to provisions of paragraphs (1)(B) and (2) of section 8(a) of the Small Business Act, shall evaluate the implementation of such provisions and whether such implementation furthered the purposes under section 2(e) of the Small Business Act.

SEC. 203. Section 2(c) of the Small Business Act is amended by inserting "(1)" after "(c) and by adding at the end thereof the following new paragraph:

"(2)(A) With respect to the programs authorized by section 7(i) of this Act, the Congress finds—

(i) that ownership and control of productive capital is concentrated in the economy of the United States and certain groups, therefore, own and control little productive capital;

(ii) that certain groups in the United States own and control little productive capital because they have limited opportunities for small business ownership;

(iii) that the broadening of small business ownership among groups that presently own and control little productive capital is essential to provide for the well-being of this Nation by promoting their increased participation in the free enterprise system of the United States;

(iv) that such development of business ownership among groups that presently own and control little productive capital will be greatly facilitated through the creation of a small business ownership development program, which shall provide services, including, but not limited to, financial, management, and technical assistance.

(v) that the power to let sole source Federal contracts pursuant to section 8(a) of the Small Business Act can be an effective procurement assistance tool for development of business ownership among groups that own and control little productive capital; and

(vi) that the procurement authority under section 8(a) of the Small Business Act shall be used only as a tool for developing business ownership among groups that own and control little productive capital.

(B) It is, therefore, the purpose of the programs authorized by section 7(j) of this Act to—

(i) foster business ownership by individuals in groups that own and control little productive capital; and

(ii) promote the competitive viability of such firms by creating a small business and capital ownership development program to provide such available financial, technical, and management assistance as may be necessary.".

SEC. 204. Section 7(j) of the Small Business Act is amended to read as follows:

"(j)(1) The Administration shall provide financial assistance to public or private organizations to pay all or part of the cost of projects designed to provide technical or management assistance to individuals or enterprises eligible for assistance under sections 7(i), 7(j)(10), and 8(a) of this Act, with special attention to small businesses located in areas of high concentration of unemployed or low-income individuals, to small businesses eligible to receive contracts pursuant to section 8(a) of this Act.

"(2) Financial assistance under this subsection may be provided for projects, including, but not limited to—

"(A) planning and research, including feasibility studies and market research;

"(B) the identification and development of new business opportunities;

"(C) the furnishing of centralized services with regard to public services and Federal Government programs including programs authorized under sections 7(i), 7(j)(10), and 8(a) of this Act;

"(D) the establishment and strengthening of business service agencies, including trade associations and cooperatives; and

"(E) the furnishings of business counseling, management training, and legal and other related services, with special emphasis on the development of management training programs using the resources of the business community, including the development of management training opportunities in existing business, and with emphasis in all cases upon providing management training of sufficient scope and duration to develop entrepreneurial and managerial self-sufficiency on the part of the individuals served.

"(3) The Administration shall encourage the placement of subcontracts by businesses with small business concerns located in areas of high concentration of unemployed or low-income individuals, with small businesses owned by low-income individuals, and with small businesses eligible to receive contracts pursuant to section 8(a) of this Act. The Administration may provide incentives and assistance to such businesses that will aid in the training and upgrading of potential subcontractors or other small business concerns eligible for assistance under sections 7(i), 7(j), and 8(a) of this Act.

"(A) An advisory committee composed of five high-level officers from five United States businesses and five representatives of minority small businesses shall be created to facilitate the achievement of the purposes of this paragraph. The members of the advisory committee shall be appointed by the President. The chairman of the advisory committee, who shall be designated by the President shall report annually to the President and to the Congress on the activities of the advisory committee.

"(B) The General Accounting Office shall evaluate the activities taken by the Administration to achieve the purpose of this paragraph and evaluate the success of these activities in achieving the purposes of this

paragraph. The General Accounting Office shall report to the Congress by January 1, 1981, and at any time thereafter at the discretion of the Comptroller General, on the findings of this evaluation and shall make recommendations on actions needed to improve the Administration's performance pursuant to this paragraph.

"(4) The Administration shall give preference to projects which promote the ownership, participation in ownership, or management of small businesses owned by low-income individuals and small businesses eligible to receive contracts pursuant to section 8(a) of this Act.

"(5) The financial assistance authorized for projects under this subsection includes assistance advanced by grant, agreement, or contract.

"(6) The Administration is authorized to make payments under grants and contracts entered into under this subsection in lump sum or installments, and in advance or by way of reimbursement, and in the case of grants, with necessary adjustments on account of overpayments or underpayments.

"(7) To the extent feasible, services under this subsection shall be provided in a location which is easily accessible to the individuals and small business concerns served.

"(8) The General Accounting Office shall provide for an independent and continuing evaluation of programs under sections 7(i), 7(j) and 8(a) of this Act, including full information on, and analysis of, the character and impact of managerial assistance provided, the location, income characteristics, and extent to which private resources and skills have been involved in these programs. Such evaluation together with any recommendations deemed advisable by the Comptroller General shall be reported to the Congress by January 1, 1981, and at any time thereafter at the discretion of the Comptroller General.

"(9) The Administration shall take such steps as may be necessary and appropriate, in coordination and cooperation with the heads of other Federal departments and agencies, to insure that contracts, subcontracts, and deposits made by the Federal Government or with programs aided with Federal funds are placed in such way as to further the purposes of sections 7(i), 7(j), and 8(a) of this Act.

"(10) There is established within the Administration a small business and capital ownership development program (hereinafter the 'Program') which shall provide assistance exclusively for small business concerns eligible to receive contracts pursuant to section 8(a) of this Act. The management of the Program shall be vested in the Associate Administrator for Minority Small Business and Capital Ownership Development who shall also manage all other services and activities authorized under sections 7(j) and 8(a) of this Act.

"(A) The Program shall—

"(i) assist small business concerns participating in the Program to develop comprehensive business plans with specific business targets, objectives, and goals;

"(ii) provide for such other nonfinancial services as deemed necessary for the establishment, preservation, and growth of small business concerns participating in the Program, including but not limited to (I) loan packaging, (II) financial counseling, (III) accounting and bookkeeping assistance, (IV) marketing assistance, and (V) management assistance;

"(iii) assist small business concerns participating in the Program to obtain equity and debt financing;

"(iv) establish regular performance monitoring and reporting systems for small business concerns participating in the Program to assure compliance with their business plans;

"(v) analyze and report the causes of success and failure of small business concerns participating in the Program; and

"(vi) provide assistance necessary to help small business concerns participating in the Program to procure surety bonds, with such assistance including, but not limited to, (I) the preparation of application forms required to receive a surety bond, (II) special management and technical assistance designed to meet the specific needs of small business concerns participating in the Program and which have received or are applying to receive a surety bond, and (III) preparation of all forms necessary to receive a surety bond guarantee from the Administration pursuant to title IV, part B of the Small Business Investment Act of 1958.

"(B) Small business concerns eligible to receive contracts pursuant to section 8(a) of this Act shall participate in the Program.

"(C) No small business concern shall receive a contract pursuant to section 8(a) of this Act unless the Program is able to provide such small business concern with, but not limited to, such management, technical, and financial services as may be necessary to promote the competitive viability of the small business concern within a reasonable period of time.

"(11) The Associate Administrator for Minority Small Business and Capital Ownership Development shall be responsible for coordinating and formulating policies relating to Federal assistance to small business concerns eligible for assistance under section 7 (i) of this Act and small business concerns eligible to receive contracts pursuant to section 8(a) of this Act.".

SEC. 205. Section 7(k) of the Small Business Act is amended by striking the words "7(i) and 7(j)" and inserting in lieu thereof "7(i), 7(j), and 8(a)".

SEC. 206. Section 4(b) of the Small Business Act is amended by striking "Associate Administrator for Minority Small Business" where it appears therein and by substituting the following: "Associate Administrator for Minority Small Business and Capital Ownership Development".

SEC. 207. Nothing in this chapter is intended to duplicate or limit any programs or projects administered by the Department of Commerce.

CHAPTER 2

SEC. 211. Section 8(d) of the Small Business Act is amended to read as follows:

"(d)(1) It is the policy of the United States that small business concerns, and small business concerns owned and controlled by socially and economically disadvantaged individuals, shall have the maximum practicable opportunity to participate in the performance of contracts let by any Federal agency.

"(2) The clause stated in paragraph (3) shall be included in all contracts let by any Federal agency except any contract which—

"(A) does not exceed $10,000;

"(B) including all subcontracts under such contracts will be performed entirely outside of any State, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico; or

"(C) is for services which are personal in nature.

"(3) The clause required by paragraph (2) shall be as follows:

"'(A) It is the policy of the United States that small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals shall have the maximum practicable opportunity to participate in the performance of contracts let by any Federal agency.

"'(B) The contractor hereby agrees to carry out this policy in the awarding of subcontracts to the fullest extent consistent with the efficient performance of this contract. The contractor further agrees to cooperate in any studies or surveys as may be conducted by the United States Small Business Administration or the awarding agency of the United States as may be necessary to determine the extent of the contractor's compliance with this clause.

"'(C) As used in this contract, the term "small business concern" shall mean a small business as defined pursuant to section 3 of the Small Business Act and relevant regulations promulgated pursuant thereto. The term "small business concern owned and controlled by socially and economically disadvantaged individuals" shall mean a small business concern—

"'(i) which is at least 51 per centum owned by one or more socially and economically disadvantaged individuals; or, in the case of any publicly owned business, at least 51 per centum of the stock of which is owned by one or more socially and economically disadvantaged individuals; and

"'(ii) whose management and daily business operations are controlled by one or more of such individuals.

"'The contractor shall presume that socially and economically disadvantaged individuals include Black Americans, Hispanic Americans, Native Americans, and other minorities, or any other individual found to be disadvantaged by the Administration pursuant to section 8(a) of the Small Business Act.

"'(D) Contractors acting in good faith may rely on written representations by their subcontractors regarding their status as either a small business concern or a small business concern owned and controlled by socially and economically disadvantaged individuals.'

"(4)(A) Each solicitation of an offer for a contract to be let by a Federal agency which is to be awarded pursuant to the negotiated method of procurement and which may exceed $1,000,000, in the case of a contract for the construction of any public facility, or $500,000, in the case of all other contracts, shall contain a clause notifying potential offering companies of the provisions of this subsection relating to contracts awarded pursuant to the negotiated method of procurement.

"(B) Before the award of any contract to be let, or any amendment or modification to any contract let, by any Federal agency which—

"(i) is to be awarded, or was let, pursuant to the negotiated method of procurement,

"(ii) is required to include the clause stated in paragraph (3),

"(iii) may exceed $1,000,000 in the case of a contract for the construction of any public facility, or $500,000 in the case of all other contracts, and

"(iv) which offers subcontracting possibilities, the apparent successful offeror shall negotiate with the procurement authority a subcontracting plan which incorporates the information prescribed in paragraph (6). The subcontracting plan shall be included in and made a material part of the contract.

"(C) If, within the time limit prescribed in regulations of the Federal agency concerned, the apparent successful offeror fails to negotiate the subcontracting plan required by this paragraph, such offeror shall become ineligible to be awarded the contract. Prior compliance of the offeror with other such subcontracting plans shall be considered by the Federal agency in determining the responsibility of that offeror for the award of the contract.

"(D) No contract shall be awarded to any offeror unless the procurement authority determines that the plan to be negotiated by the offeror pursuant to this paragraph provides the maximum practicable opportunity for small business concerns and small business concerns owned and controlled by socially and economically disadvantaged in-

dividuals to participate in the performance of the contract.

"(E) Notwithstanding any other provision of law, every Federal agency in order to encourage, subcontracting opportunities for small business concerns and small business concerns owned and controlled by the socially and economically disadvantaged individuals as defined in paragraph (3) of this subsection, is hereby authorized to provide such incentives as such Federal agency may deem appropriate in order to encourage such subcontracting opportunities as may be commensurate with the efficient and economical performance of the contract: *Provided*, That, this subparagraph shall apply only to contracts let pursuant to the negotiated method of procurement.

"(5)(A) Each solicitation of a bid for any contract to be let, or any amendment or modification to any contract let, by any Federal agency which—

"(i) is to be awarded pursuant to the formal advertising method of procurement,

"(ii) is required to contain the clause stated in paragraph (3) of this subsection,

"(iii) may exceed $1,000,000 in the case of a contract for the construction of any public facility, or $500,000, in the case of all other contracts, and

"(iv) offers subcontracting possibilities, shall contain a clause requiring any bidder who is selected to be awarded a contract to submit to the Federal agency concerned a subcontracting plan which incorporates the information prescribed in paragraph (6).

"(B) If, within the time limit prescribed in regulations of the Federal agency concerned, the bidder selected to be awarded the contract fails to submit the subcontracting plan required by this paragraph, such bidder shall become ineligible to be awarded the contract. Prior compliance of the bidder with other such subcontracting plans shall be considered by the Federal agency in determining the responsibility of such bidder for the award of the contract. The subcontracting plan of the bidder awarded the contract shall be included in and made a material part of the contract.

"(6) Each subcontracting plan required under paragraph (4) or (5) shall include—

"(A) percentage goals for the utilization as subcontractors of small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals;

"(B) the name of an individual within the employ of the offeror or bidder who will administer the subcontracting program of the offeror or bidder and a description of the duties of such individual;

"(C) a description of the efforts the offeror or bidder will take to assure that small business concerns and small business concerns owned and controlled by the socially and economically disadvantaged individuals will have an equitable opportunity to compete for subcontracts;

"(D) assurances that the offeror or bidder will include the clause required by paragraph (2) of this subsection in all subcontracts which offer further subcontracting opportunities, and that the offeror or bidder will require all subcontractors (except small business concerns) who receive subcontracts in excess of $1,000,000 in the case of a contract for the construction of any public facility, or in excess of $500,000 in the case of all other contracts, to adopt a plan similar to the plan required under paragraph (4) or (5);

"(E) assurances that the offeror or bidder will submit such periodic reports and cooperate in any studies or surveys as may be required by the Federal agency or the Administration in order to determine the extent of compliance by the offeror or bidder with the subcontracting plan; and

"(F) a recitation of the types of records the successful offeror or bidder will maintain to demonstrate procedures which have been adopted to comply with the requirements and goals set forth in this plan, including the establishment of source lists of small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals; and efforts to identify and award subcontracts to such small business concerns.

"(7) The provisions of paragraphs (4), (5), and (6) shall not apply to offerors or bidders who are small business concerns.

"(8) The failure of any contractor or subcontractor to comply in good faith with—

"(A) the clause contained in paragraph (3) of this subsection, or

"(B) any plan required of such contractor pursuant to the authority of this subsection to be included in its contract or subcontract, shall be a material breach of such contract or subcontract.

"(9) Nothing contained in this subsection shall be construed to supersede the requirements of Defense Manpower Policy Number 4A (32A CFR Chap. 1) or any successor policy.

"(10) In the case of contracts within the provisions of paragraphs (4), (5), and (6), the Administration is authorized to—

"(A) assist Federal agencies and businesses in complying with their responsibilities under the provisions of this subsection, including the formulation of subcontracting plans pursuant to paragraph (4);

"(B) review any solicitation for any contract to be let pursuant to paragraphs (4) and (5) to determine the maximum practicable opportunity for small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals to participate as subcontractors in the performance of any contract resulting from any solicitation, and to submit its findings, which shall be advisory in nature, to the appropriate Federal agency; and

"(C) evaluate compliance with subcontracting plans, either on a contract-by-contract basis, or in the case contractors having multiple contracts, on an aggregate basis.

"(11) At the conclusion of each fiscal year, the Administration shall submit to the Senate Select Committee on Small Business and the Committee on Small Business of the House of Representatives a report on subcontracting plans found acceptable by any Federal agency which the Administration determines do not contain maximum practicable opportunities for small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals to participate in the performance of contracts described in this subsection.".

CHAPTER 3

SEC. 221. Section 15 of the Small Business Act is amended by adding at the end of subsection (f) the following new subsections:

"(g) The head of each Federal agency shall, after consultation with the Administration, establish goals for the participation by small business concerns, and by small business concerns owned and controlled by socially and economically disadvantaged individuals, in procurement contracts of such agency having values of $10,000 or more. Goals established under this subsection shall be jointly established by the Administration and the head of each Federal agency and shall realistically reflect the potential of small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals to perform such contracts and to perform subcontracts under such contracts. Whenever the Administration and the head of any Federal agency fail to agree on established goals, the disagreement shall be submitted to the Administrator of the Office of Federal Procurement Policy for final determination.

"(h) At the conclusion of each fiscal year, the head of each Federal agency shall report to the Administration on the extent of participation by small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals in procurement contracts of such agency. Such reports shall contain appropriate justifications for failure to meet the goals established under subsection (g) of this section. The Administration shall submit to the Select Committee on Small Business of the Senate and the Committee on Small Business of the House of Representatives information obtained from such reports, together with appropriate comments.

"(i) Nothing in this Act or any other provision of law precludes exclusive small business set-asides for procurements of architectural and engineering services, research, development, test and evaluation, and each Federal agency is authorized to develop such set-asides to further the interests of small business in those areas.

"(j) Each contract for the procurement of goods and services which has an anticipated value of less than $10,000 and which is subject to small purchase procedures shall be reserved exclusively for small business concerns unless the contracting officer is unable to obtain offers from two or more small business concerns that are competitive with market prices and in terms of quality and delivery of the goods or services being purchased. In utilizing small purchase procedures, contracting officers shall, wherever circumstances permit, choose a method of payment which minimizes paperwork and facilitates prompt payment to contractors.

"(k) There is hereby established in each Federal agency having procurement powers an office to be known as the 'Office of Small and Disadvantaged Business Utilization.' The management of each such office shall be vested in an officer or employee of such agency who shall—

"(1) be known as the 'Director of Small and Disadvantaged Business Utilization' for such agency,

"(2) be appointed by the head of such agency,

"(3) be responsible only to, and report directly to, the head of such agency or to his deputy,

"(4) be responsible for the implementation and execution of the functions and duties under sections 8 and 15 of this Act which relate to such agency,

"(5) have supervisory authority over personnel of such agency to the extent that the functions and duties of such personnel relate to functions and duties under sections 8 and 15 of this Act,

"(6) assign a small business technical adviser to each office to which the Administration has assigned a procurement center representative—

"(A) who shall be a full-time employee of the procuring activity and shall be well qualified, technically trained and familiar with the supplies or services purchased at the activity, and

"(B) whose principal duty shall be to assist the Administration procurement center representative in his duties and functions relating to sections 8 and 15 of this Act, and

"(7) cooperate, and consult on a regular basis, with the Administration with respect to carrying out the functions and duties described in paragraph (4) of this subsection. This subsection shall not apply to the Administration."

SEC. 222. The Administrator of the Office of Federal Procurement Policy is authorized and directed, pursuant to the authority conferred by Public Law 93-400 and subject to the procedures set forth in such Public Law, to

promulgate a single, simplified, uniform Federal procurement regulation and to establish procedures for insuring compliance with such provisions by all Federal agencies. In formulating such regulations and procedures the Administrator of the Office of Federal Procurement Policy shall, in consultation with the Small Business Administration, conduct analyses of the impact on small business concerns resulting from revised procurement regulations, and incorporate into revised procurement regulations simplified bidding, contract performance, and contract administration procedures for small business concerns.

SEC. 223. (a) For any contract to be let by any Federal agency, such agency shall provide to any small business concern upon its request—

(1) a copy of bid sets and specifications with respect to such contract;

(2) the name and telephone number of an employee of such agency to answer questions with respect to such contract; and

(3) adequate citations to each major Federal law or agency rule with which such business concern must comply in performing such contract.

(b) Subsection (a) shall not apply to any contract or subcontract under such contract which—

(1) will be performed entirely outside any State, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico; or

(2) is for services which are personal in nature.

SEC. 224. (a) For purposes of this Act—

(1) the term "Administrator" means the Administrator of the Small Business Administration;

(2) the term "Federal agency" has the meaning given the term "agency" by section 551(1) of title 5, United States Code, but does not include the United States Postal Service or the General Accounting Office.

(3) the term "Government procurement contract" means any contract for the procurement of any goods or services by any Federal agency.

(b) Section 3 of the Small Business Act is amended by inserting "(a)" after "Sec. 3." and by adding at the end thereof the following new subsection:

"(b) For purposes of this Act, any reference to an agency or department of the United States, and the term 'Federal agency', shall have the meaning given the term 'agency' by section 551(1) of title 5, United States Code, but does not include the United States Postal Service or the General Accounting Office.".

CHAPTER 4

SEC. 231. Section 7(a) of the Small Business Act is amended by inserting after the phrase "The Administration is empowered to make loans to enable small-business concerns" the phrase ", or small-business concerns 100 percent owned and controlled by an Indian tribe as defined in section 4(a) of the Indian Self-Determination and Education Assistance Act.".

SEC. 232. Section 15(f) of the Small Business Act is amended by striking out "September 30, 1979" and inserting in lieu thereof "September 30, 1980".

SEC. 233. Section 15 of the Small Business Act is amended by adding at the end thereof the following new subsection:

"(1)(1) The President shall, not later than October 1, 1979, transmit to the Select Committee on Small Business and the Committee on Armed Services of the Senate and to the Committee on Small Business and the Committee on Armed Services of the House of Representatives a report on the labor surplus area procurement program under this section and the manpower policy described in subparagraph (1). Such report together with recommendations, shall include, but not be limited to—

"(A) an analysis of the effectiveness of such labor surplus area procurement program, including its effectiveness in creating jobs in the areas of high unemployment and the method by which labor markets are classified and designated as labor surplus areas;

"(B) its potential benefits to federal, State and local governments, including tax benefits, reductions in federal payments to labor surplus areas, and reductions in State unemployment costs where such information is available;

"(C) its potential costs, including its impact on the efficient utilization of federal resources, its effect on the local economy of non-labor surplus areas, its impact on small business concerns not in labor surplus areas to the extent such information is available, and its impact on contract costs to the federal government; and

"(D) with respect to the implementation by the Department of Defense of Defense Manpower Policy Number 4A (32A CFR Chapter 1) or any successor policy, in addition to the matters required by subparagraphs (A), (B), and (C), information concerning the impact on such matters of the expenditure of any funds which were available for procurement and which were not obligated for expenditure on September 30, 1977.

And the Senate agree to the same.

J. P. ADDABBO,
NEAL SMITH,
FERNAND ST GERMAIN,
TOM STEED,
JAMES C. CORMAN,
FRED RICHMOND,
RICHARD NOLAN,
HENRY GONZALEZ,
WYCHE FOWLER, Jr.,
JOE MCDADE,
SILVIO O. CONTE,
R. KASTEN,
MILLICENT FENWICK,
Managers on the Part of the House.

GAYLORD NELSON,
THOMAS J. MCINTYRE,
SAM NUNN,
WILLIAM D. HATHAWAY,
JOHN CULVER,
LOWELL WEICKER, Jr.,
DEWEY BARTLETT,
BOB PACKWOOD,
Managers on the Part of the Senate.

JOINT EXPLANATORY COMMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the Amendment of the Senate to the Bill (H.R. 11318) to amend the Small Business Act and the Small Business Investment Act of 1958 submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The principal differences among the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the Conferees, and minor drafting and clarifying changes.

(1) THE MESBIC PROGRAM

(a) Preferred stock leverage

The House bill allows MESBICs formed as corporations to sell twice as much preferred stock to SBA as is presently allowed. The amount of this preferred stock leverage is limited to 200 percent of the qualified paid-in capital and the amount purchased by SBA in excess of 100 percent of such capital cannot be greater in amount than the MESBIC's outstanding equity investments. In addition, this part allows a MESBIC which has received preferred stock leverage to make distributions to its shareholders without the need of paying any "differential costs" to the SBA, provided it is current on all dividend obligations owing to SBA.

The House bill also requires that for any one sale of preferred stock to SBA, it must be in an amount of $50,000 or more.

The Senate bill allows MESBICs to sell their preferred stock to SBA in the following amounts:

(A) For a licensee licensed on or before October 13, 1971, 200 per centum of its private paid-in capital;

(B) For a licensees licensed after October 13, 1971, 100 per centum of its private capital if such capital is less than $500,000 or 200 per centum of its private capital if such capital is $500,000 or more.

The Senate bill also allows MESBICs which sell their preferred stock to SBA to make distributions to its shareholders without the need of paying any differential costs to SBA or of being current on dividend obligations owed to SBA. In addition, upon liquidation or redemption of the preferred stock SBA is entitled to the preferred payment of the par value of the preferred stock and any unpaid dividends but only to the extent that retained earnings shall permit.

The Senate bill does not place any dollar minimum on the sale of preferred stock to SBA in a single transaction.

The conference substitute adopts the House provisions with amendment that defines equity in terms including subordinated, unsecured debt and adopts the Senate provisions regarding the amount of preferred stock which may be purchased by the agency from a MESBIC.

(b) Investment of Idle Funds

The House bill allows MESBICs to invest their temporarily idle funds in certificates of deposit that mature within one year or less, or in FDIC or FSLIC insured institutions.

The Senate bill contains no comparable provision.

The conference substitute adopts the House provision.

(c) Sale of Debentures

The House bill allows the SBA to purchase debentures from MESBICs which carry an interest rate of 3 percent or 3 percent below the cost of money to the Government, whichever is greater, for the first five years of the term of the debenture. This provision, in effect, gives a 3 percent subsidy in the interest rate for the first five years of the term.

The Senate bill authorizes the SBA to buy debentures from MESBICs which bear a 3 percent interest rate for the full term.

The conference substitute adopts the House provision.

(d) MESBICs Established As Partnerships

The House bill allows MESBICs to form as limited partnerships.

The Senate bill contains no similar provision.

The conference substitute adopts the House provision.

(e) Private Paid-In Capital

The Senate bill provides that SBICs and MESBICs licensed after September 1, 1979, shall have private paid-in capital or not less than $500,000 and, in all cases, such capital must be adequate to reasonably assure the success of the investment company.

The House bill contains no comparable provision.

The conference substitute adopts the Senate provision, with an amendment

changing the referenced date to October 1, 1979.

(2) THE SURETY BOND GUARANTEE PROGRAM

The Senate bill amends the Surety Bond Guarantee Program:

(A) To allow SBA to enter into guarantee agreements with surety bond companies on either a case-by-case basis or on a broader multiple bond basis. It also allows SBA to reimburse a surety when the surety has incurred expenses to prevent a breach;

(B) To clarify SBA's authority to pay up to 90 percent of a loss incurred and paid by a surety as a result of a breach of one of the bonds guaranteed by SBA;

(C) To enable SBA to establish regulations governing the sureties who participate in its program;

(D) To set forth the circumstances under which SBA can refuse to honor its guarantee; that is, fraud, material representation, or excessive coverage;

(E) To enable SBA to make advance payments against a surety's losses;

(F) To enable SBA to audit a participating surety;

(G) To clarify the right of SBA to establish fees to be paid it by the bond applicants and premiums to be paid it by the sureties; and

(H) Redefine "surety" to include an agent, underwater, or any other company or individual empowered to act on behalf of such person.

The House bill contains no comparable provision.

The conference substitute adopts the Senate provisions but adds "independent agent" within the definition of surety; retains existing provisions of law which the Senate bill deleted but which pertain to SBA's obligation to review the reasonableness of the bonds it guarantees and limits the "imminent breach" provision to a two-year pilot program and requires that SBA's certifies that a breach is imminent. SBA's exposure under such provision cannot exceed 10 percent of the price of the contract for which the bond was issued unless the Administration determines that it is necessary and reasonable to exceed that 10 percent limit in order to avoid a breach. If payments are made to prevent a breach and the breach is prevented, the SBA must be reimbursed money advanced under this provision.

(3) THE 8(A) PROGRAM

The House bill recites Congressional findings and purposes relative to this program. These findings basically establish the premise that many individuals are socially and economically disadvantaged as a result of being identified as members of certain groups, including but not limited to, Black Americans and Hispanic Americans. A further finding is that it is in the national interest to expeditiously improve the condition of the disadvantaged and that this purpose can be materially advanced through the Federal purchasing system.

The Senate bill contains findings that small businesses owned by socially and economically disadvantaged persons have developed slowly and that among such businesses are minority small businesses, which through lack of comprehensive assistance, have been unable to overcome negative conditions impacting upon them. Also, Congress finds that it is in the national interest to expeditiously ameliorate these negative conditions faced by many minority and other socially and economically disadvantaged businesses. The procurement authority under Section 8(a) of the Small Business Act will be used only as a tool for helping to develop these businesses.

The conference substitute adopts the House findings with amendment. The amendment includes mention of "Native Americans" along with Black Americans and Hispanic Americans. By "Native Americans" the Conferees mean native American groups, such as, American Indians, Eskimos, Aleuts, and native Hawaiians. Further the conference substitute states that many persons are socially disadvantaged because of their identification as a member of certain groups including, but not limited to, Black Americans and Hispanic Americans, Native Americans and other minorities that have suffered the effects of discriminatory practices or similar individious circumstances over which they have no control. In other words, in many, but not all, cases status as a minority can be directly and unequivocally correlated with social disadvantagement and this condition exists regardless of the individual, personal qualities of that minority person. The conference substitute varies from the House bill insofar as the House provision also equates economic disadvantage to racial and ethnic minority status.

With respect to program eligibility both the House and Senate kills require that a small business applicant must be 51 percent owned and operated by a socially and economically disadvantaged person or persons.

The House bill creates a rebuttable presumption that Black Americans and Hispanic Americans are both socially and economically disadvantaged unless the Administration, on the basis of substantial evidence, establishes that such an individual has not experienced business impediments as the result of being a member of a group presumed to be socially and economically disadvantaged. An individual who is not a member of a group presumed to be disadvantaged nevertheless can establish social and economic disadvantage if the application can demonstrate to SBA's satisfaction that he or she has experienced impediments in the business world which are not generally common in kind or degree to all small business people, and which result from both economic and social causes over which such individual has no control.

The Senate bill defines concerns eligible for contracts as those which are at least 51 percent owned and operated by a socially and economically disadvantaged person or persons, and having a reasonable prospect of success in competing in the private sector. Economic disadvantage for a new business concern would be determined by consideration of liquid net assets owned by the individual. Economic disadvantage for an existing concern would be determined by consideration of the position of the business relative to other businesses in the same industry, and by the liquid net assets owned by the individual. Social disadvantage would be determined by consideration of whether the individual has been deprived of the opportunity to develop and maintain a competitive position in the economy due to cultural bias, general economic deprivation, or other similar causes.

The conference substitue adopts the House provisions with an amendment. The amendment replaces the rebuttable presumption language by stating that socially disadvantaged persons are those who have been subjected to racial or ethnic prejudice or cultural bias (regardless of their individual qualities or personal attributes) because they have been identified as a member of certain groups that have generally suffered from prejudice or bias.

In other words, because of present and past discrimination many minorities have suffered social disadvantagement.

However, the Conferees realize that other Americans may also suffer from social disadvantagement because of cultural bias. For example, a poor Appalachian white person who has never had the opportunity for a quality education or the ability to expand his or her cultural horizons, may similarly be found socially disadvantaged, provided that the conditions leading to such disadvantagement are beyond the ability of the person to control.

With respect to economic disadvantage, the Conferees agree that an economically disadvantaged person is one who is socially disadvantaged and whose ability to compete * * * credit, as compared to others in the same business area who are not socially disadvantaged. According to the substitute language a person must be found socially disadvantaged before a determination of economic disadvantage can be made. The Conferees intend that the assets and net worth of the applicant will be evaluated along with other factors, on the basis of the applicant's business as compared to others in the same field who are not suffering from social impediments.

As it relates to the economic status of the applicant, the SBA shall develop standards, along major industry lines, which recognize the historic past discrimination of minorities in their efforts to participate in the free enterprise system. The standards must not deny admission to the 8(a) program to applicants merely because they have managed to acquire a quality education. Indeed, such an education may be a prerequisite for the development of a viable business. Nor shall past or present employment by itself be used as criteria for denial of an applicant's admission to the program. Applicants who have managed in this manner to prepare themselves to successfully participate in the free enterprise system should not be denied admission to the 8(a) program for business development for having done so.

In addition to determining social and economic disadvantage the Conferees agree that no one be found eligible for the program unless the SBA determines that it has the requisite contract, financial, and management assistance to promote the competitive viability of the firm within a reasonable period of time and that with such assistance, the firm does have the potential to successfully complete the program. The Conferees recognize that not all persons will make successful business persons, with or without SBA assistance,

In addition to provide for uniformity in program administration all determinations as to eligibility must be made by one person—the Associate Administrator for Minority Small Business and Capital Ownership Development.

The Conferees intend that the primary beneficiaries of this program will be minorities but that the authorities given SBA pursuant to this subsection and section 7(j)(10) will be used solely for economic and business development and not merely to channel contracts at a random pace to a preconceived group of eligibles for the sake of social or political goals.

Other provisions of the conference substitute increase SBA's ability to develop disadvantaged firms and include: (a) an appellate procedure in the event a Federal agency refuses to give a contract requirement to SBA for use in the 8(a) program; (b) a two-year pilot program wherein the President will designate an agency with which SBA will have increased authority to negotiate for any contract requirement it selects for use in the 8(a) program; (c) a two-year pilot program whereby SBA can waive all Federal bonding requirements for its 8(a) contractors who are start-ups and in the program for one year or less and provided the following conditions are met: (1) the firm cannot secure the requisite bond needed for the job with or without an SBA guarantee of the bond; (2) SBA will take such steps as may be appropriate to protect suppliers and laborers of the 8(a) firm; (3) SBA determines that the firm has the poten-

tial of becoming bondable if assisted for a limited period of time by the bond waiver.

The Conferees intend that this authority be sparingly used as a business development tool and only then with the expressed concurrence of the Administrator. Further, every situation where a bond is waived should be thoroughly documented to include, but not be limited to, the precise reasons why a surety has refused to grant the bond in question. The agency should then commit itself to such reasonable actions as may be necessary to overcome the reasons for the denial received by the small firm benefiting from the waiver.

Finally, the conference substitute gives due process guarantees to all firms in the program. Once a firm is certified as eligible it cannot be terminated, graduated or in any other way removed from participation in the program, without the opportunity for a full hearing on the record according to the terms of the Administrative Procedure Act at the option of the firm. Within 90 days after enactment of the bill, SBA must publish its final rules implementing this provision and all other provisions relating to the 8(a) program found in the conference substitute.

The *Senate* bill amends Section 7(j) of the Small Business Act to extend the financial management, technical and other services outlined in that section to those individuals and enterprises eligible to receive contracts under Section 8(a) of the Act.

Section 7(j)(3)(A) creates an advisory committee comprised of five representatives of U.S. businesses and five representatives of minority small business. It is the purposes of the advisory committee to facilitate and further encourage the placement of subcontracts with eligible businesses, and to foster the development and training of these firms. Eligible business concerns include those located in areas of high concentration of unemployed or low-income individuals, and with those businesses eligible for assistance under Section 8(a) of the Act. Members of the advisory committee are appointed by the President, and the chairman shall submit an annual report of the advisory committee activities to both the President and Congress.

In Section 7(j)(3)(B), the General Accounting Office is directed to evaluate Administration activities and the success of these activities in encouraging the placement of subcontracts with these businesses. A report of findings is to be submitted to the Congress no later than January 1, 1980, with additional evaluation submitted at the discretion of the Comptroller General.

Section 7(j)(8) directs the General Accounting Office to provide a continuing evaluation of all programs outlined under Section 7(i), 7(j), and 8(a). These studies are to include consideration of the quality of management assistance and the utilization of private resources in these programs. An evaluation with recommendations shall be submitted to the Congress not later than January 1, 1980, with additional evaluations to be submitted at the discretion of the Comptroller General.

Section 7(j)(10) establishes the small business and capital ownership development program. The program is to provide assistance exclusively to Section 8(a) business concerns. A Director of Small Business and Capital Ownership Development, appointed by the President, with the advice and consent of the Senate, shall manage the program, as well as all other services authorized in Section 7(j). The Director shall be an Executive level IV position.

The program shall assist 8(a) businesses in developing comprehensive business plans; provide such nonfinancial services as deemed necessary, including loan packaging, financial counseling, accounting and bookkeeping assistance; assist such businesses in obtaining equity and debt financing; establish performance monitoring and reporting systems to assure that participants comply with their business plans; analyze the cause of the success or failure of participating businesses; and provide all necessary assistance in the procurement of surety bonds.

No small business shall receive an 8(a) contract unless the program is able to provide those services necessary to promote the competitive viability of that concern, within a reasonable amount of time.

Section 7(j)(11) makes the Director responsible for the coordination and formulation of policies relating to Federal assistance to small business concerns eligible for such assistance under either Section 7(i) or 8(a).

The House bill has no similar provision.

The conference substitute adopts the Senate provision with an amendment. The amendment, among other things, places this program's administration and the management of the 8(a) program under the present Associate Administrator for Minority Small Business whose title is changed to Associate Administrator for Minority Small Business and Capital Ownership Development.

(5) SUBCONTRACTING

The House bill requires all bidders and offerors on both formally advertised and negotiated procurements to submit summary plans. The low bidder and apparent successful offeror are required to negotiate a final plan with the procuring authority.

The summary plan and offering company's compliance with previous plans is considered by the procuring authority in determining the responsibility of the company. No contract is awarded unless the procuring authority determines that the final plan provides the maximum practicable opportunity for small businesses and small businesses owned and controlled by the socially and economically disadvantaged to participate in performance of contract.

In the House bill the information required by the final plan is as follows:

(1) Percentage goals for small business and socially and economically disadvantaged small business; (2) the name of an individual to administer the program; (3) a description of how the firm will provide subcontracting opportunities; (4) contractor required to notify procuring authority if it enters into subcontracting over $50,000 with nonsmall business; (5) a description of how the company will make procuring procedures simple for small business; (6) a list of the types of records the company will keep; (7) a representation that the company will include a similar subcontracting clause in all subcontracts over $500,000; (8) a representation that the company will cooperate with SBA in studies; and (9) a representation that the company will submit reports to the procuring authority or to the SBA.

The House bill also authorizes SBA to participate in the negotiation of the final subcontracting plan. If SBA disagrees with the procuring authority over the acceptability of the plan, it can hold up contract award by appealing to the head of the procuring agency for modification of the plan.

Finally, the procuring agencies are authorized to provide incentives to encourage subcontracting opportunities for small and small disadvantaged businesses. For purposes of the subcontracting program, disadvantaged businesses are those 51% owned and controlled by Black Americans, Hispanic Americans, other minorities and 8(a) firms.

The Senate bill distinguishes between formally advertised and negotiated procurements. Only the low bidder on a formally advertised procurement is required to submit a subcontracting plan. Only those offerors in the competitive range on a negotiated procurement are required to submit plans.

Any proposal of an offeror on a negotiated procurement that does not contain a plan is considered non-responsive to the solicitation. Prior compliance of the offeror with previous plans is used in determining the responsibility of the offeror for award of the contract. The plan is considered an important factor in the selection of the offeror to be awarded the contract.

If the low bidder on a formally advertised procurement fails to submit a plan within the specified time requirements, such bidder becomes ineligible for award.

The information required by the Senate bill to be included in the plan is as follows:

(1) Percentage goals for small businesses and socially and economically disadvantaged small businesses; (2) the name of the individual to administer the program; (3) a description of how the firm will provide subcontracting opportunities; (4) a representation that the firm will include a similar subcontracting clause in all subcontracts over $500,000; (5) a representation firm will cooperate with SBA and the procuring agencies in compliance studies.

Finally, under the Senate bill SBA is authorized to (1) assist Federal agencies and businesses in complying with their responsibilities under the law, including formulation of subcontracting plans; (2) review solicitations for contracts, determine maximum practicable opportunity for small business and disadvantage small businesses to participate as subcontractors, and report findings (advisory) to the procuring agency; (3) evaluate compliance with subcontracting plans; (4) report to Senate and House committees by SBA on those plans found acceptable by procuring authorities but unacceptable by SBA.

The conference substitute basically adopts the Senate provision for formally advertised procurements and the House provision for negotiated procurements. The House requirement of a summary plan was deleted. For negotiated procurements the Conferees agreed upon placing a notice in the solicitation that the successful offeror would be required to negotiate a subcontracting plan. Failure by such offeror to negotiate a plan will result in that offeror being found ineligible to receive the contract. Additionally, the offeror's prior performance under previous plans will be used in considering whether it is a responsible contractor.

It is the intent of the conferees that these subcontracting requirements are not to be construed as being limited to competitively negotiated procurements. Each year executive agencies award large amounts of noncompetitive negotiated (sole source) contracts which provide opportunities for subcontracting. Federal agencies should make provisions to insure that, prior to the award of such contracts, contractors be required to submit contracting plans.

The House also receded to the provision in the Senate bill requiring certain information to be included in subcontracting plans except that the item in the House bill that requires the contractor to provide a list of the types of records it will keep is added to the Senate provision.

The Conferees intend that SBA and procuring agencies will coordinate their reporting requirements to avoid unproductive duplication or contradiction.

The House recedes to the Senate provisions dealing with the role of SBA in the subcontracting area. The Conferees intend that the newly created Director of Small and Disadvantaged Business Utilization (see paragraph (8)), shall work together with the procurement officer in any negotiations of subcontracting plans.

Finally, the conference substitute basically adopts the House definition of socially and economically disadvantaged for the subcontracting program, but does add the term, "Native Americans" after Black and Hispanic

Americans. The clause makes reference to "other minorities" and it is the conferees' intent that all Federal agencies uniformly interpret the term "other minorities." Their direction for doing so shall be provided by the Associate Administrator for Minority Small Business and Capital Ownership Development who is responsible under the terms of the newly proposed 7(j)(11) for coordinating and formulating policy relating to Federal assistance to disadvantaged businesses.

The Conferees recognize the difficulty that prime contractors might have in determining whether a firm is owned and controlled by a socially and economically disadvantaged person. Contractors may therefore rely on written representations by their small business subcontractors that they are either a small business or a small business owned and controlled by a socially and economically disadvantaged person. The Conferees recommend that for purposes of effective implementation of this program, the Small Business Administration, in cooperation with Federal buying agencies, should develop an expedited procedure by which it can receive challenges to these written representations and review the eligibility of small subcontractors.

(6) GOALS FOR SMALL BUSINESS CONTRACTING

The Senate bill requires Federal agencies to consult with SBA in establishing realistic goals for small business participation in Federal contracts. Disagreements would be submitted to the Office of Federal Procurement Policy for final determination. Agencies would be required to report to SBA on the contract dollars awarded to small business together with reasons why goals were not met. SBA would provide this information to the Senate and House Small Business Committees, together with its comments as to why any goals were not met.

The House bill contains no comparable provisions.

The conference substitute adopts the Senate provision but adds the requirement that Federal agencies consult with SBA in establishing realistic goals for disadvantaged business and that reports by Federal agencies include information on goals set for disadvantaged firms.

(7) PROCUREMENT SET-ASIDE FOR SMALL BUSINESS

The Senate bill specifically authorizes Federal agencies to reserve for small business contracts for research, development, test and evaluation and contracts having an estimated dollar value under $10,000.

The House bill contains no comparable provision.

The conference substitute adopts the Senate provision but extends the set-aside authority to contracts for architectural and engineering services.

(8) OFFICE OF SMALL BUSINESS UTILIZATION

The Senate bill establishes in each Federal agency having procurement powers an "Office of Small Business Utilization," to be directed by an employee of that agency, who would report directly to the head of the agency or his deputy (i.e., the second ranking person in that agency). The Director would be responsible for implementing programs under sections 8 (subcontracting) and 15 (prime contracting) of the Small Business Act, including (1) supervising personnel within the agency whose duties involve those sections of the Small Business Act; (2) assigning technical advisors in the agency to assist SBA personnel and (3) cooperating with SBA in implementing the Small Business Act. The Director's actions will be supervised and controlled by the head of the agency or the second ranking person therein, as the case may be.

The House bill contains no comparable provision.

The conference substitute adopts the Senate provision, but changes the title of the office and director to "Office of Small and Disadvantaged Business Utilization" and "Director of Small and Disadvantaged Business Utilization." The Conferees note the unsatisfactory performance of agencies where the small business programs have been separated from the disadvantaged business programs and wish to ameliorate such conditions by merging these functions in all agencies in a uniform fashion.

(9) SIMPLIFYING PROCUREMENT REGULATIONS

The Senate bill directs the Office of Federal Procurement Policy, in promulgating a single, simplified, uniform procurement regulation, to consult with SBA in analyzing small business impact and simplifying procurement procedures for small business.

The House bill contains no comparable provision.

The conference substitute adopts the Senate provisions, but consolidates the two sections of the Senate bill.

(10) ACCESS TO CONTRACT INFORMATION BY SMALL BUSINESS

The Senate bill directs procuring agencies to provide to small business adequate bidding information, agency contracts, and citations to pertinent laws and regulations.

The House bill contains no similar provision.

The conference substitute adopts the Senate provision.

(11) INDIRECT FEDERAL PROCUREMENT

The House bill adds a new section to the Small Business Act which provides that no form of Federal financial assistance may be provided to any applicant, if such assistance is used in any procurement, unless the applicant agrees to:

(A) utilize small and disadvantaged businesses to the maximum extent practicable for such procurement; and

(B) if subcontracts are to be let, to include the "best efforts" subcontracting clause found in Section 211 of the House version of the Bill.

These provisions, however, do not apply to applicants who are also small business concerns nor do they apply to any contract (financed with Federal assistance) which does not exced $500,000 or is to be performed outside of the United States.

The willful failure of any applicant to comply with these provisions results in termination of the Federal assistance.

Finally, the section allows SBA to obtain such periodic reports from Federal agencies as it deems necessary to determine the extent of compliance with this subsection.

The Senate has no similar provision.

The House recedes to the Senate.

However, the Conferees request that SBA develop, in cooperation with other agencies, an estimate of the use of small and disadvantaged business concerns by recipients of Federal financial assistance as referred to in the House provision. In accomplishing this task, SBA is not to impose increased reporting requirements on such recipients.

(12) LABOR SURPLUS AREA PROCUREMENT

The House bill conclusively establishes that, notwithstanding the traditional Maybank Amendment, the labor surplus area program established by Public Law 95–89, applies to purchases made by the Department of Defense. The House bill also extends the sunset provision for the program for an additional year.

The Senate has no similar provision.

The conference substitute adopts the House provision extending the sunset date for an additional year.

Moreover, the conference substitute requires the President to submit a report to the Small Business and Armed Services Committees of both Houses not later than October 1, 1979 on the labor surplus area procurement program.

The report mandated under this section is intended to provide an analysis of the effectiveness of the labor surplus area program. In measuring its effectiveness, the President should evaluate all Federal agencies' utilization of the program, including an evaluation of the specific reasons for the level of such utilization. In addition, the efficacy of the program's purpose, that is, reducing unemployment in areas of high unemployment, should be explored with respect to both its present and potential operation.

The report should also include an analysis of the method now used by the Department of Labor to identify and designate labor surplus areas and whether such method is appropriate in view of the stated purposes of the program.

The report must contain a comparison of all present and potential benefits derived or to be derived from the program in relation to its current and future additional costs to the Federal purchase system, if any.

With respect to the Department of Defense the report should include, in addition, specific information regarding the extent to which the Department has utilized the program with respect to fiscal year 1977 unobligated funds and such other funds which are not limited as to their obligation by the Maybank Amendment.

The Conferees are concerned with the DOD's utilization of partial labor surplus area procurements. While the Department has often reported that it finds program use difficult, and the conferees acknowledge that defense procurement may raise special problems, the conferees are never the less concerned that DOD's procurement last year exceeded $55 billion and its partial set-aside awards totaled only six tenths of 1%. All applicable law and regulations regarding the use of partial labor surplus set-asides should be fully complied with by all federal departments and agencies, and the report required by this section should therefore also include an extensive review of the DOD's participation in this aspect of the overall program. The conferees further intend that the Department will make available to the Small Business Committees of both Houses, quarterly reports detailing the number and dollar value of contracts let as partial labor surplus area set-asides as compared to the number and dollar value of formally advertised awards made during that period.

J. P. ADDABBO,
NEAL SMITH,
FERNAND J. ST GERMAIN,
TOM STEED,
JAMES C. CORMAN,
FRED RICHMOND,
RICHARD NOLAN,
HENRY GONZALEZ,
WYCHE FOWLER, JR.
JOE MCDADE,
SILVIO O. CONTE,
R. KASTEN,
MILLICENT FENWICK,
Managers on the Part of the House.

GAYLORD NELSON,
THOMAS J. MCINTYRE,
SAM NUNN,
WILLIAM D. HATHAWAY,
JOHN CULVER,
LOWELL P. WEICKER, JR.,
DEWEY BARTLETT,
BOB PACKWOOD,
Managers on the Part of the Senate.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. RAHALL, for October 10, 11 (if any quorums or rollcall votes), 12, and 13 (if not back, on account of official business).

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. LEACH) to revise and extend their remarks and include extraneous material:)

Mr. GOLDWATER, for 5 minutes, today.
Mr. ARCHER, for 5 minutes, today.
Mr. WAMPLER, for 10 minutes, today.
Mr. MILLER of Ohio, for 10 minutes, today.

(The following Members (at the request of Mr. RAHALL) and to revise and extend their remarks and include extraneous matter:)

Mr. ANNUNZIO, for 5 minutes, today.
Mr. GONZALEZ, for 5 minutes, today.
Mr. MCHUGH, for 5 minutes, today.
Mr. NOLAN, for 5 minutes, today.
Mr. ROGERS, for 5 minutes, today.
Mrs. COLLINS of Illinois, for 5 minutes, today.
Mr. ROSTENKOWSKI, for 15 minutes, today.
Mr. FASCELL, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. RUDD, and to include extraneous matter notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $1,724.63.

Mr. TRIBLE, to include extraneous matter with his remarks on the defense appropriation bill in the Committee of the Whole.

Mr. RUPPE, to revise and extend at the end of the debate on the Fithian amendment in the Committee of the Whole today.

Mr. GREEN, to revise and extend his remarks immediately before the vote on the Shuster substitute to the Murphy of New York amendment on H.R. 13059 in the Committee of the Whole today.

Mr. EDGAR, to revise and extend his remarks and to include extraneous matter on H.R. 13059, Water Resources Development Act of 1978.

(The following Members (at the request of Mr. LEACH) and to include extraneous matter:)

Mr. BUCHANAN.
Mr. STEERS.
Mr. MICHEL.
Mr. COLLINS of Texas in four instances.
Mr. DERWINSKI.
Mrs. HOLT.
Mr. KEMP.
Mr. GILMAN.
Mr. HANSEN in three instances.
Mr. PRESSLER in two instances.
Mr. DORNAN in two instances.
Mr. GOODLING.
Mr. HYDE.
Mr. SYMMS in two instances.

(The following Members (at the request of Mr. RAHALL) and to include extraneous material:)

Mr. GONZALEZ in three instances.
Mr. ANDERSON of California in three instances.
Mr. AUCOIN.
Mr. FRASER.
Mr. VENTO.
Mr. BLOUIN.
Mr. RODINO.
Ms. OAKAR in two instances.
Mr. LEHMAN.
Mr. RYAN in two instances.
Mr. CAVANAUGH in two instances.
Mr. MCDONALD in five instances.
Mr. SISK.
Mr. OTTINGER.
Mr. HAMILTON.
Mr. DRINAN.
Mr. YOUNG of Missouri.
Mr. NOLAN.
Mr. EDWARDS of California in two instances.
Mr. BRECKINRIDGE in two instances.
Mr. DODD.
Mrs. SCHROEDER.
Mr. SIMON in three instances.
Mr. TSONGAS in six instances.
Mr. GARCIA.
Mr. MOFFETT in two instances.
Mrs. SPELLMAN in two instances.
Mr. RAHALL.
Mr. GEPHARDT.
Ms. KEYS.
Mr. FISHER.

SENATE JOINT RESOLUTION REFERRED

A joint resolution of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S.J. Res. 168. Joint resolution designating and authorizing the President to proclaim February 11, 1979, as "National Inventors' Day"; to the Committee on Post Office and Civil Service.

SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S. 2916. An act to amend the Drug Abuse Office and Treatment Act of 1972 to extend the programs of assistance under that Act for drug abuse prevention, education, treatment, and rehabilitation, and for other purposes; and

S. 3384. An act to require foreign persons who acquire, transfer, or hold interests in agricultural land to report such transactions and holdings to the Secretary of Agriculture and to direct the Secretary to analyze information contained in such reports and determine the effects such transactions and holdings have, particularly on family farms and rural communities, and for other purposes.

ENROLLED BILLS SIGNED

Mr. THOMPSON, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the following titles, which were thereupon signed by the Speaker:

H.R. 1337. An act to amend the Internal Revenue Code of 1954 with respect to excise tax on certain trucks, buses, tractors, et cetera, home production of beer and wine, refunds of the taxes on gasoline and special fuels to aerial applicators, and partial rollovers of lump sum distribution;

H.R. 10965. An act to revise, codify, and enact without substantive change the Interstate Commerce Act and related laws as subtitle IV of title 49, United States Code, "Transportation"; and

H.R. 12603. An act to amend the Great Lakes Pilotage Act of 1960 in order to relieve the restrictive qualification standards for United States registered pilots on the Great Lakes.

ADJOURNMENT

Mr. RAHALL. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 17 minutes p.m.) the House adjourned until tomorrow, Thursday, October 5, 1978, at 10 o'clock a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

5088. A letter from the Assistant Secretary of Defense (Comptroller), transmitting a list of contract award dates for the period September 15, 1978–December 15, 1978, pursuant to 10 U.S.C. 139; to the Committee on Armed Services.

5089. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b; to the Committee on International Relations.

5090. A letter from the Assistant Administrator for Legislative Affairs, Agency for International Development, Department of State, transmitting a report on the programming and obligation of funds for relief and rehabilitation assistance to victims of the March 4, 1977, Romanian earthquake, pursuant to section 495D(e) of the Foreign Assistance Act of 1961, as amended; to the Committee on International Relations.

5091. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Army's intention to offer to sell certain defense equipment to the United Kingdom (transmittal No. 78–67), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on International Relations.

5092. A letter from the Secretary of Health, Education, and Welfare, transmitting the annual report on health manpower shortages and the use of National Health Service Corps programs, pursuant to section 336 of the Public Health Service Act, as amended; to the Committee on Interstate and Foreign Commerce.

5093. A letter from the General Counsel, Department of Energy, transmitting notice of a meeting relating to the international

energy program to be held October 4, 1978, in Paris; to the Committee on Interstate and Foreign Commerce.

5094. A letter from the Secretary of Energy, transmitting a report on the Department's experience under section 501 of the Department of Energy Organization Act, which prescribes certain administrative procedures for the Department's rulemakings, pursuant to section 505 of the act; to the Committee on the Judiciary.

5095. A letter from the Administrator of Veterans' Affairs, transmitting a report on veterans vocational rehabilitation, pursuant to section 307 of Public Law 95-202; to the Committee on Veterans' Affairs.

5096. A letter from the Executive Secretary to the Department of Health, Education, and Welfare, transmitting revised final regulations establishing standards for determining when it would be contrary to the best interests of a child, on whose behalf application has been made for aid to needy families with children, to require cooperation in establishing paternity and securing child support, pursuant to section 208(d)(1) of Public Law 94-88; to the Committee on Ways and Means.

5097. A letter from the Comptroller General of the United States, transmitting the annual report on GAO's audits of energy information (EMD-78-88. October 4, 1978), pursuant to section 502(f) of Public Law 94-163; jointly, to the Committees on Government Operations, and Interstate and Foreign Commerce.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BROOKS: Committee on Government Operations. Report on export of products banned by U.S. regulatory agencies. (Rept. No. 95-1686). Referred to the Committee of the Whole House on the State of the Union.

Mr. EDWARDS of California: Committee on the Judiciary. H.R. 14030. A bill to provide more effectively for the use of interpreters in courts of the United States and for other purposes; with amendment (Rept. No. 95-1687). Referred to the Committee of the Whole House on the State of the Union.

Mr. ULLMAN: Committee on Ways and Means. H.R. 13047. A bill to amend the Internal Revenue Code of 1954 to provide for a special tax accounting rule for the redemption of trading stamps and coupons; with amendment (Rept. No. 95-1707). Referred to the Committee of the Whole House on the State of the Union.

Mr. DANIELSON: Committee on the Judiciary. H.R. 7201. A bill to amend subsection (a) of section 2737 of title 10, United States Code, and for other purposes (Rept. No. 95-1708). Referred to the Committee of the Whole House on the State of the Union.

Mr. DIGGS: Committee of conference. Conference report on H.R. 6536 (Rept. No. 95-1713). Ordered to be printed.

Mr. ADDABBO: Committee of conference. Conference report on H.R. 11318 (Rept. No. 95-1714). Ordered to be printed.

Mr. DODD: Committee on Rules. House Resolution 1349. Resolution providing for the agreeing to the Senate amendments to the bill (H.R. 112) to amend the Internal Revenue Code of 1954 to reduce the excise tax on the investment income of private foundations from 4 percent to 2 percent. (Rept. No. 95-1715). Referred to the House Calendar.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. EILBERG: Committee on the Judiciary. S. 2294. An act for the relief of Joselyn Buccat Lalley and Jodelyn Buccat Lalley. (Rept. No. 95-1688). Referred to the Committee of the Whole House.

Mr. EILBERG: Committee on the Judiciary. S. 2248. An act for the relief of Susanna Shu-hui Jean. (Rept. No. 95-1689). Referred to the Committee of the Whole House.

Mr. EILBERG: Committee on the Judiciary. S. 1618. An act for the relief of Sang Yun Yoon. (Rept. No. 95-1690). Referred to the Committee of the Whole House.

Mr. EILBERG: Committee on the Judiciary. S. 1563. An act for the relief of Do Sook Park. (Rept. No. 95-1691). Referred to the Committee of the Whole House.

Mr. EILBERG: Committee on the Judiciary. S. 1401. An act for the relief of Elvi Engelsmann Jensen. (Rept. No. 95-1692). Referred to the Committee of the Whole House.

Mr. EILBERG: Committee on the Judiciary. S. 1166. An act for the relief of Maria Elena Jumalon (Rept. No. 95-1693). Referred to the Committee of the Whole House.

Mr. EILBERG: Committee on the Judiciary. S. 1165. An act for the relief of Chester Chun Ket Young (also known as Chun-Kit Yeung) (Rept. No. 95-1694). Referred to the Committee of the Whole House.

Mr. EILBERG: Committee on the Judiciary. S. 1154. An act for the relief of Jim Syen Suh (Rept. No. 95-1695). Referred to the Committee of the Whole House.

Mr. EILBERG: Committee on the Judiciary. S. 1110. An act for the relief of Juanita Binabise (Rept. No. 95-1696). Referred to the Committee of the Whole House.

Mr. EILBERG: Committee on the Judiciary. S. 973. An act for the relief of Young-Shik Kim (Rept. No. 95-1697). Referred to the Committee of the Whole House.

Mr. EILBERG: Committee on the Judiciary. S. 612. An act for the relief of Timmy Lao Olavere (Rept. No. 95-1698). Referred to the Committee of the Whole House.

Mr. EILBERG: Committee on the Judiciary. S. 579. An act for the relief of Imelda C. Jayag Potter (Rept. No. 95-1699). Referred to the Committee of the Whole House.

Mr. EILBERG: Committee on the Judiciary. S. 337. An act for the relief of Miriama Jones (Rept. No. 95-1700). Referred to the Committee of the Whole House.

Mr. EILBERG: Committee on the Judiciary. S. 1484. An act for the relief of Michael Bruce Holland (Rept. No. 95-1701). Referred to the Commitee of the Whole House.

Mr. EILBERG: Committee on the Judiciary. S. 391. An act for the relief of Brigitte Marie Harwood (Rept. No. 95-1702). Referred to the Committee of the Whole House.

Mr. EILBERG: Committee on the Judiciary. S. 142. An act for the relief of Gaspar Louis Sayou (Rept. No. 95-1703). Referred to the Committee of the Whole House.

Mr. EILBERG: Committee on the Judiciary. S. 1826. An act for the relief of Kaincosh-Fard Bullock and her son, Kami Bullock (Rept. No. 95-1704). Referred to the Committee of the Whole House.

Mr. EILBERG: Committee on the Judiciary. S. 2379. An act for the relief of Jesusa Navarro Romero and Antonio Angeles Romero (Rept. No. 95-1705). Referred to the Committee of the Whole House.

Mr. EILBERG: Committee on the Judiciary. S. 2509. An act for the relief of Rodolfo N. Arriola (Rept. No. 95-1706). Referred to the Committee of the Whole House.

Mr. EILBERG: Committee on the Judiciary. H.R. 9660. A bill for the relief of Hermina Jormigos (Rept. No. 95-1709). Referred to the Committee of the Whole House.

Mr. EILBERG: Committee on the Judiciary. H.R. 1424. A bill for the relief of Jesus Reveles y Rivera; with amendment (Rept. No. 95-1710). Referred to the Committee of the Whole House.

Mr. EILBERG: Committee on the Judiciary. H.R. 11953. A bill for the relief of Lunette Joyce Clarke; with amendment (Rept. No. 95-1711). Referred to the Committee of the Whole House.

Mr. EILBERG: Committee on the Judiciary. H.R. 11405. A bill for the relief of Maryrose and Rosemary Evangelista; with amendment (Rept. No. 95-1712). Referred to the Committee of the Whole House.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 or rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. CAPUTO:

H.R. 14221. A bill to direct the Secretary of Transportation to conduct a study with respect to the construction of a railroad freight tunnel in the New York City area; to the Committee on Interstate and Foreign Commerce.

By Mr. KINDNESS:

H.R. 14222. A bill to amend title 5 of the United States Code to improve the quality of agency rulemaking by establishing a uniform procedure for the congressional review of agency rules, to expand the opportunities for public participation in agency rulemaking, and for other purposes; jointly, to the Committees on Rules and the Judiciary.

By Mr. MADIGAN.

H.R. 14223. A bill to designate a certain Federal building in Bloomington, Ill., the "Leslie C. Arends Building"; to the Committee on Public Works and Transportation.

By Mr. NOLAN:

H.R. 14224. A bill to authorize and direct the Secretary of the Interior to acquire certain lands for the benefit of the Mille Lacs Band of the Minnesota Chippewa Indians; to the Committee on Interior and Insular Affairs.

By Mr. ROBINSON:

H.R. 14225. A bill to establish the authorized area of Shenandoah National Park; to the Committee on Interior and Insular Affairs.

By Mr. ROGERS:

H.R. 14226. A bill to provide for demonstration programs to train and employ AFDC recipients as homemakers and home health aides; jointly, to the Committees on Interstate and Foreign Commerce, and Ways and Means.

By Mr. SATTERFIELD:

H.R. 14227. A bill to delay any action which may be taken by the Secretary of Agriculture respecting nitrites used as a food preservative on the basis of any carcinogenic effect nitrites may be represented to have; to the Committee on Agriculture.

H.R. 14228. A bill to amend title XVIII of the Social Security Act with respect to reimbursement of physicians' services in teaching hospitals; jointly, to the Committees on Ways and Means, and Interstate and Foreign Commerce.

By Mr. SEIBERLING (for himself and Mr. LEVITAS):

H.R. 14229. A bill to provide coverage under the Federal old-age, survivors and disability insurance system for all Members of Congress and other officers and employees in the legislative branch of the Government; to the Committee on Ways and Means.

By Mr. STEERS:

H.R. 14230. A bill to amend the Railroad Retirement Act of 1974 with respect to benefits payable to certain individuals who on December 31, 1974, had at least 10 years of railroad service and also were fully insured under the Social Security Act; to the Committee on Interstate and Foreign Commerce.

H.R. 14231. A bill to authorize Federal agencies to lease space for and otherwise assist in the establishment of day care center facilities for the children of their employees; jointly, to the Committees on Education and Labor, and Government Operations.

By Mr. ROGERS (for himself and Mr. DAVIS):

H.R. 14232. A bill to amend Public Law 93–233 to delay for 1 year the amendments made to the Social Security Act respecting teaching hospitals; jointly, to the Committees on Ways and Means, and Interstate and Foreign Commerce.

By Mr. BLANCHARD (for himself, Mr. MINETA, Mr. DUNCAN of Oregon, and Mr. RAILSBACK):

H.R. 14233. A bill to require authorization of new budget authority for Government programs at least every 10 years, to provide for review of Government programs every 10 years, and for other purposes; jointly, to the Committees on Rules, and Government Operations.

By Mr. DORNAN:

H.R. 14234. A bill to amend the Internal Revenue Code of 1954 to provide for tax reductions and reforms; jointly, to the Committees on Ways and Means, Government Operations, and Rules.

By Mr. CARTER (for himself and Mr. SKUBITZ):

H.R. 14235. A bill to strengthen and improve the early and periodic screening, diagnosis, and treatment program, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. CARTER (for himself, Mr. EVANS of Georgia, Mr. ROBINSON, Mr. MCDADE, Mr. KRUEGER, Mr. KINDNESS, Mr. PATTEN, Mr. LEACH, Mr. COLLINS of Texas, Mrs. SPELLMAN, Mr. YOUNG of Missouri, Mr. SCHULZE, Mr. DAVIS, and Mr. KAZEN):

H.R. 14236. A bill to amend title XVIII of the Social Security Act with respect to reimbursement of physicians' services in teaching hospitals; jointly, to the Committees on Ways and Means, and Interstate and Foreign Commerce.

By Mr. CARTER (for himself, Mr. MAZZOLI, Mr. NATCHER, Mr. SNYDER, Mr. PERKINS, Mr. BRECKINRIDGE, and Mr. HUBBARD):

H.R. 14237. A bill to amend title XVIII of the Social Security Act with respect to reimbursement of physicians' services in teaching hospitals; jointly, to the Committees on Ways and Means, and Interstate and Foreign Commerce.

By Mr. GINN:

H.R. 14238. A bill to facilitate the enforcement by the Coast Guard of laws relating to the importation of marihuana, cocaine, and heroin, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. CHARLES WILSON of Texas:

H.R. 14239. A bill to authorize the Corps of Engineers to establish and develop separate campgrounds for senior citizens at lakes and reservoirs under the jurisdiction of the corps and to require that such a campground be established and developed at the Sam Rayburn Dam and Reservoir; to the Committee on Public Works and Transportation.

By Mr. DRINAN (for himself and Mr. HOWARD):

H.R. 14240. A bill to promote the development of methods of research, experimentation, and testing that minimize the use of, and pain and suffering to, live animals; to the Committee on Science and Technology.

By Mr. GINN:

H.R. 14241. A bill entitled "Economic Development Program Consolidation Act"; jointly, to the Committees on Banking, Finance and Urban Affairs, Public Works and Transportation, and Government Operations.

By Mr. SYMMS (for himself, Mr. DENT, Mr. QUAYLE, Mr. CRANE, Mr. ROBINSON, Mr. STUMP, Mr. GOODLING, Mr. DUNCAN of Oregon, Mr. ROSE, Mr. BUCHANAN, Mr. PATTISON of New York, and Mr. PATTERSON of California):

H.R. 14242. A bill to provide for the issuance of gold medallions, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. BONIOR (for himself, Mr. AKAKA, Mr. ALEXANDER, Mr. AMBRO, Mr. AMMERMAN, Mr. ANDERSON of Illinois, Mr. BALDUS, Mr. BARNARD, Mr. BAUCUS, Mr. BEARD of Rhode Island, Mr. BEARD of Tennessee, Mr. BEDELL, Mr. BEILENSON, Mr. BENJAMIN, Mr. BEVILL, Mr. BINGHAM, Mr. BLANCHARD, Mrs. BOGGS, Mr. BONKER, Mr. BOWEN, Mr. BRADEMAS, Mr. BRINKLEY, Mr. BRODHEAD, Mr. BURGENER, and Mr. BURKE of Florida):

H.J. Res. 1147. Joint resolution authorizing and requesting the President to designate the 7-day period beginning on May 28, 1979, as "Vietnam Veterans Week"; to the Committee on Post Office and Civil Service.

By Mr. BONIOR (for himself, Mrs. BURKE of California, Mr. JOHN L. BURTON, Mr. BUTLER, Mr. CARNEY, Mr. CARR, Mr. CARTER, Mr. CHAPPELL, Mrs. CHISHOLM, Mr. CLAY, Mr. CONTE, Mr. CONYERS, Mr. CORCORAN of Illinois, Mr. CORMAN, Mr. CORNELL, Mr. CORRADA, Mr. D'AMOURS, Mr. ROBERT W. DANIEL, Jr., Mr. DE LUGO, Mr. DENT, Mr. DERWINSKI, Mr. DERRICK, Mr. DINGELL, Mr. DORNAN, and Mr. DOWNEY):

H.J. Res. 1148. Joint resolution authorizing and requesting the President to designate the 7-day period beginning on May 28, 1979, as "Vietnam Veterans Week"; to the Committee on Post Office and Civil Service.

By Mr. BONIOR (for himself, Mr. DRINAN, Mr. EDGAR, Mr. EDWARDS of California, Mr. EILBERG, Mr. EMERY, Mr. ENGLISH, Mr. FAUNTROY, Mrs. FENWICK, Mr. FISH, Mr. FITHIAN, Mr. FLOOD, Mr. FLORIO, Mr. FORD of Michigan, Mr. FRASER, Mr. FRENZEL, Mr. GAMMAGE, Mr. GARCIA, Mr. GAYDOS, Mr. GIAIMO, Mr. GLICKMAN, Mr. GREEN, Mr. GUYER, Mr. HALL, and Mr. HANLEY):

H.J. Res. 1149. Joint resolution authorizing and requesting the President to designate the 7-day period beginning on May 28, 1979, as "Vietnam Veterans Week"; to the Committee on Post Office and Civil Service.

By Mr. BONIOR (for himself, Mr. HANSEN, Mrs. HECKLER, Mr. HEFNER, Mr. HEFTEL, Mr. HILLIS, Mrs. HOLT, Ms. HOLTZMAN, Mr. HORTON, Mr. HOWARD, Mr. HUGHES, Mr. HYDE, Mr. ICHORD, Mr. JACOBS, Mr. JEFFORDS, Mr. JENKINS, Mr. JOHNSON of California, Mr. JONES of Tennessee, Mr. KAZEN, Mr. KEMP, Mr. KILDEE, Mr. KINDNESS, Mr. KOSTMAYER, Mr. KASTEN, and Mr. KREBS):

H.J. Res. 1150. Joint resolution authorizing and requesting the President to designate the 7-day period beginning on May 28, 1979, as "Vietnam Veterans Week"; to the Committee on Post Office and Civil Service.

By Mr. BONIOR (for himself, Mr. KRUEGER, Mr. LAGOMARSINO, Mr. LEACH, Mr. LEDERER, Mr. LEVITAS, Mr. LIVINGSTON, Mr. LLOYD of California, Mrs. LLOYD of Tennessee, Mr. LONG of Maryland, Mr. LOTT, Mr. LUNDINE, Mr. MCDONALD, Mr. MCEWEN, Mr. MCHUGH, Mr. MCKINNEY, Mr. MAGUIRE, Mr. MARKS, Mr. MATHIS, Mr. MATTOX, Ms. MIKULSKI, Mr. MIKVA, Mr. MILLER of California, Mr. MITCHELL of Maryland, and Mr. MOFFETT):

H.J. Res. 1151. Joint resolution authorizing and requesting the President to designate the 7-day period beginning on May 28, 1979, as "Vietnam Veterans Week"; to the Committee on Post Office and Civil Service.

By Mr. BONIOR (for himself, Mr. MONTGOMERY, Mr. MOORHEAD of Pennsylvania, Mr. MOTTL, Mr. MURPHY of Illinois, Mr. MICHAEL O. MYERS, Mr. NEAL, Mr. NEDZI, Mr. NICHOLS, Mr. NIX, Mr. NOLAN, Mr. NOWAK, Ms. OAKAR, Mr. OBERSTAR, Mr. O'BRIEN, Mr. OTTINGER, Mr. PATTEN, Mr. PATTERSON of California, Mr. PATTISON of New York, Mr. PERKINS, Mr. POAGE, Mr. PREYER, Mr. PRICE, and Mr. PRITCHARD):

H.J. Res. 1152. Joint resolution authorizing and requesting the President to designate the 7-day period beginning on May 28, 1979, as "Vietnam Veterans Week"; to the Committee on Post Office and Civil Service.

By Mr. BONIOR (for himself, Mr. PURSELL, Mr. QUAYLE, Mr. QUIE, Mr. RAHALL, Mr. RAILSBACK, Mr. RANGEL, Mr. RHODES, Mr. RICHMOND, Mr. RISENHOOVER, Mr. ROBINSON, Mr. RODINO, Mr. ROE, Mr. ROONEY, Mr. RUDD, Mr. RUPPE, Mr. RUSSO, Mr. SATTERFIELD, Mr. SAWYER, Mr. SCHEUER, Mr. SCHULZE, Mr. SEBELIUS, Mr. SHARP, Mr. SHUSTER, and Mr. SIMON):

H.J. Res. 1153. Joint resolution authorizing and requesting the President to designate the 7-day period beginning on May 28, 1979, as "Vietnam Veterans Week"; to the Committee on Post Office and Civil Service.

By Mr. BONIOR (for himself, Mr. SKELTON, Mr. SLACK, Mr. SMITH of Iowa, Mr. SOLARZ, Mrs. SPELLMAN, Mr. STAGGERS, Mr. STARK, Mr. STEED, Mr. STEERS, Mr. STEIGER, Mr. STOKES, Mr. STRATTON, Mr. STUDDS, Mr. STUMP, Mr. TAYLOR, Mr. TEAGUE, Mr. THORNTON, Mr. TRAXLER, Mr. TUCKER, Mr. UDALL, Mr. VENTO, Mr. VOLKMER, Mr. WALGREN, and Mr. WAMPLER):

H.J. Res. 1154. Joint resolution authorizing and requesting the President to designate the 7-day period beginning on May 28, 1979, as "Vietnam Veterans Week"; to the Committee on Post Office and Civil Service.

By Mr. BONIOR (for himself, Mr. WATKINS, Mr. WAXMAN, Mr. WEAVER, Mr. WHITEHURST, Mr. WITTEN, Mr. BOB WILSON, Mr. CHARLES WILSON of Texas, Mr. WINN, Mr. WOLFF, Mr. WRIGHT, Mr. WYDLER, Mr. YATRON, Mr. YOUNG of Alaska, Mr. YOUNG of Missouri, Mr. ZABLOCKI, and Mr. ZEFERETTI):

H.J. Res. 1155. Joint resolution authorizing and requesting the President to designate the 7-day period beginning on May 28, 1979, as "Vietnam Veterans Week"; to the Committee on Post Office and Civil Service.

By Mr. BONIOR (for himself, Mr. MURTHA, Mr. ASPIN, Mr. CAVANAUGH, Mr. CORNWELL, Mr. DODD, Mr. ERTEL,

Mr. GORE, Mr. HARKIN, Mr. JONES of Oklahoma, Mr. LAFALCE, Mr. PANETTA, and Mr. PRESSLER):

H.J. Res. 1156. Joint resolution authorizing and requesting the President to designate the 7-day period beginning on May 28, 1979, as "Vietnam Veterans Week"; to the Committee on Post Office and Civil Service.

By Mr. NEAL (for himself, Mr. REUSS, and Mr. STANTON):

H.J. Res. 1157. Joint resolution to amend section 8 of the Export-Import Bank Act of 1945; to the Committee on Banking, Finance and Urban Affairs.

By Mr. WHITE (for himself, Mr. ANNUNZIO, Mr. BENJAMIN, Mr. BOWEN, Mr. BURGENER, Mr. COLLINS of Texas, Mr. DAN DANIEL, Mr. DUNCAN of Tennessee, Mr. FORSYTHE, Mr. GRASSLEY, Mr. HARSHA, Mrs. LLOYD of Tennessee, Mr. MADIGAN, Mr. MOTTL, Mr. RUPPE, Mr. SIKES, Mr. WHITEHURST, Mr. YOUNG of Florida and Mr. RUNNELS):

H.J. Res. 1158. Joint resolution proposing an amendment to the Constitution of the United States to provide that the level of total expenditures of the United States for any fiscal year shall not exceed the level of total revenues of the United States for such fiscal year and for the disposition of subsequent deficits, and that the gross Federal debt be reduced by open-market operations; to the Committee on the Judiciary.

By Mr. RAHALL (for himself, Mr. ANNUNZIO, Mr. BEARD of Rhode Island, Mrs. HECKLER, and Mr. VENTO):

H.J. Res. Res. 1159. Joint resolution to authorize National Shut-In Day; to the Committee on Post Office and Civil Service.

By Mr. DIGGS (for himself, Mr. HAMILTON, Mr. BINGHAM, Mr. BONKER, Mr. BUCHANAN, Mrs. COLLINS of Illinois, Mr. FASCELL, Mr. FRASER, Mr. HARRINGTON, Mr. MAGUIRE, Mr. NIX, Mr. STEERS, and Mr. WHALEN):

H. Con. Res. 729. Concurrent resolution in support of the United Nations Security Council plan for the independence of Namibia; to the Committee on International Relations.

By Mrs. COLLINS of Illinois.

H. Con. Res. 731. Concurrent resolution stating the sense of the Congress that the Helsinki monitoring groups should be nominated for the Nobel Peace Prize; to the Committee on International Relations.

By Mr. GONZALEZ (for himself, Mr. AMBRO, Mr. APPLEGATE, Mr. AUCOIN, Mr. BEDELL, Mr. BINGHAM, Mr. BOLAND, Mr. BONKER, Mr. BROWN of California, Mr. BURKE of Florida, Mr. JOHN L. BURTON, Mr. CAVANAUGH, Mrs. COLLINS of Illinois, Mr. CORNELL, Mr. DAVIS, Mr. DENT, Mr. DERRICK, Mr. ERTEL, Mr. FASCELL, Mr. FISHER, Mr. FLOWERS, Mr. FLYNT, Mr. FUQUA, Mr. GAYDOS, and Mr. GORE):

H. Res. 1396. Resolution to recognize the contribution of Bernardo de Galvez to the independence of the United States; to the Committee on Post Office and Civil Service.

By Mr. GONZALEZ (for himself, Mr. HANNAFORD, Mr. HANSEN, Mr. HARKIN, Ms. HOLTZMAN, Mr. HOWARD, Mr. HUBBARD, Mr. ICHORD, Mr. JENRETTE, Mr. JONES of Oklahoma, Mr. KILDEE, Mr. LEVITAS, Mr. LONG of Louisiana, Mr. LUJAN, Mr. MCCLOSKEY, Mr. MANN, Mr. MAZZOLI, Mr. MEEDS, Mrs. MEYNER, Ms. MIKULSKI, Mr. MIKVA, Mr. MINISH, Mr. MILFORD, Mr. MOAKLEY, and Mr. MOFFETT):

H. Res. 1397. Resolution to recognize the contribution of Pernardo de Galvez to the independence of the United States; to the Committee on Post Office and Civil Service.

By Mr. GONZALEZ (for himself, Mr. MOLLOHAN, Mr. MURPHY of Pennsylvania, Mr. MURPHY of New York, Mr. MURPHY of Illinois, Mr. MURTHA, Mr. PATTERSON of California, Mr. RHODES, Mr. RINALDO, Mr. RODINO, Mr. ROSENTHAL, Mr. RUDD, Mr. RUSSO, Mr. STAGGERS, Mr. STRATTON, Mr. SYMMS, Mr. TAYLOR, Mr. TUCKER, Mr. VANIK, Mr. VOLKMER, Mr. WATKINS, Mr. CHARLES WILSON of Texas, Mr. YATRON, Mr. YOUNG of Florida, and Mr. ZEFERETTI):

H. Res. 1398. Resolution to recognize the contribution of Bernardo de Galvez to the independence of the United States; to the Committee on Post Office and Civil Service.

By Mr. GONZALEZ (for himself, Mr. AKAKA, Mr. CORMAN, Mrs. SPELLMAN, Mr. JONES of Tennessee, Mr. DODD, Mr. MAGUIRE, Mr. MOSS, Mr. NOWAK, Ms. OAKAR, Mr. CARR, Mr. DEL CLAWSON, Mr. WIGGINS, Mr. TRAXLER, Mr. MCCORMACK, Mr. HAMILTON, and Mr. MOORHEAD of Pennsylvania):

H. Res. 1399. Resolution to recognize the contribution of Bernardo de Galvez to the independence of the United States; to the Committee on Post Office and Civil Service.

By Mr. GONZALEZ (for himself, Mr. JACOBS, Mr. BROYHILL, Mr. LEGGETT, Mr. NICHOLS, Mr. ALEXANDER, Mr. BEARD of Rhode Island, Mr. LONG of Maryland, Mr. ST GERMAIN, Mr. CARNEY, Mr. SEIBERLING, Mr. BALDUS, Mr. HAMMERSCHMIDT, Mr. MCDONALD, Mr. YATES, Mr. GIBBONS, Mrs. LLOYD of Tennessee, Mr. MCEWEN, Mr. GILMAN, Mr. KELLY, Mr. PIKE, Mr. HARRIS, Mr. PERKINS, Mr. SLACK, and Mr. FRASER):

H. Res. 1400. Resolution to recognize the contribution of Bernardo de Galvez to the independence of the United States; to the Committee on Post Office and Civil Service.

By Mr. GONZALEZ (for himself, Mr. RONCALIO, Mr. EDWARDS of California, Mr. SMITH of Iowa, Mr. GIAIMO, Mr. JOHNSON of California, Mr. RUNNELS, Mr. EVANS of Colorado, Mr. BURKE of Massachusetts, Mr. SISK, Mr. WOLFF, Mr. PATTEN, Mr. DINGELL, Mr. MATHIS, Mr. CHAPPELL, Mr. MCKAY, Mr. SCHEUER, Mr. BROWN of Michigan, Mr. ROYBAL, Mr. ZABLOCKI, Mr. ROONEY, Mr. BRECKINRIDGE, Mr. BIAGGI, Mr. NEDZI, and Mr. BENNETT):

H. Res. 1401. Resolution to recognize the contribution of Bernardo de Galvez to the independence of the United States; to the Committee on Post Office and Civil Service.

By Mr. GONZALEZ (for himself, Mr. PHILLIP BURTON, Mr. ECKHARDT, Mr. HIGHTOWER, Miss JORDAN, Mr. MATTOX, Mr. POAGE, Mr. ROBERTS, Mr. UDALL, Mr. WRIGHT, Mr. CARTER, Mr. HAWKINS, Mr. ASHEY, Mr. ANNUNZIO, Mr. DUNCAN of Oregon, Mr. FORD of Michigan, Mr. GINN, Mr. ANDERSON of California, Mr. DON H. CLAUSEN, Mr. DICKS, Mr. ROGERS, Mr. BOLLING, Mr. WEISS, Mr. BRADEMAS, and Mrs. CHISHOLM):

H. Res. 1402. Resolution to recognize the contribution of Bernardo de Galvez to the independence of the United States; to the Committee on Post Office and Civil Service.

By Mr. GONZALEZ (for himself, Mr. WAGGONNER, Mr. DRINAN, Mr. HANLEY, Mr. SKELTON, Mr. DANIELSON, and Mr. STUDDS):

H. Res. 1402. Resolution to recognize the contribution of Bernardo de Galvez to the independence of the United States; to the Committee on Post Office and Civil Service.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. NOLAN:

H.R. 14243. A bill for the relief of Dr. Eleazar Briones; to the Committee on the Judiciary.

H.R. 14244. A bill for the relief of Antonio J. Marfori, to the Committee on the Judiciary.

By Mr. STEERS:

H.R. 14245. A bill for the relief of Erlinda and Romulo Cayetano; to the Committee on the Judiciary.

By Mr. WHITE:

H.R. 14246. A bill for the relief of Harding C. Hays and Imogene D. Hays; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII,

554. The SPEAKER presented a petition of the Southwestern North Carolina Planning and Economic Development Commission, Bryson City, N.C., relative to designation of additional wilderness areas, which was referred to the Committee on Interior and Insular Affairs.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 11274

By Mr. MAGUIRE:

—Page 18, after line 21, insert the following:

SEC. 7. Part B of title IV of the Higher Education Act of 1965 is amended—

(1) by striking out "$2,500" each place it appears in section 425(a)(1), 428(b)(1)(A), 428A(a)(1)(A), and 428A(a)(2)(A), and inserting in lieu thereof "$3,500"; and

(2) in sections 425(a)(2), 428(b)(1)(B), 428A(a)(1)(A), and 428A(a)(2)(A)—

(A) by striking out "$7,500" each place it appears and inserting in lieu thereof "$10,500";

(B) by striking out "$15,000" each place it appears and inserting in lieu thereof "an amount"; and

(C) by inserting "equal to $18,000 reduced by the amount, if any, by which $3,000 exceeds the total of all such loans made to such person before he became a graduate or professional student" after "before he became a graduate or professional student)" each place it appears.

SEC. 8. Part B of title IV of the Higher Education Act of 1965 is amended by adding after section 427 the following new section:

"COLLECTION OF LOANS BY THE FEDERAL GOVERNMENT

"SEC. 427A. (a)(1) An eligible lender or a borrower may elect to have a loan made in accordance with this part collected by the Secretary of the Treasury (hereinafter in this section referred to as the "Secretary") and the Commissioner, as provided in this section. Any such election shall be made not later than twelve weeks after the date on which the borrower ceases to carry at an eligible institution at least one-half of the normal full-time academic workload as determined by the institution, in a manner prescribed by the Commissioner.

"(2) The Commissioner shall promptly notify a borrower who has made an election or with respect to whom an election has been made by an eligible lender under paragraph (1), of such election and the corresponding repayment status and obligations of the borrower specified under this section.

"(b)(1) The Commissioner shall make an agreement with any eligible lender which holds a loan with respect to which an election has been made under subsection (a), which provides that—

"(A) the lender will transmit to the Com-

missioner all documents necessary for the collection of such loan;

"(B) the Commissioner will make an annual payment to such lender of an amount equal to the amount computed under subsection (d), to the extent that amounts are appropriated from the fund established by subsection (f); and

"(C) the Commissioner will be bound by the terms of the agreement made between the lender and the borrower.

"(2) The Commissioner shall not make an agreement under paragraph (1) with a lender (other than a credit union) unless he is assured that such lender does not discriminate by pattern or practice against any particular class or category of students by requiring that, as a condition to the receipt of a loan, the student or his family maintains a business relationship with the lender.

"(c)(1) With respect to each loan for which an agreement is made under this section, the Commissioner shall—

"(A) transmit to the Secretary such information as may be required to enable the Secretary to carry out the duties established under paragraph (2);

"(B) make a payment not later than July 15 of each year to the lender of an amount equal to the amount computed under subsection (d), to the extent that amounts are appropriated from the fund established by subsection (f); and

"(C) take enforcement and collection measures in the case of a delinquent payment referred by the Secretary under paragraph (2)(C).

"(2) The Secretary shall—

"(A) make available, with any information and directions relating to the filing of a Federal income tax return, a table containing the amounts stated in subsection (e)(1) for which borrowers may be liable, and such other information as may be necessary for a borrower to compute the amount of his annual payment under such subsection;

"(B) keep records of the amounts repaid with respect to each loan for which an agreement is made under this section, and transmit to each borrower an annual statement of his loan balance; and

"(C) refer each case of a delinquent payment to the Commissioner for enforcement and collection.

"(d) The amount of the annual payment made by the Commissioner to a lender under subsection (c)(1)(B) for a loan for which an agreement is made under this section shall be equal to the amount for which the borrower is liable under subsection (e)(1) for the preceding taxable year, plus interest on such amount during the period from April 15 until the date on which the annual payment is made, at the rate applicable to the unpaid principle balance of the loan plus the special allowance rate.

"(e)(1) In any case in which an agreement is made with respect to a loan under subsection (b)(1), the student borrower shall be liable annually for an amount equal to the lesser of (A) the income contingent amount for the taxable year, and (B) the amount necessary to be paid at the end of the taxable year or during the taxable year if earlier repaid, or to be deducted and withheld during the taxable year (in a case in which the borrower makes an election under paragraph (5)(A)), to fully satisfy the obligation of the borrower to the lender.

"(2) For purposes of this subsection, the term 'income contingent amount' means the sum of—

"(A) $35 for each $1,000, or portion thereof, originally borrowed;

"(B) one-half of one percent of the excess (not to exceed $10,000) of the borrower's assessable income for the taxable year over $8,500, for each $500, or portion thereof originally borrowed; and

"(C) one percent of the excess of the borrower's assessable income for the taxable year over $18,500, for each $500, or portion thereof, originally borrowed.

"(3)(A) Each borrower making repayment of a loan pursuant to the method provided in this section shall make an annual payment equal to any excess of—

"(i) the amount for which such borrower is liable for the taxable year under paragraph (1), over

"(ii) the amount deducted and withheld from such borrower's wages during the taxable year under paragraph (5).

"(B) Any payment due under subparagraph (A) shall be made, in a manner prescribed by the Secretary, not later than—

"(i) the date on or before which the borrower's Federal income tax return is required to be filed for the taxable year; or

"(ii) April 15 for the preceding calendar year, if such borrower is not required to file such a return.

"(4)(A) The Secretary shall refund to each borrower making repayment of a loan pursuant to the method provided in this section at such time and in such manner as the Secretary provides by regulation, an amount equal to any excess of the amount determined in clause (ii) of paragraph (3)(A) for a taxable year, over the amount determined in clause (i) of paragraph (3)(A) for such taxable year.

"(B) The Secretary shall notify a borrower who has made the final payment on his loan, that the borrower's obligations with respect to his loan have been fulfilled and that no further payments will be due.

"(5)(A) Each employer required by section 3402 of the Internal Revenue Code of 1954 to deduct and withhold amounts upon wages shall deduct and withhold upon the wages of a borrower making repayments under this section amounts determined on the basis of tables prescribed by the Secretary under subparagraph (D), if such borrower elects in a manner prescribed by the Secretary, to have amounts deducted and withheld.

"(B) Deducting and withholding of amounts shall begin when a borrower first receives wages after making an election under subparagraph (A). If an employer fails after such an election to deduct and withhold an amount in violation of this paragraph, and theerafter such amount is paid by the student borrower, such amount shall not be collected from such employer. Nothing in the preceding sentence shall relieve an employer from liability for any penalties for such failure to deduct and withhold.

"(C) The Secretary shall by regulation establish a method for a borrower making an election under this paragraph to report his repayment status and the date on which his repayment period begins to employers for purposes of deducting and withholding of amounts under subparagraph (A). Such a report shall be made when a borrower makes an election under subparagraph (A).

"(D) The Secretary shall by regulation prescribe tables establishing amounts to be deducted and withheld under subparagraph (A). Such tables shall be designed so that the total of the amounts withheld from a borrower's wages during a taxable year will approximately equal the amount for which the borrower is liable for such taxable year under paragraph (1).

"(E) Each employer required to deduct and withhold amounts upon wages under subparagraph (A) shall make payment of such amounts to the Secretary, at such time and in such manner as the Secretary prescribes, and no such employer shall be liable to any other person for the amount of any such payment.

"(F) Amounts paid to the Secretary under subparagraph (D) shall be deposited in the fund established by subsection (f)(1).

"(G) Any employer who fails to deduct and withhold amounts upon wages when required by this paragraph shall be liable to the Secretary for a penalty of an amount equal to—

"(i) 5 percent of any amounts which the employer negligently fails to deduct and withhold; and

"(ii) 50 percent of any amounts which the employer willfully or fraudulently fails to deduct and withhold.

"(H) The Secretary shall promulgate such regulations as are necessary to administer this paragraph.

"(6) For purposes of this subsection—

"(A) the term 'wages' means wages as defined by section 3401(a) of the Internal Revenue Code of 1954;

"(B) the term 'assessable income' means—

"(i) in the case of an unmarried individual, such individual's adjusted gross income;

"(ii) in the case of a married individual who does not file a joint return under section 6013 of the Internal Revenue Code of 1954—

"(I) if such individual's adjusted gross income equals or exceeds the adjusted gross income of such individual's spouse, the adjusted gross income of such individual; and

"(II) if such individual's adjusted gross income is less than the adjusted gross income of such individual's spouse, one-half the combined adjusted gross incomes of such individual and such individual's spouse;

"(iii) in the case of a married individual who files a joint return under section 6013 of the Internal Revenue Code of 1954, one-half the total adjusted gross income of the individual and his or her spouse; and

"(iv) in the case of an individual not required to file a Federal income tax return, an amount equivalent to amounts determined under clauses (i), (ii), and (iii), as established by the Secretary in regulations;

"(C) the term 'adjusted gross income' means adjusted gross income as defined by section 62 of the Internal Revenue Code of 1954;

"(D) marital status shall be determined in the same manner as marital status is determined under section 143 of the Internal Revenue Code of 1954;

"(E) the term 'taxable year' means—

"(i) a taxable year as defined by section 441(b) of the Internal Revenue Code of 1954, or a calendar year in the case of a borrower who is not required to file a Federal income tax return for a taxable year, which begins after the start of the repayment period; and

"(ii) that part of a taxable year as defined by such section 441(b), or a calendar year, as the case may be, which follows the start of the repayment period; and

"(F) the term 'repayment period' means the period referred to in section 427(a)(2)(B).

"(f)(1) There is created on the books of the Treasury of the United States a trust fund to be known as the Guaranteed Student Loan Fund (hereinafter in this section referred to as the 'fund') which shall be administered by the Commissioner.

"(2) The fund shall consist of amounts deposited in the fund from—

"(A) amounts deducted and withheld from wages, as provided in subsection (a)(5)(E);

"(B) payments made by student borrowers under subsection (e)(3)(A); and

"(C) appropriations made pursuant to subsection (g).

"(3) Moneys in the fund may be used only for the purpose of making the payments to eligible lenders provided for in agreements made under subsection (b)(1), and for the purpose of making refunds to borrowers under subsection (e)(4)(A). Moneys from the fund shall be available for such purposes only when appropriated therefor, and such appropriations shall be made without fiscal year limitation.

"(g) There are authorized to be appropriated to the fund such amounts as may be necessary from time to time to make the payments required to be made by the Commissioner under subsection (c)(1)(B).

"(h) All provisions of this part not inconsistent with this section shall apply to loans to which this section applies."

SEC. 9. (a) Section 427(a)(2) of such Act is amended—

(1) by striking out "and" at the end of subparagraph (H);

(2) by striking out the period at the end of subparagraph (I) and inserting in lieu thereof "; and "; and

(3) by adding at the end thereof the following new subparagraph:

"(J) provides that the lender or the borrower may elect (not later than twelve weeks after the date on which the borrower ceases to carry at an eligible institution at least one-half of the normal full-time academic workload as determined by the Secretary of the Treasury and the Commissioner pursuant to an agreement with the Commissioner under section 427A(b)(1), and that the repayment by the borrower of a loan for which such an agreement is made shall be made in accordance with section 427A(e)."

(b) Section 428(b)(1) of such Act is amended—

(1) by striking out "and" at the end of subparagraph (O);

(2) by striking out the period at the end of subparagraph (P) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new subparagraph:

"(Q) provides that the lender or the borrower may elect (not later than 12 weeks after the date on which the borrower ceases to carry at an eligible institution at least one-half of the normal full-time academic workload as determined by the institution) to have the loan collected by the Secretary of the Treasury and the Commissioner pursuant to an agreement with the Commissioner under section 427A(b)(1), and that the repayment by the borrower of a loan for which such an agreement is made shall be made in accordance with section 427A(e)."

SEC. 10. (a) Section 427(c) of such Act is amended by striking out "The" and inserting in lieu thereof "Except in the case of a loan the repayment of which is made pursuant to an agreement made under section 427A(b)(1), the".

(b) Section 428(b)(1)(L) of such Act is amended by inserting ", except in the case of a loan the repayment of which is made pursuant to an agreement made under section 427A(b)(1)," after "provides that".

SEC. 11. (a) Section 427(a)(2)(B) of such Act is amended—

(1) by inserting "and except in the case of a loan the repayment of which is made pursuant to an agreement made under section 427A(b)(1)" after "(except as provided in subsection (c)"; and

(2) in clause (ii) by inserting "(except in the case of a loan the repayment of which is made pursuant to an agreement made under section 427A(b)(1))" after "fifteen years".

(b) Section 428(b)(1) of such Act is amended—

(1) in subparagraph (D)(ii), by inserting "and" after "paragraph" and inserting in lieu thereof a comma, and by inserting ", and except in the case of a loan the repayment of which is made pursuant to an agreement made under section 427A(b)(1)" after "subparagraph (M) of this paragraph".

(2) in subparagraph (E), by striking out "and" after "paragraph" and inserting in lieu thereof a comma, and by inserting ", and except in the case of a loan the repayment of which is made pursuant to an agreement made under section 427A(b)(1)" after "subparagraph (M) of this paragraph".

SEC. 12. Section 438(b) of such Act is amended—

(1) in paragraph (1) by striking out "A" and inserting in lieu thereof "Except as may be otherwise provided in paragraph (5), a";

(2) in paragraph (2)(A), by striking out "paragraph (4)" and inserting in lieu thereof "paragraphs (4) and (5)";

(3) by redesignating paragraphs (5) and (6) as paragraphs (6) and (7) respectively; and

(4) by inserting after paragraph (4) the following new paragraph:

"(5) The special allowance computed according to paragraph (2)(A) shall be reduced by one-half per centum with respect to all eligible loans held by a lender for which agreements have been made under section 427A(b)(1). The Commissioner may provide by regulation for the annual payment of special allowances with respect to such loans in lieu of the quarterly payments prescribed by paragraph (1)."

SEC. 13. Part B of title IV of such Act is amended by adding at the end thereof the following new section:

"ADVISORY PANEL

"SEC. 440A. (a) There is hereby established an advisory panel (hereinafter in this section referred to as the 'Panel') which shall be composed of the following twelve members:

"(1) two individuals who administer the National Direct Student Loan Program at institutions of higher education;

"(2) two representatives of institutions of higher education which participate in a loan program under this part;

"(3) one representative of an institution of higher education which does not participate in a loan program under this part;

"(4) two academics familiar with student assistance programs;

"(5) one representative each from the Department of Health, Education, and Welfare, and the Department of the Treasury;

"(6) one former student borrower of a loan made or insured under this part, or one representative of a student organization;

"(7) one representative from the Student Loan Marketing Association; and

"(8) one representative of eligible lenders.

"(b) The members of the Panel shall be appointed by the Speaker and the minority leader of the House of Representatives, and the majority and minority leader of the Senate. Appointment of a member shall be made only with the approval of 3 of such appointing individuals.

"(c) The Panel shall—

"(1) review the adequacy of the specal allowance under section 438 to draw sufficient capital into loan programs under this part, and consider an incremental special allowance which is graduated to provide additional incentives for higher loan volumes handled by an eligible instiution;

"(2) review the feasibility of instituting a student loan bank of last resort, with attention to the problems of avoiding substitution for currently offered loans;

"(3) consider such other questions as it deems appropriate.

"(d) The Panel shall report to Congress not later than one year after the date of the enactment of this section on its findings with respect to the items reviewed and considered under subsection (c)."

Redesignate the following sections accordingly.

H.R. 11488

By Mr. DORNAN:

—Page 97, insert after line 24 the following:

(i) Section 1513(b) is amended by adding at the end the following:

"(5) The HSP of a health systems agency shall include a statement of the effect that achievement of the goals of the HSP will have on the requirements placed on the practice of medicine by the Oath of Hippocrates (as restated in Geneva, Switzerland, in 1948 by the World Medical Association), and the AIP of a health systems agency shall include a statement of the effect that achievement of the objectives in the AIP will have on such requirements."

H.R. 11488

By Mr. VENTO:

—Page 133, strike out the close quotation marks and the period following in line 25 and insert after that line the following:

"(c) In approving applications under section 605 after October 1, 1978, for projects for outpatient facilities, the Secretary may, notwithstanding section 645(1), require, in the case of a leased facility, that the term of the lease of the facility be not less than twenty years.".

H.R. 12370

By Mr. DORNAN:

—Page 14, line 19, strike out "before the period a semicolon" and all that follows through line 23 and insert in lieu thereof the following: "the following: '; and $136,400,000 for the fiscal year ending September 30, 1979'.".

Page 15, line 1, strike out "a semicolon" and all that follows through line 4 and insert in lieu thereof the following: "the following: '; and $3,000,000 for the fiscal year ending September 30, 1979'.".

Page 15, line 7, strike out "before the period a comma" and all that follows through line 11 and insert in lieu thereof the following: "the following: ', and $68,500,000 for the fiscal year ending September 30, 1979'.".

Page 15, line 14, strike out "before the period a semicolon" and all that follows through line 17 and insert in lieu thereof the following: "the following: '; and $600,000 for the fiscal year ending September 30. 1979'.".

—Page 15, insert after line 17 the following:

(C) Section 1001(a) is amended by inserting "(1)" after "operation of", and (2) by inserting before the period a comma and the following: "or (2) projects which provide counseling respecting the alternatives to abortion."

—Page 15, insert after line 17 the following:

(C) Section 1006 is amended by adding at the end the following new subsection: "(d) The Secretary may not deny an application for a grant or contract under this Title on the basis that the applicant does not provide abortion services, sterilization, or counseling respecting contraception."

—Page 15, insert after line 17 the following:

(C) Section 1008 is amended by adding at the end the following: "No grant or contract authorized by this Title may be made or entered into with an entity which directly or indirectly provides abortion, abortion counseling, or abortion referral services."

—(C) Section 1006 is amended by adding at the end the following new subsection: "(d) an application for a grant or contract under section 1001, 1002, or 1003 shall contain assurances satisfactory to the Secretary that each physician who provides services under the program or project for which the grant or contract is applied for will comply with applicable requirements of state law respecting the reporting of pregnancy of an unwed minor."

H.R. 12442

By Mr. NEAL:

—Page 6, on line 14, strike out "or".

Page 6, strike out line 18 and insert in lieu thereof the following:

"published; or

"(3) by notice published in the Federal Register state that other approaches (such as a voluntary industry program) are being considered to reduce the risk being addressed by the proceedings and specify the time period within which the proceedings will be continued or terminated.".

—Page 6, on line 16, insert a comma after "standard".

Page 6, on line 17, insert "either" after "which".

Page 6, strike out line 18 and insert in lieu thereof the following:

published or the proceeding begun by such notice published pursuant to subsection (b) will be terminated without publication of such proposed standard.

The reasons referred to in paragraph (2) may include a statement that the Commission is considering other approaches (such as a voluntary consumer safety standard adopted by persons who would be subject to such proposed standard) to eliminate the unreasonable risk of injury that is the subject of such proceeding.".

H.R. 13471

By Mr. BLANCHARD:

—Page 102, immediately after line 13, insert the following new section:

SEC. 311. Section 9 of the International Banking Act of 1978 (P.L. 95–369) is amended by inserting "(a)" immediately after "Sec. 9." and by inserting at the end thereof the following new subsection:

"(b)(1) Every branch or agency of a foreign bank and every commercial lending company controlled by one or more foreign banks or by one or more foreign companies that control a foreign bank shall conduct its operations in the United States in full compliance with provisions of any law of the United States on any State thereof which—

"(A) prohibit discrimination against any individual or other person on the basis of the race, color, religion, sex, marital status, age, or national origin of (i) such individual or other person or (ii) any officer, director, employee, or creditor of, or any owner of any interest in, such individual or other person; and

"(B) apply to national banks or State-chartered banks doing business in the State in which such branch or agency or commercial lending company, as the case may be, is doing business.

"(2) No application for a branch or agency shall be approved by the Comptroller or by a State bank supervisory authority, as the case may be, unless the entity making the application has agreed to conduct all of its operations in the United States in full compliance with provisions of any law of the United States or any State thereof which—

"(A) prohibit discrimination against individuals or other persons on the basis of the race, color, religion, sex, marital status, age, or national origin of (i) such individual or other persons or (ii) any officer, director, employee, or creditor of, or any owner of any interest in, such individual or other person; and

"(B) apply to national banks or State-chartered banks doing business in the State in which such branch or agency or commercial lending company, as the case may be, is doing business.

"(2) No application for a branch or agency shall be approved by the Comptroller or by a State bank supervisory authority, as the case may be, unless the entity making the application has agreed to conduct all of its operations in the United States in full compliance with provisions of any law of the United States or any State thereof which—

"(A) prohibit discrimination against any individual or other person on the basis of the race, color, religion, sex, marital status, age, or national origin of (i) such individual or other person or (ii) any officer, director, employee, or creditor of, or any owner of any interest in, such individual or other person; and

"(B) apply to national banks or State-chartered banks doing business in the State in which the entity to be established is to do business.".

Page 198, immediately after line 4, insert the following:

TITLE XX—BRANCHES OF FOREIGN BANKS

SEC. 2001. Section 9 of the International Banking Act of 1978 (P. L. 95–369) is amended by inserting "(a)" immediately after "Sec. 9." and by inserting at the end thereof the following new subsection:

"(b)(1) Every branch or agency of a foreign bank and every commercial lending company controlled by one or more foreign banks or by one or more foreign companies that control a foreign bank shall conduct its operations in the United States in full compliance with provisions of any law of the United States or any State thereof which—

"(A) prohibit discrimination against any individual or other person on the basis of the race, color, religion, sex, marital status, age, or national origin of (i) such individual or other person or (ii) any officer, director, employee, or creditor of, or any owner of any interest in, such individual or other person; and

"(B) apply to national banks or State-chartered banks doing business in the State in which such branch or agency or commercial lending company, as the case may be, is doing business.

"(2) No application for a branch or agency shall be approved by the Comptroller or by a State bank supervisory authority, as the case may be, unless the entity making the application has agreed to conduct all of its operations in the United States in full compliance with provisions of any law of the United States or any State thereof which—

"(A) prohibit discrimination against individuals or other persons on the basis of the race, color, religion, sex, marital status, age, or national origin of (i) such individual or other persons or (ii) any officer, director, employee, or creditor of, or any owner of any interest in, such individual or other person; and

"(B) apply to national banks or State-chartered banks doing business in the State in which the entity to be established is to do business.".

H.R. 13778

By Mr. BROWN of Ohio:

(To the amendment in the nature of a substitute offered by Mr. BROOKS.)

—Page 36, line 3, add the following new section and redesignate the following sections accordingly:

"LIMITATION ON APPROPRIATIONS

"SEC. 503. Appropriations to operate programs in the Department for any fiscal year may not be more than the amounts made available to the department in the previous fiscal year plus an amount equal to 125 per centum of the increase in the Consumer Price Index for the previous calendar year."

and amend the table of contents.

—P. 40, strike subsection (c), lines 23 through 25, and redesignate the following sections accordingly.

The amendment removes the provision of the Act which increases the government-wide pool of supergrades from 3301 to 3365 thereby requiring that the new positions in the department at the GS–16 to GS–18 levels be taken from existing resources.

—P. 44, strike lines 6 and 7 and insert the following:

"SEC. 601. The provisions of this Act shall take effect on October 1 of any fiscal year in which projected revenues and outlays for the Federal government are in balance."

—P. 44, strike lines 6 and 7 and insert the following:

"SEC. 601. The provisions of this Act shall take effect upon the enactment of legislation to codify Title 20 of the United States Code."

H.R. 13778

By Mr. ERLENBORN:

(To the amendment in the nature of a substitute offered by Mr. BROOKS.)

—P. 4, strike lines 7–9 and renumber the following subparagraphs accordingly.

—P. 4, strike lines 18 through 21.

—P. 4, strike line 22 through line 6, p. 5.

—P. 5, line 18, strike the comma after "school system", insert a period and strike all that follows through line 19.

—P. 6, line 7, insert the following after the period: "The immediate staff of the Secretary shall be limited to not more than six persons."

—P. 6, strike lines 8 through 21.

—P. 6, line 23, strike "six" and insert in lieu thereof "four".

P. 7, line 3, strike "seven" and insert "five".

—P. 7, strike line 15 and renumber the following subparagraphs accordingly.

—P. 7, line 17, is amended to read as follows:

"(5) planning and evaluation functions; and"

—P. 7, strike lines 19–21.

—P. 8, strike lines 4 through 9.

—P. 9, strike line 21 and all that follows through line 24, p. 11.

P. 16, strike lines 7 and 8 and redesignate the following subparagraphs accordingly.

—P. 12 strike lines 16 through 25. Page 13, strike lines 1 through 3. Amend the table of contents accordingly.

—P. 13, after line 3, insert the following new section:

FUNCTIONS RELATING TO YOUTH AND JOB TRAINING

SEC. 210. (a) There shall be in the Department an office to administer youth and job training functions whose director shall report directly to the Secretary and shall be one of the principal officers established by section 202 of this Act.

(b) Notwithstanding the provisions of section 422 of this Act, the Secretary shall delegate to the director of the office created by this section all functions, other than administrative and support functions, vested in the Secretary by section 305, as redesignated by this amendment, of this Act.

Redesignate the following sections and references thereto and conform the table of contents accordingly.

Page 20, after line 21, insert the following new section:

TRANSFERS FROM THE DEPARTMENT OF LABOR

SEC. 305. There are hereby transferred to and vested in the Secretary all functions of the Secretary of Labor—

(1) with respect to job training and work experience and the Job Corps under the Comprehensive Employment and Training Act of 1973;

(2) with respect to youth employment demonstration programs and with respect to the Youth Adult Conservation Corps under such Act; and

(3) with respect to the Work Incentive Program under part C of title IV of the Social Security Act.

Redesignate the following sections and references thereto and conform the table of contents accordingly.

—P. 13, strike line 4 and all that follows through page 15, line 17.

—P. 13, strike lines 16 through 18 and renumber the following subsections accordingly.

—P. 13, strike lines 24 and 25 and renumber the following subsections accordingly.

—P. 14, line 12 through 15 are amended to read as follows:

"(c)(1) The Council shall have twenty members appointed by the President, with a majority to be non-Federal elected public officials or appointed non-Federal officials responsible for education matters at the local and State levels. The Council shall include membership from each of the following categories:"

—P. 15, line 13, insert the following new subsection and redesignate the following subsections accordingly:

"(d) No more than ten members of the Council shall be from any one political party."

—P. 15, lines 16 and 17, subsection (f), as redesignated by this amendment, is revised to read as follows:

"(f) The Council shall terminate September 30, 1981."

—P. 15, after line 15 insert the following new subsection and redesignate subsection "(e)" as subsection "(f)":

"(e) No more than ten members of the Council may be from any one political party."

—P. 17, strike lines 3 through 5 and redesignate the following paragraphs accordingly.

—P. 17, strike lines 16 through 18 and redesignate the following paragraphs accordingly.

—P. 18, line 19, strike the comma and insert in lieu thereof a period.

—P. 19, strike line 6 and all that follows through line 4, page 20. Amend the table of contents accordingly.

—P. 23, strike lines 4 through 7 and redesignate subsection "(e)" as subsection "(d)".
—P. 23, strike lines 14 through 19 and amend the table of contents accordingly.
—P. 24, strike lines 11 through 18, redesignate the following sections accordingly and amend the table of contents.
—On P. 24, after the period on line 23, insert:

"Provided that rules and regulations, other than interpretive rules and regulations not having the force of law, may not continue in effect beyond three years from the date of enactment of this section."

—P. 44, insert the following after line 2:

"SEC. 511. Notwithstanding any section of this Act, including but not limited to sections 210 and 302, no funds shall be expended by any agency of the Federal government to authorize, implement, or execute the transfer of functions or personnel of the Secretary of Defense or the Department of Defense relating to the operation of schools for overseas dependents of personnel of the Department of Defense."

—Page 44, insert the following:

"TITLE VII—LIMITATIONS

"SEC. 701. Notwithstanding any authority granted to the Secretary or the President by any provision of this Act, by chapter 9 or title 5, United States Code, or by any other provision of law, the following functions or programs shall not be transferred to the Department except by Act of Congress enacted after the date of enactment of this Act:

"Functions vested in the Secretary of the Interior or the Department of the Interior relating to the education of Indians, Alaskan Natives, and Aleuts."

—Page 44, insert the following:

"TITLE VII—LIMITATIONS

"SEC. 701. Notwithstanding any authority granted to the Secretary or the President by any provision of this Act, by chapter 9 of title 5, United States Code, or by any other provision of law, the following functions or programs shall not be transferred to the Department except by Act of Congress enacted after the date of enactment of this Act:

"Functions vested in the Secretary of Defense or the Department of Defense relating to the education of dependents of military and Defense Department personnel."

—Page 44, insert the following:

"TITLE VII—LIMITATIONS

"SEC. 701. Notwithstanding any authority granted to the Secretary or the President by any provision of this Act, by chapter 9 of title 5, United States Code, or by any other provision of law, the following functions or programs shall not be transferred to the Department except by Act of Congress enacted after the date of enactment of this Act:

"Functions vested in the Director of the National Science Foundation or the National Science Foundation related to science education."

—Page 44, insert the following:

"TITLE VII—LIMITATIONS

"SEC. 701. Notwithstanding any authority granted to the Secretary or the President by any provision of this Act, by chapter 9 of ttile 5, United States Code, or by any other provision of law, the following functions or programs shall not be transferred to the Department except by Act of Congress enacted after the date of enactment of this Act:

"Functions vested in the Secretary of Agriculture or the Department of Agriculture related to child nutrition and school feeding programs."

H.R. 13778

By Mr. MCCLOSKEY:

(Amendment to the substitute amendment.)

—On page 44, strike out lines 6 and 7 and insert in lieu thereof the following:

"SEC. 601. (a) The provisions of this Act shall take effect on the 90th calendar day after the Director of the Office of Management and Budget has—

"(1) identified and reported to the Committees on Appropriations of the House of Representatives and of the Senate and the Committee on Government Operations of the House of Representatives and the Committee on Governmental Affairs of the Senate the actual costs for fiscal year 1978 and the number of authorized personnel positions on September 30, 1978, of the programs, operations, and activities transferred to the Department by this Act; and

"(2) certified to those Committees that the budget requested by the President for the Department for the first complete fiscal year after the provisions of this Act take effect is less than the actual costs identified and reported in paragraph (1), and that the number of authorized personnel positions requested for such fiscal year is less than the number of such positions identified and reported in paragraph (1).

"(b) Notwithstanding subsection (a), the provisions of this Act shall in no event take effect prior to October 1, 1979."

H.R. 13778

By Mr. QUAYLE:

(To the amendment offered by Mr. BROOKS in the nature of a substitute.)

—page 4, line 9, replace semi-colon with comma, then insert, "however, control of our educational process should be at the local rather than federal level;"

Redesignate succeeding lines accordingly.

—page 4, line 15, replace semi-colon with comma, then insert "however, in so doing, control of our educational process should be at the local rather than federal level;"

Redesignate succeeding lines accordingly.

—Page 4, line 17, replace semi-colon with comma, then insert "however, control of our educational process should be at the local rather than federal level;"

Redesignate succeeding lines accordingly.

—Page 5, line 6, replace period with comma then insert "to supplement and complement the efforts of state and local governments, the private sector, public and nonpublic educational institutions, public or private nonprofit educational research institutions, community-based organizations, and parents to improve the quality of education, while acknowledging the right of State, local, and tribal governments and public and nonpublic educational institutions to formulate policies, choose curricula, decide administrative questions, and choose program content with respect to their educational programs without interference by the Federal Government".

Redesignate succeeding lines accordingly.

—Page 6, line 7, replace period with comma, then insert "who shall impose a minimum of paperwork and reporting requirements on state and local governments and public and nonpublic educational institutions in the collection and analysis of such information".

Redesignate succeeding lines accordingly.

—Page 6, line 23, strike word "six" insert "two".

—Page 7, line 13, strike "(1) intergovernmental relations functions;"

—page 7, line 14, strike word "functions" and the semicolon, insert "and public relations functions;"

—page 7, line 15, strike "(1) public information functions;"

—page 7, line 17, strike "(5) planning, evaluaton, and policy development functions; and

—page 7, line 19, strike "(6) monitoring and assisting involvement in the development and implementation of departmental programs."

—Page 9, line 14, replace period with comma, then insert "however, control of our educational process should be at the local rather than federal level."

—page 9, at line 1, insert a new section 205 to read

"OMBUDSMAN

SEC. 205. There shall be in the Department of Education an ombudsman to local school districts who shall function specifically as an advocate for the positions of the local and/or state school boards and/or departments of education or equivalent bod(ies), to the Department."

Redesignate succeeding sections and table of contents accordingly.

—Page 12, at line 1, insert a new section 209 to read

"OFFICE OF EDUCATION

SEC. 209 (a) (1) There is established in the Department an Office of Indian Education, to be administered by the Assistant Secretary for Indian Education appointed under Section 202(c). The Secretary shall designate an Assistant Secretary for Indian Education—

(2) The Assistant Secretary for Indian Education shall perform such additional duties and exercise such additional powers as the Secretary may prescribe.

(b) The transfer of functions from the Secretary of the Interior or the Department of the Interior shall not—

(1) modify or eliminate any eligibility requirements for participation in programs administered by the Secretary of the Interior of the Department of Interior which were in existence on the day before the date of enactment of this Act; or

(2) alter in any way the trust responsibility of the United States for Indians, Alaskan Natives, or Aleuts.

(c) In carrying out his responsibilities under this Act, the Assistant Secretary for Indian Education shall—

(1) consult regularly with the Assistant Secretary for Indian Affairs of the Department of the Interior in order to assure the efficient operation of programs for Indian education and to coordinate the provisions of support services by the Department of the Interior; and

(2) take such steps as may be appropriate to increase the level of local control of Indian education by Indians, Alaskan Natives, and Aleuts.

(d) Not later than three years after the effective date of this Act, and every three years thereafter, the Secretary, after consultation with the Assistant Secretary for Indian Education and with affected Indian tribes, Indian organizations, and other groups, shall transmit to the Congress a comprehensive plan for the education of Indians, Alaskan Natives and Aleuts.

SEC. 211.

—Page 13, line 4, strike "INTERNATIONAL ADVISORY COUNCIL ON EDUCATION."

Redesignate the succeeding sections and table of contents accordingly.

—Page 17, insert at line 22, a new (S) to read:

"(S) under the Woodrow Wilson International Center of Scholars—Fellowship and Guest Scholar Programs."

Redesignate all succeeding lines and sections accordingly.

—Page 17, insert at line 22 a new (S) to read:

"(S) under the Alcohol and Drug Abuse Education Act."

Redesignate succeeding sections accordingly

—Page 19, insert at line 6, a (7) to read:

"(7) all functions vested in the President's Council on Physical Fitness."

Redesignate all succeeding sections accordingly

—Page 20, at line 22, insert a new section 305 to read:

"TRANSFERS FROM THE NATIONAL SCIENCE FOUNDATION

SEC. 305. There are hereby transferred to and vested in the Secretary all programs, established prior to the effective date of this Act, of the National Science Foundation or its Director relating to science education pursuant to section 3(a)(1) of the National Science Foundation Act of 1950, except those programs (1) of fellowships and traineeships integral to the support of scientific research and development or (2) relating to ethical, value, and science policy issues or to communicating science values to nonscientists.

(b) The Secretary is authorized to conduct the programs transferred by subsection (a) of this section.

(c) In conducting the programs transferred by subsection (a) of this section, the Secretary shall consult, as appropriate, with the Director of the National Science Foundation.

(d) Nothing in this section is intended to repeal or limit the authority of the National Science Foundation to initiate and conduct programs not established prior to the effective date of this Act under section 3(a)(1) of the National Science Foundation Act of 1950."

—Page 20, at line 22, insert a new section 305 to read:

"TRANSFERS FROM THE DEPARTMENT OF COMMERCE

"SEC. 305. There are hereby transferred to and vested in the Secretary all functions relating to the Appalachian Vocational and Educational programs operating under the Office of Economic Development at the Department of Commerce."

Redesignate all succeeding sections accordingly.

—Page 20, insert a new section 305 to read:

"TRANSFER FROM THE DEPARTMENT OF COMMERCE

"SEC. 305. There are hereby transferred to and vested in the Secretary all functions relating to the U.S. Merchant Marine Academy."

Redesignate all succeeding sections accordingly.

—Page 20, at line 22, insert a new section 305 to read:

"There are hereby transferred to and vested in the Secretary all functions relating to payments to the 1890 land grant colleges and Tuskegee Institute."

Redesignate all succeeding sections accordingly.

—Page 20, at line 22, insert a new section 305 to read:

"SEC. 305. There are hereby transferred to and vested in the Secretary all functions relating to the Youth Conservation Corps training program operating under the Conservation Service at the Department of Agriculture."

Redesignate the succeeding sections accordingly.

—Page 20, at line 22, insert a new section 305 to read:

"SEC. 305. There are hereby transferred to and vested in the Secretary all functions relating to basic and applied research from the Science and Education Administration at the Department of Agriculture."

Redesignate all succeeding sections accordingly.

—page 25, line 8, insert a new subsection "(c) to read

"(c) All rules and regulations promulgated by the Secretary in the course of duty shall not infringe on the prerogatives, rights and authority of the local educational units."

Redesignate succeeding lines accordingly.

—page 26, at the end of Section 424, line 6, insert the following new subsection a new "(d)" to read

"(d)(1) No rule promulgated by the Secretary to administer and manage the functions vested in the Secretary or the Department shall be effective for more than four years after the date of such promulgation.

(2) No rule the effect of which is continued pursuant to section 505(a) of this Act shall be effective for more than four years after the effective date of this Act.

(3) Nothing in this subsection shall prevent the Secretary from repromulgating a rule which would otherwise expire pursuant to the provisions of this subsection, but any such repromulgation shall be conducted in accordance with applicable provisions of laws as if such rule were being proposed for the first time."

Redesignate succeeding lines accordingly.

H.R. 13778

By Mr. RYAN:

(Amendments to the amendment in the nature of a substitute offered by Mr. BROOKS.)

—Page 9, strike 8 and 9 and insert in lieu thereof "FUNCTIONS RELATING TO ELEMENTARY, SECONDARY, AND POSTSECONDARY EDUCATION"; and in line 11 strike the word "and" and insert in lieu thereof "," and in line 12 before the word "education" insert the word "Postsecondary".

—Page 9, line 15, strike "FUNCTIONS RELATING TO POSTSECONDARY EDUCATION" and all that follows through line 20.

—Page 13, line 4 strike "INTERGOVERNMENTAL ADVISORY COUNCIL ON EDUCATION" and all that follows through page 15, line 17.

—Page 22, line 17 and line 18, strike the words "not to exceed one hundred and forty individuals;" and insert in lieu thereof: "not to exceed ninety seven individuals;"

—Page 13, line 4, strike "Intergovernmental Advisory Council on Education" and insert in lieu thereof "National Board of Education" and on line 6 and following, strike "Intergovernmental Advisory Council on Education (hereinafter referred to as the "Council"). The Council" and insert in lieu thereof:

"National Board of Education (hereinafter referred to as the "Board"). The Board"

Conforming amendments

Page 13, line 12, strike the word "Council" and insert in lieu thereof "Board"

Page 14, line 12, strike the word "Council" and insert in lieu thereof "Board"

Page 15, line 4, strike the word "Council" and insert in lieu thereof "Board"

Page 15, line 6, strike the word "Council" and insert in lieu thereof "Board"

Page 15, line 12, strike the word "Council" and insert in lieu thereof "Board"

Page 15, line 15, strike the word "Council" and insert in lieu thereof "Board"

Page 15, line 16, strike the word "Council" and insert in lieu thereof "Board"

H.R. 13778

By Mr. WALKER:

(Amendment to the amendment in the nature of a substitute offered by Mr. BROOKS.)

—Page 20, after line 21, insert the following:

TRANSFERS FROM THE DEPARTMENT OF EDUCATION

SEC. 305. There are hereby transferred to and vested in the Secretary all functions relating to Nutrition Education Experimental or Demonstration Projects vested in the Secretary of Agriculture or the Department of Agriculture by the Child Nutrition Act of 1966.

Redesignate the subsequent sections and make conforming changes in the Table of Contents accordingly.

(Amendment to the amendment in the nature of a substitute offered by Mr. BROOKS.)

—Page 20, after line 21, insert the following:

TRANSFERS FROM THE DEPARTMENT OF AGRICULTURE

SEC. 305. There are hereby transferred to and vested in the Secretary all functions relating to Grants for Special Agricultural Research vested in the Secretary of Agriculture or the Department of Agriculture by section 2(c) of Public Law 89–106, as amended by section 1414 of Public Law 95–113.

Redesignate the subsequent sections and make conforming changes in the table of contents accordingly.

(Amendment to the amendment in the nature of a substitute offered by Mr. BROOKS.)

—Page 20, after line 21, insert the following:

TRANSFERS FROM THE DEPARTMENT OF AGRICULTURE

SEC. 305. There are hereby transferred to and vested in the Secretary all functions relating to Higher Education-Land-Grant Colleges and Universities vested in the Secretary of Agriculture or the Department of Agriculture by the Morrill Act of 1862, as amended.

Redesignate the subsequent sections and make conforming changes in the table of contents accordingly.

(Amendment to the amendment in the nature of a substitute offered by Mr. BROOKS.)

—Page 20, after line 21, insert the following:

TRANSFERS FROM THE DEPARTMENT OF AGRICULTURE

SEC. 305. There are hereby transferred to and vested in the Secretary all functions relating to Rural Development Research vested in the Secretary of Agriculture or the Department of Agriculture by the Rural Development Act of 1972, as amended.

Redesignate the subsequent sections and make conforming changes in the table of contents accordingly.

(Amendment to the amendment in the nature of a substitute offered by Mr. BROOKS.)

—Page 20, after line 21, insert the following:

TRANSFERS FROM THE DEPARTMENT OF AGRICULTURE

SEC. 305. There are hereby transferred to and vested in the Secretary all functions relating to Payments to 1890 Land-Grant Colleges and Tuskegee Institute vested in the Secretary of Agriculture or the Department of Agriculture by section 1445 of the National Agricultural Research, Extension and Teaching Policy Act of 1977, as amended.

Redesignate the subsequent sections and make conforming changes in the table of contents accordingly.

(Amendment to the amendment in the nature of a substitute offered by Mr. BROOKS.)

—Page 20, after line 21, insert the following:

TRANSFERS FROM THE DEPARTMENT OF AGRICULTURE

SEC. 305. There are hereby transferred to and vested in the Secretary all functions relating to Cooperative Forestry Research vested in the Secretary of Agriculture or the Department of Agriculture by the Cooperative Forestry Research Act of October 10, 1962, as amended.

Redesignate the subsequent sections and make conforming changes in the table of contents accordingly.

(Amendment to the amendment in the nature of a substitute offered by Mr. BROOKS.)

—Page 20, after line 21, insert the following:

TRANSFERS FROM THE DEPARTMENT OF AGRICULTURE

SEC. 305. There are hereby transferred to and vested in the Secretary all functions relating to the Basic and Applied Agricultural Research vested in the Secretary of Agriculture or the Department of Agriculture by the Research and Marketing Act of 1946, as amended.

Redesignate the subsequent sections and make conforming changes in the table of contents accordingly.

(Amendment to the amendment in the nature of a substitute offered by Mr. BROOKS.)

—Page 20, after line 21, insert the following:

TRANSFERS FROM THE DEPARTMENT OF AGRICULTURE

SEC. 305. There are hereby transferred to and vested in the Secretary all functions relating to the Cooperative Extension Service vested in the Secretary of Agriculture or the Department of Agriculture by the Smith-Lever Act, as amended.

Redesignate the subsequent sections and make conforming changes in the table of contents accordingly.

(Amendment to the amendment in the nature of a substitute offered by Mr. Brooks.)

—Page 20, after line 21, insert the following:

TRANSFERS FROM THE DEPARTMENT OF AGRICULTURE

SEC. 305. There are hereby transferred to and vested in the Secretary all functions relating to the Youth Conservation Corps vested in the Secretary of Agriculture or the Department of Agriculture by the Youth Conservation Corps Act of 1970, as amended.

Redesignate the subsequent sections and make conforming changes in the Table of Contents accordingly.

(Amendment to the amendment in the nature of a substitute offered by Mr. Brooks.)

—Page 20, after line 21, insert the following:

TRANSFERS FROM THE DEPARTMENT OF AGRICULTURE

SEC. 305. There are hereby transferred to and vested in the Secretary all functions relating to Forestry Research vested in the Secretary of Agriculture or the Department of Agriculture by the Basic Research Grants Act.

Redesignate the subsequent sections and make conforming changes in the Table of Contents accordingly.

(Amendment to the amendment in the nature of a substitute offered by Mr. Brooks.)

—Page 20, after line 21, insert the following:

TRANSFERS FROM THE DEPARTMENT OF AGRICULTURE

SEC. 305. There are hereby transferred to and vested in the Secretary all functions relating to Forrestry Cooperative Research vested in the Secretary of Agriculture or the Department of Agriculture by the McSweeney-McNary Forest Research Act of 1928, as amended.

Redesignate the subsequent sections and make conforming changes in the Table of Contents accordingly.

(Amendment to the amendment in the nature of a substitute offered by Mr. Brooks.)

—Page 20, after line 21, insert the following:

TRANSFERS FROM THE DEPARTMENT OF AGRICULTURE

SEC. 305. There are hereby transferred to and vested in the Secretary all functions relating to Nutritional Training and Education vested in the Secretary of Agriculture or the Department of Agriculture by the National School Lunch Act.

Redesignate the subsequent sections and make conforming changes in the Table of Contents accordingly.

(Amendment to the amendment in the nature of a substitute offered by Mr. Brooks.)

—Page 20, after line 21, insert the following:

TRANSFERS FROM THE DEPARTMENT OF AGRICULTURE

SEC. 305. There are hereby transferred to and vested in the Secretary all functions relating to State Administrative Expenses for Child Nutrition vested in the Secretary of Agriculture or the Department of Agriculture by the Child Nutrition Act of 1966, as amended.

Redesignate the subsequent sections and make conforming changes in the Table of Contents accordingly.

(Amendment to the amendment in the nature of a substitute offered by Mr. Brooks.)

—Page 20, after line 21, insert the following:

TRANSFERS FROM THE DEPARTMENT OF AGRICULTURE

SEC. 305. There are hereby transferred to and vested in the Secretary all functions relating to the Special Milk Program for Children vested in the Secretary of Agriculture or the Department of Agriculture by the Child Nutrition Act of 1966, as amended.

Redesignate the subsequent sections and make conforming changes in the Table of Contents accordingly.

(Amendment to the amendment in the nature of a substitute offered by Mr. Brooks.)

—Page 20, after line 21, insert the following:

TRANSFERS FROM THE DEPARTMENT OF AGRICULTURE

SEC. 305. There are hereby transferred to and vested in the Secretary all functions relating to the National School Lunch Program vested in the Secretary of Agriculture or the Department of Agriculture by the National School Lunch Act of 1946, as amended.

Redesignate the subsequent sections and make conforming changes in the Table of Contents accordingly.

(Amendment to the amendment in the nature of a substitute offered by Mr. Brooks.)

—Page 20, after line 21, insert the following:

TRANSFERS FROM THE DEPARTMENT OF AGRICULTURE

SEC. 305. There are hereby transferred to and vested in the Secretary all functions relating to equipment assistance for school food service programs vested in the Secretary of Agriculture or the Department of Agriculture by the Child Nutrition Act of 1966, as amended.

Redesignate the subsequent sections and make conforming changes in the Table of Contents accordingly.

(Amendment to the amendment in the nature of a substitute offered by Mr. Brooks.)

—Page 20, after line 21, insert the following:

TRANSFERS FROM THE DEPARTMENT OF AGRICULTURE

SEC. 305. There are hereby transferred to and vested in the Secretary all functions relating to the School Breakfast Program vested in the Secretary of Agriculture or the Department of Agriculture by the Child Nutrition Act of 1966 as amended.

Redesignate the subsequent sections and make conforming changes in the Table of Contents accordingly.

(Amendment to the amendment in the nature of a substitute offered by Mr. Brooks.)

—Page 20, after line 21, insert the following:

TRANSFERS FROM THE DEPARTMENT OF LABOR

SEC. 305. There are hereby transferred to and vested in the Secretary all functions relating to Apprentice Outreach Programs vested in the Secretary of Labor or the Department of Labor by the Comprehensive Employment and Training Act of 1973, as amended.

Redesignate the subsequent sections and make conforming changes in the Table of Contents accordingly.

(Amendment to the amendment in the nature of a substitute offered by Mr. Brooks.)

—Page 20, after line 21, insert the following:

TRANSFERS FROM THE DEPARTMENT OF LABOR

SEC. 305. There are hereby transferred to and vested in the Secretary all functions relating to Apprenticeship Training vested in the Secretary of Labor or the Department of Labor by the National Apprenticeship Act of 1937.

Redesignate the subsequent sections and make conforming changes in the Table of Contents accordingly.

(Amendment to the amendment in the nature of a substitute offered by Mr. Brooks.)

—Page 20, after line 21, insert the following:

TRANSFERS FROM THE DEPARTMENT OF LABOR

SEC. 305. There are hereby transferred to and vested in the Secretary all functions relating to the Job Corps vested in the Secretary of Labor or the Department of Labor by Title IV of the Comprehensive Employment and Training Act of 1937, as amended.

Redesignate the subsequent sections and make conforming changes in the Table of Contents accordingly.

(Amendment to the amendment in the nature of a substitute offered by Mr. Brooks.)

—Page 20, after line 21, insert the following:

TRANSFERS FROM THE DEPARTMENT OF LABOR

SEC. 305. There are hereby transferred to and vested in the Secretary all functions relating to Doctoral Dissertation and Small Grant Research Program vested in the Secretary of Labor or the Department of Labor by Title III of the Comprehensive Employment and Training Act of 1973.

Redesignate the subsequent sections and make conforming changes in the Table of Contents accordingly.

(Amendment to the amendment in the nature of a substitute offered by Mr. Brooks.)

—Page 20, after line 21, insert the following:

TRANSFERS FROM THE DEPARTMENT OF LABOR

SEC. 305. There are hereby transferred to and vested in the Secretary all functions relating to the Institutional Grants Program vested in the Secretary of Labor or the Department of Labor by Title III of the Comprehensive Employment and Training Act of 1973.

Redesignate the subsequent sections and make conforming changes in the Table of Contents accordingly.

(Amendment to the amendment in the nature of a substitute offered by Mr. Brooks.)

—Page 35, after line 14, insert the following new section:

WITHHOLDING OF FUNDS

SEC. 439. (a) Prior to the issuance of any deicsion pertaining to the withholding of any funds, on the basis of statutory requirement, allocable to any State or local government or State or local educational agency the Secretary shall transmit such decision to the Congress.

(b) No decision by the Secretary to withhold funds otherwise allocable to any State or local government or to any State or local educational agency under any program transferred to the Department shall be effective, if, within 30 legislative days after notice of such proposed decision is transmitted to the Congress, either House of Congress adopts a resolution stating in substance that it disapproves such decision.

(c) For purposes of subsection (b), the term "legislative days" does not include any calendar day on which both Houses of the Congress are not in session.

Conform the table of contents accordingly.

(Amendment to the amendment in the nature of a substitute offered by Mr. Brooks.)

—Insert at the end of Title IV the following new section:

SEC. 439. The Secretary is authorized to utilize remedial programs to promote equal opportunity within education, and issue rules, regulations, standards, guidelines, recommendations and orders for purposes of compliance with such programs provided that such programs do not utilize any ratio, quota or other numerical requirement related to race, creed, color, national origin or sex to require any individual or entity

to take any action with respect to (1) the hiring or promotion policies or practices of such individual or entity, or (2) the admission policies or practices of such individual or entity.

Conform the Table of Contents accordingly.

(Amendment to the amendment in the nature of a substitute offered by Mr. BROOKS.)

—Page 20, after line 21, insert the following:

TRANSFERS FROM THE DEPARTMENT OF LABOR

SEC. 305. There are hereby transferred to and vested in the Secretary all functions relating to the Comprehensive Employment and Training programs vested in the Secretary of Labor or the Department of Labor by the Comprehensive Employment and Training Act of 1973, amended and the Emergency Jobs and Unemployment Assistance Act of 1974.

Redesignate the subsequent sections and make conforming changes in the Table of Contents accordingly.

(Amendment to the amendment in the nature of a substitute offered by Mr. BROOKS.)

—Page 20, after line 21, insert the following:

TRANSFERS FROM THE DEPARTMENT OF LABOR

SEC. 305. There are hereby transferred to and vested in the Secretary all functions relating to the Employment and Training Research and Development Projects vested in the Secretary of Labor or the Department of Labor by Title III of the Comprehensive Employment and Training Act of 1973 and Part C, Title IV of the Social Security Act, as amended.

Redesignate the subsequent sections and make conforming changes in the Table of Contents accordingly.

(Amendment to the amendment in the nature of a substitute offered by Mr. BROOKS.)

—Page 20, after line 21, insert the following:

TRANSFERS FROM THE DEPARTMENT OF LABOR

SEC. 305. There are hereby transferred to and vested in the Secretary all functions relating to the Youth Employment and Training Program vested in the Secretary of Labor or the Department of Labor by the Youth Employment and Demonstration Projects Act of 1977.

Redesignate the subsequent sections and make conforming changes in the Table of Contents accordingly.

(Amendment to the amendment in the nature of a substittue offered by Mr. BROOKS.)

—Page 20, after line 21, insert the following:

TRANSFERS FROM THE DEPARTMENT OF LABOR

SEC. 305. There are hereby transferred to and vested in the Secretary all functions relating to the National On-the-Job Training Program vested in the Secretary of Labor or the Department of Labor by the Comprehensive Employment and Training Act of 1973.

Redesignate the subsequent sections and make conforming changes in the Table of Contents accordingly.

(Amendment to the amendment in the nature of a substitute offered by Mr. BROOKS.)

—Page 23, after line 13, insert the following new section:

DISTRIBUTION OF PERSONNEL

SEC. 402. The administrative (non-teaching) personnel authorized to carry out the purposes, functions and responsibilities of the Department may be allocated and distributed within the Department as the Secretary may deem to be necessary or appropriate, so long as not less than eighty (80) percent of all authorized administrative (non-teaching) personnel are assigned to the four principal officers at Level IV, nor more than fifteen (15) percent of all authorized personnel are assigned to the four principal officers at Level V, and not more than five (5) percent of all authorized personnel are reserved to the Offices of the Secretary and the Undersecretary.

Redesignate the subsequent sections and make conforming changes in the Table of Contents accordingly.

EXTENSIONS OF REMARKS

PRESSLER SEEKS STUDENT IDEAS OF EDUCATIONAL FINANCING

HON. LARRY PRESSLER

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 4, 1978

● Mr. PRESSLER. Mr. Speaker, under leave to extend my remarks in the RECORD, I include the following:

PRESSLER SEEKS STUDENT IDEAS ON EDUCATIONAL FINANCING

Congressman Larry Pressler asks his fellow Congressmen to consider overhauling the student aid program. A new student loan program co-sponsored by Congressman Larry Pressler and Michael Harrington (D-Mass.) would benefit students from farm and middle-income families. Pressler and Harrington have pointed out that these students frequently cannot qualify for many types of student financial assistance.

"Educating the minds and hands of our young people is one of our greatest national priorities. We loan billions of dollars to foreign countries at very low interest rates. We loan money to buy farms and businesses. But when it comes to educating one's mind at the post-secondary level, we are very tight-fisted," said Pressler.

"A lot of students—both vocational and in college—live on a near poverty budget. I am not advocating any give-aways, but I do think we need to reorganize the entire student loan program," Pressler said. I also strongly support the grant program and the work-study program.

Under the Pressler-Harrington bill, which is now before the House Ways and Means Committee, a student would be able to sign an agreement with the Internal Revenue Service for a federal loan. The loan would be repaid to the IRS over a 30 year period at two percent of the student's gross income. After the first year of college, the student could receive up to $5,000 per year in the form of a loan, depending on costs.

PRESSLER and HARRINGTON said in a recent television appearance their plan would have the following advantages:

(1) The lengthy and complicated means test which discriminates against many students would be eliminated. Since any student willing to sign the IRS agreement could participate in the program, students from farm and middle-income families would not be at a disadvantage.

(2) Students would have a longer period to repay than at present and they could repay the loan when their incomes are higher. The current 10-year repayment period makes it difficult for young people to repay loans at the same time they are trying to buy homes or start families and businesses.

(3) The loan default rate would be lower under the proposed plan because IRS would automatically collect repayments. Currently, a large percentage of student loans are not repaid, but under the Pressler plan, an IRS entry woud be established and delinquents would be easy to track down. If a student moved from state to state, his or her IRS records would remain constant, thus eliminating many of the problems with loan defaults.

(4) The bill would provide wider options for students.

Pressler emphasized that he is a strong supporter of the Middle Income Student Assistance Act and of some limited form of tuition tax credits to assist students or parents who are paying for higher education. As a member of the Education Committee, he has strongly advocated expanding work-study programs and grant money for students in need. Any student wishing to comment on financial aid programs should write to Congressman Larry Pressler, c/o Education Committee, United States Congress, Washington, D.C. 20515.

RANSOM ELI OLDS—THE FATHER OF THE AMERICAN MOTOR CAR INDUSTRY

HON. MARY ROSE OAKAR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 4, 1978

● Ms. OAKAR. Mr. Speaker, on Thursday, October 19, 1978, the Rotary Club of Cleveland, Ohio is honoring the man who is the father of the American motor car industry, Ransom Eli Olds.

Born in Geneva, Ohio, Olds was a true genius in the tradition of our giants of industry. Between 1899 and 1904, Olds set the foundation of a new industry, that in the next 25 years was to become the largest in the United States. He and the men he gathered around him, devised and put into use radical new methods of production, marketing, and customer service. The concentration of raw materials; the appointment of suppliers to make even the most complex components; the production assembly line; the testing, the development of an engineering staff to improve performance; the establishment of local franchise dealers; appointment of foreign distributors; the intensive use of advertising to support mass marketing; distribution of repair parts; instructions to buyers and customer service—all were introduced by the Olds Motor Works during these historic years. These procedures were widely copied by other car manufacturers like Henry Ford and these are the procedures in use throughout the American motor car industry to this day.

Olds preceded Henry Ford in producing a low price car for the general public. His famous "Curved-wash" Oldsmobile is one of the great classics. It is a tribute to his genius and foresightedness that the Oldsmobile is one of the very few cars that has enjoyed continuous production.

That is why, Mr. Speaker, we are honoring Ransom Eli Olds on October 19. He truly is the father of the American motor car industry, and the "Merry Oldsmobile" is with us today.●

A TRIBUTE TO POPE JOHN PAUL I

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 4, 1978

● Mr. GILMAN. Mr. Speaker, the world was numbed by shock and sorrow this past week by the sudden, tragic, unbelievable passing of the Pope, John Paul I, after only 34 days as supreme pontiff of the Roman Catholic Church.

Few times in the history of mankind has an individual so completely captured the hearts of so may people in such a brief span of time. From the moment Albino Cardinal Luciani stepped onto the balcony of St. Peter's as Pope John Paul I on August 26, the world was charmed by the infectious, unforgettable smile that was so symbolic of this man's warm personality.

By the simplicity of his coronation, and by the informality of his papal audiences, Pope John Paul gave the world a picture of humility and closeness to humanity which the world so sorely needs. Archbishop Manuel Menendez of Argentina related an illuminating incident, stating that "the other day on a street in Rome a little boy was asked if he loved the Pope and he said 'Yes.' He was asked why. 'Because I understand everything he says.'" John Paul, in his brief reign, brought all of us, Catholic and non-Catholic, closer to a spiritual awareness by his unpretentiousness and love.

Although John Paul did not have the weeks and months to issue any major decrees, although John Paul did not have the years to bring about structural change, the world he tragically left so soon will not be the same without him. "His warmth, openness, and obvious holiness seemed to offer so much to a world in need of hope," said Archbishop John Roach of Minnesota.

Because of the brevity of his reign John Paul did not make any decisions which may have evoked criticism. This may be his greatest legacy, for his memory can thus serve as a beacon to help bring the world closer together.

Mr. Speaker, the passing of John Paul I leaves our Nation with a great sense of loss.

AGAINST "AGEISM"

HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 4, 1978

● Mr. BINGHAM. Mr. Speaker, a wise and articulate spokesman for senior citizens in New York's 22d Congressional District is Paul Leith of Coop City, Bronx, N.Y. Eighty-four years of age, he has been writing and lecturing for many years and is a member of the Gerontological Society of the United States and various other senior citizens' organizations.

In the following article, which appeared in the Bronx Press-Review and the Coop City Times, he comments on a recent column by Abigail Van Buren ("Dear Abby"):

FIGHTING NEGATIVE MYTHS ABOUT SENIOR CITIZENS

(By Paul Leith)

Geronotologists (they study aging and older people) are agreed that society should give older people a chance to use for the benefit of society the wisdom they acquire over the years. But Abigail Van Buren ("Dear Abby") slanders older people by endorsing the negative views of a man of 80.

"Dear Abby," a syndicated columnist, heads her August 5, 1978 column in the New York Evening Post: "Philosophy from a wise old bird." This "wise old bird" signs his letter: "Got it made at 80." He writes: "If you are 80, and spill soup on your tie, or take another man's hat by mistake, you just say "I'm 80, you know" and nobody will say a thing. If you act silly, you're in your second childhood. This "wise old bird" continues: "If you make it to 80, you can talk back, argue, disagree and insist on having your own way because every body thinks you are getting a little soft in the head."

The writer of this article will soon be 85 and he repudiates emphatically this selfish, obnoxious and anti-social view of this "wise old bird".

Many people see some older people in wheelchairs or leaning on canes and then say that all older people are physically broken down. Many people see that some older people are sometimes forgetful (aren't other people also forgetful?) and then say that older people are "getting a little sick in the head," as our "wise, old bird" puts it. They attribute to an entire group the characteristics of a small number of that group. That is what is meant by a stereotype.

Dr. Robert N. Butler, Director of the National Institute on Aging, coined the word "ageism" in 1969. In "Aging and Mental Health: Positive Psychosocial Approaches" (Published by C. V. Moseby, St. Louis, 1973), Robert N. Butler and Myrna L. Lewis define ageism, "as a process of systematic stereotyping of and discrimination against people because they are old, just as racism and sexism accomplish this with skin color and gender. Old people are categorized as senile, rigid in thought and manner, old-fashioned in morality and skills . . . Ageism allows the younger generations to see older people as different from themselves; thus they subtly cease to identify with their elders as human beings."

Since ageism is widely spread throughout our society, even some older people succumb to it. So does our "wise, old bird."

Many popular shows on TV reflect the stereotyping of and discrimination against older people. They reflect the policy of society to place older people on the shelf, to provide only token programs to meet the services and other needs of older people, and to isolate older people from the mainstream of life in America. However, some efforts are being made to utilize the media to combat ageism. The National Council on Aging and the Advertising Council have been running ads on TV and in subway cars to fight ageism. For information, write: Mr. Jack Ossofsky, Executive Director, National Council on Aging, 1828 L Street, N.W., Washington, D.C. 20036. The Gray Panthers have a Media Watch to monitor and protest against stereotyping of older people on TV and in other media. For information, write: Ms. Lydia Bragger, Gray Panthers Media Watch, 1841 Broadway, Room 300, New York, N.Y. 10023.

Readers should insist that the media present a correct image of older people, and not only their weaknesses. They should "accentuate" the positive, and emphasize the strengths of older people. And above all, society should provide older people with opportunities to utilize these strengths, so that they may lead meaningful lives, meaningful to themselves and to the rest of society.

Young and middle-aged adults should keep in mind that only 5 percent of men and women 65 years of age and over are in institutions (nursing homes, homes for the aged, etc.). And keep in mind, also, the brilliant contributions during their later years of Michelangelo, of Pablo Casals, of Grandma Moses, of Albert Einstein and many other older people. Given the opportunity, how many other older people would rise to the heights?

It is tragic that a widely syndicated columnist "Dear Abby" should spread the poison of stereotyping older people. Down with the stereotype! Down with Ageism! I urge readers who detect this poison in any of the media to write to them in protest. You, too, can help!●

A RESOLUTION DESIGNATING THE CITY OF SOUTH SAN FRANCISCO AS A SISTER CITY OF LUCCA, ITALY

HON. LEO J. RYAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 4, 1978

● Mr. RYAN. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following:

On October 16 a special celebration will be held in the city of South San Francisco in my congressional district in California. This celebration will touch the lives of all the residents of that fine city for on that day the city of South San Francisco, Calif., and the city of Lucca, Italy, will be formally declared sister cities. I would like to submit, therefore, the resolution passed by the City Council of South San Francisco in recognition of this special event.

Whereas, the citizens of South San Francisco have demonstrated a spirit and enthusiasm to rekindle and honor their heritage; and

Whereas, the City of South San Francisco was predominately settled by Italians, and is still commonly thought of as an Italian community; and

Whereas, there are numerous cultural, civic and educational organizations of Italian origin actively working within the City; and

Whereas, the City of Lucca has approved the Sister City affiliation with the City of South San Francisco; and

Whereas, both the Cities of South San Francisco and Lucca wish to promote a greater understanding and unity among our citizens, and to sponsor activities to these ends; and

Whereas, the essence of the Sister City program is to foster the spirit of freedom and civic progress through the interchange of ideas and experiences; now, therefore, be it

Resolved, That the City Council of the City of South San Francisco hereby approves and designates the City of South San Francisco as a Sister City of Lucca, Italy.

Mr. Speaker, I know it will be meaningful for the people in South San Francisco and Lucca to share a kinship even though they are separated by many miles.●

U.S. SUGAR POLICY

HON. RICHARD NOLAN

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 4, 1978

● Mr. NOLAN. Mr. Speaker, in remarks which I inserted in the RECORD on September 15, 1978, I stated that Carter administration sugar policy—as embodied in the Ways and Means version of the sugar bill pending before the House—contributed to hunger and malnutrition in the world. By encouraging cash cropping of sugar for export by developing nations, the administration's sugar policy seriously impairs food security in these countries.

Julius Katz, Assistant Secretary of State, recently took exception to my remarks. Katz claims that, as with Minnesota sugar production, the heavy investment in sugar production in developing nations prevents a shift to alternative crops. For developing nations to stop growing sugar, Katz states, would cause serious rural unemployment. Katz also believes that developing nations have no realistic alternative to planting sugar.

Assistant Secretary Katz's claims sidestep the basic questions I have raised. In Minnesota, sugar beet producers have organized into cooperatives in order to refine and market their sugar. Proceeds from the sale of refined sugar are shared proportionately by producers. In developing nations, however, the foreign exchange earned by sugar exports is usually siphoned off into the hands of a few wealthy sugar barons and is not used for basic development purposes.

Furthermore, the wage rates, health and safety regulations followed in Minnesota beet fields are substantially better and require additional expenditures by producers as compared to the conditions in developing nations. For sugar workers in the Philippines, Dominican Republic and Brazil, wages are at subpoverty levels and health and safety regulations are minimal. Katz utterly fails to note the human costs of producing sugar in these developing nations.

The so-called economical and efficient production of sugar in the Philippines, Dominican Republic, and Brazil is achieved by taking it out of the hides of their people. This appears to be the standards of efficiency to which Katz wants to hold U.S. producers. The U.S. consumers, in whose behalf Katz presumes to speak, should realize that cheap imported sugar is attainable only at great human cost abroad.

It should be emphasized, however, that even when the price of sugar was high a few years ago, sugar workers in developing nations did not receive the benefits. In several of these countries real wages have fallen while hunger and malnutrition have increased.

Assistant Secretary Katz offers only two bleak alternatives for sugar workers in developing nations: Either continue at jobs with meager wages and poor working conditions or face unemployment. Katz has failed to realize that administration sugar policy benefits primarily the rich and powerful abroad—as is the case with sugar exports from the Philippines, the Dominican Republic, and Brazil. Therefore, no incentive exists for the governments of these countries to seriously develop alternative crops or to undertake a basic economic development program which promotes increased self-reliance, rather than remaining vulnerable to the volatile price swings in the international commodities trade.

Instead of settling for Katz' equally bleak alternatives, the House should pass sugar legislation which will adequately restrict the flow of imported sugar into the United States. Such action will give the sugar barons abroad the economic incentive they need to begin using the foreign exchange from sugar exports for basic development purposes. By adopting such a sugar bill, Congress will make clear that U.S. sugar producers are not to be driven down to the economic level of sugar workers in developing nations.●

FOSTER RIDGE: A TRIBUTE TO THE LATE WILLIAM FOSTER

HON. MARJORIE S. HOLT

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 4, 1978

Mrs. HOLT. Mr. Speaker, William Foster of Crofton, Md., who died December 17, 1976, has been honored by his colleagues in marine affairs. Mr. Foster joined the U.S. Navy Hydrographic Office in 1944, and spent many years on ocean surveys carried out under the auspices of that Office. He conducted many surveys aboard Navy vessels and later served a number of years as the Director of the Survey Division. His last position was as scientific staff assistant to the Director, Directorate of Operations, the U.S. Naval Oceanographic Office in Suitland, Md. He retired December 31, 1974, after more than 30 years in Federal service.

I bring this to your attention today because of the honor bestowed upon Mr. Foster by the U.S. Board of Geographic Names. His colleagues thought it fitting that a significant underseas feature be named in his honor. Accordingly, an undersea ridge in the North Atlantic at 54°30'N. and 25°30'W. rising from about 1,800 fathoms at the base to a minimum reported depth of 955 fathoms (5,000-foot rise) has been named Foster Ridge. Significantly, this ridge lies just to the east of Maury Channel, named for the U.S.S. *Maury*, a vessel on which Mr. Foster served many times.

I feel that this tribute is appropriate because of the nature of the undersea feature. A ridge is defined as a long, narrow elevation of the sea floor with steep sides and irregular topography. The ridge is not unlike Bill Foster, one among many and yet very distinct and clearly identifiable, who gave special character to his field of hydrographic studies.

I am glad that his colleagues recognized Mr. Foster's accomplishments and services to his country by naming this undersea feature Foster Ridge.●

WOMEN'S EARNINGS IN 1975

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 4, 1978

● Mr. FRASER. Mr. Speaker, on August 30, 1978, an article entitled "Area Leads Nation in Women's Income" appeared in the Washington Post. The title is optimistic, but the report it describes shows that in most large metropolitan areas women earned at least $5,000 less in 1975 than men with comparable education who also worked full time, all year.

As we work to improve the status of women in this country, I think it is important that we look to economic indicators such as this Bureau of Labor Statistics report. Although some women have made significant advances in the labor market, most women are still in largely sex-segregated occupations; and these "women's jobs" are undervalued. Occupational segregation and many other factors together result in the data summarized in BLS Report 536, "Work Experience and Earnings in 1975 by State and Area."

BLS Report 536 is derived from data in the Survey of Income and Education, a 1976 survey requested by Congress from HEW. This survey is one of the first large enough to break down into standard metropolitan statistical areas (SMSA's). SMSA's are large metropolitan areas defined for purposes of meaningful statistical comparisons. This survey, while meaningful, is not directly comparable with other labor force estimates.

BLS Report 536 shows the following breakdown of median earnings for men and women in Minnesota and in the Minneapolis-St. Paul SMSA in 1975:

Minnesota:	
All men	$12,693
Male college grads	16,888
All women	7,397
Female college grads	10,988
Minneapolis-St. Paul:	
All men	14,058
Male college grads	17,588
All women	7,944
Female college grads	11,075

BLS Report 536, "Work Experience and Earnings in 1975 by State and Area," is available from: Current Employment Analysis, U.S. Bureau of Labor Statistics, Washington, D.C. 20212. It may also be requested from BLS regional offices. Minnesotans can write to: BLS Regional Office, 230 South Dearborn Street, Chicago, Ill. 60604.

Judy Mann's article, "Area Leads Nation in Women's Income," follows:

[From the Washington Post, Aug. 30, 1978]

AREA LEADS NATION IN WOMEN'S INCOME

(By Judy Mann)

Women in the Washington metropolitan area who work full time the year around have a higher median income than women anywhere else in the country, according to a survey soon to be released by the U.S. Bureau of Labor Statistics.

The median annual income for all women in the Washington area was $9,958, almost $2,500 more than the median for women in the nation as a whole. New York City women ranked second in the country, followed by women in Detroit.

Washington area women college graduates ranked third in earnings in the nation, behind New York City, $13,824, and Detroit, $12,938. Women college graduates working full time in Washington had a median income in 1975, the income year surveyed, of $12,915.

While the earnings of women in this area are among the highest in the country, they lag far behind the earnings of men, according to the survey. The median income for all men working full time in the area was $16,670, and for men college graduates, it was $22,675. Earnings of area men also exceded the national median, which was $12,770 for all men and $17,891 for male college graduates.

A labor bureau economist who has analyzed the study attributed the high earnings of women here to "a high proportion of professional and managerial jobs available in this area in government, private industry and trade associations."

George Grier, a private consultant who specializes in population and housing market analysis and is particularly familiar with Washington-area demographics, pointed to the "government and the high salaries paid here and the industries that feed on it (the government) which have a tremendous demand for skilled personnel, particularly clerical personnel. This reflects, I think, particularly secretarial and clerical wages and the good wages paid that kind of worker there."

"I'd like to think that (the high earning level) reflects the tremendous utilization of women in professional positions. I think that's truer here than elsewhere, but I think there are still unequal opportunities for women. It's better here than elsewhere in part because of the government and the tendency of government to practice what it preaches. Equal opportunity is more likely to to be practiced here, not that it always is. But I think basically a lot of this is secretarial jobs.

The Bureau of Labor Statistics study of 158,500 households nationwide is the first such survey large enough to break down into standard metropolitan statistical areas, according to economists familiar with it. It provides documentation for the widely held belief that women in Washington have relatively high earnings and that this is a major force in the local economy, since about half the women here work full or part time.

Grier said the high income of women "helps to account for the very high household incomes here. It boosts the market for real estate and the prices for real estate. It also makes for the large, natural market for shopping centers. With the declining household size, the declining birthrate, a lot of these childless couples may have moderate incomes but they have a lot of disposable income."

Ruth Crone, director of human resources for the Council of Governments, said she was not surprised at the high earnings of women here. "Incomes generally are higher here than any place in the country, but everything else is relatively expensive too. While it may seem to someone in Des Moines that, gee, women are really making terrific incomes, how much of it is expendable income? I'm not sure it's as grand and glorious as it seems."

The median earnings for all women in New York City was $9,479, placing it second, and for men it was $13,056. In Detroit, which ranked third, women had a median earning of $9,302 compared to $15,257 for men.

Figures for several other major cities showed that women in Los Angeles had median earnings of $8,507, men $13,831; Chicago women earned $8,630, men $14,584; San Francisco women were paid $9,187, men $16,089.

The median income for all full-time working women in the United States in 1975 was $7,531 and for women college graduates it was $10,861. The Tampa-St. Petersburg area of Florida had the lowest median incomes of any standard metropolitan statistical area, for both men and women, according to the survey. Women there were paid $7,020 a year and men $11,130. The labor economist attributed the low earnings in part to the high proportion of elderly and retired people living in that area.

Statistics for women working part time and for the percentage of household income generated by married women were not immediately available.●

HON. TOM J. KENNAMER, DOORKEEPER OF HOUSE, INTERRED IN ALABAMA

HON. JOHN BUCHANAN

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 4, 1978

● Mr. BUCHANAN. Mr. Speaker, I have been made increasingly aware that a sad event that took place during our August recess escaped the attention of many of our colleagues and associates, and so I take this moment to report the death of the former Doorkeeper of the House, the Honorable Tom J. Kennamer, and to pay my respects to his memory.

Tom was born in Alabama, and he was returned to his native soil for internment in Elmwood Cemetery in Birmingham on August 19 last.

Tom had died in Houston, Tex., 3 days earlier, following several years of failing health.

Thirty years ago Kennamer had called Monett, Mo., home, and the great former Congressman Dewey Short brought him to Washington and sponsored his election as Doorkeeper of the 83d Congress. And during other Congresses he served as Minority Doorkeeper.

He was a prominent national figure in Republican gatherings and he served as Sergeant at Arms for the tempestuous Republican National Convention in Chicago in 1952.

Held in great respect and affection by his coworkers, Tom suffered a heart attack in 1964, and returned to find he had been replaced as a minority staff officer.

During his retirement, Tom had suffered a number of illnesses, saddest of which was the loss of his eyesight. He was blessed with the gentle attentions of his wife, the former Emma St. John of Birmingham, Ala., whom he affectionately called "Babe."

Kennamer was proud of his association in the Masonic order. He is survived by two daughters, Carolyn Hume and Ellen Sullivan, and five grandchildren. Three brothers also survive him, George S. Kennamer of San Diego, Calif., Julian C. Kennamer of Louisville, Ky., and Victor Kennamer of Sterling, Va., who was also for many years in the employ of the House of Representatives.

I know I express the sentiments of many friends here at the Capitol when I extend to those dear ones who have sorrowed after his death, our sincere sympathies at the passing of Tom J. Kennamer.●

MIAMI'S CUBAN EXILES

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 4, 1978

● Mr. LEHMAN. Mr. Speaker, an article which appeared recently in the Canadian magazine, McLean's, described the current efforts of Miami's Cuban exiles to discredit and ultimately bring down the Castro regime.

There are two factions at work among the Cuban exiles. There are those who have resorted to terrorist activities, and there are those who believe in working more peacefully through international organizations like the United Nations and the World Court. One of the leaders of this second group is Manolo Reyes, a very prominent and well-respected member of the Cuban community of Miami.

Manolo Reyes is dedicated to the restoration of democracy in his native country. To accomplish this goal, he has held steadily to legitimate democratic means and has rejected terrorism.

I am sure my colleagues will find the following article very informative.

THE ENEMY GROWS OLDER: AND, IF CUBA'S EXILES ARE RIGHT, MORE VULNERABLE

(By William Lowther)

Manolo Reyes pushed a loaded .38 across his desk. For a man with his name on a death list he looked awfully confident. "Do

you think they'll take me easy?" he asked. A macho gesture, a touch of cowboy. But the atmosphere in Little Havana that has convinced him to carry a gun is real enough. At 54, the laugh and worry lines mingle in his face. He speaks with a lilting Spanish accent:

"The killings began about four years ago. It was a Good Friday. Jose de la Torriente was the first one. He was an old man. They shot him in his own house and left behind a list of 10 names. Since then, six of the men on that list have been assassinated. A seventh committed suicide. An eighth had his legs blown off. There is only me and one other left on the hit parade. No one has been caught. But all of us, all the men on the list had only one enemy—Fidel. And he has agents here."

"Here" is Miami, specifically the huge Cuban ghetto known as Little Havana, home to more than half the 700,000 Cubans who live in exile in the United States. They have been described as the best-trained army of terrorists in the world today, and they possess an enormous potential for violence against the detested Castro regime and its supporters. They have been here for 18 years, since they fled or were forced out when Fidel Castro led his ragged rebel troops down from the Sierra Maestra hills to turn their island into a Communist stronghold. And not since the death of John F. Kennedy (in which some suggest they played a sinister role) has anyone in a position of real power considered the exiles to have any chance to return, victoriously, to overthrow the "dictator."

At one time nearly 60 percent of the Cuban men in the Miami area were in the pay of the Central Intelligence Agency (CIA) and received intense tuition as guerrilla fighters. But that connection ended years ago—they have been on their own for a good decade, their violence and hatred smouldering. They are fiercely anti-Communist, bursting with rage against Castro. The years of frustration since the disastrous Bay of Pigs fiasco, the abortive CIA-backed attack on Cuba in 1961, have blinded many of them to reason.

But now, curiously, the society in microcosm believes again that it has a part to play in international affairs. It believes that Castro is overstepping the boundaries of his power, at home and abroad. The Cubans in exile say that not since the early '60s has the time been more opportune to strike out again against the man they call, with bitter familiarity, "Fidel."

There are dozens of factions and groupings among the exiles, but basically they fall into two schools. One, led by men like Manolo, wants to combat the Communists through strictly legal political means—through Washington, the United Nations, the World Court. Others believe that diplomatic pressure is a waste of time. They want to attack the Castro regime at home and abroad with violence. They have formed a "secret army" which has conducted literally dozens of bombings against pro-Castro targets. They have kidnapped and murdered Cuban officials. They have blown up an airliner, killing all aboard, and they have launched flotillas of highly armed speedboats to harass Cuban and Soviet shipping in the Caribbean. Even now four men are waiting to stand trial on charges that they violated the U.S.-Cuban neutrality laws by preparing "a military and naval expedition" against the territory and dominion of the Republic of Cuba.

This summer coincidentally, through a set of unrelated circumstances, both the violent and the nonviolent factions in Miami have fresh hope for damaging the Castro regime. They see new ways emerging for them to influence events.

The bearded revolutionary has become vulnerable, they say, as a result of his adventurism in Africa. Cuba, by most estimates, now has well over 40,000 soldiers on that continent. For a poor albeit well subsidized country with fewer than 10 million people, it is a huge commitment to foreign wars from which the only gain is likely to be of a spurious ideological nature. Allowing for the difference in populations, the Cuban venture is on the same scale as the United States' in Vietnam in 1968. It's fair to say that every Cuban family has a relative or at least knows a soldier in Africa.

Not surprisingly, this is leading to a good deal of quiet dismay and uneasiness at home. At least that is what the exiles in Miami believe. The intelligence they receive from relatives and sources back on the island indicates that dissatisfaction is growing. But there is no obvious pressure to "bring the boys home." This is partly because the Communist system is well enough organized to stamp out the fires of rebellion before they catch hold, and partly because of high unemployment at home. Work is scarce and Africa is a chance for promotion and equality. Most Cubans are mullato or black yet nearly all the top jobs in Havana are held by whites. Colored soldiers, especially junior officers, are far commoner in the units in Africa than in the Cuban forces as a whole. Thus race plays its part.

In the back bar of Centro Vasco, Little Havana's classiest restaurant, a Bay of Pigs veteran explained: "You see Fidel, he has this charisma. He is a genius. We don't deny that. A genius, but an evil genius. He holds the people under a spell. The spell could be broken by his death. There is no one of stature to succeed him. No one can take his place. If we could kill him now it would be possible to rally the people to revolt. With all that is happening in Africa, the time is right for action. We must let the Cuban people back home know that we are still ready and prepared to help them."

The world is a very different place viewed from the neat, narrow streets of Little Havana. Ideas that seem absurd elsewhere take on new reason when explained over *café cubano* in the crowded sidewalk bars. You can easily believe that you are in the real thing, the real Havana, and forget that it's a transplant. Virtually no English is spoken in the shops and cafés. The Spanish culture thrives. Stores with statues of saints, stone-studded crosses and religious paraphernalia flourish. Old men gather in dusty little squares to play dominoes. The gourmets agree that Little Havana restaurants serve Cuban food superior to those "back home." Black bean soup and variations on paella are the specialties.

Back of the main street—the Tamiami Trail—are bright rows of white and pastel stucco houses. There is a safe and secure air. It looks like a good place to bring up the kids. It's hard to believe that it's also a hotbed of plots, counter-plots and conspiracy. But it is.

For the last few months, a fragile peace seems to have fallen over the area. There have been no bombings, murders or kidnappings in the Cuban community. The list with Manolo's name on it would appear to have been put on the shelf. And the state and federal anti-terrorists squads who keep a close watch on the community believe they know why it's so quiet. In off-the-record talks, police officers acknowledge that Castro does indeed have agents in Miami. They were all working—Manolo still is—to tackle Castro through such international organizations as the UN and World Court. Those who favor terror tactics see what might be called the "Manolo faction" as a waste of time, a hindrance. They want to discourage that approach at any price.

Eighty percent of the 100 and more bombings and killings in the Miami area since 1974 remain unsolved. Congressional hearings, grand juries and the like have been markedly ineffective. However, when arrests are made or convictions handed down, the persons involved turn out to be known members of the community with long records of anti-Castro activity. So the current lull in terrorism has been caused, the police believe, by two factors. First, several exile leaders with records of violence are now awaiting trial on a variety of terrorist charges and police say their sympathetic colleagues are lying low so as not to prejudice the cases. Second, and equally important, there are indications that the pro-attack group is concentrating its efforts directly against Cuba, 110 miles away. Buoyed by the belief that the people are fed up with Castro's Africa policies, the exiles want to make the most of what could be a passing opportunity.

"I really would put absolutely nothing past them," says one leader of the state's anti-terrorist squad. A Cuban himself, he adds: "These people are very intelligent and quite fanatical. They are prepared to lose their lives, to become martyrs for the only cause that means anything to them."

Their record is quite extraordinary. The four men now awaiting trial on charges of violating American neutrality laws—Armando Lopez Estrada, Pedro Gil, Juan Arce and Isidoro Pineiro—were arrested after police found a weapons cache and three powerboats they said were to be used in a naval raid on Cuba. Among weapons in the haul: a 20mm cannon, a 50-calibre machine gun, a 30-calibre machine-gun and five AR-15 automatic rifles. They have claimed that in conducting raids on Cuba they were "pursuing a legitimate goal of the U.S. government." The prosecutor in turn argues that the United States does not sanction private armies. "Fifteen years ago, perhaps, the U.S. did give approval for raids," he said. "Now there is no authorization and this amounts to a recruitment of a private or secret army." It is reflective of the atmosphere and mood of Miami, however, that up to this point the legal system, as applied locally, has tended to work in favor of the Cubans and turn a blind eye to raids into the Caribbean. Even now the betting is that the four will eventually have their case dismissed on some legal technicality.

The naval expeditions are aimed at keeping the Cuban authorities disturbed and on edge. A couple of random examples: On February 12, 1976, when the Soviet freighter Dzhordano Bruno was sitting motionless 35 miles off Cuba's north coast, a small boat raced up and raked it with heavy machine-gun fire. The Soviets said no one was injured. About two months later, two Cuban fishing boats were similarly attacked. This time, one fisherman was killed.

But it is the exile community's more visible acts of terrorism that get the publicity. Perhaps the most noted came in October, 1976, when a Cubana airliner was sabotaged en route to Cuba from Barbados. Seventy-three people were killed.

But as the police point out it's not just those who serve Castro but also those who oppose terrorist actions in general who fall victim to the renegades. Emilio Milian, news director of Miami's most popular Spanish-language radio station, had his legs blown off when he turned on the ignition of a car—shortly after broadcasting an editorial pleading for an end to terrorism. It happened two years ago but although several known terrorists have been questioned (one of them failed a lie detector test) no one has been convicted.

Leaders of the terrorist bands are hard to

identify. However a pediatrician, Dr. Orlando Bosch, has emerged as a major figure. He was caught in firing a bazooka at a Polish ship in Miami harbor in 1968 and was sentenced to 10 years in prison. Released on parole after four years, he returned to the movement and is now under arrest in Venezuela charged along with three other men in connection with the Cubana airliner bombing.

Many of the pro-violence Cubans have connections with the Bay of Pigs Fighters Association Assault Brigade 2506, formed by invasion veterans. To a man they are fiercely anti-Castro.

In a dimly lit bar just off a Little Havana side street, two of the men who once worked for the CIA and conducted raids against Cuba talked into the early morning hours recently about their hopes. Roberto Carballo—a dramatic, dashing individual with thick black wavy hair, shirt opened to show an ornate silver cross—said: "I don't believe that the present Cuban regime can exist without Fidel. He controls everything. If he were gone, if he were killed, all that he has done would crumble. Have you seen the pictures of him lately He has a big fat paunch now. And he is one of the biggest liars alive. I was at the Bay of Pigs invasion. I was the only member of the brigade to escape after we were captured. You know there were only 1,260 of us landed, 106 were killed. Fidel said that we killed only 92 of his troops but that was a lie. We killed about 800 of them. I myself saw them carrying the bodies away in trucks."

Urbano Menendez, a big man with a gentle face, added: "It is so easy to fight Fidel in Miami. All you have to do is talk about it and nothing else. But it will be another thing if the real chance is presented again for us to invade the island. We are always asking ourselves how many of the Cuban men here would really stand and fight. Of course it depends on who blows the horn. In the end you can only really know for yourself. Many of our people have done very well in America. They are successful and wealthy businessmen. Would they give that up to go back to Cuba, We can't turn back the clock. Things have changed a great deal."

Indeed. Things are still changing. Manolo Reyes put away his gun. We were talking in his plush little office—refrigerated bar and mirror-fronted desk—on the third floor of the hospital where he works as vice-president in charge of communications and patient relations. A self-promoter, he has testified 12 times in the last eight years before Congress as a "leader of the Cuban community in exile."

His schemes for bringing down Castro through complex arguments and unlikely power plays in Washington and New York are trotted out with over-practised fluency. It's not from these dubious ploys that Manolo will ever hurt Cuba, rather it's from one of his other pursuits—the welfare of the exiled community. For he has led a drive to persuade the patriotic Cubans to take out American citizenship. "I decided that as a special tribute to the United States I would convince my brothers to become Americans. Does this mean we are renouncing our roots, our country, our history? No. You love and always will love the mother who gave you your body and soul, but you also love the woman who helps you raise your children. You cannot compare them. Cuba is our mother, America is our wife."

In 1976, when Manolo started his drive, 30,000 Cuban exiles became Americans. Last year another 22,000 took the oath of allegiance. This year at least as many are expected to follow suit. The result is that for the first time since they went into exile the Cubans have become a voting political force. They are gathering clout in Congress. Their ballots can be relied upon to elect anti-Castro candidates who will, through the committees and caucuses, fight against any Washington-Havana reconcilation and recognition.

It is at least partly as a result of a national sentiment against Cuban troops in Africa that President Jimmy Carter is now taking the hardest line of his own administration to label the island as a Soviet satellite totally under the Kremlin's thumb. In so doing, Carter has rejected the friendship overtures Castro has been making with increasing frequency this year. This latest development has come as a sweet relief to Little Havana. For the president started his regime with moves towards Cuba. Diplomats were swapped, treaties signed, agreements reached on fishing and freedom of passage. Now, with the impasse over Africa, relations again look ready to slump.

Last word from Manolo: "The Cuban people are not Communists at heart. What are Cuban boys doing fighting in Africa? Cuba is famous for rum, the conga and maracas. We are not warriors." ●

THE COURT REPORTER'S CONTRIBUTION

HON. JIM SANTINI

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 4, 1978

● Mr. SANTINI. Mr. Speaker, recently it was my privilege to address the 33d annual convention of the U.S. Court Reporters Association which represents those stalwart men and women, the silent people, who are the official court reporters in the U.S. district courts. I believe it is appropriate to share with this distinguished body some of what I have learned about this very professional organization.

Its officers and legislative representatives are hard-working court reporters who are proud of their profession, and equally proud to be an integral, vital part of the Federal judicial system. By means of continuing education programs, the association constantly seeks to have the already substantial skills of Federal court reporters upgraded, so that the transcripts which they produce will accurately reflect the torrents of words which daily flood the trial arena.

The association has cooperated with the Judicial Conference and the Administrative Office of the U.S. Courts in establishing high standards of qualification for the appointment of reporters in the district courts.

Their legislative representatives with whom I have consulted on S. 1613, the Magistrates Act of 1978, are sincere, dedicated, knowledgeable men, possessing a firm resolve that the district courts and affiliated courts, such as the magistrate courts, must have only the best court reporting services in order that all litigants, rich and poor, will be afforded equal protection under the law.

The diligence and determination with which this very small organization battles against impossible odds truly exemplifies the American spirit that what can be done will be done. Their contribution to the judicial system through the legislative process has been significant, and I welcome the opportunity to share this information with my colleagues. ●

PROBLEMS WITH AUTOMATIC INCREASES IN MINIMUM WAGE

HON. JOHN J. CAVANAUGH

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 4, 1978

● Mr. CAVANAUGH. Mr. Speaker, during the consideration of H.R. 3744, the minimum wage bill, in September 1977, I at that time, expressed my sincere concern over the automatic increases in the minimum wage and the possible effect of these increases on the Nation's economy and inflation.

As you will recall, I had prepared an amendment which I intended to offer, had the indexing provision of H.R. 3744 been accepted by the House. My amendment would have mandated continued congressional oversight of future increases in the minimum wage. It would have insured that the Congress had the opportunity to study the Nation's economic picture before an increase in the minimum wage took place. However, since the House took action striking the indexing provision from the bill and the lack of support from my colleagues for my amendment, I did not offer my amendment.

I felt then as I still do, that it is the responsibility of Congress to insure that we do not contribute to the inflationary spiral by permitting automatic increases to become effective when the economy cannot handle such increases. My amendment, among other things, would have given the Congress a 30-day period in which to consider a resolution of disapproval of increases in the minimum wage, which if passed by either legislative body would have precluded the increase in the minimum wage.

It is my understanding that earlier this year, Federal Reserve Board Chairman, William Miller, stated to the Joint Economic Committee:

> The minimum wage has been inflationary. The increase at the beginning of this year was quite large percentage-wise and immediately showed up in a number of sectors—the Service sector particularly—in the economy and contributed to our inflation. I would personally welcome anyway possible to defer or change what is going to happen next January 1 to put it off for a couple of years or something so that we do not have another burst of inflationary impact running through a sector of the economy.

It is my understanding from the Joint Economic Committee that it has been estimated that increases in the minimum wage have added approximately 1 percent to the rate of inflation.

I certainly do not deny that people who are existing on the minimum wage do not deserve a realistic wage; however, it may well be that the growth in inflation is hitting the people who need the help the most by robbing them of their increases.

It appears that the very thing I feared the most during our consideration of the minimum wage bill has occurred—these automatic increases are hurting this Nation's economy. This should be a lesson to the Congress hat we must not shirk our responsibility to the American people by refusing to deal with difficult emotional legislation such as minimum wage increases on a yearly basis.●

REMARKS OF THE PRESIDENT AWARDING CONGRESSIONAL SPACE MEDAL OF HONOR

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 4, 1978

● Mr. TEAGUE. Mr. Speaker, the President of the United States, recently honored six American astronauts with the Congressional Space Medal of Honor for exceptionally meritorious efforts and contributions to the welfare of the Nation and of mankind. These men have led the way in opening the frontiers of space to mankind. For the benefit of my colleagues, I am including in the RECORD the text of the President's remarks at the Congressional Space Medal of Honor ceremony at Kennedy Space Center on October 1, 1978.

Thank you very much.

Governor Askew, Senator Chiles, Senator Stone, Senator Stevenson, who is the Chairman of the Subcommittee on Energy and Technology, Congressman Tiger Teague—who is the retiring Chairman of the Committee on Science and Technology, and who has done so much to bring our space program to our nation and who wrote the legislation establishing the Space Medal of Honor—(Applause)—Congressman Fuqua, Congressman Gibbons, Congresswoman Boggs, ladies and gentlemen; many of you who have helped in past years to make the achievements commemorated this afternoon possible: this is one of the most exciting events of my life.

For a number of weeks since I planned to come here, I have been thrilled at the prospect of meeting these famous men on my right who have done so much to inspire all those who love our country and who have confidence in the future of human beings.

A few minutes ago, we watched a simulated takeoff and flight of Apollo XI. And my palms are still sweating with excitement and nervousness and I might say that I was not the only one. The astronauts' palms were sweating even more than mine. (Laughter.)

I believe it is accurate to say that we are here today to recognize and honor six American Pioneers of the farthest and highest of all frontiers, the frontier of space. We honor them for individual human qualities, dedication, skill, extraordinary courage. But we do more than that. What those men have done is the most visible part of a vast and continuing collective accomplishment of many people.

Tens of thousands of Americans, many of you including scientists, engineers, administrators, skilled workers, others, have contributed directly to the success of the American space enterprise. They in turn have had the support of an entire nation and the good wishes of an entire planet.

The glory that belongs to the six recipients this afternoon of the Space Medal of Honor belongs equally to those who helped them, and in a real sense, to all humanity who prayed for them and who supported them.

This does not diminish the glory of these American heroes. It enlarges their glory. It is fitting that these ceremonies take place today on the twentieth anniversary of the founding of the National Aeronautics and Space Administration. And it is, of course, fitting that they take place here where the ships that took men to the moon were launched and where we will take our next great step into space with the first flight of the space shuttle, which I sincerely hope will be before my next birthday. (Applause)

I have every assurance from those involved that there will be no slippage in the present schedule as it now stands. (Applause) The age of space, as Dr. Frosch said, can now be characterized as having reached the threshold of its maturity. It began 21 years ago this week with the launching of Sputnik I. That remarkable achievement galvanized our own space efforts. We have met the challenge fully, and indeed, we have gone far beyond that challenge. And as Americans, we are proud of these achievements and glad of the benefits that have been brought to our Nation and, indeed, to the entire world.

We speak often of progress. But there is nothing in scientific and technological experience to compare with the enormous leaps we have made in the brief span of the two decades of the space age.

We have performed what any generation would have considered miracles. We have taken the stuff of fantasy and dreams and we have turned it into accomplishment and reality.

The dreams of a few visionaries have become a part of the every-day life of hundreds of millions of people. Consider what we have done in just one quarter of a human lifetime. We have put men in orbit around the earth and around the moon. We have put machines in orbit around the earth, the moon, the sun, and the planet Mars. We have learned to maneuver in space, to dock ships together in space and even to walk in space.

On board Sky Lab we have learned to live and work in a weightless environment for many weeks at a time. We have begun the exploration of the inner planets and the outer planets.

Two American Vikings have been sending back valuable scientific data from the surface of Mars for more than two years.

Pioneer X has passed Jupiter and is on its way to interstellar space. It will be the first tangible product of human hands to leave the solar system. Its flight time may turn out to be longer than the life of civilization that launched it. Of course, its destination is unknown. But like the entire effort of space exploration, it is a striking symbol of human curiosity, human ingenuity and the very human desire to communicate with others.

Of course, the greatest event of all, we went to the surface of the moon, not once, but six times. And each time, the astronauts returned safely to their home planet, Earth, and to their home country, the United States of America. (Applause)

In the years since a man took that one small step, the giant leap it represented has almost come to be taken for granted. Yet, at the outset, many doubted it could be done at all. And many more doubted it could be done in so short a time. But it was done. And it was done magnificently.

The goal was met. This great space center is deservedly named for the man who summoned his fellow citizens to an extraordinary adventure, President John F. Kennedy. (Applause)

We went to the moon, in part, as a matter of national pride. But when we got there, we discovered something very interesting. Through the eyes and the cameras of the astronauts, we looked back at the earth, above the strange horizon of the moon in a pitch black sky, we saw our own world as a single delicate globe of swirling blue and white, green, brown, from the perspective of space; our planet has no national boundaries.

It is very beautiful, but it is also very fragile. It is the special responsibility of the human race to preserve it. Of all the things we have learned from our explorations of space, none has been more important than this perception of the essential unity of our world.

I learned this morning that while I was at Camp David with President Sadat and Prime Minister Begin, that scientists at Cal Tech discovered a new mini planet whose orbit comes between that of earth and that of Mercury. The new mini planet has just been named Ra Shalom, Ra being the Egyptian Sun God, and as you know, Shalom being the word for peace.

This I think vividly demonstrates that we on earth have a responsibility to unify the people of the world in peace and harmony and preserve the lives of those that were observed so distantly by the astronauts from the moon.

Space has brought us a great deal of human knowledge and also a great deal of technical knowledge. It may also have brought us a measure of wisdom. Today we celebrate the accomplishments of the past, in the spirit of the men we honor; we also look toward the future, a future that is as exciting as anything that has gone on before.

The first great era of the space age is over. The second is about to begin. It will come into its own with the new space shuttle, the heart of our new space transportation system when it becomes operational.

With its ability to lift a payload of up to 32 tons into orbit on mission after mission, the shuttle will give us a regular frequent and economical access to space. Like the sea, the land and the air, the space will become an environment in which human beings can live and work for the welfare of their own species.

Paradoxically, the most exciting thing about the space shuttle is that it will make our use of space in the future routine and perhaps not very exciting.

The first generation of space activities was driven in large part by a single exciting transcendent goal, the quest for the moon. In the second generation, thanks to the versatility of the shuttle, our activities in space will be enormously varied.

We have invested so far some $100 billion over the history of our American space programs. It is now time for us to capitalize on that major investment even more. We have already reaped many practical benefits from space. Over the next generation, these benefits will increase geometrically.

Communication satellites have already made global communications instantaneous, reliable, cheap. They have brought remote areas of the earth out of their isolation. We will continue to develop them.

Weather satellites have already saved billions of dollars, thousands of lives through early warnings of hurricanes and floods. We will continue to develop them. We have greatly strengthened our national security through defense space applications. We will continue to develop these capabilities.

Photo reconnaissance satellites have become an important stabilizing factor in world affairs in the monitoring of arms control agreements. They make an immense contribution to the security of all nations. We shall continue to develop them.

Earth resources satellites have already proved their value to many countries through

remote sensing. They tell us about everything from the location of mineral and energy deposits to the condition of our crops, from the motion of icebergs to the health of the oceans.

We will continue to develop and to use these satellites for the benefit of all people of the world.

Aboard the shuttle on many of its missions will be the European-built laboratory, the space lab. Scientists of many nations will use the space lab to do research in all branches of science and engineering. No one can say where this research will lead, but carefully selected experiments could yield direct benefits in the coming decades.

I am often asked about space factories, solar power satellites and such other large-scale engineering projects in space In my judgment, it is too early to commit the Nation to such projects. But we will continue the evolving development of our technology, taking intermediate steps that will keep open possibilities for the future.

During the period of the Saturn-Apollo missions, we were pilgrims in space, ranging far from home in search of knowledge. Now we will become shephards tending our technological flocks, but like the shepherds of old, we will keep our eyes fixed on the heavens.

We are committed to tne practical use of space. But we are equally committed to the scientific exploration of the solar system and the universe.

In the 1980s, the 1990s, we will continue the direct reconnaissance of the solar system. Through the eyes of our remote cameras, we will see Mars and Venus, Jupiter and its moons, Saturn with its moons and rings, and comets and asteroids.

The study of other planets, their climate, geology, geophysics, perhaps their biology, will increase our understanding of our own planet. We will seek to learn more about the sun.

Many missions will aim at this goal in the years to come. In one of them, an instrumental probe will journey far above the plane of the solar system to look down at the never before seen polar regions of the sun.

And finally, we will look out from earth's orbit to the very end of the universe, notably by means of the space telescope.

In its orbit 300 miles above the earth's surface, the space telescope will at last let us see a universe without interference from the earth's orbit-obscuring atmosphere.

It will be the centerpiece of astronomy for the decade beginning in the mid-eighties. Its contributions may dwarf all but the most fundamental discoveries of the past, leading to a quantum growth in our understanding of the basic nature of time, matter and energy.

In the coming generation, the scope and the range of our space activities will reflect the range of our requirements and interests as a vigorous, responsible and free society.

Those activities will be measured against all the needs of our country. We will be encouraging other countries to participate both in the work and in its benefits. But we will not give up the leadership of the United States in space. (Applause)

And finally, let me say, in the last analysis, the challenge of space takes us very close to the heart of things. It brings us face to face with the mysteries of creation, of matter, of energy, of life itself. The men we honor today met that challenge and they are equal to it. Our Nation met that challenge and was equal to it. And in the final two decades of the twentieth century, America will reach out once more to the beauty and to the mystery of space, and once again, America, you and I, will be equal to that great task. Thank you very much. (Applause)

THE DEPARTMENT OF EDUCATION

HON. MICHAEL T. BLOUIN

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 4, 1978

● Mr. BLOUIN. Mr. Speaker, within the next few days this Chamber will begin consideration of the proposed Cabinet level Department of Education. Only last week, the other body passed this measure (S. 991) by a comfortable margin and I am hopeful that the House will follow suit. Mr. Speaker, I do want to bring to the attention of this body, the fact that an amendment was accepted on the Senate floor which removed from the bill, the transfer of the education programs for American Indians administered by the Bureau of Indian Affairs. The acceptance of this amendment conforms S. 991 in this regard, to the language of the bill which will be before the House.

Mr. Speaker, I have spoken out against inclusion of these programs several times—at subcommittee and committee levels during the consideration of H.R. 13778. Although, I have cosponsored both of these measures and strongly support the creation of a new Department of Education, My reservations about any transfer of Indian education programs remain equally strong—as evidenced by my remarks in the June 29 CONGRESSIONAL RECORD.

Fortunately, the voices of those of us who feel that a transfer of BIA programs to the new department would be a mistake have not gone unheard. The House Subcommittee on Legislation and National Security removed the BIA programs from consideration of a new Department. Additionally, the full Government Operations Committee has twice rejected attempts at reinclusion. Now, the Senate has confirmed the convictions of myself and my fellow Members by their similar action.

In view of the fact the bill will be before this body in the next few days, I thought it would be beneficial for the Members of the House to be aware of those arguments that both the House Government Operations Committee and now the other body, found persuasive in removing the Bureau of Indian Affairs education programs. Only through careful examination can the complexity of the issue be made simple. Only by understanding these issues can the membership understand why over 90 percent of the Indian people oppose this transfer.

The Bureau of Indian Affairs, an entirely unique Federal agency, currently operates over 200 schools, which are equally unique in our Nation's educational experience. The Bureau has only one constituent group—Indians. Furthermore, this Indian clientele is the only group in the United States to have a legal, and nearly contractual, relationship with the United States which requires the provision of services. This duty on the part of the Federal Government is often summed up by the term, "trust responsibility". While catch phrases are often well and good, in this instance, simple phrases grafted onto proposed measures are woefully inadequate. The "trust responsibility" is a living, growing concept, almost a "gut level" thing, which is understood by Indians and those who work with them, yet very difficult to adequately formalize in writing. The Bureau is the only Federal agency which has had experience in working with, protecting, and advocating for this trust responsibility over the past 100 years. While there have been problems with BIA performance in education matters, HEW, and specifically the Office of Education, does not understand the trust responsibility or the advocacy role. Nothing in any proposal relating to Indians in a new Department, which will be a collection of varying interests and doctrines has given any indication that services would be protected or improved.

BIA schools are unique by virtue of their very existence. Those that exist on reservations are usually isolated, or require special facilities to enable Indian students to attend (dormitories). Those off-reservation serve a special population of kids (that is, social force outs). I know from personal experience that this system, one of the largest in the Nation, exists under social, cultural, and physical conditions unlike any other American school system today. I am convinced that the uniqueness of these schools warrants, at the very least, careful consideration of their proposed transfer, not the hasty, "worry about problems tomorrow" approach that has been rejected by the House Government Operations Committee, and by the Senate.

As has been pointed out time and again, Indian education, at the reservation level, is a service inextricably intertwined with others. The school principal is an educator, postmaster, and expert on all BIA programs (such as social services, land management, road maintenance, water questions, and so forth). He acts as the local advocate in area office matters. He takes complaints on all BIA questions to the proper authorities and he gets results, largely because he is part of the BIA system. All of this would be severed if BIA education were removed.

Of course, the support services situation is not all one way. BIA schools exist in a partnership with other BIA divisions. The Maintenance Division provides maintenance for all other BIA divisions including the schools. The same goes for social services and others. The provision of these vital services would be irreparably disrupted if a transfer were attempted. The suggestion that these support services be transferred over is unrealistic, since these components also provide services for other equally vital BIA program areas. The duplication of such support components would greatly increase expense and confusion, and in this day of cost cutting, such duplication is untenable.

The foregoing are some of the reasons for the exclusion of the Bureau education programs. Other reasons have been uncovered in the past 2 years of study of Indian education, conducted by the House Committee on Education and Labor. With the overwhelming weight of the evidence so obviously against such a

transfer, the question should never have been in doubt. However, the lure of the numbers of education personnel, which the BIA would contribute to the new Department, and the frustrations which some Members have felt in dealing with the BIA, have combined to make this transfer controversial. The fact that the House Government Operations Committee and Senate rejected the transfer has demonstrated the ability of Congress to reason through a complex problem. The action by both Chambers to include titles in the elementary and secondary education reauthorization bills (H.R. 15 and S. 1753) which substantially reorganize and redirect the Bureau of Indian Affairs Education Division, has additionally demonstrated that the Congress can address serious problems in other than a simplistic fashion. Both actions have, I think, shown the Indian community the depth of congressional concern over, and commitment to, the plight of the Indian student. I am sure that, should they be called on to do so, the Members of the House will ratify the actions of its Government Operations Committee and its companion body. No other action could do more to foster the faith of our Indian citizens in our system of government.●

RACKETEERING IN THE SALE AND DISTRIBUTION OF CIGARETTES

HON. JOHN M. MURPHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 3, 1978

● Mr. MURPHY of New York. Mr. Speaker, I commend my colleagues in the House for their swift consideration and approval of H.R. 8853 which is similar in substance to my own bill H.R. 1031. This measure seeks to create a Federal criminal statutory framework to assist Federal and State authorities in combating interstate traffic and racketeering in bootleg cigarettes. I authored a similar, and somewhat more restrictive version of the legislation, due in large part to the great magnitude of the problem in my own State of New York.

This is indeed a rather unique legislative problem, in that there are no currently existing statutes on the Federal books which directly relate to interstate shipment of cigaretts, except for one which regulates mail-order distribution. Yet the problem is most definitely one of interstate commerce, and one which provides a most lucrative source of income for the organized crime figures who have capitalized on the lack of Federal jurisdiction. To illustrate the scope of the money being channeled into organized crime, I would point out that my own State of New York estimates the loss in cigarette tax revenues in 1976 to be $72.3 million—followed by a $43 million loss in Texas, $35 million each in Florida and Pennsylvania—for a total of $337 million lost in tax revenues, mostly to organized crime.

The legislative approach presented in the bill passed yesterday is reasonable; it fills a long-vacant void in the Federal criminal code; and it deserves the total support of the Congress in its immediate enactment and clearance for the President's signature.●

SOVIET MANIA FOR CONQUEST

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 4, 1978

● Mr. DERWINSKI. Mr. Speaker, one of the features of the Palos Hills Citizen publication, serving a number of communities in southwest Cook County, Ill., is a column by a local civic leader, Mr. Earl Potter.

In his column of September 28, Mr. Potter discusses the long-term foreign policy problems created by the Soviet Union which we must face up to in a realistic fashion. I wish to insert his column at this point:

PALOS HILLS TODAY

(By Earl Potter)

The examples of the Baltic Nations, Eastern Europe, China, Cuba, Viet Nam, Laos, Cambodia, Ethiopia, Angola, and Mozambique has taught neither the leaders nor the people of our nation the lesson that we must learn if we are not to be annihilated within a decade! That lesson is that the communist insanity is indeed a malignant and overwhelming threat to our nation and, indeed, to our individual lives. A large percentage of our own population has fallen victim to a madness that clouds their minds and causes them to misread the terrifying handwriting on the wall—the handwriting that says "we will bury you."

In their madness, they refuse to recognize that the Soviet Union is the instrument of this homicidal mania that is dedicated to the absolute conquest of the entire world, especially the United States, and that if this belligerent onslaught succeeds, the changes it will bring to the lives of free men are indescribably horrible!

A study of what happened in each of the nations above once they were forced into the Marxist gamebag is imperative if you are to understand what fate awaits you when Old Glory is struck to be replaced by the hammer and sickle. First, the conquerors will select from our own red quislings the most ruthless and compliant individuals to run the show for them. Their orders and rules will be backed up by the guns and bayonets of red troops from the USSR, plus the domestic "people army" of American traitors whose twisted minds will support the red tyrants. Soon every person who the reds suspect will be rounded up for questioning and "people trials," most to be shot on the spot, the remainder to be sent to slave camps.

This number, based on the examples cited, will be anywhere from 2 to 15 percent of our total population, which would be from four million to 33 million of us. Those who avoided such fate would be reduced to a state of helpless terror by what was happening around them—anybody who protested any action of the new tyrants would disappear without trial, and protest marchers would be wiped out by machine gun fire. The economy would be a shambles—all businesses would be seized by the new red government, all shops and stores confiscated, and production of everything from food to fuel would cease until the reds managed to reorganize the economy along communist lines.

The middle class would suffer the most—their livelihood gone, their homes seized or destroyed by howling mobs of welfare clients, those not already rounded up by the "peoples militia" would find themselves in a nightmare beyond their their imagination. The churches would be destroyed or turned into warehouses and all of our ideas of human dignity and freedom would be wiped out forever.

The above described is not fantasy—it has happened over and over again, and there are witnesses aplenty who were there and who have described it to all who would listen! The most eloquent of all such witnesses, Alexander Solzhenitsyn, has repeatedly tried to warn us of what is coming if we don't wake up, but we close our ears to him. All of our retired military leaders have also tried to tell us that we are losing the race for military superiority against the reds, but our lunatic "liberals" who control our media play down such vital information. As a result, we vote the addle-pated people who have led us into this peril back into office time and again.

Remember that all of the troubles vexing you today—inflation, taxes, immorality, crime, etc. will be as nothing compared to what tomorrow is certain to bring if we don't come to our sense mighty quick. As some wise man of antiquity once said, "none are so blind as those who will not see." Our libs are certainly in that category, and if we persist in refusing to see, our children and our children's children will pay an excruciating price for our folly.●

THE CASE OF MR. YURI KOCHAROVSKY WHO IS DETAINED IN THE SOVIET UNION

HON. BRUCE F. CAPUTO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 4, 1978

● Mr. CAPUTO. Mr. Speaker, I am pleased to participate in the "Vigil for Freedom" which is sponsored by the Union of Councils of Soviet Jewry on behalf of Soviet Jewish families and individuals who have been victimized by the U.S.S.R.'s repressive emigration policies.

The Soviet Union has clearly not fulfilled its commitment to the principles set forth in the Helsinki agreement, that is, to facilitate freer movement of people and speedy reunification of families.

Today I would like to bring to my colleagues' attention the case of Yuri Kocharovsky, an engineer from the city of Sverdlovsk. Kocharovsky has applied six times for an emigration visa but has had no success. He is the only member of the early group of Jewish protesters in Sverdlovsk; the others were allowed to emigrate to Israel long ago.

The denial of Kocharovsky's visa is attributed to the fact that he had access to state secrets 9 years ago. According to Soviet law, there is a 5-year waiting period for those with top secret clearance to emigrate.

It is my hope that by focusing our attention on the plight of Kocharovsky and other Soviet Jews we may facilitate their emigration. We must continue to express a U.S. policy that reflects our great concern for the condition of Soviet Jewry.●

IRONIC LOSS OF JOBS

HON. LES AuCOIN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 4, 1978

● Mr. AuCOIN. Mr. Speaker, I rise today to point out an irony that could wind up costing the United States a great deal.

There are growing signs that the Chinese are looking toward the West for the technology to support its unprecedented industrialization program. Foremost among the technology China needs is the know-how to develop oilfields.

For this technology, China appears willing to pay a good price—including possibly exchanging barrels of oil for the ability to tap it.

This prospect has stirred great anticipation in our country, as evidenced by the surge of stories appearing in our newspapers and magazines. At least four U.S. oil companies have expressed interest in undertaking some kind of joint venture with the Chinese to extract what is estimated at between 50 and 75 billion barrels of oil offshore from China.

The irony laced throughout this upbeat news is that we are talking about development of a large magnitude, development that requires adequate financing. We are talking about financing on a long-term, fixed-rate basis. We are talking about financing of a type offered by the U.S. Export-Import Bank and few others in our country. Because Eximbank financing is not available to U.S. exporters dealing with the People's Republic of China, we face the very real possibility that those U.S. oil companies, if they are successful in landing development options in China, will be forced to shop overseas for their financing. That means that the jobs to make the hardware to support this oilfield development most probably would be in the country providing the financing.

For a nation suffering staggering trade deficits such as ours, this ironic loss of jobs is unthinkable. More important, it is avoidable—if we take the steps to insure that U.S. exporters of goods and services have adequate tools so they are competitive in world markets.

In the case of China, much is at stake. There are immediate "big ticket" items to export. One estimate places the development pricetag for a single oilfield at around $1 billion. Just as important, we need to move to assure our Nation a market share of Chinese business as this sleeping giant awakens in the modern industrial world.

I would like to take this opportunity to insert into the CONGRESSIONAL RECORD a recent news release from the United States–China Trade Council that predicts record Sino-United States trade in 1978, but warns U.S. exporters must be more aggressive. I could not agree more.

President Carter has pointed the way toward a vigorous U.S. export policy, including attention to adequate financing, removal of unnecessary export controls and approval of certain joint ventures. No better place exists on earth to apply our aggressive national export policy than China.

The article follows:

TRADE COUNCIL PREDICTS RECORD CHINA TRADE

WASHINGTON, D.C., September 14.—On the eve of his departure for Peking for important talks with China's trade leaders, Christopher H. Phillips, President of the National Council for U.S.-China Trade, today predicted record trade with the People's Republic of China in 1978.

"Two-way Sino-U.S. trade could reach $1 billion or more this year," Phillips said.

The previous high in PRC–U.S. China trade was set in 1974 when it was $933.8 million.

"Trade of $1 billion or more with the People's Republic of China would represent a tripling of last year's trade," said the Council's president.

Phillips expressed the trade projections as a range of possible figures, with a minimum of $950 million and a maximum level of $1.2 billion. Of the lower figure, U.S. exports would comprise $650 million, and imports from China $300 million.

In the higher projection, exports to the People's Republic of China could reach $900 million, and imports from China, $350 million.

Agricultural exports to China, principally wheat, cotton, and soybean oil, will account for almost $500 million of U.S. exports to the People's Republic of China this year.

Among manufactured items supplied by U.S. firms to the PRC in 1978, Phillips pointed to petroleum-related equipment, construction machinery, computers, scientific equipment, and polyester staple as being the main categories.

U.S. MANUFACTURERS MUST BE MORE AGGRESSIVE

While expressing optimism about trade prospects with the PRC over the next three years, Phillips said he felt U.S. companies could be more aggressive than they had been in doing business with China.

"The success of U.S. oil companies in their efforts with the PRC should not overshadow the lack of solid movement in other sectors of our export trade," said Phillips.

He pointed to the recent $1.8 billion sale of steel plant to the Chinese by the Japanese, the talks on a $2 billion steel plant with the British, and the recent sale of $1 billion or so of coal mining equipment by European companies.

"Failure of the U.S. government to obtain changes in the Eximbank legislation that would authorize credit facilities for companies selling to the PRC and the apparent lack of interest by the governments of both sides in resolving the claims/assets issue is not helping the development of our export trade with China," said Phillips.

Companies should be more thorough in their approach to China he added.

Sino-U.S. trade over the past seven years, since it began in 1971, is as follows:

SINO-AMERICAN TRADE, 1971–77

[In millions]

	U.S. exports	U.S. imports	Total
1971		4.9	4.9
1972	63.5	32.4	95.9
1973	740.2	64.9	805.1
1974	819.1	114.7	933.8
1975	303.6	158.4	461.9
1976	135.4	201.0	336.4
1977	171.3	202.7	374.0

●

DR. THOMAS J. CONNORS, JR., VA'S OUTSTANDING HANDICAPPED EMPLOYEE FOR 1978

HON. CHRISTOPHER J. DODD

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 4, 1978

● Mr. DODD. Mr. Speaker, Dr. Thomas J. Connors, Jr., of Coventry, Conn., has been selected as the Veterans' Administration's Outstanding Handicapped Employee for 1978. In a ceremony this week, Dr. Connors, a counseling psychologist at the Hartford VA regional office and a quadriplegic, will receive one of the 10 Outstanding Handicapped Federal Employee of the Year Awards for 1978.

An individual who overcame adversity in dedicating his life to assisting and inspiring others, I am proud to share with you Dr. Connor's record of achievement.

The summer before his sophomore year at Fairfield University, Tom Connors was severely injured in a diving accident. He broke his neck, lost the use of his arms and legs, and came close to dying. Tom's physical and emotional rehabilitation was long—3½ years—and arduous. But according to Tom, the greatest difficulty was in convincing others of his ability to cope with disability.

With the support and care of his family and friends Tom held onto his dream of finishing college and in January 1961 he reenrolled at Fairfield, becoming the first quadriplegic to attend college under Connecticut Vocational Rehabilitation sponsorship.

In 1964, Tom Connors graduated from Fairfield with two BA degrees, one in history and another in psychology. Having chosen psychology for a life's work, he continued graduate studies at Fairfield. Upon earning a master's degree, Tom returned to his home in New Haven. Unable to find a position, he volunteered to counsel high school dropouts through an inner-city community action group. His employment ended when he became bedridden for a year with a hip abscess. Desiring to continue his studies, Tom entered the Ph. D. program in psychology at the University of Connecticut. In 1976 he earned his doctorate with a thesis on attitudinal barriers toward disabled persons.

While undertaking his studies, Tom went to work for the Veterans' Administration regional office in Hartford. From the outset, he assumed more than the average counseling load and continues to carry it today. One of the first severely handicapped employees with the Hartford VA, Dr. Connors has been instrumental in promoting the hiring of others with severe disabilities. He has conducted sensitivity sessions for VA employees and has provided consultation to management on the problem of architectural barriers. His greatest impact comes in the 1-to-1 counseling he performs with veterans and dependents of veterans where his understanding of the problems of disability, his charismatic personality, and his expert knowledge of

rehabilitation have made the difference in improving their lives.

Dr. Connors has devoted his life toward giving the disabled equal access in transportation, education, employment, and housing. Dr. Connors refers to his work at the VA as "doing what I enjoy and getting paid for it." Hartford VA officials call his performance a "profound source of inspiration and encouragement."

In addition to his work at the VA, Dr. Connors is cochairman of the Connecticut Coordinating Committee on the Handicapped. He is also currently involved in a research project with two professors at the University of Connecticut on attitudes toward disability.

As an expert in rehabilitation psychology, Dr. Connors has proven himself to be an invaluable asset to the important health and social service programs being conducted by the VA in Hartford and has ably demonstrated that it is ability—not disability—that counts in meeting the highest standards of a Federal civil servant.

I congratulate Dr. Connors for his outstanding achievements on behalf of the handicapped.●

GINA MARCON HONORED BY ITALIAN-AMERICAN FEDERATION OF SAN MATEO COUNTY

HON. LEO J. RYAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 4, 1978

● Mr. RYAN. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following:

On Saturday, October 7, Gina Marcon will be honored by the Italian-American Federation of San Mateo County. I would like to take this opportunity, therefore, to bring to the attention of my Colleagues the outstanding example her participation in community life provides us all.

Gina Marcon was born in San Mateo, California in 1921, moved to Sacile, Italy near Venice and returned to this country in 1939 to settle in the beautiful City of San Mateo.

She married Primo Marcon in 1941, raised three fine daughters, Anna Marie, Linda and Antonette, and became the grandmother of seven wonderful grandchildren.

Gina actively and unsparingly contributed her time and effort to community projects including raising funds for many San Mateo County charities. She has participated as a member of the Italian-American Federation of San Mateo County, as a member of Columbia Lodge No. 1940, Sons of Italy in San Mateo and as a member of the Italian Catholic Federation of San Carlos. She has worked as a faithful and loyal committee person and without her, the difficult tasks would not get done.

Gina has helped many young Italian Americans of San Mateo County become familiar with our community and adjust to life in America.

I think it is fitting that in light of the above, the members of the Italian-American Federation commend Gina Marcon as a fine Italian American and a credit to her community.●

BALANCE(S) OF POWER SERIES BOOK III (J)—INDIAN OCEAN

HON. JOHN B. BRECKINRIDGE

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 4, 1978

● Mr. BRECKINRIDGE. Mr. Speaker, the Indian Ocean is a vast region of growing controversy. It is an area of increasing strategic importance, owing to its vital sea lanes necessary to the transportation of oil and other resources, and to the prospect of a continuing expansion in those waters of the growing naval power of the Soviet Union.

Earlier in this Regional Balance series, conflict in the Horn of Africa was shown to be important not only in regional terms, but in terms of a global strategy of Soviet power projection. The Indian Ocean, impinging on that region, is obviously a prime target in any such expansion.

Today's article, "Naval Arms Limitation in the Indian Ocean," by Richard Haass, provides a detailed analysis of the problems involved in putting a cap on deployments there, and shows how past Soviet activities in littoral areas are cause for concern about the future balance of power in the Indian Ocean. To this concern may now be added recent indications of future instability in Iran.

The article, which first appeared in Survival, March/April 1978, follows:

NAVAL ARMS LIMITATION IN THE INDIAN OCEAN

(By Richard Haass)

(NOTE.—The author is a former US Congressional aide and now a Research Associate at the IISS.)

The Carter Administration, as part of its overall aim of negotiating a number of formal arms-control agreements, has placed a surprising emphasis on bringing about a naval arms limitation agreement between the United States and the Soviet Union in the Indian Ocean. On several occasions the President has advocated either the complete 'demilitarization' of the ocean or, more modestly, an arrangement effecting some degree of 'mutual military restraint' between the super-powers. Towards this end a joint Soviet-American working group was established in March 1977; to date, four negotiating sessions have taken place.

This diplomatic activity comes after a decade of major political, economic and military change in this part of the world. Alongside a build-up of power, military and otherwise, by the states of the Indian Ocean area has been an increase in the deployment of military, and especially naval, power in the Indian Ocean by external states. This growth in naval presence—mainly on the part of the United States, the Soviet Union, and France—has at once been a cause of the area's new importance and its reflection.[1]

The recent diplomatic focus also follows a period of evolving American interest in the Indian Ocean and its littoral since the announcement made a decade ago by Britain of her intention to withdraw from 'East of Suez'. The fear that this withdrawal would result in a political-military vacuum easily exploited by the Soviet Union was widespread, and was exacerbated by the establishment in 1968 of a Soviet naval presence in the Indian Ocean. At the same time, the United States was increasing her involvement in this area owing to a growing dependence upon the oil of the Persian Gulf and a network of other economic, political and security concerns in the Gulf, South Asia and Africa.

Fears of another kind—that the Indian Ocean would 'go the way of the Mediterranean' and become the scene of another costly and potentially dangerous super-power military competition—were also common. This prospect gave rise to efforts to have the Indian Ocean declared a 'Zone of Peace', free of great power military rivalry, presence and bases, as well as nuclear weapons. Although adopted by the United Nations General Assembly in 1971, the Zone of Peace resolution has had little impact.[2] External states, including both super-powers, have withheld support, claiming that the peace zone would deny them their legitimate right to deploy forces on behalf of their interests. Local states, despite the apparent unity on the issue, lack not only the physical means to enforce the terms of a peace zone but, and perhaps more fundamentally, lack the minimum political community of interests needed if the peace zone is to have even a chance of being realized. Smaller states around the ocean's periphery see little advantage in exchanging the present low level balance of forces of external states for the potential domination of a strong local power; several locally powerful states, concentrating on increasing their military inventories, have done little to dispel the idea that the 'zone of peace', by excluding the forces of outside states, would be to their own favour.

An alternative approach to Indian Ocean arms control lies in naval arms limitation talks (NALT). As with the peace zone proposal, the purpose is confined to affecting deployments of military (and mostly naval) forces, along with their support facilities, of external states in the Indian Ocean. Thus, any Indian Ocean NALT agreement would have no direct impact on the overall naval inventories of any party, nor would it limit the scope of non-naval activities in the area. The basic difference between the two approaches to arms control is one of degree rather than focus: the peace zone would end the military presence of external states in the Indian Ocean, a NALT agreement would only limit it.

EARLY INITIATIVES

Until recently, the strongest and most persistent advocates of an Indian Ocean NALT pact were to be found in the United States Senate. There, supporters favoured an agreement both to prevent a naval arms race between the super-powers in the Indian Ocean and as a means of postponing or preventing the proposed additional construction to the American-operated facility on the British-owned island of Diego Garcia. After losing a direct vote on the proposed expansion of the facility in 1975, Senate opponents of Diego Garcia succeeded in delaying the release of construction funds for several months, during which time the State Department was instructed to seek an Indian Ocean arms-control agreement with the Soviet Union. In April 1976, the Department of State rejected this Congressional mandate, arguing that to seek Indian Ocean arms control at the time when the Soviet Union was 'violating' detente in Angola would appear to countenance such behaviour, thereby undermining general efforts to create a world order consistent with American interests.[3]

While the advent of the Carter Administration has apparently ended the period of executive resistance in the United States to the notion of Indian Ocean arms control, the attitude of the Soviet Union has been,

Footnotes at end of article.

and continues to be, less clear. In June 1971 Secretary Brezhnev released what many interpreted as a trial balloon on the entire issue in the midst of a speech to 'voters' of his local district. After criticizing the alleged double standard of the United States in objecting to the global activities of the Soviet Navy but not to those of her own, Brezhnev went on to say 'we have never considered it an ideal situation to have the fleets of the great powers plying the seas for long periods at great distances from their own shores. We are prepared to resolve this problem, but on an equal footing'.[4]

It is difficult to know how much to make of this statement since it coincided with an absence of specific Soviet willingness to respond to American initiatives concerning the Indian Ocean. One explanation is that Brezhnev meant it to apply to the Mediterranean rather than the Indian Ocean; another is that he was testing receptivity to the idea within the Soviet military establishment where, according to some observers, there has been considerable disagreement as to the proper role and cost of the Soviet Navy. But whatever the reason, Brezhnev's comment was not followed by any specific Soviet initiative on behalf of naval arms control. In 1976, however, there appeared to be a revival of Soviet interest: in September the Soviet Foreign Minister tabled in the United Nations a working document incorporating many of the major previous Soviet arms-control initiatives, an entire section of which was devoted to the Indian Ocean. Specifically, and following an ambivalent stance towards the peace zone and the by now requisite denunciation of all foreign bases in the Indian Ocean, the document stated that, assuming all such bases were prohibited, the Soviet Union "will be prepared to seek, together with other powers, for ways to reduce, on a reciprocal basis, the military activities of non-littoral states on the Indian Ocean and directly adjacent regions".[5] More recently, and despite reports of progress in the Soviet-American forum, continued Soviet emphasis on the "base" issue raises the question of whether the Soviet Union is more interested in currying favour with certain littoral states than in achieving a formal arms-control agreement with the United States.[6]

NO ARMS RACE

The question of Soviet interest is not the only one affecting the prospects of reaching an Indian Ocean arms-limitation agreement. Equally central, if not more so, are questions as to its purpose, form, and basic desirability. The first of these, that of purpose, is not without its irony, as the initial reason for seeking an agreement—to avoid a naval arms race anticipated in the absence of a formal agreement—has not come about. While the increase in the level of deployed naval force in the Indian Ocean of both the United States and the Soviet Union in the late 1960s was dramatic—partly because of the contrast with previously low or non-existent levels—the subsequent rate of growth has not only slowed down but has halted.

Moreover, there is little to demonstrate that the pattern of American presence is due (or is in reaction) to that of the Soviet Union, or vice versa. While in times of crisis, such as during the 1971 South Asian war or the October 1973 Middle East conflict, surge deployments of one affected those of the other, there is no pattern indicating a strategic or general long-term pattern of action and reaction. On the contrary, each would be there for its own sake even in the absence of the other. American naval presence demonstrates important interests in continued access to oil, unimpeded use of the sea, and a commitment to stability in the littoral, as well as a potential American capability to act on behalf of these interests. Similarly, the Soviet Navy in the Indian Ocean appears largely to be providing support for Soviet diplomatic aims of gaining influence at the expense of China and the United States, while on the whole it lacks sufficient size or capability to carry out any effective anti-shipping or anti-submarine missions often ascribed to it by Western analysts.[7]

CEILINGS ON NAVAL FORCES

It would be incorrect to view the aim of Indian Ocean arms control as one of seeking reciprocal reductions in naval presence. The level of presence is already quite low, and reductions offer little benefit or utility in terms of arms control, and might actually exacerbate the difficulties of negotiating an agreement. Moreover, the existing level of forces and facilities is barely sufficient to carry out the assigned missions of diplomatic representation, demonstrations of ability to protect interests, and to cope with minor contingencies; reductions would only leave remaining forces inadequate to their tasks, especially as the ability of several littoral states to project military power into and across the ocean is developing rapidly. Perhaps of most importance is that reductions, reciprocal or otherwise, would raise serious policy questions for the United States in light of her almost total reliance on sea-based forces to exert a direct military influence in this area—one which is closer to non-naval forces of the Soviet Union and in which the Soviet Union has begun to demonstrate a greater capability for intervention, notably in Africa.

The appropriate task of Indian Ocean naval limitations is to freeze, or place a ceiling on, presence rather than seek a reduction. The most difficult hindrance to setting such quantitative or qualitative restraints is likely to stem from the fundamental asymmetry in the structure and missions of the fleets of the two countries. The United States Navy, for example, built for a broad range of missions and responsibilities, has at its heart 13 attack aircraft carriers, some 162 other major surface combatants, and 78 attack submarines, 68 of which are nuclear powered.[8] With global alliances and commitments, and a growing dependence upon sea-transported imports, the US Navy remains oriented towards missions of sea-control and projection. The Soviet Navy, possessing a larger number of ocean-going surface combatants (230) as well as a greater number of attack submarines (167, 39 of which are nuclear),[9] but continuing to lack significant sea-based air power and distant projection capability, emphasizes, besides diplomatic functions, a mission of sea-denial rather than sea-control.

Within the context of the Indian Ocean, one can more easily see the implications for arms control of these mission and inventory asymmetries. Since 1949, the United States has maintained three ships in the area (assigned to the Middle East Force positioned in the Persian Gulf) on a nearly permanent basis, and periodically (about every three to four months) dispatches a carrier or major surface unit task force from the Seventh (Pacific) Fleet into the Indian Ocean for a series of port-calls and cruises and perhaps exercises. For the most part, the American presence lacks the capability to cope with a major attack on sea-lanes, but is capable of handling small challenges and carrying out limited projection missions. For support of these vessels the United States has depended most on Subic Bay (Philippines), and to a lesser extent on access to local ports (notably Bahrein) and auxiliary and supply ships included in task forces. In the future, the capability and hence role of Diego Garcia as a fleet support facility will increase and replace, at least in part, these other arrangements.

Since 1968, the Soviet Union has maintained a naval presence in the Indian Ocean on a virtually permanent basis. On average, the Soviet presence consists of some six to ten surface combatants, one or two submarines, and another ten or so supply and auxiliary vessels. The mix of surface ships usually consists of one or two cruisers, a number of destroyers and destroyer escorts, and a minesweeper. (There are also Soviet fishing vessels, oceanographic and space support ships, and merchant ships, some of which are certain to have intelligence and other quasimilitary functions.) For support, the Soviet fleet in the Ocean is going through a period of transition owing to the loss of the facilities at Berbera and elsewhere in Somalia that were the major elements of the Soviet support infrastructure. The Soviet Union also depends on a large number of supply ships, local anchorages, and access to local ports; whether South Yemeni facilities at Aden or Socotra, or facilities elsewhere, will be improved by the Soviet Union remains to be seen.

Given these realities, potential definitions of ceilings for an agreement are difficult to establish.[10] A purely quantitative ceiling—for example based upon "ship-days"—is too crude to be of much use as it totally ignores the relative capabilities of vessels included. Using a ship-day standard, one aircraft carrier staying in the Indian Ocean for one week would count as seven ship-days, as would one small destroyer staying one week or seven destroyers each staying one day. Any effort to establish common ship-day subceilings would be made virtually impossible owing to the lack of identical or even similar ships and fleet inventories.

More promising is an agreement based upon "ship-ton-days", a form of measurement which takes into account not only quantitative factors (the number of ships and the duration of stay) but also qualitative ones, to the extent that tonnage can be said to relate directly to quality or capability. Each country would be given a total for "ship-ton-days per year", within which each country would have the freedom to mix numbers and types of ships, as well as the duration of stay, so long, as the number of ship-ton-days remained below the quota fixed for the year (see table 1).

TABLE 1.—MODEL FOR A UNITED STATES-U.S.S.R. INDIAN OCEAN SHIP-TON-DAY AGREEMENT

[Based on maximum 12.5 million ship-ton-days[1] per year per country, surface combatants only]

Number of ships—Type	Tonnage[2]	Duration (days)
United States:		
1—MEF flagship (La Salle)	8,040	365
2—Destroyers (DD-Knox class)	[3] 4,100	365
1—Kitty-Hawk-class CV	80,800	60
1—CGN (Bainbridge-class)	8,580	30
1—Coontz-class DDG	5,800	90
1—Spruance-class DD	7,800	90
1—Knox-class DE (Frigate)	4,100	90
Total (million ship-ton-days per year)[4]	12-626	
Soviet Union:		
1—Kara-class cruiser CLG	10,000	365
2—Krivak-class DDG's	[3] 3,900	365
1—Skory-class DD	3,100	365
1—Alligator-class LST	5,800	365
2—Natya-class minesweepers	[3] 650	365
Total (million ship-ton-days per year)[5]	10-22	

[1] 1 Ship-ton-day equals number of ships times tonnage per ship times duration of stay in days; thus 1 ship with a tonnage of 2,500 staying 4 days equals 10,000 ship-ton-days.

[2] All tonnage full-load, except La Salle, which is light-load, owing to flag-ship role and virtual noncombatant status.

[3] Each.

[4] The U.S. mix reflects the virtual permanence of the 3-ship Middle East Force (MEF), plus the pattern of augmenting on the average 3-times-per-year presence with deployments from the 7th Fleet. The mix given provides for 3 augmented task forces, each to be in the Indian Ocean for 1 mo. 2 would be a carrier task force, and 1 a major surface combatant but non-carrier force. In all cases, the augmented force would include 4 major combatants. In addition, such forces usually have an

Footnotes at end of article.

oiler, which has been excluded as a noncombatant. In addition, the small amount by which the United States exceeds the maximum could be eliminated by shortening 1 of the patrols by a few days, or by having short periods with only 1 DD on station in the MEF, easily arranged by rotation schedules. Also, it is not necessary for totals to be equal.

[5] The Soviet total does not assume that each ship will stay in the Indian Ocean the entire year, but reflects an average Soviet presence in recent years. There is room for growth by several combatants; it is also possible that some of the unused ship-days would be accounted for by additional minesweepers or by extra support allowance.

Clearly, the basic weakness of this approach is the fact that tonnage and capability do not correlate exactly. There is little meaning in the statement that an American aircraft carrier, which when fully loaded weighs eight times more than a Soviet *Kara*-class cruiser, is eight times more useful or capable than the Soviet ship. Similarly, the flagship of the US Middle East Force, although weighing several times more than a Soviet destroyer, lacks any comparable military capability. In addition, military capability is but one measure of a ship's utility; tonnage is even less of a guide to utility in communications or intelligence.

There are other problems. A limit, however defined, on surface combatants will have no direct effect on the number of submarines, which in any case pose serious problems for verification when deployment, rather rines, which in any case pose serious problems also result from any attempts to constrain armament, be it the type or range. Other difficult questions involve the inclusion in any agreement of non-combatant vessels which are assigned a supporting role, and the related problem of defining the status of non-combatants other than support vessels. Among the latter are oceanography ships carrying out work with possible anti-submarine warfare (ASW) implications, fishing vessels with intelligence functions, and space recovery and support ships. In addition, large merchant ships can be used to transport troops or military equipment across the oceans to places on the littoral. All of these examples involve non-naval units which can be and often are engaged in activities having military applications; their exclusion from an Indian Ocean NALT agreement, while easing problems of negotiability, potentially creates problems of a resulting imbalance of forces.

What might be the most critical consideration of all is that of supporting facilities. Clearly, the control or use of facilities outside the borders of one's own country is an emotive subject. From the outset, the elimination of all foreign military bases has been central to both the Zone of Peace movement and to Soviet pronouncements on the Indian Ocean. But what actually constitutes a base? In the past, the Soviet Union tended to view Diego Garcia as a base, and therefore to be prohibited in the framework of any arms-control agreement, while regarding Berbera as something other than a base and hence as acceptable. Yet neither provided all the functions of a fully-fledged base, which by definition includes major repair and supply capacities as well as facilities to handle troops and equipment. All the same, a common definition would be needed, distinguishing between a base and a facility on the one hand, and ownership, control and access, on the other. Only then could negotiations move on to the more basic matter of what, if any, constraints should be placed on facilities within the agreement.

The matter has been further complicated by the Soviet loss of access to facilities in Berbera. Whereas before there was the possibility of agreement being reached on a freeze in the level of support facilities—the American facility of Diego Garcia being 'balanced' by the Soviet access to Berbera—no such 'trade-off' now exists. One option in an agreement is to allow the Soviet Navy a large number of support vessels, anchorages, and perhaps 'special access' to the facilities of any single littoral state. The alternative option—that of setting severe constraints on the level of support facilities permissible in an agreement, thus forcing the United States to accept major limits on her use of Diego Garcia to the point of having to give it up entirely—would be far less attractive to American interests. Indeed, the basic desirability of the agreement would be called into question by such a limitation.

At a minimum, placing constraints on facilities could prove to be an expensive decision. Facilty limits would affect the level of naval vessel presence. As symbols of a state's concern for interests, and as a guarantee of the ability to act if need be, facilities can in fact substitute to a certain extent for actual naval forces. A reduction in one might well necessitate an increase in the other.

The question of the fate of facilities in any Indian Ocean arms limitation agreement is of particular relevance to the United States because of Diego Garcia. The importance of the facility has risen as doubts over the continued access to the Subic Bay base in the Philippines have multiplied. Diego Garcia, an island which is owned by Britain, is free of the disadvantages usually associated with foreign facilities, yet remains a symbol of both American interest in the area and capability to act. In the event of a crisis, it will be useful in supporting military activities in the area—whether such activities involve supply of vessels, staging reconnaissance aircraft, providing communications, or intelligence functions. In peacetime and crisis alike, Diego Garcia would reduce the need for floating presence or deployments; in a crisis, it would provide an assured capacity for American response to a wide range of contingencies—including those which might arise from forces and capabilities possessed by either the Soviet Union or littoral states not covered by any naval arms control pact.

AGREEMENT ON PRINCIPLES

In all of these matters, questions would arise on the need for assured verification, as well as the need to establish some form of standing mechanism to oversee the agreement. Yet there is a danger of becoming too involved in the minutiae of any proposal, of attempting to account for, and balance, every single unit, asymmetry and contingency. In the process, the objective of placing a ceiling on today's presence, and of preventing a future naval arms race, could well be lost. As a result, and in light of the current approximate balance of Soviet and American naval presence at a relatively low level and the problems inherent in attempting to negotiate an exact agreement, the immediate aim of establishing a ceiling on current presence levels and avoiding a major increase might best be served by seeking a "less than explicit" agreement between the two countries embracing the following principles:

The two parties, in light of their own interests and those of the littoral states, seek to avoid a naval arms race in the Indian Ocean.

In light of those rights belonging to all states under existing international law, both the United States and the Soviet Union have the right to establish a naval presence in the Indian Ocean.

With respect to the above two points, the two countries agree that the present configuration of presence for each is adequate, and they will not go beyond it. Within or under this ceiling, each party is free to determine the specific nature of deployments and facilities. (Details of the numbers and types of deployments and facilities would be added to the extent possible and necessary.)

In order to oversee this arrangement, the two agree to the creation of a "standing committee for Indian Ocean arms control" to meet at regular intervals.

The arrangement will remain in force for five years, although should circumstances of special security concerns arise, each side is free to increase its deployments temporarily so long as advance notice is given to the other. During such periods the standing committee shall remain in session, and after such periods deployments are to return to normal levels. In addition, during the five-year period the parties shall endeavour to consider other limitations on naval presence enlarge the participation in the arrangement to include other external states and littoral states, and seek ways to curtail other forms of competition in the area of the Indian Ocean.

Such a framework of principles, intended as a guide rather than as an actual proposal, has no explicit mechanism for its enforcement. But neither state would want to be seen violating the agreement for reasons of 'credit rating', and, which is more to the point, because both would want to avoid offending littoral states who will be watching the behaviour of the super-powers closely. In addition, there is the inherent inhibition brought about by fear of the opposite party's response; thus, the Soviet Union is aware that a major change in her presence will probably bring about some corresponding change in American presence, and vice versa.

One means of strengthening the framework of principles would be to undertake a series of bilateral confidence-building measures. The aim of such measures is to reduce the uncertainty basic to such a general arrangement. In normal times, and using the standing committee as a forum, the two countries could agree to provide each other with advance notification of entry and visits of vessels; of timing, location and scope of exercises along with provisions for observes; and inspection of facilities. The number, size, location and nature of exercises might also be regulated.

An agreement placing a ceiling on current levels of naval deployments and support facilities in the Indian Ocean of the super-powers should be possible. On the other hand, if politcal or technical matters prevent a formal agreement, there is little reason to expect a sudden increase in presence. A tacit arrangement, dictated as much by political calculations and inventory limitations as by choice, could continue the existing de facto situation of stabilized levels of presence. Moreover, in light of the growing military capability of several local states and an increasing Soviet disposition to intervene in the littoral, such flexibility for the United States may not be unwelcome.

FOOTNOTES

[1] It is useful to distinguish between the Indian Ocean and the Indian Ocean area. The Indian Ocean, covering an expanse of some 75 million square kilometers, is simply the world's third largest body of water. The Indian Ocean area includes not only the ocean, but also its extensions—the Persian Gulf, the Gulf of Oman, the Gulf of Aden, and so on—as well as the islands within the ocean and the countries forming its shores.

[2] The original resolution (2832, XXVI), entitled "Declaration of the Indian Ocean as a Zone of Peace, was passed by the United Nations General Assembly (UNGA) on 16 December 1971. Debates of the *Ad Hoc* Committee on the Indian Ocean, established by UNGA resolution 2992 (XXVII) of December 1972, have been published annually, beginning in 1973, as UNGA Official Records: Supplement No. 29.

[3] *Congressional Record* 11 September 1975, p. S.15891 and 6 May 1978, p. S.6626.

[4] *Pravda*, 12 June 1971 (CDSP, 13 July 1971).

[5] See *Soviet News* (London), 19 October 1976, p 365.

[6] This may have changed. Describing a gradual approach as 'useful and effective', *Pravda* recently stated that during the first

or stabilization phase of a pact the two must agree to prohibit the introduction of new weapon systems, freeze naval and air force deployment levels, and renounce the construction of new bases or the expansion of existing ones. (S. Vladimirov, 'An Urgent Problem', *Pravda*, 18 January 1978.)

[7] See, for example, Geoffrey Jukes, *The Indian Ocean in Soviet Naval Policy* (London: IISS, Adelphi Paper No. 87, 1972) or Oles M. Smolansky 'Soviet Entry into the Indian Ocean: An Analysis' in Alvin Cottrell and R. M. Burrell (eds), *The Indian Ocean: Its Political, Economic and Military Importance* (New York: Praeger, 1972).

[8] *The Military Balance 1977–1978* (London: IISS, 1977), p. 6.

[9] *Ibid.*, p. 9.

[10] For a discussion of measurement criteria, see 'Means of Measuring Naval Power With Special Reference to US and Soviet Activities in the Indian Ocean', prepared for the subcommittee on the Near East and South Asia of the Committee on Foreign Affairs, 12 May 1974. See also Barry M. Blechman *The Control of Naval Armaments* (Washington, D.C.: Brookings Institution, 1975); Alvin J. Cottrell and Walter F. Hahn, *Indian Ocean Naval Limitations* (New York: National Strategy Information Center, 1976); and Dale R. Tahtinen, *Arms in the Indian Ocean* (Washington, D.C.: American Enterprise Institute, 1977).●

FEDERAL FUNDING OF URANIUM MILL CLEANUP IS A GOOD START

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 3, 1978

● Mr. VENTO. Mr. Speaker, the House of Representatives took an important step toward regulating nuclear waste when it approved the bill providing that the Federal Government should pay 90 percent of the costs of cleaning up radioactivity at abandoned uranium mill sites. As a cosponsor, I am confident that the bill's passage means that Congress is facing up to the reality of nuclear waste disposal, a problem which has haunted our country for decades and now threatens to become a Frankenstein's monster. Hopefully, the 90-percent subsidy will encourage individual States to take the initiative in removing these hazardous materials or stabilizing them.

Mill tailings, which have caused serious problems in places like Grand Junction, Colo., are part of the nuclear waste cycle. I only wish we could have effectively dealt with other aspects of the nuclear waste question, so important to the orderly development of nuclear power and weapons.

Mill tailings are a sandlike, radioactive byproduct of the uranium mining process, most of which was used for defense-related programs. Tailings contain elements which take thousands of years to lose their radioactivity. During this time, the tailings produce radon gas which, if inhaled in large concentrations, can increase the risk of lung cancer. Tailings also produce gamma radiation which can cause cancer under extensive exposure. In addition, many forms of radiation are soluble in water and can contaminate surfaces and ground water.

This bill gives the Nuclear Regulatory Commission control over the tailings, not just the milling process which produces them. Under the old law, after termination of the NRC milling license, the NRC loses its authority to control the tailings, which can remain hazardous for up to 1 billion years. This bill will enable the NRC to license the tailings at the tailings sites and authorizes the Environmental Protection Agency to set general standards to protect the environment outside the boundaries of the tailings management sites.

It is a good start.●

PERSONAL EXPLANATION

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 4, 1978

● Mrs. SCHROEDER. Mr. Speaker, I was unavoidably absent when the House voted on the Downey amendment to the revised defense authorization bill (H.R. 14042) on Friday, September 29. This amendment would have deleted $209 million to be used in the payment of shipbuilding claims to Litton Industries and General Dynamics. Had I been able to be present, I would have voted "aye."

The settlement of these claims proposed by the Navy and acquiesced to by the Armed Services Committee sets a very bad precedent. Why do we even bother to write contracts? They are worthless before the ink dries. This settlement only further undermines the integrity of the contract process. The adjudication should be continued. Beyond that, the settlement provides no incentives to force contractors to tighten management practices and hold down costs in the future. It should be pointed out that authorizing the $209 million balance to pay off the $931 million settlement does not necessarily put this issue completely behind us. The dollar settlement is by no means fixed. This settlement is based upon the current estimated cost to complete these ships, but the actual cost at completion may vary substantially.

The General Accounting Office in their testimony on the General Dynamics agreement pointed out that the estimated costs to complete the contracted for SSN's may be excessively optimistic. They testified that assumptions on the labor hours and labor wage rates upon which the final estimated costs were based were not warranted in light of the contractor's recent experience. The estimated cost of completion was compiled assuming a 7-percent-per-year increase in labor rates, even though Electric Boat wage settlements have averaged 10.7 percent annually. That difference alone could amount to an additional $110 million overrun. In addition, the GAO also considers two other assumptions involved in the estimate of total labor hours—the attrition rate and the skill level mix—to be largely pie in the sky. General Dynamics has stated that all of the settlement's assumptions must be proved correct if its $2.67 billion cost completion estimate is to be achieved. If they are not, the Navy and the American taxpayer will incur additional liabilities under the proposed settlements. I am not sure when we will ever learn our lesson and overcome our myopia as to what weapon systems will ultimately cost.

The Navy has simply taken the path of least resistance to get the ships involved. That is their major concern. And why should not they if Congress can so blithely cough up almost $1 billion in largely unsubstantiated claims.●

DI BUON SERVIZIO

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 4, 1978

● Mr. OTTINGER. Mr. Speaker, on October 20, the sixth 150 Years "DI Buon Servizio" dinner will be held in Scarsdale, N.Y. The honorees of this year's dinner are: Dr. Ralph Santini, Dr. Robert Minervini, Judge Richard Daronco and Dominick "Chip" Revellese. Chairing the event will be Nick Ragusa.

Chip Revellese, a Yonkers resident, has certainly made his mark on community activities. A 40-year member of Local 456 of the Teamsters and Chauffeurs Union, Chip served as trustee, business agent and secretary-treasurer prior to his retirement in February of 1976.

A tireless worker on behalf of United Cerebral Palsy, Chip served as labor chairman for the organization's telethon in 1973 and continues his support of "Handicapped in Progress."

During State Senator John "Chippy" Flynn's tenure as mayor of Yonkers, Chip held the post of human rights commissioner. He is also a former trustee of the Enrico Fermi Foundation and was a co-chairman of that foundation's 1967 breakfast. Chip is on the board of directors of the renaissance drug program and was named honorary Yonkers Fire Chief in 1973; he is also a lifetime member of the city's PBA.

Among the organizations which have honored Chip are: the Renaissance Project, National Conference of Christians and Jews, American Committee on Italian Migration, United Cerebral Palsy, the Yonkers Fire Department, Park Hill Boys Club, National Society of Professional Engineers, Westchester County Police Conference, Anthony Tocci Scholarship Foundation and the International Association of Fire Fighters.

Another honoree is Judge Richard Daronco, acting justice of the New York Supreme Court. Prior to this appointment, he served as family court judge, administrative judge and county court judge—he was well suited to those posts after years of experience as North Pelham trustee, acting mayor and town attorney for Pelham.

Richard is also active in local and county affairs. He is a member of the Pelham Volunteer Fireman's Association, the Pelham Knights of Columbus, St. Catherine's Parish Holy Name Society,

Pelham Men's Club Board of Directors, Pelham Civic Association and the White Plains YMCA Board of Directors. He is also on the advisory council on criminal justice at Iona College and the board of directors of the Westchester-Putnam Council of the Boy Sscouts of America. Prior to this, Richard was secretary of the New York State Association of Community Mental Health Boards, chairman of the 1968–69 Pelham Cancer Crusades, Pelham chairman of the Boys' Town of Italy benefit (1969–70) and the advisory committee for the Pelham Association for Kids. Another of his talents is seen in his leadership of the "Bar Philharmonicats"—the dixieland band that entertains at bar association festivities.

The director of surgery and vice chief of staff at Yonkers General Hospital, Dr. Robert Minervini, is another honoree. Dr. Minervini, a Yonkers native, is a highly respected member of the medical community who is past president of the Yonkers Practitioners Club and the Yonkers Academy of Medicine.

Another physician, Dr. Ralph Santini, is among the honorees. An Italian by birth, Dr. Santini served his internship at Yonkers General Hospital and began his practice in Yonkers in 1962. He was knighted by the Italian Goverment in 1975 due to his outstanding achievements. Both he and Dr. Minervini are diplomates of the American Board of Surgery, fellows of the American College of Surgeons and members of the American Medical Association.●

A SHANTYTOWN WITH PRIDE

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 4, 1978

● Mr. EDWARDS of California. Mr. Speaker, many of us here in the House of Representatives have been deeply concerned by the South African Government's action to demolish Crossroads.

It is the South African Government's policy to allow black men to work in the cities, but to require their wives and children to live in the so-called homelands. This policy allows the families to be together for only 2 or 3 weeks out of the year.

Crossroads is the black squatters camp established near Capetown so that these families could be reunited and live together. It has developed into a real community complete with schools, churches, and medical facilities. There is no reason for it to be destroyed.

A good friend of mine, Peter Grothe, recently wrote in the Washington Post of his visit to Crossroads. The article is an excellent one and I commend it to the attention of my colleagues. The article follows:

A SHANTYTOWN WITH PRIDE

(By Peter Grothe)

In "Cry, the Beloved Country," Alan Paton's classic novel about South Africa, the black clergyman says about the whites: "I have one great fear in my heart, that one day when they are turned to loving, they will find we are turned to hating."

Those words were written 32 years ago. As events like the recent shooting by the South African riot police at Crossroads, a black squatters' community outside Capetown, would suggest, the South African government is trying its best to make a prophet out of Paton.

Crossroads is a shantytown of 3,000 shacks housing approximatley 20,000 blacks. The government has promised to bulldoze Crossroads within the very near future. What is it about Crossroads that has so profoundly moved so many of us international visitors who have been there? It is a squatters' camp, which connotes poverty and squalor, but it is much more.

It is a model of community development and community pride. And most important, and perhaps most threatening to the regime, it is a model of what black-white relations could be in South Africa. The relations between the blacks and the white church workers and white social workers at Crossroads are, to recall Patron's words, "lovely beyond any singing of it."

The blacks built shacks of corrugated iron in the scrub and sand dunes near the Capetown airport. They painted the outsides, wallpapered the insides, laid down solid flooring. They planted vegetable gardens. They built two schools, two churches and an adult center where literacy classes are taught.

Crossroads, until the police started arresting people, was not a depressing place. It had a vitality and vibrancy about it. According to a study, 94 percent of the heads of households are employed, either in Capetown or in the economic infrastructure of Crossroads. In short, Crossroads is a going concern. It provides housing in a city desperately short of housing. It is a viable community, making an economic contribution. There has been virtually no crime. Why then has the government pledged to demolish it?

The answer is that the very existence of Crossroads strikes at the heart of the government policy of separate development. Under that policy, the 70 percent of the population that is black will live in the so-called "independent homelands," which will constitute 13 percent of the land. The men can live legally in the cities on a year-to-year contract basis, but the great majority of the families must remain in the homelands and can only see the men two to three weeks a year. Thus, most of the women and children are at Crossroads illegally, and the husbands are guilty, according to the government, "of harboring their wives and children."

"Yes, I am here illegally, so that our children and I can live with my husband," a mother of four told me three weeks ago. "I wonder whether our government ministers would be content to see their families two weeks a year. I am having to go outside the law in order to uphold my marriage vows."

A woman leader said, "We just had a meeting with 220 women, and we vowed to stay in our shacks with our children when the bulldozers come. We can't fight the police. We have no arms. But we are prepared to die here."

If the women do what they vowed to do, Crossroads could become a flashpoint, another Sharpville or Soweto, and it is doubtful that the impact could be contained within South Africa's borders. There have already been demonstrations and prayer meetings about Crossroads in northern Europe. The American government has made representations to Pretoria, and last week 17 members of the House of Representatives pleaded for the saving of Crossroads. Rep. Andrew Maguire (D-N.J.) said the demolition of Crossroads would be "a *cause célèbre* in this country and throughout the world. It would have a significant impact on the current debate in the Congress and in the nation on American investments in South Africa."

After an intensive month of speaking with whites and blacks throughout South Africa, I was struck by the fact that the black and white communities seem to be ships that pass in the night. Very little real communication takes place. The Afrikaners maintain their strange mixture of piety and callousness and the blacks—especially the younger ones—seem to be becoming more bitter and militant. It is not inconceivable that Crossroads—or another Crossroads a year or two down the road—could spark an explosion.●

VIGIL FOR FREEDOM

HON. ABNER J. MIKVA

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 4, 1978

● Mr. MIKVA. Mr. Speaker, I wish I could say that I am pleased to participate in the "Vigil For Freedom" sponsored by the Union of Councils for Soviet Jewry on behalf of the Soviet Jews and other Soviet individuals who are detained in the U.S.S.R. because of the Soviet Union's repressive emigration policies. But, I would be much more pleased if the Soviet Union lived up to the commitments made in the Helsinki Accords, and made these demonstrations of public support unnecessary.

In 1975, 35 nations signed the Helsinki accords. The accords represented a commitment to pursue policies consistent with basic principles of human rights including the reunification of divided families whose members live in different countries, religious freedom, minority rights, and free travel between countries. Unfortunately, the Soviet Union has disregarded the human rights provisions of Helsinki.

Today, I would like to bring to the attention of the House of Representatives the case of Abe and Gita Stolar. It is a case that I have been working on for a number of years because I think it represents one of the most glaring examples of the Soviet Union's total insensitivity to basic human rights.

In June of 1975, the Stolars received exit visas for Israel. But on June 19, after they had taken seats on a plane to fly to Vienna to complete the first leg of their journey to Israel, they were removed bodily from the plane by the KGB and denied permission to leave the Soviet Union. As a result, they were left completely distitute since they had already given up their apartment and shipped their possessions to Israel.

This case is particularly appalling because Mr. Stolar is a U.S. citizen who was born in Chicago. Moreover, the pretext for the KGB action was so transparently false that it is almost unimaginable. The KGB fabricated a story that Mrs. Stolar was party to state secrets even though she never had a security clearance and retired 3 years before they attempted to leave the Soviet Union.

The human rights argument on behalf of the Stolars could not be made more poignantly than it was expressed in a 1975 letter from Mr. Stolar's sister in Israel, Eva Meltz. I would like to share part of that letter today:

I earnestly appeal to you to help my brother Abe Stolar and his family—his wife and son to be allowed to exercise their human and lawful rights, guaranteed by the Helsinki Declaration.

This long suffering family, which lost both parents and many relatives in the Stalin death camps and Hitler Ghettoes, now find themselves in a nightmarish state: They have been deprived of all rights, have no home, no financial means and no Soviet documents of any kind.

It is quite clear that they cannot last long in their present conditions for there is a limit to just how much mockery, persecution, cruelty and oppression a human being can take. Considering the fact that Abe Stolar was born in the U.S., lived there the first 19 years of his life, and is an American citizen, I sincerely hope that the sorry plight of this family will find a heartfelt and broad response among the American people and its official representatives . . . . I ask you to join in the efforts to convince the Soviet authorities to allow an American citizen and his family their elementary rights of freedom to move from country to country to rejoin their families.

I hope that in the next Congress we will be able to announce the arrival of the Stolars in Israel along with the thousands of others Soviet Jews who wish to emigrate. It would be a great moment if next year the Congress could have a "Celebration of Freedom" rather than a "Vigil for Freedom."●

ICC PROPOSAL DRAWS COMMENT FROM TRAFFIC WORLD

HON. ROBERT A. YOUNG

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 4, 1978

● Mr. YOUNG of Missouri. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following:

Mr. Speaker, the September 22, 1978, issue of Traffic World magazine contains a thoughtful editorial on a proposal by the Interstate Commerce Commission to operate the public tariff file on a contractual basis by a non-Government entity.

As the magazine editorial observes, this change in ICC procedure could have serious and far-reaching implications. For that reason, I would like to share the editorial with my colleagues:

A FUNCTION THE ICC SHOULD NOT "CONTRACT OUT"

Under pressure by the Carter Administration to reduce the number of people it employs, the Interstate Commerce Commission is quietly moving to entrust, under a contractual arrangement, the management of its Public Tariff File to non-government people.

We have learned that the Commission's proposed 1980 budget—its budget for the fiscal year beginning October 1, 1979—which was sent to the Office of Management and Budget earlier this month for approval or revision before transmittal of it to Congress, calls for the letting of a contract, to some individual or organization in the private sector, for performance of the services now and heretofore performed by ICC personnel in the Public Tariff File room. The suggestion that the ICC "contract out" the operation of the Public Tariff File as a means of reducing the ICC workload was made by the agency's Bureau of Traffic in an open public conference held by the Commission on August 7 (T. W., Aug. 14, p. 21). Later, the Commission voted to implement this suggestion, but did not announce publicly its intention to do such implementing.

The proposed ICC budget for 1980, we have been advised, provides for removal of 40 or more employes from the ICC payroll, so as to bring its employe total down to about 2,000. The Public Tariff File presently provides jobs for eight or nine person's, who, presumably, would be transferred to other positions or would be dismissed.

Fearful that the Public Tariff File operation might fall into the hands of an individual or organization more interested in making money than in serving the public, a coalition of interested persons who have been using these facilities for many years in representing (and providing services for) thousands of shippers and carriers and others in the U.S.A., is giving serious consideration to the feasibility of entering into a joint arrangement—the formation of a non-profit company to continue to provide services for the public in the same manner that the services have been provided under ICC management. The parties to the proposed coalition would be pledged to do this. It could draw on the expertise of carriers by rail, motor and water and of forwarders, with assistance by various trade publications, in assembling personnel of wide experience and training in the reading of tariffs, in rate watching, and in reporting and kindred services.

The coalition has suggested that a name such as "Interstate Tariff Filing Services" be used in the tendering of a bid to the ICC, assuming that the Commission will announce, by publication in the *Federal Register* (probably very soon), an invitation to bid on the rendering of such services. While specifications the ICC may set forth are unknown at this time, we understand that plans are being drawn up to outline the technical details of the services to be performed by a successful bidder.

The possibilities for "contracting out" this type of service, presumably to a profit-making organization, could lead to serious consequences. For example, a successful but unprincipled bidder would be able, unless his actions were carefully policed, to place employes in position to receive priority in ascertaining rate or tariff filings as they are received in the Public Tariff File room. By giving out such data on receipt, through affiliated channels, the successful bidder conceivably could notify promptly any or all clients affected by rate or tariff filings well in advance of time strictures normally imposed, under existing procedures.

In view of the ICC's General Rules of Practice, particularly as to the need for filing "verified complaints" in rail-oriented proceedings (49 CFR 1100.40 et seq.) within the 12-day limit, expeditious notification of interested persons about rate changes becomes a matter of tremendous importance to those persons. Presumably, any "for-profit" organization placing a bid would, if successful, take steps to control the flow of data so as to serve its own interests first, yet without materially affecting the rights of others except as to time. To users of the Public Tariff File, the time element in tariff watching is extremely important.

It would be difficult, if not impossible, to set up adequate safeguards against the use of the Public Tariff File, by an ingenious contractor, to advance his own pecuniary interests. For example, there probably would be no effective way to prove existence of an improper connection between contractor "ABC" and carrier "XYZ" or some other interested entity if they resort to some clever way of interchanging tariff information. The mere fact that "ABC" is the contractor authorized to provide all Public Tariff File services to the public becomes an opportunity for "ABC" to make known the availability of its services.

The Public Tariff File was established by the ICC more than 50 years ago, when the Commission found a need for it in the public interest. Removal from the ICC payroll of the employes needed to perform this service would be a "peanutty" and undesirable economy gesture, in view of the existence of many, much greater opportunities for eliminating waste in other areas of the federal government and even in some ICC areas outside of tariff files. Wasteful use of manpower (or womanpower) in the government is easy to find. At least one ICC member, Commissioner George M. Stafford, is not in sympathy with the idea of "contracting out" the Public Tariff File management. He has doubts about the ability of any contractor to demonstrate sound basics and familiarity with tariffs and filing procedures.

The Commission should keep in mind that one of the reasons, perhaps the sole reason, for the establishment of the Public Tariff File was that there was a great demand by the public for access to and use of the agency's Official Tariff File. The heavy public use of the Commission's own tariff file interfered with the Commission's work, and so it decided, "in the public interest," to set up the Public Tariff File. This is still needed, under the ICC's management.

Earnestly do we hope that the Commission will reconsider and reverse, at the earliest possible moment, its decision to make management of the Public Tariff File a non-government operation. We think all readers of *Traffic World* should be interested in this matter and we urge them, in their own interest, to make known their feelings about the situation to the ICC chairman and influential legislators, and to do so *without delay*.●

CONGRESSIONAL SPACE MEDAL OF HONOR AWARDED TO ASTRONAUTS

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 4, 1978

● Mr. TEAGUE. Mr. Speaker, on Sunday, October 1, 1978, at Kennedy Space Center, the President honored our Nation's astronauts and our space program when he named six astronauts to receive the Congressional Space Medal of Honor, the first such medal ever awarded by the United States. Those who received the medal are: Neil A. Armstrong, Frank Borman, Charles Conrad, Jr., JOHN H. GLENN, Jr., Virgil I. Grissom (posthumous), and Alan B. Shepard, Jr.

The award, authorized by the Congress in 1969, is conferred "to any 'astronaut who in the performance of his duties has distinguished himself by exceptionally meritorious efforts and contributions to the welfare of the Nation and of mankind'."

I am including in the RECORD the citations for the award for each of the recipients.

NEIL ALDEN ARMSTRONG

By direction of the President, Neil A. Armstrong is awarded the Congressional Space

Medal of Honor for exceptionally meritorious efforts and contributions to the welfare of the Nation and of mankind.

In March 1966, commanding Gemini 8 in earth orbit, Armstrong was the first person to dock one space vehicle with another, a technique that would be essential to carrying out the later lunar landing. Shortly after docking, a malfunctioning thruster in the control system caused the two craft to start rolling. After undocking, the Gemini rolled faster. Armstrong analyzed the difficulty correctly, and even on the verge of dizzy disorientation initiated the action necessary to overcome the failure and land the spacecraft safely. As commander of Apollo 11, he made the first landing on the moon. Equipment malfunctions, added to hazardous and unanticipated terrain, again threatened destruction. Armstrong overrode the automatic system and personally piloted the lunar module past the original landing site to a safer area, where he put the craft down gently with only thirty seconds of fuel remaining. Once more his professional skills and unshakable nerves had saved a mission and averted disaster. Perhaps a third of the human race, certainly the largest audience in the history of television, watched his first steps on the moon, united as never before by an awareness of a new era in the history of mankind, by pride in what mankind had accomplished, admiration for the United States of America, and hopes and prayers for the safe return of Armstrong and his crew. With steady, cool professionalism, repeatedly overcoming hazards, Neil Armstrong became the first to walk on a celestial body other than our earth, bringing great credit upon himself, his Nation, and mankind.

FRANK BORMAN

By direction of the President, Colonel Frank Borman, USAF (Ret.), is awarded the Congressional Space Medal of Honor for exceptionally meritorious efforts and contributions to the welfare of the Nation and of mankind.

Frank Borman commanded the Gemini 7 and Apollo 8 space missions which significantly hastened and facilitated achievement of the manned lunar landing objective. Problems with the development of hardware caused major modifications to each of these missions close to launch time, necessitating extensive replanning and retraining. Borman's meticulous attention to detail and tireless pursuit of excellence contributed to the achievement of all objectives on both missions. In December 1965, commanding Gemini 7, he proved that man is physically capable of staying in space and performing useful work for the length of time needed for a round trip to the moon. In December 1968, Apollo 8, under Borman's command, first made that round trip. In a Christmas Eve telecast from lunar orbit, Borman and his crew read the story of creation from Genesis and showed millions of watchers around the world views of earth that they had never seen before. This moving demonstration of technological achievement and peaceful intent heightened the stature of our Nation throughout the world community. Colonel Borman's career as an astronaut reflects great credit upon himself, his service, and all mankind.

CHARLES CONRAD, JR.

By direction of the President, Captain Charles Conrad, Jr., USN (Ret.), is awarded the Congressional Space Medal of Honor for exceptionally meritorious efforts and contributions to the welfare of the Nation and of mankind.

From August 1965 through June 1973, Astronaut Conrad participated in four space flights of increasing duration, complexity, and achievement. Following two flights in Project Gemini, Conrad commanded Apollo 12 and made man's second landing on the moon. In May and June 1973, he commanded the first crew to man Skylab and led the lengthy, dangerous, and strenuous activities that were necessary to repair damage inflicted on the orbital workshop during launch and thereby save the two-billion-dollar program. Skylab had arrived in orbit without thermal protection and with inoperable solar power panels. Internal temperatures of 130° F were threatening to damage supplies and equipment, as well as preclude extended habitation. Conrad and Joseph P. Kerwin deployed a stopgap sunshade and the internal temperature dropped. Later, in an unprecedented three and one-half hours of work outside the spacecraft, they freed a jammed solar power panel, which thereafter produced electricity to power the experiments performed by three crews. The actions of Conrad and his crew made possible five months of productive science and experimental processing of materials in space. His career as an astronaut, climaxed by the rescue of the Skylab program, reflected great credit upon himself and materially advanced the welfare of the Nation and of mankind.

JOHN HERSCHEL GLENN, JR.

By direction of the President, Colonel John H. Glenn, Jr., USMC (Ret.), is awarded the Congressional Space Medal of Honor for exceptionally meritorious efforts and contributions to the welfare of the Nation and of mankind.

John Glenn was the first American to orbit the earth. His successful three-orbit flight on Friendship 7 in February 1962, in the third manned mission in project Mercury, went far toward eliminating the lead held by the Soviets in space. He demonstrated the value of the human pilot in space when an attitude-control thruster malfunctioned. He experimented with the various means available to compensate for the faulty device, selected the most economical mode, and flew the remainder of the mission manually. An erroneous warning light then signaled to the ground net that the spacecraft's heatshield was unlocked. The ground controllers devised a possible method for retaining the heatshield, which was essential for a safe reentry, and Glenn executed the new procedure with remarkable calm. He continued to control attitude manually during descent until his fuel supply ran out, after which the craft began a dangerous oscillation. Glenn had decided to dampen the oscillation by deploying the drogue parachute early, when the parachute popped out automatically. He returned to a Nation and a world which seized on him as a major hero. This difficult role he handled with the same polite dignity that he brought to all his assignments. John Glenn's career as an astronaut reflects great credit upon himself, his service, and his Nation.

VIRGIL IVAN GRISSOM

By direction of the President, Lieutenant Colonel Virgil I. Grissom, USAF, is awarded the Congressional Space Medal of Honor (posthumously) for exceptionally meritorious efforts and contributions to the welfare of the Nation and of mankind.

From July 1961 to January 1967, Astronaut Grissom participated in two space flights and lost his life during preparation for a third. In a time of relatively primitive space hardware, he piloted the second manned Mercury mission. After landing in a choppy sea, equipment failure caused the hatch to be jettisoned prematurely. Moving quickly, Grissom took to the waves as water entered the sinking spacecraft.

As commander of the first manned Gemini flight in March 1965, Grissom demonstrated and evaluated the capabilities of the spacecraft and launch vehicle system and the procedures necessary for the support of subsequent long-duration and rendezvous missions. On January 27, 1967, while training to command the first manned Apollo mission, he and his two crewmates died in a flash fire that swept through their spacecraft atop the launch vehicle. That accident led directly to a rededication of effort by the National Aeronautics and Space Administration's government-industry-university team, which, in turn, produced the successful lunar landing program. In his death, as in his life, Virgil Grissom significantly advanced the exploration of space and the prestige of his Nation.

ALAN BARTLETT SHEPARD, JR.

By direction of the President, Rear Admiral Alan B. Shepard, Jr., USN (Ret.), is awarded the Congressional Space Medal of Honor for exceptionally meritorious efforts and contributions to the welfare of the Nation and of mankind.

Alan Shepard was this Nation's first man to venture into space. He was boosted into a hostile environment on the tip of a ballistic missile when the medical effects of extended weightlessness and radiation were still unknown. His successful suborbital flight demonstrated that this country lacked neither the courage nor the technology to compete in the new arena of space. As head of the Astronaut Office during project Gemini, he was a key participant in spacecraft development and operations. As commander of Apollo 14, Shepard showed the highest qualities of leadership. By extending virtually every dimension of lunar operations, his mission enlarged the capabilities of the lunar science program. His long and productive career as an astronaut reflects credit upon himself, his service, and his Nation.●

THE CASE FOR THE NATURAL GAS BILL

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 4, 1978

● Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington report for October 4, 1978, into the CONGRESSIONAL RECORD:

THE CASE FOR THE NATURAL GAS BILL

For 30 years the United States has struggled unsuccessfully with natural gas policy. In the next few days Congress will have an opportunity to come to grips with this key aspect of the nation's energy plan as it takes action on the natural gas bill.

For several reasons, I hope that the bill is passed. Our present natural gas policy is highly unsatisfactory. Supplies of gas are inadequate in many parts of the country, including Indiana, and the incentives necessary to increase production are lacking. Under current law a two-tier market system exists. There is no single national market with uniform prices and supplies. Depending on whether the gas is marketed between states (interstate) or within one of the gas-producing states (intrastate), its cost and availability vary from region to region. The unregulated intrastate market tends to starve the regulated interstate market.

The compromise natural gas bill would increase the supply of gas by abolishing the outmoded two-tier market system and creating in its place a single national market with new and certain incentives for producers. Substantial additional quantities of gas would flow to non-producing states at prices

below those of alternate fuels such as foreign oil, liquid natural gas and synthetic natural gas. There could be a 30% increase in the availability of interstate gas by 1985. Indiana and other gas-poor states would no longer have to suffer shortages while other areas had more than they needed. Home hook-ups could be resumed throughout the nation and industrial users would be able to count on the delivery of gas without interruption.

The bill would have other benefits, too. It would reduce and simplify the regulatory burden of gas producers. The bill embodies the principle of gradual deregulation and would lift controls from almost all newly discovered gas after six years. In the interim it would substitute ceiling prices for the tens of thousands of pages of regulations and court decisions in current law, spelling out in a specific manner what prices the producers could expect. No gas policy can be completely free of complexity, but the bill would set up reasonably clear and distinct classifications and would ultimately lead to decontrol.

The bill would cast lines well beyond the natural gas market and would have a direct effect on the nation's economic health. Imported oil is one of the largest contributors to the trade deficit, which is now running at an astounding rate of $42 billion per year, the highest in our history. The bill would result in a daily savings of 1.4 million barrels of imported oil by 1985 and would reduce the trade deficit by $6 billion to $8 billion per year. Another of our economic problems is the slide of the dollar, and one of the main reasons for it is the belief abroad that we do not have the will to forge a national energy plan. Unless Congress acts on the bill favorably and without delay, pressure on the dollar will continue to build and its value may be depressed even further against other currencies. Of course, both the trade deficit and the slide of the dollar cause a substantial amount of inflationary pressure.

It must be acknowledged that prices for natural gas would rise under the bill just as they would under any forseeable policy. Continued use of the two-tier market system and reams of confusing regulations would drive gas prices up in the future just as it has in the past. With the bill, however, increases should be gradual enough to avoid serious consequences for the economy. In any case, higher prices would discourage imports and encourage conservation and production. Prices of gas to industrial users, upon whom would be thrown the bulk of the new costs, would be lower than those of fuel oil and less than those of gas under immediate deregulation. Also, the bill would afford special protection to residential consumers. Their price increases would not be small, but they would be smaller than under a continuation of the present system.

Finally, the bill represents a genuine compromise, balancing producer and consumer interests, the overregulation of the past and the economic hardship of immediate deregulation, and other competing regional and political considerations. Failure to approve the bill would mean that another session of Congress would end without a natural gas policy or a national energy plan. Oil imports would increase, the trade deficit would remain too large, the dollar would lose an important source of strength, and gas supplies would still be uncertain.

The bill would not resolve all the intricacies of natural gas policy. It would not entirely please anyone. It would certainly not be the last effort on behalf of a national energy plan. But it would be much better than the present system, and it is urgently needed.●

BALANCE(S) OF POWER SERIES: BOOK II (K)—NATURE AND QUALITY OF GOVERNMENT

HON. JOHN B. BRECKINRIDGE

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 4, 1978

● Mr. BRECKINRIDGE. Mr. Speaker, an important element in the strategic equation is the comparative strengths and weaknesses of the systems of government which give political form and expression to the superpowers now facing each other. As previous selections have explained, questions of stability, succession, and legitimacy of rule influence the ability of a nation to bring its resources to bear in strategic competition one with another.

Different forms of government also present different strengths and weaknesses. Although Americans acknowledge that our open system of checks and balances may act to inhibit decisive action, we have in the past found strength in the broad base of our decisionmaking processes.

The following article by Jerry F. Hough, "Political Participation in the Soviet Union," compares the political systems of the United States and the Soviet Union, from the standpoint of citizen involvement, and raises the possibility that American strengths in this regard may be matched in practical terms by the Soviet Union.

The first part of Mr. Hough's article, which first appeared in Soviet Studies, January 1976, follows:

POLITICAL PARTICIPATION IN THE SOVIET UNION

(By Jerry F. Hough)

In many ways one of the crucial questions for an understanding of the Soviet Union is the nature of the role of political participation in the political system. To what extent can people speak out? To what extent are they drawn into committees and councils which have an impact on their place of work and residence? To what extent do they participate in what we would call local or national policy-making? And, of course, what impact does such participation have upon decisions which are taken?

In recent years, a number of scholars have treated the fall of Khrushchev as a watershed in the history of citizen participation in the Soviet Union. Khrushchev's introduction of the concept of the "all-people's state", his advocacy of the gradual transfer of functions from state to public organizations, his insistence that millions of citizens be drawn into part-time work in the soviets, the other governmental agencies and the public organizations (some of them newly-created)—all of these, it is said, reflected his "populism" "The first secretary formed an alliance with the people against bureaucracy . . . [He] encouraged a measure of popular participation in the execution if not the formulation of public policy." [1]

According to this line of analysis, Brezhnev and Kosygin embody the successful counter-revolution of the bureaucrats—of the "clerks", in Zbigniew Brzezinski's phrase.[2] In this view, the present leaders (and those they represent) are imbued with the career official's sense of rationality, and they distrust the dilettantism, irregularity, unpredictability, and amateur interference in decision-making that they believe participation to involve:

For Khrushchev the impulsive adventurer, fervent ideologue, "democratic popularizer", and restless pragmatist—the means of socio-political organization and advance emphasized public-spiritedness and participation in societal and administrative affairs. By contrast, for the more cautious, faceless, and systematic Brezhnev and Kosygin . . . the solution lies in bureaucratic instrumentalities perfected according to the principles of scientific Communism and the law of economic development.[3]

And, in fact, it is argued, "since Khrushchev's fall the new leadership has reexamined and curtailed the excessive practice of drawing rank-and-file members and the general public into the work of party and state organs." [4]

Yet, while there is a widespread impression of a post-Khrushchev counter-revolution against popular participation in decision-making, little systematic research has actually been conducted on the subject, and a few voices have been raised to challenge the views expressed in the last paragraph.[5] This is a question that deserves far more careful study than it has hitherto received, and this article is an attempt to conduct some of the initial, exploratory groundwork for such a study.

The empirical core of the article will be a rather detailed examination of the evidence, both ideological and statistical, that seems pertinent for an analysis of the trends in political participation in the Khrushchev and Brezhnev periods. It will attempt to test some of the hypotheses about the trends in political participation cited earlier. However, the most important questions about Soviet political participation are qualitative rather than quantitative in nature, and they involve comparisons among political systems more than comparisons over time within one political system. The exploration of these questions is not a simple matter of examining official Soviet statements and statistics; rather, it requires the most careful thought about the methodology of comparing subtle phenomena across political systems. A short article of this type can scarcely analyse this matter in a comprehensive manner, but the second part of this article will at least try to indicate some of the considerations that are important for such an analysis.

I

In some respects the removal of Khrushchev in 1964 did bring change in Soviet policies with respect to public participation. On the ideological level, a number of leading Soviet scholars (sometimes reversing earlier positions) began to speak not of the 'withering away of the state', but of the need for 'the preservation of the leading role of the state'.[6] Moreover, although the virtues of the state have been extolled, post-Khrushchev leaders have seldom used the phrase 'the all-people's state'. (One scholar analysing the Soviet system in these terms in 1973 had to go back to 1964 to find a Brezhnev quotation employing the term.[7]

These theoretical reformulations have been accompanied by organizational change as well. The Union of Sports Unions and Organizations—the most dramatic example of the transfer of governmental functions to public organizations—was transformed once more into a State Committee for Sports and Physical Culture. A voluntary Volgograd trade union regional committee (obkom) of the machine-building industry, which had been hailed in 1962 as part of a new trend in trade union work, was discovered to have three full-time staff members on a 1973 visit. (The change had occurred about five years earlier, its chairman stated.[8] The

Footnotes at end of article.

number of totally voluntary departments of the soviets in the Russian Republic declined from 6,212 on 1 January 1964 to 5,037 in 1969.[9]

Yet, if the fall of Khrushchev unquestionably did have an impact on policies with respect to citizen participation, we must be very careful in specifying the nature of this impact. In the ideological realm, for example, it would be quite wrong to suggest that the Khrushchev ideological innovations have been totally reversed. Scholars frequently continue to speak of the 'all-people's state', and one authority recently has insisted that 'as a basic principle, all authors unquestionably recognize the existence of two basic stages of the development of the Soviet state: the stage of the state of the dictatorship of the proletariat and the stage of the all-people's state'.[10] This author used the term 'people's power' (*narodovlastie*) to describe the Soviet system, and he defined 'power' (*vlast*) as the ability to compel (not simply influence another to carry out one's will—an ability that may be exercised through legal authority or persuasion but which is always backed up by force.[11]

The most responsible Soviet spokesmen usually avoid such phrases as 'people's power' or 'all-people's state', but they consistently treat the present period as a quite distinct one: the period of 'developed socialism' (*razvityi sotsializm*). This special period, it is said, is the product of the 'scientific-technical revolution', and it is explicitly stated that this revolution 'influences the forms and methods of the organization of social-political life, as well as the active enlistment of the toilers in participation in governmental affairs and in social-political activities'. In particular, the rising educational level associated with this revolution is seen as creating a citizenry that 'clearly [can] carry out the functions of governmental leadership in a qualified, competent manner'.[12]

Finally, it is contended that the growth in the ability of the public to participate in political affairs in the period of developed socialism has been accompanied by the party's determination to encourage such participation:

"The KPSS consistently carries out measures to perfect democratic institutions in all spheres of public and state life. Each Soviet man has the guaranteed opportunity to take part in the discussion and decision of important problems of national, republican, oblast, city, or raion scale. Besides that, in their work collectives Soviet people daily decide a multitude of questions connected with the administration of their enterprises, institutions, and organizations." [13]

Words, of course, can be very cheap. It is hard to forget that the Great Purge occurred immediately after (and to some extent simultaneously with) the introduction of the present Soviet Constitution and a most voluminous discussion of the democratic processes and protection of individual rights supposedly guaranteed by it. However, if the argument is about the nature of the words, the nature of the ideology, then a change of phraseology should not lead us to claim a retreat from ideological commitment to popular participation—especially when the changes involve a Westernization of phraseology, as the discussion moves from one of 'withering away' to one of the impact of education in 'developed socialism'. After all, Khrushchev's 'all-people's state' and 'transition to communism' scarcely promised a quick disappearance of the state (let alone the party), and it is not insignificant that the man who first used the phrase 'developed socialism' in print (Fedor Burlatsky) is the same scholar who was most closely associated in print with the phrase 'all-people's state'.[14]

The statistics of the post-Khrushchev period also indicates a continuation of the rise in citizen participation that began in the mid-1950s (see Table I). To be sure, the rate of increase in most types of participation has been slower in the last decade than it was in the previous one but it has been strikingly higher than the increase in the adult population. Indeed, it has been particularly high, given the fact that the group entering young adulthood in recent years has been the abnormally small cohort born during World War II.[15] (Thus, the much-publicized decline in the number of new admissions into the party is, as Table 2 suggests, the result not of a decrease in the percentage of "real" eligibles admitted into the party, but a decrease in the pool of eligibles from which party members are usually drawn.[16])

Moreover, while the Brezhnev era has not been noted for creating new organizations designed to draw the citizens into public life (e.g., the *druzhiny*), there have been a number of actions taken that do facilitate the access of at least some citizens into the decision-making process. For example, in 1969 a Kolkhoz Council was created at the centre and at the raion, oblast, and republic level as well. These councils were headed by the top agricultural administrator at each level, and, at the all-Union level at least, the Council's membership was overwhelmingly administrative or professional in occupation. The 125 members in 1969 included 25 regional, republican, or central administrators, 56 kolkhoz chairmen, 18 middle-level kolkhoz administrators, 11 kolkhoz professionals, 6 link-leaders and senior shepherds, and only 8 rank-and-file kolkhozniki.[17] Nevertheless, to the extent that they have been effective, the Councils do give over 65,000 persons a greater opportunity to provide advice to the top agricultural officials at each level.[18]

TABLE I.—POLITICAL PARTICIPATION IN THE U.S.S.R., 1954–73

Group	1954–55	Percent increase, 1954–63	1963–64	Percent increase, 1963–72	1972–73
Adult population [1]	120, 751, 000	16	140, 000, 000	12	156, 507, 828
Party members and candidates [2]	6, 864, 864	51	10, 387, 196	43	14, 821, 031
Deputies to local soviets [3]	1, 536, 310	27	1, 958, 565	12	2, 193, 086
Trade union members [4]	40, 240, 000	60	68, 175, 600	44	98, 000, 000
Komsomol members [5]	18, 825, 324	17	22, 000, 000	41	31, 000, 000
Contrcllers [6]	[7] 0	----------	4, 300, 000	109	9, 000, 000
Activists in independent organizations [8]	(?)	----------	20, 000, 000	25	25, 000, 000
Druzhinniki [9]	0	----------	5, 500, 000	27	7, 000, 000

[1] The effective adult population is measured by the number of persons registered to vote in the elections. In years when comparable election and census data are available, the adult population as measured by electoral registration is 2 to 3 percent lower than that measured by the census. Figure for 1954—"Pravda", Mar. 18, 1954, p. 1; figure for 1963—Ibid., Mar. 7, 1963, p. 1 and Mar. 21, 1963, p. 1; figure for 1973—ibid., June 23, 1973, p. 1.

[2] Figures for 1954 and 1963—T. H. Rigby, "Communist Party Membership in the U.S.S.R." 1917–67 (Princeton, N.J., 1968), p. 53; figure for Jan. 1, 1973—"Partiinaya zhizn", 1973, no. 14, p. 10.

[3] Figures for 1955 and 1963—N. A. Petrovichev (chief author), "Partiinoe stroitel'stvo" (M., 1972), p. 403; figure for 1973—"Pravda", June 23, 1973, p. 3.

[4] Figures for 1954 and 1963—Petrovichev, op. cit., p. 411; figure for 1972—"Partiinaya zhizn", 1972, no. 21, p. 11.

[5] Figure for 1954—"Komsomol'skaya pravda," Mar. 20, 1954, translated in "The Current Digest of the Soviet Press," vol. VI, no. 13 (Mar. 12, 1954), p. 9; figure for 1964—V. M. Chkhikvadze (ed.), "Sotsializm i narodovlastie" (M., 1965), p. 86; figure for 1973—"Ezhegodnik Bol'shoi Sovetskoi Entsiklopedii 1973" (M., 1973), p. 18. The proportion of young people of the appropriate age group who are in the Komsomol rose from 34 percent in 1959 to 43 percent in 1965 to over 50 percent in 1970 ("Slavnyi put' leninskogo komsomola" (M., 1974), vol. II, pp. 469, 580).

[6] Figure for 1964—"Kommunist," 1964, no. 13, p. 123; figure for 1973—"Sovetskaya Rossiya", Mar. 15, 1973, p. 1.

[7] Apparently.

[8] Figure for 1964—Chkhikvadze, op. cit., p. 84; figure for 1970—"Partiinaya zhizn," 1970, no. 13. p. 9.

[9] Figure for 1963—V. E. Poletaev (ed)., "Rabochii klass SSSR" (M., 1969), p. 425; figure for 1971—F. S. Razarenov (comp.), "Narodnomu druzhinniku" (M., 1973), p. 115.

TABLE 2—PARTY SATURATION BY AGE GROUP, 1965, 1967 1973

[In percent]

Age group	1965	1967	1973
18 to 25	3.1	2.2	2.5
26 to 40	11.0	11.5	11.2
41 to 50	10.7	11.8	13.0
51 plus	5.5	6.5	8.0
Total	7.9	8.3	8.9

Sources: The age distribution of party members is found in "Partiinaya zhizn", 1965, no. 10, p. 13; 1967, no. 19, pp. 9, 16; 1973, no. 14, p. 19. The age distribution of the population in 1965 and 1967 is extrapolated from 1959 and 1970 census data ("Itogi vsesoyuznoi perpisi naselemya 1970 godd" (M., 1972), vol. II, pp. 12–13). The age distribution of the population in 1973 comes from "Narodnoe khozyaistvo SSSR v 1973 g." (M., 1973), p. 34. In the case of 1965, the age categories were actually 18 to 25, 26 to 39, 40 to 49, and 50. A full discussion of the questions raised by this table—including a breakdown by sex in 1973—can be found in Jerry F. Hough, "Party Saturation" in the Soviet Union, forthcoming in a memorial volume for Prof. Merle Fainsod.

Similarly, the granting of the right of control (*pravo kontrolya*) to the party organizations of educational and scientific institutions—while often interpreted as a strengthening of party control—has probably resulted primarily in the admission of less elite elements into the decision-making processes of these bodies. In the higher educational institutions, for example, the rector had been advised by a scholarly council composed of the institute's or university's administrators and leading professors. To a large extent, this council has been a committee of party members (192 of the 233 members of the scholarly councils in Tomsk were party members in 1973 [19]), but the party organization as a whole is much less elite in nature, containing, on the average, 42 percent of the institution's faculty.[20] Even the party bureau (the party committee in large institutes) includes not only full professors and administrators, but also students, graduate students, and junior faculty as well. Moreover, the party committee, unlike the scholarly council, need not wait for the rector to initiate an issue, and, in case of disagreement with the rector, it can take the dispute to the district party committee. If the party committee has become a more important centre of discussion and decision, it may well be that younger viewpoints are now better heard and represented. (A professor discussing this question in private conversation cited a curriculum decision in which this had, in fact, occurred.)

Probably most important of all has been the emphasis placed by the post-Khrushchev leadership upon the need for science, specialized knowledge, and information feedback.[21] While this development may have served to undercut the rationale for some uninformed public interference in the political-administrative process,[22] it has surely also accelerated the use of outside scholars and specialists as consultants (not only as paid consultants, but also as members of the

Footnotes at end of article.

various voluntary commissions and councils). It has also contributed in a major way to the development of policy-oriented research by these persons and to its legitimacy as a source of information for policy-makers.

The creation of the Council of Kolkhozy, the granting of the *pravo kontrolya* to the party organizations of scientific-educational institutions, and the increased emphasis upon scientific information may have been primarily of benefit to potential participants in 'middle-class' (really upper-stratum) occupations, but the statistical evidence suggests that the trend towards greater worker-peasant participation which began in the Khrushchev period continued after his removal (see Table 3).

Some of the evidence relating to worker-peasant political participation is particularly suspect because of quirks in the Soviet definitions of 'worker' and 'peasant'.[23] However, the pattern is also present in cases in which this definitional problem is rather minimal (e.g., in the percentage of workers selected as deputies to the city soviet) or non-existent (as in the private count of workers and peasants who became deputies to the Supreme Soviet). It is also found in a number of other cases not included in Table 3. For example, the number of workers and peasants (defined in Western terms) identified among the full members of the republican party central committees increased from 5.2 percent in 1961 to 7.6 percent in 1971.[24]

Some could argue that all of the evidence presented about political participation in the Soviet Union is completely suspect—suspect to the point of demonstrating nothing about the trends in participation. It is well established that in the Stalin period official statistics on the subject were grossly inflated. For example, a Soviet sociologist, Yu. E. Volkov, asserts that 25,000 persons were listed as the *aktiv* of the standing committees of the local Soviets in Sverdlovsk oblast in 1954, but that 'in practice, as an investigation we conducted in that year with Yu. G. Sudnitsyn showed, these "activists" were in a majority of cases listed only on paper. . . . With a few exceptions, the standing committees did not work in practice'.[25] One could contend that the expansion in participation during the last decade is simply an increase in the number of 'paper activists' and that hard-to-measure changes in political atmosphere have been far more significant in defining (and reducing) the significance of citizen participation in the Soviet Union.

TABLE 3.—WORKER-PEASANT PARTICIPATION IN THE U.S.S.R., 1954–73

[In percentage of total group involvement]

Group	1954–55	1963–64	1972–73
Party members (percent of workers and kolkhozniki)[1]	49.1	53.8	55.4
Party members (percent of workers alone)[2]	32.0	37.3	40.7
Deputies to local soviets (percent of workers)[3]	10.6	26.9	39.3
Deputies to city soviets (percent of workers)[4]	27.7	47.2	59.5
Deputies to Supreme Soviet (percent of workers and peasants, narrowly defined)[5]	11.0	20.0	36.0
Deputies to Supreme Soviet (percent of workers and peasants, reasonably defined)[5]	14.0	32.0	42.0

[1] Figures for 1956 and 1964—Rigby, op. cit., pp. 325, 306; figure for 1973—"Partiinaya zhizn' ", 1973, no. 14, p. 15.

[2] Figures for 1956 and 1964—Rigby, op. cit., p. 325; figure for 1973—"Partiinaya zhizn'," 1973, no. 14, p. 15.

[3] Figures for 1955 and 1963—Poletaev, op. cit., p. 405; figure for 1973—"Pravda," June 23, 1973, p. 3.

[4] Figures for 1955 and 1963—Poletaev, op. cit., p. 405; figure for 1973—"Pravda," June 23, 1973, p. 3.

[5] These percentages were based upon the author's own count from the press at the time of the 1954, 1962, and 1974 elections to the Supreme Soviet. The narrow definition excludes anyone with any supervisory responsiblity. However, Western censuses do not include foremen and subforemen among white-collar employees, and surely the link leaders and starshie catego ies in agriculture and the brigadier and starshie categories in indu try are peasants and workers by any reasonable comparative de ni ion. They are included in the last entry in the table. However, even the "reasonably defined" workers and peasants exclude industrial foremen and agricultural brigadiers and heads of livestock farms on the ground that these positions are increasingly reserved for the technically trained.

It is, of course, within the realm of possibility that such a contention is accurate, for the published Soviet statistics clearly are inflated. Lower officials have little, if any, incentive to purge non-active 'activitists' from their lists, and the number of meaningful participants is far lower than officially claimed. The number of influential participants is still lower. Whether Soviet authorities discuss the earliest forms of participation ('Pioneer self-administration' in the schools), the later types of participation in public work such as house committees or the *druzhiny*, or the presumably more important types of participation such as membership in the party or selection as a deputy to the local soviet, they always report the existence not only of activists who are 'up to their ears' (*po makushku*) in work, but also of the 'eternal passives'—those 'who stand at the side'.[26] The situation can teach the extreme of council members in young people's dormitories being 'at times' appointed by the adult superior of the dormitory (the *vospitatel'*) or being elected without their knowledge or consent. 'It is not astonishing that after such "elections" [only] one or two activists remain in the council after six months.'[27]

Yet, if the question is simply one of trends, it can be very forcefully argued that the burden of proof is upon those who doubt the direction of the change. Soviet participation statistics (including those of the Khrushchev era) have always overstated the degree of participation, but they need not be regarded as totally fraudulent. The mere possibility that a statistical rise in participation may be accomplished by a decline in its meaningfulness does not require us to assert that this is a certainty or even a probability. Western observers have been so obsessed by the fear of being 'taken in' by Soviet propaganda that they have too often based their judgements about the Soviet Union on the worst conceivable possibility, not on the most probable.

Those arguing that there has been a decline in the meaningfulness of political participation in the Soviet Union despite the statistical evidence, must contend with two basic facts. First, the educational level of the Soviet population is increasing—and fairly rapidly at that. The proportion of the population with at least some high-school (secondary) education has risen from 26 percent in 1959 to 48 percent in 1970—and to 59 percent for the urban population and to nearly 90 percent in the age group under 30. The percentage with a complete secondary education or better has increased from 14 percent in 1959 to 24 percent in 1970—and to 33 percent in the urban areas. If we insist that the scale and meaningfulness of citizen participation has declined in the face of this type of rise in educational level, we are postulating a rather striking development in the light of what we have learned about the relationship of participation and education in the West and in the Soviet Union, and this is in the face of a reported rise in the quantity of participation. It is a possibility, but not one for which we have any real evidence.

Second, there is one type of political participation that is visible to us in the West—the articles and books that appear in print. Here we need not rely on statistics alone (although those on the number of letters to editors show the same continued growth in participation observed in other areas), but we can read the debates for ourselves and judge their nature. If we do this, we find that (with the exception of a few of these on the past) nearly all the debates are richer and freer than they were under Khrushchev. The documentation which can be used to support arguments is fuller, the freedom to aggregate complaints and proposals is greater. Proposals or criticisms of the *status quo* sometimes must be phrased with care, and the most radical ones may be restricted to specialized journals or books (the change in the contents of books has been especially striking), but there are few ideas that cannot be expressed in print in one form or the other. The increase in freedom of within-system expression has been less than many intellectuals anticipated—or hoped for—in 1965, but we are comparing the experience of the Brezhnev period with the experience of the early 1960s—not with the hopes of 1965.

FOOTNOTES

[1] Frederick C. Barghoorn, Politics in the USSR (2nd edn., Boston, 1972), p. 31.

[2] Zbigniew Brzezinski, 'Victory of the Clerks', The New Republic, vol. 151, no. 20 (14 November 1964), pp. 15–18.

[3] Paul Cocks, 'The Rationalization of Party Control', in Chalmers Johnson (ed.), Change in Communist Systems (Stanford, 1970), p. 165.

[4] Ibid., p. 178.

[5] See, for example, Harvey Fireside, Reply to correspondence, Problems of Communism, vol. XXI, no. 6 (November–December 1972), p. 91; Jan S. Adams, 'People's Control in the Soviet Union', Western Political Quarterly, vol. XX, no. 4. (December 1967), pp. 919–29, especially p. 929; Ellen Mickiewicz, 'Policy Applications of Public Opinion Research in the Soviet Union', Public Opinion Quarterly, vol. XXXVI, no. 4 (Winter 1972–73), p. 566; D. Richard Little, 'Political Participation in the U.S. and the U.S.S.R.; A Conceptual Analysis' (unpublished paper, 10 June 1973).

[6] Roger Kanet, 'The Rise and Fall of the "All-People's State:" Recent Changes in the Soviet Theory of the State,' *Soviet Studies*, vol. XX, no. 1 (July 1968), p. 92.

[7] N. P. Farberov, 'Sotsialisticheskoe gosudarstvo in pravo', in F. S. Razarenov (comp.), *Narodnomu druzhinniku* (M. 1973), p. 19.

[8] The regional committee was visited on 26 June 1973. The present chairman had been the voluntary chairman while working as an engineer at the Volgograd Tractor Works, but then become a full-time trade union official.

[9] Ts. A. Yampolskaya, *Obshchestvenye organizatsii i razvitie sovetskoi sotsialisticheskoi gosudarstvennosti* (M., 1965), p. 82; N. P. Bannyke, *Uchastie obshchestvennosti v deyatel'nosti ispolkomov mestnykh sovetov* (M., 1972), p. 53. This decline seems to have been arrested in later years, for the number of volunteer departments in the RSFSR was put at 5,230 in 1972 (*Sovetskaya Rossiya*, 27 February 1973, p. 2).

[10] L. A. Grigorian, *Narodovlastie v SSSR* (M., 1972), p. 115.

[11] *Ibid.*, pp. 8–9.

[12] These quotations are drawn from E. M. Chekharin and D. A. Kerimov, 'Sotsialisticheskaya demokratiya na sovremennom etape kommunisticheskogo stroitel'-stva', in D. A. Kerimov (ed.), *XXIV s"ezd ob ukreplenii sovetskogo gosudarstva i razvitii sotsialisticheskoi demokratii* (M., 1973), pp. 11–12. Chekharin was deputy head of the science and education department of the Party Central Committee at the time this article was probably written, but he had become rector of the Higher Party School by the time it was published. The phrase 'developed socialism' is also used throughout a book by the quite conservative head of the science and education department of the Central Committee, S. P. Trapeznikov (*Na krutykh povorotakh istorii* (M., 1971)).

[13] Chekharin and Kerimov, *op. cit.*, p. 12.

[14] F. M. Burlatsky, 'O stroitel'stve razvitogo sotsialisticheskogo obshchestva', *Pravada*, 21 December 1966. For a bibliography of his earlier works with respect to the state, see F. M. Burlatsky, *Lenin, Gosudarstvo, Politika* (M., 1970), p. 508. His 'Voprosy gosudarstva v proekte Programmy KPSS', *Kommunist*, 1961, no. 13, pp. 37–48, is particularly important, for in the Soviet Union such an article is often written by a scholar who has had a hand in drafting the document that the article is explaining authoritatively for the first time.

[15] Thus, in 1970, there were 25,000,000 persons in the age cohort 10–14, 22,000,000 who were 15–19 in age, 17,100,000 who were 20–24, 13,800,000 were 25–29 (these, of course, were those born during World War II), and 21,100,000 were 30–34 (*Itogi vsesoyuznoi perepisi nascleniya 1970 goda* (M., 1972), vol. II, p. 13).

[16] Formally, persons may join the party at the age of 18, but since World War II few have been permitted to become party members until their mid- or late-twenties. (This fact is suggested in Table 2 and is also confirmed by an examination of the biographies of the 742 Supreme Soviet deputies of the last 15 years who joined the party after 1946. If anything, these deputies should be atypically "political" in their attitudes and behaviour, but they joined the party at the average age of 29.4 years. The biographies can be found in the volumes of *Deputaty Verkhovnogo Soveta* published by Izvestiya Publishing House, Moscow, shortly after the 1958, 1962, 1966, and 1970 elections to the Supreme Soviet.) What has been happening since the late 1960s has been the passage of the babies of World War II and the immediate postwar period through the years during which party admission is normal.

[17] *Pravda*, 29 November 1969, pp. 1–2.

[18] *Partiinaya zhizn'*, 1973, no. 11, pp. 44–47. This article provides a good summary of the work of the councils.

[19] *Ibid.*, 1973, no. 6, p. 35.

[20] *Ibid.*, 1973, no. 7, p. 14.

[21] See Peter H. Soloman, Jr., *Specialists in Soviet Policy-Making: Criminologists and Criminal Policy in the 1960's* (Columbia University: Doctoral dissertation, 1973), and Donald V. Schwartz, 'Recent Soviet Adaptations of System Theory to Administrative Theory', *Journal of Comparative Administration*, vol. V, no. 2 (August 1973), pp. 233–64.

[22] T. H. Rigby goes so far as to say that 'in more and more areas of Soviet life, effective decision making is coming to mean professional decision making, and this is clearly incompatible with the detailed supervision and control by party officials or by the "party masses"' (T. H. Rigby, *Communist Party Membership in the U.S.S.R. 1917–1967* (Princeton, N.J., 1968), p. 525).

[23] The basic problem is that the chairmen, lower administrative personnel, and trained specialists are counted as 'collective farmers' rather than 'white-collar employees', while sovkhoz and MTS 'peasants' are counted in the 'worker' category. (Sovkhoz and MTS administrators and professionals have considered 'white-collar employees'.) As a consequence, the abolition of the MTS in 1958 arbitrarily threw a large number of people from the 'worker' to 'kolkhoznik' category, while the transformation of many kolkhozy into sovkhozy has had precisely the opposite impact.

A second problem is that, at least in the past, statistics on class composition of (say) party membership referred not to current occupation but to the occupation which the person held at the time of entrance into the party. A leading Soviet scholar insists that this practice is no longer followed, but I have not found confirmation in printed Soviet sources.

A third problem is that at the time of the 1970 census a number of menial white-collar occupations were transferred to the worker category, the most notable of them being *prodavets* or sales clerk (*Itogi vsesoyuznoi perepisi naseleniya 1970 goda*, vol. VI, p. 4). A comparison of the original estimates of the number of workers in the *Narodnoe khozyaistvo SSSR* statistical handbooks with the post-1970 reworked estimates indicates that as many as a million and a half people were involved. However, relatively few of this type of personnel have been deputies or even party members, but the post-1970 growth in worker component in the party is small enough to be accounted for entirely by this redefinition.

[24] This calculation is based on only 10 of the republics, for my examination of the press of the other republics in 1961 was not thorough enough to permit identification of a sufficient number of their Central Committee members. The proportion of members identified was the same in each year—93.6%.

[25] Yu. E. Volkov, *Tak rozhdaetsya kommunisticheskoe samoupravlenie* (M., 1965), p. 118.

[26] For pupil participation in the schools, see N. G. Ogurtsov and V. P. Aleksandrova, *Vospitanie obshchestvennoi aktivnosti uchashchikhsya* (Minsk, 1972), pp. 81–82, 146. For party members, see, for example, *Pravda*, 4 July 1973, p. 2. For sociological work on deputies, see Volkov, *op. cit.*, pp. 130–6.

[27] *Molodoi kommunist*, 1973, no. 4, p. 31.●

ULYSSES "BUZZ" LUPIEN, OUTSTANDING HANDICAPPED FEDERAL EMPLOYEE OF THE YEAR

HON. GLADYS NOON SPELLMAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 4, 1978

● Mrs. SPELLMAN. Mr. Speaker, I wish to take this opportunity to recognize in the Congress of the United States Mr. Ulysses "Buzz" Lupien, a resident of my district, who is receiving an Outstanding Handicapped Federal Employee of the Year Award. Mr. Lupien is a financial economist in the Security and Exchange Commission's Directorate of Economic and Policy Research. Although cerebal palsy has impaired his speech, gait and use of hands, he consistently performs his duties in an outstanding manner, and is regularly assigned important priority projects at the Commission.

Mr. Lupien's service at the SEC would, alone, justify commendation. However, his past achievements, and current professional and civic involvements clearly show how very special a person Mr. Lupien is. He earned a B.A. at the Johns Hopkins University and was admitted to the Phi Beta Kappa honorary scholastic association. In addition, he is currently pursuing graduate studies in economics at the University of Maryland.

There can be no doubt that Mr. Lupien is a capable and dedicated civil servant, and we are all grateful for his exemplary service. As a member of the Maryland Development Disabilities Council, he also reveals his concern for others and sets a standard for all of us. By living in this vital and involved manner, Mr. Lupien shows us that with enough perseverance, gumption and zest for life, a serious handicap can be as inconsequential as a person is willing to make it. Mr. Lupien is an inspiration for all of us, and a special blessing for my community.

Mr. Speaker, I know my colleagues join in offering our warmest and most sincere congratulations to Mr. Ulysses Lupien on his selection as an Outstanding Handicapped Federal Employee of the Year, and our best wishes for a future which I am sure will be bright.●

CLARIFICATION OF TREATMENT OF CONTRIBUTION IN AID OF CONSTRUCTION TO PEPCO

HON. JOSEPH L. FISHER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 4, 1978

● Mr. FISHER. Mr. Speaker, I want to express my support of H.R. 11741, a bill to clarify the treatment for income tax purposes of contributions in aid of construction to regulated electric or gas public utilities which the House passed on Otcober 3. This bill will place electric and gas public utilities on the same basis as water and sewerage utilities by permitting them to treat contributions that are made to assist construction as contributions to capital rather than as income to the utility. I am particularly interested in this bill because of its effect on the Washington Metropolitan Area Transit Authority, familiarly known as Metro.

Metro has an agreement with the local electric utility, Potomac Electric Power Co., under which Metro makes contributions to PEPCO to assist in the construction of electrical facilities needed by the rapid rail system. When the agreement was signed, the Internal Revenue Service did not have a clear position on the treatment of such contributions. If they were considered income for PEPCO they would be subject to Federal income tax, but if they were considered contributions to capital the tax treatment would be different. The Metro-PEPCO agreement provided that Metro would have to make up any extra expense PEPCO incurred in the case of an unfavorable ruling from the IRS.

In January, 1978, the IRS held that payments that PEPCO received as contributions in aid of construction from Metro had to be considered income and subject to tax. The immediate cost to Metro for PEPCO's extra liabilities as of the end of 1977 was to be $1.6 million. The projected additional cost to Metro for planned work that PEPCO will be doing over the years is about $27 million. Without legislation to supersede the IRS ruling, Metro will have to pay the extra costs, as will others with similar agreements or the utilities themselves. Under the terms of the 1976 Tax Reform Act, however, parallel situations involving water and sewerage utilities are already granted the more favorable nontaxable contributions to capital treatment for contributions to their construction.

As one of the cosponsors of H.R. 11741, I am pleased with the approval of this bill by the House. It is a reasonable clarification of the treatment of contributions to electric and gas utilities and puts them on the same basis as water and sewerage utilities.●

THE COMMUNIST ASSAULT ON NICARAGUA

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 4, 1978

● Mr. McDONALD. Mr. Speaker, the turmoil has died down in Nicaragua and my hope is that the fighting will stop, but I am doubtful on that point. Certain parties have had their appetites whetted, such as the so-called "volunteers" from Panama and others are gathering for a new onslaught. And while there is a lot of talk about a "third force" and the non-Communist opposition to Somoza, it is abundantly clear what will happen should he be toppled by force. The Sandanistas are the ones with the guns and the Communist backing from Cuba, and history shows that well disciplined Marxists always prevail over non-Communist forces, lacking guns and organization. We do not need a new Communist nation in Central America. Therefore, I feel the following item from America's Future of September 22, 1978, is worth noting in this regard. The item follows:

THE COMMUNIST ASSAULT ON NICARAGUA

Americans are getting a heavy dose of news from Nicaragua these days, most of it sympathetic to guerrilla attempts to overthrow the regime of President Anastasio Somoza. In both TV and newspaper accounts, the guerrillas are portrayed as rag-tag defenders of the poor and the oppressed, battling bravely against the troops of the ruthless Somoza dictatorship.

There is another side of the story, however, that is mostly neglected by the U.S. news media. And it has to do with the classic Communist tactics being used to overthrow the Nicaraguan government and replace it with the first Soviet and Cuban-backed Marxist regime in the heart of Central America.

From one of the several hundred Nicaraguans held hostage for two days at the National Palace in Managua last month has come a first-hand story of just how the Communist guerrillas are trying to terrorize innocent civilians to gain their ends. The hostage, Luis Pallais, a member of the Nicaraguan Chamber of Deputies, told how the guerrillas lined several men and women captives against a well and threatened them repeatedly with execution.

At one point during the ordeal, the legislator managed to engage a girl guerrilla leader of about 22 in a conversation. Asked why the guerrillas did not lay down their arms and seek power through peaceful elections, the girl replied: "Never. Our goal is to replace the military people in Nicaragua and to have the Sandinista (the Marxist guerrilla movement) take over the army." Asked why, the girl leader said the Sandinistas were determined not to make the "mistake" of the late Marxist President of Chile, Salvador Allende, by working through what she called "the bourgeoisie."

Pallais said Americans should understand what really is happening in his country. "This is a fight to destroy all chance of democracy in Nicaragua. Of course, there is much progress yet to be made toward complete democracy as you know it in the United States, but we are working toward that goal. The Communists don't want us to have freedom to choose our way of life. They want to dictate their terms at the point of a gun—a Soviet-made machinegun."

Pallais said he is convinced that the great majority of Nicaraguans opposes any kind of Communist takeover "now that they know where the Marxists are and what they want. The guerrillas are not fighting against Somoza, they are fighting against the whole structure of the country. . . . We feel Nicaragua should not fall to Communism. We don't want this Communism."●

NASA ADMINISTRATOR'S ADDRESS AT AWARD OF CONGRESSIONAL SPACE MEDAL OF HONOR

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 4, 1978

● Mr. TEAGUE. Mr. Speaker, the Congressional Space Medal of Honor was presented for the first time to six deserving astronauts by the President of the United States.

I am including in the RECORD the text of the remarks of Dr. Robert A. Frosch, Administrator of the National Aeronautics and Space Administration, when he introduced the President at the Congressional Space Medal of Honor ceremony at Kennedy Space Center on October 1, 1978.

REMARKS OF DR. FROSCH

Mr. President, it is an honor to have you here on your birthday to celebrate the twentieth anniversary of the National Aeronautics and Space Administration and for the first presentation of the Congressional Space Medal of Honor. NASA people have been privileged, not only to continue and to advance the 20th century transportation revolution of aeronautics, but to participate in laying the foundations of the future human adventure in and use of space.

We will be seen, not as a technological incident of the 20th century, but as founders of a future activity of mankind, an activity of continuing and growing importance to the human race.

No matter how much the technology changes, (and the shuttle system will be an important change), the early accomplishments will always be remembered (as a child's first steps are always remembered no matter how great the later accomplishments.)

The path of civilization has been a hard one over the eons. Cultures have risen and sunk back, philosophies have waxed and waned, monuments have been built and have slowly eroded away. The true marks and memories of a civilization are not only found in its physical creations, and how it cares for itself and its people, but in the progress it has contributed toward liberation of the mind from the constraining horizons of the past. One major force has been the growth of scientific knowledge through the exercise of human reason.

The spirit of man aspires to the stars. Every generation has looked out at the universe in search of faith, of hope, of beauty, of adventure, and of the power of knowledge. In our generation, a very few have taken the first brave steps out there to begin the great human adventure of using and understanding the universe beyond the earth. To honor those recent accomplishments, and to lead our way into America's next decades of space, it is my privilege to introduce the President of the United States.●

AMERICA'S MAGINOT LINE

HON. B. F. SISK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 4, 1978

● Mr. SISK. Mr. Speaker, there are few symbols in this world that still have the power to inspire; the Statue of Liberty has that power.

Give me your tired, your poor
Your huddled masses yearning to breathe free . . .
The wretched refuse of your teeming shore,
Send these.
The homeless, tempest-tossed.
To me.
I lift my lamp beside the golden door.

Forty-seven million immigrants have come to the United States since the founding of the Republic. They have come in hope, to build a new and better life, to take part in the great democratic experiment, to become Americans.

But there is a new system of immigration to the United States, and it has been growing dramatically in the past few years. It has largely superseded the old one. This new system has grown entirely outside of our laws, in conflict with our most basic beliefs, and without our knowledge.

By now it has become so widespread that we must be aware of it. And whether we call his new system illegal immigration or undocumented immigration, its most salient feature is injustice.

There is no justice in any of it.

There is no justice to the legal immigrants, the 47 million people who have obeyed the rules, waited in the lines, studied the documents, and earned their citizenship.

There is no justice in it for Americans, particularly the poorest Americans, who have had their wages depressed and their taxes raised, their social services stretched beyond the limit, and their natural resources disappear faster than they can afford.

There is no justice for the criminals who feed off of this system, the smugglers, the forgers, the virtual slave traders who are seldom caught and punished.

Nor is there any justice for the illegal aliens themselves, who must endure incredible abuses, and live as outlaws.

There is no justice in allowing this system to continue. We are doing no one any favors. This system perpetuates one cruelty after another.

If we think the illegal immigration system is anything but another form of organized crime, we are fooling ourselves.

The illegal subculture has spawned a variety of flourishing businesses in most of our major cities, dealing with fraudulent documents and forgery. Some are

involved in smuggling people, which can be as profitable as smuggling drugs. The illegal aliens have broken one kind of law; the criminal organizations who specialize in these operations have broken every sort of rule of conduct we have on our law books. In our sympathy for the plight of the beleaguered alien, we have completely overlooked the criminal aspects of those who support this system. There has been no justice for them, either.

Nor is there any justice for the American citizens and legal residents. Who pays the most for the existence of this system? The poorest of Americans, who are often among the unemployed minorities. They pay several times over, in taxes, in lost social services, in lost jobs—the unemployment rate among minorities in our cities is as high as it is in any Third World city.

The working poor are also victimized—by working conditions that labor interests have fought for 50 years to improve and are now sliding backward. The vast pool of cheap, exploitable labor undercuts advances we have made for the benefit of the worker.

As long as this system continues, there will be no justice for the legal minorities—they will be caught in the crossfire. The more fraudulent documents in circulation, the more the documents will be devalued, and the more cultural prejudice will be turned against them. Those who truly care about the civil liberties of our native and naturalized minorities would be well advised to look at the system that most endangers them.

The danger to the country is apparent even now, but the cause is not. The cause is rooted in the population expansion in the poor countries that is driving these people to find somewhere else to go. There are close to 1 billion people on this globe living in abject poverty. Next year, there will be about 75 million more of them looking for shelter, food, energy, and employment, and what will happen the year after that? With nearly 40 percent of the world's population under the age of 15, can we not see what is happening?

We have a limited country. We have only so much water and land, only so many resources. The U.S. resources are finite. We have a system of democracy that we treasure, but democracy can only function if the numbers of people are in relative balance with available resources.

With the influx of illegal immigrants, we may double our population and resource use in about 44 years. Our use of energy, for instance, will aproach 26 billion barrels of oil equivalent per year, four times the current consumption of the rest of the world combined.

Americans are not unaware of the injustice of the immigration system. A recent Roper poll shows that 91 percent of all Americans favor an "all out effort to stop" illegal immigration. The pollsters themselves were astonished; such unanimity on any social issue is unprecedented. People know the situation is dangerous; the sparks are already appearing in the way of border and urban clashes, and it may be only a matter of time before civil violence occurs.

If we continue our present policy of pretending that the problem is not there because we cannot obtain hard figures to analyze, we can safely anticipate the worst.

What can we do? First, we must recognize that the illegal alien system is riddled with injustices, from top to bottom. We can recognize which legislative steps must be taken to protect the rights of our people. We can take corrective measures so that the Immigration and Naturalization Service can do its real job: The processing of legal immigrants and refugees and helping people to become American citizens.

History has given us warnings and vivid illustrations of the costs of ignoring those warnings. As our colleague, Mr. WOLFF has said:

"We really have a Maginot line. It is outflanked, overflown, and infiltrated. And you know what happened to the French. The American people have given as a mandate."

Mr. Speaker, what are we going to do with it? ●

WHAT ARE WE DOING ABOUT PRODUCTIVITY?

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 4, 1978

● Mr. MICHEL. Mr. Speaker, an article in the Chicago Tribune just happened to catch my eye the other day and I want to share its message with you.

American productivity is steadily deteriorating. Our high standard of living has been made possible by "sustained productivity improvement." But productivity has slowed to such a rate that the Council of Economic Advisors has said that it is "one of the most significant economic problems of recent years."

If this process continues, living standards will fall, taxes will rise, prices will go up and our entire way of life will be destroyed as surely as if we were victims of a military attack.

But what is the Congress doing about this?

What programs and policies has the Congress created to help Americans, to give them incentive to produce, to aid those who are willing to take the necessary risks in the hope of reward?

Mr. Speaker, I urge you to appoint a select committee to look into this question—and to suggest ways in which we can do something about it.

PRODUCTIVITY OFFICE IS DEAD, ALERT UNHEEDED

(By John Cunniff)

NEW YORK.—In the name of efficiency, many areas of the federal bureaucracy might be laid to rest, but that which was buried this past weekend hardly was the proper one.

So far is as known, the National Center for Productivity and Quality of Work Life didn't even will its vital organs to another agency.

All it left was its studies, and the warning it referred to constantly throughout its three-year life: Production efficiency, which helped build and support the American way of life is deteriorating.

Everyone piously acknowledges the dangers. In its 1978 report to the President, for example, the Council of Economic Advisers called it "one of the most significant economic problems of recent years."

But it's almost ignored. In its final report, the center commented that "although this slowdown affects almost every major economic issue, policymakers have paid inadequate attention to it."

Consider first, in the center's final words to the President and Congress, what productivity increases have meant to the country:

"Americans, throughout history, have enjoyed a steadily rising standard of living. The economy has expanded, new jobs have been created, choices have been broadened, and rewards have increased.

"The average American today consumes greater amounts and varieties of goods and services, performs less backbreaking work, and has more leisure time than the generations before.

"This better life was made possible by sustained productivity improvement—a continuing ability to produce more in less time and with fewer resources."

Now consider some of the things productivity increases could mean to the country right now:

A higher standard of living, economic growth, control of inflation, international competitiveness, funds for the environment, relief from poverty, support for the aged, more leisure and better health . . .

And finally, think of what conceivably could happen to the country if productivity fails to gain and perhaps actually declines:

Living standards would fall, taxes might rise, prices would soar, jobs would decline, wages would become stagnant, and conceivably, the entire American way of life, including its institutions, might crumble.●

RAILROAD RETIREMENT AND SOCIAL SECURITY: A MATTER OF SIMPLE EQUITY

HON. NEWTON I. STEERS, JR.

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 4, 1978

● Mr. STEERS. Mr. Speaker, until enactment of the 1974 Railroad Retirement Act Amendments of 1974, railroad employees and their dependents were eligible for railroad retirement benefits as well as social security annuities if they worked the minimal 10 years for the railroad industry. With enactment of the 1974 law, 25 years of railroad service was necessary to receive the dual benefit.

This in effect changed the rules governing retirement in midstream; 130,000 railroad employees suddenly found that retirement income they had paid for and counted on no longer existed.

Because these employees were no longer working actively for the railroads, their interests were not taken into consideration in the haste to pass the 1974 railroad amendments.

Last year, both Senator DOMENICI and Congressman LUJAN introduced legislation which I am reintroducing today that less than 25 years, but more than 10 years for the railroads prior to the 1974 amendments to be eligible for full benefits under the railroad retirement program and the Social Security Act. It

would also be retroactive to January 1, 1975, the effective date of the 1974 amendments.

While the cost of this legislation would be less than $30 million the first year, its impact on the individual retiree would be immeasurable. I am hopeful that my colleagues will understand the simple fairness that this measure asks.●

DANGER OF CARBON DIOXIDE EMISSIONS

HON. LEO J. RYAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 4, 1978

● Mr. RYAN. Mr. Speaker, the importance of carbon dioxide emissions to the atmosphere must be emphasized in our national energy planning. The dangers associated with increasing use of fossil fuels negate the short-term benefits from the use of readily available fossil fuels.

If we must use these fossil resources, perhaps we should find ways to remove the carbon dioxide at the source. If that is not possible or cost effective, then we may have to assign higher priorities to the rapid development of energy sources that do not add to the carbon dioxide levels in the atmosphere. Such nonpolluting energy resources are: solar, geothermal, fusion, magnetohydrodynamics, and ocean thermal energy conversion.

An article in Science on August 4, 1978, by geology Prof. Dewey M. McLean, of Virginia Tech entitled "A Terminal Mesozoic 'Greenhouse:' Lessons from the Past" discusses global warming resulting from a carbon dioxide-induced greenhouse conditions which he theorizes led to mass extinctions of life forms about 225 million years ago. He thinks that a sudden warming induced by rapidly rising carbon dioxide levels "would potentially impose on us conditions comparable to those that terminated a geologic era." The implications are provocative and worth considering in our energy policy development over the long term.

I insert an article that appeared in the Washington Star on September 27, 1978, which discusses Professor McLean's views on the carbon dioxide issue. I commend this article to the attention of my colleagues.

The article follows:

PROFESSOR LINKS DINOSAUR'S DEATH TO WARMING TRENDS

RICHMOND.—A fresh look at fossils from 65 million years ago convinced Dewey M. McLean that heat, not cold, wiped out the dinosaurs. The Virginia Tech geology professor sees frightening implications for our time.

If he's right about that primal catastrophe, his findings could mean not only trouble for President Carter's energy policy, but our very way of life.

McLean theorizes the mass extinction of dinosaours—and other animals—that marked the end of the Earth's Mesozoic era were caused by a global warming trend.

He believes that warming trend—a relatively brief one according to his conclusions based on fossil studies—was triggered by a buildup of carbon dioxide in the atmosphere.

Doomsday prophets have warned for years—with little proof—that burning of coal, oil and gas by an energy-guzzling society and the felling of lush, tropical forests could unleash just such a disastrous "greenhouse effect."

McLean, however, is perhaps the first scientist to offer historical precedent for just such an occurrence in the fossil record from precise time dinosaurs suddenly disappeared 65 million years ago.

He said his research supports the conclusion of another geologist, W. S. Broecker, that "a natural warming coupled with warming due to carbon dioxide in the atmosphere will present us with a climatic surprise in the first decade of the next century—abrupt global warming."

What it all may mean is that the black Angus steer and other familiar plants and animals we raise for food could go the way of the lumbering three-horned Triceratops—before we grasp what is happening.

"Before the middle of the next century we could be in the initial stages of what could be a major greenhouse (effect)," McLean warned. "Global warming is going to cause us great problems."

In a recent Science magazine article, he suggested the melting of the polar ice masses could raise ocean levels, inundating the Earth's populous low-lying regions.

But the worst effect of global warming could be a reproductive failure among the large mammals less adapted to tropical conditions than humans.

"I came to the conclusion that the same phenomenon that triggered the late Mesozoic extinctions 65 million years ago is being duplicated by humanity today," said McLean.

McLean's research may help fuel the controversy over the wisdom of President Carter's policy to promote the burning of coal until the nation develops a better energy source.●

UNITED STATES SHOULD LIFT VIETNAM EMBARGO

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 4, 1978

Mr. SIMON. Mr. Speaker, the Louisville Courier-Journal had an editorial the other day which makes eminent good sense.

I am pleased to note that great newspaper's recommendation that the United States should consider lifting the Vietnam embargo, and I am also pleased that they have noted the leadership provided on this issue by Congressman G. V. MONTGOMERY.

It is in our own self-interest to improve relationships with the Government at Hanoi. If we do that, we do not suggest that we agree with them on everything any more than we agree with the Government of the People's Republic of China or the Government of the Soviet Union or any government with which we have diplomatic and trade relations.

The war is over. Let us build constructively for a real peace which can only come when nations communicate with each other.

I hope my colleagues will read the editorial.

[From the Louisville Courier-Journal, Sept. 21, 1978]

U.S. SHOULD CONSIDER LIFTING VIETNAM EMBARGO

President Carter missed a chance last week to stabilize the U.S. position in Southeast Asia when he extended, without comment, the trade embargo against Vietnam. As we have learned in Cuba, small nations denied trade with the West often are virtually forced to turn to the Soviets for markets and essential imports.

Hanoi avoided total reliance on the Soviet Union in the past by being equally open to China. But the war with Chinese-backed Cambodia closed that option. For now, Russia is the only trading partner available to Vietnam unless we signal to our regional partners our acceptance of Hanoi into normal commerce.

Vietnam recently has done much to pave the way for normalization of relations with the United States. It has dropped demands for reconstruction aid and seems to be cooperating fully in identifying the bodies of American servicemen missing in action. Congressman G. V. Montgomery's report on his recent MIA delegation trip to Hanoi recommends that Washington consider resuming negotiations for normalization.

So far, the Vietnamese have made concessions without positive response on our part. If we are dragging our feet to avoid offending China, which considers Vietnam a Soviet pawn, then we are ignoring the chance that both China and the U.S. would be better off if Vietnam were not forced into closer contact with Russia.

If Mr. Carter does not take the initiative, Congress should address this issue soon. It's time to put the unhappy war behind us, as we did with Germany and Japan after World War II. Even more importantly, Vietnam is the key to stability in Southeast Asia. So we should not lag in meeting Hanoi halfway in its obvious efforts to be an independent nation, free of the suffocating Soviet embrace.

TRIBUTE TO BELTSVILLE LA CEIBA PROJECT

HON. GLADYS NOON SPELLMAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 4, 1978

● Mrs. SPELLMAN. Mr. Speaker, I wish to take this opportunity to recognize in the Congress of the United States the efforts of the Beltsville La Ceiba project. This organization consists of a dedicated group of people in Beltsville, Md. who have undertaken a fundraising and general support effort for a vocational school in La Ceiba. Honduras.

The school, located in an area of extreme malnutrition, disease, and illiteracy, will educate local Honduran youth in necessary agricultural and home economic skills to enable them to work toward a more productive and self-sustaining community.

In a "kick-off" fundraising event, the Beltsville community has scheduled a walkathon for Sunday, October 8, 1978. They hope to collect more than $20,000 for the La Ceiba school through this effort. In addition to financial assistance, the Beltsville citizens will provide technical assistance in agriculture, home economics, auto mechanics, and building trades. They will also provide books and other printed materials to establish a comprehensive library to cover all four vocational fields. Their goal is to initiate a people-to-people bridge of understanding between the citizens of Beltsville and La Ceiba.

The participants in the Beltsville-La Ceiba project truly deserve commenda-

tion. Their initiative has brought about a special tie between peoples which neither distance nor language can sever. Their concern and sensitivity to the sufferings of others has also enriched our own community as well and they should be proud of their accomplishments.

I wish to offer my congratulations and best wishes for success to the citizens of Beltsville and La Ceiba for a successful project.●

AMERICA MAGAZINE, THE NATIONAL CATHOLIC WEEKLY, CASTIGATES PRESIDENT MARCOS OF THE PHILIPPINES

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 4, 1978

● Mr. DRINAN. Mr. Speaker, the continuing repression of freedom in the Philippines has been noted once again in a significant editorial in the October 7, 1978, issue of America, the national Catholic weekly edited by the Jesuits of the United States.

The editorial notes that after 6 years since the declaration of martial law, the "rationalizations of the Marcos apologists have worn embarrassingly thin."

The editorial from America magazine follows:

A PHILIPPINE ANNIVERSARY

On September 21 of this year the people of the Philippines once again observed a sad anniversary. On that day six years ago, their President, Ferdinand E. Marcos, declared martial law in their republic. It was a measure the President described as a response to a crisis, necessary to protect the nation's security against insurrection. But the crisis has been conveniently stretched by Mr. Marcos until it has become a way of life. Despite such cosmetic gestures as managed referendums and the fraudulent election of a legislative assembly, Mr. Marcos exercises dictatorial power over what was once a liberal republic. In fact, as his regime moves into the seventh year of its self-styled "constitutional authoritarianism," the dictatorship threatens to become a dynasty. The First Lady of the Philippines, Imelda Romualdez Marcos, appears ready to yield to "popular demand" and become Deputy Prime Minister with the right of succession to her husband. (She has also been nominated by the Chief Justice of the Supreme Court for the Nobel Peace Prize.) It has become transparently clear that the fundamental objective of martial law in the Philippines is, and has been from the beginning, the perpetuation of the Marcoses in power.

In 1972, Mr. Marcos justified the imposition of martial law on two main grounds: the danger of insurrection and the need for radical social and economic reform. Six years later, it seems only fair to ask what the Marcos Government, exercising the full powers of martial law, has accomplished in its campaign against insurrection and its promotion of social and economic reform.

In 1972, Mr. Marcos cited several distinct sources of insurrection. Chief among these was the Maoist-inspired New People's Army, operating chiefly in Luzon, but the Philippine President also noted the sporadic violence of Muslim rebels in the southern Philippines as well as a mysterious right-wing plot to overthrow the Government by assassinating the President. Despite the fact that the two chief field commanders and the principal ideologue of the New People's Army were captured by Government forces in the last two years, the back of the guerrilla movement has not been broken as the Government had claimed. Instead, its numbers have grown as more young people, embittered by the harsh repression of the Marcos regime, have joined the guerrillas. The Muslim rebels reacted strongly against the imposition of martial law, and their movement grew into a major war for secession that has exacted a heavy toll in lives and material resources and dislocated well over a million and a half refugees. The true facts of the so-called rightist conspiracy remain difficult to determine, but the American gunman who confessed his part in the plot and then implicated the sons of two of Mr. Marcos's principal rivals has been pardoned by the President and has settled comfortably in the Philippines, set up in business by the chief of Mr. Marcos's military intelligence and married to the daughter of one of Mr. Marcos's generals. (The ways of martial law are strange indeed.)

The radical social and economic reforms that Mr. Marcos claimed would make the Philippines a "new society" have not touched the basic problem of redistribution of wealth in the Philippines. The economic empires of a few of Mr. Marcos's enemies were dismantled and a much heralded program of land reform was launched. Six years later, the condition of the ordinary workers has actually deteriorated because of rampant inflation. Enormous fortunes have been made by individuals and groups linked to the Marcos family. The wealth of the Philippines remains concentrated within a small circle of families, only now they are completely subservient to the Marcos interests.

Throughout the past six years, the principal source of protest against the repression of the Marcos Government has come from individuals and groups within the Catholic Church. There is little doubt about the harshness of the repression; illegal detention of political prisoners and the use of torture have been documented by a number of international groups, including the International Commission of Jurists and Amnesty International. But Mr. Marcos has cleverly sought to divide the church in its opposition to him, and to some extent he has succeeded. The all-purpose accusation of "subversive activity" is used to intimidate all critics. Government action against Catholic institutions is a danger that inhibits many Philippine bishops. But there are courageous voices that continue to be raised in protest, and they have gained attention and respect in the international community. The rationalizations of the Marcos apologists have worn embarrassingly thin.

At the present time, U.S. policy toward the Philippines is hedged in ambiguity. Under pressure from Congress, the Department has criticized violations of human rights by the Philippine Government, criticism that has been angrily rejected by Mr. and Mrs. Marcos as a form of moral imperialism. But Washington persists in its belief that U.S. military bases in the Philippines are essential to our defense posture in that part of the world and is currently involved in negotiations on the terms under which the bases will continue there. Although the United States does not pay rent for its bases to any other country with whom it has a mutual defense treaty, Mr. Marcos is reportedly holding out for compensation in excess of the $1 billion once offered by then Secretary of State Henry A. Kissinger.

It is time for the Carter Administration to take another look at U.S. involvement in the Philippines. The cost in dollars necessary to support the Marcos dictatorship is high. The cost in national integrity and human rights is even higher.●

A VISA FOR IAN SMITH

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 4, 1978

● Mr. GOODLING. Mr. Speaker, I would like to bring to the attention of my colleagues an editorial that appeared in Wednesday's Washington Post. With regard to American foreign policy toward Southern Africa, it points out what is sadly becoming more the rule and less the exception to it.

In spite of what is purportedly a neutral policy stance on the Rhodesian situation, we again see an alarming inconsistency on the part of administration officials. The State Department and our U.N. delegation could hardly be accused of being timid when it comes to showing their displeasure with the Ian Smith government. But when faced with the senseless slaughter of missionaries and other innocents on numerous occasions, the State Department declines substantive comment. On the occasion of the shooting down of a civilian airliner and the murder of most of its surviving passengers, the State Department again emitted an embarrassing silence. One might ask the question: "Are some more human than others?", in order to find an explanation for the silence of our otherwise human rights-oriented administration.

What is equally disturbing is the fact that the President has seen fit to defy the will of 27 U.S. Senators who have a legitimate interest in the exchange of views with Mr. Smith and his government. As Members of Congress, we have the privilege and responsibility to share the burden of policymaking with the President.

Of course, it cannot be denied that there are deep and troubling faults with the ideological essence of both sides in the Rhodesian struggle. It is not my intention to place a halo of rightousness and goodness on the collective heads of the Smith government. The point is that both sides deserve a hearing and the President should direct the State Department to issue the appropriate visas to Mr. Smith and his associates.

I would now like to share with my colleagues the following:

A VISA FOR IAN SMITH

It is a shabby game the United States is playing with Ian Smith, prime minister of Rhodesia, over his attempt to visit the United States. Invited two weeks ago by friendly senators to present his case for more American support, he was expected to arrive this week. But the State Department, otherwise the champion of an open visa policy, has so far refused him permission to come. Why?

The State Department says that to honor Mr. Smith's Rhodesian passport would violate the sanctions voted against his "illegal" government by the United Nations. Yet the passports of Rhodesian students are regularly accepted, and the legal loophole of "exceptional humanitarian grounds" surely fits a visit by someone trying to end a bitter war. Must the United States be "purer" than Zambia, which has several times admitted Mr. Smith? President Carter himself has sug-

gested giving him a tourist visa, which would not imply recognition of his regime. But the State Department, claiming that a visit now would undermine "delicate negotiations," defers decision. Thus does it nourish the suspicion that it wishes to keep Mr. Smith from expanding the ranks of those who feel the American aim is to promote a guerrilla victory.

Yesterday, news reports indicated that the State Department might consider granting a visa if Mr. Smith agreed to attend the administration's long-sought all-parties conference. If it is all right for the Department to try to win Mr. Smith and his black colleagues in Salisbury to the American course, then Mr. Smith should have the reverse opportunity. And if the department wants to practice persuasion, let it simply co-sponsor the senators' invitation. After all, more than a visa is involved. The main reason the Salisbury government has resisted American policy is its fear that the United States is too committed to pleasing certain countries in black Africa to give a moderate government with whites in it a fair shake. That fear is only confirmed by the visa shell game.

Finally, one must ask how it looks to the guerrillas to see the United States treating Ian Smith like dirt. The other day the guerrillas shot down a civilian Rhodesian airliner and then murdered some survivors of the crash. Does not the diplomatic gesture reinforce the atrocity by proclaiming white Rhodesians pariahs who somehow exist outside the bounds of ordinary civilities? This is a desperate time in Rhodesia—a time to give first priority to halting a war that threatens tragedy for blacks as well as whites. That means, in this instance, showing Ian Smith—and everyone else in Rhodesia/Zimbabwe—that the United States has the whites' legitimate interests at heart. That is what the visa question is really about.●

A TRIBUTE TO CHRISTOPHER COLUMBUS

HON. ANTHONY TOBY MOFFETT

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 4, 1978

● Mr. MOFFETT. Mr. Speaker, we honor the Italian voyager Christopher Columbus, whose journey from Spain culminated with his arrival in the West Indies on October 12, 1492. Columbus' arrival marked the first major European expedition to cross the Atlantic Ocean.

Christopher Columbus was born in Genoa, Italy, in about 1451. As a youth he worked at his father's trade, but he was always drawn to the sea, making consistently longer excursions and gaining impressive seafaring experience. Columbus' future, however, lay in fulfilling his dream for what he always called the "Enterprise of the Indies," a theory based on the idea of sailing west to reach the East.

Columbus went first to Portugal, for financial support of his plan. The Portugese crown declined his appeal, so he went to England, where he was again rebuffed. Finally he went to Spain, where he attained the support of Queen Isabella. The Queen directed the matter to her accountant who organized funds necessary to finance the voyage. The Spanish monarchs all agreed to Columbus' terms after 3 months of negotiations, and consequently provided him with ships and crew. In addition, Columbus was supplied with necessary provisions for the possibility of an encounter with an unfamiliar civilization.

Columbus commanded a fleet consisting of three small ships, the Niña, Pinta, and the Santa Maria. For more than 2 months the ships sailed; Columbus became anxious awaiting the sight of land. When at last the three ships reached their destination, Columbus believed that they were among islands of the Orient. They were unaware that it was in fact not the land for which they originally sailed, but an entirely new land.

The achievement of Christopher Columbus was unprecedented; the consequences of his voyage were enormous. Columbus' discoveries were followed by permanent and dispersed settlement.

The significance of Columbus Day is that it is an appropriate celebration to commemorate the challenge of discovery, and of exploration. "Columbus Day" is now celebrated as a holiday in the United States and 13 Latin American countries.

We honor Christopher Columbus for his courage, and for his foresight. All Americans owe him a debt of gratitude. Italian Americans—in fact, all Americans—can be proud of this indispensable contribution to the development of Western Civilization.●

THE WORLD BANK RECONSIDERED

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 4, 1978

● Mr. DORNAN. Mr. Speaker, I came across a most disturbing article revealing outrageous and totally unacceptable conduct on the part of the World Bank and calling for swift and decisive action on the part of the Members of Congress. The article is found in the September 25 issue of Barron's and is entitled "Down a Rathole?: The World Bank is Lending Money to Laos, Vietnam."

The article, Mr. Speaker, brings to light that "many of the social reforms that the Bank is funding involve fostering the spread of socialism and communism." It goes on to point out that the United States no longer has an effective veto power over which government get IDA loans (International Development Association) or any other Bank money, even though the United States provides 37 percent of the IDA funds and 25 percent of the Bank's. More specifically, Mr. Speaker, the International Development Agency recently had the audacity to loan $60 million to Vietnam to "finance a scheme for the Communist government to seize land from farmers in the south and force them into communes of about 75 families each." And if that were not enough, Mr. Speaker, the Bank is "encouraging energy development in Vietnam, with the aim of self-sufficiency within 10 to 15 years" and is also proposing a project "for rehabilitation and expansion of the Di An Railways Workshop near Ho Chi Minh City. The cost is tentatively estimated at $80 million. Meanwhile, Vietnam has obtained $33 million for reconstruction from India, the largest single recipient of World Bank (IDA) funds; India plans to give Vietnam another $50 million for the same purpose." In addition, "the Bank approved an IDA loan of $8.2 million last year to Laos, and now is mulling two more IDA loans for Laos."

To add insult to injury, Mr. Speaker, an American is President of the World Bank, Mr. Robert McNamara, presiding over these giveaways, through fleecing of the American taxpayer, to bank-roll totalitarian regimes. And giveaways are precisely what these loans are. As the article points out, the loans run for 50 years with a 10-year grace period, and, except for an administrative charge of three-quarters of 1 percent, are interest-free. This comes at a time when young American families are paying 10½ percent compounded interest for home mortgages. Moreover, as a Congressional Research Service study has found:

> The Bank is doing relatively little to help the poor and that reform projects may not generate the foreign exchange needed to repay the amounts of money borrowed. In short, the Bank is seen as presiding over the buildup of debts which will ultimately be defaulted.

Mr. Speaker, did more than 57,000 young Americans give their lives to enable the free-market economies of the world to bank-roll the totalitarian, collectivist regimes of Vietnam and Laos? Even as these outrageous and immoral giveaways continue, hundreds of MIA's may still be languishing in stifling dungeons. What incentive do the Vietnamese have to negotiate for our MIA's when they can obtain funding, virtually without any strings attached, from the World Bank?

Mr. Speaker, the immoral practices of the World Bank are an affront to American taxpayers. I urge my fellow colleagues to support Congressman WILLIAM YOUNG's amendment to the appropriations bill for the World Bank which seeks to establish human rights considerations in connection with all loans. This absolutely essential amendment has been deleted by the House-Senate conference committee report; I, therefore, exhort my fellow colleagues to vote down the report. If no such amendment is included in the appropriations bill, Mr. Speaker, then we have no choice but to cut off all appropriations to the IDA and the World Bank. This must be done in the name of decency and honor. If we do not take concrete measures to express our righteous indignation, then, Mr. Speaker, we betray the very principles and ideals on which our Republic was founded.

At this point, I include in the RECORD the shocking article from the September 25, 1978, edition of Barron's:

DOWN A RATHOLE?—THE WORLD BANK IS LENDING MONEY TO LAOS, VIETNAM

(By Shirley Hobbs Scheibla)

WASHINGTON.—The new social season will open today with a round of parties for the delegates of 130-odd countries assembled here for the annual meeting of the International Monetary Fund and the World Bank.

They've been flown in and booked at luxurious hostelries at the two organizations' expense, all in the name of relieving global poverty.

In between the parties and speeches, they'll take up the most serious piece of business confronting the Bank: to double its callable capital, now at $30 billion, with $7 billion promised by the U.S. This week, moreover, Congress is expected to take final action on an appropriation for the World Bank. In response to a request for $2.2 billion, the House approved $1.5 billion, up from nearly $1.2 billion voted last year (as we went to press, measure was pending in the Senate). The total includes $1.2 billion for the Bank's soft loan window, the International Development Association. Rep. Clarence Long (D., Md.), chairman of the Appropriations Subcommittee on Foreign Operations & Related Agencies, tried unsuccessfully to reduce that figure to $900 million.

IDA loans, which are virtual giveaways, are burgeoning. They run for 50 years, with a 10-year grace period, and, except for an administrative charge of three-quarters of 1%, are interest-free. These loans go directly to governments, which sometimes then relend the money at rates as high as 17%.

LITTLE HELP FOR THE POOR

Friends of the World Bank, notably the Carter Administration, claim that it's good public policy to emphasize multilateral over bilateral foreign aid. In this way, or so runs the argument, lenders may achieve reforms that would be politically impossible otherwise. But Congress is having second thoughts about what the World Bank is trying to achieve. For one thing, the Congressional Research Service has found that the Bank is doing relatively little to help the poor and that reform projects may not generate the foreign exchange needed to repay the amounts of money borrowed. In short, "The Bank is seen as presiding over the build-up of debts which will ultimately be defaulted." (On June 30, loans on the books totaled $47.8 billion.) To make matters worse, many of the social reforms that the Bank is funding involve fostering the spread of socialism and communism.

The U.S. no longer has an effective veto over which governments get these subsidies or any other Bank money. Though it has contributed 37% of IDA's funds and 25% of the Bank's the U.S. controls only 23% of the voting power.

FULL ACCOUNTING LACKING

Loans to such countries as Laos and Vietnam have gone forward despite negative U.S. votes, which, by the way, will not be obligatory for four other loans to Vietnam and two to Laos currently pending at the Bank. To gain Congressional approval of a multimillion-dollar appropriation for the World Bank last year, President Carter promised negative votes only during fiscal 1978, and the projects won't be ready to go before the directors by then.

By the same token, the White House found an escape clause in its pledge to Congress that the U.S. director of the Bank would vote against loans for the production of such surplus commodities as citrus fruits, palm oil and sugar. As a result, a negative vote was cast for only two out of nine such loans, all of which won approval.

The U.S. can't even effectively keep track of what happens to the money it contributes. According to the U.S. Comptroller General, the Secretary of the Treasury has failed to carry out the directive of the Foreign Assistance Act of 1973 to work through the U.S. director of the Bank to obtain a full accounting of what is done with World Bank money. Although the Bank has flooded the lawmakers with material, it sheds little light on what they want to know.

Rep. Long, for example, complains that they've been unable to determine what money went to whom for individual projects. While the Bank boasts that contracts are awarded under international competitive bidding, it adds that awards are made on the basis of the lowest *evaluated* bid. We asked John King, a Bank procurement expert, what there is to evaluate if the bidders are qualified and their proposals meet specifications. He said that some might meet them better than others.

CITIZEN OF THE WORLD

In return for its huge contributions, the U.S. has insisted upon an American president. The theory is that he will look out for U.S. interests. But those who have talked with Robert S. McNamara (he wouldn't see us) say he views himself as a citizen of the world; Rep. C. W. (Bill) Young (R., Fla.), ranking minority member of the Appropriations Subcommittee, calls him a super-sovereign, responsible to no one.

On this score, the Congressional Research Service study has noted: "Robert McNamara's presidency, 1968-present, has been characterized as a period in which development has come to be seen as social change." He's now embarking on a third five-year term, reportedly with a likely salary boost from $116,000 to $150,000. Under McNamara's tenure, the Bank's lending has zoomed from less than $1 billion per year to $8.7 billion.

As such events suggest, the World Bank has changed a great deal since it opened for business in 1947. At that time, its mission was to help the free world recover from World War II; hence its formal name, the International Bank for Reconstruction & Development. In 1962, it added the soft loan window, and IDA's virtual giveaways are moving in an ominous direction.

IDA's recent $60 million loan to Vietnam is a case in point. The southern part of Vietnam is the agricultural heartland of the nation, and most of the land is privately owned. *Barron's* has obtained two confidential World Bank reports which show that one of the main purposes of the loan is to finance a scheme for the Communist government to seize land from farmers in the south and force them into cooperatives (communes) of about 75 families each.

BORROWER AUDITS ITSELF

The project involves a dam on the Saigon River and irrigation and drainage ditches. The money would go directly to the Vietnamese government, which then would levy user charges on the newly formed cooperatives. According to the Bank report, the project also is linked to the forced resettlement of four-five million people by the end of 1980 in New Economic Zones in the south.

According to the report, the co-op development will have three phases. At first there will be loose forms of work teams for work exchange or mutual aid. With the establishment of co-ops, part of a member's compensation will be related to the amount of land he contributes. When the government owns all the land, a member's pay will hinge solely on the amount of work he does. The government will tell the co-op members how much they can produce and what they can charge.

Both reports warn that because of the possibility of rebellion among farmers, the loan is very risky.

There is another risk which the reports fail to mention. Recent newspaper reports indicate that Vietnam is either at war or on the verge of it. Barron's asked John Merriam, the Bank's director of information and public affairs, about the institution's longstanding policy of not lending to a country at war. He said that Vietnam appears to be involved only in border skirmishes, but that, in any event, the Bank will lend to a country engaged in hostilities so long as they won't interfere with a project.

While the Bank asserts that it requires independent audits for its projects, such a policy is impossible in a Communist country. But the Bank staff claims that the auditing procedures of the Vietnamese government are completely satisfactory. In other words, it is okay if the government audits itself.

The $60 million loan is designed to increase the production of rice. When an IDA mission visited Vietnam a year ago, it found that an irrigation scheme for sugar cane would cost about $150 million and that another $300 million would be needed for factories, power transmission lines, roads and housing. The mission found that this scheme was not as well prepared as the one for rice, and the government agreed to postpone development. Despite opposition of the U.S. Congress to any loans encouraging sugar production, the Bank is keeping this on the back burner.

NEW POWER PLANTS CONSIDERED

According to the report, the institution plans future discussions with Vietnam over arrangements for transforming southern agriculture along the lines of what it calls the successful Socialist model in the north. (Overall, the Bank is eyeing $10 billion worth of worldwide agricultural projects for possible financing. That could mean a lot of transformation.)

To bolster its program for cooperatives, Vietnam is placing new emphasis on rural electrification. The World Bank expects to send a mission there in November or December to discuss a loan for that purpose. The idea is to build two hydro-electric power plants of 70 megawatts each as an addition to the Da Nhim project near Da Lat, built by the South Vietnamese government.

Nicholas Gibbs, the Bank's chief expert on Vietnam, says he's already been there for a preliminary look. While in Hanoi, he visited the Australian, British and Japanese embassies to discuss the possibility of cofinancing. The Japanese appeared the most interested, perhaps because Japan helped finance the existing plant.

Gibbs reveals that the Bank is encouraging energy development in Vietnam, with the aim of self-sufficiency within 10 or 15 years. Accordingly, IDA is weighing a coal project estimated to cost between $50 and $60 million. A Bank mission is scheduled to go to Vietnam in November to determine foreign exchange costs and the amount and sources of equipment for development of a mine in Quang Ninh Province, near Hai Phong.

Gibbs says that Vietnam appears to have offshore oil and gas potential, but he asked the Bank to hold off on proposed financing for an exploration project estimated to cost $10 million. The country now is working directly with a number of oil companies, and also is negotiating with France, Germany, Italy and Norway.

At the annual meeting here, World Bank officials expect to discuss with representatives of Hanoi the financing of industrial rehabilitation. A Bank "identification mission" already has visited the country and completed its report, which is unavailable either to the U.S. director of the Bank or to members of Congress.

When we talked with Gibbs, a representative of the United Nations Development Program was in Hanoi, expecting to sign an agreement to put up $2 million to study a proposed Bank project for rehabilitation and expansion of the Di An Railways Workshop near Ho Chi Minh City. The cost is tentatively estimated at $80 million.

Meantime, Vietnam has obtained $33 million for reconstruction from India, the largest single recipient of World Bank (IDA) funds; India plans to give Vietnam another $50 million for the same purpose.

HUMAN RIGHTS STANDARD

As word of the World Bank's financing for Vietnam spreads, Rep. Young says that opposition from veterans' groups, mindful that 50,000 young Americans gave their lives to prevent the spread of Communism to

South Vietnam, is mounting. His amendment to the appropriation bill passed by the House says that the President shall instruct the U.S. director to seek a change in the Bank's Articles of Agreement to establish human rights standards to be considered in connection with all loans.

Over the negative vote of the U.S. director, Edward R. Fried, the Bank approved an IDA loan of $8.2 million last year to Laos (Lao People's Democratic Republic) for small irrigation schemes, breeding pigs and improving the quality of seeds. In contrast to his simple negative vote for the Vietnam loan, Fried explained to the Board that the U.S. objected on grounds of violations of human rights by Laos, The Bank now is mulling two more IDA loans for Laos.

OVERRULED BY WASHINGTON

There's a saying that the Bank takes tax money from poor people in rich nations to give to rich people in poor nations, and what happened to a tubewell for irrigation in Bangladesh furnishes a case in point. Rep. Long cited a report by the Center for International Policy which says that Dacca Fibers won a $12 million contract to supply pumpsets for the tubewell, although another company had reportedly offered to provide them at the World Bank's original cost estimate of $9 million. At this point, the Dacca staff of the Bank urged that the project be postponed or cancelled, but it was overruled by Washington. According to the Center, Dacca Fibers is owned by Jahural Islam, reputed to be Bangladesh's richest citizen.

Such activities are one reason why Congress is insisting upon obtaining more information from the Bank. In response to growing criticsm of its disclosure policy, the Bank has started to make public a quarterly summary of proposed loans. The first issue, published in July, gave only sketchy data.

As noted earlier, the Foreign Assistance Act of 1973 said that the President, acting through the U.S. representative to the Bank, should seek establishment of an independent review and evaluation system. It also directed the U.S. Comptroller General to prepare auditing and reporting standards to help in formulating the terms of reference for a review and evaluation group, and periodically review audit reports and related information and report to Congress and the President.

LACK OF TRAINING

In a report issued in early June, Comptroller General Elmer Staats found that the Operations Evaluations Department formed by the Bank conforms with neither the Foreign Assistance Act, nor the standards he stressed. The staff is recruited from within the Bank, he declared, and "is not provided with guidance or training in basic evaluation techniques."

The Department has been reviewing projects completed since 1972, but no current ones. "The Director-General [who heads the Department] informed us that the reviews focus on completed projects which were approved five to seven years earlier and that Bank practices followed at that time may not be relevant to current practices . . ."

The Department's Annual Review of Project Performance Audit Results, dated February 1978, states that it is based on findings regarding loans totaling $1.3 billion for 70 projects. It explains that it doesn't identify the projects because the Bank is accountable only to its "shareholders," its member governments. But U.S. Congressmen have been unable to learn the identity of the projects cited. Although the U.S. director of the Bank got a report which identified the projects, he is precluded by Presidential Executive Order 11652, issued by President Nixon in March 1972, from making it available to members of Congress.

The dearth of useful information makes it virtually impossible to tell what the Bank is doing. It is known, however, that the U.S. has contributed $5.6 billion, not counting the sum voted recently by the House. And that, as Rep. Young points out, "doesn't even include the $7 billion in callable capital which the Congress has appropriated for the World Bank. It is this 'callable capital,' i.e., the full faith and credit of the United States, which gives the World Bank so much financial stability."

Without doubt, however the Bank's staff has been highly successful in eliminating poverty at home. When Congress complained that Bank salaries for U.S. employes were tax-free, the latter started paying taxes; the Bank simply raised their pay by the amount of taxes paid. McNamara's salary has been mentioned. The senior vice president now grosses $106,950. The U.S. executor director gets $83,830. That compares with $66,000 for U.S. cabinet members and $57,000 for members of Congress. The Bank also makes loans to its staff members at below-market rates.●

VISA TO IAN SMITH

HON. JOHN BUCHANAN

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 4, 1978

● Mr. BUCHANAN. Mr. Speaker, the Department of State today anounced its intention to grant a visa to Ian Smith to visit the United States. While I certainly have mixed reactions about this visit because Mr. Smith has consistently opposed majority rule in Rhodesia, I believe the Department exercised good judgment in issuing this visa.

The United States has continued to play the honest broker in an effort to establish a true and lasting peace in Zimbabwe which will protect the rights of all the people in that troubled land, both black and white.

As such, we can ill afford to turn our backs on any opportunity which might result in a peaceful solution.

I continue to believe that an all party conference, as proposed by the Anglo-American plan, is the best route toward a cessation of hostilities and toward elections in which all individuals can participate. It is my hope that during his visit, Mr. Smith can be convinced to participate in such a conference.

In my judgment, the people of Rhodesia, black and white, want a democratic form of government and if given the opportunity would reject overwhelmingly other forms of government which some might espouse.

For my own part, I will pray that a peaceful solution can be found which will permit the people of Rhodesia to determine their own future and that the upcoming visit will contribute to that goal.

I would call to the attention of my colleagues the following statement released by the Department of State concerning the issuance of this visa.

STATEMENT FROM DEPARTMENT OF STATE

As you know, Ian Smith and the members of the Salisbury Executive Council have sought permission to visit the U.S. in response to an invitation issued by twenty-seven members of the U.S. Senate.

After careful and extensive review, the Department of State has decided on an exceptional basis to grant that request.

In reaching its decision, the Department weighed a number of complex and serious considerations on all sides of the issue. Ultimately, we have decided to make an exception in this instance and grant the requested Visas because we believe the visit can contribute to the process of achieving a settlement of the Rhodesian conflict, to which the Administration remains entirely committed. Moreover, we are mindful of the need to hear all points of view on an issue of this importance, as well as the distinguished source of the invitation. We believe that the visit can contribute to the American public's understanding of this complicated matter and to their support of our search for an equitable and enduring settlement.

It is important that the reasons for our involvement in efforts to settle the Rhodesian conflict and our role in the negotiations be clearly understood, both here and abroad.

For the last 18 months, the United States has participated jointly with the United Kingdom in a major diplomatic initiative aimed at ending the increasingly bloody conflict in Rhodesia and establishing a basis for a peaceful and orderly transition to majority rule.

We have not favored one side or the other in that conflict. We have resisted efforts by both sides to make our role a partisan one. We have not, for example, accepted the demands by the external parties that they be given a dominant role in the critical transition period leading up to elections. Similarly, we have not endorsed the arrangements of the internal settlement, because those arrangements do not offer all parties the opportunity to participate equitably in free and fair elections held in peaceful circumstances.

What we have supported throughout our negotiating initiative is an arrangement that would assure the people of Zimbabwe their right to choose their own government in elections that are manifestly fair and impartial.

Our efforts in pursuing that goal have been unstinting. United States and British envoys, including Secretaries Vance and Owen and Ambassador Young, have traveled hundreds of thousands of miles in their attempts to reconcile the differences among parties.

We have done so because the parties have continued to wish us to play that role. One of the last hopes for a peaceful resolution of the Rhodesian conflict lies in the determination of the British and American governments to pursue every avenue that might lead to a settlement.

Our goal remains unchanged. Moreover, we are convinced that the achievement of it has become even more urgent.

As the situation in Rhodesia becomes more and more critical, we believe it is important that we take every conceivable opportunity to help the parties to reconcile their differences and to bring to an end the bloodshed and suffering.

The visit of Mr. Smith and other members of the Executive Council to this country can provide just such an opportunity. We want to renew our discussions with them in order to make it clear that what we are seeking for Rhodesia is not a solution that gives advantages to one population group over another, but rather one that offers the best hope to all Rhodesians to live under conditions of peace and justice.

We are confident that in their other contacts here the members of the Executive Council will receive the same message: that the achievement of peace in Zimbabwe requires the willingness of all parties to negotiate their differences.

Reflecting our nation's commitment to freedom of speech and the importance of public debate we believe that the visit can enhance public understanding of the situation in Rhodesia and of the various solutions being offered.

It is important that we miss no opportunity, however remote it may seem, to settle this

increasingly brutal and dangerous war. Our decision to admit Mr. Smith in this instance does not mean that we will cease to observe our responsibilities as a member of the United Nations under the Security Council's resolution on Rhodesia. It does not imply U.S. recognition of our support for the present Rhodesian Administration; nor does it represent an endorsement of the internal settlement proposed by the Salisbury Group.

Rather, it reflects our urgent desire at this crucial stage to leave no stone unturned, and no opportunity ignored to further our efforts to end this bloodshed and suffering and to achieve the overriding objective of a peaceful and orderly transition to majority rule with respect for the rights of all.●

AGRICULTURAL RESEARCH FUNDS

HON. THOMAS S. FOLEY

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 4, 1978

● Mr. FOLEY. Mr. Chairman, H.R. 13989 is a bill requested by the administration. It would correct a technical error in the statutory formula for allocation of agricultural research funds to the 17 predominantly black land-grant colleges and universities which are eligible to receive funds under the act of August 30, 1890, 26 Stat. 417. This correction does not affect the aggregate funding level but simply corrects the allocation of funds among these institutions. Enactment of this bill would not result in any increase in Federal expenditures.

Between 1967 and 1978, Congress made agricultural research funds available to the 1890 land-grant colleges and universities, including Tuskegee Institute, pursuant to grant authority contained in Public Law 89–106. These funds were gradually increased over the years in order to enable these institutions to gradually increase their research capabilities. As a result, each of these institutions has developed a recognizable research capability through the hiring of highly qualified personnel and acquisition of improved equipment and facilities. In order for these institutions to continue their development, it is important both that aggregate funding be continued at a stable level and that the allocation of funds to each institution be such that no one institution receives less funds than it was allocated for fiscal year 1978.

The present statutory formula was devised by the Department of Agriculture and included as section 1445(b) of the Food and Agriculture Act of 1977. It was intended to guarantee continuity in the agricultural research programs at the 1,890 schools by providing that the funding base established for each school in fiscal year 1978 would carry forward into fiscal 1979 and future years. However, the present formula fails in that purpose and, if not revised, will result in the receipt by the several 1,890 institutions of amounts which vary from those which Congress intended and for which these institutions have budgeted.

Those schools whose funding would be decreased under the present formula would be required to reduce their research programs. Staff, including highly trained professionals, would have to be released. Research programs painstakingly developed over several years would be destroyed. And the Department would be hampered in its efforts to assist in building the agricultural research programs at these schools as part of a strong national agricultural research program.

This amendment to section 1445(b) of the Food and Agriculture Act of 1977 will enable each of the 1,890 institutions to continue its agricultural research program at the intended funding level by providing for the allocation of funds, up to the total amount made available in fiscal year 1978, in the same proportions as applied in that year. Further, this amendment would provide that any funds appropriated over and above the fiscal year 1978 level be allocated under a formula patterned upon section 1444(b)(2) of the Food and Agriculture Act, under which extension funds are allocated to the 1,890 schools. This formula is also similar to the formulas used for allocation of funds to State agricultural experiment stations under the Hatch Act, and allocation of State cooperative extension funds under the Smith-Lever Act.

Mr. Chairman, this is a good bill. It is needed to preserve the integrity of our national agricultural research effort and I urge my colleagues to support it.●

THE DAY INNOVATION DIED

HON. RICHARD A. GEPHARDT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 4, 1978

● Mr. GEPHARDT. Mr. Speaker, John W. Hanley, president of the Monsanto Co. of St. Louis, recently addressed the Houston Club in Texas on the subject of Federal policies and what they are doing to American business and our society. I urge you and my colleagues to reflect on his comments regarding Federal tax policy, the impact of regulations, and the need for Congress to take notice of the problems, which are most aptly entitled, "The Day Innovation Died."

THE DAY INNOVATION DIED

Seeing many people here today with whom Monsanto has a business and professional relationship reinforces my belief that we in St. Louis and you in Houston have a great deal in common.

Cynics might say, "Yes, both places are hotter than soup in the summer." They might add that our two baseball teams are not so hot.

But I shrug off those disrespectful comments and point to our mutual good sense in promoting an aggressive, diversified business community in our respective hometowns.

I applaud our mutual good taste in covering two of the world's greatest sports emporia—the Astrodome and Busch Stadium—with Monsanto's Astroturf.

The fact that yours was the first commercial installation was a stroke of luck for both Monsanto and Houston. Monsanto got a catchy name for one of its new products. And Judge Roy Hofheinz, having discovered that grass wouldn't grow after the dome was painted, got a ready-made solution to his problem.

The Astros as well as other baseball and football teams might have played in the dirt for some time if Monsanto hadn't—a long time before the birth of the Astrodome—committed the necessary years of research and development to come up with synthetic playing surfaces. Industrial innovation takes time. It's not unusual, as you know, for a successful innovation to be a decade or longer in the making.

That brings me to the subject I'd like to review with you today—innovation—the status of innovation in the United States in 1978.

Assume for a moment that 10 years ago today all U.S. industrial innovation had stopped. Just imagine for a moment that September 26, 1968, was the day innovation died.

In the short run, we wouldn't have noticed much change. But today, life would be quite different.

Air transportation would not be so comfortable without jumbo or wide-body jets. Nor could pilots rely on the improved safety features that make flying in the U.S. safer than going to a rock concert.

As for your health, the innovations that never were would range from laser surgery to soft contact lenses, low-cholesterol egg substitutes, synthetic heart valves and on and on.

Our families would forego the fire protection offered by inexpensive home smoke detectors. The term "home computer" would sound ridiculous, because computers would still be huge, expensive, difficult machines.

Even large businesses would find these computers less useful without today's improved data communications systems.

Of course, one might argue that those lost innovations would make little difference since we wouldn't know what we were missing.

But we could hardly miss the economic distress generated by the absence of innovation. Productivity gains would have all but disappeared while inflation and trade deficits climbed. More innovative nations would grab away our position as the world's technology leader. American jobs would be lost to more efficient foreign competitors. American stockholders and savers would see their holdings dwindle because of inflation and international devaluation of the dollar.

But wait a minute. Aren't we faced with all of those problems today? Well, you and the great majority of Americans know that, in fact, we are.

Obviously, innovation did not drop dead precisely 10 years ago today. Yet a strong case can be made that, during that 10 years, U.S. innovation has lagged far behind historical levels. And this lag has been a major contributor to our present economic ills, which we cannot hope to alleviate unless we boost our innovation rate.

That's why I believe that our Nation's most serious shortage today involves not energy or raw materials or jobs, but innovation.

This afternoon, I'd like to examine with you the evidence of what I regard as a critical shortage of innovation. I'll discuss how policies of the Federal Government contribute to the lag, and how overregulation can have an especially chilling effect on innovation. Finally, I will suggest a plan of action which I believe can help the Nation out of this dilemma.

Innovation is a commodity that defies direct precise measurement—so we must resort to proxy measurements. Let me give you a few that indicate the dimensions of the problem.

The nation's total research and development expenditures in constant dollars have declined by about 5 percent since the late Sixties, while expenditures for *basic* research are down more than 10 percent.

Industrial R and D spending since the late Sixties has risen a little faster than inflation, but expenditures for *basic* research have declined more than 20 percent.

R and D spending here has slipped from 3 percent of the gross national product in 1965 to about 2 percent a decade later, while Japan and West Germany have made substantial increases, and the Soviet Union has pushed well above 3 percent.

Foreign inventors now receive about twice as many U.S. patents each year as they did in 1968, while the number of foreign patents issued to American inventors has declined.

Granted, these are imperfect ways to guage what's happening to innovation in this country, but they do point out that we're headed in the wrong direction. Furthermore, it's hard to ignore the indications that the very nature of industrial R and D is changing. Technical resources are being moved away from long-term basic research toward short-term improvements in existing products and processes.

Where does this lead? One example is suggested by an incident that happened in St. Louis just this summer. The board of directors of Eastern Airlines met in my city, which is headquarters for two major aircraft manufacturers. Frank Borman, the president of Eastern, defended his company's decision to purchase a fleet of French-made A-300 passenger jets.

Mr. Borman said: "What concerns me is that U.S. technology that once was the best in the world has not kept pace. The A-300 is here when we need it."

I'm sure that the business leaders of the Southwest—especially here in the nation's energy capital—don't have to be convinced that innovation means growth and benefits for everyone. You see that all around you. In fact, where would the Sun Belt be today without a commercial innovation known as air conditioning?

A study by Data Resources Incorporated shows the broad economic benefits of innovation. Companies which are heavy R and D spenders, compared to all manufacturers, were found to increase employee productivity 75 percent faster while they raised prices only one-fifth as much. Furthermore, they created jobs 120 percent faster.

So it should concern every citizen when something happens that affects the innovation rate. The Federal government—as ubiquitous as gravity—cannot help but affect innovation for better or worse at every turn.

Sensitive to this fact, the Carter administration has initiated a cabinet-level review of how federal policies affect innovation. Also, a subcommittee of the Senate Commerce, Science and Transportation Committee has begun exploring the connections among U.S. trade deficits, federal policies and industrial innovation.

There won't be any lack of areas to study. For instance, innovation requires venture capital which has been short since the bear market of 1974. In 1969, almost 700 small technology-oriented companies raised new capital in the nation's money markets. In 1975, only four such companies found public financing and last year it was still only 30. So the demands placed on capital markets in part by federal deficit spending cannot be ignored as a barrier to innovation.

Federal tax policies figure heavily in our country's output of innovation because they shape the overall investment climate. The U.S. ranks far below other industrialized countries on percentage of national output reinvested in productive capacity. It's no coincidence that we also tax capital gains and stock dividends more harshly than most industrialized nations.

Federal antitrust laws create still another worry for innovators. Their new technology may be too successful and precipitate lawsuits.

But when it comes to frustrating would-be innovators, nothing beats the federal regulatory process. For starters, there is the staggering drain on financial resources. Economist Murray Weidenbaum, director of Washington University's Center for the Study of American Business, calculates that regulatory compliance will cost business almost $100 billion in 1979 alone.

Regulation injects new uncertainties into the already risky business of innovation.

Will regulatory approvals take so long that millions in sales will be lost—as well as the competitive lead?

Will the approval process cost so much that a useful innovation meant to serve a small market can never be profitable?

Will the fruits of innovation be lost entirely because of a needless product ban based on flimsy evidence?

These are not hypothetical situations. They can be demonstrated all too readily.

Take the pharmaceutical industry. Almost everyone will agree that we must proceed with proper caution on new drugs. But at what point should we begin asking who is looking after the public interest?

A pharmaceutical company in the U.S. may wait one to four years for approval of a new drug application. Since it also takes several years to develop a modern drug, half the patent life may be gone before the product even reaches the marketplace. In fact, approval in the U.S. generally lags so far behind other countries that American pharmaceutical companies have established manufacturing units abroad in part so as not to lose out on foreign sales.

The upshot is that jobs and capital in these instances are exported while fewer effective drugs are made available here. In the 15 years preceding 1962, there were 641 new drugs introduced in this country. But the next 15 years have produced only 247 new drugs.

A similar situation exists in the agricultural chemical industry. The Fifties saw about 20 new pesticides enter the market. The Sixties also produced about 20. But from 1971 to 1977, only three or four truly new products reached the market.

Monsanto's experience with its Roundup herbicide tells the story well. Roundup was developed in 1970 after 15 years of research. Its unique chemistry destroys perennial weeds right down to their roots. Yet Roundup is about as toxic as table salt. It breaks down quickly in the soil, won't migrate to adjacent areas, and leaves no residue in the crops.

It was 1975 before Roundup received U.S. regulatory approval for use with any major grain crops. Three years later, we're still waiting for approval for use with other crops. One of the ironies of this case is that regulation has slowed the introduction of a pesticide that is environmentally more attractive than many of those now on the market.

I doubt whether there is any more effective way to kill an innovative spirit than by scaring it to death. I can testify firsthand that a product ban based on flimsy evidence can do just that.

We at Monsanto were shocked when the federal government banned our Cycle-Safe bottle for carbonated soft drinks. This plastic bottle, which took 10 years to develop, first received regulatory approval in 1975. Shoppers in the test markets loved it because it was lightweight and shatter-resistant. And since it was recyclable and potentially refillable, it was an innovation that could help solve our nation's litter problem.

The raw materials for making Cycle-Safe included a chemical called acrylonitrile. This has been used in food-contact applications for more than 30 years. But a 1977 study indicated that, in massive doses, it might cause cancer in rats.

Monsanto researchers, using the most sophisticated testing equipment available today, cannot find any trace of acrylonitrile leaching into the beverage under realistic conditions. But the regulators say that if the bottles were filled with acetic acid and stored for six months at 120 degrees Fahrenheit, infinitesimal amounts of the chemical could leach into the solution. Never mind that a carbonated beverage stored at 120 degrees would burst the bottle in a few weeks—and that a child would have to drink 3,000 quarts of beverage every day for a year to equal the dose of acrylonitrile fed to the rats.

Despite the remoteness of the risk, the regulators chose to ignore the bottle's considerable real and potential benefits. The federal government said Cycle-Safe must go.

Monsanto is still appealing that decision in the courts. I think we will win—long after the victory will have any value beyond establishing the principle that, without proper balancing of risks against benefits, such government decisions are foolish and capricious.

In the meantime, though, our three Cycle-Safe plants have closed, eliminating nearly one thousand jobs. We have written off a good many millions of dollars, including $20 million worth of equipment and facilities.

This shock persuaded us—if we needed any further persuasion—that business cannot stand idle while regulatory agencies destroy innovative products without attempting to weigh the risks against the benefits. Thus, Monsanto has initiated a broad communications program through which we hope to bring a greater sense of balance to the national debate over industry regulation.

Not surprisingly, the Cycle-Safe episode also helped turn more of Monsanto's R and D resources away from innovation and toward defense of other products.

Just yesterday in St. Louis, we dedicated a new $12 million toxicology laboratory where product safety testing will be done. In the past, we found it more economical to contract with outside laboratories for such testing. But today there aren't enough contract labs to handle all the toxicological testing needed to satisfy government regulations.

Monsanto is not alone in this. Another large chemical company reports that its spending for defensive research—research that will never produce any new knowledge or products—has gone up five times faster than spending for innovative research in recent years.

The Industrial Research Institute, an association of manufacturers with research facilities, surveyed its members and found an alarming rate of increase in the proportion of R and D spending that goes to meet regulatory requirements. Innovation will decline rapidly if this trend isn't changed.

Now please understand me: I am not calling for the elimination of regulation.

I am not disagreeing with the underlying social goals of protecting the consumer, the worker and the environment.

But good sense must define a point of balance. We cannot go on ignoring the impact that government regulation is having on American innovation.

As Treasury Secretary Michael Blumenthal has said, "Our technological supremacy is not mandated by heaven."

What can we do, then, to safeguard our technological preeminence before it is too late? I would encourage every member of the Houston Club—and every American business leader—to seriously consider these three points for immediate action.

Point one: We must support the Carter administration's effort to learn how federal policies help or hinder industrial innovation—and to identify positive steps toward encouraging innovation.

The White House study, headed by Commerce Secretary Juanita Kreps, will include

input from business and industry. This will be gathered through such groups as the Business Roundtable, the Conference Board, the Industrial Research Institute, and ad hoc advisory panels. If you are contacted for information, your views, or even a commitment of your time, I urge you to extend your fullest cooperation.

Point two: We must voice our concern about the innovation lag on Capitol Hill.

It's encouraging that Senators Howard Cannon and Adlai Stevenson of the Commerce, Science and Transportation Committee have shown interest. It's high time for the entire Congress to take notice.

Sharp illustrations of the problem drawn from your own business will get attention. Monsanto has tried this and found eager listeners. We've also suggested some specific legislative actions that I'd like to mention today.

One is an investment tax credit for industrial research and development expenditures. R and D is an investment in a productive future. Our tax laws should encourage large and small corporations to devote more resources to innovation.

We have also suggested that Congress establish a formal system of reviewing all regulatory agencies every three years. Congress should determine whether each agency is properly weighing the benefits of proposed regulations against the costs and the impact on industrial innovation.

Point three: We must take this issue to the people—to your associates and friends—because low public awareness decreases the likelihood of positive action in Washington.

The public is like Mrs. Einstein, when she was asked if she could make sense of her husband's theories.

"I understand the words," she said, "but I don't always understand the sentences."

Our task is to explain the sentences—to demonstrate that inflation, low productivity gains, trade deficits and lost jobs are all linked to innovation lag. We must carry this message to the public through grass-roots political action, through the news media, public speaking engagements and personal contacts. Given the facts, the public can be depended on to reach sensible conclusions, and ultimately to influence the decision makers in Washington.

Our nation is well-versed in the politics of energy, economy, environment, worker and consumer safety. Now we must give as much attention to the politics of innovation, because this will determine our ability to achieve all the other national goals.

American innovation has earned us the title of the greatest problem-solving society ever. This is not the time to relinquish that title. We must move quickly and decisively to reverse the innovation lag.

Ten years hence, we don't want to look back and say that this was the day innovation died.●

PORK-FLAVORED TURKEYS

HON. NICK JOE RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 4, 1978

● Mr. RAHALL. Mr. Speaker, I would like to make my colleagues aware of a letter I sent today to the Washington Star, in regards to their position on the public works appropriation bill.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., October 4, 1978.

Editor, Washington Star:

DEAR EDITOR: I am writing in reference to your editorial of October 2, entitled, "Capitol Hill's pork-flavored turkeys"; to express my reasons for supporting the Public Works Appropriations Bill and my support for a veto override.

First of all, your editorial failed to point out the fact, that the Public Works Bill is $879 Million under the President's own budget. It is $364 Million under the proposed 1978 appropriations, and $181 Million under the original cost envisioned by the House of Representatives. Expensive? Yes, but you should take a good look at what the money is being spent on.

As the Congressman from the Fourth District of West Virginia, I represent an extremely rural, mountainous, and highly flood-prone region. In April of 1977, southern West Virginia was hit by a devastating flood. In the weeks that followed, the Federal Government spent over $104 Million on recovery efforts.

Contained in this Public Works Bill is a total of $20.7 Million for short and long term flood protection for the residents of the Tug Valley, who had their homes and businesses destroyed by the flood waters. In lieu of the constant statement that this bill is inflationary, it must be stated that the savings to the country from flood damage and other benefits from this measure, reduce inflationary pressures, with realized benefits of over $7 for every $1 spent.

Frankly, I do not understand the position of your newspaper and the positions of other opinion-makers who scream "Pork-barrel" at every Public Works Bill that comes out of Congress. However, I would like to invite you and your entire staff to join me in West Virginia after the next flood occurs. You can spend your time shoveling mud from the homes of men and women who spend every day of their lives digging the coal that will make sure your home is nice and warm this winter. You will also experience the frustration of having to rebuild the region's economy with numerous government loans; at great cost to the American taxpayer.

With warm regards, I am

Sincerely,

NICK J. RAHALL, II,
Member of Congress,
4th District—West Virginia.●

PERSONAL EXPLANATION

HON. ABNER J. MIKVA

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 4, 1978

● Mr. MIKVA. Mr. Speaker, I was unable to be present on the House floor for rollcall votes 851 through 859, because of prior commitments in the 10th Congressional District. Had I been present, I would have voted as follows.

On Thursday, September 28: "no" on rollcall 851, the conference report on H.R. 9214, IMF Supplementary Financing Facility; "yes" on rollcall 852, the Seiberling amendment to H.R. 12005, Justice authorization, to require the Attorney General to establish procedures for identifying individuals who meet the standards promulgated by the President for the merit selection of Federal district court judgeships and to submit their names to the President and Senate with respect to each vacancy in the office of a district court judgeship; "yes" on rollcall 853, H.R. 12005, Justice authorization; and, "yes" on rollcall 854, the conference report on H.R. 12934, State-Justice-Commerce appropriations.

On Friday, September 29: "Yes" on rollcall 856, the motion (SMITH, Iowa) to concur, with amendment, to Senate amendment No. 9 to H.R. 12934, State-Justice-Commerce appropriations: "yes" on rollcall 857, the motion (SMITH, Iowa) to recede from disagreement and concur, with amendment to Senate amendment No. 123; "yes" on rollcall 858, House Resolution 1348 providing for the consideration of H.R. 10909, Clinical Laboratory Improvement Act; and, "yes" on rollcall 859, the Downey amendment to H.R. 14042, fiscal year 1979 DOD authorization, to delete $209 million for shipbuilding claims settlements.

On Wednesday, October 4, I would have voted "yes" on rollcall No. 863, the conference report on the Older Americans Act.●

A TRIBUTE TO CASIMIR PULASKI

HON. ANTHONY TOBY MOFFETT

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 4, 1978

● Mr. MOFFETT. Mr. Speaker, Pulaski Day honors one of the most famous Poles of his day—a man who gave his life so that America might be a free Nation.

Pulaski was born to wealth and stature in 1748, the son of a Polish count. Forsaking the glamour and assurance of a stable and comfortable life, Pulaski instead enlisted himself in the support of the move to free Poland from the domination of Czarist Russia. He participated in numerous battles, leading the fight against the Czarist government. Even in 1772, when he was forced to escape from Poland to Turkey to avoid capture, Pulaski organized to fight the Russians.

In 1775, he traveled to Paris where he learned of the American Revolution. It was in Paris that he met Benjamin Franklin, who immediately acknowledged Pulaski's talent for leadership and his zeal for freedom. Franklin forwarded a letter of recommendation to George Washington; the Commander in Chief was so favorably impressed by Pulaski's accomplishments, he urged him to come to America. Washington then recommended to the Continental Congress that Pulaski be given the authority to organize the cavalry. Pulaski eventually reached the rank of brigadier general, and established himself as the father of our cavalry.

For 2 years, Pulaski fought bravely in the cause of freedom for this country. He died in battle, at the siege of Savannah, in October 1779. Pulaski's vigor in his support of the Revolution is illustrated by his quote:

I came here to sacrifice everything for the independence of America. I wish to live in a free country, and before I settle down here, I wish to fight for that country's freedom.

Pulaski Day is recognized and celebrated not only by Polish descendants, but by all citizens. We honor the memory of this famous Pole on the day of his death, and salute Casimir Pulaski, soldier for freedom.●

BIG LABOR'S POLITICAL HIT LIST

HON. GEORGE HANSEN

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 4, 1978

● Mr. HANSEN. Mr. Speaker, this week the U.S. News and World Report in an article entitled "Labor Takes Aim At Its Enemies" listed me as one that union bosses were devoting large amounts of time and money to defeat. This article points out the behavior of special interest groups at their worst which I think should be given maximum exposure to the American people. I submit for the RECORD my press release on this matter dated October 4, 1978 and the article from the October 9, 1978 issue of U.S. News.

BIG LABOR TAKES AIM AT HANSEN

WASHINGTON, D.C.—Idaho Congressman George Hansen was cited this week by a national news magazine as one of the top 5 targets of organized labor. The October 9th issue of U.S. News and World Report in an article entitled "Labor Takes Aim At Its Enemies" listed Hansen as one of the key Republicans that union bosses were devoting large amounts of time and money to defeat.

The article stated . . . "Unions report that they are spending hundreds of thousands of dollars this year in efforts to defeat Republican opponents." It went on to point out that one of the main reasons labor leaders had taken aim at Hansen was because . . . "he founded the 'Stop OSHA' campaign against government control of health and safety in the workplace."

Rep. Hansen said he was not surprised that big labor has listed him as one of their main targets. He noted that earlier this year union leader George Meany had attacked him directly and through various labor-backed organizations his OSHA work but for his opposition to the union-supported Panama Canal Treaties. Hansen said his fight against federal gun controls, his opposition to union-sponsored boycotts of farm products, and his votes against situs picketing, Labor Reform and federal welfare legislation have further provoked the union bosses even though Idaho workmen agree with him more than with Meany.

The 2nd District Congressman stated that organized labor has singled him out and tried to attack him numerous times through their 'front groups' such as the Consumer Federation of America (CFA) and the Environmental Action Committee which issues the so-called "dirty dozen" list each election, and campaign cause. Hansen has been targeted in this election by all these groups.

"CFA has participated in commercial boycotts of beef and sugar," he noted, "in addition to Caesar Chavez and his union-supported boycotts, or threatened boycotts, of lettuce, grapes and potatoes. Such activities are in addition to big labor disastrous boycott of wheat shipments to the Soviet Union which was so costly to the American farm economy."

"I stand for cuts in big government and an end to deficit spending." Hansen said. "Big Labor in turn pushes for more welfare, increased government control and through various ill advised programs help cause inflation and higher taxes."

The 'U.S. News' article also pointed out that the union attack comes on two fronts. Not only do they contribute money" . . . unions remain unequaled in their ability to produce people to work in campaigns of those they support. Money is the of what we can give, stated AFL-CIO spokesman Ben Albert, our best asset is manpower."

Rep. Hansen said their efforts have been quite apparent in Idaho. Since 1974, unions have contributed an identified $100,000 in the 2nd Congressional District elections alone and this does not take into account the untold amount of inkind assistance through manpower brought in form around the country to work for union-backed candidates in the Congressional race.

He noted that his efforts to stop a union-backed federal takeover of the nation's safety and health programs have not only put him on the political 'hit' list, but have caused a great reactionary effort among Labor bosses to save OSHA as witnessed by a huge national convention recently held in Washington, D.C. for that purpose. Over 1200 delegates met to organize an AFL-CIO effort to repel attacks on the job safety agency.

"A nationwide battle is brewing which labor hopes to win by capturing key legislative districts that are currently controlled by their opposition. The 2nd district of Idaho is one of those targets and the people should be aware that the union bosses want them in their back pockets," Hansen concluded.

LABOR TAKES AIM AT ITS ENEMIES

Unions are learning that politicians can be fickle friends once in office. Result: Old allies are being forsaken, even as labor seeks the defeat of longtime opponents.

One labor union refuses to donate money this year to any member of Congress who voted for natural-gas deregulation. Another union put a similar ban on candidates favoring a tuition tax credit. A third group now says "No" to anyone who opposed an increase in the minimum wage.

These examples reflect a growing trend among America's frustrated labor leaders. They watched helplessly over the past two years as some members of Congress, elected with union money and manpower, voted to defeat legislation favored by labor. Now the unions are seeking revenge.

"We no longer want to support people who don't support us," says William DuChessi, vice president of the Amalgamated Clothing and Textile Workers Union. "Traditionally, we have given money to some candidates we viewed as the lesser of two evils. But those days are gone."

Thus, a number of labor's traditional Democratic allies on Capitol Hill, including Senator Dick Clark of Iowa and Representative Abner J. Mikva of Illinois, are not getting quite as much support from labor as they anticipated in their campaigns for re-election.

At the same time, there will be no slackening in labor's battle with its traditional foes. Unions report that they are spending hundreds of thousands of dollars this year in efforts to defeat Republican opponents of organized labor. Among them:

Senator Strom Thurmond (R-S.C.), who has stiff opposition from Democrat Charles "Pug" Ravenel. At last count, Ravenel had received at least $46,000 in labor contributions.

Senator Robert Griffin (R-Mich.), co-author of the 1959 Landrum-Griffin Act aimed at union corruption. Labor leaders are putting their weight behind Democrat Carl Levin.

Senator Jesse Helms (R-N.C.), whose contributions from right-wing groups outside the state have become a campaign issue. As a result, Helms's Democratic opponent, John Ingram, recently refused a $5,000 check from the AFL-CIO.

Senator John Tower (R-Tex.), whose opposition to unions has prompted labor to endorse his Democratic opponent, Robert Krueger.

Representative George Hansen (R-Idaho), who founded the "Stop OSHA" campaign against government control of health and safety in the workplace.

Representative John Cunningham (R-Wash.), who is considered part of the new wave of young conservatives.

BIG MONEY FROM THE RIGHT

Labor's determination to defeat conservative Republican incumbents comes amid a dramatic rise in campaign fund-raising by business and conservative groups. The AFL-CIO estimates that these groups are contributing 50 million dollars to conservative candidates in 1978. That compares with 8.2 million in union spending on congressional candidates in 1976—a figure that may be exceeded this year.

Although the outcome in 1976 was an overwhelmingly Democratic Congress, labor officials later regretted many of their endorsements. They were outraged when the 95th Congresst defeated a number of key labor bills, including one measure designed to revise federal labor law and another that would have permitted pickets from a single union to shut down an entire construction site.

These setbacks initially prompted union leaders to discuss ways of punishing those members of Congress who labor felt had double-crossed them. When the picketing bill was defeated, for example, officials of the AFL-CIO's building-trades department drafted a "hit list" of 20 former allies in Congress whom they vowed to defeat in 1978.

Making good on vows of retaliation is more easily said than done, however. AFL-CIO leaders can name only one Democratic incumbent, Representative John Breckinridge of Kentucky, who was defeated in the primary election by a labor-backed opponent. Instead, some unions simply walked away from former Democratic allies in Congress, endorsing no candidates in those races.

President William Winpisinger of the International Association of Machinists offered the most dramatic example of this strategy on September 25, when he announced that his union would not support any member of Congress who voted for a compromise measure deregulating natural gas. He said this included Iowa's Senator Clark, a personal friend.

"We are not compiling a hit list," Winpisinger said. "We simply won't support vacillating congressmen or senators. You might call it a kind of moratorium for Election Day for many of our supposed friends. For too long now, the American trade-union movement has spent its coin of credibility by supporting candidates who often turn out to be fair-weather friends."

Winpisinger has found many like-minded labor leaders on this issue. Among them is Herbert H. Mabry, president of the Georgia AFL-CIO, who refused to allow the state labor body to endorse any of Georgia's incumbent Democrats. This includes Senator Sam Nunn, who backed a filibuster against the labor-law bill.

Mabry fears labor will lose its lobbying power in Congress if unions continue to back disloyal Democrats. "I don't think we should reward people who vote against us with an endorsement," he says. "If we do, why should congressmen stick their necks out for us?"

Other unions adopting similar policies include the American Federation of Teachers, which refuses to endorse any former ally

who voted for tuition tax credits for parents of private-school students, and the Service Employes International Union, which is unwilling to help anyone who opposed a higher minimum wage.

Several building-trades and maritime unions, likewise, have abandoned old friends, among them Representative Mikva. Federal Election Commission records show that the Illinois Democrat got $2,300 from the maritime unions in 1976. But Mikva later opposed a bill requiring a portion of imported oil to be carried by American-flag ships.

NOT A VENDETTA

Forsaking old allies is a discomforting act for some. Greg Humphrey, co-legislative director of the Teachers, declines to name the lawmakers his union cut adrift on the ground that he is not "running a vendetta."

Dan Mundy, lobbyist for the AFL–CIO building and construction-trades department, also refuses to mention names for a similar reason. "In a couple of cases, I have told congressmen, 'I hope you get re-elected, but we are not going to help you this time around,' " he remarks.

This same dilemma keeps many other union leaders from breaking off ties with members of Congress who voted against labor's wishes on key bills. Victor Kamber, chief AFL–CIO lobbyist on the labor-law bill, explains: "As much as labor people might like to, how do you walk away from someone whose opponent is a no-good bum?"

So, while some Democrats have been abandoned by one or two unions, most are receiving continued support from other labor organizations. Senator Clark is an example. Clark's aides report that he has received more than $73,000 in union contributions—including $10,000 from the Machinists—despite his stand on natural gas.

STATE-BY-STATE DECISION

The AFL–CIO also cannot stop its autonomous state affiliates from endorsing candidates who have betrayed labor. AFL–CIO Political Director Alexander E. Barkan was angered when he learned that labor leaders in Buffalo were backing conservative Representative Jack Kemp (R–N.Y.).

"Kemp votes against us, then parades as a friend of labor," Barkan recently bellowed at a labor meeting. "Kemp's a double-plated, triple-coated, four-flushing, five-ply phony."

Barkan also was embarrassed last summer when he realized that he was to be the host at a luncheon for Texas Democrat Krueger, who publicly opposes the labor-law bill. The luncheon was canceled, but the AFL–CIO still supports Krueger.

Krueger is one of five opponents of labor-law legislation who has been endorsed by state AFL–CIO groups, a situation that upsets some. "It makes us look like fools," says Kamber. AFL–CIO officials say they are supporting Krueger only because his opponent, Tower, "is so bad" on labor issues.

Money is labor's biggest problem in its campaigns against conservative candidates such as Tower. A Federal Election Commission report in September listed conservative political-action groups as the top five fundraisers in the country. The AFL–CIO was ranked eighth. Unions have raised 13.5 million dollars for political contributions since the start of 1978.

The unions also are losing ground to business. When campaign-finance rules were tightened in 1974, labor claimed twice as many fund-raising committees as did business. Now there are 700 corporate groups, versus 250 for labor.

UNEQUALED MANPOWER

Although the figures demonstrate that labor is no longer the nation's most well-financed special-interest group, unions remain unequaled in their ability to produce people to work in campaigns of those they support.

"Money is still the least of what we can give," claims Ben Albert, spokesman for the AFL–CIO's Committee on Political Education. "Our best asset is manpower."●

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of all meetings when scheduled, and any cancellations or changes in meetings as they occur.

As an interim procedure until the computerization of this information becomes operational the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Thursday, October 5, 1978, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

OCTOBER 6

9:00 a.m.
Agriculture, Nutrition, and Forestry
To consider the nomination of Robert W. Feragen, of Virginia, to be Administrator of the Rural Electrification Administration.
324 Russell Building

Foreign Relations
Western Hemisphere Affairs Subcommittee
To continue to receive testimony on U.S. relations with Latin America.
4221 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
Housing and Urban Affairs Subcommittee
To continue oversight hearings on international housing programs.
5302 Dirksen Building

Commerce, Science, and Transportation
To hold hearings on the nomination of M. Athalie Range, of Florida, to be a Member of the Board of Directors of the National Railroad Passenger Corporation.
235 Russell Building

Joint Economic
To hold hearings on the September employment-unemployment situation.
6226 Dirksen Building

2:00 p.m.
Conferees
On S. 2570, authorizing funds through FY 1979 for the Comprehensive Employment and Training Act.
EF–100, Capitol

OCTOBER 7

9:00 a.m.
Conferees
On S. 2570, authorizing funds through FY 1979 for the Comprehensive Employment and Training Act.
S–207, Capitol

OCTOBER 9

9:30 a.m.
Human Resources
Health and Scientific Research Subcommittee
To hold hearings on national health insurance programs.
4232 Dirksen Building

OCTOBER 10

9:00 a.m.
Armed Services
Manpower and Personnel Subcommittee
To hold hearings on alleged abuses in U.S. Marine Corps recruiting practices.
1114 Dirksen Building

9:30 a.m.
Environment and Public Works
To consider the nomination of Richard M. Freeman, of Illinois, to be a Member of the Board of Directors of TVA.
4200 Dirksen Building

Human Resources
Health and Scientific Research Subcommittee
To continue hearings on national health insurance programs.
4232 Dirksen Building

OCTOBER 11

9:00 a.m.
Armed Services
Manpower and Personnel Subcommittee
To continue hearings on alleged abuses in U.S. Marine Corps recruiting practices.

OCTOBER 12

10:00 a.m.
Governmental Affairs
Federal Spending Practices and Open Government Subcommittee
To resume hearings on the quality of care in nursing homes participating in Medicaid and Medicare programs.
3302 Dirksen Building

OCTOBER 13

9:30 a.m.
Human Resources
Health and Scientific Research Subcommittee
To resume hearings on national health insurance programs.
4232 Dirksen Building

HOUSE OF REPRESENTATIVES—*Thursday, October 5, 1978*

The House met at 10 a.m.

Rev. Fred E. Rogers, First Assembly of God, Milton, Fla., offered the following prayer:

Good morning Lord, we love you, what have You got planned for today? We want to be part of it.

We ask Your guidance for these Thy servants as they take up the tasks assigned them. Lead them in the paths of righteousness for we know that sin is a reproach to any people but righteousness exalts a Nation.

Help our leaders in their pursuits of peace. May they follow the Prince of Peace who came to bring peace on Earth and said blessed are the peacemakers. We ask Your spirit to lead them, because they that wait upon the Lord shall renew their strength. O, Lord, teach us all to wait.

Statements or insertions which are not spoken by the Member on the floor will be identified by the use of a "bullet" symbol, i.e., ●

We ask this in the name of our Savior. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate has passed without amendment bills of the House of the following titles:

H.R. 10600. An act for the relief of Thomas Joseph Hunter and Rose Hunter;

H.R. 13797. An act to authorize establishment of the Fort Scott National Historic Site, Kansas, and for other purposes;

H.R. 13991. An act to provide for the United States to hold in trust for the Susanville Indian Rancheria of Lassen County, Calif., approximately one hundred and twenty acres of land; and

H.R. 14026. An act to provide means for the acquisition and retention of title to certain lands by the village corporation organized pursuant to the Alaska Native Claims Settlement Act for the Natives of the village of Kake, Alaska, and for other purposes.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 12930) entitled "An act making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1979, and for other purposes."

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2640) entitled "An act to reform the civil service laws."

The message also announced that the Senate had passed with an amendment in which the concurrence of the House is requested a bill of the House of the following title:

H.R. 11870. An act to amend the Act of July 19, 1940, to authorize additional appropriations, and for other purposes.

The message also announced that the Senate disagrees to the amendments of the House to the bill (S. 555) entitled "An act to establish certain Federal agencies, effect certain reorganizations of the Federal Government, to implement certain reforms in the operation of the Federal Government and to preserve and promote the integrity of public officials and institutions, and for other purposes," agrees to a conference requested by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. RIBICOFF, Mr. JACKSON, Mr. MUSKIE, Mr. PERCY, and Mr. JAVITS to be the conferees on the part of the Senate.

REV. FRED E. ROGERS

(Mr. SIKES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SIKES. Mr. Speaker, today we are privileged to have as visiting pastor to deliver the prayer for the opening of today's session of Congress, the Reverend Fred E. Rogers. Brother Rogers is pastor of the First Assembly of God Church in Milton, Fla., in my congressional district.

Reverend Rogers has demonstrated exceptional leadership in God's cause in Milton and Santa Rosa County. His devoted efforts for the advancement of God's kingdom have earned for him the designation of Santa Rosa County's "Man of the Year." This is a highly significant achievement for a man of the cloth, and it denotes the wide range of his activities for good and for progress. I have heard him on previous occasions and I have always been impressed with his sincerity and the manner in which he demonstrates the strength of his convictions. In his messages he reaches out to all people. In his work he aids and comforts and inspires, in God's name and with God's help, people in all walks of life. I am sure that the Members of the House join me in expressing our pleasure in his presence and for his message today.

MINORITY LEADER, MR. RHODES, EXPRESSES SUPPORT FOR H.R. 13778, DEPARTMENT OF EDUCATION ORGANIZATION ACT

(Mr. RHODES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RHODES. Mr. Speaker, I would like to express my support for H.R. 13778, the Department of Education Organization Act. The other body passed its version of that legislation, S. 991, on September 28. I think this is important legislation and hope that the majority leadership will schedule it for consideration by the House before adjournment of the 95th Congress.

THE CASE OF ALLA AND EMANUEL SMFLIANSKY WHO ARE DETAINED IN THE SOVIET UNION

(Mr. KILDEE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KILDEE. Mr. Speaker, I am proud to join in the "Vigil for Freedom" sponsored by the Union of Councils for Soviet Jewry on behalf of Soviet Jewish families and individuals who are being detained in the Soviet Union as a result of that government's repressive emigration policies.

In 1975, 35 nations signed the Helsinki Final Act, which committed the 35 signatory nations to pursue policies consistent with basic principles of human rights, including the reunification of divided families whose members live in different countries, for humanitarian reasons, and free travel between countries. Unfortunately, the Soviet Government has regarded the human rights provisions of the final act as empty promises.

Today, I bring to the attention of my colleagues in the Congress the case of Alla and Emanuel Smeliansky of Moscow, who have for nearly 8 years been trying to obtain permission from Soviet authorities to emigrate to Israel, joining Alla's sister there.

Emanuel Smeliansky is a 44-year-old metallurgical engineer. When the family applied for visas in 1970, he lost his position, as did his wife, who was an Intourist guide. Not only was permission denied and their jobs forfeited, but he also was sentenced to 10 days of detention and sent to Butyrka. In January 1976, Emanuel sent this statement to the heads of the Western governments:

With your signing of the Helsinki declaration, you solemnly undertook to observe the fulfillment of the humanitarian principles of the defense of human rights inscribed herein. We therefore feel compelled to draw your attention to the blatant violation by the U.S.S.R. of these principles in regard to our family, who have been unsuccessfully trying for over five years to obtain permission to emigrate to Israel to join the remainder of our family. Our appeals over the whole of this period to all levels of authority have been utterly ignored.

In addition to those violations of their human rights mentioned earlier, the Smeliansky family also has suffered unreasonable harassment, unceasing surveillance, confiscation of mail, and special punishment levies of heavy taxes.

The Smeliansky family now also includes a 5-year-old son and Emanuel is attempting to make a living after having finally found work as a janitor. It is my hope that this vigil of freedom will serve as a source of encouragement for this family and all others who are persevering under similar circumstances in the Soviet Union, and it is my request that the Smeliansky family be allowed to emigrate as is their right under the Helsinki Final Act and the provisions of the Universal Declaration of Human Rights adopted by the United Nations General Assembly in 1948.

MISSTATEMENT OF FACTS BY SECRETARY OF THE NAVY PAUL NITZE

(Mr. CARR asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CARR. Mr. Speaker, I noted this morning on the "Today Show" that Mr. Paul Nitze is once again bad mouthing the military capability of the United States. Included in his remarks were flat-out inaccuracies and misstatements of the facts about the military capability of the United States and the ability of it to defend itself.

I want to alert the Members of the House that this afternoon I will be distributing a response to Mr. Nitze's statement on the "Today Show" this morning. Copies of it will be available in the press gallery by 1 o'clock.

PERSONAL EXPLANATION

(Mr. MIKVA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

● Mr. MIKVA. Mr. Speaker, I had to leave the House before the conclusion of the Wednesday, October 4, session in order to return to my congressional district to attend a conference on airport noise. As a result, I missed the votes on final passage of the fiscal year 1979 Department of Defense Authorization and the Water Research and Development Act. Had I been present, I would have voted "yes" on the Defense Department authorization—rollcall No. 872. I am pleased that the House has agreed to eliminate the funding for another unnecessary nuclear carrier. I would have voted "no," however, on final passage of the Water Resources Act—rollcall No. 874—because it contains many wasteful and unneeded water projects.●

RESIGNATION AS MEMBER AND APPOINTMENT AS MEMBER OF BOARD OF TRUSTEES OF JOHN F. KENNEDY CENTER FOR THE PERFORMING ARTS

The SPEAKER laid before the House the following resignation as a member of the Board of Trustees of the John F. Kennedy Center for the Performing Arts:

WASHINGTON, D.C.,
September 20, 1978.

Hon. THOMAS P. O'NEILL, Jr.,
Speaker of the House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: I have enjoyed the opportunity to serve on the Board of Trustees of the Kennedy Center, but since I will not be returning to the 96th Congress, I am resigning from the Board of Trustees, effectively immediately so that a successor can be named promptly.

With best wishes, I am,
Sincerely yours,

ALBERT H. QUIE,
Member of Congress.

The SPEAKER. Without objection, the resignation is accepted.

There was no objection.

The SPEAKER. Pursuant to the provisions of section 2(a), Public Law 85–874, as amended, the Chair appoints as a member of the Board of Trustees of the John F. Kennedy Center for the Performing Arts the gentleman from Pennsylvania, Mr. MCDADE, to fill the existing vacancy thereon.

CONFERENCE REPORT ON H.R. 12932, DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS

Mr. YATES. Mr. Speaker, I call up the conference report on the bill (H.R. 12932) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1979, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of September 29, 1978.)

Mr. YATES (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the statement be dispensed with.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The SPEAKER. The gentleman from Illinois (Mr. YATES) will be recognized for 30 minutes, and the gentleman from Pennsylvania (Mr. MCDADE) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Illinois (Mr. YATES).

Mr. YATES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to bring to the House a conference report on the bill H.R. 12932, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1979, and for other purposes.

The conference report provides for a total of $11,578,692,000 in new budget authority.

This is $1,299,775,000 below the budget estimate.

The bill is $1,111,852,000 below the House allowance.

It is $12,279,000 more than the Senate allowance. The decrease below the House allowance is accounted for mainly because of a decrease in the level for the strategic petroleum reserve.

In total, the conference agreement includes $4,713,752,000 for programs for the Department of Energy. Of that amount over $3 billion is for the strategic petroleum reserve.

The conference report provides for protecting and preserving the people's resources, and it goes over the budget where it is necessary that this be done, particularly for agencies whose primary responsibility is the improvement of our natural resources and for the energy program.

The agreement provides increases over the budget of $80.9 million for the Forest Service; $12.8 million for the Bureau of Land Management; $21 million for the Heritage Conservation and Recreation Service; $12.1 million for the Fish and Wildlife Service; $13,500,000 for the National Park Service; $56,232,000 for the Geologic Survey; $61.1 million for the Bureau of Indian Affairs; $22,875,000 for the Office of Territorial Affairs; and $13,982,000 for Indian Health and Education.

Mr. Speaker, the major reductions in the budget requests are made in the energy area; but I want to assure the House that this is not to be taken as any indication that the conferees have not provided all the funds that they believe to be necessary to advance and foster the energy requirements of our country. The reductions are mainly as a result of program delays or the availability of carryover funds; funds that have not been spent in prior years.

A reduction of $1,243,610,000 was made for the strategic petroleum reserve, and the reason for that was, unfortunately—and I stress that word—the program continues to lag. As far as our committee was able to see, there is no intention by the agency to obligate the money that was reduced before fiscal year 1980. Mr. Speaker, $75 million was reduced from the Naval Petroleum Reserves No. 1 and 2 because of reduced pipeline needs and other savings. A reduction of over $200 million in State and local conservation grant programs was made because of the availability of carryover fiscal year 1978 funds. The funds were contingent upon authorizing legislation; and, Mr. Speaker, that authorizing legislation has not yet been passed by the Congress.

I would have liked to have brought to the House a bill which was unanimous in all respects; but, unfortunately, there is one point on which I find myself in disagreement with my friends on my subcommittee. The Senate has added an amendment which has been brought back in technical disagreement; an amendment which provides that notwithstanding any provisions of the National Environmental Policy Act of 1969, construction of certain features of the Upper Colorado River storage project the Colorado River Basin salinity control project, and the southern Nevada water projects, which are presently authorized, shall be allowed to proceed if a final environmental impact statement has been filed on any such feature.

Mr. Speaker, I am going to offer an amendment to recede and concur in the amendment of the Senate. It is my responsibility as chairman of the conferees to make that motion inasmuch as my subcommittee has taken that position; but then I propose to try to upset the action of my friends on my subcommittee and to urge the defeat of the Senate amendment.

If that occurs, I will then offer a motion to insist on the House's position. It is my position that the amendment does not belong in this appropriation bill; or, for that matter, in any appropriation bill because it sets aside the National Environmental Protection Act if a final environmental impact statement has been filed.

Mr. Speaker, the change is legislative, and it should be considered by the authorizing committee.

Mr. EDGAR. Mr. Speaker, will the gentleman yield?

Mr. YATES. I yield to the gentleman from Pennsylvania.

Mr. EDGAR. Mr. Speaker, I would like to congratulate the gentleman from Illinois (Mr. YATES) for his statements on this particular provision of the bill. I will join the gentleman in trying to vote the disagreement language down so that he can offer his amendment.

Mr. Speaker, I rise in strong opposition to the provisions of the conference report to accompany H.R. 12932, which would effectively exclude the Granite Reef transmission system, the Havasu pumping unit, the Salt-Gila aqueduct,

the Diamond Fork power system, the Leland Bench Unit, the Provo River Unit, the Dallas Creek project, Dolores project, and San Juan-Chama project from coverage under the National Environmental Policy Act of 1969.

These sections should be eliminated from the report for two reasons: they violate the procedures and rules of the House of Representatives, and they violate the letter and the spirit of the National Environmental Policy Act.

Procedurally, the Appropriations Committee does not have the authority to create these sections. First, the projects involved are funded from public works and transportation appropriation money; any discussion of the projects in this appropriations bill is nongermane. Second, and most importantly, appropriations bills cannot, by the rules of the House, legislate. The sections of the report involved here do not directly promote or restrict the use of any money contained within the Interior appropriations bill; the purpose of the sections are, quite clearly, to establish for these projects and future projects, a legislative change to open up exemptions from the National Environmental Policy Act. This move is in direct confrontation with NEPA, and it is a matter deserving in and of itself congressional hearings by the necessary authorizing committees. To handle the matter otherwise is to sneak through awareness a major change to a landmark law.

With respect to NEPA, we should remember that section 102(2)(c) insists that an environmental impact statement be filed for any major Federal action significantly affecting the environment. It can be seen from several court decisions, like *Lee* v. *Resor*, 348 F. Supp. 389, 1972, that this provision can be applied retroactively. That argument cannot be an issue here.

Kleppe v. *Sierra Club*, 426 U.S. 390, 1976, resolves the question of whether or not a comprehensive environmental impact statement must be prepared whenever the cumulative impact of several projects may show greater and unexpected environmental degradation than the simple sum total of the environmental impact of each individual project. Because of the legal structure and the Department of Interior's acknowledgement that activities contemplated for this region may have significant cumulative or synergistic environmental impacts on the stream flow regimes in the river basin, the level of salinity, fish and wildlife resources, recreational opportunities, and energy development patterns in the area, the Department has officially recognized the need for a comprehensive EIS for these projects.

Why, then, the strong push to exempt the Colorado River Basin projects from coverage under NEPA? Not because the projects have already undergone substantial construction; in fact, the final environmental impact statement has not been completed for several of the projects. Essentially, the move is afoot because its promoters do not want to wait another 2 years (the estimated time it would take to complete a comprehensive EIS) to start the projects, especially in light of the fact that several of the projects have already undergone site specific environmental impact analysis. But 2 more years in exchange for comprehensive, effective environmental planning and the possibility of saving money on future proposed projects hardly seems worth the potential damage which may be caused if the House of Representatives permits these sections to remain as part of the conference report.

I would also like to call my colleagues' attention to several other sections of NEPA which are oft forgotten but which nonetheless refresh in our minds the spirit of the law:

SEC. 101(a). The Congress, recognizing the profound impact of man's activity on the interrelations of all components of the natural environment . . . declares that it is the continuing policy of the Federal Government . . . to use all practicable means and measures . . . (to) fulfill the social, economic, and other requirements of present and future generations of Americans.

The purpose of NEPA is not to halt the construction of projects like those in the river basin. It is, rather, to consider their cost-effectiveness, the environmental soundness of their design, and to make certain there are no preferable available alternatives.

It is time for all of us to learn that impatience is a luxury we can no longer afford. The Colorado River Basin is becoming more and more heavily taxed by a rapidly growing population. It is more essential now than ever to assure that every Federal dollar spent in this region is spent wisely and to the best advantage of the current and future generations of that area. I, therefore, urge my colleagues to join with me in voting to remove these sections from the conference report.

Mr. YATES. The conferees agreed on a total of $500,937,000 for the Bureau of Land Management (BLM). This is an increase, exclusive of deferring appropriations for fire costs to a subsequent supplemental, of $38,063,000. The increases recommended by the conferees are part of the House committee's initiative to substantially improve the management of the lands and resources under the jurisdiction of the BLM. The public lands must be managed in a manner that will protect the environment and provide food, timber, and outdoor recreation.

The conference agreement includes a total of $737,025,000 for the Land and Water Conservation Fund. Of this amount, $369,790,000 is for grants to the States, an increase of $51,711,000 above the amount provided by the Senate and an increase of $64,096,000 above the amount appropriated for fiscal year 1978.

An additional $100 million has been provided for Redwoods National Park. This makes a total of $301 million which has been provided to date for payment to landowners in this park expansion which was accomplished by a legislative taking, the cost of which is estimated to be between $359 million to $600 million plus. The total amount to be paid the landowners will be determined by the U.S. courts. A total of $60 million is provided for the Historic Preservation Fund, an increase of $15 million over the fiscal year 1978 program.

The conferees provided $100,000 for an additional cooperative fish and wildlife research lab in Georgia and $100,000 for a similar unit in the State of Wyoming. The conferees have agreed upon a total amount of $18,721,000 for the endangered species program. Of that amount, $3 million is grants to States, and the balance of $15,721,000 is not to become available for obligation until enactment of authorizing legislation.

The conferees agreed on a total of $380,079,000 for operation of the national park system. This includes a substantial increase above fiscal year 1978 and the budget estimate in the park management program. The employees in the national parks and the superintendents of the national parks are some of the best qualified, dedicated employees in the Federal service. It is important that the management of the Park Service provide them with full support as they perform their duties.

For Park Service construction, the conferees agreed on a total of $118,488,000. This is a reduction of $2,840,000 below the budget request. It is important that the Park Service develop a construction program that reflects the priorities of those closest to the park—the park superintendents, and the regional directors.

For the Geological Survey the conferees agreed on an amount which continues a strong program in mapping, mineral resource surveys, water resource investigation, and conservation of lands and minerals. In the National Petroleum Reserve in Alaska an additional $15 million is provided for Barrow, Alaska, gas exploration and development. This is a reduction of $20.1 million below the amount provided by the Senate. The additional $15 million over the House is to complete necessary work on wells that already have been drilled. No new wells are provided for within the allowance. The conferees agree that the Department of the Interior must undertake a study of alternative fuel supply and distribution systems to assure that proceeding with additional gas field work is the best way of supplying fuel and utility services to the Barrow area.

For the Bureau of Mines the conferees agreed to add $16 million above the House and budget amount to continue the Bureau of Mines' mined land demonstration programs in the anthracite area of Pennsylvania and the bituminous area of Pennsylvania and Illinois. Offsetting reductions were made in the Office of Surface Mining Reclamation and Enforcement Abandoned Mine Reclamation Fund.

For the Office of Surface Mining Reclamation and Enforcement regulation and technology program, the conferees agreed to a funding level that will support 22 mineral institutes in lieu of the three regional centers of excellence proposed by the House. The Secretary has announced the establishment of 20 such institutes. The conferees understand that the States of Michigan and Alabama will be the States which would be awarded the next institute program grants based on a merit selection.

For the Bureau of Indian Affairs the

conferees have agreed on a total of $1,034,559,000. This provides the BIA adequate resources to continue to administer the trust responsibilities of the United States to the Indian people under its jurisdiction.

The conferees agreed to restore a Senate-proposed reduction of $12.6 million for payment of post-World War II claims against the United States by the people of Micronesia. A procedure has been adopted that will insure proper processing and payment of these claims.

The conferees agree that all operations of the Office of Aircraft Services pertaining to the State of Alaska should be conducted from the Anchorage, Alaska, office.

For the Forest Service, the conferees agreed to continue the level of support of approximately 81 percent of the RPA in the majority of activites funded under the forest land management account established for fiscal year 1979. This continues the initiative established by the Congress in fiscal year 1978 in order to bring down the price of lumber for the housing programs.

The conferees urge the Forest Service to provide for maximum sustained yield harvest from the national forest that would result in more timber and more lumber and lower housing prices in 1981 and 1982.

I would also like to point out that increases totaling $65,848,000 above the House allowance were agreed to for the fire presuppression program. It is the conferees' intent that in the future the Forest Service budget in advance for the presuppression program and apply the normal fiscal and management controls to the program.

Earlier I alluded to reductions made in the Department of Energy. The conferees also agreed to major energy initiatives above amounts requested in the budget. Major acceleration of demonstration plants for Sovent Refined Coal I and II, which would produce clean synthetic fuels from coal, is recommended, adding $81 million over the budget. An amount of $15 million over the budget is included for beginning a demonstration of above ground processing of oil shale. The option of building a second high Btu gasification demonstration plant is also included. These demonstration initiatives will go a long way toward establishing the technical, economic, and environmental contribution of synthetic fuels to the nation's energy future. To assist in establishing advanced energy technologies, the conferees also recommended an increase of $7 million to establish comprehensive loan guarantee and financial support programs for those technologies. Finally, the conferees agreed to accelerate, above the budgeted amounts, research on technologies to better recover oil and gas supplies and to conserve energy.

For Indian health, the conferees have agreed on a total of $560,789,000. It is very important that the Indian Health Service develop a new construction priority system before any additional construction is recommended. The conferees agree that if the Indian Health Service is unable to develop such a system, the managers will take steps to provide assistance comparable to that provided for the BIA school construction program in fiscal year 1978. The Indian Health Service has in two instances supported programs that involve leasing of facilities rather than outright construction by the Service. Hearings will be held during the fiscal year 1980 budget process regarding that policy.

A total of $7,852,000 is provided for the Institute of Museum Services. This is $100,000 above the budget request and it will permit the Institute to hire five additional employees who shall be well qualified in Federal grant program management.

Mr. Speaker, a total of $108,577,000 is recommended for the Smithsonian Institution.

Mr. Speaker, at this time I want to express my personal regrets at the loss to the Smithsonian Institution of one of the members of its Board of Regents who has served so well in that capacity since May 1964. Of course, I refer to our good friend, the most distinguished and able chairman of the Committee on Appropriations, the gentleman from Texas, Mr. GEORGE MAHON. I know that just as the House and the Congress and the country will miss the contributions that he has made over the years, so, too, will the Smithsonian Institution miss the many contributions that he made as a Regent.

For the National Gallery of Art, a total of $19,041,000 is recommended. This provides the total amount requested for the exhibition program so that the beautiful, new east building can be properly used for its primary purpose of mounting exhibitions of great art.

Small reductions have been made in the amounts requested for the National Endowment for the Arts and the Humanities. The Senate had proposed providing $1,400,000 each for White House Conferences on the Arts and the Humanities with the funding to be taken from the programs of the Endowments. Other White House conferences have been directly funded. The managers agree that they will be willing to consider budget requests which provide a proper level of funding for such conferences.

Amendment No. 103, reported in technical disagreement, provides that the Fish and Wildlife Service shall not implement or enforce the use of steel shot in connection with the hunting of waterfowl in any State of the United States unless the appropriate State regulatory authority approves such implementation and enforcement.

Amendment No. 104, also reported in technical disagreement, requires the Department of Energy to amend the imported residual fuel oil regulations to allow the State of Michigan and the east coast market a 50 percent entitlement instead of the current 30 percent. The administration had announced a proposal to increase the entitlement to 100 percent. The new entitlement percentage would be effective from July 1, 1978 to July 1, 1979. It also eliminates reverse entitlements for domestic refiners and for Virgin Island refiners provided the fuel oil is not shipped from the Virgin Islands in foreign flag tankers.

Mr. Speaker, this is a good conference report. It continues making important improvements in our land and water resources and continues the preservation and protection of our parks and wildlife. It lays the foundation for the expanded production of energy and mineral resources, and improves the health and welfare of the Indian people. It expands the cultural heritage of the Nation. I strongly urge the adoption of this conference report by the House.

Mr. Speaker, at this point in the RECORD I ask unanimous consent to include a table comparing new obligational authority recommended in the bill for 1979, and the respective recommendations contained in the House and Senate bills in comparison thereto. The table follows:

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATION BILL, FISCAL YEAR 1979

[Fiscal years]

	New budget authority—					Conference compared with—			
	Enacted 1978	Estimates 1979	House 1979	Senate 1979	Conference 1979	1978 enacted	1979 estimate	House bill	Senate bill
TITLE I—DEPARTMENT OF THE INTERIOR									
LAND AND WATER RESOURCES									
Bureau of Land Management									
Management of lands and resources	$306, 955, 000	$275, 368, 000	$295, 315, 000	$274, 991, 000	$286, 853, 000	−$20, 102, 000	+$11, 485, 000	−$8, 462, 000	+$11, 862, 000
Acquisition, construction, and maintenance	18, 707, 000	17, 683, 000	19, 758, 000	18, 683, 000	19, 011, 000	+304, 000	+1, 328, 000	−747, 000	+328, 000
Public lands development roads and trails (appropriation to liquidate contract authority)	(1, 924, 000)					(−1, 924, 000)			
Payments in lieu of taxes	100, 000, 000	105, 000, 000	105, 000, 000	105, 000, 000	105, 000, 000	+5, 000, 000			
Oregon and California grant lands (indefinite, appropriation of receipts)	56, 500, 000	58, 250, 000	58, 250, 000	58, 250 000	58, 250, 000	+1, 750, 000			
Range improvements (indefinite, appropriation of receipts)	9, 172, 000	10, 900, 000	10, 900, 000	10, 900, 000	10, 900, 000	+1, 728, 000			

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATION BILL, FISCAL YEAR 1979—Continued

[Fiscal years]

	New budget authority—					Conference compared with—			
	Enacted 1978	Estimates 1979	House 1979	Senate 1979	Conference 1979	1978 enacted	1979 estimate	House bill	Senate bill
TITLE I—DEPARTMENT OF THE INTERIOR—CONTINUED									
LAND AND WATER RESOURCES—CON.									
Recreation development and operation of recreation facilities (indefinite, special fund)	300,000	300,000	300,000	300,000	300,000				
Service charges, deposits, and forfeitures (indefinite, special fund)	11,531,000	20,523,000	20,523,000	20,523,000	20,523,000	+8,992,000			
Working capital fund	2,000,000					−2,000,000			
Miscellaneous trust funds (indefinite)	100,000	100,000	100,000	100,000	100,000				
Total, Bureau of Land Management	505,265,000	488,124,000	510,146,000	488,747,000	500,977,000	−4,328,000	+12,813,000	−9,209,000	+12,190,000
Office of Water Research and Technology									
Salaries and expenses	25,207,000	27,154,000	31,057,000	26,842,000	28,357,000	+3,050,000	+1,203,000	−2,700,000	+1,515,000
Total, Land and Water Resources	530,572,000	515,278,000	541,203,000	515,589,000	529,294,000	−1,278,000	+14,016,000	−11,909,000	+13,705,000
FISH AND WILDLIFE AND PARKS									
Heritage Conservation and Recreation Service									
Salaries and expenses	17,736,000	20,978,000	17,874,000	14,874,000	14,874,000	−2,862,000	−6,104,000	−3,000,000	
Land and Water Conservation Fund (indefinite)	805,000,000	725,000,000	645,841,000	690,194,000	737,025,000	−67,975,000	+12,025,000	+91,184,000	+46,831,000
Historic preservation fund	45,000,000	45,000,000	60,000,000	100,000,000	60,000,000	+15,000,000	+15,000,000		−40,000,000
Total, Heritage Conservation and Recreation Service	867,736,000	790,978,000	723,715,000	805,068,000	811,899,000	−55,837,000	+20,921,000	+88,184,000	+6,831,000
U.S. Fish and Wildlife Service									
Resource management	177,082,000	191,937,000	196,695,000	194,508,000	196,129,000	+19,047,000	+4,192,000	−566,000	+1,621,000
Construction and anadromous fish	68,660,000	89,943,000	96,153,000	96,479,000	97,856,000	+29,196,000	+7,913,000	+1,703,000	+1,377,000
Migratory bird conservation account (definite, repayable advance)	10,000,000	10,000,000	10,000,000	10,000,000	10,000,000				
Development and operation of recreation facilities (indefinite, special fund)	150,000	150,000	150,000	150,000	150,000				
Total, U.S. Fish and Wildlife Service	255,892,000	292,030,000	302,998,000	301,137,000	304,135,000	+48,243,000	+12,105,000	+1,137,000	+2,998,000
National Park Service									
Operation of the national park system	341,282,000	363,714,000	382,317,000	367,631,000	380,079,000	+38,797,000	+16,365,000	−2,238,000	+12,448,000
Construction	161,442,000	121,328,000	111,775,000	130,391,000	118,488,000	−42,954,000	−2,840,000	+6,713,000	−11,903,000
Road construction (appropriation to liquidate contract authority)	(30,198,271)					(−30,198,271)			
Planning, development, and operation of recreation facilities (indefinite, special fund)	14,468,000	15,478,000	15,478,000	15,478,000	15,478,000	+1,010,000			
John F. Kennedy Center for the Performing Arts	3,855,000	4,066,000	4,055,000	4,055,000	4,055,000	+200,000	−11,000		
Total, National Park Service	521,047,000	504,586,000	513,625,000	517,555,000	518,100,000	−2,947,000	+13,514,000	+4,475,000	+545,000
Total, Fish and Wildlife and Parks	1,644,675,000	1,587,594,000	1,540,338,000	1,623,760,000	1,634,134,000	−10,541,000	+46,540,000	+93,796,000	+10,374,000
ENERGY AND MINERALS									
Geological Survey									
Surveys, investigations, and research	375,899,000	398,363,000	419,689,000	395,127,000	409,095,000	+33,196,000	+10,732,000	−10,594,000	+13,968,000
Exploration of national petroleum reserve in Alaska	209,541,000	185,548,000	216,048,000	251,998,000	231,048,000	+21,507,000	+45,500,000	+15,000,000	−20,950,000
Total, Geological Survey	585,440,000	583,911,000	635,737,000	647,125,000	640,143,000	+54,703,000	+56,232,000	+4,406,000	−6,982,000
Bureau of Mines									
Mines and minerals	138,200,000	121,329,000	132,667,000	118,058,000	147,007,000	+8,807,000	+25,678,000	+14,340,000	+28,949,000
Helium fund (permanent authority)		47,500,000					−47,500,000		
Total, Bureau of Mines	138,200,000	168,829,000	132,667,000	118,058,000	147,007,000	+8,807,000	−21,822,000	+14,340,000	+28,949,000
Office of Surface Mining Reclamation and Enforcement									
Regulation and technology	30,880,000	43,661,000	39,344,000	48,944,000	53,944,000	+23,064,000	+10,283,000	+14,600,000	+5,000,000
Abandoned mine reclamation fund (definite, trust fund)	36,647,000	70,861,000	77,851,000	78,451,000	61,451,000	+24,804,000	−9,410,000	−16,400,000	−17,000,000
Total, Office of Surface Mining Reclamation and Enforcement	67,527,000	114,522,000	117,195,000	127,395,000	115,395,000	+47,868,000	+873,000	−1,800,000	−12,000,000
Total, Energy and Minerals	791,167,000	867,262,000	885,599,000	892,578,000	902,545,000	+111,378,000	+35,283,000	+16,946,000	+9,967,000
INDIAN AFFAIRS									
Bureau of Indian Affairs									
Operation of Indian Programs	725,261,000	761,256,000	791,092,000	755,337,000	774,752,000	+49,491,000	+13,496,000	−16,340,000	+19,415,000
Construction	67,144,000	86,815,000	116,265,000	117,254,000	126,554,000	+59,410,000	+39,739,000	+10,289,000	+9,300,000
Road construction	75,335,000	71,410,000	74,010,000	76,753,000	79,253,000	+3,918,000	+7,843,000	+5,243,000	+2,500,000
Road construction (appropriation to liquidate contract authority)	(22,912,000)					(−22,912,000)			
Alaska native fund	30,000,000	30,000,000	30,000,000	30,000,000	30,000,000				
Trust funds (definite)	3,000,000	3,000,000	3,000,000	3,000,000	3,000,000				
Trust funds (indefinite)	23,000,000	21,000,000	21,000,000	21,000,000	21,000,000	−2,000,000			
Total, Bureau of Indian Affairs	923,740,000	973,481,000	1,035,367,000	1,003,344,000	1,034,559,000	+110,819,000	+61,078,000	−808,000	+31,215,000

	New budget authority—					Conference compared with—			
	Enacted 1978	Estimates 1979	House 1979	Senate 1979	Conference 1979	1978 enacted	1979 estimate	House bill	Senate bill
TERRITORIAL AFFAIRS									
Office of Territorial Affairs									
Administration of territories	86,535,000	49,436,000	53,523,000	49,423,000	52,023,000	−34,512,000	+2,587,000	−1,500,000	+2,600,000
Permanent appropriation (special fund)	(336,000)					(−336,000)			
Transferred from other accounts (special fund)	(938,000)					(−938,000)			
Trust Territory of the Pacific Islands	103,705,000	106,920,000	115,578,000	106,898,000	114,608,000	+10,903,000	+7,688,000	−970,000	+7,710,000
Micronesian Claims Fund			12,600,000		12,600,000	+12,600,000	+12,600,000		+12,600,000
Total, Office of Territorial Affairs	190,240,000	156,356,000	181,701,000	156,321,000	179,231,000	−11,009,000	+22,875,000	−2,470,000	+22,910,000
SECRETARIAL OFFICES									
Office of the Solicitor									
Salaries and expenses	15,173,000	14,895,000	14,585,000	14,394,000	14,585,000	−588,000	−310,000		+191,000
Office of the Secretary									
Departmental Management	37,033,000	40,607,000	42,391,000	41,545,000	42,200,000	+5,167,000	+1,593,000	−191,000	+655,000
Salaries and expenses	(22,851,000)	(24,597,000)	(26,381,000)	(26,195,000)	(26,350,000)	(+3,499,000)	(+1,753,000)	(−31,000)	(+155,000)
Departmental operations	(14,182,000)	(16,010,000)	(16,010,000)	(15,350,000)	(15,850,000)	(+1,668,000)	(−160,000)	(−160,000)	(+500,000)
Salaries and expenses (special foreign currency program)	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000				
Total, Office of the Secretary	38,033,000	41,607,000	43,391,000	42,545,000	43,200,000	+5,167,000	+1,593,000	−191,000	+655,000
Total, Secretarial Offices	53,206,000	56,502,000	57,976,000	56,939,000	57,785,000	+4,579,000	+1,283,000	−191,000	+846,000
Total, title I, new budget (obligational) authority, Department of the Interior	4,133,600,000	4,156,473,000	4,242,184,000	4,248,531,000	4,337,548,000	+203,948,000	+181,075,000	+95,364,000	+89,017,000
Consisting of:									
Appropriations	4,133,600,000	4,108,973,000	4,242,184,000	4,248,531,000	4,337,548,000	+203,948,000	+228,575,000	+95,364,000	+89,017,000
Definite appropriations	3,213,379,000	3,257,272,000	3,469,642,000	3,431,636,000	3,473,822,000	+260,443,000	+216,550,000	+4,180,000	+42,186,000
Indefinite appropriations	920,221,000	851,701,000	772,542,000	816,895,000	863,726,000	−56,495,000	+12,025,000	+91,184,000	+46,831,000
Permanent contract authority		47,500,000					−47,500,000		
Memoranda: Appropriations to liquidate contract authority	(55,034,271)					(−55,034,271)			
Title I, new budget (obligational) authority and appropriations to liquidate contract authority	4,188,634,271	4,156,473,000	4,242,184,000	4,248,531,000	4,337,548,000	+148,913,729	+181,075,000	+95,364,000	+89,017,000
TITLE II—RELATED AGENCIES									
DEPARTMENT OF AGRICULTURE									
Forest Service									
Forest protection and utilization:									
Forest land management	750,694,000	689,624,000	626,720,000	672,128,000	682,892,000	−67,802,000	−6,732,000	+56,172,000	+10,764,000
Forest research	105,790,000	102,152,000	110,718,000	104,002,000	108,166,000	+2,376,000	+6,014,000	−2,552,000	+4,164,000
State and private forestry cooperation	53,699,000	41,755,000	57,676,000	48,260,000	54,460,000	+761,000	+12,705,000	−3,216,000	+6,200,000
Total, Forest protection and utilization	910,183,000	833,531,000	795,114,000	824,390,000	845,518,000	−64,665,000	+11,987,000	+50,404,000	+21,128,000
Construction and land acquisition	41,093,000	19,545,000	43,550,000	24,118,000	35,845,000	−5,248,000	+16,300,000	−7,705,000	+11,727,000
Youth Conservation Corps	60,000,000	60,000,000	60,000,000	60,000,000	60,000,000				
Forest roads	212,115,000	243,466,000	243,466,000	243,466,000	243,466,000	+31,351,000			
Forest roads and trails	187,224,000	173,922,000	224,275,000	191,131,000	224,275,000	+37,051,000	+50,353,000		+33,144,000
Forest roads and trails (appropriation to liquidate contract authority)	(78,781,000)					(−78,781,000)			
Timber salvage sales			3,000,000	3,000,000	3,000,000	+3,000,000	+3,000,000		
Acquisition of lands for national forests:									
Special acts (special fund, indefinite)	165,000	160,000	415,000	160,000	385,000	+220,000	+225,000	−30,000	+225,000
Acquisition of lands to complete land exchanges (special fund, indefinite)	38,000	242,000	239,000	239,000	239,000	+201,000	−3,000		
Rangeland improvements (special fund, indefinite)	5,200,000	6,374,000	5,400,000	5,400,000	5,400,000	+200,000	−974,000		
Assistance to States for tree improvement	1,409,000	1,409,000	1,508,000	1,508,000	1,508,000	+99,000	+99,000		
Construction and operation of recreation facilities (indefinite, special fund)	4,084,000	3,459,000	3,459,000	3,459,000	3,459,000	−625,000			
Rights of way (indefinite)		100,000	100,000		100,000	+100,000			+100,000
Total, Forest Service	1,421,511,000	1,342,208,000	1,380,526,000	1,356,871,000	1,423,195,000	+1,684,000	+80,987,000	+42,669,000	+66,324,000
DEPARTMENT OF ENERGY									
Fossil energy research and development	631,950,000	637,451,000	614,704,000	594,753,000	576,888,000	−55,062,000	−60,563,000	−37,816,000	−17,865,000
Fossil energy construction	72,800,000	50,350,000	27,139,000	163,919,000	99,709,000	+26,909,000	+49,359,000	+72,570,000	−64,210,000
Energy production, demonstration, and distribution	186,847,000	254,692,000	182,881,000	188,581,000	169,181,000	−17,666,000	−85,511,000	−13,700,000	−19,400,000
Energy conservation	594,024,000	927,731,000	897,001,000	754,031,000	707,101,000	+113,077,000	−220,630,000	−189,900,000	−46,930,000
Economic Regulatory Administration	94,855,000	98,933,000	94,733,000	94,733,000	94,733,000	−122,000	−4,200,000		
Strategic petroleum reserve	3,179,889,000	4,250,464,000	4,084,624,000	3,006,854,000	3,006,854,000	−173,035,000	−1,243,610,000	−1,077,770,000	
Energy Information Administration	50,654,000	63,405,000	59,286,000	59,286,000	59,286,000	+8,632,000	−4,119,000		
Total, Department of Energy	4,811,019,000	6,283,026,000	5,960,368,000	4,862,157,000	4,713,752,000	−97,267,000	−1,569,274,000	−1,246,616,000	−148,405,000
DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE									
Health Services Administration									
Indian health services	442,010,000	472,852,000	490,048,000	481,127,000	483,829,000	+41,819,000	+10,977,000	−6,219,000	+2,702,000
Indian health facilities	71,257,000	69,955,000	70,555,000	76,960,000	76,960,000	+5,703,000	+7,005,000	+6,405,000	
Total, Indian health	513,267,000	542,807,000	560,603,000	558,087,000	560,789,000	+47,522,000	+17,982,000	+186,000	+2,702,000
Office of Education									
Indian education	59,732,000	75,735,000	73,735,000	71,735,000	71,735,000	+12,003,000	−4,000,000	−2,000,000	

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATION BILL, FISCAL YEAR 1979—CONTINUED

[Fiscal years]

	New budget authority—					Conference compared with—			
	Enacted 1978	Estimates 1979	House 1979	Senate 1979	Conference 1979	1978 enacted	1979 estimate	House bill	Senate bill
TITLE II—RELATED AGENCIES—Con.									
DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE—Con.									
Office of the Assistant Secretary for Education									
Institute of Museum Services	4,010,000	7,752,000	7,752,000	8,000,000	7,852,000	+3,842,000	+100,000	+100,000	−148,000
Total, Department of Health, Education, and Welfare	577,009,000	626,294,000	642,090,000	637,822,000	640,376,000	+63,367,000	+14,082,000	−1,714,000	+2,554,000
INDIAN CLAIMS COMMISSION									
Salaries and expenses	1,764,000					−1,764,000			
NAVAJO AND HOPI INDIAN RELOCATION COMMISSION									
Salaries and expenses	2,173,000	13,129,000	8,752,000	8,692,000	8,752,000	+6,579,000	−4,377,000		+60,000
SMITHSONIAN INSTITUTION									
Salaries and expenses	93,393,000	96,307,000	96,841,000	95,540,000	96,302,000	+2,909,000	−5,000	−539,000	+762,000
Museum programs and related research (special foreign currency program)	4,000,000	3,700,000	3,700,000	3,700,000	3,700,000	−300,000			
Science information exchange	1,857,000	2,218,000	2,000,000	2,000,000	2,000,000	+143,000	−218,000		
Construction and improvements, National Zoological Park	2,500,000	3,900,000	3,900,000	3,900,000	3,900,000	+1,400,000			
Restoration and renovation of buildings	2,425,000	3,100,000	2,100,000	1,950,000	2,100,000	−325,000	−1,000,000		+150,000
Construction	325,000	575,000	575,000	575,000	575,000	+250,000			
Subtotal	104,500,000	109,800,000	109,116,000	107,665,000	108,577,000	+4,077,000	−1,223,000	−539,000	+912,000
Salaries and expenses, National Gallery of Art	15,679,000	19,305,000	19,305,000	18,455,000	19,041,000	+3,362,000	−264,000	−264,000	+586,000
Salaries and expenses, Woodrow Wilson International Center for Scholars	1,286,000	1,317,000	1,567,000	1,567,000	1,567,000	+281,000	+250,000		
Total, Smithsonian Institution	121,465,000	130,422,000	129,988,000	127,687,000	129,185,000	+7,720,000	−1,237,000	−803,000	+1,498,000
NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES									
National Endowment for the Arts									
Salaries and expenses	89,450,000	102,160,000	102,160,000	102,160,000	102,160,000	+12,710,000			
Administrative expenses	8,900,000	10,000,000	10,000,000	9,550,000	9,775,000	+875,000	−225,000	−225,000	+225,000
Matching grants	25,500,000	37,500,000	37,500,000	37,500,000	37,500,000	+12,000,000			
Total, National Endowment for the Arts	123,850,000	149,660,000	149,660,000	149,210,000	149,435,000	+25,585,000	−225,000	−225,000	+225,000
National Endowment for the Humanities									
Salaries and expenses	88,075,000	100,300,000	98,300,000	97,800,000	98,300,000	+10,225,000	−2,000,000		+500,000
Administrative expenses	8,200,000	10,800,000	10,800,000	9,950,000	10,246,000	+2,046,000	−554,000	−554,000	+296,000
Matching grants	25,000,000	34,500,000	36,500,000	36,500,000	36,500,000	+11,500,000	+2,000,000		
Total, National Endowment for the Humanities	121,275,000	145,600,000	145,600,000	144,250,000	145,046,000	+23,771,000	−554,000	−554,000	+796,000
Total, National Foundation on the Arts and the Humanities	245,125,000	295,260,000	295,260,000	293,460,000	294,481,000	+49,356,000	−779,000	−779,000	+1,021,000
COMMISSION OF FINE ARTS									
Salaries and expenses	243,000	264,000	263,000	263,000	263,000	+20,000	−1,000		
ADVISORY COUNCIL ON HISTORIC PRESERVATION									
Salaries and expenses	1,137,000	1,553,000	1,178,000	1,178,000	1,178,000	+41,000	−375,000		
NATIONAL CAPITAL PLANNING COMMISSION									
Salaries and expenses	2,057,000	1,939,000	1,936,000	1,991,000	1,963,000	−94,000	+24,000	+27,000	−28,000
FRANKLIN DELANO ROOSEVELT MEMORIAL COMMISSION									
Salaries and expenses	25,000	20,000	20,000	20,000	20,000	−5,000			
JOINT FEDERAL-STATE LAND USE PLANNING COMMISSION FOR ALASKA									
Salaries and expenses	712,000	594,000	594,000	356,000	594,000	−118,000			+238,000
PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION									
Salaries and expenses	1,323,000	1,530,000	1,630,000	1,630,000	1,630,000	+307,000	+100,000		
Land acquisition and development (borrowing authority)	7,500,000	13,400,000	13,400,000	13,400,000	13,400,000	+5,900,000			
Public development	12,354,000	12,355,000	12,355,000	12,355,000	12,355,000	+1,000			
Total, Pennsylvania Avenue Development Corporation	21,177,000	27,285,000	27,385,000	27,385,000	27,385,000	+6,208,000	+100,000		

	New budget authority—					Conference compared with—			
	Enacted 1978	Estimates 1979	House 1979	Senate 1979	Conference 1979	1978 enacted	1979 estimate	House bill	Senate bill
FUNDS APPROPRIATED TO THE PRESIDENT									
Petroleum Reserves (indefinite, special fund) (by transfer)	(561, 200, 000)					(−561, 200, 000)			
Total, title II, new budget (obligational) authority, related agencies	7, 205, 417, 000	8, 721, 994, 000	8, 448, 360, 000	7, 317, 882, 000	7, 241, 144, 000	+35, 727, 000	−1, 480, 850, 000	−1, 207, 216, 000	−76, 738, 000
Consisting of:									
Appropriations	7, 197, 917, 000	8, 708, 594, 000	8, 434, 560, 000	7, 304, 482, 000	7, 227, 744, 000	+29, 827, 000	−1, 480, 850, 000	−1, 207, 216, 000	−76, 738, 000
Definite appropriations	7, 188, 430, 000	8, 698, 259, 000	8, 425, 347, 000	7, 255, 224, 000	7, 218, 161, 000	+29, 731, 000	−1, 480, 098, 000	−1, 207, 186, 000	−77, 063, 000
Indefinite appropriations	9, 487, 000	10, 335, 000	9, 613, 000	9, 258, 000	9, 583, 000	+96, 000	−752, 000	−30, 000	+325, 000
Borrowing authority	7, 500, 000	13, 400, 000	13, 400, 000	13, 400, 000	13, 400, 000	+5, 900, 000			
Memoranda: Appropriations to liquidate contract authority	(78, 781, 000)					(−78, 781, 000)			
Title II, new budget (obligational) authority and appropriations to liquidate contract authority	7, 284, 198, 000	8, 721, 994, 000	8, 448, 360, 000	7, 317, 882, 000	7, 241, 144, 000	−43, 054, 000	−1, 480, 850, 000	−1, 207, 216, 000	−76, 738, 000
RECAPITULATION									
Total, new budget (obligational) authority, all titles	11, 339, 017, 000	12, 878, 467, 000	12, 690, 544, 000	11, 566, 413, 000	11, 578, 692, 000	+239, 675, 000	−1, 299, 775, 000	−1, 111, 852, 000	+12, 279, 000
Consisting of:									
Appropriations	11, 331, 517, 000	12, 817, 567, 000	12, 677, 144, 000	11, 553, 013, 000	11, 565, 292, 000	+233, 775, 000	−1, 252, 275, 000	−1, 111, 852, 000	+12, 279, 000
Definite appropriations	10, 401, 809, 000	11, 955, 531, 000	11, 894, 989, 000	10, 726, 860, 000	10, 691, 983, 000	+290, 174, 000	−1, 263, 548, 000	−1, 203, 006, 000	−34, 877, 000
Indefinite appropriations	929, 708, 000	862, 036, 000	782, 155, 000	826, 153, 000	873, 309, 000	−56, 399, 000	+11, 273, 000	+91, 154, 000	+47, 156, 000
Borrowing authority	7, 500, 000	13, 400, 000	13, 400, 000	13, 400, 000	13, 400, 000	+5, 900, 000			
Permanent contract authority		47, 500, 000					−47, 500, 000		
Memoranda: Appropriations to liquidate contract authority	(133, 815, 271)					(−133, 815, 271)			
Grand total, new budget (obligational) authority and appropriations to liquidate contract authority	11, 472, 832, 271	12, 878, 467, 000	12, 690, 544, 000	11, 566, 413, 000	11, 578, 692, 000	+105, 859, 729	−1, 299, 775, 000	−1, 111, 852, 000	+12, 279, 000

GENERAL LEAVE

Mr. YATES. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report on the bill, H.R. 12932, and to include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. YATES. Mr. Speaker, if there are questions, I will be glad to answer them. If not, I defer to my distinguished friend, the ranking Member, the gentleman from Pennsylvania (Mr. McDADE).

Mr. McDADE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of this conference report. The chairman has, I think, explained it in some detail, and it is comforting to know that we are substantially under the budget request proposed by the President.

I want to compliment all of the members on the subcommittee for the contributions they have made. Each one of them represents an important aspect of this bill, and they have all played a part. We are privileged to have a fine group of people working with us at the staff level on both the majority and minority sides. They worked together; they worked devotedly; and they worked without partisanship.

I want to close these brief remarks by once again paying tribute to our colleague, the gentleman from Colorado (Mr. EVANS) who has served so long and so ably on the committee. This will be his last appearance on the floor as a member of this subcommittee, and we shall miss his devotion, miss his insight, and miss the great contributions that he has constantly made over the years to make this a better bill and to make ours a better country by husbanding our natural resources in such great style. We will miss him. We wish him well in his new career.

Mr. Speaker, I rise in support of the conference report to H.R. 12932 making appropriations for the Department of the Interior and related agencies for fiscal year 1979 and to urge its adoption by the full House.

Mr. Speaker, the Members of this House should be aware that this was a most difficult conference to resolve our differences with the Senate. The entire conference spanned a period of over 2 weeks. Yet the end product which we bring to you today is, I believe, one you can support enthusiastically. It is a bill that, despite our compromises with the Senate, remains $1.2 billion below the President's budget request. And while it reflects substantial reductions below the budget, we were careful to protect those programs which the Members of the House supported in our version of the bill.

The reduction below the budget rests primarily with the cut in the strategic petroleum reserve which we did reduce by over $1 billion. This reduction was made only after we received hard information that the Department of Energy could not possibly obligate this money in the coming year. Nevertheless, we did provide $3 billion for this vital program.

The committee continues to be concerned that the program is running 6 months behind schedule in acquiring supplies. As it stands now, there are sufficient funds to allow for the purchase of 267 million barrels of oil in the coming year. Our target is 500 million barrels in the ground by 1980 and the Department of Energy should make every effort to meet that goal.

Mr. Speaker, the items funded here touch every fabric of our national life. This is the major resource bill that will come before you this year. It is a bill that you can vote for and take back to your constituents with pride. I hope you will support its passage.

Mr. Speaker, I reserve the remainder of my time.

Mr. YATES. Mr. Speaker, I yield 5 minutes to the gentleman from Texas (Mr. PICKLE).

Mr. PICKLE. Mr. Speaker, I would like to call to the attention of the House a very serious situation which affects my district but which I think also affects many districts. It is an inequity I am sure your committee did not intend to create by your restriction on the use of historic preservation grant funds. H.R. 12932 states that:

> None of the funds in this appropriation may be used for grants for renovation of State and local government buildings still in use for governmental purposes.

Over the history of this program, the amount of funds appropriated has been relatively small. In order to spread the use of funds to as many worthy projects as possible, applicants were encouraged to stage their construction work and apply for grants for each scheduled stage. This system assured that appropriated funds would be promptly applied to work ready to begin, with the understanding that projects would continue to be funded from future years appropriations assuming that they complied with all of the appropriate standards and expectations, subject to an adequate appropriation from Congress.

If H.R. 12932 has the effect of cutting off funding during one of these later stages of a project because it is a publicly owned building, I do not think that this is fair to those communities who have relied on that continued funding. Certainly, if the program were abolished, these communities would not be entitled to continued support. But here, where there are funds, increased funds in fact (from $45 million in fiscal year 1978 to

$60 million in fiscal year 1979), and where the buildings are listed on the National Register of Historic Places and remain otherwise eligible under the authorizing legislation, these communities that have in good faith and with what would seem to be a reasonable expection planned for continued stages of their projects to be funded should not now be completely cut off.

Mr. YATES. Mr. Speaker, will the gentleman yield?

Mr. PICKLE. I am delighted to yield to the gentleman from Illinois.

Mr. YATES. Mr. Speaker, the gentleman and I have discussed this matter previously. I think the gentleman has a valid complaint on behalf of his constituents.

I want the gentleman to know the action of our subcommittee pertained to the fiscal year 1979 and we hope to years beyond that; but insofar as programs that were begun before the fiscal year 1979 and for commitments that have been made, as is the case with respect to the instances that the gentleman has described, we are advised that there are funds that have not yet been obligated by the agency which I think would still be available for use under continuing programs of the kind that the gentleman has.

Also, on behalf of the committee, I certainly would hope and expect that some relief would be accorded to the gentleman's constituents.

Mr. PICKLE. Mr. Speaker, I thank the gentleman very much for his comments.

May I engage the gentleman further in colloquy here?

Would that determination be made by the Department of Interior Heritage Conservation and Recreation Service?

Mr. YATES. Yes; that comment pertains to the agency that has control of the funds.

Mr. PICKLE. In order that this body can have an additional picture of this situation, and I do appreciate the gentleman's comments, I have in mind one particular instance where a small rural county was restoring its courthouse, an 80- or 90-year-old building. They specifically went this route, because the State historical commission said, "We encourage you to do it."

They talked it over and decided that that was the route they would go. They went through two stages. They have now gone through the third stage in this project. Now we have whacked them off with this legislation. If funds would be available down the street for discretionary determination by the Department of the Interior, then some relief can be given those who in bona fide good faith entered into this project at the invitation of us, the Government, so they can at least complete the project.

I recognize that there may have been some abuses, but there have been many wonderful examples of restorations that did occur.

Mr. YATES. Mr. Speaker, if the gentleman will yield further, it is our understanding there are still approximately $20 million to $25 million in unobligated funds from prior fiscal years. It is from these funds we would expect that programs such as those described by the gentleman will be able to have their projects completed.

As I indicated before, it is the intention of the committee that such reservations as were placed on expenditures under the programs will be applied to the fiscal year 1979 and beyond.

Mr. PICKLE. Mr. Speaker, I think that statement of the chairman would be very helpful. I hope it would then give the clear intent of the committee to the agency down the street, the Department of Interior, that we should finish those good projects that have been started for restoration of government buildings still in use by State and local governments.

Mr. Speaker, I thank the gentleman very much.

Mr. McDADE. Mr. Speaker, I yield 5 minutes to the gentleman from Louisiana (Mr. MOORE).

Mr. MOORE. Mr. Speaker, this conference report contains a provision that did not exist in the House bill. The provision was added by the junior Member from Louisiana from the other body (Mr. JOHNSTON), to this appropriation bill to amend the entitlements program as it affects residual fuel oil.

The House has never had an opportunity to vote or address this item or anything similar to it.

A stronger amendment on this particular subject was intended to be offered by myself and the gentleman from Illinois (Mr. RUSSO) to the DOE authorization bill, H.R. 11392, which the leadership has thus far refused to bring to the House floor.

The passage of this conference report would make that amendment we intended to offer moot. The provision in this conference report significantly differs from the amendment I intended to offer along with the gentleman from Illinois (Mr. RUSSO), and it also is significantly different from the original amendment on this subject reported out of the Committee on Energy and Natural Resources of the Senate on May 10, 1978.

The provision in this conference report was offered by the junior Member from Louisiana in the other body as a compromise. The DOE originally proposed a change in the fuel oil entitlement program to give a full entitlement subsidy to importers of foreign refined residual fuel oil, and also adjusted available license fee free tickets.

The Moore-Russo amendment would have prohibited this full entitlement subsidy to increase the entitlement subsidy for foreign refined residual fuel oil.

The compromise that exists in this conference report gives 50 percent of what the Department of Energy intended or a total of a 20-percent increase over the present entitlement program. As a matter of principle, I still oppose even this compromise.

This is not a consumer issue, as it has been couched by the Department of Energy; it is really nothing more than a marketing problem between major oil companies and the importers of residual fuel oil. There is not a pending price increase to those who use residual fuel oil on the east coast to make this change necessary.

Additionally, residual fuel oil prices on the east coast are not substantially higher at all than in other parts of the country. A Library of Congress study shows that from May 1975 to December 1977, the average price of east coast residual fuel oil, except for 1 month, has been less than the average residual fuel oil price for all other regions of the country taken together.

The Department of Energy's own information administration study, dated July 1978, shows the east coast prices are approximately equal to the rest of the Nation. The same study shows that residual fuel oil prices in the Pacific Coast region and the Mountain States are significantly higher than paid on the east coast.

A second major point is the fact that we are subsidizing foreign imports by $151 million a year under this compromise. That is hurting our balance of payments and domestic producers and refiners.

Third, the rest of the country is going to have to pay this $151 million. Consumers all over the rest of the country are going to pay for this subsidy through increases in prices of domestically refined petroleum products and for no good reason.

Last in the States that are eligible to receive this 20-percent increase in subsidy, there is a real question whether or not those consumers are ever going to receive a passthrough of this entitlement change, or whether they are ever going to receive any of these benefits.

The system is ripe today, as it has been ever since this program has been in effect, to have the subsidy that is supposed to be passed through to the consumers soaked up before it ever reaches the consumer by foreign refiners or by foreign importers.

A good example is in 1976, when a 30-percent entitlement change was given. Only in 1 month did the prices to the consumer drop. Then they rose again, and they have been higher ever since than they were before the entitlement change.

The hard, cold facts do not prove that this is ever passed through to the consumers, so it is not a consumer issue.

Mr. Speaker, in conclusion, I point out that this is something that is a problem between major oil companies and importers of residual fuel oil. It is going to raise the price by $151 million a year to consumers in this Nation of domestic petroleum products to finance foreign products coming into this country. That is not going to help our balance of payments or our consumers. It only helps importers or foreign refiners of fuel oil.

Mr. McDADE. Mr. Speaker, I yield 5 minutes to the gentleman from Massachusetts (Mr. CONTE), a member of the committee.

Mr. CONTE. Mr. Speaker, let me speak in answer to my good friend, the gentleman from Louisiana (Mr. MOORE). And I want to say that he is my good friend, and I really appreciate that he is not going to press this issue all the way. The gentleman has spoken and given his views, and I appreciate those views, but I feel that I should tell our side of the story, very briefly.

I think the main thrust of this amendment is the equity. The equity is a paramount thing.

Back on June 15, in a statement to the

press, Mr. Schlesinger said this, and I quote:

In 1977 the percentage of East Coast petroleum demands that received entitlement benefits was only 81%, compared to virtually complete bentfits in other parts of the country.

So we can see the importance and the equity in this amendment.

And he said:

After the proposed action, the amount of East Coast petroleum demand being subsidized through the entitlements program would increase to 94 percent.

Yet, that is below the rest of the country.

The east coast has not had a fair shake here. All we are asking is that we be treated equally; we are not asking for special breaks.

Second, it should be emphasized that the compromise was worked out by the House and by the Senate in good faith—good faith by both sides. Both sides gave up part of what they wanted. And that is what a compromise is all about. Our entitlement value was raised from 30 to 50 percent rather than 100 percent. Therefore, our benefits will be smaller, much smaller, under the compromise, and the cost to the rest of the Nation will be less. However, the other side agreed to support revoking the 63-cent-per-barrel import fee, which will help to increase the value of the entitlement which we are receiving. Both sides again gave up something, and as a result, we have a very fair compromise.

Third, the issue has been delayed for so long that unless it is resolved satisfactorily at this time, prices for consumers on the east coast and parts of the Midwest will be going up, and this means higher electricity bills for consumers and higher costs of users of residual oil.

Mr. Speaker, I have here a lengthy statement on the entitlement program. Because I think a lot of the Members of of the House really do not understand what the entitlement program is all about and how the entitlement program affects the rest of the United States, I will submit this statement for the RECORD.

The material referred to is as follows:

RESIDUAL OIL ENTITLEMENTS COMPROMISES

On August 9, 1978, the Senate amended the Department of the Interior Appropriations bill to provide a compromise solution to the residual oil entitlements problem. The House must now decide whether or not to accept the Senate position in conference committee and then on the floor. This memorandum provides a comparison of the present regulations, the Department of Energy's proposed new regulations and the Senate compromise.

I. The folowing is a summary of the three proposals:

A. The present regulations provide for:

(1) A 30% entitlement on every barrel of imported residual oil, currently worth about 49¢ a barrel.

(2) Payment of the so-called "Reverse Entitlement" by domestic refiners selling residual fuel into PAD I (the East Coast) in quantities over 5,000 barrels a day. This reduces their entitlement benefit by 50% or about 81¢ a barrel.

B. The proposed DOE regulations would provide:

(1) A 100% entitlement less 63¢ domestic refinery protection, worth about 94¢ a barrel, on imported residual oil.

(2) Elimination of the "Reverse Entitlement."

(3) A choice for Amerada Hess, the Virgin Island refiner, between being either domestic or foreign for purposes of both the Jones Act and the Entitlement Program. This would eliminate the Hess advantage in buying cheap crude oil as a domestic refiner and using cheap shipping as a foreign refiner.

C. The Senate compromise provides:

(1) A 50% entitlement on every imported barrel worth about 80¢.

(2) Elimination of the "Reverse Entitlement."

(3) A choice for Amerada Hess to be either a domestic refiner and pay the cost of Jones Act shipping or continue to use foreign bottoms and also continue to pay the 50% "Reverse Entitlement."

(4) Agreement by the Administration to revoke the 63¢ a barrel import fee if the compromise is passed. The effective date of the compromise would be retroactive to July 1, 1978, and remain in force until July 1, 1979, when the regulations would revert to those in effect at the present time.

II. These are the comparative impacts of the three proposals:

A. The current regulations provide a 49¢ a barrel benefit for East Coast resid users with state by state benefits as listed on the attached sheet in the first column.

B. It should be kept in mind that as of May 1, 1978, the fee free tickets that allowed the importation without import fee of foreign refined resid began phasing out. Without some form of remedy as provided either by the new regulations or the compromise, these fees would add about 44¢ a barrel neutralizing the benefit of the 30% entitlement. For state by state impacts see column two.

C. The Senate Compromise provides an 80¢ a barrel benefit during the coming year with state by state impacts as listed in column three. Key to the compromise is the commitment of both Secretary Schlesinger and Stuart Eizenstadt to urge the President to extend fee free licenses to all residual oil importer applicants until July 1, 1979, should the compromise be enacted.

D. The proposed new regulations provide a 94¢ a barrel benefit which amounts to about 60% of a full entitlement. This is because the import fee problem is solved by allowing the fee to go into effect, thereby reducing the entitlement value by 63¢ from the 100% level. State by state values of the new regulations are listed in column 4.

E. *Thus, the compromise provides about 70% of the increase in benefits that would be derived from the new regulations.*

F. The cost, per gallon, to other petroleum products such as gasoline or distillate, amount to less than one tenth of one cent in the case of the compromise and to about 1.3 tenths of a cent per gallon in the case of the new regulations.

G. In addition to somewhat higher benefits, the new regulations have the advantage of being permanent whereas the compromise would last for a year.

H. The compromise has the advantage of bringing a swift conclusion to the issue so that an element of certainty can enter the market place. If the threat of a block on the new regulations is sustained for any length of time, part of the benefits of the new regulations will be lost. This would result from the fact that the current uncertainty about prices has caused both buyers and sellers of resid to hold back on the purchase and sale of this product. Continued delay into the heating season could result in higher prices and even spot shortages.

I. The figures on the attached sheet may appear to be lower than anticipated. This results from the drastic downward slide of the value of an entitlement over the past two months. The entitlement value is volatile and may even increase due to OPEC price increases in December. Regardless of this fact, the essential relative values listed in this analysis are correct.

RESIDUAL OIL ENTITLEMENTS BENEFITS[1]—EAST COAST

[In millions of dollars]

State	Current regulations (1)	Current regulations[2] less import fees (2)	Senate compromise (3)	New DOE regulations (4)
Florida	42.7	2.5	66.0	76.5
Georgia	5.2	−.7	5.9	6.3
South Carolina	3.4	−.3	4.2	4.6
North Carolina	3.3	−1.0	2.7	2.4
Virginia	18.3	.7	27.4	31.5
West Virginia	.9	.3	.7	.6
District of Columbia and Maryland	15.2	.5	22.7	26.1
Delaware	5.3	.4	8.3	9.7
Pennsylvania	23.1	−.3	32.3	36.4
New Jersey	26.6	.8	39.4	45.2
New York	73.3	4.0	112.4	130.0
Connecticut	15.5	.8	23.7	27.4
Massachusetts	37.9	2.3	58.5	67.8
Rhode Island	1.9	0	2.6	2.9
New Hampshire	2.7	0	3.9	4.4
Vermont	.5	−.1	.5	.5
Maine	5.3	.2	7.9	9.0
Subtotal, New England	63.8	3.2	97.1	112.0

[1] All figures represent entitlements benefits net of the impact of resid entitlements on gasoline and distillate at 1976 consumption rates using May 1978 entitlements values.

[2] Note that every figure represents a price increase over current regulations. A negative number indicates that import fees more than cancel the 30% entitlement benefit.

Mr. McDADE. Mr. Speaker, I yield 2 minutes to the gentleman from Maryland (Mr. BAUMAN).

Mr. BAUMAN. Mr. Speaker, I wish to compliment the conferees on this conference report, and particularly the provision dealing with the use of steel shot in waterfowl hunting. The section of the report to which I refer reads as follows:

SEC. 306. No funds appropriated by this Act shall be available for the implementation or enforcement of any rule or regulation of the United States Fish and Wildlife Service, Department of the Interior, requiring the use of steel shot in connection with the hunting of waterfowl in any State of the United States unless the appropriate State regulatory authority approves such implementation and enforcement.

Mr. Speaker, as one who has been strongly opposed to the Interior Department's ban on the use of lead shot, I am pleased that the other body and the conferees have acted to allow each State to decide this ban on their own initiative. Testimony before the Subcommittee on Fish and Wildlife on which I have the honor to serve has shown that, at least in Maryland, the use of steel shot has been both ineffectual as a conservation measure and highly costly to individual hunters, because of the scarcity of such ammunition.

At a hearing held in Easton earlier this year numerous hunters testified to the effects of last year's lead shot ban which was imposed on the Eastern Flyway for the first time. Thousands of waterfowl were crippled but not killed by steel shot, whereas lead shot would have been effective. I remain unconvinced that lead shot has been proven to poison waterfowl and many technical experts can be found on both sides of the question.

At least the pending amendment allows each State to decide for themselves and I hope that the State of Maryland will take advantage of this and lift the ban on the use of lead shot for the coming hunting season.

Mr. MCDADE. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. ROUSSELOT).

Mr. ROUSSELOT. Mr. Speaker, I wish to thank both the gentleman from Illinois (Mr. YATES) and the gentleman from Pennsylvania (Mr. MCDADE) for giving us a very reasonable bill. It is so reasonable that I may even vote for it.

Mr. YATES. Mr. Speaker, if the gentleman will yield, I wish to express my appreciation to the distinguished gentleman from California for that assurance.

Mr. FLOWERS. Mr. Speaker, I wish to express my wholehearted support for the efforts of the conferees on the Interior appropriations. In particular, I want to congratulate SID YATES for a job very well done. For the last 2 years, I have had the great pleasure of working with SID on the fossil energy research and development programs of the Department of Energy. The cooperation that has been achieved between our subcommittees is in the best traditions of the Congress and, more than that, has made a real contribution to improving our Nation's ability to use its fossil fuels in an efficient and environmentally acceptable fashion.

One of the most notable initiatives has been the development of the SRC processes. For some time SID and I have been aware of the promise of the SRC I solids process and the timeliness for its demonstration, which was authorized last year. This year, a demonstration plant for the sister process, SRC II, for producing liquids was authorized. The Appropriations Committee has acted boldly with substantial appropriations for both plants to permit speedy implementation by the administration.

On a smaller research and development level, we have worked together this year to initiate new or expanded efforts in peat gasification, thermionic conversion, advanced fuel cells, coal preparation, micellar polymer flooding for enhanced oil recovery, the extraction of gas from the Devonian shales and western gas sands, and a hydroretorting process for shale oil extraction. These new activities are not all simple increases but in the cases of thermionics and shale oil hydroretorting are examples of prudent redirection of the programs. In the gasification and direct combustion programs the decision was made to decrease the programs substantially. To accomplish this objective some were reduced to make way for the new.

In summary, I think our efforts to work together on the fossil energy programs has been very productive and personally satisfying to me. I recommend the adoption of this conference report.

Mr. BOLAND. Mr. Speaker, I support this conference report. The report appropriates an amount that is $1.1 billion below the amount in the House bill and $1.3 billion less than the administration's budget request. This Congress has closely examined the budgetary requirements of the Departments of Energy and Interior and related agencies. The conference report appropriates the necessary funds for the operation of these important agencies without including superfluous funds and throwaway dollars. There is no fat in this bill. We are heeding the mandate of the people to cut spending wherever and whenever possible.

Mr. Speaker, I want to take this opportunity to commend the conference compromise on the oil entitlements issue. The 50 percent entitlement on imported oil authorized by the conference report strikes a happy balance between the present entitlement regulations and the regulations proposed by the Department of Energy last summer. I must be candid and admit that I would rather have seen the proposed DOE regulations implemented. The present compromise, however, if compromise there must be, is a good one and I wholeheartedly support it.

The entitlements question is of great concern to me, both as a Member from Massachusetts and as cochairman of the New England Congressional Caucus. Some have characterized the program as an aid package to the New England and Middle West States. Nothing could be farther from the truth. New England, for example, is forced to import over 80 percent of its residual oil from foreign refineries. Without the entitlements program, New England would receive virtually none of the benefits of lower-priced domestic oil. The pricing relief contained in this conference will restore a semblance of equality between New England and the energy-rich areas of this Nation.

Mr. Speaker, DOE's intent with the entitlements program was to eliminate the fundamental inequity between consumers dependent on imported residual fuel oil and those who have access to lower cost-domestically refined supplies in other areas of the country. The regulations proposed last summer aimed to do just that. The compromise in this report obtains for New England 85 percent of the benefits which would have been available under the regulations proposed by DOE. New England is not yet on an energy parity with the rest of the country, but this report, with the entitlements compromise, is a step in that direction. I support the conference report and I urge my fellow Members to do the same.

● Mr. CHARLES WILSON of Texas. Mr. Speaker, the Interior appropriations bill, H.R. 12932, contains an appropriation for the Pennsylvania Avenue Development Corporation of $13.4 million for land acquisition and condemnation purposes.

I would like to share with my colleagues the letter I wrote to Chairman YATES to clarify whether unused funding could be used for other land acquisition and development, as well as his response to me:

SEPTEMBER 14, 1978.

Hon. SIDNEY R. YATES,
Chairman, Subcommittee on Interior, Committee on Appropriations, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: As you know, H.R. 12932 contains an appropriation for the Pennsylvania Avenue Development Corporation of $13.4 million for land acquisition and condemnation purposes.

It is my understanding that should the appropriation not be required for the area between 13th and 14th Streets on Pennsylvania Avenue, it still can be used for other land acquisition and development. Also, all things being equal, the Corporation would automatically give priority to any development plan which might be implemented without the use of appropriated money.

Am I not correct on these two points? And should I be wrong, is there any way to include this type of language in the current conference report?

I appreciate your attention to and assistance on this matter.

Sincerely,

CHARLES WILSON.

CONGRESS OF THE
UNITED STATES,
HOUSE OF REPRESENTATIVES,
COMMITTEE ON APPROPRIATIONS,
Washington, D.C., September 19, 1978.

Hon. CHARLES WILSON,
Longworth Building,
Washington, D.C.

DEAR CHARLIE: I have received your letter of September 14 concerning Pennsylvania Avenue Development Corporation.

The pending FY 1979 appropriation (H.R. 12932) does include $13.4 million for land acquisition and development, as stated in the budget request and the House report (95–1251), is intended for acquisitions between 13th and 16th Streets. If, however, such funds were not needed in this area, the Corporation could apply for a reprogramming of the funds.

Because of the complexity involved in choosing a plan, it is not likely that the question of the use of appropriated or private funds would be the only important element in the decision.

I hope this response clarifies the matter for you.

With best regards.

Sincerely,

SIDNEY R. YATES,
Chairman, Subcommittee on Interior Subcommittee on Interior and Related Agencies.●

Mr. McDADE. Mr. Speaker, I have no further requests for time.

Mr. YATES. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore (Mr. FUQUA). The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. ROUSSELOT. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 382, nays 12, not voting 38, as follows:

[Roll No. 875]

YEAS—382

Abdnor	Cohen	Goldwater
Addabbo	Coleman	Gonzalez
Akaka	Collins, Ill.	Goodling
Alexander	Conable	Gore
Anderson, Calif.	Conte	Gradison
	Corcoran	Grassley
Anderson, Ill.	Corman	Green
Andrews, N.C.	Cornell	Gudger
Andrews, N. Dak.	Cornwell	Guyer
	Cotter	Hagedorn
Annunzio	Coughlin	Hall
Applegate	Cunningham	Hamilton
Archer	D'Amours	Hammer-schmidt
Armstrong	Daniel, Dan	
Ashbrook	Daniel, R. W.	Hanley
Ashley	Danielson	Hannaford
Aspin	Davis	Hansen
AuCoin	de la Garza	Harkin
Badham	Delaney	Harris
Bafalis	Dent	Harsha
Baldus	Derrick	Hawkins
Barnard	Derwinski	Heckler
Baucus	Devine	Hefner
Bauman	Dickinson	Heftel
Beard, R.I.	Dicks	Hightower
Beard, Tenn.	Dingell	Hillis
Benjamin	Dodd	Holland
Bennett	Dornan	Holt
Bevill	Drinan	Holtzman
Biaggi	Duncan, Oreg.	Horton
Bingham	Duncan, Tenn.	Howard
Blanchard	Early	Hubbard
Boggs	Eckhardt	Huckaby
Boland	Edgar	Hughes
Bolling	Edwards, Ala.	Hyde
Bonior	Edwards, Okla.	Ichord
Bonker	Emery	Ireland
Bowen	English	Jacobs
Brademas	Erlenborn	Jeffords
Breaux	Ertel	Jenkins
Brinkley	Evans, Colo.	Jenrette
Brodhead	Evans, Del.	Johnson, Calif.
Brooks	Evans, Ga.	Johnson, Colo.
Broomfield	Fary	Jones, N.C.
Brown, Calif.	Fascell	Jones, Okla.
Brown, Mich.	Findley	Jones, Tenn.
Brown, Ohio	Fish	Jordan
Broyhill	Fisher	Kasten
Buchanan	Fithian	Kastenmeier
Burgener	Flippo	Kazen
Burke, Fla.	Flood	Kelly
Burke, Mass.	Florio	Kemp
Burleson, Tex.	Flowers	Keys
Burlison, Mo.	Flynt	Kildee
Burton, John	Foley	Kindness
Burton, Phillip	Ford, Tenn.	Kostmayer
Butler	Forsythe	Krebs
Byron	Fountain	LaFalce
Carney	Fowler	Lagomarsino
Carr	Fraser	Latta
Carter	Frey	Le Fante
Cavanaugh	Fuqua	Leach
Cederberg	Gammage	Lederer
Chappell	Gaydos	Leggett
Clausen, Don H.	Gephardt	Lehman
	Gibbons	Lent
Clawson, Del	Gilman	Levitas
Clay	Ginn	Livingston
Cleveland	Glickman	Lloyd, Calif.
Lloyd, Tenn.	Ottinger	Smith, Iowa
Long, La.	Panetta	Smith, Nebr.
Long, Md.	Patten	Snyder
Lott	Patterson	Solarz
Lundine	Pattison	Spence
McClory	Pease	St Germain
McCloskey	Pepper	Staggers
McDade	Perkins	Stangeland
McEwen	Pickle	Stanton
McFall	Pike	Stark
McHugh	Poage	Steed
McKay	Pressler	Steers
McKinney	Preyer	Steiger
Madigan	Price	Stockman
Maguire	Pritchard	Stokes
Mahon	Pursell	Stratton
Mann	Quayle	Studds
Markey	Quie	Stump
Marks	Quillen	Symms
Marlenee	Rahall	Taylor
Marriott	Railsback	Thompson
Mathis	Rangel	Traxler
Mattox	Regula	Treen
Mazzoli	Reuss	Trible
Meeds	Rhodes	Tsongas
Metcalfe	Richmond	Tucker
Meyner	Rinaldo	Udall
Michel	Risenhoover	Ullman
Mikulski	Roberts	Vander Jagt
Mikva	Robinson	Vanik
Milford	Rodino	Vento
Mineta	Roe	Volkmer
Minish	Rogers	Waggonner
Mitchell, Md.	Roncalio	Walgren
Mitchell, N.Y.	Rooney	Walker
Moakley	Rose	Walsh
Moffett	Rosenthal	Wampler
Mollohan	Rostenkowski	Watkins
Montgomery	Rousselot	Waxman
Moore	Roybal	Weaver
Moorhead, Calif.	Rudd	Weiss
	Runnels	White
Moorhead, Pa.	Ruppe	Whitehurst
Mottl	Russo	Whitley
Murphy, Ill.	Ryan	Whitten
Murphy, N.Y	Santini	Wilson, Bob
Murphy, Pa.	Satterfield	Wilson, C. H.
Murtha	Sawyer	Winn
Myers, John	Scheuer	Wirth
Myers, Michael	Schroeder	Wolff
Natcher	Sebelius	Wright
Neal	Seiberling	Wydler
Nichols	Sharp	Wylie
Nix	Shuster	Yates
Nolan	Sikes	Yatron
Nowak	Simon	Young, Alaska
O'Brien	Sisk	Young, Fla.
Oakar	Skelton	Young, Mo.
Oberstar	Skubitz	Zablocki
Obey	Slack	Zeferetti

NAYS—12

Collins, Tex.	Frenzel	Miller, Ohio
Crane	McCormack	Myers, Gary
Evans, Ind.	McDonald	Thornton
Fenwick	Martin	Van Deerlin

NOT VOTING—38

Ambro	Downey	Nedzi
Ammerman	Edwards, Calif.	Pettis
Bedell	Eilberg	Sarasin
Beilenson	Ford, Mich.	Schulze
Blouin	Garcia	Shipley
Breckinridge	Giaimo	Spellman
Burke, Calif.	Harrington	Teague
Caputo	Hollenbeck	Thone
Chisholm	Krueger	Whalen
Cochran	Lujan	Wiggins
Conyers	Luken	Wilson, Tex.
Dellums	Miller, Calif.	Young, Tex.
Diggs	Moss	

The Clerk announced the following pairs:

Mr. Ambro with Mr. Wiggins.
Mr. Giaimo with Mr. Thone.
Mrs. Chisholm with Mrs. Pettis.
Mr. Eilberg with Mr. Hollenbeck.
Mr. Miller of California with Mr. Caputo.
Mr. Shipley with Mr. Schulze.
Mr. Edwards of California with Mr. Whalen.
Mr. Teague with Mr. Sarasin.
Mr. Ammerman with Mr. Lujan.
Mr. Nedzi with Mr. Breckinridge.
Mrs. Spellman with Mr. Dellums.
Mr. Blouin with Mr. Harrington.
Mr. Downey with Mr. Diggs.
Mr. Ford of Michigan with Mr. Luken.
Mrs. Burke of California with Mr. Moss.
Mr. Krueger with Mr. Bedell.
Mr. Charles Wilson of Texas with Mr. Garcia.
Mr. Conyers with Mr. Beilenson.

Mr. BENNETT and Mr. GORE changed their vote from "nay" to "yea."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

AMENDMENTS IN DISAGREEMENT

The SPEAKER pro tempore. The Clerk will report the first amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 4: Page 5, line 7, strike "remain" and insert "be immediately".

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 4 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 9: Page 8, line 1, strike "$645,841,000" and insert "$690,194,000".

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 9 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$737,025,000".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 17: Page 8, line 24, insert: "*Provided*, That not to exceed $12,000,000 of the amount provided for State assistance may be available as a contingency reserve to be administered by the Secretary to meet unforeseen needs of the States.".

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 17 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 21: Page 9, line 16, insert: "*Provided*, That not to exceed $3,000,000 may be available as a discretionary reserve to be administered by the Secretary for special or innovative preservation programs.".

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 21 and concur therein

with an amendment, as follows: In lieu of the matter proposed by said amendment insert the following: ": *Provided further*, That not to exceed $1,000,000 may be available as a discretionary reserve to be administered by the Secretary for special or innovative preservation programs".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 23: Page 10, line 16, insert: ": *Provided further*, That $15,000,000 shall be available only upon enactment of S. 2899 or similar legislation reauthorizing section 15 of the Endangered Species Act of 1973.".

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 23 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment insert the following: ": *Provided further*, That $15,721,000 shall be available only upon enactment of legislation reauthorizing section 15 of the Endangered Species Act of 1973".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 24: Page 11, line 2, strike "96,153,000" and insert "$96,479,000,".

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 24 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$97,856,000".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 26: Page 13, line 16, insert: "$367,631,000: *Provided*, That $90,000 shall be available for the National Park Service to assist the Town of Harpers Ferry for police force use.".

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 26 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment insert the following: ": *Provided further*, That $90,000 shall be available for the National Park Service to assist the Town of Harpers Ferry, West Virginia, for police force use".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

Senate amendment No. 33: Page 17, line 17 strike out "$132,667,000" and insert "$118,058,000,".

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 33 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$147,007,000".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 34: Page 17, line 18, strike out "$108,942,000," and insert "$97,733,000,".

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 34 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$123,282,000".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 35: Page 18, line 17, strike out "$39,344,000" and insert "$48,944,000.".

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 35 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$53,944,000".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 36: Page 18, line 22, strike out "$77,851,000" and insert "$78,451,000,".

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 36 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$61,451,000".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 39: Page 20, line 12 insert: ": *Provided further*, That none of these funds shall be expended as matching funds for programs funded under section 103(a)(1)(B)(iii) of the Vocational Education Act of 1963 as amended by the Act of June 3, 1977 (Public Law 95-40). ".

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 39 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 40: Page 20, line 22 strike out "$116,265,000" and insert "$117,254,000,".

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 40 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$126,554,000".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 41: Page 21, line 7 strike out "$74,010,000" and insert "$76,753,000,".

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 41 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$79,253,000".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 48: Page 30, line 22, insert:

SEC. 109. Notwithstanding the provisions of the Act of July 1, 1932 (47 Stat. 564; 25 U.S.C. 386a), any adjustment or elimination by the Secretary of the indebtedness (including interest thereon) of the Hydaburg Cooperative Association to the United States shall be immediately effective.

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 48 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 49: Page 31, line 3, insert:

SEC. 110. (a) Notwithstanding any provisions of the National Environmental Policy Act of 1969, Public Law 91-190 (42 U.S.C. 4321 et seq.), construction of any feature of the Upper Colorado River Storage Project as authorized by the Act of April 11, 1956, as amended, shall proceed if a final Environ-

mental Impact Statement has been filed on such feature.

(b) Notwithstanding any provisions of the National Environmental Policy Act of 1969, Public Law 91-190 (42 U.S.C. 4321 et seq.), the Colorado River Basin Salinity Control Projects, as authorized by Public Law 93-320, and construction of any feature of the Central Arizona Project as authorized by Public Law 90-537, September 30, 1968 (43 U.S.C. 1501 et seq.), shall proceed if a final Environmental Impact Statement has been filed on such feature.

(c) Notwithstanding any provisions of the National Environmental Policy Act of 1969, Public Law 91-190 (42 U.S.C. 4321 et seq.), construction of any feature of the Southern Nevada Water Project as authorized by Public Law 89-292 (43 U.S.C. 616ggg), as amended, shall proceed if a final Environmental Impact Statement has been filed on any such feature.

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 49 and concur therein.

The SPEAKER pro tempore. The gentleman from Illinois (Mr. YATES) is recognized for 30 minutes.

Mr. YATES. Mr. Speaker, I demand that the question be divided.

The SPEAKER pro tempore. The question will be divided.

The question is, "Will the House recede from disagreement to Senate amendment 49?"

All those in favor say "aye," all those in opposition say, "no."

The "ayes" have it.

PARLIAMENTARY INQUIRIES

Mr. DINGELL. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. DINGELL. Mr. Speaker, the question was a division of the question, and I must observe that we have not yet been informed of the fashion in which my good friend, the chairman of subcommittee, the gentleman from Illinois (Mr. YATES), wishes to have the question divided.

The SPEAKER pro tempore. The question was put, and the House has decided to recede.

The gentleman from Illinois (Mr. YATES) is recognized for 30 minutes.

Mr. YATES. Mr. Speaker, have I been recognized?

The SPEAKER pro tempore. The gentleman from Illinois (Mr. YATES) has been recognized for 30 minutes.

Mr. EVANS of Colorado. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. Does the gentleman from Illinois (Mr. YATES) yield for a parliamentary inquiry?

Mr. YATES. Mr. Speaker, I yield to the gentleman from Colorado (Mr. EVANS) for a parliamentary inquiry.

Mr. EVANS of Colorado. Mr. Speaker, it is my understanding the question will be divided; is that correct?

The SPEAKER pro tempore. The question has been divided, and the House has receded.

Mr. YATES. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. YATES. Mr. Speaker, respecting the time division, the Chair has recognized the gentleman from Illinois for 30 minutes.

The SPEAKER pro tempore. The gentleman is correct.

Mr. YATES. Mr. Speaker, does that mean the gentleman from Pennsylvania (Mr. MCDADE) will be recognized for 30 minutes?

The SPEAKER pro tempore. The gentleman from Pennsylvania (Mr. MCDADE) will be recognized for 30 minutes as well.

Mr. EVANS of Colorado. Mr. Speaker, will the gentleman yield for a parliamentary inquiry?

Mr. YATES. Mr. Speaker, I refuse to yield at the moment in order that I may explain for the gentleman from Colorado (Mr. EVANS) what I consider to be the situation.

The SPEAKER pro tempore. The gentleman is recognized.

Mr. YATES. Mr. Speaker, the situation will be as follows:

By agreement with the distinguished gentleman from Pennsylvania (Mr. MCDADE), the 1-hour time that will be available for discussion of this issue will be divided, and 30 minutes of that time is to be controlled by the gentleman from Illinois.

The SPEAKER pro tempore. The gentleman is correct.

Mr. YATES. And the other 30 minutes is to be controlled by the gentleman from Pennsylvania (Mr. MCDADE), who represents those who favor adopting the Senate amendment, receding and concurring in the Senate amendment.

Mr. McDADE. Mr. Speaker, will the chairman of the subcommittee yield?

Mr. YATES. I yield to my good friend, the gentleman from Pennsylvania.

Mr. McDADE. Mr. Speaker, I think we have a misunderstanding only with respect to the time allotted under the rules of the House. Under this procedure I am entitled, on authority, to 30 minutes, which is half the time. So I would suggest to my friend, the gentleman from Illinois (Mr. YATES), that we are bound by rules, and that the gentleman from Illinois controls 30 minutes and I control 30 minutes.

Mr. YATES. Mr. Speaker, the gentleman is right. However, I thought we had an agreement in a colloquy yesterday that the gentleman and I were going to represent those who oppose the Senate amendment and yield an equal amount of time to those who favor the Senate amendment.

If my understanding of that agreement is wrong, I withdraw that request, and I will tell the gentleman who favors the Senate position that I will try to make as much time available to them as I use myself. I will ask the gentleman, is that satisfactory?

Mr. EVANS of Colorado. Mr. Speaker, will the gentleman yield?

Mr. YATES. I yield to the gentleman from Colorado.

Mr. EVANS of Colorado. Mr. Speaker, I would like to ask the Chair a question.

When the question was divided, has there been an action on either issue, the receding or concurring?

The SPEAKER pro tempore. The House has receded.

Mr. EVANS of Colorado. I see. The Chair informs me that the House has receded.

So, Mr. Speaker, the question then before us is the second half of the question; is that correct?

Mr. YATES. No, no. Mr. Speaker, a further parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. YATES. Mr. Speaker, all the gentleman from Illinois requested was a division of the question. There was no receding. There was no motion made to recede.

The SPEAKER pro tempore. The House has receded.

Mr. YATES. Mr. Speaker, may we hear the Chair's ruling? The House is not in order.

The SPEAKER pro tempore. When the gentleman asked for a division of the motion to recede and concur, the Chair put the question on receding. The Chair did put the question, and the House receded.

Mr. YATES. Mr. Speaker, the gentleman from Illinois was not aware of the fact that the Chair was putting the question because of the tumult in the House.

I think there ought to be a vote on the question of receding at such time as the debate is terminated on that question, and, Mr. Speaker, I ask unanimous consent that such vote as took place on the question of receding be vacated.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois (Mr. YATES)?

Mr. EVANS of Colorado. I object.

Mr. MURPHY of New York. Mr. Speaker, I appeal the ruling of the Chair.

The SPEAKER pro tempore. There is no ruling to appeal.

Mr. DINGELL. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. DINGELL. Mr. Speaker, I did not hear a vote on any part of the question of receding and concurring, nor did I hear a vote on the motion to divide the question. My parliamentary inquiry is: Is it not necessary that such a vote take place either on the motion to recede and concur or on the motion for a division of the question?

The SPEAKER pro tempore. The Chair put the question on receding.

Mr. YATES. Mr. Speaker, we cannot hear the Speaker. I demand that the House be put in order, Mr. Speaker, so that we know what is going on.

Mr. EVANS of Colorado. Mr. Speaker, I withdraw my objection.

The SPEAKER pro tempore. The gen-

tleman from Colorado (Mr. EVANS) withdraws his objection to vacating the proceedings whereby the House receded. Is there objection?

Mr. YATES. Mr. Speaker, has the Chair ruled that the question has been divided?

The SPEAKER pro tempore. Yes.

Mr. YATES. Mr. Speaker, we now address ourselves to the question of receding; is that correct?

The SPEAKER pro tempore. Without objection, the House will return to that question.

Mr. YATES. Does the House recede without a vote, Mr. Speaker?

The SPEAKER pro tempore. Is there objection to vacating the action whereby the House receded?

Mr. DINGELL. Mr. Speaker, reserving the right to object, and I do not intend to object, I do so solely for the purpose of laying out the parliamentary situation.

As I understand it, it is possible to divide the question by unanimous-consent request. Subsequent to that, on the divided question the House may either vote seriatim on the question as divided, or the House may then vote on a preferential motion to recede and concur with an amendment.

Am I correct in that?

The SPEAKER pro tempore. If the question is divided——

Mr. DINGELL. Mr. Speaker, I cannot hear the Chair.

Mr. YATES. Mr. Speaker, I cannot hear the Chair.

The SPEAKER pro tempore. If the question were not divided, the most preferential motion would be to recede and concur, which is the original motion.

Mr. DINGELL. No. As I understand it, Mr. Speaker, there is no motion pending at this time to recede and concur. The question of receding and concurring, as I understand the ruling of the Chair, has already been divided.

So we have before us two questions now. First is on receding, and the second is on concurring.

Am I correct or incorrect?

The SPEAKER pro tempore. The Chair is asking, is there a unanimous-consent request to vacate the proceedings whereby the House voted to recede?

Mr. MURPHY of New York. Mr. Speaker, I so move.

Mr. YATES. Mr. Speaker, I have already made that unanimous-consent request.

Mr. McDADE. Mr. Speaker, reserving the right to object, I would like to put this parliamentary inquiry: If the Chair now moves to the question of concurrence, the time is divided, and I am entitled to 30 minutes. Whether it is on the question of receding and concurring or receding and dividing the question, I am entitled to 30 minutes; is that correct?

The SPEAKER pro tempore. The division of the time is the same.

Mr. McDADE. Mr. Speaker, I withdraw my reservation of objection.

Mr. DINGELL. Mr. Speaker, in order to get some appreciation of where we are and what we are doing, it is my understanding—and if the Chair can respond to this question, I think we can travel together out of this thicket in which we reside—that there has been a division of the question at this particular point; is that correct?

The SPEAKER pro tempore. That is correct.

Mr. DINGELL. Now, at the conclusion of that, then there is recognition for some of the Members who control the time, I assume the gentleman from Illinois (Mr. YATES), the chairman of the subcommittee, and also the gentleman from Pennsylvania (Mr. McDADE) to share the time; is that correct?

The SPEAKER pro tempore. That is correct.

Mr. DINGELL. Can the Chair advise me how much time they will control?

The SPEAKER pro tempore. One hour.

Mr. DINGELL. One hour.

The SPEAKER pro tempore. Thirty minutes each.

Mr. DINGELL. Each side, as I understand it, will control 30 minutes of that time?

The SPEAKER pro tempore. Yes.

Mr. DINGELL. Can the Chair advise me whether or not a motion to substitute a different action by this body would be in order? In other words, a motion to drop the language striking the requirements of an areawide or basin-wide impact statement under the National Environmental Policy Act, at what point would that either become necessary or possible?

The SPEAKER pro tempore. If the question had not been divided the House could vote on the motion to recede and concur, and another motion would be in order if that motion were defeated.

Mr. DINGELL. At what point, Mr. Speaker, would that motion be in order?

The SPEAKER pro tempore. After the first motion is defeated.

Mr. DINGELL. After the first motion is defeated?

The SPEAKER pro tempore. Correct.

Mr. DINGELL. In other words, after the first motion is defeated, then a motion to concur with an amendment would be in order after the first motion to concur is rejected?

The SPEAKER pro tempore. The Chair would state that the gentleman from Illinois has asked for a division of the question.

Mr. DINGELL. That is correct.

PARLIAMENTARY INQUIRY

Mr. YATES. A parliamentary inquiry on that, Mr. Speaker.

The SPEAKER pro tempore. The gentleman will state it.

Mr. YATES. The parliamentary situation that we have now provides for consideration of the question of whether the House shall recede, is that correct?

The SPEAKER pro tempore. If the unanimous-consent request is granted to vacate proceedings whereby the House receded.

Mr. YATES. I am sorry, I did not understand the Chair. Was the answer in the affirmative?

The SPEAKER pro tempore. The gentleman from Illinois has made a demand that the question be divided and the House has receded.

Mr. YATES. Mr. Speaker, may I start again? Before I put that unanimous-consent request, in view of the fact that there is a reservation of objection, I have made a motion to recede and concur as I was obliged to do by direction of the vote of my subcommittee in the conference.

The SPEAKER pro tempore. The gentleman is correct.

Mr. YATES. Now, in the event that the motion is voted down, will it be appropriate at that time for the gentleman from Michigan (Mr. DINGELL) to offer a motion to concur with an amendment?

The SPEAKER pro tempore. Inasmuch as the question has been divided, the House is going to have to make the decision.

Mr. YATES. The House is what?

The SPEAKER pro tempore. The gentleman from Illinois has asked for a division of the question.

Mr. YATES. The gentleman from Illinois has withheld that. As I understood, there was a reservation of objection. The question I would like to ask is, at what point is it proper for the gentleman from Michigan to offer a motion to concur with an amendment?

The SPEAKER pro tempore. If the House recedes, a motion to concur with an amendment would be in order and would take precedence over a motion to concur in the Senate amendment.

PARLIAMENTARY INQUIRY

Mr. RHODES. Mr. Speaker, a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. RHODES. Mr. Speaker, I am thoroughly confused. It was my understanding that there had been a division of the question, and the question now before the House is whether or not the House would recede.

The SPEAKER pro tempore. The House has receded unless it vacates that action.

Mr. RHODES. And there seems to be some doubt as to whether that is the situation.

The SPEAKER pro tempore. There was a division of the question. The House did act and did recede.

Mr. RHODES. The House acted on receding?

The SPEAKER pro tempore. On receding.

Mr. RHODES. So the House is now receded?

The SPEAKER pro tempore. Yes.

Mr. RHODES. So the question is on concurring with the Senate amendment, and it is my understanding that is the motion of the highest preference, and there is no motion which can be made to recede with an amendment which is of higher preference.

The SPEAKER pro tempore. The motion to concur with a proper amendment would be preferential.

Mr. RHODES. I thank the Chair.

Mr. YATES. Would that motion be appropriate at this point, or are we still debating the question of receding?

The SPEAKER pro tempore. The House has receded.

Mr. YATES. But Mr. Speaker, I have the impression that I asked unanimous consent that the action of the House to recede be vacated.

The SPEAKER pro tempore. The

Chair has put that question, "Is there objection."

Mr. YATES. There has been no objection. As I understand it, Mr. Speaker, there has been no objection.

The SPEAKER pro tempore. There has been no objection, but many reservations of objection.

Mr. McDADE. Mr. Speaker, reserving the right to object, I believe we are at the point, parliamentarily, where the chairman can now put the preferential motion with the amendment by the gentleman from Michigan to concur in the Senate amendment. At that point, the issue is divided. The gentleman from Illinois has 30 minutes, and I have 30 minutes. Debate occurs, and the House works its will.

So, if we just stop where we are and offer the motion to concur with the amendment by the gentleman from Michigan, then we have the issue before us with 30 minutes of debate on either side, and we can work our will.

Mr. YATES. Is that the parliamentary situation, Mr. Speaker?

The SPEAKER pro tempore. That would be, yes.

Mr. YATES. Mr. Speaker, a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman from Illinois is recognized.

Mr. YATES. I beg the Chair's pardon.

The SPEAKER pro tempore. No objection is heard.

Does the gentleman from Illinois persist in his request to vacate proceedings?

Mr. YATES. The gentleman from Illinois requests unanimous consent to withdraw his request.

The SPEAKER pro tempore. That does not require unanimous consent.

Mr. YATES. Mr. Speaker, a parliamentary inquiry.

There is now a motion to concur before the House?

The SPEAKER pro tempore. The Chair understood the gentleman from Illinois wanted to withdraw his motion to recede. Is that correct?

Mr. YATES. No, Mr. Speaker, I do not withdraw my motion to recede.

The SPEAKER pro tempore. The current question then is will the House concur with the Senate amendment. Does any Member have a preferential motion?

Mr. YATES. That is correct. Is there a time period allowed for that for debate?

The SPEAKER pro tempore. The gentleman from Illinois will be recognized for 30 minutes on any preferential motion, 30 minutes on each side.

Mr. DINGELL. Mr. Speaker, a parliamentary inquiry.

As I understand it now, the gentleman from Illinois has asked unanimous consent that he be permitted to withdraw his motion to recede. Is that correct?

Mr. YATES. Mr. Speaker, a parliamentary inquiry. As I understand the parliamentary situation, there is a division and the House is now considering the question of receding. Is that correct?

The SPEAKER pro tempore. Will the gentleman withhold?

The Chair would suggest that we vacate all proceedings on the Senate amendment No. 49 and start all over again.

Is there objection to vacating the prior proceedings?

There was no objection.

The Clerk will report the Senate amendment No. 49.

The Clerk read as follows:

Senate amendment No. 49: Page 31, line 3, insert:

SEC. 110. (a) Notwithstanding any provisions of the National Environmental Policy Act of 1969, Public Law 91–190 (42 U.S.C. 4321 et seq.), construction of any feature of the Upper Colorado River Storage Project as authorized by the Act of April 11, 1956, as amended, shall proceed if a final Environmental Impact Statement has been filed on such feature.

(b) Notwithstanding any provisions of the National Environmental Policy Act of 1969, Public Law 91–190 (42 U.S.C. 4321 et seq.), the Colorado River Basin Salinity Control Projects, as authorized by Public Law 93–320, and construction of any feature of the Central Arizona Project as authorized by Public Law 90–537, September 30, 1968 (43 U.S.C. 1501 et seq.), shall proceed if a final Environmental Impact Statement has been filed on such feature.

(c) Notwithstanding any provisions of the National Environmental Policy Act of 1969, Public Law 91–190 (42 U.S.C. 4321 et seq.), construction of any feature of the Southern Nevada Water Project as authorized by Public Law 89–292 (43 U.S.C. 616ggg), as amended, shall proceed if a final Environmental Impact Statement has been filed on any such feature.

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 49 and concur therein.

The SPEAKER pro tempore. The gentleman from Illinois (Mr. YATES) is recognized for 30 minutes and the gentleman from Pennsylvania (Mr. McDADE) will be recognized for 30 minutes.

Mr. DINGELL. Mr. Speaker, a parliamentary inquiry. Will the gentleman from Illinois yield for a parliamentary inquiry?

Mr. YATES. No, Mr. Speaker, I decline to yield.

I will say to my good friend, the gentleman from Michigan, the reason I decline to yield at this point—and I propose to yield to the gentleman in a few minutes—is that I do not want to get into that parliamentary snarl again. What I want to do at this point is explain the situation to the House and then yield to the gentleman from Michigan for his inquiry.

I consider this question such a fundamental question that it ought to be debated fully, and that is the reason that I am attempting to let the House know what the situation is. At the appropriate time I will yield to the gentleman.

I want to tell the House that I regret very much the time that we spent in trying to iron this parliamentary situation out but it was my purpose, rather than moving into the motion to concur immediately, to have at least a few minutes of debate in order that the House would know what the issue is.

As I said, it is a very fundamental question. I want to use a portion of my time, at this time, in order to describe the issue.

Mr. Speaker, this is another question that involves water projects, and this is a matter of utmost importance to the Members from the West, the water "starved" area of the Nation.

Mr. Speaker, I am not against water projects. As the Members know, I have supported the public works appropriations bill, the veto of which is going to come on for a vote after the discussion or perhaps in the middle of the discussion on this conference report.

I support that bill, because I believe those are necessary water projects and I believe that is a good bill.

This amendment to the Interior Department's appropriation bill I consider to be a bad amendment for a number of reasons, and I want to tell the House why at this time before we attempt to move through the parliamentary thicket that will follow.

Let me explain first what the Senate amendment does.

The distinguished Senator from Nevada, Senator CANNON, in the other body, offered an amendment which was not germane to the Interior Department appropriations bill. It more logically should be a part of the public works appropriations bill. And because that bill was threatened with a veto—veto that actually occurred—Members of the other body decided that they would not place that issue in the vehicle in which it was an appropriate part and instead made it a part of this appropriation bill. The Senate voted on the question of germaneness in order to make it part of the Interior appropriation bill.

Now, having done that, the Senate could just as well have made it a part of the District of Columbia appropriations bill, it could have made it a part of the HEW appropriations bill, or it could have made it a part of any other vehicle. The Senate decided that, rather than taking a chance of including that in the bill that was to be vetoed, they would find some less controversial vehicle and try to obtain an approval of their amendment in that bill.

Now, what is that amendment? There are four projects that are currently going on in the West, four water projects. There is the Upper Colorado River storage project, the Colorado River Basin salinity control project, the central Arizona project, and the southern Nevada water project.

The question that is involved relates to the requirement of the National Environmental Protection Act for basinwide environmental impact statements. There is a serious question as to whether a Colorado River basinwide environmental impact statement is required under the law. If that is required under the law it will take from 1 to 2 years, at least, to provide that basinwide environmental impact statement.

The Members from the West, in order to expedite the construction of the dams and to obviate the necessity for requiring that regionwide environmental impact statement proposed the amendment, through Senator CANNON, to preclude the

regionwide environmental impact statement for the Colorado basin.

The amendment will permit the construction of dams to go ahead with only site specific environmental impact statements for each of the construction projects. The refusal to require the basinwide environmental impact statement does away with the overall review of what the impact of dam construction to the entire basin will be.

The requirement under the amendment now will only be to provide the information as to what the effect on the environment will be with respect to each of those dams under construction; and set aside the question as to whether or not the law requires a regional impact statement.

In order to assure that a regional impact statement shall be provided, the environmental defense fund has filed suit in the District Court to require that there shall be that regional environmental impact statement. When the environmental defense fund filed that suit, it sparked a move in the Senate which resulted in the amendment that the Senate adopted and which is now a part of the conference report, the question upon which is now before the House.

Mr. BROWN of California. Mr. Speaker, will the gentleman yield?

Mr. YATES. I yield to the gentleman from California.

Mr. BROWN of California. Mr. Speaker, I do not want to detract from the gentleman's excellent explanation; but I understood the gentleman to say that there was a question as to whether a comprehensive basinwide environmental impact statement was required by law.

Mr. Speaker, I have in my hand a letter from the Secretary of the Interior which says that they have concluded that such a regional comprehensive statement is required by law. In other words, there is no question about it as far as the Department of the Interior is concerned.

Mr. YATES. That is correct, I would say to the gentleman. I believe that, but there has been some question as to whether the Department of the Interior will insist upon that position or whether it is going to try to compromise that position with Members from the West to try to work out some compromise to expedite that question.

It was after the Department of the Interior indicated that it was not going to insist upon that position that the environmental defense fund filed its action in the Federal court.

Mr. RONCALIO. Mr. Speaker, will the gentleman yield?

Mr. YATES. I yield to the gentleman from Wyoming.

Mr. RONCALIO. Mr. Speaker, there is need for explicit accuracy in the use of words by us in this matter.

My good friend, the gentleman from California (Mr. BROWN), has a letter from the Secretary of the Interior regarding regional impact statements. The basinwide statement involves everything from the upper Colorado River in the northern part of Wyoming all the way to Nevada. The regionwide statements there is no question about. The requirement for a river basinwide environmental impact statement is, I think, the issue before us.

Mr. YATES. That is correct.

Mr. Speaker, let me just continue for a moment, if I may.

We know what the effect of dam construction on the Colorado River has been. We know about the conversion of the water, through its passage from its upper regions down to Mexico into a most saline condition. The Government of Mexico complained as to the quality of the water by the time the water from the Colorado River arrives in Mexico. We know that the water is extremely saline.

In 1974, as a result of the complaints of the Government of Mexico, the Congress passed a bill for the creation of a water desalinization plant to reconvert the water so as to give it some semblance of purity.

The purpose, as I see it, of the basinwide environmental impact statement, rather than having a hit-or-miss policy which is what the Senate amendment would provide for, would be to determine what the effect of dam construction will be upon the quality of water and the quantity of water in the Colorado River. I consider that to be a necessary achievement, a necessary bit of information.

Mr. RHODES. Mr. Speaker, will the gentleman yield?

Mr. YATES. I yield to the distinguished gentleman from Arizona.

Mr. RHODES. I thank the chairman for yielding.

I am sure my good friend, the gentleman from Illinois (Mr. YATES), is aware of the fact that the question which he mentioned of the quality of water in the Colorado basin has been studied and studied and studied. I do not know any subject in the country which has received more attention than the quality of water in the Colorado basin. It was studied before the upper Colorado storage project was authorized; it was studied before the central Utah and central Arizona projects were authorized. There was a basinwide study completed by the Bureau of Reclamation. There has been a West Side study. Ever since I have been in the water business, we have been appropriating money for studies of the Colorado River basin. The gentleman surely does not contend that this basin needs to be studied further.

I am sure he is also aware that each of the features he talks about—the construction of the central Arizona and central Utah—have all had environmental impact statements, and in those statements the entire subject of water availability and water quality are also considered.

Mr. YATES. If the gentleman will permit me to regain my time, let me say that if what the gentleman says is true, if there has been that regional study of the Colorado basin already, obviously there is nothing to fear in the court suit and, therefore, there is no need for this amendment, because the study has already been completed.

What I am concerned about is the quality of that water. The gentleman knows as well as I how the condition of that water is converted into an extremely saline condition as a result of the dams that have been constructed along the Colorado River.

PARLIAMENTARY INQUIRY

Mr. EVANS of Colorado. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. EVANS of Colorado. I am informed that the gentleman from Illinois (Mr. YATES) has a half hour and the distinguished gentleman from Pennsylvania (Mr. MCDADE) has a half hour. We are hoping that somebody will yield time to us to argue the contrary to what the gentleman from Illinois will argue, and I do not know how much time the gentleman has left.

The SPEAKER pro tempore. The gentleman from Illinois (Mr. YATES) has 17 minutes remaining.

Mr. EVANS of Colorado. I thank the Speaker.

Mr. YATES. I will assure the gentleman from Colorado (Mr. EVANS) that I will give him time.

The question is, therefore, a very fundamental one. I do not know why this question is in an appropriations bill. I do not know why it is not in a legislative bill. It involves so very fundamental a question of environmental purpose that it ought to be considered by the legislative committee rather than be considered by the Senate first and then by the House next, without benefit of any hearings. There were no hearings on this question in the Senate. It was offered on the floor of the Senate without any hearings in any committee. The distinguished Senator from Maine (Mr. MUSKIE) objected very vehemently to the fact that his committee has had no opportunity to review the question. I make that same argument here today. I do not want the Appropriations Subcommittee, of which I have the honor to chair, to be the vehicle for this particular amendment. I think it is a subject that ought to be the object of very intense scrutiny by the legislative committee.

For all these reasons, Mr. Speaker, I urge that the motion to recede and concur be voted down.

Mr. Speaker, I now yield 5 minutes to the gentleman from Colorado (Mr. EVANS).

Mr. EVANS of Colorado. Mr. Speaker, I am going to try in a brief period of time to tell you why the Senate took the action it did. It did so at the request of many of us in the House.

This involves the Colorado River. The Colorado River has been the subject of water wars for year after year after year. Our history is replete with it. These battles have been solved mostly by the Colorado River Compact of 1922, the Mexican Water Treaty of 1944, the Colorado River Basin Compact dividing the water among the upper basin States, and the Colorado River Storage Act of 1956.

More than 20 years have passed since that last act was passed. We have a number of projects that are being

planned. We have a number of projects under construction.

I want to be clear that every one of these projects, every single one of them, before they can go into construction, have to file a satisfactory environmental impact statement—every one of them. Even with the Senate amendment, they would have to file an environmental impact statement.

Various groups of environmentalists have filed suit in the Federal district court against construction of these projects until there has been a river basin wide environmental impact statement filed.

What could we do? It is late in the session. The court is a friendly court to the environmentalists, I might say, and we face a long delay on these projects unless we do something; so we went to the Senate and asked for this amendment.

The study these people want to have done, that the Interior Department agreed should be done, is a study that would cover a 1,400-mile river, that contains 28 major tributaries, that covers over 242,000 square miles, with 8 percent of the entire continental land mass of the lower United States. It includes 7 States and 17 million people.

Now, such a river basin wide environmental study is mind boggling to my mind. Environmentalists say they can do it in 2 years. They say it will only cost $4.5 million. That is in addition to the site specific environmental impact studies that each one of these projects and their features will have to file. In addition to the usual EIS matters, it will have to consider a multitude of alternative projects and assess the effect of each one as compared to others and then find out what the impact of each would be, not just simply locally, but on the entire Colorado River, clear to the California border.

I doubt the study can be done. I doubt the study would be meaningful. I doubt the study could be done in 2 years. I doubt the study would cost only $4.5 million.

Now, if we do allow a study on the entire river basin, who is going to control the Colorado River? Either the Department of Interior or the President's Domestic Council, one or the other—not the States, and such control will rule regardless of the interstate compacts and regardless of the laws this Congress has passed in the development of this river area.

If any construction is delayed, we know the construction costs are escalating about 12 percent per year. If you have 1 year's delay, you have 12 percent added on to these construction costs. Two years means 25 percent. Three years means 37½ percent, and 4 years means a 50-percent escalation in costs. These cost increases could price some projects out of existence, and for others make the repayments beyond the means of the beneficiaries.

We have asked for this amendment, and the Senate put it in, so that we could lay to rest the arguments as to whether such a study is required. If we accept this amendment, all Colorado River projects will have to have site specific studies, but not a river basin wide study.

Mr. DUNCAN of Oregon. Mr. Speaker, will the gentleman yield?

Mr. EVANS of Colorado. I yield to the gentleman from Oregon.

Mr. DUNCAN of Oregon. Mr. Speaker, do I understand what the gentleman is telling the House to be that this amendment does not affect in the slightest the requirement of the environmental impact law, NEPA, that environmental impact statements will have to be prepared and filed on each project?

Mr. EVANS of Colorado. That is correct.

Mr. DUNCAN of Oregon. Do I understand the gentleman is further telling us that those have been completed with respect to two projects and are in their final stage with respect to at least two other projects?

Mr. EVANS of Colorado. Yes, sir.

Mr. DUNCAN of Oregon. Mr. Speaker, if the gentleman will yield further, would the gentleman also tell me, my understanding is that this question of a requirement for a river basin wide impact statement is presently before the courts and that no decision has been rendered; is that correct?

Mr. EVANS of Colorado. Mr. Speaker, in this case, yes.

The SPEAKER pro tempore (Mr. ROSTENKOWSKI). The time of the gentleman from Colorado has expired.

Mr. McDADE. Mr. Speaker, I yield 3 additional minutes to the gentleman from Colorado (Mr. EVANS).

Mr. EVANS of Colorado. Mr. Speaker, I yield to the gentleman from Oregon.

Mr. DUNCAN of Oregon. Mr. Speaker, so that as I understand the law, the Congressman and the people affected by this will concur and support NEPA to the extent of requiring environmental impact statements on each project.

The delay appears to be imposed by a pending court case which has not yet been decided and which would impose a requirement for an additional impact statement, river basin wide, superimposed on the environmental impact statements that have already been made.

Mr. EVANS of Colorado. That is correct.

Mr. DUNCAN of Oregon. Is there any assurance anybody could give us that if we went ahead with the river basin impact statement, there would not then be a request for a nationwide impact statement?

Mr. EVANS of Colorado. Mr. Speaker, I would like to comment on one aspect of what the gentleman from Oregon (Mr. DUNCAN) has said.

If a precedent is established in the Colorado River that we cannot have future construction on that river without a riverwide environmental impact statement, then anybody who has a project on the Missouri River, the Platte River, the Mississippi River, the Ohio River, or the Columbia River faces exactly the same thing down the road in the future if the House does not accept this amendment.

Mr. DUNCAN of Oregon. Mr. Speaker, will the gentleman yield for an additional question?

Mr. EVANS of Colorado. I yield to the gentleman from Oregon.

Mr. DUNCAN of Oregon. Mr. Speaker, would the gentleman tell us what water storage projects the people in the upper basin have, to take advantage of the water that has been allocated to them as a result of the agreements the gentleman mentioned earlier?

Mr. EVANS of Colorado. Rather than list these projects, let me simply give the gentleman my understanding.

Mr. DUNCAN of Oregon. I am talking about the ones that have been completed.

Mr. EVANS of Colorado. We have projects which are in construction process and in the planning stage, and if we do not go ahead and produce and develop them so we can use these waters—the States in the upper basin of the Colorado may sometime down the road stand to lose the water that is covered by these interstate compacts. If we do not put this water to some use in a reasonable period of time, people could declare that we have abandoned this right and others could take it over by adverse possession.

Mr. DUNCAN of Oregon. Mr. Speaker, is my understanding correct, or is my assumption correct that the people in the Upper Colorado Basin have never been able to fully utilize the water allocated to them in these compacts?

Mr. EVANS of Colorado. The gentleman is absolutely correct.

If we delay using the water covered in these projects, we might find that in the future the price would be far beyond our ability to pay.

Mr. YATES. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. MURPHY).

Mr. MURPHY of New York. Mr. Speaker, I thank my colleague, the gentleman from Illinois (Mr. YATES), for yielding this time to me.

Mr. Speaker, I rise in opposition to the Senate amendment. As the gentleman stated, this amendment constitutes legislation in an appropriations bill which is contrary to the rules of the House. I might also mention that this amendment is nongermane.

The members of the Committee on Merchant Marine and Fisheries who fashioned the National Environmental Policy Act, or NEPA, were not even accorded an opportunity to review the merits of this questionable provision. This amendment would amend the Nation's premiere environmental statute without benefit of hearings by any appropriate committee of either House of Congress.

I have every respect for our Committee on Appropriations and its members, but I submit that the rules of the House have been circumvented, and the members of the Committee on Merchant Marine and Fisheries, of which I am chairman, have had their prerogatives abrogated in an unseemly manner.

In reference to the amendment itself, it pertains to the vast Colorado River Basin, which is in an area fraught with the most severe problems. Not one of the nine projects which would be exempted from a comprehensive environmental impact statement stands by itself. They are interrelated.

In the opinion of many environmentalists and many inhabitants of the Colorado River Basin, a comprehensive environmental impact statement is urgently needed to ascertain the overall impact which the nine projects would have on the Colorado River Basin. These other projects, I will relate right now, are not affected by this lawsuit, and we will move forward with them. They are as follows:

The central Arizona project, first stage; the central Utah project, Jensen unit; the central Utah project, Strawberry aqueduct and collection system of Bonneville unit; the Lyman project; and Navaho Indian irrigation project; the San Juan-Chama project; the Pojoaque unit; and the southern Nevada water project, second stage.

Those are not affected.

Then we have the following four projects:

The Colorado River Basin salinity control project—Coachella Canal unit; the Colorado River Basin salinity control project—Las Vegas wash unit; the Colorado River Basin salinity control project—Paradox Valley unit; and the Colorado River Basin salinity control project—Grand Valley unit.

Those are not affected by this lawsuit, and, therefore, they will move forward. But a serious waste of our tax dollars can and probably will occur if major construction is carried out prematurely with a resultant need to spend additional sums needed to rectify the damage caused by excessive salinity, absence of sufficient water to operate planned projects, and the loss of critical fish and wildlife habitat.

The amendment is a blank check to those who would build without regard for the environment or expenditure of tax revenues. I think the amendment is poor legislation. It circumvents established legislative wisdom and abrogates procedures set up by the House rules, and I hope we vote no to that amendment and also to insist on the House language.

Mr. DUNCAN of Oregon. Mr. Speaker, will the gentleman yield?

Mr. MURPHY of New York. I yield to the gentleman from Oregon.

Mr. DUNCAN of Oregon. I thank the gentleman for yielding.

Mr. Speaker, my understanding is that all of these projects have gone through the legislative process, and I would like to suggest that our failure to act here today is going to have a very significant impact on projects that have already been approved. I do not think that the gentleman's committee has been consulted by the court or will be consulted by the court whose decisions will have a very dramatic impact on the interpretation of NEPA and its impact on all of the water projects throughout the country.

Mr. MURPHY of New York. I understand what the gentleman is saying. I specifically referred to the projects that are not affected by this lawsuit, and only to 9 that are interrelated and a total of 11 that are exempted, and we should have the proper procedures to protect the area.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Marks, one of his secretaries.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair at this time will lay before the House the President's veto message.

At the conclusion of the vote on the veto message, we will return to further consideration of the conference report on H.R. 12932.

PARLIAMENTARY INQUIRY

Mr. ASHBROOK. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. ASHBROOK. Mr. Speaker, under the precedents of the House, is it not necessary that a quorum be present when a veto message of the President is laid before the House?

The SPEAKER. The Chair will advise the gentleman that the Chair will entertain such a motion.

CALL OF THE HOUSE

Mr. ASHBROOK. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 876]

Ambro	Flowers	Preyer
Ammerman	Fraser	Railsback
Applegate	Gibbons	Rose
Blouin	Harrington	Runnels
Burke, Calif.	Heckler	Ruppe
Burton, John	Hollenbeck	Sarasin
Butler	Ireland	Scheuer
Byron	Kasten	Schulze
Caputo	Krueger	Shipley
Clay	Lujan	Skubitz
Cochran	McKinney	Stark
Conyers	Mathis	Teague
Crane	Milford	Thone
Davis	Miller, Calif.	Tucker
Derwinski	Neal	Waxman
Diggs	Ottinger	Whalen
Downey	Pepper	Wiggins
Drinan	Pettis	Wilson, C. H.
Fithian	Pike	

The SPEAKER. On this rollcall 376 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

ENERGY AND PUBLIC WORKS APPROPRIATIONS FOR FISCAL YEAR 1979—VETO MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 95-393)

The SPEAKER laid before the House the following veto message from the President of the United States:

To the House of Representatives:

Today I am returning H.R. 12928, the Energy and Water Development Appropriations bill, to the Congress without my approval. This bill would hamper the Nation's ability to control inflation, eliminate waste and make the government more efficient.

I respect the hard work and good intentions of the Members of Congress who have prepared this legislation. I share with the Congress a commitment to a strong program of water resource development. Wise development and management of water resources are vital to American agriculture's continued prosperity, and to community and economic development in key areas of our Nation. I have proposed $2.5 billion this year to support nearly 300 water projects—including twenty-six project starts, the first proposed by any President in four years. Much of the water development funding in this bill is sensible and necessary.

H.R. 12928 also contains energy research and development programs which are important to our Nation's energy future. These appropriations are generally in accord with national needs. and I support them.

But this bill also contains provisions for excessive, wasteful water projects and ill-advised limitations on efficient program management; these require that I disapprove H.R. 12928 in its present form.

The bill would require expenditures on water projects which have already been evaluated objectively and found to be unsound or to fall short of planning, design and environmental assessment requirement. These requirements are essential to ensure that tax dollars are well spent and that future cost over-runs and litigation are avoided. The bill attempts to mandate an unnecessary major increase in the size of the Federal bureaucracy. And it uses funding procedures which conceal from the taxpayers the true size of excessive Federal spending commitments.

In its present form, this bill appears to appropriate less than my FY 1979 Budget. In fact, however, it commits the Federal government to 27 additional new projects and reinstates six projects halted last year—three for construction and three for planning. These added water projects represent a total long-term commitment, including inflation, of $1.8 billion in excess of those I proposed. Yet only a little more than $100 million is appropriated in this bill for these projects.

ADMINISTRATION'S 1979 REQUEST FOR WATER RESOURCE PROJECTS COMPARED WITH AMOUNTS CONTAINED IN H.R. 12928

[In millions of dollars]

	President's Request	Bill	Difference
Number of Projects:			
New Construction Starts	26	53	+27
Six projects halted last year*		6	+6
Total	26	59	+33
1979 Appropriation for Projects:			
New Construction Starts	640	104	−536
Six projects halted last year*		8	+8
Total	640	112	−528
Actual Total Cost of Projects:			
New Construction Starts	640	1,821	+1,181
Six projects halted last year*		586	+586
Total	640	2,407	1,767

*Includes three projects funded for construction (total cost: $302 million) and three projects funded for further study (total cost: $284 million).

Purchasing water projects on the installment plan does not reduce their cost to American taxpayers. Nor does it justify funding projects which fail to meet reasonable standards. We can achieve an efficient Budget only if we are prepared to admit the true costs of the actions we take.

No challenge the Congress and the Executive Branch must face together is more painful than the exercise of budgetary discipline in each individual case. But only consistent, determined discipline will enable us to achieve our shared objectives of controlling inflation, balancing the budget and making government more efficient. The action I am taking today is part of that effort.

This appropriations bill is a true and difficult test of our resolve to discipline the Federal budget. Each bit of additional spending always looks small and unimportant against the total Federal budget. The temptation to look the other way in each case is always great. But both Congress and the Executive Branch must recognize that there is no one single dramatic act which will control the budget. Budgetary control must be achieved by the cumulative impact of hard choices such as the one I am presenting to the Congress today.

Following are my specific objections to this bill:

—*Funding is reinstated in this bill for unsound water projects.* Six projects not funded last year by the Congress after thorough review determined them to be unwise investments would receive funding this year. The six projects would cost more than $580 million to complete. Three of these would be funded for construction and three for further study, even though no additional analysis is needed to augment the exhaustive information now available. One of the projects funded for further study would require an investment of over $1 million per farm family served. The majority of another "study" project's water supply "benefits" are to serve one catfish farm and several "potential" catfish farms. One project funded for construction, whose major benefit category is flatwater recreation, would be the sixth Corps of Engineers reservoir in a 50-mile radius. American taxpayers simply should not be forced to fund projects which provide such questionable public benefits.

—The bill commits the Federal Government to excessive new water project construction starts. I requested funds for 26 new water project construction starts costing a total of $640 million, including an allowance for inflation. This is the first time a President has recommended new starts in four years. This request was well-considered and reflects my commitment to a strong continued program of water resource development. I believe these initiatives are of high priority in meeting agricultural, flood damage reduction, economic development, environmental and other needs. However, the bill goes far beyond this large request. It includes initial funding for an additional 27 projects which, allowing for inflation would add $1.2 billion in total costs. In addition to unacceptable long-term budgetary impact, many of these projects lack required planning or engineering information, present unresolved economic or environmental problems, fail to meet legal requirements or meet low-priority needs.

There are competing uses for every Federal dollar and difficult choices must be faced. Every program in government, no matter how vital, must focus first on matters of highest priority. The President and the Congress must join in this difficult effort. Particularly with taxes and inflation a major concern of every American, I cannot support undertaking expenditures such as a $412 million project where planning is incomplete, or a $117 million project which, without adequate consideration of the concerns of local farmers or of the availability of less damaging alternatives, would take large amounts of valuable farm, pasture, and forest land out of production and displace 140 people. Other projects funded in excess of my recommendations pose similar serious problems.

—*I would be forced to enlarge the Federal bureaucracy substantially unnecessarily.* This bill would mandate the hiring of more than 2,300 additional Federal employees in the Corps of Engineers and the Bureau of Reclamation—far exceeding actual need. This requirement is inconsistent with efficient program management and would cause growth in this segment of the Federal workforce that would be difficult to reverse.

—*The true costs of the bill far exceed the amounts appropriated.* I believe that funds to meet the full cost of all new water projects should be appropriated when the decision to go forward is made so that the true cost to the taxpayer is known and considered. Appropriating the full amount also helps ensure that, once a project is begun, funds are available to permit speedy, efficient completion. This bill continues the practice of committing the government to major financial investments for what appears on the surface to be very small appropriations. Thus, in making a relatively small appropriation of $103.6 million for new water project construction, H.R. 12928 is actually committing the government to total expenditures of $1.8 billion. At the same time, adding new starts each year without taking their full costs into account greatly increases the risk that budget pressures in the future will cause costly delays.

—*By eliminating funding for the Water Resources Council, the bill would seriously impair efforts to better coordinate water resources programs.* The Water Resources Council, composed of all the agencies with water programs, is our best assurance of consistent and efficient implementation of water programs throughout the government and close working relationships with other levels of government. The Administration's new water policy stresses the need for systematic management of water resource programs and for increased coordination with state and local governments, and Congress recognized the importance of these objectives and of the Water Resources Council in reauthorizing the Council and its small staff this year.

I am pleased to note that the energy research and development portions of the bill are acceptable and meet important national needs. In a constructive step, this bill provides that decisions on the Clinch River Breeder Reactor project—or possible alternatives—will be determined in the Department of Energy authorization bill, the appropriate place to resolve this issue.

Vital energy programs and sound water development investments are important and shared goals of the Congress and my Administration.

Yet the American people have the right to expect that their government will pursue these goals effectively, efficiently and with the budgetary discipline and careful planning essential to reduce inflation and continue economic growth. Citizens rightly demand sound programs to meet their needs. They rightly demand restraint and judgment in the allocation of public funds. And they expect those of us in public office to demonstrate the courage needed to face hard choices.

I call upon the Congress to join me in meeting our shared responsibility to the American people. I urge you to revise this bill expeditiously so that vital water and energy programs can continue unhampered by waste and inefficiency.

JIMMY CARTER.

THE WHITE HOUSE, *October 5, 1978.*

The SPEAKER. The objections of the President will be spread at large upon the Journal.

The question is, Will the House on reconsideration pass the bill, the objections of the President to the contrary notwithstanding?

The gentleman from Alabama (Mr. BEVILL) is recognized for 1 hour.

Mr. BEVILL. Mr. Speaker, I intend to yield 17 minutes to the distinguished gentleman from South Carolina, Mr. BUTLER DERRICK.

I intend to yield 23 minutes to the gentleman from Indiana (Mr. JOHN T. MYERS), the ranking member of this subcommittee.

I intend to yield myself 20 minutes.

Mr. Speaker, at this time I yield the 17 minutes to the distinguished gentleman from South Carolina, Mr. BUTLER DERRICK, for debate.

Mr. DERRICK. Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania (Mr. EDGAR).

Mr. EDGAR. Mr. Speaker, there are more Members than usual gathered in the House now because of the emotion that this bill has created during the last 2 weeks. In particular, in the last 48

hours there has been a great deal of movement on this particular legislation on both sides. As the speaker beginning the discussion on this particular veto, I would urge my colleagues to support the President of the United States, for several specific reasons, and sustain his veto, sending the legislation back to the committee.

I would like to draw my colleagues' attention to a chart which has just been displayed in front of us and which clarifies one of the most misunderstood comments about this bill. The Committee on Appropriations, in its final passage of the conference report, indicated that it's conference report was fiscally under the President's budget and that it was not a "budget-buster."

I would like to draw attention to the fact that while they are technically correct, that statement is essentially wrong. It is wrong for the following reasons:

Added to this bill are six projects that we deleted 1 year ago. If those projects move to construction, they will cost the American taxpayer at least $568 million to complete. If we add to that the cost of construction of the 26 projects the President brought forward, suggesting to all of us that he does support water projects which are environmentally and economically justifiable. These projects cost $640 million, fully-funded. If we add to that the list of 27 projects, making a total of 53 new projects, plus 6 old projects, we find ourselves looking at a total figure of some $2.4 billion.

The funding is reinstated for the six projects. The bill contains commitments for 53 new starts which would cost $1.8 billions to complete. Add to that the following important things: The bill mandates that we increase the Federal bureaucracy by 2,300 employees. It mandates that the administration hire those 2,300 employees even though many of us have been concerned about the swelling of the Federal bureaucracy.

It also mandates that the Water Resource Council be elminated. The elimination of the Water Resource Council would seriously impair efforts to better coordinate the water resource program.

The SPEAKER. The time of the gentleman from Pennsylvania (Mr. EDGAR) has expired.

Mr. DERRICK. Mr. Speaker, I yield 1 additional minute to the gentleman from Pennsylvania (Mr. EDGAR).

Mr. EDGAR. Finally, Mr. Speaker, there is a very, very important concept at work—a policy question which I hope all of us will look at. The committee traditionally has given us a bill on the installment plan. They suggest that if we put $104 million in this bill, it is not inflationary. They fail to point out that that $104 million represents some $1.8 billion in new commitments that the American taxpayer is going to have to put out for those projects. It is the difference between full funding of the projects that we do on all other Federal projects and an installment plan process which they are suggesting in this bill.

Mr. Speaker, I hope our colleagues will look carefully at this legislation, look at the specific points, and read the President's message. I ask that the Members sustain the President's veto.

Mr. VENTO. Mr. Speaker, will the gentleman yield?

Mr. EDGAR. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Speaker, I want to commend the gentleman in the well, the gentleman from Pennsylvania (Mr. EDGAR).

I want also to point out that this legislation that is involved in this effort to override the President's veto fails to provide funds for the United States Water Resources Council, which has really brought about a coherent national water policy. This override would have that result.

Mr. Speaker, I rise today in strong support of the President's decision to veto the fiscal year 1979 public works appropriations bill.

Mr. Speaker, the President has returned the bill to us with his veto and a strong message that this bill violates both his budgetary and economic policy requirements and his well-considered policies with regard to future water resource development. I think it is incumbent upon us to take most seriously this request by the President and to overwhelmingly sustain this veto with the knowledge that what we do will be a clear indicator of the course that this Congress wishes to follow regarding the budget, the economy and the future of water resource planning, management, and development.

Frankly, it would be easy for us to simply regard this as a struggle between the President and the Congress over who is right on specific water projects or as a regional matter in which the President has taken sides under the banner of budget restraint. However, such a position would not be consistent with the facts nor would they represent the stance I believe appropriate for Congress to make with the American public regarding its intentions on either the budget or water resource development.

By returning this bill to us, the President has taken an action which will restrain the growth of the Federal Government, insure a sound and reasoned water resource development policy, and has shown his willingness to continue a mutually constructive relationship in this difficult area.

Mr. Speaker, I might feel differently on this question if the President had refused to endorse, as a general matter, any new water resource development. This is not the case. The President has recommended in his fiscal year 1979 budget the inclusion of 26 new construction starts for water resource development. These new starts, totally absent from a Presidential request for the past 4 years, signal a welcome, open attitude on the part of the administration to support projects where they are justified in the broad public interest. These new starts, interestingly enough, represent the most new starts recommended by any President since 1967. These items, in my view, make it clear that the situation we face here is not one of an intransigent President confronting a Congress over the issue of funding or not funding future water resource development. This administration does not have a "no new starts" policy.

Similarly, there is no question in my own mind, after having examined the record, that there is no regional bias inherent in either the President's action on this budget or in his water policy overall. In fact, if anything, there is an adequate attention given to those items which are of major concern to my area of the country. That lack of emphasis now is certainly a continuation of a historical and perhaps justifiable emphasis given to the arid regions of the country. Nevertheless, it is completely inappropriate to characterize either the President's policy or this budget as one which brings war on any region of the country. Under either the President's budget request, or the greatly increased amounts inserted in the congressional appropriations process, the Western part of the United States will derive the most substantial share of the spending.

President Carter's objections to this bill are numerous and substantial, and I believe they provide overwhelming reason for us to sustain the veto and reexamine this bill in cooperation with the administration. First, the bill reinstates six of the so-called "Hit List" projects which were not funded by Congress last year following strong Presidential objection. These six projects, which along with three others were the only projects out of hundreds examined by the President to gain his final and total opposition, represent projects whose merits are few and are simply a waste of taxpayers money.

Second, compounding this problem, Congress has reacted to one of the boldest initiatives by any President in recent years in water resource policy by ballooning the size of the long-term obligation created by this bill by the amount of $1.8 billion. The President's initiatives of which I speak are, of course, his justified effort to establish and articulate a comprehensive national water policy and his proposal in this year's budget request to full fund 26 new construction starts. The President's policy includes ideas which have been discussed and recommended over the years, but which nevertheless have never been articulated as national policy until now. The Presidential request for 26 new construction starts for water development projects represents a bold departure from the no new starts policy of the past. I believe it is folly for us to take advantage of this attempt on the part of the President to indicate his desires to have a continuing program in a period where the abilities of this President or this Congress to truly control the budget is so limited.

It seems entirely inappropriate to add a long-term obligation of $1.8 billion at this time. This would be perhaps more understandable if the projects added to create the obligation were themselves clearly meritorious and ready for funding at this time, but such is not the

case. Of the projects added by Congress many of them have no final impact statement, and in some cases not even a draft. Others have no final planning report, and still others occupy low priorities for spending in a time when budgetary restraint should be a byword.

Inadequate planning, detrimental environmental impacts or a failure to comply with basic legal requirements are all components in a formula which has in the past and will in the future lead to prolonged litigation, cost overruns, and the frustration with major developmental activities which all of us should seek to avoid. The 27 projects added by Congress (to the administration's already generous request for 26 new construction starts) not only create unacceptable future budgetary obligations, but they begin construction on projects which in many respects are inappropriate environmentally, legally, or in terms of planning and design.

They also continue the practice whereby a project costing many millions of dollars is begun in the first year for only a tiny percentage of the overall cost. For example, one project in the bill projected to cost $412,000,000, yet only $500,000 is provided in this bill. This down payment is miniscule compared to the size of the mortgage the taxpayers are being obligated to pay for this project. I do not believe we should continue to buy water projects on the installment plan.

The full funding proposal that the President carries out in his own budget request is not something new. In fact it is used in virtually every major capital expenditure program engaged in by the Federal Government, including military spending, space spending, the construction of hospitals and public buildings, and numerous others. It is a well accepted and sensible accounting method which not only makes information available to the public, but shows that amount in terms of its full budgetary impact in the year that the taxpayers actually assume the burden.

Third and equally disturbing is the failure in this bill to refuse to fund the U.S. Water Resources Council. The Council, which was intended from its inception to be the prime coordinator regarding water resource policy among Federal agencies, and the prime agency for interface between the Federal Government and States and regional water resource planning organizations, simply should not be discontinued this year. I believe that many States, many River Basin Commissions, and many water organizations share this view. Indeed, I was a strong supporter of the Council when the Interior Committee passed the fiscal year 1979 authorizing bill this year. The Interior and Insular Affairs Water Power Subcommittee on which I have served had reservations concerning the WRC, that is why we cut their funds and will review closely in the future their progress to achieve the initial goals of the Water Resources Planning Act. It is an irony of history that the most common criticism of the Water Resources Council, through the years, has been the failure of Presidents to invest power and confidence in the Council's activities.

Yet in the first year when a President, through water policy, has provided just such faith and confidence, Congress responds by terminating funding. Even more ironic is the fact that a prime rationale for such discontinued funding is to save the taxpayers money. I scarcely think that the taxpayers will breathe a sigh of relief when they learn that Congress has eliminated the 48 positions and $1.3 million for the Water Resources Council, when it learns at the same time that Congress has ordered the expansion of the Federal water resources bureaucracy by 2,300 individuals and added $1.8 billion to the long-term obligation of the American taxpayers for water resource projects.

This last point is extremely troubling to me. I am appalled that the bill would require the President to hire an additional 2,300 Federal employees despite his insistence that they are not needed. I just do not believe the citizens of this country want us to require the addition of 2,300 employees. I urge my colleagues to join me in beating back this unwise attempt to permanently expand the Federal water bureaucracy. It is unwise and unnecessary.

Overall, I think the issue before us is the sort of signal that this Congress wishes to send to the American people and the administration with regard to future water resource policy and our responsibility for dealing with Federal budget and economic matters. The President has taken the initiative over the past year to set a priority on water resource management and to articulate a policy which can be well considered by Congress and the American public. I think our response to this policy and to the initiatives the President has taken in this year's budget request should be something more than reconfirmation of the old way of doing business and the burdening of the American taxpayer with projects that are not only ill-advised but in excess of our ability to tax and spend over the coming years.

Our signal should be one which is substantially more constructive; one which reflects our desire to work together with an administration which has taken an initiative on the water policy and given a signal through its budget request this year that it is not against water resource development in the least so long as it is well justified and well planned. No test of congressional primacy is at stake here, for Congress will certainly retain its traditional capability to make final decisions with regard to appropriations.

The President's role, as I see it, will be substantially better defined in the future by virtue of the Presidential evaluation criteria used to formulate his budget request. Any difference in future years, as in this year, can be worked out in sound committee compromises. It is only unfortunate that this year's compromise should follow the veto. Nevertheless, I think it is inevitable that a compromise will take place, and believe that in sustaining this veto is in the best interests of the Nation in many regards.

Mr. DERRICK. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. MIKVA).

Mr. MIKVA. Mr. Speaker, sometimes our perception of an issue overtakes the facts. I suspect that the American people and perhaps many of my colleagues will not remember in time which 27 projects were added and which 26 projects were urged by the President or even which of the 6 "hit" projects should have been funded or which should not have been funded.

But what is observed by the American people and what I hope will be observed by at least one-third of this body is that we either mean what we say about slowing down on Federal spending and living within the budget that we set or we do not. When we continue to do business as we have traditionally done on most projects of this type, we are clearly weakening our economy and defeating our purpose.

Some of us swallow hard when we vote for legislation that cuts down on projects that we would like to see, but we cannot really mean our rhetoric about eliminating waste if we come in with a "budget-buster" such as this one. Take the question of incremental funding. We put in 1 year's funding and let the rest of the years slip on by down the road. We cannot justify that action when we decide what the priorities will be based only on who is asking for it and what parochial interests would be benefited rather than on what the national interests should be.

For those reasons, I hope that the perception that the American people get when this veto is sustained is that the Congress does mean business. They do understand that the question is not between the spenders and the savers, but what our priorities ought to be. And the priorities in this country are not reflected in an "old politics" bill such as this one the President has vetoed.

PUBLIC WORKS VETO

For the past 2 years, the public works appropriation has provoked more controversy, outrage and breast-beating than any other bill to come before the Congress. Enough blood has been let in the battles over the Derrick-Conte amendment to the fiscal year 1978 appropriation, the Edgar amendment to the fiscal year 1979 appropriation to fill one of the water projects contained in the bill.

It has been said that the two activities civilized people should never see are the making of sausage and the making of laws. That aphorism is particularly appropriate today, because the fiscal year 1979 public works appropriation contains enough pork for a lifetime of sausage. For the taxpayers of this country, however, the bill for these water projects is more suitable to buying caviar than pork sausage.

I do not think the record of the Congress in spending money for water projects represents one of our prouder efforts. In fact, I think one of the most

important reasons for supporting the President's veto is to eliminate once and for all the sorry spectacle of a Congress talking fiscal responsibility out of one side of its mouth and voting "aye" on inordinately wasteful and unnecessary water projects out of the other side of its mouth.

This veto must be sustained because it could signal the beginning of a new way of doing business. Should projects get money because of personal friendships and powerful—but unrepresentative—local interests? Should the costs of water projects be hidden by appropriating funds for just 1 year on a project that takes 5 or 10 years to complete? Should the policy decisions affecting one of our most precious natural resources—water—be managed by dam-builders, catfish farmers and yachtsmen? I think not—I think the American people think not.

The bill, quite frankly, is an outrage. I do not know if promises were made to the President to delete forever the six water projects dropped from last year's public works bill. But, I do know that the six projects will cost more than half a billion dollars to complete, and that one of the six projects is potentially useful to only one catfish farm. Another one of the six projects will benefit just 69 landowners to the tune of $1 million per person.

There are other provisions in the bill which are as objectionable as the six previously dropped projects, however. The bill funds 27 new construction starts costing a total of $1.2 billion. One of the projects is not authorized at all; 11 have not fulfilled preconstruction legal or contractual requirements; one requires a treaty with Canada which has not yet been negotiated; and five are for recreational boat harbors. These projects would be difficult to justify even if we had a $40 billion budget surplus, but when we have a $40 billion deficit they reach the point of becoming insults to the taxpayer.

The most creative aspect of the public works appropriation conference report is the accounting methods used. Proponents of the legislation disingenuously point out that the bill is under budget. I applaud the optimism inherent in that statement; but the bill is only under budget if we stop construction on all the projects in the bill after 1 year and leave 53 partially constructed dams and harbors dotting the countryside. Although this result may be more environmentally desirable, it makes a mockery of the budget process. Once construction begins, the Federal Government will be committed to completing the projects. Thus, when the real costs—the full construction costs—are calculated, the 1-year funding contained in the bill of $103 million balloons up to $1.8 billion. I suggest that this compares unfavorably to the total $640 million cost of completing the 26 new projects recommended by the President.

Old traditions die hard, and there is no older tradition in the Congress than the idea that water resource projects do not have to meet budget requirements, or environmental requirements or such legislative niceties as requiring authorizations before money is appropriated. But this is one tradition undeserving of any nostalgia. It is a tradition of waste and inefficiency, and deserves to be ended. I urge my colleagues to vote to sustain the President's veto by voting "no" on this motion.

Mr. BEDELL. Mr. Speaker, will the gentleman yield?

Mr. MIKVA. I yield to my colleague, the gentleman from Iowa

Mr. BEDELL. Mr. Speaker, I rise in support of the gentleman's remarks.

Mr. Speaker, I rise in opposition to the motion to override the Presidential veto of H.R. 12928, the fiscal year 1979 energy and water development appropriations bill.

Mr. Speaker, I believe that there are two fundamental issues raised by this Presidential veto. The first is the merit of certain provisions of the appropriations measure itself. The second involves the basic orientation of Federal water policy.

In his veto message to the House, the President stated that H.R. 12928, in its present form, would "hamper the Nation's ability to control inflation, eliminate waste and make the Government more efficient." I agree.

In my view, prudent development and management of our Nation's water resources are essential to the growth and prosperity of our country, and I acknowledge that H.R. 12928 contains funding for both energy R. & D. programs and water resource projects which are needed. However, this does not negate the fact that the bill also contains provisions which constitute unacceptable public policy and reflect a water resource development philosophy which is contrary to the basic precepts of good government and a disservice to the American taxpayer.

Specifically, H.R. 12928 is deficient in several critical areas.

First, it restores funding for six unnecessary water projects that Congress agreed to terminate last year after a comprehensive review deemed them unworthy of further Federal support. These projects, which will cost more than $580 million to complete, have poor cost/benefit ratios and do not meet acceptable water policy criteria. One project will primarily benefit just one catfish farm. Another would irrigate only 69 farms at a cost to the Federal Government of more than $1 million per estate, with each farmer's share of the repayment being only $71,000 payable over 50 years without interest. And, yet another project's major benefit is flatwater recreation in an area which already contains three completed Federal reservoirs and two others under construction, all within a 50-mile radius.

How can one justify such a use of taxpayer dollars?

Second, the bill doubles the number of new construction starts proposed by the President, bringing the total of new starts in fiscal year 1979 to 53 projects costing $1.2 billion. Many of these projects have not been fully planned, are not economically sound or are very low-priority investments. For example, surely the construction of yacht harbors with Federal dollars would rank low on the average taxpayer's list of national priorities.

Third, the bill would expand the Federal bureaucracy by more than 2,300 additional employees. It requires that the Army Corps of Engineers and the Department of Interior's Bureau of Reclamation hire these employees to work on public works projects, many of which lack economic justifications. How can any Member of Congress ask his or her constituents to help with an additional $200 million in taxes in order to fund questionable water projects whose by-product will be enlargement of the Federal bureaucracy?

Fourth, the bill would increase the 1979 outlay for water projects over the President's original recommendations for that period, and it would raise future Federal spending commitments by $1.8 billion. One of the cost factors which is most often cited in support of the reclamation projects is the repayment question. The impression has been left by several speakers today that reclamation projects repay themselves over time. I would like to take a few moments to address this contention.

It is true that under reclamation law the costs allocated to a project for irrigation are reimbursable However, there are some very significant adjustments or manipulations involved in arithmetic to support this statement. For instance, as a typical example, take a look at the O'Neill unit which is under construction in the Niobrara River Basin of Nebraska. The total estimated cost of this project is $192 million of which $181 million is allocated to irrigation. However, irrigators are required to pay only $45 million of this $181 million, just about 25 percent of the allocated costs. Furthermore, they have 50 years to make the payment and the interest rate is zero. The other 75 percent of the costs involved—still without interest—are paid by consumers receiving power from six main-stem Missouri River Corps of Engineers dams and reservoirs. No power is generated at the O'Neill unit nor on the Niobrara River. The irrigators are allowed to pay only 25 percent of the costs because their payment obligation is based on an "ability-to-pay" calculation, biased in the irrigators' favor.

It should also be added that the costs paid for by power consumers is spread over an unbelievable time period. In the Missouri River Basin, for example, irrigation assistance for the projects will not begin to be paid until after 2048 and will not be fully repaid until 2152. Remember, this debt is carried on the books at 0-percent interest which as the National Water Commission indicated is a tremendous subsidy.

And fifth, the bill eliminates the Water Resources Council which was attempting

to bring some rationality and cost-effectiveness to the planning of future water resource projects. I believe we desperately need a process whereby water project requests are thoroughly screened to determine if they are in fact compatible with the national interest. The Water Resources Council was directing an effort to set up more stringent guidelines for computation of cost-benefit analyses and to require front-end funding procedures which do not disguise or distort the true costs of a project. An effective review process could encourage States and localities to provide more funds, or even in many cases assume a minimal share, as evidence of their own strong commitment to a project.

Mr. Speaker, this leads me to the second fundamental issue involved in the debate—the future direction of Federal water policy.

My concern about H.R. 12928 goes beyond my objection to specific provisions of one appropriations measure. It also involves the basic philosophy which underlies the authorization and funding of water resource projects.

When the Reclamation Act of 1939 was enacted, water resource development was critical to meet vital agricultural and community development needs. Today the situation is much different, yet Congress has been slow to acknowledge this fact and to adapt to changing times and conditions.

As a result, almost imperceptibly over time, Congress has become wedded to a water resource development philosophy which can no longer be justified in light of the needs of contemporary America. Thus, over the years, the national perspective has all too often been sacrificed to political expediency as Congress has rather routinely approved and funded water resource projects which have considerable political mileage for individual Members in their home districts and States, but which may not be justifiable in terms of our overall spending priorities. To a large extent, this parochial policy was facilitated by a series of administrations which have practiced a policy of nonintervention in this traditional area of congressional prerogative. Such tacit consent by the executive branch certainly added an additional aura of legitimacy to an increasingly questionable practice.

This is not to say that all water projects are unwarranted. To be sure, many such projects are legitimate government investments. The task before the Congress and the Executive is to devote greater effort to delineating acceptable criteria for determining which projects are truly justifiable on economic, safety, and environmental grounds. Pork barrel considerations should be separated from the tangible economic and social benefits which might accrue to our Nation.

Mr. Speaker, I believe that today the House has a significant opportunity not only to reduce Federal spending and eliminate waste from the budget, but also to reorient national policy. A vote to sustain the Presidential veto of H.R. 12928 is a vote against inflation and waste, and against inequity and, in some cases, special interest. It would send a signal to the American people that the Congress is prepared to rethink traditional procedures and standards in light of current conditions and needs and to place a higher priority on societal value than on individual political advantage.

I urge my colleagues to vote to sustain this veto and send H.R. 12928 back to committee for the changes that must be made so that a new bill can be expeditiously returned to the House floor for passage prior to adjournment. The new bill can and will more closely reflect the Nation's real water resource needs and the public's demand for more responsible Federal spending.

Mr. DERRICK. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan (Mr. BRODHEAD).

Mr. BRODHEAD. Mr. Speaker, I think one of the most unfortunate aspects of this whole discussion is the innuendoes, the rumors, the implied threats, that if people do not go along with this bill, if people do not support this bill, that it is going to cost their districts and cost their States. I do not think this is any way to pass a piece of legislation. That is not the way we pass other pieces of legislation around here. Other committees report our bills and have them considered on their merits without the use of threats. And I know that the distinguished gentleman from Alabama, the chairman of the subcommittee, has no part in this, nor does the leadership of this House, but, unfortunately, some Members of this House and some staff people are saying that if we do not go along with this, it means that this bill or this other project is going to be torpedoed.

I think these things must be considered on their merits. I think we can set an important precedent for considering these matters on their merits by voting to sustain the veto on this bill.

Mr. DERRICK. Mr. Speaker, I would like to ask the chairman of the committee if he might let me take about 5 minutes of my time toward the end, rather than insisting that I take it all at one time.

Mr. BEVILL. Mr. Speaker, the chairman will not accede to the gentleman's request. The gentleman has one-third of the time, and this is the best way to do it.

Mr. DERRICK. It is my understanding that the gentleman will force me to take it all right now?

Mr. BEVILL. The chairman will force the gentleman to take it all right now.

Mr. DERRICK. That is what I thought. I thank the gentleman.

Mr. Speaker, I yield 2 minutes to the gentleman from Connecticut (Mr. MOFFETT).

Mr. MOFFETT. Mr. Speaker, the American public is not going to be fooled by this vote one way or another. They will know whether we are serious about stopping bureaucracy-building, about deficit spending and about all of the rhetoric that has been heard from every Member of this House.

It was said by many of our colleagues when the Kemp-Roth bill was up for consideration, that this was a test of those approaches to government, and that Howard Jarvis was at least spiritually in this Chamber. Well, he is back again today, and we would hope to have the same kind of consistency that was insisted upon in the earlier vote.

When we had these votes in the past, on the Edgar amendment and on the Derrick-Conte amendment, it closely resembled a generational vote. We have seen the younger, newer Members generally vote in one direction, and we have seen people who have been here for a while vote in the other direction. I would ask my colleagues who have come here in recent years to continue the spirit that we thought we began in the early 1970's, to try to bring some constructive change in this system. Do not be bought off by the different things that are being said to Members about what projects they will have or what projects they will not have in the future.

I would ask my colleagues and friends who have been here a while to try to give us a hand today in bringing a change to this system and to the process that we use to handle the people's money. Everyone knows that this vote is more than a test of what projects are going to be approved this year or next year. It is a test of how this House will handle the people's money in this year, in the next 5 years, in the next 10 years and in the next 20 years.

Mr. DERRICK. Mr. Speaker, I yield 1 minute to the gentleman from Massachusetts (Mr. CONTE).

Mr. JOHN T. MYERS. Mr. Speaker, I yield 1 minute to the gentleman from Massachusetts (Mr. CONTE).

Mr. CONTE. Mr. Speaker, I rise to strongly support the President's veto of this Public Works bill, and to urge my colleagues to sustain that veto.

This is a bad bill; it is an inflationary bill; it is a special interest bill. The President was absolutely right in rejecting it; and I sincerely hope that this House and this Congress do not have too much false pride to admit that a mistake has been made—a horribly expensive mistake.

We are now fast approaching election day and members of both parties are running around their districts decrying inflation and its effects. They are promising to fight inflation; to slow it; to kill it. Well I submit, Mr. Speaker, that we need look no further than this bill to find a way to fulfill those campaign promises.

If there has ever been an inflationary measure emerge from this or any other Congress, this is it.

This bill contains 53 new water projects; and it also contains 6 that had wisely been deleted last year. It will add $1.8 billion to Federal commitments to future public works spending.

It ignores the need for fiscal restraint. It ignores the need for weighing costly expenditures with sound cost-benefit

ratios. And of equal importance, if not more so, it completely ignores the crying need to protect our environment and the ecology. On many of these projects there is no final environmental impact statement.

The President's decision to veto this bill and the current effort to sustain that veto is not, despite some emotional claims to the contrary, a "war on the West." It is significant that seven Western Governors support the President's veto—the chief executives of Nevada, Nebraska, Wyoming, New Mexico, Oregon, Idaho and South Dakota. These people know a boondoggle when they see it; they know a turkey when they see it; they recognize a turkey that has grown so fat and so consumptive with greed, that it has to be killed. We can and should kill that turkey, today; and we can use that dead bird to provide a rare banquet for the hard-pressed taxpayers of this Nation.

I do not intend to recite today everything that is wrong with this bill. I could use the rest of this day, the rest of this Congress, probably the rest of this decade, doing that. But, I would like to mention some of the worst boondoggles we are being asked to review.

Lukfata Lake in eastern Oklahoma is supposed to be a flood protection and water supply project. It is not only economically marginal, it inundates 1,680 acres of wildlife habitat and bottomland hardwood forest. There are severe water quality problems; and worst of all, most of the water supply benefits would go to a catfish farm and some potential catfish farms. The remainder would go to the future supply for a small town with questionable growth potential. This would cost the Federal Government $34 million.

For one Yatesville Lake project in Kentucky, the major benefit claimed is flatwater recreation, yet water quality problems could jeopardize this use—and even the need for additional flatwater recreation has been questioned. It would force relocation of 93 cemeteries, 213 dwellings, 6 churches, and 4 commercial buildings. It will inundate 6,000 acres, causing loss of fish and wildlife habitat. The estimated Federal cost of this project would be $62 million.

The Fruitland Mesa project in Colorado is supposedly for irrigation—but only 69 landowners will benefit. It would decrease the water quality in the lower Colorado River Basin. The lands benefited are located at high altitudes with a short growing season. The estimated Federal cost of this project $88.2 million.

The narrows unit in Colorado is another so-called irrigation project. But it would dislocate 642 people and their community. It would adversely affect whooping crane and sand hill crane habitat. The whooping crane is an endangered species, and the sand hill crane is a threatened species. Over 40 historical and archaelogical sites would be destroyed. There is substantial local opposition to the project. Preferable alternatives may exist. There are water quality problems, which would reduce the recreation benefits that are claimed by the proponents. Even flood control benefits are turning out to be less than originally estimated. The Federal cost of this project, $162.3 million.

The Savery Pot Hook in Colorado and Wyoming will benefit only 106 existing farms. It would increase the salt content in the Colorado River. The area has a short growing season. Approximately 20,000 acres of wildlife habitat would be modified or eliminated affecting deer, elk, antelope, and sage grouse. The cost of this project to the Federal Government, $74.5 million.

For the Bayou Bodcau levee project in Louisiana, only 60 landowners will benefit at a Federal investment of $240,000 each. The project will eliminate 1,560 acres of wildlife habitat and 11.6 acres of fishing streams. The estimated cost of this project to the Federal Government is $15.5 million.

And before closing, Mr. Speaker, I would like to ask one more question of my colleagues—how can you go home and tell your constituents, our taxpayers, that you are for less Government and more efficient Government, if you vote to override the veto of a bill that will require enlarging the Federal bureaucracy by more than 2,300 full-time employees?

Mr. Speaker, earlier this year, the House voted for, in effect, a 5-percent cut in the Labor-HEW appropriations. We said, "Oh, we can't afford so much spending for the elderly, the sick, the disadvantaged." We said, "We can't afford so much health research, education for our young, help for the underprivileged." Oh, no. We could not afford that. Are we now going to say we can afford this boondoggle?

When the people said they wanted a rollback in social security taxes, we said, "Sorry, we can't afford that." When the people said, as they have been saying for years, that they want national health insurance, we said time and again—and we are still saying, "Oh no, we can't afford that."

When the Vietnam war veterans asked for the same benefits that went to the World War II vets, we said, "Sorry, times have changed, we can't afford that."

Well, we have before us a bill that provides almost $2 billion worth of projects—environmentally and economically unsound projects—that have been proposed and approved out of little more than back-scratching. These projects are still alive simply because one Member or group of Members wanted to give something to another Member or group of Members.

Can we tell our constituents that we can afford that—after we have said no to so many legitimate requests? The answer to that question is obvious, Mr. Speaker. It is time to put the lid on the pork barrel. We can do that by voting to sustain this veto; and I urge my colleagues to do so.

The press has reported that certain Members of the congressional leadership have accused the President of acting like an ostrich—putting his head in the sand. I submit, that in this case, the President is acting like an eagle. From a bird's-eye view he spotted a predator (a bit of vermin) and he swooped down to deliver a serious wound. It is up to us now to deliver the death blow.

Let us support our President.

Mr. DERRICK. Mr. Speaker, I yield 1 minute to the gentleman from Illinois (Mr. MICHEL).

Mr. JOHN T. MYERS. Mr. Speaker, I yield 1 minute to the gentleman from Illinois (Mr. MICHEL), the distinguished minority whip.

Mr. MICHEL. Mr. Speaker, and Members of the House, there is nothing new in my taking the well to speak for the minority.

It is not unique, but somewhat out of character for me to speak for a minority of both the majority and minority parties.

I do not suspect I can turn any vote around on the Democratic side of this issue, for you have all been subject to the greatest pressures already. Your leaders both in this body and the other are all against your President.

I cannot imagine if the situation were reversed that we Republicans would treat our President that way.

Be that as it may, we Republicans with only a third of the membership of this House have no control over the flow of events around here. We simply do not have the votes.

Occasionally we can be instrumental in the outcome when we all stick together on our side of the aisle and pick up a sufficient number on your side to prevail on a partisan issue.

But this is not a partisan issue.

I do not take the view that this is the time to "stick it to the President," because those who would are not on the right side of the issue so far as the vast majority of the American people are concerned.

Now having said that, I do not want to be rafshooned on this issue any more than the rest of you—and you know what I am talking about.

The true test of the President's commitment to really take the bull by the horns in fighting inflation is yet to come. If he needs to be buttressed or encouraged to do so, let it begin with this bill.

Now I may be wrong, but I do not see the American people out there whooping it up for this Congress. And if this veto is overriden, the American people are going to be even less enamored with what we are doing around here.

I can see and hear it now:

It was business as usual in the Congress again today.

That, my friends, is what the public is fed up with.

Those who support my view are not condemning everything in this bill. There is more good than bad in it and I sympathize with those members of the committee who worked so long and hard to put it together.

There are Members on both sides with good and sufficient reasons to vote to override, but not two-thirds of our Members.

Recognizing that I am still speaking

for a minority point of view as I have often had to do, I submit that a vote to sustain is a more defensible vote than many of you realize and I urge you to vote with me.

The SPEAKER. The gentleman's time has expired.

Mr. MICHEL. Mr. Speaker, I think I had 2 minutes. I had a minute yielded over here.

The SPEAKER. The gentleman's time has expired.

Mr. MICHEL. I could not have been speaking for 2 minutes.

The SPEAKER. The Chair was very lenient with the gentleman.

Mr. DERRICK. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. PHILLIP BURTON).

Mr. PHILLIP BURTON. Mr. Speaker, I suspect that I do not have a reputation for being unduly concerned about spending. But, I must assert that I think the President's action in this respect deserves our support. There is not a person serving in this Chamber who does not fully recognize that it is very difficult for any of us to speak when projects affecting one or another of our many colleagues' districts are affected.

But no one can believe that the President himself did not have to be concerned as to whether or not he would risk his newly found strength on a matter so intimately involving so many Members.

I on occasion have to manage bills. They are not very expensive compared to a lot of bills that come before this body, but they cost a little, and I want to make this one flat statement. I am concerned about inflation. I have found myself in the unbelievable position where I am worrying about cutting $1 million here to $250,000 there so I can hopefully provide some kind of support in a small way to those who believe we have to put some kind of constraints on how much we are authorizing or spending.

So I really come down to this final observation. I come from a public works State. I come from a State that needs water development. It is precious to those of us in the West and in the South. But I submit that those Members who vote to override this veto do an enormous disservice to the idea that public works and water development are in the interest of the country, as I believe they are under ordinary circumstances. I urge that the President's veto be sustained.

Mr. DERRICK. Mr. Speaker, I yield 1 minute to the gentleman from South Carolina (Mr. DAVIS).

Mr. DAVIS. Mr. Speaker, I rise in support of the President's veto of the Energy and Water Development Appropriations Act.

Most of us will agree that economy in Government is an idea whose time has come; as a matter of fact it is long overdue. We cannot just talk about economy in Government; we must, in effect, put our money where our mouths are.

This is not a fight between the President and Congress over water projects for funding; it is a fight in which Congress and the President should be joining hands.

As our economy gains strength, we must steadily reduce the Federal deficit. We must cut wasteful and inefficient programs from the budget in order to make room for the really important priorities. Yet, this bill is clearly a step in the wrong direction.

What about the provision of this bill which would require the Corps of Engineers and Bureau of Reclamation to hire an additional 2,300 full-time Federal employees regardless of need?

Government efficiency requires sound management of the Federal work force. We should look to the President for this management, and we should support his efforts to keep down the size of the bureaucracy. We should not mandate payroll growth in these agencies to the tune of more than $50 million a year, especially when those responsible for managing these agencies have said that they can execute the President's program without adding new people. We on the Hill like to talk about spending on the part of Executive agencies and thrift on our part. Yet, we are here mandating future spending in uncountable millions.

What sense does it make to restore funds for projects which were wisely deleted from funding last year and whose ultimate construction cost, including inflation, would be close to $600 million when all of them have serious deficiencies? One of them would only return 50 cents on each dollar of investment even at the low, authorized discount rate—and that investment amounts to the equivalent of more than $1 million each for only 69 farm families. It has already been fully studied—there is simply no reason to keep it on the status of continued study, inching its way toward wasteful future construction.

Another of these projects—this one a flood control project—would benefit only about 150 landowners at a Federal investment of almost $100,000 each. It would eliminate almost 1,600 acres of wildlife habitat, and would not produce sufficient economic benefits to offset the environmental loss.

This bill would do much more than just throw more money at projects which should never have been started in the first place. It would add 27 new water project construction starts to the 26 which the President recommended after carefully weighing the size of the commitment which the budget could bear in the next few years. It would commit $1.2 billion more than the $640 million the President recommended for new water project construction.

Some of my colleagues have said that the price tag on this bill comes in below the President's budget. Well, we are playing games with numbers. When a bill adds 27 new starts to the 26 which the President proposed, and when it restores funding for six costly projects that the President opposed, it has got to cost the taxpayers more.

And this bill would do just that. The bill only appears less costly, because it appropriates only the first year downpayment on new starts, and provides only incremental funds to inch along the six projects which were deleted last year.

The President proposed full funding—including estimated inflation while the project is being built—for his new starts. This approach provides a clear understanding of the total effect of budget proposals, and complete disclosure of the spending commitments made by Government. It is an example of government honesty to the American people. It increases efficiency by allowing projects to be completed on an optimum schedule. And by insuring that full project costs are considered when a decision is made to begin construction, full funding allows more certainty that commitments will fall within future budget limitations.

But we all know that incremental funding allows major spending commitments to creep up on the American taxpayer. And we should all face the fact that if we override this veto, we will be mortgaging future budgets with $1.2 billion of excess new water project starts.

In a time when uncontrollable expenditures eat up almost three-quarters of our Federal budget dollar, we simply have to exercise discipline on how we spend that remaining quarter. The President has proposed a healthy investment in water project development. He has proposed that investment after judging water projects against a sensible set of criteria. Some of the projects this bill would fund might be good candidates for construction in future years. But we must curb our appetite for water projects this year if we are to avoid, next year and the years after that, budget deficits which will fuel inflation, and will fuel too the indignation of taxpayers who want to be sure that every one of their tax dollars is invested wisely.

The American people elected Jimmy Carter, because he promised to cut down on waste and spending. The people are demanding the same thing of their Congress, and it is time we recognized this in the area of public works.

It is high time that we considered this legislation on the basis of what is good for our Nation as a whole, it is time that we gave some forethought to what is good for the dollar.

We have spent ourselves to the point where inflation is a constant fact-of-life. We have debased the dollar to the point where American service people in Europe are objects of charity. We must reverse our direction, and I hope that this Congress, in its dying days, will take a first step in that direction.

Charity is not the only thing that begins at home. So does self discipline. And it is high time we showed some of it in our vote on this water projects spending bill.

Mr. DERRICK. Mr. Speaker, I yield 1½ minutes to the gentleman from California (Mr. MILLER).

Mr. MILLER of California. Mr. Speaker, I think the effort to sustain the President is a very important one. I think

if we fail to sustain this veto, we must understand we are making a downpayment on some projects that are going to be very, very expensive projects which are going to get harder and harder to finance in the future.

Let me present to the Members a little experience we have had in California with the largest reclamation district in the country, the "Cadillac" of all reclamation districts. The utility ratepayers in California are now faced with a 400-percent increase in power costs because the project did not pay for itself like they said it would. In fact, an Interior Department audit has shown a projected $8 billion deficit.

Those water users who said they were going to pay all the project costs back will, in fact, pay back only 18 percent of those costs. So the Federal Government must recoup its deficit by going to the utility ratepayers and say: "While we once guaranteed you cheap power, we must now increase your costs 400 percent."

The seemingly small amounts in this year's budget is only a downpayment because there are so many hidden costs in financing water projects. The beneficiaries of these projects will not be required to pay any interest on the loans made available to them. They will enjoy subsidized water from the projects. There will be cost overruns. So, even the President's estimate of $1.8 billion in excess of the budget is a very conservative figure.

Members ought to understand that we do not know the cost-benefit ratios for many of these projects because the definite plan report or EIS for some of these projects is still incomplete. In some cases, there has been no land certification to determine what acreage is worth irrigating and what is not. So, we do not know the repayment capacity of these project beneficiaries. Reclamation law requires a land certification study, and a formal repayment contract before construction commences. So, it is very clear that we do not know, for these controversial projects, what we are building, whom it will benefit, how much will be repaid, or how many billions of dollars will be passed along to the utility users and the general taxpapers, who are being told these projects will "pay for themselves."

I ask Members to sustain the veto.

Mr. DERRICK. Mr. Speaker, I yield 30 seconds to the gentleman from North Carolina (Mr. MARTIN).

Mr. JOHN T. MYERS. Mr. Speaker, if the gentleman will yield, I had intended to yield a minute to the distinguished gentleman from Illinois (Mr. MICHEL) and inadvertently it was not allocated to him so, Mr. Speaker, I would like to yield that minute to the gentleman from North Carolina (Mr. MARTIN).

The SPEAKER. The gentleman from North Carolina (Mr. MARTIN) is recognized for 1½ minutes.

Mr. MARTIN. Mr. Speaker, I do not think this bill should pass until it is trimmed back.

First, it nibbles at the edge of the Constitution in mandating the hiring of 2,300 new Federal employees at an average cost of about $25,000. It is not recommended that a Member try to defend that travesty in public, back home, between now and November 7, especially on the heels of a recent vote to reduce Federal employment to where it was in January 1977.

Second, it rejects the long-overdue acceptance of full funding for these projects. We now have full funding for aircraft carriers, and for just about everything else. It is plain foolishness to continue the charade of incremental funding—putting huge projects on the public's Mastercharge. The only legislative advantage is that it keeps Members with projects already under construction wedded to next year's deals; and the next.

Third, this bill spends $1.8 billion we do not have to spend, with money we do not have at all. That is money we will have to print or borrow and which, if borrowed, will cost $139 million a year in interest, at 7½ percent. If printed, it will cost the same thing by devaluing the currency.

Fourth, the added projects in this bill are generally wasteful. We must talk in generalities to avoid stepping on toes. To be illustrative, there is one beauty which trades about 20,000 acres of farmland to be flooded for about 20,000 of someone else's acres to be irrigated with a cost-benefit ratio of 4 to 1: Costs, 4; benefits, 1. Another has costs, 7; benefits, zero. A third shows costs, 2; benefits, 1. A fourth shows costs, 5; benefits, zero; and so forth. These are not pennant-winning scores. Many are calculated on the basis of favorable interest rates that they cannot get, due to the inflation which they will further aggravate.

Fifth, these added costs will fuel inflation. And, inflation is running more than double the interest or discount rate used to calculate some of these projects' costs. If we can exercise self-discipline on this bill, but if we can decline to irrigate farmland at a million dollars a farm and refuse megabucks for potential catfish farms we signal our willingness to fight back against inflation that is now ripping apart the economic and social fabric of this Nation. To pass this bill with all its baubles is to signal an abandonment of the very self-discipline and self-restraint that are essential to the survival of this democracy.

Back when I was a county commissioner in North Carolina, we had experience with those who would propose new programs or expansions. Invariably they would show us how to approve their huge increase so as to start late in the year, say the last couple of months, and avoid the property tax increase during that election year. Fortunately, we figured out that the first year's fractional startup costs would commit us to unstoppable tax increases in future years. So we respectfully declined.

Now, let me offer a modest proposal to those who truly feel these targeted projects are needed. Why do not we change the authorization formula?

Let us limit the Federal funding so as not to exceed the realistic benefits of each project. That way a project costing $120 million, with $20 million in real benefits would qualify for a Federal public works outlay of $20 million, and it would have a 1-to-1 cost-benefit ratio for that $20 million—and no more.

The other $100 million could then be raised by and within the grateful State or locality where any other needs would be received or perceived.

Mr. DERRICK. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker and Members of the House, we are presented here this morning with probably the greatest opportunity we will have this year to prove to the American people that we are serious about bringing down the almost 11-percent annual inflation rate. One of the primary causes of this inflationary rate, as we all know, is excessive Federal spending. This is a wonderful opportunity, not only figuratively, but realistically, to cut back on Federal spending by, I think, about $1.8 billion.

It is still over the President's suggested figure that he gave back in January of this year.

I ask you and I beg you to help us sustain the veto in order to prove to the American people that the Congress of the United States is serious about bringing an end to inflation.

Mr. BEVILL. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Oklahoma (Mr. WATKINS).

Mr. WATKINS. Mr. Speaker, I have just 1 minute in order to try to make two points.

Mr. Speaker, 20 years ago the Government made a promise to the people of southeastern Oklahoma and western Arkansas that if they would not go along with the building of the huge, mammoth Millwood Dam, that the Government would build six smaller dams that would contribute toward the control of flooding and improve the economic conditions in that area. Five of those projects have been built and one has not been built—the Lukafata Dam. The Government has not kept its commitment to those people, and we are saying that they are entitled to have this dam built, to have a study made in order to find out the most economical and feasible way to build it.

The second point is how can we go to the American people and how can the administration go to the American people and say that this bill is inflationary when they have increased the amount of money that is going to foreign countries to build the identical kind of projects, but will not build the projects for the American people. Foreign projects that do not require an economic benefit study, which do not require an environmental impact statement, or which do not have to meet the requirements of the Endangered Species Act, which have been required of needed projects for our people.

I ask you for your vote to override this veto.

Mr. JOHN T. MYERS. Mr. Speaker, I yield 1 minute to the gentleman from Utah (Mr. MARRIOTT).

Mr. MARRIOTT. Mr. Speaker, I recently received a letter from the President of the United States telling us that there are three reasons he should veto this bill.

One reason he gave was that we were adding six new water projects.

Mr. Speaker, I have a great deal more confidence in the committee and in their judgment than I do in those people in the White House.

Second, what has changed since we voted for this bill and passed this bill a while back unanimously? What new information has come to us which would have us change our position? There is none, I submit.

Third, Mr. Speaker, there is more inflation being caused by minimum wage and social security increases, 10 times more inflation, than we are going to get out of this bill.

It seems to me that the President says that we have to balance the budget. The President's own proposal is that we keep spending at a rate of 22 percent of gross national product.

Mr. Speaker, this is not a budget-balancing bill. The President is not asking us to cut anything. This is a question of whether or not we want to allocate the money to a worthwhile purpose. I submit that for every dollar we spend on these projects, we get $3 back.

Mr. Speaker, I ask the Members to defeat the veto.

Mr. BEVILL. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Kentucky (Mr. PERKINS).

Mr. PERKINS. Mr. Speaker, all of these projects which are on the so-called hit list, maybe six or seven, will cost less than $1 billion, perhaps $500 or $600 million; and they will pay for themselves many times over.

Therefore, the arguments that this bill is inflationary and pork-barrel legislation when people and their property are being washed away and their businesses destroyed is all hogwash.

Mr. Speaker, in my section of the country the people owe some $100 million to the Small Business Administration, the business people do.

We are trying to hold those waters back so that those children and those people can live and survive and have a decent standard of living.

Mr. Speaker, the best vote which can be cast here today will be one to override this veto, and I hope we override.

Mr. JOHN T. MYERS. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania (Mr. SHUSTER).

Mr. SHUSTER. Mr. Speaker, I rise as one of the more fiscally conservative Members of this body to urge the override of a phony fiscal veto.

There is an enormous difference between spending taxpayer dollars to build assets for America and giveaways with nothing to show for them.

If the President needs to improve his image on the nightly news by flexing his fiscal macho, let him do it by getting Government off the backs of the American people where Government does not belong. Let him lead in reducing bureaucracy, in reforming the welfare mess, in stopping the unnecessary Government giveaways which do not create public assets.

Mr. Speaker, let us not be a party to the President's public relations campaign by curtailing vital flood control and energy research projects. Flood control and water development projects can best be performed in the public sector. This is the proper province of Government, so let us vigorously do what only Government can do.

Let us support public works projects that build public assets for our children for generations to come.

And if the President gets around to reducing Government in the many spheres where it need not be, let us support him for the substance of those efforts, but not for the polishing of his image at the expense of America's future.

Mr. BEVILL. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Colorado (Mr. EVANS).

Mr. EVANS of Colorado. Mr. Speaker, I would like to speak briefly to the Colorado projects which the President disagrees with. Two of these projects had been on the hit list last year and are inserted in the bill this year with the request for $75,000 each to study the possibilities of answering the President's objections raised last year. We want to go back to the drawing boards, and yet the President is treating these projects as though we were trying to go the way we were last year, and that is not correct.

Another Colorado project was objected to on five grounds and was pulled back last year for restudy. The Bureau of Reclamation studied all five of those grounds and gave the project a clean bill of health. The people upstairs on the other end of Pennsylvania Avenue disagreed with the experts in that regard.

Finally, to agree to a policy of funding the entire cost of projcets when they are first brought into consideration for the Congress disturbs me deeply. It grants too much power to the President, and I hope the veto is overridden.

Mr. JOHN T. MYERS. Mr. Speaker, I yield 1 minute to the gentleman from Colorado (Mr. JOHNSON).

Mr. HYDE. Mr. Speaker, will the gentleman yield?

Mr. JOHNSON of Colorado. I yield to the gentleman from Illinois.

Mr. HYDE. Mr. Speaker, the very core of the President's objection to the public works bill is six specific water projects. I will not attempt to argue the merits or demerits of those projects, but I will use them as an example of what we could have been doing today.

In March of 1977, CALDWELL BUTLER, CHARLES BENNETT, and I introduced a constitutional amendment that would create a Presidential line item veto, to make our appropriations process more effective and responsible.

Under present law, the President may either sign or veto a bill, but he cannot pick and choose the good parts from the bad. We could not have a better example of the necessity for such a process than the public works bill. With the item veto, the President could veto those programs he feels are wasteful and low-priority, without totally sacrificing vital legislation.

The Constitution now permits only the all-or-nothing procedure. Article I reads:

Every bill which shall have passed the House of Representatives and the Senate shall, before it becomes a law, be presented to the President of the United States; if he approves he shall sign it, but if not he shall return it, with his objections to that House in which it shall have originated . . .

State governments are way ahead of the Federal Government when it comes to the item veto. Forty-four States have provided their Governors with the item veto, and all indications are that it works well in those States by permitting the Governors to approve bills while deleting those sections which they find unacceptable. Surely the item veto would work just as well on the Federal level.

If the President had the use of the item veto, he could have specifically vetoed those items he disapproved of and signed the remainder of the bill into law. Instead, we are faced with a media event from a President who promised, during his campaign, that he would not even attempt to govern by veto.

Congress will always retain the power to override an item veto, so we would not be adding to the "Imperial Presidency," but we would be permitting a process of legislative fine-tuning that can only better serve the taxpayers. It would provide one more important measure of responsibility on the entire appropriations process.

I am not optimistic that the other body will greet this progressive legislation very warmly, as it would render less effective their penchant for turning public works legislation into a Christmas tree. The gentlemen from the other body delight in ornamenting bills with their pet projects and the President must literally "take it or leave it" in terms of a total veto or acceptance. Providing the item veto to the President would be more effective than his powers of recission and deferral and would help restore confidence in the legislative process.

Mr. JOHNSON of Colorado. Mr. Speaker, this veto on the part of the President is an arrogant act. It presumes that all previous studies and acts with respect to the disputed projects were inadequate and improperly motivated. That should in itself be an affront to the Congress.

In Colorado the water projects under study will ultimately provide the water that will be required to meet the needs of oil shale and coal development. Without impounded water there can be no development of those resources. The Narrows project has been part of the Missouri Basin studies and part of the water policy of this Nation since 1948. These are not ripoffs but they are wise policy developed over many years by the best minds available, in my opinion.

The veto reflects a disdain for the Congress and bias and vindictiveness toward a region that did not support the President in the last election. I ask for an override of the veto.

Mr. BEVILL. Mr. Speaker, I yield 1 minute to the gentleman from Colorado (Mr. WIRTH).

Mr. WIRTH. Mr. Speaker, none of these projects are in the district that I represent, but many are in my State and region. So, I want to present to my colleagues an argument on behalf of the Rocky Mountain region.

We have, as the gentleman from Colorado (Mr. JOHNSON) has noted, extensive reserves of coal and oil shale. The key to the development of these reserves—for everybody in this Chamber and for the whole country—is water, and the key to the orderly development of

that water is the control of the water. If we are unable to build these projects and publicly control that water and publicly direct the growth that is going to come from that energy development, it is "Katie, bar the door" for the Rocky Mountain region.

On behalf of that region of the country, I would urge my colleagues to vote to override the veto.

In all likelihood, President Carter will veto the public works appropriations bill today. An override vote is scheduled later this week. Although the debate on the issue has now assumed dimensions comparable to the natural gas issue, I would like to share my perspective on the pros and cons of the water projects, and their impact on the Rocky Mountain West.

I write this as one whose environmental record is among the strongest in the Congress, and as one who is extremely concerned about the size of the Federal budget. Yet as a Representative from one of the fastest growing States in the Union, I am convinced that the President's veto should be overridden. Let me explain.

First. Water is the lifeblood of the West. John Gunther once said, "Touch water in the West and you touch everything." In contrast to other areas of the country, the West is a semiarid region usually receiving only a quarter of the precipitation that falls elsewhere. For example, while Georgia has 52 inches of precipitation annually, Colorado experiences only 14 inches of moisture. Equally important, most of Colorado's moisture comes from snowpack which will melt and run off our mountains in a 60- to 90-day period. Storage of this water is essential to every major city, industry, or irrigated farm. Without storage, there is no effective way to utilize the water to which Colorado is entitled.

Second. Colorado and other western States have enjoyed a relatively healthy economy because of the strength and diversity of different economic sectors. This diversity is attributable in part to the way in which water has been allocated to the various economic sectors. Agriculture, mining, tourism and recreation, commerce, and manufacturing have each made important and balanced economic inputs to Colorado. In our quest for stability and balance, agriculture has been the State's most long-standing industry: not only has it made important contributions to national and world food needs but it has also helped the West establish a viable rural lifestyle, open space, and a quality environment.

Third. The Western projects being opposed by the President are largely for irrigation. The President has said the projects are economically unsound, pointing to benefit/cost analyses. The President has sometimes cited environmental factors as a source of his opposition. The inference is that the projects are strictly pork barrel in nature and offer few, if any, public or social benefits.

Fourth. Nothing could be further from the truth. The opponents of such projects have presented distorted, often emotionally charged arguments without understanding or testing the fundamental rationale by which Congress has previously supported such projects.

First, Congress has long recognized that important public and social values inherent in a strong rural economy. Starting with the 1902 Reclamation Act, extending through the 1956 Colorado River Basin Storage Act, to the authorization of these water projects, there has been a recognition that irrigation not only provided important food and fiber for the Nation but that it helped to balance the West's economies, that is preserved open space and environmental quality, and that it strengthened rural lifestyles and opportunities.

Congress has repeatedly understood that agriculture standing alone could not compete with other economic sectors—for example, energy conversion industries and cities—to buy and develop water. There was a clear recognition that without assistance to the farmer, he would not get his fair share of the water. For that reason, Congress established special self-supporting river basin funds—from the sale of hydroelectric power—to assist irrigators in paying back Federal projects. Few people realize that most Western irrigation projects have repaid to the Federal Treasury 84 cents on the dollar through user fees and river basin power funds and have not been a drain to the Federal Treasury. I doubt there are many other Federal programs that have returned that high an amount to the Federal Treasury. Nevertheless, these projects are constantly attacked as being "pork barrel."

The sad truth is that if the irrigation projects attacked by the President are not built, other private water developments will take their place, using the water for other purposes that may not always be in the public interest not consistent with overall growth and land use objectives of the Western States. Perhaps some waters will be utilized for transbasin diversions by cities that can always outbid irrigators. Or perhaps for use in coal-fired powerplants—for production and transmission of electricity to other parts of the country—by utilities that have a clear competitive advantage. I would also question whether private water development provides the same protections and opportunities as public projects. With public water projects will usually come access and recreational opportunities, mitigation of impacts to wildlife, minimum streamflows, flood control and stipulations as to how the water can be used. In contrast, private projects afford few, if any, such protections.

Are we prepared to look only at benefit/cost tests? Should remaining water resources always go to the highest bidder? Are there not equally important considerations affecting the public interest that deserve consideration? I would submit that the future of Colorado and the West is dependent on irrigation—and its associated benefits—being given a fair share of our water resources. If agriculture is frozen out, as the President proposes, adverse impacts to the West's economy and environment will be felt for a long time.

I urge you to support the conference report and vote to override a Presidential veto. This will permit the longstanding policies of Congress to go forward.

Mr. JOHN T. MYERS. Mr. Speaker, I yield 1 minute to the gentleman from Arkansas (Mr. ALEXANDER).

Mr. ALEXANDER. Mr. Speaker, this is an issue where the fiddle picked the tune. A public works bill sounds inflationary—Mikva, "perception of the American people." Whether it is, or not, is irrelevant to the image makers.

Mr. Rafshoon needed a bill for the President to veto so that a Presidential image of being an inflation fighter could be projected to the American people.

Actually the veto of the public works bill and the projection of this inflation fighter image takes the place of a nonexistent anti-inflation policy.

I can name a dozen bills that have passed this House with the President's support that were really inflationary. Beginning last year with the social security bill that increases taxes for every business in American and, therefore, increases the prices to every consumer in America and ending last week with the antinoise bill that will increase the price of airline tickets for every person that uses the airlines in this country.

If the President is concerned about inflation, why does he support $2 billion in foreign aid for public works projects overseas, at little or no interest rates; while he is denying loans to fellow Americans, every dime of which will be paid back with full interest.

The veto of the public works bill has nothing to do with inflation.

On the surface, it is a poll pleaser.

Under the surface it is a power grab to seize water policy determination from Congress and bureaucratize it within the administration:

I urge my colleagues to override the President.

Mr. LONG of Maryland. Mr. Speaker, the Foreign Operations Subcommittee has compiled a list of foreign aid projects which the President supports while he is denying assistance to Americans.

In opposing the public works bill, the administration manifests a double set of standards: one standard for U.S. public works projects, which it opposes as inflationary; another standard for foreign public works projects, whose inflationary impacts do not bother the administration at all.

Following is a list of over $2 billion worth of foreign aid public works projects financed by the multilateral development banks, some of which instead of helping the poor go to make millionaires and multimillionaires in many underdeveloped countries.

In the fiscal year 1979 foreign aid appropriation bill, the conferees have agreed on U.S. funding for the multilateral development banks of over $2.5 billion, most of it to fund foreign public works projects of various kinds: dams, hydropower facilities, irrigation works, flood control, highways, railroads, port developments, airports, telecommunications networks, urban water and sewage systems, and other projects. Some of these are 50-year loans at zero percent interest, and many of these foreign public works projects are far worse boon-

doggles than anything alleged in the appropriations bill for U.S. public works. Here is an example from Bangladesh witnessed by two Americans* who spent a couple of years observing how World Bank public works projects benefit the rich, not the poor. The two Americans, in a report prepared for the Center for International Policy, found that the chief beneficiary of an IDA tubewell irrigation project was Jahural Islam, reportedly the richest person in Bangladesh. The tubewells are distributed first to those with political clout, then to those with the highest bribes, typically the largest landlords. The landlords use the tubewells for their own acreage, selling water at high rates to the peasants. They then take advantage of their monopoly on water to buy the land around them, causing an increase in the number of landless peasants.

PUBLIC WORKS PROJECTS BY THE INTERNATIONAL FINANCIAL INSTITUTIONS—1977

ASIAN DEVELOPMENT BANK—1977 PUBLIC WORKS PROJECTS

Country and purpose, terms of loan, and amount

Afghanistan; hydropower; 1%, 40 years to repay; $9 million.

Bangladesh; irrigation; 1%, 40 years; $24 million.

Indonesia; irrigation; 8%, 15–25 years; $20.5 million.

Indonesia; port development; 8%, 15–25 years; $17.5 million.

Korea; flood control and irrigation; 8%, 15–25 years; $45 million.

Malaysia; port expansion; 8%, 15–25 years; $10 million.

Nepal; irrigation; 1%, 40 years; $3.4 million.

Pakistan; irrigation; 1%, 40 years; $31.5 million.

Pakistan; hydropower; 8%, 15–25 years; $38 million.

Papua New Guinea; hydropower; 8%, 15–25 years; $2.7 million.

Philippines; irrigation; 8%, 15–25 years; $22.0 million.

Philippines; hydropower; 8%, 15–25 years; $29.0 million.

Sri Lanka; hydropower; 1%, 40 years; $17.5 million.

Sri Lanka; irrigation; 1%, 40 years; $24.0 million.

Thailand; hydropower; 8%, 15–25 years; $47.0 million.

Total Asian Development Bank public works projects for 1977, $341.1 million.

NOTE.—U.S. share of paid-in and callable capital equals 9.2%. U.S. share of Asian Development Fund, equals 14.0%.

Source: Asian Development Bank Annual Report, 1977.

WORLD BANK—1977 PUBLIC WORKS PROJECTS

Egypt; irrigation and drainage; 8.2%, 20 years; $27.0 million; 4.2%, 24 years; $12.0 million.

Greece; irrigation and flood control; 8.2%, 15 years; $35.0 million.

Indonesia; irrigation; 8.2%, 20 years; $63.0 million.

Indonesia; irrigation; 8.2%, 20 years; $35.0 million.

Kenya; irrigation; 8.2%, 20 years; $334.0 million.

Korea; irrigation; 8.5%, 16 years; $95.0 million.

Korea; irrigation; 8.9%, 12 years; $29.0 million.

Malaysia; irrigation; 8.2%, 17 years; $39.0 million.

Morocco; irrigation; 8.7%, 13 years; $41.0 million.

Philippines; irrigation; 8.2%, 20 years; $50.0 million.

Philippines; irrigation; 8.5%, 19 years; $15.0 million.

Romania; irrigation; 8.5%, 14 years; $60.0 million.

Thailand; irrigation; 8.2%, 20 years; $55.0 million.

Tunisia; flood control, hydropower; 8.2%, 20 years; $42.0 million.

Yugoslavia; irrigation; 8.7%, 15 years; $54.0 million.

Ghana; hydropower; 8.5%, 20 years; $39.0 million.

Guatemala; hydropower; 8.2%, 17 years; $55.0 million.

Panama; hydropower; 8.2%, 17 years; $42.0 million.

Tanzania; hydropower; 4.9%, 25 years; $30.0 million.

Algeria; port development; 8.2%, 17 years; $80.0 million.

Cameroon; port development; 8.9%, 20 years; $15.0 million.

Honduras; port development; 4.5%, 24 years; $12 million.

Indonesia; port development; 8.7%, 20 years; $32 million.

Mauritius; port development; 4.7%, 25 years; $3.6 million.

Senegal; port development; 4.2%, 24 years; $6.0 million.

Total World Bank public works projects for 1977, $1,000.6 million.

NOTE.—U.S. share of paid-in and callable capital, 25.2%.

Source: World Bank annual report, 1977.

INTER-AMERICAN DEVELOPMENT BANK—1977 PUBLIC WORKS PROJECTS

Country and purpose, terms of loan, amount

Brazil; hydropower; 8%, 20 years to repay; $69.8 million.

Colombia; hydropower; 8%, 20 years; $70.0 million.

Eucador; irrigation; 1%, in 10 year grace period; 2%, in 30-year repayment period; $11.8 million.

El Salvador; hydropower; 1%, in 10-year grace period; 2%, in 30-year repayment period; $45.4 million; 8%, 25 years; $45.0 million.

Guyana; flood control and irrigation; 1%, 10-year grace period; 2%, 30-year repayment period; $49.5 million.

Jamaica; irrigation; 2%, 36 years; $12.5 million.

Mexico; irrigation; 8.4%, 20 years; $54.0 million.

Mexico; irrigation; 8%, 20 years; $41.5 million.

Panama; hydropower; 8%, 26 years; $98.0 million.

Total Inter-American Development Bank public works projects for 1977, $497.5 million.

NOTE.—U.S. share of paid-in and callable capital equals 36%; U.S. share of Fund for Special Operations equals 55%.

Source: Inter-American Development Bank annual report, 1977.

INTERNATIONAL DEVELOPMENT ASSOCIATION—1977 PUBLIC WORKS PROJECTS

Country and purpose, terms of loan, amount

Bangladesh; irrigation; 0.75%, 50 years; $21.0 million.

Bangladesh; irrigation; 0.75%, 50 years; $16.0 million.

Chad; irrigation; 0.75%, 50 years; $12.0 million.

Chad; irrigation; 0.75%, 50 years; $8.0 million.

India; irrigation; 0.75%, 50 years; $23.0 million.

Kenya; irrigation; 0.75%, 50 years; $6.0 million.

Nepal; irrigation; 0.75%, 50 years; $9.0 million.

Pakistan; flood control and irrigation; 0.75%, 50 years; $40.0 million.

Sri Lanka; irrigation; 0.75%, 50 years; $19.0 million.

Sri Lanka; irrigation; 0.75%, 50 years; $5.0 million.

Malawi; hydropower; 0.75%, 50 years; $8.0 million.

Burma; port development; 0.75%, 50 years; $10.0 million.

Cameroon; port development; 0.75%, 50 years; $10.0 million.

Honduras; port development; 0.75%, 50 years; $5.0 million.

Total, International Development Association public works projects for 1977, $192.0 million.

NOTE.—U.S. share of IDA contributions equals 28%.

Source: World Bank annual report, 1977.

Asian Development Bank, $341.1 million.

Inter-American Development Bank, $497.5 million.

World Bank, $1,000.6 million.

International Development Association, $192.0 million.

Total, $2,031.2 million.

Mr. BEVILL. Mr. Speaker, I yield 1 minute to the distinguished chairman of the Committee on Public Works and Transportation, the gentleman from California (Mr. JOHNSON).

Mr. JOHNSON of California. Mr. Speaker, I just want to say to all of us that if we just stop and take a look at our own immediate districts, the regions, the States, and the Nation that we represent in the 50 States and territories, if we would take time out to take a look at those areas, we would see that the public works projects over the years have provided the local areas, regional areas, the States, the Nation, and the territories, a great period of prosperity. I do not think this is inflationary. Each year I have been here we have had a program about the same size for the last 20 years that I have served on these authorization committees of the Committee on Public Works and the Committee on the Interior. All these projects fell in line. This year is no different. We called for about $3 billion to carry on this program, so I think this program should be supported.

I hope you will all vote to override the President's veto.

Mr. JOHN T. MYERS. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. DON H. CLAUSEN).

Mr. DON H. CLAUSEN. Mr. Speaker, this confrontation between the Congress and the President is totally unnecessary.

The Congressional Budget Control and Impoundment Act of 1974 gave the President the tools he needs to propose to the Congress changes in specific projects and programs. Instead of using these specific provisions of law, he instead chose to veto the entire bill, a bill that contains many worthwhile projects and programs. Considering the total appropriations in the bill and the importance of these programs, I believe a vote to override the President's veto is completely justified.

The projects included in the public works appropriations bill are an investment this Nation makes in its own future. We must remember that the project cost allocated to municipal and industrial water supply and irrigation for our important agricultural lands are

*"Bangladesh: Aid to the Needy?", Center for International Policy, May 1978, Betsy Hartmann and James Boyce, pp. 7–8.

repaid by the beneficiaries of these supplies.

California is a perfect example of the value and success of the water management investments we have made in past years. California would be virtually a desert today had we not had the foresight to make these investments and create what is now one of the most productive agricultural areas in the world and a stable supplier of food to millions of people. Much the same statement could be made to describe most of the Western States of our great Nation.

I am going to predict here and now that a potential water shortage and crisis is in the making. We must continue to be foresighted and wise enough to continue these investments in water resources, to make certain that we can continue to have the kind of economic growth that we must have if we are to meet the needs of our people and to retain our leadership position in the world.

Furthermore, it is important to note that over 60 percent of the funds contained in this bill are for research programs in the development of alternative energy supplies—particularly in the areas of solar, fusion, and geothermal energy. This is the only appropriations bill we consider where we require that the benefits exceed the costs in a tangible and quantitative way and, given its comprehensive nature, its prompt enactment is vital to our nation.

Mr. Speaker, I urge the Members of this body to override the veto.

Mr. JOHN T. MYERS. Mr. Speaker, I yield 1 minute to the gentleman from Washington (Mr. McCORMACK), a member of the very prestigious Committee on Science and Technology.

Mr. McCORMACK. Mr. Speaker, if we are serious about stopping inflation, we had better get serious about reducing our oil imports. This must be done by increasing energy production from domestic energy sources.

This bill funds most of the Department of Energy Research and Development programs, a fact that has been generally ignored. However, if this veto is sustained and we are forced to proceed with the standard continuing resolution, a broad spectrum of energy projects will be delayed or cut or seriously damaged.

Solar energy research and development will be cut by $83 million this year.

Geothermal energy research in Hawaii, California, and New Mexico will be cut about $50 million.

Fusion research, such as involved in the recent advances at Princeton University, about $30 million.

Bioconversion, R. & D. will be cut about $23 million.

Low head hydro projects, as in New England, will be cut $18 million.

Basic energy sciences research at various universities will be cut and damaged. The ocean thermal gradients program at Johns Hopkins University will not be funded. High energy physics will suffer. Isabelle at Brookhaven, the energy double-saver at Fermilab, and the intense neutron source at Argonne National Lab will all fall behind.

Admiral Rickover's advanced light water breeder, which the President requested will not be funded, nor the new spent fuel storage facility.

This is a partial list of the energy projects that will be cut, delayed, or damaged if this veto is sustained.

This, Mr. Speaker, is not the "moral equivalent of war." In fact, the best way to fight inflation, and to do something meaningful to solve the problems of the energy crisis is to override the President's veto.

Mr. JOHN T. MYERS. Mr. Speaker I yield 1 minute to the gentleman from Florida (Mr. YOUNG).

Mr. YOUNG of Florida. Mr. Speaker, since this year began, the Members of this House have been subjected to two very serious intensive lobbying efforts; one is in the case of trying to sustain the veto on this Public Works bill. The other was just the opposite. It was a tremendous lobbying effort to pass the largest foreign aid bill in the history of the United States, which includes public works projects, irrigation, and water management projects all over the world.

This report which I am holding in my hand tells about billions of dollars worth of public works projects that are going to be financed through the World Bank and the International Development Association, using American dollars.

In 1978, the public works projects of the World Bank were in excess of $4 billion.

There are 191 projects pending right now before the World Bank and IDA to use our money, the taxpayers' money, for water management projects, such as irrigation in Afghanistan, irrigation in India, two projects on irrigation in India. The most recent World Bank loans made with our money just a few months ago was for Vietnam. A $60 million water management project almost identical to the ones here at home which the President says we cannot afford. Oh consistency, where art thou?

Mr. BEVILL. Mr. Speaker, I yield 1 minute to the gentleman from Utah (Mr. McKAY).

Mr. JOHN T. MYERS. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. ROUSSELOT).

Mr. ROUSSELOT. Mr. Speaker, I will vote to override the President's veto, because I think he is wrong.

First of all, the bill that the President sent up here this year was $800 million more than this bill we are talking about right now, so let us not have anyone tell us this is a vote for economy, because it is not.

During the last several years the construction costs under this bill have gone down from $2.1 to $1.8 billion. That is a reduction. We are then voting for a reduction beyond what the President recommended.

Mr. Speaker, I urge the Members to override the veto.

Mr. BEVILL. Mr. Speaker, I yield 2 minutes to the distinguished chairman of the Committee on Appropriations, the gentleman from Texas (Mr. MAHON).

Mr. MAHON. Mr. Speaker, I have no parochial interest in the bill which is before us, but as chairman of the Committee on Appropriations I wish to say that I do take pride in the efforts which we have made as a committee and as a Congress in undertaking to deal responsibly with the President's budget.

We have been compelled to handle 13 major bills, and on those 13 major bills for the current fiscal year of 1979 we will have a reduction in the President's budget of about $6 billion.

Now, it will be said that some of these cuts are paper cuts. Some of them are paper cuts, but generally they are not. When this session is concluded next week, or whenever it is concluded, we will be substantially below the President's budget.

The vetoed bill is a balanced bill. It is well balanced, and it can be supported by people who believe in the philosophy of GEORGE MAHON of restraint in Federal spending. It can be supported by those who believe in fiscal integrity and those who are generally regarded as fiscal conservatives. It can be supported by those who look into the future and who say that our future depends somewhat upon the land, the preservation of the land, the preservation of water, and the preservation of the resources of this country.

Mr. Speaker, this bill goes in that direction. It ought to be supported, the veto should be overriden, and I rise in strong support of the proposal to override the President's veto.

Mr. JOHN T. MYERS. Mr. Speaker, I yield 1 minute to the gentleman from Maryland (Mr. BAUMAN).

Mr. BAUMAN. Mr. Speaker, I just want to take my time to say, "welcome" to Jimmy Carter. "Welcome to the ranks of those who are concerned about big spending. Welcome to the ranks of those who have finally discovered that the American people are more than a little upset by what is going on in Washington."

Who would have thought a few days ago that Howard Jarvis and Jimmy Carter would get in bed together? The bed may well collapse, for all I know, and it will undoubtedly be a short alliance. Nevertheless, I want to compliment the President and welcome him for his newfound concern about inflation. But is this the proper bill to attack?

Here is a President who has recently given us one of the biggest foreign aid bills in history, $10 billion this year, a President who has been trying to push through a $2.5 billion make-work jobs bill that has been rejected by the House Committee on Government Operations. He wants to have at least $9 billion or $10 billion for CETA this year. He is talking about compulsory national health insurance next year. Apparently to the President, none of that is inflationary. But we should welcome him anyway.

I also hope that when the time comes, those of us who have consistently opposed deficit spending will recall this day, and that many of our liberal colleagues over here who today have been temporarily converted will join us in the battle to save money for the American taxpayer. It would be a glorious day if that ever comes about. I doubt it will, but if image is all important in politics, this day will go down as one of the most important in the career of Jimmy Carter, a momentary convert to the anti-inflation battle.

Mr. JOHN T. MYERS. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, I suppose the battlelines are pretty well drawn today. That is probably an understatement.

Heavy lobbying has been occurring here in the Capitol in the last 2 weeks. There could not have been a Cabinet meeting in the last 2 weeks, because its members have all been busy on the phone calling Members of Congress. Last night on our side in the cloakroom, our Republican Members were lined up to answer calls from the President.

I have never seen over the years the number of vetoes that have come down the path from the White House as heavy lobbying and the kind of, and the type of lobbying that we have had on this bill.

I come today in support of overriding this veto. I have no projects in the bill so my concern is not one of personal benefit. But this is the bill that this country needs. I am concerned when I hear the inflationary argument, because we are all concerned about inflation. I will take the well and vote with the President every time that he is willing to cut inflation. And I would in this case, if that were the case, but this bill, as we can see right here on the chart, is not a bill of inflation. I do not care how you cut it, the President is going to have more money in his bill. I am going to speak to the Members on my side of the aisle who I join many, many times in cutting spending by both Democrat and Republican Presidents—and I would be joining those Members today if it were really, honestly the issue. But if this veto is sustained today, the alternative is probably two: We will have a continuing resolution, pretty much at last year's level, probably. There could be anything in it, but it would be higher than this bill provides; not only more money in the appropriation, but more outlays. But assuming, for a moment, the President should write that bill as he would like to, this is what it would be. It would be almost $1 billion more than the bill before you. Some Members are going to say, "Oh, yes, but you are mixing oranges and apples." They say, "We will vote against that too." Does anyone really believe if the veto is sustained, that the bill recommended by the President could be defeated? The actual outlay of the President's bill will be almost $200 million more than this bill he has vetoed. His outlays will be inflationary, not our bill.

There is one other issue that some people have talked about, and that is the issue of jobs. It is true that we have provided for some jobs that the President does not have in his budget. But it would be wrong to say that these are new employees or new faces in Federal employment. In this bill, I say to my friends on the Republican side, who say, "I vote for less Government"—and I do, too—the kinds of jobs that we say must be filled can be transferred within the agencies of the Federal Government. Remember, this is not new employees. It merely says that we have employees for dam safety. In the past 5 years we have had 4 dams fail in this country, with over 200 losses of life. Are you going to say that existing dams are not to be inspected? We are not going to insist on having new employees. Not new employees, but existing employees doing these jobs.

The remedy for this is not veto. It is recission. I can promise the Members that I will vote to rescind and probably this committee and probably this Congress would go along in this instance. Some of the jobs are for EPA, the Environmental Protection Agency. The President does not want those jobs. We have to have impact statements prepared, not necessarily new employees, just fill those jobs with existing employees presently on the payroll.

The pork-barrel argument has been used. My friends, I talked with a young man the other day who is 20 years old, a junior in college. At 12, he was orphaned, he and a brother and a sister a little bit older. And his inheritance has been 160 acres of river bottom farmland. His only source of income is what the farm can produce. Last year about two-thirds of that was washed out. The only way he can complete his college education is from the revenue from this farm, which happens to be on the river bottom. Because he was washed out last year, he had to borrow money. He told me:

> You can tell those people in Washington they may consider flood control as pork barrel legislation, flood control could protect my right to an education, but it is not pork barrel to me. Flood control can save people's lives, you might tell them it is pork barrel, and you might tell families of loved ones of those who lost their lives in floods that, but I do not think you can convince them.

I want to say, in conclusion, this: I realize that there are some newer Democrat Members, who would like to support the President. And I cannot fault them for that. I do not blame them for wanting to be loyal to their President. It would be poor politics if they were not. But I do resent the calls that are coming as to why you should vote for the President today; some of the promises and threats that have been made by the White House. I have never seen lobbying along this line. We passed a conference report yesterday that will create 152 new judges. After this intensive lobbying and promises by the White House, I am not sure 152 new judges will be enough.

To the people on the Democrat side who want to support the President, I say they should support him when he is right. And the people on the Republican side who say, "Fiscal responsibility is my chief concern," I do not fault you. This bill is smaller than the President requests. I have been with you. But this is not in issue today. This issue is the responsibility of the Congress to write legislation. It is the responsibility of the Congress to protect this legislation, protect the rights of the House, as we have traditionally always done, Democrat and Republican Presidents alike. Vote to override the veto for our country's sake.

Mr. GILMAN. Mr. Speaker, will the gentleman yield?

Mr. JOHN T. MYERS. I yield to the gentleman from New York.

Mr. GILMAN. Mr. Speaker, I urge my colleagues to override the President's ill-considered veto of this vital, carefully drawn legislation.

Our colleagues on the House and Senate Appropriations Committees struggled long and hard to produce a bill which responsibly meets the President's standards and they have succeeded admirably. The bill which was passed by the House and Senate is $879 million below the budget request; $364 million below the 1978 appropriation; and $181 million below the bill initially passed by the House. Of the so-called hit list projects to which the President was so opposed, two of the eight are eliminated completely and only three are funded for construction.

The Congress has gone more than halfway to meet the President's objections.

Far more important, however, is the issue of who should determine what is best for the national good in public works. Traditionally, the decision on local public works projects such as these has rested in the hands of Congress and its authorizing committees. By this veto, the President is usurping a legislative prerogative.

In my congressional district, over 40 years ago, the old Civilian Conservation Corps began a flood project along the upper Wallkill River, in Orange County, N.Y. But the CCC soon ran out of funds and never completed that project. Because the project was not completed, and because the CCC allowed debris to remain on the riverbanks, the flood conditions worsened. During Hurricane Agnes in 1972 alone, over $12 million of damage was done to the crops and land of the muckland growers struggling to eke out a living along the Walkill River Valley.

The Walkill River flooding is a case in point where the Federal Government by neglect worsened a situation which it has a clear moral responsibility to rectify. The growers accompanied me, hat in hand, to the House and Senate subcommittee hearings on this bill last spring. The members of the congressional committees were concerned; the project was thoroughly analyzed and it was determined that flood control was direly needed.

However, the executive advisers in the White House, who undoubtedly have never closely examined the substantial damages caused by the Wallkill River, have decided that this carefully drawn legislation is "inflationary."

I ask my colleagues to consider if forcing our farmers into bankruptcy, if having two-thirds of the onions consumed east of the Mississippi wiped out by repeated floods, and having families that have had their lives and souls placed into the soil and then washed away by rising waters, if that is not inflationary. Flooding of the Wallkill River area has become virtually an annual event. The Government must act now to alleviate this distress.

Mr. Speaker, far from being inflationary or "pork-barrel legislation," this is substantive, responsive legislation. The committee has sought to meet the President's criteria halfway. The President is wrong in attempting to throw out the baby with the bathwater.

Accordingly, I urge my colleagues to join with me in voting to override this ill-conceived veto.

Mr. BEVILL. Mr. Speaker, I yield myself 4 minutes.

Mr. JOHN T. MYERS. Mr. Speaker, I yield 1 additional minute to the gentleman from Alabama (Mr. BEVILL).

Mr. DICKS. Mr. Speaker, will the gentleman yield?

Mr. BEVILL. I yield to the gentleman from Washington.

Mr. DICKS. Mr. Speaker, supporters of the public works bill, like me, have been charged with budget busting, with saddling the Government with unacceptable debt, with causing inflation, with torpedoing just and reasonable administration water policy criteria, we have been charged with unsavory wheeling and dealing, using water projects to gain advantage, with pandering, with muscling, with playing hardball, and God knows what else.

This is a very emotional issue, and there has been a lot of shoving and pushing, but Mr. Speaker, I am very afraid we are in danger of obscuring what is really going on here.

The President has just vetoed critically needed legislation. The President has scuttled 60 percent of the Department of Energy's vital research and development effort; he has set back the only productive energy supply policy we will get this year; he has effectively stopped the orderly process of developing the Nation's water resources, its badly needed hydroelectric development, municipal and agricultural water supply requirements, its annual requirements for flood control.

He has done so, I am afraid, to save face; he has done so because he could not back away from a position he cemented 2 years ago, and that is that the administration is to be the final arbiter of what the national water policy is going to be; and that the Congress is to stand by and give Presidential judgment its passive stamp of approval.

We did not stand by last year when we restored some of the projects Mr. Carter wanted to terminate; we did not stand by when, in our public works conference report, the conferees agreed that the Congress retains the right to select water resource projects for funding.

If supporters for override are being accused of a disagreeable show of muscle, or doing anything that can be construed as revealing strength, so be it, for strength is called for in this situation. We badly need the strength of a unified body to override this veto. We need all the muscle we can get for a very good cause, for this veto does not reflect a well considered appraisal of the merits of this legislation; this veto is not the rational capstone of an effective debate between the Congress and the Executive over water policy, for there has been no debate.

No Cabinet-ranking official representing the President has ever appeared before the public works authorizing or appropriating committees to give testimony, or to stand the tests of congressional scrutiny regarding the so-called administration water criteria we were forced to digest just as we introduced the House bill on the House floor.

This is an age-old test of will, a test of the Executive checks on congressional power; some pushing and shoving.

The chairman of my Public Works Appropriations Subcommittee, TOM BEVILL, put it very well last month before we passed the public works conference report when, after reviewing in detail the work and care we put into this legislation he said:

I submit that this bill represents a responsible and deliberate exercise of legislative power.

I submit that this veto fails to show an equivalent exercise of Executive power, and I urge my colleagues to override it.

Mr. LONG of Maryland. Mr. Speaker, will the gentleman yield?

Mr. BEVILL. I yield to the gentleman from Maryland.

Mr. LONG of Maryland. Mr. Speaker, the President's veto is a grandstand gesture.

In opposing the public works bill, the administration sets a double standard: one standard for U.S. public works projects, which it opposes as inflationary; another standard for foreign public works projects, whose inflationary impacts do not bother the administration at all.

I have here a list of over $2 billion worth of foreign aid public works projects financed by the multilateral development banks at the President's urging; many of these instead of helping the poor go to make millionaires and multimillionaires in many underdeveloped countries.

In the fiscal year 1979 foreign aid appropriation bill, the conferees have agreed on U.S. funding for the multilateral development banks of over $2.5 billion, most of it to fund foreign public works projects of various kinds: dams, hydropower facilities, irrigation works, flood control, highways, railroads, port developments, airports, telecommunications networks, urban water and sewage systems, and other projects. Some of these are 50-year loans at zero-percent interest, and many of these foreign public works projects are far worse boondoggles than anything alleged in the appropriations bill for U.S. public works. Here is an example from Bangladesh witnessed by two Americans who spent a couple of years observing how World Bank public works projects benefit the rich, not the poor.

The two Americans, in a report prepared for the Center for International Policy, found that the chief beneficiary of an IDA tubewell irrigation project was Jahural Islam, reportedly the richest person in Bangladesh. The tubewells are distributed first to those with political clout, then to those with the highest bribes, typically the largest landlords. The landlords use the tubewells for their own acreage, selling water at high rates to the peasants. They then take advantage of their monopoly on water to buy the land around them, causing an increase in the number of landless peasants. ("Bangladesh: Aid to the Needy?", Center for International Policy, May 1978, Betsy Hartmann and James Boyce, pages 7–8.)

PUBLIC WORKS PROJECTS BY THE INTERNATIONAL FINANCIAL INSTITUTIONS—1977

Asian Development Bank, $341.1 million.

Inter-American Development Bank, $497.5 million.

World Bank, $1,000.6 million.

International Development Association, $192.0 million.

Total, $2,031.2 million.

ASIAN DEVELOPMENT BANK—1977 PUBLIC WORKS PROJECTS

Country and purpose, terms of loan, and amount

Afghanistan; hydropower; 1%; 40 years to repay; $9 million.

Bangladesh; irrigation; 1%; 40 years; $24 million.

Indonesia; irrigation; 8%; 15–25 years; $20.5 million.

Indonesia; port development; 8%; 15–25 years; $17.5 million.

Korea; flood control and irrigation; 8%; 15–25 years; $45 million.

Malaysia; port expansion; 8%; 15–25 years; $10 million.

Nepal; irrigation; 1%; 40 years; $3.4 million.

Pakistan; irrigation; 1%; 40 years; $31.5 million.

Pakistan; hydropower; 8%; 15–25 years; $38 million.

Papua New Guinea; hydropower; 8%: 15–25 years; $2.7 million.

Philippines; irrigation; 8%; 15–25 years; $22 million.

Philippines; hydropower; 8%; 15–25 years; $29 million.

Sri Lanka; hydropower; 1%; 40 years; $17.5 million.

Sri Lanka; irrigation; 1%; 40 years; $24 million.

Thailand; hydropower; 8%; 15–25 years; $47 million.

Total Asian Development Bank public works projects for 1977, $341.1 million.

Note: U.S. share of paid-in and callable capital equals 9.2% and, U.S. share of Asian Development Fund equals 14.0%.

Source: Asian Development Bank Annual Report, 1977.

INTER-AMERICAN DEVELOPMENT BANK—1977 PUBLIC WORKS PROJECTS

Country and purpose, terms of loan, and amount

Brazil; hydropower; 8%; 20 years to repay; $69.8 million.

Colombia; hydropower; 8%; 20 years; $70 million.

Ecuador; irrigation; 1% in 10 year grace period; 2% in 30 year repayment period; $11.8 million.

El Salvador; hydropower; 1% in 10 year grace period; 2% in 30 year repayment period; $45.4 million; 8%; 25 years; $45 million.

Guyana; flood control and irrigation; 1%; 10 yr. grace period; 2%; 30 yr. repayment period; $49.5 million.

Jamaica; irrigation; 2%; 36 years; $12.5 million.

Mexico; irrigation; 8.4%; 20 years; $54 million.

Mexico; irrigation; 8%; 20 years; $41.5 million.

Panama; hydropower; 8%; 26 years; $98 million.

Total Inter-American Development Bank public works projects for 1977, $497.5 million.

Note: U.S. share of paid-in and callable capital equal 36% and U.S. share of Fund for Special Operations equal 55%.

Source: Inter-American Development Bank annual report, 1977.

WORLD BANK—1977 PUBLIC WORKS PROJECTS

Country and purpose, terms of loan, and amount

Egypt; irrigation and drainage; 8.2%; 20 years; $27 million; and 4.2%; 24 years; $12 million.

Greece; irrigation and flood control; 8.2%; 15 years; $35 million.

Indonesia; irrigation; 8.2%; 20 years; $63 million.
Indonesia; irrigation; 8.2%; 20 years; $35 million.
Kenya; irrigation; 8.2%; 20 years; $34 million.
Korea; irrigation; 8.5%; 16 years; $95 million.
Korea; irrigation; 8.9%; 12 years; $29 million.
Malaysia; irrigation; 8.2%; 17 years; $39 million.
Morocco; irrigation; 8.7%; 13 years; $41 million.
Philippines; irrigation; 8.2%; 20 years; $50 million.
Philippines; irrigation; 8.5%; 19 years; $15 million.
Romania; irrigation; 8.5%; 14 years; $60 million.
Thailand; irrigation; 8.2%; 20 years; $55 million.
Tunisia; flood control, hydropower; 8.2%; 20 years; $42 million.
Yugoslavia; irrigation; 8.7%; 15 years; $54 million.
Ghana; hydropower; 8.5%; 20 years; $39 million.
Guatemala; hydropower; 8.2%; 17 years; $55 million.
Panama; hydropower; 8.2%; 17 years; $42 million.
Tanzania; hydropower; 4.9%; 25 years; $30 million.
Algeria; port development; 8.2%; 17 years; $80 million.
Cameroon; port development; 8.9%; 20 years; $15 million.
Honduras; port development; 4.5%; 24 years; $12 million.
Indonesia; port development; 8.7%; 20 years; $32 million.
Mauritius; port development; 4.7%; 25 years; $3.6 million.
Senegal; port development; 4.2%; 24 years; $6 million.
Total World Bank public works projects for 1977, $1000.6 million.
Note: U.S. share of paid-in and callable capital equals 25.2%.
Source: World Bank annual report, 1977.

INTERNATIONAL DEVELOPMENT ASSOCIATION—1977 PUBLIC WORKS PROJECTS

Country and purpose, terms of loan, amount

Bangladesh; irrigation; 0.75%; 50 years; $21 million.
Bangladesh; irrigation; 0.75%; 50 years; $16 million.
Chad; irrigation; 0.75%; 50 years; $12 million.
Chad; irrigation; 0.75%; 50 years; $8 million.
India; irrigation; 0.75%; 50 years; $23 million.
Kenya; irrigation; 0.75%; 50 years; $6 million.
Nepal; irrigation; 0.75%; 50 years; $9 million.
Pakistan; flood control and irrigation; 0.75%; 50 years; $40 million.
Sri Lanka; irrigation; 0.75%; 50 years; $19 million.
Sri Lanka; irrigation; 0.75%; 50 years; $5 million.
Malawi; hydropower; 0.75%; 50 years; $8 million.
Burma; port development; 0.75%; 50 years; $10 million.
Cameroon; port development; 0.75%; 50 years; $10 million.
Honduras; port development; 0.75; 50 years; $5 million.
Total: International Development Association public works projects for 1977, $192 million.
Note: U.S. share of IDA contributions equals 28%.
Source: World Bank annual report, 1977.

Ms. OAKAR. Mr. Speaker, will the gentleman yield?

Mr. BEVILL. I yield to the gentlewoman from Ohio.

Ms. OAKAR. Mr. Speaker, I hope we can save 40,000 steel-related jobs in our city of Cleveland by overriding the President's veto.

Mr. Speaker, urban areas are affected by this legislation also. Specifically Cleveland's harbor project includes:

First, $3 million for rehabilitation of approximately 21,000 feet of the harbor breakwall;

Second, $1.75 million for continuation of the Cuyahoga River basin flood control project;

Third, $300,000 for the initiation of a corps phase I study on harbor entrance improvements.

The Corps of Engineers has stressed that maintenance of the breakwall is essential toward preserving the inherent stability of the breakwall and, as a result, to protect the safety of vessels entering and leaving the harbor. The breakwall has fallen into a state of neglect, and both the Corps of Engineers and the Cleveland-Cuyahoga County Port Authority have expressed concern that maintenance of the breakwall is necessary to assure the long-range operation of larger vessels, particularly the 1,000-foot iron ore carriers. A secure and stable breakwall controls the intensity of waves within the harbor and thus helps to insure that vessels can enter and leave without fear of choppy or turbulent water. Without a stable breakwall, both the corps and port authority warn that future operation of 1,000-foot carriers would be seriously jeopardized. And without 1,000-foot carriers being able to enter and leave Cleveland Harbor safely, steel-related industry in Cleveland would suffer from loss of trade, commerce, and jobs.

The Cuyahoga River basin flood control project is designed to institute flood control measures, based on suitable engineering studies, to substantially reduce the possibility of flooding within the Cuyahoga River basin. Such measures might include the construction of appropriate onshore facilities, the dredging of rivers and creeks, and the fortification of land formations along the Cuyahoga River.

The $300,000 appropriation permits the corps to do its phase I advanced design and engineering study on what modifications are necessary for improving entrances to Cleveland Harbor, specifically the deepening and widening of the east basin to accommodate the 1,000-foot iron ore vessels. Steel-related industry in the Cleveland area will soon rely on these vessels to keep trade, commerce, and employment healthy for Greater Cleveland and northeastern Ohio. We need this legislation. I sincerely hope that we will override the President's veto.

Mr. MILFORD. Mr. Speaker, will the gentleman yield?

Mr. BEVILL. I yield to the gentleman from Texas.

Mr. MILFORD. Mr. Speaker, each day I read editorials criticizing the President and Congress for failing to take necessary measures to halt inflation. These editorials list "Government spending" as the No. 1 cause of inflation.

In vetoing this bill, the President has taken the first step toward slowing down inflation. If we, in Congress, fail to respond, then we must clearly accept the responsibility for failing to do our part.

At one time or the other, we have all paid lip service to the fact that Government largess is a contributing factor in fueling inflation. If we are ever going to make good on our promises to our constituents about getting inflation under control, we have to start looking a little harder at spending bills that come before us—all spending bills.

Not all of the projects contained in this bill are unworthy of funding. Indeed, most of them are sound and truly needed. But to start paying for all of them here today saddles our constituents with a multi-million-dollar bill with the installments coming due every year for years to come.

It is always easier to be "fiscally responsible" when someone else's project or program is involved. Today most of us must face the hard task of cutting back on some of our own projects. There are funds in this bill allotted for projects in my own State. I am willing to bet they will stand on their own merit and that they will be built. I challenge my colleagues to make the same bet on their own projects.

Mr. BEVILL. Mr. Speaker and distinguished colleagues, the President has vetoed the energy and water development appropriation bill for 1979.

One of his objections, the one covered more than anything else in the press recently, is that the bill provides $10.2 billion that will fan inflation. This is just not true.

I want the Members to know that of the $10.2 billion that everyone has read and heard about, there is only about $25 million that will be spent from these appropriations which the President objects to—$25 million. Is this inflationary—no—it is just not newsworthy.

There has been little written about the $6.2 billion in the bill for the Department of Energy. It gets down to the $1.8 billion included for the construction of water projects of which the President objects to $43 million in appropriations and about $25 million in expenditures.

The portions of the bill that have to do with energy research certainly are not inflationary. If we do not find alternate energy sources, we will have to continue to rely on imported oil and gas, which is certainly inflationary in the worst sense.

I want to emphasize that this bill is $879 million under the President's budget; $364 million under the 1978 appropriation; and $181 million under the House-passed bill. It is well within the committee's allocation under the first and second budget resolutions. It is not and cannot accurately be called a budget buster or an inflationary bill. Remember

less than one-half of 1 percent of the bill is all that the President is concerned about.

Mr. Speaker, the Members have before them the President's other objections to the bill and I will address each and every one of them in a moment. But first, let me say that I have no apologies to make about this bill. The bill was developed and drafted in a careful and deliberate way. The President's budget was transmitted on January 23. We began our hearings on February 6 and after having about 2,000 witnesses appear before the subcommittee, the subcommittee marked this bill up on May 3. The full Appropriations Committee considered and ordered the bill reported on May 31. It was only after the bill was scheduled for floor action that the administration finally submitted their water policy proposals.

Mr. Speaker, the orderly procedure would have been to submit the proposals so that our subcommittee could have had some hearings this year or to have transmitted the proposals later so that they could be studied in next year's hearings. Instead, the administration drafted amendments offered on the floor of the House which I and the other members of the subcommittee had to oppose because these amendments would have radically altered our established Federal water resource development policies. I could not and would not accept such changes without the benefit of hearings. Of course the House, by a substantial majority, defeated these amendments. However, when the 96th Congress convenes, I am confident that the President's proposals will receive full and fair consideration.

There have been a number of erroneous and incomplete statements made about the cost of projects in the bill. In regard to this matter—

First, the total cost of the new construction starts in the bill, using current estimates and current dollars, is $1.3 billion over the 15 to 20 years that it will take to complete these projects. A good portion of this will be repaid to the Treasury with interest from project proceeds.

A statement has been made that the bill includes $2.5 billion in 1979 funding for water projects with total costs of $35 billion. The facts are that the bill contains $1.7 billion for construction of water projects which is in line with the $1 to $2 billion appropriated for water project construction each year for the last several years. The $35 billion represents the total cost of projects covering a span of over 30 years, including projects authorized 10 to 15 years ago and projects which will not complete until 10 to 15 years from now. It includes projects that will be completely or partially repaid to the taxpayers with interest, such as the Columbia River hydroelectric projects, the Central Arizona project and the Upper Colorado River project. $18 billion of the $35 billion will have been spent by the end of fiscal year 1979. The remainder spans a period of more than 15 years.

Stripped of all rhetoric, the budget issue in this bill involves a very small fraction of the bill. The net difference in the bill for the water projects which the Congress has supported and those recommended by the President is about $43 million in new budget authority for fiscal year 1979, and about $25 million in outlays. This is less than a half of 1 percent of the bill.

Now let me address each of the President's objections to the bill.

Mr. Speaker, the most misunderstood aspect of this year's bill involves the agreement that was reached when the President signed last year's public works bill. The language of the conference report was very explicit:

> The conferees are agreed that the Congress retains the right to select water resource projects for funding.
>
> All authorized water resource projects will be considered on their merits and each and every authorized project will be considered by the committees in deliberations on the 1979 appropriation bill.
>
> The elimination of funding for certain ongoing projects and the issue of no new construction starts is a policy applied only to the 1978 appropriation.

This language was specifically communicated to one of the President's top aides who voiced no objection to the specific nature of last year's agreement.

Let us turn to the issue of this year's bill. Mr. Speaker, two of the projects opposed by the administration—La Farge Lake, Wis., and Meramec Park Lake, Mo.—have been deleted from the bill. There are three projects funded in the bill for study and analysis only. The administration says that no further study is needed. I believe that an examination of alternative project designs for the Fruitland Mesa and Savery-Pot Hook projects in Colorado is warranted in view of the water needs of the area and the potential agricultural benefits. The projects' supporters agree that a restudy is necessary.

I do not see how the President or any of his advisers can really believe that agricultural benefits should be of low priority. A restudy of Fruitland Mesa and Savery-Pot Hook is in the national interest. The amount of money for the two studies is reasonable—$150,000. We do not want to build these projects if they are not justified economically. Neither do we want to forgo an opportunity to better manage and conserve valuable water resources.

I do not understand how anyone could say that the Lukfata Lake project in southeastern Oklahoma is an unjustified investment. The project as presently conceived has a benefit-cost ratio of 1.3 to 1. We have recommended $150,000 for a study of the so-called lower site. There are chronic flood control problems along the Little River. To ignore this situation or to simply pronounce our proposed study as not needed is not a justifiable decision. The problem faced by the people in McCurtain County, Okla., is here and now. We simply must try to find an effective solution to this problem.

Mr. Speaker, there are three projects funded for construction that the administration opposes. There is the Narrows unit of the Pick-Sloan Missouri basin program located in northeastern Colorado. This is perhaps the most interesting project in the bill. Last year the President's review of water projects identified five isssues that required further study before this project could proceed to construction. The study was completed in February of this year. Here is what the Commissioner of the Bureau of Reclamation told our subcommittee earlier this year:

> Reevaluation of the Narrows Unit has been recently completed. It concludes that a safe dam can be constructed at the proposed site and that the issues of reservoir seepage, flood control, water quality for recreation, effects of the Narrows Unit on the Platte River system and a ground water recharge alternate would not result in significant problems. Resumption of work could resume if the reevaluation report is accepted and funding made available.

However, in June of this year, after the bill passed the House, the Secretary of the Interior announced that he would oppose further funding for the Narrows unit, saying essentially that "There are better priorities for expanding Federal dollars for water resource development, and we have proposed them in our budget this year." Well, the House and Senate have examined the restudy and come to a different conclusion than the Secretary of the Interior.

Mr. Speaker, the President also objects to the $4,000,000 included for construction of the Yatesville Lake project in Lawrence County, Ky. This project has a reasonably good benefit-cost ratio—1.2 to 1. It would provide important flood control and water quality control benefits to the Big Sandy River Valley, helping to provide growth and development in an area of Appalachia long recognized as warranting national attention and commitment for economic development. This project will provide a foundation so that this area can sustain as well as attract industrial growth and development. Clearly the work on this project should continue.

Finally, there is $2,200,000 for the Bayou Bodcau project in northwestern Louisiana to which the President objects. Here again, this project will provide flood control and other benefits to agriculture in the Red River Valley area. The benefit-cost ratio is 1.2 to 1. Testimony this year reveals that there will be substantially more people benefiting from this project than was known last year when the administration decided to oppose the project. We believe the economic benefits of the project clearly outweigh the costs and believe construction should be continued.

The administration also objects to the number of new construction starts included in the bill.

The question about whether the bill contains an "excessive" number of new construction starts depends on what you compare it to. The President has recommended 18 new starts and 8 new loans. The bill contains 45 new starts and 8 new loans. Compared to his proposal, 45 is certainly more than 18. But this comparison ignores the fact that there were no new construction starts last year. A total of 69 projects have been or will be completed in fiscal years 1978 and 1979. Under the bill, there would be fewer projects coming in to the construction pipeline than would be completed. Looking at the number of projects from this perspective, our recommendations are not excessive. Indeed, they imply a

smaller program in future years, albeit not as small as the administration would like. But the issue of the number of projects obscures the real issue—are the 27 starts recommended in the bill worthwhile investments of our taxpayers' dollars and should they be started now? We believe they are worthwhile and should be started now in order that the benefits flowing from the projects will accrue to the Nation as soon as possible and because delay will only increase the ultimate project cost.

The administration also expressed concern that many of the projects recommended by Congress are high cost, not economically sound, environmentally damaging, or are low priority. It should be noted that even some of the projects recommended by the administration are not consistent with these criteria.

Mr. Speaker, despite the fact that this type of information has been public since they were authorized, I want to put in the RECORD a listing of the 27 new starts. The listing shows the amount contained in this year's bill, the estimated total cost, the benefit-cost ratio and a brief description of the project benefits.

NEW CONSTRUCTION STARTS CONTAINED IN H.R. 12928 WHICH HAVE NOT BEEN REQUESTED BY THE ADMINISTRATION

Project, State	Total Federal cost (latest estimate)	Amount included in H.R. 12928	B–C ratio	Primary benefits
CORPS OF ENGINEERS				
Talkeetna flood control, Alaska	$498,000	$498,000	2.1	Flood control.
Norfolk Lake-highway bridge, Arkansas	29,300,000	2,000,000	NA	Highway transportation.
Kaskaskia Island D. & L. Dist., Illinois	8,100,000	600,000	1.4	Flood control.
McGee Creek D. & L. Dist., Illinois	13,300,000	500,000	1.3	Do.
Clinton small boat harbor, Iowa	113,000	103,000	3.1	Recreation.
Missouri River levee system, Iowa, Nebraska, Kansas, Missouri.	11,188,000	(1)	3.4	Flood control.
Vermilion lock replacement, Louisiana	22,300,000	500,000	1.3	Commercial navigation.
Cedar River Harbor, Mich	1,490,000	50,000	1.5	Recreation.
Wild Rice River, South Branch and Felton ditch, Minnesota.	4,100,000	1,000,000	3.2	Flood control.
Mississippi River Agricultural Area No. 8, Elsberry, Mo.	1,900,000	400,000	1.9	Do.
Cattaraugus Harbor, N.Y	3,660,000	820,000	1.6	Recreation.
Dunkirk Harbor, N.Y	2,360,000	650,000	1.5	Do.
Ellicott Creek, N.Y	12,000,000	1,000,000	1.6	Flood control.
Burlington Dam, N. Dak	92,600,000	1,600,000	1.4	Do.
Arcadia Lake, Okla	56,900,000	1,028,000	1.14	Water supply, recreation.
Little River Inlet, N.C. and S.C	10,600,000	1,000,000	1.3	Recreation.
Big Pine Lake, Tex	37,700,000	900,000	1.3	Water supply.
Brazos Island Harbor, Tex	15,600,000	500,000	1.3	Commercial navigation.
Colorado River (mouth), Texas	9,800,000	500,000	1.4	Do.
Three Rivers, Tex	4,920,000	150,000	1.16	Flood control.
Elizabeth River, South Branch, Va	4,540,000	2,000,000	2.0	Commercial navigation.
Big Sandy River, Tug and Levisa Forks, W. Va. and Ky.	10,000,000	10,000,000	NA	Flood control.
BUREAU OF RECLAMATION				
Animas-LaPlata, Colo. and N. Mex	282,729,000	500,000	1.4	Irrigation, water supply.
San Luis Valley project, closed basin, Colorado.	30,640,000	600,000	1.4	(2).
McGee Creek, Okla	87,479,000	4,000,000	1.2	Water supply.
Unitah unit, central Utah project	90,154,000	2,300,000	1.2	Irrigation, recreation.
Upalco unit, central Utah project	43,406,000	1,800,000	1.2	Do.

[1] To be initiated with funds appropriated for the continuing program.
[2] Project will assist in meeting United States treaty commitments to the Republic of Mexico under the Mexican Water Treaty. It will also increase water supplies available to New Mexico and Texas.

An examination of this list and an examination of our hearing record will reveal that we have exercised good judgment and restraint in the selection of the new projects. These projects were selected from literally hundreds of authorized projects. The are a wise and prudent use of our taxpayers' dollars.

The administration has proposed that projects be fully funded instead of being funded incrementally as is the current custom.

The issue of full funding would be a major change in the traditional oversight role exercised by the Congress in this area. I would have expected an administration that brought zero-based budgeting to the executive branch would want to foster and promote the detailed annual review of this program by the Congress. Full funding would eliminate the need for an annual review by the Congress. Nevertheless, the proposal will be given the full and deliberate consideration that any Presidential proposal deserves.

The administration also objects to the inclusion of additional positions for the Corps of Engineers and the Bureau of Reclamation.

In recent years the committee has faced a recurring problem. The executive branch has, in recent years, given substantial additional duties to the Army Corps of Engineers and the Bureau of Reclamation. These new duties include the supervision of waste water treatment facilities for the Environmental Protection Agency, advising foreign governments about water resources development plans and programs, safety inspection of dams, developing data for environmental impact statements, the section 404 permit program, as well as the operation and maintenance of completed Federal projects. Given the fact that the administration proposal was inadequate to deal with the expanding workload, we were faced with a choice. We could have recommended that the corps and the Bureau refrain from performing any duties or functions other than the traditional ones or we could have recommended additional personnel to handle the existing work and the new duties. We chose the latter course. We believe that the Corps and the Bureau are suited for these additional duties but at the same time we recognized that without additional personnel, the traditional duties of these two agencies would have to be curtailed. Our recommendation is consistent with that judgment.

The bill provides no funding for the Water Resources Council.

The President wants the Water Resources Council extended. This was first authorized 13 years ago. In my view and in the view of a number of my House colleagues, the Council has never adequately carried out its duties and responsibilities as required by the Congress. There are numerous examples where its reports and studies have been submitted to the Congress after the committees have had to go forward with their bills. Speaking for myself, I have a great deal more faith and confidence in the corps and the Bureau than I do in the Water Resources Council. To continue funding for the Council would, in my judgment, be throwing good money after bad. That judgment is shared, I believe, by a majority of my colleagues.

In the time remaining, I want to discuss the President's widely reported comments of last week. In his press conference last Thursday, the President told the Nation that this bill is inflationary and that it is a "pork barrel" bill.

Mr. Speaker, I want to read a very important passage from the economic report of the President, 1978 because it substantially embodies the philosophy used to put this bill together:

> We should rely principally on the private sector to lead the economic expansion and to create new jobs for a growing labor force. Five out of every six new jobs in the economy are created in the private sector. There are good reasons for continuing to rely mainly on the private sector in the years ahead. By emphasizing the creation of private jobs, our resources will be used more efficiently, our future capacity to produce will expand more rapidly, and the standard of living for our people will rise faster. Reliance on the private sector does not mean neglecting the tasks that government can and must perform. The Federal Government can be an action partner to help achieve progress toward meeting national needs and, through competent management, still absorb a declining portion of the Nation's output.

Mr. Speaker, there is a certain basic framework, a basic set of public goods and services that government must provide in order that private sector activity can be carried out. One of the most important of these public services has been the development and management of our water resources for transportation, for household and industrial consumption, for flood control and other uses. Nearly all of the major drainage basins in our country lie in the jurisdiction of more than one State. The development and continuing operation of the Mississippi River navigation system could not have occurred under the sponsorship of a State or a private corporation. Anyone who knows about the problems of flood

control is well aware that a solution to flooding problems in one area may create or exacerbate flooding at other locations in the basin. The interdependency of our country in the water resource development and conservation field is why the Federal Government has, since our people began to move west of the Appalachians, had this strong role. How can the development, maintenance and operation of our inland water transportation system be viewed as inflationary when our industries depend on this low cost and energy efficient form of transportation for the movement of raw materials? How can this system be viewed as inflationary when our farmers depend on waterborne transportation to move their products to domestic and foreign markets? How can the Missouri River basin program which provides for the storage and management of water in the Upper Great Plains area be viewed as inflationary, a part of America encompassing the heart of the most productive agricultural system in the world? Is a product that provides water supplies to a city or to an industrial park inflationary? How can a project that prevents the damage and destruction caused by floods be considered inflationary?

Now I recognize and the Congress recognizes and I trust the President's economic advisers recognize that the inflation we have experienced in the United States in recent years is somewhat anomalous. On the one hand we have continuing unemployment in certain areas of our country and yet, we have experienced some of the highest inflation of the post World War II period at the same time. Some economists maintain that whenever the rate of growth in the money supply is higher than the rate of real economic growth, inflation will result. Others disagree with this view, calling it too simplistic to explain economic phenomenon in our complex society. With reference to this bill, there is one way of trying to determine what, if any, inflationary impact this bill would have and that would be to examine the supply and demand relationships in those markets where these funds, together with other purchasers in the public and private sector, form the demand for the various goods and services required to build and maintain the projects as well as the various other activities funded in the bill.

It is important to emphasize that knowledge about both supply and demand conditions is necessary before one can intelligently analyze the effect of this bill or any other Federal spending action on prices. In all of the materials I have seen—press reports, documents from the agencies or from the While House—I have yet to see this subject broached. And yet the conclusion is made and apparently accepted in some quarters that this bill would be inflationary. In the time that I have, let me examine an important aspect of this question.

We all know that the American economy has been growing, in real terms, in nearly every year since the end of World War II. In order to see how the size of the Federal water resource development program has changed, I want to insert a table in the RECORD at this point which shows the number of actual dollars going into the construction programs of the Corps of Engineers and the Bureau of Reclamation as well as the real dollars, adjusted for changes in the implicit price deflator for Federal Government purchases of goods and services, in fiscal years 1959, 1969 and the amounts proposed in the bill for 1979.

	Actual dollars (in millions)	Real dollars (in millions) [1]
1979	1,754	1,187
1969	1,057	1,321
1959	822	1,401

[1] Adjusted for changes in the Federal Price Index (1972 base year).

This table shows that the size of the water resources development construction program, in real terms, is lower than it was 10 years ago as well as significantly lower than it was 20 years ago. Further, the future year appropriations required to continue construction on the new starts included in this bill will, in my judgment, sustain this long-term trend. We don't know what aggregate economic conditions will be in the next 5 to 10 years when these new projects will move toward project completion. We do not know what the demand and supply relationships will be in the various markets. But we do know that the demand for the goods and services needed to finance the program has not been increasing, it has been decreasing. As I stated earlier, the actual number of construction projects being financed in this bill is lower than in prior years. The administration asserts that the bill is inflationary but they have not as yet offered the facts or the analysis to support such an assertion. I do not think they can.

Mr. Speaker, it is well known that one of the principal sources of inflationary price increases has been and continues to be in the energy area. The funding contained in the bill will help to significantly reduce our dependence on petroleum by enhancing the economic opportunities for conversion by the private sector to more abundant and less costly energy supplies. In future years, if we can bring to the market efficient substitutes for oil and gas or find ways to increase the efficiency in using oil and gas, we can have a substantial, measurable impact on the inflation rate. In thinking about this very complex issue, I hope my colleagues will keep this in mind.

Mr. Speaker, there is a basic misconception about what our water resources development program does and its impact on all our lives. It is a misconception widely shared by the press and others. These public works projects, many of which are part of a larger system of water resource development, enhance the standard of living for our citizens not just by putting more money in the economy but by creating more capacity for output and production in future years. Our cities and farms, our industry and commerce all depend, to varying degrees, on water supplies, on water transportation or on prudent management and control of water resources. And it is a function they cannot provide for themselves. Prudent and successful management requires a strong Federal presence. It is an issue which has been settled long ago. It has been called a "pork barrel" program because it affects every section and State in America. And because its effects are so pervasive, it is important to the people and the elected officials in the various States. They are interested and concerned and they let their views be known to the appropriate congressional committees.

Mr. Speaker, it is a rather interesting commentary on our republican form of government. The elected representatives view the public works program as a sound and necessary function of the Federal Government while the nonelected bureaucrats in the executive branch view it as wasteful and as "pork barrel." The press sees a project selection process by the Congress as "pork barrel" in contrast to the choices made downtown as "in the national interest." I do not see it that way and I doubt if the American people would see it that way.

In closing, I want to talk to my colleagues about what this veto means to Congress as an institution of Government and our relations with the executive branch. We have had and we continue to have broad support for the programs and projects funded in this bill. This is evidenced by the substantial majorities voting not only for the bill and the conference report but also the substantial majority voting against the administration-sponsored amendments. The objections raised in the veto message are substantially the same ones made during the debate on the bill and the conference report. We have had and we want to have harmonious relations with the executive branch. We have seen in my term of service a fundamental and profound change in the way the American Congress views itself in our constitutionally defined system.

One hundred years from now, historians will look back at the passage of the Congressional Budget and Impoundment Control Act of 1974 as the beginning of a move by Congress to reestablish its preeminence in the most basic area of policymaking—the power of the purse. This Congress has and should continue to exercise the power and prerogative to choose which programs and projects should receive Federal dollars and which should not. We have had and we should continue to have confidence in our own abilities and our own judgment about these matters.

The President's objections to this bill—after all the smoke is cleared—are really about this basic and fundamental issue. We owe it to the people who have given us their public trust and we owe it to future Congresses to support our constitutional system and to keep and hold the powers of the legislative branch in the legislative branch.

I hope you will join me today in voting to meet that obligation and to override the veto.

Mr. JOHN T. MYERS. Mr. Speaker, I yield 1 minute to the gentleman from Alabama (Mr. BEVILL).

Mr. BEVILL. I thank my distinguished

colleague, the gentleman from Indiana, for yielding.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Alabama (Mr. BEVILL).

Mr. BEVILL. Mr. Speaker, I yield 4 minutes to the distinguished majority leader (Mr. JIM WRIGHT).

Mr. WRIGHT. Mr. Speaker, I come to this moment sadly. I feel no joy or elation in suggesting that we override a veto of this President, but I am convinced that it is absolutely necessary if we are to preserve the essential rights and powers of the Congress against Executive presumption and Presidential encroachment.

What the President demands in this instance is something which no American Congress has ever given to any American President. He demands the effective right of item veto. Unwilling to rely upon the established procedures of rescission and deferral, which are readily available to him, he is insisting that Congress must come to him for permission to include specific items in our appropriation bills.

He is insisting that the Congress, after completing its legally established process of reviews of exhaustive public hearings and bill drafting, must then discard its own judgments, disregard the testimony of executive agencies, and blindly and submissively accept the personal opinion of the President on individual projects about which our Members are better informed than he.

If we accede to this demand, we shall seriously diminish the powers of Congress and drastically erode the streambanks within which Executive powers are contained.

This is the same bill which this House approved on September 14 by a vote of 319 to 71, better than 4 to 1. If every Member be free to vote his own convictions, as reflected in that vote, we will overwhelmingly override the veto.

I know how difficult it is for individual Members to withstand the blandishments brought to bear by the entire executive establishment, including personal calls from the President and in some cases even orchestrated telephone calls from local defense contractors, being importuned to sustain the veto of these water projects. I am very proud of our Members who have stood up to what I believe to be the most intense and extreme pressure I have ever seen emanating from the White House in the 24 years I have been here.

At the very time that he is paying court to individual Members, the President is seizing upon this bill as a vehicle by which to make Congress itself the scapegoat of his rhetoric against inflation and wasteful spending.

Perhaps he forgets that it was this Congress which reduced his own projected deficit for this fiscal year by $22 billion. His advisors ignore the fact that the expenditures contained in this very bill are $879 million less than he requested for this fiscal year.

It seems ironic that, of all the activities of Government, he should single out water resource development as his example of wasteful spending.

Alone among all of our public expenditures, water projects must meet stern criteria of benefits to costs. They alone must prove that they will pay for themselves to the Nation in dollars and cents.

Every single project in this bill has met and passed that test.

We make no such requirement of welfare expenditures. We make no such requirement of the billions we spend for defense; nor of revenue-sharing grants; nor of space exploration; nor of the billions we spend on foreign aid; nor of any other expenditure of Government. Only of water.

Any impartial review will reveal that the water development program has paid rich dividends to the Nation * * * in jobs, in commerce, in health and safety, and in its impressive additions to the national product.

A total of $7 billion invested in flood control already has prevented more than $53 billion in damages—more than seven times the total investment.

Nor have all the Nation's flood problems been cured. In 1972, Hurricane Agnes took 122 lives and damages in excess of $3 bilion.

In 1973, floods along the Mississippi damaged 13 million acres of land and cost the economy almost a billion dollars * * * even though several billion dollars in additional damages were prevented by existing projects.

The reclamation program has transformed barren deserts into productive croplands. According to the Department of the Interior, the food, fiber, and forage produced on Western wastelands made useful by irrigation have added about $50 billion to the Nation's wealth. And this is eight times the total amount invested in those projects.

Agricultural products grown on reclaimed lands and sold in international commerce have reduced our balance of payments deficits by more than the cost of the projects. Can this be called "wasteful"?

Nobody who has ever seen the human wreckage that lies in the wake of a devastating flood can call flood control "pork barrel."

Must the victims of floods and communities without a potable water supply be sacrificed upon the altar of anti-inflation imagery? Certainly not in decency or fairness.

In the name of our own best judgments, our own finer instincts, our interest in the future and in the legislative process, I ask for your vote to override this veto.

● Mr. ERLENBORN. Mr. Speaker, since the announcement by President Carter that he would veto the public works bill, I have given the matter of voting to override a great deal of thought.

My first inclination was to vote with my colleagues who wished to override. I put a good deal of faith in the expertise of the members of the Committee on Public Works. In addition, I have usually supported the view of the Congress in those instances when a choice had to be made between congressional and Presidential authority.

This morning, however, I began to consider the other side of the coin in greater detail.

While it is true that there is far more good than bad in this bill, it is, nonetheless, an expensive piece of legislation.

I am very concerned about inflation rates in this country, and I see this bill as only adding to or, at a minimum, not helping to decrease the rate of inflation.

There will be some areas of our country which may be hurt by the veto of this legislation. It contains many good and necessary projects. Perhaps those projects which are not at issue in this legislation could be brought back in a new bill.

I decided to vote to sustain the President's veto on this bill.

I do so with the knowledge that this bill, in and of itself, will not cure inflation. I do so with the knowledge that some of my colleagues may be quite unhappy with me.

I do so with the hope, Mr. Speaker, that this veto by President Carter is not just for show. I hope that I am not being, as the Wall Street Journal put it, "Rafshooned."

I voted to sustain the veto with the expectation that this will be the beginning of a new spirit of fiscal responsibility on the part of the Carter administration.

That responsibility should include resisting special interest groups who would call for new and expensive departments and agencies, like a Department of Education, or a consumer protection agency. Both of these have been supported by the White House.

That responsibility should include the construction of a budget for fiscal 1980 which will be noninflationary.

That responsibility should include policies and programs which will really work toward balancing the Federal budget, a promise made by Mr. Carter in the Presidential campaign.

If this is just showmanship I, and many of my colleagues, will be very unhappy and terribly disappointed in the President.

My colleagues on my side of the aisle have long attempted to bring some semblance of reality to spending legislation in the Congress. Many of us find ourselves, not for the first time, supporting the President while the Members from his own party are working at cross purposes.

Mr. Speaker, the President is, in effect, buying my vote. The price is steep. I will be watching carefully to insure the debt is paid and paid in full. I will be watching to insure that this policy is followed by Mr. Carter and his entire administration.●

● Mr. DAN DANIEL. Mr. Speaker, the bill H.R. 12928, which the President has chosen to veto, contains appropriations for items which are important to the national defense. I am referring to title I of the bill which makes appropriations for the Department of Energy's defense activities.

While the defense activities funded by the vetoed bill make up only a small percentage of the total fiscal year 1979 appropriations for defense, that is about

$2.6 billion out of $126 billion, these activities provide weapons for all of our nuclear deterrent forces. Without these weapons, other funds appropriated to the DOD for B–52 improvements, cruise missiles, cruise missile carriers, and Trident submarines would have little effect on our national security.

The funds which the President has vetoed are the "teeth" of the U.S. deterrent.

H.R. 12928 contains $1.2 billion in operating funds for nuclear weapons research and development, for testing both existing and new weapons and for weapons production. These funds are also used to maintain our nuclear weapons in a safe, secure and reliable condition, and to modernize our nuclear forces which support NATO.

Approximately one-half billion dollars contained in the bill will be used for the production of special materials used in the fabrication of weapons, and for the disposal of radioactive waste products which have accumulated over a period of more than 30 years.

The sum of $265 million contained in the bill will be used in support of the nuclear propulsion plants in the ships and submarines of the Navy.

The sum of $104 million in operating money, and $31 million in construction funds will be used for laser and electron beam fusion research. This research will make important contributions to national defense and may also lead to the development of a new and limitless source of energy—seawater.

The bill also contains funds for the security and safeguards of nuclear weapons and special nuclear materials, and for improved methods of detecting foreign nuclear weapons testing. These funds are important to U.S. nonproliferation objectives.

The sum of $322.4 million in the bill is for construction projects and the improvement of facilities in a dozen locations which include dual-purpose research laboratories, production plants, test facilities and assembly plants.

Much of the fiscal year 1979 construction budget will be spent to meet the environmental, safety and occupational health—OSHA—requirements of the EPA and OSHA.

The defense activities of the Department of Energy should not be delayed or disrupted by sustaining a veto of this bill. The veto should be overridden and, if the President disagrees with certain other projects, the proper way would be to request a rescission action of the Congress.●

● Mr. GRASSLEY. Mr. Speaker, I am sure that all of my colleagues are familiar with the following quotation, often attributed to the American Minister to the French Republic in 1797, Charles Cotesworth Pinckney:

Millions for defense, but not one cent for tribute.

It appears that the President, by vetoing H.R. 12928 (Public Works for Water and Power Development and Energy Research Appropriation Act, 1979) subscribes to a philosophy which might be summarized as follows:

"Billions for foreign aid and water projects in foreign lands, but funding water projects at home will cause inflation."

The President objects to certain provisions of the bill because he alleges that such domestic spending is inflationary.

But—let us look at the record. The total amount of money to be appropriated for all water projects—not just those few which the administration finds objectionable—is in the neighborhood of $3 billion. This is less than 1 percent of the budget which the President submitted in January of this year. This appears to be a case of the President, as well as his economic advisers, not being able to see the forest for the trees.

Further, I would suggest that the President's position on domestic water projects which do, in fact, benefit the people of the United States, should be compared with his views on American tax dollars being shipped overseas to fund similar undertakings. The fiscal year 1979 budget message requested a 54-percent increase in similar projects funded through the International Development Association. The President asked for a 70-percent increase in public works projects financed by the Inter-American Development Bank.

I wish that there would be some consistency in the administration's spending policies. We are told that it is wrong to fund certain projects located within the borders of the United States. Why then is it not also wrong for the American taxpayer to foot the bill for a flood control project in Guyana, a hydroelectric powerplant in Panama and port development project in Burma?

In summary, it is my conclusion that the President's rationale and justification for the veto does not hold water. My vote will reflect these concerns.●

● Mrs. HOLT. Mr. Speaker, it has been correctly argued that H.R. 12928, the Energy and Water Development Appropriation Act for 1979, does not bust the 1979 budget.

But that is not my concern in this case. My concern is the impact on future budgets.

The President proposed 26 new construction starts for water projects in fiscal 1979. The Congress added 27 more new starts.

The impact of these extra projects on the 1979 budget is very small, hardly noticeable in terms of the total Federal budget.

But they will add $1.8 billion to future budgets, and here is where our concern should lie. Congress has been in the habit of starting new programs and projects with very small initial costs, but much larger costs in future years.

I have no doubt that many of the new water projects added by Congress are needed, but I also have grave doubts that all 27 are needed immediately.

Therefore, I cast my vote to sustain the President's veto. I hope that the Appropriations Committee will make some prudent decisions on the order of priorities for these projects and report to this House a more moderate bill.

The President has properly expressed concern about future budget impact, but it is the responsibility of Congress to set the priorities for spending taxpayers' money.

It is our failure to make prudent choices that causes vetoes, now as in the past.●

● Mr. BENNETT. Mr. Speaker, I believe the President's veto should be sustained because if we cannot afford to fund adequately the national defense of our country, as witnessed by the recent action to slash the proposals of Congress in the field of defense at the President's request it makes no sense to fund this bill at its present level. I also agree with the President's proposal to fully fund water projects just as we do in shipbuilding and other defense projects. It is not logical or fiscally evenhanded to require defense expenditures to carry this heavier burden when we do not do likewise with water projects and other programs.●

● Mr. JEFFORDS. Mr. Speaker, I urge my colleagues to sustain the President's veto of H.R. 12928, the public works appropriations bill for fiscal 1979.

As my colleagues on the House Budget Committee have noted, the heart of this issue is not the White House against Congress, but rather it is whether Congress can discipline itself on critical spending questions and act responsibly. This body has made great strides in controlling expenditures over the past few months, and we all recognize that as essential if we are to curb the rate of inflation. However, we must apply those constraints across-the-board and not selectively.

The fact of the matter is that this bill is almost $2 billion above the President's budget request, despite the "shell game" played by the committee in using partial funding procedures which disguises true costs. It restores funding for six water projects halted last year in the compromise reached between the administration and Congress. It funds 27 new additional construction starts over and above the President's request for 26 new projects, costing a total of $1.2 billion. Many of these new projects added by the committee have not been fully planned, are not economically sound, cause unnecessary environmental damage, and are just plain bad investments. One of the projects is not authorized at all, and 11 of the 27 have not met preconstruction requirements.

What is even more disconcerting to me is the bill mandates a 6-percent increase in personnel for the Corps of Engineers and a 6-percent increase for the Bureau of Reclamation. This is an increase in full-time, permanent employees of 2,300, which both the corps and Bureau have stated are not needed. This will cost the Federal Government, and the taxpayer, over $57 million per year—and I can see absolutely no justification for this.

This legislation, which initiates over 50 new water project construction starts, will triple the long-term funding commitment of the Federal Government, and is not consistent with a water policy that is based upon economic soundness, maintaining environmental quality, benefit to the public, and a recognition of budget limitations.

If we are indeed committed to reduc-

ing the rate of inflation over the long term, we must make the difficult decisions even in an election year. I urge my colleagues to sustain the veto.●

● Mr. ANDERSON of Illinois. Mr. Speaker, whatever the dispute as to how much this bill really costs compared to the President's proposal, it is beyond dispute that it has assumed the symbolism of costing more. As such, the public works bill—or the "energy and water development" bill or whatever you want to call it—is widely perceived as riding roughshod with public money in times that call for sacrifice; of aggravating inflation under economic conditions that threaten our very social fabric; and, worst of all, of expressing contempt for the Nation we in this body represent—at the very time we are coming under increasing suspicion.

Let us not fool, nor be fooled. The public has had an earful since the watershed of proposition 13 as to how the Congress is getting the message and will now be doing penance. We have promised in solemn tones at last to restrain Federal spending, and at last to permit the taxpayer the freedom to keep some of the dollars he spends his days earning.

On the morrow of a vote to override, should that come to pass, it need surprise no one—least of all one sitting in this Chamber—if the people of this country only come the more to view the Congress of the United States as an institution that specializes merely in rhetoric and inaction.

The debate today is not over water policy. In an important sense, it is not even over money.

The debate today is over credibility. The debate is over responsiveness. The debate is, in a word, over our future as a representative institution.

It is not easy for a Republican to rise before his colleagues and join the President in a vote that stands the potential of handing him an embarrassing defeat. But there comes a point even in politics when each of us is responsible to his own conscience to vote quite simply for what we believe to be the national interest, the good of the people, and the promise of America.●

● Mr. BAFALIS. Mr. Speaker, my vote will be to cast to override the President's veto. It will not be an easy vote to cast. My major concern in Congress is working against excessive and needless spending as my voting record clearly shows. But spending, as all things, works on a matter of priorities.

President Carter billed this as his battleline in the fight against inflation and deficit spending. My thorough study of the bill, its impact to my district and my State, and its ranking in respect to all other appropriations bills, led me to conclude it ranked high in priority for the benefit of the citizens of this Nation.

The total appropriated in this bill is $10.2 billion. However, it should be noted that $6.1 billion of the money is earmarked for R. & D. in alternate energy resources—solar, geothermal, biomass, and so forth. These funds are critical to our efforts to provide new and inexhaustible sources of energy for this Nation's economy—and they are all programs which have been requested and endorsed by President Carter. I strongly feel that these funds are justified and in the best interests of the taxpayers.

Now, let us turn to the public works aspect of the bill: $4.1 billion of the bill deals with funding for construction, study, and maintenance of our Nation's water resources and projects.

The St. Lucie Inlet in Martin County is one of the new construction projects funded in this bill. Serious shoaling problems in this inlet have created dangerous conditions in the inlet over the past 20 years. Please note that simple maintenance dredging has resulted in expenditures totaling more money than the total cost to correct the problem through construction. Further, the loss in commercial fishing business to the area has been significant to the economy in the area. And, all of the facts and figures do not allow for the factoring in of the 16 lives that have been lost as a result of the dangerous conditions. This project is vital to the 10th District and totally justifiable in cost/benefit ratio studies.

The central and south Florida Flood Control district receives much of its operations funding in this bill. This project is essential to the safety and well-being of the citizens living within its jurisdiction. Further, major agricultural and cattle interests—vital parts of the local economies—depend on the operation of the district to protect their lands from flooding.

Everyone in Florida knows how essential the Kissimmee River-Lake Okeechobee water system is to our State's economy. And yet, this vital system is now dying. State and local officials have petitioned the Congress to authorize the Corps of Engineers to use its expertise to study the system and determine what action is necessary to correct the problem. This appropriations bill contains the moneys to fund this critical study.

These are highlights of just a few of the vital projects funded in this bill. Others deal with deepening the Port at Fort Pierce harbor, beach erosion, critical water supplies to Golden Gate, Fla., and so forth. These are certainly not projects designed to benefit single individuals, certainly far from abuse of tax dollars and certainly in keeping with the responsibility of the Congress to provide for the needs of its citizens.

I stated earlier that budgetary restraint is a matter of priority. It would seem to me that a person truly concerned about fiscal matters would turn to bills that are not in the best interests of the taxpayers who foot the price tags that are involved. A good case in point is the foreign aid appropriations bill. Last year, the President attacked public works and as a result, the critical funding of the St. Lucie Inlet and other projects were lost in the Senate. However, in that same year, President Carter willingly signed a foreign aid appropriations bill carrying a price tag of $6.738 billion.

This year, the President vetoed the public works appropriations bill, with a total price tag of $10.3 billion, because of some 8 projects that were further funded and 20 new starts to which he objected—at most, 10 percent of the total bill.

Next week, the Congress will consider the conference report on Foreign Aid Appropriations which carries a price tag of over $9 billion. Keep in mind that many public works projects are funded with these moneys—public works projects in foreign countries that do not require environmental impact statements, cost/benefit ratios, or rigorous payback schedules. It would seem to me that this bill should be a more likely candidate for the President's concern—particularly in view of the fact that all the money it appropriates is to be spent outside this country and will not benefit our taxpayers like the projects in the public works appropriations bill.●

● Mr. EVANS of Delaware. Mr. Speaker, I urge the House to override President Carter's veto of H.R. 12928, the Energy and Water Development Appropriation Act. The President has unfortunately chosen to veto legislation which is of great importance to our country and to my State and I hope the House will reverse this decision.

Some have portrayed this legislation as a "Pork barrel" bill. It is not. Rather, this legislation is an investment in the future of our Nation. There are many projects included in the measure which will be of great benefit to our people and will create many needed jobs in the private sector. In my State of Delaware alone, the bill includes funding for the dredging of the Mispillion River, which will preserve and create jobs in the southern part of my State, the Port of Wilmington, the Indian River Inlet, and other projects which are important to the future of Delaware.

I am convinced that the Congress has thoroughly reviewed each of these projects. The President has tried to make it sound as if the bill is filled with boondoggles. This is simply not the case. All projects receiving funding have a favorable cost-benefit ratio.

I would also like to point out that 60 percent of the funds contained in the bill are for the Department of Energy, including funds for solar energy, fusion energy, and geothermal energy research. Given the comprehensive nature of the bill, its prompt enactment is vital to our Nation.

The blil is $879 million below the budget request, $364 million below the 1978 appropriations and $181 million below the bill passed by the House.

During my time in the House of Representatives, I have consistently voted against projects which I considered wasteful or unnecessary. I believe we must restrain Federal spending by cutting out the fat in the Federal budget. But this legislation does not reflect fat—it reflects a solid investment in the future of America. I urge my colleagues to override the President's veto. ●

● Mr. WOLFF. Mr. Speaker, I would like to take a few minutes of this distinguished body's time to discuss my vote on the motion to override the President's

veto of H.R. 12928, the public works appropriation bill. Few times during my career in the Congress have I faced a more difficult decision than I do on this motion. After the most careful consideration of the bill I have determined that the national interest requires that the President's veto be sustained.

I have listened closely to the debate on whether to override. I am impressed by the sincerity with which Chairman BEVILL and the distinguished members of the committee presented their case for overriding the vote. It is clear from their remarks that it is unfair and inaccurate to deride this bill in its entirety as a "pork barrel bill." Many of the projects funded by the bill are not only appropriate, but essential for the public good. Other projects would confer legitimate benefits on various deserving communities. So anyone who would impune the motives of the members of the committee in their drafting of the bill would be engaging in an intolerable disservice. As the distinguished Speaker of the House indicated in his remarks, a concern for the future of our Nation's resources demands that we show an interest in and appreciate the value of water projects.

But the issue before us today is not whether the water projects which the President is objecting to are valuable. I have no doubt that most, if not all, would prove beneficial to people affected by them. Rather, the issue before us today is whether our Nation can afford all of these projects during the present time of economic stress. The projected cost of completing these projects is not the 103 million dollars in the current bill. Instead, it is at least 1.2 billion dollars. This is not an unsubstantial sum of money. If we as a Congress, if we as a Nation, are serious about moving toward a balanced budget and reducing taxation and inflation, then this 1.2 billion dollars must give us pause. It will be a fixed cost in the budget for the years to come. It will be one more irreducable item in the budget. It will be one less place to cut. It will be one fewer opportunity to bring the budget into balance.

Sometime in the future when inflation is under control, we can afford to make commitments similar to those represented by these water projects. At that time, I would be pleased to support these efforts for funding, as I have done in the past. But simply stated, given present circumstances we cannot afford it, and I cannot support it.

As our most respected majority leader indicates, this House reduced the overall deficit proposed by the President by 22 billion dollars. I commend the House for its efforts. But if we are to continue to reduce the deficit, then we must be willing to make the hard choices the painful choices—and distinguish between the good and the essential. It is in this spirit that I choose to sustain the President's veto.

In closing let me point out that I supported this legislation when it was first considered by the House. However, since that time the Council of Economic Advisors has indicated that the current projections for inflation have significantly increased. In light of the continuing and increasing nature of the inflation problem, I have reluctantly come to the decision that it is necessary to vote to sustain the President's veto.

For all of these reasons, and with all of these considerations, Mr. Speaker, I am voting to sustain the President's veto of the public works bill. I want to assure my colleagues and my constituents that I vote in what I see as the national interest. My conscience and my oath of office require that I do no less.●

Mr. JOHN T. MYERS. Mr. Speaker, I yield 5 minutes to the minority leader, the gentleman from Arizona (Mr. RHODES).

Mr. GOLDWATER. Mr. Speaker, will the gentleman yield?

Mr. RHODES. I yield to the gentleman from California.

Mr. GOLDWATER. Mr. Speaker, I would remind my colleagues that 60 percent of this appropriation bill deals with energy. I would suggest that we help the President's "moral equivalent of war" by voting to override the veto.

Mr. Speaker, I find myself in a rather unusual position. The President, in my opinion, has vetoed the energy and public works appropriation bill for fiscal year 1979, and some of my Republican colleagues apparently believe that the rhetoric of fiscal responsibility is for real and are siding with the President.

I have listened to the President's arguments in support of his veto. They do not wash. Some of the projects now receiving critical comment were either specifically recommended to the Congress last year or are of the same category currently in the bill.

It is interesting to observe that the administration has carefully refrained from telling members what effects this veto will have on the energy programs contained in the bill. The answer is very simple. All modifications in existing programs—either in dollar amounts or program focus—will be lost at least until March of next year. For example, the second geothermal demonstration project will not go ahead. Neither will the solar programs, or the coal programs, or the nuclear waste programs, or the biomass programs.

We must remember that 60 percent of the programs in this appropriation bill are energy related. There are many refinements and new initiatives funded in it. If we fail to override this misguided veto we will do serious damage to our Federal energy research and development programs at the very time we are finally getting them into focus and balanced refinement.

We must remember that several of the key elements of the national energy plan are funded in this bill. It is something to behold how the administration is sweeping its "moral equivalent of war" on energy problems right under the rug.

Finally, in this energy portion of the bill, we must remember that last year the President vetoed the energy R. & D. bill. In doing so he rendered many changes in our energy development battle stillborn. We will probably not have an energy R. & D. bill out of the Congress before adjournment this year.

Thus, this bill and its energy provisisions will be the only guiding legislation in existence.

I have heard it stated repeatedly by some of my Republican colleagues that sustaining the veto will not undo our energy activities and initiatives, because we will get another appropriation bill out before next Saturday. Some in the administration have lent credibility to this rumor. The fact is, Mr. Frank Moore of the White House staff has flatly stated that there will be no new appropriation bill this year, only a continuing resolution. So do not be misled by the claim that a successful veto really will not hurt any of these energy related matters. It definitely will.

Finally, I find it incredible that the President is calling this bill a "pork barrel bill," because he does not like some portions of the $2 billion in public works programs, while recently signing and praising a $3 billion foreign aid public works bill.

I urge my colleagues to reject the veto and vote to override.

Mr. BURGENER. Mr. Speaker, will the gentleman yield?

Mr. RHODES. I yield to the gentleman from California.

Mr. BURGENER. Mr. Speaker, I rise in strong support of the bill.

Mr. RHODES. Mr. Speaker, this controversy has had at least one effect which I think may be of benefit to the country: The President has talked to more Republicans in the last 5 days than he has in the last 21 months. I cannot help but believe that there is going to be some residual benefit to the country because of that.

Actually, Mr. Speaker, it has been interesting to hear people talk about arm twisting by the leadership of the House. I have never seen so much arm twisting by the people in the executive department as there has been over this bill. And I do not blame them, because the President's image, his escutcheon, is at stake. As a matter of fact, I think the House of Representatives and the Senate are being "Rafshoon'd" by this whole situation, and it behooves the Members of the House and the Senate to examine closely the facts as to what is happening here, and not simply rely on what we are asked to believe is happening.

The President has said that this is an inflationary bill. The majority leader, the gentleman from Texas (Mr. WRIGHT), I think has completely blown that argument out of the water. It is not an inflationary bill. It is $879 million less than the President's own budget, which he thinks is not inflationary.

So, as to the inflation argument, I think you can dispose of it very effectively with those few words.

Beyond that, if you read the veto message carefully, you will realize the President relied very heavily on the concept of what he calls "full funding." There may be some Members of the House, and

I know there are some members of the public, who think that this committee and this Congress did something wrong in not providing full funding for these projects.

We have never provided full funding for public works projects, never.

Mr. Speaker, I was a member of the Public Works Appropriations Subcommittee for some 10 years; and we have not provided full funding for very good reasons. This is the only way by which we get a look every year at every project which is underway throughout the country. This subcommittee does it; without that, there would be absolutely no oversight of these projects from the time they begin to the time they end.

Mr. Speaker, I do not blame the President for wanting full funding. Imagine if we were to appropriate full funds for every project at its start. What a bonanza for the Executive. Those of us who have served on the Subcommittee on Defense of the Committee on Appropriations will know exactly what I mean: reprograming. It is the greatest gimmick any Executive ever had.

He gets the funds appropriated. Then he decides that perhaps a particular project is not so good after all; and, besides, the Congressman who represents the district in which that project is located is not very cooperative, so he asks for a reprograming. He takes the money which has been appropriated for the project and applies it to a project which is in the district of a more cooperative Congressman.

Mr. Speaker, I do not blame him. If he gets by with it, more power to him. I am not going to help him, however. I believe that full funding will seriously undermine the authority of the Congress of the United States, as described in the Constitution, to appropriate funds according to the laws. In addition, as the distinguished majority leader has mentioned, the President can always request a recission if he does not wish to spend certain funds.

Therefore, Mr. Speaker, I think it is very important that we understand what is happening here.

As to the 2,300 jobs mentioned, Mr. Speaker, I cannot believe that the President really did not intend to request positions needed for the dam safety program. I cannot believe he did not intend to request the positions needed for supervision of waste water treatment facilities. But apparently he did not ask for them, so the committee gave them to him. If he does not want to provide the personnel for these very important projects and important functions, which the Congress has asked him to undertake, then he certainly can, under the Budget Control and Impoundment Act, ask for a rescission. I am certain that the chairman of the Committee on Appropriations at that time—unfortunately, it will not be my good friend, the gentleman from Texas (Mr. MAHON), whom we love dearly and will miss so much—the then chairman of the Committee on Appropriations will certainly bring those matters to the floor of the House, and the President can get an up or down vote on his request.

Mr. Speaker, I hope that the Members of the House will join the majority leader, the Speaker, and me in voting overwhelmingly to override this ill-advised veto.

Mr. BEVILL. Mr. Speaker, I yield the balance of my time to our distinguished Speaker, the gentleman from Massachusetts (Mr. O'NEILL).

The SPEAKER pro tempore. The gentleman from Massachusetts (Mr. O'NEILL) is recognized for 4 minutes.

Mr. O'NEILL. Mr. Speaker, it is with diffidence and a great deal of sadness that I rise to take the floor this afternoon to oppose my President in his veto of this bill.

I appreciate all the negotiations which have taken place with the gentleman from Alabama (Mr. BEVILL) and the members of the subcommittee, as well as with the gentleman from Texas (Mr. MAHON) and his appropriations staff, with the gentleman from Texas (Mr. WRIGHT), and with all of those people who have tried to work this matter out at the White House. Unfortunately, the art of compromise was not in the lexicon of the White House when we discussed this matter.

Mr. Speaker, I feel very strongly about this piece of legislation, for two reasons.

More than 25 years ago the Paley report to President Truman warned of an energy crisis down the road and warned of the necessity to plan and to conserve for the future. The Congress did not listen to that report and the similar warnings of the times.

We face an energy crisis today, and next week when we vote on the energy package, we will have one of the most important votes in the lifetime of many of us. This afternoon we are faced with an equally important, significant vote. Twenty-five years down the road we are facing a crisis similar to the energy crisis, the crisis of water; and I believe that this body ought to override the veto.

Many of the younger Members, who have served in this Congress only one or two terms and who were mere youths when the Paley report came out, have asked other senior Members of the Congress and you have asked me so many times, "Why did you not do something about the energy problem when you knew you had the energy problem and when you knew the energy problem would face this country in the decade of the 1970s?"

Were there plans? Were there ideas? Were there programs? Sure, there were. There was a program for solar. There was a program for shale. There was a program for something called deuterium, which was like arresting the sea and taking power out of the sea. There was coal gasification. Sure, there are all those things of the 1950's that we talked about. Why did we not do it? Excessive spending. The same argument that I have heard these gentlemen use today—excessive spending.

I realize that it takes political courage to vote for the future. As Speaker of this House, I want to look back when the twilight of my career comes and say to myself, "You know, there was a crisis down the road. You did your best, because you knew that this Nation with its growing was going to need water."

There is one other reason, too. The gentleman from Texas (Mr. WRIGHT) touched on it. I feel strongly about this reason. Five years ago there was a question as to whether or not the great powers of the Congress of the United States had eroded. A similar confrontation took place with the President at that time. We would authorize; we would appropriate; the President would impound. He would spend the money if he felt like it and would not if he did not feel like it. It all happened with the advent of strong President Roosevelt and developed all along through the years down through Nixon. We came up with the Antiimpoundment Act. Today we have rescission and deferrals.

We came up with a Budgetary Act. Why did we come up with a Budgetary Act? Because the Constitution says the priority of spending is in this body. We came up with a Budgetary Act to set the priorities for this country.

I say to the Members of Congress I think if we remove our stand on the accomplishments that we have made in the last 5 years, the issue will be a question of integrity. It is the dignity of this institution.

I believe in the future of this country. I urge the Members, as regretfully as I do from a sorrowful heart in having to oppose my President, to override this veto.

The SPEAKER pro tempore (Mr. MURPHY of Illinois). All time has expired.

Without objection, the previous question is ordered.

There was no objection.

The SPEAKER pro tempore. The question is, Will the House, on reconsideration, pass the bill, the objections of the President to the contrary notwithstanding?

Under the Constitution, this vote must be determined by the yeas and nays.

The vote was taken by electronic device, and there were—yeas 223, nays 190, not voting 19, as follows:

[Roll No. 877]

YEAS—223

Abdnor	Burke, Fla.	Evans, Ga.
Addabbo	Burke, Mass.	Fary
Akaka	Burlison, Mo.	Fascell
Alexander	Butler	Findley
Anderson, Calif.	Carney	Flippo
	Carter	Flood
Andrews, N.C.	Cavanaugh	Flynt
Andrews, N. Dak.	Chappell	Foley
	Chisholm	Ford, Mich.
Annunzio	Clausen, Don H.	Fuqua
Applegate		Gaydos
Armstrong	Clawson, Del	Giaimo
AuCoin	Clay	Gilman
Badham	Collins, Ill.	Ginn
Bafalis	Corcoran	Goldwater
Baldus	Corman	Gonzalez
Barnard	Cotter	Gore
Baucus	Daniel, Dan	Grassley
Beard, R.I.	Daniel, R. W.	Hagedorn
Beard, Tenn.	Danielson	Hall
Benjamin	de la Garza	Hammer-schmidt
Bevill	Dent	
Boggs	Dickinson	Hansen
Boland	Dicks	Harsha
Bonker	Dodd	Hawkins
Bowen	Duncan, Oreg.	Heftel
Brademas	Duncan, Tenn.	Hightower
Breaux	Edwards, Ala.	Hillis
Breckinridge	Edwards, Okla.	Horton
Brinkley	Eilberg	Howard
Brooks	Ertel	Hubbard
Buchanan	Evans, Colo.	Huckaby
Burgener	Evans, Del.	Ichord

Ireland	Moore	Slack
Jenkins	Moss	Smith, Iowa
Jenrette	Murphy, Ill.	Smith, Nebr.
Johnson, Calif.	Murphy, N.Y.	Snyder
Johnson, Colo.	Murtha	Spellman
Jones, N.C.	Myers, Gary	Spence
Jones, Okla.	Myers, John	Stangeland
Jones, Tenn.	Myers, Michael	Stanton
Jordan	Natcher	Steed
Kastenmeier	Nichols	Stokes
Kazen	Nowak	Stump
Kelly	Oakar	Symms
Kemp	Oberstar	Taylor
Krebs	Perkins	Teague
Lagomarsino	Pickle	Thompson
Lederer	Poage	Thornton
Leggett	Pressler	Traxler
Livingston	Price	Treen
Lloyd, Calif.	Pursell	Trible
Lloyd, Tenn.	Quie	Udall
Long, La.	Quillen	Ullman
Long, Md.	Rahall	Van Deerlin
Lott	Rangel	Waggonner
Lundine	Rhodes	Walsh
McClory	Richmond	Wampler
McCormack	Rinaldo	Watkins
McDade	Roberts	White
McEwen	Robinson	Whitehurst
McFall	Roe	Whitley
McKay	Roncalio	Whitten
McKinney	Rooney	Wilson, Bob
Mahon	Rosenthal	Wilson, Tex.
Marlenee	Rostenkowski	Winn
Marriott	Rousselot	Wirth
Mathis	Rudd	Wright
Mazzoli	Ryan	Yates
Meeds	Satterfield	Yatron
Mikulski	Scheuer	Young, Alaska
Mineta	Sebelius	Young, Fla.
Mitchell, Md.	Shuster	Young, Tex.
Moakley	Sikes	Zablocki
Mollohan	Sisk	Zeferetti
Montgomery	Skubitz	

NAYS—190

Ambro	Florio	Mikva
Anderson, Ill.	Flowers	Milford
Archer	Ford, Tenn.	Miller, Calif.
Ashbrook	Forsythe	Miller, Ohio
Aspin	Fountain	Minish
Bauman	Fowler	Mitchell, N.Y.
Bedell	Fraser	Moffett
Bellenson	Frenzel	Moorhead, Calif.
Bennett	Frey	
Biaggi	Gammage	Moorhead, Pa.
Bingham	Garcia	Motti
Blanchard	Gephardt	Murphy, Pa.
Bolling	Gibbons	Neal
Bonior	Glickman	Nedzi
Brodhead	Goodling	Nix
Broomfield	Gradison	Nolan
Brown, Calif.	Green	O'Brien
Brown, Mich.	Gudger	Obey
Brown, Ohio	Guyer	Ottinger
Broyhill	Hamilton	Panetta
Burleson, Tex.	Hanley	Patten
Burton, John	Hannaford	Patterson
Burton, Phillip	Harkin	Pattison
Byron	Harrington	Pease
Carr	Harris	Pepper
Cederberg	Heckler	Pike
Cleveland	Hefner	Preyer
Cohen	Holland	Pritchard
Coleman	Hollenbeck	Quayle
Collins, Tex.	Holt	Railsback
Conable	Holtzman	Regula
Conte	Hughes	Reuss
Conyers	Hyde	Risenhoover
Cornell	Jacobs	Rodino
Cornwell	Jeffords	Rogers
Coughlin	Kasten	Rose
Cunningham	Keys	Roybal
D'Amours	Kildee	Runnels
Davis	Kindness	Ruppe
Delaney	Kostmayer	Russo
Dellums	LaFalce	Santini
Derrick	Latta	Sawyer
Derwinski	Le Fante	Schroeder
Devine	Leach	Seiberling
Dingell	Lehman	Sharp
Dornan	Lent	Simon
Downey	Levitas	Skelton
Drinan	Luken	Solarz
Early	McCloskey	St Germain
Eckhardt	McHugh	Staggers
Edgar	Madigan	Stark
Edwards, Calif.	Maguire	Steers
Emery	Mann	Steiger
English	Markey	Stockman
Erlenborn	Marks	Stratton
Evans, Ind.	Martin	Tsongas
Fenwick	Mattox	Tucker
Fish	Metcalfe	Studds
Fisher	Meyner	Vanik
Fithian	Michel	Vento
Volkmer	Weaver	Wydler
Walgren	Weiss	Wylie
Walker	Wilson, C. H.	Young, Mo.
Waxman	Wolff	

NOT VOTING—19

Ammerman	Diggs	Shipley
Ashley	Krueger	Thone
Blouin	Lujan	Vander Jagt
Burke, Calif.	McDonald	Whalen
Caputo	Pettis	Wiggins
Cochran	Sarasin	
Crane	Schulze	

The Clerk announced the following pairs:

On this vote:

Mr. Shipley and Mr. Krueger for, with Mr. Ammerman against.

Mr. Sarasin and Mr. Schulze for, with Mr. Whalen against.

Mr. Cochran of Mississippi and Mr. Thone for, with Mr. Diggs against.

Until further notice:

Mr. Ashley with Mr. McDonald.

Mr. Blouin with Mr. Wiggins.

Mrs. Pettis with Mr. Vander Jagt.

Mrs. Burke of California with Mr. Lujan.

Mr. Caputo with Mr. Crane.

Mr. RUSSO and Mr. DELLUMS changed their vote from "yea" to "nay".

So, two-thirds not having voted in favor thereof, the veto of the President was sustained and the bill was rejected.

The result of the veto was announced as above recorded.

The SPEAKER. The Clerk will notify the Senate of the action of the House.

Without objection, the President's veto message on H.R. 12928 will be printed as a House document and referred to the Committee on Appropriations.

There was no objection.

GENERAL LEAVE

Mr. BEVILL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the Presidential veto of H.R. 12928.

The SPEAKER. Is there objection to the request of the gentleman from Alabama?

There was no objection.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Sparrow, one of its clerks announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 13635. An act making appropriations for the Department of Defense for the fiscal year ending September 30, 1979, and for other purposes.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 13635) entitled "An act making appropriations for the Department of Defense for the fiscal year ending September 30, 1979, and for other purposes," request a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. STENNIS, Mr. MAGNUSON, Mr. PROXMIRE, Mr. INOUYE, Mr. HOLLINGS, Mr. EAGLETON, Mr. CHILES, Mr. BUMPERS, Mr. YOUNG, Mr. CASE, Mr. STEVENS, Mr. SCHWEIKER, and Mr. BROOKE to be the conferees on the part of the Senate.

CONFERENCE REPORT ON S. 2640, CIVIL SERVICE REFORM ACT OF 1978

Mr. UDALL submitted the following conference report and statement on the Senate bill (S. 2640) to reform the civil service laws:

CONFERENCE REPORT (H. REPT. NO. 95-1717)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2640) to reform the civil service laws, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the text of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment, insert the following:

SHORT TITLE

SECTION 1. This Act may be cited as the "Civil Service Reform Act of 1978".

TABLE OF CONTENTS

SEC. 2. Table of contents is as follows:

TABLE OF CONTENTS

Sec. 1. Short title.
Sec. 2. Table of contents.
Sec. 3. Findings and statement of purpose.
TITLE I—MERIT SYSTEM PRINCIPLES
Sec. 101. Merit system principles: prohibited personnel practices
TITLE II—CIVIL SERVICE FUNCTIONS: PERFORMANCE APPRAISAL; ADVERSE ACTIONS
Sec. 201. Office of Personnel Management.
Sec. 202. Merit Systems Protection Board and Special Counsel.
Sec. 203. Performance appraisals.
Sec. 204. Adverse actions.
Sec. 205. Appeals.
Sec. 206. Technical and conforming amendments.
TITLE III—STAFFING
Sec. 301. Volunteer services.
Sec. 302. Interpreting assistance for deaf employees.
Sec. 303. Probationary period.
Sec. 304. Training.
Sec. 305. Travel, transportation, and subsistence.
Sec. 306. Retirement.
Sec. 307. Veterans and preference eligibles.
Sec. 308. Dual pay for retired members of the uniformed services.
Sec. 309. Civil service employment information.
Sec. 310. Minority recruitment program.
Sec. 311. Temporary employment limitation.
TITLE IV—SENIOR EXECUTIVE SERVICE
Sec. 401. General provisions.
Sec. 402. Authority for employment.
Sec. 403. Examination, certification, and appointment.
Sec. 404. Retention preference.
Sec. 405. Performance rating.
Sec. 406. Awarding of ranks.
Sec. 407. Pay rates and systems.
Sec. 408. Pay administration.
Sec. 409. Travel, transportation, and subsistence.
Sec. 410. Leave.
Sec. 411. Disciplinary actions.
Sec. 412. Retirement.
Sec. 413. Conversion to the Senior Executive Service.
Sec. 414. Limitations on executive positions.
Sec. 415. Effective date; congressional review.

TITLE V—MERIT PAY
Sec. 501. Pay for performance.
Sec. 502. Incentive awards amendments.
Sec. 503. Conforming and technical amendments.
Sec. 504. Effective date.
TITLE VI—RESEARCH, DEMONSTRATION, AND OTHER PROGRAMS
Sec. 601. Research programs and demonstration projects.
Sec. 602. Intergovernmental Personnel Act amendments.
Sec. 603. Amendments to the mobility program.
TITLE VII—FEDERAL SERVICE LABOR-MANAGEMENT RELATIONS
Sec. 701. Federal service labor-management relations.
Sec. 702. Backpay in case of unfair labor practices and grievances.
Sec. 703. Technical and conforming amendments.
Sec. 704. Miscellaneous provisions.
TITLE VIII—GRADE AND PAY RETENTION
Sec. 801. Grade and pay retention.
TITLE IX—MISCELLANEOUS
Sec. 901. Study on decentralization of governmental functions.
Sec. 902. Savings provisions.
Sec. 903. Authorization of appropriations.
Sec. 904. Powers of President unaffected except by express provisions.
Sec. 905. Reorganization plan.
Sec. 906. Technical and conforming amendments.
Sec. 907. Effective date.

FINDINGS AND STATEMENT OF PURPOSE

SEC. 3. It is the policy of the United States that—

(1) in order to provide the people of the United States with a competent, honest, and productive Federal work force reflective of the Nation's diversity, and to improve the quality of public service, Federal personnel management should be implemented consistent with merit system principles and free from prohibited personnel practices;

(2) the merit system principles which shall govern in the competitive service and in the executive branch of the Federal Government should be expressly stated to furnish guidance to Federal agencies in carrying out their responsibilities in administering the public business, and prohibited personnel practices should be statutorily defined to enable Federal employees to avoid conduct which undermines the merit system principles and the integrity of the merit system;

(3) Federal employees should receive appropriate protection through increasing the authority and powers of the Merit Systems Protection Board in processing hearings and appeals affecting Federal employees;

(4) the authority and power of the Special Counsel should be increased so that the Special Counsel may investigate allegations involving prohibited personnel practices and reprisals against Federal employees for the lawful disclosure of certain information and may file complaints against agency officials and employees who engage in such conduct;

(5) the function of filling positions and other personnel functions in the competitive service and in the executive branch should be delegated in appropriate cases to the agencies to expedite processing appointments and other personnel actions, with the control and oversight of this delegation being maintained by the Office of Personnel Management to protect against prohibited personnel practices and the use of unsound management practices by the agencies;

(6) a Senior Executive Service should be established to provide the flexibility needed by agencies to recruit and retain the highly competent and qualified executives needed to provide more effective management of agencies and their functions, and the more expeditious administration of the public business;

(7) in appropirate instances, pay increases should be based on quality of performance rather than length of service;

(8) research programs and demonstration projects should be authorized to permit Federal agencies to experiment, subject to congressional oversight, with new and different personnel management concepts in controlled situations to achieve more efficient management of the Government's human resources and greater productivity in the delivery of service to the public;

(9) the training program of the Government should include retraining of employees for positions in other agencies to avoid separations during reductions in force and the loss to the Government of the knowledge and experience that these employees possess; and

(10) the right of Federal employees to organize, bargain collectively, and participate through labor organizations in decisions which affect them, with full regard for the public interest and the effective conduct of public business, should be specifically recognized in statute.

TITLE I—MERIT SYSTEM PRINCIPLES

MERIT SYSTEM PRINCIPLES; PROHIBITED PERSONNEL PRACTICES

SEC. 101. (a) Title 5, United States Code, is amended by inserting after chapter 21 the following new chapter:

"CHAPTER 23—MERIT SYSTEM PRINCIPLES

"Sec.
"2301. Merit system principles.
"2302. Prohibited personnel practices.
"2303. Prohibited personnel practices in the Federal Bureau of Investigation.
"2304. Responsibility of the General Accounting Office.
"2305. Coordination with certain other provisions of law.

"§ 2301. Merit system principles

"(a) This section shall apply to—

"(1) an Executive agency;

"(2) the Administrative Office of the United States Courts; and

"(3) the Government Printing Office.

"(b) Federal personnel management should be implemented consistent with the following merit system principles:

(1) Recruitment should be from qualified individuals from appropriate sources in an endeavor to achieve a work force from all segments of society, and selection and advancement should be determined solely on the basis of relative ability, knowledge, and skills, after fair and open competition which assures that all receive equal opportunity.

"(2) All employees and applicants for employment should receive fair and equitable treatment in all aspects of personnel management without regard to political affiliation, race, color, religion, national origin, sex, marital status, age, or handicapping condition, and with proper regard for their privacy and constitutional rights.

"(3) Equal pay should be provided for work of equal value, with appropriate consideration of both national and local rates paid by employers in the private sector, and appropriate incentives and recognition should be provided for excellence in performance.

"(4) All employees should maintain high standards of integrity, conduct, and concern for the public interest.

"(5) The Federal work force should be used efficiently and effectively.

"(6) Employees should be retained on the basis of the adequacy of their performance, inadequate performance should be corrected, and employees should be separated who cannot or will not improve their performance to meet required standards.

"(7) Employees should be provided effective education and training in cases in which such education and training would result in better organizational and individual performance.

"(8) Employees should be—

"(A) protected against arbitrary action, personal favortism, or coercion for partisan political purposes, and

"(B) prohibited from using their official authority or influence for the purpose of interfering with or affecting the result of an election or a nomination for election.

"(9) Employees should be protected against reprisal for the lawful disclosure of information which the employees reasonably believe evidences—

"(A) a violation of law, rule, or regulation, or

"(B) mismanagement, a gross waste of funds, or an abuse of authority, or a substantial and specific danger to public health or safety.

"(c) In administering the provisions of this chapter—

"(1) with respect to any agency (as defined in section 2302(a)(2)(C) of this title), the President shall, pursuant to the authority otherwise available under this title, take any action, including the issuance of rules, regulations, or directives; and

"(2) with respect to any entity in the executive branch which is not such an agency or part of such an agency, the head of such entity shall, pursuant to authority otherwise available, take any action, including the issuance of rules, regulations, or directives; which is consistent with the provisions of this title and which the President or the head, as the case may be, determines is necessary to ensure that personnel management is based on and embodies the merit system principles.

"§ 2302. Prohibited personnel practices

"(a)(1) For the purpose of this title, "prohibited personnel practice" means any action described in subsection (b) of this section.

"(2) For the purpose of this section—

"(A) 'personnel action' means—

"(i) an appointment;

"(ii) a promotion;

"(iii) an action under chapter 75 of this title or other disciplinary or corrective action;

"(iv) a detail, transfer, or reassignment;

"(v) a reinstatement;

"(vi) a restoration;

"(vii) a reemployment;

"(viii) a performance evaluation under chapter 43 of this title;

"(ix) a decision concerning pay, benefits, or awards, or concerning education or training if the education or training may reasonably be expected to lead to an appointment, promotion, performance evaluation, or other action described in this subparagraph; and

"(x) any other significant change in duties or responsibilities which is inconsistent with the employee's salary or grade level;

with respect to an employe in, or applicant for, a covered position in an agency;

"(B) 'covered position' means any position in the competitive service, a career appointee position in the Senior Executive Service, or a position in the excepted service, but does not include—

"(i) a position which is excepted from the competitive service because of its confidential, policy-determining, policymaking, or policy-advocating character; or

"(ii) any position excluded from the coverage of this section by the President based on a determination by the President that it is necessary and warranted by conditions of good administration.

"(C) 'agency' means an Executive agency, the Administrative Office of the United States

Courts and the Government Printing Office, but does not include—

"(i) a Government corporation;

"(ii) the Federal Bureau of Investigation, the Central Intelligence Agency, the Defense Intelligence Agency, the National Security Agency, and, as determined by the President, any Executive agency or unit thereof the principal function of which is the conduct of foreign intelligence or counterintelligence activities; or

"(iii) the General Accounting Office.

"(b) Any employee who has authority to take, direct others to take, recommend, or approve any personnel action, shall not, with respect to such authority—

"(1) discriminate for or against any employee or applicant for employment—

"(A) on the basis of race, color, religion, sex, or national origin, as prohibited under section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–16);

"(B) on the basis of age, as prohibited under sections 12 and 15 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 631, 633a);

"(C) on the basis of sex, as prohibited by section 6(d) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(d));

"(D) on the basis of handicapping conditions, as prohibited under section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791); or

"(E) on the basis of material status or political affiliation, as prohibited under any law, rule, or regulation;

"(2) solicit or consider any recommendation or statement, oral or written, with respect to any individual who requests or is under consideration for any personnel action unless such recommendation or statement is based on the personal knowledge or records of the person furnishing it and consists of—

"(A) an evaluation of the work performance, ability, aptitude, or general qualifications of such individual; or

"(B) an evaluation of the character, loyalty, or suitability of such individual;

"(3) coerce the political activity of any person (including the providing of any political contribution or service), or take any action against any employee or applicant for employment as a reprisal for the refusal of any person to engage in such political activity;

"(4) deceive or willfully obstruct any person with respect to such person's right to compete for employment;

"(5) influence any person to withdraw from competition for any position for the purpose of improving or injuring the prospects of any other person for employment;

"(6) grant any preference or advantage not authorized by law, rule, or regulation to any employee or applicant for employment (including defining the scope or manner of competition or the requirements for any position) for the purpose of improving or injuring the prospects of any particular person for employment;

"(7) appoint, employ, promote, advance, or advocate for appointment, employment, promotion, or advancement, in or to a civilian position, any individual who is a relative (as defined in section 3110(a)(3) of this title) of such employee if such position is in the agency in which such employee is serving as a public official (as defined in section 3110(a)(2) of this title) or over which such employee exercises jurisdiction or control as such an official;

"(8) take or fail to take a personnel action with respect to any employee or applicant for employment as a reprisal for—

"(A) a disclosure of information by an employee or applicant which the employee or applicant reasonably believes evidences—

"(i) a violation of any law, rule, or regulation, or

"(ii) mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety,

if such disclosure is not specifically prohibited by law or if such information is not specifically required by Executive order to be kept secret in the interest of national defense or the conduct of foreign affairs; or

"(B) a disclosure to the Special Counsel of the Merit Systems Protection Board, or to the Inspector General of an agency or another employee designated by the head of the agency to receive such disclosures, of information which the employee or applicant reasonably believes evidences—

"(i) a violation of any law, rule, or regulation, or

"(ii) mismanagement, a gross waste of funds, on abuse of authority, or a substantial and specific danger to public health or safety;

"(9) take or fail to take any personnel action against any employee or applicant for employment as a reprisal for the exercise of any appeal right granted by any law, rule, or regulation;

"(10) discriminate for or against any employee or applicant for employment on the basis of conduct which does not adversely affect the performance of the employee or applicant or the performance of others; except that nothing in this paragraph shall prohibit an agency from taking into account in determining suitability or fitness any conviction of the employee or applicant for any crime under the laws of any State, of the District of Columbia, or of the United States; or

"(11) take or fail to take any other personnel action if the taking of or failure to take such action violates any law, rule, or regulation implementing, or directly concerning, the merit system principles contained in section 2301 of this title.

This subsection shall not be construed to authorize the withholding of information from the Congress or the taking of any personnel action against an employee who discloses information to the Congress.

"(c) The head of each agency shall be responsible for the prevention of prohibited practices, for the compliance with and enforcement of applicable civil service laws, rules, and regulations, and other aspects of personnel management. Any individual to whom the head of an agency delegates authority for personnel management, or for any aspect thereof, shall be similarly responsible within the limits of the delegation.

"(d) This section shall not be construed to extinguish or lessen any effort to achieve equal employment opportunity through affirmative action or any right or remedy available to any employee or applicant for employment in the civil service under—

"(1) section 717 of the Civil Rights Act of 1964 (42 U.S.C. 200e–16, prohibiting discrimination on the basis of race, color, religion, sex, or national origin;

"(2) sections 12 and 15 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 631, 633a), prohibiting discrimination on the basis of age;

"(3) under section 6(d) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(d)), prohibiting discrimination on the basis of sex;

"(4) section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791), prohibiting discrimination on the basis of handicapping condition; or

"(5) the provisions of any law, rule, or regulation prohibiting discrimination on the basis of marital status or political affiliation.

"§ 2303. Prohibited personnel practices in the Federal Bureau of Investigation

"(a) Any employee of the Federal Bureau of Investigation who has authority to take, direct others to take, recommend, or approve any personnel action, shall not, with respect to such authority take or fail to take a personnel action with respect to any employee of the Bureau as a reprisal for a disclosure of information by the employee to the Attorney General (or an employee designated by the Attorney General for such purpose) which the employee or applicant reasonably believes evidences—

"(1) a violation of any law, rule, or regulation, or

"(2) mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety.

For the purpose of this subsection, 'personnel action' means any action described in clauses (i) through (x) of section 2302(a)(2) of this title with respect to an employee in, or applicant for, a position in the Bureau (other than a position of a confidential, policy-determining, policy-making, or policy-advocating character).

"(b) The Attorney General shall prescribe regulations to ensure that a personnel action shall not be taken against an employee of in the Bureau as a reprisal for any disclosure of information described in subsection (a) of this section.

"(c) The President shall provide for the enforcement of this section in a manner consistent with the provisions of section 1206 of this title.

"§ 2304. Responsibility of the General Accounting Office

"(a) If requested by either House of the Congress (or any committee thereof), or if considered necessary by the Comptroller General, the General Accounting Office shall conduct audits and reviews to assure compliance with the laws, rules, and regulations governing employment in the executive branch and in the competitive service and to assess the effectiveness and soundness of Federal personnel management.

"(b) the General Accounting Office shall prepare and submit an annual report to the President and the Congress on the activities of the Merit Systems Protection Board and the Office of Personnel Management. The report shall include a description of—

"(1) significant actions taken by the Board to carry out its functions under this title; and

"(2) significant actions of the Office of Personnel Management, including an analysis of whether or not the actions of the Office are in accord with merit system principles and free from prohibited personnel practices.

"§ 2305. Coordination with certain other provisions of law

"No provision of this chapter, or action taken under this chapter, shall be construed to impair the authorities and responsibilities set forth in section 102 of the National Security Act of 1947 (61 Stat. 495; 50 U.S.C. 403), the Central Intelligence Agency Act of 1949 (63 Stat. 208; 50 U.S.C. 403a and following), the Act entitled 'An Act to provide certain administrative authorities for the National Security Agency, and for other purposes', approved May 29, 1959 (73 Stat. 63; 50 U.S.C. 402 note), and the Act entitled 'An Act to amend the Internal Security Act of 1950', approved March 26, 1964 (78 Stat.

(b)(1) The table of chapters for part III of title 5, United States Code, is amended by adding after the item relating to chapter 21 the following new item:

"23. Merit system principles..... 2301."

(2) Section 7153 of title 5, United States Code, is amended—

(A) by striking out "Physical handicap" in the catchline and inserting in lieu thereof "Handicapping condition"; and

(B) by striking out "physical handicap" each place it appears in the text and inserting in lieu thereof "handicapping condition".

TITLE II—CIVIL SERVICE FUNCTIONS; PERFORMANCE APPRAISAL; ADVERSE ACTIONS

OFFICE OF PERSONNEL MANAGEMENT

SEC. 201. (a) Chapter 11 of title 5, United States Code, is amended to read as follows:

"CHAPTER 11—OFFICE OF PERSONNEL MANAGEMENT

"Sec.

"1101. Office of Personnel Management.
"1102. Director; Deputy Director; Associate Directors.
"1103. Functions of the Director.
"1104. Delegation of authority for personnel management.
"1105. Administrtive procedure.

"§ 1101. Office of Personnel Management

"The Office of Personnel Management is an independent establishment in the executive branch. The Office shall have an official seal which shall be judicially noticed and shall have its principal office in the District of Columbia, and may have field offices in other appropriate locations.

"§ 1102. Director; Deputy Director; Associate Directors

"(a) There is at the head of the Office of Personnel Management a Director of the Office of Personnel Management appointed by the President, by and with the advice and consent of the Senate. The term of office of any individual appointed as Director shall be 4 years.

"(b) There is in the Office a Deputy Director of the Office of Personnel Management appointed by the President, by and with the advice and consent of the Senate. The Deputy Director shall perform such functions as the Director may from time to time prescribe and shall act as Director during the absence or disability of the Director or when the office of Director is vacant.

"(c) No individual shall, while serving as Director or Deputy Director, serve in any other office or position in the Government of the United States except as otherwise provided by law or at the direction of the President. The Director and Deputy Director shall not recommend any individual for appointment to any position (other than Deputy Director of the Office) which requires the advice and consent of the Senate.

"(d) There may be within the Office of Personnel Management not more than 5 Associate Directors, as determined from time to time by the Director. Each Associate Director shall be appointed by the Director.

"§ 1103. Functions of the Director

"(a) The following functions are vested in the Director of the Office of Personnel Management, and shall be performed by the Director of the Office of Personnel Manage-rector, or subject to section 1104 of this title, by such employees of the Office as the Director designates:

"(1) securing accuracy, uniformity, and justice in the functions of the Office;

"(2) appointing individuals to be employed by the Office;

"(3) directing and supervising employees of the Office, distributing business among employees and organizational units of the Office, and directing the internal management of the Office;

"(4) directing the preparation of requests for appropriations for the Office and the use and expenditure of funds by the Office;

"(5) executing, administering, and enforcing—

"(A) the civil service rules and regulations of the President and the Office and the laws governing the civil service; and

"(B) the other activities of the Office including retirement and classification activities;

except with respect to functions for which the Merit Systems Protection Board or the Special Counsel is primarily responsible;

"(6) reviewing the operations under chapter 87 of this title;

"(7) aiding the President, as the President may request, in preparing such civil service rules as the President prescribes, and otherwise advising the President on actions which may be taken to promote an efficient civil service and a systematic application of the merit system principles, including recommending policies relating to the selection, promotion, transfer, performance, pay, conditions of service, tenure, and separation of employees; and

"(8) conducting, or otherwise providing for the conduct of, studies and research under chapter 47 of this title into methods of assuring improvements in personnel management.

"(b)(1) The Director shall publish in the Federal Register general notice of any rule or regulation which is proposed by the Office and the application of which does not apply solely to the Office or its employees. Any such notice shall include the matter required under section 553(b)(1), (2), and (3) of this title.

"(2) The Director shall take steps to ensure that—

"(A) any proposed rule or regulation to which paragraph (1) applies is posted in offices of Federal agencies maintaining copies of the Federal personnel regulations; and

"(B) to the extent the Director determines appropriate and practical, exclusive representatives of employees affected by such proposed rule or regulation and interested members of the public are notified of such proposed rule or regulation.

"(3) Paragraphs (1) and (2) of this subsection shall not apply to any proposed rule or regulation which is temporary in nature and which is necessary to be implemented expeditiously as a result of an emergency.

"§ 1104. Regulation D of authority for personnel management

"(a) Subject to subsection (b)(3) of this section—

"(1) the President may delegate, in whole or in part, authority for personnel management functions, including authority for competitive examinations, to the Director of the Office of Personnel Management; and

"(2) the Director may delegate, in whole or in part, any function rested in or delegated to the Director, including authority for competitive examinations (except competitive examinations for administrative law judges appointed under section 3105 of this title), to the heads of agencies in the executive branch and other agencies employing persons in the competitive service;

except that the Director may not delegate authority for competitive examinations with respect to positions that have requirements which are common to agencies in the Federal Government, other than in exceptional cases in which the interests of economy and efficiency require such delegation and in which such delegation will not weaken the application of the merit system principles.

"(b)(1) The Office shall establish standards which shall apply to the activities of the Office or any other agency under authority delegated under subsection (a) of this section.

"(2) The Office shall establish and maintain an oversight program to ensure that activities under any authority delegated under subsection (a) of this section are in accordance with the merit system principles and the standards established under paragraph (1) of this subsection.

"(3) Nothing in subsection (a) of this section shall be construed as affecting the responsibility of the Director to prescribe regulations and to ensure compliance with the civil service laws, rules, and regulations.

"(c) If the Office makes a written finding, on the basis of information obtained under the program established under subsection (b)(2) of this section or otherwise, that any action taken by an agency pursuant to authority delegated under subsection (a)(2) of this section is contrary to any law, rule, or regulation, or is contrary to any standard established under subsection (b)(1) of this section, the agency involved shall take any corrective action the Office may require.

"§ 1105. Administrative procedure

"Subject to section 1103(b) of this title, in the exercise of the functions assigned under this chapter, the Director shall be subject to subsections (b), (c), and (d) of section 553 of this title, notwithstanding subsection (a) of such section 553.".

(b)(1) Section 5313 of title 5, United States Code is amended by inserting at the end thereof the following new paragraph:

"(24) Director of the Office of Personnel Management."

(2) Section 5314 of such title is amended by inserting at the end thereof the following new paragraph:

"(68) Deputy Director of the Office of Personnel Management.".

(3) Section 5316 (122) of such title is amended to read as follows:

"(122) Associate Directors of the Office of Personnel Management (5).".

(c)(1) The heading of part II of title 5, United States Code, is amended by striking out "THE UNITED STATES CIVIL SERVICE COMMISSION" and inserting in lieu thereof "CIVIL SERVICE FUNCTIONS AND RESPONSIBILITIES".

(2) The item relating to chapter 11 in the table of chapters for part II of such title is amended by striking out "Organization" and inserting in lieu thereof "Office of Personnel Management."

MERIT SYSTEMS PROTECTION BOARD AND SPECIAL COUNSEL

SEC. 202. (a) Title 5, United States Code, is amended by inserting after chapter 11 the following new chapter:

"CHAPTER 12—MERIT SYSTEMS MERIT SYSTEMS PROTECTION BOARD AND SPECIAL COUNSEL

"Sec.

"1201. Appointment of members of the Merit Systems Protection Board.
"1202. Term of office; filling vacancies; removal.
"1203. Chairman; Vice Chairman.
"1204. Special Counsel; appointment and removal.
"1205. Powers and functions of the Merit Systems Protection Board and Special Counsel.
"1206. Authority and responsibilities of the Special Counsel.
"1207. Hearings and decisions on complaints filed by the Special Counsel.
"1208. Status of certain personnel actions.
"1209. Information.

"§ 1201. Appointment of members of the Merit Systems Protection Board

"The Merit Systems Protection Board is composed of 3 members appointed by the President, by and with the advice and consent of the Senate, not more than 2 of whom may be adherents of the same political party. The Chairman and members of the Board shall be individuals who, by demonstrated ability, background, training, or experience are especially qualified to carry out the functions of the Board. No member of the Board may hold another office or position in the Government of the United States, except by

otherwise provided by law or at the direction of the President. The Board shall have an official seal which shall be judicially noticed. The Board shall have its principal office in the District of Columbia and may have field offices in other appropriate locations.

"§ 1202. Term of office, filling vacancies; removal;

"(a) The term of office of each member of the Merit Systems Protection Board is 7 years.

"(b) A member appointed to fill a vacancy occurring before the end of a term of office of his predecessor serves for the remainder of that term. Any appointment to fill a vacancy is subject to the requirements of section 1201 of this title.

"(c) Any member appointed for a 7-year term may not be reappointed to any following term but may continue to serve beyond the expiration of the term until a successor is appointed and has qualified, except that such member may not continue to serve for more than one year after the date on which the term of the member would otherwise expire under this section.

"(d) Any member may be removed by the President only for inefficiency, neglect of duty, or malfeasance in office.

"§ 1203. Chairman; Vice Chairman

"(a) The President shall from time to time, appoint, by and with the advice and consent of the Senate, one of the members of the Merit Systems Protection Board as the Chairman of the Board. The Chairman is the chief executive and administrative officer of the Board.

"(b) The President shall from time to time designate one of the members of the Board as Vice Chairman of the Board. During the absence or disability of the Chairman, or when the office of Chairman is vacant, the Vice Chairman shall perform the functions vested in the Chairman.

"(c) During the absence or disability of both the Chairman and Vice Chairman, or when the offices of Chairman and Vice Chairman are vacant, the remaining Board member shall perform the functions vested in the Chairman.

"§ 1204. Special Counsel; appointment and removal

"The Special Counsel of the Merit Systems Protection Board shall be appointed by the President from attorneys, by and with the advice and consent of the Senate, for a term of 5 years. A Special Counsel appointed to fill a vacancy occurring before the end of a term of office of his predecessor serves for the remainder of the term. The Special Counsel may be removed by the President only for inefficiency, neglect of duty, or malfeasance in office.

"§ 1205. Powers and functions of the Merit Systems Protection Board and Special Counsel

"(a) The Merit Systems Protection Board shall—

"(1) hear, adjudicate, or provide for the hearing or adjudication, of all matters within the jurisdiction of the Board under this title, section 2023 of title 38, or any other law, rule, or regulation, and, subject to otherwise applicable provisions of law, take final action on any such matter;

"(2) order any Federal agency or employee to comply with any order or decision issued by the Board under the authority granted under paragraph (1) of this subsection and enforce compliance with any such order;

"(3) conduct, from time to time, special studies relating to the civil service and to other merit systems in the executive branch, and report to the President and to the Congress as to whether the public interest in a civil service free of prohibited personnel practices is being adequately protected; and

"(4) review, as provided in subsection (e) of this section, rules and regulations of the Office of Personnel Management.

"(b)(1) Any member of the Merit Systems Protection Board, the Special Counsel, any administrative law judge appointed by the Board under section 3105 of this title, and any employee of the Board designated by the Board may administer oaths, examine witnesses, take depositions and receive evidence.

"(2) Any member of the Board, the Special Counsel, and any administrative law judge appointed by the Board under section 3105 of this title may—

"(A) issue subpenas requiring the attendance and testimony of witnesses and the production of documentary or other evidence from any place in the United States or any territory or possession thereof, the Commonwealth of Puerto Rico, or the District of Columbia; and

"(B) order the taking of depositions and order responses to written interrogatories.

"(3) Witnesses (whether appearing voluntarily or under subpena) shall be paid the same fee and mileage allowance which are paid subpenaed witnesses in the courts of the United States.

"(c) In the case of contumacy or failure to obey a subpena issued under subsection (b)(2) of this section, the United States district court for the judicial district in which the person to whom the subpena is addressed resides or is served may issue an order requiring such person to appear at any designated place to testify or to produce documentary or other evidence. Any failure to obey the order of the court may be punished by the court as a contempt thereof.

"(d)(1) In any proceeding under subsection (a)(1) of this section, any member of the Board may request from the Director of the Office of Personnel Management an advisory opinion concerning the interpretation of any rule, regulation, or other policy directive promulgated by the Office of Personnel Management.

"(2) In enforcing compliance with any order under subsection (a)(2) of this section, the Board may order that any employee charged with complying with such order, other than an employee appointed by the President by and with the advice and consent of the Senate, shall not be entitled to receive payment for service as an employee during any period that the order has not been complied with. The Board shall certify to the Comptroller General of the United States that such an order has been issued and no payment shall be made out of the Treasury of the United States for any service specified in such order.

"(3) In carrying out any study under subsection (a)(3) of this section, the Board shall make such inquiries as may be necessary and, unless otherwise prohibited by law, shall have access to personnel records or information collected by the Office and may require additional reports from other agencies as needed.

"(e)(1) At any time after the effective date of any rule or regulation issued by the Director in carrying out its functions under section 1103 of this title, the Board shall review any provision of such rule or regulation—

"(A) on its own motion;

"(B) on the granting by the Board, in its sole discretion, of any petition for such review filed with the Board by any interested person, after consideration of the petition by the Board; or

"(C) on the filing of a written complaint by the Special Counsel requesting such review.

"(2) In reviewing any provision of any rule or regulation pursuant to this subsection the Board shall declare such provision—

"(A) invalid on its face, if the Board determines that such provision would, if implemented by any agency, on its face, require any employee to violate section 2302(b) of this title; or

"(B) invalidly implemented by any agency, if the Board determines that such provision, as it has been implemented by the agency through any personnel action taken by the agency or through any policy adopted by the agency in conformity with such provision, has required any employee to violate section 2302(b) of this title.

"(3)(A) The Director of the Office of Personnel Management, and the head of any agency implementing any provision of any rule or regulation under review pursuant to this subsection, shall have the right to participate in such review.

"(B) Any review conducted by the Board pursuant to this paragraph shall be limited to determining—

"(i) the validity in its face of the provision under review; and

"(ii) whether the provision under review has been validly implemented.

"(C) The Board shall require any agency—

"(i) to cease compliance with any provision of any rule or regulation which the Board declares under this subsection to be invalid on its face; and

"(ii) to correct any invalid implementation by the agency of any provision of any rule or regulation which the Board declares under this subsection to have been invalidly implemented by the agency.

"(f) The Board may delegate the performance of any of its administrative functions under this title to any employee of the Board.

"(g) The Board shall have the authority to prescribe such regulations as may be necessary for the performance of its functions. The Board shall not issue advisory opinions. All regulations of the Board shall be published in the Federal Register.

"(h) Except as provided in section 518 of title 28, relating to litigation before the Supreme Court, attorneys designated by the Chairman of the Board may appear for the Board, and represent the Board, in any civil action brought in connection with any function carried out by the Board pursuant to this title or as otherwise authorized by law.

"(i) The Chairman of the Board may appoint such personnel as may be necessary to perform the functions of the Board. Any appointment made under this subsection shall comply with the provisions of this title, except that such appointment shall not be subject to the approval or supervision of the Office of Personnel Management or the Executive Office of the President (other than approval required under section 3324 or subchapter VIII of chapter 33 of this title).

"(j) The Board shall prepare and submit to the President, and, at the same time, to the appropriate committees of Congress, an annual budget of the expenses and other items relating to the Board which shall, as revised, be included as a separate item in the budget required to be transmitted to the Congress under section 201 of the Budget and Accounting Act, 1921 (31 USC 11).

"(k) The Board shall submit to the President and, at the same time, to each House of the Congress, any legislative recommendations of the Board relating to any of its functions under this title.

§ 1206. Authority and responsibilities of the Special Counsel

"(a)(1) The Special Counsel shall receive any allegation of a prohibited personnel practice and shall investigate the allegation to the extent necessary to determine whether there are reasonable grounds to believe that

a prohibited personnel practice has occurred, exists, or is to be taken.

"(2) If the Special Counsel terminates any investigation under paragraph (1) of this subsection, the Special Counsel shall prepare and transmit to any person on whose allegation the investigation was initiated a written statement notifying the person of the termination of the investigation and the reasons therefor.

"(3) In addition to authority granted under paragraph (1) of this subsection, the Special Counsel may, in the absence of an allegation, conduct an investigation for the purpose of determining whether there are reasonable grounds to believe that a prohibited personnel practice has occurred, exists, or is to be taken.

"(b)(1) In any case involving—

"(A) any disclosure of information by an employee or applicant for employment which the employee or applicant reasonably believes evidences—

"(i) a violation of any law, rule, or regulation; or

"(ii) mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety; if the disclosure is not specifically prohibited by law or if the information is not specifically required by Executive order to be kept secret in the interest of national defense or the conduct of foreign affairs; or

"(B) a disclosure by an employee or applicant for employment to the Special Counsel of the Merit Systems Protection Board, or to the Inspector General of an agency or another employee designated by the head of the agency to receive such disclosures, of information, which the employee or applicant reasonably believes evidences—

"(i) a violation of any law, rule, or regulation; or

"(ii) mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety; the identity of the employee or applicant may not be disclosed without the consent of the employee or applicant during any investigation under subsection (a) of this section or under paragraph (3) of this subsection, unless the Special Counsel determines that the disclosure of the identity of the employee or applicant is necessary in order to carry out the functions of the Special Counsel.

"(2) Whenever the Special Counsel receives information of the type described in paragraph (1) of this subsection, the Special Counsel shall promptly transmit such information to the appropriate agency head.

"(3)(A) In the case of information received by the Special Counsel under paragraph (1) of this section, if, after such review as the Special Counsel determines practicable (but not later than 15 days after the receipt of the information), the Special Counsel determines that there is a substantial likelihood that the information discloses a violation of any law, rule, or regulation, or mismanagement, gross waste of funds, abuse of authority, or substantial and specific danger to the public health or safety, the Special Counsel may to the extent provided in subparagraph (B) of this paragraph, require the head of the agency to—

"(i) conduct an investigation of the information and any related matters transmitted by the Special Counsel to the head of the agency; and

"(ii) submit a written report setting forth the findings of the head of the agency within 60 days after the date on which the information is transmitted to the head of the agency or within any longer period of time agreed to in writing by the Special Counsel.

"(B) The Special Counsel may require an agency head to conduct an investigation and submit a written report under subparagraph (A) of this paragraph only if the information was transmitted to the Special Counsel by—

"(i) any employee or former employee or applicant for employment in the agency which the information concerns; or

"(ii) any employee who obtained the information in connection with the performance of the employee's duties and responsibilities.

"(4) Any report required under paragraph (3)(A) of this subsections shall be reviewed and signed by the head of the agency and shall include—

"(A) a summary of the information with respect to which the investigation was initiated;

"(B) a description of the conduct of the investigation;

"(C) a summary of any evidence obtained from the investigation;

"(D) a listing of any violation or apparent violation of any law, rule, or regulation; and

"(E) a description of any corrective action taken or planned as a result of the investigation, such as—

"(i) changes in agency rules, regulations, or practices;

"(ii) the restoration of any aggrieved employee;

"(iii) disciplinary action against any employee; and

"(iv) referral to the Attorney General of any evidence of a criminal violation.

"(5)(A) Any such report shall be submitted to the Congress, to the President, and to the Special Counsel for transmittal to the complainant. Whenever the Special Counsel does not receive the report of the agency head within the time prescribed in subparagraph (3)(A)(ii) of this subsection, the Special Counsel may transmit a copy of the information which was transmitted to the agency head to the President and to the Congress together with a statement noting the failure of the head of the agency to file the required report.

"(B) In any case in which evidence of a criminal violation obtained by an agency in an investigation under paragraph (3) of this subsection is referred to the Attorney General—

"(i) the report shall not be transmitted to the complainant; and

"(ii) the agency shall notify the Office of Personnel Management and the Office of Management and Budget of the referral.

"(6) Upon receipt of any report of the head of any agency required under paragraph (3)(A)(ii) of this subsection, the Special Counsel shall receive the report and determine whether—

"(A) the findings of the head of the agency appear reasonable; and

"(B) the agency's report under paragraph (3)(A)(ii) of this subsection contains the information required under paragraph (4) of this subsection.

"(7) Whenever the Special Counsel transmits any information to the head of the agency under paragraph (2) of this subsection but does not require an investigation under subparagraph (3) of this subsection, the head of the agency shall, within a reasonable time after the information was transmitted, inform the Special Counsel, in writing, of what action has been, or is to be taken and when such action will be completed. The Special Counsel shall inform the complainant of the report of the agency head.

"(8) Except as specifically authorized under this subsection, the provisions of this subsection shall not be considered to authorize disclosure of any information by any agency or any person which is—

"(A) specifically prohibited from disclosure by any other provision of law; or

"(B) specifically required by Executive order to be kept secret in the interest of national defense or the conduct of foreign affairs.

"(9) In any case under subsection (b)(1)(B) of this section involving foreign intelligence or counterintelligence information the disclosure of which is specifically prohibited by law or by Executive order, the Special Counsel shall transmit such information to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate.

(c)(1)(A) If, in connection with any investigation under this section, the Special Counsel determines that there are reasonable grounds to believe that a prohibited personnel practice has occurred, exists, or is to be taken which requires corrective action, the Special Counsel shall report the determination together with any findings or recommendations to the Board, the agency involved, and to the Office, and may report the determination, findings, and recommendations to the President. The Special Counsel may include in the report recommendations as to what corrective action should be taken.

"(B) If, after a reasonable period, the agency has not taken the corrective action recommended, the Special Counsel may request the Board to consider the matter. The Board may order such corrective action as the Board considers appropriate, after opportunity for comment by the agency concerned and the Office of Personnel Management.

"(2)(A) If in connection with any investigation under this section, the Special Counsel determines that there is reasonable cause to believe that a criminal violation by an employee has occurred, the Special Counsel shall report the determination to the Attorney General and to the head of the agency involved, and shall submit a copy of the report to the Director of the Office of Personnel Management and the Director of the Office of Management and Budget.

"(B) In any case in which the Special Counsel determines that there are reasonable grounds to believe that a prohibited personnel practice has occurred, exists, or is to be taken, the Special Counsel may proceed with any investigation or proceeding instituted under this section notwithstanding that the alleged violation has been reported to the Attorney General.

"(3) If, in connection with any investigation under this section, the Special Counsel determines that there is reasonable cause to believe that any violation of any law, rule, or regulation has occurred which is not referred to in paragraph (1) or (2) of this subsection, the violation shall be reported to the head of the agency involved. The Special Counsel shall require, within 30 days of the receipt of the report by the agency, a certification by the head of the agency which states—

"(A) that the head of the agency has personally reviewed the report; and

"(B) what action has been, or is to be, taken and when the action will be completed.

"(d) The Special Counsel shall maintain and make available to the public a list of non-criminal matters referred to heads of agencies under subsections (b)(3)(A) and (c)(3) of this section, together with—

"(1) reports by the heads of agencies under subsection (b)(3)(A) of this section, in the case of matters referred under subsection (b); and

"(2) certifications by heads of agencies under subsection (c)(3), in the case of matters referred under subsection (c).

The Special Counsel shall take steps to insure that any such public list does not contain any information the disclosure of which is prohibited by law or by Executive order requiring that information be kept secret in the interest of national defense or the conduct of foreign affairs.

"(e) (1) In addition to the authority otherwise provided in this section, the Special Counsel shall, except as provided in paragraph (2) of this subsection, conduct an investigation of any allegation concerning—

"(A) political activity prohibited under subchapter III of chapter 73 of this title, relating to political activities by Federal employees;

"(B) political activity prohibited under chapter 15 of this title, relating to political activities by certain State and local officers and employees;

"(C) arbitrary or capricious withholding of information prohibited under section 553 of this title, except that the Special Counsel shall make no investigation under this subsection of any withholding of foreign intelligence or counterintelligence information the disclosure of which is specifically prohibited by law or by Executive order;

"(D) activities prohibited by any civil service law, rule, or regulation, including any activity relating to political intrusion in personnel decisionmaking; and

"(E) involvement by any employee in any prohibited discrimination found by any court or appropriate administrative authority to have occurred in the course of any personnel action.

"(2) The Special Counsel shall make no investigation of any allegation of any prohibited activity referred to in paragraph (1) (D) or (1) (E) of this subsection if the Special Counsel determines that the allegation may be resolved more appropriately under an administrative appeals procedure.

"(f) During any investigation initiated under this section, no disciplinary action shall be taken against any employee for any alleged prohibited activity under investigation or for any related activity without the approval of the Special Counsel.

"(a) (1) Except as provided in paragraph (2) of this subsection, if the Special Counsel determines that disciplinary action should be taken against any employee—

"(A) after any investigation under this section, or

"(B) on the basis of any knowing and willful refusal or failure by an employee to comply with an order of the Merit Systems Protection Board,

the Special Counsel shall prepare a written complaint against the employee containing his determination, together with a statement of supporting facts, and present the complaint and statement to the employee and the Merit Systems Protection Board in accordance with section 1207 of this title.

"(2) In the case of an employee in a confidential, policy-making, policy-determining, or policy-advocating position appointed by the President, by and with the advice and consent of the Senate (other than an individual in the Foreign Service of the United States), the complaint and statement referred to in paragraph (1) of this subsection, together with any response by the employee, shall be presented to the President for appropriate action in lieu of being presented under section 1207 of this title.

"(h) If the Special Counsel believes there is a pattern of prohibited personnel practices and such practices involve matters which are not otherwise appealable to the Board under section 7701 of this title, the Special Counsel may seek corrective action by filing a written complaint with the Board against the agency or employee involved and the Board shall order such corrective action as the Board determines necessary.

"(i) The Special Counsel may as a matter of right intervene or otherwise participate in any proceeding before the Merit Systems Protection Board, except that the Special Counsel shall comply with the rules of the Board and the Special Counsel shall not have any right of judicial review in connection with such intervention.

"(j) (1) The Special Counsel may appoint the legal, administrative, and support personnel necessary to perform the functions of the Special Counsel.

"(2) Any appointment made under this subsection shall comply with the provisions of this title, except that such appointment shall not be subject to the approval or supervision of the Office of Personnel Management or the Executive Office of the President (other than approval required under section 3324 or subchapter VIII of chapter 33 of this title).

"(k) The Special Counsel may prescribe regulations relating to the receipt and investigation of matters under the jurisdiction of the Special Counsel. Such regulations shall be published in the Federal Register.

"(l) The Special Counsel shall not issue any advisory opinion concerning any law, rule, or regulation (other than an advisory opinion concerning chapter 15 or subchapter III of chapter 73 of this title).

"(m) The Special Counsel shall submit an annual report to the Congress on the activities of the Special Counsel, including the number, types, and disposition of allegations of prohibited personnel practices filed with it, investigations conducted by it, and actions initiated by it before the Board, as well as a description of the recommendations and reports made by it to other agencies pursuant to this section, and the actions taken by the agencies as a result of the reports or recommendations. The report required by this subsection shall include whatever recommendations for legislation or other action by Congress the Special Counsel may deem appropriate.

"§ 1207. Hearings and decisions on complaints filed by the Special Counsel.

"(a) Any employee against whom a complaint has been presented to the Merit Systems Protection Board under section 1206(g) of this title is entitled to—

"(1) a reasonable time to answer orally and in writing and to furnish affidavits and other documentary evidence in support of the answer;

"(2) be represented by an attorney or other representative;

"(3) a hearing before the Board or an administrative law judge appointed under section 3105 of this title and designated by the Board;

"(4) have transcript kept of any hearing under paragraph (3) of this subsection; and

"(5) a written decision and reasons therefor at the earliest practicable date including a copy of any final order imposing disciplinary action.

"(b) A final order of the Board may impose disciplinary action consisting of removal, reduction in grade, debarment from Federal employment for a period not to exceed 5 years, suspension, reprimand, or an assessment of a civil penalty not to exceed $1,000.

"(c) There may be no administrative appeal from an order of the Board. An employee subject to a final order imposing disciplinary action under this section may obtain judicial review of the order in the United States court of appeals for the judicial circuit in which the employee resides or is employed at the time of the action.

"(d) In the case of any State or local office or employee under chapter 15 of this title, the Board shall consider the case in accordance with the provisions of such chapter.

"§ 1208. Stays of certain personnel actions

"(a) (1) The Special Counsel may request any member of the Merit Systems Protection Board to order a stay of any personnel action for 15 calendar days if the Special Counsel determines that there are reasonable grounds to believe that the personnel action was taken, or is to be taken, as a result of a prohibited personnel practice.

"(2) Any member of the Board requested by the Special Counsel to order a stay under paragraph (1) of this subsection shall order such stay unless the member determines that, under the facts and circumstances involved, such a stay would not be appropriate.

"(3) Unless denied under paragraph (2) of this subsection, any stay under this subsection shall be granted within 3 calendar days (excluding Saturdays, Sundays, and legal holidays) after the date of the request for the stay by the Special Counsel.

"(b) Any member of the Board may, on the request of the Special Counsel, extend the period of any stay ordered under subsection (a) of this section for a period of not more than 30 calendar days.

"(c) The Board may extend the period of any stay granted under subsection (a) of this section for any period which the Board considers appropriate, but only if the Board concurs in the determination of the Special Counsel under such paragraph, after an opportunity is provided for oral or written comment by the Special Counsel and the agency involved.

"§ 1209. Information

"(a) Notwithstanding any other provision of law or any rule, regulation or policy directive, any member of the Board, or any employee of the Board designated by the Board, may transmit to the Congress on the request of any committee or subcommittee thereof, by report, testimony, or otherwise, information and views on functions, responsibilities, or other matters relating to the Board, without review, clearance, or approval by any other administrative authority.

"(b) The Board shall submit an annual report to the President and the Congress on its activities, which shall include a description of significant actions taken by the Board to carry out its functions under this title. The report shall also review the significant action of the Office of Personnel Management, including an analysis of whether the actions of the Office of Personnel Management are in accord with merit system principles and free from prohibited personnel practices.".

(b) Any term of office of any member of the Merit Systems Protection Board serving on the effective date of this Act shall continue in effect until the term would expire under section 1102 of title 5, United States Code, as in effect immediately before the effective date of this Act, and upon expiration of the term, appointments to such office shall be made under sections 1201 and 1202 of title 5, United States Code (as added by this section).

(c) (1) Section 5314(17) of title 5, United States Code, is amended by striking out "Chairman of the United States Civil Service Commission" and inserting in lieu therof "Chairman of the Merit Systems Protection Board".

(2) Section 5315(66) of such title is amended by striking out "Members, United States Civil Service Commission" and inserting in lieu thereof "Members, Merit Systems Protection Board".

(3) Section 5315 of such title is further amended by adding at the end thereof the following new paragraph:

"(123) Special Counsel of the Merit Systems Protection Board.".

(4) Paragraph (99) of section 5316 of such title is hereby repealed.

(d) The table of chapters for part II of title 5, United States Code, is amended by inserting after the item relating to chapter 11 the following new item:

"12. Merit Systems Protection Board and Special Counsel ..... 1201"

PERFORMANCE APPRAISAL

SEC. 203. (a) Chapter 43 of title 5, United States Code, is amended to read as follows:

"CHAPTER 43—PERFORMANCE APPRAISAL

"SUBCHAPTER I—GENERAL PROVISIONS

"Sec.
"4301. Definitions.
"4302. Establishment of performance appraisal systems.
"4303. Actions based on unacceptable performance.
"4304. Responsibilities of Office of Personnel Management.
"4305. Regulations.

"§ 4301. Definitions

"For the purpose of this subchapter—

"(1) 'agency' means—

"(A) an Executive agency;

"(B) the Administrative Office of the United States Courts; and

"(C) the Government Printing Office; but does not include—

"(i) a Government corporation;

"(ii) the Central Intelligence Agency, the Defense Intelligence Agency, the National Security Agency, or any Executive Agency or unit thereof which is designated by the President and the principal function of which is the conduct of foreign intelligence or counterintelligence activities; or

"(iii) the General Accounting Office;

"(2) 'employee' means an individual employed in or under an agency, but does not include—

"(A) an employee outside the United States who is paid in accordance with local native prevailing wage rates for the area in which employed;

"(B) an individual in the Foreign Service of the United States;

"(C) a physician, dentist, nurse, or other employee in the Department of Medicine and Surgery, Veterans' Administration whose pay is fixed under chapter 73 of title 38;

"(D) an administrative law judge appointed under section 3105 of this title;

"(E) an individual in the Senior Executive Service;

"(F) an individual appointed by the President; or

"(G) an individual occupying a position not in the competitive service excluded from coverage of this subchapter by regulations of the Office of Personnel Management; and

"(3) 'unacceptable performance' means performance of an employee which fails to meet established performance standards in one or more critical elements of such employee's position.

"§ 4302. Establishment of performance appraisal systems

"(a) Each agency shall develop one or more performance appraisal systems which—

"(1) provide for periodic appraisals of job performance of employees;

"(2) encourage employee participation in establishing performance standards; and

"(3) use the results of performance appraisals as a basis for training, rewarding, reassigning, promoting, reducing in grade, retaining, and removing employees;

"(b) Under regulations which the Office of Personnel Management shall prescribe, each performance appraisal system shall provide for—

"(1) establishing performance standards which will, to the maximum extent feasible, permit the accurate evaluation of job performance on the basis of objective criteria (which may include the extent of courtesy demonstrated to the public) related to the job in question for each employee or position under the system;

"(2) as soon as practicable, but not later than October 1, 1981, with respect to initial appraisal periods, and thereafter at the beginning of each following appraisal period, communicating to each employee the performance standards and the critical elements of the employee's position;

"(3) evaluating each employee during the appraisal period on such standards;

"(4) recognizing and rewarding employees whose performance so warrants;

"(5) assisting employees in improving unacceptable performance; and

"(6) reassigning, reducing in grade, or removing employees who continue to have unacceptable performance but only after an opportunity to demonstrate acceptable performance.

"§ 4303. Actions based on unacceptable performance

"(a) Subject to the provisions of this section, an agency may reduce in grade or remove an employee for unacceptable performance.

"(b)(1) An employee whose reduction in grade or removal is proposed under this section is entitled to—

"(A) 30 days' advance written notice of the proposed action which identifies—

"(i) specific instances of unacceptable performance by the employee on which the proposed action is based; and

"(ii) the critical elements of the employee's position involved in each instance of unacceptable performance;

"(B) be represented by an attorney or other representative;

"(C) a reasonable time to answer orally and in writing; and

"(D) a written decision which—

"(i) in the case of a reduction in grade or removal under this section, specifies the instances of unacceptable performance by the employee on which the reduction in grade or removal is based, and

"(ii) unless proposed by the head of the agency, has been concurred in by an employee who is in a higher position than the employee who proposed the action.

"(2) An agency may, under regulations prescribed by the head of such agency, extend the notice period under subsection (b)(1)(A) of this section for not more than 30 days. An agency may extend the notice period for more than 30 days only in accordance with regulations issued by the Office of Personnel Management.

"(c) The decision to retain, reduce in grade, or remove an employee—

"(1) shall be made within 30 days after the date of expiration of the notice period, and

"(2) in the case of a reduction in grade or removal, may be based only on those instances of unacceptable performance by the employee—

"(A) which occurred during the 1-year period ending on the date of the notice under subsection (b)(1)(A) of this section in connection with the decision; and

"(B) for which the notice and other requirements of this section are complied with.

"(d) If, because of performance improvement by the employee during the notice period, the employee is not reduced in grade or removed, and the employee's performance continues to be acceptable for 1 year from the date of the advance written notice provided under subsection (b)(1)(A) of this section, any entry or other notation of the unacceptable performance for which the action was proposed under this section shall be removed from any agency record relating to the employee.

"(e) Any employee who is a preference eligible or is in the competitive service and who has been reduced in grade or removed under this section is entitled to appeal the action to the Merit Systems Protection Board under section 7701 of this title.

"(f) This section does not apply to—

"(1) the reduction to the grade previously held of a supervisor who has not completed the probationary period under section 3321(a)(2) of this title,

"(2) the reduction in grade or removal of an employee in the competitive service who is serving a probationary or trial period under an initial appointment or who has not completed 1 year of current continuous employment under other than a temporary appointment limited to 1 year or less, or

"(3) the reduction in grade or removal of an employee in the excepted service who has not completed 1 year of current continuous employment in the same or similar positions.

"§ 4304. Responsibilities of the Office of Personnel Management

"(a) The Office of Personnel Management shall make technical assistance available to agencies in the development of performance appraisal systems.

"(b)(1) The Office shall review each performance appraisal system developed by any agency under this section and determine whether the performance appraisal system meets the requirements of this subchapter.

"(2) The Comptroller General shall from time to time review on a selected basis performance appraisal systems estbalished under this subchapter to determine the extent to which any such system meets the requirements of this subchapter and shall periodically report its findings to the Office and to the Congress.

"(3) If the Office determines that a system does not meet the requirements of this subchapter (including regulations prescribed under section 4305), the Office shall direct the agency to implement an appropriate system or to correct operations under the system, and any such agency shall take any action so required.

"§ 4305. Regulations

"The Office of Personnel Management may prescribe regulations to carry out the purpose of this subchapter.".

(b) The item relating to chapter 43 in the chapter analysis for part III of title 5, United States Code, is amended by striking out "Performance Rating" and inserting in lieu thereof "Performance Appraisal".

ADVERSE ACTIONS

SEC. 204. (a) Chapter 75 of title 5, United States Code, is amended by striking out subchapters I, II, and III and inserting in lieu thereof the following:

"SUBCHAPTER I—SUSPENSION FOR 14 DAYS OR LESS

"§ 7501. Definitions

"For the purpose of this subchapter—

"(1) 'employee' means an individual in the competitive service who is not serving a probationary or trial period under an initial appointment or who has completed 1 year of current continuous employment in the same or similar positions under other than a temporary appointment limited to 1 year or less; and

"(2) 'suspension' means the placing of an employee, for disciplinary reasons, in a temporary status without duties and pay.

"§ 7502. Actions covered

"This subchapter applies to a suspension for 14 days or less, but does not apply to a suspension under section 7521 or 7532 of this title or any action initiated under section 1206 of this title.

"§ 7503. Cause and procedure

"(a) Under regulations prescribed by the Office of Personnel Management, an employee may be suspended for 14 days or less for such cause as will promote the efficiency of the service (including discourteous conduct to the public confirmed by an immediate supervisor's report of four such instances within any one-year period or any other pattern of discourteous conduct).

"(b) An employee against whom a suspension for 14 days or less is proposed is entitled to—

"(1) an advance written notice stating the specific reasons for the proposed action;

"(2) a reasonable time to answer orally and in writing and to furnish affidavits and other documentary evidence in support of the answer;

"(3) be represented by an attorney or other representative; and

"(4) a written decision and the specific reasons therefor at the earliest practicable date.

"(c) Copies of the notice of proposed action, the answer of the employee if written, a summary thereof if made orally, the notice of decision and reasons therefor, and any order effecting the suspension, together with any supporting material, shall be maintained by the agency and shall be furnished to the Merit Systems Protection Board upon its request and to the employee affected upon the employee's request.

"§ 7504. Regulations

"The Office of Personnel Management may prescribe regulations to carry out the purpose of this subchapter.

"SUBCHAPTER II—REMOVAL, SUSPENSION FOR MORE THAN 14 DAYS, REDUCTION IN GRADE OR PAY, OR FURLOUGH FOR 30 DAYS OR LESS

"§ 7511. Definitions; application

"(a) For the purpose of this subchapter—

"(1) 'employee' means—

"(A) an individual in the competitive service who is not serving a probationary or trial period under an initial appointment or who has completed 1 year of current continuous employment under other than a temporary appointment limited to 1 year or less; and

"(B) a preference eligible in an Executive agency in the excepted service, and a preference eligible in the United States Postal Service or the Postal Rate Commission, who has completed 1 year of current continuous service in the same or similar positions;

"(2) 'suspension' has the meaning as set forth in section 7501(2) of this title;

"(3) 'grade' means a level of classification under a position classification system;

"(4) 'pay' means the rate of basic pay fixed by law or administrative action for the position held by an employee; and

"(5) 'furlough' means the placing of an employee in a temporary status without duties and pay because of lack of work or funds or other nondisciplinary reasons.

"(b) This subchapter does not apply to an employee—

"(1) whose appointment is made by and with the advice and consent of the Senate;

"(2) whose position has been determined to be of a confidential, policy-determining, policy-making or policy-advocating character by—

"(A) the Office of Personnel Management for a position that it has excepted from the competitive service; or

"(B) the President or the head of an agency for a position which is excepted from the competitive service by statute.

"(c) The Office may provide for the application of this subchapter to any position or group of positions excepted from the competitive service by regulation of the Office.

"§ 7512. Actions covered

"This subchapter applies to—

"(1) a removal;

"(2) a suspension for more than 14 days;

"(3) a reduction in grade;

"(4) a reduction in pay; and

"(5) a furlough of 30 days or less;

but does not apply to—

"(A) a suspension of removal under section 7532 of this title,

"(B) a reduction in force action under section 3502 of this title,

"(C) the reduction-in-grade of a supervisor or manager who has not completed the probationary period under section 3321(a)(2) of this title if such reduction is to the grade held immediately before becoming such a supervisor or manager,

"(D) a reduction in grade or removal under section 4303 of this title, or

"(E) an action initiated under section 1206 or 7521 of this title.

"§ 7513. Cause and procedure

"(a) Under regulations prescribed by the Office of Personnel Management, an agency may take an action covered by this subchapter against an employee only for such cause as will promote the efficiency of the service.

"(b) An employee against whom an action is proposed is entitled to—

"(1) at least 30 days' advance written notice, unless there is reasonable cause to believe the employee has committed a crime for which a sentence of imprisonment may be imposed, stating the specific reasons for the proposed action;

"(2) a reasonable time, but not less than 7 days, to answer orally and in writing and to furnish affidavits and other documentary evidence in support of the answer;

"(3) be represented by an attorney or other representative; and

"(4) a written decision and the specific reasons therefor at the earliest practicable date.

"(c) An agency may provide, by regulation, for a hearing which may be in lieu of or in addition to the opportunity to answer provided under subsection (b)(2) of this section.

"(d) An employee against whom an action is taken under this section is entitled to appeal to the Merit Systems Protection Board under section 7701 of this title.

"(e) Copies of the notice of proposed action, the answer of the employee when written, a summary thereof when made orally, the note of decision and reasons therefor, and any order effecting an action covered by this subchapter, together with any supporting material, shall be maintained by the agency and shall be furnished to the Board upon its request and to the employee affected upon the employee's request.

"§ 7514. Regulations.

"The Office of Personnel Management may prescribe regulations to carry out the purpose of this subchapter, except as it concerns any matter with respect to which the Merit Systems Protection Board may prescribe regulations.".

"SUBCHAPTER III—ADMINISTRATIVE LAW JUDGES

"§ 7521. Actions against administrative law judges

"(a) An action may be taken against an administrative law judge appointed under section 3105 of this title by the agency in which the administrative law judge is employed only for good cause established and determined by the Merit Systems Protection Board on the record after opportunity for hearing before the Board.

"(b) The actions covered by this section are—

"(1) a removal;

"(2) a suspension;

"(3) a reduction in grade;

"(4) a reduction in pay; and

"(5) a furlough of 30 days or less;

but do not include—

"(A) a suspension or removal under section 7532 of this title;

"(B) a reduction-in-force action under section 3502 of this title; or

"(C) any action initiated under section 1206 of this title.".

(b) So much of the analysis for chapter 75 of title 5, United States Code, as precedes the items relating to subchapter IV is amended to read as follows:

"CHAPTER 75—ADVERSE ACTIONS

"SUBCHAPTER I—SUSPENSION OF 14 DAYS OR LESS

"Sec.

"7501. Definitions.

"7502. Actions covered.

"7503. Cause and procedure.

"7504. Regulations.

"SUBCHAPTER II—REMOVAL, SUSPENSION FOR MORE THAN 14 DAYS, REDUCTION IN GRADE OR PAY, OR FURLOUGH FOR 30 DAYS OR LESS

"7511. Definitions; application.

"7512. Actions covered.

"7513. Cause and procedure.

"7514. Regulations.

"SUBCHAPTER III—ADMINISTRATIVE LAW JUDGES

"7521. Actions against administrative law judges.".

APPEALS

SEC. 205. Chapter 77 of title 5, United States Code, is amended to read as follows:

"CHAPTER 77—APPEALS

"7701. Appellate procedures.

"7702. Actions involving discrimination.

"7703. Judicial review of decisions of the Merit Systems Protection Board.

"§ 7701. Appellate procedures

"(a) An employee, or applicant for employment, may submit an appeal to the Merit Systems Protection Board from any action which is appealable to the Board under any law, rule, or regulation. An appellant shall have the right—

"(1) to a hearing for which a transcript will be kept; and

"(2) to be represented by an attorney or other representative.

Appeals shall be processed in accordance with regulations prescribed by the Board.

"(b) The Board may hear any case appealed to it or may refer the case to an administrative law judge appointed under section 3105 of this title or other employee of the Board designated by the Board to hear such cases, except that in any case involving a removal from the service, the case shall be heard by the Board, an experienced appeals officer, or an administrative law judge. The Board, administrative law judge, or other employee (as the case may be) shall make a decision after receipt of the written representations of the parties to the appeal and after opportunity for a hearing under subsection (a)(1) of this section. A copy of the decision shall be furnished to each party to the appeal and to the Office of Personnel Management.

"(c)(1) Subject to paragraph (2) of this subsection, the decision of the agency shall be sustained under subsection (b) only if the agency's decision—

"(A) in the case of an action based on unacceptable performance described in section 4303 of this title, is supported by substantial evidence, or

"(B) in any other case, is supported by a preponderance of the evidence.

"(2) Notwithstanding paragraph (1), the agency's decision may not be sustained under subsection (b) of this section if the employee or applicant for employment—

"(A) shows harmful error in the application of the agency's procedures in arriving at such decision;

"(B) shows that the decision as based on any prohibited personnel practice described in section 2302(b) of this title; or

"(C) shows that the decision was not in accordance with law.

"(d)(1) In any case in which—

"(A) the interpretation or application of any civil service law, rule, or regulation, under the jurisdiction of the Office of Personnel Management is at issue in any proceeding under this section; and

"(B) the Director of the Office of Personnel Management is of the opinion that an erroneous decision would have a substantial impact on any civil service law, rule, or regulation under the jurisdiction of the Office:

the Director may as a matter of right intervene or otherwise participate in that proceeding before the Board. If the Director exercises his right to participate in a proceeding before the Board, he shall do so as early in the proceeding as practicable. Nothing in this title shall be construed to permit the Office to interfere with the independent decision-making of the Merit Systems Protection Board.

"(2) The Board shall promptly notify the Director whenever the interpretation of any civil service law, rule, or regulation under the jurisdiction of the Office is at issue in any proceeding under this section.

"(e)(1) Except as provided in section 7702 of this title, any decision under subsection (b) of this section shall be final unless—

"(A) a party to the appeal or the Director petitions the Board for review within 30 days after the receipt of the decision; or

"(B) the Board reopens and reconsiders a case on its own motion.

The Board, for good cause shown, may extend the 30-day period referred to in subparagraph (A) of this paragraph. One member of the Board may grant a petition or otherwise direct that a decision be reviewed by the full Board. The preceding sentence shall not apply if, by law, a decision of an administrative law judge is required to be acted upon by the Board.

"(2) The Director may petition the Board for a review under paragraph (1) of this subsection only if the Director is of the opinion that the decision is erroneous and will have a substantial impact on any civil service law, rule, or regulations under the jurisdiction of the Office.

"(f) The Board, or an administrative law judge or other employee of the Board designated to hear a case, may—

"(1) consolidate appeals filed by two or more appellants, or

"(2) join two or more appeals filed by the same appellant and hear and decide them concurrently,

if the deciding official or officials hearing the cases are of the opinion that the action could result in the appeals' being processed more expeditiously and would not adversely affect any party.

"(g)(1) Except as provided in paragraph (2) of this subsection, the Board, or an administrative law judge or other employee of the Board designated to hear a case, may require payment by the agency involved of reasonable attorney fees incurred by an employee or applicant for employment if the employee or applicant is the prevailing party and the Board, administrative law judge, or other employee, as the case may be, determines that payment by the agency is warranted in the interest of justice, including any case in which prohibited personnel practice was engaged in by the agency or any case in which the agency's action was clearly without merit.

"(2) If an employee or applicant for employment is the prevailing party and the decision is based on a finding of discrimination prohibited under section 2302(b)(1) of this title, the payment of attorney fees shall be in accordance with the standards prescribed under section 706k of the Civil Rights Act of 1964 (42 U.S.C. 2000e-5(k)).

"(h) The Board may, by regulation, provide for one or more alternative methods for settling matters subject to the appellate jurisdiction of the Board which shall be applicable at the election of an applicant for employment or of an employee who is not in a unit for which a labor organization is accorded exclusive recognition, and shall be in lieu of other procedures provided for under this section. A decision under such a method shall be final, unless the Board reopens and reconsiders a case at the request of the Office of Personnel Management under subsection (d) of this section.

"(i)(1) Upon the submission of any appeal to the Board under this section, the Board through reference to such categories of cases, or other means, as it determines appropriate, shall establish and announce publicly the date by which it intends to complete action on the matter. Such date shall assure, expeditious consideration of the appeal, consistent with the interests of fairness and other priorities of the Board. If the Board fails to complete action on the appeal by the announced date, and the expected delay will exceed 30 days, the Board shall publicly announce the new date by which it intends to complete action on the appeal.

"(2) Not later than March 1 of each year, the Board shall submit to the Congress a report describing the number of appeals submitted to it during the preceding calendar year, the number of appeals on which it completed action during the prior year, and the number of instances during the prior year in which it failed to conclude a proceeding by the date originally announced, together with an explanation of the reasons therefor.

"(3) The Board shall by rule, indicate any other category of significant Board action which the Board determines should be subject to the provisions of this subsection.

"(4) It shall be the duty of the Board, an administrative law judge, or employee designated by the Board to hear any proceeding under this section to expedite to the extent practicable that proceeding.

"(i) The Board may prescribe regulations to carry out the purpose of this section.

"§ 7702. Actions involving discrimination

"(a)(1) Notwithstanding any other provision of law, and except as provided in paragraph (2) of this subsection, in the case of any employee or applicant for employment who—

"(A) has been affected by an action which the employee may appeal to the Merit Systems Protection Board, and

"(B) alleges that a basis for the action was discrimination prohibited by—

"(i) section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-16c),

"(ii) section 6(d) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(d)),

"(iii) section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791),

"(iv) sections 12 and 15 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 631, 633a), or

"(v) any rule, regulation, or policy directive prescribed under any provision of law described in clauses (i) through (iv) of this subparagraph,

the Board shall, within 120 days of the filing of the appeal, decide both the issue of discrimination and the appealable action in accordance with the Board's appellate procedures under section 7701 of this title and this section.

"(2) In any matter before an agency which involves—

"(A) any action described in subsection (a)(1)(A) of this section; and

"(B) an issue of discrimination prohibited under any provision of law described in subsection (a)(1)(B) of this section;

the agency shall resolve such matter within 120 days. The decision of the agency in any such matter shall be a judicially reviewable action unless the employee appeals the matter to the Board under paragraph (1) of this subsection.

"(3) Any decision of the Board under paragraph (1) of this subsection shall be a judicially reviewable action as of—

"(A) the date of issuance of the decision if the employee does not file a petition with the Equal Employment Opportunity Commission under subsection (b)(1) of this section, or

"(B) the date the Commission determines not to consider the decision under subsection (b)(2) of this section.

"(b)(1) An employee may within 30 days after notice of the decision of the Board under subsection (a)(1) of this section, petition the Commission to consider the decision.

"(2) The Commission shall, within 30 days after the date of the petition, determine whether to consider the decision. A determination of the Commission not to consider the decision may not be used as evidence with respect to any issue of discrimination in any judicial proceeding concerning that issue.

"(3) If the Commission makes a determination to consider the decision, the Commission shall, within 60 days after the date of the determination, consider the entire record of the proceedings of the Board and, on the basis of the evidentiary record before the Board, as supplemented under paragraph (4) of this subsection, either—

"(A) concur in the decision of the Board; or

"(B) issue in writing another decision which differs from the decision of the Board to the extent that the Commission finds that, as a matter of law—

"(i) the decision of the Board constitute an incorrect interpretation of any provision of any law, rule, regulation, or policy directive referred to in subsection (a)(1)(B) of this section, or

"(ii) the decision involving such provision is not supported by the evidence in the record as a whole.

"(4) In considering any decision of the Board under this subsection, the Commission may refer the case to the Board, or provide on its own, for the taking (within such period as permits the Commission to make a decision within the 60-day period prescribed under this subsection) of additional evidence to the extent it considers necessary to supplement the record.

"(5)(A) If the Commission concurs pursuant to paragraph (3)(A) of this subsection in the decision of the Board, the decision and order of the Board shall be a judicially reviewable action.

"(B) If the Commission issues any decision under paragraph (3)(B) of this subsection, the Commission shall immediately refer the matter to the Board.

"(C) Within 30 days after receipt by the Board of the decision of the Commission under subsection (b)(5)(B) of this section, the Board shall consider the decision and—

"(1) concur and adopt in whole the decision of the Commission; or

"(2) to the extent that the Board finds that, as a matter of law, (A) the Commission decision constitutes an incorrect interpretation of any provision of any civil service law, rule, regulation or policy directive, or (B) the Commission decision involving such provision is not supported by the evidence in the record as a whole—

"(i) reaffirm the initial decision of the Board; or

"(ii) reaffirm the initial decision of the Board with such revisions as it determines appropriate.

If the Board takes the action provided under paragraph (1), the decision of the Commission shall be a judicially reviewable action.

"(d)(1) If the Board takes any action under subsection (c)(2) of this section, the matter shall be immediately certified to a special panel described in paragraph (6) of this section. Upon certification, the Board shall, within 5 days (excluding Saturdays, Sundays, and holidays), transmit to the special panel the administrative record in the proceeding, including—

"(A) the factual record compiled under this section,

"(B) the decisions issued by the Board and the Commission under this section, and

"(C) any transcript of oral arguments made, or legal briefs filed, before the Board or the Commission.

"(2)(A) The special panel shall, within 45 days after a matter has been certified to it, review the administrative record transmitted to it and, on the basis of the record, decide the issues in dispute and issue a final decision which shall be a judicially reviewable action.

"(B) The special panel shall give due deference to the respective expertise of the Board and Commission in making its decision.

"(3) The special panel shall refer its decision under paragraph (1) of this subsection and the Board shall order any agency to take any action appropriate to carry out the decision.

"(4) The special panel shall permit the employee or applicant who brought the complaint and the employing agency to appear before the panel to present oral arguments and to present written arguments with respect to the matter.

"(5) Upon application by the employee or applicant, the Commission may issue such interim relief as it determines appropriate to mitigate any exceptional hardship the employee or applicant might otherwise incur as a result of the certification of any matter under this subsection, except that the Commission may not stay, or order any agency to review on an interim basis, the action referred to in subsection (a)(1) of this subsection.

"(6)(A) Each time the Board takes any action under subsection (c)(2) of this section, a special panel shall be convened which shall consist of—

"(i) an individual appointed by the President, by and with the advice and consent of the Senate, to serve for a term of 6 years as chairman of the special panel each time it is convened;

"(ii) one member of the Board designated by the Chairman of the Board each time a panel is convened; and

"(iii) one member of the Commission designated by the Chairman of the Commission each time a panel is convened.

The chairman of the special panel may be removed by the President only for inefficiency, neglect of duty, or malfeasance in office.

"(B) The chairman is entitled to pay at a rate equal to the maximum annual rate of basic pay payable under the General Schedule for each day he is engaged in the performance of official business on the work of the special panel.

"(C) The Board and the Commission shall provide such administrative assistance to the special panel as may be necessary and, to the extent practicable, shall equally divide the costs of providing the administrative assistance.

"(e)(1) Notwithstanding any other provision of law, if at any time after—

"(A) the 120th day following the filing of any matter described in subsection (a)(2) of this section with an agency, there is no judicially reviewable action under this section or an appeal under paragraph (2) of this subsection.

"(B) the 120th day following the filing of an appeal with the Board under subsection (a)(1) of this section, there is no judicially reviewable action (unless such action is not final as the result of the filing of a petition by the employee under subsection (b)(1) of this section); or

"(C) the 180th day following the filing of a petition with the Equal Employment Opportunity Commission under subsection (b)(1) of this title, there is no final agency action under subsection (b), (c), or (4) of this section;

an employee shall be entitled to file a civil action in the same manner as provided in section 717(c) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-16(c)), 15(c) of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 633a(c)), or section 16(b) of the Fair Labor Standards Act of 1938 (29 U.S.C. 216(d)).

"(2) If at any time after the 120th day following the filing of any matter described in subsection (a)(2) of this section with an agency, there is no judicially reviewable action, the employee may appeal the matter to the Board under subsection (a)(1) of this section.

"(2) Nothing in this section shall be construed to affect the right to trial de novo under any provision of law described in subsection (a)(1) of this section after a judicially reviewable action, including the decision of an agency under subsection (a)(2) of this section.

"(f) in any case in which an employee is required to file any action under this section and the employee timely files the action, appeal, or petition with an agency other than the agency with which the action, appeal, or petition is to be filed, the employee shall be treated as having timely filed the action, appeal, or petition as of the date it is filed with the proper agency.".

"§ 7703. Judicial review of decisions of the Merit Systems Protection Board

"(a)(1) Any employee or applicant for employment adversely affected or aggrieved by a final order or decision of the Merit Systems Protection Board may obtain judicial review of the order or decision.

"(2) The Board shall be the named respondent in any proceeding brought pursuant to this subsection, unless the employee or applicant for employment seeks review of a final order or decision issued by the Board under section 7701. In review of a final order or decision issued under section 7701, the agency responsible for taking the action appealed to the Board shall be the named respondent.

"(d) The Director of the Office of Personnel Management may obtain review of any final order or decision of the Board by filing a petition for judicial review in the United States Court of Appeals for the District of Columbia if the Director determines, in his discretion, that the Board erred in interpreting a civil service law, rule, or regulation affecting personnel management and that the Board's decision will have a substantial impact on a civil service law, rule, regulation, or policy directive. If the Director did not intervene in a matter before the Board, the Director may not petition for review of a Board decision under this section unless the Director first petitions the Board for a reconsideration of its decision, and such petition is denied. In addition to the named respondent, the Board and all other parties to the proceedings before the Board shall have the right to appear in the proceeding before the Court of Appeals. The granting of the petition for judicial review shall be at the discretion of the Court of Appeals.".

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 206. Section 2342 of title 28, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (4),

(2) by striking out the period at the end of paragraph (5) and inserting in lieu thereof "; and", and

(3) by adding at the end thereof the following new paragraph:

"(6) all final orders of the Merit Systems Protection Board except as provided for in section 7703(b) of title 5.".

"(b)(1) Except as provided in paragraph (2) of this subsection, a petition to review a final order or final decision of the Board shall be filed in the Court of Claims or a United States court of appeals as provided in chapters 91 and 158, respectively, of title 28. Notwithstanding any other provision of law, any petition for review must be filed within 30 days after the date the petitioner received notice of the final order or decision of the Board.

"(2) Cases of discrimination subject to the provisions of section 7702 of this title shall be filed under section 717(c) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-16(c)), section 15(c) of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 633a(c)), and section 16(b) of the Fair Labor Standards Act of 1938, as amended (29 U.S.C. 216(b)), as applicable. Notwithstanding any other provision of law, any such case filed under any such section must be filed within 30 days after the date the individual filing the case received notice of the judicially reviewable action under section 7702.

"(c) In any case filed in the United States Court of Claims or a United States court of appeals, the court shall review the record and hold unlawful and set aside any agency action, findings, or conclusions found to be—

"(1) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law;

"(2) obtained without procedures required by law, rule, or regulation having been followed; or

"(3) unsupported by substantial evidence; except that in the case of discrimination brought under any section referred to in subsection (b)(2) of this section, the employee or applicant shall have the right to have the facts subject to trial de novo by the reviewing court.

TITLE III—STAFFING

VOLUNTEER SERVICE

SEC. 301. (a) Chapter 31 of title 5, United States Code, is amended by adding at the end thereof the following new section:

"§ 3111. Acceptance of volunteer service

"(a) For the purpose of this section, 'student' means an individual who is enrolled, not less than half-time, in a high school, trade school, technical or vocational institute, junior college, college, university, or comparable recognized educational institution. An individual who is a student is deemed not to have ceased to be a student during an interim between school years if the interim is not more than 5 months and if such individual shows to the satisfaction of the Office of Personnel Management that the individual has a bona fide intention of continuing to pursue a course of study or training in the same or different educational institution during the school semester (or other period into which the school year is divided) immediately after the interim.

"(b) Notwithstanding section 3679(b) of the Revised Statutes (31 U.S.C. 665(b)), the head of an agency may accept, subject to regulations issued by the Office, voluntary service for the United States if the service—

"(1) is performed by a student, with the permission of the institution at which the student is enrolled, as part of an agency program established for the purpose of providing educational experiences for the student;

"(2) is to be uncompensated; and

"(3) will not be used to displace any employee.

"(c) Any student who provides voluntary service under subsection (b) of this section shall not be considered a Federal employee for any purpose other than for purposes of chapter 81 of this title (relating to compensation for injury) and sections 2671 through 2680 of title 28 (relating to tort claims).".

(b) The analysis of chapter 31 of title 5, United States Code, is amended by adding at the end thereof the following new item:

"3111. Acceptance of volunteer service.".

INTERPRETING ASSISTANTS FOR DEAF EMPLOYEES

SEC. 302. (a) Section 3102 of title 5, United States Code, is amended—

(1) by redesignating paragraph (4) of subsection (a) as paragraph (5), by striking out "and" at the end of paragraph (3), and inserting after paragraph (3) the following new paragraph (4):

"(4) 'deaf employee' means an individual employed by an agency who, in accordance with regulations prescribed by the head of the agency, establishes to the satisfaction of the appropriate authority of the agency concerned that the employee has a hearing impairment, either permanent or temporary, so severe or disabling that the employment of an interpreting assistant or assistants for the employee is necessary or desirable to enable such employee to perform the work of the employee; and":

(2) in subsection (b), by inserting "and interpreting assistant or assistants for a deaf employee" after "or assistants for a blind employee", and amending the last sentence to read as follows: "A reading assistant or an interpreting assistant, other than the one employed or assigned under subsection (d) of this section, may receive pay for services performed by the assistant by and from the blind or deaf employee or a nonprofit organization," without regard to section 209 of title 18.";

(3) in subsection (c), by inserting "or deaf" after "blind"; and

(4) by inserting at the end thereof the following new subsection:

"(d) The head of each agency may also employ or assign, subject to section 209 of title 18 and to the provisions of this title governing appointment and chapter 51 and subchapter III of chapter 53 of this title governing classification and pay, such reading assistants for blind employees and such interpreting assistants for deaf employees as may be necessary to enable such employees to perform their work.".

(b)(1) The analysis of chapter 31 of title 5, United States Code, is amended by striking out the item relating to section 3102 and inserting in lieu thereof the following:

"3102. Employment of reading assistants for blind employees and interpreting assistants for deaf employees.".

(2) The heading for section 3102 of title 5, United States Code, is amended to read as follows:

"§ 3102. Employment of reading assistants for blind employees and interpreting assistants for deaf employees".

(c) Section 410(b)(1) of title 39, United States Code, is amended by inserting after "open meetings)" a comma and "3102 (employment of reading assistants for blind employees and interpreting assistants for deaf employees),".

PROBATIONARY PERIOD

SEC. 303(a). Section 3321 of title 5, United States Code, is amended to read as follows:

"§ 3321. Competitive service; probationary period

"(a) The President may take such action, including the issuance of rules, regulations, and directives, as shall provide, as nearly as conditions of good administration warrant for a period of probation—

"(1) before an appointment in the competitive service becomes final; and

"(2) before initial appointment as a supervisor or manager becomes final.

"(b) An individual—

"(1) who has been transferred, assigned, or promoted from a position to a supervisory or managerial position, and

"(2) who does not satisfactorily complete the probationary period under subsection (a)(2) of this section.

shall be returned to a position of no lower grade and pay than the position from which the individual was transferred, assigned, or promoted. Nothing in this section prohibits an agency from taking an action against an individual serving a probationary period under subsection (a)(2) of this section for cause unrelated to supervisory or managerial performance.

"(c) Subsection (a) and (b) of this section shall not apply with respect to appointments in the Senior Executive Service.".

(b) The item in the analysis for chapter 33 of title 5, United States Code, is amended to read as follows:

"3321. Competitive service; probationary period.".

TRAINING

SEC. 304. Section 4103 of title 5, United States Code, is amended by inserting "(a)" before "In order to increase" and by adding at the end thereof the following new subsection:

"(b)(1) Notwithstanding any other provision of this chapter, an agency may train any employee of the agency to prepare the employee for placement in another agency if the head of the agency determines that the employee will otherwise be separated under conditions which would entitle the employee to severance pay under section 5595 of this title.

"(2) Before undertaking any training under this subsection, the head of the agency shall obtain verification from the Office of Personnel Management that there exists a reasonable expectation of placement in another agency.

"(3) In selecting an employee for training under this subsection, the head of the agency shall consider—

"(A) the extent to which the current skills, knowledge, and abilities of the employee may be utilized in the new position;

"(B) the employee's capability to learn skills and acquire knowledge and abilities needed in the new position; and

"(C) the benefits to the Government which would result from retaining the employee in the Federal service.".

TRAVEL, TRANSPORTATION, AND SUBSISTENCE

SEC. 305. Section 5723(d) of title 5, United States Code, is amended by striking out "not".

RETIREMENT

SEC. 306. Section 8336(d)(2) of title 5, United States Code, is amended to read as follows:

"(2) voluntarily, during a period when the agency in which the employee is serving is undergoing a major reorganization, a major reduction in force, or a major transfer of function, as determined by the Office of Personnel Management, and the employee is serving in a geographic area designated by the Office;".

VETERANS AND PREFERENCE ELIGIBLES

SEC. 307. (a) Effective begininng October 1, 1980, section 2108 of title 5, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (2);

(2) by inserting in paragraph (3) after "means" the following: ", except as provided in paragraph (4) of this section";

(3) by striking out the period at the end of paragraph (3) and inserting in lieu thereof a semicolon; and

(4) by adding at the end thereof the following new paragraphs:

"(4) except for the purposes of chapters 43 and 75 of this title, 'preference eligible' does not include a retired member of the armed forces unless—

"(A) the individual is a disabled veteran; or

"(B) the individual retired below the rank of major or its equivalent; and

"(5) 'retired member of the armed forces' means a member or former member of the armed forces who is entitled, under statute, to retired, retirement, or retainer pay on account of service as a member.".

(b)(1) Chapter 31 of title 5, United States Code, is amended by adding at the end thereof the following new section:

"§ 3112. Disabled veterans; noncompetitive appointment

"Under such regulations as the Office of Personnel Management shall prescribe, an agency may make a noncompetitive appointment leading to conversion to career or career-conditional employment of a disabled veteran who has a compensable service-connected disability of 30 percent or more."

(2) The Director of the Office of Personnel Management shall include in the reports required by section 2014(d) of title 38, United States Code, the same type of information regarding the use of the authority provided in section 3112 of title 5, United States Code (as added by paragraph (1) of this subsection), as is required by such section 2014 with respect to the use of the authority to make veterans readjustment appointments.

The analysis of chapter 31 of title 5, United States Code, is amended by adding at the end thereof the following new item:

"3112. Disabled veterans; noncompetitive appointment.".

(c) Section 3312 of title 5, United States Code, is amended—

(1) by inserting "(a)" before "In"; and

(2) by adding at the end thereof the following new subsection:

"(b) If an examining agency determines that, on the basis of evidence before it, a preference eligible under section 2108(3)(C) of this title who has a compensable service-connected disability of 30 percent or more is not able to fulfill the physical requirements of the position, the examining agency shall notify the Office of the determination and, at the same time. the examining agency shall notify the preference eligible of the reason for the determination and of the right to respond, within 15 days of the date of the notification, to the Office. The Office shall require a demonstration by the appointing authority that the notification was timely sent to the preference eligible's last known address and shall, before the selection of any other person for the position, make a final determination on the physical ability of the preference eligible to perform the duties of the position, taking into account any additional information provided in any such response. When the Office has completed its review of the proposed disqualification on the basis of physical disability, it shall send its findings to the appointing authority and the preference eligible. The appointing authority shall comply with the findings of the Office. The functions of the Office under this subsection may not be delegated.".

(d) Section 3318(b) of title 5, United States Code, is amended to read as follows:

"(b)(1) If an appointing authority proposes to pass over a preference eligible on a certificate in order to select an individual who is not a preference eligible, such authority shall file written reasons with the Office for passing over the preference eligible. The Office shall make the reasons presented by the appointing authority part of the record of the preference eligible and may require the submission of more detailed information from the appointing authority in support of the passing over of the preference eligible. The Office shall determine the sufficiency or insufficiency of the reason submitted by the appointing authority, taking into account any response received from the preference eligible under paragraph (2) of this subsection. When the Office has completed its re-

view of the proposed passover, it shall send its findings to the appointing authority and to the preference eligible. The appointing authority shall comply with the findings of the Office.

"(2) In the case of a preference eligible described in section 2108(3)(C) of this title who has a compensable service-connected disability of 30 percent or more, the appointing authority shall at the same time it notifies the Officer under paragraph (1) of this subsection, notify the preference eligible of the proposed passover, of the reasons therefor, and of his right to respond to such reasons to the Office within 15 days of the date of such notification. The Office shall, before completing its review under paragraph (1) of this subsection, require a demonstration by the appointing authority that the passover notification was timely sent to the preference eligible's last known address.

"(3) A preference eligible not described in paragraph (2) of this subsection, or his representative, shall be entitled, on request, to a copy of—

"(A) the reasons submitted by the appointing authority in support of the proposed passover, and

"(B) the findings of the Office.

"(4) In the case of a preference eligible described in paragraph (2) of this subsection, the functions of the Office under this subsection may not be delegated.".

(e) Section 3502 of title 5, United States Code, is amended by striking out subsection (b) and inserting in lieu thereof the following new subsections:

"(b) A preference eligible described in section 2108(3)(C) of this title who has a compensable service-connected disability of 30 percent or more and whose performance has not been rated unacceptable under a performance appraisal system implemented under chapter 43 of this title is entitled to be retained in preference to other preference eligibles.

"(c) An employee who is entitled to retention preference and whose performance has not been rated unacceptable under a performance appraisal system implemented under chapter 43 of this title is entitled to be retained in preference to other competing employees.'.

(f) Section 3503 of title 5, United States Code, is amended by striking out in subsection (a) and (b) "each preference eligible employed" and inserting in lieu thereof "each competing employee" both places it appears.

(g) Section 3504 of title 5, United States Code, is amended—

(1) by inserting "(a)" before "In"; and

(2) by adding at the end thereof the following new subsection:

"(b) If an examining agency determines that, on the basis of evidence before it, a preference eligible described in section 2108(3)(C) of this title who has a compensable service-connected disability of 30 percent or more is not able to fulfill the physical requirements of the position, the examining agency shall notify the Office of the determination and, at the same time, the examining agency shall notify the preference eligible of the reasons for the determination and of the right to respond, within 15 days of the date of the notification, to the Office. The Office shall require a demonstration by the appointing authority that the notification was timely sent to the preference eligible's last known address and shall, before the selection of any other person for the position, make a final determination on the physical ability of the preference eligible to perform the duties of the position, taking into account any additional information provided in the response. When the Office has completed its review of the proposed disqualification on the basis of physical disability, it shall send its findings to the appointing authority and the preference eligible. The appointing authority shall comply with the findings of the Office. The functions of the Office under this subsection may not be delegated.".

(h)(1) Section 3319 of chapter 33 of title 5, United States Code, is repealed.

(2) The analysis for chapter 33 of title 5, United States Code, is amended by striking out the item relating to section 3319.

DUAL PAY FOR RETIRED MEMBERS OF THE UNIFORMED SERVICES

SEC. 308. (a) Section 5532 of title 5, United States Code, relating to retired officers of the uniformed services, is amended by redesignating subsections (c) and (d) as subsections (d) and (e) and by inserting after subsection (b) the following:

"(c)(1) If any member or former member of a uniformed service is receiving retired or retainer pay and is employed in a position the annual rate of basic pay for which, when combined with the member's annual rate of retired or retainer pay (reduced as provided under subsection (b) of this section), exceeds the rate of basic pay then currently paid for level V of the Executive Schedule, such member's retired or retainer pay shall be reduced by an amount computed under paragraph (2) of this subsection. The amounts of the reductions shall be deposited to the general fund of the Treasury of the United States.

"(2) The amount of each reduction under paragraph (1) of this subsection allocable for any pay period in connection with employment in a position shall be equal to the retired or retainer pay allocable to the pay period (reduced as provided under subsection (b) of this section), except that the amount of the reduction may not result in—

"(A) the amount of retired or retainer pay allocable to the pay period after being reduced, when combined with the basic pay for the employment during the pay period, being at a rate less than the rate of basic pay then currently paid for level V of the Executive Schedule; or

"(B) the amount of retired pay or retainer pay being reduced to an amount less than the amount deducted from the retired or retainer pay as a result of participation in any surivivor's benefits in connection with the retired or retainer pay or veterans insurance programs.".

(b) Section 5531 of title 5, United States Code, is amended—

(1) by striking out paragraph (1) and inserting in lieu thereof the following:

"(1) 'member' has the meaning given such term by section 101(23) of title 37;";

(2) by striking out the period at the end of paragraph (2) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(3) 'retired or retainer pay' means retired pay, as defined in section 8311(3) of this title, determined without regard to subparagraphs (B) through (D) of such section 8311(3); except that such term does not include an annuity payable to an eligible beneficiary of a member or former member of a uniformed service under chapter 73 of title 10.".

(c) Section 5532(d) of title 5, United States Code, as amended by subsection (a), is amended—

(1) by striking out "subsection (b) of";

(2) by striking out "or retirement" each place it appears and inserting in lieu thereof "or retainer";

(3) by striking out "a retired officer of a regular component of a uniformed service" and inserting in lieu thereof "a member or former member of a uniformed service who is receiving retired or retainer pay"; and

(4) in paragraph (1), by striking out "whose retirement was" and inserting in lieu thereof "whose retired or retainer pay is computed, in whole or in part.".

(d) Section 5532(e) of title 5, United States Code, as amended by subsection (a), is amended to read as follows:

"(d) The Office of Personnel Management may, during the 5-year period after the effective date of the Civil Service Reform Act of 1978 authorize exceptions to the restrictions in subsections (a), (b), and (c) of this section only when necessary to meet special or emergency employment needs which result from a severe shortage of well qualified candidates in positions of medical officers which otherwise cannot be readily met. An exception granted by the office with respect to any individual shall terminate upon a break in service of 3 days or more.".

(e) Section 5532(b) of title 5, United States Code, is amended by striking out "or retirement" each place it appears and inserting in lieu thereof "or retainer".

(f)(1) The heading for section 5532 of title 5, United States Code, is amended to read as follows:

"§ 5532. Employment of retired members of the uniformed services; reduction in retired or retainer pay".

(2) The item relating to section 5532 in the table of sections for chapter 55 of title 5, United States Code, is amended to read as follows:

"5532. Employment of retired members of the uniformed services; reduction in retired or retainer pay.".

(g)(1) Except as provided in paragraph (2) of this subsection, the amendments made by this section shall apply only with respect to pay periods beginning after the effective date of this Act and only with respect to members of the uniformed services who first receive retired or retainer pay (as defined in section 5531(3) of title 5, United States Code (as amended by this section)), after the effective date of this Act.

(2) Such amendments shall not apply to any individual employed in a position on the date of the enactment of this Act so long as the individual continues to hold any such position (disregarding any break in service of 3 days or less), if the individual, on that date, would have been entitled to retired or retainer pay but for the fact the individual does not satisfy any applicable age requirement.

(3) The provisions of section 5532 of title 5, United States Code, as in effect immediately before the effective date of this Act shall apply with respect to any retired officer of a regular component of the uniformed service who is receiving retired pay on or before such date, or any individual to whom paragraph (1) applies, in the same manner and to the same extent as if the preceding subsections of this section had not been enacted.

Civil Service Employment Information

SEC. 309. (a) Chapter 33 of title 5, United States Code, is amended by adding at the end thereof the following new section:

"§ 3327. Civil service employment information

"(a) The Office of Personnel Management shall provide that information concerning opportunities to participate in competitive examinations conducted by, or under authority delegated by, the Office of Personnel Management shall be made available to the employment offices of the United States Employment Service.

"(b) Subject to such regulations as the Office may issue, each agency shall promptly notify the Office and the employment offices of the United States Employment Service of—

"(1) each vacant position in the agency which is in the competitive service or the Senior Executive Service and for which the

agency seeks applications from persons outside the Federal service, and

"(2) the period during which applications will be accepted.

As used in this subsection, 'agency' means an agency as defined in section 5102(a)(1) of this title other than an agency all the positions in which are excepted by statute from the competitive service."

(b) The table of sections for chapter 33 of title 5, United States Code, is amended by inserting after the item relating to section 3326 the following new item:

"3327. Civil service employment information."

MINORITY RECRUITMENT PROGRAM

SEC. 310. Section 7151 of title 5, United States Code, is amended—

(1) by striking out the section heading and inserting in lieu thereof the following:

"§ 7151. Antidiscrimination policy; minority recruitment program";

(2) by inserting after such section heading the following new subsection:

"(a) For the purpose of this section—

"(1) 'underrepresentation' means a situation in which the number of members of a minority group designation (determined by the Equal Employment Opportunity Commission in consultation with the Office of Personnel Management, on the basis of the policy set forth in subsection (b) of this section) within a category of civil service employment constitutes a lower percentage of the total number of employees within the employment category than the percentage that the minority constituted within the labor force of the United States, as determined under the most recent decennial or mid-decade census, or current population survey, under title 13, and

"(2) 'category of civil service employment' means—

"(A) each grade of the General Schedule described in section 5104 of this title;

"(B) each position subject to subchapter IV of chapter 53 of this title;

"(C) such occupational, professional, or other groupings (including occupational series) within the categories established under subparagraphs (A) and (B) of this paragraph as the Office determines appropriate.";

(3) by inserting "(b)" before "It is the policy"; and

(4) by adding at the end thereof the following new subsection:

"(c) Not later than 180 days after the date of the enactment of the Civil Service Reform Act of 1978, the Office of Personnel Management shall, by regulation, implement a minority recruitment program which shall provide, to the maximum extend practicable—

"(1) that each Executive agency conduct a continuing program for the recruitment of members of minorities for positions in the agency to carry out the policy set forth in subsection (b) in a manner designed to eliminate underrepresentation of minorities in the various categories of civil service employment within the Federal service, with special efforts directed at recruiting in minority communities, in educational institutions, and from other sources from which minorities can be recruited; and

"(2) that the Office conduct a continuing program of—

"(A) assistance to agencies in carrying out programs under paragraph (1) of this subsection, and

"(B) evaluation and oversight of such recruitment programs to determine their effectiveness in eliminating such minority underrepresentation.

"(d) Not later than 60 days after the date of the enactment of the Civil Service Reform Act of 1978, the Equal Employment Opportunity Commission shall—

"(1) establish the guidelines proposed to be used in carrying out the program required under subsection (c) of this section; and

"(2) make determinations of underrepresentation which are proposed to be used initially under such program; and

"(3) transmit to the Executive agencies involved, to the Office of Personnel Management, and to the Congress the determinations made under paragraph (2) of this subsection.

"(e) Not later than January 31 of each year, the Office shall prepare and transmit to each House of the Congress a report on the activities of the Office and of Executive agencies under subsection (c) of this section, including the affirmative action plans submitted under section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–16), the personnel data file maintained by the Office of Personnel Management, and any other data necessary to evaluate the effectiveness of the program for each category of civil service employment and for each minority group designation, for the preceding fiscal year, together with recommendations for administrative or legislative action the Office considers appropriate.".

TEMPORARY EMPLOYMENT LIMITATION

SEC. 311. (a) The total number of civilian employees in the executive branch, on September 30, 1979, on September 30, 1980, and on September 30, 1981, shall not exceed the number of such employees on September 30, 1977.

(b)(1) For the purpose of this section, "civilian employees in the executive branch" means all civilian employees within the executive branch of the Government (other than in the United States Postal Service or the Postal Rate Commission), whether employed on a full-time, part-time, or intermittent basis and whether employed on a direct hire or indirect hire basis.

(2)(A) Such term does not include individuals participating in special employment programs established for students and disadvantaged youth.

(B) The total number of individuals participating in such programs shall not at any time exceed 60,000.

(c) In applying the limitation of subsection (a)—

(1) part-time civilian employees in excess of the number of part-time civilian employees in the executive branch employed on September 30, 1977, may be counted as a fraction which is determined by dividing 40 hours into the average number of hours of such employees' regulatory scheduled workweek; and

(2) the number of civilian employees in the executive branch on September 30, 1977, shall be determined on the basis of the number of such employees as set forth in the Monthly Report of Civilian Employment published by the Civil Service Commission.

(d)(1) The provisions of this section shall not apply during a time of war or during a period of national emergency declared by the Congress or the President.

(2)(A) Subject to the limitation of subparagraph (B) of this paragraph, the President may authorize employment of civilian employees in excess of the limitation of subsection (a) if he deems that such action is necessary in the public interest.

(B) The President may not, under this paragraph, increase the maximum number of civilian employees in the executive branch by more than the percentage increase of the population of the United States since September 30, 1978, as estimated by the Bureau of the Census.

(e) The President shall provide that no increase occurs in the procurement of personal services by contract by reason of the enactment of this section except in cases in which it is to the financial advantage of the Government to do so.

(f) The President shall prescribe regulations to carry out the purposes of this section.

(g) The provisions of this section shall terminate on January 31, 1981.

TITLE IV—SENIOR EXECUTIVE SERVICE

GENERAL PROVISIONS

SEC. 401. (a) Chapter 21 of title 5, United States Code, is amended by inserting after section 2101 the following new section:

"§ 2101a. The Senior Executive Service

"The 'Senior Executive Service' consists of Senior Executive Service positions (as defined in section 3132(a)(2) of this title).".

(b) Section 2102(a)(1) of title 5, United States Code, is amended—

(1) by striking out "and" at the end of subparagraph (A);

(2) by adding "and" at the end of subparagraph (B); and

(3) by adding at the end thereof the following new subparagraph:

"(C) positions in the Senior Executive Service;".

(c) Section 2103(a) of title 5, United States Code, is amended by inserting before the period at the end thereof the following: "or the Senior Executive Service".

(d) Section 2108(5) of title 5, United States Code (as amended in section 307 of this Act), is further amended—

(1) by striking out the period at the end thereof and inserting in lieu thereof a semicolon; and

(2) by adding at the end thereof the following:

"but does not include applicants for, or members of, the Senior Executive Service.".

(e) The analysis for chapter 21 of title 5, United States Code, is amended by inserting after the item relating to section 2101 the folowing new item:

"210d. The Senior Executive Service.".

AUTHORITY FOR EMPLOYMENT

SEC. 402. (a) Chapter 31 of title 5, United States Code, is amended by inserting after section 3112 (as added by section 307(a) of this Act), the following new subchapter:

SUBCHAPTER II—THE SENIOR EXECUTIVE SERVICE

"§ 3131. The Senior Executive Service

"(a) It is the purpose of this subchapter to establish a Senior Executive Service to ensure that the executive management of the Government of the United States is responsive to the needs, policies, and goals of the Nation and otherwise is of the highest quality. The Senior Executive Service shall be administered so as to—

"(1) provide for a compensation system, including salaries, benefits, and incentives, and for other conditions of employment, designed to attract and retain highly competent senior executives;

"(2) ensure that compensation, retention, and tenure are contingent on executive success which is measured on the basis of individual and organizational performance (including such factors as improvements in efficiency, productivity, quality of work or service, cost efficiency, and timeliness of performance and success in meeting equal employment opportunity goods);

"(3) assure that senior executives are accountable and responsible for the effectiveness and productivity of employees under them;

"(4) recognize exceptional accomplishment;

"(5) enable the head of an agency to reassign senior executives to best accomplish the agency's mission;

"(6) provide for severance pay, early retirement benefits, and placement assistance for senior executives who are removed from the Senior Executive Service for nondisciplinary reasons;

"(7) protect senior executives from arbitrary or capricious actions;

"(8) provide for program continuity and policy advocacy in the management of public programs;

"(9) maintain a merit personnel system free of prohibited personnel practices;

"(10) ensure accountability for honest, economical, and efficient Government;

"(11) ensure compliance with all applicable civil service laws, rules, and regulations, including those relating to equal employment opportunity, political activity, and conflict of interest;

"(12) provide for the initial and continuing systematic development of highly competent senior executives;

"(13) provide for an executive system which is guided by the public interest and free from improper political interference; and

"(14) appoint career executives to fill Senior Executive Service positions to the extent practicable, consistent with the effective and official implementation of agency policies and responsibilities.

"§ 3132. Definitions and exclusions

"(a) For the purpose of this subchapter—

"(1) 'agency' means an Executive agency, except a Government corporation and the General Accounting Office, but does not include—

"(A) any agency or unit thereof excluded from coverage by the President under subsection (c) of this section; or

"(B) the Federal Bureau of Investigation, the Central Intelligence Agency, the Defense Intelligence Agency, the National Security Agency, any positions in the Drug Enforcement Administration which are excluded from the competitive service under section 201 of the Crime Control Act of 1976 (90 Stat. 2425), and, as determined by the President, an Executive agency, or unit thereof, whose principal function is the conduct of foreign intelligence or counterintelligence activities;

"(2) 'Senior Executive Service position' means any position (other than a position in the Foreign Service of the United States or an administrative law judge position under section 3105 of this title) in an agency which is in GS–16, 17, or 18 of the General Schedule or in level IV or V of the Executive Schedule, or an equivalent position, which is not required to be filled by an appointment by the President by and with the advice and consent of the Senate, and in which an employee—

"(A) directs the work of an organizational unit;,

"(B) is held accountable for the success of one or more specific programs or projects;

"(C) monitors progress toward organizational goals and periodically evaluates and makes appropriate adjustments to such goals;

"(D) supervises the work of employees other than personal assistants; or

"(E) otherwise exercises important policymaking, policy-determining, or other executive functions;

But does not include—

"(i) any position in the Foreign Service of the United States;

"(ii) an administrative law judge position under section 3105 of this title; or

"(iii) any position in the Drug Enforcement Administration which is excluded from the competitive service under section 201 of the Crime Control Act of 1976 (5 U.S.C. 5108 note; 90 Stat. 2425).

"(3) 'senior executive' means a member of the Senior Executive Service;

"(4) 'career appointee' means an individual in a Senior Executive Service position whose appointment to the position or previous appointment to another Senior Executive Service position was based on approval by the Office of Personnel Management of the executive qualifications of such individual;

"(5) 'limited term appointee' means an individual appointed under a nonrenewable appointment for a term of 3 years or less to a Senior Executive Service position the duties of which will expire at the end of such term;

"(6) 'limited emergency appointee' means an individual appointed under a nonrenewable appointment, not to exceed 18 months, to a Senior Executive Service position established to meet a bona fide, unanticipated, urgent need;

"(7) 'noncareer appointee' means an individual in a Senior Executive Service position who is not a career appointee, a limited term appointee, or a limited emergency appointee;

"(8) 'career reserved position' means a position which is required to be filled by a career appointee and which is designated under subsection (b) of this section; and

"(9) 'general position' means any position, other than a career reserved position, which may be filled by either a career appointee, noncareer appointee, limited emergency appointee, or limited term appointee.

"(b)(1) For the purpose of paragraph (8) of subsection (a) of this section, the Office shall prescribe the criteria and regulations governing the designation of career reserved positions. The criteria and regulations shall provide that a position shall be designated as a career reserved position only if the filling of the position by a career appointee is necessary to ensure impartiality, or the public's confidence in the impartiality, of the Government. The head of each agency shall be responsible for designating career reserved positions in such agency in accordance with such criteria and regulations.

"(2) The Office shall periodically review general positions to determine whether the positions should be designated as career reserved. If the Office determines that any such position should be so designated, it shall order the agency to make the designation.

"(3) Notwithstanding the provisions of any other law, any position to be designated as a Senior Executive Service position (except a position in the Executive Office of the President) which—

"(A) is under the Executive Schedule, or for which the rate of basic pay is determined by reference to the Executive Schedule, and

"(B) on the day before the date of the enactment of the Civil Service Reform Act of 1978 was specifically required under section 2102 of this title or otherwise required by law, to be in the competitive service,

shall be designated as a career reserved position if the position entails direct responsibility to the public for the management or operation of particular government programs or functions.

"(4) Not later than March 1 of each year, the head of each agency shall publish in the Federal Register a list of positions in the agency which were career reserved positions during the preceding calendar year.

"(c) An agency may file an application with the Office setting forth reasons why it, or a unit thereof, should be excluded from the coverage of this subchapter. The Office shall—

"(1) review the application and stated reasons,

"(2) undertake a review to determine whether the agency or unit should be excluded from the coverage of this subchapter and

"(3) upon completion of its review, recommend to the President whether the agency or unit should be excluded from the coverage of this subchapter.

If the Office recommends that an agency or unit thereof be excluded from the coverage of this subchapter, the President may, on written determination, make the exclusion for the period determined by the President to be appropriate.

"(d) Any agency or unit which is excluded from coverage under subsection (c) of this section shall make a sustained effort to bring its personnel system into conformity with the Senior Executive Service to the extent practicable.

"(e) The Office may at any time recommend to the President that any exclusion previously granted to an agency or unit thereof under subsection (c) of this section be revoked. Upon recommendation of the Office, the President may revoke, by written determination, any exclusion made under subsection (c) of this section.

"(f) If—

"(1) any agency is excluded under subsection (c) of this section, or

"(2) any exclusion is revoked under subsection (e) of this section,

the Office shall, within 30 days after the action, transmit to the Congress written notice of the exclusion or revocation.

"§ 3133. Authorization of positions; authority for appointment

"(a) During each odd-numbered calendar year, each agency shall—

"(1) examine its needs for Senior Executive Service positions for each of the 2 fiscal years beginning after such calendar year; and

"(2) submit to the Office of Personnel Management a written request for a specific number of Senior Executive Service positions for each of such fiscal years.

"(b) Each agency request submitted under subsection (a) of this section shall—

"(A) be based on the anticipated type and extent of program activities and budget requests of the agency for each of the 2 fiscal years involved; and

"(B) such other factors as may be prescribed from time to time by the Office; and

"(2) shall identify by position title, positions which are proposed to be designated as or removed from designation as career reserved positions and set forth justifications for such proposed actions.

"(c) The Office of Personnel Management, in consultation with the Office of Management and Budget, shall review the request of each agency and shall authorize, for each of the 2 fiscal years covered by requests required under subsection (b) of this section, a specific number of Senior Executive Service positions for each agency."

"(d)(1) The Office of Personnel Management may, on a written request of an agency or on its own initiative, make an adjustment in the number of posiitons authorized for any agency. Each agency request under this paragraph shall be submitted in such form, and shall be based on such factors, as the Office shall prescribe.

"(2) The total number of positions in the Senior Executive Service may not at any time during any fiscal year exceed 105 percent of the total number of positions authorized under subsection (c) of this section for such fiscal year.

"(c)(1) Not later than July 1, 1979, and from time to time thereafter as the Director of the Office of Personnel Management finds appropriate, the Director shall establish, by rule issued in accordance with section 1103 (b) of this title, the number of positions out of the total number of positions in the Senior Executive Service, as authorized by this section or section 413 of the Civil Service Reform Act of 1978, which are to be career reserved positions. Except as provided in paragraph (2) of this subsection, the number of positions required by this subsection to be career reserved positions shall not be less than the number of the positions then in the Senior Executive Service which, before the date of such Act, were authorized to be filled only through competitive civil service examination.

"(2) The Director may, by rule, designate a number of career reserved positions which is less than the number required by paragraph (1) of this subsection only if the Director de-

termines such lesser number necessary in order to designate as general positions one or more positions (other than positions described in section 3132(b)(3) of this title) which—

"(A) involve policymaking responsibilities which require the advocacy or management of programs of the President and support of controversial aspects of such programs;

"(B) involve significant participation in the major political policies of the President; or

"(C) require the senior executives in the positions to serve as a personal assistants of, or advisers to, Presidential appointees.

The Director shall provide a full explanation for his determination in each case.

"§ 3134. Limitations on noncareer and limited appointments

"(a) During each calendar year, each agency shall—

"(1) examine its needs for employment of noncareer appointees for the fiscal year beginning with the following year; and

"(2) submit to the Office of Personnel Management, in accordance with regulations prescribed by the Office, a written request for authority to employ a specific number of noncareer appointees for such fiscal year.

"(b) The number of noncareer appointees in each agency shall be determined annually by the Office on the basis of demonstrated need of the agency. The total number of noncareer appointees in all agencies may not exceed 10 percent of the total number of Senior Executive Service positions in all agencies.

"(c) Subject to the 10 percent limitation of subsection (b) of this section, the Office may adjust the number of noncareer positions authorized for any agency under subsection (b) of this section if emergency needs arise that were not anticipated when the original authorizations were made.

"(d) The number of Senior Executive Service positions in any agency which are filled by noncareer appointees may not at any time exceed the greater of—

"(1) 25 percent of the total number of Senior Executive Service positions in the agency; or

"(2) the number of positions in the agency which were filled on the date of the enactment of the Civil Service Reform Act of 1978 by—

"(A) noncareer executive assignments under subpart F of part 305 of title 5, Code of Federal Regulations, as in effect on such date, or

"(B) appointments to level IV or V of the Executive Schedule which were not required on such date to be made by and with the advice and consent of the Senate.

This subsection shall not apply in the case of any agency having fewer than 4 Senior Executive Service positions.

"(c) The total number of limited emergency appointees and limited term appointees in all agencies may not exceed 5 percent of the total number of Senior Executive Service positions in all agencies.

"§ 3135. Biennial report

"(a) The Office of Personnel Management shall submit to each House of the Congress, at the time the budget is submitted by the President to the Congress during each odd-numbered calendar year, a report on the Senior Executive Service. The report shall include—

"(1) the number of Senior Executive Service positions authorized for the then current fiscal year, in the aggregate and by agency, and the projected number of Senior Executive Service positions to be authorized for the next two fiscal years, in the aggregate and by agency;

"(2) the authorized number of career appointees and noncareer appointees, in the aggregate and by agency for the then current fiscal year;

"(3) the position titles and descriptions of Senior Executive Service positions designated for the then current fiscal year;

"(4) a description of each exclusion in effect under section 3132(c) of this title during the preceding fiscal year;

"(5) the number of career appointees, limited term appointees, limited emergency appointees, and noncareer appointees, in the aggregate and by agency, employed during the preceding fiscal year;

"(6) the percentage of senior executives at each pay rate, in the aggregate and by agency, employed at the end of the preceding fiscal year;

"(7) the distribution and amount of performance awards, in the aggregate and by agency, paid during the preceding fiscal year;

"(8) the estimated number of career reserved positions which, during the two fiscal years following the then current fiscal year, will become general positions and the estimated number of general positions which during such two fiscal years, will become career appointees; and]

"(9) such other information regarding the Senior Executive Service as the Office considers appropriate.

"(b) The Office of Personnel Management shall submit to each House of the Congress, at the time the budget is submitted to the Congress during each even-numbered calendar year, an interim report showing changes in matters required to be reported under subsection (a) of this section.

"§ 3136. Regulations

"The Office of Personnel Management shall prescribe regulations to carry out the purpose of this subchapter.".

(b) Section 3109 of title 5, United States Code, is amended by inserting at the end thereof the following new subsection:

"(c) Positions in the Senior Executive Service may not be filled under the authority of subsection (b) of this section.".

(c) The analysis for chapter 31 of title 5, United States Code, is amended—

(1) by striking out the heading for chapter 31 and inserting in lieu thereof the following:

"CHAPTER 31—AUTHORITY FOR EMPLOYMENT

"SUBCHAPTER I—EMPLOYMENT AUTHORITIES";

and

(2) by inserting at the end thereof the following:

"SUBCHAPTER II—THE SENIOR EXECUTIVE SERVICE

"Sec.
"3131. The Senior Executive Service.
"3132. Definitions and exclusions.
"3133. Authorization of positions; authority for appointment.
"3134. Limitations on noncareer appointments.
"3135. Biennial report.
"3136. Regulations.".

EXAMINATION, CERTIFICATION, AND APPOINTMENT

SEC. 403. (a) Chapter 33 of title 5, United States Code, is amended by adding at the end thereof the following new subchapter:

"SUBCHAPTER VII—APPOINTMENT REASSIGNMENT, TRANSFER, AND DEVELOPMENT IN THE SENIOR EXECUTIVE SERVICE

"§ 3391. Definitions

"For the purpose of this subchapter, 'agency', 'Senior Executive Service position', 'senior executive', 'career appointee', 'limited term appointee', 'limited emergency appointee', 'noncareer appointee', and 'general position' have the meanings set forth in section 3132(a) of this title.

"§ 3392. General appointment provisions

"(a) Qualification standards shall be established by the head of each agency for each Senior Executive Service position in the agency—

"(1) in accordance with requirements established by the Office of Personnel Management, with respect to standards for career reserved positions, and

"(2) after consultation with the Office, with respect to standards for general positions.

"(b) Not more than 30 percent of the Senior Executive Service positions authorized under section 3133 of this title may at any time be filled by individuals who did not have 5 years of current continuous service in the civil service immediately preceding their initial appointment to the Senior Executive Service, unless the President certifies to the Congress that the limitation would hinder the efficiency of the Government. In applying the preceding sentence, any break in service of 3 days or less shall be disregarded.

"(c) If a career appointee is appointed by the President, by and with the advice and consent of the Senate, to a civilian position in the executive branch which is not in the Senior Executive Service, and the rate of basic pay payable for which is equal to or greater than the rate payable for level V of the Executive Schedule, the career appointee may elect (at such time and in such manner as the Office may prescribe) to continue to have the provisions of this title relating to basic pay, performance awards, awarding of ranks, severance pay, leave, and retirement apply as if the career appointee remained in the Senior Executive Service position from which he was appointed. Such provisions shall apply in lieu of the provisions which would otherwise apply—

"(1) to the extent provided under regulations prescribed by the Office, and

"(2) so long as the appointee continues to serve under such Presidential appointment.

"(d) Appointment or removal of a person to or from any Senior Executive Service position in an independent regulatory commission shall not be subject, directly or indirectly, to review or approval by any officer or entity within the Executive Office of the President.

"§ 3393. Career appointments

"(a) Each agency shall establish a recruitment program, in accordance with guidelines which shall be issued by the Office of Personnel Management, which provides for recruitment of career appointees from—

"(1) all groups of qualified individuals within the civil service; or

"(2) all groups of qualified individuals whether or not within the civil service.

"(b) Each agency shall establish one or more executive resources boards, as appropriate, the members of which shall be appointed by the head of the agency from among employees of the agency. The boards shall, in accordance with merit staffing requirements established by the Office, conduct the merit staffing process for career appointees, including—

"(1) reviewing the executive qualifications of each candidate for a position to be filled by a career appointee; and

"(2) making written recommendations to the appropriate appointing authority concerning such candidates.

"(c)(1) The Office shall establish one or more qualifications review boards, as appropriate. It is the function of the boards to certify the executive qualifications of candidates for initial appointment as career appointees in accordance with regulations prescribed by the Office. Of the members of each board more than one-half shall be appointed from among career appointees. Appointments to such boards shall be made on a non-partisan basis, the sole selection criterion being

the professional knowledge of public management and knowledge of the appropriate occupational fields of the intended appointee.

"(2) The Office shall, in consultation with the various qualification review boards, prescribe criteria for establishing executive qualifications for appointment of career appointees. The criteria shall provide for—

"(A) consideration of demonstrated executive experience;

"(B) consideration of successful participation in a career executive development program which is approved by the Office; and

"(C) sufficient flexibility to allow for the appointment of individuals who have special or unique qualities which indicate a likelihood of executive success and who would not otherwise be eligible for appointment.

"(d) An individual's initial appointment as a career appointee shall become final only after the individual has served a 1-year probationary period as a career appointee.

"(e) Each career appointee shall meet the executive qualifications of the position to which appointed, as determined in writing by the appointing authority.

"(f) The title of each career reserved position shall be published in the Federal Register.

"§ 3394. Noncareer and limited appointments

"(a) Each noncareer appointee, limited time appointee, and limited emergency appointee shall meet the qualifications of the position to which appointed, as determined in writing by the appointing authority.

"(b) An individual may not be appointed as a limited term appointee or as a limited emergency appointee without the prior approval of the exercise of such appointing authority by the Office of Personnel Management.

"§ 3395. Reassignment and transfer within the Senior Executive Service

"(a)(1) A career appointee in an agency—

"(A) may, subject to paragraph (2) of this subsection, be reassigned to any Senior Executive Service position in the same agency for which the appointee is qualified; and

"(B) may transfer to a Senior Executive Service position in another agency for which the appointee is qualified, with the approval of the agency to which the appointee transfers.

"(2) A career appointee may be reassigned to any Senior Executive Service position only if the career appointee receives a written notice of the reassignment at least 15 days in advance of such reassignment.

"(b)(1) Notwithstanding section 3394(b) of this title, a limited emergency appointee may be reassigned to another Senior Executive Service position in the same agency established to meet a bona fide, unanticipated, urgent need, except that the appointee may not serve in one or more positions in such agency under such appointment in excess of 18 months.

"(2) Notwithstanding section 3394(b) of this title, a limited emergency appointee may be reassigned to another Senior Executive Service position in the same agency the duties of which will expire at the end of a term of 3 years or less, except that the appointee may not serve in one or more positions in the agency under such appointment in excess of 3 years.

"(c) A limited term appointee or a limited emergency appointee may not be appointed to, or continue to hold, a position under such an appointment if, within the preceding 48 months, the individual has served more than 36 months, in the aggregate, under any combination of such types of appointment.

"(d) A noncareer appointee in an agency—

"(1) may be reassigned to any general position in the agency for which the appointee is qualified; and

"(2) may transfer to a general position in another agency with the approval of the agency to which the appointee transfers.

"(c)(1) Except as provided in paragraph (2) of this subsection, a career appointee in an agency may not be involuntarily reassigned—

"(A) within 120 days after an appointment of the head of the agency; or

"(B) within 120 days after the appointment in the agency of the career appointee's most immediate supervisor who—

"(i) is a noncareer appointee; and

"(ii) has the authority to reassign the career appointee.

"(2) Paragraph (1) of this subsection does not apply with respect to—

"(A) any reassignment under section 4314(b)(3) of this title; or

"(B) any disciplinary action initiated before an appointment referred to in paragraph (1) of this subsection.

"§ 3396. Development for and within the Senior Executive Service

"(a) The Office of Personnel Management shall establish programs for the systematic development of candidates for the Senior Executive Service and for the continuing development of senior executives, or require agencies to establish such programs which meet criteria prescribed by the Office.

"(b) The Office shall assist agencies in the establishment of programs required under subsection (a) of this section and shall monitor the implementation of the program. If the Office finds that any agency's program under subsection (a) of this section is not in compliance with the criteria prescribed under such subsection, it shall require the agency to take such corrective action as may be necessary to bring the program into compliance with the criteria.

"(c)(1) The head of an agency may grant a sabbatical to any career appointee for not to exceed 11 months in order to permit the appointee to engage in study or uncompensated work experience which will contribute to the appointee's development and effectiveness. A sabbatical shall not result in loss of, or reduction in, pay, leave to which the career appointee is otherwise entitled, credit for time or service, or performance or efficiency rating. The head of the agency may authorize in accordance with chapter 57 of this title such travel expenses (including per diem allowance) as the head of the agency may determine to be essential for the study or experience.

"(2) A sabbatical under this subsection may not be granted to any career appointee—

"(A) more than once in any 10-year period;

"(B) unless the appointee has completed 7 years of service—

"(i) in one or more positions in the Senior Executive Service;

"(ii) in one or more other positions in the civil service the level of duties and responsibilities of which are equivalent to the level of duties and responsibilities of positions in the Senior Executive Service; or

"(iii) in any combination of such positions, except that not less than 2 years of such 7 years of service must be in the Senior Executive Service; and

"(C) if the appointee is eligible for voluntary retirement with a right to an immediate annuity under section 8336 of this title.

Any period of assignment under section 3373 of this title, relating to assignments of employees to State and local governments, shall not be considered a period of service for the purpose of subparagraph (B) of this paragraph.

"(3)(A) Any career appointee in an agency may be granted a sabbatical under this subsection only if the appointee agrees, as a condition of accepting the sabbatical, to serve in the civil service upon the completion of the sabbatical for a period of 2 consecutive years.

"(B) Each agreement required under subparagraph (A) of this paragraph shall provide that in the event the career appointee fails to carry out the agreement (except for good and sufficient reason as determined by the head of the agency who granted the sabbatical) the appointee shall be liable to the United States for payment of all expenses (including salary) of the sabbatical. The amount shall be treated as a debt due the United States.

"(d) The Office shall encourage and assist individuals to improve their skills and increase their contribution by service in a variety of agencies as well as by accepting temporary placements in State or local governments or in the private sector.

"§ 3397. Regulations

"The Office of Personnel Management shall prescribe regulations to carry out the purpose of this subchapter.".

(b) The analysis for chapter 33 of title 5, United States Code, is amended by inserting after the item relating to section 3385 the following:

"SUBCHAPTER VIII—APPOINTMENT, REASSIGNMENT, TRANSFER, AND DEVELOPMENT IN THE SENIOR EXECUTIVE SERVICE

"Sec.
"3391. Definitions.
"3392. General appointment provisions.
"3393. Career appointments.
"3394. Noncareer and limited appointments.
"3395. Reassignment and transfer within the Senior Executive Service.
"3396. Development for and within the Senior Executive Service.
"3397. Regulations.".

RETENTION PREFERENCE

SEC. 404. (a) Section 3501(b) of title 5, United States Code, is amended by striking out the period at the end thereof and inserting in lieu thereof: "or to a member of the Senior Executive Service.".

(b) Chapter 35 of title 5, United States Code, is amended by adding at the end thereof the following new subchapter:

"SUBCHAPTER V—REMOVAL, REINSTATEMENT, AND GUARANTEED PLACEMENT IN THE SENIOR EXECUTIVE SERVICE

"§ 3591. Definitions

"For the purpose of this subchapter, 'agency', 'Senior Executive Service position', 'senior executive', 'career appointee', 'limited term appointee', 'limited emergency appointee', 'noncareer appointee', and 'general position' have the meanings set forth in section 3132(a) of this title.

"§ 3592. Removal from the Senior Executive Service

"(a) Except as provided in subsection (b) of this section, a career appointee may be removed from the Senior Executive Service to a civil service position outside of the Senior Executive Service—

"(1) during the 1-year period of probation under section 3393(d) of this title, or

"(2) at any time for less than fully successful executive performance as determined under subchapter II of chapter 43 of this title,

except that in the case of a removal under paragraph (2) of this subsection the career appointee shall, at least 15 days before the removal, be entitled, upon request, to an informal hearing before an official designated by the Merit System Protection Board at which the career appointee may appear and present arguments, but such hearing shall not give the career appointee the right to initiate an action with the Board under sec+ on 7701 of this title nor need the removal action be delayed as a result of the granting of such hearing.

"(b)(1) Except as provided in paragraph (2) of this subsection, a career appointee in an agency may not be involuntarily removed—

"(A) within 120 days after an appointment of the head of the agency; or

"(B) within 120 days after the appointment in the agency of the career appointee's most immediate supervisor who—

"(i) is a noncareer appointee; and

"(ii) has the authority to remove the career appointee.

"(2) Paragraph (1) of this subsection does not apply with respect to—

"(A) any removal under section 4314(b)(3) of this title or;

"(B) any disciplinary action initiated before an appointment referred to in paragraph (1) of this subsection.

"(c) A limited emergency appointee, limited term appointee, or noncareer appointee may be removed from the service at any time.

"§ 3593. Reinstatement in the Senior Executive Service

"(a) A former career appointee may be reinstated, without regard to section 3393 (b) and (c) of this title, to any Senior Executive Service position for which the appointee is qualified if—

"(1) the appointee has successfully completed the probationary period established under section 3393(d) of this title; and

"(2) the appointee left the Senior Executive Service for reasons other than misconduct, neglect of duty, malfeasance, or less than fully successful executive performance as determined under subchapter II of chapter 43 of this title.

"(b) A career appointee who is appointed by the President to any civil service position outside the Senior Executive Service and who leaves the position for reasons other than misconduct, neglect of duty, or malfeasance shall be entitled to be placed in the Senior Executive Service if the appointee applies to the Office of Personnel Management within 90 days after separation from the Presidential appointment.

§ 3594. Guaranteed placement in other personnel systems

"(a) A career appointee who was appointed from a civil service position held under a career or career-conditional appointment (or an appointment of equivalent tenure, as determined by the Office of Personnel Management) and who, for reasons other than misconduct, neglect of duty, or malfeasance, is removed from the Senior Executive Service during the probationary period under section 3393(d) of this title, shall be entitled to be placed in a civil service position (other than a Senior Executive Service position) in any agency.

"(b) A career appointee—

"(1) who has completed the probationary period under section 3393(d) of this title; and

"(2) who is removed from the Senior Executive Service for less than fully successful executive performance as determined under subchapter II of chapter 43 of this title;

shall be entitled to be placed in a civil service position (other than a Senior Executive Service position) in any agency.

"(c)(1) For purposes of subsections (a) and (b) of this section—

"(A) the position in which any career appointee is placed under such subsections shall be a continuing position at GS-15 or above of the General Schedule, or an equivalent position, and, in the case of a career appointee referred to in subsection (a) of this section the career appointee shall be entitled to an appointment of a tenure equivalent to the tenure of the appointment held in the position from which the career appointee was appointed;

"(B) any career appointee placed under subsection (a) or (b) of this section shall be entitled to receive basic pay at the higher of—

"(i) the rate of basic pay in effect for the position in which placed;

"(ii) the rate of basic pay in effect at the time of the placement for the position the career appointee held in the civil service immediately before being appointed to the Senior Executive Service; or

"(iii) the rate of basic pay in effect for the career appointee immediately before being placed under subsection (a) or (b) of this section; and

"(C) the placement of any career appointee under subsection (a) or (b) of this section may not be made to a position which would cause the separation or reduction in grade of any other employee.

"(2) An employee who is receiving basic pay under paragraph (1)(B) (ii) or (iii) of this subsection is entitled to have the basic pay rate of the employee increased by 50 percent of the amount of each increase in the maximum rate of basic pay for the grade of the position in which the employee is placed under subsection (a) or (b) of this section until the rate is equal to the rate in effect under paragraph (1)(B)(i) of this subsection for the position in which the employee is placed.

"§ 3595. Regulations

"The Office of Personnel Management shall prescribe regulations to carry out the purpose of this subchapter.".

(c) The chapter analysis for chapter 35 of title 5, United States Code, is amended by inserting the following new item:

"SUBCHAPTER V—REMOVAL, REINSTATEMENT, AND GUARANTEED PLACEMENT IN THE SENIOR EXECUTIVE SERVICE

"Sec.
"3591. Definitions.
"3592. Removal from the Senior Executive Service.
"3593. Reinstatement in the Senior Executive Service.
"3594. Guaranteed placement in other personnel systems.
"3595. Regulations.".

PERFORMANCE RATING

SEC. 405. (a) Chapter 43 of title 5, United States Code, is amended by adding at the end thereof the following:

"SUBCHAPTER 11—PERFORMANCE APPRAISAL IN THE SENIOR EXECUTIVE SERVICE

"§ 4311. Definitions

"For the purpose of this subchapter, 'agency', 'senior executive', and 'career appointee' have the meanings set forth in section 3132(a) of this title.

"§ 4312. Senior Executive Service performance appraisal systems

"(a) Each agency shall, in accordance with standards established by the Office of personnel Management, develop one or more performance appraisal systems designed to—

"(1) permit the accurate evaluation of performance in any position on the basis of criteria which are related to the position and which specify the critical elements of the position;

"(2) provide for systematic appraisals of performance of senior executives;

"(3) encourage excellence in performance by senior executives; and

"(4) provide a basis for making eligibility determinations for retention in the Senior Executive Service and for Senior Executive Service performance awards.

"(b) Each performance appraisal system established by an agency under subsection (a) of this section shall provide—

"(1) that, on or before the beginning of each rating period, performance requirements for each senior executive in the agency are established in consultation with the senior executive and communicated to the senior executive;

"(2) that written appraisals of performance are based on the individual and organizational performance requirements established for the rating period involved; and

"(3) that each senior executive in the agency is provided a copy of the appraisal and rating under section 4314 of this title and is given an opportunity to respond in writing and have the rating reviewed by an employee in a higher executive level in the agency before the rating becomes final.

"(c)(1) The Office shall review each agency's performance appraisal system under this section, and determine whether the agency performance appraisal system meets the requirements of this subchapter.

"(2) The Comptroller General shall from time to time review performance appraisal systems under this section to determine the extent to which any such system meets the requirements under this subchapter and shall periodically report its findings to the Office and to each House of the Congress.

"(3) If the Office determines that an agency performance appraisal system does not meet the requirements under this subchapter (including regulations prescribed under section 4315), the agency shall take such corrective action as may be required by the Office.

"(d) A senior executive may not appeal any appraisal and rating under any performance appraisal system under this section.

"§ 4313. Criteria for performance appraisals

"Appraisals of performance in the Senior Executive Service shall be based on both individual and organizational performance, taking into account such factors as—

"(1) improvements in efficiency, productivity, and quality of work or service, including any significant reduction in paperwork;

"(2) cost efficiency;

"(3) timeliness of performance;

"(4) other indications of the effectiveness, productivity, and quality of the employees for whom the senior executive is responsible; and

"(5) meeting affirmative action goals and achievement of equal employment opportunity requirements.

"§4314. Ratings for performance appraisals

"(a) Each performance appraisal system shall provide for annual summary ratings of levels of performance as follows:

"(1) one or more fully successful levels.

"(2) a minimally satisfactory level, and

"(3) an unsatisfactory level.

"(b) Each performance appraisal system shall provide that—

"(1) any appraisal and any rating under such system—

"(A) are made only after review and evaluation by a performance review board established under subsection (c) of this section;

"(B) are conducted at least annually, subject to the limitation of subsection (c)(3) of this section;

"(C) in the case of a career appointee, may not be made within 120 days after the beginning of a new Presidential administration; and

"(D) are based on performance during a performance appraisal period the duration of which shall be determined under guidelines established by the Office of Personnel Management, but which may be terminated in any case in which the agency making an appraisal determines that an adequate basis exists on which to appraise and rate the senior executive's performance;

"(2) any career appointee receiving a rating at any of the fully successful levels under subsection (a)(1) of this section may be given a performance award under section 5384 of this title;

"(3) any senior executive receiving an unsatisfactory rating under subsection (a)(3) of this section shall be reassigned or transferred within the Senior Executive Service, or removed from the Senior Executive Service, but any senior executive who receives 2 unsatisfactory ratings in any period of 5 consecutive years shall be removed from the Senior Executive Service; and

"(4) any senior executive who twice in any period of 3 consecutive years receives less than fully successful ratings shall be removed from the Senior Executive Service.

"(c)(1) Each agency shall establish, in accordance with regulations prescribed by the Office, one or more performance review boards, as appropriate. It is the function of the boards to make recommendations to the appropriate appointing authority of the agency relating to the performance of senior executives in the agency.

"(2) The supervising official of the senior executive shall provide to the performance review board an initial appraisal of the senior executive's performance. Before making any recommendation with respect to the senior executive, the board shall review any response by the senior executive to the initial appraisal and conduct such further review as the board finds necessary.

"(3) Performance appraisals under this subchapter with respect to any senior executive shall be made by the appointing authority only after considering the recommendations by the performance review board with respect to such senior executive under paragraph (2) of this subsection.

"(4) Members of performance review boards shall be appointed in such a manner as to assure consistency, stability, and objectivity in performance appraisal. Notice of the appointment of an individual to serve as a member shall be published in the Federal Register.

"(5) In the case of an appraisal of a career appointee, more than one-half of the members of the performance review board shall consist of career appointees. The requirement of the preceding sentence shall not apply in any case in which the Office determines that there exists an insufficient number of career appointees available to comply with the requirement.

"(d) The Office shall include in each report submitted to each House of the Congress under section 3135 of this title a report of—

"(1) the performance of any performance review board established under this section,

"(2) the number of individuals removed from the Senior Executive Service under subchapter V of chapter 35 of this title for less than fully successful executive performance, and

"(3) the number of performance awards under section 5384 of this title.

"§ 4315. Regulations.

"The Office of Personnel Management shall prescribe regulations to carry out the purpose of this subchapter.".

(b) The analysis for chapter 43 of title 5, United States Code, is amended by inserting at the end thereof the following:

"SUBCHAPTER II—PERFORMANCE APPRAISAL IN THE SENIOR EXECUTIVE SERVICE

"Sec.
"4311. Definitions.
"4312. Senior Executive Service performance appraisal systems.
"4313. Criteria for performance appraisals.
"4314. Ratings for performance appraisals.
"4315. Regulations.".

AWARDING OF RANKS

SEC. 406. (a) Chapter 45 of title 5, United States Code, is amended by adding at the end thereof the following new section:

"§ 4507. Awarding of ranks in the Senior Executive Service

"(a) For the purpose of this section, 'agency', 'senior executive', and 'career appointee' have the meanings set forth in section 3132(a) of this title.

"(b) Each agency shall submit annually to the Office recommendations of career appointees in the agency to be awarded the rank of Meritorious Executive or Distinguished Executive. The recommendations may take into account the individual's performance over a period of years. The Office shall review such recommendations and provide to the President recommendations as to which of the agency recommended appointees should receive such rank.

"(c) During any fiscal year, the President may, subject to subsection (d) of this section, award to any career appointee recommended by the Office the rank of—

"(1) Meritorious Executive, for sustained accomplishment, or

"(2) Distinguished Executive, for sustained extraordinary accomplishment.

A career appointee awarded a rank under paragraph (1) or (2) of this subsection shall not be entitled to be awarded that rank during the following 4 fiscal years.

"(d) During any fiscal year—

"(1) the number of career appointees awarded the rank of Meritorious Executive may not exceed 1 percent of the Senior Executive Service; and

"(2) the number of career appointees awarded the rank of Distinguished Executive may not exceed 1 percent of the Senior Executive Service.

"(e)(1) Receipt by a career appointee of the rank of Meritorious Executive entitles such individual to a lump sum payment of $10,000, which shall be in addition to the basic pay paid under section 5382 of this title or any award paid under section 5384 of this title.

"(2) Receipt by a career appointee of the rank of Distinguished Executive entitles the individual to a lump-sum payment of $20,000, which shall be in addition to the basic pay paid under section 5382 of this title or any award paid under section 5384 of this title.".

(b) The analysis for chapter 45 of title 5, United States Code, is amended by adding at the end thereof the following new item:

"4507. Awarding of Ranks in the Senior Executive Service.".

PAY RATES AND SYSTEMS

SEC. 407. (a) Chapter 53 of title 5, United States Code, is amended by adding at the end thereof the following new subchapter:

"SUBCHAPTER VIII—PAY FOR THE SENIOR EXECUTIVE SERVICE

"§ 5381. Definitions

"For the purpose of this subchapter, 'agency,' 'Senior Executive Service position,' and 'senior executive' have the meanings set forth in section 3132(a) of this title.

§ 5382. Establishment and adjustment of rates of pay for the Senior Executive Service

"(a) There shall be 5 or more rates of basic pay for the Senior Executive Service, and each senior executive shall be paid at one of the rates. The rates of basic pay shall be initially established and thereafter adjusted by the President subject to subsection (b) of this section.

"(b) In setting rates of basic pay, the lowest rate for the Senior Executive Service shall not be less than the minimum rate of basic pay payable for GS-16 of the General Schedule and the highest rate shall not exceed the rate for level IV of the Executive Schedule. The payment of the rates shall not be subject to the pay limitation of section 5308 or 5373 of this title.

"(c) Subject to subsection (b) of this section, effective at the beginning of the first applicable pay period commencing on or after the first day of the month in which an adjustment takes effect under section 5305 of this title in the rates of pay under the General Schedule, each rate of basic pay for the Senior Executive Service shall be adjusted by an amount determined by the President to be appropriate. The adjusted rates of basic pay for the Senior Executive Service shall be included in the report transmitted to the Congress by the President under section 5305 (a)(3) or (c)(1) of this title.

"(d) The rates of basic pay that are established and adjusted under this section shall be printed in the Federal Register and shall supersede any prior rates of basic pay for Senior Executive Service.

"§5383. Setting individual senior executive pay

"(a) Each appointing authority shall determine, in accordance with criteria established by the Office of Personnel Management, which of the rates established under section 5382 of this title shall be paid to each senior executive under such appointing authority.

"(b) In no event may the aggregate amount paid to a senior executive during any fiscal year under sections 4507, 5382, and 5384 of this title exceed the annual rate payable for positions at level 1 of the Executive Schedule in effect at the end of such fiscal year.

"(c) Except for any pay adjustment under section 5382 of this title, the rate of basic pay for any senior executive may not be adjusted more than once during any 12-month period.

"(d) The rate of basic pay for any career appointee may be reduced from any rate of basic pay to any lower rate of basic pay only if the career appointee receives a written notice of the reduction at least 15 days in advance of the reduction.

"§ 5384. Performance awards in the Senior Executive Service

"(a)(1) To encourage excellence in performance by career appointees, performance awards shall be paid to career appointees in accordance with the provisions of this section.

"(2) Such awards shall be paid in a lump sum and shall be in addition to the basic pay paid under section 5382 of this title or any award paid under section 4507 of this title.

"(b)(1) No performance award under this section shall be paid to any career appointee whose performance was determined to be less than fully successful at the time of the appointee's most recent performance appraisal and rating under subchapter II of chapter 43 of this title.

"(2) The amount of a performance award under this section shall be determined by the agency head but may not exceed 20 percent of the career appointee's rate of basic pay.

"(3) The number of career appointees in any agency paid performance awards under this section during any fiscal year may not exceed 50 percent of the number of Senior Executive Service positions in such agency. This paragraph shall not apply in the case of any agency which has less than 4 Senior Executive Service positions.

"(c) Performance awards paid by any agency under this section shall be based on recommendations by performance review boards established by such agency under section 4314 of this title.

(d) The Office of Personnel Management may issue guidance to agencies concerning the proportion of Senior Executive Service salary expenses that may be appropriately applied to payment of performance awards and the distribution of awards.

"§ 5385. Regulations

"The Office of Personnel Management shall prescribe regulations to carry out the purpose of this subchapter.".

(c) The analysis of chapter 53 of title 5, United States Code, is amended by adding at the end thereof the following new items:

"SUBCHAPTER VIII—PAY FOR THE SENIOR EXECUTIVE SERVICE

"Sec.
"5381. Definitions.
"5382. Establishment and adjustment of rates of pay for the Senior Executive Service.

"5383. Setting individual senior executive pay.
"5384. Performance awards in the Senior Executive Service.
"5385. Regulations.".

PAY ADMINISTRATION

SEC. 408. (a) Chapter 55 of title 5, United States Code, is amended—

(1) by inserting "other than an employee or individual excluded by section 5541(2)(xvi) of this section" immediately before the period at the end of section 5504(a)(B);

(2) by amending section 5541(2) by striking out "or" after clause (xiv), by striking out the period after clause (xx) and inserting "; or" in lieu thereof, and by adding the following clause at the end thereof:

"(xvi) member of the Senior Executive Service.";

and

(3) by inserting "other than a member of the Senior Executive service" after "employee" in section 5595(a)(2)(i).

(b)(1) Section 5311 of title 5, United States Code, is amended by inserting ", other than Senior Executive positions," after "positions".

TRAVEL, TRANSPORTATION, AND SUBSISTENCE

SEC. 409. (a) Section 5723(a)(1) of title 5, United States Code, is amended by striking out "; and" and inserting in lieu thereof "or of a new appointee to the Senior Executive Service; and".

(b) Subchapter IV of chapter 57 of title 5, United States Code, is amended by adding at the end thereof the following new section:

"§ 5752. Travel expenses of Senior Executive Service candidates

"Employing agencies may pay candidates for Senior Executive Service positions travel expenses incurred incident to preemployment interviews requested by the employing agency.".

(c) The analysis for chapter 57 of title 5, United States Code, is amended by inserting after the item relating to section 5751 the following new item:

"5752. Travel expenses of Senior Executive Service candidates.".

(2) Section 5331(b) of title 5, United States Code, is amended by inserting ", other than Senior Executive Service positions," after "positions".

LEAVE

SEC. 410. Section 6304 of title 5, United States Code, is amended—

(1) in subsection (a), by striking out "and (e)" and inserting in lieu thereof "(e) and (f)"; and

(2) by adding at the end thereof the following new subsection:

"(f) Annual leave accrued by an individual while serving in a position in the Senior Executive Service shall not be subject to the limitation on accumulation otherwise imposed by this section.".

DISCIPLINARY ACTIONS

SEC. 411. Chapter 75 of title 5, United States Code, is amended—

(1) by inserting the following in the chapter analysis after subchapter IV:

"SUBCHAPTER V—SENIOR EXECUTIVE SERVICE

"Sec.
"7541. Definitions.
"7542. Actions covered.
"7543. Cause and procedure.";

and

(2) by adding the following after subchapter IV:

"SUBCHAPTER V—SENIOR EXECUTIVE SERVICE

"§ 7541. Definitions

"For the purpose of this subchapter—

"(1) 'employee' means a career appointee in the Senior Executive Service who—

"(A) has completed the probationary period prescribed under section 3393(d) of this title; or

"(B) was covered by the provisions of subchapter II of this chapter immediately before appointment to the Senior Executive Service; and

"(2) 'suspension' has the meaning set forth in section 7501(2) of this title.

"§ 7542. Actions covered

"This subchapter applies to a removal from the civil service or suspension for more than 14 days, but does not apply to an action instituted under section 1206 of this title, to a suspension or removal under section 7532 of this title, or to a removal under section 3592 of this title.

"§ 7543. Cause and procedure

"(a) Under regulations prescribed by the Office of Personnel Management, an agency may take an action covered by this subchapter against an employee only for such cause as will promote the efficiency of the service.

"(b) An employee against whom an action covered by this subchapter is proposed is entitled to—

"(1) at least 30 days' advance written notice, unless there is reasonable cause to believe that the employee has committed a crime for which a sentence of imprisonment can be imposed, stating specific reasons for the proposed action;

"(2) a reasonable time, but not less than 7 days, to answer orally and in writing and to furnish affidavits and other documentary evidence in support of the answer;

"(3) be represented by an attorney or other representative; and

"(4) a written decision and specific reasons therefor at the earliest practicable date.

"(c) An agency may provide, by regulation, for a hearing which may be in lieu of or in addition to the opportunity to answer provided under subsection (b)(2) of this section.

"(d) An employee against whom an action is taken under this section is entitled to appeal to the Merit Systems Protection Board under section 7701 of this title.

"(e) Copies of the notice of proposed action, the answer of the employee when written, and a summary thereof when made orally, the notice of decision and reasons therefor, and any order effecting an action covered by this subchapter, together with any supporting material, shall be maintained by the agency and shall be furnished to the Merit Systems Protection Board upon its request and to the employee affected upon the employee's request.".

RETIREMENT

SEC. 4. (a) Section 8336 of title 5, United States Code, is amended by redesignating subsection (h) as subsection (i) and inserting immediately after subsection (g) the following new subsection:

"(h) A member of the Senior Executive Service who is removed from the Senior Executive Service for less than fully successful executive performance (as determined under subchapter II of chapter 43 of this title) after completing 25 years of service or after becoming 50 years of age and completing 20 years of service is entitled to an annuity.".

(b) Section 8339(h) of title 5, United States Code, is amended by striking out "section 8336(d)" and inserting in lieu thereof "section 8336 (d) or (h)".

CONVERSION TO THE SENIOR EXECUTIVE SERVICE

SEC. 413. (a) For the purpose of this section, "agency", "Senior Executive Service position", "career appointee", "career reserved position", "limited term appointee", "noncareer appointee", and "general position" have the meanings set forth in section 3132(a) of title 5, United States Code (as added by this title), and "Senior Executive Service" has the meaning set forth in section 2101a of such title 5 (as added by this title).

(b)(1) Under the guidance of the Office of Personnel Management, each agency shall—

(A) designate those positions which it considers should be Senior Executive Service positions and designate which of those positions it considers should be career reserved positions; and

(B) submit to the Office a written request for—

(i) a specific number of Senior Executive Service positions; and

(ii) authority to employ a specific number of noncareer appointees.

(2) The Office of Personnel Management shall review the designations and requests of each agency under paragraph (1) of this subsection, and shall establish interim authorizations in accordance with sections 3133 and 3134 of title 5, United States Code (as added by this Act), and shall publish the titles of the authorized positions in the Federal Register.

(c)(1) Each employee serving in a position at the time it is designated as a Senior Executive Service position under subsection (b) of this section shall elect to—

(A) decline conversion and be appointed to a position under such employee's current type of appointment and pay system, retaining the grade, seniority, and other rights and benefits associated with such type of appointment and pay system; or

(B) accept conversion and be appointed to a Senior Executive Service position in accordance with the provisions of subsections (d), (e), (f), (g), and (h) of this section.

The appointment of an employee in an agency because of an election under subparagraph (A) of this paragraph shall not result in the separation or reduction in grade of any other employee in such agency.

(2) Any employee in a position which has been designated a Senior Executive Service position under this section shall be notified in writing of such designation, the election required under paragraph (1) of this subsection, and the provisions of subsections (d), (e), (f), (g), and (h) of this section. The employee shall be given 90 days from the date of such notification to make the election under paragraph (1) of this subsection.

(d) Each employee who has elected to accept conversion to a Senior Executive Service position under subsection (c)(1)(B) of this section and who is serving under—

(1) a career or career-conditional appointment; or

(2) a similar type of appointment in an excepted service position as determined by the Office;

in a position which is designated as a Senior Executive Service position shall be appointed as a career appointee to such Senior Executive Service position without regard to section 3393 (c) and (d) of title 5, United States Code (as added by this title).

(e) Each employee who has elected conversion to a Senior Executive Service position under subsection (c)(1)(B) of this section and who is serving under an excepted appointment in a position which is not designated a career reserved position in the Senior Executive Service, but is—

(1) a position in Schedule C of subpart C of part 213 of title 5, Code of Federal Regulations;

(2) a position filled by noncareer executive assignment under subpart F of part 305 of title 5, Code of Federal Regulations; or

(3) a position in the Executive Schedule under subchapter II of chapter 53 of title 5, United States Code, other than a career Executive Schedule position;

shall be appointed as a noncareer appointee to a Senior Executive Service position.

(f) Each employee who has elected conversion to a Senior Executive Service position under subsection (c)(1)(B) of this section, who is serving in a position described in paragraph (1), (2), or (3) of subsection (e) of this section, and whose position is designated as a career reserved position under subsection (b) of this section shall be appointed as a noncareer appointee to an appropriate general position in the Senior Executive Service or shall be separated.

(g) Each employee who has elected conversion to a Senior Executive Service position under subsection (c)(1)(B) of this section, who is serving in a position described in paragraph (1), (2), or (3) of subsection (e) of this section, and whose position is designated as a Senior Executive Service position and who has reinstatement eligibility to a position in the competitive service, may on request to the Office, be appointed as a career appointee to a Senior Executive Service position. The name of, and basis for reinstatement eligibility for, each employee appointed as a career appointee under this subsection shall be published in the Federal Register.

(h) Each employee who has elected conversion to a Senior Executive Service position under subsection (c)(1)(B) of this section and who is serving under a limited executive assignment under subpart F of part 305 of title 5, Code of Federal Regulations, shall—

(1) be appointed as a limited term appointee to a Senior Executive Service position if the position then held by such employee will terminate within 3 years of the date of such appointment;

(2) be appointed as a noncareer appointee to a Senior Executive Service position if the position then held by such employee is designated as a general position; or

(3) be appointed as a noncareer appointee to a general position if the position then held by such employee is designated as a career reserved position.

(i) The rate of basic pay for any employee appointed to a Senior Executive Service position under this section shall be greater than or equal to the rate of basic pay payable for the position held by such employee at the time of such appointment.

(j) Any employee who is aggrieved by any action by any agency under this section is entitled to appeal to the Merit Systems Protection Board under section 7701 of title 5, United States Code (as added by this title). An agency shall take any corrective action which the Board orders in its decision on an appeal under this subsection.

(k) The Office shall prescribe regulations to carry out the purpose of this section.

LIMITATIONS ON EXECUTIVE POSITIONS

SEC. 414. (a)(1)(A) The following provisions of section 5108 of title 5, United States Code, relating to a special authority to place positions at GS–16, 17, and 18 of the General Schedule, are hereby repealed:

(i) paragraphs (2), (4) through (11), and (13) through (16) of subsection (c), and

(ii) subsection (d) through (g).

(B) Notwithstanding any other provision of law (other than section 5108 of such title 5), the authority granted to an agency (as defined in section 5102(a)(1) of such title 5) under any such provision to place one or more positions in GS–16, 17, or 18 of the General Schedule, is hereby terminated.

(C) Subsection (a) of section 5108 of title 5, United States Code, is amended to read as follows:

"(a) The Director of the Office of Personnel Management may establish, and from time to time revise, the maximum numbers of positions (not to exceed an aggregate of 10,777) which may at any one time be placed in—

"(i) GS–16, 17, and 18; and

"(ii) the Senior Executive Service, in accordance with section 3133 of this title.

A position may be placed in GS–16, 17, or 18, only by action of the Director of the Office of Personnel Management. The authority of the Director under this subsection shall be carried out by the President in the case of positions proposed to be placed in GS–16, 17, and 16 in the Federal Bureau of Investigation.".

(D) Subsection (c) of section 5108 of title 5, United States Code, is amended—

(i) by redesignating paragraph (3) as paragraph (2) and by inserting "and" at the end thereof; and

(ii) by redesignating paragraph (12) as paragraph (3) and by striking out the semicolon at the end and inserting in lieu thereof a period.

(2)(A) Notwithstanding any other provision of law (other than section 3104 of title 5, United States Code), the authority granted to an agency (as defined in section 5102(a)(1) of such title 5) to establish scientific or professional positions outside of the General Schedule is hereby terminated.

(B) Section 3104 of title 5, United States Code, is amended by striking out subsections (a) and (b) and inserting in lieu thereof the following:

"(a)(1) The Director of the Office of Personnel Management may establish, and from time to time revise, the maximum number of scientific or professional positions (not to exceed 517) for carrying out research and development functions which require the services of specially qualified personnel which may be established outside of the General Schedule. Any such position may be established only by action of the Director.

"(2) The provisions of paragraph (1) of this subsection shall not apply to any Senior Executive Service position (as defined in section 3132(a) of this title).

"(3) In addition to the number of positions authorized by paragraph (1) of this subsection, the Librarian of Congress may establish, without regard to the second sentence of paragraph (1) of this subsection, not more than 8 scientific or professional positions to carry out the research and development functions of the Library of Congress which require the services of specially qualified personnel.".

(C) Subsection (c) of such section 3104 is amended—

(i) by striking out "(c)" and inserting in lieu thereof "(b)"; and

(ii) by striking out "to establish and fix the pay of positions under this section and section 5361 of this title" and inserting in lieu thereof "to fix under section 5361 of this title the pay for positions established under this section".

(3)(A) The provisions of paragraphs (1) and (2) of this subsection shall not apply with respect to any position so long as the individual occupying such position on the day before the date of the enactment of this Act continues to occupy such position.

(B) The Director—

(i) in establishing under section 5108 of title 5, United States Code, the maximum number of positions which may be placed in GS–16, 17, and 18 of the General Schedule, and

(ii) in establishing under section 3104 of such title 5 the maximum number of scientific or professional positions which may be established,

shall take into account positions to which subparagraph (A) of this paragraph applies.

(b)(1) Section 5311 of title 5, United States Code, is amended by inserting "(a)" before "The Executive Schedule," and by adding at the end thereof the following new subsection:

"(b)(1) Not later than 180 days after the date of the enactment of the Civil Service Reform Act of 1978, the Director shall determine the number and classification of executive level positions in existence in the executive branch on that date of enactment, and shall publish the determination in the Federal Register. Effective beginning on the date of the publication, the number of executive level positions within the executive branch may not exceed the number published under this subsection.

"(2) For the purpose of this subsection, 'executive level position' means—

"(A) any office or position in the civil service the rate of pay for which is equal to or greater than the rate of basic pay payable for positions under section 5316 of this title, or

"(B) any such office or position the rate of pay for which may be fixed by administrative action at a rate equal to or greater than the rate of basic pay payable for positions under section 5316 of this title;

but does not include any Senior Executive Service position, as defined in section 3132(a) of this title.".

(2) The President shall transmit to the Congress by January 1, 1980, a plan for authorizing executive level positions in the executive branch which shall include the maximum number of executive level positions necessary by level and a justification for the positions.

EFFECTIVE DATE; CONGRESSIONAL REVIEW

SEC. 415. (a)(1) The provisions of this title, other than sections 413 and 414(a), shall take effect 9 months after the date of the enactment of this Act.

(2) The provisions of section 413 of this title shall take effect on the date of the enactment of this Act.

(3) The provisions of section 414(a) of this title shall take effect 180 days after the date of the enactment of this Act.

(b)(1) The amendments made by sections 401 through 412 of this title shall continue to have effect unless, during the first period of 60 calendar days of continuous session of the Congress beginning after 5 years after the effective date of such amendments, a concurrent resolution is introduced and adopted by the Congress disapproving the continuation of the Senior Executive Service. Such amendments shall cease to have effect on the first day of the first fiscal year beginning after the date of the adoption of such concurrent resolution.

(2) The continuity of a session is broken only by an adjournment of the Congress sine die, and the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of the 60-day period.

(3) The provisions of subsections (d), (e), (f), (g), (h), (i), (j), and (k) of section 5305 of title 5, United States Code, shall apply with respect to any concurrent resolution referred to in paragraph (1) of this subsection except that for the purpose of this paragraph the reference in such subsection (e) to 10 calendar days shall be considered a reference to 30 calendar days.

(4) During the 5-year period referred to in paragraph (1) of this subsection, the Director of the Office of Personnel Management shall include in each report required under section 3135 of title 5, United States Code (as added by this title) an evaluation of the effectiveness of the Senior Executive Service and the manner in which such Service is administered.

TITLE V—MERIT PAY

PAY FOR PERFORMANCE

SEC. 501. Part III of title 5, United States Code, is amended by inserting after chapter 53 the following new chapter:

"CHAPTER 54—MERIT PAY AND CASH AWARDS

"Sec.

"5401. Purpose.

"5402. Merit pay system.

"5403. Cash award program.

"5404. Report.
"5405. Regulations.

"§ 5401. Purpose.

"(a) It is the purpose of this chapter to provide for—

"(1) a merit pay system which shall—

"(A) within available funds, recognize and reward quality performance by varying merit pay adjustments;

"(B) use performance appraisals as the basis for determining merit pay adjustments;

"(C) within available funds, provide for training to improve objectivity and fairness in the evaluation of performance; and

"(D) regulate the costs of merit pay by establishing appropriate control techniques; and

"(2) a cash award program which shall provide cash awards for superior accomplishment and special service.

"(b)(1) Except as provided in paragraph (2) of this subsection, this chapter shall apply to any supervisor or management official (as defined in paragraphs (10) and (11) of section 7103 of this title, respectively) who is in a position which is in GS–13, 14, or 15 of the General Schedule described in section 5104 of this title.

"(2)(A) Upon application under subparagraph (C) of this paragraph, the President may, in writing, exclude an agency or any unit of an agency from the application of this chapter if the President considers such exclusion to be required as a result of conditions arising from—

"(i) the recent establishment of the agency or unit, or the implementation of a new program,

"(ii) an emergency situation, or

"(iii) any other situation or circumstance.

"(B) Any exclusion under this paragraph shall not take effect earlier than 30 calendar days after the President transmits to each House of the Congress a report describing the agency or unit to be excluded and the reasons therefor.

"(C) An application for exclusion under this paragraph of an agency or any unit of an agency shall be filed by the head of the agency with the Office of Personnel Management, and shall set forth reasons why the agency or unit should be excluded from this chapter. The Office shall review the application and reasons, undertake such other review as it considers appropriate to determine whether the agency or unit should be excluded from the coverage of this chapter, and upon completion of its review, recommend to the President whether the agency or unit should be so excluded.

"(D) Any agency or unit which is excluded pursuant to this paragraph shall, insofar as practicable, make a sustained effort to eliminate the conditions on which the exclusion is based.

"(E) The Office shall periodically review any exclusion from coverage and may at any time recommend to the President that an exclusion under this paragraph be revoked. The President may at any time revoke, in writing, any exclusion under this paragraph.

"§ 5402. Merit pay system

"(a) In accordance with the purpose set forth in section 5401(a)(1) of this title, the Office of Personnel Management shall establish a merit pay system which shall provide for a range of basic pay for each grade to which the system applies, which range shall be limited by the minimum and maximum rates of basic pay payable for each grade under chapter 53 of this title.

"(b)(1) Under regulations prescribed by the Office, the head of each agency may provide for increases within the range of basic pay for any employee covered by the merit pay system.

"(2) Determinations to provide pay increases under this subsection—

"(A) may take into account individual performance and organizational accomplishment, and

"(B) shall be based on factors such as—

"(i) any improvement in efficiency, productivity, and quality of work or service, including any significant reductions in paperwork;

"(ii) cost efficiency;

"(iii) timeliness of performance; and

"(iv) other indications of the effectiveness, productivity, and quality of performance of the employees for whom the employee is responsible;

"(C) shall be subject to review only in accordance with and to the extent provided by procedures established by the head of the agency; and

"(D) shall be made in accordance with regulations issued by the Office which relate to the distribution of increases authorized under the subsection.

"(3) For any fiscal year, the head of any agency may exercise authority under paragraph (1) of this subsection only to the extent of the funds available for the purpose of this subsection.

"(4) The funds available for the purpose of this subsection to the head of any agency for any fiscal year shall be determined before the beginning of the fiscal year by the Office on the basis of the amount estimated by the Office to be necessary to reflect—

"(A) within-grade step increases and quality step increases which would have been paid under subchapter III of chapter 53 of this title during the fiscal year to the employees of the agency covered by the merit pay system if the employees were not so covered; and

"(B) adjustments under section 5305 of this title which would have been paid under such subchapter during the fiscal year to such employees if the employees were not so covered, less an amount reflecting the adjustment under subsection (c)(1) of this section in rates of basic pay payable to the employees for the fiscal year.

"(c)(1) Effective at the beginning of the first applicable pay period commencing on or after the first day of the month in which an adjustment takes effect under section 5305 of his title, the rate of basic pay for any position under this chapter shall be adjusted by an amount equal to the greater of—

"(A) one-half of the percentage of the adjustment in the annual rate of pay which corresponds to the percentage generally applicable to positions not covered by the merit pay system in the same grade as the position; or

"(B) such greater amount of such percentage of such adjustment in the annual rate of pay as may be determined by the Office.

"(2) Any employee whose position is brought under the merit pay system shall, so long as the employee continues to occupy the position, be entitled to receive basic pay at a rate of basic pay not less than the rate the employee was receiving when the position was brought under the merit pay system, plus any subsequent adjustment under paragraph (1) of this subsection.

"(3) No employee to whom this chapter applies may be paid less than the minimum rate of basic pay of the grade of the employee's position.

"(d) Under regulations prescribed by the Office, the benefit of advancement through the range of basic pay for a grade shall be preserved for any employee covered by the merit pay system whose continuous service is interrupted in the public interest by service with the armed forces, or by service in essential non-Government civilian employment during a period of war or national emergency.

"(e) For the purpose of section 5941 of this title, rates of basic pay of employees covered by the merit pay system shall be considered rates of basic pay fixed by statute.

"§ 5403. Cash award program

"(a) The head of any agency may pay a cash award to, and incur necessary expenses for the honorary recognition of, any employee covered by the merit pay system who—

"(1) by the employee's suggestion, invention, superior accomplishment, or other personal effort, contributes to the efficiency, economy, or other improvement of Government operations or achieves a significant reduction in paperwork, or

"(2) performs a special act or service in the public interest in connection with or related to the employee's Federal employment.

"(b) The President may pay a cash award to, and incur necessary expenses for the honorary recognition of, any employee covered by the merit pay system who—

"(1) by the employee's suggestion, invention, superior accomplishment, or other personal effort, contributes to the efficiency, economy, or other improvement of Government operations or achieves a significant reduction in paperwork; or

"(2) performs an exceptionally meritorious special act or service in the public interest in connection with or related to the employee's Federal employment.

A Presidential cash award may be in addition to an agency cash award under subsection (a) of this section.

"(c) A cash award to any employee under this section is in addition to the basic pay of the employee under section 5402 of this title. Acceptance of a cash award under this section constitutes an agreement that the use by the Government of any idea, method, or device for which the award is made does not form the basis of any claim of any nature against the Government by the employee accepting the award, or the employee's heirs or assigns.

"(d) A cash award to, and expenses for the honorary recognition of, any employee covered by the merit pay system may be paid from the fund or appropriation available to the activity primarily benefiting, or the various activities benefiting, from the suggestion, invention, superior accomplishment, or other meritorious effort of the employee. The head of the agency concerned shall determine the amount to be contributed by each activity to any agency cash award under subsection (a) of this section. The President shall determine the amount to be contributed by each activity to a Presidential award under subsection (b) of this section.

"(e)(1) Except as provided in paragraph (2) of this subsection, a cash award under this section may not exceed $10,000.

"(2) If the head of an agency certifies to the Office of Personnel Management that the suggestion, invention, superior accomplishment, or other meritorious effort of an employee for which a cash award is proposed is highly exceptional and unusually outstanding, a cash award in excess of $10,000 but not in excess of $25,000 may be awarded to the employee on the approval of the Office.

"(f) The President or the head of an agency may pay a cash award under this section notwithstanding the death or separation from the service of an employee, if the suggestion, invention, superior accomplishment, or other meritorious effort of the employee for which the award is proposed was made or performed while the employee was covered by the merit pay system.

"§ 5404. Report

"The Office of Personnel Management shall include in each annual report required by section 1308(a) of this title a report on the operation of the merit pay system and the cash award program established under this chapter. The report shall include—

"(1) an analysis of the cost and effective-

ness of the merit pay system and the cash award program; and

"(2) a statement of the agencies and units excluded from the coverage of this chapter under section 5401(b)(2) of this title, the reasons for which each exclusion was made, and whether the exclusion continues to be warranted.

"§ 5405. Regulations

"The Office of Personnel Management shall prescribe regulations to carry out the purpose of this chapter.".

INCENTIVE AWARDS AMENDMENTS

SEC. 502. (a) Section 4503(1) of title 5, United States Code, is amended by inserting after "operations" the following: "or achieves a significant reduction in paperwork".

(b) Section 4504(1) of title 5, United States Code, is amended by inserting after "operations" the following: "or achieves a significant reduction in paperwork".

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 503. (a) Section 4501(2)(A) of title 5, United States Code, is amended by striking out "; and" and inserting in lieu thereof ", but does not include an employee covered by the merit pay system established under section 5402 of this title; and".

(b) Section 4502(a) of title 5, United States Code, is amended by striking out "$5,000" and inserting in lieu thereof "$10,000".

(c) Section 4502(b) of title 5, United States Code, is amended—

(1) by striking out "Civil Service Commission" and inserting in lieu thereof "Office of Personnel Management";

(2) by striking out "$5,000" and inserting in lieu thereof "$10,000"; and

(3) by striking out "the Commission" and inserting in lieu thereof "the Office".

(d) Section 4506 of title 5, United States Code, is amended by striking out "Civil Service Commission may" and inserting in lieu thereof "Office of Personnel Management shall".

(e) The second sentence of secton 5332(a) of title 5, United States Code, is amended by inserting after "applies" the following: ", except an employee covered by the merit pay system established under section 5402 of this title,".

(f) Section 5334 of title 5, United States Code (as amended in section 801(a)(3)(G) of this Act), is amended—

(1) in paragraph (2) of subsection (c), by inserting ", or for an employee appointed to a position covered by the merit pay system established under section 5402 of this title, any dollar amount," after "step"; and

(2) by adding at the end thereof the following new subsection:

"(f) In the case of an employee covered by the merit pay system established under section 5402 of this title, all references in this section to 'two steps' or 'two step-increases' shall be deemed to mean 6 percent.".

(g) Section 5335(e) of title 5, United States Code, is amended by inserting after "individual" the following: "covered by the merit pay system established under section 5402 of this title, or,".

(h) Section 5336(c) of title 5, United States Code, is amended by inserting after "individual" the following: "covered by the merit pay system established under section 5402 of this title, or,".

(i) The table of chapters for part III of title 5, United States Code, is amended by inserting after the item relating to chapter 53 of the following new item:

"54. Merit Pay and Cash Awards.....5101".

EFFECTIVE DATE

SEC. 504. (a) The provisions of this title shall take effect on the first day of the first applicable pay period which begins on or after October 1, 1981, except that such provisions may take effect with respect to any category or categories of positions before such day to the extent prescribed by the Director of the Office of Personnel Management.

(b) The Director of the Office of Personnel Management shall include in the first report required under section 5404 of title 5, United States Code (as added by this title), information with respect to the progress and cost of the implementation of the merit pay system and the cash award program established under chapter 54 of such title (as added by this title).

TITLE VI—RESEARCH, DEMONSTRATION, AND OTHER PROGRAMS

RESEARCH PROGRAMS AND DEMONSTRATION PROJECTS

SEC. 601. (a) Part III of title 5, United States Code, is amended by adding at the end of subpart C thereof the following new chapter:

"CHAPTER 47—PERSONNEL RESEARCH PROGRAMS AND DEMONSTRATION PROJECTS

"Sec.
"4701. Definitions.
"4702. Research programs.
"4703. Demonstration projects.
"4704. Allocation of funds.
"4705. Reports.
"4706. Regulations.

"§ 40701. Definitions

"(a) For the purpose of this chapter—

"(1) 'agency' means an Executive agency, the Administrative Office of the United States Courts, and the Government Printing Office, but does not include—

"(A) a Government corporation;

"(B) the Federal Bureau of Investigation, the Central Intelligence Agency, the Defense Intelligence Agency, the National Security Agency, and, as determined by the President, any Executive agency or unit thereof which is designated by the President and which has as its principal function the conduct of foreign intelligence or counterintelligence activities; or

"(C) the General Accounting Office;

"(2) 'employee' means an individual employed in or under an agency;

"(3) 'eligible' means an individual who has qualified for appointment in an agency and whose name has been entered on the appropriate register or list of eligibles:

"(4) 'demonstration project' means a project conducted by the Office of Personnel Management, or under its supervision, to determine whether a specified change in personnel management policies or procedures would result in improved Federal personnel management; and

"(5) 'research program means a planned study of the manner in which public management policies and systems are operating, the effects of those policies and systems, the possibilities for change, and comparisons among policies and systems.

"(b) This subchapter shall not apply to any position in the Drug Enforcement Administration which is excluded from the competitive service under section 201 of the Crime Control Act of 1976 (5 U.S.C. 5108 note; 90 Stat. 2425).

"§ 4702. Research programs

"The Office of Personnel Management shall—

"(1) establish and maintain (and assist in the establishment and maintenance of) research programs to study improved methods and technologies in Federal personnel management;

"(2) evaluate the research programs established under paragraph (1) of this section

"(3) establish and maintain a program for the collection and public dissimination of information relating to personnel management research and for encouraging and facilitating the exchange of information among interested persons and entities; and

"(4) carry out the preceding functions directly or through agreement or contract.

"§ 4703. Demonstration projects

"(a) Except as provided in this section, the Office of Personnel Management may, directly or through agreement or contract with one or more agencies and other public and private organizations, conduct and evaluate demonstration projects. Subject to the provisions of this section, the conducting of demonstration projects shall not be limited by any lack of specific authority under this title to take the action contemplated, or by any provision of this title or any rule or regulation prescribed under this title is inconsistent with the action, including any law or regulation relating to—

"(1) the methods of establishing qualification requirements for, recruitment for, and appointment to positions;

"(2) the methods of classifying positions and compensating employees;

"(3) the methods of assigning, reassigning, or promoting employees;

"(4) the methods of disciplining employes;

"(5) the methods of providing incentives to employees, including the provision of group or individual bonuses or pay;

"(6) the hours of work per day or per week;

"(7) the methods of involving employees, labor organizations, and employee organizations in personnel decisions; and

"(8) the methods of reducing overall agency staff and grade levels.

"(b) Before conducting or entering into any agreement or contract to conduct a demonstration project, the Office shall—

"(1) develop a plan for such project which identifies—

"(A) the purposes of the project;

"(B) the types of employees or eligibles, categorized by occupational series, grade, or organizational unit;

"(C) the number of employees or eligibles to be included, in the aggregate and by category;

"(D) the methodology;

"(E) the duration;

"(F) the training to be provided;

"(G) the anticipated costs;

"(H) the methodology and criteria for evaluation;

"(I) a specific description of any aspect of the project for which there is a lack of specific authority; and

"(J) a specific citation to any provision of law, rule, or regulation which, if not waived under this section, would prohibit the conducting of the project, or any part of the project as proposed;

"(2) publish the plan in the Federal Register; and

"(3) submit the plan so published to public hearing;

"(4) provide notification of the proposed project, at least 180 days in advance of the date any project proposed under this section is to take effect—

"(A) to employees who are likely to be affected by the project; and

"(B) to each House of the Congress;

"(5) obtain approval from each agency involved of the final version of the plan; and

"(6) provide each House of the Congress with a report at least 90 days in advance of the date the project is to take effect setting forth the final version of the plan as so approved.

"(c) No demonstration project under this section may provide for a waiver of—

"(1) any provision of chapter 63 or subpart G of this title;

"(2)(A) any provision of law referred to in section 2302(b)(1) of this title; or

"(B) any provision of law implementing any provision of law referred to in section 2302(b)(1) of this title by—

"(i) providing for equal employment opportunity through affirmative action; or

"(ii) providing any right or remedy available to any employee or applicant for employment in the civil service;

"(3) any provision of chapter 15 or subchapter III of chapter 73 of this title;

"(4) any rule or regulation prescribed under any provision of law referred to in paragraph (1), (2), or (3) of this subsection; or

"(5) any provision of chapter 23 of this title, or any rule or regulation prescribed under this title, if such waiver is inconsistent with any merit system principle or any provision thereof relating to prohibited personnel practices.

"(d)(1) Each demonstration project shall—

"(A) involve not more than 5,000 individuals other than individuals in any control groups necessary to validate the results of the project; and

"(B) terminate before the end of the 5-year period beginning on the date on which the project takes effect, except that the project may continue beyond the date to the extent necessary to validate the results of the project.

"(2) Not more than 10 active demonstration projects may be in effect at any time.

"(e) Subject to the terms of any written agreement or contract between the Office and an agency, a demonstration project involving the agency may be terminated by the Office, or the agency, if either determines that the project creates a substantial hardship on, or is not in the best interests of, the public, the Federal Government, employees, or eligibles.

"(f) Employees within a unit with respect to which a labor organization is accorded exclusive recognition under section 7111 of this title shall not be included within any project under subsection (b) of this section—

"(1) if the project would violate a collective bargaining agreement (as defined in section 7103(8) of this title) between the agency and the labor organization, unless there is another written agreement with respect to the project between the agency and the organization permitting the inclusion; or

"(2) if the project is not covered by such a collective bargaining agreement, until there has been consultation or negotiation, as appropriate, by the agency with the labor organization.

"(g) Employees within any unit with respect to which a labor organization has not been accorded exclusive recognition under section 7111 of this title shall not be included within any project under subsection (b) of this section unless there has been agency consultation regarding the project with the employees in the unit.

"(h) The Office shall provide for an evaluation of the results of each demonstration project and its impact on improving public management.

"(i) Upon request of the Director of the Office of Personnel Management, agencies shall cooperate with and assist the Office, to the extent practicable, in any evaluation undertaken under subsection (h) of this section and provide the Office with requested information and reports relating to the conducting of demonstration projects in their respective agencies.

"§ 4704. Allocation of funds

"Funds appropriated to the Office of Personnel Management for the purpose of this chapter may be allocated by the Office to any agency conducting demonstration projects or assisting the Office in conducting such projects. Funds so allocated shall remain available for such period as may be specified in appropriation Acts. No contract shall be entered into under this chapter unless the contract has been provided for in advance in appropriation Acts.

"§ 4705. Reports

"The Office of Personnel Management shall include in the annual report required by section 1308(a) of this title a summary of research programs and demonstration projects conducted during the year covered by the report, the effect of the programs and projects on improving public management and increasing Government efficiency, and recommendations of policies and procedures which will improve such management and efficiency.

"§ 4706. Regulations

"The Office of Personnel Management shall prescribe regulations to carry out the purpose of this chapter.".

(b) The table of chapters for part III of title 5, United States Code, is amended by inserting after the item relating to chapter 45 the following new item:

"47. Personnel Research Programs and Demonstration Projects ... 4701".

INTERGOVERNMENTAL PERSONNEL ACT AMENDMENTS

SEC. 602. (a) Section 208 of the Intergovernmental Personnel Act of 1970 (42 U.S.C. 4728) is amended—

(1) by striking out the section heading and inserting in lieu thereof the following:

"TRANSFER OF FUNCTIONS AND ADMINISTRATION OF MERIT POLICIES";

(2) by redesignating subsections (b), (c), (d), (e), and (f) as subsections (c), (d), (e), (f), and (g), respectively, and by inserting after subsection (a) the following new subsection:

"(b) In accordance with regulations of the Office of Personnel Management, Federal agencies may require as a condition of participation in assistance programs, systems of personnel administration consistent with personnel standards prescribed by the Office for positions engaged in carrying out such programs. The standards shall—

"(1) include the merit principles in section 2 of this Act;

"(2) be prescribed in such a manner as to minimize Federal intervention in State and local personnel administration."; and

(3) by striking out the last subsection and inserting in lieu thereof the following new subsection:

"(h) Effective one year after the date of the enactment of the Civil Service Reform Act of 1978, all statutory personnel requirements established as a condition of the receipt of Federal grants-in-aid by State and local governments are hereby abolished, except—

"(1) requirements prescribed under laws and regulations referred to in subsection (a) of this section;

"(2) requirements that generally prohibit discrimination in employment or require equal employment opportunity;

"(3) the Davis-Bacon Act (40 U.S.C. 276 et seq.); and

"(4) chapter 15 of title 5, United States Code, relating to political activities of certain State and local employees.".

(b) Section 401 of such Act (84 Stat. 1920) is amended by striking out "governments and institutions of higher education" and inserting in lieu thereof "governments, institutions of higher education, and other organizations".

(c) Section 403 of such Act (84 Stat. 1925) is amended by inserting "(a)" after "403.", and by adding at the end thereof the following new subsection:

"(b) Effective beginning on the effective date of the Civil Service Reform Act of 1978, the provisions of section 314(f) of the Public Health Service Act (42 U.S.C. 246(f)) applicable to commissioned officers of the Public Health Service Act are hereby repealed.".

(d) Section 502 of such Act (42 U.S.C. 4762) is amended in paragraph (3) by inserting "the Trust Territory of the Pacific Islands," before "and a territory or possession of the United States,".

(e) Section 506 of such Act (42 U.S.C. 4766) is amended—

(1) in subsection (b)(2), by striking out "District of Columbia" and inserting in lieu thereof "District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, and the Virgin Islands"; and

(2) in subsection (b)(5), by striking out "and the District of Columbia" and inserting in lieu thereof ", the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, and the Virgin Islands".

AMENDMENTS TO THE MOBILITY PROGRAM

SEC. 603. (a) Section 3371 of title 5, United States Code, is amended—

(1) by inserting "the Trust Territory of the Pacific Islands," after "Puerto Rico," in paragraph (1)(A); and

(2) by striking out "and" at the end of paragraph (1), by striking out the period at the end of paragraph (2) and inserting a semicolon in lieu thereof, and by adding at the end thereof the following:

"(3) 'Federal agency' means an Executive agency, military department, a court of the United States, the Administrative Office of the United States Courts, the Library of Congress, the Botanic Garden, the Government Printing Office, the Congressional Budget Office, the United States Postal Service, the Postal Rate Commission, the Office of the Architect of the Capitol, the Office of Technology Assessment, and such other similar agencies of the legislative and judicial branches as determined appropriate by the Office of Personnel Management; and

"(4) 'other organization' means—

"(A) a national, regional, State-wide, area-wide, or metropolitan organization representing member State or local governments;

"(B) an association of State or local public officials; or

"(C) a nonprofit organization which has as one of its principal functions the offering of professional advisory, research, educational, or development services, or related services, to governments or universities concerned with public management.".

(b) Sections 3372 through 3375 of title 5, United States Code, are amended by striking out "executive agency" and "an executive agency" each place they appear and inserting in lieu thereof "Federal agency" and "a Federal agency", respectively.

(c) Section 3372 of title 5, United States Code, is further amended—

(1) in subsection (a)(1), by inserting after "agency" the following: ", other than a noncareer appointee, limited term appointee, or limited emergency appointee (as such terms are defined in section 3132(a) of this title) in the Senior Executive Service and an employee in a position which has been excepted from the competitive service by reason of its confidential, policy-determining, policy-making, or policy-advocating character,";

(2) in subsection (b)(1), by striking out "and";

(3) in subsection (b)(2), by striking out the period after "agency" and inserting in lieu thereof a semicolon;

(4) by adding at the end of subsection (b) the following:

"(3) an employee of a Federal agency to any other organization; and

"(4) an employee of another organization to a Federal agency."; and

"(5) by adding at the end thereof (as amended in paragraph (4) of this subsection) the following new subsection:

"(c)(1) An employee of a Federal agency may be assigned under this subchapter only if the employee agrees, as a condition of accepting an assignment under this subchapter, to serve in the civil service upon the completion of the assignment for a

period equal to the length of the assignment.

"(2) Each agreement required under paragraph (1) of this subsection shall provide that in the event the employee fails to carry out the agreement (except for good and sufficient reason, as determined by the head of the Federal agency from which assigned) the employee shall be liable to the United States for payment of all expenses (excluding salary) of the assignment. The amount shall be treated as a debt due the United States.".

(d) Section 3374 of title 5, United States Code, is further amended—

(1) by adding at the end of subsection (b) the following new sentence:

"The above exceptions shall not apply to non-Federal employees who are covered by chapters 83, 87, and 89 of this title by virtue of their non-Federal employment immediately before assignment and appointment under this section.";

(2) in subsection (c)(1), by striking out the semicolon at the end thereof and by inserting in lieu thereof the following: ", except to the extent that the pay received from the State or local government is less than the appropriate rate of pay which the duties would warrant under the applicable pay provisions of this title or other applicable authority;"; and

(3) by striking out the period at the end of subsection (c) and inserting in lieu thereof the folowing: ", or for the contribution of the State or local government, or a part thereof, to employee benefit systems.".

(e) Section 3375(a) of title 5, United States Code, is further amended by striking out "and" at the end of paragraph (4), by redesignating paragraph (5) as paragraph (6), and by inserting after paragraph (4) the following:

"(5) section 5724a(b) of this title, to be used by the employee for miscellaneous expenses related to change of station where movement or storage of household goods is involved; and".

TITLE VII—FEDERAL SERVICE LABOR-MANAGEMENT RELATIONS

FEDERAL SERVICE LABOR-MANAGEMENT RELATIONS

SEC. 701. So much of subpart F of part III of title 5, United States Code, as precedes subchapter II of chapter 71 thereof as amended to read as follows:

"Subpart F—Labor-Management and Employee Relations

"CHAPTER 71—LABOR-MANAGEMENT RELATIONS

"SUBCHAPTER I—GENERAL PROVISIONS

"Sec.
"7101. Findings and purpose.
"7102. Employees' rights.
"7103. Definitions; applications.
"7104. Federal Labor Relations Authority.
"7105. Powers and duties of the Authority.
"7106. Management rights.

"SUBCHAPTER II—RIGHTS AND DUTIES OF AGENCIES AND LABOR ORGANIZATIONS

"Sec.
"7111. Exclusive recognition of labor organization representation.
"7112. Determination of appropriate units for labor organization representation.
"7113. National consultation rights.
"7114. Representation rights and duties.
"7115. Allotments to representatives.
"7116. Unfair labor practices.
"7117. Duty to bargain in good faith; compelling need; duty to consult.
"7118. Prevention of unfair labor practices.
"7119. Negotiation impasses; Federal Service Impasses Panel.
"7120. Standards of conduct for labor organizations.

"SUBCHAPTER III—GRIEVANCES, APPEALS, AND REVIEW

"Sec.
"7121. Grievance procedures.
"7122. Exceptions to arbitral awards.
"7123. Judicial review; enforcement.

"SUBCHAPTER IV—ADMINISTRATIVE AND OTHER PROVISIONS

"Sec.
"7131. Official time.
"7132. Subpenas.
"7133. Compilation and publication of data.
"7134. Regulations.
"7135. Continuation of existing laws, recognitions, agreements, and procedures.

"SUBCHAPTER I—GENERAL PROVISIONS

"§ 7101. Findings and purpose

"(a) The Congress finds that—

"(1) experience in both private and public employment indicates that the statutory protection of the right of employees to organize, bargain collectively, and participate through labor organizations of their own choosing in decisions which affect them—

"(A) safeguards the public interest,

"(B) contributes to the effective conduct of public business, and

"(C) facilitates and encourages the amicable settlement of disputes between employees and their employers involving conditions of employment; and

"(2) the public interest demands the highest standards of employee performance and the continued development and implementation of modern and progressive work practices to facilitate and improve employee performance and the efficient accomplishment of the operations of the Government.

Therefore, labor organizations and collective bargaining in the civil service are in the public interest.

"(b) It is the purpose of this chapter to prescribe certain rights and obligations of the employees of the Federal Government and to establish procedures which are designed to meet the special requirements and needs of the Government. The provisions of this chapter should be interpreted in a manner consistent with the requirement of an effective and efficient government.

"§ 7102. Employees' rights

"Each employee shall have the right to form, join, or assist any labor organization, or to refrain from any such activity, freely and without fear of penalty or reprisal, and each employee shall be protected in the exercise of such right. Except as otherwise provided under this chapter, such right includes the right—

"(1) to act for a labor organization in the capacity of a representative and the right, in that capacity, to present the views of the labor organization to heads of agencies and other officials of the executive branch of the Government, the Congress, or other appropriate authorities, and

"(2) to engage in collective bargaining with respect to conditions of employment through representatives chosen by employees under this chapter

"§ 7103. Definitions; application

"(a) For the purpose of this chapter—

"(1) 'person' means an individual, labor organization or agency;

"(2) 'employee' means an individual—

"(A) employed in an agency; or

"(B) whose employment in an agency has ceased because of any unfair labor practice under section 7116 of this title and who has not obtained any other regular and substantially equivalent employment, as determined under regulations prescribed by the Federal Labor Relations Authority;

but does not include—

"(i) an alien or noncitizen of the United States who occupies a position outside the United States;

"(ii) a member of the uniformed services;

"(iii) a supervisor or a management official;

"(iv) an officer or employee in the Foreign Service of the United States employed in the Department of State, the Agency for International Development, or the International Communication Agency; or

"(v) any person who participates in a strike in violation of section 7311 of this title;

"(3) 'agency' means an Executive agency (including a nonappropriated fund instrumentality described in section 2105(c) of this title and the Veterans' Canteen Service, Veterans' Administration), the Library of Congress, and the Government Printing Office, but does not include—

"(A) the General Accounting Office;

"(B) the Federal Bureau of Investigation;

"(C) the Central Intelligence Agency;

"(D) the National Security Agency;

"(E) the Tennessee Valley Authority;

"(F) the Federal Labor Relations Authority; or

"(G) the Federal Service Impasses Panel;

"(4) 'labor organization' means an organization composed in whole or in part of employees, in which employees participate and pay dues, and which has as a purpose the dealing with an agency concerning grievances and conditions of employment, but does not include—

"(A) an organization which, by its constitution, bylaws, tacit agreement among its members, or otherwise, denies membership because of race, color, creed, national origin, sex, age, preferential or nonpreferential civil service status, political affiliation, marital status, or handicapping condition;

"(B) an organization which advocates the overthrow of the constitutional form of government of the United States;

"(C) an organization sponsored by an agency; or

"(D) an organization which participates in the conduct of a strike against the Government or any agency thereof or imposes a duty or obligation to conduct, assist, or participate in such a strike;

"(5) 'dues' means dues, fees, and assessments;

"(6) 'Authority' means the Federal Labor Relations Authority described in section 7104(a) of this title;

"(7) 'Panel' means the Federal Service Impasses Panel described in section 7119(c) of this title;

"(8) 'collective bargaining agreement' means an agreement entered into as a result of collective bargaining pursuant to the provisions of this chapter;

"(9) 'grievance' means any complaint—

"(A) by any employee concerning any matter relating to the employment of the employee;

"(B) by any labor organization concerning any matter relating to the employment of any employee; or

"(C) by any employee, labor organization, or agency concerning—

"(i) the effect or interpretation, or a claim of breach, of a collective bargaining agreement; or

"(ii) any claimed violation, misinterpretation, or misapplication of any law, rule, or regulation affecting conditions of employment;

"(10) 'supervisor' means an individual employed by an agency having authority in the interest of the agency to hire, direct, assign, promote, reward, transfer, furlough, layoff, recall, suspend, discipline, or remove employees, to adjust their grievances, or to effectively recommend such action, if the exercise of the authority is not merely routine or clerical in nature but requires the consistent exercise of independent judgment, except that, with respect to any unit which includes firefighters or nurses, the term

'supervisor' includes only those individuals who devote a preponderance of their employment time to exercising such authority;

"(11) 'management official' means an individual employed by an agency in a position the duties and responsibilities of which require or authorize the individual to formulate, determine, or influence the policies of the agency;

"(12) 'collective bargaining' means the performance of the mutual obligation of the representative of an agency and the exclusive representative of employees in an appropriate unit in the agency to meet at reasonable times and to consult and bargain in a good-faith effort to reach agreement with respect to the conditions of employment affecting such employees and to execute, if requested by either party, a written document incorporating any collective bargaining agreement reached, but the obligation referred to in this paragraph does not compel either party to agree to a proposal or to make a concession;

"(13) 'confidential employee' means an employee who acts in a confidential capacity with respect to an individual who formulates or effectuates management policies in the field of labor-management relations;

"(14) 'conditions of employment' means personnel policies, practices, and matters, whether established by rule, regulation, or otherwise, affecting working conditions, except that such term does not include policies, practices, and matters—

"(A) relating to political activities prohibited under subchapter III of chapter 73 of this title;

"(B) relating to the classification of any position; or

"(C) to the extent such matters are specifically provided for by Federal statute;

"(15) 'professional employee' means—

"(A) an employee engaged in the performance of work—

"(i) requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study in an institution of higher learning or a hospital (as distinguished from knowledge acquired by a general academic education, or from an apprenticeship, or from training in the performance of routine mental, manual, mechanical, or physical activities);

"(ii) requiring the consistent exercise of discretion and judgment in its performance;

"(iii) which is predominantly intellectual and varied in character (as distinguished from routine mental, manual, mechanical, or physical work); and

"(iv) which is of such character that the output produced or the result accomplished by such work cannot be standardized in relation to a given period of time; or

"(B) an employee who has completed the courses of specialized intellectual instruction and study described in subparagraph (A)(i) of this paragraph and is performing related work under appropriate direction or guidance to qualify the employee as a professional employee described in subparagraph (A) of this paragraph;

"(16) 'exclusive representative' means any labor organization which—

"(A) is certified as the exclusive representative of employees in an appropriate unit pursuant to section 7111 of this title; or

"(B) was recognized by an agency immediately before the effective date of this chapter as the exclusive representative of employees in an appropriate unit—

"(i) on the basis of an election, or

"(ii) on any basis other than an election, and continues to be so recognized in accordance with the provisions of this chapter;

"(17) 'firefighter' means any employee engaged in the performance of work directly connected with the control and extinguishment of fires or the maintenance and use of firefighting apparatus and equipment; and

"(18) 'United States' means the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, the Trust Territory of the Pacific Islands, and any territory or possession of the United States.

"(b)(1) The President may issue an order excluding any agency or subdivision thereof from coverage under this chapter if the President determines that—

"(A) the agency or subdivision has as a primary function intelligence, counterintelligence, investigative, or national security work, and

"(B) the provisions of this chapter cannot be applied to that agency or subdivision in a manner consistent with national security requirements and considerations.

"(d) The President may issue an order suspending any provision of this chapter with respect to any agency, installation, or activity located outside the 50 States and the District of Columbia, if the President determines that the suspension is necessary in the interest of national security.

"§ 7104. Federal Labor Relations Authority

"(a) The Federal Labor Relations Authority is composed of three members, not more than 2 of whom may be adherents of the same political party. No member shall engage in any other business or employment or hold another office or position in the Government of the United States except as otherwise provided by law.

"(b) Members of the Authority shall be appointed by the President by and with the advice and consent of the Senate, and may be removed by the President only upon notice and hearing and only for inefficiency, neglect of duty, or malfeasance in office. The President shall designate one member to serve as Chairman of the Authority.

"(c)(1) One of the original members of the Authority shall be appointed for a term of 1 year, one for a term of 3 years, and the Chairman for a term of 5 years. Thereafter, each member shall be appointed for a term of 5 years.

"(2) Notwithstanding paragraph (1) of this subsection, the term of any member shall not expire before the earlier of—

"(A) the date on which the member's successor takes office, or

"(B) the last day of the Congress beginning after the date on which the member's term of office would (but for this subparagraph) expire.

An individual chosen to fill a vacancy shall be appointed for the unexpired term of the member replaced.

"(d) A vacancy in the Authority shall not impair the right of the remaining members to exercise all of the powers of the Authority.

"(e) The Authority shall make an annual report to the President for transmittal to the Congress which shall include information as to the cases it has heard and the decisions it has rendered.

"(f)(1) The General Counsel of the Authority shall be appointed by the President, by and with the advice and consent of the Senate, for a term of 5 years. The General Counsel may be removed at any time by the President. The General Counsel shall hold no other office or position in the Government of the United States except as provided by law.

"(2) The General Counsel may—

"(A) investigate alleged unfair labor practices under this chapter,

"(B) file and prosecute complaints under this chapter, and

"(C) exercise such other powers of the Authority as the Authority may prescribe.

"(3) The General Counsel shall have direct authority over, and responsibility for, all employees in the office of General Counsel, including employees of the General Counsel in the regional offices of the Authority.

"§ 7105. Powers and duties of the Authority

"(a)(1) The Authority shall provide leadership in establishing policies and guidance relating to matters under this chapter, and, except as otherwise provided, shall be responsible for carrying out the purpose of this chapter.

"(2) The Authority shall, to the extent provided in this chapter and in accordance with regulations prescribed by the Authority—

"(A) determine the appropriateness of units for labor organization representation under section 7112 of this title;

"(B) supervise or conduct elections to determine whether a labor organization has been selected as an exclusive representative by a majority of the employees in an appropriate unit and otherwise administer the provisions of section 7111 of this title relating to the according of exclusive recognition to labor organizations;

"(C) prescribe criteria and resolve issues relating to the granting of national consultation rights under section 7113 of this title;

"(D) prescribe criteria and resolve issues relating to determining compelling need for agency rules or regulations under section 7117(b) of this title;

"(E) resolve issues relating to the duty to bargain in good faith under section 7117(c) of this title;

"(F) prescribe criteria relating to the granting of consultation rights with respect to conditions of employment under section 7117(d) of this title;

"(G) conduct hearings and resolve complaints of unfair labor practices under section 7118 of this title;

"(H) resolve exceptions to arbitrator's awards under section 7122 of this title; and

"(I) take such other actions as are necessary and appropriate to effectively administer the provisions of this chapter.

"(b) The Authority shall adopt an official seal which shall be judicially noticed.

"(c) The principal office of the Authority shall be in or about the District of Columbia, but the Authority may meet and exercise any or all of its powers at any time or place. Except as otherwise expressly provided by law, the Authority may, by one or more of its members or by such agents as it may designate, make any appropriate inquiry necessary to carry out its duties wherever persons subject to this chapter are located. Any member who participates in the inquiry shall not be disqualified from later participating in a decision of the Authority in any case relating to the inquiry.

"(d) The Authority shall appoint an Executive Director and such regional directors, administrative law judges under section 3105 of this title, and other individuals as it may from time to time find necessary for the proper performance of its functions.

"(e)(1) The Authority may delegate to any regional director its authority under this chapter—

"(A) to determine whether a group of employees is an appropriate unit;

"(B) to conduct investigations and to provide for hearings;

"(C) to determine whether a question of representation exists and to direct an election; and

"(D) to supervise or conduct secret ballot elections and certify the results thereof.

"(2) The Authority may delegate to any administrative law judge appointed under subsection (d) of this section its authority under section 7118 of this title to determine whether any person has engaged in or is engaging in an unfair labor practice. The Authority may delegate to officers and employees appointed under subsection (d) authority to perform such duties and make such expenditures as may be necessary.

"(f) If the Authority delegates any au-

thority to any regional director or administrative law judge to take any action pursuant to subsection (c) of this section, the Authority may, upon application by any interested person filed within 60 days after the date of the action, review such action, but the review shall not, unless specifically ordered by the Authority, operate as a stay of action. The authority may affirm, modify, or reverse any action reviewed under this subsection. If the Authority does not undertake to grant review of the action under this subsection within 60 days after the later of—

"(1) the date of the action; or

"(2) the date of the filing of any application under this subsection for review of the action;

the action shall become the action of the Authority at the end of such 60-day period.

"(g) In order to carry out its functions under this chapter, the Authority may—

"(1) hold hearings;

"(2) administer oaths, take the testimony or deposition of any person under oath, and issue subpenas as provided in section 7133 of this title; and

"(3) may require an agency or a labor organization to cease and desist from violations of this chapter and require it to take any remedial action it considers appropriate to carry out the policies of this chapter.

"(h) Except as provided in section 518 of title 28, relating to litigation before the Supreme Court, attorneys designated by the Authority may appear for the Authority and represent the Authority in any civil action brought in connection with any function carried out by the Authority pursuant to this title or as otherwise authorized by law.

"(i) In the exercise of the functions of the Authority under this title, the Authority may request from the Director of the Office of Personnel Management an advisory opinion concerning the proper interpretation of rules, regulations, or policy directives issued by the Office of Personnel Management in connection with any matter before the Authority.

"§ 7106. Management rights

"(a) Subject to subsection (b) of this section, nothing in this chapter shall affect the authority of any management official of any agency—

"(1) to determine the mission, budget, organization, number of employees, and internal security practices of the agency; and

"(2) in accordance with applicable laws—

"(A) to hire, assign, direct, layoff, and retain employees in the agency, or to suspend, remove, reduce in grade or pay, or take other disciplinary action against such employees;

"(B) to assign work, to make determinations with respect to contracting out, and to determine the personnel by which agency operations shall be conducted;

"(C) with respect to filling positions, to make selections for appointments from—

"(i) among properly ranked and certified candidates for promotion; or

"(ii) any other appropriate source; and

"(D) to take whatever actions may be necessary to carry out the agency mission during emergencies.

"(b) Nothing in this section shall preclude any agency and any labor organization from negotiating—

"(1) at the election of the agency, on the numbers, types, and grades of employees or positions assigned to any organizational subdivision, work project, or tour of duty, or on the technology, methods, and means of performing work;

"(2) procedures which management officials of the agency will observe in exercising any authority under this section; or

"(3) appropriate arrangements for employees adversely affected by the exercise of any authority under this section by such management officials.

"SUBCHAPTER II—RIGHTS AND DUTIES OF AGENCIES AND LABOR ORGANIZATIONS

"§ 7111. Executive recognition of labor organizations

"(a) An agency shall accord exclusive recognition to a labor organization if the organization has been selected as the representative, in a secret ballot election, by a majority of the employees in an appropriate unit who cast valid ballots in the election.

"(b) If a petition is filed with the Authority—

"(1) by any person alleging—

"(A) in the case of an appropriate unit for which there is no exclusive representative, that 30 percent of the employees in the appropriate unit wish to be represented for the purpose of collective bargaining by an exclusive representative, or

"(B) in the case of an appropriate unit for which there is an exclusive representative, that 30 percent of the employees in the unit allege that the exclusive representative is no longer the representative of the majority of the employees in the unit; or

"(2) by any person seeking clarification of, or an amendment to, a certification then in effect or a matter relating to representation;

the Authority shall investigate the petition, and if it has reasonable cause to believe that a question of representation exists, it shall provide an opportunity for a hearing (for which a transcript shall be kept) after reasonable notice. If the Authority finds on the record of the hearing that a question of representation exists, the Authority shall conduct an election on the question by secret ballot and shall certify the results thereof. An election under this subsection shall not be conducted in any appropriate unit or in any subdivision thereof within which, in the preceding 12 calendar months, a valid election under this subsection has been held.

"(c) A labor organization which—

"(1) has been designated by at least 10 percent of the employees in the unit specified in any petition filed pursuant to subsection (b) of this section;

"(2) has submitted a valid copy of a current or recently expired collective bargaining agreement for the unit; or

"(3) has submitted other evidence that it is the exclusive representative of the employees involved;

may intervene with respect to a petition filed pursuant to subsection (b) of this section and shall be placed on the ballot of any election under such subsection (b) with respect to the petition.

"(d) The Authority shall determine who is eligible to vote in any election under this section and shall establish rules governing any such election, which shall include rules allowing employees eligible to vote the opportunity to choose—

"(1) from labor organizations on the ballot, that labor organization which the employees wish to have represent them; or

"(2) not to be represented by a labor organization.

In any election in which no choice on the ballot receives a majority of the votes cast, a runoff election shall be conducted between the two choices receiving the highest number of votes. A labor organization which receives the majority of the votes cast in an election shall be certified by the Authority as the exclusive representative.

"(e) A labor organization seeking exclusive recognition shall submit to the Authority and the agency involved a roster of its officers and representatives, a copy of its constitution and bylaws, and a statement of its objectives.

"(f) Exclusive recognition shall not be accorded to a labor organization—

"(1) if the Authority determines that the labor organization is subject to corrupt influences or influences opposed to democratic principles;

"(2) in the case of a petition filed pursuant to subsection (b)(1)(A) of this section, if there is not credible evidence that at least 30 percent of the employees in the unit specified in the petition wish to be represented for the purpose of collective bargaining by the labor organization seeking exclusive recognition;

"(3) if there is then in effect a lawful written collective bargaining agreement between the agency involved and an exclusive representative (other than the labor organization seeking exclusive recognition) covering any employees included in the unit specified in the petition, unless—

"(A) the collective bargaining agreement has been in effect for more than 3 years, or

"(B) the petition for exclusive recognition is filed not more than 105 days and not less than 60 days before the expiration date of the collective bargaining agreement; or

"(4) if the Authority has, within the previous 12 calendar months, conducted a secret ballot election for the unit described in any petition under this section and in such election a majority of the employees voting chose a labor organization for certification as the unit's exclusive representative.

"(g) Nothing in this section shall be construed to prohibit the waiving of hearings by stipulation for the purpose of a consent election in conformity with regulations and rules or decisions of the Authority.

"§ 7112. Determination of appropriate units for labor organization representation

"(a)(1) The Authority shall determine the appropriateness of any unit. The Authority shall determine in each case whether, in order to ensure employees the fullest freedom in exercising the rights guaranteed under this chapter, the appropriate unit should be established on an agency, plant, installation, functional, or other basis and shall determine any unit to be an appropriate unit only if the determination will ensure a clear and identifiable community of interest among the employees in the unit and will promote effective dealings with, and efficiency of the operations of, the agency involved.

"(b) A unit shall not be determined to be appropriate under this section solely on the basis of the extent to which employees in the proposed unit have organized, nor shall a unit be determined to be appropriate if it includes—

"(1) except as provided under section 7135(a)(2) of this title, any management official or supervisor;

"(2) a confidential employee;

"(3) an employee engaged in personnel work in other than a purely clerical capacity;

"(4) an employee engaged in administering the provisions of this chapter;

"(5) both professional employees and other employees, unless a majority of the professional employees vote for inclusion in the unit;

"(6) any employee engaged in intelligence, counterintelligence, investigative, or security work which directly affects national security; or

"(7) any employee primarily engaged in investigation or audit functions relating to the work of individuals employed by an agency whose duties directly affect the internal security of the agency, but only if the functions are undertaken to ensure that the duties are discharged honestly and with integrity.

"(c) Any employee who is engaged in administering any provision of law relating to labor-management relations may not be represented by a labor organization—

"(1) which represents other individuals to whom such provision applies; or

"(2) which is affiliated directly or indirectly with an organization which represents other individuals to whom such provision applies.

"(d) Two or more units which are in an agency and for which a labor organization is the exclusive representative may, upon petition by the agency or labor organization, be consolidated with or without an election into a single larger unit if the Authority considers the larger unit to be appropriate. The Authority shall certify the labor organization as the exclusive representative of the new larger unit.

"§ 7113. National consultation rights

"(a)(1) If, in connection with any agency, no labor organization has been accorded exclusive recognition on an agency basis, a labor organization which is the exclusive representative of a substantial number of the employees of the agency, as determined in accordance with criteria prescribed by the Authority, shall be granted national consultation rights by the agency. National consultation rights shall terminate when the labor organization no longer meets the criteria prescribed by the Authority. Any issue relating to any labor organization's eligibility for, or continuation of, national consultation rights shall be subject to determination by the Authority.

"(b)(1) Any labor organization having national consultation rights in connection with any agency under subsection (a) of this section shall—

"(A) be informed of any substantive change in conditions of employment proposed by the agency, and

"(B) be permitted reasonable time to present its views and recommendations regarding the changes.

"(2) If any views or recommendations are presented under paragraph (1) of this subsection to an agency by any labor organization—

"(A) the agency shall consider the views or recommendations before taking final action on any matter with respect to which the views or recommendations are presented; and

"(B) the agency shall provide the labor organization a written statement of the reasons for taking the final action.

"(c) Nothing in this section shall be construed to limit the right of any agency or exclusive representative to engage in collective bargaining.

"§ 7114. Representation rights and duties

"(a)(1) A labor organization which has been accorded exclusive recognition is the exclusive representative of the employees in the unit it represents and is entitled to act for, and negotiate collective bargaining agreements covering, all employees in the unit. An exclusive representative is responsible for representing the interests of all employees in the unit it represents without discrimination and without regard to labor organization membership.

"(2) An exclusive representative of an appropriate unit in an agency shall be given the opportunity to be represented at—

"(A) any formal discussion between one or more representatives of the agency and one or more employees in the unit or their representatives concerning any grievance or any personnel policy or practices or other general condition of employment; or

"(B) any examination of an employee in the unit by a representative of the agency in connection with an investigation if—

"(i) the employee reasonably believes that the examination may result in disciplinary action against the employee: and

"(ii) the employee requests representation.

"(3) Each agency shall annually inform its employees of their rights under paragraph (2)(B) of this subsection.

"(4) Any agency and any exclusive representative in any appropriate unit in the agency, through appropriate representatives, shall meet and negotiate in good faith for the purposes of arriving at a collective bargaining agreement. In addition, the agency and the exclusive representative may determine appropriate techniques, consistent with the provisions of section 7119 of this title, to assist in any negotiation.

"(5) The rights of an exclusive representative under the provisions of this subsection shall not be construed to preclude an employee from—

"(A) being represented by an attorney or other representative, other than the exclusive representative, of the employee's own choosing in any grievance or appeal action; or

"(B) exercising grievance or appellate rights established by law, rule, or regulation; except in the case of grievance or appeal provisions negotiated by this chapter.

"(b) The duty of an agency and an exclusive representative to negotiate in good faith under subsection (a) of this section shall include the obligation—

"(1) to approve the negotiations with a sincere resolve to reach a collective bargaining agreement;

"(2) to be represented at the negotiations by duly authorized representatives prepared to discuss and negotiate on any conditions of employment;

"(3) to meet at reasonable times and convenient places as frequently as may be necessary, and to avoid unnecessary delays;

"(4) in the case of an agency, to furnish to the exclusive representative involved, or its authorized representative, upon request and, to the etxent not prohibited by law, date—

"(A) which is normally maintained by the agency in the regular course of business:

"(B) which is reasonably available and necessary for full and proper discussion, understanding, and negotiation of subjects within the scope of collective bargaining; and

"(C) which does not constitute guidance, advice, counsel, or training provided for management officials or supervisors, relating to collective bargaining; and

"(5) if agreement is reached, to execute on the request of any party to the negotiation a written document embodying the agreed terms, and to take steps as are necessary to implement such agreement.

"(c)(1) An agreement between any agency and an exclusive representative shall be subject to approval by the head of the agency.

"(2) The head of the agency shall approve the agreement within 30 days from the date the agreement is executed if the agreement is in accordance with the provisions of this chapter and any other applicable law, rule, or regulation (unless the agency has granted an exception to the provision).

"(3) If the head of the agency does not approve or disapprove the agreement within the 30-day period, the agreement shall take effect and shall be binding on the agency and the exclusive representative subject to the provisions of this chapter and any other applicable law, rule, or regulation.

"(4) A local agreement subject to a national or other controlling agreement at a high level shall be approved under the procedures of the controlling agreement or, if none, under regulations prescribed by the agency.

"§ 7115. Allotments to representatives

"(a) If an agency has received from an employee in an appropriate unit a written assignment which authorizes the agency to deduct from the pay of the employee amounts for the payment or regular and periodic dues of the exclusive representative of the unit, the agency shall honor the assignment and make an appropriate allotment pursuant to the assignment. Any such allotment shall be made at no cost to the exclusive representative or the employee. Except as provided under subsection (b) of this section, any such assignment may not be revoked for a period of 1 year.

"(b) An allotment under subsection (a) of this section for the deduction of dues with respect to any employee shall terminate when—

"(1) the agreement between the agency and the exclusive representative involved ceases to be applicable to the employee; or

"(2) the employee is suspended or expelled from the membership in the exclusive representative.

"(c)(1) Subject to paragraph (2) of this subsection, if a petition has been filed with the Authority by a labor organization alleging that 10 percent of the employees in an appropriate unit in an agency have membership in the labor organization, the Authority shall investigate the petition to determine its validity. Upon certification by the Authority of the validity of the petition, the agency shall have a duty to negotiate with the labor organization solely concerning the deduction of dues of the labor organization from the pay of the members of the labor organization who are employees in the unit and who make a voluntary allotment for such purpose.

"(2)(A) The provisions of paragraph (1) of this subsection shall not apply in the case of any appropriate unit for which there is an exclusive representative.

"(B) Any agreement under paragraph (1) of this subsection between a labor organization and an agency with respect to an appropriate unit shall be null and void upon the certification of an exclusive representative of the unit.

"§ 7116. Unfair labor practices

"(a) For the purpose of this chapter, it shall be an unfair labor practice for an agency—

"(1) to interfere with, restrain, or coerce any employee in the exercise by the employee of any right under this chapter;

"(2) to encourage or discourage membership in any labor organization by discrimination in connection with hiring, tenure, promotion, or other conditions of employment;

"(3) to sponsor, control, or otherwise assist any labor organization, other than to furnish, upon request, customary and routine services and facilities if the services and facilities are also furnished on an impartial basis to other labor organizations having equivalent status;

"(4) to discipline or otherwise discriminate against an employee because the employee has filed a complaint, affidavit, or petition, or has given any information or testimony under the chapter;

"(5) to refuse to consult or negotiate in good faith with a labor organization as required by this chapter;

"(6) to fail or refuse to cooperate in impasse procedures and impasse decisions as required by this chapter;

"(7) to enforce any rule or regulation (other than a rule or regulation implementing section 2302 of this title) which is in conflict with any applicable collective bargaining agreement if the agreement was in effect before the date the rule or regulation was prescribed; or

"(8) to otherwise fail or refuse to comply with any provision of this chapter.

"(b) For the purpose of this chapter, it shall be an unfair labor practice for a labor organization—

"(1) to interfere with, restrain, or coerce any employee in the exercise by the employee of any right under this chapter;

"(2) to cause or attempt to cause an agency to discriminate against any employee in the exercise by the employee of any right under this chapter;

"(3) to coerce, discipline, fine, or attempt to coerce a member of the labor organization as punishment, reprisal, or for the purpose of hindering or impeding the member's

work performance or productivity as an employee or the discharge of the member's duties as an employee;

"(4) to discriminate against an employee with regards to the terms or conditions of membership in the labor organization on the basis of race, color, creed, national origin, sex, age, preferential or nonpreferential civil service status, political affiliation, marital status, or handicapping condition;

"(5) to refuse to consult or negotiate in good faith with an agency as required by this chapter;

"(6) to fail or refuse to cooperate in impasse procedures and impasse decisions as required by this chapter;

"(7)(A) to call, or participate in, a strike, work stoppage, or slowdown, or picketing of an agency in a labor-management dispute if such picketing interferes with an agency's operation or

"(B) to condone any activity described in subparagraph (A) of this paragraph by failing to take action to prevent or stop such activity; or

"(8) to otherwise fail or refuse to comply with any provision of this chapter.

Nothing in paragraph (7) of this subsection shall result in any informational picketing which does not interfere with an agency's operations being considered as an unfair labor practice.

"(c) For the purpose of this chapter it shall be an unfair labor practice for an exclusive representative to deny membership to any employee in the appropriate unit represented by such exclusive representative except for failure—

"(1) to meet reasonable occupational standards uniformly required for admission, or

"(2) to tender dues uniformly required as a condition of acquiring and retaining membership.

This subsection does not preclude any labor organization from enforcing discipline in accordance with procedures under its constitution or bylaws to the extent consistent with the provisions of this chapter.

"(d) Issues which can properly be raised under an appeals procedure may not be raised as unfair labor practices prohibited under this section. Except for matters wherein, under sections 7121 (e) and (f) of this title, an employee has an option of using the negotiated grievance procedure or an appeals procedure, issues which can be raised under a grievance procedure may, in the discretion of the aggrieved party, be raised under the grievance procedure or as an unfair labor practice under this section, but not under both procedures.

"(e) The expression of any personal view, argument, opinion or the making of any statement which—

"(1) publicizes the fact of a representational election and encourages employees to exercise their right to vote in such election,

"(2) corrects the record with respect to any false or misleading statement made by any person, or

"(3) informs employees of the Government's policy relating to labor-management relations and representation,

shall not if the expression contains no threat of reprisal or force or promise of benefit or was made under coercive conditions, (A) constitute an unfair labor practice under any provision of this chapter, or (B) constitute grounds for the setting aside of any election conducted under any provision of this chapter.

"§ 7117. Duty to bargain in good faith; compelling need; duty to consult

"(a)(1) Subject to paragraph (2) of this subsection, the duty to bargain in good faith shall, to the extend not inconsistent with any Federal law or any Government-wide rule or regulation, extend to matters which are the subject of any rule or regulation only if the rule or regulation is not a Government-wide rule or regulation.

"(2) The duty to bargain in good faith shall, to the extent not inconsistent with Federal law or any Government-wide rule or regulation, extend to matters which are the subject of any agency rule or regulation referred to in paragraph (3) of this subsection only if the Authority has determined under subsection (b) of this section that no compelling need (as determined under regulations prescribed by the Authority) exists for the rule or regulation.

"(3) Paragraph (2) of the subsection applies to any rule or regulation issued by any agency or issued by any primary national subdivision of such agency, unless an exclusive representative represents an appropriate unit including not less than a majority of the employees in the issuing agency or primary national subdivision, as the case may be, to whom the rule or regulation is applicable.

"(b)(1) In any case of collective bargaining in which an exclusive representative alleges that no compelling need exists for any rule or regulation referred to in subsection (a)(3) of this section which is then in effect and which governs any matters at issue in such collective bargaining, the Authority shall determine under paragraph (2) of this subsection, in accordance with regulations prescribed by the Authority, whether such a compelling need exists.

"(2) For the purpose of this section, a compelling need shall be determined not to exist for any rule or regulation only if—

"(A) the agency, or primary national subdivision, as the case may be, which issued the rule or regulation informs the Authority in writing that a compelling need for the rule or regulation does not exist; or

"(B) the Authority determines that a compelling need for a rule or regulations does not exist.

"(3) A hearing may be held, in the discretion of the Authority, before a determination is made under this subsection. If a hearing is held, it shall be expedited to the extent practicable and shall not include the General Counsel as a party.

"(4) The agency, or primary national subdivision, as the case may be, which issued the rule or regulation shall be a necessary party at any hearing under this subsection.

"(e)(1) Except in any case to which subsection (b) of this section applies, if an agency involved in collective bargaining with an exclusive representative alleges that the duty to bargain in good faith does not extend to any matter, the exclusive representative may appeal the allegation to the Authority in accordance with the provisions of this subsection.

"(2) The exclusive representative may, on or before the 15th day after the date on which the agency first makes the allegation referred to in paragraph (1) of this subsection, institute an appeal under this subsection by—

"(A) filing a petition with the Authority; and

"(B) furnishing a copy of the petition to the head of the agency.

"(3) On or before the 30th day after the date of the receipt by the head of the agency of the copy of the petition under paragraph (2)(B) of this subsection, the agency shall—

"(A) file with the Authority a statement—

"(i) withdrawing the allegation; or

"(ii) setting forth in full its reasons supporting the allegation; and

"(B) furnish a copy of such statement to the exclusive representative.

"(4) On or before the 15th day after the date of the receipt by the exclusive representative of a copy of a statement under paragraph (3)(B) of this subsection, the exclusive representative shall file with the Authority its response to the statement.

"(5) A hearing may be held, in the discretion of the Authority, before a determination is made under this subsection. If a hearing is held, it shall not include the General Counsel as a party.

"(6) The Authority shall expedite proceedings under this subsection to the extent practicable and shall issue to the exclusive representative and to the agency a written decision on the allegation and specific reasons therefor at the earliest practicable date.

"(d)(1) A labor organization which is the exclusive representative of a substantial number of employees, determined in accordance with criteria prescribed by the Authority, shall be granted consultation rights by any agency with respect to any Government-wide rule or regulation issued by the agency effecting any substantive change in any condition of employment. Such consultation rights shall terminate when the labor organization no longer meets the criteria prescribed by the Authority. Any issue relating to a labor organization's eligibility for, or continuation of, such consultation rights shall be subject to determination by the Authority.

"(2) A labor organization having consultation rights under paragraph (1) of this subsection shall—

"(A) be informed of any substantive change in conditions of employment proposed by the agency, and

"(B) shall be permitted reasonable time to present its views and recommendations regarding the changes.

"(3) If any views or recommendations are presented under paragraph (2) of this subsection to an agency by any labor organization—

"(A) the agency shall consider the views or recommendations before taking final action on any matter with respect to which the views or recommendations are presented; and

"(B) the agency shall provide the labor organization a written statement of the reasons for taking the final action.

"§ 7118. Prevention of unfair labor practices

"(a)(1) If any agency or labor organization is charged by any person with having engaged in or engaging in an unfair labor practice, the General Counsel shall investigate the charge and may issue and cause to be served upon the agency or labor organization a complaint. In any case in which the General Counsel does not issue a complaint because the charge fails to state an unfair labor practice, the General Counsel shall provide the person making the charge a written statement of the reasons for not issuing a complaint.

"(2) Any complaint under paragraph (1) of this subsection shall contain a notice—

"(A) of the charge;

"(B) that a hearing will be held before the Authority (or any member thereof or before an individual employed by the Authority and designated for such purpose); and

"(C) of the time and place fixed for the hearing.

"(3) The labor organization or agency involved shall have the right to file an answer to the original and any amended complaint and to appear in person or otherwise and give testimony at the time and place fixed in the complaint for the hearing.

"(4)(A) Except as provided in subparagraph (B) of this paragraph, no complaint shall be issued based on any alleged unfair labor practice which occurred more than 6 months before the filing of the charge with the Authority.

"(B) If the General Counsel determines that the person filing any charge was prevented from filing the charge during the 6-month period referred to in subparagraph (A) of this paragraph by reason of—

"(i) any failure of the agency or labor organization against which the charge is

made to perform a duty owed to the person, or

"(ii) any concealment which prevented discovery of the alleged unfair labor practice during the 6-month period,

the General Counsel may issue a complaint based on the charge if the charge was filed during the 6-month period beginning on the day of the discovery by the person of the alleged unfair labor practice.

"(5) The General Counsel may prescribe regulations providing for informal methods by which the alleged unfair labor practice may be resolved prior to the issuance of a complaint.

"(6) The Authority (or any member thereof or any individual employed by the Authority and designated for such purpose) shall conduct a hearing on the complaint not earlier than 5 days after the date on which the complaint is served. In the discretion of the individual or individuals conducting the hearing, any person involved may be allowed to intervene in the hearing and to present testimony. Any such hearing shall, to the extent practicable, be conducted in accordance with the provisions of subchapter II of chapter 5 of this title, except that the parties shall not be bound by rules of evidence, whether statutory, common law, or adopted by a court. A transcript shall be kept of the hearing. After such a hearing the Authority, in its discretion, may upon notice receive further evidence or hear argument.

"(7) If the Authority (or any member thereof or any individual employed by the Authority and designated for such purpose) determines after any hearing on a complaint under paragraph (5) of this subsection that the preponderance of the evidence received demonstrates that the agency or labor organization named in the complaint has engaged in or is engaging in an unfair labor practice, then the individual or individuals conducting the hearing shall state in writing their findings of fact and shall issue and cause to be served on the agency or labor organization an order—

"(A) to cease and desist from any such unfair labor practice in which the agency or labor organization is engaged;

"(B) requiring the parties to renegotiate a collective bargaining agreement in accordance with the order of the Authority and requiring that the agreement as amended, be given retroactive effect;

"(D) requiring reinstatement of an employee with backpay in accordance with section 5596 of this title; or

"(D) including any combination of the actions described in subparagraphs (A) through (C) of this paragraph or such other action as will carry out the purpose of this chapter.

If any such order requires reinstatement of an employee with backpay, backpay may be required of the agency (as provided in section 5596 of this title) or of the labor organization, as the case may be, which is found to have engaged in the unfair labor practice involved.

"(7) If the individual or individuals conducting the hearing determine that the preponderance of the evidence received fails to demonstrate that the agency or labor organization named in the complaint has engaged in or is engaging in an unfair labor practice, the individual or individuals shall state in writing their findings of fact and shall issue an order dismissing the complaint.

"(b) In connection with any matter before the Authority in any proceeding under this section, the Authority may request, in accordance with the provisions of section 7105(1) of this title, from the Director of the Office of Personnel Management an advisory opinion concerning the proper interpretation of rules, regulations, or other policy directives issued by the Office of Personnel Management.

"§ 7119. Negotiation impasses; Federal Service Impasses Panel

"(a) The Federal Mediation and Conciliation Service shall provide services and assistance to agencies and exclusive representatives in the resolution of negotiation impasses. The Service shall determine under what circumstances and in what manner it shall provide services and assistance.

"(b) If voluntary arrangements, including the services of the Federal Mediation and Conciliation Service or any other third-party mediation, fail to resolve a negotiation impasse—

"(1) either party may request the Federal Service Impasses Panel to consider the matter, or

"(2) the parties may agree to adopt a procedure for binding arbitration of the negotiated impasse, but only if the procedure is approved by the Panel.

"(c)(1) The Federal Service Impasses Panel is an entity within the Authority, the function of which is to provide assistance in resolving negotiation impasses between agencies and exclusive representatives.

"(2) The Panel shall be composed of a Chairman and at least six other members, who shall be appointed by the President solely on the basis of fitness to perform the duties and functions involved, from among individuals who are familiar with Government operations and knowledgeable in labor-management relations.

"(3) Of the original members of the Panel, 2 members shall be appointed for a term of 1 year, 2 members shall be appointed for a term of 3 years, and the Chairman and the remaining members shall be appointed for a term of 5 years. Thereafter each member shall be appointed for a term of 5 years, except that an individual chosen to fill a vacancy shall be appointed for the unexpired term of the member replaced. Any member of the Panel may be removed by the President.

"(4) The Panel may appoint an Executive Director and any other individuals it may from time to time find necessary for the proper performance of its duties. Each member of the Panel who is not an employee (as defined in section 2105 of this title) is entitled to pay at a rate equal to the daily equivalent of the maximum annual rate of basic pay then currently paid under the General Schedule for each day he is engaged in the performance of official business of the Panel, including travel time, and is entitled to travel expenses as provided under section 5703 of this title.

"(5)(A) The Panel or its designee shall promptly investigate any impasse presented to it under subsection (b) of this section. The Panel shall consider the impasse and shall either—

"(i) recommend to the parties procedures for the resolution of the impasse; or

"(ii) assist the parties in resolving through whatever methods and procedures, including factfinding and recommendations, it may consider appropriate to accomplish the purpose of this section.

"(B) If the parties do not arrive at a settlement after assistance by the Panel under subparagraph (A) of this paragraph, the Panel may—

"(i) hold hearings;

"(ii) administer oaths, take the testimony or deposition of any person under oath, and issue subpenas as provided in section 7133 of this title; and

"(iii) take whatever action is necessary and not inconsistent with this chapter to resolve the impasse.

"(C) Notice of any final action of the Panel under this section shall be promptly served upon the parties, and the action shall be binding on such parties during the terms of the agreement, unless the parties agree otherwise.

"§ 7120. Standards of conduct for labor organizations

"(a) An agency shall only accord recognition to a labor organization that is free from corrupt influences and influences opposed to basic democratic principles. Except as provided in subsection (b) of this section, an organization is not required to prove that it is free from such influences if it is subject to governing requirements adopted by the organization or by a national or international labor organization or federation of labor organizations with which it is affiliated, or in which it participates, containing explicit and detailed provisions to which it subscribes calling for—

"(1) the maintenance of democratic procedures and practices including provisions for periodic elections to be conducted subject to recognized safeguards and provisions defining and securing the right of individual members to participate in the affairs of the organization, to receive fair and equal treatment under the governing rules of the organization, and to receive fair process in disciplinary proceedings;

"(2) the exclusion from office in the organization of persons affiliated with communist or other totalitarian movements and persons identified with corrupt influences;

"(3) the prohibition of business or financial interests on the part of organization officers and agents which conflict with their duty to the organization and its members; and

"(4) the maintenance of fiscal integrity in the conduct of the affairs of the organization, including provisions for accounting and financial controls and regular financial reports or summaries to be made available to members.

"(b) Notwithstanding the fact that a labor organization has adopted or subscribed to standards of conduct as provided in subsection (a) of this section, the organization is required to furnish evidence of its freedom from corrupt influences or influences opposed to basic democratic principles if there is reasonable cause to believe that—

"(1) the organization has been suspended or expelled from, or is subject to other sanction, by a parent labor organization, or federation of organizations with which it had been affiliated, because it has demonstrated an unwillingness or inability to comply with governing requirements comparable in purpose to those required by subsection (a) of this section; or

"(2) the organization is in fact subject to influences that would preclude recognition under this chapter.

"(c) A labor organization which has or seeks recognition as a representative of employees under this chapter shall file financial and other reports with an Assistant Secretary of Labor for Labor Management Relations, provide for bonding of officials and employees of the organization, and comply with trusteeship and election standards.

"(d) The Assistant Secretary shall prescribe such regulations as are necessary to carry out the purposes of this section. Such regulations shall conform generally to the principles applied to labor organizations in the private sector. Complaints of violations of this section shall be filed with the Assistant Secretary. In any matter arising under this section, the Assistant Secretary may require a labor organization to cease and desist from violations of this section and require it to take such action as he considers appropriate to carry out the policies of this section.

"(e) This chapter does not authorize participation in the management of a labor organization or acting as a representative of a labor organization by a management offi-

cial, a supervisor, or a confidential employee, except as specifically provided in this chapter, or by an employee if the participation or activity would result in a conflict or apparent conflict of interest or would otherwise be incompatible with law or with the official duties of the employee.

"(f) In the case of any labor organization which by omission or commission has willfully and intentionally, with regard to any strike, work stoppage, or slowdown, violated section 7116(b)(7) of this title, the Authority shall, upon an appropriate finding by the Authority of such violation—

"(1) revoke the exclusive recognition status of the labor organization, which shall then immediately cease to be legally entitled and obligated to represent employees in the unit; or

"(2) take any other appropriate disciplinary action.

"SUBCHAPTER III—GRIEVANCES

"§ 7121. Grievance procedures

"(a)(1) Except as provided in paragraph (2) of this subsection, any collective bargaining agreement shall provide procedures for the settlement of grievances, including questions of arbitrability. Except as provided in subsection (d) and (e) of this section the procedures shall be the exclusive procedures for resolving grievances which fall within its coverage.

"(2) Any collective bargaining agreement may exclude any matter from the application of the grievance procedures which are provided for in the agreement.

"(b) Any negotiated grievance procedure referred to in subsection (a) of this section shall—

"(1) be fair and simple.

"(2) provide for expeditious processing, and

"(3) include procedures that—

"(A) assure an exclusive representative the right, in its own behalf or on behalf of any employee in the unit represented by the exclusive representative, to present and process grievances;

"(B) assure such an employee the right to present a grievance on the employee's own behalf, and assure the executive representative the right to be present during the grievance proceeding; and

"(C) provide that any grievance not satisfactorily settled under the negotiated grievance procedure shall be subject to binding arbitration which may be invoked by either the exclusive representative or the agency.

"(c) The preceding subsections of this section shall not apply with respect to any grievance concerning—

"(1) any claimed violation of subchapter III of chapter 73 of this title (relating to prohibited political activities);

"(2) retirement, life insurance, or health insurance;

"(3) a suspension or removal under section 7532 of this title;

"(4) any examination, certification, or appointment; or

"(5) the classification of any position which does not result in the reduction in grade or pay of an employee.

"(d) An aggrieved employee affected by a prohibited personnel practice under section 2302(b)(1) of this title which also falls under the coverage of the negotiated grievance procedure may raise the matter under a statutory procedure or the negotiated procedure, but not both. An employee shall be deemed to have exercised his option under this subsection to raise the matter under either a statutory procedure or the negotiated procedure at such time as the employee timely initiates an action under the applicable statutory procedure or timely files a grievance in writing, in accordance with the provisions of the parties' negotiated procedure, whichever event occurs first. Selection of the negotiated procedure in no manner prejudices the right of an aggrieved employee to request the Merit System Protection Board to review the final decision pursuant to section 7702 of this title in the case of any personnel action that could have been appealed to the Board, or, where applicable, to request the Equal Employment Opportunity Commission to review a final decision in any other matter involving a complaint of discrimination of the type prohibited by any law administered by the Equal Employment Opportunity Commission.

"(e)(1) Matters covered under sections 4303 and 7512 of this title which also fall within the coverage of the negotiated grievance procedure may, in the discretion of the aggrieved employee, be raised either under the appellate procedures of section 7701 of this title or under the negotiated grievance procedure, but not both. Similar matters which arise under other personnel systems applicable to employees covered by this chapter may, in the discretion of the aggrieved employee, be raised either under the appellate procedures, if any, applicable to those matters, or under the negotiated grievance procedure, but not both. An employee shall be deemed to have exercised his option under this subsection to raise a matter either under the applicable appellate procedures or under the negotiated grievance procedure at such time as the employee timely files a notice of appeal under the applicable appellate procedures or timely files a grievance in writing in accordance with the provisions of the parties' negotiated grievance procedure, whichever event occurs first.

"(2) In matters covered under sections 4303 and 7512 of this title which have been raised under the negotiated grievance procedure in accordance with this section, an arbitrator shall be governed by section 7701(c)(1) of this title, as applicable.

"(f) In matters covered under sections 4303 and 7512 of this title which have been raised under the negotiated grievance procedure in accordance with this section, section 7702 of this title pertaining to judicial review shall apply to the award of an arbitrator in the same manner and under the same conditions as if the matter had been decided by the Board. In matters similar to those covered under sections 4303 and 7512 of this title which arise under other personnel systems and which an aggrieved employee has raised under the negotiated grievance procedure, judicial review of an arbitrator's award may be obtained in the same manner and on the same basis as could be obtained of a final decision in such matters raised under applicable appellate procedures.

"§ 7122. Exceptions to arbitral awards

"(a) Either party to arbitration under this chapter may file with the Authority an exception to any arbitrator's award pursuant to the arbitration (other than an award relating to a matter described in section 7121(f) of this title). If upon review the Authority finds that the award is deficient—

"(1) because it is contrary to any law, rule, or regulation;

"(2) on other grounds similar to those applied by Federal courts in private sector labor-management relations;

the Authority may take such action and make such recommendations concerning the award as it considers necessary, consistent with applicable laws, rules, or regulations.

"(b) If no exception to an arbitrator's award is filed under subsection (a) of this section during the 30-day period beginning on the date of such award, the award shall be final and binding. An agency shall take the actions required by an arbitrator's final award. The award may include the payment of backpay (as provided in section 5596 of this title).

"§ 7123. Judicial review; enforcement

"(a) Any person aggrieved by any final order of the Authority other than an order under—

"(1) section 7122 of this title (involving an award by an arbitrator), unless the order involves an unfair labor practice under section 7118 of this title, or

"(2) section 7112 of this title (involving an appropriate unit determination),

may, during the 60-day period beginning on the date on which the order was issued, institute an action for judicial review of the Authority's order in the United States court of appeals in the circuit in which the person resides or transacts business or in the United States Court of Appeals for the District of Columbia.

"(b) The Authority may petition any appropriate United States court of appeals for the enforcement of any order of the Authority and for appropriate temporary relief or restraining order.

"(c) Upon the filing of a petition under subsection (a) of this section for judicial review or under subsection (b) of this section for enforcement, the Authority shall file in the court the record in the proceedings, as provided in section 2112 of title 28. Upon the filing of the petition, the court shall cause notice thereof to be served to the parties involved, and thereupon shall have jurisdiction of the proceeding and of the question determined therein and may grant any temporary relief (including a temporary restraining order) it considers just and proper and may make and enter a decree affirming and enforcing, modifying and enforcing as so modified, or setting aside in whole or in part the order of the Authority. The filing of a petition under subsection (a) or (b) of this section shall not operate as a stay of the Authority's order unless the court specifically orders the stay. Review of the Authority's order shall be on the record in accordance with section 706 of this title. No objection that has not been urged before the Authority, or its designee, shall be considered by the court, unless the failure or neglect to urge the objection is excused because of extraordinary circumstances. The findings of the Authority with respect to questions of fact, if supported by substantial evidence on the record considered as a whole, shall be conclusive. If any person applies to the court for leave to adduce additional evidence and shows to the satisfaction of the court that the additional evidence is material and that there were reasonable grounds for the failure to adduce the evidence in the hearing before the Authority, or its designee, the court may order the additional evidence to be taken before the Authority, or its designee, and to be made a part of the record. The Authority may modify its findings as to the facts, or make new findings by reason of additional evidence so taken and filed. The Authority shall file its modified or new findings, which, with respect to questions of fact, if supported by substantial evidence on the record considered as a whole, shall be conclusive. The Authority shall file its recommendations, if any, for the modification or setting aside of its original order. Upon the filing of the record with the court, the jurisdiction of the court shall be exclusive and its judgment and decree shall be final, except that the judgment and decree shall be subject to review by the Supreme Court of the United States upon writ of certiorari or certification as provided in section 1254 of title 28.

"(d) The Authority may, upon issuance of a complaint as provided in section 7118 of this title charging that any person has engaged in or is engaging in an unfair labor practice, petition any United States district court within any district in which the unfair labor practice in question is alleged to have occurred or in which such person resides or

transacts business for appropriate temporary relief or restraining order. Upon the filing of the petition, the court shall cause notice thereof to be served upon the person, and thereupon shall have jurisdiction to grant any temporary relief (including a temporary restraining order) it considers just and proper. A court shall not grant any temporary relief under this section if it would interfere with the ability of the agency to carry out its essential functions or if the Authority fails to establish probable cause that an unfair labor practice is being committed.

"SUBCHAPTER IV—ADMINISTRATIVE AND OTHER PROVISIONS

"§ 7131. Reporting requirements for standards of conduct

"The provisions of subchapter III of chapter 11 of title 29 shall be applicable to labor organizations which have been or are seeking to be certified as exclusive representatives under this chapter, and to the organizations' officers, agents, shop stewards, other representatives, and members to the extent to which the provisions would be applicable if the agency were an employer under section 402 of title 29. In addition to the authority conferred on him under section 438 of title 29, the Secretary of Labor shall prescribe regulations, with the written concurrence of the Authority, providing for simplified reports for any such labor organization. The Secretary of Labor may revoke the provision for simplified reports of any such labor organization if the Secretary determines, after any investigation the Secretary considers proper and after reasonable notice and opportunity for a hearing, that the purpose of this chapter and of chapter 11 of title 29 would be served thereby.

"§ 7131. Official time

"(a) Any employee representing an exclusive representative in the negotiation of a collective bargaining agreement under this chapter shall be authorized official time for such purposes, including attendance at impasse proceeding, during the time the employees for whom official time is authorized under this subsection shall not exceed the number of individuals designated as representing the agency for such purposes.

"(b) Any activities performed by any employee relating to the internal business of a labor organization (including the solicitation of membership, elections of labor organization officials, and collection of membership, elections of labor organization officials, and collection of dues) shall be performed during the time the employee is in a non-duty status.

"(c) Except as provided in subsection (a) of this section, the Authority shall determine whether any employee participating for, or on behalf of, a labor organization in any phase of proceedings before the Authority shall be authorized official time for such purpose during the time the employee otherwise would be in a duty status.

"(d) Except as provided in the preceding subsection of this section—

"(1) any employee representing an exclusive representative, or

"(2) in connection with any other matter covered by this chapter, any employee in an appropriate unit represented by an exclusive representative,

shall be granted official time in any amount the agency and the exclusive representative involved agree to be reasonable, necessary, and in the public interest.

"§ 7132. Subpenas

"(a) Any member of the Authority, the General Counsel, or the Panel, any administrative law judge appointed by the Authority under section 3105 of this title, and any employee of the Authority designated by the Authority may—

"(1) issue subpenas requiring the attendance and testimony of witnesses and the production of documentary or other evidence from any place in the United States; and

"(2) administer oaths, take or order the taking of depositions, order responses to written interrogatories, examine witnesses, and receive evidence.

No subpena shall be issued under this section which requires the disclosure of intramanagement guidance, advice, counsel, or training within an agency and the Office of Personnel Management.

"(b) In the case of contumacy or failure to obey a subpena issued under subsection (a)(1) of this section, the United States district court for the judicial district in which the person to whom the subpena is addressed resides or is served may issue an order requiring such person to appear at any designated place to testify or to produce documentary or other evidence. Any failure to obey the order of the court may be punished by the court as a contempt thereof.

"(c) Witnesses (whether appearing voluntarily or under subpena) shall be paid the same fee and mileage allowances which are paid subpenaed witnesses in the courts of the United States.

"§ 7133. Compilation and publication of data

"(a) The Authority shall maintain a file of its proceedings and copies of all available agreements and arbitration decisions, and shall publish the texts of its decisions and the actions taken by the Panel under section 7119 of this title.

"(b) All files maintained under subsection (a) of this section shall be open to inspection and reproduction in accordance with the provisions of sections 552 and 552a of this title.

"§ 7134. Regulations

"The Authority, the General Counsel, the Federal Mediation and Counciliation Service, the Assistant Secretary of Labor for Labor Management Relations, and the Panel shall each prescribe rules and regulations to carry out the provisions of this chapter applicable to each of them, respectively. Provisions of subchapter II of chapter 5 of this title shall be applicable to the issuance, revision, or repeal of any such rule or regulation.

"§ 7136. Continuation of existing laws, recognitions, agreements, and procedures

"(a) Nothing contained in this chapter shall preclude—

"(1) the renewal or continuation of an exclusive recognition, certification of an exclusive representative, or a lawful agreement between an agency and an exclusive representative of its employees, which is entered into before the effective date of this chapter; or

"(2) the renewal, continuation, or initial according of recognition for units of management officials or supervisors represented by labor organizations which historically or traditionally represent management officials or supervisors in private industry and which hold exclusive recognition for units of such officials or supervisors in any agency on the effective date of this chapter.

"(b) Policies, regulations, and procedures established under and decisions issued under Executive Orders 11491, 11616, 11636, 11787, and 11838, or under any other Executive order, as in effect on the effective date of this chapter, shall remain in full force and effect until revised or revoked by the President, or unless superseded by specific provisions of this chapter or by regulations or decisions issued pursuant to this chapter.".

BACKPAY IN CASE OF UNFAIR LABOR PRACTICES AND GRIEVANCES

SEC. 702. Section 5596(b) of title 5, United States Code is amended to read as follows:

"(b)(1) An employee of an agency who, on the basis of a timely appeal or an administrative determination (including a decision relating to an unfair labor practice or a grievance) is found by appropriate authority under applicable law, rule, regulation, or collective bargaining agreement, to have been affected by an unjustified or unwarranted personnel action which has resulted in the withdrawal or reduction of all a part of the pay, allowances, or differentials of the employee—

"(A) is entitled, on correction of the personnel action, to receive for the period for which the personnel action was in effect—

"(i) an amount equal to all or any part of the pay, allowances, or differentials, as applicable which the employee normally would have earned or received during the period if the personnel action had not occurred, less any amounts earned by the employee through other employment during that period; and

"(B) reasonable attorney fees related to the personnel action which, with respect to any decision relating to an unfair labor practice or a grievance processed under a procedure negotiated in accordance with chapter 71 of this title, shall be awarded in accordance with chapter 71 of this title, shall be awarded in accordance with standards established under section 7701(g) of this title; and

"(B) for all purposes, is deemed to have performed service for the agency during that period, except that—

"(i) annual leave restored under this paragraph which is in excess of the maximum leave accumulation permitted by law shall be credited to a separate leave account for the employee and shall be available for use by the employee within the time limits prescribed by regulations of the Office of Personnel Management, and

"(ii) annual leave credited under clause (i) of this subparagraph but unused and still available to the employee under regulations prescribed by the Office shall be included in the lump-sum payment under section 5551 or 5552(1) of this title but may not be retained to the credit of the employee under section 5552(2) of this title.

"(2) This subsection does not apply to any reclassification action nor authorize the setting aside of an otherwise proper promotion by a selecting official from a group of properly ranked and certified candidates.

"(3) For the purpose of this subsection, 'grievance' and 'collective bargaining agreement' have the meanings set forth in section 7103 of this title, 'unfair labor practice' means an unfair labor practice described in section 7116 of this title, and 'personnel action' includes the omission or failure to take an action or confer a benefit.".

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 703. (a) Subchapter II of chapter 71 of title 5, United States Code, is amended—

(1) by redesignating sections 7151 (as amended by section 312 of this Act), 7152, 7153, and 7154 as sections 7201, 7202, 7203, and 7204, respectively;

(2) by striking out the subchapter heading and inserting in lieu thereof the following:

"CHAPTER 72—ANTIDISCRIMINATION; RIGHT TO PETITION CONGRESS

SUBCHAPTER I—ANTIDISCRIMINATION IN EMPLOYMENT

"Sec.
"7201. Antidiscrimination policy; minority recruitment program.
"7202. Marital status.
"7203. Handicapping condition.
"7204. Other prohibitions.

SUBCHAPTER II—EMPLOYEES' RIGHT TO PETITION CONGRESS

"7211. Employees' right to petition Congress.";

and

(3) by adding at the end thereof the following new subchapter:

"SUBCHAPTER II—EMPLOYEES' RIGHT TO PETITION CONGRESS

"§ 7211. Employees' right to petition Congress

"The right of employees, individual or collectively, to petition Congress or a Member of Congress, or to furnish information to either House of Congress, or to a committee or Member thereof, may not be interfered with or denied.".

(b) The analysis for part III of title 5, United States Code, is amended by striking out—

"Subpart F—Employee Relations

"71. Policies ---------- 7101".

and inserting in lieu thereof—

"Subpart F—Labor-Management and Employee Relations

"71. Labor-Management Relations--- 7101
"72. Antidiscrimination; Right to Petition Congress---------- 7201".

(2) Section 3302(2) of title 5, United States Code, is amended by striking out "and 7154" and inserting in lieu thereof "and 7204".

(c)(1) Section 2105(c)(1) of title 5, United States Code, is amended by striking out "7152, 7153" and inserting in lieu thereof "7202, 7203".

(3) Sections 4540(c), 7212(a), and 9540(c) of title 10, United States Code, are such amended by striking out "7154 of title 5" and inserting in lieu thereof "7204 of title 5".

(4) Section 410(b)(1) of title 39, United States Code, is amended by striking out "chapters 71 (employee policies)" and inserting in lieu thereof the following: "chapters 72 (antidiscrimination; right to petition Congress)".

(5) Section 1002(g) of title 39, United States Code, is amended by striking out "section 7102 of title 5" and inserting in lieu thereof "section 7211 of title 5".

(d) Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following clause:

"(124) Chairman, Federal Labor Relations Authority.".

(e) Section 5316 of such title is amended by adding at the end thereof the following clause:

"(145) Members, Federal Labor Relations Authority (2) and its General Counsel.".

MISCELLANEOUS PROVISIONS

SEC. 704. (a) Those terms and conditions section (b) of this section, the amendments made by this title shall take effect [January 1, 1979.]

(b) Sections 7104, 7105, and 7136 of title 5, United States Code, as added by section 701 of this title, shall take effect on the date of the enactment of this title.

(c) The regulation required under section 7105(h) of this title shall be prescribed and made effective by the Authority not later than [January 1, 1979.]

SEC. 704. (a) Those terms and conditions of employment and other employment benefits with respect to Government prevailing rate employees to whom section 9(b) of Public Law 92-392 applies which were the subject of negotiation in accordance with prevailing rates and practices prior to August 19, 1972, shall be negotiated on and after the date of the enactment of this Act in accordance with the provisions of section 9(b) of Public Law 92-392 without regard to any provision of chapter 71 of title 5, United States Code (as amended by this title), to the extent that any such provision is inconsistent with this paragraph.

(b) The pay and pay practices relating to employees referred to in paragraph (1) of this subsection shall be negotiated in accordance with prevailing rates and pay practices without regard to any provision of—

(A) chapter 71 of title 5, United States Code (as amended by this title), to the extent that any such provision is inconsistent with this paragraph;

(B) subchapter IV of chapter 53 and subchapter V of chapter 55 of title 5, United States Code; or

(C) any rule, regulation, decision, or order relating to rates of pay or pay practices under subchapter IV of chapter 53 or subchapter V of chapter 55 of title 5, United States Code.

TITLE VIII—GRADE AND PAY RETENTION

GRADE AND PAY RETENTION

SEC. 801. (a)(1) Chapter 53 of title 5, United States Code, relating to pay rates and systems, is amended by inserting after subchapter V thereof the following new subchapter:

"SUBCHAPTER VI—GRADE AND PAY RETENTION

"§ 5361. Definitions

"For the purpose of this subchapter—

"(1) 'employee' means an employee to whom chapter 51 of this title applies, and a prevailing rate employee, as defined by section 5342(a)(2) of this title, whose employment is other than on a temporary or term basis;

"(2) 'agency' has the meaning given it by section 5102 of this title:

"(3) 'retained grade' means the grade used for determining benefits to which an employee to whom section 5362 of this title applies is entitled;

"(4) 'rate of basic pay' means, in the case of a prevailing rate employee, the scheduled rate of pay determined under section 5343 of this title;

"(5) 'covered pay schedule' means the General Schedule, any prevailing rate schedule established under subchapter IV of this chapter, or the merit pay system under chapter 54 of this title;

"(C) 'position subject to this subchapter' means any position under a covered pay schedule; and

"(7) 'reduction-in-force procedures' means procedures applied in carrying out any reduction in force due to a reorganization, due to lack of funds or curtailment of work, or due to any other factor.

"§ 5362. Grade retention following a change of positions or reclassification

"(a) Any employee—

"(1) who is placed as a result of reduction-in-force procedures from a position subject to this subchapter to another position which is subject to this subchapter and which is in a lower grade than the previous position, and

"(2) who has served for 52 consecutive weeks or more in one or more positions subject to this subchapter at a grade or grades higher than that of the new position.

is entitled, to the extent provided in subsection (c) of this section, to have the grade of the position held immediately before such placement be considered to be the retained grade of the employee in any position he holds for the 2-year period beginning on the date of such placement.

"(b)(1) Any employee who is in a position subject to this subchapter and whose position has been reduced in grade is entitled, to the extent provided in subsection (c) of this section, to have the grade of such position before reduction be treated as the retained grade of such employee for the 2-year period beginning on the date of the reduction in grade.

"(2) The provisions of paragraph (1) of this subsection shall not apply with respect to any reduction in the grade of a position which had not been classified at the higher grade for a continuous period of at least one year immediately before such reduction.

"(c) For the 2-year period referred to in subsections (a) and (b) of this section, the retained grade of an employee under such subsection (a) or (b) shall be treated as the grade of the employee's position for all purposes (including pay and pay administration under this chapter and chapters 54 and 55 of this title, retirement and life insurance under chapters 83 and 87 of this title, and eligibility for training and promotion under this title) except—

"(1) for purposes of subsection (a) of this section,

"(2) for purposes of applying any reduction-in-force procedures,

"(3) for purposes of determining whether the employee is covered by the merit pay system established under section 5402 of this title, or

"(4) for such other purposes as the Office of Personnel Management may provide by regulation.

"(d) The foregoing provisions of this section shall cease to apply to an employee who—

"(1) has a break in service of one workday or more;

"(2) is demoted (determined without regard to this section) for personal cause or at the employee's request;

"(3) is placed in, or declines a reasonable offer of, a position the grade of which is equal to or higher than the retained grade; or

"(4) elects in writing to have the benefits of this section terminate.

§ 5363. Pay retention

"(a) Any employee—

"(1) who ceases to be entitled to the benefits of section 5362 of this title by reason of the expiration of the 2-year period of coverage provided under such section;

"(2) who is in a position subject to this subchapter and who is subject to a reduction or termination of a special rate of pay established under section 5303 of this title; or

"(3) who is in a position subject to this subchapter and who (but for this section) would be subject to a reduction in pay under circumstances prescribed by the Office of Personnel Management by regulation to warrant the application of this section;

is entitled to basic pay at a rate equal to (A) the employee's allowable former rate of basic pay, plus (B) 50 percent of the amount of each increase in the maximum rate of basic pay payable for the grade of the employee's position immediately after such reduction in pay if such allowable former rate exceeds such maximum rate for such grade.

"(b) For the purpose of subsection (a) of this section, 'allowable former rate of basic pay' means the lower of—

"(1) the rate of basic pay payable to the employee immediately before the reduction in pay; or

"(2) 150 percent of the maximum rate of basic pay payable for the grade of the employee's position immediately after such reduction in pay.

"(c) The preceding provisions of this section shall cease to apply to an employee who—

"(1) has a break in service of one workday or more;

"(2) is entitled by operation of this subchapter or chapter 51, 53, or 54 of this title to a rate of basic pay which is equal to or higher than, or declines a reasonable offer of a position the rate of basic pay for which is equal to or higher than, the rate to which the employee is entitled under this section; or

"(3) is demoted for personal cause or at the employee's request.

"§ 5364. Remedial actions

"Under regulations prescribed by the Office of Personnel Management, the Office may require any agency—

"(1) to report to the Office information with respect to vacancies (including impending vacancies);

"(2) to take such steps as may be appropriate to assure employees receiving benefits under section 5362 or 5363 of this title have the opportunity to obtain necessary qualifications for the selection to positions which would minimize the need for the application of such sections;

"(3) to establish a program under which employees receiving benefits under section 5362 or 5363 of this title are given priority in the consideration for or placement in positions which are equal to their retained grade or pay; and

"(4) to place certain employees, notwithstanding the fact their previous position was in a different agency, but only in circumstances in which the Office determines the exercise of such authority is necessary to carry out the purpose of this section.

"§ 5365. Regulations

"(a) The Office of Personnel Management shall prescribe regulations to carry out the purpose of this subchapter.

"(b) Under such regulations, the Office may provide for the application of all or portions of the provisions of this subchapter—

"(1) to any individual reduced to a grade of a covered pay schedule from a position not subject to this subchapter;

"(2) to individuals to whom such provisions do not otherwise apply; and

"(3) to situations the application to which is justified for purposes of carrying out the mission of the agency or agencies involved.

"§ 5366. Appeals

"(a)(1) In the case of the termination of any benefits available to an employee under this subchapter on the grounds such employee declined a reasonable offer of a position the grade or pay of which was equal to or greater than his retained grade or pay, such termination may be appealed to the Office of Personnel Management under procedures prescribed by the Office.

"(2) Nothing in this subchapter shall be construed to affect the right of any employee to appeal—

"(A) under section 5112(b) or 5346(c) of this title, or otherwise, any reclassification of a position; or

"(B) under procedures prescribed by the Office of Personnel Management, any reduction-in-force action.

"(b) For purposes of any appeal procedures (other than those described in subsection (a) of this section) or any grievance procedure negotiated under the provisions of chapter 71 of this title—

"(1) any action which is the basis of an individual's entitlement to benefits under this subchapter, and

"(2) any termination of any such benefits under this subchapter, shall not be treated as appealable under such appeals procedures or grievable under such grievance procedure.".

(2) Sections 5334(d), 5337, and 5345 of title 5, United States Code, are hereby repealed.

(3)(A) Chapter 53 of title 5, United States Code, is amended—

(i) by redesignating subchapter VI as subchapter VII, and

(ii) by redesignating sections 5361 through 5365 as section 5371 through 5375, respectively.

(B)(i) The analysis of chapter 53 of title 5, United States Code, is amended by striking out the items relating to subchapter VI thereof and inserting in lieu thereof the following:

"SUBCHAPTER VI—GRADE AND PAY RETENTION

"Sec.
"5361. Definitions.
"5362. Grade retention following a change of positions or reclassification.
"5363. Pay retention.
"5364. Remedial actions.
"5365. Regulations.
"5366. Appeals.

"SUBCHAPTER VII—MISCELLANEOUS PROVISIONS

Sec.
"5371. Scientific and professional positions.
"5372. Administrative law judges.
"5373. Limitation on pay fixed by administrative action.
"5374. Miscellaneous positions in the executive branch.
"5375. Police force of National Zoological Park.".

(ii) The analysis of such chapter is further amended by striking out the items relating to sections 5337 and 5345, respectively

(iii) Sections 559 and 1305 of title 5, United States Code, are each amended by striking out "5362," each place it appears and inserting "5372," in lieu thereof.

(C) Section 3104(b) of title 5, United States Code, as redesignated by this Act, is amended by striking out "section 5361" and inserting "section 5371" in lieu thereof.

(D) Section 5102(c)(5) of title 5, United States Code, is amended by striking out "section 5365" and inserting "section 5375" in lieu thereof.

(E) Sections 5107 and 8704(d)(1) of title 5, United States Code, are each amended by striking out "section 5337" and inserting in lieu thereof "subchapter VI of chapter 53".

(F) Section 5334(b) of title 5, United States Code, is amended by striking out "section 5337 of this title" each place it appears and inserting in lieu thereof "subchapter VI of this chapter".

(G) Section 5334 of title 5, United States Code is amended by redesignating subsections (e) and (f) as subsections (d) and (e), respectively.

(H) Section 5349(a) of title 5, United States Code, is amended—

(i) by striking out "section 5345, relating to retention of pay," and inserting in lieu thereof "subchapter VI of this chapter, relating to grade and pay retention,";

(ii) by striking out "section 5345 of this title" and inserting in lieu thereof "subchapter VI of this chapter"; and

(iii) by striking out "paragraph (2) of section 5345(a)" and inserting in lieu thereof "section 5361(1)".

(I) Sections 4540(c), 7212(a), and 9540(c) of title 10, United States Code, are each amended by inserting after "of title 5" the following: "and subchapter VI of chapter 53 of such title 5".

(J) Section 1416(a) of the Act of August 1, 1968 (Public Law 90-448; 15 U.S.C. 1715(a)), and section 808(c) of the Act of April 11, 1968 (Public Law 90-284; 42 U.S.C. 3608(b)), are each amended by striking out "5362," and inserting in lieu thereof "5372.".

(4)(A) The amendments made by this subsection shall take effect on the first day of the first applicable pay period beginning on or after the 90th day after the date of the enactment of this Act.

(B) An employee who was receiving pay under the provisions of section 5334(d), 5337, or 5345 of title 5, United States Code, on the day before the effective date prescribed in subparagraph (A) of this paragraph shall not have such pay reduced or terminated by reason of the amendments made by this subsection and, unless section 5362 of such title 5 (as amended by subsection (a)(1) of this section) applies, such an employee is entitled to continue to receive pay as authorized by those provisions (as in effect on such date).

(b)(1) Under regulations prescribed by the Office of Personnel Management, any employee—

(A) whose grade was reduced on or after January 1, 1977, and before the effective date of the amendments made by subsection (a) of this section under circumstances which would have entitled the employee to coverage under the provisions of section 5362 of title 5, United States Code (as amended by subsection (a) of this section) if such amendments had been in effect at the time of the reduction; and

(B) who has remained employed by the Federal Government from the date of the reduction in grade to the effective date of the amendments made by subsection (a) of this section without a break in service of one workday or more;

shall be entitled—

(i) to receive the additional pay and benefits which such employee would have been entitled to receive if the amendments made by subsection (a) of this section had been in effect during the period beginning on the effective date of such reduction in grade and ending on the day before the effective date of such amendments, and

(ii) to have the amendments made by subsection (a) of this section apply to such employee as if the reduction in grade had occurred on the effective date of such amendments.

(2) No employee covered by this subsection whose reduction in grade resulted in an increase in pay shall have such pay reduced by reason of the amendments made by subsection (a) of this section.

(3)(A) For purposes of this subsection, the requirements under paragraph (1)(B) of this subsection, relating to continuous employment following reduction in grade, shall be considered to be met in the case of any employee—

(i) who separated from service with a right to an immediate annuity under chapter 83 of title 5, United States Code, or under another retirement system for Federal employees; or

(ii) who died.

(B) Amounts payable by reason of subparagraph (A) of this paragraph in the case of the death of an employee shall be paid in accordance with the provisions of subchapter VIII of chapter 55 of title 5, United States Code, relating to settlement of accounts in the case of deceased employees.

(4) The Office of Personnel Management shall have the same authority to prescribe regulations under this subsection as it has under section 5365 of title 5, United States Code, with respect to subchapter VI of chapter 53 of such title, as added by subsection (a) of this section.

TITLE IX—MISCELLANEOUS

STUDY OF DECENTRALIZATION OF GOVERNMENTAL FUNCTIONS

SEC. 901. (a) As soon as practicable after the effective date of this Act, the Director of the Office of Management and Budget shall conduct a detailed study concerning the decentralization of Federal governmental functions.

(b) The study to be conducted under subsection (a) of this section shall include—

(1) a review of the existing geographical distribution of Federal governmental functions throughout the United States, including the extent to which such functions are concentrated in the District of Columbia; and

(2) a review of the possibilities of distributing some of the functions of the various Federal agencies currently concentrated in the District of Columbia to field offices located at points throughout the United States. Interested parties, including heads of agencies, other Federal employees, and federal employee organizations, shall be allowed to submit views, arguments, and data in connection with such study.

(c) Upon completion of the study under subsection (a) of this section, and in any event not later than one year after the effective date of this Act, the Director of the Office of Management and Budget shall submit to the President and to the Congress a report on the results of such study together

with his recommendations. Any recommendation which involves the amending of existing statutes shall include draft legislation.

SAVINGS PROVISONS

SEC. 902. (a) Except as otherwise provided in this Act, all executive orders, rules, and regulations affecting the Federal service shall continue in effect, according to their terms, until modified, terminated, superseded, or appealed by the President, the Office of Personnel Management, the Merit Systems Protection Board, the Equal Employment Opportunity Commission, or the Federal Labor Relations Authority with respect to matters within their respective jurisdictions.

(b) No provision of this Act shall affect any administrative proceedings pending at the time such provision takes effect. Orders shall be issued in such proceedings and appeals shall be taken therefrom as if this Act had not been enacted.

(c) No suit, action, or other proceeding lawfully commenced by or against the Director of the Office of Personnel Management or the members of the Merit Systems Protection Board, or officers or employees thereof, in their official capacity or in relation to the discharge of their official duties, as in effect immediately before the effective date of this Act, shall abate by reason of the enactment of this Act. Determinations with respect to any such suit, action, or other proceeding shall be made as if this Act had not been enacted.

AUTHORIZATION OF APPROPRIATIONS

SEC. 903. There are authorized to be appropriated out of any moneys in the Treasury not otherwise appropriated, such sums as may be necessary to carry out the provisions of this Act.

POWERS OF PRESIDENT UNAFFECTED EXCEPT BY EXPRESS PROVISIONS

SEC. 904. Except as otherwise expressly provided in this Act, no provision of this Act shall be construed to—

(1) limit, curtail, abolish, or terminate any function of, or authority available to, the President which the President had immediately before the effective date of this Act; or

(2) limit, curtail, or terminate the President's authority to delegate, redelegate, or terminate any delegation of functions.

REORGANIZATION PLANS

SEC. 905. (a) Any provision in either Reorganization Plans Numbered 1 or 2 of 1978 inconsistent with any provision of this Act is hereby superseded.

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 906. (a) Title 5, United States Code, is amended—

(1) in sections 5347, 8713, and 8911, by striking out "Chairman of the Civil Service Commission" and inserting in lieu thereof "Director of the Office of Personnel Management";

(2) in sections 1301, 1302, 1304, 1308, 2105, 2951, 3110, 3304a, 3308, 3312, 3314, 3318, 3324, 3325, 3344, 3351, 3363, 3373, 3502, 3504, 4102, 4106, 4113–4118, 5102, 5103, 5105, 5107, 5110–5115, 5303, 5304, 5333, 5334, 5335(b), 5336, 5338, 5343, 5346, 5347, 5351, 5352, 5371 (as redesignated in section 801(a)(3)(A)(ii) of this Act), 5372, (as redesignated in such section 801(a)(3)(A)(ii)), 5374 (as redesignated in such section 801(a)(3)(A)(ii)), 5504, 5533, 5545, 5548, 5723, 6101, 6304–6306, 6308, 6311, 6322, 6326, 7203 (as redesignated in section 703(a)(1) of this Act), 7204 (as redesignated in such section 703(a)(1), 7312, 8151, 8331, 8332, 8334, 8337, 8339–8348, 8345, 8346, 8347 (a), 8348, 8501, 8701–8712, 8714, 8714a, 8716, 8901–8903, 8905, 8907–8910, and 8913, by striking out "Civil Service Commission" and inserting in lieu thereof "Office of Personnel Management";

(3) in sections 1302, 1304, 1308, 2951, 3304a, 3308, 3312, 3317b, 3318, 3324, 3351, 3363, 3504, 4106, 4113–4115, 4117, 4118, 5105, 5107, 5110–5112, 5114, 5333, 5343, 5346, 5545, 5548, 5723, 6304, 6405, 7312, 8331, 8332, 8337, 8339–8343, 8345, 8346, 8347(a)–(c) and (e)–(h), 8348, 8702, 8704–8707, 8709–8712, 8714a, 8716, 8901–8903, 8905, 8907, 8909, 8910, and 8913 (as such sections are amended in paragraph (2) of this subsection), by striking out "Commission" each place it appears and inserting in lieu thereof "Office";

(4) in sections 1303, 8713 (as amended in paragraph (1) of this subsection), and 8911 (as amended in such paragraph), by striking out "Commission" and inserting in lieu thereof "Office";

(5) in section 3304(d), by striking out "a Civil Service Commission board of examiners" and inserting in lieu thereof "the Office of Personnel Management";

(6) in sections 1505–1508 and 3383, by striking out "Civil Service Commission" and "Commission" each place they appear and inserting in lieu thereof "Merit Systems Protection Board" and "Board", respectively;

(7) in section 1504, by striking out "Civil Service Commission. On receipt of the report, or on receipt of other information which seems to the Commission to warrant an investigation, the Commission shall" and inserting in lieu thereof the following: "Special Counsel. On receipt of the report or on receipt of other information which seems to the Special Counsel to warrant an investigation, the Special Counsel shall investigate the report and such other information and present his findings and any charges based on such findings to the Merit Systems Protection Board, which shall".

"(8) in section 5335(c)—

"(A) by striking out "Commission" the first place it appears and inserting in lieu thereof "Office of Personnel Management";

"(B) by striking out "Commission" the second place it appears and inserting in lieu thereof "Merit Systems Protection Board";

"(C) by striking out "Commission" the third place it appears and inserting in lieu thereof "Office"; and

"(D) by striking out "Commission" the fourth place it appears and inserting in lieu thereof "Board";

(9) in section 8347(d), by striking out "Commission" the first place it appears and inserting in lieu thereof "Merit Systems Protection Board" and by striking out "Commission" the second time it appears and inserting in lieu thereof "Board";

(10) in section 552(a)(4)(F)—

(A) by striking out "Civil Service Commission" and "Commission" each place they appear and inserting in lieu thereof "Special Counsel"; and

(B) by striking out "its" and inserting in lieu thereof "his";

(11) in section 1303—

(A) by striking out "Civil Service Commission" and inserting in lieu thereof "Office of Personnel Management, Merit Systems Protection Board, and Special Counsel"; and

(B) in paragraph (1), by striking out "Commission" and inserting in lieu thereof "Office of Personnel Management";

(12) in section 1305, by striking out "For the purpose of sections 3105, 3344, 4301(2)(E), 5362, and 7521 of this title and the provisions of section 5335(a)(B) of this title that relate to administrative law judges the Civil Service Commission may" and inserting in lieu thereof "For the purpose of section 3105, 3344, 4301(2)(D), and 5372 of this title and the provisions of section 5335(a)(B) of this title that relate to administrative law judges, the Office of Personnel Management may, and for the purpose of section 7521 of this title, the Merit Systems Protection Board may";

(13) in section 1306, to read as follows: "The Director of the Office of Personnel Management and authorized representatives of the Director may administer oaths to witnesses in matters pending before the Office.";

(14) in section 8344(a), by striking out "Commission" and inserting in lieu thereof "Office of Personnel Management";

(15) in section 8906, by striking out "Commission" each place it appears and inserting in lieu thereof "Office of Personnel Management" the first time it appears and "Office" the other times it appears;

(16) in the section heading for section 2951 and in the item relating to section 2951 in the analysis for chapter 29, by striking out "Civil Service Commission" and inserting in lieu thereof "Office of Personnel Management"; and

(17) in the section heading for section 5112 and in the item relating to section 5112 in the analysis for chapter 51, by striking out "Civil Service Commission" and inserting in lieu thereof "Office of Personnel Management".

(b)(1) Section 5109(b) of title 5, United States Code, is hereby repealed.

(2) Section 5109 of such title is further amended by redesignating subsection (c) as subsection (b).

(c)(1) Subchapter VIII of chapter 33 of title 5, United States Code (as in effect immediately before the date of the enactment of this Act) is amended—

(A) by striking out the subchapter heading and inserting in lieu thereof the following:

"CHAPTER 34—PART-TIME CAREER EMPLOYMENT OPPORTUNITIES

"Sec.
"3401. Definitions.
"3402. Establishment of part-time career employment programs.
"3403. Limitations.
"3404. Personnel ceilings.
"3405. Nonapplicability.
"3406. Regulations.
"3407. Reports
"3408. Employee organization representation.";

and

(B) by redesignating sections 3391 through 3398 as sections 3401 through 3408, respectively.

(2)(A) Section 3401 of such title 5 (as redesignated by this section) is amended by striking out "subchapter".

(B) Section 3402 of such title 5 (as redesignated by this section) is amended—

(i) in subsection (a)(1)(B), by striking out "section 3393" and inserting in lieu thereof "section 3403";

(ii) in subsection (b)(1)—

(I) by striking out "Civil Service Commission" and inserting in lieu thereof "Office of Personnel Management"; and

(II) by striking out "subchapter" and inserting in lieu thereof "chapter"; and (iii) in subsection (b)(2), by striking out "Commission" and inserting in lieu thereof "Office".

(C) Sections 3405 and 3406 of such title 5 (as redesignated by this section) are amended by striking out "subchapter" each place it occurs and inserting in lieu thereof "chapter".

(D) Section 3407(a) of such title 5 (as redesignated by this section) is amended—

(i) by striking out "Civil Service Commission" and inserting in lieu thereof "Office of Personnel Management";

(ii) in paragraph (1), by striking out "section 3392" and inserting in lieu thereof "section 3402"; and

(iii) in paragraph (2), by striking out "subchapter" and inserting in lieu thereof "chapter".

(E) Section 3407(b) of such title 5 (as redesignated by this section) is amended—

(i) by striking out "Commission" and inserting in lieu thereof "Office"; and

(ii) by striking out "subchapter" each place it appears and inserting in lieu thereof "chapter".

(F) Sections 8347(g), 8716(b)(3), 8913(b)(3), and 8906(b)(3) of such title 5 are each amended by striking out "section 3391(2)" and inserting in lieu thereof "section 3401(2)".

(G) Section 8716(b)(3) of such title 5 is amended by striking out "section 3391(2)" and inserting in lieu thereof "section 3401(2)".

(H) Section 8913(b)(3) of such title 5 is amended by striking out "section 3391(2)" and inserting in lieu thereof "section 3401(2)".

(3) Section 5 of the Federal Employees Part-Time Career Employment Act of 1978 is amended by striking out "section 3397(a)" and inserting in lieu thereof "section 3407(a)".

(4) The analysis for chapter 33 of title 5, United States Code is amended by striking out the items (as in effect immediately before the date of the enactment of this Act) following the item relating to section 3385.

(5) The chapter analysis for part III of title 5, United States Code is amended by inserting after the item relating to chapter 34 the following new item:

"34. Part-time career employment opportunities—3401.".

EFFECTIVE DATE

SEC. 907. Except as otherwise expressly provided in this Act, the provisions of this Act shall take effect 90 days after the date of the enactment of this Act.

And the House agree to the same.

ROBERT N. C. NIX,
MO UDALL,
JIM HANLEY,
WILLIAM D. FORD,
W. L. CLAY,
PAT SCHROEDER,
EDWARD J. DERWINSKI,
JOHN H. ROUSSELOT,
GENE TAYLOR,

Managers on the Part of the House.

ABE RIBICOFF,
TOM EAGLETON,
LAWTON CHILES,
JIM SASSER,
MURIEL HUMPHREY,
CHARLES H. PERCY,
J. JAVITS,
TED STEVENS,
CHARLES MCC. MATHIAS, JR.,

Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE ON CONFERENCE

The managers on the part of the Senate and the House at the Conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 2640), The Civil Service Reform Act of 1978, submit the following joint statement to the House and the Senate in explanation of the effect of the major actions agreed upon by the managers and recommended in the accompanying report:

FINDINGS AND STATEMENT OF PURPOSE

The conference substitute in section 3 combines the findings and purposes of both the Senate bill and the House amendment. It adopts the Senate language which states as one of the policies of the United States that the right of Federal employees to organize and bargain collectively, and participate through labor organizations in decisions which affect them, with full regard for the public interest and the effectual conduct of public business, should be specifically recognized in statute. A provision in the House amendment was modified to provide that research programs and demonstration projects will be subject to congressional oversight.

TITLE I

Exclusions from coverage of the merit system principles and prohibited personnel practices

The Senate bill applies the merit system principles and prohibited personnel practices to (A) an Executive agency; (B) the Administrative Office of the United States Courts; and (C) the Government Printing Office. The Senate bill excludes from coverage (A) a Government corporation; (B) the Federal Bureau of Investigation, the Defense Intelligence Agency, the National Security Agency, certain positions in the Drug Enforcement Administration, and, as determined by the President, an Executive agency or unit thereof whose principal function is the conduct of foreign intelligence or counterintelligence activities; (C) the General Accounting Office; and (d) any position excluded by the President based upon determination by him that it is necessary or warranted by conditions of good administration or because of its confidential, policy-making, policy-determining or policy advocating character.

The House excludes only the United States Postal Service, the Postal Rate Commission and a limited number of Legislative Branch agencies from merit system principles. The House amendment excludes from coverage of the prohibited personnel practices (i) a Government corporation; (ii) the Central Intelligency Agency, the Defense Intelligence Agency, the National Security Agency, or any Executive agency or unit thereof designated by the President which conducts foreign intelligence or counterintelligence activities. It also excludes from the application of prohibited personnel practices an action taken against an employee in a position which is excepted from the competitive service because of its confidential, policy-determining or policy-advocating character. Although the House amendment does not exclude the FBI from coverage of the prohibited personnel practices, it provides that functions of the Special Counsel relating to the enforcement of the section with respect to the Bureau must be carried out by the President or his designee. It also provides that disclosure described in section 2302(b)(3)(A) (disclosures of Government wrongdoing) shall be made to the Attorney General or his designee. The Attorney General is required to issue rules and regulations to protect employees and applicants for employment in the FBI from taking or failure to take any personnel action as a reprisal for such disclosure.

The Conference substitute in section 2301 adopts the House provisions concerning the application of merit system principles. Unless a law, rule or regulation implementing or directly concerning the principles is violated (as under section 2302(b)(11)), the principles themselves may not be made the basis of a legal action by an employee or agency.

The Conference substitute in section 2302 adopts the Senate approach to exclusions from the prohibited personnel practices with some modifications. The Drug Enforcement Agency and Foreign Service Officers are not excluded from coverage of the prohibited personnel practices. In developing procedures under this bill for the consideration of alleged prohibited personnel practices and adverse action appeals, involving Foreign Service personnel, efforts should be made to achieve maximum compatibility with the Foreign Service Act, and to avoid either duplication or fragmentation of remedies. It is the Committee's intent that full effect should be given to the laws applicable to Federal employees generally and also to those dealing specifically with the Foreign Service.

The conference substitute excludes the FBI from coverage of the prohibited personnel practices, except that matters pertaining to protection against reprisals for disclosure of certain information described in section 2302(b)(8) would be processed under special procedures similar to those provided in the House bill. The President, rather than the Special Counsel and the Merit Board, would have responsibility for enforcing this provision with respect to the FBI under section 2303.

Administration of the merit system principles

The Senate bill authorizes the President, pursuant to his authority under this title, to take such actions, including the issuance of such rules, regulations, and directives as necessary to assure that personnel management in the agencies covered by the section is based on and embodies the merit system principles.

The House amendment contains a similar authorization for the President to take actions, including the issuance of rules, regulations, or directives to carry out the merit system principles. Since the House amendment contains no exclusions from coverage of the merit system principles, the President's authority to administer the provision is broader than the Senate version.

The Conference substitute in section 2301(c) provides that in administering the provisions of this chapter the President shall have the same authority as contained in the Senate bill to take action to ensure that personnel management is based on and embodies the merit system principles. With respect to any entity in the executive branch which is excluded under section 2302, the head of that entity must, pursuant to authority otherwise available, and subject to the inherent executive power of the President, take action which is consistent with the provisions of this title and which the agency head determines is necessary to ensure that personnel management in that entity is based on and embodies the merit system principles.

Content of the principles

One of the merit system principles listed in the Senate bill is that equal pay should be provided for work of equal value . . . with appropriate consideration of both national and local rates paid by "non-Federal employers." The House amendment contains a similar principle but specifies that consideration should be of both national and local rates paid by "private sector" employers.

The Conference substitute in section 2301(b)(3) adopts the House language. This wording makes clear that this Act is not intended to change law concerning the appropriate employers surveyed in determining comparability pay for Federal employees.

The Conference substitute in section 2301(b)(9) also adopts a modified House provision which says that employees should be protected against reprisal for lawful disclosure of certain kinds of information. The term "lawful disclosure" refers to the kinds of information listed in section 2302(b)(8) of the title.

Personnel actions

The Senate bill's definition of personnel action is similar to the House amendment with respect to most provisions. The Senate bill, however, refers to any other substantial change in duties that are inconsistent with an employee's salary or grade level. The House wording refers to a change which "may reasonably be expected to result in a reduction in pay or grade."

The Conference substitute in section 2302(a)(2)(x) is the same as the Senate bill. By adopting this wording, the conferees have no intention of returning to or restoring the concept of reduction in rank. To be covered under this provision a personnel action must be significant, but it need not be expected to result in a reduction in pay or grade. It must also be inconsistent with an employee's salary or grade level. Thus, for example, if an individual is currently employed and assigned duties or responsibilities consistent with the individual's professional training or qualifications for the job, it would constitute a personnel action if the individual were detailed, transferred, or reassigned so that the em-

ployee's new overall duties or responsibilities were inconsistent with the individual's professional training or qualifications. Or, if an individual holding decision-making responsibilities or supervisory authority found that such responsibilities or authority were reduced so that the employee's responsibilities were inconsistent with his or her salary or grade level, such an action could constitute a personnel action within the meaning of this subsection.

This is not intended to interfere with management's authority to assign individuals in accordance with available work, the priorities of the agency, and the needs of the agency for individuals with particular skills or to establish supervisory relationships. Moreover, it is the overall nature of the individual's responsibilities and duties that is the critical factor. The mere fact that a particular aspect of an individual's job assignment has been changed would not constitute a personnel action, without some showing that there has been a significant impact as described above on the overall nature or quality of his responsibilities or duties. If, for example, an employee working on a particular agency rulemaking proceeding is assigned comparable responsibilities with respect to a different rulemaking proceeding, that new assignment would not constitute a personnel action.

Reprisals for disclosure of information

The Senate bill provides that it is a prohibited personnel practice to take or fail to take a personnel action as a reprisal for disclosure of certain information if such disclosure is not specifically prohibited by statute or Executive Order 11652, or any related amendments thereto. Among the kinds of information described in the Senate bill is information which the employee reasonably believes evidences a gross waste of funds.

The House provision refers to a waste of funds, not "gross" waste. It also provides that an employee would not be protected against reprisal for a disclosure of information if such disclosure is specifically prohibited by law or if such information is specifically required by Executive order to be kept secret in the interest of national defense or the conduct of foreign affairs. The House amendment also makes it a prohibited personnel practice to take a reprisal action against an employee or applicant for disclosure of certain information to the Special Counsel of the Merit Systems Protection Board or the Inspector General of an agency or another employee designated by the Board to receive such information.

The conference substitute in section 2302 (b) (8) adopts the Senate provision concerning gross waste. It adopts the House provision concerning disclosures not specifically prohibited by law in the interest of national defense or the conduct of foreign affairs. The reference to disclosures specifically prohibited by law is meant to refer to statutory law and court interpretations of those statutes. It does not refer to agency rules and regulations.

The conference report also adopts the House provision concerning reprisals for disclosure to the Special Counsel, an Inspector General of an agency, or another employee of an agency designated by the head of the agency to receive information outlined in the conference report.

Conduct unrelated to job performance

The Senate bill contains no express provision concerning non-performance related conduct of an employee or applicant.

The House amendment specifies that it is a prohibited personnel practice to discriminate for or against any employee or applicant on the basis of conduct which does not adversely affect the performance of the employee or applicant or the performance of others. The bill also provides, though, that nothing in the paragraph shall prohibit an agency from taking into account any conviction of the employee or applicant for any crime of violence or moral turpitude when determining suitability or fitness.

The Conference report in section 2302(b) (10) adopts the House provision modified so that conviction of a crime may be taken into account when determining fitness or suitability of an employee or applicant. This provision is not meant as an encouragement to take conviction of a crime into account when determining the suitability or fitness of an employee or applicant for employment. Nor is it to be inferred that conviction of a crime is meant to disqualify an employee or an applicant from employment. The conferees intend that only conduct of the employee or applicant that is related to the duties to be assigned to an employee or applicant or on the employe's or applicant's performance or the performance of others may not taken into consideration in determining that employee's suitability or fitness. Conviction of a crime which has no bearing on the duties to be assigned to an employee or applicant or on the employee's or applicant's performance or the performance of others may not be the basis for discrimination for or against an employee or applicant.

Violation of law, rule or regulation implementing merit system principles

The Senate bill makes it a prohibited personnel practice to take a personnel action in violation of a law, rule, or regulation implementing or relating to the merit system principles in section 2301.

The House amendment contains no comparable provision.

The Conference substitute in section 2302 (b) (11) adopts the Senate provision modified so that the law, rule, or regulation must "directly concern," a merit system principle in order to be actionable as a prohibited personnel practice. This provision would make unlawful the violation of a law, rule, or regulation implementing or directly concerning the merit system principles but which do not fall within the first ten categories of prohibited personnel practices. Such actions may lead to appropriate discipline. For example, should a supervisor take action against an employee or applicant without regard for the individual's privacy or constitutional rights, such an action could result in dismissal, fine, reprimand, or other discipline for the supervisor.

Disclosure of information to Congress

The Senate bill provides that this section of the bill shall not be construed to authorize the withholding of information from Congress or the taking of any personnel action against an employee who discloses information to Congress.

The House amendment has no comparable provision.

The conference substitute in 2302 adopts the Senate provision. The provision is intended to make clear that by placing limitations on the kinds of information any employee may publicly disclose without suffering reprisal, there is no intent to limit the information an employee may provide to Congress or to authorize reprisal against an employee for providing information to Congress. For example, 18 U.S.C. 1905 prohibits public disclosure of information involving trade secrets. That statute does not apply to transmittal of such information by an agency to Congress. Section 2302(b)(8) of this Act would not protect an employee against reprisal for public disclosure of such statutorily protected information, but it is not to be inferred that an employee is similarly unprotected if such disclosure is made to the appropriate unit of the Congress. Neither title I nor any other provision of the Act should be construed as limiting in any way the rights of employees to communicate with or testify before Congress.

TITLE II

Term of the Director of the Office of Personnel Management

The Senate bill provides that the Director of the Office shall have a four year term coterminous with that of the President, and that the Director may be removed only for inefficiency, neglect of duty, or malfesance in office.

The conference substitute deletes the limitation on the President's removal power contained in the Senate bill, making the Director removable at the will of the President. In order to provide the Director with a measure of independence from the President in performing his duties, though, the conference substitute provides that the Director have a four year term, and deletes the Senate requirement that the term be coterminous with that of the President.

Senate confirmation of Chairman of the MSPB

The Senate bill requires confirmation of the Chairman of the Merit Systems Protection Board as chairman of the Board. The House amendment has no comparable provision.

The Conference substitute in section 1203 adopts the Senate provision. This would mean that a sitting member of the Board who is nominated for the chairmanship must be confirmed by the Senate for that position. If the President appoints a person who is not serving on the Board to the chairmanship, that person could be confirmed simultaneously as both chairman and a member of the Board.

Stays of Agency Personnel Action

The Senate bill specifies procedures for the MSPB to issue temporary and permanent stays of agency personnel actions involving Hatch Act reprisals, reprisals against whistleblowers, or reprisals for the exercise of appeal rights. It authorizes the Special Counsel to petition the Merit Systems Protection Board for a stay of such personnel actions.

The House amendment allows the Special Counsel to order a stay of up to 30 days of any prohibited personnel practice. The MSPB may extend the Special Counsel's stay beyond 30 days.

The Conference substitute in section 1208 adopts the Senate approach that the Board, as a quasi-judicial body, is the appropriate authority to issue the stay. The conference substitute provides that the Board give great deference to the recommendation of the Special Counsel that a stay is needed. The substitute adopts the House provision making the stay procedure available for all prohibited personnel practices, not just the three instances cited in the Senate bill. The Conference substitute also requires that if the Board does not act upon the Special Counsel's request for a stay within 3 days of that request, the stay will automatically go into effect at the expiration of the three day period. That stay, however, could last no longer than 15 calendar days.

Appointment of Personnel by the MSPB and Special Counsel

The Senate bill authorizes the Chairman of the Board and the Special Counsel to appoint personnel. It provides that an appointment to a confidential, policy-determining, policy-advocating or policy-making position, or to a position in the Senior Executive Service, must comply with the provisions of this title, except that the appointment shall not be subject to the approval or supervision of OPM or the Executive Office of the President. The House amendment contains no comparable provisions.

The Conference substitute in sections 1205 (j) and 1206(i) adopts a modified Senate approach. It provides that with certain exceptions, dealing with qualifications of em-

ployees, the appointments would not be subject to the approval or supervision of OPM or the Executive Office of the President. The purpose of these provisions is to prevent "political clearance" of appointments to the independent Merit Board and Office of the Special Counsel. The conferees believe that it would be inappropriate for any unit of the White House or the Office of Personnel Management to screen such candidates. The individuals appointed to these positions, though, must have the qualifications and meet the standards specified elsewhere in this title.

Annual Report of the Merit Systems Protection Board

The Senate requires the Board to submit an annual report to the President and Congress on its activities which must include a description of significant actions taken by the Board to carry out its functions. The report must also review the activities of OPM, including whether or not the actions of OPM are in accord with merit system principles.

The conference substitute in section 1209 adopts the Senate provisions, but provides that the Board need only report on those OPM activities it decides are "significant." It is expected that the Board will conduct an evaluation and review of the significant activities of the OPM, but it should not, in connection with the annual report, conduct an investigation into all internal operations of OPM and its employees.

SPECIAL COUNSEL INVESTIGATION OF PROHIBITED PERSONNEL PRACTICES

The Senate bill provides that if the Special Counsel determines that there are prohibited personnel practices that require corrective action, the Special Counsel must report his findings to the MSPB and the OPM and may report the findings to the President. The Special Counsel may include in the report suggestions as to what corrective action should be taken, but the final decision on corrective action would be made by the agency involved.

The House amendment is similar to the Senate bill except that the Merit Systems Protection Board, rather than the agency involved, would make the final decision concerning what corrective action is to be taken.

The conference substitute in section 1206 (d) requires the Special Counsel to report his determination, along with any recommendations concerning corrective action, to the head of the agency involved. If the agency has not taken the recommended corrective action within a reasonable period, the Special Counsel may request the Board to consider the matter. It is expected that the Special Counsel and the agencies involved will, whenever practicable, resolve questions concerning proper corrective action without resorting to the Merit Systems Protection Board. If the matter is presented to the MSPB, however, the Board will make the final decision concerning the corrective action to be taken.

Special counsel termination of an investigation

The Conference substitute in section 1206 (a) (1) adopts the House provision which requires the Special Counsel to notify a person when the Special Counsel terminates an investigation based on that person's allegation. The notification is required as a matter of courtesy to the person who goes to the Special Counsel with an allegation. The notification and the reasons for termination of the investigation, however, need not be detailed. The Special Counsel has complete discretion to decide what form the notice should take. All that this provision requires is a brief notification of and summary of the reasons for the termination of the Special Counsel's investigation.

Investigation of employee complaints of illegality or impropriety

Both the Senate bill and the House amendment contain provisions for Special Counsel receipt of information which concerns alleged illegal or improper agency activity.

A. Special Counsel action within 15 days after receiving information:

The Senate bill requires only that the Special Counsel promptly transmit the information to the agency concerned. There is no requirement that the Special Counsel determine the validity or otherwise review the information.

The House amendment requires the Special Counsel to determine whether the information "warrants" an investigation by the agency concerned. There is no requirement that all information be promptly transmitted to the agency concerned.

The conference substitute in section 1206 (b) requires the Special Counsel to promptly transmit all information to the agency concerned. During the 15 days the Special Counsel is to conduct such review of the information as he deems practicable, and to determine whether he will require an investigation.

B. Standard for referring the information for agency investigation:

Under the Senate bill the Special Counsel determines whether there is a "substantial likelihood" that the information discloses illegal or improper agency activity.

Under the House bill the Special Counsel determines whether the information "warrants" an agency investigation.

The conference substitute in section 1206 (b) adopts the "substantial likelihood" standard contained in the Senate bill.

C. Discretion of Special Counsel in requiring an agency investigation:

If the Special Counsel finds "substantial likelihood," he may require an agency investigation under the Senate bill. It intended that the Special Counsel require an investigation only of the more serious matters.

Under the House bill if the Special Counsel determines information "warrants" an investigation, he *shall* require an agency investigation.

The conference substitute adopts the Senate language.

D. Special Counsel review of agency reports:

1. The Senate bill does not require that the Special Counsel review the agency report. Copies of the report are required to be transmitted to the Congress, the President, and the Special Counsel. The reports are available to the public (there is an exception for classified information).

The House amendment requires the Special Counsel to review the report and determine whether: (a) findings of the agency head *are* reasonable; (b) the agency's investigation was complete and unbiased; and (c) the corrective action taken or planned is sufficient.

Under the conference substitute copies of the report will go to the Congress, the President, and the Special Counsel. The Special Counsel is required to review the report to determine whether: (a) it contains the specific information required by the Act; and (b) whether the findings of the agency head *appear* reasonable. The Special Counsel may transmit his determinations to the Congress and President and include such findings in the public report specified in a later provision of the bill. The Special Counsel's authority to report the agency's action to an employee or to include such information in a public report only extends to noncriminal matters. The Special Counsel should use his discretion in determining whether the names of individuals should be made publicly available or transmitted to the employee.

E. Source of information which may trigger investigation:

Under the Senate bill only information from present or past employees or applicants for employment in the agency involved may trigger an investigation.

Under the House amendment information from any employee or applicant may trigger an investigation.

The conference substitute merges the two provisions so that information from present or past employees or applicants in the agency involved, plus information from other employees which was obtained during the performance of those employees' duties and responsibilities may trigger an investigation. It is expected that the Special Counsel will inform the employee or applicant of the action taken by the Special Counsel and the agency involved concerning the individual's disclosure of information.

Special Counsel investigations of a pattern of prohibited practices

The Senate bill provides that if the Special Counsel believes that there is a pattern of prohibited personnel practices by any agency or employee and such practices involve matters which are not otherwise appealable to the Board under section 7701, the Special Counsel may seek corrective action by filing a written complaint with the Board. For example, there may be hiring or promotion practices which violate merit system principles but which may not give rise to an appealable action under this title. Similarly, competitive examinations may be administered in such a way as to constitute a violation of section 2302. Under this paragraph, the Special Counsel would have authority to seek corrective action, and the Board is empowered to order such corrective action as it finds necessary.

The House amendment contains no comparable provision.

The conference substitute in section 1206 (h) adopts the Senate provision. By adopting this provision, the conferees do not intend to divest the Civil Service Commission's Bureau of Personnel Management Evaluation or its successor unit in the Office of Personnel Management of its present functions including its authority to order corrective actions. The Senate bill makes it a prohibited personnel practice to grant any preference or advantage not authorized by law, rule, or regulation to any person for the purpose of improving or injuring the prospects of any particular individual or "category of individuals." The substitute omits this phrase but it is expected that a pattern of activities disadvantaging a category of individuals would be actionable under this subsection.

Special Counsel investigations of arbitrary and capricious withholding of information

The Senate bill authorizes the Special Counsel to conduct an investigation of any alleged prohibited practice which consists of an arbitrary or capricious withholding of information prohibited under section 552 of this title.

The House amendment is similar to the Senate bill but adds the proviso that the Special Counsel may not investigate under this subsection any withholding of foreign intelligence or counterintelligence information the disclosure of which is specifically prohibited by law or Executive order.

The conference substitute in section 1206 (e) adopts the House amendment. This provision retains the status quo regarding the authority of an outside agency (currently the Civil Service Commission; the Special Counsel under this Act) to investigate withholdings of national security information. The status quo is to be maintained with respect to investigations of arbitrary or capricious withholding of other kinds of information as well; this provision is not intended to re-

quire that an administrative or court decision be rendered concerning withholding of information before the Special Counsel may investigate allegations of such a prohibited practice.

SPECIAL COUNSEL DISCLOSURE OF EMPLOYEES' IDENTITY

The Senate bill prohibits the Special Counsel from disclosing the identity of an employee or applicant who provides information about certain prohibited personnel practices or government wrongdoing, unless the Special Counsel determines that disclosure is "unavoidable." The comparable provision in the House amendment permits disclosure of the employee's identity only if it is "necessary to effectively carry out the investigation" initiated by the employee.

The conference substitute in section 1206(b) permits the Special Counsel to disclose the identity of an employee who provides certain information to the Special Counsel only if such disclosure is necessary to carry out the Special Counsel's functions. Although the rule is nondisclosure, this provision would allow the Special Counsel to exercise his discretion concerning when the employee or applicant's name might be disclosed. Thus, a major investigation might not be aborted solely to avoid disclosing the employee or applicant's name. At the same time, protection of employees is a primary function of the Special Counsel. It is expected that the Special Counsel will give great weight to this function in deciding whether it is necessary to permit disclosure of the employee or applicant's name. The fact that the Special Counsel finds it necessary to disclose the identity of an employee in no way relieves the Special Counsel of his obligation to protect the employee from reprisals.

APPEALS TO THE MERIT SYSTEMS PROTECTION BOARD

Right to a hearing

The Senate bill provides that an employee is entitled to an evidentiary hearing before the Merit Systems Protection Board unless a motion for summary decision is granted. A motion for summary decision shall be granted if the presiding officer decides that there are no genuine and material issues of fact in dispute. The presiding officer may provide for discovery and oral representation of views, at the request of either party, in connection with a summary decision.

The House amendment contains no provision for summary decision. It provides that an employee has a right to a hearing before the MSPB for which a transcript will be kept and the right to be represented by an attorney or other representative.

The conference substitute in section 7701 (a) adopts the House provision so that the employee is entitled to a hearing on appeal to the Merit Systems Protection Board.

The hearing may be waived by the employee.

Administrative law judges and more experienced appeals officers

The Senate bill provides that, in cases of employee removals on appeal before the Merit Systems Protection Board, such cases be assigned to either an administrative law judge or a senior appeals officer, notwithstanding subsection 554(a)(2) of this title.

The House amendment contains no such provision.

The conference substitute in section 7701 (b) provides that such removal cases be assigned to either an administrative law judge or a more experienced appeals officer. This provision reflects the conferee's intent that appeals from removal actions, which involve the most serious form of disciplinary action against an employee, be adjudicated by the most competent and able presiding officers available. Many complaints were heard during consideration of the Civil Service Reform Act of a lack of confidence in the ability of many hearing officers. For this reason, it was the preferred position at an early point in Senate consideration of the legislation that all removal cases be assigned to administrative law judges.

Because there is only one administrative law judge available within the Civil Service Commission, and because of the serious administrative problems that would ensue from requiring use of administrative law judges in all removal actions, however, the substitute provides that where the administrative law judge is available and a choice exists whereby a removal appeal may be assigned to any one of a number of appeals officers, the more experienced appeals officer be chosen where practicable. In this context, experience would involve having heard employee removal cases in the past, the seniority of the appeals officer, and other similar factors.

Burden of proof

The Senate bill puts the burden of proof in cases of alleged employee misconduct on the employing agency. For actions based on unacceptable performance, the Senate provides that "the agency shall have the initial burden of proof subject to an opportunity for rebuttal by the employee," in establishing its case.

The House amendment places the burden of proof in both misconduct and performance cases on the employing agency.

The conference substitute in section 7701 adopts the House approach.

STANDARDS OF REVIEW

The Senate bill provides that for actions based upon unacceptable performance the agency action will be upheld unless "there is no reasonable basis on the record for the agency's decision." For actions based upon misconduct the standard in the Senate bill is "substantial evidence."

The House amendment provides that both for actions based on unacceptable performance and upon misconduct the agency's action shall be sustained only if its decision is supported by a preponderance of evidence introduced before the MSPB.

The conference substitute in section 7701 (c) provides that the standard of proof in misconduct cases will be "preponderance of the evidence." The conferees agreed, though, that in performance cases a lower standard of proof should be required because of the difficulty of proving that an employee's performance is unacceptable. The conference substitute therefore provides that an agency's decision in performance cases shall be upheld if its action is supported by substantial evidence in the record before the MSPB. The substantial evidence test was adopted both because it is clearly a lower standard than now used in performance cases and because it is a generally understood term in administrative law.

Appealable actions in which allegation of discrimination has been raised.

Both the Senate bill and the House amendment adopt special procedures for resolving appealable actions where an allegation of discrimination is raised. The Senate bill provides that, whenever an issue of discrimination is raised in the course of a hearing before the Board, the Board must notify the EEOC and the EEOC has the right to participate fully in the proceeding. After action by the Board, the EEOC has an opportunity to review the decision and revise it. The Board may then accept the EEOC's decision, or issue a new one. Where the two agencies are unable to agree, the matter is immediately certified to the Court of Appeals for resolution. Before the Court of Appeals, the expertise of both the MSPB and the EEOC is to be given weight in their respective areas of jurisdiction. While the matter is pending in the Court, the EEOC is authorized to grant interim relief to the employee.

The House amendment allows the EEOC to delegate to the MSPB authority to make a preliminary determination in an adverse action in which discrimination has been raised, but it directs the EEOC to make the final determination in such cases. The decision of the EEOC constitutes final administrative determination in the matter, and there is no further review in the courts, unless the employee decides to appeal.

The conference substitute in section 7702 adopts the Senate approach at the administrative level, with some modifications, but it places an administrative tribunal, ad hoc in nature, at the apex of the administrative process, rather than depending upon the Court of Appeals to resolve conflicts between the two agencies. The conference substitute maintains the principle of parity between the MSPB and the EEOC and establishes an appropriate balance in regard to the enforcement of both the merit system principles of Title 5 of the United States Code and Title VII of the Civil Rights Act of 1964 and other laws prohibiting discrimination. At the same time it preserves for EEOC, as proposed in Reorganization Plan No. 1 of 1978, authority for issuing general policy directives implementing Title VII of the Civil Rights Act. This preserves an important policy role for EEOC which it may invoke, consistent with the requirements of law, regardless of the outcome of a particular case. The conference substitute also protects the existing rights of an employee to trial de novo under the Civil Rights Act after a final agency action or if there is no administrative decision after a specified number of days.

Appeals procedure

This section applies to both employees and applicants. In all mixed cases, that is, cases involving any action that could be appealed to the MSPB and which involve an allegation of discrimination, the MSPB will hold hearings and issue a decision on both the issue of discrimination and the appealable action. The EEOC will not participate in this proceeding. The term "decision" is used throughout this section includes any remedial order the agency or panel may impose under law.

It is expected that the Board will make adequate training and resources available for the training and supervision of these appeals officers provided for in section 7702(a) to avoid the possibility of inadequate preparation for the processing of those appeals matters which involve allegations of discrimination.

The decision of the Board shall be final agency action unless the employee files a petition with the EEOC to reconsider the case. In the case of class actions, the law generally governing the right of one or more members to appeal an initial decision shall be applicable in this case as well. If the EEOC decides to reconsider the MSPB decision, it may remand the case to the Board for further hearing or provide for its own supplemental hearing as it deems necessary to supplement the record. This amends the procedures established in the Senate bill which did not allow the EEOC to take additional evidence. In making a new decision, the EEOC must determine that: (1) the MSPB decision constitutes an incorrect interpretation of any law, rule, or regulation over which the EEOC has jurisdiction; or (2) the application of such law to the evidence in the record is unsupported by such evidence as a matter of law.

If the EEOC concurs in the decision of the Board, including the remedy ordered by the MSPB, then the decision of the Board shall be final agency action in the matter. If the EEOC decision differs from the MSPB decision, then the case must be referred back to the MSPB. The MSPB may accept the EEOC decision, or if the MSPB determines that the EEOC decision (1) constitutes an incorrect

interpretation of any civil service law, rule, or regulation; or (2) the application of such law to the evidence in the record is unsupported by such evidence, as a matter of law, it may reaffirm its initial decision with such revisions as it deems appropriate.

If the Board does not adopt the order of the EEOC, the matter will immediately be certified to the special three-member panel. The panel will review the entire administrative record of the proceeding, and give due deference to the expertise of each agency in reaching a decision. The employee and the agency against whom the complaint was filed may appear before the panel in person, or through an attorney or other representative. The decision of the special panel will be the final agency action in the matter.

Upon application by the employee, the EEOC may, as in the Senate bill, issue certain interim relief as it determines appropriate, to mitigate any exceptional hardship the employee might incur. The bill establishes mandatory time limits to govern the maximum length of time the employing agency, the MSPB, the EEOC, or the Panel may take to resolve the matter at each step in the process. The Act makes compliance with these deadlines mandatory—not discretionary—in order to assure the employee the right to have as expeditious a resolution of the matter as possible. The conferees fully expect the agencies to devote the resources and planning necessary to assure compliance with these statutory deadlines. The bill imposes a statutory requirement that the delays that have been experienced in the past in processing discrimination complaints will be eliminated. Where an agency has not completed action by the time required by this statute it shall immediately take all necessary steps to rapidly complete action on the matter.

It is not intended that the employing agencies, the Board, the Commission, or the special panel would automatically lose jurisdiction for failing to meet these time frames. Congress will exercise its oversight responsibilities should there be a systematic pattern of anybody failing to meet these time frames.

Rights of employees under Civil Rights Act

The conference substitute fully protects the existing rights of employees to trial de novo under Title VII of the Civil Rights Act of 1964 or other similar laws after a final agency action on the matter. Under the Act's provisions, this final agency action must occur within 120 days after the complaint is first filed. After these 120 days, the employee may appeal to the Board or file a complaint in district court in those cases where the agency in violation of the law has not issued a final decision. If the employee files an appeal of the agency action with MSPB, the employee may file a suit in district court any time after 120 days if the Board has not completed action on the matter by that time. Finally, the Act gives the employee the right to sue in district court 180 days after it petitions EEOC to review the decision of MSPB even if the administrative process is not completed by that time, as required by other provisions in the section. Once the employee files a petition with EEOC, however, it may not bring an action in district court until the end of this 180-day period, or until there is final agency action on the matter.

There are in all eight different times when the employee may have the right to bring suit in Federal district court. They are as follows:

1. 120 days after filing a complaint with the employing agency even if the agency has not issued a final decision by that time.

2. 30 days after the employing agency's initial decision.

3. 120 days after filing a petition with the MSPB if the MSPB has not yet made a decision.

4. 30 days after an MSPB decision. If the employee petitions EEOC to review the matter and EEOC denies the petition, the 30-day period in this case runs from the denial of such a petition by EEOC.

5. 30 days after the EEOC decision, if EEOC agrees with the MSPB.

6. 30 days after MSPB reconsideration if MSPB agrees with the EEOC.

7. 30 days after the special panel makes a decision.

8. 180 days after filing a petition with the EEOC for reconsideration of an MSPB decision, if a final agency decision by EEOC, MSPB, or the Panel has not been reached by that time.

If a suit is brought in district court, the rules of equity provide that minor procedural irregularities in the administrative process for which the employee is responsible should not predetermine the outcome of the case.

Special panel

The special panel will be comprised of one member of the EEOC designated on an ad hoc basis by the Chairman of the EEOC, one member of the MSPB designated on an ad hoc basis by the Chairman of the MSPB, and a permanent chairman who will be an individual from outside the government. The members appointed by EEOC and MSPB to represent the agency in a particular case must be able to represent the views and decision of the majority of the Board or Commission in that particular case. The chairman will be appointed by the President with the advice and consent of the Senate to a term of six years, and shall be removable only for cause.

The MSPB and the EEOC shall make available to the panel appropriate and adequate administrative resources to carry out its responsibilities under this Act. The cost of such services must, to the extent practicable, be shared equally by EEOC and MSPB.

Because it is anticipated that the special panel will not have to be convened often, the conferees do not expect that it will need substantial resources or administrative support. For instance, the EEOC, because it is larger, could provide a convenient place for the panel to meet.

ATTORNEYS' FEES

The Senate bill authorizes attorneys' fees to be awarded in appeals cases by a hearing officer whenever the employee prevails and the officer determines that the agency's action was taken in bad faith or in cases where a discrimination under the Civil Rights Amendment of 1964 has occurred.

The House amendment authorizes attorney's fees in any case where the officer determines that payment "is warranted" or in a case involving a discrimination under the Civil Rights Amendment of 1964.

The conference substitute (sections 7701 (g) and 5596(b)(1)(A)(ii)) authorizes attorneys' fees in cases where employee prevails on the merits and the deciding official determines that attorneys' fees are warranted in the interest of justice, including a case involving a prohibited personnel practice or where the agency's action was clearly without merit. The reference to these two types of cases is illustrative only and does not limit the official from awarding attorneys' fees in other kinds of cases.

Judicial review of decisions of the Merit Systems Protection Board

The Senate bill provides that, except for actions filed under the antidiscrimination laws, a petition to review a final order or decision of the Merit Systems Protection Board shall be filed in the U.S. Court of Appeals, or in the U.S. Court of Claims.

The House amendment substitutes "United States District Court" for the Senate's "United States Court of Appeals."

The conference substitute in section 7703 (c) adopts the Senate provision, incorporating the traditional appellate mechanism for reviewing final decisions and orders of Federal administrative agencies.

Executive pay level of Presidential Appointees

The Senate bill provides the following pay levels for Presidential appointees under this Act: Level III—Director of the Office of Personnel Management; Level IV—Deputy Director of the Office of Personnel Management, Chairman of the Merit Systems Protection Board; Level V—Associate Director of the Office of Personnel. Management (five positions), Member of the Merit Systems Protection Board (two positions), Special Counsel; GS–18—General Counsel of the Federal Labor Relations Authority.

The House amendment placed each of these positions at one grade higher on the Executive pay scale.

The conference substitute adopts the House pay levels for Director of the Office of Personnel Management (Level II); Chairman of the Merit Systems Protection Board and Deputy Director of the Office of Personnel Management (Level III); Members of the Merit Systems Protection Board and Special Counsel (Level IV); and General Counsel of the Federal Labor Relations Authority (Level V). The substitute adopts the Senate pay level for the Associate Directors of the Office of Personnel Management (Level V).

TITLE III

Staffing

Veterans' Preference

Definition of veteran

The Senate bill alters the definition of a veteran eligible for five point preference in Federal employment to include certain veterans receiving discharges under other than honorable conditions from the military but who are eligible for veterans benefits under provisions of Title 38, United States Code. The House amendment retains current law under which only veterans discharged under honorable conditions can qualify for hiring preference.

The conference substitute adopts the House provision.

Preference eligibility for widows and widowers

The Senate bill changes current laws under which all widows and widowers of eligible veterans receive ten point preference, regardless of the conditions surrounding the veteran's death. Ten points would be limited to widows/widowers of disabled veterans or veterans who lost their lives in combat. The Senate also extends preference to widows/widowers of peacetime veterans who served from 1955 through 1964 who currently receive no preference. The House amendment retains current law.

The conference substitute adopts the House provision on this point.

Competitive examinations

The Senate bill allows any preference eligible, disabled or nondisabled, to reopen any competitive examination for which there is a list of eligibles. The House amendment retains current law, under which only a ten point preference eligible has the right to reopen competitive examinations.

The conference substitute adopts the House provision.

Notification to disabled veterans of physical requirements

The Senate bill provides that, where a disabled veteran is deemed ineligible for a Federal civil service position due to physical disability, the disabled veteran must be notified of this fact, given an opportunity to respond, and have this determination reviewed by the Office of Personnel Management. The House amendment has no comparable provision.

The conference substitute in section 307

(b) accepted the Senate language on this point, though limiting notification and review rights to eligible disabled veterans of 30 percent disability or more. The 30 percent rule was adopted because (1) it was felt that without some limitation, the paperwork burden and the flood of relatively minor cases could well disrupt the efficient operation of OPM in this area, and (2) a 30 percent rule would better protect more seriously disabled veterans.

Notification of passover

The Senate bill requires that any disabled veteran an agency wishes to pass over in the course of hiring be notified of that fact, given an opportunity to respond, and have a final determination made by the Office of Personnel Management as to the propriety of the passover In addition, OPM is forbidden from delegating its responsibility for reviewing passovers to any other agency of the government. The House amendment contains no comparable provision.

The conference substitute in section 307 (c) adopts the Senate provision with two changes. First, it applies the notification and other procedural protections only to disabled veterans of 30 percent disability or more. Second, it limits the prohibition against OPM delegation of passover functions only to those functions related to disabled veterans. Thus, OPM would be allowed to delegate passover functions related to nondisabled veterans, or disabled veterans of less than 30 percent disability. Again, the purpose of this substitute provision is to better protect the rights of more seriously disabled veterans, while avoiding excessive paperwork.

Retention preference for disabled preference eligibles

The Senate bill provides preference for disabled veterans with ten percent disability or more over any other preference eligibles in any reduction in force proceeding. The House amendment contains no such provision.

The conference substitute in section 307 (d) adopts the Senate provision, but limits the additional reduction-in-force preference to disabled veterans of 30 percent disability or more.

Notification to disabled veterans in reduction in force

The Senate bill provides that where a disabled veteran is deemed ineligible for retention in a reduction in force proceeding due to physical disability, the veteran be so notified, given an opportunity to respond, and a final determination be made by OPM. The House amendment contains no comparable provision.

The conference substitute in section 307 (f) adopts the Senate provision. However, it limits notice and other procedural rights to disabled veterans of 30 percent disability or more.

Minority recruitment

The House amendment provides for a minority recruitment program. It directs the Equal Employment Opportunity Commission to determine, within categories of civil service employment, which minority group designations constitute a lower percentage of the total number of employees within the employment category than the percentage that the minority constituted within the labor force of the United States. It provides that not later than 60 days after enactment of the bill the EEOC will issue guidelines, make determinations as to underrepresentation and transmit these determinations to the OPM, to Federal agencies and to Congress. The House amendment further provides that the OPM will implement by regulation, not later than 180 days after enactment of the bill, a minority recruitment program designed to eliminate the under-representation of the designated minorities. Each year the OPM is directed to report to Congress on the activities related to the minority recruitment program and furnish the data necessary for an evaluation of its effectiveness. The Senate bill contains no such provision.

The conference substitute in section 310, accepted the House provision. It was the understanding and intention of the conferees, however, that this section will introduce no new appealable rights and that it is solely a recruitment program, and not a program which will determine and govern appointments. Further, this program must be administered consistent with the provisions of Reorganization Plan No. 1 of 1978.

Limitation on Executive Branch Employment

The House amendment provides that effective one year after the date of enactment and until January 20, 1981, the number of individuals employed in or under an executive agency shall not exceed the number of individuals so employed on January 1, 1977. This limitation would not apply during a time of war or national emergency declared by the Congress or the President. The Senate bill has no comparable provision.

The conference substitute in section 311 provides that the total number of civilian employees in the Executive Branch, excluding the Postal Service and the Postal Rate Commission, on September 30, 1979, 1980, and 1981 shall not exceed the number of such employees on September 30, 1977. This ceiling will apply to all full-time, part-time and intermittent employees, but excludes up to 60,000 employees in certain special categories such as students, disadvantaged youth, the temporary summer aid program and the Federal junior fellowship program and personnel participating in the worker-trainee opportunity program. Under the conference substitute the President may adjust the number of Executive Branch employees when he determines it is necessary in the national interest; however, the number of additional employees may not exceed the percentage increase in the population of the United States from September 30, 1978. The Conferees note that this authority relates only to adjustments in the total number of Federal employees. It does not authorize the President to waive any laws which otherwise limits the employment of individuals for certain types of positions. For instance, the overall percentage of non-career or limited term appointees to the Senior Executive Service would remain subject to the limitations established in Section 3134.

Notification of vacancies in executive agencies

The House amendment requires executive agencies to notify the Office of Personnel Management of vacant agency positions. This information must then be transmitted to the United States Employment Service which is required to keep up-to-date listings of vacancies along with other relevant application information.

The conference substitute in section 309 provides that the Office of Personnel Management shall provide information to the United States Employment Service concerning opportunities to participate in competitive examinations. In addition, the conference substitute provides that each agency notify the OPM and the United States Employment Service of vacant positions in the agency which are in the competitive service and the Senior Executive Service and which are open to be filled by individuals outside the Federal Service. The conferees intend that an agency notify all U.S. Employment Service offices when there are vacant positions in an agency headquarters office. If a position in a regional office is vacant, the agency may notify all USES offices; however. notice to the USES offices in the region is sufficient.

TITLE IV

The Senior Executive Service

Scope of Coverage

Agency exclusion

The Senate bill excludes a Government corporation, the General Accounting Office, the Federal Bureau of Investigation, the Central Intelligence Agency, the Defense Intelligence Agency, and the National Security Agency from the scope of coverage of the Senior Executive Service. In addition, the Senate bill provides that the President may exempt an agency or unit whose principal function is the conduct of foreign intelligence or counterintelligence activity.

The House amendment is similar in that it provides an exemption for the same agencies which are named in the Senate bill; however, the House amendment does not limit the exemption for other agencies which conduct foreign intelligence or counterintelligence activity to those for which the activity is the principal function. In addition, the House amendment specifically includes the Administrative Office of the United States Courts and the Government Printing Office.

The conference substitute in section 3132 (a) (1) is the same as the Senate bill.

Position exclusion

The Senate bill excludes Foreign Service Officers and certain positions in the Drug Enforcement Administration from the Senior Executive Service.

The House amendment excludes administrative law judge positions under section 3105 of title 5 United States Code and contains a broader exemption for the Foreign Service by exempting all positions in the Foreign Service.

The conference substitute in section 3132 (a) (2) combines the provisions of both the Senate bill and House amendment by exempting administrative law judges, positions in the Drug Enforcement Administration which are excluded from the competitive service under section 201 of the Crime Control Act of 1976, and positions in the Foreign Service of the United States.

Senior Executive Service positions

The Senate bill defines a "Senior Executive Service position" as one in which the employee directs the work of an organizational unit, is held accountable for the success of specific line or staff programs or projects, or supervises the work of employees other than personal assistants. In addition, the Senate bill includes individuals who monitor the progress of the organization toward goals and periodically evaluate and make appropriate adjustments to such goals, or exercise other important policymaking or executive functions.

The House amendment differs in that it does not include this latter category of individuals who monitor the progress of the organization or exercise policymaking or executive functions.

The conference substitute in section 3132 (a) (2) includes individuals who monitor progress toward organizational goals and periodically evaluate and make appropriate adjustments to such goals, or who exercise important policymaking, policy-determining or other executive functions. Thus, the conferees agreed that the Senior Executive Service should include senior Government managers and other individuals who may not have direct management or supervisory responsibilities but occupy important policymaking, policy-determining or other executive positions in an agency.

Limitation on the Senior Executive Service

A. *Establishment of Minimum of Career Reserved Positions.* The Senate provides that the number of career reserved positions in the SES may not be less than the number of positions which were authorized to be filled through competitive civil service appoint-

ment prior to the date of enactment. The Senate bill also provides that the Director of OPM may authorize a lesser number of career reserved positions upon determination that it is necessary to designate a position as a general position because: (A) it involves policy-making responsibilities requiring the advocacy or management of programs of the President and support of controversial aspects of such programs; (B) it involves significant participation in the major political policies of the President; or (C) it requires the SES executive to serve as a personal assistant of, or advisor to, a presidential appointee.

The House amendment contains no such requirement establishing a floor on career reserved positions.

The Conference substitute in section 3133 (e) adopts the Senate provision regarding the floor for career reserved positions, with an amendment that provides that the number of career reserved positions in the SES may not be less than the number of positions which, prior to enactment of the bill, were authorized to be filled through competitive civil service examination. The effect of this change from the original Senate wording is to allow a group of about 700 positions, which technically are filled through competitive appointment, but not through competitive examination, to be excluded from the career reserved floor.

B. *Prior Service in Civil Service.* The House amendment provides that not more than 30 percent of the individuals serving at any time in SES positions may have served less than an aggregate of five years in the civil service, unless the President certifies to the Congress that the limitation would hinder the efficiency of the Government. The Senate bill contained no such limitation regarding the composition of the SES.

The conference adopted in section 3392(a) (2) the House provision with certain changes. The conference substitute provides that not more than 30 percent of the SES positions authorized may be filled by individuals who do not have five years of continuous service in the Civil Service immediately prior to their appointment to the SES, unless the President certifies to Congress that the limitation would hinder the efficiency of the Government.

C. *Limitation on Executive Positions.* The House amendment repeals the specific authority of agencies to establish supergrade positions and provides that the total number of such positions, plus the SES, shall not exceed 10,920. This section also repeals the authority of agencies to establish professional and scientific positions outside of the General Schedule. In addition, the House amendment provides that, within six months of the date of enactment, the Director of OPM must determine the total number of executive level positions in the Executive Branch which are outside the SES, that this determination must be published in the *Federal Register*, and the number of such positions may not exceed the number which is published. By January 1980, the President is required to submit a plan to Congress for authorizing executive level positions. The plan must include the number of positions necessary and a justification.

The Senate bill differs from the House bill in that it only repeals pre-existing authority for agencies to establish and provide for the rate of pay for positions designated to be in the SES.

The Conference substitute in section 414 is similar to the House bill except that it retains the existing authority of legislative and judicial branch agencies under section 5108 of title 5, United States Code to establish positions outside the supergrade pool and, therefore, the substitute reduced the number of positions in the pool to 10,777. In addition, the Conference substitute provides that future adjustments to the Federal Bureau of Investigation's supergrade allocation will be made by the President rather than the Director of the Office of Personnel Management.

It was the understanding of the Conference, after assurance given by spokespersons for the President, that the Administration has no current intention of reducing the number of supergrade positions for the Federal Bureau of Investigation or the Drug Enforcement Administration.

D. Limited Term and Limited Emergency Appointees. The Senate bill and the House amendment provide for limited term and limited emergency appointments to the SES. The Senate bill and the House amendment both provide that the total number of noncareer appointees to the SES in all agencies shall not exceed ten percent of the total number of SES positions authorized for all agencies. Neither the House nor the Senate bill makes clear whether the limited term and limited emergency appointments are within the ten percent non-career limitation.

The Conference substitute in section 3134 (e) provides that the total number of limited term and limited emergency appointments may not exceed five percent of the total number of SES positions, thus, together with the ten percent limitation on noncarrer appointees, placing a ceiling of 15 percent on the potential number of non-career, limited term and limited emergency appointees who may be in the SES at any given time.

Effective date of the Senior Executive Service

The Senate bill provides that nine months after the date of enactment the Senior Executive Service will become effective except that the provisions relating to conversion of positions will become effective on the date of enactment and the provisions relating to the esablishment of a minimum number of career reserved positions will become effective 120 days after the date of enactment.

The House amendment provides for an initial two year experimental application of the Senior Executive Service under which positions would be designated, authorized, and filled in only three executive departments designated by the Director of the Office of Personnel Management. Under the House amendment, the Senior Executive Service would become fully effective two full fiscal years following the date of enactment unless Congress adopts a concurrent resolution disapproving its continuance.

The conferees believe that the Senior Executive Service should be fully implemented and become operational on a Government-wide basis as early as is practicable following the date of enactment of the Civil Service Reform Act. Therefore, the conference substitute in section 415 provides that the Senior Executive Service will become effective nine months after the date of enactment except that the provisions relating to conversion in section 413 will become effective upon enactment, and the provisions of section 3133(e), relating to career reserved positions, will become effective by July 1, 1979, and the provisions of section 414(a), relating to supergrade positions, will become effective 180 days after enactment. The conference substitute also provides that five years from the effective date of the Senior Executive Service Congress may, by concurrent resolution, disapprove its continuance.

The conference substitute, therefore, establishes a program which is not in any way experimental in nature. The conferees felt that a limited or experimental application of the Senior Executive Service would impair the flexibility of the President and the agencies in managing Government programs, could substantially undermine its effectiveness, and would indicate a lack of congressional commitment to its success. Therefore, the conferees stress that they believe the Senior Executive Service to be an integral and permanent part of the civil service reforms and expect that it will be implemented rapidly by the Director of the Office of Personnel Management and that the number of agencies which are initially excluded from its application will be minimized in order that there be the widest possible pool of executive resources available from which to select talent to meet the needs of individual agencies. The conferees believe that after five full years of implementation sufficient information will be available on the effectiveness of this program and that Congress should retain the right to disapprove its continuance in the event of failure to met its mission or abuse of the discretion granted to the Office of Personnel Management and the agencies.

Compensation for SES Executives:

1. *Pay Cap.* The House amendment provides that the aggregate amount of compensation received in salary, awards and performance pay may not exceed 95 percent of the annual rate payable for Level II of the Executive Schedule. The Senate bill does not establish a pay cap.

The Conference substitute in section 5383 (b) provides that the aggregate amount of compensation received in salary, lump sum payments and performance pay may not exceed the annual rate payable for Level I of the Executive Schedule.

2. *Awards.* The Senate bill provides that the receipt of a meritorious rank entitles an individual to receive an annual lump sum payment of $2,500 for a period of five years; and receipt of the rank of Distinguished Executive to receive an annual lump sum payment of $5,000 for a period of five years. The Senate bill also provides that no more than five percent of the members of the SES may be appointed to the rank of Meritorious Executive in a calendar year, that not more than 15 percent of the active duty members of the SES may hold the rank of Meritorious Executive, and that not more than one percent of the active duty members of the SES may hold the rank of Distinguished Executive.

The House amendment limits one-time lump sum payments to $2,500 for Meritorious Rank and $5,000 for the Distinguished Rank. The House amendment further provides that in any fiscal year, the number of career appointees awarded the rank of Meritorious Executive may not exceed five percent of the SES and the number of career appointees awarded the rank of Distinguished Executive may not exceed one percent.

The Conference substitute in section 4507(e) provides for a lump sum payment of $10,000 for the rank of Meritorious Executive and $20,000 for the rank of Distinguished Executive. It provides that in any fiscal year the number of career appointees awarded the rank of Meritorious Executive may not exceed five percent of the SES and the number of career appointees awarded the rank of Distinguished Executive may not exceed one percent of the SES.

3. *Early Retirement.* The House amendment provides for early retirement for those removed from the SES for less than fully successful performance. The Senate bill contains no such provisions.

The Conference substitute in section 412 adopted the House amendment regarding early retirement.

4. *Comparability.* The Senate bill gives the President discretionary authority to grant comparability pay increases to SES executives when such increases are given to other employees in the General Schedule. The House amendment specifically mandates that SES executives be given the same comparability increases given to other General Schedule employees.

The Conference substitute is in section 5382(c) the same as the Senate bill.

5. *Sabbaticals.* The Senate bill provides

that an agency head may grant leave with half pay and full benefits to a career executive for a sabbatical period not exceeding 12 months or full pay and full benefits for six months. The House amendment provides that the head of an agency may grant a sabbatical with full pay and benefits for a period of 11 months. The Head of the agency may also authorize such travel and per diem costs as the head of the agency determines to be essential for the study or experience of the sabbatical.

The House amendment further provides that any career appointee who is granted a sabbatical must agree, as a condition of accepting the sabbatical, to serve in the Civil Service for two consecutive years after his return from the sabbatical. If the person fails to carry out this agreement the appointee shall be liable to the United States for payment of all expenses (including salary) of the sabbatical. The Senate bill contains no such provision.

The Conference substitute in section 3396 (c) is the same as the House amendment.

TITLE V

Merit pay and cash awards

Comparability Pay

The Senate bill grants discretion to the OPM, after consultation with the Office of Management and Budget, to determine the extent to which pay adjustments under the pay comparability system shall be extended to employees covered by merit pay. The House amendment directs that employees under the merit pay system be given the same annual comparability pay adjustments granted to all other Federal employees.

The Conference substitute in section 5402 provides that employees covered by the merit pay system shall be given half of the amount of annual pay comparability adjustments, but allows the OPM discretion to either pass along additional portions of the full adjustment to all employees under the merit system or to use available funds for performance-related salary increases. The Committee understands that all eligible managers may not be placed under merit pay until October 1, 1981.

TITLE VI

Research, demonstration and other programs

Scope of Coverage

Agency exclusion

The Senate bill excludes a Government corporation, the General Accounting Office, the Federal Bureau of Investigation, the Central Intelligence Agency, the Defense Intelligence Agency, and the National Security Agency from the scope of coverage of Title VI. In addition, the Senate bill provides that the President may exempt an agency or unit whose principal function is the conduct of foreign intelligence or counterintelligence activities.

The House amendment is similar; however, it does not limit the exemption for agencies which conduct foreign intelligence or counterintelligence activity to those for which the activity is the principal agency function.

The Conference substitute in section 4701 (a) adopts the Senate provision.

Positions excluded

The Senate bill excludes Foreign Service Officers and certain positions in the Drug Enforcement Administration from coverage under chapter 47. The House amendment has no comparable provision.

The Conference substitute in section 4701 (b) excludes only those positions in the Drug Enforcement Administration which are excluded from the competitive service under section 201 of the Crime Control Act of 1976. It does not exclude Foreign Service Officers.

Preconditions for demonstration projects

The Senate bill provides that the OPM, before entering into any agreement to conduct a demonstration project, must: (1) have notified, at least six months previously, the Congress and any employee who may be affected by the project; (2) have consulted with such affected employees; and (3) have provided Congress with a report on the proposed demonstration project at least three months in advance.

The House amendment provides in addition to advance notification, that a demonstration project may not be undertaken unless the plan has been approved by each agency involved; a copy has been submitted to each House of Congress; and the plan is not disapproved by either House of Congress during the first period of 60 calendar days of continuous session of Congress after the date on which the plan is transmitted to each House.

The Conference substitute in section 4703(b) adopts the Senate provisions regarding notification and omits the congressional veto provision of the House.

Veterans Preference

Research and demonstration projects

The Senate bill provides that no research and demonstration projects instituted by OPM may waive laws relating to veterans preference in creating experimental conditions for demonstration purposes. The House amendment contains no such provision.

The conference substitute adopts the House provision on this point. It was felt that the legislation contains enough other protections against abuse of research and demonstration project authority that the rights of veterans would be adequately protected without requiring the Senate prohibition.

Status of members of the Federal Labor Relations Authority

The Senate specifically states that any member of the Authority and the General Counsel may be removed by the President (section 7203(c) and (g)). The House amendment provides for removal in both cases only after a hearing, and only for "misconduct, inefficiency, neglect of duty, or malfeasance in office" (section 7104(b) and (f)).

The Senate recedes with respect to the members of the Authority. They will be removable only for cause. The conference report follows the Senate bill, however, with respect to the General Counsel, who will serve at the pleasure of the President.

Enforcement and review of orders of the Federal Labor Relations Authority

A. Judicial Enforcement of the Decisions of the Federal Labor Relations Authority

1. House section 7123(b) authorizes the Authority to petition any appropriate U.S. Court of Appeals for the enforcement of any order of the Authority, and for temporary relief or restraining order pending review. The Senate bill contained no comparable provision. The Senate recedes.

2. House section 7223(d) authorizes the Authority to petition any U.S. District Court to obtain appropriate temporary relief or a restraining order when it recives an unfair labor practice complaint. There is no comparable Senate provision. The Senate recedes.

B. Judicial Review of the Decisions of the Federal Labor Relations Authority

The Senate bill made reviewable in court decisions of the Authority concerning unfair labor practices including awards of arbitrators relating to unfair labor practices. Otherwise, the Senate provides that all decisions of the Authority are final and conclusive, and not subject to further judicial review except for questions arising under the Constitution. (Section 7204(1); section 7216 (f); section 7221(j).) The Senate provides that decisions of arbitrators in adverse action cases would be appealable directly to the Court of Appeals or Court of Claims in the same manner as a decision by the MSPB (section 7221(b)).

In the House bill, unfair labor practice decisions are appealable as in the Senate. In addition, all other final decisions of the Authority involving an award by an arbitrator, and the appropriateness of the unit an organization seeks to represent are also appealable to the courts (section 7123(a)). Under the House bill decisions by arbitrators in adverse action cases are first appealable to the Authority before there may be an appeal to the Court of Appeals.

In the case of arbitrators awards involving adverse actions, the conferees elected to adopt the approach in the Senate bill. The decision of the arbitrator in such matters will be appealable directly to the Court of Appeals (or Court of Claims) in the same manner as a decision by MSPB.

In the case of those other matters that are appealable to the Authority the conference report authorizes both the agency and the employee to appeal the final decision of the Authority except in two instances where the House recedes to the Senate. As in the private sector, there will be no judicial review of the Authority's determination of the appropriateness of bargaining units, and there will be no judicial review of the Authority's action on those arbitrators awards in grievance cases which are appealable to the Authority. The Authority will only be authorized to review the award of the arbitrator on very narrow grounds similar to the scope of judicial review of an arbitrator's award in the private sector. In light of the limited nature of the Authority's review, the conferees determined it would be inappropriate for there to be subsequent review by the Court of Appeals in such matters.

Issues between agencies and labor organizations subject to negotiation or consultation rights

A. Specific Areas Excluded from Negotiations

Both bills specified certain matters on which the parties may not negotiate under any circumstances and certain other matters on which the agency may, in its discretion, negotiate. The following are among the differences in the bills:

1. The Senate (section 7218(a)(2)(E)) prohibits negotiations on the methods and means by which agency operations are to be conducted. The House permits—but does not require—the agency to negotiate on such matters (House section 7106(b)(1)). The Senate recedes. The conferees wish to emphasize, however, that nothing in the bill is intended to *require* an agency to negotiate on the methods and means by which agency operations are to be conducted.

There may be instances where negotiations on a specific issue may be desirable. By inclusion of this language, however, it is not intended that agencies will discuss general policy questions determining how an agency does its work. It must be construed in light of the paramount right of the public to as effective and efficient a government as possible. For example, the phrase "methods and means" is not intended to authorize IRS to negotiate with a labor organization over how returns should be selected for audit, or how thorough the audit of the returns should be. It does not subject to the collective bargaining agreement the judgment of EPA about how to select recipients for the award of environmental grants. It does not authorize the Energy Department to negotiate with unions on which of the research and development projects being conducted by the Department should receive top priority as part of the Department's efforts to find new sources of energy. Furthermore, an agency can, in providing guidance and advice to bargaining representatives, instruct them to approach a negotiations involving methods and means with careful attention to the impact any resulting agreements may have and under no circumstances agree to language impacting adversely on the efficiency

and effectiveness of agency operations. Such guidance, and any requirement placed on negotiators to consult with higher authority before agreeing to any language concerning methods and means would not conflict with the conference report nor constitute evidence of an unfair labor practice. In sum, the conference report fully preserves the right of management to refuse to bargain on "methods and means" and to terminate bargaining at any point on such matters even if it initially agrees to negotiations.

2. Senate section 7215(d) permits the agency in its discretion to negotiate on "the number of employees in an agency." House section 7106(a)(1) prohibits negotiations on this issue under any circumstances. The Senate recedes.

3. Senate section 7218(a)(2)(D) requires the agency to retain the right to "maintain the efficiency of the government operations entrusted to such officials." The House has no comparable wording. The Senate recedes. The conferees do not intend thereby to suggest that agencies may not continue to exercise their lawful prerogatives concerning the efficiency of the Government.

4. House section 7106(a)(2)(B) requires the agency to retain the right to make determinations with respect to contracting out work. There is no comparable Senate wording. The Senate recedes.

B. Effect of subsequently adopted rules

Senate section 7218(a)(1) stated that in the administration of all matters covered by the collective bargaining agreement the officials and employees shall be governed by any future laws and regulations of appropriate authorities, including policies set forth in the Federal Personnel Manual, and any subsequently published agency policies and regulations required by law or by the regulations of appropriate authority. The House amendment does not contain this provision. Instead, House section 7116(a)(7) makes it an unfair labor practice for an agency "to prescribe any rule or regulation which restricts the scope of collective bargaining or which is in conflict with any applicable collective bargaining agreement." The conference report authorizes, as in the Senate bill, the issuance of Government-wide rules or regulations which may restrict the scope of collective bargaining which might otherwise be permissible under the provisions of this title. As in the House, however, the Act generally prohibits such Government-wide rule or regulation from nullifying the effect of an existing collective bargaining agreement. The exception to this is the issuance of rules or regulations implementing section 2302. Rules or regulations issued under section 2302 may have the effect of requiring negotiation of a revision of the terms of a collective bargaining agreement to the extent that the new rule or regulation increases the protection of the rights of employees.

C. Government-wide Rules or Regulations

The Senate has no provision governing consultation on Government-wide rules or regulations. House section 7117(d) gives any labor organization "which is the exclusive representative of a substantial number of employees" national consultation rights with respect to such rules or regulations whenever it affects "any substantive change in any condition of employment." The procedures for consultation are similar to those which govern national consultation rights in other areas. The conferees adopted the House provision.

Rights and duties of labor organizations and agencies

A. Withholding of Dues

Both Senate section 5231 and House section 7115(a) authorize an agency to deduct dues from the pay of members of a labor organization. The Senate makes the obligations of the agency to deduct dues from members of an exclusively recognized labor organization dependent upon its agreement to do so as part of a negotiated agreement. House section 7115(a) states that the agency shall make such deduction whenever it receives from an employee in the appropriate unit a written assignment authorizing it. Further, the House specifies that the allotment shall be made at no cost to the exclusively recognized labor organization or the employee. The Senate recedes.

B. Right of Labor Organization to Attend Meetings Between Management and an Employee

House sections 7114(a)(2) and (3) give a labor organization that has been certified as the exclusive representative the right to be present at the employee's request at any investigatory interview of an employee by an agency if the employee reasonably believes that the interview may result in disciplinary action against the employee. In addition, the House bill requires the agency to *inform* the employee of his right of representation at any investigatory interview of an employee concerning "misconduct" which "could reasonably lead" to suspension, reduction in grade or pay, or removal. The Senate bill contains no comparable provision.

The conferees agreed to adopt the wording in the House bill with an amendment deleting the House provision requiring the agency to inform employees before certain investigatory interviews of the right to representation, and substituting a requirement that each agency inform its employees annually of the right to representation. The conferees further amended the provision so as to give the labor representative the right to be present at any examination of an employee by a representative of the agency in connection with an investigation if the employee reasonably believes that the examination may result in disciplinary action against the employee. The conferees recognize that the right to representation in examinations may evolve differently in the private and Federal sectors, and specifically intend that future court decisions interpreting the right in the private sector will not necessarily be determinative for the Federal sector.

C. Expression of Personal Views

Senate section 7216(g) states that the expression of "any personal views, argument, opinion, or the making of any statement" shall not constitute an unfair labor practice or invalidate an election if the expression contains no threat of reprisal or force promise of benefit or undue coercive conditions." The House bill contains no comparable provision.

The House recedes to the Senate with an amendment specifying in greater detail the types of statements that may be made under this section. The provision authorizes statements encouraging employees to vote in elections, to correct the record where false or misleading statement are made, or to convey the Government's views on labor-management relations. The wording of the conference report is intended to reflect the current policy of the Civil Service Commission when advising agencies on what statements they may make during an election, and to codify case law under Executive Order 11491, as amended, on the use of statements in any unfair labor practice proceeding.

D. Illegal Strikes or Picketing

Senate section 7217(e) provides that any labor organization which "willfully and intentionally" condones any strike, work stoppage, slowdown, or any picketing of an agency that interferes with an agency's operations shall, upon an appropriate finding by the Authority, have its exclusive recognition status revoked. There is no comparable House provision.

The conference report adopts the Senate wording with an amendment. As agreed to by the conferees the provision will not apply to instances where the organization was involved in picketing activities. The amendment also specifies that the Authority may impose disciplinary action other than decertification. This is to allow for instances, such as a wildcat strike, where decertification would not be appropriate. In cases where the Authority finds that a person has violated this provision, disciplinary action of some kind must be taken. The Authority may take into account the extent to which the organization made efforts to prevent or stop the illegal activity in deciding whether the organization should be decertified.

Procedures governing complaints or grievances subject to collective bargaining agreements

A. Exclusivity of Grievance Procedure

Senate section 7221(a) provides that, except for certain specified exceptions, an employee covered by a collective bargaining agreement must follow the negotiated grievance procedures rather than the agency procedures available to other employees not covered by an agreement. House section 7121(a) does not limit the employee to the negotiated procedures in the case of any type of grievance.

The House recedes.

B. Arbitrator's Awards on Matters that Could Have Been Appealed to MSPB

1. Senate section 7221(h) establishes procedures the arbitrator must follow when considering a grievance involving an adverse action otherwise appealable to the MSPB. In these instances the arbitrator must follow the same rules governing burden of proof and standard of proof that govern adverse actions before the Board. The House contains no comparable requirement. The conferees adopted the Senate provision in order to promote consistency in the resolution of these issues, and to avoid forum shopping.

C. Scope of Grievance Procedures

The Senate provides that the coverage and scope of the grievance procedures shall be negotiated by the parties (section 7221(a)). House section 7121(a) does not authorize the parties to negotiate over the coverage and scope of the grievances that fall within the bill's provisions but prescribes those matters which would have to be submitted, as a matter of law, to the grievance procedures. The conference report follows the House approach with an amendment. All matters that under the provisions of law could be submitted to the grievance procedures shall in fact be within the scope of any grievance procedure negotiated by the parties *unless* the parties agree as part of the collective bargaining process that certain matters shall not be covered by the grievance procedures.

D. Suits in District Court

House section 7121(c) authorizes any party to a collective bargaining agreement to directly seek a District Court order requiring the other party to proceed to arbitration rather than referring the matter to the Authority. The Senate has no comparable provision. The House recedes. All questions of this matter will be considered at least in the first instance by the Authority.

Additional amendments

1. Senate section 7210(h) authorizes OPM to intervene in Authority proceedings and to request the Authority to reopen and reconsider a decision by the Authority. The House bill contains no comparable provision.

The conferees agreed to delete the specific provision in the Senate bill. However, this is not intended in any way to reduce the ability of the OPM or any other person to petition for intervention before the Authority or to petition for reconsideration by the Authority of its decisions.

2. Senate section 7213(b) requires that the views of an organization be "carefully con-

sidered." The House requires that the agency "consider" the views or recommendations of the organization, and further, that the agency shall provide the labor organization a written statement of the reasons for taking whatever final action it finally adopted (House section 7113(b)). The conferees adopt the House provision with the understanding that the required written statement of reasons need not be detailed. The conferees adopted similar House language in section 7111(d) with the same understanding.

3. Senate section 7218(b) provides that negotiations on procedures governing the exercise of authority reserved to management shall not unreasonably delay the exercise by management of its authority to act on such matters. Any negotiations on procedures governing matters otherwise reserved to agency discretion by subsection (a) may not have the effect of actually negating the authority as reserved to the agency by subsection (a). There are no comparable House provisions.

The conference report deletes these provisions. However, the conferees wish to emphasize that negotiations on such procedures should not be conducted in a way that prevents the agency from acting at all, or in a way that prevents the exclusive representative from negotiating fully on procedures. Similarly, the parties may indirectly do what the section prohibits them from doing directly.

4. Senate subsection (d) states that arbitration or third-party fact finding with recommendations to assist in the resolution of an impasse may be used by the parties only when "authorized or directed by the Panel." House subsection 7119(b) states that after voluntary arrangements prove unsuccessful, the parties may agree to a procedure for binding arbitration, rather than to require the services of the Federal Service Impasses Panel, "but only if the procedure is approved by the Panel." The Senate recedes.

5. The House provides that if no exception to an arbitrator's award is filed with the Authority, the award "shall be final and binding" (section 7122(b)). The Senate contained no comparable provision. The conferees adopted the House provision. The intent of the House in adopting this provision was to make it clear that the awards of arbitrators, when they become final, are not subject to further review by any other authority or administrative body, including the Comptroller General.

6. Both the House and Senate authorize negotiations except to the extent inconsistent with law, rules, and regulations (Senate sections 7215(c) and 8217(a); House sections 7103(a)(12)(14) and 7117(a)(1)(2) and (3)). The Senate specifically states that this included policies set forth in the Federal Personnel Manual. The House contained no comparable wording.

The conference report follows the House approach throughout this section and other instances where there are similar differences due to the Senate reference to policies, as well as rules and regulations. The conferees specifically intend, however, that the term "rules or regulations" be interpreted as including official declarations of policy of an agency which are binding on officials and agencies to which they apply. The right of labor organizations to enjoy national consultation rights will also include such official declarations of policy which are binding on officials or agencies.

7. House section 7102 guarantees each employee the right to form, join, or assist any labor organization, or to refrain from any such activity. The Senate in addition provides that "no employee shall be required by an agreement to become or to remain a member of a labor organization, or to pay money to an organization." The conferees adopt the House wording. The conferees wish to emphasize, however, that nothing in the conference report authorizes, or is intended to authorize, the negotiations of an agency shop or union shop provision.

Certain collective bargaining agreements

Section 704(d) of the House bill provides certain savings clauses for employees principally in agencies under the Department of the Interior and the Department of Energy who have traditionally negotiated contracts in accordance with prevailing rates in the private sector of the economy and who were subject to the savings clauses prescribed in section 9(b) of P.L. 92-392, enacted August 19, 1972.

The Senate contains no comparable provision.

The conference report adopts the House provision with an amendment.

As revised, section 704(d) overrules the decision of the Comptroller General in cases number B-L89782 (Feb. 3, 1978) and B-L9L520 (June 6, 1978), relating to certain negotiated contracts applicable to employees under the Department of the Interior and the Department of Energy. This section also provides specific statutory authorization for the negotiation of wages, terms and conditions of employment and other employment benefits traditionally negotiated by these employees in accordance with prevailing practices in the private sector of the economy.

Section 704(d)(1) authorizes and requires the agencies to negotiate on any terms and conditions of employment which were the subject of negotiations prior to August 19, 1972, the date of enactment of P.L. 92-392. Section 704(d)(1) may not be construed to nullify, curtail, or otherwise impair the right or duty of any party to negotiate for the renewal, extension, modification, or improvements of benefits negotiated.

Section 704(d)(2) requires the negotiation of pay and pay practices in accordance with prevailing pay and pay practices without regard to chapter 71 (as amended by this conference report), subchapter IV of chapter 53, or subchapter V of chapter 55, of title 5, United States Code, in accordance with prevailing practices in the industry.

TITLE VIII

Grade and pay retention

Title VIII of the House amendment provides pay and grade retention for certain Federal employees who have been subject to reductions in grade as a result of grade reclassification actions or reductions in force due to reorganizations or other factors. Under the amendment, an employee whose position is reclassified to a lower grade would be entitled to retain the previous higher grade of his position so long as he continues to serve in that position. An employee who is reduced in grade as a result of a reduction in force will be entitled to retain his grade for two years and his pay indefinitely thereafter. The employee's retained grade will be used for purposes of pay, retirement, and eligibility for promotion or training, but not for purposes of reduction-in-force retention. This amendment also provides for retroactive coverage in cases of reductions in grade which occurred between January 1, 1977 and the effective date of title VIII. The House also provides that the termination of benefits may not be appealed to the OPM. The Senate bill contains no such provision.

The conference substitute contains the provisions of title VIII of the House amendment except that the authorized period of grade retention in reclassification cases is limited to two years as in the case of reduction-in-force actions. Under the conference substitute, employees who are reduced in grade either as a result of reclassification actions or reductions in force will be entitled to retain their previous higher grades for a period of two years, and thereafter will be entitled to retain their existing rates of pay in those cases where the existing rate of pay exceeds the maximum rate of the new grade. The conference substitute adds language to make clear that the actual grade of the employee's position, and not the employee's retained grade, will be used for purposes of determining whether the employee is covered by the merit pay system applicable to supervisors and managers. Thus, an employee who is reduced from a GS-14 nonsupervisory position to a GS-13 supervisory position will retain the GS-14 grade but will be subject to the pay increase and cash award provisions of the merit pay system.

ROBERT N. C. NIX,
MO UDALL,
JIM HANLEY,
WILLIAM D. FORD,
W. L. CLAY,
PAT SCHROEDER,
EDWARD J. DERWINSKI,
JOHN H. ROUSSELOT,
GENE TAYLOR,
Managers on the Part of the House.

ABE RIBICOFF,
TOM EAGLETON,
LAWTON CHILES,
JIM SASSER,
MURIEL HUMPHREY,
CHARLES H. PERCY,
JACOB K. JAVITS,
TED STEVENS,
CHARLES McC. MATHIAS, Jr.,
Managers on the Part of the Senate.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF CONFERENCE REPORTS, AUTHORITY TO DECLARE RECESSES, AND MOTIONS TO SUSPEND THE RULES

Mr. BOLLING, from the Committee on Rules, submitted a privileged report (Rept. No. 95-1716) on the resolution (H. Res. 1404) providing that it shall be in order at any time during the remainder of the second session, 95th Congress, up to and including October 15, 1978: First, to consider conference reports and amendments reported from conference in disagreement on the same day reported or any day thereafter notwithstanding the provisions of clause 2, rule XXVIII—but subject to the 2-hour availability requirement of that clause, and any said conference report or amendment in disagreement shall be considered as having been read when called up for consideration; second, for the Speaker to declare recesses at any time, subject to the call of the Chair; and third, for the Speaker to entertain motions to suspend the rules, which was referred to the House Calendar and ordered to be printed.

REQUEST TO MAKE IN ORDER ON TOMORROW CONSIDERATION OF CONFERENCE REPORT ON S. 2640, CIVIL SERVICE REFORM ACT OF 1978

Mr. UDALL. Mr. Speaker, I ask unanimous consent that it be in order to take up on Friday, October 6, 1978, the conference report on the Senate bill (S. 2640) to reform the civil service law.

The SPEAKER. Is there objection to the request of the gentleman from Arizona?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, I wonder if there is any objection to that request on the minority side.

Mr. UDALL. Mr. Speaker, I can tell the gentleman that I cleared it with the minority leader, the gentleman from Arizona (Mr. RHODES), the gentleman from Illinois (Mr. DERWINSKI) and the gentleman's floor leader, the gentleman from California (Mr. ROUSSELOT).

Mr. ASHBROOK. Mr. Speaker, on that basis I object.

The SPEAKER. Objection is heard.

APPOINTMENT OF CONFEREES ON H.R. 13635, DEPARTMENT OF DEFENSE APPROPRIATIONS

Mr. MAHON. Mr. Speaker, I have a unanimous-consent request to make in regard to the defense appropriation bill and conference report. I would like to ask, Mr. Speaker, that following the consideration of the unanimous-consent request, we return to the Interior Department appropriations conference report, but the interruption will only be a very brief one.

Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 13635) making appropriations for the Department of Defense for the fiscal year ending September 30, 1979, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

Mr. DICKINSON. Mr. Speaker, reserving the right to object this is the appropriation bill that we worked on before, and on which I had offered an amendment that would allow the consolidation of certain helicopter training programs by the Department of Defense which had been prohibited by the language within the bill.

It is my understanding that a motion would be in order to instruct the conferees immediately after this point, which in the normal course of events would be debatable and we would have 60 minutes in which to discuss that.

It is my further understanding, if I may further reserve my right to object, Mr. Speaker, that if that should be done and if a motion to table were offered, at that time there would be no discussion and the House would be totally uninformed as to what we were voting on and it would be just an up or down motion without debate, so under my reservation I would like to inform the House at this time what the parliamentary situation will be.

The reason we are doing it at this time, the reason I would be offering my motion and what it would contain, is because the House will recall, further reserving my right to object, that twice before the House by almost a 2-to-1 majority has approved the position that I have been undertaking in the House to consolidate the helicopter training. Twice before in conference the House has receded to the Senate position, and according to the language that was entered into the CONGRESSIONAL RECORD by my colleague, the gentleman from Alabama (Mr. EDWARDS), who was one of the conferees, there was no strong fight made for the House position even though it passed by a 2-to-1 vote in the House.

So at this juncture, and I think now for the third time, it is necessary if we are going to maintain the House position and if we are going to insist that what the House has already acted on be contained in the bill, we must do it at this time and by instructing the conferees.

The House position is clear. It has been clear twice before, but I think it will be necessary to tell the House conferees this is one time when we will not go in and recede to the Senate, which has been almost pro forma in the past.

So that is the situation and that is what this Member is prepared to do.

At this time I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

MOTION TO INSTRUCT CONFEREES OFFERED BY MR. DICKINSON

Mr. DICKINSON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. DICKINSON of Alabama moves that the managers on the part of the House, at the conference on the disagreeing votes of the two Houses on the bill, H.R. 13635, be instructed to insist on the position of the House regarding the amendment of the gentleman from Alabama (Mr. DICKINSON) involving the consolidation of helicopter training by the Department of Defense.

MOTION TO TABLE OFFERED BY MR. SIKES

Mr. SIKES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SIKES moves to lay on the table the motion to instruct conferees on H.R. 13635.

The SPEAKER. The question is on the motion to table offered by the gentleman from Florida (Mr. SIKES).

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. DICKINSON. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 165, nays 225, answered "present" 1, not voting 41, as follows:

[Roll No. 878]

YEAS—165

Addabbo	Boland	Cotter
Alexander	Bowen	Daniel, Dan
Ambro	Brademas	Delaney
Anderson, Calif.	Breaux	Dent
Andrews, N. Dak.	Brinkley	Derrick
Annunzio	Brooks	Dingell
Applegate	Brown, Calif.	Dodd
Bafalis	Burke, Fla.	Downey
Barnard	Burleson, Tex.	Eckhardt
Beard, R.I.	Burlison, Mo.	Eilberg
Beard, Tenn.	Burton, John	Evans, Ga.
Benjamin	Carney	Fary
Bennett	Chappell	Fascell
Biaggi	Chisholm	Fithian
Bingham	Clay	Florio
Boggs	Collins, Ill.	Flynt
	Corman	Foley
	Cornwell	Ford, Mich.
	Fowler	McFall
	Frey	McHugh
	Fuqua	McKay
	Garcia	Mahon
	Gaydos	Mathis
	Gialmo	Metcalfe
	Gibbons	Mikulski
	Ginn	Mikva
	Glickman	Miller, Ohio
	Hall	Mitchell, Md.
	Harris	Mollohan
	Harsha	Montgomery
	Hawkins	Moorhead, Pa.
	Howard	Mottl
	Hubbard	Murphy, Ill.
	Huckaby	Murphy, N.Y.
	Hughes	Murphy, Pa.
	Ireland	Murtha
	Jenkins	Myers, John
	Johnson, Calif.	Myers, Michael
	Jones, N.C.	Natcher
	Jones, Okla.	Nix
	Jones, Tenn.	Oakar
	Jordan	Oberstar
	Kelly	Obey
	Kemp	Panetta
	Krebs	Patten
	LaFalce	Pepper
	Le Fante	Pickle
	Lederer	Poage
	Leggett	Price
	Lehman	Rahall
	Levitas	Rangel
	Livingston	Richmond
	Lloyd, Tenn.	Risenhoover
	Long, La.	Roberts
	Long, Md.	Roe
	Lott	Rogers
		Roncalio
		Rostenkowski
		Runnels
		Santini
		Satterfield
		Scheuer
		Sikes
		Sisk
		Skelton
		Slack
		Spellman
		St Germain
		Staggers
		Stark
		Steed
		Stokes
		Stratton
		Stump
		Symms
		Thompson
		Thornton
		Traxler
		Tucker
		Ullman
		Vanik
		Waggonner
		Walgren
		Watkins
		White
		Whitley
		Wilson, Tex.
		Wolff
		Yates
		Young, Fla.
		Young, Mo.
		Zablocki
		Zeferetti

NAYS—225

Abdnor	Edwards, Calif.	Luken
Akaka	Edwards, Okla.	Lundine
Anderson, Ill.	Emery	McClory
Andrews, N.C.	Ertel	McCloskey
Archer	Evans, Colo.	McCormack
Armstrong	Evans, Del.	McDade
Ashbrook	Evans, Ind.	McEwen
Ashley	Fenwick	McKinney
AuCoin	Findley	Madigan
Badham	Fish	Maguire
Baldus	Fisher	Mann
Baucus	Flippo	Markey
Bauman	Flowers	Marks
Bedell	Ford, Tenn.	Marlenee
Beilenson	Forsythe	Martin
Bevill	Fountain	Mattox
Blanchard	Fraser	Mazzoli
Bonior	Frenzel	Meeds
Bonker	Gammage	Meyner
Brodhead	Gephardt	Mineta
Broomfield	Goldwater	Minish
Brown, Mich.	Goodling	Moakley
Brown, Ohio	Gore	Moffett
Broyhill	Gradison	Moore
Buchanan	Grassley	Moorhead, Calif.
Burgener	Green	Myers, Gary
Burke, Mass.	Gudger	Neal
Burton, Phillip	Guyer	Nedzi
Butler	Hagedorn	Nowak
Byron	Hamilton	O'Brien
Carr	Hammer-schmidt	Ottinger
Carter	Hanley	Patterson
Cavanaugh	Hannaford	Pattison
Cederberg	Hansen	Pease
Clausen, Don H.	Harkin	Perkins
Clawson, Del	Heckler	Pike
Cleveland	Hefner	Pressler
Cohen	Heftel	Preyer
Coleman	Hightower	Pritchard
Collins, Tex.	Hillis	Pursell
Conable	Holland	Quayle
Conte	Hollenbeck	Quie
Corcoran	Holt	Quillen
Cornell	Holtzman	Railsback
Coughlin	Horton	Regula
Crane	Hyde	Reuss
Cunningham	Ichord	Rhodes
D'Amours	Jacobs	Rinaldo
Daniel, R. W.	Jeffords	Robinson
Danielson	Jenrette	Rodino
Davis	Johnson, Colo.	Rooney
de la Garza	Kasten	Rosenthal
Derwinski	Kastenmeier	Rousselot
Devine	Kazen	Roybal
Dickinson	Keys	Rudd
Dicks	Kildee	Russo
Dornan	Kindness	Ryan
Drinan	Kostmayer	Sawyer
Duncan, Oreg.	Lagomarsino	Schroeder
Duncan, Tenn.	Latta	Schulze
Early	Leach	Sebelius
Edgar	Lent	Seiberling
Edwards, Ala.	Lloyd, Calif.	Sharp

Shuster	Stockman	Wampler
Simon	Studds	Waxman
Skubitz	Taylor	Weaver
Smith, Iowa	Treen	Weiss
Smith, Nebr.	Trible	Whitehurst
Snyder	Udall	Wilson, Bob
Solarz	Van Deerlin	Winn
Spence	Vander Jagt	Wydler
Stangeland	Vento	Wylie
Stanton	Volkmer	Yatron
Steers	Walker	Young, Alaska
Steiger	Walsh	Young, Tex.

ANSWERED "PRESENT"—1

Gonzalez

NOT VOTING—41

Ammerman	Gilman	Rose
Aspin	Harrington	Ruppe
Blouin	Krueger	Sarasin
Bolling	Lujan	Shipley
Breckinridge	McDonald	Teague
Burke, Calif.	Marriott	Thone
Caputo	Michel	Tsongas
Cochran	Milford	Whalen
Conyers	Miller, Calif.	Whitten
Dellums	Mitchell, N.Y.	Wiggins
Diggs	Moss	Wilson, C. H.
English	Nichols	Wirth
Erlenborn	Nolan	Wright
Flood	Pettis	

Messrs. OTTINGER, MOFFETT, BEDELL, VOLKMER, and HANSEN changed their vote from "yea" to "nay."

Mr. LAFALCE changed his vote from "nay" to "yea."

So the motion to table was rejected.

The result of the vote was announced as above recorded.

The SPEAKER. The gentleman from Alabama (Mr. DICKINSON) is recognized for 1 hour.

Mr. DICKINSON. Mr. Speaker, as important as this issue is to me, as well as to my district and to our national security, I do not think it is going to be necessary to use the entire time allotted for discussion of this matter, because I believe by now every Member in the Chamber has certainly had an opportunity to hear the matter debated.

I think we understand the issue. This is now the third year we have debated it. It is the third year this House has made a decision, and any Member who wants to be informed on the issue has certainly had ample opportunity to do so. I will take just a few minutes for refreshing the memories of those who might have missed part of the debate before to review the issue.

The situation is fairly simple. The Department of Defense, in its wisdom, decided some years ago that we did not need duplicate facilities to train helicopter pilots. The first decision the Department made was to let the Army train helicopter pilots for the Air Force as an experiment, if you will, and it worked out very well. This has been done now for several years.

The Army, at Fort Rucker, which is within my district, has been training all the helicopter pilots for the Air Force. It has done so for a number of years. The Air Force is very satisfied with the arrangement. It saves money. They turn out good pilots. Seventy-five percent of all the helicopter flights during the Vietnam war were flown by Army pilots.

After that if there are service-related peculiarities which the Air Force would feel required then and the pilots would then go back to the parent organization, which is the Air Force, and get any additional training the Air Force would deem appropriate. They have tried it, and it works.

So the Department of Defense then says, "Hey! Why do we have to have the Navy doing the same thing, duplicating the same procedures, and having to have two sets of simulators, two contracts, and two contractors training for exactly the same thing?"

The physical facilities are less than 100 miles apart today. So the Department of Defense said, "Let's consolidate all helicopter training," because today the Army is training NATO pilots, it is training Mid-East pilots under contract with the U.S. Government, and it is training Air Force pilots. So the Department said, "Why not start training Navy pilots, too, and do away with the duplication?"

The Navy, true to its tradition, resists the idea because basically it does not like change. For over 2 years the Navy resisted it and said, "Let's go back and have a study done because we don't believe it is going to save that much money."

There have been three independent audits and studies made of this, all of which have come back from the Defense Audit Agency and from GSA, each one saying that if the consolidation does go into effect, the U.S. Department of Defense will save approximately $100 million in the next 5 years.

There is no reason not to do it. There is every reason to do it, and it is just commonsense, as well as good economics. The studies that have been made time after time have been done at the request of my good friend, the gentleman from Florida (Mr. SIKES), in whose district the Navy is doing its training and who is resisting the move.

The studies have come back, though, and they have proved conclusively that in the out years we will save $22 million to $30 million per year and within the next 5 years we will save approximately $100 million.

So 2 years ago the House said, "All right, it makes sense. That's the way to go." We went to the Senate, and in conference the Senate disagreed, and in conference this provision was taken out.

Every Senator has to answer to his own conscience, and each Senator has his own reasons for voting as he pleases. I am not impugning the reasons or integrity of anyone whose vote was cast last year or this year. But I do say that there is a great amount of ignorance on the part of the other body, in my opinion, when it deals with this particular issue. So 2 years ago, I am afraid that our conferees did not fight very hard for the House position, and we receded to the Senate position, and it was taken out. My friend and colleague, the gentleman from Alabama (JACK EDWARDS), was on the conference committee, and he came back and put in the record as part of the statement that we did go, in effect, belly up and we did not fight for the House position very well at all. The last year we had the fight again, same discussion, same reasons given, the facts were the same; and by an overwhelming vote of almost 2-to-1 the House again said, "Hey, that is right, it makes sense, we are going to save close to $100 million. If the Navy wants to give advance training or additional training, fine, they can do that, anything that the Navy would require over and above basic training, the Navy can do it." This simply says that, for basic helicopter training, one service will provide all services with basic helicopter training. From then on, they go to advanced training, they go to jet training, they go anywhere they want and take whatever service-related training that particular service feels it might have. So that is what the fight has been about, as to the reason of it. It cannot be refuted by dollars and cents because three independent studies have shown that these hundreds of millions of dollars will be saved. Twice now the House has voted overwhelmingly to consolidate, and we have seen our conferees, though, go and meet with the Senate in conference, and they just roll over and say, "OK, we give up, we will take the Senate position," and there is no real effort or fight made to maintain the very strong position of the House. So what I am seeking to do today, and what I am asking of the House and the membership, is that we will tell our conferees, "Now, look, twice before we allowed you the opportunity to uphold the House position and you have not done it, so this time we are going to instruct you; we have voted by 255 just this past month in favor of consolidation on the amendment, 255 saying yes, once again we are going on record as saying we favor the consolidation."

So what we do now is to tell the conference "Well, hey, do not go over there and give away the store before we even get started. Hold out for the House position, because we have seen twice that you have not done it, and now we are telling you to stay with what the House told you overwhelmingly to do." And that is what the motion would do. The technical part of it is that there was some money in various aspects of the other appropriation bill as well as language prohibiting the consolidation. The amendment which I offered took out the prohibitive language and also restored some of the funds that had been taken out, and my motion today deals with the entire subject matter of: Shall we consolidate the basic training? This has nothing to do with fixed wing, it does not affect any other base except the possible base where helicopter training will be given. So what we are doing today is telling our conferees, "Well, fellows, twice now you have let the House down on the House position that we have taken a very strong stand on, and when you go this time, do not roll over and take the Senate position. Go over there and stand up for what we in the House, by a 255 vote just a month ago, said, "This shall be the House position."

Mr. CHAPPELL. Mr. Speaker, will the gentleman yield?

Mr. DICKINSON. I yield to the gentleman from Florida for the purpose of debate only.

Mr. CHAPPELL. I thank the gentleman for yielding.

Mr. Speaker, would the gentleman apply this same argument to the consolidation of all basic training, for example, in fixed-wing training?

Mr. DICKINSON. I would say no. I know that is one of the scare tactics that has been used by some in the past. That is one of the arguments that has been made by some, by saying, "Hey, if you are going to consolidate this, why, the next thing you know we will be consolidating that."

But, the Department of Defense has done this study and made the decision and said that because of the uniqueness of the equipment involved, the simulators, and so forth, that this would be a reasonable and economical way to go about it. I am not advocating any other consolidations of other types of training. That is not involved here.

Mr. CHAPPELL. I recognize it is not involved, but it is a concept, and one that has involved the arguments and logic of this approach. It just seemed to me that all of the arguments which the gentleman makes on helicopter training, and there is nothing so unique about the basic training on a helicopter any more so than there is on basic training in a fixed wing, if the concept is good in one, the logic to me necessarily implies that it would be good for all. Perhaps that would be the way it proves out. I fail to follow the gentleman's logic in the helicopter approach without also applying it to fixed wing and many other areas.

Mr. DICKINSON. If I might reclaim my time, I will answer by saying that I do not know of other ongoing studies or other movements being considered by the Department of Defense to consolidate any other type of training. Perhaps they do have studies, but certainly the Navy, being unique, cannot train on dry land when we are talking about navigating ships.

Mr. CHAPPELL. If it came up and we had the same feasibility report on consolidation in other areas, would the gentleman then be prepared to vote for consolidation?

Mr. DICKINSON. The gentleman in the well would be willing to consider any case on a case-by-case basis after a study had been made by myself as well as the Department of Defense, and if they can justify this as being the most cost-effective way of being a proper way to go. I do not say that would be the case in any other instance, and I do not say that is the case anywhere except here and now, but I do say very strongy that that is the way we should go on this particular issue. That is the way I hope we will go, and I appreciate the gentleman's comments, who is a good friend of mine and a good strong advocate of defense, participating in the debate with me.

Mr. CARR. Mr. Speaker, will the gentleman yield?

Mr. DICKINSON. I yield to the gentleman from Michigan.

Mr. CARR. Mr. Speaker. I want to commend the gentleman for his leadership on this issue. I rise in support of his statement and would like to associate myself with his remarks.

Mr. DICKINSON. I thank the gentleman.

Mr. SIKES. Mr. Speaker, will the gentleman yield?

Mr. DICKINSON. I yield to the gentleman from Florida for the purposes of debate only.

Mr. SIKES. Mr. Speaker, the gentleman is very persuasive. I wonder if the gentleman expects to use all of his hour, or does he intend to share his time with those who are opposed to his proposal—a customary procedure—or does he expect to terminate his comments so that we can expedite this discussion, go to conference and complete the consideration of this vital measure.

Mr. DICKINSON. Let me say that it would be my intent to share this time with anybody, whoever wanted to speak for or against it, including the gentleman from Florida.

Mr. SIKES. How much time is the gentleman disposed to yield?

Mr. DICKINSON. I am disposed to yield whatever reasonable time the gentleman wishes.

Mr. SIKES. I think 30 minutes would be fair. That is half the time. It is customary, as the distinguished gentleman realizes, that time be divided between proponents and opponents.

Mr. DICKINSON. Well, let me say that I am sure if the situation were reversed, I would expect the gentleman from Florida would be yielding to me 30 minutes. Let me just say that for the purposes of debate I will yield whatever time to the gentleman he desires. If he desires additional time, I am certainly going to try to yield it. I am certainly not going to try to eliminate debate. I would be glad to yield to him at this time whatever time he desires.

Mr. SIKES. I suggested 30 minutes. That is a fair division of the time—and it is customary to yield equal time to the opponents of a proposal.

Mr. DICKINSON. Well, the gentleman can start and we will discuss it down the road. I really did not want to take the full hour if it were not necessary, because I think most of it has been said.

Mr. SIKES. Would the gentleman prefer to take the full hour rather than yielding and sharing the time? Is that what I am hearing?

Mr. DICKINSON. What the gentleman is hearing is that the gentleman is prepared to yield to the gentleman from Florida whatever reasonable time the gentleman wants. I would say to the gentleman from Florida, when he has finished his statement, that if he feels he has not had adequate time——

Mr. SIKES. I suggest 30 minutes. How much time is the gentleman disposed to yield?

Mr. DICKINSON. We can continue to go round and round on this point. Let me say, to be fair to the gentleman and anyone who wants to be heard for or against it, that I will yield as long as necessary.

Mr. SIKES. If the gentleman would yield further, I do not think the gentleman is disposed to yield equal time, and I can understand his desire to use his time to try to explain what the House has done. It requires a great deal of explanation.

May I say that the Senate has voted even more overwhelmingly against helicopter training consolidation than the House voted for consolidation and they have shown equally as much or more logic against helicopter training consolidation as the gentleman purports to have on his side of the argument.

There is one underlying consideration I think we should bear in mind.

The fact of the matter is I can understand how the gentleman would like to have the consolidation of helicopter training in his district, an action that predictably will be followed by additional consolidations through eliminating bases in Mississippi and Texas. Of course, the gentleman would like to have all of this in his district.

That is understandable. I expect the gentleman to stand up for those he represents.

Mr. Speaker, I will ask unanimous consent to revise and extend my remarks, at which time I will develop further the facts on consolidation which have been developed very carefully, and which show there will be no effective saving. Instead of a saving of $100 or $200 million or whatever astronomical amount the proponents claim, this consolidation will save only about $6 million. The resulting disadvantages will be considerable. There are major differences between the various training programs, between the training required for Navy expertise and that required for Army and Air Force. The result will be a loss of aircraft and, much more important, the loss of lives because the Army does not train men for overwater flight and for carrier landing.

It is a very simple fact that the professional bureaucrats who purportedly earn a livelihood by conducting studies in the Department of Defense have zeroed in on helicopter training consolidation as one objective, regardless of the facts involved, and who are prepared to happily engage in further studies to justify the consolidation of all pilot training, once helicopter consolidation has been disposed of according to their plans.

Mr. SIKES. Mr. Speaker, on the issue of consolidating Navy undergraduate helicopter pilot training under the Army at Fort Rucker, the Navy submitted a reclama to the Secretary of Defense on the fiscal year 1979 budget submission setting forth the official Navy view that the assumed consolidation savings are virtually nonexistent.

The facts set forth in the memorandum from the Assistant Secretary of the Navy—financial management—to the Secretary of Defense are as follows:

	In millions
Navy estimate of their 5-year costs for UHPT	$193.1
Less Army's estimate of their 5-year costs for UHPT	—136.8
Net difference in Navy and Army (OSD) estimates	56.3

Additional 5-year Army costs to conduct Navy UHPT (not previously identified by OSD)	−50.0
Actual 5-year Navy cost avoidance (as estimated by Navy reclama)	6.3

Thus, Navy's position was that, at best, only $6.3 million in costs could be avoided in the 5-year period.

However, as identified by DOD decision package sets on the subject, Navy claims that DOD has deducted manpower required for Navy fixed-wing UPT in their effort to demonstrate that such consolidation savings do, in fact, exist. Actually, if Navy UHPT were consolidated under the Army, $6.3 million would have to be restored to Navy to support fixed-wing training in fiscal year 1979. Thus, the best OSD cost avoidance estimate could be wiped out in 1 year.

OSD replied to Navy's reclama by: First, revising their DPS and, second, conducting an audit of Navy UHPT costs by the Defense Audit Service.

In the first case—DPS 490R, despite Navy's reclama and billet-by-billet scrub of manpower requirements to conduct UHPT—which showed a reduction of 331 billets, including support, equal to a 5-year total of $22.5 million under OSD's estimate of Navy's cost, the Navy estimate was rejected by OSD analysts simply because it would destroy their predetermined $100 million 5-year savings. It is precisely for this reason that should UHPT be consolidated at least this amount of so-called savings would have to be restored to Navy to permit Navy to conduct fixed-wing pilot training.

In the second case, the Defense Audit Service, in conducting their audit, ignored the additional costs to be incurred by the Army to conduct Navy UHPT. These costs were identified in part by an internal Navy memo—March 8, 1978—which pointed out that the Army had made no provisions for support facilities, fuel contracts, refueler requirements, crash and fire equipment, and the like. Also, since Navy pilots are officers, the Army planned to house Navy, Marine, and Coast Guard officers in their BOQ, while turning their own students out to the economy until more facilities could be constructed. There is no indication that OSD analysts ever computed the additional BAQ and increased housing costs arising from UHPT consolidation.

In addition, as a matter of record, the Defense Subcommittee report of the House Appropriations Committee on the fiscal year 1979 budget identified 261 excess helicopters in the Army inventory, and recommended a reduction of $3.4 million in annual operating funds. OSD has never correctly applied this $3.4 million per year against the Army in their calculations of the costs in Army's program that could be saved by not moving Navy UHPT to Fort Rucker.

Finally, the Chief of Naval Operations, Adm. James Holloway, personally called on Chairman MAHON this spring to voice his opposition to this helicopter consolidation proposal in the light of the most recent information available. Reasons for the CNO's strong opposition may be found in the following:

First. The Army training would not meet Navy standards;

Second. Both the civilian and professional leadership of the Navy now feel that OSD's claim of substantial savings through consolidation is suspect, and have concluded that the cost avoidance for Navy may be more than offset by additional Army costs resulting in no significant net savings to the Defense budget;

Third. With the projected growth of the antisubmarine warfare LAMPS system, Navy helo pilot requirements would increase substantially in the decade to come;

Fourth. With variations in pilot retention rates and changes in helo pilot and fixed-wing pilot requirements it would be necessary to have greater flexibility to transition pilots from rotary to fixed-wing skills. This is a major issue with the Marine Corps.

Mr. Speaker, I would also call to the attention of the House and the Senate managers of the fiscal year 1979 Defense appropriations bill, section 540 of Jefferson's manual.

My colleagues will note that the practice of instructing conference managers is one on which the House and Senate do not agree. I would call attention to this particular section of the Manual:

> Only in rare instances has the Senate instructed, and these instances are at variance with its declaration, made after full consideration, that managers may not be instructed. And where the House has instructed its managers, the Senate sometimes has declined to participate and asked a free conference.
>
> In one instance wherein the Senate learned indirectly that the House had instructed its managers, it declared that the Conference should be full and free, and instructed its own managers to withdraw if they should find the freedom of the conference impaired.

Mr. Speaker, I can understand Mr. DICKINSON's interest in this particular issue. I am no less interested. But in the final analysis let us all realize what it is specifically that his motion of instruction would do with regard to the House vote on UHPT consolidation:

First. The floor action on this issue leaves the military personnel situation with the Navy retaining the instructor and support personnel at their facility at Whiting Field.

Second. The House action then provides the operations money to the Army to conduct the training at Fort Rucker.

Third. The House position then deletes the general provision which in the past has not permitted the Defense Department to realine the Navy's flight training squadrons; effectively giving DOD the ability to reduce Corpus Christi to a Naval Air facility, and having a deliterious effect on the other flight training bases in Texas, Mississippi, and Florida.

Are we to maintain a position in which there is not room for compromise, even at the expense of this vital training program? How can the managers on the part of the House maintain a position in which the people are given to the Navy and the operating dollars are given to the Army? It is untenable.

Let us agree with our chairman on this issue wherein his speech on the floor on August 7 he said in part:

> I think it is time to stop this controversy. The time has come, I think, to put this issue behind us, to defeat the amendment and let the Services proceed with helicopter training for the following year as they are now proceeding.

Mr. EDWARDS of Alabama. Mr. Speaker, will the gentleman yield?

Mr. DICKINSON. I am pleased to yield to my colleague, the gentleman from Alabama (Mr. EDWARDS).

Mr. EDWARDS of Alabama. Mr. Speaker, I am not going to take much time except to say I have been urging consolidation of basic helicopter training for some years. I still think it is the way to go.

I do agree with the facts of the situation as set out by the gentleman in the well. It is true that over the last 2 years, with overwhelming votes on this side of the Capitol, the conferees on the Defense appropriation bill have gone to conference and not put up any real fight to try to hold the House position, so I am prepared to be instructed.

I therefore support the motion offered by the gentleman.

Mr. DICKINSON. I thank the gentleman from Alabama (Mr. EDWARDS).

There are two short statements I alluded to earlier that I would like to refer to at this time, if I might, Mr. Speaker.

I am reading from the CONGRESSIONAL RECORD of September 9, 1976, and these are remarks put in earlier by the gentleman from Alabama (Mr. EDWARDS), who has just spoken here.

He said:

> Mr. Speaker, in closing I feel compelled to sound one note of concern about the conference.

He was speaking there of the joint conference with the Senate.

He said further:

> When the bill was before the House there was considerable debate on the subject of the consolidation of basic helicopter pilot training. We argued that some $37 million could be saved each year by providing this basic training at one facility. While the Defense Subcommittee had voted, over my strong objection, to block the consolidation, the House, nevertheless, reversed the decision of the subcommittee and overwhelmingly voted by a margin of 288 to 110 to approve the consolidation of basic helicopter training and thus bring about this tremendous savings in military expenditures.
>
> I was extremely disappointed, therefore, that the House conferees made no real effort to defend the House position on this vital issue.

Mr. CARR. Mr. Speaker, will the gentleman yield?

Mr. DICKINSON. I yield to the gentleman from Michigan.

Mr. CARR. Mr. Speaker, I would like to inquire of the gentleman how many times we voted for the gentleman's position on the House floor?

Mr. DICKINSON. It is my recollection that dealing with it both substantively and procedurally we have voted on this matter some 8 to 10 times, I would surmise.

Mr. CARR. If the gentleman would yield further, I would like to ask the gentleman if he knows how many times the Senate has considered this issue in isolation on the Senate floor.

Mr. DICKINSON. So far as I know the Senate has voted directly on the question twice on the Senate floor. This is my recollection and I cannot speak with authority as to what the Senate did.

Mr. CARR. Was that vote in the other body this year?

Mr. DICKINSON. I do not know what they did yesterday because the Senate was acting on this bill yesterday and also this morning and I was following it as closely as possible, and as a matter of fact I have had an illness.

I was at home in my district, and I had to hurry back when I found out what was going on there. In fact, they brought it up last night and again this morning, I am informed. I do not know what they did last night.

Mr. CARR. Mr. Speaker, if the gentleman will yield still further, I would again like to compliment the gentleman from Alabama (Mr. DICKINSON) on his presentation. May I add that the issue is not whether helicopter training should be consolidated, the issue is whether our conferees are going to stand up and be agents of the position of the House, regardless of their own parochial positions.

Mr. DICKINSON. Mr. Speaker, I appreciate the gentleman's remarks, because that is exactly what we are doing, regardless of the merits, we have seen twice, now, that the House has voted strongly to do it and twice there was no real effort made in the conference. They just go in and sort of "belly up" so to speak. So I think it is time that we said: Let us not do that again.

Mr. EDWARDS of Alabama. Mr. Speaker, if the gentleman will yield, let me say that the Senate Appropriation Committee did not really address the question of consolidation, they just did not do it. It was not an issue on the floor when the bill was before the Senate, I am informed. So, I guess the answer to the question of the gentleman from Michigan (Mr. CARR) is that there has been no vote in the Senate on it this year.

Mr. DICKINSON. Again I thank the gentleman.

Further, Mr. Speaker, if the gentleman from Florida (Mr. SIKES) is still here, and requires additional time, or wishes to be heard further, I will be glad to yield to the gentleman at this time.

If not, and if there are no further speakers on the subject, Mr. Speaker, at this time I would move the previous question.

The previous question was ordered.

The SPEAKER pro tempore (Mr. BENJAMIN). The question is on the motion to instruct conferees offered by the gentleman from Alabama (Mr. DICKINSON).

The motion was agreed to.

The SPEAKER pro tempore. Without objection, the Chair appoints the following conferees: Messrs. MAHON, SIKES, FLOOD, ADDABBO, MCFALL, FLYNT, GIAIMO, CHAPPELL, BURLISON of Missouri, EDWARDS of Alabama, ROBINSON, KEMP, and CEDERBERG.

There was no objection.

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves, pursuant to rule XXVIII 6(a) of the House rules that the conference committee meetings between the House and the Senate on H.R. 13635, the fiscal year 1979 Department of Defense Appropriation bill, be closed to the public at such times as classified national security information is under consideration, provided however, that any sitting Member of Congress shall have the right to attend any closed or open meeting.

The SPEAKER pro tempore. The gentleman from Texas (Mr. MAHON) is recognized in support of his motion.

Mr. MAHON. Mr. Speaker, I would simply like to say that this is a motion that is required by the rules of the House. We will be considering in the conference on the defense appropriation bill very highly classified matters that could not be appropriately discussed in open sessions. But, generally speaking, the conference between the House and the Senate will not be closed, it will be an open conference, except in those instances where it is necessary, by reason of security matters and classified matters, to close it.

And, of course, it will not be closed even then to Members of the House and the Senate.

Mr. EDWARDS of Alabama. Mr. Speaker, will the gentleman yield?

Mr. MAHON. I yield to the gentleman from Alabama.

Mr. EDWARDS of Alabama. Mr. Speaker, I wish to support the chairman in his statement and in his request. We do not like to have closed meetings, but I think on this particular bill, at least a good part of it, it is going to be essential that the conference be closed.

Therefore, Mr. Speaker, I urge adoption of this motion.

Mr. CARR. Mr. Speaker, will the gentleman yield?

Mr. MAHON. I yield to the gentleman from Michigan.

Mr. CARR. Mr. Speaker, I thank the distinguished chairman for yielding.

As the author of that rule, I want to say that I approve of the motion and urge its adoption.

Mr. MAHON. Mr. Speaker, I thank the gentleman.

The SPEAKER pro tempore (Mr. SIMON). The question is on the motion offered by the gentleman from Texas (Mr. MAHON).

Under the rule, this vote must be determined by the yeas and nays.

The vote was taken by electronic device, and there were—yeas 387, nays 0, not voting 45, as follows:

[Roll No. 879]

YEAS—387

Abdnor
Addabbo
Akaka
Alexander
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Applegate
Archer
Ashbrook
Ashley
Aspin
AuCoin
Badham
Bafalis
Baldus
Barnard
Baucus
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Bonior
Bonker
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, John
Burton, Phillip
Butler
Carney
Carr
Carter
Cavanaugh
Cederberg
Chappell
Chisholm
Clausen, Don H.
Clawson, Del
Cleveland
Cohen
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Corcoran
Corman
Cornell
Cornwell
Cotter
Coughlin
Crane
Cunningham
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Davis
de la Garza
Delaney
Dellums
Derrick
Derwinski
Devine
Dickinson
Dicks
Dingell
Dodd
Dornan
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Eilberg
Emery
English
Erlenborn
Ertel
Evans, Colo.
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Flippo
Flood
Florio
Flowers
Flynt
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Fraser
Frenzel
Frey
Fuqua
Gammage
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Grassley
Green
Gudger
Guyer
Hagedorn
Hall
Hamilton
Hammer-schmidt
Hanley
Hannaford
Hansen
Harkin
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Holland
Hollenbeck
Holt
Holtzman
Howard
Hubbard
Huckaby
Hughes
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Tenn.
Jordan
Kasten
Kastenmeier
Kazen
Kelly
Kemp
Keys
Kildee
Kindness
Kostmayer
Krebs
LaFalce
Lagomarsino
Latta
Le Fante
Leach
Lederer
Leggett
Lehman
Lent
Levitas
Livingston
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Luken
Lundine
McClory
McCloskey
McCormack
McDade
McEwen
McFall
McHugh
McKay
McKinney
Maguire
Mahon
Mann
Markey
Marks
Marlenee
Marriott
Mathis
Mattox
Mazzoli
Meeds
Metcalfe
Meyner
Mikulski
Mikva
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Gary
Myers, John
Natcher
Neal
Nedzi
Nix
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pattison
Pease
Pepper
Perkins
Pickle
Pike
Poage
Pressler
Preyer
Price
Pritchard
Pursell
Quayle
Quillen
Rahall
Railsback
Rangel
Regula
Reuss
Rhodes
Richmond
Rinaldo
Risenhoover
Roberts
Robinson
Rodino
Roe
Rogers
Roncalio
Rooney
Rosenthal
Rostenkowski
Rousselot
Roybal
Rudd
Runnels
Russo
Ryan
Santini
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shuster
Sikes
Simon
Sisk
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
St Germain
Stangeland
Stanton
Stark
Steed
Steers
Stockman
Stokes
Stratton
Studds
Stump
Symms
Taylor
Thompson
Thornton

Traxler	Walker	Wirth
Treen	Walsh	Wolff
Trible	Wampler	Wright
Tucker	Watkins	Wydler
Udall	Weaver	Wylie
Ullman	Weiss	Yates
Van Deerlin	White	Yatron
Vander Jagt	Whitehurst	Young, Alaska
Vanik	Whitley	Young, Fla.
Vento	Whitten	Young, Mo.
Volkmer	Wilson, Bob	Zablocki
Waggonner	Wilson, Tex.	Zeferetti
Walgren	Winn	

NAYS—0

NOT VOTING—45

Ammerman	Jones, Okla.	Rose
Armstrong	Krueger	Ruppe
Blouin	Lujan	Sarasin
Breckinridge	McDonald	Shipley
Burke, Calif.	Madigan	Skubitz
Byron	Martin	Staggers
Caputo	Michel	Steiger
Clay	Milford	Teague
Cochran	Miller, Calif.	Thone
Conyers	Moss	Tsongas
Dent	Myers, Michael	Waxman
Diggs	Nichols	Whalen
Gilman	Nolan	Wiggins
Harrington	Pettis	Wilson, C. H.
Horton	Quie	Young, Tex.

Mr. GIBBONS and Mr. MOAKLEY changed their vote from "nay" to yea."

So the motion was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON S. 1566, FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978

Mr. BOLAND submitted the following conference report and statement on the Senate bill (S. 1566) to amend title 18, United States Code, to authorize applications for a court order approving the use of electronic surveillance to obtain foreign intelligence information:

CONFERENCE REPORT (H. REPT. No. 95-1720)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1566) to authorize electronic surveillance to obtain foreign intelligence information, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the text of the Senate bill, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the House amendments insert the following:

That this Act may be cited as the "Foreign Intelligence Surveillance Act of 1978".

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Sec. 104. Application for an order.
Sec. 105. Issuance of an order.
Sec. 106. Use of information.
Sec. 107. Report of electronic surveillance.
Sec. 108. Congressional oversight.
Sec. 109. Penalties.
Sec. 110. Civil liability.
Sec. 111. Authorization during time of war.

TITLE II—CONFORMING AMENDMENTS

Sec. 201. Amendments to chapter 119 of title 18, United States Code.

TITLE III—EFFECTIVE DATE

Sec. 301. Effective date.

TITLE I—ELECTRONIC SURVEILLANCE WITHIN THE UNITED STATES FOR FOREIGN INTELLIGENCE PURPOSES

DEFINITIONS

SEC. 101. As used in this title:

(a) "Foreign power" means—

(1) a foreign government or any component thereof, whether or not recognized by the United States;

(2) a faction of a foreign nation or nations, not substantially composed of United States persons;

(3) an entity that is openly acknowledged by a foreign government or governments to be directed and controlled by such foreign government or governments;

(4) a group engaged in international terrorism or activities in preparation therefor;

(5) a foreign-based political organization, not substantially composed of United States persons; or

(6) an entity that is directed and controlled by a foreign government or governments.

(b) "Agent of a foreign power" means—

(1) any person other than a United States person, who—

(A) acts in the United States as an officer or employee of a foreign power, or as a member of a foreign power as defined in subsection (a) (4);

(B) acts for or on behalf of a foreign power which engages in clandestine intelligence activities in the United States contrary to the interests of the United States, when the circumstances of such person's presence in the United States indicate that such person may engage in such activities in the United States, or when such person knowingly aids or abets any person in the conduct of such activities or knowingly conspires with any person to engage in such activities; or

(2) any person who—

(A) knowingly engages in clandestine intelligence gathering activities for or on behalf of a foreign power, which activities involve or may involve a violation of the criminal statutes of the United States;

(B) pursuant to the direction of an intelligence service or network of a foreign power, knowingly engages in any other clandestine intelligence activities for or on behalf of such foreign power, which activities involve or are about to involve a violation of the criminal statutes of the United States;

(C) knowingly engages in sabotage or international terrorism, or activities that are in preparation therefor, for or on behalf of a foreign power; or

(D) knowingly aids or abets any person in the conduct of activities described in subparagraph (A), (B), or (C) or knowingly conspires with any person to engage in activities described in subparagraph (A), (B), or (C).

(c) "International terrorism" means activities that—

(1) involve violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or any State;

(2) appear to be intended—

(A) to intimidate or coerce a civilian population;

(B) to influence the policy of a government by intimidation or coercion; or

(C) to affect the conduct of a government by assassination or kidnapping; and

(3) occur totally outside the United States, or transcend national boundaries in terms of the means by which they are accomplished, the persons they appear intended to coerce or intimidate, or the locale in which their perpetrators operate or seek asylum.

(d) "Sabotage" means activities that involve a violation of chapter 105 of title 18, United States Code, or that would involve such a violation if committed against the United States.

(e) "Foreign intelligence information" means—

(1) information that relates to, and if concerning a United States person is necessary to, the ability of the United States to protect against—

(A) actual or potential attack or other grave hostile acts of a foreign power or an agent of a foreign power;

(B) sabotage or international terrorism by a foreign power or an agent of a foreign power; or

(C) clandestine intelligence activities by an intelligence service or network of a foreign power or by an agent of a foreign power; or

(2) information with respect to a foreign power or foreign territory that relates to, and if concerning a United States person is necessary to—

(A) the national defense or the security of the United States; or

(B) the conduct of the foreign affairs of the United States.

(f) "Electronic surveillance" means—

(1) the acquisition by an electronic, mechanical, or other surveillance device of the contents of any wire or radio communication sent by or intended to be received by a particular, known United States person who is in the United States, if the contents are acquired by intentionally targeting that United States person, under circumstances in which a person has a reasonable expectation of privacy and a warrant would be required for law enforcement purposes;

(2) the acquisition by an electronic, mechanical, or other surveillance device of the contents of any wire communication to or from a person in the United States, without the consent of any party thereto, if such acquisition occurs in the United States;

(3) the intentional acquisition by an electronic, mechanical, or other surveillance device of the contents of any radio communication, under circumstances in which a person has a reasonable expectation of privacy and a warrant would be required for law enforcement purposes, and if both the sender and all intended recipients are located within the United States; or

(4) the installation or use of an electronic, mechanical, or other surveillance device in the United States for monitoring to acquire information, other than from a wire or radio communication, under circumstances in which a person has a reasonable expectation of privacy and a warrant would be required for law enforcement purposes.

(g) "Attorney General" means the Attorney General of the United States (or Acting Attorney General) or the Deputy Attorney General.

(h) "Minimization procedures", with respect to electronic surveillance, means—

(1) specific procedures, which shall be adopted by the Attorney General, that are reasonably designed in light of the purpose and technique of the particular surveillance, to minimize the acquisition and retention, and prohibit the dissemination, of nonpublicly available information concerning unconsenting United States persons consistent with the need of the United States to obtain, produce, and disseminate foreign intelligence information;

(2) procedures that require that nonpublicly available information, which is not foreign intelligence information, as defined in subsection (e)(1), shall not be disseminated in a manner that identifies any United States person, without such person's consent, unless such person's identity is necessary to understand foreign intelligence information or assess its importance;

(3) notwithstanding paragraphs (1) and (2), procedures that allow for the retention

and dissemination of information that is evidence of a crime which has been, is being, or is about to be committed and that is to be retained or disseminated for law enforcement purposes; and

(4) notwithstanding paragraphs (1), (2), and (3), with respect to any electronic surveillance approved pursuant to section 102 (a), procedures that require that no contents of any communication to which a United States person is a party shall be disclosed, disseminated, or used for any purpose or retained for longer than twenty-four hours unless a court order under section 105 is obtained or unless the Attorney General determines that the information indicates a threat of death or serious bodily harm to any person.

(i) "United States person" means a citizen of the United States, an alien lawfully admitted for permanent residence (as defined in section 101(a)(20) of the Immigration and Nationality Act), an unincorporated association a substantial number of members of which are citizens of the United States or aliens lawfully admitted for permanent residence, or a corporation which is incorporated in the United States, but does not include a corporation or an association which is a foreign power, as defined in subsection (a)(1), (2), or (3).

(j) "United States", when used in a geographic sense, means all areas under the territorial sovereignty of the United States and the Trust Territory of the Pacific Islands.

(k) "Aggrieved person" means a person who is the target of an electronic surveillance or any other person whose communications or activities were subject to electronic surveillance.

(l) "Wire communication" means any communication while it is being carried by a wire, cable, or other like connection furnished or operated by any person engaged as a common carrier in providing or operating such facilities for the transmission of interstate or foreign communications.

(m) "Person" means any individual, including any officer or employee of the Federal Government, or any group, entity, association, corporation, or foreign power.

(n) "Contents", when used with respect to a communication, includes any information concerning the identity of the parties to such communication or the existence, substance, purport, or meaning of that communication.

(o) "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Trust Territory of the Pacific Islands, and any territory or possession of the United States.

AUTHORIZATION FOR ELECTRONIC SURVEILLANCE FOR FOREIGN INTELLIGENCE PURPOSES

SEC. 102. (a)(1) Notwithstanding any other law, the President, through the Attorney General, may authorize electronic surveillance without a court order under this title to acquire foreign intelligence information for periods of up to one year if the Attorney General certifies in writing under oath that—

(A) the electronic surveillance is solely directed at—

(i) the acquisition of the contents of communications transmitted by means of communications used exclusively between or among foreign powers, as defined in section 101(a) (1), (2), or (3); or

(ii) the acquisition of technical intelligence, other than the spoken communications of individuals, from property or premises under the open and exclusive control of a foreign power, as defined in section 101(a) (1), (2), or (3);

(B) there is no substantial likelihood that the surveillance will acquire the contents of any communication to which a United States person is a party; and

(C) the proposed minimization procedures with respect to such surveillance meet the definition of minimization procedures under section 101(h); and

if the Attorney General reports such minimization procedures and any changes thereto to the House Permanent Select Committee on Intelligence and the Senate Select Committee on Intelligence at least thirty days prior to their effective date, unless the Attorney General determines immediate action is required and notifies the committees immediately of such minimization procedures and the reason for their becoming effective immediately.

(2) An electronic surveillance authorized by this subsection may be conducted only in accordance with the Attorney General's certification and the minimization procedures adopted by him. The Attorney General shall assess compliance with such procedures and shall report such assessments to the House Permanent Select Committee on Intelligence and the Senate Select Committee on Intelligence under the provisions of section 108(a).

(3) The Attorney General shall immediately transmit under seal to the court established under section 103(a) a copy of his certification. Such certification shall be maintained under security measures established by the Chief Justice with the concurrence of the Attorney General, in consultation with the Director of Central Intelligence, and shall remain sealed unless—

(A) an application for a court order with respect to the surveillance is made under sections 101(h)(4) and 104; or

(B) the certification is necessary to determine the legality of the surveillance under section 106(f).

(4) With respect to electronic surveillance authorized by this subsection, the Attorney General may direct a specified communication common carrier to—

(A) furnish all information, facilities, or technical assistance necessary to accomplish the electronic surveillance in such a manner as will protect its secrecy and produce a minimum of interference with the services that such carrier is providing its customers; and

(B) maintain under security procedures approved by the Attorney General and the Director of Central Intelligence any records concerning the surveillance or the aid furnished which such carrier wishes to retain.

The Government shall compensate, at the prevailing rate, such carrier for furnishing such aid.

(b) Applications for a court order under this title are authorized if the President has, by written authorization, empowered the Attorney General to approve applications to the court having jurisdiction under section 103, and a judge to whom an application is made may, notwithstanding any other law, grant an order, in conformity with section 105, approving electronic surveillance of a foreign power or an agent of a foreign power for the purpose of obtaining foreign intelligence information, except that the court shall not have jurisdiction to grant any order approving electronic surveillance directed solely as described in paragraph (1)(A) of subsection (a) unless such surveillance may involve the acquisition of communications of any United States person.

DESIGNATION OF JUDGES

SEC. 103. (a) The Chief Justice of the United States shall publicly designate seven district court judges from seven of the United States judicial circuits who shall constitute a court which shall have jurisdiction to hear applications for and grant orders approving electronic surveillance anywhere within the United States under the procedures set forth in this Act, except that no judge designated under this subsection shall hear the same application for electronic surveillance under this Act which has been denied previously by another judge designated under this subsection. If any judge so designated denies an application for an order authorizing electronic surveillance under this Act, such judge shall provide immediately for the record a written statement of each reason for his decision and, on motion of the United States, the record shall be transmitted, under seal, to the court of review established in subsection (b).

(b) The Chief Justice shall publicly designate three judges, one of whom shall be publicly designated as the presiding judge, from the United States district courts or courts of appeals who together shall comprise a court of review which shall have jurisdiction to review the denial of any application made under this Act. If such court determines that the application was properly denied, the court shall immediately provide for the record a written statement of each reason for its decision and, on petition of the United States for a writ of certiorari, the record shall be transmitted under seal to the Supreme Court, which shall have jurisdiction to review such decision.

"(c) Proceedings under this Act shall be conducted as expeditiously as possible. The record of proceedings under this Act, including applications made and orders granted, shall be maintained under security measures established by the Chief Justice in consultation with the Attorney General and the Director of Central Intelligence.

"(d) Each judge designated under this section shall so serve for a maximum of seven years and shall not be eligible for redesignation, except that the judges first designated under subsection (a) shall be designated for terms of from one to seven years so that one term expires each year, and that judges first designated under subsection (b) shall be designated for terms of three, five, and seven years.

APPLICATION FOR AN ORDER

SEC. 104. (a) Each application for an order approving electronic surveillance under this title shall be made by a Federal officer in writing upon oath or affirmation to a judge having jurisdiction under section 103. Each application shall require the approval of the Attorney General based upon his finding that it satisfies the criteria and requirements of such application as set forth in this title. It shall include—

(1) the identity of the Federal officer making the application;

(2) the authority conferred on the Attorney General by the President of the United States and the approval of the Attorney General to make the application;

(3) the identity, if known, or a description of the target of the electronic surveillance;

(4) a statement of the facts and circumstances relied upon by the applicant to justify his belief that—

(A) the target of the electronic surveillance is a foreign power or an agent of a foreign power; and

(B) each of the facilities or places at which the electronic surveillance is directed is being used, or is about to be used, by a foreign power or an agent of a foreign power;

(5) a statement of the proposed minimization procedures;

(6) a detailed description of the nature of the information sought and the type of communications or activities to be subjected to the surveillance;

(7) a certification or certifications by the Assistant to the President for National Security Affairs or an executive branch official or officials designated by the President from among those executive officers employed in the area of national security or defense and appointed by the President with the advice and consent of the Senate—

(A) that the certifying official deems the information sought to be foreign intelligence information;

(B) that the purpose of the surveillance is to obtain foreign intelligence information;

(C) that such information cannot reasonably be obtained by normal investigative techniques;

(D) that designates the type of foreign intelligence information being sought according to the categories described in section 101(e); and

(E) including a statement of the basis for the certification that—

(i) the information sought is the type of foreign intelligence information designated; and

(ii) such information cannot reasonably be obtained by normal investigative techniques;

(8) a statement of the means, by which the surveillance will be effected and a statement whether physical entry is required to effect the surveillance;

(9) a statement of the facts concerning all previous applications that have been made to any judge under this title involving any of the persons, facilities, or places specified in the application, and the action taken on each previous application;

(10) a statement of the period of time for which the electronic surveillance is required to be maintained, and if the nature of the intelligence gathering is such that the approval of the use of electronic surveillance under this title should not automatically terminate when the described type of information has first been obtained, a description of facts supporting the belief that additional information of the same type will be obtained thereafter; and

(11) whenever more than one electronic, mechanical or other surveillance device is to be used with respect to a particular proposed electronic surveillance, the coverage of the devices involved and what minimization procedures apply to information acquired by each device.

(b) Whenever the target of the electronic surveillance is a foreign power, as defined in section 101(a) (1), (2), or (3), and each of the facilities or places at which the surveillance is directed is owned, leased, or exclusively used by that foreign power, the application need not contain the information required by paragraphs (6), (7)(E), (8), and (11) of subsection (a), but shall state whether physical entry is required to effect the surveillance and shall contain such information about the surveillance techniques and communications or other information concerning United States persons likely to be obtained as may be necessary to assess the proposed minimization procedures.

(c) The Attorney General may require any other affidavit or certification from any other officer in connection with the application.

(d) The judge may require the applicant to furnish such other information as may be necessary to make the determinations required by section 105.

ISSUANCE OF AN ORDER

SEC. 105. (a) Upon an application made pursuant to section 104, the judge shall enter an ex parte order as requested or as modified approving the electronic surveillance if he finds that—

(1) the President has authorized the Attorney General to approve applications for electronic surveillance for foreign intelligence information;

(2) the application has been made by a Federal officer and approved by the Attorney General;

(3) on the basis of the facts submitted by the applicant there is probable cause to believe that—

(A) the target of the electronic surveillance is a foreign power or an agent of a foreign power: *Provided*, That no United States person may be considered a foreign power or an agent of a foreign power solely upon the basis of activities protected by the first amendment to the Constitution of the United States; and

(B) each of the facilities or places at which the electronic surveillance is directed is being used, or is about to be used, by a foreign power or an agent of a foreign power.

(4) the proposed minimization procedures meet the definition of minimization procedures under section 101(h); and

(5) the application which has been filed contains all statements and certifications required by section 104 and, if the target is a United States person, the certification or certifications are not clearly erroneous on the basis of the statement made under section 104(a)(7)(E) and any other information furnished under section 104(d).

(b) An order approving an electronic surveillance under this section shall—

(1) specify—

(A) the identity, if known, or a description of the target of the electronic surveillance;

(B) the nature and location of each of the facilities or places at which the electronic surveillance will be directed;

(C) the type of information sought to be acquired and the type of communications or activities to be subjected to the surveillance;

(D) the means by which the electronic surveillance will be effected and whether physical entry will be used to effect the surveillance;

(E) the period of time during which the electronic surveillance is approved; and

(F) whenever more than one electronic, mechanical, or other surveillance device is to be used under the order, the authorized coverage of the devices involved and what minimization procedures shall apply to information subject to acquisition by each device; and

(2) direct—

(A) that the minimization procedures be followed;

(B) that, upon the request of the applicant, a specified communication or other common carrier, landlord, custodian, or other specified person furnish the applicant forthwith all information, facilities, or technical assistance necessary to accomplish the electronic surveillance in such a manner as will protect its secrecy and produce a minimum of interference with the services that such carrier, landlord, custodian, or other person is providing that target of electronic surveillance;

(C) that such carrier, landlord, custodian, or other person maintain under security procedures approved by the Attorney General and the Director of Central Intelligence any records concerning the surveillance or the aid furnished that such person wishes to retain; and

(D) that the applicant compensate, at the prevailing rate, such carrier, landlord, custodian, or other person for furnishing such aid.

(c) Whenever the target of the electronic surveillance is a foreign power, as defined in section 101(a) (1), (2), or (3), and each of the facilities or places at which the surveillance is directed is owned, leased, or exclusively used by that foreign power, the order need not contain the information required by subparagraphs (C), (D), and (F) of subsection (b)(1), but shall generally describe the information sought, the communications or activities to be subjected to the surveillance, and the type of electronic surveillance involved, including whether physical entry is required.

(d)(1) An order issued under this section may approve an electronic surveillance for the period necessary to achieve its purpose, or for ninety days, whichever is less, except that an order under this section shall approve an electronic surveillance targeted against a foreign power, as defined in section 101(a) (1), (2), or (3), for the period specified in the application or for one year, whichever is less.

(2) Extensions of an order issued under this title may be granted on the same basis as an original order upon an application for an extension and new findings made in the same manner as required for an original order, except that an extension of an order under this Act for a surveillance targeted against a foreign power, as defined in section 101(a)(5) or (6), or against a foreign power as defined in section 101(a)(4) that is not a United States person, may be for a period not to exceed one year if the judge finds probable cause to believe that no communication of any individual United States person will be acquired during the period.

(3) At or before the end of the period of time for which electronic surveillance is approved by an order or an extension, the judge may assess compliance with the minimization procedures by reviewing the circumstances under which information concerning United States persons was acquired, retained, or disseminated.

(e) Notwithstanding any other provision of this title, when the Attorney General reasonably determines that—

(1) an emergency situation exists with respect to the employment of electronic surveillance to obtain foreign intelligence information before an order authorizing such surveillance can with due diligence be obtained; and

(2) the factual basis for issuance of an order under this title to approve such surveillance exists;

he may authorize the emergency employment of electronic surveillance if a judge having jurisdiction under section 103 is informed by the Attorney General or his designee at the time of such authorization that the decision has been made to employ emergency electronic surveillance and if an application in accordance with this title is made to that judge as soon as practicable, but not more than twenty-four hours after the Attorney General authorizes such surveillance. If the Attorney General authorizes such emergency employment of electronic surveillance, he shall require that the minimization procedures required by this title for the issuance of a judicial order be followed. In the absence of a judicial order approving such electronic surveillance, the surveillance shall terminate when the information sought is obtained, when the application for the order is denied, or after the expiration of twenty-four hours from the time of authorization by the Attorney General, whichever is earliest. In the event that such application for approval is denied, or in any other case where the electronic surveillance is terminated and no order is issued approving the surveillance, no information obtained or evidence derived from such surveillance shall be received in evidence or otherwise disclosed in any trial, hearing, or other proceeding in or before any court, grand jury, department, office, agency, regulatory body, legislative committee, or other authority of the United States, a State, or political subdivision thereof, and no information concerning any United States person acquired from such surveillance shall subsequently be used or disclosed in any other manner by Federal officers or employees without the consent of such person, except with the approval of the Attorney General if the information indicates a threat of death or serious bodily harm to any person. A denial of the application made under this subsection may be reviewed as provided in section 103.

(f) Notwithstanding any other provision of this title, officers, employees, or agents of the United States are authorized in the normal course of their official duties to conduct electronic surveillance not targeted against the communications of any particular person

or persons, under procedures approved by the Attorney General, solely to—

(1) test the capability of electronic equipment, if—

(A) it is not reasonable to obtain the consent of the persons incidentally subjected to the surveillance;

(B) the test is limited in extent and duration to that necessary to determine the capability of the equipment;

(C) the contents of any communication acquired are retained and used only for the purpose of determining the capability of the equipment, are disclosed only to test personnel, and are destroyed before or immediately upon completion of the test; and:

(D) Provided, That the test may exceed ninety days only with the prior approval of the Attorney General;

(2) determine the existence and capability of electronic surveillance equipment being used by persons not authorized to conduct electronic surveillance, if—

(A) it is not reasonable to obtain the consent of persons incidentally subjected to the surveillance;

(B) such electronic surveillance is limited in extent and duration to that necessary to determine the existence and capability of such equipment; and

(C) any information acquired by such surveillance is used only to enforce chapter 119 of title 18, United States Code, or section 605 of the Communications Act of 1934, or to protect information from unauthorized surveillance; or

(3) train intelligence personnel in the use of electronic surveillance equipment, if—

(A) it is not reasonable to—

(i) obtain the consent of the persons incidentally subjected to the surveillance;

(ii) train persons in the course of surveillance otherwise authorized by this title; or

(iii) train persons in the use of such equipment without engaging in electronic surveillance;

(B) such electronic surveillance is limited in extent and duration to that necessary to train the personnel in the use of the equipment; and

(C) no contents of any communication acquired are retained or disseminated for any purpose, but are destroyed as soon as reasonably possible.

(g) Certifications made by the Attorney General pursuant to section 102(a) and applications made and orders granted under this title shall be retained for a period of at least ten years from the date of the certification or application.

USE OF INFORMATION

SEC. 106. (a) Information acquired from an electronic surveillance conducted pursuant to this title concerning any United States person may be used and disclosed by Federal officers and employees without the consent of the United States person only in accordance with the minimization procedures required by this title. No otherwise privileged communication obtained in accordance with, or in violation of, the provisions of this title shall lose its privileged character. No information acquired from an electronic surveillance pursuant to this title may be used or disclosed by Federal officers or employees except for lawful purposes.

(b) No information acquired pursuant to this title shall be disclosed for law enforcement purposes unless such disclosure is accompanied by a statement that such information, or any information derived therefrom, may only be used in a criminal proceeding with the advance authorization of the Attorney General.

(c) Whenever the Government intends to enter into evidence or otherwise use or disclose in any trial, hearing, or other proceeding in or before any court, department, officer, agency, regulatory body, or other authority of the United States, against an aggrieved person, any information obtained or derived from an electronic surveillance of that aggrieved person pursuant to the authority of this title, the Government shall, prior to the trial, hearing, or other proceeding or at a reasonable time prior to an effort to so disclose or so use that information or submit it in evidence, notify the aggrieved person and the court or other authority in which the information is to be disclosed or used that the Government intends to so disclose or so use such information.

(d) Whenever any State or political subdivision thereof intends to enter into evidence or otherwise use or disclose in any trial, hearing, or other proceeding in or before any court, department, officer, agency, regulatory body, or other authority of a State or a political subdivision thereof, against an aggrieved person any information obtained or derived from an electronic surveillance of that aggrieved person pursuant to the authority of this title, the State or political subdivision thereof shall notify the aggrieved person, the court or other authority in which the information is to be disclosed or used, and the Attorney General that the State or political subdivision thereof intends to so disclose or so use such information.

(e) Any person against whom evidence obtained or derived from an electronic surveillance to which he is an aggrieved person is to be, or has been, introduced or otherwise used or disclosed in any trial, hearing, or other proceeding in or before any court, department, officer, agency, regulatory body, or other authority of the United States, a State, or a political subdivision thereof, may move to suppress the evidence obtained or derived from such electronic surveillance on the grounds that—

(1) the information was unlawfully acquired; or

(2) the surveillance was not made in conformity with an order of authorization or approval.

Such a motion shall be made before the trial, hearing, or other proceeding unless there was no opportunity to make such a motion or the person was not aware of the grounds of the motion.

(f) Whenever a court or other authority is notified pursuant to subsection (c) or (d), or whenever a motion is made pursuant to subsection (e), or whenever any motion or request is made by an aggrieved person pursuant to any other statute or rule of the United States or any State before any court or other authority of the United States or any State to discover or obtain applications or orders or other materials relating to electronic surveillance or to discover, obtain, or suppress evidence or information obtained or derived from electronic surveillance under this Act, the United States district court or, where the motion is made before another authority, the United States district court in the same district as the authority, shall, notwithstanding any other law, if the Attorney General files an affidavit under oath that disclosure or an adversary hearing would harm the national security of the United States, review in camera and ex parte the application, order, and such other materials relating to the surveillance as may be necessary to determine whether the surveillance of the aggrieved person was lawfully authorized and conducted. In making this determination, the court may disclose to the aggrieved person, under appropriate security procedures and protective orders, portions of the application, order, or other materials relating to the surveillance only where such disclosure is necessary to make an accurate determination of the legality of the surveillance.

(g) If the United States district court pursuant to subsection (f) determines that the surveillance was not lawfully authorized or conducted, it shall, in accordance with the requirements of law, suppress the evidence which was unlawfully obtained or derived from electronic surveillance of the aggrieved person or otherwise grant the motion of the aggrieved person. If the court determines that the surveillance was lawfully authorized and conducted, it shall deny the motion of the aggrieved person except to the extent that due process requires discovery or disclosure.

(h) Orders granting motions or requests under subsection (g), decisions under this section that electronic surveillance was not lawfully authorized or conducted, and orders of the United States district court requiring review or granting disclosure of applications, orders, or other materials relating to a surveillance shall be final orders and binding upon all courts of the United States and the several States except a United States court of appeals and the Supreme Court.

(i) In circumstances involving the unintentional acquisition by an electronic, mechanical, or other surveillance device of the contents of any radio communication, under circumstances in which a person has a reasonable expectation of privacy and a warrant would be required for law enforcement purposes, and if both the sender and all intended recipients are located within the United States, such contents shall be destroyed upon recognition, unless the Attorney General determines that the contents indicate a threat of death or serious bodily harm to any person.

(j) If an emergency employment of electronic surveillance is authorized under section 105(e) and a subsequent order approving the surveillance is not obtained, the judge shall cause to be served on any United States person named in the application and on such other United States persons subject to electronic surveillance as the judge may determine in his discretion it is in the interest of justice to serve, notice of—

(1) the fact of the application;

(2) the period of the surveillance; and

(3) the fact that during the period information was or was not obtained.

On an ex parte showing of good cause to the judge the serving of the notice required by this subsection may be postponed or suspended for a period not to exceed ninety days. Thereafter, on a further ex parte showing of good cause, the court shall forego ordering the serving of the notice required under this subsection.

REPORT OF ELECTRONIC SURVEILLANCE

SEC. 107. In April of each year, the Attorney General shall transmit to the Administrative Office of the United States Courts and to Congress a report setting forth with respect to the preceding calendar year—

(a) the total number of applications made for orders and extensions of orders approving electronic surveillance under this title; and

(b) the total number of such orders and extensions either granted, modified, or denied.

CONGRESSIONAL OVERSIGHT

SEC. 108. (a) On a semiannual basis the Attorney General shall fully inform the House Permanent Select Committee on Intelligence and the Senate Select Committee on Intelligence concerning all electronic surveillance under this title. Nothing in this title shall be deemed to limit the authority and responsibility of the appropriate committees of each House of Congress to obtain such information as they may need to carry out their respective functions and duties.

(b) On or before one year after the effective date of this Act and on the same day each year for four years thereafter, the Permanent Select Committee on Intelligence and the Senate Select Committee on Intelligence shall report respectively to the House of Representatives and the Senate, concerning the implementation of this Act. Said reports shall include but not be limited to

an analysis and recommendations concerning whether this Act should be (1) amended, (2) repealed, or (3) permitted to continue in effect without amendment.

PENALTIES

SEC. 109. (a) OFFENSE.—A person is guilty of an offense if he intentionally—

(1) engages in electronic surveillance under color of law except as authorized by statute; or

(2) discloses or uses information obtained under color of law by electronic surveillance, knowing or having reason to know that the information was obtained through electronic surveillance not authorized by statute.

(b) DEFENSE.—It is a defense to a prosecution under subsection (a) that the defendant was a law enforcement or investigative officer engaged in the course of his official duties and the electronic surveillance was authorized by and conducted pursuant to a search warrant or court order of a court of competent jurisdiction.

(c) PENALTY.—An offense described in this section is punishable by a fine of not more than $10,000 or imprisonment for not more than five years, or both.

(d) JURISDICTION.—There is Federal jurisdiction over an offense under this section if the person committing the offense was an officer or employee of the United States at the time the offense was committed.

CIVIL LIABILITY

SEC. 110. CIVIL ACTION.—An aggrieved person, other than a foreign power or an agent of a foreign power, as defined in section 101 (a) or (b) (1) (A), respectively, who has been subjected to an electronic surveillance or about whom information obtained by electronic surveillance of such person has been disclosed or used in violation of section 109 shall have a cause of action against any person who committed such violation and shall be entitled to recover—

(a) actual damages, but not less than liquidated damages of $1,000 or $100 per day for each day of violation, whichever is greater;

(b) punitive damages; and

(c) reasonable attorney's fees and other investigation and litigation costs reasonably incurred.

AUTHORIZATION DURING TIME OF WAR

SEC. 111. Notwithstanding any other law, the President, through the Attorney General, may authorize electronic surveillance without a court order under this title to acquire foreign intelligence information for a period not to exceed fifteen calendar days following a declaration of war by the Congress.

TITLE II—CONFORMING AMENDMENTS

AMENDMENTS TO CHAPTER 119 OF TITLE 18, UNITED STATES CODE

SEC. 201. Chapter 119 of title 18, United States Code, is amended as follows:

(a) Section 2511(2)(a)(ii) is amended to read as follows:

"(ii) Notwithstanding any other law, communication common carriers, their officers, employees, and agents, landlords, custodians, or other persons, are authorized to provide information, facilities, or technical assistance to persons authorized by law to intercept wire or oral communications or to conduct electronic surveillance, as defined in section 101 of the Foreign Intelligence Surveillance Act of 1978, if the common carrier, its officers, employees, or agents, landlord, custodian, or other specified person, has been provided with—

"(A) a court order directing such assistance signed by the authorizing judge, or

"(B) a certification in writing by a person specified in section 2518(7) of this title or the Attorney General of the United States that no warrant or court order is required by law, that all statutory requirements have been met, and that the specified assistance is required,

setting forth the period of time during which the provision of the information, facilities, or technical assistance is authorized and specifying the information, facilities, or technical assistance required. No communication common carrier, officer, employee, or agent thereof, or landlord, custodian, or other specified person shall disclose the existence of any interception or surveillance or the device used to accomplish the interception or surveillance with respect to which the person has been furnished an order or certification under this subparagraph, except as may otherwise be required by legal process and then only after prior notification to the Attorney General or to the principal prosecuting attorney of a State or any political subdivision of a State, as may be appropriate. Any violation of this subparagraph by a communication common carrier or an officer, employee, or agent thereof, shall render the carrier liable for the civil damages provided for in section 2520. No cause of action shall lie in any court against any communication common carrier, its officers, employees, or agents, landlord, custodian, or other specified person for providing information, facilities, or assistance in accordance with the terms of an order or certification under this subparagraph.".

(b) Section 2511(2) is amended by adding at the end thereof the following new provisions:

"(e) Notwithstanding any other provision of this title or section 605 or 606 of the Communications Act of 1934, it shall not be unlawful for an officer, employee, or agent of the United States in the normal course of his official duty to conduct electronic surveillance, as defined in section 101 of the Foreign Intelligence Surveillance Act of 1978, as authorized by that Act.

"(f) Nothing contained in this chapter, or section 605 of the Communications Act of 1934, shall be deemed to affect the acquisition by the United States Government of foreign intelligence information from international or foreign communications by a means other than electronic surveillance as defined in section 101 of the Foreign Intelligence Surveillance Act of 1978, and procedures in this chapter and the Foreign Intelligence Surveillance Act of 1978 shall be the exclusive means by which electronic surveillance, as defined in section 101 of such Act, and the interception of domestic wire and oral communications may be conducted.".

(c) Section 2511(3) is repealed.

(d) Section 2518(1) is amended by inserting "under this chapter" after "communication".

(e) Section 2518(4) is amended by inserting "under this chapter" after both appearances of "wire or oral communication".

(f) Section 2518(9) is amended by striking out "intercepted" and inserting "intercepted pursuant to this chapter" after "communication".

(g) Section 2518(10) is amended by striking out "intercepted" and inserting "intercepted pursuant to this chapter" after the first appearance of "communication".

(h) Section 2519(3) is amended by inserting "pursuant to this chapter" after "wire or oral communications" and after "granted or denied".

TITLE III—EFFECTIVE DATE

EFFECTIVE DATE

SEC. 301. The provisions of this Act and the amendments made hereby shall become effective upon the date of enactment of this Act, except that any electronic surveillance approved by the Attorney General to gather foreign intelligence information shall not be deemed unlawful for failure to follow the procedures of this Act, if that surveillance is terminated or an order approving that surveillance is obtained under title I of this Act within ninety days following the designation of the first judge pursuant to section 103 of this Act.

And the House agree to the same.

That the Senate recede from its disagreement to the amendment of the House to the title of the Senate bill and agree to the same.

And the House agree to the same.

EDWARD P. BOLAND,
MORGAN F. MURPHY,
ROMANO L. MAZZOLI,
PETER W. RODINO, JR.,
ROBERT W. KASTENMEIER,
Managers on the Part of the House.

EDWARD M. KENNEDY,
JAMES AROUREZK,
HOWARD M. METZENBAUM,
BIRCH BAYH,
JOSEPH R. BIDEN, JR.,
ROBERT MORGAN,
WILLIAM D. HATHAWAY,
STROM THURMOND,
JAKE GARN,
CHARLES MCC. MATHIAS, JR.,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1566) to amend title 18, United States Code, to authorize applications for a court order approving the use of electronic surveillance to obtain foreign intelligence information, submit the explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report.

The managers recommend that the Senate agree to the amendments of the House, with an amendment. That amendment will be referred to here as the "conference substitute." Except for certain clarifying, clerical, conforming, and other technical changes, there follows an issue by issue summary of the Senate bill, the House amendments, and the conference substitute.

TITLE

The Senate bill amended Title 18 (Crimes and Criminal Procedures) of the United States Code, to authorize applications for a court order approving the use of electronic surveillance to obtain foreign intelligence information.

The House amendments provided for an uncodified title, to authorize electronic surveillance to obtain foreign intelligence information.

The conference substitute adopts the House provision. The conferees agree that this change is not intended to affect in any way the jurisdiction of Congressional Committees with respect to electronic surveillance for foreign intelligence purposes. Rather, the purpose of the change is solely to allow the placement of Title I of the Foreign Intelligence Surveillance Act in that portion of the United States Code (Title 50) which most directly relates to its subject matter.

DEFINITION OF "FOREIGN POWER"

The Senate bill defined "foreign power", with respect to terrorist groups, to mean a foreign-based terrorist group.

The House amendments defined "foreign power" to include a group engaged in international terrorism or activities in preparation therefor.

The Conference substitute adopts the House definition. The conferees agree that the limitation to foreign-based groups may be unnecessarily burdensome and that surveillance of a group engaged in preparation for international terrorism may be necessary.

DEFINITION OF "AGENT OF A FOREIGN POWER"

The Senate bill defined "agent of a foreign power", with respect to persons other than United States persons, to include persons who act in the United States as officers or employees of foreign powers; and certain persons who act for or on behalf of foreign

powers which engage in clandestine intelligence activities contrary to the interests of the United States. With respect to any person, including a United States person, the Senate bill defined "agent of a foreign power" to include, *inter alia*, persons who knowingly engage in activities in furtherance of sabotage or terrorism for or on behalf of a foreign power; and persons who conspire with any person knowing that such person is engaged in specified activities.

The House amendments defined "agent of a foreign power", with respect to persons other than United States persons, to include persons who act in the United States as officers, *members*, or employees of foreign powers; and certain persons who act for or on behalf of foreign powers which engage in clandestine intelligence activities *in the United States* contrary to the interests of the United States. With respect to any person, including a United States person, the House amendment defined "agent of a foreign power" to include, *inter alia*, persons who knowingly engage in activities that are in preparation for sabotage or international terrorism for or on behalf of a foreign power; and persons who knowingly conspire with any person to engage in specified activities.

The conference substitute adopts the House definition, except that the definition with respect to persons other than United States persons includes members of groups engaged in international terrorist activities or activities in preparation therefor, rather than members of any foreign power. The conferees agree that surveillance of non-resident aliens who act as members of international terrorist groups may be necessary. The conferees note that a member of an international terrorist group will most likely not identify himself as such upon entering the United States, as would an officer or employee of a foreign power. In the latter instance, a copy of the person's visa application will usually suffice to show that he is acting in the United States as an officer or employee of a foreign power. However, in the case of a member of an international terrorist group, the government will most likely have to rely on more circumstantial evidence, such as concealment of one's true identity or affiliation with the group, or other facts and circumstances indicate that such person is in the United States for the purpose of furthering terrorist activities. The conferees also agree that the "preparation" standard for surveillance of United States persons does not mean preparation for a specific violent act, but for activities that involve violent acts. It may reasonably be interpreted to cover providing the personnel, training, funding or other means for the commission of acts of international terrorism. It also permits surveillance at some point before the dangers sought to be prevented actually occur. The remaining House provisions improve the clarity of the definition.

DEFINITION OF "INTERNATIONAL TERRORISM"

The Senate bill defined "terrorism" as activities which are violent acts or an act dangerous to human life which would be criminal under the laws of the United States or of any State if committed within its jurisdiction; and appear intended to achieve certain ends.

The House amendments defined "international terrorism" as activities that involve violent acts or acts dangerous to human life or property that are or may be a violation of the criminal laws of the United States or of any State, or that might involve a criminal violation if committed within the jurisdiction of the United States or any State. In addition to the apparent intent to achieve certain ends, the definition required that such acts occur totally outside the United States, or transcend national boundaries in certain ways.

The conference substitute adopts the House definition, modified to incorporate essentially the Senate criminal standard and to delete the words "or property." The conferees agree that the violent acts covered by the definition mean both violence to persons and grave or serious violence to property. The conferees also agree that surveillance of United States persons whose terrorist acts transcend national boundaries in certain ways may be necessary, but that the Senate criminal standard is more appropriate because domestic organizations may be included.

The conferees believe that the House standard "may be a violation" is redundant because the term "preparation" in the definitions of "foreign power" and "agent of a foreign power" permits surveillance at some point before the unlawful acts sought to be prevented actually occur, and because the definition of "agent of a foreign power" permits the surveillance of non-resident aliens who act in the United States as members of international terrorist groups regardless of whether or not such individuals may engage in unlawful acts.

DEFINITION OF "SABOTAGE"

The Senate bill defined "sabotage" as activities which would be prohibited by title 18, U.S. Code, chapter 105, if committed against the United States.

The House amendments defined "sabotage" as activities that involve or may involve a violation of chapter 105 of title 18, U.S. Code, or that might involve such a violation if committed against the United States.

The conference substitute defines "sabotage" as activities that involve a violation of chapter 105 of title 18, U.S. Code, or that would involve such a violation if committed against the United States. The conferees believe that the House term "may" is redundant because the term "preparation" in the definitions of "foreign power" and "agent of a foreign power" permits surveillance at some point before the violation actually occurs.

DEFINITION OF "FOREIGN INTELLIGENCE INFORMATION"

The Senate bill defined "foreign intelligence information," in part, as "information which relates to, and if concerning a United States person is necessary to, the ability of the United States to protect *itself* against" certain defined actions, and, as "information with respect to a foreign power or foreign territory which relates to, and if concerning a United States person is necessary to (i) the national defense or security of the nation; or (ii) the *successful* conduct of the foreign affairs of the United States . . . ."

The House amendments deleted the words "itself" and "successful".

The conference substitute adopts the House version.

DEFINITION OF "ELECTRONIC SURVEILLANCE"

The Senate bill's inclusion of wire communications intercepted within the United States in the definition of "electronic surveillance" concluded with the words "while the communication is being transmitted by wire."

The House amendments omitted these words from the otherwise identical provision.

The conference substitute adopts the House definition because it conforms with the separate definition of "wire communication" in the House amendments and contained in the conference substitute.

DEFINITION OF "MINIMIZATION PROCEDURES"

The Senate bill defined "minimization procedures" as procedures which are reasonably designed to minimize the acquisition and retention, and prohibit the dissemination, of any information concerning United States persons without their consent that does relate to specified interests; and to insure that national defense or foreign affairs information shall not be disseminated in a manner which identifies any United States person, without such person's consent, unless such person's identity is necessary to understand or assess the importance of information with respect to a foreign power or foreign territory or such information is otherwise publicly available. An exception cross-referenced later provisions allowing use of information that is evidence of a crime for law enforcement purposes.

The House amendments defined "minimization procedures," with respect to electronic surveillance, as specific procedures, which shall be adopted by the Attorney General, that are reasonably designed in light of the purpose and technique of the particular surveillance, to minimize the acquisition, retention, and dissemination of non-publicly available information concerning unconsenting United States persons consistent with the need of the United States to obtain, produce, and disseminate foreign intelligence information; and procedures that require that nonpublicly available national defense or foreign affairs information shall not be disseminated in a manner that identifies an individual United States person, without such person's consent, unless such person's identity is necessary to understand foreign intelligence information or assess its importance. A separate part of the definition allowed for the retention and dissemination of information that is evidence of a crime which has been, is being, or is about to be committed and that is to be retained or disseminated for the purpose of preventing the crime or enforcing the criminal law. In addition, the definition provided that the procedures, with respect to the warrantless surveillances authorized by section 102(a), require that no contents of any communication to which a U.S. person is a party shall be disclosed, disseminated, used, or retained for more than 24 hours unless a court order under section 105 is obtained.

The conference substitute adopts the House definition, with the following modifications. The procedures are to be reasonably designed to minimize the acquisition and retention, and prohibit the dissemination, of specified information. The conferees agree that the standard for dissemination should be higher than for acquisition and retention, but that the prohibition of dissemination should be reasonably designed to be consistent with the need of the United States to obtain, produce, and disseminate foreign intelligence information. The procedures regarding the national defense or foreign affairs information apply to the identity of any United States person, rather than individuals only. The conferees agree that the adjectival use of the name of a United States person entity, such as the brand name of a product, is not restricted by this provision because such information is publicly available. By "necessary" the conferees do not mean that the identity must be essential to understand the information or assess its importance. The word "necessary" requires that a knowledgeable intelligence analyst make a determination that the identity will contribute in a meaningful way to the ability of the recipient of the information to understand the information or assess its importance. The procedures also allow for the retention or dissemination of criminal evidence for law enforcement purposes. The conferees agree that such purposes include arrest, prosecution, and other law enforcement measures taken for the purpose of preventing the crime.

DEFINITION OF "UNITED STATES PERSON"

The Senate bill excluded corporations or associations from the definition of "United States person" if they also met any of the first five definitions of "foreign power".

The House amendments limited this exclusion to the first three definitions of foreign powers.

The conference substitute adopts the

House version. The effect is to include international terrorist groups substantially composed of U.S. citizens or permanent resident aliens within the definition of "United States person." This does not in any way prohibit surveillance of such a group if it meets the definition of 'foreign power". What it does is insure that the minimization procedure will apply to the surveillance of such a group, and that the intentional surveillance of the international communications of such a group in the United States, by intentionally targeting them, will require a court order and a judicial determination that the group is in fact a foreign power. (See section 101(f)(1) of the conference substitute.)

OTHER DEFINITIONS

The Senate bill included the Canal Zone within the definition of "United States," and adopted by cross-reference the definitions of aggrieved person," "wire communication," "person," "contents," and "State" contained in Chapter 119 of Title 18, United States Code.

The House amendments deleted the Canal Zone from the definition of "United States," and adopted separate definitions of the other terms for the Foreign Intelligence Surveillance Act so as to conform to the provisions of the Act.

The conference substitute adopts the House definitions.

AUTHORITY TO APPROVE ELECTRONIC SURVEILLANCE

The House amendments contained a provision, not found in the Senate bill, which authorized, upon Attorney General certification, warrantless electronic surveillances directed at communications exclusively between or among "official" foreign powers, as defined in section 101(a)(1), (2), or (3), or directed at acquiring technical intelligence from property or premises under the open and exclusive control of such foreign powers. These surveillances were to be conducted under minimization procedures promulgated by the Attorney General which met the definition contained in section 101(h) and which were reported to the Intelligence Committees at least 30 days prior to their effective date. Section 101(h)(4) of the House amendments also stated that such procedures must require that no contents of any communication of a United States person acquired from a surveillance authorized by section 102(a) could be disclosed, disseminated, used, or retained for longer than twenty-four hours unless a court order was obtained.

The conference substitute adopts the House provision with the following modifications.

The authority for warrantless surveillance of communications of "official" foreign powers is modified to require that the surveillance be solely directed at the aquisition of the contents of communications transmitted by means of communication used exclusively between or among "official" foreign powers. This change excludes the targeting of lines or channels of communications that are used both by foreign powers and by other persons. This is intended to make entirely clear what was intended by the original House language.

A provision is added requiring the Attorney General to certify that there is no substantial likelihood that the surveillance will acquire the contents of any communication to which a United States person is a party. This more accurately expresses the intent of the original House language.

Another requirement is added that the Attorney General assess compliance with the minimization procedures and report such assessments to the Intelligence Committees under the provisions of section 108(a). While the conferees did not retain the original House language of 108(b) requiring the intelligence committees to review all electronic surveillance, the conference substitute requires that the Attorney General report compliance with minimization procedures under section 102(a) to the committees so that they may assure themselves that minimization is properly conducted in this area where judicial review of minimization does not occur.

Finally, a provision is added to require the Attorney General immediately to transmit under seal to the court established under section 103(a) a copy of his certification. This provision also requires that such certificate be maintained under security measures established by the Chief Justice with the concurrence of the Attorney General and remained sealed, unless an application for a court order with respect to the surveillance is made under section 101(h)(4) or the certification is necessary to determine the legality of the surveillance under section 106(f). This provision was added to provide appropriate executive branch accountability for these surveillances under the provisions of section 102(a) consistent with the Senate preference for greater judicial involvement.

The conferees intend that both the Chief Justice and the Attorney General shall approve the security measure under which the sealed certifications are to be stored. Such measures may differ from those established under section 103(c) so as to take account of the greater sensitivity of the certifications. No court shall have jurisdiction to order that the sealed certification be unsealed for examination or review except in two circumstances: If an application for a court order with respect to the surveillance is made under section 101(h)(4), the judge to whom the application is made may examine the certification authorizing the surveillance. If a United States district court determines under the procedures of section 106(f) that the certification is necessary to determine the legality of the surveillance, the court may order that the certification be unsealed for review by the court. Such court order is final and binding, and therefore appealable by the Government, under section 106(h).

The conferees do not intend by this provision to authorize the Attorney General to direct electronic surveillance against a line or channel of communication substantially likely to carry conversations or messages of U.S. persons. The surveillance is not to be directed at any individual, even an agent of a foreign power. Instead, it may be directed only at "official" foreign powers themselves, that is, the communications of the foreign power or the property or premises of the foreign power. The Attorney General must certify that the surveillance is directed solely at communications of foreign powers, or at property or premises of foreign powers. He cannot make this certification if the surveillance is directed at any individual, or an agent of a foreign power, rather than at the foreign power itself. A court order is required for any surveillance that is directed at an individual, rather than at the communications, property, or premises of a foreign power.

The provision regarding communications "exclusively between or among" official foreign powers only empowers the Attorney General to authorize surveillance of those lines or channels of communications used by foreign powers exclusively to communicate among or between themselves. Since it is not foreseeable that U.S. persons would make use of such lines or channels of communications, the conferees have no reason to expect that the conversations or messages of U.S. persons will be subject to acquisition through a surveillance authorized under this subsection.

Additional protection is provided by sec. 101(h)(4) which requires, in the highly unlikely event of such acquisition, that any communication of a U.S. person be destroyed within 24 hours unless its retention is authorized by a court order. The conferees do not intend that this provision permit the Attorney General to authorize the surveillance of a line or channel of communication substantially likely to be used by U.S. persons on the theory that the surveillance is to be limited to a period of time when such line or channel is used exclusively for communications among or between "official" foreign powers.

The conferees do not intend the term "technical intelligence" to include spoken communications of individuals. Thus a surveillance that is directed solely at the acquisition of technical intelligence from property or premises under the open and exclusive control of an "official" foreign power does not include a surveillance intended to acquire spoken communications, whether or not passed telephonically. Further, the conferees intend that the acquisition of technical intelligence shall not include the use of a surveillance device for monitoring property or premises to observe individual United States persons.

Section 102(b) of the House amendments included language, not appearing in the Senate bill, that authorized the approval of electronic surveillance applications "notwithstanding any other law."

The conference substitute adopts the House version. The words "notwithstanding any other law" are intended to make it clear that electronic surveillance may be approved notwithstanding any other statute, such as section 1251 of title 28, United States Code, which grants the Supreme Court exclusive original jurisdiction over all actions against ambassadors of foreign states, or any treaty or international agreement.

DESIGNATION OF JUDGES

The Senate bill provided that the Chief Justice should publicly designate seven district judges constituting a special court with jurisdiction to hear applications for and grant orders approving electronic surveillance anywhere within the United States; and three additional judges from the United States district courts or courts of appeals to comprise a special court of review with jurisdiction to review the denial of application. Provisions were also made for written statements of reasons for decisions denying applications and for Supreme Court review of decisions of the court of review denying applications. Proceedings were to be conducted as expeditiously as possible, and the record of proceedings was to be sealed and maintained under security measures established by the Chief Justice in consultation with the Attorney General and the Director of Central Intelligence. The designated judges were to serve staggered, seven-year terms, and were not eligible for redesignation.

The House amendments provided that the United States district courts should have jurisdiction to receive application and issue orders for electronic surveillance. Proceedings were to be conducted as expeditiously as possible. If an application was denied, the court was to record the reasons for that denial and, upon the motion of the applicant, such reasons were to be transmitted under seal to the United States court of appeals.

The conference substitute adopts a compromise provision which grants nationwide jurisdiction to a court composed of seven judges publicly designated by the Chief Justice from seven different judicial circuits, who will exercise the jurisdiction granted to the court under this Act. Further, the Chief Justice shall designate three judges from the judges of the United States district courts or courts of appeals who shall constitute a court of review.

The conferees intend that the court shall sit continuously in the District of Columbia, that the designated judges shall serve by rotation determined by the Chief Justice, that they may be assigned to other judicial

duties in the District of Columbia which are not inconsistent with their duties under this Act, and that more than one judge shall be available at all times to perform the duties required by this Act. The conferees expect that the Chief Justice will consult with the chief judges of the judicial circuits in making designations of judges under this section.

The conference substitute is otherwise the same as the Senate provision, except that the requirement for sealing records is deleted. The conferees agree that the designated judges should have an opportunity to examine, when appropriate, the applications, orders, and statements of reasons for decisions in other cases. The conferees also agree that the security measures to be established by the Chief Justice shall include such document, physical, personnel, or communications security measures as are necessary to protect information concerning proceedings under this Act from unauthorized disclosure. Such measures may also include the use of secure premises provided by the executive branch to hear an application and the employment of executive branch personnel to provide clerical and administrative assistance.

CONTENTS OF APPLICATION

The Senate bill required that the application state the facilities or place at which the surveillance is directed and whether physical entry is required. If the target is an "official" foreign power, the Senate bill required no detailed statement of the nature of the information sought, but only a designation of the type of information according to the categories of the definition of "foreign intelligence information;" and no statement of the means of surveillance, except for a designation of the type of electronic surveillance according to the categories of the definition and whether physical entry is required.

The House amendments required the application to state "each of" the facilities or places at which the surveillance is directed, but not whether physical entry is required. The House amendments also required a statement, not contained in the Senate bill, of the coverage and minimization procedures applying to each device whenever multiple devices are used. If the target is an "official" foreign power, the House amendments required that the application contain such information about the surveillance techniques and communications or other information concerning United States persons likely to be obtained as may be necessary to assess the proposed minimization procedures.

The conference substitute adopts the House provisions requiring the application to state "each of" the facilities and the coverage and minimization procedures where multiple devices are used. It is contemplated that separate minimization procedures will be required for each device only where the placement or coverage of each device raises separate privacy considerations. The conference substitute adopts the Senate requirement that the application state whether physical entry is required. The conferees agree that physical entry may be authorized to effect electronic surveillance under this bill.

The conference substitute also adopts the provision of the House amendments requiring, in the case of "official" foreign powers, that the application contain information about the surveillance techniques and communications or other information concerning United States persons likely to be obtained as may be necessary to assess the proposed minimization procedures.

CONTENTS OF CERTIFICATION

The Senate bill required a certification by the Assistant to the President for National Security Affairs or an executive branch official appointed by the President with the advice and consent of the Senate. The certification was to include a statement of the duration of surveillance of an "official" foreign power.

The House amendments required a certification by the Assistant to the President for National Security Affairs and an executive branch official appointed by the President with the advice and consent of the Senate. The certification would not include a statement of the duration of surveillance of an "official" foreign power.

The conference adopts the Senate provision regarding certification by the Assistant to the President, and deletes from the certification the statement of duration of surveillance of an "official" foreign power. The conferees agree that the Director of the Federal Bureau of Investigation, who is appointed by the President with the advice and consent of the Senate, should not have to secure a certification from a White House official before obtaining the Attorney General's approval. Such a procedure could result in harmful delay in an emergency situation. The conferees also agree that the application itself is sufficient for the statement of duration.

JUDICIAL FINDINGS

Both the Senate bill and the House amendments contained a proviso insuring that protected First Amendment activities could not be the sole basis for approving a surveillance targeted againts a United States person.

The Senate bill placed this proviso in the definition of "agent of a foreign power". The House amendments placed it in section 105 (a), dealing with judicial findings, and extended its coverage to "foreign powers" as well as "agents of a foreign power" because groups composed substantially of U.S. persons can be considered foreign powers. The House version has been adopted.

CONTENTS OF ORDER

The Senate bill contained provisions generally paralleling its requirements for the contents of an application, including whether physical entry will be required, and a provision permitting the judge to direct a communications carrier or other person to provide all information, facilities, or technical assistance necessary to accomplish the electronic surveillance "in such a manner as will protect its secrecy. . . ."

The House amendments contained provisions generally paralleling their requirements for the contents of an application, and a similar provision regarding assistance which required that it be furnished *"unobtrusively and* in such a manner as will protect its secrecy. . . ."

The conference substitute adopts the House provisions generally paralleling the requirements for the contents of an application, the Senate provision regarding physical entry, and the Senate provision regarding assistance which omits the words "unobtrusively and." The conferees note that this is a change in wording from a similar provision in chapter 119 of title 18, United States Code. The change is intended to emphasize the increased sensitivity of the surveillances conducted under the Foreign Intelligence Surveillance Act and the corresponding need to maintain secrecy. However, the nature and scope of such assistance is intended to be identical to that which may be directed under section 2518(4) (e) of chapter 119.

EXTENSIONS

The Senate bill required ninety-day extensions for all surveillances except for one-year surveillances of "official" foreign powers. It provided that the judge may require the applicant to submit information, obtained pursuant to the original order or any previous extensions, as may be necessary to make new findings of probable cause. The Senate bill also provided that the judge may assess compliance with the minimization procedures.

The House amendments required ninety-day extensions for all surveillances, except for one-year surveillances of "official" foreign powers and one-year extensions for the other categories of foreign power if the judge found probable cause to believe that no communication of any individual United States person would be acquired during the period. The House amendments included no provision specifically allowing the judge to require submission of previously obtained information. The House amendments also provided that, at the end of the period of time for which electronic surveillance was approved by an order on an extension, the judge may assess compliance with the minimization procedures by reviewing the circumstances under which information concerning United States persons was acquired, retained, or disseminated.

The conference substitute adopts the House provisions, with the following modifications. One-year extensions are not authorized for the international terrorist group category of foreign powers, if the group is a United States person. In addition, the judge may assess compliance with the minimization procedures at or before the end of the period of time for which electronic surveillance is approved by an order or an extension.

Finally, the conferees believe that the Senate provision allowing the judge to require submission of previously obtained information is redundant, in view of the authority already granted to the judge in section 104 (d) to require the applicant to furnish such other information as may be necessary to make the determinations required for granting an extension.

EMERGENCY SURVEILLANCE

The Senate bill prohibited any use of information concerning United States persons that might be acquired from an emergency surveillance that a judge did not subsequently approve, except where the information indicates a threat of death or serious bodily harm to any person.

The House amendments contained a comparable provision, with an exception if the information may indicate a threat of death or serious bodily harm to any person.

The conference substitute adopts the Senate provision which omits the word "may." The conferees agree that an exception for any indication of such a threat is sufficient.

TESTING, DETECTION, AND TRAINING AUTHORITY

The Senate bill provided authority for the testing of electronic surveillance equipment and the detection of unlawful electronic surveillance. The testing provision required the approval of the Attorney General for tests extending beyond a period of ninety days.

The House amendments provided comparable testing and detection authority, with the addition of certain safeguards but deletion of the requirement of Attorney General approval for tests extending beyond ninety days. The House amendments also added a provision, not contained in the Senate bill, to provide authority for the training of personnel when such testing as may be authorized by the Attorney General does not provide sufficient opportunities for training.

The conference substitute adopts the House provisions, with the addition of the Senate requirement of approval of the Attorney General for tests exceeding ninety days. The conferees agree that this requirement shall result in Attorney General approval of testing which extends or will extend beyond a period of ninety days. The approval shall be for specified periods of time; and if these periods are exceeded, new approval shall be sought.

RECORDS RETENTION

The House amendments included a provision, not contained in the Senate bill, that

certifications of the Attorney General and applications and orders shall be retained for a period of ten years and stored at the direction of the Attorney General under security procedures approved by the Director of Central Intelligence.

The conference substitute retains the provision for ten year retention for oversight purposes, but does not require that storage be at the direction of the Attorney General because such document security measures as are appropriate under section 103(c) for applications and orders will be established by the Chief Justice in consultation with the Attorney General and the Director of Central Intelligence. Storage of certifications made under section 102(a) will be at the direction of the Attorney General except as otherwise provided in section 102(a)(3).

AUTHORITY TO USE INFORMATION

The Senate bill authorized use and disclosure of information concerning United States persons only for purposes specified in the definition of "minimization procedures" and in accordance with the minimization procedures, or for the enforcement of the criminal law if its use outweighs the possible harm to the national security.

The House amendments authorized use and disclosure of information concerning United States persons only in accordance with the minimization procedures.

The conference substitute adopts the House provisions. The conferees agree that these provisions are appropriate in view of the definition of "minimization procedures" in the conference substitute. The conferees believe that, even without a statutory requirement, there will be an appropriate weighing of criminal law enforcement needs against possible harm to the national security.

NOTICE OF USE OF INFORMATION IN LEGAL PROCEEDINGS

The Senate bill provided for notification to the court when information derived from electronic surveillance is to be used in legal proceedings.

The House amendments contained a comparable provision and also a provision, not contained in the Senate bill, requiring notice to the aggrieved person. The House amendments also contained a separate section relating to use by State or local authorities requiring notice to the Attorney General.

The conference substitute adopts the House provisions. The conferees agree that notice should be given to the aggrieved person as soon as possible, so as to allow for the disposition of any motions concerning evidence derived from electronic surveillance. The conferees also agree that the Attorney General should at all times be able to assess whether and to what extent the use of information made available by the Government to a state or local authority will be used.

SUPPRESSION MOTIONS

The Senate bill provided for motions to suppress the contents of any communication acquired by electronic surveillance, or evidence derived therefrom.

The House amendments provided for motions to suppress the evidence obtained or derived from electronic surveillance.

The conference substitute adopts the House provision. The conferees agree that the broader term "evidence" should be used because it includes both the contents of communications and other information obtained or derived from electronic surveillance.

IN CAMERA PROCEDURE FOR DETERMINING LEGALITY

The Senate bill provided a single procedure for determining the legality of electronic surveillance in a subsequent in camera and ex parte proceeding, if the Government by affidavit asserts that disclosure or an adversary hearing would harm the national security of the United States. The Senate bill also provided that, in making this determination, the court should disclose to the aggrieved person materials relating to the surveillance only where such disclosure is necessary to make an accurate determination of the legality of the surveillance.

The House amendments provided two separate procedures for determining the legality of electronic surveillance, if the Attorney General files an affidavit under oath that disclosure would harm the national security of the United States or compromise foreign intelligence sources and methods. In criminal cases, there would be an in camera proceeding; and the court might disclose to the aggrieved person, under appropriate security procedures and protective orders, materials relating to the surveillance if there were a reasonable question as to the legality of the surveillance and if disclosure would likely promote a more accurate determination of such legality, or if disclosure would not harm the national security. In civil suits, there would be an in camera and ex parte proceeding before a court of appeals; and the court would disclose, under appropriate security procedures and protective orders, to the aggrieved person or his attorney materials relating to the surveillance only if necessary to afford due process to the aggrieved person. The House amendments also provided that orders regarding legality or disclosure would be final and binding.

The conference substitute essentially adopts the Senate provisions, with technical changes and the following modifications. The in camera and ex parte proceeding is invoked if the Attorney General files an affidavit under oath. All orders regarding legality and disclosure shall be final and binding only where the rulings are against the Government.

The conference substitute adds the words "requiring review or" to the provision making orders final and binding. This change clarifies the intent of the House provision in conformity with section 102(a). The conferees intend that a determination by a district court that review of a certification by the Attorney General under section 102(a) is necessary to determine the legality of the surveillance shall be considered a final and binding order and thus appealable by the Government before the court reviews the certification. The court may order that the certification be unsealed for review if such review is necessary to determine the legality of the surveillance.

The conferees agree that an in camera and ex parte proceeding is appropriate for determining the lawfulness of electronic surveillance in both criminal and civil cases. The conferees also agree that the standard for disclosure in the Senate bill adequately protects the rights of the aggrieved person, and that the provision for security measures and protective orders ensures adequate protection of national security interests.

UNINTENTIONAL RADIO ACQUISITION

The Senate bill prohibited any use of the contents of unintentionally acquired domestic radio communications, if there is a reasonable expectation of privacy and a warrant would be required for law enforcement purposes, except where the contents indicate a threat of death or serious bodily harm to any person.

The House amendments contained a comparable provision, with an exception if the contents may indicate a threat of death or serious bodily harm to any person.

The conference substitute adopts the Senate provision which omits the word "may". The conferees agree that an exception for any indication of such a threat is sufficient.

CONGRESSIONAL OVERSIGHT

The Senate bill and the House amendments both required the Attorney General, on a semiannual basis, to fully inform the intelligence committees of each House concerning all electronic surveillance under the Act.

The Senate bill also stated that "nothing in this chapter shall be deemed to limit the authority and responsibility of the appropriate committee of each House of Congress to obtain such information as they may need to carry out their respective functions and duties".

The House amendments limited this reservation to the respective intelligence committees. The conference substitute adopts the Senate version.

Section 2528(b) of the Senate bill required the Senate Intelligence Committee to report annually to the Senate on the implementation of the Act, with recommendations as to whether it should be amended or repealed. The House amendments contained no similar provision.

Section 108(b) of the House amendments required the respective intelligence committees when, through review of the information provided by the Attorney General, they determined that a surveillance of a U.S. person produced no foreign intelligence information and the national security would not be harmed, to notify the target of such surveillance.

The conference substitute adopts a modified version of the Senate provision, requiring an annual review for only five years, and deletes the House provision.

Pursuant to the resolutions establishing each, both the Senate Select Committee on Intelligence and the House Permanent Select Committee on Intelligence, currently possess the authority granted in the deleted House provision. However, it may be appropriate to further delineate the authority in separate legislation. The conferees expect that the annual reviews to be conducted by the respective intelligence committees will fully examine this issue.

CRIMINAL PENALTIES

The Senate bill provided, by conforming amendment to title 18, United States Code, for criminal penalties for any person who, under color of law, willfully engages in electronic surveillance except as provided in this bill; for any person who willfully discloses, or endeavors to disclose, to any other person information obtained under color of law by electronic surveillance, knowing or having reason to know that the information was obtained through unlawful electronic surveillance; and for any person who willfully uses, or endeavors to use, information obtained through unlawful electronic surveillance.

The House amendments provided for separate criminal penalties in this Act, rather than by conforming amendment to title 18, for any person who intentionally engages in electronic surveillance under color of law except as authorized by statute. A defense was provided for a defendant who was a law enforcement or investigative officer engaged in the course of his official duties and the electronic surveillance was authorized by and conducted pursuant to a search warrant or court order of a court of competent jurisdiction.

The conference substitute adopts the House provision, modified to add the Senate criminal penalty for any person who discloses or uses information obtained under color of law by electronic surveillance, knowing or having reason to know that the information was obtained through electronic surveillance not authorized by statute. The conferees agree that the criminal penalties for intelligence agents under this Act should be essentially the same as for law enforcement officers under title 18.

CIVIL LIABILITY

The Senate bill provided, by conforming amendment to title 18, United States Code, that any person other than a foreign power or an agent of a foreign power (as defined with respect to officers or employees of foreign powers and certain other nonresident aliens) who has been subject to electronic surveillance, or about whom information has

been disclosed or used, in violation of the criminal penalty provisions, should have a civil cause of action against any person who so acted.

The House amendments provided for separate civil liability under this Act, rather than by conforming amendment to title 18. Any person other than a foreign power or an agent of a foreign power (as defined with respect to officers, members, or employees of a foreign power) who has been subjected to an electronic surveillance or whose communication has been disseminated or used in violation of the criminal penalty provisions was granted a cause of action against any person who committed such violation.

The conference substitute adopts the House provision, modified to grant a cause of action to any aggrieved person about whom information has been disclosed or used in violation of the criminal penalty provisions. The conferees agree that the civil liability of intelligence agents under this Act should coincide with the criminal liability. The conferees also agree that the House provisions regarding suits by certain non-resident aliens would have the same practical effect as the Senate provision.

AUTHORIZATION DURING TIME OF WAR

The House amendments contained a provision which would allow the President to authorize electronic surveillance for periods up to a year during time of war declared by Congress. The Senate bill had no comparable provision.

The conference substitute retains the House language but adds the further requirement that the Attorney General inform the intelligence committees of the facts and circumstances giving rise to the need for such authority, the scope of such authority, and the standards to be employed in exercising such authority.

The conference substitute adopts a compromise provision authorizing the President, through the Attorney General, to authorize electronic surveillance without a court order under this title to acquire foreign intelligence information for a period not to exceed fifteen calendar days following a declaration of war by the Congress.

The conferees intend that this period will allow time for consideration of any amendment to this Act that may be appropriate during a wartime emergency. The conferees also intend that all other provisions of this Act not pertaining to the court order requirement shall remain in effect during this period. The conferees expect that such amendment would be reported with recommendations within seven days and that each House would vote on the amendment within seven days thereafter.

CONFORMING AMENDMENTS

The Senate bill contained certain conforming amendments to existing law, including a provision regarding assistance by common carriers in the conduct of electronic surveillance that imposed civil liability for violations.

The House amendments deleted several of the conforming amendments, and expanded the class of persons who are covered by the provision regarding assistance in the conduct of electronic surveillance under this bill and chapter 119 of title 18, United States Code, to include "landlords, custodians, and other persons." This provision provided for notice to the Attorney General or other appropriate official when or if any person who is ordered to provide assistance to the Government in conducting electronic surveillance is required by legal process to disclose the fact of such assistance. It also afforded civil immunity to any person who provides such assistance in accordance with a court order or Attorney General certificate.

The conference substitute adopts the House provisions, with the addition of the Senate provision imposing civil liability upon a common carrier which provides assistance without a court order or Attorney General certificate. Deletion of certain conforming amendments is consistent with the decision of the conferees not to place the bill in title 18, United States Code.

EXCLUSIVE MEANS FOR ELECTRONIC SURVEILLANCE

The Senate bill provided that the procedures in this bill and in chapter 119 of title 18, United States Code, shall be the exclusive means by which electronic surveillance, as defined in this bill, and the interception of domestic wire and oral communications may be conducted.

The House amendments provided that the procedures in this bill and in chapter 119 of title 18, United States Code, shall be the exclusive statutory means by which electronic surveillance as defined in this bill and the interception of domestic wire and oral communications may be conducted.

The conference substitute adopts the Senate provision which omits the word "statutory". The conferees agree that the establishment by this Act of exclusive means by which the President may conduct electronic surveillance does not foreclose a different decision by the Supreme Court. The intent of the conferees is to apply the standard set forth in Justice Jackson's concurring opinion in the Steel Seizure Case: "When a President takes measures incompatible with the express or implied will of Congress, his power is at the lowest ebb, for then he can rely only upon his own Constitutional power minus any Constitutional power of Congress over the matter." *Youngstown Sheet and Tube Co.* v. *Sawyer*, 343 U.S. 579, 637 (1952).

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STROM THURMOND,
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Managers on the Part of the Senate.

Mr. McCLORY. I submit at this point dissenting views on the conference report:

DISSENTING VIEWS ON THE CONFERENCE REPORT TO ACCOMPANY S. 1566, THE FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978

The Foreign Intelligence Surveillance Act was passed by the House only after more than 12 hours of debate. All provisions of the bill were subjected to searching scrutiny and strenuous debate, and a number of amendments were adopted—some by bipartisan agreement. We find the treatment that the conferees gave to the provisions of the House bill as they differed from those of the Senate bill—especially those provisions contained in amendments agreed to on the House Floor—to be extremely disappointing. The conference substitute goes significantly beyond the bill as it passed the House by placing additional restrictions on the use of electronic surveillance to gather foreign intelligence information.

While we have serious reservations about the bill in general, as outlined below, we strongly question the resolution reached by the committee of conference on the points of disagreement between the two Houses. We believe that the conference substitute does not address the sentiments of the House as they were expressed during the Floor consideration of the legislation. This is especially true with regard to certain activities of the National Security Agency, the use of a "Special Court" to issue warrants authorizing surveillance, and the denial, by implication, of the President's constitutional power to engage in foreign intelligence electronic surveillance.

We therefore urge rejection of the conference report.

NSA ACTIVITIES

The legislation as introduced in both Houses required a warrant to authorize all foreign intelligence electronic surveillance. While the Senate bill retained this across-the-board warrant feature, the House bill, as passed, did not.

During the full Permanent Select Committee on Intelligence markup of the bill, an amendment was offered by Congressman McClory exempting from the warrant requirement certain highly sensitive activities of the National Security Agency (NSA). The McClory amendment—referred to as Amendment IX—allowed for warrantless electronic surveillance if the Attorney General certifies that the surveillance is "solely directed at communications exclusively between or among foreign powers." In other words, a warrant would not be required to authorize a tap on a dedicated phone line between a foreign embassy and its home government. Amendment IX was adopted by the Committee with the complete support of the Director of NSA, Admiral B. R. Inman, so as to protect from a compromise of security highly secretive methods of electronic surveillance. As passed by the House, Amendment IX certifications were to be maintained by the Executive Branch for 10 years.

The conference substitute requires that all Amendment IX certifications be transmitted under seal to the "Special Court" established by the bill. The certifications would be maintained under security measures adopted jointly by the Attorney General and the Chief Justice, while the bill provides for restricted judicial access to the actual certifications.

All should realize that if everything works according to the plans of the Administration, the changes to Amendment IX adopted by the conferees will prove to be no more than a charade. A sealed envelope containing the Amendment IX certification will be shown to a judge of the "Special Court". Under the terms of S. 1566, the judge is not permitted to unseal the envelope unless one of two unlikely situations occur. Otherwise, the judge has no idea who the actual target of the surveillance is—or even if the envelope contains anything at all! After the judge has finished examining the exterior of the envelope, the envelope will be returned to the Executive Branch for safe keeping. Even if the court here is serving a judicial function under Article III of the Constitution—which we doubt—it certainly is serving no practical, safeguarding purpose.

It should also be understood that by adopting the proposed change to Amendment IX, the conferees chose to express the view—by clear implication—that the President has no inherent authority to engage in electronic surveillance for foreign intelligence purposes in the United States. This proposed change would require that even when the President is dealing directly with an official foreign power—with "no substantial likelihood" that a United States person will be directly affected—the President must still "touch base" with the third branch of the government, the Judiciary.

While some will argue, simply, that the requirement of transmitting the certification, under seal, to the court does not entail any additional security risks, one could well interpret this additional requirement as an affront to an undeniable power of the

President under Article II of the Constitution—the power to conduct relations with foreign governments.

SPECIAL COURTS

The Senate bill provided for a Special Court comprised of seven sitting, federal district court judges and a special court of review with three sitting, federal court of appeals judges, all designated by the Chief Justice. While the House bill, as reported by the Permanent Select Committee on Intelligence, contained a provision for a Special Court with at least 11 judges and a Special Court of Appeals with six judges, an amendment was offered by Congressman Ertel to strike this provision. As an alternative, the amendment required that all applications for warrants approving foreign intelligence electronic surveillance be heard before regular district court judges and that all appeals be heard before the regular courts of appeals. This amendment was adopted by a vote of more than 2-1. (224-103).

As expressed during the debate on the Ertel amendment, the Congress should not establish a special court to deal exclusively with intelligence matters. In the Omnibus Crime Control and Safe Streets Act of 1968, the Congress authorized the use of electronic surveillance to combat organized crime as well as other violations of the federal criminal laws. That Act requires a warrant to be obtained from a regular, federal district court judge before electronic surveillance can take place. Inasmuch as the most sensitive foreign intelligence electronic surveillances have been exempted from the warrant requirement under S. 1566, those that do require a warrant could well be brought before the regular federal district courts. As Attorney General Griffin Bell testified before the House Permanent Select Committee on Intelligence on January 10 of this year:

"It may be seven judges is too few. I can see how you would need probably three to five in the Washington area. You could use Virginia, the District of Columbia, and Maryland to get a cross-section or balance; but if you wanted some more just to have them stationed around over the country, we probably ought to have more than seven, have one in Florida, one in Texas, one in Illinois, so forth, just when we needed them."

Apparently, at that time, the Attorney General saw no problems with having judges sitting in places throughout the country authorizing foreign intelligence electronic surveillance.

The conference substitute rejects absolutely the House position—and actually goes one step further. It adopts the Senate provisions for "Special Courts", though one cosmetic change has been made—the word "special" has been removed. Otherwise, the court provided for by the conferees is more of a "Special Court" than the "Special Court" rejected by the House:

(1) Whereas the rejected House provision called for eleven judges on a Special Court, the conference substitute provides for only seven judges.

(2) Whereas the rejected House provision called for six judges on the Special Court of Appeals, the conference substitute provides for only three judges.

(3) Whereas the rejected House provision required that the court hearing warrant applications be composed of at least one judge from each of the eleven judicial circuits, the conference substitute does not require that the judges be chosen from any particular geographic region.

Some have stated that two integral parts of intelligence gathering—speed and security—could not be met if warrant applications would have to be made to courts sitting outside of Washington, D.C. While a superficial look at the situation might indicate that this argument has some merit, closer scrutiny shows it to exhibit a lack of understanding of specifics involved.

It should surprise no one that there are very few surprises in electronic intelligence gathering. The vast majority of the surveillances are engaged in as ongoing activities. Furthermore, the activities subject to surveillance under the bill are, for the most part, geographically "bunched" in a few recognized areas. Therefore, the vast majority of situations necessitating foreign intelligence electronic surveillance can be planned for—with briefed judges and secure facilities.

Where the time constraints cannot be met, the 24-hour emergency provision of the bill could be used. However, it should be remembered that if a tap is needed in Minneapolis, Minnesota—for instance—even if approved by a court in Washington, instructions must still be teletyped to the FBI office there. Then, plans must be made to effectuate the tap. Certainly, the lines from Washington to Minneapolis are "secure", and, likewise, a "secure" room could be found in the FBI office where the operation could be discussed and which could serve as a listening post.

Furthermore, while much of the information needed by the FBI to install the tap comprises what is necessary for a court application, any additional information needed could certainly be included in the teletyped message. Finally, as for security for the court proceeding, the local federal district court judge could be brought to the FBI office to hear and rule on the application.

It seems that it would have been entirely practicable for the conferees to have adopted a court provision at least approximating the terms of the Ertel amendment.

PRESIDENT'S INHERENT POWER

During consideration of the bill on the House Floor, Congressman Caldwell Butler offered an amendment stating that notwithstanding the provisions of the bill, the President might still engage in foreign intelligence electronic surveillance pursuant to his authority found in Article II of the Constitution. After an hour and a half of debate on the amendment, compromise language was reached—and ultimately agreed to—such that the provisions of the bill would be considered the "exclusive statutory means" by which foreign intelligence electronic surveillance could be authorized. The Senate bill did not contain such a provision.

The conference substitute adopts the Senate position, striking the word "statutory" so that the bill provides the "exclusive means" for authorizing foreign intelligence electronic surveillance. That this issue was so quickly conceded despite the fact that the Butler amendment was agreed to on the Floor by the bill's managers, indicates that inadequate resolve was exhibited by the House conferees during the conference. More importantly, it evidences a lack of appreciation of the prerogatives granted by the Constitution to the Executive and the proper relative roles to be played by the three branches of government.

The judicial warrant approach in the bill is premised on the proposition that the Fourth Amendment to the Constitution presumptively requires a warrant for every search. The underlying reasoning for this assertion is the Supreme Court's holding in the Keith case, where they ruled that a warrant is required for electronic surveillance employed for domestic security purposes. However, the warrant requirement in the Keith case was limited to domestic security cases, as the courts made it clear that they were in no way addressing the issues involved in foreign intelligence electronic surveillance.

Not only is there no existing case authority for vesting the federal courts with jurisdiction to authorize or refuse to authorize foreign intelligence gathering activities as proposed in the conference substitute, but the U.S. Supreme Court has explicitly rejected such authority in *Chicago & Southern Air Lines Inc.* v. *Waterman Steamship Corp.*, 333 U.S. 103, 111 (1948) holding:

". . . It would be intolerable that courts without the relevant information, should review and perhaps nullify actions of the Executive taken on information properly held secret. Nor can courts sit in camera in order to be taken into executive confidences. But even if courts could require full disclosure, the very nature of executive decisions as to foreign policy is political, not judicial. Such decisions are wholly confided by our Constitution to the political departments of the government, Executive and Legislative. They are delicate, complex, and involve large elements of prophecy. They are and should be undertaken only by those directly responsible to the people whose welfare they advance or imperil. They are decisions of a kind for which the Judiciary has neither aptitude, facilities nor responsibility and which has long been held to belong in the domain of political power not subject to judicial intrusion or inquiry."

Even the most recent espionage case *United States* v. *Humphrey and Troung*, (Crim. No. 78-25-A, E. D. Va., May 19 1978), stated:

"It is not at all certain that a judicial officer, even an extremely well-informed one, would be in a position to evaluate the threat posed by certain actions undertaken on behalf of or in collaboration with a foreign state . . . The Court is persuaded that an initial warrant requirement (for foreign intelligence electronic surveillance) would frustrate the President's ability to conduct foreign affairs in a manner that best protects the security of our Government."

All the federal judicial circuits which have considered the issue of the inherent constitutional right of the President to authorize warrantless electronic surveillance—the 3rd, 5th, and 9th Circuits—have held that such power does exist.

By stating that this legislation provides the "exclusive means" for authorizing foreign intelligence electronic surveillance, this legislation attempts to do that which it cannot do: transfer a constitutionally granted power from one branch of government to another. For the Congress to place the President in a position where by exercising his inherent authority he would be committing a violation of a federal statute is to act irresponsibly.

AUTHORIZATIONS DURING TIME OF WAR

The House version of the bill contained a provision which exempted from the warrant requirement foreign intelligence electronic surveillance undertaken during a war declared by the Congress. It should be noted that this would not have allowed wholesale electronic surveillance, for the targeting of the surveillance would still be restricted by the terms of the bill. Rather, the President could order such surveillance without first receiving permission from a court. The Senate bill did not have such a provision.

The conferees—apparently—and unbelievably—finding that this would give the President dangerous discretion in time of war—deleted the House provision. In its place, the conferees substituted a provision allowing for a fifteen-day suspension of the warrant requirement during wartime.

To so tie the hands of the President—the Commander in Chief of our Armed Forces—during a time of declared war leaves us incredulous.

INTERNATIONAL TERRORISM

The Senate bill allowed for electronic surveillance of foreign based terrorist groups. Because of the difficulty of actually proving

that a terrorist group is based in any particular country—or for that matter not within the United States—and because it is quite possible for a terrorist group to be based in the United States, the House bill provided for electronic surveillance of international terrorist groups—groups whose activities take place in a foreign country or whose activities transcend national boundaries, even if the group is based in the United States.

The conference substitute provides that international terrorist groups may be subjected to surveillance—but, the acts of the group would have to actually constitute a crime or be considered criminal if they took place in the United States:

Under the House version of the bill it would have to have been shown that the activities of the group "are or may be in violation of the criminal laws of the United States or of any State, or that might involve a criminal violation if committed within the jurisdiction of the United States or any State". The conference substitute strikes "or may be" and "might". This would require the government to make out a prima facie case regarding the terrorist group's activities: a judge would have to be shown that an indictment brought against the members of the group would be supportable on its face. While it might be reasonable to require a prima facie criminal showing if the group may be domestically based, an exemption should be allowed—and a lesser standard provided for—if it can be shown that the group is, in fact, based in a foreign country.

We find it impossible to understand why the conferees chose to make more strict the standards for surveilling foreign terrorists.

MEMBER OF A FOREIGN POWER

The Senate bill provided that a non-U.S. person is considered an agent of a foreign power if he—

"(A) acts in the United States as an officer or employee of a foreign power."

The House bill additionally allowed for a "member" of a foreign power to be considered an agent of a foreign power.

The conference substitute weakens the term "member" in section 101(1)(a) by applying it only to "members of groups engaged in international terrorist activities or activities in preparation therefor".

This exempts from surveillance "members" of "foreign powers" other than terrorists that may visit the United States. For example, members of non-Soviet bloc communist parties or trade unions (such as the Hong Kong Seaman's Union) have been used as couriers for Soviet bloc intelligence services. In order to electronically surveil such a person, the FBI would have to prove to the judge that this individual has committed or is about to commit criminal espionage in the United States. With the member provision, it would only be necessary to show his membership in the organization.

The CIA report on Soviet and KGB use of the media, printed in the House Permanent Select Committee on Intelligence "Hearings on the CIA and the Media", lists a number of International Communist Front Organizations.

According to the CIA report (P. 10)

"Front gatherings serve as agent enlisting grounds for Soviet and bloc intelligence services. Front meetings in the USSR and Eastern Europe are ideal for this purpose because bloc intelligence officers can control the circumstances of their meetings with likely recruits, with no fear of surveillance by or interference from non-Communist security services. Most of the agents enlisted by Communist bloc intelligence services over the years were targeted while on visits to the Soviet bloc, some while in attendance at front meetings or on free vacations the bloc offered in connection with these gatherings."

Members of these groups, such as the World Peace Council and the World Federation of Democratic Youth, frequently visit the United States. We cannot subscribe to a bill which imposes on electronic surveillance of foreigners restrictions greater than those contained in the legislation as it passed the House.

NATIONAL SECURITY ADVISOR AND/OR ANOTHER OFFICIAL

The bill requires that, included with the court application for electronic surveillance, a certification be made regarding certain critical facts. The Senate version required that the certification be made "by the Assistant to the President for National Security Affairs or an executive branch official (confirmed by the Senate)". The House bill was amended on the Floor to require that both the Assistant and another official make the certification.

The conference substitute adopts the Senate "or" requirement. For the bill's proponents, this is somewhat hypocritical:

(1) The proponents of S. 1566 claim they want to establish responsibility, yet here they want only one certifying official, not two.

(2) The proponents claim they want to establish accountability, yet the only certifying official—the President's National Security Advisor—is accountable to no one but the President—

(a) if the target of surveillance is a foreigner, the court must accept the certification on its face (for a U.S. person target, the court must accept it unless it is "clearly erroneous"); and

(b) the President's National Security Advisor is not subject to being called to testify before congressional committees.

Some of the bill's proponents have said that to require a confirmed official in addition to the National Security Advisor "would be like a slap in the face to the President". Well, if that is true, then what can one say about the entire bill?

CONCLUSION

We submit the above criticisms so as to indicate the maltreatment by the conference committee of the Foreign Intelligence Surveillance Act as it was passed by the House. What was a less than satisfactory bill to begin with now constitutes a piece of legislation which should not be enacted into law.

BOB WILSON.
ROBERT MCCLORY.

CONFERENCE REPORT ON H.R. 12932, DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS

The SPEAKER pro tempore (Mr. SIMON). The pending business before the House is the motion to recede and concur in Senate amendment number 49 on the conference report on the bill, H.R. 12932.

In control of time are the gentleman from Illinois (Mr. YATES), who has 9 minutes remaining, and the gentleman from Pennsylvania (Mr. MCDADE), who has 27 minutes remaining.

Mr. YATES. Mr. Speaker, may we have order in the House?

The SPEAKER pro tempore. The point is well taken.

The Chair recognizes the gentleman from Pennsylvania (Mr. MCDADE).

Mr. MCDADE. Mr. Speaker, I yield 30 seconds to the gentleman from Vermont (Mr. JEFFORDS).

Mr. JEFFORDS. Mr. Speaker, I rise in opposition to the Senate provision in this legislation which would effectively exempt certain Colorado River projects from a basinwide environmental impact statement as required by the National Environmental Policy Act.

This ill-conceived amendment, adopted by the Senate, would set an ominous precedent for exemptions from the legal requirements of NEPA. It is clear that the provisions of NEPA do require a comprehensive EIS, and this was affirmed by Kleppe against Sierra Club in 1976. No other river basin has a similar degree of Federal involvement as does the Colorado River Basin, and a basinwide assessment is the only basis on which sound, rational planning can rest. A comprehensive EIS would not be a hindrance to completion of these projects, it would be complimentary. In my own region of the country an excellent comprehensive river basin EIS has been done for the Connecticut River Basin. Rather than being an obstruction, it has proved to be an invaluable management tool.

What concerns me the most about this effort is that the Appropriations Committee did not hold hearings on this matter, nor was the Merchant Marine Committee, which has jurisdiction over NEPA, even notified about it. Surely, an amendment like this with such far-reaching ramifications deserves careful, thoughtful consideration by the committee with expertise in these matters.

The most ironic part of this scheme is that we could end up wasting tremendous amounts of money by proceeding with these projects without waiting for the basinwide EIS. The EIS could indicate severe environmental impacts. If so, it would be much more prudent to await the results of an assessment and have the opportunity to revise project plans before construction begins.

There are very serious procedural and institutional reasons to oppose this substantive legislative amendment on an appropriations measure. Aside from those considerations, however, it is simply bad policy, and this House has a responsibility to reject this rash assault on NEPA.

Mr. MCDADE. Mr. Speaker, I yield 3 minutes to the gentleman from New Jersey (Mr. FORSYTHE).

Mr. FORSYTHE. Mr. Speaker, I rise in opposition to amendment No. 49 in disagreement to the Interior appropriations conference report.

If adopted, the amendment would constitute a major change in the National Environmental Policy Act of 1969. The amendment was never the subject of any hearings, but originated on the floor of the other body during the debate on passage of a bill not directly involving NEPA, the fiscal 1979 Interior Department authorization bill.

Apparently, the amendment is intended to counter a lawsuit filed under NEPA. The lawsuit, Environmental Defense Fund against Andrus, seeks to require the Secretary of the Interior to carry out his legal duty under NEPA, to carry out a comprehensive environmental impact statement on water resource projects in the Colorado River Basin. Such studies are mandated under NEPA,

and are essential to the wise management of a system as complex as the Colorado River Basin. Within such a system, existing and future projects must be coordinated and their cumulative impacts considered for the most efficient, productive and environmentally sound use of the system's resources. This is precisely the objective of the National Environmental Policy Act of 1969. The heart of the matter seems to be the fear that an injunction might be issued in connection with Environmental Defense Fund against Andrus. It is feared that all projects in the Colorado River Basin could be stopped as a result of such an injunction. What are the facts?

I have before me a copy of the complaint filed in Environmental Defense Fund against Andrus. It is titled "Complaint for Declaratory Injunctive and Mandatory Relief." In its introduction, the complaint states that the civil suit has been filed for the purposes of requiring the Department of the Interior and its Bureau of Reclamation to prepare a comprehensive environmental impact statement analyzing existing and future water resource projects and operations in the Colorado River Basin and to enjoin construction of new Federal water resource projects in the basin until the environmental impact statement is completed. I want to call my colleague's attention to the use of the word "new" in describing the Federal water resource projects which might be enjoined should the plaintiffs in the case find it necessary to actually request an injunction. Throughout the complaint, the plaintiffs in the case make it very clear that they are concerned about major new water projects in the basin being constructed without the legally required comprehensive environmental impact statement.

The plaintiffs' third prayer for relief asks that the court grant injunctive relief restraining defendants from going forward in any way with new water resource projects in the Colorado River Basin. However, the plaintiffs specifically exclude certain units of the Colorado River Basin's salinity control project from inclusion in this prayer for injunctive relief. As a result of this carefully drafted prayer for relief, only nine projects could be considered to be "new water resource projects in the basin" as that phrase is used in the plaintiffs' prayer for relief. The question we must now ask is, "What is the likelihood of any of these projects being affected by the lawsuit filed against the Secretary of the Interior?"

First, we should note that inclusion of a prayer for injunctive relief in the complaint filed in a lawsuit does not result in an injunction being granted. Specific legal steps must be undertaken before an injunction can be granted by a court. The plaintiffs in Environmental Defense Fund against Andrus have not taken any such steps. Furthermore, I am advised that they do not intend to seek injunctive relief in this case unless funds are denied for the carrying out of the legally required comprehensive environmental impact statement.

Had the plaintiffs' intention been simply to stop all projects within the Colorado River Basin, they would not have drafted their prayer for relief in its present form. They would not have limited the scope of any possible injunction to new projects. Further, they would not have exempted projects having to do with the Colorado River Basin salinity control program. If stopping their projects were their objective, they would have undertaken to obtain an injunction immediately upon filing their lawsuit in June of 1978.

The circumstances forced the plaintiffs to actually seek an injunction from the court, nine projects slated to begin construction during the next 2 years might be affected. These projects are all in the planning stage at the present time. Five of them are now in the process of undergoing site specific environmental impact statements. This indicates that they are at a very preliminary stage of development and may, in fact, not even reach the stage at which project construction would begin before a comprehensive environmental impact statement would be completed. Many factors could still influence the time when construction could begin on any of these nine projects. It cannot be stated categorically that any of these projects will, in fact, be delayed by the carrying out of a comprehensive environmental impact statement as required by law.

It is interesting to note that the environmental impact statements done on the four other projects which could be affected by this lawsuit do not contain any examination of possible cumulative impacts or basinwide impacts of such projects. I am told that one of these environmental impact statements even expressly states that it defers such considerations in favor of the full exposition of basinwide impacts which would be developed in the pending comprehensive environmental impact statement.

I find this interesting for two reasons. First, it shows that the Department of the Interior recognizes its legal obligations to prepare a comprehensive basinwide environmental impact statement. Second, it is interesting because it lends further credence to the plaintiffs' assertion that they only desire to see an environmental impact statement done and that they do not desire to simply stop the projects. Had they desired to simply stop projects, one would assume that they would have sued to stop each of these four projects on the basis of the insufficiency of their site specific environmental impact statements.

The parties in the lawsuit under discussion have assumed that the comprehensive environmental impact statement can be carried out for the Colorado River Basin projects within the next 2 years. This assumption appears to be realistic. In September 1977, the Department of the Interior published notice of its intent to prepare such a statement. Hearings were held in the Colorado River Basin area in the fall of 1977. An outline was prepared of the subjects to be contained within the environmental impact statement. I am informed that contracts were even let for some of the studies necessary to complete the environmental impact statement. This makes it clear that the Department of the Interior would not be starting from scratch if they are allowed to continue the comprehensive environmental impact statement process. They had, in fact, taken many important steps along the road to completion to the environmental impact statement when funds were denied them on a technicality nearly a year ago.

In summary, no project presently underway in the Colorado River Basin should be stopped or even slowed down as a result of the lawsuit, Environmental Defense Fund against Andrus. There is no factual basis for any claim that projects not yet substantially underway will be slowed down or stopped as a result of the suit, because no injunction has been or will be sought if the comprehensive EIS required by law proceeds expeditiously. The comprehensive EIS will examine alternatives to new projects with the intent of determining if they represent the best, most cost-effective and environmentally sound way to use the resources of the basin. If the comprehensive EIS shows that any present project can be improved or that different new ones should be built to accomplish the best, most cost-effective and environmentally sound use of the basin's valuable water resources, then that should be—no, must be done in the public interest. To proceed without such a comprehensive analysis is to risk wasting very large sums which the Treasury can ill afford. The future of the Southwest depends on our present ability to plan wisely for use of water from the Colorado River. We fail to do our job if we do not insist that the comprehensive, basinwide environmental impact statement be done. We fail to do our job if we insist on sinking millions of tax dollars into planned projects which may not, in fact, best meet the needs of the Colorado River Basin and which might have to be stopped after much tax money has been converted into concrete and steel.

The comprehensive environmental impact statement for the Colorado River Basin was started in 1977. I ask my colleagues to join me in voting against the amendment before us so that the statement can be expeditiously completed.

Mr. McDADE. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Arizona (Mr. RUDD).

Mr. RUDD. Mr. Speaker, I rise in support of the conference report provision containing the Senate amendment to make clear the intent of Congress as to basinwide environmental impact statements.

This provision will allow construction work to continue on congressionally authorized water projects in the Colorado River Basin which have already had final environmental impact statements filed.

Several environmental groups are now attempting to stop these projects through a lawsuit that asks the courts to impose a new requirement of an environmental impact statement on the entire river basin.

This lawsuit, for all intents and purposes, seeks to abrogate all that has been committed in the past by the Federal Government and the seven States of the Colorado River Basin.

If the court should now interpret the National Environmental Policy Act to require a basinwide assessment in addition to the final impact statements that have already been completed, the people of this country will be severely injured through the denial of the benefits these projects will provide and the added costs that they will have to pay as the result of the delay.

Keep in mind that this is a test case. If the lawsuit is successful in the Colorado River Basin, you can be assured that the same requirements will be pursued for every river basin in this country and that will ultimately effect every single water project now in progress.

There are presently 20 projects in the Colorado River Basin that have been authorized and are either under construction or in the planning phrase.

Among these are the central Arizona project, the central Utah project, and the southern Nevada water project.

Environmental impact statements have been completed on each of these projects individually under the law as required since 1970, at enormous expense in terms of both time and money.

In the case of the central Arizona project, over $2 million has been expended over a period of almost 5 years to complete a thorough environmental impact statement.

To now require a basin wide impact statement would mean a delay of another 2 or 3 years and the expenditure of millions of dollars more for largely a duplication of what has already been done.

Mr. Speaker, it is up to the Congress to make the law, not the courts.

Clearly Congress should now act on requirements of the National Environmental Policy Act as to basin wide environmental impact statements.

If it is the will of the Congress that such are required, then do so in a manner that operated prospectively so that the proper planning and analysis can be made in an orderly manner, without waste of time and money and injury to those to whom commitments have been made.

Mr. YATES. Mr. Speaker, I yield 5 minutes to the gentleman from Arizona (Mr. UDALL).

Mr. UDALL. Mr. Speaker, the opponents of the motion to recede and concur with the Senate make some valid points. The National Environmental Policy Act is a good piece of legislation, and the basic goals that it sets out ought to be maintained. I also have to agree that this is a clumsy way in which to legislate. And yes, I would say that environmental impact statements have performed a necessary role in the past.

They talk about the threat of injunction as being largely hypothetical, and I would have to agree that at this point it is. Yet, Mr. Speaker, the threat of drought in Arizona is not hypothetical. We have not heard how cracks are beginning to appear in the surface of the Earth's crust around Phoenix. As underground reservoirs are depleted of water, the land literally is sinking. It has not been explained that the city of Tucson, my hometown, derives every drop of water it uses from deep wells, which fall deeper and deeper every year. In some cases one can see dead trees on residential streets where the water table has literally fallen away from the root level.

I will not stand here and pretend that we have an elegant solution to this stranglehold in which we find ourselves. It is not my intent to tarnish or make war on that landmark of responsible environmental concern, the National Environmental Policy Act. By and large, it works, and I want to support it.

But, Mr. Speaker, each and every project that could be halted by this lawsuit already has an impact statement prepared for that project. The Interior Department could not have started these projects without an environmental impact statement even if it wanted to because it would have been breaking the law. The lawsuit that is causing all this anxiety threatens to enjoin the construction of several principal features of the central Arizona project. One of these is the Havasu Pumping Plant. This will be the facility that lifts Colorado River water into the aqueduct that carries the water to central Arizona.

Up to today, we have spent $470 million on this project. It is one-third finished. If I were to stand by at this stage and watch an injunction bring this project to a halt, I would be turning my back on 8 years of political life on this project. This is the one facility that will deliver water to central Arizona. Let me repeat, the environmental impact statement on the Havasu Pumping Plant has already been written, has already been filed, is all done.

The point I am trying to make, Mr. Speaker, is that it is mistaken to set the clear wisdom of writing impact statements against the damage that could come from delay of the central Arizona project when these impact statements already exist. The very harsh realities, Mr. Speaker, are that the basinwide impact statement would probably take at least 3 years to complete. The cost of the project would go up by $300 million in that time; another $20 million would be required just to protect and maintain the facilities already built.

Mr. YATES. Mr. Speaker, will the gentleman yield for a question?

Mr. UDALL. I yield to the gentleman from Illinois.

Mr. YATES. Does the gentleman then contend that there should be no basinwide impact statement?

Mr. UDALL. No, I am for one. I hope one is written and I hope one is done, but I do not want it done at the expense of this project.

In the end, the kind of delay we would have if we stopped until the basinwide impact statement was written would be in the delivery of water to the hard-pressed cities of Phoenix and Tucson for another 4 years or 3 years at least.

We misplace our concern when we raise the specter of water shortages where the reservoirs on the Colorado have more than 47 million acre-feet in reserve. We misplace our concern to support the expansion of environmental impact requirements at the expense of projects whose wisdom has been probed and debated and ascertained in this Congress over the last two or three decades.

Mr. Speaker, I urge that we recede and concur in the Senate amendment.

Mr. SANTINI. Mr. Speaker, will the gentleman yield?

Mr. UDALL. I yield to the gentleman from Nevada (Mr. SANTINI).

Mr. SANTINI. Mr. Speaker, I appreciate the gentleman yielding.

I am concerned and very concerned about the legal consequences of what is proposed here, the basinwide environmental impact study.

If the gentleman will yield further, it seems to me that study is and becomes the immediate subject of a potential injunction. Assume for a moment that is the order of the court, that the basinwide study is mandated. Assume further that all new projects are immediately brought to a halt because of the consequence of that judicial order. Assume further another lawsuit is brought—which I do not believe is improbable and I think it is far more likely than not—to stop all ongoing projects because they, too, are subject to the same infirmity of the judge's previous order; that is, they do not have environmental impact statements.

The SPEAKER pro tempore. The time of the gentleman from Arizona has expired.

Mr. McDADE. Mr. Speaker, I yield 2 minutes to the gentleman from Nevada (Mr. SANTINI).

Mr. SANTINI. Mr. Speaker, I thank the gentleman from Pennsylvania for yielding.

So ongoing projects, too, are subject to the same legal liability.

The contention has been offered that this judicial action only affects the Colorado River Basin because of its unique Federal interest. I doubt there is a river basin in the United States that would be exempt from the "major Federal action" requisites of NEPA.

The provisions of the National Environmental Protection Act can be stretched to apply to any major river basin. We must examine the dilemma within the Colorado River Basin. If a basinwide EIS is mandatory in the Colorado River Basin then that requisite can be extended to any other river basin in the United States of America. If we can say an environmental impact study is requisite for the entire basin to comply with the NEPA, we must understand the far-reaching consequences of this decision. We have the precedent that must, in logical and legal consequence, apply to all the river basins of the Nation.

I think the Senate amendment is an attempt to respond to an imminent judicial imperative. Neither the House nor the Senate have examined the terms and implications of what is proposed, in the pending judicial action. It is serious and

potentially widespread and has serious consequences in every river basin in the United States.

Mr. YATES. Mr. Speaker, will the gentleman yield?

Mr. SANTINI. I yield to the gentleman from Illinois.

Mr. YATES. Mr. Speaker, is it conceivable that a court would grant the injunction if the basic legislation passed by the Congress did not require it.?

Mr. SANTINI. I would suggest to the gentleman that certainly there is a predisposition for expansive judicial interpretations when examining our legislative intent.

Mr. Speaker, I am concerned with the myths that have been floating around Congress regarding the provision of the conference report addressing the Colorado River environmental impact statement problem. I hope that debate on this important matter today will help demonstrate the significance of this action, and will lead to approval of the carefully considered report of the conference committee.

Last night, I received a letter from a lobbying group which called the threat of an injunction against continued construction along the Colorado River a "myth." I will concede that the plaintiffs in the case this matter addresses have not asked for such an injunction. Not yet, that is. On the other hand, they have refused to say that they will not do so soon.

I think that the amount of lobbying which has occurred on this issue is a demonstration of the opposite conclusion. I would ask, "if the organizations which have successfully asked the court to require the EIS do not intend to request such an injunction, why are they fighting so hard to prevent Congress from prohibiting the granting of that request?" Past history of this type of lawsuit suggest that such a request can and will be filed unless Congress takes affirmative action now to relieve the problem. The parties to the present law suit might withhold but there is nothing to foreclose other entities from seeking such an injunction.

A second so-called myth involves the fact that final environmental impact statements have not been filed on some projects within the Colorado River Basin. Again, the facts as stated may be correct, but the implication that we should reject this important provision because of that point is unjustified. In fact, the amendment specifically requires that the ban on stopping work apply only to those projects for which such statements have been completed.

The opponents of this measure would also have us believe that the threat of significant action in other river basins is also a "myth." The logic used is that "no other river basin has the same high degree of Federal involvement present in the Colorado River basin." I frankly doubt that any river basin in the United States completely lacks significant Federal involvement. The provisions of the National Environmental Protection Act which were stretched to apply in this case affect any "major Federal action." Federal involvement in water projects in my State of Nevada would allow this same action to be taken in every river basin in the State. I suspect the same is true of virtually every State represented here.

We must understand that "myths" may come from any direction. We need to get back to some real facts. In my own State, as in others along the Colorado, those facts are devastating.

Nearly half of the population of Nevada lives in Clark County, in Las Vegas and its various neighboring communities. These communities were established in one of the Nation's driest regions. Originally small communities established for specific purposes, such as the construction and operation of Hoover Dam, they have grown considerably during the last decade.

The major growth of the Las Vegas area has come since the various projects along the Colorado gave the city some assurance of a continued supply of water. The southern Nevada project has been underway for many years. It will bring water from the Colorado to Las Vegas. After passing through the city's water system and treatment facilities, much of this valuable water is returned to the Colorado system.

The recent arrival of a variety of industrial firms and distributing facilities to this area has been spurred by the promise of completion of this project. This promise was made after completion of environmental studies. Now, those industries are threatened with curtailed water supplies because of the lack of an areawide EIS.

I admit that it would have been a good idea, before beginning the massive projects along the river, to have an environmental statement done. In fact, in beginning that development, and in developing the compacts which govern it, the parties involved did all that they could to evaluate and consider the economic and environmental problems involved.

Unfortunately, at that time, the agencies involved had neither the mandate nor the expertise necessary to perform such a massive task.

The lack of such a statement may, and in fact does, justify increased care in evaluating the impacts of future projects. It does not justify the kind of requirement this particular amendment is designed to avoid.

Delaying the projects at this point would only increase the social and economic impacts of development. I hope that the House will see the wisdom in agreeing to a reasonable and carefully considered determination of the conference committee.

Mr. McDADE. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from California (Mr. McCLOSKEY).

Mr. McCLOSKEY. Mr. Speaker, I want to have the House know I am very distressed by the choices here. I was one of the authors of the National Environmental Protection Act with the gentleman from Michigan (Mr. DINGELL), and I can understand and I feel some of the resentment at the idea of amending it on the floor in a conference report because the Senate has chosen this as a method to achieve an appropriate result. But as an environmentalist, and I speak to my colleagues who are environmentalists, I hate to see us stretch the Environmental Policy Act to a point where we delete projects already approved and that were approved under the concept of an environmental impact statement at that time.

What I understand they seek to do here is to provide that there be an exemption of the entire Colorado River Basin from this Act. I think what we really ought to do, and I want to ask the proponents on both sides of this measure, could we not do this? Could we not object to the Senate amendment and have our conferees go back into conference and write statutory history that they insist that any environmental basin statement not apply to projects that have been approved and have started the environmental impact statement process?

What I am concerned about is that if projects have gone through all of this process that now we are going to impose 2 years on them as a result of a new requirement that has not previously been the law and that therefore we are stretching the law.

I would be glad to yield for an answer to that question.

Mr. EVANS of Colorado. Mr. Speaker, if the gentleman will yield, I think the gentleman makes a point that is well taken. But let me add that the Dallas Creek and the Dolores projects have been authorized for construction, and they have filed environmental impact statements.

Mr. McCLOSKEY. Clearly they should not be blocked.

Mr. DINGELL. There is no injunction.

Mr. EVANS of Colorado. The injunctions that have been issued preclude their construction.

Mr. DINGELL. There is no injunction pending, there is no request for an injunction, the matter of construction can go forward, or the appropriate legislative commitee can handle the matter by legislation as may be appropriate.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. McDADE. Mr. Speaker, I yield one additional minute to the gentleman from California.

Mr. McCLOSKEY. Can I ask this question? There are, are there not, projects in the Colorado River Basin which have been approved for startup, who have complied with the environmental impact statement in good faith, but that the basin requirement might not have been required, that could be delayed or blocked, if we do not accede to the Senate?

Mr. McDADE. Mr. Speaker, I will say to my friend, the gentleman from California (Mr. McCLOSKEY) I think he has hit the issue squarely. We do not want to be confronted with a Hobson's choice. I think the answer is an unequivocable yes. It is the only way we can prevent that from occurring today, is to enact the Senate language. We are late in the session, we have about 7 days to go in this Congress and we will then

be back in a new Congress in a few months. What we do not want to have to do is have the district court, which has the issue joined, at this late date, come out and decide that the projects, that have gone through that accepted procedure will now have to be completely stopped and abandoned until we get a basinwide study.

The SPEAKER pro tempore. The time of the gentleman has again expired.

Mr. McDADE. I yield myself 10 additional seconds, that they will have to be standing in abeyance. That is what we do not want to have happen.

I think my friend the gentleman from California (Mr. McCLOSKEY) has the expertise on the bill and can help us get out of the Hobson's choice.

The SPEAKER pro tempore. The time of the gentleman has again expired.

Mr. DUNCAN of Oregon. Mr. Speaker, will the gentleman yield an additional 30 seconds?

Mr. McDADE. I yield 30 seconds to the gentleman from Oregon, Mr. DUNCAN.

Mr. DUNCAN of Oregon. Perhaps it would be helpful to refer to the Senate amendment which I think answers the question. It says:

> Notwithstanding any provision of the National Environmental Policy Act of 1969, Public Law 91-190 (42 U.S.C. 4321 et seq.), construction of any feature of the Southern Nevada Water Project . . . shall proceed if a final Environmental Impact Statement has been filed on any such feature.

It is not an exemption for the Colorado River Basin from the NEPA Act, it is an exemption from the riverwide basin impact study, but it does not exempt them unless an environmental impact statement has been filed.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. YATES. Mr. Speaker, I yield myself 30 seconds merely to reply to the statement made by the gentleman from Oregon (Mr. DUNCAN).

The point is that the Senate language applies not only to projects whose construction is now taking place, but also applies to the construction of proposed projects whose construction has not begun.

Mr. McCLOSKEY. It seems to me it is still a Hobson's choice, because then we are granting an exemption to a river basin, then how are we ever going to prevent issuing exemptions to the National Environmental Policy Act?

Mr. DINGELL. This is a matter that should go back to the committee for careful consideration.

Mr. McDADE. I think the way to do it is for the Congress to address the problem, not permit the district court to make that decision for us. I think we will have an opportunity to do that if we avoid the Hobson's choice for a few months, and then review where we are with respect to the Colorado River with respect to the basins.

Mr. McCLOSKEY. Could we not do it by rejecting the Senate language and going back into conference for real clear legislative history and language?

Mr. McDADE. I would repeat that we are about at the end of this session. I would rather do it the other way. That is my own impression.

Mr. McDADE. Mr. Speaker, I yield 5 minutes to the distinguished minority leader, the gentleman from Arizona (Mr. RHODES).

Mr. RHODES. Mr. Speaker, I would like first to address myself to the question which the distinguished gentleman from California (Mr. McCLOSKEY) just asked concerning the possibility that some other means could be found to take care of this situation in which we find ourselves.

Mr. Speaker, if I may have the attention of the gentleman from California, the reason we are here today trying to take care of one river basin is that one river basin has been made the subject of a lawsuit. It is an emergency situation, and this is an emergency action. It is not something we would like to do, and certainly not something we should make a practice of doing. However, I think the gentleman might agree with me that there is grave doubt, certainly in my mind and I hope in his, that when the National Environmental Policy Act was passed, we really intended to have environmental impact statements like this to apply to a whole river basin. I think we intended environmental impact statements for each project as it came up or each activity as it came up.

If we are, indeed, intending to enlarge the scope of NEPA to that extent, I suggest that perhaps we should do it only after the appropriate legislative committees have had hearings and have explored the need for expanded activity along these lines, plus the cost, because the cost will be tremendous.

Mr. McCLOSKEY. Mr. Speaker, will the gentleman yield?

Mr. RHODES. I yield to the gentleman from California.

Mr. McCLOSKEY. Mr. Speaker, I share the gentleman's feeling. I do not believe that when we enacted the National Environmental Policy Act, we intended that we would make an entire river basin be required to have a comprehensive environmental impact statement when one tributary was dammed or some problem was involved. I do not know at what point the size of the projects would require a comprehensive statement, but I can confirm that it certainly was not my understanding that that was the case.

Mr. Speaker, I would like to ask the gentleman from Michigan (Mr. DINGELL), who really was one of the prime authors of the act in the House, if he would take the time to address himself to this question? I say to the gentleman from Michigan that I do not believe when we passed the National Environmental Policy Act that we intended to require a comprehensive river basin survey or an environmental impact statement for each tributary that might be dammed in the process.

Mr. RHODES. Or, if I might amend the question, for each river basin because that really is what we have in this case.

The colloquy was between the gentleman from California (Mr. McCLOSKEY) and me. I made the assertion that I did not believe that NEPA really encompassed the idea of basinwide statements. I made the point that if it is to be expanded to that extent, it should be done by the appropriate legislative committee only after hearings.

Mr. DINGELL. Mr. Speaker, will the gentleman yield?

Mr. RHODES. I yield to the gentleman from Michigan.

Mr. DINGELL. The courts have already interpreted it and have said that it does require, in this instance, an environmental impact statement going to the whole of the basin.

Mr. RHODES. Mr. Speaker, I am going to regain my time on that because if that were true, the case would already be over. That is exactly what the case which this is all about alleges and asks the court to do. Obviously, it has not done it, so that is not the fact.

Mr. DINGELL. If the gentleman will yield further, Mr. Speaker, the case is the Sierra Club against Kleppe which holds that basinwide and the environmental impact statements are, at least in this case, required, and the Department of the Interior wants to file an environmental impact statement, and I stress, that while letting the projects go forward.

Mr. EVANS of Colorado. Mr. Speaker, will the gentleman yield?

Mr. RHODES. I yield to the gentleman from Colorado.

Mr. EVANS of Colorado. Mr. Speaker, I think the question which the gentleman from California (Mr. McCLOSKEY) asked has not been answered, the question being, Did the Congress intend, when it passed NEPA, to have environmental impact statements of entire river basins?

It took a court to say yes, we did so intend.

If we did so intend, I would say to the gentleman from California, we are asking people to take expertise and apply it to a river which is 1,400 miles long, which includes 240,000 square miles, 28 major tributaries, 7 States, and 17 million people.

I do not think that the Congress had that in mind. I do not think such can be done; and if the Congress did intend it, I will be frank to say that I hope the Senate amendment becomes permanent law so that such does not happen in the future.

Mr. RHODES. Mr. Speaker, I agree with the gentleman from Colorado (Mr. EVANS). If, indeed, the Congress wants this kind of thing, then the Congress should say so. However, I just cannot believe that this is the law of the land.

Mr. Speaker, it has been said, and I will just say it again, that every project in the Colorado Basin has had an environmental impact statement filed, and the redundancy inherent in all of this is rather appalling.

The SPEAKER pro tempore. The time of the gentleman from Arizona (Mr. RHODES) has expired.

Mr. McDADE. Mr. Speaker, I yield 1 additional minute to the gentleman from Arizona (Mr. RHODES).

Mr. RHODES. The Colorado Basin has been studied and studied and studied. We have studied it as far as land use is con-

cerned. We have studied it as far as water quality is concerned. We have studied it as far as the best and highest use of water is concerned. We have studied it every way one can imagine. I cannot believe either that it is good national policy to have yet one more study of the Colorado River Basin. Certainly if we actually do go so far, or if this court in which the suit is pending goes so far as to require a new study and to impose an injunction on existing projects, then I cannot help but believe that the intent of Congress has been flouted almost completely. I just cannot believe that the Members of Congress will stand by and let this happen, so I hope the Senate amendment will be agreed to.

PARLIAMENTARY INQUIRY

Mr. McDADE. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. McDADE. Mr. Speaker, how much time do I have remaining?

The SPEAKER pro tempore. The gentleman has 8 minutes and 20 seconds.

Mr. McDADE. I thank the Speaker.

I yield 5 minutes to the gentleman from Colorado (Mr. JOHNSON).

Mr. JOHNSON of Colorado. Mr. Speaker, I do not think that our well-intentioned friends realize the unfair situation that they are imposing on the western States. I am not that charitable toward this administration, but I think that the Members of the House are really not aware of what they are doing and what they have done in the action that they have already taken this morning.

Mr. YATES. Mr. Speaker, will the gentleman yield for a reply?

Mr. JOHNSON of Colorado. I yield very briefly.

Mr. YATES. I thank the gentleman for yielding.

It is not our intention to try to stop the present construction by a regional statement. We do think that for the future there ought to be a statement which shows what the total impact will be.

Mr. JOHNSON of Colorado. Mr. Speaker, let me take back my time. I heard the gentleman's comments. I know he has no intention of imposing an unfair situation on anybody. That is not his nature. But the very fact of the situation is that the Colorado River compact is being disrupted by the action that is being taken under this particular NEPA Act. This basinwide study will do nothing more than wind up killing projects. There are a number of projects that are pending for study for us in the Upper Basin States to utilize the water which we are by law entitled to. If we have to have a basinwide study every time one of these new projects is considered, you are in effect killing these projects. I think that there is a concerted effort that is going on in this country to kill the water development in the Colorado River Basin.

Let me show the Members how this has occurred. In 1922 we divided the water of the Colorado River between the Upper and Lower Basin States. We divided the water instead of on a percentage basis by saying that the Lower Basin States were going to get 7½ million acre-feet of water available at the time. We thought this was half of the water. It turned out it was not—the Lower Basin States get more than half. That is too bad, but the compact cannot be changed without the approval of all the States, and the Lower Basin States are not going to agree to a change in the compact because they have the advantage.

We went ahead and developed the Lower Basin projects. The Lower Basin States of California and Arizona developed largely because of the water development that has occurred out there. Southern California is the recipient and the beneficiary of the Hoover Dam. The central Arizona project now is being built to utilize the balance of Arizona's water rights. But the Upper Basin States did not have the need at that particular time to develop the water that they were entitled to. Now that we are developing for our population, now that we are trying to develop our natural resources, the rest of the country is going to someday want to have the oil shale that we have available in northwestern Colorado, but you have also decided that we cannot develop it because we are not going to have any water to utilize.

Mr. EVANS of Colorado. Mr. Speaker, will the gentleman yield?

Mr. JOHNSON of Colorado. Just briefly.

Mr. EVANS of Colorado. Well, go ahead.

Mr. JOHNSON of Colorado. The point is that we have this water we are entitled to. We have the water that needs to be developed. We have sound reasons for developing it and we are having one road block after another placed in the way of developing this water.

We are, in effect, vitiating a compact where seven States got together and decided how the water should be divided.

Mr. EVANS of Colorado. Mr. Speaker, will the gentleman yield?

Mr. JOHNSON of Colorado. I yield to my colleague.

Mr. EVANS of Colorado. Mr. Speaker, if this Congress decided to have river basin wide impact statements, I would strongly appose it. If it is the policy of the country that our river basins, before you can have development, have to have a comprehensive river basin wide EIS statement filed, the people who judge the adequacy of those statements will be the people who control those rivers; not the Congress, not the States, and not the river development districts or State commissions.

Further, these interstate river compacts that we entered into years ago and were approved by Congress will be just washed away.

Mr. JOHNSON of Colorado. Mr. Speaker, that is exactly right, and I cannot emphasize enough how we have a series of projects which are on the books, not all have been authorized which will be killed because we will have to have a river basin wide study every time we come along with another project. We must adopt the Senate amendment.

I would like to add one more point to what the chairman has said about salinity. Salinity on the Colorado River is due primarily to point source discharge. It is not due to dams. The water is highly saline when it gets to Mexico, but that is due primarily to the return of water from the Imperial Valley to the river. The dams now pending have nothing to do with that and will not add to its severity. To require basinwide statements would probably result in the Upper Basin States losing their share of the river water in the name of pure water for Mexico. The total unfairness toward the Upper Basin States is staggering.

Mr. McDADE. Mr. Speaker, I yield 2 minutes to the gentleman from Utah (Mr. McKAY).

Mr. McKAY. Mr. Speaker, we are here because we have no other alternative, given the circumstances that face us. I think a lot that has been said is accurate. I do not like to do it this way, but it is the only way we have, given the circumstances.

I think it is broader than just water. I think it is obvious these suits have been filed by the same people who do not want one reservoir built, who do not want one mine opened, whether it is oil, tar, shale or anything else.

We have another suit against the Interior Department to stop all permits on Federal lands for coal. The Coal Association is now concerned that the Department of the Interior and the Energy Department has decided that the original EIS is not good enough and they are going to want another one.

What is to stop another agency requiring another EIS on the top of that EIS statement?

The evidence is clean and clear. It is the method they are using to stop development in the West, whether it is water, oil, gas, or whatever it is.

Now, if the President is really sincere when he said this is the moral equivalent of war for energy, you cannot develop energy in a desert unless you have some water to drink while you are developing, and you have to use it for the development, whether it is power or anything else.

I think it is fallacious for us to talk about where we are going to go. We are here now and we have to accept the Senate amendment. I advocate we do that.

The Environmental Defense Fund has filed suit for an injunction against any further construction on water projects in the Colorado River Basin until a comprehensive EIS is completed. The implications of this suit are staggering and the immediately impacted States of Colorado, Utah, Arizona, and Nevada have joined as intervenors in the suit. Eventually, every water project in every river basin in the Nation may be affected. If the injunction is granted, it will stop work and create tremendous waste in projects already under construction. It proposes to turn congressional intent upside down and frustrate the reasonable and desir-

able goals of the National Environmental Policy Act.

Let us look for a moment at what this development means. There are some 20 Colorado River Basin projects, either under construction, or in preconstruction planning phase. Among these are the central Arizona project, the central Utah project and the southern Nevada water project. Environmental impact statements have been completed on each of these projects individually, as required by law, at enormous cost of time and money.

The requirement of the law, as it was understood, has been fully met. Now the EDF suit would have the law interpreted to mean that we have only scratched the surface and that each project must be halted while another 4 or 5 years and many hundreds of thousands and possibly millions of dollars are spent duplicating environmental analysis.

Such an undertaking may be impossible to complete. The Colorado River is over 1,400 miles long. The river and its tributaries drain a basin of 242,000 square miles, almost one-tenth of the Nation's land area. Certain completed studies can probably be used in a comprehensive study, but no one has defined how much of this 242,000 square miles must be analyzed as part of a comprehensive EIS. Presumably, the requirement will entail an analysis of each of the tributaries, no matter how small, and regardless of whether they are part of a water project. I question whether any useful new information would result from all this labor.

The vote on this amendment is not simply a vote on water projects. A regional EIS must deal with a whole complex of issues including the crucial question of energy development. Without water development, there will be no energy development in the Colorado River Basin; a basin with one of the world's richest reserves of oil shale, tar sands, coal, oil, gas, and uranium. A vote to suspend work on these water projects is a vote against America's energy security and a vote for foreign oil imports.

The experience of the Department of Interior with regional EIS's is not promising. The newly appointed head of the Interior Office of Coal Policy recently cancelled work on all regional coal EIS's and ordered new regional EIS's that conform to the regional boundaries used by the Department of Energy. This action nullified the work of 4 or 5 years on existing regional EIS's. I think the projected delay of 4 to 5 years for this basinwide EIS is optimistic.

The economic impact of the delays associated with the pending lawsuit are devastating. Delays on the construction of the central Utah project have more than doubled the projected cost of the project since 1964. For every 6 months the project is delayed, $19.5 million must be added to the total cost of the project due to inflation. This means that a 4-year delay would cost at least $156 million in added cost.

The central Utah project is the culmination of three-quarters of a century of negotiation, planning, and legislation. The citizens of Utah are relying on this project to develop their fair share of Colorado river water. Without the project, the people of Utah will be denied their legal and moral right to a share of the river's water. Of the 1,438,000 acre-feet of water per year allocated to Utah from the Colorado River 1,332,000 acre-feet will be developed by Bureau of Reclamation projects. 1,081,000 acre-feet of this allocation has already been committed. Over $200 million has already been invested in the project, and, until the work is completed, it will not produce a dollar of reimbursement or a drop of water.

Certainly, if the intent of the Congress is not made clear and this suit succeeds in perverting a reasonable interpretation of NEPA, the Colorado River Basin will not be the sole object of this requirement. The antidevelopmentalists will demand a basinwide EIS in the Columbia River Basin, in TVA and anywhere water resources are being developed. It is time now to clear this matter up and this amendment will have that effect.

Mr. SANTINI. Mr. Speaker, will the gentleman yield?

Mr. McKAY. I yield to the gentleman from Nevada.

Mr. SANTINI. Mr. Speaker, the point that must be understood by all Members is that if a judge orders that all prospective actions in a river basin must be stopped until an areawide study is completed, the logical consequence is that all material change—activity in that basin must be stopped until the EIS is completed.

The SPEAKER pro tempore. The time of the gentleman from Utah (Mr. McKAY) has expired.

Mr. McDADE. Mr. Speaker, I yield myself 30 seconds.

Mr. Speaker, is it not true that the fare of the plaintives is exactly that; that what the plaintives seek is a moratorium on all construction until such time as the basinwide study, which they seek and which is the policy question that the Congress ought to address itself to is completed.

My problem is that that is what they are requesting, a moratorium on everything until the basinwide study is ordered by the court, and not the Congress.

I think the Congress should do it. Is that not what the facts are?

Mr. SANTINI. Mr. Speaker, the gentleman has stated it well.

Mr. YATES. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan (Mr. DINGELL).

Mr. OTTINGER. Mr. Speaker, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from New York.

Mr. OTTINGER. Mr. Speaker, I rise in strong support of the position of the gentleman from Michigan (Mr. DINGELL).

Mr. DINGELL. Mr. Speaker, my good friends and colleagues in the Senate and some of my good friends and colleagues in the House are a little bit like the old maid who came home and looked under her bed in hopes that someone was there and in vast disappointment found no one was there.

In this instance we have a piece of legislation in an appropriation bill on which the Committee on Appropriations of the House and the Senate very cozily go to conference and come back with a very poorly drawn piece of legislation which the House in its closing days of the session is asked to accept.

First, I must tell my colleagues that in my view I do not think this proposal will stop an injunction in court. Second of all, some of those who are present and who now seek to prevent their being areawide impact statements have also tried to prevent the money from going into the carrying out of the areawide impact statement.

The consequences of going through a whole sequence of site specific impact statements are, quite frankly, that we will probably come up with a bunch of site specific impact statements that are not representative of the consequences of the cumulative whole. And the consequences of that are probably that none of those will stand up if the matter goes to court.

What we really ought to do is to understand that there is no injunction pending. Nothing is pending. What we ought to do is to say that we will go back to conference and drop the thing. The chairman of the legislative committee has said that he will hold hearings on the matter sometime next year. We could hold hearings on it next year and commence then to write a proper piece of legislation if relief is needed.

At this minute there is nothing to stop the construction of any one of the projects which are in question. Furthermore, I have here a list of a large number of them that are not even involved in the litigation.

So, Mr. Speaker, what my colleagues should know is that this is much ado about nothing. The matter should be sent back to conference, and the motion should be rejected.

Mr. YATES. Mr. Speaker, may I inquire of the Chair, what is the status of the time remaining?

The SPEAKER pro tempore. The gentleman from Illinois (Mr. YATES) has 1½ minutes remaining, and the gentleman from Pennsylvania (Mr. McDADE) has 50 seconds remaining.

Mr. YATES. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. BROWN).

Mr. BROWN of California. Mr. Speaker, I appreciate the gentleman's yielding his very limited time. I hope I will not use it all.

Mr. Speaker, I rise in very strong support of the position expressed by the eloquent gentleman from Michigan (Mr. DINGELL) and the gentleman from Illinois (Mr. YATES).

I have lived off the bounty of the Colorado River all my life, being a resident of southern California and the border area. I think many of the problems which

have divided California and the other basin States stem from a lack of adequate planning on the Colorado River. This has been true from the very first, when the blanket compact divided up more water than existed, up to today, when we are planning to spend billions of dollars on salinity control projects, which would not be necessary if we had properly planned for the development of all the waters of the Colorado and the projects built on the Colorado.

Mr. Speaker, I see the need for a basinwide impact statement as a way of improving the utilization of the Colorado. I am not for stopping projects; I want to make them better.

Mr. McDADE. Mr. Speaker, I yield such time as I have remaining to the distinguished chairman of the subcommittee, the gentleman from Illinois (Mr. YATES).

Mr. YATES. Mr. Speaker, I thank the gentleman from Pennsylvania (Mr. McDADE), and I yield myself the remaining time at my disposal.

Mr. Speaker, I want to follow up on the excellent remarks of the gentleman from Michigan (Mr. DINGELL) and the gentleman from California (Mr. BROWN).

Much has been said about the proposed suit that was brought in the courts. That suit will be granted only if the court determines that it was the intention of the Congress in the first instance that a basinwide study be made. If that original act does not require that study, then the court will not, obviously, grant the suit. If the Congress did require that study, then let the Congress change it by appropriate hearings, not by a hit-or-miss Senate amendment that was the subject of no hearings at all by the legislative committee but was contained in an appropriation bill where the amendment was prepared on the spur of the moment.

The purpose of puting that kind of a provision into the basic legislation is obvious, because the kind of hit-or-miss building and construction of dams, dam by dam, that have taken place so far have already turned the Colorado River waters into brine by the time they reach Mexico.

Mexico has protested because of the condition of that water, and because of the Mexican protest we are now engaged in building a desalinization plant that will cost in the neighborhood of $250 million. How many such plants must we build through this kind of procedure?

Mr. Speaker, I urge that the Senate amendment be rejected.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois (Mr. YATES).

Mr. YATES. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

PARLIAMENTARY INQUIRY

Mr. YATES. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. YATES. Mr. Speaker, if a Member desires to vote for the Senate amendment, he will vote yea. If he desires to vote against the Senate amendment, he will vote nay.

Is that correct?

The SPEAKER pro tempore. That is correct.

Mr. YATES. I thank the Chair.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 206, nays 186, not voting 40, as follows:

[Roll No. 880]

YEAS—206

Abdnor	Frenzel	Murtha
Akaka	Frey	Myers, John
Alexander	Gammage	Nix
Anderson, Calif.	Gephardt	Oakar
Andrews, N. Dak.	Ginn	Pattison
Applegate	Glickman	Pepper
Archer	Goldwater	Poage
Ashbrook	Gonzalez	Price
Badham	Gore	Pursell
Baucus	Gudger	Quayle
Bauman	Guyer	Quillen
Beard, Tenn.	Hall	Regula
Bevill	Hammer-schmidt	Rhodes
Bolling	Hanley	Risenhoover
Bowen	Hansen	Roberts
Breaux	Harsha	Robinson
Brinkley	Hefner	Roncalio
Brooks	Heftel	Rousselot
Brown, Ohio	Hightower	Rudd
Broyhill	Holland	Runnels
Burgener	Holt	Ruppe
Burke, Mass.	Hubbard	Ryan
Burleson, Tex.	Huckaby	Santini
Burlison, Mo.	Hyde	Satterfield
Butler	Ichord	Schroeder
Byron	Jenkins	Sebelius
Carter	Jenrette	Shuster
Cederberg	Johnson, Calif.	Sikes
Chappell	Johnson, Colo.	Sisk
Clausen, Don H.	Jones, N.C.	Skelton
Clawson, Del	Jones, Okla.	Smith, Iowa
Cleveland	Jones, Tenn.	Smith, Nebr.
Coleman	Kazen	Snyder
Collins, Tex.	Kelly	Stangeland
Conable	Kemp	Stanton
Cornwell	Keys	Steed
Coughlin	Kindness	Steiger
Daniel, Dan	Lagomarsino	Stratton
Daniel, R. W.	Latta	Stump
Danielson	Le Fante	Symms
Davis	Leach	Taylor
de la Garza	Lederer	Thornton
Delaney	Leggett	Treen
Derwinski	Lent	Trible
Devine	Levitas	Tucker
Dickinson	Lloyd, Calif.	Udall
Dicks	Lloyd, Tenn.	Ullman
Dornan	Long, La.	Vander Jagt
Duncan, Oreg.	Lott	Waggonner
Duncan, Tenn.	McClory	Walker
Edwards, Ala.	McCormack	Wampler
Edwards, Okla.	McDade	Watkins
Eilberg	McDonald	White
Emery	McEwen	Whitehurst
English	McFall	Whitley
Erlenborn	McKay	Whitten
Ertel	Mahon	Wilson, Bob
Evans, Colo.	Mann	Wilson, C. H.
Evans, Ga.	Marlenee	Wilson, Tex.
Evans, Ind.	Marriott	Winn
Fish	Mathis	Wirth
Flippo	Meeds	Wolff
Flood	Milford	Wright
Flowers	Miller, Ohio	Young, Alaska
Flynt	Montgomery	Young, Fla.
Foley	Moore	Young, Mo.
Fountain	Moorhead, Calif.	Zablocki
Fowler	Murphy, Ill.	Zeferetti
	Murphy, Pa.	

NAYS—186

Addabbo	Bedell	Brademas
Ambro	Beilenson	Brodhead
Anderson, Ill.	Benjamin	Broomfield
Andrews, N.C.	Bennett	Brown, Calif.
Annunzio	Biaggi	Brown, Mich.
Ashley	Bingham	Buchanan
Aspin	Blanchard	Burke, Fla.
AuCoin	Boggs	Burton, John
Bafalis	Boland	Burton, Phillip
Baldus	Bonior	Carney
Beard, R.I.	Bonker	Carr
Cavanaugh	Holtzman	Pease
Chisholm	Horton	Perkins
Clay	Howard	Pickle
Cohen	Hughes	Pike
Collins, Ill.	Ireland	Preyer
Conte	Jacobs	Pritchard
Corcoran	Jeffords	Rahall
Corman	Jordan	Railsback
Cornell	Kasten	Rangel
Cotter	Kastenmeier	Reuss
Cunningham	Kildee	Richmond
D'Amours	Kostmayer	Rinaldo
Dellums	Krebs	Rodino
Derrick	LaFalce	Roe
Dingell	Lehman	Rogers
Dodd	Long, Md.	Rooney
Downey	Luken	Rose
Drinan	Lundine	Rosenthal
Early	McCloskey	Rostenkowski
Eckhardt	McHugh	Roybal
Edgar	McKinney	Russo
Edwards, Calif.	Maguire	Sawyer
Evans, Del.	Markey	Scheuer
Fary	Marks	Schulze
Fascell	Mattox	Seiberling
Fenwick	Mazzoli	Sharp
Findley	Metcalfe	Simon
Fisher	Meyner	Slack
Fithian	Mikulski	Solarz
Florio	Mineta	Spellman
Ford, Mich.	Minish	Spence
Ford, Tenn.	Mitchell, N.Y.	St Germain
Forsythe	Moakley	Stark
Fraser	Moffett	Steers
Fuqua	Mollohan	Stockman
Garcia	Moorhead, Pa.	Stokes
Gaydos	Mottl	Studds
Giaimo	Murphy, N.Y.	Thompson
Gibbons	Myers, Gary	Traxler
Gilman	Myers, Michael	Van Deerlin
Gradison	Natcher	Vanik
Grassley	Neal	Vento
Green	Nedzi	Volkmer
Hamilton	Nolan	Walgren
Hannaford	Nowak	Waxman
Harkin	O'Brien	Weaver
Harris	Oberstar	Weiss
Hawkins	Obey	Wydler
Heckler	Ottinger	Wylie
Hillis	Patten	Yates
Hollenbeck	Patterson	Yatron

NOT VOTING—40

Ammerman	Harrington	Pressler
Armstrong	Krueger	Quie
Barnard	Livingston	Sarasin
Blouin	Lujan	Shipley
Breckinridge	Madigan	Skubitz
Burke, Calif.	Martin	Staggers
Caputo	Michel	Teague
Cochran	Mikva	Thone
Conyers	Miller, Calif.	Tsongas
Crane	Mitchell, Md.	Whalen
Dent	Moss	Wiggins
Diggs	Nichols	Young, Tex.
Goodling	Panetta	
Hagedorn	Pettis	

The Clerk announced the following pairs:

On this vote:

Mr. Armstrong for, with Mr. Sarasin against.

Until further notice:

Mr. Ammerman with Mr. Whalen.
Mr. Shipley with Mr. Caputo.
Mr. Blouin with Mrs. Pettis.
Mr. Teague with Mr. Wiggins.
Mr. Dent with Mr. Livingston.
Mr. Barnard with Mr. Quie.
Mrs. Burke of California with Mr. Panetta.
Mr. Staggers with Mr. Pressler.
Mr. Tsongas with Mr. Madigan.
Mr. Moss with Mr. Skubitz.
Mr. Nichols with Mr. Thone.
Mr. Krueger with Mr. Martin.
Mr. Mikva with Mr. Lujan.
Mr. Conyers with Mr. Hagedorn.
Mr. Diggs with Mr. Goodling.
Mr. Miller of California with Mr. Cochran of Mississippi.
Mr. Mitchell of Maryland with Mr. Breckinridge.
Mr. Harrington with Mr. Crane.

Messrs. STOKES, RANGEL, WALGREN, EARLY, and PIKE changed their vote from "yea" to "nay."

Mr. BROWN of Ohio and Mr. RUPPE change their vote from "nay" to "yea."

So the motion was agreed to.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 50: Page 32, line 17, strike out "$626,720,000" and insert "$672,128,000".

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 50 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$682,892,000".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 51: Page 32, line 20, strike out "$5,025,000" and insert "$2,055,000".

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 51 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$2,025,000".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 63: Page 39, line 6, strike out "$614,704,000" and insert "$594,753,000,".

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$576,888,000".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 66: Page 39, line 20, strike "$182,881,000" and insert "$188,581,000,".

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 66 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$169,181,000".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 67: Page 39, line 21, strike "$172,862,000" and insert "$158,262,000".

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 67 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$151,862,000".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 71: Page 40, line 18, strike "$897,001,000" and insert "$754,031,000".

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 71 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$707,101,000".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 72: Page 41, line 3, insert: *Provided further*, That $100,100,000 for assistance to schools and hospitals and $7,300,000 for energy conservation in local government buildings shall be available only upon enactment of suitable authorizing legislation.

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 72 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 73: Page 41, line 6, insert: ": *Provided further*, That $30,000,000 for energy impact assistance shall be available only upon enactment of H.R. 5146 or similar legislation".

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 73 and concur therein with an amendment, as follows: In lieu of the sum named in said amendment insert "$20,000,000".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 78: Page 43, line 14, insert: ": *Provided*, That funds made available to tribes and tribal organizations through contracts authorized by the Indian Self-Determination and Education Assistance Act of 1975 (88 Stat. 2203; 25 U.S.C. 450) shall remain available until September 30, 1980.".

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 78 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 90: Page 47, line 19, insert: ": *Provided further*, That not to exceed $500,000 may be used to make grant awards to employees of the Smithsonian Institution.".

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 90 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 102: Page 56, line 3, insert:

SEC. 305. No funds appropriated by this Act shall be available for use in implementing or otherwise carrying out, in the State of Alaska, the provisions of section 603 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782).

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 102 and concur therein.

The SPEAKER pro tempore. The gentleman from Illinois (Mr. YATES) is recognized for 30 minutes.

Mr. YATES. Mr. Speaker, I yield to the gentleman from Arizona (Mr. UDALL) for debate only.

Mr. UDALL. Mr. Speaker, I thank the gentleman for yielding.

I want to ask the gentleman a question.

When Congress passed the Federal Land Policy and Management Act of 1976, we included a provision—section 603(a)—which directed the Secretary of the Interior to review and recommend to the President the public lands suitable for preservation as wilderness. The President in turn was to recommend to Congress such lands, from among those recommended by the Secretary of the Interior, as he deemed appropriate for designation as wilderness.

Section 305 of the Interior Department's appropriations bill provides, "no funds appropriated by this act shall be available for use in implementing or otherwise carrying out in the State of

Alaska the provisions of section 603 of FLPMA."

I want to be sure I understand this amendment. The language does not repeal the application of section 603 to Alaska. Instead the appropriation limitation is intended to prevent the Secretary from spending funds now to conduct the review and make the recommendations to the President as called for in sections 603 (a) and (b) with respect to Alaska lands. Is that correct?

Mr. YATES. Yes.

Mr. UDALL. So then it is clear that section 603 continues to apply to Alaska and this amendment is for the specific purpose of preventing the Secretary from reviewing, under section 603, those areas in Alaska covered by section 603 for purposes of recommending to the President preservation of those lands as wilderness.

Mr. YATES. That is correct.

Mr. SEIBERLING. Mr. Speaker, will the gentleman yield?

Mr. YATES. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Speaker, I believe it is obvious, but for the sake of clarity I think we ought to state on the RECORD the understanding, which I believe is correct, that the language of section 305 of the bill in no way affects section 201(a), section 204, or any other provision of the Federal Land Policy and Management Act of 1976, or the inventory process, or section 603 (c), or the duty of the Secretary of the Department of the Interior to manage Federal lands pending the review mandated by section 603(a).

Mr. YATES. Well, it certainly is not the purpose of that section to amend the provisions of the act to which the gentleman referred, so the answer to the gentleman's question is yes.

Mr. SEIBERLING. Mr. Speaker, if the gentleman will yield further, I understand also that the language in the appropriations bill does not attempt to negate any of the provisions of the National Environmental Policy Act so far as this particular section of the bill is concerned.

Mr. YATES. The gentleman is correct.

Mr. SEIBERLING. Mr. Speaker, I wonder if the gentleman could also confirm that to the extent that, for instance, an application for a right of way on BLM lands in Alaska is filed, an environmental assessment and/or an environmental impact statement would continue to be required if this language in the appropriations bill is adopted.

Mr. YATES. Mr. Speaker, the gentleman is correct.

Mr. SEIBERLING. Mr. Speaker, I thank the gentleman.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois (Mr. YATES).

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 103: Page 56, line 8, insert:

SEC. 306. No funds appropriated by this Act shall be available for the implementation or enforcement of any rule or regulation of the United States Fish and Wildlife Service, Department of the Interior, requiring the use of steel shot in connection with the hunting of waterfowl in the United States.

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 103 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment insert the following:

"SEC. 306. No funds appropriated by this Act shall be available for the implementation or enforcement of any rule or regulation of the United States Fish and Wildlife Service. Department of the Interior, requiring the use of steel shot in connection with the hunting of waterfowl in any State of the United States unless the appropriate State regulatory authority approves such implementation and enforcement."

The SPEAKER pro tempore. The gentleman from Illinois (Mr. YATES) is recognized for 30 minutes.

Mr. YATES. Mr. Speaker, I yield myself such time as I may consume.

Mr. ECKHARDT. Mr. Speaker, will the gentleman yield?

Mr. YATES. I yield for the purposes of debate only to the gentleman from Texas.

Mr. ECKHARDT. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I want to compliment the conferees on the part of the House for insisting on the insertion of the provision, "unless the appropriate State regulatory authority approves such implementation and enforcement." If that had not been done, it is my feeling that the passing of a limitation on an appropriations bill offered by Senator STEVENS in the Senate could have done much harm.

The problem was this: The Interior Department had determined that the use of lead shot in certain areas was extremely injurious to waterfowl. The Department had found that the birds were scooping the shot up from the pond or lake after the spent shot fell there, and it would get into the gizzards of the birds and ultimately give them lead poisoning. The Department found there is a considerable kill of game as a result of lead poisoning by the ingestion of lead shot.

Therefore, the Interior Department ordered in some areas that only steel shot be used.

The National Rifle Association in the case of National Rifle Association against Kleppe in 1976 sought to get a declaratory judgment holding that the Department had no such authority. The National Rifle Association lost in that case, so the ultimate decision in the case upholds the determination of the Secretary that such lead shot is dangerous to birds.

Now, the difficulty with the Senate amendment was that it absolutely prevented the implementation of the steel shot provision in areas where it had been determined that lead shot was dangerous to birds. The result of that, I think, would have been exactly the opposite of what the National Rifle Association was really seeking. It might very well have permitted those groups that are opposed to hunting altogether to have gone into court and enjoined hunting in the areas already determined to create dangers to birds where lead shot was used.

The House conferees were able, as I understand it, to convince the Senate conferees that they should ameliorate that provision and provide that such limitation should be only effective in a case where the State had not implemented the steel shot regulations.

Mr. Speaker, may I ask the gentleman, does he understand that to be correct?

Mr. YATES. Mr. Speaker, the gentleman is correct.

For such States as Wisconsin, for example, which have already placed in effect regulations requiring the use of steel shot, such regulations will prevail. In other States that decide through the appropriate regulatory agency that steel shot should replace lead shot, for the reasons the gentleman from Texas (Mr. ECKHARDT) has so well stated in his statement to the House, the same procedure may be pursued.

Mr. ECKHARDT. Mr. Speaker, I may say that I think we should give some warning to States, particularly those States in which lead shot had been found injurious, as it has been in most all the Eastern States, for instance, Maryland. In my State of Texas steel shot is required in only two areas, but in most of the Eastern States it has been determined that lead shot is injurious, and I think those States should take warning that if the steel shot regulation is not implemented in those States, there may very well be this kind of difficulty.

The Department cannot enforce the steel shot requirement. There have already been attempts to prevent hunting altogether in various places. Indeed, even in the case of National Rifle Association of American against Kleppe, the Defenders of Wildlife, which is opposed generally to hunting, intervened in that case in behalf of the Secretary. There could very well be a situation where the State does not permit the implementation of steel shot, and then such a group would come in and seek to enjoin hunting on grounds that waterfowl were endangered as a result of the use of lead shot.

That is the reason I think this relaxation of the rule is an extremely good one, Mr. Speaker, and I certainly would admonish the States to pay attention to what the conferees have provided in this report.

Mr. YATES. I thank the gentleman for his contribution.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. YATES. I yield to the gentleman from from Maryland.

Mr. BAUMAN. I thank the gentleman for yielding.

Mr. Speaker, I would not want to let pass unchallenged the statement of the gentleman from Texas. I certainly would not presume to judge the scientific impact of the use of lead shot in Texas. I can only say to the gentleman that, while

it is the opinion of some scientists that lead shot is a problem in the State of Maryland, and other States, as a member of the Subcommittee on Fish and Wildlife, and after extensive hearings of the subcommittee which we held in Maryland and elsewhere, there is no conclusive proof in this Member's mind that lead shot is a problem in Maryland. I do appreciate, however, the language in this conference report that allows each State to make its own judgment. I think the steel shot requirement is one of the most pernicious restrictions that has been imposed on waterfowl hunters, and it has raised justified opposition in my district, I can assure the gentleman.

Mr. ECKHARDT. Mr. Speaker, will the gentleman yield?

Mr. YATES. I yield to the gentleman from Texas.

Mr. ECKHARDT. The real villian in this entire thing is not so much steel shot as the ammunition makers that make steel shot and have apparently charged two or three times as much for steel loads as for lead loads.

Mr. YATES. Mr. Speaker, I do know that one of the principal complaints in the letters that have literally poured into our committee's offices has been the price that has been charged for steel shot, and I know that this is one of the barriers to further use of steel shot.

Mr. ECKHARDT. If the gentleman will yield, I want to say one thing, too, that the chairman may be interested in, and that is the fact that our Subcommittee on Consumer Protection and Finance, which also deals with the question of antitrust legislation, along with the Judiciary Committee, desires to look into the question of why ammunition makers have not made available to persons who reload cartridges themselves component parts of steel shot shells. There have been a number of persons who have reloaded and have found it entirely safe and not a difficult thing to do, and they have found that they can make steel shot shells at about the same price as lead shells or within close proximity. I think that is what we need to look into; and if we can solve that, perhaps we can get away from the battle between lead and steel shot.

Mr. YATES. Mr. Speaker, I thank the gentleman for his statement.

Mr. Speaker, I move the previous question on the motion.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois (Mr. YATES).

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the final amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 104: Page 56, line 14, insert:

SEC. 307. (a) No funds appropriated under this Act may be used to implement the provisions with respect to the allocation of domestic crude oil specified in 10 CFR 211.67 on the date of enactment of this section, unless the President within thirty days after such enactment has amended the regulation under section 4(a) of the Emergency Petroleum Allocation Act of 1973 as provided in this section.

(b)(1) The amendment to the regulation required under subsection (a) shall provide that for the period between the effective date of such amendment and July 1, 1979 the provisions of the regulation specified in 10 CFR 211.67(a)(3) on the date of enactment of this section (relating to the issuance of entitlements to eligible firms importing residual fuel oil) shall be amended by replacing the words "thirty (30%) percent" wherever they appear by the words "fifty (50%) percent", except that for the purposes of this section the State of Michigan will be treated as if it were part of the East Coast market as defined in 10 CFR 211.62.

(2) Such amendment shall provide that on and after July 1, 1979 the provisions of the regulation referred to in paragraph (1) shall revert to those provisions in effect on the date of enactment of this section.

(c) The amendment required under subsection (a) shall amend the provisions of the regulation specified in 10 CFR 211.67(d)(4) on the date of enactment of this section (relating to the reduction in entitlement value for sales into the East Coast market) to delete the provisions exempting the first 5,000 barrels per day of a refiner's crude oil runs to stills from the operation of that subsection and to provide that 10 CFR 211.67(d)(4) is applicab'e only to domestic refiners that transport residual fuel oil for sale in the East Coast market in foreign flag tankers.

(d) The effective date of the amendment required under subsection (a) shall be July 1, 1978 unless the Secretary finds it impracticable to implement such amendment on such date.

(e) In promulgating the amendment required under subsection (a) and any related implementing or conforming amendments the President shall not be subject to the provisions of section 553 of title 5 or of sections 7174 and 7191 of title 42 of the United States Code.

(f) Except as specifically provided in this section, nothing in this section affects the authority of the President to amend the regulation under section 4(a) of the Emergency Petroleum Allocation Act of 1973.

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 104 and concur therein.

The motion was agreed to.

A motion to reconsider the votes by which action was taken on the conference report and on the several motions was laid on the table.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, a joint resolution of the House of the following title:

H.J. Res. 685. Joint resolution to designate October 7, 1979, the Sunday of "Fire Prevention Week" as "Firefighters' Memorial Sunday."

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 2995. An act to facilitate the implementation of section 703 of the Railroad Revitalization and Regulatory Reform Act of 1976, to provide for the conversion of a part of the National Visitor Center to railroad passenger service, and for other purposes.

The message also announced that Mr. BAYH be an additional conferee, on the part of the Senate, on the bill (H.R. 13635) entitled "An act making appropriations for the Department of Defense for the fiscal year ending September 30, 1979, and for other purposes."

FINANCIAL INSTITUTIONS REGULATORY ACT OF 1978

Mr. ST GERMAIN. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 13471) to strengthen the supervisory authority of Federal agencies which regulate depository institutions, to prohibit interlocking management and director relationships between financial institutions, to amend the Federal Deposit Insurance Act, to restrict conflicts of interest involving officials of financial supervisory agencies, to control the sale of insured financial institutions, to regulate the use of correspondent accounts, to establish a Federal Bank Examination Council, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Rhode Island (Mr. ST GERMAIN).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 13471, with Mr. MCCORMACK in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee rose on Tuesday, October 3, 1978, all time for general debate on this bill had expired. Pursuant to the rule, the bill will be considered by titles, and each title shall be considered as having been read.

Title I is as follows:

H.R. 13471

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Financial Institutions Regulatory Act of 1978".

TITLE I—SUPERVISORY AUTHORITY OVER DEPOSITORY INSTITUTIONS

SEC. 101. The Federal Reserve Act is amended by redesignating sections 29 and 30 as sections 30 and 31, respectively, and by inserting after section 28 a new section as follows:

"SEC. 29. (a) Any member bank which violates or any officer, director, employee, agent, or other person participating in the conduct of the affairs of such member bank who violates any provision of section 22 or 23A of this Act, or any regulation issued pursuant thereto, shall forfeit and pay a civil penalty of not more than $1,000 per day for each day during which such violation continues. The penalty shall be assessed and collected by the Comptroller of the Currency in the case of a national bank, or the Board in the case of a State member bank, by written notice. As used in this section, the term 'violates' includes without any limitation any action (alone or with another or others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation.

"(b) In determining the amount of the

penalty the Comptroller of the Currency or the Board, as the case may be, shall take into account the appropriateness of the penalty with respect to the size of the financial resources and good faith of the member bank or person charged, the gravity of the violation, the history of previous violations, and such other matters as justice may require.

"(c) The member bank or person assessed shall be afforded an opportunity for agency hearing, upon request made within ten days after issuance of the notice of assessment. In such hearing, all issues shall be determined on the record pursuant to section 554 of title 5, United States Code. The agency determination shall be made by final order which may be reviewed only as provided in subsection (d). If no hearing is requested as herein provided, the assessment shall constitute a final and unappealable order.

"(d) Any member bank or person against whom an order imposing a civil money penalty has been entered after agency hearing under this section may obtain review by the United States court of appeals for the circuit in which the home office of the member bank is located, or the United States Court of Appeals for the District of Columbia Circuit, by filing a notice of appeal in such court within ten days from the date of such order, and simultaneously sending a copy of such notice by registered or certified mail to the Comptroller of the Currency or the Board, as the case may be. The Comptroller of the Currency or the Board, as the case may be, shall promptly certify and file in such court the record upon which the penalty was imposed, as provided in section 2112 of title 28, United States Code. The findings of the Comptroller of the Currency or the Board, as the case may be, shall be set aside if found to be unsupported by substantial evidence as provided by section 706(2)(E) of title 5, United States Code.

"(e) If any member bank or person fails to pay an assessment after it has become a final and unappealable order, or after the court of appeals has entered final judgment in favor of the agency, the Comptroller of the Currency or the Board, as the case may be, shall refer the matter to the Attorney General, who shall recover the amount assessed by action in the appropriate United States district court. In such action the validity and appropriateness of the final order imposing the penalty shall not be subject to review.

"(f) The Comptroller of the Currency and the Board shall promulgate regulations establishing procedures necessary to implement this section.

"(g) All penalties collected under authority of this section shall be covered into the Treasury of the United States.".

SEC. 102. Section 19 of the Federal Reserve Act is amended by adding at the end thereof the following new subsection:

"(j)(1) Any member bank which violates or any officer, director, employee, agent, or other person participating in the conduct of the affairs of such member bank who violates any provision of this section, or any regulation or order issued by the Board pursuant thereto, shall forfeit and pay a civil money penalty of not more than $100 per day for each day during which such violation continues. The penalty shall be assessed and collected by the Board by writen notice. As used in this section, the term 'violates' includes without any limitation any action (alone or with another or others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation.

"(2) In determining the amount of the penalty the Board shall take into account the appropriateness of the penalty with respect to the size of financial resources and good faith of the member bank or person charged, the gravity of the violation, the history of previous violations, and such other matters as justice may require.

"(3) The member bank or person assessed shall be afforded an opportunity for agency hearing, upon request made within ten days after issuance of the notice of assessment. In such hearing, all issues shall be determined on the record pursuant to section 554 of title 5, United States Code. The agency determination shall be made by final order which may be reviewed only as provided in paragraph (4). If no hearing is requested as herein provided, the assessment shall constitute a final and unappealable order.

"(4) Any member bank or person against whom an order imposing a civil money penalty has been entered after agency hearing under this section may obtain review by the United States court of appeals for the circuit in which the home office of the member bank is located, or the United States Court of Appeals for the District of Columbia Circuit, by filing a notice of appeal in such court within ten days from the date of such order, and simultaneously sending a copy of such notice by registered or certified mail to the Board. The Board shall promptly certify and file in such court the record upon which the penalty was imposed, as provided in section 2112 of title 28, United States Code. The findings of the Board shall be set aside if found to be unsupported by substantial evidence as provided by section 706(2)(E) of title 5, United States Code.

"(5) If any member bank or person fails to pay an assessment after it has become a final and unappealable order or after the court of appeals has entered final judgment in favor of the agency, the Board shall refer the matter to the Attorney General, who shall recover the amount assessed by action in the appropriate United States district court. In such action the validity and appropriateness of the final order imposing the penalty shall not be subject to review.

"(6) The Board shall promulgate regulations establishing procedures necessary to implement this subsection.

"(7) All penalties collected under authority of this subsection shall be covered into the Treasury of the United States.".

SEC. 103. Section 5239 of the Revised Statutes (12 U.S.C. 93) is amended by inserting "(a)" immediately after "SEC. 5239" and by inserting at the end thereof the following new subsection:

"(b)(1) Any national banking association which violates, or any officer, director, employee, agent, or other person participating in the conduct of the affairs of such association who violates any of the provisions of this chapter, or any regulation issued pursuant thereto, shall forfeit and pay a civil money penalty of not more than $1,000 per day for each day during which such violation continues. The penalty shall be assessed and collected by the Comptroller of the Currency by written notice. As used in the section, the term 'violates' includes without any limitation any action (alone or with another or others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation.

"(2) In determining the amount of the penalty the Comptroller shall take into account the appropriateness of the penalty with respect to the size of financial resources and good faith of the association or person charged, the gravity of the violation, the history of previous violations, and such other matters as justice may require.

"(3) The association or person assessed shall be afforded an opportunity for agency hearing, upon request made within ten days after issuance of the notice of assessment. In such hearing all issues shall be determined on the record pursuant to section 554 of title 5. The agency determination shall be made by final order which may be reviewed only as provided in subsection (4). If no hearing is requested as herein provided. the assessment shall constitute a final and unappealable order.

"(4) Any association or person against whom an order imposing a civil money penalty has been entered after agency hearing under this section may obtain review by the United States court of appeals for the circuit in which the home office of the bank is located, or in the United States Court of Appeals for the District of Columbia Circuit, by filing a notice of appeal in such court within thirty days from the date of such order, and simultaneously sending a copy of such notice by registered or certified mail to the Comptroller. The Comptroller shall promptly certify and file in such court the record upon which the penalty was imposed, as provided in section 2112 of title 28. The findings of the Comptroller shall be set aside if found to be unsupported by substantial evidence as provided by section 706(2)(e) of title 5.

"(5) If any association or person fails to pay an assessment after it has become a final and unappealable order, or after the court of appeals has entered final judgment in favor of the agency, the Administrator shall refer the matter to the Attorney General, who shall recover the amount assessed by action in the appropriate United States district court. In such action the validity and appropriateness of the final order imposing the penalty shall not be subject to review.

"(6) The Comptroller may, in his discretion, compromise, modify, or remit any civil money penalty which is subject to imposition or has been imposed under this section.

"(7) The Comptroller shall promulgate regulations establishing procedures necessary to implement this subsection.

"(8) All penalties collected under authority of this section shall be covered into the Treasury of the United States.".

SEC. 104. Section 22 of the Federal Reserve Act is amended by adding at the end thereof the following new subsection:

"(h)(1) No member bank shall make any loan or extension of credit in any manner to any of its executive officers, or to any person who directly or indirectly or acting through or in concert with one or more persons owns, controls, or has the power to vote more than 10 per centum of any class of voting securities of such member bank, except in the case of such bank located in a city, town, or village with less than thirty thousand in population, in which case such per centum shall be 18 per centum, or to any company controlled by such an executive officer of person, or to any political or campaign committee the funds or services of which will benefit such an executive officer or person or which is controlled by such an executive officer or person, where the amount of such loan or extension of credit, when aggregated with the amount of all other loans or extensions of credit then outstanding by such bank to such executive officer or person and to all companies controlled by such executive officer or person, and to all political or campaign committees the funds or services of which will benefit such executive officer or person or which are controlled by such executive officer or person, would exceed the limits on loans to a single borrower established by section 5200 of the Revised Statutes, as amended. For purposes of this paragraph, the provisions of section 5200 be deemed to apply to a State member bank as if such State member bank were a national banking association.

"(2) No member bank shall make any loan or extension of credit in any manner to any of its executive officers or directors. or to any person who directly or indirectly acting through or in concert with one or more persons owns, controls, or has the power to vote more than 10 per centum of any class of voting securities of such member bank, or to any company controlled by such an executive officer, director, or person, or to

any political or campaign committee the funds or services of which will benefit such executive, director, or person or which is controlled by such executive officer, director, or person, where the amount of such loan or extension of credit, when aggregated with the amount of all other loans or extensions of credit then outstanding by such bank to such executive officer, director, or person and to all companies controlled by such executive officer, director, or person and to all political or campaign committees funds or services of which will benefit such executive officer, director, or person or which are controlled by such executive officer, director, or person, would exceed $25,000, unless such loan or extension of credit is approved in advance by a majority of the entire board of directors with the interested party abstaining from participating directly or indirectly in the voting.

"(3) No member bank shall make any loan or extension of credit in any manner to any of its executive officers or directors, or to any person who directly or acting through or in concert with one or more persons, owns, controls, or has the power to vote more than 10 per centum of any class of votnig securities of such member bank, or to any company controlled by such executive officer, director, or person, or to any political or campaign committee the funds or services of which will benefit such executive officer, director, or person or which is controlled by such executive officer, director, or person, unless such loan or extension of credit is made on substantially the same terms, including interest rates and collateral, as those prevailing at the time for comparable transactions with other persons and does not involve more than the normal risk of repayment or present other unfavorable features.

"(4) No member bank may pay an overdraft on an account at such bank of an executive officer or director.

"(5) For purposes of this subsection, an executive officer, director, or person shall be considered to have control of a company if such executive officer, director, or person, directly or indirectly or acting through or in concert with one or more other persons—

"(A) owns, controls, or has power to vote 25 per centum or more of any class of voting securities of the company;

"(B) controls in any manner the election of a majority of the directors of the company; or

"(C) has the power to exercise a controlling influence over the management or policies of such company.

"(6) For the purposes of this subsection—

"(A) the term 'person' means an individual or company;

"(B) the term 'company' means any corporation, partnership, business trust, association, joint venture, pool syndicate, sole proprietorship, unincorporated organization, any other form of business entity not specifically listed herein, or any other trust, but shall not include any insured bank or any corporation the majority of shares of which is owned by the United States or by any State;

"(C) the term 'extension of credit' has the same meaning assigned such term in the fourth paragraph of section 23A of this Act;

"(D) a person shall be deemed to be a 'director' of a member bank or a 'person who directly or indirectly or acting through or in concert with one or more persons owns, controls, or has power to vote more than 10 per centum of any class of voting securities of a member bank' if such person has such relationship with any bank holding company of which such member is a subsidiary, as defined by the Bank Holding Company Act (12 U.S.C. 1841), or with any other subsidiary of such bank holding company;

"(E) a person shall be deemed to be an 'officer' of a member bank if such person is an officer of any bank holding company of which such member bank is a subsidiary, as defined by the Bank Holding Company Act (12 U.S.C. 1841), or with any other subsidiary of such bank holding company;

"(F) the term 'executive officer' has the same meaning assigned such term under section 22(g) of this Act; and

"(G) the term 'pay an overdraft on an account' means the payment by a member bank of an amount for an account holder in excess of the funds on deposit in the account and does not include a payment of funds by the member bank in accordance with either a written preauthorized, interest-bearing extension of credit specifying a method of repayment or a written preauthorized transfer of funds from another account of the account holder at that bank.

"(7) The Board of Governors of the Federal Reserve System may prescribe such rules and regulations, including definitions of terms, as it deems necessary to effectuate the purposes and to prevent evasions of this subsection. The Board may further prescribe rules providing a reasonable period of time after the date of enactment of this subsection within which the amount of outstanding loans or extensions of credit made prior to such date of enactment shall be reduced so as to conform to the limitations of this subsection.".

SEC. 105. (a) Section 5 of the Bank Holding Company Act of 1956, as amended (12 U.S.C. 1844), is amended by adding at the end thereof the following new subsection:

"(e)(1) Notwithstanding any other provision of this Act, the Board may, whenever it has reasonable cause to believe that the continuation by a bank holding company of any activity or of ownership or control of any of its nonbank subsidiaries, other than a nonbank subsidiary of a bank, constitutes a serious risk to the financial safety, soundness, or stability of a bank holding company subsidiary bank and is inconsistent with sound banking principles or with the purposes of this Act or with the Financial Institutions Supervisory Act of 1966, order the bank holding company or any such nonbank subsidiaries, after due notice and opportunity for hearing, and after considering the views of the bank's primary supervisor, which shall be the Comptroller of the Currency in the case of a national bank or the Federal Deposit Insurance Corporation and the appropriate State supervisory authority in the case of an insured nonmember bank, to terminate such activities or to terminate (within one hundred and twenty days or such longer period as the Board may direct in unusual circumstances) its ownership or control of any such subsidiary either by sale or by distribution of the shares of the subsidiary to the shareholders of the bank holding company. Such distribution shall be pro rata with respect to all of the shareholders of the distributing bank holding company, and the holding company shall not make any charge to its shareholders arising out of such a distribution.

"(2) The Board may in its discretion apply to the United States district court within the jurisdiction of which the principal office of the holding company is located, for the enforcement of any effective and outstanding order issued under this section, and such court shall have jurisdiction and power to order and require compliance therewith, but except as provided in section 9 of this Act, no court shall have jurisdiction to affect by injunction or otherwise the issuance or enforcement of any notice or order under this section, or to review, modify, suspend, terminate, or set aside any such notice or order.".

(b)(1) Section 408(h) of the National Housing Act (12 U.S.C. 1730a(h)) is amended by adding immediately after "under subsection (a)(2)(D)" in paragraphs (3)(A) and (3)(B) of subsection (h) the phrase "or under subsection (h)(5)" and is amended by redesignating paragraph (h)(5) as (h)(6) and by adding a new paragraph (h)(5) to read as follows:

"(5)(A) Notwithstanding any other provision of this section, the Corporation may, whenever it has reasonable cause to believe that the continuation by a savings and loan holding company of any activity or of ownership or control of any of its noninsured subsidiaries constitutes a serious risk to the financial safety, soundness, or stability of a savings and loan holding company's subsidiary insured institution and is inconsistent with the sound operation of an insured savings and loan institution or with the purposes of this section or with the Financial Institutions Supervisory Act, order the savings and loan holding company or any of its subsidiaries, after due notice and opportunity for hearing, to terminate such activities or to terminate (within one hundred and twenty days or such longer period as the Corporation directs in unusual circumstances) its ownership or control of any such noninsured subsidiary either by sale or by distribution of the shares of the subsidiary to the shareholders of the savings and loan holding company. Such distribution shall be pro rata with respect to all of the shareholders of the distributing savings and loan holding company, and the holding company shall not make any charge to its shareholders arising out of such a distribution.

"(B) The Corporation may in its discretion apply to the United States district court within the jurisdiction of which the principal office of the company is located, for the enforcement of any effective and outstanding order issued under this section, and such court shall have jurisdiction and power to order and require compliance therewith, but except as provided in subsection (k), no court shall have jurisdiction to affect by injunction or otherwise the issuance or enforcement of any notice or order under this section, or to review, modify, suspend, terminate, or set aside any such notice or order.".

(2) Section 406(f) of the National Housing Act (12 U.S.C. 1729(f)) is amended to read as follows:

"(f)(1) In order to prevent a default in an insured institution or in order to restore an insured institution in default to normal operation, the Corporation is authorized, in its discretion and upon such terms and conditions as it may determine, to make loans to, to purchase the assets of, or to make a contribution to, an insured institution or an insured institution in default.

"(2) Whenever an insured institution is in default or, in the judgment of the Corporation, is in danger of default, the Corporation may, in order to facilitate a merger or consolidation of such insured institution with another insured institution or the sale of the assets of such insured institution and the assumption of its liabilities by another insured institution and upon such terms and conditions as the Corporation may determine, purchase any such assets or assume any such liabilities, or make loans to such other insured institution, or guarantee such other institution against loss by reason of its merging or consolidating with or assuming the liabilities and purchasing the assets of such insured institution in or in danger of default.

"(3) No contribution or guarantee shall be made pursuant to paragraphs (1) or (2) of this subsection (f) in an amount in excess of that which the Corporation finds to be reasonably necessary to save the cost of liquidating such insured institution in or in danger of default, but if the Corporation determines that the continued operation of such institution is essential to provide adequate savings or home financing services in its community, such limitation upon the amount of a contribution or guarantee shall not apply.".

SEC. 106. (a) Section 8 of the Bank Holding Company Act of 1956, as amended (12 U.S.C.

1847), is amended by redesignating "SEC. 8." as "SEC. 8. (a)" and by adding a new subsection (b) to read as follows:

"(b)(1) Any company which violates or any individual who participates in a violation of any provision of this Act, or any regulation or order issued pursuant thereto, shall forfeit and pay a civil penalty of not more than $1,000 per day for each day during which such violation continues. The penalty shall be assessed and collected by the Board by written notice. As used in the section, the term 'violates' includes without any limitation any action (alone or with another or others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation.

"(2) In determining the amount of the penalty the Board shall take into account the appropriateness of the penalty with respect to the size of financial resources and good faith of the company or person charged, the gravity of the violation, the history of previous violations, and such other matters as justice may require.

"(3) The company or person assessed shall be afforded an opportnuity for agency hearing, upon request made within ten days after issuance of the notice of assessment. In such hearing all issues shall be determined on the record pursuant to section 554 of title 5, United States Code. The agency determination shall be made by final order which may be reviewed only as provided in section 9. If no hearing is requested as herein provided, the assessment shall constitute a final and unappealable order.

"(4) If any company or person fails to pay an assessment after it has become a final and unappealable order, or after the court of appeals has entered final judgment in favor of the Board, the Board shall refer the matter to the Attorney General, who shall recover the amount assessed by action in the appropriate United States district court. In such action the validity and appropriateness of the final order imposing the penalty shall not be subject to review.

"(5) The Board shall promulgate regulations establishing procedures necessary to implement this subsection.

"(6) All penalties collected under authority of this subsection shall be covered into the Treasury of the United States.".

(b) Section 5 of the Bank Company Act is amended by adding the following new paragraph:

"(f) In the course of or in connection with an application, examination, investigation or other proceeding under this Act, the Board, or any member or designated representative thereof, including any person designated to conduct any hearing under this Act, shall have the power to administer oaths and affirmations, to take or cause to be taken depositions, and to issue, revoke, quash, or modify subpenas and subpenas duces tecum; and the Board is empowered to make rules and regulations to effectuate the purposes of this subsection. The attendance of witnesses and the production of documents provided for in this subsection may be required from any place in any State or in any territory or other place subject to the jurisdiction of the United States at any designated place where such proceeding is being conducted. Any party to proceedings under this Act may apply to the United States District Court for the District of Columbia, or the United States district court for the judicial district or the United States court in any territory in which such proceeding is being conducted or where the witness resides or carries on business, for the enforcement of any subpena or subpena duces tecum issued pursuant to this subsection, and such courts shall have jurisdiction and power to order and require compliance therewith. Witnesses subpenaed under this subsection shall be paid the same fees and mileage that are paid witnesses in the district courts of the United States. Any service required under this subsection may be made by registered mail, or in such other manner reasonably calculated to give actual notice as the Board may by regulation or otherwise provide. Any court having jurisdiction of any proceeding instituted under this subsection may allow to any such party such reasonable expenses and attorneys' fees as it deems just and proper. Any person who willfully shall fail or refuse to attend and testify or to answer any lawful inquiry or to produce books, papers, correspondence, memoranda, contracts, agreements, or other records, if in such person's power so to do, in obedience to the subpena of the Board, shall be guilty of a misdemeanor and, upon conviction, shall be subject to a fine of not more than $1,000 or to imprisonment for a term of not more than one year or both.".

(c) Section 408(j) of the National Housing Act (12 U.S.C. 1730a(j)), is amended by adding thereto a new paragraph (j)(4) to read as follows:

"(4)(A) Any company which violates or any individual who participates in a violation of any provision of this section, or any regulation or order issued pursuant thereto, shall forfeit and pay a civil penalty of not more than $1,000 per day for each day during which such violation continues. The penalty shall be assessed and collected by the Corporation by written notice. As used in the section, the term 'violates' includes without any limitation any action (alone or with another or others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation.

"(B) In determining the amount of the penalty the Corporation shall take into account the appropriateness of the penalty with respect to the size of financial resources and good faith of the company or person charged, the gravity of the violation, the history of previous violations, and such other matters as justice may require.

"(C) The company or person assessed shall be afforded an opportunity for agency hearing, upon request made within ten days after issuance of the notice of assessment. In such hearing all issues shall be determined on the record pursuant to section 554 of title 5, United States Code. The agency determination shall be made by final order which may be reviewed only as provided in subparagraph (D). If no hearing is requested as herein provided, the assessment shall constitute a final and unappealable order.

"(D) Any company or person against whom an order imposing a civil money penalty has been entered after agency hearing under this section may obtain review by the United States court of appeals for the circuit in which the home office of the company is located, or in the United States Court of Appeals for the District of Columbia Circuit, by filing a notice of appeal in such court within thirty days from the date of such order, and simultaneously sending a copy of such notice by registered or certified mail to the Corporation. The Corporation shall promptly certify and file in such court the record upon which the penalty was imposed, as provided in section 2112 of title 28, United States Code. The findings of the Corporation shall be set aside if found to be unsupported by substantial evidence as provided by section 706 (2) (E) of title 5, United States Code.

"(E) If any company or person fails to pay an assessment after it has become a final and unappealable order, or after the court of appeals has entered final judgment in favor of the agency, the Corporation shall refer the matter to the Attorney General, who shall recover the amount assessed by action in the appropriate United States district court. In such action the validity and appropriateness of the final order imposing the penalty shall not be subject to review.

"(F) The Corporation shall promulgate regulations establishing procedures necessary to implement this paragraph.

"(G) All penalties collected under authority of this paragraph shall be covered into the Treasury of the United States.".

SEC. 107. (a)(1) Section 8(b) of the Federal Deposit Insurance Act (12 U.S.C. 1818 (b)) is amended to read as follows:

"(b)(1) If, in the opinion of the appropriate Federal banking agency, any insured bank, bank which has insured deposits, or any director, officer, employee, agent, or other person participating in the conduct of the affairs of such a bank is engaging or has engaged, or the agency has reasonable cause to believe that the bank or any director, officer, employee, agent, or other person participating in the conduct of the affairs of such bank is about to engage, in an unsafe or unsound practice in conducting the business of such bank, or is violating or has violated, or the agency has reasonable cause to believe that the bank or any director, officer, employee, agent, or other person participating in the conduct of the affairs of such bank is about to violate, a law, rule, or regulation, or any condition imposed in writing by the agency in connection with the granting of any application or other request by the bank or any written agreement entered into with the agency, the agency may issue and serve upon the bank or such director, officer, employee, agent, or other person a notice of charges in respect thereof. The notice shall contain a statement of the facts constituting the alleged violation or violations or the unsafe or unsound practice or practices, and shall fix a time and place at which a hearing will be held to determine whether an order to cease and desist therefrom should issue against the bank or the director, officer, employee, agent, or other person participating in the conduct of the affairs of such bank. Such hearing shall be fixed for a date not earlier than thirty days nor later than sixty days after service of such notice unless an earlier or a later date is set by the agency at the request of any party so served. Unless the party or parties so served shall appear at the hearing personally or by a duly authorized representative, they shall be deemed to have consented to the issuance of the cease-and-desist order. In the event of such consent, or if upon the record made at any such hearing, the agency shall find that any violation or unsafe or unsound practice specified in the notice of charges has been established, the agency may issue and serve upon the bank or the director, officer, employee, agent, or other person participating in the conduct of the affairs of such bank an order to cease and desist from any such violation or practice. Such order may, by provisions which may be mandatory or otherwise, require the bank or its directors, officers, employees, agents, and other persons participating in the conduct of the affairs of such bank to cease and desist from the same, and, further, to take affirmative action to correct the conditions resulting from any such violation or practice.

"(2) A cease-and-desist order shall become effective at the expiration of thirty days after the service of such order upon the bank or other person concerned (except in the case of a cease-and-desist order issued upon consent, which shall become effective at the time specified therein), and shall remain effective and enforceable as provided therein, except to such extent as it is stayed, modified, terminated, or set aside by action of the agency or a reviewing court.".

(2) Section 407(e) of the National Housing Act (12 U.S.C. 1730(e)) is amended to read as follows:

"(e)(1) If, in the opinion of the Corporation, any insured institution, institution which has insured accounts or any director,

officer, employee, agent, or other person participating in the conduct of the affairs of such institution is engaging or has engaged, or the Corporation has reasonable cause to believe that the institution or any director, officer, employee, agent, or other person participating in the conduct of the affairs of such institution is about to engage, in an unsafe or unsound practice in conducting the business of such institution, or is violating or has violated, or the Corporation has reasonable cause to believe that the institution or any director, officer, employee, agent, or other person participating in the conduct of the affairs of such institution is about to violate, a law, rule, or regulation, or any condition imposed in writing by the Corporation in connection with the granting of any application or other request by the institution or any written agreement entered into with the Corporation, including any agreement entered into under section 403 of this title, the Corporation may issue and serve upon the institution or such director, officer, employee, agent, or other person a notice of charges in respect thereof. The notice shall contain a statement of the facts constituting the alleged violation or violations or the unsafe or unsound practice or practices, and shall fix a time and place at which a hearing will be held to determine whether an order to cease and desist therefrom should issue against the institution or the director, officer, employee, agent, or other person participating in the conduct of the affairs of such institution. Such hearing shall be fixed for a date not earlier than thirty days nor later than sixty days after service of such notice unless an earlier or a later date is set by the Corporation at the request of any party so served. Unless the party or parties so served shall appear at the hearing by a duly authorized representative, they shall be deemed to have consented to the issuance of the cease-and-desist order. In the event of such consent, or if upon the record made at any such hearing, the Corporation shall find that any violation or unsafe or unsound practice specified in the notice of charges has been established, the Corporation may issue and serve upon the institution or the director, officer, employee, agent, or other person participating in the conduct of the affairs of such institution an order to cease and desist from any such violation or practice. Such order may, by provisions which may be mandatory or otherwise, require the institution or directors, officers, employees, agents, and other persons participating in the conduct of the affairs of such institution to cease and desist from the same, and, further to take affirmative action to correct the conditions resulting from any such violation or practice.

"(2) A cease-and-desist order shall become effective at the expiration of thirty days after service of such order upon the institution or the party or parties so served (except in the case of a cease-and-desist order issued upon consent, which shall become effective at the time specified therein), and shall remain effective and enforceable except to such extent as it is stayed, modified, terminated, or set aside by action of the Corporation or a reviewing court.

"(3) This subsection and subsections (f), (g), (h), (j), (k), (m) (3), (n), (o), (p), and (q) of this section shall apply to any savings and loan holding company, and to any subsidiary (other than an insured institution) of a savings and loan holding company, as those terms are defined in section 408 of this title, and to any affiliate service corporation of an insured institution in the same manner as they apply to insured institutions.".

(3) Section 5(d)(2) of the Home Owners' Loan Act, as amended (12 U.S.C. 1464 (d)(2)), is amended to read as follows:

"(2)(A) If, in the opinion of the Board, any association or any director, officer, employee, agent, or other person participating in the conduct of the affairs of such association is engaging or has engaged, or the Board has reasonable cause to believe that the association or any director, officer, employee, agent, or other person participating in the conduct of the affairs of such association is about to engage, in an unsafe or unsound practice in conducting the business of such association, or is violating or has violated or the Board has reasonable cause to believe that the association or any director, officer, employee, agent, or other person participating in the conduct of the affairs of such association is about to violate, a law, rule, or regulation, or charter, or any condition imposed in writing by the Board in connection with the granting of any application or other request by the association or any written agreement entered into with the Board, the Board may issue and serve upon the association or such director, officer, employee, agent, or other person a notice of charges in respect thereof. The notice shall contain a statment of the facts constituting the alleged violation or violations or the unsafe or unsound practice or practices, and shall fix a time and place at which a hearing will be held to determine whether an order to cease and desist therefrom should issue against the association or the director, officer, employee, agent, or other person participating in the conduct of the affairs of such association. Such hearing shall be fixed for a date not earlier than thirty days nor later than sixty days after service of such notice unless an earlier or a later date is set by the Board at the request of any party so served. Unless the party or parties so served shall appear at the hearing by a duly authorized representative, they shall be deemed to have consented to the issuance of the cease-and-desist order. In the event of such consent, or if upon the record made at any such hearing, the Board shall find that any violation or unsafe or unsound practice specified in the notice of charges has been established, the Board may issue and serve upon the association or the director, officer, employee, agent, or other person participating in the conduct of the affairs of such association an order to cease and desist from any such such violation or practice. Such order may, by provisions which may be mandatory or otherwise, require the association or its directors, officers, employees, agents, and other persons participating in the conduct of the affairs of such association to cease and desist from the same, and, further, to take affirmative action to correct the conditions resulting from any such violation or practice.

"(B) A cease-and-desist order shall become effective at the expiration of thirty days after service of such order upon the association or the party or parties so served (except in the case of a cease-and-desist order issued upon consent, which shall become effective at the time specified therein), and shall remain effective and enforceable, except to such extent as it is stayed, modified, terminated, or set aside by action of the Board or a reviewing court.

"(C) This paragraph and paragraphs (3), (4), (5), (7), (8), (9), (10), (12) (A) and (B), (13), and (14) of this subsection (d) shall apply to any savings and loan holding company or to any subsidiary (other than an association) of a savings and loan holding company, as those terms are defined in section 408 of the National Housing Act (12 U.S.C. 1730a), as amended, and to any affiliate service corporation of an association in the same manner as they apply to an association.".

(4) Section 206(e) of the Federal Credit Union Act (12 U.S.C. 1786(e)(1)) is amended to read as follows:

"(e)(1) If, in the opinion of the Administrator, any insured credit union, credit union which has insured accounts, or any director, officer, committee member, employee, agent, or other person participating in the conduct of the affairs of such a credit union is engaging or has engaged, or the Administrator has reasonable cause to believe that the credit union or any director, officer, committee member, employee, agent, or other person participating in the conduct of the affairs of such credit union is about to engage, in an unsafe or unsound practice in conducting the business of such credit union, or is violating or has violated, or the Administrator has reasonable cause to believe that the credit union or any director, officer, committee member, employee, agent, or other person participating in the conduct of the affairs of such credit union is about to violate, a law, rule, or regulation, or any condition imposed in writing by the Administrator in connection with the granting of any application or other request by the credit union or any written agreement entered into with the Administrator, the Administrator may issue and serve upon the credit union or such director, officer, committee member, employee, agent, or other person a notice of charges in respect thereof. The notice shall contain a statement of the facts constituting the alleged violation or violations or the unsafe or unsound practice or practices, and shall fix a time and place at which a hearing will be held to determine whether an order to cease and desist therefrom should issue against the credit union or the director, officer, committee member, employee, agent, or other person participating in the conduct of the affairs of such credit union. Such hearing shall be fixed for a date not earlier than thirty days nor later than sixty days after service of such notice unless an earlier or a later date is set by the Administrator at the request of any party so served. Unless the party or parties so served shall appear at the hearing by a duly authorized representative, they shall be deemed to have consented to the issuance of the cease-and-desist order. In the event of such consent, or if upon the record made at any such hearing, the Administrator shall find that any violation or unsafe or unsound practice specified in the notice of charges has been established, the Administrator may issue and serve upon the credit union or the director, officer, committee member, employee, agent, or other person participating in the conduct of the affairs of such credit union or an order to cease and desist from any such violation or practice. Such order may, by provisions which may be mandatory or otherwise, require the credit union or its directors, officers, committee members, employees, agents, and other persons participating in the conduct of the affairs of such credit union to cease and desist from the same, and, further, to take affirmative action to correct the conditions resulting from any such violation or practice.

"(2) A cease-and-desist order shall become effective at the expiration of thirty days after the service of such order upon the credit union or other person concerned (except in the case of a cease-and-desist order issued upon consent, which shall become effective at the time specified therein), and shall remain effective and enforceable as provided therein, except to such extent as it is stayed, modified, terminated, or set aside by action of the Administrator or a reviewing court.".

(b) Section 8(b)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1818(b)(3)) is amended to read as follows:

"(3). This subsection and subsections (c) through (f) and (h) through (n) of this section shall apply to any bank holding company, and to any subsidiary (other than a bank) of a bank holding company, as those terms are defined in the Bank Holding Company Act of 1956, and to any organization organized and operated under section 25A of

the Federal Reserve Act or operating under section 25 of the Federal Reserve Act, in the same manner as they apply to a State member insured bank. Nothing in this subsection or in subsection (c) of this section shall authorize any Federal banking agency, other than the Board of Governors of the Federal Reserve System, to issue a notice of charges or cease-and-desist order against a bank holding company or any subsidiary thereof (other than a bank or subsidiary of that bank).".

(c)(1) Sections 8(c) (1) and (2) of the Federal Deposit Insurance Act (12 U.S.C. 1818(c) (1) and (2)) are amended to read as follows:

"(c)(1) Whenever the appropriate Federal banking agency shall determine that the violation or threatened violation or the unsafe or unsound practice or practices, specified in the notice of charges served upon the bank or any director, officer, employee, agent, or other person participating in the conduct of the affairs of such bank pursuant to paragraph (1) of subsection (b) of this section, or the continuation thereof, is likely to cause insolvency or substantial dissipation of assets or earnings of the bank, or is likely to seriously weaken the condition of the bank or otherwise seriously prejudice the interests of its depositors prior to the completion of the proceedings conducted pursuant to paragraph (1) of subsection (b) of this section, the agency may issue a temporary order requiring the bank or such director, officer, employee, agent, or other person to cease and desist from any such violation or practice and to take affirmative action to prevent such insolvency, dissipation, condition, or prejudice pending completion of such proceedings. Such order shall become effective upon service upon the bank or such director, officer, employee, agent, or other person participating in the conduct of the affairs of such bank and, unless set aside, limited, or suspended by a court in proceedings authorized by paragraph (2) of this subsection, shall remain effective and enforceable pending the completion of the administrative proceedings pursuant to such notice and until such time as the agency shall dismiss the charges specified in such notice, or if a cease-and-desist order is issued against the bank or such director, officer, employee, agent, or other person, until the effective date of such order.

"(2) Within ten days after the bank concerned or any director, officer, employee, agent, or other person participating in the conduct of the affairs of such bank has been served with a temporary cease-and-desist order, the bank or such director, officer, employee, agent, or other person may apply to the United States district court for the judicial district in which the home office of the bank is located, or the United States District Court for the District of Columbia, for an injunction setting aside, limiting, or suspending the enforcement, operation, or effectiveness of such order pending the completion of the administrative proceedings pursuant to the notice of charges served upon the bank or such director, officer, employee, agent, or other person under paragraph (1) of subsection (b) of this section, and such court shall have jurisdiction to issue such injunction.".

(2) Section 407(f) (1) and (2) of the National Housing Act (12 U.S.C. 1730(f) (1) and (2)) is amended to read as follows:

"(f)(1) Whenever the Corporation shall determine that the violation or threatened violation or the unsafe or unsound practice or practices, specified in the notice of charges served upon the institution or any director, officer, employee, agent, or other person participating in the conduct of the affairs of such institution or any institution any of the accounts of which are insured pursuant to paragraph (1) of subsection (e) of this section, or the continuation thereof, is likely to cause insolvency or substantial dissipation of assets or earnings of the institution, or is likely to seriously weaken the condition of the institution or otherwise seriously prejudice the interests of its insured members prior to the completion of the proceedings conducted pursuant to paragraph (1) of subsection (c) of this section, the Corporation may issue a temporary order requiring the institution or such director, officer, employee, agent, or other person to cease and desist from any such violation or practice and to take affirmative action to prevent such insolvency, dissipation, condition or prejudice pending completion of such proceedings. Such order shall become effective upon service upon the institution and/or such director, officer, employee, agent, or other person participating in the conduct of the affairs of such institution and, unless set aside, limited, or suspended by a court in proceedings authorized by paragraph (2) of this subsection, shall remain effective and enforceable pending the completion of the administrative proceedings pursuant to such notice and until such time as the Corporation shall dismiss the charges specified in such notice, or if a cease-and-desist order is issued against the institution or such director, officer, employee, agent, or other person, until the effective date of any such order.

"(2) Within ten days after the institution concerned or any director, officer, employee, agent, or other person participating in the conduct of the affairs of such institution has been served with a temporary cease-and-desist order, the institution or such director, officer, employee, agent, or other person may apply to the United States district court for the judicial district in which the principal office of the institution is located, or the United States District Court for the District of Columbia, for an injunction setting aside, limiting or suspending the enforcement, operation, or effectiveness of such order pending the completion of the administrative proceedings pursuant to the notice of charges served upon the institution or such director, officer, employee, agent, or other person under paragraph (1) of subsection (e) of this section, and such court shall have jurisdiction to issue such injunction.".

(3) Section 5(d)(3) (A) and (B) of the Home Owners' Loan Act, as amended (12 U.S.C. 1464(d)(3) (A) and (B)), is amended to read as follows:

"(3)(A) Whenever the Board shall determine that the violation or threatened violation or the unsafe or unsound practice or practices, specified in the notice of charges served upon the association or any director, officer, employee, agent, or other person participating in the conduct of the affairs of such association pursuant to paragraph (2) (A) of this subsection, or the continuation thereof, is likely to cause insolvency (as defined in paragraph (6)(A)(i) of this subsection) or substantial dissipation of assets or earnings of the association, or is likely to seriously weaken the condition of the association or otherwise seriously prejudice the interests of its savings account holders prior to the completion of the proceedings conducted pursuant to paragraph (2)(A) of this subsection the Board may issue a temporary order requiring the association or such director, officer, employee, agent, or other person to cease and desist from any such violation or practice and to take affirmative action to prevent such insolvency, dissipation, condition or prejudice pending completion of such proceedings. Such order shall become effective upon service upon the association or such director, officer, employee, agent, or other person participating in the conduct of the affairs of such institution and, unless set aside, limited, or suspended by a court in proceedings authorized by subparagraph (B) of this paragraph, shall remain effective and enforceable pending the completion of the administrative proceedings pursuant to such notice and until such time as the Board shall dismiss the charges specified in such notice, or if a cease-and-desist order is issued against the association or such director, officer, employee, agent, or other person, until the effective date of such order.

"(B) Within ten days after the association concerned or any director, officer, employee, agent, or other person participating in the conduct of the affairs of such association has been served with a temporary cease-and-desist order, the association or such director, officer, employee, agent, or other person may apply to the United States district court for the judicial district in which the home office of the association is located, or the United States District Court for the District of Columbia, for an injunction setting aside, limiting, or suspending the enforcement, operation, or effectiveness of such order pending the completion of the administrative proceedings pursuant to the notice of charges served upon the bank or such director, officer, employee, agent, or other person under paragraph (2)(A) of this subsection, and such court shall have jurisdiction to issue such injunction.".

(4) Sections 206(f) (1) and (2) of the Federal Credit Union Act (12 U.S.C. 1786(f) (1) and (2)) are amended to read as follows:

"(f)(1) Whenever the Administrator shall determine that the violation or threatened violation or the unsafe or unsound practice or practices, specified in the notice of charges served upon the credit union or any director, officer, committee member, employee, agent, or other person participating in the conduct of the affairs of such credit union pursuant in paragraph (1) of subsection (e) of this section, or the continuation thereof, is likely to cause insolvency or substantial dissipation of assets or earnings of the credit union, or is likely to seriously weaken the condition of the credit union or otherwise seriously prejudice the interests of its insured members prior to the completion of the proceedings conducted pursuant to paragraph (1) of subsection (e) of this section, the Administrator may issue a temporary order requiring the credit union or such director, officer, committee member, employee, agents, or other person to cease and desist from any such violation or practice and to take affirmative action to prevent such insolvency, dissipation, condition, or prejudice pending completion of such proceedings. Such order shall become effective upon service upon the credit union or such director, officer, committee member, employee, agent, or other person participating in the conduct of the affairs of such credit union and, unless set aside, limited, or suspended by a court in proceedings authorized by paragraph (2) of this subsection, shall remain effective and enforceable pending the completion of the administrative proceedings pursuant to such notice and until such time as the Administration shall dismiss the charges specified in such notice, or if a cease-and-desist order is issued against the credit union or such director, officer, committee member, employee, agent, or other person, until the effective date of such order.

"(2) Within ten days after the credit union concerned or any director, officer, committee member, employee, agent, or other person participating in the conduct of the affairs of such credit union has been served with a temporary crease-and-desist order, the credit union or such director, officer committee member, employee, agent, or other person may apply to the United States district court for the judicial district in which the home office of the credit union is located, or the United States District Court for the District of Columbia, for an injunction setting aside, limiting, or suspending the enforcement, operation, or effectivenes of such order pending the completion of the administrative proceedings pursuant to the

notice of charges served upon the credit union or such director, officer, committee member, employee, agent, or other person under paragraph (1) of subsection (e) of this section, and such court shall have jurisdiction to issue such injunction.".

(d) (1) Section 8(e) of the Federal Deposit Insurance Act, as amended (12 U.S.C. 1818 (e)), is amended to read as follows:

"(e) (1) Whenever, in the opinion of the appropriate Federal banking agency, any director or officer of an insured bank has committed any violation of law, rule, or regulation or a cease-and-desist order which has become final, or has engaged or participated in any unsafe or unsound practice in connection with the bank, or has committed or engaged in any act, omission, or practice which constitutes a breach of his fiduciary duty as such director or officer, and the agency determines that the bank has suffered or will probably suffer substantial financial loss or other damage or that the interests of its depositors could be seriously prejudiced by reason of such violation or practice or breach of fiduciary duty, and that such violation or practice or breach of fiduciary duty is one involving personal dishonesty on the part of such director or officer, or one which demonstrates a willful or continuing disregard for the safety or soundness of the bank, the agency may serve upon such director or officer a written notice of its intention to remove him from office.

"(2) Whenever, in the opinion of the appropriate Federal banking agency, any director or officer of an insured bank, by conduct or practice with respect to another insured bank or other business institution which resulted in substantial financial loss or other damage, has evidenced either his personal dishonesty or a willful or continuing disregard for its safety and soundness, and, in addition, has evidenced his unfitness to continue as a director or officer and, whenever, in the opinion of the appropriate Federal banking agency, any other person participating in the conduct of the affairs of an insured bank, by conduct or practice with respect to such bank or other insured bank or other business institution which resulted in substantial financial loss or other damage, has evidenced either his personal dishonesty or a willful or continuing disregard for its safety and soundness, and, in addition, has evidenced his unfitness to participate in the conduct of the affairs of such insured bank, the agency may serve upon such director, officer, or other person a written notice of its intention to remove him from office or to prohibit his further participation in any manner in the conduct of the affairs of the bank.

"(3) In respect to any director or officer of an insured bank or any other person referred to in paragraph (1) or (2) of this subsection, the appropriate Federal banking agency may, if it deems it necessary for the protection of the bank or the interests of its depositors, by written notice to such effort served upon such director, officer, or other person, suspend him from office or prohibit him from further participation in any manner in the conduct of the affairs of the bank. Such suspension or prohibition shall become effective upon service of such notice and, unless stayed by a court in proceedings authorized by subsection (f) of this section, shall remain in effect pending the completion of the administrative proceeding pursuant to the notice served under paragraph (1) or (2) of this subsection and until such time as the agency shall dismiss the charges specified in such notice, or, if an order of removal or prohibition is issued against the director or officer or other person, until the effective date of any such order. Copies of any such notice shall also be served upon the bank of which he is a director or officer or in the conduct of whose affairs he has participated.

"(4) A notice of intention to remove a director, officer, or other person from office or to prohibit his participation in the conduct of the affairs of an insured bank, shall contain a statement of the facts constituting grounds therefor, and shall fix a time and place at which a hearing will be held thereon. Such hearing shall be fixed for a date not earlier than thirty days nor later than sixty days after the date of service of such notice, unless an earlier or a later date is set by the agency at the request of (A) such director or officer or other person, and for good cause shown, or (B) the Attorney General of the United States. Unless such director, officer, or other person shall appear at the hearing in person or by a duly authorized representative, he shall be deemed to have consented to the issuance of an order of such removal or prohibition. In the event of such consent, or if upon the record made at any such hearing the agency shall find that any of the grounds specified in such notice have been established, the agency may issue such orders of suspension or removal from office, or prohibition from participation in the conduct of the affairs of the bank, as it may deem appropriate. In any action brought under this section by the Comptroller of the Currency in respect to any director, officer or other person with respect to a national banking association or a District bank, the findings and conclusions of the Administrative Law Judge shall be certified to the Board of Governors of the Federal Reserve System for the determination of whether any order shall issue. Any such order shall become effective at the expiration of thirty days after service upon such bank and the director, officer, or other person concerned (except in the case of an order issued upon consent, which shall become effective at the time specified therein). Such order shall remain effective and enforceable except to such extent as it is stayed, modified, terminated, or set aside by action of the agency or a reviewing court.".

(2) Section 407(g) (1) and (2) of the National Housing Act (12 U.S.C. 1730(g) (1) and (2)) is amended to read as follows:

"(g) (1) Whenever, in the opinion of the Corporation, any director or officer of an insured institution has committed any violation of law, rule, or regulation or of a cease-and-desist order which has become final, or has engaged or participated in any unsafe or unsound practice in connection with the institution or has committed or engaged in any act, omission, or practice which constitutes a breach of his fiduciary duty as such director or officer, and the Corporation determines that the institution has suffered or will probably suffer substantial financial loss or other damage or that the interests of its insured members could be seriously prejudiced by reason of such violation or practice or breach of fiduciary duty or that the director or officer has received financial gain by reason of such violation or practice or breach of fiduciary duty, and that such violation or practice or breach of fiduciary duty is one involving personal dishonesty on the part of such director or officer, or one which demonstrates a willful or continuing disregard for the safety or soundness of the institution, the Corporation may serve upon such director or officer a written notice of its intention to remove him from office or to prohibit his further participation in any manner in the conduct of the affairs of the institution.

"(2) Whenever, in the opinion of the Corporation, any director or officer of an insured institution, by conduct or practice with respect to another insured institution or other business institution which resulted in substantial financial loss or other damage, has evidenced either his personal dishonesty or a willful or continuing disregard for its safety and soundness, and, in addition, has evidenced his unfitness to continue as a director or officer and, whenever, in the opinion of the Corporation, any other person participating in the conduct of the affairs of an insured institution, by conduct or practice with respect to such institution or other insured institution or other business institution which resulted in substantial financial loss or other damage, has evidenced either his personal dishonesty or a willful or continuing disregard for its safety and soundness, and in addition, has evidenced his unfitness to participate in the conduct of affairs of such insured institution, the Corporation may serve upon such director, officer, or other person a written notice of its intention to remove him from office or to prohibit his further participation in any manner in the conduct of the affairs of the institution.".

(3) Section 5(d)(4) (A) and (B) of the Home Owners' Loan Act, as amended (12 U.S.C. 1464(d)(4) (A) and (B)) is amended to read as follows:

"(4)(A) whenever, in the opinion of the Board, any director or officer of an associ tion has committed any violation of law, rule, or regulation or of a cease-and-desist order which has become final, or has engaged or participated in any unsafe or unsound practice in connection with the association, or has committed or engaged in any act, omission, or practice which constitutes a breach of his fiduciary duty as such director or officer, and the Board determines that the association has suffered or will probably suffer substantial financial loss or other damage or that the interests of its savings account holders could be seriously prejudiced by reason of such violation or practice or breach of fiduciary duty, or that the director or officer has received financial gain by reason of such violation or practice or breach of fiduciary duty, and that such violation or practice or breach of fiduciary duty is one involving personal dishonesty on the part of such director or officer, or a willful or continuing disregard for the safety or soundness of the association, the Board may serve upon such director or officer a written notice of its intention to remove him from office or to prohibit his further participation in any manner in the conduct of the affairs of the association.

"(B) Whenever, in the opinion of the Board, any director or officer of an association, by conduct or practice with respect to another savings and loan association or other business institution which resulted in substantial financial loss or other damage, has evidenced either his personal dishonesty or a willful or continuing disregard for its safety and soundness, and, whenever, in the opinion of the Board, any other person participating in the conduct of the affairs of an association, by conduct or practice with respect to such association or other savings and loan association or other business institution which resulted in substantial financial loss or other damage, has evidenced either his personal dishonesty or a willful or continuing disregard for its safety and soundness, and, in addition, has evidenced his unfitness to participate in the conduct of the affairs of such association, the Board may serve upon such director, officer, or other person a written notice of its intention to remove him from office or to prohibit his further participation in any manner in the conduct of the affairs of the association.".

(4) Section 206(g) (1) through (4) of the Federal Credit Union Act, as amended (12 U.S.C. 1786(g) (1) through (4)), is amended to read as follows:

"(g) (1) Whenever, in the opinion of the Administrator, any director, committee member, or officer of an insured credit union has committed any violation of law, rule, or regulation of a cease-and-desist order which has become final, or has engaged or participated in any unsafe or unsound prac-

tice in connection with a credit union, or has committed or engaged in any act, omission, or practice which constitutes a breach of his fiduciary duty as such director, committee member, or officer, and the Administrator determines that the credit union has suffered or will probably suffer substantial financial loss or other damage or that the interests of its members could be seriously prejudiced by reason of such violation or practice or breach of fiduciary duty, or that the director, committee members, or officer received financial gain by reason of such violation or practice or breach of fiduciary duty, and that such violation or practice or breach of fiduciary duty is one involving personal dishonesty on the part of such director, committee member, or officer, or one which demonstrates a willful or continuing disregard for the safety or soundness of the credit union, the Administrator may serve upon such director, committee member, or officer a written notice of his intention to remove him from office

"(2) Whenever, in the opinion of the Administrator, any director, committee member, or officer of an insured credit union, by conduct or practice with respect to another insured credit union or other business institution which resulted in substantial financial loss or other damage, has evidenced either his personal dishonesty or a willful or continuing disregard for its safety and soundness, and, in addition, has evidenced his unfitness to continue as a director or officer and, whenever, in the opinion of the Administrator, any other person participating in the conduct of the affairs of an insured credit union, by conduct or practice with respect to such credit union or other insured credit union or other business institution which resulted in substantial financial loss or other damage, has evidenced either his personal dishonesty or a willful or continuing disregard for its safety and soundness, and, in addition, has evidenced his unfitness to participate in the conduct of the affairs of such insured credit union, the Administrator may serve upon such director, officer, or other person a written notice of his intention to remove him from office or to prohibit his further participation in any manner in the conduct of the affairs of the credit union.

"(3) In respect to any director, committee member, or officer of an insured credit union or any other person referred to in paragraph (1) or (2) of this subsection, the Administrator may, if he deems it necessary for the protection of the credit union or the interests of its members, by written notice to such effect served upon such director, committee member, officer, or other person, suspend him from office or prohibit him from further participation in any manner in the conduct of the affairs of the credit union. Such suspension or prohibition shall become effective upon service of such notice and, unless stayed by a court in proceedings authorized by paragraph (5) of this subsection, shall remain in effect pending the completion of the administrative proceedings pursuant to the notice served under paragraph (1) or (2) of this subsection and until such time as the Administrator shall dismiss the charges specified in such notice, or, if an order of removal and prohibition is issued against the director, committee member, or officer or other person, until the effective date of any such order. Copies of any such notice shall also be served upon the credit union of which he is a director, committee member, or officer or in the conduct of whose affairs he has participated.

"(4) A notice of intention to remove a director, committee member, officer, or other person from office or to prohibit his participation in the conduct of the affairs of an insured credit union, shall contain a statement of the facts constituting grounds therefor, and shall fix a time and place at which a hearing will be held thereon. Such hearing shall be fixed for a date not earlier than thirty days nor later than sixty days after the date of service of such notice, unless an earlier or a later date is set by the Administrator at the request of (A) such director, committee member, or officer or other person, and for good cause shown, or (B) the Attorney General of the United States. Unless such director, committee member, officer, or other person shall appear at the hearing in person or by a duly authorized representative, he shall be deemed to have consented to the issuance of an order of such removal or prohibition. In the event of such consent, or if upon the record made at any such hearing the Administrator shall find that any of the grounds specified in such notice have been established, the Administrator may issue such orders of suspension or removal from office, or prohibiiton from participation in the conduct of the affairs of the credit union, as it may deem appropriate. Any such order shall become effective at the expiration of thirty days after service upon such credit union and the director, committee member, officer, or other person concerned (except in the case of an order issued upon consent, which shall become effective at the time specified therein). Such order shall remain effective and enforceable except to such extent as it is stayed, modified, terminated, or set aside by action of the Administrator or a reviewing court.".

(e)(1) Section 8(i) of the Federal Deposit Insurance Act, as amended (12 U.S.C. 1818(i)), is amended by redesignating section 8(i) as 8(i)(1) and by adding at the end thereof a new paragraph as follows:

"(2)(i) Any insured bank which violates or any officer, director, employee, agent, or other person participating in the conduct of the affairs of such a bank who violates the terms of any order which has become final and was issued pursuant to subsection (b) or (c) of this section, shall forfeit and pay a civil penalty of not more than $1,000 per day for each day during which such violation continues. The penalty shall be assessed and collected by the appropriate Federal banking agency by written notice. As used in this section, the term 'violates' includes without any limitation any action (alone or with another or others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation.

"(ii) In determining the amount of the penalty the appropriate Federal banking agency shall take into account the appropriateness of the penalty with respect to the size of financial resources and good faith of the insured bank or person charged, the gravity of the violation, the history of previous violations, and such other matters as justice may require.

"(iii) The insured bank or person assessed shall be afforded an opportunity for agency hearing, upon request made within ten days after issuance of the notice of assessment. In such hearing all issues shall be determined on the record pursuant to section 554 of title 5, United States Code. The agency determination shall be made by final order which may be reviewed only as provided in subparagraph (iv). If no hearing is requested as herein provided, the assessment shall constitute a final and unappealable order.

"(iv) Any insured bank or person against whom an order imposing a civil money penalty has been entered after agency hearing under this section may obtain review by the United States court of appeals for the circuit in which the home office of the insured bank is located, or the United States Court of Appeals for the District of Columbia Circuit, by filing a notice of appeal in such court within ten days from the date of such order, and simultaneously sending a copy of such notice by registered or certified mail to the appropriate Federal banking agency. The agency shall promptly certify and file in such Court the record upon which the penalty was imposed, as provided in section 2112 of title 28, United States Code. The findings of the agency shall be set aside if found to be unsupported by substantial evidence as provided by section 706(2)(E) of title 5, United States Code.

"(v) If any insured bank or person fails to pay an assessment after it has become a final and unappealable order, or after the court of appeals has entered final judgment in favor of the agency, the agency shall refer the matter to the Attorney General, who shall recover the amount assessed by action in the appropriate United States district court. In such action, the validity and appropriateness of the final order imposing the penalty shall not be subject to review.

"(vi) Each Federal banking agency shall promulgate regulations establishing procedures necessary to implement this paragraph.

"(vii) All penalties collected under authority of this section shall be covered into the Treasury of the United States.".

(2) Section 407(k) of the National Housing Act (12 U.S.C. 1730(k)) is amended by adding a new paragraph (k)(3) to read as follows:

"(3)(A) Any insured institution or any institution any of the accounts of which are insured which violates or any officer, director, employee, agent, or other person participating in the conduct of the affairs of such an institution who violates the term of any order which has become final and was issued pursuant to subsection (e) or (f) of this section shall forfeit and pay a civil penalty of not more than $1,000 per day for each day during which such violation continues. The penalty shall be assessed and collected by the Corporation by written notice. As used in this section, the term 'violates' includes without any limitation any action (alone or with another or others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation.

"(B) In determining the amount of the penalty the Corporation shall take into account the appropriateness of the penalty with respect to the size of financial resources and good faith of the insured institution or person charged, the gravity of the violation, the history of previous violations, and such other matters as justice may require.

"(C) The insured institution or person assessed shall be afforded an opportunity for agency hearing, upon request made within ten days after issuance of the notice of assessment. In such hearing all issues shall be determined on the record pursuant to section 554 of title 5, United States Code. The agency determination shall be made by final order which may be reviewed only as provided in subparagraph (D). If no hearing is requested as herein provided, the assessment shall constitute a final and unappealable order.

"(D) Any insured institution or person against whom an order imposing a civil money penalty has been entered after agency hearing under this section may obtain review by the United States court of appeals for the circuit in which the home office of the insured institution is located, or the United States Court of Appeals for the District of Columbia Circuit, by filing a notice of appeal in such court within ten days from the date of such order, and simultaneously sending a copy of such notice by registered or certified mail to the Corporation. The Corporation shall promptly certify and file in such court the record upon which the penalty was imposed, as provided in section 2112 of title 28, United States Code. The findings of the agency shall be set aside if found to be unsupported by substantial evidence as provided by section 706(2)(E) of title 5, United States Code.

"(E) If any insured institution or person

fails to pay an assessment after it has become a final and unappealable order, or after the court of appeals has entered final judgment in favor of the agency, the Corporation shall refer the matter to the Attorney General, who shall recover the amount assessed by action in the appropriate United States district court. In such action, the validity and appropriateness of the final order imposing the penalty shall not be subject to review.

"(F) The Corporation shall promulgate regulations establishing procedures necessary to implement this paragraph.

"(G) All penalties collected under authority of this paragraph shall be covered into the Treasury of the United States.".

(3) Section 5(d)(8) of the Home Owners' Loan Act, as amended (12 U.S.C. 1464(5)(d)(8)), is amended by redesignating section 5(d)(8) as 5(d)(8)(A) and by adding the following new paragraph:

"(B)(i) Any association which violates or any officer, director, employee, agent, or other person participating in the conduct of the affairs of such an association who violates the terms of any order which has become final and was issued pursuant to paragraph (2) or (3) of this subsection, shall forfeit and pay a civil penalty of not more than $1,000 per day for each day during which such violation continues. The penalty shall be assessed and collected by the Board by written notice. As used in this section, the term 'violates' includes without any limitation any action (alone or with another or others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation.

"(ii) In determining the amount of the penalty the Board shall take into account the appropriateness of the penalty with respect to the size of financial resources and good faith of the association bank or person charged, the gravity of the violation, the history of previous violations, and such other matters as justice may require.

"(iii) The association or person charged shall be afforded an opportunity for agency hearing, upon request made within ten days after issuance of the notice of assessment. In such hearing all issues shall be determined on the record pursuant to section 554 of title 5, United States Code. The agency determination shall be made by final order which may be reviewed only as provided in subparagraph (iv). If no hearing is requested as herein provided, the assessment shall constitute a final and unappealable order.

"(iv) Any association or person against whom an order imposing a civil money penalty has been entered after agency hearing under this section may obtain review by the United States court of appeals for the circuit in which the home office of the association is located, or the United States Court of Appeals for the District of Columbia Circuit, by filing a notice of appeal in such court within ten days from the date of such order, and simultaneously sending a copy of such notice by registered or certified mail to the Board. The agency shall promptly certify and file in such court the record upon which the penalty was imposed, as provided in section 2112 of title 28, United States Code. The findings of the agency shall be set aside if found to be unsupported by substantial evidence as provided by section 706(2)(E) of title 5, United States Code.

"(v) If any association or person fails to pay an assessment after it has become a final and unappealable order, or after the court of appeals has entered final judgment in favor of the agency, the Board shall refer the matter to the Attorney General, who shall recover the amount assessed by action in the appropriate United States district court. In such action, the validity and appropriateness of the final order imposing the penalty shall not be subject to review.

"(vi) The Board shall promulgate regulations establishing procedures necessary to implement this paragraph.

"(vii) All penalties collected under authority of this paragraph shall be covered into the Treasury of the United States.'.

(4) Section 206(j) of the Federal Credit Union Act, as amended (12 U.S.C. 1786(j)), is amended by redesignating section 206(j) as 206(j)(1) and by adding a new paragraph as follows:

"(2)(A) Any insured credit union which violates or any officer, director, committee member, employee, agent, or other person participating in the conduct of the affairs of such a credit union who violates the terms of any order which has become final and was issued pursuant to subsection (e) or (f) of this section, shall forfeit and pay a civil penalty of not more than $1,000 per day for each day during which such violation continues. The penalty shall be assessed and collected by the Administrator by written notice. As used in this section, the term 'violates' includes without any limitation any action (alone or with another or others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation.

"(B) In determining the amount of the penalty, the Administrator shall take into account the appropriateness of the penalty with respect to the size of financial resources and good faith of the insured credit union or person charged, the gravity of the violation, the history of previous violations, and such other matters as justice may require.

"(C) The insured credit union or person charged shall be afforded an opportunity for agency hearing, upon request made within ten days after issuance of the notice of assessment. In such hearing all issues shall be determined on the record pursuant to section 554 of title 5, United States Code. The Administrator's determination shall be made by final order which may be reviewed only as provided in subparagraph (D). If no hearing is requested as herein provided, the assessment shall constitute a final and unappealable order.

"(D) Any insured credit union or person against whom an order imposing a civil money penalty has been entered after agency hearing under this section may obtain review by the United States court of appeals for the circuit in which the home office of the insured credit union is located, or the United States Court of Appeals for the District of Columbia Circuit, by filing a notice of appeal in such court within ten days from the date of such order, and simultaneously sending a copy of such notice by registered or certified mail to the Administrator. The Administrator shall promptly certify and file in such court the record upon which the penalty was imposed, as provided in section 2112 of title 28, United States Code. The findings of the Administrator shall be set aside if found to be unsupported by substantial evidence as provided by section 706(2)(E) of title 5, United States Code.

"(E) If any insured credit union or person fails to pay an assessment after it has become a final and unappealable order, or after the court of appeals has entered final judgment in favor of the Administrator, the Administrator shall refer the matter to the Attorney General, who shall recover the amount assessed by action in the appropriate United States district court. In such action, the validity and appropriateness of the final order imposing the penalty shall not be subject to review.

"(F) The Administrator shall promulgate regulations establishing procedures necessary to implement this paragraph.

"(G) All penalties collected under authority of this paragraph shall be covered into the Treasury of the United States.".

SEC. 108. Section 18(j) of the Federal Deposit Insurance Act, as amended (12 U.S.C. 1828(j)), is amended by redesignating section 18(j) as "18(j)(1)" and by adding at the end thereof the following:

"(2) The provisions of section 22(h) of the Federal Reserve Act, as amended, relating to limits on loans and extensions of credit by a member bank to its executive officers or directors or to any person who directly or indirectly owns, controls, or has the power to vote more than 10 per centum of any class of voting securities of such member bank, except in the case of such a bank located in a city, town, or village with less than thirty thousand in population, in which case such per centum shall be 18 per centum, or to companies controlled by such an executive officer, director, or person, or political or campaign committees the funds or services of which will benefit such an officer, director, or person or which are controlled by such an officer, director, or person and relating to board of directors' approval of and terms of such loan, shall be applicable to every nonmember insured bank in the same manner and to the same extent as if such nonmember insured bank were a State member bank.

"(3)(A) Any nonmember insured bank which violates or any officer, director, employee, agent, or other person participating in the conduct of the affairs of such nonmember insured bank who violates any provision of section 23A or 22(h) of the Federal Reserve Act, as amended, or any lawful regulation issued pursuant thereto, shall forfeit and pay a civil penalty of not more than $1,000 per day for each day during which such violation continues. The penalty shall be assessed and collected by the Corporation by written notice. As used in this section, the term 'violates' includes without any limitation any action (alone or with another or others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation.

"(B) In determining the amount of the penalty the Corporation shall take into account the appropriateness of the penalty with respect to the size of financial resources and good faith of the member bank or person charged, the gravity of the violation, the history of previous violations, and such other matters as justice may require.

"(C) The nonmember insured bank or person charged shall be afforded an opportunity for agency hearing, upon request made within ten days after issuance of the notice of assessment. In such hearing all issues shall be determined on the record puruant to section 554 of title 5, United States Code. The agency determination shall be made by final order which may be reviewed only as provided in subparagraph (D). If no hearing is requested as herein provided the assessment shall constitute a final and unappealable order.

"(D) Any nonmember insured bank or person against whom an order imposing a civil money penalty has been entered after agency hearing under this section may obtain review by the United States court of appeals for the circuit in which the home office of the member bank is located, or the United States Court of Appeals for the District of Columbia Circuit, by filing a notice of appeal in such court within ten days from the date of such order, and simultaneously sending a copy of such notice by registered or certified mail to the Corporation. The Corporation shall promptly certify and file in such court the record upon which the penalty was imposed, as provided in section 2112 of title 28, United States Code. The findings of the Corporation shall be set aside if found to be unsupported by substantial evidence as provided by section 706(2)(E) of title 5, United States Code.

"(E) If any nonmember insured bank or person fails to pay an assessment after it has become a final and unappealable order, or after the court of appeals has entered final

judgment in favor of the agency, the Corporation shall refer the matter to the Attorney General, who shall recover the amount assessed by action in the appropriate United States district court. In such action the validity and appropriateness of the final order imposing the penalty shall not be subject to review.

"(F) The Corporation shall promulgate regulations establishing procedures necessary to implement this paragraph.

"(G) All penalties collected under the authority of this paragraph shall be covered into the Treasury of the United States.".

SEC. 109. Any amendment made by this title which provides for the imposition of civil penalties shall apply only to violations occurring or continuing after the date of its enactment.

SEC. 110. Section 22(g) of the Federal Reserve Act, as amended (12 U.S.C. 375a), is amended by inserting the figure "$60,000" in lieu of the figure "$30,000" in paragraph (2), and by inserting the figure "$20,000" in lieu of the figure "$10,000" in paragraph (3); and by inserting the figure "$10,000" in lieu of the figure "$5,000" in paragraph (4).

SEC. 111. (a) (1) Section 8(g) of the Federal Deposit Insurance Act (12 U.S.C. 1818(g)) is amended to read as follows:

"(g)(1) Whenever any director or officer of an insured bank, or other person participating in the conduct of the affairs of such bank, is charged in any information, indictment, or complaint authorized by a United States attorney, with the commission of or participation in a crime involving dishonesty or breach of trust which is punishable by imprisonment for a term exceeding one year under State or Federal law, the appropriate Federal banking agency may, if continued service or participation by the individual may pose a threat to the interests of the bank's depositors or may threaten to impair public confidence in the bank, by written notice served upon such director, officer, or other person, suspend him from office or prohibit him from further participation in any manner in the conduct of the affairs of the bank. A copy of such notice shall also be served upon the bank. Such suspension or prohibition shall remain in effect until such information, indictment, or complaint is finally disposed of or until terminated by the agency. In the event that a judgment of conviction with respect to such crime is entered against such director, officer, or other person, and at such time as such judgment is not subject to further appellate review, the agency may, if continued service or participation by the individual may pose a threat to the interests of the bank's depositors or may threaten to impair public confidence in the bank, issue and serve upon such director, officer, or other person an order removing him from office or prohibiting him from further participation in any manner in the conduct of the affairs of the bank except with the consent of the appropriate agency A copy of such order shall also be served upon such bank, whereupon such director or officer shall cease to be a director or officer of such bank. A finding of not guilty or other disposition of the charge shall not preclude the agency from thereafter instituting proceedings to remove such director, officer, or other person from office or to prohibit further participation in bank affairs, pursuant to paragraph (1), (2), or (3) of subsection (e) of this section. Any notice of suspension or order of removal issued under this paragraph shall remain effective and outstanding until the completion of any hearing or appeal authorized under paragraph (3) hereof unless terminated by the agency.

"(2) If at any time, because of the suspension of one or more directors pursuant to this section, there shall be on the board of directors of a national bank less than a quorum of directors not so suspended, all powers and functions vested in or exercisable by such board shall vest in and be exercisable by the director or directors on the board not so suspended, until such time as there shall be a quorum of the board of directors. In the event all of the directors of a national bank are suspended pursuant to this section, the Comptroller of the Currency shall appoint persons to serve temporarily as directors in their place and stead pending the termination of such suspensions, or until such time as those who have been suspended, cease to be directors of the bank and their respective successors take office.

"(3) Within thirty days from service of any notice of suspension or order of removal issued pursuant to paragraph (1) of this subsection, the director, officer, or other person concerned may request in writing an opportunity to appear before the agency to show that the continued service to or participation in the conduct of the affairs of the bank by such individual does not, or is not likely to, pose a threat to the interests of the bank's depositors or threaten to impair public confidence in the bank. Upon receipt of any such request, the appropriate Federal banking agency shall fix a time (not more than thirty days after receipt of such request, unless extended at the request of the concerned director, officer, or other person) and place at which the director, officer, or other person may appear, personally or through counsel, before one or more members of the agency or designated employees of the agency to submit written materials (or, at the discretion of the agency, oral testimony) and oral argument. Within sixty days of such hearing, the agency shall notify the director, officer, or other person whether the suspension or prohibition from participation in any manner in the conduct of the affairs of the bank will be continued, terminated, or otherwise modified, or whether the order removing said director, officer, or other person from office or prohibiting such individual from further participation in any manner in the conduct of the affairs of the bank will be rescinded or otherwise modified. Such notification shall contain a statement of the basis for the agency's decision, if adverse to the director, officer or other person. The Federal banking agencies are authorized to prescribe such rules as may be necessary to effectuate the purposes of this subsection.".

(2) Section 8(h)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1818(h)(1)) is amended by inserting after "Any hearing provided for in this section" the following: "(other than the hearing provided for in subsection (g)(3) of this section)".

(3) Section 8(j) of the Federal Deposit Insurance Act (12 U.S.C. 1818(j)) is amended by striking out "(e)(5), (e)(7), (e)(8)" and inserting in lieu thereof "(e)(3), (e)(4)".

(4) Section 8(k) of the Federal Deposit Insurance Act (12 U.S.C. 1818(k)) is amended by striking out "paragraph (1) of subsection (g)" and inserting in lieu thereof "paragraph (1) or (3) of subsection (g)".

(5) Section 8(n) of the Federal Deposit Insurance Act (12 U.S.C. 1818(n)) is amended by adding at the end thereof the following new sentence: "Any person who willfully shall fail or refuse to attend and testify or to answer any lawful inquiry or to produce books, papers, correspondence, memoranda, contracts, agreements, or other records, if in such person's power so to do, in obedience to the subpoena of the appropriate Federal banking agency, shall be guilty of a misdemeanor and, upon conviction, shall be subject to a fine of not more than $1,000 or to imprisonment for a term of not more than one year or both.".

(b)(1) Section 407(h) of the National Housing Act (12 U.S.C. 1730(h)) is amended to read as follows:

"(h)(1) Whenever any director or officer of an insured institution, or other persons participating in the conduct of the affairs of such institution, is charged in any information, indictment, or complaint authorized by a United States attorney, with the commission of or participation in a crime involving dishonesty or breach of trust which is punishable by imprisonment for a term exceeding one year under State or Federal law, the Corporation may, if continued service or participation by the individual may pose a threat to the interests of the institution's depositors or may threaten to impair public confidence in the institution, by written notice served upon such director, officer, or other person suspend him from office or prohibit him from further participation in any manner in the conduct of the affairs of the institution. A copy of such notice shall also be served upon the institution. Such suspension or prohibition shall remain in effect until such information, indictment, or complaint is finally disposed of or until terminated by the Corporation. In the event that a judgment of conviction with respect to such crime is entered against such director, officer, or other person, and at such time as such judgment is not subject to further appellate review, the Corporation may, if continued service or participation by the individual may pose a threat to the interests of the institution's depositors or may threaten to impair public confidence in the institution, issue and serve upon such director, officer, or other person an order removing him from office or prohibiting him from further participation in any manner in the conduct of the affairs of the institution except with the consent of the Corporation. A copy of such order shall also be served upon such institution, whereupon such director or officer shall cease to be a director or officer of such institution. A finding of not guilty or other disposition of the charge shall not preclude the Corporation from thereafter instituting proceedings to remove such director, officer, or other person from office or to prohibit further participation in institution affairs, pursuant to paragraph (1), (1), or (3) of subsection (g) of this section. Any notice of suspension or order of removal issued under this paragraph shall remain effective and outstanding until the completion of any hearing or appeal authorized under paragraph (3) hereof unless terminated by the Corporation.

"(2) Within thirty days from service of any notice of suspension or order of removal issued pursuant to paragraph (1) of this subsection, the director, officer, or other person concerned may request in writing an opportunity to appear before the Corporation to show that the continued service to or participation in the conduct of the affairs of the institution by such individual does not, or is not likely to, pose a threat to the interests of the institution's depositors or threaten to impair public confidence in the institution. Upon receipt of any such request, the Corporation shall fix a time (not more than thirty days after receipt of such request, unless extended at the request of the concerned director, officer, or other person) and place at which the director, officer, or other person may appear, personally or through counsel, before one or more members of the Corporation or designated employees of the Corporation to submit written materials (or, at the discretion of the agency, oral testimony) and oral argument. Within sixty days of such hearing, the Corporation shall notify the director, officer, or other person whether the suspension or prohibition from participation in any manner in the conduct of the affairs of the institution will be continued, terminated or otherwise modified, or whether the order removing said director, officer, or other person from office or prohibiting such individual from further participation in any manner in the conduct of the affairs of the

institution will be rescinded or otherwise modified. Such notification shall contain a statement of the basis for the Corporation's decision, if adverse to the director, officer, or other person. The Corporation is authorized to prescribe such rules as may be necessary to effectuate the purposes of this subsection.".

(2) Section 407(j)(1) of such Act (12 U.S.C. 1730(j)(1)) is amended by inserting after "Any hearing provided for in this section" the following: "(other than the hearing provided for in subsection (h)(3) of this section)".

(3) Section 407(j)(2) of such Act (12 U.S.C. 1730(j)(2)) is amended by inserting "(1)" after "subsection (h)".

(c)(1) Section 5(d)(5) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(d)(5)) is amended to read as follows:

"(5)(A) Whenever any director or officer of an association, or other person participating in the conduct of the affairs of such association, is charged in any information, indictment, or complaint authorized by a United States attorney, with the commission of or participation in a crime involving dishonesty or breach of trust which is punishable by imprisonment for a term exceeding one year under State or Federal law, the Board, may, if continued service or participation by the individual may pose a threat to the interests of the association's depositors or may threaten to impair public confidence in the association, by written notice served upon such director, officer, or other person suspend him from office or prohibit him from further participation in any manner in the conduct of the affairs of the association. A copy of such notice shall also be served upon the association. Such suspension or prohibition shall remain in effect until such information, indictment, or complaint is finally disposed of or until terminated by the Board. In the event that a judgment of conviction with respect to such crime is entered against such director, officer, or other person, and at such time as such judgment is not subject to further appellate review, the Board may, if continued service or participation by the individual may pose a threat to the interests of the association's depositors or may threaten to impair public confidence in the association, issue and serve upon such director, officer, or other person and order removing him from office or prohibiting him from further participation in any manner in the conduct of the affairs of the association except with the consent of the Board. A copy of such order shall also be served upon such association, whereupon such director or officer shall cease to be a director or officer of such association. A finding of not guilty or other disposition of the charge shall not preclude the Board from thereafter instituting proceedings to remove such director, officer, or other person from office or to prohibit further participation in association affairs, pursuant to subparagraph (A), (B), or (C) of paragraph (4). Any notice of suspension or order of removal issued under this subparagraph shall remain effective and outstanding until the completion of any hearing or appeal authorized under subparagraph (C) hereof unless terminated by the Board.

"(B) If at any time, because of the suspension of one or more directors pursuant to this section, there shall be on the board of directors of an association less than a quorum of directors not so suspended, all powers and functions vested in or exercisable by such board shall vest in and be exercisable by the director or directors on the board not so suspended, until such time as there shall be a quorum of the board of directors. In the event all of the directors of an association are suspended pursuant to this section, the Board shall appoint persons to serve temporarily as directors in their place and stead pending the termination of such suspensions, or until such time as those who have been suspended, cease to be directors of the association and their respective successors take office.

"(C) Within thirty days from service of any notice of suspension or order of removal issued pursuant to subparagraph (A), the director, officer, or other person concerned may request in writing an opportunity to appear before the Board to show that the continued service to or participation in the conduct of the affairs of the association by such individual does not, or is not likely to, pose a threat to the interests of the association's depositors or threaten to impair public confidence in the association. Upon receipt of any such request, the Board shall fix a time (not more than thirty days after receipt of such request, unless extended at the request of the concerned director, officer, or other person) and place at which the director, officer, or other person may appear, personally or through counsel, before one or more members of the agency or designated employees of the Board to submit written materials (or, at the discretion of the agency, oral testimony) and oral argument. Within sixty days of such hearing, the Board shall notify the director, officer, or other person whether the suspension or prohibition from participation in any manner in the conduct of the affairs of the association will be continued, terminated or otherwise modified, or whether the order removing said director, officer, or other person from office or prohibiting such individual from further participation in any manner in the conduct of the affairs of the association will be rescinded or otherwise modified. Such notification shall contain a statement of the basis for the Board's decision, if adverse to the director, officer, or other person. The Board is authorized to prescribe such rules as may be necessary to effectuate the purposes of this subsection.".

(2) Section 5(d)(7)(A) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(d)(7)(A)) is amended by inserting after "Any hearing provided for in this subsection (d)" the following: "(other than the hearing provided for in paragraph (5)(C) of this section)".

(3) Section 5(d)(12)(A) of such Act (12 U.S.C. 1464(d)(12)(A) is amended by striking "or 5(A)" and inserting in lieu thereof the following: "5(A), or 5(C)".

(4) Section 5(d)(13)(A)(1) of such Act (12 U.S.C. 1464(d)(13(A)(1)) is amended by inserting after "paragraph 5)(A)" the following: "or (C)".

(d)(1) Section 206(h) of the Federal Credit Union Act (12 U.S.C. 1786(h)) is amended to read as follows:

"(h)(1) Whenever any director, committee member, or officer of an insured credit union, or other person participating in the conduct of the affairs of such credit union, is charged in any information, indictment, or complaint authorized by a United States attorney, with the commission of or participation in a crime involving dishonesty or breach of trust which is punishable by imprisonment for a term exceeding one year under State or Federal law, the Administrator may, if continued service or participation by the individual may pose a threat tc the interests of the credit union's members or may threaten to impair public confidence in the credit union, by written notice served upon such director, committee member, officer, or other person suspend him from office or prohibit him from further participation in any manner in the conduct of the affairs of the credit union. A copy of such notice shall also be served upon the credit union. Such suspension or prohibition shall remain in effect until such information, indictment, or complaint is finally disposed of or until terminated by the Administrator. In the event that a judgment of conviction with respect to such crime is entered against such director, committee member, officer, or other person, and at such time as such judgment is not subject to further appellate review, the Administrator may, if continued service or participation by the individual may pose a threat to the interests of the credit union's depositors or may threaten to impair public confidence in the credit union, issue and serve upon such director, committee member, officer, or other person an order removing him from office or prohibiting him from further participation in any manner in the conduct of the affairs of the credit union except with the consent of the Administrator. A copy of such order shall also be served upon such credit union, whereupon such director, committee member, or officer shall cease to be a director, committee member or officer of such credit union. A finding of not guilty or other disposition of the charge shall not preclude the Administrator from thereafter instituting proceedings to remove such director, committee member, officer, or other person from office or to prohibit further participation in the affairs of the credit union, pursuant to subsection (g) of this section. Any notice of suspension or order of removal issued under this paragraph shall remain effective and outstanding until the completion of any hearing or appeal authorized under paragraph (3) hereof unless terminated by the Administrator.

"(2) If at any time, because of the suspension of one or more directors pursuant to this section, there shall be on the board of directors of a Federal credit union less than a quorum of directors not so suspended, all powers and functions vested in or exercisable by such board shall vest in and be exercisable by the director or directors on the board not so suspended, until such time as there shall be a quorum of the board of directors. In the event all of the directors of a Federal credit union are suspended pursuant to this section, the Administrator shall appoint persons to serve temporarily as directors in their place and stead pending the termination of such suspensions, or until such time as those who have been suspended cease to be directors of the credit union and their respective successors have been elected by the members at an annual or special meeting and have taken office. Directors appointed temporarily by the Administrator shall, within thirty days following their appointment, call a special meeting for the election of new directors, unless during the thirty-day period (A) the regular annual meeting is scheduled, or (B) the suspensions giving rise to the appointment of temporary directors are terminated.

"(3) Within thirty days from service of any notice of suspension or order of removal issued pursuant to paragraph (1) of this subsection, the director, committee member, officer, or other person concerned may request in writing an opportunity to appear before the Administrator to show that the continued service to or participation in the conduct of the affairs of the credit union by such individual does not, or is not likely to, pose a threat to the interests of the credit union's members or threaten to impair public confidence in the credit union. Upon receipt of any such request, the Administrator shall fix a time (not more than thirty days after receipt of such request, unless extended at the request of the concerned director, committee member, officer, or other person) and place at which the director, committee member, officer, or other person may appear, personally or through counsel, before the Administrator or his designee to submit written materials (or, at the discretion of the Administrator, oral testimony) and oral argument. Within sixty days of such hearing, the Administrator shall notify the director, committee member, officer, or other person whether the suspension or prohibition from participation in any manner in the conduct

of the affairs of the credit union will be continued, terminated or otherwise modified, or whether the order removing said director, committee member, officer, or other person from office or prohibiting such individual from further participation in any manner in the conduct of the affairs of the credit union will be rescinded or otherwise modified. Such notification shall contain a statement of the basis for the Administrator's decision, if adverse to the director, committee member, officer, or other person. The Administrator is authorized to prescribe such rules as may be necessary to effectuate the purposes of this subsection.".

(2) Section 206(i)(1) of the Federal Credit Union Act (12 U.S.C. 1786(i)(1)) is amended by inserting after "Any hearing provided for in this section" the following: "(other than the hearing provided for in subsection (h)(3) of this section)".

(3) Section 206(i)(2) of such Act (12 U.S.C. 1786(i)(2)) is amended by inserting "(1)" after "subsection (h)".

SEC. 112. Section 4(c) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(c)) is amended by striking out "The prohibitions in this section shall not apply to any bank holding company which is (i) a labor, agricultural, or horticultural organization and which is exempt from taxation under section 501 of the Internal Revenue Code of 1954," and inserting in lieu thereof the following: "The prohibitions in this section shall not apply to (i) any company that was on January 4, 1977, both a bank holding company and a labor, agricultural, or horticultural organization exempt from taxation under section 501 of the Internal Revenue Code of 1954, or to any labor, agricultural, or horticultural organization to which all or substantially all of the assets of such company are hereafter transferred,".

AMENDMENT OFFERED BY MR. KINDNESS

Mr. KINDNESS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. KINDNESS: Page 3, line 12, insert "(1)" after "(d)", and on page 4, immediately after line 4, insert the following:

"(2) The United States shall pay to any member bank or person who prevails in an appeal pursuant to this section a reasonable attorney's fee and other reasonable litigation costs, which shall be assessed by the court in the manner provided by law for the assessment of costs, whether or not other costs are awarded or awardable against the United States.

Page 5, line 25, insert "(A)" after "(4)", and on page 6, immediately after line 14, insert the following:

"(B) The United States shall pay to any member bank or person who prevails in an appeal pursuant to this section a reasonable attorney's fee and other reasonable litigation costs, which shall be assessed by the court in the manner provided by law for the assessment of costs, whether or not other costs are awarded or awardable against the United States.

Page 8, line 10, insert "(A)" after "(4)", and immediately after line 24, insert the following:

"(B) The United States shall pay to any association or person who prevails in an appeal pursuant to this section a reasonable attorney's fee and other reasonable litigation costs, which shall be assessed by the court in the manner provided by law for the assessment of costs, whether or not other costs are awarded or awardable against the United States.

Page 20, line 17, after the period insert the following: "The United States shall pay to any company or person who prevails in an appeal under section 9 a reasonable attorney's fee and other reasonable litigation costs, which shall be assessed by the court in the manner provided by law for the assessment of costs, whether or not other costs are awarded or awardable against the United States.".

Page 24, line 15, after the period insert the following: "The United States shall pay to any company or person who prevails in an appeal pursuant to this section a reasonable attorney's fee and other reasonable litigation costs, which shall be assessed by the court in the manner provided by law for the assessment of costs, whether or not other costs are awarded or awardable against the United States.".

Page 57, line 15, immediately after the period, insert the following: "The United States shall pay to any insured bank or person who prevails in an appeal pursuant to this subparagraph a reasonable attorney's fee and other reasonable litigation costs, which shall be assessed by the court in the manner provided by law for the assessment of costs, whether or not other costs are awarded or awardable against the United States.".

Page 60, line 2, after the period insert the following: "The United States shall pay to any insured institution or person who prevails in an appeal pursuant to this subparagraph a reasonable attorney's fee and other reasonable litigation costs, which shall be assessed by the court in the manner provided by law for the assessment of costs, whether or not other costs are awarded or awardable against the United States.".

Page 62, line 13, after the period insert the following: "The United States shall pay to any association or person who prevails in an appeal under this clause a reasonable attorney's fee and other reasonable litigation costs, which shall be assessed by the court in the manner provided by law for the assessment of costs, whether or not other costs are awarded or awardable against the United States.".

Page 65, line 2, after the period insert the following: "The United States shall pay to any insured credit union or person who prevails in an appeal pursuant to this subparagraph a reasonable attorney's fee and other reasonable litigation costs, which shall be assessed by the court in the manner provided by law for the assessment of costs, whether or not other costs are awarded or awardable against the United States.".

Page 68, line 9, after the period insert the following: "The United States shall pay to any nonmember insured bank or person who prevails in an appeal pursuant to this subparagraph a reasonable attorney's fee and other reasonable litigation costs, which shall be assessed by the court in the manner provided by law for the assessment of costs, whether or not other costs are awarded or awardable against the United States.".

Mr. KINDNESS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

Mr. ST GERMAIN. Mr. Chairman, reserving the right to object, and I shall not object, I just want a clear understanding that that which we will be considering now is the amendment to title I.

Mr. KINDNESS. Mr. Chairman, I gave the gentleman an incorrect answer a moment ago. I have just had the opportunity to check. It is all in title I. I am sorry that I misled the gentleman.

Mr. ST GERMAIN. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

Mr. ROUSSELOT. Mr. Chairman, reserving the right to object, the gentleman will give us plenty of time to explain what this is?

Mr. KINDNESS. I would certainly plan to explain exactly what is involved.

Mr. ROUSSELOT. It is kind of a long amendment. This bill is already long enough.

Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. KINDNESS. Mr. Chairman, I would make the request, if it is necessary, that the amendment be considered en bloc, because it is a series of identical or practically identical amendments.

The CHAIRMAN. It will be considered as one amendment.

Mr. KINDNESS. Mr. Chairman, this amendment would permit the recovery of attorney fees and court costs where persons or institutions covered by the act successfully defend actions brought against them under the act. While we are all well aware of the inequities which stem from the prohibition against the recovery of attorney fees in most cases prosecuted by the Federal Government, the inequities in the case of this act really caught my attention when they were pointed out by a constituent.

The sections which I am seeking to amend provide for the setting aside of penalties imposed by administrative authority where a court, upon reviewing the administrative hearing record, finds the penalties are not supported by "substantial evidence." There is a very heavy burden to bear upon an appeal, and where there is not even substantial evidence to support the finding that backed the penalty. We really ought to provide equity to that person who prevails in such a case.

It seems clear that if a court finds that a penalty was imposed without substantial evidence, the defending party should be reimbursed for necessary expenses in defending the charges, for this is an extreme case.

The U.S. Government, with its salaried attorneys and relative unlimited treasury, has a built-in advantage in administrative proceedings and lawsuits it brings against private parties. The United States has the power to sue many persons for many purposes, and risk nothing more than losing the suit. Whether those acting for the Government bring a suit in good faith or in order to harass a defendant, the defendant must hire a lawyer and endure the time, expense, and trauma of a lawsuit.

There are many circumstances in which such equitable relief should be provided for. Since this is the first specific instance in which the problem was graphically called to my attention, I want to offer an amendment to correct the situation to the extent we can regarding this act.

We must, however, also look at the problem from a broader perspective as well. I intend to introduce legislation to amend title XXVIII of the Code to permit recovery of attorneys fees and court costs in most civil and administrative

cases where the defending party is successful. It might seem logical to apply the principle to criminal as well as civil cases; but I, for one, am not prepared to take that step at this time.

A particularly graphic example of what would appear to be the "bad faith" type of case occurred in my district, and involved the Occupational Safety and Health Administration. Apparently the OSHA inspectors persisted in pursuing a certain type of charge which an administrative law judge had repeatedly found to be without merit. The lack of merit was so apparent that the judge reportedly told the OSHA attorney that he "did not want to see him back before him again with that type of charge." Clearly, the employer forced to defend against such a charge should be reimbursed for his legal fees.

Even if the defendant wins, he loses, because by statute he cannot recover his attorneys' fees. 28 U.S.C., section 2412 prohibits awards of attorneys fees to prevailing parties in civil actions brought by or against the United States, even apparently when those persons acting in the name of the United States have acted in bad faith. Although serious injustice may occur when fees and costs are denied to prevailing defendants in cases brought by the Government in bad faith, totally denying fees to prevailing defendants in any action brought by the Government is basically unfair. Requiring the Government to risk having to pay the costs of persons it sues or pursues in administrative proceedings will partially equalize the contest between the inevitably more powerful plaintiff or pursuer, and the defendant or respondent. The court should have discretion in making such awards, as it is a matter of justice and equity, and it should not necessarily be automatic, and the amendment so provides.

The United States should be required to pay attorneys fees to defendants in suits it brings and loses where the court finds such relief to be proper. This will serve as a disincentive to the bringing of suits for harassment purposes and lawsuits and administrative penalty proceedings that otherwise are not meritorious; it will make the United States subject to the same risk as private parties with respect to attorneys fees provisions in existing law; and it will lessen the inherent disadvantage a private party must face in contesting a lawsuit or penalty proceeding brought by the Federal Government. This amendment is a start in that direction in just one area of the law.

Under this legislation a person or institution may be subjected to civil penalties, cease and desist orders, or suspension or removal from employment or office. These are rather serious matters. This amendment only affects the civil penalty provisions, not the cease and desist or suspension and removal provisions. We would run into problems of irregularity in the Code of nongermaneness to get at those other cease and desist cases or removal and suspension cases.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. KINDNESS. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Chairman, does the gentleman have any idea what the potential cost of this mandate would be?

Mr. KINDNESS. The gentleman is in a better position to determine what the cost might be. The committee may not have looked into that aspect of it, but frankly the cost now is being borne by individuals affected or institutions affected and it resides somewhere in our society. The question presented by the amendment is whether we put this cost fairly where it belongs in extreme cases. My guess would be it would be a very rare and unusual case where the institution or individual could show there was not even substantial evidence to support the finding of the penalty. Then where that does occur, certainly it is an extreme case, and a person or institution ought to be compensated for out-of-pocket costs there. I would say the costs would have to be very minimal.

Mr. ROUSSELOT. I thank the gentleman for his comment.

Mr. STANTON. Mr. Chairman, will the gentleman yield?

Mr. KINDNESS. I yield to the gentleman from Ohio.

Mr. STANTON. Mr. Chairman, I appreciate the gentleman yielding.

I would ask the gentleman this question. In your "Dear Colleague" letter that you sent out to all of us, you made the statement that, "however, across-the-board legislation for this purpose has not moved at all. This is an opportunity to attempt to make some progress particularly along the lines of providing reimbursement."

What is the history of this movement?

Mr. KINDNESS. There are more bills than one in this area that I am aware of and, as far as I know, none have had any hearings.

Mr. STANTON. Is this under the jurisdiction of the Committee on the Judiciary, or has it been under discussion?

Mr. KINDNESS. It has not been placed on the agenda for consideration. I believe we need to get some push to get the thing moving.

Mr. STANTON. I thank the gentleman.

Mr. ST GERMAIN. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Ohio (Mr. KINDNESS).

Mr. Chairman and Members of the House, the gentleman from Ohio (Mr. KINDNESS) has proposed that this body adopt an amendment that would set an unfortunate precedent for other legislation which we may consider in the future and one which has unknown cost implications. Basically, it would require that the United States pay attorneys' fees and other costs of litigation for individuals or institutions which win cases on an appeal basis under title I. In a "Dear Colleague" letter circulated by the gentleman from Ohio (Mr. KINDNESS) he mentioned that "across-the-board" legislation for this purpose has not moved at all. There obviously is some reason for this lack of movement. Have there been any hearings on these proposals?

I think I just heard the gentleman from Ohio state that there have been no hearings. Certainly we have had none in the Committee on Banking, Finance and Urban Affairs and I seriously question why we are being asked to discharge this legislation in a piecemeal manner, legislation now pending before the Committee on the Judiciary. If this legislation is as worthy as the gentleman from Ohio (Mr. KINDNESS) indicates, I feel certain the Committee on the Judiciary will make an appropriate report to the House.

What is a "reasonable" attorney's fee? We have no cost figures at all.

What are the budgetary implications of this amendment? How many instances are there of successful appeals of Federal financial supervisory actions where there was a finding that there was not "substantial evidence" to support it? I just think this would be a dangerous precedent where we may find the Federal Government, should this be adopted, across the board, picking up legal fees for every acquittal in the Federal courts across the land.

Now we all admire Edward Bennett Williams, but I do not think we want to be paying for his fees under the theory proposed in this amendment.

For that reason I am constrained to oppose the amendment.

Mr. HYDE. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment offered by the gentleman from Ohio, (Mr. KINDNESS).

Mr. Chairman and Members of the House, I think this is a salutory amendment because, first of all, it provides basic equity. A person can be literally economically ruined when all of the resources of the U.S. Government are brought to bear against him in litigation. And if that defendant prevails, where is his justice? Where is his equity? He can be impoverished in paying legal fees whether they are the fees of Edward Bennett Williams or the neighborhood lawyer.

Now we do pay the fees of the U.S. attorney. We do pay the fees of the FBI, we do pay all of the investigators' and regulatory agency fees. So the only person left alone without any support at all is the defendent who, after being tried, after whatever proceedings he is put through, prevails. He has been found innocent, but he really is not without penalty because he will have to pay and pay and pay competent counsel's legal fees, and for counsel to resist all of the resources of the Federal Government that have been brought against him.

I will agree that it sets a precedent, but I think it is a good precedent. I think it is a precedent on the side of people, on the side of individuals. I will grant that as a member of the Committee on the Judiciary, and I have the honor to serve on that committee as well as on the Committee on Banking, Finance and Urban Affairs, many good bills do not get a chance to see the light of day.

The equal rights amendment extension sailed through like—I am trying to think of an appropriate analogy, but I do not think I can—it sailed through. However, legislation providing recompense to a defendent who is dragged through the courts and who finally prevails and is left impoverished, gathers cobwebs as it sits in the dusty file drawers of the Committee on the Judiciary.

Mr. Chairman, I think this is a superb amendment. It is a halting start toward equity. I enthusiastically support it.

Mr. STANTON. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I am delighted to yield to the gentleman from Ohio.

Mr. STANTON. Mr. Chairman, I appreciate the gentleman's yielding.

I really want to call upon the gentleman's expertise in a field with which this gentleman is not familiar.

This amendment reminds me very much of the bankruptcy section of our bill in which one gets into a legal field and out of the field of banking.

I wondered whether the gentleman could give me an example of how this legislation will work.

It says here the following:

The United States shall pay to any member bank or person who prevails in an appeal pursuant to this section a reasonable attorney's fee and other reasonable litigation costs, . . .

What would the gentleman or the author of the amendment give me as an example of a lawyer's fee? Someone has mentioned Edward Bennett Williams.

It is almost an open-ended proposition, as far as I can see, where potential costs are concerned.

Mr. HYDE. Mr. Chairman, if I may answer, although I should yield to the distinguished and able author of this amendment, I ask my colleagues this question: What is it costing the Government to prosecute? Whatever that cost is, it would seem to me that the individual defendant ought to be put in an equivalent position because he or she can literally be impoverished by being dragged through the courts on some charge and then found not guilty.

I do not know what the amount is, but the courts set reasonable fees every day in terms of class actions, in terms of estates in probate. It is not a new concept. It is just equity and justice.

Mr. KINDNESS. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I yield to the gentleman from Ohio, the author of this excellent amendment.

Mr. KINDNESS. Mr. Chairman, I thank the gentleman for yielding.

The gentleman from Ohio (Mr. STANTON) has raised a very valid point to be considered here. It is one on which there is a whole body of established law and precedent. The judges in the U.S. district courts and courts of appeals are quite accustomed to dealing with this concept of awarding reasonable attorney's fees. It does not mean all that is paid to an attorney. If there is a high-priced attorney who charges a whole lot more than the going rate, so to speak, the court would not necessarily award that kind of attorney's fee, not at all, but only reasonable attorney's fees. The court would also take into account such factors as the degree of need or harassment or inequity.

The CHAIRMAN. The time of the gentleman from Illinois (Mr. HYDE) has expired.

(On request of Mr. STANTON and by unanimous consent, Mr. HYDE was allowed to proceed for 2 additional minutes.)

Mr. KINDNESS. Mr. Chairman, will the gentleman yield further?

Mr. HYDE. I yield to the gentleman from Ohio.

Mr. KINDNESS. Mr. Chairman, the court can take into account all of those factors in deciding how much by way of attorney's fees and costs will be awarded to the prevailing party.

Mr. HYDE. Mr. Chairman, if I may make just two comments, this also may have a salutary, though chilling, effect with respect to the bringing of frivolous claims against individuals.

Second, this matter sets a wonderful precedent for Internal Revenue actions where people can literally be forced to dispose of all their assets to pay legal fees.

Mr. STANTON. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I yield to the gentleman from Ohio.

Mr. STANTON. Mr. Chairman, I thank the gentleman for yielding.

The amendment is becoming clear. I am just not sure whether I want to support it or not. That is why I am honestly asking these questions.

The gentleman said here once again in the general colloquy that it would be his intention to provide this type of relief on a broader basis.

I wonder whether the gentleman would give us some examples of how he would expand upon this principle if we applied it to this banking legislation.

Mr. KINDNESS. That is right. One area that is quite apparent and needful is the Internal Revenue Service where they put people through what might be called sheer hell on occasions, using all the resources that they have at hand, and the taxpayer is really at a disadvantage.

Another example I cited in my comments is on the Occupational Safety and Health Administration where they are not only the police officer but the judge and executioner all at one time, and there are some rather extreme cases that have come to the attention of nearly all of us in that area. Government abounds in our lives. Regulators are all over us, all over the citizens and their businesses. I think there is a need for more responsibility and more accountability, and one way to require the regulators to do their job more carefully is at least to make sure that the prevailing citizen defendant is going to be reimbursed for his court costs and attorneys' fees, if he is successful. At least, that may cause a little greater responsibility to be exercised.

Mr. ANNUNZIO. Mr. Chairman, I rise in opposition to the amendment.

Mr. ST GERMAIN. Mr. Chairman, will the gentleman yield?

Mr. ANNUNZIO. I yield to the distinguished chairman of the subcommittee, yes, very briefly.

Mr. ST GERMAIN. I thank the gentleman for yielding. I think the point should be made here when reading the amendment, No. 1, I am going back to what I said originally. This is before the Committee on the Judiciary. Hearings have not been held. We have not held any hearings. We have no way of knowing what the costs will be.

Second, if the Members read the amendment, it says:

"The United States shall pay to any member bank * * * a reasonable attorney's fee" as well as a "person." I think this is a dangerous precedent, very costly, and certainly the courts have had enough trouble already determining attorneys' fees for those charged with a crime under the Criminal Justice Act for the poor. How does one assess fees for those in a position of fiduciary capacity such as would be covered here, as well as the banks? Really and truly, I think that this is an ill-advised amendment to this legislation.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. ANNUNZIO. I am happy to yield to the gentleman from California.

Mr. ROUSSELOT. I appreciate the gentleman's yielding.

We do not anticipate under this title there will be that many actions against boards of directors; do we? So it is not going to be that costly.

Mr. ST GERMAIN. Mr. Chairman, will the gentleman yield?

Mr. ANNUNZIO. I yield to the gentleman from Rhode Island.

Mr. ST GERMAIN. Why should this all start in a piece of legislation coming out of the Committee on Banking, Finance and Urban Affairs where we have held no hearing whatsoever and have no ideas whatsoever on the point of paying reasonable attorneys' fees, question mark?

Mr. ROUSSELOT. Will the gentleman yield?

Mr. ANNUNZIO. I yield to the gentleman.

Mr. ROUSSELOT. I appreciate the gentleman's yielding. But we had lots of hearings on title I. We have had lots of hearings on title I on potential actions against boards of directors to make them conform to this title, so we had lots of discussions. Now the gentleman is not implying that there are going to be lots of actions against boards of directors?

Mr. ST GERMAIN. Will the gentleman yield?

Mr. ANNUNZIO. I yield to the gentleman from Rhode Island.

Mr. ST GERMAIN. I am not implying that at all. Yes, we had thorough hearings, and my colleague, the gentleman from California has a superb memory. I am sure he will agree that we never got beyond this.

Mr. ROUSSELOT. We did not touch this amendment.

Mr. BURKE of Massachusetts. Mr. Chairman, will the gentleman yield?

Mr. ANNUNZIO. I yield to the gentleman from Massachusetts.

Mr. BURKE of Massachusetts. I thank the gentleman for yielding.

I do not want the distinguished gentle-

man from the Committee on Banking, Finance, and Urban Affairs to be a little concerned about the statements by our good friend, the gentleman from California (Mr. ROUSSELOT). Today is giveaway day for the gentleman from California. The House Committee on Ways and Means just voted out a bill that affect the trust funds of social security, unemployment compensation, and Treasury of some $400 million to $1 billion, and the gentleman from California voted for it over there in the hideaway at 208, while the press was covering the public works bill. I do not think there were one or two members of the press over there, and it was the most interesting meetings ever held that I know of. Outside were the fat cat lobbyists of the independent contractors in this Nation cheering the members of the Committee on Ways and Means who were coming in going to vote, and when I came down the corridor, I was greeted with chilled silence.

But today we find the gentleman from California, whom I have always admired as a watchdog of the Treasury, giving away hundreds of millions of dollars and now supporting a bill here that has had no hearings, similar to the bill that they passed out of the Committee on Ways and Means today. They are going to make a legislative end run on that bill. They will not bring it before the House because it could not stand the light of day. So do not be shocked at the gentleman from California, because he is the giveaway artist in this House today, along with 32 other Members who voted with him.

Mr. ANNUNZIO. I thank the gentleman from Massachusetts for his contribution, and I urge the Members to vote no on the Kindness amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. KINDNESS).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. KINDNESS. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee of the Whole appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to clause 2, rule XXIII, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from Ohio (Mr. KINDNESS) for a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 153, noes 222, answered "present" 11, not voting 46, as follows:

[Roll No. 881]

AYES—153

Abdnor	Flynt	Montgomery
Anderson, Ill.	Forsythe	Moore
Andrews, N.C.	Fountain	Moorhead, Calif.
Andrews, N. Dak.	Frenzel	Motti
Applegate	Frey	Murphy, Pa.
Archer	Gammage	Natcher
Ashbrook	Gaydos	O'Brien
AuCoin	Goldwater	Patten
Badham	Grassley	Poage
Bafalis	Gudger	Pritchard
Beard, Tenn.	Guyer	Quayle
Bedell	Hall	Rhodes
Boggs	Hammer-schmidt	Rinaldo
Bowen	Hansen	Risenhoover
Breaux	Harsha	Robinson
Brinkley	Hightower	Rooney
Broomfield	Hollenbeck	Rousselot
Brown, Ohio	Holt	Runnels
Broyhill	Horton	Santini
Burgener	Hubbard	Satterfield
Burke, Fla.	Huckaby	Sawyer
Burleson, Tex.	Hyde	Schulze
Burton, John	Ichord	Sebelius
Butler	Ireland	Shuster
Carter	Jenrette	Sisk
Cederberg	Johnson, Colo.	Skubitz
Chappell	Jones, Okla.	Smith, Nebr.
Clausen, Don H.	Jordan	Snyder
Clawson, Del	Kasten	Spence
Cohen	Kazen	Stangeland
Coleman	Kelly	Stanton
Collins, Tex.	Kemp	Steiger
Corcoran	Kindness	Stockman
Coughlin	Lagomarsino	Symms
Cunningham	Latta	Taylor
Daniel, Dan	Le Fante	Treen
Daniel, R. W.	Leach	Trible
Davis	Lent	Tucker
de la Garza	Long, La.	Vander Jagt
Devine	Lott	Waggonner
Dornan	Luken	Walker
Duncan, Tenn.	McClory	Wampler
Edgar	McCloskey	Watkins
Emery	McDade	White
English	McDonald	Whitehurst
Ertel	Mann	Whitten
Evans, Del.	Marlenee	Wilson, Tex.
Evans, Ga.	Marriott	Wylie
Findley	Mathis	Yatron
Fish	Milford	Young, Alaska
Flowers	Miller, Ohio	
	Mitchell, N.Y.	

NOES—222

Addabbo	Cotter	Green
Akaka	D'Amours	Hamilton
Alexander	Danielson	Hanley
Ambro	Delaney	Hannaford
Anderson, Calif.	Dellums	Harkin
Annunzio	Dent	Harris
Ashley	Derrick	Hawkins
Aspin	Derwinski	Heckler
Baldus	Dickinson	Hefner
Barnard	Downey	Heftel
Baucus	Drinan	Hillis
Bauman	Duncan, Oreg.	Holland
Beard, R.I.	Early	Holtzman
Beilenson	Eckhardt	Howard
Benjamin	Edwards, Ala.	Hughes
Bennett	Edwards, Calif.	Jacobs
Bevill	Edwards, Okla.	Jeffords
Bingham	Eilberg	Jenkins
Blanchard	Erlenborn	Johnson, Calif.
Boland	Evans, Colo.	Jones, N.C.
Bolling	Evans, Ind.	Jones, Tenn.
Bonior	Fary	Kastenmeier
Brademas	Fascell	Keys
Brodhead	Fenwick	Kildee
Brooks	Fisher	Kostmayer
Brown, Calif.	Fithian	Krebs
Brown, Mich.	Flippo	LaFalce
Buchanan	Flood	Lederer
Burke, Mass.	Florio	Leggett
Burlison, Mo.	Foley	Lehman
Burton, Phillip	Ford, Mich.	Levitas
Byron	Ford, Tenn.	Lloyd, Calif.
Carney	Fowler	Lloyd, Tenn.
Carr	Fraser	Long, Md.
Cavanaugh	Fuqua	Lundine
Chisholm	Garcia	McCormack
Clay	Gephardt	McFall
Collins, Ill.	Giaimo	McHugh
Conable	Gilman	McKay
Conte	Ginn	McKinney
Corman	Glickman	Mahon
Cornell	Gonzalez	Markey
Cornwell	Gore	Marks
	Gradison	Mattox
Mazzoli	Pepper	St Germain
Meeds	Perkins	Stark
Metcalfe	Pickle	Steed
Meyner	Pressler	Stokes
Mikulski	Preyer	Stratton
Miller, Calif.	Price	Studds
Mineta	Pursell	Stump
Minish	Rahall	Thompson
Mitchell, Md.	Railsback	Thornton
Moakley	Rangel	Traxler
Moffett	Regula	Udall
Mollohan	Reuss	Ullman
Moorhead, Pa.	Richmond	Van Deerlin
Murphy, Ill.	Roberts	Vanik
Murphy, N.Y.	Rodino	Vento
Murtha	Roe	Volkmer
Myers, Gary	Rose	Walgren
Myers, Michael	Rosenthal	Waxman
Neal	Rostenkowski	Weiss
Nedzi	Roybal	Whitley
Nix	Russo	Wilson, Bob
Nolan	Ryan	Wilson, C. H.
Nowak	Scheuer	Wirth
Oakar	Schroeder	Wolff
Oberstar	Seiberling	Wydler
Obey	Sharp	Yates
Ottinger	Sikes	Young, Mo.
Panetta	Simon	Zablocki
Patterson	Smith, Iowa	Zeferetti
Pattison	Solarz	
Pease	Spellman	

ANSWERED "PRESENT"—11

Cleveland	Quillen	Walsh
McEwen	Rogers	Winn
Myers, John	Skelton	Young, Fla.
Pike	Steers	

NOT VOTING—46

Ammerman	Goodling	Rudd
Armstrong	Hagedorn	Ruppe
Biaggi	Harrington	Sarasin
Blouin	Krueger	Shipley
Bonker	Livingston	Slack
Breckinridge	Lujan	Staggers
Burke, Calif.	Madigan	Teague
Caputo	Maguire	Thone
Cochran	Martin	Tsongas
Conyers	Michel	Weaver
Crane	Mikva	Whalen
Dicks	Moss	Wiggins
Diggs	Nichols	Wright
Dingell	Pettis	Young, Tex.
Dodd	Quie	
Gibbons	Roncalio	

The Clerk announced the following pairs:

On this vote:

Mr. Conyers for, with Mr. Diggs against.

Mrs. SCHROEDER. Mr. BUCHANAN, and Mr. SEIBERLING changed their vote from "aye" to "no."

Mr. ENGLISH changed his vote from "no" to "aye."

Mr. WINN changed his vote from "aye" to "present."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. ST GERMAIN. Mr. Chairman, I yield back the remainder of my time.

The CHAIRMAN. Are there any other amendments?

AMENDMENT OFFERED BY MR. MITCHELL OF MARYLAND

Mr. MITCHELL of Maryland. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MITCHELL of Maryland: Page 86, immediately after line 3, insert the following:

SEC. 113. The third sentence of the second paragraph of section 16 of the Federal Reserve Act (12 U.S.C. 412) is amended by striking the words "direct obligations of the United States" and inserting in lieu thereof the words "any obligations which are direct obligations of, or are fully guaranteed as to principal and interest by, the United States or any agency thereof."

Mr. MITCHELL of Maryland. Mr. Chairman, this amendment is designed

to expand the class of collateral eligible for use as security for Federal Reserve notes.

As my colleagues are aware, the currency of the United States is comprised chiefly of Federal Reserve notes. These notes are liabilities of the Federal Reserve banks and, by law, collateral must be held against them dollar-for-dollar at the Federal Reserve. Under current law, the only assets which are eligible to be used as collateral are gold certificates, SDR's, direct obligations of the United States, bankers acceptances, other paper eligible for discount, and certain loans to member banks. My amendment would add the obligations of Federal agencies to the class of assets eligible to secure Federal Reserve notes.

The expansion of eligible assets is necessary because in recent years eligible collateral has increased at a slower rate than have Federal Reserve notes outstanding. It is feared that if present trends continue, the Federal Reserve's stock of collateral could be completely pledged within 3 to 4 days. A shortage of collateral would force the Federal Reserve to take undesirable measures in order to continue to comply with the law, such as cutting the stock of currency at Federal Reserve banks, ceasing purchases of Federal agency issues on the open market, or replacing agency securities with currently eligible assets. There is no reason why this inconsistency in the law should not be redressed. My amendment will correct the defect.

The Subcommittee on Domestic Monetary Policy, which I chair, held a hearing on this proposal on July 14, 1978, as H.R. 12621. It is supported by both the Board of Governors of the Federal Reserve System and the Department of the Treasury. I urge its enactment.

Mr. ST GERMAIN. Mr. Chairman, will the gentleman yield?

Mr. MITCHELL of Maryland. I am happy to yield to the gentleman from Rhode Island.

Mr. ST GERMAIN. Mr. Chairman, we have had an opportunity to review the amendment. We have no objection on this side. We are happy to accept the amendment.

Mr. HANSEN. Mr. Chairman, will the gentleman yield?

Mr. MITCHELL of Maryland. I yield to the gentleman from Idaho.

Mr. HANSEN. Mr. Chairman, this amendment is designed to correct a legislative oversight in section 16 of the Federal Reserve Act.

In 1966 the Congress authorized the Reserve Banks within the Federal Reserve System to purchase U.S. Government agency obligations in order to aid open market operations and conform with the Bank's authority to purchase Treasury securities. Unfortunately, when this new authority was established, we failed to also authorize the use of these obligations as collateral for Federal Reserve notes. This amendment corrects that oversight by amending section 16 of the Federal Reserve Act to permit U.S. agency securities to be used as collateral for Federal Reserve notes.

Today, section 16 of the Fed Act requires that the collateral for Fed notes consist of either: first, gold and SDR's; second, Treasury securities; third, acceptance; or fourth, loans outstanding to member banks. Thus, this amendment simply adds to that authorized list of acceptable collateral.

The new Chairman of the Fed, William Miller, has requested that the list of eligible collateral for Fed notes be expanded at this time for two reasons which he noted in a letter dated May 4.

First, notes evidencing loans to member banks secured by United States government agencies may be pledged as collateral for Federal Reserve notes whereas the same agencies purchased by the Reserve Banks may not be pledged to secure Federal Reserve notes. Secondly, during periods of increased need for collateral for Federal Reserve notes, the System could be forced to sell all or part of its $8 billion current holdings of agency securities or greatly curtail its purchase of such securities, with possible adverse consequences for that market.

Finally, I stress that this issue deserves the immediate attention of the Congress and urge that the amendment be favorably considered.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Maryland (Mr. MITCHELL).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. MATTOX

Mr. MATTOX. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MATTOX: Page 11, line 16, after the word "loan" insert ", line of credit," before the words "or extension".

Mr. ST GERMAIN. Mr. Chairman, will the gentleman yield?

Mr. MATTOX. I yield to the distinguished gentleman from Rhode Island.

Mr. ST GERMAIN. Mr. Chairman, we have had an opportunity to examine the amendment on this side. We have no problem with the amendment. We are prepared to accept the amendment.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. MATTOX. I yield to the distinguished gentleman from California.

Mr. ROUSSELOT. Mr. Chairman, I think we find this amendment acceptable.

Mr. MATTOX. Mr. Chairman, if there is no further explanation needed, I ask for a vote.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. MATTOX).

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to title I?

Mr. ROUSSELOT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, title I, which relates to supervisory authority over financial institutions, is a title about which this Member has always had mixed feelings. On the surface it would seem that the supervisory authorities should be able to exercise cease and desist, civil penalty, and removal powers against individual directors and officers of depository institutions in situations where it is more appropriate to move against individuals than against institutions. The same appeal can be ascribed to many other provisions in the bill, particularly to titles VI and VII, change in bank control and change in savings and loan control. It would seem that the supervisory authorities should be able to scrutinize the character and qualifications of persons who take over depository institutions.

The misgivings arise when one looks beneath the theoretical appeal which appears on the surface to the practical problems which are encountered in the day-to-day experience with supervisory powers. What happens when the object of a cease-and-desist order is the President elects best friend, of whom he is proud and when the acting supervisor is campaigning for a top job in the new administration and does not want to be the "skunk at the garden party?" Does the supervisor lift a cease-and-desist order, and do the agencies then come to Congress asking for more power when they have failed to fully utilize the powers which Congress has already given them? Can a demand for new legislation be employed to cover up a failure to enforce the laws which are already on the books?

Members may hold their noses and vote for this bill, but we have to ask ourselves whether it is really fair to impose new burdens upon the vast majority of individuals who participate in the ownership and management of depository institutions in order to expunge the sins of a few bankers with friends in high places who have committed abuses and a few lax supervisors with hopes of bigger jobs to come. And we should ask ourselves, "Can this happen again, with another banking scandal and another Congress?" I certainly hope it will not, but who can say for sure?

The CHAIRMAN. Are there further amendments to title I?

The Chair hears none.

Title II is as follows:

TITLE II—INTERLOCKING DIRECTORS

SEC. 201. This title may be cited as the "Depository Institution Management Interlocks Act".

SEC. 202. As used in this title—

(1) the term "depository institution" means a commercial bank, a savings bank, a trust company, a savings and loan association, a building and loan association, a homestead association, a cooperative bank, an industrial bank, or a credit union;

(2) the term "depository holding company" means a bank holding company as defined in section 2(a) of the Bank Holding Company Act of 1956, a company which would be a bank holding company as defined in section 2(a) of the Bank Holding Company Act of 1956 but for the exemption contained in section 2(a)(5)(F) thereof, or a savings and loan holding company as defined in section 408(a)(1)(D) of the National Housing Act;

(3) the characterization of any corporation (including depository institutions and depository holding companies), as an "affiliate of," or as "affiliated" with any other corporation means that—

(A) one of the corporations is a depository holding company and the other is a subsidiary thereof, or both corporations are subsidiaries of the same depository holding company, as the term "subsidiary" is defined in either section 2(d) of the Bank Holding Company Act of 1956 in the case of a bank holding company or section 408(a)(1)(H) of the National Housing Act in the case of a savings and loan holding company; or

(B) more than 50 per centum of the voting

stock of one corporation is beneficially owned in the aggregate by one or more persons who also beneficially own in the aggregate more than 50 per centum of the voting stock of the other corporation; or

(C) one of the corporations is a trust company all of the stock of which, except for directors qualifying shares, was owned by one or more mutual savings banks on the date of enactment of this Act, and the other corporation is a mutual savings bank; or

(D) one of the corporations is a bank, insured by the Federal Deposit Insurance Corporation and chartered under State law, the voting securities of which are held by other banks, as permitted by State law, and which bank is primarily engaged in providing banking services for other banks and not the public: *Provided, however,* That in no case shall the voting securities of such corporation be held by any such other bank in excess of 5 per centum of the paid-in capital and 5 per centum of the surplus of such other bank; or

(E) one of the corporations is a bank, chartered under State law and insured by the Federal Deposit Insurance Corporation, the voting securities of which are held only by persons who are officers of other banks, as permitted by State law, and which bank is primarily engaged in providing banking services for other banks and not the public: *Provided, however,* That in no case shall the voting securities of such corporation be held by such officers of other banks in excess of 6 per centum of the paid-in capital and 6 per centum of the surplus of such a bank.

(4) the term "management official" means an employee or officer with management functions, a director (including an advisory or honorary director) a trustee of a business organization under the control of trustees, or any person who has a representative or nominee serving in any such capacity: *Provided,* That if a corporator, trustee, director, or other officer of a State-chartered savings bank or cooperative bank is specifically authorized under the laws of the State in which said institution is located to serve as a trustee, director, or other officer of a State-chartered trust company which does not make real estate mortgage loans and does not accept savings deposits from natural persons, then, for the purposes of this title, such corporator, trustee, director, or other officer shall not be deemed to be a management official of such trust company: *And provided further,* That if a management official of a State-chartered trust company which does not make real estate mortgage loans and does not accept savings deposits from natural persons is specifically authorized under the laws of the State in which said institution is located to serve as a corporator, trustee, director, or other officer of a State-chartered savings bank or cooperative bank, then, for the purposes of this title, such management official shall not be deemed to be a management official of any such savings bank or cooperative bank; and

(5) the term "office" used with reference to a depository institution means either a principal office or a branch.

SEC. 203. A management official of a depository institution or a depository holding company may not serve as a management official of any other depository institution or depository holding company not affiliated therewith if an office of one of the institutions or any depository institution that is an affiliate of such institutions is located within either—

(1) the same standard metropolitan statistical area as defined by the Office of Management and Budget, except in the case of depository institutions with less than $20,000,000 in assets in which case the provision of paragraph (2) shall apply, as that in which an office of the other institution or any depository institution that is an affiliate of such other institution is located, or

(2) the same city, town, or village as that in which an office of the other institution or any depository institution that is an affiliate of such other institution is located, or in any city, town, or village contiguous or adjacent thereto.

SEC. 204. If a depository institution or a depository holding company has total assets exceeding $1,000,000,000, a management official of such institution or any affiliate thereof may not serve as a management official of any other nonaffiliated depository institution or depository holding company having assets exceeding $500,000,000 or as a management official of any affiliate of such other institution.

SEC. 205. The prohibitions contained in sections 203 and 204 shall not apply in the case of any one or more of the following or subsidiary thereof:

(1) a depository institution or depository holding company which has been placed formally in liquidation, or which is in the hands of a receiver, conservator, or other official exercising a similar function.

(2) A corporation operating under section 25 or 25A of the Federal Reserve Act.

(3) A credit union being served by a management official of any affiliate of such other

(4) A depository institution or depository holding company which does not do business within any State of the United States, the District of Columbia, any territory of the United States, Puerto Rico, Guam, American Samoa, or the Virgin Islands except as an incident to its activities outside the United States.

(5) A State-chartered savings and loan guaranty corporation.

(6) A Federal Home Loan Bank or any other bank organized specifically to serve depository institutions.

SEC. 206. A person whose service in a position as a management official began prior to the date of enactment of this title and was not immediately prior to the date of enactment of this title in violation of section 8 of the Clayton Act is not prohibited by section 203 or section 204 of this title from continuing to serve in that position for a period of ten years after the date of enactment of this title. The appropriate Federal banking agency (as set forth in section 209) may provide a reasonable period of time for compliance with this title, not exceeding fifteen months, after any change in circumstances which makes such service prohibited by this title.

SEC. 207. This title shall be administered and enforced by—

(1) the Comptroller of the Currency with respect to national banks and banks located in the District of Columbia,

(2) the Board of Governors of the Federal Reserve System with respect to State banks which are members of the Federal Reserve System, and bank holding companies,

(3) the Board of Directors of the Federal Deposit Insurance Corporation with respect to State banks which are not members of the Federal Reserve System but the deposits of which are insured by the Federal Deposit Insurance Corporation,

(4) the Federal Home Loan Bank Board with respect to institutions the accounts of which are insured by the Federal Savings and Loan Insurance Corporation, and savings and loan holding companies.

(5) the National Credit Union Administration with respect to credit unions the accounts of which are insured by the National Credit Union Administration, and

(6) Upon referral by the agencies named in the foregoing paragraphs (1) through (5), the Attorney General shall have the authority to enforce compliance by any person with this title.

SEC. 208. (a) Section 8(e) of the Federal Deposit Insurance Act (12 U.S.C. 1818 (e)) is amended by adding at the end thereof the following new paragraph:

"(5) For the purpose of enforcing any law, rule, regulation, or cease-and-desist order in connection with an interlocking relationship, the term 'officer' as used in this subsection means an employee or officer with management functions, and the term 'director' includes an advisory or honorary director, a trustee of a bank under the control of trustees, or any person who has a representative or nominee serving in any such capacity.".

(b) Section 5(d) of the Homeowners' Loan Act (12 U.S.C. 1464(d)) is amended by adding at the end thereof the following new paragraph:

"(15) For the purpose of enforcing any law, rule, regulation, or cease-and-desist order in connection with an interlocking relationship, the term 'officer' as used in this subsection means an employee or officer with management functions, and the term 'director' includes an advisory or honorary director, a trustee of an association under the control of trustees, or any person who has a representative or nominee serving in any such capacity.".

(c) Section 407(q) of the National Housing Act is amended by adding at the end thereof the following:

"(4) For the purpose of enforcing any law, rule, regulation, or cease-and-desist order in connection with an interlocking relationship, the term 'officer' as used in this subsection means an employee or officer with management functions, and the term 'director' includes an advisory or honorary director, a trustee of an association under the control of trustees, or any person who has a representative or nominee serving in any such capacity.".

SEC. 209. Rules and regulations to carry out this title, including rules or regulations which permit service by a management official which would otherwise be prohibited by section 203 or section 204, may be prescribed by—

(1) the Comptroller of the Currency with respect to national banks and banks located in the District of Columbia,

(2) the Board of Governors of the Federal Reserve System with respect to State banks which are members of the Federal Reserve System, and bank holding companies,

(3) The Board of Directors of the Federal Deposit Insurance Corporation with respect to State banks which are not members of the Federal Reserve System but the deposits of which are insured by the Federal Deposit Insurance Corporation,

(4) the Federal Home Loan Bank with respect to institutions the accounts of which are insured by the Federal Savings and Loan Insurance Corporation, and savings and loan holding companies, and

(5) the National Credit Union Administration with respect to credit unions the accounts of which are insured by the National Credit Union Administration.

The CHAIRMAN. Are there amendments to to title II?

AMENDMENT OFFERED BY MR. ST GERMAIN

Mr. ST GERMAIN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ST GERMAIN:

Page 89, line 19, strike out "and".

Page 89, line 22, strike out the period and insert in lieu thereof "; and".

Page 89, immediately after line 22, insert the following:

(6) the term "company" means any corporation, partnership, business trust, association, joint venture, pool syndicate, sole proprietorship, unincorporated organization, and any other form of business entity not specifically listed herein.

Page 90, immediately after line 23, insert the following:

SEC. 205. Service as a management official of a depository institution or a depository holding company and as a management of-

ficial of any other company not affiliated therewith shall be prohibited if such depository holding company and other company not affiliated therewith are or shall have been theretofore, by virtue of their business and location of operation, competitors, so that the elimination of competition by agreement between them would constitute a violation of any of the provisions of any of the antitrust laws. For purposes of this section, a company that is principally engaged in the business of selling goods or providing nonfinancial services, and as an incident to the selling of such goods or the providing of such nonfinancial services, extends credit to any person, and qualifies for financial assistance pursuant to the Small Business Act, as amended, shall not be deemed to be by virtue of such extension of credit a competitor of a depository institution or depository holding company as defined in section 202. For purposes of this section, the term "antitrust laws," shall have the definition assigned that term in the Act entitled "An Act to supplement existing laws against unlawful restraint and monopolies, and for other purposes," approved October 15, 1914 (Clayton Act, 38 Stat. 732, as amended). Renumber succeeding sections accordingly.

Page 92, line 1, strike out "section 203 or section 204," and insert in lieu thereof "sectino 203, section 204, or section 205".

Page 93, strike out lines 6 through 9, and insert in lieu thereof the following:

(6) the Attorney General with respect to any company. Whenever this title is enforced by the Attorney General, the provisions of this title shall be deemed provisions of the Clayton Act and a violation of this title shall be deemed a violation of the Clayton Act. All of the functions and powers of the Attorney General under the Clayton Act are available to the Attorney General to enforce compliance by any reason with this title, irrespective of any jurisdiction tests in the Clayton Act, including the power to enforce the provisions of this title in the same manner as if the violation had been a violation of the Clayton Act. All of the functions and powers of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice are available to the Attorney General or to such Assistant Attorney General to investigate possible violations of this title in the same manner as if such possible violations were possible violations of the Clayton Act.

Mr. ST GERMAIN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Rhode Island?

Mr. BROWN of Michigan. Mr. Chairman, I reserve the right to object.

Mr. Chairman, I assume the gentleman will explain the amendment; but in the interim, I reserve a point of order against the amendment.

The CHAIRMAN. The gentleman from Michigan (Mr. BROWN) reserves a point of order against the amendment.

Mr. BROWN of Michigan. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Rhode Island (Mr. ST GERMAIN)?

There was no objection.

Mr. St GERMAIN. Mr. Chairman, the amendment before you is really very simple. It seeks to correct a deficiency in existing law regarding anticompetitive interlocks. As you know from statements made over the course of the last few months, the Justice Department has been stopped by a court interpretation of the Clayton Act from challenging interlocks between competing banks and insurance companies. The companies in the case have not challenged the Justice Department's conclusion that they are, in fact, competitors. To the contrary, the companies stipulated that they were in substantial competition. The court, however, ruled that the Clayton Act exempts from the interlocking directors provisions of the Clayton Act banks, banking association, and trust companies.

This amendment will give the agencies and the Justice Department authority to challenge interlocks between depository institutions and any other company with which they compete. It rounds out the other provisions in title II which address the need to regulate interlocks between competing depository institutions. Briefly, the amendment does the following:

First. It adds to section 202 a definition of the term "company." This definition is needed for the new section 205 described below;

Second. It adds a new section 205 to title II which will allow the agencies and the Justice Department to challenge an interlock involving management officials of a depository institution and any other company with which it competes.

Third. It amends section 207 to provide that the Justice Department has concurrent jurisdiction with the financial institutions supervisory agencies to enforce the provisions of the title, including interlocks between depository institutions and depository institutions and other competing companies.

Mr. Chairman, some people would have the House believe that the issue of bank/nonbank, depository institution/nondepository institution, interlocks was not raised until the full Banking Committee marked-up the bill before you today. This is not the case. The original Safe Banking Act, introduced on September 13, 1977, contained language which would have prohibited such interlocks. H.R. 9600, introduced on October 17, 1977 and marked-up by the subcommittee, contained language which amended the Clayton Act to close the loophole I mentioned. At full committee I offered an amendment to the safe banking bill which would have restored that language. The hearing record on this bill is replete with discussions on the interlocking director provisions including those for bank/nonbank interlocks. The Department of Justice comments which appear on pages 1558–1574 of the hearing record contain their recommendation for language to deal with this problem. S. 71, H.R. 9086, H.R. 9600, H.R. 9127, H.R. 9450, H.R. 12208, H.R. 13088, all had language amending the Clayton Act. All dealt with the question of interlocking directors. All, and I emphasize, all were referred only to the Banking Committee. The Banking Committee has time and again dealt with antitrust questions. The Banking Reform Act of 1971 contained provisions which regulated interlocks between depository institutions and other competing companies. The Bank Merger Act, the Bank Holding Company Act, and the bills mentioned earlier all dealt with this issue.

The language I recommend today is needed to assure that free competition exists in the financial community. It is not an amendment to existing law but rather fits into the free standing statute envisioned by title II as now written. The issue is clear. Are we going to tell the American people that anticompetitive interlocks are not permissible or are we going to put the stamp of approval on cozy board room interlocks among competitors.

Title II, as reported by the committee, does half the job. The House should complete the work by assuring that other interlocks—interlocks between depository and nondepository institutions—are fully covered and subject to challenge.

Title II as adopted by the Banking Committee correctly states that it is bad public policy and detrimental to consumers and local communities to allow interlocks to exist between competing financial institutions. The committee-reported bill correctly finds such interlocks can and do dry up sources of credit, distort flows of credit, cause improper allocation of credit resources, stifle competition and opportunity and can and do result in higher costs to the customers of banking and other financial services.

If these interlocks are detrimental, then it certainly follows that the granddaddy of the financial interlocks—common directorates among banks and insurance companies—are detrimental and contrary to the best interests of the Nation, local communities, and the consumers of financial services.

My amendment would complete the job started in committee by closing this loophole and assuring that the Nation's law enforcement agency, the Justice Department, could challenge anticompetitive interlocking directorships existing between insurance companies and banks.

These are not questions involving esoteric theories of competition and antitrust. They are ongoing living interlocks—of a massive nature—between banks and insurance companies. In fact, my colleagues, the giant insurance companies and some of the biggest of the big banks have stood up in Federal court, admitted they were in substantial competition and that their boards were hopelessly intertwined with common directorships.

I quote from the stipulations sworn to by the defendants in two cases. First, in U.S. versus Crocker National Corp., Metropolitan Life Insurance Co., the Equitable Life Assurance Society of the United States, the Mutual Life Insurance Company of New York, et al.:

All signatories hereby stipulate and agree that Crocker Bank, by virtue of its business and location of operations, has been and is now a competitor of each of the Life Insurance Defendants in interstate commerce in the extension of mortgage and real estate loans and that such competition is not insubstantial.

And in U.S. against BankAmerica Corp., et al:

All signatories hereby stipulate and agree that Bank of America and Bankers Trust, by

virtue of their business and location of operations, have been and are now competitors of Prudential in interstate commerce in the extension of mortgage and real estate loans and that such competition is not insubstantial.

After conceding that they are indeed involved in anticompetitive interlocking arrangements, these banks and insurance companies pleaded, in effect, "the law doesn't apply to us."

My amendment seeks to close this loophole and to make certain that the law does indeed apply to these financial giants—the same as it applies to other entities involved in anti-competitive practices.

To do anything less would be blatant special treatment for these financial mastodons.

During the debate on this issue in committee, Federal Reserve Chairman G. William Miller wrote the Members strongly urging that we deal with this issue:

The Board agrees that interlocks between depository institutions and nondepository financial institutions, including insurance companies, between which there is a significant amount of competition should be subject to challenge. Accordingly, we support your efforts to restore the language of Section 208 of H.R. 12208 that removes the bank exemption in paragraph 4 of Section 8 of the Clayton Act. This would make it clear that the Clayton Act is applicable to interlocks between banks and other corporations that by virtue of their business and location of operation are competitors so that the elimination of competition by agreement between them would constitute a violation of any of the provisions of the antitrust laws.

Mr. Chairman, Mr. Miller's comments are reinforced by a new letter which I received this past week from John H. Shenefield, Assistant Attorney General, Antitrust Division.

The letter follows:

U.S. DEPARTMENT OF JUSTICE,
Washington, D.C., September 25, 1978.

Hon. FERNAND J. ST GERMAIN,
Chairman, Subcommittee on Financial Institutions Supervision, Regulation and Insurance, Committee on Banking, Finance and Urban Affairs, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: We understand that H.R. 13471, the "Financial Institutions Regulatory Act of 1978", is being scheduled to receive consideration by the full House of Representatives. The Department of Justice strongly urges that Title II of this legislation be amended by the House to restore prohibitions on anticompetitive interlocks between depository institutions and other firms with which they compete, and the concurrent authority of the Attorney General to enforce prohibitions on interlocks between depository institutions that were contained in earlier versions of the legislation. We are certain that the interests of consumers of financial services will be better served with the inclusion of these procompetitive features.

We think the time is clearly at hand to adopt simple language designed to eliminate the ability of banking institutions to continue to claim an immunity for their anticompetitive interlocking directorates with other types of firms. The competitive dangers of interlocks between competing firms have long been recognized. The need for independent business decisions by persons without conflicting interests is critical to effective competition. Therefore, Congress wisely chose to legislate general prohibitions against such interlocks. Recently, however, a court upheld the claim that there exists a special immunity for anticompetitive interlocks between banking institutions and other types of firms. Such an immunity is not only inconsistent with the public interest but also is inconsistent with the limitations Congress has placed on acquisitions by bank holding companies of competing financial firms. Unless the deleted language is reinserted, these institutions will be permitted to continue to claim an immunity for anticompetitive interlocks with the same firms they would not be allowed to acquire. We perceive no basis for continuing to permit such claims of immunity and we strongly urge reinstatement of the language in Title II which would prevent them.

We also urge restoration of the concurrent authority of the Attorney General to enforce Title II's modernized prohibitions against interlocks between depository institutions. We have previously expressed our concerns with the technical sufficiency of the amendment made by the Subcommittee which significantly reduced the role of the Attorney General in this area. These will not be repeated now. Suffice it to say that even if technically perfected, serious limitations on the Attorney General's independent enforcement authority should not be imposed. The Attorney General's concurrent authority is part of an effective and efficient enforcement program under current law. Spectres of dispute and duplication which may have brought on the elimination of the Attorney General's concurrent authority to enforce Title II's prohibitions on interlocks between depository institutions have no basis in fact. On the contrary, the record of the 64 years of concurrent authority under present law demonstrates that concurrent authority presents no problems in the interlock area. There has been no substantial interference by the Attorney General with primary enforcement by the Federal Reserve Board, nor have duplicative or conflicting actions been brought. Accordingly, we strongly urge that the concurrent enforcement authority of the Attorney General be restored in the final version of this bill.

The concerns discussed in this letter are of the utmost importance in preserving and promoting competition among institutions offering financing services. We know that the enhancement of competition in this and other areas is a goal that Congress shares with the Administration and the American people. The unjustifiable deletion of these provisions from Title II can only weaken antitrust enforcement against anticompetitive interlocking directorates. All parties, but most particularly consumers of financial services, will benefit from their restoration.

Sincerely yours,
JOHN H. SHENEFIELD,
Assistant Attorney General,
Antitrust Division.

POINT OF ORDER

Mr. BROWN of Michigan. Mr. Chairman, I insist upon my point of order.

The CHAIRMAN. The gentleman will state the point of order.

Mr. BROWN of Michigan. Mr. Chairman, I would point out to the Chair that the amendment offered by the gentleman from Rhode Island goes far beyond the scope of the present legislation. It attempts circuitously to amend the Clayton Act. It is not germane and, therefore, should not be part of this legislation and, furthermore, it is within the jurisdiction of the Committee on the Judiciary.

The CHAIRMAN. Does the gentleman from Rhode Island (Mr. ST GERMAIN) care to be heard in defense of his position?

Mr. ST GERMAIN. Yes, I do, Mr. Chairman.

Mr. Chairman, this amendment simply expands the provisions of title II. It does not raise issues outside the scope of the title. Title II, as adopted by the committee, deals with interlocking directorates among financial institutions and the anticompetitive effect of such interlocks.

This amendment simply extends anticompetitive tests to interlocks between banks and other types of financial institutions and is clearly germane.

It does not amend the Clayton Act and is not subject to challenge on this point. The amendment does refer to the Clayton Act—but so does the title II adopted by the committee. The amendment does refer to the authority of the Attorney General—but again so does the title adopted by the committee. Clearly the reference to the Clayton Act and the Attorney General cannot be ruled nongermane when the bill itself already contains reference to both.

Mr. Chairman, the gentleman's point of order should be overruled.

Mr. BROWN of Michigan. Mr. Chairman, may I be heard further on the point of order?

The CHAIRMAN. The Chair will hear the gentleman.

Mr. BROWN of Michigan. Let me say further, Mr. Chairman, that I think a careful reading of the amendment clearly indicates the point of order should be sustained.

I was under the impression the gentleman from Rhode Island (Mr. ST GERMAIN) was going to concede the point of order. Was that not my understanding, and is that not the gentleman's position?

Mr. ST GERMAIN. Mr. Chairman, if the gentleman will yield, I did want to get into the RECORD the points sustaining what I feel is the justification for the amendment, but nonetheless I am aware of what is going to happen.

Mr. BROWN of Michigan. Mr. Chairman, does the gentleman concede the point of order?

Mr. ST GERMAIN. I would ask that the Chair rule on the point of order.

The CHAIRMAN (Mr. MCCORMACK). The gentleman from Michigan (Mr. BROWN) has made a point of order against the amendment offered by the gentleman from Rhode Island (Mr. ST GERMAIN) on the ground that the amendment is not germane.

The amendment seeks to prohibit certain interlocking directorates or other related functions between the management official of the depository institution and any other company. This includes any other company which might be in competition with a depository holding company.

The amendment would bring into play functions and powers of the Attorney General under the Clayton Act and give the Attorney General all the power he would have under that Act to enforce certain anticompetitive practices.

Based on the argument made by the gentleman from Michigan (Mr. BROWN) and the Chair's reading of the amendment, that it shall be deemed to be part

of the provisions of the Clayton Act and that violations of the amendment would be deemed violations of the Clayton Act, and because title II of the bill does not in fact amend the Clayton Act but merely refers to that law in a manner which does not change that law's application, the chair holds the amendment not germane to title II.

The Chair sustains the point of order.

Are there other amendments to title II?

Mr. ANNUNZIO. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I take this time to ask the chairman of the subcommittee a question for the purposes of clarification.

Mr. Chairman, my understanding of title II of H.R. 13471, interlocking directors, is that there would be an exemption for affiliated depository institutions and depository holding companies from the prohibition on interlocking directors. So, if a family beneficially owned in the aggregate more than 50 per centum of the voting stock of one depository institution or depository holding company in a city and also beneficially owned in the aggregate more than 50 per centum of the voting stock of another depository institution or depository holding company in the same city, regardless of where these two institutions were located, they could continue to have interlocking management officials. In other words, as long as banks are affiliated as defined under title II the prohibition of title II against interlocking management officials would not apply.

Also, for purposes of the definition in section 202 of "affiliated," it is my understanding the phrase "one or more persons" means that one person would refer not only to one individual but also to related individuals, such as a mother, father, child, grandchild, sister, brother, or any of their spouses whether or not any of the stock is held in trust. Therefore, if a mother and father beneficially owned in the aggregate more than 50 per centum of the voting stock of one bank in a city and their sons and their daughter beneficially owned in the aggregate more than 50 per centum of the voting stock of another bank in the same city, the two banks would be construed to be owned by one person and would qualify for the exemption as affiliated banks.

Is my understanding of title II correct?

Mr. ST GERMAIN. Mr. Chairman, will the gentleman yield?

Mr. ANNUNZIO. I am happy to yield to the gentleman from Rhode Island.

Mr. ST GERMAIN. Mr. Chairman, let me say to the gentleman from Illinois (Mr. ANNUNZIO) that his interpretation and understanding of title II are absolutely correct. For purposes of the definition of "affiliated," family owned banks would be considered to be owned by one person, and therefore, affiliated, whether or not the individuals of that family that own each bank are identical and regardless of whether or not any of the stock is held in trust. As an example, if a mother and father owned bank A in a city and the father and a son owned a second bank or third bank in the same city, the prohibition on interlocking management officials in title II would not apply because one person would own all three banks making the banks affiliated. The same individuals could be on the board of directors or otherwise be management officials in each of the three banks. Sections 203 and 204 apply only to management officials of depository institutions and depository holding companies that are not affiliated. The family owned banks you describe are affiliated as title II defines "affiliated"; and therefore, the prohibition against interlocking directors would not apply. The definition of "affiliate" in section 202 was intended to exempt the family owned banks you describe from the prohibition on interlocking management officials contained in title II.

Mr. ANNUNZIO. Mr. Chairman, I thank the gentleman from Rhode Island (Mr. ST GERMAIN) for the clarification, and I yield back the balance of my time.

Mr. BROOKS. Mr. Chairman, I move to strike the requisite number of words.

Mr. BROOKS. Will the gentleman from Rhode Island yield for a question on this title?

Mr. ST GERMAIN. Yes, I would be happy to yield to the gentleman from Texas.

Mr. BROOKS. It is my understanding that the depository institution interlock provision contains a 10-year grandfathering for existing interlocks which would be prohibited by the title. If an individual is a director of bank A and bank B in the same town, that interlock has a 10-year grandfather. If bank A becomes a subsidiary of a holding company in another city, does the director of bank A still retain his 10-year grandfather privilege?

Mr. ST GERMAIN. Yes, the director you mentioned would retain the balance of his 10-year grandfather right since the two entities he serves would still exist.

Mr. BROOKS. Mr. Chairman, I want to thank the gentleman from Rhode Island (Mr. ST GERMAIN) very much.

Mr. LAFALCE. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of this bill.

The bill which we consider today is the product of many months of investigation, debate, and compromise. The result, in my judgment, is a bill which will go far to improving the image and the actual condition of financial institutions in this country.

Title I gives the regulators of our financial institutions some powers which they have been seeking for several years now, and which will put some teeth into the rules and regulations they enforce. Where previously the only real option was the issuance of a cease and desist order, the regulators will now be able to impose fines for violations of laws thereby creating an additional incentive for compliance. This title also responds to some of the unsound banking practices that were brought to light during the Lance hearings last year by more specifically limiting the activities of bank insiders and clearly stating that insiders are to receive no special treatment from the bank in their personal dealings. If the person on the street cannot get an interest free overdraft of his checking account, the bank president will not be able to get such service either. It is precisely this kind of special treatment which makes the general public suspicious of the dealings of bankers and which needs to be eliminated.

Another title which is of special interest to me is title IV which deals with conflicts of interest following service in one of the bank regulatory agencies. As originally drafted, this title would have prohibited any employment with a regulated institution for 2 years following service on a regulatory board, regardless of whether or not the individual had completed the term for which he or she was appointed. This restriction I feel would have been much too severe. It is important that Government regulatory agencies be able to attract capable individuals to their leadership positons. To require that these individuals not be employed for a period of 2 years in the field they know best would lead most candidates to reject the request that they serve on the board of directors of one of the regulatory agencies.

Therefore, I was extremely pleased when the Financial Institutions Subcommittee adopted an amendment which I offered which would limit the contact which an individual has with the agency after service on the board, but would not create an absolute prohibition on employment with a regulated institution. This approach deals more specifically with the potential conflict and abuse of influence which former directors would have by prohibiting them from appearing before the board in any official capacity for a period of time following their employment. No matter how hard sitting board members and current staff may try, it is next to impossible to not look favorably upon the request of a former colleague or boss for official rulings. It is this undue influence which former members will have and others will not which would make it unfair to allow these professional appearances before the agency following employment. This title is not, of course, intended to restrict social contacts among friends or to prohibit the giving of information sought by the agency from the former director in a consulting capacity only.

Title VIII is also a response to the Lance hearings held in the summer of 1977 and prohibit the offering of preferential loans by correspondent banks to the insiders of the banks with which they have such a correspondent relationship. Since the services provided by correspondent banks may not be priced, the institutions sometimes offer preferential loans to insiders of the respondent banks, but there is little way for the regulators to prove this practice. This title requires the institutions to keep detailed records of all loans made to insiders by correspondent banks, including amounts, duration, and interest rates, which information must be reported annually to the regulators.

Along similar lines, title IX requires each financial institution to report on loans it makes to its own insiders and the terms and conditions of those loans. The aggregate amount of loans to in-

siders and a list of insiders holding loans from the institution (although not the amounts of the loans held by each) will then be made available to the public for review. It should be helpful to individuals wishing to evaluate the business dealings of a bank to know what portion of that bank's assets are tied up in loans to their own insiders. It is important, however, that the individual insiders own privacy also be respected, and this is the reason for the disclosure of only the aggregate amount of all loans to insiders.

The Right to Financial Privacy Act of 1978, title XI, is one on which I have spent many hours trying to maximize the privacy protections afforded to the individual bank customer without tying the hands of Government law enforcement activities. There is a right, equally as important as the right of an individual to financial privacy, of a society to be relatively free from crime and fear then protection of which is also the responsibility of the Government. The challenge is to find a way to protect both of these interests through the same Government. Hopefully we have done this in the Right to Financial Privacy Act of 1978.

The overriding purpose of this title is to let an individual know when the Federal Government is seeking access to his financial records and what use is made of those records after the Government acquires them. The individual is given an opportunity to challenge the access to his records if he thinks that there is no legitimate reason for the Government to be seeking them. The first step is that the Government informs the individual that it wishes to review his records for a given purpose. The individual is also given a form to fill out which will enable him to challenge the Government's access to the records.

It is then up to the Government to show that the records are relevant to the investigation and that the investigation itself is a legitimate one, and not being conducted to harass an individual for political reasons, to intimidate a witness, or for other bad faith motives. The important point to remember is that we are dealing here with the preliminary stages of an investigation and, especially in cases of white collar crime, financial records are the best, if not the only evidence of the crime. At the beginning of investigations into alleged embezzlement, bribery, public corruption, extortion, drug trafficking and the like, financial records provide the information needed to begin or continue the investigation, and it is not the intent of the framers of this title to inhibit these legitimate activities of Government law enforcement authorities. To require excessively detailed demonstrations of the basis for the investigation at this point in the process would lead to the courts making preliminary decisions on investigations rather than prosecutors, and would be a violation of the separation of powers doctrine.

Some very limited exceptions are included in the title to allow for situations in which prior notice to the individual would cause serious harm to that individual, another person, or to the investigation. In these cases, the Government is required to demonstrate the potential harm to a court, and the individual is notified after the fact that the records have been obtained, and may challenge the access if it was improper. Notice is also given to the individual of transfers of his records between Government agencies, so that at all times, unless there is a compelling reason not to disclose the transfer, he or she will know which agencies in the Federal Government have reviewed the bank records.

Title XII gives mutual savings banks a Federal chartering option and is one which I have long supported. Mutuals are the only form of financial institution in this country for whom the dual banking system is a myth because they do not have the option of a Federal charter. This title will extend the dual banking system, while protecting against banks "escaping" to easier Federal regulation by changing charters.

One point must also be made regarding title XIV, additional powers for the Comptroller of the Currency. This title which I both authored and amended within committee provides a standard that banks must meet when divesting themselves of real estate acquired through foreclosures. I specifically authored an amendment changing the standard from proving both that a good faith attempt has been made to dispose of the property within the 5-year time period and that disposal within the 5-year period would be detrimental to the association, to a different standard an either/or standard. The bill is printed correctly. However the description of the section on page 57 of the committee report incorrectly says "and" rather than "or".

Finally title XVI will correct a competitive imbalance in the banking system in some States which was threatening the viabilty of federally chartered savings and loan associations. In my home State of New York for example these federally chartered thrift institutions are the only financial institutions which do not have the authority to offer noninterest-bearing checking accounts. This title simply gives the Federal Home Loan Bank Board, the regulator of the federally chartered thrifts, the ability to allow those thrifts to offer transaction accounts in those States where State chartered thrift institutions are allowed to do so. This is a measure of fairness to the Federal thrifts and should be adopted.

I commend the chairman of the Financial Institutions Subcommitte for his untiring work on this bill, and his continuing willingness to make compromises in important places. The final product which we have is one of which we can all be rightly proud, and will be a law which will serve the American people well.

The CHAIRMAN. Are there further amendments to title II? The Chair hears none.

Title III is as follows:

TITLE III—FOREIGN BRANCHING

SEC. 301. (a) Section 3(o) of the Federal Deposit Insurance Act (12 U.S.C. 1813(o)) is amended—

(1) by inserting "domestic" immediately before "branch" the first place it appears; and

(2) by inserting before the period at the end thereof a semicolon and the following: "and the term 'foreign branch' means any office or place of business located outside the United States, its territories, Puerto Rico, Guam, American Samoa, or the Virgin Islands, at which banking operations are conducted".

(b) Section 18(d) of the Federal Deposit Insurance Act (12 U.S.C. 1828(d)) is amended—

(1) by inserting "(1)" after "(d)";

(2) by inserting "domestic" between "new" and "branch";

(3) by inserting "such" between "any" and "branch"; and

(4) by adding at the end thereof the following new paragraph:

"(2) No State nonmember insured bank shall establish or operate any foreign branch, except with the prior written consent of the Corporation and upon such conditions and pursuant to such regulations as the Corporation may prescribe from time to time.".

(c) Section 18 of the Federal Deposit Insurance Act (12 U.S.C. 1828) is amended by adding at the end thereof the following new subsection:

"(1) When authorized by State law, a State nonmember insured bank may, but only with the prior written consent of the Corporation and upon such conditions and under such regulations as the Corporation may prescribe from time to time, acquire and hold, directly or indirectly, stock or other evidences of ownership in one or more banks or other entities organized under the law of a foreign country or a dependency or insular possession of the United States and not engaged, directly or indirectly, in any activity in the United States except as, in the judgment of the Board of Directors, shall be incidental to the international or foreign business of such foreign bank or entity; and, notwithstanding the provisions of subsection (j) of this section, such State nonmember insured bank may, as to such foreign bank or entity, engage in transactions that would otherwise be covered thereby, but only in th manner and within the limits prescribed by the Corporation by general or specific regulation or ruling.".

SEC. 302. The sixth sentence of section 7(a)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1817(a)(3)) is amended to read as follows: "The correctness of said report of conditions shall be attested by the signatures of at least two directors or trustees of the reporting bank other than the officer making such declaration, with a declaration that the report has been examined by them and to the best of their knowledge and belief is true and correct.".

SEC. 303. Section 8(n) of the Federal Deposit Insurance Act (12 U.S.C. 1818(n)) is amended—

(1) by inserting in the first sentence after "the section," the first place it appears therein the following: "or in connection with any claim for insured deposits or any examination or investigation under section 10(c),";

(2) by inserting "examination, or investigation or considering the claim for insured deposits," in the first sentence after "proceeding," the second place it appears therein;

(3) by striking out "proceedings" at the end of the first sentence thereof and inserting in lieu thereof "proceedings, claims, examinations, or investigations";

(4) by inserting "such agency or any" after "Any" at the beginning of the third sentence thereof; and

(5) by striking out "section" and inserting in lieu thereof "subsection" in the fourth sentence thereof.

SEC. 304. Section (8)(q) of the Federal Deposit Insurance Act (12 U.S.C. 1818(q)) is amended to read as follows:

"(q) Whenever the liabilities of an insured bank for deposits shall have been assumed

by another insured bank or banks, whether by way of merger, consolidation, or other statutory assumption, or pursuant to contract (1) the insured status of the bank whose liabilities are so assumed shall terminate on the date of receipt by the Corporation of satisfactory evidence of such assumption; (2) the separate insurance of all deposits so assumed shall terminate at the end of six months from the date such assumption takes effect or, in the case of any time deposit, the earliest maturity date after the six-month period; and (3) the assuming or resulting bank shall give notice of such assumption to each of the depositors of the bank whose liabilities are so assumed within thirty days after such assumption takes effect. Where the deposits of an insured bank are assumed by a newly insured bank, the bank whose deposits are assumed shall not be required to pay any assessment upon the deposits which have been so assumed after the semiannual period in which the assumption takes effect.".

SEC. 305. (a) Section 10(b) of the Federal Deposit Insurance Act (12 U.S.C. 1820(b)) is amended by inserting "or other institution" in the first sentence after the words "any State nonmember bank" and by striking out the last two sentences of that subsection.

(b) Section 10 (c) and (d) of the Federal Deposit Insurance Act (12 U.S.C. 1820 (c) and (d)) are amended to read as follows:

"(c) In connection with examinations of insured banks, State nonmember banks or other institutions making application to become insured banks, and affiliates thereof, or with other types of investigations to determine compliance with applicable law and regulations, the appropriate Federal banking agency, or its designated representatives, are authorized to administer oaths and affirmations, and to examine and to take and preserve testimony under oath as to any matter in respect to the affairs or ownership of any such bank or institution or affiliate thereof, and to exercise such other powers as are set forth in section 8(n) of this Act.

"(d) For purposes of this section, the term 'affiliate' shall have the same meaning as in section 23A of the Federal Reserve Act, except that the term 'member bank' in such section 23A and in section 2(b) of the Banking Act of 1933 shall be deemed to refer to an insured bank.".

SEC. 306. Section 18(c)(1)(B) of the Federal Deposit Insurance Act (12 U.S.C. 1828 (c)(1)(B)) is amended by inserting after the word "deposits" the following: "(including liabilities which would be 'deposits' except for the proviso in section 3(1)(5) of this Act)".

SEC. 307. Section 1114 of title 18, United States Code, is amended by inserting before "shall be punished" the following: "or any attorney, liquidator, examiner, claim agent, or other employee of the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, the Comptroller of the Currency, the Federal Home Loan Bank Board, the Board of Governors of the Federal Reserve System, any Federal Reserve bank, or the National Credit Union Administration engaged in or on account of the performance of his official duties".

SEC. 308. Section 5 of the Bank Service Corporation Act (12 U.S.C. 1865) is amended to read as follows:

"SEC. 5. Whenever any bank which is regularly examined by a Federal supervisory agency, or any subsidiary or affiliate, of such bank which is subject to examination by that agency, causes to be performed, by contract or otherwise, any bank services for itself, whether on or off its premises—

"(1) such performance shall be subject to regulation and examination by such agency to the same extent as if the services were being performed by the bank itself on its own premises, and

"(2) the bank shall notify such agency of the existence of a service relationship within 30 days after the making of such service contract or the performance of the service, whichever occurs first.".

SEC. 309. The last sentence of section 9 of the Federal Deposit Insurance Act (12 U.S.C. 1819) is amended to read as follows:

"Tenth. To prescribe by its Board of Directors such rules and regulations as it may deem necessary to carry out the provisions of this Act or of any other law which it has the responsibility of administering or enforcing (except to the extent that authority to issue such rules and regulations has been expressly and exclusively granted to any other regulatory agency).".

SEC. 310. (a) Section 7(a)(4) of the Federal Deposit Insurance Act (12 U.S.C. 1817 (a)(4)) is amended by adding at the end thereof the following new sentence: "Deposits which are accumulated for the payment of personal loans and are assigned or pledged to assure payment of loans at maturity shall not be included in the total deposits in such reports, but shall be deducted from the loans for which such deposits are assigned or pledged to assure repayment.".

(b) Section 7(a)(5) of the Federal Deposit Insurance Act (12 U.S.C. 1817(a)(5)) is amended by striking out "deposits accumulated for the payment of personal loans," in the second sentence thereof.

(c) Section 7(b)(6) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(6)) is amended by striking out subparagraph (B), and redesignating subparagraphs (C) and (D) as (B) and (C), respectively.

AMENDMENT OFFERED BY MR. BLANCHARD

Mr. BLANCHARD. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BLANCHARD: Page 102, immediately after line 13, insert the following new section:

SEC. 311. Section 9 of the International Banking Act of 1978 (Public Law 95-369) is amended by inserting "(a)" immediately after "SEC. 9." and by inserting at the end thereof the following new subsection:

"(b)(1) Every branch or agency of a foreign bank and every commercial lending company controlled by one or more foreign banks or by one or more foreign companies that control a foreign bank shall conduct its operations in the United States in full compliance with provisions of any law of the United States or any State thereof which—

"(A) prohibit discrimination against any individual or other person on the basis of the race, color, religion, sex, marital status, age, or national origin of (i) such individual or other person or (ii) any officer, director, employee, or creditor of, or any owner of any interest in, such individual or other person; and

"(B) apply to national banks or State-chartered banks doing business in the State in which such branch or agency or commercial lending company, as the case may be, is doing business.

"(2) No application for a branch or agency shall be approved by the Comptroller or by a State bank supervisory authority, as the case may be, unless the entity making the application has agreed to conduct all of its operations in the United States in full compliance with provisions of any law of the United States or any State thereof which—

"(A) prohibit discrimination against individuals or other persons on the basis of the race, color, religion, sex, marital status, age, or national origin of (i) such individual or other person or (ii) any officer, director, employee, or creditor of, or any owner of any interest in, such individual or other person; and

"(B) apply to national banks or State-chartered banks doing business in the State in which the entity to be established is to do business.".

Mr. BLANCHARD (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. ST GERMAIN. Mr. Chairman, will the gentleman yield?

Mr. BLANCHARD. I yield to the gentleman from Rhode Island.

Mr. ST GERMAIN. I thank the gentleman for yielding.

Mr. Chairman, this side has had an opportunity to review the gentleman's amendment. It has already been adopted in the past by our full committee, and this side is prepared to accept the amendment.

Mr. BLANCHARD. I thank the chairman.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. BLANCHARD. I yield to the gentleman from California.

Mr. ROUSSELOT. I believe this is the same amendment, is it not, that we acted upon on previous occasions?

Mr. BLANCHARD. That is correct.

Mr. ROUSSELOT And there is nothing new from the previous time the gentleman offered it?

Mr BLANCHARD. That is correct.

Mr. ROUSSELOT. I thank the gentleman.

Mr. Chairman, I do not think we would find any difficulty in accepting the gentleman's amendment

Mr. BLANCHARD. I thank the gentleman from California.

Mr. Chairman, the amendment I am offering is intended to require foreign banks and bank holding companies which do business in the United States to adhere to antidiscrimination laws which presently govern comparable business dealings by American firms.

The House has adopted this provision twice, during consideration of the International Banking Act in 1976, and again this year. Unfortunately, because the Senate bill on this subject became law and it did not contain my amendment, this provision is not law. That is why I am offering my amendment tonight.

Mr. Chairman, I believe the two principal questions which come to mind in considering this amendment are:

First, why is it necessary, in view of the traditional policy of our Government to oppose discrimination, and in view of the civil rights laws already on the books? And second, what is its purpose, since it does not alter or strengthen those laws?

The answers to both questions is essentially the same. It is intended to clarify the views of Congress on discrimination, for all of those, both in this country and abroad who are uncertain about our intentions.

One case in point involves the Arab boycott which first made headlines across the country some 3½ years ago. Those of us who have been concerned

with this issue, and the possibility of others like it, have become more and more aware of how necessary it is for our intentions regarding discrimination to be clear.

We have watched with varying degrees of surprise and, at times, bewilderment as the seemingly straightforward language of the Export Administration Act of 1969 has been contorted by some of those in past administrations to produce remarkable interpretations; interpretations, for example, allowing the Department of Commerce to circulate bid offers from foreign governments which contain antiboycott clauses—or requiring the Secretary of Commerce to withhold information gathered under the act from the Congress.

Both of these interpretations, I might add, were finally abandoned, but only after substantial controversy and debate.

What has made the events even more bizarre, however, has been the fact that other administration officials have, to my knowledge, acted wisely and thoughtfully in interpreting the same act. I speak in particular of former Comptroller of the Currency James Smith, former Federal Reserve Board of Governors Chairman Arthur Burns, and the administrators of the Federal Deposit Insurance Corporation, all of whom should be commended for their actions in this regard.

In the case of the Arab boycott, there are two major forms of boycott activity. The one which has attracted the most attention in the media involves the inclusion in contracts, letters of credit, and other documents of a clause requiring certification that a product has not been manufactured in, or that a ship has not called at port in, the State of Israel.

That type of activity would not be affected by this amendment. Legislation strengthening the provisions of the Export Administration Act by clarifying the prohibition against U.S. firms complying with the Arab boycott was adopted by the House in 1977 and is now law.

The second form of the boycott has not received as much attention, and very likely is not nearly so widespread. To my way of thinking, however, it is much more ominous in its implications for our way of life. I refer to domestic discrimination against persons of Jewish faith or heritage. This, of course, could also lead to the potential for similar kinds of discrimination, such as on the basis of race or sex.

On February 24, 1975, the Comptroller of the Currency wrote to the presidents of all national banks in the United States, saying in part:

> This office has recently learned that some banks may have been offered large deposits and loans by agents of foreign investors, one of the conditions for which is that no member of the Jewish faith sit on the bank's board of directors or control any significant amount of the bank's outstanding stock.

The Comptroller went on to state that:

> Discrimination based on religious affiliation or racial heritage is incompatible with the public service function of a banking institution in this country.

Additionally, on more than one occasion, reference has been made in testimony before the various congressional subcommittees investigating the boycott to religious discrimination involving requests that have been made to domestic firms.

Mr. Chairman, I believe there is a general understanding among businessmen in this country that such discrimination is wrong, and that it is against the traditional policy and laws of this country.

The amendment clarifies that understanding and draws it to the attention of those from other countries who seek to do business here.

The International Banking Act is aimed specifically at establishing a framework for the operations of foreign banks and bank holding companies in this country, and promoting parity between them and domestic firms, I believe the amendment is a necessary addition to the law.

I might add that a further desirable effect of the amendment will be to subject any discriminatory practices which may be disclosed in the future to enforcement proceedings under the Federal Deposit Insurance Act, which I believe will be more appropriate and effective in relation to the banking industry than the enforcement provisions and procedures contained in the civil rights laws.

In summary, I believe the amendment is needed, both to shed some light on a hitherto "gray" area in the law, and as a clear signal that the Congress, as the elected representative of the American people, remains implacably hostile to this kind of invidious discrimination.

All of us know that these practices have no place in the United States. It is time for us now to write that principle into law so that it cannot be misinterpreted or misunderstood.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan (Mr. BLANCHARD).

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to title III?

The Chair wishes to remind the Members that, under the rule, the bill is being considered by titles, and that, once we have passed a title, it will be out of order to come back to it. We are trying to maintain order here and we are trying to be certain that every Member has a chance to submit his amendment to the proper title.

I am going to ask the Clerk each time to read just the title heading, so that we will have that pause.

The Clerk will read the heading to title IV.

Title IV is as follows:

TITLE IV—CONFLICTS OF INTEREST

SEC. 401. This title may be cited as the "Depository Institutions Conflict of Interest Act".

SEC. 402. Section 2 of the Federal Deposit Insurance Act (12 U.S.C. 1812) is amended by striking out the sixth sentence and inserting in lieu thereof the following: "The members of the Board of Directors shall be ineligible, during the time they are in office and for a period of two years thereafter, to hold any office, position, or employment in an insured bank, in a holding company of an insured bank, or in an affiliate of a holding company of an insured bank, except that this restriction shall not apply to any individual who has served the full term for which he was appointed. Former members of the Board of Directors shall be prohibited from appearing before the Board, either formally or informally, contacting the Board, directly or indirectly, orally or in writing, or from acting as agent or attorney for any other person, other than the United States, before the Board for a period of two years immediately following their employment with the Board. The preceding sentence shall not apply to individuals who served on the Board before or upon the effective date of this sentence, and the prohibition upon holding any office, position, or employment in a holding company or an affiliate thereof shall not apply to individuals serving as members of the Board upon the effective date of this sentence.".

SEC. 403. The second paragraph of section 10 of the Federal Reserve Act (12 U.S.C. 242) is amended by striking out the first sentence and inserting in lieu thereof the following: "The members of the Board of Governors shall be ineligible, during the time they are in office and for a period of two years thereafter, to hold any office position, or employment in a member bank, in a bank holding company or in an affiliate of a bank holding company, except that this restriction shall not apply to any individual who has served the full term for which he was appointed. Former members of the Board of Governors shall be prohibited from appearing before the Board, either formally or informally, contacting the Board, directly or indirectly, orally or in writing, or from acting as agent or attorney for any other person, other than the United States, before the Board for a period of two years immediately following their employment with the Board. The preceding sentence shall not apply to individuals who served on the Board before or upon the effective date of this sentence, and the prohibition upon holding any office, position, or employment in a holding company or an affiliate thereof shall not apply to individuals serving as members of the Board upon the effective date of this sentence.".

SEC. 404. Section 17 of the Federal Home Loan Bank Act (12 U.S.C. 1437) is amended by adding at the end thereof the following:

"(c) The members of the board shall be ineligible during the time they are in office and for a period of two years thereafter to hold any office, position, or employment in an insured institution, in a holding company of an insured institution, or in an affiliate of a holding company of an insured institution, except that this restriction shall not apply to any individual who has served the full term for which he was appointed. As used in this subsection, the term 'insured institution' has the same meaning as in section 401 of the National Housing Act. Former members of the board shall be prohibited from appearing before the board, either formally or informally, contacting the board, directly or indirectly, orally or in writing, or from acting as agent or attorney for any other person, other than the United States, before the board for a period of two years immediately following their employment with the board. The preceding sentence shall not apply to individuals who served on the board before or upon the effective date of this sentence, and the prohibition upon holding any office, position, or employment in a holding company or an affiliate thereof shall not apply to individuals serving as members of the board upon the effective date of this sentence.".

The CHAIRMAN. Are there amendments to title IV?

AMENDMENT OFFERED BY MR. M'KINNEY

Mr. McKINNEY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. McKINNEY: Strike all of Title IV beginning on page 102,

line 14, through page 105, line 12 and renumber titles accordingly.

Mr. McKINNEY. Mr. Chairman, title IV was incorporated into H.R. 13471 because at the time of deliberation by the Banking Committee no suitable Government-wide conflict-of-interest provision existed. However, on September 27, 1978, the House passed S. 555, the Ethics in Government Act.

S. 555 incorporates the same basic philosophy as title IV which would prevent a revolving door conflict-of-interest situation between the Government and the private sector.

Specifically, S. 555 revises the prohibition against representational activity, with intent to influence, by any former Government employee in a matter in which he participated personally and substantially as an employee. Increases to 2 years the duration of the prohibition against representational activity by a former employee in a matter which was pending under his official responsibility within his last year of Government employment. Provides that certain officials may not, for 1 year after they leave the Government, represent another person in an appearance before their former agencies, or make any communication with such agencies in another person's behalf.

It was stated during Banking Committee deliberation of title IV that these provisions which attempt to minimize the conflicts of interest in bank regulatory agencies should not be considered a chastisement of these agencies, but rather as an attempt by the Banking Committee to set an example for other agencies.

The conflict-of-interest problem should be handled on a Government-wide basis. S. 555, which will be going to conference shortly, will close the loopholes which now exist in the law.

Title IV is more limited in scope than S. 555 and should therefore be stricken in anticipation of the more comprehensive act.

Mr. ST GERMAIN. Mr. Chairman, will the gentleman yield?

Mr. McKINNEY. I yield to the gentleman from Rhode Island.

Mr. ST GERMAIN. Mr. Chairman, clearly, title IV of this bill provides a more complete and stricter test on conflict of interest than H.R. 1 which passed the House last week and which I understand is now in conference.

However, the House has spoken on a Government-wide approach to this question and there are legitimate questions about providing separate tests for the financial agencies.

We in the Banking Committee have long been concerned about conflicts and potential conflicts and the revolving door nature of many appointments to the financial agencies. We feel strongly that this badly hurts public confidence in areas where confidence is of utmost importance.

But I will accept the provisions of H.R. 1 as the operative approach—so that we have a Government-wide set of standards. At the same time, we in the Banking Committee intend to watch this closely and should the conflict of interest provisions of H.R. 1 not prove sufficient to halt the revolving door problems of financial regulatory agencies, we will be back here asking the House to impose the more stringent requirements of H.R. 13471.

I will have no objection to the gentleman's amendment.

Mr. McKINNEY. I thank the chairman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Connecticut (Mr. McKINNEY).

The amendment was agreed to.

The CHAIRMAN. The Clerk will report the heading to title V.

Title V is as follows:

TITLE V—CREDIT UNION RESTRUCTURING

SEC. 501. Section 102 of the Federal Credit Union Act (12 U.S.C. 1752a) is amended to read as follows:

"CREATION OF ADMINISTRATION

"SEC. 102. (a) There is hereby established in the executive branch of the Government an independent agency to be known as the National Credit Union Administration. The Administration shall be under the management of a National Credit Union Administration Board.

"(b) The Board shall consist of three members, who are broadly representative of the public interest, appointed by the President, by and with the advice and consent of the Senate. In appointing the members of the Board, the President shall designate the Chairman. Not more than two members of the Board shall be members of the same political party.

"(c) The term of office of each member of the Board shall be six years, except that the terms of the two members, other than the Chairman, initially appointed shall expire one upon the expiration of two years after the date of appointment, and the other upon the expiration of four years after the date of appointment. Board members shall not be appointed to succeed themselves except the initial members appointed for less than a six-year term may be reappointed for a full six-year term and future members appointed to fill unexpired terms may be reappointed for a full six-year term. Any Board member may continue to serve as such after the expiration of said member's term until a successor has qualified.

"(d) The management of the Administration shall be vested in the Board. The Board shall adopt such rules as it sees fit for the transaction of its business and shall keep permanent and complete records and minutes of its acts and proceedings. A majority of the Board shall constitute a quorum. Not later than April 1 of each calendar year, and at such other times as the Congress shall determine, the Board shall make a report to the President and to the Congress. Such a report shall summarize the operations of the Administration and set forth such information as is necessary for the Congress to review the financial program approved by the Board.

"(e) The Chairman of the Board shall be the spokesman for Board and shall represent the Board and the National Credit Union Administration in its official relations with other branches of the Government. The Chairman shall determine each Board member's area of responsibility and shall review such assignments biennially. It shall be the Chairman's responsibility to direct the implementation of the adopted policies and regulations of the Board.

"(f) The financial transactions of the Administration shall be subject to audit on a calendar year basis by the General Accounting Office in accordance with the principles and procedures applicable to commercial corporate transactions and under such rules and regulations as may be prescribed by the Comptroller General of the United States. The audit shall be conducted at the place or places where the accounts of the Administration are kept.

"(g) The members of the Board shall be ineligible during the time they are in office and for a period of two years thereafter, to hold any office, position, or employment in a credit union or in any financial institution in which a credit union owns stock, except that this restriction shall not apply to any individual who has served the full term for which he was appointed. Former members of the Board shall be prohibited from appearing before the Board, either formally or informally, contacting the Board, directly or indirectly, orally or in writing, or from acting as agent or attorney for any other person, other than the United States, before the Board for a period of two years immediately following their employment with the Board. The preceding sentence shall not apply to individuals who served on the Board before or upon the effective date of this sentence, and the prohibition upon holding any office, position, or employment in a holding company or an affiliate thereof shall not apply to individuals serving as members of the Board upon the effective date of this sentence.".

SEC. 502. (a) Section 101 of the Federal Credit Union Act is amended—

(1) by striking out clause (2) and inserting in lieu thereof the following:

"(2) the term 'Chairman' means the Chairman of the National Credit Union Administration Board;";

(2) by inserting "Administration" after "Union" in clause (4).

(b) The Federal Credit Union Act is amended by striking out "Administrator" each place it appears and inserting in lieu thereof "Board", and by striking out the personal pronouns "he", "him", and "his" when referring to the Administrator and inserting in lieu thereof "it", "them", and "its" as appropriate wherever such words appear therein.

(c) Section 5108(a) of title 5, United States Code, is amended by changing the number "3,301" in the first sentence to read "3,310".

(d) Section 5314 of title 5, United States Code, is amended by adding the following new paragraph:

"(66) Chairman, National Credit Union Administration Board.".

(e) Section 5315 (93) of title 5, United States Code, is amended by striking out "Administrator of the National Credit Union Administration" and inserting in lieu thereof "Members, National Credit Union Administration Board (2)".

SEC. 503. (a) Paragraph (4) of section 101 of the Federal Credit Union Act (12 U.S.C. 1752) which begins with "The terms 'member account' " is redesigned paragraph "(5)" and the succeeding paragraphs numbered (5) through (8) are redesignated as paragraphs (6) through (9), respectively.

(b) Paragraph (5) of section 101 of the Federal Credit Union Act (12 U.S.C. 1752), as redesignated by subsection (a) of this section, is amended—

(1) by striking "(when referring to the account of a member of credit union)";

(2) by striking "share, share certificate, or share deposit" each time it appears therein and inserting "share or share certificate" in lieu thereof;

(3) by striking "those" and inserting "share or share certificate" in lieu thereof; and

(4) by striking all language after "political subdivisions thereof" and inserting "enumerated in section 207 of this Act: *Provided*, That for purposes of insured State credit unions, reference in this paragraph to 'share' or 'share certificate' accounts includes, as de-

termined by the Board, the equivalent of such accounts under State law;" in lieu thereof.

(c) Paragraph (9) of section 101 of the Federal Credit Union Act (12 U.S.C. 1752), as redesignated by (a) of this section, is amended by—

(1) inserting ", including the trust territories," after "several territories"; and

(2) adding the following new sentence: "The term 'branch' also includes a suboffice, operated by a Federal credit union or by a credit union authorized by the Department of Defense, located on an American military installation in a foreign country or in the trust territories of the United States.".

SEC. 504. (a) Subsection (a) of section 201 of the Federal Credit Union Act (12 U.S.C. 1781) is amended by inserting ", including the trust territories," after "several territories".

(b) Paragraph (b)(7) of such section is amended by inserting "except for accounts authorized by State law for State credit unions" before the semicolon.

(c) Such section is further amended by striking all of subsection (d) and redesignating subsection (e) as (d).

SEC. 505. (a) Section 202 of the Federal Credit Union Act (12 U.S.C. 1782) is amended by striking out "his" in the fifth sentence of paragraph (a)(1) and inserting "such officer's" in lieu thereof.

(b) Subsection (h)(3) of such section is amended to read as follows:

"(3) The term 'member account' when applied to the premium charge for insurance of accounts shall not include amounts received from other federally insured credit unions in excess of the insured account limit set forth in section 207(c)(1).".

SEC. 506. Section 208 of the Federal Credit Union Act (12 U.S.C. 1788) is amended by striking out "SPECIAL ASSISTANCE TO AVOID LIQUIDATION" and inserting "SPECIAL ASSISTANCE FOR FEDERALLY INSURED CREDIT UNIONS" in lieu thereof.

SEC. 507. Section 105 of the Federal Credit Union Act (12 U.S.C. 1755) is amended to read as follows:

"FEES

"SEC. 105. (a) In accordance with rules prescribed by the Board, each Federal credit union shall pay to the Administration an annual operating fee which may be composed of one or more charges identified as to the function or functions for which assessed.

"(b) The fee assessed under this section shall be determined according to a schedule, or schedules, or other method determined by the Board to be appropriate, which gives due consideration to the expenses of the Administration in carrying out its responsibilities under this Act and to the ability of Federal credit unions to pay the fee. The Board shall, among other things, determine the periods for which the fee shall be assessed and the date or dates for the payment of the fee or increments thereof.

"(c) If the annual operating fee is composed of separate charges, no supervision charge shall be payable by a Federal credit union, and the Board may waive payment of any or all other charges comprising the fee, with respect to the year in which its charter is issued, or in which final distribution is made in its liquidation or the charter is canceled.

"(d) All operating fees shall be deposited with the Treasurer of the United States for the account of the Administration and may be expended by the Board to defray the expenses incurred in carrying out the provisions of this Act including the examination and supervision of Federal credit unions.".

SEC. 508. Section 106 of the Federal Credit Union Act (12 U.S.C. 1756) is amended to read as follows:

"REPORTS AND EXAMINATIONS

"SEC. 106. Federal credit unions shall be under the supervision of the Board, and shall make financial reports to it as and when it may require, but at least annually. Each Federal credit union shall be subject to examination by, and for this purpose shall make its books and records accessible to, any person designated by the Board.".

SEC. 509. The amendments made by this title take effect upon the effective date of this Act, except that the functions of the Administrator of the National Credit Union Administration under the provisions of the Federal Credit Union Act, as in effect on the date preceding the date of enactment of this title, shall continue to be performed by him in accordance with such provisions until such time as all the members of the National Credit Union Administration Board, established under the amendments made by this title, take office. All rules, regulations, policies, and procedures of the Administrator in effect on the date of enactment of this title shall remain in effect until amended, superseded, or repealed.

The CHAIRMAN. Are there amendments to title V? If not, the Clerk will report the heading to title VI.

Title VI is as follows:

TITLE VI—CHANGE IN BANK CONTROL ACT

SEC. 601. This title may be cited as the "Change in Bank Control Act of 1978".

SEC. 602. Subsection (j) of section 7 of the Federal Deposit Insurance Act (12 U.S.C. 1817(j)) is amended to read as follows:

"(j)(1) No person, acting directly or indirectly or through or in concert with one or more other persons, shall acquire control of any insured bank through a purchase, assignment, transfer, pledge, or other disposition of voting stock of such insured bank unless the appropriate Federal banking agency has been given sixty days' prior written notice of such proposed acquisition and within that time period the agency has not issued a notice disapproving the proposed acquisition or extending for up to another thirty days the period during which such a disapproval may issue. The period for disapproval may be further extended only if the agency determines that any acquiring party has not furnished all the information required under section (j)(6) or that in its judgment any material information submitted is substantially inaccurate. An acquisition may be made prior to expiration of the disapproval period if the agency issues written notice of its intent not to disapprove the action. For purposes of this subsection (j), the term 'insured bank' shall include any 'bank holding company', as that term is defined in section 2 of the Bank Holding Company Act, which has control of any such insured bank, and the appropriate Federal banking agency in the case of bank holding companies shall be the Board of Governors of the Federal Reserve System.

"(2) Upon receiving any notice under this subsection, the appropriate Federal banking agency shall forward a copy thereof to the appropriate State bank supervisory agency if the bank the voting shares of which are sought to be acquired is a State bank, and shall allow thirty days within which the views and recommendations of such State bank supervisory agency may be submitted. The appropriate Federal banking agency shall give due consideration to the views and recommendations of such State agency in determining whether to disapprove any proposed acquisition. Notwithstanding the provisions of this subsection (j)(2), if the appropriate Federal banking agency determines that it must act immediately upon any notice of a proposed acquisition in order to prevent the probable failure of the bank involved in the proposed acquisition, such Federal banking agency may dispense with the requirements of this subsection (j)(2) or, if a copy of the notice is forwarded to the State bank supervisory agency, such Federal banking agency may request that the views and recommendations of such State bank supervisory agency be submitted immediately in any form or by any means acceptable to such Federal banking agency.

"(3) Within three days after its decision to disapprove any proposed acquisition, the appropriate Federal banking agency shall notify the acquiring party in writing of the disapproval. Such notice shall provide a statement of the basis for the disapproval.

"(4) Within ten days of receipt of such notice of disapproval, the acquiring party may request an agency hearing on the proposed acquisition. In such hearing all issues shall be determined on the record pursuant to section 554 of title 5, United States Code. The length of the hearing shall be determined by the appropriate Federal banking agency. At the conclusion thereof, the appropriate Federal banking agency shall by order approve or disapprove the proposed acquisition on the basis of the record made at such hearing.

"(5) Any person whose proposed acquisition is disapproved after agency hearings under this subsection may obtain review by the United States court of appeals for the circuit in which the home office of the bank to be acquired is located, or the United States Court of Appeals for the District of Columbia Circuit, by filing a notice of appeal in such court within ten days from the date of such order, and simultaneously sending a copy of such notice by registered or certified mail to the appropriate Federal banking agency. The appropriate Federal banking agency shall promptly certify and file in such court the record upon which the disapproval was based. The findings of the appropriate Federal banking agency shall be set aside if found to be arbitrary or capricious or if found to violate procedures established by this subsection.

"(6) Except as otherwise provided by regulation of the appropriate Federal banking agency, a notice filed pursuant to this subsection shall contain the following information:

"(A) The identity, personal history, business background and experience of each person by whom or on whose behalf the acquisition is to be made, including his material business activities and affiliations during the past five years, and a description of any material pending legal or administrative proceedings in which he is a party and any criminal indictment or conviction of such person by a State or Federal court.

"(B) A statement of the assets and liabilities of each person by whom or on whose behalf the acquisition is to be made, as of the end of the fiscal year for each of the five fiscal years immediately preceding the date of the notice, together with related statements of income and source and application of funds for each of the fiscal years then concluded, all prepared in accordance with generally accepted accounting principles consistently applied, and an interim statement of the assets and liabilities for each such person, together with related statements of income and source and application of funds, as of a date not more than ninety days prior to the date of the filing of the notice.

"(C) The terms and conditions of the proposed acquisition and the manner in which the acquisition is to be made.

"(D) The identity, source and amount of the funds or other consideration used or to be used in making the acquisition, and if any part of these funds or other consideration has been or is to be borrowed or other-

wise obtained for the purpose of making the acquisition, a description of the transaction, the names of the parties, and any arrangements, agreements, or understandings with such persons.

"(E) Any plans or proposals which any acquiring party making the acquisition may have to liquidate the bank, to sell its assets or merge it with any company or to make any other major change in its business or corporate structure or management.

"(F) The identification of any person employed, retained, or to be compensated by the acquiring party, or by any person on his behalf, to make solicitations or recommendations to stockholders for the purpose of assisting in the acquisition, and a brief description of the terms of such employment, retainer, or arrangement for compensation.

"(G) Copies of all invitations or tenders or advertisements making a tender offer to stockholders for purchase of their stock to be used in connection with the proposed acquisition.

"(H) Any additional relevant information in such form as the appropriate Federal banking agency may require by regulation or by specific request in connection with any particular notice.

"(7) The appropriate Federal banking agency may disapprove any proposed acquisition if—

"(A) the proposed acquisition of control would result in a monopoly or would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the business of banking in any part of the United States;

"(B) the effect of the proposed acquisition of control in any section of the country may be substantially to lessen competition or to tend to create a monopoly or the proposed acquisition of control would in any other manner be in restraint of trade, and the anticompetitive effects of the proposed acquisition of control are not clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served;

"(C) the financial condition of any acquiring person is such as might jeopardize the financial stability of the bank or prejudice the interests of the depositors of the bank;

"(D) the competence, experience, or integrity of any acquiring person or of any of the proposed management personnel indicates that it would not be in the interest of the depositors of the bank, or in the interest of the public to permit such person to control the bank; or

"(E) any acquiring person neglects, fails, or refuses to furnish the appropriate Federal banking agency all the information required by the appropriate Federal banking agency.

"(8) For the purposes of this subsection, the term—

"(A) 'person' means an individual or a corporation, partnership, trust, association, joint venture, pool, syndicate, sole proprietorship, unincorporated organization, or any other form of entity not specifically listed herein; and

"(B) 'control' means the power, directly or indirectly, to direct the management or policies of an insured bank or to vote 25 per centum or more of any class of voting securities of an insured bank.

"(9) Whenever any insured bank makes a loan or loans, secured, or to be secured, by 25 per centum or more of the outstanding voting stock of an insured bank, the president or other chief executive officer of the lending bank shall promptly report such fact to the appropriate Federal banking agency of the bank whose stock secures the loan or loans upon obtaining knowledge of such loan or loans, except that no report need be made in those cases where the borrower has been the owner of record of the stock for a period of one year or more or where the stock is that of the newly organized bank prior to its opening.

"(10) The reports required by paragraph (9) of this subsection shall contain such of the information referred to in paragraph (6) of this subsection, and such other relevant information, as the appropriate Federal banking agency may require by regulation or by specific request in connection with any particular report.

"(11) The Federal banking agency receiving a notice or report filed pursuant to paragraph (1) or (9) shall immediately furnish to the other Federal banking agencies a copy of such notice or report.

"(12) Whenever such a change in control occurs, each insured bank shall report promptly to the appropriate Federal banking agency any changes or replacement of its chief executive officer or of any director occuring in the next twelve-month period, including in its report a statement of the past and current business and professional affiliations of the new chief executive officer or directors.

"(13) The appropriate Federal banking agencies are authorized to issue rules and regulations to carry out this subsection.

"(14) Within two years after the effective date of the Change in Bank Control Act of 1978, and each year thereafter in each appropriate Federal banking agency's annual report to the Congress, the appropriate Federal banking agency shall report to the Congress the results of the administration of this subsection, and make any recommendations as to changes in the law which in the opinion of the appropriate Federal banking agency would be desirable.

"(15) Any person who willfully violates any provision of this subsection, or any regulation or order issued by the appropriate Federal banking agency pursuant thereto, shall forfeit and pay a civil penalty of not more than $10,000 per day for each day during which such violation continues. The appropriate Federal banking agency shall have authority to assess such a civil penalty, after giving notice and an opportunity to the person to submit data, views, and arguments, and after giving due consideration to the appropriateness of the penalty with respect to the size of financial resources and good faith of the person charged, the gravity of the violation, and any data, views, and arguments submitted. The agency may collect such civil penalty by agreement with the person or by bringing an action in the appropriate United States district court, except that in any such action, the person against whom the penalty has been assessed shall have a right to trial de novo.

"(16) This subsection shall not apply to a transaction subject to section 3 of the Bank Holding Company Act of 1956 (12 U.S.C. 1842) or section 18 of this Act (12 U.S.C. 1828).".

Mr. VENTO. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I do this for the purpose of colloquy with my chairman.

While I generally support the provisions of titles 6 and 7 on change of control, I am concerned about situations in which bank stock is inherited or acquired by gifts within a family. I trust the chairman of the subcommittee does not intend that the supervisory authorities be empowered to prevent such transfers?

Mr. ST GERMAIN. In actual practice, I doubt that this title will have much impact on such family bank situations. It will be necessary where changes of control result that the appropriate supervisory agencies be furnished with the data that bears on the qualifications and competence of the new owners. Basically, we would want the supervisory agencies to assure themselves that the community would continue to have adequate and competent banking services under the new ownership. The committee report states on page 21:

If an owner of a bank plans to transfer his ownership in a will to his family, that transfer is not considered a transfer subject to the provisions of these titles.

Such transfers of ownership as well as gifts of stock within a family would not require the supervisory agencies to apply the various criteria that relates to the means of financing and the methods by which the bank was acquired. We would, of course, leave the regulators with the power to check into the qualifications and to make certain that the new owners were able to operate the bank in a proper and legitimate manner. This would give the regulators the power to prevent those rare instances where such a family transfer could result in a banking institution falling into improper or unqualified hands.

Mr. VENTO. Mr. Chairman, I thank the chairman for his colloquy and his assurance on the provisions of titles VI and VII.

Mr. ROUSSELOT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to direct the attention of the gentleman from Rhode Island to title VII of the bill, which relates to acquisitions of control of savings and loan associations. Section 703, at paragraph (q)(6) requires certain notice to the corporation prior to acquisitions, and provides in part:

(6) Except as otherwise provided by regulation of the corporation, a notice filed pursuant to this subsection shall contain the following information:

(A) The identity, personal history, business background and experience of each person by whom or on whose behalf the acquisition is to be made, including his material business activities and affiliations during the past five years, and a description of any material pending legal or administrative proceedings in which he is a party and any criminal indictment or conviction of such person by a State or Federal court.

(B) A statement of the assets and liabilities of each person by whom or on whose behalf the acquisition is to be made, as of the end of the fiscal year for each of the five fiscal years immediately preceding the date of the notice, together with related statements of income and source and application of funds for each of the fiscal years then concluded, all prepared in accordance with generally accepted accounting principles consistently applied, and an interim statement of the assets and liabilities for each such person together with related statements of income and source and application of funds, as of a date not more than 90 days prior to the date of the filing of the notice.

Title VI, at section 603, paragraph (j)(6), requires that the same information be provided to the appropriate Federal banking agency with respect to changes in bank control.

It is my understanding of this section that in the case, for example, of an individual whose business holdings are worldwide and diverse in nature, and who may therefore have great difficulty in assembling the type of extensive fi-

nancial information required by this language, much of which would be wholly irrelevant to the acquisition, the Corporation or the appropriate Federal banking agency would be authorized to modify the information required by this section so as to require such an individual to submit only such information as the Corporation or the appropriate Federal banking agency finds relevant to the acquisition and necessary to establish the individual's financial ability and integrity.

It would seem to me that the agencies should be given sufficient flexibility to require whatever information is needed to determine whether or not to disapprove a proposed change of control, no more or no less. Neither struggling young would-be bankers nor individuals with farflung international activities should be required to produce unnecessary information.

Does the gentleman from Rhode Island understand it the same way or similarly?

Mr. ST GERMAIN. Would my distinguished colleague, the gentleman from California, yield to me?

Mr. ROUSSELOT. I yield to the gentleman from Rhode Island.

Mr. ST GERMAIN. Mr. Chairman, in response I might say to my colleague, the gentleman from California, he is correct in the interpretation that he places on section 703 in that we have provided authority to the corporation to institute regulations which will allow them to accept other financial data from, for example, such individuals as he mentioned who may already have acquired an interest in an institution or institutions, and who intend to acquire further interest in such institutions in the future. It is not the intent of this legislation to drive from the industry those people who are financially capable and who provide satisfactory evidence of their financial capability.

Mr. ROUSSELOT. Mr. Chairman, I thank the gentleman for his very clear answer. Certainly it does clarify it for all, I think.

The CHAIRMAN. Are there further amendments to title VI or any clarifying information anyone wishes to share?

There being none, the Clerk will read the heading to title VII.

Title VII is as follows:

TITLE VII—CHANGE IN SAVINGS AND LOAN CONTROL ACT

SEC. 701. This title may be cited as the "Change in Savings and Loan Control Act of 1978".

SEC. 702. Paragraph (6) of section 407(1) of the National Housing Act (12 U.S.C. 1730 (1)(6)) is amended to read as follows:

"(6) As used in this subsection, the term 'stock' means rights, interests, or powers with respect to a mutual institution and the term 'insured institution' means a mutual insured institution.".

SEC. 703. Section 407 of the National Housing Act (12 U.S.C. 1730) is amended by redesignating section 407(q) as 407(r) and inserting immediately after "(p)" the following:

"(q)(1) No person, acting directly or indirectly or through or in concert with one or more other persons, shall acquire control of any insured institution through a purchase assignment, transfer, pledge, or other disposition of voting stock of such insured institution unless the Corporation has been given sixty days' prior written notice of such proposed acquisition and within that time period the Corporation has not issued a notice disapproving the proposed acquisition or extending up to another thirty days the period during which a disapproval may issue The period for disapproval may be further extended only if the Corporation determines that any acquiring party has not furnished all the information required under subsection (q)(6) or that in its judgment any material information submitted is substantially inaccurate. An acquisition may be made prior to expiration of the disapproval period if the Corporation issues written notice of its intent not to disapprove the action. For purposes of this subsection (q), the term 'insured institution' shall include any 'savings and loan holding company', as that term is defined in section 408 of the National Housing Act, which has control of any such insured institution.

"(2) Upon receiving any notice under this subsection, the Corporation shall forward a copy thereof to the appropriate State savings and loan association supervisory agency if the insured institution the voting shares of which are sought to be acquired is a State chartered institution, and shall allow thirty days within which the views and recommendations of such State supervisory agency may be submitted. The Corporation shall give due consideration to the views and recommendations of such State agency in determining whether to disapprove any proposed acquisition. Notwithstanding the provisions of this subsection (q)(2), if the Corporation determines that it must act immediately upon any notice of a proposed acquisition in order to prevent the probable failure of the institution involved in the proposed acquisition, the Corporation may dispense with the requirement of this subsection (1)(2) or, if a copy of the notice is forwarded to the State supervisory agency, the Corporation may request that the views and recommendations of such State supervisory agency be submitted immediately in any form or by any means acceptable to the Corporation.

"(3) Within three days after its decision to disapprove any proposed acquisition, the Corporation shall notify the acquiring party in writing of the disapproval. Such notice shall provide a statement of the basis for the disapproval.

"(4) Within ten days of receipt of such notice of disapproval, the acquiring party may request an agency hearing on the proposed acquisition. In such hearing all issues shall be determined on the record pursuant to section 554 of title 5, United States Code. The length of the hearing shall be determined by the Corporation. At the conclusion thereof, the Corporation shall by order approve or disapprove the proposed acquisition on the basis of the record made at such hearing.

"(5) Any person whose proposed acquisition is disapproved after agency hearing under this subsection may obtain review by the United States court of appeals for the circuit in which the home office of the institution to be acquired is located, or the United States Court of Appeals for the District of Columbia Circuit, by filing a notice of appeal in such court within ten days from the date of such order, and simultaneously sending a copy of such notice by registered or certified mail to the Corporation. The Corporation shall promptly certify and file in such court the record upon which the disapproval was based. The findings of the Corporation shall be set aside if found to be arbitrary or capricious or if found to violate procedures established by this subsection.

"(6) Except as otherwise provided by regulation of the Corporation, a notice filed pursuant to this subsection shall contain the following information:

"(A) The identity, personal history, business background, and experience of each person by whom or on whose behalf the acquisition is to be made, including his material business activities and affiliations during the past five years, and a description of any material pending legal or administrative proceedings in which he is a party and any criminal indictment or conviction of such person by a State or Federal court.

"(B) A statement of the assets and liabilities of each person by whom or on whose behalf the acquisition is to be made, as of the end of the fiscal year for each of the five fiscal years immediately preceding the date of the notice, together with related statements of income and source and application of funds for each of the fiscal years then concluded, all prepared in accordance with generally accepted accounting principles consistently applied, and an interim statement of the assets and liabilities for each such person, together with related statements of income and source and application of funds, as of a date not more than ninety days prior to the date of the filing of the notice.

"(C) The terms and conditions of the proposed acquisition and the manner in which the acquisition is to be made.

"(D) The identity, source, and amount of the funds or other consideration used or to be used in making the acquisition, and if any part of these funds or other consideration has been or is to be borrowed or otherwise obtained for the purpose of making the acquisition, a description of the transaction, the names of the parties, and any arrangements, agreements, or understandings with such persons.

"(E) Any plans or proposals which any acquiring party making the acquisition may have to liquidate the institution, to sell its assets or merge it with any company or to make any other major change in its business or corporate structure or management.

"(F) The identification of any person employed, retained, or to be compensated by the acquiring party, or by any person on his behalf, to make solicitations or recommendations to stockholders for the purpose of assisting in the acquisition, and a brief description of the terms of such employment, retainer, or arrangement for compensation.

"(G) Copies of all invitations or tenders or advertisements making a tender offer to stockholders for purchase of their stock to be used in connection with the proposed acquisition.

"(H) Any additional relevant information in such form as the Corporation may require by regulation or by specific request in connection with any particular notice.

"(7) The Corporation may disapprove any proposed acquisition if—

"(A) the proposed acquisition of control would result in a monopoly or would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the savings and loan business in any part of the United States;

"(B) the effect of the proposed acquisition of control in any section of the country may be substantially to lessen competition or to tend to create a monopoly or the proposed acquisition of control would in any other manner be in restraint of trade, and the anticompetitive effects of the proposed acquisition of control are not clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served;

"(C) the financial condition of any acquiring person is such as might jeopardize the financial stability of the institution or prejudice the interests of the depositors of the institution;

"(D) the competence, experience, or integrity of any acquiring person or of any of the proposed management personnel indicates that it would not be in the interest of the depositors of the institution or in the interest

of the public to permit such person to control the institution; or

"(E) any acquiring person neglects, fails, or refuses to furnish the Corporation all the information required by the Corporation.

"(8) For the purposes of this subsection, the term—

"(A) 'person' means an individual or a corporation, partnership, trust, association, joint venture, pool, syndicate, sole proprietorship, unincorporated organization, or any other form of entity not specifically listed herein; and

"(B) 'control' means the power, directly or indirectly, to direct the management or policies of an insured institution or to vote 25 per centum or more of any class of voting securities of an insured institution.

"(9) Whenever any insured institution or an insured bank makes a loan or loans, secured, or to be secured, by 25 per centum or more of the outstanding voting stock of an insured institution, the president or other chief executive officer of the lending insured institution or insured bank shall promptly report such fact to the Corporation upon obtaining knowledge of such loan or loans, except that no report need be made in those cases where the borrower has been the owner of record of the stock for a period of one year or more or where the stock is that of the newly organized institution prior to its opening.

"(10) The reports required by paragraph (9) of this subsection shall contain such of the information referred to in paragraph (6) of this subsection, and such other relevant information, as the Corporation may require by regulation or by specific request in connection with any particular report.

"(11) When a change in control occurs, each insured institution shall report promptly to the Corporation any changes or replacement of its chief executive officer or of any director occurring in the next twelvemonth period, including in its report a statement of the past and current business and professional affiliations of the new chief executive officer or directors.

"(12) Without limitation by or on the foregoing provisions of this subsection, the Corporation may require insured institutions and individuals or other persons who have or have had any connection with the management of any insured institution, as defined by the Corporation, to provide, in such manner as the Corporation may prescribe, such periodic or other reports and disclosures, including proxy statements and the solicitation of proxies thereby, as the Corporation may determine to be necessary or appropriate for the protection of investors or the Corporation.

"(13) As used in this subsection, the term 'stock' means such stock or other equity securities or equity interests in an insured institution which is a stock company, or rights, interests, or powers with respect thereto.

"(14) The Corporation is authorized to issue rules and regulations to carry out this subsection.

"(15) Within two years after the effective date of the Change in Savings and Loan Control Act of 1978 and each year thereafter in the Corporation's annual report to the Congress, the Corporation shall report to the Congress the results of the administration of this subsection, and make any recommendations as to changes in the law which in the opinion of the Corporation would be desirable.

"(16) Any person who willfully violates any provision of this subsection, or any regulation or order issued by the Corporation pursuant thereto, shall forfeit and pay a civil penalty of not more than $10,000 per day for each day during which such violation continues. The Corporation shall have authority to assess such a civil penalty, after giving notice and an opportunity to the person to submit data, views, and arguments, and after giving due consideration to the appropriateness of the penalty with respect to the size of financial resources and good faith of the person charged, the gravity of the violation, and any data, views, and arguments submitted. The agency may collect such civil penalty by agreement with the person or by bringing an action in the appropriate United States district court, except that in any such action, the person against whom the penalty has been assessed shall have a right to a trial de novo.

"(17) This subsection shall not apply to a transaction subject to section 408 of this Act (12 U.S.C. 1730a).".

The CHAIRMAN. There being no amendment to title VII, the Clerk will report the heading to title VIII.

Title VIII is as follows:

TITLE VIII—CORRESPONDENT ACCOUNTS

SEC. 801. Section 106(b) of the Bank Holding Company Act Amendments of 1970 (12 U.S.C. 1972) is amended by redesignating paragraphs (1) through (5) as subparagraphs (A) through (E), respectively, by inserting "(1)" immediately after "(b)", and by inserting at the end thereof the following new paragraph:

"(2)(A) No bank which maintains a correspondent account in the name of another bank shall make an extension of credit to an executive officer or director of, or to any person who directly or indirectly or acting through or in concert with one or more persons owns, controls, or has the power to vote more than 10 per centum of any class of voting securities of, such other bank unless such extension of credit is made on substantially the same terms, including interest rates and collateral as those prevailing at the time for comparable transactions with other persons and does not involve more than the normal risk of repayment or present other unfavorable features.

"(B) No bank shall open a correspondent account at another bank while such bank has outstanding an extension of credit to an executive officer or director of, or other person who directly or indirectly or acting through or in concert with one or more persons owns, controls, or has the power to vote more than 10 per centum of any class of voting securities of, the bank desiring to open the account, unless such extension of credit was made on substantially the same terms, including interest rates and collateral as those prevailing at the time for comparable transactions with other persons and does not involve more than the normal risk of repayment or present other unfavorable features.

"(C) No bank which maintains a correspondent account at another bank shall make an extension of credit to an executive officer or director of, or to any person who directly or indirectly acting through or in concert with one or more persons owns, controls, or has the power to vote more than 10 per centum of any class of voting securities of, such other bank, unless such extension of credit is made on substantially the same terms, including interest rates and collateral as those prevailing at the time for comparable transactions with other persons and does not involve more than the normal risk of repayment or present other unfavorable features.

"(D) No bank which has outstanding an extension of credit to an executive officer or director of, or to any person who directly or indirectly or acting through or in concert with one or more persons owns, controls, or has the power to vote more than 10 per centum of any class of voting securities of, another bank shall open a correspondent account at such other bank, unless such extension of credit was made on substantially the same terms, including interest rates and collateral as those prevailing at the time for comparable transactions with other persons and does not involve more than the normal risk of repayment or present other unfavorable features.

"(E) For purposes of this paragraph, the term 'extension of credit' shall have the same meaning given it in section 23A of the Federal Reserve Act and the term 'executive officer' shall have the same meaning given it under section 22(g) of the Federal Reserve Act.

"(F)(i) Any bank which violates or any officer, director, employee, agent, or other person participating in the conduct of the affairs of such bank who violates any provision of section 106(b)(2) shall forfeit and pay a civil penalty of not more than $1,000 per day for each day during which such violation continues. The penalty shall be assessed and collected by the Comptroller of the Currency in the case of a national bank, the Board in the case of a State member bank, or the Federal Deposit Insurance Corporation in the case of an insured nonmember State bank, by written notice. As used in this section, the term 'violates' includes without any limitation any action (alone or with another or others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation.

"(ii) In determining the amount of the penalty the Comptroller of the Currency, the Board or the Federal Deposit Insurance Corporation, as the case may be, shall take into account the appropriateness of the penalty with respect to the size of the financial resources and good faith of the bank or person charged, the gravity of the violation, the history of previous violations, and such other matters as justice may require.

"(iii) The bank or person assessed shall be afforded an opportunity for agency hearing, upon request made within ten days after issuance of the notice of assessment. In such hearing, all issues shall be determined on the record pursuant to section 554 of title 5, United States Code. The agency determination shall be made by final order which may be reviewed only as provided in subsection (iv). If no hearing is requested as herein provided, the assessment shall constitute a final and unappealable order.

"(iv) Any bank or person against whom an order imposing a civil money penalty has been entered after agency hearing under this section may obtain review by the United States court of appeals for the circuit in which the home office of the bank is located, or the United States Court of Appeals for the District of Columbia Circuit, by filing a notice of appeal in such court within ten days from the date of such order, and simultaneously sending a copy of such notice by registered or certified mail to the Comptroller of the Currency, the Board or the Federal Deposit Insurance Corporation, as the case may be. The Comptroller of the Currency the Board or the Federal Deposit Insurance Corporation, as the case may be, shall promptly certify and file in such court the record upon which the penalty was imposed, as provided in section 2112 of title 28, United States Code. The findings of the Comptroller of the Currency, the Board or the Federal Deposit Insurance Corporation, as the case may be, shall be set aside if found to be unsupported by substantial evidence as provided by section 706(2)(E) of title 5, United States Code.

"(v) If any bank or person fails to pay an assessment after it has become a final and unappealable order, or after the court of appeals has entered final judgment in favor of the agency, the Comptroller of the Currency, the Board or the Federal Deposit Insurance Corporation, as the case may be, shall refer the matter to the Attorney General, who shall recover the amount assessed by action in the appropriate United States dis-

trict court. In such action the validity and appropriateness of the final order imposing the penalty shall not be subject to review.

"(vi) The Comptroller of the Currency, the Board and the Federal Deposit Insurance Corporation shall promulgate regulations establishing procedures necessary to implement this section.

"(vii) All penalties collected under authority of this section shall be covered into the Treasury of the United States.

(G)(i) Each executive officer and each stockholder of record who directly or indirectly owns, controls, or has the power to vote more than 10 per centum of any class of voting securities of an insured bank shall make a written report to the board of directors of such bank for any year during which such executive officer or shareholder has outstanding an extension of credit from a bank which maintains a correspondent account in the name of such bank. Such report shall include the following information:

"(1) the maximum amount of indebtedness to the bank maintaining the correspondent account during such year of (a) such executive officer or stockholder of record, (b) each company controlled by such executive officer or stockholder, or (c) each political or campaign committee the funds or services of which will benefit such executive officer or stockholder, or which is controlled by such executive officer or stockholder;

"(2) the amount of indebtedness to the bank maintaining the correspondent account outstanding as of a date not more than ten days prior to the date of filing of such report of (a) such executive officer or stockholder of record, (b) each company controlled by such executive officer or stockholder, or (c) each political or campaign committee the funds or services of which will benefit such executive officer or stockholder;

"(3) the range of interest rates charged on such indebtedness of such executive officer or stockholder of record; and

"(4) the terms and conditions of such indebtedness of such executive officer or stockholder of record.

"(ii) Each insured bank shall compile the reports filed pursuant to subparagraph (G)(i) and forward such compilation to the Comptroller of the Currency in the case of a national bank, the Board in the case of a State member bank, and the Federal Deposit Insurance Corporation in the case of an insured nonmember State bank.

"(iii) Each insured bank shall include in the report required to be made under subsection (k)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1817(k)(1)) a list by name of each executive officer or stockholder of record who directly or indirectly owns, controls, or has the power to vote more than 10 per centum of any class of voting securities of the bank who files information required by subparagraph (G)(i) and the aggregate amount of all extensions of credit by correspondent banks to such executive officers or stockholders of record, any company controlled by such executive officers or stockholders, and any political or campaign committee the funds or services of which will benefit such executive officers or stockholders, or which is controlled by such executive officers or stockholders.".

The CHAIRMAN. There being no amendment to title VIII, the Clerk will report the heading to title IX.

Title IX is as follows:

TITLE IX—DISCLOSURE OF MATERIAL FACTS

SEC. 901. Section 7 of the Federal Deposit Insurance Act (12 U.S.C. 1817) is amended by adding at the end thereof the following new subsection:

"(k)(1) Each insured bank shall make to the appropriate Federal banking agency an annual report which shall contain the following information with respect to the preceding calendar year:

"(A) A list by name of each stockholder of record who directly or indirectly owns, controls, or has the power to vote more than 10 per centum of any class of voting securities of the bank.

"(B) A list by name of each executive officer or stockholder of record who directly or indirectly owns, controls, or has the power to vote more than 10 per centum of any class of voting securities of the bank and the aggregate amount of all extensions of credit by such bank during such year to: (i) such executive officers or stockholders of record, (ii) any company controlled by such executive officers, or stockbrokers, or (iii) any political or campaign committee the funds or services of which will benefit such executive officers or stockholders, or which is controlled by such executive officers or stockholders.

"(2) For purposes of this subsection, the term 'executive officer' shall have the same meaning given it under section 22(g) of the Federal Reserve Act.

"(3) The appropriate Federal banking agencies are authorized to issue rules and regulations to carry out this subsection, including authority to incorporate the information required to be filed by this subsection in any other report required to be filed by all insured banks which would be available in its entirety to the public upon request.

"(4) Copies of any report required to be filed under this subsection shall be made available, by the appropriate Federal banking agency or by the bank, upon request, to the public.".

AMENDMENT OFFERED BY MR. HYDE

Mr. HYDE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HYDE: Page 141, strike out line 18 and all that follows thereafter through page 142, line 3, and insert in lieu thereof the following:

"(3) The appropriate Federal banking agencies are authorized to issue rules and regulations to carry out this subsection. Information required to be filed by this subsection shall be kept confidential.".

Mr. HYDE. Mr. Chairman, this amendment is essentially a very simple one. It provides merely for maintaining the confidentiality of the reports required under titles VIII and IX.

Titles VIII and IX represent basically sound approach to coping with insider dealings. They provide a means for a bank's board of directors and the supervisory agencies to see clearly what is going on and provide them with the information to take corrective actions as needed. However, we must recognize that most credit transactions between bank officers, directors, and stockholders are perfectly legitimate business dealings. The chairman of the subcommittee may argue against the need for such an amendment as this on the basis that title IX only requires the filing of aggregated information, but I must disagree.

We have heard of some unusual institutions with such a proliferation of dealings that aggregation might have provided some privacy for their officers. Fortunately we know their institutions are atypical and recognize that even aggregated information will be an unwarranted invasion of privacy in many instances.

I have reviewed the debate on this question during the full committee markup. I am justified, I believe, in my judgment that we were led to the conclusion that this amendment to title VIII would not result in the kind of invasion of privacy that we now see is possible.

We have had a chance to look at it and there is a tie-in with title IX. We still support the reports required by the amendment—they are good and necessary—but they should be kept confidential as we were told they would be.

So I urge adoption of this amendment.

Mr. ST GERMAIN. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the gentleman's amendment is a backdoor method of striking title IX and most of the preceding title on correspondent accounts.

Clearly, the amendment is aimed at maintaining the iron curtain of secrecy at all banks and bank regulatory agencies—a secrecy which ill-serves the public and the banking industry.

The amendment would prevent the public disclosure of any of the information referred to in this title or title VIII. It would require that all information be kept confidential by the regulatory agencies.

Titles VIII and IX simply require an aggregate listing of insider borrowing. Including the provisions of title VIII, the public and the community—which depend on the banking institution—would have information on the broad aggregate of insider borrowing whether such borrowing took place in the bank or through other banks where correspondent accounts were maintained. But the gentleman is now proposing to lock all of this information up and to hide it from the public and the communities served by these banks.

Title IX would also give the public and community information on who owns the banks—all stockholders with 10 percent or more of the stock would be listed. Why should a publicly chartered institution be allowed to keep such basic information secret from the community? What public purpose is served by hiding who owns the bank?

Perhaps the gentleman can enlighten us as to why he proposes that the House vote today to keep secret the names of the major stockholders of the Nation's banks?

Originally, we had proposed in the committee that the names of the individual insiders who borrow from their banks be revealed with the loan terms, but this was modified and all that is left in the bill is an aggregate listing. This was an approach worked out by our distinguished colleague from South Carolina, BUTLER DERRICK, and is a workable and fair compromise to the disclosure title.

There was a time when we accepted—automatically—the concept of total secrecy—a la CIA—at the banking agencies, but that day is long past. The gentleman's amendment attempts to return us to the dark ages of secrecy.

Let us face the fact that the world is changing and the banks, of necessity, are going to be required to change with it. Other industries disclose and there is no reason for the Congress to continue to

maintain these dark shields of secrecy for the banking industry. This only saps the confidence of the American people in the industry. The disclosure of a limited number of material facts about bank operations, as provided in this bill, will help, not harm, the banking industry.

Mr. Chairman, to illustrate how attitudes are changing, let me quote from a speech given by former FDIC Chairman George LeMaistre:

> Many regulators, and I include myself in this group, were mistaken about the extent of public disclosure of a bank's financial condition that could be sustained by a bank without damage. . . . Not only was the public, including small investors and large sophisticated investors, secure in the face of these disclosures in the press, the public received without fright and rather welcomed the far more extensive disclosure requirements proposed by the S.E.C. and the banking agencies. . . . The long and short of this, it seems to me, is that the adversity of the period whi h we recently went through, combined with the pressure of the S.E.C. for further disclosure and the bad news revealed in the press, demonstrated conclusively that the banking system can tolerate far more disclosure than most bankers and bank regulators have ever thought.

And in a July 6 New York Times article on Paul Volcker, president of the New York Federal Reserve Bank, the paper says:

> In retrospect, he (Volcker) and other officers of the New York Fed, who admit that they were extremely anxious about public reaction to news of the problems loans, feel that the exposure . . . has been highly constructive.

All we ask in this title is minimal disclosure—much less than is required by the Securities and Exchange Commission for publicly traded companies. Insiders must make detailed revelations—which are public—to the SEC.

Mr. Chairman, had such information been available and publicly disclosed, a number of our recent banking problems may well have been averted. As we are now aware, the regulators procrastinated more than a decade as the insider borrowings mounted to astronomical sums in U.S. National Bank in San Diego. Had these aggregate figures been revealed each year—as required by this title—the public would have been aware and there would have been no way, absolutely no way—the Comptroller of the Currency could have ignored the problem.

But, without public disclosure he did, indeed, ignore the mounting insider debt and the bank went under to the detriment of the entire banking system.

And going back to title VIII and the correspondent accounts, the public disclosure would have revealed the massive borrowings of Bert Lance from banks where Calhoun National and the National Bank of Georgia maintained correspondent accounts. This disclosure might well have slowed the activities of Bert Lance and would have obviously saved a lot of people in a lot of places lots of headaches.

The gentleman's amendment, however, now suggests that we sweep all this back under the rug. The amendment is simply one more protection for the high flyers—the insiders who get carried away with their positions of power and influence.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. ST GERMAIN. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Chairman, I thank the gentleman for yielding.

Is it not true that the provision in the bill which is proposed to be struck gives the Federal banking agencies authority to issue rules and regulations, which would then, in turn, determine the type of public disclosure which would, in essence, occur? In other words, this does not specify it, as does, I think, the gentleman's amendment, as being a violation of the confidentiality provision of public disclosure? Is it not entirely possible and appropriate—and I think probably the gentleman's intent—that the rules and regulations should take into consideration any problems which might arise, such as personal embarrassment or other problems which could occur?

The CHAIRMAN. The time of the gentleman from Rhode Island (Mr. ST GERMAIN) has expired.

(By unanimous consent, Mr. ST GERMAIN was allowed to proceed for 2 additional minutes.)

Mr. VENTO. Mr. Chairman, will the gentleman yield further?

Mr. ST GERMAIN. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Chairman, I think the point is here that the material involved will not cause, in essence, a paper blizzard of disclosures by financial institutions, but, rather, it is a well-thought-out and well-conceived plan to design rules and regulations within which financial institutions which are following the provisions of this act would, in essence, disclose that which would be made public; is that an accurate assessment?

Mr. ST GERMAIN. I would say to the gentleman that he is correct, but the point is that the only disclosure required is the aggregate of insider and correspondent loans, the aggregate. In other words, if there are 10 or 5 directors or 3 directors who have insider loans and loans from correspondent banks, the banks must disclose the aggregate, the total, not the names of the individuals involved in these borrowings, but the fact that in a particular financial institution there are insider loans and correspondent bank loans in the amount of x dollars.

The other disclosure requirement is the fact that anybody who owns 10 percent or more of shares in the institution would have to be identified. I say, as I stated before, why should anyone be ashamed of owning 10 percent or more of the stock in a bank? They ought to be proud. They are doing well in life.

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. ST GERMAIN. I yield to the gentleman from Illinois.

Mr. HYDE. Mr. Chairman, I thank the gentleman for his courtesy.

Rather than harkening us back to the dark ages of secrecy, I am trying to get some commonsense in here.

We are not dealing necessarily with big institutions, but with small banks where the use of the term "aggregate" does not concern them. "Aggregate" will not mean a thing.

We believe the disclosure should be made and ought to be made, but we hope we can trust the regulatory agencies without requiring that matters which ought to be confidential are made public.

The CHAIRMAN. The time of the gentleman from Rhode Island (Mr. ST GERMAIN) has again expired.

(By unanimous consent, Mr. ST GERMAIN was allowed to proceed for 1 additional minute.)

Mr. ST GERMAIN. Mr. Chairman, the gentleman from Illinois (Mr. HYDE) just made the point, frankly. It is in the smaller banks that the real problems with insider loans become deleterious and harmful. As a result thereof, the banks shut down. The community is left without a line of credit for their educational loans or for their farm loans, et cetera.

Mr. HYDE. If the gentleman will yield further, Mr. Chairman, the gentleman is showing no confidence whatsoever in the regulatory agencies, then, is he?

Mr. ST GERMAIN. I think we have confidence in the regulatory agencies, but we should also have confidence in the public. In addition to that, when the institution knows that it is going to have to disclose to the public its aggregate loans, they themselves are watched closely. At that point we are going to have what is known as self-policing.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. HYDE).

The question was taken; and on a division (demanded by Mr. ROUSSELOT) there were—ayes 15, noes 20.

So the amendment was rejected.

The CHAIRMAN. Are there further amendments to title IX? If not, the Clerk will report the heading to title X.

Title X is as follows:

TITLE X—FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL

SEC. 1001. This title may be cited as the "Federal Financial Institutions Examination Council Act of 1978".

PURPOSE

SEC. 1002. It is the purpose of this title to establish a Financial Institutions Examination Council which shall prescribe uniform principles and standards for the Federal examination of financial institutions by the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Board of Governors of the Federal Reserve System, the Federal Home Loan Bank Board, and the National Credit Union Administration and make recommendations to promote uniformity in the supervision of these financial institutions. The Council's action shall be designed to promote consistency in such examination and to insure progressive and vigilant supervision.

DEFINITIONS

SEC. 1003. As used in this title—

(1) the term "Federal financial institutions regulatory agencies" means the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board, and the National Credit Union Administration;

(2) the term "Council" means the Financial Institutions Examination Council; and

(3) the term "financial institution" means

a commercial bank, a savings bank, a trust company, a savings and loan association, a building and loan association, a homestead association, a cooperative bank, or a credit union;

ESTABLISHMENT OF THE COUNCIL

SEC. 1004. (a) There is established the Financial Institutions Examination Council which shall consist of—

(1) the Comptroller of the Currency,

(2) the Chairman of the Board of Directors of the Federal Deposit Insurance Corporation.

(3) a Governor of the Board of Governors of the Federal Reserve System designated by the Chairman of the Board,

(4) the Chairman of the Federal Home Loan Bank Board, and

(5) the Chairman of the National Credit Union Administration Board.

(b) The members of the Council shall select the first Chairman of the Council. Thereafter the Chairmanship shall rotate among the members of the Council.

(c) The term of the Chairman of the Council shall be two years.

(d) The members of the Council may, from time to time, designate other officers or employees of their respective agencies to carry out their duties on the Council.

(e) Each member of the Council shall serve without additional compensation but shall be entitled to reasonable expenses incurred in carrying out his official duties as such a member.

EXPENSES OF THE COUNCIL

SEC. 1005. One-fifth of the costs and expenses of the Council, including the salaries of its employees, shall be paid by each of the Federal financial institutions regulatory agencies. Annual assessments for such shares shall be levied by the Council based upon its projected budget for the year, and additional assessments may be made during the year if necessary.

FUNCTIONS OF THE COUNCIL

SEC. 1006. (a) The Council shall establish uniform principles and standards and report forms for the examination of financial institutions which shall be applied by the Federal financial instiutions regulatory agencies.

(b)(1) The Council shall make recommendations for uniformity in other supervisory matters, such as, but not limited to, classifying loans subject to country risk, identifying financial institutions in need of special supervisory attention, and evaluating the soundness of large loans that are shared by two or more financial institutions. In addition, the Council shall make recommendations regarding the adequacy of supervisory tools for determining the impact of holding company operations on the financial institutions within the holding company and shall consider the ability of supervisory agencies to discover possible fraud or questionable and illegal payments and practices which might occur in the operation of financial institutions or their holding companies.

(2) When a recommendation of the Council is found unacceptable by one or more of the applicable Federal financial institutions regulatory agencies, the agency or agencies shall submit to the Council, within a time period specified by the Council, a written statement of the reasons the recommendation is unacceptable.

(c) The Council shall develop uniform reporting systems for federally supervised financial institutions, their holding companies, and nonfinancial institution subsidiaries of such institutions or holding companies. The authority to develop uniform reporting systems shall not restrict or amend the requirements of section 12(i) of the Securities Exchange Act of 1934.

(d) The Council shall conduct schools for examiners and assistant examiners employed by the Federal financial institutions regulatory agencies. Such schools shall be open to enrollment by employees of State financial institutions supervisory agencies under conditions specified by the Council.

(e) Nothing in this title shall be construed to limit or discourage Federal regulatory agency research and development of new financial institutions supervisory methods and tools, nor to preclude the field testing of any innovation devised by any Federal regulatory agency.

(f) Not later than April 1 of each year, the Council shall prepare an annual report covering its activities during the preceding year.

STATE LIAISON

SEC. 1007. To encourage the application of uniform examination principles and standards by State and Federal supervisory agencies, the Council shall establish a liaison committee composed of five representatives of State agencies which supervise financial institutions which shall meet at least twice a year with the Council. Members of the liaison committee shall receive a reasonable allowance for necessary expenses incurred in attending meetings.

ADMINISTRATION

SEC. 1008. (a) The Chairman of the Council is authorized to carry out and to delegate the authority to carry out the internal administration of the Council, including the appointment and supervision of employees and the distribution of business among members, employees, and administrative units.

(b) In addition to any other authority conferred upon it by this title, in carrying out its functions under this title, the Council may utilize, with their consent and to the extent practical, the personnel, services, and facilities of the Federal financial institutions regulatory agencies, Federal Reserve banks, and Federal Home Loan Banks, with or without reimbursement therefor.

(c) In addition, the Council may—

(1) subject to the provisions of title 5, United States Code, relating to the competitive service, classification, and General Schedule pay rates, appoint and fix the compensation of such officers and employees as are necessary to carry out the provisions of this title, and to prescribe the authority and duties of such officers and employees; and

(2) obtain the services of such experts and consultants as are necessary to carry out the provisions of this title.

ACCESS TO INFORMATION BY THE COUNCIL

SEC. 1009. For the purpose of carrying out this title, the Council shall have access to all books, accounts, records, reports, files, memorandums, papers, things, and property belonging to or in use by Federal financial institutions regulatory agencies, including reports of examination of financial institutions or their holding companies from whatever source, together with workpapers and correspondence files related to such reports, whether or not a part of the report, and all without any deletions.

AMENDMENT OFFERED BY MR. ST GERMAIN

Mr. ST GERMAIN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ST GERMAIN: Page 148, immediately after line 10, insert the following:

AUDITS BY THE COMPTROLLER GENERAL

SEC. 1010. Section 117 of the Accounting and Auditing Act of 1950, as amended by the Federal Banking Agency Audit Act (Public Law 95-320), is further amended by:

(1) redesignating clauses (A), (B), and (C) of subsection (e)(1) as (B), (C), and (D), respectively, and inserting in subsection (e)(1) the clause "(A) of the Financial Institutions Examination Council;" immediately following "audits"; and

(2) striking out in subsection (e)(2) "and (C)" and inserting in lieu thereof "(C), and (D)".

Mr. ST GERMAIN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Rhode Island?

Mr. ROUSSELOT. Reserving the right to object, Mr. Chairman, it is not very long. Let us just read it so we know what it is.

Mr. ST GERMAIN. Mr. Chairman, I withdraw my request.

The Clerk concluded reading the amendment.

Mr. ST GERMAIN. Mr. Chairman, title X establishes a Financial Institutions Examination Council composed of the five Federal financial institution supervisory agencies. Each of those agencies is now subject to an audit by the General Accounting Office. Public Law 95-320, the Federal Banking Agency Audit Act, provided for GAO audits of the banking agencies and gives GAO with specific restrictions access to the information of those agencies. Since the examination council is to be a coordinating body composed of these agencies, the GAO should also have authority over this council as well.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. ST GERMAIN. I yield to the gentleman from California.

Mr. ROUSSELOT. I appreciate the gentleman's yielding.

This is consistent with or similar to the kind of audit we recently passed?

Mr. ST GERMAIN. That is correct. It is the very self-same audit.

Mr. ROUSSELOT. I think that is a worthy idea.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Rhode Island (Mr. ST GERMAIN).

The amendment was agreed to.

The CHAIRMAN. Is there a further amendment to title X?

The Chair hears none.

Title XI is as follows:

TITLE XI—RIGHT TO FINANCIAL PRIVACY

SEC. 1100. This title may be cited as the "Right to Financial Privacy Act of 1978".

DEFINITIONS

SEC. 1101. For the purpose of this title, the term—

(1) "financial institution" means any office of a bank, savings bank, car issuer as defined in section 103 of the Consumer Credit Protection Act (15 U.S.C. 1602(n)), industrial loan company, trust company, savings and loan, building and loan, or homestead association (includng cooperative banks), credit union, or consumer finance institution, located in any State or territory of the United States, the District of Columbia, Puerto Rico, Guam, American Samoa, or the Virgin Islands;

(2) "financial record' means any original or any copy of any record held by a financial institution containing information pertaining to a customer's relationship with the financial institution;

(3) "Government authority" means any agency or department of the United States, or any officer, employee, or agent thereof;

(4) "person" means an individual or a partnership of five or fewer individuals;

(5) "customer" means any person or authorized representative of that person who utilized or is utilizing any service of a financial institution, or for whom a financial institution is acting or has acted as a fiduciary, in relation to an account maintained in the person's name; and

(6) "supervisory agency" means, with respect to any particular financial institution any of the following which has statutory authority to examine the financial condition or business operations of that institution—

(A) the Federal Deposit Insurance Corporation;

(B) the Federal Savings and Loan Insurance Corporation;

(C) the Federal Home Loan Bank Board;

(D) the National Credit Union Administration;

(E) the Board of Governors of the Federal Reserve System;

(F) the Comptroller of the Currency;

(G) the Securities and Exchange Commission; or

(H) the Secretary of the Treasury, with respect to the Bank Secrecy Act and the Currency and Foreign Transactions Reporting Act (Public Law 91-508, title I and II); and

(7) "law enforcement" means administration or enforcement of any criminal or civil statute or any regulation, rule, or order issued pursuant thereto.

CONFIDENTIALITY OF RECORDS—GOVERNMENT AUTHORITIES

SEC. 1102. Except as provided by section 1103(c) or (d), 1113, or 1114, no Government authority may have access to or obtain copies of, or the information contained in the financial records of any customer from a financial institution unless the financial records are reasonably described and—

(1) such customer has authorized such disclosure in accordance with section 1104;

(2) such financial records are disclosed in response to an administrative subpena or summons which meets the requirements of section 1105.

(3) such financial records are disclosed in response to a search warrant which meets the requirements of section 1106;

(4) such financial records are disclosed in response to a judicial subpena which meets the requirements of section 1107; or

(5) such financial records are disclosed in response to a formal written request which meets the requirements of section 1108.

CONFIDENTIALITY OF RECORDS—FINANCIAL INSTITUTIONS

SEC. 1103. (a) No financial institution, or officer, employee, or agent of a financial institution, may provide to any Government authority access to or copies of, or the information contained in, the financial records of any customer except in accordance with the provisions of this title.

(b) A financial institution shall not release the financial records of a customer until the Goverment authority seeking such records certifies in writing to the financial institution that it has complied with the applicable provisions of this title.

(c) Nothing in this title shall preclude any financial institution, or any officer, employee, or agent of a financial institution, from notifying a Government authority that such institution, or officer, employee, or agent has information which may be relevant to a possible violation of any statute or regulation.

(d) Nothing in this title shall preclude a financial institution, as an incident to perfectig a security interest, proving a claim in bankruptcy, or otherwise collecting on a debt owing either to the financial institution itself or in its role as a fiduciary, from providing copies of any financial record to any court or Government authority.

CUSTOMER AUTHORIZATIONS

SEC. 1104. (a) A customer may authorize disclosure under section 1102(1) if he furnishes to the financial institution and to the Government authority seeking to obtain such disclosure a signed and dated statement which—

(1) authorizes such disclosure for a period not in excess of three months;

(2) states that the customer may revoke such authorization at any time before the financial records are disclosed;

(3) identifies the financial records which are authorized to be disclosed;

(4) specifies the purposes for which, and the Government authority to which, such records may be disclosed; and

(5) states the customer's rights under this title.

(b) No such authorization shall be required as a condition of doing business with any financial institution.

(c) The customer has the right, unless the Government authority obtains a court order as provided in section 1109, to obtain a copy of the record which the financial institution shall keep of all instances in which the customer's record is disclosed to a Government authority pursuant to this section, including the identity of the Government authority to which such disclosure is made.

(d) All financial institutions shall promptly notify all of their customers of their rights under this title. The Board of Governors of the Federal Reserve System shall prepare a statement of customers' rights under this title. Any financial institution that provides its customers a statement of customers' rights prepared by the Board shall be deemed to be in compliance with this subsection.

ADMINISTRATIVE SUBPENA AND SUMMONS

SEC. 1105. (a) Except as provided by subsection (b), a Government authority may obtain financial records under section 1102(2) pursuant to an administrative subpena or summons otherwise authorized by law only if—

(1) there is reason to believe that the subpena or summons will produce information relevant to a legitimate law enforcement purpose;

(2) a copy of the subpena or summons has been served upon the customer or mailed to his last known address on or before the date on which the subpena or summons was served on the financial institution together with the following notice:

"Records or information concerning your transactions held by the financial institution named in the attached subpena or summons are being sought by this (agency or department) in accordance with the Right to Financial Privacy Act of 1978 for the following purpose: If you desire that such records or information not be made available, you must:

"(1) Fill out the accompanying affidavit and motion paper or write one of your own, stating how you are connected to the records being requested by the Government and giving facts and reasons for believing that the records are not relevant to the legitimate law enforcement purpose stated in the notice.

"(2) File the motion by mailing or delivering the affidavit and motion paper to the clerk of the United States District Court for the

"(3) Serve the Government authority requesting the records by mailing or delivering a copy of your affidavit and motion to

"(4) Be prepared to come to court and present your case in further detail.

If you do not follow the above procedures, upon the expiration of ten days from the date of service or fourteen days from the date of mailing of this notice, the records or information requested therein will be made available."; and

(3) ten days have expired from the date of service of the notice or fourteen days have expired from the date of mailing the notice to the customer and within such time period the customer has not filed an affidavit and motion to quash in an appropriate court, or the customer challenge provisions of section 1110 have been complied with.

(b)(1) The Securities and Exchange Commission may obtain financial records for investigatory purposes under section 1102(2) pursuant to an administrative subpena or summons otherwise authorized by law if prior to issuance of the subpena or summons—

(A) the Commission determines (i) that it is necessary to investigate to determine if a violation of Federal law within the investigatory jurisdiction of the Commission has been or is about to be committed and that the issuance of process may be necessary, or (ii) that it is necessary to investigate certain facts, conditions, practices, or matters which it may deem necessary or proper to aid in the enforcement of laws that are the proper concern of the Commissioner, in the prescribing of rules and regulations thereunder, or in securing information to serve as a basis for recommending further legislation concerning the matters to which such laws relate; and

(B) the Commission issues a formal order of investigation in which is specified—

(i) the date on which the order was entered;

(ii) the subject matter of the investigation;

(iii) the statutory provision or provisions which may have been violated, or other purposes for which the investigation is being conducted;

(iv) the statutory authority pursuant to which the investigation is to be conducted; and

(v) the names of the members, officers, employes, or agents designated by the Commission as empowered, in connection with the investigation, and as otherwise authorized by law, to administer oaths and affirmations, subpena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda; and

(C) the officer, employee, or agent issuing the subpena deems the financial records to be related to the investigation.

(2) Upon the expiration of fourteen days following the date of issuance of the subpena or summons, the customer shall be served or mailed a copy of the process or request together with the following notice:

"Records or information concerning your transactions which are held by the financial institution named in the attached subpena or summons were sought by the Securities and Exchange Commission in accordance with the Right to Financial Privacy Act of 1978 for the following purpose:

"If you believe the Securities and Exchange Commission has not substantially complied with the Right to Financial Privacy Act of 1978, you may petition the appropriate Federal court within ten days of receipt of this notice to prohibit disclosure or use of the records or information and provide such court with a sworn statement of the reasons why you believe the Securities and Exchange Commission should be prohibited from obtaining or using the records or information.".

(3) Within ten days of receipt of the notice provided for in paragraph (2), a customer may file an application in a United States district court to enjoin a Government authority from obtaining financial records subject to this title except in accordance with the provisions of this title, and to enjoin the use and require the return of any financial records obtained otherwise than in accordance with the provisions of this title.

SEARCH WARRANTS

SEC. 1106. (a) A Government authority may obtain financial records under section 1102

(3) only if it obtains a search warrant pursuant to the Federal Rules of Criminal Procedure.

(b) No later than ninety days after the Government authority serves the search warrant, it shall mail to the customer's last known address a copy of the search warrant together with the following notice:

"Records or information concerning your transactions held by the financial institution named in the attached search warrant were obtained by this (agency or department) on (date) for the following purpose:

You may have rights under the Right to Financial Privacy Act of 1978.".

(c) Upon application of the Government authority, a court may grant a delay in the mailing of the notice required in subsection (b), which delay shall not exceed one hundred and eighty days following the service of the warrant, if the court makes the findings required in section 1109(a). If the court so finds, it shall enter an exparte order granting the requested delay and an order prohibiting the financial institution from disclosing that records have been obtained or that a search warrant for such records has been executed. Additional delays of up to ninety days may be granted by the court upon application, but only in accordance with this subsection. Upon expiration of the period of delay of notification of the customer, the following notice shall be mailed to the customer along with a copy of the search warrant:

"Records or information concerning your transactions held by the financial institution named in the attached search warrant were obtained by this (agency or department) on (date). Notification was delayed beyond the statutory ninety-day delay period pursuant to a determination by the court that such notice would seriously jeopardize an investigation concerning . You may have rights under the Right to Financial Privacy Act of 1978.".

JUDICIAL SUBPENA

SEC. 1107. A Government authority may obtain financial records under section 1102(4) pursuant to judicial subpena only if—

(1) such subpena is authorized by law and there is reason to believe that the subpena will produce information relevant to a legitimate law enforcement purpose;

(2) a copy of the subpena has been served upon the customer or mailed to his last known address on or before the date on which the subpena was served on the financial institution together with the following notice:

"Records or information concerning your transactions which are held by the financial institution named in the attached subpena are being sought by this (agency or department or authority) in accordance with the Right to Financial Privacy Act of 1978 for the following purpose: If you desire that such records or information not be made available, you must:

"1. Fill out the accompanying affidavit and motion paper or write one of your own, stating how you are connected to the records being requested by the Government and giving facts and reasons for believing that the records are not relevant to the legitimate law enforcement purpose stated in the notice.

"2. File the motion by mailing or delivering the affidavit and motion paper to the Clerk of the United States District Court.

"3. Serve the Government authority requesting the records by mailing or delivering a copy of your affidavit and motion to.

"4. Be prepared to come to court and present your case in further detail.

If you do not follow the above procedures, upon the expiration of ten days from the date of service or fourteen days from the date of mailing of this notice, the records or information requested therein will be made available."; and

(3) ten days have expired from the date of service or fourteen days from the date of mailing of the notice to the customer and within such time period the customer has not filed an affidavit and motion to quash in an appropriate court, or the customer challenge provisions of section 1110 have been complied with.

FORMAL WRITTEN REQUEST

SEC. 1108. A Government authority may request financial records under section 1102(5) pursuant to a formal written request only if—

(1) no administrative summons or subpena authority reasonably appears to be available to that Government authority to obtain financial records for the purpose for which such records are sought;

(2) the request is authorized by regulations promulgated by the head of the agency or department;

(3) there is reason to believe that the request will produce information relevant to a legitimate law enforcement purpose; and

(4)(A) a copy of the request has been served upon the customer or mailed to his last known address on or before the date on which the request was made to the financial institution together with the following notice:

"Records or information concerning your transactions held by the financial institution named in the attached request are being sought by this (agency or department) in accordance with the Right to Financial Privacy Act of 1978 for the following purpose:

"If you desire that such records or information not be made available, you must:

"1 Fill out the accompanying affidavit and motion paper or write one of your own, stating how you are connected to the records being requested by the Government and giving facts and reasons for believing that the records are not relevant to the legitimate law enforcement purpose stated in the notice.

"2. File the motion by mailing or delivering the affidavit and motion paper to the Clerk of the United States District Court for the .

"3. Serve the Government authority requesting the records by mailing or delivering a copy of your affidavit and motion to

"4. Be prepared to come to court and present your case in further detail.

If you do not follow the above procedures, upon the expiration of ten days from the date of service or fourteen days from the date of mailing of this notice, the records or information requested therein may be made available to the Government authority by the financial institution."; and

(B) ten days have expired from the date of service or fourteen days from the date of mailing of the notice by the customer and within such time period the customer has not filed an affidavit and an application to enjoin the Government authority in an appropriate court, or the customer challenge provisions of section 1110 have been complied with.

DELAYED NOTICE—PRESERVATION OF RECORDS

SEC. 1109. (a) Upon application of the Government authority, the customer notice required under section 1104(c), 1105(a)(2), 1106(c), 1107(2), or 1108(4) may be delayed by order of an appropriate court if the presidiing judge or magistrate finds that—

(1) the investigation being conducted is within the lawful jurisdiction of the Government authority seeking the financial records;

(2) there is reason to believe that the records being sought will produce information relevant to a legitimate law enforcement purpose; and

(3) there is reason to believe that such notice will result in—

(A) endangering life or physical safety of any person;

(B) flight from prosecution;

(C) destruction of or tampering with evidence;

(D) intimidation of potential witnesses; or

(E) otherwise seriously jeopardizing an invesitgation or official proceeding or unduly delaying a trial or ongoing official proceeding.

(b)(1) If the court makes the findings required in paragraphs (1), (2), and (3) of subsection (a), it shall enter an ex parte order granting the requested delay for a period not to exceed ninety days and an order prohibiting the financial institution from disclosing that records have been obtained or that a request for records has been made, except that, if the records have been sought by a Government authority exercising financial controls over foreign accounts in the United States under section 5(b) of the Trading with the Enemy Act (50 U.S.C. App. 5(b)), the International Emergency Economic Powers Act (title II, Public Law 95-223), or section 5 of the United Nations Participation Act (22 U.S.C. 287c), and the court finds that there is reason to believe that such notice may endanger the lives or physical safety of a customer or group of customers, or any person or group of persons associated with a customer, the court may specify that the delay be indefinite.

(2) Extensions of the delay of notice provided in paragraph (1) of up to ninety days each may be granted by the court upon application, but only in accordance with this subsection.

(3) Upon expiration of the period of delay of notification under paragraph (1) or (2), the customer shall be served with or mailed a copy of the process or request together with the following notice:

"Records or information concerning your transactions which are held by the financial institution named in the attached process or request were supplied to or requested by the Government authority named in the process or request on (date). Notification was withheld to a determination by the (title of court so ordering) under the Right to Financial Privacy Act of 1978 that such notice might (state reason) . The purpose of the investigation or official proceeding was .".

(c) Within thirty days after the expiration of a delay (or each extension thereof) granted under this section, the judge or magistrate granting the delay shall report to the Administrative Office of the United States Courts—

(1) the fact that a delay or extension of delay was requested;

(2) the nature of the investigation;

(3) the disposition of the request for delay;

(4) the total period of time for which notice had been previously withheld; and

(5) the identity of the Government authority requesting the delay.

In April of each year the Director of the Administrative Office of the United States Courts shall transmit to the Congress a full and complete report concerning the number of applications for extension of delay and the number of extensions granted during the preceding calendar year. Such report shall include a summary and analysis of the data required to be filed with the Administrative Office pursuant to this section. The Director of the Administrative Office of the United States Courts is authorized to issue binding regulations dealing with the content and form of the reports required to be filed by this section.

(d) When access to financial records is obtained pursuant to section 1114(b) (emergency access), the Government authority shall, unless a court has authorized delay of notice pursuant to subsections (a) and (b), as soon as practicable after such records are

obtained serve upon the customer, or mail by registered or certified mail to his last known address, a copy of the request to the financial institution together with the following notice:

"Records concerning your transactions held by the financial institution named in the attached request were obtained by (agency or department) under the Right to Financial Privacy Act of 1978 on (date) for the following purpose: ——. Emergency access to such records was obtained on the grounds that (state grounds).".

(e) Any memorandum, affidavit, or other paper filed in connection with a request for delay in notification shall be preserved by the court. Upon petition by the customer to whom such records pertain, the court may order disclosure of such papers to the petitioner unless the court makes the findings required in subsection (a).

CUSTOMER CHALLENGE PROVISIONS

SEC. 1110. (a) Within ten days of service or within fourteen days of mailing of a subpena, summons, or formal written request, a customer may file a motion to quash an administrative summons or judicial subpena, or an application to enjoin a Government authority from obtaining financial records pursuant to a formal written request, in the appropriate United States district court, with copies served upon such Government authority. Such motion or application shall contain an affidavit or sworn statement—

(1) stating that the applicant is a customer of the financial institution from which financial records pertaining to him have been sought; and

(2) showing a factual basis for concluding that there is no reason to believe that the financial records sought contain information relevant to a legitimate law enforcement purpose, or there has not been substantial compliance with the provisions of this title.

Service shall be made under this section upon a Government authority by delivering or mailing by registered or certified mail a copy of the papers to the person, office, or department specified in the notice which the customer has received pursuant to this title. For the purposes of this section, "delivery" has the meaning stated in rule 5(b) of the Federal Rules of Civil Procedure.

(b) If the court finds that the customer has made the requisite showing in subsection (a), it shall order the Government authority to file a sworn response, which may be filed in camera if the Government includes in its response the reasons which make in camera review appropriate. If the court is unable to determine the motion or application on the basis of the parties' initial allegations and response, the court may conduct such additional proceedings as it deems appropriate. All such proceedings shall be completed and the motion or application decided within seven calendar days of the filing of the Government's response.

(c) If the court finds that the applicant is not the customer to whom the financial records sought by the Government authority pertain, or that there is reason to believe that the records being sought contain information relevant to a legitimate law enforcement purpose and that there has been substantial compliance with the provisions of this title, it shall deny the motion or application, and, in the case of an administrative summons or court order other than a search warrant, order such process enforced. If the court finds that the applicant is the customer to whom the records sought by the Government authority pertain, and that there is reason to believe that the financial records do not contain any information relevant to a legitimate law enforcement purpose, or that there has not been substantial compliance with the provisions of this title, it shall order the process quashed or shall enjoin the Government authority's formal written request.

(d) A court ruling denying a motion or application under this section shall not be deemed a final order and no interlocutory appeal may be taken therefrom by the customer. An appeal of a ruling denying a motion or application under this section may be taken by the customer (1) within such period of time as provided by law as part of any appeal from a final order in any legal proceeding initiated against him arising out of or based upon the financial records, or (2) within days after a notification that no legal proceeding is contemplated against him. The Government authority obtaining the financial records shall promptly notify a customer when a determination has been made that no legal proceeding against him is contemplated. After one hundred and eighty days from the denial of the motion or application, if the Government authority obtaining the records has not initiated such a proceeding, a supervisory official of the Government authority shall certify to the appropriate court that no such determination has been made. The court may require that such certifications be made, at reasonable intervals thereafter, until either notification to the customer has occurred or a legal proceeding is initiated as described in clause (A).

(e) The challenge procedures of this title constitute the sole judicial remedy available to a customer to oppose disclosure of financial records pursuant to this title.

(f) Nothing in this title shall enlarge or restrict any rights of a financial institution to challenge requests for records made by a Government authority under existing law. Nothing in this title shall entitle a customer to assert the rights of a financial institution.

DUTY OF FINANCIAL INSTITUTIONS

SEC. 1111. Upon receipt of a request for financial records made by a Government authority under section 1105 or 1107, the financial institution shall, unless otherwise provided by law, proceed to assemble the records requested and must be prepared to deliver the records to the Government authority upon receipt of the certificate required under section 1103(b).

USE OF INFORMATION

SEC. 1112. Copies of or the information contained in financial records obtained pursuant to section 1102 or obtained by a Government authority under the exceptions provided in section 1113 or the special procedures provided in section 1114 shall not be used or retained in any form for any purpose other than the specific statutory purpose for which the information was originally obtained, nor shall such information or records be provided to any other governmental department or agency or other person except where the transfer of such information is specifically authorized by statute. Nothing in this title prohibits any supervisory agency from exchanging examination reports or other information with another supervisory agency, or from supplying information to a prosecution or enforcement agency concerning a possible violation of a regulation or statute administered by the supervisory agency. Nothing in this title shall authorize the withholding of information by any officer or employee of a supervisory agency from a duly authorized committee or subcommittee of the Congress.

EXCEPTIONS

SEC. 1113. (a) Nothing in this title prohibits the disclosure of any financial records or information which is not identified with or identifiable as being derived from the financial records of a particular customer.

(b) Nothing in this title prohibits examination by or disclosure to any supervisory agency of financial records or information in the exercise of its supervisory, regulatory, or monetary functions with respect to a financial institution.

(c) Nothing in this title prohibits the disclosure of financial records information in accordance with the procedures set out in section 1205 of the Tax Reform Act of 1976 (Public Law 94-455; 26 U.S.C. 7609).

(d) Nothing in this title shall authorize the withholding of financial records or information required to be reported in accordance with any Federal statute or rule promulgated thereunder.

(e) Nothing in this title shall apply when financial records are sought by a Government authority under the Federal Rules of Civil or Criminal Procedure in connection with litigation to which the Government authority and the customer are parties.

(f) Nothing in this title shall apply when financial records are sought by a Government authority pursuant to an administrative subpena issued by an administrative law judge in an adjudicatory proceeding subject to section 554 of title 5, United States Code, and to which the Government authority and the customer are parties.

(g) The notice requirements of this title and section 1110 shall not apply when a Government authority by a means described in section 1102 and for a legitimate law enforcement purpose is seeking only the name, address, account number, and type of account of any customer or ascertainable group of customers associated (1) with a financial transaction or class of financial transactions, or (2) with a foreign country or subdivision thereof in the case of a Government authority exercising financial controls over foreign accounts in the United States under section 5(b) of the Trading with the Enemy Act (50 U.S.C. App. 5(b)); the International Emergency Economic Powers Act (title II, Public Law 95-223); or section 5 of the United Nations Participation Act (22 U.S.C. 287(c)).

(h)(1) This title shall not apply when financial records are sought by a Government authority in connection with an official proceeding, investigation, examination, or inspection directed at the financial institution in possession of such records.

(2) When records are sought pursuant to this subsection, the Government authority shall submit a certificate required by section 1103(b).

(3) Notwithstanding section 1112, financial records obtained pursuant to this subsection may not be transferred to another agency or department, but notification that such records may relate to a potential civil, criminal, or regulatory violation may be disclosed to other agencies or departments which may then seek access to the records pursuant to the provisions of this title.

(i) Nothing in this title (except section 1115) shall apply to any subpena or court order issued in connection with proceedings before a grand jury.

SPECIAL PROCEDURES

SEC. 1114. (a)(1) Nothing in this title (except sections 1115 and 1117) shall apply to the production and disclosure of financial records pursuant to requests from—

(A) a Government authority authorized to conduct foreign counter- or foreign positive-intelligence activities for purposes of conducting such activities; or

(B) the Secret Service for the purpose of conducting its protective functions (18 U.S.C. 3056; 3 U.S.C. 202, Public Law 90-331, as amended).

(2) In the instances specified in paragraph (1), the Government authority shall submit to the financial institution the certificate required in section 1103(b) signed by a supervisory official of a rank designated by the head of the Government authority.

(3) No financial institution, or officer, employees, or agent of such institution, shall disclose to any person that a Government au-

thority described in paragraph (1) has sought or obtained access to a customer's financial records.

(4) The Government authority specified in paragraph (1) shall compile an annual tabulation of the occasions in which this section was used.

(b)(1) Nothing in this title shall prohibit a Government authority from obtaining financial records from a financial institution if the Government authority determines that delay in obtaining access to such records would create imminent danger of—

(A) physical injury to any person;

(B) serious property damage; or

(C) flight to avoid prosecution.

(2) In the instances specified in paragraph (1), the Government shall submit to the financial institution of the certificate required in section 1103(b) signed by a supervisory official of a rank designated by the head of the Government authority.

(3) Within five days of obtaining access to financial records under this subsection, the Government authority shall file with the appropriate court a signed, sworn statement of a supervisory official of a rank designated by the head of the Government authority setting forth the grounds for the emergency access. The Government authority shall thereafter comply with the notice provisions of section 1109(e).

(4) The Government authority specified in paragraph (1) shall compile an annual tabulation of the occasions in which this section was used.

COST REIMBURSEMENT

SEC. 1115. (a) A Government authority shall pay to the financial institution assembling or providing financial records pertaining to a customer and in accordance with procedures established by this title a fee for reimbursement for such costs as are reasonably necessary and which have been directly incurred in searching for, reproducing, or transporting books, papers, records, or other data required or requested to be produced. The Board of Governors of the Federal Reserve System shall, by regulation, establish the rates and conditions under which such payment may be made.

(b) This section shall take effect on October 1, 1979.

JURISDICTION

SEC. 1116. An action to enforce any provision of this title may be brought in any appropriate United States district court without regard to the amount in controversy within three years from the date on which the violation occurs or the date of discovery of such violation, whichever is later.

CIVIL PENALITIES

SEC. 1117. (a) Any agency or department of the United States or financial institution obtaining or disclosing financial records or information contained therein in violation of this title is liable to the customer to whom such records relate in an amount equal to the sum of—

(1) $100 without regard to the volume of records involved;

(2) any actual damages sustained by the customer as a result of the disclosure;

(3) such punitive damages as the court may allow, where the violation is found to have been willful or intentional; and

(4) in the case of any successful action to enforce liability under this section, the costs of the action together with reasonable attorney's fees as determined by the court.

(b) Whenever the court determines that any agency or department of the United States has violated any provision of this title and the court finds that the circumstances surrounding the violation raise questions of whether an officer or employee of the department or agency acted willfully or intentionally with respect to the violation, the Civil Service Commission shall promptly initiate a proceeding to determine whether disciplinary action is warranted against the agent or employee who was primarily responsible for the violation. The Commission after investigation and consideration of the evidence submitted, shall submit its findings and recommendations to the administrative authority of the agency concerned and shall send copies of the findings and recommendations to the officer or employee or his representative. The administrative authority shall take the corrective action that the Commission recommends.

(c) Any financial institution or agent or employee thereof making a disclosure of financial records pursuant to this title in good-faith reliance upon a certificate by any Government authority shall not be liable to the customer for such disclosure.

(d) The remedies and sanctions described in this title shall be the only authorized judicial remedies and sanctions for violations of this title.

INJUNCTIVE RELIEF

SEC. 1118. In addition to any other remedy contained in this title, injunctive relief shall be available to require that the procedures of this title are complied with. In the event of any successful action, costs together with reasonable attorney's fees as determined by the court may be recovered.

SUSPENSION OF STATUTES OF LIMITATIONS

SEC. 1119. If any individual files a motion or application under this title which has the effect of delaying the access of a Government authority to financial records pertaining to such individual, any applicable statute of limitations shall be deemed to be tolled for the period extending from the date such motion or application was filed until the date upon which the motion or application is decided.

GRAND JURY INFORMATION

SEC. 1120. Financial records about a customer obtained from a financial institution pursuant to a subpena issued under the authority of a Federal grand jury—

(1) shall be returned and actually presented to the grand jury;

(2) shall be used only for the purpose of considering whether to issue an indictment or presentment by that grand jury and of prosecuting a crime for which that indictment or presentment is issued;

(3) shall be destroyed or returned to the financial institution if not used in the prosecution of a crime for which the grand jury issues an indictment or presentment or if not made part of the sealed records of the grand jury; and

(4) shall not be maintained, or a description of the contents of such records shall not be maintained, by any Government authority other than in the sealed records of the grand jury, unless such record has been used in the prosecution of a crime for which the grand jury issued an indictment or presentment.

AMENDMENTS OFFERED BY MR. MOORHEAD OF PENNSYLVANIA

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I offer amendments.

The Clerk read as follows:

Amendments offered by Mr. MOORHEAD of Pennsylvania:

Page 152, line 3, insert "(1)" immediately after "(d)", and immediately after line 8, insert the following:

(2) Nothing in this title shall preclude a financial institution, as an incident to processing an application for assistance to a customer in the form of a Government loan, loan guaranty, or loan insurance agreement, or as an incident to processing a default on, or administering, a Government guaranteed or insured loan, from initiating contact with an appropriate Government authority for the purpose of providing any financial record necessary to permit such authority to carry out its responsibilities under a loan, loan guaranty, or loan insurance agreement.

Page 173, strike out lines 18 through 25, and page 174, strike out lines 1 through 7 and insert in lieu thereof the following:

(h)(1) Nothing in this title (except sections 1103, 1117 and 1118) shall apply when financial records are sought by a Government authority—

(A) in connection with a lawful proceeding, investigation, examination, or inspection directed at the financial institution in possession of such records or at a legal entity which is not a customer; or

(B) in connection with the authority's consideration or administration of assistance to the customer in the form of a Government loan, loan guaranty, or loan insurance program.

(2) When financial records are sought pursuant to this subsection, the Government authority shall submit to the financial institution the certificate required by section 1103(b). For access pursuant to paragraph (1)(B), no further certification shall be required for subsequent access by the certifying Government authority during the term of the loan, loan guaranty, or loan insurance agreement.

(3) After the effective date of this title, whenever a customer applies for participation in a Government loan, loan guaranty, or loan insurance program, the Government authority administering such program shall give the customer written notice of the authority's access rights under this subsection. No further notification shall be required for subsequent access by that authority during the term of the loan, loan guaranty, or loan insurance agreement.

(4) Financial records obtained pursuant to this subsection may be used only for the purpose for which they were originally obtained, and may be transferred to another agency or department only when the transfer is to facilitate a lawful proceeding, investigation, examination, or inspection directed at the financial institution in possession of such records, or at a legal entity which is not a customer, except that—

(A) nothing in this paragraph prohibits the use or transfer of a customer's financial records needed by counsel representing a Government authority in a civil action arising from a Government loan, loan guaranty, or loan insurance agreement; and

(B) nothing in this paragraph prohibits a Government authority providing assistance to a customer in the form of a loan, loan guaranty, or loan insurance agreement from using or transferring financial records necessary to process, service or foreclose a loan, or to collect on an indebtedness to the Government resulting from a customer's default.

(5) Notification that financial records obtained pursuant to this subsection may relate to a potential civil, criminal, or regulatory violation by a customer may be given to an agency or department with jurisdiction over that violation, and such agency or department may then seek access to the records pursuant to the provisions of this title.

(6) Each financial institution shall keep a notation of each disclosure made pursuant to paragraph (1)(B) of this subsection, including the date of such disclosure and the Government authority to which it was made. The customer shall be entitled to inspect this information.

Page 176, strike out lines 8 through 18 and insert in lieu thereof the following:

SEC. 1115. (a) Except for records obtained pursuant to section 1103(d) or 1113 (a) through (h), or as otherwise provided by law, a Government authority shall pay to the financial institution assembling or providing financial records pertaining to a customer and in accordance with procedures established by this title a fee for reimbursement for such costs as are reasonably neces-

sary and which have been directly incurred in searching for, reproducing, or transporting books, papers, records, or other data required or requested to be produced. The Board of Governors of the Federal Reserve System shall, by regulation, establish the rates and conditions under which such payment may be made.

Mr. MOORHEAD of Pennsylvania (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, these are three amendments to title XI which are perfecting in nature, I believe noncontroversial, and interrelated. I ask unanimous consent that they be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

Mr. ROUSSELOT. Reserving the right to object, Mr. Chairman, have we seen these before?

Mr. MOORHEAD of Pennsylvania. If the gentleman will yield, yes. These are the ones that are included in the letter that the gentleman joined in signing.

Mr. ROUSSELOT. But they are all offered en bloc at one time.

Mr. MOORHEAD of Pennsylvania. They are all offered en bloc at one time.

Mr. ROUSSELOT. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, fundamentally the amendments grant limited access by Government agencies which issue, insure, or guarantee loans so that these agencies can fulfill their statutory duty of monitoring such loans in the interest of the taxpayers of the United States.

These amendments attempt to balance the interest of the bank customer in privacy with the continuing need of the Government to monitor the expenditure of Federal funds to assure against fraud, misuse of funds, or failure to meet program requirements associated with loan and loan insurance programs.

Mr. Chairman, in a "Dear Colleague" letter these amendments were supported by the chairman of the full committee, the chairman of the subcommittee, by three minority members of the committee, by the authors of title XI, the gentleman from Nebraska (Mr. CAVANAUGH) and the gentleman from New York (Mr. LAFALCE) and by such ardent advocates of the right of privacy as the gentleman from Wisconsin (Mr. KASTENMEIER), and the gentleman from California (Mr. GOLDWATER).

Mr. Chairman, I urge adoption of amendments.

EXPLANATION OF THE AMENDMENT AT PAGE 152

This amendment would add a new paragraph to section 1103(d) of the bill in order to clarify that financial institutions retain the right, under certain circumstances, to volunteer information concerning the content of financial records to an appropriate Government authority. It is not entirely clear from the bill as currently drawn that a mortgage lender which is holding a federally guaranteed or insured loan which is in default, is free to transmit evidence of this important fact to the Government agency providing the loan insurance or loan guarantee. There are other regulatory circumstances, as well, when a lender has the responsibility under his contract with the insuring agency to report facts concerning the transaction to the Government.

This paragraph provides no new or additional power in a Government authority to request access to a particular customer's records. It provides only clarification of the fact that when a financial institution is processing or administering documents associated with a Government loan, or a Government insured or guaranteed loan transaction, it has the right to let the appropriate agency know about threatened or actual defaults, or about other significant occurrences likely to have an effect on the proper administration of such a loan.

EXPLANATION OF THE AMENDMENT AT PAGES 173-74

This amendment is intended to add to the financial privacy title a recognition that the same expectation of confidentiality in one's financial affairs does not exist when a bank customer has applied for or entered into a loan or loan insurance transaction involving the Government. Under circumstances where a Government authority is the lender, or the insurer or guarantor of a loan, the amendment would set out special rules regarding the questions of notice, production, disclosure and transfer of records associated with such transactions.

This strictly limited exemption provision does not take such financial records entirely out of the Financial Privacy Act—the amendment provides, instead, for somewhat relaxed requirements associated with customer notice, so as to facilitate ongoing Federal agency monitoring and inspection processes associated with the Government's important role as direct lender or as an insurer of private lending transactions. The amendment is intended to make it possible for the Government to do what any prudent lender would wish to do—make inquiry into the financial status of its prospective debtor, assure itself of the insured borrower's bona fides, and the insured lender's faithful performance of obligations associated with such transactions. The Congress has imposed upon Federal agencies the duty to maintain required standards surrounding the extension of Federal benefits. The Congress has also shown—during this session particularly—an interest in raising agency Inspectors General to a new high level of responsibility, independence, and excellence. In line with those goals, this amendment would assure retention of the normal practices of monitoring, auditing and inspecting financial records, when such records are directly relevant to a Government agency's loan or loan insurance programs.

These amendments attempt to balance the interest of the bank customer in privacy with the continuing need of the Government to monitor the expenditure of Federal funds to assure against fraud, misuse of funds, or failure to meet program requirements associated with loan and loan insurance programs. It does not maintain the status quo—far from it. New requirements associated with notice to customers, certification to the financial institution, and controls on transfers of records are set out in the amendment. Admittedly, in some instances these requirements are less strenuous than those provided for generally in title XI, because the need of Government agencies to continue to supervise their own loan and loan insurance transactions is very great. Nevertheless, controls have been imposed which recognize the customer's privacy rights:

Agencies using this exception must certify to the financial institution that the request for access to records is made for a purpose exempted from the other provisions of the title. In order to reduce the administrative and paperwork burden, a certification can be made once by the Government agency and remain valid for the term of the loan or insurance transaction.

Although all loan or insurance transactions would be subject to the exception, including transactions predating the effective date of this title, Government agencies would be required, in the future, to provide customers with notice that the right to obtain financial information pursuant to this exception existed and could be exercised during the life of the customer's relationship with the Government agency.

Records obtained through this exception procedure could be used only for the purpose for which such records were originally sought and obtained.

Such records could be transferred to another agency only as necessary to service or foreclose the loan, collect on a debt, or process a default.

In addition, as a substitute for the customer notice safeguards contained elsewhere in title XI, the financial institution would be required to keep a notation in a customer's records of when and to whom disclosures of financial information had been made pursuant to this exception, and customers would have access to that information at any time.

In addition to the partial exemption for loan programs set out in the amendment, a phrase has been added to subparagraph (A) of section 1113(h)(1). This addition would permit inquiry by a Government authority into the records of a financial institution when the purpose of the inquiry is neither to investigate the financial institution nor its customers, but rather to conduct an examination directed at some third party which is not a customer. This amendment recognizes that in some instances financial records in the possession of a financial institution may shed light on possible violations of law by third parties.

For example, many automobile dealers and home improvement companies assign their credit contracts to banks or finance companies. An investigation of

a car dealer's compliance with the Consumer Credit Protection Act may require access to contracts maintained by the financial institution. Because the investigation is not directed at "the financial institution in possession of such records," the present exception contained in section 1113(h) does not apply.

Nevertheless, such investigations do not involve incursions into "customer" records of the kind sought to be controlled by the Financial Privacy Act. Accordingly, the additional phrase in proposed section 1113(h)(1)(A)—"or at a legal entity which is not a customer"—will preserve the right of a Government authority to review compliance with existing laws without the requirement that such records be subpenaed.

EXPLANATION OF THE AMENDMENT AT PAGE 176

This amendment alters title XI's provisions for reimbursement for the production of financial records. Since financial institutions participating in Federal loan, loan insurance and loan guarantee programs receive financial benefits associated with such participation, this amendment would except such records—obtained voluntarily from the financial institution pursuant to section 1103(d) or requested under an exception contained in section 1113—from the requirement of reimbursement by the Government for the production of such records.

It should be noted that the amendment excludes from the reimbursement requirement all of the exceptions provisions contained in section 1113 of the bill, except 1113(i), relating to grand jury records. Most of these exceptions refer to existing statutory or procedural discovery processes, many of which have their own rules associated with reimbursement.

Mr. PATTISON of New York. Mr. Chairman, will the gentleman yield?

Mr. MOORHEAD of Pennsylvania. I yield to the gentleman from New York.

Mr. PATTISON of New York. I thank the gentleman for yielding.

Mr. Chairman, title XI of the Financial Institutions Regulatory Act is truly landmark legislation. This title, known as the Right to Financial Privacy Act, addresses a fundamental constitutional issue: The extent to which an individual's records held in a bank should be protected from government intrusion.

Many of us on both sides of the aisle strongly believe that individual bank records must be afforded basic privacy rights. Furthermore, it is our belief that the framers of the Constitution intended to provide protection for all individual records. At the time the fourth amendment to the Constitution was drafted, however, almost all personal records were kept at home. Protecting those records actually in the possession of the individual citizen was an adequate safeguard. In this century, however, increasingly financial records have been held by banks and other financial institutions. Furthermore, advances in communications and recordkeeping technology now allow financial institutions to store and quickly retrieve vast amounts of information.

These records can tell a complete story about the customer's life and lifestyle: His religious and political affiliations, what medical services he requires, how much he drinks, and a vast array of his personal habits.

Despite their personal nature, these records are not afforded privacy protections. In its 1976 Miller decision, the Supreme Court ruled that, under current law, records held by a financial institution are the property of the institution, rather than the customer's. These records are therefore not entitled to safeguards from unwarranted government access. Therefore, under Miller, a citizen does not have "standing" to sue to prevent unreasonable access to those records.

Clearly, it is an empty gesture to protect individual records held in the home when a much richer store of information is readily available at the individual's bank. This inconsistency led the Privacy Protection Study Commission, in its 1977 report entitled "Personal Privacy in an Information Society," to call for the creation of "a legitimate, enforceable expectation of confidentiality."

The legislation before us today is based on the premise that bank customers have a right to reasonable expectation of privacy. Under title XI, a Government agency wishing to view the records must first notify the customer that his records are being sought for a legitimate law enforcement purpose. The customer may then exercise his right to object to the agency's request by swearing that Government access to his records would not serve a legitimate law enforcement purpose. If the agency wishes to pursue the matter, the courts must make the final determination.

While this is a complex title, and there are still points of disagreement, I feel that we all share one basic goal: To produce legislation which provides for customer prenotification, the right to object to Government access, and court action when the agency wishes to pursue access over the customer's objections. We must accomplish this goal without unduly restricting legitimate law enforcement activities.

I would urge my colleagues to approach this title in the spirit of compromise, remembering that there are currently no privacy safeguards for financial records. It would be extremely unfortunate if, in our zeal to protect the confidentiality of these records, we fail to come to agreement on a workable solution.

I would like to take this opportunity to commend my colleagues who have been involved in the long process of putting this bill together. Title XI is derived from legislation drafted by a bipartisan group for action by the Subcommittee on Courts, Civil Liberties, and the Administration of Justice during the 94th Congress, a subcommittee on which I served. Congressman BARRY GOLDWATER, CHARLES WHALEN, and former Congressmen Ed Koch and Charles Mosher were instrumental in this early effort, and have played a major role in supporting the bill during this Congress. Congressman JOHN CAVANAUGH, who introduced this title as a freshman member of the Committee on Banking, has distinguished himself by his diligent efforts to craft meaningful privacy protections. My colleague from New York, JOHN LAFALCE, has played an extremely important role in perfecting the title, as has Congressman JIM MATTOX.

Several members of the Judiciary Committee also actively supported this legislation, including Congressmen ROBERT KASTENMEIER, TOM RAILSBACK, Congressman JOHN ROUSSELOT, ranking Republican on the Financial Institutions Subcommittee, has also given much needed support. And of course, without the able leadership of Congressmen HENRY REUSS and FERNAND ST GERMAIN, this legislation simply would not have been possible.

I urge my colleagues to support title XI, in order that we may restore basic privacy rights to the American people.

Mr. ROUSSELOT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, citizens today operate under the mistaken notion that banks, the Federal Government, and other institutions will maintain confidentiality in their private financial transactions. Recent history tells a different story, especially in the light of the final report of the Privacy Protection Study Commission. Nearly 700 pages document the need for an overhaul of the Nation's privacy laws. Needless to say the Federal Government, with its awesome power and infinite resources, is the leading offender. Computerization of information retrieval has led to the insatiable demand for more information—an electronic dossier is kept on nearly everyone.

Erosion of personal financial privacy did not occur overnight; it was a granular process. But here are some of the significant events in recent history that contributed to the problem.

In U.S. against Miller the Supreme Court decided that an individual has no expectation of confidence in his financial records held by a third party. Nor does the individual customer have standing in court to challenge the release of that information. According to the final report of the Privacy Protection Study Commission this is a gross miscarriage of justice—an individual has no constitutional protections against Government demands for access to records third parties keep about him. More important, the reach of the Miller decision extends far beyond bank records, it applied to credit card receipts, finance companies, and to every conceivable type of recordkeeper.

Another factor in the downfall of privacy hits closer to home, the Privacy Act of 1974. That act was designed to provide the safeguards that we are seeking today, but the intentions of Congress have been frustrated because of a loophole in the law. When the Privacy Act was passed records could be transferred among Government agencies without notice provided such transfers were for "routine use." Nobody knows the meaning of "routine use." The meaning of the term was never discussed. Since

there is no legislative history on that term, Government agencies are entitled to attach whatever meaning they choose. Thus, the Washington bureaucracy is still an informational merry-go-round. We should not repeat the mistake; every aspect of the title should be fully ventilated so that there will not be any mistakes concerning congressional intent. Ultimately, we want to insure that agencies cannot get from other agencies what they cannot get directly. We also want to make clear that as far as notice to the party involved is concerned there is no "routine use" exception.

In part the Bank Secrecy Act has contributed to the problem. By virtue of its provisions financial institutions are required to microfilm all checks for $100 or more and retain them for at least 5 years. Although the $100 figure was chosen to exempt the vast majority of checks written by individuals, selecting out checks in excess of $99 proved so expensive that most banks microfilm all checks. Banks are forced to warehouse these checks for 5 years with unlimited, unstructured, and informal Government access, thereby making a mockery of the fiduciary duty to the customer.

Changes in lifestyles and changes in ways of conducting personal financial business should have corresponding changes in the laws. It is more common today for third parties to acquire and retain financial information about us like banks, thrift institutions, and credit card companies under the blessing of confidentiality and fiduciary duty. Our laws make it impossible for these institutions to fulfill that fiduciary obligation.

The Right to Financial Privacy Act hidden as title XI of the Financial Institutions Regulatory Act gives us hope. It promises to reverse the processes that threaten so fundamental a value. It will restore confidence in the American people that the Government is there to help them, not to monitor them.

For the benefit of my colleagues I would like to review some of the highlights of the privacy bill. Adequate privacy protection hinges on three ingredients: (1) prenotification; (2) standing to challenge; and (3) audit trail.

Prenotification is the keystone to any serious attempt to protect privacy. In other words, the customer should be made aware of the Government's intention to secure private financial records whether it is through the use of administrative subpena (sec. 1105), judicial subpena (sec. 1107), or a formal written request (sec. 1108).

Automatic standing to challenge the release of information in a court of law is provided for in section 1110, which, as a practical matter, reverses the holding in the Miller case. Customers are now given a legally enforceable expectation of privacy in records held by third parties. Unfortunately the burden of going to court first is put on the customer (sec. 1110) but the burden of proof is placed on the Government in establishing the need for the information. Through notification and challenge a person will be aware of who has his records and who wants his records. One of the beneficial side effects is that once the customer is put on notice that an agency seeks his records he would be inclined to see those records himself and check their accuracy.

Cost reimbursement to financial institutions for compiling and copying sought records is provided for in section 1115. This may be the single best deterrent to unnecessary Government "fishing expeditions" into private records in the whole bill. Hitherto, banks have borne the cost with no justification. Larger financial institutions can get as many as 200 inquiries a day. This adds up to about 52,000 requests a year. Cost reimbursement may be the sleeper in this bill—Government will think twice when it starts to get bills for its requests.

The Banking Committee has not ignored the needs of the law enforcement community. We have carved out every reasonable exception to accommodate them. Special procedures in section 1114 supply the answer to most of their problems. Reluctantly, we gave them an undeserved concession when the burden of going to court first was placed on the individual. Any further concessions would undermine all we have tried to accomplish with this bill.

Financial privacy is a must. I urge my colleagues to vote for it.

Mr. CAVANAUGH. Mr. Chairman, will the gentleman yield?

Mr. ROUSSELOT. I would be delighted to yield to my colleague, the gentleman from Nebraska (Mr. CAVANAUGH), one of the major authors of this legislation.

Mr. CAVANAUGH. Mr. Chairman, I commend the gentleman for his statement and for the leadership the gentleman has shown in this legislation.

Mr. Chairman, this is truly landmark legislation and would not have been possible without the gentleman's efforts. I would like to commend the gentleman from California for all his work. In fact this legislation could not have been successful without the efforts of a great many people. Mr. PATTISON of New York, Mr. STARK, Mr. GOLDWATER, and our former colleague Mr. Koch, now the mayor of the city of New York. Chairman ST GERMAIN should be especially commended for the assistance and inspiration he provided to me during the consideration of this legislation. In addition to the continued support of Chairman REUSS there are a number of individuals both on the Banking Committee and in the administration without whose efforts and dedication we would not be considering this title today. I must express my personal praise to Mr. David Brown of my staff and Mr. Steven Verdier of the full Banking Committee staff who have continually inspired and sustained my interest and involvement in the issue of bank records privacy.

Unfortunately the record of this legislation will not reflect the tens of hours of negotiation and imaginative revision which will become the final product we approve this evening. Without the dedication, patience, and creative legislative relations of Mr. Ray Cahomero, of the Department of Justice, we would not be including the privacy protections contained in title XI in this legislation this evening. The masterful legislative draftsmanship of Mr. Abbe Lowell provided the solution to most all of the difficulties which had doomed all previous efforts to protect the privacy of the citizen's financial records. In addition Mr. Roger Pauley and Dave Barrett, of the Justice Department, Mr. Raul Lee, Jordan Lake, and Faye Hawlett, of the Department of the Treasury, Art Baikkin, of the Presidential Privacy Commission, and Mrs. Judy Young, of my staff, should be acknowledged for their contribution. And a special thanks to Mr. Tim Baker for his inciteful testimony.

THE RIGHT TO FINANCIAL PRIVACY

Mr. CAVANAUGH. Mr. Chairman, the Right to Financial Privacy, title XI of H.R. 13471, the Financial Institutions Regulatory Act of 1978, merits your special consideration and support.

As the Presidential Privacy Protection Study Commission pointed out in its final report:

> Financial records, particularly the information retained in demand deposit accounts, provide another instance where the changing patterns of life took the possession of information about himself out of the control of the individual. Of great importance, checking account records present a situation where alterations in recordkeeping patterns have been exacerbated by government action.

Now, more than ever before, it is important to assure that the substantial majority of our people who do utilize services of depository institutions are not surrendering their rights to privacy by virtue of such a relationship.

The Privacy Protection Study Commission recommended legislation for financial institution depositors in its final report, published in June 1977. This will be the first time that such legislation has reached the House floor for a vote.

To answer the fear of unwarranted Government fishing expeditions, title XI would, for the first time in law, give bank customers three key privacy rights: First, the right to notice before the records are made available to Government investigators; second, the opportunity to challenge the Government's access to those records; and (3) creation of a paper trail tracing all Government acquisitions and transfers of records.

This legislation has been drafted to create a delicate balance between essential individual privacy protections and the legitimate needs of law enforcement. For over a year the Department of Justice and the Department of the Treasury have worked closely with myself and other members of the House Banking Committee and Judiciary Committee. Leaders in the financial community have also given assistance and support to this bill. This group includes my good friend Morris Miller, vice chairman of the Omaha National Bank.

The principles contained in title XI are approved by the American Bankers Association, the Independent Bankers, the U.S. League of Savings & Loan Associations, the National Association of Federal Credit Unions, and the Credit Union National Association, the AFL–

CIO; additionally the measure receives the active support of the administration.

The issue of privacy has been studied thoroughly in recent years. Congressional concern and action have reflected the need to guard against the erosion of personal liberties and check uncontrolled surveillance activities. Hon. ROBERT KASTENMEIER held earnings on the issue as early as 1975. There was considerable controversy at the time because of the vital role of financial records to law enforcement. In the wake of the *United States* v. *Miller*, 425 U.S. 435 (1976), holding that the fourth amendment provides no protection to the subject of bank records owned and possessed by financial institutions, the Justice Department took the position that privacy legislation was "fundamentally misguided and unacceptable." Today after the work of the Privacy Commission, the Justice Department's task force, and the White House task force, Justice believes that personal privacy and effective law enforcement need not be inconsistent.

Since the action of the full committee on title XI, work has progressed to perfect the title. An amendment will be offered by Hon. NED PATTISON to further reduce the individual's burden of going forward to challenge the Government's access, while continuing to guard against frivolous objections.

Mr. MATTOX and Mr. STARK will offer additional language clarifying the Government's burden once the customer has made an objection. The Government must show the relevance of their request to their activities and requires those activities to be lawful and legitimate.

In other words, a customer would be able to successfully challenge any attempt by the Government to access records based on political harassment, intimidation, or any other "bad faith" reason. The Government would be required to show that there was a demonstrable reason to believe that an investigation were necessary and that there was a reasonable belief that the records sought are relevant to that investigation.

I urge you to support this block of amendments to the customer challenge section of the title, because taken together they clarify my initial intent, which is to prevent frivolous objections which delay legitimate law enforcement investigations, but once an objection has been made—it is the Government, not the customer who has the burden of proof.

It was also realized since the time of the committee's consideration of the title that limited access must be granted to Government agencies which issue or insure loans for the purpose of servicing and monitoring those loans. The appropriate amendment will be offered by my colleague from Pennsylvania, Mr. MOORHEAD.

Perfecting language to allow Government agencies to transfer records when necessary, while retaining for the individual the right to notice of such transfer, will be offered by Mr. GOLDWATER and Mr. MCKINNEY, to clarify the language now contained in title XI regarding agency transfers.

I have a continuing concern with the exclusion by the committee of the grand jury from the notice and challenge provisions of this title. I believe the requirements placed on the Government are fair and should be applied uniformly. The Privacy Commission found that the internal abuse of the grand jury process warranted protective legislation for individual privacy. I will not, however, attempt to again extend coverage to the grand jury during tonight's deliberations. I do urge you to support the Mattox amendment which will correct the existing abuses in grand jury procedure.

I urge your support for all of title XI with the perfecting amendments mentioned.

Mr. ROUSSELOT. Mr. Chairman, I thank the gentleman and I would say that my colleague, the gentleman from Nebraska, has been most persistent in getting this title added to the bill.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Pennsylvania (Mr. MOORHEAD).

The amendments were agreed to.

AMENDMENT OFFERED BY MR. GOLDWATER

Mr. GOLDWATER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GOLDWATER.

Amendment offered by Mr. GOLDWATER: On page 171, beginning at line 5 delete section 1112 in its entirety and insert in lieu thereof:

USE OF INFORMATION

"SEC. 1112. (a) Financial records originally obtained pursuant to this title shall not be transferred to another agency or department unless the transferring agency or department certifies in writing that there is reason to believe that the records are relevant to a legitimate law enforcement inquiry within the jurisdiction of the receiving agency or department.

"(b) When financial records subject to this title are transferred pursuant to subsection (a), the transferring agency or department shall, within fourteen days, send to the customer a copy of the certification made pursuant to subsection (a) and the following notice, which shall state the nature of the law enforcement inquiry with reasonable specificity: "Copies of, or information contained in, your financial records lawfully in possession of have been furnished to pursuant to the Right of Financial Privacy Act of 1978 for the following purpose: . If you believe that this transfer has not been made to further a legitimate law enforcement inquiry, you may have legal rights under the Financial Privacy Act of 1978 or the Privacy Act of 1974.

"(c) Notwithstanding subsection (b), notice to the customer may be delayed if the transferring agency or department has obtained a court order delaying notice pursuant to section 1109 (a) and (b) and that order is still in effect, or if the receiving agency or department obtains a court order authorizing a delay in notice pursuant to section 1109 (a) and (b). Upon the expiration of any such period of delay, the transferring agency or department shall serve to the customer the notice specified in subsection (b) above and the agency or department that obtained the court order authorizing a delay in notice pursuant to section 1109 (a) and (b) shall serve to the customer the notice specified in section 1109(b).

"(d) Nothing in this title prohibits any supervisory agency from exchanging examination reports or other information with another supervisory agency. Nothing in this title prohibits the transfer of a customer's financial records needed by counsel for a Government authority to defend an action brought by the customer. Nothing in this title shall authorize the withholding of information by any officer or employee of a supervisory agency from a duly authorized committee or subcommittee of the Congress."

Page 173, lines 4–5, delete "section 1110" and insert "sections 1110 and 1112".

Page 163, line 17, delete "or 1108(4)" and insert: "1108(4), or 1112(b)".

Mr. GOLDWATER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. GOLDWATER. Mr. Chairman, I offer this amendment to improve on the current language contained in section 1112, to protect the privacy of Americans, and at the same time balance this legitimate privacy interest with the reasonable needs of Government.

This amendment has the support of the Justice Department, an event that I did not think possible when the consideration of this title was first begun many months ago.

In what I am convinced was a very well intentioned effort to clarify and control the ability of the Government to exchange information between agencies, the current provision in the bill has the unfortunate effect of requiring that there be express statutory authorization for the agency to transfer the information to another. Further, the section also requires that information cannot be obtained unless there is express statutory authority for it.

Like my colleague, Mr. MCKINNEY, I do not support misuse of governmental authority to harass citizens, to build dossiers on citizens so that they can be intimidated, and I certainly believe that citizens have the basic right to know what the Government is doing with their detailed financial records—unless there is clear reason to believe that in telling a citizen he or she will destroy evidence, flee from legitimate prosecution, or aid or abet the activities of another person.

Like Mr. MCKINNEY, I would sincerely prefer that each agency of the Government, when it wants information on an individual, must go to that individual to get it. Aware citizens are certainly the best citizens.

Unfortunately, we must also be practical. We live in a world where the ideal is not always possible. We must balance one interest or right with another. In the issue of interagency transfers of information we confront a situation where several conflicting and competing interests are present: the need to protect privacy and insure the informed awareness of citizens; the need of Government to get information where it is needed for legitimate purposes in a timely, cost effective way; and, the need to make sure that if harm occurs

the process can be traced or reconstructed.

My service on the Privacy Protection Study Commission clearly revealed that it is possible to balance such interests and rights, protect personal privacy and at the same time meet the legitimate, reasonable needs of Government.

The amendment I offer does the following:

First, it deletes section 1112 as currently written in the bill and substitutes a new section.

Second. The new section says: First, before an agency can get information transferred to it, it must certify in writing its legitimate interest to the holder of the information; second, within 14 days the individual must be notified by that agency that it has his information; unless third, it can convince a court that a delay in notice is warranted and receive a court order authorizing the delay; and fourth, these restrictions do not apply to supervisory agencies properly conducting their responsibilities, and these provisions do not apply to the Congress.

The effect of the amendment is to force an agency to justify beforehand its request for information, leave a paper trail of the transaction, and only upon court agreement not notify an individual.

We must remember that the legal principle that the Government is not divisible is a clear and consistent one. We must remember that despite past abuses and information problems involving the Federal Government, legitimate needs for information remain. We still have the need to keep individuals from unduly delaying legitimate investigations. And, again in view of past abuses, we certainly have the need to insure that the confidentiality of financial records is reasonably protected.

My amendment meets these needs and I urge my colleagues to adopt it.

I would make one final statement. I have repeatedly stated that the issue of privacy is nonpartisan. Nothing reveals this phenomenon more clearly than the wide spectrum of individuals that have worked together to draft this title. I firmly believe we have drafted an excellent financial records privacy proposal and want to thank my colleagues for their dedicated effort. We are correcting a deficiency in the law that has existed for far too long. The quality of this title sets a high example for the Congress to meet when it takes up the task of addressing privacy protection in other areas such as medical information, educational records, amendments to the Privacy Act of 1974 and the general issue of Government access to non-Governmental information.

Mr. ST GERMAIN. Mr. Chairman, will the gentleman yield?

Mr. GOLDWATER. I yield to the gentleman from Rhode Island.

Mr. ST GERMAIN. Mr. Chairman, the gentleman's argument to date has been very convincing, and at this point, after conferring with Members on my side, we are prepared to accept the amendment, since the gentleman has been so convincing up to this point.

Mr. GOLDWATER. Mr. Chairman, I thank the gentleman.

Mr. STARK. Mr. Chairman, will the gentleman yield?

Mr. GOLDWATER. I yield to the gentleman from California (Mr. STARK), who has made great contributions in the field of privacy protection.

Mr. STARK. Mr. Chairman, I want to commend the gentleman in the well for the work he has done, along with our former colleague, Mr. Koch, who is now mayor of New York and who worked so hard on the Privacy Commission, along with other members of the Committee on Banking, Currency, and Housing. I wish to associate myself with the gentleman's remarks and urge the support of his amendment. I have enjoyed working over the years with the gentleman in a spirit of close cooperation to see that the privacy legislation which is coming to fruition today is finally being reported out.

Mr. Chairman, I thank the gentleman from California (Mr. GOLDWATER) for all his assistance. The gentleman has made a great contribution.

Mr. McKINNEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, during the Banking Committee markup of H.R. 13471 I became very involved in this title and its potential impact on the individual's right to financial privacy. I know that a number of my colleagues had carried the fight on the subcommittee level and had exacted major concessions from Federal agencies and departments. They deserve our congratulations for their efforts.

Politics is the art of compromise and as a practioner of this art I am supporting the language of this amendment to section 1112 as an improvement over the language in the committee bill. Section 1112 of H.R. 13471 as reported was added by me to temporarily derail a freight train being driven over the average American's rights by a group of faceless, nameless bureaucrats. That language was not perfect, but it did help me get the attention of those people downtown.

Through negotiation and compromises on both sides we have arrived at language which I think comes much closer to protecting the rights of the individual in maintaining some control over who has access to his or her financial records.

There are still differences of opinion, but this new language known as the Goldwater-McKinney amendment is a major breakthrough in protecting the American citizen from intrusion by the Federal Government. Although the Justice Department feels this amendment may create additional administrative burdens for Government agencies, it believes that "the new procedures are manageable and offer substantial new privacy protections to bank customers." I include a letter from the Justice Department expressing that opinion as part of my remarks.

In my personal conversations with representatives of the affected agencies I have put them on notice that this amendment is only the first step in an effort to provide the strongest safeguards for individual Americans against unwarranted invasion of their privacy by the bureaucracy. I may be an idealist but I still like to think that "Big Brother" could be our friend rather than our adversary.

The letter is as follows:

DEPARTMENT OF JUSTICE,
Washington, D.C., September 29, 1978.

Hon. BARRY M. GOLDWATER, Jr.,
House of Representatives,
Washington, D.C.

Hon. STEWART B. McKINNEY,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMEN GOLDWATER AND McKINNEY: When the House Committee on Banking, Finance and Urban Affairs considered The Right to Financial Privacy Act, Title XI of H.R. 13471, it included provisions which severely restrict the interagency transfer of information.

As reported by the full committee, Section 1112 of Title XI would make extremely difficult or impossible the legitimate use and sharing of bank record information, both within and among law enforcement and administrative agencies.

When this bill comes to the House floor next week, it is our understanding that you will offer an amendment to section 1112. The proposed amendment would allow transfers of information to further legitimate law enforcement inquiries; it would require transferring agencies to certify that transfers meet this new standard; and it would provide notification to bank customers after transfers have been made.

Although this amendment to section 1112 may create additional administrative burdens for government agencies, we believe these new procedures are manageable and offer substantial new privacy protections to bank customers. Consequently, the Department of Justice supports your amendment to section 1112.

Sincerely,

PATRICIA M. WALD,
Assistant Attorney General.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. GOLDWATER).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. LA FALCE

Mr. LaFALCE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. LaFALCE: Page 167, lines 19–21, delete "in the appropriate United States district court, with copies served upon such Government authority.", and insert "with copies served upon the Government authority. A motion to quash a judicial subpena shall be filed in the court which issued the subpena. A motion to quash an administrative summons or an application to enjoin a Government authority from obtaining records pursuant to a formal written request shall be filed in the appropriate United States District Court".

Page 172, lines 10–13, delete subsection 1113(c) in its entirety and insert:

"(c) Nothing in this title prohibits the disclosure of financial records in accordance with procedures authorized by the Internal Revenue Code.".

Page 172, line 20, insert after "Criminal Procedure" and before "in connection" the following: "or comparable rules of other courts".

Page 174, immediately following line 10 insert the following new subsection:

"(j) This title shall not apply when financial records are sought by the General Accounting Office pursuant to an authorized proceeding, investigation, examination or audit directed at a government authority."

Mr. LaFALCE (during the reading). Mr. Chairman, I ask unanimous consent

that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. LAFALCE. Mr. Chairman, this amendment is primarily corrective in nature. Since the passage of this title by the Banking Committee, it has come to my attention that in addition to the Federal Rules of Criminal Procedure, there are similar rules under which other courts, such as the Court of Claims and the Tax Courts, issue subpenas in cases where both the Government and a bank customer are parties, and which should be included in this exception. Also, it is necessary to exempt all procedures carried out under the Internal Revenue Code which has its own privacy protection provisions. The amendment also contains a clarification of the court in which a motion to quash a subpena is to be filed, so that the procedures will be absolutely clear to those wishing to intervene. Finally, an exception is created to allow the General Accounting Office to carry out its audit responsibilities under the Federal Banking Agency Audit Act passed earlier this year. There are instances in which the GAO seeks records directly from a financial institution in order to evaluate the regulatory agency. The purpose of the exception is to insure that these audits can continue unhindered.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. LAFALCE).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. PATTISON OF NEW YORK

Mr. PATTISON of New York. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. PATTISON of New York:

Page 149, lines 1–4, delete subsection (2) and insert:

"(2) "financial record" means an original of, a copy of, or information known to have been derived from, any record held by a financial institution pertaining to a customer's relationship with the financial institution;"

Page 150, line 5, delete "or".

Line 9, delete "and" and insert "or".

Lines 10–12, delete subsection (7) and insert:

"(I) any state banking or securities department or agency; and

(7) "law enforcement inquiry" means a lawful investigation or official proceeding inquiring into a violation of, or failure to comply with, any criminal or civil statute or any regulation, rule, or order issued pursuant thereto."

Page 153, lines 22–24, delete subsection (1) and insert:

"(1) there is reason to believe that the records sought are relevant to a legitimate law enforcement inquiry;"

Page 154, line 5, delete the colon and insert: "which shall state with reasonable specificity the nature of the law enforcement inquiry:"

Page 154, lines 13–25, delete paragraphs (1)–(3) and insert:

"(1) Fill out the accompanying motion paper and sworn statement or write one of your own, stating that you are the customer whose records are being requested by the Government and giving the reasons you believe that the records are not relevant to the legitimate law enforcement inquiry stated in this notice.

"(2) File the motion and statement by mailing or delivering them to the clerk of the United States District Court for the ————.

"(3) Serve the Government authority requesting the records by mailing or delivering a copy of your motion and statement to ————."

Page 155, line 2, delete "case" and insert "position."

Page 155, after line 2, insert: " '5. You do not need to have a lawyer, although you may wish to employ one to represent you and protect your rights.' "

Page 155, line 7, delete "available."; and" and insert: "available. These records may be transferred to other government authorities for legitimate law enforcement inquiries, in which event you will be notified after the transfer;" and"

Page 155, line 11, delete "an affidavit" and insert "a sworn statement"

Page 159 lines 22–24, delete subsection (1) and insert: "(1) such subpena is authorized by law and there is reason to believe that the records sought are relevant to a legitimate law enforcement inquiry;"

Page 160, line 3, delete the colon, and after line 3 insert: "together with the following notice which shall state with reasonable specificity the nature of the law enforcement inquiry:"

Page 160, lines 11–23, delete paragraphs (1)–(3), and insert:

"(1) Fill out the accompanying motion paper and sworn statement or write one of your own, stating that you are the customer whose records are being requested by the Government and giving the reasons you believe that the records are not relevant to the legitimate law enforcement inquiry stated in this notice.

"(2) File the motion and statement by mailing or delivering them to the clerk of the ———— Court.

"(3) Serve the Government authority requesting the records by mailing or delivering a copy of your motion and statement to ————."

Page 160, line 25, delete "case", and insert "position."

Page 160, after line 25, insert: " '5. You do not need to have a lawyer, although you may wish to employ one to represent you and protect your rights.' "

Page 161, line 5, delete " 'available.'; and" and insert: "available. These records may be transferred to other government authorities for legitimate law enforcement inquiries, in which event you will be notified after the transfer;" and"

Page 161, lines 22–24, delete subsection (3) and insert: "(3) there is reason to believe that the records sought are relevant to a legitimate law enforcement inquiry; and"

Page 161, line 9, delete "an affidavit" and insert: "a sworn statement".

Page 162, line 3, delete the colon and insert: "which shall state with reasonable specificity the nature of the law enforcement inquiry:"

Page 162, lines 11–25, delete paragraphs 1.–4. and insert:

"1. Fill out the accompanying motion paper and sworn statement or write one of your own, stating that you are the customer whose records are being requested by the Government and giving the reasons you believe that the records are not relevant to the legitimate law enforcement inquiry stated in this notice.

"2. File the motion and statement by mailing or delivering them to the clerk of the United States District Court for the ————.

"3. Serve the Government authority requesting the records by mailing or delivering a copy of your motion and statement to ————.

"4. Be prepared to come to court and present your position in further detail.

"5. You do not need to have a lawyer, although you may wish to employ one to represent you and protect your rights."

Page 163, lines 5–6, delete "available to the Government authority by the financial institution'; and" and insert: "available. These records may be transferred to other government authorities for legitimate law enforcement inquiries, in which event you will be notified after the transfer;" and"

Pape 163, line 10, delete "an affidavit" and insert "a sworn statement".

Page 163, lines 23–25, delete subsection (2) and insert: "(2) there is reason to believe that the records being sought are relevant to a legitimate law enforcement inquiry; and"

Page 164, lines 8–10, delete the period and insert: "to the same extent as the circumstances in the preceding subparagraphs.

An application for delay must be made with reasonable specificity.".

Page 165, line 10, delete the colon and insert: "which shall state with reasonable specificity the nature of the law enforcement inquiry:"

Page 166, line 25, delete the colon and insert: "which shall state with reasonable specificity the nature of the law enforcement inquiry:"

Page 168, lines 1–5, delete subsection (2) and insert: "(2) stating the applicant's reasons for believing that the financing records sought are not relevant to the legitimate law enforcement inquiry stated by the Government authority in its notice, or that there has not been substantial compliance with the provisions of this title.

Page 168, lines 13–14, delete "made the requisite showing in" and insert: "complied with".

Page 169, lines 1–2, delete "there is reason to believe that the records sought contain information", and insert: "the Government authority has shown there is reason to believe that the records sought are".

Page 169, line 3, delete "purpose" and insert "inquiry".

Page 169, lines 10–11, delete "there is reason to believe that the financial records do not contain any information: and insert: "the Government authority has not shown there is reason to believe that the financial records are".

Page 169, line 12, delete "purpose" and insert "inquiry".

Page 173, line 7, delete "purpose" and insert "inquiry".

Mr. PATTISON of New York (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. PATTISON of New York. Mr. Chairman, this is a perfecting amendment to the part of the title that sets up a process whereby records that are held by banks can be obtained by law enforcement agencies only after a process involving notification of the customer, giving the customer a chance to object or to consent, and giving that customer the right—which he does not have under the law now, under the Miller case—to go into court in a very simple way to object to the Government looking at his records.

My amendment merely makes it a lot easier for the customer to live with whatever slight burden that the customer has now, to object and to get into court so that he is not involved with lawyers anymore than is necessary, so

that the process can go forward but, at the same time, not allowing frivolous objections to the Government looking at his record.

My amendment simply changes some definitions. It changes "law enforcement purpose" to a "law enforcement inquiry," and defines that. It requires a much greater specificity on the part of the law enforcement agency in their subpena or in their administrative summons or in their informal request to say precisely what it is they are looking for, so that the customer can be on notice as to whether he is involved or whether he is not involved. It changes some words and simplifies the language, so that instead of using words like "affidavit" it uses the words "sworn statement." Instead of using the word "case" it uses the word "position." These are words that are simpler for a layman to understand. It advises the customer that he has a right, although he is not required, to consult with a lawyer, so that he is on notice, he has a right to do that, although it advises him it is not necessary to do it. It advises him that the information may possibly be transferred to another agency, pursuant to the Goldwater-McKinney amendment, and it advises him that, if it is transferred, he has certain rights under those circumstances.

Mr. Chairman, basically, my amendment, which has been worked out with most of the people who have been involved in this process—the Justice Department and other parties involved in this process—and has been agreed to by them, is a perfecting amendment and makes it somewhat simpler for the whole process to work.

Mr. Chairman, I urge the adoption of my amendment.

AMENDMENT OFFERED BY MR. M'KINNEY TO THE AMENDMENT OFFERED BY MR. PATTISON OF NEW YORK

Mr. McKINNEY. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. McKINNEY to the amendment offered by Mr. PATTISON of New York: On page 2, point 5 and on page 4, point 19, paragraph (2) is amended to read as follows:

"(2) File the motion and statement by mailing or delivering them to the clerk of any one of the following United States District Courts: ————————."

Mr. McKINNEY (during the reading). Mr. Chairman, I ask unanimous consent that the amendment to the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

Mr. McKINNEY. Mr. Chairman, I would just like to congratulate the gentleman from New York (Mr. PATTISON) on his amendment. I think we must have listened to the words of a President by the name of Lincoln because we all decided to get together instead of sinking separately.

This amendment is a very simple one. The way the amendment offered by the gentleman from New York (Mr. PATTISON) reads, it would mean that the customer would have to go to the very bank that the Federal Government is using. Since most of these cases would come out of Washington and the person could live in a place such as California, it seems like an undue burden. This would allow the customer the option of going to whatever district court that is the closest to him and thereby giving him the advantage of faster service and reply.

Mr. PATTISON of New York. Mr. Chairman, will the gentleman yield?

Mr. McKINNEY. I yield to the gentleman from New York.

Mr. PATTISON of New York. Mr. Chairman, let me say that the gentleman's amendment is a very constructive amendment. It certainly solves the problem of cases in which a person might be inconvenienced by distance. So far as I am concerned, the amendment to the amendment is acceptable.

Mr. McKINNEY. I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Connecticut (Mr. McKINNEY) to the amendment offered by the gentleman from New York (Mr. PATTISON).

The amendment to the amendment was agreed to.

AMENDMENT OFFERED BY MR. STARK TO THE AMENDMENT, AS AMENDED, OFFERED BY MR. PATTISON OF NEW YORK

Mr. STARK. Mr. Chairman, I offer an amendment to the amendment, as amended.

The Clerk read as follows:

Amendment offered by Mr. STARK to the amendment, as amended, offered by Mr. PATTISON of New York: On page 2, point 5, paragraph 1 is amended to read as follows:

"Fill out the accompanying motion paper and sworn statement or write one of your own, stating that you are the customer whose records are being requested by the government and either giving the reasons you believe that the records are not relevant to the legitimate law enforcement inquiry stated in this notice or any other legal basis for objecting to the release of the records."

On page 3, point 12, paragraph 1 is amended to read as follows:

"Fill out the accompanying motion paper and sworn statement or write one of your own, stating that you are the customer whose records are being requested by the government and either giving the reasons you believe that the records are not relevant to the legitimate law enforcement inquiry stated in this notice or any other legal basis for objecting to the release of the records."

On page 4, point 19, paragraph 1 is amended to read as follows:

"Fill out the accompanying motion paper and sworn statement or write one of your own, stating that you are the customer whose records are being requested by the government and either giving the reasons you believe that the records are not relevant to the legitimate law enforcement inquiry stated in this notice or any other legal basis for objecting to the release of the records."

Mr. STARK (during the reading). Mr. Chairman, I ask unanimous consent that the amendment to the amendment, as amended, be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. STARK. Mr. Chairman, I am offering an amendment to H.R. 13471, concerning the notice that will be given to the customer when the Government requests access to financial records.

Under the bill, the customer can challenge a request by a governmental agency to look at financial records by stating his or her reasons for believing that the records are not relevant to the law enforcement inquiry. I believe that this standard can be met if the customer can truthfully reply that he or she has no knowledge of the inquiry or investigation; or that he or she has not violated any laws. This sworn statement would then be filed in a district court and the matter would be settled before a magistrate with both sides being given an opportunity to present their reasons in greater detail.

My amendment would make clear that the customer could challenge a request by a governmental agency for other reasons, as well. The motion would be sufficient to initiate a judicial proceeding if it only cited legal grounds to object to the summons. Some of these grounds involve claims that the summons is too broad, the request exceeds the authority of the governmental agency, or that the Government is harassing the customer.

In this way, we can insure that the rights of the customer are protected and that in most cases a court will resolve the issue. I am concerned that we strike that very delicate balance between the needs of law enforcement agencies and the rights of the individual. I feel that my amendment maintains that balance while strengthening the protections for the individual.

I would like to thank the Department of Justice and the chairman of the subcommittee and many others that have been involved in the process that has achieved the legislation that is before us. Title XI represents a true compromise among many diverse interests. It is another step in the fight to protect people's privacy, while I urge its adoption.

Mr. PATTISON of New York. Mr. Chairman, will the gentleman yield?

Mr. STARK. I yield to the gentleman from New York.

Mr. PATTISON of New York. Mr. Chairman, as I understand the gentleman's amendment, his amendment simply adds the language, "or any other legal basis for objecting to the release of the records," to my language.

Mr. STARK. That is correct.

Mr. PATTISON of New York. Well, I certainly have no objection to that. That is really, I would say, in line with my language anyway, and I have no objection.

Mr. STARK. I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. STARK) to the amendment, as amended, offered by the gentleman from New York (Mr. PATTISON).

The amendment to the amendment, as amended, was agreed to.

AMENDMENT OFFERED BY MR. MATTOX TO THE AMENDMENT, AS AMENDED, OFFERED BY MR. PATTISON OF NEW YORK

Mr. MATTOX. Mr. Chairman, I offer an amendment to the amendment, as amended.

The Clerk read as follows:

Amendment offered by Mr. MATTOX to the amendment, as amended, offered by Mr. PATTISON of New York: Page 6, strike out items 28, 29, 30, and 31, and insert in lieu thereof the following:

Page 169, line 2, after the word "is", strike everything beginning with the word "reason" through the comma after the word "title" in line 5, and insert in lieu thereof the following: a demonstrable reason to believe that the law enforcement inquiry is legitimate and a reasonable belief that the records sought are relevant to that inquiry.

Mr. MATTOX (during the reading). Mr. Chairman, I ask unanimous consent that the amendment to the amendment, as amended, be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

Mr. ROUSSELOT. Mr. Chairman, reserving the right to object, these are the three amendments the gentleman just gave us?

Mr. MATTOX. Yes.

Mr. ROUSSELOT. Which one?

Mr. MATTOX. This is the one on the test of reasonableness entitled, "Amendment to the Pattison amendment."

Mr. ROUSSELOT. Is the gentleman doing them one at a time?

Mr. MATTOX. One at a time.

Mr. ROUSSELOT. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. MATTOX. Mr. Chairman, prior to computer banking, the bank customer was the only person who actually held copies of his or her checks. The bank kept records by number only, and if the Government wanted to pursue an individual's bank records, it had to obtain a search warrant and serve it on the individual.

Now, because copies of all checks are microfiched and kept in the bank, a Federal agent can simply walk into a bank and ask for the records. The customer never knows about it, and certainly, no one ever asks if his motives are legitimate. In other words, your bank records become his bank records anytime he wants them, and it is very easy to build a detailed dossier on an individual and how he lives, by using bank records.

As a former prosecutor, I was witness to many such invasions of the lives of innocent individuals. These intrusions were sometimes political, sometimes executed to get information with which to get a plea to a lesser offense, and sometimes used for just plain harassment. I am sure I need not enumerate the more obvious lapses of judgment of the Justice Department and the FBI in the recent past.

Because I do not believe that either H.R. 13471, as reported, or the Pattison amendment provide enough protection, I am offering an amendment. It will do nothing more than assure that when an investigator goes into an individual's records, it is for a specific investigation, and because the records he wants have some relevance to that investigation. Without these assurances, the fishing expeditions, the intimidation, the threats will not be stopped.

I would like to say that I have been involved in extended negotiations on this amendment with the Justice Department officials, and others from the administration who have indicated to me a genuine interest in cleaning up the abuses of the past. I now believe that this Justice Department is legitimately interested in privacy protection and they have worked with me in good faith to achieve a balance. Now, I am happy to say, they do not oppose this language I am offering.

This is not a probable cause test. It is merely a "reasonableness" test. And because I believe that this bill will be used in the future to shape similar privacy guarantees for medical and insurance records, it is important to draft this bill tightly—exactly as we mean it. I do not feel that the standard is too high. It will not even take us back as consumers to our position before copies of all of our checks were photocopied and stored at each bank. This is a most important vote if we are going to accomplish for our constituents that which they have been asking us to do—get the government off their backs. People want their financial records to belong to them. They want the government out of their business. They do not want to become victims of more "computerization" of our society because now, bank records are stored in computers instead of at home in a privately-kept box. Please consider my amendment carefully. It is important to your people.

It is my understanding that my amendment has been a long sought after and much debated type of compromise between the Justice Department and the Banking Committee, and I understand there is no objection to the amendment.

Mr. ST GERMAIN. Mr. Chairman, if the gentleman will yield, I would say to my colleague that what he states is correct. This side has looked at the amendment and again it is a matter of an acceptable compromise and we would have no objection.

Mr. PATTISON of New York. Mr. Chairman, if the gentleman will yield, I accept the amendment. I am informed that the Justice Department does not oppose this language change. As I understand Mr. MATTOX's amendment, it is intended to clarify the showing that the Government must make before it can obtain financial records. The first clause—that the Government must have a demonstrable reason to believe that the law enforcement inquiry is legitimate—will insure that only legitimate investigations gain access to records. An investigation conducted solely for purposes of political harassment or intimidation or otherwise in bad faith is not legitimate.

While title XI allows an inquiry into the legitimacy of a law enforcement investigation, it does not authorize a court to conduct a qualitative analysis of the basis for the Government's initiating a case. We cannot have courts running investigations. That is the job of the executive branch. We do not want judges standing over prosecutors telling them when they have enough evidence to begin an investigation.

The second phrase in Mr. MATTOX's amendment—that there is a reasonable belief that the records sought are relevant to the legitimate law enforcement inquiry in question—is simply a rephrasing of the standard now in the bill—reason to believe that the records sought are relevant. "Reasonable belief" and "reason to believe" mean the same thing. "Reasonable belief" does not mean "probable cause." We all agree that probable cause is far to high a standard to meet in the early stages of an investigation.

Mr. STANTON. Mr. Chairman, will the gentleman yield?

Mr. MATTOX. I yield to the gentleman from Ohio.

Mr. STANTON. Mr. Chairman, the minority has no objection to this amendment.

I compliment the gentleman for taking the time to work this out. I think it is appropriate for him to do that. Many of us were so involved in this committee on this matter for so many months of confrontation with the Justice Department and we have reached a great deal of consensus, but I think it is a help to the Members that the gentleman has taken the time to work this out. I compliment the gentleman. This was one of the toughest points, if not the toughest point, to settle. Again I compliment the gentleman.

Mr. LAFALCE. Mr. Chairman, will the gentleman yield?

Mr. MATTOX. I yield to the gentleman from New York.

Mr. LAFALCE. Mr. Chairman, I accept the amendment. I am informed that the Justice Department does not oppose this language change. As I understand Mr. MATTOX's amendment, it is intended to clarify the showing that the Government must make before it can obtain financial records. The first clause—that the Government must have a demonstrable reason to believe that the law enforcement inquiry is legitimate—will insure that only legitimate investigations gain access to records. An investigation conducted solely for purposes of political harassment or intimation or otherwise in bad faith is not legitimate.

While title XI allows an inquiry into the legitimacy of a law enforcement investigation, it does not authorize a court to conduct a qualitative analysis of the basis for the Government's initiating a case. We cannot have courts running investigations. That is the job of the executive branch. We do not want judges standing over prosecutors telling them when they have enough evidence to begin an investigation.

The second phrase in Mr. MATTOX's amendment—that there is a reasonable belief that the records sought are relevant to the legitimate law enforcement inquiry in question—is simply a rephrasing of the standard now in the bill—reason to believe that the records sought are relevant. "Reasonable belief" and "reason to believe" mean the same thing. "Reasonable belief" does not mean "probable cause." We all agree that probable cause is far too high a standard to meet in the early stages of an investigation.

Mr. MATTOX. Mr. Chairman, I ask for the adoption of the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. MATTOX) to the amendment, as amended, offered by the gentleman from New York (Mr. PATTISON).

The amendment to the amendment, as amended, was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. PATTISON), as amended.

The amendment, as amended, was agreed to.

AMENDMENT OFFERED BY MR. MATTOX

Mr. MATTOX. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MATTOX:

Page 174, line 8, delete "section 1115)" and insert "sections 1115 and 1120)".

Page 179, strike out line 15 and all that follows thereafter through page 180 line 4, and insert in lieu thereof the following:

(2) shall be used only for the purpose of considering whether to issue an indictment or presentment by that grand jury, or of prosecuting a crime for which that indictment or presentment is issued, or for a purpose authorized by Rule 6(e) of the Federal Rules of Criminal Procedure;

(3) shall be destroyed or returned to the financial institution if not used for one of the purposes specified in paragraph (2); and

(4) shall not be maintained, or a description of the contents of such records shall not be maintained by any Government authority other than in the sealed records of the grand jury, unless such record has been used in the prosecution of a crime for which the grand jury issued an indictment or presentment or for a purpose authorized by Rule 6(e) of the Federal Rules of Criminal procedure.

Mr. MATTOX (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

Mr. ROUSSELOT. Mr. Chairman, reserving the right to object, I would ask the gentleman from Texas (Mr. MATTOX) if this is the amendment that relates to prosecutors and how they proceed?

Mr. MATTOX. Yes; and it applies to evidence provided to the grand juries.

Mr. ROUSSELOT. I thank the gentleman and I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. MATTOX. Mr. Chairman, this amendment represents a compromise with the Department of Justice who felt that my original committee amendment would unduly hinder investigations by placing too strict restrictions on what they could do with information obtained under a grand jury subpena.

As I am offering it here, this amendment gives individuals far more protection than they have ever had from abuses which come from leaks and transfers of information.

First, it says that information obtained under grand jury subpena must be returned to the grand jury. The privacy commission found that in many cases—including the historic Miller case—information was never even given to the grand jury whose power was invoked in order to get that information.

Second, my amendment would stop the wholesale transfers of information between Government agency personnel by requiring that all transfers be limited to those which are allowed under rule 6(e) of the rules of criminal procedure. Rule 6(e) now prevents "fishing expeditions" by permitting access to grand jury materials without a court order only to Department of Justice attorneys for criminal and civil law enforcement purposes, and to Government investigators of criminal activities. Any other disclosure even to attorneys outside the Justice Department, to civil investigators, or to State authorities, requires the specific approval of a Federal district court. This amendment would mean that records could be used to prosecute.

The final portions of my amendment assure that once the information has been used by the grand jury it is either destroyed, put under closed seal, or returned to the financial institution, not maintained within the files of the Justice Department, or any other Government agency.

These are significant measures because they close several gapping loopholes in grand jury procedure which in the past, have allowed Government attorneys to abuse people by allowing grand jury evidence to be transferred around at their discretion, or to leak out and cause harm.

At any rate, again, our people need the protection of this amendment and I urge its passage.

Mr. Chairman, I think the amendment is acceptable to the gentleman from Rhode Island (Mr. ST GERMAIN). I would hope the amendment would be agreed to.

Mr. ST GERMAIN. Mr. Chairman, will the gentleman yield?

Mr. MATTOX. I am happy to yield to the gentleman from Rhode Island.

Mr. ST GERMAIN. Mr. Chairman, we accept the amendment.

Mr. MATTOX. I thank the gentleman.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. MATTOX. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Chairman, this appears to us to be a very well thought out amendment, and we accept it.

Mr. MATTOX. I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. MATTOX).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. MATTOX

Mr. MATTOX. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MATTOX: Page 165, strike out line 20 and all that follows thereafter through page 166, line 17.

Page 166, line 18, strike out "(d)" and insert "(c)".

Page 167, line 7, strike out "(e)" and insert "(d)".

Page 174, lines 12 and 13, strike out "sections 1115 and 1117" and insert "sections 1115, 1117, 1118, and 1121".

Page 176, line 3, strike out "1109(c)" and insert "1109(c)".

Page 180, immediately after line 4, insert the following new section:

REPORTING REQUIREMENTS

SEC. 1121. (a) In April of each year, the Director of the Administrative Office of the United States Courts shall send to the appropriate committees of Congress a report concerning the number of applications for delays of notice made pursuant to section 1109 and the number of customer challenges made pursuant to section 1110 during the preceding calendar year. Such report shall include: the identity of the Government authority requesting a delay of notice; the number of notice delays sought and the number granted under each subparagraph of section 1109(a)(3); the number of notice delay extensions sought and the number granted; and the number of customer challenges made and the number that are successful.

(b) In April of each year, each Government authority that requests access to financial records of any customer from a financial institution pursuant to section 1104, 1105, 1106, 1107, 1108, 1109, or 1114 shall send the appropriate committees of Congress a report describing requests made during the preceding calendar year. Such report shall include the number of requests for records made pursuant to each section of this title listed in the preceding sentence and any other related information deemed relevant or useful by the Government authority.

Mr. MATTOX (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD at this point.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

Mr. ROUSSELOT. Mr. Chairman, reserving the right to object, and I shall not object, will the gentleman explain briefly what his third amendment does?

Mr. MATTOX. Mr. Chairman, if the gentleman will yield, this amendment basically amends that section of the bill that requires reporting by the administrative offices or agencies and also for the agencies requesting access to the banking records.

Mr. ROUSSELOT. Mr. Chairman, I thank the gentleman, and I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. MATTOX. Mr. Chairman, the purpose of this amendment is to improve the congressional oversight mechanism of the Right to Financial Privacy Act of 1978. At present, the bill requires the Administrative Office of the U.S. Courts to transmit an annual report on Congress including the number of applications for notice delays, the number of delay extensions, and related information. Given the large number of exceptions and special provisions in the bill, this report will not provide sufficient information to permit future Congresses to evaluate the effect of the Right to Financial Privacy Act on agency investigative operations, on the courts, and on the individual's right to privacy.

In addition, the present language re-

quires the Administrative Office to include in its report information that will be difficult to collect and burdensome to report. For example, the report must contain a description of the nature of each investigation that generated an application for a notice delay. This could require a separate and detailed statement about each application that is filed. Such a report could be very lengthy and expensive to prepare.

My amendment cures all of these defects:

First, it requires that the annual report include information on the number of customer challenges filed and the number of challenges that are successful, in addition to the number of notice delays and extensions sought and granted. The customer challenge provision is at the heart of the bill and specific information on its operation will be vital. The lack of reliable information on the comparable provision in the Tax Reform Act has made it difficult to evaluate that act's effect.

Second, the amendment requires agencies to report on the number of requests for bank records that are made each year and on the legal authority for each request. This will permit the next Congress to learn which of the act's provisions are being used the most and which agencies are seeking access to bank records. This is a simple and easy form of oversight that will permit us to determine if there is any abuse of the access authority granted under the act.

Third, under the amendment, all required reports are statistical only. This means that there will be no excessive and expensive paperwork needed to comply with the reporting requirement. Reports from agencies should be no longer than one or two pages and will include information that will be easy to compile. The report from the Administrative Office of the Courts will also be statistical in nature and should not be too hard to prepare.

I am pleased to be able to say that the administration supports this amendment. I urge all of my colleagues to do the same.

Mr. ST GERMAIN. Mr. Chairman, will the gentleman yield?

Mr. MATTOX. I yield to the gentleman from Rhode Island.

Mr. ST GERMAIN. Mr. Chairman, we have reviewed the amendment and we accept the amendment.

Mr. MATTOX. I thank the gentleman.

Mr. CAVANAUGH. Mr. Chairman, will the gentleman yield?

Mr. MATTOX. I yield to the gentleman from Nebraska.

Mr. CAVANAUGH. Mr. Chairman, I would like to commend the gentleman from Texas (Mr. MATTOX) my very good friend, for the distinctive and imaginative role the gentleman has played in connection with this legislation, and upon the amendments the gentleman has offered today. I support the gentleman's amendments.

Mr. MATTOX. I thank the gentleman.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. MATTOX. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Chairman, as I announced previously, I think this is a good amendment and we accept it.

Mr. MATTOX. I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. MATTOX).

The amendment was agreed to.

Mr. ROUSSELOT. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to discuss briefly with my colleague, the gentleman from Nebraska (Mr. CAVANAUGH) who has labored long and hard, along with the gentleman from Connecticut (Mr. MCKINNEY), the gentleman from New York (Mr. PATTISON), and others on this legislation, relating to the "formal written requests." My comment is directed to the impact of section 1108 of the bill, entitled "Formal Written Request."

I want to be absolutely certain that we are not creating new authority for certain governmental agencies to collect information.

In addition, I want to insure that we are not creating a new method of information gathering which does not already exist.

Briefly, therefore, my question to my colleague, the gentleman from Nebraska (Mr. CAVANAUGH) is, "Do we create new authority by this particular title, or do we merely circumscribe existing authority?"

Mr. CAVANAUGH. Mr. Chairman, will the gentleman yield?

Mr. ROUSSELOT. I am glad to yield to the gentleman from Nebraska.

Mr. CAVANAUGH. Mr. Chairman. I appreciate the gentleman's yielding.

The gentleman asked an extremely important question, I think, which needs clarification in the record here.

The answer to the question would be that we are not creating any new authority for agencies of Government to collect information by any method that does not already exist. However, what we are doing in section 1108 is prescribing certain criteria for the collection of that information which does not currently exist; that is to say, that certain Government agencies now can go into and have access to financial records without any accountability or without any standards applying to that access. This applies the standards of the legislation, of title XI, to that access and requires the accountability contained in title XI to appertain to all Government access to financial records, whether it is pursuant to an administrative subpena, an administrative summons or subpena authority, and even in spite of the fact that it is not pursuant to those authorities, but pursuant to some other agency authority.

Mr. ROUSSELOT. Mr. Chairman, I appreciate my colleague's response. I think, for the record, that he, as one of those who helped draft this section, makes that point very clear.

Would my colleague, the gentleman from New York, wish to respond further?

Mr. PATTISON of New York. Mr. Chairman, will the gentleman yield?

Mr. ROUSSELOT. I am glad to yield to the gentleman from New York.

Mr. PATTISON of New York. Mr. Chairman, section 1108, subparagraph (2), which is the "Formal Written Request" section, says that the request is authorized by regulations promulgated by the head of the agency or department.

That obviously has to be pursuant to some statutory authority which that agency or department either has now or will obtain in the future by statute. It does not give them the right to adopt regulations.

That does not create the authority; it just sets forth the procedure.

Mr. ROUSSELOT. Mr. Chairman, I appreciate my colleague's further elaborating. I think that makes that point very clear so that all can know what was intended.

Additional comments or questions which I have relating to the use of information have to do with so-called "routine use".

Under the Privacy Act of 1974, the so-called "routine use" exemption provided under subsection (3)(b)(3) of the Privacy Act, is widely regarded as a loophole. It allows the free, informal, and unregulated exchange of private information among Government agencies without informing the individual, much less getting the consent of the individual.

If we are to be serious about financial privacy, as I think we have all indicated here today, the "routine use" loophole must be closed. It appears that the provision in section 1112 entitled "Use of Information," closes that loophole as it applies to financial records.

Therefore, Mr. Chairman, for the sake of legislative history, may I assume that as far as the financial records are concerned, there is no "routine use" exemption. Is that the gentleman's understanding?

Mr. CAVANAUGH. Mr. Chairman, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from Nebraska.

Mr. CAVANAUGH. I thank the gentleman for yielding.

That is specifically the reason for this section. If I could read for the gentleman the specific language of section 1112 as reported by the Banking Committee, it states:

> Copies of or the information contained in financial records obtained pursuant to section 1102 or obtained by a Government authority under the exceptions provided in section 1113 or the special procedures provided in section 1114 shall not be used or retained in any form for any purpose other than the specific statutory purpose for which the information was originally obtained, nor shall such information or records be provided to any other governmental department or agency or other person except where the transfer of such information is specifically authorized by statute.

So this information, again pursuant to title XI, the authorities and procedures provided in title XI, cannot further be disseminated except for specific statutory purposes under the committee version, and there is no loophole in title XI or the procedures set out in title XI which would allow agencies to engage in "routine use" of the information.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. ROUSSELOT was allowed to proceed for 2 additional minutes.)

Mr. ROUSSELOT. Again, that is a very complete statement, and I thank the gentleman for quoting that part of the title we are now concerned with.

Mr. PATTISON of New York. Mr. Chairman, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from New York.

Mr. PATTISON of New York. I thank the gentleman for yielding.

In the bill as passed out of the Committee on Banking, Finance, and Urban Affairs there was a prohibition of transfer totally, and that has now been changed by the Goldwater-McKinney amendment which is a great improvement and which does in fact allow transfer but only under very circumscribed procedures. The agency that wants that information must certify to the agency that has the information that it is for legitimate law enforcement inquiry, and the notification must be given to the customer, as is not true with routine use under the Privacy Act. So I think we have greatly improved the transfer of information back and forth between agencies with reference to this section, particularly as it relates to financial transactions.

Mr. ROUSSELOT. I thank my colleague, the gentleman from New York, for the description which I think is helpful for the record to redefine, as we are trying to do here, what is intended by this title.

Mr. Chairman, I yield back the remainder of my time.

The CHAIRMAN. Is there a further amendment to title XI?

AMENDMENT OFFERED BY MR. STARK

Mr. STARK. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. STARK: Page 153, lines 18 and 19, strike out "(a) Except as provided by subsection (b) a" and insert in lieu thereof "A".

Page 155, strike out line 15 and all that follows thereafter through page 158, line 4.

Page 163, line 17, strike out "1105(a)(2)" and insert in lieu thereof "1105(2)".

Mr. STARK (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. STARK. Mr. Chairman, we are now considering the right to financial privacy title of the Financial Institutions Regulatory Act. I have been personally involved in the issue of protecting people's financial records since the Bank Secrecy Act became law. We all know the extent to which financial records portray a detailed outline of a person's life. We also know that Government agencies have, in the past, ravaged through these records on pure fishing expeditions often for political purposes. This section of H.R. 13471 represents a major step forward in the effort to protect the privacy of people's financial records from unwarranted instrusions by Government agencies.

There is a flaw in the construction of this title, that I seek to correct. The Securities and Exchange Commission has been given an exemption from all provisions of this title.

The exemption for the SEC threatens to dangerously undermine the basic intent of the Right to Financial Act. Under this title agencies can still gain access to the records. They can either obtain the permission of the customer, the most common method, or after answering a customer's challenge of the need for the records and proving to a magistrate that the records are, indeed, necessary to conduct an investigation. Furthermore, the title allows for a suspension of the notification provisions in cases where life or effective prosecution are threatened. These emergency access provisions are sufficient to allay the fears of the Justice Department and every other agency in the Government except the SEC.

I realize that the SEC has very stringent procedures governing the issuance of subpenas. I fear, however, that by granting any agency of the Government exemption from this title we are setting a precedent for future challenges to the integrity of this title by other agencies. In other words, once we have started down the road of giving exemptions we end up with a meaningless set for protections.

I do understand that agencies may, at some point, find that specific cases require suspension of the provisions of the act and I feel we would be willing to examine such requests as they become necessary. To my knowledge, the SEC has not submitted language that would suit contingency situations, but has solidly maintained a position that the exemption is the only thing they can live with.

I hope that you will support me in this effort. I am joined by the American Bankers Association and the American Civil Liberties Union in attempting to strike this exemption. I see little justification in granting an exemption for one agency of the Government when every other law enforcement body must meet the provisions of this title. The issue is whether we can guarantee to the people that their legal rights will be protected in all cases where the Government wants access to financial records. By supporting this amendment we can make sure that is the case.

Mr. McKINNEY. Mr. Chairman, will the gentleman yield?

Mr. STARK. I yield to the distinguished gentleman from Connecticut.

Mr. McKINNEY. I thank the gentleman for yielding.

I would just like to congratulate the gentleman on his amendment. I think that since we have changed this legislation, there is no further reason for keeping the SEC exempted, and I think the gentleman's amendment is very good and should be passed.

Mr. STARK. I thank the gentleman for his comments.

Mr. MATTOX. Mr. Chairman, will the gentleman yield?

Mr. STARK. I yield to the gentleman from Texas.

Mr. MATTOX. I thank the gentleman for yielding.

I would like to associate myself with the remarks of the gentleman. I think he is absolutely right that in the early stages of developing this legislation there may have been justification at that time for excluding the SEC, but after we went through the process of adding in all the different provisions, there is absolutely no reason to exclude them. The banking institutions need to know exactly what provisions they should comply with. I think if they are consistent, it would be very helpful to them and the public, and helpful to the Congress. I commend the gentleman for his work.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. STARK. I yield to my colleague, the gentleman from California.

Mr. ROUSSELOT. Mr. Chairman, I think the gentleman's amendment is reasonable. As the gentleman knows, we discussed this in the committee rather extensively. I think that the reason the SEC had asked for special consideration is that they really had operated for some time on a fairly careful basis, so I do not think there is any attempt on the gentleman's part to say they have not done that job with discretion.

Mr. STARK. Mr. Chairman, the gentleman is quite correct.

Mr. ROUSSELOT. I think the point is that some of us feel they should be subject to the same restrictions as other Government institutions: so I say to my colleague, I supported the gentleman's concept in the committee, although we were not successful.

Mr. STARK. Mr. Chairman, I thank the gentleman from California.

Mr. ECKHARDT. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I want to congratulate this committee on its salubrious provision providing special rules respecting the SEC concerning subpenas. This committee very properly dealt with the general question, but excluded in the bill the IRS, which is governed by the tax code and also effectively excluded the Justice Department, which is excluded by virtue of the exclusion of matters before grand juries.

There are only three agencies of Government which deal extensively with white collar crime. They are the Justice Department, IRS and the SEC. All three of those should be excluded from the general provisions.

I am sure this committee recognizes, of course, that the gentleman from California (Mr. STARK) is knowledgeable with respect to IRS; so is the gentleman's Committee on Ways and Means, and the committee has dealt with that subject within the tax code.

The subcommittee of which I am chairman is the Committee on Consumer Protection and Finance. We deal with one of the other agencies, SEC.

As the distinguished gentleman from California (Mr. ROUSSELOT) intimated, SEC has not been criticized for abuses in this area, and I think it has come up

against the least criticism with respect to overreaching in its functions.

Let me tell you why it is so very important not to include a provision requiring a prior notice of subpena in cases involving the SEC, restricted to the situation of banks.

One of the major functions of the SEC is to find the type of stock manipulations which may presently legally be done in Swiss banks, but which cannot be done, and cannot be hidden, in this country.

Mind you, documents sought to be found and subject to the subpena are not documents owned by the person who may be suspected of stock fraud. They are instruments that are held and are part of the records of the bank itself.

The practice is this: SEC subpenas all records of the bank having to do with the suspect type of stock transaction. They do not seek a subpena against Joe Blow, the suspected offender. You get a subpena against the bank, asking the bank to produce those records over a certain period of time, relating to similar transactions that are suspected of being wrongful acts on the part of all persons dealing in the market in a manner which indicates illegal activity.

When they get the information, which may reflect a number of transactions in a day, maybe over a very short period of time, they attempt to identify the persons who are, or appear to be, lawbreakers. If the SEC must give 14 days notice to the suspected malefactor, and it cannot identify who the malefactor is, it is in an impossible situation.

If we want an agency that has a good record and perhaps the heaviest duty with respect to preventing white collar fraud to be totally crippled, we can make them do the impossible: that is make them identify the malefactor before the records that would reflect the series of transactions which are illegal can be obtained.

Mr. Chairman, there is another problem with this amendment with respect to the SEC's activities: That is, the the transactions which may be illegal and which may be condemned under the Securities Act may be performed through brokerage firms or may be performed through banks.

The CHAIRMAN. The time of the gentleman from Texas (Mr. ECKHARDT) has expired.

(On request of Mr. STARK, and by uanimous consent, Mr. ECKHARDT was allowed to proceed for 2 additional minutes.)

Mr. ECKHARDT. To continue, Mr. Chairman, if the transaction is done through the brokerage firm, then the brokerage firm's records may be subpenaed, but if it is done through a bank and if we pass this special regulatory provision, it will force the malefactors to go to the bank and use it as a cover, thus making the bank a kind of refuge for those who would manipulate in the stockmarket and who would delay the time in which their manipulations could be uncovered. We would merely drive the transactions from the brokerage office to the bank.

Now, I think all of this is terribly complicated, and it is a difficult thing to attempt to go into the precise nature of securities market operations here. But SEC is very strongly opposed to this. All of those who deal with the SEC, including the gentleman from California (JOHN MOSS), who has been the prior chairman of the subcommittee of which I am now chairman, and all those who have been dealing with the specific subject are against the amendment.

Mr. STARK. Mr. Chairman, will the gentleman yield on that subject?

Mr. ECKHARDT. I yield to the gentleman from California.

Mr. STARK. Mr. Chairman, it was my understanding during my discussion with the subcommittee chairman, the gentleman from California (Mr. MOSS), this afternoon, that he would be supporting my amendment and had no objection to it.

Mr. ECKHARDT. Mr. Chairman, we had better get the chairman of the subcommittee, the gentleman from California (Mr. MOSS), to come in and say that, then, because he and I both wrote the letter that resulted in the exemption, and I think the subcommittee chairman will recognize that that is the case.

The CHAIRMAN. The time of the gentleman from Texas (Mr. ECKHARDT) has again expired.

(On request of Mr. PATTISON of New York, and by unanimous consent, Mr. ECKHARDT was allowed to proceed for 2 additional minutes.)

Mr. PATTISON of New York. Mr. Chairman, will the gentleman yield to me?

Mr. ECKHARDT. I yield to the gentleman from New York.

Mr. PATTISON of New York. Mr. Chairman, I think this is a complicated matter, and I think that some things ought to be pointed out.

No. 1, this bill does not exempt the SEC precisely. It makes some rules that are a little bit different as regards the SEC. It says that they do not have to notify in advance and go through the process, but it does specifically preserve one very important thing for the customer which he does not now have, and that is that under this legislation he has standing, standing to sue. He must be notified after the SEC has gone to the records.

Mr. STARK. Mr. Chairman, will the gentleman yield?

Mr. PATTISON of New York. Mr. Chairman, the gentleman has yielded to me, and I wish to finish.

Mr. Chairman, he can be notified afterwards, and he does have the right to go to district court under the injunction pursuant to this rule.

I must also point out that a variety of other procedures are required by statute and by regulations of the SEC, so they cannot just issue subpenas without going through a very specific kind of process.

So, Mr. Chairman, I think, with the complexity of this thing and the arrangements we made in our negotiations with the Justice Department—and I must point out we had not held hearings on this particular matter, although we recognized the complexity of it—I would have to join the gentleman from Texas (Mr. ECKHARDT) in opposing the amendment.

Mr. ECKHARDT. The gentleman is absolutely correct. And the reason why it is provided that the notice must be given within 14 days after the subpena of the records to the person concerning whose affairs the records relate is precisely because that person may not be identified when the subpena is sought. This is not a subpena against that person nor to obtain anything that belongs to him. For instance, this would not permit the SEC to go and subpena documents within his safety deposit box at the bank. It is to subpena the bank's records. For instance, the bank's carbon copies of mortgages, and things of that nature.

The CHAIRMAN. The time of the gentleman from Texas (Mr. ECKHARDT) has expired.

(By unanimous consent, Mr. ECKHARDT was allowed to proceed 2 additional minutes.)

Mr. ECKHARDT. Mr. Chairman, what we are doing is dealing with the bank. And, of course, the bank is notified.

Subsequent to the determination of who the party is who has been engaging in, for instance, manipulations, which reflect through subpenas obtained from the bank concerning all stock negotiations about a certain issue on a certain day subsequent to that identification, SEC must notify the person about whom the information is revealed. That person may then come in and say, "Look, this is irrelevant to any illegal action."

Mr. STARK. Mr. Chairman, will the gentleman yield?

Mr. ECKHARDT. I will, in a moment, as soon as I clarify this question.

At the time he comes in, then, and shows that the matter obtained in the subpena is irrelevant, the subpena may be quashed and the information may not be used. The court may determine that the subpena was illegally obtained.

Furthermore, there are provisions for a determination, before a subpena may be ordered, which provide strict qualifications as to what kind of records and under what circumstances they may be obtained. If the court finds those have not been followed, then the court may say that no further action can be taken with respect to those records, that they may not be used in any way.

Mr. STARK. Mr. Chairman, will the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman from California.

Mr. STARK. I thank the gentleman for yielding.

I would just like to make two very brief points. Serving a subpena, notifying the customer after the records have already been investigated, is, in legal language, locking the barn door after the horse is gone.

Mr. ECKHARDT. They are not his records.

Mr. STARK. That is my second point. The bank's records would be utterly useless, except under the Bank Privacy Act, in which in 1972 we required the bank to make them public, which for 192 years was private information, and we made it public information, where those individual payors and payees would be identified.

Mr. ECKHARDT. The point is that the records have by law been treated as they properly ought to be treated, as the bank's records. And what is being subpenaed is not the property of the individual but information which may reflect on the individual's transactions.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. STARK).

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. ECKHARDT. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 328, noes 26, answered "present" 5, not voting 73, as follows:

[Rollcall Vote No. 882]

AYES—328

Abdnor	Delaney	Holtzman
Addabbo	Dellums	Horton
Akaka	Dent	Howard
Alexander	Derrick	Hubbard
Ambro	Derwinski	Huckaby
Andrews, N.C.	Devine	Hughes
Andrews, N. Dak.	Dickinson	Hyde
	Dingell	Ichord
Annunzio	Dornan	Ireland
Applegate	Drinan	Jacobs
Archer	Duncan, Tenn.	Jeffords
Ashbrook	Early	Jenkins
Ashley	Edgar	Jenrette
AuCoin	Edwards, Ala.	Johnson, Calif.
Badham	Edwards, Calif.	Jones, N.C.
Bafalis	Edwards, Okla.	Jones, Okla.
Baldus	Emery	Jones, Tenn.
Barnard	English	Jordan
Baucus	Erlenborn	Kasten
Bauman	Ertel	Kazen
Beard, R.I.	Evans, Del.	Kelly
Beard, Tenn.	Evans, Ga.	Kildee
Bedell	Fary	Kindness
Bennett	Fascell	Kostmayer
Bevill	Fenwick	Krebs
Biaggi	Findley	Lagomarsino
Bingham	Fish	Latta
Blanchard	Fisher	Le Fante
Boland	Fithian	Leach
Bolling	Flippo	Lederer
Bonior	Flood	Leggett
Bonker	Florio	Lehman
Bowen	Flowers	Lent
Brademas	Flynt	Levitas
Breaux	Ford, Mich.	Lloyd, Tenn.
Brinkley	Ford, Tenn.	Long, La.
Brodhead	Forsythe	Long, Md.
Brooks	Fowler	Lott
Brown, Calif.	Frenzel	Luken
Brown, Mich.	Frey	McCloskey
Brown, Ohio	Fuqua	McCormack
Buchanan	Gammage	McDade
Burgener	Garcia	McDonald
Burke, Fla.	Gephardt	McFall
Burleson, Tex.	Giaimo	McHugh
Burlison, Mo.	Gilman	McKinney
Burton, John	Ginn	Mahon
Butler	Goldwater	Mann
Byron	Gonzalez	Markey
Carney	Gore	Marks
Carr	Gradison	Marlenee
Carter	Grassley	Marriott
Cederberg	Green	Mathis
Chisholm	Gudger	Mattox
Clausen, Don H.	Guyer	Mazzoli
	Hall	Metcalfe
Clawson, Del	Hamilton	Meyner
Clay	Hammer-schmidt	Mikulski
Coleman		Miller, Ohio
Collins, Ill.	Hanley	Mineta
Collins, Tex.	Hannaford	Minish
Conable	Hansen	Mitchell, Md.
Conte	Harkin	Mitchell, N.Y.
Corcoran	Harris	Moakley
Corman	Harsha	Mollohan
Cornell	Hawkins	Montgomery
Cotter	Heckler	Moore
Coughlin	Hefner	Moorhead, Calif.
Cunningham	Heftel	
D'Amours	Hightower	Moorhead, Pa.
Daniel, Dan	Hillis	Murphy, Ill.
Daniel, R. W.	Holland	Murphy, N.Y.
Davis	Hollenbeck	Murphy, Pa.
de la Garza	Holt	Myers, Gary
Myers, John	Rosenthal	Treen
Myers, Michael	Rostenkowski	Trible
Natcher	Rousselot	Tucker
Neal	Roybal	Van Deerlin
Nedzi	Runnels	Vander Jagt
Nix	Russo	Vanik
Nolan	Ryan	Vento
Nowak	Santini	Volkmer
Oakar	Satterfield	Waggonner
Oberstar	Sawyer	Walgren
Obey	Scheuer	Walsh
Ottinger	Schroeder	Wampler
Panetta	Sebelius	Watkins
Patten	Seiberling	Waxman
Patterson	Sharp	Weiss
Pease	Shuster	Whalen
Pepper	Simon	White
Perkins	Sisk	Whitehurst
Pickle	Slack	Whitley
Poage	Smith, Iowa	Whitten
Pressler	Snyder	Wilson, Bob
Preyer	Solarz	Wilson, C. H.
Price	Spellman	Wilson, Tex.
Pritchard	Spence	Winn
Pursell	Stangeland	Wirth
Quayle	Stanton	Wolff
Rahall	Stark	Wright
Rangel	Steiger	Wydler
Regula	Stockman	Wylie
Rhodes	Stokes	Yates
Richmond	Studds	Yatron
Rinaldo	Stump	Young, Alaska
Risenhoover	Symms	Young, Fla.
Robinson	Taylor	Young, Mo.
Roe	Thompson	Zablocki
Roncalio	Thornton	Zeferetti
Rose	Traxler	

NOES—26

Anderson, Calif.	Eckhardt	Mottl
	Foley	Murtha
Bellenson	Glickman	Pattison
Benjamin	Kastenmeier	Reuss
Burke, Mass.	Keys	Roberts
Cavanaugh	LaFalce	St Germain
Chappell	Lloyd, Calif.	Stratton
Danielson	Lundine	
Downey	McClory	
Duncan, Oreg.	McKay	

ANSWERED "PRESENT"—5

Cleveland	Quillen	Steers
O'Brien	Skelton	

NOT VOTING—73

Ammerman	Gaydos	Railsback
Anderson, Ill.	Gibbons	Rodino
Armstrong	Goodling	Rogers
Aspin	Hagedorn	Rooney
Blouin	Harrington	Rudd
Boggs	Johnson, Colo.	Ruppe
Breckinridge	Kemp	Sarasin
Broomfield	Krueger	Schulze
Broyhill	Livingston	Shipley
Burke, Calif.	Lujan	Sikes
Burton, Phillip	McEwen	Skubitz
Caputo	Madigan	Smith, Nebr.
Cochran	Maguire	Staggers
Cohen	Martin	Steed
Conyers	Meeds	Teague
Cornwell	Michel	Thone
Crane	Mikva	Tsongas
Dicks	Milford	Udall
Diggs	Miller, Calif.	Ullman
Dodd	Moffett	Walker
Eilberg	Moss	Weaver
Evans, Colo.	Nichols	Wiggins
Evans, Ind.	Pettis	Young, Tex.
Fountain	Pike	
Fraser	Quie	

Mr. BOLLING changed his vote from "no" to aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

Mr. WYLIE. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise to indicate my wholehearted support to title XI. It is much needed.

Financial privacy is threatened most by new technology, like electronic funds transfer. While we marvel at the unparalleled convenience and efficiency of electronic banking, its threat to personal financial privacy cannot be ignored.

A review of the provisions of title XI of this bill indicates that it has no application to electronic banking. There is a reason for this conspicuous absence. On August 11 of this year, the House passed H.R. 13007, the Electronic Funds Transfer Act, 314 to 2. In a comprehensive manner, the provisions of the EFT Act address the need for privacy in EFT banking.

Early on, the Consumer Affairs Subcommittee recognized the potential threat to personal privacy posed by the transition to electronic self-service banking, especially when record retrieval can be obtained by the press of a button. An intimate financial biography by computer printout can be put together at the speed of light. Spending patterns and preferences can be noted, cataloged and stored for future use by any person having access to the system.

Such information has tremendous commercial value and could be sold, exchanged, and transferred for marketing purposes or to the Federal Government. This must not be done without the prior knowledge and approval of the customer. H.R. 13007 deals specifically with this problem.

One of the reasons I vigorously supported H.R. 13007, the EFT Act, was because of its no-nonsense protections of individual financial privacy. In a certain sense, the EFT Act set a precedent for privacy protection. I want to continue that precedent and I give my support to the spirit and intent of title XI of this bill—This Right to Financial Privacy.

The CHAIRMAN. Is there any further amendment to title XI? If not, the Clerk will read the heading to title XII.

Title XII is as follows:

TITLE XII—CHARTERS FOR THRIFT INSTITUTIONS

SEC. 1201. Section 2(d) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1462(d)) is amended to read as follows:

"(d) The term 'association' means a Federal savings and loan association or a Federal mutual savings bank chartered by the Board under section 5, and any reference in any other law to a Federal savings and loan association shall be deemed to be also a reference to a Federal mutual savings bank, unless the context indicates otherwise.".

SEC. 1202. Section 5(a) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(a)) is amended to read as follows:

"SEC. 5. (a) In order to provide local mutual thrift institutions in which people may invest their funds and in order to provide for the financing of homes, the Board is authorized, under such rules and regulations as it may prescribe, to provide for the organization, incorporation, examination, operation, and regulation of associations to be known as 'Federal Savings and Loan Associations', or 'Federal mutual savings banks' (but only in the case of institutions which, prior to conversion, were State mutual savings banks located in States which authorize the chartering of State mutual savings banks), and issue charters therefor, giving primary consideration to the best practices of local mutual thrift and home-financing institutions in the United States. An association which was formerly organized as a savings bank under State law may, to the extent authorized by the Board, continue to carry on any activities it was engaged in on December 31, 1977, and to retain or make any investments of a type it held on that date, except that its equity, corporate bond, and consumer loan investments may not exceed the average ratio of such investments to total

assets for the five-year period immediately preceding the filing of an application for conversion An association which was formerly organized as a savings bank under State law shall be subject to the requirements of existing State law in the State of its original charter pertaining to discrimination in the extension of home mortgage loans or adjustment in the terms of mortgage instruments based on neighborhood or geographical area if the existing State law imposes more stringent requirements than current Federal law and regulations.".

SEC. 1203. Section 403(a) of the National Housing Act (12 U.S.C. 1726(a)) is amended by inserting after "Federal savings and loan associations" the following: "and Federal mutual savings banks".

SEC. 1204. The first paragraph of section 5(i) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(i)) is amended by inserting "(including a savings bank)" after "member of a Federal Home Loan Bank".

SEC. 1205. The Federal Deposit Insurance Act is amended by adding at the end thereof the following new section:

"CONVERSION OF MUTUAL SAVINGS BANKS

"SEC. 26. With respect to any State-chartered insured mutual savings bank which converts into a Federal savings bank or merges or consolidates into a Federal savings bank or a savings bank which is (or within sixty days after the merger or consolidation becomes) an insured institution within the meaning of section 401 of the National Housing Act, the Corporation shall indemnify the Federal Savings and Loan Corporation against any losses incurred by it which arise out of losses incurred by the converting bank prior to conversion as follows: One hundred per centum of such losses incurred by the Federal Savings and Loan Insurance Corporation during the first two years after conversion, 75 per centum during the third year, 50 per centum during the fourth year, and 25 per centum during the fifth year. The Corporation and the Federal Savings and Loan Insurance Corporation shall, within six months after enactment hereof, mutually agree on what shall be treated as 'losses incurred by it which arise out of losses incurred by the converting bank prior to conversion' for purposes hereof and, failing such agreement, the General Accounting Office shall prescribe the meaning of those terms. Any conversion, merger, or consolidation covered by this section shall not be deemed a termination of insured status under section 8(a) of this Act.".

AMENDMENTS OFFERED BY MR. HANLEY

Mr. HANLEY. Mr. Chairman, I offer four amendments. They are simple, clarifying amendments and are first cousins in nature.

Mr. Chairman, I ask unanimous consent that they be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

Mr. ROUSSELOT. Reserving the right to object, how many amendments are there?

Mr. HANLEY. There are four simple clarifying amendments which I will explain.

Mr. ROUSSELOT. All to this one title?

Mr. HANLEY. That is right.

Mr. ROUSSELOT. And the gentleman will give us a full and complete explanation?

Mr. HANLEY. I assure the gentleman of a full and complete explanation.

Mr. ROUSSELOT. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read as follows:

Amendments offered by Mr. HANLEY: Page 181, line 4, immediately after "banks" insert the following: "provided such conversion is approved by the appropriate State banking regulatory authority (if State law requires such approval before conversion)."

Page 181, immediately after line 6, insert the following: "An association which was formerly organized as a savings bank under State law may not convert from the mutual to the stock form of ownership."

Page 181, strike out lines 17 through 23 and insert in lieu thereof the following: "be subject to the requirements of State law (including any regulations promulgated thereunder and any sanction for the violation of any such law or regulation) in effect at the time of conversion, in the State of its original charter—

"(1) pertaining to discrimination in the extension of home mortgage loans or adjustment in the terms of mortgage instruments based on neighborhood or geographical area,

"(2) pertaining to requirements imposed under the Consumer Credit Protection Act,

if the Board determines that State law and regulations impose more stringent requirements than Federal law and regulations."

Amend page 181, line 15, by deleting the period and adding the following: "and such an association which was formerly organized as a savings bank under State law shall only be permitted to establish branch offices and other facilities in accordance with the limitations imposed by state law controlling applications of a savings bank organized under such state law, provided that such an association: (1) shall be exempt from any numerical limitations of state law on the establishment of branch offices and other facilities, and (2) may, in any case, subject to the approval of the Board, establish branch offices and other facilities in its own Standard Metropolitan Statistical Area, its own county or within 35 miles of its home office, but only in its state of domicile."

Mr. HANLEY (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. HANLEY. Mr. Chairman, first I would like to commend the gentleman from Rhode Island (Mr. ST GERMAIN) for the leadership, imagination, and persistance which has characterized his efforts to bring to the floor this landmark legislation. The Financial Institution Restructuring Act of 1978 is truly one of the most balanced legislative constructions of this Congress in many years. It balanced freedom of business activity with the protection of depositors and the public at large. It accommodates the legitimate concerns about the stability and soundness of institutions without undue intrusion upon the prerogatives of private judgment and individual enterprise. In sum, it is a bill which is salutory for the public and for the financial institutions as well.

The catalyst for legislative action was the rising incidence and quickened rate of what are termed "troubled" banks go-largely due to misapplication of investing over the brink of financial disaster ment decisions and to the self-serving conduct of bank operators whose personal fiscal enhancement became superior to the welfare of the banking institution, the depositors, and the community in which it was located. Admittedly, such happenings were de minimus, but they are spectacular enough to attract the attention of your Financial Institutions Subcommittee, the array of Federal and State bank regulators, and the public. One or two were sensational enough to bring the arcane terms and practices of financial operations right into the living rooms and onto the front pages of newspapers across the country.

It was clear that the situation finally had a circumstantial occasion sufficient to support intensive legislative inquiry to meet what were growing concerns of national import. Action was deserved and the time was propitious.

I would like to take this time also to salute the cooperation and support with which the chairman of your Banking, Finance, and Urban Affairs Committee, the gentleman from Wisconsin (Mr. REUSS) has blessed this endeavor. The leadership and confidence which he has displayed has sustained those who support meaningful banking regulation. His helpful counsel has added much to the impetus for this bill and has been crucial during the dark days when frustration and confusion seemed to engulf the life of the bill.

Also deserving of plaudits are those on the subcommittee staff and full committee staff who have devoted countless hours, actually in day and night preparation meetings, to this piece of legislation which we discuss today. In constructing the language and articulating in final form the intent of the members of the Banking Committee, the staff has earned the tribute of yeoman service for which they are known and respected.

The diligence of the administration, while not without reservations in some respects on some titles, has been unflagging in trying to reach agreement in substance on issues raised by the bill in its entirety. Such close cooperation by the regulators and the administration with the Congress is earnestly to be desired as a continued hallmark of good government.

I would like to turn, Mr. Speaker, to two portions of this bill for which I have had major responsibility in preparing for the consideration of the full committee and ultimately for presentation to the full House. I refer to title XII and title XIII.

Mr. Chairman, title XII of H.R. 13471 provides a Federal chartering option for the Nation's existing mutual savings banks. This issue has been before the Home Loan Bank Board to charter existing State-chartered mutual savings banks. This issue has been before the Banking Committee for more than 15 years, and it should be underscored that in principle, title XII is supported virtually unanimously by Members of the Banking Committee from both sides of the aisle.

More than a year ago, 27 of my colleagues, including the distinguished

chairman of the committee, Mr. REUSS, joined me in sponsoring H.R. 8145 and 8146, and title XII as reported by the full committee is substantially identical to that original legislation.

I am indebted to my distinguished colleague from Rhode Island, the chairman of the subcommittee, Mr. ST GERMAIN, who incorporated the Federal chartering provision in the bill which was the forerunner of the legislation before us today. Title XII was thoroughly discussed at both the subcommittee and full committee levels. Amendments were offered, some of which were accepted and some of which were not, and what emerged was a clear consensus of the members of the Banking Committee. I was deeply gratified that while differences did arise with respect to particular provisions, no one seriously questioned the underlying principle of the legislation to admit the savings bank industry to our Nation's dual chartering system thereby completing the cycle whereby all our Nation's financial institutions have full access to dual banking. This long-standing inequity in our Nation's banking system will be corrected by enactment of title XII.

Despite the lengthy consideration that has been given to title XII, some confusion has arisen regarding title XII. I think it is important to underscore that this confusion has arisen largely because of misunderstanding rather than any opposition to the underlying purpose of title XII. One area of controversy has involved the branching powers of Federal mutual savings banks. Commercial banking interests as well as a number of State banking supervisors have suggested that Federal mutual savings banks should by and large comply with branching laws applicable to State-chartered mutual savings banks.

Mr. Chairman, I am pleased to offer a series of amendments which should be considered en banc which first of all are designed to clarify those few areas of of misunderstanding and second to compromise the differences that do exist on the branching question.

Nothing in title XII suggests that the Congress intends to preempt any State law requiring the consent of appropriate State banking officials to the conversion of a mutual savings bank to Federal charter. Nevertheless, because there is some confusion on this point, my amendment makes absolutely clear that the approval of any appropriate State banking officials would be required as a condition before a Federal charter could be issued in a State which has a law requiring such consent.

Second, a number of State banking commissioners have suggested that title XII as written might conceivably permit Federal mutual savings banks to convert to stock form. While I do not agree that the language of title XII is susceptible to such an interpretation, it is not the intention to authorize mutual-to-stock conversions of savings banks, and as a result, the amendment I offer makes it clear that mutual-to-stock conversions are not permissible.

Like a number of my colleagues on the committee, it is certainly not my intention as a sponsor of title XII to grant savings banks a safe haven from strong State antidiscrimination and consumer protection laws. While I am not one that believes that Federal laws in these areas are too weak, I am mindful that a few State banking officials believe that savings banks could conceivably use the option provided in title XII as a means of avoiding compliance with State antidiscrimination and consumer protection laws. Thus, to make absolutely clear that it is not the purpose of title XII to provide any "safe haven," my amendment would require savings banks to continue to comply with State antidiscrimination and consumer protection laws in force at the time of conversion if they are deemed more onerous than Federal laws.

Finally, Mr. Chairman, I am pleased to be able to offer a compromise on the branching question which is acceptable to all of the affected parties and I have been informed by both the Independent Bankers Association and the American Bankers Association that title XII would be acceptable to them if the amendment I am offering is agreed to. My amendment would require converting savings banks to continue to comply with the same geographical restrictions that apply to State-chartered mutual savings banks, but would permit Federal mutual savings banks to branch within their own market areas. I am delighted that this compromise is acceptable to all of the affected groups.

In support of this amendment I enclose the letter of the Independent Bankers Association of America.

INDEPENDENT BANKERS ASSOCIATION
OF AMERICA,
Denver, Colo., September 15, 1978.

Hon. JAMES M. HANLEY,
Cannon House Office Building,
Washington, D.C.

DEAR CONGRESSMAN HANLEY: As you are aware, our association has expressed serious concern about potential branching dislocations that would occur if Title XII of H.R. 13471 were enacted as presently written. This expression of concern has been conveyed to all our members and they are in the process of informing their congressman of this concern.

In the meantime, we have been working with the National Association of Mutual Savings Banks to reach a compromise on this title. I am happy to report to you that language has been prepared, a copy of which is attached, which our association believes will satisfy our concerns and preclude the necessity of a floor fight on this issue.

As such, we are prepared to state that we take no objection to Title XII, provided that compromise language is accepted.

Very truly yours,

IVAN D. FUGATE,
President.

Some concern has surfaced in the last few days about the precedent which the amendments which I am offering may create in the Federal Home Loan Bank Board's treatment or attitude toward Federal savings and loan associations which would remain under the Board's examination and regulatory control.

I have met with Chairman of the Board, Robert McKinney, and we arrived at what we think is a fair resolution of the confusion which gave rise to some anxiety among the S. & L. industry.

This colloquy will set the legislative intent and history in perspective and should allay any fears about some speculative or hypothetical future misreading of the limits for these amendments. It should be clear that they are intended to apply only to those mutual savings banks which convert under the terms of this new title.

The colloquy follows:

QUESTIONS FOR COLLOQUY ON TITLE XVII (MUTUAL SAVINGS BANKS) OF FINANCIAL INSTITUTIONS REGULATORY ACT OF 1978

DISCUSSION

The Bank Board's concerns are twofold. First, while the Bank Board is given responsibility for determining whether a State or federal law is more strict, the issue of enforcement of State law, if found to be more strict, is not addressed. Second, if a limitation is to be placed on mutual savings banks branching activities, then the Bank Board would like clarified that such limitation does not apply to federal savings and loan association branching activities, authority for which is also derived from the Home Owners' Loan Act.

QUESTIONS AND ANSWERS FOR COLLOQUY

Mr. ST GERMAIN. According to the proposed amendment, the Bank Board would be given responsibility for determining whether or not a State law is more strict and thus to be adhered to by converting mutual savings banks. Presently, the Bank Board is responsible for enforcement of such State laws and has training programs which keep its examiners abreast of State law requirements. Under this amendment, is it intended that the Bank Board will continue to have sole enforcement responsibility for applicable State laws, as well as responsibility for determining whether or not a converted mutual savings bank would be subject to State law?

Mr. HANLEY. Yes.

Mr. ST GERMAIN. This amendment would amend the Home Owners' Loan Act by making converted mutual savings banks subject to State branching law. This restriction applies only to converted mutual savings banks, and Congress in no way intends to interfere with the long standing all, inclusive power of the Bank Board over the activities of federal savings and loan associations including branching authority. The amendment is concerned only with federally-chartered mutual savings banks. Because it concerns only mutual savings banks, is it not intended that federal savings and loan associations are in no way to be affected by this provision?

Mr. HANLEY. Yes. This amendment would ensure that, although Federal mutual savings banks could, in some circumstances be subject to State law requirements in the discrimination area, there would be no confusion about the Bank Board's sole authority over enforcement of those requirements. This would be consistent with the Bank Board's application of State branching law to such institutions, and would avoid the waste and confusion inherent in vesting supervisory authority over these new Federally-chartered institutions in a multiplicity of regulators. Of course, it is the intent of Congress that State requirements be enforced by the Bank Board in a manner strictly in accordance with the intentions of the State legislatures creating them.

In no way, of course, would the use of State law requirements for Federal mutual savings banks be interpreted to erode the Bank Board's long-standing plenary authority over Federal savings and loan associations; Federal law alone would continue to govern these institutions in such areas as branching, anti-discrimination, and lending authority.

I can assure the House that this amendment is intended to apply solely and exclu-

sively to converting mutual savings banks and should absolutely not be interpreted as controlling or suggestive of any directive or of giving guidance to the Federal Home Loan Bank Board on branching by the other institutions which it regulates.

This amendment is a product of a compromise to maintain the right of Mutual Savings Banks to obtain Federal charters which they are presently unable to acquire. This time was necessary to assure that the provision of the amendment which would restrict converting Mutual Savings Banks to their own state of domicile would not be interpreted by the FHLBB as applying to applications such as the one pending by Perpetual Federal and Columbia for branches outside of the District of Columbia.

Mr. ST GERMAIN. Mr. Chairman, will the gentleman yield?

Mr. HANLEY. I yield to the gentleman from Rhode Island.

Mr. ST GERMAIN. Mr. Chairman, according to the proposed amendment, the Bank Board would be given responsibility for determining whether or not a State law is more strict, and thus to be adhered to by converting mutual savings banks. Presently, the Bank Board is responsible for enforcement of such State laws and has training programs which keep its examiners abreast of State law requirements. Under this amendment, is it intended that the Bank Board will continue to have sole enforcement responsibility for applicable State laws, as well as responsibility for determining whether or not a converted mutual savings bank would be subject to State law?

Mr. HANLEY. The answer to the gentleman's question is "yes."

Mr. ST GERMAIN. Further, Mr. Chairman, this amendment would amend the Home Owners' Loan Act by making converted mutual savings banks subject to State branching law. This restriction applies only to converted mutual savings banks, and Congress in no way intends to interfere with the longstanding, all-inclusive power of the Bank Board over the activities of Federal savings and loan associations, including branching authority. The amendment is concerned only with federally chartered mutual savings banks. Because it concerns only mutual savings banks, is it not intended that Federal savings and loan associations are in no way to be affected by this provision; is that correct?

Mr. HANLEY. Again, the answer is "Yes."

The CHAIRMAN. The time of the gentleman from New York (Mr. HANLEY) has expired.

(At the request of Mr. MINISH, and by unanimous consent, Mr. HANLEY was allowed to proceed for an additional 2 minutes.)

Mr. MINISH. Mr. Chairman, will the gentleman yield?

Mr. HANLEY. I yield to the gentleman from New Jersey.

Mr. MINISH. Mr. Chairman, I want to commend the gentleman from New York for his effort in making this compromise.

I would like to pursue a colloquoy with the author of the amendment, if I may.

I understand that the gentleman from New York has made a significant effort to work out this compromise to title XII, and I want to commend the gentleman for his effort.

However, I am informed that the proposed amendment to title XII does not resolve the problem faced by the State Department of Banking in New Jersey.

Your amendment states that the authority for approvals for such conversions is designated to the State banking regulatory commission or authority if State law requires such approval from the State authority.

In New Jersey the State statute is silent on the matter of State mutual savings bank conversions. It is not a question of the State legislature having considered and denied specific authority to the Commissioner of Banking; it is simply silent on the matter. I understand that the State now seeks State legislation, but that this will take time given our legislative session.

In any case, I understand that the concern is that mutual savings banks applying for such conversions not to be held up interminably for a decision from the State, and that the decision to approve, or to deny, be based on a reasonable set of objective criteria.

I would like to ask the gentleman if he would consider a time limit and a set of appropriate criteria a possible compromise to his amendment requiring that a State law be firmly in place, given the New Jersey situation?

Mr. HANLEY. Mr. Chariman, I would like to advise the gentleman from New Jersey (Mr. MINISH) that I have been in conference with the officials of the State of New Jersey. We have talked at length. We have been working directly with them in an effort to accommodate the problem which the gentleman has described.

I am certainly completely open to the idea of meeting wtih the New Jersey officials prior to the House-Senate conference to see if an appropriate compromise can be achieved.

Now, while I am not in a position to commit myself to any partciular conference compromise at this point in time, I am willing to explore the approach that the gentleman has suggested as a possibility, as long as what I say this evening is not construed as a commitment to this particular approach.

I am aware of Senator WILLIAM's interest in this and certainly intend to discuss the matter with him.

Mr. MINISH. Mr. Chairman, I thank the gentleman.

The CHAIRMAN. The time of the gentleman from New York (Mr. HANLEY) has again expired.

(At the request of Mr. STANTON, and by unanimous consent, Mr. HANLEY was allowed to proceed for 2 additional minutes.)

Mr. STANTON. Mr. Chairman, will the gentleman yield?

Mr. HANLEY. I yield to the gentleman from Ohio.

Mr. STANTON. Mr. Chairman, I appreciate the gentleman yielding.

I take this time simply to compliment the gentleman. The Federal chartering of mutual savings banks is something that these institutions have sought for a long time. The gentleman's amendment clarifies the rules and regulations under which these charters shall be granted.

This clears up some of the problems and I compliment the gentleman for that.

Mr. Chairman, I have one last question: After the legislation passed our committee, we found that there were a couple of stock savings banks in this country, and I believe the gentleman's amendment, as I read it, would exclude the stock savings banks from receiving Federal charters. I think I am ccrrect on that, am I not?

Mr. HANLEY. Mr. Chairman, the gentleman is correct.

Mr. STANTON. Mr. Chairman, I appreciate the gentleman's answer, and once again I compliment him. We accept the amendment on this side.

Mr. HANLEY. Mr. Chairman, I thank the gentleman for his comments.

The CHAIRMAN. The question is on the amendments offered by the gentleman from New York (Mr. HANLEY).

The amendments were agreed to.

Mr. MINISH. Mr. Chairman, I move to strike the last word.

Mr. Chairman, it was my intention to offer an amendment to title XII of this bill which, if enacted into law, would assure that a State-chartered mutual savings bank which has converted to a Federal charter would by law be required to have at least 60 percent of its assets invested primarily in residential housing and community related investments. I offered an amendment to do this in committee, but it failed. In the interest of time, Mr. Chairman, I do not intend to offer this amendment today; however, as part of the legislative history of the legislation we are considering today, H.R. 13471, Financial Institutions Regulatory Act of 1978, I do wish to make reference to a very important letter received from Mr. McKinney, Chairman of the Federal Home Loan Bank Board on this subject.

Mr. McKinney, in his letter to the chairman of the Banking Committee, the Honorable HENRY S. REUSS, dated August 29, 1978, stated:

In reading the language of title XII, and the explanation of it in the Committee Report (No. 95–1383), we perceive a strong, clear intention that Federal MSBs must be oriented primarily toward providing home finance. This is evidenced very directly in the proposed reference to such institutions in 5(a) of the Home Owners' Loan Act. Federal MSB charters would be made available "in order to provide local mutual thrift institutions in which people may invest their funds and in order to provide for the financing of homes. . . ." The Bank Board would be directed in granting charters to give primary consideration to the best practices of local mutual thrift and home-financing institutions in the United States.

Mr. McKinney stated in this same letter:

In implementing the mandate of title XII, as we have indicated, we would not impose a rigid requirement that a certain percentage of an MSB's assets be invested in housing. Strong orientation toward housing would, however, be regarded as a sine qua non of obtaining a Federal charter. Obviously, it would be clearly improper for the Bank Board to force MSBs under its jurisdiction to be mirror images of Federal S&Ls, and to do so would not be our intention. We would, however, intend to scrutinize MSB activities and investment authority to evaluate their com-

patibility with a commitment to housing, and to regulate accordingly. The bottom line for some institutions definitely could be a considerable increase in the level of their housing finance involvement, for we regard this as the title's intent.

Mr. Chairman, the effect of our committee report on this legislation concerning the question of State-chartered mutual savings banks converting to a Federal charter, and the McKinney letter stating how he would administer this title, if enacted into law, assures the people of this country that a converted mutual savings bank would maintain as its primary objective, a substantial amount of its investments in housing. This legislative history meets fully the intent of the amendment I had intended to offer and, therefore, I do not believe it necessary, as stated, to offer my amendment.

Mr. Chairman, I include herewith a very important letter, dated August 19, 1979, from Robert H. McKinney, chairman of the Federal Home Loan Bank Board to the chairman of the Committee on Banking, Finance and Urban Affairs, the Honorable HENRY S. REUSS:

FEDERAL HOME LOAN BANK BOARD,
Washington, D.C., August 29, 1978.

Hon. HENRY S. REUSS,
Chairman, Committee on Banking, Finance and Urban Affairs, Washington, D.C.

DEAR MR. CHAIRMAN: It is our understanding the floor action on H.R. 13471, the Financial Institutions Regulatory Act, may occur in early September. Accordingly, we would like at this time to give you our understanding of Title XII, which would authorize Federal charters for mutual savings banks.

As you may recall, the Bank Board originally had urged a statutory requirement that sixty percent of Federal MSB assets be invested in housing. We would still prefer this approach and, similarly, we would, as we have said before, also strongly prefer not to see included in the Title the provision creating a tie-in for Federal MSBs on State nondiscrimination laws. The fact that the percentage route has been explicitly rejected, however, indicates that the Bank Board should not impose regulatorily on MSBs under our jurisdiction a flat requirement that a particular percentage of their assets be devoted to home finance. If this is not the intention of Congress, we should be advised otherwise.

Nevertheless, in reading the language of Title XII, and the explanation of it in the Committee Report (No. 95-1383), we perceive a strong, clear intention that Federal MSBs must be oriented primarily toward providing home finance. This is evidenced very directly in the proposed reference to such institutions in § 5(a) of the Home Owners' Loan Act. Federal MSB charters would be made available "in order to provide local mutual thrift institutions in which people may invest their funds and in order to provide for the financing of homes. . . ." The Bank Board would be directed in granting the charters to give "primary consideration to the best practices of local mutual thrift and home-financing institutions in the United States."

This intention is also displayed in the limited nature of the grandfathering the Title would extend to converting MSBs. Although they would be authorized to continue to carry on any activities they were engaged in on December 31, 1977, and to retain or make any investment of a type they held on that date, they could do so only to the extent permitted by the Bank Board. Under no circumstance, however, could an institution have equity, corporate bond and consumer loan investments in such an amount that the ratio of those investments to total assets exceeded the average such ratio for the five-year period immediately preceding the filing of the institution's conversion application.

Finally, the Committee Report is quite clear, emphasizing strongly that the Bank Board should exercise its chartering, regulatory and supervisory powers in such a way that Federal MSB investments reflect the fact that the Federal Home Loan Bank System is firmly committed to the housing needs of this country. In addition, the Report expresses the expectation that the Bank Board would use the Community Reinvestment Act to enhance the housing and community related orientation of Federally-chartered MSBs.

In implementing the mandate of Title XII, as we have indicated, we would not impose a rigid requirement that a certain percentage of an MSB's assets be invested in housing. Strong orientation toward housing would, however, be regarded as a sine qua non of obtaining a Federal charter. Obviously, it would be clearly improper for the Bank Board to force MSBs under its jurisdiction to be mirror images of Federal S&Ls, and to do so would not be our intention.

We would, however, intend to scrutinize MSB activities and investment authority to evaluate their compatibility with a commitment to housing, and to regulate accordingly. The bottom line for some institutions definitely could be a considerable increase in the level of their housing finance involvement, for we regard this as the Title's intent.

Sincerely,

ROBERT H. MCKINNEY,
Chairman.

The CHAIRMAN. Are there further amendments to title XII? The Chair hears none.

Title XIII is as follows:

TITLE XIII—HOLDING COMPANIES

STANDARDS FOR BANK HOLDING COMPANY ENTRY INTO BANK RELATED ACTIVITIES

SEC. 1301. Section 4(c)(8) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(c)(8)) is amended by striking the period at the end of the first sentence thereof and adding the following: ", but for purposes of this subparagraph it is not closely related to banking or managing or controlling banks for a bank holding company to provide insurance as a principal, agent, or broker under this subsection except (i) where the insurance is imited to insuring the life of a debtor pursuant to or in connection with a specific credit transaction or providing indemnity for payments due on a specific loan of other credit transaction while the debtor is disabled; or (ii) any insurance sold in a community that (A) has a population not exceeding five thousand (as shown by the last preceding decennial census), or (B) the bank holding company, after notice, and opportunity for a hearing, demonstrates that a city, town, or village has inadequate insurance agency facilities; or (iii) where the insurance is being sold by a company owned directly or indirectly by a bank holding company which, prior to June 6, 1978, lawfully engaged, pursuant to the Bank Holding Company Act, directly or indirectly in insurance activities, or which bank holding company, prior to that date, had applied to the Board for authority to engage in insurance actfvities and received such authority subsequent to that date, or (iv) any insurance agency activity engaged in by a bank holding company, or any of its subsidiaries which bank holding company has assets of $50,000,000 or less.".

Mr. ASHLEY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I have a rather serious matter to discuss, and that is why I take the well at this time.

As the authors and sponsors of section 1301 of H.R. 13471, the gentleman from Ohio (Mr. STANTON) and I caused to be delivered to the staff of the Subcommittee on Financial Institutions draft language containing that section.

This draft language was rewritten by the subcommittee staff in a number of ways which inaccurately interpret the section, and I have to say to my colleagues that this was accomplished by denying an opportunity for timely review of the report language by the gentleman from Ohio (Mr. STANTON) and myself. The resulting report, therefore, contains an interpretation of the committee's action with respect to the amendment proposed by the gentleman from Ohio (Mr. STANTON) and myself which was adopted by the committee that neither the gentleman from Ohio (Mr. STANTON) nor I agree with. On the contrary, we find substantive changes as far as the interpretation of that amendment is concerned which in our view completely distort the purpose of the amendment.

When the committee marked up H.R. 13471, it chose between two grandfather clauses with respect to insurance activities of bank holding companies. One, offered by the gentleman from New York (Mr. HANLEY), would have grandfathered "any insurance activities engaged in by a bank holding company or any of its subsidiaries."

The other, offered by myself and the gentleman from Ohio (Mr. STANTON), in pertinent part provides grandfathering "where the insurance is being sold by a company owned directly or indirectly by the bank holding company, which, prior to June 6, 1978, lawfully engaged, pursuant to the Bank Holding Company Act, directly or indirectly in insurance activities."

These clauses were both exceptions to the prohibitions against bank holding companies engaging in insurance activities.

The Ashley-Stanton amendment was adopted as a substitute for the Hanley amendment by a vote of 29 to 15.

The difference between the two grandfather amendments, in addition to the treatment of applications, is very important. The Hanley amendment would have grandfathered activities as the Bank Holding Company Act administered by the Federal Reserve. The Ashley-Stanton amendment grandfathers bank holding companies previously engaged in insurance activities.

The committee report explains the committee action as if it had adopted rather than defeated, the Hanley amendment. It says its purpose "is generally to limit the nature of bank holding company agency operation to those achieved or applied for prior to June 6, 1978 * * * the committee permanently grandfathered insurance agency activities which were lawfully conducted by bank holding companies on June 6, 1978." This language describes the Hanley amendment, rather than the Ashley-Stanton amendment.

If the committee report language controls, it could be argued that bank holding companies could only engage in those particular and specific insurance activi-

ties, at the same locations, and through the same corporate organizations as were operated on the effective date. This is because the Federal Reserve Board approves or disapproves activities at specific locations and within specific corporate forms. New locations and new corporate structures generally require new approvals as separate "activities."

The Ashley-Stanton amendment, however, provides a clause permitting bank holding companies engaged in insurance activities on the effective date to engage after that date in whatever insurance activities were permissible to bank holding companies before the enactment of this section or which may thereafter be determined permissible by the Board, with no restriction as to location or form of corporate organization, except as the Board may provide.

Clearly there were differences in the wording of the Ashley-Stanton and Hanley amendments as to the so-called grandfather clause and those differences must be accorded some meaning in legislative history. Otherwise the committee will be presumed not to know the consequences of its act in voting for the Ashley-Stanton amendment in preference to the Hanley amendment.

The facts are that both the Ashley-Stanton and the Hanley amendments were printed and were before all members during the debate prior to the vote. All members knew or had the opportunity to know what they were voting for or against, and to ask questions or make statements about the differences between the contending amendment, and, in fact, some members did so.

The CHAIRMAN. The time of the gentleman from Ohio has expired.

(By unanimous consent Mr. ASHLEY was allowed to proceed for 6 additional minutes.)

Mr. STANTON. Mr. Chairman, will the gentleman yield?

Mr. ASHLEY. I yield to my colleague from Ohio.

Mr. STANTON. If I understand correctly, what you are saying is that if we had accepted the Hanley amendment or the committee report language, the grandfathered firms would have to cease competing for insurance business. They would not be able to grow—to expand their approved activities or in any other way compete to provide insurance services to the public.

Mr. ASHLEY. Precisely, the chairman (ST GERMAIN) objects in his letter to us to "expansion through grandfathering." The alternative he would prefer apparently is to straitjacket the grandfathered companies into their precise activities, at the precise locations and in the precise corporate forms in which they existed on the grandfather date.

Mr. STANTON. I thank the gentleman and would only add that this would be totally unrealistic. In discussing the amendment before we offered it, this very point was covered. We all know that any business that does not continue to strike to improve its product or service soon begins to wither and it would be totally unrealistic for us to put a straitjacket such as described in the committee report on these firms.

Mr. ASHLEY. The typical grandfather clause is a exemptive clause based on the principle that new laws or interpretations may cause hardship such as the loss of jobs and investments and should not be applied to persons or institutions who, in good faith, relying on existing laws, set out on an entirely proper course of conduct. Grandfather clauses assume those persons or institutions should be allowed to continue to engage in a business which, for new entrants, is made unlawful.

For example, the Bank Holding Company Act of 1956 forbade interstate operation of bank holding companies except as permitted by specific State laws. As to existing interstate operations, however, it permitted their operation and expansion. Today there are seven interstate bank holding companies. The 1956 act did not say that these bank holding companies could engage only in those activities engaged in in 1956. Rather these companies have been permitted to engage in any activities permissible to banks and bank holding companies under Federal and State law as the law has developed.

In the 1970 amendments to the Bank Holding Company Act, exemption—or grandfathering—was provided for a number of companies engaged in such businesses as unrelated to banking as manufacturing and retailing. These companies were left free to engage in those businesses in which, directly or through a subsidiary, they were engaged in on June 30, 1968, and to expand those businesses geographically and otherwise, so long as they did not acquire another "going concern" in that business. They were entirely free to reorganize within the holding company structure. The Senate committee report—page 6—said:

In short, the holding company is given maximum flexibility to engage in the grandfathered activities in whatever manner it desires, so long as it does not purchase an existing going concern.

Mr. STANTON. Would the gentleman yield again? I thank the gentleman and ask that he further confirm my understanding that the grandfather provision of section 4(a)(2) for one bank holding companies which were engaged in this activity prior to June 30, 1968, is not disturbed by section 1301 of the bill before the House.

Mr. ASHLEY. The gentleman is correct. As section 4(c) of the act only deals with those activities which are not otherwise exempted under section 4(a), the provision of section 1301 of this bill does not modify in any way the grandfather provision extended to bank holding companies under the 1970 amendments to the Bank holding Company Act.

As late as August 17, 1978, the House on recommendation of the House Banking Committee approved a provision in the International Banking Act grandfathering securities activities of affiliates of foreign banks. This provision was described by the Senate report as follows:

The committee adopted an amendment to section 8(c) of the bill which permits any grandfathered securities firm which is a "domestically controlled affiliate covered in 1978" to expand, merge, or diversify, notwithstanding provision of subsection (c) which otherwise would not authorize such activities, . . .

These are precedents, in the context of the very act we are now amending, for grandfather clauses which permit continuing business activity on the only basis which makes sense, that is, that they be permitted normal growth opportunity available to businesses with which they must compete. To say they must forever remain fixed in the form and location they were on a given date is to sentence them to death. No business can operate under such restraints.

There are other reasons both why these business activiites should be permitted to grow normally and why applications pending should be permitted to be approved.

Some of these operations have been conducted since before 1956, when the original Bank Holding Company Act was enacted and all have been legal and authorized by the Bank Holding Company Act and by the Federal Reserve Board, to which Congress delegated this responsibility in 1956 and again in 1970.

Mr. ST GERMAIN. Mr. Chairman, I move to strike the requisite number of words' I would like to make a few remarks here.

No. 1, in the debate the committee was told that the Ashley-Stanton amendment, in so far as the insurance activities were concerned, was substantially the same as the Hanley amendments. Now, when introducing the amendment, my dear colleague (Mr. ASHLEY) stated:

I believe it reads substantially as does the Hanley amendment. But for language at the bottom of the sheet, which has the effect of being a change in the Hanley amendment, which would in effect grandfather pending applications . . . the amendment that I am offering with Mr. Stanton, is to strike the various sections of title XIII except with respect to section 1303, in which we provide with specificity with regard to the providing of insurance as a prohibited area of activity for a bank holding company, except under certain circumstances and conditions."

I am waiting for the transcript, and these are the words of my colleague.

Reinforcing these comments linking the Ashley-Stanton amendment to the language of the Hanley amendment, Mr. Stanton stated:

"We all want to cooperate with Mr. Hanley. Many of us do want to strike Title XIII, and yet clear up once and for all this subject that the independent insurance agencies brought to our attention."

Referring to the recent Supreme Court decision on bank holding companies and insurance activities, Mr. Stanton stated:

"Then, of course, it went to a Supreme Court decision on this. The insurance agents lost, so what they are attempting, with the approval and knowledge and understanding of the Committee, they are attempting to get by legislation what was not granted by the Supreme Court."

With these and other similar statements during the debate and with the history of this provision, I think the report language is, indeed, reflective of the Committee's intent and understanding of the scope of the amendment at the time it voted.

The Committee clearly sought, as the amendment states, to declare that insurance activities were not closely related to banking. With this basic prohibition, clearly stated in the language of the amendment and repeated often during the debate ex-

tending over nearly a year, it is difficult to believe that the grandfather clause was adopted for the purpose of allowing major changes in the nature or scope of insurance acivities being carried on by bank holding companies at this time or which were applied for prior to June 6. Such a theory of expansion through grandfathering could make Title XIII meaningless.

Mr. STANTON. Mr. Chairman, I move to strike the necessary number of words.

Mr. Chairman, I hope we can clarify the colloquy that we have just heard and for which we have taken the time of the House to repeat on the House floor tonight. The situation was this:

The gentleman from Ohio (Mr. ASHLEY) and myself offered an amendment during the committee's consideration of this legislation. We are the authors of the amendment. It passed by better than a 2-to-1 vote in committee. It is our amendment which is in this bill, and what is in the report is different from the legislative intent, and there alone rests the problem.

We are the authors. The committee, the staff people on the majority side never checked with me on the language, and that is why it was necessary, after it was printed, to come back here. That is the whole colloquy.

Mr. ASHLEY. Mr. Chairman, will the gentleman yield?

Mr. STANTON. I yield to the gentleman from Ohio (Mr. ASHLEY).

Mr. ASHLEY. Mr. Chairman, this report purports to reflect the views of the majority of the Banking Committee. It does not do this: It fails to do it because the views reflected with respect to the subject matter at hand reflect only the views of one or more staff members who as a matter of fact denied us the opportunity before the report was published to review the language with respect to our amendment which was adopted by a 2-to-1 vote in the committee.

Does anybody choose to deny that?

Mr. ST GERMAIN. Mr. Chairman, will the gentleman yield?

Mr. STANTON. If the gentleman can answer that question, I will be glad to yield to the gentleman from Rhode Island (Mr. ST GERMAIN).

Mr. ST GERMAIN. Certainly. There is one thing, let us put it this way, what someone's intent is in that person's mind as opposed to what the intent is as expressed by the words at the time that amendment was offered.

Mr. STANTON. If the gentleman will permit me to interrupt.

Mr. ST GERMAIN. If the gentleman will wait for a moment.

Mr. STANTON. Surely, go ahead.

Mr. ST GERMAIN. I thank the gentleman.

I have just read, and I remember the confusion at the time that that amendment was offered.

Mr. STANTON. I will stop the gentleman right there.

The gentleman is correct that there are times when somebody else is confused about what they intended to say, but they know better what they meant to say rather than somebody else from the staff telling them what to put in the report.

The chairman of the subcommittee is totally wrong on this point. And I am surprised if he wants to bail out, or he wants to claim that he would stand up to challenge the gentleman from Ohio (Mr. ASHLEY) and myself in favor of two staff members. I am very surprised the gentleman would do that.

Mr. ST GERMAIN. Will the gentleman yield?

Mr. STANTON. I will be happy to yield.

Mr. ST GERMAIN. If you will just look at the wording in the transcript, that is all, there is a difference between what LUD ASHLEY may have intended and what you said.

Mr. STANTON. You have not answered why you did not allow us to see this committee print.

Mr. ASHLEY. If the gentleman will yield, is it not a fact that we were denied the opportunity to review this report's language before it was published?

Mr. ST GERMAIN. I will apologize if that were the case. But, getting to the actual facts of this matter, and as I stated in my letter to you that I just read from, that unfortunately there are times when this occurs.

I was there. I did not feel we misspoke that badly. If you did not have an opportunity to be consulted, then I apologize.

Mr. STANTON. Let me say that at this hour of the night, and we are probably going to rise in a few minutes, that I accept the gentleman's apology, and I thank the gentleman for it.

AMENDMENTS OFFERED BY MR. HANLEY

Mr. HANLEY. Mr. Chairman, I offer an amendment. Actually I have two simple, clarifying amendments, that I would ask unanimous consent that they be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

Mr. ROUSSELOT. Mr. Chairman, reserving the right to object, I would ask the gentleman whether these two amendments relate to the same title?

Mr. HANLEY. If the gentleman will yield, they are absolutely related, they are in the same title, and I think the gentleman will concur in them when the gentleman hears my explanation.

Mr. ROUSSELOT. I appreciate the gentleman's statement, and I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

The CHAIRMAN. The Clerk will report the amendments en bloc.

The Clerk read as follows:

Amendments offered by Mr. HANLEY: Section 1301 of the Financial Institutions Regulatory Act of 1978 is amended by deleting therefrom clause (iii), and by substituting in its place the following new clause (iii):

"(iii) any insurance activity engaged in by a bank holding company or any of its subsidaries prior to June 6, 1978. . . ."

As amended, Section 1301 of the Financial Institutions Regulatory Act of 1978 in its entirety would read as follows:

SEC. 1301. Section 4(c)(8) of the Bank Holding Company Act of 1956 (12 U.S.C. § 1843(c)(8)) is amended by striking the period at the end of the first sentence thereof and adding the following: ", but for purposes of this subparagraph it is not closely related to banking or managing or controlling banks for a bank holding company to provide insurance as a principal, agent, or broker under this subsection except (i) where the insurance is limited to insuring the life of a debtor pursuant to or in connection with a specific credit transaction or providing indemnity for payments due on a specific loan or other credit transaction while the debtor is disabled; or (i) any insurance sold in a community that (A) has a population not exceeding 5,000 (as shown by the last preceding decennial census), or

(B) the bank holding company, after notice and opportunity for a hearing, demonstrates that a city, town, or village has inadequate insurance agency facilities; or (iii) any insurance activity engaged in by a bank holding company or any of its subsidiaries prior to June 6, 1978; or (iv) any insurance agency activity engaged in by a bank holding company, or any of its subsidiaries which bank holding company has assets of $50 million or less."

And on page 184, line 14, delete the period and quotation marks after the word "less" and insert the following: ", provided, however, such bank holding company and its subsidiaries may not engage in the sale or underwriting of life insurance or annuities except as provided in (i) or (ii) above."

Mr. HANLEY (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD at this point.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. HANLEY. Mr. Chairman, I regret very much that so much time had to be consumed in the House tonight by virtue of an in-House dispute, an interpretation of what was said or what was not said during the course of committee deliberations.

Mr. Chairman, title XIII has had a long and thus far successful journey through the legislative process of the Banking, Finance, and Urban Affairs Committee. The almost unanimous agreement of the Banking Committee has endorsed this prohibition of insurance activities relating to property and casualty, sale and brokerage facilities of the bank holding companies has given impetus to this needed legislative protection of the independent insurance industry.

I appreciate the special degree of support that Chairman ST GERMAIN has given to this issue during safe banking deliberations and even more so since this bill became the Financial Institutions Regulatory Act of 1978.

I have two amendments to offer today which should clarify and strengthen the cause of restriction on the expansionist practices of the bank holding companies. The first deals with the application of the grandfathering clause of this title. It will retain the security of those affiliates which were in operation as of June 6, 1978, but it would remove the protection as it now exists for those applications which were pending with the Fed on that date.

The second amendment deals with the issue of clarification of the intent of this legislation as not in any way allowing a major expansion by bank holding companies and their subsidiaries into the business of underwriting and selling life insurance and life products such as annuities. This amendment has wide sup-

port from the insurance industry and from elements of the banking community such as the mutual savings banks and the independent bankers which do not oppose the amendment. Additionally, there is support from the securities industry, Congress watch, the American Society of Travel Agents.

I would offer both these amendments and ask unanimous consent that they be considered as a unit.

This legislation goes to the heart of the restraints on nonbanking activities contemplated by section 4(c)(8) of the act, and debated by Congress during its consideration of the 1970 amendments to that act.

Those restraints recognize the tremendous power of banks' control over credit and capital, and the implications of that power when applied to the entry by banks into nonbanking activities.

The meaning and purpose of section 4(c)(8), and I believe, congressional intent, are jeopardized by the conclusion of protracted litigation brought by the Independent Insurance Agents of America to contest a Federal Reserve Board interpretation of permissible nonbanking activities under the act. The Board's interpretation would permit the wholesale approval of applications by banks to engage in insurance agency activities, and to offer their customers a full range of property casualty insurance.

Traditionally, banking organizations in our economy have been prohibited by law from engaging in activities other than banking. The thinking has been that, since banks are quasi-public creatures which receive infusions of interest-free funds in the form of the public's deposits, they should not be permitted to engage in businesses other than banking which bring them into direct competition with nonbanking entities which are not similarly advantaged. The separation of banking from other forms of commerce has also been maintained out of a recognition that the power of banking institutions to control credit transactions provides them with unique capability of influencing the consumer's decision about where he will purchase nonbanking services. Finally, the long-standing separation between banking and commerce also reflects a recognition that, if banking organizations were permitted to engage in commerce, there would exist a strong temptation to commit banking resources to activities outside of the banking industry. Such commitment could, especially in times of economic adversity, jeopardize the soundness of banking institutions by having their resources expended in efforts to salvage failing nonbanking affiliates.

Section 4(c)(8) of the Bank Holding Company Act of 1956 (BHC Act) permits bank holding companies, under certain circumstances, to engage in nonbanking activities. Since the amendments to the BHC Act in 1970, there has been energetic expansion by bank holding companies into an ever increasing number of nonbanking activities. One of the major areas of commerce which the Board of Governors of the Federal Reserve System has permitted bank holding companies to enter has been the sale as agents or brokers of property and casualty insurance. The retail property and casualty insurance industry is currently made up of numerous competitive entities which operate in highly unconcentrated markets. The huge capital resources of bank holding companies and their control over credit transactions makes it almost inevitable that their entry into the retail property and casualty insurance industry will, over time, have a serious adverse effect upon competition in the industry. Historically, consumers have benefited from the current structure of the industry; they would not benefit from bank holding company entry into that industry.

It is imperative that every effort be made to prevent the erosion of competition in the sale of property and casualty insurance. This is especially so in light of the fact that the retail property and casualty insurance industry is one of the few areas of business left in this country where small, independent business entrepreneurs can, through initiative and perseverance, build viable businesses of their own.

In this connection, the legislation before us would make it clear that section 4(c)(8) of the Bank Holding Company Act does not permit bank holding companies to act as agents or brokers in the sale of property and casualty insurance. At the same time, the legislation would permit bank holding companies to sell credit life and credit disability insurance (lines of insurance which traditionally have been offered by financial institutions) and property and casualty insurance with respect to activities of national banking associations operating in communities of 5,000 or less inhabitants or by an affiliate of a bank holding company of less than $50 million aggregated net assets. Finally, the legislation would prohibit bank holding companies from engaging in the underwriting of property and casualty insurance, thereby avoiding the dangers of undue concentration of economic resources and the possibility that bank capital might be impaired in the event the insurance underwriting subsidiary were to suffer significant losses.

I am happy to be able to offer today an opportunity for Congress to decide this issue once and for all, and to reassert the meaning and purpose of section 4(c)(8).

Mr. STANTON. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, first, the author of the amendment spoke and quoted the American Banker article of September 25, 1978, in which Arthur Burns, former Chairman of the Board of Governors of the Federal Reserve System, asked for a halt on bank holding company growth. On September 29, 1978, in the American Banker Bank Notes letter, the headline reads "Burns Favors Going Slow on BHC Expansion But Opposes Moratorium on Such Growth," so he qualified himself on this particular point.

Mr. Chairman, what we have here is a classic example of somebody who wanted a little bit too much and I hope too late. There is nobody, I hope, who thinks that bank holding companies today should be in the insurance business to the degree that perhaps they could have been allowed to in the past.

This amendment is before us—and I think we can have agreement on this—because the insurance industry took their case to keep banks out of their business all the way to the Supreme Court. During the time that these cases were pending before the Federal Reserve Board, the Federal Reserve Board took the position of waiting to see the outcome of the Supreme Court case before we process it.

One application from Baltimore was pending before the Fed since 1975. Earlier this year the Supreme Court ruled that insurance companies were a legitimate business of bank holding companies. We have come through the legislative route to change that. When we passed this legislation several months ago, everybody agreed that any pending application at that time, that is, when the subcommittee handled it at that time on June 6, would be covered if the Federal Reserve Board approved it. What is involved was 14 bank holding companies at that time in some 29 different applications, but 14 bank holding companies. Since we met and we took up legislation, many bank holding companies have applied for insurance activities after June 6. They are mad at our committee because they do not want any grandfathering clause, but in fairness to all interested parties, we settled on the June 6 date, and everybody was happy, and we never heard another word about this until this last week.

Mr. HANLEY. Mr. Chairman, will the gentleman yield?

Mr. STANTON. Certainly.

Mr. HANLEY. Well, again, actually we can rehash that forever; but conclusively, all we have to do is vote on the amendment and that ends the question.

Mr. STANTON. Does the gentleman mean tonight? Oh, no. If we vote on this amendment tonight, it does not mean that at all, because we would fight this amendment all the way into the conference, if we ever get to it.

I am willing to fight on this particular point only because I believe it is fair. The existing language in H.R. 13471 is a legitimate, fair thing to do. The bank holding companies and the insurance companies settled on this thing on the June 6 grandfather date, until a week ago, as far as I know.

Mr. HANLEY. Mr. Chairman, will the gentleman yield further?

Mr. STANTON. Certainly, I yield.

Mr. HANLEY. Mr. Chairman, I quote from the record of the markup, and in response to a question:

> Does the gentleman know how many of these applications are pending in various regional Federal Reserve Banks around the country?

The answer to the question was:

> My understanding is there are half a dozen.

Mr. STANTON. Right.

Mr. HANLEY. On that premise, the committee agreed, OK, you are only talking about half a dozen. Here is the Federal Reserve chief stating this.

Mr. STANTON. They list 14.

Mr. HANLEY. Pardon?

Mr. STANTON. They list 14 bank holding companies that have pending applications. I said half a dozen. It is 14 bank holding companies according to a letter

from the Federal Reserve Board to my distinguished colleague from Ohio (Mr. ASHLEY).

Mr. HANLEY. Here is the Fed record and there are 29 with a potential of 157 insured sites.

The CHAIRMAN. The time of the gentleman from New York has again expired.

(At the request of Mr. HANLEY, and by unanimous consent, Mr. STANTON was allowed to proceed for 2 additional minutes.)

Mr. STANTON. Mr. Chairman, I want to make the record clear. I will read from the same letter. This is for the second time:

We have 29 applications from 14 banking institutions.

So that is what we are faced with; 14, instead of 6, out of hundreds of bank holding companies.

Mr. Chairman, I would simply say that in all fairness, we settled this thing in committee by a 2 to 1 vote, and I would hope the amendment would be defeated.

Mr. ASHLEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, we are all anxious to leave here and we are going to leave here at 8:30. The Speaker is here and has indicated we are going to rise at 8:30. That is in 7 minutes. We can certainly proceed until 8:30.

Mr. Chairman, the proposed amendment to eliminate pending applications before the Federal Reserve Board from title XIII is both unfair and unreasonable. It is unreasonable because only 11 applications appear to be covered by the amendment, and no case has been made—nor could it be made—that approval of this handful of applications would injure the insurance agency industry.

It is unfair because the 11 applications have been pending for extensive periods of time—the oldest dates back to November 1872—almost 6 years. Simple equity requires that these long-pending applications be processed to their conclusion.

The "grandfather" date in clause (iii) of title XIII is June 6, 1978, because on that date a subcommittee of the full committee "marked up" this title. This action represented the first time that any committee or subcommittee of the Congress had acted on this subject. When this title was considered in full committee, I estimated that a half-dozen applications were covered by this grandfather date. I have since checked on this, and have found that perhaps 5 others are also covered, for a total of 11. It is significant that the most recent application of the 11 was filed in May 1977, more than 1 year prior to the subcommittee's action. The present debate, therefore, is focusing on a handful of applications filed in good faith with the Federal Reserve Board between November 1972 and May 1977, long before there was any indication of congressional action.

It is worth nothing for the record that the first bill on this subject was filed in the House on March 10 of this year. This is the earliest date which the House can fairly consider in deciding on a "grandfather" date, since there was no indication of any congressional interest prior to that time. I consider the June 6 date in the bill more reasonable since on that date some action was taken in subcommittee as a followup to the March 10 introduction of the bill.

If Congress fails to provide for consideration of pending applications, it would be acting most unfairly toward a random group of bank holding companies that have acted in good faith in compliance with the law and with rules of the Federal Reserve. All of these applications would have been processed by now—and approved or denied on their merits—had it not been for the fact that the insurance agents were engaging in extensive litigation challenging the Fed's rules. As a result of the litigation, the Fed held up processing of these applications, and this delay accounts for the longevity of the applications.

Earlier this year, the Supreme Court declined to review the agents' appeal of a decision by the Fifth U.S. Circuit Court of Appeals, and thus ended a years-long process of appeals. Legislation designed to overturn the Court of Appeals decision was introduced in the House on March 10, as I indicated earlier. In view of the fact that the applications pending had been stalled in the regulatory process, Congress should allow the Fed to process them to their completion. To do otherwise would be to revoke business decisions made years ago in a different legislative environment.

This is the reason Congress typically includes pending applications in "grandfather" clauses. A recent example is the International Banking Act of 1978. The House took final action on August 17 on the bill, which contains a specific provision for the continuing operation and expansion of nonbanking activities of foreign-owned bank holding companies, including pending applications, up to July 26. The "grandfather" provision in the International Banking Act in this respect is very similar to the provision in clause (iii) of title XIII. If today we further restrict title XIII's grandfather provision, we would produce the ironic result of granting more liberal treatment to foreign-owned bank holding companies than to our own domestic companies. We can therefore describe the pending amendment as the "America Last" amendment.

There are a number of applications pending that fall under other exemptions in title XIII and thus are not affected by this amendment. Some 13 applications have been submitted by bank holding companies having less than $50 million in assets—one exemption—or seek authority to sell credit life insurance, which is another specific exemption.

This entire debate turns on the fate Congress gives to 11 applications at the Federal Reserve Board. Congress should not interfere in the applications process and should let each application stand or fall on its merits.

The CHAIRMAN. The question is on the amendments offered by the gentleman from New York (Mr. HANLEY).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. HANLEY. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 252, noes 72, answered "present" 9, not voting 99, as follows:

[Rollcall No. 883]

AYES—252

Addabbo	Frey	Moorhead, Calif.
Akaka	Fuqua	Moorhead, Pa.
Alexander	Garcia	Motti
Ambro	Gaydos	Murphy, Ill.
Anderson, Calif.	Gephardt	Murphy, N.Y.
Andrews, N.C.	Gilman	Murphy, Pa.
Andrews, N. Dak.	Glickman	Murtha
Annunzio	Gonzalez	Myers, Gary
Applegate	Gore	Myers, John
Archer	Gradison	Myers, Michael
Ashbrook	Grassley	Natcher
AuCoin	Gudger	Neal
Badham	Guyer	Nedzi
Bafalis	Hall	Oakar
Baldus	Hamilton	Ottinger
Baucus	Hammer-schmidt	Panetta
Bauman	Hanley	Patten
Beard, RI.	Hannaford	Pease
Benjamin	Hansen	Pepper
Bennett	Harkin	Perkins
Biaggi	Harris	Pickle
Bingham	Harsha	Pike
Blanchard	Heckler	Poage
Boggs	Hefner	Pressler
Boland	Heftel	Preyer
Bonior	Hightower	Price
Bonker	Holland	Pursell
Bowen	Hollenbeck	Rahall
Brademas	Holt	Rangel
Breaux	Holtzman	Reuss
Brinkley	Horton	Rinaldo
Brooks	Howard	Risenhoover
Brown, Calif.	Hubbard	Roberts
Brown, Mich.	Hughes	Roe
Burgener	Ichord	Roncalio
Burke, Mass.	Ireland	Rosenthal
Burleson, Tex.	Jacobs	Rostenkowski
Burlison, Mo.	Jeffords	Rousselot
Burton, John	Jenrette	Roybal
Carr	Johnson, Colo.	Runnels
Cavanaugh	Jones, N.C.	Russo
Cederberg	Jones, Tenn.	Ryan
Chappell	Kasten	Santini
Chisholm	Kastenmeier	Sawyer
Clausen, Don, H.	Kazen	Schroeder
Clawson, Del	Keys	Sebelius
Clay	Kildee	Seiberling
Coleman	Kindness	Sharp
Collins, Ill.	Krebs	Shuster
Collins, Tex.	Lagomarsino	Sikes
Conte	Latta	Skubitz
Corman	Le Fante	Slack
Cornell	Leach	Solarz
Cotter	Lederer	Spellman
Danielson	Lehman	Spence
de la Garza	Lent	St Germain
Dellums	Lloyd, Calif.	Stokes
Dent	Lloyd, Tenn.	Stratton
Derrick	Long, Md.	Studds
Derwinski	Lott	Stump
Devine	Luken	Symms
Dingell	Lundine	Taylor
Downey	McClory	Thompson
Drinan	McCloskey	Thornton
Duncan, Tenn.	McCormack	Traxler
Early	McDade	Tucker
Edwards, Okla.	McDonald	Vanik
Emery	McEwen	Volkmer
English	McFall	Walgren
Ertel	McHugh	Wampler
Evans, Ga.	McKinney	Waxman
Evans, Ind.	Mahon	Weiss
Fary	Mann	White
Fascell	Markey	Whitley
Fish	Marlenee	Whitten
Fisher	Marriott	Wilson, Bob
Fithian	Mattox	Wilson, Tex.
Flippo	Metcalfe	Wirth
Flood	Meyner	Wylie
Florio	Mikulski	Yates
Flowers	Minish	Yatron
Ford, Mich.	Mitchell, N.Y.	Young, Fla.
Fountain	Moakley	Zablocki
	Mollohan	Zeferetti
	Montgomery	

NAYS—72

Abdnor	Corcoran	Foley
Ashley	Cunningham	Ford, Tenn.
Barnard	Daniel, R. W.	Forsythe
Bedell	Dornan	Fowler
Bevill	Duncan, Oreg.	Frenzel
Bolling	Eckhardt	Ginn
Buchanan	Edgar	Green
Butler	Edwards, Ala.	Hawkins
Byron	Erlenborn	Huckaby
Carter	Fenwick	Hyde
Conable	Flynt	Jenkins

Johnson, Calif.	Nowak	Stanton
Jordan	Oberstar	Steed
Kelly	Patterson	Steiger
Kostmayer	Pattison	Treen
LaFalce	Pritchard	Trible
Levitas	Regula	Vander Jagt
Long, La.	Rhodes	Vento
McKay	Rose	Waggonner
Mazzoli	Satterfield	Watkins
Miller, Ohio	Scheuer	Whalen
Mitchell, Md.	Smith, Iowa	Whitehurst
Moore	Snyder	Wydler
Nolan	Stangeland	Young, Mo.

ANSWERED "PRESENT"—9

Daniel, Dan	Quillen	Steers
Mineta	Robinson	Walsh
O'Brien	Skelton	Winn

NOT VOTING—99

Ammerman	Evans, Colo.	Pettis
Anderson, Ill.	Evans, Del.	Quayle
Armstrong	Findley	Quie
Aspin	Fraser	Railsback
Beard, Tenn.	Gammage	Richmond
Bellenson	Giaimo	Rodino
Blouin	Gibbons	Rogers
Breckinridge	Goldwater	Rooney
Brodhead	Goodling	Rudd
Broomfield	Hagedorn	Ruppe
Brown, Ohio	Harrington	Sarasin
Broyhill	Hillis	Schulze
Burke, Calif.	Jones, Okla.	Shipley
Burke, Fla.	Kemp	Simon
Burton, Phillip	Krueger	Sisk
Caputo	Leggett	Smith, Nebr.
Carney	Livingston	Staggers
Cleveland	Lujan	Stark
Cochran	Madigan	Stockman
Cohen	Maguire	Teague
Conyers	Marks	Thone
Cornwell	Martin	Tsongas
Coughlin	Mathis	Udall
Crane	Meeds	Ullman
D'Amours	Michel	Van Deerlin
Davis	Mikva	Walker
Delaney	Milford	Weaver
Dickinson	Miller, Calif.	Wiggins
Dicks	Moffett	Wilson, C. H.
Diggs	Moss	Wolff
Dodd	Nichols	Wright
Edwards, Calif.	Nix	Young, Alaska
Eilberg	Obey	Young, Tex.

Mr. MINETA changed his vote from "aye" to "present."

Messrs. FLIPPO, McDONALD, FITHIAN and FISHER changed their vote from "no" to "aye."

So the amendments were agreed to.

The result of the vote was announced as above recorded.

● Mr. CONYERS. Mr. Chairman, as chairman of the House Judiciary Subcommittee on Crime, I rise in support of the amendment offered by my distinguished colleague from Rhode Island, the chairman of the Subcommittee on Financial Institutions Supervision, Regulation and Insurance, Mr. ST GERMAIN, to title II of H.R. 13471, the "Financial Institutions Regulatory Act of 1978."

Title II of the bill revises and expands existing law governing management interlocks between depository institutions. The St Germain amendment, which is supported by the U.S. Departments of Justice and Treasury, would greatly improve and strengthen title II by amending the Clayton Act to restore the concurrent jurisdiction of the Justice Department to challenge interlocks under title II. Furthermore, the St Germain amendment would restore prohibitions on anticompetitive interlocks between depository institutions and nondepository institutions with which they compete.

I fully share the view of the Assistant Attorney General of the Antitrust Division of the Department of Justice. Mr. John Shenefield, that the interests of consumers of financial services would be better served with the inclusion of these features of the St Germain amendment.

Mr. Chairman, the Subcommittee on Crime of the House Judiciary Committee has begun a long series of hearings on the general subject of "white collar crime," and in that regard, I am interested in doing whatever I can to encourage the Justice Department to strengthen and maintain its capabilities in white collar crime-related areas of investigations and prosecution.

In this context, I strongly support the St Germain amendment's attempt to preserve the Justice Department's independent authority to enforce title II's prohibitions on interlocks as the best possible way to maximize a serious Federal enforcement effort in this area.●

Mr. ST GERMAIN. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. NATCHER) having assumed the chair, Mr. MCCORMACK, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 13471) to strengthen the supervisory authority of Federal agencies which regulate depository institutions, to prohibit interlocking management and director relationships between financial institutions, to amend the Federal Deposit Insurance Act, to restrict conflicts of interest involving officials of financial supervisory agencies, to control the sale of insured financial institutions, to regulate the use of correspondent accounts, to establish a Federal Bank Examination Council, and for other purposes, had come to no resolution thereon.

CONFERENCE REPORT ON H.R. 2329, FISH AND WILDLIFE IMPROVEMENT ACT OF 1977

Mr. BOWEN submitted the following conference report and statement on the bill (H.R. 2329) to improve the administration of fish and wildlife programs, and for other purposes:

CONFERENCE REPORT (H. REPT. NO. 95–1730)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 2329) to improve the administration of fish and wildlife programs, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendments of the Senate numbered 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 20, 21, 22, 23, 25, 26, 27, 29, 30, and 31, and agree to the same.

Amendment numbered 19: That the House recede from its disagreement to the amendment of the Senate numbered 19 and agree to the same with an amendment as follows: On page 3, line 7 of the Senate engrossed amendments, strike out "and directed"; and the Senate agree to the same.

Amendment numbered 24: That the House recede from its disagreement to the amendment of the Senate numbered 24 and agree to the same with an amendment as follows: On page 4 of the Senate engrossed amendments, strike out lines 12 through 15 and insert in lieu thereof the following:

(j) TITLE 18.—(1) Section 3112 of title 18, United States Code, is amended by striking out "court" and inserting in lieu thereof "Secretary".

And the Senate agree to the same.

Amendment numbered 28: That the House recede from its disagreement to the amendment of the Senate numbered 28 and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

(c) Section 11 of such Act (16 U.S.C. 715j) is amended by inserting "and the Migratory Bird Treaty Act (16 U.S.C. 703 et seq.)" after "this Act", by striking out "and" after "(39 Stat. 1702)" and inserting in lieu thereof a comma, and by inserting immediately before the period at the end thereof a comma and the following: "the Convention between the Government of the United States of America and the Government of Japan for the Protection of Migratory Birds and Birds in Danger of Extinction, and their Environment concluded March 4, 1972, and the Convention between the United States and the Union of Soviet Socialist Republics for the Conservation of Migratory Birds and their Environment concluded November 19, 1976".

And the Senate agree to the same.

The committee of conference report in disagreement amendments numbered 32 and 33.

JOHN M. MURPHY,
ROBERT L. LEGGETT,
DAVID R. BOWEN,
CARROLL HUBBARD, JR.,
PHILIP E. RUPPE,
EDWIN B. FORSYTHE,
Members on the Part of the House.

JOHN CULVER,
MIKE GRAVEL,
KANEASTER HODGES, JR.,
MALCOLM WALLOP,
JAMES A. MCCLURE,
Members on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 2329) to improve the administration of fish and wildlife programs, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

Amendments No. 24 and 28: The House receded from its disagreement to the amendments of the Senate numbered 24, and 28, with amendments which are purely technical in nature.

Senate amendment numbered 24 authorizes the Secretary of the Interior to dispose of items forfeited pursuant to the Lacey Act of 1900. Current law authorizes disposal by the appropriate court. Senate amendment numbered 28 amends the Migratory Bird Conservation Act to include birds protected under the U.S.-Japan, U.S.-U.S.S.R. Migratory Bird Treaties under the provisions of the Act.

U.S. MIGRATORY BIRD CONSERVATION TREATIES

Amendment No. 19: The House recedes from its disagreement to the amendment of the Senate numbered 19 with an amendment which struck the words "and directed", in order to ensure that the Secretary of the Interior, in implementing the subsistence hunting sections of the four migratory bird conservation treaties to which the U.S. is a party, has sufficient flexibility to determine whether new migratory bird regulations are appropriate.

The U.S. has entered into migratory bird conservation treaties with Canada, Japan, Mexico and the U.S.S.R. Some of these conventions may be renegotiated and the man-

dated issuance of regulations based on the existing treaty may not be appropriate at this time. In other instances, the issuance of regulations may not be necessary to effectuate the purposes of the Treaty.

CALIFORNIA GRASSLANDS

Amendment No. 32: Reported in technical disagreement. The Senate amendment would add a new section to H.R. 2329 which would provide for the conservation and enhancement of critical waterfowl habitat in the Central Valley of California. The grasslands area of the Central Valley includes the last remaining habitat of its kind in the San Joaquin Valley and is one of the most important wintering areas for waterfowl in the entire Pacific flyway. The area affected by the amendment supports approximately 50 million waterfowl use days annually for many species of waterfowl and shorebirds such as long-billed curlews, great blue-herons, and snowy egrets. Today there are growing economic pressures on the private landowners in the grasslands area to convert this land from waterfowl purposes to more economically attractive uses. The Senate amendment numbered 32 would provide an economic incentive to property owners to maintain their land for waterfowl by providing for the delivery of water at no cost. This water is used by landowners to maintain the marshy habitat required by migratory waterfowl.

The Senate provision passed both the House and the Senate in the 94th Congress. The bill was not enacted at that time, however, because the Senate had added an amendment to the legislation in the waning days of the 94th Congress. It is estimated that this provision will cost the treasury $5,000 per year.

The Senate amendment would be in violation of the germaneness provisions of clause 7 of Rule XVI of the Rules of the House if such amendment had been offered in the House. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment with amendments which are technical in nature.

INTEROCEANIC CANAL STUDY

Amendment No. 33: Reported in technical disagreement. The Senate amendment, explained in greater detail below, would update and expand previous studies on the feasibility and advisability of a new sea-level canal across the Americas. The organizational vehicles for the study update would be a domestic Interoceanic Canal Study Council and a joint United States-host country International Sea-Level Canal Study Commission.

This Senate amendment would be in violation of the germaneness provisions of clause 7 of Rule XVI of the Rules of the House if such amendment had been offered in the House. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment with amendments. The amendments to be offered by the House managers to the Senate amendment will all be technical in nature with the exception of one amendment to clarify that the compensation, if any, for host country members of the International Sea-Level Canal Study Commission will be the responsibility of the host country.

Explanation of canal studies

The sea-level study provision added to H.R. 2329 by the Senate calls for an assessment of the environmental, economic, national security, and foreign policy implications of a new interoceanic canal.

There are two organizational vehicles in the Senate provision for completing a new study of a prospective canal and improved means of facilitating transport of cargo from ocean to ocean. These vehicles are an Interoceanic Canal Study Council (a body made up entirely of U.S. members) and an International Sea-Level Canal Study Commission, which would consist of an equal number of U.S. citizens and citizens of that country which is determined to have the best site for a new canal.

The Council and the Commission

The Interoceanic Canal Study Council would take up to one year to evaluate the U.S. interest in the major alternative routes for construction and operation of a new canal. The Council would be made up of five persons, three of whom would be appointed by the President, one by the President pro tempore of the Senate, and one by the Speaker of the House. The Council would present the results of its study to the President and the Congress.

If the Council as a result of its studies expresses interest in a new interoceanic canal and if the Congress does not disapprove the Council's report in 60 legislative days, and the host country wherein the best canal site is located explicitly wants to join in further study, then an International Sea-Level Canal Study Commission is established by H.R. 2329. This Commission would consist of five U.S. representatives and five representatives of the host country. The Commission's mission would be that of assessing the feasibility of a sea-level canal in the particular host country. It would, over a period not to exceed three years, assess the environmental, technical, economic, and national security aspects of a new canal in that country. An environmental impact statement in accordance with NEPA would be produced, and the Council on Environmental Quality and interested public parties would have an opportunity to submit to the Congress and the President their comments on the statement.

Administration

The sea-level provision in H.R. 2329 also authorizes both the Council and the Commission those administrative powers necessary for the successful accomplishment of the mission. These include, among other things, the use of information of U.S. departments and agencies, use of the U.S. mails, the power to enter into contracts, and use of government personnel. Also, the Commission can accept the services and contributions of the host country and international organizations to further their study.

Rationale

Several factors have prompted interest in an update and expansion of sea-level canal studies. Our energy picture has changed dramatically as Alaskan North Slope oil has begun to flow—a new, more efficient canal could be the most advantageous means to transport this oil to our East and Gulf Coasts. Moreover, the economies generated by the increasing use of larger ocean-going vessels unable to transit the Panama Canal are still another important reason for considering a new canal. For example, from 1960 to 1975 the number of tankers in the world fleet that were too large to transit the Panama Canal grew from 25 to 900. These facts are, of course, among those that need further analysis, but are indicative of the progress in ocean transportation and the need to examine the adequacy of a major waterway through which our trade flows.

Authorization

The authorized sums contained in the Senate's sea-level study provision are $2.5 million for the Interoceanic Canal Study Council for Fiscal Year 1979 and, without fiscal year limitation, $5.5 million for the International Sea-Level Canal Study Commission. These amounts include funds for the studies and investigations to be carried out by the Council and Commission, as well as the salaries and administrative expenses of these bodies. The compensation of the five Commission members of the host country shall be paid by and provided under the laws of the government of the host country. The Congress would have the opportunity to prevent the formation of the International Sea-Level Canal Study Commission and the expenditure of the $5.5 million authorized in the legislation by rejecting through passage of a joint resolution and within 60 working days of its issuance the report of the Interoceanic Canal Study Council.

The sea-level study in H.R. 2329 does not involve a commitment to build a new canal. Also, almost all of the engineering and surveying work for the alternate routes has already been done and need not be repeated in this study, nor is study of nuclear excavation techniques contemplated for this study because such techniques are now impossible to use.

The recently approved Panama Canal Treaty did envisage a study of a new canal. That treaty does not limit or circumscribe the authority the United States might have over a new canal, but the Neutrality Treaty approved this year would apply to any canal the U.S. would build in Panama.

JOHN M. MURPHY,
ROBERT L. LEGGETT,
DAVID R. BOWEN,
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MALCOLM WALLOP,
JAMES A. MCCLURE,
Members on the Part of the Senate.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 12511, CHILD NUTRITION AMENDMENTS OF 1978

Mr. BOLLING, from the Committee on Rules, submitted a privileged report (Rept. No. 95–1727) on the resolution (H. Res. 1411) providing for the consideration of the bill (H.R. 12511) to extend for 1 year the child care food program of the National School Lunch Act and the women, infants, and children program of the Child Nutrition Act of 1966, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 13611, CHILD HEALTH ASSURANCE ACT OF 1978

Mr. BOLLING, from the Committee on Rules, submitted a privileged report (Rept. No. 95–1728) on the resolution (H. Res. 1412) providing for the consideration of the bill (H.R. 13611) to strengthen and improve the early and periodic screening, diagnosis, and treatment program, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 11922, DOMESTIC VOLUNTEER SERVICE AMENDMENTS OF 1978

Mr. BOLLING, from the Committee on Rules, submitted a privileged report (Rept. No. 95–1723) on the resolution (H. Res. 1407) providing for the consideration of the bill (H.R. 11922) to amend the Domestic Volunteer Service Act of 1973, and for other purposes, which was re-

ferred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 12441, TOXIC SUBSTANCES CONTROL ACT AUTHORIZATION

Mr. BOLLING, from the Committee on Rules, submitted a privileged report (Rept. No. 95–1725) on the resolution (H. Res. 1409) providing for the consideration of the bill (H.R. 12441) to amend the Toxic Substances Control Act to increase the authorization of appropriations contained in such act, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 12442, CONSUMER PRODUCT SAFETY ACT AUTHORIZATION

Mr. BOLLING, from the Committee on Rules, submitted a privileged report (Rept. No. 95–1726) on the resolution (H. Res. 1410) providing for the consideration of the bill (H.R. 12442) to amend the Consumer Product Safety Act to extend the authorization of appropriations contained in such act, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 12370, HEALTH SERVICES AMENDMENTS OF 1978

Mr. BOLLING, from the Committee on Rules, submitted a privileged report (Rept. No. 85–1724) on the resolution (H. Res. 1408) providing for the consideration of the bill (H.R. 12370) to amend the Public Health Service Act and related health laws to revise and extend the programs of financial assistance for the delivery of health services, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF S. 2727, AMATEUR SPORTS ACT OF 1978

Mr. BOLLING, from the Committee on Rules, submitted a privileged report (Rept. No. 95–1729) on the resolution (H. Res. 1413) providing for the consideration of the Senate bill (S. 2727) to promote and coordinate amateur athletic activity in the United States, to recognize certain rights for U.S. amateur athletes, to provide for the resolution of disputes involving national governing bodies, and for other purposes which was referred to the House Calendar and ordered to be printed.

PRESIDENT'S PUBLIC WORKS VETO A CHARADE

(Mr. ASHBROOK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ASHBROOK. Mr. Speaker, today the House of Representatives voted to uphold the President's public works veto. That $10 billion bill will now have several questionable projects cut, the taxpayers will be pleased and it will be a signal that we are on our way to a more commonsense spending here in Washington—something I have always wanted so I should be happy. Right? Wrong.

How can it be that as a conservative Members of Congress you cast a vote you know is the right vote and yet down in the gut it makes you feel a little sick. I cast such a vote today. My record has consistently been one of voting for limiting the expansion of the Federal Government, cutting expenditures and insisting on conservative practices regarding the taxpayers' money.

So why do I feel a little sick? It is because although I am sure President Carter is not really committed to cutting bloated Government, I could do nothing other than support him on this one time he took a stand.

There is a current tide of taxpayer resentment to Federal Government expenditures and to high taxes. It is long past due and I have patiently waited for the day when the average American would say, "I've had enough." That day is here and yet all too many elected officials posture to give the impression they agree with this tide while, in truth, they merely want to ride out the waves and, given the chance, revert to their old big Government, high spending ways.

President Carter has a particularly bad record in this area. He campaigned on a balanced budget and cutting the expenditures of Government. One of the first acts of his administration was to increase the Ford administration budget by $20 billion. Of course, this increase came in the first few months of 1977 so it would really be charged against President Ford's last budget, something his public relations advisers very well knew.

Across the board, President Carter has advocated vast increases in expenditures as well as new billion-dollar programs in the field of national health insurance, make-work public jobs, more regulatory agencies and, in particular, foreign aid. I would have more respect for the President if I thought there were 1 chance in 1,000 that he would veto the excessive $9 billion foreign aid giveaway bill which will be on his desk a scant 2 weeks after his public works bill veto.

Is it not a little strange that there are as many as 200 overseas—repeat, overseas—public works projects in that foreign aid bill which will be paid for directly and indirectly by your tax money. The President fought for these projects and his aides conducted a high level lobbying effort for them. His administration fought my amendment which would have blocked taxpayers' money from being funneled to Communist countries like Vietnam, Laos, or Cuba. Shortly after my amendment was killed in the Senate, the World Bank announced a $60 million grant to a Communist nation, Vietnam. For what? You guessed it, a water project of the very type President Carter thinks should be vetoed in America.

His administration is committed to spending up to $1 billion to irrigate African deserts. On close examination, this is a foolish and stupid project. But foreign aid is untouchable.

The list could go on an on. Yes, I agreed with the President that six of those projects in the vetoed bill were not as valuable as they should be and voted to uphold his veto. I should be happy. I am not. The taxpayers won nothing, they were treated to another shell game. If you do not think so, watch what he does when that foreign aid bill or other bloated spending bills of his own choosing come to his desk for signature.

VACATING RESOLUTION

The SPEAKER pro tempore. Without objection, House Resolution 1373 will be laid upon the table.

There was no objection.

A VISA FOR RHODESIAN PRIME MINISTER IAN SMITH

(Mr. RUDD asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. RUDD. Mr. Speaker, there is nothing that casts greater question over the President's human rights policy, or his foreign policy in Africa, than the handling of the visit to the United States by Rhodesian Prime Minister Ian Smith and other representatives of his coalition government.

Prime Minister Smith is the architect of a delicate and complicated transition from white minority government in Rhodesia to a constitutional democratic government by majority rule with full status in the international community.

An administration that has pledged itself to the promotion of peaceful settlement to world conflicts, and to free speech and free travel for all people in the world, should be wholeheartedly supporting such a transition to majority rule in Rhodesia, which will safeguard the free institutions, stability, and prosperity of that good country.

Instead, the United States, led by our U.N. Ambassador Andrew Young, has followed the prejudices of pro-Marxist forces that dominate the United Nations in declaring the illegality of the transition government of Ian Smith and his colleagues.

These pro-Marxist forces are calling for immediate majority rule in Rhodesia, which would mean the immediate ascendancy of black guerrilla leaders who are responsible for the current terrorism and bloodshed against all sectors of the peaceful Rhodesian population.

Mr. Speaker, it is incredible that our Government has failed to recognize and support Prime Minister Ian Smith's wise and statesmanlike approach to majority rule through peaceful transition in Rhodesia.

By failing to give such recognition, which would allow him to travel to the United States on diplomatic passport, befitting his station and his laudable ideals, the U.S. Government has joined

those who are helping to establish another regime of terror in Rhodesia on the order of Uganda or Ethiopia.

I am personally pleased that Prime Minister Smith will be able to bring his message directly to the American people, who I believe will support his sensible, statesmanlike transition to democracy in Rhodesia.

It is important that the American people support his program, and that the U.S. Government also officially recognize and support the Smith transition program and Government.

Whether Rhodesia can succeed in creating a democratic system that will serve as a needed model for other African states depends heavily now on the goodwill and support of the United States and all other free nations.

We should take this opportunity to help bring peace, freedom, and representative government to a continent that is in turmoil. And we should repudiate those in our own Government who do not have the courage or the wisdom to do so.

NATIONAL INITIATIVE LEGISLATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. GOLDWATER) is recognized for 5 minutes.

● Mr. GOLDWATER. Mr. Speaker, I am today introducing legislation proposing a constitutional amendment to allow citizens the right to enact and repeal laws by voting on legislation in a national election.

I fully realize that this concept is a radical departure from our current representative system, but I have come to the conclusion that the American people need a direct check on Federal actions. Based on the federalist system, our founding fathers opted for a Republic rather than a direct democracy; and considering the limits in mass communication and transportation of the 18th century, there is little disagreement over the wisdom of their decision.

However, I believe our founding fathers also envisioned a federalist system wherein the greatest governmental power would reside in those governments closest to the people and that the Federal Government would concern itself only with those matters affecting the good of the Union as a whole.

Obviously, we have come a long way from the original purpose, and we have reached a point where the people have lost control of a burgeoning bureaucracy and an all powerful, centralized Government in Washington. Additionally, the growth, the size and the complexity of the Federal Government represents a confounding maze to the average American, and I believe there is an extension of this confusion when the average American must pick through the rhetoric and contradictory claims of candidates to correctly analyze the voting record and philosophy of those they elect to Congress. As we are all fully aware, rhetoric does not always translate into consistent legislative action, and with individual Members and Senators proposing over 20,000 laws each Congress and with Congress enacting hundreds of laws a year, it is hard enough for a Member and his staff to keep up, let alone the people back home.

As such, I believe a national initiative will provide a much needed check on a Federal legislature and bureaucracy which is becoming increasingly insulated from the people it is supposed to represent and serve. Additionally, I believe that even if a law is never enacted or repealed through this process, the threat of direct action by the people will have a most salutary effect on an unresponsive Congress.

In short, Mr. Speaker, I believe the time has come to provide another constitutional check on Government power, and perhaps with this new "check" we can restore some balance to our system.●

THE CONTINUING TRAGEDY OF OCCUPATIONAL HAZARDS AND DISEASE

The SPEAKER pro tempore. Under a previous order of the House the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

● Mr. ANNUNZIO. Mr. Speaker, during the month of June, the Chicago Sun-Times printed a series of articles on the continuing hazards in the workplace for millions of Americans. An article in that series follows:

THE WORKING WOUNDED

(By Bruce Ingersol)

It was going to be an awkard moment, so Jose Lopez waited until his wife went into the kitchen. Only after he heard the clattering of dishes did he rise from his chair and pull up his sweater to expose his breasts.

They were the pubescent breasts of a girl, soft protrusions of flesh, pushing out the nipples on his chest.

Lopez, 31, stood there in the glow of the television set, his face impassive, pondering his enlarged mammary glands, kneading one and then the other with his fingers. You found yourself wishing he would cover up.

Here was a man who fathered five children and then found himself going through female puberty. Here was a physiological freak, and you couldn't help but envision him in some carnival sideshow.

Lopez—a fictitious name used to protect his family—was the victim of "flagrant corporate callousness," his union, the Oil, Chemical and Atomic Workers International Union, charges.

For nine years, from 1968 until the spring of 1977, Dawe's Laboratories Inc., in south suburban Chicago Heights did next to nothing to protect Lopez and his fellow workers from overexposure to a female sex hormone called DES, short for diethylstilbestrol.

"I haven't worked with DES for two years, but you can see that my breasts are still puffed out," said Lopez. "They still hurt, It's no longer a constant pain. It bothers me when I'm doing heavy labor like unloading a boxcar."

Over the years, at least 15 employes at Dawe's Labs sprouted breasts. Last year, 9 out of 17 men on the chemical production line or in the blending building were suffering from so-called DES "intoxication." They either absorbed it through the pores of their skin or inhaled it while working in a haze of DES dust.

One desperate young man had a double mastectomy rather than endure the shame of having lumpy breasts as big as his fist.

For some workers, there was the shame of impotence, and the frustration, too. DES, in trifling with the biochemistry of their bodies, robbed them of all sexual ardor. Confided one man: "I wasn't worth a damn in bed."

Since 1954, DES has been used as a growth stimulant in cattle feed. It makes cattle put on weight faster. Dawe's was one of the nation's major producers of DES until inspectors for the Occupational Safety and Health Administration moved in a year ago last May and forced a shutdown.

OSHA cited the company for seven serious violations, three of which were listed as "willful." It also imposed a $34,000 fine, which the company contested.

Vernon Dawe, president of Dawe's, has declined to discuss the DES situation other than to acknowledge that 16 current employees and a "handful" of past employees were exposed.

Whenever the men developed DES symptoms, they were sent to the company doctor. It happened so often, they said, it became routine. They usually saw Dr. T. J. Bonick at the Boulevard Medical Clinic, Chicago Heights. He would inject them with a male hormone to counteract the feminizing effects of DES.

More often than not, according to the men, they would be sent right back to making and bagging DES.

"They (Dawe's officials) never gave us any warnings. The only way you heard about the dangers was through the other employees," complained Jeffery Frigo. "To them, you were nothing more than a piece of machinery. If you broke down, if you grew breasts, they just sent you to the doctor for repairs.

"I developed a lump on my left breast. It was so sensitive I couldn't touch it. Wearing a T-shirt was agonizing. Sleeping on my stomach was impossible."

One bout with DES was enough for Frigo. He took up driving an RTA bus. "I'm fine now, but what about 20 years from now? I'm wondering about the long-term effects. Women who took DES (as a drug to prevent miscarriages) in the 1950s have daughters who are coming up with vaginal cancer."

Frigo is also troubled by research findings that the sons of these women are showing a high rate of genital defects.

Edgar Jackson, 27, father of seven, has yet to recover from his second case of DES intoxication. "I got it real bad. I started taking shots twice a week. I'd go to the doctor in the morning and I'd go to work in DES (section) in the afternoon. Man, those shots didn't do any good.

My nipples were discharging this clear, sticky slime. It would wet through my shirts," he said. "Finally, Dr. Bonick told me he couldn't do anything more for me."

Two years have elapsed and Jackson still has a lumpy right breast. The company, he said, has indicated it will pay for surgery if he wants the lump excised. As for Bonick, he has refused to make himself available for comment. Despite repeated telephone calls and visits to his clinic, The Sun-Times has been unable to reach him.

Dawe's is no DuPont. It employs about 100 at its Chicago Heights headquarters, chemical plant and research center. The company does use loads of toxic and noxious chemicals to produce what it calls a "full line" of vitamins and other feed additives. And it does have several foreign subsidiaries. Animal nutrition has been its specialty since 1926. Everything from turkeys to trout has been raised on Dawe's enriched feed.

In the early 1970's, Dawes manufactured vitamin K, a blood coagulant. It is a factor in blood clotting. It is added to chicken feed because chickens are inclined to peck to death any bleeder in their midst. Farmers have found they can prevent bloodshed if they keep their chickens from bleeding.

Dawe's, however, has never been as solicitous about the welfare of its workers as farmers have been about their fowl. If the company had, Jimmie Truite, 49, would never have been taken to the hospital on March 9, 1973, suffering from a rare case of vitamin K poisoning.

"Jimmie was making the stuff week after week," said a friend. "The next thing he knew, he had blood-thickening."

Truite inhaled so much vitamin K that his arteries began to clog, putting a great strain on his hard-pumping heart.

"The day he got sick, he was dizzy and weak. He could hardly breathe and he could hardly stand up," the friend said. "The doctor said that if he hadn't gotten to the hospital, he would have had a heart attack."

Said one former Dawe's employee: "The company plays with people's lives. They treat people like robots. R2-D2 is the kind of worker they need."

Some employes found that vitamin K made their eyes sting. Others were plagued with blisters and burns on their skin. "When you're grinding it up, the dust would fly all over you," said Dennis Schrage, 27. "If you were sweating, you got burned."

"The company kept telling us it would only turn our hands brown," he said. "Well, my hands turned dark brown and the skin peeled. My feet swelled up and turned purple. I couldn't get into my shoes. All I could do for four days was hobble around.

"The company started forcing guys to make vitamin K. That way, the same guy didn't get all the burns. One guy threatened to call in OSHA. So they started paying people double time to make it."

If it wasn't DES or vitamin K, the men usually had something else to contend with—mercury spills, dripping acid, phenol fumes and other hazards.

When OSHA inspectors toured Dawe's, they detected phenol levels 5 to 112 times the federal health limit. They also spotted poisonous beads of mercury on the floor of the chemical-production building and detected hazardous levels of mercury vapor. This didn't surprise Dennis Schrage.

"I've seen five mercury spills in a week," he said. "They kept the mercury in cells. If a plastic cell or a glass line broke, the mercury would just run out onto the floor or into a sewer. It even ran out the door and across the drive to the railroad tracks."

Mercury vapor, if inhaled day after day, can cause tremors in the hands, changes in personality such as irritability and excitability and brain damage. Strong whiffs can induce chest pains, headaches and fever. Three of the five Dawe's workers testified had mercury in their urine, according to OSHA.

"I can remember one night when somebody left a valve open by mistake," said Richard Vanderploeg, 33, an employee. "Some material flowed into the wrong tank and began spilling onto the floor. The room was like a gas chamber.

"Another guy shut off the valve and then staggered outside and fell on the ground. He lay there for a half-hour before he could go to the bathroom and puke."

Before quitting, Vanderploeg said he had a job that "nobody else in the plant would do. The guy who had it before me quit when his hair began falling out and he began getting lumps on his head. Acid was dripping from the ceiling.

"I operated a couple of chemical reactors to make PHPP, which is the base product of DES. I took in a lot of fumes. There were days when I came home and I'd try to take off my T-shirt. The collar would tear away from the shirt and the fabric would just shred in my hands.

"Why did I do it? I was greedy. It was an overtime job—16 hours one day, 8 hours the next."

For $6 an hour and up, most Dawe's workers were willing to brave the fumes. DES was something else, however. It could undermine their sense of maleness and so it became the focus of their growing discontent.

Their union—Oil, Chemical and Atomic Workers Local 7-765—wrung from the company an agreement to give them annual physical exams, beginning in 1972. The union also pressured management to install better ventilation.

"The company said, 'We agree there's a problem and we'll act,'" recalled Rafael Moure, industrial chemist for the union. "We assumed everything was being taken care of."

Four years later, more than half of the men working with DES had budding breasts. Virtually nothing had been taken care of, Moure said, so the union lodged an "imminent danger" complaint against Dawe's.

OSHA inspectors found that the complaint understated, if anything, the hazards. The plant was permeated with DES. It was everywhere—inside of a desk, on handrails, ledges and pipes, in the lunch room and locker rooms. They even uncovered DES in a telephone mouthpiece.

Poor housekeeping was not the company's only failing. The inspectors found that the equipment was so poorly maintained that chemical leaks and spills were unavoidable.

Eight work areas, they discovered, had either inadequate or no ventilation for getting rid of fumes and dust. Wearing a respirator was the only safeguard for many workers. Yet, the company had no program for keeping respirators clean and in good repair.

One of the most unnerving things the inspectors came across was the storage room for sodium, one of many chemicals used to make DES.

"If a drop of water touches the sodium, you can kiss your sweet bippy good-by," explained a worker. "You'd get a helluva explosion. I've seen a particle of sodium fall into a reactor with a little water in the bottom. It sounded like a cannon going off. Two guys had to be taken to the hospital. They couldn't hear anything."

To the inspector's dismay, they found water on the floor next to the sodium drums. The lid on one drum was askew. What was worse, they spotted a steam pipe and water pipe on the ceiling, running directly over the sodium. If either pipe sprung a leak, or if humidity condensed on the water pipe and began dripping, the entire place could have blown up.

While balking at an interview, president Vernon Dawe did talk briefly about the OSHA investigation. In his company's defense, he asserted that every middle-sized business in the country has some sort of hazards. "OSHA regulations are so extensive it's always possible to find violations. We were mistreated by OSHA. We had a bad experience. We don't want to relive it."

Keith Hess, 27, doesn't want to either, but he cannot help but relive it. One bare-chested moment in front of the bathroom mirror brings it all back for him. He is the man who had the double mastectomy.

"I started working with DES in June, 1972," he said. "I started getting shots in July. My breasts had enlarged and they hurt and itched like crazy. It was bad.

"I must have had 10 to 15 shots. Bonick gave them to me. He's the company doctor and, as far as I'm concerned, he's all company. He never told me to get transferred out of DES. After two or three months, he said the shots weren't doing me any good," Hess said, "So I went to my family doctor."

Thus began his quest for medical relief. It was an urgent quest. Not only did he have lumpy breasts, but he was also impotent.

"I started having problems with my marriage after I began working with DES," Hess continued. "My wife and I couldn't make love. Whenever she'd rub up against me or try to hug me, it hurt. My nipples were that sensitive. After a while, she gave up trying to hug me."

As he talked, Hess kept crumbling and recrumbling a paper cup. "It still bugs the hell out of me," he said. "If I think a lot about this, I get nervous. I start sweating."

With his marriage falling apart, Hess kept going from doctor to doctor. Finally, he found one to his satisfaction—at a Champaign (Ill.) clinic. In January, 1973, he had the operation. Dawe's paid for it.

Surgery left him with two small hollows in his chest. It didn't save his marriage. "My wife and I got divorced in June, 1976. I'm just putting my life back together now."●

THE CASE OF MOISEY TONKONOGY WHO IS DETAINED IN THE SOVIET UNION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. HOWARD) is recognized for 5 minutes.

● Mr. HOWARD. Mr. Speaker, I am pleased to join with Mr. BRODHEAD and many of my colleagues to participate in "A Vigil for Freedom" for Soviet Jews. I submit the following on behalf of Moisey Tonkonogy, a young man who has been refused permission to emigrate from the Soviet Union.

Last November I was a member of the congressional delegation which went to the Middle East. My wife accompanied me on this trip, and her itinerary included a visit to the Absorption Center in Jerusalem. A woman who had been at the Wailing Wall on a hunger strike heard that a delegation of congressional wives was to tour the center, and interrupted her prayers to come and plead the cause of her son, Moisey Tonkonogy. It was a sad and touching moment for those present to listen to a mother so distraught over the future of her son.

Moisey is a 25-year-old electrician from the small town of Tulchin. He has been refused a visa, fired from his job, and is now in danger of losing his freedom. Local officials have ordered him to find his own living quarters and employment which they are denying him. Just recently he was jailed for 15 days for "parasitism."

Moisey was denied a visa on the grounds of having served in the army, even though he completed his tour of duty over 5 years ago. All of his appeals to Soviet authorities have been turned down. On one occasion, officials warned him "not to try any more as the chances of emigration are nil."

Since meeting with Mrs. Tonkonogy last year, my wife and I have written to President Carter, Vice President MONDALE, and the Department of State. We

have also appealed to President Brezhnev and Ambassador Dobrynin to grant Moisey permission to emigrate immediately, so that he may be reunited with his family who so eagerly awaits his arrival.

It is my hope that our appeals here in the Congress will result in early emigration to Israel for Moisey Tonkonogy.●

PRESIDENTIAL RECORDS ACT OF 1978

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. BROOKS) is recognized for 5 minutes.

● Mr. BROOKS. Mr. Speaker, I wish to call the attention of my colleagues to H.R. 13500, the Presidential Records Act of 1978. The bill is designed to answer the 200-year-old question of who owns the official records and documents of a President. It would make an outgoing President's papers public property but permit certain restrictions on access to them for a period of years.

I am pleased to introduce today, along with House Administration Committee Chairman FRANK THOMPSON, Government Information Subcommittee Chairman RICHARDSON PREYER, Representative JOHN BRADEMAS, and others, a bill which is the culmination of months of effort and has the full support of the administration. I am attaching a letter from Counsel to the President Robert Lipshutz, in which Mr. Lipshutz advises that timely enactment of the measure is backed by the President and the Vice President.

The bill being introduced today is almost identical to the measure reported out of the Government Operations Committee by a vote of 33 to 2 on July 19. At the suggestion of the White House, it modifies slightly the definition of personal records and the records disposal process.

Our hope is to present the measure as an amendment in the nature of a substitute on the House floor next week under suspension of the rules.

Let me describe briefly for you the background of this legislation, its principal features, and the minor changes incorporated in today's bill.

Much of the foundation for the proposal was laid in the enactment by the Congress of the 1974 Presidential Recordings and Materials Preservation Act, which asserted custody over the tapes and papers of the Nixon administration, and in the subsequent work of the National Study Commission on Records and Documents of Federal Officials.

As you may recall, the 1974 act only dealt with the Nixon records, and did not change the voluntary nature of the Presidential library system. The Presidential Libraries Act of 1955 encourages but does not require a President to deposit the records of his administration within a federally run library. President Nixon, of course, in his agreement with General Services Administrator Arthur Sampson, had provided for the withdrawal and destruction of certain of his donated materials. The only recourse Congress had was to enact a separate piece of legislation, the 1974 law, to overturn this agreement and vest custody of the materials with the Government.

In upholding the constitutionality of the 1974 act, the Supreme Court virtually invited the Congress to resolve the ownership question. Writing for the 7 to 2 majority in Nixon against General Services Administrator, Justice Brennan noted that "Congress can legitimately act to rectify the hit-or-miss approach that has characterized past attempts to protect interests" of the Government and public in these records.

The Court's decision in the Nixon case bolstered the conclusion of the National Study Commission, also set up under the 1974 act, which recommended that there be legislation to settle in favor of the public the ownership and disposition questions surrounding the papers.

The Government Operations Subcommittee on Government Information and Individual Rights held 4 days of hearings earlier this year, and examined in depth the various proposals put forward by the National Study Commission. Out of that grew a consensus bill presented today, H.R. 13500, which gathered the support of the various professional societies representing journalists, historians, and archivists. Representatives of the Government Operations Committee and House Administration Committee have worked closely with the White House and Justice Department to come to agreement over the final wording of the legislation.

Briefly, the legislation declares Presidential records to be Government property and provides that immediately upon the conclusion of a President's tenure in office these records are transferred to the custody of the Archivist of the United States.

An outgoing President would be permitted to place mandatory restrictions of up to 12 years on the availability to the general public of certain types of information. The six restrictive categories are modeled after several of the exemptions of the Freedom of Information Act. But unlike the FOIA exemptions which may be applied in a discretionary fashion by Federal agencies, the statutorily permitted restrictions chosen by the former President are binding and must be observed.

The Freedom of Information Act, with its procedural requirements and provision for judicial review, would govern the public availability of all Presidential records not subject to mandatory restrictions. The FOIA would also govern access to previously restricted information once the mandatory Presidential restriction was no longer in effect. The term of a mandatory restriction would end: First, when the period of up to 12 years selected by the outgoing President has passed; second, when a restriction is lifted with the former President's consent at a date earlier than the one he had initially chosen; or third, when it has been determined by the Archivist that information contained in the records covered by a Presidential restriction has been placed in the public domain through publication by the former President or his agents.

Although materials would be closed to the general public during the term of a Presidentially imposed mandatory restriction, the materials would be accessible to an incumbent President or the Congress when not otherwise available and necessary to conduct the ongoing business of Government; and would also be accessible under demand of subpena or other judicial process. Accessibility would be subject to any rights, defenses, or privileges a former or sitting President or others might assert, however.

To facilitate the compiling of a complete record and the orderly transfer of materials, the President is encouraged to implement sound records management practices and is required as far as practical to separate personal papers from Presidential records. The President is required to adequately document the performance of his functions and may not dispose of Presidential records without first obtaining the written views of the Archivist concerning their historical value. When the Archivist believes that the records may be of interest to either the public or the Congress, he is to seek the advice of the appropriate congressional committees.

Finally, the legislation provides for the similar treatment of Vice Presidential records. Although it allows the Archivist discretion in selecting the depository for the records, it does not authorize the Archivist to establish separate libraries for Vice Presidential records.

The bill being introduced today is printed below. The legislative report on the committee passed bill, H. Rept. 95–1487, is still applicable with few changes. Basically, the modifications are:

The definition of what constitutes a personal record has been modified to include those materials which relate solely to the President's own election or reelection. This change observes more closely the Court's view in the Nixon case that some of the President's involvement in partisan politics may be protected by the first amendment, and that compelled disclosure through assertion of Government interest in certain papers could infringe on those protected rights. The Government's direct interest in campaign records is best served through enactment of special legislation dealing specifically with campaign and election practices.

The maximum period during which the President can choose to impose mandatory restrictions on public access to his or her administration's records has been changed from 10 to 12 years. This change will further insulate from partisan politics the pending public availability of a former President's records by moving the mandatory restrictive period to include a third election cycle after that President has left office.

The provision controlling the disposal of records by the incumbent President has been modified so that it more closely parallels the records management procedures set forth in title 44 of the United

States Code for handling Federal agency records.

The earlier version provided that a mandatory restriction on public access would be lifted, and the Freedom of Information Act exemptions would govern, when the Archivist at his discretion determined that a former President or his aides or associates had placed in the public domain information contained in otherwise restricted documents. This is limited in the amendment offered today, and would only apply to such publication made by the outgoing President and his or her agents. It was felt that it would be unwise to contradict the considered judgment of the former President as to which documents needed continued protection through the inadvertent or deliberate writings of a former White House aide. The fact that the information had been made public, however, would be as a practical matter have some bearing on the President's judgment, during the restrictive 12-year period, about the continued necessity for the secrecy of such documents.

Although I fully appreciate, Mr. Speaker, that the schedule for the remainder of the session is quite heavy, I would hope that because of the broad-based support and agreement concerning this measure that you will look with favor upon the request by myself and Chairman THOMPSON to consider the bill under suspension of the rules, at your earliest convenience.

The text of the letter from Mr. Lipshutz and the bill follow:

THE WHITE HOUSE,
Washington, September 30, 1978.

Hon. JACK BROOKS,
Chairman, Committee on Government Operations, U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: I am pleased that representatives of the House Government Operations Committee and the Committee on House Administration reached agreement with representatives of the White House and Department of Justice yesterday on the legislation known as "The Presidential Papers Act of 1978." Their agreement on this legislation culminates a lengthy and thorough review by the Congress and the Executive Branch of the important issue of ownership and disposition of Presidential and Vice Presidential papers.

It is my understanding that an amendment will be offered in the nature of a substitute bill to H.R. 13500, which was reported earlier this year by the House Government Operations Committee. This substitute bill will be sponsored by Congressmen Brooks, Thompson, Brademas, Preyer and others, and will reflect the agreements reached by our respective staffs and referred to above. To my knowledge, the substitute bill is noncontroversial and enjoys the support of the House Government Operations Committee and the Committee on House Administration. I am writing to advise you that this substitute bill will have the support of the President, the Vice President and the Administration.

The legislation is timely, as you know. Enactment of it by the Congress this year would be gratifying. Please let me know how I can be of assistance to you in communicating our support for this legislation.

Sincerely,

ROBERT J. LIPSHUTZ,
Counsel to the President.

H.R. —

A bill to amend title 44 to insure the preservation of and public access to the official records of the President, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Presidential Records Act of 1978".

RECORDS MANAGEMENT, PRESERVATION, AND PUBLIC AVAILABILITY

SEC. 2. (a) Title 44 of the United States Code is amended by adding immediately after chapter 21 the following new chapter:

"CHAPTER 22.—PRESIDENTIAL RECORDS

"Sec.
"2201. Definitions.
"2202. Ownership of Presidential records.
"2203. Management and custody of Presidential records.
"2204. Restrictions on access to Presidential records.
"2205. Exceptions to restriction on access.
"2206. Regulations.
"2207. Vice-Presidential records.

"§ 2201. Definitions

"As used in this chapter—

"(1) The term 'documentary material' means all books, correspondence, memorandums, documents, papers, pamphlets, works of art, models, pictures, photographs, plats, maps, films, and motion pictures, including, but not limited to, audio, audiovisual, or other electronic or mechanical recordations.

"(2) The term 'Presidential records' means documentary materials, or any reasonably segregable portion thereof, created or received by the President, his immediate staff, or a unit or individual of the Executive Office of the President whose function is to advise and assist the President, in the course of conducting activities which relate to or have an effect upon the carrying out of the constitutional, statutory, or other official or ceremonial duties of the President. Such term—

"(A) includes any documentary materials relating to the political activities of the President or members of his staff, but only if such activities relate to or have a direct effect upon the carrying out of constitutional, statutory, or other official or ceremonial duties of the President; but

"(B) does not include any documentary materials that are (i) official records of an agency (as defined in section 552(e) of title 5, United States Code); (ii) personal records; (iii) stocks of publications and stationery; or (iv) extra copies of documents produced only for convenience of reference, when such copies are clearly so identified.

"(3) The term 'personal records' means all documentary materials, or any reasonably segregable portion thereof, of a purely private or nonpublic character which do not relate to or have an effect upon the carrying out of the constitutional, statutory, or other official or ceremonial duties of the President. Such term includes—

"(A) diaries, journals, or other personal notes serving as the functional equivalent of a diary or journal which are not prepared or utilized for, or circulated or communicated in the course of, transacting Government business;

"(B) materials relating to private political associations, and having no relation to or direct effect upon the carrying out of constitutional, statutory, or other official or ceremonial duties of the President; and

"(C) materials relating to the President's own election to the office of the Presidency; and materials directly relating to the election of a particular individual or individuals to Federal, State, or local office, which have no relation to or direct effect upon the carrying out of constitutional, statutory, or other official or ceremonial duties of the President.

"(4) The term 'Archivist' means the Archivist of the United States.

"(5) The term 'former President', when used with respect to Presidential records, means the former President during whose term or terms of office such Presidential records were created.

"§ 2202. Ownership of Presidential records

"The United States shall reserve and retain complete ownership, possession, and control of Presidential records; and such records shall be administered in accordance with the provisions of this chapter.

"§ 2203. Management and custody of Presidential records

"(a) Through the implementation of records management controls and other necessary actions, the President shall take all such steps as may be necessary to assure that the activities, deliberations, decisions, and policies that reflect the performance of his constitutional, statutory, or other official or ceremonial duties are adequately documented and that such records are maintained as Presidential records pursuant to the requirements of this section and other provisions of law.

"(b) Documentary materials produced or received by the President, his staff, or units or individuals in the Executive Office of the President the function of which is to advise and assist the President, shall, to the extent practicable, be categorized as Presidential records or personal records upon their creation or receipt and be filed separately.

"(c) During his term of office, the President may dispose of those of his Presidential records that no longer have administrative, historical, informational, or evidentiary value if—

"(1) the President obtains the views, in writing, of the Archivist concerning the proposed disposal of such Presidential records; and

"(2) the Archivist states that he does not intend to take any action under subsection (e) of this section.

"(d) In the event the Archivist notifies the President under subsection (c) that he does intend to take action under subsection (e), the President may dispose of such Presidential records if copies of the disposal schedule are submitted to the appropriate Congressional Committees at least 60 calendar days of continuous session of Congress in advance of the proposed disposal date. For the purpose this section, continuity of session is broken only by an adjournment of Congress sine die, and the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the days in which Congress is in continuous session.

"(e) The Archivist shall request the advice of the Committee on Rules and Administration and the Committee on Governmental Affairs of the Senate and the Committee on House Administration and the Committee on Government Operations of the House of Representatives with respect to any proposed disposal of Presidential records whenever he considers that—

"(1) these particular records may be of special interest to the Congress; or

"(2) consultation with the Congress regarding the disposal of these particular records is in the public interest.

"(f) Upon the conclusion of a President's term of office, or if a President serves consecutive terms upon the conclusion of the last term, the Archivist of the United States shall assume responsibility for the custody, control, and preservation of, and access, to the Presidential records of that President.

"(2) The Archivist shall deposit all such Presidential records in a Presidential archival depository or another archival facility operated by the United States. The Archivist is authorized to designate, after consultation with the former President, a director at each depository or facility, who shall be responsible for the care and preservation of such records.

"(3) The Archivist is authorized to dispose of such Presidential records which he has appraised and determined to have insufficient administrative, historical, informational, or evidentiary value to warrant their continued preservation. Notice of such disposal shall be published in the Federal Register at least 60 days in advance of the proposed disposal date. Publication of such notice shall constitute a final agency action for purposes of review under chapter 7 of title 5, United States Code.

"§ 2204. Restrictions on access to Presidential records

"(a) Prior to the conclusion of his term of office or last consecutive term of office, as the case may be, the President shall specify durations, not to exceed 12 years, for which access shall be restricted with respect to information, in a Presidential record, within one or more of the following categories;

"(1)(A) specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy and (B) in fact properly classified pursuant to such Executive order;

"(2) relating to appointments to Federal office;

"(3) specifically exempted from disclosure by statute (other than sections 552 and 552b of title 5, United States Code), provided that such statute (A) requires that the material be withheld from the public in such a manner as to leave no discretion on the issue, or (B) establishes particular criteria for withholding or refers to particular types of material to be withheld;

"(4) trade secrets and commercial or financial information obtained from a person and privileged or confidential;

"(5) confidential communications requesting or submitting advice, between the President and his advisers, or between such advisers; or

"(6) personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

"(b)(1) Any Presidential record or reasonably segregable portion thereof containing information within a category restricted by the President under subsection (a) shall be so designated by the Archivist and access thereto shall be restricted until the earlier of—

"(A)(i) the date on which the former President waives the restriction on disclosure of such record, or

"(ii) the expiration of the duration specified under subsection (a) for the category of information on the basis of which access to such record has been restricted; or

"(B) upon a determination by the Archivist that such record or reasonably segregable portion thereof, or of any significant element or aspect of the information contained in such record or reasonably segregable portion thereof, has been placed in the public domain through publication by the former President, or his agents.

"(2) Any such record which does not contain information within a category restricted by the President under subsection (a), or contains information within such a category for which the duration of restricted access has expired, shall be exempt from the provisions of subsection (c) until the earlier of—

"(A) the date which is 5 years after the date on which the Archivist obtains custody of such record pursuant to section 2203(d)(1); or

"(B) the date on which the Archivist completes the processing and organization of such records or integral file segment thereof.

"(3) During the period of restricted access specified pursuant to subsection (b)(1), the determination whether access to a Presidential record or reasonably segregable portion thereof shall be restricted shall be made by the Archivist, in his discretion, after consultation with the former President, and, during such period, such determinations shall not be subject to judicial review, except as provided in subsection (e) of this section. The Archivist shall establish procedures whereby any person denied access to a Presidential record because such record is restricted pursuant to a determination made under this paragraph, may file an administrative appeal of such determination. Such procedures shall provide for a written determination by the Archivist or his designee, within 30 working days after receipt of such an appeal, setting forth the basis for such determination.

"(c) Subject to the limitations on access imposed pursuant to subsections (a) and (b), Presidential records shall be administered in accordance with section 552 of title 5, United States Code, and for the purposes of such section such records shall be deemed to be records of the National Archives and Records Service of the General Services Administration. Access to such records shall be granted on nondiscriminatory terms.

"(d) Upon the death or disability of a President or former President, any discretion or authority the President or former President may have had under this chapter shall be exercised by the Archivist unless otherwise previously provided by the President or former President in a written notice to the Archivist.

"(e) The United States District Court for the District of Columbia shall have jurisdiction over any action initiated by the former President asserting that a determination made by the Archivist violates the former President's rights or privileges.

"§ 2205. Exceptions to restricted access

"Notwithstanding any restrictions on access imposed pursuant to section 2204—

"(1) the Archivist and persons employed by the National Archives and Records Service of the General Services Administration who are engaged in the performance of normal archival work shall be permitted access to Presidential records in the custody of the Archivist;

"(2) subject to any rights, defenses, or privileges which the United States or any agency or person may invoke, Presidential records shall be made available—

"(A) pursuant to subpena or other judicial process issued by a court of competent jurisdiction for the purposes of any civil or criminal investigation or proceeding;

"(B) to an incumbent President if such records contain information that is needed for the conduct of current business of his office and that is not otherwise available; and

"(C) to either House of Congress, or, to the extent of matter within its jurisdiction, to any committee or subcommittee thereof if such records contain information that is needed for the conduct of its business and that is not otherwise available; and

"(3) the Presidential records of a former President shall be available to such former President or his designated representative.

"§ 2206. Regulations

"The Archivist shall promulgate in accordance with section 553 of title 5, United States Code, regulations necessary to carry out the provisions of this chapter. Such regulations shall include—

"(1) provisions for advance public notice and description of any Presidential records scheduled for disposal pursuant to section 2203(d)(3);

"(2) provisions for providing notice to the former President when materials to which access would otherwise be restricted pursuant to section 2204(a) are to be made available in accordance with section 2205(2);

"(3) provisions for notice by the Archivist to the former President when the disclosure of particular documents may adversely affect any rights and privileges which the former President may have; and

"(4) provisions for establishing procedures for consultation between the Archivist and appropriate Federal agencies regarding materials which may be subject to section 552(b)(7) of title 5, United States Code.

"§ 2207. Vice-Presidential records.

"Vice-Presidential records shall be subject to the provisions of this chapter in the same manner as Presidential records. The duties and responsibilities of the Vice President, with respect to Vice-Presidential records, shall be the same as the duties and responsibilities of the President under this chapter with respect to Presidential records. The authority of the Archivist with respect to Vice-Presidential records shall be the same as the authority of the Archivist under this chapter with respect to Presidential records, except that the Archivist may, when the Archivist determines that it is in the public interest, enter into an agreement for the deposit of Vice-Presidential records in a non-Federal archival depository. Nothing in this chapter shall be construed to authorize the establishment of separate archival depositories for such Vice-Presidential records.".

(b)(1) The table of chapters for title 44, United States Code, is amended by inserting immediately after the item relating to chapter 21 the following new item:

"22. Presidential Records..... 2201".

(2) Section 2107 of title 44, United States Code, is amended by adding at the end thereof the following new sentence: "This section shall not apply in the case of any Presidential records which are subject to the provisions of chapter 22 of this title.".

(3) Section 2108(c) of title 44 is amended by adding at the end thereof the following: "Only the first two sentences of this subsection shall apply to Presidential records as defined in section 2201(2) of this title.".

EFFECTIVE DATE

SEC. 3. The amendments made by this Act shall be effective with respect to any Presidential records (as defined in section 2201(2) of title 44, as amended by section 2 of this Act) created during a term of office of the President beginning on or after January 20, 1981.

SEPARABILITY

SEC. 4. If any provision of this Act is held invalid for any reason by any court, the validity and legal effect of the remaining provisions shall not be affected thereby.●

THE ARIZONA REPUBLIC ATTACKS KEMP-ROTH BILL AS CAUSING RUNAWAY INFLATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. BRADEMAS) is recognized for 5 minutes.

● Mr. BRADEMAS. Mr. Speaker, one of America's best known conservative newspapers is the Arizona Republic. I, therefore, think it particularly significant that this newspaper has taken such a strong editorial stand against the so-called Kemp-Roth bill.

In one editorial, entitled, "Inflationary Proposal", the Arizona Republic describes this proposal as one which "could have no other result than runaway inflation."

In a second editorial, "Politics and Taxes," the newspaper declares, "To most voters, the Kemp-Roth bill sounds very much like a free lunch, and by now they have learned there ain't no such animal."

Mr. Speaker, I insert at this point in the RECORD the text of the two editorials to which I refer:

[From the Arizona Republic, Sept. 30, 1978]

POLITICS AND TAXES

The Republican National Committee is pinning its hopes of cutting into the Democratic majorities in the House and Senate this fall on the Kemp-Roth bill.

This is a proposal by Rep. Jack Kemp of New York and Sen. William Roth of Delaware to cut income taxes by 33 percent over the next three years.

There is a spreading revolt in the United States against taxes of all kinds. The national committee believes Republican candidates can capitalize on the revolt by promoting Kemp-Roth.

Last week, the committee chartered a Boeing 727, renamed it the Republican Tax Clipper, filled it with party notables from Senate Majority Leader Howard Baker to Sen. Bob Dole, and flew it around the country to spread the gospel of Kemp-Roth.

Basically, the gospel is this: That cutting taxes by 33 percent will create so much consumer purchasing power and stimulate so much capital investment that it will end unemployment. At the same time, say Kemp and Roth, it will automatically balance the budget without a cut in government spending because the increased economic activity will increase tax revenues.

According to The Wall Street Journal, the voters aren't buying it, and the newspaper's assessment is confirmed by GOP pollster Robert Teeter, who says that voters don't find it believable that big tax cuts won't add to inflation.

The Republican National Committee should have anticipated this.

The GOP for decades has been preaching economy in government, and for decades it has derided the neo-Keynesian doctrine that an unbalanced budget can lead to a balanced budget by stimulating the economy.

Now, it has suddenly reversed itself, and the party can't blame the voters for being a bit startled, to say the least.

Voters are understandably dubious about the same remedy working when the economy is reaching capacity, and inflation at times is reaching double-digit figures.

Economics aside, from a purely political standpoint, the Democrats are playing it smart. They are talking about cutting taxes but not slashing them. They are presenting themselves as being cautious and conservative, while depicting the Republicans as "reckless."

The proper thing for the Republicans to have done would have been to advocate both tax cuts and budget cuts. That would have been a program any voter could understand and embrace.

To most voters, the Kemp-Roth bill sounds very much like a free lunch, and by now they have learned there ain't no such animal.

[From the Arizona Republic, July 23, 1978]

INFLATIONARY PROPOSAL

With the echoes of California's tax revolt still reverberating through Capitol Hill, a bill to cut personal income taxes by 33 percent over the next three years, and corporate taxes, as well, is gaining momentum in Congress.

The bill, introduced by Rep. Jack Kemp, R-N.Y., and Sen. William Roth, R-Del., already has won the endorsement of 176 congressmen. Bill Brock, chairman of the Republican National Committee, has called it a top GOP priority.

Since no legislator has ever failed reelection because he voted for a tax cut, there is a chance that Congress will pass the bill. President Carter has said that, if Congress does, he will veto it.

In this, the president has proved himself a truer conservative than Kemp, Roth, Brock, et al, men who call themselves conservatives. For the bill is Keynesianism run amok.

Kemp and Roth argue that cutting taxes by a third would generate so much new investment and create so many new jobs that, within a year or two, government revenues would rise to a point where the budget would come into balance even without a cut in the budget.

As evidence, they cite what happened after the Kennedy-Johnson tax cut. The economy did expand, and the increased revenues resulting from that expansion did put the Treasury into the black.

Voila! they say. The same thing would happen again.

The fallacy lies in the fact that 1978 is not 1963. The economy was then in the doldrums, running well below capacity. There was no shortage of skilled labor. And, most important of all, the rate of inflation was a minuscule 1.4 percent.

Today, we are enjoying 40 straight months of economic expansion, the longest such period in the history of the nation. Many industries are running at capacity or very near it. There is a growing shortage of skilled labor.

And inflation, during the second quarter of the year, was running at the horrendous annual rate of 10 percent.

As Walter W. Heller, the architect of the Kennedy-Johnson tax cut, has pointed out, it did not lead to increased capital investment, as Kemp and Roth seem to believe, but to increased consumer demand, which took up the slack in the economy.

There's no slack now. Pouring billions of dollars into the hands of consumers will simply send prices sky high. The nation will start looking back at 10 percent inflation with longing.

There is a need for a tax cut to stimulate capital investment, for that is the weakest spot in the economy. Industry is not spending nearly enough on new plants and equipment.

However, the need is for a tax cut specifically designed for the purpose of encouraging such expenditures—a decrease in the corporate tax and in the capital gains tax, a rise in the investment tax credit, the end of double taxation of dividends, a change in the method of computing depreciation.

Politically, it would be impossible to enact any of these measures without giving individuals tax relief, too, and that should be done, but not in the meat-ax way that Kemp and Roth propose.

A 33 percent cut in the federal income tax could have no other result than runaway inflation.●

THE DUNOIR OF WYOMING: A LOVELY AREA THAT MERITS CONTINUED PROTECTION, BUT MAY NOT GET IT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wyoming, (Mr. RONCALIO) is recognized for 20 minutes.

● Mr. RONCALIO. Mr. Speaker, I understand that the Senate decided to gut H.R. 12349, the DuNoir wilderness bill, which I introduced, and which was passed by the House 372 to 22 earlier this year. The bill would have designated a 34,500-acre wilderness, including 28,800 acres that are already being managed as wilderness as a special management unit. But the Senate committee has so amended it to reduce the area protected to a rock enclave of something like 11,000 acres. The remaining area would not even be protected by the special management designation it has enjoyed the past 6 years.

When this butchered remnant returns to the House I will see that it receives merciful last rites.

The DuNoir basin is a haven for an unreplaceable Wyoming asset, a variety of wildlife—elk, big horn sheep, moose, mountain lion, mule deer, bear, trumpeter swans, and ducks. There is a resident herd of some 300 to 400 elk, and between 1,000 and 1,200 elk migrate through DuNoir every year for it is their critical elk calving grounds.

For these and other reasons, the Wyoming Department of Game and Fish has advocated wilderness protection for the basin since 1967.

It is unfortunate that there are those in Wyoming who would rather see a small increase in profits from a mere 2 million board feet a year of timber go to the lumber giant, Louisiana Pacific. I say "mere 2 million board feet" because that is what it is, and that is all that would be available per year if all DuNoir were opened to timbering. That increased supply would increase average production at Louisiana Pacific's Dubois, Wyo., mill from the present 42 to 45 percent of design capacity to only 48 to 53 percent, and create, according to the Forest Service only 10 new jobs in the timber industry. The people, in return for this illusory protection for the timber industry, would jeopardize the game and wildlife habitat, a valuable, priceless part of Wyoming's heritage, as well as jobs on the ranches that depend on the DuNoir for a clear water supply, and the jobs of the many outfitters who use the area.

The Wind River, along with its many tributaries, is one of Wyoming's few but precious rivers. All of its tributaries—save and except this one, DuNoir Creek—already have suffered the scars of clearcutting on their banks. The result, according to the Wyoming Game and Fish Department:

> Timbering practices, which include road construction and logging, particularly clear cutting (but also some select cuts), have increased turbidity in streams in the Wind River drainage. This increased turbidity is in part caused by past logging practices which have caused erosion and the resultant siltation which in turn have damaged the aquatic habitat.

Does Wyoming have to clearcut the slopes of every tributary of its rivers in order to please the insatiable Louisiana-Pacific?

I cannot help but feel that much of the public pressure in Wyoming is the result of the media's misapplication of its commercial pressures. I asked in a kind and gracious way that our only statewide daily newspaper, in its many heavy-handed special reports on DuNoir, in-

clude language, facts and information from the House committee report. But nothing of this kind appeared. So with Wyoming residents denied a balanced picture of the issues of DuNoir, it is, I suppose, understandable that some whose job it is to reflect the feelings of our people can be misled to conclusions that are not necessarily valid.

Wyoming's Members in Congress agreed in 1972 that 28,800 acres of DuNoir should be set aside as a special management unit. There is simply no question about its unique qualities and beauty—ranking it among the very highest wilderness potentials for our State.

That some would now want to strike even that protection from the statutes makes me so sad. By letting the matter die, existing law would then continue, protecting and preserving in wilderness management the 28,800 acres already protected. And I hope and pray that there will not be a change of administration for many years to come. We must not give away our heritage in exchange for a small incremental profit to a timber giant.●

EXPORT TRADE ARTICLE NO. 2: MORE ON WESTINGHOUSE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arkansas (Mr. ALEXANDER) is recognized for 30 minutes.

● Mr. ALEXANDER. Mr. Speaker, On September 29, I inserted into the CONGRESSIONAL RECORD an article from the Washington Post describing the sale of a Soviet nuclear reactor to Finland. Now the Washington Star reports the Soviets are so proud of their reactor they are bringing potential customers from the Third World to inspect their Finnish reactor. Next month a Finnish envoy will journey to Moscow to inquire whether the Soviets are interested in a joint Soviet-Finn nuclear reactor export business. The article goes on to state the Soviets are building the world's largest reactor manufacturing facility. When completed in the 1980's the assembly line facility will turn out nuclear reactors "like cookies". In this highly technological area where the United States so clearly is dominant I find it distressing that the United States has lost this $250 million sale and future sales which might have been secured. The article entitled "Nuclear Plant in Finland Showcase for Soviets" was written by John J. Fialka and appeared October 4, 1978. I commend this article to my colleagues:

[From the Washington Star, Oct. 4, 1978]

NUCLEAR PLANT IN FINLAND SHOWCASE FOR SOVIETS

(By John J. Fialka)

LOVIISA, FINLAND.—The large, silo-like structure built near here on an island in the Gulf of Finland bears witness to the first success of the Soviet Union in what appears to be a major push to sell nuclear power plants in the West.

Finnish engineers, who have labored mightily to make the Soviet nuclear equipment conform to much tougher U.S. safety standards, have dubbed the plant "Eastinghouse" for its marriage of a Soviet reactor, German control equipment and an emergency cooling system designed by the Westinghouse Electric Corp.

The Soviets are so proud of the completed reactor that they have begun bringing potential customers from Third World nations, including Iraq and Iran, to visit the site. One reason for the Soviet pride is that the plant has been operating at about 85 percent efficiency—considerably higher than most American-built reactors.

The plant at Lovisa is the Soviets' foot in the door of a market long dominated by American and, to a lesser extent, European companies. The Soviet Union is bound to gain a larger share of nuclear business when it opens the world's largest reactor manufacturing facility sometime in the 1980s. That operation will have the unprecedented capability of manufacturing entire nuclear plants on an assembly line—turning them out "like cookies," in the words of one diplomat.

As the Finns have learned, much of the Soviet Union's commercial nuclear power operations are shrouded by military-style secrecy.

No Westerners have seen the massive atomic reactor plant, called "Atommash," which is believed located in the vicinity of Volgodonsk, south of Moscow.

When the Finns decided to build a plant near Loviisa, they invited a number of Western companies to submit designs and bids. However, they ended the competition by inviting their powerful neighbor, the Soviet Union, to underbid the competition. The Soviets sold the plant for $250 million, roughly half the going U.S. price at the time. They also sweetened the deal.

"It came with very, very favorable long-term financing for us," explained Kalevi Numminen, a member of the board of the state-owned Imatran Voima Co., which owns the Loviisa plant.

Politics have tended to flavor much that has happened at Loviisa since.

The Soviet construction crews, numbering up to 1,000 workers, arrived in 1970 and established self-contained communities apart from the population of Loviisa, which is 60 miles east of Helsinki.

The Finns ran into a political wall early on when they decided they had to visit Soviet plants to see exactly how the nuclear fuel was made before they could certify that the plant was safe to run at peak capacity—slightly less than half that of the current generation of U.S. plants.

Although the request was made at the highest levels, sources said, the Soviets were adamant in their refusal, saying it was against Soviet law for any foreigner to see Soviet uranium enrichment plants where the exotic isotope U–235, which is used in nuclear fission, is separated and concentrated.

Because the Soviet plants, like their American counterparts, are used to supply enriched uranium to their nation's nuclear weapons program, the Soviets have never publicly revealed their whereabouts. Western observers believe they are located in Siberia, where vast amounts of hydroelectric power are available

Nor have the Soviets ever revealed exactly what they do with the long-lived radioactive nuclear wastes.

Under Soviet contract provisions, fuel supplied with the plant is retrieved and returned to the Soviet Union when it is spent.

"What they sell they take back," explained Anders Palmgren, superintendent of the Loviisa plant. "For us, the fuel is more or less leased. After that, it's their problem."

Under U.S. and European contracts, user nations buy the fuel for keeps and must devise waste disposal systems of their own. They also are left with substantial amounts of plutonium, a residual component of the spent fuel.

Because plutonium is also the primary material used to make nuclear weapons, the question of ownership of the plutonium in fuel purchased from the United States currently is troubling the Carter administration. Japan and Austria are pressing the United States for permission to send their used fuel to third countries for reprocessing, a matter that requires U.S. approval under current contracts.

The Soviets "have total control (of nuclear fuel)," said a U.S. diplomat. "When it comes to non-proliferation, they are almost holier than thou."

According to Western estimates, the Soviets have sold nuclear power plants under similar arrangements to Bulgaria, Poland, East Germany and Czechoslovakia. There are also believed to be negotiations under way with Libya and Cuba.

The Soviets also have begun contracting to enrich uranium fuel purchased elsewhere. So far France, Great Britain, West Germany and Italy have arranged to send uranium to the Soviet Union for enrichment.

As for the Finns, they say they are happy with their dealings with the Soviets. Next month a Finnish envoy will go to Moscow to see whether the Soviets are interested in a joint venture in their nuclear export business using Finnish engineers to equip Russian plants with U.S.-style safety features.

Meanwhile a second Soviet plant at Loviisa is near completion, and the Finns are considering a third—one of the first to be produced at the "Atommash" plant.●

EDUCATION MUST BE A TOP PRIORITY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. NEAL) is recognized for 5 minutes.

● Mr. NEAL. Mr. Speaker, I would like to take this opportunity to add my voice to those urging the House to vote on the creation of a Department of Education before the end of this Congress.

I have long been a supporter of a separate Cabinet-level Department of Education. I cosponsored one of the original proposals in this Congress back in the spring of 1977. In December of last year I wrote the President urging him to move expeditiously in the area of education reorganization.

Last week the Senate passed its version of this legislation. The House Government Operations Committee has worked long and hard on the House bill, H.R. 13778. I hope we do not let all the work of the committee, the Senate, and the administration go for nothing. This is very important legislation which does not deserve to die with the adjournment of the 95th Congress.

There is a long list of impressive reasons why we need to take education out of the Department of Health, Education, and Welfare. Primarily, of course, as things are now, education is simply not getting the attention it deserves. Education has always been the stepchild of HEW, and when things are not going well at HEW, they are going even worse in the education programs.

HEW is a massive, cumbersome bureaucracy. It is often not responsive to the public, and as those of us from North Carolina know better than anyone else, it is like pulling teeth to make HEW responsive to the Congress.

HEW's budget for next year is approximately $180 billion. Only about $12 billion of that figure, a mere 6 percent, goes for education. The remaining $168 billion will be expended for health and welfare services. In future generations we will have to put more of our attention on the education for our children. By creating a separate, Cabinet-level education department, we will help State and local governments in their efforts to provide a decent education for all children, rather than hinder them with the myriad of programs, regulations, whims, and forms which face them now.

The Carter administration has sent Congress six reorganization plans. None has been disapproved. We passed a sweeping reform of the civil service system in hopes of revitalizing the Federal work force. We created a Department of Energy from the scattered Federal energy programs, showing that we can reorganize responsibly. Still, if we really are serious about making this massive Government bureaucracy work, we will approve this legislation taking the responsibility for the education of our youngsters out of the sprawling Department of Health, Education, and Welfare and create a separate Department of Education from those programs which already exist.

As it is, the Federal Government is spending around $22 billion on education, but it is spread through 300 different programs scattered among 40 different Federal agencies. Such a situation is absurd.

Education is too important to be relegated to an office, within a division, under an undersecretary—no matter how dedicated that individual might be. The education of our Nation's people is important enough for its advocate to warrant the visibility, accessibility to the President, and direct responsibility to the Congress that it would acquire as a separate department. Under the present setup, I think we can only expect the situation to deteriorate. We have a chance to improve it, and I hope we won't waste the opportunity.

Education should be a top priority of this Nation. I strongly believe we can address it most effectively and efficiently by separating education from the Department of Health, Education, and Welfare.●

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows:

To Mr. RAILSBACK (at the request of Mr. RHODES), from 6 p.m. today and for the balance of the week on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special order heretofore entered, was granted to:

(The following Member (at the request of Mr. LEACH) to revise and extend his remarks and include extraneous material:)

Mr. GOLDWATER, for 5 minutes, today.

The following Members (at the request of Mr. OBERSTAR) to revise and extend their remarks and include extraneous matter:)

Mr. ANNUNZIO, for 5 minutes, today.
Mr. GONZALEZ, for 5 minutes, today.
Mr. HOWARD, for 5 minutes, today.
Mr. BROOKS, for 5 minutes, today.
Mr. BRADEMAS, for 5 minutes, today.
Mr. RONCALIO, for 20 minutes, today.
Mr. ALEXANDER, for 30 minutes, today.
Mr. NEAL, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. MCCLORY, dissenting views immediately following conference report on S. 1566, Foreign Intelligence Surveillance Act.

Mr. MINISH, to revise and extend and include extraneous matter with his remarks during consideration of H.R. 13471 in the Committee of the Whole today.

(The following Members (at the request of Mr. LEACH) and to include extraneous matter:)

Mr. RUDD.
Mr. LOTT.
Mr. GRADISON.
Mr. CRANE.
Mr. DORNAN in two instances.
Mr. BROYHILL.
Mr. MCEWEN in two instances.
Mr. WYDLER.
Mr. RAILSBACK.
Mr. ROUSSELOT.
Mr. ANDERSON of Illinois.
Mr. EVANS of Delaware.
Mr. KEMP.

(The following Members (at the request of Mr. OBERSTAR) and to include extraneous matter:)

Mr. RUSSO.
Mr. GONZALEZ in three instances.
Mr. ANDERSON of California in three instances.
Mr. KREBS.
Mr. SISK.
Mr. BARNARD.
Mr. TSONGAS.
Mr. LAFALCE in two instances.
Mr. NOLAN.
Mr. STOKES.
Mr. BENNETT.
Mr. DOWNEY in two instances.
Mr. SOLARZ.
Mr. BRECKINRIDGE in five instances.
Mr. RODINO.
Mr. STARK in two instances.
Mr. TRAXLER in two instances.
Mr. WAXMAN.
Mr. JONES of Oklahoma.
Mr. MCDONALD.
Mr. ROONEY.
Ms. KEYS.
Mr. ARCHER.
Mr. HUGHES.

ENROLLED BILLS SIGNED

Mr. THOMPSON, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the speaker:

H.R. 6503. An act to amend the Intercoastal Shipping Act, 1933, and for other purposes;

H.R. 8394. An act to provide for payments to local governments based upon the acreage of the National Wildlife Refuge System which is within their boundaries, and for other purposes;

H.R. 8811. An act to amend section 7447 of the Internal Revenue Code of 1954 with respect to the revocation of an election to receive retired pay as a judge of the Tax Court;

H.R. 9998. An act to provide for the regulation of rates or charges by certain state-owned carriers in the foreign commerce of the United States, and for other purposes;

H.R. 11302. An act to authorize appropriations for environmental research, development, and demonstrations for the fiscal year 1979, and for other purposes;

H.R. 11886. An Act to amend title 38, United States Code, to provide increases in the rates of disability and dependency and indemnity compensation for disabled veterans and their survivors, to provide for the payment of benefits to surviving spouses and children of certain totally disabled service-connected disabled veterans, to increase the amounts paid for funeral and burial expenses of deceased veterans, and for other purposes;

H.R. 12028. An act to amend title 38, United States Code, to improve the housing benefits programs of the Veterans' Administration, to authorize the Administrator of Veterans' Affairs to pay an allowance to a State for expenses incurred in the burial of eligible veterans in cemeteries owned and operated by or for such State solely for the interment of veterans, to authorize a program of grant assistant to States for the establishment, expansion, and improvement of State veterans' cemeteries, and for other purposes;

H.R. 12930. An act making appropriations for the Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain Independent Agencies for the fiscal year ending September 30, 1979, and for other purposes; and

H.R. 13692. An act granting the consent of Congress to the Historic Chattahoochee Compact Between the States of Alabama and Georgia.

SENATE ENROLLED BILLS AND JOINT RESOLUTION SIGNED

The SPEAKER announced his signature to enrolled bills and a joint resolution of the Senate of the following title:

S. 415. An act to amend the Anadromous Fish Conservation Act to include fish in Lake Champlain that ascend streams to spawn;

S. 682. An act to amend the Ports and Waterways Safety Act of 1972, and for other purposes;

S. 1215. An act to provide for grants to tribally controlled community colleges, and for other purposes;

S. 2376. An act to authorize withholding from salaries disbursed by the Secretary of the Senate and from certain employees under the jurisdiction of the Architect of the Capitol for constribtuion to certain charitable organizations;

S. 2704. An act to promote a more adequate and responsive national program of water research and development, and for other purposes;

S. 2801. An act to designate the building known as the Ozark National Forest Headquarters Building in Russellville, Ark., as the "Henry R. Koen Forest Service Building"; and

S.J. Res. 16. Joint resolution to restore posthumously full rights of citizenship to Jefferson F. Davis.

BILLS PRESENTED TO THE PRESIDENT

Mr. THOMPSON, from the Committee on House Administration, reported that that committee did on October 4, 1978, present to the President, for his approval, bills of the House of the following title:

H.R. 1337. To amend the Internal Revenue Code of 1954 with respect to excise tax on certain trucks, buses, tractors, et cetera, home production of beer and wine, refunds of the taxes on gasoline and special fuels to aeriel applicators, and partial rollovers of lump sum distributions; and

H.R. 12603. To amend the Great Lakes Pilotage Act of 1960 in order to relieve the restrictive qualification standards for U.S. registered pilots on the Great Lakes.

ADJOURNMENT

Mr. OBERSTAR. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 8 o'clock and 58 minutes p.m.), the House adjourned until tomorrow, Friday, October 6, 1978, at 10 o'clock a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

5098. A letter from the Assistant Secretary of the Interior, transmitting drafts of three proposed temporary water service contracts between the United States and the Westlands Water District, California, for calendar year 1979, pursuant to section 3 of Public Law 95–46; to the Committee on Interior and Insular Affairs.

5099. A letter from the Secretary of Agriculture, transmitting a report evaluating programs under titles II and III of the Agricultural Trade Development and Assistance Act, pursuant to section 408(c) of the act, as amended (91 Stat. 552); to the Committee on International Relations.

5100. A letter from the Secretary of the Army, transmitting the annual report for calendar year 1977 on administration of ocean dumping activities, pursuant to section 112 of the Marine Protection, Research, and Sanctuaries Act of 1972, as amended (86 Stat. 1060, 90 Stat. 725); to the Committee on Merchant Marine and Fisheries.

5101. A letter from the Secretary of Commerce, transmitting a draft of proposed legislation to impose service obligations on graduates of the U.S. Merchant Marine Academy; to the Committee on Merchant Marine and Fisheries.

5102. A letter from the Secretary of Commerce, transmitting a draft of proposed legislation to amend section 6 of the Maritime Academy Act of 1958; to the Committee on Merchant Marine and Fisheries.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BOLLING: Committee on Rules. House Resolution 1404. Resolution providing for the consideration of conference reports, authority to declare recesses, and motions to suspend the rules (Rept. No. 95–1716). Referred to the House Calendar.

Mr. UDALL: Committee of conference. Conference report on S. 2640 (Rept. No. 95–1717). Ordered to be printed.

Mr. BROOKS: Committee on Government Operations. Report on allocation of budget totals by program (Rept. No. 95–1718). Referred to the Committee of the Whole House on the State of the Union.

Mr. STRATTON: Committee on Armed Services. H.R. 6237. A bill to amend section 9441 of title 10, United States Code, to provide for the budgeting by the Secretary of Defense, the authorization of appropriations, and the use of those appropriated funds by the Secretary of the Air Force, for certain specified purposes to assist the Civil Air Patrol in providing services in connection with the noncombatant mission of the Air Force; with amendment (Rept. No. 95–1719). Referred to the Committee of the Whole House on the State of the Union.

Mr. BOLAND: Committee of conference. Conference report on S. 1566 (Rept. No. 95–1720). Ordered to be printed.

Mr. SMITH of Iowa: Committee on Small Business. Report on allocation of budget totals to subcommittees for fiscal year 1979 (Rept. No. 95–1721). Referred to the Committee of the Whole House on the State of the Union.

Mr. DANIELSON: Committee on the Judiciary, S. 2403. An act to consent to certain amendments to the New Hampshire-Vermont Interstate School Compact, approved by Public Law 91–21 (Rept. No. 95–1722). Referred to the House Calendar.

Mr. MEEDS: Committee on Rules. House Resolution 1407. Resolution providing for the consideration of H.R. 11922. A bill to amend the Domestic Volunteer Service Act of 1973, and for other purposes (Rept. No. 95–1723). Referred to the House Calendar.

Mr. BOLLING: Committee on Rules. House Resolution 1408. Resolution providing for the consideration of H.R. 12370. A bill to amend the Public Health Service Act and related health laws to revise and extend the programs of financial assistance for the delivery of health services, and for other purposes. (Rept. No. 95–1724). Referred to the House Calendar.

Mr. BOLLING: Committee on Rules. House Resolution 1409. Resolution providing for the consideration of H.R. 12441. A bill to amend the Toxic Substances Control Act to increase the authorization of appropriations contained in such act (Rept. No. 95–1725). Referred to the House Calendar.

Mr. BOLLING: Committee on Rules. House Resolution 1410. Resolution providing for the consideration of H.R. 12442. A bill to amend the Consumer Product Safety Act to extend the authorization of appropriations contained in such act, and for other purposes (Rept. No. 95–1726). Referred to the House Calendar.

Mr. BOLLING: Committee on Rules. House Resolution 1411. Resolution providing for the consideration of H.R. 12511. A bill to extend for 1 year the child care food program of the National School Lunch Act and the women, infants, and children program of the Child Nutrition Act of 1966 (Rept. No. 95–1727). Referred to the House Calendar.

Mr. BOLLING: Committee on Rules. House Resolution 1412. Resolution providing for the consideration of H.R. 13611. A bill to strengthen and improve the early and periodic screening, diagnosis, and treatement program, and for other purposes (Rept. No. 95–1728). Referred to the House Calendar.

Mr. BOLLING: Committee on Rules. House Resolution 1413. Resolution providing for the consideration of S. 2727. A bill to promote and coordinate amateur athletic activity in the United States, to recognize certain rights for U.S. amateur athletes, to provide for the resolution of disputes involving national governing bodies, and for other purposes (Rept. No. 95–1729). Referred to the House Calendar.

Mr. MURPHY of New York: Committee of conference. Conference report on H.R. 2329 (Rept. No. 95–1730). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ARMSTRONG (for himself and Mr. JOHNSON of Colorado):

H.R. 14247. A bill to encourage the production of synthetic oil from U.S. oil shale reserves; jointly, to the Committees on Interior and Insular Affairs, Interstate and Foreign Commerce, Science and Technology, and Ways and Means.

By Mr. BARNARD (for himself, Mr. MOTTL, Mr. IRELAND, Mr. WAGGONNER, Mr. WHITEHURST, Mr. STANGELAND, Mr. COLLINS of Texas, Mr. LAGOMARSINO, Mr. DERWINSKI, Mr. DEVINE, Mr. RUDD, Mr. ROUSSELOT, Mr. MCDONALD, Mr. FRENZEL, Mr. STOCKMAN, and Mr. GUYER):

H.R. 14248. A bill to postpone the increase in the minimum wage and the adjustment to the tip credit under the Fair Labor Standards Act of 1938; to the Committee on Education and Labor.

By Mr. BROOKS (for himself, Mr. THOMPSON, Mr. PREYER, Mr. BRADEMAS, Mr. ERTEL, Mr. HARRINGTON, Ms. JORDAN, Mr. FOUNTAIN, Mr. RYAN, Mr. WEISS, Mr. HORTON, Mr. ERLENBORN, Mr. MCCLOSKEY, and Mr. QUAYLE):

H.R. 14249. A bill to amend title 44 to insure the preservation of and public access to the official records of the President, and for other purposes; jointly, to the Committee on Government Operations, and House Administration.

By Mr. CRANE:

H.R. 14250. A bill to provide that the Internal Revenue Service may not implement certain proposed rules relating to the determination of whether private schools have discriminatory policies; to the Committee on Ways and Means.

By Mr. ERTEL (for himself, Mr. ROBERTS, Mr. FLOOD, Mr. BEILENSON, Mr. KEMP, Mr. MARKS, Mr. CONTE, Mr. EDWARDS of Oklahoma, Mr. FRENZEL, and Mrs. FENWICK):

H.R. 14251. A bill to amend the Flood Control Act of 1970 to provide that, in determining the need for a local flood protection project, the Secretary of the Army shall consider the impact on the economy and social well-being of the local area and certain surrounding areas if flood protection is not provided, to specify the factors to be evaluated in considering such impact, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. GREEN:

H.R. 14252. A bill to improve the physical security features of the motor vehicle and its parts, increase the criminal penalties of persons trafficking in stolen motor vehicles and parts, and to curtail the exportation of stolen motor vehicles and for other purposes; jointly, to the Committees on Interstate and Foreign Commerce, the Judiciary, and Ways and Means.

By Mr. MURPHY of New York:

H.R. 14253. A bill to provide for a uniform national 3-year statute of limitations in actions to recover damages for personal injury or death, arising out of a maritime tort, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. RAHALL:

H.R. 14254. A bill to designate the U.S. Post Office and Federal Building in Huntington, W. Va., as the Sidney L. Christie Federal Building; to the Committee on Public Works and Transportation.

By Mr. GOLDWATER:

H.J. Res. 1160. Joint resolution proposing an amendment to the Constitution of the United States to give citizens of the United States the right to enact and repeal laws by voting on legislation in a national election; to the Committee on the Judiciary.

By Mr. JACOBS (for himself, Mr. AMBRO, Mr. LAGOMARSINO, Mr. MURPHY of Pennsylvania, Mr. PANETTA, Mr. RUPPE, Mr. STOCKMAN, Mr. VANIK, and Mr. HOLLAND):

H.J. Res. 1161. Joint resolution to amend the Constitution of the United States to provide for balanced budgets and elimination of the Federal indebtedness; to the Committee on the Judiciary.

By Mr. BARNARD:

H. Con. Res. 732. Concurrent resolution expressing the sense of Congress in opposition to the revenue procedure proposed by the Commissioner of IRS, establishing new guidelines for determining the tax-exempt status of private schools; to the Committee on Ways and Means.

By Mr. HILLIS (for himself, Mr. SISK, Mr. PRITCHARD, Mr. NOLAN, Mr. ROBINSON, Mr. RHODES, Mr. CORNWELL, Mr. MAGUIRE, Mr. O'BRIEN, Mr. MAZZOLI, Ms. KEYS, Mr. RICHMOND, Mr. JOHN T. MYERS, Mr. CONTE, Mrs. CHISHOLM, Mr. FISH, Mr. LEVITAS, Mr. VENTO, Mr. WEISS, Mr. LEHMAN, Mr. DRINAN, Mr. KILDEE, Mr. MCCORMACK, Mr. OTTINGER, and Mr. RANGEL):

H. Con. Res. 733. Concurrent resolution establishing the Claude Pepper Senior Citizen Congressional Intern program; to the Committee on House Administration.

By Mr. HILLIS (for himself, Mr. PATTEN, Mr. KRUEGER, Mr. LUNDINE, Mr. OBERSTAR, Mr. GREEN, Mr. MARKS, Mr. WIRTH, and Mr. RUPPE):

H. Con. Res. 734. Concurrent resolution establishing the Claude Pepper Senior Citizen Congressional Intern program; to the Committee on House Administration.

By Mr. RODINO:

H. Con. Res. 735. Concurrent resolution providing for printing additional copies of the committee print entitled "7th Edition of the Immigration and Nationality Act with Amendments and Notes on Related Laws"; to the Committee on House Administration.

By Mrs. SMITH of Nebraska (for herself, Mr. LEACH, Mr. GLICKMAN, Mr. SEBELIUS, Mr. MOORE, Mr. HAGEDORN, Mr. PRESSLER, Mr. GUYER, Mr. JOHNSON of Colorado, Mr. CAVANAUGH, Mr. THONE, Ms. KEYS, Mr. JACOBS, Mr. GRASSLEY, Mr. RONCALIO, Mr. SIMON, Mr. STANGELAND, Mr. WINN, and Mr. ANDREWS of North Dakota):

H. Con. Res. 736. Concurrent resolution expressing the sense of Congress that the Secretary of Defense should not choose a site for the launching base for the intercontinental missile that would result in the destruction or idling of productive farmland and the displacing of farmers and ranchers from their homes and land; to the Committee on Armed Services.

By Mr. STOCKMAN (for himself, Mr. ASHBROOK, Mr. BROOMFIELD, Mr. DEL CLAWSON, Mr. CORCORAN of Illinois, Mr. EDWARDS of Oklahoma, Mr. FORSYTHE, Mr. GOLDWATER, Mr. GRASSLEY, Mr. GUYER, Mrs. HOLT, Mr. KASTEN, Mr. LAGOMARSINO, Mr. LATTA, Mr. LEACH, Mr. MCDONALD, Mr. MARRIOTT, Mr. REGULA, Mr. ROUSSELOT, Mr. SAWYER, Mr. VANDER JAGT, and Mr. WALKER):

H. Con. Res. 737. Concurrent resolution to oppose the implementation and enforcement by the President of a program of wage and price controls not specifically authorized by statute; to the Committee on Banking, Finance and Urban Affairs.

By Mr. STOCKMAN (for himself, Mr. ARCHER, Mr. CONABLE, Mr. COLLINS of Texas, Mr. COUGHLIN, Mr. CRANE, Mr. DEVINE, Mr. DICKINSON, Mrs. FENWICK, Mr. HAGEDORN, Mr. HANSEN, Mr. HYDE, Mr. KINDNESS, Mr. LOTT, Mr. MOORE, Mr. MOORHEAD of California, Mr. ROBINSON, Mr. SYMMS, Mr. TREEN, and Mr. WHITEHURST):

H. Con. Res. 738. Concurrent resolution to oppose the implementation and enforcement by the President of a program of wage and price controls not specifically authorized by statute; to the Committee on Banking, Finance and Urban Affairs.

By Mr. DELLUMS:

H. Res. 1405. Resolution creating a special committee to study the status of land grants from the King of Spain and the Government of Mexico; to the Committee on Rules.

By Mr. WEISS (for himself, Mr. BRODHEAD, Mrs. BURKE of California, and Mr. METCALFE):

H. Res. 1406. Resolution urging the Committee on the Judiciary to disapprove S. 1437; to the Committee on the Judiciary.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 10881

By Mr. DUNCAN of Oregon:

—Page 23, strike out line 15 and all that follows down through line 22, and insert in lieu thereof the following:

"(6) The term 'critical habitat' for a threatened or endangered species means—

"(A) the specific areas within the geographical area occupied by the species at the time it is listed in accordance with the provisions of section 4 of this Act, on which are found those physical or biological features (i) which are essential to the conservation of the species and (ii) which require special management consideration or protection; and

"(B) specific areas periodically inhabitated by the species which are outside the geographic area occupied by the species at the time it is listed in accordance with the provisions of section 4 of this Act (other than any marginal habitat the species may be inhabiting because of pioneering efforts or population stress), upon a determiniation by the Secretary at the time it is listed that such areas are essential for the conservation of the species.

—Page 24, strike out line 1 and all that follows down through line 4, and insert in lieu thereof the following:

"(13) The term 'species' means a group of fish, wildlife, or plants, consisting of physically similar organisms capable of interbreeding but generally incapable of producing fertile offspring through breeding with organisms outside this group.";

H.R. 11979

By Mr. CARTER:

—Page 27, immediately after line 12, insert the following new section:

CAR SERVICE

SEC. 403. Section 1(14) of the Interstate Commerce Act (49 U.S.C. 1(14)) is amended by redesignating subdivision (b) as subdivision (c), and by inserting immediately after subdivision (a) the following new subdivision:

"(b) If the Commission finds, upon the petition of an interested party and after notice and a hearing on the record, that a common carrier by railroad subject to this part has materially failed to furnish safe and adequate car service as required by paragraph (11) of this section, the Commission may require such carrier to provide itself with such facilities and equipment as may be reasonably necessary to furnish such service, if the evidence of record establishes, and the Commission affirmatively finds, that—

"(i) the provision of such facilities or equipment will not materially or adversely affect the ability of such carrier to otherwise provide safe and adequate transportation services;

"(ii) the expenditure required for such facilities or equipment, including a return which equals such carrier's current cost of capital, will be recovered; and

"(iii) the provision of such facilities or equipment will not impair the ability of such carrier to attract adequate capital.".

Page 26, line 17, strike out "TITLE IV—RATE FLEXIBILITY" and insert in lieu thereof "TITLE IV—AMENDMENTS TO THE INTERSTATE COMMERCE ACT".

H.R. 13778

By Mr. WALKER:

(To the Brooks amendment in the nature of a substitute.)

—Page 6, line 23, strike out "six" and insert in lieu thereof "four".

—Page 7, line 3, strike out "seven" and insert in lieu thereof "four".

—Page 8, line 14, before the period insert "who is compensated at the rate provided for level V of the Executive Schedule".

—Page 9, Line 3, after "development" insert "data collection,".

—Page 9, line 3, after "development" insert "who is compensated at the rate provided for Level IV of the Executive Schedule".

—Page 9, line 14, before the period insert "who is compensated at the rate provided for level IV of the Executive Schedule".

—Page 9, line 14, after the period insert the following: "Within one year after the effective date of this Act, the Secretary, acting through the facilities and personnel of such office, shall prepare and submit to the Congress a report on the feasibility of conducting prayers, participation in which would be on a voluntary basis, in public schools which provide elementary or secondary education.".

—Page 9, line 17, after "education" insert ", including all programs providing assistance to students enrolled in postsecondary courses of study,".

—Page 9, line 20, before the period insert "who is compensated at the rate provided for level IV of the Executive Schedule".

—Page 12, line 7, before the period insert "who is compensated at the rate provided for level V of the Executive Schedule".

—Page 12, line 23, before the period insert "who is compensated at the rate provided for level V of the Executive Schedule".

—Page 34, after line 9, insert the following new section:

LIMITATION ON TRANSPORTATION OF STUDENTS

SEC. 439. No function transferred by this Act, and no sums authorized to be appropriated by this Act, shall be used to require directly or indirectly the transportation of any student to a school other than the school which is nearest the student's home, except for a student requiring special education as a result of being mentally or physically handicapped.

Conform the table of contents accordingly.

—Page 41, line 15, strike out "(6)" and insert in lieu thereof "(4)".

—Page 41, line 20, strike out "(7)" and insert in lieu thereof "(4)".

H.R. 14104

By Mr. BEARD of Tennessee:

—Page 1, strike out all after the enacting clause, and insert in lieu the following:

To amend the Endangered Species Act of 1973 in order to clarify the provisions of the Act regarding Federal agency cooperation.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 7 of the Endangered Species Act of 1973 (16 U.S.C. 1536) is amended to read as follows:

"INTERAGENCY COOPERATION

SEC. 7. (a) The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act.

"(b) All other Federal departments and agencies shall, in consultation with, and with the assistance of the Secretary, utilize their authorities in furtherance of the purposes of this Act by carrying out programs for the conservation of endangered species and threatened species listed pursuant to section 4 of this Act and by taking such action as is necessary to insure that actions authorized, funded, or carried out by them do not jeopardize the continued existence of such endangered species and threatened species or result in the destruction or modification of habitat of such species which is determined by the Secretary, after consultation as is appropriate with the affected States, to be critical.

"(c)(1) In applying subsection (b) of this section, no Federal public works project shall, if such project is on, or directly affects, the navigable waters of the United States, be deemed—

"(A) to jeopardize the continued existence of an endangered species or threatened species; or

"(B) to result in the destruction or modification of habitat of such species which is determined by the Secretary to be critical

if the construction, reconstruction, or operation of the Federal public works project was commenced before the date on which the notice required under section 4(b)(1)(A) of this Act regarding such species was published in the Federal Register.

"(2) With respect to any Federal public works project to which paragraph (1) of this subsection applies, the Secretary—

"(A) may, after consultation with the Federal department or agency concerned, and with the affected States, by regulation prescribe such requirements regarding the construction, reconstruction, or operation of such project as may be necessary and appropriate to minimize the adverse effects, if any, which such construction, reconstruction, or operation may have on any endangered species or threatened species, and on any critical habitat of such species, within the geographic area directly affected by such project; and

"(B) shall implement such protective measures (including, but not limited to, transplantation) with respect to the endangered species and threatened species in such area as he deems necessary and appropriate.

"(3) The harassment, harm, killing, or wounding of any endangered species or threatened species within the geographical area directly affected by any Federal public works project to which paragraph (1) of this subsection applies shall, if such harassment, harm, killing, or wounding is—

"(A) directly attributable to the construction, reconstruction, or operation of such project; and

"(B) not in violation of any requirement imposed by the Secretary pursuant to paragraph (2)(A) of this subsection

not be deemed to be a taking of any endangered species within the meaning of section 9(a)(1) of this Act or the taking of any threatened species if a prohibition against the taking thereof is imposed by regulation issued under section 4(d) of this Act.

"(4) For purposes of this subsection, the term 'Federal public works project' includes, but is not limited to, any public works project carried out by any corporation established under Federal law.".

SEC. 2. Section 7(c) of the Endangered Species Act of 1973 (as added by the first section of this Act) shall apply with respect to Federal public works projects described in such section the construction of which commenced on or after January 1, 1967.

SEC. 3. Section 15 of the Endangered Species Act of 1973 (16 U.S.C. 1942) is amended to read as follows:

"SEC. 15. Except as authorized in sections 6 and 7 of this Act, there are authorized to be appropriated—

"(1) not to exceed $25,000,000 for the fiscal year ending September 30, 1977, and the fiscal year ending September 30, 1978, not to exceed $23,000,000 for the fiscal year ending September 30, 1979, not to exceed $25,000,000 for the fiscal year ending September 30, 1980, and not to exceed $27,000,000 for the fiscal year ending September 30, 1981, to enable the Department of the Interior to carry out such functions and responsibilities as it may have been given under this Act; and

"(2) not to exceed $5,000,000 for the fiscal year ending September 30, 1977, and the fiscal year ending September 30, 1978, not to exceed $2,500,000 for the fiscal year ending September 30, 1979, not to exceed $3,000,000 for the fiscal year ending September 30, 1980, and not to exceed $3,500,000 for the fiscal year ending September 30, 1981, to enable the Department of Commerce to carry out such functions and responsibilities as it may have been given under this Act".

—Page 1, strike out all after the enacting clause, and insert in lieu the following:

SEC. 2. Section 3 of the Endangered Species Act of 1973 (16 U.S.C. 1532) is amended—

(1) by inserting after paragraph (3) thereof the following new paragraphs:

"(5) The term 'Federal agency' means any department, agency, or instrumentality of the United States.

"(6) The term 'critical habitat' for a threatened or endangered species means—

"(A) the specific areas within the geographical area occupied by the species, at the time it is listed in accordance with the provisions of section 4 of the Act, on which are found those physical or biological features (i) essential to the conservation of the species and (ii) which require special management considerations or protection;

"(B) critical habitat for a threatened or endangered species may include specific areas outside the geographical area occupied by the species at the time it is listed in accordance with the provisions of section 4 of this Act, into which the species can be expected to expand naturally, upon a determination by the Secretary at the time it is listed, that such areas are essential for the conservation of the species;

"(C) critical habitat may be established for those species now listed as threatened or endangered species for which no critical habitat has heretofore been established as set forth in subparagraphs (A) and (B) of this paragraph; and

"(D) except in those circumstances determined by the Secretary, critical habitat will not include the entire geographical area which can be occupied by the threatened or endangered species.";

(2) by inserting after paragraph (7) thereof the following new paragraph:

"(8) The term 'irresolvable conflict' means, with respect to any action authorized, funded, or carried out by a Federal agency, a set of circumstances under which completion of such action would (A) jeopardize the continued existence of an endangered or threatened species, or (B) result in the destruction of a critical habitat.";

(3) by inserting after paragraph (13) thereof the following new paragraphs:

"(14) The term 'take' means to knowingly and willfully harass, harm, pursue, hunt, shoot, wound, kill, trap, or collect, or to attempt to engage in any such conduct.

"(15) The term 'threatened species' means any species which is likely to become an endangered species within the foreseeable future throughout all or the essential portion of its range."; and

(4) by renumbering the paragraphs thereof, including any references thereto, as paragraphs (1) through (18), respectively.

SEC. 3. Section 7 of the Endangered Species Act of 1973 (16 U.S.C. 1536) is amended to read as follows:

"INTERAGENCY COOPERATION

"SEC. 7. (a) CONSULTATION.—The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act. All other Federal agencies shall, in consultation with and with the assistance of the Secretary, utilize their authorities in furtherance of the purposes of this Act by carrying out programs for the conservation of endangered species and threatened species listed pursuant to section 4 of this Act. Each Federal agency shall insure that any action authorized, funded, or carried out by such agency does not jeopardize the continued existence of any endangered species or threatened species or result in the destruction or modification of habitat of such species which is determined by the Secretary as appropriated with the affected States, to be critical, unless such agency is granted an exemption for such action by the Committee pursuant to subsection (e) of this section.

"(b)(1) ESTABLISHMENT OF COMMITTEE.—There is established a committee to be known as the Endangered Species Committee (hereinafter in this section referred to as the 'Committee').

"(2) The Committee shall review any application submitted to it pursuant to subsection (d) of this section and determine in accordance with subsection (e) of this section whether or not to grant an exemption from the requirements of subsection (a) of this section for the action set forth in such application.

"(3) The Committee shall be composed of seven members as follows:

"(A) The Secretary of Agriculture.

"(B) The Secretary of the Army.

"(C) The Chairman of the Council on Environmental Quality.

"(D) The Governor or Governors of the State or States in which the Federal Action occurs.

"(E) The Secretary of the Interior.

"(F) The Secretary of the Smithsonian Institution.

"(G) The Secretary of Transportation.

"(4)(A) Members of the Committee shall receive no additional pay on account of their service on the Committee.

"(B) While away from their homes or regular places of business in the performance of services for the Committee, members of the Committee shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5 of the United States Code.

"(5)(A) Except as provided in subparagraph (B) of this paragraph, five members of the Committee shall constitute a quorum for the transaction of any function of the Committee.

"(B) The Committee shall not grant any exemption from the requirements of subsection (a) of this section to the head of any

Federal agency for any action authorized, funded, or carried out by such agency unless a majority of the Committee vote to grant such exemption.

"(C) The Secretary of the Interior shall be the Chairman of the Committee.

"(D) The Committee shall meet at the call of the Chairman or five of its members.

"(6) The Committee may appoint and fix the pay of such personnel as it deems desirable.

"(7) The staff of the Committee may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no individual so appointed may receive pay in excess of the annual rate of basic pay in effect for grade GS–18 of the General Schedule.

"(8) The Committee may procure temporary and intermittent services to the same extent as is authorized by section 3109(b) of title 5 of the United States Code, but at rates for individuals not to exceed the daily equivalent of the annual rate of basic pay in effect for grade GS–18 of the General Schedule.

"(9) Upon request of the Committee, the head of any Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of such agency to the Committee to assist it in carrying out its duties under this section.

"(10)(A) The Committee may for the purpose of carrying out its duties under this section hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Committee deems advisable.

"(B) When so authorized by the Committee, any member or agent of the Commission may take any action which the Committee is authorized to take by this paragraph.

"(C) Subject to the Privacy Act, the Committee may secure directly from any Federal agency information necessary to enable it to carry out its duties under this section. Upon request of the Chairman of the Committee, the head of such Federal agency shall furnish such information to the Committee.

"(D) The Committee may use the United States mails in the same manner and upon the same conditions as other Federal agencies.

"(E) The Administrator of General Services shall provide to the Committee on a reimbursable basis such administrative support services as the Committee may request.

"(11) In carrying out its duties under this section, the Committee may promulgate and amend such rules, regulations, and procedures, and issue and amend such orders as it deems necessary.

"(12) No person shall be excused from attending and testifying or from producing books, records, correspondence, documents, or other evidence in obedience to a subpena, on the ground that the testimony or evidence required of him may tend to incriminate him or subject him to a penalty for forfeiture; but no individual shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he is compelled, after having claimed his privilege against self-incrimination; to testify or produce evidence, except that such individual so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying.

"(c) REGULATIONS.—Not later than ninety days after the date of enactment of this section, the Committee shall promulgate regulations which set forth the form and manner in which applications by the heads of Federal agencies for review of actions by such agencies shall be submitted to the Committee and the information to be contained in such applications. Such regulations shall require that information submitted in an application by the head of any Federal agency with respect to any action of such agency include, but not be limited to—

"(1) a description of the consultation process carried out pursuant to subsection (a) of this section between the head of such Federal agency and the Secretary of the Interior, acting through the Director of the United States Fish and Wildlife Service; and

"(2) a statement describing why such action cannot be altered or modified to conform with the requirements of subsection (a) of this section.

"(d) SUBMISSION OF APPLICATIONS.—(1) The head of any Federal agency may submit an application for review of any action of such agency to the Committee if, in the opinion of the head of such agency, such agency has complied with the requirements of subsection (a) of this section and that an irresolvable conflict exists with respect to such action. Such application for review shall be submitted in accordance with the regulations promulgated by the Committee under subsection (c) of this section.

"(2) The Director of the Fish and Wildlife Service shall prepare and submit to the Committee within thirty days of any submission made under paragraph (1) of this subsection his comments concerning such submission.

"(e)(1) REVIEW AND DETERMINATION.—Not later than one hundred and eighty days after the Committee receives the application and comments submitted pursuant to subsection (d) of this section, the Committee shall review such application and comments and—

"(A) determine, with respect to the action which is the subject of such application, whether or not—

"(i) the requirements of the consultation process described in subsection (a) of this section have been met; and

"(ii) an irresolvable conflict exists; and

"(B) if it makes both determinations in clauses (A) (i) and (ii), determine after notice and opportunity for public hearing whether or not to grant an exemption from the requirements of subsection (a) of this section to the head of such Federal agency for such action.

"(2) The Committee may only grant an exemption for any action under this subsection if it determines that—

"(A) the benefits of such action outweigh the benefits of alternative courses of action consistent with conserving the species of its critical habitat.

"(f) NATIONAL ENVIRONMENTAL POLICY ACT.—No final determination of the Committee under subsection (e) of this section shall be considered a major Federal action under the terms of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

"(g) JUDICIAL REVIEW.—Review of any Committee action taken pursuant to subsection (e) of this section may be had by any interested party in the circuit court of appeals of the United States of the Federal judicial district in which the Federal action being reviewed by the Committee occurs. Any application for review shall be with the appropriate court within ninety days of the Committee's final decision under subsection (e).

"(h) MITIGATION.—In those instances where the Committee determines that an exception is warranted under subsection (e) of this section the Committee must assure that the action approved for such exemption incorporates all reasonable mitigation measures deemed necessary by the Secretary to minimize adverse impacts upon the affected endangered or threatened species or its critical habitat including but not limited to live propagation, transplantation, and habitat acquisition and improvement. The Federal agency or department receiving such exemption should include the costs of such mitigation measures within the overall costs of continuing the proposed action and the Federal agency or department shall transfer to the United States Fish and Wildlife Service out of appropriations or other funds such money as may be necessary to implement the conservation programs or mitigation measures required by this section for endangered or threatened species or their critical habitats.

"(i) EXCEPTION ON TAKING.—Notwithstanding sections 4(d) and 9(a) of this Act or any regulations promulgated pursuant to such sections, any action for which an exemption is granted under subsection (e) of this section shall not be considered a taking of any endangered or threatened species with respect to any activity which is necessary to carry out such action.".

SEC. 4. The third sentence of section 11(a)(1) is amended by inserting the word "knowingly" after the word "otherwise".

SEC. 5. Section 11(a) is amended by adding a new subsection at the end thereof as follows:

"(3) Notwithstanding any other provision of this Act, no civil penalty shall be imposed if it can be shown by a preponderance of the evidence that the defendant committed an act based on a good faith belief that he was acting to protect himself or herself, a member of his or her family, or any other individual from bodily harm, from any endangered or threatened species.".

SEC. 6. Section 11(b) is amended by adding a new subsection at the end thereof as follows:

"(3) Notwithstanding any other provision of this Act, it shall be a defense to prosecution if the defendant committed the offense based on a good faith belief that he was acting to protect himself or herself, a member of his or her family, or any other individual from bodily harm, from any endangered or threatened species.".

SEC. 7. Section 15 of the Endangered Species Act of 1973 (16 U.S.C. 1542) is amended to read as follows:

"SEC. 15. Except as authorized in sections 6 and 7 of this Act, there are authorized to be appropriated—

"(1) not to exceed $25,000,000 for the fiscal year ending September 30, 1977, and the fiscal year ending September 30, 1978, not to exceed $23,000,000 for the fiscal year ending September 30, 1979, not to exceed $25,000,000 for the fiscal year ending September 30, 1980, and not to exceed $27,000,000 for the fiscal year ending September 30, 1981, to enable the Department of the Interior to carry out such functions and responsibilities as it may have been given under this Act; and

"(2) not to exceed $5,000,000 for the fiscal year ending September 30, 1977, and the fiscal year ending September 30, 1978, not to exceed $2,500,000 for the fiscal year ending September 30, 1979, not to exceed $3,000,000 for the fiscal year ending September 30, 1980, and not to exceed $3,500,000 for the fiscal year ending September 30, 1981, to enable the Department of Commerce to carry out such functions and responsibilities as it may have been given under this Act.".

SEC. 8. Section 4(a) of the Endangered Species Act of 1973 (16 U.S.C. 1533) is amended by adding a new subsection as follows:

"(3) Critical habitat of an endangered or threatened species shall be designated concurrently with determination of the species' status except in those cases when—

"(A) an emergency exists because no critical habitat information is available or there are other contingencies;

"(B) there are species listed before enactment of the Endangered Species Act of 1973.".

SEC. 9. Section 4(f)(2)(A) of the Endangered Species Act of 1973 (16 U.S.C. 1533) is amended by adding new paragraphs (i) and (ii) as follows, and renumbering as appropriate:

"(i) shall publish notice of the proposed regulation (including the complete text of the regulation), not less than 60 days before the effective date of the regulation.

"(I) in the Federal Register, and

"(II) if the proposed regulation specifies any critical habitat, in a newspaper of general circulation within or adjacent to such habitat; and

"(ii) the Secretary shall offer for publication in appropriate scientific journals the substance of the Federal Register notice referred to in (i) above.".

—Page 29, after line 10, insert the following:

"SEC. 11 Section 1522(a) is amended by adding at the end the following new subsection:

(3) The Secretary shall remove the—from the protective status of this Act."

Frigate Bird.
Abbott's booby.
Solitary tinamou.
Laysan (Laysan duck) Teal.
Masked Bobwhite Quail.
White-eared Pheasant.
Swinhoe Pheasant.
Palawan peacock Pheasant.
Mikado Pheasant.
Humes (Bar-tailed) Pheasant.
Edward's Pheasant.
Brown-eared Pheasant.
Nene (Hawaiian) Goose.
Hawaiian (Koloa) Duck.
St. Lucia wren.
New Zealand bush wren.
Guadeloupe house wren.
Tristrams woodpecker.
Red-cockaded woodpecker.
Swayne's hartebeast.
Pyginy hog.
Barbary hyaena.
Brown hyaena.
Pyreanean ibex.
Walia ibex.
Black-faced impala.
Indris.
Jaguar.
Eastern gray kangaroo.
Red kangaroo.
Western gray kangaroo.
Leopard.
Ring-tailed lemur.
Jaguar.
Right whale.
Black lemur.
Mexican wolf.
Gray bat.
Queensland hairy-nosed wombat.
Wild yak.
Barnard's wombat.
Red wolf.
Northern Rocky Mountain wolf.
Maned wolf.
Eastern timber wolf.
Sperm whale.
Sci whale.
Humpback whale.
Gray whale.
Finback whale
Bowhead whale.
Blue whale.
Yellow footed rock wallaby.
Western hare wallaby.
Parma wallaby.
Crescent nila-tail wallaby.
Wouldfin.
Greenback cutthroat trout.
Lahontan cutthroat trout.
Paiute cutthroat trout.
Manus Island tree snail.
Lemur.
Do.
Langur.
Howler monkey.
Golden langur.
Javan rhinoceros.
Northern white rhinoceros.
Sumatran rhinoceros.
White-nosed saki.
Mediterranean monk seal.
Hawaiian monk seal.
Seledang (guar).
Sumatran serow.
Barbary serval.
Shapo.
Shou.
Siamang.
Sifakas.
Brazilian three-toed sloth.
Cuban solenondon.
Haitian solenondon.
Delmarva peninsula fox squirrel.
Barbary stag.
Kashmir stag.
Tamaraw.
Golden-rumped tamarin (golden-headed tamarin; golden-lion marmoset).
Pied tamarin.
Birdwing pearly mussel.
Dromedary pearly mussel.
Yellow-blossom pearly mussel.
Curtis' pearly mussel.
Sampson's pearly mussel.
White cat's paw pearly mussel.
Green-blossom pearly mussel.
Tuberculed-blossom pearly mussel.
Turgid-blossom pearly mussel.
Fine-rayed pigtoe pearly mussel.
Nile crocodile.
Morelet's crocodile.
Cuban crocodile.
American crocodile.
Jamaican boa.
Puerto-Rican boa.
American alligator.
Mariannas mallard.
Swinhoe's pheasant.
Palawan peacock pheasant.
Mikado pheasant.
Bar-tailed pheasant.
Edward's pheasant.
Brown-eared pheasant.
Yellow-shouldered blackbird.
Red siskin.
White-breasted slivereye.
Western rufous bristlebird.
Koch's pitta.
White-winged cotinga.
Banded cotinga.
Helmeted hornbill.
Giant scops owl.
Resplendent quetzel.
Hook-billed hermit.
Golden parakeet.
Red-capped parrot.
Little blue macaw.
Indigo macaw.
Glaucous macaw.
Kouprey.
Doue langur.
Pagi Island langur.
Black lechwe.
Lemurs.
Leopard.
Formosan clouded leopard.
Snow leopard.
Asiatic lion.
Spanish lynx.
Lion-tailed macaque.
Amazonian manatee.
West Indian manatee.
Tana River mangabey.
Margay.
Proboscis monkey.
Clouded leopard.
Bobcat.
Andean cat.
Marbled cat.
Jaguarundi.
Leopard cat.
Temminchk's cat.
Costa Rican puma.
Black-footed cat.
Fit-headed cat.
Southern river otter.
Marine otter.
Long-tailed otter.
Brown bear.
Spotted sinsang.
Chinchilla.
Australian native mouse.
Beaver.
Hispid hare.
Scaly anteater.
Giant armadillo.
Siamang.
Gibbons.
Goeldi's marmoset.
Golden marmoset.
Eastern Jerboa marsupial.
Large desert marsupial-mouse.
Atlantic ridley turtle.
Aquatic box turtle.
Tuatara.
Short-necked or swamp tortoise.
Madagascar radiated tortoise.
Galapagos tortoise.
River (Tuntong) terrapin.
San Francisco garter snake.
Blunt-nosed leopard lizard.
Anegada ground iguana.
Barrington land iguana.
Round Island day gecko.
Day gecko.
Gharial gavial.
Orinoco crocodile.
White-footed tarmarin.
Asian tapir.
Brazilian tapir.
Central America tapir.
Mountain tapir.
Philippine tarsier.
Tiger.
Tasmanian tiger.
Jaguar.
Southern sea otter.
Black lemur.
Ring-tailed lemur.
Leopard.
Tiger.
Shiny pigtoe pearly mussel.
Higgin's eye pearly mussel.
Pink mucket pearly mussel.
Alabama lamb pearly mussel.
White warty-back pearly mussel.
Miyako Tango.
Japanese crested ibis.
Helmeted honeyeater.
Crested (Akohekohe) honeycreeper.
Hawaiian (Io) hawk.
Galapagos hawk.
Anjouan Island sparrow hawk.
Audouin's gull.
Horned guan.
Atitlan Grebe.
Eyrean (flycatcher) grass-wren.
Slender-billed grackle.
Christmas Island goshawk.
Hawaiian (Nene) goose.
Aleutian Canada goose.
Hawaiian gallinule.
Seychelles (weaver-finch) fody.
Whitenecked rock-fowl flycatcher.
Tahiti flycatcher.
Seychelles black flycatcher.
Scarletbreasted robin flycatcher.
Palau fantail flycatcher.
Greynecked rock-fowl flycatcher.
Pabrump killifish.
Ikan temolek.
Hawaii akepa.
Maui akepa.
Kauai akialoa.
El Segundo blue butterfly.
Lotus blue butterfly.
Smith's blue butterfly.
Mission blue butterfly.
San Bruno elfin butterfly.
Lange's metalmark butterfly.
Euler's (tyrant) flycatcher.
Chatham Island robin flycatcher.
Arctic peregrine falcon.
Laysan and Nihoa (honeycreepers) finches.
American peregrine falcon.
Chinese egret.
Spanish imperial eagle.

Southern bald eagle.
Monkeyeating eagle.
Broad-snouted caiman.
Apaporis River caiman.
Black caiman.
Chinese alligator.
(Caimon) yacare.
South American turtle.
Leatherback turtle.
Hawksbill turtle.
Kauai and Maui nukupuus.
Formosan yellow-throated marten.
Monk-seal.
Spider monkey.
Red-backed squirrel monkey.
Woolly spider monkey.
Field's mouse.
Gould's mouse.
New Holland mouse.
Salt marsh harvest mouse.
Shark Bay mouse.
Shortridge's mouse.
Smoky mouse.
Eastern mouse.
Western mouse.
Eastern native-cat.
Numbat.
Ocelot.
Orangutan.
Arabian oryx.
Cameroon clawless otter.
Giant otter.
La Plata otter.
Florida panther.
Little planigale.
Orange-footed pimpleback pearly mussel.
Rough pigtoe pearly mussel.
Fat pocketbook pearly mussel.
Cumberland monkeyface pearly mussel.
Appalachian monkeyface pearly mussel.
Pale lilliput pearly mussel.
Nicklin's pearly mussel.
Tampico pearly mussel.
Cumberland bean pearly mussel.
Bahama swallowtail butterfly.
Schaus swallowtail butterfly.
Maleo magapode.
Nihoa (warbler) millerbad.
Tinian (tyrant flycatcher) monarch.
Akjapolaau (honeycreeper).
Shorttailed albatross.
Masked bobwhite (quail).
Western bristlebird (flycatcher).
Mauritious olivaceous bulbul.
Sao Miguel bullfinch (finch).
Great Indian bustard.
Cahow (Bermuda petrel).
Andean condor.
Californian condor.
Hawaiian coot.
Hooded crane.
Japanese crane.
Mississippi sandhill crane.
Siberian white crane.
Whooping crane.
Hawaii creeper.
Molokai Creeper (Kakawahfe) (Honeycreeper).
Oahu creeper (Alauwahlo) (Honeyceeper).
Hawaiian crow (alala).
Mauritius cuckoo-shrike.
Reunion cuckoo-shrike.
Red-billed curassow.
Trinidad white-headed curassow.
Eskimo curlew.
Cloven-feathered dove.
Grenada dove.
Palau ground dove.
Hawaiian ducks (koloa).
Laysan duck.
Mexican duck.
White-winged wood duck.
Swinhoe's pheasant.
Sciater's monal pheasant.
Palawan peacock pheasant.
Mikado pheasant.
Imperial pheasant.
Edward's pheasant.
Chinese monal pheasant.
Cabot's tragopan pheasant.
Brown-eared pheasant.
Blyth's tragopan pheasant.
Bar-tailed pheasant.
Hawaiian dark-rumped petrel.
Galopagos penguin.
Brown pelican.
Maui (honeycreeper) parrotbill.
Long-tailed marsupial.
Kauai Oo.
Arabian ostrich.
West African ostrich.
Ou.
Anjouan scops owl.
Palau owl.
Seychelles owl.
Mrs. Morden's owlet.
Palila.
Forbes' parakeet.
Golden-shouldered parakeet.
Mauritius ringnecked parakeet.
La Perouse's megapode.
Redfaced malkoha.
Seychelles (thrush) magpie-robin.
Kokako (wattlebird).
Florida Everglade (snail kite) kite.
Grenada hookbilled kite.
Cuba hookbilled kite.
Seychelles kestrel.
Mauritius kestrel.
Kakapo (owl parrot).
Kagu (rail).
Hog deer.
Musk deer.
Bactrian camel.
Babiroussa.
Asian tapir.
Mountain zebra.
Przewalski's horse.
Ochre-marked parakeet.
Orange-bellied parakeet.
Paradise parakeet.
Scarlet-chested parakeet.
Turquoise parakeet.
Bahamas parrot.
Ground parrot.
Imperial parrot.
Night parrot.
Puerto Rican parrot.
Red-browed parrot.
St. Lucia parrot.
St. Vincent parrot.
Thick-billed parrot.
Philippine deer.
Asian Elephant.
Chimpanzee.
Pigmy Chimpanzee.
Tonkin-snub-nosed monkey.
Purple-faced langur.
Long-tailed langur.
Toque macaque.
Japanese macaque.
Formosan rock macaque.
Gelada.
Stumptail macaque.
Black howler monkey.
White-footed tamarin.
Philippine tarsier.
Lesser slow lovis.
Francois' leaf monkey.
Drill.
Mandrill.
Black colobus.
White-collared mangabey.
L'hoest's monkey.
Red-bellied monkey.
Red-carned-nose-spotted monkey.
Diana monkey.
Yellow-tailed woolly monkey.
Pied tamarin.
Cotton-top marmoset.
Shapo.
Argali.
Urial.
Chiltan markhor.
Kabal markhor.
Straight-horned markhor.
Chamois.
Sumatran serow.
Goral.
Saiga antelope.
Dorcas gazelle.
Giant sable antelope.
Lechwe.

from the protective status of this Act.

H.R. 14104

By Mr. BUCHANAN:

—Page 2, line 15, strike out "invertebrate animal".

—Page 14, beginning on line 17, strike out "and enhancement".

—Page 18, beginning on line 8, strike out "and enhancement".

—Page 19, line 9, strike out "and enhancement".

—Page 19, line 12, strike out "and enhancement".

—Page 19, line 16, strike out "and enhancement".

—Page 20, beginning on line 3, strike out "and enhancement".

—Page 20, beginning on line 5, strike out "and enhancement".

—Page 19, line 24, strike out "or the permit or license applicant".

H.R. 14104

By Mr. McKAY:

—Page 7, beginning on line 22, strike out "by the Endangered Species Committee under subsection (f)" and insert in lieu thereof "under this section".

—Page 10, line 6, strike out "An" and all that follows down through line 11 and insert in lieu thereof the following: "A determination with respect to an application for an exemption shall be made by a review board appointed under paragraph (3), in accordance with paragraphs (5) and (6).".

—Page 11, beginning on line 5, strike out "and making recommendations to the Endangered Species Committee".

—Page 13, line 21, strike out "The" and all that follows down through line 21 on page 14 and insert in lieu thereof the following:

The review board may only grant an exemption from the requirements of subsection (c)(1) if, by a majority vote—

"(1) it determines on the record after an opportunity for a hearing held in accordance with sections 554, 555, and 556 of title 5 of the United States Code, that—

"(A) there are no feasible and prudent alternatives to the agency action;

"(B) the benefits of such action clearly outweigh the benefits of alternative courses of action consistent with conserving the species or its critical habitat, and such action is in the public interest; and

"(C) the action is of regional or national significance; and

"(2) it establishes such reasonable mitigation and enhancement measures, including, but not limited to, live propagation, transplantation, and habitat acquisition and improvement, as are necessary and appropriate to minimize the adverse effects of the agency action upon the endangered species, threatened species, or critical habitat concerned.

The review board shall determine whether or not to grant an exemption not later than 180 days after the hearing described in this paragraph is initiated. The review board shall notify the Endangered Species Committee of its determinations and decision under this paragraph (including any mitigation and enhancement measures established) within ten days of its decision. The review board shall transmit the record of its proceedings and its decision to the Committee.

Page 17, strike out line 12 and all that follows down through line 17 on page 18 and insert in lieu thereof the following:

"(8) The Committee shall review the decision of a review board after notification of such decision under subsection (d)(6). The Committee may, by a vote of not less than 4

of its members, disapprove the decision of the review board not later than 60 days after such notification. The Committee shall make such a disapproval if, based upon the review board's decision and the record of its determinations and on such other testimony or evidence as it may receive on the record, the Committee makes the determinations required to be made under subsection (d)(6) contrary to the determinations of the review board. Any determination of disapproval under this paragraph shall be final agency action for purposes of chapter 7 of title 5 of the United States Code.

"(f) EXEMPTION ORDERS.—If a review board grants an exemption which is not disapproved under subsection (e), or if the Committee grants an exemption after disapproving a denial of an exemption by a review board, the review board or the Committee, as the case may be, shall issue an order granting the exemption and specifying the mitigation and enhancement measures established with respect to such exemption which shall be carried out and paid for by the Federal agency in implementing the agency action. All necessary mitigation and enhancement measures shall be authorized prior to the implementing of the agency action and funded concurrently with all other project features

"(2) The Federal agency receiving such exemption shall include the costs of such mitigation and enhancement measures within the overall costs of continuing the proposed action. Notwithstanding the preceding sentence the costs of such measures shall not be treated as project costs for the purpose of computing benefit-cost or other ratios for the proposed action. Any Federal agency may request the Secretary to carry out such mitigation measures. The costs incurred by the Secretary in carrying out any such measures shall be paid by the agency receiving the exemption. No later than one year after the granting of an exemption, the agency to which the exemption was granted shall submit to the Council on Environmental Quality a report describing its compliance with the mitigation and enhancement measures prescribed by this section. Such a report shall be submitted annually until all such mitigation and enhancement measures have been completed. Notice of the public availability of such reports shall be published in the Federal Register by the agency preparing such reports.

Page 18, line 19, strike out "the Committee" and insert in lieu thereof "a review board".

Page 18, line 23, strike out "Committee" and insert in lieu thereof "review board".

Page 19, strike out line 5 and all that follows down through line 22 on page 20 and insert in lieu thereof the following:

"(h) JUDICIAL REVIEW.—Any real party in interest or the Federal agency involved may obtain review, under chapter 7 of title 5 of the U.S. Code, of—

"(1) any decision (including any decision with respect to mitigation and enhancement measures) made by a review board under subsection (d) which is not disapproved by the Endangered Species Committee under subsection (e), and

"(2) any decision by the Endangered Species Committee to disapprove a decision of a review board under subsection (e), in the United States court of appeals for any circuit wherein the agency action concerned will be, or is being, carried out, by filing a written petition for review in such court within 90 days after the last date on which the Committee may disapprove the review board's decision if it fails to disapprove such decision, or the date on which the Committee disapproves such decision, as the case may be. Attorneys designated by the review board or the Committee may appear for, and represent the board or Committee, respectively, in, any action for review under this paragraph.

Page 20, line 23, strike out "(j)" and insert in lieu thereof "(i)".

Page 21, line 2, strike out "(f)" and in lieu thereof "(d)(6)".

Page 21, line 11, insert "review boards and" and "section.".

Page 21 line 13, strike out "(k)" and insert in lieu thereof "(j)".

Page 21, line 14, insert "a review board or by" after "by".

Page 22, line 3, strike out "(l)" and insert in lieu thereof "(k)".

Page 22, beginning on line 5, strike out "subsections (d), (e), and (f) of".

—Page 22, line 16, strike out "not" and all that follows down through line 23 and insert in lieu thereof "and not to exceed $23,000,000 for the fiscal year ending September 30, 1979; and".

Page 23, line 1, strike out "not" and all that follows down through line 7 and insert in lieu thereof "and not to exceed $2,500,000 for the fiscal year ending September 30, 1979.".

—Page 31, line 20, strike out "subsection" and insert in lieu thereof "subsections".

Page 32, line 21, strike out the closing quotation marks and the final period.

Page 32, after line 21, insert the following:

"(i) MILITARY ACTIVITIES.—The provisions of this Act shall not apply to any action authorized, funded, or carried out by the Department of Defense, or by the Division of Naval Reactors and Military Application of the Department of Energy, as a part of their military functions. For purposes of this subsection, the term "military functions" means military functions directly related to military preparedness.".

S. 2727

By Mr. VOLKMER:

—On page 41, strike line 10 and all that follows through line 23.

On page 42, strike line 12 and all that follows through line 21.

SENATE—*Thursday, October 5, 1978*

(Legislative day of Thursday, September 28, 1978)

The Senate met at 8:30 a.m., on the expiration of the recess, and was called to order by Hon. QUENTIN N. BURDICK, a Senator from North Dakota.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

My voice shalt Thou hear in the morning, O Lord; in the morning will I direct my prayer unto Thee, and will look up.—Psalms 5: 3.

We thank Thee, O Lord, for the strength and wisdom given in recent days to all who labor in this Chamber. Give us grace now to persevere until the work is done, and well done. Keep our vision high, our minds sharp, our speech instructive. May the refreshing winds of Thy Holy Spirit blow upon us to overcome weariness and to transcend fatigue. Keep us from giving up too easily or giving in too soon. Help us, Lord of all life, to do our duty for Thee and for our country and to rest the consequences with history.

Through Him who is King of Kings and Lord of Lords. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., October 5, 1978.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable QUENTIN N. BURDICK, a Senator from the State of North Dakota, to perform the duties of the Chair.

JAMES O. EASTLAND,
President pro tempore.

Mr. BURDICK thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. Under the previous order, the majority leader is recognized for 5 minutes.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The minority leader is recognized.

Mr. BAKER. Mr. President, I have no requirement for my time, and yield it back.

Mr. ROBERT C. BYRD. Does the Senator from Colorado need additional time, over and beyond his order?

Mr. PROXMIRE. Mr. President, will the Senator yield me some of his time?

Mr. HART. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HART. The order is 15 minutes?

Mr. ROBERT C. BYRD. Yes; does the Senator need additional time?

Mr. HART. I think not.

Mr. ROBERT C. BYRD. Very well. I yield whatever portion of my remaining time he may need to the Senator from Wisconsin (Mr. PROXMIRE).

Mr. PROXMIRE. I thank the Senator.

GENOCIDE: A KAMPUCHEAN WAY OF LIFE

Mr. PROXMIRE. Mr. President, Democratic Kampuchea wallows in a bath of

its own blood. Pol Pot's regime murders and abuses its citizens systematically and psychotically. Life is profane—expendable.

The Kampuchean abuse of human rights makes a textbook case of genocide as it is defined in the International Genocide Convention. The systematic murders violate article II, section (a) of the Genocide Convention.

Though the dictators who rule the country are Cambodians themselves, they have singled out specific sectors of the population to liquidate. From the throne of power, all their countrymen are mere commoners who can be snuffed out on a whim.

In 1975–76, according to Time magazine,

> The victims were intellectuals, officials of the previous regime, and members of the armed forces once commanded by Marshal Lon Nol.

The following year, Khmer Rouge commanders who had collaborated with the Vietnamese against the United States bit the dust.

Today a new 4-month-old purge initiated by Pol Pot seeks to "purify" the country of its professionals, minor officials, and anyone at all even suspected of disloyalty. Life is so cheap in Cambodia, reports Time, "they're getting down to killing cousins of cousins of Lon Nol's soldiers."

Another more insidious form of genocide—the forced migration and resultant intolerable conditions—violate sections (b) and (c) of article II. Though many Cambodians were accustomed to an urban way of life prior to the 1975 takeover, the Kampuchean controllers have driven them into the countryside. They have dispersed these city-dwellers across a land which is not only unfamiliar, but hostile.

In the country food is scarce. Whole expanses are stripped of anything edible. Even the leaves of the trees are torn away, eaten in desperation by starving refugees.

The denuded trunks and branches stand in stark testimony to the excesses of the Kampuchean regime. Starvation and disease have taken the lives of 2 million Cambodians in the past 2 years.

Even those who do find work under the brutal guidance of Kampuchean controllers are subject to an intolerable, mind-warping routine. Each day they are routed from bed at 4 a.m. After 12 hours of forced labor in the infertile fields, their reward is seven spoonfuls each of thin rice gruel.

Relief from this torture is escape into the shadowy realm of mental illness. Or suicide.

Mr. President, the disembowelment of Cambodia continues, but the United States has yet to ratify the International Genocide Convention. And 82 nations—many our closest allies—await only the vote of the U.S. Senate to make the United States the 83d nation to ratify a treaty which protects that most fundamental of all rights—the right to live.

We cannot stop genocide from occurring by ratifying this convention. But we will at least have a precedent, grounded in international law, for condemning such senseless slaughter as that perpetrated in Cambodia.

Mr. President, just as the nations of the world look at Cambodia and see useless, wanton violence, so do they look to the United States to gage its reaction to this gross violation of human rights.

Mr. President, we must return that gaze.

We must ratify the Genocide Convention.

THE VETO OF THE PUBLIC WORKS BILL

Mr. PROXMIRE. Mr. President, today it may be that the Senate will be called upon to act on the President's veto of the public works bill. I earnestly hope that when Senators consider their votes, they will consider the effect, not only on the country as a whole, which they certainly should as their principal concern, but also the effect on their States. If they do so, they will sustain the President's veto. The reasons are clear.

Thirty-one States will, in effect, be taxed more than they benefit from water projects. By that I mean that prorated cost of the water projects in this bill, if applied to the taxpayers in a State will result in 33 State's paying out more to support the water projects than they receive in projects. That includes all the States of New England, which, when they pay out tax money which ends up in another State, are losing resources. They are losing jobs. They are losing economic strength; and in some cases the amount they lose is not only 2 or 3 or 4 times as much, but in one New England State it is 27 times as much. Massachusetts for instance will pay out almost $1 billion in taxes over the full life of these projects and get back less than $40 million in projects.

In my own State of Wisconsin, we will lose hundreds of millions in taxes to pay for these projects and get back one-twentieth of that in projects.

I think some of these projects are excellent, and should be approved, and so does President Carter. As a matter of fact, he approves 95 percent of the public works bill. His veto extends only to a limited part. The total cost of these projects is about $35 billion, and his veto opposes only $1.8 billion, which, as I say, is 5 percent of the total. But if we stop that 5 percent, it would not only be to the advantage of those States which get very little in water projects, but it would be to the very great benefit of this country as a whole, including most of the States that benefit from public works.

I intend to discuss this at some length later on, in the event that the President's veto is overridden in the House of Representatives and we have a chance to discuss it in the Senate. But, Mr. President, I think all of us should be very sensitive to the fact that this is an inflationary year, and this is an enormously inflationary bill. Senators can go home and claim, "Look, I got a project in our State worth a million dollars," but take a look at what this program is costing the taxpayers of his State. In most cases it will be far more than they get.

As I say, in two-thirds of the States, for 66 of the Senators here in the Senate, they will find their States are shortchanged in these water projects, and therefore they have every reason to be critical of them. Approve the good ones, even though it costs your State something, but be very critical of the ones that are not. And that means oppose the override and support the President's veto of the public works bill.

Mr. President, I ask unanimous consent that a table showing the list of 31 States that are losers on these water projects, be printed in the RECORD. The table shows how much each of these States get in projects and how much they pay in taxes.

Mr. President, I yield back the remainder of my time and yield the floor.

There being no objection, the tables were ordered to be printed in the RECORD as follows:

Total shares of water project construction funds committed in fiscal year 1979 public works bill

(By State, nearest millions of dollars)

State	What State gets	What State pays
Alabama	$447	$628
Alaska	180	69
Arizona	1955	391
Arkansas	1560	365
California	3688	3726
Colorado	2029	446
Connecticut	63	529
Delaware	0	99
District of Columbia	15	117
Florida	957	1438
Georgia	286	859
Hawaii	65	152
Illinois	553	1913
Idaho	375	146
Indiana	284	907
Iowa	273	490
Kansas	241	396
Kentucky	680	588
Louisiana	5044	667
Maine	0	185
Maryland	98	704
Massachusetts	26	984
Michigan	70	1553
Minnesota	127	676
Mississippi	2487	407
Missouri	1646	817
Montana	773	130
Nebraska	391	266
Nevada	201	108
New Hampshire	0	115
New Jersey	55	1247
New Mexico	114	203
New York	77	3050
North Carolina	248	940
North Dakota	1034	111
Ohio	345	1821
Oklahoma	555	478
Oregon	492	404
Pennsylvania	425	2005
Rhode Island	0	159
South Carolina	219	489
South Dakota	4	117
Tennessee	1030	732
Texas	1454	2183
Utah	1019	216
Vermont	0	82
Virginia	134	874
Washington	4425	622
West Virginia	465	316
Wisconsin	4	791
Wyoming	51	69

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Colorado (Mr. HART) is recognized for not to exceed 15 minutes.

EXPENDITURE RESTRAINT PERMITS TAX CUTS

Mr. HART. Mr. President, I am proposing today a comprehensive economic plan which is an alternative to those now before the Congress and the Nation. Unlike those plans which are based solely on massive tax cuts, this proposal would require that tax cuts depend on, and be precisely calculated in proportion to, restrained growth in Federal expenditures.

The heart of the matter is that unless tax cuts are strictly tied to restraint in Federal spending, we will only increase inflation. American taxpayers would be better off with no tax cuts at all than tax cuts which cause higher inflation.

I, therefore, propose that we consider a new, responsible remedy which has three key, interrelated basic elements:

First, strict controls on the growth of Federal spending; second, a reduction in personal and business taxes in precisely measured proportion to the reduced level of Federal spending; and third, indexing of personal income taxes.

Let me explain in more detail why I believe this approach is needed and why it will work.

During the past 7 years, many Americans have lost what was once an indomitable faith in the future of the U.S. economy and their own place in that future. Seven years ago, people assumed that if their income had doubled by today, they would be able to achieve most of their hopes and dreams with that increased spending power. The economy over the past 7 years has dealt a cruel blow to the hopes of most Americans.

THE ECONOMIC PROBLEM

Although the average household income has almost doubled in 7 years, the sad truth is that actual purchasing power has not. In fact, it has barely increased at all. Three-fourths of the increase in average income has been swallowed by inflation. The remaining one-fourth has been wiped out by increased Federal, State, and local taxes.

Understandably, people are frustrated and are lashing out at most public and private institutions. They want an end to this seemingly endless cycle of inflation, high taxes, and diminishing purchasing power.

The current mix of high inflation and high taxes aggravates another problem in our economy—low productivity. Over the past decade, business investment in new plants and equipment has stagnated, holding back the high level of output which was the basis for this Nation's high standard of living. This loss in productivity has also fueled inflation and suppressed taxpayers' real incomes. So, this stagnation can and must be attacked by stimulating investment through tax reductions. Higher investment results in more production, which in turn generates more jobs and more income.

Solving this problem will be extremely difficult; because, at the same time that people desire Federal tax cuts and sharply reduced inflation, they also want the continued benefits of most Federal programs. Some elected officials are taking advantage of this apparent contradiction by saying that massive tax cuts are possible without exercising discipline on Federal spending. That is political demagoguery—and economic nonsense. Tax cuts which double the Federal deficit will not help the taxpayer. Doubling the deficit will stampede inflation to such a degree that inflation will cause more injury than the tax cuts can heal.

SPENDING IS THE KEY

The alternative to this politically expedient, but economically destructive, approach is to control the growth of Federal spending at the same time that taxes are cut. This approach requires difficult decisions by Congress and the American people. Actually, to transfer purchasing power from the Federal Government to taxpaying households and business firms, the Government must control its own spending. To do otherwise is a logical and practical impossibility; for there is only so much output each year in the economy. If the private sector is to increase the share of the national output, the government sector simply must reduce the share of national output which it controls.

Those constituents who want lower taxes must be willing to help their elected officials pare Federal spending. Tougher priorities must be established to determine which Federal programs can be curtailed in order to construct a leaner budget. And even more importantly, we must find ways to keep the cost of existing high-priority programs from mushrooming beyond reasonable and responsible levels.

(Mr. PROXMIRE assumed the chair.)

Mr. HART. I am proposing an economic package designed to achieve these goals. It will not be as superficially appealing as a simple tax cut, but I believe it is the necessary remedy for our economy.

HART THREE-PART ECONOMIC PACKAGE

This economic package consists of three main elements. One, the growth of Federal spending would be sharply restrained. Two, Federal taxes would be lowered significantly in proportion to lower Federal spending. And three, our tax system would be indexed to prevent inflation from exacting further penalties from taxpayers.

With these three elements taken together, the economy can function in a sound, responsible, and healthy manner—without added inflation. Both businesses and consumers can experience a growth in disposable income, providing more money for saving and investment.

EXPENDITURE RESTRAINT

The first, and most important, part of this tax package is restraints on the growth of Federal spending.

Federal spending must be controlled if we are to cut taxes without increasing the Federal deficit to more inflationary levels. Currently, the Federal budget is projected to grow by about 8 percent per year into the mid 1980's. About 6 percent of this projected growth will be caused by inflation, which leaves 2 percent for expanding existing programs. We do not need to expand Federal purchases by 2 percent in the coming years.

Government spending can be divided into two categories: goods and services (for example, military hardware and troops, transportation, health research, education, Federal employees, et cetera) and transfer payments (direct payments to individuals or to third parties such as physicians and hospitals).

A. GOODS AND SERVICES

Federal purchases of goods and services actually declined in the last decade. Before adjustment for inflation, Federal spending on goods and services declined from $114 billion in 1968 to $90 billion in 1974. Thereafter, spending increased slowly to $102 billion in 1978. For the whole decade, Federal spending on goods and services declined by an average of 1 percent per year. After adjusting for inflation, this spending increased by 5 percent per year. Just this year, however, spending in reased sharply at an 8 percent rate.

The first element of this proposal to bring spending under control is to restrict the growth of purchases of goods and services to 4 percent per year during 1979, 1980, and 1981. Because inflation is expected to be 6 percent during these years (according to administration and CBO projections), however, we must actually reduce goods and services purchased by 2 percent per year. After 1981, I propose that the growth of goods and services should be limited to no more than the rate of inflation, so there will be no net change in the actual amount of goods pur hased.

This level of spending restraint would require that Congress limit the growth of spending on goods and services by about $4 billion per year over the next 2 years, and about $7 billion in the early 1980's. Cumulatively, this provision will trim spending on goods and services by about $38 billion by 1983.

Contrary to much political rhetoric, Federal spending cannot be arbitrarily cut across the board. In fact, we must oppose such action. Arbitrary spending cuts are reckless, since they could require cuts in programs (such as research in preventative medicine, and development of new energy sources) where almost everyone would agree we need to spend more. Instead, we must establish clear priorities and weed out old programs which have outlived their usefulness. During the next several months, I intend to propose specific areas in which spending on goods and services can be cut. The passage of sunset legislation will also help to facilitate this process.

B. TRANSFER PAYMENTS

Less than half of the Federal budget goes to purchase goods and services for use by the Federal Government. Approximately half the Federal budget is money which is transferred directly to individuals to help pay for living expenses—payments such as medical care, housing, food stamps, retirement, and so forth. Those funds are called transfer payments. (However, medicare and medicaid funds are paid directly to physicians and hospitals, rather than to the individual receiving the service.)

Only 8 years ago, transfer payments were only half as large as Federal spending on goods and services. Since then, the transfer payments budget has grown twice as fast as goods and services. Now, transfer payments are 15 percent greater than purchases of goods and services.

Three transfer payment programs demonstrate this growth. In the last half

decade, spending on medicare increased by 37 percent annually, medicaid increased by 25 percent annually, and social security increased by 20 percent annually. These three programs together now cost over $100 billion per year.

Transfer payments have mushroomed for three reasons. First, the portion of the population which is retired, unemployed, or disabled has grown. Second, the amount and scope of public assistance programs has grown. And, third, inflation has greatly increased the cost of all necessities, especially medical services, much of which are now paid by medicare or medicaid.

Currently, Federal transfer payments are projected to grow by more than 9 percent a year, and they are expected to increase from 43 percent of the current total Federal budget to 47 percent by 1983. To avoid a large Federal deficit, this growth must be trimmed—but only without impairing the well-being of those people needing and deserving the assistance.

The challenge is how. As with the goods and services budget, this restraint cannot be imposed by arbitrary percentage cuts, which necessarily would create human suffering. Instead, those programs which do not target aid to those most in need and are inefficient can and must be made to work. The administration of public assistance programs can and must be reformed and restructured, so that the needy are helped and abuses are eliminated. We must deliver more aid and less bureaucracy for our public assistance dollars.

Total spending on transfer payments must be controlled to allow growth of 8 percent, not 9 percent, per year. Reducing expenditures by 1 percent per year is possible without reducing benefits to any needy persons. Achieving this goal will save $15 billion per year in 1983 alone.

Anyone who suggests that Federal spending be controlled has the responsibility to suggest categories where these controls will be most effective. I am preparing a preliminary list of areas where reform can reduce the cost of needed programs without harming those that deserve assistance.

Control of spending on transfer payments will require Congress to limit the growth of spending in this area by about $1.5 billion per year over the next 2 or 3 years over projected levels. By 1982, Congress must trim about $3 billion per year.

TAX CUTS

The second element of the package is reduction of both personal income taxes and corporate profits taxes.

During the past decade individual purchasing power has stagnated. While wages have doubled, inflation and increased taxes have taken virtually all of this increase away. Households have had to live with leaner budgets, but the Federal Government has not. Total Federal spending has been increasing at a faster rate than inflation—and the Government has increased its share of total output.

Also during the past decade, business investment has stagnated, so the growth of the economy has been below desired levels. The level of corporate taxes has contributed to reducing the funds which firms have remaining to invest. Also, the stagnating purchasing power of consumers has made prospective profits from new investments very uncertain. Thus, to expand economic output and to expand individual purchasing power, responsible tax cuts are needed.

The reduction in personal income tax rates would be phased in over 4 years under my plan. Compared to today's tax rates, personal taxes would be cut by 6 percent in 1979, an additional 6 percent in 1980, an additional 4 percent in 1981, and an additional 4 percent in 1982. While the average tax cut would be 20 percent over 4 years, tax rates would be cut by a higher percentage amount for lower income individuals.

For low-income taxpayers (up to $10,000), rates would be cut approximately 26 percent. For middle- and upper-middle income taxpayers ($15,000 to $100,000), rates would be cut approximately 20 percent. At the very high income range (over $100,000), rates would be cut approximately 16 percent.

Currently, middle-income taxpayers pay about 70 percent of all Federal income taxes. About 15 percent are paid by the high-income group, and 15 percent by the low-income group.

Corporate tax rates would be reduced 3 percentage points for firms of all sizes starting next year. The rate for small corporations with taxable income below $25,000 would be cut from 20 to 17 percent. This represents a 16-percent reduction in tax rates for small firms. Moderately sized firms, having taxable income between $25,000 and $100,000, would be reduced from the present rate of 22 to 19 percent. This represents a 14-percent cut for them. For large corporations, with taxable income exceeding $100,000 tax rates would be cut from 48 to 45 percent. This is a 6-percent cut.

INFLATION PROTECTION

Inherent in the present Tax Code is a hidden inflation tax, a perverse, automatic response to the rising cost of living. The income tax today does not distinguish between that part of a wage increase which is merely a cost-of-living adjustment and that part which goes beyond the cost of living and is a real increase. Any increase in wages is taxed at higher and higher rates, whether it represents an increase in real income or whether it is just a cost-of-living adjustment. The argument that this automatic response can always be offset by careful discretionary policy is, in light of recent experience, clearly unpersuasive. In short, while incomes rise to accommodate increased cost-of-living, tax brackets are static.

In every year that Congress does not legislate a tax reduction, inflation pushes people into higher tax brackets, even though they may have no increase in their real income. Their average tax rate rises—that is, their tax burden grows faster than the rate of inflation—and the result is that they have less to spend, and worse, less to save and invest. Indexing the Tax Code represents the most effective way to remedy this situation. Indexing automatically corrects the income tax system to prevent inflation from pushing taxpayers into higher and higher brackets. An inflation-indexed tax system would prevent inflation from producing a real increase in a taxpayer's tax bill, when the taxpayer has no increase in real income.

Congress must act to prevent inflation from increasing the average American's tax bill when there has been no real increase in his income. It is fundamentally wrong for Congress to be reaping a more stimulative Federal budget would be needed. Under such circumstances, a "windfall" in increased revenues each year, without ever having to enact a tax bill. The hidden tax increase that fills the coffers of the Nation's Treasury escapes unnoticed by the public and the press and is a dramatic example of taxation without legislation. The Federal Government will continue to take advantage of this destructive economic phenomenon unless Congress acts to correct it.

A number of legislators in both Houses of Congress have introduced legislation to provide for adjusting the tax code for inflation. When the Revenue Act of 1978 is taken up on the Senate floor, I shall offer an amendment together, with Senators GRIFFIN, DOLE, and BROOKE, to insulate taxpayers from the tax impact of inflation by automatically adjusting tax rates to reflect increases in the cost of living.

Without indexing, inflation would cause tax rates to increase by about 3 percent per year, or 10 percent by the early 1980's. Thus, tax indexing is roughly equivalent to an additional 10-percent cut in 1983 from tax rates under the present system.

The spending limits which are included in the legislation which I am introducing today will insure that there will be no revenue shortfalls as a result of indexing. In fact, Federal deficits can be systematically reduced to near zero in the mid-1980's.

LINKING TAX CUTS TO SPENDING CUTS

The above proposals for expenditure restraint and tax cuts must be tied together legislatively, because the issues are tied together economically. If tax cuts are not matched by spending controls, then they will be matched by rampant inflation. Tax cuts plus more inflation would be worse than no tax cuts at all.

The size of tax cuts in this proposal is measured precisely to complement the limits on Federal spending. If spending limits are not enforced, the tax cuts must be postponed. In fact, the legislation which I propose will contain a provision that allows the Secretary of the Treasury to implement the tax cuts only if Federal spending is held within the limits established for each calendar year. If spending limits are exceeded, the tax cut would be deferred to a time when the cut would not increase the Federal deficit above the levels projected in this legislation.

The projected budget deficits and eventual balancing of the budget envisaged by this legislation are based on continued economic growth of the economy. If unforeseen events, such as oil shortages or a poor agricultural harvest, tilt the economy into a recession, then

this legislation could be amended as part of the usual, annual congressional budgetary process.

IMPACT ON CURRENT RUDGETARY PROCESS

This legislation has no direct impact on the administration's or the Congress budgetary process. This legislation simply sets guideline limits for Federal spending. The administration and the Congress will carry out their usual budgetary procedures. They may result in spending levels which exceed the targets in the Hart plan. If, however, the Congress decides spending levels within the levels in the Hart plan, personal income tax cuts will automatically be triggered.

The tax cuts which would be triggered are carefully measured so that the Federal deficit will systematically decrease in the early 1980's.

SUPPLEMENTARY ECONOMIC ACTIONS

In the future, I intend to offer additional economic legislation as part of a comprehensive economic package. In the near term, I shall introduce legislation to provide economic incentives to firms and employees to control price and wage inflation. Also, I shall introduce legislation to target economic incentives for investment in new business ventures by new and existing companies.

Over the longer run I will introduce legislation to simplify the tax code—and to provide greater incentives for private saving and business investment. One such option I am considering would replace the present taxes on business profits and personal income with a progressive tax on consumption only.

In summary, I have offered a new proposal to further an old idea: You do not get something for nothing. You do not get tax cuts without inflation unless you are willing to control Federal spending. The American taxpayer wants frugal budgets effectively managed. The American taxpayer also wants lower taxes to reduce the burden of Government during this period of inflation-eroded purchasing power.

This plan results from careful economic study. The tax cuts are precisely measured to the levels of restraint in Federal spending, which Congress can achieve.

Because this plan will give business confidence that Federal budgets will not be inflationary, investment and economic growth should accelerate.

No single plan will solve all of our economic problems. But this proposal will directly address the most critical and complex economic difficulties.

Most of all, a plan of this type can go a long way toward reestablishing public confidence in an efficient Government.

Mr. President, I ask unanimous consent that a copy of my proposal be printed in the RECORD at this point.

There being no objection, the proposal was ordered to be printed in the RECORD, as follows:

HART PROPOSAL FOR TAX CUTS AND EXPENDITURE RESTRAINT—HART PROPOSAL COMPARED TO ADMINISTRATION/FINANCE COMMITTEE AND ROTH/KEMP PROPOSALS

PROPOSAL	ADMINISTRATION PROPOSAL*	ROTH/KEMP PROPOSAL
Tax cuts:		
Personal income tax rates will be reduced 20% over 4 years in the following manner: Phase in 6% reduction in 1979, 6% in 1980, 4% in 1981, and 4% in 1982. Such tax reduction will be progressive and triggered only when Federal spending is restrained to the extent described below.	Personal income tax rates will be reduced by approximately 6% in 1979. No further tax cuts are planned, although we assume tax cuts will be required in the future to counteract inflation.	Personal income tax rates will be reduced 30% over 3 years in the following manner: 10% in each year, cumulatively.
Corporate profits taxes reduced from 48% to 45% in 1979, permanently.	Corporate profits taxes reduced from 48% to 45% in 1979, permanently.	Corporate profits taxes reduced from 48% to 45%, permanently, but phased in over 3 years.
Personal income taxes indexed for inflation, so inflation will not erode the 20% tax cut.	No provision for indexing.	No provision for indexing. Inflation will erode the 30% tax cut to become the equivalent of a 20% tax cut in 1983.
Restraint on Federal spending:		
Federal purchases of goods and services will be held to a growth rate of 4% (inflation rate *minus* 2% annually until 1981 and at the projected inflation rate (6%) thereafter.	No restraint on the growth rate of Federal purchases of goods and services. OMB and CBO now project growth of Federal spending on goods and services at 8%, annually.	No restraint on the growth rate of Federal purchases of goods and services. OMB and CBO now project growth of Federal spending on goods and services at 8%, annually.
Growth of spending on income security (transfer payments) will be held to 8%, annually.	No restraint on growth of spending on income security. OMB and CBO now project growth of spending on income security at 9%, annually.	No restraint on growth of spending on income security. OMB and CBO now project growth of spending on income security at 9%, annually.
Federal deficit:		
Budget deficits will be equal to those under Administration plan in 1979–1980. Thereafter, budget deficits under Hart plan are below Adminstration levels. In 1983, Hart plan has deficit 25% below Administration plan.	Budget deficits currently are in the $40–$50 billion range, and deficits are predicted to decline to about $25 billion in 1983.	Budget deficits increase dramatically from current levels. Chase Econometrics projects a $70 billion deficit in 1981. Treasury and CRS estimate budget deficit exceeding $100 billion in that same year.

* The Administration proposal is substantially similar to the proposal reported by the Senate Finance Committee, H.R. 13511.

DEPARTMENT OF DEFENSE APPROPRIATIONS, 1979

The PRESIDING OFFICER. Under the previous order, the Senate will now resume the consideration of H.R. 13635, which the clerk will state by title.

The legislative clerk read as follows:

A bill (H.R. 13635) making appropriations for the Department of Defense for fiscal year ending September 30, 1979, and for other purposes.

Mr. STEVENS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, I ask unanimous consent that John Carbaugh be granted the privilege of the floor during discussion of this measure and any votes thereon.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a period for the transaction of routine morning business until 9 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

AIR BASES IN ISRAEL

Mr. ROBERT C. BYRD. Mr. President, following the announcement of the Camp David agreements on the Middle East last month, a question was raised in the Senate on September 19 by the Senator from Virginia (Mr. HARRY F. BYRD, JR.) about reports concerning an agreement to construct two new air bases in Israel

and the United States' role in constructing the bases.

At that time, I told the Senator from Virginia that I would obtain information on the subject and that I would make it available to the Senate.

Secretary of Defense Harold Brown has written to the Israeli Defense Minister, Mr. Ezer Weizman, concerning the bases. In his letter of September 28, Secretary Brown suggests that the two governments consult on the scope and costs of the two new air bases as well as on related forms of assistance which the United States might provide in carrying out the project on an urgent basis.

Secretary Brown's letter refers to the construction of two Israeli air bases in the Negev Desert area of Israel. These bases are considered by the Israelis as important to their security and would replace bases which Israel had constructed at Eitam and Etzion in the Sinai.

As Secretary Brown notes in his letter, congressional approval would be necessary for such assistance to be provided and, therefore, the President will be seeking such approval at some point in the future.

This is all I have been able to obtain in response to the distinguished Senator's question. I ask unanimous consent that the letter from the Secretary, Mr. Brown, to Defense Minister Weizman be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

WASHINGTON, D.C.,
September 28, 1978.

HON. EZER WEIZMAN,
Minister of Defense,
Government of Israel.

DEAR MR. MINISTER: The U.S. understands that, in connection with carrying out the agreements reached at Camp David, Israel intends to build two military airbases at appropriate sites in the Negev to replace the airbases at Eitam and Etzion which will be evacuated by Israel in accordance with the peace treaty to be concluded between Egypt and Israel. We also understand the special urgency and priority which Israel attaches to preparing the new bases in light of its conviction that it cannot safely leave the Sinai airbases until the new ones are operational.

I suggest that our two governments consult on the scope and costs of the two new airbases as well as on related forms of assistance which the United States might appropriately provide in light of the special problems which may be presented by carrying out such a project on an urgent basis. The President is prepared to seek the necessary Congressional approvals for such assistance as may be agreed upon by the U.S. side as a result of such consultations.

HAROLD BROWN.

HOW ONE COMMUNITY BATTLES ARSON

Mr. PERCY. Mr. President, as hearings by the Permanent Subcommittee on Investigations recently emphasized, arson remains a serious and perhaps worsening problem, threatening many of our cities with financial and human disaster. Most alarming is arson-for-profit, the deliberate torching of properties, in order to obtain fraudulent insurance payoffs. The subcommittee's hearings indicated that arson-for-profit is a growth criminal enterprise, attracting the increasing attention of vicious quick-buck artists, unscrupulous landlords, and organized crime.

Local law enforcement, private industry, and the Federal Government all have crucial roles to play in a national campaign to stamp out arson. During the course of its hearings, the subcommittee received commitments from the FBI and from the Law Enforcement Assistance Administration to help mount more effective Federal and local law enforcement efforts against arson. But individual and community based citizens action is also warranted.

The Boston neighborhood group called STOP (Symphony Tenants Organizing Project) is an example of successful mobilization by a threatened community to analyze and alleviate its local arson problem. The October 1, 1978, edition of the Washington Post's Parade magazine contains an article, entitled "How One Neighborhood Foils Arsonists," describing how the STOP group attacked its problem and helped put a major arson ring out of business. The article, by Jack Canavan, describes the STOP approach to detecting arson-prone buildings and areas and lists tips for other community groups concerned about eliminating arson.

To more fully inform my distinguished colleagues about the experience of the STOP organization and the possibility for similar efforts elsewhere, I ask unanimous consent that the article be printed in the RECORD at this time.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

HOW ONE NEIGHBORHOOD FOILS ARSONISTS

(By Jack Canavan)

The tenants were scared. One by one, the buildings in their neighborhood—Boston's Symphony Road area—were systematically being burned. An arsonist was on the loose, and nobody seemed to care.

Since 1973, a series of 30 suspicious fires had killed five persons and destroyed more than 30 buildings, leaving hundreds homeless and causing an estimated $6 million in property loss. As one tenant put it: "People were afraid to lie down and go to sleep."

In response to what they felt was an apathetic attitude by local authorities, a neighborhood group called STOP (Symphony Tenants Organizing Project) conducted their own investigation. What they found led to the discovery of what officials have called 'the largest arson ring ever uncovered in the United States."

On Oct. 17, 1977, in a series of predawn raids in the greater Boston area, Massachusetts State Police arrested 22 persons—including former high-ranking police and fire officials, lawyers, realtors and insurance brokers—in connection with the arson-for-profit ring. Later arrests brought the total to 33 persons who might have continued in their lucrative but deadly racket had it not been for the persistence of this small group of concerned neighbors.

STOP, which has about 30 members, was formed in Boston's Fenway area seven years ago, originally in response to substandard housing conditions. Its leaders, unlike the neighborhood's poverty-ridden residents, are mostly college-educated political activists with degrees in economics, biology and social work. For them, community work was more appealing than the routine 9-to-5 job.

The group's focus shifted to arson when a September 1976 fire in the neighborhood claimed the life of 4-year-old Jesse Oliver. Although not the first fire in the area, it was the catalyst for STOP's investigation.

Speculators would consider the Symphony Road area prime real estate. It lies in the shadow of the Prudential Center—Boston's convention showplace—and the new 60-story John Hancock tower. Also nearby are the beautiful Christian Science mall, Horticultural Hall, Symphony Hall, a university and a music conservatory.

Once a fashionable and stable neighborhood, the area has become in recent years a haven for transients, students, alcoholics and prostitutes. The sturdy brick town houses, subdivided to accommodate the populations, have deteriorated under absentee landlords. Many lie burned or abandoned, testimony to the onslaught of urban decay.

Prime real estate—yes. But also a prime target for arsonists.

Arson is the fastest growing, most expensive crime in America today. National Fire Protection Association figures show that in 1966, some 40,000 arson incidents were recorded. In 1975, the figure had leaped to an alarming 144,100 arson-related fires causing more than 633.9 million in property damage. In 1976, a recent New York Times study estimates, there were 150,000 arsons nationally, with losses of $2 billion, more than 1000 persons killed and 10,000 injured.

Of the four motives for arson—revenge, vandalism, mental disturbance and arson-for-profit—the last is by far the most common: Buildings are deliberately burned for insurance money or to make way for new construction.

A prime reason for the phenomenal rise of arson is the apparent belief by law-enforcement officials that arson is very difficult to prove. The arsonist must be caught in the act, so the theory goes, to obtain a conviction. As a result, arson has become profitable.

STOP's efforts have helped to dispel that theory and to focus national attention on the arson problem. Sens. Charles H. Percy (R., Ill.) and Sam Nunn (D., Ga.), members of the Senate permanent investigations subcommittee, asked the General Accounting Office to examine the country's lack of a suitable law-enforcement program to combat arson.

As a result, efforts are under way to coordinate the four agencies involved: the Federal Bureau of Investigation; the Alcohol, Tobacco, and Firearms Division of the Treasury Department (ATF); the Internal Revenue Service; and the Postal Service. ATF is setting up arson task forces in several cities, and the Postal Service will scrutinize suspected arson-related insurance fraud schemes involving the U.S. mails.

District Attorney William Delahunt of Norfolk County, Mass.—another area plagued by arson—described how increased government interest can produce dramatic results. With the aid of federal funds, a "white collar" crime unit was established in that county, and within a year, 20 persons were indicated for arson and arson-related crimes. "In the previous 10 years," Delahunt stated, "there was a total of 19 indictments, an average of under two a year."

Further aid for the Massachusetts war on arson came on March 31, when the Economic Development Administration and National Fire Prevention Control Administration announced a $200,000 grant for a special Massachusetts Task Force on Arson—the first of its kind in the nation.

David Scondras, key organizer of STOP, wrote his master's thesis in economics on the Symphony Road neighborhood, where he had lived for 10 years. When STOP began its arson probe, Scondras turned to data he had collected which showed that it was more profitable for landlords to burn their build-

ings than to rent or manage them. This, STOP found, was due chiefly to insurance settlements on property where the paper value had been artificially inflated.

Names of building owners were culled from housing court records generated during the group's original efforts to get repairs done.

Real estate transactions are a matter of public record, and through the local registry of deeds, STOP traced the history of a dozen buildings that had been hit by fire. The cycle started about 15 years ago, when the neighborhood began to lose its stability. Some of the buildings were sold to large-scale slumlords, who subdivided apartments and rented to students and poorer tenants. When the buildings began to deteriorate, they were bought by owners interested in them primarily as tax shelters and collateral for other investments—not as housing. Deterioration continued, and the buildings eventually lost all value—except to those who lived there.

STOP also discovered that tax-free insurance settlements can represent far more than the actual value of the burned property. By agreement, for example, a buyer and a seller could inflate the mortgage value every time a building changed hands. One building that had changed ownership twice—for one dollar in actual cash—had its book value, and potential insurance payoff, increased considerably. Records showed that the final owner paid $16,000 for a building worth $545,000 on paper.

Armed with their data, STOP began making demands for action. But their pleas fell on deaf ears.

One of their major obstacles turned out to be the chief investigator in the state fire marshall's office. Former state police detective-lieutenant James DeFuria was very convincing when he talked to reporters about the increase in arson. It was alarming, he agreed, offering arson figures of his own to boost his credibility and explanations based on arson-for-revenge and arson by vandals or drunks. Still no arrests were made, however, because DeFuria insisted that you had to catch the arsonist with the match in his hand.

DeFuria was arrested in the October raid and in April was convicted of bribery and seven arson-related charges. He is serving a 10-to-12-year prison term.

STOP's campaign, meanwhile, gathered momentum. When another fire on an adjacent street killed four people, STOP began a "media blitz." They appeared in the local press and on television and radio talk shows. Finally, they were allowed to bring their findings before the Massachusetts attorney general's office. In the words of Assistant Attorney General Stephen Delinsky, head of the state's new arson task force: "We were amazed by the tenants' work in establishing patterns of ownership. They organized and fought their way into recognition."

Private investigators hired by the victimized insurance companies adopted STOP's methods and conducted their own probe. The circumstantial evidence accumulated by these two groups—operating outside the attorney general's office—led to the October raid and the 33 indictments that would have a nationwide impact on the arson problem.

More important, by showing that arson-for-profit can be eliminated STOP has provided incentive for other communities to organize and fight this burning problem.

WAYS YOU CAN FIGHT BACK

Urban Educational Systems, Inc., is an outgrowth of STOP. A federal grant is helping the group develop its copyrighted Early Warning System (EWS), a computerized method for detecting arson-prone buildings.

Meanwhile, if arson, abandonment or deterioration is a problem in your community, STOP suggests:

1. Organize: Set up research teams to investigate history of the buildings; fire-watch teams (if fires are prevalent); relocation teams for victims of fires; information teams to recruit tenants, write and distribute pamphlets, conduct meetings.

2. Bring facts to authorities: Since most arson squads are understaffed, tenants can act as liaison to local arson investigators by supplying pertinent fire information. Also, information gathered from housing inspection records, building department violations and real estate transactions (taken from the local registry of deeds) should be presented to the proper authorities.

3. Media blitz: If no action is forthcoming, approach local newspapers, television and radio talk shows. Arouse public interest.

4. Get an office and a telephone: STOP was furnished an office and free rent by Northeastern University.

5. Share information: Contact other groups with similar problems.

6. Seek backing from authorities: Try to find cooperative local officials and work to get them on your side.

7. Get legal advice: With the help of a politician or lawyer, look at local arson laws, housing and building codes, real estate records.

8. Don't get complacent: The war on arson seems endless, but members of STOP say persistence pays off.

THE CONGRESS EXAMINES NATIONAL WATERWAYS POLICY: CHANGING TIMES AND CHANGING PERSPECTIVES

Mr. SPARKMAN. Mr. President, our distinguished colleague from Tennessee, Senator JAMES R. SASSER, has performed his duties and represented his constituents in a remarkable manner in the relatively short period of time he has served in this body. My colleagues will agree that he has an outstanding future ahead.

Therefore, I was particularly pleased when Senator SASSER visited my State of Alabama—his neighboring State—to give a talk on a subject of much interest to both States.

Senator SASSER's remarks to the September 22 closing luncheon of the 1978 annual meeting of the National Waterways Conference, Inc., reflect his keen insight into water transportation and water resources issues which are now before the Congress and are likely to be before this body in one form or another in the years ahead.

The distinguished Senator's remarks, titled "The Congress Examines Waterways Policy: Changing Times and Changing Perspectives," merit sharing with my colleagues, and I would urge each Senator to read them. If there is no objection, I ask unanimous consent for the text of Senator SASSER's address as delivered in Birmingham to be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF SENATOR SASSER

I'm delighted to be here today with this group of movers and shakers.

It's nice to be with people who get things done in this world.

Ralph Waldo Emerson once said that "ideas must work through the brains and arms of great and brave men, or they are no better than dreams."

Leaders like Glover Wilkins and other officers of the National Waterways Conference hang in there and do the work. They get the job done.

And I commend them and I commend all of you for your dedication to building America.

The voice of the turtle must be heard in the land—but we must also hear the sounds of progress.

We have to strike a logical medium between the need to preserve our environment and the necessity for providing essential services for 215 million Americans.

I know that you have had three days of panel discussions, breakfast meetings, and speeches, so I'm not sure I'll be able to add anything really substantive to what you've heard and discussed.

The theme of the National Waterways Conference is the importance of adapting to new realities.

We have seen many changes in the last year and a half. Many important issues relating to waterways, dams and other internal improvements have been debated. Many new proposals have been advanced. And the process of change continues. Final resolutions on some important issues have not yet been reached.

In the weeks and months to come, final decisions are expected on these issues.

Harry Truman once said, and I quote:

"Each period of history has had its special challenges. Those that confront us now are as momentous as any in the past."

That holds true today.

So in nineteen hundred and seventy eight, one of our challenges is to create a coherent policy for our Nation's waterways. Decisions affecting the use of our waterways are becoming increasingly important issues. The President, the Congress, and the States are paying more and more attention to these issues. I'm confident that we share the hope that these questions will be resolved in the best interests of the Nation.

We are no longer living in the days of the great depression. The growth versus no growth issue is the prime example of a changing era. In addition, our Nation is divided by regional conflicts: Such as Sunbelt vs. Snowbelt and East vs. West.

We have the constant struggle between those advocating development of natural resources and those advocating preservation of the environment.

These divisions and trends are reflected in positions and debates in Congress.

And these debates and these changes have a great impact on current water resource policy.

Let's turn, for just a moment, to the all-important issue of waterway user fees. As I'm sure all of you know, the President has proposed that substantial user fees be enacted to recover waterway operation costs and some of the costs of new construction on waterways.

In Congress, Senator DOMENICI introduced legislation to meet this goal. His initial proposal called for a fee to recover eventually 100 percent of all waterway operating costs and 50 percent of new construction costs. During Senate debate last May, Senator DECONCINI offered a compromise. The compromise proposed a phased-in fuel tax on barge traffic, to begin at four cents a gallon on October 1, 1979. By 1984, the tax would have increased to 12 cents per gallon. The compromise would have also implemented an interim user fee while the entire issue was subject to a Department of Transportation study.

I opposed the Domenici compromise. Although it was a weakened version of the initial proposal, I felt that the Department of Transportation study should be completed before such a significant change in policy is enacted into law. We must assess the full impact of the user fee proposal. One Memphis State University study indicates that the economy of my State would suffer under high user charges.

In my judgment, the legislation finally accepted by the Senate calls for a careful and thorough evaluation of this issue. Certainly, we are witnessing some changes in our waterways policy. The Senate bill calls for the Secretary of Transportation to report to Congress within three years on the impact and need for waterway user charges and fuel taxes. This study will give us the information we need to chart a proper course on this matter. This is just the beginning of the cost-sharing issue.

The Senate bill also omitted one major part of the Domenici proposal. Our bill does not impose a moratorium on construction until Congress acts on the final user charge study. The proposed moratorium would deauthorize existing projects and bring to an immediate halt development of our water transportation resources. Clearly, a complete halt in construction is not in our national interest.

Currently, differences remain between the Senate and House versions of this bill. Even if a bill passes Congress before the end of the session, there's a possibility that it will be vetoed.

We need some kind of bill signed into law because we need to demonstrate our continuing commitment to our nation's waterways. Traffic on our inland waterways is a vital part of our transportation system. We can ill-afford to turn our backs on this form of transportation.

People in all walks of life receive benefits from this inexpensive form of transportation. We must move ahead with necessary projects to meet the need. We must modernize existing projects to ensure that they also meet current requirements.

Our country is moving, to some extent, from the development era to what I would call an era of maintenance. The question is, are we willing to accept maintenance expenses as an unavoidable cost of keeping our transportation system intact?

One new project of particular importance to me is the Tennessee-Tombigbee waterway.

Last year there was outstanding progress on the Tennessee-Tombigbee. The employment level on the waterway construction project exceeded 2,000 workers. Records were set in almost all phases of construction.

Every effort was made during the contracts negotiation process to hold down costs. In fact, many of last year's contracts were awarded at levels below the government estimate. In this time of high inflation, the Tennessee-Tombigbee not only held the line on costs, but actually saw a $6 million reduction.

All of us in the five state area are optimistic about the benefits of the project. It will be a great economic shot in the arm. In my own state, the number of jobs along the Tennessee River is expected to increase from 43,000 to 87,000 just a few years after the waterway is completed. This means 44,000 new river-related jobs, over and above normal growth projections.

The Appalachian Regional Commission recently studied the impact of the waterway on workers' incomes in the east Tennessee area. The per capita income is projected to grow from $3,967 in 1973 to $8,180 by the year 2000. Similar increases are expected statewide, and in other affected states.

In April, I proposed that the Senate Appropriations Committee, on which I serve, provide adequate funding for the Tennessee-Tombigbee. The appropriations measure now includes $156 million for the project. This funding demonstrates congressional support for the waterway, and I'm hopeful that we can witness completion of this project by the mid 1980's.

Funds for the Tennessee-Tombigee are included in the all-important public works appropriations measure. As with the waterway user fee issue, there is apparent disagreement between Congress and the White House on various parts of the bill.

As a member of the Appropriations Committee, I've worked hard to guarantee that we proceed with development of our water resources.

Water is one of our Nation's most precious and valuable resources. Water is vital to our Nation's economy.

It helps our farmers grow their crops.

It offers a valuable energy source.

And it facilitates the growth of industry.

For most of us, water is available at the turn of the faucet. Recently, however, we've learned that we can't necessarily take our water for granted.

Many areas of the country are suffering from an extreme shortage of water. In some cases, massive crop damage has been the result. Water rationing has been put into effect in a few areas.

While many sections of the country are suffering from a severe shortage of water, others suffer from the other extreme—an excess of water. Many urban areas are still victimized by floods. Even today, precious topsoil in rural areas is carried away by uncontrolled water flow.

Throughout history, man has attempted to cope with the two excesses. The water resource system in the United States is the most impressive in the history of the world. Our system of dams, locks, harbors, canals, reservoirs, and irrigation systems is designed to serve the needs of the public.

The proposed public works appropriations measure takes these public needs into account.

The bill recognizes that our waterways are an essential part of our national transportation system. They provide clean, efficient, and economical transport of fuels for energy consumption, agricultural produce, and supplies for industry.

The bill also supports flood control projects to protect our Nation's communities and opens up vast areas for agricultural production.

General purpose projects included in the bill provide for hydroelectric power generation and downstream flood protection. They also offer great recreational opportunities as well as abundant and clean water supplies.

This bill is an "All American bill." It provides for a growing America.

Let's take just a minute to look at the estimated annual benefits of projects included in this bill:

Flood control, 2.9 billion dollars.
Power, 1.3 billion dollars.
Navigation, 1.3 billion dollars.
Irrigation, 750 million dollars.
Water supply, 313 million dollars.
Recreation, 292 million dollars.

The total estimate of annual benefits from this bill is more than 7 billion dollars. We are well aware of current benefits from existing projects. I, for one, am anxious to expand those benefits for even more Americans. This public works bill would do just that. We cannot stand still. This is a growing Nation, and we must grow to meet expanding needs. Just as private industry requires capital investment, our Nation requires capital investment.

Of course, we must carefully scrutinize each project to ensure wise use of taxpayers money. We must see that the cost-benefit ratio of each project is favorable. Congress has taken proper steps in this direction, and I hope that the President will see fit to sign this Public Works bill.

All of us involved in water resource development can testify that changes are taking place. Changes are in the making as a result of policy considerations. And changes are coming through healthy growth.

In the coming months we are likely to see some form of barge fuel tax. We shall experience further debate on the need for user fees.

The President has proposed changing funding formulas for public works projects to involve the States to a greater extent. To date, that concept has not received a great deal of congressional support. But we are certainly going to hear more about this administration proposal in the months to come.

This is, indeed, a time of change. Frankly, I feel it is also a time for excitement and guarded optimism. Our policy decisions will affect generations to come. We can make a great impact on the future growth potential of our country.

A noted historian once said, and I quote:

"The character of a civilization is determined by the challenges it faces and the response it makes to them. The greater the challenge the greater the chance to exhibit the qualities of greatness."

So I believe we should welcome this responsibility. We should be mindful of our past but keep our eye toward the future to secure expanded opportunities for our children and for their children.

We must continue to look ahead and move ahead.

Thank You.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

DEPARTMENT OF DEFENSE APPROPRIATIONS, 1979

The Senate resumed consideration of the bill.

Mr. ROBERT C. BYRD. Mr. President, is the Senate back on the Defense appropriations bill?

The PRESIDING OFFICER. The Senator from West Virginia is correct.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum. I ask unanimous consent that the time not be charged against either side.

The PRESIDING OFFICER. Without objection, it is so osdered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1989

Mr. STEVENS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. There is an order pending before the Senate to proceed to an amendment by the Senator from South Carolina. It would take unanimous consent to have that set aside.

Mr. STEVENS. I ask unanimous consent that it be set aside temporarily. This is the amendment I have under the time agreement.

The PRESIDING OFFICER. That is correct. Under the unanimous-consent agreement, the amendment of the Senator from South Carolina will be set aside and the amendment of the Senator from Alaska will be stated.

The assistant legislative clerk read as follows:

The Senator from Alaska (Mr. STEVENS) proposes an unprinted amendment numbered 1989.

Mr. STEVENS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2, line 11, delete the following, "$9,110,896,000." and insert in lieu thereof "$9,112,096,000.".

On page 2, line 20, delete the following, "$6,951,332,000." and insert in lieu thereof "$6,456,032,000.".

On page 3, line 12, delete the following, "$7,489,391,000." and insert in lieu thereof "$7,491,291,000.".

On page 6, line 13, delete the following, "$9,031,659,000," and insert in lieu thereof "$9,074,159,000,".

On page 6, line 24, delete the following, "$11,573,156,000," and insert in lieu thereof "$11,588,156,000,".

On page 7, line 15, delete the following, "$731,400,000," and insert in lieu thereof "$734,600,000,".

On page 8, line 1, delete the following, "$9,186,267,000," and insert in lieu thereof "$9,230,767,000,".

On page 38, line 17 through line 23, delete the following, "and in addition to the limitation contained above, for all other direct costs (excluding all transportation outside the United States): (a) in excess of 66⅔ per centum of such costs during fiscal year 1979, (b) in excess of 33⅓ per centum of such costs during fiscal year 1980, and (c) in any amount after September 30, 1980;"

Mr. STENNIS. Mr. President, may we have order? This is an important matter.

The PRESIDING OFFICER. The Senate will be in order.

The Senator from Alaska.

Mr. STEVENS. Mr. President, the amendment would restore funding for minimum staff for military commissaries. The Department of Defense appropriations bill, as reported, would begin a 3-year phaseout of Federal support of personnel costs in the commissaries. My amendment restores the $113 million deleted by the committee. This is a budgeted amount and we are well within the budget resolution for defense spending.

Mr. President, this is not a new issue. This is the 4th year in a row that proposals have been offered in the Senate to begin a phaseout of the funding for these operations. Last year my amendment to restore the funds was accepted by a wide margin—59 to 33—and I would hope that my colleagues will continue to support my position in this matter.

The Department of Defense has requested deletion of the committee provision beginning the phaseout. I ask unanimous consent that the Department's justification for continued support of the commissary system be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. STEVENS. The Defense Manpower Commission and the Quadrennial Review of Military Compensation have strongly recommended that commissaries be preserved as an institutional benefit to partially offset the unique conditions of military service—involuntary moves, family separation, no overtime pay, and combat duty. The President's Commission on Military Compensation supports the position that the commissary be preserved as to reorganize into central management modes an institutional benefit. It would be premature to reduce commissary support without considering its impact on the total compensation system. The recommendations of the Commission are scheduled to be forwarded to Congress early next year at which time we can act on the entire pay and benefit package.

Enactment of the Senate Appropriations Committee provision will serve to escalate the prices of food in commissaries at least 4 percent a year in addition to the usual inflation of food prices causing an undue hardship on those who can least absorb the increased costs: Junior enlisted families and military retirees.

In many instances, the families of military personnel are using food stamps at the present time. Yet, here we have a situation in which we are asked to further raise the costs of food to those in military service.

Throughout our Nation, the largest number of people using the commissaries are the poorest people in the military including: Married enlisted, the junior officers, and retired military members. According to the Department of Defense, the proposed 3-year phaseout of clerk-hire funds would have the most disastrous effect on the nearly 60,000 enlisted families that are eligible for food stamps. I have the feeling that this is only a portion of the amount of people eligible for food stamps, but pride prevents them from using this method. If this proposal is put into effect, more individuals will be forced to take advantage of this program thus escalating the cost of the food stamp program. Over $10 million in food stamps were redeemed in commissaries in fiscal year 1977. This itself is a deplorable situation in that some of our servicemen's and women's salaries cannot support their families above the poverty level.

The Reserve Officers Association of the United States cites a 1974 survey depicting the composite commissary picture; 43 percent retired personnel and 57 percent of active duty members. Of the active duty military using commissaries, 15 percent are officers and 42 percent are enlisted persons.

According to their statistics, 67 percent of today's active force is E–5 or below making between $5,300 and $9,600 a year in pay and allowances. The poverty level for a family of four in the United States is $6,200.

We, also, have a large number of retired personnel living on a fixed income. One of the things they rely on to maintain their standard of living is the commissary system. About 778,669 retirees retired prior to the enactment of Public Law 92–129 when active duty pay comparability was allegedly achieved; therefore, their retired pay is based on less than competitive levels. Average retired pay for a nondisability enlisted person is $5,748.

As my colleagues will recall, in 1976 in deferring the subsidy phaseout, we directed the Secretary of Defense to submit to Congress a report on commissary reorganization. According to a Department of Defense official:

The reorganization of the commissary store system is going well. When the instructions to reorganize into central management modes were disseminated to the Army and the Air Force, our goal was to reduce costs and increase our efficiency. In our view, that goal is well on track. Personnel savings and other management efficiencies have enabled us to affect reductions in appropriated fund costs. (Budgeted direct appropriated fund costs for FY 1978 are $309 million versus $313.5 million for FY 77). Increased efficiencies through centralized management have resulted in greater uniformity and control over commissary store operations, opening doors to other possible savings.

In the report submitted to the Senate and House Armed Services Committees, Assistant Secretary of Defense David Taylor stated management improvement would save almost $14 million in fiscal year 1977, $26 million in fiscal year 1978, and $36 million in fiscal year 1979. The savings are due to centralized management, consolidation management and administrative controls, greater use of part-time employees, closure of unnecessary annexes, testing of automated systems and vendors stocking shelves.

Mr. President, while problems still remain in reorganization, commissaries have made great strides toward their goal of "reducing costs and increasing efficiency." I ask unanimous consent that the attached article entitled, "Commissary Reorganization—Is It Working?" from the May-June 1977 Review magazine, be printed in its entirety in the RECORD following the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. STEVENS. In addition to this intraservice consolidation of commissary functions, the Department of Defense is evaluating the cost effectiveness of consolidating all four systems. The goals are to improve efficiency, reduce cost, and improve service.

In conjunction with this, the Air Force Association unanimously adopted at their national convention in Washington, D.C., last month, the following policy regarding commissaries:

We continue to urge improved management to reduce commissary subsidies, however, we oppose any action that would reduce commissary benefits. AFA would not oppose merger of the separate commissary systems as currently being studied but would not support any such merger that would lead to reduced service or benefits.

Pending the outcome of the current DOD study of commissary management, they feel that Senate action to delete funding for these facilities would likely "prove premature, ill advised, and in the end unduly costly in terms of retention of skilled military people." I ask unanimous consent that their communication to me on this matter be printed in the RECORD at the end of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 3.)

Mr. STEVENS. The men and women in

our Armed Forces are the backbone of our strong Defense Establishment. It is essential to the survival of our defense system that our military people be compensated at a rate that is comparable to what they would receive if they were in similar civilian positions. An average Department of Defense civilian now earns 62 percent more than his military counterpart.

Historically, benefits such as the PX, commissary, and health care have offset the disparity in pay scales. One of the most important compensations in the form of benefits of our retired and active duty military members and their families is the commissary system providing them with savings on food products.

Over the past several years it has become quite popular to attack defense spending. Since 1973, there has been an erosion in military benefits in medical and CHAMPUS benefits, the regular reenlistment bonus; travel pay upon reenlistment; superior performance pay; terminal leave payments; sick pay exclusions; GI bill benefits; and the airman education and commissioning programs. Deletion of funds for commissaries will have a major impact on morale which is a key element in military preparedness. Action such as this can only be construed as a breach of faith to the people in our Armed Forces. We made a promise to these people when they entered the military that they would have commissary privileges as they were known at the time. The retired people relied upon that. By doing away with commissary privileges, that promise would be broken. It would be viewed as Government's failure to uphold its end of a contractual bargain.

I am particularly concerned about the promises made by our Government to the people who entered the service in World War II, for instance. Those people who stayed in and made the military a career, and who retired, did so on the belief that they would have the commissaries as one of the benefits after their retirement.

I urge my colleagues to reinstate funding for military commissaries so that the Department of Defense can continue to implement the programs of commissary reorganization that they have so successfully initiated.

We have come a long way in making the commissary system support itself—paying for new construction and utilities.

Mr. President, the following organizations have also sent communications in support of my amendment and I ask unanimous consent that they be printed in the CONGRESSIONAL RECORD at the conclusion of my remarks: The Retired Officers Association, the AF Sergeants Association, the American Logistics Association, and the Veterans of Foreign Wars along with their resolution No. 619 entitled "Support Funding for Military Commissaries."

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 4.)

EXHIBIT 1

DOD POSITION ON COMMISSARY STORES—PHASE OUT FEDERAL SUBSIDY: FY 1979 DEFENSE APPROPRIATIONS BILL

STATEMENT OF THE AMENDMENT

An amendment has been introduced to phase out over three years the direct appropriated fund support to commissary stores.

EFFECT OF THE AMENDMENT

Elimination of appropriated fund support would cause substantial increases in merchandise costs to service members in order to generate sufficient funds to pay employee salaries. This amendment, if approved by the Congress, will have an impact on the living costs of active and retired military personnel and their surviving spouses, 100% service-connected disabled veterans and their spouses, active duty and retired commissioned officers of the Public Health Service and others. As a result, savings to which patrons have become accustomed will be substantially reduced, if not altogether eliminated. Also, if the subsidy is reduced and store selling prices are increased to offset, the cost of living allowances in certain overseas areas will have to be increased to offset the impact of increased store prices. Thus, the reduction in store subsidy is not a net decrease in appropriations, but only a partial. Since the cost of food factor is the largest weighted factor in the cost of living allowance, the increase in the latter will be substantial.

DOD POSITION (AGAINST)

There is no doubt that the commissary stores have been considered over many years as one of the advantages of military service, and that military personnel have expected these stores and their concomitant savings to be available throughout their service and retirement. Retired personnel, particularly those who retired many years ago and who have not obtained supplemental employment, will be particularly affected by this proposal. While a specific savings level has never been guaranteed, commissary store patrons have come to expect rather substantial savings on their purchases. If the reduced savings available to commissary patrons have a marked effect upon sales volume, the commissary system could lose some of the advantages of large-scale operations. This could mean that the fixed costs of operation, spread over a smaller sales volume, could require additional price increases. At this point we cannot know the ultimate effect, since so many factors—in addition to price—combine to determine the degree to which commissaries are used. These factors include convenience of location, transportation costs for patrons, the quality of facilities and service, and competition from the private sector.

A loss of the commissary store savings will be viewed by service members as an erosion of their benefits, thereby contributing to a lowering of military morale. As such, it can only have detrimental effects on the recruiting and retention of military personnel. Previous well publicized similar proposals have contributed to talk of military unionization and a loss of confidence in the top leadership of the Department of Defense. Piecemeal reductions in military benefits should be avoided. The President appointed a "Blue Ribbon" Commission on Military Compensation to consider a reformed compensation system, including military benefits such as commissary stores. In the meantime, DoD is making every effort to reduce appropriated fund costs of commissary stores. In a further effort to increase efficiency and reduce costs in the commissaries, the Department is examining the feasibility of consolidating the commissary store systems under one organization. This examination is expected to be completed by the end of the year and we hope to reflect the change which would be recommended in the study in our budget for FY 1980.

Provided below is a summary by Service of the manpower, both military and civilian, and funds for support of the commissaries for fiscal years 1977, 1978 and 1979. Also included are the number of commissaries supported by Service.

PERSONNEL END STRENGTH

	Fiscal year 1977		Fiscal year 1978		Fiscal year 1979	
	Military	Civilian	Military	Civilian	Military	Civilian
Army	226	9,207	220	10,005	220	10,505
Navy	1,222	3,449	1,288	3,539	1,298	3,577
Marine Corps	12	738	12	859	12	901
Air Force	492	8,559	441	9,443	391	9,428
Total	1,952	21,953	1,961	[1] 23,846	1,921	[1] 24,411

[1] Includes increase for conversion from full to part-time employees.

[In millions of dollars; [1] fiscal years]

	1977	1978	1979
Military personnel funds:			
Army	3.0	3.5	3.5
Navy	12.6	13.5	14.1
Marine Corps	.1	.2	.2
Air Force	6.8	6.5	5.9
Total	22.5	23.7	23.7
Operation and maintenance: [1]			
Army	122.0	122.6	127.2
Navy	43.4	44.4	45.1
Marine Corps	9.8	10.2	9.6
Air Force	115.8	130.7	133.3
Total	291.0	307.9	315.2
Total operations funds:			
Army	125.0	126.1	130.7
Navy	56.0	57.9	59.2
Marine Corps	9.9	10.4	9.8
Air Force	122.6	137.2	139.2
Total	313.5	331.6	338.9
Number of stores:			
Army	140	[2] 141	141
Navy	86	[3] 84	84
Marine Corps	15	15	15
Air Force	163	[4] 156	156
Total	404	396	396

[1] Excludes the cost of transporting commissary store goods to overseas stores.

[2] Army: Opening at Jidda, Saudi Arabia—support increased military strength.

[3] Navy: Closure at Sidi Yahia and Kenitra, Morocco—base closure.

[4] Air Force: Closure at: Webb AFB, Tex.—base closure. Craig AFB, Ala.—base closure. Richards Gebaur AFB, Md.—base closure. Kincheloe AFB, Mich.—base closure. Empire AFS, Mich.—reduced personnel, uneconomical operation. Kalispell AFS Mich.—reduced personnel, uneconomical operation. Landstuhl Germany—uneconomical operation.

EXHIBIT 2

COMMISSARY REORGANIZATION—IS IT WORKING

Is the reorganization of the commissary store systems working? A distinguished industry leader and longtime ALA supporter recently suggested that the question is redundant. "It must work," he commented, "since alternatives are no longer available."

The important question is whether the reorganization will increase efficiency and reduce the cost of commissary store operations enough to merit continued support from the Congress. The reprieve the Armed Services won in the hard-fought struggle to retain Federal funding didn't finally resolve the issue. Last year when Congress agreed to continue appropriated commissary funding, it told the military, in no uncertain terms, that the stores must be managed more efficiently. Military officials say this is being done.

The management improvements—some of the most important of which include greater

centralized management, increased use of automation, and other labor-saving measures—are producing positive results.

In a recent report to the Chairmen of both the Senate and House Armed Services Committees, Assistant Secretary of Defense David Taylor said management improvements already made will save almost $14 million in Fiscal Year 1977, $26 million in Fiscal Year 1978, and $36 million in Fiscal Year 1979.

The Department of Defense report to Congress said the savings came from:

Centralized Management. Both the Air Force and the Army went to centralized management of their stores last October. And this, the report said, allowed management functions to be consolidated and reduced the number of people required for administration.

Consolidation of Regions. The Navy commissary system, already centrally managed, consolidated two of its regions, which further reduced administrative costs.

More Use of Part-time Employees. By using part-time employees the stores save by not having to pay for the same amount of fringe benefits normally provided full-time employees. Also, part-time employees normally do not advance to higher paying grades.

Reducing Annex Stores. The Army, Air Force and Marine Corps have reduced the number of small annex stores and consolidated sales in the main stores.

The Air Force Commissary System is set to begin the second phase of its food store complexing operation. The move involves the administrative consolidation of two or more stores into a single operation.

SAVINGS REPORTED

AFCOMS officials recently reported that the complexing of 22 stores last year resulted in savings of $1.5 million and a reduction of 123 job slots. They expect "substantial savings" following the proposed consolidation of 58 additional stores. Customers will not be affected by the move. Local item selection boards will continue to meet and choose merchandise desired by a majority of local patrons.

In these and many other ways—even income from "cents-off" coupons, which commissaries had previously been turning over to the military exchanges for redemption—on balance, the comstores are making an all-out effort to improve management efficiency and operate more cost-effectively.

They are encountering a few problems here and there, but over all they're making progress. For example, Rear Adm. Edward M. Kocher, Commanding Officer, Navy Resale Systems Office, points out: "In the area of variable pricing NAVRESO still has a long way to go. It is a very sophisticated science and our Navy commissary stores just don't have the experience in this field that is available in the commercial sector. But, based on the limited testing that we have accomplished on variable pricing to date, we are encouraged by the potential."

Admiral Kocher explains that one of the larger commissary regions has been trying out slightly larger markups on certain commodity groups, such as spices, snack items, luncheon meats, cookies and crackers, and frozen foods. Health and beauty aid items also carry a slightly higher markup, except for certain dentifrices, which are given a lower than normal markup.

"Our approach to variable pricing," says the admiral, "is to try to more closely approximate the total savings to the commissary customer across all commodity groups rather than, if you will, having super-buys on a few items and lesser savings on the others. Variable pricing represents a major change in the way we do business."

He believes variable pricing, thoughtfully and skillfully applied, should give NAVRESO the tools it needs to adjust to the commercial competition to ensure that customers perceive the values they should in their commissary shopping privilege.

EFFORTS BEING MADE

Air Force, Army and Marine Corps comstores are also making a concerted effort to improve management and become as self-sustaining as possible through a variety of sound food marketing management techniques and efficient business practices—from centralized management to increased use of automation and labor-saving measures.

Maj. Gen. Daniel L. Burkett, AFCOMS Commander, is moving ahead with centrally directed management and administrative consolidation. He thinks variable pricing should apply basically to non-basic items: tobacco, soft drinks, candy, health and beauty aids, household items.

Army comstore's chief, Maj. Gen. Emmet W. Bowers, relies on a centrally directed worldwide commissary system to achieve more efficient operation, reduce personnel, lower direct and indirect operating costs, obtain better visibility and control of resources, resolve problems and put actual decision making at fewer supervisory levels. Suppliers and distributors are now able to do business at the region director's level. "By using source data automation to complete transactions more rapidly, payments are speeded up," General Bowers points out, "and increased efficiency reduces operating costs, and costs for the vendors doing business with us. This permits us to pass on the savings to our customers."

The effect at Marine Corps commissaries, says Brig. Gen. G. L. Bartlett, Director of the Corps' Facilities and Services Division, includes construction and renovation—replacing inadequate facilities with new buildings financed from surcharge revenues; upgrading equipment at stores not undergoing major modifications. The emphasis is on labor saving devices wherever possible and on improved convenience to the shopper.

WHAT'S IN THE FUTURE

Will these management improvement efforts be sufficient to convince Congress and the Carter administration they are "for real"? The comstore subsidy looks safe (for now anyway) but what about its future after the Ford budget runs out in 1979?

The Department of Defense budget request for Fiscal Year 1978 (which begins this coming Oct. 1, and runs through Sept. 30, 1978) contains the money necessary to provide full appropriated fund support for commissary stores through that date. That budget proposal ($123.1 billion worth) was forwarded to the Congress by the outgoing President last Jan. 17. Ford's original budget proposal contained a provision to begin phasing out Government funding for the military food stores over a three-year period. The first phase of that plan would have lopped some $90 million of commissary operating funds out of the FY 78 military budget. But, just before Christmas, outgoing Secretary of Defense Donald Rumsfeld successfully prevailed upon President Ford to change his mind and restore the deleted $90 million in commissary funds.

Substituted was a paragraph which read:

"We propose to continue the appropriated fund support to the commissary stores. Some cost reductions will be achieved as a result of certain management actions, e.g., centralizing the management of Army and Air Force commissary stores. In addition, we are examining the potential for achieving further reductions, such as the increased use of part-time and intermittent employees, and the combining of administrative functions for two or more stores in one geographic area. As a result of management improvements we expect to reduce the cost of this support while simultaneously maintaining a reasonable savings for commissary patrons."

Despite this action, however, the commissaries—over the long haul—still face an uncertain future. The proposal to eliminate the stores' salary subsidies has been rejected by Congress each of the past two years. However, it is entirely possible that the new Carter administration—or Congress itself—may revive the idea, and the new Congress, of course, is not bound by previous votes. So, for FY 1979 and beyond, it's anybody's guess what will happen in the area of appropriated fund support for commissaries.

Dr. Harold Brown, the new Secretary of Defense, has said he expects to reduce defense spending by $5 billion to $7 billion by 1979. Much of the savings could come in reduced personnel and support costs, he said. He also observed that in his view "military pay and benefits costs take up a disproportionately large share of the defense budget," and that they are "probably the first place we should look in any attempt to reduce the budget."

EFFECTIVE PROOF

The savings to date are proof reorganization is effective. A DOD official said recently that:

"The reorganization of the commissary store system is going well. When the instructions to reorganize into central management modes were disseminated to the Army and the Air Force, our goal was to reduce costs and increase our efficiency. In our view, that goal is well on track. Personnel savings and other management efficiencies have enabled us to affect reductions in appropriated fund costs. (Budgeted direct apropriated fund costs for FY 1978 are $309 million versus $313.5 million for FY77.) Increased efficiencies through centralized management have resulted in greater uniformity and control over commissary store operations, opening the door to other possible savings."

Corrections for drift, as the political winds change, have and are being made. But a careful review of the improvement effort over the past two years will convince even the most severe critic that—yes, the reorganization of the commissary system, with its goal of substantive increases in efficiencies, is working. And that industry, through ALA, is contributing substantially as an interested/involved/objective third party.

DON'T FORGET RECENT PAST

For those who attended the recent ALA Regional Seminars in San Diego and Norfolk the reasons why were fairly obvious: new and continuing dialogue, total participation by the respective services, etc.

But, for those who did not attend the seminars, may we remind Review readers that just two and one half years ago the Ford administration decided to support the OMB position to discontinue appropriated funds for the commissaries. Industry, along with many others, recognized that this action was unsound and unwise. The American Logistics Association, itself at the time just recently restructured and reorganized, quickly recognized and assumed its leadership role as an involved, concerned, interested and therefore objective third party.

An ALA Task Force was immediately put together. It met with responsible high-level people at DOD and offered its assistance and input. At the same time, a DOD Study Group, chaired by now Maj. Gen. Emmet W. Bowers, USA, and co-chaired by Capt. Robert Brewin, USN, was created.

The ALA Task Force met with this prestigious group on several occasions and presented a consensus of industry's suggestions and ideas. These meetings led to a survey of all ALA members, the results of which were developed into an "Industry Report" which the DOD Study Group accepted in its entirety and published verbatim in their final full report on the commissaries.

It is worth noting that the ALA Task Force showed foresight at the time in stating that after a blueprint for increased effi-

ciency is developed, the "real world" of transition will come into play. The Task Force underscored another important fact: that change is difficult under any circumstance, but under the glare of publicity, and the divergent views in the Congress and the administration, it would be doubly difficult and a real challenge.

SOME PROBLEM AREAS

It is interesting that today, in implementing the DOD Study Group's recommendations, all of the suggestions made by ALA's Task Force are either in effect, under consideration, or in the process of being adopted. Admittedly, there will be some hangups in implementing the reorganization. Among them, for example, are:

Shelf Stocking—The DOD view on shelf stocking is that it is strictly voluntary on the part of the supplier and is requested only on a limited number of line items.

Payment Problems—Payment problems are actually not a major problem system-wide, according to DOD. If bills are sent to the proper place, they are paid on time. As part of the management improvement effort all of the Services are making every effort to handle payments as expeditiously as possible.

But, even the longest journey begins with the first step forward. And even the severest critics of Federal funding for commissaries will admit a good beginning has been made. There will be further problems, of course. But ALA believes they will not be insurmountable, and, as part of a concerned mature industry, stands ready to continue to provide guidance and lend expertise in the food marketing area whenever requested to assist the Services in reaching their objectives.

EXHIBIT 3

WASHINGTON, D.C.,
October 4, 1978.

Sen. TED STEVENS,
U.S. Senate,
Washington, D.C.

We understand that the Senate and its forthcoming deliberations on the Defense Appropriations Act will be considering a provision that would eliminate military commissary subsidies and do away with government paid shipping of commissary goods overseas. The air force association opposes any such piece-meal approach to reducing military pay and benefits. The delegates to our national convention meeting in Washington, D.C. last month unanimously adopted the following policy concerning commissaries: "We continue to urge improved management to reduce commissary subsidies. However we oppose any action that would reduce commissary benefits. AFA would not oppose merger of the separate commissary systems as currently being studied but would not support any such merger that would lead to reduced service or benefits." In light of the currently on going study concerning commissary management, we urge the Senate not to take action which is likely to prove premature, ill-advised, and in the end unduly costly in terms of retention of skilled military people.

THE AIR FORCE ASSOCIATION.

EXHIBIT 4

FAIRFAX, VA.,
October 4, 1978.

Hon. TED STEVENS,
Senate Building,
Washington, D.C.

The Senate will soon be considering the defense appropriation bill, (H.R. 13635) with provisions that could have major negative impact on the active duty forces as well as on the retired military community.

One provision would phase out commissary subsidy over a three year period. Another would reduce the number of personnel assigned to the morale, welfare, and recreation activities.

Any reduction in commissary funding will necessitate a corresponding increase in the surcharge paid by the commissary patrons and will ultimately lead to closure of the commissary. The commissary have traditionally provided food products at reasonable rates to military families. Closure of these facilities will have the most drastic impact on the enlisted and junior officer segment who can least afford the added financial burden, many military retirees with reduced income have permanently settled near commissary facilities. To deprive them of this benefit now would constitute a breach of faith by their government.

Reducing the support personnel for morale, welfare, and recreation activities will result in many idle servicemen with insufficient activity to keep them occupied during their off duty hours. This will ultimately result in a general lowering of morale and increase absenteeism.

Senator Ted Stevens has indicated he will introduce an amendment to the defense appropriation bill to continue the support for the commissary. The Retired Officers Association and its more than a quarter million members strongly urge that you support the Stevens amendment.

Sincerely,

JOHN W. CARPENTER III,
Lieutenant General ASAF. (Ret.)

OCTOBER 4, 1978.

Hon. TED STEVENS,
Senate Office Building,
Washington, D.C.

On behalf of the 115,000 members of our association and their dependents, I would kindly request your support of Senator Stevens' amendment opposing Senator Eagleton's proposal to phase out the subsidy for the military commissary system over the next three years.

We are experiencing enough problems in obtaining, retaining, and sustaining the current enlisted components of our armed services, any further attack on benefits which will impose greater financial burden upon our enlisted members and their families will be extremely detrimental to the future composition and quality of our armed services.

DONALD L. HARLOW,
CMSAF Retired.

FALLS CHURCH, VA.,
October 4, 1978.

Hon. TED STEVENS,
Washington, D.C.

Your continued leadership needed now to protect vital military commissaries. Senate Appropriations Committee has again this year approved amendment to H.R. 13635, the defense appropriations bill, to: (1) phase out commissary subsidies within 3 years; (2) reduce military personnel in non-appropriated fund activities; and (3) eliminate transportation costs for exchange goods overseas. Bill likely will go to Senate as early as Thursday October 5, urge you join with Senator Stevens Alaska in effort to restore full funding for commissaries and oppose other harmful amendment provisions outline above. Military personnel and families deserve protection and continuation of promised benefits. Similar amendment was overwhelmingly defeated last year and will be defeated again with your outstanding assistance and leadership.

William Lazarus, executive vice president, American Logistics Association, 5205 Leesburg Pike, Suite 1213, Falls Church, Va. 22041.

VETERANS OF FOREIGN WARS
OF THE UNITED STATES,
October 4, 1978.

To All Members, The United States Senate.
From Eric G. Sandstrom, National Commander-in-Chief, Veterans of Foreign Wars of the United States.
Subject Military Commissaries.

It was with extreme disappointment I learned the Committee on Appropriations ordered favorably reported H.R. 13635, making appropriations for Fiscal Year 1979 for the Defense establishment, which included an amendment to reduce the $339 million annual subsidy for military commissaries by $113 million in each Fiscal Year, 1979 through 1981, inclusive.

The 16,000 voting delegates to our last National Convention, representing the 1.85 million men and women of the Veterans of Foreign Wars of the United States, passed Resolution No. 619, entitled, "Support Funding for Military Commissaries", a copy of which is enclosed.

In view of the foregoing, I solicit the support of each of you in voting for the amendment to be introduced by Senator Ted Stevens, to restore full funding for military commissaries.

With best wishes and kind regards, I am

Sincerely,

ERIC G. SANDSTROM,
National Commander-in-Chief.

Enclosure.

[Resolution No. 619]

SUPPORT FUNDING FOR MILITARY COMMISSARIES

Whereas, commissaries and exchanges have been long-standing compensatory entitlements to service life, and, as such, have been a part of the total compensation package and a part of the military community, and now their possible loss threatens the cohesiveness of the military community; and

Whereas, the military commissary store is a very important benefit to both active duty military and retired service personnel and their dependents, particularly in higher cost-of-living areas and overseas deployments; and

Whereas, commissaries save the patron about 20 percent of the total grocery bill for those items purchased there and, losing this saving would equal a hidden pay cut for the military; and

Whereas, chipping away at military entitlements, which compensate for the unique tribulations of service life will prove a false economy; and

Whereas, a two-percent increase is already law and this will increase to a total surcharge, or shelf mark-up of 16–20 percent; and

Whereas, driving commissary prices sharply upward, witness the minimum wage now required for "baggers," will drastically reduce—or eliminate—any savings active and retired service personnel presently enjoy; and

Whereas, commissary patronage would drop as military customers couldn't pay the high prices, and consequently, the commissaries would have to close their doors because Congress has mandated that commissaries must produce savings or close; and

Whereas, this is but one more attack on those who can least afford to shop in commercial establishments and will mean money out of the pockets of every active and retired serviceman—unless we can continue to prevail upon Congress to continue funding military commissaries; and

Whereas, more is at stake here than mere dollars and cents in that the competitive pay situation between military and civilians does not pay for or adequately recompense the military man and his family for life that imposes severe demands and hardships on the family structure; now, therefore

Be it resolved, by the 79th National Convention of the Veterans of Foreign Wars of the United States, that we oppose precipitate action from any quarter which would reduce critically-needed military commissary privileges and services.

Mr. STEVENS. I would say to my good friend, the manager of the bill, we have an extraordinary situation in that the Senator from Missouri, who has been so persistent in pressing this matter, has

been called to Rome to represent our Government at the funeral of Pope John Paul. I feel that under the circumstances it would be unfair to proceed without his vigorous support for his own amendment. I have no doubt that the Senate would once again vote to support the position we have taken 4 years in a row. We have not lost on this matter as far as the Senate or the conference is concerned.

I have discussed this with the Senator from Mississippi and know his feelings on the matter as far as the fairness is concerned. It would be my intent, after he has the time which he is entitled to under my amendment, to state the committee's position, Mr. President, to ask to withdraw the amendment. I yield to the Senator from Mississippi.

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

Mr. STENNIS. I thank the Senator for yielding, and I thank him for his attitude, too, as a very effective and vigorous member of the group which represents his viewpoint. I appreciate his rising to the occasion here, with senatorial courtesy on the merits of the matter being preserved. The Senator from Alaska is a valuable member of this conference.

The Senator from Missouri, who is very concerned, will also be a conferee. If the amendment is withdrawn now, the whole matter will be in conference.

I support the position of the Senator from Missouri. To save time, we can see that the whole subject matter will receive the fullest kind of consideration. The House position, of course, will be vigorously held.

I would expect this whole matter to be thrashed out in conference the best we can. I will ask the Senator from Alaska and the Senator from Missouri to take a strong role in the conference. I very much appreciate his attitude of cooperation. I do not think he has yielded anything here.

Mr. STEVENS. I thank the Senator. I am sure he understands that neither the Senator from Missouri nor this Senator yields very much. We are going to have a battle in conference, I know. But we had it there 2 years ago and we will have it again. It is a situation we did not anticipate when I originally got the time agreement for this amendment.

Mr. President, I believe the best thing to do is withdraw it.

The PRESIDING OFFICER. Since there was a unanimous-consent agreement on the amendment, it would take unanimous consent to withdraw the amendment.

Mr. STEVENS. Mr. President, I ask unanimous consent to withdraw the amendment.

The PRESIDING OFFICER. Without objection, the amendment is withdrawn.

The question now recurs on the amendment of the Senator from South Carolina, on which there is 2 hours to be equally divided and controlled by the Senator from South Carolina and the Senator from Mississippi.

Mr. HOLLINGS. Mr. President, we are momentarily retyping the amendment. What is proposed now by the Senator from South Carolina and the Senator from Mississippi is that we will make better time when we have the prepared amendment typed. We will request that the yeas and nays be set aside and then allow me to amend my amendment.

We want to make two points on junior enlisted travel in the amount of $85 million to provide for those who are already in an overseas station.

For example, in Europe alone, where there is no provision in the appropriation bill for E–4's under 2 years of service, E–3's, E–2's, and 1's, the junior enlisted grades; the fact of the matter is that of the 24,000 eligible, 20,000 of them are there—and we rechecked those figures this morning. What we are saying here is that we want to take care of those. The way we worded it is, not provide for any future junior enlisted travel after November 1, 1978. Let us assume we are in the first, almost second week of October. By the time the bill gets through Congress and the conference and the report is signed by the President, it will be the last part of October. So we are trying, on the Senate side, to put that issue in conference.

I am trying, as the Senator from Mississippi is, to make adjustments, as we always do in the legislative field. A man convinced against his will is of the same opinion still. I think we ought to take care of the 4,000. That will continue to be my position. This is what we have done now in order to move along on this particular score.

In a general sense, I feel that those who have been on the other side and myself have a similar feeling; namely, that we need a uniform balanced policy, an equitable policy with respect to travel and allowances in support of our overseas soldiers, sailors, and airmen.

There is another provision there, too, and I think that was made clear. I read last evening the exact language provided me by the Pentagon, that the adoption, let us say, of my amendment presently at the desk, enacted by the House, $95 million on junior enlisted travel, would in no way obligate the Government for additional housing construction. We do provide for the cost-of-living allowance. We do provide for the housing allowance in the community on a space available basis.

Let me emphasize a particular matter while we are awaiting the final draft of this amendment. Talking to our military friends late last evening, one of the outstanding officers was pointing this out:

If we could only get the authority for an assignment, a duty, and a responsibility, in the sense that we already have—namely, a congressional truce on this particular score, we could do a job.

Specificially, those would have just come in, those who have served a year, a year and a half, those who are young, have just been married, whose wives are expecting, or those with little children who have just come into a strange area and are struggling financially will be forced to accept any kind of living conditions. He said:

In many instances, we see cases where they are already renting a $1,000 a month apartment.

Absolutely ridiculous. But he says they are held up in this regard because they do not have counseling and they do not have the Army in between them and the landlords or the local community.

He said:

If this is approved by Congress, then we, as officers, looking after our men, will be able to step in, correlate the availability of housing space for the junior enlisted grade, correlate what is a fair and equitable rental, correlate, if you please, the proper facilities.

Namely, we were pointing out that in many instances, they do not have stoves, washing machines, closets, electrical fixtures or anything else in some of these places. So that can be graded up and down and more or less apply to a newly landed troop in Europe who has an obligation and is immediately trying to do his job in that assignment and also take care of his family. He will pick up anything he possibly can at a particular time and sign a rental contract.

Then, of course, I asked this officer, "How many more officers, how many more counselors, how much more bureaucracy or superstructure is this going to be?" He said none whatever. Officers are assigned right now, in the company grades and otherwise, in the capacity of looking out for their men. They do this kind of thing.

As I was pointing out yesterday, in the Army, the first thing an officer wants to do for his company is make sure a man's housing, his food, his personal needs and everything else, are good and that the men are taken care of. They are trying to do it now but they just do not have the authority under the present policy. They are allowing them to come but not providing for them financially. I think this would clarify that.

Incidentally, Mr. President, I have at this point, so I can yield to my senior colleague, the chairman of our subcommittee, a letter from the Secretary of the Army. I ask unanimous consent that it be printed in its entirety in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

SECRETARY OF THE ARMY,
Washington, D.C., October 5, 1978.

Hon. ERNEST F. HOLLINGS,
U.S. Senate,
Washington, D.C.

DEAR FRITZ: The most important single item that can be undertaken to assist our enlisted personnel assigned overseas is the extension of travel and transportation entitlements to our junior enlisted personnel. The benefits of the Junior Enlisted Travel Program (JET) far outweigh any problems which may occur.

This program is needed to help our young married soldiers assigned overseas. It will help by transporting their automobiles, personal effects and their dependents. In the absence of these travel entitlements, many young married soldiers finance the move of their dependents by obtaining a loan or advance pay. They then start their overseas tour in debt and during the repayment period, have insufficient funds to provide for their day to day living expenses.

Twenty four thousand dependents of junior enlisted members are already overseas in a non-command sponsored status. The majority (17,000) are in Europe. If these entitlements are extended, an estimated 5,000 addi-

tional dependents would be going to Europe. This represents an increase of only 3 percent in the total number of dependents there. I expect no problem in providing services such as commissary and medical and further most of the children of our junior enlisted personnel will be too young for school.

The direct out of pocket savings to each junior enlisted member will be $600 to $1,000. In addition, we will ship his household goods so he can maintain an acceptable living standard. We will also ship his automobile which will relieve the junior members of a large cash expenditure since many junior enlisted use expensive local transportation or purchase an automobile.

Our soldiers despite financial difficulties are unwilling to endure family separations and for this reason they will continue to take their dependents with them. The extension of JET will allow these members to start debt free and maintain their families at a minimum but acceptable standard of living. My deep concern for the well being of our soldiers and their families overseas prompts me to place JET at the head of the personnel programs within the Army today.

Sincerely,

CLIFFORD L. ALEXANDER, JR.

Mr. HOLLINGS. I shall read the first sentence:

The most important single item that can be undertaken to assist our enlisted personnel assigned overseas is the extension of travel and transportation entitlements to our junior enlisted personnel.

The letter substantiates the various points and facts I made last evening.

Concluding then, with respect to the housing, there will be no new construction. On the contrary, this will only give the cost of living and the housing allowance to those already over there. The amount is a rough computation at this time, and we both trust the staff—and they are experts. We trust them on this score for the recomputation of the figures, to bring it down, as these amendments are now drafted, from approximately $95 million to an approximately $85 million figure to then carry this out, not just for those in Europe but those generally in overseas assignments.

I think these general provisions are added in the amendment:

On page 60, after line 15, insert the following:

Sec. 860. (a) None of the funds appropriated by this Act shall be used to pay junior enlisted dependent travel entitlements to overseas areas after November 1, 1978.

That. Mr. President, will simply allow us to be in conference with the House.

(b) None of the funds for overseas housing allowances in this Act shall be used for the construction of new government housing overseas.

I think we will be on lockstep with the House and the Pentagon on this last proviso, because we are not obligating, and I am sure the House is not, and the Pentagon affirms just that, that it does not call now, in supporting financially travel in the junior enlisted grades, for any kind of obligation to start coming up to Congress and ask for additional government housing in Europe, Japan, or anywhere else. I think we are clear on the last score.

We shall go to conference and see if we cannot work that out. I do not want to mislead. The Senator from South Carolina still believes that in order to be in equity, uniform, balanced, and across the board, we ought to take care of that grade whether they arrive before November 1 or after November 1, whether they are there now and entitled or later.

We can look at the entitlement and I can understand the chairman's point with respect to conference. So we are yielding on that momentarily in this amendment.

I yield now to the chairman.

Mr. STENNIS. I thank the Senator. If there is going to be any question of time, this time will be choice to me.

First, I thank the Senator from South Carolina for his very fine work on this problem, which is a problem to the services and to all of us. I thank the Senator from North Dakota (Mr. YOUNG) for his interest in it and his work on it. I think he and I see this thing very largely the same.

Mr. President, these items are not within the express province of the authorization processes of the Senate Committee on Armed Services. These are funds that are generally appropriated directly without express authorization. Our Committee on Armed Services did not go into this item this year for those reasons.

Coming over to appropriations, where this responsibility lies, for several years, if I may go back just a little, I have looked upon this as a mounting problem, a military problem and NATO problem and geopolitical, if I may use that term, problem, particularly in Western Europe.

I think, without a doubt, the growing numbers of these dependents over there in Western Europe becomes a holdback or a roadblock to our own forces and, to a degree, of the allied forces.

Frankly, with so many of them there, I think it is an encouragement to the Soviets, to our adversaries, to the possible aggressor, to see that we have this physical problem, taking care under short notice of over 330,000 dependents.

I think that Congress should intervene in this matter and set some kind of a ceiling, if no more.

I think we should go further and set a definite policy. I do not think the military services are going to do that. For one reason, it is tied up so closely in their problem of recruiting.

But making allowances for that, this other problem is so serious that my idea was to bring it up on the money issue, because we do not get results in a lot of cases until we talk about the money.

The situation, as I explained it yesterday, is that the House has the funds in their bill and our committee took it out. That would leave it in issue in conference.

But I think the proposal here that the Senator from South Carolina has helped work out is better still for the problem. It goes to the problem of these dependents being taken care of, as well as the overall policy of, how far are we going to let this go, how high are we going to let this mountain grow, this mounting problem of dependents?

It recognizes the housing matter, too, now expressly written in here. The Senator from Alaska is interested in that, too.

Mr. President, as an illustration that something must be done when we talk here on the Senate floor about housing costing the American taxpayer $1,000 a month, housing for one infantry recruit that has only been in the Army, say, 13 weeks, and they are eligible to go there when they merely finish their 13 weeks of basic training.

However valuable they may be, and they all have some value, that is an awfully big sum to pay out, $1,000 a month—I hope it does not average that—for a man that is no more mature as a soldier than 13 weeks of training would make him.

I think that is a warning sign to us and spells out the problem and says to the Congress that we must heed this matter.

We have all agreed, those of us who worked on it, the Senator from North Dakota can speak for himself, of course, and also the Senator from Alaska. The Senator from South Carolina has already spoken. We have agreed here to work on this matter the very best we can, on this amendment if it is adopted, in conference, and try to get a balanced settlement of this matter.

One thing we stand for is that there is not going to be any dependents added over there with this money. That is one point I think is fundamental. During that 12 months, something along this line should be evolved into a hard policy, and our first advisers on that will be the military, and, particularly, those charged with the responsibility.

But I will insist, in my small part, on realism and, as I said, a stop to building up the number of dependents over there, as high as the sky, that is bound to be a hazard to themselves and to military operations should trouble come.

Who is going to get to use the highways? That is one thing. Everybody who lives over there will be wanting to move, too.

We do not have the cargo to bring those people out quickly. Are we going to provide that for that money? What are we going to do about housing? Are we going to build it?

Those are matters that can be decided and must be decided.

So that completes my position on this matter, Madam President. We will do the best we can in conference with this amendment. I certainly expect us to get something out of it.

Madam President, I yield the floor.

The PRESIDING OFFICER (Mrs. HUMPHREY). The Senator from North Dakota.

Mr. YOUNG. Madam President, I am very pleased with the compromise worked out with the distinguished Senator from South Carolina (Mr. HOLLINGS) and the distinguished chairman of the committee (Mr. STENNIS). I am hopeful the compromise now will accomplish all that the Senator from South Carolina attempted to accomplish. He brought to the Senate and explained very well the very difficult situation with respect to junior enlisted conditions in Europe. I think now that the Pentagon will understand better what the Senator from South Carolina is concerned about, what the Senate wants to do, and hopefully what the Congress wants to do.

I commend him for working out that very good solution to a different problem.

Mr. STENNIS. Madam President, I certainly thank the Senator for his position and for his remarks.

Again, I join with him in what he said about the Senator from South Carolina.

Mr. HOLLINGS. Madam President, I thank the distinguished Senator from North Dakota.

Way back, when I first came to the Senate, I had been elected 1 day and on advice of counsel and the help of good friends, the second day, way back in November 1966, I was on the front porch of Senator Dick Russell's home in Georgia and he told me about the Senator from North Dakota.

Of course, he always knew he had his sidekick and, really, the distinguished chairman, the Senator from Mississippi (Mr. STENNIS) had been doing the work and veritably ran the committee the last few years due to the emphysema and illness that Mr. Dick suffered, but he talked about the Senator from North Dakota with tremendous affection, and he talked about the Senator from Mississippi (Mr. STENNIS) with tremendous affection, and admiration, also.

So I really appreciate the chance to work this out with Senators I have the greatest respect for.

I think, as the Senator from North Dakota just said, we all have the same intent.

The Senator from Mississippi wants to make sure we can put some kind of cutoff. The Senator from South Carolina's intent is clear, so there is no misunderstanding, that the problem and the policy be evenhanded. And that, of course, would entail, providing not just for those there, but for those eligibile in a particular grade. There is not a race to see who can get to Europe first with his dependents. On the contrary, we are trying to promote a Pentagon and a congressional policy with respect to dependents.

I talked to another Senator late last evening. He does not believe in any dependents. I confronted him with that. I had the similar kind of feeling. If we could have that Army that I grew up in there is an old saying, "If the Army wanted the soldier to have a wife, it would issue him one."

That is the crowd that we were growing up with at that time. They did not believe in a soldier having a wife. They did not believe in soldiers having dependents. They were in the way. We were there to fight. But that is not true for the Volunteer Army.

The thing has materially changed, and we have to be realistic, and we have to keep up our readiness and keep up the morale.

In a letter here this morning, for example, from the Secretary of Defense, in strongly supporting such an extension he says and I quote from his letter:

> The need grows more intense each month and the maintenance of a maximum readiness posture abroad dictates that we look to the well-being of these young men and women.

So, there is a changed policy from the Secretary of Defense, the President, the Commander in Chief, all the way down. I am going to ask unanimous consent that Secretary Brown's letter and the letter of the Acting Secretary of the Air Force, Hans Mark of the Air Force, be printed in their entirety in the RECORD at this particular point. I ask unanimous consent for the printing of these letters.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

WASHINGTON, D.C.,
October 5, 1978.

Senator ERNEST F. HOLLINGS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR HOLLINGS: As you have requested, I am providing a restatement of the position of the Department of Defense on the extension of permanent change of station travel entitlements to our junior enlisted military personnel assigned overseas. We strongly support such an extension. The need grows more intense each month and the maintenance of a maximum readiness posture abroad dictates that we look to the well-being of these young men and women.

Basically Junior Enlisted Travel Entitlements (JET) is a matter of equity. Currently it is very difficult to explain to a young soldier why the Government will not pay to transport his spouse, household goods, and car to Europe when those entitlements are justifiably provided to his only slightly more senior comrades-in-arms. The hardship of severe financial strain or enforced family separation erodes seriously the effectiveness of these people and leads to problems of morale and discipline. The price we are paying in dissatisfied personnel in terms of performance, reenlistment, and image requires that we take action as soon as possible.

West European prosperity (particularly in West Germany) and a rapidly declining exchange rate make our young service members' lives increasingly difficult, particularly those who are married. Naturally service members want to have their families with them. Many do, even in the absence of JET, at considerable expense out of their own pockets. It is extremely difficult for these soldiers to recover from debts incurred during the movement of their families to Europe.

JET will provide our people with the resources to move their families and household goods overseas and subsequently, to live in decent housing. In addition, because the entitlement is controlled by the Commander it give the DoD the ability to manage the process. In summary, this is a vital issue for the well-being of our young service members and I urge every possible action to approve the funding for the extension of these entitlements.

Sincerely,

HAROLD BROWN.

WASHINGTON, D.C.,
October 5, 1978.

Hon. JOHN C. STENNIS,
Chairman, Subcommittee on Defense, Committee on Appropriations, U.S. Senate.

DEAR MR. CHAIRMAN: This is in reference to the recent action of the Defense Subcommittee in eliminating the funds requested in the Fiscal Year 1979 Department of Defense (DOD) Appropriations Bill for travel entitlements of junior enlisted personnel serving overseas.

The Air Force considers the current lack of entitlements for these young families to be our most serious personnel inequity. We believe it is unconscionable that junior enlisted members being reassigned overseas are faced with two highly undesirable alternatives: a two-year family separation (which Air Force surveys have repeatedly shown to be the number one career disincentive for enlisted members), or assumption of the severe economic burden of relocating their households overseas at personal expense. Understandably, the large majority—over 80% of the total DOD junior enlisted population in the European theater—elect the latter course of action, often incurring overwhelming debts, rather than risk the potential marital trauma entailed in protracted separation.

Everywhere that Air Force leaders have traveled, they have been confronted by junior and senior service members alike and asked repeatedly why our leadership cannot rectify this gross injustice. Their deep concern is not surprising since the files of the Air Force Aid Society are replete with examples of the economic sacrifices and deprivation endured by these young families in order to stay together. Extensive hearings by the House Armed Services Committee (Subcommittee on Military Compensation) earlier this year confirmed the primacy and urgency of the need to provide travel and transportation entitlements in order to alleviate the financial hardships being experienced by junior enlisted families overseas.

It is evident to us that if we are to maintain credibility among our service members and continue to attract and retain the number of quality volunteers we need to provide an effective defense force, the government must lift this financial burden from the shoulders of our youngest members and assume its rightful obligation to fund this cost of doing business. It is for these reasons that the President has personally endorsed this essential program in his FY 79 budget.

The Air Force has no higher priority in the personnel area than extending travel and transportation entitlements to our junior enlisted members. We have prepared the attached fact sheet to put the major issues in the proper perspective and you may find it helpful. Your support of this effort is deeply appreciated.

Because of the importance we attach to this matter, I am sending copies of this letter to the other members of your Committee for their information.

HANS MARK,
Acting Secretary of the Air Force.

FACT SHEET: JUNIOR ENLISTED TRAVEL AND TRANSPORTATION ENTITLEMENTS

BACKGROUND

By law, all military members are entitled to the same basic travel and transportation allowances for dependent travel, transportation of household goods, and certain other privileges. However, funding constraints have necessitated restriction of these entitlements to members in grade E–4 (with more than two years service) and higher grades. The last change in the area of junior enlisted travel entitlements was in FY 74, when the longevity eligibility point for E–4s was lowered from four years to two years.

ISSUES

1. Equity. Although the majority of private US firms reimburse employees for the cost of moving their families and household goods when such moves are directed by the firms to meet company needs, junior enlisted personnel being reassigned overseas are faced with two inequitable alternatives—family separation for a period of two years or more, or acceptance of the severe financial burden of relocating their households overseas at personal expense. Since most young marriages could not survive a two-year separation, a significant majority of junior enlisted members choose the latter course of action, often incurring substantial indebtedness from which they are unable to recover during their tour of overseas duty. Their financial worries are exacerbated by the realization that they must also personally finance a return move to the US in two years. So serious have their difficulties become that the West German media have published several stories

in recent months indicating that these young people have come to be looked upon as charity cases by much of the German populace—a highly embarrassing situation for both junior enlisted personnel and the government.

2. Overseas dependent population. Some concern has been voiced that approving junior enlisted travel entitlements would lead to a significant increase in oversea military dependent population. This is not the case. DOD analysis indicates that, regardless of their entitlement status, most junior enlisted members will relocate their dependents overseas at personal expense rather than endure protracted family separation. Of a potential junior enlisted dependent population of 24,000 in Europe, 20,000 are already there in a non-sponsored status; in other oversea areas, nearly two-thirds are already in place. With this in mind, DOD estimates that providing these entitlements would yield a relatively insignificant increase of only 2.5 percent in the total dependent population already overseas. The State Department has agreed that this small increase would have no effect on dependent evacuation requirements. Conversely, authorizing these entitlements would make junior enlisted dependents subject to normal command sponsorship controls (that can, for example, temporarily delay funded travel until acceptable housing is obtained), and would permit normal pre-planning and scheduling of dependent travel and completion of necessary pre-move counseling.

3. Cost. Although the $95M cost of this proposal is not unsubstantial, there are certain offsetting savings and benefits. For example, the Air Force has already taken steps to increase its average time between permanent change of station moves, at a savings of $27M, to help offset the cost of junior enlisted entitlements. These funds have already been deleted from the Air Force's FY 79 budget. Improved reenlistment rates could also be expected due to first-term enlisted members' more favorable service experiences. In this regard, this proposal would significantly reduce the prospect of family separation—which has long been the single most frequently mentioned career disincentive for enlisted personnel. Finally, easing the financial and emotional strains on these young people would have a significant positive effect on morale that would certainly enhance force readiness.

CONCLUSION

The financial hardships being encountered by junior enlisted families serving overseas are real and inescapable. Further, it is apparent that these families will continue to assume the severe economic burden of financing their own oversea relocations until such time as the government assumes this human responsibility.

Extensive hearings conducted by the House Armed Services Committee (Subcommittee on Military Compensation) clearly indicate that funding of travel and transportation entitlements for these young people would be the single most important step the Congress could take to alleviate their present difficulties. This measure would permit them to begin their oversea tours of duty without the burden of substantial debt payments that necessitate reduced living standards, and it would relieve their worries concerning their return moves.

In view of these pressing human considerations, as well as the substantial cost offsets and morale and readiness benefits associated with this proposal, funding of junior enlisted travel entitlements represents a sound personnel investment that will significantly enhance the effectiveness of the nation's oversea defense forces.

Mr. HOLLINGS. Madam President, I am reading now from the Air Force letter:

The Air Force has no higher priority in the personnel area than extending travel and transportation entitlements to our junior enlisted members.

We get that kind of statement from civilian heads as well as the generals and everyone else. This is something that we cannot turn our back on. We are going to have to provide for them.

Incidentally, I wish to add one thing. We do not get an opportunity to remark on some of the misgivings with respect to the dependents in the Army itself. We are going to have to get into that Volunteer Army. The readiness is not going to be totally satisfied by any manner or means in this amendment. The readiness goes right to those who are coming in, their reasons for enlistment, and whether or not they have the proper attitude which I do not think we can ever supplant and change. I readily go along with change. But for those who are coming in, there are those who are coming into our Volunteer Army who look upon service as a labor contract, and they make their agreement:

You hire me and I accept your employ. But when I want to quit, I quit. I just walk away.

That is desertion, AWOL, and otherwise. That is not the fundamental loyalty and the fundamental obligation that is envisioned in our military, and I do not think we can countenance that kind of attitude that is growing with some who are coming along.

And in many instances, we have a situation with dependents where there is a soldier, namely, the individual male soldier, who is separated or has lost his wife and has a little 2-year-old and a 7-year-old in the home, and it is not just who is going to go forward and fight and let the wife stay back and look after the children, but it is who is going to look after those children should an emergency occur. So the Senator from Mississippi has a real concern, and I am concerned with this. Or, on the contrary, we have female officers and soldiers and noncoms, and I am thinking of one particular case, where, of course, there is no husband and just the children at home, and if the call comes to go forward, who is going to take care of the little children?

Just the other day we know from staff visitation there, we had very serious human problems of a lady sergeant, who just had an illegitimate child, a 2-month-old baby. She was killed in an automobile accident. The U.S. Army owns—I hate to use that crass language—owns a 2-month-old child.

This is the kind of life we are in. We are not back in that Army that I grew up in and served in. These are new kinds of problems and we will never get a field manual on this subject, hopefully. And we are going to have to be realistic and start as a Congress in the hard work of administering and running the Government and running the military to face up to these problems. And the quid pro quo for success of any policy that we adopt or enunciate is that it be equitable, that it be fair.

I saw that attitude change in the sixties, and I look at my friend, the Senator from Colorado, who led that change of mind in the sixties. When the young students in the Vietnam war hit us here in the National Capital, we changed to the fairness doctrine. Is the draft law fair? That is how we got the Volunteer Army.

Is the tax law fair? That is why we are going to get tax reform here tomorrow or later this week.

Are all these policies coming out of Congress fair? And they can see through them quicker than you and I. If they are not fair, if they are not equitable, they are not going to carry the public's confidence necessary to have a volunteer tax program in this country. If they are not fair and not equitable, they are not going to have the public confidence and support for a Volunteer Army to be successful.

So in that particular score, Madam President, I am glad to list these measures here and reconcile at least for the purpose of the conference these differences so we can take this amount to conference. If the chairman permits me, then, I shall ask unanimous consent that the call for the rollcall vote that was ordered for 11 o'clock be set aside, and I have checked this with the majority leader and also the minority on the other side. So I ask unanimous consent.

The PRESIDING OFFICER. Without objection, the yeas and nays on the amendment are vitiated.

Mr. HOLLINGS. I thank the distinguished Presiding Officer.

Then having set aside the yeas and nays, I ask unanimous consent to set aside the present amendment and substitute thereof my amendment that I will send to the desk.

The PRESIDING OFFICER. Without objection, the amendment is withdrawn.

UP AMENDMENT NO. 1990

(Purpose: Fund Junior Enlisted Travel Benefits)

Mr. HOLLINGS. Madam President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from South Carolina (Mr. HOLLINGS) proposes unprinted amendment numbered 1990.

Mr. HOLLINGS. Madam President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2, line 11, strike out "$9,110,896,000" and insert in lieu thereof "$9,154,325,000"

On page 2, line 20, strike out "$6,951,332,000" and insert in lieu thereof "$6,455,500,000"

On page 3, line 3, strike out "$2,000,375,000" and insert in lieu thereof "$2,004,275,000"

On page 3, line 12, strike out "$7,489,391,000" and insert of lieu thereof "$7,521,081,000"

On page 60, after line 15, insert the following: Sec. 860. (a) None of the funds appropriated by this Act shall be used to pay junior enlisted dependent travel entitlements to overseas areas after November 1, 1978. (b) None of the funds for overseas housing allowances in this Act shall be used for the construction of new government housing overseas.

Mr. HOLLINGS. I yield to our distinguished chairman.

Mr. STENNIS. Madam President, I appreciate very much all the Senator's remarks, and I feel certain that good will come from the debate and from the passage of this amendment. I do not know what can be done about it in conference, but we will certainly do the best we can anyway. The issue has been clearly raised, and a step has been taken by the Senate. A forward step has been taken toward the possible partial solution anyway of this problem.

Just one word here about the new dependents who might be in Europe. That date was moved forward to November 1 to take care of any situation whereby someone was already in transit. As I understand that without a doubt they could be taken care of and this money spent on them. But between the time the President might sign the bill and it become law, during those unknown numbers of days, just what dates they are, certainly it would be understood that the services would not be trying to put in a large number or any number of new dependents who are not already selected before this matter is adjusted. So I think that this will work out.

Just for clarity and emphasis, also, I restate this problem as I see it is to get a ceiling put on the number of dependents whom we will have in this area of the world. I mean they are there, because of the military. I think it ought to be gradually reduced.

There will be a strong argument against that, I am sure, but I believe as we get more and more familiar with this situation, the stronger that position will become.

This matter of recruiting for the services, all of the services, is a continuing problem. I have supported the recruitment. I do not want any inferences to arise that I have not, because the facts are that I have, and I will continue to support it generally.

But whenever they get into a practice that I think is working to the benefit of our adversaries, I certainly am not going to support that.

I know there is much money in this whole bill for recruitment, the actual cost of recruiting, the bonuses to be paid, the effort to recruit enough of our reserves, the regular reserve that I call it, and then the National Guard, a very valuable element of it; it is harder and harder, it seems, to recruit for some of those units. But, at the same time, some of those units are getting better and better. We now have reserve component units that outscore the regulars. That is no reflection on the regulars. It is just a compliment to the reserves.

I think some of the very best investment we have its in these Reserve units. We have some new planes in this bill that go directly to the Reserves. They do not have to ask the Air Force for them. They go directly to them. My vote on it was partly as a reward for their very fine service, conscientious service, that those men perform.

So far as I know, Mr. President, that concludes our situation. We will do the best we can in conference.

Mr. YOUNG. Mr. President, will the Senator yield?

Mr. STENNIS. I am glad to yield.

Mr. YOUNG. I just want to thank my good friend from South Carolina (Mr. HOLLINGS) for the kind references he made to the late Senator Russell and myself. We were very close. I think he was the most intelligent man I ever knew, and I think he will go down in history as one of the all-time great Senators.

Mr. HOLLINGS. I believe it, Senator, I really do. I am glad to hear you say that. That is why I was on his front porch the next day. I watched him over the years, and we have the same affection and respect for him as the Senator has.

Mr. STENNIS. Madam President, just one sentence here. I cannot let the name of the late Senator, a dear friend, Senator Richard Russell, pass without saying that he was the No. 1 of the number ones. The great fortune I had when I came here was to fall in contact with him. As an American, I thank God for his contribution, his life, and his life of public service.

Along with that, I had the good fortunate of falling in with the Senator from North Dakota (Mr. YOUNG), too.

Mr. YOUNG. I thank the Senator.

Mr. STENNIS. I have a growing indebtedness to him, and I appreciate him very much.

● Mr. GOLDWATER. Mr. President, I rise in support of the amendment by the junior Senator from South Carolina to add $85 million to the bill for junior enlisted travel entitlements. The DOD request was for $103 million and the House bill reduced that to $95 million and that would leave a small amount to resolve in conference.

The issue of junior enlisted travel is something the Congress has been remiss in supporting for a number of years. It is time for the Congress to recognize that the All-Volunteer Force requires a different type of support than did the force recruited under the draft system. We are now asking young men and women to join a large organization and become part of that organization for what we hope will be a 20- or 30-year career. No one is forcing them to join, the pressure of the draft no longer exists, so consequently inducements must be more attractive. If we expect these young men and women to join this defense organization and be asked to serve overseas, why should they do so when they see they will not be allowed to take their dependents with them? I ask my colleagues if it is standard practice for large corporations who recruit young men and women into their organization to ask those new people to serve in remote areas without their families. To the contrary, I believe you will find it is standard practice of the large corporations to recognize the stability derived from keeping a family together.

There are other advantages of funding junior enlisted travel. As things stand now, a young soldier stationed overseas may bring his family to his overseas station at his own expense.

When he does this, since his dependents are not DOD-sponsored, they are not authorized automatically the right to use the post exchange, the commissary, medical facilities, or dependent schools. Special exceptions must be made and these "unauthorized" dependents are treated as second-class citizens. Consequently, the families that can least afford not to be supported by the Department of Defense are, in fact, the ones that do not receive support, because they are not "command sponsored."

As a result, our lowest paid servicemen are put under the biggest financial strain, and I suspect this could well cause them to turn to other means to make ends meet. I have no evidence to support this, but I would think a young man desperate for money, concerned about the welfare of his family, might be pressured into illegal activities to make up his financial deficit. The point is, it is not in the long term economically beneficial to deny these young people the right to have their families with them wherever they go. If we want to try to keep this All-Volunteer Force together and to make it work, then we need to eliminate this discriminatory policy against junior enlisted personnel as soon as possible.

There is another advantage to authorizing junior enlisted travel. When that occurs, before the serviceman can bring his family overseas, it must be authorized by his command and he must show the command that he has found adequate quarters on the local economy, if he is not authorized quarters on the military installation. This gives the command some control over where this young man and his family will reside. It will preclude, in many cases, our young people from residing in totally inadequate and unhealthy housing, because if the quarters selected do not meet command standards, the command does not have to authorize the overseas travel for the dependents. The important thing is the services gain additional control over the flow of dependents and they have an impact on the morale and welfare of those dependents once they arrive in the theater.

Mr. President, I do not buy the argument that this would increase the number of dependents in the NATO theater to the point of overloading present evacuation plans. I suspect that the addition of the relatively few dependents that would be involved would have no significant impact on present evacuation plans. It is my observation that any evacuation of dependents, especially if the decision to evacuate was delayed, would be almost impractical if not impossible. We may as well accept the thesis that in Europe our military dependents will very likely be subject to the same dangers as any European citizen in the event of a NATO war. So, let us not cloud the issue with this argument.

Mr. President, I commend Senator HOLLINGS for his amendment and I urge its acceptance by the Senate.●

Mr. HOLLINGS. Madam President, I move the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from South Carolina.

The amendment was agreed to.

Mr. HOLLINGS. Madam President, I move to reconsider the vote by which the amendment was agreed to.

Mr. STENNIS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the Senator from South Dakota (Mr. McGOVERN) is recognized to call up an amendment on which there will be 10 minutes' debate to be equally divided and controlled.

Mr. STENNIS. Madam President, if the Senator will yield to me for just a parliamentary inquiry, the way the Senator from Mississippi understands it, this clears the docket, so to speak, of the amendment that the Senator from South Carolina has, and adopts the substitute. I wish we could have copies of that substitute made for the information of the Senate.

The PRESIDING OFFICER. The Senator is correct.

AMENDMENT NO. 3813

(Purpose: To reduce total appropriations by 1 percent)

Mr. McGOVERN. Madam President, I have an amendment at the desk and I ask that it be stated.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from South Dakota (Mr. McGOVERN) proposes an amendment numbered 3813:

At the end of this Act, add a new section as follows:

Notwithstanding any other provision of this Act, the total amounts appropriated herein shall be reduced by 1 percent.

Mr. McGOVERN. Madam President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. McGOVERN. Madam President, this is a simple amendment. It does not require any elaborate discussion. Those Senators who think the proposed military budget of $116 billion is exactly right should obviously vote "no" on this amendment. Those who believe that by careful management the Defense Department might be able to run its operations adequately on 1 percent less funding should vote "yes."

The Senate bill was thoughtfully constructed by Senator STENNIS and other members of the Appropriations Committee whom I greatly admire. I congratulate them on the general character of this pending act and for their conscientious work. All of us admire Senator STENNIS, the distinguished chairman of this committee, not only as a Senator, but because of the kind of man he is.

But I am concerned about the growing dangers of inflation, of budget deficits, and Federal waste, as all of us are in this body.

The bill before us calls for the expenditure of $116 billion, roughly. This amendment would save in excess of $1 billion of that amount. That would be a modest challenge, some would even say symbolic, to the Defense Department to reduce a little of the fat and work a little harder, while keeping an eye on the Russians and the Chinese, and to also keep an eye on the American taxpayer.

As a former pilot in World War II, I realize we have to have a defense force that is second to none. That really is not the issue here. We have that now, with enough of a cushion to justify, in my opinion, a 1-percent saving.

The great danger to the Nation today is not so much that we are being outdone militarily as it is that we have piled up huge inflationary war debts and war deficits.

As we all know, today's inflation began with the war in Southeast Asia. But instead of reducing military spending at the end of that war, as we had always done throughout our 200-year history after every previous war, we sharply increased military spending at the close of that conflict.

We used to talk about the cost of the New Deal. How many of us are aware that the cost of the entire New Deal, I mean the total cost of running the U.S. Government for 7 years from 1933 until 1940, was only $50 billion, about $7 billion a year for the entire Federal budget.

The budget now before us for the Defense Department for 1 year is $116 billion. That is more than double the cost of running the entire U.S. Government for the 7-year period of Franklin Roosevelt's New Deal.

Two years ago, when he was running against Gerald Ford, Jimmy Carter pledged to cut military spending $5 to $7 billion. Instead, he has sent us military budgets that are roughly $10 billion a year higher. Senator STENNIS and his committee have trimmed off some of this fat, for which I am grateful. I am offering a chance to trim off a little more. This may be symbolic, but what is wrong with a modest symbol for economy in our military operations?

We have been criticized for a new Senate office building that will serve the American people for a century or more. I am offering you a 1-percent cut in military outlays that—in 1 year—provides a saving of over $1 billion—10 times the cost of this new Senate building; plus enough additional saving to cover the cost of those water development projects that are apparently causing the President to veto the public works bill.

I want the United States to be as strong militarily as the Russians and Chinese. But I would also like to see the American dollar become as strong as the German mark and the Japanese yen.

This little amendment will give us a chance to save the dollar from the Germans and the Japanese—and we will count on Senator STENNIS' remaining $115 billion to save us from the Russians and the Chinese.

Madam President, I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. STENNIS. Madam President, I am going to save some time now. Call me at the end of 4 minutes, if you will.

The Senator from North Dakota and I, with proper modesty, I hope, are going to express our position here on this matter.

We have been into every cranny of this bill—over 3,300 actual line items, ladies and gentlemen, in this appropriation bill. We have been grinding on it with preparatory work we did last fall, and then started again in January, and we had all the benefit of what was done in the Senate Armed Services Committee, with their extensive hearings in the past; and these figures have been through, much of it, a high percentage have been through the Armed Services Committee twice, because the military procurement appropriations bill was vetoed—and, by the way, the House passed that bill yesterday, a slight variation from the Senate bill.

The Appropriations Committee has been through this entire matter, this bill being from that committee. Literally hundreds of pages of testimony have been taken on many of the major items of this bill, pro and con, in these committees and these subcommittees, and following days and days and many nights of hearings, these figures are what we have come out with.

I do not say they are all correct. But I do say they are about as near correct as human effort can make them, and I say respectfully they are more correct than a guess would be; and that is what this 1 percent is—just a guess, at best. Just across the board, 1 percent goes out.

We are already $2.9 billion, or 3 percent, under the budget. A billion dollars of that, in round numbers, is due to the Trident that was deferred. But in this case, as in cases heretofore, when the bill has been 4 percent, 7 percent, 5 percent, 6 percent, 8 percent, 3 percent, 4 percent—those are other years I am talking about—under the budget, so we are almost as much under the budget as in years past, in spite of this inflation.

I repeat, in spite of the inflation; and who knows how much to allow here for inflation? They asked for $1.5 billion for inflation alone, and we have in here around, I believe now it is close to $900 million; $900 million for inflation.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Mississippi has used 4 minutes of his time. The Senator from North Dakota.

Mr. YOUNG. Mr. President, I strongly oppose this proposed 1 percent cut. One percent does not sound like much, but there are many items, like contract items, where you cannot make cuts at all; so even a 1 percent cut would result in a 10 percent or more cut on many items.

Senator STENNIS and I met with the House leadership and with Secretary Brown just before the markup. In fact, he pleaded with us to increase certain items. His total list was about $2 billion. On one item alone, he requested an increase for inflation, which was originally estimated at about $1.5 billion. But the House reduced it to $1.2 billion, and now it is down to $878 million. This is only about half of what was requested.

The whole budget was handled that way. It is a very austere budget. I do not know of a time when a percentage cut would have done more damage to the Defense Department than now.

Mr. STENNIS. Madam President, how much time remains?

The PRESIDING OFFICER. The time of the Senator from Mississippi has expired. The Senator from South Dakota has 1 minute.

Mr. McGOVERN. Madam President, I have nothing to add. I yield back that 1 minute.

Mr. STENNIS. Madam President, may I observe we are running far ahead of schedule here? For the notice to get out among the Membership, maybe we could take a quorum call here for a few minutes.

Therefore, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. STENNIS. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the amendment.

Mr. STENNIS. And the yeas and nays have been ordered?

The PRESIDING OFFICER. The Sentor is correct.

Mr. HART. Will the distinguished floor leader yield me 2 minutes on this amendment?

The PRESIDING OFFICER. All time has expired.

Mr. HART. I thank the Chair.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Sentor from South Dakota. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Alabama (Mrs. ALLEN), the Senator from Colorado (Mr. HASKELL), the Senator from Maine (Mr. HATHAWAY), the Senator from Louisiana Mr. JOHNSTON), the Senator from Washington (Mr. MAGNUSON), the Senator from Hawaii (Mr. MATSUNAGA), and the Senator from West Virginia (Mr. RANDOLPH) are necessarily absent.

I further announce that the Senator from Missouri (Mr. EAGLETON) is absent on official business.

I further announce that, if present and voting, the Senator from West Virginia (Mr. RANDOLPH) would vote "nay."

Mr. STEVENS. I announce that the Senator from Massachusetts (Mr. BROOKE), the Senator from New Mexico (Mr. DOMENICI), the Senator from Maryland (Mr. MATHIAS), the Senator from Kansas (Mr. PEARSON), the Senator from Virginia (Mr. SCOTT), and the Senator from Texas (Mr. TOWER) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. BROOKE) would vote "nay."

The PRESIDING OFFICER. The Senate will please be in order.

Have all Senators presently in the Chamber voted?

The result was announced—yeas 11, nays 74, as follows:

[Rollcall Vote No. 444 Leg.]

YEAS—11

Church	McGovern	Riegle
Cranston	Metzenbaum	Stevenson
Griffin	Nelson	
Hatfield, Mark O.	Pell	
	Proxmire	

NAYS—74

Anderson	Glenn	Morgan
Baker	Goldwater	Moynihan
Bartlett	Gravel	Muskie
Bayh	Hansen	Nunn
Bellmon	Hart	Packwood
Bentsen	Hatch	Percy
Biden	Hatfield, Paul G.	Ribicoff
Bumpers	Hayakawa	Roth
Burdick	Heinz	Sarbanes
Byrd, Harry F., Jr.	Helms	Sasser
Byrd, Robert C.	Hodges	Schmitt
Cannon	Hollings	Schweiker
Case	Huddleston	Sparkman
Chafee	Humphrey	Stafford
Chiles	Inouye	Stennis
Clark	Jackson	Stevens
Culver	Javits	Stone
Curtis	Kennedy	Talmadge
Danforth	Laxalt	Thurmond
DeConcini	Leahy	Wallop
Dole	Long	Weicker
Durkin	Lugar	Williams
Eastland	McClure	Young
Ford	McIntyre	Zorinsky
Garn	Melcher	

NOT VOTING—15

Abourezk	Haskell	Matsunaga
Allen	Hathaway	Pearson
Brooke	Johnston	Randolph
Domenici	Magnuson	Scott
Eagleton	Mathias	Tower

So the amendment (No. 3813) was rejected.

Mr. STENNIS. Madam President, I move to reconsider the vote by which the amendment was rejected.

Mr. YOUNG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

● Mr. ROTH. Mr. President, before the President vetoed the Defense Appropriations Authorization Act which authorized funding for the proposed nuclear-powered carrier, it had been my intention to offer an amendment deleting appropriations for the carrier.

It is my strong belief that the carrier represented an excessively large and expensive ship which would have starved scare defense resources needed for other defense and naval requirements.

Because the carrier has been deleted and because the Defense Appropriations Subcommittee made significant cost-savings reductions in the budget request, I will not offer an amendment to reduce appropriations in this bill.

I believe the defense budget, like other areas of the Federal budget, should be subjected to close scrutiny to eliminate waste, duplication, or mismanagement. At the same time, I support the commitments made by the President and other NATO leaders for a 3-percent real growth in defense spending. This growth is is needed to maintain the strength of our deterrent and security in the face of a continuing Soviet buildup of both strategic and conventional forces.

The appropriations in this bill are $2.7 billion below that of the House bill, $3 billion below the budget request, and represent less than a 4-percent increase over last year's appropriations level.●

● Mr. MUSKIE. Mr. President, I support the defense appropriation bill for fiscal year 1979. In terms of my responsibility as chairman of the Budget Committee, I want to express my views regarding the bill and how it relates to the national defense functional ceiling set by Congress in the second budget resolution for fiscal year 1979.

First, I extend my congratulations to the distinguished Senator from Mississippi, Mr. STENNIS, and the other very able members of the Defense Subcommittee for the work they have done and the time that they have devoted to this crucial piece of legislation. They have worked extremely hard to bring before the Senate a defense spending measure that is within the budget ceilings Congress mandated for national defense and provides for continuation of our Armed Forces modernization and readiness.

The bill before us appropriates funds totaling $116.4 billion in budget authority. Outlays associated with the bill are $105 billion, which includes outlays of $27.5 billion from prior year budget authority.

Mr. President, this bill is well below the budget authority levels of the budget request and the House-passed bill—$2.9 billion and $2.7 billion respectively. Outlays are below the budget request and the House bill by $0.7 billion and $0.4 billion respectively.

Taking into account all other actions to date and anticipated in the National Defense function, the bill is consistent with the assumptions for defense spending as contained in the second budget resolution for fiscal year 1979.

Because the nuclear carrier has been deleted from the bill, the amount of budget authority available in the function for possible later requirements, such as the spring 1979 pay supplemental and a weapons supplemental, should be adequate to allow the Defense Subcommittee to stay within its allocation under section 302(b) of the budget act.

The pressure on the outlay ceiling, however, is much greater. Due to the slow spending rate associated with the Navy's shipbuilding program, the removal of the nuclear carrier from this bill did not ease the pressure on keeping defense outlays within the second budget resolution. Possible later requirements for the pay supplemental and other defense contingencies will exert a great deal of pressure on the very tight ceiling for outlays. This aspect of a future supplemental will be carefully watched.

Mr. President, in concluding my remarks, I want to state my appreciation to the distinguished chairman of the Appropriations Committee, Mr. MAGNUSON, and to the distinguished chairman of the Defense Subcommittee, Mr. STENNIS, for their efforts in producing a bill within the congressional budget ceilings for Defense.

I support this Defense appropriation bill, reserving the right to support or oppose floor amendments. I congratulate the committee for its efforts to date and encourage the committee to continue its efforts to restrain spending in the subsequent conference with the House.●

SUPPORT FOR THE CIVILIAN TECHNICIAN PROGRAM

● Mr. ROTH. Mr. President, the House Appropriations Committee has recommended a "test program" calling for the eventual replacement of full-time Reserve and Guard civilian technicians with active military personnel.

As a strong supporter of the civilian technician program, I was very pleased

that the Senate Appropriations Committee eliminated this test program in the Senate version of the Defense appropriations bill. I urge the Senate conferees to remain firm in this position.

As the House report itself points out, recent Defense Department reports show that there is no cost savings by converting to full-time military personnel.

What is clear is that the steps proposed by the House committee would waste the thousands of taxpayer dollars spent over the years in developing and training a highly qualified and dedicated civilian technician force. Active duty military pay and benefits far exceed those of the civilian technician.

The Senate Appropriations Committee report rightly points out that Reserve components are now overburdened with other tests.

The "test" proposed by the House committee would create new uncertainty, hurting the morale and readiness of Reserve and Guard components.

The loyalty, dedication, and skill of our civilian technician force has been amply demonstrated. The Senate should stand firmly behind the civilian technicians.●

● Mr. METZENBAUM. Mr. President, last year, Senators MOYNIHAN, HEINZ, HATHAWAY, CHAFEE, HUMPHREY, LUGAR, BROOKE, and CASE joined me in offering an amendment to the defense appropriations bill to require the Department of Defense to resume the practice, discontined in 1973, of tracking the distribution of subcontracts awarded by the Department's prime contractors. Our reason for offering that amendment was to provide the Congress with some specific answers to the many questions that have been raised about the economic impact of defense spending on the various regions of the country.

Until our amendment was passed, the DOD could account only for funds awarded to prime contractors. Under that system, the entire amount of a major contract was reported as flowing to the State in which the prime contractor had its corporate headquarters. The secondary distribution of these funds via subcontracts was not taken into consideration.

The result of this faulty system, Mr. President, was to seriously distort the information available to Congress and the public on where our defense dollars are actually spent. According to DOD experts, the Department had no way to track up to 50 percent of its procurement dollars.

I believe that we need precise information in this controversial area and so I am pleased that the Committee on Appropriations has incorporated the tracking requirement in this year's defense appropriations bill. Collection and dissemination of this data should be an ongoing responsibility of the Department of Defense. It is not a project that should be terminated, as the DOD has requested, at the end of a single year.

Mr. President, I commend the committee for including a provision in the bill that will give us the information we need to make informed judgments on a complex and potentially divisive issue. I am confident that the Senate conferees will, as they did last year, do everything they can to insure that this important provision is included in the final legislation that goes to the President.●

NATIONAL BOARD FOR THE PROMOTION OF RIFLE PRACTICE

Mr. KENNEDY. Mr. President, today the Members of this body will vote on the 1979 appropriations for the Department of Defense, H.R. 13635. I am taking this opportunity to express my vehement opposition to the underwriting of a program that is unquestionably established to benefit a minority of this nation's population who belong to the National Rifle Association.

I have stood before this body in the past and debated the validity of American tax dollars being expended to support the National Board for the Promotion of Rifle Practice. The amount of $694,000 can be viewed as a mere pittance when enveloped in a multibillion dollar appropriations measure.

However, I believe it is a disgrace that at a time when the Congress has said to thousands of this Nation's homebound elderly that the Federal Government can not provide daily hot meals to all those in need—that this same Congress stands ready to insure that the NRA will be able to hold their annual target shooting matches.

I find it a disgrace that at a time when we are saying to economically and educationally disadvantaged school children that the Federal budget is limited and some of them will have to do without needed instruction and support services—that this Congress stands ready to continue to support a program the validity of which has been repudiated by a congressionally authorized study conducted by the Arthur D. Little Co. and issued in January of 1966. The study issued a 57-page report which provides some valuable insights into why this program should be abolished.

The most significant conclusion in the report appears on page 14 and again on page 57, and deals with training soldiers to meet marksmanship proficiency. The report states:

A fundamental question in determining how much to spend on training is what degree of proficiency is desirable or even "good enough"?

We were surprised to find that no desired objectives or even minimum standards of rifle marksmanship proficiency have seen set for either units or individuals going into combat. Therefore, as far as we could tell, no one has yet been able to "price out" the value of achieving a given level of marksmanship proficiency in a rifle company, platoon, squad, or perhaps even more difficult, in an individual rifleman. Thus, it is difficult to justify on a cost/benefit basis, the investments made in teaching riflemen how to shoot.

Further from page 24 of the report, I read:

Until more direct study and research is applied to the question of how incremental degrees of rifle marksmanship proficiency relate to a unit's combat effectiveness, and also to the question of "how much it's worth" for a unit to attain higher levels of combat effectiveness, we believe it will be extremely difficult to "price out" the value of the DCM program in terms of a quantitatively expressed cost/benefit relationship.

My colleagues should also be interested that the Little study discovered the remarkable fact that only 3 percent of the personnel who enter Army basic training have ever been members of civilian marksmanship gun clubs.

Federal support of civilian rifle practice is an obsolete anachronism that cannot be justified in our modern society.

The Congress enacted the National Board for the Promotion of Rifle Practice in 1903 to carry out four missions:

First. To promote practice in the use of military type individual small arms among civilians;

Second. To promote small arms matches and competitions;

Third. To issue arms, ammunition, targets and other supplies to competitors participating in these activities; and

Fourth. To procure and award to winning competitors, trophies, medals, badges, and other insignia.

According to legislation creating the board, the basic purpose of these activities is to encourage and support small arms target practice, so that in time of war the Nation would have a trained corps of riflemen and rifle instructors.

In 1903, that was a worthwhile purpose. At the turn of this century, the need for a prepared civilian force of riflemen may have been important. But if there is any one thing that our enormous military training system has mastered—it has mastered the technique of training new recruits how to shoot.

Last year a Washington Post editorial on the national board questioned the wisdom of this appropriation.

Mr. President, I ask that the editorial from the Post be included at this point in my statement.

[From the Washington Post, Sept. 13, 1978]

FEDERAL AID FOR RIFLE PRACTICE

When Congress is chewing over a $109-billion Defense Department budget, few are likely to pay great attention to a $694,000 item—especially if it's an item Congress has faithfully approved every year for the last 75 years. The item is a bureaucratic anachronism known as the National Board for the Promotion of Rifle Practice. The official reason for this U.S. Army-affiliated board, created in 1903 after a vigorous campaign by then-Secretary of War Elihu Root and the National Rifle Association, is to train the citizenry in the use of small military arms. It does this by promoting matches and competitions and by supplying rifles, ammunition, targets and trophies. This familiarity, so the official Defense Department position goes, will enable those citizens to take up active duty and immediately and effectively defend the country in the event of an attack by, say, Mexican ground forces. The Army would be well advised, by this line of logic, to resume riding lessons against the day when we may wish to revive the cavalry.

The more likely explanation for continued congressional support for the rifle board lies in the dubious alliance between the board and that stalwart protector of the right to bear arms, the good old NRA. For example, federal law authorizes the rifle board to sell—at cost, not market value—U.S. Army rifles to those who meet certain qualifications. One of the qualifications for purchasing the guns is membership in the NRA. Many of the gun clubs that benefit from the rifle board's largess are closely connected to the NRA. And U.S. Navy Vice Adm. Lloyd Mustin (Ret.), a member of the rifle board's civilian/military oversight committee, happens to be NRA president this year.

Sen. Edward M. Kennedy (D.-Mass.) and Rep. Abner J. Mikva (D.-Ill.) have led the opposition to the continued existence of this board for the past decade. It's too bad they

can't drag more of their colleagues into the last quarter of the 20th century and into a realization that the federal government has no business subsidizing either the well-heeled NRA or those people who shoot guns for sport.

Mr. President, I believe we have, as a Nation, more important priorities pressing us 75 years later than subsidizing both the NRA and private gun clubs for the sport of shooting.

I know of no other appropriation that provides any degree of support for any other sport, or any other competition. Moreover, this $694,000 appropriation includes $55,000 for the lease of Camp Perry in Ohio. Interestingly, the NRA for 9 years, until 1978, had borne this expense in order that their annual shooting matches could be held. I am certain if we were to ask taxpayers in America—how they would like to see the $694,000 of their tax money expended it would not be on trophies, ammunition, or the leasing of Camp Perry.

Mr. President, I offered an amendment last year which would have prohibited funds appropriated to the Department of Defense to be used in connection with any civilian rifle practice program, including the issuance of military rifles or ammunition.

The National Rifle Association is a powerful, well financed organization. Their influence with the Congress is well documented. This program is a sacred cow which the NRA will muster all the troops to protect. But, there are other Americans who will read the Arthur D. Little study and disagree with the wisdom of Congress continuing the funding to a program that has little if any benefit to our national defense.

Finally, Mr. President, this provision also permits the sale of surplus weapons to NRA gun clubs and their members. Why the Federal Government ought to be in the retail gun business escapes me. Do we sell discount baseballs for our little leaguers, discount footballs to "Pop Warner" participants or discount basketballs to athletic clubs in the neighborhood leagues around the country? No, we do not.

The $694,000 is not a great sum, but I for one clearly find no justification for the Department to continue this activity.

Mr. STENNIS. Madam President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. STENNIS. Madam President, as I understand the situation now, we are at the place regarding the unanimous consent for third reading.

The PRESIDING OFFICER. The Senator is correct.

Mr. STENNIS. Third reading of the bill, and have the yeas and nays yet been ordered?

The PRESIDING OFFICER. They have been ordered.

Mr. STENNIS. They have been ordered.

I thank the Chair.

Mr. GRIFFIN. Madam President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. GRIFFIN. I do not have an amendment to offer, but after third reading, will there be an opportunity to have a colloquy with the chairman?

The PRESIDING OFFICER. It would take unanimous consent.

Mr. GRIFFIN. Then I ask unanimous consent for 3 minutes.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. Add 1 minute to that, Madam President, I ask unanimous consent for a minute.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. STENNIS. Madam President, will the Chair insist on order to the extent we can at least hear?

The PRESIDING OFFICER. The Senate will be in order so that the clerk can be heard for third reading.

The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. The Senator from Michigan has 3 minutes.

Mr. GRIFFIN. Madam President, I would like to raise with the distinguished Chairman the issue of ELF, the extremely low frequency communication system.

I see that this bill contains an appropriation of $20 million for the ELF communication system.

However, I am pleased to see that the Appropriations Committee concurs in the judgment that use of these funds should be restricted.

In its report, the committee has indicated its agreement with a restriction that was contained in the Defense authorization bill.

That restriction is as follows:

EXTREMELY LOW FREQUENCY (ELF) COMMUNICATION SYSTEM

SEC. 202. None of the funds authorized to be appropriated by this Act for the development of the Extremely Low Frequency (ELF) communication system may be obligated or expended for the development of such system unless the President certifies to the Congress in writing that the use of funds for such purpose is in the national interest, that a site has been selected for the deployment of such system, and that the President has approved such site for the deployment of such system, and in no event may any of the funds authorized to be appropriated by this Act be used for full scale development or construction of another test-bed facility for an Extremely Low Frequency (ELF) communication system.

Let me empasize that last phrase:

In no event may any of the funds authorized to be appropriated by this Act be used for full scale development or construction.

I welcome this judgment by the committee, which will become the mandate of the Senate when this bill becomes law.

Needless to say, the Navy's plans for a submarine communication system have been the subject of a great deal of controversy.

The Navy's plans have changed frequently and there seems to be no real consensus as to how or where this system should be deployed.

There is no consensus even on what the system should be.

Under the restriction provided in the authorization bill and concurred in by the Appropriations Committee in its report on this bill, as I understand it, none of the funds can be expended until and unless the President certifies in writing that:

First. Spending the funds is in the national interest;

Second. That a site has been selected for deployment;

Third. That the President has approved such site.

Mr. STENNIS. Yes, the Senator is correct. This money that is in the bill, $20 million, is to be used only under those conditions set forth in the authorization bill.

The Senator from Mississippi knows that the President of the United States fully understands those paragraphs and has said that he would spend this money for R. & D. within this language.

Mr. GRIFFIN. I thank the chairman for that assurance.

The PRESIDING OFFICER. The Senator's 3 minutes have expired.

The Senator from Alaska is recognized for 1 minute.

Mr. STEVENS. Mr. President, The National Board for the Promotion of Rifle Practice was created in 1903 at the request of the National Guard and other military officers and has been in continuous existence since that time. Congress felt that citizens entering military service were inadequately trained in the use of a rifle and the creation of the NBPRP was an effort to provide a citizen army in the event of a national emergency.

The NBPRP consists of not less than 21 nor more than 25 members appointed by the Secretary of the Army from the Army, Navy, Coast Guard, Air Force, Marine Corps, the Army Reserve, the National Guard Bureau, Treasury Department, Interior Department and the country-at-large. Members serve without compensation other than reimbursement for necessary authorized expenses and are appointed for a term of 3 years.

The Office of Director of Civilian Marksmanship (DCM) is the implementing agency for the Secretary of the Army responsible for carrying out the policies and programs recommended by the Board.

The DCM program provides a valuable service to America, not only in developing skills for potential military use but, also includes instruction in safety and proper use of firearms. Currently there are 2,000 civilian rifle clubs and over 130,000 members enrolled in the DCM program. I would like to list for my col-

leagues the number of DCM-sponsored clubs and their membership in each State:

State	Clubs	Members
Alabama	0	466
Alaska	17	813
Arizona	21	1,958
Arkansas	10	413
California	136	11,028
Colorado	23	1,474
Connecticut	55	3,763
Delaware	7	1,444
District of Columbia	5	271
Florida	22	1,530
Georgia	14	409
Hawaii	2	90
Idaho	20	1,459
Illinois	63	3,030
Indiana	31	1,683
Iowa	28	1,640
Kansas	20	749
Kentucky	13	641
Louisiana	13	1,571
Maine	19	1,001
Maryland	63	3,742
Massachusetts	72	5,388
Michigan	81	4,840
Mississippi	1	20
Missouri	49	2,080
Montana	33	1,431
Nebraska	37	1,354
Nevada	2	69
New Hampshire	18	1,022
New Jersey	27	4,646
New Mexico	8	925
New York	254	16,136
North Carolina	9	336
North Dakota	24	1,659
Ohio	102	7,573
Oklahoma	17	1,492
Oregon	28	1,852
Pennsylvania	196	15,888
Rhode Island	17	1,620
South Carolina	10	252
South Dakota	13	659
Tennessee	12	517
Texas	80	4,345
Utah	19	1,420
Vermont	10	946
Virginia	30	1,319
Washington	57	2,953
West Virginia	15	890
Wisconsin	85	5,374
Wyoming	22	1,272

The DCM program has proved very worthwhile to the military in the past and will continue to serve an important purpose. History shows that during World War II, more than 1,700.000 Americans entering military service had received prior marksmanship training through NBPRP-sponsored programs.

Today, a sizable number of the participants in DCM programs go into the military. In 1976, 1,095 participants joined the military and in 1977, 1,888 persons joined.

Mr. President, because of the dramatic change in the lifestyle of Americans, the average citizen today is simply not trained in the use of firearms. During the Vietnam conflict, Army divisions found it necessary to establish marksmanship training programs in the combat zone. The small amount of money requested in the budget and approved by the House and Senate Appropriations Committee provides a great service to many individuals and to the United States. It is used to train Americans in the proper use of firearms, to prepare them for a national emergency and to provide the Army with a forum from which to recruit well-qualified men and women for our all-Volunteer force. It does a great deal to strengthen the ties between the Armed Forces and the general population.

I am pleased that the Senate accepted the committee position and retained funding for the National Board for the Promotion of Rifle Practice.

Mr. STENNIS addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. STENNIS. Mr. President, we have had third reading and, so far as time is concerned, if others who have time are willing to yield the time back, I will yield back our time, Mr. President, on condition——

The PRESIDING OFFICER. There is no time.

Mr. STENNIS. All right, time is not available.

I just say this, I understand this is the largest appropriations bill that the Senate ever passed on. I believe it is one of the best.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Alabama (Mr. ALLEN), the Senator from Colorado (Mr. HASKELL), the Senator from Maine (Mr. HATHAWAY), the Senator from Louisiana (Mr. JOHNSTON) and the Senator from West Virginia (Mr. RANDOLPH) are necessarily absent.

I further announce that the Senator from Missouri (Mr. EAGLETON) is absent on official business.

I further announce that, if present and voting, the Senator from West Virginia (Mr. RANDOLPH) and the Senator from Colorado (Mr. HASKELL) would vote "yea."

Mr. STEVENS. I announce that the Senator from Massachusetts (Mr. BROOKE), the Senator from New Mexico (Mr. DOMENICI), the Senator from Kansas (Mr. PEARSON), and the Senator from Texas (Mr. TOWER) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. BROOKE) would vote "yea."

The PRESIDING OFFICER. Have all Senators voted?

The result was announced—yeas 86, nays 3, as follows:

[Rollcall Vote No. 445 Leg.]

YEAS—86

Anderson	Case	Ford
Baker	Chafee	Garn
Bartlett	Chiles	Glenn
Bayh	Church	Goldwater
Belmon	Clark	Gravel
Bentsen	Cranston	Griffin
Biden	Culver	Hansen
Bumpers	Curtis	Hart
Burdick	Danforth	Hatch
Byrd, Harry F., Jr.	DeConcini	Hatfield, Paul G.
Byrd, Robert C.	Dole	Hayakawa
Cannon	Durkin	Heinz
Helms	McIntyre	Schweiker
Hodges	Melcher	Scott
Hollings	Metzenbaum	Sparkman
Huddleston	Morgan	Stafford
Humphrey	Moynihan	Stennis
Inouye	Muskie	Stevens
Jackson	Nelson	Stevenson
Javits	Nunn	Stone
Kennedy	Packwood	Talmadge
Laxalt	Pell	Thurmond
Leahy	Percy	Wallop
Long	Ribicoff	Weicker
Lugar	Riegle	Williams
Magnuson	Roth	Young
Mathias	Sarbanes	Zorinsky
Matsunaga	Sasser	
McClure	Schmitt	

NAYS—3

Hatfield, Mark O.	McGovern	Proxmire

NOT VOTING—11

Abourezk	Eagleton	Pearson
Allen	Haskell	Randolph
Brooke	Hathaway	Tower
Domenici	Johnston	

So the bill (H.R. 13635) was passed.

Mr. STENNIS. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. HOLLINGS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STENNIS. Mr. President, I move that the Senate insist on its amendments and request a conference with the House of Representatives on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to, and the Presiding Officer (Mr. DECONCINI) appointed Mr. STENNIS, Mr. MAGNUSON, Mr. PROXMIRE, Mr. INOUYE, Mr. HOLLINGS, Mr. EAGLETON, Mr. CHILES, Mr. BUMPERS, Mr. YOUNG, Mr. CASE, Mr. STEVENS, Mr. SCHWEIKER, and Mr. BROOKE conferees on the part of the Senate.

Mr. STENNIS. Mr. President, I announce a meeting of those conferees in room H–405 this afternoon at 2:30 p.m.

Mr. President, I believe that completes the disposition of these matters, and I thank the Chair.

TIME-LIMITATION AGREEMENT—H.R. 8200

Mr. ROBERT C. BYRD. Mr. President, with the approval of Mr. DECONCINI and Mr. THURMOND, the manager and comanager of the bankruptcy bill, I ask unanimous consent that at such time as the House message on H.R. 8200 is called up and made the pending question, there be a 20-minute time limitation thereon, to be equally divided between Mr. THURMOND and Mr. DECONCINI.

The PRESIDING OFFICER. Without objection, it is ordered.

PRIVILEGE OF THE FLOOR

Mr. McCLURE. Mr. President, I ask unanimous consent that the following staff members of the Senate Budget Committee have the privilege of the floor: Charles M. Quillen, Bill Stringer, Bob Boyd, Gail Schelp, Carol Cox, and Bob Fulton.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NELSON. Mr. President, I ask

unanimous consent that Mr. Philip Ufholz, of my staff, and Mr. Denis Zegar, of the Small Business Committee staff, be accorded the privilege of the floor during the course of the consideration and votes on the pending legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

REVENUE ACT OF 1978

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate proceed to the consideration of the tax bill, H.R. 13511, Calendar No. 1187.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia.

The motion was agreed to.

The PRESIDING OFFICER. The clerk will state the bill by title.

The assistant legislative clerk read as follows:

Calendar 1187, H.R. 13511, a bill to amend the Internal Revenue Code of 1954 to reduce income taxes, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on Finance with an amendment in the nature of a substitute.

Mr. ROBERT C. BYRD. Mr. President, may I have the attention of Senators?

The PRESIDING OFFICER. The Senate will be in order. Senators will please take their seats or retire from the Chamber if they wish to continue any conversations.

Mr. ROBERT C. BYRD. Mr. President, the Senate is now on the tax bill. The Senate will be in on Saturday, and there will be rollcall votes on Saturday. My attendance sheet shows that we have a quorum on our side of the aisle Saturday, so Senators are preparing to stay.

We had a better attendance last Saturday than the previous Saturday. The reason we are staying is we are still on the track hoping to achieve the October 14 sine die adjournment. I keep hearing rumors around to the effect that I have said that that is not achievable. When I see that that date is no longer achievable I will stand right here on this floor and state it for everyone to hear. I think it is achievable. I think the Senate is progressing expeditiously and deliberately.

We have made more progress up to this moment than I had anticipated for the week. So, Mr. President, I hope Senators will consider giving time agreements on the amendments to the tax bill. I hope they will consider entering into arrangements which will provide for the sequence in which amendments are called up, and I hope all Senators who have amendments will work with the joint leadership and the chairman and ranking minority manager of the bill in an effort to expedite in a reasonable way the tax bill.

So it will be up today; it will be up Saturday if we have not completed it. If we have not completed it Saturday, it will be up Monday. If it is not completed Monday, it will be up Tuesday. But I think if Senators will restrain their desire to call up too many amendments, especially nongermane amendments, that the Senate can complete its work on this bill, it can go to conference, and we can achieve our hoped-for adjournment goal.

TIME-LIMITATION AGREEMENT—H.R. 11003

Mr. President, I ask unanimous consent that at such time as Mr. STEVENS and Mr. SASSER call up their conference report on the White House personnel employment bill, H.R. 11003, that there be a 10-minute time limitation thereon, to which both of those Senators have agreed, and which would be equally divided between the two Senators.

Mr. BUMPERS. Mr. Leader, reserving the right to object, and I am not going to object, I just want to make this observation: Last Saturday we had a good attendance, as the leader has pointed out, and I heard quite a bit of grumbling that we had only three rollcall votes and were actually out of here by 12 noon.

I feel about Saturday sessions as I do about evening sessions. If we are going to be kept here until 8 o'clock I would just as soon stay until midnight, because my evening is shot, and I have very little time to do some work before going to bed.

I think it would help this Saturday if the leader would let everybody know that this is an important bill, and there are a lot of amendments; and that, if we choose, we can spend all day Saturday here and get a tremendous amount of work done, with a lot of rollcalls, and perhaps even complete the bill.

If Senators are on notice that that will be the case, we will get a lot of work done. As I say, we will get a good attendance and get a lot of work done, because nobody wants to come on down here on Saturday if we are actually going to be through by 10 a.m. and not transact a lot of business. So if the leader will make that clear to all Senators, it will be helpful.

Mr. ROBERT C. BYRD. I am glad the distinguished Senator has made the suggestion. I have seen the time when the Senate actually transacted more business on Saturday—once this year we had a Saturday session and we had 10 rollcall votes and transacted a great deal of business. The Saturday before last we passed two important bills, two conference reports, and this past Saturday I do not recall what was up before the Senate but we did make progress, and it helped to put us where we are today.

I agree with the distinguished Senator from Arkansas in indicating that there is a need for Senators to be on hand. The manager of the bill, Mr. LONG, will be here and at his post of duty, and the ranking manager will be here also, and it is possible we could complete action on this bill on Saturday.

Everybody knows what happens when the tax bill comes up. There are amendments and there are votes, and Senators are notified that we expect plenty of votes on Saturday.

Mr. BAKER. Mr. President, will the Senator yield to me for just a moment?

The PRESIDING OFFICER. Is there objection to the unanimous-consent request?

Mr. BAKER. Mr. President, reserving just for a moment, if the majority leader will yield to me, I am fascinated by the colloquy between the distinguished Senator from Arkansas and the distinguished Senator from West Virginia. But the ultimate fascination, it appears to me, looks as if we are going to have a busy day on Saturday. Is that a fair interpretation of what the majority leader said?

Mr. ROBERT C. BYRD. I think there is every prospect of that.

Mr. BAKER. Seriously, we have, as the majority leader has, a number of Senators who simply have to be out of town for at least part of Saturday, and a number of Senators are inquiring of me whether they ought to make arrangements to come back in contemplation of a late session on Saturday. I wonder if the majority leader can give us any statement of his intention with respect to the time he intends to conclude on Saturday.

Mr. ROBERT C. BYRD. I am glad the distinguished minority leader asked me this question. I cannot answer this question. I can only say that if we really mean that we are going to try to get out Saturday a week—and I really mean it, I am for it, have been for it, and I want to see us get out of here, and we can complete our work—but if we do we are going to have to be in this Saturday, and we are going to have to be in until a reasonably late hour which, I should think, may I say to the distinguished minority leader, would be 7 or 8 o'clock.

I cannot control the manager and ranking manager. They are the men who have to stand here day after day, go without lunch, go early and go late, and talk to the amendments. If they at 5 o'clock on Saturday feel they do not want to go any further I cannot force them to. I would not want to if I could. But it may be we would have something else we could take up.

I think we have to be in until 7 o'clock, I say to the minority leader, if we really mean it when we say we are going to try to make it next Saturday, and that is achievable. But we cannot come in on Saturday and go out at 11 or 12 or 1 o'clock and hope to finish our work by next Saturday, and it is just 50–50 whether we can do that next Saturday.

Knowing what I know about what remains to be done, I will state that it hinges right here on this bill and on the energy conference reports, and that is the answer as to whether or not we get out next Saturday. We have to get this bill passed after a reasonable period of time.

Mr. LONG. Mr. President, will the Senator yield at that point?

Mr. ROBERT C. BYRD. Yes.

Mr. LONG. May I say to the distinguished Senator that it would be irresponsible of Congress to adjourn sine die without passing this bill.

Mr. ROBERT C. BYRD. Yes.

Mr. LONG. Because when we passed the 1977 social security amendments we made a commitment—at least many of us did, and I think it was implicit in the vote of most of us—that we were going to give the taxpayers of this country an income tax cut that would relieve them of the burden of the social security tax increase that was being passed on to them.

This bill fulfills that commitment. It further extends the 1975 income tax cuts

that otherwise will expire at the end of this year.

If this Congress should adjourn having failed to pass the tax cut to adjust for social security and, in fact, having failed even to continue the existing income tax cut from 1975, the taxpayer will receive a tax increase rather than a tax cut come next January, and there will be a lot of criticism of this Congress for a very good reason. I do not think anybody here really wants the Senate to be subjected to that kind of criticism.

So I think the Senator is entirely correct. This is a matter that must be acted on by this Congress.

Mr. ROBERT C. BYRD. Absolutely. Mr. President, if this bill is not acted on and the conference reports are not adopted by the close of business next Saturday, we will be in until we get it done. If it means coming back after the election, we will do it.

This is it: The tax bill. I am just pleading for the cooperation and understanding of all Senators, and hope they will work with the manager, the ranking minority member, and the joint leadership in expediting action on this bill, but in a way that will allow due consideration.

Mr. President, could we have the question put by the Chair on the 10-minute limitation?

Mr. KENNEDY. Mr. President, could I direct a question——

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia? Without objection, it is so ordered.

Mr. KENNEDY. It is really a question directed toward the managers of the bill, as to whether they have any recommendation to those of us who would like to offer amendments as to the way that we are going to proceed.

In the 1976 legislation we went section by section, and concluded on that, and then there were certain elements, as a point of accommodation to particular Members, that were bypassed, and at least there was an order and a degree of predictability so that those who were interested in various features could prepare and be able to be on the floor and follow the debate.

I know it is early at this time, but I do not know what the disposition of the managers of the bill would be, whether they will have any recommendations so that we can proceed in an orderly fashion, in a way which would be consistent with the majority leader's request.

Mr. LONG. Mr. President, my impression would be that we would obtain unanimous consent and agreement among Senators so that every Senator's amendment could be considered, especially every amendment that is a tax amendment could be considered, and that we could proceed and accommodate one another.

I would hope we would try to do it in a sequential fashion so that we could all know in advance the order in which amendments were going to be called up, and that we could then proceed step by step to consider these issues, in a way that everyone could prepare himself for and have whatever help he needed and whatever information he needed as each amendment comes up.

As the Senator well knows, that unanimous consent is something that has to be the product of 100 Senators. I would propose simply to lay the bill down——

Mr. KENNEDY. Fine.

Mr. LONG. And the committee amendment is in the nature of a substitute, and with the bill before the Senate, as the debate goes along, I would hope to obtain unanimous consent that we proceed in the kind of fashion the Senator has suggested.

It is all right with me to do it however the Senate wants to do business, but I would hope very much that we can obtain agreements.

I know the Senator has several significant amendments at the desk. If he would be willing to go over his amendments and decide which ones he would like to call up, and at what times, I would like to accommodate him as well as others.

Mr. KENNEDY. All right.

Mr. LONG. As the Senator knows, we have some very significant differences even within the Finance Committee itself. We have very strong support for some provisions that the committee did not agree to. So we would hope that we can obtain agreements as we go along.

Mr. KENNEDY. I thank the Senator for his response. I think he has always obviously attempted to insure the protection of all the Members of the Senate. It seems to me the way we proceeded in the 1976 debate, where various sections were considered, provided the kind of opportunity for the Senate to be on notice in timely fashion for consideration. I am obviously agreeable to following whatever procedure is set out or established by the managers of the bill and by the Senate. I hope that perhaps when the manager of the bill is going to formulate some way and means to proceed, he will have the Senator from Massachusetts notified, so that I would have the opportunity to join with other Senators in discussing them.

Mr. LONG. I thank the distinguished Senator. I can only say that at this particular point I am not asking for any agreements from anyone, but just to lay the bill before the Senate, and as we go along I would seek to obtain agreements from the Senators, and hope we would be able to agree and have unanimous consent that after a certain amendment is agreed to, we would go to another one But I am not going to ask for it at this point, until the matter is before the Senate.

Mr. President, few Americans are satisfied with the performance of the American economy in the 1970's. Economic growth has been very sluggish; the growth of workers' productivity has slowed alarmingly; the rate of inflation is unacceptably high; and, despite almost 4 years of economic recovery, the unemployment rate is still near 6 percent.

The Revenue Act of 1978 is a response to these serious economic problems. It attempts to turn the economy around, just like the Kennedy-Johnson tax cuts of 1964. The Finance Committee's version of the bill, while it will not solve all the Nation's economic problems, represents a major step in putting us back on the path to stable, noninflationary economic growth—an economy where there will be a decent job for all Americans who are willing to work.

The bill provides a balanced package of tax cuts for individuals and businesses. It also provides a significant cut in capital gains tax rates, but I view this as something that will lead to a revenue gain, not a loss.

The new tax cuts in the bill total $23 billion for 1979, compared to $16 billion in the House bill. Of the $23 billion, $16 billion—about 70 percent of the total—consists of an individual income tax reduction. About $4 billion—18 percent of the total—is a reduction in business income taxes, which is intended to encourage businesses to increase their investment in plant and equipment and to hire workers who have often difficulty finding jobs even in a prosperous economy. The rest of the tax reduction is a capital gains tax and a restructuring of the minimum tax. Furthermore, the bill makes permanent $16 billion of temporary tax reductions which are scheduled to expire at the end of this year.

The bill also contains fiscal relief for State and local welfare costs and additional social services funding.

As reported by the Finance Committee, the bill is consistent with the fiscal year 1979 budget resolution. Together, the new tax cuts and the extensions of temporary tax cuts will reduce budget receipts for fiscal year 1979 by $20.5 billion, which can be accommodated under the overall budget ceiling for tax cuts of $21.9 billion. The outlays authorized by the bill are consistent with the outlay ceilings in the second budget resolution. This is a fiscally responsible bill and is consistent with the policy of bringing the Federal budget into balance by the early 1980's.

Let me review the major provisions of the bill.

INDIVIDUAL INCOME TAXES

The individual income tax cuts in the bill were designed with two goals in mind: First to provide tax relief to people who needed it the most and, second, to compensate for the tax increases expected next year as a result of the social security bill enacted in 1977 and as a result of inflation pushing people into higher tax brackets.

When the Senate enacted the social security bill, I made a commitment that income tax cuts would compensate for the social security tax increases. While there is no specific commitment on the inflation tax increase, most members of the committee also wanted a tax cut large enough to cover inflation as well. This bill achieves these goals. Each income class receives a tax cut that is at least as large as the 1979 social security and inflation tax increases for that class.

The House bill has been criticized for not providing enough tax relief to lower and middle income families. The committee has responded to this criticism

by providing a substantial tax cut to the working poor through a $1.7 billion expansion and a simplification of the earned income tax credit. In addition, it has increased the House middle-income rate reductions by $2 billion, which was needed to make sure that every income class is fully compensated for the inflation and social security tax increases.

The bill increases the personal exemption from $750 to $1,000. This increase in the exemption will compensate for the expiration of the general tax credit.

The zero bracket amount—which replaced the old standard deduction in the 1977 tax reduction bill—is increased by $100 for single persons, $200 for married couples and $800 for single heads of households. Because the zero bracket amount is now a flat dollar amount, inflation tends to reduce its real value and convert more and more people to itemizing their deductions. This increase in the zero bracket amount will partially offset inflation. Furthermore, the increase in the zero bracket amount for single heads of households is a recognition of the onerous family responsibilities which these people often face.

The major tax cut for individuals is a tax rate reduction. The bill greatly simplifies the existing tax brackets and reduces the number of tax brackets from 25 to 15. This rate cut and bracket widening provides across-the-board tax relief.

The earned income tax credit was enacted in 1975 as a means of providing an incentive for people to work rather than be on welfare, and as a way of compensating low-income people for their social security taxes. Since 1975, the credit has proved its worth. The bill, therefore, makes the credit permanent, increases the amount of the credit, simplifies it, and provides that the credit be reflected in an employee's paycheck rather than paid out after the end of the year.

The maximum earned income credit is increased from $400 to $600, and the income range over which the credit phases out is increased from the range $4,000 to $8,000 to the range $6,000 to $11,000. This $1.7 billion tax cut is the major tool by which the bill compensates low-income persons for the inflation and social security tax increases. These people have been particularly affected by recent economic trends, because they use a larger proportion of their income for food, energy, and housing, whose prices have increased very rapidly.

Other significant tax reductions for individuals include an additional personal exemption for handicapped people, an increase in the tax credit for the elderly, and a liberalization of the pension provisions for people who are not adequatcly covered under the present system.

Another goal of the bill is tax simplification. Taxpayers are increasingly concerned about the complexity of the income tax. They find it demoralizing not to be able to understand the tax system and to have to go to tax return preparers for help.

Several of the changes in the bill will simplify the income tax. The deduction for State and local gasoline taxes is repealed. The earned income credit is considerably simplified, and additional simplification will result from replacing the general tax credit with a larger personal exemption.

BUSINESS TAX CUTS

A major cause of our economic problems is inadequate business investment. More investment in plant and equipment will raise workers productivity and lead to higher wages. In addition, expanding capacity will contribute to reducing the rate of inflation and to improving our balance of trade. Thus, the business tax cuts in the bill should not be viewed merely as benefits for corporate shareholders, but more importantly as effective ways to provide better jobs for workers and lower prices to consumers. A balanced tax reduction package must contain not only individual tax cuts to stimulate consumer spending but also business tax cuts to stimulate the investment which is needed to produce the goods consumers want to buy.

As evidence of the need for more investment, let me note that, while personal consumption is now 15 percent above its 1973 prerecession peak, business investment is only 7 percent above its previous peak. This imbalance must be ended.

The major business tax cut in the bill is a reduction in the corporate income tax rate from 48 percent to 46 percent. In addition, the corporate rate structure is shifted to provide greater incentives for small business. Currently the rate on the first $25,000 of corporate income is 20 percent, and there is a 22-percent rate on the next $25,000 of corporate income, with the 48-percent top rate applying thereafter. The new corporate rate schedule will have five brackets, instead of three, and will have rates between 17 percent and 40 percent on the first $100,000 of income, with the top rate of 46 percent applying to income over $100,000. This corporate rate cut amounts to $5 billion, $1 billion of which will be received by corporations with incomes below $100,000.

These corporate rate changes were in the House bill. The committee believed, however, that these alone were not a sufficient stimulus to business investment. Chairman Miller of the Federal Reserve Board testified that the best way, in his judgment, to encourage investment in equipment would be to provide greater accelerated depreciation, and the committee was very impressed by his argument. To implement this policy, the bill contains a major liberalization of the asset depreciation range—or ADR—system. It increases from 20 percent to 30 percent the amount by which businesses can shorten the lives of equipment for tax purposes and simplifies the ADR system so that small businesses will find it easier to use.

As a further investment stimulus, the bill makes permanent the existing 10-percent investment tax credit. This includes the provisions for additional investment credits for employers who make matching contributions to employee stock ownership plans (TRASOP's). In the 3 years during which the TRASOP provisions have been in the law, many businesses have set up employee stock ownership plans, and these plans are a very useful way of creating a more equal distribution of wealth and increasing the productivity of workers. By making these provisions permanent and making some technical revisions to them, the bill will provide for the further spread of employee stock ownership. In the long run, this could be the single most important result of the tax bills we have enacted in the past several years.

The other major business tax reduction is a significant expansion of the existing WIN and welfare tax credits and a new targeted jobs tax credit. These will replace the general jobs tax credit which was enacted last year and is scheduled to expire at the end of 1978.

Since the enactment of the jobs credit, unemployment has fallen from above 7 percent to below 6 percent, and the problem now is not so much general unemployment as it is structural unemployment among certain groups of people who have a lot of difficulty finding jobs, even when the economy is prosperous. For this reason, the committee decided to let the general jobs credit expire and replace it with a program of targeted credits.

Together with the work incentive from the expanded earned income credit, the expanded WIN and welfare credit should lead to a significant reduction in the number of employable people who are on welfare. In addition, the targeted jobs credit should lead to a significant reduction in the high unemployment rates of needy youths, needy Vietnam veterans, and other groups with chronically high unemployment rates.

(Mr. ZORINSKY assumed the chair.)

Mr. LONG. Mr. President, these business tax cuts should go a long way toward raising our low rate of investment and reducing our high rate of unemployment. To the extent these goals are achieved, all Americans will benefit from them.

Other business tax provisions include several of the administration's recommendations for tax reform. These include a tax credit designed to encourage more investors to purchase tax-exempt State and local government bonds and also a denial of business deductions for yachts, country clubs, hunting lodges, and other entertainment facilities.

CAPITAL GAINS

The current capital gains tax is counterproductive. Because it is entirely within a taxpayer's discretion whether or not to sell an appreciated asset, high capital gains taxes have the perverse effect of lowering revenues by discouraging transactions. Furthermore, the high tax burden on investment and the reduction in capital mobility resulting from high capital gains taxes reduce investment in the economy, particularly risky investments in new businesses—the future Xeroxes and IBM's which are so essential to a dynamic economy.

The existing capital gains tax is also unnecessarily complex and confusing to taxpayers. An investor needs a law degree just to determine the capital gains tax from a particular transaction, because of the interaction of the regular

tax, the minimum tax, the maximum tax on earned income and the alternative tax. In certain cases, the combined effect of these provisions can be a capital gains tax as high as 49⅛ percent. If more than half of the gain results from inflation, then in real terms, the tax can easily exceed 100 percent of the gain.

A moderate reduction in capital gains taxes, such as in the committee's bill, will raise revenues, not lower them, because it will induce additional transactions and lead to much more investment. The committee report includes only a very conservative estimate of these feedback revenue effects and assumes that they will only equal one-third of the initial tax cut. I believe that the feedback effect will be much higher than this and that the capital gains tax cut in the bill could actually increase tax revenues.

To get a wider set of opinions on this subject, I wrote to several dozen former Government officials and eminent economists asking them their views on the revenue effects of the capital gains tax cut. These responses have been published and sent to every Senator, and I hope Senators will read them carefully. The vast majority of the responses predicted that capital gains tax cuts that we have recommended in the committee bill will raise, not reduce, revenues. This view was supported by no fewer than six of seven former Secretaries of the Treasury. Even many of those people who thought that a capital gains tax cut would lose revenue thought it would still be a good idea because of its beneficial economic effect.

Specifically, the bill increases the percentage of long-term capital gains excluded from taxable income from 50 percent to 70 percent and reduces the corporate capital gains tax rate from 30 percent to 28 percent.

Even though capital gains tax cuts are helpful to the economy, a high-income person should not be able to escape paying at least some moderate rate of income tax through the use of tax preferences like capital gains. The existing minimum tax, which is added on to the regular income tax, is not an adequate response to the problem of tax avoidance by high-income persons. Because it is an add-on tax, it imposes too high a tax rate on people who are already paying substantial regular taxes. For the people who are paying hardly any regular tax or none at all, however, the 15-percent rate on the current minimum tax is far too low.

For these reasons, the committee decided to scrap the existing minimum tax for individuals entirely and to replace it with a true alternative minimum tax. This alternative minimum tax will raise as much money as does the existing minimum tax, and it will raise all of it from people who are paying little or no regular income tax.

The alternative minimum tax will be based on the sum of taxable income plus tax preferences, minus a $20,000 exemption, and will have rates ranging up to 25 percent. It will insure that high-income people pay at least a moderate amount of income tax and will not have the devastating economic effects of the existing minimum tax.

The House bill contained a once-in-a-lifetime exclusion for up to $100,000 of the gain on a principal residence. This is a very popular provision, but the committee nevertheless decided that it should be scaled down to only a partial exclusion. A complete exclusion would make it possible for a high-income person to escape tax entirely on the gain from the sale of a residence, and the committee felt that at least some tax ought to be imposed on gains from expensive homes. Furthermore, the exclusion in the House bill would be unfair to people who keep their wealth in something other than an expensive residence, like a farm or small business. And it would also have the bad economic effect of encouraging people to put their money in their home rather than in the stock market or other investments which will lead to greater productivity in the economy. Thus, the committee decided to delete the House provision and replace it with a complete exclusion only for homes whose selling price is less than $50,000 and a partial exclusion for more expensive homes.

The other capital gains tax change in the bill is a deferral until the end of 1979 of the provision for carryover of basis at death. This deferral will give Congress time to study this extremely complicated issue.

FISCAL RELIEF FOR STATE AND LOCAL WELFARE COSTS

For several years now, States and localities have looked forward to congressional action restructuring the welfare program with a view toward lessening some of the burden which is placed upon them by the existing system. Unfortunately, most of the attention during this Congress was focused on the proposal put forward by the administration and variants of it, and these proposals simply did not command the support of the Congress. In this bill, however, the Finance Committee felt it was appropriate to provide State and local governments some measure of fiscal relief from those heavy welfare costs they now experience. At the same time, the committee believed that the relief should be coupled with a strong incentive to improve the operation of the welfare programs in those States which are not now doing the best possible job.

To meet this dual objective of fiscal relief and incentives for better program administration, the committee bill would make available a one-time fiscal relief allocation to be paid during the latter part of fiscal year 1979. The allocation will be based on State welfare costs and on the general revenue sharing formula. To get its full allocation of fiscal relief, each State will have to have achieved a payment error rate of 4 percent or less. States with higher payment error rates will receive partial payments depending on the extent to which they have shown progress in reducing their AFDC error rates. Payments will first be used to relieve up to 90 percent of the local cost of welfare and the remainder to provide relief for State welfare costs. The committee estimates that the amounts paid out next year will total $400 million.

SOCIAL SERVICES FUNDING

The committee bill also includes an increase in the ceiling on Federal funding of the social services program under title XX of the Social Security Act. This program underwrites child care and other social services for people of low and moderate incomes with a view toward helping them to become independent of welfare or to maintain their capacity for independence and self-support.

The committee bill would continue for an additional year the special $200 million increase in this program for child care and would also provide a further $200 million increase. This will result in an overall ceiling for the program in fiscal year 1979 of $2.9 billion as compared with the permanent ceiling of $2.5 billion. The $2.9 billion funding level for fiscal year 1979 has already been approved by the House of Representatives in separate legislation. The committee felt that this increase was appropriate, since most States have now reached their ceilings under the permanent limitation.

OTHER PROVISIONS RELATED TO WELFARE

The committee has also included in the bill several other provisions related to federally funded welfare programs. In general, these provisions should make it possible to increase the effectiveness of the administration of the aid to families with dependent children (AFDC) program and the related child support enforcement program and work incentive program.

I hope the Senate will enact this bill as soon as possible. It is now late in the session and a tax cut should be enacted before adjournment. I would have liked the Senate to have more time to deliberate about the bill; however, the House version of the bill was only sent over to us late this summer. If no legislation is enacted, $16 billion of temporary tax cuts will expire on January 1, and there will be no new tax cuts to offset the social security tax increase of more than $3 billion and the inflation tax increase of more than $9 billion. The effects of these combined tax increases—both economic and political—would be disastrous. Let us proceed, then, to pass this bill and give the American people the tax cuts they need.

Mr. PACKWOOD and Mr. CURTIS addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon sought recognition first.

Mr. CURTIS. I wonder if the Senator from Oregon will yield for just a brief opening statement by me.

Mr. PACKWOOD. Without losing my right to the floor, I yield, yes.

Mr. CURTIS. I thank my colleague. While my remarks are brief, I think to have them follow the chairman's statement will be helpful.

I commend the chairman on his excellent statement describing this bill.

Mr. President, H.R. 13511, as reported by the Committee on Finance, represents a significant step toward true tax reform.

The Finance Committee, in addition to

providing individual tax reductions, has reduced the corporate tax rate, with special consideration for small corporations. It provides an increased depreciation deduction, but, most importantly, this bill substantially reduces the tax on capital gains.

For many years, the policy of this Government has been to gradually increase the rate of tax on capital. As the tax on capital has increased, the American economy has turned in a dismal record.

Gains in worker productivity have been badly lagging, inflation has remained high despite a recession, and the unemployment rate is beyond an acceptable level.

The substantial performance of productivity largely reflects a slowdown in the growth of business investment in plant and equipment. Productivity improvement and economic growth have been linked to the addition of new and better physical facilities. But the impact of inflation on capital goods costs, real corporate profits and investment values, as well as the depressed equity market, have weakened the incentive for risk investment.

Mr. President, the need for reform in the taxation of capital gains is obvious. The committee has faced the problem and designed a bill under the able guidance and leadership of Chairman LONG, which eases the punitively high burden on long-term capital gains.

Mr. President, I would also like to pay special tribute to my colleague, Senator HANSEN, who has taken the lead on the issue of capital gains and without whose dedication, the reductions in capital gains taxes would not be possible.

Mr. President, there are many others that deserve attention, also.

Again, I thank the distinguished Senator from Oregon for permitting me to proceed.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. PACKWOOD. Mr. President, before starting my comments, let me commend the Senator from Nebraska for the extraordinary service he has given, not just to the Finance Committee, but the Senate, the House of Representatives, in a career that spans almost 40 years of uninterrupted service as a Member of the Congress.

He has been our ranking member on the Finance Committee for the last 4 years and has done an exemplary job in leading all of us, as we start what I assume will be his last major tax bill of his career.

I know that when the Finance Committee starts in again next year, we will miss his leadership, his talent. I, for one, wish to express the appreciation of all of us, both Republican and Democrat, for what he has done.

Mr. CURTIS. Will the Senator yield?

Mr. PACKWOOD. Yes.

Mr. CURTIS. I want to thank the Senator for his very gracious remarks.

Mr. PACKWOOD. They are well deserved for leadership long given.

Mr. President, this bill makes the first start, the first start in the 10 years I have been in the Senate, toward attempting to redress the problem we have had on capital formation.

Year after year, from the tax reform bill of 1969 onward, we have whittled away, whittled away, and whittled away at incentives to invest.

We have given an investment tax credit here and there, and we made some special provisions for certain types of industries. But, by and large, in the area of capital gains, in the area of the minimum tax, in the area of the corporation tax, we have made it more and more difficult for businesses to flourish and to amass capital.

So, what has happened. Today, of the seven major industrialized countries in the world, we find the United States seventh in terms of capital reinvestment, seventh in terms of increase in productivity, seventh in terms of exports as a percentage of gross national product.

For years, we lived off the capital investment of World War II, and after World War II we were the preeminent, paramount industrial nation of this world, the Germanys, the Japans, the Frances, the Englands, the Italys, found their factories in ruins and we gave or granted or loaned those countries the capital to rebuild their industries. In the meantime, we did little or nothing for our industries.

Finally, in the 1960's, we discovered that we were being overtaken in technology, overtaken in increases in productivity, overtaken in exports, by the principal other industrial nations of this world. We were overtaken, until today we have a balance of payments so staggering that it is causing the dollar to drift downward perpetually, and it is not just a problem of energy, bad as that is, difficult as the problem is for oil.

We now discover we will have a deficit balance of payments in manufactured goods, a deficit balance of payments in almost every facet of trade except for agriculture.

The one thing we have discovered is that while the Germans can compete with us in cars, and the Japanese can compete with us in cameras, they cannot compete with us in agriculture.

I hazard to think what our balance of payments would be, I hazard to think what the value of the dollar would be today, were it not for feed grains and other agricultural products that we have exported en masse to the world.

Mr. President, fortunately, this bill does nothing to harm agriculture. But, for the first time in 10 years, it does something to try to help the situation of capital formation.

When we compare 1969 to 1977, when we look at how many new issues of stock have been floated for new companies, not new capital for the General Motors and the Ford Motors of this world, but capital for new, young, venture companies, it has almost dried up, dried up because there are only two incentives for anyone to invest in a capitalist economy. One is dividends, and the other is capital growth of the value of the stock.

Profits of corporations have been so consistently low for so many years, and they are even overinflated when we look at inflation, so low that the incentive to invest in a new company in the hope of profits and dividends is nil.

But it used to be that at least we could find somebody who might be willing to risk $50,000, $100,000, $150,000, realizing they might full well lose it, but risk it in the hope that if they invested in a company working to make a profit, the stock would go up.

That was well and good until we put in such a punitive capital gains tax that no one had any interest any longer in taking a flyer on a company which, if it succeeded, they were almost taxed out of all their gains, and, if they lost, they had almost nothing they could write the loss off against, because we narrowly prescribed that.

Mr. PERCY. Will the Senator yield?

Mr. PACKWOOD. I am happy to yield.

Mr. PERCY. Mr. President, I should like to commend my distinguished colleague on the perceptive analysis being offered now on one of the greatest problems that this economy has in its attempt to get some movement behind it to create private sector jobs, rather than public sector jobs, and to see we have a level of economic activity that will be adequate in providing the revenue this Government needs from taxation, but do so in such a way it is not punitive to the future growth potentials of American business.

I cannot but think as I listen to my distinguished friend from Oregon, of my own business experience, certainly, in the years I had it, a major American company, when our employment grew from about 1,300 to better than 10,000 over a period of 17 years, that growth in American employment could never have been possible if capital had not been available to invest behind those businesses.

In fact, every single year, the total amount of capital necessary to back up an American worker is greater, the average in some industries being $40,000 per worker.

Now, how can we create jobs, how can we talk about a Humphrey-Hawkins bill without basically going back to fundamentals, providing to industry incentive capital?

Mr. PACKWOOD. I might add that at the time the distinguished Senator from Illinois was the president of Bell and Howell, that company was not required—I am not complaining about the requirements—to worry about the cost of pollution devices, to worry about the cost of present safety standards now imposed on business, all of which take capital, which produces new jobs. There is only so much capital pie in this country. For every dollar that you put into one thing, that is a dollar that you cannot put into another.

When we ask industry to pick up the tab for environmental protection and safety, and at the same time deny them any return or significant chance to realize a return on the capital, is it any wonder that we fall behind other countries which understand that capital means jobs?

Mr. PERCY. As a member of the steel caucus of the U.S. Senate, the Senator from Illinois visited nine steel mills in the State of Illinois. From what I could determine in talking to the management,

almost a third of all their capital investments were nonproductive, did not add one iota to reducing production costs or improving manufacturing processes. They were used to meet environmental standards.

Most of us backed those standards. We want clean air. We want clean water. We want production to be consistent with the heritage we have and must preserve. But we have to recognize that these nonproductive investments are not being made by competitive companies in Japan, Germany, Sweden, and so forth. Yet, we are saddled with that high extra cost. This is why we are losing markets abroad and losing markets here at home. We have to recognize that in our tax policy.

Mr. PACKWOOD. In addition to the facts stated by the Senator from Illinois, we used to pride ourselves on a 3 to 3.5 percent increase every year in productivity, and we knew that we could have wage increases and a rising standard of living, and we could pay for that out of productivity. This year, for the first time in the history of this country, the increase in productivity is going to be zero; yet, there has been a 6 to 7 percent increase—or an 8 to 10 percent increase—in wages, without productivity to pay for it.

What has to be the natural effect? Inflation.

Then we are further priced out of the markets in Brazil, in trying to compete with Toyota, or in Singapore, in trying to compete with Volkswagen. Our productivity goes down and down.

Mr. PERCY. I point out a fact that the Senator from Oregon well knows: In 1969, when the capital gains tax maximum was 25 percent, there were 31 million stockholders in America. Today, with the effective tax rate top level at 49.1 percent, the revenue to the Federal Government is less than it was when it was 25 percent, and the number of stockholders has decreased from 31 to 25 million.

In the same period of time, where did people put money? About a billion dollars used to be invested in public lotteries. Today, this year, the investment in public lotteries will be $17 billion. People have the money to invest and to spend, but they are not going to put it into the equity market. They are not going to put it behind corporations that will create jobs if the return is almost confiscatory in the appreciation they have in those assets. So I think the policy has been proved self-defeating.

The distinguished manager of this bill, Senator LONG, and Senator CURTIS, the ranking minority member, are to be commended, together with the distinguished Senator from Oregon, the distinguished Senator from Delaware, and the distinguished Senator from New York, in connection with our belief that the greatest way to get this economy moving again, the best way to fight inflation, bringing down the unit costs of production with respect to capital investment, enabling us to absorb increasing wage increases, is by increasing productivity, thereby holding down unit costs or bringing them down. This prevents price inflation, which is the heart of our whole problem. That can be done through a sensible, sound tax policy that must be adopted on the floor of the Senate.

This is why I agree completely with the distinguished Senator from Louisiana (Mr. LONG), who has authored many important parts of this bill, in feeling that capital formation is the only way to fight inflation and the best way to increase, not decrease, Government revenue.

That is why, after President Carter said that a capital gains tax would benefit only millionaires, the Senator from Illinois wrote a 4½-page letter—I wrote it myself; I did not have time to write a shorter letter—pointing out the facts in this matter.

I ask unanimous consent that the letter I wrote to President Carter following his statement be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD as follows:

U.S. SENATE,
Washington, D.C., June 30, 1978.

THE PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: I want to share my thoughts with you about the vital domestic issues of inflation, taxation and legislation to stimulate investment through lowering the taxation of capital gains and other measures. The proposals, introduced by Rep. William Steiger in the House and Senator Clifford Hansen in the Senate, would set the taxation of capital gains at the same level as in 1969.

I strongly support passage of this measure and urge you to reconsider your position and lend your offices to help move the bill through Congress.

I think that as former businessmen, we both appreciate the importance of capital formation in starting new companies and in employing workers in the private sector. When I joined Bell & Howell in 1938, it was a small company of less than a thousand workers and it would probably still be one today if we had not had access to venture capital markets. There was always a great deal of competition for that capital, but there was a plentiful supply of it then. Before I left the company, our U.S. employment increased to more than 10,000. Now, there is a serious scarcity of the type of money that helped us get off the ground.

Perhaps it would be helpful if I used just one specific case. A company in Chicago has encountered a great deal of trouble in raising capital for new firms. Heizer Corp, is a business development company that helps get new businesses on their feet and then stays with them until they are stable. They have found that the 1969 tax change has virtually dried up investor interest in financing new companies. A small computer firm which they were helping actually had to go to Japanese and West German investors recently because no American investors would participate. The new firm, an IBM competitor, has highly capable executives but investors preferred other approaches to heavily-taxed capital investment.

This case does not appear to be unique. The Securities Industry Association certifies that in 1969, companies with net worth under $5 million made 548 stock offerings totaling $1.5 billion. Six years later, though, only four such offerings were made and they raised a total of only $16 million. Clearly something is seriously wrong.

The Small Business Administration is alarmed about this and, in a January, 1977 report, expressed that concern:

"In the face of clearly emerging needs and the documented benefits to the United States economy, a set of impediments have developed that are preventing smaller businesses from attracting the capital without which they cannot perform their traditional function of infusing innovation and new competition into the economy . . . A public policy that discourages the public from investing $1 billion a year of its savings in economic innovation, growth and the creation of jobs while it encourages the public to risk $17 billion a year in Government-sponsored lotteries, requires close and serious reexamination."

Larger businesses have also felt this capital pinch and many—especially those with low profits to earnings ratios—have been forced to go into debt to finance their own expansions. The consequence has been additional pressure on interest rates, bidding them up out of the reach of some small businesses and making government financing far more expensive than ever before.

Most of our major trading partners—and especially our two greatest competitors, Germany and Japan—do not even tax capital gains on portfolio investment. The individual savings rate is also higher in these two countries. Japanese save at triple the rate of Americans and the West Germans save at more than twice our pace. Of all the major industrial countries, the U.S. put the smallest percentage of GNP back into manufacturing capacity between 1965 and 1976. The country next in line was England, hardly a model for investment strategy.

During the time that our venture and investment capital has been drying up, the Federal Government entered into a new phase of regulation of the economy. These effects have been most evident in the environmental and safety areas and, according to the Council on Environmental Quality, private capital outlays for pollution abatement were $3.8 billion higher in 1975 than they would have been in the absence of the Federal requirements. Similar estimates of annual costs to business have been made for safety and health regulations, non-productive capital investment requirements exceeding 28 percent in many industries.

Many of these regulations protect and safeguard the consumer and worker and I have supported these when they were before Congress. The Federal Government must recognize the economic costs of these vast investments, however, and act to make sure that we do not lose our ability to generate a growing economy.

The effect of a capital shortage is also seen in our productivity rate, which, according to your 1978 Economic Report, has dropped from annual increases of about 2½ percent between 1950–1968 to about 1½ percent over the past decade. As you know so well, productivity and investment are closely related and when our productivity begins to sag, inflationary pressures are increased.

Government estimates of the costs of the Steiger-Hansen proposal have failed to take into account the economic changes that would spin off from the tax change. A model prepared by Data Resources, Inc. and based on the passage of the proposal, forecasts a startling increase of $100 billion in GNP between 1979 and 1983 (The firm's predictions show increases over the Treasury's own estimates). Investment itself would of course rise—by an estimated $46 billion—because the proposal encourages the realization of capital gains. The subsequent rise in the stock market will lower the cost of obtaining funds through equity financing, thus leaving more for actual investment.

DRI found the employment effects of this invigorated economic activity to be particularly encouraging: in 1982, 520,000 new jobs would be created over what the Treasury predicts for that year. Finally, and from our standpoint an important consideration, Federal revenues would actually increase. By

1983, revenues would have jumped by $12.3 billion.

This would undoubtedly be made up in part by increased revenues from the capital gains tax. As you know, these revenues fell precipitously in 1970, after the present tax was enacted, and have only just recovered their 1969 level, albeit in inflated dollars.

The experience of the company previously mentioned proves that this model is on the right track. Since 1969, they have helped 24 companies get started, with an initial investment of $80 million. The results of this investment are truly impressive. The 1978 sales of these 24 firms exceed $1 billion and their pre-tax profits stand at $152 million. These businesses contribute annually $75 million in taxes to the Federal Government alone. As of March, they employed 20,000 workers. All of this has been costly, however, as the investment required to create a new, permanent job is over $13,000. It was fortunate that Heizer obtained its initial capital prior to 1969. It would be virtually impossible to accumulate that type of investment capital today, due in large part to the confiscatory nature of our tax laws.

Those tax laws have turned many Americans away from investing and have penalized middle income families who sell their homes. According to the Treasury Department, the two largest items accounting for capital gains are stocks and bonds and the sale of residences. What is more, in 1976, 62 percent of total net capital gains were realized by taxpayers with less than $50,000 income. A revitalization of the stock market will benefit all investors, regardless of income.

Since the 1969 change in the treatment of capital gains, the number of stockholders has dropped steadily so that today many Americans do not hold the types of investments that will ultimately yield capital gains. In fact, the number of stockholders has dropped from 31 million in 1969 to 25 million today. Despite this decline, the overwhelming majority of stockholders are not what we would ordinarily consider wealthy. In 1975, nearly three-quarters of individual stockholders earned less than $25,000 a year. In the past decade, the number of institutional investors has increased dramatically to the point that they now account for over one-third of all stock investors. Although these are big investors, they often represent moderate income Americans in the form of pension and profit-sharing plans and stock option programs. These are the people who ultimately benefit from increased investments and we should be aware that Federal tax policy discriminates against them in the long-run.

The Council on Wage and Price Stability reported this spring that "inflation in the housing sector has been a persistent problem over the past few years and is unlikely to dissipate wholly in the near future." Rising housing prices and interest rates have put a strain on would-be homebuyers, but the present capital gains tax has put the bite on existing homeowners who may want to sell their home and move into a smaller house or apartment. The average price of an existing home has skyrocketed from just over $22,000 in 1968 to nearly $54,000 today. A family that bought ten years ago and sells their home today could realize tens of thousands in one-time capital gains, even if they were low or middle income. A simple change in tax policy will help these homeowners immensely.

You have properly focused the nation's attention in recent months on the problems of inflation. I support your efforts in this direction but feel that one of the strongest weapons we have against spiraling wages and prices is investment which leads to increases in our productivity. It lies at the heart of solving inflation and I feel the passage of this provision, together with other investment tax incentives like a reduction in the maximum corporate tax rate, a permanent investment tax credit, a full investment credit for pollution control facilities and a tax reduction for middle income taxpayers, is essential to the nation's economic health.

I would like to urge you again to give full consideration to supporting these important economic steps toward a sound economy. I look forward to working with you and your economic advisors in this program that can improve the economic well-being of every American in a relatively short time.

Sincerely,

CHARLES H. PERCY,
U.S. Senator.

Mr. PERCY. Mr. President, I respectfully disagree with the statements made by the President at that time. The Senator from Illinois is delighted that the President has moderated those statements. The Senator from Illinois has been assured by no less a person than Bob Strauss that a reasonable capital gains reduction will be accepted by this administration in a bill signed by the President. That leaves open what is reasonable, but I say it is reasonable for us to go back to a proven case and at least reduce it to 25 percent, when the revenue to the Federal Government was higher than it is today, at 49.1 percent. This is a self-defeating type of thing, because capital and investment will gravitate away.

Mr. President, I thank the Senator from Oregon for yielding to the Senator from Illinois. I again commend him on the perception of his comments and the critical analysis he has made, which have helped clarify this matter greatly.

Mr. PACKWOOD. I thank my distinguished colleague. I look forward to his help and voice as we debate some of these provisions.

Mr. President, it is my intention, in a few moments, to offer an amendment to this bill. The amendment will relate to tuition tax credits for college attendance. I emphasize "college." While my preference would have been to include primary and secondary schools, we have had that battle in the Senate, and we have had that battle in the conference committee with the House on the issue, and those of us who wanted primary and secondary credits have lost for this session.

However, I will be offering the college credits as they were adopted by the conference committee of the House and the Senate on this subject. I will offer them to this bill for this reason: The President has indicated that he may veto the college tax credit bill that now has been agreed upon by the House and the Senate. I do not know whether there are the votes to override the President's veto on that bill.

Therefore, to protect ourselves, for those of us who support college tax credits, I want to add it to this tax bill, fully realizing that if the other bill is vetoed and the veto is sustained, these provisions will not be operative in this bill. But if by chance the other bill is vetoed and that veto is sustained, then the college tax credits, which Congress agreed to, will be in this tax bill and again will be presented to the President in a bill which I hope he will sign; and if he vetoes that bill, I hope we will override the veto.

Mr. President, there are few things more difficult today for the middle-income taxpayer than to try to send a child to college.

Some of us can remember when college tuition at a public university was free or $30 or $60 or $90 a term and living costs were no more than $1,200 to $1,500 a year. With luck, and working during the summer and perhaps working 15 hours a week during school, and with some help from our parents, we could get ourselves through college. That was at a public university. It was a bit more difficult at a private university.

Today, however, with college costs at the prestige private universities approaching $10,000 a year for room and board and tuition and incidentals, and even at public universities approaching $4,500 to $5,500 to $6,000, by the time you count all costs, it is almost impossible for a family to be able to put one child, let alone two or three children, through college, even with the help of basic educational opportunity grants and other forms of Federal aid, even with the student working 30 or 40 hours a week in summers.

The amendment that I will offer is a modest amendment. The conferees felt that with the budget restraints we are faced with we could not in good conscience give to the middle-income taxpayers of this country as large a tax credit as we would like. What the tax credit provides as agreed by the House and Senate conferees is a 35-percent tax credit for tuition paid up to $100 this year, $150 in 1980, and $250 in 1981. It will apply to full-time students until 1980 and then full-time and part-time students after 1980. It is a very simple amendment. It is very uncomplicated. You pay some tuition for yourself or for your children; you take 35 percent of that tuition up to the maximum allowable and simply take it off your income tax.

If you are entitled to take a $250 credit and you owe $1,000 tax, you pay $750. It adds one line to the tax, and all anyone has to do is to be able to subtract and divide to get the credit.

I realize that the administration is opposed to this. They prefer their grant program. Their grant program comes with a 12-page instructional booklet that for all I can tell very clearly resembles the income tax forms that we have to fill out. I defy anyone in this Chamber, anyone who is reading this RECORD to accurately fill out that form the first time. I do not care if you are a certified public accountant, a lawyer, or a Ph. D. in mathematics. That form cannot be comprehended by a person of rational intelligence upon first reading.

I assume that that form is not unique to the Federal Government. That form even goes to the extent of explaining what a spouse is in terms of who provides your support and what a parent is and concludes by saying in no event can your spouse be regarded as your parent.

Now most of us would intelligently

maybe come to that conclusion, but it takes at least three to four column inches of that form to explain them. If you are a student using that form you have to know what your parents net worth is, what the value of their house is, what their assets are, what they paid for the house, how much they owe on it, and what other income they have.

It is a very snoopy form. It has other complicated questions. And then in its charitable way when you get down to the end of it there is a box that says if by chance you made a mistake on this form, deliberately lied, you are subject to a $10,000 fine or a year in jail, or both.

That is the Department of Health, Education, and Welfare's idea of simplicity.

Their real argument, Mr. President, is not simplicity. The Department of Health, Education, and Welfare does not like the tuition tax credit approach where individual taxpayers simply decide where they want to go to college or send their child to college and take part of the cost off the income tax. They do not like that system because they do not have control of it.

The nice thing about a Federal grant is first, as far as HEW is concerned, we can tax the money out of the taxpayers, bring it to Washington, D.C., transfer it from the Internal Revenue Service to the Treasury Department, run it through the congressional appropriations process, give it to the Department of Health, Education, and Welfare, and they will give it back to the student if you fill out the form properly and filling out the form properly means filling it out and meeting all of the standards, regulations, and guidelines of the Department of Health, Education, and Welfare; and via that method, that is the way we can control educational policy in this country.

What happens if we start down the road of tuition tax credits instead of the appropriations process? What happens is decisions are made in Poughkeepsie, Peoria, and Portland. The money never comes to Washington, D.C. Money goes from you to the college and you take part of it off your income tax.

That might have the result in a dimunition of employment in the Department of Health, Education, and Welfare which, of course, we all understand would be a disaster for this country. It might result in the inability of the Department of Health, Education, and Welfare to determine the kinds of grants and the income levels of the students that will receive this.

Mr. President, as I say, this amendment is simple. I have simply adopted exactly the wording of the conference report, appended it to the amendment that I will hand in, and ask that it be added to this bill.

There is room for it in the budget. The Senator from Delaware has fought and fought and fought and fought for this subject. He was the first person to offer this amendment years ago. He has made sure that there is room in this budget this year for this amendment.

So, let us not hear any argument about budget-busting. It has been provided for.

The cost is relatively slight and the benefits for the middle-income taxpayer are very great.

Mr. President, I commend once more the Senator from Delaware for the leadership he has taken in this matter. I remember when he first offered this amendment. I see the Senator in the Chamber.

How many years ago was it that he offered this amendment?

Mr. ROTH. I can tell the distinguished Senator from Oregon, that is so long ago that I am not sure what the year was, but it was around 1972 or 1973.

Mr. PACKWOOD. I remember when he offered it, a number of people scoffed at it and said it would never pass. It finally passed the Senate and the House of Representatives turned it down, and subsequently it passed the Senate in another year and the House of Representatives turned it down, and it passed another year and the House of Representatives turned it down.

Last year the Senator from Delaware almost got this amendment appended to the social security bill, and finally the House of Representatives was no longer able to say that this year we will not consider it because each year as the Senator from Delaware would offer his amendment, the House of Representatives would say, "We have not had a chance to consider it," or "We have not had time to look at it." That excuse is gone.

Now we are ready to offer it.

I will yield for a moment to the Senator from Louisiana if the Senator has a unanimous-consent request.

Mr. LONG. Mr. President, I ask unanimous consent that Mr. John Steen and Miss Karen Stall be accorded the privilege of the floor during consideration of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LONG. Mr. President, I wanted to make a procedural request but at the moment it has not been cleared with the Senator from Massachusetts so I will withhold it at this point.

Mr. PACKWOOD. In that case, Mr. President, I shall offer my amendment.

UP AMENDMENT NO. 1991

(Purpose: To add college tuition tax credits to H.R. 13511)

Mr. PACKWOOD. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Oregon (Mr. PACKWOOD) for himself, and Mr. ROTH, Mr. RIBICOFF, and Mr. MOYNIHAN, proposes an unprinted amendment numbered 1991.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of Title I of the Committee Amendment, add the following:

SEC. 1. CREDIT FOR CERTAIN TUITION.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1954 (relating to credits allowable) is amended by inserting before section 45 the following new section:

"SEC. 44C. CERTAIN TUITION.

"(a) GENERAL RULE.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 35 percent of the tuition paid by him for the calendar year in which such taxable year begins to one or more eligible educational institutions for himself, his spouse, or any of his dependents (as defined in section 152).

"(b) MAXIMUM DOLLAR AMOUNT.—The maximum dollar amount allowable as a credit under subsection (a) with respect to tuition for any individual shall not exceed the applicable amount determined under the following table:

"Calendar year:	Applicable amount:
1978	$100
1979	150
1980 or 1981	250

"(c) APPLICATION WITH OTHER CREDITS.—The credit allowed by subsection (a) shall not exceed the tax imposed by this chapter for the taxable year, reduced by the sum of the credits allowable under a section of this subpart having a lower number or letter designation than this section, other than the credits allowable by sections 31, 39, and 43.

"(d) PAYMENTS TAKEN INTO ACCOUNT.—

"(1) WHEN PAYMENTS MUST BE MADE AND EDUCATION FURNISHED.—Payments shall be treated as paid for any calendar year—

"(A) FOR 1978.—In the case of calendar 1978, only if such payments—

"(i) are made on or after August 1, 1978, and before February 1, 1979, and

"(ii) are for education furnished on or after August 1, 1978, and before January 1, 1979, or

"(B) FOR 1978 OR THEREAFTER.—In the case of any calendar year after 1978, only if such payments—

"(i) are made during such calendar year or during the 1-month period before or the 1-month period after such year, and

"(ii) are for education furnished during such calendar year.

"(2) TUITION MUST BE FOR GENERAL COURSE OF INSTRUCTION.—

"(A) IN GENERAL.—Tuition attributable to a course of instruction which is not a general course of instruction shall not be taken into account under subsection (a).

"(B) GENERAL COURSE OF INSTRUCTION DEFINED.—For purposes of subparagraph (A), the term 'general course of instruction' means a course of instruction for which credit is allowable toward—

"(i) a baccalaureate or associate degree by an institution of higher education, or

"(ii) a certificate of required course work at a vacational school,

but does not include any course of instruction which is part of the graduate program of the individual.

"(3) INDIVIDUAL MUST BE FULL-TIME STUDENT OR (FOR CALENDAR YEARS AFTER 1978) A QUALIFIED HALF-TIME STUDENT.—

"(A) IN GENERAL.—Amounts paid for the education of an individual shall be taken into account under subsection (a)—

"(i) for calendar year 1978 or 1979, only if such individual is a full-time student for such calendar year, or

"(ii) for any calendar year after 1979, only if such individual is a full-time student or a qualified half-time student for such calendar year.

"(B) FULL-TIME AND QUALIFIED HALF-TIME STUDENT DEFINED.—For purposes of this section—

"(i) The term 'full-time student' means any individual who, during any 4 calendar months during the calendar year, is a full-time student at an eligible educational institution.

"(ii) The term 'qualified half-time student' means any individual who, during any 4 calendar months during the calendar year, is a half-time student (determined in accordance with regulations prescribed by the Secretary) at an eligible educational institution. Regulations prescribed for purposes of the preceding sentence with respect to the determination of whether an individual is a half-time student shall not be inconsistent with regulations prescribed by the Commissioner of Education under section 411(a)(2)(A)(ii) of the Higher Education Act of 1965 for purposes of part A of title IV of such Act.

"(e) TUITION DEFINED.—

"(1) IN GENERAL.—For purposes of this section, the term 'tuition' means tuition and fees required for the enrollment or attendance of a student at an eligible educational institution, including required fees for courses.

"(2) CERTAIN AMOUNTS NOT INCLUDED.—The term 'tuition' does not include any amount paid, directly or indirectly, for—

"(A) books, supplies, or equipment for courses of instruction, or

"(B) meals, lodging, transportation, or similar personal, living, or family expenses.

"(3) AMOUNTS NOT SEPARATELY STATED.—If an amount paid for tuition includes an amount for any item described in subparagraph (A) or (B) of paragraph (2) which is not separately stated, the portion of such amount which is attributable to such item shall be determined under regulations prescribed by the Secretary.

"(f) ELIGIBLE EDUCATIONAL INSTITUTION.—For purposes of this section—

"(1) ELIGIBLE EDUCATIONAL INSTITUTION.—The term 'eligible educational institution' means—

"(A) an institution of higher education, or

"(B) a postsecondary vocational school.

"(2) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' means an institution described in section 1201(a) or 491(b) of the Higher Education Act of 1965 (as in effect on January 1, 1978).

"(3) POSTSECONDARY VOCATIONAL SCHOOL.—The term 'postsecondary vocational school' means—

"(B) the taxpayer files a joint return with his spouse under section 6013 for such taxable year.

"(h) DISALLOWANCE OF CREDITED EXPENSES AS CREDIT OR DEDUCTION.—No deduction or credit shall be allowed under any other section of this chapter for any amount paid for tuition for any individual except to the extent that such amount exceeds the amount necessary for the allowance of the maximum amount which may be allowed under this section for tuition for such individual for the taxable year. The preceding sentence shall not apply to any amount paid for tuition by any taxpayer who, under regulations prescribed by the Secretary, elects not to apply the provisions of this section with respect to such tuition for the taxable year.

"(i) TERMINATION.—No credit shall be allowed under this section for education furnished after December 31, 1981."

(b) LIMITATION ON EXAMINATION OF BOOKS AND RECORDS.—Section 7605 of such Code (relating to time and place of examination) is amended by adding at the end thereof the following new subsection:

"(d) EXAMINATION OF BOOKS AND RECORDS OF CHURCH-CONTROLLED SCHOOLS.—Nothing in section 44C (relating to credit for tuition) shall be construed to grant additional authority to examine the books of account, or the activities, of any school which is operated, supervised, or controlled by or in connection with a church or convention or association of churches (or the examination of the books of account or religious activities of such church or convention or association of churches) except to the extent necessary to determine whether the school is an eligible educational institution within the meaning of section 44C(f)(1)."

(c) TAX CREDIT NOT TO BE CONSIDERED AS FEDERAL ASSISTANCE TO INSTITUTION.—Any educational institution which enrolls a student for whom a tax credit is claimed under this Act shall not be considered to be a recipient of Federal assistance under this Act.

"(A) an area vocational education school as defined in subparagraph (C) or (D) of section 195(2) of the Vocational Education Act of 1963 (as in effect on January 1, 1978), which

"(B) is located in any State.

"(4) MARITAL STATUS.—The determination of marital status shall be made under section 143.

"(g) SPECIAL RULES.—

"(1) TREATMENT OF CERTAIN SCHOLARSHIPS AND VETERANS' BENEFITS.—

"(A) OFFSET AGAINST TUITION DOLLAR FOR DOLLAR.—For purposes of this section, any amount received as a nontaxable scholarship or educational assistance allowance for any period shall be treated—

"(i) as used for tuition attributable to such period, and

"(ii) as tuition not paid by the taxpayer.

"(B) NONTAXABLE SCHOLARSHIP OR EDUCATIONAL ASSISTANCE ALLOWANCE DEFINED.—For purposes of subparagraph (A), the term 'nontaxable scholarship or educational assistance allowance' means—

"(i) a scholarship or fellowship grant (within the meaning of section 117(a)(1)) or similar award which is not includible in gross income, and

"(ii) an educational assistance allowance under chapter 32, 34, or 35 of title 38, United States Code.

"(2) TAXPAYER WHO IS A DEPENDENT OF ANOTHER TAXPAYER.—No credit shall be allowed to a taxpayer under subsection (a) for amounts paid for any calendar year for tuition for the taxpayer if such taxpayer is a dependent of any other person for a taxable year beginning in the calendar year in which the taxable year of the taxpayer begins.

"(3) SPOUSE.—No credit shall be allowed under subsection (a) for amounts paid for any calendar year for tuition for the spouse of the taxpayer unless—

"(A) the taxpayer is entitled to an exemption for his spouse under section 151(b) for the taxable year beginning in such calendar year, or

(d) EXPEDITED REVIEW OF CONSTITUTIONALITY OF TUITION CREDIT.—

(1) CERTIFICATION OF QUESTIONS OF CONSTITUTIONALITY.—In any action brought in a district court of the United States, including an action for declaratory judgment or injunctive relief, concerning the constitutionality of any provision of section 44C of the Internal Revenue Code of 1954 (relating to credit for certain tuition) or any other provision of such Code relating to such section, the district court shall certify immediately all questions of constitutionality of such provision to the United States Court of Appeals for the circuit involved, which shall hear the matter sitting en banc.

(2) APPEAL TO SUPREME COURT.—Notwithstanding any other provisions of law, any decision on a matter certified under paragraph (1) shall be reviewable by appeal directly to the Supreme Court of the United States. Such appeal shall be brought no later than 20 days after the decision of the Court of Appeals.

(3) EXPEDITED CONSIDERATION.—It shall be the duty of the Court of Appeals and of the Supreme Court of the United States to advance on the docket and to expedite to the greatest possible extent the disposition of any matter certified under paragraph (1).

(4) SEPARABILITY.—If any provision of section 44C of the Internal Revenue Code of 1954 (or any other provision of such Code relating to such action), or the application thereof to any person or circumstances, is held invalid, the remainder of such provisions, and the application of such provisions to other persons or circumstances, shall not be affected.

(e) DISREGARD OF REDUCTION OF TAX LIABILITY.—Any reduction in the income tax liability of any individual by reason of section 44C of the Internal Revenue Code of 1954 (relating to credit for certain tuition) shall not be taken into account for purposes of determining the eligibility of such individual or any other individual for benefits or assistance, or the amount or extent of benefits or assistance, under any Federal program of educational assistance or under any State or local program of educational assistance financed in whole or in part with Federal funds.

(f) CONFORMING AMENDMENTS.—

(1) The table of sections for subpart A of part IV of subchapter A of chapter 1 of such Code is amended by inserting immediately before the item relating to section 45 of the following:

"Sec. 44C. Certain tuition."

(2) Subsection (c) of section 56 of such Code (defining regular tax deduction) is amended by striking out "credits allowable under—" and all that follows and inserting in lieu thereof "credits allowable under subpart A of part IV other than under sections 31, 39, and 43."

(3) Subsection (b) of section 6096 of such Code (relating to designation of income tax payment to Presidential Election Campaign Fund) is amended by striking out "and 44B" and inserting in lieu thereof "44B, and 44C".

Sec. 1. Effective date.

The amendments made by section 2 of this Act shall apply to taxable years ending on or after August 1, 1978, with respect to amounts paid on or after such date for education furnished on or after such date.

Mr. PACKWOOD. Mr. President, this amendment is offered on behalf of myself, Senator ROTH, Senator RIBICOFF, and Senator MOYNIHAN. It is the tuition tax credit about which I have been speaking. I think nothing more needs to be said about it.

I yield the floor.

Mr. ROTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. ROTH. Mr. President, first of all, I thank the distinguished Senator from Oregon for offering this amendment.

I think this proposal is one of the most significant advances that is being made in the current session of Congress, and I want to express my appreciation for the leadership he has shown in this area.

Mr. President, we have been fighting for years for the adoption of the tuition tax credit. I think it is a change of policy that is of utmost importance to the working people of America.

I am pleased to say that I think the conference committee which met last week has produced a tuition tax credit bill that the President can and should sign into law. The conference report on the Tuition Tax Relief Act provides tax credits to help offset the rising costs of a college education.

Many deserving young men and women are losing the opportunity to at-

tend college because of the increasing costs of both public and private schools.

As my distinguished colleague, the Senator from Oregon (Mr. PACKWOOD), pointed out, the increased costs are skyrocketing.

In the case of some of your prestigious private schools a year's education is costing as much as $10,000. Medical schools are even higher.

What that means is that for many families it is either impossible for their children to attend those schools or they almost have to go into bankruptcy to make the American dream for their family possible.

I must confess that the conference report has cut down the aid considerably because of budgetary restraints. I regret that that was necessary, because it does limit the advantage of this approach. It does mean it will not help as many students as I had hoped. But, nevertheless, it is an important fact that we are establishing a new principle with this legislation.

The bill provides a tax credit of 35 percent of tuition and fees for students in universities, colleges, junior and community colleges, and post-secondary and vocational schools.

For the first year the maximum credit is $100—that is for this year of 1978; $150 in 1979, and $250 in 1980 and 1981.

The tax credit would apply to students attending less than full time in 1980 but they must at least be attending college or post-secondary and vocational schools one-half of the time to be eligible for the credit.

The conference report is a modified version of the tuition tax credit bills that were passed by both the House and the Senate. As I say, the modifications do substantially reduce the overall cost of the bill, so that should answer critics who have raised the problem of budget restraints.

According to the Joint Committee on Taxation estimates the fiscal 1979 cost of this bill is only $330 million, which is considerably less than the administration's grant and loan program. When fully effective in fiscal 1981 the tuition tax credit will cost $968 million, also considerably less than the $1.2 billion cost of the President's program.

Mr. President, there are significant differences between the administration's proposal and the tuition tax credit, which is a bipartisan effort, Senator RIBICOFF, Senator MOYNIHAN being the leaders on the Democratic side, and Senator PACKWOOD and myself on the Republican side.

The most significant difference is the fact that under the tuition tax credit none of the money will be eaten up in redtape or administration. The full cost will benefit the people we are trying to help, the young men and the young women who want to go to school. Statistics show that for every $100 of help 1 to 3 percent additional children will attend college, so we will be promoting the national goal and objective of having a well-educated citizenry.

In 1979, as I mentioned, the cost of the tuition tax credit will be $330 million. The cost will rise to $539 million in 1980, to $968 million in 1981, and fall to $845 million in 1982.

There is no truth to the claim that some opponents of this legislation make that it will primarily benefit the wealthy. According to the Joint Committee on Taxation, 80 percent of the benefits of tuition tax credits will go to families earning less than $30,000 a year. The bulk of the benefits will go to middle-income families earning between $10,000 and $30,000 a year.

Mr. President, the Senate has clearly and repeatedly expressed its will in favor of the Roth-Packwood-Moynihan-Ribicoff college tax credit. In August 1976 the Senate adopted my proposal for a $250 college tax credit as an amendment to the tax reform bill by a 68-to-20 vote. The House conferees refused to accept the tax credit as an amendment to the tax reform bill, and committee leaders gave their commitment to allow a House vote on a separate bill.

Subsequently, the Senate approved the college tax credit in September 1976 by a 62-to-21 vote. But once against the House refused to consider it.

Last year the Senate approved the tax credit by a 61-to-11 vote as an amendment to the social security bill. But once again the House refused to allow it to come to a vote.

I might add that the reason the House leadership in both years refused to allow this legislation to come to a vote was that they knew it would be overwhelmingly adopted, so they used parliamentary tactics and procedures as a means of avoiding the House working its will.

This year, however, the House, by a 237-to-158 vote approved a tuition tax credit for colleges and elementary and secondary schools, and the Senate approved a college tax credit by a vote of 65-to-27.

Like my distinguished colleagues from Oregon, I was distressed and deeply disappointed that the Senate did not approve the elementary and secondary tuition tax credit.

Mr. President, I believe there is an urgent need for the adoption of tuition tax credits. Increasing costs, higher prices, and the growing tax burden are making it more and more difficult for students to attend college.

There is no doubt in my mind that a growing number of young Americans are being prevented from obtaining a college education because of the increasing costs.

As I said earlier, in the past few years the cost of a college education has skyrocketed. According to the Congressional Budget Office total annual college costs increased approximately 75 percent between 1967 and 1976. However, tuition and required fees, the only expenses which will be eligible for the tuition tax credit, have increased at a much faster rate.

According to the National Center for Educational Statistics, the average tuition and fees at a private university increased 93 percent between 1967 and 1976, from $1,297 to $2,505. For a public university, tuition and fees also increased 93 percent during the same 10-year period, from $283 to $549.

These tuition costs will continue to increase. According to the College Entrance Examination Board, the average annual total cost of a private university for the upcoming school year will be $5,110. For a public university, the average annual cost will be $3,054 for the 1978–79 school year. For a student entering college this fall, the total 4-year cost will be an estimated $17,500 for a public university and $30,000 for a private college. And if a parent has a 1-year-old child today, it has been estimated that it will cost $47,000 to send the child to a public university and $82,000 for a private university in the 1990's.

The administration and the Congressional Budget Office have argued that a tuition tax credit is not necessary because total college costs have not risen as fast as median income. According to a recent CBO report, total college costs increased 75 percent and median family income increased 78 percent between 1967 and 1976. The administration has seized upon these figures as "proof" that the average family is no worse off today than it was 10 years ago.

But the administration and CBO are totally ignoring an extremely important fact—that the tax burden on the average family has increased substantially during this same period and middle-income families have less disposable income to spend on a college education for their children.

According to a study by the Library of Congress' Congressional Research Service, the tax burden on median income families with college age children increased 135.4 percent between 1967 and 1976, as the following chart shows:

AVERAGE TAXES AND MEDIAN INCOME, 1967 AND 1976

	Median income	Federal income tax	Social security tax	Average State and local taxes	Total taxes	After tax income
1967	7,923	684	290	404	1,378	6,545
1976	14,164	1,395	829	1,020	3,244	10,920
Percent change from 1967 to 1976	78.8	103.9	185.9	152.5	135.4	66.8

As this study shows, the after-tax income of median income families increased only 66.8 percent, and did not keep pace with the 75 percent increase in total college costs or the 93 percent increase in tuition and fees.

These figures clearly show the Federal Government is taking more money away from the average families of this country through higher taxes and inflation. The tuition tax credit is designed to reduce the average tax burden and allow taxpayers to keep more of their own money to spend on a college education for their children.

These increasing costs have had a considerable impact on the ability of middle-income students to attend college. According to Census Bureau figures, the enrollment rate of middle-income students has declined in the last 10 years. In fact, while the enrollment rate at the lowest income level has increased slightly, the enrollment rates of all other income levels have declined in the last 10 years.

I ask unanimous consent that a table showing the college enrollment rates be printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

COLLEGE ENROLLMENT RATES

[In percent]

Income	1967	1976	Rate change	Percentage change
0 to $5,000 (constant dollars), 0 to $8,500 (current dollars)	20.0	22.4	+2.4	+12
$5,000 to $10,000 (constant dollars), $8,500 to $17,000 (current dollars)	37.9	36.3	−1.6	−4
$10,000 to $15,000 (constant dollars), $17,000 to $25,500 (current dollars)	51.9	47.5	−4.4	−8
$15,000 plus (constant dollars), $25,000 plus (current dollars)	68.3	58.2	−10.1	−15

Source: Bureau of the Census, "Current Population Reports," Series P-20, No. 319, issued February 1978.

Mr. ROTH. Mr. President, there are millions of families today who are neither affluent enough to afford the high cost of college nor considered poor enough to qualify for the many different Government assistance programs their taxes make possible.

As I said, we are rapidly approaching a situation in this country where only the very affluent and the very poor will be able to attend college. The group in the middle—the very taxed— will be unable to afford it.

Mr. President, a tuition tax credit is the simplest and most equitable way to provide middle-income families relief from mounting college costs. A tuition tax credit will allow people to keep more of their own hard-earned money rather than send it to Washington. With a tuition tax credit, there is no administrative overhead, no forms to fill out, and no need to beg, plead poverty, or apply to the bureaucrat on the banks of the Potomac.

Working Americans, caught in the middle, do not want a Government handout. They merely want to keep more of what they earn to spend on something as basic as the right to send their own children to college.

Mr. President, the tuition tax credit is simple, direct, and easy to administer. And it is far more preferable than the administration's grant and loan program, which would only add more redtape and more problems to programs which HEW cannot even administer now.

I was shocked when I read the statement by the Secretary of HEW when he made the claim—a foolish claim, in my judgment—that this college tax credit will require a new bureaucracy. Nothing could be further from the truth. All it requires is an additional line on the income tax return. It will require no additional help, or very little if any, in the IRS; and in contrast to the college grant program, it will not require the college itself to add considerable staff to review, check, and administer the college grant program, as is now the case with the programs on the books.

During our Finance Committee hearings, Mr. President, I was impressed by a youngster from Michigan State who testified to the problem that he and his fellow students were having at Michigan State in getting help under existing programs. He mentioned the high cost to the college itself of hiring men and women to administer the program, the problems they were having in getting the forms and applications processed, and in many cases the assistance coming late in the school year.

In contrast to the claims of the Secretary of HEW, we will not be creating a new bureaucracy, but we will be creating a vehicle whereby working Americans, working parents, will be able to keep more of their own funds without baring their personal financial information—a matter which is deeply distressing to many Americans.

According to HEW Secretary Califano, 40 percent of the basic educational opportunity grant applications for the 1978–79 academic year have been rejected because they are incomplete or contain errors.

A Congressional Budget Office study said an expanded grant program "would involve a greater administrative burden" than the tuition tax credit.

This is directly contrary to the recent statement of Mr. Califano.

A recent HEW study of the existing student aid program found they were plagued with "managerial problems which have contributed to inefficiencies, inequities, abuse, and fraud." And the president of Syracuse University testified before the Senate Finance Committee that the existing student aid programs "are bewildering to potential applicants, have defied the ability of bureaucracies to administer them, and have resulted in a labyrinth of disconnected, overlapping, and uncoordinated parts."

The existing student loan program is in complete disarray. One out of every six loan recipients defaulted on their loans, including 316 in HEW and 6,783 Federal employees in all.

Mr. President, the college tax credit complements, not complicates, the existing student aid program. More importantly, the tuition tax credit establishes a precedent allowing taxpayers freedom of choice with their own dollars.

This is another step toward allowing the American people to keep more of their own hard-earned dollars to do with as they wish.

It all boils down to who working Americans' money belongs to—the Federal Government or the wage and salary earner.

The HEW Secretary believes the Federal Government has first claim on all workers' dollars. In his opposition to tuition tax credits, Mr. Califano appears to be fighting to save his empire. I hope President Carter sees through his rhetoric and signs this bill to provide relief to the hard-pressed taxpayers struggling to send their children to college.

As the distinguished Senator from Oregon pointed out, we are offering this amendment to the tax cut bill because we feel that it is important this legislation becomes law this year. Hopefully, the House and Senate will act timely on the conference report and the President will sign it. We want to make certain that this significant new step is not subject to a pocket veto. For that reason, we are offering it as an amendment to the tax cut.

Mr. President, Mr. Califano is apparently opposed to allowing people freedom of choice with their own tax dollar. I fear what he has been saying to the President is that the Federal Government has first claim on all the wage and salary dollars. In my judgment, he does not let facts or logic stand in his way in his attack on college tuition tax credit. Very frankly, the Califano approach of expanded loans and grants will lead to expanded fraud, redtape, and inefficiency.

The present system, as I have pointed out, is in severe disarray, fraud ridden, cumbersome, and costly. How Mr. Califano can say with a straight face that one line on the IRS form would increase the bureaucracy to handle paperwork is unbelievable.

The system he advocates is to expand a paperwork nightmare. It includes a 12-page form which, by his own admission, was filled out incorrectly by 40 percent of the students seeking tuition aid last semester. Currently, one out of six student loans are in default. Califano is apparently saying to bewilder is better, but we say to simplify is saner.

For every tuition increase of $250, colleges will lose up to 7.5 percent of their enrollment. This is a strong incentive for schools not to do so. Conversely, for every $100 decrease in college tuitions, a gain of up to 3-percent enrollment is realized. So I do not buy Mr. Califano's argument that universities will unquestionably raise their tuition. Instead, Mr. Califano appears to be fighting to save his empire.

As I say, I hope the President sees through his rhetoric and gives relief to the hard-pressed taxpayers struggling to educate their children.

Mr. President, I feel that we have an opportunity during the discussion of this tax legislation to move this Nation in a

new direction. I think it is important that the Congress, the Senate in particular, takes steps to get the country moving again, to get the economy growing without inflation, to restore once again hope and confidence to the working people.

I am very concerned that the tax legislation before us, which does have many beneficial things in it, forgets middle America. It contains proposals that are going to be of great help, great assistance, to those with incomes of $10,000 and less, and it also has proposals such as the capital gains proposal that will help particularly the affluent.

I do think that one of the most pressing needs of America is capital formation; that we have to modernize our industries; that we have to replace our obsolete plants with the most up-to-date modern technology, if we are going to be in a position to compete with our tough competitors in Western Europe in particular, and in Japan.

So I have been a supporter of these changes which help those on the low end of the economic scale and the other changes because I think it will move the economy in the right direction.

But I feel very strongly that we cannot adopt legislation that ignores the great middle class, the working people of this country. They are the ones that not only pay most of the taxes but who are doing the work providing the highest standard of living in the world. For that reason, I feel that it is very important, Mr. President, that this Congress commits itself to a new direction. I think the only way we can really get this country moving again is to enact substantial across-the-board tax rate reductions.

(Mr. BUMPERS assumed the chair.)

Mr. ROTH. It was something like 15 years ago that the late President Jack Kennedy said in a stirring message to the Congress that there were two roads to prosperity, that the Government could either increase its level of spending or the Government could reduce the tax burden on the American people and give the private economy a chance to grow and to expand.

Well, the President picked the tax reduction road, the Congress supported him, and the country experienced 5 years of unprecedented economic growth, high levels of employment, and low levels of inflation.

Unfortunately, because of the actions of this Congress the last 10 years, we have tried to spend our way to prosperity. We have seen the Federal budget grow by leaps and bounds. Roughly 5 years ago, it was $250 billion. Today, it is $500 billion and is projected to grow as high as $750 billion in the next 5 years. The result of these higher taxes and bigger budget deficits has been inflation or stagflation. I, for one, believe it is time that we tried a new economics based on lower tax rates, more meaningful jobs in the private sector for the working and for the poor. I think it is of greatest importance that we have real income growth without inflation.

So, Mr. President, I intend to offer, in a few minutes, an amendment to provide an across-the-board tax cut. Prior to doing so, I should like to point out how the current taxes are such a drag on the working people of America.

Mr. President, I have brought in a chart which is now at the rear of the Chamber, which I hope the Members of the Senate will study carefully as we proceed with the consideration of the tax legislation.

Mr. President, I think it is shocking what has happened to the average family of four, from the standpoint of inflation and the standpoint of Federal taxes. Today, in 1978, as the chart points out, a family of four earning $10,000 has only the purchasing power that a family of four had in 1965 when it had an income of $4,250. In other words, if a family of four earned roughly $4,000 in 1965, they have to earn $10,000 today—that is roughly 2½ times as much—to buy the same food, the same clothing, and the same shelter. At the same time, this wage earner has seen Federal taxes jump from $353 in 1965 to $1,051 in 1978. That is almost three times as much. The social security tax, for example, has gone up from $187 to $605. Inflation has increased his Federal income taxes from $166 to $446.

The sad part of the story, Mr. President, is that the worst does not appear to be behind us but ahead of us. According to figures that we have received from CBO, based on the administration's estimated inflation, the same man or woman, this same family of four, who currently earn $10,000, will have to earn $14,000 by 1983 to maintain the same standard of living. That is a jump of $4,000, or 40 percent higher than what he now secures.

I can say, from talking to men and women in my State of Delaware, that many of them are not optimistic that their employers, whether they be large or small, will be able to grant them cost-of-living increases that will keep them current with their standard of living. But even for those who are successful in getting those cost-of-living increases, they, too, will be facing a downward standard of living because of the impact of the high tax burden.

This same family of four, who currently is paying total Federal taxes—these are averages, of course—of roughly $1,051, will be paying $2,126 by 1983. That is roughly a doubling of the tax burden. In other words, the man or woman who pays $1,000 on $10,000 today will be paying $2,000 on $14,000 earnings and, of course, because of inflation, he or she will have to find ways and means of cutting corners or face, in all candor, a downward standard of living.

The same fact, Mr. President, is true of the family of four who earns $20,000 or $30,000. The family of four who earns $20,000 today only had to earn $8,500 13 years ago, in 1965. That family has seen its total Federal tax jump from $1,054 to $3,251. No wonder there is a tax revolt abroad in America.

Federal employees are relatively lucky, because, at least, we have granted cost-of-living increases so they have suffered no loss in their standard of living. But they, too, as the people in the private sector, are facing a great jump in their tax rate.

In 1965, the family who earned $8,500 was only paying 12.4 percent of its income in Federal taxes. Of course, that does not bring into consideration at all what has happened at the State and local levels. But that average tax rate of 12.4 percent has jumped, Mr. President, to 16.2 percent in 1978.

If you look down the road to what is going to happen to the same family in 1983, the lucky family who maintains cost-of-living increases will then have to earn $28,000.

But on that $28,000, it will be paying a total of $5,688 in taxes.

Mr. President, I ask unanimous consent that I may yield the floor to the Senator from Oregon without losing my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PACKWOOD. Mr. President, is the pending business the amendment on tuition tax credits that I offered?

The PRESIDING OFFICER. The pending question is the amendment of the Senator from Oregon to the committee substitute.

Mr. PACKWOOD. Mr. President, I withdraw that amendment.

The PRESIDING OFFICER. The Senator has that right.

UP AMENDMENT NO. 1992

(Subsequently numbered amendment No. 3880)

(Purpose: To add college tuition tax credits to H.R. 13511)

Mr. PACKWOOD. Mr. President, I send to the desk another amendment.

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk read as follows:

The Senator from Oregon (Mr. PACKWOOD) proposes an unprinted amendment numbered 1992.

Mr. PACKWOOD. I ask unanimous consent that further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of Title I of the bill, add the following:

SEC.—CREDIT FOR CERTAIN TUITION.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1954 (relating to credits allowable) is amended by inserting before section 45 the following new section:

"SEC. 44C. CERTAIN TUITION.

"(a) GENERAL RULE.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 35 percent of the tuition paid by him for the calendar year in which such taxable year begins to one or more eligible educational institutions for himself, his spouse, or any of his dependents (as defined in section 152).

"(b) MAXIMUM DOLLAR AMOUNT.—The maximum dollar amount allowable as a credit under subsection (a) with respect to tuition for any individual shall not exceed the applicable amount determined under the following table:

"Calendar year:	*Applicable amount:*
1978	$100
1979	150
1980 or 1981	250

"(c) APPLICATION WITH OTHER CREDITS.—The credit allowed by subsection (a) shall not exceed the tax imposed by this chapter for the taxable year, reduced by the sum of the credits alloweable under a section of this subpart having a lower number or letter designation than this section, other than the credits allowable by sections 31, 39, and 43.

"(d) PAYMENTS TAKEN INTO ACCOUNT.—

"(1) WHEN PAYMENTS MUST BE MADE AND EDUCATION FURNISHED.—Payments shall be treated as paid for any calendar year—

"(A) FOR 1978.—In the case of calendar 1978, only if such payments—

"(i) are made on or after August 1, 1978, and before February 1, 1979, and

"(ii) are for education furnished on or after August 1, 1978, and before January 1, 1979, or

"(B) FOR 1978 OR THEREAFTER.—In the case of any calendar year after 1978, only if such payments—

"(i) are made during such calendar year or during the 1-month period before or the 1-month period after such year, and

"(ii) are for education furnished during such calendar year.

"(2) TUITION MUST BE FOR GENERAL COURSE OF INSTRUCTION.—

"(A) IN GENERAL.—Tuition attributable to a course of instruction which is not a general course of instruction shall not be taken into account under subsection (a).

"(B) GENERAL COURSE OF INSTRUCTION DEFINED.—For purposes of subparagraph (A), the term 'general course of instruction' means a course of instruction for which credit is allowable toward—

"(i) a baccalaureate or associate degree by an institution of higher education, or

"(ii) a certificate of required course work at a vocational school,

but does not include any course of instruction which is part of the graduate program of the individual.

"(3) INDIVIDUAL MUST BE FULL-TIME STUDENT OR (FOR CALENDAR YEARS AFTER 1979) A QUALIFIED HALF-TIME STUDENT.—

"(A) IN GENERAL.—Amounts paid for the education of an individual shall be taken into account under subsection (a)—

"(i) for calendar year 1978 or 1979, only if such individual is a full-time student for such calendar year, or

"(ii) for any calendar year after 1979, only if such individual is a full-time student or a qualified half-time student for such calendar year.

"(B) FULL-TIME AND QUALIFIED HALF-TIME STUDENT DEFINED.—For purposes of this section—

"(i) The term "full-time student' means any individual who, during any 4 calendar months during the calendar year, is a full-time student at an eligible educational institution.

"(ii) The term 'qualified half-time student' means any individual who, during any 4 calendar months during the calendar year, is a half-time student (determined in accordance with regulations prescribed by the Secretary) at an eligible educational institution. Regulations prescribed for purposes of the preceding sentence with respect to the determination of whether an individual is a half-time student shall not be inconsistent with regulations prescribed by the Commissioner of Education under section 411(a)(2)(A)(ii) of the Higher Education Act of 1965 for purposes of part A of title IV of such Act.

"(e) TUITION DEFINED.—

"(1) IN GENERAL.—For purposes of this section, the term 'tuition' means tuition and fees required for the enrollment or attendance of a student at an eligible educational institution, including required fees for courses.

"(2) CERTAIN AMOUNTS NOT INCLUDED.—The term 'tuition' does not include any amount paid, directly or indirectly, for—

"(A) books, supplies, or equipment for courses of instruction, or

"(B) meals, lodging, transportation, or similar personal, living, or family expenses.

"(3) AMOUNTS NOT SEPARATELY STATED.—If an amount paid for tuition includes an amount for any item described in subparagraph (A) or (B) of paragraph (2) which is not separately stated, the portion of such amount which is attributable to such item shall be determined under regulations prescribed by the Secretary.

"(f) ELIGIBLE EDUCATIONAL INSTITUTION.—For purposes of this section—

"(1) ELIGIBLE EDUCATIONAL INSTITUTION.—The term 'eligible educational institution' means—

"(A) an institution of higher education, or

"(B) a postsecondary vocational school.

"(2) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' means an institution described in section 1201(a) or 491(b) of the Higher Education Act of 1965 (as in effect on January 1, 1978).

"(3) POSTSECONDARY VOCATIONAL SCHOOL.—The term 'postsecondary vocational school' means—

"(A) an area vocational education school as defined in subparagraph (C) or (D) of section 195(2) of the Vocational Education Act of 1963 (as in effect on January 1, 1978), which

"(B) is located in any State.

"(4) MARITAL STATUS.—The determination of martial status shall be made under section 143.

"(g) SPECIAL RULES.—

"(1) TREATMENT OF CERTAIN SCHOLARSHIPS AND VETERANS' BENEFITS.—

"(A) OFFSET AGAINST TUITION DOLLAR FOR DOLLAR.—For purposes of this section, any amount received as a nontaxable scholarship or educational assistance allowance for any period shall be treated—

"(i) as used for tuition attributable to such period, and

"(ii) as tuition not paid by the taxpayer.

"(B) NONTAXABLE SCHOLARSHIP OR EDUCATIONAL ASSISTANCE ALLOWANCE DEFINED.—For purposes of subparagraph (A), the term 'nontaxable scholarship or educational assistance allowance' means—

"(i) a scholarship or fellowship grant (within the meaning of section 117(a)(1)) or similar award which is not includible in gross income, and

"(ii) an educational assistance allowance under chapter 32, 34, or 35 of title 38, United States Code.

"(2) TAXPAYER WHO IS A DEPENDENT OF ANOTHER TAXPAYER.—No credit shall be allowed to a taxpayer under subsection (a) for amounts paid for any calendar year for tuition for the taxpayer if such taxpayer is a dependent of any other person for a taxable year beginning in the calendar year in which the taxable year of the taxpayer begins.

"(3) SPOUSE.—No credit shall be allowed under subsection (a) for amounts paid for any calendar year for tuition for the spouse of the taxpayer unless—

"(A) the taxpayer is entitled to an exemption for his spouse under section 151(b) for the taxable year beginning in such calendar year, or

"(B) the taxpayer files a joint return with his spouse under section 6013 for such taxable year.

"(h) DISALLOWANCE OF CREDITED EXPENSES AS CREDIT OR DEDUCTION.—No deduction or credit shall be allowed under any other section of this chapter for any amount paid for tuition for any individual except to the extent that such amount exceeds the amount necessary for the allowance of the maximum amount which may be allowed under this section for tuition for such individual for the taxable year. The preceding sentence shall not apply to any amount paid for tuition by any taxpayer who, under regulations prescribed by the Secretary, elects not to apply the provisions of this section with respect to such tuition for the taxable year.

(i) TERMINATION.—No credit shall be allowed under this section for education furnished after December 31, 1981."

(b) LIMITATION ON EXAMINATION OF BOOKS AND RECORDS.—Section 7605 of such Code (relating to time and place of examination) is amended by adding at the end thereof the following new subsection:

"(d) EXAMINATION OF BOOKS AND RECORDS OF CHURCH-CONTROLLED SCHOOLS.—Nothing in section 44C (relating to credit for tuition) shall be construed to grant additional authority to examine the books of account, or the activities, of any school which is operated, supervised, or controlled by or in connection with a church or convention or association of churches (or the examination of the books of account or religious activities of such church or convention or association of churches) except to the extent necessary to determine whether the school is an eligible educational institution within the meaning of section 44C(f)(1)."

(c) TAX CREDIT NOT TO BE CONSIDERED AS FEDERAL ASSISTANCE TO INSTITUTION.—Any education institution which enrolls a student for whom a tax credit is claimed under this Act shall not be considered to be a recipient of Federal assistance under this Act.

(d) EXPEDITED REVIEW OF CONSTITUTIONALITY OF TUITION CREDIT.—

(1) CERTIFICATION OF QUESTIONS OF CONSTITUTIONALITY.—In any action brought in a district court of the United States, including an action for declaratory judgment of injunctive relief, concerning the constitutionality of any provision of section 44C of the Internal Revenue Code of 1954 (relating to credit for certain tuition) or any other provision of such Code relating to such section, the district court shall certify immediately all questions of constitutionality of such provision to the United States Court of Appeals for the circuit involved, which shall hear the matter sitting en banc.

(2) APPEAL TO SUPREME COURT.—Notwithstanding any other provisions of law, any decision on a matter certified under paragraph (1) shall be reviewable by appeal directly to the Supreme Court of the United States. Such appeal shall be brought no later than 20 days after the decision of the Court of Appeals.

(3) EXPEDITED CONSIDERATION.—It shall be the duty of the Court of Appeals and of the Supreme Court of the United States to advance on the docket and to expedite to the greatest possible extent the disposition of any matter certified under paragraph (1).

(4) SEPARABILITY.—If any provision of section 44C of the Internal Revenue Code of 1954 (or any other provision of such Code relating to such section), or the application thereof to any person or circumstances, is held invalid, the remainder of such provisions, and the application of such provisions to other persons or circumstances, shall not be affected.

(e) DISREGARD OF REDUCTION OF TAX LIABILITY.—Any reduction in the income tax liability of any individual by reason of section 44C of the Internal Revenue Code of 1954 (relating to credit for certain tuition) shall not be taken into account for purposes of determining the eligibility of such individual or any other individual for benefits or assistance, or the amount or extent of benefits or assistance, under any Federal program of educational assistance or under any State or local program of educational assistance financed in whole or in part with Federal funds.

(f) CONFORMING AMENDMENTS.—

(1) The table of sections for subpart A of part IV of subchapter A of chapter 1 of such Code is amended by inserting immediately before the item relating to section 45 of the following:

"Sec. 44C. Certain tuition."

(2) Subsection (c) of section 56 of such Code (defining regular tax deduction) is amended by striking out "credits allowable under—" and all that follows and inserting in lieu thereof "credits allowable under subpart A of part IV other than under sections 31, 39, and 43."

(3) Subsection (b) of section 6096 of such Code (relating to designation of income tax payment to Presidential Election Campaign Fund) is amended by striking out "and 44B" and inserting in lieu thereof "44B, and 44C".

SEC. —. EFFECTIVE DATE.

The amendments made by section 2 of this Act shall apply to taxable years ending on or after August 1, 1978, with respect to amounts paid on or after such date for education furnished on or after such date.

Mr. PACKWOOD. Mr. President, this is the same amendment that I offered before, but in a slightly different form, tailored to provide the same tax credit provided by the House in conference, and I shall speak no further on it.

I thank the Senator from Delaware.

Mr. ROTH. Mr. President, I want to continue to point out what has happened to the working man and woman of America and why we see this phenomenon of a tax revolt hitting in all corners of this great land of ours. As I have indicated, no one here should be surprised if they stop and look at what has happened.

I was just pointing out that the family of four who has earnings of $20,000 will have to earn an additional $8,000 by 1983 to have the same purchasing power that they have today.

But unless we offer real tax relief on this floor, even those fortunate families that get the cost of living increases will find that they are facing downward mobility because they will be paying substantially higher Federal taxes.

Of course, in most cases, they will also be paying substantially higher taxes at the State and local levels, as well.

This family of four, now earning $20,000, pays more than $3,000 in taxes, $1,071 for social security taxes, and Federal income taxes of $2,180. This is a total of $3,251.

Those total Federal taxes will jump to $5,688 in 1983. That is almost double the taxes that they are paying now.

So why should anyone be surprised that the American people are angry, particularly when they see their money being spent on programs that do not seem to be solving problems.

I could continue this comparison, Mr. President. I could take the family of four, earning $30,000 today. Ten or 15 years ago, the family of four that had earnings of $30,000 were pretty fortunate. They were pretty well off compared with much of America. But today they also see an erosion of their purchasing power. They are facing serious problems. Those who have children of college age, in many cases, are finding it well near impossible to send their child or children to college. They are not eligible for aid from the Government. They are finding it very difficult to save the money necessary to pay for college education.

Two years ago, Mr. President, I ran for reelection and I had a group of blue collar workers come in to see me, and they allowed that they were going to support me this time because they were disturbed by what was happening in America.

These blue collar workers pointed out that they were earning roughly between $20,000 and $30,000, partly due to some overtime, and in other cases the wives or other members of the family were working. But together, there were many cases where they achieved what had been a lifetime dream of a family income of $20,000, or higher.

They were angry. They were angry as to what was happening to them because they said that they had always believed that by working hard they were going to retain more and they were going to live a better life.

Many of them had not gone to college. Some of them had not even completed high school. It was a dream of theirs that their young boy or girl would have that opportunity to go to college, or possibly graduate school.

One young worker was angry because he and his wife, both working, had wanted to buy a house and they were looking forward to owning their own home. But they had found on going out and looking at the houses which they were interested in—as they put it, they were not mansions, they were relatively modest houses, but the house of their dream—but the house that had cost a few years ago $25,000, $30,000, $35,000, was costing $65,000, $70,000, $75,000, or even higher.

So that despite the fact that their earnings had gone up and that they were both working, they were faced with not the prospect of realizing their dream, but with having difficulty maintaining their existing standard of living.

In the last 2 years, the situation has not gotten better, it has gotten worse.

The family of four that earns $30,000 today has the equivalent income of only $12,750 in 1965, or to put it another way, if they earned nearly $13,000 in 1965, to have the same purchasing power, to buy the same vegetables, food, to buy the same clothes, to rent the same place or buy the same house, they would have to have an income of $30,000 today.

But, again, as in the other illustrations, the total Federal tax burden has jumped up substantially from a total of $1,747 in 1965 to a total of $5,303, or almost 2½ times as much as that family of four paid in 1965.

Again, if that family is to be fortunate enough to maintain the equivalent in earnings, that $30,000 is going to have to rise or increase to a total of $42,077 in 1983.

Of course, if they have those additional earnings, they still will not live as well because the total Federal tax is going to jump from $5,303 to a total of $9,737, or almost twice as much.

The family that was paying 13.7 percent of its income to the Federal Government in 1965 will be paying a total of 23.1 percent of total income to the Federal Government through Federal income taxes and social security on the same equivalent income. That means they are working 25 percent of their time for the Federal Government, and of course you have to add to that whatever taxes they are paying for State and local government.

What I am saying, Mr. President, is that we are in the unfortunate, tragic situation that all working Americans are facing substantially higher taxes unless this Congress, this year, enacts legislation providing for a major tax reduction for all American working people.

Mr. President, every American family that has earnings of $10,300 or higher—or, for all practical purposes, every American family that has earnings in excess of $10,000—is facing a substantial tax increase unless this Congress moves beyond what we reported out of the Finance Committee and what was enacted by the House of Representatives.

UP AMENDMENT NO. 1993

(Subsequently numbered Amendment No. 3881)

(Purpose: To provide for a reduction in individual tax rates for taxable years beginning in calendar years 1979 through 1981)

Mr. ROTH. For those reasons, Mr. President, I send to the desk an amendment to the pending Packwood amendment.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Delaware (Mr. ROTH) proposes an unprinted amendment numbered 1993 to the Packwood amendment numbered 1992.

Mr. ROTH. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the amendment, insert the following:

SEC.—CUTS IN RATES.

(a) IN GENERAL.—Section 1 (relating to tax imposed) is amended by striking out subsections (a), (b), (c), (d), and (e) and inserting in lieu thereof the following:

"(a) GENERAL RULE.—There is hereby imposed on the taxable income, for the taxable years beginning in the calendar years specified in subsection (b) (2), of every—

"(1) married individual (as defined in section 143) who makes a single return jointly with his spouse under section 6013, and every surviving spouse (as defined in section 2 (a)), a tax determined under the applicable schedule for the taxable year.

"(2) head of a household (as defined in section 2 (b)), a tax determined under the applicable schedule for the taxable year,

"(3) every individual (other than a surviving spouse as defined in section 2 (a) or the head of a household as defined in section 2 (b)) who is not a married individual (as defined in section 143) a tax determined under the applicable schedule for the taxable year, and

"(4) a married individual (as defined in section 143) who does make a single return jointly with his spouse under section 6013 a tax equal to one-half the tax which would be determined for an individual described in paragraph (1) with the same taxable income.

"(b) APPLICABLE SCHEDULES.—

"(1) APPLICATION OF SCHEDULES TO INDIVIDUALS.—For purposes of subsection (a) the applicable schedule for—

"(A) individuals described in subsection (a) (1) is schedule 2,

"(B) individuals described in subsection (a) (2) is schedule 3, and

"(C) individuals described in subsection (a) (3) is schedule 1.

"(2) APPLICATION OF SCHEDULES TO TAXABLE YEARS.—

"(A) CALENDAR YEAR 1979.—The schedules in effect for taxable years beginning in 1979 are as follows:

SCHEDULE 1

If the amount of taxable income is—		Then as tax before credit—	
Over—	But not over—	Enter	Of excess over—
$2,200	$2,700	0+12%	$2,200
$2,700	3,200	$60+13%	2,700
$3,200	3,700	125+14%	3,200
$3,700	4,200	195+15%	3,700
$4,200	6,200	270+18%	4,200
$6,200	8,200	630+20%	6,200
$8,200	10,200	1,030+23%	8,200
$10,200	12,200	1,490+24%	10,200
$12,200	14,200	1,970+26%	12,200
$14,200	16,200	2,490+27%	14,200
$16,200	18,200	3,030+29%	16,200
$18,200	20,200	3,610+31%	18,200
$20,200	22,200	4,230+33%	20,200
$22,200	24,200	4,890+35%	22,200
$24,200	28,200	5,590+36%	24,200
$28,200	34,200	7,030+41%	28,200
$34,200	40,200	9,490+46%	34,200
$40,200	46,200	12,250+51%	40,200
$46,200	52,200	15,310+56%	46,200
$52,200	62,200	18,670+58%	52,200
$62,200	72,200	24,470+60%	62,200
$72,200	82,200	30,470+62%	72,200
$82,200	92,200	36,670+63%	82,200
$92,200	102,200	42,970+64%	92,200
$102,200		49,370+65%	102,200

SCHEDULE 2

If the amount of taxable income is—		Then as tax before credit—	
Over—	But not over—	Enter	Of excess over—
$3,200	$4,200	0+12%	$3,200
$4,200	5,200	$120+13%	4,200
$5,200	6,200	250+14%	5,200
$6,200	7,200	390+15%	6,200
$7,200	11,300	540+18%	7,200
$11,200	15,200	1,260+21%	11,200
$15,200	19,200	2,100+24%	15,200
$19,200	23,200	3,060+27%	19,900
$23,200	27,200	4,140+31%	23,200
$27,200	31,200	5,380+35%	27,200
$31,200	35,200	6,780+37%	31,200
$35,200	39,200	8,260+40%	35,200
$39,200	43,200	9,860+42%	39,200
$43,200	47,200	11,540+45%	43,200
$47,200	55,200	13,340+46%	47,290
$55,200	67,200	17,020+49%	55,200
$57,200	79,200	22,900+51%	67,200
$79,200	91,200	29,020+54%	79,200
$91,200	103,200	35,500+56%	91,200
$103,200	123,200	42,220+58%	103,200
$123,200	143,200	53,820+60%	123,200
$143,200	163,200	65,820+62%	143,200
$163,200	183,200	78,220+63%	163,200
$183,200	203,200	90,820+64%	183,200
$203,200		103,620+65%	203,200

SCHEDULE 3

If the amount of taxable income is—		Then as tax before credit—	
Over	But not over	Enter	Of excess over
$2,200	$2,700	0+12.0%	$2,200
$2,700	3,200	$60+12.5%	2,700
$3,200	3,700	122+13.5%	3,200
$3,700	4,200	190+14.0%	3,700
$4,200	5,200	260+16.0%	4,200
$5,200	6,200	420+16.5%	5,200
$6,200	8,200	585+19.0%	6,200
$8,200	10,200	965+20.5%	8,200
$10,200	12,200	1,375+22.5%	10,200
$12,200	14,200	1,825+23.5%	12,200
$14,200	16,200	2,295+25.5%	14,200
$16,200	18,200	2,805+26.5%	16,200
$18,200	20,200	3,335+29.0%	18,200
$20,200	22,200	3,915+30.0%	20,200
$22,200	24,200	4,515+33.0%	22,200
$24,200	26,200	$5,175+33.5%	$24,200
$26,200	28,200	5,845+35.5%	26,200
$28,200	30,200	6,555+38.0%	28,200
$30,200	34,200	7,315+39.0%	30,200
$34,200	38,200	8,875+43.0%	34,200
$38,200	40,200	10,595+44.0%	38,200
$40,200	42,200	11,475+46.5%	40,200
$42,200	46,200	12,405+48.0%	42,200
$46,200	52,200	14,325+51.0%	46,200
$52,200	54,200	17,385+52.0%	52,200
$54,200	62,200	18,425+53.5%	54,200
$62,200	66,200	22,705+54.5%	62,200
$66,200	72,200	24,885+55.5%	66,200
$72,200	78,200	28,215+56.5%	72,200
$78,200	82,200	31,605+58.0%	78,200
$82,200	90,200	33,925+58.5%	82,200
$90,200	92,200	38,605+59.5%	90,200
$92,200	102,200	39,795+60.0%	92,200
$102,200	122,200	45,795+61.5%	102,200
$122,200	142,200	58,095+62.5%	122,200
$142,200	162,200	70,595+63.5%	142,200
$162,200	182,200	83,295+64.0%	162,200
$182,200	202,200	96,095+64.5%	182,200
$202,000		108,995+65.0%	202,200

1975 TAX RATE SCHEDULES

[If you do not use one of the Tax Tables, figure your tax on the amount on Form 1040, line 47, by using the appropriate Tax Rule Schedule on this page. Enter tax on Form 1040, line 16a.]

SCHEDULE X—ESTATE TAXPAYERS NOT QUALIFYING FOR RATES IN SCHEDULE Y OR Z

If the amount on Form 1040, line 47, is:		Enter on Form 1040, line 16a:	
Not over $500		12% of the amount on line 47.	
Over—	But not over—		of the amount over—
$500	$1,000	$60+13%	$500
$1,000	$1,500	$125+14%	$1,000
$1,500	$2,000	$195+15%	$1,500
$2,000	$4,000	$270+18%	$2,000
$4,000	$6,000	$630+21%	$4,000
$6,000	$8,000	$1,050+24%	$6,000
$8,000	$10,000	$1,530+27%	$8,000
$10,000	$12,000	$2,070+31%	$10,000
$12,000	$14,000	$2,690+35%	$12,000
$14,000	$16,000	$3,390+37%	$14,000
$16,000	$18,000	$4,130+40%	$16,000
$18,000	$20,000	$4,930+42%	$18,000
$20,000	$22,000	$5,770+45%	$20,000
$22,000	$26,000	$6,670+46%	$22,000
$26,000	$32,000	$8,510+49%	$28,000
$32,000	$38,000	$11,450+51%	$32,000
$38,000	$44,000	$14,510+54%	$38,000
$44,000	$50,000	$17,750+56%	$44,000
$50,000	$60,000	$21,110+58%	$50,000
$60,000	$70,000	$26,910+60%	$60,000
$70,000	$80,000	$32,910+62%	$70,000
$80,000	$90,000	$39,110+63%	$80,000
$90,000	$100,000	$45,410+64%	$90,000
$100,000		$51,810+65%	$100,000

SCHEDULE Y—MARRIED TAXPAYERS AND QUALIFYING WIDOWS AND WIDOWERS

[If you are a married person living apart from your spouse, see chapter 2 to see if you can be considered to be "unmarried" for purposes of using Schedule X or Z]

MARRIED TAXPAYERS FILING JOINT RETURNS AND QUALIFYING WIDOWS AND WIDOWERS

If the amount on Form 1040, line 47, is:		Enter on Form 1040, line 18a:	
Not over $1,000		14% of the amount on line 47.	
Over—	But not over—		of the amount over—
$1,000	$2,000	$140+15%	$1,000
$2,000	$3,000	$290+16%	$2,000
$3,000	$4,000	$450+17%	$3,000
$4,000	$8,000	$620+19%	$4,000
$8,000	$12,000	$1,380+22%	$8,000
$12,000	$16,000	$2,200+25%	$12,000
$16,000	$20,000	$3,260+28%	$16,000
$20,000	$24,000	$4,300+32%	$20,000
$24,000	$28,000	$5,000+36%	$24,000
$28,000	$32,000	$7,100+39%	$28,000
$32,000	$36,000	$8,660+42%	$32,000
$36,000	$40,000	$10,340+45%	$36,000
$40,000	$44,000	$12,140+48%	$40,000
$44,000	$52,000	$14,000+50%	$44,000
$52,000	$64,000	$18,060+53%	$52,000
$64,000	$76,000	$24,420+55%	$64,000
$76,000	$88,000	$31,020+58%	$76,000
$88,000	$100,000	$37,800+60%	$88,000
$100,000	$120,000	$45,180+62%	$100,000
$120,000	$140,000	$57,580+64%	$120,000
$140,000	$160,000	$70,380+66%	$140,000
$160,000	$180,000	$83,880+68%	$160,000
$180,000	$200,000	$97,180+88%	$180,000
$200,000		$110,880+70%	$200,000

MARRIED TAXPAYERS FILING SEPARATE RETURNS

If the amount on Form 1040, line 47, is:		Enter on Form 1040, line 18n:	
Not over $500		14% of the amount on line 47.	
Over—	But not over—		of the amount over—
$500	$1,000	$70+15%	$500
$1,000	$1,500	$145+16%	$1,000
$1,500	$2,000	$225+17%	$1,500
$2,000	$4,000	$310+19%	$2,000
$4,000	$6,000	$690+22%	$4,000
$6,000	$8,000	$1,130+25%	$6,000
$8,000	$10,000	$1,630+28%	$8,000
$10,000	$12,000	$2,190+32%	$10,000
$12,000	$14,000	$2,830+36%	$12,000
$14,000	$16,000	$3,550+39%	$14,000
$16,000	$18,000	$4,330+42%	$16,000
$18,000	$20,000	$5,170+45%	$18,000
$20,000	$22,000	$6,070+48%	$20,000
$22,000	$26,000	$7,030+50%	$22,000
$26,000	$32,000	$9,030+53%	$28,000
$32,000	$38,000	$12,210+55%	$32,000
$38,000	$44,000	$15,510+58%	$38,000
$44,000	$50,000	$18,990+60%	$44,000
$50,000	$60,000	$22,590+62%	$50,000
$60,000	$70,000	$28,790+64%	$60,000
$70,000	$80,000	$35,190+66%	$70,000
$80,000	$90,000	$41,790+68%	$80,000
$90,000	$100,000	$48,590+69%	$90,000
$100,000		$55,490+70%	$100,000

"(c) ESTATES AND TRUSTS.—In the case of an estate or trust taxable under this subsection, a tax determined in accordance with the following table:

SCHEDULE Z—UNMARRIED (OR LEGALLY SEPARATED) TAXPAYERS WHO QUALIFY AS HEADS OF HOUSEHOLD (SEE CHAPTER 2).

If the amount on Form 1040, line 47, is:		Enter on Form 1040, line 16a:	
Not over $1 000		14% of the amount on line 47.	
Over—	But not over—		of the amount over—
$1,000	$2,000	$140+16%	$1,000
$2,000	$4,000	$300+18%	$2,000
$4,000	$6,000	$660+18%	$4,000
$6,000	$8,000	$1,040+22%	$6,000
$8,000	$10,000	$4,480+23%	$8,000
$10,000	$12,000	$1,940+25%	$10,000
$12,000	$14,000	$2,440+27%	$12,000
$14,000	$16,000	$2,980+28%	$14,000
$16,000	$18,000	$3,540+31%	$16,000
$18,000	$20,000	$4,160+32%	$18,000
$20,000	$22,000	$4,800+35%	$20,000
$22,000	$24,000	$5,500+36%	$22,000
$24,000	$26,000	$6,220+38%	$24,000
$26,000	$28,000	$6,980+41%	$26,000
$28,000	$32,000	$7,800+42%	$28,000
$32,000	$36,000	$9,480+45%	$32,000
$36,000	$38,000	$11,280+48%	$26,000
$38,000	$40,000	$12,240+51%	$38,000
$40,000	$44,000	$13,260+52%	$40,000
$44,000	$50,000	$15,340+55%	$44,000
$50,000	$52,000	$18,640+58%	$50,000
$52,000	$64,000	$19,760+58%	$52,000
$64,000	$70,000	$26,720+59%	$64,000
$70,000	$76,000	$30,260+61%	$70,000
$76,000	$80,000	$33,920+62%	$76,000
$80,000	$88,000	$36,400+63%	$80,000
$88,000	$100,000	$41,440+64%	$88,000
$100,000	$120,000	$49,120+66%	$100,000
$120,000	$140,000	$62,320+67%	$120,000
$140,000	$160,000	$75,720+88%	$140,000
$160,000	$180,000	$89,320+69%	$160,000
$180,000		$103,120+70%	$180,000

Internal Revenue Service.
Washington, D.C.

(b) REDUCTION IN 1980 INDIVIDUAL TAX RATES.—Effective for taxable years beginning in 1980, section 1 is amended to read as follows:

(a) PERMANENT REDUCTION.—Section 1 (relating to tax imposed) is amended to read as follows:

"SECTION 1. TAX IMPOSED.

"(a) MARRIED INDIVIDUALS FILING JOINT RETURNS AND SURVIVING SPOUSES.—There is hereby imposed on the taxable income of—

"(1) every married individual (as defined in section 143) who makes a single return jointly with his spouse under section 6013, and

"(2) every surviving spouse (as defined in section 2(a)),

a tax determined in accordance with the following table:

"If the taxable income is:	The tax is:
Not over $3,200	No tax.
Over $3,200 but not over $4,200	10% of excess over $3,200.
Over $4,200 but not over $5,200	$100, plus 11% of excess over $4,200.
Over $5,200 but not over $6,200	$210, plus 12% of excess over $5,200.
Over $6,200 but not over $7,200	$330, plus 13% of excess over $6,200.
Over $7,200 but not over $11,200	$460, plus 15% of excess over $7,200.
Over $11,200 but not over $15,200	$1,060, plus 17% of excess over $11,200.
Over $15,200 but not over $19,200	$1,740, plus 19% of excess over $15,200.
Over $19,200 but not over $23,200	$2,500, plus 22% of excess over $19,200.
Over $23,200 but not over $27,200	$3,380, plus 25% of excess over $23,200.
Over $27,200 but not over $31,200	$4,380, plus 28% of excess over $27,200.
Over $31,200 but not over $35,200	$5,500, plus 31% of excess over $31,200.
Over $35,200 but not over $39,200	$6,740, plus 33% of excess over $35,200.
Over $39,200 but not over $43,200	$8,060, plus 35% of excess over $39,200.
Over $43,200 but not over $47,200	$9,460, plus 38% of excess over $43,200.
Over $47,200 but not over $55,200	$10,980, plus 40% of excess over $47,200.
Over $55,200 but not over $67,200	$14,180, plus 41% of excess over $55,200.
Over $67,200 but not over $79,200	$19,100, plus 43% of excess over $67,200.
Over $79,200 but not over $91,200	$24,260, plus 46% of excess over $79,200.
Over $91,200 but not over $103,200	$29,780, plus 48% of excess over $91,200.
Over $103,200 but not over $123,200	$35,540, plus 50% of excess over $103,200.
Over $123,200 but not over $143,200	$45,540, plus 52% of excess over $123,200.
Over $143,200 but not over $163,200	$55,940, plus 53% of excess over $143,200.
Over $163,200 but not over $183,200	$66,540, plus 54% of excess over $163,200.
Over $183,200 but not over $203,200	$77,340, plus 55% of excess over $183,200.
Over $203,200	$88,340, plus 56% of excess over $203,200

"(b) HEADS OF HOUSEHOLDS.—There is hereby imposed on the taxable income of every individual who is the head of household (as defined in section 2(b) a tax determined in accordance with the following table:

"If the taxable income is:	The tax is:
Not over $2,200	No tax.
Over $2,200 but not over $2,700	10% of excess of $2,200.
Over $2,700 but not over $3,200	$50, plus 10.5% of excess over $2,700.
Over $3,200 but not over $3,700	$102.50, plus 11.5% of excess over $3,200.
Over $3,700 but not over $4,200	$160, plus 12% of excess over $3,700.
Over $4,200 but not over $5,200	$220, plus 13% of excess over $4,200.
Over $5,200 but not over $6,200	$350, plus 13.5% of excess over $5,200.
Over $6,200 but not over $8,200	$485, plus 15.5% of excess over $6,200.
Over $8,200 but not over $10,200	$795, plus 16.5% of excess over $8,200.
Over $10,200 but not over $12,200	$1,125, plus 18% of excess over $10,200.
Over $12,200 but not over $14,200	$1,485, plus 19% of excess over $12,200.
Over $14,200 but not over $16,200	$1,865, plus 20.5% of excess over $14,200.
Over $16,200 but not over $18,200	$2,275, plus 21.5% of excess over $16,200.
Over $18,200 but not over $20,200	$2,705, plus 24.5% of excess over $18,200.
Over $20,200 but not over $22,200	$3,195, plus 25.5% of excess over $20,200.
Over $22,200 but not over $24,200	$3,705, plus 27.5% of excess over $22,200.
Over $24,200 but not over $26,200	$4,255, plus 28% of excess over $24,200.
Over $26,200 but not over $28,200	$4,815, plus 29.5% of excess over $26,200.
Over $28,200 but not over $30,200	$5,405, plus 32% of excess over $28,200.
Over $30,200 but not over $34,200	$6,045, plus 33.5% of excess over $30,200.
Over $34,200 but not over $38,200	$7,385, plus 37% of excess over $34,200.
Over $38,200 but not over $40,200	$8,865, plus 38% of excess over $38,200.
Over $40,200 but not over $42,200	$9,625, plus 39% of excess over $40,200.
Over $42,200 but not over $46,200	$10,405, plus 40.5% of excess over $42,200.
Over $46,200 but not over $52,200	$12,025, plus 44% of excess over $46,200.
Over $52,200 but not over $54,200	$14,665, plus 44.5% of excess over $52,200.
Over $54,200 but not over $62,200	$15,555, plus 45% of excess over $54,200.
Over $62,200 but not over $66,200	$19,155, plus 46% of excess over $62,200.
Over $66,200 but not over $72,200	$20,995, plus 47% of excess over $66.200.
Over $72,200 but not over $78,200	$23,815, plus 47.5% of excess over $72,200.
Over $78,200 but not over $82,200	$26,665, plus 49% of excess over $78,200.
Over $82,200 but not over $90,200	$28,625, plus 50% of excess over $82,200.
Over $90,200 but not over $92,200	$32,625, plus 51% of excess over $90,200.
Over $92,200 but not over $102,200	$33,645, plus 51.5% of excess over $92,200.
Over $102,200 but not over $122,200	$38,795, plus 53% of excess over $102,200.
Over $122,200 but not over $142,200	$49,395, plus 54% of excess over $122,200.
Over $142,200 but not over $152,200	$60,195, plus 54.5% of excess over $142,200.
Over $152,200 but not over $162,200	$65,645, plus 54.5% of excess over $152,200.
Over $162,200 but not over $182,200	$71,095, plus 55% of excess over $162,200.
Over $182,200 but not over $202,200	$82,095, plus 55.5% of excess over $182,200.
Over $202,200	$93,195, plus 56% of excess over $202,200.

"(c) UNMARRIED INDIVIDUALS (OTHER THAN SURVIVING SPOUSES AND HEADS OF HOUSEHOLD).—There is hereby imposed on the taxable income of every individual (other than a surviving spouse as defined in section 2(a) or the head of a houusehold as defined in section 2(b)) who is not a married individual (as defined in section 143) a tax determined in accordance with the following table:

"If the taxable income is:	The tax is:
Not over $2,200	No tax.
Over $2,200 but not over $2,700	10% of excess over $2,200.
Over $2,700 but not over $3,200	$50, plus 11% of excess over $2,700.
Over $3,200 but not over $3,700	$105, plus 12% of excess over $3,200.
Over $3,700 but not over $4,200	$165, plus 13% of excess over $3,700.
Over $4,200 but not over $6,200	$230, plus 14% of excess over $4,200.

Over $6,200 but not over $8,200	$510, plus 16% of excess over $6,200.
Over $8,200 but not over $10,200	$830, plus 18% of excess over $8,200.
Over $10,200 but not over $12,200	$1,190, plus 19% of excess over $10,200.
Over $12,200 but not over $14,200	$1,570, plus 21% of excess over $12,200.
Over $14,200 but not over $16,200	$1,990, plus 22% of excess over $14,200.
Over $16,200 but not over $18,200	$2,430, plus 24% of excess over $16,200.
Over $18,200 but not over $20,200	$2,910, plus 27% of excess over $18,200.
Over $20,200 but not over $22,200	$3,450, plus 29% of excess over $20,200.
Over $22,200 but not over $24,200	$4,030, plus 30% of excess over $22,200.
Over $24,200 but not over $28,200	$4,630, plus 31% of excess over $24,200.
Over $28,200 but not over $34,200	$5,870, plus 36% of excess over $28,200.
Over $34,200 but not over $40,200	$8,030, plus 41% of excess over $34,200.
Over $40,200 but not over $46,200	$10,490, plus 43% of excess over $40,200.
Over $46,200 but not over $52,200	$13,070, plus 48% of excess over $46,200.
Over $52,200 but not over $62,200	$15,950, plus 49% of excess over $52,200.
Over $62,200 but not over $72,200	$20,850, plus 51% of excess over $62,200.
Over $72,200 but not over $82,200	$25,950, plus 52% of excess over $72,200.
Over $82,200 but not over $92,200	$31,150, plus 54% of excess over $82,200.
Over $92,200 but not over $102,200	$36,550, plus 55% of excess over $92,200.
Over $102,200	$42,050, plus 56% of excess over $102,200.

"(d) MARRIED INDIVIDUALS FILING SEPARATE RETURNS.—There is hereby imposed on the taxable income of every married individual (as defined in section 143) who does not make a single return jointly with his spouse under section 6013 a tax determined in accordance with the following table:

"If the taxable income is:	The tax is:
Not over $1,600	No tax.
Over $1,600 but not over $2,100	10% of excess over $1,600.
Over $2,100 but not over $2,600	$50, plus 11% of excess over $2,100.
Over $2,600 but not over $3,100	$105, plus 12% of excess over $2,600.
Over $3,100 but not over $3,600	$165, plus 13% of excess over $3,100.
Over $3,600 but not over $5,600	$230, plus 15% of excess over $3,600.
Over $5,600 but not over $7,600	$530, plus 17% of excess over $5,600.
Over $7,600 but not over $9,600	$870, plus 19% of excess over $7,600.
Over $9,600 but not over $11,600	$1,250, plus 22% of excess over $9,600.
Over $11,600 but not over $13,600	$1,690, plus 25% of excess over $11,600.
Over $13,600 but not over $15,600	$2,190, plus 28% of excess over $13,600.
Over $15,600 but not over $17,600	$2,750, plus 31% of excess over $15,600.
Over $17,600 but not over $19,600	$3,370, plus 33% of excess over $17,600.
Over $19,600 but not over $21,600	$4,030, plus 35% of excess over $19,600.
Over $21,600 but not over $23,600	$4,730, plus 38% of excess over $21,600.
Over $23,600 but not over $27,600	$5,490, plus 40% of excess over $23,600.
Over $27,600 but not over $33,600	$7,090, plus 41% of excess over $27,600.
Over $33,600 but not over $39,600	$9,550, plus 43% of excess over $33,600.
Over $39,600 but not over $45,600	$12,130, plus 46% of excess over $39,600.
Over $45,600 but not over $51,600	$14,890, plus 48% of excess over $45,600.
Over $51,600 but not over $61,600	$17,770, plus 50% of excess over $51,600.
Over $61,600 but not over $71,600	$22,770, plus 52% of excess over $61,600.
Over $71,600 but not over $81,600	$27,970, plus 53% of excess over $71,600.
Over $81,600 but not over $91,600	$33,270, plus 54% of excess over $81,600.
Over $91,600 but nto over $101,600	$38,670, plus 55% of excess over $91,600.
Over $101,600	$44,170, plus 56% of excess over $101,600.

"(e) ESTATES AND TRUSTS.—There is hereby imposed on the taxable income of every estate and trust taxable under this subsection a tax determined in accordance with the following table:

"If the taxable income is:	The tax is:
Not over $500	10% of taxable income.
Over $500 but not over $1,000	$50, plus 11% of excess over $500.
Over $1,000 but not over $1,500	$105, plus 12% of excess over $1,000.
Over $1,500 but not over $2,000	$165, plus 13% of excess over $1,500.
Over $2,000 but not over $4,000	$230, plus 15% of excess over $2,000.
Over $4,000 but not over $6,000	$530, plus 17% of excess over $4,000.
Over $6,000 but not over $8,000	$870, plus 19% of excess over $6,000.
Over $8,000 but not over $10,000	$1,250, plus 22% of excess over $8,000.
Over $10,000 but not over $12,000	$1,690, plus 25% of excess over $10,000.
Over $12,000 but not over $14,000	$2,190, plus 28% of excess over $12,000.
Over $14,000 but not over $16,000	$2,750, plus 31% of excess over $14,000.
Over $16,000 but not over $18,000	$3,370, plus 33% of excess over $16,000.
Over $18,000 but not over $20,000	$4,030, plus 35% of excess over $18,000.
Over $20,000 but not over $22,000	$4,730, plus 38% of excess over $20,000.
Over $22,000 but not over $26,000	$5,490, plus 40% of excess over $22,000.
Over $26,000 but not over $32,000	$7,090, plus 41% of excess over $26,000.
Over $32,000 but not over $38,000	$9,550, plus 43% of excess over $32,000.
Over $38,000 but not over $44,000	$12,130, plus 46% of excess over $38,000.
Over $44,000 but not over $50,000	$14,890, plus 48% of excess over $44,000.
Over $50,000 but not over $60,000	$17,770, plus 50% of excess over $50,000.
Over $60,000 but not over $70,000	$22,770, plus 52% of excess over $60,000.
Over $70,000 but not over $80,000	$27,970, plus 53% of excess over $70,000.
Over $80,000 but not over $90,000	$33,270, plus 54% of excess over $80,000.
Over $90,000 but not over $100,000	$38,670, plus 55% of excess over $90,000.
Over $100,000	$44,170, plus 56% of excess over $100,000."

(c) PERMANENT REDUCTION IN 1981 INDIVIDUAL INCOME TAX RATES.

(1) PERMANENT REDUCTIONS.—Section 1 (relating to tax imposed) is amended to read as follows:

"SECTION 1. TAX IMPOSED.

"(a) MARRIED INDIVIDUALS FILING JOINT RETURNS AND SURVIVING SPOUSES.—There is hereby imposed on the taxable income of—

"(1) every married individual (as defined in section 143) who makes a single return jointly with his spouse under section 6013, and

"(2) every surviving spouse (as defined in section 2(a)),

a tax determined in accordance with the following table:

"If the taxable income is:	The tax is:
Not over $3,200	No tax.
Over $3,200 but not over $4,200	8% of excess over $3,200.
Over $4,200 but not over $5,200	$80, plus 9% of excess over $4,200.
Over $5,200 but not over $6,200	$170, plus 10% of excess over $5,200.
Over $6,200 but not over $7,200	$270, plus 11% of excess over $6,200.
Over $7,200 but not over $11,200	$380, plus 13% of excess over $7,200.
Over $11,200 but not over $15,200	$900, plus 15% of excess over $11,200.
Over $15,200 but not over $19,200	$1,500, plus 17% of excess over $15,200.
Over $19,200 but not over $23,200	$2,180, plus 19% of excess over $19,200.
Over $23,200 but not over $27,200	$2,940, plus 21% of excess over $23,200.
Over $27,200 but not over $31,200	$3,780, plus 24% of excess over $27,200.
Over $31,200 but not over $35,200	$4,740, plus 27% of excess over $31,200.
Over $35,200 but not over $39,200	$5,820, plus 29% of excess over $35,200.
Over $39,200 but not over $43,200	$6,980, plus 31% of excess over $39,200.
Over $43,200 but not over $47,200	$8,220, plus 33% of excess over $43,200.
Over $47,200 but not over $55,200	$9,540, plus 35% of excess over $47,200.
Over $55,200 but not over $67,200	$12,340, plus 36% of excess over $55,200.
Over $67,200 but not over $79,200	$16,660, plus 37% of excess over $67,200.
Over $79,200 but not over $91,200	$21,100, plus 40% of excess over $79,200.
Over $91,200 but not over $103,200	$25,900, plus 42% of excess over $91,200.
Over $103,200 but not over $123,200	$30,940, plus 44% of excess over $103,200.
Over $123,200 but not over $143,200	$39,740, plus 46% of excess over $123,200.
Over $143,200 but not over $163,200	$48,940, plus 47% of excess over $143,200.
Over $163,200 but not over $183,200	$58,340, plus 48% of excess over $163,200.
Over $183,200 but not over $203,200	$67,940, plus 49% of excess over $183,200.
Over $203,200	$77,740, plus 50% of excess over $203,200.

"(b) HEADS OF HOUSEHOLDS.—There is hereby imposed on the taxable income of every individual who is the head of household (as defined in section 2(b)) a tax determined in accordance with the following table:

"If the taxable income is:	The tax is:
Not over $2,200	No tax.
Over $2,200 but not over $2,700	7.5% of excess over $2,200.
Over $2,700 but not over $3,200	$37.50, plus 8.5% of excess over $2,700.
Over $3,200 but not over $3,700	$80, plus 9.5% of excess over $3,200.
Over $3,700 but not over $4,200	$127.50, plus 10% of excess over $3,700.
Over $4,200 but not over $5,200	$177, plus 11% of excess over $4,200.
Over $5,200 but not over $6,200	$287, plus 11.5% of excess over $5,200.
Over $6,200 but not over $8,200	$402, plus 13% of excess over $6,200.
Over $8,200 but not over $10,200	$662, plus 14.5% of excess over $8,200.
Over $10,200 but not over $12,200	$952, plus 16% of excess over $10,200.
Over $12,200 but not over $14,200	$1,272, plus 16.5% of excess over $12,200.
Over $14,200 but not over $16,200	$1,602, plus 18.5% of excess over $14,200.
Over $16,200 but not over $18,200	$1,972, plus 19% of excess over $16,200.
Over $18,200 but not over $20,200	$2,352, plus 21% of excess over $18,200.
Over $20,200 but not over $22,200	$2,772, plus 21.5% of excess over $20,200.
Over $22,200 but not over $24,200	$3,202, plus 23.5% of excess over $22,200.
Over $24,200 but not over $26,200	$3,672, plus 24% of excess over $24,200.
Over $26,200 but not over $28,200	$4,152, plus 25.5% of excess over $26,200.
Over $28,200 but not over $30,200	$4,662, plus 27.5% of excess over $28,200.
Over $30,200 but not over $34,200	$5,212, plus 29% of excess over $30,200.
Over $34,200 but not over $38,200	$6,372, plus 32.5% of excess over $34,200.
Over $38,200 but not over $40,200	$7,672, plus 33.5% of excess over $38,200.
Over $40,200 but not over $42,200	$8,342, plus 34.5% of excess over $40,200.
Over $42,200 but not over $46,200	$9,032, plus 35.5% of excess over $42,200.
Over $46,200 but not over $52,200	$10,452, plus 38.5% of excess over $46,200.
Over $52,200 but not over $54,200	$12,762, plus 39% of excess over $52,200.
Over $54,200 but not over $62,200	$13,542, plus 39.5% of excess over $54,200.
Over $62,200 but not over $66,200	$16,702, plus 40% of excess over $62,200.
Over $66,200 but not over $72,200	$18,302, plus 40.5% of excess over $66,200.
Over $72,200 but not over $78,200	$20,732, plus 41% of excess over $72,200.
Over $78,200 but not over $82,200	$23,192, plus 42.5% of excess over $78,200.
Over $82,200 but not over $90,200	$24,892, plus 44% of excess over $82,200.
Over $90,200 but not over $92,200	$28,412, plus 45% of excess over $90,200.
Over $92,200 but not over $102,200	$29,312, plus 45.5% of excess over $92,200.
Over $102,200 but not over $122,200	$33,862, plus 47% of excess over $102,200.
Over $122,200 but not over $142,200	$43,262, plus 48% of excess over $122,200.
Over $142,200 but not over $152,200	$52,862, plus 48.5% of excess over $142,200.
Over $152,200 but not over $162,200	$57,712, plus 48.5% of excess over $152,200.
Over $162,200 but not over $182,200	$62,562, plus 49% of excess over $162,200.
Over $182,200 but not over $202,200	$72,362, plus $49.5% of excess over $182,200.
Over $202,200	$82,262, plus 50% of excess over $202,200.

"(c) UNMARRIED INDIVIDUALS (OTHER THAN SURVIVING SPOUSES AND HEADS OF HOUSEHOLDS).—There is hereby imposed on the taxable income of every individual (other than a surviving spouse as defined in section 2(a) or the head of a household as defined in section 2(b)) who is not a married individual (as defined in section 143) a tax determined in accordance with the following table:

"If the taxable income is:	The tax is:
Not over $2,200	No tax.
Over $2,200 but not over $2,700	7% of excess over $2,200.
Over $2,700 but not over $3,200	$35, plus 9% of excess over $2,700.
Over $3,200 but not over $3,700	$80, plus 10% of excess over $3,200.
Over $3,700 but not over $4,200	$130, plus 11% of excess over $3,700.
Over $4,200 but not over $6,200	$185, plus 12% of excess over $4,200.
Over $6,200 but not over $8,200	$425, plus 13% of excess over $6,200.
Over $8,200 but not over $10,200	$685, plus 16% of excess over $8,200.
Over $10,200 but not over $12,200	$1,005, plus 17% of excess over $10,200.
Over $12,200 but not over $14,200	$1,345, plus 18% of excess over $12,200.
Over $14,200 but not over $16,200	$1,705, plus 20% of excess over $14,200.
Over $16,200 but not over $18,200	$2,105, plus 21% of excess over $16,200.
Over $18,200 but not over $20,200	$2,525, plus 23% of excess over $18,200.
Over $20,200 but not over $22,200	$2,985, plus 24% of excess over $20,200.
Over $22,200 but not over $24,200	$3,465, plus 26% of excess over $22,200.
Over $24,200 but not over $28,200	$3,985, plus 27% of excess over $24,200.
Over $28,200 but not over $34, 200	$5,065, plus 31% of excess over $28,200.
Over $34,200 but not over $40,200	$6,925, plus 36% of excess over $34,200.
Over $40,200 but not over $46,200	$9,085, plus 38% of excess over $40,200.
Over $46,200 but not over $52,200	$11,365, plus 42% of excess over $46,200.
Over $52,200 but not over $62,200	$13,885, plus 43% of excess over $52,200.
Over $62,200 but not over $72,200	$18,185, plus 44% of excess over $62,200.
Over $72,200 but not over $82,200	$22,585, plus 45% of excess over $72,200.
Over $82,200 but not over $92,200	$27,085, plus 48% of excess over $82,200.
Over $92,200 but not over $102,200	$31,885, plus 49% of excess over $92,200
Over $102,200	$36,785, plus 50% of excess over $102,200.

"(d) MARRIED INDIVIDUALS FILING SEPARATE RETURNS.—There is hereby imposed on the taxable income of every married individual (as defined in section 143) who does not make a single return jointly with his spouse under section 6013 a tax determined in accordance with the following table:

"If the taxable income is:	The tax is:
Not over $1,600	No tax.
Over $1,600 but not over $2,100	8% of excess over $1,600.
Over $2,100 but not over $2,600	$40, plus 9% of excess over $2,100.
Over $2,600 but not over $3,100	$85, plus 10% of excess over $2,600.
Over $3,100 but not over $3,600	$135, plus 11% of excess over $3,100.
Over $3,600 but not over $5,600	$190, plus 13% of excess over $3,600.
Over $5,600 but not over $7,600	$450, plus 15% of excess over $5,600.
Over $7,600 but not over $9,600	$750, plus 17% of excess over $7,600.
Over $9,600 but not over $11,600	$1,090, plus 19% of excess over $9,600.
Over $11,600 but not over $13,600	$1,470, plus 21% of excess over $11,600.
Over $13,600 but not over $15,600	$1,890, plus 24% of excess over $13,600
Over $15,600 but not over $17,600	$2,370, plus 27% of excess over $15,600.
Over $17,600 but not over $19,600	$2,910, plus 29% of excess over $17,600.
Over $19,600 but not over $21,600	$3,490, plus 31% of excess over $19,600.
Over $21,600 but not over $23,600	$4,110, plus 33% of excess over $21,600.
Over $23,600 but not over $27,600	$4,770, plus 35% of excess over $23,600.
Over $27,600 but not over $33,600	$6,170, plus 36% of excess over $27,600.
Over $33,600 but not over $39,600	$8,330, plus 37% of excess over $33,600.
Over $39,600 but not over $45,600	$10,550, plus 40% of excess over $39,600.
Over $45,600 but not over $51,600	$12,950, plus 42% of excess over $45,600.
Over $51,600 but not over $61,600	$15,470, plus 44% of excess over $51,600.
Over $61,600 but not over $71,600	$19,870, plus 46% of excess over $61,600.
Over $71,600 but not over $81,600	$24,470, plus 47% of excess over $71,600.
Over $81,600 but not over $91,600	$29,170, plus 48% of excess over $81,600.
Over $91,600 but not over $101,600	$33,970, plus 49% of excess over $91,600.
Over $101,600	$38,870, plus 50% of excess over $101,600."

"(e) ESTATES AND TRUSTS.—There is hereby imposed on the taxable income of every estate and trust taxable under this subsection a tax determined in accordance with the following table:

"If the taxable income is:	The tax is:
Not over $500	8% of taxable income.
Over $500 but not over $1,000	$40, plus 9% of excess over $500.
Over $1,000 but not over $1,500	$85, plus 10% of excess over $1,000.
Over $1,500 but not over $2,000	$135, plus 11% of excess over $1,500.
Over $2,000 but not over $4,000	$190, plus 13% of excess over $2,000.
Over $4,000 but not over $6,000	$450, plus 15% of excess over $4,000.
Over $6,000 but not over $8,000	$750, plus 17% of excess over $6,000.
Over $8,000 but not over $10,000	$1,090, plus 19% of excess over $8,000.
Over $10,000 but not over $12,000	$1,470, plus 21% of excess over $10,000.
Over $12,000 but not over $14,000	$1,890, plus 24% of excess over $12,000.
Over $14,000 but not over $16,000	$2,370, plus 27% of excess over $14,000.
Over $16,000 but not over $18,000	$2,910, plus 29% of excess over $16,000.
Over $18,000 but not over $20,000	$3,490, plus 31% of excess over $18,000.
Over $20,000 but not over $22,000	$4,110, plus 33% of excess over $20,000.
Over $22,000 but not over $26,000	$4,770, plus 35% of excess over $22,000.
Over $26,000 but not over $32,000	$6,170, plus 36% of excess over $26,000.
Over $32,000 but not over $38,000	$8,330, plus 37% of excess over $32,000.
Over $38,000 but not over $44,000	$10,550, plus 40% of excess over $38,000.
Over $44,000 but not over $50,000	$12,950, plus 42% of excess over $44,000.
Over $50,000 but not over $60,000	$15,470, plus 44% of excess over $50,000.
Over $60,000 but not over $70,000	$19,870, plus 46% of excess over $60,000.
Over $70,000 but not over $80,000	$24,470, plus 47% of excess over $70,000.
Over $80,000 but not over $90,000	$29,170, plus 48% of excess over $80,000.
Over $90,000 but not over $100,000	$33,970, plus 49% of excess over $90,000.
Over $100,000	$38,870, plus 50% of excess over $100,000."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1980.

(c) Section 101 of the bill will not apply after the date of enactment of the bill.

Mr. ROTH. Mr. President, my amendment provides across-the-board tax rate reductions of approximately 33 percent, phased in over a 3-year period. In order to conform to the second budget resolution, the first year rate reductions in my amendment are phased in more slowly than in the original Roth-Kemp Tax Reduction Act. Under this amendment, Roth-Kemp would reduce tax rates by about 7 percent across the board in fiscal 1979 and then more rapidly in the second and third years.

The amendment I am offering today, in effect, substitutes across-the-board rate reductions for the individual tax cuts approved by the Finance Committee. My amendment would retain the other individual tax changes approved by the committee, including the $1,000 personal exemption, the increased earned income credit and the various other changes.

In addition, my amendment would not affect any of the business tax cuts or capital gains tax changes approved by the committee. I believe the Senate should be allowed to work its will on these other proposals.

The fiscal 1979 impact of my amendment will substitute $8.8 billion in across-the-board tax rate cuts for the $8 billion approved by the committee.

However, while the committee bill is just a 1-year tax cut, my amendment would provide a 3-year tax cut which will offset the massive new tax increases now facing the American people.

The excessive tax burden on working Americans has reached the breaking point. In the past 10 years, total taxes increased 158 percent, while wages increased only 113 percent.

Last year, Americans paid $548 billion in total taxes, $37 billion more than was spent on food, clothing, and housing.

In my judgment, the tax bill now pending before the Senate shortchanges most of the working people of this country. By failing to provide real across-the-board tax relief to middle-income taxpayers, the vast majority of Americans will face higher taxes next year.

Under the Senate tax bill, every family of four earning more than $10,000 will pay higher taxes next year, because of the social security and inflation-induced tax increases in 1978 and 1979.

Mr. President, I ask unanimous consent that a table showing the tax impact of the Senate bill on families of four be printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

IMPACT OF SENATE BILL ON FAMILY OF 4

	Social security and inflation tax increases		Total tax increases	Senate tax cuts	Net change
	1978	1979			
Income:					
$8,000	$148	$138	$286	−$396	−$110
$10,000	108	96	204	−192	+12
$15,000	92	74	166	−97	+69
$17,500	179	99	278	−146	+132
$20,000	203	252	455	−196	+259
$25,000	230	457	687	−290	+397
$30,000	267	494	761	−356	+405
$40,000	403	630	1,033	−574	+459

Mr. ROTH. Mr. President, my proposal to reduce tax rates across-the-board by approximately 33 percent—from the present 14 to 70 percent rates to rates ranging between 8 and 50 percent—would unleash the private sector of our economy. By reducing marginal tax rates, Roth-Kemp will increase the incentive to work, save, invest, and produce, resulting in higher economic growth, more jobs, and less Government spending on unemployment and welfare benefits.

Fifteen years ago, President Jack Kennedy said there were two roads to prosperity, either through increased Federal spending or by loosening the restraints the tax system imposes on our free enterprise system. Kennedy chose the tax reduction road and the private economy expanded at unprecented levels. No one—and I underscore this—has ever said economic conditions today are identical to the conditions in the early 1960's, but it is clear the road we have taken in the last decade of increased Federal spending, big deficits, higher taxes, and more inflation, has been a dismal failure.

I believe we need a new economics based on lower taxes, more jobs in the private sector, and income growth without inflation. These substantial tax cuts I am proposing must be viewed in the context of the pending social security tax increases and the automatic tax increases caused by inflation.

According to the Joint Committee on Taxation, social security and inflation will increase taxes by at least $283 billion over the next 5 years.

Mr. CURTIS. Mr. President, will the Senator yield for a question?

Mr. ROTH. I am happy to yield to the distinguished Senator from Nebraska.

Mr. CURTIS. I commend the distinguished Senator from Delaware upon his grasp of the basics of our economy and the need for tax reform.

Is it true that the Senator's proposal would grant relief to all individual taxpayers? Is that correct?

Mr. ROTH. That is correct.

Mr. CURTIS. How would that tax reduction be applied?

Is it a percentage reduction of what they are paying now, or how do we bring about the tax reduction?

Mr. ROTH. The proposed tax cut is an across-the-board reduction in all individual tax rates. It measures roughly 33 percent over the 3 years.

I might say this to the distinguished Senator: Our goal is to reduce tax rates from 70 percent on the high end to 50 percent and on the low end from 14 to 8 percent.

Mr. CURTIS. This would be phased in over a period of 3 years; is that correct?

Mr. ROTH. That is correct. We propose to phase this in.

Mr. CURTIS. What would be the effective date of it?

Mr. ROTH. It would be effective January 1, 1979.

Mr. CURTIS. How much tax relief would there be for the first year?

Mr. ROTH. For the first year the effective tax relief would be $8.8 billion.

Mr. CURTIS. How much percentagewise so far as the individual is concerned?

Mr. ROTH. That would be roughly 7 percent.

Mr. CURTIS. If this proposal passes what percent could we anticipate the second year?

Mr. ROTH. The second year would be 13 percent and the third year would be 10 percent.

Mr. CURTIS. So it would make a total of about 33 percent?

Mr. ROTH. That is correct.

Mr. CURTIS. In other words, we would lessen the tax burden on the American people about a third?

Mr. ROTH. That is correct.

Mr. CURTIS. But would phase it in over 3 years?

Mr. ROTH. The Senator is absolutely right.

Mr. CURTIS. These other formulas have their merits if they are not overdone. But would the tax proposal offered by the distinguished Senator from Delaware grant significant tax relief to the middle class?

Mr. ROTH. I say to the distinguished Senator from Nebraska that a principal objective of our proposal is to give some real tax relief to the working people of America, those making $10,000, $20,000, $30,000, $40,000 a year. The answer is yes, it would give very substantial tax relief. It is the only proposal I know that would give real tax relief to the working people.

Mr. CURTIS. And this group that the Senator describes is a group whose economic well-being means a great deal to the overall economy of the country. Is that not correct?

Mr. ROTH. Absolutely.

I point out to the Senator that for the first time in America the average working family faces the prospect of a lower style of life, despite the fact that

in many cases the wife is going to work and the children are working. The impact of higher taxes and the impact of inflation means that they are finding it difficult to maintain the same lifestyle and, in fact, face downward mobility instead of the American dream that if you work hard you are going to lead a better life in the years ahead.

Mr. CURTIS. If a tax reduction bill is properly constructed, is it not true that it can very likely result in increased revenues?

Mr. ROTH. Absolutely. The form of the tax cut makes a very substantial difference. Many of our tax cuts in the past, as the Senator well knows, have been designed merely to promote demand. What we are trying to do through our tax cut is to increase incentives and expand the supply side of the economy. By reducing the tax rates, the marginal tax rates, we are increasing the incentive to save, to invest, and to promote capital formation in the private sector. It will help modernize our industry, it will help to develop new plants, all of which means jobs in the private sector.

Mr. CURTIS. Is it not true that on many occasions in the past so-called experts, including those in the Treasury Department, have said that a certain tax reduction would lessen the revenues, and then after it was enacted, and the year went by, they found that instead of lesser revenues, it increased the revenues? Has that not been a common experience?

Mr. ROTH. The Senator is absolutely correct.

For example, in the case of the Kennedy round, and the distinguished Senator was then a Member of the Senate, the Treasury predicted that there was going to be a $89 billion loss as a result of the general tax reduction. Subsequently it was shown that instead of a $89 billion loss, there was a $54 billion gain.

So, one of the problems we have had with people in the Government is that they do not seem to understand that the kind of form of tax cut makes a very substantial difference in the effect or impact it has on the economy, and what we are trying to do here is to create some buoyancy, some lift in the economy, so that we have real growth without inflation.

Mr. CURTIS. Mr. President, if the distinguished Senator will yield further, I wish to point out that I hold in my hand a table concerning the tax reductions from 1963 to 1968 inclusive. It shows in one column what the U.S. Treasury estimated the revenue loss would be and in the lower column what actually happened, and in those 6 tax years the Treasury estimated total losses of $89 billion, but the Treasury actually gained $54 billion.

I ask unanimous consent that this table prepared by the minority staff of the Committee on Finance be printed in the RECORD at this point.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

FEDERAL REVENUE GAINS FROM TAX RATE REDUCTION, 1963-68

[In billions of dollars]

	1963	1964	1965	1966	1967	1968	Total
U.S. Treasury estimated revenue losses	−2.4	−5.2	−13.3	−20.0	−23.7	−24.4	−89
Actual revenue gains	+7.0	+6.0	+4.0	+14.0	−19.0	+4.0	+54
Difference in estimates							143

Mr. CURTIS. Mr. President, if the Senator will yield further, this group of working people whom we choose to call the middle class, are they not a group that in the main are not getting direct Government benefits such as aid with their medical bills, assistance with their housing, assistance with food bills, and all the various Government programs that have been provided for those individuals with little or no income?

Mr. ROTH. That is correct.

Mr. CURTIS. I thank the Senator for yielding and I commend him on his presentation.

Mr. ROTH. I thank the distinguished Senator from Nebraska for his questions.

I, too, wish at this stage to pay respect to Senator CURTIS who, of his own volition, is leaving the Senate this year. I have enjoyed the opportunity of serving with him, not only as a Member of the Senate, but I have enjoyed serving with him as our minority leader on the Finance Committee.

The Senator has always been forthright and an extremely hard worker. As one of the newer members of the Finance Committee in the Senate, I have always found him most cooperative in insuring that the younger members of the Finance Committee had a full opportunity to have their say on legislation as it proceeded through that committee.

Mr. President, as I said a few minutes ago, I believe we need a new economics based on lower taxes, more jobs, and income growth without taxation.

These substantial tax cuts I am proposing must be viewed in the context of the pending social security tax increases and the automatic tax increases caused by inflation.

According to the Joint Committee on Taxation, social security and inflation will increase taxes by at least $283 billion over the next 5 years.

I ask unanimous consent that a table showing these 5-year tax increases be included in the RECORD at this point.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

PENDING TAX INCREASES

[In billions]

	1979	1980	1981	1982	1983
Social security	7.0	12.7	24.2	32.6	35.3
Inflation	13.4	22.4	32.8	44.9	58.7
Total	20.4	35.1	57.0	77.5	94.0

Mr. ROTH. Net of these tax increases, Roth-Kemp is not so massive that it would generate excess demand inflation, or larger budget deficits. In fact, unless taxes are substantially reduced, the massive new tax increases will reduce consumer demand and push the economy into another recession.

In addition to offsetting the pending tax increases, phased in tax reductions are needed to impose discipline on the budget. By reducing taxes over the next 3 years, Congress and the Budget Committee will know exactly how much revenue is available, and Government spending levels can be tailored to fit the available revenue. Rather than committing tax revenues to spending programs, we will be committing these tax revenues to tax cuts for the American people.

In testimony before the Finance Committee, Dr. Alan Greenspan reinforced this point:

Our problem is we tend to spend whatever we have. The advantage of Roth-Kemp is that it would restore a significant part of the normal increase in tax revenues coming from economic growth to the taxpayers, rather than employing them for new expenditure programs. It is not Roth-Kemp that is inflationary, it is the process of Federal outlays which Roth-Kemp may succeed in curbing.

Mr. President, the Roth-Kemp amendment will provide substantial tax cuts to all taxpayers, increase the progressivity of our tax system, increase real GNP growth, create millions of new jobs, and increase personal income savings, and investments.

Make no mistake about it, unless this amendment is adopted, the vast majority of working Americans will continue to pay higher taxes over the next 5 years. I urge the adoption of this amendment.

I yield the floor.

Mr. STEVENS. Mr. President, I was disappointed to learn that the Senate Finance Committee had failed to approve the Roth-Kemp tax cut proposal during its consideration of the Revenue Act of 1978. The tax legislation now before the Senate does not offer what it promised—real tax reductions for the majority of Americans. The Senate version is an improvement over the House tax reductions but still does not adequately offset the effects of inflation and the recently enacted social security tax hikes.

Being from Alaska, I have a special interest in tax cut legislation, and am frank to admit it. Alaskans have the dubious honor of paying the highest per capita taxes in the United States. In fact, we have over twice the tax burden of the average taxpayer in the Lower 48.

While it is true that we also have the highest per capita incomes in the country, these incomes are a function of the high cost of living and do not represent above average living standards. An annual income of $22,000 in Alaska, for instance, is comparable to a $14,000 salary in the Lower 48. The purchasing power of a dollar is nearly cut in half when Alaskans have to spend $1 dollar to buy a loaf of bread and $3 dollars for a gallon of milk.

The high cost of living in my State does more than distort the income levels, however. It results in disproportionate taxation because Alaskans are forced into higher tax brackets—brackets with rates based on average statistics for the contiguous States. Income levels may be 59 percent higher, but our taxes are an incredible 121 percent higher! We cannot afford to have a piece of tax legislation which does not offer relief from this confiscatory level of taxation.

The Roth-Kemp tax cut proposal is a must if Congress is serious about its commitment to cut taxes and get our economy going again. Every time the Government increases tax collection, it takes with it a larger portion of the taxpayers work incentive, innovation, and productivity. What incentive is left for the average taxpayer who sees a substantial percentage of his earned income going to Government programs which yield insufficient results and bring about an increased demand for additional spending to make them effective? How much effort can we expect a taxpayer to expend toward attaining a better job, with a better salary, when the net financial gain from his efforts is marginal, at best?

Mr. President, in Anchorage alone, 40 percent of the households have two working spouses. The effect of the two incomes in my State is to give the average family of four an income level of about $50,000 a year. But, as I said, with Alaska's high costs, they obtain a standard of living which would be the equivalent to that of a family earning $25,000 in the South 48.

It is apparent that many of our wives are working in order to pay Uncle Sam, because the husbands cannot earn enough money to both pay the high level of taxes and meet the high cost of living in Alaska.

Yet the strange thing is that even as salaries or wages rise, the average increases may be less than the rate of inflation. For instance, last year, the increase in per capita income was 4 percent.

That is less than half the rate of inflation, so that in effect, while nominal incomes rose, Alaskans real purchasing power dropped. And as nominal incomes increased, the workers were forced into higher tax brackets. This creates a disincentive to young Alaskans to produce more, because the more they produce, the larger the percentage of real income going to Uncle Sam.

I think that it is high time we did something to reverse this trend and restore incentives, particularly the incentive to our young people to try to better themselves, to get better jobs and to produce more for the benefit of the whole country.

Opponents of this tax cut claim that the cost of the legislation is too great, and that such a substantial reduction in taxes would be inflationary. I do not believe that is true. By cutting taxes, we allow taxpayers to retain a greater portion of their incomes so they can decide how this money, which would otherwise go to our Government, will be spent or saved; and if it is put into savings, it will create more jobs by easing the burden of interest rates and making it possible for the economy—our free enterprise economy—to expand.

The assumption of those who oppose this tax cut is that a dollar spent by the Government is more productive than a dollar spent by an individual on consumption, or savings, or investment.

I believe that the individual makes the best choice as to how his dollars can best be used. It is the individual who really brings about the total operations of the laws of supply and demand in a free enterprise economy. It is only the collective judgment of the individuals that can bring about the optimum use of our dollars.

I think that if we can reverse the trend of bringing more and more money to Washington, we can reduce the demand for more and more public service jobs, more and more temporary employment, and more and more high cost administrative programs.

I am hopeful that the Senate will adopt the Roth-Kemp tax cut proposal. While I do not claim it will solve our Nation's economic problems in and of itself, it certainly will be a step in the right direction, and it will give the power of making decisions back to those who are best able to make our system work; the individuals who are earning the money, trying to meet the needs of their families, and trying to prepare for their own future through savings, investment, or retirement plans.

We need, I believe, to adopt the Roth-Kemp proposal in order to restore the incentive that is essential to bringing about the solutions to our economic problems; and those solutions rest, in my judgment, with the individual and not with Government.

Mr. FORD. Mr. President, is there a time limit on the bill?

The PRESIDING OFFICER (Mr. ANDERSON). There is no time limit.

Mr. FORD. Mr. President, the Revenue Act of 1978 is extremely important to the people of this Nation. The economy is sluggish. We are battling inflation; we are seeking to give relief to taxpayers who are fighting the pressures between higher inflation and higher tax bites; and we are deeply concerned with the formulation of a fair system of taxation. Equity is always a difficult objective to achieve. There is a balance between the individual taxpayers and business, among various classes of taxpayers, between small business and large business, and other groups.

In formulating the bill, we must enact a measure that is fair to all segments of the community. I feel very strongly that we must consider several guidelines. First, we should reduce the taxes for wage earners to offset inflation and the social security increases. Second, we should increase incentives for capital investment. Third, we should avoid excessive reductions that would be inflationary. Fourth, we should stimulate the economy to provide job opportunities and to improve productivity efficiency. Fifth, we should assist business in remaining competitive in the international market. Sixth, we should give special consideration to small businesses, and when I refer to small businesses, I am referring to those with a gross taxable income under $200,000.

Our actions on the Senate floor must be to give a balanced consideration to these guidelines as we consider each part. I have sought to review the Finance Committee bill from this perspective. There are many parts of the bill which are commendable and which I support. There are others that I feel do not provide an equitable balance and need to be changed.

I am extremely disappointed that the tax cut for middle income families was not higher. The proposal barely offsets the 1979 social security tax increase and the net effect of 1 year's inflation. On the other hand, relief afforded high income taxpayers exceeded these increases manyfold. The middle income wage earners are the backbone of this country. They are the stabilizing force in the community. They are the individuals that do not have tax loopholes because their primary income is wages. They deserve a greater reduction and the bill should be amended to give more tax relief to this important class of taxpayers.

I support reductions in the capital gains taxes. On the other hand, I think that the Finance bill goes too far. Nearly 30 percent of the benefits go to less than 1 percent of the taxpayers. The public is very much concerned about the low taxes paid by high-income families. In fairness, the facts of the matter are often exaggerated, but public concern is genuine and widespread, and the Senate must take note of it. A minimum tax with teeth must be enacted to assure that the high-income families cannot shelter their income from tax to a greater extent than now permitted.

Venture capital is extremely important, and I agree that some change needs to be made. The present rate is too high, but a balance must exist so that overall the reductions are distributed equitably among various classes of taxpayers.

The low-income families receive assistance in the bill and the Finance Committee should be commended for the work it achieved in this area. I strongly support the changes in the earned income credit, the effort to employ the hard-core unemployed, the increased tax credit for the elderly, and the improvements in the retirement plan provisions. I think that the committee used good judgment. I was very much pleased, and I think the committee made a correct decision in retaining DISC and deferral. I think the increase in personal exemp-

tion is long overdue. But, I do feel that this increase is more transparent than real because it does not make that much difference when you consider that the temporary tax credit is repealed.

I do feel very strongly that there was an imbalance in the bill between large corporations and small businesses.

Small businesses make a valuable contribution to this Nation—employing nearly one-half of the employees. They deserve—and should receive—greater consideration. I believe that improvements should be made in the depreciation provisions for small businesses, and I was very disappointed that the jobs tax credit was repealed. The latter had its greatest benefit for small businesses, and I think that it will be a major setback if we repeal it.

I was disappointed that the social security provisions were included in the tax bill. At the same time we are talking about ceilings on Federal spending we are authorizing the expenditure of an additional $700 million. I feel very strongly that the social security legislation needs to be reviewed. The burden that we placed on individuals and small businessmen across the Nation is great, and relief is needed. In particular, providing $500 million for fiscal relief for State and local welfare costs does not help the Commonwealth of Kentucky very much at all. It really is directed to a small group of States and the tax bill is no place to include this provision. The merits are not the issue. The fact is that the social security programs need to be evaluated, but not as part of the general revenue bills.

I would strongly urge my colleagues not to load this bill with all of their "pet" provisions. What we do not need at this point is a "Christmas tree" bill. We owe the American public a serious review of our system of taxation. We have an obligation to enact a balanced approach that lends equity to all classes of taxpayers. To this end, the bill needs to be changed to give greater relief to middle-income classes of taxpayers and to small businessmen. We must reduce the excessive relief given to high income individuals through a tighter minimum tax.

Mr. President, I think it is extremely important that we maintain the reduction within limits to avoid a major inflationary impact.

The committee's bill is not too far off for the current year, but does have excessive impact in future years. I feel that our actions not only should consider 1979, but fiscal years 1980 and 1981. It is shortsighted for us to consider 1979 and 1980 only because of the budget resolution. We should look ahead to determine the effect it will have on our efforts to balance the Federal budget in 1981. The Senate has set that goal and each piece of legislation should reflect that objective.

Formulation of a tax bill is never easy. The Finance Committee has worked long and hard and is to be commended. In general, I agree with the bill but I will support changes to improve a better distribution of the reduction among classes of taxpayers, specifically, to increase the reduction for middle-income wage earners and small businessmen.

Again, Mr. President, I encourage my colleagues to limit their amendments to provisions that relate to the formulation of a fair system of taxation.

Mr. HARRY F. BYRD, JR. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. NELSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ANDERSON). Without objection, it is so ordered.

Mr. LONG. Mr. President, I ask unanimous consent that the pending amendment be temporarily laid aside long enough for the Senator from Colorado (Mr. HASKELL) to offer an amendment, and I ask unanimous consent that the time on the amendment be limited to 40 minutes to each side, a total of 80 minutes to be divided equally between the Senator from Colorado and the manager of the bill.

The PRESIDING OFFICER. Is the Senator suggesting that both amendments be laid aside?

Mr. LONG. Yes. I further ask unanimous consent that when the Senate has voted on the amendment by the Senator from Colorado, that the Senate resume consideration of the two amendments presently pending.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRESIDENTIAL VETO OF PUBLIC WORKS APPROPRIATION BILL

Mr. NELSON. Mr. President, I would like to comment for about 60 seconds.

The House of Representatives sustained the President's veto of the public works bill by a vote of 223 to 190. I just want to take this opportunity to commend the President of the United States for vetoing that public works bill and insisting that Congress revise its approach to these public works projects in the field of flood control and reclamation.

As we look through those projects, we will find a substantial number of them getting their costs-benefit ratio based upon interest rates as low as 2¾ percent, and a bunch of them based upon interest rates of 3½ percent. Almost all of the ones the President is opposing, with possibly an exception or two, would have a cost-benefit ratio of less than 1 if they were paying the current cost of money to the Government.

What the President has done is a good blow for rational policy respecting public works projects, and also a good blow in behalf of partially containing some of the powerfully influential inflationary forces that the country faces today.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. LONG. I ask unanimous consent, Mr. President, that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

REVENUE ACT OF 1978

The Senate continued with the consideration of the bill.

Mr. LONG. Mr. President, is the Senator from Colorado ready to call up his amendment?

Mr. HASKELL. Yes.

Mr. LONG. Then I suggest the Senator call up his amendment.

UP AMENDMENT NO. 1994

(Purpose: To extend for two years and modify the Federal income tax credit for employment of new employees and to delay the effective date of certain corporate rate reductions)

Mr. HASKELL. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Colorado (Mr. HASKELL), for himself, Mr. HATHAWAY, and Mr. LAXALT, proposes an unprinted amendment No. 1994.

Mr. HASKELL. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 284, between lines 7 and 8, insert the following:

Subtitle C—JOBS CREDIT EXTENSION

SEC. 323. JOBS CREDIT EXTENSION.

(a) IN GENERAL.—Section 44D (relating to credit for employment of certain new employees) is amended to read as follows:

"SEC. 44D. CREDIT FOR EMPLOYMENT OF CERTAIN NEW EMPLOYEES.

"(a) GENERAL RULE.—At the election of the taxpayer, there shall be allowed as a credit against the tax imposed by this subtitle the amount determined under section 54.

"(b) ELECTION.—

"(1) IN GENERAL.—An election under subsection (a) shall be made in such manner as prescribed by the Secretary.

"(2) TIME FOR FILING ELECTION.—An election under subsection (a) shall be effective for any taxable year only if filed on or before the last day for filing a claim for refund under section 6511 for such taxable year.

"(3) REVOCATION.—An election under subsection (a) for any taxable year may be revoked at any time on or before such last day.

"(c) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section and subpart D.".

(b) AMOUNT OF CREDIT.—Section 54 (relating to the amount of the credit for employment of certain new employees) is added as follows:

"SEC. 54. AMOUNT OF CREDIT.

"(a) DETERMINATION OF AMOUNT.—The amount of the credit allowable by section 44B for a taxable year beginning in any calendar year shall be an amount equal to 35 percent of the excess of the aggregate unemployment insurance wages paid during such calendar year over 102 percent of the aggregate unemployment insurance wages paid during the preceding calendar year.

"(b) MINIMUM PRECEDING YEAR WAGES.—For purposes of determining the amount of the credit under subsection (a) with respect to any calendar year, the amount of the aggregate unemployment insurance wages paid

during the preceding calendar year shall be deemed to be not less than 50 percent of the amount of such wages paid during the calendar year in which the taxable year begins.

"(c) $25,000 PER YEAR LIMITATION ON CREDIT.—Except as provided in subsection (d), the amount of the credit determined under this section for any employer (and the amount of the credit allowable by section 44D to any taxpayer) with respect to any calendar year shall not exceed $25,000.

"(d) ADDITIONAL 10 PERCENT CREDIT FOR HANDICAPPED INDIVIDUALS.—

"(1) IN GENERAL.—The amount of the credit allowable by section 440 for any taxable year beginning in any calendar year (determined without regard to this subsection) shall be increased by an amount equal to 10 percent of the unemployment insurance wages paid by the employer to handicapped individuals during the calendar year in which such taxable year begins.

"(2) ONLY FIRST YEAR TAKEN INTO ACCOUNT.—For purposes of this subsection, unemployment insurance wages may be taken into account with respect to any individual only to the extent attributable to services rendered during the 1-year period beginning with his first payment of wages.

"(3) ONLY FIRST $6,000 WAGES TAKEN INTO ACCOUNT FOR ANY INDIVIDUAL.—For purposes of this subsection, the unemployment insurance wages paid during any calendar year which are taken into account with respect to any individual shall not exceed $6,000 reduced by the amount of unemployment insurance wages paid by the employer to such individual during the preceding calendar year.

"(4) 20-PERCENT LIMITATION.—The amount of the credit allowable by reason of this subsection for any taxable year shall not exceed one-fifth of the credit determined for such year under this section without regard to this subsection and subsection (c).

"(5) The amount of the credit allowable under section 44D shall be reduced by any amount of credit allowed under section 44B (relating to targeted jobs credit)."

"(e) DEFINITIONS.—For purposes of this subpart—

"(1) UNEMPLOYMENT INSURANCE WAGES.—Except as otherwise provided in this subpart, the term 'unemployment insurance wages' has the meaning given to the term 'wages' by section 3306(b).

"(2) AGRICULTURAL LABOR.—If the services performed by any employee for an employer during more than one-half of any pay period (within the meaning of section 3306 (d)) taken into account with respect to any calendar year constitute agricultural labor (within the meaning of section 3306(k)), the term 'unemployment insurance wages' means with respect to the remuneration paid by the employer to such employee for such year, an amount equal to so much of such remuneration as constitutes 'wages' within the meaning of section 3121(a), except that the contribution and benefit base for each calendar year shall be deemed to be $6,000.

"(3) RAILWAY LABOR.—If more than one-half of the remuneration paid by an employer to an employee during the calendar year is remuneration for service described in section 3306(c)(9), the term 'unemployment insurance wages' means, with respect to such employee for such year, an amount equal to so much of the remuneration paid to such employee during such year as is subject to contributions under section 8(a) of the Railroad Unemployment Insurance Act (45 U.S.C. 358(a)), except that the contribution and benefit base for each calendar year shall be deemed to be $6,000.

"(4) HANDICAPPED INDIVIDUAL.—The term 'handicapped individual' means any individual who—

"(A) has (i) a physical or mental impairment which substantially limits one or more of such individual's major life activities, (ii) has a record of such impairment, or (iii) is regarded as having such an impairment, or

"(3) has a physical or mental disability which, for such individual constitutes or results in a substantial handicap to employment, and

"(C) has been referred to the employer upon completion of (or while receiving) rehabilitative services pursuant to—

"(i) an individualized written rehabilitation plan under a State plan for vocational rehabilitation services approved under the Rehabilitation Act of 1973, or

"(ii) a program of vocational rehabilitation carried out under chapter 31 of title 38, United States Code.

"(f) RULES FOR APPLICATION OF SECTION.—For purposes of this subpart—

"(1) REMUNERATION MUST BE FOR TRADE OR BUSINESS EMPLOYMENT WITHIN UNITED STATES.—

"(A) IN GENERAL.—Remuneration paid by an employer to an employee during any calendar year shall be taken into account only if more than one-half of the remuneration so paid is for services performed in the United States in the trade or business of the employer.

"(B) EMPLOYMENT ON AMERICAN VESSEL.—For purposes of subparagraph (A), remuneration paid by an employer to a citizen of the United States for employment on, or in connection with, an American vessel (within the meaning of section 3306 (c)) shall be treated as remuneration for services performed in the United States in a trade or business of the employer.

"(2) SPECIAL RULE FOR CERTAIN DETERMINATIONS.—Any determination as to whether paragraph (1) of this subsection, or paragraph (2) or (3) of subsection (e), applies with respect to any employee for any calendar year shall be made without regard to subsections (a) and (b) of section 52.".

(c) CONFORMING AMENDMENTS.—

(1) Subsection (c) of section 52 (relating to special rules) is amended by striking out "December 31, 1975" each place it appears and inserting in lieu thereof "December 31, 1977".

(2) Subsection (e) of section 52 (relating to change in status from self-employed to employee) is amended to read as follows:

"(e) CHANGE IN STATUS FROM SELF-EMPLOYED TO EMPLOYEE.—If—

"(1) during any calendar year an individual has net earnings from self-employment (as defined in section 1402(a)) which are attributable to a trade or business, and

"(2) for any portion of the succeeding calendar year such individual is an employee of such trade or business

then, for purposes of determining the credit allowable for a taxable year beginning in such succeeding calendar year, the employee's aggregate unemployment insurance wages for such calendar year shall be increased by an amount equal to so much of the net earnings referred to in paragraph (1) as does not exceed $6,000.".

(3) Subsection (g) of section 52 (relating to estates and trusts) is amended by striking out "$100,000" each place it appears in paragraph (3) and inserting in lieu thereof "$25,000".

(4) Subsection (i) of section 52 (relating to $50,000 limitation in the case of married individuals filing separate returns) is amended—

(A) by striking out "$50,000" each place it appears and inserting in lieu thereof "$12,500"; and

(B) by striking out "$100,000" and inserting in lieu thereof "$25,000".

(5) Subsection (j) of section 52 (relating to certain short taxable years) is amended to read as follows:

"(j) CERTAIN SHORT TAXABLE YEARS.—If the employer has more than one taxable year beginning in any calendar year, the credit under this subpart shall be determined for the employer's last taxable year beginning in that calendar year.".

(6) Section 280C (relating to deductibility for portion of wages for which credit is claimed under section 44B) is amended by striking out "No" and inserting in lieu thereof "In the case of any taxable year for which an election is in effect under section 44B, no".

(7) Section 202(e) of the Tax Reduction and Simplification Act of 1977 is amended—

(A) by inserting "and before January 1, 1981," after "December 31, 1976,"; and

(B) by inserting "and carryovers" after "carrybacks".

(d) EFFECTIVE DATES.—

(1) Except as provided in paragraph (2), the amendments made by this section shall apply with respect to taxable years beginning after December 31, 1978, and before January 1, 1981.

(2) The amendments made by subsection (a) and subsection (c)(6) shall apply with respect to taxable years beginning after December 31, 1976, and before January 1, 1981.

(3) Section 51(f)(1)(B) of the Internal Revenue Code of 1954, as added by subsection (b) of this section, shall apply to taxable years beginning after December 31, 1976, and before January 1, 1981.

On page 237, strike out lines 18 and 19, and insert in lieu thereof the following:

"(5)(A) 47 percent of so much of the taxable income as exceeds $100,000 for taxable years beginning before October 1, 1979; and

"(B) 46 percent of so much of the taxable income as exceeds $100,000 for taxable years beginning after September 30, 1979."

Mr. HASKELL. This amendment is sent to the desk on behalf of myself, the distinguished Senator from Maine (Mr. HATHAWAY) and the distinguished Senator from Nevada (Mr. LAXALT). I also believe, but I have not doublechecked, that the Senator from Hawaii is a cosponsor of the bill.

Mr. President, 2 years ago we adopted a jobs tax credit for employers who would increase their employment over the employment level of prior years.

Mr. President, at that time the expiration date of this jobs tax credit was December 31, 1978. So unless we do something, this job tax credit, which I may say has the support of all small business organizations, will expire.

Mr. President, the new amendment which has just been sent to the desk provides for a simplification of that jobs tax credit in that there is only one test rather than three. That is, if employees are increased over a level of 102 percent of the previous year, then eligibility is given for the credit. The credit is limited to $2,100 for each additional employee. The credit is limited by a ceiling; that is, that no one employer may take more than $25,000 of credit for this particular job tax credit.

The cost, in fiscal year 1979, is $400 million. In order to keep within budgetary constraints, we have postponed for 1 year the reduction in 1 percentage point of the corporate rate. That is that under this bill, major corporations would pay 47 percent in the succeeding year and then the rate would go to 46 percent thereafter.

Basically, what we have done, Mr. President, is pick up by this amendment $351 million. We have decreased the revenue loss by $751 billion for 1

budget year, by postponing 1 percent of the 2 percent reduction and the cost of the jobs credit is $400 million. Therefore, this would provide an extra $351 million in revenue. Since the bill before the Senate already exceeds budgetary limits, this obviously is a desirable situation.

I should mention that in the bill, there is a so-called targeted credit. That is, if you employ people, for example, on welfare, then you get a credit. This was the administration's idea. Such a credit, while being desirable in and of itself, will not help small business. In the hearings on this credit, the unanimous testimony was that, whereas big business has the capability of training for job skills and job habits—small business does not have this capability. The targeted credit would be of absolutely no service to them whatsoever. Therefore, I propose this small business credit, along with the distinguished Senators that I have mentioned, which would be available, for small business.

Clearly, you could not take a double credit. The statute is drawn so that you either get the credit under the jobs tax credit or you get a credit under targeted if you have employed a targeted person.

Let us put in perspective basically what this credit does. The National Alliance for Business, which is a big business group, testified at the hearing in the Committee on Finance that almost 80 percent of new jobs created in the past 10 years have been by small business. This is big business talking about small business, and I think that is very significant.

What has been the impact of the existing credit which we are amending for simplification purposes? What has been the effect of this credit over the past 2 years since it has been in effect? The testimony of the National Federation of Independent Businesses estimates that the existing credit has created over 300,000 jobs. The Treasury Department has testified that partial returns for 1977 show that business claimed credit for the creation of more than 522,000 jobs. Mr. President, all this in the face of lack of promotion by the Internal Revenue Service.

The Internal Revenue Service has been very slow; they have been very meager in bringing this to the attention of the taxpayers. As a matter of fact, their failure to really promote this credit has led the Governor of Vermont, on his own, to send out a mailing to all small businessmen in Vermont about this credit existence. Therefore, it is my opinion that no real test has been made of the job creation impact.

Let us compare now the situation under the tax laws relating to small business and major business. We all know that the investment tax credit is basically helpful to capital-intensive industry and, therefore, has been particularly helpful to the major corporations of our Nation. We all know that small business, as opposed to being capital-intensive, is labor-intensive. I merely state that this general jobs credit is to small business what the investment credit and ADR are to big business. I also submit, Mr. President, that the innovations, the creativity, the competition, and the basic efficiency of our country lies in the small business sector as opposed to large business. The reason for that, I submit, Mr. President, is very, very simple: in small business, the operator of the business has a major economic stake in the business and, therefore, naturally, he is more creative, he is more diligent, and he is more efficient.

Let us not forget, Mr. President, that this has a $25,000 cap.

Nobody can take any more credit than $25,000, and it will help to lower the 5.9 unemployment rate we now have. The credit will help the small business sector even further to employ people, over and beyond the 300,000 which the National Federation of Independent Business attributes to the credit.

Let me say also that in addition to the NFIB, the National Small Business Association (NSBA), the legislative council of the NSBA which represents between 4 and 5 million small businesses in this country, all support the credit.

Furthermore, the Small Business Association of New England supports this credit.

Now, let us, Mr. President, put this in perspective. What, for example, is the expense of job creation with this particular method as opposed to other methods.

I would like to quote from the Upjohn Institute for Employment Research:

> Based on the estimates of this study, the employment tax credit program appears to be the least costly fiscal method of stimulating employment. The reasons for this result are straightforward. First, firms pay part and generally most of the cost of jobs created through the labor market to affect the decrease in taxes is a traditional demand-side management policy which must stimulate aggregate demand, increase prices, and work through the labor market to affect the demand of firms for labor. Consequently, each dollar of the traditional tax cut only indirectly affects aggregate supply. As a result, the employment tax credit is more cost efficient through its direct effect on aggregate supply and employment.

Mr. President, at this moment, I know there are others who wish to talk. I reserve the remainder of my time.

Mr. MATSUNAGA. Will the Senator from Colorado yield?

Mr. HASKELL. I will yield; but, Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 26 minutes remaining.

Mr. MATSUNAGA. Will the Senator yield 3 minutes?

Mr. HASKELL. I yield 3 minutes to the Senator.

Mr. MATSUNAGA. Mr. President, I ask unanimous consent that Christine Domzal and Edwin Ing of my staff be granted the privilege of the floor during the debate and votes on the measure now pending.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MATSUNAGA. Mr. President, I ask unanimous consent that I be made a cosponsor of the amendment offered by the Senator from Colorado.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MATSUNAGA. Mr. President, I rise in support of the amendment offered by the Senator from Colorado—the amendment to extend for 2 years the existing jobs tax credit program.

The jobs tax credit is the only Federal incentive to create private sector employment today and it is needed now more than ever before.

Although the jobless rate had dipped to 5.7 percent in June from 6.1 percent in May, and unemployment averaged 5.9 percent during this year's second quarter, economists fear a rise in unemployment during the remainder of the year.

The recent drop in the unemployment percentage occurred only because of a temporary decline in the number of people entering the work force. It is certain that the number of people seeking jobs in the coming months will grow and the unemployment rate will rise. The private sector cannot generate enough jobs to hire these new workers.

In August, total employment grew only by 156,000 jobs, far less than the monthly average increase for the first half of the year of 368,000 jobs. A Labor Department economist stated in the Wall Street Journal of September 5, 1978, that employment growth clearly is slowing down.

Therefore, the present jobs tax credit must be extended to provide the necessary incentive for job creation.

In addition, this credit is necessary to correct the historic bias in favor of capital-intensive businesses. In the past, large businesses have enjoyed an investment tax credit to pay for new capital equipment. However, labor-intensive businesses have not enjoyed a similar tax benefit. In forging a tax program to stimulate the economy, this committee must concentrate both on capital-intensive and labor-intensive businesses.

Also, it should be noted that this credit is directed specifically at small businesses. Small businesses have provided 80 percent of the new jobs created in the past year. And this sector can create the jobs in the future necessary to provide for our growing work force.

I, therefore, urge the Senate to extend the existing jobs tax credit program.

I thank the Senator for yielding.

Mr. HATHAWAY. Will the Senator yield 5 minutes?

Mr. HASKELL. Yes.

The PRESIDING OFFICER. The Senator from Maine.

Mr. HATHAWAY. Mr. President, I am very happy to be a cosponsor of the amendment of the distinguished Senator from Colorado.

I would like to point out at the outset that in our economy, in general, it is small business that has furnished the competition, particularly in recent years, that we have lost to the big businesses.

I think at a time when we are particularly interested in inflation, it is interesting to note that there are 200 industries in this country—industries, not companies, but industries—which are essentially noncompetitive and which are

dominated, by and large, by big businesses.

The guidepost for determining competitiveness is that in all of these industries the market is dominated by four or fewer corporations.

We find many instances of this. IBM in the computer field, I think, dominates to the tune of about 80 percent. We know what the situation is in the steel industry and the automobile industry and the oil industry.

It is small business that is helping to keep prices down for the consumers through its competitive nature.

I would like to note also that, in the bill that is before us, small business gets very little in the way of tax breaks. I think it is big business in the bill that is getting the lion's share of these breaks, and, actually, it should be the other way around.

Now, the amendment that has been offered by the Senator from Colorado was adopted by the House and the Senate, the general jobs credit, in 1977, and has been in operation for 1 year.

It seems to me, if, for no other reason, we ought to continue this worthwhile program for at least another year, and that is all this amendment asks for.

Last year, as a result of this amendment, business generally, and small businesses in particular, were able to increase their employment, and the unemployment rate has dropped considerably as a result of that.

The provision is designed, of course, to reduce the high national unemployment rate which still remains with us. Since it is going to last for only 1 year, we will have a chance to look it over again at the end of the next year and see whether it is needed to be continued.

The Finance Committee eliminated this general credit and adopted a credit that is targeted to certain groups of unemployed. This certainly is an admirable objective, but I think we still need the general credit to help small businesses.

Generally, small businesses, as we all know, are labor intensive, not capital intensive. The large businesses have the advantage of the investment tax credit. To be sure, the small businesses also have, but they do not have anywhere near the need for it nor the chance to avail themselves of it that the large businesses have.

In answer to the objection that I am sure is going to be raised, that we are going to be rewarding businesses that are going to employ additional people anyway, we could say the same thing about the investment tax credit, which is a much larger group, because we are rewarding, and have been over the years, large businesses that were going to make investments anyway, by giving them an investment tax credit in addition to that.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. HATHAWAY. Will the Senator yield me 2 additional minutes?

Mr. HASKELL. I yield.

Mr. HATHAWAY. I thank the Senator for the additional time.

Mr. President, it should be noted that many of the small businesses that have availed themselves of the general tax credit have worked to hire people in the targeted groups; but in many instances, these targeted groups, which are enumerated in the bill, are not in the area where the small businesses are located, so small businesses cannot avail themselves of the opportunity of hiring some of the targeted groups.

In addition, we have the CETA program, which is designed to help the structurally unemployed. The large businesses are in a much better position to aid these targeted groups.

The regulations and rules that will be forthcoming with respect to the hiring of the targeted groups undoubtedly will be quite complicated and will be another burden to place upon small businesses, which already are overburdened with the paperwork requirements imposed upon them by the Federal Government. The larger businesses are much better able to handle such additional paperwork.

Finally, as I said at the outset, the credit has been available for 1 year. I think it is worthwhile to continue it. I was mistaken when I said earlier that the amendment continues it for only 1 year. It continues it for 2 additional years. But certainly that is not too long a time for Congress to go along with a program that has proved to be very worthwhile.

Mr. GRAVEL addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. HASKELL. Mr. President, how much time do we have remaining on the proponents' side?

The PRESIDING OFFICER. Sixteen minutes.

Mr. HASKELL. Senator LAXALT would like to speak. Will 6 minutes be adequate?

Mr. GRAVEL. Two or three minutes will be adequate. Let us make it 2 minutes.

Mr. HASKELL. I yield to the Senator.

Mr. GRAVEL. Mr. President, I associate myself with the remarks that have been made.

I was a cosponsor and author of the proposition when it was in the committee. The committee chose to move on a more targeted basis. I believe that was good. Also, I think what was needed was a broader brush, and this does it.

There is an offset in revenue here with respect to a delay in the corporate tax cut, which I think is desirable. We should cut corporate rates at this point in time. However, the situation today is that we have had an increase in employment because a lot of the industries—particularly small business—were not prepared to make a long-term commitment to a capital investment. Now, with the diminution in the capital gains and the corporate tax and accelerated depreciation, we hope that American enterprise will make that long-term investment, that capital investment. That, to some degree, will have an effect on the unemployment statistics in this country; because as the new machines come on line, the first to go will be the least able people.

So, as we move forward to increase our productivity, a window is going to be created in the unemployment picture, and the only chance we will have to fight that problem will be with this kind of credit going right at the structurally unemployed.

It is almost a situation in which you have to take the switch and run it into the job market. We cannot do that with the Government. To some degree, we can be the employer of last resort, but that is not a fundamental answer to the problem. What we have to do is to have our private enterprise—and in this particular case, the free base of private enterprise, the small businesses—aggressively out there, seeking to grab these individuals and pull them into the job market, and make every effort to do it. There is no way these business enterprises can do that unless an effort is made to give them some financial incentive to do it, and that is what this proposal is.

Without this proposal, it will not happen. These people will continue to be a drag on our economic society; and, believe me, we are going to pay one way or the other. We are going to pay in our judicial system, in servicing these people as they come on line, and we are going to pay for their incarceration when that is required.

It is a great deal easier to pay at this point, when we can make these people self-respecting, gainfully employed. The only way to do it is to force the situation and to enlist the support of American enterprise, the full base of the business community—not only big business, which we already have taken care of in this bill, but also small business, which is what this proposition is all about.

So I hope the managers of the bill will accept this amendment and take it to conference and fight for its survival.

I wish to add my words of commendation to the Senator from Colorado, who has led a valiant fight in this regard.

Mr. HASKELL. I thank the distinguished Senator from Alaska.

Mr. President, I do not know whether there are opponents to this amendment, but I would like to reserve the remainder of my time for Senator LAXALT.

Mr. LONG. Mr. President, I yield myself 5 minutes.

I ask unanimous consent that the Senator may offer his amendment en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LONG. It really has two facets to it.

Mr. HASKELL. That is true.

Mr. LONG. Mr. President, the Senator seeks to help small business further, and that is a very noble cause. I applaud him for his interest in small business. However, I point out that we are doing very well by small business in this bill.

For example, under present law, small businessmen in the zero to $25,000 bracket pay a tax of 20 percent; and under this bill, the tax rate they would pay would be reduced to 17 percent. That, right there, is a reduction of 15 percent of the taxes that small business people would pay on the first $25,000. From the point of view of a person making $25,000, $750 is not small potatoes. That is a very substantial amount of money. It in-

creases very substantially their net income.

Then, in the bracket of $25,000 to $50,000, small business would pay 22 percent, and that is reduced by the bill to 20 percent. So in that bracket there is another 10-percent cut in taxes.

In the bracket of $50,000 to $75,000, small business pays, as does big business, 48 percent. In this case, they would pay only 30 percent. Senators can see that that is a reduction of a very substantial amount in their taxes. I have not calculated it, but that is a very big cut in the taxes they would pay on that additional $25,000.

In the area between $75,000 and $100,000, where presently they pay 48 percent, small business would pay only 40 percent—another 20-percent cut in what they would pay in that tax bracket.

In the area from $100,000 up, they would get the same cut that everybody else gets, which would be from 48 percent to 46 percent.

That, Mr. President, plus the targeted jobs credit that is in this bill, which works out very much toward the advantage of small business, is a tremendous advantage to small business.

In fairness, I think this is one of the best bills that ever has been brought before the Senate, so far as the small businessman is concerned. In the bill, we do dispense with a program that we feel has served its day. In its day, it was a good idea, and we think its day has come and gone. That was the program that provided that you would get a tax credit if you hired some additional person. When that provision became law last year, we had more than 7 percent of the people in this country unemployed, and we were trying to reduce unemployment and get it under control.

We now have less than 6 percent of the people unemployed. The problem is under control. Where we need to work on employment now is for these people who are going to have a difficult time getting a job whether you have good times or bad. These are young people who dropped out of college, in some cases those who are concentrated in the ghetto areas, those who have been disadvantaged by education or heredity or whatever, people who really are going to have a very difficult time getting a job. That is referred to as structural unemployment, including the hardcore poverty cases.

Some of these people were not only poorly educated, but they did not get the advantages that other people got in the home. Some of them for whatever reasons have a negative attitude toward life. Some of them have sort of a Don't-give-a-damn attitude toward employment. And anyone who hires them is really doing society a real great favor because those people are a burden on us. We have to directly or indirectly provide services for them. Those are young people, in the main, who we want to help get into the mainstream. But we provide very enormous tax subsidies in this bill targeted on the hardcore unemployed to help people to provide jobs for those people.

The Senator is not seeking to strike that. He approves of it just as we do. But he also wants to maintain the provision that we feel was a good idea at the time, but which we do not think any longer serves a purpose. It seems to a majority of us on the committee that we would be better advised not to reward with a tax advantage an employer because he hires one more person but to reward the employer if he hires one of these people who is going to have a hard time getting a job for the kind of reasons that I have described.

Further, Mr. President, the Senator's amendment would seek to find the revenue to pay for it, and I applaud the Senator for his fiscal responsibility in that respect, by reducing the tax cut that the other corporations would get. For example, the Senator's tax cut for small businesses would range anywhere from 10 percent up to about 50 percent in the total corporate income taxes that small business people would pay. The larger corporations that employ large numbers of people and that really should be encouraged to expand and put more people to work get less than a 5-percent cut the way it is now under this bill, and the Senator would fix it so they would only get about a 2-percent cut, compared to the 5-percent cut in the bill.

Mr. President, Senators will hear all kinds of complaints, and I think in fairness they will be justified complaints, by the people from the larger companies, the larger employers who after all are doing a good job for society, just like small business is doing. Senators will hear bitter complaints from those people to say: "Well, look, you already started out by giving small business about four times the tax cut in percentage terms that you gave us. Why did you have to do this extra thing to say that even the little bit we got, even the 5-percent tax cut, was too much if we are making over $100,000 in income a year?"

Is not 5 percent little enough to do for large businesses if in some of these small business categories we provide tax cuts of as much as 20 percent and even in the minimum situation provide them a tax cut of 10 percent? Is not 5 percent little enough for us?

I do not know how Senators would propose to answer that complaint. I do not propose to try to defend that. I will have to say that the bill should be a balanced bill. All corporations and all business people are paying more taxes because of the effect of inflation, and we think that they should all be urged to do more. We should have some stimulation for all of them, and I would think, Mr. President, that we would be well advised to try to have a balanced bill and a bill that would provide some tax relief all along the line and that would recognize the fine service that people do in all branches.

May I point out, Mr. President, that in the area between $50,000 and $75,000 small business now pays a tax of 48 percent; under this bill that would go down to 30 percent. That amounts to a 38-percent cut for the small business people on that income. I am for that. But if we are going to give a 38-percent cut for small business in that area, there are other companies, be they the telephone company or the automobile company, or the company that manufactures just anything, that are making more than $100,000. Are they so undeserving that they should not have more than a 2-percent cut? If we could afford a 38-percent cut for the company making between $50,000 and $75,000, on that $25,000, can we not afford better than a 2-percent cut for those making over $100,000? I would think that we can.

In order, Mr. President, that the cut will be shared throughout the economy and that all businesses, be they large or small, will have some incentive to go forward in the areas where they think they can do the most good, we will provide a tax cut for all corporations rather than a rather lopsided one for some without any meaningful tax cut for the others.

Therefore, Mr. President, as much as I applaud the Senator's very noble intent, his fine work for small business, I do not believe that this amendment should be agreed to.

The PRESIDING OFFICER. Who yields time?

Mr. HASKELL. Mr. President, I shall respond to my friend from Louisiana. In the first place, on the targeted jobs credit the testimony was that the targeted credit, the administration's proposal, could not be used by small business. That is No. 1.

No. 2, there are many small businesses which operate either as sole proprietorships, partnerships, or subchapter S corporations. Therefore, a corporate rate tax cut, such as my friend from Louisiana is talking about, does not help them at all.

Also my friend from Louisiana refers to the fact that employment has improved. He is absolutely correct, and I agree with him. But I believe that we have quite a ways to go. I hope that the target for full employment will be somewhere around 4 percent. We are now at 5.9 percent. Fortunately in my State of Colorado we are 4.4 percent. But I say that this provides to the small businessman, certainly to the sole proprietor, to the partnership, to the subchapter S corporation, a real, and possibly the only advantage given under this bill.

I concur with my colleague from Louisiana that the small corporation does get a tax cut. I would point out, however, that I am not trying to eliminate the major corporation tax cut. My friend from Louisiana uses a 5-percent figure. I assume he is taking 5 percent of 48 percent, which is roughly 2 percent.

All I am doing is saying of that 2 percent, 1 percent of it be postponed.

So I hope that the Senate will adopt this amendment.

I reserve the remainder of my time.

Mr. LONG. Mr. President, the Senator from Colorado, I believe, is more reasonable than the group for which he speaks. I have never known the Senator to be unreasonable in what he demanded, of anybody in the Senate. But I do believe the small business group is being unreasonable. Let me explain why.

Over on the House side the small business people were asked, "Which would you rather have, would you rather have a cut in the rates that you pay or would you rather have this small business tax credit for hiring an additional employee?"

They said to the House Ways and Means people that they would prefer to have the cut in the rates. So on the House side the House committee gave them what they asked for, which was a cut in the rates, which, incidentally, is the same thing big business would prefer.

If you look at all the benefits they might have, they would rather you cut the rate than any other thing because that leaves them the decision of what they are going to do with their money, the unfettered decision of what they would do with their tax saving. I do not blame them for seeking that way. So they take the completely understandable view that they would rather have a cut in the rate than the job credit for hiring another employee.

They got it.

When it came to the Senate they said, "We think that is all very nice and we appreciate all that was done by the House, but we would like to have the right to have the credit for hiring additional employees also."

So those who support the Senator's amendment are proposing to let these people have their cake and eat it, too. Not only would they have the rate cut but they would get the additional credit as well.

I submit, Mr. President, when you really get down to it both the House and the Senate is doing more for small business than for big business to begin with. Big business, the big corporations—it is relatively meaningless to them to have the cuts at the lower level applying to income under $100,000, but it means a great deal to small business. So when we do what we have done in the House and in the committee for small business, and then add this to it, at the expense of the other guy who is not getting anything like the tax cut the others are really getting, Mr. President, I think that is asking too much.

That reminds me of one of my good friends whom the good Lord called home to his reward, and I am sure his reward was very great in Heaven. But he would come here year after year from Louisiana representing the American Hospital Association. What he would do as a hospital administrator from Louisiana would be to come to Washington at the time the House had passed the bill and he would go to the American Hospital Association and say, "Now, the House has been good to us, but if you could only have one more thing in addition to what the House did, what would that be?"

So then they would tell him, and he would come to me and he would say, "You know, Russell, if you will just get this one thing, we will be satisfied."

Well, the House thought they were satisfied to begin with when they took care of him over there. But then he would come back with the one thing they wanted the most, and at least some of us in the Senate committee would have the feeling that we were a bunch of Scrooges if we did not do something more for him when, in fact, the House had been good to him.

I submit Senators need have no fear that if this bill becomes law as it is that the small business community will regard this as anything other than a landmark bill, doing, perhaps, more than any bill that has been passed here—if there has been one that does more I am not familiar with it—but doing as well as almost any bill in history has done for small business, giving them fiscal relief and tax incentives. They need have no fear. They can vote for this bill and go home and tell their small businessmen, "Look what I did. I voted to say in the first bracket we will give you a 15-percent cut; in the second bracket, we will give you a 9-percent cut; in the third bracket we will give you a 38-percent cut; in the fourth bracket we will give you a 17-percent cut."

In addition to that, these job credits are worked out in such a fashion that they are very good for small business, very good indeed. Even the things that are done that could benefit the larger businessmen are tailored so they can also be useful to small business.

I really believe, Mr. President, that the bill before us does a great deal for small business. As a matter of fact, even in the bill we passed in 1976, the Secretary of the Treasury complained bitterly that that bill was lopsided in favor of small business when we passed that one. In this bill we go beyond what was done then to make this still a better deal for small business.

I cannot blame them. Any business group is asking for something more. But, on the other hand, those of us in the Senate ought to consider the problems of others, and when we do, in my judgment, it would be unfair and it would be unbalanced to provide more for small business when they have received so very much in this bill the way it stands.

Mr. HATHAWAY. Mr. President, will the Senator yield for a few minutes?

Mr. HASKELL. I yield.

Mr. HATHAWAY. Mr. President, I would just like to point out that the tax cut the Senator from Louisiana says small business is going to get, of course big business will get also. It does not make as much difference to IBM as to the small business making $50,000 to $100,000 a year. They still get the same tax cut.

I would also like to point out, Mr. President, that the amount of revenue loss from the job tax credit will be about $400 million a year, and this would stay fairly constant because there is a cap on it of $25,000.

But let us look at the tables in the report, and we see that by the year 1983 this is what big business is going to get in the way of the investment tax credit, which will amount to over $7 billion, and we are informed reliably by Treasury that 75 percent of the investment tax credit goes to big business; that the ADR, the depreciation range, adopted by the Senate Finance Committee will amount to almost $3 billion by 1983, and 94 percent of that goes to big business.

So I think I can say very justifiably that the Committee on Finance bill is heavily weighted in favor of big business, and that even with the adoption of the Haskell amendment it will still be so weighted, but at least this will move it in the direction of helping small business.

Let me reiterate that we have only had this really in effect for about 1 year. Let us just try it for another 2 years. It will undoubtedly help to reduce the unemployment rate. Certainly that is an objective this Congress will have in mind until we reach the targeted goal of about 4 percent. I think it is very worthwhile when the cost of the revenue loss is only $400 million a year to go on with this worthwhile program for at least another 2 years.

Mr. HASKELL. Mr. President, first, I ask unanimous consent that the distinguished Senator from Indiana (Mr. LUGAR) be added as a cosponsor to this amendment.

The PRESIDING OFFICER (Mr. GLENN). Without objection, it is so ordered.

Mr. HASKELL. Mr. President, I merely have two things: First, this credit does not substitute itself for the targeted credit. That stays. But the targeted credit can only be availed of by big business. Small business does not have the wherewithal, the capabilities, to train the type of people for the targeted credit.

Second, Mr. President, do not forget, I say to my colleagues, that there are hundreds of thousands of small businesses which operate as sole proprietorships, partnerships, and subchapter S corporations, and they get no benefit whatever from the rate reduction mentioned by my friend from Louisiana.

Mr. HATHAWAY. Mr. President, will the Senator yield on that point? I am glad the Senator reminded me of it. I would just like to point out that targeted credit does not have a cap of $25,000, but it goes up to 90 percent of the net taxable income of the corporation. So, it is much larger than what the small businesses will be able to avail themselves of.

Mr. HASKELL. I thank my friend from Maine.

I would be prepared, unless somebody on our side has anything further to say, to yield back my time if the floor manager of the bill is prepared to do so.

Mr. LONG. Mr. President, I will join the Senator in yielding back time in a moment or two. Let me just use a few moments, but not much.

Mr. President, what the Senator said with respect to big business getting the investment tax credit applies equally to small business. They get it as well, and both benefit from that. That is how it ought to be.

With regard to the asset depreciation range incentive previously the big corporations could use it and the small ones could not because it was just too complicated for the small companies to fool around with.

But we have simplified it in this bill, and we expect that a great number of

small business corporations will now begin to use this asset depreciation range, and they will have available to them this asset depreciation range provision, just as do those other larger concerns.

It gets down to a simple matter of equity: You want, in effect, to deny the larger concerns 50 percent of what we regarded to be a balanced tax cut, so as to shift that much to small business, when, on balance, you are already giving small business, in terms of percentages, a far greater break than you are giving to the larger concerns anyway.

In other words, as it stands now, the discrepancy is about 2 to 1 at a minimum for the smaller concerns. Is that not enough? Do you want to make it 4 to 1, or 8 to 1? That would be, in my judgment, just too much, if we are trying to have a balanced bill.

Mr. President, I would hope that we would not agree to the amendment, because I honestly feel the committee has done a conscientious job of trying to treat all groups fairly, and when we have reduced the tax rates for big business by 5 percent and for small business in those brackets by an average of about 20 percent, a 4 to 1 margin favoring small business, I should think that is enough, rather than to make it 8 to 1 favoring small business, at the expense of the other guy.

I repeat, at the expense of the other guy, who is getting the short end already. That just does not make real good sense, Mr. President, and therefore I hope the Senator's amendment will not be agreed to.

Mr. HASKELL. It seems we have a contest to see who gets the last word.

Just one final point, Mr. President. I think we should remember that what the Senator from Louisiana is talking about in terms of rates helps those small businesses operating in corporate form. Of course, it also helps big business.

This job tax credit would go to people who are running businesses themselves, sole proprietorships, partnerships, and subchapter S corporations.

I wish I had figures on the percentage of small businesses that fall into that category. Unfortunately, I do not, but my guess is that a very substantial majority of businesses throughout the land fall into that category.

Mr. HATHAWAY. Mr. President, I would point out to the distinguished chairman of the Finance Committee that maybe the ADR simplification will help a little bit, so that they will have to file one less form than formerly; but the small businesses we are talking about do not have the assets to depreciate. They are businesses that are labor intensive, and that is why we need this credit.

Mr. HASKELL. Mr. President, I am prepared to yield back the remainder of my time.

The PRESIDING OFFICER. Is all remaining time yielded back?

Mr. LONG. Hold on just a minute, Mr. President. The Senator has made an additional point; I want to respond to the additional point.

The Senator from Colorado said some of these small businesses are operating as proprietorships and partnerships. That is true; but let us keep in mind that tax avoidance is the greatest in that very area of partnerships and proprietorships.

So while it is true that in some instances individuals pay very high rates, anyone who wants to incorporate is permitted to do so. So why do they operate as individuals? Generally because it is to their advantage to do it that way. More often than not they are operating that way because they will have to pay fewer taxes than they would the other way.

Mr. HASKELL. A lot of people do not operate in corporate form merely because of the expense of incorporation.

The PRESIDING OFFICER. Is all remaining time yielded back?

Mr. LONG. Mr. President, before I yield back my time, I understand the Senator from Indiana might want to make a unanimous-consent request.

Mr. BAYH. I appreciate that, but give me just a few more moments.

Mr. LONG. Does the Senator want the yeas and nays on his amendment?

Mr. HASKELL. Yes.

Mr. LONG. I ask for the yeas and nays, Mr. President.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

● Mr. LAXALT. Mr. President, I am pleased to speak on behalf of the Haskell-Laxalt jobs tax credit amendment. I find this measure attractive for a number of reasons. First, it has a proven, successful track record. Second. it is relatively simple and easy to administer. Third, and perhaps most important, it is of benefit to the small business community, a group too often ignored by our complex tax and Government regulatory apparatus.

For all practical purposes, the Haskell-Laxalt provision extends the existing jobs tax credit through December 31, 1980. What this means is that a tax credit of up to $2,100 per new employee is available to any employer who incrementally increases his employees. The only major change from existing law is that the overall ceiling is reduced to $25,000 from $100,000. This is the equivalent of 12 new jobs per employer.

The general jobs tax credit has a proven track record. The National Federation of Independent Business has estimated that, for the 2-year period since the creation of the credit in 1976, some 300,000 new jobs were created. It is a matter of Treasury record that the businesses have claimed the credit for more than 522,000 jobs during this same period. If these figures are even close to the mark, the cost to Government, which is estimated at $1.1 billion, would have been recouped by a factor of more than eight, by the savings produced by the drop in unemployment alone. It has been estimated that a 1-percent drop in unemployment saves the Government $16 billion.

An additional benefit of the jobs tax credit is its administrative simplicity. A distinct advantage to the general, as opposed to the targeted, jobs tax credit, is the reduced complexity. From a small employer's standpoint, a targeted credit adds a whole new dimension of complexity which makes it difficult for small firms to take advantage of it. Small businesses, whose chief methods of employee recruitment are walk ins' résumés on file and advertisements, are at a distinct disadvantage in locating and certifying select population groups, as compared to larger businesses with established accounting and legal assistance.

In theory, of course, a targeted credit could be employed by any firm. But as a practical matter, only the larger firms will actually take advantage of it. This is for two reasons: First, small businessmen will shy away from the extra effort and redtape involved in finding and hiring someone from specified targeted groups, and second, over two-thirds of the small business community is located away from areas having significant targeted populations.

To my mind, it is time we did something concrete for our labor-intensive small businesses. Small business is that sector of the economy which creates jobs. According to a big business group, the National Alliance for Business, small firms accounted for almost 80 percent of the new jobs created in the past 10 years. Capital-intensive big business already has the investment credits, ADR, and other capital-related tax devices. Labor-intensive small business, on the other hand, bears the brunt of Government regulation and redtape and has far less access to tax advantages than capital-intensive firms.

Mr. President, I believe that in the relatively short time it has been in existence, the general jobs tax credit has proved its utility. I think it has been successful, and has played a significant role in reducing unemployment and saving the Government money. It is the only incentive in the tax code aimed at labor-intensive, small firms. If it is allowed to die at the same time social security taxes and the minimum wage are scheduled to go up, the job-creating momentum of our small business firms could be sharply curtailed.

Mr. President, I believe the general job tax credit should be extended, and I urge my colleagues to support the Haskell-Laxalt amendment.●

The PRESIDING OFFICER. Is all remaining time yielded back?

Mr. LONG. I yield back the remainder of my time.

Mr. HASKELL. I yield back the remainder of my time.

The PRESIDING OFFICER. All remaining time having been yielded back, the question is on agreeing to the amendment of the Senator from Colorado (Mr. HASKELL). The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MAGNUSON. Mr. President, can we have order in the Senate?

The PRESIDING OFFICER. The point has been made that there is not order in the Chamber. The point is well taken.

The clerk will suspend until there is

order in the Senate. May we have order, please?

The clerk will proceed.

The assistant legislative clerk resumed and concluded the call of the roll.

Mr. CRANSTON. I announce that the Senator from Idaho (Mr. CHURCH), the Senator from Kentucky (Mr. HUDDLESTON), and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

I further announce that the Senator from Missouri (Mr. EAGLETON) is absent on official business.

Mr. STEVENSON. I announce that the Senator from Massachusetts (Mr. BROOKE), the Senator from New Mexico (Mr. DOMENICI) and the Senator from Texas (Mr. TOWER) are necessarily absent.

I further announce that, if present and voting, the Senator from Texas (Mr. TOWER) would vote "yea."

The PRESIDING OFFICER. Is there any Senator in the Chamber who has not voted?

The result was announced—yeas 51, nays 42, as follows:

[Rollcall Vote No. 446 Leg.]

YEAS—51

Abourezk	Griffin	McGovern
Allen	Hart	McIntyre
Anderson	Haskell	Melcher
Bartlett	Hatch	Morgan
Bayh	Hatfield,	Pell
Biden	Mark O.	Riegle
Burdick	Hatfield,	Sarbanes
Cannon	Paul G.	Sasser
Chiles	Hathaway	Scott
Clark	Heinz	Sparkman
Culver	Helms	Stafford
DeConcini	Humphrey	Stevens
Dole	Laxalt	Stevenson
Durkin	Leahy	Stone
Ford	Lugar	Thurmond
Garn	Magnuson	Weicker
Goldwater	Matsunaga	Zorinsky
Gravel	McClure	

NAYS—42

Baker	Hayakawa	Packwood
Bellmon	Hodges	Pearson
Bentsen	Hollings	Percy
Bumpers	Inouye	Proxmire
Byrd,	Jackson	Randolph
Harry F., Jr.	Javits	Ribicoff
Byrd, Robert C.	Johnston	Roth
Case	Kennedy	Schmitt
Chafee	Long	Schweiker
Cranston	Mathias	Stennis
Curtis	Metzenbaum	Talmadge
Danforth	Moynihan	Wallop
Eastland	Muskie	Young
Glenn	Nelson	
Hansen	Nunn	

NOT VOTING—7

Brooke	Eagleton	Williams
Church	Huddleston	
Domenici	Tower	

So the amendment (UP No. 1994) was agreed to.

Mr. HATHAWAY. I move to reconsider the vote by which the amendment was agreed to.

Mr. HASKELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

APPOINTMENT OF ADDITIONAL CONFEREE—H.R. 13635

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that Mr. BAYH be added as a conferee on the Defense appropriations bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3846

Mr. NELSON. Mr. President, I send to the desk an amendment and ask that it be printed.

Mr. President, this amendment provides a 3-year depreciation on the first $25,000 of capital investment.

I submitted two previous amendments. In the technical drawing of those amendments they mistakenly eliminated the accelerated depreciation in the current law which was not my intent.

So I send this amendment to the desk and I withdraw amendments 3690 and 3809 which were improperly drafted amendments that I submitted yesterday.

The PRESIDING OFFICER. The amendment will be received and printed.

REVENUE ACT OF 1978

The Senate continued with the consideration of the bill.

UP AMENDMENT NO. 1993

The PRESIDING OFFICER. By previous agreement, the Senate will proceed to the consideration of unprinted amendment No. 1993 to unprinted amendment No. 1992. There is no time limit. The Senate will resume consideration of amendment 193.

Mr. HATCH addressed the Chair.

Mr. MUSKIE. Mr. President, I understand there is a new procedure for the purpose of getting the privilege of the floor for staff up to a limited number. I need more than that to serve my responsibilities as chairman of the Committee on the Budget, so I understand I must request unanimous consent on the floor.

The PRESIDING OFFICER. The Senator is correct.

Mr. MUSKIE. I ask unanimous consent that the following staff members be accorded the privilege of the floor during debate and all votes on the Revenue Act of 1978: John McEvoy, Ira Tannenbaum, Karen Williams, Lewis Shuster, Liz Tankersley, Jill Scheu, Tony Carnevale, Darla Schecter, and George Merrill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DECONCINI. Mr. President, will the Senator yield?

Mr. HATCH. I am delighted to yield.

Mr. DECONCINI. I ask unanimous consent that Jerry Bonham and Romano Romani of my staff be accorded the privilege of the floor during consideration of the tax bill.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. DECONCINI. I thank the Senator from Utah.

Mr. HATCH. Mr. President, I rise in support of the amendment of the distinguished Senator from Delaware (Mr. ROTH), because I am a vociferous supporter of the Roth-Kemp bill, which I think can really solve many of the problems of America, because it rewards the producers of America and gives opportunity to those who are presently having difficulty getting jobs. What the Roth-Kemp bill does is put the incentives into the private sector, where they really belong, anyway, and allows those who are producers to have the opportunity to save more. By saving more, of course, they can invest more, they can expand more, they can expend their capital assets. They can provide new corporations and new businesses, create jobs, and reduce the number of people who are on the unemployment, medicaid-medicare, food stamp, and welfare transfer payments rolls to the point that we might be able ultimately to reduce the expenditures of Government while producing a dynamic economy instead of the static economy we are in right now, where we continually fluctuate between inflation and stagflation.

I think Roth-Kemp has much merit. I think I need to list a few reasons why I am for Roth-Kemp.

WHY I AM FOR KEMP-ROTH

I favor the Kemp-Roth tax rate reduction bill, because it would provide more and better opportunities for all Americans. It is hard for people to get ahead, particularly those at the bottom of the ladder, in an economy in which real economic growth is sluggish. Consequently, various groups use the political process in an attempt to increase their share of limited opportunities. This leads to politically imposed quotas which divide and polarize our great society. The Kemp-Roth bill would remove some of the tax barriers to savings and investment. The economy would then grow much faster, generating more opportunities for all.

I favor the Kemp-Roth bill, because it would provide more financial and political independence for all Americans. When taxes and inflation are high and economic growth is low, people cannot set aside enough out of their own earnings to provide for their retirement or for unexpected hardships such as unemployment. As a result they become increasingly dependent upon Government programs such as social security, the solvency of which is threatened by the low rate of economic growth, and their financial independence is reduced. Other groups, particularly the disadvantaged, become the welfare dependents of politicians. It is hard to be politically independent when your living standards depends on what the Government gives you. By generating more private sector income, the Kemp-Roth bill would strengthen both the social security system and the ability of people to achieve financial and political independence from Government.

I favor the Kemp-Roth bill, because it would save the taxpayers the money that they lose to inflation and the money that the Government has to spend on unemployment programs. Everyone agrees that the Kemp-Roth bill would produce a large number of new taxpaying jobs in the private sector. The only disagreement is over how large a number. The more people who are earning, the less the individual's tax bill needs to be; and the fewer who are in need of unemployment programs, the less the need for tax revenues. For too long the Government's economic policy has consisted of increasing the demand for goods and services, but not their supply. The result has been higher and higher prices. The Kemp-Roth bill brings incentives back into our

economy and focuses on increasing supply to match demand so that prices do not have to continue to rise.

During the past number of months, a number of analyses have been prepared by Jude Wanniski, who is a thoroughgoing student of the Roth-Kemp bill, who is former associate editor of the Wall Street Journal, and president of Polyconomics, Inc., Morristown, N.J.

I find these particular analyses very intriguing and very important.

INTRODUCTION: THE PROBLEM

In the last decade, the U.S. economy has experienced a combination of problems unique in our history: Stagnation and inflation.

The productivity of the economy has fallen steadily since the late 1960's. The value of the U.S. capital stock, as measured by the stock market, is roughly one-third its value (in real, noninflated terms) compared to February 1966. And the purchasing power of the U.S. dollar has fallen by roughly two-thirds in the 1970's.

Conventional economic wisdom has no solution to this malaise. It argues that inflation can only be decreased through austerity. Stagnation can only be overcome by inflation.

THE DIAGNOSIS AND WHY HANSEN-STEIGER, ROTH-KEMP

Consider the axiomatic phrase: "Inflation is too much money chasing too few goods." It is the key to understanding the twin problems of inflation and stagnation. Traditional political economists can end inflation by producing less money, but stagnation remains. Or they can end the stagnation problem by encouraging greater production of goods, but inflation remains as long as money is being created at a greater pace.

The challenge for the political economist is to find a way to both increase the supply of goods and restrain the creation of money. The Hansen-Steiger, Roth-Kemp tax cut amendments are part of that strategy.

TWO STEPS TO CONVENTIONAL ECONOMIC STRATEGY

First. Conventional economic strategy has been to attempt an increase in the supply of goods by: (a) increasing Government spending on goods; or by (b) lowering taxes on the private sector, which leaves consumers more money to spend on goods.

These methods necessarily mean deficit financing by Government and a consequent rise in interest rates.

Second. The next conventional step is to increase the money supply in an attempt to drive down interest rates. But the increased supply of money leads to an increase in the general price level. Economic strategy, under both Democratic and Republican administrations, has been trapped by this paradox, unable to find a simultaneous solution to stagnation and inflation.

ENTER THE PROGRESSIVE TAX SYSTEM

First. To make this dilemma even more difficult, conventional economic strategy must also face up to the inherent problem of the progressive tax system.

Second. Progressive income taxes came into being in the early part of this century. You can think of the progressive system simply as a sliding scale, with lower rates at one end progressing up to higher rates at the other. With tax progressions on both capital and labor, a rise then in the general price level induced by excessive money creation forces the price of both capital and labor to go, if you will, sliding up the progressive tax scale to higher rates of taxation.

Third. Capital and labor then trade the same goods and services in the marketplace, but at the higher price level they must pay higher marginal tax rates, giving a greater share of their production to Government.

Fourth. With capital and labor paying in more to Government—keeping a smaller share of what they produce—they are discouraged from increasing, or sometimes even maintaining, their present levels of production. This is the linkage conventional economic theory is reluctant to face: An increase in the supply of money, intended to drive down interest rates, instead pushes capital and labor into higher tax progressions, eroding incentives to produce, and simultaneously giving us inflation and stagnation.

THE NIXON ECONOMICS AND THE NEED FOR HANSEN-STEIGER

This phenomenon of stagflation began to unfold in earnest in 1969, not because of excessive money creation, but through an explicit reduction of production incentives. In that year, President Nixon agreed to a sharp increase in the marginal tax rate on capital gains, to almost 50 percent from 25 percent. This sharp reduction in the rewards to capital for undertaking new, high-risk enterprise brought on the recession of 1969–70.

In 1971, the Nixon administration attempted to pull out of the recession by encouraging sharp increases in the money supply. But this increased the pace at which both capital and labor have been driven into higher tax progressions.

Today, in 1978, the Hensen-Steiger bill would merely redress this primary error of economic policy by returning to the level of capital-gains tax rates of 1969.

A COMPLEMENT TO HANSEN-STEIGER

The Roth-Kemp bill merely complements this process; its tax cuts are meant largely to offset the adverse impact of inflation on the real rates of taxation paid by capital and labor. It does this by reducing marginal tax rates on personal incomes by one-third over a 3-year period.

This particular amendment provides for 7-percent tax rate reduction in the first year, a 13-percent tax rate reduction in the second year, and 10 percent in the third year.

The Roth-Kemp tax cuts are commonly described as a "drastic" measure. Yet to fully offset the adverse impact of the inflation of the 1970's would take an immediate and whopping increase of more than 60 percent in personal income thresholds, while leaving the tax rates themselves frozen. Compared to this, Roth-Kemp is merely a modest attempt to get back to a sense of reasonableness in Federal income taxation. And, of course, because the cuts are phased in over the next 3 years, the adjustment they make, all the while, would be offset by continuing inflation.

THE NATURE OF THE CRITICISM OF ROTH-KEMP

The critics of Roth-Kemp operate with at least one basic flaw: They fail to treat inflation as a special problem in an environment of progressive tax systems. As a result, they fail to distinguish between average taxes and marginal tax rates. For the conventional economic theorist, the world is made up of stable prices, and a given tax rate has no dynamic economic effect; therefore, the individual, in conventional thinking, cannot be inflated into higher tax brackets.

Let me illustrate this fallacy in thinking with the following:

An economy can thrive even with a marginal tax rate of 100 percent, if the income at which the rate is encountered is very high, say $1 million per day (in other words, Government would confiscate 100 percent of any amount earned above $1 million per day). But if money loses so much of its value that $1 million can only purchase a loaf of bread, all production would stop after the baker had sold his first loaf each day; the Government would confiscate all subsequent loaves as income tax. Average "taxes" collected by the Government would collapse to near zero even as marginal tax rates climbed to near total confiscation.

THE LAFFER CURVE

The instrument we use to examine this dynamic effect is the Laffer curve, which applies the law of diminishing returns to tax rate policy. The Laffer curve merely enables us to think in dynamic, rather than static, terms when we consider the effects of inflation on marginal tax rates.

The curve does not speak to "average" tax rates, which have no relevance in determining individual economic actions. The curve applies to individual economic activity, in which each individual faces a different marginal tax rate.

In spite of this, critics of the Laffer curve and of Roth-Kemp insist on speaking of average taxes, average savings rates, and average incomes in their economic analysis.

The foremost critic of Roth-Kemp, Prof. Walter Heller, makes what might seem to be a powerful case against the legislation by accepting, as all economists do, the validity of the Laffer curve, and then arguing that the point of diminishing returns on the curve has not been reached. He does so by focusing entirely on average taxes.

But remember, in the baker example, average taxes can drop toward zero as individuals are pushed toward the highest marginal rates. Clearly, it should not be an objective of economic policy to reduce average taxes, which can be done by impoverishing the economy via confiscatory marginal rates. Yet, this is what Mr. Heller mistakenly believes to be the theory behind Roth-Kemp.

I might add that the Laffer curve has been around for centuries. The other day, I put an article into the RECORD which shows that in the 14th century, an Arabic scholar actually elucidated the

Laffer curve very well. I believe that was either in the RECORD of yesterday or the day before.

THE NATURE OF THE CRITICISM OF HANSEN-STEIGER

Criticisms of the Hansen-Steiger capital gains proposal are social, not economic. The Carter administration opposes the measure on the grounds that it benefits the rich. Treasury follows this by asserting that the lower rates will cost $2 billion in revenue flow.

The response from the economics profession as a whole—liberal and conservative—has been to reject the Treasury prediction, which assumes lower rates will have zero impact on production incentives. Economists mav disagree on how powerful an effect Hansen-Steiger would have in expanding the U.S. production and tax base, but literally all conservative economists—those associated with the Republican Party, for example, agree that the Hansen-Steiger tax rate reduction will finance itself in the first year by several times $2 billion by an increase in revenues from all sources.

Liberal economists, who may disagree with Hansen-Steiger on social grounds, by and large—publicly or privately—accept the potency of this measure on output and revenues.

ANALYSIS NO. 2

Again, the failure to distinguish between average and marginal tax rates distorts any economic analysis of Hansen-Steiger, Roth-Kemp. The criticisms are further flawed by being static rather than dynamic. That is, the critics assume the impact of a tax rate cut will come only on the demand side of the economy, by increasing consumption. A dynamic analysis would take into account the increase in the economy's incentives to expand capacity itself, either in quantity terms or quality terms—more goods or better goods.

I think these are things that have to be taken into consideration as we consider this amendment, which would reduce tax rates by 30 percent over the next 3 years—at 7 percent for the first year, 13 percent for the second year, and 10 percent for the third year. I do not think there is any question that this would be a very healthful thing for our economy.

The foremost critic of Roth-Kemp, Prof. Walter Heller, makes what might seem to be a powerful case against the legislation by accepting, as all economists do, the validity of the Laffer curve, and then arguing that the point of diminishing returns on the curve has not been reached. He does this by focusing entirely on average taxes.

In his July 12 essay in the Wall Street Journal, Mr. Heller asks:

> Have tax pressures increased sharply since the mid-1960s and perhaps brought us closer to the breaking point? Comparative figures assembled regularly by the OECD show total U.S. taxes at 27.3 percent of GNP in 1966 and 29.6 percent in 1976, hardly enough of an increase for tax cuts to trigger much bigger responses today than in the mid-60s. Besides, with top income tax rates at 50 percent and 70 percent instead of 91 percent, there is less tax disincentives to remove.

The confusion here is between averages and margins. Individuals do not face average tax rates, they face marginal rates (that is, the percent Government will tax on any additional $1 earned). In fact, if progressive marginal rates are unnecessarily high, their lowering could produce higher average taxes to the benefit of everyone.

WEST GERMANY AND INDIA

This brings to mind the critics who continually ask why West Germany is now doing so much better economically than the United States and yet allows a greater percentage of its national income to flow through its Government; that is, average taxes in West Germany are higher than in the United States.

The answer is that West Germany's marginal tax rates are lower than in the United States—50 percent at the top, no capital gains tax rate at all.

India is in almost the exact opposite position. India taxes at such an extraordinarily high marginal tax rate (67 percent at $12,000), only a dribble of revenues are available for State spending. Only 9 percent of India's GNP is spent by the national government. Marginal rates are high, average taxes very low.

HAVE DISINCENTIVES BEEN REMOVED?

Professor Heller's point that "there is less tax distincentives to remove," because tax rates were brought down since 1964 is only partly true. The tax burden today would probably be intolerable had rates not been brought down in 1964.

What Mr. Heller fails to recognize is that individuals pay taxes by calculating rates multiplied by income thresholds. Although tax rates have come down some since 1964, income thresholds during this time have more than doubled through inflation alone. Moreover, Mr. Heller fails to note the huge bite on capital gains added since 1964, which pushed effective marginal tax rates on investment income back toward the 91-percent level.

FAULTY VIEW OF SAVINGS

The propensity to view the economy as a collective, in which an average has meaning, extends to Professor Heller's view of savings. The supply-oriented economists, led by Laffer, argue that lower Federal income tax rates will so expand production that a temporary fall in revenues, should one occur, would easily be financed through an expansion of savings.

Yet, in his June 28 testimony before the Joint Economic Committee of Congress, Mr. Heller asks:

> Why, in the face of Laffer's assertions, has "Denison's Law" held true through thick and thin for the past 100 years or so? Edward F. Denison of Brookings has found that U.S. gross private domestic saving has been virtually invariant year-in and year-out in the face of high taxes, low taxes, or virtually no taxes.

Again, Professor Heller fails to recognize that "average" savings rates need not increase at all in order that savings as a whole increase. He would agree that everything produced is either consumed now or saved for future consumption. If high marginal tax rates are discouraging production, both consumption and savings are held back. If those unnecessarily high tax rates are eased, inviting greater production, both consumption and savings increase.

In other words, as the so-called economic pie increases, the slice saved for the future can remain the same proportionate size, in accordance with Denison's Law, But its absolute size increases.

Denison found that the savings rate has remained constant at 16 percent of the total pie. His "Law" is meaningless, because it is a static tool, not a dynamic one. Observe that by increasing the radius of an 8-inch pie to 10 inches, a 25-percent increase, the slice that is 16 percent of the total expands to 50 square inches from 32, a 56-percent increase.

THE PROHIBITIVE RANGE

As a graphic depiction of the "law of diminishing returns," the Laffer curve simply states an eternal verity. There is a point at which adding an extra straw will break the camel's back. Professor Heller appears to accept this notion, but then argues that the point has not been reached.

And he goes on to say:

> And even if there was something to the Laffer thesis, who is to say that we are in a high enough tax zone to produce those dire effects of higher rates and delightful effects of lower rates that Laffer postulates?

Having, in effect, accepted the Laffer curve, Mr. Heller cannot logically argue that we are not in the prohibitive range (where tax cuts will yield additional revenues) unless he is also prepared to argue that we are in the productive range (where tax rates can be raised to produce dramatic revenue gains). Instead, Professor Heller completes his remarks by recommending a "moderate cut of $15 or $20 billion (or even $25 billion if monetary policy tightens a lot) * * *."

In the demand-oriented world of Professor Heller, there is no need to specify where the $25 billion in tax cuts should be made, as long as there is an additional $25 billion that can go into consumer demand for goods and services. The quickest way to do this, which is the advice President Carter got last year, is through tax rebates, an idea the supply-oriented economists say is counterproductive, having no incentive effects at all.

LAFFER'S UNCERTAINTY

In his July 12 essay in the Wall Street Journal, Professor Heller quotes Professor Laffer as having told Newsweek:

> There's more than a reasonable probability that I'm wrong.

The statement does not accurately reflect Laffer's belief that there is a very high probability he is right, but that there is no way for a single mind to know precisely the optimum point on the curve. Determining that point comes through competition in the political marketplace.

THE MELLON TAX CUTS

In the 1920's, Treasury Secretary Andrew Mellon found himself in a similar position of defending his proposals for sharp tax rate reductions. Mellon used an analogy which is as valid in today's environment as it was earlier this century.

Henry Ford, he said, could produce 1,000 automobiles and charge $1 million each, or he could produce 1,000,000 automobiles and charge $1,000 each. Ford revenues would be the same in each instance. Ford, though, is pushed to finding the optimum point because he has competition. The result is the maximum number of units at the lowest possible price.

The public sector, Mellon continued, has the same range of alternatives in selecting the optimum tax rates, which is the "price" it charges for public goods and services. By its nature, though, the public sector has no competition, but is monopolistic. Political leaders must find the optimum point on the curve by internal competition. As in the economic marketplace, tension is between price and volume. If the one political party stresses tax rate reduction when rates are in the prohibitive range of the curve, as was the case in Mellon's time, that party would be expected to win more elections. And vice versa. If another party goes in the opposite direction, ignoring the need for tax relief when tax rates are in the prohibitive range, that party would be expected to lose more elections.

The point is, it is inappropriate to ask Laffer or any other single economist where exactly we are on the Laffer curve. That point is determined through political competition, based, of course, on the advice of political economists. And, today, virtually all supply-side economists have concluded there is a very high probability tax rates have been inflated into the prohibitive range, and can be reduced with no revenue loss or with self-financing.

IF LAFFER IS WRONG

Professor Heller concludes, in his July 12 essay in the Wall Street Journal, that if Laffer is wrong, he may be leading the Republican Party "over the cliff."

What will occur if Laffer is wrong?

Treasury estimates that Roth-Kemp has a first year cost of $20 billion in receipts. That combined total, notice, is lower than the $25 billion Professor Heller said he would accept if money were kept tight. Under absolutely static conditions, in which there is no supply response in the economy to the lower tax rates, the worst possible condition would be an increase in the Federal deficit by $20 billion.

ROTH-KEMP AND INFLATION

With Federal expenditures constant, this would mean the American people would finance $20 billion more in Federal outlays with bonds and $20 billion less in taxes. Individuals, in aggregate, would produce and consume the same amount of goods and services in this static world, but interest rates would be marginally higher. This reflects the fact that the future economy would have to produce $20 billion more in goods and services that would have to be taxed out of the productive sector to pay off the additional bonds.

There is, even in this worst case, no direct "inflationary" effect. Inflation, which is a decline in the monetary standard—in this case the dollar—results from excessive money creation in the absence of restraint.

Professor Heller's further criticism of Roth-Kemp is as follows:

(1) Unlike the 1960s, we are now in an inflationary environment. Where the Kennedy tax rate reduction worked exactly as planned, a similar strategy today will not work.

(2) Roth-Kemp would quickly cause inflation by bringing about capacity bottlenecks. Utilization rates in today's economy are low, but only low enough to respond to a one-year tax cut, not the three-year reductions of Roth-Kemp.

Again, this is a static approach that assumes the impact of Roth-Kemp will come only on the demand side, increasing consumption, with no increase in the economy's incentives to expand capacity itself, either in quantity terms or quality terms.

THE SPENDING ISSUE

Roth-Kemp has attracted support from economists who are not supply oriented. These theorists believe the proposal surely will lose revenues, but this will force government into greater prudence.

The difference here is a matter of intention and not final results. In the dynamic scenario envisioned by the supply-side economists, passage of Hansen-Steiger, Roth-Kemp will lead to sizable reductions in public expenditures for social-support programs. But this would be a natural process that unfolds as a result of economic expansion.

In other words, individuals now being supported wholly or partly by the government "safety net" of welfare payments, food stamps, unemployment benefits, medicaid, et cetera, will be drawn into the expanding private sector from the attraction of lower marginal tax rates. They not only stop drawing resources from the productive economy through tax/spending transfer payments. They become contributors to the treasuries of Federal, State, and local governments.

THE ADMINISTRATION'S STATIC SPENDING PROJECTIONS

There is an implied forecast in the Carter administration budget that nothing can be done to reverse the process by which American citizens are forced to turn to social-support transfers.

Indeed, the administration appears to make straight-line projections along an upward slope for social spending. The vision of the future is one or more people cramming into the safety net, fewer people in the productive sector. Thus, spending projections are as static as revenue projections.

Yet the Carter budget office plans on benefiting from inflation. The budget forecasters assume annual rates of inflation in excess of 6 percent in the next 5 years, and then calculate an increased revenue flow to the Treasury as a result of an upward shift of the entire work force into higher tax brackets. Again, they give zero allowance for the continuing disincentive effects of this process.

If President Carter is wrong, as a result of the counsel he is getting, the 6-percent inflation he assumes over the next 5 years will accelerate the economic contraction of the last dozen years. Incentives to production will continue to collapse, the tax base will shrink, and revenues will decline in real terms even as they climb in inflated terms. The safety net will be crammed with even more numbers of Americans demanding transfer payments in order to survive.

THE DYNAMIC SCENARIO

On the other hand, supply-side economists expect the reverse situation to occur with passage of Hansen-Steiger and Roth-Kemp:

(1) an increase in real revenues through expansion of the tax/production base; and

(2) reduction in transfer payment expenditures at federal, state and local levels as individuals become ineligible for such payments by virtue of being elevated into more rewarding private sector employment.

CAN FEEDBACKS BE EXPECTED?

Excluding social security, social-support transfers at all levels of government are now roughly $220 billion. The number will, of course, continue to expand, if only nominally through inflation, with a high probability of expansion in real terms if tax rates are not adjusted downward to permit economic expansion. In 3 years, the phase-in of Roth-Kemp, the number would go to $260 billion merely by a 6-percent inflation and to $290 billion if there is also a 2-percent increase in real terms.

If Hansen-Steiger, Roth-Kemp bring about the expected economic expansion, Government transfer payments would shrink.

If they shrink by one-third, Government outlays are reduced by almost $100 billion per year.

If they are reduced by one-sixth, outlays fall by $50 billion.

If a tenth of transfers are eliminated, the number falls by $29 billion per year.

These are precisely the kinds of calculations made by liberal Keynesians in support of Government spending programs; that is, $100 billion "Marshall Plans" for urban renewal. The point, though, is that there are such feedback effects—in either spending programs or tax rate reductions—and it is reasonable to assume they will go a long way toward financing the Hansen-Steiger, Roth-Kemp measures.

TREASURY'S FALLACY

Treasury estimates Roth-Kemp would lose $98 billion in revenues over the 3-year period. Treasury's argument is based on the fallacy that says the $20 billion cost of the first year's tax reduction can be set against current revenue projections, with the assumption that revenues will continue to expand in the second and third years, both nominally and in real terms, to reach $98 billion.

In other words, the Government is inflating the work force into higher tax brackets in order to produce greater revenues, and then complaining that Roth-Kemp will cause a loss to Treasury from that inflated income stream.

IN CONCLUSION

The upshot is that the supply-side economists believe with absolute certainty that the Republican tax program

will have a dynamic effect on both revenues and spending. That is, when Treasury so assertively concludes the measures would lose a hard $100 billion over 3 years, supply-side economists are certain this dire prediction will not be the case.

Almost no economist of any persuasion would disagree on this point. There would be some economic expansion that would both increase revenues above the projected Treasury path and there would also be a reduction in spending for social-support programs below the projected Treasury path.

Professor Laffer and the supply-side economists believe there is a high probability the combination of higher revenues and lower spending would finance the tax cuts entirely. And even if a short-term revenue shortfall should occur at the Federal level, which remains a possibility, they believe the total increase in national savings will more than cover this amount. As a result, there would be no crowding-out of private capital by Treasury borrowings.

Insofar as this reduces pressure on the monetary authority to be excessive in its money creation, the effect of the Hansen-Steiger, Roth-Kemp amendments would be to retard inflationary forces. There would be less money chasing more goods, a simultaneous blow against the twin problems of stagnation and inflation.

(Mr. SPARKMAN assumed the chair).

Mr. HATCH. What about Roth-Kemp and its inflationary effects? Will not Roth-Kemp create a sudden and huge surge in consumer spending, creating the inflationary situation of too many dollars chasing too few goods? Even if investment spending increases at this time as capital stock is put in place, will not this too be inflationary, particularly in the short run?

There are two effects of a tax rate reduction along the lines of Roth-Kemp. One, which this question addresses, is the increase in after-tax incomes of workers and investors.

In the first year of Roth-Kemp, this increase "in consumer pockets" would amount to $20 billion in a gross economy 100 times as large. But while $20 billion goes, in effect, into consumer pockets, $18 billion comes right out as a result of increased social security taxes and inflation-related tax increases. This $2 billion net is only one-thousandth the size of the economy itself—hardly enough to overwhelm capacity with great surges in consumer demand as the gloomy inflation scenarios predict.

In addition, to the degree the economy sees that this $2 billion must be paid back to finance the bonds that make it available, the economy will save, not spend, the $2 billion. Particularly in the lowest income classes, where credit is often necessary for survival, the net result of Roth-Kemp would tend to play down debt, thus going into savings, not consumption.

The second, more important effect of Roth-Kemp is to remove unnecessarily high barriers to production. That is, a lower tax rate not only affects the current paycheck—or interest payment, or dividend check. It holds out greater incentive to work, save or invest in the future. The increased willingness of workers to produce plus the increased willingness of capital to assemble workers in new or added enterprise—there now being a greater reward for such effort—lifts the entire economy to a higher level of efficiency. Even if the physical effort expended, in aggregate, remains the same, production of goods and services increases by increased efficiency—productivity.

As to the effects of increased investment spending, a tax rate reduction cannot focus on either labor or capital to the exclusion of the other. If tax rates on labor were zero and tax rates on capital 100 percent, there would be no employment, thus no enterprise, and no revenues. Roth-Kemp, of course, applies across-the-board on the incomes of workers, savers and investors.

There would also be no short-run inflationary effect from Roth-Kemp. The economy simply does not await actual passage of a tax cut to begin expanding work, saving and investment. The closer Congress gets to passing Hansen-Steiger and Roth-Kemp, and as White House resistance subsides, the more buoyant the economy will become.

Federal, State, and local tax revenues have, without doubt, increased already on the mere anticipation of lower Federal rates. That is, as individual workers, savers and investors "gear up" to take advantage of the lower rates, their taxed transactions and incomes provide increased revenue flows.

Another question that is commonly asked about the Roth-Kemp tax-rate reduction bill is, where is the U.S. economy today on the so-called Laffer curve?

It is inappropriate to ask where a nation as a whole is on the Laffer curve, which is an instrument to analyze only "individual" economic actions. Some individuals face low marginal tax rates, some confiscatory rates. And the measure of total economic activity is the result of the summation of these individual calculations.

But a nation as a whole does not face a marginal tax rate and thus cannot be placed on the Laffer curve, except as a rough, anecdotal expression of the collective problem of excessive taxation of individuals. It is clear that millions of individuals work and save less than we would like because they have been pushed into higher marginal tax brackets. Thus, if tax rates were reduced at the margin, saving and growth would increase.

Another question: How did Roth-Kemp arrive at the 30 percent tax cut figure—10 percent each year for 3 years?

If inflation is the major fear of Roth-Kemp, why not expand the tax cut time frame to 5 years, beginning the first year at a relatively low tax cut rate, increasing it year by year at an increasing rate?

Roth-Kemp is designed as an ex poste adjustment of tax rates to offset the debilitating inflation rates of the 1970's. If the progressive income tax rates had been indexed since 1970 to annually adjust for the rate of inflation, thereby preventing real increases in tax rates from occurring, the income thresholds would have been adjusted upward by more than 60 percent in that period—except that if the rates had been indexed, the deficits, contraction and inflation would not have been as severe as we have experienced.

In light of this, Roth-Kemp's 30 percent tax cut over 3 years is a relatively modest attempt to return to a sense of reasonableness in Federal income taxation.

As to the second question, Representative KEMP originally planned a 1-year adjustment, conceding to requests for a cautious phase-in. To extend the phase-in over 5 years would not adjust for the inflation the Carter administration forecasts for the future, let alone the last 8 years of inflation.

In other words, those in the present administration have given up. They pretty well say they cannot do anything about inflation. And, of course, as they plod along with measures like Humphrey-Hawkins, so-called labor reform, and measures such as that, it seems what they are really doing is saying, "In terms of our desire to serve these special interest groups, we literally cannot do anything about inflation."

And it seems to me that is what they are saying. In that light, the Roth-Kemp tax reduction over 3 years really is a very modest measure to attempt to cope with inflation.

Another question: What about Roth-Kemp helping to maintain or even enlarge our present Federal deficit? Deficits have the inflationary effect—Federal borrowing, crowding out, et cetera—of pushing up interest rates, which usually results in pressure on the Federal Reserve to increase the money supply. Is not the only safeguard against inflation in this situation some kind of accompanying cut or limitation in Federal spending?

Prudence—restraint in the expenditure of public funds—is always helpful to the Treasury and Federal Reserve in the management of public finance. And today's vigilant congressional efforts to restrain spending should be maintained.

But it is the opinion of a growing number of economists that not more than a reasonable fraction of the congressional effort should be invested in this endeavor. By this they mean that if half of Congress devotes itself to increasing Federal outlays, and the other half devotes itself to decreasing Federal outlays, there remains no political leadership devoted to economic growth. This, essentially, has been the condition of the past dozen years, although I would hasten to add that I think the half which is increasing Federal outlays has exceeded the half which is trying to cut Federal outlays.

Moreover, it does not seem realistic to expect that $50 or $60 billion deficits can suddenly be ended by trimming back Federal outlays. The public demands collective expenditures for social support programs during periods of collective economic contraction, which the United States has been experiencing for more than a decade. In fact, the public will even tolerate large waste in spending programs to insure that as many of their fellow citizens as possible are assisted.

by collective effort, during this contraction period.

The approach Roth-Kemp and Hansen-Steiger take is to end the economic contraction—which brought about the increase in Federal expenditures in the first place—and invite a period of economic growth by removing tax disincentives to commerce.

Both proposals are a suggestion that the time and intellectual resources of Congress be concentrated on expanding the economy's productive base, which, of course, expands the tax base as well. In such an expansion, we would expect the public demand for Federal outlays to diminish as the threat to their fellow citizens caused by contraction is ameliorated.

Another question: Norman Ture estimates the Roth-Kemp tax cuts will increase capital investment by $113 billion—more than a 30-percent jump—in "real" dollars. This would be an investment boom without precedent; larger than the jump in investment between 1965 and 1972.

Writing in the National Journal, journalist Robert Samuelson comments that "even if business wanted to increase investment that much, shortages in supplies and the needed machinery and materials almost certainly would rise." Samuelson adds that without offsetting cuts in Federal expenditures, such huge tax reductions would risk creating an enormous surge in spending which would lead either to a dangerous accelerating of inflation or to a crippling credit crunch.

Accepting, for purposes of discussion, the validity of Dr. Ture's numbers, it is beyond our understanding of all variety of economic theory how a privately-financed boom in capital investment could do all the terrible things imagined by Mr. Samuelson. Economists of all theoretical schools, including Marxists, would dismiss the Samuelson scenario. Any economist would welcome a $113 billion increase in capital investment, privately financed, if he could get it.

The more pertinent question goes to Dr. Ture's estimate of a 30 percent increase in real terms, greater than the investment jump between 1965 and 1972. Supply-side economists believe such an increase is within the realm of possibility because they believe the U.S. economy in 1978 is operating well below its potential, certainly at a far lower speed than it was achieving in 1965. Government statisticians, who can only measure quantity of production and static utilization rates—based on past rates of capital investment, dispute the supply-side theorists. But the electorate seems aware that the economy is dragging along, especially in quality measures, relative to the pre-inflation era.

The next question: If the Roth-Kemp tax cut proposal were enacted today, how would interest rates be affected in 1979, 1980, and 1981?

Interest rates are, for the most part, a function of monetary policy. But if we can assume, for analytical purposes, that monetary policy stays constant, interest rates would be lower with Roth-Kemp. This is because supply-side economists believe marginal tax rates are now in the prohibitive range of the Laffer curve, and Roth-Kemp would expand the productive base, the tax base and revenues. The economy's savings pool would expand with production and there would be "crowding in," not "crowding out" in the capital markets.

Remember, too, that income tax rates are part of the wedge between borrowers and lenders. That is, there is an "interest rate paid" by the borrower and an "interest rate received" by the lender.

The difference is the amount taken by the Government in taxes. When this wedge is reduced through a lowering of the tax rate, we would expect the interest rate paid by the borrower to fall, even though a part of the decreased wedge goes to a greater interest rate received by the lender.

Supporters of Roth-Kemp point to the high levels of business investment as a result of the Kennedy tax cuts in the 1960's. But did not corporate investment increase because, at around the same time of the Kennedy tax cuts, the investment tax credit was introduced along with the much-needed reform of depreciation guidelines?

Granted, Roth-Kemp may raise dividends and retained earnings, but there is no reason to believe it would result in dramatically higher levels of corporate investment.

The investment tax credit and reform of depreciation guidelines no doubt had beneficial effects on business expansion. But these measures are biased toward favoring mature enterprises and do little to encourage new growth and young enterprise, which our economy today sorely needs to renew itself.

The investment tax credit has probably not been as beneficial to the economy as a whole as its proponents believe. It explicitly prejudices the entrepreneur's selection of the factors of production in favor of physical capital, against labor. To the degree labor is displaced, even temporarily, the cost to Government of social support programs would increase.

With Roth-Kemp, higher levels of corporate investment would flow, in the first instance, from encouragement of new enterprise and new corporate investment, as the pretax costs of all factors of production would fall and the potential rewards to risk capital would increase dramatically, facing not a marginal tax rate at the top of 70 percent, but of 50 percent.

I think these questions certainly are answered and answerable.

We are in a recovery stage with persistently high inflation and one of our largest budget deficits ever. Now you are asking us to take a bold economic gamble—Roth-Kemp—based largely on historic anecdotes that show major tax cuts will increase revenues. What hard economic data do you have to support such a notion?

Today a growing number of economists believe our present inflation and large budget deficits are chiefly the result of a major inefficiency in the U.S. economy caused largely by high marginal tax rates. Individuals are not saving, investing, or working at desirable rates or in desirable ways.

A clear sign of this inefficiency is the existence of today's large "cash" or "subterranean" marketplace outside the official tax paying economy. The Government provides no hard economic data on this marketplace—because it exists outside the vision of the tax collector. But academic estimates are on the order of $200 billion. Lower marginal tax rates on capital and labor would draw part of this cash economy into the official tax paying economy, making the total economy more efficient and expanding the tax base as well.

Today's stock market is perhaps even harder evidence of inefficiency in the economy. The stock market is a precise measure of the value, after taxes, of the Nation's capital stock, that is, the economy's ability to produce a given flow of goods and services in the future and to reward the producers so they will sense the value of their efforts.

The Dow Jones industrial average touched 1,000 in February 1966, as the market forecast highly efficient production flows from the capital stock. The DJI has not been close to 1,000 since then, in 1966 dollars, and is now below 900 in current dollars. For the stock market to now value the Nation's capital stock as highly as it did in 1966, the DJI would have to be roughly 2,500 or more.

You might say the economy today is not so much unemployed as it is underemployed, with individual workers and investors operating well below potential to the detriment of the economy as a whole. They operate below their potential because tax rates are discouragingly high, standing as impediments to commerce.

Of course, much is said about the revenue reflows from Roth-Kemp, but not enough is said of the effects of increased savings. Chase Econometrics estimates that personal savings, retained earnings, and other capital inflows will rise enough from the tax rate reductions found in Roth-Kemp to cover any added deficit, should there be such, and still leave enough saving left over to increase net investment substantially. This would deliver an enormous noninflationary boost to real growth and productivity.

Prof. Walter Heller says the Roth-Kemp tax cuts "would simply overwhelm our existing productivity capacity with a tidal wave of increased demand and sweep away all hopes of curbing deficits and containing inflation." Roth-Kemp supporters respond that the proposed cuts are not nearly as large as Heller claims. What is the truth of the matter?

Professor Heller and other opponents of Roth-Kemp think of a tax cut only in terms of the number of dollars it dumps into the economy. This is supposed to stimulate "demand" and purchasing power, and be spent about twice over to increase GNP by a multiple of the tax cut. This line of reasoning is badly out of date, but for purposes of this discussion it will be adopted.

Opponents of Roth-Kemp then claim the proposed tax cut is too large and the resulting increase in spending would

greatly exceed our unused capacity, currently between $70 and $90 billion. But is the net result of Roth-Kemp really that large?

Chase Econometrics estimates that social security tax increases and the tax increase from inflation—as it pushes people into higher tax brackets—will amount to $350 billion over the next 5 years. Yet, the Roth-Kemp tax cut itself totals only $340 billion for the same 5 years. Who is fooling whom about great spending surges?

Given that social security and other inflation-related tax increases will amount to $23 billion in 1979, $42 billion in 1980, $74 billion in 1981, $94 billion in 1982, and $113 billion in 1983, the net result of Roth-Kemp is only $2 billion in 1979, $8 billion in 1980, and $5 billion in 1981, and a net tax increase of $7 billion in 1982, and a net increase of $18 billion in 1983.

So how can Roth-Kemp overwhelm our existing productive capacity and generate wild inflation, even given Professor Heller's demand-multiplier analysis? Clearly, if we ignore a $350 billion social security, inflation-related tax increase over the next several years without some offsetting tax relief, we will have a severe recession which will generate perhaps the largest deficits in the history of this country.

If the goal of Roth-Kemp is to generate economic expansion on the supply side of the economy, why is the proposal so stingy with cuts in the corporate income tax? Should not the corporate income tax cuts be at least equal in magnitude to the personal income tax cuts to accomplish your called-for rate of economic expansion?

It is a mistake to think of corporate taxes as taxes on capital and personal taxes as taxes on consumption. Both are taxes on production, with the former applied selectively to corporate income, the latter applied to all forms of productive income.

In the final analysis, all income flows through to individuals, which is why Roth-Kemp emphasizes cuts in personal income taxes. An across-the-board reduction in individual income tax rates treats all forms of primary income sources without bias. In other words, individuals receive taxable income from wages and salaries, interest, dividends, royalties and capital gains, and all of these must encounter the personal income tax schedules.

There is a second reason why personal income tax cuts are so important. Any tax plan that cuts business taxes but neglects personal income taxes will do nothing to raise the rate of return on work effort. Nor will it increase the after-tax rate of return on savings. And increased savings is an important by-product of any tax cut plan.

Consider the administration's proposed tax plan, which would cut the corporate taxes while doing little to encourage increased individual work effort and savings. Businesses would be encouraged to expand. They would rush to the credit markets—today retained earnings and the investment tax credit meet only a fraction of business capital needs—and find Government trying to borrow back the tax cut it just granted. Interest rates would soar. The Federal Reserve would see this as crowding out, increase the money supply, and thus guarantee inflation.

The flaw, then, in a tax plan that fails to cut personal income taxes is that it provides no mechanism with which to expand savings. On the other hand, under Roth-Kemp, firms would reach the credit market, find a large increase in savings, providing funds for both themselves and Government, with no increase in interest rates, no crowding out, and no inflationary increase in the money supply.

The point is, we cannot modernize American industry simply by cutting taxes for business without cutting personal income taxes to encourage increased saving.

Another question we asked was: Professor Laffer now admits Roth-Kemp may cause "short-run" problems to the economy because of inadequate capacity on the supply side. Do you agree?

Laffer's statement has been taken far out of context by economic journalists. Supply-side economists may "admit" to the possibility of short-run supply problems with Roth-Kemp, but only because as econometricians they refrain from making absolute statements. This, unfortunately, has not been the case with opponents of Roth-Kemp. In other words, while it is difficult for supply-side economists to imagine short-run supply problems—especially given the nature of the extended phase-in period—when asked, they will admit there is always the possibility such problems could occur.

These so-called problems, though, are only those temporary difficulties often associated with real growth. In periods of real expansion, some fragment of the economy will always run out of capacity before the rest of the economy, causing a short-term shift in relative prices that pushes the economy to seek substitutes, that is, imports or substitute goods.

But, if the fragment of the economy that runs out of capacity first believes the increased incentives to produce will be permanent—not a temporary "shot in the arm"—it will add capacity, putting on extra shifts, adding plant and equipment, training new workers, and in the midterm, the relative prices will readjust.

In any event, are not temporary growing pains, if there be such, always preferable to shrinking pains?

Another question commonly asked is this: Many Roth-Kemp supporters are reluctant to accept the idea of a budget cut or spending limitation. Yet, at the same time, they claim that under Roth-Kemp, individuals now simultaneously living off Government welfare programs and working in the subterranean economy will suddenly be enticed to take jobs in the tax paying economy.

If lowered marginal tax rates have the attraction you suggest, there should be somewhat less demand for Government services in the future. So why not some kind of budget cut or limitation, particularly as a safeguard against inflation?

If, in economic expansion, demand for Government services declines, as expected with Roth-Kemp and Hansen-Steiger, a budget cut occurs naturally, whether or not it has been anticipated. And a formal budget limitation becomes superfluous.

But if, for unforeseen reasons, a contraction occurs in the future—a hypothetical tariff war in Europe, for example—it is my opinion the average American would not appreciate his Government's hands being tied by a spending limitation.

Thus, it at least appears the public would not support a formal spending limitation in the present—as a general rule. The public expects Government to be flexible in managing the public economy, in good times and bad, and legislated spending limits are the equivalent of price controls in the private sector, for which the general electorate also has little enthusiasm.

In any event, supply-side economists predict the Roth-Kemp tax cuts will increase incentives for output and employment, while reducing demand for Federal outlays for unemployment and social welfare spending. But as to a forced accompanying budget cut or spending limitation, as Irving Kristol put it in the *Wall Street Journal* of August 10, it is naive even to think that Congress can face down the spending lobbies until after it has cut taxes.

The Roth-Kemp bill has achieved the image of progressivity, yet its actual tax cuts would be aimed heaviest at high income tax payers. For example, under Roth-Kemp a family of four with an adjusted gross income of $8,000 would save only $108 in taxes. A family of four with an adjusted gross income of $40,000 would save $2,616. Is not Roth-Kemp (and Hansen-Steiger) just another tax relief program for the rich?

Of course, these figures would have to be modified to make the present Roth amendment figures of 7 percent the first year, 13 percent the second year, and 10 percent in the third year.

The question, which is frequently asked about Roth-Kemp, misdefines the notion of progressivity and taxes. Although the actual dollar tax cut for higher income families as a result of Roth-Kemp is greater than for lower income families, the proposed tax cut applies equal percentage tax decreases across the board. The percentage decreases are equal to avoid the disincentive effect to the economy of shifting the tax burden from one income group to another.

In any event, the object of Roth-Kemp is not to put money into people's pockets. It cannot do so in any case, the way the question has been put. After all, where do the $108 and $2,616 come from? From Federal borrowing or other tax increases.

The object of the Roth-Kemp and Hansen-Steiger proposals is to increase the efficiency of the entire economy, and thereby the level of wealth of the entire economy. In our particular economic climate today, it does no good to increase the after-tax rewards of lower income groups if this means the after-tax rewards of upper income groups must be decreased.

After all, it has traditionally been in the upper income levels where we find

the education and managerial ability necessary to the assembling of enterprises. If the rewards associated with this activity are confiscated, or reduced to a level not matching the effort and risk entailed in attaining these capabilities, where will new job opportunities come from for lower income individuals who want to move up the ladder?

There is another misunderstanding embodied in this question: A tax rate reduction applies to future productivity, not past performance. The individual in the $8,000 AGI class knows that if he or she works productively and sharpens skills required to move toward the $40,000 AGI class, the greater reward will match the effort. And the individual in the $40,000 AGI class knows a slackening of effort, or leisure, will result in a greater loss of reward than was the case previously.

The point is, Roth-Kemp is designed to give the worker greater incentive to increase his work effort. It does this by increasing the yield from his labor.

Another question commonly asked is: If the Kennedy tax cuts of the early 1960's led to increased productivity, why did not we see the same increase in productivity in the early 1970's when tax rates on earned income were cut from a maximum of 70 percent to 50 percent?

Could it be that increased productivity only results from a decrease of tax rates on unearned income? If so, why not simply reduce tax rates on unearned income, a la Hansen-Steiger, and forget Roth-Kemp?

In 1970, at the same time tax rates on "earned" income were falling from 70 percent to 50 percent in the highest marginal tax bracket, the tax rate on "unearned" income—capital gains—was doubled. Had the rate on "earned" income not been reduced, the economic duress of the last several years would have been intensified.

Almost all economists now agree the prohibitive tax rates on "unearned" income must be reduced, "unearned" income merely being a pejorative way of describing income from capital. But Hansen-Steiger takes us only partly back to where income from capital was being taxed in 1969. The addition of Roth-Kemp would reduce tax rates on both capital and labor across-the-board, offsetting the debilitating effects of several years of inflation on the progressive tax system. Both actions—Hansen-Steiger and Roth-Kemp—are necessary to achieve the greatest leap in productivity over the next several years, a process already underway in mere anticipation of some amelioration of tax rates this year.

Another question: Roth-Kemp aims its major tax cuts at the personal income tax. Yet, payroll taxes—Social Security, and so forth—have become far more burdensome to the average worker.

Mr. MUSKIE. Will the Senator yield?

Mr. HATCH. I am delighted to yield.

Mr. MUSKIE. I would like to say to the Senator that I expect to raise a point of order to the Roth amendment under the Budget Act. I discussed it with the distinguished floor manager (Mr. LONG). I think we are in agreement that it might serve the interests of the Senate if we were to have that issue raised as relatively early as possible and decide it one way or another before the substantive debate on Roth-Kemp proceeds too long.

I wonder if it would inconvenience the Senator to yield for the purpose of raising that issue now, or whether he would prefer to continue, and, if he would prefer to continue, how much longer he plans to go, so we might notify other Senators of the approximate time when the point of order issue will be raised.

Mr. HATCH. I would prefer to continue because I have an analysis I would like to get into the RECORD.

I would not like it to be broken, plus the fact that I would like to get this over so I can meet another appointment.

But I will endeavor to go—I think I have been going about as fast as I can go—but I will endeavor to expedite my remarks.

Mr. MUSKIE. Does the Senator have any idea when that might be?

Mr. HATCH. I have a number of things, some of which I will try to put in the RECORD by unanimous consent, rather than read them all into the RECORD.

Mr. MUSKIE. I thank the Senator.

Mr. LONG. Will the Senator yield?

Mr. HATCH. I am delighted to.

Mr. LONG. I would like to suggest that the point of order that the Senator from Maine has in mind making raises an important issue and it is a matter of construction of the rules.

The Senator, of course, will support his argument and, while I am not for the amendment, I believe that the point of order is not well taken, although, of course, I will wait with interest for the Senator's explanation and his discussion.

I think we should agree that when the point of order is made, regardless of how the ruling would go on it, that both sides will have an ample opportunity to explain their views so that when the Senate votes, I assume there will be an appeal, in any event, and when the Senate votes on the matter, both sides will have an adequate opportunity.

Mr. MUSKIE. I think that is a very reasonable suggestion.

How much time—maybe we can agree on the amount of time to be equally divided when we get to the point of order—30 minutes?

Mr. LONG. I would think that this matter may take 30 minutes on each side. It is an important point. But perhaps we can do it in less than that.

Mr. HATCH. If I might interrupt, I did not realize the problem there is on this.

As I said, I am a very strong proponent of the Roth-Kemp bill. Why do I not try to reduce my time down to 5 or so more minutes, or at least try to reduce it down, and then get to the point of order, rather than go on for the approximately other half-hour I have here, let me finish this up and then we will get to that?

Mr. MUSKIE. All right, 5 minutes, and maybe, in the meantime, Senator LONG and I can agree on a time limitation on it.

Mr. HATCH. That will be fine.

The question: Roth-Kemp aims its major tax cuts at the personal income tax. Yet, payroll taxes—Social Security, et cetera—have become far more burdensome to the average worker.

If you really want to reduce labor costs—and thus slow inflation—raise employment, and provide incentives to invest, why not reduce the worker payroll tax and forget about the less burdensome personal income tax?

The question confuses the difference between the burden of taxation and the incidence of taxation. There is an important distinction, which can be explained with this brief scenario.

If Government spends x amount of the economy's resources, it must raise x amount of resources through taxation. It places certain tax rates on one portion of the economy, say income recipients of all kinds. This is the incidence of the taxation.

If some of those income recipients are discouraged by the high tax rates, they can choose leisure over income, or lower nontaxable income over higher taxable income. To the degree they do this, the Government falls short of the x amount of resources it has decided to spend, and the burden of providing x falls on the remaining taxpayers who do not have the option to choose leisure or nontaxable income.

Thus, it is possible that raising tax rates on incomes can, in fact, increase the burden of taxation on other elements of society; that is, people paying for public insurance programs—like social security.

Government, after all, must provide a amount of resources to recipients of social security. If it does not get this amount by contributions to social security, it must place the incidence of taxation on some other element of the economy. Where will this be, if other elements of the economy are already slipping the incidence of taxation via leisure and nontaxed income because of high marginal tax rates?

As to social security taxes, they have become more burdensome because earlier contributors to the system, now retired, were promised benefits that presumed a level of wealth in the economy that does not now exist. It does not exist, many supply-side economists now believe, because of the disincentive effects of high marginal tax rates. By lowering rates on incomes, the economy would draw capital and labor out of leisure and nontaxable income sources—bartering, loopholes—and both the incidence and burden of the now lower tax rates would fall, removing burdens from other elements of the economy. The now higher level of real national wealth can more easily provide the x amount of resources promised social security recipients.

Finally, the last question I will consider is, you continually say the Kennedy tax cuts of the early 1960's led to increased productivity. Why not consider the inverse situation? Was there a marked slowdown in economic growth and productivity in 1913 when the personal income tax was first imposed? Was there a marked slowdown in 1968 with the imposition of the 10-percent surcharge on income which went to finance the Vietnam war?

It is often misleading to relate tax rate and productivity changes by exam-

ining Government statistics. Markets do not respond with surges, up or down, on the official dates of change in tax laws, or any other laws. When the market gets the first inkling of a change in the wedge between effort and reward, it begins the adjustment process, so by the time the change is officially made, it often has already been fully discounted by the market.

Drawing economic assumptions based on marked slowdowns or surges in Government statistics can be a deceiving process. For example, economist Walter Heller argues that if, as Roth-Kemp supporters claim, the Kennedy tax cuts unleashed incentives by triggering a great leap forward on the supply side of the economy, where is the sudden bulge in productivity and GNP potential in the economic statistics of the mid-1960's? Heller concludes there was no bulge.

The answer is that there was a bulge in capacity, which is evident from the simple fact that without a tax cut in 1964 the economy would have been in a recession shortly thereafter. In fact, much of the support for the Kennedy tax cut was generated by the expectation that a recession was imminent. Professor Heller can answer his own question by comparing capacity after the cut to what would have happened to the economy had there not been a cut.

Mr. President, I would like at this point to have printed in the RECORD an excellent Wall Street Journal article entitled "The Economic Case for Kemp-Roth," and I ask unanimous consent it be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From The Wall Street Journal, Aug. 1, 1978]

THE ECONOMIC CASE FOR KEMP-ROTH

(By Paul Craig Roberts)

Walter Heller is known to the public as a liberal economist who was Chairman of the Council of Economic Advisers under a Democratic President, and Herbert Stein as a conservative economist who held the same position under Republican Presidents. Both agree that the Kemp-Roth tax rate reduction bill is economic nonsense. "It would soon generate soaring deficits and roaring inflation," says Mr. Heller. "I agree," says Mr. Stein.

Before the public is misled by their agreement into concluding that there is no economic case to be made for Kemp-Roth, I would like to show that there is.

Profs. Heller and Stein both think of tax cuts in Keynesian terms of the dollar amount put into the economy to fuel spending. They believe tax cuts work by raising the disposable income of consumers, who then spend more. The increased spending soaks up excess capacity and unemployed labor, thus moving the economy to higher levels of employment and GNP. The Kemp-Roth bill is, in their view, too large a tax cut. They believe it would fuel more new spending than there is excess capacity and produce an inflationary excess demand.

As Mr. Heller put it on this page July 12, the bill would "simply overwhelm our existing productive capacity with a tidal wave of increased demand." A smaller tax cut, he thinks, would be in order. In his July 18 article, Mr. Stein agreed with this economic analysis, but supported Kemp-Roth as a desperate means of forcing a reduction in federal spending.

A CURIOUS ANALYSIS

This economic analysis, first of all, is a curious one for economists who believe that tax cuts work by increasing demand. Without Kemp-Roth, taxes will increase due to automatic tax increases caused by inflation and higher Social Security taxes; one would expect Keynesians to be worrying about the need to offset the depressing effects of "fiscal drag."

In the context of ongoing tax increases, the Kemp-Roth reductions in the personal income tax rates do not amount to much in dollar terms. Net of the tax increases, Kemp-Roth is a $2 billion cut in 1979, a $15 billion cut in 1980, an $18 billion cut in 1981, a $7.5 billion cut in 1982 and a $1 billion cut in 1983—hardly enough to overwhelm the nation's productive capacity with a tidal wave of consumer spending. Keynesians ought to believe that the net additions to demand provided by Kemp-Roth are too small to have much impact on the economy, just as Mr. Heller says that the Mellon cuts of the 1920s were too small in dollar terms to have had any relation to the prosperity that followed.

The economic case for Kemp-Roth, though, does not rest on increasingly dubious Keynesian premises about government policy "injecting" spending to add to aggregate demand. Like the Mellon tax cuts, it is based on incentive effects, on the economics of supply. As the adage goes, it is hard to teach old dogs new tricks, and Keynesians, who have spent four decades thinking in terms of spending and demand, find it hard to understand arguments about incentive and supply.

The new supply economists think of tax rate changes as incentive changes, not as income changes. To understand the difference, consider the removal of a tariff that is high enough to prevent trade in a commodity. When the tariff is lifted, no revenues are lost, no budget deficits result and no money is put into anyone's hands. Yet clearly economic activity will expand, because the disincentive is removed. Nothing in Keynesian theory captures this effect.

Yet this is in fact how tax cuts work. A tax rate reduction does not in itself produce more real goods and services. There cannot be more income unless people produce more; the only way a tax cut can boost GNP is by providing an incentive for more production. If people respond to tax cuts by working less, as Mr. Heller suggests then GNP would fall and Keynesian fiscal policy wouldn't work either!

When tax rates are reduced, the after-tax rewards to saving, investing and working for taxable income rise. People switch into these activities out of leisure, consumption, tax shelters and working for nontaxable income. The incentive effects cause an increase in the market supply of goods and services—thus the name "supply side economics."

Consider first the choice between working for additional taxable income and enjoying additional leisure. The price to the person of additional leisure is the amount of income, after tax, that he gives up by not working. Obviously, the higher the tax rate he faces, the cheaper leisure is in terms of the income he sacrifices. In our nation with its substantial income cushions, work disincentives are not limited to the top tax brackets. Studies by Martin Feldstein of Harvard show that the lack of a significant gap between after-tax take-home pay and untaxed unemployment benefits has made leisure a free good for one million workers, thus shrinking GNP and the tax base by the value of their lost production.

Consider next the choice between working for taxable and nontaxable income. Take the case of a carpenter facing a 25 percent tax rate. For an additional day's earnings of $100 he gets to keep $75. Suppose that his house needs painting and a painter costs $80 a day. Since his after-tax earnings are only $75, he saves $5 by painting his own house and chooses not to earn the additional $100. Alternatively, the carpenter and painter may swap services, but either way the tax base is smaller by $180 and the government loses tax revenues.

Studies by Gary Becker of the University of Chicago have made it clear that capital and labor are employed by households to produce nontaxable income through nonmarket activities, such as a carpenter painting his own house. The amount of household-owned capital and labor supplied in the market is affected by tax rates. The higher they are, the more households allocate their resources to the production of nontaxable income.

Now consider the decision between using income for current consumption or saving and investing it for future income. The price to the person of enjoying additional current consumption is the amount of future income he forgoes. The higher the tax rate, the smaller the amount of aftertax future income he sacrifices by enjoying additional current consumption.

Take the case of a person facing the 70 percent tax rate on investment income. He can choose to invest $50,000 at a 10 percent rate of return, which would bring him $5,000 per year of additional income before taxes. Or he can choose to spend $50,000 on a Rolls-Royce. Since the aftertax value of $5,000 is only $1,500, he can enjoy a fine motor car by giving up only that amount. Britain's 98 percent tax rate on "unearned" (investment) income has reduced the cost of the Rolls-Royces in terms of forgone income to only $100 a year. The profusion of Rolls-Royces seen in England today is mistaken as a sign of prosperity.

Walter Heller tells us, though, that the decision to save does not depend on the relative prices of current consumption and future income; that "Denison's Law" shows that savings do not respond to higher aftertax rewards. But the most recent empirical studies of the responsiveness of savings are those of Michael Boskin of Stanford, who concludes that "private saving is indeed strongly affected by changes in the real aftertax rate of return." He specifically dismisses "Denison's Law" as a "conjecture based on evidence which is flimsy at best and dangerously misleading at worst." A current understanding of the Kemp-Roth bill's effect on savings is absolutely crucial to assessing an asserted inflationary effect.

To summarize the above points: With so many decisions affected by tax rates, it is obvious that the market supply of goods and services must respond to changes in tax rates. Our economy functions because people respond to changes in relative prices: the price of butter relative to that of margarine, beef relative to chicken, capital relative to labor and so on. A tax rate change is just another relative price change. It changes the prices of leisure and current consumption in terms of forgone current and future income. To claim that people don't respond to these price changes goes against the basic principles of economic science. Yet there is no recognition of such response in the brand of economics now used to brand Kemp-Roth as wildly inflationary.

Since Mr. Heller goes out of his way to criticize those of us who have done staff work on the Kemp-Roth bill, he should be especially interested in the results of the congressional staff debates on these points over the past year. The Congressional Budget Office, like the Treasury, once habitually offered simplistic revenue estimates that omitted the expanded tax base and revenue feedbacks. These static revenue estimates are now discredited. CBO Director Alic Rivlin

has been forced to admit that her models, based on familiar Keynesian principles, are "unable to provide estimates of the long-run impact of tax cuts."

(By the way, Prof. Heller's own staff work could use some polishing. The numbers he attributed to Norman Ture do not come from Mr. Ture.)

Mr. Heller and Mr. Stein believe the Kemp-Roth bill depends on stimulating GNP sufficiently that government revenues will not fall even in the first year, thus avoiding an inflationary deficit. In arguing that feedbacks are not large enough to recover all revenues, they are demolishing a straw man. This is not what the bill's proponents mean when they say it would pay for itself. Part of the projected deficit will indeed be eliminated by revenue from the larger GNP. The remaining deficit will not be inflationary because it will be self-financing.

Deficits are linked in the public mind with inflation or crowding out because the deficits of the past decade have originated from increased government spending and tax rebates—fiscal policies designed to increase demand, not incentives. These deficits add to the demand for funds in the financial markets, thus pushing up interest rates. The Federal Reserve then adds to the money supply, monetizing the deficit in an effort to avoid rising interest rates and crowding out, and this excessive money creation causes inflation.

While Keynesian eyes can see no difference between these deficits and deficits caused by cuting taxes, in terms of incentives this difference is decisive. Lower tax rates increase after-tax rates of return, which in turn expand private savings. When Mr. Boskin's measures of the responsiveness of savings are applied to the Kemp-Roth bill, they predict an increase in gross savings of $35 billion in the first year and a steady growth thereafter. Mr. Ture has even higher estimates of the savings effect, as does Chase Econometrics.

Savings, of course, represent the supply of funds in the financial markets. So deficits caused by tax rate cuts add to the supply of funds as well as the demand for funds. This allows the deficit to be financed without pressure on interest rates and money creation. There is no need to monetize the deficit and thus no inflationary effect. In addition, the larger GNP also means higher revenues for state and local governments and corporations, which reduce their own borrowings and ease pressure in the financial markets.

THE CHASE FORECAST

Chase Econometrics has considered all of these effects in studying the effect of the Kemp-Roth bill. Chase forecasts that the Federal Government would recover in revenue reflows 41 percent of the $25 billion tax cut in the first year. This rises to 72 percent in the seventh year. The remaining deficit is more than covered by the increase in personal savings, retained earnings, and state and local government surplus. Thus the deficit puts no pressure on credit markets. The tax cut generates enough new savings to finance the deficit plus an increase in private investment.

It is theoretically true, of course, that government spending could increase rapidly enough to soak up all additional savings and restore pressure to monetize the deficit. But if government spending in real terms could be held to current levels for about two years, the Kemp-Roth bill would get us out of the high deficit, high inflation, low productivity, low growth doldrums, and save transfer programs like Social Security.

As for Mr. Stein, many proponents of Kemp-Roth agree with him that government spending is already too high, but this is a separate issue. Legislatively, tax bills are separate from spending bills, and there is no way to tie them together. The only purpose that could be served by the bill's sponsors calling for accompanying spending cuts would be to threaten the vested interests of the congressional spending committees and their constituents, leaving the bill hostage to a bitter and quite unnecessary political fight.

As for Mr. Heller, he does better when he takes off the Keynesian blinders and relies on his own experience with the Kennedy tax cuts. In his article on Kemp-Roth he says, "To attribute to the 1962–64 tax cuts all the expansion and revenue increases in 1963–68 boggles the mind. It totally ignores the huge (over-) stimulus of the Vietnam expenditures" In other words, the tax cut did not pay for itself. But he saw these events differently in testifying before the Joint Economic Committee in February 1977.

ANTICIPATING THE LAFFER CURVE

In his testimony Prof. Heller anticipated the Laffer Curve, saying that the Kennedy cut "was the major factor that led to our running a $3 billion surplus by the middle of 1965 before escalation in Vietnam struck us. It was a $12 billion tax cut which would be about $33 or $34 billion in today's terms, and within one year the revenues into the Federal Treasury were already above what they had been before the tax cut." He concluded, "Did it pay for itself in increased revenues? I think the evidence is very strong that it did."

On this point Mr. Denison has something interesting to say. His estimate of the gap between actual and potential GNP for 1962 and 1963 is only $12 billion—the size of the Kennedy tax cut. Obviously, such a small gap left little room for an expansion based on increased demand and unused capacity. If Mr. Denison is correct, the substantial expansion that followed the tax cut had to be based on something else, a supply-side response to the higher after-tax rates of return.

Far from being wildly inflationary even with little unused capacity in 1962, the Kennedy tax cuts promoted healthy and noninflationary expansion. Once demand management is forgotten and incentive effects are understood, there is every reason to believe the Kemp-Roth tax cuts would do the same.

Mr. HATCH. Mr. President, I ask unanimous consent to have printed in the RECORD a public interest article by Dr. Paul Crater Roberts, entitled "The Breakdown of the Keynesian Model."

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE BREAKDOWN OF THE KEYNESIAN MODEL

(By Paul Craig Roberts)

There is much talk these days about "the crisis in Keynesian economics." That some such crisis exists is evident from the bewilderment and impotence our economic policy makers are displaying in their confrontation with economic reality. But what exactly is the nature of this crisis? What went wrong and what can put it right?

The answer, I would suggest, is almost embarrassingly simple. Today in the United States, public economic policy is formulated in bland disregard of the human incentives upon which the economy relies. Instead it is based on the Keynesian assumption that the gross national product (GNP) and employment are determined only by the level of aggregate demand or total spending in the economy. Unemployment and low rates of economic growth are seen as evidence of insufficient spending. The standard remedy is for government to increase total spending by incurring a deficit in its budget. GNP, it is believed, will then rise by some multiple of the increase in spending. Keynesian economics focuses on estimating the "spending gap" and the "multiplier" so that the necessary deficit can be calculated.

This view of economic policy is enshrined in the large-scale econometric forecasting models upon which both Congress and the Executive Branch rely for simulations of economic policy alternatives. It is a view that is extraordinary in its emphasis on spending. True, it is obvious that if people did not buy, no one would produce for market. It also seems obvious that the more people buy, the more will be produced and, therefore, that the use of government fiscal policy to increase total demand will increase total production or GNP. All this is so obvious to Keynesians that they believe any fiscal policy that produces an increase in government spending, even a spending increase matched by a tax increase, will produce an increase in GNP.

The concept of the "balanced-budget multiplier" illustrates the primacy that Keynesians give to spending as the determinant of production. According to this concept, government can increase total spending and, thereby, GNP by raising taxes and spending the revenues. The reasoning is as follows. People do not pay the higher taxes only by reducing their spending (consumption); they also reduce their savings. Therefore, when taxes are raised, the decrease in private spending is less than the increase in government spending. Conversely, a cut in tax rates, matched by a decrease in government spending, would result in a reduction in total spending (i.e., saving would increase), a fall in GNP, and a rise in unemployment.

For years after the 1964 Presidential election, college students were asked a standard question on economic exams: What would happen if Barry Goldwater's prescription for a tax cut, matched by a spending cut, were implemented? They missed the answer if they did not reply that there would be a reduction in aggregate demand and, therefore, a fall in GNP and employment. Alas, for too many policy makers that is still the answer.

Since the "balanced-budget multiplier" implies that the greater the increase in taxes and in government spending, the greater the increase in GNP, it is a wonder no one ever asked what happens to production as tax rates rise. This question confronts economic policy with the incentive effects it has disregarded. It should be obvious even to Keynesians that when marginal tax rates are high, people will prefer additional leisure to additional current income, and additional current consumption to additional future income. As work effort and investment decline, production will fall, regardless of how great an increase there might be in aggregate demand. Such a recognition of disincentives implies a recognition of incentives, and Keynesians are gradually having to rethink the answer to their standard question about Barry Goldwater. Once one recognizes that people produce and invest for income, and that income depends on tax rates, one has reached the realization that *fiscal policy causes changes not just in demand but also in supply.*

THE ECONOMICS OF SUPPLY

The economics of spending has thoroughly neglected the economics of supply. On the supply side there are two important relative prices governing production. One price determines the choice between additional current income and leisure; the other determines the choice between additional future income (investment) and current consumption. Both prices are affected by the marginal tax rates. The higher the tax rates on earnings, the lower the cost of leisure and current consumption, in terms of foregone after-tax income.

As an illustration, consider the decision to produce. There are two uses of time—work and leisure. Each use has a price relative to the other. The price of additional leisure is

the amount of income foregone by not working, and it is influenced by the tax rates. The higher the tax rates, the smaller the amount of after-tax income foregone by enjoying additional leisure. In other words, the higher the tax rates, the lower the relative price of leisure. When the marginal tax rate reaches 100 percent, the relative price of additional leisure becomes zero. At that point, additional leisure becomes a free good, because nothing has to be sacrificed in order to acquire it.

We often hear that a person works the first five months of the year for the government, and then starts working for himself. But that is not the way it goes. The first part of the year, he works for himself; he only begins working for the government when his income reaches taxable levels. The more he earns, the more he works for the government, until rising marginal rates discourage him from further work.

Take the case of a physician who encounters the 50-percent rate after six, eight, or 10 months of work. He is faced with working another six, four, or two months for only 50 percent of his earnings. Such a low after-tax return on their effeorts encourages doctors to share practices, to reduce their working hours, and to take longer vacations. The high tax rates thus shrink the tax base by discouraging them from earning additional amounts of taxable income. They also drive up the cost of medical care by reducing the supply of medical services. A tax-rate reduction would raise the relative price of leisure and result in more taxable income earned and also in a greater supply of medical services.

The effect of tax rates on the decision to earn additional taxable income is not limited to physicians or to the top tax bracket; it operates across the spectrum of tax brackets. Studies by Martin Feldstein show that the tax rates on the average worker practically eliminate the gap between his after-tax take-home pay and the level of untaxed unemployment compensation he could be receiving if he did not work. In this case, a marginal tax rate of 30 percent (including state and Federal income taxes and Social Security taxes) reduces the relative price of leisure so much that, by making unemployment competitive with work, it has raised the measured rate of unemployment by 1.25 percent and shrunk GNP and the tax base by the lost production of one milion workers.

It is useful to give another example to illustrate that it is not just the top marginal rate that causes losses to GNP, employment, and tax revenues by discouraging people from earning additional taxable income. Blue-collar workers do not yet encounter the top marginal tax rate (although if inflation continues to push up money incomes, and the tax-rate structure remains unadjusted for inflation, it will not be many years before they do). Nevertheless, the marginal tax rates that many blue-collar workers already face are high enough to discourage them from earning additional taxable income. Take the case of a carpenter facing only a 25-percent marginal tax rate. For every additional $100 he earns before income tax, he gets to keep $75. Suppose that his house needs painting and that he can hire a painter for $80 a day and hire himself out for $100 a day. However, since his after-tax earnings are only $75, he saves $5 by painting his own house, so it pays him to choose not to earn the additional $100. In this case, the tax base shrinks by $180—of which $100 is the foregone earnings of the carpenter, and $80 is the lost earnings of the painter who is not hired. (Also, the productive efficiency associated with the division of labor vanishes.)

Suppose, instead, that the marginal tax rate on additional earnings by the carpenter were reduced to 15 percent. In this case, his after-tax earnings would be $85, and it would pay him to hire the painter. The reduction in the marginal tax rate would thus expand the tax base upon which revenues are collected by $180.

Studies by Gary Becker have made it clear that capital and labor are employed by households to produce utility through non-market activities (e.g., a carpenter painting his own house). Utility produced in this way is not purchased with income subject to taxation. Therefore, the amount of household-owned capital and labor supplied in the market will be influenced by marginal tax rates. The lower the after-tax income earned by supplying additional labor and capital in the market, the less the utility that the additional income can provide, and the more likely it is that households can increase their utility by allocating their productive resources to non-market activities. A clear implication of the new household economics is that the amount of labor and capital supplied in the market is influenced by the marginal tax rates.

Now consider how relative prices affect the choice concerning the use of income. There are two uses of income, consumption and saving (investment), and each has a price in terms of the other. The price of additional current consumption is the amount of future income foregone by enjoying additional current consumption. The higher the tax rates, the smaller the amount of after-tax future income foregone by enjoying additional current consumption. In other words, the higher tax rates, the lower the relative price of current consumption.

Take the case of an Englishman facing the 98-percent marginal tax rate on investment income. He has the choice of saving $50,000 at a 17-percent rate of return, which would bring him $8,500 per year before taxes, or purchasing a Rolls Royce. Since the after-tax value of that $8,500 additional income is only $170 per year, the price of additional consumption is very low: He can enjoy having a fine motor car by giving up only $170 per year of additional income. This is why so many Rolls Royces are seen in England today. They are mistaken for signs of prosperity, whereas in fact they are signs of high tax rates on investment income.

A tax-rate reduction would raise the price of current consumption relative to future income, and thus result in more savings, making possible a growth in real investment. A rate reduction not only increases disposable income and total spending, it also changes the composition of total spending toward more investment. Thus, labor productivity, employment, and real GNP are raised above the levels that would result from the same amount of total spending more heavily weighted toward current consumption.

TAX CUTS AND REBATES

The econometric models upon which the government relies for simulations of policy alternatives do not take into account these supply-side effects on GNP of these relative price changes. Consider the alternatives faced by the Keynesian policy maker who wants "to get the economy moving again." His goal is to increase aggregate demand or total spending. How can he do this? He has the choice between the balanced-budget multiplier (i.e., increasing both taxes and government spending) or a deficit. He will discard the balanced-budget multiplier, because it is relatively weak and deficits are more politically acceptable than legislating higher tax rates. Having settled on a deficit, he has to choose how to produce it. He can hold tax revenues constant and increase government spending, or he can hold government spending constant and cut tax revenues. In the latter case, he has a choice between rebates and permanent reductions in tax rates. Wanting the most stimulus for his deficit dollar, he will ask for econometric simulations of his three policy alternatives: a tax rebate, a tax rate reduction, or an increase in government spending programs.

The simulations, all based on Keynesian assumptions, will show that a revenue reduction of a given amount, whether in the form of a rebate of personal income taxes or a reduction in personal-income-tax rates, will raise disposable income—and thereby spending and GNP—by the same amount. The policy maker may prefer the rebate for reasons of "flexibility." The spending stimulus may not be required in the following year, and, if it is, he has the option of providing it either by another rebate or by an increase in government spending programs. But on the basis of the econometric simulation, he will be indifferent as to the choice between rebates or rate reductions. As for his third option, an increase in government spending programs, the simulation may report that, dollar for dollar, an increase in government purchases (as contrasted with transfers) will have a more powerful impact on GNP because the government spends all of the money, whereas if it is returned to consumers they will save part of it. Based on the econometric simulation of his alternatives, he will conclude that there is no compelling economic reason in favor of any of the three, and he will make his choice on a political basis.

But the econometric models have misled the policy maker. Unlike a reduction in personal-income-tax rates, a rebate affects no individual choice at the margin. It does not change the relative prices governing the choices between additional current income and leisure or between additional future income and current consumption. It does not raise the relative prices of leisure and current consumption. Therefore, a rebate directly stimulates neither work nor investment. For any given revenue reduction, a rebate cannot cause as great an increase in GNP as a rate reduction, because it does not affect the choices that would cause people to allocate more time and more income to increasing production for the market.

An increase in government spending fares no better by comparison, and may fare even worse. It too fails to raise the after-tax rewards for work and investment. Furthermore, it increases the percentage of total resources used in the government sector. If the government sector uses resources less efficiently than the private sector, as seems to be the case, the result is a decline in the efficiency with which resources are used—which means GNP would be less than it otherwise would be. Yet the econometric simulations of the policy maker's alternatives will pick up none of the incentive and disincentive effects of these relative price changes. Instead, they focus on the effects of these alternatives on disposable income and on spending.

There are a number of adverse consequences of this extraordinary preoccupation with spending. One is that *the models exaggerate the net tax-revenue losses that result from cutting tax rates.* The only "feedback effect" on the tax base and tax revenues that they provide for is the expansion of GNP in response to an increase in demand. They do not provide for the expansion in GNP that results from higher after-tax rewards for work and investment. The supply-side "feedback effects" are ignored. Similarly, revenue gains from tax-rate increases will be overestimated, because the disincentive effects are left out.

A second consequence follows from the popular misidentification of a tax rebate as a tax cut, and from a similar tendency on the part of most policy makers to see rebates and rate cuts as variations of the same policy instrument. If Milton Friedman is correct that personal consumption is a function of *permanent* income, a temporary rebate has little impact even on spending. Thus, on the

basis of experience with rebates, tax cuts *per se* might come to be seen as relatively ineffectual, leaving the field open to proponents of government spending programs.

A third consequence is that the true effects of large tax increases (such as the proposed energy taxes, or the $227-billion increase in the Social Security tax over the next decade) will not be accurately calculated. Policy makers see these tax increases as withdrawals from disposable income and spending, and their only concern is "to put money back" into spending so that aggregate demand does not fall. However, these tax increases change the relative prices and incentives of leisure and work, consumption and investment. They produce resource reallocations that have adverse implications for employment and the rate of economic growth. Yet the econometric models, as now constructed, flash no warning lights.

Consider what Arthur Laffer, in the Wall Street Journal, has called the "tax wedge." The Social Security tax increase provides a good example of this phenomenon. It is a tax on employment, and, as economists should know, a tax on employment will reduce employment. The employer's decision to hire is based on the gross cost to him of an employee. The employee's decision to work is based on his after-tax pay. We know that the higher the price, the less the quantity demanded, and the lower the price, the less the quantity supplied. The Social Security tax both raises the price to the demander and lowers it to the supplier. By increasing the Social Security tax, policy makers reduced both job opportunities and the inclination to work.[1] They raised the cost of labor relative to capital for the employer, and they narrowed the gap between unemployment compensation and after-tax takehome pay for a wider range of workers. Since the revenues available for paying Social Security benefits depend on both the tax rates and the number of people paying into the system, the increase in rates will be offset to some degree by a decrease in the number of people paying into the system. It is hard to see how the Social Security System can be saved by decreasing employment, or how increasing the demand for unemployment compensation is likely to free general revenues for Social Security benefits.

"CROWDING OUT" INVESTMENT

There are at least two other important points on which economic policy is misinformed by the neglect of incentives and of choices made at the margin. One is the impact on GNP of reductions in the corporate-income-tax rate, and the other is the controversy over whether government fiscal policy "crowds out" private investment.

Simulations run by the Congressional Budget Office and the House Budget Committee on two of the three large-scale commercial econometric models show declines in GNP as a result of reductions in corporate-tax rates. In one of the models, corporate investment did not depend on after-tax profits in a very strong way, but was very sensitive to changes in interest rates. Since interest rates rise as the Treasury increases its borrowing to finance the deficit resulting from the tax cut, investment falls, and the model predicted a decline in GNP as the result of a tax-rate reduction that increased the profitability of investment.[2]

The other model predicted that a corporate-tax-rate reduction would slightly raise real GNP after a lag of a couple of quarters, but it predicted a lower nominal GNP for two years. Nominal GNP declined because the corporate-tax-rate reduction reduced the user cost of capital, the price mark-up, and thereby the inflation rate, thus lowering the nominal price level.

To the extent that Keynesians think about the "crowding out" of private investment by fiscal policy, it is in terms of upward pressure on interest rates as a result of government borrowing to finance budget deficits. They do not realize that investment is crowded out by taxation, regardless of whether the budget is in balance. To understand how, consider the following example. Suppose that a 10-percent rate of return must be earned if an investment is to be undertaken. In the event that government imposes a 50-percent tax rate on investment income, investments earning 10 percent will no longer be undertaken. Only investments earning 20 percent before tax will return 10 percent after tax. Taxation crowds out investment by reducing the number of profitable investments. When tax rates are reduced, after-tax rates of return rise, and the number of profitable investments increases.

So "crowding out" cannot be correctly analyzed merely in terms of events in the financial markets: "Crowding out" occurs in terms of real output. It is the preempting of production capacity by government outlays, regardless of whether these outlays are financed by taxing, borrowing, or money creation.

RESPONDING TO INCENTIVES

A concern with the supply-side effects of fiscal policy is incompatible with the concept of economic policy that currently reigns in the Congress and in the Executive Branch. Members of the House Budget Committee asked Alice Rivlin, Director of the Congressional Budget Office, and Bert Lance, then Director of the Office of Management and Budget, about the neglect of the incentive effects of tax-rate changes on supply and also about the econometric predictions that GNP would fall in response to a reduction in corporate tax rates.

Dr. Rivlin said that she and her staff had been "particularly troubled" by model findings that GNP declines if corporate tax rates are reduced. However, she went on to say:

Studies have generally found that tax-rate changes are less important than changes in the cost of capital and changes in levels of national output in influencing the level of investment. It follows that an investment tax credit or liberalized depreciation will increase investment more than a corporate-tax-rate reduction of equivalent revenue loss. While we do not believe that corporate-tax-rate cuts reduce investment, it would not be surprising to find that tax cuts had only a minor expansionary effect.

The OMB staff reply to the question was ambiguous.

Both CBO and OMB realized that the question about incentive effects most fundamentally challenged their concept of economic policy. The comments of Rivlin, Lance, and the OMB staff all unequivocally acknowledged that the econometric models upon which they rely for guidance in the choice of economic policy alternatives do not include any relative price effects of changes in personal-income-tax rates. However, since they believe that the performance of the economy is a function of spending levels, not of production incentives, they expressed no concern over this neglect. They said that economic theory and empirical studies leave it unclear whether the neglected supply-side effects are important; regardless of how the issue is resolved, they questioned the practical importance of supply incentives for short-run policy analysis.

There are two parts to this argument. One is that it is unclear whether lowering personal-income-tax rates will increase or reduce work effort. The other is that it is unclear whether any incentive effects on work effort and investment would show up as quantitatively important in a short-run policy framework. The first proposition questions the existence of the incentive effects; the second questions whether they would be effective in time to deal with an immediate problem of economic stabilization.

It is easy to dispose of the latter point. The long-run consists of a series of short-runs. If policies that are effective over a longer period are neglected because they do not have an immediate impact, and if policies that are damaging over the longer period are adopted because they initially have beneficial results, then policy makers will inevitably come to experience, sometime in the future, a period when they will have no solution for the crisis they have provoked. In the United States, that future might be now.

As for the first point, Rivlin acknowledged that a personal-income-tax-rate reduction raises the relative price of leisure, and that work effort will increase as people substitute income for leisure. This is known in economics as the "substitution effect," and it works to increase supply. However, Rivlin also said:

"It is theoretically arguable that when a tax cut provides people with more after-tax income, many of them will reduce effort through what is called the income effect. For most people, leisure has some positive value, and it may even be a "luxury" good; these people could respond to a tax reduction by reducing their working hours, benefiting from more leisure time and still maintaining their after-tax income. For other people who like their work, there may be little or no labor supply response to the income or the substitution effect. In much of the United States economy, work weeks are fixed, leaving little possibility for individuals to make marginal adjustments in hours of work."

In other words, CBO believes that the "income effect" works to decrease supply.

Rivlin then went on to say that it was an empirical question whether the "income effect" offset the "substitution effect," referred to a narrow range of studies that left the question unresolved, and concluded: "In the range of policy options that we have been dealing with, I think the assumption that changes in marginal tax rates have no quantitatively significant effect on labor supply is quite plausible."

But the concept of a targeted or desired level of income unaffected by the cost of acquiring such income is foreign to the price-theoretical perspective of economic science. Rivlin's idea that people respond to a cut in income-tax rates by maintaining their existing income levels while enjoying more leisure implies that, if their tax rates went up, they would work harder in order to maintain their desired income level. Lester Thurow has actually employed this reasoning to argue for a wealth tax. According to Thurow, a wealth tax is a costless way to raise revenues because the "income effect" runs counter to and dominates the "substitution effect." He assumes that people have a targeted level of wealth, irrespective of the cost of acquiring it. Therefore, he says, a tax on wealth will

[1] Theoretically, the effect on work effort depends on the present value of the Social Security benefits and taxes. If the increased tax means increased future benefits, the employee's work decision will take into account his increased future income, as well as his reduced current income. However, the recent changes in the Social Security law raised taxes and reduced benefits as a proportion of pay before retirement. As the Wall Street Journal put it, "the extra money will go to pay people now or soon to be on the retirement rolls, not to finance your own high living in the 21st century" (February 6, 1978).

[2] According to staff in the Office of Management and Budget, there have recently been changes in the model, but one can still get the perverse result because a reduction in the tax rate directly and substantially reduces multi-unit housing starts.

cause people to work harder in order to maintain, after tax, their desired wealth level.

Note the perverse ways in which people respond to incentives and disincentives according to the Rivlin-Thurow line of argument: When tax rates go down and the relative price of leisure rises, people demand more leisure; when tax rates go up and the relative price of leisure falls, people demand less leisure. In economics, any time the "income effect" works counter to the "substitution effect," we have the relatively rare case of what is called an "inferior good" (i.e., people purchase less of it as their income rises). Since income is command over all goods, Rivlin's argument implies that all goods are inferior goods: A tax cut will cause people to purchase only more leisure, not more income (i.e., goods). What kind of people are these? Well, the only kind of people who fit this kind of economic analysis are people who respond to a monetary incentive in perverse ways.

Perhaps Rivlin merely meant to say that lower tax rates would allow people to have a little more income for a little less work. Even so, as long as she maintains that the "income effect" works counter to the "substitution effect," her argument carries the implication that goods in general are inferior.

A PERVERSE LOGIC

Whatever the weight one assigns this point, there is a more fundamental defect in her argument. Notice the stunning inconsistency: People respond to a tax-rate reduction "by reducing their working hours . . . and still maintaining their after-tax income." But it is impossible for people *in the aggregate* to reduce their work effort and maintain the same level of *aggregate* real income! If people respond to tax cuts by working less, real GNP would fall, and it would be impossible to increase real disposable income, spending, and demand in the aggregate. Rivlin's argument is directed against the effectiveness of incentives in raising aggregate output, but if she were correct, it would mean that Keynesian fiscal policy also is ineffective!

The fatal error in the Rivlin-Thurow argument can be put this way: It derives from trying to aggregate a series of partial equilibrium analyses (individual responses to a change in relative prices) and, in the aggregate, ignoring the *general* equilibrium effects.

There are various ways a non-economist can grasp this point. Assume that the government cuts taxes and maintains a balanced budget by reducing spending. In this case, the higher income accorded the taxpayers whose rates are reduced must be matched by a negative impact on the incomes of recipients of government spending. Some or all of these may be the same people. Assume, for example, that both the tax burden and government spending are evenly distributed. In this case the "income effect" (the substitution of leisure for work) "nets out" for each individual. Since the aggregate income effect is zero, it cannot offset the "substitution effect" (the substitution of work for leisure).

If taxes are cut and government spending is unchanged (resulting in a budget deficit), the nominal disposable income of taxpayers as a group will rise relative to the nominal disposable income of the recipients of government spending as a group. The former will be able to bid real resources away from the latter. The real income gains of the former will be matched by the real income losses of the latter. Since the bidding will raise prices, the real income loss might be suffered by individuals who hold money. Regardless of who loses and who gains, the individual income effects "net out," leaving only the "substitution effects," which unambiguously increase work effort.

There can be no aggregate "income effect" unless the impact of incentives is to raise real aggregate income. Economic theory makes it perfectly clear that a tax-rate reduction will increase work effort and total output.

In the final analysis, Rivlin's argument is not that the supply-side incentive effects are unimportant, but the equally false argument that their impact is perverse—that is, only a tax-rate *increase* can produce a rise in real national income! She may not actually believe any such thing, of course—but that is where her reasoning leads her.

FROM ECONOMICS TO POLITICS

An economist might see the flaw in the Rivlin-Thurow argument, but it is not obvious to politicians. Take something simple, like Rivlin's assertion that a fixed workweek precludes adjustments of the labor supply to tax-rate changes. To an economist her assertion is obviously false, but to the politician it sounds reasonable enough. He will not realize that the "adjustments" will be reflected in absenteeism rates, turnover rates, the average duration of unemployment, labor negotiations for shorter work-weeks and more paid vacation rather than higher wages, and in the quality and intensity of work. Nor will he think of the entrepreneur who, because of high tax rates, loses his incentive to innovate—to make the economy itself (all of us) more productive.

Besides, one has to have an idealistic view of government to believe that politicians even want to know. The Keynesian concept of the economy is that of an unstable private sector that must be stabilized by fiscal and monetary policies of the government. This view has served as a ramp for the expansion of the interests of government. It has also served the interests of economists by transforming them from ivory-tower denizens to public-spirited social activists, a transformation which has much increased their power and enlivened their life styles. Unemployment can always be said to be too high. And the rate of economic growth can always be found to be below "potential." This means that there is always a "scientific" economic reason for expanding government spending programs that enlarge the constituencies of the Congress and of the Federal bureaucracy. From the standpoint of the private interests of policy makers, Keynesian economic policy will always be judged a success.

To write about all of the problems of econometrics an economic policy would require a book, not an article, but one other important problem must be mentioned in closing. Professor Robert Lucas has demonstrated that the standard econometric models assume that the structure of the economy remains invariant under wide variations in policy paths. What this means is that the models assume that people do not learn. But people do learn, and their expectations change as they experience various policies: They may not repeat the same behavior in response to the same policy at different times. Therefore, the policy simulation may always misinform the policy makers. This is not an optimistic note on which to end an article about public policy in a country that believes we need a great deal of it. But our faith in public policy has exceeded our knowledge, and we will find out that, in this area, there is no such thing as free faith.

Mr. HATCH. Mr. President, I ask unanimous consent that effective remarks of Mr. ROTH in the CONGRESSIONAL RECORD of Thursday, August 17, 1978, be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

THE ECONOMIC CASE FOR ROTH-KEMP

Mr. ROTH. Mr. President, in his recent appearance before the Senate Committee, Charles Schultze, the chairman of the Council of Economic Advisors, made a traditional appearance, reciting a traditional litany of our problems, and a traditional list of solutions. He admitted that the administration has no better recommendation to make to the Congress than to fight inflation by slowing economic growth and permitting increases in taxes. This is the traditional prescription of those economists who, for the past 10 years, have brought us the high inflation and high unemployment we are now experiencing. We cannot afford to take their advice any longer.

Mr. Schultze starts out with the good news first. He says that per capita disposable income, after adjusting for inflation, has risen, and that business profits have increased. Income is up—if you compare today's income with the income people were receiving at the low point of the last recession. However, more recent history shows that real spendable earnings, adjusted for taxes and inflation, have fallen seven-tenths of a percent from a year ago. And real economic profits, fully adjusted for inflation, are lower today than they were in 1967. Even worse, more and more economic forecasters are predicting a further slowdown in the months ahead. Some even forecast a full-blown recession for 1979.

The recent drop in earnings, and the continued dismal performance of profits, are due to the inflation and the higher taxes which the inflation produces. The higher taxes cut disposable income directly by reducing take-home pay. Indirectly, higher taxes reduce the growth of the economy, restrain hiring, and retard the growth of wages.

Apparently, however, Mr. Schultze is not concerned with the slowdown in economic growth. He states on several occasions that economic growth must moderate in order to avoid overstimulating the economy. I do not share Mr. Schultze's complacency about our slow rate of economic growth. If Mr. Schultze is correct, that slow growth retards inflation, we should certainly be seeing a drop-off in the rate of inflation right now. Obviously, inflation is getting worse. In fact, since 1969 we have had higher inflation every time production has slowed down, and lower inflation every time production has speeded up. This is just the opposite of what Mr. Schultze's theories predict should be happening.

It is time for this country to develop a new economic theory which will enable us to fight inflation and unemployment at the same time. It should be obvious by now that we cannot fight inflation by reducing production and creating shortages. We need a theory which will enable us to increase production and employment without having to call upon the Federal Reserve to run the printing presses to flood the country with easy money and additional inflation.

The historical record shows that inflation worsens when production falls. Inflation does not stimulate output and employment. Recession does not control prices. The old theory is dead.

There is such a theory, one which analyzes tax cuts in terms of incentives to produce. Higher production creates jobs and lowers inflation at the same time. We need to examine tax proposals in these terms.

Mr. Schultze analyzes a tax cut only in terms of its size, the number of dollars it dumps into the economy. This is supposed to stimulate demand and purchasing power and be spent about twice over to increase GNP by a multiple—two—of the tax cut. Hence, the term "multiplier." This whole line of reasoning is badly out of date, as will be shown later. But for the moment, let us work in terms of the theory Mr. Schultze is using.

Mr. Schultze overstates the size of Roth-Kemp—see appendix. He then claims that Roth-Kemp is too large, that the increased spending it would generate would greatly exceed our unused capacity, currently be-

tween $70 and $90 billion. But, in addition to overstating its size, Mr. Schultze has also forgotten to adjust Roth-Kemp for the offsetting increases in taxes which will be produced by pending social security tax hikes and inflation. These amount to $23 billion in 1979, $42 billion in 1980, $74 billion in 1981, $94 billion in 1982, and $113 billion in 1983. He neglects these tax increases in analyzing Roth-Kemp, but he remembers them when justifying the President's tax cut proposal. Mr. Schultze should subtract these numbers from the Roth-Kemp figures. It is the net tax cut which must be used in a multiplier analysis.

Net of these other tax increases, the tax cuts in Roth-Kemp are only $2 billion in 1979, $8 billion in 1980, and $5 billion in 1981, and a tax increase of $7 billion in 1982, and a tax increase of $18 billion in 1983, as social security and inflation-induced tax increases continue. If Mr. Schultze multiplied these numbers by 2, he would still have no cause to worry about capacity ceilings. On the contrary, he would have to advocate further tax cuts in 1982 and 1983. Clearly, Roth-Kemp is needed just to prevent tax increases over the next 3 years. See appendix.

Mr. Schultze goes astray primarily because he looks at the tax cut out of context, and judges it by size alone. However, the day is past when tax cuts should be thought of only in terms of their size.

Many tax cuts work because of their shape, not their size. Consider an example drawn from the economics of international trade. Suppose a prohibitive tariff, one so high that it chokes off all imports, is placed on French wine. Since no French wine is imported after the tariff, no revenue is raised. Now, suppose the tariff is removed. No revenue is lost, but importation of French wine resumes. Behold. A tax cut of zero dollars results in an infinite percent jump in imports, some positive number of bottles imported divided by zero bottles in the year of the tariff.

Is the example too extreme? Then, consider the recent studies which show a small tax cut on capital gains to be so stimulative of asset trading and GNP that the Federal deficit is reduced. Compare this to the general consensus that tax rebates, even fairly substantial ones, have so little impact on GNP as to be massive revenue losers. Obviously, the type of tax cut matters a great deal.

Mr. Schultze is not alone in his attitude. On July 14, Emil Sunley, of the Treasury, attacked Roth-Kemp and tried to tell the Senate Finance Committee that all tax cuts were pretty much alike in their effect on GNP and in the revenue feedback they would produce. He used this as an excuse for the deplorable Treasury habit of looking only at the initial cost of tax cuts, and of not bothering to analyze the net effect of various tax proposals after all their differential economic repercussions. Here is what several people who were present at that hearing had to say to Mr. Sunley:

Michael Evans, president of Chase Econometric Associates:

"As far as the Treasury goes, I have heard that argument. It is a common argument, one they always trot out. It doesn't improve with age."

Norman Ture, president of Norman Ture Associates:

"The criticism, for the most part, derives from antique, obsolete notions about how fiscal changes affect the economy. They are the same Keynesian notions which disregard the effects of tax changes on the conditions of supply of factors of production, which look only to the effects on disposable incomes and on aggregate demand, and which in practice have proved to be so consistently, harmfully wrong."

Senator RUSSELL LONG:

You are reluctant to change your practices down at Treasury to include more feedback into your estimates, and it seems to me that you ought to reconsider that position both when you are bringing a proposal up here and when you are looking at one.

Let us take an extreme case where we have a tax that is counterproductive. I don't know at what point a tax becomes counterproductive, but surely if the tax reaches 100 percent of a person's income, you would have to agree that is not going to make the government any money. The people are not going to work if they can't keep some of their money, and the result is the government would lose money. So, if you are going to get anything at all in terms of an accurate estimate of the result of tax change, you have to look at the dynamics.

Now, the same thing is true of a duck shooter. Any good duck shooter knows if the duck flies across in front of the blind and he shoots across the blind he is not going to hit the duck. The duck keeps right on flying. So that you would think that we would all learn, in a moving economy where everything is in motion, you would have to take the dynamics of these things into account.

Roth-Kemp is not designed to work by injecting spending power into the economy. It is designed to work by increasing incentives for the supply of goods and services and to encourage the saving needed to supply investment funds. It does this by reducing marginal tax rates.

The incentive to an activity is the after-tax payment received for it. That payment rises when the tax rate falls.

The "price" of an hour of leisure is the after-tax wage given up by not working. The "price" of a dollar of current spending is the lost dollar plus after-tax interest which could have been spent next year. Lowering tax rates makes leisure and spending more expensive in terms of lost income. As people respond to this "price" change, they shift into work effort and saving. These are both growth-oriented activities. They increase investment, hiring, capacity, and production. They lower interest rates and prices.

The tax rate in question is the rate on the last few dollars of wages, interest, and dividends, because these marginal rates are what will be paid if work effort, saving, and investing are increased. Thus, cuts in tax rates in every bracket encourage more work, saving, and investing, as opposed to leisure and consumption. Tax rate reduction increases the available supply of the labor and capital inputs needed for production of goods for current consumption and production of capital goods to expand future economic capacity. Tax rate reduction changes behavior, just as any other price changes do.

As Norman Ture has explained:

It is in the supply side context, I believe, that one should evaluate the estimates of the Roth-Kemp tax reduction.

The proposed tax reductions would materially reduce the cost of market-directed effort relative to leisure. Certainly the labor force data of the last few years argue strongly for the plausibility of the employment increases we have projected.

Similarly, Roth-Kemp would dramatically reduce the cost of saving and investing relative to the cost of consumption. To assert less is, in effect, to argue that people's saving and investing behavior is irrational, that people are indifferent to the after-tax return they may obtain in deciding how much of their income to save and how much to consume.

The estimated increases in the supplies of labor and capital services argue forcefully against the criticism that Roth-Kemp would accentuate inflation. The contention that enactment of these tax reductions would sharply boost inflation derives from the mistaken Keynesian views which ignore conditions of supply and look only at alleged effects of tax changes on demand, principally consumption spending.

Mr. Wendell Gunn, vice president, Chase Manhattan Bank, stated:

I must emphasize the distinction between cuts in marginal tax rates and the quite different notion of tax rebates. All of the benefits of the former accrue because of the effect on the expected profitability of production and investment. These benefits do not result in the case of a tax rebate, simply because it is related only to previous production, which obviously cannot be altered in response.

The primary rationale of the Kemp-Roth proposal appears to be based on the conceptual framework just discussed. By cutting marginal tax rates on individuals across the board and on businesses, it would provide for noninflationary private sector economic expansion. It would signal abandonment by liberals and conservatives alike of the idea that inflation must be fought with unemployment and vice versa. It would release the enormous pool of energy and individual initiative that has characterized our great country since its inception. New employment would result and those Americans who, for obvious reasons, always seem to bear a disproportionate share of unemployment, would be among the greatest beneficiaries. And, believe it or not, it contains the only hope of ever achieving the elusive balance in the federal budget.

Mr. True:

I read Professor Heller's piece in the Wall Street Journal . . . He looks only at one kind of effect . . . an effect on disposable income of the taxpayer, and he thinks that all the consequent effects on the economy derive only from that. It seems to me . . . that captures very, very little of the effect of taxes on the economy.

The real effect of a tax change is that it changes the cost any one of us confronts in doing this versus that. To assume, as Professor Heller explicity says, that we are unresponsive to these changes in cost is to assume that, as he does, we are all irrational, that the economy in fact operates by gosh and by golly and it is a sort of wonder that it doesn't turn into a black hole and that we don't implode into it.

Well, the economy doesn't operate by gosh and by golly, it operates in a very analyzable way, a very systematic way. You can in effect examine why the economy is going to do what it is going to do if you take account of what happens to relative prices. And tax changes are in fact primarily to be interpreted as changes in the relative prices and costs confronting taxpayers.

Roth-Kemp is not inflationary precisely because it does affect relative prices. It affects behavior, increases growth, and encourages saving.

In order to judge a tax cut's impact on growth and inflation, we have to know what the cut will do to GNP and saving. To finance itself without causing inflation, a tax cut can do four things:

First, it can increase GNP, which is the tax base, and recover revenues to offset part or all of the initial reduction.

Second, if it reduces marginal tax rates it can cause existing savings and investment funds to switch out of tax shelters and nontaxable uses into taxable uses, raising the tax base and revenue. (This also makes saving and investment more efficient, raising GNP by shifting saving and investment from low-yield, but sheltered projects into straightforward, high-yield activities.)

Third, if it reduces marginal tax rates, the tax cut makes saving more rewarding after taxes, and raises the total amount of saving being done. Chase Econometrics forecasts a

sharp rise in saving if tax rates are reduced. Some of this saving will go to buy the bonds the Treasury will sell to cover any deficit remaining from the tax cut. Any excess will be used to increase net investment and growth.

Fourth, by fostering growth and employment, the right kind of tax cut reduces unemployment and welfare spending.

As long as revenues rise to offset the tax cut, or as long as savings rise by enough to cover any added debt, the Federal Reserve does not have to buy even one additional Treasury bill, and does not have to add one cent to the money supply.

On the first point, Chase predicts revenue reflows to all governments of 40 percent of the tax cut in the first year, rising to 65 percent of the tax cut by 1987. This is twice the level Mr. Schultze would admit to.

On the second point, lowering tax rates is essential if we are to get people out of tax shelters and back into the real investment in basic American industry we need so badly. Furthermore, shifts out of tax shelters are extremely profitable for the Federal Government. After the Kennedy tax cuts, upper bracket taxpayers shifted out of tax shelters in such large numbers that they paid more taxes even at the lower tax rates. Michael Evans, in a recent Wall Street Journal article, stated:

The top rate was reduced from 91 percent in 1963 to 77 percent in 1964 and 70 percent in 1965 and later years. The figures for actual income tax paid for the period 1961–1966 for taxpayers with incomes of $100,000 or more are taken from Statistics of Income and are reproduced in the accompanying table.

The results are so clear-cut that it is surprising that these figure have not previously been introduced as evidence in favor of Kemp-Roth. After virtually no growth in income taxes at these levels for three years, actual taxes paid rose dramatically beginning in 1964 even though income was taxed at significantly lower rates. In the case of individuals earnings over $1 million per year, taxes collected actually doubled in the two-year span during which the tax rates were being lowered!

These results, which represent a remarkable rebuttal of these who argue that upper-income tax cuts are a "raid on the Treasury," indicate that a further reduction from 70 percent to 50 percent would not only spur economic growth and increase aggregate supply, but would actually assure the Treasury of greater tax revenues. The argument for upper-income tax cuts is almost as watertight as the argument for lower capital gains taxes.

TABLE 1.—INCOME TAXES PAID BY UPPER INCOME BRACKETS

	1961	1962	1963	1964	1965	1966
Maximum tax rate (percent)	91	91	91	77	70	70
Level of adjusted gross income:						
$100,000 to $500,000	1,970	1,740	1,830	2,220	2,752	3,176
$500,000 to $1,000,000	297	243	243	306	408	457
Over $1,000,000	342	311	326	427	603	590

Note: All tax figures are in millions of dollars.

Mr. ROTH. But, there is a more serious matter here than collecting more Federal revenue. Marginal tax rates have risen substantially for every level of real income since they were last reduced in 1964. Prices have doubled since then. People earning $20,000 in 1964 were earning the equivalent of $40,000 in today's dollars. These people were just entering tax brackets that made tax shelters seem attractive, brackets which encourage leisure and discourage saving. People filing 2 percent of all tax returns, doing perhaps 10 to 15 percent of the Nation's saving, were affected.

Today, $20,000 in taxable income still diverts people into tax shelters and leisure, and away from saving. But five times the number of people are earning that much today, people who were earning $10,000 in 1964. They were not using tax shelters then. They are now. People filing 10 percent of all tax returns, doing perhaps 30 to 50 percent of the country's saving, are affected.

By 1985, if we do not reduce the marginal tax rates, 25 percent of all tax returns, covering 60 percent of the country's taxable income and 80 percent or more of the country's savings will be in the upper brackets.

To who and at what cost will the American steel industry sell bonds to modernize its plant and equipment if 88 percent of U.S. saving is attracted to tax shelters? Where and at what interest rates will savings and loan companies get deposits with which to make mortgages? How can we maintain our competitive position in world trade if we increasingly siphon off a dwindling supply of saving into inefficient boondoggles instead of into the upgrading of American factories and jobs?

Only the Roth-Kemp bill reduces marginal tax rules, the rates which affect behavior. Only Roth-Kemp addresses this basic question of savings, economic growth, and the protection of American jobs.

As for point three, both Mr. Ture and Mr. Evans agree that saving will increase sharply under Roth-Kemp.

Mr. Ture:

. . . The increase in private saving out of the very substantial increase in real income would be great enough to finance, in real terms, both the additional deficits and very large increases in investment.

Mr. Evans:

In the middle sixties, following the tax cuts, savings as a proportion of GNP rose sharply, and productivity gains . . . were well above average. . . . It is a fact that anybody could verify. (See Table 2.)

In fact, Chase Econometrics estimates that savings will rise enough from the tax rate reductions found in the Kemp-Roth bill to cover any added deficit and to still leave enough saving left over to increase net investment subtantially, delivering an enormous boost to real growth and productivity.

As for point four, the impact on unemployment compensation and working people, Evans and Ture forecast an increase of 2–4 million jobs from Kemp-Roth, and higher wages. And Mr. Ture stated:

Just as one would expect, labor would be by far the principal beneficiary of Roth-Kemp; about two-thirds of the increase in aggregate real income would be in the form of the increase in total labor compensation.

Thus, Kemp-Roth is not inflationary. It is self-financing four ways. Mr. Schultze doubts this primarily because, in his frame of reference, he has no way to distinguish between a tax cut which alters incentives, reduces the use of tax shelters, and stimulates savings and investment, and one which simply cuts Federal revenue and forces the Federal Reserve to create money to buy Treasury debt.

What has happened to Mr. Schultze is very simple. He is a macroeconomist used to looking at tax cuts according to their size. Roth-Kemp is a very small net tax cut which operates by restructuring tax rates and affecting incentives. Thus, its effects fall within the study of individual behavior—microeconomics. Mr. Schultze is out of his element here.

Mr. Schultze has totally neglected the fact that saving will be encouraged by lower tax rates. He has given no thought to the efficiency gains (and tax revenues) that will result as people shift from tax shelters into ordinary investment. He ignores production gains from a greater acceptance of overtime, or the more intense work effort and seeking after promotions brought on by lower rates. He neglects the benefits from increases in research and development as profitability is restored. These microeconomic effects come from lowering the tax barriers between effort and reward. These barriers, which Kennedy reduced, have been gradually resurrected by 15 years of inflation. They are powerful. They are not in the Keynesian short-run world view.

In the Kennedy years, the labor supply rose sharply, productivity rose sharply, savings surged, and capacity increased much faster than in the previous decade. Mr. Schultze says capacity and productivity will not rise fast enough for Roth-Kemp to repay Washington in three years in terms of higher Federal revenue. Maybe not. But, any delay in repayment will be thorough'y covered by higher saving, not by inflationary money creation. And the tax cut will repay the country as a whole in terms of full employment, higher real income, higher State and local tax receipts, fewer lives wasted on welfare, and a rekindling of the work ethic and entrepreneurial incentives. People will be working for themselves and their families once again, and upward mobility will again be part of American life.

Mr. President, I ask that a table, the appendix and two articles from the Wall Street Journal be printed in the RECORD.

The material follows:

TABLE 2.—INCREASE IN SAVINGS AND PRODUCTIVITY FROM KENNEDY TAX CUTS

[Dollar amounts in billions]

Year	Total individual savings [1]	Increase over preceding year: Savings Dollars	Savings Percent	Productivity [2] (percent)
1960	$34.900	−$2.472	−6.61	1.6
1961	34.693	−.207	−.59	3.3
1962	40.243	+5.550	+16.00	4.6
1963	45.232	+4.989	+12.40	4.0
1964	54.901	+9.669	+21.38	4.1
1965	62.028	+7.127	+12.98	3.7
1966	72.003	+9.975	+16.08	3.2
1967	72.726	+.723	+1.00	2.3
1968	78.028	+5.302	+7.29	3.3
1969	69.563	−8.465	−10.85	.3

[1] Increase in financial assets, plus net increase in tangible assets, less debt.

[2] Output per hour of all persons.

Sources: Savings: Board of Governors, The Federal Reserve. Productivity: Department of Labor, Bureau of Labor Statistics.

APPENDIX

In his appearance before the Senate Budget Committee, Charles Schultze presented a simplistic, back-of-the-envelope analysis of something he labeled the Roth-Kemp bill, but which was really a straw man set up to be an easy target for a cheap shot.

Here is how the straw man was set up. The first step was to make Roth-Kemp seem very large. Mr. Schultze conveniently set aside the social security tax rate increases of the next few years, and the higher tax rates which will result from inflation's pushing people into higher tax brackets. These two types of tax increases will bloat federal revenues above the levels of the 1977 Tax Act by about $25 billion in 1979, $40 billion in 1980, $65 billion in 1981, $90 billion in 1982, and $110 billion in 1983. (For every 10 percent rise in prices, the higher tax rates caused by inflation raise tax revenues by 16 percent. The above figures only include this extra 6 percent windfall in excess of the revenues the government needs to keep up with inflation.)

Setting these tax increases aside accomplished two things. It inflated the gross size of the Roth-Kemp cut, before subtractions, and then omitted the subtractions altogether, never putting Roth-Kemp on a net basis.

THE GROSS CUT

Since these tax increases may cause a recession, and will surely at least slow economic growth, removing them from consideration lets Mr. Schultze forecast a strong economy, an expanded GNP, and expanded revenues. The Roth-Kemp tax cut, which is one-third of income tax receipts, looks larger the larger one assumes revenues will be. In fact, many economic forecasters are considerably less sanguine about the economic outlook than Mr. Schultze, and would not put the Roth-Kemp bill anywhere near such a gross size as Mr. Schultze uses.

Thus, Mr. Schultze calls Roth-Kemp a $30 billion tax cut in 1979, and a $10 billion cut in 1981. In fact, it is near a $25 billion cut in 1979, a $50 billion cut in 1980, a $79 billion cut in 1981, an $87 billion cut in 1982, and a $95 billion cut in 1983.

THE NET CUT

Demand analysis operates on net injections of money into the spending stream.

Mr. Schultze should have subtracted the pending tax increases from gross Roth-Kemp figures, and compared the net Roth-Kemp numbers to the slack in the economy. Alternatively, he could have assumed the pending tax increases will widen the slack considerably, and compared somewhat lower gross Roth-Kemp numbers to the larger post-tax-increase slack.

What Mr. Schultze has done is to compare the gross Roth-Kemp numbers to the current slack. No wonder he sees the economy crashing through some sort of capacity ceiling, and generating inflation!

Net of pending tax increases, the Roth-Kemp personal tax cuts are about $2 billion in 1979, $8 billion in 1980, $5 billion in 1981, a $7 billion tax increase in 1982, and an $18 billion tax increase in 1983, assuming 6 percent inflation. In fact, inflation and its resulting tax increases will probably be larger than assumed by Chase, and the net size of Roth-Kemp smaller than shown here.

We can compare these net numbers, even multiplied by two, to our current $70–$90 billion per year economic slack, and see that Roth-Kemp does not crash through some supposed capacity ceiling. It does not lead to wild inflation. In fact, we would need to index the income tax by 1981, or have further tax cuts, to keep Roth-Kemp and full employment from being repealed by inflation by 1985!

OTHER FLAWS IN SCHULTZE ANALYSIS

Even allowing Mr. Schultze to use the gross figures instead of net for Roth-Kemp, his analysis goes astray.

For a tax cut to receive the full multiplier, it must not be offset by other factors. As we have seen, if other taxes rise, the net effect is reduced. But this is true even if other taxes do not rise!

Every tax cut must be financed, unless spending is cut. Suppose spending is not cut. Suppose the Treasury finances the tax cut by borrowing. Then the purchasing power injected by the tax cut is borrowed back by the Treasury, and the multiplier process collapses. The tax cut is ineffective, be it Roth-Kemp, Carter, or Ways and Means!

Thus, Mr. Schultze must be assuming that the tax cut is funded by some means other than borrowing from the public. There is only one other way out for him. He must expect the Federal Reserve to buy the Treasury bonds with new money. In the final analysis, Mr. Schultze's tax cut scenario works only if the Federal Reserve finances it almost in its entirety. Tax cuts are not fiscal policy anymore. They are monetary policy! Mr. Schultze is implicitly assuming a totally accommodative monetary policy. If the Federal Reserve chose not to be totally accommodating, it could make any tax cut noninflationary. The amount of inflation would then be a function of the response of the Federal Reserve, not a function of the size of the tax cut. Thus, Mr. Schultze's basic premise falls apart.

ROTH-KEMP TAX CUT VERSUS SOCIAL SECURITY AND INFLATION TAX INCREASES

[Chase econometrics forecast; billions of dollars changes from 1977 tax code levels]

Year	1979	1980	1981	1982	1983
Roth-Kemp tax cut:					
Total cut (before reflow from higher GNP)	25	50	79	87	95
Personal cut (before reflow)	21	45	73	80	88
Social security increase	12	18	36	40	42
Inflation tax increases:					
Personal	9	19	30	42	55
Corporate	2	5	8	12	16
Sum of increases	23	42	74	94	113
Net tax cut, increases less Roth-Kemp	−2	−8	−5	[1]+7	[1]+18

[1] + Indicates tax increase.

[From the Wall Street Journal, Aug. 7, 1978]

TAXES, INFLATION AND THE RICH

(By Michael K. Evans)

Increasing numbers of economists have rerently suggested that massive tax cuts would cure the ailments of the U.S. economy by increasing productivity, raising incentives and hence expanding aggregate supply. The idea of supply-side incentives has been embodied in proposals like the Steiger amendment to cut capital gains taxes and the Kemp-Roth bill for an across-the-board tax cut.

These bills, and the new supply-side thinking, raise issues that sound startling in the context of contemporary economic thought: Is it possible to cut taxes without spurring inflation? And is it possible to cut taxes, or at least certain taxes, without even reducing total revenues received by the federal Treasury?

The historical record clearly indicates that the rate of inflation is inversely proportional to the gap between actual and maximum potential GNP. So measures that raise potential GNP would reduce inflation at the same time they increase economic growth. Measures that succeeded in expanding the gap by raising potential would clearly offer greater benefits to society than the traditional remedies of fiscal and monetary restraint, which expand the gap by reducing aggregate demand.

HOW A TAX CUT REDUCES INFLATION

In order for a tax cut to reduce inflation, it must increase maximum potential GNP faster than actual GNP. This is accomplished only by raising the investment ratio or by increasing incentives to work because a larger proportion of income will remain after taxes. Not all tax cuts accomplish this. A tax reduction of $50 per person, for example, would have no measurable effect on productivity or incentives, so it would not raise potential GNP. However, it would increase actual GNP, hence reducing the gap and raising the rate of inflation.

Thus the other extreme, a reduction in corporate income taxes or capital gains taxes would initially affect investment, thereby leading to the desired effect on productivity and total supply. While actual GNP would obviously rise because of higher capital spending, the gap would increase, thereby reducing the rate of inflation. A number of studies by Chase Econometrics and others have already shown the salutory impacts of business tax cuts.

The question of personal income tax cuts, which has become particularly relevant in view of the increased interest in the Kemp-Roth bill, is a much more difficult one to answer. While it may be theoretically appealing to argue that a reduction in personal income taxes encourages an individual to work harder and thus increase both his pretax and aftertax income, little evidence has been assembled either to support or disprove this hypothesis.

One of the major problems is measuring the amount and intensity of work offered by an individual taxpayer. However, a reasonable proxy variable is the amount of income taxes paid by this individual. Thus we can examine what happened to federal personal income classification in the years following major tax cuts. These occurred in the mid-1920s, under Treasury Secretary Andrew W. Mellon, and in 1964–1965. It is interesting to examine both of these periods in some detail.

Before the U.S. entered World War I, the maximum tax rate on personal income was 15%, but this rate rose dramatically to a peak of 73% in 1918 and succeeding years. It was then cut to 55% in 1922 and 25% in 1926. It is instructive to learn what happened to taxes paid by millionaires—that group which has been singled out by President Carter and Treasury Secretary Blumenthal as unworthy of further tax relief. To adjust for the differentials caused by inflation, we consider those taxpayers with incomes over $300,000 in 1922 and in 1927, although even this adjustment is an understatement of the true effects of rising prices. In 1922, this group paid taxes of $77 million, while in 1927, the year after the second reduction in rates, its members paid a total of $230 million. Not only did the economy benefit significantly, but the millionaires themselves paid three times as much in taxes with lower rates.

It could be argued that the Mellon tax cut results, while instructive, are not relevant today since the institutional structure and income distribution of the U.S. economy are far different now than they were in the 1920's. However, we need not be restricted to a reading of "ancient history" in our determination of how a reduction in top bracket rates might affect overall revenues. Fortunately we can rely on the figures before and after the Kennedy-Johnson tax cuts of 1964.

As most readers will recall, the top rate was reduced from 91% in 1963 to 77% in 1964 and 70% in 1965 and later years. The figures for actual income tax paid for the period 1961–1966 for taxpayers with incomes of $100,000 or more are taken from "Statistics of Income" and are reproduced in the accompanying table.

The results are so clear-cut that it is surprising that these figures have not previously been introduced as evidence in favor of Kemp-Roth. After virtually no growth in income taxes for incomes over $100,000 for three years, actual taxes paid rose dramatically beginning in 1964 even though income was taxed at significantly lower rates. In the case of individuals earning over $1 million per year, taxes collected actually in the two-year span during which the tax rates were being lowered. For income classes under $100,000, taxes either fell or rose less than the average growth in total personal income.

These results, which represent a remarkable rebuttal of those who argue that upper-income tax cuts are a "raid on the Treasury," indicate that a further reduction from 70 percent to 50 percent would not only spur economic growth and increase aggregate supply, but would actually assure the Treasury of greater tax revenues. The argument for upper income tax cuts is almost as watertight as the argument for lower capital gains taxes.

The more extreme proponents of Kemp-Roth have sometimes seemed to suggest that this phenomenon occurs at all income levels. It does not, as can be seen by a perusal of the complete "Statistics of Income" figures, and by the fact that aggregate personal income tax collections did decline from $51.5 billion in 1963 to $48.6 billion in 1964. This should

come as no great surprise: The effects on individual incentives and supply labor are highest—at the upper income levels rather than for the typical wage earner.

FLEXIBILITY FOR UPPER INCOME GROUP

Furthermore, just as has been shown in recent work on capital gains taxes, upper-income individuals have far greater flexibility in arranging the income for their assets in the form of tax-free or tax-sheltered income when tax rates are at punitively high levels. The risks of unreported income become relatively much smaller when tax rates are near 100 percent, and the lure of diverting earnings to foreign countries becomes much greater.

Thus if the Treasury wants to collect more revenues, it will lower the highest marginal tax brackets. Only if it wants less revenue and poorer economic growth so badly that it is willing to penalize all those "millionaires" will it push for higher upper-income tax rates.

INCOME TAXES PAID BY UPPER INCOME BRACKETS

	1961	1962	1963	1964	1965	1966
Maximum tax rate (percent)	91	91	91	70	70	70
Level of adjusted gross income:						
$100,000 to $500,000	1,970	1,740	1,890	2,220	2,752	3,176
$500,000 to $1,000,000	297	243	243	306	408	457
Over $1,000,000	342	311	326	427	603	590

Note: All tax figures are in millions of dollars.

[From the Wall Street Journal, Aug. 2, 1978]

THE ECONOMIC CASE FOR KEMP-ROTH

(By Paul Craig Roberts)

Walter Heller is known to the public as a liberal economist who was Chairman of the Council of Economic Advisers under a Democratic President, and Herbert Stein as a conservative economist who held the same position under Republican Presidents. Both agree that the Kemp-Roth tax rate reduction bill is economic nonsense. "It would soon generate soaring deficits and roaring inflation," says Mr. Heller. "I agree," says Mr. Stein.

Before the public is misled by their agreement into concluding that there is no economic case to be made for Kemp-Roth, I would like to show that there is.

Profs. Heller and Stein both think of tax cuts in Keynesian terms of the dollar amount put into the economy to fuel spending. They believe tax cuts work by raising the disposable income of consumers, who then spend more. The increased spending soaks up excess capacity and unemployed labor, thus moving the economy to higher levels of employment and GNP. The Kemp-Roth bill is, in their view, too large a tax cut. They believe it would fuel more new spending than there is excess capacity and produce an inflationary excess demand.

As Mr. Heller put it on this page July 12, the bill would "simply overwhelm our existing productive capacity with a tidal wave of increased demand." A smaller tax cut, he thinks, would be in order. In his July 18 article, Mr. Stein agreed with this economic analysis, but supported Kemp-Roth as a desperate means of forcing a reduction in federal spending.

A CURIOUS ANALYSIS

This economic analysis, first of all, is a curious one for economists who believe that tax cut work by increasing demand. Without Kemp-Roth, taxes will increase due to automatic tax increases caused by inflation and higher Social Security taxes; one would expect Keynesians to be worrying about the need to offset the depressing effects of "fiscal drag."

In the context of ongoing tax increases, the Kemp-Roth reductions in the personal income tax rates do not amount to much in dollar terms. Net of the tax increases, Kemp-Roth is a $2 billion cut in 1979, a $15 billion cut in 1980, an $18 billion cut in 1981, a $7.5 billion cut in 1982 and a $1 billion cut in 1983—hardly enough to overwhelm the nation's productive capacity with a tidal wave of consumer spending. Keynesians ought to believe that the net additions to demand provided by Kemp-Roth are too small to have much impact on the economy, just as Mr. Heller says that the Mellon cuts of the 1920s were too small in dollar terms to have had any relation to the prosperity that followed.

The economic case for Kemp-Roth though, does not rest in increasingly dubious Keynesian premises about government policy "injecting" spending to add to aggregate demand. Like the Mellon tax cuts, it is based on incentive effects, on the economics of supply. As the adage goes, it is hard to teach old dogs new tricks, and Keynesians, who have spent four decades thinking in terms of spending and demand, find it hard to understand arguments about incentive and supply.

The new supply economists think of tax rate changes as incentive changes, not as income changes. To understand the difference, consider the removal of a tariff that is high enough to prevent trade in a commodity. When the tariff is lifted, no revenues are lost, no budget deficits result and no money is put into anyone's hands. Yet clearly economic activity will expand, because the disincentive is removed. Nothing in Keynesian theory captures this effect.

Yet this is in fact how tax cuts work. A tax rate reduction does not in itself produce more real goods and services. There cannot be more income unless people produce more; the only way a tax cut can boost GNP is by providing an incentive for more production. If people respond to tax cuts by working less, as Mr. Heller suggests, then GNP would fall and Keynesian fiscal policy wouldn't work either!

When tax rates are reduced, the after-tax rewards to saving, investing and working for taxable income rise. People switch into these activities out of leisure, consumption, tax shelters and working for nontaxable income. The incentive effects cause an increase in the market supply of goods and services—thus the name "supply side economics."

Consider first the choice between working for additional taxable income and enjoying additional leisure. The price to the person of additional leisure is the amount of income, after tax, that he gives up by not working. Obviously, the higher the tax rate he faces, the cheaper leisure is in terms of the income he sacrifices. In our nation with its substantial income cushions, work disincentives are not limited to the top tax brackets. Studies by Martin Fieldstein of Harvard show that the lack of a significant gap between after-tax take-home pay and untaxed unemployment benefits has made leisure a free good for one million workers, thus shrinking GNP and the tax base by the value of their lost production.

Consider next the choice between working for taxable and nontaxable income. Take the case of a carpenter facing a 25% tax-rate. For an additional day's earnings of $100 he gets to keep $75. Suppose that his house needs painting and a painter costs $80 a day. Since his after-tax earnings are only $75, he saves $5 by painting his own house and chooses not to earn the additional $100. Alternatively, the carpenter and painter may swap services, but either way the tax base is smaller by $180, and the government loses tax revenues.

Studies by Gary Becker of the University of Chicago have made it clear that capital and labor are employed by households to produce nontaxable income through nonmarket activities, such as a carpenter painting his own house. The amount of household-owned capital and labor supplied in the market is affected by tax rates. The higher they are, the more households allocate their resources to the production of nontaxable income.

Now consider the decision between using income for current consumption or saving and investing it for future income. The price to the person of enjoying additional current consumption is the amount of future income he forgoes. The higher the tax rate, the smaller the amount of after tax future income he sacrifices by enjoying additional current consumption.

Take the case of a person facing the 70% tax rate on investment income. He can choose to invest $50,000 at a 10 percent rate of return, which would bring him $5,000 per year of additional income before taxes. Or he can choose to spend $50,000 on a Rolls-Royce. Since the after-tax value of $5,000 is only $1,500, he can enjoy a fine motor car by giving up only that amount. Britain's 98% tax rate on "unearned" (investment) income has reduced the cost of the Rolls-Royce in terms of forgone income to only $100 a year. The profusion of Rolls-Royces seen in England today is mistaken as a sign of prosperity.

Walter Heller tells us, though, that the decision to save does not depend on the relative prices of current consumption and future income; that "Denison's Law" shows that savings do not respond to higher after-tax rewards. But the most recent empirical studies of the responsiveness of savings are those of Michael Boskin of Stanford, who concludes that "private saving is indeed strongly affected by changes in the real after-tax rate of return." He specifically dismisses "Denison's Law" as a "conjecture based on evidence which is flimsy at best and dangerously misleading at worst." A current understanding of the Kemp-Roth bill's effect on savings is absolutely crucial to assessing an asserted inflationary effect.

To summarize the above points: With so many decisions affected by tax rates, it is obvious that the market supply of goods and services must respond to changes in tax rates. Our economy functions because people respond to changes in relative prices: the price of butter relative to that of margarine, beef relative to chicken, capital relative to labor and so on. A tax rate change is just another relative price change. It changes the prices of leisure and current consumption in terms of forgone current and future income. To claim that people don't respond to these price changes goes against the basic principles of economic science. Yet there is no recognition of such response in the brand of economics now used to brand Kemp-Roth as wildly inflationary.

Since Mr. Heller goes out of his way to criticize those of us who have done staff work on the Kemp-Roth bill, he should be especially interested in the results of the congressional staff debates on these points over the past year. The Congressional Budget Office, like the Treasury, once habitually offered simplistic revenue estimates that omitted the expanded tax base and revenue feedbacks. These static revenue estimates are now discredited. CBO Director Alice Rivlin has been forced to admit that her models, based on familiar Keynesian principles, are "unable to provide estimates of the long-run impact tax cuts."

(By the way, Prof. Heller's own staff work could use some polishing. The numbers he attributed to Norman Ture do not come from Mr. Ture.)

Mr. Heller and Mr. Stein believe the Kemp-Roth bill depends on stimulating GNP suf-

ficiently that government revenues will not fall even in the first year, thus avoiding an inflationary deficit. In arguing that feedbacks are not large enough to recover all revenues, they are demolishing a straw man. This is not what the bill's proponents mean when they say it would pay for itself. Part of the projected deficit will indeed be eliminated by revenue from the larger GNP. The remaining deficit will not be inflationary because it will be self-financing.

Deficits are linked in the public mind with inflation or crowding out because the deficits of the past decade have originated from increased government spending and tax rebates—fiscal policies designed to increase demand, not incentives. These deficits add to the demand for funds in the financial markets, thus pushing up interest rates. The Federal Reserve then adds to the money supply, monetizing the deficit in an effort to avoid rising interest rates and crowding out, and this excessive money creation causes inflation.

While Keynesian eyes can see no difference between these deficits and deficits caused by cutting taxes, in terms of incentives this difference is decisive. Lower tax rates increase after-tax rates of return, which in turn expand private savings. When Mr. Boskin's measures of the responsiveness of savings are applied to the Kemp-Roth bill, they predict an increase in gross savings of $35 billion in the first year and a steady growth thereafter. Mr. Ture has even higher estimates of the savings effect, as does Chase Econometrics.

Savings, of course, represent the supply of funds in the financial markets. So deficits caused by tax rate cuts add to the supply of funds as well as the demand for funds. This allows the deficit to be financed without pressure on interest rates and money creation. There is no need to monetize the deficit and thus no inflationary effect. In addition, the larger GNP also means higher revenues for State and local governments and corporations, which reduce their own borrowings and ease pressure in the financial markets.

THE CHASE FORECAST

Chase Econometrics has considered all of these effects in studying the effect of the Kemp-Roth bill. Chase forecasts that the federal government would recover in revenue reflows 41 percent of the $25 billion tax cut in the first year. This rises to 72 percent in the seventh year. The remaining deficit is more than covered by the increase in personal savings, retained earnings, and state and local government surplus. Thus the deficit puts no pressure on credit markets. The tax cut generates enough new savings to finance the deficit plus an increase in private investment.

It is theoretically true, of course, that government spending could increase rapidly enough to soak up all additional savings and restore pressure to monetize the deficit. But if government spending in real terms could be held to current levels for about two years, the Kemp-Roth bill would get us out of the high deficit, high inflation, low productivity, low growth doldrums, and save transfer programs like Social Security.

As for Mr. Stein, many proponents of Kemp-Roth agree with him that government spending is already too high, but this is a separate issue. Legislatively, tax bills are separate from spending bills, and there is no way to tie them together. The only purpose that could be served by the bill's sponsors calling for accompanying spending cuts would be to threaten the vested interests of the congressional spending committees and their constituents, leaving the bill hostage to a bitter and quite unnecessary political fight.

As for Mr. Heller, he does better when he takes off the Keynesian blinders and relies on his own experience with the Kennedy tax cuts. In his article on Kemp-Roth he says, "To attribute to the 1962–64 tax cuts all the expansion and revenue increases in 1963–68 boggles the mind. It totally ignores the huge (over) stimulus of the Vietnam expenditures." In other words, the tax cut did not pay for itself. But he saw these events differently in testifying before the Joint Economic Committee in February 1977.

ANTICIPATING THE LAFFER CURVE

In his testimony Prof. Heller anticipated the Laffer Curve, saying that the Kennedy cut "was the major factor that led to our running a $3 billion surplus by the middle of 1965 before escalation in Vietnam struck us. It was a $12 billion tax cut which would be about $33 or $34 billion in today's terms, and within one year the revenues into the Federal Treasury were already above what they had been before the tax cut." He concluded, "Did it pay for itself in increased revenues? I think the evidence is very strong that it did."

On this point, Mr. Denison has something interesting to say. His estimate of the gap between actual and potential GNP for 1962 and 1963 is only $12 billion—the size of the Kennedy tax cut. Obviously, such a small gap left little room for an expansion based on increased demand and unused capacity. If Mr. Denison is correct, the substantial expansion that followed the tax cut and to be based on something else, a supply-side response to the higher after-tax rates of return.

Far from being wildly inflationary even with little unusued capacity in 1962, the Kennedy tax cuts promoted healthy and noninflationary expansion. Once demand management is forgotten and incentive effects are understood, there is every reason to believe the Kemp-Roth tax cuts would do the same.

Mr. HATCH. Mr. President, the Senate must not miss this opportunity to reduce the tax burden on work, employment, saving, and investment. The American people expect—and deserve—tax relief, and now that good sense has prevailed and the rebate has been abandoned, we have the opportunity to do what should have been done from the beginning—cut the tax rates permanently for all Americans.

The temporary rebate was not designed to get Government out of the taxpayers' pockets or off their backs. It was merely a temporary license for some Americans to pick the pockets of other Americans. It would not have built the economy, but, instead, it would have built the political handout constituencies. The rebate was favored by its advocates, because they claimed it would hold on to the tax base and allow increasing Government spending programs in the following years.

However, the rebate would not have held on to the tax base. It would have held it down. Because of congressional action, the claims on the tax base are already growing faster than the tax base. Hard political choices will soon have to be made unless politicians take action to increase the tax base. The only way this can be done is by cutting the tax rates across the board.

The most successful tax cut in the post war years was the Kennedy tax cut. It got the economy moving again, but the inflation of the past decade has canceled out Kennedy's reforms by driving all taxpayers, both individuals and businesses, into higher tax brackets. To revitalize the economy, we must reinstitute the Kennedy tax rate reductions.

It is necessary to put our economic problems into perspective. Unemployment, inflation, the deficit, the frightening problems of the social security system all come under the general problem of economic growth.

Growth—we have not had enough of it. We have not had enough growth of real production to create the jobs we need to reduce our unemployment rate. We have not had enough growth of real production to raise the American standard of living at the rate it is rising in other industrial nations. We have not had enough growth of real production to enlarge the tax base enough to eliminate the deficits in the Federal budget, and to fight inflation. We have not had enough growth in real production to enlarge the tax base enough to avoid the awesome prospect of having to triple the social security tax rate over the working life of those now entering the labor force.

If the Senate will not take effective measures to increase the growth rate, it will have to do without adequate defense, all its health care proposals, or currently promised social security benefits, because the tax base to fund these three largest budget items will not exist.

Why have we not had enough growth? The purely technical answer is that we have not had enough savings. The basic economic equation is that total national savings must be identically equal to the sum of investment and the Federal deficit. We can do two things with income—we can save it or we can consume it. The amount that is consumed is not available for investment in new factories, mines, farms, or housing. The amount that is consumed is not available for financing the Federal deficit. Only savings can be used for investment and for bailing out the Federal Government when it overspends. And given the Government's propensity to overspend, there is not really that much left for investment. If we want more economic growth, we need more investment, and that means that we need lower tax rates.

The United States has had the lowest savings rate in the Western World in the postwar period. And just look at the results: In 1950 the United States had roughly twice the per capita income of Sweden or Switzerland. By 1974, these countries surpassed the United States in per capita income, and they were quickly followed by Belgium and Denmark. Now, West Germany, Canada, France, and Japan are not very far behind.

This spectacular growth of our trading partners has stemmed from their deliberate attempts to increase their rates of saving and investment. I ask unanimous consent that two tables be printed at this point in the RECORD.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

II.—COMPARATIVE REAL GROSS DOMESTIC PRODUCT REAL GDP PER CAPITA, AND REAL GDP PER EMPLOYED CIVILIAN, 6 COUNTRIES, 1950–75[1]—OUTPUT BASED ON INTERNATIONAL PRICE WEIGHTS

[United States=100]

Year	Gross domestic product per capita							
	Sweden	Switzerland	Canada	Japan	France	Germany	Italy	United Kingdom
1950	59.0	62.7	76.0	17.8	49.4	39.3	26.0	57.2
1955			76.1	22.7	61.6	52.2	29.9	58.4
1960	77.0	84.4	78.8	31.6	60.9	65.5	36.6	62.4
1965	96.2	98.0	81.2	41.6	64.8	67.8	39.1	60.8
1967			81.3	47.3	66.4	64.3	41.0	59.1
1970	112.2	111.5	85.7	61.5	75.0	74.7	45.8	60.3
1971			88.0	64.0	77.0	75.3	45.4	60.8
1972			87.8	65.6	76.8	73.7	44.3	59.5
1973			88.7	68.1	77.0	73.8	46.7	59.0
1974	123.4	122.2	92.1	68.4	81.4	76.0	47.0	61.1
1975	123.5	114.3	93.5	71.0	81.6	75.8	45.8	61.9

WAGE INCREASES, INVESTMENT, AND SAVING

	1965–75 percent change in real wages and fringe benefits[1]	Investment as percent of GNP averages, 1960–73		Household savings ratios, 1976 estimated (percent)
		Total	Total minus home building	
United States	15.7	17.5	13.6	6–8
Canada	48.5	21.8	17.4	10–12
Japan	137.9	35.0	29.0	24–26
Belgium	103.8	NA	NA	NA
France	77.4	24.5	18.2	16–18
Germany	78.1	25.8	20.0	14–16
Italy	116.4	20.5	14.4	11–24
Sweden	68.8	NA	NA	NA
United Kingdom	53.9	18.5	15.2	12–14
Switzerland	55.1	NA	NA	NA

[1] Includes pension programs and other fringe benefits. NA—Not available. Source: Bureau of Labor Statistics.

Mr. President, the first table shows the comparative real gross domestic products per capita in several major Western countries, and their rapid rate of gain on the United States. The second chart shows the relationship between investment as a percent of GNP, and the percent change in real wages and fringe benefits in the major Western nations. The United States came in dead last in the share of investment in GNP. Not surprisingly we also came in dead last in real wage and fringe benefit increases for 1965 to 1975. While U.S. wages and fringe benefits rose less than 16 percent over this period, those in Canada rose 48 percent, those of Britain, Switzerland, Sweden, Germany, and France rose between 50 percent and 80 percent, and those of Belgium, Italy and Japan rose more than 100 percent in the same time period.

Clearly, if we want more jobs and higher wages, we have got to increase the rate of savings and investment.

Why is the rate of saving so low in this country? The rate of saving is low primarily because it does not pay people to set money aside the way it used to. Over the past 25 years, Government spending has gone from roughly 21 percent of GNP to more than 35 percent of GNP, at the Federal, State, and local levels. Over that same period of time, Federal income taxes on typical American workers and social security taxes have increased dramatically. State and local taxes have risen even faster.

Typical industrial workers who, only 4 or 5 years ago, faced Federal income marginal tax brackets of 17 or 19 percent, now face brackets of 22 percent, and these marginal rates rise every year with inflation. It is the marginal rates which determine how much of any overtime pay, or added interest from added savings that these people get to keep. Similarly, higher-income people, with the country's highest propensity to save and invest, have found their marginal rates climbing ever higher. It is reaching the point that more and more people are discouraged by very low after-tax yields on money that they have saved.

Remember the good old days when thrift used to be a virtue? Over the last 20 years, the Government has made a mockery of thrift. Not only has it been the country's leading example of profligate spending and waste, but it has drastically penalized those who have chosen to save, rather than spend. In 1960, someone could have put money aside in a savings account at 4 percent interest and would have lost one point to inflation, and one point to taxes, for a real increase each year of 2 percent on his money. That same person today would probably have his money in a 7-percent account, losing five points to inflation, three points to taxes, and ending with a real loss of 1 percent on every dollar he put in the bank. This is how the Federal Government rewards those who save.

Another way in which the Federal Government has managed to discourage savings is through its mishandling of the Social Security System. This system is regarded as a pension plan by its participants, but it is really a system of transferring funds from current workers to current retirees. In a private pension plan, or in retirement programs of countries like Sweden, each group of workers sets aside money during its own working lifetime for its own retirement. These savings are invested to expand real output in the economy, so that the workers can live on the accumulated principal and interest, which is their share of that expansion, after they retire. In the United States, workers and employers pay a social security tax which is not saved and is not invested. It is transferred immediately to retirees for immediate consumption.

Many economists have pointed out that insofar as Americans feel they can rely on social security payments for retirement income, they feel they can afford to save less during their working years. This has reduced the savings rate of such families by as much as 40 to 50 percent.

Unlike Sweden, the United States does not make up for this lower savings rate with Government saving. We do not run surpluses to build up the Social Security Trust Fund, nor do we avoid Government deficits which require the Government to borrow what would otherwise be private investment capital. This means that the Government takes much of what little savings is left, and diverts it from productive, private, growth-oriented uses.

Our low savings is one of the reasons for the low rates of investment, growth, and real wage increases in the United States. This in turn means a slow rate of growth of the social security tax base, which necessitates higher tax rates. These higher tax rates further discourage hiring and work effort, compounding the problem.

Obviously, we have to encourage an increase in the rate of savings. We also have to encourage the utilization of that savings in productive private investment.

The creeping tax rates that we have experienced over the last 20 years have gradually reduced the rate of return, after taxes, that the typical investor can expect. There are millions of potential investors who look at the after-tax return on investments, and who decide to spend out of their capital for a trip to Bermuda, instead of reinvesting. Consequently, we devote fewer resources to new housing, new mines, and new factories. We hold down the growth in the stock of capital and, as a consequence, we hold down the growth in wages. Wages are determined by the capital-labor ratio, the amount of tools and equipment that a worker has to work with. Countries with a high stock of tools and equipment per worker have high wages. Countries with a growing stock of tools and equipment per worker have growing wages. If we want more jobs and higher wages, tax rates must come down to increase the after-tax reward to those who provide the tools and equipment which we need.

The marginal tax rate on equity capital in this country is nearly 80 percent, counting property taxes, corporate in-

come taxes—both State and Federal—payroll taxes, excise taxes, and taxes on dividends distributed. No wonder firms have been having a harder and harder time expanding. Investment used to be a virtue. There used to be a time when people looked with favor on those who brought a new factory into town, or who expanded existing local industries. Now these people are punished through punitive tax laws, which say "Eat, drink and be merry, because if you don't squander it the Government will."

I would like to point out that the same disincentive effects produced by marginal tax rates on savings and investment also discourage the supply of labor. People considering overtime these days find themselves with a far lower aftertax reward for that extra effort than in years past. Remember when leisure used to be frowned upon, and labor was considered a virtue? Not any more. The Government has stated, in no uncertain terms, that anyone who tried to work harder will be punished for it. I ask unanimous consent to have printed in the RECORD at this point a Wall Street Journal editorial entitled "Tax the Rich."

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

TAX THE RICH!

In what has become an annual event, the Treasury Department last week reported that 230 of the nation's wealthiest individuals paid no federal income taxes in 1975. Of the 34,121 persons who reported adjusted gross incomes of $200,000 or more, 230 paid no tax. In 1974, the number was 244. In 1973, 154.

Since early 1969, when lame-duck Treasury Secretary Joseph Barr initiated this festivity by announcing that 200 rich Americans had escaped taxes by crawling through loopholes, the government has been trying to do something about it. Loopholes have been closed left and right. A minimum tax has been legislated, then increased. IRS, treating the annual figure as a source of embarrassment, bends every effort to reduce it. But more rich people are paying no taxes than in 1969, and the economy is in much worse shape now than it was then.

It stands to reason, and we thoroughly believe, that the U.S. economy would benefit enormously if the rich paid more taxes. We have been arguing this, at least implicitly, for years. What we have not been able to get the politicians to understand, though, is that you can't get rich people to pay more in tax revenues by raising their tax rates. If you raise the rates, it becomes even more profitable for them to hire lawyers and accountants to find them loopholes, and the cost of this misdirected effort is a dead loss to the economy. Or they stop working entirely and dissipate their capital drinking champagne and sailing yachts, which is also a dead loss to the economy. Either way, they contribute less in tax revenues, and the burden of supporting government expenditures falls on the middle class and poor.

Consider what would happen to a "good" rich person who refuses to use loopholes and prefers hard work to sailing yachts. He decides to invest $1 million of his capital in a widget factory in New York City, which will employ hundreds. He will run it himself, arranging the financing, assembling the personnel, finding the markets, and so forth. Give him a year to get off the ground, but say he is lucky enough in the second year to make a 10 percent profit on his invested capital. This is after his workers have paid federal, state and local income taxes and the widget company has paid property taxes, license fees, etc.

Of the $100,000 profit, the city clears away roughly $5,700, leaving $94,300. The state clears away about 10 percent of that, leaving $84,870. The IRS, levying at progressive rates, snatches $38,000, leaving $46,870. Our good rich person then pays this to himself as a dividend.

Being rich, our man is of course in the highest personal income-tax brackets, and after paying 4.3 percent to the city ($2,015) has $44,855 left. The state clips him for 15 percent of that ($6,728) and leaves him $38,127. Uncle Sam "nicks" him for 70 percent of that, which is $26,689, leaving him with $11,438.

Thus, on the investment of $1 million in capital and two years hard work in assembling an enterprise that is risky to begin with, this lucky fellow who turned a profit of $100,000 has $11,438 to spend. He has given up two years on his yacht to gain $5,719 in annual income. If he had invested in tax-free municipals, he would have gained roughly $60,000 in annual income and could have remained on his yacht instead of fighting New York City traffic, City Hall, and the widgetmakers union.

Ralph Nader's loophole closers calculate that if you closed the loopholes the "bad" rich people would be forced to pay taxes. This assumes the bad rich will be forced to risk $1,000,000 and two years' hard work for $5,719 in after-tax income. Even Fritz Mondale, we will guess, would feel uncomfortable with this assumption.

Why not tax the rich by lowering the rates they face? They will thus be enticed back from their yachts and once again assemble widget plants in New York City, with tax revenues flowing to Washington, Albany and City Hall not only from them, but also from all those who would then be usefully employed in widgetmaking. By all means, tax the rich! But do it right, and in this fashion lift the burdens of taxation from those who aren't rich.

Mr. President, this editorial shows how a combination of personal and corporate income taxes, Federal, State, and local, can reduce the rate of return on capital and labor to less than one-half percent, leaving millions of people to give up on the difficult job of managing their own business, and causing them instead to dump their holdings into municipal bonds and sit back doing nothing. This results in a drastic reduction of the tax base, and a drastic reduction in real output which we desperately need to feed, house, and clothe our population.

Some politicians will not agree to across-the-board tax rate reductions, because they believe the so-called rich will pay less taxes as a result, and they are not willing to treat the rich equally as other taxpayers. These politicians simply do not understand how taxation works, and they are senselessly introducing class warfare into the United States. I am inserting a table in the RECORD at this point. It is from the Internal Revenue Service statistics of income. It shows that as the top tax rate fell, the number of tax returns in the top bracket grew and the percent of total tax collected from the top bracket also grew. The IRS figures show that lower tax rates result in the rich paying more taxes and a greater percent of total taxes.

Mr. President, I ask unanimous consent to have printed in the RECORD a table showing special income tax returns with adjusted gross incomes above $100,000.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

NCOME TAX RETURNS WITH ADJUSTED GROSS INCOMES ABOVE $100,000

Year	Number of returns filed	Percent of total tax collected	Top tax rate (percent)
1950	24,523	5.4	91
1961	29,730	6.2	91
1962	27,174	5.1	91
1963	29,498	5.1	91
1964	36,501	6.3	77
1965	46,013	7.6	70
1966	53,166	7.5	70
1967	67,021	8.5	70
1968	82,223	9.2	75.25
1969	82,111	8.2	77
1970	77,690	6.8	71.75
1971	91,020	7.9	70
1972	114,636	8.6	70

Source: IRS Statistics of Income.

Mr. President, the answer to this apparent puzzle is clear. Allowing the rich to keep more of what they earn encourages them to take their money out of tax-free, bonds, loopholes, and tax shelters and invest it where they can earn a higher rate of return. Thus, the tax base and thereby the tax revenues to the Government both grow. In short, the rich pay more total taxes.

Between 1960 and 1972, only once, as the tax rates came down from 91 to 70 percent, did the number of returns filed go lower instead of higher and did the percent of tax collected go lower instead of higher; but even then, it was much higher than when the 91 percent top tax rate was in effect.

All of our social, political, and economic problems reduce to one basic problem: that is how to encourage savings, investment, and work effort to produce greater economic growth than we have had over the past few years. Fortunately, there is one set of policies which can produce this result. That policy is tax rate reduction, as advocated by my friend, Senator ROTH.

Tax cuts work on the supply side, by rewarding those who produce additional savings, investment, and labor.

A lower tax rate on a person's top, marginal bracket makes added hours of work more worthwhile than before in terms of take-home pay. The supply of work effort rises.

Likewise, the lower marginal tax rate makes the return on additional savings rise. People who were formerly choosing more consumption and more leisure are induced to choose instead more investment and more work.

The same situation holds true for investment. Those who have expanded their businesses as much as they care to at the current high tax rates will make the added effort to earn additional income if marginal tax rates are reduced.

Throughout this discussion, I have been stressing marginal tax rates, the rates people pay on their last few dollars of earnings. When economists keep throwing the term "marginal" around, they are not just doing it for their health. They stress marginal tax rates instead

of average tax rates, because it is marginal rates that can change behavior.

Let me illustrate the importance of marginal tax rates, using corporate taxes as an example. Assume two identical countries in which all corporations currently earn $1 million in profit, and there are no corporate taxes.

Country "A" decides to raise revenue by imposing an unchanging annual license fee of $500,000 on every corporation. In effect, it starts out taking 50 percent of profits.

Country "B" imposes a 25-percent corporate income tax, and starts taking 25 percent of profits.

Which country will grow faster? Is it "A" with high Government revenue, or "B" with less?

"A" will grow faster. If a firm in "A" invests a certain amount of money to double its output and profit, it pays no tax on its second $1 million. Before the investment, its average payment to the Government was 50 percent of profits. But its marginal tax rate is zero. It keeps all of the second $1 million.

If a firm in "B" invests the same amount of money to double its output and profit, it pays $250,000 of the second $1 million to the Government, as well as the first. Its return is $750,000, only three-fourths of the return to investment in "A." Its average tax rate is only 25 percent. But its marginal tax rate is also 25 percent, and that is what does the damage.

A tax cut that affects rates on the first few dollars of income may lower average tax rates. But if the tax cut does not affect the last few dollars of income, it does nothing to add to incentives to work, save, and invest to earn additional income.

What all this means is very simple. We have to reduce marginal tax rates in order to increase the country's growth rate. This will very quickly expand the tax base, allowing us to raise more revenue, at lower tax rates, from a rapidly growing economy. This will help to close the deficit, thus eliminating inflation and increasing investment, further the revenue it needs for such urgent matters as defense, health care, and the rescue of the Social Security System.

Now let me stress one important point here. All tax rates must come down. Roughly 25 percent of all families with roughly 50 percent of all income hence, more than 50 percent of all potential saving and investment—are in the higher tax brackets. If these rates are not reduced along with all others—if the tax cut does not affect the last few dollars of everyone's income—we will be throwing away over half of the potential savings, potential growth, and potential job formation and real wage increase that a tax rate reduction can provide.

We need to repeat the Kennedy tax cut. It was permanent, something people could count on for the future. It reduced personal income tax rates in every bracket to encourage everyone, including those with the biggest share of total income, to save more and to take the risks of investment, because of the higher after-tax rate of return. And the corporate tax rate reduction and investment tax credit increased the after-tax rate of return to business investment.

The Kennedy tax rate reduction produced an investment boom—exactly what is missing in the present recovery. Demand or spending, which Congress is always worrying about, took care of itself as employment and paychecks rose.

We have an easy choice to make here today. If we do not make it, we will have hard political choices to make in the future. Congress cannot continue to create growing claims on the national income while simultaneously holding down the growth in income by inflationary policies and high tax rates. It is time to remove the tax barrier to full employment and unleash the country's saving potential and work effort in order to provide a real increase in everyone's standard of living instead of just transferring money from one group to another. Work, employment, savings, and investment should be seen by the Congress as valued things to be rewarded instead of punished. I hope we will put our political prejudicies aside and unite in taking a step that will allow all Americans to pull together once again in creating a higher standard of living for all.

Mr. President, I support this amendment to neutralize the harmful effect that inflation has on the tax burden of all Americans. The Joint Committee on Taxation has found that every time inflation drives up the price level by 1 percentage point, the personal income tax burden on the taxpayer rises by 1.65 percent. So the taxpayer is hit both ways. As the result of inflation, he gets higher prices and higher taxes.

It is true that inflation causes the costs of Government programs to rise too, and that the Government needs more money to cover these higher costs. But the way it is working now is that the Government benefits from the inflation. Its tax revenues do not just go up by 1 percentage point when inflation rises by one point. Instead, the tax revenues go up by 1.65 times the inflation. This means if prices rise by 10 percent, tax revenues rise by 16½ percent. So the Government always comes out ahead.

This indexing amendment will not stop the Government's tax revenues from rising with inflation. It just stops them from rising faster than inflation.

As long as the Government benefits from inflation, the big spenders have a stake in inflation. Without this amendment, inflation allows big spenders to raise additional tax revenues without having to legislate the increase in taxes. This Congress cannot get inflation under control as long as it has a stake in inflation. This amendment will end the stake that the big spenders have in inflation, and thereby return the American people to a stable price level.

This important amendment will make a second contribution to economic stability, because it will stop taxes from going up during recession. Recently we have had our worst inflation during periods of recession, and that means a triple-whammy for the taxapayer. At the same time that his cost of living and tax burden rises, his economic opportunities decline.

Mr. President, once again the Congress has passed up the opportunity to do something positive for the millions of productive people who provide the economic power of this Nation. Once again we have given precedent to building our spending constituencies. Once again we have made it clear that the people who work and produce exist, in our eyes, only to fund our spending programs. Once again the vested interests, the recipients of handouts, have triumphed over the working American. Once again the Congress chose to spend at the expense of the economic health of the Nation.

Five times this year the Congress has voted down permanent reductions in the personal income tax rates. Each time those of us who pushed for a tax reduction were told that there was no room in the budget. There was not any room in the budget for the spending programs either. But that did not keep us from spending. Any time that there is no room in the budget for spending, we find room in the deficit. This time there is a $60 billion deficit to accommodate the spending programs that could not find room in the budget.

This Congress has never explained why there can be spending programs, but not tax cuts, when there is no room in the budget. However, this Congress has made it clear that it prefers spending money to cutting taxes.

I do not share this preference, and neither do the American people.

Mr. President, in the debate on the tax bill many Senators said that the deficit did not leave any room for a tax cut for the productive working Americans. But as soon as we finished the tax bill, we took up the Economic Stimulus Appropriations Act, and all of a sudden there was plenty of room in the deficit for a $20 billion spending program. There was not enough room in the deficit to protect the taxpayers from a higher income tax burden just because of inflation—even though their real income has not increased—but there was room to double the CETA program from $4 billion to $8 billion.

In this budget resolution I notice that there is $63.2 billion worth of room in the deficit to help accommodate outlays of $458.8 billion; $458.8 billion in outlays and just a hair under a half trillion dollars in budget authority.

Do we know how large this sum is? I want to put it in perspective. This budget of the U.S. Government is larger than the value of the national income of France. It is six times the size of the GNP of Sweden and 50 percent of the total production of the Soviet Union. In the United States, Government takes from Americans in taxes a sum greater than the combined value of every marketable good and service that the total population of France can produce in 1 year. Does anyone really believe that the American people receive services in return from the Government that are equal in value to the total production of the French nation? No one believes this. Yet it does not stop us from continually expanding the size of Government. This is what shows whose interests are repre-

sented in Washington. And they are not the interests of the taxpayers.

Taxpayers are Americans too. I do not understand why the Congress thinks that taxpayers do not deserve the income that they earn, but that the people we give it to, after we take it from the taxpayers, do deserve this income. If we turn government in this country into a mechanism for exploiting the productive for the sake of the unproductive, government will lose the support of the productive, and in the process a strong nation will be turned into a weak nation.

So far this year the Congress has voted down permanent reductions in the personal income tax rates five times. We had a chance to show that we think taxpayers are Americans too. We could have accommodated Senator ROTH's proposal to reduce permanently every taxpayer's burden simply by dropping the outlay ceiling by $12 billion and the revenue floor by $12 billion. This would have required only a 2½-percent reduction in Government spending. There is certainly more than 2½-percent waste in this swollen budget. I do not see why we cannot cut a little out of waste in order to show some consideration for the American taxpayer. This Congress has got money and concern for everybody at home and abroad—except for the American taxpayer. He is who we exploit in order to run our show—the biggest giveaway on Earth.

Mr. President, I yield the floor.

Mr. ROTH. Mr. President, it is my understanding that a point of order is to be raised by members of the Budget Committee. It is also my understanding that a unanimous-consent request is going to be made by either the Senator from Louisiana or the Senator from Maine.

While we are waiting for the senior Senator from Maine to return, I point out that, in my judgment, this point of order raises a very fundamental issue for the Senate and Congress.

The issue which will be before the Senate is whether or not the Senate has a right to vote on the merits of a multiyear tax cut. I believe that the most effective tax reduction we can adopt would be a phased-in reduction of tax rates over a number of years. The tax cut would insure predictability, provide for orderly planning, and impose needed discipline on the Federal budget. But the issue which the Senate will be facing is not the merits or demerits of a particular multiyear tax cut. The issue is whether the Senate has a right to vote on the merits of a multiyear tax cut.

I think we have to admit that there is an inconsistency in the budget law itself, but we have to construe it in such a way that it makes good sense for the orderly conduct of business by the Senate.

It seems to me that the legislative history of the Budget Act is very clear that there are valid reasons why Congress could make revenue changes for future years.

For example, the Senate Rules Committee report on the Budget Act, on pages 44 and 45, states:

> Again, the need for legislation well in advance of the year in which it takes effect underlies this exception. Changes in the general tax rates, for example, are often graduated over a period of years in order to give predictability and allow for planning by those affected. (S. Rept. 93-688, pp. 44-45)

It makes no sense to say that the Senate can pass legislation which would phase in a tax cut for the coming year, not for the second succeeding year, but again could for the third, fourth, and fifth years. I do not believe any author of budget legislation would have argued or so argued at that time.

Mr. President, I see that the senior Senator from Maine is in the Chamber, as well as the senior Senator from Louisiana. I think they want to propound a unanimous-consent request, so I yield the floor to the Senator from Louisiana.

Mr. LONG. Mr. President, I ask unanimous consent that once it has been determined that a quorum is present, the point of order may be made with regard to the pending amendment; that 1 hour be allowed for debate, to be divided equally between the manager of the bill and the chairman of the Budget Committee, Mr. MUSKIE, on an appeal, as suming that, in either event, there will be an appeal to the Chair.

The PRESIDING OFFICER. Is there objection?

Mr. MUSKIE. Mr. President, reserving the right to object, is the Senator's thought that the point of order be made first and ruled upon, to be followed by debate, or that the debate precede the making of the point of order?

The PRESIDING OFFICER. The debate would come on the appeal, which means that the point of order would have been ruled on by the Chair, so the debate would be on the appeal from the ruling of the Chair.

Is there objection?

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object—and I will not object—I understand that the 1 hour would be on the appeal.

The PRESIDING OFFICER. That is correct.

Is there objection? The Chair hears none, and it is so ordered.

Mr. ROBERT C. BYRD. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MUSKIE. Mr. President, I shall make the point of order. First I shall make a brief description.

Mr. LONG. Mr. President, if the Senator will yield, I believe it will be well to have as many Senators as possible in the Chamber.

Mr. MUSKIE. Yes.

Mr. LONG. Mr. President, I ask unanimous consent that I might suggest the absence of a quorum without it being charged against either side.

The PRESIDING OFFICER. Without objection, it is so ordered.

QUORUM CALL

Mr. LONG. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk called the roll, and the following Senators entered the Chamber and answered to their names:

[Quorum No. 16 Leg.]

Bellmon	Dole	
Byrd, Harry F., Jr.	Gravel	Muskie
Byrd, Robert C.	Hansen	Roth
Danforth	Hatch	Stone
	Long	

The PRESIDING OFFICER. A quorum is not present.

Mr. ROBERT C. BYRD. Mr. President, I move that the Sergeant at Arms be instructed to request the attendance of absent Senators.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I ask for the yeas and nays.

Mr. LONG. Yeas and nays, Mr. President.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia (Mr. ROBERT C. BYRD) to instruct the Sergeant at Arms to request the attendance of absent Senators. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Idaho (Mr. CHURCH), the Senator from Colorado (Mr. HASKELL), the Senator from Montana (Mr. HATFIELD), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Minnesota (Mrs. HUMPHREY), the Senator from West Virginia (Mr. RANDOLPH), and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

I further announce that the Senator from Missouri (Mr. EAGLETON) is absent on official business.

Mr. STEVENS. I announce that the Senator from Massachusetts (Mr. BROOKE), the Senator from New Mexico (Mr. DOMENICI), the Senator from Nevada (Mr. LAXALT), and the Senator from Texas (Mr. TOWER) are necessarily absent.

Mr. WEICKER. Regular order, Mr. President.

The PRESIDING OFFICER (Mr. BAYH). Is there any Member present who desires to vote?

Mr. BIDEN. Mr. President, am I recorded?

The PRESIDING OFFICER. The Senator is recorded.

Mr. MAGNUSON. Mr. President, am I recorded?

Mr. HANSEN. Mr. President, am I recorded?

The PRESIDING OFFICER. The Senator from Washington is recorded.

Mr. BARTLETT. Mr. President, am I recorded?

The PRESIDING OFFICER. The Senator from Oklahoma is recorded.

Mr. HANSEN. I am recorded, am I not?

The PRESIDING OFFICER. The Senator from Wyoming is recorded.

All Members present have voted.

The result was announced—yeas 84, nays 3, as follows:

[Rollcall Vote No. 447 Leg.]

YEAS—84

Allen	Griffin	Moynihan
Anderson	Hansen	Muskie
Baker	Hart	Nelson
Bartlett	Hatch	Nunn
Bayh	Hatfield,	Packwood
Bellmon	Mark O.	Pearson
Bentsen	Hathaway	Pell
Biden	Hayakawa	Percy
Bumpers	Heinz	Proxmire
Burdick	Helms	Ribicoff
Byrd,	Hodges	Riegle
Harry F., Jr.	Hollings	Roth
Byrd, Robert C.	Inouye	Sarbanes
Cannon	Jackson	Sasser
Case	Javits	Schmitt
Chafee	Johnston	Schweiker
Chiles	Kennedy	Scott
Clark	Leahy	Sparkman
Cranston	Long	Stafford
Culver	Lugar	Stennis
Curtis	Magnuson	Stevens
Danforth	Mathias	Stevenson
Dole	Matsunaga	Stone
Durkin	McClure	Talmadge
Eastland	McGovern	Thurmond
Ford	McIntyre	Wallop
Garn	Melcher	Young
Glenn	Metzenbaum	Zorinsky
Gravel	Morgan	

NAYS—3

DeConcini	Goldwater	Weicker

NOT VOTING—13

Abourezk	Haskell	Laxalt
Brooke	Hatfield,	Randolph
Church	Paul G.	Tower
Domenici	Huddleston	Williams
Eagleton	Humphrey	

So the motion was agreed to.

THE PRESIDING OFFICER. With the addition of Senators voting who did not answer the quorum call, a quorum is now present.

Mr. LONG. Mr. President, I hope very much Senators will stay around for the next half hour or so and hear the debate, because there is a very important point to be decided by the Senate, and Senators should not vote on this in the dark. So I hope very much they will hear the point of order, hear the ruling, hear the appeal, and hear the arguments, because it is very important to every Senator, and I would hope very much Senators would stay on the floor and hear the debate for the next half hour or so. We have 1 hour for debate.

Mr. NELSON. Mr. President, will the Senator from Maine yield for a unanimous-consent request?

Mr. MUSKIE. I yield.

ADDITIONAL COSPONSORS

Mr. NELSON. Mr. President, I ask unanimous consent that the following Senators be added as cosponsors to current Nelson amendment to H.R. 13511 to provide for accelerated depreciation for small business: the Senator from Rhode Island (Mr. CHAFEE), the Senator from Idaho (Mr. CHURCH), the Senator from Michigan (Mr. RIEGLE), the Senator from Rhode Island (Mr. PELL), the Senator from Alabama (Mr. SPARKMAN), and the Senator from Hawaii (Mr. MATSUNAGA).

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MUSKIE. Mr. President, I make the point of order, pursuant to section 303(a) of the Congressional Budget Act, that the amendment offered by the Senator from Delaware (Mr. ROTH) involves a decrease in revenues for fiscal year 1980 before the first concurrent resolution on the budget for that year has been agreed to, and is not within the exception provided by section 303(b)(2) of the Budget Act, and has not received a waiver pursuant to section 303(c) of that act.

The PRESIDING OFFICER (Mr. BAYH). The Chair, in responding to the point of order of the Senator from Maine, is glad to respond, after being advised by the Parliamentarian upon just having occupied the chair. The Chair has been advised that the following is the correct interpretation of the point of order raised by the Senator from Maine:

The point of order having been made under section 303(a) of the Budget Act that the pending amendment provides for a decrease in revenues to become effective during a fiscal year before the first concurrent resolution on the budget for such year has been agreed to and is not excepted by section 303(b), which provides that: "Subsection (a) does not apply to any bill or resolution * * * (2) increasing or decreasing revenues which first become effective in a fiscal year following the fiscal year to which the concurrent resolution applies," and that no waiver has been provided under section 303(c), the Chair sustains the point of order for the reasons that—

First. The legislative history of section 303, which must be looked at because the section itself is not absolutely clear, states:

Legislation that provides budget authority or changes in revenues to be initially available in fiscal years which are *two or more ahead* (emphasis supplied) may be taken up before action on the first concurrent resolution for that year.

Second. And the uniform practice of the Senate, based upon the interpretation of the Budget Committee, and acquiesced in by the other standing committees, including the Finance Committee has required waivers of section 303(a) each time a bill has been reported which first took effect the following fiscal year.

That is the interpretation that has been made for the Chair relative to the point of order made by the Senator from Maine.

Mr. LONG. Mr. President, I appeal the ruling of the Chair.

The PRESIDING OFFICER. The Senator from Louisiana is certainly within his rights to appeal the ruling of the Chair.

Mr. LONG. Let me make this clear to the Senate: I do not challenge the Parliamentarian's right to so rule. But when I first discussed the matter with the Parliamentarian, I showed him the law, explained to him the problem, and the Parliamentarian advised me that I was right.

Subsequently the Budget Committee talked with him, and they persuaded him that the Senator from Maine (Mr. MUSKIE) was right.

You can read the law for yourselves, and make your own decision. The Parliamentarian was kind enough to provide me with his opinion in advance, and advised me how he would suggest the Chair rule.

There is no dispute that we can cut taxes for 1981. We are now in fiscal 1979, though we are in calendar year 1978. We can cut taxes in 1981 without needing a budget waiver. 1981; that is a long time from now.

We are not arguing about that. I agree that we can cut taxes in 1981. That does not have anything to do with what we can do in 1980. But the Parliamentarian is relying upon something that says that we can vote to cut taxes in 1981 to say we cannot cut taxes in 1980.

What the Parliamentarian has relied upon is absolutely and totally irrelevant. I am not supporting Mr. ROTH's amendment on the merits, but I am supporting his right to offer an amendment to cut taxes not only in 1981 but in 1980.

Let me read from the same report by the Rules Committee as is quoted by the Parliamentarian. Let me read what they said on the point that is relevant, the right to have a tax cut in the year following the budget year. Here we are in 1978; we are talking about the right to offer an amendment proposing a tax cut is to go into effect in January 1980, 16 months away. The right to do that is clearly provided for in the law. Let us see what the committee report said about it.

I am reading from page 44 of the Senate Report 93-638, the Rules Committee report language dealing with this section. The exception applies to:

Bills or resolutions which increase or decrease revenues effective in a fiscal year following the budget year.

Here we are in calendar year 1978. We are in fiscal year 1979. We are talking about a cut to go into effect in both calendar year and fiscal year 1980, the following year.

Let me read it again.

The exception deals with:

Bills or resolutions which increase or decrease revenues effective in a fiscal year following the budget year. Again, the need for legislation well in advance of the year in which it takes effect under this exception. Changes in the general tax rates, for example, are often graduated over a period of years in order to give predictability and allow for planning by those affected.

That is what is relevant in the committee report, and it expressly gives the Senator from Delaware the right to offer his amendment.

I am not for the Senator's amendment. I will speak against it. I will vote against it. I will urge the Senate to reject it. But not only the Senator from Delaware, but anybody in this body has a right to offer an amendment providing a tax cut or a tax increase in the year following the year to which the budget resolution applies. Otherwise, Senators would not be able to offer a tax cut affecting their people after the end of the budget year without the consent of the Budget Committee, unless it went into effect way up in 1981. That is a long time before it could take effect.

Let us read the language of the bill itself. I ask Senators to read it.

First, let us take the general rule:

SEC. 303. (a) IN GENERAL.—It shall not be in order . . . to consider any bill . . . (or amendment thereto) which provides—

* * * * *

(2) an increase or decrease in revenues to become effective during a fiscal year . . . until

the first concurrent resolution on the budget for such year has been agreed to. . . .

Under that general rule the Senator from Delaware would be barred from offering his amendment. But then we get to the exceptions. Now let us read the exceptions:

(b) EXCEPTIONS.—Subsection (a) does not apply to any bill or resolution—

* * * * *

(2) increasing or decreasing revenues which first become effective in a fiscal year following the fiscal year to which the concurrent resolution applies.

We are not under the first concurrent resolution now; we are under the second concurrent budget resolution for fiscal year 1979. The Senator is offering an amendment which is within the budget for fiscal year 1979. It provides for a further tax cut in fiscal year 1980, and a further tax cut in fiscal year 1981.

The language in the committee report that says that an amendment can have a further tax cut in 1981 is being relied upon to say it cannot have a tax cut in fiscal year 1980, which the report language does not say at all.

There is express language that says a Senator can offer an amendment with a tax cut in 1980. Read the law.

What was the whole intent of the budget process? It was to say that when the Budget Committee meets in January and they go to work on the budget resolution, you cannot cut the revenue that is available to them for that fiscal year and you cannot increase the spending, because that would mess up the budget process. The Budget Committee would not know how much revenue they had coming in. They have to know how much revenue they can rely upon so that they can make the budget and try to cut the cloth to fit the pattern. That was the purpose of the limitation. It made sense. Nobody on the Finance Committee objected to that part of it. We said:

If we want to cut taxes beyond what the Budget Committee is recommending, we will do it in future years.

If we vote the tax cut proposed by the Roth amendment for 1980, that will not interfere with the Budget Committee. It simply means that when we come back in in the following year they would have to take into account the fact that there would be a tax cut to take effect in January of the following year.

Mr. President, it was the intent of the Senate, and it was the intent of the House, that we comply with the budget resolution within the year that the budget applied to. It was not intended to apply to future years.

It makes no sense to say that no Senator can offer a tax amendment without the consent of the Budget Committee if the amendment's effect takes place in the year after the year in which the budget resolution applies. The Budget Committee has not yet acted on the resolution for that year, they have not proposed a spending limitation, they have not proposed what the income will be—so to limit the right of Senators to offer tax amendments in this way makes no sense. The Budget Act was never intended to be interpreted that way.

The last amendment was the Haskell amendment. I voted against it. I did not ask the Senate to agree to it. I did not ask the Senator to offer it. That amendment provided for a further corporate tax cut in 1980. The Senate just got through acquiescing in an amendment that does what I am urging Mr. ROTH be allowed to do, that is, to provide a tax cut within the budget this year, and the following year a further tax cut.

Nobody knows yet what the budget will be the following year. The whole idea is that the Budget Committee will cut the cloth to fit the pattern. Nobody will know until a budget resolution for a given year is developed what the pattern is going to be for that year, and in the meantime we have the right to act on amendments affecting that year just as the Roth amendment proposes. I am not for the amendment on its merits, but it says that you will cut taxes for the budget year and for the following year, and it was clearly intended under the budget process that a Senator should have the right to offer an amendment that does so.

Mr. CURTIS. Will the distinguished chairman yield for a question?

Mr. LONG. I yield.

Mr. CURTIS. Is it true that the prohibition against cutting the revenue within a year is for the purpose of having a fixed figure upon which those who make the budget can rely?

Mr. LONG. That is the idea.

Mr. CURTIS. To cut taxes for a subsequent year, in this case 1980, does not interfere with the budget procedure, does it?

Mr. LONG. For better or for worse, it does not. It may be that neither the Budget Committee nor the Senate might want to cut taxes in the following year, but a Senator has the right to offer an amendment that does so, and he does not need the approval of the Budget Committee, or a waiver.

Mr. CURTIS. The Senator's argument is very sound, it is logical. The purpose of this rule is to facilitate budgetmaking and not have the amount of revenue fluctuating while they are in the process for that year. It was never intended as giving the Budget Committee a veto over what was done in future years.

Mr. BUMPERS. Will the Senator yield for a question?

Mr. LONG. How much time do I have remaining, Mr. President?

The PRESIDING OFFICER. The Senator has 18 minutes remaining.

Mr. LONG. I will be happy to yield later. I should like to reserve some time right now, if I may. I shall yield after the other side has had a chance to reply.

I yield the floor.

Mr. BUMPERS. Will the Senator yield? My question is really directed to the Senator from Maine. Will he yield for a question?

Mr. MUSKIE. Yes; I yield.

Mr. BUMPERS. As I understand it, this bill came out of the Finance Committee. It is about a $23 billion tax cut in its present form as reported. It is my understanding that the Budget Committee had allowed for somewhere around $18.5 to $19 billion in the second concurrent budget resolution. In that resolution. Is that correct?

Mr. MUSKIE. On a fiscal year basis. On a calendar year basis, it was $21 billion.

Mr. BUMPERS. In either case, whether it is fiscal year or calendar year basis, my question is, why is this bill not subject to a point of order, since it exceeds the second concurrent budget resolution?

Mr. MUSKIE. The tax reduction on a calendar year basis is $21 billion, but taking into account the previously enacted tax cuts, the totals amount to about $36 billion on a calendar year basis.

Mr. BUMPERS. Thirty-six billion dollars?

Mr. MUSKIE. That is right.

The bill as it came out of the committee was within the constraints of the second concurrent budget resolution.

Mr. BUMPERS. If the committee bill has roughly $23 billion in cuts, how much of that is in new tax cuts and how much of it is continuing the temporary tax cuts? Can the Senator answer that?

Mr. MUSKIE. I should really like to address this issue——

Mr. BUMPERS. I do not want to pursue that. I can ask this question any time.

I yield.

Mr. MUSKIE. Mr. President, may I say, first of all, that this was not an easy question for the Parliamentarian to resolve. He put it very well when he said to me:

Senator, when you put me between Muskie and Long, you put me between a rock and a hard place.

This language is not easy to interpret. But you have to look at it in terms of the consequences of the optional interpretations which were considered.

Senator LONG argues that because the Budget Act does not permit us to challenge tax cuts which take effect in 1981 or 1982 or 1983 or 1984 or 1985 or any year thereafter—and that is a fact—as a result, we ought not to have any control over 1980 and 1979. That is the effect of his interpretation. As I shall try to point out, that means that the budget process would have no control over revenues.

He concedes that, with respect to a year for which we are writing a budget resolution, we ought to have control over revenues. Yet if we were to adopt his interpretation with respect to section 303 as it applies to 1980, then that section, if applied a year ago to 1979, would have permitted the Committee on Finance to enact any tax cut it pleased, whatever its impact on fiscal 1979 revenues.

What he is saying is that until January 1, the Committee on Finance can recommend any tax bill it pleases; once January 1 comes around, then we have to worry about the first concurrent resolution for the next fiscal year, but we do not worry before January 1.

Mr. President, it is a ridiculous theory. The purpose of section 303 is very simply stated in terms of the Roth bill: The Roth bill would cause a reduction of revenues by 7 percent in 1979, another 13 percent in 1980, and a further 10 percent in 1981. The calendar year 1980 in-

crement of this 3-year tax reduction will occur during fiscal year 1980, the year during which Senator LONG now wants an absolutely free hand from the budget process. That portion of the 3-year reduction will amount to $36 billion of additional revenue reductions in that fiscal year alone.

The distinguished chairman of the Committee on Finance would like to suggest that this should be of no concern to the budget process, none whatsoever, because the budget process does not apply to 1980. If the budget process does not apply to 1980 now and the Roth amendment should pass and that $36 billion of additional revenue reductions take effect, have we not already done for next year's budget resolution what Senator LONG says we could not do earlier this year with respect to this year's concurrent resolution? We will have reduced revenues by $36 billion before any budget has been presented by the Budget Committee to the Congress for its consideration. We will have decided a year in advance to reduce revenues by $36 billion.

I do not know how much good it does for us to debate legal technicalities on the floor of the Senate with Senators who have not had a chance to study the technicalities of the Budget Act. But we have to understand what the language of section 303 means. The best authority on that is the legislative history of the act, which, with all respect to the distinguished chairman of the Finance Committee, he misinterpreted. Page 894 of the legislative history of the Budget Act refers to bills or resolutions which increase or decrease revenues in a fiscal year following the budget year—that is the language the Senator read. What he did not tell us is that the words "budget year" referred to mean the budget year for which no first concurrent resolution has been adopted. That is budget year 1980. At this point in time, that is 1980, because 1979 has been acted upon. So those words "budget year" in that legislative history mean 1980. That sentence means 1981 is open, as the Senator and I agree, but not 1980—because the words "budget year" throughout this legislative history mean budget year for which the first concurrent resolutions described in section 301(a) are applicable.

What I am saying is that if the Senator's interpretation prevails, not only do we wipe out the budget process with respect to 1980 revenues, but we endanger the process for revenues altogether, because I see no point in trying to protect the budget from January 1 to May 15 if, prior to that time, Congress is free to enact any tax cuts for any fiscal year that it chooses. We must protect the next fiscal year from year to year. The fact that we do not have protection for all outyears is bad enough. Incidentally, the bill that Congressman ULLMAN introduced initially prohibited tax increases in all outyears for which no first concurrent resolution has been adopted. The Finance Committee and the Ways and Means Committee, to protect their turf, got that section amended so that we have protection, if we have it, only for the current fiscal year and the next one.

I do not think it is an argument against having protection for those 2 years that there is not protection in subsequent years. But if you wipe away the protection of the next fiscal year by Senator LONG's interpretation of this language, for all practical purposes, you have eliminated the discipline of the budget process from the revenue side of the budget. May I say that the Parliamentarian's opinion referred to the practice of the Senate in this respect.

I ask unanimous consent that I may have printed in the RECORD the five instances demonstrating the truth of the Parliamentarian's statement in that respect, the practice of the Senate with respect to sections 303(a) and 303(b)(2), including the practice of the Committee on Finance.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MEMORANDUM

To Senator Muskie.
From John McEvoy.
Date September 26, 1978.
Subject operation of section 303.

SUMMARY

Section 303(a) of the Budget Act bars consideration of spending debt or revenue legislation which would become effective for a fiscal year until the first concurrent resolution on the budget has been agreed to.

Section 303(b)(2) contains a limited exception to this general rule. The exemption allows consideration of legislation increasing or decreasing revenues which first become effective in the fiscal year following "the fiscal year to which the concurrent resolution applies."

Section 303(a) provides a bar against consideration of revenue and appropriations bills for any fiscal year for which no concurrent budget resolution has been agreed to. For example, it would not have been in order on May 14, 1978 for the Senate to consider a tax bill which first became effective in fiscal year 1979, since no first concurrent resolution on the budget for fiscal year 1979 was adopted by Congress until May 16.

Section 303(b)(2) provides a limited exception to the bar of Section 303(a) in the case of revenue legislation which first becomes effective in years after the year foreclosed by Section 303(a). Thus a bill would have been in order on May 14, 1978, which first became effective in 1980 or some later year.

After Congress agreed to a budget resolution on May 16, 1978 tax legislation which first became effective in fiscal year 1979 was in order, because a first concurrent budget resolution for that year had been adopted. Tax legislation first effective in 1980 was barred by Section 303(a). Consideration of tax legislation which first became effective in 1981 was possible pursuant to Section 303(b)(2).

The language of Section 303, its legislative history, and Senate practice compel these conclusions and support no other. If, after Congress had adopted the First Concurrent Resolution on the Budget on May 16, 1978, when FY 1979 became open for consideration of revenue changes, fiscal year 1980 was open as well, then the Section 303(b) exception must be said to render Section 303(a) inoperative. No such result can be justified.

PROVISIONS OF THE STATUTE

Section 303(a) of the Budget Act provides in pertinent part as follows:

First concurrent resolution on the budget must be adopted before legislation providing new budget authority, new spending authority, or changes in revenue or public debt limit is considered.

Sec. 303. (a) In General—It shall not be in order in either the House of Representatives or the Senate to consider any bill or resolution (or amendment thereto) which provides— . . .

(2) an increase or decrease in revenues to become effective during a fiscal year; . . . until the first concurrent resolution on the budget for such year has been agreed to pursuant to section 301.

Section 303(b)(2) of the Budget Act contains the following exception to the general rule set forth in Section 303(a):

(b) Exceptions—Subsection (a) does not apply to any bill or resolution— . . .

(2) increasing or decreasing revenues which first become effective in a fiscal year following the fiscal year to which the concurrent resolution applies.

A common sense interpretation of Section 303 makes its meaning clear. Reading these two related provisions together compels the conclusion that, prior to agreement on a first concurrent resolution for a fiscal year, tax changes to become effective in that year cannot be considered. But tax changes "which first become effective in a fiscal year following the fiscal year to which the resolution applies can be considered. For example, Section 303(a)(2) barred consideration of tax changes for fiscal year 1979 on May 14, 1978, prior to the first budget resolution for fiscal year 1979 on May 16, 1978. Pursuant to Section 303(b), however, tax changes for fiscal year 1980—"the fiscal year following the fiscal year to which the concurrent resolution applies"—would have been in order on May 14.

After the first resolution for FY '79 had been agreed to on May 16, consideration of FY 1979 tax changes were in order. But Section 303(a) barred revenue changes "which first became effective" in fiscal 1980, the next year for which no first concurrent resolution had been agreed to.

Section 303(b)(2), which applied to fiscal year 1980 and years thereafter prior to May 16, applied thereafter to FY 1981 and the years thereafter.

There is no room in the language of the statute for a contrary interpretation. If Section 303(b)(2) applied to FY 1980 before May 16 and afterward as well, when would it become applicable to 1981? If Section 303(b)(2) applied to both FY 1979 and 1980 after May 16, 1978, by what token did it preclude consideration of FY 1979 tax changes before that date?

LEGISLATIVE HISTORY

The legislative history of the Budget Act confirms this common sense interpretation of the statute.

An exception, contained in Subsection 303(2)(1) of the Budget Act, for certain appropriations bills was contained in substantially similar form in all versions of the Budget Act reported in either House. The exception for revenue bills was added by the Senate Rules Committee during its consideration of the bill and was never considered by the House, except as part of the Conference report. It is to the report of the Senate Rules Committee, the conference report, and the debates on the legislation contained in those reports to which one must look for the correct interpretation of Section 303(b)(2).

Here is how the Rules Committee report described the exception, now contained in Section 303(b), to Section 303 for revenue bills. The exception was created to provide that "legislation that provides budget authority or changes in revenues to be initially available in fiscal years which are two or more years ahead may be taken up before action on the first concurrent resolution for that year."

The conference version of the Budget Act incorporates this Rules Committee revenue exception verbatim. The Statement of Managers accompanying the conference report on the Budget Act does not shed additional

light on the statement of the purpose of Section 303(b) set forth in the Rules Committee report. Referring to the Section 303 (b) exception, the Statement of Managers says: "The conference substitute permits the consideration of advance appropriations and advance revenue changes prior to the adoption of the first budget resolution for the fiscal year to which they apply." The exception was not elaborated in the debate of the conference report in either House.

The statement of purpose contained in the Rules Committee report—that the exception applied to fiscal years "which are two or more ahead"—remains the clearest statement as to the meaning of the exception.

In actual practice, applying the "two years ahead" measure of the Section 303(4)(2) exception reaches the same result as the common sense interpretation apparent on the face of the statute. In FY 1978 the exception applied to FY 1980 and beyond. In FY 1979, it applied to 1981 and beyond.

PRACTICE OF THE SENATE

The Chair has never been called upon to rule on the question of the meaning of Section 303(b)(2). The Senate has, however, followed a practice since the effective date of Section 303 which is totally consistent with the interpretation of that Section and the exception contained in Section 303(b)(2) as set forth in this memorandum. All committees of the Senate, including the Committees on Finance and Appropriations, have followed this practice.

The Finance Committee has, for example, sought waivers of the application of Section 303(a) each time it has reported a tax bill which first took effect the following fiscal year.

On March 28, 1977, during fiscal year 1977 but before the first budget resolution for 1978 was adopted, the Finance Committee reported S. Res. 126, seeking a waiver of the bar of Section 303(a) against consideration of H.R. 3477, because that bill contained revenue reductions (extension of $12.5 billion in temporary income tax reductions) which first became effective in fiscal year 1978.

On November 1, 1977, during fiscal year 1978, but before the first budget resolution for fiscal year 1979 had been adopted, the Finance Committee reported S. Res. 313, seeking a waiver of the bar of Section 303 to the consideration of the Social Security Finance Amendments which provided substantial tax increases which first will become effective during fiscal year 1979.

And on August 7, 1978, during fiscal year 1978, but after the first budget resolution for 1979 had been adopted, the Committee on Finance reported S. 524, seeking a waiver of the bar of Section 303(a) to the consideration of H.R. 3946, which provided certain tax credits and entitlements effective in FY 1979 but which increased in 1980, giving rise to the need for the waiver.

On September 16, 1977, during fiscal year 1977, the Committee on Banking and Currency reported S. 250, seeking a waiver of the bar of Section 303 to the consideration of S. 2055, a bill governing the Federal Reserve, which would have the effect of reducing revenue collection by the Treasury commencing in FY 1978. S. 2055 contained a provision which made it effective a year after its enactment. That enactment was expected to occur in October, 1977 during FY 1978. Since the bill would be enacted in FY 1978 before a first concurrent resolution for FY 1979 was adopted, and would cause revenue losses in FY 1979, a waiver of Section 303 was required for its consideration in the Senate.

On February 25, 1976, the Committee on Appropriations reported S. Res. 392, a multi-year appropriation which provided budget authority which became available in 1976 and additional budget authority which became available in 1977. The waiver was sought for that portion of the bill which made budget authority available in 1977 since no first concurrent resolution for that year had been adopted.

No case exists, which is known to the Budget Committee since the effective date of Section 303, in which this Senate practice has not been followed.

Mr. MUSKIE. That record speaks for itself. This is the first time the Parliamentarian has been asked to make a ruling on this point. He has been asked to make a lot of difficult rulings under the Budget Act, as any new piece of legislation of that complexity would require, and, from his personal standpoint, I am sorry about that.

But, nevertheless, this is an important issue. If we want to protect the budget process on the revenue side, the Parliamentarian's ruling must be sustained.

It would be preferable to have protection in all future years but we do not have it. I concede that.

But when we are considering a possible revenue reduction in 1980 of about $36 billion, barely a month before we begin consideration of the next concurrent budget resolution for that year, we ought to insist upon regular procedure.

A resolution waiving section 303 of the Budget Act for the Packwood, Roth, and similar amendments has been introduced, and it is on the agenda of the Budget Committee for its meeting tomorrow morning. This waiver procedure is not a veto, as Senator CURTIS suggests.

All it does is require the Budget Committee, within 10 days to give the Senate the benefit of its assessment of the legislation.

The Senate can agree with the Budget Committee or disagree with it. The Budget Committee cannot veto.

So the Roth amendment, presumably, will be back on the floor for consideration with or without the favorable assessment of the Budget Committee. The Packwood amendment, likewise.

The Packwood amendment has had good sledding in the Budget Committee, as a matter of fact, if I recall accurately.

So I think we ought not put aside relatively gentle discipline in order to establish an interpretation of this provision which, in effect, would put revenues outside our reach.

Several Senators addressed the Chair.

Mr. MUSKIE. The distinguished Senator from Oklahoma wanted some time.

Mr. BELLMON. Mr. President, I thank the chairman for yielding.

Mr. President, I am not a lawyer and I do not propose to get into the legal aspect of the Budget Act. My purpose here is to remind the Senate that Congress has adopted an orderly budget process and is learning to live with the disciplines we set for ourselves when that process was enacted into law.

One piece of evidence that the process is working is the fact that we had a significant reduction in the fiscal year 1979 deficit, which we have been able to accomplish over the last 8 months.

I think the Members will remember that when the President sent his budget, he anticipated a deficit for fiscal year 1979 of a little over $60 billion.

During the year, and partially due to the spending shortfalls and reestimates, I want to make certain we all understand that this is not all due to cuts in spending, but we now have cut that anticipated deficit down to $38.8 billion. This is a reduction of $21 billion.

I feel we should not take action here that is going to undercut the budget discipline, just as we begin to see some beneficial effects of this process.

Now, what the chairman has requested here seems to me to be fair. A point of order would appear to lie against several amendments, and one of them is an amendment of my own.

But there is a relatively quick and orderly way this problem can be resolved, and a remedy for this is provided in the Budget Act.

I have already filed at the desk a waiver request for these amendments, for the tuition tax credit, for the Roth-Kemp amendment, and for my own amendment, and as the chairman said, the Budget Committee scheduled a meeting for 10 o'clock tomorrow morning.

By early afternoon, after the amendments have been revised in an orderly way, I am sure the problems will be resolved in a way agreeable to the distinguished chairman of the Finance Committee.

I feel confident the waiver will be granted, and that will eliminate the point of order.

On tuition tax credits, a majority of committee members have already voted in favor of the issue—the vote was 9 to 4 in favor when the issue came before the committee as part of the budget resolution last May, and I believe we can count on at least 12 of the 16 members as favoring the waiver tomorrow.

Regarding the Roth-Kemp tax cut, at least half of the members have been supporters and while there has not been a specific vote inside the committee, I feel reasonably certain that a clear majority will vote for the waiver. As to my own amendment, I am willing to take my chances.

Mr. President, the waiver process does not make the Budget Committee the traffic cop of the Senate's business. Even if we were to report unfavorably on the waiver tomorrow, the Senate does not have to accept that verdict. The Senate has the option to approve or not approve the resolution regardless of the Budget Committee. The purpose of the action requested today is not intended to thwart the will of the Senate or even upset the timing of floor debate.

All the waiver step amounts to is to make certain that carefully and thoughtfully considered procedures to avoid hasty ill-conceived action are followed.

The Budget Act established the budget process in order to put an end to the business we have seen on the Senate floor in the past years where someone brings up an amendment quickly either to spend money or cut revenues and no orderly way has been found to take a careful look at what the long-term results will be.

I am convinced that the procedures which have been set in the act should be followed and not scrapped this early

in the efforts to make the process work, and I trust my colleagues will agree.

Several Senators addressed the Chair.

Mr. LONG. Let me just explain the situation in a word. We are presently bound by the second concurrent budget resolution for fiscal year 1979. I referred to the year following the budget year as fiscal year 1980. The Senator says that 1980 is the budget year I am talking about, and that 1980 is the budget year this committee report makes reference to when it talks about bills or resolutions which increase or decrease revenues effective in a fiscal year following the budget year.

Now, Mr. President, we cannot be bound by two budget resolutions at the same time. We can be bound by one. We are bound at present by the budget resolution for fiscal year 1979.

When we come back in January, Mr. President, I am not arguing that we can act on tax amendments effective in fiscal year 1980. I am arguing that we are bound on our appropriation bills and our tax bills for 1979 under the budget resolution agreed to, and that we are not bound for fiscal year 1980 under a budget resolution that does not yet exist.

I am talking about the right of every Senator to offer a tax amendment, whether the Budget Committee waives it or not, which becomes effective in a future budget year.

I yield to the Senator such time as he wants.

Mr. DANFORTH. I thank the chairman of the Finance Committee.

I just have three very quick points to make.

The first is that my reading of the committee report of the Rules Committee accompanying the Budget Act of 1974 indicates that outyear tax reductions were certainly contemplated by the Rules Committee at that time.

Commenting on section 303(b) of the Budget Act, the committee said that section 303(a) does not apply to bills or resolutions in the following four categories, and then in No. 4 it said that bills or resolutions shall increase or decrease revenue effective in the fiscal year following the budget year.

Again, the need for legislation well in advance of the year in which it takes effect underlies the exception. Changes in the general tax rates, for example, are often graduated over a period of years in order to give predictability and allow for planning by those affected.

The second point that I would like to make is that——

Mr. MUSKIE. Will the Senator yield?

Mr. DANFORTH. I will yield the floor in about 2 minutes.

The second point I would like to make is that in the way the Senate has handled that provision—although, so far as I know, no point of order has been raised—but in the Tax Reduction Act of 1975 there was at least one provision providing for outyear tax reductions, including the year immediately following the year in which it was enacted.

Mr. MUSKIE. Mr. President, will the Senator yield on that point?

Mr. DANFORTH. I will yield the floor in about 2 minutes.

In the Tax Reform Act of 1976 there were at least four different provisions in which the tax rates were cut for a period of years, including the next succeeding year.

Finally, it seems to me, as a practical matter, that it is something of a necessity. The reason for that is the effect that inflation has of putting people into constantly higher tax brackets. Unless there is a rapid adjustment, as a practical matter, for what inflation does, putting people into higher marginal tax brackets and them taxing them, while they have had no real increase in income, the effect of that is that we are financing the deficit of any unlegislated tax increase caused simply by virtue of what inflation is doing.

Therefore, unless we can provide for some out year protection from increased taxes, we have the anomalous situation of the taxpayer, the following year, paying a higher tax rate which has not ever been legislated, and the Treasury reaping the windfall.

I yield the floor.

Mr. MUSKIE. There is nothing which this Senator has said that conceivably could be interpreted as stating that it is impossible for us to consider tax cuts for out years.

All the Budget Act requires is that the Budget Committee consider a waiver resolution and make a recommendation to the Senate regarding such cuts. For those who want to waive the Budget Act and have good reasons for doing so, presumably the Budget Committee is amenable to persuasion, as is the Finance Committee.

All I am arguing for is that our fiscal policy be made in the rational way the budget process is supposed to work.

Let us look at Senate Resolution 313, which was reported from the Finance Committee a year ago by Senator LONG. What was its purpose? To waive section 303(a) of the Congressional Budget Act of 1974 with respect to the consideration of H.R. 5322, a bill providing additional financing for the Social Security System.

What was the reason given for reporting the waiver resolution? I will read the second page:

> That waiver of such section 303(a) is necessary in order to enable the Senate promptly to consider changes in social security financing which are provided for in H.R. 5322, as reported by the Committee on Finance, which are urgently needed in order to assure that the program is adequately funded and which first became effective in fiscal year 1979.

That waiver resolution, I say to my good friend from Missouri, which was reported by Senator LONG, was approved by the Senate Budget Committee so that we could take that future year action which the Senator from Missouri argues my interpretation of the Budget Act prevents.

There is an explicit example of the error of the argument by the Senator from Missouri and of the fact that the chairman of the Finance Committee, himself, is as capable as he accuses the Parliamentarian of being, of changing his mind about the interpretation of section 303. This legislation and this waiver resolution for it, he reported out a year ago.

Now he changes his mind and wants to escape the discipline of the Budget Act and urges a different interpretation of section 303.

This is one of the five incidents the Parliamentarian relied upon to make his ruling. So if the Parliamentarian is now to be criticized by the chairman of the Finance Committee, the chairman of the Finance Committee, himself, gave the Parliamentarian one of the precedents upon which the Parliamentarian relied.

Mr. LONG. Mr. President, we requested that waiver, because in that social security bill there were entitlement provisions which were prohibited by section 303(a)(4) of the Budget Act. We requested the waiver for an entirely different reason. There were other provisions in the bill that clearly would have required a waiver.

Furthermore, Mr. President, let me make this point: The Senate has not voted on this issue. The Senate just got through approving the Haskell amendment, which violates the very position the Senator takes with respect to the Roth amendment. The point has never been ruled on and decided by the Senate.

If someone is told by some on the Budget Committee, "You need a waiver," ordinarily they ask for a waiver.

I had never read this provision nor studied the express language before this matter came up. I was always under the impression that we were binding ourselves for the budget year for which we were approving a budget resolution.

I was on the original committee that started work on establishing the congressional budget process. It was composed of members of the Finance Committee and the Ways and Means Committee, among others, in the beginning. That was the first group to look at it. The whole idea was that we would bind ourselves for the budget year that the budget resolution would apply to.

Mind you, as to this particular language I am pointing out to the Senate, I dare say that most Members of the Senate have never studied it—never looked at the exact words or looked at the exact words in the committee report, in order to construe it.

Mr. MOYNIHAN. Mr. President, will the Senator yield?

Mr. LONG. I yield.

Mr. MOYNIHAN. Mr. President, I should like to make a few points.

The first is a general point which perhaps is so obvious that it escapes us. The language of the Rules Committee report referred to the "budget year." The "budget year" happens to be one of the oldest institutions of Anglo-Saxon Government. It is the 12-month period immediately ahead for which the Congress—or the Parliament—is legislating. No more than 12 months, so that the King will not have more than 12 months' worth of money.

It seems to me inconceivable that a careful Congress would have provided for 2 budget years without saying "2 budget years," but instead saying "the budget year."

The distinguished chairman of the

Budget Committee, who knows I respect him, a moment ago said:

Maybe we should consider outyear coverage as well.

What can "outyear" means but the year after the budget year? Do we have an intermediate year? Does some unnamed year follow the budget year, and then outyears begin after that?

Surely not. Surely, this refers to the budget year.

The Parliamentarian's ruling is baffling to me. I understand that the Senator from Maine might think we are being imprudent, but that does not affect the nature of the statute.

Mr. MUSKIE. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Maine has 12 minutes remaining.

Mr. MUSKIE. I will not use the 12 minutes, but I say to the Senator from New York that I presume that "budget year" means the same thing for section 303(b)(2) as it does for section 302(a). If it does, then my interpretation is correct. If it means something different from what it has meant for the ages in one part of the statute and not the other, I have no answer to that historical judgment. My historical judgment is not as keen as that of the Senator from New York.

With respect to last year's social security bill waiver resolution, I say to the chairman of the Finance Committee that there is nothing in the language giving the reason for submitting the resolution which refers to entitlements in any way. The language is:

To consider changes in Social Security financing which are provided for in H.R. 5322 and which are urgently needed in order to assure that the program is adequately funded.

Mr. President, I understand that we do not all read all the legal and technical language we write around here. I must say that I have never undertaken to read the tax bills that the chairman of the Finance Committee reports out of committee every year or so, only to find myself confounded by changes in the law which I did not dream I was voting for or against.

However, I do not think that a Senator's awareness or unawareness has the effect of changing what the law says or does.

I repeat: The only point that needs to be made about this is that if the argument of the Senator from Louisiana prevails, not only will you wipe out budget discipline for 1980, but also, you will wipe it out for all the years in the future. I cannot imagine that the 7½-month hole in the calendar year will be overlooked as a wide-open opportunity by any Senator, including those who are ingenious in the writing of tax laws, to write any tax bill they like—tax cuts to the roof. Because that is what the Senator is arguing we ought to have, a big 7½-month open door from May 15 to January 1. That is his interpretation of the Budget Act. Incidentally, the date January 1 does not appear anywhere in the Budget Act. But he says that is where the Budget Committee begins to have a responsibility with respect to revenues. From January 1 to May 15 is the only time we have any business to consider tax legislation for the coming fiscal year. The Budget Act does not refer to January 1. If we follow his interpretation, there is a 7-month open door, from May through December, when legislation, irrespective of its impact on the budget process and future budgets, can be enacted into law. And I cannot imagine that that door will be left closed very long.

Mr. LONG. Mr. President, the Senator talks about the Finance Committee having the right to write anything it wants to. The Senator it not objecting to a Finance Committee amendment. He is objecting to an amendment being offered on the floor by a Senator. This is not a Finance Committee amendment.

Mr. MUSKIE. I did not mention the Finance Committee. I said any Senator.

Mr. LONG. I believe he referred to the Finance Committee. The Senator is not making a point of order about a Finance Committee amendment. He is making a point of order about a floor amendment. We are talking about the right of any Member of this body to offer a tax amendment effective in 1980.

Now, most Senators are lawyers, but some Senators are not lawyers, so let me just appeal to their commonsense.

The Senator is making this argument. Here we are in calendar year 1978. This is October 1978, and he is arguing that here in October 1978 we are now in budget year 1980. That is his argument.

Mr. MUSKIE. I did not make any such argument.

Mr. LONG. That is what he is saying. He is referring——

Mr. MUSKIE. The Senator knows that was not my argument.

Mr. LONG. That is exactly what he is contending.

Let me read from the same section he is quoting. He refers to:

Bills or resolutions which increase or decrease revenues effective in a fiscal year following the budget year.

What is the budget year? He contends that we have the right to offer an amendment effective in the year following the budget year. What is the bduget year to which this refers? We are in budget year 1979. We are in calendar year 1978.

The Senator from Maine was contending that we are in budget year 1980. He just got through saying we are not in budget year 1980. I wish he would make up his mind. He seems to be contending that we are now in budget year 1980, though it is only 1978.

People know that you can be in 1978 and be in budget year 1979, but I challenge anyone, including the Senator from Maine, to stand up here and say that we in 1978 are now in budget year 1980. I challenge him to say it, but that is his argument.

Mr. MUSKIE. Mr. President, I do not know where the Senator from Louisiana is.

Mr. LONG. I wish the Senator would make his remarks on his own time, not my time.

Mr. MUSKIE. It is on my time. I do not know where Senator LONG is. But I am not in budget year 1980.

Mr. LONG. I know I am in 1978, not in 1980.

Mr. MUSKIE. I am not in budget year 1980. But I am saying that this budget process applies to 1980. That I have said and I will continue to say as long as this apparently fruitless argument continues.

Mr. LONG. That is just exactly the point, Mr. President.

Mr. MUSKIE. And it applies, may I say, not only to bills reported from the Finance Committee, but under the express language of the Budget Act.

Mr. LONG. On the Senator's time.

Mr. MUSKIE. The Senator suggests that I am picking on Mr. ROTH or Mr. PACKWOOD outside the Budget Act. To the contrary, they have as much right as the Finance Committee to have their amendments considered under the procedures of the Budget Act, and I will defend those.

Mr. LONG. Mr. President, I am not contending for the right of Mr. ROTH to cut taxes beyond the budget resolution, not only for fiscal year 1979 but for the whole calendar year 1979. As far as I am concerned, I would be willing to go along with the Senator from Maine for both the budget year and calendar year 1979. I am just talking about the year after that. He is contending that the budget year, which in my judgment is 1979—that is the following calendar year, but we are in that budget year right now—he is contending we are now in budget year 1980, and I contend we are not. It is just about that simple.

Mr. ROTH. Mr. President, will the Senator yield?

Mr. LONG. I yield first to the Senator from Kansas and then I will yield to the Senator from Delaware.

How much time do I have remaining?

The PRESIDING OFFICER. The Senator has 2½ minutes remaining.

Mr. DOLE. I will be brief.

Mr. LONG. I will yield 1 minute to the Senator from Kansas.

Mr. DOLE. Mr. President, I say I find myself caught between two outstanding chairmen, my chairman of the Budget Committee and my chairman on the Finance Committee, and some of my friends are on one side and some of my friends are on the other, and the old story is I am for my friends.

I only suggest it does not make any sense to this Senator to say we are cutting taxes in 1979, 1981, and 1982 and 1983, but we cannot offer a bill that might reduce taxes in 1980.

I have the same difficulty.

I know it is very confusing to read section 303 as everyone read it on the floor. It seems very clear. The exception seems very clear. The waiver sort of confounds the problem.

I just say as a matter of good planning trying to get ahold of the problems we have in the tax and economic area we should be able to offer tax reductions or if need be even tax increases in out years.

I suggest that in a rather close call we should sustain the chairman of the Finance Committee.

Mr. LONG. I yield to the Senator from Delaware.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. ROTH. Mr. President, I want to add one point to the statement of Senator DOLE.

It does seem to me that as a matter of commonsense the exception to the language that Senator MUSKIE read is very clear, that it applies to all succeeding years. I think on this point it is important to again read what the Senate Rules Committee report said. I quote again:

> The need for legislation well in advance of the year in which it takes effect underlies this exception. Changes in the general tax rates, for example, are often graduated over a period of years in order to give predictability and allow for language for those affected.

Under this language from the Rules Committee report it is contradictory to say we can have a tax cut which can apply to 1979, that cannot apply to 1980, but can apply to 1981 and 1982.

Just to show how ridiculous that reasoning would be, we could avoid this whole problem by changing the effective date of the second phase of our tax cut to September 30, 1979, and then the Budget Committee would not be able to make any point of order. So I just conclude by saying that commonsense dictates that the Senate has the right to propose multiyear tax cuts.

Mr. MUSKIE. I never heard a more ridiculous argument, may I say to my good friend from Delaware. He is arguing that because we do not have discipline with respect to all future years we should not have any with respect to any. That does not sound like the conservative Senator from Delaware to me, except that he has an amendment he wishes to push and does not want to have any procedural roadlocks.

But, Mr. President, being chairman of this Budget Committee is often a very frustrating experience, because I find as we seek to enforce its discipline it often seems to be regarded as a personal exercise on my part.

I assure Senators I am interpreting this act as I see it. I have done my best to be sensitive to the prerogatives of my fellow Senators and other committees. Unavoidably there are lines that create potential confrontation and friction, and I have tried to minimize those.

But in this case this is not just my interpretation. My interpretation has been the practice of the Senate during all the years of the budget process. My interpretation is the ruling of the Parliamentarian. You have heard it read. It was a thoughtful one. He was subjected to pressure from two committee chairmen, and he did not reach his conclusion lightly. When we got it it was written. It was out of thoughtful consideration after hearing the arguments on both sides.

It comes down to this, gentlemen: Whether or not you fully understand the technicalities of the argument or of the legislative language, it comes down to this; if we accept Senator LONG's interpretation of 303(b), the effect is to wipe out 303(a) and to make it practically meaningless with respect to budgetary discipline over revenues. That is a fact. That is the way I will interpret it as chairman of the Budget Committee if the Senate sustains Senator LONG, because the issue has been made too plain for me to interpret it otherwise.

Mr. President, if my colleague from Oklahoma wishes time I yield to him whatever time he likes.

Mr. BELLMON. Mr. Presidnt, I think most Members of the Senate will agree we have made real progress in the years since the Budget Act was passed in trying to restrain the outyear spending. We can all remember the time when we used to be here considering appropriation bills, and some Member would stand up and want to add $200 million for child nutrition or veterans or some other worthy cause, and we would all agree without thinking of the impact. Now we have a process which makes us think through this spending, and we are restraining ourselves.

But the other problem that gets us into deficits and helps build up the huge debt is the way we have added uncontrolled spending programs.

The way I interpret the budget, it was intended that we have the same restraint on the revenue side that all of us expected to have on the expenditure side. I believe the issue before us is whether or not we want to remove from the Budget Act this restraint on the spending side, and it is for that reason that I support the position taken by the chairman of the Budget Committee.

Mr. LONG. Mr. President, I ask for the yeas and nays.

Mr. MUSKIE. I yield back all of my time.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is, Shall the decision of the Chair stand as the judgment of the Senate? The yeas and nays have been ordered, and the clerk will call the roll.

Mr. LONG. Parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. LONG. If one wishes to sustain the appeal he would vote "no," is that correct?

The PRESIDING OFFICER. If one wishes to sustain the appeal of the ruling of the Chair he would vote "no."

Mr. LONG. Yes.

The PRESIDING OFFICER. If one wishes to sustain the ruling of the Chair he would vote "yea."

The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Idaho (Mr. CHURCH), the Senator from Mississippi (Mr. EASTLAND), the Senator from Colorado (Mr. HASKELL), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Minnesota (Mrs. HUMPHREY), the Senator from Hawaii (Mr. INOUYE), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Alabama (Mr. SPARKMAN), and the Senator from New Jersey (Mr. WILLIAMS), are necessarily absent.

I further announce that the Senator from Missouri (Mr. EAGLETON) is absent on official business.

I further announce that, if present and voting, the Senator from West Virginia (Mr. RANDOLPH) would vote "nay."

Mr. BAKER. I announce that the Senator from New Mexico (Mr. DOMENICI), the Senator from Nevada (Mr. LAXALT), the Senator from Alaska (Mr. STEVENS) and the Senator from Texas (Mr. TOWER) are necessarily absent.

I further announce that, if present and voting, the Senator from Alaska (Mr. STEVENS) would vote "nay."

Mr. GOLDWATER. Regular order, Mr. President.

The PRESIDING OFFICER. The regular order is the completion of the tally.

Have all Senators in the Chamber recorded their votes?

The yeas and nays resulted—yeas 38, nays 48, as follows:

[Rollcall Vote No. 448 Leg.]

YEAS—38

Abourezk	Durkin	McIntyre
Anderson	Glenn	Melcher
Baker	Hart	Metzenbaum
Bayh	Hatfield,	Nelson
Bellmon	Mark O.	Nunn
Bumpers	Hathaway	Pell
Burdick	Hollings	Proxmire
Byrd, Robert C.	Javits	Riegle
Case	Kennedy	Sarbanes
Chiles	Leahy	Sasser
Clark	Mathias	Stafford
Cranston	McClure	Stevenson
Culver	McGovern	Weicker

NAYS—48

Allen	Griffin	Muskie
Bartlett	Hansen	Packwood
Bentsen	Hatch	Pearson
Biden	Hatfield,	Percy
Brooke	Paul G.	Ribicoff
Byrd,	Hayakawa	Roth
Harry F., Jr.	Heinz	Schmitt
Cannon	Helms	Schweiker
Chafee	Hodges	Scott
Curtis	Jackson	Stennis
Danforth	Johnston	Stone
DeConcini	Long	Talmadge
Dole	Lugar	Thurmond
Ford	Magnuson	Wallop
Garn	Matsunaga	Young
Goldwater	Morgan	Zorinsky
Gravel	Moynihan	

NOT VOTING—14

Church	Huddleston	Sparkman
Domenici	Humphrey	Stevens
Eagleton	Inouye	Tower
Eastland	Laxalt	Williams
Haskell	Randolph	

The PRESIDING OFFICER. On this vote, the yeas are 38 and the nays are 48. The ruling of the Chair is not—is not—sustained.

Mr. LONG. Mr. President, I move to reconsider the vote by which the ruling of the Chair was not sustained.

Mr. MOYNIHAN. Mr. President, I move to lay that motion on the table.

The PRESIDING OFFICER. The question is on agreeing to the motion to table.

Mr. MUSKIE. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The question is on agreeing to the motion to table the motion to reconsider. The yeas and nays have been ordered and the clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. The Senate is not in order. The Senate will be in order, in order for the clerk to record the votes.

The Senate will be in order.

The clerk may proceed.

The second assistant legislative clerk resumed and concluded the call of the roll.

Mr. CRANSTON. I announce that the Senator from Idaho (Mr. CHURCH), the Senator from Colorado (Mr. HASKELL), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Minnesota (Mrs. HUMPHREY), the Senator from Hawaii (Mr. INOUYE), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Alabama (Mr. SPARKMAN), and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

I further announce that the Senator from Missouri (Mr. EAGLETON) is absent on official business.

I further announce that, if present and voting, the Senator from West Virginia (Mr. RANDOLPH) would vote "yea."

Mr. BAKER. I announce that the Senator from New Mexico (Mr. DOMENICI), the Senator from Nevada (Mr. LAXALT), the Senator from Virginia (Mr. SCOTT), the Senator from Alaska (Mr. STEVENS) and the Senator from Texas (Mr. TOWER) are necessarily absent.

I further announce that, if present and voting, the Senator from Alaska (Mr. STEVENS) would vote "yea."

The PRESIDING OFFICER (Mr. DECONCINI). Have all Senators in the Chamber voted?

The result was announced—yeas 46, nays 40, as follows:

[Rollcall Vote No. 449 Leg.]

YEAS—46

Allen	Garn	Matsunaga
Baker	Goldwater	Moynihan
Bartlett	Gravel	Packwood
Bentsen	Griffin	Pearson
Brooke	Hansen	Percy
Bumpers	Hatch	Ribicoff
Byrd, Harry F., Jr.	Hatfield, Paul G.	Roth
Cannon	Hayakawa	Schmitt
Chafee	Heinz	Schweiker
Curtis	Helms	Stennis
Danforth	Hodges	Stone
DeConcini	Jackson	Talmadge
Dole	Johnston	Thurmond
Eastland	Long	Wallop
Ford	Magnuson	Young
		Zorinsky

NAYS—40

Abourezk	Hart	Metzenbaum
Anderson	Hatfield, Mark O.	Morgan
Bayh	Hathaway	Muskie
Bellmon	Hollings	Nelson
Biden	Javits	Nunn
Burdick	Kennedy	Pell
Byrd, Robert C.	Leahy	Proxmire
Case	Lugar	Riegle
Chiles	Mathias	Sarbanes
Clark	McClure	Sasser
Cranston	McGovern	Stafford
Culver	McIntyre	Stevenson
Durkin	Melcher	Weicker
Glenn		

NOT VOTING—14

Church	Humphrey	Sparkman
Domenici	Inouye	Stevens
Eagleton	Laxalt	Tower
Haskell	Randolph	Williams
Huddleston	Scott	

So the motion to lay on the table the motion to reconsider was agreed to.

Mr. MUSKIE. Mr. President, I said in the closing moments of debate on this issue that I would accept the Senate's will as a direct interpretation of the Budget Act. The budget process, as I interperted it before this action, whenever any amendment offered had the effect of breaching the revenue floor or breaching any requirement of the Budget Act, I felt I had a responsibility to warn the Senate and to insist upon the procedures of the act. You have now said to me, "Mr. Chairman, that is none of your business. We write revenue legislation on the floor." That, as I understand it, are my new orders, and I shall follow them.

Mr. LONG. Mr. President, on the previous issue was the Haskell amendment, which, from my point of view, was not a good amendment. It took us by surprise in some respects. We voted on the matter in the committee and it lost there. I was confident that our side would win. I agreed to a time limitation and we voted and my side lost. I felt very dismayed about it. I felt I was so completely right, I did not see how I could lose on that vote. But the Senate heard the other side and some people did not hear either side; they came in and learned as best they could and they voted.

The Senator from Maine has many times taken the Senator from Louisiana to task because in the out years, in the years past the year of the budget resolution, we have proposed that there be a further tax cut. The Senator has contended on occasion that the cut was too much, it was not responsible. He made good arguments.

Mr. President, on the merits of this issue, I am 100 percent on the side of the Senator from Maine; I do not think we can afford the Roth amendment.

I want the Senator from Maine to do the same thing to the Senator from Delaware that he has done to the Senator from Louisiana when I have brought in an amendment for a tax cut in a future year, even though it did not run counter to the budget resolution. I hope he will speak out strongly and say, "The Budget Committee has considered this matter and we find we cannot stand the revenue loss involved in the Roth amendment."

We on the Finance Committee voted down the Roth amendment. It was not easy. The votes were close. On one occasion, when we voted on one version of it, there was a tie vote. But we voted against the Roth amendment on the Democratic side of the aisle almost unanimously, even though those on the other side were equally strong; in fact, they were unanimously for it.

Mr. President, I respect the arguments made by the Senator. What I think is the shortfall in the case made by the Senator from Delaware is that he proposes a very big tax cut and I know he would like to see us make a big cut in spending to match that.

But, Mr. President, in my judgment, it would not be responsible for us to make a very big cut in taxes, and I believe this amendment over a period of years reduces revenues by hundreds of billions of dollars.

We are not arguing about whether it would be nice to have such a big tax cut. We just have a difference of opinion of whether we can afford it.

It was my privilege to serve under the chairmanship of the late Harry Byrd on the Finance Committee, and he was a man against high taxes and against high spending. But Harry Byrd would not vote for a big tax cut unless we were going to cut spending at the same time.

Mr. President, I do not know whether we can responsibly cut spending by any hundreds of billions of dollars. I know that there are those who think we can. But it seems to me that if we want to do that, we ought to have something that designates where we are going to cut spending and then ties the spending cut to the tax cut. Otherwise, Mr. President, it would seem to me we would be in a position of having an enormous deficit and, as easy as it is to cut taxes, it is very difficult to raise taxes to try to cover that kind of deficit.

I have a letter here from the Secretary of the Treasury in which he points out that he thinks it is irresponsible for us to cut taxes in future years as much as the Finance Committee has voted to cut them. He is very emphatic about that.

Of course, Mr. President, he has a point, and I would expect that in conference we will be able to compromise with the Secretary of the Treasury and the President about the cost of the bill. Otherwise the bill will be vetoed.

I do not think, Mr. President, that we can make the tremendous tax cut that is included in this Roth amendment, because to do so would really mean that we either have to slash spending tremendously in areas no one has designated, or else we are going to have enormous deficits, which would be very inflationary.

I would hope every Senator would read the letter before him from the Treasury. It is signed by Robert Carswell saying we just cannot afford this tremendous revenue loss and that, in his judgment, it would depart from the discipline that is required to be fiscally responsible and to keep this Government solvent.

The Government needs revenues. It needs to be able to plan on them.

I would think, Mr. President, that if this amendment prevailed, it would not result in our cutting taxes, it would result in our having no tax cut at all. I would certainly assume that those who voted for it would insist we come back from conference with substantially what this would amount to. If we did so, the President would veto the bill. He threatens to veto the bill the way it is now.

Let me just illustrate the amounts we are talking about, Mr. President.

The President of the United States has some doubt about the bill we have before us now. In the fiscal year 1980, the Finance Committee bill would cut individual taxes by $15 billion. The Roth amendment would cut taxes by $45 billion, or $30 billion more than the bill which the Secretary of the Treasury, Mr. Blumenthal, finds very serious objection to, because of the size of the tax cut for that fiscal year.

The following fiscal year, 1981, the Finance Committee would cut taxes by $17 billion. The Secretary of the Treasury tells us that is too much. In that same fiscal year, the Roth amendment would cut taxes by $94 billion.

The following fiscal year, 1982, the Finance Committee cut would be $21 billion. The Roth amendment would be $126 billion in that fiscal year.

The following fiscal year, 1983, the Finance Committee cut would be $24 billion. Again, the Secretary of the Treasury

and the President are concerned about that and say that we cannot afford even that big a tax cut, yet the Roth amendment would cut taxes in that fiscal year by $151 billion.

Mr. President, I hope we can cut taxes that much. I really do hope what the Senator would like to achieve can be accomplished. But if it is to be done, Mr. President, I hope we would cut taxes now as we are proposing to do in the bill, and save the remainder for a future time.

What is the difference between the Roth amendment and the committee bill? The committee bill is more heavily aimed at the low-income taxpayers while Mr. ROTH proposes an across-the-board cut. I think that to put more benefits to the low end of the scale is better.

Mr. MAGNUSON. Will the Senator yield?

Mr. LONG. Yes.

Mr. MAGNUSON. I do not like to enter into this debate, but the Senator is talking about expenditures, too, and I just saw a national poll that most people are more concerned about cutting expenditures than they are cutting taxes.

I guess I happen to be a little bit in charge of the expenditure department, and the same people that talk about the Kemp-Roth amendment, and I have been to many meetings, are all for it, but they also want to balance a budget.

Now, the only way we can balance a budget is to have the revenues equal the expenditures.

The Appropriations Committee of the U.S. Senate have only once in 17 years gone over a budget—only once—and that was made in the early days of the HEW where we went over about 2 percent.

This year, when we are under, if we can get the HEW and the Defense bill done before we leave here, we are going to be, I think, a rough estimate, about $10 to $11 billion under the budget, and under the congressional budget.

So we are doing our job on expenditures.

We started out, as the Senator from Louisiana knows, with a budget that was about $60 billion—was it not—out of balance. That is what they thought. But they found that the revenues this year were coming in a little better, the economy was not as bad as a lot of people think, and that was cut down to about $40 billion—was it not?

And we are going to cut it least $10 billion, now we are down to $30 billion.

Now, if it was not for a tax cut that you fellows have concocted, we would have the budget in balance, and I could go to every chamber of commerce meeting in my State, and they would say, "Hooray, the budget is in balance."

That is a cure, or a panacea.

So I just want to stand up on behalf of we people who are in charge of expenditures, and we have been doing a pretty good job down there, and we have taken it selectively. We have to do that. We cannot pick a figure just out of the air and say that we will cut it this way, and the Senate has sustained us in the so-called across-the-board cuts.

So we are cooperating, I hope, with the Finance Committee. But if you let taxes alone this year and did not do anything, just let it alone, we would almost have a balanced budget.

But I am sort of a big dreamer. I cannot expect that, because the Finance Committee has just got to fool with taxes every year. I do not care whether it is good or bad, they just have to go through all this, and they end up like scrambling eggs, putting a little in over here, a little less here, and it all ends up the same. The revenue is about the same.

They are chasing a lot of people around, avoiding taxes. That is correct. But I want the record to show that the Appropriations Committees of the House and the Senate are cutting expenditures. We can have a balanced budget if we do not—it gets down to this point—if we do not start to cut down the revenues too much.

Most people think we should cut expenditures. Everybody likes to have their taxes cut. You and I do; all of us do. But most people think that the Government should stop a lot of expenditures.

One more point: I can balance the budget in 5 minutes. We are picking up in that budget now more than $100 billion in local tax. Revenue sharing is one of them, which you cosponsored and for which I voted. We can balance the budget tomorrow.

I cannot give the figures exactly, because I cannot get them, but in the budget is about $50 billion in loans, good loans.

So we are cooperating. If you people did not do anything this year at all, we would have almost a balanced budget. Any time you have a little balance in the till down there, which we looked at midnight on Sunday—any time you have a little balance in the till, people cannot rest until they get at it, put their "gloms" on it, and do something about it. I think part of this thing is expenditures.

As to Roth-Kemp, you cannot have it both ways. You cannot cut taxes and balance budgets, too.

I will guarantee that the Senator from Delaware would not take an amendment I might present, that you will not pay out anything that is not in the till.

You people claim there is going to be more money in the till. If that is true, then we will not have any problem. But if there is not money in the till, then you will have a bigger deficit, and you will have to cut out something. I do not know where you are going to do it. I know lots of places you can cut it out, and we do that selectively.

I think there should be a little more liaison in Congress between the people who are getting the heat for expenditures and the people who are supposed to furnish the revenue to take care of the expenditures. We would be close to a balanced budget this year if it were not for a tax cut. That does not mean you should not have a tax cut. That might turn it around to bring more money into the Treasury. But the bottom line is, how much money is going to come in, compared to what you expend?

The Budget Committee, of which I am a ranking member—I voted against them a few moments ago—is trying to do that.

I want the record to show that your Appropriations Committee has been doing a real job this year, both in the House and in the Senate, in cutting down expenditures. It is the best job we ever have done.

When Ford left the Presidency, the deficit was $58 billion. This is not a partisan matter. It is the same.

Maybe you will get more money than revenues with a tax cut, and I hope so. I want the record to show that.

Do you think we have been doing a good job or not?

Mr. LONG. I certainly do. [Laughter.]

Mr. MAGNUSON. Then, say so once in a while, and do not keep talking about all this business about whether you are going to put a tax here or a tax there. It is expenditures that count.

Mr. LONG. Mr. President, I believe that the Appropriations Committee is doing a fine job. They are within the budget. The Finance Committee also is within the budget.

We did not cut taxes as much as I had hoped we would be permitted to cut taxes. The amount of tax reduction in this fiscal year has been reduced between $5 and $8 billion, and that is one of the big items that helps to balance the budget for this year.

We should keep in mind, Mr. President, that the reasons for these big deficits go back to the last recession. We were getting the budget under pretty good control up until that point. President Ford is a good man, a conscientious man, but the Nation was worried about inflation at that time, and President Ford called a meeting on inflation. I admire the man. He got so carried away by this talk about inflation that he made a speech and said, "Look, don't buy anything."

He referred to the situation that existed in his home when he was growing up. When they were served at the table, Poppa said:

> Take what you need and eat what you take, but don't take more than you can eat.

It reminds me of what my dear old mother told me:

> Those who waste will come to want.

At the time, he said:

> Don't buy anything. Don't spend any money. Save. Cut back.

That is when they talked about inflation and put out the WIN buttons. When he did that, people stopped buying.

Mr. MAGNUSON. Why does not the Finance Committee put a lid on interest rates? That is one of the reasons for inflation. It has almost become usury.

Mr. LONG. The President's words were so inspiring that the people quit buying anything. The Chrysler Motor Co. was about to go out of business. Somebody asked the chairman of the board why Chrysler was going broke. He said:

> It's no wonder people won't buy Chrysler automobiles. The President of the United States goes on television and says, "Don't buy anything."

That year there was a near recession. President Ford called us to a meeting, and he told me:

We're going to need a big tax cut. We will have to put some money in people's pockets to get the economy going.

That is when these big deficits got going. We are working our way out of them. We are within the budget, and the Appropriations Committee is within the budget. I hope very much that next year we will be in good shape.

Mr. President, I yield to the distinguished majority leader.

Mr. ROBERT C. BYRD. I thank the distinguished chairman of the Finance Committee.

Mr. President, I rise in opposition to the pending amendment, and I hope that the Senate will be able to reach a decision on the amendment yet this evening, before too long.

The 95th Congress has played a leading role in the Nation's fight against inflation. Not only has the Congress worked successfully to hold down Federal spending through the budget and appropriations processes, but—in its consideration of specific legislative options—it has also demonstrated its commitment to finding innovative ways to stem inflation.

Congressional sentiment here mirrors the economic mood of the American people. Americans are concerned that continuing high rates of inflation will further erode the purchasing power of the dollar, as well as endanger the current economic expansion.

Over the course of the year, Americans have clearly voiced their growing concern with the rate of inflation. In May, some 42 percent of the respondents to an NBC-Associated Press poll identified the cost of living as the most important problem facing the country. According to a July Gallup poll, the proportion of Americans who viewed the high cost of living or inflation as our most important problem had risen to 60 percent. And a Harris poll taken last month disclosed that some 95 percent of the respondents consider inflation to be the No. 1 issue.

The American people's view is echoed by our major trading partners who hold that inflation is our central problem. After all, what we do about inflation has ramifications for the health of their economies which are closely entwined with our own. It is no surprise that they view our curbing inflation as the paramount issue in international affairs—of primary importance for the peoples of the industrial democracies.

Mr. President, as the Senate begins consideration of the tax cut bill—designed in part to offset the impact of inflation on the tax burden of Americans—I would like to review some of the steps which the Senate has taken to stem inflation. Although more remains to be done—and will be done, I believe that the Senate has already established an impressive record of anti-inflationary legislation.

First and foremost in my mind is the record of the 95th Congress in developing the fiscal year 1979 budget, a budget that allows simultaneously for the meeting of national needs and keeping a lid on spending.

The success of the budget process is reflected in the ceilings on budget authority contained in the second concurrent budget resolution for fiscal year 1979. This ceiling on the future cost of Government represents a significant reduction in the President's January budget. The resolution's $555.65 billion ceiling is some $13 billion under the figure in the President's budget.

The deficit, too, is headed down in the second concurrent budget resolution; this should reduce inflationary expectations and, thereby, reduce inflation. The deficit projected in the budget is now $38.8 billion, which is $12.1 billion under the deficit projected in the first concurrent budget resolution and $21.7 billion under the deficit in the President's January budget. The President's January budget assumed a deficit of $60.5 billion, and the first concurrent resolution assumed one of $50.9 billion.

The implication of these declining deficit figures is clear: We are moving in the direction of a balanced budget. Indeed, according to the Senate Budget Committee, continued spending restraint over the next 5 years should make possible a balanced budget.

A second area in which the Senate has demonstrated its leadership in the anti-inflation fight is in its consideration of fiscal year 1979 appropriations. Our commitment to holding down spending is as much in evidence here as in our efforts to move toward a balanced budget. The numbers—agreed to with the House—are going down, not up. The appropriations allocation for Housing and Urban Development in the second concurrent budget resolution is more than $2 billion below the comparable allocation in the first concurrent resolution. The appropriations allocation for Agriculture is more than $2.5 billion below that which was allocated in the first resolution. The appropriations allocation for Interior is about $1 billion lower; for State, Justice, and Commerce it is almost $1 billion lower; and for Transportation it is over $1 billion less.

Certainly, every congressional committee is to be commended for its contribution to holding down spending. The Appropriations Committees are to be particularly commended for their impressive showing.

A third area in which the Senate has begun to move against inflation is by recognizing that excessive regulation can add significantly to costs. While these costs are often justified by specific national concerns, they contribute to inflation.

In considering various pathways to achieve social goals, the Congress has placed greater emphasis on the costs involved. Only by so doing can we develop cost-effective regulations. In addition, reliance on regulation must be minimized in those sectors of the economy where economies of scale are for the most part absent. Instead, reliance must be placed on the forces of free competition.

The airline deregulation legislation, S. 2493, which passed the Senate on April 19, 1978, illustrates this point. It sets forth U.S. policy to develop an air transportation system which emphasizes reliance on market competition. At the same time, it provides safeguards against unfair or predatory prices or decreases in service to smaller communities.

The legislation altered the Federal Government's approach to the airline industry. Previously, the industry had to show that a proposed service was "required" by public convenience and necessity. Under S. 2493, the Civil Aeronautics Board is directed to authorize new air transportation services unless it determines that such transportation is not consistent with public convenience and necessity. By allowing for increased competition, this legislation will help to reduce airline fares, to the benefit of millions of Americans.

A fourth area in which the Senate has demonstrated its continued commitment to holding down inflation is exemplified by passage of the Comprehensive Employment and Training Act Amendments of 1978. The amendments provide for a partial refocusing of public service jobs on the hard-to-employ, a policy which will bring down joblessness without bidding up the wages of those already employed.

This relatively noninflationary approach to jobs creation has been strongly endorsed by the Senate and the House in light of the current economic situation. We have learned from experience that as the joblessness rate approaches 4 percent and the slack in productive capacity is taken up, overreliance on fiscal policy to achieve fuller employment may generate unacceptably high levels of inflation.

A fifth step which the Senate will take this year to help stem inflation is approval of measures designed to spur productivity. It is now recognized that the substantial growth in productivity was a major force in the relatively stable economic environment of the 1950's and 1960's.

The expansion of capital relative to the work force grew at an annual rate of about 3 percent from 1947 to 1968. Since then, it has grown at about 1 percent per year. According to the Council of Economic Advisers, this slower pace may explain at least some of the slower growth in productivity since 1968.

Accordingly the tax legislation which we are about to take up deals head on with the productivity problem. The Finance Committee has recommended a series of measures designed specifically to stimulate capital formation. These include: First, corporate rate reductions; second, a permanent investment tax credit; and third, a capital gains tax cut.

Finally, Mr. President, passage of major energy legislation this year will form an integral part of our anti-inflation program. It will demonstrate to our trading partners that we intend to put our economic house in order. Estimates show that a full percentage point has been added to our inflation rate as the result of the decline of the dollar in relation to foreign currencies during the past 12 months. The reduction in energy imports which this legislation is designed to foster should increase confidence abroad in the value of the dollar and lead to a narrowing of our trade deficit. Most importantly it should lead to improvements in our inflation situation.

These then, Mr. President, are some of the anti-inflation steps being followed by Congress: First, the movement to-

ward a balanced budget; second, the commitment to spending restraint; third, the fostering of market competition; fourth, the focusing of job and training programs on the hard-to-employ; fifth, the promotion of capital formation; and sixth, the development of a strong energy policy. These steps form the path toward reducing inflation; they show the way.

And now, as we take up the tax reduction legislation, we must continue—as I know we will—to face up to the challenge of stemming inflation by the passage of a moderate tax cut for fiscal year 1979—a tax cut that will help move the budget toward balance and reduce inflationary pressures.

Mr. President, I believe that a tax reduction far deeper than that assumed under the second concurrent budget resolution would prove to be economically counterproductive. It would unleash inflationary pressures at the very time that we need to get inflation under control. It would work against our achieving budgetary balance.

It is on these grounds that I oppose the Roth-Kemp tax proposals which are designed to reduce individual taxes by about one-third over the next 3 years.

The Roth-Kemp proposals would run counter to the moderate fiscal course agreed to by the Congress. The second concurrent budget resolution allows for approximately $20 billion in tax reduction for both individuals and business. The Roth-Kemp proposals would go far beyond this moderate course and phase in over the next 3 years more than $100 billion in tax reduction for individuals.

Proponents of Roth-Kemp suggest that providing incentives to American workers through large tax cuts will stimulate economic growth without fueling inflation. Critics of Roth-Kemp, who include many of the Nation's leading economists, disagree. They believe that a tax cut on the order of Roth-Kemp would overwhelm our existing productive capacity with a massive increase in demand and would eliminate any possibility of curbing deficits and containing inflation. According to one major study, the deficit would soar to $100 billion by 1983 and the rate of inflation would be as much as 2 percentage points higher than it otherwise would be by 1982.

The seriousness of our inflation problem suggests that the effects of Roth-Kemp could be dangerous. The latest Government statistics indicate that inflation accelerated at a 7.2 percent annual rate in August. We need to adopt policies which bring that rate down, not drive it up.

Mr. President, I fear that American consumers would pay for Roth-Kemp in the form of higher prices.

I am also concerned that a 3-year, phased-in tax cut would "lock in" our fiscal policy, with possibly disastrous results. Congress needs to review policy on a yearly basis, making midcourse adjustments in the light of current conditions. Congress would not be acting responsibly if it established our fiscal policy this year for the next 3 years—come what may.

I have no doubt, too, that the President would veto a tax reduction measure that incorporated Roth-Kemp. The measure would not provide real tax relief to middle-income Americans. It would not give the American people what they want: lower taxes and reduced inflation.

The distinguished Senator from Washington referred to a recent Harris poll which clarifies this issue. It disclosed that while some 81 percent of the respondents consider tax relief and cutting spending to be the Nation's second most important issue, some 95 percent consider controlling inflation to be the No. 1 issue.

Mr. President, the best way to accomplish these two objectives is through a moderate tax cut that can, on an aggregate basis, offset the payroll tax increases enacted last year as well as a portion of the effect of inflation on individual taxes over the past 2 years.

I urge the Senate to reject the amendment by Mr. ROTH.

Mr. LONG. Mr. President, this is a very significant amendment that is pending. We have more than 14 absentees, and I had told Senators that I was going to suggest that we leave about between 7 and 7:30. The hour of 7:30 p.m. has now arrived.

I think, Mr. President, that we should vote on this amendment tomorrow and it will be all right to me to set a time certain to vote tomorrow. I suggest that we perhaps come in at 9 a.m. and vote at 10 am.

Mr. ROBERT C. BYRD. No, we cannot do that, may I say to the distinguished Senator, because of the order previously entered. The Senate will vote on the ERA extension resolution tomorrow at 10 a.m. Some Senators want some time prior to the vote on that extension.

Mr. LONG. I suggest we vote at 11 then, debate for an hour and divide the time between 10 and 11 a.m.

Mr. ROBERT C. BYRD. Mr. President, do we have any order for recognition of Senators on tomorrow?

Mr. BAYH. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

The PRESIDING OFFICER (Mr. PAUL G. HATFIELD). There is one order for Senator LEAHY for 15 minutes.

Mr. ROBERT C. BYRD. I thank the Chair.

Yes, I yield.

Mr. BAYH. If the leader will yield, I think I expressed to him that Mrs. HUMPHREY wanted an opportunity to be heard tomorrow, and I fear that there may be some others who may have some last minute desires to be heard.

I honestly think that most of the arguments have been expressed. Perhaps individual Senators feel that they can express their views with some more persuasiveness than we have already had them expressed, and they certainly should have the right to do so.

So I suppose I should try to reserve to myself 15 minutes, not to talk for 15 minutes, but to let others who may at the last minute have a yearning to do so, to have that opportunity.

Mr. ROBERT C. BYRD. How much time does the distinguished Senator suggest?

Mr. BAYH. Mr. President, Mrs. HUMPHREY said she wanted about 20 minutes which is what she thought. I think in about perhaps 15 minutes we should be able to cover any contingencies that I could think of.

Mr. ROBERT C. BYRD. All right.

Mr. JAVITS. Mr. President, I wish to have 2 minutes, I say to the Senator from Indiana.

ORDER FOR RECESS UNTIL 8:40 A.M. AND RESUMPTION OF CONSIDERATION OF HOUSE JOINT RESOLUTION 638 TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 8:40 a.m. tomorrow and that at 9 a.m. the Senate resume its consideration of the ERA extension, that there be 1 hour debate on that extension to be equally divided between Mr. BAYH and Mr. GARN.

The PRESIDING OFFICER. Without objection, it is so ordered.

REVENUE ACT OF 1978

The Senate continued with consideration of H.R. 13511.

Mr. LONG. Mr. President, I have been talking to some of my colleagues seeking to arrange an understanding among Senators that on this significant vote we arrange that if one side has more absentees than the other side, the side that has the least number of absentees will arrange enough pairs so that the vote will work out to the same result it would be if we had 100 Senators present, and I have had some cooperation and some indications of support from Senators for that.

But we do not have that worked out yet. I hope very much that those on the other side of the aisle will discuss our suggestion and see if they can work it out so that they can cooperate with us in this matter. When we do that we will not find it necessary to postpone votes in order that we provide time for someone to come back to town. For example, if one side has one absentee and we simply provide a pair for that one absentee, it works out the same as if 100 Senators were here, and the same thing can be done even though one side has six absentees and the other side has five absentees.

Some of these votes, and I would suggest the Roth amendment is a good example, are going to be close votes, and we are going to have some very important votes occur, and I hope that Senators will seek to do what I did the last time we had the problem. I proposed to the majority leader that either one of us should pair to provide whichever side had the most absentees with at least one pair, and we did that. On that occasion I gave a pair.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. LONG. I yield to the Senator.

Mr. ROBERT C. BYRD. I am with the Senator on the question that is now before the Senate, and I am opposed to the amendment by Mr. ROTH. I am willing to enter into this arrangement.

Mr. PACKWOOD. Will the Senator withhold just a minute?

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER VITIATING 1 HOUR OF DEBATE ON ERA EXTENSION AND PROVIDING FOR SPECIAL ORDERS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for 1 hour of debate for tomorrow morning preceding the ERA extension vote be vitiated and that in lieu thereof the following four 15-minute orders be instituted: Mr. DECONCINI for 15 minutes; Mrs. HUMPHREY, 15 minutes; Mr. GARN, 15 minutes; and Mr. BAYH, 15 minutes, these to begin at the hour of 9 a.m. and, of course, to end at 10 a.m., at which time the vote will occur on the ERA extension.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. There is an order already entered, is there not, for a Senator?

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. That Senator is not included in the four I have named.

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. I thank the Chair.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR THE CONSIDERATION OF TAX BILL TOMORROW AND TIME-LIMITATION AGREEMENTS WITH RESPECT TO AMENDMENTS THERETO

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that upon the disposition of the ERA extension tomorrow the Senate resume consideration of the tax bill, at which time there will be 1 hour of debate on the amendment by Mr. ROTH, to be equally divided between Mr. LONG and Mr. ROTH; at the conclusion of which time or at such time as the hour or portion of the hour may be yielded back, a vote occur on the amendment by Mr. ROTH.

The PRESIDING OFFICER. Is there objection?

Mr. KENNEDY. Mr. President, I do not intend to object. I have an amendment that is related to the rate schedule and I would be glad to enter into—this is an amendment of mine and Senator BUMPERS—and I plan to introduce it, and we would be glad to enter into—a time agreement to follow the final resolution of the Roth amendment to be convenient to the leader or manager of the bill so that Members will at least have some idea about what we will do.

Mr. PACKWOOD. Mr. President, as I understand it, when we finish voting on Roth-Kemp we will be back on tuition tax credit, which is the amendment pending, and I would be willing to enter into an agreement at that time.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. KENNEDY. Mr. President, if the Senator will yield, the only point is that if the Roth amendment is defeated then the tuition tax credit would still be open for further amendment.

Mr. PACKWOOD. Further amendment.

Mr. KENNEDY. Unless there is some measure to bring the whole matter down.

Mr. LONG. Mr. President, I was hoping very much we would be able to get an agreement to go in sequence or to go seriatim title by title, and I would hope very much we could obtain that agreement after we dispose of the Roth and Packwood amendments.

I would first like to ask unanimous consent that after we dispose of those two amendments, that what we do is proceed to consider the committee amendment, and we consider it seriatim title by title. I would like to ask unanimous consent that the committee amendment be agreed to and that titles I through VI be considered as original text for the purpose of amendment title by title.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. I would not object to that tomorrow, but until we are able—I would reluctantly object, and I raised this issue about proceeding seriatim earlier in the day, and I appreciate the efforts the Senator makes and I would not intend to object after, perhaps, the early hours of tomorrow, but I would object just at this time.

Mr. LONG. I thank the distinguished Senator.

I want to accord every Senator the opportunity to offer his amendment, Mr. President, and I really think it would be far better that we go in logical sequence because it helps Senators to organize their material. I know it does help those of us managing the bill to organize the material so that we know what to expect next, and if our case is not compelling, we fully expect the other side to prevail. But we would like the opportunity to prepare and look at these matters as they come before us because otherwise we find those who are offering amendments are expert on their amendments, especially if the Senator is going to offer only one amendment. He is going to be the best expert who can be found on this green earth for his amendment, and those of us on the other side, not knowing what comes next, find ourselves at a disadvantage sometimes. It takes time for us to obtain the material we want and to organize our arguments and to present a response to their amendments.

It helps to give both sides an equal chance to present their case if we can know what to expect to come next, and if we can move in sequence, then we can do that. I can understand a Senator may have reason for objecting, but I hope very much he would be willing to let us go through the bill in sequential order and then, having done that, we would still preserve their rights to offer amendments at the end of the bill if they wanted to on whatever subject they cared to offer them on.

Mr. DANFORTH. Mr. President, will the Senator yield? I spoke to the Senator from Louisiana earlier today with respect to an amendment I will offer pertaining to the fiscal relief section on which I would like to have a vote tomorrow, if that is possible. I wonder if, perhaps, we could enter into an agreement now with respect to an appropriate time to bring up that amendment?

Mr. LONG. Mr. President, what the Senator wants to have is his amendment out of order, but he is willing to let everybody else's amendment fall in order. I hope I can persuade the Senator between now and tomorrow to let his amendment be considered in sequence, too, or at least let us go through the bill and consider in sequence the other materials and then at the end of the bill let the Senator offer his amendment.

The Senator from New York (Mr. MOYNIHAN) does not want the Senator from Missouri to offer his amendment at that particular time—at least he did not the last time I talked to him, and so I could not agree to that at this point.

Senator, so far as I am concerned, we will just do it however the Senate makes us do it, but I would hope very much the Senator would consider tomorrow letting us proceed in sequence because it makes better sense and it is a more organized way to do business.

Mr. DANFORTH. I think I understand what the chairman is saying. The chairman wants some orderly process so he can predict what is coming up next. I think it would be a very simple, relatively simple, matter to fashion a unanimous-consent request that accomplishes his objectives, although maybe not in the precise sequence that the Senator would prefer. I very much would like to call up my amendment on fiscal relief tomorrow, if that is possible. Senator JAVITS and I have both talked to the Senator or maybe some of the staff people with respect to a concept we have, to at some point debate it, and then have a sequential vote on a combination of a personal tax cut and a corporate tax cut which, I think, would be a very simple matter to work out.

Mr. LONG. I am willing to cooperate, Mr. President, provided the cooperation is mutual. I will be glad to discuss this matter with the Senator tomorrow, and perhaps we can work it out.

Mr. DECONCINI. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. Mr. President, can we have regular order?

Mr. JAVITS. Is there a unanimous-consent request?

Mr. ROBERT C. BYRD. Yes.

Mr. JAVITS. Mr. President, reserving the right to object, may it be restated?

Mr. ROBERT C. BYRD. The unani-

mous-consent request was that on tomorrow, on the disposition of the ERA extension, there be 1 hour on the amendment by Mr. ROTH, to be equally divided between Mr. LONG and Mr. ROTH, and that the Senate then proceed to vote up or down on the Roth amendment.

Mr. JAVITS. I have no objection to that, but I do wish to serve notice that I will have an objection unless my rights are preserved, as Senator DANFORTH has stated, with respect to this sequential consideration by chapters and sections. I do wish to be heard on that, and I will object unless I have had notice.

Mr. DANFORTH. I do wish to state also that I would very much like to be heard before any unanimous-consent agreement is entered into about considering the bill by titles.

Mr. LONG. I would hope the Senator would change his mind, and communicate it to the minority leader, who in his usual way protects all Members on his side of the aisle. Then if we can persuade him to our way of doing business, I would know it.

I am aware of at least one Senator who, I believe, would have a reservation about what the Senator is asking.

Mr. DANFORTH. Mr. President, I think the chairman has worked with me now for over a year and a half in the Finance Committee, and has found me to be the very soul of reason. I would hope to have the possibility of just a little bit of give from the chairman also, so we could work out something to our mutual accommodation. I am certainly willing to go more than half way, if a little bit of consideration could be worked out.

Mr. ROBERT C. BYRD. Mr. President, the Senator from Arizona is seeking recognition.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. DECONCINI. Mr. President, reserving the right to object, I am interested in submitting an amendment to what I think is going to be an amendment that the distinguished chairman of the Finance Committee has made, except that it is very possible I will not be here Saturday, and consequently I will ask the Senator to give me consideration, that my amendment might be called up tomorrow.

Mr. LONG. If I am able to get an agreement that we go in sequence, the amendment you have in mind would be in title I.

Mr. DECONCINI. Would be tomorrow, rather than Saturday?

Mr. LONG. Yes, it would be offered tomorrow.

The PRESIDING OFFICER. Is there objection?

Mr. KENNEDY. Mr. President——

The PRESIDING OFFICER. Does the Senator from Massachusetts seek recognition?

Mr. KENNEDY. All I would ask is to be included in the notice when an agreement is made on the sequential consideration of the legislation.

The PRESIDING OFFICER. Is there objection?

Mr. ROBERT C. BYRD. The Chair's inquiry is as to my request?

The PRESIDING OFFICER. The Senator is correct. Is there objection to the request of the Senator from West Virginia?

Mr. METZENBAUM. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. METZENBAUM. The request was only with respect to an hour limitation on the Kemp-Roth amendment, is that correct?

The PRESIDING OFFICER. The amendment of the Senator from Delaware (Mr. ROTH). The Senator is correct.

Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Marks, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the Committee on Foreign Relations.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

At 10:05 a.m., a message from the House of Representatives delivered by Mr. Hackney, one of its reading clerks, announced that the Speaker has signed the following enrolled bills and joint resolution:

S. 415. An act to amend the Anadromous Fish Conservation Act to include fish in Lake Champlain that ascend streams to spawn;

S. 1215. An act to provide for grants to tribally controlled community colleges, and for other purposes;

S. 2376. An act to authorize withholding from salaries disbursed by the Secretary of the Senate and from certain employees under the jurisdiction of the Architect of the Capitol for contribution to certain charitable organizations;

S. 2704. An act to promote a more adequate and responsive national program of water research and development, and for other purposes; and

S.J. Res. 16. A joint resolution to restore posthumously full rights of citizenship to Jefferson F. Davis.

The enrolled bills and joint resolution were subsequently signed by the Acting President pro tempore (Mr. BURDICK).

At 3:20 p.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the House has passed S. 2081, an act to designate the building known as the Ozark National Forest Headquarters Building in Russellville, Ark., as the "Henry R. Koen Forest Service Building," without amendment.

The message also announced that the House has passed S. 976, an act to amend the Perishable Agricultural Commodities Act, 1930, relating to practices in the marketing of perishable agricultural commodities, with amendments in which it requests the concurrence of the Senate.

The message further announced that the House, having proceeded to reconsider H.R. 12928, an act making appropriations for public works for water and power development and energy research for the fiscal year ending September 30, 1979, and for other purposes, having been returned by the President of the United States with his objections, on reconsideration by the House, and two-thirds of the House of Representatives not agreeing to pass same, failed of passage.

The message also announced that, pursuant to the provisions of section 2(a), Public Law 85-874, as amended, the Speaker has appointed Mr. MCDADE a member of the Board of Trustees of the John F. Kennedy Center for the Performing Arts, vice Mr. QUIE, resigned.

At 6:25 p.m., a message from the House of Representatives delivered by Mr. Hackney, announced that the House has passed S. 2588, an act to declare that the United States holds in trust for the Pueblo of Santa Ana certain public domain lands, with an amendment in which it requests the concurrence of the Senate.

The message also announced that the House disagrees to the amendments of the Senate to H.R. 13635, an act making appropriations for the Department of Defense for the fiscal year ending September 30, 1979, and for other purposes; agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. MAHON, Mr. SIKES, Mr. FLOOD, Mr. ADDABBO, Mr. MCFALL, Mr. FLYNT, Mr. GIAIMO, Mr. CHAPPELL, Mr. BURLISON of Missouri, Mr. EDWARDS of Alabama, Mr. ROBINSON, Mr. KEMP, and Mr. CEDERBERG were appointed managers of the conference on the part of the House.

The message further announced that the House has passed the following bill in which it requests the concurrence of the Senate:

H.R. 13650. An act to authorize the Secretary of Energy to enter into cooperative agreements with certain States respecting residual radioactive material at existing sites, to provide for the regulation of uranium mill tailings under the Atomic Energy Act of 1954, and for other purposes.

At 7:29 p.m., a message from the House of Representatives delivered by Mr. Berry, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to H.R. 12932, an act making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1979, and for other purposes; that the House recedes from its disagreement to the amendment of the Senate numbered 4, 17, 39, 48, 49, 72, 78, 90, 102, and 104 to the bill, and concurs therein; and that the House recedes from its disagreement to the amendments of the Senate numbered 9, 21, 23, 24, 26, 33, 34, 35, 36, 40, 41, 50, 51, 63, 66, 67, 71, 73, and 103 to the bill, and concurs therein each with an amendment in which it requests the concurrence of the Senate.

HOUSE BILL HELD AT THE DESK

The following bill was read by title and held at the desk, pursuant to order of October 4, 1978:

H.R. 13650. An act to authorize the Secretary of Energy to enter into cooperative agreements with certain States respecting residual radioactive material at existing sites, to provide for the regulation of uranium mill tailings under the Atomic Energy Act of 1954, and for other purposes.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on today, October 5, 1978, he presented to the President of the United States the following enrolled bills:

S. 415. An act to amend the Anadromous Fish Conservation Act to include fish in Lake Champlain that ascend streams to spawn;

S. 1215. An act to provide for grants to tribally controlled community colleges, and for other purposes;

S. 2376. An act to authorize withholding from salaries disbursed by the Secretary of the Senate and from certain employees under the jurisdiction of the Architect of the Capitol for contribution to certain charitable organizations;

S. 2704. An act to promote a more adequate and responsive national program of water research and development, and for other purposes; and

S.J. Res. 16. A joint resolution to restore posthumously full rights of citizenship to Jefferson F. Davis.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. JACKSON, from the Committee on Energy and Natural Resources, with an amendment and an amendment to the title:

S. 3371. A bill to repeal certain provisions of law establishing limits on amount of land which certain religious corporations can hold in any Territory of the United States (Rept. No. 95-1275).

By Mr. LONG, from the Committee on Finance, without amendment:

S. 3279. A bill to provide assistance to aircraft operators to aid them in complying with Federal aircraft noise standards, to amend the Airport and Airway Development Act of 1970 to provide assistance to airport operators and aircraft operators to aid them in complying with noise standards, and for other purposes.

By Mr. DECONCINI, from the Committee on the Judiciary, with amendments:

S. 3093. A bill to provide for the seizure, forfeiture, and disposition of vehicles used to illegally transport persons into the United States, and for other purposes (Rept. No. 95-1276).

FISH AND WILDLIFE IMPROVEMENT ACT OF 1978—CONFERENCE REPORT

Mr. HODGES, from the committee of conference, submitted a report of the disagreeing votes of the two Houses on the amendments of the Senate to H.R. 2329, an act to improve the administration of fish and wildlife programs, and for other purposes (Rept. No. 95-1277).

By Mr. LONG, from the Committee on Finance, with an amendment and an amendment to the title:

H.R. 3050. An act to amend the Internal Revenue Code of 1954 to provide an exclusion from gross income with respect to magazines, paperbacks, and records returned after the close of the taxable year (Rept. No. 95-1278).

H.R. 7108. An act to amend the Tariff Schedules of the United States in order to suspend the duty on Yankee dryer cylinders until the close of December 31, 1981 (Rept. No. 95-1279).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. PELL:

S. 3546. A bill for the relief of Betty Pi-Ling Chen and her daughter Alecia Juei-Hsia Chen; to the Committee on the Judiciary.

By Mr. TOWER:

S. 3547. A bill for the relief of Tadeusz Darocha, M.D., and his wife, Halina Darocha; to the Committee on the Judiciary.

By Mr. BURDICK:

S. 3548. A bill for the relief of Gang-Fung Chen, Li-Li H. Chen, Pzung-Hwei Chen, and Pzung-Kai Chen; to the Committee on the Judiciary.

By Mr. BENTSEN:

S. 3549. A bill to modify the procedures used for the promulgation of rules or regulations by the independent regulatory agencies; to the Committee on Governmental Affairs.

S. 3550. A bill to amend the Congressional Budget Act of 1974 to require the Congress to establish, for each fiscal year, a regulatory budget for each Federal agency which sets the maximum costs of compliance with all rules and regulations promulgated by that agency, and for other purposes; to the Committee on Governmental Affairs and the Committee on the Budget, jointly, and that if one committee acts to report, the other committee has 30 days in which to act, pursuant to order of August 4, 1977.

By Mr. BAKER (for Mr. STEVENS):

S. 3551. A bill to make technical corrections in the North Pacific Fisheries Act of 1954; considered and passed.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTION

By Mr. BENTSEN:

S. 3549. A bill to modify the procedures used for the promulgation of rules or regulations by the independent regulatory agencies; to the Committee on Governmental Affairs.

S. 3550. A bill to amend the Congressional Budget Act of 1974 to require the Congress to establish, for each fiscal year, a regulatory budget for each Federal agency which sets the maximum costs of compliance with all rules and regulations promulgated by that agency, and for other purposes; to the Committee on Governmental Affairs and the Committee on the Budget, jointly, and that if one committee acts to report, the other committee has 30 days in which to act, pursuant to order of August 4, 1977.

● Mr. BENTSEN. Mr. President, inflation is the most serious problem we face today. It continues to erode the confidence of average Americans in their free enterprise system. It hits hardest those least able to defend their own economic interests—the poor, the elderly, and the hard-pressed family wage earner. It ultimately destroys jobs, because higher prices mean lower consumer purchasing power and hence less sales, less production, and less jobs. In short, inflation poses a grave threat to the economic well-being of all Americans.

The persistence of unacceptably high levels of inflation can largely be laid at the doorstep of the Federal Government where, in administration after administration, economic policies failed to come to grips with the root causes of inflation. In the late 1960's, for example, we had an income tax surcharge; in 1971, we had wage and price controls; in 1974, we had WIN buttons and a White House Conference on Inflation; in 1975, we had a major recession.

The one threat that unified these varied approaches to controlling inflation is that none of them worked.

Instead of diminishing, inflation became more and more persistent.

Now, President Carter is faced with the task of devising an effective anti-inflation program before inflation becomes totally uncontrollable. For the past year, the anti-inflation program has relied on voluntary restraint; recent newspaper articles indicate that the President is now contemplating wage and price guidelines as the core of a phase II of the anti-inflation effort.

While wage and price guidelines, as well as other proposals such as a postponement of the social security tax increase, must be judged on their own merits, I am very concerned that our anti-inflation effort will fail to come to grips with one of the worst causes of inflation—the enormous costs imposed on business and the rest of the private sector by unnecessary, ineffective and often ill-conceived Government rules and regulations.

An anti-inflation program, if it is to be effective must control the ability of Federal bureaucrats to develop and impose costly new rules and regulations. Even more, the program should act to roll back the costs of many existing rules and regulations.

On June 29, I introduced two major bills to cut the private sector compliance costs of Government regulations.

The first of these, the Regulatory Cost Reduction Act of 1978, S. 3262, would require each agency to cut its private sector compliance cost by a goal of five percent for each of the next 5 years and to explain any failures to meet that goal. According to figures on regulatory costs supplied earlier this year to the Joint Economic Committee, this measure alone could reduce private compliance costs and ease inflation by up to $25 billion per year by 1985.

The second bill, the Regulatory Conflicts Elimination Act of 1978, S. 3263, requires the President to coordinate regulations among agencies as as to eliminate duplicative regulations and regulations that conflict with each other.

Today, I am introducing two new bills that could provide added punch in our fight to reduce the excessive costs of Government regulations.

The Regulatory Budget Act of 1978 will force the President and Congress each year to put a cap on the amount of regulatory costs each agency could impose on the non-Federal sector, just as we now limit spending through the fiscal

budget. This would force agencies to choose the least costly way of achieving regulatory goals.

The Independent Agencies Regulatory Improvements Act of 1978 would require the independent regulatory agencies to follow the same procedures in developing rules and regulations as are now required of the executive agencies under the provisions of Executive Order 12044. For constitutional reasons, 16 independent agencies were exempted from the provisions of the Executive order, and this bill would bring them into line in their regulatory procedures without relinquishing any congressional authority to the President.

The four bills together make up a comprehensive and effective approach to regulatory cost reduction.

They attack a problem that must be solved if inflation is ever to be brought under control, because Government regulation is a major cause of our current inflation.

This was thoroughly documented earlier this year in hearings before the Joint Economic Committee. Our hearing record showed:

That Government regulation costs the American economy more than $100 billion per year;

That regulation costs every man, woman, and child in this country $500 each and every year;

That no standard method exists for determining the economic costs of any agency's rules and regulations;

That no Government agency keeps tabs on regulatory costs;

That agencies seldom consider economic costs when they propose new regulations and most just do not care how much burden their regulations impose;

That Congress seldom considers costs when it enacts new regulatory programs; and

That Government regulation has become our biggest growth industry.

Regulation is out of control. Federal bureaucrats are out of control. And the American consumer pays through ever-rising costs, lower productivity, and higher prices. The American consumer is being pushed to the wall as, day by day, Government regulation adds more and more to inflationary pressures. Here are some examples:

Recently, Barry Bosworth, the Director of the Council on Wage and Price Stability, said that new regulations in the pipeline will add more than $35 billion to the cost of Government regulations;

The Council on Wage and Price Stability has argued before the Consumer Product Safety Commission that proposed lawnmower safety regulations would cost $330 million annually and raise power mower prices by up to 27 percent;

A Chase Econometric Associates study for the EPA has calculated the economic cost of environmental regulations in the 1976–85 decade at almost $290 billion, adding between 0.3 and 0.4 percentage points annually to the Consumer Price Index.

A recent Brookings study estimated that Government regulations have cut labor productivity by up to 0.5 percentage points during recent years, thus making American-made products less competitive with goods produced elsewhere.

Mr. President, the impact of strangulating Federal regulation is far more profound than any cold recitation of dollar and cents figures could possibly convey. Stifling Federal regulatory policy threatens to break the back of the spirit of individual creativity and individual entrepreneurship which has made this Nation a model of what is best in Western civilization.

Mr. President, in his first inaugural address 177 years ago, President Thomas Jefferson expressed eloquent opposition to excessive Government regulation. Said Jefferson:

> A wise and frugal government should restrain men from injuring one another, (but) should leave them otherwise free to regulate their own pursuits.

The bills I introduce today along with those I introduced on June 29 are designed to begin to return the Federal Government to the principle expressed by Mr. Jefferson so eloquently almost two centuries ago.

Mr. President, my legislative efforts are not aimed at the legitimate efforts of Government to clean up our environment and to improve worker health and safety. Indeed, enactment of the legislation I have offered will make the entire regulatory process more efficient and hence more effective in carrying out the serious work of protecting our environment and improving the quality of life for all citizens. My efforts are directed at excessive, unnecessary, and unreasonable Federal regulation. They are undertaken in the Jeffersonian spirit of allowing our citizens the freedom to regulate their own lives.●

ADDITIONAL COSPONSORS

S. 3343

At the request of Mr. PERCY, the Senator from Rhode Island (Mr. PELL) was added as a cosponsor of S. 3343, the Nuclear Waste Management Act of 1978.

S. 3527

At the request of Mr. BELLMON, the Senator from Tennessee (Mr. BAKER) was added as a cosponsor of S. 3527, a bill to authorize funds for the Robert A. Taft Institute of Government.

S. 3530

At the request of Mr. STEVENSON, the Senator from South Carolina (Mr. HOLLINGS) was added as a cosponsor of S. 3530, the Space Policy Act.

SENATE JOINT RESOLUTION 150

At the request of Mr. PERCY, the Senator from Maryland (Mr. MATHIAS) was added as a cosponsor of Senate Joint Resolution 150, authorizing the President to proclaim the month of November 1978 as "National REACT Month."

SENATE JOINT RESOLUTION 569

At the request of Mr. PERCY, the Senator from California (Mr. HAYAKAWA) and the Senator from Iowa (Mr. CLARK) were added as cosponsors of Senate Resolution 569, to eliminate certain items in the design of the Hart Senate Office Building.

SENATE RESOLUTION 578—SUBMISSION OF A RESOLUTION WAIVING CONGRESSIONAL BUDGET ACT

Mr. GRIFFIN submitted the following resolution, which was referred to the Committee on the Budget:

S. RES. 578

Resolved, That pursuant to Section 303(c) of the Congressional Budget Act of 1974, the provisions of Section 303(c) of such Act are waived with respect to the consideration of amendments to H.R. 13511 offered by Senator Griffin relating to modifications in the Internal Revenue Code.

SENATE RESOLUTION 579—SUBMISSION OF A RESOLUTION WAIVING CONGRESSIONAL BUDGET ACT

Mr. BELLMON submitted the following amendment, which was referred to the Committee on the Budget:

S. RES. 579

Resolved, That pursuant to Section 303(c) of the Congressional Budget Act of 1974, the provisions of Section 303(a) of such Act are waived with respect to the consideration of amendments to be offered by Mr. Bellmon, Mr. Roth and others in connection with consideration of H.R. 13511 which would provide multi-year reductions to the general tax rate structure; and an amendment to be offered by Mr. Packwood with respect to tuition tax credits.

SENATE RESOLUTION 580—SUBMISSION OF A RESOLUTION WAIVING CONGRESSIONAL BUDGET ACT

Mr. STONE (for himself and Mr. CHILES) submitted the following resolution, which was referred to the Committee on the Budget:

S. RES. 580

Resolved, That pursuant to Section 402(c) of the Congressional Budget Act of 1974, the provisions of Section 402(c) of such Act are waived with respect to the consideration of the amendment (No. 3882) intended to be proposed by Mr. Stone to the bill H.R. 13511, an Act to amend the Internal Revenue Code of 1954 to reduce income taxes, and for other purposes. The waiver is necessary in order to provide the opportunity to consider mitigating unforeseen adverse consequences resulting from the amendment, by section 303 of the Social Security Amendments of 1977, of the earnings test under section 203(f) of the Social Security Act.

AMENDMENTS SUBMITTED FOR PRINTING

FULL EMPLOYMENT AND BALANCED GROWTH ACT OF 1978—S. 50

AMENDMENT NO. 3816

(Ordered to be printed and to lie on the table.)

Mr. HATCH submitted an amendment intended to be proposed by him to S. 50, the Full Employment and Balanced Growth Act of 1978.

● Mr. HATCH. Mr. President, it is time for all men to be reasonable, and I am submitting an amendment to strike the word "reasonable" from the definition of price stability. What, may I ask, is reasonable price stability? What is unreasonable price stability? Is 10 percent reasonable or unreasonable? Is 3 percent reasonable or unreasonable? Price stability is price stability, and this Senate

should be courageous enough to define what price stability is. The House, in discussing the amendment of Congressman RONALD SARASIN, came close to defining reasonable price stability as 3 percent inflation. If this is the definition of reasonable price stability, then let us call it price stability, and I will offer an amendment to this bill to set a goal of 3 percent price stability to be achieved within 3 years after enactment on the way to the goal of zero percent inflation.●

AMENDMENT NO. 3817

(Ordered to be printed and to lie on the table.)

Mr. HATCH submitted an amendment intended to be proposed by him to S. 50, the Full Employment and Balanced Growth Act of 1978.

● Mr. HATCH. Mr. President, I rise to submit an amendment to defer the enactment of the Fair Labor Standards Act Amendments of 1977 for an additional year as the first step in achieving the goal of zero percent inflation as outlined in this bill. As you recall, those amendments increased the minimum wage rate immediately to $2.65 with continual increases to $2.90 in 1979, $3.10 in 1980, and $3.35 in 1981. In 4 years we will have increased the minimum wage by over 40 percent. At the same time the Congress failed to provide any variation to serve the needs of unemployed youth and by including new groups have seriously impaired some employment sectors such as the farm economy. During Senate debate on that bill, we warned about the potential for inflation, the effects that it might have on boosting unemployment. This is a time that we can commit ourselves to improving the health of the economy by accepting this amendment. Just look at the facts, we are quickly approaching double-digit inflation, the unemployment rate for youth remains excessively high despite a general reduction in overall unemployment, the dollar is weakening abroad and just yesterday fell to a ratio of 0.9 deutchmarks, the lowest in recent history. The cause has been European concerns about the instability of the U.S. economy, and in particular, the excessive rate of inflation in this country.

It is obvious to most enlightened observers that the time has come to defer this increase. For example, William Miller, Chairman of the Federal Reserve Board, said he "personally would welcome" a 2-year deferral of the minimum wage increase scheduled for January 1.

As he stated before the House Budget Committee:

> It seems appropriate to consider deferring the increase in the minimum wage that is scheduled for January 1, 1979, given its implication for costs and for youth employment opportunities.

Others have echoed this thought. Arthur Okun, senior economist at the Brookings Institution and former chairman of the Council of Economic Advisers under Lyndon Johnson, echoes this opinion. According to Okun:

> This country would be better off if we postponed both the minimum wage and the social security hikes. * * * It would be worth one-half a point on the Consumer Price Index and make the economy outlook for 1979 significantly better.

Mr. President, I could cite similar comments from a great many people here—Barry Bosworth of the Wage and Price Stability Council; Alice Rivlin, director of the Congressional Budget Office; Secretary of the Treasury Michael Blumenthal; economist Milton Friedman; Joel Popkin of the National Bureau of Economic Research; economist Walter Williams from Temple University, and the list goes on and on.

I believe that Congress must take the initiative here and acknowledge the well-recognized fact that the size and the timing of last year's minimum wage increases, while undoubtedly a political plus among many sectors, was a serious economic mistake. And the brunt of this misguided policy will fall hardest on those very individuals whose earnings are most closely associated with the minimum wage level.

I am reminded here of an interesting commentary on this issue written by William Raspberry. The subjects of Mr. Raspberry's article are William and Willie May Clark, who run the Sparkle Car Wash right here in Washington. Commenting on the proposed wage increases, Mrs. Clark says:

> It would just about put us out of business * * * and not just us. A lot of blacks trying to make it in business would be hurt by this.

Mr. President, it is time to put politics aside here and deal with the practicalities. Based on the cold, hard facts, and on the advice of a wide range of economic experts, I believe that the action we offer today constitutes a reasonable and effective approach to dealing with our economic problems.●

AMENDMENTS NOS. 3818 THROUGH 3843

(Ordered to be printed and to lie on the table.)

Mr. HATCH submitted 26 amendments intended to be proposed by him to S. 50, the Full Employment and Balanced Growth Act of 1978.

REVENUE ACT OF 1978—H.R. 13511

AMENDMENT NO. 3844

(Ordered to be printed and to lie on the table.)

Mr. HASKELL (for himself, Mr. HATHAWAY, and Mr. CLARK) submitted an amendment intended to be proposed by them, jointly, to H.R. 13511, an act to amend the Internal Revenue Code of 1954 to reduce income taxes, and for other purposes.

● Mr. HASKELL. Mr. President, this amendment would raise the jurisdictional amount for "small tax cases" from $1,500 to $5,000 and make some changes in the authority of the court's commissioners (special trial judges).

EXTENDING THE OPTIONAL SMALL TAX CASE PROCEDURES TO ADDITIONAL TAXPAYERS

The Tax Reform Act of 1969 added section 7463 to the Code. Under that section as originally enacted, a taxpayer who had received a notice determining a deficiency in income, estate, or gift taxes of $1,000 or less could petition the Tax Court and elect to have his case heard under simplified and expeditious procedures. The jurisdictional amount was raised to $1,500 by Public Law 92–512, the Revenue Sharing Act of 1972, effective January 1, 1974. Consistent with Senate Report No. 95–552 (1969), 1969–3 C.B. 423, 615–616 on the Tax Reform Act of 1969, the court has used its commissioners (special trial judges) to hear most of these cases.

I understand the small tax case procedures have worked extremely well. Under those procedures, the pleadings need not be technical, and the trials are conducted as informally as possible consistent with orderly handling. The rules of evidence are relaxed and neither party is required to file a brief. Neither party may appeal, and "opinions" in these cases are not treated as precedents for any other cases. On an average, the court has been able to issue opinions in these cases within about 2 months after they are tried.

These informal procedures work to the advantage of the electing taxpayers since very few of them have attorneys to represent them, and they try their own cases. The trials are held in one of about 116 cities (compared with 64 cities in regular cases), as near the taxpayer's home as can be arranged in order to save him expense and inconvenience. Generally speaking, the issues in these cases are factual, and an effort is made to assist the taxpayers in developing the relevant facts.

The small tax case procedures are also helpful to the Tax Court. Like almost every other court in the country, the Tax Court's caseload in recent years has grown tremendously—from about 6,000 new cases in fiscal year 1968 to over 12,000 new cases in the last fiscal year.

During the last fiscal year, about 6,000 of the over 12,000 new cases filed in the Tax Court involved deficiencies of $1,500 or less and were subject to the small tax case election. The election was made in 3,887 new cases. Raising the jurisdictional amount from $1,500 to $5,000, we estimate, would make another approximately 1,500 new cases eligible for the small tax case election. Assuming the same rate of election of the small tax case procedures, this amendment would relieve the regular judges each year of 800 to 900 new cases.

Under the amendment the optional small tax case procedures would continue to apply only at the election of the taxpayer. Studies indicate that the issues involved in the $1,500 to $5,000 category, like the less-than-$1,500 cases, are mainly factual. During the fiscal year 1977, the Tax Court issued 127 opinions in cases in which the taxpayers might have elected the small tax case procedures had the jurisdictional amount been $5,000 instead of $1,500. The other cases closed in this category were settled. Of those opinions, only 22 were regarded as important enough for publication in the Tax Court reporter. The remaining 105 were filed as memorandum opinions. Of the issues dealt with in these memorandum opinions, approximately three-fourths were the same as or similar to the issues routinely dealt with in small tax cases. The remaining one-fourth are not significantly more difficult than some handled under the small tax case procedures.

The Tax Court rules provide that the

Commissioner of Internal Revenue may file a motion requesting that a case treated as a small tax case be removed from that category with the result that it will be subject to trial and appeal in accordance with the procedures applicable to regular cases. It is my understanding that the Tax Court will give careful consideration to a request by the Commissioner of Internal Revenue to take a case out of the small tax case procedures when the orderly conduct of the work of the court or the administration of the revenue laws calls for a regular trial of the case. For example, in some situations proper court management may require the removal of a case from the small tax case procedures so that it can be consolidated with a regular case involving common facts or a common issue of law. Similarly, removal of the case from the small tax case category may be appropriate where a decision in the case will provide a precedent for the disposition of a substantial number of other cases or where an appellate court decision is needed on a significant issue.

The Tax Court expects to continue to assign most of the small tax cases to commissioners. In addition, as has been the practice both before and after enactment of the Tax Reform Act of 1969, the court plans also to assign certain other types of cases to commissioners subject to appropriate review by a regular judge and the chief judge. See, for example, rules 181 and 182 of the court's Rules of Practice and Procedure; U.S. Tax Court, General Order No. 6, 69 T.C. V, (March 8, 1978). In Senate Report, 92–1050 (part 1) (1972), page 63 on Public Law 92–512, the Revenue Sharing Act of 1972, where the jurisdictional amount was raised from $1,000 to $1,500, it was expressly stated that the court would continue to have the power to authorize commissioners to hear other cases (for example, small tax cases where the taxpayers have not elected the simplified procedures).

This provision would be effective 180 days after its enactment. This lead time is needed in order to enable the court as well as the Internal Revenue Service to adjust its forms and procedures to the change in jurisdictional amount.

AUTHORITY TO ASSIGN SMALL TAX CASES TO COMMISSIONERS

The amendment would give express congressional approval to the Tax Court's assignment of small tax cases to commissioners (special trial judges). This authority is now contained in section 7456(c) but only in general terms. In addition, as noted above, Senate Report 91–552 on the Tax Reform Act of 1969, expressly stated that it was contemplated that the court would use its commissioners for this purpose.

Commissioners also would be authorized "to make the decision of the court with respect to any such proceeding, subject to such conditions and review as the court may by role provide." The language in this section giving commissioners authority to make the decisions in these cases traces the language which now appears in Code sections 7476(c) and 7677(c) with respect to the commissioners' authority in declaratory judgment cases.

The decision in the Tax Court corresponds with the judgment in other courts. It flows automatically in these small cases from the commissioner's opinion. Arriving at the amount of the decision, whether a deficiency or an overpayment, is ordinarily a purely computational matter.

Commissioners now prepare opinions in small tax cases which are reviewed by a judge designated for that purpose. The decision, however, has to be signed in the name of the chief judge or some other judge. Taxpayers who receive an opinion bearing only the name of the commissioner who heard the case may be confused when they receive the decision signed by someone else. Since commissioners prepare the more important opinion, there is no reason to reserve to the judges the routine matter of entry of the decision in such cases. This section would remove some of this confusion and would make the handling of these cases more efficient.

AUTHORITY OF TAX COURT COMMISSIONERS TO ADMINISTER OATHS, PROCURE TESTIMONY, AND SO FORTH

Section 7456 authorizes the judges and certain other employees of the Tax Court to administer oaths and issue subpenas. That section also authorizes judges to examine witnesses. Subsection (c) of section 7456 authorizes the chief judge to appoint commissioners, but does not extend those powers to commissioners so appointed.

Although the authority of commissioners under section 7456 to administer oaths, examine witnesses, and issue subpenas may be implied, it would be appropriate to clarify the law on this point. The amendment makes this clarification.

The Tax Court and the Treasury Department support this amendment. In addition, the Court Procedures Committee of the Tax Section of the American Bar Association recently surveyed the members of that committee with regard to a proposal to raise the small tax case jurisdictional amount to $10,000—compared with $5,000 under this amendment—and a proposal to authorize commissioners to administer oaths, swear witnesses, and issue subpenas. The members of the committee who voted on the proposals overwhelmingly favored them.●

AMENDMENT NO. 3845

(Ordered to be printed and to lie on the table.)

Mr. WEICKER (for himself, Mr. HATHAWAY, Mr. CHAFEE, Mr. NELSON, and Mr. MOYNIHAN) submitted an amendment intended to be proposed by them, jointly, to H.R. 13511, supra.

● Mr. WEICKER. Mr. President, I am submitting today, together with Senators HATHAWAY, CHAFEE, NELSON, and MOYNIHAN, an amendment to H.R. 13511, the Revenue Act of 1978.

Our amendment is similar to S. 3320, a bill which Senators HATHAWAY, CHAFEE, DURKIN, and I cosponsored. The only substantive difference between this amendment and the bill is that the amendment, unlike S. 3320, contains a 5-year sunset provision. A detailed description of S. 3320 may be found beginning on page 21632 of the CONGRESSIONAL RECORD for July 19, 1978.

This amendment is designed to provided the stimulus needed to get the individual investor to participate in the solution of the capital formation problem confronting small and medium sized businesses.

Pursuant to the amendment, the investor would be given a credit against tax of 10 percent of the first $7,500—$15,000 in the case of a joint return—invested in qualifying stock issues during the taxable year. The credit would be recaptured if the stock is disposed of in any way—not merely sold—before being held for more than 1 year. The only exceptions to the recapture rule are for transfers of ownership by reason of death or gift, and even in these cases the stock must be held by the transferee until a time more than 1 year from the date of the original purchase. Dependents and foreign citizens would not be eligible for the credit.

The credit would be available only for investment in common or preferred stock issued in a public offering of less than $25 million by a corporation with a net equity of less than $25 million. The size limitation is derived from a recommendation made by the 1977 task force on venture and equity capital. The term "public offering" includes all primary security issues of stock registered with the SEC for immediate cash sale to the public pursuant to the requirements of the Securities Act of 1933 or regulation A of that act.

Credit would be granted only if there has not been an acquisition of the issuing corporation's stock within 6 months which exceeds 10 percent of the aggregate sales price of the qualifying stock. Furthermore, the corporation and any members of a control group may not have "passive investment income" which exceeds 20 percent of the gross receipts for the year. These provisions are designed to avoid chicanery by the corporation and to assure that the equity capital is devoted to active business functions.

The Joint Committee on Taxation has estimated that this credit would result in an annual revenue loss of $70 million.

I urge my colleagues to carefully consider this amendment when it is called up for debate.

I ask unanimous consent that the text of the amendment be printed in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 3845

On page 308, after line 23, insert the following new section:

SEC. 347. ALLOWANCE OF CREDIT FOR INVESTMENT IN CERTAIN NEW ISSUES.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to credits allowable), as amended by sections 141 and 336 of this Act, is amended by inserting immediately before section 45 the following new section:

"SEC. 44E. INVESTMENT IN ORIGINAL ISSUE STOCK OF SMALL OR MEDIUM-SIZED CORPORATIONS.

"(a) GENERAL RULE.—In the case of an individual who is a citizen or resident of the United States there is allowed, as a credit against the tax imposed by this chapter for the taxable year, an amount equal to 10 percent of the adjusted basis (within the meaning of section 1011) of the taxpayer for in-

centive stock (as defined in subsection (c)) acquired for money during the taxable year.

"(b) LIMITATIONS.—

"(1) CREDIT NOT ALLOWED TO CERTAIN DEPENDENTS.—No credit is allowable under subsection (a) to an individual with respect to whom a personal exemption deduction is allowable for the taxable year to another taxpayer under section 151(e).

"(2) CREDIT NOT TO EXCEED $750.—The credit allowed by subsection (a) for any taxable year shall not exceed $750 ($1,500 in the case of a joint return).

"(3) APPLICATION WITH OTHER CREDITS.—The credit allowed by subsection (a) shall not exceed the tax imposed by this chapter for the taxable year, reduced by the sum of the credits allowable under a section of this part having a lower number or letter designation than this section, other than the credits allowable by sections 31 and 39.

"(4) CERTAIN TAXES NOT CONSIDERED TAXES IMPOSED BY THIS CHAPTER.—For purposes of this section, any tax imposed for the taxable year by section 56 (relating to minimum tax for tax preferences), section 72(m)(5)(B) (relating to 10 percent tax on premature distributions to owner-employees), section 402(e) (relating to tax on lump sum distributions), section 408(f) (relating to additional tax on income from certain retirement accounts), section 531 (relating to accumulated earnings tax), section 541 (relating to personal holding company tax), or section 1378 (relating to tax on certain capital gains of subchapter S corporations), and any additional tax imposed for the taxable year by section 1351(d)(1) (relating to recoveries of foreign expropriation losses), shall not be considered tax imposed by this chapter for such year.

"(c) DEFINITION OF INCENTIVE STOCK.—

"(1) IN GENERAL.—For purposes of this section, the term 'incentive stock' means original issue common or preferred stock registered under section 12 of the Securities Exchange Act of 1934 offered by the issuing corporation in a public offering—

"(A) which is issued by a domestic corporation the equity capital (within the meaning of the last sentence of section 1244(c)(2)) of which does not exceed $25,000,000 immediately before such offering, and

"(B) which is part of an issue of stock the aggregate sale price of which does not exceed $25,000,000.

"(2) CONTROLLED CORPORATIONS.—In the case of a corporation which is a member of a controlled group of corporations (as defined in section 1563(a)(1)), the equity capital of all members of the controlled group shall be treated, for purposes of paragraph (1)(A) of this subsection, as the equity capital of the issuing corporation.

"(3) STOCK ACQUIRED MORE THAN 180 DAYS AFTER ISSUANCE; STOCK ACQUIRED BY DEALER.—No stock shall be treated as incentive stock for purposes of this section if it is first purchased more than 180 days after the date on which it is issued. No acquisition of stock by a dealer, whether the ordinary course of his trade or business as a dealer, whether or not guaranteed, shall be treated as an acquisition for purposes of subsection (a).

"(4) Certain redemptions and refinancing issues not treated as incentive stock.—An issue of stock which, but for this paragraph, would be treated as incentive stock under this section shall not be treated as incentive stock if, within 180 days before the date of issuance, the issuing corporation (or any other corporation which is a member of the same controlled group of corporations, within the meaning of section 1563, as the issuing corporation) has acquired stock (including acquisition by way of redemption) of the issuing corporation or of any other member of the controlled group with an aggregate purchase price in excess of 10 percent of the aggregate sale price of the issue of incentive stock.

"(5) Investment company stock not treated as incentive stock.—Stock issued by an investment company shall not be treated as incentive stock. For purposes of this paragraph—

"(A) a corporation shall be treated as an investment company if the corporation has gross receipts for the taxable year in which the stock is issued more than 20 percent of which consist of passive investment income (as defined in section 1372(e)(5)(C)), and

"(B) in the case of a corporation which is a member of a controlled group of corporations within the meaning of section 1563(a), subparagraph (A) shall be applied—

"(i) first, to the issuing corporation by itself, and

"(ii) then, by treating the gross receipts and passive investment income of the controlled group as the gross receipts and passive investment income of the issuing corporation.

"(d) Disposition of Incentive Stock Before It is Held for More Than 12 Months.—

"(1) Disposition before filing return for taxable year of acquisition.—No credit is allowable under subsection (a) with respect to incentive stock acquired during a taxable year which is not held by the taxpayer on the date established by law for filling a return of tax for that taxable year, if, as of that date, the taxpayer has disposed of the stock after holding it for less than 12 months and one day.

"(2) Other premature dispositions.—If during any taxable year incentive stock is disposed of by the taxpayer before the stock has been held by the taxpayer for more than 12 months, then the tax under this chapter for the taxable year shall be increased by the amount of the credit claimed by the taxpayer for any preceding taxable year with respect to the acquisition of such stock.

"(3) Exceptions.—Paragraphs (1) and (2) of this subsection shall not apply in the case of the disposition by bequest or gift unless—

"(A) the bequest or gift is deductible under section 170 (determined without regard to the limitations contained in subsection (b)), 2055, or 2522, or

"(B) the recipient disposes of the stock before the stock has been held for more than 12 months (including any periods of time during which the stock was held by the original purchaser).".

(b) Clerical Amendment.—The table of sections for such subpart is amended by inserting immediately after the item relating to section 44D the following new item:

"SEC. 44F. Investment in original issue stock of small or medium-sized corporations.".

(c) Conforming Amendments.—Subsection (b) of section 6096 (relating to designation of income tax payments to Presidential Election Campaign Fund) is amended by striking out "and 44E" and inserting in lieu thereof "44D, and 44E".

(d) Credit Not Allowed to Estates and Trusts.—Subsection (a) of section 642 (relating to special rules for credits against tax for estates and trusts) is amended by adding at the end thereof the following new paragraph:

"(3) Investment in incentive stock.—An estate or trust shall not be allowed the credit against tax for investment in incentive stock provided by section 44E.".

(e) Effective Date.—The amendments made by this section shall apply with respect to taxable years beginning after December 31, 1978, and before January 1, 1984, and to stock acquired after the date of enactment of this Act and before October 14, 1983. For purposes of the preceding sentence, stock acquired before January 1, 1979, shall be treated (except for purposes of section 44E(c)(3) and (d) of the Internal Revenue Code of 1954) as acquired on the first day of the first taxable year of the taxpayer beginning after December 31, 1978 and before January 1, 1984.

AMENDMENT NO. 3846

(Ordered to be printed and to lie on the table.)

Mr. NELSON (for himself, Mr. WEICKER, Mr. HATHAWAY, Mr. PACKWOOD, Mr. MCINTYRE, Mr. HEINZ, Mr. LEAHY, Mr. CHAFEE, Mr. CHURCH, Mr. RIEGLE, Mr. PELL, Mr. SPARKMAN, and Mr. MATSUNAGA) submitted an amendment intended to be proposed by them, jointly, to H.R. 13511, supra.

DEPRECIATION REFORM

● Mr. NELSON. Mr. President, today I am submitting an amendment to the Revenue Act of 1978, H.R. 13511. I ask unanimous consent that the text of the amendment be printed in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 3846

At the appropriate place in the bill insert the following new section:

DEPRECIATION REFORM

(a) Section 167 of the Internal Revenue Code of 1954 (relating to depreciation) is amended by adding at the end thereof the following new subsection:

"(q) THREE-YEAR USEFUL LIFE, STRAIGHT-LINE DEPRECIATION.—

"(1) GENERAL RULE.—In the case of a taxpayer who has made an election under this subsection for the taxable year, the term 'reasonable allowance' as used in subsection (a) means (with respect to property which has a useful life of 36 months or more) an allowance based on a useful life of 36 months computed under the straight-line method (within the meaning of subsection (b)(1)).

"(2) $25,000 BASIS LIMITATION.—For purposes of this subsection, the basis (as determined under subsection (g)) of property placed in service during the taxable year shall, to the extent that such basis exceeds $25,000 for the taxable year, not be taken into account.

"(3) ELECTION.—An election under this subsection for any taxable year shall be made at such time, in such manner, and subject to such conditions as may be prescribed by the Secretary by regulations.".

(b) Subsection (c) of section 46 is amended by adding at the end thereof the following new paragraph:

"(6) APPLICABLE PERCENTAGE IN THE CASE OF THREE-YEAR USEFUL LIFE, STRAIGHT-LINE DEPRECIATION.—Notwithstanding subsection (c)(2), in the case of property with respect to which an election under section 167(q) applies, the useful life of any such property for purposes of this subpart shall be the useful life determined without regard to section 167(q).".

EFFECTIVE DATE

(c) The amendments made by the foregoing sections this Act shall apply in the case of property acquired after the date of enactment of this Act and placed in service in taxable years ending after the date of enactment of this Act.

AMENDMENT NO. 3847

(Ordered to be printed and to lie on the table.)

Mr. MORGAN (for himself, Mr. BAKER, Mr. SASSER, Mr. MAGNUSON, Mr. HODGES, Mr. INOUYE, Mr. PERCY, Mr. MATHIAS, Mr. RIEGLE, and Mr. SCHMITT) submitted an amendment intended to be proposed by them, jointly, to H.R. 13511, supra.

AMENDMENT NO. 3848

(Ordered to be printed and to lie on the table.)

Mr. NELSON (for himself, Mr. KENNEDY, Mr. JAVITS, Mr. ANDERSON, Mr. CRANSTON, Mr. EAGLETON, Mr. HASKELL, Mr. HATHAWAY, Mr. MOYNIHAN, Mr. PELL, Mr. RIBICOFF, Mr. RIEGLE, Mr. WILLIAMS, Mr. HART, and Mr. ABOUREZK) submitted an amendment intended to be proposed by them, jointly, to H.R. 13511, supra.

Mr. NELSON. Mr. President, earlier, this week, Senators all received a letter on the subject of hospital cost containment, signed by a broad and unprecedented coalition of groups. Thirty-one different public interest, health care, labor, and business organizations have gathered together and, in a single voice, have urged enactment of hospital cost containment legislation this year as a "critical anti-inflation measure."

Mr. President, we have proposed a hospital cost containment measure that will save the American economy more than $30 billion in the course of the next 5 years; $11 to $12 billion of that would be saved by the Federal Government. Another $1.5 to $2 billion would be saved by the States, and the rest in the private sector.

The groups which have signed this letter, as well as the Carter administration, have demonstrated their strong commitment to enactment of this legislation.

These groups include the American Public Health Association, the American Nurses Association, the National Governors' Association, the Group Health Association, the National Mental Health Association, the United Auto Workers, and a number of insurance companies.

In addition, my amendment has the strong support of the AFL–CIO, the Consumer Federation of America, and a host of other individuals, organizations, and businesses.

And what these supporters are all saying to us is that it is high time for Congress to put up or shut up on issues like controlling inflation, reducing governmental expenditures, and alleviating economic burdens for the American, both as private citizen and as taxpayer.

Hospital cost containment will be before the Senate this year, Mr. President—either on its own, or as an amendment to the tax bill or some other suitable vehicle. The U.S. Congress must and will vote on this, the most important deficit cutting, anti-inflation legislation to come before us this year.

I ask unanimous consent that the letter signed by 31 groups be printed in the RECORD at this point. I also ask unanimous consent that a number of other letters from groups and individuals supporting hospital cost containment be printed in the RECORD following the coalition letter.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

OCTOBER 4, 1978.

Hon. ROBERT C. BYRD,
Majority Leader,
U.S. Senate,
Washington, D.C.

DEAR SENATOR BYRD: A broad coalition of groups concerned with the escalation of hospital costs has joined to urge the Senate to enact meaningful hospital cost containment legislation. We are writing to urge your support and to enlist your help in ensuring that the Senate is provided an opportunity to vote on this critical anti-inflation measure.

This coalition is comprised of representatives of almost every sector of the economy that underwrites the excessive rate of inflation in the hospital sector, a rate twice the overall rate of inflation in our economy. From labor, the aged, and disabled, to commercial health insurers, States, counties, and cities—all pay far more than is required for the care that they purchase.

In addition, knowledgeable health care providers, such as the American Nurses Association, the National Association of Community Health Centers, the National Council of Community Mental Health Centers, the Group Health Association of America, and individual Health Maintenance Organizations, have also joined this unprecedented coalition. Public health interest groups, which have watched uncontrollable Medicare and Medicaid expenditures erode the resources available for discretionary health programs, have lent their support as well.

All have jointed to urge you and your colleagues to consider the merits of a proposal that can make a critical difference to the diverse constituencies we represent. No other proposal pending in Congress speaks so directly to the desires of the American people. As shown by the September 21 Harris Survey, three of the four issues of greatest concern to Americans—controlling inflation, Federal spending, and health costs—are all addressed by meaningful hospital cost containment legislation.

The need is clear and the opportunity available. Your efforts on behalf of our coalition and the American people will be greatly appreciated.

Sincerely yours,
Aetna Life and Casualty.
Alliance of American Insurers.
American Association of Retired Persons.
American Health Planning Association.
American Nurses Association.
American Public Health Association.
American Speech and Hearing Association.
Association of State and Territorial Health Officers.
Connecticut General Life Insurance Company.
Epilepsy Foundation of America.
Family Health Program.
Group Health Association of America.
Health Insurance Association of America.
Kaiser Foundation Health Plan.
Kemper Insurance Company.
National Association of Casualty and Surety.
National Association of Community Health Centers.
National Association of Counties.
National Association of Life Underwriters.
National Caucus on the Black Aged.
National Coalition of Hispanic Mental Health and Human Services Organizations.
National Conference of State Legislatures.
National Council of Community Mental Health Centers.
National Council of Senior Citizens.
National Governors Association.
National Indian Council on Aging.
National League of Cities.
National Mental Health Association.
Prudential Insurance of America.
United Auto Workers.
U.S. Conference of Mayors.

U.S. CONFERENCE OF MAYORS,
Washington, D.C., September 6, 1978.

DEAR SENATOR: On behalf of the U.S. Conference of Mayors, we seek your support of Senator Talmadge's Medicare-Medicaid Reform bill as amended in committee (S. 5285). We also seek your support of any hospital-cost containment amendments to strengthen the bill which may be offered when it is considered by the Senate.

Cost containment has been a major health issue for the U.S. Conference of Mayors and its affiliate, the U.S. Conference of City Health Officers. U.S. Conference of Mayors' policy calls for hospital-cost containment.

Mayors are concerned with rising hospital cost, since some cities administer and support general hospitals. Mayors must ensure that all persons in need of health care are able to obtain that care and, at the same time, we must keep an eye on how much of the municipal budget is directed to supporting local hospitals. If prices continue to rise, people in cities simply will not be able to afford hospital care.

As President of the U.S. Conference of Mayors, I strongly urge you to vote in favor of S. 5285 and any additional cost containment amendments which are proposed.

Thank you for your thoughtful consideration.

Sincerely,
WILLIAM H. MCNICHOLS, JR.,
Mayor of Denver, President.

AUGUST 29, 1978.

DEAR SENATOR: The problem of inflation is very much on the minds of all Americans, and has been cited a great deal recently during Senate consideration of spending programs. And while there is room for discussion about the consequences for inflation of different bills, there is no doubt that the Senate has a unique opportunity to make valuable inroads against inflation and to curb federal spending through the enactment of hospital cost containment legislation.

While double digit inflation is rightly viewed as a threat to our economic well-being, hospital costs rose a remarkable 15.6 percent last year, following in the wake of even larger increases in 1975 and 1976. Not only have hospital costs risen at a far faster rate than the overall cost-of-living, hospital costs are also rising more rapidly than other medical costs. Since 1950 hospital costs have risen from 30 percent of the total of all medical costs to 40 percent of the total.

The consequences of the rise in hospital costs is felt by every American. Most feel it directly in the soaring premiums for hospital insurance. Others, who lack insurance or who are burdened with co-payment requirements, feel the burden of hospital costs even more directly. And, because of the high proportion of hospital costs covered by Medicare and Medicaid, the soaring cost of hospital care has had a direct bearing on federal spending, and, as a result, on federal income and payroll taxes. Moreover, state and local governments also feel the burden of hospital costs through their health benefit and public hospital programs.

The enactment of hospital cost containment legislation provides an opportunity to address this specific issue and the broader problem of inflation very directly. The UAW favors compulsory hospital cost containment legislation such as that approved by the Human Resources Committee. If that is not to be enacted we cetrainly believe that the plan proposed by Senator Nelson, for voluntary cost containment by the hospitals and standby mandatory controls if the voluntary program does not work, should be enacted. Both the bill approved by he Human Resources Committee and the Nelson Amendment represent major improvements over the less reaching proposal approved by the Finance Committee as an amendment to H.R. 5285.

The bill reported from the Finance Committee holds the prospect of saving less than a billion dollars in the costs of Medicare and Medicaid over a five year period. The savings from the Human Resources Committee bill and the Nelson Amendment, on the other hand, are measured in the tens of billions of dollars and obviously are far preferable to the narrow proposal approved in the Finance Committee.

An argument is made by some that it is

unfair to control hospital costs at a time when there is broad sentiment against general wage and price controls. But that argument ignores the fact that hospital costs have risen far faster than the overall rate of inflation and pose a special burden because of the essential nature of medical care. Moreover, the Nelson Amendment would not result in federal controls unless and until the hospitals failed to achieve their own voluntary control program.

As a matter of equity, as a matter of sound economics, and as an essential blow against inflation, the UAW urges you to support hospital cost containment when it comes before the Senate following the current recess. Thank you.

Sincerely,

HOWARD G. PASTER,
Legislative Director.

NATIONAL COUNCIL OF SENIOR CITIZENS, INC.,
Washington, D.C., August 22, 1978.

DEAR SENATOR: It is our understanding that the Senate is to take up legislation to contain the costs of hospital care this week.

In previous statements, testimony and letters, the National Council of Senior Citizens has strongly endorsed the concept of hospital cost containment and urged passage of legislation along the lines of the original Administration bill.

The Senate Human Resources Committee bill is the strongest, and has the most potential to restrain the inflationary escalation of hospital costs. By placing a cap on total hospital revenues, the Kennedy bill will have the effect of requiring hospitals to plan and budget, as do other businesses.

The alternative legislation, the Talmadge bill, which emerged from the Senate Finance Committee, is unfortunately lacking in several respects: It restricts its cost containment design to Medicare and Medicaid payers and it applies only to routine services which are the so-called hotel-type services. The result is a savings of only $500 million over the next five years.

In stark contrast, the Kennedy bill will save the public $56 billion over the next five years. To repeat, the difference between the Talmadge and Kennedy approaches is 1,112 per cent. If the Congress, and in particular the Senate, is going to curtail inflation, there is no better vehicle on the horizon than the Administration-backed Kennedy hospital cost containment bill.

NCSC would also like to call your attention to three other items associated with the cost containment legislation. The most important of these is the amendment Senator Nelson intends introducing, if the Kennedy bill fails to be adopted. Senator Nelson would amend the Talmadge bill to include hospital services other than simply routine services and expand the application of the cost containment approach to include all payers, not just Medicare and Medicaid. The Nelson Amendment is, in effect, a compromise proposal. Although NCSC cannot in good conscience support the Talmadge bill in its present form, we would nevertheless support the Nelson compromise if the Kennedy bill were not adopted.

The second item of concern is a provision in the Talmadge bill which would, in effect, allow states to introduce various cost-sharing schemes in Medicaid and allow the federal government to do the same in the Medicare program. Though current law permits this experimentation with reimbursement schemes, the practice has not been widespread. In fact, when the State of Georgia recently attempted to initiate a co-payment procedure in Medicaid, it was successfully challenged in the courts. NCSC strongly opposes cost-sharing and, in order to protect Medicare and Medicaid patients from further erosion of their already modest benefits, opposes Section 19 of the Talmadge bill.

The third item of interest to NCSC, and which we strongly support, and which we have learned has come under attack by the nursing home industry, is Section 31 of the Talmadge bill, which requires skilled nursing facilities to participate in both Medicare and Medicaid as a condition of participation in either program. The disparity between states and within states of skilled nursing facilities, electing to participate in only Medicare or only Medicaid, has significantly reduced the number of skilled nursing facilities available in some areas to both Medicare and Medicaid beneficiaries. The financial incentives are sufficient to avoid the possibility of significant withdrawal from both populations; the effect of Section 31 can only be to enlarge the options for both populations, Medicare and Medicaid recipients.

We would be pleased to discuss our position on the above provisions, or any others that are of concern, at your convenience.

Sincerely,

WILLIAM R. HUTTON,
Executive Director.

AMERICAN NURSES' ASSOCIATION, INC.,
Kansas City, September 1, 1978.

DEAR SENATOR: The American Nurses' Association would like to seek your support for the Nelson Amendment to S. 1470 (Talmadge) Medicare/Medicaid Reimbursement Reform Act.

We are in full support of the voluntary approach to hospital cost containment and hope that it will be successful without the need for further action. The Nelson Amendment affords an opportunity for the voluntary effort and would impose controls only if that effort fails.

The Nelson measure retains many of the key features of S. 1470, including the provision for classification of hospitals into groups with similar characteristics. This recognizes the concerns about maintaining quality patient care if there had been imposition of controls on all hospitals with very dissimilar needs, resources and track records on cost inflation as in other bills. The lack of such discrimination was one of our objections to S. 1391.

We also support the Amendment in that, if controls have to be implemented, it affects all payors, all costs, not just "routine costs" as called for in S. 1470. We endorse the Nelson wage pass-through for increases in salaries of non-supervisory employees who have only recently begun achieving parity with similar workers in other sectors of the economy.

Experience has shown there has been difficulty with interpretation of the term "supervisory" but hospitals, and we hope care will be taken that this process be fairly implemented to include all staff who do not carry major responsibility for making policy or for hiring and firing employees.

Finally, we think it eminently fair, as provided in the Nelson Amendment, that bonuses be paid to hospitals which operate economically and that such bonuses be shared with employees who help make such savings possible. We think the amendment does allow hospitals the chance to curb the escalation of their costs without government controls, while providing a reasonable recourse to alternative action if needed. Nurses, like all other groups included, will be affected by this legislation. We are concerned about maintaining quality health care and the welfare of hospital employees.

We recognize this Amendment as a reasonable compromise and we urge you to support it.

Sincerely,

BARBARA NICHOLS,
President.

AUGUST 21, 1978.

DEAR SENATOR: The National Retired Teachers Association and the American Association of Retired Persons, urge you to vote in favor of Senator Nelson's amendment to H.R. 5285, the Medicare/Medicaid reimbursement reform legislation recently reported out by the Senate Finance Committee.

Senator Nelson's proposal is a compromise that expands upon Senator Talmadge's bill for revising Medicare/Medicaid reimbursement of routine costs. It broadens the Talmadge bill by recognizing the hospital industry's present voluntary attempt to bring down their costs over the next two years. Standby controls would go into effect only if the hospitals fail to meet their own proposed goals. Small hospitals and hospitals in states that have effective cost containment programs would be exempted from these standby controls.

Our 12 million member Associations believe Senator Nelson's proposal would be more effective than Senator Talmadge's bill because first, it would control all cost (including ancillary costs), whereas the Talmadge approach would control only 16 percent of hospital costs; and second, the Nelson program would apply to all payors and not be restricted to just the Medicare/Medicaid programs which apply to only 40 percent of all hospital bills. The comparative effectiveness of these two proposals is dramatically illustrated by the cost savings each would yield. The Nelson compromise would save between $30 and $35 million over the next five years, while the Talmadge plan would only save less than $500 million over the same time period.

The cost savings which the Nelson proposal would yield could be used to provide long overdue benefit improvements in the Medicare/Medicaid programs as well as a beginning for national health insurance. The fiscal 1979 budget estimates for Medicare/Medicaid alone are up by $5.2 billion over 1978—with no increase in services. This inflationary spiral will not permit any expansion of government health benefits and, in fact, it could prompt a cut in benefits unless taxes are increased to cover this cost escalation.

Increasing numbers of older persons, even with Medicare protection, are being priced out of the health care market. In 1965, Medicare beneficiaries paid $40 for their in-patient deductible, they now pay $144. Medical expenses have similarly soared. As a result, in constant dollar terms the elderly pay more out-of-pocket today for medical expenses than they did in 1965.

Acceptance of the Nelson amendment is critical not only for the millions of elderly people in this country for whom rising health care costs have become an unbearable burden, but for all Americans who pay for this intolerable inflation in many ways, including increased health insurance premiums, increased prices and increased taxes. Almost everyone agrees that inflation is our number one domestic threat. The Senate now has a chance to cast a vote for an effective weapon to fight inflation—a meaningful hospital cost containment program.

Sincerely,

PETER W. HUGHES,
Legislative Counsel.

SERVICE EMPLOYEES INTERNATIONAL UNION, AFL–CIO, CLC,
Washington, D.C., August 22, 1978.

DEAR SENATOR: As the nation's largest union of hospital workers, SEIU fully supports the concept of hospital cost containment embodied in S. 1391 as ordered reported by the Senate Human Resources Committee in August 1977. This bill, sponsored by Senator Kennedy would save $60 billion over the next five years while at the same time assuring equitable treatment for low-wage hospital workers.

Currently opponents of meaningful hospital cost containment legislation are seeking to obtain passage of H.R. 5285, a tariff bill, to which a substantially weaker hospital cost

containment program has been attached. This program, by comparison, would have less than $1½ billion in hospital costs over the next five years.

We ask that you reject this unfair, ineffective approach by supporting either the Kennedy legislation or an amendment to H.R. 5285 offered by Senator Gaylord Nelson (Amendment No. 3478). Senator Nelson's amendment would save over $30 billion in hospital costs over the next five years, and ... includes a pass-through for the wages of non-supervisory hospital workers.

The choices are clear. Hospital workers are not responsible for health care inflation. The average non-supervisory hospital worker earns almost $1.00 an hour less than the average manufacturing employee. We believe that a hospital cost containment legislation should properly focus on the real causes of hospital inflation—mismanagement, poor planning, wasteful duplication of services and expensive technology.

We strongly urge you to support the Kennedy bill or the Nelson amendment to H.R. 5285 which seek to secure fair treatment for non-supervisory hospital workers as well as a meaningful hospital cost containment program.

Sincerely,

GEORGE HARDY,
International President.

AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES,
August 22, 1978.

DEAR SENATOR: With over one million members, several hundred thousand of whom work in public general hospitals, the American Federation of State, County and Municipal Employees supports effective and equitable cost controls is the hospital industry. The rapid increase in hospital costs must be controlled by a program which curbs excessive and wasteful spending while not repressing the wages of low-paid nonsupervisory hospital workers.

You will shortly be considering on the Senate floor H.R. 5285, the Medicare-Medicaid Administrative and Reimbursement Reform Act, sponsored by Senator Talmadge. At that time Senator Kennedy will offer as an amendment (No. 3477) the hospital cost control bill approved by the Human Resources Committee last year. Senator Nelson also will offer an amendment (No. 3478) as a compromise between the Human Resources Committee bill and H.R. 5285.

AFSCME strongly opposes the Talmadge bill and urges you to do the same. The bill's cost savings are minimal. Covering only 16 percent of all hospital costs (routine costs under only Medicare and Medicaid), it would save less than $400 million in the next five years by grouping hospitals into categories (e.g., urban, rural, large, small) and disallowing some of the costs in hospitals that have significantly higher costs than the average for their category.

The Talmadge bill also is inequitable. It allows unlimited funding for such important items as capital expenditures, equipment, lab tests, malpractice insurance and energy. However, it imposes harsh government controls on nonsupervisory hospital workers when, historically, their wages have been declining as a percentage of total hospital costs and the rate of increase in their wages has lagged behind the rate of increase for the hospital industry as a whole. The area-wide wage indexing mechanism in the bill would freeze some hospital workers' wages, while possibly causing a wage rollback for others. It would not reimburse for the amount of wages above an undefined "general wage level" for comparable work in hospital and non-hospital jobs in the area regardless of whether the work is done by organized workers or even covered by minimum wage laws.

Finally, the Talmadge bill could hurt poor people and senior citizens. Reduced reimbursements could cause hospitals to reject Medicare/Medicaid patients or send them to already financially strapped and overburdened public hospitals where Medicare and Medicaid constitute a high percentage of their total inpatient revenues. Increased pressures on state and local governments to meet this demand could result.

Senator Kennedy's amendment, by contrast, imposes immediate, mandatory federal controls on all hospital revenues. It establishes a uniform cost increase limit on all hospitals that would save around $60 billion over the next five years, about $29 billion of which would be in Medicare and Medicaid. The amendment also prevents any artificial depression of nonsupervisory worker wages. It establishes a government policy of neutrality through a wage pass-through mechanism that allows wages to be determined by free collective bargaining in unionized hospitals.

The Nelson amendment also achieves substantial savings: about $30 billion over the next five years, of which about $11.5 billion would be in Medicare/Medicaid payments. The amendment retains the Talmadge bill's provisions for revising Medicare/Medicaid routine cost reimbursements with several cost-saving modifications. It endorses the hospital industry's present voluntary control effort by establishing the goal of a 2 percent reduction in the rate of increase in hospital costs for each of the next two years. Standby, mandatory controls that generally extend the mechanisms in the Talmadge bill to all costs and all revenues would go into effect if the voluntary effort failed. Like the Kennedy amendment, the Nelson amendment would protect nonsupervisory hospital workers.

The Kennedy amendment clearly is the most effective cost control proposal. The voluntary control program, which raises questions about the anti-trust implications of industrial price-fixing, and the lower cost savings of the Nelson amendment make it acceptable only as a compromise if the Kennedy amendment fails.

We urge you to support the Kennedy amendment, and, if it fails, to vote for the Nelson amendment as long as the worker protections are retained in both proposals. We strongly urge you to oppose any effort to weaken or strike the nonsupervisory employee wage provisions and to oppose any hospital cost containment proposal that does not contain them.

Hospital cost containment is essential, but equity demands that it not be achieved at the expense of low-wage hospital workers who have not been responsible for the main increases in the industry anyway. The provisions in the Kennedy and Nelson amendments simply protect from unfair pressure and controls some of the lowest paid workers in the American economy.

Sincerely,

WILLIAM B. WELSH,
Executive Director for Governmental Affairs.

CONSUMER FEDERATION OF AMERICA,
Washington, D.C., September 7, 1978.

Re: H.R. 5285

DEAR SENATOR: As you consider H.R. 5285, which includes provisions authored by Senator Herman Talmadge relating to hospital cost controls, we urge your vigorous support for the amendment submitted by Senator Edward M. Kennedy. This amendment is Title I of the Hospital Cost Containment Act of 1977 which was reported by the Committee on Human Resources and which CFA has enthusiastically endorsed.

At a moment when consumers are confronted with near double-digit inflation and hospital costs continue to increase at twice the rate of other goods and services, the Kennedy amendment would save consumers approximately $60 billion over the next five years. That savings compares sharply with the Talmadge proposal which would save only $500 million over the same period—none of which would be realized during the first two years.

With the adoption of the Kennedy amendment and its limitations on revenues, hospitals will at long last have an economic incentive to hold down costs. Without cost containment the average rate of increase in hospital costs has been 16 percent since 1973—nearly three times the rate of inflation in the general economy. Clearly, no meaningful fight against health care inflation can be waged without significantly controlling hospital costs.

We are decidedly less enthusiastic about the proposed compromise of Senator Gaylord Nelson, a co-sponsor of the Kennedy amendment. If the Nelson amendment is ultimately considered, we view it as a much weakened alternative to the Kennedy measure, but one which should be supported if (and only if) the Kennedy measure fails. The Nelson compromise should be supported for the following reasons:

1. It would save over $6 billion a year. By encouraging hospitals to continue their voluntary efforts to control hospital costs, total savings through fiscal year 1983 would be $34 billion.

2. It would provide the hospital industry with a much needed incentive to succeed in its voluntary effort. Under the Nelson proposal no mandatory controls would go into effect unless the national voluntary effort fails to meet its objectives. This approach recognizes that even the most well intentioned voluntary efforts are easily thwarted and lack incentive when standby controls are absent. The Nelson amendment would serve to supply the hospital industry with the necessary incentive to keep its promise.

3. Standby controls would involve limitations applicable to all costs and all payors. If the voluntary effort fails, the standy controls which would go into effect under the Nelson amendment would more equitably go beyond the routine ("bed and board" type) hospital costs which are the only ones covered by the Talmadge approach and which account for only 40 percent of all hospital costs. Furthermore, the voluntary controls would extend beyond Medicare/Medicaid payors who are the only ones covered by the Talmadge approach and who comprise only 40 percent of all payors. In addition, there is no guarantee under the Talmadge bill that hospitals will not raise the fees for other services such as laboratory fees or shift expenses to non-Medicare/Medicaid payors in order to meet these limitations.

4. Exemptions are provided for states whose hospitals have achieved the national voluntary goal. Regardless of whether or not the national effort succeeds, these states would not be subject to the standby controls. It should be noted that Wisconsin and Washington have already met the proposed goals of the legislation.

5. The need for equipment and other essential items necessary for high quality health care would not be jeopardized. Since the Nelson proposal permits a cost increase rate that is 1½ times the overall rate of inflation in any given year, hospital administrators should be more than able to accommodate the special needs of the population they serve.

6. Hospital employees would not sacrifice potential wage increases. Since neither the voluntary nor mandatory controls take into account wage increases for non-supervisory hospital employees, the Nelson proposal in no way compromises the economic well-being of hospital workers.

For all of these reasons, we urge your support for this compromise if it is introduced. However, successful passage of the Kennedy

amendment would eliminate its necessity and present tangible evidence to the American consumer of your sincerity in controlling health care inflation.

Sincerely,

KATHLEEN F. O'REILLY,
Executive Director.
KATHLEEN D. SHEEKY,
Legislative Director.

NATIONAL CONFERENCE OF STATE LEGISLATURES,
August 30, 1978.

DEAR SENATOR: While the National Conference of State Legislatures believes that administrative and reimbursement reform in Medicare and Medicaid, as suggested in HR 5285, are critical, we also believe that containing the rate of increase in hospital costs ought to be an immediate national priority. For this reason, our organization fully supports Senator Nelson's amendment to HR 5285 to establish a national, voluntary hospital cost containment program to be followed by a mandatory control program in the event the voluntary effort fails. We would suggest that if mandatory controls are necessary, they should be implemented on a state-by-state basis according to each state's performance with respect to the voluntary goals. Moreover, we further support Senator Nelson's effort to extend the reimbursement methodology to be utilized under the mandatory program to all payors, so that it not be limited to Medicare and Medicaid.

We believe that the provisions in Senator Nelson's amendment provide adequate assurances that States which are operating effective cost containment programs would be able to continue to administer their own systems if the mandatory program takes effect. It is our conviction that state cost containment programs have been operating very effectively and should not be pre-empted by federal law.

Finally, we would suggest that an appropriate role of the federal government ought to be one of providing financial incentives to encourage many other States to experiment with alternative hospital cost containment programs.

As you know, the NCSL is the official representative of the nation's 7,600 state legislators.

Thank you very much for your assistance.

Sincerely,

JASON BOE,
President, NCSL; President, Oregon Senate.

AMERICAN PUBLIC HEALTH ASSOCIATION,
Washington, D.C., September 11, 1978.

DEAR SENATOR: A unique coalition of concerned national public health organizations have joined to urge your favorable consideration of hospital cost containment legislation, which will be taken up by the Senate in the near future.

In the period of budgetary constraints, none of us can ignore the devastating effect of unbridled increases in health care costs on the resources available to programs targeted on the special health needs of millions of Americans. From biomedical research into the causes of disease, to a diverse multitude of preventive efforts at the federal, state and local level, to special capacity building programs for those poorly served by mainstream health care—all of these critical efforts face severe resource limitation due to ever-escalating outlays for acute medical care services.

Provision of services to our poor, aged and disabled remains a profound commitment of this society. However, passage of the Medicare and Medicaid Amendments of 1965 was never intended to underwrite the excessive hospital costs that have led to an inflation rate of 2½ times the inflation in the rest of the economy. Legislation is needed to control in-patient hospital costs, including those of Medicare and Medicaid.

We call upon you and your colleagues to respond affirmatively to this one available opportunity for Congress to apply some brakes to the inflation that is first among the concerns of the American people. Unless Congress acts now to enact legislation to slow these expenditures, unchecked hospital cost inflation will continue to limit the options available for the discretionary programs which we believe are vital to the diverse health needs of the American people. Equally important is the fact that these cost increases will ultimately lead to curtailment of Medicare and Medicaid benefits and services as well. We urge your favorable consideration of critical cost containment legislation.

American College of Preventive Medicine, 1015 18th Street, N.W., Washington, D.C. 20036.

American Health Planning Association, 2560 Huntington Avenue, Alexandria, Virginia 22303.

American Public Health Association, 1015 18th Street, N.W., Washington, D.C. 20036.

American Speech and Hearing Association, 10801 Rockville Pike, Rockville, Maryland 20852.

Association of State and Territorial Health Officials, 101 2nd Street, N.E., Washington, D.C. 20002.

Association of Teachers of Preventive Medicine, 3900 Reservoir Road, N.W., Room SW-312, Washington, D.C. 20007.

COSSMHO/National Coalition of Hispanic Mental Health and Human Services Organizations, 1725 K Street, N.W., Suite 1212, Washington, D.C. 20006.

Epilepsy Foundation of America, 1828 L Street, N.W., Washington, D.C. 20036.

National Association of Community Health Centers, 1625 I Street, N.W., Suite 420, Washington, D.C. 20006.

National Committee Against Mental Illness, 1101 17th Street, N.W., Washington, D.C. 20036.

National Council of Community Mental Health Centers, 2233 Wisconsin Avenue, N.W., Washington, D.C. 20007.

National Easter Seal Society, 2023 West Ogden Avenue, Chicago, Illinois 60612.

The Mental Health Association, 1800 North Kent Street, Arlington, Virginia 22209.

United Cerebral Palsy Associations, Inc., 425 I Street, N.W., Washington, D.C. 20001.

NATIONAL ASSOCIATION OF COMMUNITY HEALTH CENTERS, INC.,
Washington, D.C., September 26, 1978.

Members of the United States Senate:

It is my understanding that shortly you will consider H.R. 5285, the Hospital Cost Containment Bill. On behalf of our organization and its membership, I would strongly urge your adoption of the Nelson amendment to H.R. 5285.

The amendment to this bill proposed by Senator Gaylord Nelson is a reasonable and responsible measure which will allow for voluntary efforts to control hospital costs and authority for federal containment which would go into effect *only* if voluntary efforts fail.

The issue of escalating hospital costs is an extremely important one. The costs for hospital care has risen at a rate of 2½ times the rate of inflation. This *cannot* continue. The unending escalation will inevitably deprive many people of important and necessary health services. However, Community and Migrant Health Centers have been able to successfully contain costs and proven that such efforts do not compromise the quality of care that is offered. We have shown it can be done.

The public concern in the face of such drastic inflation is well-founded. The Nelson Amendment is probably the most significant move against inflation to be considered by Congress this year and, as such, deserves your unstinting support.

On behalf of our organization, which represents over 500 federally supported Community and Migrant Health Centers throughout the country, we urge you to take a leadership role in the support of the Nelson Amendment.

Sincerely,

LOUIS S. GARCIA,
President.

HEALTH INSURANCE ASSOCIATION OF AMERICA,
Washington, D.C., August 18, 1978.

LETTER SENT TO ALL HIAA CHIEF EXECUTIVE OFFICERS

For almost two years, committees of the U.S. House of Representatives and the U.S. Senate have been wrestling with the problem of controlling the rapid escalation of costs in the hospital area. The problem has been a highly controversial one, opposed by hospitals, doctors, and some business groups as the possible beginning of price and wage controls. The health insurance business has supported the voluntary program initiated by the providers, but has felt that should the voluntary program fail, there should be a legislated program to be triggered by any such failure.

A week ago the Senate Finance Committee reported to the Senate H.R. 5285 which includes the text of S. 1470 originally introduced by Senator Talmadge of Georgia, Chairman of the Senate Finance Committee Subcommittee on Health. The bill as reported lacks two major provisions which should be included in any bill that might pass. The first is a provision to make any controls apply not only to government programs such as Medicare or Medicaid but also to third party insurers and individuals. (Without this provision the bill won't contain costs but merely shift the excess cost from the Medicare or Medicaid patient to the private patient.) The second would recognize the program already in place in certain states and exempt them from the Federal program. (Without this provision there is no incentive for states to enact their own cost containment programs.)

Senator Gaylord Nelson of Wisconsin, with some input from us, will offer an amendment on the floor of the Senate to add the aforementioned provisions to the bill when it comes up for consideration. He has approximately twelve additional sponsors for his amendment.

Whether or not this bill passes in this Session of Congress, it is essential that the principles upon which we stand be established in whatever legislative activity may take place. If the bill does not pass this year, you can rest assured it will come up next year and it would be very difficult if our principles had not been included in this year's version to get the new Congress educated on them. Each Congress tends to look back as a starting point at what they did in the Session before on a given subject.

Timing is uncertain. This bill and the amendment may come before the Senate as early as August 23, or it may be put over until later. The doctors and hospitals have already launched an immense lobbying effort to kill the amendment. I would urge that you communicate directly by wire, telephone, or letter to each of your two Senators and any others that you might know personally urging support for the Nelson amendment.

I am attaching a copy of a letter sent to each of the Senators from our office which sets forth quite clearly and concisely our position on this matter. Your early and, I am sure, effective cooperation will be very much appreciated

Very truly yours,

ROBERT F. FROEHLKE,
President.

AMENDMENT NO. 3849

(Ordered to be printed and to lie on the table.)

Mr. MUSKIE submitted an amendment intended to be proposed by him to H.R. 13511, supra.

AMENDMENT NO. 3850

(Ordered to be printed and to lie on the table.)

Mr. HELMS (for himself, Mr. RIEGLE, Mr. HATCH, and Mr. TOWER) submitted an amendment intended to be proposed by them, jointly, to H.R. 13511, supra.

● Mr. HELMS. Mr. President, I take strong exception to the proposed deletion of the gasoline tax deduction. At the very moment when we are trying to provide some long overdue relief for the American taxpayer, there is no reason to increase taxes by disallowing this particular deduction. Repeal of the gas tax deduction is simply inconsistent with the general thrust of this bill.

Contrary to myth, this deduction is not a rich man's deduction. For the very wealthy, the dollar value of this deduction is insignificant. Rather, this is a modest tax break for the average citizen. In the wake of proposition 13, this is hardly the time for Congress to slap a "backdoor" tax on the American people.●

AMENDMENT NO. 3851

(Ordered to be printed and to lie on the table.)

Mr. MORGAN (for himself, Mrs. HUMPHREY, Mr. DOMENICI, Mr. ANDERSON, Mr. RIEGLE, and Mr. MATSUNAGA) submitted an amendment intended to be proposed by them, jointly, to H.R. 13511, supra.

● Mr. MORGAN. Mr. President, today I am submitting an amendment to the Revenue Act of 1978 on behalf of myself, Mrs. HUMPHREY, Mr. DOMENICI, Mr. RIEGLE, Mr. ANDERSON, and Mr. MATSUNAGA. This amendment would maintain the fiscal year 1979 funding ceiling for title XX of the Social Security Act in subsequent fiscal years.

Title XX provides States with block grants to develop comprehensive social service systems. It is a program that has proven to be extremely effective in encouraging State and local governments to provide services to meet the critical needs of many of our citizens, and is very popular both with the general public and with all levels of government.

The Finance Committee, during markup of the Revenue Act, approved a temporary, 1-year increase in the ceiling for title XX funding to $2.9 billion. In fiscal year 1980, as a result of the Finance Committee's actions, title XX funding will suffer a $400 million decrease to $2.5 billion, a drop of nearly 14 percent, without a decrease in need or any convincing explanation as to why.

The main purpose in placing the title XX program on an entitlement basis, instead of making it an authorization subject to annual appropriations, was to provide the program with known and consistent funding levels, well in advance. This will allow for responsible and effective planning at State and local levels and insure continuity in the design and delivery of these vital social services.

A temporary, 1-year increase in the title XX ceiling thus works to negate one of the greatest features of this program: The ability to engage in multiyear planning.

Earlier this year, the House approved a bill to increase the title XX ceiling by a vote of 346 to 54. This measure provides for a three-step increase in the ceiling, finally reaching $3.45 billion in fiscal 1981. A similar measure was sponsored by Senators GRAVEL and DOLE along with 18 other Senators.

By comparison, our amendment must be regarded as more fiscally responsible. It would cost the Government one-quarter of a billion dollars less in 1980, and over one-half billion dollars less in 1981 and subsequent years.

My amendment has the support of the National Governors' Association, the National Association of Counties, the U.S. Conference of Mayors, the National Conference of State Legislatures, the National Association for Retarded Citizens, the American Parents Committee, the Child Welfare League of America, the National Society for Autistic children, the National Association of State Units on Aging, the American Association of Retired Persons, the Urban Elderly Coalition, and the American Public Welfare Association.

I believe my amendment is both needed and responsible, and urge my colleagues to support it when it comes to the floor of the Senate.●

AMENDMENT NO. 3852

(Ordered to be printed and to lie on the table.)

Mr. MORGAN (for himself, Mr. MARK O. HATFIELD, and Mr. NUNN) submitted an amendment intended to be proposed by them, jointly, to H.R. 13511, supra.

● Mr. MORGAN. Mr. President, the amendment I am now submitting on behalf of myself, Senator HATFIELD of Oregon, and Senator NUNN, would require that the legislative branch be covered under the social security system. Passage of this amendment is the right and proper thing to do. It will show the people that we support the social security program, that we feel the program is valuable and so sound that we ourselves are prepared to take part in it. Congress has no business passing major social programs and then exempting itself from the tax burden the program requires.

It is true that there is an excellent pension plan available to Members of Congress and legislative branch employees, but this is no justification for our social security exemption. Many people in the private sector have excellent pension plans, or need none, but if they earn a living they must take part.

Social security is not a simple retirement plan where benefits are strictly related to contributions, because Congress has decided that the purpose of social security is not only to provide a supplementary pension, but also to provide some basic security to the elderly and disabled. Social security is a social insurance program, and as a result, millions of people have and will pay more in taxes than they will ever receive in benefits.

Medicare is equally available to everyone covered, regardless of one's contributions. Extra benefits are paid for spouses and dependents who have never worked. Lower wage earners, when retired, receive a higher percentage of their income as pension than wealthier ones.

To the public, especially those at middle- or upper-income levels, our failure to participate signifies that we believe social security is a bad bargain. It also indicates that we have little faith in the viability of the program. We have to remember that for many people, the social security tax is or will soon be larger than their income tax, but we are not paying it.

The amendment is identical to a bill introduced last year, except that it will not go into effect until 2 years after enactment. Last fall's social security bill mandates a study which will deal with the problem of how to equitably bring workers not now covered into social security. This study is due in December 1980. The 2-year delay in this amendment will allow the Congress almost 1 year to use the results of the study in determining what changes need to be made in our retirement system.

Some sort of coordination between social security and our retirement will be desirable. Otherwise, the benefits will be greater than most of us need, and the tax burden will be heavier than necessary. Virtually all private pension plans are now coordinated with social security, so we do not anticipate any real difficulty in achieving this for ourselves.

In light of the recently approved social security tax increases, which have yet to go into effect, there is no better step that Congress can now take than bringing itself into the social security system. It will be a clear sign to the public that we value and have faith in social security.●

AMENDMENT NO. 3853

(Ordered to be printed and to lie on the table.)

Mr. STONE submitted an amendment intended to be proposed by him to H.R. 13511, supra.

● Mr. STONE. Mr. President, I intend to offer as an amendment to the tax bill, the bill that I introduced, S. 3464, which would provide for a nonrefundable tax credit against Federal income tax liability of up to $200 for the amount of the upcoming increases in the social security taxes for employees, employers, and the self-employed.

While the social security tax rate has increased by only 1.65 percent in the past 10 years, the taxable wage base has increased by a whopping 227 percent in the same period. Under the 1977 amendments, effective January 1, 1979, the taxable wage base will increase to $47,100 by 1988, a 604-percent increase from the 1968 level. By 1988, this wage base will include the entire salary of most of the work force.

I am limiting the time limit of my amendment to 3 years in the hope that Congress by then will be able to enact comprehensive legislation which will maintain the solvency of the social security program without placing a heavy burden on the American wage earner as will be the case if the scheduled social security tax increases are not ameliorated.

For fiscal year 1979, my amendment will give a tax break of $2.6 billion to the hard-working American people. For fiscal years 1980 and 1981, the amount of the tax break will be approximately $6.9 billion and $12.8 billion respectively.

As can be seen by the table, workers in the $10,000 to $15,000 bracket will receive a credit for their entire social security tax increases over the next 3 years ($60 and $90 respectively in 1981). The worker in the $20,000 a year bracket will be entitled to a tax credit for the entire amount of the scheduled increase in 1979 and 1980, and $200 of the $260 increase in 1981. Those in the higher level income brackets, $25,000 and up, will receive the maximum credit of $200 for each of the 3 years which will partially offset their increases in social security taxes.

Mr. President, there is no doubt about the fact that adequate social security funding is a necessity. The personal well-being of millions of our citizens depends on it. However, it is equally important that, in funding the social security program, we do not place an intolerable Federal tax burden on the American worker.

Mr. President, I ask unanimous consent that this amendment be printed in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT No. 3853

On page 160, strike out lines 7 and 8, and insert in lieu thereof the following:

"Subtitle C—Credits

On page 161, between lines 11 and 12, insert the following new section:

SEC. 123. CREDIT FOR POST-1978 INCREASES IN SOCIAL SECURITY LIABILITY.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of subchapter 1, as amended by sections 134 and 136 of this Act (relating to credits allowable), is amended by inserting immediately before section 45 the following new section:

"SEC. 44E. POST-1978 INCREASES IN SOCIAL SECURITY TAX LIABILITY.

"(a) GENERAL RULE.—

"(1) EMPLOYEES AND SELF-EMPLOYED INDIVIDUALS.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the excess social security tax liability of the individual for the taxable year.

"(2) EMPLOYERS.—In the case of an employer, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the excess social security employer tax liability of the taxpayer for the taxable year.

"(b) APPLICATION WITH OTHER CREDITS.—The credit allowed by subsection (a) shall not exceed the amount of tax imposed by this chapter for the taxable year reduced by the sum of the credits allowable under a section of this part having a lower number or letter designation that this section, other than the credits allowable by sections 31, 39, and 43.

"(c) DEFINITIONS, SPECIAL RULES.—

"(1) EXCESS SOCIAL SECURITY TAX LIABILITY.—For purposes of this section, the term 'excess social security tax liability' means the amount by which—

"(A) the liability of the individual for taxes imposed under sections 1401 and 3101 for the taxable year, exceeds

"(B) the amount of such liability which would be determined for the taxable year if—

"(i) the rates of the taxes imposed under section 1401 totaled 8.1 percent,

"(ii) the rates of the taxes imposed under section 3101 totaled 6.05 percent and

"(iii) the contribution and benefit base determined under section 230 of the Social Security Act were $17,700.

"(2) SPECIAL RULE FOR STATE AND LOCAL GOVERNMENT EMPLOYEES.—For purposes of this section, any tax imposed on an employee of any State or political subdivision thereof—

"(A) which is paid by the State to the Federal Government under an agreement under section 218 of the Social Security Act, and

"(B) which, under such agreement, is equivalent to the tax imposed by section 3101, shall be treated as a tax imposed by section 3101.

"(3) EXCESS SOCIAL SECURITY EMPLOYER TAX LIABILITY.—The term 'excess social security employer tax liability' means the amount by which—

"(A) the liability of the taxpayer under subchapter B of chapter 21 for the taxable year exceeds

"(B) the amount of such liability which would be determined for the taxable year if—

"(i) the rates of tax imposed under section 3111 totaled 6.05 percent, and

"(ii) the contribution and benefit base determined under section 230 of the Social Security Act were $17,700.".

(b) CLERICAL AMENDMENT.—The table of sections for such subpart A is amended by inserting immediately before the item relating to section 45 the following:

"SEC. 44E. POST-1978 INCREASES IN SOCIAL SECURITY TAX LIABILITY!".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to taxable years beginning after December 31, 1978, and before January 1, 1982.●

AMENDMENT NO. 3854

(Ordered to be printed and to lie on the table.)

Mr. HART submitted an amendment intended to be proposed to H.R. 13511, supra.

AMENDMENT NO. 3855

(Ordered to be printed and to lie on the table.)

Mr. HELMS submitted an amendment intended to be proposed to H.R. 13511, supra.

FULL EMPLOYMENT AND BALANCED GROWTH ACT OF 1978—S. 50

AMENDMENT NO. 3856

(Ordered to be printed and to lie on the table.)

Mr. GARN submitted an amendment intended to be proposed by him to S. 50, the Full Employment and Balanced Growth Act of 1978.

● Mr. GARN. Mr. President, many people in this Nation are becoming alarmed by the growing control of our Nation's economy by the Federal Government. One way in which this is occurring is through the increasing level of Government regulations. Even more insidious, however, is the control of our economy caused by the expansion of Government.

This year total U.S. Federal outlays will be greater than the gross national product of every single country of the world except the Soviet Union—greater than the whole economy of every other nation. Further, Federal outlays will account for 23.2 percent of the U.S. GNP this year. That is, more than $1 out of every $5 spent in this country in 1978 will be spent by the Federal Government. Thus, not only is the economy placed under Government regulation, but for $1 out of every $5 spent the Federal Government is the economy.

Mr. President, this is not productive employment. It saps the strength of our economy. If we are to restore health to our economy, as S. 50 purports to do, then including a goal for the reduction of Federal outlays is not only complementary to the other goals of the bill, but important for their achievement.

A good step in this direction is found in the Banking Committee version of the bill, which calls for a slight reduction in the percentage of GNP accounted for by Federal outlays. It is a good step, but it is not sufficient. The provision presently in the bill establishes an interim goal of 21 percent of GNP and a longer-term goal of 20 percent of GNP within 5 years. During the 1950's and the 1960's, however, the situation was even better than the level called for by these goals: Federal outlays accounted for approximately 19 percent of GNP.

Mr. President, my amendment would lower the percentage goals in the bill by a mere 1 percent to 20 percent and 19 percent, respectively. In so doing, however, we would be bringing the percentage of Government in our economy closer to its historic level, before the budget bulge of the late 1960's and the 1970's.●

AMENDMENT NO. 3857

(Ordered to be printed and to lie on the table.)

Mr. GARN submitted an amendment intended to be proposed by him to S. 50, the Full Employment and Balanced Growth Act of 1978.

● Mr. GARN. Mr. President, some of the opponents of the inclusion of a specific inflation goal in the Humphrey-Hawkins bill assert that inflation and unemployment goals are mutually exclusive. The concern is expressed that pursuit of lower inflation will result in greater unemployment. The other side of this theory, which is mentioned less often, is that greater employment will necessarily result in higher levels of inflation.

If this argument is correct, then it raises a serious concern that the lowering of unemployment cannot be achieved, for it is clear that the American people will not stand for any higher levels of our already too high inflation. That message is clear. Ask anyone in the street, and they will tell you that inflation is the biggest problem facing the Nation. You can even ask George Meany.

Mr. President, I reject the theory that there is a necessary trade-off between inflation and unemployment. I think that history shows that the reverse is true, that periods of high inflation have often led to recession and high unemployment. This is particularly true at the present time, when the causes of both our unemployment and inflation are largely structural. Attention directed toward these structural problems need not result in the trade-off, which sometimes occurs when macroeconomic policies alone are implemented.

My amendment recognizes this. It rec-

ognizes the need for coordinating—I stress coordinating—our policies for the achievement of both goals of reducing unemployment and inflation. It is a minor amendment. It clarifies wording, making clearer that there is need for achieving both reduced inflation and lower unemployment for either to be meaningful.●

AMENDMENTS NOS. 3858 THROUGH 3863

(Ordered to be printed and to lie on the table.)

Mr. GARN submitted six amendments intended to be proposed by him to S. 50, the Full Employment and Balanced Growth Act of 1978.

AMENDMENTS NOS. 3864 THROUGH 3869

(Ordered to be printed and to lie on the table.)

Mr. HELMS submitted six amendments intended to be proposed by him to S. 50, the Full Employment and Balanced Growth Act of 1978.

FULL EMPLOYMENT AND BALANCED GROWTH ACT OF 1978—H.R. 50

AMENDMENT NO. 3870

(Ordered to be printed and to lie on the table.)

Mr. GARN submitted an amendment intended to be proposed by him to H.R. 50, the Full Employment and Balanced Growth Act of 1978.

DEEP SEABED MINERAL RESOURCES ACT—S. 2053

AMENDMENTS NOS. 3871 THROUGH 3876

(Ordered to be printed and to lie on the table.)

Mr. GRIFFIN submitted six amendments intended to be proposed by him to S. 2053, a bill to promote the orderly and environmentally sound exploration for and commercial recovery of hard mineral resources of the deep seabed, pending adoption of an international regime relating thereto.

REVENUE ACT OF 1978—H.R. 13511

AMENDMENT NO. 3877

(Ordered to be printed and to lie on the table.)

Mr. BELLMON (for himself and Mr. WALLOP) submitted an amendment intended to be proposed by them, jointly, to H.R. 13511, the Revenue Act of 1978.

AMENDMENT NO. 3878

(Ordered to be printed and to lie on the table.)

Mr. CLARK submitted an amendment intended to be proposed by him to H.R. 13511, supra.

AMENDMENT NO. 3879

(Ordered to be printed and to lie on the table.)

Mr. KENNEDY submitted an amendment intended to be proposed by him to H.R. 13511, supra.

AMENDMENT NO. 3880

(Ordered to be printed.)

Mr. PACKWOOD submitted an amendment to H.R. 13511, supra.

AMENDMENT NO. 3881

(Ordered to be printed.)

Mr. ROTH submitted an amendment to amendment No. 3880 proposed to H.R. 13511, supra.

AMENDMENT NO. 3882

(Ordered to be printed and to lie on the table.)

Mr. CHILES (for himself and Mr. STONE submitted an amendment intended to be proposed by him to H.R. 13511, supra.

AMENDMENT NO. 3883

(Ordered to be printed and to lie on the table.)

Mr. GRAVEL submitted an amendment intended to be proposed by him to H.R. 13511, supra.

EXPORTS OF ALASKAN OIL

● Mr. GRAVEL. Mr. President, it has become increasingly obvious that efforts to stem the decline of the dollar against the major currencies of the world, and particularly against the Japanese yen, have as yet been wholly unsuccessful. The consequence has been a further undermining of the world economic structure, and continued inflation at home.

The time has come to look at different approaches to this on-going problem. Summarized below is a most feasible approach.

I believe the Mineral Leasing Act and the Export Administration Act should be amended to provide new criteria by which Alaskan North Slope oil could be exported given certain conditions. These provisions would provide the requisite incentive to the producers of North Slope oil to take the steps necessary to expand North Slope production from 1.2 eventually to at least 2 million barrels per day, the ultimate design capacity of the trans-Alaskan pipeline system.

There are three conditions. First, U.S.-flag vessels would transport one-half of all oil exported. Second, the authority to export would be revoked in the event of future embargoes or other related national catastrophe. Exports could resume upon conclusion of the crisis, with no further governmental action necessary. Third, the pipeline would have to operate at its full capacity. Once these conditions have been met, exports could begin automatically. Temporary interruptions because of operating difficulties or related problems would not infringe upon the ability of the producers to export oil once those difficulties were corrected.

The ability to export Alaskan oil would have the following salutory effects:

First. It would increase the Nation's oil production capacity. The trans-Alaskan pipeline is designed for a maximum flow of some 2 million barrels per day, but it is operating now at less than 1.2 million barrels per day. This is occurring because the current throughput cannot be accommodated on the west coast. Furthermore, current plans for west-to-east pipelines in the Lower 48 will only transport the existing surplus. Further delays in construction of those lines increasingly exacerbates the problem of finding and producing additional supplies of Alaskan oil. Shipment to the eastern United States much in excess of current levels is further hindered by shipping limitations surrounding the current Panama Canal. And transportation around the horn of South America is extremely expensive.

Current production from the North Slope comes solely from the Sadlerochit formation of the Prudhoe oil field. Two other pools, Kupurak and Lisburne, could yield as much as 200,000 barrels per day total. At the same time, USGS estimates undiscovered recoverable resources could assure utilization of further increases in the throughput of the TAPS line. Recent discoveries outside of the Prudhoe Bay area show great promise. The State of Alaska and the Federal Government have proposed a lease sale for the Beaufort Sea next year. However, while some exploration continues, no incentives exist to develop further prospects or to expand the pipeline to accommodate production from said reservoirs. By allowing export to Japan, these nonproducing fields could be opened and, over a period of time, capacity of the pipeline could be increased.

Second. It would lessen the impact of future embargoes. Given that the ability to export Alaskan oil will provide the necessary incentive to expand production from the North Slope, then that production of up to 2 million barrels per day would be available to the Nation in the event of an oil embargo or other foreign supply interruption. As previously mentioned, it is only by opening the Japanese market that the desired expansion can be realized.

Third. It would improve our balance of trade. Today, as much as 800,000 barrels of oil per day—or some 10 percent of our existing domestic production—are not being developed and produced because of the lack of marketing opportunities. If we produced and exported that oil, our balance of trade with Japan would improve by some $4.066 billion per year—see the chart below.

More than one-third—$12 billion—of our projected balance of trade deficit—some $35 billion—for 1978 can be attributed to one country—Japan. Export of the "incremental barrel" of North Slope oil could cut this deficit by one-third, or $4 billion per year. Exports of 400,000 barrels per day would eliminate 20 percent of the annual deficit with Japan, or $2 billion per year. Exports of the current west coast surplus could provide benefits further in excess of $2 billion per year.

One might argue that there is no, or minimal, balance of trade benefit because the exported barrel will require a barrel of imported oil to replace it. That argument lacks credibility when we recognize that the incremental barrel is not available to reduce our imports now, nor is it likely the incremental barrel will ever be produced for the markets of the east or gulf coast because the incentives do not exist to encourage higher production until some decisive measures are taken to open a desirable market for increased production, and until there are assurances for its economic viability. In other words, that incremental barrel will not otherwise be produced, and the economic benefits to this Nation will be lost.

It should now be clear that exports of Alaska North Slope oil will provide the

incentives necessary to encourage further exploration, production, and development of oil to increase throughput of the TAPS line. That action will improve the economic, energy, and security status of the Nation. Important tangential benefits will also accrue to the U.S. shipping industry, as half of all oil exported would move in U.S.-flag vessels.

Mr. President, I ask unanimous consent that the chart prepared by CRS on the impact on U.S. balance of payments by the export of oil to Japan be printed in the RECORD, together with the text of the amendment.

There being no objection, the table and amendment were ordered to be printed in the RECORD, as follows:

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	Exports to Japan				Imports to United States		Impact on U.S. balance of payments (exports minus imports)			Impact on United States-Japan balance of payments (exports only)		
		Transportation cost gains										
	Cost of oil	100 percent U.S. flag	50 percent U.S. flag	No U.S. flag	Cost of oil	Transportation costs						
		(A)	(B)	(C)			(A)	(B)	(C)	(A)	(B)	(C)
Assumption III—Exports to Japan of 182,500,000 bbl (500,000 bbl/d)	+$2,427.2	+228.1	+114.0	0	−2,427.2	−246.4	−18.3	−132.4	−246.4	+2,655.3	+2,541.2	+2,427.2
Assumption I—Exports to Japan of 292,000,000 bbl (800,000 bbl/d)	+3,883.6	+365.0	+182.5	0	0	0	+4,248.6	+4,066.1	+3,883.6	+4,248.6	+4,066.1	+3,883.6
Assumption II—Exports to Japan of 438,000,000 bbl (1,200,000 bbl/d)	+5,825.4	+547.5	+273.7	0	−1,941.8	−197.1	+4,234.0	+3,960.3	+3,686.5	+6,372.9	+6,099.1	+5,825.4

AMENDMENT 3883

At the appropriate place in the bill, add the following new section:

SEC. . (a) Section 28(u) of the Mineral Leasing Act of 1920 (30 U.S.C. 185(u)) is repealed.

(b) Section 4(1) of the Export Administration Act of 1969 is amended to read as follows:

"(1)(1) Notwithstanding any other provision of this Act, no domestically produced crude oil transported by pipeline over rights-of-way granted pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185) (except any such crude oil which (A) is exchanged in similar quantity for convenience or increased efficiency of transportation with persons or the government of an adjacent foreign state, or (B) is temporarily exported for convenience or increased efficiency of transportation across parts of an adjacent foreign state and reenters the United States) may be exported from the United States, its territories and possessions, unless the requirements of paragraph (2) of this subsection are met.

"(2) Crude oil subject to the prohibition contained in paragraph (1) may be exported only if—

"( ) the pipeline described in paragraph (1) is operating at full capacity,

"(B) not less than 50 percent of such crude oil is to be transported to its foreign destination on privately owned United States commercial vessels as defined in section 901(b) of the Merchant Marine Act (46 U.S.C. 1241), and

"(C) contracts for such exports may be terminated if the petroleum supplies of the United States are interrupted or seriously threatened as determined by the President.".●

AMENDMENT NO. 3884

(Ordered to be printed and to lie on the table.)

Mr. GRAVEL. submitted an amendment intended to be proposed by him to H.R. 13511, supra.

NATIVE CORPORATIONS: TAX REVISIONS

● Mr. GRAVEL. Mr. President, today I am submitting an amendment to H.R. 13511 dealing with some problems which have come up in the tax treatment of the Native corporations established under the Alaska Native Claims Settlement Act passed by Congress in 1971. These corporations were to be the vehicles through which lands and moneys would be channeled in settlement of the aboriginal rights of the Alaska Natives. All of the Alaska Natives within the regional boundaries of these corporations were to become stockholders in their respective regional corporation. In furtherance of this act 12 regional corporations were established and the Alaska Natives are now stockholders in these corporations.

The Native corporations were allowed to select some 44 million acres of Alaska lands in settlement of their claims. In addition the corporations were to receive payment of some $950 million in cash. To date approximately 5.3 million acres of land have been conveyed and less than $400 million has been paid.

In the process of setting themselves up in business these Native corporations have been faced with severe potential tax liabilities which threaten their very existence. Through the Internal Revenue laws we are threatening to undue the work we undertook in the 1971 legislation. My amendment is intended to resolve these issues in a manner which does minimal violence to principles of sound tax policy. The amendments which I propose here have been reviewed by the Committee on Energy and Natural Resources and approved for inclusion in their Alaska lands bill. Because of objections to other provisions of that bill it appears likely that it will not receive floor action this year. The tax problems of the native corporations are pressing and therefore it appears appropriate to include these changes in this tax legislation.

IMPUTED INCOME AND STARTUP COSTS

The Internal Revenue Service has disallowed deductions claimed by the Native corporations which have been characterized by the IRS as nondeductible pre-opening expenses. The pre-opening expenses were for items such as wages and salaries, payroll taxes, travel expenses, per diem, director and staff training, village workshops, telephone and postage, supplies and equipment, and similar matters. These items would normally be deductible under section 162 of the IRS if the taxpayer is in a trade or business. The IRS has taken the position that the corporations were not in a trade or business, and therefore, these items are not deductible as ordinary and necessary business expenses. However, it is clear that the initial business of these corporations was to implement the Settlement Act by organizing the regional and village corporations into profitmaking corporations. The establishment of these entities was undertaken in the Settlement Act itself, the implementation of that act was their first business effort. The amendment simply makes it clear that these corporations are to be treated as carrying on a trade or business as of the date of incorporation.

The IRS has disallowed deductions attributed to land selection costs incurred by the Native corporations. The service contends that land selection costs should be capitalized into the value of the land. If land selection costs are capitalized into the value of the land which Native corporations hold, the corporations would show a loss for any sale or other disposition of such land sold for fair market value, since the tax basis in the land would be its fair market value under the terms of the Settlement Act plus the pro-rata land selection costs. This result is both unnecessary and contrary to section 21(c) of the Claims Act, which states that:

> The basis for computing gain or loss on subsequent sale or other disposition of such land or interest in land for purposes of any federal, state or local tax imposed on or measured by income shall be the fair value of such land or interest in land at the time of receipt.

Congress intended that the basis for computing a gain or loss on a sale of land conveyed to native corporations shall be the fair value at the time of receipt, and not the fair value of such land at the time of receipt plus the capitalized value of land selection costs. When Congress enacted the Settlement Act, its intent was to have native corporations incorporate for profit. Congress did not intend to set up a basis in the land for tax purposes which would create an immediate loss when the profit oriented corporations began to dispose of their lands. The amendment would allow the deduction of land selection costs by the corporations through the trade or business treatment explained above.

Finally, the IRS has taken the position that exploration benefits derived by

the Native corporations from agreements with private companies must be included in the corporations' income. In order to determine which lands to select, and being cash poor, the corporations contracted with private companies for exploration of possible land selections. The work was done without charge to the Native corporations and the results, while remaining the property of the companies, were made available to the corporations. This is an unprecedented example of the service attributing income to an organization which it has neither received nor earned. The only benefit derived by the corporations from this work was assistance in pursuing their congressional mandate to select lands. To subject to tax any portion of the selected lands would do violence to the Settlement Act provisions which assure that the corporations will receive their lands free of tax. The IRS position artificially divides the value of the land into two parts—one, the value of the additional knowledge about the land and, two, the value of the land itself—and is attempting to tax the first while being precluded from taxing the second. The amendment addresses this problem by providing that receipt of information or analysis, and the expenditure of funds by third parties to generate such information, used for land selections by the Native corporations shall not be treated as income to those corporations.

BASIS IN LANDS

The Settlement Act originally provided that the basis in land should be the fair market value of land at the time of receipt of such land. Because the bulk of the lands received under the Settlement Act is found in areas where it is difficult to determine the value of the land at the time of receipt this amendment provides an option for such a calculation. Under this amendment the basis in land would be calculated by taking the sale price of land and discounting it back to the time of receipt using the National Price Deflator Index. This amendment also provides a similar option for computation of depletion under section 611 of the Internal Revenue Code of 1954.

PERSONAL HOLDING COMPANY

Because a number of Native village corporations have a small number of shareholders who comprise five or less families these corporations may fall under the provisions of the Personal Holding Company Act. The Personal Holding Company Act was designed to penalize related family members from five or less families who try to shelter income by making passive investments in stocks, bonds, and other securities through a closely held corporation. The provisions of the Personal Holding Company Act would provide severe penalties for those small village corporations which have closely related family members and only wish to use their capital in passive investments. Thus, the amendment exempts corporations formed under the Settlement Act from the Personal Holding Company Act.

INTERPRETATION OF NATIVE LEGISLATION

The Supreme Court has stated that the interpretation of native legislation should be made in a manner most favorable to the Natives for which the legislation was written. The Settlement Act stands alone as a statement of Federal policy and where it conflicts with provisions of other Federal legislation it should be controlling. The act itself states that "to the extent that there is a conflict between any provision of this act and any other federal laws applicable to Alaska, the provisions of this act shall govern."

These amendments merely clarify, for the benefit of the Internal Revenue Service, our intent in setting up the Native corporations. We hoped to create viable economic entities whose shareholders were the aboriginal Natives of Alaska. We funded those corporations with payments of land and moneys. We did not intend that what we gave in that act we should take away through the taxing power of the Federal Government. These amendments assure that the Native corporations and their shareholders are not driven into bankruptcy by the Federal Government. They do not set up any continuing subsidy or go beyond the intent of Congress in the Settlement Act. They only give these unique corporations a fair chance of survival making clear what we thought we had made clear in the Settlement Act itself. Mr. President, I urge their adoption and request that a copy of the amendment be printed in the RECORD immediately following this statement.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT No. 3884

At the end of the bill add the following new section:

"SEC. . TAXATION OF ALASKA NATIVE CLAIMS SETTLEMENT ACT CORPORATIONS.

Section 21(c) of the Alaska Native Claims Settlement Act is amended to read as follows:

"(c)(1) The receipt of land or any interest therein pursuant to this Act or of cash in order to equalize the values of properties exchanged pursuant to subsection 22(f) shall not be subject to any form of Federal, State, or local taxation. The basis for computing gain or loss on subsequent sale or other disposition of such land or interest in land for purposes of any Federal, State, or local tax imposed on or measured by income shall, at the option of the recipient, be—

"(A) the fair value of such land or interest in land at the time of receipt; or

"(B) the amount realized on the sale or other disposition of such land or interest in land adjusted, by means of the price deflator index for the gross national product published by the United States Department of Commerce, to the time of receipt of such land or interest in land;

adjusted as provided in section 1016 of the Internal Revenue Code of 1954 (relating to adjustments to basis).

"(2) All rent, royalties, profits, and other revenue or proceeds derived from real property interests received pursuant to this Act shall be taxable to the same extent as such revenues or proceeds are taxable when received by a non-Native individual or corporation: *Provided*, That with respect to any such revenues or proceeds received by a Native individual, Native group, or Village or regional Corporation with respect to which a deduction for depletion would otherwise be allowable under section 611 of the Internal Revenue Code of 1954 (relating to allowance of deduction for depletion) or any corresponding provision of State and local law, the amount of such deduction shall be the greater of—

"(A) an amount equal to the deduction as determined by such section 611, using as the basis on which the depletion is to be allowed with respect to any property that basis provided in section 21(c) of this Act for purposes of computing the gain or loss on subsequent sale or other disposition of such property; or

"(B) an amount equal to the amount of such revenue adjusted, by means of the price deflator index for the gross national product published by the United States Department of Commerce, to the time of receipt of the property interest from which the revenue is derived; or

"(C) an amount equal to the deduction computed pursuant to section 613 of the Internal Revenue Code of 1954 (relating to percentage depletion).".

TAXATION OF NATIVE CORPORATIONS

Section 21 of the Alaska Native Claims Settlement Act (43 U.S.C. 1620) is amended by adding two new subsections at the end thereof, as follows:

"(g) In the case of any Native Corporation established pursuant to this Act, income for purposes of any form of Federal, State, or local taxation shall not be deemed to include the value of—

"(1) the receipt, acquisition, or use of any resource information or analysis (including the receipt of any right of access to such information or analysis) relating to lands or interests therein conveyed, selected but not conveyed, or available for selection pursuant to this Act;

"(2) the promise or performance by any person or by any Federal, State, or local government agency of any professional or technical services relating to the resources of lands or interests therein conveyed, selected but not conveyed, or available for selection pursuant to this Act, including, but not limited to, services in connection with explorations on such lands for oil, gas or other minerals; and

"(3) the expenditure of funds, incurring of costs, or the use of any equipment or supplies by any person or any Federal, State, or local government agency, or any promise, agreement, or other arrangement by such person or agency to expend funds or use any equipment or supplies for the purpose of creating, developing, or acquiring the resource information or analysis described in paragraph (1) or for the purpose of performing or otherwise furnishing the services described in paragraph (2): *Provided*, That this paragraph shall apply to any funds paid to a Native Corporation established pursuant to this Act or to any subsidiary thereof.

This amendment shall be effective as of December 18, 1971, and, with respect to each Native Corporation, shall remain in full force and effect for a period of twenty years thereafter or until the Corporation has received conveyance of its full land entitlement, whichever first occurs. Except as set forth in this subsection and is subsection (d) hereof, all rents, royalties, profits, and other revenues or proceeds derived from real property interests selected and conveyed pursuant to sections 12 and 14 shall be taxable to the same extent as such revenues or proceeds are taxable when received by a non-Native individual or corporation.

"(h)(1) Notwithstanding any other provision of law, each Native Corporation established pursuant to this Act shall be deemed to have become engaged in carrying on a trade or business as of the date it was incorporated for purposes of any form of Federal, State, or local taxation.

"(2) All expenses heretofore or hereafter paid or incurred by a Native Corporation established pursuant to this Act in connection with the selection or conveyance of lands pursuant to this Act, or in assisting another Native Corporation within or for the same region in the selection or conveyance of lands under this Act, shall be deemed to be or to have been ordinary and necessary

expenses of such Corporation, paid or incurred in carrying on a trade or business for purposes of any form of Federal, State, or local taxation.".

PERSONAL HOLDING COMPANY ACT EXEMPTION

No Corporation created pursuant to the Alaska Native Claims Settlement Act shall be considered to be a personal holding company within the meaning of section 542(a) of the Internal Revenue Code of 1954 prior to January 1, 1992.●

AMENDMENTS NOS. 3885 THROUGH 3902

(Ordered to be printed and to lie on the table.)

Mr. KENNEDY submitted 18 amendments intended to be proposed by him to H.R. 13511, supra.

AUTHORITY FOR COMMITTEE TO MEET

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. STENNIS. Mr. President, on behalf of the majority leader, Mr. ROBERT C. BYRD, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate today to hold a mark-up session on the Montana Wilderness bill and consider the Du Noir Wilderness bill only.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

SATELLITE SOLAR POWER SYSTEM

● Mr. BUMPERS. Mr. President, I would like to have printed in the RECORD, a letter I have received from the Institute of Electrical and Electronic Engineers (IEEE) regarding S. 2860, the solar power satellite research. development demonstration program bill that is pending before the Committee on Energy and Natural Resources. The IEEE is the world's largest engineering, technical, and professional society. Its members include 150,000 engineers and technologists resident in the United States. Undoubtedly, many of these members stand to gain a great deal from a commitment of the United States to a major demonstration program of the solar power satellite (SPS). In spite of it, the IEEE Energy Committee feels that it is premature to commit vast resources on the SPS. I commend them for demonstrating a sense of social and fiscal responsibility. Even though it may not be in the best financial interest of the individual members, their position is certainly in the best interest of the Nation. I hope the Congress will heed its recommendation and not rush into the SPS program at this time.

The letter follows:

SEPTEMBER 25, 1978.

Senator DALE BUMPERS,
Washington, D.C.

DEAR SENATOR BUMPERS: The Energy Committee of The Institute of Electrical and Electronics Engineers (IEEE) is committed to a study of the proposed Satellite Solar Power System (SSPS). Although our study is not complete it appears to us to be premature to enter a "Solar Power Satellite Research, Development, and Demonstration Program" as contemplated in Senate Bill 2860.

Many fundamental questions in the areas of technical feasibility, economic viability, and environmental and social acceptability of the SSPS concept need to be addressed before the United States commits major resources to the SSPS. A program plan, jointly prepared by DOE and NASA, designed to obtain the initial information needed to make recommendations on developing the SSPS, is in place in DOE, NASA, and the Institute of Telecommunications Sciences. This effort, which will be completed in 1980, will provide the basis for a rational plan to move forward with the SSPS.

The IEEE Energy Committee therefore recommends against Senate Bill 2860, and urges the Senate Committee on Energy and Natural Resources to find against the bill.

The IEEE Energy Committee is continuing its consideration of the Satellite Solar Power System. We will be pleased to make the results of our study available to the Congress and the Department of Energy as soon as they are complete.

Sincerely,

HILTON U. BROWN III,
Chairman, IEEE Energy Committee.●

ADDRESS BY NELSON A. ROCKEFELLER ON NATO

● Mr. BAKER. Mr. President, for four decades Nelson Rockefeller has been a forthright spokesman for the national defense of this Nation and a champion of America's role in the free world.

Although former Vice President Rockefeller is no longer active in political affairs, he is still a close and interested observer of international affairs, and I know that his concern for maintaining a strong national defense is as great as ever.

Two weeks ago Mr. Rockefeller addressed the assembly of the Atlantic Treaty Association in Hamburg, Germany, on the North Atlantic Treaty Organization and its role in the mutual security of the free nations of Europe.

Mr. President, I ask that this address be printed in the RECORD so that others in the Senate and elsewhere may have the benefit of Mr. Rockefeller's views.

The remarks follow:

EXCERPTS FROM THE REMARKS OF NELSON A. ROCKEFELLER

This is an opportune meeting. It calls upon us to review our perspective of NATO and, indeed, of the defense of the Free World. For they are inseparable. Perspective, however, is not easily attained nor kept these days.

The very volume of our information and the strength and the vast extent of our free news coverage bombard our leadership with masses of communications—fact and opinion, singificant and insignificant. The shifting out of the real and the relevant is a prodigious task. And a complicating factor is that the essential freedom of voluntary association facilitates the organization of group pressures for parochial purposes. Thus special interests, both domestic and foreign, impact policy determinations. They seriously complicate the basic duty of leadership to advance truly national and international obligations, and common concerns ahead of narrow selfish interests.

The exaggeration of crises of the moment, the heightened pressures of the immediate, and persistent, if not frantic, demands for instant responses, both becloud the climate and crowd the calendar essential for deliberate consideration and calculated decision.

Yet, our present security and our future well-being require that our leadership cut through the distractions, the untruths and the distortions to focus their efforts, and our people's attention, upon the realities, the dangers and the opportunities that face us and the strengths and weaknesses of our capacity to meet them.

Any such assessment should start with where we find ourselves.

Despite former and continuing difficulties, despite new problems that beset NATO and our free community of nations, this is no time to deride our accomplishments nor ignore our strengths.

NATO, in spite of all the troubles of some three decades and all of its critics, has succeeded. Founded to deter the threat and thrust of Soviet power to overrun all of Europe, it has done so. Designed as a voluntary association of free nations to cooperate for their mutual security, it has made that design a reality. It stands in marked contrast to the Eastern bloc where national efforts for freedom have been suppressed by Soviet military occupation forces.

NATO was conceived to provide security that would allow free institutions to flourish. They have done so. It was expected to give a stability that would encourage economic growth and development and help raise the standards of living of the people of the Free World. It has done so.

Without the stability and security of NATO, European recover would never have come so rapidly nor would the free European economic community have come to pass in our time. Without NATO, the human rights and civil liberties of many who now enjoy them here in Europe and, indeed, elsewhere, would not exist.

But times and circumstances change. Technology alters the scene and new challenges confront us.

NATO's frontier—the frontier of Free Europe—is no longer just the frontier of Central Europe but is to be found in the Middle East and Africa as well. Soviet flanking moves in the Horn of Africa, the southern end of the Arab peninsula and other areas must be matters of concern to the NATO nations and the whole Free World.

We cannot afford indifference to a Soviet sponsored coup in Afghanistan. We cannot ignore the heightened threats to the independent strengths of Iran and Pakistan. We cannot close our eyes to Cuban mercenaries in Angola and elsewhere in Africa and their threat to the self-determination of African peoples.

The Soviet flanking movements, their covert operations, their subsidization of clandestine activity to overthrow indigenous governments and to sabotage established nations friendly to the Free World must be recognized for the menace they constitute for all of us. They must be dealt with. We should not shrink from our responsibilities because of the form of the provisions of the NATO treaties—but rather deal forthrightly with the urgent necessities of the times.

This requires a new perspective not only for NATO's organization, strategy and military potential. In a sense, it means NATO must stand not alone for North Atlantic Treaty Organization, but for all Nations Against Totalitarian Oppression.

This broadened concept will require of the Free World more creative action:

1. Military:

There is a need to strengthen regional defense and for the partners in this effort to accelerate their efforts. This means a larger role and contribution by Free Europe to its defense as well as an alert and focused American presence.

This means that NATO should take account of other advantages that technology is affording defense capability today as compared to the offense advantages so long dominant, a willingness and a commitment to use the potent new weapons of defense to meet any military invasion of Free Europe.

New anti-tank weapons can offer a new defensive strength. Advances in the sciences

and technology provide opportunity to overcome the mass of numbers and the sheer weight of weaponry. This means the development and deployment of the neutron bomb. It has enormous potential as a weapon of defense, sufficient to deter any invading army, no matter how numerous his tanks, how heavy his artillery or overwhelming his manpower. It offers a means to stop an enemy advance without the wholesale danger to civilian populations inherent in traditional nuclear weapons.

This implies no "Maginot Line" mentality but recognition of how costly a military invasion can be made to any enemy and the deterrent this entails not alone to those who may order it but more particularly to those who must fight it. It offers real promise for more local defense efforts.

This does not mean any retreat from nuclear capacity to strike the enemy's homeland, to deter any preemptive strikes or the nuclear blackmail that could result from overwhelming enemy advantage in long-range strike and survival ability.

The broader NATO concept requires a recognition of the vital need to keep the sealanes open for the Free World. It means naval and air power not alone to meet any overt military challenge but equally to forestall the threats and blackmail that Free World weakness would invite. The large Soviet naval power and the extent of its naval and air base support stations, linked by sophisticated satellite intelligence and communications networks around the world, are facts to be considered.

The countries of the Atlantic community must recognize that friendly nations with friendly governments must be supported and assisted in their resistance to subversion, sabotage and coups undertaken by subsidized, highly-organized cadres, armed and trained by the Soviets or their Cuban colonials.

2. NATO political strength:

This larger spectrum for Free World defense must go beyond military considerations alone. It demands that NATO recognize that a global political outlook and a common strategy are essential. It importantly involves settling disputes within the NATO community and the Free World through peaceful means.

We have to settle conflicts among the NATO partners, such as the Greek-Turkish dispute. We must also work jointly in meeting global thrusts to our security, such as exist in the Middle East and Africa.

A commitment to resolve disputes between the nations of our own Free World peacefully and constructively is essential to our mutual strength and well-being.

3. Intelligence:

Essential to the effectiveness of this broader concept for Free World defense is a full range of intelligence activities. It means my own nation, the United States of America, and all democratic countries, must face the fact that intelligence services and clandestine operations are essential to the survival of freedom in this world.

The hard facts are that the Soviets pursue intelligence and covert activities with energy and persistence. We are witnesses to the tragic results. Unfortunately, we in the United States have gravely weakened our intelligence services to the point of undermining our own security.

The people of the Free World had better wake up to the fact that the quiet work of intelligence services is essential if they are not to be rudely awakened by the loss of freedom itself or the need to fight military actions to hold or retrieve it.

4. Economic and social:

It equally involves economic and social commitments by the nations of the Free World.

One of the first of these should be a commitment to economic growth and development. The "no growth" virus has already sapped some of the vitality of our common society. Offering the false premise that growth and a wholesome environment are incompatible, it plays into the hands of the opponents of freedom.

Actually, only through growth and development can the NATO nations sustain themselves, work with the developing world, help to raise the standards of living for all people, and keep our common economic, political and military strength.

NATO economic growth means development of more energy from nuclear and coal resources to replace limited oil supplies.

The attacks on nuclear safety and coal compatibility with the environment are out of all proportion to any demonstrable risks and contribute to the lessening of our capacities to meet the economic and military challenge of the Soviet World and its colonial satellites.

The opposition to offshore drilling for new supplies of oil and natural gas, coupled with the "head in the sands" attitude in my own country on the need for adequate energy prices to encourage new energy development, have similar adverse impact.

A solution of the energy problem, especially in the United States, is also essential to the control of inflation.

The other major element to control the inflation that confronts so much of the Free World is productivity—productivity of capital, productivity of management, productivity of labor and productivity of government. All these segments must have incentive for productivity and share equitably in it.

5. Human rights:

The social commitment must be to enhancement of the well-being of the people of the Free World and to an affirmative, realistic espousal of the cause of human rights. Where these rights are now enjoyed they must be protected and enhanced. Where they are developing, they must be encouraged.

We have and we should have deep concern about the massive violations of human rights in the communist nations. But in pressing our views on this subject, we have to take care that our manner of doing so doesn't highlight our impotence to bring about any changes in their system.

In a world where the Soviet Union makes a mockery of human rights, a Khmer Rouge commits genocide, and an African dictator exterminates thousands, it is folly to turn all our pressure on friendly nations, supportive of our foreign policy, which are trying to broaden the rights and privileges of their people. To try to penalize nations like Argentina, Brazil, Chile, Indonesia, the Philippines, South Korea, and others so important to the Free World, whose people enjoy liberties unheard of in the Soviet Union, is sheer folly. We shall enhance their people's well-being and human dignity more by working with them than against them.

6. Moral commitment:

But, above all, the peoples of the Free World and their leaders must have the will to make these commitments, the will to make the efforts required and the courage to see them through to successful conclusion.

My own view is that the people of our own countries have this will, this dedication and this courage.

The snide denigrations of our society, the cynical deriding of our values, the distorations so blatantly paraded before us are far from what the great peoples of our nations believe, live and cherish for their children and their children's children.

We must have the will to espouse openly the values that have made our world the most productive for individual men and women, values that offer unparalleled opportunity for human dignity. These spiritual values are ties that should bind us even more forcefully than military, economic or social considerations—important as they are.

By following this broader course, by building and uniting in strength, we can forestall military incursions against us and other free nations. We can prevent subversion and blackmail. We can demonstrate by economic and social strength the continued superiority of our way of life. We can enhance our espousal of the cause for individuality and human dignity.

Through such strength we can deal with the Soviet World with confidence. We can achieve a plateau of peace and a basis for trade and commerce, the interchange of science and technology, the sharing of cultural pursuits. By expanding the role of give and take, through mutual respect, we have the opportunity for developing more understanding and more hope for fruitful cooperation.

This, to me, is the perspective from which to view NATO, and the dangers that confront us and the problems that challenge us. The times are grave but it is not too late.

For NATO never was an end in itself. It was but a beginning—a major first step toward a cooperating Free World, secure to foster the quality of human life and the enhancement of human dignity. It was one expression of faith in ourselves, our progress and the rightness of our cause.

It is time not only for reaffirmation of that faith. It is far more. It is time to act on that faith, with courage, with purpose and confidence. The future of freedom demands it. And we have the capacity to do it.●

CONSUMER JOURNALISM AWARD RECIPIENTS FOR 1978

● Mr. FORD. Mr. President, I recently had the opportunity to participate in the fifth annual National Press Club awards for excellence in consumer journalism luncheon, and I want to call my colleagues' attention to the significance of this particular occasion.

I do so, because far too little attention is given to the good the media does and the positive contributions newspapers, television, radio, and periodicals make in the public interest.

The award winners for 1978 received well-deserved recognition for outstanding achievement in their reporting. As far as I am concerned, I can think of no more valuable—or lasting—service that the media provides to the public than through the relatively new phenomenon of consumer reporting.

Take a look at some of the subjects for which these awards were presented, and try to calculate their value to the public.

It is impossible to measure the injuries, and even deaths, that might have been prevented by consumer-oriented stories about a defective or dangerous product.

It is impossible to measure in dollars and cents the benefits consumers realized after being alerted through the media of the cost-benefit analysis of various products.

You cannot put a price tag on the service the media is doing in the area of consumer reporting, but it is an indisputable fact that their efforts offer the only opportunity for many people to re-

ceive much-needed consumer information.

Consumer misinformation—or a simple lack of information—is the root of many of the consumer problems which exist today. The media's efforts in this area are filling a void that was allowed to exist far too long, and in the process the media are carrying out a basic responsibility to inform and educate.

Mr. President, as chairman of the Senate's Consumer Subcommittee, I extend my congratulations and appreciation to this year's award winners, and I ask that the award winners listed on the program be printed in the RECORD:

The material follows:

NPC CONSUMER JOURNAL AWARDS 1978

(Entries written in 1977)

NEWSPAPERS

First Place: News-Press (Fort Myers, Florida).

Citations: St. Louis Post-Dispatch, Maura Lerner, Eric P. Mink; Allentown Call (Pennsylvania), Charlyne Varkonyi; Cincinnati Enquirer, Ron Schoolmeester.

WIRE SERVICE OR SYNDICATE

First Place: The Associated Press, Louise Cook.

TELEVISION

Best Coverage: First Place, WBBM–TV Chicago, Factfinder Unit, headed by Susan Anderson.

Citations: WMAQ–TV Chicago, Roberta Baskin; WBZ–TV Boston, Sharon King.

Best Program: First Place, WBBM–TV Chicago, Factfinder Unit, headed by Susan Anderson.

Citations: WCBS–TV New York, John Stossel; NBC Nightly News New York, Robert Bazell.

PERIODICALS

Best Coverage: First Place, Mother Jones.

Best Commentary: First Place, Mother Jones, Dr. Hugh Drummond.

Best Consumer Journalism for 1977 ($1,000) (Selected from the above), Susan Anderson, WBBM–TV Chicago Factfinder Unit.●

THE PUBLIC WORKS APPROPRIATION BILL

● Mr. LUGAR. Mr. President, in recent weeks newspapers throughout the country have carried editorials objecting to excessive spending in the public works appropriations bill.

I believe that these editorials clearly and accurately reflect the sentiments of citizens across the country who are demanding much more careful spending of their tax dollars. The public works bill includes several costly water projects whose benefits do not justify the expenditure of millions in public funds. The Congress has made some progress toward paring down the huge deficit in next year's budget, and I am deeply concerned about any action which might jeopardize our achievements to date.

I am also concerned, it should be noted, about the serious environmental consequences involved in some of the water projects we are about to approve. I urge my colleagues to take a close look at both the excessive cost of the public works projects and the threat they pose to the environment, and to support the President in opposing them.

Mr. President, I ask that the text of seven editorials be printed in the RECORD.

The editorials follow:

[From the Boston Globe, Sept. 29, 1978]

THE CLATTER OF THE PORK BARREL

The noise levels in Washington ought to rise considerably in the days ahead. Congress is sending a mammoth $10.2 billion public works pork barrel bill clattering down Pennsylvania avenue to the President. And we trust the President will follow the advice of Sen. William Proxmire, veto the bill and "roll this pork barrel right back down Pennsylvania avenue and insist on getting a better value for the taxpayers' money."

In the bill are 27 water projects that the President did not request, including many he adamantly opposes and some that have not even received even a moment of environmental or cost-benefit analysis. Further, some of those that have been studied propose the expenditure of hundreds of millions of taxpayers' dollars to build projects that would benefit only a few dozen individuals.

In its desire to do a little bit for the folks back home in an election year, Congress has virtually ignored the President's efforts to begin fashioning a water policy in the nation—one that would put the emphasis on water conservation before new impoundment structures are built, one that would subject water projects to a more reasonable cost-benefit analysis, one that would require that more than lip service is paid to existing statutes requiring some respect for environmental values.

If the public really wants to measure the Washington political establishment's sympathy for the tax-cutting, efficiency-inspiring spirit of Proposition 13, it could hardly have a better gauge than the public works bill. A failure by the President to follow through on his veto threats and a failure by Congress to sustain that veto would send a clear message to the nation that Washington has not yet sensed the public mood.

[From the Washington Star, Oct. 2, 1978]

CAPITOL HILL'S PORK-FLAVORED TURKEYS

President Carter ought to stand his ground and veto the swollen public works bill that Congress is about to present him. And if Senate-House conferees don't trim down the House's version of the highway-transit bill, he ought to consider vetoing that one, too.

The fight over the public works bill is a rerun of last year's executive-legislative battle over water projects. President Carter's retreat that time probably was a mistake. It encouraged members of Congress to stuff more pork in the public works barrel this year.

Not only has Congress revived six projects that Mr. Carter thought had been killed in the largely one-sided (in Capitol Hill's favor) "agreement" he accepted last year, but it has run roughshod over the president's new water policy.

President Carter thinks the benefits to be derived from water projects ought to be in reasonable ratio to the cost, which hasn't always been the case. Any resemblance this year's public works bill bears to the water policy announced by Mr. Carter last June is purely coincidental.

Mr. Carter recommended that 26 projects be included in the bill; Congress has put in 53. Congress mandated the hiring of 2,300 new federal employees, mostly for the Army Corps of Engineers, whom the White House doesn't want. Congress would abolish the interagency Water Resources Council, which Mr. Carter intended to have an integral role in carrying out his new water policy.

The bill is expensive and inflationary. As Mr. Carter said at his press conference the other day, it "is a horrible example to set for the rest of the country" when inflation is the nation's "number one" domestic concern.

House leaders have warned that a veto of the public works bill might cost the administration votes on the gas deregulation measure, which is scheduled to come up in the House within the next several days. That smacks of blackmail and Mr. Carter shouldn't let it deter him. Surely House members aren't so cavalier as to vote against an important energy measure because of disgruntlement over a public works bill veto.

The transportation bill passed by the House last week also is expensive and inflationary. A cute feature of the bill is deficit financing for highway projects. The House wants to spend more on highways during the next four years than the highway trust fund can finance with four years' worth of federal gas tax revenues. That didn't stop the House—it simply said it would use revenues expected for the next five years. How it expects to build and maintain roads during that fifth year, when the money coming in is paying for past projects, is not exactly clear.

President Carter would be justified in vetoing both the public works and the transportation bills as they now stand. The pork-barrellers have produced two turkeys.

[From Newsday, Sept. 24, 1978]

CONGRESS IS BEGGING FOR A PUBLIC WORKS VETO

When a congressional subcommittee passed the usual public works appropriation bill earlier this year, it recommended changing the title to "energy and water development"—the better to reflect the bill's content. Senator John Stennis (D-Miss.) objected that the name "public works" has "prestige" and connotes "progress". As far as we're concerned, it still connotes "pork barrel."

No matter what you call it, the $10 billion bill is as larded as its predecessors. It contains funding for six water projects President Carter thought Congress had agreed to stop last year—plus extra money to start work on several new dams and other projects. The House has passed the conference report and Senate action is expected at any moment. The administration is already trying to line up the votes to sustain a possible presidential veto.

Carter has dropped plenty of hints that he wants to veto the public works bill, and we hope he'll follow through. Not only does it provide funding for a number of highly dubious and expensive undertakings, but it pays scant attention to the water policy the administration announced last summer. And though the bill passed easily in both houses, the failure of Congress to override Carter's nuclear carrier veto and the prestige he acquired at the Camp David summit should help his cause now.

Carter had proposed that states and localities provide more funds as evidence of their own strong commitment to a project; Congress disagreed. Carter had asked that the bill reflect the full cost of new projects; since it does not, Congress was able to claim that it had actually cut the administration's request.

Finding arguments against these projects isn't hard. Some would provide irrigation to make dry land suitable for raising corn—but the nation is about to harvest a bumper crop, and the government in effect is now paying farmers not to plant corn. If Carter wants to show that he's serious about better controls on expensive and environmentally unsound water projects, he must veto this bill and risk the battle that's sure to follow.

[From the Detroit Free Press, Sept. 19, 1978]

CONGRESS PERSISTS IN ITS DAM FOOLISHNESS

Congress is taking up another public works measure this week, and wretched excess is once again the norm. The new authorization bill is jammed with projects of considerable expense and dubious benefit, for which cost figures have been juggled or ignored by the House Public Works Committee that crafted it.

Authorization bills are what set the pork barrel rolling. Once authorized, a project acquires a kind of independent life, even though funds for it may not be appropriated for several years. Authorization is a promise, to a congressman and his district, to developers and speculators and the public works lobby, that a project will someday be funded and built; you tamper with those expectations at your risk. Look what happened to Jimmy Carter and his "hit list" of Western water projects.

So the best time to stop wasteful, expensive and unnecessary projects is before they are authorized. The bill the House will be asked to approve this week contains enough such proposals to justify defeating it or sending it back to committee for major surgery.

Thirty-seven of the 51 projects in the bill would be authorized for construction even though the Army Corps of Engineers hasn't decided whether they are needed, or has given them an unfavorable review. In some cases, where costs outweigh benefits or are as yet unknown, the committee has simply declared the projects "economic" by legislative fiat; never mind what the figures show.

On a number of projects, the bill provides for 100 percent federal funding, breaking from sensible past precedents that required minimal local cost-sharing; one project, on the Trinity River in Texas, has been rejected by local voters. On others, the cost has never been computed. One, Gulfport Harbor in Mississippi, is being built for the nearly exclusive benefit of a single firm.

Last week the House gave final approval to a bloated, $10 billion public works appropriations bill which the president has indicated he may veto, and deservedly so. Eight Michigan congressmen, we note gratefully, voted against that bill, including Republicans Garry Brown and Dave Stockman and Democrats James Blanchard, David Bonior, William Brodhead, John Conyers, Dale Kildee and Lucien Nedzi. Now Rep Bonior is trying to mount a floor fight against the new authorization bill, and its list of sugar plums we will be asked to finance in the future. He will need all the help he can get.

A vote against these public works bill is a vote against inflation and waste, against inequity and special interests and, in the case of several projects, against considerable environmental damage as well.

It is also a vote that will strengthen the president's hand in future confrontations over spending, and give the House Public Works Committee a nudge back in the direction of economic sense. In an election year, there's hardly a better platform for a congressman to stand on.

[From the Dayton Daily News, September 14, 1978]

CONGRESS PROBLEM ISN'T CARTER

At least a few Members of Congress admit responsibility for the congressional inaction President Carter is getting blamed for. Some of the representatives and senators recently interviewed by Congressional Quarterly agreed with Rep. David R. Obey that "things would be only marginally better" if the administration had been more effective in dealing with Congress.

To be sure, the administration has made mistakes in dealing with Congress, which not only is a diverse and competing group of interests but also is a sensitive collection of egos.

Other factors contributing to the log-jam in Congress include Senate rules, House reforms, the power of lobbyists, and weakening party loyalty.

The filibuster privilege in the Senate has obstructed some pending bills, such as the measure to protect federal land in Alaska. The filibuster gives a lot of power to a few. But neither the public nor President Carter is requiring the Senate to put up with that. The Senate can stop the filibuster any time it wants.

House reforms, breaking and sharing the power once held by committee chairmen, has brought more democracy. But that has been time-consuming because more interests have to be satisfied. As a result, proposals often have to be watered to nothing in order to get anywhere, the hospital cost containment bill being a recent example.

Tied into that is heavier and more sophisticated lobbying, coupled with a public that isn't stirred into any great consensus. Thus Congress has suffered no public anger for tearing up President Carter's welfare reforms or the proposal for public financing of congressional elections.

President Carter got off to a bad start with Congress by attacking pork barrel water projects. Congress ever since has balked at the President's legislative program, and blames its own balking on Mr. Carter's supposed ineffectiveness. Congress may blame Mr. Carter for that, but the public, whose money President Carter was trying to save, ought to hesitate before throwing that stone.

[From the St. Paul Dispatch, Sept. 20, 1978]

OL' PORK KEEPS ROLLIN'

Peace in the Middle East may be easier to attain than peace between Congress and President Carter over funding public works projects. The House of Representatives has done it to him again.

The President, you no doubt will recall, some time ago issued what came to be known as a hit list of proposed public works projects he felt were not justified or were environmentally unsound. Since public works provide congressmen with their greatest tool for taking care of the folks back home, Carter's hit list produced screams of agony.

Then the bargaining began.

Last week, the House passed a $10.2 billion public works appropriations bill that includes six projects from the President's hit list: six of eight it did not fund last year. How did it manage to skip two? One was opposed by both of the affected state's senators; the other was opposed by a back-home referendum. Makes you wonder how some of these things get as far as they do.

The President's people are talking veto; Congressman are trying to convince the President that the ditches, dams and waterways—far from being the pork barrel projects they seem to be—are either worth building or are merely receiving "study" funds and therefore shouldn't worry anybody.

Sometimes it's tough to save a buck.

[From the Christian Science Monitor, Oct. 4, 1978]

THE PORK BARREL ROLLS AGAIN

Can it be, after all the growing evidence in the wake of Proposition 13 that American taxpayers are fed up with wasteful government spending, that Congress has yet to get the message? With proposals to cut taxes and curb government spending on the ballots in 14 states this November, one would expect Congress to back up its members' oft-repeated concern about waste by, at the very least, cutting back on costly and inefficient pet "pork barrel" projects. But, alas, as this session draws to a close, Congress has dusted off its all-too-familiar pork barrel and sent it tumbling toward the White House. President Carter, we trust, will stick by his guns and use the veto to send it clattering right back up Pennsylvania Avenue.

The President's promised veto of the public works bill faces tough opposition in both houses. House speaker O'Neill and Senate majority leader Byrd both have said they will try to override the veto. There has also been talk of tying the water projects bill to the natural gas legislation, which Mr. Carter very much wants, to force him to accept it. We agree with the President that such a move would be highly irresponsible and uncalled for. Both bills should be weighted on their merits.

The $10.2 billion public works bill is not the only one that contains pork barrel projects, but it offers voters the clearest evidence of where Congress stands on giving taxpayers the best value for their money. And there can be little doubt that, when viewed from a cost-benefit standpoint, it has little going for it but politics. It would commit the government to $1.8 billion above current plans. Among the 27 projects the White House opposes are some that have not been adequately planned from an environmental or economic standpoint. Some of the proposed new projects call for long-term spending programs much larger than their initial start-up costs would indicate.

A number of the projects would benefit only a very few people. The proposed project for Bayou Bodeau, La., to name just one, would benefit about 150 landowners at a cost to the government of almost $100,000 per person; and in the process, would eliminate 1,560 acres of wildlife habitat.

Others earmarked for "study" purposes already have been extensively studied and found not to be justified. Research shows that the proposed Bureau of Reclamation project for Fruitland Mesa, Colo., for instance, would require an investment of $1 million per farm family and, according to the White House, would result in an economic return of only 50 cents on the dollar.

President Carter has proposed a national water policy that would stress water conservation, environmental controls, state and local input, and a trimming back of needless dam building. The public works bill meets a few of these criteria. Inasmuch as inflation is the No. 1 concern in the U.S., the President is right to insist that Washington set an example for the rest of the nation.●

POLISH-AMERICAN DAY

● Mr. DOLE. Mr. President, on October 11, 1779, Casimir Pulaski, a Polish hero, lost his life for the Colonies fighting in the Revolutionary War. His death is commemorated every year, in recognition of his contributions. He remains a central figure in the long list of Polish Americans who have contributed to make this a great Nation.

The contribution of the Polish community in the United States, and their role in the political life of this country, is being further commemorated today by the Department of State. Today, the 5th of October, the State Department is holding Polish-American Day—a series of lectures and discussions on the state of relations between the Polish People's Republic and the United States, and of the role that the Polish-American community plays in this relationship. At a point when human rights and humanitarian affairs appear to have taken a

back burner in national priorities, this is an encouraging development. To find that the State Department is concerned with the nature of our relationship with Poland is even more encouraging, as the focus on this Nation, and the other nations of Eastern Europe has not been as clear and direct as it should be.

NEED FOR CREDIBILITY IN OUR POLICIES

Our relationship with Poland, and with the other nations of East and Central Europe is sorely in need of reexamination. At a time when events are moving swiftly, often violently, in other parts of the world, in the Middle East, in Africa, parts of Latin America and Asia, there appears to be a general lack of interest in the problems and affairs of these countries. The dramatic harshness with which dissidents are dealt with in the Soviet Union also overshadows the state of humanitarian affairs in Eastern Europe. But great problems and humanitarian concerns do exist. These problems are no less important than those in other countries. And these problems are of great concern to the peoples involved, both those who are citizens, and their countrymen in the United States if our policy of promoting adherence to internationally accepted standards of human rights is going to retain its credibility, then this policy must be applied uniformly, with no exceptions or "grey areas."

STATE DEPARTMENT RECOGNITION AN IMPORTANT STEP

The State Department has indicated that it desires affirmative action—at all levels—in our relations with Poland. This is an important step toward fitting Poland into the framework of our national stand in humanitarian affairs. This is a welcome sign of sincerity. And a welcome sign for those Poles who feel that their affairs and problems have been taking second place to others. This is also signficant for the other ethnic groups of this part of the world—the Czechs and Slovaks, the Hungarians, the Romanians, the Bulgarians, and the peoples of Yugoslavia and Albania.

NEED TO TEMPER OUR RELATIONS WITH POLAND

Our relations with Poland have improved markedly within the last decade. The United States is actively involved in helping Polish industry develop and utilize Western technology. This close working relationship is one of the best we enjoy with the socialist countries of East Europe, one that must be protected and improved. But we must not lose sight of humanitarian issues that still affect the lives of many Polish citizens, and their relatives and countrymen here in the United States. Poles still encounter many difficulties in emigrating from their country, the same type of problems encountered by Soviet citizens. These are problems which must be actively recognized by the United States and dealt with accordingly, within the same context as those cases involving the Soviet Union and other countries who unjustly restrict the freedom of movement of their citizens. For many Poles, this is a matter of emigration and family reunification, a free flow of important information, and the freedom to practice their religion—rights which are guaranteed by the provisions of the Helsinki accords. That the State Department has recognized the need to pay closer attention to these matters, and give them a greater role in our relations with Poland is to be applauded. Affirmative action for all ethnic groups in this country is a must. I encourage the State Department to hold to its pledges.

NEED FOR PROPORTIONATE INTEREST IN EAST EUROPE

Mr. President, I want to take this opportunity to reemphasize the importance of the countries of Eastern Europe to the United States. These countries play a very important role in our relationship with the Soviet Union politically and strategically, one that must not be allowed to weaken. Our ability to deal with them on a one-to-one basis gives us a greater degree of influence in this area. Our independent relations with Poland, and all of these countries must not be unrated. Beyond the political advantages of such ties, it also gives us an opportunity to more effectively encourage adherence to the principles of the Helsinki accords, to the improvement of their human rights records, and to the benefit of those concerned in this country. East European ethnic groups in this country have a right to expect proportionate interest and activity on their behalf. It is my hope that their interests will be more respected now. The activity of the State Department in this direction is a positive sign.

POLONIA A VALUABLE HERITAGE

America has been fortunate in her development to have been able to receive so many immigrants on her shores. The cultural and social diversity this has provided us gives us the strength we need as a Nation. The sons of Polonia are a proud segment of our great land. We salute their achievements and contributions. Their importance as a part of our society is not to be forgotten. ●

MR. PACKWOOD GOES TO LEBANON

● Mr. JAVITS. Mr. President, in the days and now weeks since the Camp David summit, the people of the world have felt the stirrings of real hope. The prospect for peace in the Middle East, once merely a mirage, now appears to have form and substance. Negotiations are opening between Egypt and Israel.

In reflecting on Camp David and the future security of Israel, it is necessary to keep in mind the very closeness of war and the impact of this reality on Israel's people. The fear of nightly terror and attack and the fragile cease-fire on Israel's borders are fiction but a tragic way of life for most Israeli citizens.

Last spring, my friend and colleague, Senator BOB PACKWOOD of Oregon, returned from a visit to Israel and to the UN buffer zone in southern Lebanon—the first Member of Congress to observe the peace-keeping efforts in this area since the Israeli move into Lebanon. His diary of this trip was published recently by the Federation News of the United Jewish Appeal of Greater Washington. I find this eyewitness account both frank and compelling and I believe it deserves a wide audience. I ask at this time to submit the article, "Mr. Packwood Goes to Lebanon," for printing in the RECORD:

[From the Federation News, September–October 1978]

MR. PACKWOOD GOES TO LEBANON

(By U.S. Senator ROBERT PACKWOOD)

This story should probably start with a confession. When Georgie and I visited Israel this spring, we were both excited to again see this beautiful country. We had not been back for a number of years. The situation in March of 1978, with the recent occupation of Southern Lebanon, was especially tense. I knew that no member of the American Congress had been into the Israeli-occupied area of Southern Lebanon. In the back of my mind I hoped I could see it firsthand. I also knew that any official request on my behalf could prove embarrassing to the Israeli government and that was the last thing I wanted. So, as we made the long journey by plane, I decided to "play it by ear." After all, who knew where our journeys would take us?

On Tuesday, March 28, we were at the Golan Heights. I wrote in my diary, "We crossed the River Jordan at the Sea of Galilee and after a brief stop for lunch went up to an Israeli bunker on the Golan Heights. The dedication of the troops occupying the bunker was obvious. This was a bunker that looked eastward across the long sloping plain toward Damascus. It gave Israel a very commanding position. I can understand why Israel is reluctant to give up the Golan Heights. To give Syria back those dominating heights from which she could shell Israel's agricultural developments would be worse than foolish. It would be folly.

"We turned down the hill a bit and came to the UN buffer zone. We viewed it from an Israeli outpost flying an Israeli flag. A hundred yards further flew the flag of the United Nations. No more than a hundred yards beyond that, the Syrian flag. I began to realize how closely these people have lived together for almost 4,000 years.

"At this stage, Georgie and I split from the group we are traveling with and went to Safed. We had been there on our trip in 1971. It is a picturesque artists' village, and we had bought a painting there which now hangs in our home. We looked forward to returning to this beautiful spot on the evening of March 28. Safed is as enchanting as we remembered it.

WEDNESDAY MORNING, MARCH 29

"We hit the road about 8:15 a.m., driving toward Metulla in the upper northeast thumb of Israel. At Metulla, we were going to meet Gad Ranon who had been one of the guides with our group. He had arranged to meet us at a courtyard cafe in Metulla, attached to a hotel which was the forward command post of Israeli Army in that area. From there Gad, our guide, said he would see if he could 'talk our way into Southern Lebanon.' Georgie and I arrived about 9:30. Gad was there. The captain in charge of the advance post was not, so Gad, Georgie and I had coffee in the courtyard. Presently Georgie decided to stroll a bit around the town to take in the sights. This doesn't take too long in Metulla.

"Gad was carrying his ever-present Uzi. I asked him to show me how it worked. He was carrying it without the ammunition clip attached to the rifle. Gad showed me where the ammunition clip went. He said in order to shoot the gun, you have to pull back a safety on the top of the gun. He pulled back a metal slide much like a bolt on a bolt-action rifle. As he pulled it back it had the unmistakable clack of metal hitting metal. It was a sound I was to remember later. 'When you pull this top safety back, it also

pops the first bullet into the gun. The gun won't shoot at all until the safety on the top is pulled back. As soon as you do this, you are almost ready to shoot,' Gad said, 'but first you have to pull the trigger and push your thumb against the back.' 'Although it's a second safety,' Gad emphasized, 'the second safety is so sensitive it's almost no safety at all. When you've got the clip in the gun, you never want to pull that top safety back unless you think you are going to have to fire imminently'.

"A young lieutenant showed up apologizing for the captain's delay. Gad said that Senator Packwood was here for the tour through Southern Lebanon. The young lieutenant said, 'Oh, yes, of course. Let me get an escort officer and you can be on your way.' It was a great bluff. Maybe there was no problem, but Gad just spoke with great force like the tour was all arranged and the lieutenant knew all about it. The lieutenant obviously didn't want to appear to be ignorant.

"We were assigned a young, very handsome Israeli captain, Ilan Levin, as an escort officer to accompany us through Southern Lebanon. In addition, Gad Ranon would accompany us and our driver. We were going to make the drive in a civilian car. Just as we were about to leave the shack that passed as the advance command unit, an Israeli television commentator came up to me and said. 'Aren't you Senator Packwood?' I responded affirmatively. He indicated he had seen me on Jerusalem television a day or two earlier. He asked if we were going into Southern Lebanon. I responded, 'Yes.' He asked if he and the crew could accompany me and take pictures. I said that would be fine with me, whereupon the television commentator went over to the lieutenant and said, 'Senator Packwood wants us to go into Southern Lebanon with him.' The lieutenant felt he had no option but to say, 'Go ahead.' Only later did I learn that the Israeli television crew has been denied admittance to Southern Lebanon that day for some reason, but seeing that I was about to be able to enter, they jumped on that opportunity as a pretext for getting in themselves. Ah well. Television journalists are the same the world over. We drove to the Good Fence. This border between Lebanon and Israel is called the Good Fence because many Lebanese cross here into Israeli territory to work and to be treated at a permanent medical mission maintained by the Israelis on this spot. We drove through the Good Fence and turned north, going up a ridge of hills to find two very small villages, Marjayoun and Kleia. To call them towns would be an overstatement. They were basically a main road running along the ridge top of the mountains with a house here and there on either side of the road.

"From Marjayoun we were able to see the old Crusader fortress of Beaufort just north of Litani River. It contains 150 to 200 members of the PLO. According to our briefing, officer, Ilan Levin, the PLO forces have several cannons, rockets, and mortars inside Beaufort. On occasion, they shell in all directions. Since the time of the Crusaders, this fortress has commanded the area all around it. It could not have been a better location for a fort—then or now.

Both Marjayoun and Kleia had been shelled consistently from Beaufort on one side and from another PLO stronghold on the other. These two towns in Southern Lebanon are primarily Christian towns and therefore the Christians were fighting the PLO Arabs, although they're both Arabs. One Christian, one Moslem.

"Next to almost every house was parked a military vehicle of some type. It might be a jeep, armored personnel carrier or a tank, but every house had one. Most of them were of World War II vintage. In the field next to some of the houses, however, we would see an old man plowing with an ancient wooden plow pulled by two oxen. Except for the relatively modern military equipment, the scene could have taken place 2,000 years ago. I thought it a startling contrast to see the 2,000-year-old agricultural methods taking place cheek by jowl with 20th century military equipment.

"The villages were badly scarred and war torn. As we drove slowly along the ridge road, little three and four-year-old children would run alongside our car with a 'V' for victory sign and at the same time shouting, 'Shalom, shalom.' It was a very touching scene. The Israelis had told us that the Christians didn't want the Israelis to leave and it was obviously true. The Israeli occupation was the first tranquility and peace these people had known in years.

"There are three principal bridges across the Litani River. One is close to the mouth of the river at the Mediterranean, another one, the Qaaquiyet Bridge, midway up and a third one, the Khardall Bridge, not far from Leye.

We were able to look down on the Khardali bridge with binoculars. There was a fair degree of activity on our side of the bridge. I could see a truck and an ambulance and a number of men. Only later did we learn that barely an hour before we were viewing the bridge, a Swedish military truck had driven over a landmine and the explosion had killed one man and injured another.

"We now drove south back down the ridge from Marjayoun and Kleia and headed west toward the town of Abbasiyah. The buildings in this town were fairly intact. It seemed a good-sized town, possibly big enough to hold 1,500 to 2,000 inhabitants when occupied. But no one was there. It had been abandoned entirely during the Civil War in 1974 and '75. I assume it was a Christian town, although I'm not sure. Now it is a ghost town.

"In the hotel at Metulla, we relaxed with a coke while our car was being repaired. It was an American passenger car, slung much too low for the roads in Southern Lebanon. We apparently hit a rock and punctured the gas tank and were dripping gasoline. The driver took it to a local service station for repair, while we talked to some local residents. In addition, I played three or four games of backgammon with one of the Israeli television crew technicians. To my surprise, I learned that Metulla had been hit by 18 Kitushka rockets in the past few days. No one had been injured although there was some property damage. The thought of an impending rocket crashing through the ceiling didn't do much to calm me. Again, war and death seemed more than a remote possibility. I thought to myself, 'And Israelis live in this situation every day.'

I walked out to the hotel portico and spoke with Gad Ranon who was in turn speaking to another Israeli lieutenant. The lieutenant told us about a conversation he had had with a Frenchman who was a member of the unit occupying the bridge across the Litani near the Mediterranean. The lieutenant said he had asked the Frenchman what the French were going to do if armed men came across the bridge. The French officer replied, 'Nothing. Our orders are not to shoot unless we're shot at. If the armed men come across the bridge and don't shoot, we'll let them pass.'

"At that moment, a young Norwegian officer had approached. He was the commander of a Norwegian United Nations force just coming in to replace the Swedes at the bridge the Swedes had been guarding. The Norwegian spoke English well and couldn't resist the passing reference that the 'Norwegians always have to take over the Swedes' chores.' According to the Norwegian, the Swedes were leaving the bridge because their man had been killed, and they didn't want any further part of the danger.

"I can't verify if that indeed was the reason they were leaving, but that's what the Norwegian said. The Israeli lieutenant asked the Norwegian what he would do if armed men came across the bridge that he was about to guard. The Israeli lieutenant repeated the Frenchman's comment that they would not shoot unless shot at. The Norwegian soldier said, 'No, that wasn't quite true.' He said that they could shoot in self defense and to carry out their 'terms of reference.' By that he meant 'orders,' but he very quickly added that he had not yet seen his orders. I then interjected and said, 'You mean you're going down to guard this bridge and you don't know exactly what your orders are?' He replied that was the case. I asked him if the Swedes had had any orders. He said not to the best of his knowledge. I further asked him then if the French on the bridge at the Mediterranean or the Iranians at the middle bridge had their orders. He said as far as he knew, none of the units had their orders and they were each left to interpreting their United Nations mandate as they saw it. A hell of a way to run a railroad, I thought.

"The Israeli lieutenant pursued the conversation with the Norwegian and said, 'Well, what will you do if the PLO starts to cross the bridge and they're armed?' The Norwegian said, 'You mean uniformed armed men crossing the bridge?' The Israeli lieutenant said, 'No, they're not going to be in uniform. They will be in civilian dress.' The Norwegian then responded, 'Lieutenant, you've got to understand. We don't know what a PLO looks like. We don't even speak their language. How are we going to know if some armed civilians want to cross the bridge; whether they're PLO or not?'

"At that stage our car arrived and we had to leave. Everything I had seen and heard that day, however, gave me no great confidence. Units to guard bridges without orders, Swedes leaving a bridge because one man was killed, the French who were not going to shoot unless shot at, the Iranians who couldn't see if anybody was crossing the bridge. I thought, 'This United Nations force will never keep the PLO out of Southern Lebanon if the PLO wants back into Southern Lebanon. Maybe the Syrians can keep them out, but the UN surely will not be able to keep them out if they want back in.'

"We now doubled back eastward to possibly Taibe although I'm not sure. In any event the town had been one of the large PLO strongholds in Southern Lebanon, and here the Israelis had blown up all the buildings. They wanted to insure that the PLO could never use it again as a stronghold. They succeeded beautifully. From Taibe, we were taken to a place overlooking the Qaaqaiyet Bridge. The Israeli television crew had hoped we could drive down to the bridge and they could do a stand-up piece with me in the middle of the bridge. However, there was an Israeli roadblock on the road leading down to the bridge. Apparently the Iranian United Nations peace-keeping force had moved in a day or two earlier and the Israelis had agreed to pull back from any of the areas the UN moved into. Therefore, all we could do was again view the bridge with binoculars. When I viewed it, I was delighted we couldn't get down to it. Immediately on the north side of the bridge, and I mean immediately—not five feet beyond the bridge—were two well-fortified bunkers. The PLO was in them. You could tell they were there because the glint of sunlight reflected off the metal of their rifles or machine guns. That would have been all I needed—to be standing in the middle of a bridge probably not 75 to 100 feet across and have the PLO at their end wondering what the devil I was up to. On the southern end of the bridge was supposed to be a detachment of Iranians on patrol. They were no place in sight. The road came off the bridge and then curved 90 degrees to the right. In addition, in the elbow of the curve, the terrain rose slightly, perhaps 10 to 15

feet. About 300 yards down the road was the Israeli outpost. Both because of the curve and the raise in the terrain, it would have been impossible for them to see anyone crossing the bridge by day or night. It left me with little faith in the UN operation.

"The Israeli television crew asked to film me on the brim of the hill overlooking the bridge. In the middle of the interview, I could hear a helicopter behind me. My natural tendency was to want to look around at the helicopter. My practiced tendency, however, was to finish the interview once it had started. As the interview went on, however, the helicopter became louder and closer. It suddenly dawned on me this wasn't a helicopter passing overhead. It was a big, big helicopter and it was landing. When we completed the interview, Captain Levin came over excitedly and said, 'Senator, come over. I want you to meet the General.' I was introduced to General Rafael Eytan. Although I did not know it then, Eytan was due to become the next Chief of Staff, succeeding Mordecai Gur in just a few days.

"Captain Levin said, 'General, this is Senator Packwood.' Before he looked at me, the General looked at Captain Levin and said, 'Captain, look at you. You're a disgrace. You need a shave, your shoes are unshined. What kind of a representative of the Israeli army are you? Captain Levin had two or three days of beard growth all right, but he'd certainly done his job well as far as I was concerned. You could see crestfallen disappointment in his eyes, however. The General then turned to me and without further pausing said, 'Will you please tell your American countrymen that we are being shot at by the PLO with M–16 rifles supplied from Saudi Arabia and the GR standard NATO rifle being supplied from Germany.' I told the General I had heard the rumor of the standard GR rifle, but had not heard about the M–16's. The General continued, 'And if you insist upon supplying Saudi Arabia with advanced jet aircraft, they'll be suppiving those to our enemies also. I hope you'll carry that message home to your countrymen, Senator.' The General prepared to leave but before doing so turned once more to Captain Levin. 'Captain,' and the General paused slightly and then ever-so-slightly smiled, 'your section is doing an excellent job in this area. Congratulations. Keep it up.' He then got back in his helicopter and took off. There was an unmistakable excitment in the captain's eyes. Eytan was obviously a soldier's soldier, and either a criticism or a commendation were taken at their full meaning by his subordinates.

"We finished our tour and drove to Metulla, arriving about 3:00 in the afternoon. We parked the car about half a block from the advance headquarters, our starting point that morning, and walked down the street. We noticed three armed United Nations soldiers standing at attention by a flatbed truck with improvised sides about two feet high. I wondered why all the security was about this truck, until I saw what was obviously a coffin draped with a United Nations flag. It was the body of the dead Swedish soldier. War and death suddenly seemed closer.

"As we left Metulla I asked our driver how long it would take us to drive back to Jerusalem. He indicated it would take about six hours. I exclaimed, 'Six hours. It shouldn't take us more than 3½.' The driver responded that he had been ordered not to take us back through the West Bank at night. Therefore, we would have to drive over to the coast, down the coast highway and in. To put it in American terms, it would be like going from Philadelphia to Washington by driving west to Harrisburg, down to Charleston or Winchester, Virgina, and then over to Washington. I said it was ridiculous to avoid the West Bank at night. That it was perfectly secure.

"The driver said he had his orders. I turned to Gad Ranon who was going to ride back with us with his trusty Uzi. Gad and the driver discussed the situation in Hebrew. The discussion of course meant nothing to me except that every third sentenced seemed to end with, 'Okay.' Finally after some obviously heated exchange of words, the driver agreed to take us back through the West Bank. Georgie, Gad and I were in the back seat, with Georgie in the middle, Gad on the right and me on the left. As we crossed the border into the West Bank, I heard a very faint clicking sound. I looked casually over at Gad and noticed that he had put the clip into his rifle. After driving a bit we came around a corner and noticed a jeep with many soldiers around it. The headlights of the jeep were shining on a stretcher with a body on it. I turned to Gad and said, 'What's that?' Gad said it could be an ambush or it could be a training exercise. We slowed down, there was an exchange of conversation between the driver and one of the military personnel. It was a training exercise. There was a certain lilt in the exchange of banter between the driver and Gad. While the language was Hebrew, I sensed what they were saying, 'As long as the Senator is insisting upon us going back through the West Bank at night, let's show him a little excitement.'

"We had been driving only another 15 or 20 minutes when a flare went up perhaps 75 yards off the side of the road. I've seen flares before. They light up very large areas very well. I turned to Gad and asked why the flare. He responded by saying that it could be a training exercise or perhaps they were looking for someone. Again, the lighthearted banter in Hebrew between the driver and Gad. Another 15 or 20 minutes and another curve. About 150 yards down the road stood a roadblock. This is not unusual in Israel. In the week we had been there, we had seen a number of roadblocks and had been stopped at them. This one, however, had a certain different flavor to it. There was a barricade, a wooden barricade, almost all the way across the road. Behind the barricade was a large truck similar to the kind used to deliver freight in a city. It was parked diagonally across the road. If anyone wanted to run the barricade, it would have been difficult to do, because getting around the truck would have been almost impossible without going off the road into the ditch. I initially didn't worry but simply thought to myself, 'That's a different looking roadblock.' One thing I did notice, however, was that the banter between the driver and Gad no longer had a light to it. The driver reached to the switch controlling the dash lights and turned them off.

"Georgie was looking straight ahead at the roadblock. As we got within 50 yards of it, I noticed Gad searching around in the dark for the door handle on his side of the car. It's that same feeling we all have with cars nowadays. The handle is always in a different place, and you can't figure out how to open it. When Gad found the handle, he very surreptitiously pulled it and opened the door so that it was ajar. No further action with the handle would be necessary to open it. For the first time, I began to get a sense of both fear and excitement. As we got to within 25 or 30 feet of the roadblock, Gad placed his right foot on the side of the door and then when we were no more than 10 feet from the roadblock, I heard that sound, that clacking sound of metal hitting metal, that I had heard earlier in the day when Gad was teaching me how his Uzi worked. Gad had thrown the bolt action safety off his rifle. I remember what he said. 'You never take this safety off the rifle unless you think you're going to have to use it imminently.' Only then did I sense the full meaning of what the situation might be. This indeed could be a PLO roadblock. Without wanting to arouse Georgie, I looked over at Gad and made sure that his eyes caught mine so that he understood that I understood the situation. It was very clear what he had in mind. If necessary, he was prepared to kick that door open with his foot and leap out of the car with his guns blazing, in the hope that Georgie and I could somehow escape.

"As we so very carefully approached the man in military uniform waving the flare, the tension eased. It was very quickly determined this was another legitimate Israeli roadblock. But by then, I had the full feeling of what every Israeli must know and fear. That day in and day out, they must live with tension and know of the possibility of death. I thought to myself, 'Before the United States goes about imposing solutions in the Middle East and drawing boundaries, and telling everyone what they're going to do, I wish that every person responsible for making such a policy could understand its full implications. And by full implications I don't just mean that Israel's military borders might be secure. By its full implications I mean that every Israeli citizen should be able to live in peace and tranquility without the feeling of fear of ambushes, and bazookas on buses and grenades in apartments and bombs in marketplaces. Only when that fear is gone would peace return to this country and only Israel can determine when that fear is gone.

"The car deposited us at the Jerusalem Hilton. As Georgie and I thanked the driver and Gad and walked hand in hand into the lobby, we both knew without saying that one thing had not changed in the intervening seven years between our trips. Israel's indomitable spirit has remained, thank God, constant and unfaltering."●

THE OUTER CONTINENTAL SHELF LANDS ACT AMENDMENTS

● Mr. KENNEDY. Mr. President, it is unfortunate that the recent controversy surrounding the natural gas bill almost totally eclipsed one of the most important legislative accomplishments of this Congress. In my view, the Outer Continental Shelf Lands Act amendments are the most important energy legislation to be passed in recent years. The Outer Continental Shelf is our most important domestic petroleum frontier. Our future role as a petroleum producing nation depends to a great extent upon what we will be able to find in this area. Despite the optimism about alternatives, oil and gas are quite likely to remain our cheapest and safest energy source for a long time to come. How well we develop our remaining oil and gas resources will have a significant effect on the economic welfare of the Nation. And, in particular, all of us have an important stake in the careful and efficient development of the OCS resources.

The development of this legislation required the resolution of extremely complex, difficult, and, at times, emotional issues. Hard trade-offs had to be made between seemingly conflicting goals: public ownership of lands and resources versus private development; energy development versus environmental protection; consumer interests versus producer interests; local community interests versus national energy planning; the interests of small oil companies versus the majors.

No one will argue that these conflicts were resolved to the satisfaction of all. I, for one, was disappointed with a number of compromises. Nor have all the conflicts been resolved. Much will depend upon the regulations that imple-

ment the legislation. But, as a broad scheme that deals in a responsible and constructive way with these problems, the legislation is a piece of work the Congress can be proud of. The chairman and members of the Senate Energy and Natural Resources Committee deserve special congratulations, as does the chairman and members of the House Ad Hoc Committee. Interior Secretary Andrus should also be congratulated on the extremely constructive role he played in the development of the legislation. At a time when Congress has been harshly criticized for its role in the energy area, it can point to a very solid accomplishment.●

A VISA FOR TYRANNY

● Mr. McGOVERN. Mr. President, in the October 5, 1978, edition of the Washington Post there appeared an article by Randall Robinson, the respected executive director of TransAfrica, a black American lobby for Africa and the Caribbean.

In that article, Mr. Robinson clearly and convincingly puts forth the case that the State Department's recent decision in issuing a U.S. visa to Ian Smith, the Prime Minister of Rhodesia, will have a serious and negative impact on our foreign policy on that continent in the weeks and months ahead.

In recent conversations I have had with high level State Department officials who are intimately involved with the formulation and implementation of our African policy similar fears have been expressed.

I deplore what Ian Smith stands for. Any durable settlement in Rhodesia must include the groups led by Joshua Nkomo and Robert Mugabe. Notwithstanding his claims to the contrary, Mr. Smith's so-called "internal settlement" plan is actually a formula for civil war, for more Soviet influence, and for ultimate military defeat. When Mr. Smith comes to the United States I hope we can help the peace process along by disabusing him of the mistaken notion that there might be a significant reservoir of support here for a military involvement to perpetuate his regime.

I ask that Mr. Robinson's article, "A Visa for Tyranny," be printed in the RECORD.

The article follows:

A VISA FOR "TYRANNY"

(By Randall Robinson)

Over the past two weeks, virtually the entire national black leadership has urged the administration to remain steadfast in its compliance with United Nations Security Council mandatory sanctions against Rhodesia by rejecting the visa applications of Prime Minister Ian Smith and members of his executive council.

Conceding that granting a visa would be disastrous for our foreign policy in Africa, the State Department has meekly caved in to the wishes of the 27 conservative senators who had threatened to confirm no administration appointments and to stall all legislation until Smith was granted entry. Unless opposing court action succeeds, Smith will get his visa. Why?

The applicable law is clear enough.

Security Council Resolution 253 provides that all member states of the United Nations shall "prevent the entry into their territories, save on exceptional humanitarian grounds, of any person traveling on a Southern Rhodesian passport" and shall "take all possible measures to prevent the entry into their territories of persons whom they have reason to believe to be ordinarily resident in Southern Rhodesia."

Nor can it be persuasively argued that there is any basis for waiver here "on exceptional humanitarian grounds." The State Department's visa guidelines drawn to implement Resolution 253 provide that such "grounds" exist only for students, visitors of close relatives, applicants for special medical treatment and others of that general variety. Smith meets none of those waiver requirements. Moreover, the binding international obligations of Resolution 253 have been further invested with the force of American domestic law by at least two executive orders.

Any visa to Smith and his party, then, could only be unlawfully granted.

Yet, lamentably, and with vast American foreign-policy consequences, nearly a third of the Senate stands prepared to see America flagrantly violate a treaty-force Security Council resolution that we not only voted for but solemnly co-sponsored.

Perhaps many of us have forgotten why the Smith regime was made subject to U.N. sanctions in 1968 and why it remains subject to them today.

Unlike the African colonies preceding Rhodesia to independence and majority rule, Smith's regime in November 1965 defied British orders to surrender power to the African majority and announced for Rhodesia a "unilateral declaration of independence" from the United Kingdom. After several unsuccessful attempts to turn Smith from his cause of white minority rule, the British government requested the Security Council to impose limited sanctions in 1966 and total sanctions in 1968 against Rhodesia.

Earlier, Smith had banned the Zimbabwe National Union and the Zimbabwe African Peoples Union for peacefully advocating the African right to vote and majority rule. Smith also jailed much of the African leadership, including Joshua Nkomo and Robert Mugabe. Others were executed. The white Rhodesian resolve was unwavering. Under no circumstance were Africans to be given the right to govern themselves. Thus the war began.

Today with white emigration soaring, the economy a shambles and his army losing the war, Smith rejects the British-American diplomacy, which is supported by the Patriotic Front, Organization of African Unity, Western countries and the United Nations. He is taking one last desperate stab at maintaining de facto white minority rule through "internal settlement".

It is inconceivable that any American of democratic inclination could find Smith's proposal for an "internal settlement" acceptable. Under its terms, less than 4 percent of the population—the whites—would control 28 percent of the elected parliament. The Africans, who make up 96 percent of the population, would be without the capacity to amend their own constitution. In a land where the white minority controls 54 percent of the land, the black majority would be constitutionally disabled from redressing the most egregious property wrongs. The police, the army, the public service and the judiciary would remain under white control for at least 10 years, perhaps indefinitely.

White minority rule in blackface. Thus, the Security Council sanctions remain in force against Ian Smith, who for 13 years has obdurately opposed genuine majority rule, but not against those who have sought and still seek to win freedom for all Zimbabweans.

In what assuredly are the final months of the Smith regime, it is sad indeed that the United States has lost its resolve to honor sanctions and thus is giving Mr. Smith hope for a new lease on tyranny.●

THE NATIONAL ART BANK

● Mr. MOYNIHAN. Mr. President, on Tuesday a column appeared in the Washington Post praising a bill introduced by my distinguished and good friend, Senator WILLIAMS, that would establish a National Art Bank. So that it may be widely read, I submit it for the RECORD at the conclusion of my remarks. Senator WILLIAMS' bill would commence a national collection of art within the National Endowment for the Arts. Purchased by the Federal Government, these works could be distributed and viewed around the country. This is a splendid proposal and one the Senate will surely want to consider next year.

In this spirit I want to mention a companion measure, introduced by me and Senator CHAFEE last March, which shares many cosponsors with the Art Bank bill. It would provide for leased art works in existing Federal buildings and purchased works for new ones. I am pleased that both bills have generated enthusiasm.

I believe Senator WILLIAMS' legislation would have admirable and far-reaching consequences for our country, and I do look forward to laboring with him.

The column follows:

A NATIONAL BANK FOR ART (AND ARTISTS)?

(By Brooke Stauffer)

Sen. Daniel Patrick Moynihan: *"The best way to promote art is to make it illegal."*

That remark, though taken as a jest, all too accurately characterizes traditional legislative attitudes toward art, but now 15 separate pieces of art-related legislation are pending before Congress, dealing with a broad range of subjects, from royalties and taxes to the "moral rights" of artists.

Of these, the one bill that would have the biggest effect on artists is the National Art Bank Act, which would put the federal government squarely into the business of buying art, and thus bring about a major shift of emphasis in government support for art. At present, such support is limited to fellowship-type grants to individual artists, indirect or matching-funds grants to communities and organizations, and occasional commissions of art for public buildings. Valuable as those programs are, they reach relatively few artists and, conceptually, are only means of buying time—time for artists to work under reduced economic hardship. The art bank bill, sponsored by Sen. Harrison R. Williams Jr. (D–N.J.), proposes instead that the government buy finished artwork.

The measure is patterned on the successful Canadian Art Bank, which in six years has built a collection of about 7,000 works by more than 900 artists for display in government buildings. Williams' legislation goes beyond the Canadian model both in funding ($9 million over three years, compared with $1 million a year), and in the wider distribution of artworks—and hence greater exposure of people to art.

The works bought and leased by the art bank would be lent to museums and federal buildings, leased to private corporations and other institutions and shown in traveling exhibitions. Work would be auctioned periodically to keep the collection current and everchanging.

The development of the art bank bill illus-

trates the growing influence of organized art. Public and private groups sensitive to artists' concerns informally discussed the concept of an art bank with Williams's staff.

As the measure evolved, these same groups, including the National Endowment for the Arts and the Artists Equity Association, consulted in the drafting of the bill's language, which thus contains a number of provisions considered essential by artists. These include payment for the use of works, insurance protection for exhibited works, recognition of the need to include little-known artists from all parts of the country, and a buy-back privilege to permit artists to retain control over the final disposition of their works.

In all these respects, William's measure differs from an art bank bill introduced earlier this year by Rep. Larry Pressler (R-S.D.). Pressler's bill would establish a limited art collection for the decoration of congressional office buildings and, like the State Department's Art in Embassies program, would depend on borrowed works of art without compensation to artists. The measure aroused lukewarm interest and some outright opposition within artists' circles and provided impetus for the development of Williams's more comprehensive proposal.

As a chairman's bill in the Senate Human Resources Committee, the National Art Bank Act enjoyed an auspicious introduction. Two days of testimony before the labor and industries subcommittee attracted representatives from the National Endowment for the Arts, the Government Services Administration and art circles. Noted artists Richard Anuskiewicz and Walter Darby Bannard testified, as did Suzanne Rivard LeMoyne, founder of the Canadian Art Bank.

Although Senate support for the measure also is considered good, a vote is unlikely this year. Williams plans to reintroduce it in the next session, with some revisions based on the subcommittee testimony. In the House, Rep. John Brademas (D-Ind.) has sponsored a companion bill with very similar language, which also will be reintroduced in 1979.

Establishment of an art bank, which could well become the nation's largest public art collection, would finally recognize art as a business and artists as professionals.●

UKRAINIAN HUMAN RIGHTS

● Mr. GLENN. Mr. President, this year marks the 60th anniversary of Ukrainian independence. From the declaration of independence in Kiev on January 22, 1918, to late 1920, these proud people enjoyed their cherished dream of independence, like so many other nations of Eastern Europe. That independence was shattered, of course, in 1920 by the Soviet Union's force of arms.

Today there are more than 2 million Americans of Ukrainian descent in the United States, including many thousands in my State of Ohio. They are loyal, hard-working people who have made major contributions to America.

Increasingly, Mr. President, these Americans of Ukrainian descent have expressed their concern about the treatment of intellectuals and other dissidents in Ukraine. There are nearly 50 million citizens in the Ukraine, and their unique language and culture have remained strong, despite six decades of foreign rule.

The world was shocked in 1972 and 1973 when about 600 Ukrainians were arrested and sentenced to long terms. Since then there have been periodic reports of brutality within the Ukraine, and President Carter personally protested when two members of the Ukrainian-Helsinki group were sentenced to 12 and 15 years in prison.

Mr. President, I support détente and believe Americans want all avenues to peace explored with the Soviet Union. However, the repeated arrests of those who seek to monitor compliance with the Helsinki Accords have put a cloud over détente. "Human rights" is a term that is subject to interpretation, but there are certain rules of law and decency that should touch all citizens of the world.

The arrests of Mykola Rudenko and Oleksa Tykhy in 1977, and subsequent continued harassment of Ukrainian intellectuals and others, prove beyond the shadow of a doubt that the Helinski Accord hasn't altered the Soviet Union's attitude toward the principal of human rights.

If the feelings expressed to me as U.S. Senator from Ohio are matched by those of nationality groups in other parts of the country—and I'm sure they are—there are many millions of first and second and third generation Americans who love the United States but who also want the world to know that those who live in their homelands have not been forgotten.●

GASOHOL AND REDTAPE AT THE DEPARTMENT OF AGRICULTURE

● Mr. McGOVERN. Mr. President, the Food and Agriculture Act of 1977 as passed by the Congress contained a provision with respect to converting farm produce to energy substitutes. It provided a fund of loan guarantees for the establishment of four so-called "gasohol" plants and authorized loan guarantees in total of $60 million.

As one of the conferees I think that I can speak to the intention of the Congress in embarking on this program. There are many in the Congress who feel that there is great potential in solving a part of the energy problem by the effective and efficient conversion of surplus agricultural production or agricultural waste or a combination of the two to alcohol or ethenol for the purpose of creating a mix with refined gasoline, thus reducing in part our need for crude imports. We felt that we had signaled the executive branch and in particular the U.S. Department of Agriculture that we wanted them to move with dispatch toward these intentions.

It is now more than a year since the passage of the act and the only discernible movement I can perceive at the Department is to establish an October 16, 1978, deadline for the submission of applications for Federal loan guarantees.

With this thought in mind, I recently arranged an appointment at USDA for a group of constituents from South Dakota who had banded together to establish a firm known as Northern Agri-Fuels, of 2040 West Main, Rapid City, S. Dak. Northern Agri-Fuels had the foresight to employ competent research and engineering experts and formulated an energy plan to extract 100,000 gallons of alcohol from 35,000 bushels of wheat at a cost of around 50 cents a gallon with gluten, feed meal, and oil residues of sufficient value to make the plant operate efficiently and profitably.

To do this, they estimate a plant costing about $18 million, well within acceptable cost ranges for that volume of production. Being enterprising and self-reliant farmers and businessmen, they proceeded to line up private lines of credit to the extent that they felt that they would only need to ask the Government for a credit guarantee of something less than $5 million, vis-a-vis the normal guarantee request of up to $15 million.

They returned from the Department of Agriculture to tell me one of the great horror stories of the bureaucracy.

First of all, they were advised that loan guarantees were not available to firms which had any equity capital generated themselves or which had established any line of commercial credit. Though there was no "credit elsewhere" test in the legislation, nor am I aware of any from the legislative history, I now find that the only projects USDA proposes to guarantee are the Rube Goldberg schemes that fail to gain support in the money market. My constituents felt that the only good position was a pauper position.

Next they were told that successful applicants would be subject to an environmental impact study which would take at least a year after the USDA had evaluated the pauper applications—USDA estimates that it will take them at least 6 months to review the applications they now have in order to select the four authorized plants.

After the environmental impact study is completed, I am given to understand that there will be further study for effects on endangered species with no time limit or even estimate involved.

Next comes a regulation that USDA must participate in the selection of the plant site and no construction work can commence until USDA has given its approval. My constituents, if they were to opt for this route, could conceivably end up in a State far removed from the geography of South Dakota.

In summary, to get the gasohol business going according to Government standards, you must first be penniless and second be willing to wait for about 30 months for the Government to work itself out of its own redtape. Probably after all this happens it would take another 24 months to complete plant construction. Conceivably, an experimental operation at best could be operational by the spring of 1983.

Mr. President, I have always considered myself to be a patient man but in this instance patience must give way to outrage. Is there any wonder that citizens have lost confidence and trust in Government? Are my constituents not justified in returning to me and telling me that they will go it alone? Is it not reasonable to question the Department of Agriculture's dedication to the concept of fuel conversion of agricultural products?

Mr. President, there is simply no reason for the Congress to pass legislation that is blocked from every angle by administrative regulation. I now have the conviction that there is no interest at the Department at all in implementing

this process. For this reason, I shall contact the chairman of the committee (Mr. TALMADGE) requesting that the Department be called to answer this statement before the Senate Committee on Agriculture, Nutrition, and Forestry. I recognize that we are late in the session and facing adjournment within the next week or so. It may be impossible to accomplish these ends before the Congress winds up its business, but I want to serve notice on the Secretary of Agriculture that I intend to pursue this inquiry even though I have to wait until the new Congress convenes in January.

The October 4 edition of the Rapid City Journal carried an editorial about the Northern Agri-Fuels Research & Development Corp. I ask that, for the interest of my colleagues, that article, entitled "Wheat Alcohol Researchers Have Done Their Homework," be printed in the RECORD.

WHEAT ALCOHOL RESEARCHERS HAVE DONE THEIR HOMEWORK

It makes sense to try to use a surplus of one commodity to alleviate a shortage of another commodity.

And that's the reasoning behind a proposal to build a plant in Rapid City which would convert wheat to alcohol for use in gasoline.

There's nothing new about making alcohol out of grain, but what is new is the technology needed for the process, especially on the scale envisioned by its developers.

That's why the farmers and ranchers investigating the possibilities of establishing such a plant here are to be commended.

Rather than embracing without reservations any plan which provides a new use for wheat, the members of Northern Agri-Fuels Research & Development Corp. of Rapid City are doing their research in a thorough and orderly fashion.

Questions are being asked regarding site selection, costs, availability of raw materials, transportation, power sources, and the marketing of the finished product.

Even the possibility of federal financing of the more than $16 million plant proposed by Cyro Systems Inc. of Greenwich, Conn., has now been undertaken.

The No. 1 question, of course, is whether the plant could produce alcohol at a price competitive with gasoline.

And if it could, the benefits are obvious.

Grain, and the alcohol produced from it, are renewable resources, unlike gasoline. And any new source of fuel would lessen our dependence upon high-priced imported oil.

Then, grain has proven to be such a renewable resource that U.S. farmers worry as much about crop surpluses as crop failures. Finding another use for that surplus grain would help farm income and decrease the need for huge grain storage facilities.

It's too early to know if a wheat-to-alcohol plant is feasible in Rapid City. But the idea is worth pursuing.

And with the attention to detail being paid in the proposal's early stages, the eventual decision to build a plant or abandon the idea will have been made from a sound basis of research.●

THE 20TH ANNIVERSARY OF NASA

● Mr. HAYAKAWA. Mr. President, on Sunday, October 1, our Nation observed the 20th anniversary of the National Aeronautical and Space Administration. It is fitting that we pause to salute the many and varied accomplishments of the men and women who represent that Agency. In its infant years NASA was faced with the tremendous challenge of landing the first human on the Moon. With great courage and determination that goal was accomplished on July 20, 1969.

It is important to note that many advancements in communications, medicine, weather, and transportation, to mention only a few, are a result of NASA programs. However, as we reflect upon these accomplishments we should not be lulled into inactivity, but invigorated by new challenges to seek new frontiers. The United States needs to develop a space policy which would provide the direction to enable the United States to maintain its leadership in space.

"Civilization In Space" may well be our new frontier. My good friend and colleague, Senator HARRISON SCHMITT recently discussed this new challenge in a speech given at the annual conference of the Institute of Electrical and Electronic Engineers (IEEE). To the Senator from New Mexico I extend a heartfelt thanks and congratulations for his participation December 7, 1972, in Apollo 17, the final mission in the Apollo program.

Mr. President, I ask that the text of Senator SCHMITT's remarks to the IEEE be printed in the RECORD. The Senator has defined the challenges of the future and is offering a space policy to assist us in attaining those goals.

The speech follows:

CIVILIZATION IN SPACE: THE CHRONICLES PLAN

(By Senator HARRISON SCHMITT)

The Carter Administration's policies for space are a disaster. Rather than exerting the leadership that the American people and the world expect, Carter has continued and appears on the verge of accelerating the policies of retrenchment begun by Nixon.

As the Soviets steadily move their civilization into space, we merely talk of gradually building a worldwide satellite information system.

As the rest of the industrialized world run technological and marketing circles around us and the dollar steadily weakens, we further close our principal faucet of innovation in technology and productivity, namely, new activity in space.

As the extreme danger of our dependence on external sources of fossil fuels increases, we stagnate in the development of alternative conservation, production and conversion energy technologies, most of which have their roots in aerospace research and development.

Most critically, when there are younger generations of Americans chomping at the bit to move our civilization of freedom back to the frontier of space, we say to them "wait; one percent of our budget or one fifth of one percent of our GNP is too much for such childish dreams." Hogwash!

Ladies and gentlemen, this continuation of a no-vision space policy, which in reality is no policy at all, is rapidly putting this great nation and freedom in grave danger; danger of technological domination, then economic domination, then military domination, then political domination.

The hope of the free world's ability to prevent long-term Soviet dominance of the planet Earth is the technology of space. From the monitoring of compliance with international arms control agreements, to the defense against military space systems, to the control of our own defense systems, the preservation of our civilization of freedom on Earth is increasingly dependent on our expansion of activities in space.

This country, and Americans, need to flex their muscles and their motivation against all the frontiers of human endeavor, against both the risks and the benefits of those frontiers.

If we were to imagine a space policy that would carry this country and the civilization of freedom we lead into space and into the 21st Century, upon what factors should such a policy rest?

Let me suggest the following essential criteria:

1. The policy must present a sense of direction and continuity for all present and future generations who must implement the policy.

2. The policy must have flexibility that can take advantage of new science and technology as well as adapt to rapidly changing goals which events may dictate.

3. The policy must have clearly identifiable significance to the direct or indirect solutions of the major terrestrial problems of hunger, disease, unemployment, and ignorance.

4. The policy must integrate budgetary requirements between the various elements of the policy, and between the governmental and private sectors, so that the demands on the taxpayer are both reasonable and consistent from year to year.

Although the over-all space policy I have been considering contains long-term and significant activity in aeronautics, the discussion of the details of such programs is beyond the scope of today's remarks. It is important to note, however, that our efforts must be expanded in basic aeronautical research for general, commercial, lighter-than-air, hydrogen-fueled, supersonic and new aviation concepts. The Administration's head is in the sand on these issues as much as on any other.

The space policy that I am developing matches the real world of science and engineering with the perspective of the younger generations who must give it life. My activities with young Americans from five to twenty-five have convinced me that dreams of adventure on the Moon, on Mars and throughout space have become a principal motivating factor in their lives.

This space policy for our civilization covers three decades of activity, but also has the clear implications of indefinite continuity.

The decade of the 80's, a World Information decade, should have programs aimed at permanent, eventually self-financing, services for worldwide communications, weather and ocean forecasting, earth resources discovery or monitoring, societal services, and prediction of natural events of disastrous human consequences or broad scale economic impact.

A World Information Decade is consistent with, although much more aggressive and far reaching than the rumblings from the Carter Administration about their space policy for the '80's. Of particular interest is the capability such a decade will provide in our assistance to those developing countries of the world who wish to move with us as free nations into the technological 21st Century. The benefits of the high technology of space will be available to them without the need to invest alone in its creation.

The decade of the '90's, an Orbital Civilization decade, should emphasize the progressive creation of permanent facilities in near-Earth space. Such facilities will utilize and augment this unique research, service and manufacturing environment. The weightlessness, the vacuum, the unique view of the Earth, sun and stars provide unparalleled opportunities for research, education, space power production, manufacturing, health care, Earth power generation and recreational activities.

As with a World Information System, the management of the development of an Orbital Civilization should be rapidly assumed by largely non-governmental groups. In most

cases, the facilities will be economically self-sustaining except for continuing federal involvement in high-risk improvements in technology.

In the first decade of the 21st Century, a space policy for our civilization should reach major culmination of excitement with the initiation of a second Solar System Exploration decade. This is the decade about which most of the very young have their dreams. Bases and settlements on the Moon, missions of exploration to Mars and Venus, and the beginnings of the establishment of a Martian settlement, all are the stuff these dreams are made of. The parents of the first Martians are looking over our shoulder as they work their way through elementary school, high school and college.

In order to sustain the technological and scientific requirements for these three decades of space activity, a significant level of basic research must be maintained, and development programs must be phased in to support the major programmatic efforts.

Of particular significance are the continued development of basic transportation systems, units and structures for space facilities, heavy capacity boosters, deep space boosters and new power and communication systems; particularly those utilizing lasar technology.

The estimated annual costs in 1978 dollars, of the development, research and mission programs, when properly phased, suggest that a sustained level of $15 billion annually would eventually be required to establish the basis for an Earth-supported space civilization. The build up to this level would be from about $5 billion in 1980 to about $10 billion in 1990 to about $15 billion in 1995. This final level would include an estimated federal work force of about 75,000 and a directly supported industrial force of about 10 times that figure.

The economic and employment impact on commercial and other non-governmental activities during this period have not yet been estimated. However, a major design philosophy behind this policy is to undertake largely those activities in the World Information and Orbital Civilization decades which would eventually sustain themselves without federal support. It is also assumed that the settlement activities on the Moon, and eventually on Mars, will be in part, if not largely, supported by commercial interests and will be self-sufficient after a decade or less.

For two days in August of 1975, at a unique Caltech conference of Apollo Astronauts, managers and scientists, the past and future of space exploration was debated by those who had given us Mankind's first decade of Solar System exploration. The heady excitement and rivalries of the 1960's were far enough back to soften judgments; the possibilities of the future were far enough away from our generation to lend objectivity. After two days of the most stimulating discussions of our lives, we gradually found ourselves in unanimous agreement on one major conclusion: civilization is moving inexorably into space. The only question left unanswered is whose civilization will dominate that movement and thus dominate the future of mankind. Will it be the civilization of fear, or the civilization of freedom?

By once again doing great things at great risk of failure, but with characteristic confidence in success and their civilization of freedom, Americans led the first wave of activities in space. Now we have fallen behind, not in technology, but in governmental will.

What does it take for Americans to do great things; to go to the Moon, to win wars, to dig canals between oceans, to build a railroad across a continent? In independent thought about this question, Neil Armstrong and I concluded that it takes a coincidence of four conditions or, in Neil's view, the simultaneous peaking of four of the many cycles of American life.

First, a base of technology must exist from which the thing to be done can be done.

Second, a period of national uneasiness about America's place in the scheme of human activities must exist.

Third, some catalytic event must occur that focuses the national attention on the direction to proceed.

Finally, an articulate and wise leader must sense these first three conditions and put forth with words and action the great thing to be accomplished.

The motivation of young Americans to do what needs to be done flows from such a coincidence of conditions.

What of our present situation with respect to doing great new things at the space frontier?

It does not appear that the articulate and wise leader is yet visible.

The catalytic event is unpredictable except that if we do not get moving, that event may come too late for us to catch up.

The period of uneasiness is upon us as a sign that we have become too introspective, too self-centered for the good of America.

The technology base exists for our World Information decade of the '80's. The technology base is being created for our Orbital Civilization decade of the '90's, but it is being created much too slowly. The technology base is wholly inadequate, but accessible, for initiating our second Solar System Exporation decade when we begin the 21st Century.

Thus, the challenge for a space policy that will sustain the movement of the civilization of freedom into space is to create the technology base by which future leadership can move in directions dictated by events. The Tom Jeffersons, the Teddy Roosevelts and the John Kennedys will appear. We must begin to create the tools of leadership which they and their young frontiermen will require to lead us onward and outward.●

PRESIDENT COMMENDED FOR VETO OF PUBLIC WORKS APPROPRIATIONS BILL

● Mr. NELSON. Mr. President, for the first time in almost 30 years a President has showed national leadership and courage by vetoing a public works appropriations bill. This afternoon's vote in the House of Representatives sustaining the President's veto is a major victory for common sense and the American taxpayer. One hundred ninety members have agreed with the President to bring the long history of pork-barrel election politics to an end.

The public works appropriations bill is an enormously expensive measure. The total cost of this legislation exceeds $10 billion. Sixty percent of the funding goes to the Department of Energy. However, over 32 percent is specifically earmarked for water projects and water resource development activities. The President in his October 5 veto message carefully states that he does not object to the energy funding portion of the bill. The President is rightly concerned about the wasteful and inefficient spending for water projects. Twenty-seven projects opposed by the President costing $1.2 billion are contained in this legislation. Moreover, six projects stopped last year are restarted by this bill, at an additional Federal cost of $600 million. In my judgment, each and everyone of these projects, both the new starts and the six resurrected projects, fail to meet even minimal economic criteria. Furthermore, many of the projects have severe environmental problems.

President Carter deserves the commendation, support and thanks of every American taxpayer for his courageous leadership on this issue. This was a difficult fight. No one enjoys a battle between the President and the Congress; however, someone has to take the lead on our war against inflation. I am pleased to join the President in this effort.

There are a number of practical reasons why the President is correct for returning this bill to the Senate without his signature:

First, the bill is $1.8 billion over a fully funded budget.

Second, the bill requires the President to hire an additional 2,300 Federal bureaucrats for the Corps of Engineers and Bureau of Reclamation whether they are needed or not at an annual estimated cost of more than $57.5 million.

Third, six water projects stopped last year are funded again by this bill adding $580 to $600 million to the cost of this legislation.

Fourth, 27 new construction starts opposed by the administration are funded by this bill. Eleven of the 27 have not yet met preconstruction legal or contractual requirements. Congressional authorization does not exist for another project. Every one of the new starts have benefit cost ratios calculated using unrealistic discount rates. In my view, if these projects were evaluated at either the opportunity cost of capital, the interest rate business and industry must pay when borrowing large amounts of money, or at the Government's long-term borrowing rate, about 7 percent, not one of these projects would be a sound economic investment.

Fifth, the bill abolishes the Water Resource Council, the multiagency planning and coordinating body that has been charged by the President to develop new guidelines for water policy management. By deleting its $1.3 million operating budget the Congress has said, "If you cannot kill the policy on its merits, then we will kill the organization that will formulate the policy."

However, there is one fundamental question of principle that overshadows the individual importance of any of these practical considerations, the question of developing an economically sound and environmentally compatible water resource development policy. The question put to the Senate in the form of this veto is whether we are going to build water projects that are based on current economic principles and evaluations and that are compatible with the Nation's environmental improvement programs or are we going to continue to resolve today's and tomorrow's problems with the same old answers that we have been using for the past 40 years, answers that are neither cost effective nor environmentally acceptable any longer?

Are we going to continue to rely solely on answers that are highly capital intensive, answers that produce relatively few jobs, answers that cost the Nation a great deal but benefit a select few, answers that needlessly destroy the environment, answers that often ignore

cheaper and more ecologically acceptable alternatives or are we going to establish a new approach.

Over 32 percent of H.R. 12928's $10.1 billion price falls into the water resource development category. This bill was vetoed because it continues outdated policies. It contains bad economics and adverse ecological impacts—the same old answers to the same old problems.

All six restarted projects have benefit-cost ratios below 1.5 to 1. In fact, two of the projects have b/c ratios below unity and all these benefit cost tests are calculated at discount rates of 3¼ percent and 3⅛ percent. Who are we fooling? Who can borrow money at that rate? Not I. Not the chairman of the committee. Not even the Federal Government. Uncle Sam loses money every time he spends money on these projects since the Federal Government must borrow money at least at 7 percent over a 15-year period to pay for these projects.

Of the 27 new starts, 13 projects have discount rates of 3.5 percent or less. Twenty-one projects have b/c ratios of less than 2. to 1. Two projects do not even have the benefits and costs calculated. When is the Congress going to give the average taxpayer a chance to invest in something that makes economic sense in today's market?

TEARS AND TURMOIL

Opponents of the President's veto have created a strawman out of the tears, fears and turmoil of people who have flooding problems, water problems, and recreational needs. They have led the public to believe that if the veto is not overridden Federal relief will not be available. Nothing is further from the truth.

These are the same tired arguments that have been made in water resource development for over 40 years. We must provide relief in flood areas. We must provide water supplies to the West. But the Federal action must be done in the most cost-effective environmentally compatible manner possible. We need new solutions to today's and tomorrow's problems, and this administration is moving in the right direction. For the first time in 4 years a President has recommended new construction starts. The administration's 26 new projects will cost over $640 million. In addition, the President strongly supports continued work on 263 water projects, projects that have a total cost of almost $35 billion. These projects provide new approaches to old problems.

THE KICKAPOO DAM

Let me share with the Senate one example—the Kickapoo River Dam project from Wisconsin. To make a long 18-year history short—a $12 million, 800-acre dam and lake has grown to a $56 million, 9,500 acre project. The dam would have created an 1,800-acre lake that would have violated both Federal and State water quality laws. The Government has invested over $15 million, mostly in land and highway relocations. The Kickapoo Dam was on the President's first hit list. He opposed this project because the benefit cost ratio was only 1.1 to 1 using a 3¼-percent discount rate. As a consequence of building the dam, a 1,800-acre artificial lake would have been created whose water quality would have been so bad that one expert called it "equal to a sewage lagoon."

Several years ago the finance division of the Wisconsin Department of Revenue estimated the value of the land and holdings in the floodway that was going to be protected by the dam. The department of revenue estimated that you could buy up everything and move everyone to higher ground for just about half of the price of the dam.

Well, that seemed like a pretty good idea except that the Corps of Engineers builds dams and was not enthusiastic about alternatives. "We are just following orders" the corps said. The district engineer still wants to create an ecological disaster—to pour $55 million into a relic of a bygone age.

By taking an innovative approach the Federal Government could spend less money and provide a better service for a larger number of people. Under the leadership of the White House, the Federal Government is now working with the State and local communities to develop and implement an alternative to the dam that meets economic and environmental safeguards.

At Prairie du Chien, Wis., one of the 26 new starts supported by the President, another innovative idea is being implemented. Instead of building levees, part of the business district is being moved to higher ground. Similar efforts are underway at Soldiers Grove, Wis.—a community located on the Kickapoo, south of the proposed dam.

Obviously, relocation-evacuation is not a panacea to all problems but it is a viable, cost-effective proven alternative. The President knows options are available that work. The veto says "let us move ahead."

INFLATION

The six restarted projects will cost at least $580 to $600 million to complete; the 27 new starts another $1.2 billion. At a time when inflation is once again nearing double-digit levels, is it too much to ask that the Congress initiate construction for only economically sound projects? I think not.

Water projects are a long-term commitment. They often run, 10, 15, 20 years. Once started, they are almost impossible to stop. Once the dollars begin to flow, the trickle turns into a stream, the stream into a river, and the river into a flood, a flood of tax dollars out of the Treasury and into some old, antiquated plan that was designed for another period of our history.

SUMMATION

The President has set an example every taxpayer can be proud of. The House in sustaining this veto has joined President Carter in a large step toward controlled Federal spending, eliminating waste in the Federal Government, and putting a damper on the fires of inflation. I hope the sustaining of this veto will put an end to monetary waste and ecological destruction through the haphazard building of water projects. As Members of the Congress we have a heavy responsibility to insure that the Federal water resource investment provides the greatest amount of aid to the largest number of people, with as little adverse impact on the environment as possible in the most cost-effective manner.

It is regrettable that the President had to use his veto but it seems to me that Congress did not give him much of a choice. Someone has to speak for the Nation and the President is the only elected official who has the entire Nation as constituents. Someone has to have the courage to try to improve a process that has cried out for reform. Jimmy Carter has taken on a tough battle, a battle that on the merits he deserves to win, a battle other Presidents have chosen to avoid.

We have dammed and leveed and channelized whole river systems. Tens of billions are invested. Tens of billions will continue to be invested in this Nation's abundant water resources; however, the investments must be made in the national interest, not in the political self-interest of Members of Congress. The investment must be made carefully and prudently.

We must have a more rational process and the sustaining of the veto has set a new course for us. We have begun to instill fiscal integrity and sound financial planning to an annual appropriation of approximately $3.2 billion.

I ask that a table listing the water projects opposed by the administration, the project's discount rates, and the project's benefit cost ratios be printed in the RECORD.

The table follows:

TWENTY-SEVEN NEW STARTS OPPOSED BY ADMINISTRATION

Project, discount rate, and BC ratio.
Arcadia Lake, 6⅝ percent, 1.14 to 1.
Big Pine Lake, 3¼ percent, 1.3 to 1.
Big Sandy River, not authorized.
Burlington Dam, 5⅛ percent, 1.4 to 1.
Brazos Island Harbor, 2⅞ percent, 1.3 to 1.
Cattaraugus Harbor, 3¼ percent, 1.6 to 1.
Cedar River Harbor, 3¼ percent, 1.5 to 1.
Clinton Small Boat Harbor, 6⅝ percent, 3.1 to 1.
Dunkirk Harbor, 6⅝ percent, 1.5 to 1.
Elizabeth River, Southern Branch, 6⅝ percent, 2.0 to 1.
Ellicott Creek, 6⅝ percent, 1.6 to 1.
Kaskaskia Island Drainage and Levee District, 3¼ percent, 1.4 to 1.
Little River Inlet, 6⅝ percent, 1.3 to 1.
McGee Creek Drainage and Levee District, 3¼ percent, 1.3 to 1.
Mississippi River, 3¼ percent, 1.9 to 1.
Missouri River, 2⅛ percent, 3.4 to 1.
Mouth of Colorado River, 3¼ percent, 1.4 to 1.
Norfolk Lake-Highway Bridge, not available.
Talkeetna, 6⅝ percent, 2.1 to 1.
Three Rivers, 6⅝ percent, 1.16 to 1.
Vermilion Lock, 6⅝ percent, 1.13 to 1.
Wild Rice River, 3¼ percent, 3.2 to 1.
Animas-La Plata, 3¼ percent, 1.2 to 1.
McGee Creek, 6¼ percent, 1.2 to 1.
San Luis Unit, Closed Basin Division, 4⅞ percent, 1.4 to 1.
Uintah Unit, Central Utah Project, 3¼ percent, 1.1 to 1.
Upalco Unit, Central Utah Project, 3¼ percent, 1.2 to 1.

RESTARTED PROJECTS

Bayou Bodcau and Tributaries, 3¼ percent, 1.3 to 1.
Lukfata Lake, 3¼ percent, 1.3 to 1.
Yatesville Lake, 3¼ percent, 1.2 to 1.
Fruitland Mesa, 3⅛ percent, 0.5 to 1.
Narrows Unit, 3¼ percent, 1.4 to 1.
Savery-Pot Hook, 3⅛ percent, 0.7 to 1.●

U.S. POLICY TOWARD NICARAGUA

● Mr. KENNEDY. Mr. President, last month I joined with the senior Senator from Idaho (Mr. CHURCH) in sponsoring an amendment to terminate all but humanitarian assistance to Nicaragua. This followed an amendment which we had sponsored in August 1977, to terminate all military support and transactions with that country.

Both of these actions are even more justified in the wake of massive repression and violations of human rights in Nicaragua in the past few weeks. In a wave of violence, the Nicaraguan National Guard has suppressed aimed resistance to the Somoza regime, at least for the time being. But it has also killed thousands of innocent civilians—including murders of women and children—and created many more thousand refugees. This is a tragedy which all Americans must share deeply, not only because of its proportions, but because of the historic role of the United States in bringing the Somozas to power and in training the National Guard of Nicaragua.

I welcome the fact that the administration has come to agree with us that there should be no further military commitments to the Somoza regime. The next logical step should be to withdraw the four-man American military mission in Nicaragua, which links the United States to the repressive forces of the National Guard.

Although congressional conferees did not accept the Senate-adopted amendment against economic assistance, the administration itself should end all but humanitarian disbursements if there is failure to move peacefully to a democratic solution in Nicaragua. Success or failure will soon become apparent in connection with the U.S.-led efforts to mediate between the Somoza government and the Broad Opposition Front of all democratic forces in that nation. Clearly, the United States must continue to make abundantly clear that its commitment is not to President Somoza and his continued repressive rule, but to democracy and human rights in Nicaragua as in all of Latin America.

Last month, UAW president, Douglas Fraser, and Violeta B. deChamorro, the widow of the assassinated Nicaraguan opposition leader, and publisher, Pedro Joaquin Chamorro, appealed to President Carter to end all U.S. support for President Somoza and lend its weight to democratic alternatives in Nicaragua. I submit the text of their appeals for the RECORD at the conclusion of my remarks.

Also last month, the State Department sent letters to me and to the Council on Hemispheric Affairs, describing present administration policy in the light of the civil war in Nicaragua and our moves to end assistance to the Somoza government. I submit these letters also at the end of my remarks. While I welcome the administration's commitment to human rights and "peaceful and democratic order in Nicaragua," I believe it must move much further to help the people of that strife-torn country achieve not only a peaceful, but a democratic and prosperous future. The history of American involvement over the past half-century demands that we do no less.

The material follows:

[Text of Violeta B. de Chamorro letter to President Carter]

HOUSTON, TEX.,
September 16, 1978.

DEAR MR. PRESIDENT: As the widow of Pedro Joaquin Chamorro, and as a very concerned Nicaraguan, I appeal to your highest sentiments when I denounce the escalation of repression by the corrupt regime of Anastasio Somoza against the innocent people of Nicaragua. The continuation of diplomatic and military support by your government for Somoza will only prolong the situation of merciless assassinations, press censorship, martial law, ongoing bankruptcy and progressive deterioration of the chances for a democratic solution to our problems. The immediate resignation of Somoza and the establishment of a national government with wide popular support, as postulated by the Frente Amplio de Oposicion (FAO), is the only solution to the ongoing crisis.

VIOLETA B. DE CHAMORRO.

[Text of Douglas A. Fraser letter to President Carter]

WASHINGTON, D.C.,
September 19, 1978.

DEAR MR. PRESIDENT: For several weeks now, we have watched as innocent human beings are slaughtered and brutalized in Nicaragua. Their only crime has been to dare to overthrow a forty year-old dictatorship which has plundered and profited from their misery.

As workers, as human beings, the 1.5 million members of the UAW appeal to President Carter not to let our government stand mute to this tragedy.

It is true that the United States cannot—and should not—intervene in uprisings in every area of the world. But we do believe that there are cases in which our government has a special responsibility. Nicaragua is one such case.

Nicaraguan dictator General Anastasio Somoza spent ten years at military academies in the United States learning the very skills with which he now subjugates his people. His abuse of US foreign assistance has allowed him to buy up and control for his own profit almost every sector of the Nicaraguan economy. When his people complained, he used US military aid to keep them in tow.

The key to the uprisings in Nicaragua that we bear witness to today, is that almost every sector of the country—workers and businessmen, peasants, students and clergy, have joined together to overthrow this universally hated dictator. But just when they came close to defeating him in face-to-face confrontation, he bombed them from the air, setting his country in ruins rather than ceding to its rightful owners.

We are horrified by these events. We would like to believe that such brutality, and injustice, and the people that perpetrate them, are throwbacks to a bygone era. But we know they are not.

The United States, acting alone, cannot end such atrocities throughout the world. But acting in consort with our friends in Latin America, we must demonstrate that here, at our doorstep, in a country that we have aided and supported in the past—that here, at the very least, our human rights policy means action, as well as words.

We urgently request President Carter to publicly call on President Somoza to step down. We urge the President to call on our friends in Latin America who have themselves been upholding a human rights policy—such as Venezuela, Costa Rica and Jamaica—to join us in such a call, and to aid Nicaraguan opposition leaders in organizing a transitional government that could prepare the country for elections at a future date.

We also urge the United States to cooperate with the other Latin American nations in providing economic assistance to the transitional government—perhaps through a consortium of international donor agencies and countries under the auspices of the Inter-American Development Bank, World Bank or UN development program.

The ugly events we witness in Nicaragua will not be erased by our closing our eyes to them.

We urge the Administration in the name of human dignity and political responsibility to begin to set a precedent that other nations must look to—and perhaps someday follow.

DOUGLAS A. FRASER.

DEPARTMENT OF STATE,
Washington, D.C., September 22, 1978.

Hon. EDWARD M. KENNEDY,
U.S. Senate

DEAR SENATOR KENNEDY: You have asked for information regarding our economic and military assistance policies toward Nicaragua in light of the current Senate Appropriations Committee debate on foreign assistance.

Brief summaries of recent and planned economic and military assistance programs for Nicaragua are enclosed. Let me describe to you some of our current policy considerations.

Because of our concern about the Government of Nicaragua's human rights record, we have made no new commitments to supply military equipment or material in the last 12 months, and we have not approved any licenses for the commercial export of any Munitions List item to Nicaragua since July. We have recently halted all military shipments, government and commercial, that might contribute to hostilities.

U.S. economic assistance to Nicaragua is provided to improve the productivity and welfare of the poor majority and is not a sign of support for the government. We provide economic assistance for activities which address the basic human needs of the poor and which permit them to participate in the socio-economic development of the country.

The United States Government is deeply concerned with the violent situation in Nicaragua. We wish to maintain the requested funds for economic assistance in the appropriation bill so that they can be available should the conditions warrant. Because of our awareness of the political sensitivity of any U.S. assistance to Nicaragua, if the requested funds are appropriated all ongoing and new activities will be kept under continuous review.

In its consideration of foreign assistance programs for Nicaragua the Department urges the Senate to preserve the flexibility of the President to determine the mix and level of assistance which will best serve the United States national interest. We believe such flexibility is essential in providing the necessary tools to contribute constructively to peaceful and democratic order in Nicaragua.

Sincerely,

DOUGLAS J. BENNET, Jr.,
Assistant Secretary for Congressional Relations.

SUMMARY OF RECENT AND PLANNING ECONOMIC AND MILITARY ASSISTANCE TO NICARAGUA

ECONOMIC ASSISTANCE

The FY 77 A.I.D. program amounted to $1.4 million in grants supporting continuing projects in agriculture, health and population. Final consideration of loan projects for Rural Education Development ($7.5 million) and for Nutrition Improvement ($3.0 million) was deferred to FY 78 pending further assessment of the human rights situation in Nicaragua. The FY 78 program consists of the deferred $10.5 million plus approximately $2.3 million for on-going and new project costs. For FY 79 $5.46 million was requested in the FY 79 Submission to the

Congress. This assistance would continue support for the integrated rural development strategy in Nicaragua and complement prior years efforts to improve the quality of life of the poor population.

MILITARY ASSISTANCE

The FY 77 Military Assistance Program consisted of $2.5 million in FMS credits and $597,000 for military training (IMET). Although we have signed the FMS Agreement with the GON, none of the funds have been obligated and, as was stated at the time of signing any Nicaraguan request to use this credit will be reviewed on a case by case basis in light of the prevailing human rights situation at the time. The funds for IMET have been expended.

For FY 78, $2.5 million was appropriated for FMS credits, but has been reallocated by the Department to other countries and no agreement will be signed with the GON. $400,000 was appropriated and has been obligated for training.

In FY 79 no funds for FMS were requested. $150,000 for training was contained in the President's budget request. Congress has deleted that amount and the Executive is not seeking its restoration.

In discussions to date in the FY 80 budget, the Department has requested neither FMS nor IMET funds for Nicaragua.

DEPARTMENT OF STATE,
Washington, D.C., September 25, 1978.

Mr. LAURENCE R. BIRNS,
Director, Council on Hemispheric Affairs, Washington, D.C.

DEAR MR. BIRNS: On behalf of President Carter, I am replying to your letter concerning the current situation in Nicaragua, especially regarding U.S. assistance to that country.

The Department of State signed the last Military Sales Credit Agreement with the Government of Nicaragua in September 1977, which was for fiscal year 1977, providing a $2.5 million line of credit for the purchase of U.S. military equipment. We publicly stated at that time that all requests for credit submitted by the Government of Nicaragua under this agreement would be reviewed on a case-by-case basis in light of the prevailing human rights situation at the time. The Department of State has not approved any such requests under this agreement; however, a shipment of hospital equipment to a National Guard hospital that also serves civilians was approved in May 1978 using credits remaining from the fiscal year 1976 appropriations. The U.S. Congress has authorized an additional $2.5 million line of credit for FY 78. The Department of State, however, has no plans to sign an agreement with the Government of Nicaragua for the use of these credits. There is no provision for military sales credits for Nicaragua in the FY 79 Security Assistance Bill.

We remain concerned about the human rights situation in Nicaragua and have brought these concerns to bear on our decisions regarding military and economic assistance for this country. Our criteria in reviewing the status of our economic assistance programs were and are the humanitarian and developmental impact those programs would have, particularly their effect on the basic human needs of the poor. We believe that our economic assistance programs meet these criteria, that they demonstrably reach the poor through such necessities as housing, potable water, health care, rural education facilities, and nutrition, and that they are worth supporting. They are not intended to imply political support for any governing political party or individual.

Through direct diplomatic representations, through public statements, and through our position in the various international financial lending institutions of supporting only loans or grants that address the basic needs of the poor, we have continued to emphasize to the Government of Nicaragua the importance we attach to improvements in the human rights situation in that country.

We will continue to observe closely the status of human rights in Nicaragua, as we do in all countries, and will use every appropriate occasion to express our views regarding this matter to the Government of Nicaragua. The increased level of violence in that country is of great concern, and within our policy of non-intervention in the domestic politics of other countries, we are urging all sides to reject violence and to seek a peaceful and democratic solution to that nation's problems.

Sincerely,

HODDING CARTER III,
Assistant Secretary for Public Affairs.●

CHARLOTTE, N.C.—AN URBAN POLICY MODEL

● Mr. MORGAN. Mr. President, at the end of summer, North Carolina National Bank in Charlotte announced a creative new program for the revitalization of Charlotte's historic, but deteriorating inner city fourth ward. The program has been hailed as a dynamic new approach to urban housing problems, one which could profitably serve as a model for the Nation.

Under a ruling earlier this year by the Office of the Comptroller of the Currency, North Carolina National Bank was permitted to create a community development corporation as a nonprofit, public-interest subsidiary to promote inner-city housing and related commercial facilities, the first corporation of its kind authorized for a national bank.

The corporation's initial efforts are concentrated on the city's fourth ward, a 78-acre, 28-block area adjacent to downtown dating from the mid-19th century. A townhouse development is the centerpiece of the corporation's effort to attract people to downtown urban living, thus providing a population base to support the range of urban amenities, such as shops, restaurants, theaters, and art centers which help attract further investment and help make a city truly "livable."

The program is an exciting combination of city incentives, via special zoning and low-interest loans, public enthusiasm and private investment.

Comptroller John Heimann referred to this productive partnership between corporation and community as "the kind of cooperation President Carter is seeking in his announcement of a national urban policy."

Mr. Heimann said:

If the problems of the cities are to be solved, it will be through government's encouragement of private efforts such as that being undertaken in Charlotte, N.C.

He went on to say in remarks at the announcement ceremony:

I hope the corporation's success will serve as a model for other banks in other communities.

It is also my firm hope that our experience in North Carolina can help guide others around the country. Surely, only by Government and industry working together can we fully tap the creative energy of this country and successfully come to grips with the problems of our Nation's cities.

Mr. President, an article from the Preservation News, a publication of the National Trust for Historic Preservation, succinctly tells the story of this dramatic new partnership. I ask that it be printed in the RECORD.

The article follows:

TURNING THE TABLES ON CHARLOTTE'S BLIGHT

(By Philip Hayward)

Charlotte, N.C., banks are pioneering in promoting urban development. Their unique plan is working so far, and they hope other cities will follow suit.

In the interest of turning the tables on urban decay, the North Carolina National Bank (NCNB) is assisting Charlotte's Fourth Ward with an ambitious 78-acre revitalization program. Banking officials say it is the first, non-federal program of its kind in the country and furthermore reflects the trend in halting urban flight.

With the approval of the U.S. Comptroller of the Currency, NCNB formed a nonprofit subsidiary, NCNB Community Development Corporation. The subsidiary was designed to acquire and renovate or develop property in the Fourth Ward, and possibly other inner city areas, and then lease, manage or sell the properties.

Hugh L. McColl, Jr., president of NCNB, explained that one of the prime objectives of the public service corporation is "to promote additional private investment and development in the Fourth Ward that is consistent with the city's urban renewal and historic district plans."

Under terms set down by the comptroller, NCNB cannot make a direct profit from the venture.

Considered one of the busiest of the southern boom towns, practically every section of old Charlotte has been replaced with new construction. As a National Trust Advisor from North Carolina, Edward H. Clement, put it: The city finally woke up to its rapidly disappearing heritage. The few late-Victorian houses that remain may not be highly significant architecturally but they are all the people of Charlotte have left. In June Clement toured the Fourth Ward with Trust President James Biddle and Executive Vice President Douglas P. Wheeler.

MOVING IN

Through the NCNB subsidiary arrangement, the city sought not only to revitalize what was left of the Fourth Ward (50 percent vacant) but also to move approximately 10 houses of 1900–1910 vintage from other areas into the community.

Plans have been under way since the mid-1970s but until the entry of the NCNB in May 1976, the project lacked the clout and the appeal to move along at an efficient rate. With the largest banking firm in the Southeast now involved in the undertaking, redevelopment officials figured other developers would join as the plan proved itself. So far, the project is succeeding, Clement said.

Attorney Dennis Rash lives in the Fourth Ward and recently joined the bank as president of the NCNB Community Development Corporation.

SELF-TAILORED PLAN

He is enthusiastic for the project as a nonprofit, non-federal venture. By doing it this way, he said, the community is better able to tailor its own rehabilitation program.

Rash cites population projections as the core of the challenge facing the city and ultimately the project. He says 45,000 of Charlotte's current population of 340,000 work uptown. By 1977 this figure will jump to 97,000 as the city's population reaches 600,000.

"Right now we have a choice of a livable

city or just a big city," Rash said. "But the stakes are high—if the community thrives so does the bank."

Beyond altruism, this explains the bank's role in a nonprofit venture. NCNB is headquartered in the busiest section of the Charlotte commercial district adjacent to the Fourth Ward. Bank officials and other civil leaders see a healthy middle-class residential neighborhood as the anchor for growing prosperity downtown.

The Fourth Ward set the project in motion in early 1976 when it completed the partial restoration of Berryhill House. The Junior League of Charlotte and the Citizens for Preservation of Charlotte paid $40,000 for the Victorian house and with $12,000 did the partial restoration as an incentive for similar projects. They soon sold it for approximately $54,000 and used the proceeds to set up a preservation revolving fund in the Fourth Ward.

The NCNB subsidiary corporation began with $250,000. It may obtain up to $2 million more in the form of loans from NCNB and other banks for each project with a total limit of approximately $10 million for each investment.●

A CONTINUING SUCCESS STORY FOR COLLINS RADIO

● Mr. CULVER. Mr. President, more than a year ago I told the Senate about an extraordinarily successful defense program—to provide the Air Force with new and improved tactical air navigation (TACAN) equipment. Today I would like to report on the latest developments in this landmark program.

The new TACAN sets—technically known as the AN/ARN 118—are being produced by Collins Radio of Cedar Rapids, Iowa, one of the world's leading suppliers of communications and navigation equipment. Approximately 5,000 have been delivered and another 6,000 are on order. Nearly all military aircraft are required to have some kind of TACAN on board to give pilots essential navigational information concerning the distance and direction to a known ground station.

Older technology systems were plagued by failures and unreliability on the average of every 50 to 100 hours of flight.

Collins Radio set out to build a much better TACAN and committed itself to a special warranty provision requiring the company to perform all necessary maintenance on malfunctioning equipment for a prescribed time period.

The results to date have exceeded everyone's expectations. In qualification tests, the Collins TACAN achieved a reliability of about 1,000 hours mean time between failure (MTBF), which was double the original specifications.

In field use, according to the most recently available data, the MTBF is more than 1,800 hours—or more than triple the requirement.

Mr. President, greater reliability means better readiness. Fewer failures mean improved combat effectiveness. We need these kinds of improvements, since U.S. military aircraft readiness rates are already low and are projected to decline still further.

As a member of the Senate Armed Services Committee who has long been concerned about our readiness posture. I welcome this dramatic improvement in equipment reliability. As Senator for Iowa, I am pleased that a company in my State has produced such superior equipment.

This story is all the more surprising because avionics systems usually suffer higher failure rates once in operational use. In the case of the Collins TACAN, however, reliability has continued to improve.

In a major article on the program, Aviation Week concluded:

The program demonstrates that the military services can obtain extremely good reliability from avionics equipment when the equipment has had the opportunity to achieve design maturity and is designed and produced by a supplier that has demonstrated its competency in the technology and will accept the potential risk of a reliability improvement warranty type contract.

Mr. President, I ask that the Aviation Week article on this successful program be printed in the RECORD.

The article follows:

AVIONICS—ARN-118 TACAN RELIABILITY TRIPLES GOAL

(By Philip J. Klass)

CEDAR RAPIDS, IOWA.—U.S. Air Force/Collins Avionics-developed AN/ARN-118 microtacan navigation set is demonstrating a field reliability that is more than three times the figure specified in the contract.

Unlike most airborne avionics equipment, where in-use reliability is significantly lower than that achieved during factory qualification tests, the ARN-118 is exhibiting an operational reliability that is almost twice the 1,000-hr. figure obtained in earlier qualification tests.

The most recently available data for the approximately 3,000 units now operational in the field show the reliability figure to be more than 1,800 hr. between failures. This is at least 10 times the reliability of older tacan sets that are being replaced with the ARN-118.

In recognition of the usually poorer reliability obtained in field use, the USAF contract with Collins specified that the operational reliability in the field for the 12-month period from Apr. 17, 1977, to Apr. 16, 1978, was to be 500 hr.

The field reliability figure was to increase to 800 hr. during the 24-month period from Apr. 17, 1979, to Apr. 16, 1981. The Collins hardware already has achieved more than twice this specified figure.

This outstanding performance explains why USAF recently exercised its third and final additional procurement option under the original contract, awarded to Collins on July 16, 1975.

The latest option increases the USAF buy to nearly 8,000 of the ARN-118 microtacans. Collins has sold another 3,000 units to the other military services and to overseas customers. Total Collins orders to date for the ARN-118 now exceed $100 million.

The Navy has encountered so many problems and delays with a new supplier of its older ARN-84 microtacan set, who underbid the original developer-supplier, Hoffman Electronics, that it has begun to switch to the ARN-118.

The Naval Air Systems Command recently purchased about 200 of the Collins McDonnell Douglas A-4M.

Also, McDonnell Douglas was so eager to use the ARN-118 on its new Navy F/A-18 that the company offered to substitute them for government-furnished ARN-84s on the first 20 aircraft at no increased cost to the government if the Navy would supply the Collins units for the balance of the F-18 production run. The Navy agreed to do so.

The ARN-118 was procured under a reliability improvement warranty type of contract, one of the first used by USAF's Electronic Systems Div.

Under this type of contract, all units removed from aircraft are returned to the manufacturer for necessary maintenance for a prescribed period of time (AW & ST) Dec. 8, 1975, p, 51).

This type of contract offers the customer several potential advantages over the more traditional in-house ("organic") maintenance and overhaul procedures:

Fixed-price operating cost. Because the contractor must quote a fixed price for performing whatever maintenance is required, the customer is better able to budget its future operating costs.

Reliability improvement. The contractor's financial commitment to perform all required maintenance at an established price provides strong incentive for the company to improve equipment reliability, so as to maximize its profit or minimize its loss.

Better feedback. Because all failed units are returned to the factory, design engineers can learn more quickly of design or component weaknesses and take corrective action. Furthermore, such fixes can be introduced without time-consuming engineering change proposal procedures and need for customer approval.

Under the terms of the USAF contract, Collins is to provide all maintenance and service on the first 1,000 microtacan sets for the first five years after delivery. The first production units were delivered in December, 1975.

Subsequent production units have a shorter warranty period, and all Collins-provided service will terminate on April 1, 1982, for all units regardless of when they were produced.

By then, the Air Force will either take over the maintenance function itself or will have negotiated a follow-on service contract.

For the initial quantity of 1,000 sets, Collins quoted a fixed price of $9,948 plus a maintenance cost of $680 per unit per year. Thus, on the early production units the annual maintenance cost was 7.2% of unit price.

The price of the nearly 2,500 additional units in each of the next two production options drops modestly from $9,948 to $8,504, while the annual maintenance cost figure declines substantially, from 7.2% to 4.12%.

The third and final production option, which begins roughly four years after the contract was awarded, incorporates modest price increases to reflect projected inflation.

At present, Collins has delivered approximately 5,000 of the ARN-118s, of which about 3,000 have been installed and are operational.

The most widely produced version of the ARN-118 is one that is used to replace older tacan sets. It consists of four elements: a basic transmitter-receiver unit; a cockpit control unit; a digital-to-analog adapter, and a shock-mount platform containing the necessary wiring and logic to make the package fully interchangeable with the older tacan sets without any change in airplane wiring.

Thus the 3,000 ARN-118s now in operational use represent a total of nearly 12,000 individual units. Of this total, approximately 900 units have been returned to Collins for repair, according to David L. Hannon, Collins reliability improvement warranty program manager.

Of this number, approximately 180 units were damaged by the user. Most of these were cockpit control units the window glass of which had been broken by being hit by the seat belt or oxygen hardware. The window became more vulnerable after Collins was asked to increase its original size to allow the control to be mounted farther from the pilots direct line of vision.

Collins performs the repair, but charges USAF or other customers for this service. Meanwhile, Collins has introduced a more rugged window into production.

Of the remaining 720 returned units, 140 were found to have no defect, corresponding to 19% of the total.

Analysis of the remaining 580 verified

contractor-responsible failures showed that 60% were in the transmiter-receiver, the most complex by far of the four elements. The analog-digital converter was next, with 25% of the total.

Each of the ARN–118 units has a small white plate on which the flight line maintenance personnel are required to write the installation date as well as the date of removal. Each unit also contains an elapsed-time indicator to show how many hours it has been operated since installation.

Based on these data from units returned for service, USAF and Collins determined the average operating time per day, and this figure then is used to project total ARN–118 population operating hours and overall failure rate, according to Hannon.

Current total operating time for the 3,000 ARN–18s in service is approximately 675,000 hr., according to Hannon.

The equipment has shown a steady increase in reliability since the initial operational test and evaluation when the ARN–118 exhibited a mean-time-between failure of approximately 500 hr.

But Hannon said that this reliability improvement trend may now be tapering off.

The Defense Dept.'s in-plant inspector is the final authority in determining whether a failed unit was damaged by the user and thus outside the warranty. If so, Collins makes the repair but charges the customer for this service.

Because the criteria for making such a determination were well defined in the contract, "We have had virtually no disagreements on this question," Hannon said.

One projected advantage of the reliability improvement warranty program has failed to materialize, but both Collins and the Air Force are quite happy that it has not.

This is the expected ability to spot hardware design and component deficiencies and thereby enable the contractor to take speedy corrective action.

With the exception of the cockpit control unit's window glass, which Collins has taken steps to strengthen, it has not been necessary to alter the basic ARN–118 design or to switch to different components, Hannon said.

This is because the component failures have been essentially random in nature.

Reliability engineers analyze the cause of every malfunction in each returned unit, and approximately 20–30% of the failed components are dissected for an autopsy to determine the basic cause of the problem. Hannon notes that some design and component changes were made early in the program as a result of experience gained from factory qualification and initial field tests.

Additionally, the ARN–118 is a fifth-generation tacan and a second-generation microtacan, so that the design has had the opportunity to mature. Collins earlier designed and produced for airline use a distance measuring equipment (DME), which served as a design proving ground for some techniques later used in the ARN–118.

Thus the record achieved by the ARN–118 cannot be explained solely in terms of the reliability improvement warranty type contract under which it was procured.

The program demonstrates that the military services can obtain extremely good reliability from avionics equipment when the equipment has had the opportunity to achieve design maturity and is designed and produced by a supplier that has demonstrated its competency in the technology and will accept the potential risk of a reliability improvement warranty type contract.●

NATIONAL SECURITY AND MILITARY APPLICATIONS PROGRAMS

● Mr. MARK O. HATFIELD. Mr. President, on Saturday, September 30, the Senate passed the fiscal year 1979 authorization bill for the national security and military applications programs of the Department of Energy. Unfortunately, I was unable to be here during the debate and vote on the bill. I only learned that it would be considered at that time Friday evening and I was already in Oregon and had longstanding commitments there. I would, however, like to take this opportunity to state my views with respect to the legislation and, in particular, the authorization for development of enhanced radiation weapons.

Included in this legislation are funds for the continued development of the neutron bomb. In its report on the bill, the Armed Services Committee states:

Therefore, the Committee recommends that the enhanced radiation (ER) components for the W–70–3 Lance warhead and the W–79 eight-inch artillery projectile be procured and made ready for contingency deployment with funds authorized in this bill and on the same schedule as is contemplated for product on and deployment of the W–70–3 warhead and the W–79 projectile. Thus far, the Executive branch has announced plans to produce the W–70–3 warhead and W–79 projectile "leaving open the option of installing the enhanced radiation element." The Committee recommendation authorizes production of these elements which could be stockpiled in the United States and thus available for installation. This action would eliminate the several years delay that would result if production of these enhanced radiation components is not initiated this year.

Mr. President, as my colleagues are aware, I have serious misgivings about the development of enhanced radiation weapons. I believe that we have moved far too rapidly, with too little thought as to the ultimate consequences, to develop this weaponry. My fear is that these weapons will lower the nuclear threshold, blurring distinctions between conventional and nuclear warfare.

Last April 7, the President decided to forgo production of enhanced radiation weapons in order to encourage the Soviets to show restraint in arms and troop deployments. At the same time, he ordered that the production of new modernized versions of warheads with potential for ER conversion be initiated in such a way as to permit the installation of components which would convert those warheads into enhanced radiation weapons if the Soviets should fail to show meaningful restraint.

In order to implement this strategy, it is essential that there be a clear demarcation between modernization and the final installation of ER components. Such a demarcation would be consistent with the President's April 7 announcement and with the Byrd-Baker amendment to the fiscal year 1978 Public Works Appropriation Act.

Should the Senate version of the authorization bill be enacted, the President could use funds authorized by that act to proceed with production of ER components without installing them. To install the warheads would obviously be inconsistent with congressional policy established in the fiscal year 1978 appropriation bill and with the President's own stated desire to link production of these weapons to the nuclear arms race.

Last July 13, I wrote the President to obtain his views on an appropriate demarcation mechanism, so that any decision to actually deploy ER weapons would be an obvious one, providing clear incentives to the Soviets to make meaningful arms and troop concessions. My hope was to develop a sound policy, with administration support, which would bolster the strategy announced by the President last April 7.

Unfortunately, the administration has chosen not to reply to the substance of my letter. In the nearly 3 months since I sent it, I have been advised only that my letter had been referred to the Secretary of Defense.

Failure of the President and his administration to respond leads me to the conclusion that they have deliberately chosen not to do so prior to congressional action on legislation affecting enhanced radiation weapons. It leads me to wonder whether the President intends to revise his policy on this issue without any form of congressional participation and consultation. Less than 2 weeks ago, my staff was advised by the Department of Defense that a response would be forthcoming in a few days. But still, no word has arrived. It is of paramount importance that we here understand and establish what this year's authorization does and does not do with respect to enhanced radiation weapons. The bill does authorize funds for modernization of the delivery systems and actual production of the enhanced radiation components. It does not explicitly authorize funds for assembly of the modernized systems and ER components into a deliverable, functional weapon and it does not authorize funds for deployment into the delivery systems in the field. It is my strict interpretation of the legislative history of this weapon that the President has a legal obligation to return to Congress for funding of assembly of modernized delivery systems and enhanced radiation weapon components into a deliverable warhead and/or deployment of that warhead into the field. Any other interpretation of the authorization given this weapon by the bill passed on Saturday would be excessive and denigrate explicit congressional control over the authorization and appropriations process.

It is my belief, Mr. President, that the President must, as was specifically directed by Congress in the Byrd-Baker language of last year's bill, share with the Congress his views on an issue with such far-reaching ramifications. I also believe that he should develop his policies with respect to enhanced radiation weapons in a manner which will provide the American public the opportunity to help decide which way we are going. Such a course of providing clear notice of the administration's policy with respect to deployment of enhanced radiation weapons would be consistent with the President's own statements in the past. Let us hope that he has not changed his mind without giving the Congress and the American people an opportunity to share in the decision.

Mr. President, I genuinely hope that the Secretary of Defense will reply to my letter to the President soon. I ask

that my letter be printed in the RECORD.

The letter follows:

JULY 13, 1978.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: Last April 7, you made a difficult, courageous decision to forego production of enhanced radiation (ER) weapons in order to encourage the Soviets to show restraint in arms and troop deployments. At the same time, you ordered that the production of new, modernized versions of warheads with potential for ER conversion be initiated in such a way as to permit the installation of components which would convert those warheads into enhanced radiation weapons if the Soviets should fail to show meaningful restraint.

Opponents of your decision have now seized upon the question of the degree of readiness for later installation of ER components in an attempt to require completion of every state of production and deployment save installation. In the absence of a clear Presidential statement of intention, Congress may impose upon the Administration its own view of the appropriate degree of readiness. This could possibly undermine the apparent central aim of your decision by removing incentives the Soviets have to make meaningful arms and troop concessions.

In order for the approach you announced on April 7 to win concessions from the Soviets, I believe there must be a clear demarcation between modernization and the final installation of ER components. Withholding production of all ER components until a final decision on deployment is made would offer such a demarcation and clearly would be consistent with both the Byrd-Baker amendment to the FY 78 Public Works Appropriation Act and with your April 7 announcement.

Producing but not assembling or producing and assembling but not installing the ER components offers no demarcation: unless our security is far more lax than it should be, Soviet military planners would have no assurance, no matter what the United States decides to do, that we were not producing completed ER weapons. In other words, fine distinctions between producing, assembling and installing the ER components will make it more difficult to persuade the Soviets to adopt arms and troop restraints.

In addition, I believe any production of ER weapons whatsoever would be contrary to the essence of your April 7 decision and, if carried out with FY 78 funds, would violate the strictures of the Byrd-Baker amendment.

Furthermore, making these fine distinctions requires analysis in such detail that any public discussion might disclose classified information. Thus, taking the approach suggested by the Senate Armed Services Committee not only reduces the likelihood of obtaining meaningful concessions from the Soviets, but also virtually eliminates public consideration of decisions about weapons a plurality of Americans oppose, if recent polls are to be believed.

Consequently, I urge you to oppose all production and assembly of ER components until a final decision on deployment on ER weapons is made.

There is, I believe, one other meaningful demarcation that could be established between modernization and the installation of ER components: an explicit requirement that no components be installed until such installation is certified by the President to be in the national interest and approved by the full Congress. This requirement would obviate having to make distinctions between modernization and production and assembly of ER components and would provide the Soviets assurance of timely notification before deployment of ER weapons.

As I intend to seek an amendment to either the FY 79 Department of Energy Weapons Authorization bill or to the FY 79 Public Works Appropriation bill to establish one of the demarcations suggested above, I urge you to make known your views on them.

With highest regards.

Sincerely,

MARK O. HATFIELD,
U.S. Senator.●

H.R. 7843—The OMNIBUS JUDGESHIP BILL

● Mr. STONE. Mr. President, I want to commend the conferees on the omnibus judgeship bill for persevering and, after many months, coming to a resolution of the differences in the House and Senate versions of this legislation. Special praise should go to Senators EASTLAND and KENNEDY and Representatives RODINO and JORDAN for their willingness to explore alternative solutions to the difficult question of the division of the fifth circuit. The compromise on that issue leaves many matters to be resolved, but without this compromise, the future of our Federal judicial system would have been very bleak.

The 117 district and 35 court of appeals judges that are provided by this bill are desperately needed. Our Federal court system in Florida has come close to breaking down completely under the strain of a burgeoning caseload that has far exceeded the capacity of the sitting judges.

Mr. President, I am delighted that the enactment of this legislation appears to be at hand and I hope that most of the new judges can be sworn in early in the next Congress.●

SCIENCE OF GEOLOGIC DISPOSAL SEEN AS WEAK

● Mr. MARK O. HATFIELD. Mr. President, geologic disposal has long been viewed as the most promising method of getting rid of high-level radioactive wastes. Since 1956, when the National Academy of Sciences first recommended it, bedded salt has been the leading contender for the location of the first such geologic repository. The feasibility of this concept was, over that 20 year period, never called into doubt, and was thought to require only the straightforward application of technology and engineering.

Of late, however, the certainty associated with geologic disposal has been withering away. A series of in-depth papers has put into words the doubts that were previously unacknowledged. These papers are described in a recent Science article which, among other things, reviews some of the conclusions reached in three papers. According to the author of the article, Luther J. Carter, what emerged from the papers is the following:

> Although . . . scientists continue to find the concept of geologic disposal attractive intuitively, some are stating explicitly that the scientific feasibility of the concept remains to be established.

The three papers were released by the U.S. Geological Survey, the Environmental Protection Agency, and the President's Office of Science and Technology Policy.

Although the three papers express confidence in the basic concept of geologic disposal, they also express the view that certain basic questions about the concept remain unanswered. Thus, the USGS paper states that ". . . some key geologic questions are unanswered, and answers are needed before the risk associated with geologic confinement can be confidently evaluated." The EPA report states:

> We are surprised and dismayed to discover how few relevant data are available on most of the candidate rock types even 30 years after wastes began to accumulate from weapons development.

The OSTP paper describes in great detail the gaps in our knowledge as far as geologic disposal is concerned. One cannot help but feel that, after reading the paper, the gaps are quite numerous. The plausibility of the concept per se is not called into question, but the number and size of these knowledge gaps make it clear that geologic disposal has not yet been established as scientifically feasible.

Even the Department of Energy, according to Mr. Carter, is not unduly optimistic. The waste management task force report released last March emphasized that the scientific feasibility of geologic isolation was generally regarded as established; only detailed information about site, geologic medium, and repository design remained to be developed. Mr. Carter writes that John Deutch, the DOE director of energy research and head of the task force which put together the report, feels that much more basic research into the geologic isolation concept is needed before it will be on a firm basis.

The substance of these reports indicates that there are no quick and easy solutions to the problem of radioactive waste disposal, geologic isolation will require a great deal of R. & D. before it becomes reality.

Mr. President, I ask that Mr. Carter's article, from the June 1978 issue of Science, be printed in the RECORD.

The article follows:

NUCLEAR WASTES: THE SCIENCE OF GEOLOGIC DISPOSAL SEEN AS WEAK

For more than 20 years deep geologic disposal has been regarded as the leading technical option for getting rid of the most dangerous and troublesome forms of nuclear wastes,* with salt formations generally viewed as the most promising of the geologic media considered. Moreover, an assertion often made by government officials, scientists, and engineers associated with the waste management program has been that the feasibility of the geologic disposal concept is not in doubt. For instance, in late 1976 a top official of the Energy Research and Development Administration declared that fulfillment of ERDA's plans to establish six deep geologic repositories, with the first (in salt) to be available by 1985, would require only "straightforward technology and engineering development."

It comes as a surprise, therefore, to discover now that there seems to be an emerging consensus among earth scientists familiar with waste disposal problems that the old sense of certitude was misplaced. Although these scientists continue to find the concept of geologic disposal attractive intuitively, some are stating explicitly that the scientific feasibility of the concept remains to be established. What a number of others are saying, while less direct, seems to add up to pretty much the same thing.

An as yet unofficial paper by the White House Office of Science and Technology Policy (OSTP) staff, prepared in connection with the work of an alternative technology strategies panel of President Carter's recently appointed waste management task force, bears directly on this point. In cautious bureaucratic language it speaks of a "rather general consensus" in the relevant technical community "that the knowledge and technology base available today is not yet sufficient to permit complete confidence in the safety of any particular repository design or the suitability of any particular site."

Accompanying this statement is the observation that there is also a consensus that geologic disposal can ultimately be achieved safely and that, "given sufficient time, investment, and scientific study, the required knowledge can be obtained." Nonetheless, inasmuch as this paper clearly reflects the thinking of investigators at the U.S. Geological Survey (USGS) and of at least some officials at the Department of Energy (DOE), its acknowledgement that a secure scientific foundation for geologic disposal is still lacking points to an important milestone in official deliberations over radioactive waste management.

Indeed, tangible evidence that the concept of geologic disposal is undergoing reappraisal can be found in the USGS, the Environmental Protection Agency (EPA), and in the DOE itself. For example, in their recent circular† on geologic disposal, five USGS scientists observed:

The authors . . . are confident that . . . the ultimate decision on the acceptability of a given site and waste-handling procedure will have a strong scientific and technical foundation. However, some key geologic questions are unanswered, and answers are needed before the risk associated with geologic containment can be confidently evaluated. . . . We consider [in the circular] a variety of possible interactions among the mined opening of the repository, the [heat-generating] waste, the host rock, and any water that the rock may contain. Many of these interactions are not well understood, and this lack of understanding contributes considerable uncertainty to evaluations of the risk of geologic disposal of high-level waste [or spent fuel from power reactors in the absence of reprocessing].

A panel of eminent earth scientists which has made an evaluation for EPA of the state of knowledge relevant to geologic disposal has put the matter much more strongly. In a draft report submitted to the agency in March, the panel, cochaired by Raymond Siever of Harvard University and Bruno J. Giletti of Brown University, said: "We are surprised and dismayed to discover how few relevant data are available on most of the candidate rock types even 30 years after wastes began to accumulate from weapons development. These rocks include granite types, basalts, and shales. Furthermore, we are only just now learning about the problem of water in salt beds, and the need for careful measurements of water in [salt] domes."

Earlier, in discussing salt as a disposal medium, the panel observed that, while salt has seemed suitable partly because of its apparent dryness, close inspection reveals that the crystals contain significant amounts of water in fluid inclusions and "intergranular boundaries." The inclusions can "decrepitate," or burst, upon being heated to comparatively low temperatures, and, according to the panel, this "means that they are reasonably certain to do so in the vicinity of the [waste] canister as the temperature rises following emplacement. It is quite likely that the decrepitation will occur in the general vicinity of 150° C. If we take the wall temperature of the canister to reach 300° C, a significant amount of water might be available. There is a high likelihood that this is so in bedded salts. It becomes imperative to determine if similar amounts of water exist in the salt of salt domes."

[William C. McClain, technical projects manager with the Oak Ridge National Laboratory's Office of Waste Isolation (OWI), says that the existence of water in salt actually has been known since 1958. Moreover, the phenomenon of brine migration toward waste canisters was recognized by scientists at Oak Ridge as early as 1966 but the effects projected were considered too slight to be of concern—an assessment which according to McClain, OWI scientists continue to view as probably correct. What is new is that certain other investigators have now come to believe that the effects of the brine migration could be much greater than the OWI researchers think, and that it therefore may pose a threat to repository integrity. Prominent among these investigators is David B. Stewart, chief of the USGS experimental geochemistry and mineralogy branch.]

The DOE waste management task force report of last March referred to an "independent technical consensus" that high-level waste and spent fuel "can be safely placed in geologic media for ultimate disposal" and indicated that it remained only to develop the "detailed information" necessary to support the "specific choices of geologic medium, site, and repository design." But John M. Deutch, DOE's director of energy research and the official who formed the task force, apparently feels that the research needed to support a sound program of geologic disposal is of a much more demanding and fundamental nature than the above would seem to suggest.

Indeed, in January Deutch asked William C. Luth, a Stanford professor of geochemistry then serving temporarily in DOE's office of basic energy sciences, to prepare a memorandum on the research needed for waste disposal. The paper was forthcoming shortly thereafter and Deutch praised it as "outstanding." Luth was sharp in his criticism of what he regarded as an unseemingly emphasis in the waste management program on demonstrating the technical feasibility of geologic disposal instead of on arriving at a scientifically objective assessment.

"In my judgment," Luth said in a covering letter, "the most important need in the waste disposal program, relative to geologic isolation, is a major change in management (or management philosophy) at the Washington and field level. This is coupled with a vital need to obtain and use the very best scientific input available. If serious efforts are to be made regarding assessment of scientific feasibility of geologic isolation of radioactive waste, then it is essential to get new blood involved in the management and conduct of the research program."

Luth acknowledged that he did not undertake preparation of the report with "clean hands," for he had been critical of the "underlying philosophy and conduct" of the waste management program ever since he attended an ERDA-sponsored conference on high-level waste management in early 1975.

As Luth told Deutch, after attending that conference he wrote a strongly critical letter to Frank K. Pittman, who was then director of ERDA's Division of Waste Management and Transportation (Pittman has since left government). He complained that the majority of the presentations made had had to do with "paper studies" that focused on evaluation of alternatives for decision-making. "As an experimental geochemist reasonably familiar with the available basic data on materials interaction at high pressures and temperatures," Luth said, "I suggest that this data base is totally inadequate for meaningful evaluation of alternatives."

"Why do we not simply get on with the business of obtaining the extensive paper studies?" he added. "I should note that this problem is well recognized by researchers (as contrasted with managers) in the various captive contractor laboratories. However, it is doubtful whether they would be willing to so state in public for rather obvious reasons."

Luth further observed that he had found "very disconcerting" suggestions made at the conference that ERDA should seek to win public acceptance for geologic disposal by carrying out a pilot scale demonstration in bedded salt which would "prove"—not merely test—its feasibility. According to Luth, the general philosophy expressed by ERDA personnel at the meeting could be paraphrased as "let's go with bedded salt, but explore in a casual way other alternatives so we can demonstrate to the public that we have evaluated other methods. . . ."

Luth, who got no reply from Pittman, told Deutch that although funding for waste management had increased dramatically since 1975, he could see no reason to change the conclusion that he had come to at that time. In an interview with Science, Luth, who is now back at Stanford, expressed high confidence in Deutch himself, and said that future DOE research budgets would reflect a significantly greater emphasis on establishing a sound scientific base for geologic disposal. Deutch confirms this and indicates that, even under the current fiscal 1978 budget, the funds earmarked for near- and long-term scientific studies in support of geologic disposal are substantial, amounting to more than 10 percent of the total operating budget of $79 million for the commercial and military waste terminal storage programs. The very fact that Deutch, DOE's director of research, has been designated the senior official for waste management policy suggests that the waste program's scientific side is on the upswing.

The presidential task force on waste management has a mandate to submit recommendations to the White House by 1 October for an Administration policy on the long-term disposal of wastes. In light of the consensus that seems to be emerging that the present waste program lacks a sure scientific footing, some surprising developments may be in the offing. There could, for instance, be some deemphasis of salt as the preferred geologic medium in favor of a broader and deeper investigation of the available alternatives. These might even include an examination of such nonconventional approaches as disposal of wastes in super-deep holes and emplacement in the deep seabed.

LEGISLATIVE PROGRAM TONIGHT

Mr. ROBERT C. BYRD. Mr. President, there will be no more rollcall votes tonight, but the distinguished Senator from Arizona (Mr. DECONCINI) will ask the Chair in a moment to lay before the Senate a message from the House of Representatives on which there is a 20-minute time agreement, to be equally divided and controlled by Mr. DECONCINI and Mr. THURMOND.

Mr. SASSER will call up a conference report on which he and Mr. STEVENS will control the time. The time on that conference report is only 10 minutes.

There may be other conference reports, but there will be no more rollcall votes tonight.

UNIFORM LAW ON BANKRUPTCIES

Mr. ROBERT C. BYRD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 8200.

The PRESIDING OFFICER laid be-

fore the Senate the amendment of the House of Representatives to H.R. 8200, an act to establish a uniform law on the subject of bankruptcies.

(The amendment of the House is printed in the RECORD of September 28, 1978, beginning at page 32350.

Mr. DECONCINI. Mr. President, I ask unanimous consent that Bob Feidler and Harry Dixon of the staff of the Subcommittee on Judicial Machinery be accorded the privilege of the floor during the consideration of the message from the House on H.R. 8200.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DECONCINI. Mr. President, it is with great pleasure that I support the House amendment to H.R. 8200. Several weeks ago the Senate passed its version of the bankruptcy reform bill which differed significantly from the House version. Since that time the Senate has appointed conferees but the House has rejected the request for conference for parlimentary reasons. Instead, the House has passed an amendment to the Senate amendment. The provisions of the House amendment were arrived at in negotiations between the House and Senate managers of the legislation. I concur in the House amendment and am prepared to accept it with several amendments I shall propose.

Both Houses should take pride in the final compromise product. It represents give and take by both sides and the result should be workable and satisfactory to all reasonable parties. The Senate prevailed in the concept that the new courts will not have article III judges. While the new judges will not have life tenure they will be elevated to a status far above that of the present day referee. The new courts will be adjuncts of the district courts and should provide a respected and highly qualified judicial forum for the handling of bankruptcy cases.

The Senate also generally prevailed in its position that private trustee as opposed to public trustees should continue to play the predominant role in estate administration. However, we did agree that there have been occasions of trustee mishandling of cases and that it would be worth a trial experiment to test the theory and workings of a public trustee. To that end, we accepted the concept of pilot U.S. trustee programs that will be placed in several judicial districts.

In the area of exemptions, it was agreed that a Federal exemption standard will be codified but that the States could at any time reject them in which case the State exemption laws would continue to prevail.

In the business reorganization chapter the Senate succeeded in obtaining special protection for the large cases having great public interest. There will be automatically appointed an examiner in those cases, but not a trustee as in the Senate passed bill. I am convinced that debtor and creditor interests, as well as the public interest, will be preserved and enhanced by these provisions. I want to at this point thank the members and staff of the Security and Exchange Commission for their fine assistance in formulating these public interest provisions.

The Houses were in substantial agreement initially on the handling of chapter 13, so-called wage earner cases. This chapter will be broadened to include small business debtors. Debtors under this chapter will be able to voluntarily pay off their debts while being under the protection of the court. This allows for greater payouts to creditors than would probably occur if the debtor took straight bankruptcy, and it preserves the debtors self-esteem by permitting him to pay his debts using his best efforts without incurring undue hardship.

New subchapters relating to non-SIPC stockbroker and commodity broker liquidations fill a void in present law and will allow future cases in this area to be handled in a fair and orderly fashion.

Other sections of the bill update and revise present law taking into consideration the vast changes necessitated by the adoption of the uniform commercial code, the boom in credit and credit practices since World War II, and changes in public policy since the last major revision of the bankruptcy law in 1938.

Our Nation's bankruptcy courts have performed in a generally exemplary fashion during the past two decades of ever increasing caseloads and complex litigation. Codification of title 11 will give them the tools necessary to grow with and to perform the tasks thrust upon them. I have every expectation that the bankruptcy courts will meet the challenge and provide excellent services for debtors, creditors, and the public. It is also my hope that past misunderstandings that have existed within the judicial branch of Government concerning the role and work of the bankruptcy courts will be set aside and that everybody will make a maximum effort to make the new court system work for the benefit of the country.

I would also like to thank the Chief Justice of the United States for his support throughout the Congress of the numerous items of legislation that have been pending before the Senate Subcommittee on Improvements in Judicial Machinery.

I extend my thanks and appreciation to the ranking minority member of the Improvements Subcommittee, Senator WALLOP, for his time, efforts, and commonsense approach to the problems faced in constructing the act. My thanks are also extended to Congressmen DON EDWARDS and CALDWELL BUTLER for their unceasing efforts over the past several years in laying the groundwork for today's action.

Although many other parties and groups must go unnamed without whom this legislation would not have been possible, I would like to conclude my statement by especially thanking Prof. Frank Kennedy, who served as staff director of the Commission on Bankruptcy Laws of the United States; Bob Fiedler and Harry Dixon of the Senate staff; and Rich Levin and Ken Klee of the House staff for their devotion to passage of the bankruptcy reform legislation.

UP AMENDMENT 1995

I move that the Senate concur in the House amendment with a series of amendments which I send to the desk, asking unanimous consent that they be considered en bloc.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Arizona (Mr. DECONCINI) proposes certain amendments as unprinted amendment no. 1995.

The PRESIDING OFFICER. without objection, the amendments will be considered en bloc.

The amendments are as follows:

On page 17, line 16, delete the period and after the word 'broker' add the following "except with respect to section 746(c) which applies to margin payments made by any debtor to a commodity broker or forward contract merchant.".

On page 21, line 9, insert ", 922," immediately after "section 362".

On page 89, line 12, insert "other than a tax of a kind specified in section 523(a)(1)(B) or 523(a)(1)(C)," immediately before "not".

On page 93, line 17, strike out "510(a) or 510(c)" and insert in lieu thereof "510".

On page 97, line 1, insert "section 523(a)(1) or" immediately before "section 523(a)(5)".

On page 103, line 6, insert "or recovers a setoff" immediately after "transfer".

On page 108, line 1, strike out "becomes" and insert in lieu thereof "became".

On page 122, line 21, strike out "later" and insert in lieu thereof "earlier".

On page 132, line 4, insert "or forward contract merchant" immediately after "commodity broker".

On page 161, line 9, strike out "77a" and insert in lieu thereof "78a".

On page 169, line 17, insert "or" immediately after the semicolon.

On page 169, line 23, strike out "or".

On page 170, line 3, strike out "(iii)" and insert in lieu thereof "III".

On page 170, line 24, strike out "(iii)" and insert in lieu thereof "III".

On page 171, line 20, strike out "(iii)" and insert in lieu thereof "III".

On page 170, line 13, insert "or" immediately after the semicolon.

On page 170, line 19, strike out "or".

On page 170, line 24, strike out "(iii)" and insert in lieu thereof "(3)".

On page 171, line 15, strike out "or".

On page 171, line 20, strike out "(iii)" and insert in lieu thereof "(3)".

On page 178, line 10, insert "or forward contract merchant or is a settlement payment made by a clearing organization" immediately after "broker".

On page 213, line 15, strike out "equity".

On page 213, line 19, strike out "equity".

On page 213, line 20, strike out "equity".

On page 259, in the table of sections for chapter 15, between the item relating to section 15101 and the item relating to section 15103 insert the following:

"15102. Rule of Construction.".

On page 261, between lines 7 and 8, insert the following new section:

"§ 15102. Rule of construction.

"In this title, a reference to a section that is made inapplicable under section 15103(f) of this chapter refers to the section of this chapter that replaces such inapplicable section.".

On page 236, line 11, delete through line 20 of page 237 and insert in lieu thereof the following:

ROLLING STOCK EQUIPMENT

(a) The right of a secured party with a purchase-money equipment security interest in, or of a lessor or conditional vendor of, whether as trustee or otherwise, rolling stock equipment or accessories used on such equip-

ment, including superstructures and racks, that are subject to a purchase-money equipment security interest granted by, leased to, or conditionally sold to, the debtor to take possession of such equipment in compliance with the provisions of a purchase-money equipment security agreement, lease, or conditional sale contract, as the case may be, is not affected by section 362 or 363 of this title or by any power of the court to enjoin such taking of possession, unless—

(1) before 60 days after the date of the commencement of a case under this chapter, the trustee, subject to the court's approval, agrees to perform all obligations of the debtor under such security agreement, lease, or conditional sale contract, as the case may be; and

(2) any default, other than a default of a kind specified in section 365(b)(2) of this title, under such security agreement, lease, or conditional sale contract, as the case may be—

(A) that occurred before such date and is an event of default therewith is cured before the expiration of such 60-day period; and

(B) that occurs or becomes an event of default after such date is cured before the later of—

(i) 30 days after the date of such default or event of default; and

(ii) the expiration of such 60-day period.

(b) The trustee and the secured party, lessor, or conditional vendor, as the case may be, whose right to take possession is protected under subsection (a) of this section, may agree, subject to the court's approval, to extend the 60-day period specified in subsection (a)(1) of this section.

On page 263, on lines 1 and 2, strike out "subsection (a)(2) of this section" and insert in lieu thereof "section 322(a)(2)".

On page 271, line 9, strike out "507(1)" and insert in lieu thereof "507(a)(1)".

On page 286, strike out lines 7 through 12, and insert in lieu thereof the following:

(1) by inserting a comma and "and bankruptcy courts, the judges of which are entitled to hold office for a term of 14 years" immediately before the period at the end of the paragraph beginning with "The term 'court of the United States' "; and

(2) by inserting a comma and "and judge of the bankruptcy courts, the judges of which are entitled to hold office for a term of 14 years" immediately before the period at the end of the paragraph beginning with "The term 'judge of the United States' ".

On page 289, between the table of sections for chapter 39 and line 18, insert the following:

"§ 581. United States trustees".

On page 298, line 2, before 'each' and 'based on need.'

On page 298, after line 9, insert "If there is no Clerk the Bankruptcy Judge shall perform the duties of this subsection."

On page 299, strike out lines 11 through 17 and insert in lieu thereof the following: "in open court. The Judicial Conference shall prescribe that the record be taken by electronic sound recording means, by a court reporter appointed or employed by such bankrutcy court to take a verbatim record by shorthand or mechanical means, or by an employee of such court designated by such court to take such a verbatim record.".

On page 306, on line 16 and 17, strike out "section 541, 544(b), or 544(c)" and insert in lieu thereof "section 541 or 544(b)".

On page 310, line 16, strike out "1978" and insert in lieu thereof "1979".

On page 311, line 2, strike out "163(a)" and insert in lieu thereof "160(a)".

On page 311, line 5, strike out "163(a)" and insert in lieu thereof "160(a)".

On page 311, line 12, insert "District Courts and" immediately before "Bankruptcy Courts".

On page 321, line 22, strike out "507(1)" and insert in lieu thereof "507(a)(1)".

On page 341, line 11, insert "314(j)" immediately before "317".

On page 341, line 13, strike out "314(j),".

On page 341, strike out lines 24 and 25, and insert in lieu thereof the following:

(b) Notwithstanding subsection (a) of this section, sections 1165, 1167, 1168, 1169, and 1171".

On page 342, line 21, strike "1979" and insert in lieu thereof "1978".

On page 281, beginning with line 7, strike out all through line 4 on page 286.

On page 337, strike lines 19 through 23 and insert in lieu thereof:

"(O) The annuity of an employee who is a bankruptcy judge is computed with respect to service after March 31, 1979 and before April 1, 1984, as a bankruptcy judge and his military service (not exceeding five years) creditable under section 8332 of this title by multiplying 2½ percent of his average annual pay by the years of that service.".

On page 338, following line 2:

"7 . . . January 1, 1970, to March 31, 1979"

"8 . . . after March 31, 1979"

and insert in lieu thereof:

"7 . . . after January 1, 1970."

On page 272, lines 2 and 3, strike out "circuit court for the circuit in which such district is located" and insert in lieu thereof "district court for such district".

On page 304, in the table of sections relating to chapter 90, in the chapter heading, strike out "COURT OF APPEALS" and insert in lieu thereof "DISTRICT COURTS".

On page 304, line 12, strike out "courts of appeals" and insert in lieu thereof "district courts".

On page 304, line 16, strike out "courts of appeals, the court of appeals" and insert in lieu thereof "district courts, the district courts".

On page 304, line 21, strike out "courts of appeals" and insert in lieu thereof "district courts".

On page 304, line 23, strike out "court of appeals" and insert in lieu thereof "district court".

On page 279, strike out lines 9 through 16 and insert in lieu thereof the following:

(1) in subsection (c), by deleting "or district" and inserting "district or bankruptcy judge"; and

(2) in subsection (d), by striking out "or district judge" and inserting in lieu thereof ", district judge or bankruptcy judge".

On page 279, line 25, strike out "three" and insert in lieu thereof "two".

On page 280, lines 13 and 14, strike out "one year, and one bankruptcy judge to serve for".

On page 350, line 18, insert "the Congress strongly recommends" immediately after the comma.

On page 350, strike out lines 24 and 25, and insert in lieu thereof the following: "court administration, supporting personnel, or bankruptcy court rules shall be chosen from among the United States bankruptcy judges.".

On page 55, line 15, strike out "or" the third time it appears.

On page 55, between lines 15 and 16, insert the following new paragraph:

"(7) under subsection (a) of this section, of the commencement of any action by the Secretary of Housing and Urban Development to foreclose a mortgage or deed of trust in any case in which the mortgage or deed of trust held by said Secretary is insured or was formerly insured under the National Housing Act and covers property, or combinations of property, consisting of five or more living units; or".

On page 55, line 16, strike out "(7)" and insert in lieu thereof "(8)".

On page 343, line 14, insert after the word "by" the following:

"the Chief Judge of the Circuit Court after consultation with", and at line 16, insert prior to the word "shall" the following:

"upon the expiration of his appointed term as referee".

On page 272, line 20, add after the word "districts" the following:

"In each instance, the President shall give due consideration to the recommended nominee or nominees of the Judicial Council of the Circuit within which an appointment is to be made."

On page 301, strike out lines 17 through 19 and insert in lieu thereof the following: "judgment, order, or decree of an appellate panel created under section 160 or a district court of the United States, or from a final judgment, order, or decree of a bankruptcy court of the United States if the parties to such appeal agree to a direct appeal to the court of appeals.".

On page 302, line 7, strike out "163(a)" and insert in lieu thereof "160(a)".

Mr. DECONCINI. I ask unanimous consent that the names of Senators THURMOND and WALLOP be added as cosponsors of the amendments that are at the desk at this time.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the motion to concur in the amendment of the House of Representatives, with the amendments of the Senate Is time yielded back?

Mr. DECONCINI. No.

Mr. THURMOND. Mr. President, we wanted to speak on that matter.

The PRESIDING OFFICER. Who yields time?

Mr. DECONCINI. Mr. President, I yield whatever time he may require to the Senator from Wyoming (Mr. WALLOP).

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. WALLOP. Mr. President, it is with great pleasure that I join in the statement of the distinguished Senator from Arizona. The need for bankruptcy reform has been well established, and the bill we now consider will achieve that goal.

The bill is in the form of a House amendment with amendments we have added to the bill that passed this body earlier in the session. The House amendment is the product of negotiations and meetings between the House and the Senate managers of the bill and other interested parties. I am pleased with the compromises that have been achieved.

The PRESIDING OFFICER. Let there be order in the Senate. The Senate will come to order so that the Senator may be heard.

Mr. WALLOP. Mr. President, I doubt at this moment in time that there are many people in the Chamber who are listening to me. Should there be, I am delighted.

The Senate has prevailed in the most important aspect of the bill, namely the court structure and administration. The concept of the article III, life-time bankruptcy judges as contained in the House-passed bill, is rejected and adjunct

courts similar to the present system will be created instead. No vast bureaucracy called the U.S. Treasury system and located in every judicial district will be established. Instead, a pilot project in a very few districts will be tried. This pilot project will sunset on March 31, 1984. I do not expect it to be renewed or expanded at that time.

The Senate has prevailed on the question of reaffirmations, which would have been absolutely prohibited under the House bill. Instead, all reaffirmations will be permitted. The reaffirmation will be approved by the court after inquiry in individual cases and only in consumer debt instances will the court be empowered to find that a reaffirmation agreed to by the creditor and debtor is not in the debtor's best interest. The recission feature in the Senate bill will be preserved.

In the area of exemptions, we have won an important victory for the rights of States to determine exemptions for the debtors of their States, Reduced Federal exemptions will be provided by the law but States by legislation may elect not to have them apply their debtors. This option is most important since many States, such as my own, Wyoming, have been responsive to the needs of debtors and have liberalized exemptions frequently in recent years.

The protection against involuntary bankruptcy petitions given farmers and ranchers because of the cyclic nature of their businesses will be preserved.

I want to take this opportunity to thank Romono Romoni, and Bob Feider of Senator DECONCINI's staff, Eric Hultman of Senator THURMOND's staff, Pat Hoff of my staff, and Harry Dixon, our subcommittee consultant, for their fine efforts in assisting with this bill.

With these remarks, I join in support of the House amendment and urge its passage.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. DE CONCINI. Mr. President, I thank the Senator from South Carolina and his staff member, and the Senator from Wyoming (Mr. WALLOP), and his staff member, for the fine assistance they have rendered in the preparation of this legislation for the Senate.

Mr. WALLOP. Mr. President, I, too, thank the distinguished Senator from Arizona. It has been a real pleasure for he and I to work with our respective staffs. I compliment them all.

Mr. DECONCINI. Mr. President, the House amendment to the Senate amendment to H.R. 8200 resolves many differences between H.R. 8200 as passed by the House of Representatives and the amendment in the nature of a substitute to H.R. 8200, passed by the Senate. This statement is made in my capacity as chairman of the Subcommittee on Improvements in Judicial Machinery of the Senate Committee on the Judiciary, in order to explain the House amendment to the Senate amendment to H.R. 8200.

Several provisions of the Senate-passed version of the amendment in the nature of a substitute to H.R. 8200, were adopted by the House. These provisions require no additional explanation. However, other provisions on which the two Houses differed or which are new in the House amendment to the Senate amendment in the nature of a substitute to H.R. 8200 require explanation. Also, I have, where appropriate, explained the effect of the amendments to the House amendment that have been adopted here today. Any conflicting language because these Senate amendments were not in the House amendment should be disregarded.

Title I of H.R. 8200 contains one section, section 101, which codifies and enacts title II of the United States Code, entitled "Bankruptcy." Sections of title II, as proposed to be codified, differ between the House and Senate versions of the bill, and in order to explain these differences in an expeditious fashion, all section symbols in title I of the bill will refer to section numbers in proposed title II.

Section 101(2) defines "affiliate." The House amendment contains a provision that is a compromise between the definition in the House-passed version of H.R. 8200 subparagraphs (A) and (B) are derived from the Senate amendment and subparagraph (D) is taken from the House bill, while subparagraph (C) represents a compromise, taking the House position with respect to a person whose business is operated under a lease or an operating agreement by the debtor and with respect to a person substantially all of whose property is operated under an operating agreement by the debtor and with respect to a person substantially all of whose property is operated under an operating agreement by the debtor and the Senate position on leased property. Thus, the definition of "affiliate" excludes persons substantially all of whose property is operated under a lease agreement by a debtor, such as a small company which owns equipment all of which is leased to a larger nonrelated company.

Section 101(4)(B) represents a modification of the House-passed bill to include the definition of "claim" a right to an equitable remedy for breach of leased to a larger nonrelated company. performance if such breach gives rise to a right to payment. This is intended to cause the liquidation or estimation of contingent rights of payment for which there may be an alternative equitable remedy with the result that the equitable remedy will be susceptible to being discharged in bankruptcy. For example, in some States, a judgment for specific performance may be satisfied by an alternative right to payment, in the event performance is refused; in that event, the creditor entitled to specific performance would have a "claim" for purposes of a proceeding under title II.

On the other hand, rights to an equitable remedy for a breach of performance with respect to which such breach does not give rise to a right to payment are not "claims" and would therefore not be susceptible to discharge in bankruptcy.

In a case under chapter 9 to title II, "claim" does not include a right to payment under an industrial development bond issued by a municipality as a matter of convenience for a third party.

Municipalities are authorized, under section 103(c) of the Internal Revenue Code of 1954, as amended, to issue tax-exempt industrial development revenue bonds to provide for the financing of certain projects for privately owned companies. The bonds are sold on the basis of the credit of the company on whose behalf they are issued, and the principal, interest, and premium, if any, are payable solely from payments made by the company to the trustee under the bond indenture and do not constitute claims on the tax revenues or other funds of the issuing municipalities. The municipality merely acts as the vehicle to enable the bonds to be issued on a tax-exempt basis. Claims that arise by virtue of these bonds are not among the claims defined by this paragraph and amounts owed by private companies to the holders of industrial development revenue bonds are not to be included among the assets of the municipality that would be affected by the plan.

Section 101(6) defines "community claim" as provided by the Senate amendment in order to indicate that a community claim exists whether or not there is community property in the estate as of the commencement of the case.

Section 101(7) of the House amendment contains a definition of consumer debt identical to the definition in the House bill and Senate amendment. A consumer debt does not include a debt to any extent the debt is secured by real property.

Section 101(9) of the Senate amendment contained a definition of "court." The House amendment deletes the provision as unnecessary in light of the pervasive jurisdiction of a bankruptcy court under all chapters of title 11 as indicated in title II of the House amendment to H.R. 8200.

Section 101(11) defines "debt" to mean liability on a claim, as was contained in the House-passed version of H.R. 8200. The Senate amendment contained language indicating that "debt" does not include a policy loan made by a life insurance company to the debtor. That language is deleted in the House amendment as unnecessary since a life insurance company clearly has no right to have a policy loan repaid by the debtor, although such company does have a right of offset with respect to such policy loan. Clearly, then, a "debt" does not include a policy loan made by a life insurance company. Inclusion of the language contained in the Senate amendment would have required elaboration of other legal relationships not arising by a liability on a claim. Further the language would have required clarification that interest on a policy loan made by a life insurance company is a debt, and that the insurance company does have right to payment to that interest.

Section 101(14) adopts the definition of "entity" contained in the Senate-passed version of H.R. 8200. Since the Senate amendment to H.R. 8200 deleted the U.S. trustee, a corresponding definitional change is made in chapter 15 of

the House amendment for U.S. trustees under the pilot program. Adoption by the House amendment of a pilot program for U.S. trustees under chapter 15 requires insertion of "United States trustee" in many sections. Several provisions in chapter 15 of the House amendment that relate to the U.S. trustee were not contained in the Senate amendment in the nature of a substitute.

Section 101(17) defines "farmer," as in the Senate amendment with an income limitation percentage of 80 percent instead of 75 percent.

Section 101(18) contains a new definition of "farming operation" derived from present law and the definition of "farmer" in the Senate amendment. This definition gives a broad construction to the term "farming operation".

Section 101(20) contains a definition of "foreign representative". It clarifies the House bill and Senate amendment by indicating that a foreign representative must be duly selected in a foreign proceeding.

Section 101(35) defines "security" as contained in the Senate amendment. H.R. 8200 as adopted by the House excluded certain commercial notes from the definition of "security", and that exclusion is deleted.

Section 101(40) defines "transfer" as in the Senate amendment. The definition contained in H.R. 8200 as passed by the House included "setoff" in the definition of "transfer". Inclusion of "setoff" is deleted. The effect is that a "setoff" is not subject to being set aside as a preferential "transfer" but will be subject to special rules.

Section 102 specifies various rules of construction but is not exclusive. Other rules of construction that are not set out in title 11 are nevertheless intended to be followed in construing the bankruptcy code. For example, the phrase "on request of a party in interest" or a similar phrase, is used in connection with an action that the court may take in various sections of the Code. The phrase is intended to restrict the court from acting sua sponte. Rules of bankruptcy procedure or court decisions will determine who is a party in interest for the particular purposes of the provision in question, but the court will not be permitted to act on its own.

Although "property" is not construed in this section, it is used consistently throughout the code in its broadest sense, including cash, all interests in property, such as liens, and every kind of consideration including promises to act or forbear to act as in section 548(d).

Section 102(1) expands on a rule of construction contained in H.R. 8200 as passed by the House and in the Senate amendment. The phrase "after notice and a hearing", or a similar phrase, is intended to be construed according to the particular proceeding to mean after such notice as is appropriate in the particular circumstances, and such opportunity, if any, for a hearing as is appropriate in the particular circumstances. If a provision of title II authorizes an act be taken "after notice and a hearing" this means that if appropriate notice is given and no party to whom such notice is sent timely requests a hearing, then the act sought to be taken may be taken without an actual hearing.

In very limited emergency circumstances, there will be insufficient time for a hearing to be commenced before an action must be taken. The action sought to be taken may be taken if authorized by the court at an ex parte hearing of which a record is made in open court. A full hearing after the fact will be available in such an instance.

In some circumstances, such as under section 1128, the bill requires a hearing and the court may act only after a hearing is held. In those circumstances the judge will receive evidence before ruling. In other circumstances, the court may take action "after notice and a hearing," if no party in interest requests a hearing. In that event a court order authorizing the action to be taken is not necessary as the ultimate action taken by the court implies such an authorization.

Section 102(8) is new. It contains a rule of construction indicating that a definition contained in a section in title II that refers to another section of title II does not, for the purposes of such reference, take the meaning of a term used in the other section. For example, section 522(a)(2) defines "value" for the purposes of section 522. Section 548(d)(2) defines "value" for purposes of section 548. When section 548 is incorporated by reference in section 522, this rule of construction makes clear that the definition of "value" in section 548 governs its meaning in section 522 notwithstanding a different definition of "value" in section 522(a)(2).

Section 104 represents a compromise between the House bill and the Senate amendment with respect to the adjustment of dollar amounts in title 11. The House amendment authorizes the Judicial Conference of the United States to transmit a recommendation for the uniform percentage of adjustment for each dollar amount in title 11 and in 28 U.S.C. 1930 to the Congress and to the President before May 1, 1985, and before May 1 of every sixth year thereafter. The requirement in the House bill that each such recommendation be based only on any change in the cost-of-living increase during the period immediately preceding the recommendation is deleted.

Section 106(c) relating to sovereign immunity is new. The provision indicates that the use of the term "creditor," "entity," or "governmental unit" in title II applies to governmental units notwithstanding any assertion of sovereign immunity and that an order of the court binds governmental units. The provision is included to comply with the requirement in case law that an express waiver of sovereign immunity is required in order to be effective. Section 106(c) codifies in re Gwilliam, 519 F.2d 407 (9th Cir., 1975), and in re Dolard, 519 F.2d 282 (9th Cir., 1975), permitting the bankruptcy court to determine the amount and dischargeability of tax liabilities owing by the debtor or the estate prior to or during a bankruptcy case whether or not the governmental unit to which such taxes are owed files a proof of claim. Except as provided in sections 106 (a) and (b), subsection (c) is not limited to those issues, but permits the bankruptcy court to bind governmental units on other matters as well. For example, section 106(c) permits a trustee or debtor in possession to assert avoiding powers under title 11 against a governmental unit; contrary language in the House report to H.R. 8200 is thereby overruled.

Section 109(b) of the House amendment adopts a provision contained in H.R. 8200 as passed by the House. Railroad liquidations will occur under chapter 11, not chapter 7.

Section 109(c) contains a provision which tracks the Senate amendment as to when a municipality may be a debtor under chapter 11 of title II. As under the Bankruptcy Act, State law authorization and prepetition negotiation efforts are required.

Section 109(e) represents a compromise between H.R. 8200 as passed by the House and the Senate amendment relating to the dollar amounts restricting eligibility to be a debtor under chapter 13 of title II. The House amendment adheres to the limit of $100,000 placed on unsecured debts in H.R. 8200 as passed by the House. It adopts a midpoint of $350,000 as a limit on secured claims, a compromise between the level of $500,000 in H.R. 8200 as passed by the House and $200,000 as contained in the Senate amendment.

Sections 301, 302, 303, and 304, are all modified in the House amendment to adopt an idea contained in sections 301 and 303 of the Senate amendment requiring a petition commencing a case to be filed with the bankruptcy court. The exception contained in section 301 of the Senate bill relating to cases filed under chapter 9 is deleted. Chapter 9 cases will be handled by a bankruptcy court as are other title 11 cases.

Section 303(b)(1) is modified to make clear that unsecured claims against the debtor must be determined by taking into account liens securing property held by third parties.

Section 303(b)(3) adopts a provision contained in the Senate amendment indicating that an involuntary petition may be commenced against a partnership by fewer than all of the general partners in such partnership. Such action may be taken by fewer than all of the general partners notwithstanding a contrary agreement between the partners or State or local law.

Section 303(h)(1) in the House amendment is a compromise of standards found in H.R. 8200 as passed by the House and the Senate amendment pertaining to the standards that must be met in order to obtain an order for relief in an involuntary case under title II. The language specifies that the court will order such relief only if the debtor is generally not paying debtor's debts as they become due.

Section 303(h)(2) reflects a compromise pertaining to section 543 of title II relating to turnover of property by a custodian. It provides an alternative test to support an order for relief in an involuntary case. If a custodian, other than a trustee, receiver, or agent appointed or authorized to take charge of less than

substantially all of the property of the debtor for the purpose of enforcing a lien against such property, was appointed or took possession within 120 days before the date of the filing of the petition, then the court may order relief in the involuntary case. The test under section 303(h)(2) differs from section 3a(5) of the Bankruptcy Act, which requires an involuntary case to be commenced before the earlier of time such custodian was appointed or took possession. The test in section 303(h)(2) authorizes an order for relief to be entered in an involuntary case from the later date on which the custodian was appointed or took possession.

Section 304(b) adopts a provision contained in the Senate amendment with modifications. The provision indicates that if a party in interest does not timely controvert the petition in a case ancillary to a foreign proceeding, or after trial on the merits, the court may take various actions, including enjoining the commencement or continuation of any action against the debtor with respect to property involved in the proceeding, or against the property itself; enjoining the enforcement of any judgment against the debtor or the debtor's property; or the commencement or continuation of any judicial proceeding to create or enforce a lien against the property of the debtor or the estate.

Section 304(c) is modified to indicate that the court shall be guided by considerations of comity in addition to the other factors specified therein.

Section 321 indicates that an examiner may not serve as a trustee in the case.

Section 322(a) is modified to include a trustee serving in a railroad reorganization under subchapter IV of chapter 11.

Section 326(a) of the House amendment modifies a provision as contained in H.R. 8200 as passed by the House. The percentage limitation on the fees of a trustee contained in the House bill is retained, but no additional percentage is specified for cases in which a trustee operates the business of the debtor. Section 326(b) of the Senate amendment, is deleted as an unnecessary restatement of the limitation contained in section 326(a) as modified. The provision contained in section 326(a) of the Senate amendment authorizing a trustee to receive a maximum fee of $150 regardless of the availability of assets in the estate is deleted. It will not be necessary in view of the increase in section 326(a) and the doubling of the minimum fee as provided in section 330(b).

Section 326(b) of the House amendment derives from section 326(c) of H.R. 8200 as passed by the House. It is a conforming amendment to indicate a change with respect to the selection of a trustee in a chapter 13 case under section 1302(a) of title II.

Section 327(a) of the House amendment contains a technical amendment indicating that attorneys, and perhaps other officers enumerated therein, represent, rather than assist, the trustee in carrying out the trustee's duties.

Section 327(c) represents a compromise between H.R. 8200 as passed by the House and the Senate amendment. The provision states that former representation of a creditor, whether secured or unsecured, will not automatically disqualify a person from being employed by a trustee, but if such person is employed by the trustee, the person may no longer represent the creditor in connection with the case.

Section 327(f) prevents an examiner from being employed by the trustee.

Section 328(c) adopts a technical amendment contained in the Senate amendment indicating that an attorney for the debtor in possession is not disqualified for compensation for services and reimbursement of expenses simply because of prior representation of the debtor.

Section 330(a) contains the standard of compensation adopted in H.R. 8200 as passed by the House rather than the contrary standard contained in the Senate amendment. Attorneys' fees in bankruptcy cases can be quite large and should be closely examined by the court. However bankruptcy legal services are entitled to command the same competency of counsel as other cases. In that light, the policy of this section is to compensate attorneys and other professionals serving in a case under title II at the same rate as the attorney or other professional would be compensated for performing comparable services other than in a case under title II. Contrary language in the Senate report accompanying S. 2266 is rejected, and *Massachusetts Mutual Life Insurance Company* v. *Brock*, 405 F.2d 429, 432 (5th Cir. 1968) is overruled. Notions of economy of the estate in fixing fees are outdated and have no place in a bankruptcy code.

Section 330(a)(2) of the Senate amendment is deleted although the Securities and Exchange Commission retains a right to file an advisory report under section 1109.

Section 330(b) of the Senate amendment is deleted as unnecessary, as the limitations contained therein are covered by section 328(c) of H.R. 8200 as passed by the House and contained in the House amendment.

Section 330(c) of the Senate amendment providing for a trustee to receive a fee of $20 for each estate from the filing fee paid to the clerk is retained as section 330(b) of the House amendment. The section will encourage private trustees to serve in cases under title II and in pilot districts will place less of a burden on the U.S. trustee to serve in no-asset cases.

Section 330(b) of H.R. 8200 as passed by the House is retained by the House amendment as section 330(c).

Section 341(c) of the Senate amendment is deleted and a contrary provision is added indicating that the bankruptcy judge will not preside at or attend the first meeting of creditors or equity security holders but a discharge hearing for all individuals will be held at which the judge will preside.

Section 342 (b) and (c) of the Senate amendment are adopted in principle but moved to section 549(c), in lieu of section 342(b) of H.R. 8200 as passed by the House.

Section 342(c) of H.R. 8200 as passed by the House is deleted as a matter to be left to the Rules of Bankruptcy Procedure.

The House amendment moves section 345(c) of the House bill to chapter 15 as part of the pilot program for the U.S. trustees. The bond required by section 345(b) may be a blanket bond posted by the financial depository sufficient to cover deposits by trustees in several cases, as is done under current law.

Section 346 of the House amendment, together with sections 728 and 1146, represent special tax provisions applicable in bankruptcy. The policy contained in those sections reflects the policy that should be applied in Federal, State, and local taxes in the view of the House Committee on the Judiciary. The House Ways and Means Committee and the Senate Finance Committee did not have time to process a bankruptcy tax bill during the 95th Congress. It is anticipated that early in the 96th Congress, and before the effective date of the bankruptcy code, the tax committees of Congress will have an opportunity to consider action with respect to amendments to the Internal Revenue Code and the special tax provisions in title II. Since the special tax provisions are likely to be amended during the first part of the 96th Congress, it is anticipated that the bench and bar will also study and comment on these special tax provisions prior to their revision.

Section 347(a) of the House amendment adopts a comparable provision contained in the Senate amendment instructing the trustee to stop payment on any check remaining unpaid more than 90 days after the final distribution in a case under Chapter 7 or 13. Technical changes are made in section 347(b) to cover distributions in a railroad reorganization.

The House amendment adopts section 348(b) of the Senate amendment with slight modifications, as more accurately reflecting sections to which this particular effect of conversion should apply.

Section 348(e) of the House amendment is a stylistic revision of similar provisions contained in H.R. 8200 as passed by the House and in the Senate amendment. Termination of services is expanded to cover any examiner serving in the case before conversion, as done in H.R. 8200 as passed by the House.

Section 349(b)(2) of the House amendment adds a cross reference to section 553 to reflect the new right of recovery of setoffs created under that section. Corresponding changes are made throughout the House amendment.

Section 361 of the House amendment represents a compromise between H.R. 8200 as passed by the House and the Senate amendment regarding the issue of "adequate protection" of a secured party. The House amendment deletes the provision found in section 361(3) of H.R. 8200 as passed by the House. It would have permitted adequate protection to be provided by giving the secured party an administrative expense regarding any decrease in the value of such party's collateral. In every case there is the uncertainty that the estate will have

sufficient property to pay administrative expenses in full.

Section 361(4) of H.R. 8200 as passed by the House is modified in section 361 (3) of the House amendment to indicate that the court may grant other forms of adequate protection, other than an administrative expense, which will result in the realization by the secured creditor of the indubitable equivalent of the creditor's interest in property. In the special instance where there is a reserve fund maintained under the security agreement, such as in the typical bondholder case, indubitable equivalent means that the bondholders would be entitled to be protected as to the reserve fund, in addition to the regular payments needed to service the debt. Adequate protection of an interest of an entity in property is intended to protect a creditor's allowed secured claim. To the extent the protection proves to be inadequate after the fact, the creditor is entitled to a first priority administrative expense under section 503(b).

In the special case of a creditor who has elected application of creditor making an election under section 1111(b) (2), that creditor is entitled to adequate protection of the creditor's interest in property to the extent of the value of the collateral not to the extent of the creditor's allowed secured claim, which is inflated to cover a deficiency as a result of such election.

Section 362(a) (1) of the House amendment adopts the provision contained in the Senate amendment enjoining the commencement or continuation of a judicial, administrative, or other proceeding to recover a claim against the (6), which also covers assessment, to prevent harassment of the debtor with debtor that arose before the commencement of the case. The provision is beneficial and interacts with section 362(a) respect to pre-petition claims.

Section 362(a) (7) contains a provision contained in H.R. 8200 as passed by the House. The differing provision in the Senate amendment was rejected. It is not possible that a debt owing to the debtor may be offset against an interest in the debtor.

Section 362(a)(8) is new. The provision stays the commencement or continuation of any proceeding concerning the debtor before the U.S. Tax Court.

Section 362(b)(4) indicates that the stay under section 362(a)(1) does not apply to affect the commencement or continuation of an action or proceeding by a governmental unit to enforce the governmental unit's police or regulatory power. This section is intended to be given a narrow construction in order to permit governmental units to pursue actions to protect the public health and safety and not to apply to actions by a governmental unit to protect a pecuniary interest in property of the debtor or property of the estate.

Section 362(b)(6) of the House amendment adopts a provision contained in the Senate amendment restricting the exception to the automatic stay with respect to setoffs to permit only the setoff of mutual debts and claims. Traditionally, the right of setoff has been limited to mutual debts and claims and the lack of the clarifying term "mutual" in H.R. 8200 as passed by the House created an unintentional ambiguity. Section 362(b)(7) of the House amendment permits the issuance of a notice of tax deficiency. The House amendment rejects section 362(b)(7) in the Senate amendment. It would have permitted a particular governmental unit to obtain a pecuniary advantage without a hearing on the merits contrary to the exceptions contained in sections 362(b) (4) and (5).

Section 362(d) of the House amendment represents a compromise between comparable provisions in the House bill and Senate amendment. Under section 362(d)(1) of the House amendment, the court may terminate, annul, modify, or condition the automatic stay for cause, including lack of adequate protection of an interest in property of a secured party. It is anticipated that the Rules of Bankruptcy Procedure will provide that those hearings will receive priority on the calendar. Under section 362(d)(2) the court may alternatively terminate, annul, modify, or condition the automatic stay for cause including inadequate protection for the creditor. The court shall grant relief from the stay if there is no equity and it is not necessary to an effective reorganization of the debtor.

The latter requirement is contained in section 362(d)(2). This section is intended to solve the problem of real property mortgage foreclosures of property where the bankruptcy petition is filed on the eve of foreclosure. The section is not intended to apply if the business of the debtor is managing or leasing real property, such as a hotel operation, even though the debtor has no equity if the property is necessary to an effective reorganization of the debtor. Similarly, if the debtor does have an equity in the property, there is no requirement that the property be sold under section 363 of title II as would have been required by the Senate amendment.

Section 362(e) of the House amendment represents a modification of provisions in H.R. 8200 as passed by the House and the Senate amendment to make clear that a final hearing must be commenced within 30 days after a preliminary hearing is held to determine whether a creditor will be entitled to relief from the automatic stay. In order to insure that those hearings will in fact occur within such 30-day period, it is anticipated that the rules of bankruptcy procedure provide that such final hearings receive priority on the court calendar.

Section 362(g) places the burden of proof on the issue of the debtor's equity in collateral on the party requesting relief from the automatic stay and the burden on other issues on the debtor.

Section 363(a) of the House amendment defines "cash collateral" as defined in the Senate amendment. The broader definition of "soft collateral" contained in H.R. 8200 as passed by the House is deleted to remove limitations that were placed on the use, lease, or sale of inventory, accounts, contract rights, general intangibles, and chattel paper by the trustee or debtor in possession.

Section 363(c) (2) of the House amendment is derived from the Senate amendment. Similarly, sections 363(c) (3) and (4) are derived from comparable provisions in the Senate amendment in lieu of the contrary procedure contained in section 363(c) as passed by the House. The policy of the House amendment will generally require the court to schedule a preliminary hearing in accordance with the needs of the debtor to authorize the trustee or debtor in possession to use, sell, or lease cash collateral. The trustee or debtor in possession may use, sell, or lease cash collateral in the ordinary course of business only "after notice and a hearing."

Section 363(f) of the House amendment adopts an identical provision contained in the House bill, as opposed to an alternative provision contained in the Senate amendment.

Section 363(h) of the House amendment adopts a new paragraph (4) representing a compromise between the House bill and Senate amendment. The provision adds a limitation indicating that a trustee or debtor in possession sell jointly owned property only if the property is not used in the production, transmission, or distribution for sale, of electric energy or of natural or synthetic gas for heat, light, or power. This limitation is intended to protect public utilities from being deprived of power sources because of the bankruptcy of a joint owner.

Section 363(k) of the House amendment is derived from the third sentence of section 363(e) of the Senate amendment. The provision indicates that a secured creditor may bid in the full amount of the creditor's allowed claim, including the secured portion and any unsecured portion thereof in the event the creditor is undersecured, with respect to property that is subject to a lien that secures the allowed claim of the sale of the property.

Section 364(f) of the House amendment is new. This provision continues the exemption found in section 3(a)(7) of the Securities Act of 1933 for certificates of indebtedness issued by a trustee in bankruptcy. The exemption applies to any debt security issued under section 364 of title II. The section does not intend to change present law which exempts such securities from the Trust Indenture Act, 15 U.S.C. 77aaa, et seq. (1976).

Section 365(b)(3) represents a compromise between H.R. 8200 as passed by the House and the Senate amendment. The provision adopts standards contained in section 365(b)(5) of the Senate amendment to define adequate assurance of future performance of a lease of real property in a shopping center.

Section 365(b)(4) of the House amendment indicates that after default the trustee may not require a lessor to supply services or materials without assumption unless the lessor is compensated as provided in the lease.

Section 365(c) (2) and (3) likewise represent a compromise between H.R. 8200 as passed by the House and the Senate amendment. Section 365(c)(2) is derived from section 365(b)(4) of the Senate amendment but does not apply to a

contract to deliver equipment as provided in the Senate amendment. As contained in the House amendment, the provision prohibits a trustee or debtor in possession from assuming or assigning an executory contract of the debtor to make a loan, or extend other debt financing or financial accommodations, to or for the benefit of the debtor, or the issuance of a security of the debtor.

Section 365(e) is a refinement of comparable provisions contained in the House bill and Senate amendment. Sections 365(e)(1) and (2)(A) restate section 365(e) of H.R. 8200 as passed by the House. Sections 365(e)(2)(B) expands the section to permit termination of an executory contract or unexpired lease of the debtor if such contract is a contract to make a loan, or extend other debt financing or financial accommodations, to or for the benefit of the debtor, or for the issuance of a security of the debtor.

Characterization of contracts to make a loan, or extend other debt financing or financial accommodations, is limited to the extension of cash or a line of credit and is not intended to embrace ordinary leases or contracts to provide goods or services with payments to be made over time.

Section 365(f) is derived from H.R. 8200 as passed by the House. Deletion of language in section 365(f)(3) of the Senate amendment is done as a matter of style. Restrictions with respect to assignment of an executory contract or unexpired lease are superfluous since the debtor may assign an executory contract or unexpired lease of the debtor only if such contract is first assumed under section 364(f)(2)(A) of the House amendment.

Section 363(h) of the House amendment represents a modification of section 365(h) of the Senate amendment. The House amendment makes clear that in the case of a bankrupt lessor, a lessee may remain in possession for the balance of the term of a lease and any renewal or extension of the term only to the extent that such renewal or extension may be obtained by the lessee without the permission of the landlord or some third party under applicable nonbankruptcy law.

Section 366 of the House amendment represents a compromise between comparable provisions contained in H.R. 8200 as passed by the House and the Senate amendment. Subsection (a) is modified so that the applicable date is the date of the order for relief rather than the date of the filing of the petition. Subsection (b) contains a similar change but is otherwise derived from section 366(b) of the Senate amendment, with the exception that a time period for continued service of 20 days rather than 10 days is adopted.

The House amendment adopts section 501(b) of the Senate amendment leaving the Rules of Bankruptcy Procedure free to determine where a proof of claim must be filed.

Section 501(c) expands language contained in section 501(c) of the House bill and Senate amendment to permit the debtor to file a proof of claim if a creditor does not timely file a proof of the creditor's claim in a case under title II.

The House amendment deletes section 501(e) of the Senate amendment as a matter to be left to the rules of bankruptcy procedure. It is anticipated that the rules will enable governmental units, like other creditors, to have a reasonable time to file proofs of claim in bankruptcy cases.

For purposes of section 501, a proof of "interest" includes the interest of a general or limited partner in a partnership, the interest of a proprietor in a sole proprietorship, or the interest of a common or preferred stockholder in a corporation.

The House amendment adopts a compromise position in section 502(a) between H.R. 8200, as passed by the House, and the Senate amendment. Section 502(a) has been modified to make clear that a party in interest includes a creditor of a partner in a partnership that is a debtor under chapter 7. Since the trustee of the partnership is given an absolute claim against the estate of each general partner under section 723(c), creditors of the partner must have standing to object to claims against the partnership at the partnership level because no opportunity will be afforded at the partner's level for such objection.

The House amendment contains a provision in section 502(b)(1) that requires disallowance of a claim to the extent that such claim is unenforceable against the debtor and unenforceable against property of the debtor. This is intended to result in the disallowance of any claim for deficiency by an undersecured creditor on a nonrecourse loan or under a State antideficiency law, special provision for which is made in section 1111, since neither the debtor personally, nor the property of the debtor is liable for such a deficiency. Similarly claims for usurious interest or which could be barred by an agreement between the creditor and the debtor would be disallowed.

Section 502(b)(7)(A) represents a compromise between the House bill and the Senate amendment. The House amendment takes the provision in H.R. 8200 as passed by the House of Representatives but increases the percentage from 10 to 15 percent.

As used in section 502(b)(7), the phrase "lease of real property" applies only to a "true" or "bona fide" lease and does not apply to financing leases of real property or interests therein, or to leases of such property which are intended as security.

Historically, the limitation on allowable claims of lessors of real property was based on two considerations. First, the amount of the lessor's damages on breach of a real estate lease was considered contingent and difficult to prove. Partly for this reason, claims of a lessor of real estate were not provable prior to the 1934 amendments, to the Bankruptcy Act. Second, in a true lease of real property, the lessor retains all risks and benefits as to the value of the real estate at the termination of the lease. Historically, it was, therefore, considered equitable to limit the claims of real estate lessor.

However, these considerations are not present in "lease financing" transactions where, in substance, the "lease" involves a sale of the real estate and the rental payments are in substance the payment of principal and interest on a secured loan or sale. In a financing lease the lessor is essentially a secured or unsecured creditor (depending upon whether his interest is perfected or not) of the debtor, and the lessor's claim should not be subject to the 502(b)(7) limitation. Financing "leases" are in substance installment sales or loans. The "lessors" are essentially sellers or lenders and should be treated as such for purposes of the bankruptcy law.

Whether a "lease" is true or bona fide lease or, in the alternative, a financing "lease" or a lease intended as security, depends upon the circumstances of each case. The distinction between a true lease and a financing transaction is based upon the economic substance of the transaction and not, for example, upon the locus of title, the form of the transaction or the fact that the transaction is denominated as a "lease." The fact that the lessee, upon compliance with the terms of the lease, becomes or has the option to become the owner of the leased property for no additional consideration or for nominal consideration indicates that the transaction is a financing lease or lease intended as security. In such cases, the lessor has no substantial interest in the leased property at the expiration of the lease term. In addition, the fact that the lessee assumes and discharges substantially all the risks and obligations ordinarily attributed to the outright ownership of the property is more indicative of a financing transaction than of a true lease. The rental payments in such cases are in substance payments of principal and interest either on a loan secured by the leased real property or on the purchase of the leased real property. See, e.g., Financial Accounting Standards Board Statement No. 13 and SEC Reg. S-X, 17 C.F.R. sec. 210.3-16(q) (1977); *cf. First National Bank of Chicago* v. *Irving Trust Co.*, 74 F. 2d 263 (2nd Cir. 1934); and Albenda and Lief, "Net Lease Financing Transactions Under the Proposed Bankruptcy Act of 1973," 30 Business Lawyer, 713 (1975).

Section 502(c) of the House amendment presents a compromise between similar provisions contained in the House bill and the Senate amendment. The compromise language is consistent with an amendment to the definition of "claim" in section 104(4)(B) of the House amendment and requires estimation of any right to an equitable remedy for breach of performance if such breach gives rise to a right to payment. To the extent language in the House and Senate reports indicate otherwise, such language is expressly overruled.

Section 502(e) of the House amendment contains language modifying a similar section in the House bill and Senate amendment. Section 502(e)(1) states the general rule requiring the court to disallow any claim for reimbursement or contribution of an entity that is liable with the debtor on, or that has secured, the claim of a creditor to any extent that the creditor's claim against the estate is disallowed. This

adopts a policy that a surety's claim for reimbursement or contribution is entitled to no better status than the claim of the creditor assured by such surety. Section 502(e)(1)(B) alternatively disallows any claim for reimbursement or contribution by a surety to the extent such claim is contingent as of the time of allowance. Section 502(e)(2) is clear that to the extent a claim for reimbursement or contribution becomes fixed after the commencement of the case that it is to be considered a prepetition claim for purposes of allowance. The combined effect of sections 502(e)(1)(B) and 502(e)(2) is that a surety or codebtor is generally permitted a claim for reimbursement or contribution to the extent the surety or codebtor has paid the assured party at the time of allowance. Section 502(e)(1)(C) alternatively indicates that a claim for reimbursement or contribution of a surety or codebtor is disallowed to the extent the surety or codebtor requests subrogation under section 509 with respect to the rights of the assured party. Thus, the surety or codebtor has a choice; to the extent a claim for contribution or reimbursement would be advantageous, such as in the case where such a claim is secured, a surety or codebtor may opt for reimbursement or contribution under section 502(e). On the other hand, to the extent the claim for such surety or codebtor by way of subrogation is more advantageous, such as where such claim is secured, the surety may elect subrogation under section 509.

The section changes current law by making the election identical in all other respects. To the extent a creditor's claim is satisfied by a surety or codebtor, other creditors should not benefit by the surety's inability to file a claim against the estate merely because such surety or codebtor has failed to pay such creditor's claim in full. On the other hand, to the extent the creditor's claim against the estate is otherwise disallowed, the surety or codebtor should not be entitled to increased rights by way of reimbursement or contribution, to the detriment of competing claims of other unsecured creditors, than would be realized by way of subrogation.

While the foregoing scheme is equitable with respect to other unsecured creditors of the debtor, it is desirable to preserve present law to the extent that a surety or codebtor is not permitted to compete with the creditor he has assured until the assured party's claim has paid in full. Accordingly, section 509(c) of the House amendment subordinates both a claim by way of subrogation or a claim for reimbursement or contribution of a surety or codebtor to the claim of the assured party until the assured party's claim is paid in full.

Section 502(h) of the House amendment expands similar provisions contained in the House bill and the Senate amendment to indicate that any claim arising from the recovery of property under section 522(i), 550, or 553 shall be determined as though it were a prepetition claim.

Section 502(i) of the House amendment adopts a provision contained in section 502(j) of H.R. 8200 as passed by the House but that was not contained in the Senate amendment.

Section 502(i) of H.R. 8200 as passed by the House, but was not included in the Senate amendment, is deleted as a matter to be left to the bankruptcy tax bill next year.

The House amendment deletes section 502(i) of the Senate bill but adopts the policy of that section to a limited extent for confirmation of a plan of reorganization in section 1111(b) of the House amendment.

Section 502(j) of the House amendment is new. The provision codifies section 57k of the Bankruptcy Act.

Section 503(a) of the House amendment represents a compromise between similar provisions in the House bill and the Senate amendment by leaving to the Rules of Bankruptcy Procedure the determination of the location at which a request for payment of an administrative expense may be filed. The preamble to section 503(b) of the House bill makes a similar change with respect to the allowance of administrative expenses.

Section 503(b)(1) adopts the approach taken in the House bill as modified by some provisions contained in the Senate amendment. The preamble to section 503(b) makes clear that none of the paragraphs of section 503(b) apply to claims or expenses of the kind specified in section 502(f) that arise in the ordinary course of the debtor's business or financial affairs and that arise during the gap between the commencement of an involuntary case and the appointment of a trustee or the order for relief, whichever first occurs. The remainder of section 503(b) represents a compromise between H.R. 8200 as passed by the House and the Senate amendments. Section 503(b)(3)(E) codifies present law in cases such as *Randolph* v. *Scruggs*, 190 U.S. 533, which accords administrative expense status to services rendered by a prepetition custodian or other party to the extent such services actually benefit the estate. Section 503(b)(4) of the House amendment conforms to the provision contained in H.R. 8200 as passed by the House and deletes language contained in the Senate amendment providing a different standard of compensation under section 330 of that amendment.

Section 505 of the House amendment adopts a compromise position with respect to the determination of tax liability from the position taken in H.R. 8200 as passed by the House and in the Senate amendment.

Section 506(a) of the House amendment adopts the provision contained in the Senate amendment and rejects a contrary provision as contained in H.R. 8200 as passed by the House. The provision contained in the Senate amendment and adopted by the House amendment recognizes that an amount subject to set-off is sufficient to recognize a secured status in the holder of such right. Additionally a determination of what portion of an allowed claim is secured and what portion is unsecured is binding only for the purpose for which the determination is made. Thus determinations for purposes of adequate protection is not binding for purposes of "cram down" on confirmation in a case under chapter 11.

Section 506(b) of the House amendment adopts language contained in the Senate amendment and rejects language contained in H.R. 8200 as passed by the House. If the security agreement between the parties provides for attorneys' fees, it will be enforceable under title II, notwithstanding contrary law, and is recoverable from the collateral after any recovery under section 506(c).

Section 506(c) of the House amendment was contained in H.R. 8200 as passed by the House and adopted, verbatim, in the Senate amendment. Any time the trustee or debtor in possession expends money to provide for the reasonable and necessary cost and expenses of preserving or disposing of a secured creditor's collateral, the trustee or debtor in possession is entitled to recover such expenses from the secured party or from the property securing an allowed secured claim held by such party.

Section 506(d) of the House amendment is derived from H.R. 8200 as passed by the House and is adopted in lieu of the alternative test provided in section 506(d) of the Senate amendment. For purposes of section 506(d) of the House amendment, the debtor is a party in interest.

Section 507(a)(3) of the House amendment represents a compromise dollar amount and date for the priority between similar provisions contained in H.R. 8200 as passed by the House and the Senate amendments. A similar compromise is contained in section 507(a)(4).

Section 507(a)(5) represents a compromise on amount between the priority as contained in H.R. 8200 as passed by the House and the Senate amendment. The Senate provision for limiting the priority to consumers having less than a fixed gross income is deleted.

Section 507(a)(6) of the House amendment represents a compromise between similar provisions contained in H.R. 8200 as passed by the House and the Senate amendment.

Section 507(b) of the House amendment is new and is derived from the compromise contained in the House amendment with respect to adequate protection under section 361. Subsection (b) provides that to the extent adequate protection of the interest of a holder of a claim proves to be inadequate, then the creditor's claim is given priority over every other allowable claim entitled to distribution under section 507(a). Section 507(b) of the Senate amendment is deleted.

Section 507(c) of the House amendment is new. Section 507(d) of the House amendment prevents subrogation with respect to priority for certain priority claims. Subrogation with respect to priority is intended to be permitted for administrative claims and claims arising during the gap period.

Section 508(b) of the House amendment is new and provides an identical rule with respect to a creditor of a partnership who receives payment from a partner, to that of a creditor of a debtor who receives a payment in a foreign proceeding involving the debtor.

Section 509 of the House amendment

represents a substantial revision of provisions contained in H.R. 8200 as passed by the House and in the Senate amendment. Section 509(a) states a general rule that a surety or co-debtor is subrogated to the rights of a creditor assured by the surety or co-debtor to the extent the surety or co-debtor pays such creditor. Section 509(b) states a general exception indicating that subrogation is not granted to the extent that a claim of a surety or co-debtor for reimbursement or contribution is allowed under section 502 or disallowed other than under section 502(e). Additionally, section 509(b)(1)(C) provides that such claims for subrogation are subordinated to the extent that a claim of the surety or co-debtor for reimbursement or contribution is subordinated under section 510(a)(1) or 510(b). Section 509(b)(2) reiterates the well-known rule that prevents a debtor that is ultimately liable on the debt from recovering from a surety or a co-debtor. Although the language in section 509(b)(2) focuses in terms of receipt of consideration, legislative history appearing elsewhere indicates that an agreement to share liabilities should prevail over an agreement to share profits throughout title II. This is particularly important in the context of co-debtors who are partners. Section 509(c) subordinates the claim of a surety or co-debtor to the claim of an assured creditor until the creditor's claim is paid in full.

Section 510(c)(1) of the House amendment represents a compromise between similar provisions in the House bill and Senate amendment. After notice and a hearing, the court may, under principles of equitable subordination, subordinate for purposes of distribution all or part of an allowed claim to all or part of another allowed claim or all or part of an allowed interest to all or part of another allowed interest. As a matter of equity, it is reasonable that a court subordinate claims to claims and interests to interests. It is intended that the term "principles of equitable subordination" follow existing case law and leave to the courts development of this principle. To date, under existing law, a claim is generally subordinated only if holder of such claim is guilty of inequitable conduct, or the claim itself is of a status susceptible to subordination, such as a penalty or a claim for damages arising from the purchase or sale of a security of the debtor. The fact that such a claim may be secured is of no consequence to the issue of subordination. However, it is inconceivable that the status of a claim as a secured claim could ever be grounds for justifying equitable subordination.

Section 511 of the Senate amendment is deleted. Its substance is adopted in section 502(b)(9) of the House amendment which reflects an identical provision contained in H.R. 8200 as passed by the House.

Section 521 of the House amendment modifies a comparable provision contained in the House bill and Senate amendment. The Rules of Bankruptcy Procedure should provide where the list of creditors is to be filed. In addition, the debtor is required to attend the hearing on discharge under section 524(d).

Section 522 of the House amendment represents a compromise on the issue of exemptions between the position taken in the House bill, and that taken in the Senate amendment. Dollar amounts specified in section 522(d) of the House bill have been reduced from amounts as contained in H.R. 8200 as passed by the House. The States may, by passing a law, determine whether the Federal exemptions will apply as an alternative to State exemptions in bankruptcy cases.

Section 522(c)(1) tracks the House bill and provides that dischargeable tax claims may not be collected out of exempt property.

Section 522(f)(2) is derived from the Senate amendment restricting the debtor to avoidance of nonpossessory, nonpurchase money security interests.

Section 523(a)(1) represents a compromise between the position taken in the House bill and the Senate amendment. Section 523(a)(2) likewise represents a compromise between the position taken in the House bill and the Senate amendment with respect to the false financial statement exception to discharge. In order to clarify that a "renewal of credit" includes a "refinancing of credit", explicit reference to a refinancing of credit is made in the preamble to section 523(a)(2). A renewal of credit or refinancing of credit that was obtained by a false financial statement within the terms of section 523(a)(2) is nondischargeable. However, each of the provisions of section 523(a)(2) must be proved. Thus, under section 523(a)(2)(A) a creditor must prove that the debt was obtained by false pretenses, a false representation, or actual fraud, other than a statement respecting the debtor's or an insider's financial condition. Subparagraph (A) is intended to codify current case law *e.g., Neal* v. *Clark*, 95 U.S. 704 (1887), which interprets "fraud" to mean actual or positive fraud rather than fraud implied in law. Subparagraph (A) is mutually exclusive from subparagraph (B). Subparagraph (B) pertains to the so-called false financial statement. In order for the debt to be nondischargeable, the creditor must prove that the debt was obtained by the use of a statement in writing (i) that is materially false; (ii) respecting the debtor's or an insider's financial condition; (iii) on which the creditor to whom the debtor is liable for obtaining money, property, services, or credit reasonably relied; (iv) that the debtor caused to be made or published with intent to deceive. Section 523(a)(2)(B)(iv) is not intended to change from present law since any statement that the debtor causes to be made or published with the intent to deceive automatically includes a statement that the debtor actually makes or publishes with an intent to deceive. Section 523(a)(2)(B) is explained in the House report. Under section 523(a)(2)(B)(i) a discharge is barred only as to that portion of a loan with respect to which a false financial statement is materially false.

In many cases, a creditor is required by State law to refinance existing credit on which there has been no default. If the creditor does not forfeit remedies or otherwise rely to his detriment on a false financial statement with respect to existing credit, then an extension, renewal, or refinancing of such credit is nondischargeable only to the extent of the new money advanced; on the other hand, if an existing loan is in default or the creditor otherwise reasonably relies to his detriment on a false financial statement with regard to an existing loan, then the entire debt is nondischargeable under section 523(a)(2)(B). This codifies the reasoning expressed by the second circuit in *In re Danns*, 558 F. 2d 114 (2d cir. 1977).

Section 523(a)(3) of the House amendment is derived from the Senate amendment. The provision is intended to overrule *Birkett* v. *Columbia Bank*, 195 U.S. 345 (1904).

Section 523(a)(4) of the House amendment represents a compromise between the House bill and the Senate amendment.

Section 523(a)(5) is a compromise between the House bill and the Senate amendment. The provision excepts from discharge a debt owed to a spouse, former spouse or child of the debtor, in connection with a separation agreement, divorce decree, or property settlement agreement, for alimony to, maintenance for, or support of such spouse or child but not to the extent that the debt is assigned to another entity. If the debtor has assumed an obligation of the debtor's spouse to a third party in connection with a separation agreement, property settlement agreement, or divorce proceeding, such debt is dischargeable to the extent that payment of the debt by the debtor is not actually in the nature of alimony, maintenance, or support of debtor's spouse, former spouse, or child.

Section 523(a)(6) adopts the position taken in the House bill and rejects the alternative suggested in the Senate amendment. The phrase "willful and malicious injury" covers a willful and malicious conversion.

Section 523(a)(7) of the House amendment adopts the position taken in the Senate amendment and rejects the position taken in the House bill. A penalty relating to a tax cannot be nondischargeable unless the tax itself is nondischargeable.

Section 523(a)(8) represents a compromise between the House bill and the Senate amendment regarding educational loans. This provision is broader than current law which is limited to federally insured loans. Only educational loans owing to a governmental unit or a nonprofit institution of higher education are made nondischargeable under this paragraph.

Section 523(b) is new. The section represents a modification of similar provisions contained in the House bill and the Senate amendment.

Section 523(c) of the House amendment adopts the position taken in the Senate amendment.

Section 523(d) represents a compromise between the position taken in the House bill and the Senate amendment on the issue of attorneys' fees in false financial statement complaints to deter-

mine dischargeability. The provision contained in the House bill permitting the court to award damages is eliminated. The court must grant the debtor judgment or a reasonable attorneys' fee unless the granting of judgment would be clearly inequitable.

Section 524(a) of the House amendment represents a compromise between the House bill and the Senate amendment. Section 524(b) of the House amendment is new, and represents standards clarifying the operation of section 524(a)(3) with respect to community property.

Sections 524 (c) and (d) represent a compromise between the House bill and Senate amendment on the issue of reaffirmation of a debt discharged in bankruptcy. Every reaffirmation to be enforceable must be approved by the court, and any debtor may rescind a reaffirmation for 30 days from the time the reaffirmation becomes enforceable. If the debtor is an individual the court must advise the debtor of various effects of reaffirmation at a hearing. In addition, to any extent the debt is a consumer debt that is not secured by real property of the debtor reaffirmation is permitted only if the court approves the reaffirmation agreement, before granting a discharge under section 727, 1141, or 1328, as not imposing a hardship on the debtor or a dependent of the debtor and in the best interest of the debtor; alternatively, the court may approve an agreement entered into in good faith that is in settlement of litigation of a complaint to determine dischargeability or that is entered into in connection with redemption under section 722. The hearing on discharge under section 524(d) will be held whether or not the debtor desires to reaffirm any debts.

Section 541(a)(7) is new. The provision clarifies that any interest in property that the estate acquires after the commencement of the case is property of the estate; for example, if the estate enters into a contract, after the commencement of the case, such a contract would be property of the estate. The addition of this provision by the House amendment merely clarifies that section 541(a) is an all-embracing definition which includes charges on property, such as liens held by the debtor on property of a third party, or beneficial rights and interests that the debtor may have in property of another. However, only the debtor's interest in such property becomes property of the estate. If the debtor holds bare legal title or holds property in trust for another, only those rights which the debtor would have otherwise had emanating from such interest pass to the estate under section 541. Neither this section nor section 545 will affect various statutory provisions that give a creditor a lien that is valid both inside and outside bankruptcy against a bona fide purchaser of property from the debtor, or that creates a trust fund for the benefit of creditors meeting similar criteria. See Packers and Stockyards Act § 206, 7 U.S.C. 196 (1976).

Section 541(c)(2) follows the position taken in the House bill and rejects the position taken in the Senate amendment with respect to income limitations on a spend-thrift trust.

Section 541(d) of the House amendment is derived from section 541(e) of the Senate amendment and reiterates the general principle that where the debtor holds bare legal title without any equitable interest, that the estate acquires bare legal title without any equitable interest in the property. The purpose of section 541(d) as applied to the secondary mortgage market is identical to the purpose of section 541(e) of the Senate amendment and section 541(d) will accomplish the same result as would have been accomplished by section 541(e). Even if a mortgage seller retains for purposes of servicing legal title to mortgages or interests in mortgages sold in the secondary mortgage market, the trustee would be required by section 541(d) to turn over the mortgages or interests in mortgages to the purchaser of those mortgages.

The seller of mortgages in the secondary mortgage market will often retain the original mortgage notes and gage market transactions will not be affected by the terms of the servicing agreement between the mortgage servicer and the purchaser of the mortgages. Under section 541(d), the trustee is required to recognize the purchaser's title to the mortgages or related documents and the seller will not endorse the notes to reflect the sale to the purchaser. Similarly, the purchaser will often not record the purchaser's ownership of the mortgages or interests in mortgages under State recording statutes. These facts are irrelevant and the seller's retention of the mortgage documents and the purchaser's decision not to record do not change the trustee's obligation to turn the mortgages or interests in mortgages over to the purchaser. The application of section 541(d) to secondary mort- interests in mortgages and to turn this property over to the purchaser. It makes no difference whether the servicer and the purchaser characterize their relationship as one of trust, agency, or independent contractor.

The purpose of section 541(d) as applied to the secondary mortgage market is therefore to make certain that secondary mortgage market sales as they are currently structured are not subject to challenge by bankruptcy trustees and that purchasers of mortgages will be able to obtain the mortgages or interests in mortgages which they have purchased from trustees without the trustees asserting that a sale of mortgages is a loan from the purchaser to the seller.

Thus, as section 541(a)(1) clearly states, the estate is comprised of all legal or equitable interests of the debtor in property as of the commencement of the case. To the extent such an interest is limited in the hands of the debtor, it is equally limited in the hands of the estate except to the extent that defenses which are personal against the debtor are not effective against the estate.

Second 542(a) of the House amendment modifies similar provisions contained in the House bill and the Senate amendment treating with turnover of property to the estate. The section makes clear that any entity, other than a custodian, is required to deliver property of the estate to the trustee or debtor in possession whenever such property is acquired by the entity during the case, if the trustee or debtor in possession may use, sell, or lease the property under section 363, or if the debtor may exempt the property under section 522, unless the property is of inconsequential value or benefit to the estate. This section is not intended to require an entity to deliver property to the trustee if such entity has obtained an order of the court authorizing the entity to retain possession, custody, or control of the property.

The House amendment adopts section 542(c) of the House bill in preference to a similar provision contained in section 542(c) of the Senate amendment. Protection afforded by section 542(c) applies only to the transferor or payor and not to a transferee or payee receiving a transfer or payment, as the case may be. Such transferee or payee is treated under section 549 and section 550 of title II.

The extent to which the attorney client privilege is valid against the trustee is unclear under current law and is left to be determined by the courts on a case by case basis.

Section 543(a) is a modification of similar provisions contained in the House bill and the Senate amendment. The provision clarifies that a custodian may always act as is necessary to preserve property of the debtor. Section 543(c)(3) excepts from surcharge a custodian that is an assignee for the benefit of creditors, who was appointed or took possession before 120 days before the date of the filing of the petition, whichever is later. The provision also prevents a custodian from being surcharged in connection with payments made in accordance with applicable law.

Section 544(a)(3) modifies similar provisions contained in the House bill and Senate amendment so as not to require a creditor to perform the impossible in order to perfect his interest. Both the lien creditor test in section 544(a)(1), and the bona fide purchaser test in section 544(a)(3) should not require a transferee to perfect a transfer against an entity with respect to which applicable law does not permit perfection. The avoiding powers under section 544(a)(1), (2), and (3) are new. In particular, section 544(a)(1) overrules *Pacific Finance Corp.* v. *Edwards*, 309 F.2d 224 (9th Cir. 1962), and *In re Federals, Inc.*, 553 F.2d 509 (6th Cir. 1977), insofar as those cases held that the trustee did not have the status of a creditor who extended credit immediately prior to the commencement of the case.

The House amendment deletes section 544(c) of the House bill.

Section 545 of the House amendment modifies similar provisions contained in the House bill and Senate amendment to make clear that a statutory lien may be avoided under section 545 only to the extent the lien violates the perfection

standards of section 545. Thus a Federal tax lien is invalid under section 545(2) with respect to property specified in sections 6323 (b) and (c) of the Internal Revenue Code of 1954. As a result of this modification, section 545(b) of the Senate amendment is deleted as unnecessary.

Section 546(a) of the House amendment is derived from section 546(c) of the Senate amendment. Section 546(c) of the House amendment is derived from section 546(b) of the Senate amendment. It applies to receipt of goods on credit as well as by cash sales. The section clarifies that a demand for reclamation must be made in writing anytime before 10 days after receipt of the goods by the debtor. The section also permits the court to grant the reclaiming creditor a lien or an administrative expense in lieu of turning over the property.

No limitation is provided for payments to commodity brokers as in section 766 of the Senate amendment other than the amendment to section 548 of title II. Section 547(c)(2) protects most payments.

Section 547(b)(2) of the House amendment adopts a provision contained in the House bill and rejects an alternative contained in the Senate amendment relating to the avoidance of a preferential transfer that is payment of a tax claim owing to a governmental unit. As provided, section 106(c) of the House amendment overrules contrary language in the House report with the result that the Government is subject to avoidance of preferential transfers.

Contrary to language contained in the House report, payment of a debt by means of a check is equivalent to a cash payment, unless the check is dishonored. Payment is considered to be made when the check is delivered for purposes of sections 547(c) (1) and (2).

Section 547(c)(6) of the House bill is deleted and is treated in a different fashion in section 553 of the House amendment.

Section 547(c)(6) represents a modification of a similar provision contained in the House bill and Senate amendment. The exception relating to satisfaction of a statutory lien is deleted. The exception for a lien created under title 11 is deleted since such a lien is a statutory lien that will not be avoidable in a subsequent bankruptcy.

Section 547(e)(1)(B) is adopted from the House bill and Senate amendment without change. It is intended that the simple contract test used in this section will be applied as under section 544 (a)(1) not to require a creditor to perfect against a creditor on a simple contract in the event applicable law makes such perfection impossible. For example, a purchaser from a debtor at an improperly noticed bulk sale may take subject to the rights of a creditor on a simple contract of the debtor for 1 year after the bulk sale. Since the purchaser cannot perfect against such a creditor on a simple contract, he should not be held responsible for failing to do the impossible. In the event the debtor goes into bankruptcy within a short time after the bulk sale, the trustee should not be able to use the avoiding powers under section 544(a)(1) or 547 merely because State law has made some transfers of personal property subject to the rights of a creditor on a simple contract to acquire a judicial lien with no opportunity to perfect against such a creditor.

Section 548(d)(2) is modified to reflect general application of a provision contained in section 766 of the Senate amendment with respect to commodity brokers. In particular, section 548(d)(2)(B) of the House amendment makes clear that a commodity broker who receives a margin payment is considered to receive the margin payment in return for "value" for purposes of section 548.

Section 549 of the House amendment flect general application of a provision rate sections 342 (b) and (c) of the Senate amendment. Those sections have been consolidated and redrafted in section 549(c) of the House amendment. Section 549(d) of the House amendment adopts a provision contained in section 549(c) of the Senate amendment.

Section 550(a)(1) of the House amendment has been modified in order to permit recovery from an entity for whose benefit an avoided transfer is made in addition to a recovery from the initial transferee of the transfer. Section 550(c) would still apply, and the trustee is entitled only to a single satisfaction. The liability of a transferee under section 550(a) applies only "to the extent that a transfer is avoided". This means that liability is not imposed on a transferee to the extent that a transferee is protected under a provision such as section 548(c) which grants a good faith transferee for value of a transfer that is avoided only as a fraudulent transfer, a lien on the property transferred to the extent of value given.

Section 550(b) of the House amendment is modified to indicate that value includes satisfaction or securing of a present antecedent debt. This means that the trustee may not recover under subsection (a)(2) from a subsequent transferee that takes for "value", provided the subsequent transferee also takes in good faith and without knowledge of the transfer avoided.

Section 550(e) of the House amendment is derived from section 550(e) of the Senate amendment.

Section 551 is adopted from the House bill and the alternative in the Senate amendment is rejected. The section is clarified to indicate that a transfer avoided or a lien that is void is preserved for the benefit of the estate, but only with respect to property of the estate. This prevents the trustee from asserting an avoided tax lien against after acquired property of the debtor.

Section 552(a) is derived from the House bill and the alternative provision in the Senate amendment is rejected. Section 552(b) represents a compromise between the House bill and the Senate amendment. Proceeds coverage, but not after acquired property clauses, are valid under title II. The provision allows the court to consider the equities in each case. In the course of such consideration the court may evaluate any expenditures by the estate relating to proceeds and any related improvement in position of the secured party. Although this section grants a secured party a security interest in proceeds, product, offspring, rents, or profits, the section is explicitly subject to other sections of title II. For example, the trustee or debtor in possession may use, sell, or lease proceeds, product, offspring, rents, or profits under section 363.

Section 553 of the House amendment is derived from a similar provision contained in the Senate amendment, but is modified to clarify application of a two-point test with respect to set offs.

Section 554(b) is new and permits a party in interest to request the court to order the trustee to abandon property of the estate that is burdensome to the estate or that is of inconsequential value to the estate.

The House amendment deletes section 701(d) of the Senate amendment. It is anticipated that the Rules of Bankruptcy Procedure will require the appointment of an interim trustee at the earliest practicable moment in commodity broker bankruptcies, but no later than noon of the day after the date of the filing of the petition, due to the volatility of such cases.

The House amendment adopts section 702(a)(2) of the Senate amendment. An insubstantial equity interest does not disqualify a creditor from voting for a candidate for trustee. Section 704(8) of the Senate amendment is deleted in the House amendment. Trustees should give constructive notice of the commencement of the case in the manner specified under section 549(c) of title II.

Section 705(a) of the House amendment adopts a provision contained in the Senate amendment that limits a committee of creditors to not more than 11; the House bill contained no maximum limitation.

Section 706(a) of the House amendment adopts a provision contained in the Senate amendment indicating that a waiver of the right to convert a case under section 706(a) is unenforceable. The explicit reference in title II forbidding the waiver of certain rights is not intended to imply that other rights, such as the right to file a voluntary bankruptcy case under section 301, may be waived.

Section 706 of the House amendment adopts a similar provision contained in H.R. 8200 as passed by the House. Competing proposals contained in section 706(c) and section 706(d) of the Senate amendment are rejected.

Section 707 of the House amendment indicates that the court may dismiss a case only after notice and a hearing.

Section 722 of the House amendment adopts the position taken in H.R. 8200 as passed by the House and rejects the alternative contained in section 722 of the Senate amendment.

Section 723(c) of the House amendment is a compromise between similar provisions contained in the House bill and Senate amendment. The section makes clear that the trustee of a partnership has a claim against each general partner for the full amount of all claims of creditors allowed in the case concerning the partnership. By restricting the trustee's rights to claims of "creditors," the trustee of the partnership will not have a claim against the

general partners for administrative expenses or claims allowed in the case concerning the partnership. As under present law, sections of the Bankruptcy Act applying to codebtors and sureties apply to the relationship of a partner with respect to a partnership debtor. *See* sections 501(b), 502(e), 506(d)(2), 509, 524(d), and 1301 of title II.

Section 724 of the House amendment adopts the provision taken in the House bill and rejects the provision taken in the Senate amendment. In effect, a tax claim secured by a lien is treated as a claim between the fifth and sixth priority in a case under chapter 7 rather than as a secured claim.

Section 725 of the House amendment adopts the substance contained in both the House bill and Senate amendment but transfers an administrative function to the trustee in accordance with the general thrust of this legislation to separate the administrative and the judicial functions where appropriate.

Section 726(a)(4) adopts a provision contained in the Senate amendment subordinating prepetition penalties and penalties arising in the involuntary gap period to the extent the penalties are not compensation for actual pecuniary laws.

The House amendment deletes a provision following section 726(a)(6) of the Senate amendment providing that the term "claim" includes interest due owed before the date of the filing of the petition as unnecessary since a right to payment for interest due is a right to payment which is within the definition of "claim" in section 101(4) of the House amendment.

Sections 727(a) (8) and (9) of the House amendment represent a compromise between provisions contained in section 727(a)(8) of the House bill and Senate amendment. Section 727(a)(8) of the House amendment adopts section 727(a)(8) of the House bill. However, section 727(a)(9) of the House amendment contains a compromise based on section 727(a)(8) of the Senate amendment with respect to the circumstances under which a plan by way of composition under chapter XIII of the Bankruptcy Act or chapter 13 of title II should be a bar to discharge in a subsequent proceeding under title 11. The paragraph provides that a discharge under section 660 or 661 of the Bankruptcy Act or section 1328 of title II in a case commenced within 6 years before the date of the filing of the petition in a subsequent case, operates as a bar to discharge unless, first, payments under the plan totaled at least 100 percent of the allowed unsecured claims in the case; or second, payments under the plan totaled at least 70 percent of the allowed unsecured claims in the case and the plan was proposed by the debtor in good faith and was the debtor's best effort.

It is expected that the Rules of Bankruptcy Procedure will contain a provision permitting the debtor to request a determination of whether a plan is the debtor's "best effort" prior to confirmation of a plan in a case under chapter 13 of title II. In determining whether a plan is the debtor's "best effort" the court will evaluate several factors. Different facts and circumstances in cases under chapter 13 operate to make any rule of thumb of limited usefulness. The court should balance the debtor's assets, including family income, health insurance, retirement benefits, and other wealth, a sum which is generally determinable, against the forseeable necessary living expenses of the debtor and the debtor's dependents, which unfortunately is rarely quantifiable. In determining the expenses of the debtor and the debtor's dependents, the court should consider the stability of the debtor's employment, if any, the age of the debtor, the number of the debtor's dependents and their ages, the condition of equipment and tools necessary to the debtor's employment or to the operation of his business, and other foreseeable expenses that the debtor will be required to pay during the period of the plan, other than payments to be made to creditors under the plan.

Section 727(a)(10) of the House amendment clarifies a provision contained in section 727(a)(9) of the House bill and Senate amendment indicating that a discharge may be barred if the court approves a waiver of discharge executed in writing by the debtor after the order for relief under chapter 7.

Section 727(b) of the House amendment adopts a similar provision contained in the Senate amendment modifying the effect of discharge. The provision makes clear that the debtor is discharged from all debts that arose before the date of the order for relief under chapter 7 in addition to any debt which is determined under section 502 as if it were a prepetition claim. Thus, if a case is converted from chapter 11 or chapter 13 to a case under chapter 7, all debts prior to the time of conversion are discharged, in addition to debts determined after the date of conversion of a kind specified in section 502, that are to be determined as prepetition claims. This modification is particularly important with respect to an individual debtor who files a petition under chapter 11 or chapter 13 of title II if the case is converted to chapter 7. The logical result of the House amendment is to equate the result that obtains whether the case is converted from another chapter to chapter 7, or whether the other chapter proceeding is dismissed and a new case is commenced by filing a petition under chapter 7.

Section 728 of the House amendment adopts a provision contained in the House bill that was deleted by the Senate amendment.

Section 741(6) of the House bill and Senate amendment is deleted by the House amendment since the defined term is used only in section 741(4)(A)(iii). A corresponding change is made in that section.

Section 742 of the House amendment deletes a sentence contained in the Senate amendment requiring the trustee in an interstate stockbrokerage liquidation to comply with the provisions of subchapter IV of chapter 7 if the debtor is also a commodity broker. The House amendment expands the requirement to require the SIPC trustee to perform such duties, if the debtor is a commodity broker, under section 7(b) of the Securities Investor Protection Act. The requirement is deleted from section 742 since the trustee of an intrastate stockbroker will be bound by the provisions of subchapter IV of chapter 7 if the debtor is also a commodity broker by reason of section 103 of title II.

Subchapter IV of chapter 7 represents a compromise between similar chapters in the House bill and Senate amendment. Section 761(2) of the House amendment defines "clearing organization" to cover an organization that clears commodity contracts on a contract market or a board of trade; the expansion of the definition is intended to include clearing organizations that clear commodity options. Section 761(4) of the House amendment adopts the term "commodity contract" as used in section 761(5) of the Senate amendment but with the more precise substantive definitions contained in section 761(8) of the House bill. The definition is modified to insert "board of trade" to cover commodity options. Section 761(5) of the House amendment adopts the definition contained in section 761(6) of the Senate amendment in preference to the definition contained in section 761(4) of the House bill which erroneously included onions. Section 761(9) of the House amendment represents a compromise between similar provisions contained in section 761(10) of the Senate amendment and section 761(9) of the House bill. The compromise adopts the substance contained in the House bill and adopts the terminology of "commodity contract" in lieu of "contractual commitment" as suggested in the Senate amendment. Section 761(10) of the House amendment represents a compromise between similar sections in the House bill and Senate amendment regarding the definition of "customer property." The definition of "distribution share" contained in section 761(12) of the Senate amendment is deleted as unnecessary. Section 761(12) of the House amendment adopts a definition of "foreign futures commission merchant" similar to the definition contained in section 761(14) of the Senate amendment. The definition is modified to cover either an entity engaged in soliciting orders or the purchase or sale of a foreign future, or an entity that accepts cash, a security, or other property for credit in connection with such a solicitation or acceptance. Section 761(13) of the House amendment adopts a definition of "leverage transaction" identical to the definition contained in section 761(15) of the Senate amendment. Section 761(15) of the House amendment adopts the definition of "margin payment" contained in section 761(17) of the Senate amendment. Section 761(17) of the House amendment adopts a definition of "net equity" derived from section 761(15) of the House bill.

Section 764 of the House amendment is derived from the House bill.

Sections 765 and 766 of the House amendment represent a consolidation and redraft of sections 765, 766, 767, and 768 of the House bill and sections 765, 766, 767, and 768 of the Senate amendment. In particular, section 765(a) of the House amendment is derived from

section 765(a) of the House bill and section 767(a) of the Senate amendment. Under section 765(a) of the House amendment customers are notified of the opportunity to immediately file proofs of claim and to identify specifically identifiable securities, property, or commodity contracts. The customer is also afforded an opportunity to instruct the trustee regarding the customer's desires concerning disposition of the customer's commodity contracts. Section 767(b) makes clear that the trustee must comply with instructions received to the extent practicable, but in the event the trustee has transferred commodity contracts to a commodity broker, such instructions shall be forwarded to the broker.

Section 766(a) of the House amendment is derived from section 768(c) of the House bill and section 767(f) of the Senate amendment. Section 766(b) of the House amendment is derived from section 765(d) of the House bill, and section 767(g) of the Senate amendment. Section 766(c) of the House amendment is derived from section 768(a) of the House bill and section 767(e) of the Senate amendment. Section 766(d) of the House amendment is derived from section 768(b) of the House bill and the second sentence of section 767(e) of the Senate amendment.

Section 766(e) of the House amendment is derived from section 765(c) of the House bill and sections 767 (c) and (d) of the Senate amendment. The provision clarifies that the trustee may liquidate a commodity contract only if the commodity contract cannot be transferred to a commodity broker under section 766(c), cannot be identified to a particular customer, or has been identified with respect to a particular customer, but with respect to which the customer's instructions have not been received.

Section 766(f) of the House amendment is derived from section 766(b) of the House bill and section 767(h) of the Senate amendment. The reference to "securities and other property" is not intended to include a commodity contract. Section 766(g) of the House amendment is derived from section 766(a) of the House bill. Section 766 (h) of the House amendment is derived from section 767(a) of the House bill and section 765(a) of the Senate amendment. In order to induce private trustees to undertake the difficult and risky job of liquidating a commodity broker, the House amendment contains a provision insuring that a pro rata share of administrative claims will be paid. The provision represents a compromise between the position taken in the House bill, subordinating customer property to all expenses of administration, and the position taken in the Senate amendment requiring the distribution of customer property in advance of any expenses of administration. The position in the Senate amendment is rejected since customers, in any event, would have to pay a brokerage commission or fee in the ordinary course of business. The compromise provision requires customers to pay only those administrative expenses that are attributable to the administration of customer property.

Section 766(i) of the House amendment is derived from section 767(b) of the House bill and contains a similar compromise with respect to expenses of administration as the compromise detailed in connection with section 766(h) of the House amendment. Section 766(j) of the House amendment is derived from section 767(c) of the House bill. No counterpart is contained in the Senate amendment. The provision takes account of the rare case where the estate has customer property in excess of customer claims and administrative expenses attributable to those claims. The section also specifies that to the extent a customer is not paid in full out of customer property, that the unpaid claim will be treated the same as any other general unsecured creditor.

Section 768 of the Senate amendment was deleted from the House amendment as unwise. The provision in the Senate amendment would have permitted the trustee to distribute customer property based upon an estimate of value of the customer's account, with no provision for recapture of excessive disbursements. Moreover, the section would have exonerated the trustee from any liability for such an excessive disbursement. Furthermore, the section is unclear with respect to the customer's rights in the event the trustee makes a distribution less than the share to which the customer is entitled. The provision is deleted in the House amendment so that this difficult problem may be handled on a case-by-case basis by the courts as the facts and circumstances of each case require.

Section 769 of the Senate amendment is deleted in the House amendment as unnecessary. The provision was intended to codify *Board of Trade* v. *Johnson*, 264 U.S. 1 (1924). Board of Trade against Johnson is codified in section 363(f) of the House amendment which indicates the only five circumstances in which property may be sold free and clear of an interest in such property of an entity other than the estate.

Section 770 of the Senate amendment is deleted in the House amendment as unnecessary. That section would have permitted commodity brokers to liquidate commodity contracts, notwithstanding any contrary order of the court. It would require an extraordinary circumstance, such as a threat to the national security, to enjoin a commodity broker from liquidating a commodity contract. However, in those circumstances, an injunction must prevail. Failure of the House amendment to incorporate section 770 of the Senate amendment does not imply that the automatic stay prevents liquidation of commodity contracts by commodity brokers. To the contrary, whenever by contract, or otherwise, a commodity broker is entitled to liquidate a position as a result of a condition specified in a contract, other than a condition or default of the kind specified in section 365(b)(2) of title II, the commodity broker may engage in such liquidation. To this extent, the commodity broker's contract with his customer is treated no differently than any other contract under section 365 of title II.

Chapter 9 of the House amendment represents a compromise between chapter 9 of the House bill and 9 of the Senate amendment. In most respect this chapter follows current law with respect to the adjustment of debts of a municipality. Stylistic changes and minor substantive revisions have been made in order to conform this chapter with other new chapters of the bankruptcy code. There are few major differences between the House bill and the Senate amendment on this issue. Section 901 indicates the applicability of other sections of title II in cases under chapter 9. Included are sections providing for creditors' committees under sections 1102 and 1103.

Section 902(2) of the Senate amendment is deleted since the bankruptcy court will have jurisdiction over all cases under chapter 9. The concept of a claim being materially and adversely affected reflected in section 902(1) of the Senate amendment has been deleted and replaced with the new concept of "impairment" set forth in section 1124 of the House amendment and incorporated by reference into chapter 9.

Section 903 of the House amendment represents a stylistic revision of section 903 of the Senate amendment. To the extent section 903 of the House bill would have changed present law, such section is rejected. Section 905 of the Senate amendment is incorporated as section 921(b) of the House amendment with the difference that the chief judge of the circuit embracing the district in which the case is commenced designates a bankruptcy judge to conduct the case in lieu of a district judge as under present law. It is intended that a municipality may commence a case in any district in which the municipality is located, as under present law. Section 906 of the Senate amendment has been adopted in substance in section 109(c) of the House amendment.

Section 923 of the House amendment represents a compromise with respect to the notice provisions contained in comparable provisions of the House bill and Senate amendment. As a general matter, title II leaves most procedural issues to be determined by the Rules of Bankruptcy Procedure. Section 923 of the House amendment contains certain important aspects of procedure that have been retained from present law. It is anticipated that the Rules of Bankruptcy Procedure will adopt rules similar to the present rules for chapter IX of the Bankruptcy Act.

Section 924 of the House amendment is derived from section 924 of the House bill with the location of the filing of the list of creditors to be determined by the rules of bankruptcy procedure. The detailed requirements of section 724 of the Senate bill are anticipated to be incorporated in the rules of bankruptcy procedure.

Section 925 of the Senate amendment regarding venue and fees has been deleted.

Section 926 of the House amendment is derived from section 928 of the Senate bill. The provision enables creditors

to request the court to appoint a trustee to pursue avoiding powers if the debtor refuses to exercise those powers. Section 901 of the House amendment makes a corresponding change to incorporate avoiding powers included in the Senate amendment, but excluded from the House bill.

Section 927(b) of the House amendment is derived from section 927(b) of the Senate bill. The provision requires mandatory dismissal if confirmation of a plan is refused.

The House amendment deletes section 929 of the Senate amendment as unnecessary since the bankruptcy court has original exclusive jurisdiction of all cases under chapter 9.

The House amendment deletes section 930 of the Senate amendment and incorporates section 507(a)(1) by reference.

The House amendment deletes section 942 of the Senate amendment in favor of incorporating section 1125 by cross-reference. Similarly, the House amendment does not incorporate sections 944 or 945 of the Senate amendment since incorporation of several sections in chapter 11 in section 901 is sufficient.

Section 943(a) of the House amendment makes clear that a special taxpayer may object to confirmation of a plan. Section 943(b) of the House amendment is derived from section 943 of the House bill respecting confirmation of a plan under chapter 9. It must be emphasized that these standards of confirmation are in addition to standards in section 1129 that are made applicable to chapter 9 by section 901 of the House amendment. In particular, if the requirements of section 1129(a)(8) are not complied with, then the proponent may request application of section 1129(b). The court will then be required to confirm the plan if it complies with the "fair and equitable" test and is in the best interests of creditors. The best interests of creditors test does not mean liquidation value as under chapter XI of the Bankruptcy Act. In making such a determination, it is expected that the court will be guided by standards set forth in *Kelley* v. *Everglades Drainage District*, 319 U.S. 415 (1943), and *Fano* v. *Newport Heights Irrigation Dist.*, 114 F. 2d 563 (9th Cir. 1940), as under present law, the bankruptcy court should make findings as detailed as possible to support a conclusion that this test has been met. However, it must be emphasized that unlike current law, the fair and equitable test under section 1129(b) will not apply if section 1129(a)(8) has been satisfied in addition to the other confirmation standards specified in section 943 and incorporated by reference in section 901 of the House amendment. To the extent that *American United Mutual Life Insurance Co.* v. *City of Avon Park*, 311 U.S. 138 (1940) and other cases are to the contrary, such cases are overruled to that extent.

The House amendment deletes section 950 of the Senate amendment as unnecessary. The constitutionality of chapter 9 of the House amendment is beyond doubt.

Chapter 11 of the House amendment is derived in large part from chapter 11 as contained in the House bill. Unlike chapter 11 of the Senate amendment, chapter 11 of the House amendment does not represent an extension of chapter X of current law or any other chapter of the Bankruptcy Act. Rather chapter 11 of the House amendment takes a new approach consolidating subjects dealt with under chapter VIII, X, XI, and XII of the Bankruptcy Act. The new consolidated chapter 11 contains no special procedure for companies with public debt or equity security holders. Instead, factors such as the standard to be applied to solicitation of acceptances of a plan of reorganization are left to be determined by the court on a case-by-case basis. In order to insure that adequate investigation of the debtor is conducted to determine fraud or wrongdoing on the part of present management, an examiner is required to be appointed in all cases in which the debtor's fixed, liquidated, and unsecured debts, other than debts for goods, services, or taxes, or owing to an insider, exceed $5 million. This should adequately represent the needs of public security holders in most cases. However, in addition, section 1109 of the House amendment enables both the Securities and Exchange Commission and any party in interest who is creditor, equity security holder, indenture trustee, or any committee representing creditors or equity security holders to raise and appear and be heard on any issue in a case under chapter 11. This will enable the bankruptcy court to evaluate all sides of a position and to determine the public interest. This approach is sharply contrasted to that under chapter X of present law in which the public interest is often determined only in terms of the interest of public security holders. The advisory role of the Securities and Exchange Commission will enable the court to balance the needs of public security holders against equally important public needs relating to the economy, such as employment and production, and other factors such as the public health and safety of the people or protection of the national interest. In this context, the new chapter 11 deletes archaic rules contained in certain chapters of present law such as the requirement of an approval hearing and the prohibition of prepetition solicitation. Such requirements were written in an age before the enactment of the Trust Indenture Act and the development of securities laws had occurred. The benefits of these provisions have long been outlived but the detriment of the provisions served to frustrate and delay effective reorganization in those chapters of the Bankruptcy Act in which such provisions applied. Chapter 11 thus represents a much needed revision of reorganization laws. A brief discussion of the history of this important achievement is useful to an appreciation of the monumental reform embraced in chapter 11.

Under the existing Bankruptcy Act, debtors seeking reorganization may choose among three reorganization chapters, chapter X, chapter XI, and chapter XII. Individuals and partnerships may file under chapter XI or, if they own property encumbered by mortgage liens, they may file under chapter XII. A corporation may file under either chapters X or chapter XI, but is ineligible to file under chapter XII. Chapter X was designed to facilitate the pervasive reorganization of corporations whose creditors include holders of publicly issued debt securities. Chapter XI, on the other hand, was designed to permit smaller enterprises to negotiate composition or extension plans with their unsecured creditors. The essential differences between chapters X and XI are as follows. Chapter X mandates that, first, an independent trustee be appointed and assume management control from the officers and directors of the debtor corporation; second, the Securities and Exchange Commission must be afforded an opportunity to participate both as an adviser to the court and as a representative of the interests of public security holders; third, the court must approve any proposed plan of reorganization, and prior to such approval, acceptances of creditors and shareholders may not be solicited; fourth, the court must apply the absolute priority rule; and fifth, the court has the power to affect, and grant the debtor a discharge in respect of, all types of claims, whether secured or unsecured and whether arising by reason of fraud or breach of contract.

The Senate amendment consolidates chapters X, XI, and XII, but establishes a separate and distinct reorganization procedure for "public companies." The special provisions applicable to "public companies" are tantamount to the codification of chapter X of the existing Bankruptcy Act and thus result in the creation of a "two-track system." The narrow definition of the term "public company" would require many businesses which could have been rehabilitated under chapter XI to instead use the more cumbersome procedures of chapter X, whether needed or not.

The special provisions of the Senate amendment applicable to a "public company" are as follows:

(a) Section 1101(3) defines a "public company" as a debtor who, within 12 months prior to the filing of the petition, had outstanding $5 million or more in debt and had not less than 1000 security holders;

(b) Section 1104(a) requires the appointment of a disinterested trustee irrespective of whether creditors support such appointment and whether there is cause for such appointment;

(c) Section 1125(f) prohibits the solicitation of acceptances of a plan of reorganization prior to court approval of such plan even though the solicitation complies with all applicable securities laws;

(d) Section 1128(a) requires the court to conduct a hearing on any plan of reorganization proposed by the trustee or any other party;

(e) Section 1128(b) requires the court to refer any plans "worthy of consideration" to the Securities and Exchange Commission for their examination and report, prior to court approval of a plan; and

(f) Section 1128(c) and Section 1130(a)(7) requires the court to approve a plan or plans which are "fair and equitable" and comply with the other provisions of Chapter 11.

The record of the Senate hearings on S. 2266 and the House hearings on H.R. 8200 is replete with evidence of the fail-

ure of the reorganization provisions of the existing Bankruptcy Act to meet the needs of insolvent corporations in today's business environment. Chapter X was designed to impose rigid and formalized procedures upon the reorganization of corporations and, although designed to protect public creditors, has often worked to the detriment of such creditors. As the House report has noted:

The negative results under Chapter X have resulted from the stilted procedures, under which management is always ousted and replaced by an independent trustee, the courts and the Securities and Exchange Commission examine the plan of reorganization in great detail, no matter how long that takes, and the court values the business, a time consuming and inherently uncertain procedure.

The House amendment deletes the "public company" exception, because it would codify the well recognized infirmities of chapter X, because it would extend the chapter X approach to a large number of new cases without regard to whether the rigid and formalized procedures of chapter X are needed, and because it is predicated upon the myth that provisions similar to those contained in chapter X are necessary for the protection of public investors. Bankruptcy practice in large reorganization cases has also changed substantially in the 40 years since the Chandler Act was enacted. This change is, in large part, attributable to the pervasive effect of the Federal securities laws and the extraordinary success of the Securities and Exchange Commission in sensitizing both management and members of the bar to the need for full disclosure and fair dealing in transactions involving publicly held securities.

It is important to note that Congress passed the Chandler Act prior to enactment of the Trust Indenture Act of 1939 and prior to the definition and enforcement of the disclosure requirements of the Securities Act of 1933 and the Securities Exchange Act of 1934. The judgments made by the 75th Congress in enacting the Chandler Act are not equally applicable to the financial markets of 1978. First of all, most public debenture holders are neither weak nor unsophisticated investors. In most cases, a significant portion of the holders of publicly issued debentures are sophisticated institutions, acting for their own account or as trustees for investment funds, pension funds, or private trusts. In addition, debenture holders, sophisticated, and unsophisticated alike, are represented by indenture trustees, qualified under section 77ggg of the Trust Indenture Act. Given the high standard of care to which indenture trustees are bound, they are invariably active and sophisticated participants in efforts to rehabilitate corporate debtors in distress.

It is also important to note that in 1938 when the Chandler Act was enacted, public investors commonly held senior, not subordinated, debentures and corporations were very often privately owned. In this environment, the absolute priority rule protected debenture holders from an erosion of their position in favor of equity holders. Today, however, if there are public security holders in a case, they are likely to be holders of subordinated debentures and equity and thus the application of the absolute priority rule under chapter X leads to the exclusion, rather than the protection, of the public.

The primary problem posed by chapter X is delay. The modern corporation is a complex and multifaceted entity. Most corporations do not have a significant market share of the lines of business in which they compete. The success, and even the survival, of a corporation in contemporary markets depends on three elements: First, the ability to attract and hold skilled management; second, the ability to obtain credit; and third, the corporation's ability to project to the public an image of vitality. Over and over again, it is demonstrated that corporations which must avail themselves of the provisions of the Bankruptcy Act suffer appreciable deterioration if they are caught in a chapter X proceeding for any substantial period of time.

There are exceptions to this rule. For example, King Resources filed a chapter X petition in the District of Colorado and it emerged from such proceeding as a solvent corporation. The debtor's new found solvency was not, however, so much attributable to a brilliant rehabilitation program conceived by a trustee, but rather to a substantial appreciation in the value of the debtor's oil and uranium properties during the pendency of the proceedings.

Likewise, Equity Funding is always cited as an example of a successful chapter X case. But it should be noted that in Equity Funding there was no question about retaining existing management. Rather, Equity Funding involved fraud on a grand scale. Under the House amendment with the deletion of the mandatory appointment of a trustee in cases involving "public companies," a bankruptcy judge, in a case like Equity Funding, would presumably have little difficulty in concluding that a trustee should be appointed under section 1104(b).

While I will not undertake to list the chapter X failures, it is important to note a number of cases involving corporations which would be "public companies" under the Senate amendment which have successfully skirted the shoals of chapter X and confirmed plans of arrangement in chapter XI. Among these are Daylin, Inc. ("Daylin") and Colwell Mortgage Investors ("Colwell").

Daylin filed a chapter XI petition on February 26, 1975, and confirmed its plan of arrangement on October 20, 1976. The success of its turnaround is best evidenced by the fact that it had consolidated net income of $6,473,000 for the first three quarters of the 1978 fiscal year.

Perhaps the best example of the contrast between chapter XI and chapter X is the recent case of In Re Colwell Mortgage Investors. Colwell negotiated a recapitalization plan with its institutional creditors, filed a proxy statement with the Securities and Exchange Commission, and solicited consents of its creditors and shareholders prior to filing its chapter XI petition. Thereafter, Colwell confirmed its plan of arrangement 41 days after filing its chapter XI petition. This result would have been impossible under the Senate amendment since Colwell would have been a "public company."

There are a number of other corporations with publicly held debt which have successfully reorganized under chapter XI. Among these are National Mortgage Fund (NMF), which filed a chapter XI petition in the northern district of Ohio on June 30, 1976. Prior to commencement of the chapter XI proceeding, NMF filed a proxy statement with the Securities and Exchange Commission and solicited acceptances to a proposed plan of arrangement. The NMF plan was subsequently confirmed on December 14, 1976. The Securities and Exchange Commission did not file a motion under section 328 of the Bankruptcy Act to transfer the case to chapter X and a transfer motion which was filed by private parties was denied by the court.

While there are other examples of large publicly held companies which have successfully reorganized in chapter XI, including Esgrow, Inc. (C.D. Cal. 73–02510), Sherwood Diversified Services Inc. (S.D.N.Y. 73–B–213), and United Merchants and Manufacturers, Inc. (S.D.N.Y. 77–B–1513), the numerous successful chapter XI cases demonstrate two points: first, the complicated and time-consuming provisions of chapter X are not always necessary for the successful reorganization of a company with publicly held debt, and second, the more flexible provisions in chapter XI permit a debtor to obtain relief under the Bankruptcy Act in significantly less time than is required to confirm a plan of reorganization under chapter X of the Bankruptcy Act.

One cannot overemphasize the advantages of speed and simplicity to both creditors and debtors. Chapter XI allows a debtor to negotiate a plan outside of court and, having reached a settlement with a majority in number and amount of each class of creditors, permits the debtor to bind all unsecured creditors to the terms of the arrangement. From the perspective of creditors, early confirmation of a plan of arrangement: first, generally reduces administrative expenses which have priority over the claims of unsecured creditors; second, permits creditors to receive prompt distributions on their claims with respect to which interest does not accrue after the filing date; and third, increases the ultimate recovery on creditor claims by minimizing the adverse effect on the business which often accompanies efforts to operate an enterprise under the protection of the Bankruptcy Act.

Although chapter XI offers the corporate debtor flexibility and continuity of management, successful rehabilitation under chapter XI is often impossible for a number of reasons. First, chapter XI does not permit a debtor to "affect" secured creditors or shareholders, in the absence of their consent. Second, whereas a debtor corporation in chapter X, upon the consummation of the plan or reorganization, is discharged from all its debts and liabilities, a corporation in

chapter XI may not be able to get a discharge in respect of certain kinds of claims including fraud claims, even in cases where the debtor is being operated under new management. The language of chapter 11 in the House amendment solves these problems and thus increases the utility and flexibility of the new chapter 11, as compared to chapter XI of the existing Bankruptcy Act.

Those who would urge the adoption of a two-track system have two major obstacles to meet. First, the practical experience of those involved in business rehabilitation cases, practitioners, debtors, and bankruptcy judges, has been that the more simple and expeditious procedures of chapter XI are appropriate in the great majority of cases. While attempts have been made to convince the courts that a chapter X proceeding is required in every case where public debt is present, the courts have categorically rejected such arguments. Second, chapter X has been far from a success. Of the 991 chapter X cases filed during the period of January 1, 1967, through December 31, 1977, only 664 have been terminated. Of those cases recorded as "terminated," only 140 resulted in confirmed plans. This 21-percent success rate sugrate suggests one of the reasons for the unpopularity of chapter X.

In summary, it has been the experience of the great majority of those who have testified before the Senate and House subcommittees that a consolidated approach to business rehabilitation is warranted. Such approach is adopted in the House amendment.

Having discussed the general reasons why chapter 11 of the House amendment is sorely needed, a brief discussion of the differences between the House bill, Senate amendment, and House amendment is in order. Since chapter 11 of the House amendment rejects the concept of separate treatment for a public company, sections 1101(3), 1104(a), 1125(f), 1128, and 1130(a)(7) of the Senate amendment have been deleted.

Section 1102(a) of the House amendment adopts a compromise between the House bill and Senate amendment requiring appointment of a committee of creditors holding unsecured claims by the court; the alternative of creditor committee election is rejected.

Section 1102(b) of the House amendment represents a compromise between the House bill and the Senate amendment by preventing the appointment of creditors who are unwilling to serve on a creditors committee.

Section 1104 of the House amendment represents a compromise between the House bill and the Senate amendment concerning the appointment of a trustee or examiner. The method of appointment rather than election, is derived from the House bill; the two alternative standards of appointment are derived with modifications from the Senate amendment, instead of the standard stated in the House bill. For example, if the current management of the debtor gambled away rental income before the filing of the petition, a trustee should be appointed after the petition, whether or not postpetition mismanagement can be shown. However, under no circumstances will cause include the number of security holders of the debtor, or the amount of assets or liabilities of the debtor. The standard also applies to the appointment of an examiner in those circumstances in which mandatory appointment, as previously detailed, is not required.

The House amendment adopts section 1107(b) of the Senate amendment which clarifies a point not covered by the House bill. The House amendment adopts section 1108 of the House bill in preference to the style of an identical substantive provision contained in the Senate amendment. Throughout title II references to a "trustee" is read to include other parties under various sections of the bill. For example, section 1107 applies to give the debtor in possession all the rights and powers of a trustee in a case under chapter 11; this includes the power of the trustee to operate the debtor's business under section 1108.

Section 1109 of the House amendment represents a compromise between comparable provisions in the House bill and Senate amendment. As previously discussed the section gives the Securities and Exchange Commission the right to appear and be heard and to raise any issue in a case under chapter 11; however, the Securities and Exchange Commission is not a party in interest and the Commission may not appeal from any judgment, order, or decree entered in the case. Under section 1109(b) a party in interest, including the debtor, the trustee, creditors committee, equity securities holders committee, a creditor, an equity security holder, or an indentured trustee, may raise and may appear and be heard on any issue in a case under chapter 11. Section 1109(c) of the Senate amendment has been moved to subchapter IV pertaining to Railroad Reorganizations.

Section 1110 of the House amendment adopts an identical provision contained in the House bill without modifications contained in the Senate amendment. This section protects a limited class of financiers of aircraft and vessels and is intended to be narrowly construed to prevent secured parties or lessors from gaining the protection of the section unless the interest of such lessor or secured party is explicitly enumerated therein. It should be emphasized that under section 1110(a) a debtor in possession or trustee is given 60 days after the order for relief in a case under chapter 11, to have an opportunity to comply with the provisions of section 1110(a).

During this time the automatic stay will apply and may not be lifted prior to the expiration of the 60-day period. Under section 1110(b), the debtor and secured party or lessor are given an opportunity to extend the 60-day period, but no right to reduce the period is intended. It should additionally be noted that under section 1110(a) the trustee or debtor in possession is not required to assume the executory contract or unexpired lease under section 1110; rather, if the trustee or debtor in possession complies with the requirements of section 1110(a), the trustee or debtor in possession is entitled to retain the aircraft or vessels subject to the normal requirements of section 365. The discussion regarding aircraft and vessels likewise applies with respect to railroad rolling stock in a railroad reorganization under section 1168.

A discussion of section 1111(b) of the House amendment is best considered in the context of confirmation and will, therefore, be discussed in connection with section 1129.

Section 1112 of the House amendment represents a compromise between the House bill and Senate amendment with respect to the factors constituting cause for conversion of a case to chapter 7 or dismissal. The House amendment combines two separate factors contained in section 1112(b)(1) and section 1112(b)(2) of the Senate amendment. Section 1112(b)(1) of the House amendment permits the court to convert a case to a case under chapter 7 or to dismiss the case if there is both a continuing loss to or diminution of the estate and the absence of a reasonable likelihood of rehabilitation; requiring both factors to be present simultaneously represents a compromise from the House bill which eliminated both factors from the list of causes enumerated.

Section 1112(c) and 1112(d) of the House amendment is derived from the House bill which differs from the Senate amendment only as a matter of style. Section 1121 of the House amendment is derived from section 1121 of the House bill; section 1121(c)(1) will be satisfied automatically in a case under subchapter IV of title 11.

Section 1123 of the House amendment represents a compromise between similar provisions in the House bill and Senate amendment. The section has been clarified to clearly indicate that both secured and unsecured claims, or either of them, may be impaired in a case under title 11. In addition assumption or rejection of an executory contract under a plan must comply with section 365 of title 11. Moreover, section 1123(a)(1) has been substantively modified to permit classification of certain kinds of priority claims. This is important for purposes of confirmation under section 1129(a)(9).

Section 1123(a)(5) of the House amendment is derived from a similar provision in the House bill and Senate amendment but deletes the language pertaining to "fair upset price" as an unnecessary restriction. Section 1123 is also intended to indicate that a plan may provide for any action specified in section 1123 in the case of a corporation without a resolution of the board of directors. If the plan is confirmed, then any action proposed in the plan may be taken notwithstanding any otherwise applicable nonbankruptcy law in accordance with section 1142(a) of title 11.

Section 1124 of the House amendment is derived from a similar provision in the House bill and Senate amendment. The section defines the new concept of "impairment" of claims or interests; the concept differs significantly from the concept of "materially and adversely affected" under the Bankruptcy Act. Section 1124(3) of the House amendment provides that a holder of a claim or in-

terest is not impaired, if the plan provides that the holder will receive the allowed amount of the holder's claim, or in the case of an interest with a fixed liquidation preference or redemption price, the greater of such price. This adopts the position contained in the House bill and rejects the contrary standard contained in the Senate amendment.

Section 1124(3) of the House amendment rejects a provision contained in section 1124(3)(B)(iii) of the House bill which would have considered a class of interest not to be impaired by virtue of the fact that the plan provided cash or property for the value of the holder's interest in the debtor.

The effect of the House amendment is to permit an interest not to be impaired only if the interest has a fixed liquidation preference or redemption price. Therefore, a class of interests such as common stock, must either accept a plan under section 1129(a)(8), or the plan must satisfy the requirements of section 1129(b)(2)(C) in order for a plan to be confirmed.

A compromise reflected in section 1124(2)(C) of the House amendment indicates that a class of claims is not impaired under the circumstances of section 1124(2) if damages are paid to rectify reasonable reliance engaged in by the holder of a claim or interest arising from the prepetition breach of a contractual provision, such as an ipso facto or bankruptcy clause, or law. Where the rights of third parties are concerned, such as in the case of lease premises which have been rerented to a third party, it is not intended that there will be adequate damages to compensate the third party.

Section 1125 of the House amendment is derived from section 1125 of the House bill and Senate amendment except with respect to section 1125(f) of the Senate amendment. It will not be necessary for the court to consider the report of the examiner prior to approval of a disclosure statement. The investigation of the examiner is to proceed on an independent basis from the procedure of the reorganization under chapter 11. In order to insure that the examiner's report will be expeditious and fair, the examiner is precluded from serving as a trustee in the case or from representing a trustee if a trustee is appointed, whether the case remains in chapter 11 or is converted to chapter 7 or 13.

Section 1126 of the House amendment deletes section 1126(e) as contained in the House bill. Section 105 of the bill constitutes sufficient power in the court to designate exclusion of a creditor's claim on the basis of a conflict of interest. Section 1126(f) of the House amendment adopts a provision contained in section 1127(f) of the Senate bill indicating that a class that is not impaired under a plan is deemed to have accepted a plan and solicitation of acceptances from such class is not required.

Section 1127(a) of the House amendment adopts a provision contained in the House bill permitting only the proponent of a plan to modify the plan and rejecting the alternative of open modification contained in the Senate amendment.

Section 1129 of the House amendment relates to confirmation of a plan in a case under chapter 11. Section 1129(a)(3) of the House amendment adopts the position taken in the Senate amendment and section 1129(a)(5) takes the position adopted in the House bill. Section 1129(a)(7) adopts the position taken in the House bill in order to insure that the dissenting members of an accepting class will receive at least what they would otherwise receive under the best interest of creditors test; it also requires that even the members of a class that has rejected the plan be protected by the best interest of creditors test for those rare cramdown cases where a class of creditors would receive more on liquidation than under reorganization of the debtor. Section 1129(a)(7)(C) is discussed in connection with section 1129(b) and section 1111(b). Section 1129(a)(8) of the House amendment adopts the provision taken in the House bill which permits confirmation of a plan as to a particular class without resort to the fair and equitable test if the class has accepted a plan or is unimpaired under the plan.

Section 1129(a)(9) represents a compromise between a similar provision contained in the House bill and the Senate amendment. Under subparagraph (A) claims entitled to priority under section 507(a)(1) or (2) are entitled to receive cash on the effective date of the plan equal to the amount of the claim. Under subparagraph (B) claims entitled to priority under section 507(a)(3), (4), or (5), are entitled to receive deferred cash payments of a present value as of the effective date of the plan equal to the amount of the claims if the class has accepted the plan or cash payments on the effective date of the plan otherwise. Tax claims entitled to priority under section 507(a)(6) of different governmental units may not be contained in one class although all claims of one such unit may be combined and such unit may be required to take deferred cash payments over a period not to exceed 6 years after the date of assessment of the tax with the present value equal to the amount of the claim.

Section 1129(a)(10) is derived from section 1130(a)(12) of the Senate amendment.

Section 1129(b) is new. Together with section 1111(b) and section 1129(a)(7)(C), this section provides when a plan may be confirmed, notwithstanding the failure of an impaired class to accept the plan under section 1129(a)(8). Before discussing section 1129(b) an understanding of section 1111(b) is necessary. Section 1111(b)(1) the general rule that a secured claim is to be treated as a recourse claim in chapter 11 whether or not the claim is nonrecourse by agreement or applicable law. This preferred status for a nonrecourse loan terminates if the property securing the loan is sold under section 363 or is to be sold under the plan.

The preferred status also terminates if the class of which the secured claim is a part elects application of section 1111(b)(2). Section 1111(b)(2) provides that an allowed claim is a secured claim to the full extent the claim is allowed rather to the extent of the collateral as under section 506(a). A class may elect application of paragraph (2) only if the security is not of inconsequential value and, if the creditor is a recourse creditor, the collateral is not sold under section 363 or to be sold under the plan. Sale of property under section 363 or under the plan is excluded from treatment under section 1111(b) because of the secured party's right to bid in the full amount of his allowed claim at any sale of collateral under section 363(k) of the House amendment.

As previously noted, section 1129(b) sets forth a standard by which a plan may be confirmed notwithstanding the failure of an impaired class to accept the plan.

Paragraph (1) makes clear that this alternative confirmation standard, referred to as "cram down," will be called into play only on the request of the proponent of the plan. Under this cram down test, the court must confirm the plan if the plan does not discriminate unfairly, and is "fair and equitable," with respect to each class of claims or interests that is impaired under, and has not accepted, the plan. The requirement of the House bill that a plan not "discriminate unfairly" with respect to a class is included for clarity; the language in the House report interpreting that requirement, in the context of subordinated debentures, applies equally under the requirements of section 1129(b)(1) of the House amendment.

Although many of the factors interpreting "fair and equitable" are specified in paragraph (2), others, which were explicated in the description of section 1129(b) in the House report, were omitted from the House amendment to avoid statutory complexity and because they would undoubtedly be found by a court to be fundamental to "fair and equitable" treatment of a dissenting class. For example, a dissenting class should be assured that no senior class receives more than 100 percent of the amount of its claims. While that requirement was explicitly included in the House bill, the deletion is intended to be one of style and not one of substance.

Paragraph (2) provides guidelines for a court to determine whether a plan is fair and equitable with respect to a dissenting class. It must be emphasized that the fair and equitable requirement applies only with respect to dissenting classes. Therefore, unlike the fair and equitable rule contained in chapter X and section 77 of the Bankruptcy Act under section 1129(b)(2), senior accepting classes are permitted to give up value to junior classes as long as no dissenting intervening class receives less than the amount of its claims in full. If there is no dissenting intervening class and the only dissent is from a class junior to the class to which value have been given up, then the plan may still be fair and equitable with respect to the dissenting class, as long as no class senior to the dissenting class has received more than 100 percent of the amount of its claims.

Paragraph (2) contains three subparagraphs, each of which applies to a particular kind of class of claims or interests that is impaired and has not accepted the plan. Subparagraph (A) ap-

plies when a class of secured claims is impaired and has not accepted the plan. The provision applies whether or not section 1111(b) applies. The plan may be crammed down notwithstanding the dissent of a secured class only if the plan complies with clause (i), (ii), or (iii).

Clause (i) permits cram down if the dissenting class of secured claims will retain its lien on the property whether the property is retained by the debtor or transferred. It should be noted that the lien secures the allowed secured claim held by such holder. The meaning of "allowed secured claim" will vary depending on whether section 1111(b)(2) applies to such class.

If section 1111(b)(2) applies then the "electing" class is entitled to have the entire allowed amount of the debt related to such property secured by a lien even if the value of the collateral is less than the amount of the debt. In addition, the plan must provide for the holder to receive, on account of the allowed secured claims, payments, either present or deferred, of a principal face amount equal to the amount of the debt and of a present value equal to the value of the collateral.

For example, if a creditor loaned $15,000,000 to a debtor secured by real property worth $18,000,000 and the value of the real property had dropped to $12,000,000 by the date when the debtor commenced a proceeding under chapter 11, the plan could be confirmed notwithstanding the dissent of the creditor as long as the lien remains on the collateral to secure a $15,000,000 debt, the face amount of present or extended payments to be made to the creditor under the plan is at least $15,000,000, and the present value of the present or deferred payments is not less than $12,000,000. The House report accompanying the House bill described what is meant by "present value".

Clause (ii) is self explanatory. Clause (iii) requires the court to confirm the plan notwithstanding the dissent of the electing secured class if the plan provides for the realization by the secured class of the indubitable equivalents of the secured claims. The standard of "indubitable equivalents" is taken from *In re Murel Holding Corp.*, 75 F. 2d 941 (2d Cir. 1935) (Learned Hand, Jr.).

Abandonment of the collateral to the creditor would clearly satisfy indubitable equivalence, as would a lien on similar collateral. However, present cash payments less than the secured claim would not satisfy the standard because the creditor is deprived of an opportunity to gain from a future increase in value of the collateral. Unsecured notes as to the secured claim or equity securities of the debtor would not be the indubitable equivalent. With respect to an oversecured creditor, the secured claim will never exeed the allowed claim.

Although the same language applies, a different result pertains with respect to a class of secured claims to which section 1111(b)(2) does not apply. This will apply to all claims secured by a right of setoff. The court must confirm the plan notwithstanding the dissent of such a class of secured claims if any of three alternative requirements is met. Under clause (i) the plan may be confirmed if the class retains a right of setoff or a lien securing the allowed secured claims of the class and the holders will receive payments of a present value equal to the allowed amount of their secured claims. Contrary to electing classes of secured creditors who retain a lien under subparagraph (A)(i)(I) to the extent of the entire claims secured by such lien, nonelecting creditors retain a lien on collateral only to the extent of their allowed secured claims and not to the extent of any deficiency, and such secured creditors must receive present or deferred payments with a present value equal to the allowed secured claim, which in turn is only the equivalent of the value of the collateral under section 506(a).

Any deficiency claim of a nonelecting class of secured claims is treated as an unsecured claim and is not provided for under subparagraph (A). The plan may be confirmed under clause (ii) if the plan proposes to sell the property free and clear of the secured party's lien as long as the lien will attach to the proceeds and will receive treatment under clause (i) or (iii). Clause (iii) permits confirmation if the plan provides for the realization by the dissenting nonelecting class of secured claims of the indubitable equivalent of the secured claims of such class.

Contrary to an "electing" class to which section 1111(b)(2) applies, the nonelecting class need not be protected with respect to any future appreciation in value of the collateral since the secured claim of such a class is never undersecured by reason of section 506(a). Thus the lien secures only the value of interest of such creditor in the collateral. To the extent deferred payments exceed that amount, they represent interest. In the event of a subsequent default, the portion of the face amount of deferred payments representing unaccrued interest will not be secured by the lien.

Subparagraph (B) applies to a dissenting class of unsecured claims. The court must confirm the plan notwithstanding the dissent of a class of impaired unsecured claims if the plan provides for such claims to receive property with a present value equal to the allowed amount of the claims. Unsecured claims may receive any kind of "property," which is used in its broadest sense, as long as the present value of the property given to the holders of unsecured claims is equal to the allowed amount of the claims. Some kinds of property, such as securities, may require difficult valuations by the court; in such circumstances the court need only determine that there is a reasonable likelihood that the property given the dissenting class of impaired unsecured claims equals the present value of such allowed claims.

Alternatively, under clause (ii), the court must confirm the plan if the plan provides that holders of any claims or interests junior to the interests of the dissenting class of impaired unsecured claims will not receive any property under the plan on account of such junior claims or interests. As long as senior creditors have not been paid more than in full, and classes of equal claims are being treated so that the dissenting class of impaired unsecured claims is not being discriminated against unfairly, the plan may be confirmed if the impaired class of unsecured claims receives less than 100 cents on the dollar (or nothing at all) as long as no class junior to the dissenting class receives anything at all. Such an impaired dissenting class may not prevent confirmation of a plan by objection merely because a senior class has elected to give up value to a junior class that is higher in priority than the impaired dissenting class of unsecured claims as long as the above safeguards are met.

Subparagraph (C) applies to a dissenting class of impaired interests. Such interests may include the interests of general or limited partners in a partnership, the interests of a sole proprietor in a proprietorship, or the interest of common or preferred stockholders in a corporation. If the holders of such interests are entitled to a fixed liquidation preference or fixed redemption price on account of such interests then the plan may be confirmed notwithstanding the dissent of such class of interests as long as it provides the holders property of a present value equal to the greatest of the fixed redemption price, or the value of such interests. In the event there is no fixed liquidation preference or redemption price, then the plan may be confirmed as long as it provides the holders of such interests property of a present value equal to the value of such interests. If the interests are "under water" then they will be valueless and the plan may be confirmed notwithstanding the dissent of that class of interests even if the plan provides that the holders of such interests will not receive any property on account of such interests.

Alternatively, under clause (ii), the court must confirm the plan notwithstanding the dissent of a class of interests if the plan provides that holders of any interests junior to the dissenting class of interests will not receive or retain any property on account of such junior interests. Clearly, if there are no junior interests junior to the class of dissenting interests, then the condition of clause (ii) is satisfied. The safeguards that no claim or interest receive more than 100 percent of the allowed amount of such claim or interest and that no class be discriminated against unfairly will insure that the plan is fair and equitable with respect to the dissenting class of interests.

Except to the extent of the treatment of secured claims under subparagraph (A) of this statement, the House report remains an accurate description of confirmation of section 1129(b). Contrary to the example contained in the Senate report, a senior class will not be able to give up value to a junior class over the dissent of an intervening class unless the intervening class receives the full amount, as opposed to value, of its claims or interests.

One last point deserves explanation with respect to the admittedly complex

subject of confirmation. Section 1129(a)(7)(C) in effect exempts secured creditors making an election under section 1111(b)(2) from application of the best interest of creditors test. In the absence of an election the amount such creditors receive in a plan of liquidation would be the value of their collateral plus any amount recovered on the deficiency in the case of a recourse loan. However, under section 1111(b)(2), the creditors are given an allowed secured claim to the full extent the claim is allowed and have no unsecured deficiency. Since section 1129(b)(2)(A) makes clear that an electing class need receive payments of a present value only equal to the value of the collateral, it is conceivable that under such a "cram down" the electing creditors would receive nothing with respect to their deficiency. The advantage to the electing creditors is that they have a lien securing the full amount of the allowed claim so that if the value of the collateral increases after the case is closed, the deferred payments will be secured claims. Thus it is both reasonable and necessary to exempt such electing class from application of section 1129(a)(7) as a logical consequence of permitting election under section 1111(b)(2).

Section 1131 of the Senate amendment is deleted as unnecessary in light of the protection given a secured creditor under section 1129(b) of the House amendment.

Section 1141(d) of the House amendment is derived from a comparable provision contained in the Senate amendment. However, section 1141(d)(2) of the House bill as preferable to the Senate amendment. It is necessary for a corporation or partnership undergoing reorganization to be able to present its creditors with a fixed list of liabilities upon which the creditors or third parties can make intelligent decisions. Retaining an exception for discharge with respect to nondischargeable taxes would leave an undesirable uncertainty surrounding reorganizations that is unacceptable. Section 1141(d)(3) is derived from the Senate amendment. Section 1141(d)(4) is likewise derived from the Senate amendment.

Section 1145 of the House amendment deletes a provision contained in section 1145(a)(1) of the House bill in favor of a more adequate provision contained in section 364(f) of the House amendment. In addition, section 1145(d) has been added to indicate that the Trust Indenture Act does not apply to a commercial note issued under a plan, if the note matures not later than 1 year after the effective date of the plan. Some commercial notes receive such an exemption under 304(a)(4) of the Trust Indenture Act of 1939 (15 U.S.C. § 77ddd(a)(4) and others may receive protection by incorporation by reference into the Trust Indenture Act of securities exempt under section 3a(3), (7), (9), or (10) of the Securities Act of 1933.

In light of the amendments made to the Securities Act of 1933 in title III of the House amendment to H.R. 8200, a specific exemption from the Trust Indenture Act is required in order to create certainty regarding plans of reorganization. Section 1145(d) is not intended to imply that commercial notes issued under a plan that matures more than 1 year after the effective date of the plan are automatically covered by the Trust Indenture Act of 1939 since such notes may fall within another exemption thereto.

One other point with respect to Section 1145 deserves comment. Section 1145(a)(3) grants a debtor in possession or trustee in chapter 11 an extremely narrow portfolio security exemption from section 5 of the Securities Act of 1933 or any comparable State law. The provision was considered by Congress and adopted after much study. The exemption is reasonable and is more restrictive than comparable provisions under the Securities Act relating to the estates of decedents. Subsequent to passage of H.R. 8200 by the House of Representatives, the Securities and Exchange Commission promulgated Rule 148 to treat with this problem under existing law. Members of Congress received opinions from attorneys indicating dissatisfaction with the Commission's rule although the rule has been amended, the ultimate limitation of 1 percent promulgated by the Commission is wholly unacceptable.

The Commission rule would permit a trustee or debtor in possession to distribute securities at the rate of 1 percent every 6 months. Section 1145(a)(3) permits the trustee to distribute 4 percent of the securities during the 2-year period immediately following the date of the filing of the petition. In addition, the security must be of a reporting company under section 13 of the Securities and Exchange Act of 1934, and must be in compliance with all applicable requirements for the continuing of trading in the security on the date that the trustee offers or sells the security.

With these safeguards the trustee or debtor in possession should be able to distribute 4 percent of the securities of a class at any time during the 2-year period immediately following the date of the filing of the petition in the interests of expediting bankruptcy administration. The same rationale that applies in expeditiously terminating decedents' estates applies no less to an estate under title 11.

Section 1146 of the House amendment represents a compromise between the House bill and Senate amendment.

Section 1162 of the House amendment is derived from section 1162(1) of the Senate bill.

Section 1163 of the House amendment represents a compromise between the House bill and Senate amendment with respect to the appointment of a trustee in a railroad reorganization. As soon as practicable after the order for relief, the Secretary of Transportation is required to submit a list of five disinterested persons who are qualified to serve as trustee and the court will then appoint one trustee from the list to serve as trustee in the case.

The House amendment deletes section 1163 of the Senate amendment in order to cover intrastate railroads in a case under subchapter IV of chapter 11. The bill does not confer jurisdiction on the Interstate Commerce Commission with respect to intrastate railroads.

Section 1164 of the Senate amendment is deleted as a matter to be left to the Rules of Bankruptcy Procedure. It is anticipated that the rules will require a petition in a railroad reorganization to be filed with the Interstate Commerce Commission and the Secretary of Transportation in a case concerning an interstate railroad.

Section 1164 of the House amendment is derived from section 1163 of the House bill. The section makes clear that the Interstate Commerce Commission, the Department of Transportation, and any State or local commission having regulatory jurisdiction over the debtor may raise and appear and be heard on any issue in a case under subchapter IV of chapter 11, but may not appeal from any judgment, order, or decree in the case. As under section 1109 of title 11, such intervening parties are not parties in interest.

Section 1165 of the House amendment represents a modification of sections 1165 and 1167 of the Senate amendment requiring the court and the trustee to consider the broad, general public interest in addition to the interests of the debtor, creditors, and equity security holders in applying specific sections of the subchapter.

Section 1166 of the House amendment is derived from sections 1164 and 1165 of the House bill. An alternative proposal contained in section 1168(1) of the Senate bill is rejected as violative of the principle or equal treatment of all creditors under title 11.

Section 1168 of the House amendment incorporates a provision contained in section 1166 of the House bill instead of the provision contained in section 1175 of the Senate amendment for the reasons stated in connection with the discussion of section 1110 of the House amendment.

Section 1169 of the Senate amendment is deleted from the House amendment as unnecessary since 28 U.S.C. 1407 treating with the judicial panel on multidistrict litigation will apply by its terms to cases under title 11.

Section 1171 of the House amendment is derived from section 1170 of the House bill in lieu of section 1173(a)(9) of the Senate amendment.

Section 1172 of the House amendment is derived from section 1171 of the House bill in preference to section 1170 of the Senate amendment with the exception that section 1170(4) of the Senate amendment is incorporated into section 1172(a)(1) of the House amendment.

Section 1172(b) of the House amendment is derived from section 1171(c) of the Senate amendment. The section gives the Interstate Commerce Commission the exclusive power to approve or disapprove the transfer of, or operation of or over, any of the debtor's rail lines over which the Commission has jurisdiction, subject to review under the Administrative Procedures Act. The section does not apply to a transfer of railroad lines to a successor of the debtor under a plan of reorganization by merger or otherwise.

The House amendment deletes section

1171(a) of the Senate amendment as a matter to be determined by the Rules of Bankruptcy Procedure. It is anticipated that the rules will specify the period of time, such as 18 months, within which a trustee must file with the court a proposed plan of reorganization for the debtor or a report why a plan cannot be formulated. Incorporation by reference of section 1121 in section 1161 of title 11 means that a party in interest will also have a right to file a plan of reorganization. This differs from the position taken in the Senate amendment which would have permitted the Interstate Commerce Commission to file a plan of reorganization.

Section 1173 of the House amendment concerns confirmation of a plan of railroad reorganization and is derived from section 1172 of the House bill as modified. In particular, section 1173(a)(3) of the House amendment is derived from section 1170(3) of the Senate amendment. Section 1173(b) is derived from section 1173(a)(8) of the Senate amendment.

Section 1174 of the House amendment represents a compromise between the House bill and Senate amendment on the issue of liquidation of a railroad. The provision permits a party in interest at any time to request liquidation. In addition, if a plan has not been confirmed under section 1173 of the House amendment before 5 years after the date of order for relief, the court must order the trustee to cease the debtor's operation and to collect and reduce to money all of the property of the estate in the same manner as if the case were a case under chapter 7 of title 11. The approach differs from the conversion to chapter 7 under section 1174 of the Senate bill in order to make special provisions contained in subchapter IV of chapter 11 applicable to liquidation. However, maintaining liquidation in the context of chapter 11 is not intended to delay liquidation of the railroad to a different extent than if the case were converted to chapter 7.

Although the House amendment does not adopt provisions contained in sections 1170(1), (2), (3), or (5), of the Senate amendment such provisions are contained explicitly or implicitly in section 1123 of the House amendment.

Section 1301 of the House amendment is identical with the provision contained in section 1301 of the House bill and adopted by the Senate amendment. Section 1301(c)(1) indicates that a basis for lifting the stay is that the debtor did not receive consideration for the claim by the creditor, or in other words, the debtor is really the "co-debtor." As with other sections in title 11, the standard of receiving consideration is a general rule, but where two co-debtors have agreed to share liabilities in a different manner than profits it is the individual who does not ultimately bear the liability that is protected by the stay under section 1301.

Section 1302 of the House amendment adopts a provision contained in the Senate amendment instead of the position taken in the House bill. Sections 1302 (d) and (e) are modeled on the standing trustee system contained in the House bill with the court assuming supervisory functions in districts not under the pilot program.

Section 1303 of the House amendment specifies rights and powers that the debtor has exclusive of the trustees. The section does not imply that the debtor does not also possess other powers concurrently with the trustee. For example, although section 1323 is not specified in section 1303, certainly it is intended that the debtor has the power to sue and be sued.

Section 1304(b) of the House amendment adopts the approach taken in the comparable section of the Senate amendment as preferable to the position taken in the House bill.

Section 1305(a)(2) of the House amendment modifies similar provisions contained in the House and Senate bills by restricting application of the paragraph to a consumer debt. Debts of the debtor that are not consumer debts should not be subjected to section 1305(c) or section 1328(d) of the House amendment.

Section 1305(b) of the House amendment represents a technical modification of similar provisions contained in the House bill and Senate amendment.

The House amendment deletes section 1305(d) of the Senate amendment as unnecessary. Section 502(b)(1) is sufficient to disallow any claim to the extent the claim represents the usurious interest or any other charge forbidden by applicable law. It is anticipated that the Rules of Bankruptcy Procedure may require a creditor filing a proof of claim in a case under chapter 13 to include an affirmative statement as contemplated by section 1305(d) of the Senate amendment.

Section 1306(a)(2) adopts a provision contained in the Senate amendment in preference to a similar provision contained in the House bill.

Section 1307(a) is derived from the Senate amendment in preference to a comparable provision contained in the House bill.

Section 1322(b)(2) of the House amendment represents a compromise agreement between similar provisions in the House bill and Senate amendment. Under the House amendment, the plan may modify the rights of holders of secured claims other than a claim secured by a security interest in real property that is the debtor's principal residence. It is intended that a claim secured by the debtor's principal residence may be treated with under section 1322(b)(5) of the House amendment.

Section 1322(c) adopts a 5-year period derived from the House bill in preference to a 4-year period contained in the Senate amendment. A conforming change is made in section 1329(c) adopting the provision in the House bill in preference to a comparable provision in the Senate amendment.

Section 1325(a)(5)(B) of the House amendment modifies the House bill and Senate amendment to significantly protect secured creditors in chapter 13. Unless the secured creditor accepts the plan, the plan must provide that the secured creditor retain the lien securing the creditor's allowed secured claim in addition to receiving value, as of the effective date of the plan of property to be distriouted under the plan on account of the claim not less than the allowed amount of the claim. To this extent, a secured creditor in a case under chapter 13 is treated identically with a recourse creditor under section 1111(b)(1) of the House amendment except that the secured creditor in a case under chapter 13 may receive any property of a value as of the effective date of the plan equal to the allowed amount of the creditor's secured claim rather than being restricted to receiving deferred cash payments. Of course, the secured creditors' lien only secures the value of the collateral and to the extent property is distributed of a present value equal to the allowed amount of the creditor's secured claim the creditor's lien will have been satisfied in full. Thus the lien created under section 1325(a)(5)(B)(i) is effective only to secure deferred payments to the extent of the amount of the allowed secured claim. Tc the extent the deferred payments exceed the value of the allowed amount of the secured claim and the debtor subsequently defaults, the lien will not secure unaccrued interest represented in such deferred payments.

Section 1326(a)(2) of the House amendment adopts a comparable provision contained in the House bill providing for standing trustees.

Section 1328(a) adopts a provision contained in the Senate amendment permitting the court to approve a waiver of discharge by the debtor. It is anticipated that such a waiver must be in writing executed after the order for relief in a case under chapter 13.

Section 1331 of the House bill and Senate amendment is deleted in the House amendment.

As previously noted, provisions in the House bill pertaining to the U.S. Trustee have been moved to chapter 15 with the section numbers in chapter 15 keyed to corresponding sections in chapters 1, 3, 5, 7, 11, and 13 of title 11.

Title II of the House amendment establishes a new bankruptcy court, a pilot program of U.S. trustees, and contains other amendments to title 28 of the United States Code concerning bankruptcy administration. The provisions of title II of the House amendment are much less complicated than those in title I and therefore a less extensive description is necessary.

Section 201 of the House amendment creates in each judicial district a bankruptcy court that is an adjunct to the circuit court of appeals for the district. The amendment does not specify the number of judges to sit on the bankruptcy court, but instead the determination is to be made by Congress after a study during a 5-year transition period between the present system and a new court. Bankruptcy judges on the new court will be appointed by the President with the advice and consent of the Senate, as are all other Federal judges. For each vacancy on the Bankruptcy Court of a District the Judicial Council of the Circuit in which the District is located will be required to send to

the President the names of persons to be considered by the President in filling such vacancy. Bankruptcy judges will serve for a term of 14 years and receive a salary of $50,000 per year. Removal of a bankruptcy judge during a term may be done only for incompetency, misconduct, neglect of duty, or physical or mental disability.

In order to remove a bankruptcy judge a majority of all the judges of the circuit council of the circuit in which the bankruptcy judge serves must concur. The bankruptcy judge must be given a specification of the charges supporting removal and afforded an opportunity to be heard with respect to the charges. The director of the administrative office of the U.S. courts is authorized to transmit any information in his knowledge supporting removal of a bankruptcy judge to the chief judge of the circuit in which the bankruptcy judge serves. Bankruptcy judges are entitled to substantially increased retirement benefits. Under section 212 of the House amendment at age 65 after 14 years of service at 80 percent of salary for which they contribute 5 percent of their salary per year.

An appeal from a decision of a bankruptcy court will be taken to the district court of the district within which the bankruptcy court is located, unless the circuit council of the circuit in which the bankruptcy court is located orders appeals to be taken to a panel of bankruptcy judges comprised of three bankruptcy judges, or both parties by agreement agree to proceed directly to the circuit court of appeals of the circuit in which the bankruptcy court is located. The subject of appeals is dealt with in sections 201, 236, 237, 238, 240, and 241 of title II of the House amendment which in turn create provisions in sections 160, 1293, 1294, 1334, 1408, and 1482 of title 28 implementing the previously described system of appeals.

Section 224 of title II of the House amendment creates chapter 39 of title 28 relating to a pilot program for U.S. trustees in the Department of Justice. The House amendment establishes a 5-year trial pilot program of U.S. trustees to be supervised by an assistant attorney general in the Department of Justice. Ten pilot programs are established in various geographical areas of the country covering 14 judicial districts. During the 5-year transition period the administrative office of U.S. courts will compare bankruptcy case administration under the U.S. trustee system with administration by the court and the administrative office. At the end of the 5-year transition period Congress will decide whether to fully implement the system of U.S. trustees or to terminate the pilot program.

Under present law bankruptcy judges are required to both resolve disputes and supervise the administration of bankruptcy cases. The main purpose of the U.S. trustee is to remove administrative duties from the bankruptcy judge leaving the bankruptcy judge free to resolve disputes untainted by knowledge of matters unnecessary to a judicial determination. The U.S. trustee is responsible for supervising panels of private trustees in the district or districts covered by the pilot program. The U.S. trustee, rather than the court, in a pilot district will appoint trustees, supervise administration of bankruptcy cases, and exercise any other function prescribed by the Attorney General, such as presiding at first meetings of creditors, related to bankruptcy administration. In addition, in no-asset cases where private trustees may be unwilling to serve or in chapter 13 cases under title 11 where no standing trustee may be willing to serve the U.S. trustee is required to serve as a trustee or standing trustee in the case.

Section 224 of title II creates nine sections in chapter 39 of title 28 providing the details of the U.S. trustee system. During the pilot period the Attorney General must appoint a U.S. trustee for each of the 10-pilot programs covering 14 judicial districts. The U.S. trustee is appointed for a term of 7 years, though if the pilot is terminated after 5 years, his appointment would also terminate. The U.S. trustee is subject to removal for cause by the Attorney General. The maximum annual compensation for a U.S. trustee may not exceed the lowest annual rate of basic pay in GS–16 which is currently $39,500. The U.S. trustee system is patterned after the U.S. attorney system regarding civil service benefits.

Section 233 of title II of the House amendment creates a new chapter 50 of title 28 relating to administrative personnel of the bankruptcy courts. Section 771(a) provides for a clerk of the Bankruptcy Court to be appointed based on need. The need for separate Clerks of the Bankruptcy Courts clearly exists at the present time in all judicial districts. Further, Congress has recently addressed the issue and voted unanimously in both bodies of the Congress that separate Clerks of the Bankruptcy Court offices should exist for each Bankruptcy Court. It is further the intent of Congress that this should continue. Where the bankruptcy court is a single bankruptcy judge serving in more than one judicial district, only one Clerk of the Bankruptcy Court may be appointed for all Districts served by that Bankruptcy Judge. In addition the bankruptcy judges may appoint necessary other employees, including law clerks and secretaries, subject to any limitation on the aggregate salaries of the employees imposed by law. Provision is made in the House amendment for bankruptcy court proceedings to be recorded by court reporters or electronic sound recording means or by an employee of the bankruptcy court. Electronic sound recorders means should be the rule. It produces an adequate record and is substantially more economical than a court report or court employee. If the parties agree to bear the cost of a court reporter, it should be permitted. The bill assures similar treatment by the administrative office of the U.S. courts concerning administrative personnel in bankruptcy courts and personnel serving in the U.S. district courts. The Administrative Office should make a study during the transition period regarding the feasibility of the consolidation of the clerk's offices of the Bankruptcy and District Courts. With the addition of the Bankruptcy Judges to the Judicial Conference the Judicial Conference should be better able to evaluate the recommendations contained in such study.

Section 241 of title II establishes a new chapter 90 of title 28 entitled Court of Appeals in bankruptcy courts. This chapter specifies the jurisdiction and venue in bankruptcy cases and specifies various powers of the bankruptcy courts. The chapter grants the courts of appeals original and exclusive jurisdiction of all cases under title 11. That jurisdiction in turn is completely delegated to the bankruptcy court with the sole exception of punishing for contempts by imprisonment and enjoining other courts. The bankruptcy court is thus given pervasive jurisdiction over all proceedings arising in or relating to bankruptcy cases. In addition, the bankruptcy court is given exclusive jurisdiction of the property of the estate in a case under title 11. This represents a major improvement over present law where the distinction between summary and plenary jurisdiction often results in wasteful litigation. Venue provisions pertaining to the new bankruptcy court have been described adequately in the House report accompanying H.R. 8200. It is intended that 28 United States Code 1473 provide alternate venues under subsections (a) and (c) in situations where both paragraphs would apply. Section 250 of title II of the House amendment makes clear that a bankruptcy court may issue a writ of habeas corpus and section 1651 of title 28 applies by its terms to enable a bankruptcy court to issue all other writs; 28 United States Code 1481 rounds out the power of a bankruptcy court by making clear that the court has all the powers of a court of equity, law, or admiralty.

Title II of the House amendment contains a number of miscellaneous provisions relating to bankruptcy judges and bankruptcy courts. As Federal judges, bankruptcy judges are entitled to attend circuit conferences and one bankruptcy judge, is placed on the board of the Federal Judicial Center during transition and thereafter. More importantly, three bankruptcy judges will become members of the Judicial Conference of the United States. In the past, the Judicial Conference of the United States has been unable to respond to the increase in bankruptcy cases and the concomitant strains on bankruptcy judges and courts. Bankruptcy judges have not been members of the committee on bankruptcy of the Judicial Conference or the Judicial Conference itself. The House amendment provides for bankruptcy judge representation on the Judicial Conference in order to make sure that the Conference will be sensitive to the problems and needs of bankruptcy courts and bankruptcy judges. Moreover, such representation will insure input into the allocation of judicial resources that is sorely needed.

In the past, the Judicial Conference and the administrative office of the U.S. courts have treated the bankruptcy court and bankruptcy judges in a less favorable manner than the district courts. Repre-

sentation on the Judicial Conference of the interests of bankruptcy judges in courts will insure that the equitable allocation of judicial resources will be assured.

Finally, title II of the House amendment eliminates the referees' salary and expense fund which was established long ago in an era when the bankruptcy courts were supposed to be self-supporting. The referee salary and expense fund has been running a deficit for several years and deleting it serves to bring the bankruptcy court into line with all other Federal courts.

In order to mitigate the impact on revenues that such a deletion will have, sections 244 and 246 of title II of the House amendment raise filing fees in a manner that treats bankruptcy cases identical with other Federal court cases and comports with dollar values appropriate in 1978 for gaining access to a Federal court.

The last significant change made by title II of the House amendment relates to the Rules of Bankruptcy Procedure currently provided for by 28 United States Code 2075 (1976). Section 247 of title II of the House amendment amends the rulemaking power in order to make clear that rules of bankruptcy procedure may not supersede title 11. Although various sections of title 11 specifically allocate the burden of proof, for example, sections 362(g), 363(e), and 364(d)(2), that allocation is not intended to preclude the Rules of Bankruptcy Procedure from providing the same or a different burden of proof on other issues arising under those sections or otherwise.

I would like to say a few words about a matter of considerable importance—the future of incumbent bankruptcy judges. If we thought that we had the power to do so, we would have required that incumbents be folded into the new positions. This would enable the country to avail itself of the very considerable knowledge and experience of this corps of dedicated people. However, for Congress to do so would probably raise questions of separation of powers. Accordingly, we would, in the strongest terms, urge the President that to the greatest extent possible bankruptcy judges who serve during transition shall be appointed to the new court. This should be done both as a matter of fairness to the incumbents and as a matter of the proper use of a valuable public resource.

Title III of the House amendment contains numerous amendments to other acts related to bankruptcy. On the whole, there are very few differences between the House amendment and provisions contained in the House bill and Senate amendment.

Section 302 of the House amendment represents a compromise between the House bill and Senate amendment on the rulemaking authority of the Commodities Futures Trading Commission.

Section 306 of the House amendment represents a compromise between the House bill and Senate amendment and amends section 3(a)(7) of the Securities Act of 1933 to retain the securities exemption for certificates of indebtedness of a receiver and to cover certificates of indebtedness issued by a trustee or debtor in possession in a case under title 11. This also has the effect of retaining the exemption from the Trust Indenture Act under 15 United States Code 77ddd (a)(4).

Section 308 of the House amendment is new in light of the recent amendments to the Securities Investor Protection Act of 1970. Section 308(e) contains a provision permitting a specific liquidation to be removed to the bankruptcy court upon the issuance of a protective decree and appointment of a trustee in a SIPA case. Section 308(j) indicates that where the debtor is both a stockbroker and a commodity broker, that SIPA is required to perform the duties of a trustee specified in subchapter IV of chapter 7 of title 11, to liquidate the entire business of the stockbroker-commodity broker.

Section 312 of the House amendment contains a technical amendment in light of amendments made to the Consumer Credit Protection Act and represents a compromise between the House bill and Senate amendment in permitting a bankruptcy to antedate a credit report by not more than 10 years in lieu of the 14 years contained in present law, and 7 years contained in the House bill.

Section 313 of the House amendment amends section 201(e) of the Copyright Act to permit a copyright to become property of the estate in an involuntary case.

Section 314(e) of the House amendment takes the approach contained in the House bill in preference to the approach taken in the Senate amendment. Similarly, the House amendment follows the House bill with respect to sections 314(i) and 314(k) as matters of style. Section 314(f) of the House amendment modifies a provision contained in the House bill and Senate amendment.

Section 321 of the House amendment adopts the position taken in the Senate amendment in preference to the position taken in the House bill. Although the Pension Benefit Guarantee Corporation should be free to have a receiver appointed to liquidate a pension plan, this section makes clear that the bankruptcy court retains ultimate power to insure that such liquidation is conducted in accordance with the administration of the bankruptcy case.

Section 327 of the House amendment adopts a comparable provision contained in the House bill consistent with the policy that all nondischargeable debts should be enumerated in section 523 of title 11.

Section 333 of the House amendment adopts a comparable provision contained in the House bill but omitted in the Senate amendment. The provision permits the United States to finance an insolvent railroad on less than a first lien position. Section 333 is not intended to mean that the U.S. Government should bail out insolvent railroads. Rather, in the event the Secretary desires to finance an insolvent railroad in a case in which a first lien would be disasterous to efforts to reorganize the railroad, the Secretary is given discretion to accommodate the public interest.

Section 334 of the House amendment is identical with a provision contained in the House bill and Senate amendment. The bill codifies chapter XIV of the Bankruptcy Act, as amended by the Rules of Bankruptcy Procedure. Prior to adoption of the Rules of Bankruptcy Procedure, the Maritime Administration had a right to repossess vessels notwithstanding any contrary order of the court under section 703 of the Bankruptcy Act. The automatic stay contained in rules such as chapter XI rule 11–44 superseded that provision. Reinstituting an absolute right for an agency of the Government to seize vessels is unwise and unnecessary. The new concept of adequate protection contained in section 361 of the House amendment may be demanded by a creditor as a precondition to use of collateral under section 363(e) of title 11. Moreover, in a case under chapter 11 of title 11, a secured creditor or lessor of a vessel is entitled to repossession after 60 days under section 1110 of title 11, unless the trustee or debtor in possession cures all prior defaults and gives adequate assurance of future performance. Surely it is reasonable for a debtor in possession to be afforded such an opportunity to rehabilitate a business that may have a dramatic impact on the public interest. A governmental agency should not be able to engage in unilateral action to protect pecuniary rights and thereby imperil the public good.

The House amendment adopts provisions contained in sections 335 and 336 of the House bill regarding exercise of the jurisdiction of bankruptcy courts in Guam and the Virgin Islands.

Title IV of the House amendment represents a compromise between the House bill and Senate amendment with respect to transition.

Section 402 of title IV of the House amendment contains the effective dates for the legislation. In general, the substantive law under title I takes effect October 1, 1979. On that date, the repealer of the Bankruptcy Act contained in section 401 of the transition, together with other laws pertaining thereto, also becomes effective. Certain features of the new bankruptcy court are postponed and will not be effective until April 1, 1984; however, the U.S. trustee system and certain powers of the court are made effective October 1, 1979. Although most of the provisions of title III relating to amendments to other laws take effect on October 1, 1979, some of the more important provisions take effect on the date of enactment of this legislation.

Section 403 of title IV of the House amendment states the general rule that on the effective date of the legislation all cases commenced prior to that date are governed by the Bankruptcy Act as if this legislation had never been enacted, both as a matter of substance and as a matter of procedure. Certain provisions of subchapter IV of title 11 will apply in existing railroad reorganizations. All cases commenced on or after October 1, 1979, will be governed by title 11 as contained in title I of the House amendment and the other provisions in titles II and III effective on that date.

Section 404 of the House amendment specifies the status of the court during

transition. Existing bankruptcy judges serving on the date of enactment of the legislation receive an automatic extension of term to March 31, 1984, the effective date of the new court or until a successor is appointed, provided, however if the regular term of a bankruptcy judge would have otherwise expired during transition, a merit screening committee will determine at that time whether a bankruptcy judge should be disqualified from having his term extended during the remainder of the transition period. By March 31, 1984, it is intended that the President will have appointed, subject to the advice and consent of the Senate, bankruptcy judges to serve on the new court. During the transition, U.S. bankruptcy judges are entitled to appoint a clerk, necessary other employees, including law clerks and secretaries, and court reporters the same as the judges of the U.S. Bankruptcy Court that will take effect April 1, 1984. Also, if the Judicial Conference determines the number of bankruptcy judges to be inadequate during the transition period, the Conference may increase, but may not decrease, the number of judges needed. In the unlikely event that a decrease of bankruptcy judges is required, it is expected that natural attrition from retirement and other causes will suffice to reduce the number of bankruptcy judges. The salary of a bankruptcy judge is increased to $50,000 on the date of enactment.

Section 406 of title IV of the House amendment indicates that during transition, the director of the administrative office of U.S. courts will conduct a study and make recommendations concerning the number of bankruptcy judges to serve on the new court after March 31, 1984. The results of this study must be reported to Congress before January 3, 1983.

Section 407 of title IV of the House amendment indicates that during transition, an advisory committee of not fewer than seven bankruptcy judges must be appointed by the director to advise him with respect to matters arising during transition or relevant thereto. Bankruptcy judges are also to be placed on committees of the Judiciary Conference concerned with the administration of bankruptcy during the transition, as indicated in section 407(b) of title IV of the House amendment.

Section 408 of the House amendment establishes a U.S. trustee pilot system to take effect October 1, 1979. Effective on the date of enactment the Attorney General will be responsible for appointing an assistant attorney general to supervise the bankruptcy division of the Department of Justice. The assistant attorney general should immediately begin recruiting U.S. trustees for 10 pilot programs covering 14 districts as enumerated in chapter 15. The Attorney General, with advice from the assistant attorney general for the bankruptcy division, should begin to formulate standards for panels of private trustees and standing trustees as required by title II of this legislation. In districts not covered by the pilot program, the director of the administrative office of the U.S. courts should begin to perform comparable functions effective on the date of enactment so that by October 1, 1979, panels of trustees under the supervision of the director of the administrative office of U.S. courts will be established.

The Attorney General will conduct a study of the U.S. trustee system during the transition and report the results to Congress, among others, no later than January 3, 1980, and annually thereafter during the transition period. In the event Congress is not persuaded to extend the U.S. trustee system, section 408(c) contains a sunset provision abolishing all pilot programs effective April 1, 1984, and abolishing administrative machinery created in the Department of Justice on that date as well.

Having completed a general description of the amendment the provisions of the House amendment which deal directly with, or affect, the payment or collection of taxes in cases under title 11 will be discussed in detail.

Section 108. Extension of time: The House amendment adopts section 108(c)(1) of the Senate amendment which expressly includes any special suspensions of statutes of limitation periods on collection outside bankruptcy when assets are under the authority of a court. For example, section 6503(b) of the Internal Revenue Code suspends collection of tax liabilities while the debtor's assets are in the control or custody of a court, and for 6 months thereafter. By adopting the language of the Senate amendment, the House amendment insures not only that the period for collection of the taxes outside bankruptcy will not expire during the title 11 proceedings, but also that such period will not expire until at least 6 months thereafter, which is the minimum suspension period provided by the Internal Revenue Code.

Section 346. Special tax provisions: State and local rules. This section provides special tax provisions dealing with the treatment, under State or local, but not Federal, tax law, of the method of taxing bankruptcy estates of individuals, partnerships, and corporations; survival and allocation of tax attributes between the bankrupt and the estate; return filing requirements; and the tax treatment of income from discharge of indebtedness. The Senate bill removed these rules pending adoption of Federal rules on these issues in the next Congress. The House amendment returns the State and local tax rules to section 346 so that they may be studied by the bankruptcy and tax bars who may wish to submit comments to Congress.

Withholding rules: Both the House bill and Senate amendment provide that the trustee is required to comply with the normal withholding rules applicable to the payment of wages and other payments. The House amendment retains this rule for State and local taxes only. The treatment of withholding of Federal taxes will be considered in the next Congress.

Section 726 of the Senate amendment provides that the rule requiring pro rata payment of all expenses within a priority category does not apply to the payment of amounts withheld by a bankruptcy trustee. The purpose of this rule was in insure that the trustee pay the full amount of the withheld taxes to the appropriate governmental tax authority. The House amendment deletes this rule as unnecessary because the existing practice conforms essentially to that rule. If the trustee fails to pay over in full amounts that he withheld, it is a violation of his trustee's duties which would permit the taxing authority to sue the trustee on his bond.

When taxes considered "incurred": The Senate amendment contained rules of general application dealing with when a tax is "incurred" for purposes of the various tax collection rules affecting the debtor and the estate. The House amendment adopts the substance of these rules and transfers them to section 507 of title 11.

Penalty for failure to pay tax: The Senate amendment contains a rule which relieves the debtor and the trustee from certain tax penalties for failure to make timely payment of a tax to the extent that the bankruptcy rules prevent the trustee or the debtor from paying the tax on time. Since most of these penalities relate to Federal taxes, the House amendment deletes these rules pending consideration of Federal tax rules affecting bankruptcy in the next Congress. Section 362. Automatic stay: Sections 362(b)(8) and (9) contained in the Senate amendment are largely deleted in the House amendment. Those provisions add to the list of actions not stayed (a) jeopardy assessments, (b) other assessments, and (c) the issuance of deficiency notices. In the House amendment, jeopardy assessments against property which ceases to be property of the estate is already authorized by section 362(c)(1). Other assessments are specifically stayed under section 362(a)(6), while the issuance of a deficiency notice is specifically permitted. Stay of the assessment and the permission to issue a statutory notice of a tax deficiency will permit the debtor to take his personal tax case to the Tax Court, if the bankruptcy judge authorizes him to do so (as explained more fully in the discussion of section 505.)

Section 502. Allowance of Claims or Interests: The House amendment adopts section 502(b)(9) of the House bill which disallows any tax claim resulting from a reduction of the Federal Unemployment Tax Act (FUTA) credit (sec. 3302 of the Internal Revenue Code) on account of a tardy contribution to a State unemployment fund if the contribution is attributable to ways or other compensation paid by the debtor before bankruptcy. The Senate amendment allowed this reduction, but would have subordinated it to other claims in the distribution of the estate's assets by treating it as a punitive (nonpecuniary loss) penalty. The House amendment would also not bar reduction of the FUTA credit on account of a trustee's late payment of a contribution to a State unemployment fund if the contribution was attributable to a trustee's payment of compensation earned from the estate.

Section 505. Determinations of tax liability: Authority of bankruptcy court to

rule on merits of tax claims.—The House amendment authorizes the bankruptcy court to rule on the merits of any tax claim involving an unpaid tax, fine, or penalty relating to a tax, or any addition to a tax, of the debtor or the estate. This authority applies, in general, whether or not the tax, penalty, fine, or addition to tax had been previously assessed or paid. However, the bankruptcy court will not have jurisdiction to rule on the merits of any tax claim which has been previously adjudicated, in a contested proceeding, before a court of competent jurisdiction. For this purpose, a proceeding the U.S. Tax Court is to be considered "contested" if the debtor filed a petition in the Tax Court by the commencement of the case and the Internal Revenue Service had filed an answer to the petition. Therefore, if a petition and answer were filed in the Tax Court before the title II petition was filed, and if the debtor later defaults in the Tax Court, then, under res judicata principles, the bankruptcy court could not then rule on the debtor's or the estate's liability for the same taxes.

The House amendment adopts the rule of the Senate bill that the bankruptcy court can, under certain conditions, determine the amount of tax refund claim by the trustee. Under the House amendment, if the refund results from an offset or counterclaim to a claim or request for payment by the Internal Revenue Service, or other tax authority, the trustee would not first have to file an administrative claim for refund with the tax authority.

However, if the trustee requests a refund in other situations, he would first have to submit an administrative claim for the refund. Under the House amendment, if the Internal Revenue Service, or other tax authority does not rule on the refund claim within 120 days, then the bankruptcy court may rule on the merits of the refund claim.

Under the Internal Revenue Code, a suit for refund of Federal taxes cannot be filed until 6 months after a claim for refund is filed with the Internal Revenue Service (sec. 6532(a)). Because of the bankruptcy aim to close the estate as expeditiously as possible, the House amendment shortens to 120 days the period for the Internal Revenue Service to decide the refund claim.

The House amendment also adopts the substance of the Senate bill rule permitting the bankruptcy court to determine the amount of any penalty, whether punitive or pecuniary in nature, relating to taxes over which it has jurisdiction.

Jurisdiction of the tax court in bankruptcy cases: The Senate amendment provided a detailed series of rules concerning the jurisdiction of the U.S. Tax Court, or similar State or local administrative tribunal to determine personal tax liabilities of an individual debtor. The House amendment deletes these specific rules and relies on procedures to be derived from broad general powers of the bankruptcy court.

Under the House amendment, as under present law, a corporation seeking reorganization under chapter 11 is considered to be personally before the bankruptcy court for purposes of giving that court jurisdiction over the debtor's personal liability for a nondischargeable tax.

The rules are more complex where the debtor is an individual under chapter 7, 11, or 13. An individual debtor or the tax authority can, as under section 17c of the present Bankruptcy Act, file a request that the bankruptcy court determine the debtor's personal liability for the balance of any nondischargeable tax not satisfied from assets of the estate. The House amendment intends to retain these procedures and also adds a rule staying commencement or continuation of any proceeding in the Tax Court after the bankruptcy petition is filed, unless and until that stay is lifted by the bankruptcy judge under section 362(a)(8). The House amendment also stays assessment as well as collection of a prepetition claim against the debtor (sec. 362(a)(6)). A tax authority would not, however, be stayed from issuing a deficiency notice during the bankruptcy case (sec. (b)(7)). The Senate amendment repealed the existing authority of the Internal Revenue Service to make an immediate assessment of taxes upon bankruptcy (sec. 6871(a) of the code). See section 321 of the Senate bill. As indicated, the substance of that provision, also affecting State and local taxes, is contained in section 362(a)(6) of the House amendment. The statute of limitations is tolled under the House amendment while the bankruptcy case is pending.

Where no proceeding in the Tax Court is pending at the commencement of the bankruptcy case, the tax authority can, under the House amendment, file a claim against the estate for a prepetition tax liability and may also file a request that the bankruptcy court hear arguments and decide the merits of an individual debtor's personal liability for the balance of any nondischargeable tax liability not satisfied from assets of the estate. Bankruptcy terminology refers to the latter type of request as a creditor's complaint to determine the dischargeability of a debt. Where such a complaint is filed, the bankruptcy court will have personal jurisdiction over an individual debtor, and the debtor himself would have no access to the Tax Court, or to any other court, to determine his personal liability for nondischargeable taxes.

If a tax authority decides not to file a claim for taxes which would typically occur where there are few, if any, assets in the estate, normally the tax authority would also not request the bankruptcy court to rule on the debtor's personal liability for a nondischargeable tax. Under the House amendment, the tax authority would then have to follow normal procedures in order to collect a nondischargeable tax. For example, in the case of nondischargeable Federal income taxes, the Internal Revenue Service would be required to issue a deficiency notice to an individual debtor, and the debtor could then file a petition in the Tax Court—or a refund suit in a district court—as the forum in which to litigate his personal liability for a nondischargeable tax.

Under the House amendment, as under present law, an individual debtor can also file a complaint to determine dischargeability. Consequently, where the tax authority does not file a claim or a request that the bankruptcy court determine dischargeability of a specific tax liability, the debtor could file such a request on his own behalf, so that the bankruptcy court would then determine both the validity of the claim against assets in the estate and also the personal liability of the debtor for any nondischargeable tax.

Where a proceeding is pending in the Tax Court at the commencement of the bankruptcy case, the commencement of the bankruptcy case automatically stays further action in the Tax Court case unless and until the stay is lifted by the bankruptcy court. The Senate amendment repealed a provision of the Internal Revenue case barring a debtor from filing a petition in the Tax Court after commencement of a bankruptcy case (sec. 6871(b) of the code). See section 321 of the Senate bill. As indicated earlier, the equivalent of the code amendment is embodied in section 362(a)(8) of the House amendment, which automatically stays commencement or continuation of any proceeding in the Tax Court until the stay is lifted or the case is terminated. The stay will permit sufficient time for the bankruptcy trustee to determine if he desires to join the Tax Court proceeding on behalf of the estate. Where the trustee chooses to join the Tax Court proceeding, it is expected that he will seek permission to intervene in the Tax Court case and then request that the stay on the Tax Court proceeding be lifted. In such a case, the merits of the tax liability will be determined by the Tax Court, and its decision will bind both the individual debtor as to any taxes which are nondischargeable and the trustee as to the tax claim against the estate.

Where the trustee does not want to intervene in the Tax Court, but an individual debtor wants to have the Tax Court determine the amount of his personal liability for nondischargeable taxes, the debtor can request the bankruptcy court to lift the automatic stay on existing Tax Court proceedings. If the stay is lifted and the Tax Court reaches its decision before the bankruptcy court's decision on the tax claim against the estate, the decision of the Tax Court would bind the bankruptcy court under principles of res judicata because the decision of the Tax Court affected the personal liability of the debtor. If the trustee does not wish to subject the estate to the decision of the Tax Court if the latter court decides the issues before the bankruptcy court rules, the trustee could resist the lifting of the stay on the existing Tax Court proceeding. If the Internal Revenue Service had issued a deficiency notice to the debtor before the bankruptcy case began, but as of the filing of the bankruptcy petition the 90-day period for filing in the Tax Court was still running, the debtor would be automatically stayed from filing a petition in the Tax Court. If either the debtor or the Internal Revenue Service then files a complaint to determine dis-

chargeability in the bankruptcy court, the decision of the bankruptcy court would bind both the debtor and the Internal Revenue Service.

The bankruptcy judge could, however, lift the stay on the debtor to allow him to petition the Tax Court, while reserving the right to rule on the tax authority's claim against assets of the estate. The bankruptcy court could also, upon request by the trustee, authorize the trustee to intervene in the Tax Court for purposes of having the estate also governed by the decision of the Tax Court.

In essence, under the House amendment, the bankruptcy judge will have authority to determine which court will determine the merits of the tax claim both as to claims against the estate and claims against the debtor concerning his personal liability for nondischargeable taxes. Thus, if the Internal Revenue Service, or a State or local tax authority, files a petition to determine dischargeability, the bankruptcy judge can either rule on the merits of the claim and continue the stay on any pending Tax Court proceeding or lift the stay on the Tax Court and hold the dischargeability complaint in abeyance. If he rules on the merits of the complaint before the decision of the Tax Court is reached, the bankruptcy court's decision would bind the debtor as to nondischargeable taxes and the Tax Court would be governed by that decision under principles of res judicata. If the bankruptcy judge does not rule on the merits of the complaint before the decision of the Tax Court is reached, the bankruptcy court will be bound by the decision of the Tax Court as it affects the amount of any claim against the debtor's estate.

If the Internal Revenue Service does not file a complaint to determine dischargeability and the automatic stay on a pending Tax Court proceeding is not lifted, the bankruptcy court could determine the merits of any tax claim against the estate. That decision will not bind the debtor personally because he would not have been personally before the bankruptcy court unless the debtor himself asks the bankruptcy court to rule on his personal liability. In any such situation where no party filed a dischargeability petition, the debtor would have access to the Tax Court to determine his personal liability for a nondischargeable tax debt. While the Tax Court in such a situation could take into account the ruling of the bankruptcy court on claims against the estate in deciding the debtor's personal liability, the bankruptcy court's ruling would not bind the Tax Court under principles of res judicata, because the debtor, in that situation, would not have been personally before the bankruptcy court.

If neither the debtor nor the Internal Revenue Service files a claim against the estate or a request to rule on the debtor's personal liability, any pending tax court proceeding would be stayed until the closing of the bankruptcy case, at which time the stay on the tax court would cease and the tax court case could continue for purposes of deciding the merits of the debtor's personal liability for nondischargeable taxes.

Audit of trustee's returns: Under both bills, the bankruptcy court could determine the amount of any administrative period taxes. The Senate amendment, however, provided for an expedited audit procedure, which was mandatory in some cases. The House amendment (sec. 505(b)), adopts the provision of the House bill allowing the trustee discretion in all cases whether to ask the Internal Revenue Service, or State or local tax authority for a prompt audit of his returns on behalf of the estate. The House amendment, however, adopts the provision of the Senate bill permitting a prompt audit only on the basis of tax returns filed by the trustee for completed taxable periods. Procedures for a prompt audit set forth in the Senate bill are also adopted in modified form.

Under the procedure, before the case can be closed, the trustee may request a tax audit by the local, State or Federal tax authority of all tax returns filed by the trustee. The taxing authority would have to notify the trustee and the bankrupty court within 60 days whether it accepts returns or desires to audit the returns more fully. If an audit is conducted, the taxing authority would have to notify the trustee of tax deficiency within 180 days after the original and it request, subject to extensions of time if the bankruptcy court approves. If the trustee does not agree with the results of the audit, the trustee could ask the bankruptcy court to resolve the dispute. Once the trustee's tax liability for administration period taxes has thus been determined, the legal effect in a case under chapter 7 or 11 would be to discharge the trustee and any predecessor of the trustee, and also the debtor, from any further liability for these taxes.

The prompt audit procedure would not be available with respect to any tax liability as to which any return required to be filed on behalf of the estate is not filed with the proper tax authority. The House amendment also specifies that a discharge of the trustee or the debtor which would otherwise occur will not be granted, or will be void if the return filed on behalf of the estate reflects fraud or material representation of facts.

For purposes of the above prompt audit procedures, it is intended that the tax authority with which the request for audit is to be filed is, as to Federal taxes, the office of the District Director in the district where the bankruptcy case is pending.

Under the House amendment, if the trustee does not request a prompt audit, the debtor would not be discharged from possible transferee liability if any assets are returned to the debtor.

Assessment after decision: As indicated above, the commencement of a bankruptcy case automatically stays assessment of any tax (sec. 362(a)(6)). However, the House amendment provides (sec. 505(c)) that if the bankruptcy court renders a final judgment with regard to any tax (under the rules discussed above), the tax authority may then make an assessment (if permitted to do so under otherwise applicable tax law) without waiting for termination of the case or confirmation of a reorganization plan.

Trustee's authority to appeal tax cases: The equivalent provision in the House bill (sec. 505(b)) and in the Senate bill (sec. 362(h)) authorizing the trustee to prosecute an appeal or review of a tax case are deleted as unnecessary. Section 541(a) of the House amendment provides that property of the estate is to include all legal or equitable interests of the debtor. These interests include the debtor's causes of action, so that the specific provisions of the House and Senate bills are not needed.

Section 506. Determination of Secured Status: The House amendment deletes section 506(d)(3) of the Senate amendment, which insures that a tax lien securing a nondischargeable tax claim is not voided because a tax authority with notice or knowledge of the bankruptcy case fails to file a claim for the liability (as it may elect not to do, if it is clear there are insufficient assets to pay the liability). Since the House amendment retains section 506(d) of the House bill that a lien is not voided unless a party in interest has requested that the court determine and allow or disallow the claim, provision of the Senate amendment is not necessary.

Sec. 507. Priorities: Under the House amendment, taxes receive priority as follows:

First. Administration expenses: The amendment generally follows the Senate amendment in providing expressly that taxes incurred during the administration of the estate share the first priority given to administrative expenses generally. Among the taxes which receives first priority, as defined in section 503, are the employees' and the employer's shares of employment taxes on wages earned and paid after the petition is filed. Section 503(b)(1) also includes in administration expenses a tax liability arising from an excessive allowance by a tax authority of a "quickie refund" to the estate. (In the case of Federal taxes, such refunds are allowed under special rules based on net operating loss carrybacks (sec. 6411 of the Internal Revenue Code)).

An exception is made to first priority treatment for taxes incurred by the estate with regard to the employer's share of employment taxes on wages earned from the debtor before the petition but paid from the estate after the petition has been filed. In this situation, the employer's tax receives either sixth priority or general claim treatment.

The House amendment also adopts the provisions of the Senate amendment which include in the definition of administrative expenses under section 503 any fine, penalty (including "additions to tax" under applicable tax laws) or reduction in credit imposed on the estate.

Seond. "Involuntary gap" claims: "Involuntary gap" creditors are granted second priority by paragraph (2) of section 507(a). This priority includes tax claims arising in the ordinary course of the debtor's business or financial affairs after he has been placed involuntarily in bankruptcy but before a trustee is appointed or before the order for relief.

Third. Certain taxes on prepetition

wages: Wage claims entitled to third priority are for compensation which does not exceed $2,000 and was earned during the 90 days before the filing of the bankruptcy petition or the cessation of the debtor's business. Certain employment taxes receive third priority in payment from the estate along with the payment of wages to which the taxes relate. In the case of wages earned before the filing of the petition, but paid by the trustee (rather than by the debtor) after the filing of the petition, claims or the employees' share of the employment taxes filing of the petition, claims for the employees' share of the social security or railroad retirement tax) receive third priority to the extent the wage claims themselves are entitled to this priority.

In the case of wages earned from and paid by the debtor before the filing of the petition, the employer's share of the employment taxes on these wages paid by the debtor receives sixth priority or, if not entitled to that priority, are treated only as general claims. Under the House amendment, the employer's share of employment taxes on wages earned by employees of the debtor, but paid by the trustee after the filing of the bankruptcy petition, will also receive sixth priority to the extent that claims for the wages receive third priority. To the extent the claims for wages do not receive third priority, but instead are treated only as general claims, claims for the employer's share of the employment taxes attributable to those wages will also be treated as general claims. In calculating the amounts payable as general wage claims, the trustee must pay the employer's share of employment taxes on such wages.

Sixth priority. The House amendment modifies the provisions of both the House bill and Senate amendment in the case of sixth priority taxes. Under the amendment, the following Federal, State and local taxes are included in the sixth priority:

First. Income and gross receipts taxes incurred before the date of the petition for which the last due date of the return, including all extensions of time granted to file the return, occurred within 3 years before the date on which the petition was filed, or after the petition date. Under this rule, the due date of the return, rather than the date on which the taxes were assessed, determines the priority.

Second. Income and gross receipts taxes assessed at any time within 240 days before the petition date. Under this rule, the date on which the governmental unit assesses the tax, rather than the due date of the return, determines the priority.

If, following assessment of a tax, the debtor submits an offer in compromise to the governmental unit, the House amendment provides that the 240-day period is to be suspended for the duration of the offer and will resume running after the offer is withdrawn or rejected by the governmental unit, but the tax liability will receive priority if the title 11 petition is filed during the balance of the 240-day period or during a minimum of 30 days after the offer is withdrawn or rejected. This rule modifies a provision of the Senate amendment dealing specifically with offers in compromise. Under the modified rule, if, after the assessment, an offer in compromise is submitted by the debtor and is still pending (without having been accepted or rejected) at the date on which a title 11 petition is filed, the underlying liability will receive sixth priority. However, if an assessment of a tax liability is made but the tax is not collected within 240 days, the tax will not receive priority under section 507(a)(6)(A)(i) and the debtor cannot revive a priority for that tax by submitting an offer in compromise.

Third. Income and gross receipts taxes not assessed before the petition date but still permitted, under otherwise applicable tax laws, to be assessed. Thus, for example, a prepetition tax liability is to receive sixth priority under this rule if, under the applicable statute of limitations, the tax liability can still be assessed by the tax authority. This rule also covers situations referred to in section 507(a)(6)(B)(ii) of the Senate amendment where the assessment or collection of a tax was prohibited before the petition pending exhaustion of judicial or administrative remedies, except that the House amendment eliminates the 300-day limitation of the Senate bill. So, for example, if before the petition a debtor was engaged in litigation in the Tax Court, during which the Internal Revenue Code bars the Internal Revenue Service from assessing or collecting the tax, and if the tax court decision is made in favor of the Service before the petition under title 11 is filed, thereby lifting the restrictions on assessment and collection, the tax liability will receive sixth priority even if the tax authority does not make an assessment within 300 days before the petition (provided, of course, that the statute of limitations on assessment has not expired by the petition date).

In light of the above categories of the sixth priority, and tax liability of the debtor (under the Internal Revenue Code or State or local law) as a transferee of property from another person will receive sixth priority without the limitations contained in the Senate amendment so long as the transferee liability had not been assessed by the tax authority by the petition date but could still have been assessed by that date under the applicable tax statute of limitations or, if the transferee liability had been assessed before the petition, the assessment was made no more than 240 days before the petition date.

Also in light of the above categories, the treatment of prepetition tax liabilities arising from an excessive allowance to the debtor of a tentative carryback adjustment, such as a "quickie refund" under section 6411 of the Internal Revenue Code, is revised as follows: If the tax authority has assessed the additional tax before the petition, the tax liability will receive priority if the date of assessment was within 240 days before the petition date. If the tax authority had not assessed the additional tax by the petition, the tax liability will still receive priority so long as, on the petition date, assessment of the liability is not barred by the statute of limitations.

Fourth. Any property tax assessed before the commencement of the case and last payable without penalty within 1 year before the petition, or thereafter.

Fifth. Taxes which the debtor was required by law to withhold or collect from others and for which he is liable in any capacity, regardless of the age of the tax claims. This category covers the so-called "trust fund" taxes, that is, income taxes which an employer is required to withhold from the pay of his employees, and the employees' share of social security taxes.

In addition, this category includes the liability of a responsible officer under the Internal Revenue Code (sec. 6672) for income taxes or for the employees' share of social security taxes which that officer was responsible for withholding from the wages of employees and paying to the Treasury, although he was not himself the employer. This priority will operate when a person found to be a responsible officer has himself filed in title 11, and the priority will cover the debtor's responsible officer liability regardless of the age of the tax year to which the tax relates. The U.S. Supreme Court has interpreted present law to require the same result as will be reached under this rule. *U.S.* v. *Sotelo*, 436 U.S. — (1978).

This category also includes the liability under section 3505 of the Internal Revenue Code of a taxpayer who loans money for the payment of wages or other compensation.

Sixth, the employer's share of employment taxes on wages paid before the petition and on third-priority wages paid postpetition by the estate. The priority rules under the House amendment governing employment taxes can thus be summarized as follows: Claims for the employees' shares of employment taxes attributable to wages both earned and paid before the filing of the petition are to receive sixth priority. In the case of employee wages earned, but not paid, before the filing of the bankruptcy petition, claims for the employees' share of employment taxes receive third priority to the extent the wages themselves receive third priority. Claims which relate to wages earned before the petition, but not paid before the petition (and which are not entitled to the third priority under the rule set out above), will be paid as general claims. Since the related wages will receive no priority, the related employment taxes would also be paid as nonpriority general claims.

The employer's share of the employment taxes on wages earned and paid before the bankruptcy petition will receive sixth priority to the extent the return for these taxes was last due (including extensions of time) within 3 years before the filing of the petition, or was due after the petition was filed). Older tax claims of this nature will be payable as general claims. In the case of wages earned by employees before the petition, but actually paid by the trustee (as claims against the estate) after the title 11 case commenced, the employer's share of the employment taxes on third

priority wages will be payable as sixth priority claims and the employer's taxes on prepetition wages which are treated only as general claims will be payable only as general claims. In calculating the amounts payable as general wage claims, the trustee must pay the employer's share of employment taxes on such wages. The House amendment thus deletes the provision of the Senate amendment that certain employer taxes receive third priority and are to be paid immediately after payment of third priority wages and the employees' shares of employment taxes on those wages.

In the case of employment taxes relating to wages earned and paid after the petition, both the employees' shares and the employer's share will receive first priority as administration expenses of the estate.

Seventh. Excise taxes on transactions for which a return, if required, is last due, under otherwise applicable law or under any extension of time to file the return, within 3 years before the petition was filed, or thereafter. If a return is not required with regard to a particular excise tax, priority is given if the transaction or event itself occurred within 3 years before the date on which the title 11 petition was filed. All Federal, State or local taxes generally considered or expressly treated as excises are covered by this category, including sales taxes, estate and gift taxes, gasoline and special fuel taxes, and wagering and truck taxes.

Eighth. Certain unpaid customs duties. The House amendment covers in this category duties on imports entered for consumption within 1 year before the filing of the petition, but which are still unliquidated on the petition date; duties covered by an entry liquidated or reliquidated within 1 year before the petition date; and any duty on merchandise entered for consumption within 4 years before the petition but not liquidated on the petition date, if the Secretary of the Treasury or his delegate certifies that duties were not liquidated because of possible assessment of antidumping or countervailing duties or fraud penalties.

For purposes of the above priority rules, the House amendment adopts the provision of the Senate bill that any tax liability which, under otherwise applicable tax law, is collectible in the form of a "penalty," is to be treated in the same manner as a tax liability. In bankruptcy terminology, such tax liabilities are referred to as pecuniary loss penalties. Thus, any tax liability which under the Internal Revenue Code or State or local tax law is payable as a "penalty," in addition to the liability of a responsible person under secton 6672 of the Internal Revenue Code, will be entitled to the priority which the liability would receive if it were expressly labeled as a "tax" under the applicable tax law. However, a tax penalty which is punitive in nature is given subordinated treatment under section 726(a)(4).

The House amendment also adopts the provision of the Senate amendment that a claim arising from an erroneous refund or credit of tax, other than a "quickie refund," is to receive the same priority as the tax to which the refund or credit relates.

The House amendment deletes the express provision of the Senate amendment that a tax liability is to receive sixth priority if it satisfies any one of the subparagraphs of section 507(a)(6) even if the liability fails to satisfy the terms of one or more other subparagraphs. No change of substance is intended by the deletion, however, in light of section 102(5) of the House amendment, providing a rule of construction that the word "or" is not intended to be exclusive.

The House amendment deletes from the express priority categories of the Senate amendment the priority for a debtor's liability as a third party for failing to surrender property or to pay an obligation in response to a levy for taxes of another, and the priority for amounts provided for under deferred payment agreements between a debtor and the tax authority.

The House amendment also adopts the substance of the definition in section 346 (a) the Senate amendment of when taxes are to be considered "incurred" except that the House amendment applies these definitions solely for purposes of determining which category of section 507 tests the priority of a particular tax liability. Thus, for example, the House amendment contains a special rule for the treatment of taxes under the 45-day exception to the preference rules under section 547 and the definitions of when a tax is incurred for priority purposes are not to apply to such preference rules. Under the House amendment, for purposes of the priority rules, a tax on income for a particular period is to be considered "incurred" on the last day of the period. A tax on or measured by some event, such as the payment of wages or a transfer by reason of death or gift, or an excise tax on a sale or other transaction, is to be considered "incurred" on the date of the transaction or event.

Section 510. Subordination: Since the House amendment authorizes subordination of claims only under principles of equitable subordination, and thus incorporates principles of existing case law, a tax claim would rarely be subordinated under this provision of the bill.

Section 522. Exemptions: Section 522 (c)(1) of the House amendment adopts a provision contained in the House bill that dischargeable taxes cannot be collected from exempt assets. This changes present law, which allows collection of dischargeable taxes from exempt property, a rule followed in the Senate amendment. Nondischargeable taxes, however, will continue to the collectable out of exempt property. It is anticipated that in the next session Congress will reveiw the exemptions from levy currently contained in the Internal Revenue Code with a view to increasing the exemptions to more realistic levels.

Section 523. Nondischargeable debts: The House amendment retains the basic categories of nondischargeable tax liabilities contained in both bills, but restricts the time limits on certain nondischargeable taxes. Under the amendment, nondischargeable taxes cover taxes entitled to priority under section 507(a)(6) of title 11 and, in the case of individual debtors under chapters 7, 11, or 13, tax liabilities with respect to which no required return had been filed or as to which a late return had been filed if the return became last due, including extensions, within 2 years before the date of the petition or became due after the petition, or as to which the debtor made a fraudulent return, entry or invoice or fraudulently attempted to evade or defeat the tax.

In the case of individuals in liquidation under chapter 7 or in reorganization under chapter 11 if title 11, section 1141(d)(2) incorporates by reference the exceptions to discharge continued in section 523. Different rules concerning the discharge of taxes where a partnership or corporation reorganizes under chapter 11, apply under section 1141.

The House amendment also deletes the reduction rule contained in section 523 (e) of the Senate amendment. Under that rule, the amount of an otherwise nondischargeable tax liability would be reduced by the amount which a governmental tax authority could have collected from the debtor's estate if it had filed a timely claim against the estate but which it did not collect because no such claim was filed. This provision is deleted in order not to effectively compel a tax authority to file claim against the estate in "no asset" cases, along with a dischargeability petition. In no-asset cases, therefore, if the tax authority is not potentially penalized by failing to file a claim, the debtor in such cases will have a better opportunity to choose the prepayment forum, bankruptcy court or the Tax Court, in which to litigate his personal liability for a nondischargeable tax.

The House amendment also adopts the Senate amendment provision limiting the nondischargeability of punitive tax penalties, that is, penalties other than those which represent collection of a principal amount of tax liability through the form of a "penalty." Under the House amendment, tax penalties which are basically punitive in nature are to be nondischargeable only if the penalty is computed by reference to a related tax libility which is nondischargeable or, if the amount of the penalty is not computed by reference to a tax liability, the transaction or event giving rise to the penalty occurred during the 3-year period ending on the date of the petition.

Section 541. Property of the estate: The Senate amendment provided that property of the estate does not include amounts held by the debtor as trustee and any taxes withheld or collected from others before the commencement of the case. The House amendment removes these two provisions. As to property held by the debtor as a trustee, the House amendment provides that property of the estate will include whatever interest the debtor held in the property at the commencement of the case. Thus, where the debtor held only legal title to the property and the beneficial interest in that property belongs to another, such as exists in the case of property held in trust, the property of the estate includes the legal title, but not the beneficial interest in the property.

As to withheld taxes, the House amendment deletes the rule in the Senate bill as unnecessary since property of

the estate does not include the beneficial interest in property held by the debtor as a trustee. Under the Internal Revenue Code of 1954 (section 7501), the amounts of withheld taxes are held to be a special fund in trust for the United States. Where the Internal Revenue Service can demonstrate that the amounts of taxes withheld are still in the possession of the debtor at the commencement of the case, then if a trust is created, those amounts are not property of the estate. *Compare In re Shakesteers Coffee Shops*, 546 F.2d 821 (9th Cir. 1976) *with In re Glynn Wholesale Building Materials, Inc.* (S.D. Ga. 1978) and *In re Progress Tech Colleges, Inc.*, 42 Aftr 2d 78–5573 (S.D. Ohio 1977).

Where it is not possible for the Internal Revenue Service to demonstrate that the amounts of taxes withheld are still in the possession of the debtor at the commencement of the case, present law generally includes amounts of withheld taxes as property of the estate. *See, e.g., United States* v. *Randall*, 401 U.S. 513 (1973) and *In re Tamasha Town and Country Club*, 483 F.2d 1377 (9th Cir. 1973). Nonetheless, a serious problem exists where "trust fund taxes" withheld from others are held to be property of the estate where the withheld amounts are commingled with other assets of the debtor. The courts should permit the use of reasonable assumptions under which the Internal Revenue Service, and other tax authorities, can demonstrate that amounts of withheld taxes are still in the possession of the debtor at the commencement of the case. For example, where the debtor had commingled that amount of withheld taxes in his general checking account, it might be reasonable to assume that any remaining amounts in that account on the commencement of the case are the withheld taxes. In addition, Congress may consider future amendments to the Internal Revenue Code making clear that amounts of withheld taxes are held by the debtor in a trust relationship and, consequently, that such amounts are not property of the estate.

Section 545. Statutory liens: The House amendment retains the provision of section 545(2) of the House bill giving the trustee in a bankruptcy case the same power which a bona fide purchaser has to take over certain kinds of personal property despite the existence of a tax lien covering that property. The amendment thus retains present law, and deletes section 545(b) of the Senate amendment which would have no longer allowed the trustee to step into the shoes of a bona fide purchaser for this purpose.

Section 547. Preferences: The House amendment deletes from the category of transfers on account of antecedent debts which may be avoided under the preference rules, section 547(b)(2), the exception in the Senate amendment for taxes owed to governmental authorities. However, for purposes of the "ordinary course" exception to the preference rules contained in section 547(c)(2), the House amendment specifies that the 45-day period referred to in section 547(c)(2)(B) is to begin running, in the case of taxes from the last due date, including extensions, of the return with respect to which the tax payment was made.

Section 724. Treatment of certain liens: The House amendment modifies present law by requiring the subordination of tax liens on both real and personal property to the payment of claims having a priority above the sixth priority. This means that assets are to be distributed from the debtor's estate to pay higher priority claims before the tax claims are paid, even though the tax claims are properly secured. Under present law and the Senate amendment only tax liens on personal property, but not on real property, are subordinated to the payment of claims having a priority above the priority for tax claims.

Section 728. Special tax provisions: Liquidations: The House bill contained special tax provisions concerning the treatment of liquidations cases for State and local tax laws. These provisions deal with the taxable years of an individual debtor, return-filing requirements, and rules allocating State and local tax liabilities and refunds between a bankrupt partner and the partnership of which he is a member. The Senate amendment deleted these rules pending consideration of the Federal tax treatment of bankruptcy in the next Congress. The House amendment returns these provisions to the bill in order that they may be studied by the bankruptcy and tax bars who may wish to submit comments to Congress in connection with its consideration of these provisions in the next Congress.

Sections 1129, 1141. Payment of taxes in reorganizations: Under the provisions of section 1141 as revised by the House amendment, an individual in reorganization under chapter 11 will not be discharged from any debt, including prepetition tax liabilities, which are nondischargeable under section 523. Thus, an individual debtor whose plan of reorganization is confirmed under chapter 11 will remain liable for prepetition priority taxes, as defined in section 507, and for tax liabilities which receive no priority but are nondischargeable under section 523, including no return, late return, and fraud liabilities.

In the case of a partnership or a corporation in reorganization under chapter 11 of title 11, section 1141(d)(1) of the House amendment adopts a provision limiting the taxes that must be provided for in a plan before a plan can be confirmed to taxes which receive priority under section 507. In addition, the House amendment makes dischargeable, in effect, tax liabilities attributable to no return, late return, or fraud situations. The amendment thus does not adopt a shareholder continuity test such as was contained in section 1141(d)(2)(A)(iii) of the Senate amendment. However, the House amendment amends section 1106, relating to duties of the trustee, to require the trustee to furnish, on request of a tax authority and without personal liability, information available to the trustee concerning potential prepetition tax liabilities for unfiled returns of the debtor. Depending on the condition of the debtor's books and records, this information may include schedules and files available to the business. The House amendment also does not prohibit a tax authority from disallowing any tax benefit claimed after the reorganization if the item originated in a deduction, credit, or other item improperly reported before the reorganization occurred. It may also be appropriate for the Congress to consider in the future imposing civil or criminal liability on corporate officers for preparing a false or fraudulent tax return. The House amendment also contemplates that the Internal Revenue Service will monitor the relief from liabilities under this provision and advise the Congress if, and to the extent, any significant tax abuse may be resulting from the provision.

Medium of payment of taxes: Federal, State, and local taxes incurred during the administration period of the estate, and during the "gap" period in an involuntary case, are to be paid solely in cash. Taxes relating to third priority wages are to be paid, under the general rules, in cash on the effective date of the plan, if the class has not accepted the plan, in an amount equal to the allowed amount of the claim. If the class has accepted the plan, the taxes must be paid in cash but the payments must be made at the time the wages are paid which may be paid in deferred periodic installments having a value, on the effective date of the plan, equal to the allowed amount of the tax claims. Prepetition taxes entitled to sixth priority under section 507(a)(6) also must be paid in cash, but the plan may also permit the debtor whether a corporation, partnership, or an individual, to pay the allowed taxes in installments over a period not to exceed 6 years following the date on which the tax authority assesses the tax liability, provided the value of the deferred payments representing principal and interest, as of the effective date of the plan, equals the allowed amount of the tax claim.

The House amendment also modifies the provisions of both bills dealing with the time when tax liabilities of a debtor in reorganization may be assessed by the tax authority. The House amendment follows the Senate amendment in deleting the limitation in present law under which a priority tax assessed after a reorganization plan is confirmed must be assessed within 1 year after the date of the filing of the petition. The House amendment specifies broadly that after the bankruptcy court determines the liability of the estate for a prepetition tax or for an administration period tax, the governmental unit may thereafter assess the tax against the estate, debtor, or successor to the debtor. The party to be assessed will, of course, depend on whether the case is under chapter 7, 11, or 13, whether the debtor is an individual, partnership, or a corporation, and whether the court is determining an in-

dividual debtor's personal liability for a nondischargeable tax. Assessment of the tax may only be made, however, within the limits of otherwise applicable law, such as the statute of limitations under the tax law.

Tax avoidance purpose: The House bill provided that no reorganization plan may be approved if the principal purpose of the plan is the avoidance of taxes. The Senate amendment modified the rule so that the bankruptcy court need make a determination of tax avoidance purpose only if it is asked to do so by the appropriate tax authority. Under the Senate amendment, if the tax authority does not request the bankruptcy court to rule on the purpose of the plan, the tax authority would not be barred from later asserting a tax avoidance motive with respect to allowance of a deduction or other tax benefit claimed after the reorganization. The House amendment adopts the substance of the Senate amendment, but does not provide a basis by which a tax authority may collaterally attack confirmation of a plan of reorganization other than under section 1144.

Section 1146. Special tax provisions: reorganization: The House bill provided rules on the effect of bankruptcy on the taxable year of the debtor and on tax return filing requirements for State and local taxes only. The House bill also exempted from State or local stamp taxes the issuance, transfer, or exchange of a security, or the making or delivery of an instrument of transfer under a plan. The House bill also authorized the bankruptcy court to declare the tax effects of a reorganization plan after the proponent of the plan had requested a ruling from State or local tax authority and either had received an unfavorable ruling or the tax authority had not issued a ruling within 270 days.

The Senate amendment deleted the rules concerning the taxable years of the debtor and tax return filing requirements since the Federal rules were to be considered in the next Congress. It broadened the rule exempting transfers of securities to include Federal stamp or similar taxes, if any. In addition, the Senate amendment deleted the provision which permitted the bankruptcy court to determine the tax effects of a plan.

The House amendment retains the State and local rules in the House bill with one modification. Under the House amendment, the power of the bankruptcy court to declare the tax effects of the plan is limited to issues of law and not to questions of fact such as the allowance of specific deductions. Thus, the bankruptcy court could declare whether the reorganization qualified for taxfree status under State or local tax rules, but it could not declare the dollar amount of any tax attributes that survive the reorganization.

Section 1322. Tax payments in wage earner plans: The House bill provided that a wage earner plan had to provide that all priority claims would be paid in full. The Senate amendment contained a special rule in section 1325(c) requiring that Federal tax claims must be paid in cash, but that such tax claims can be paid in deferred cash installments under the general rules applicable to the payment of debts in a wage earner plan, unless the Internal Revenue Service negotiates with the debtor for some different medium or time for payment of the tax liability.

The House bill adopts the substance of the Senate amendment rule under section 1322(a)(2) of the House amendment. A wage earner plan must provide for full payment in deferred cash payments, of all priority claims, unless the holder of a particular claim agrees with a different treatment of such claim.

Section 1331. Special tax provision: Section 1331 of title 11 of the House bill and the comparable provisions in sections 1322 and 1327(d) of the Senate amendment, pertaining to assessment and collection of taxes in wage-earner plans, are deleted, and the governing rule is placed in section 505(c) of the House amendment. The provisions of both bills allowing assessment and collection of taxes after confirmation of the wage-earner plan are modified to allow assessment and collection after the court fixes the fact and amount of a tax liability, including administrative period taxes, regardless of whether this occurs before or after confirmation of the plan. The provision of the House bill limiting the collection of taxes to those assessed before one year after the filing of the petition is eliminated, thereby leaving the period of limitations on assessment of these nondischargeable tax liabilities the usual period provided by the Internal Revenue Code.

Finally, one word about the tax provisions contained in the amendment. The tax-related bankruptcy provisions, and the substantive tax provisions in this bill represent hard work by our subcommittee and the Ways and Means and Finance Committee in solving the competing policies in the tax and bankruptcy areas. Much has been left to next year, however, when we hope that the Ways and Means Committee will complete work on a major bankruptcy/tax bill. The Judiciary Committee deleted many tax provisions from this bill so that the Ways and Means Committee could take a deeper look at them. We hope that next year, when it does complete its work, we too will have an opportunity to review their proposals to insure that the important goals of the bankruptcy laws are protected.

● Mr. MATHIAS. Mr. President, I have four questions regarding subchapter IV of chapter 7 of title I of the bill, which deals with commodity related bankruptcies. I note that the bill now before the Senate deletes section 766 (b) and (c) of the bill as originally passed by the Senate, S. 2266. I also note, however, that the distinguished Senator's floor statement indicates that the protections previously sought to be provided under section 766 (b) and (c) to commodity brokers, forward contract merchants and clearing organizations are now intended to be covered under section 764 (c) and section 548(d)(2) of the bill now before us. Is that correct?

Mr. DECONCINI. Yes.

Mr. MATHIAS. Am I correct in my understanding of the Senator's statement that the intent of section 764 and section 548(d)(2) is to provide that margin payments and settlement payments previously made by a bankrupt to a commodity broker, forward contract merchant and by or to a clearing organization are nonvoidable transfers by the bankrupt's trustee? And is it also true that margin payments will not be considered voidable preferences because they constitute transfers made as contemporaneous exchanges for new value as used in section 547(c)?

Mr. DECONCINI. Yes.

Mr. MATHIAS. I thank the Senator for his assurance that it is the intention of section 764(c) and section 548 (d)(2) to protect all margin payments in the customer-broker-clearinghouse chain. This vital protection substantially reduces the likelihood that the bankruptcy of one customer or broker will lead to the bankruptcy of another broker or clearinghouse.

Is it the distinguished Senator's understanding that the provisions of section 362(b)(6) of the bill before us will protect the right of a commodity broker, forward contract merchant, or clearing organization to liquidate or transfer an open commodity contract held or carried for a bankrupt pursuant to existing contractual rights and that such right will not be subject to any stay sought to be imposed under this act, State law or court order?

Mr. DECONCINI. Yes.

Mr. MATHIAS. I have one final question of the distinguished Senator. My understanding of section 764(b) which makes nonvoidable certain transfers or liquidations of commodity contracts made within 5 days of filing is that the Commission will not be engaged in approving transfers in each bankruptcy occurrence. Rather, the transfers will be made by the exchanges or clearing organizations under the existing rules of the Commission requiring that trades which are noncompetitive or expit transfers be so identified to the Commission by the affected exchange or clearing organization. Is this a correct interpretation?

Mr. DECONCINI. Yes.

Mr. MATHIAS. I thank the Senator for these important protections to these dynamic markets which are vital to our Nation's economy.●

Mr. LEAHY. Mr. President, I have a question on subchapter 4 of title I of H.R. 8200. As chairman of the subcommittee that has jurisdiction over the legislation

that regulates the commodity futures industry, I desire that the language of the compromise bill treat cases of bankrupt futures commission merchants in a manner that will not be disruptive of the markets. In fact, the Senate bill to reauthorize the Commodity Futures Trading Commission, S. 2391, contained a provision regarding the transfer of segregated customer funds of a bankrupt futures commission merchant. The Senate conferees agreed to delete this provision because this matter was quite properly dealt with in the bankruptcy legislation that was passed by the House and the Senate.

I understand that, although the substitute bill now before the Senate does deal with all the issues that are of concern to the commodity futures industry, there may be some ambiguities and technical problems that may need to be dealt with at a later date. It is further my understanding that a technical corrections bill will have to be considered next year because there are always technical corrections that are necessary when a bill of this complexity is enacted. My question is, will the distinguished Senator from Arizona be willing to cooperate in securing adoption of any technical amendments that are subsequently found to be desirable in the treatment of bankruptcies in the commodity futures industry?

Mr. DECONCINI. Yes.

Mr. President, I yield such time as he may desire to the Senator from South Carolina.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, I rise in support of H.R. 8200, the Bankruptcy Reform Act of 1978, as amended today in the Senate.

I could not support the version of this legislation sent over from the House last Thursday, September 28. When I was advised of some of the features of that amended bill, I expressed immediately my concerns to the leadership and asked that the measure be held up so that Senators could be informed of the changes made by the House amendments.

Mr. President, although I supported the Senate version of this legislation, S. 2266, and I continue to support the overall substantive provisions of H.R. 8200, I was greatly concerned about certain features of the House-passed bill of last week.

First, there was a major departure from the Senate position on the appointment of bankruptcy judges. The Senate bill provided for bankruptcy judges to be appointed by the judicial councils of the circuit courts of appeals and the bankruptcy judges to then serve as adjuncts of the district courts. I supported that position because I felt it was a modest, but reasonable approach to elevating the status of bankruptcy judges. The House amendments went too far, however, by making bankruptcy judges subject to Presidential appointment and to serve as adjuncts of the circuit courts of appeals.

Mr. President, I could not support the appointment process in that form. I am supporting, however, a modified version that is a compromise between the original House and Senate versions. Under the compromise, bankruptcy judges would be appointed by the President after the names have been submitted to him by the judicial councils of the respective circuit courts of appeals. The bankruptcy judges would then serve 14-year terms as adjuncts of the district court.

In addition, the compromise version before us today would return the retirement system for bankruptcy judges to the position of the Senate bill. Bankruptcy judges would receive 2½ percent retirement per year with contributions, much like the retirement plan for the Congress. This approach is a reasonable one that achieves economic savings over the compromise plan in the House version while at the same time, gives bankruptcy judges an improved retirement plan over what they now have.

Mr. President, this compromise will not affect the status of bankruptcy judges that are currently serving. The transition period through 1984 is retained, which gives job protection to sitting judges until the expiration of the transition period. The President could not remove these judges during that period, he could only appoint judges to replace those who leave office voluntarily or for other reasons. Sitting judges would only be subject to removal on the grounds of incompetence, misconduct, neglect of duty, or disability as determined by the judicial council of the circuit. I think this approach adequately protects sitting judges and is the same as the provisions of the Senate-passed bill.

Mr. President, I think this overall compromise is reasonable and fair. It would give the bankruptcy judges the improved status they are seeking, while at the same time keeping the costs to the Government down. I want to see bankruptcy reform in this session of Congress, but I was unwilling to accept legislation that would lead to excessive cost to the Government and an unreasonable expansion of the Federal bureaucracy.

Mr. President, I appreciate the courtesies extended to me by Senator DECONCINI and Senator WALLOP during these past few days while this agreement was worked out. They were most considerate and helpful and I am grateful to them for helping to get this matter resolved.

Mr. President, I urge adoption of these amendments.

I would like to inquire of the distinguished Senator from Arizona if he concurs in the accuracy of the statement I have just made.

Mr. DECONCINI. Mr. President, I certainly do concur in the statement of the distinguished Senator from South Carolina. I want to compliment the Senator for his care about the taxpayers' money and bringing to our attention certain changes which certainly will assist in the very expeditious handling of bankruptcy cases with a minimum amount of expense to the taxpayers and yet providing for this separate court.

I thank the Senator from South Carolina for his time and interest in this matter.

Mr. WALLOP. Mr. President, I am prepared to yield back the remainder of my time.

Mr. DECONCINI. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the motion to concur in the House amendments with an amendment.

The motion was agreed to.

Mr. WALLOP. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. DECONCINI. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER TO RECESS TODAY UNTIL 8:30 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stands in recess until 8:30 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

SPECIAL ORDER FOR TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, in addition to the four Senators for whom 15-minute orders have been secured already, Mr. THURMOND be recognized then for not to exceed 10 minutes, which would be at 8:50 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

FEDERAL INFORMATION CENTERS

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 3259.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 3259) entitled "An Act to authorize the permanent establishment of a system of Federal information centers", do pass with the following amendments:

Strike out all after the enacting clause, and insert: That this Act may be cited as the "Federal Information Centers Act".

SEC. 2 (a) Title I of the Federal Property and Administrative Services Act of 1949 is amended by adding at the end thereof the following new section:

"FEDERAL INFORMATION CENTERS

"SEC. 112. (a) The Administrator is authorized to establish within the General Services Administration a nationwide network of Federal information centers for the purpose of providing the public with information about the programs and procedures of the Federal Government and for other appropriate and related purposes.

"(b) The Administrator is authorized to prescribe such rules and regulations as may be necessary to the functioning of the Federal information centers.

"(c) There is hereby authorized to be appropriated $7,000,000 for the fiscal year ending September 30, 1980, and such sums as may be necessary for each succeeding fiscal year for carrying out the purposes of this section.".

(b)(1) The table of contents of the Federal Property and Administrative Services Act of 1949 is amended by inserting immediately after the item pertaining to section 109 the following new items:

"Sec. 110. Federal telecommunications fund.
"Sec. 111. Automatic data processing equipment.
"Sec. 112. Federal information centers.".

(2) Title I of the Federal Property and Administrative Services Act is further amended by inserting immediately before section 110 the following heading:

"FEDERAL TELECOMMUNICATION FUND".

Amend the title so as to read: "An Act to authorize the permanent establishment of a system of Federal information centers.".

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate concur in the House amendments en bloc.

The motion was agreed to.

INCORPORATION OF THE U.S. CAPITOL HISTORICAL SOCIETY

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House on H.R. 11035, to incorporate the U.S. Capitol Historical Society.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 11035) to incorporate the United States Capitol Historical Society.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the bill be considered as having been read the first and second times and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill is open to amendment. If there be no amendment to be proposed, the question is on the third reading of the bill.

The bill was read the third time and passed.

Mr. ROBERT C. BYRD. I move to reconsider the vote by which the bill passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

OIL POLLUTION LIABILITY AND COMPENSATION ACT OF 1978

Mr. ROBERT C. BYRD. I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 1047.

Mr. BAKER. Reserving the right to object, and I shall not object, we have no objection to proceeding to the consideration of this measure, which is cleared on our calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 2083) to establish a uniform and comprehensive legal regime governing liability and compensation for damages and cleanup costs caused by oil pollution, and for other purposes.

The Senate proceeded to consider the bill (S. 2083) which had been reported from the Committee on Environment and Public Works with an amendment to strike all after the enacting clause and insert the following:

That this Act may be cited as the "Oil Pollution Liability and Compensation Act of 1978".

DEFINITIONS

SEC. 2. For the purposes of this Act—

(1) the term "oil", "discharge", "vessel", "public vessel", "United States", "owner or operator", "remove" or "removal", "contiguous zone", "onshore facility", "offshore facility", "barrel", and "hazardous substance" shall have the meaning provided in section 311(a) of the Federal Water Pollution Control Act;

(2) the terms "State", "person", "navigable waters", and "territorial seas" shall have the meaning provided in section 502 of the Federal Water Pollution Control Act;

(3) the term "act of God" means an unanticipated grave natural disaster or other natural phenomenon of an exceptional inevitable, and irresistable character the effects of which could not have been prevented or avoided by the exercise of due care or foresight;

(4) the term "claim" means a request, made in writing for a sum certain, for compensation for damages or removal costs resulting from a discharge of oil or a hazardous substance;

(5) the term "claimant" means any person who presents a claim for compensation under this Act;

(6) the term "damages" means damages for economic loss or the loss of natural resources as specified in section 3(a)(2) of this Act;

(7) the term "Fund" means the Oil Spill Liability Fund established under section 4 of this Act;

(8) the term "guarantor" means any person, other than the owner or operator, who provides evidence of financial responsibility for an owner or operator under this Act or section 311(p) of the Federal Water Pollution Control Act;

(9) the term "natural resources" includes land, fish, wildlife, biota, air, water, and other such resources belonging to, managed by, held in trust by, appertaining to, or otherwise controlled by the United States (including the resources of the fishery conservation zone established by the Fishery Conservation and Management Act of 1976), any State or local government, or any foreign government;

(10) the term "refinery" means a terminal which receives oil for the purpose of refinement; and

(11) the term "terminal" means any permanently situated onshore or offshore facility which receives oil in bulk directly from any vessel, offshore production facility, offshore port facility, or any pipeline including the pipeline constructed under the Trans-Alaska Pipeline Authorization Act.

LIABILITY FOR DAMAGES AND REMOVAL COSTS

SEC. 3. (a) Except where an owner or operator of a vessel or an onshore or offshore facility can prove that a discharge was caused solely by (i) an act of God, (ii) an act of war, (iii) negligence on the part of the United States Government, or (iv) an act or omission of a third party without regard to whether any such act or omission was or was not negligent, and notwithstanding any other provision or rule of law, such owner or operator of a vessel or an onshore or offshore facility from which oil or a hazardous substance is discharged in violation of section 311(b)(3) of the Federal Water Pollution Control Act shall be jointly, severally, and strictly liable for—

(1)(A) all costs of removal incurred by the United States Government or a State under subsection (c), (d), (e), (b)(2)(B)(v), or (f)(4) of section 311 of the Federal Water Pollution Control Act or under the Intervention on the High Seas Act or section 18 of the Deepwater Port Act of 1974, and

(B) any other costs or expenses incurred by any person to remove oil or a hazardous substance as the terms "remove" or "removal" are defined in section 311(a)(8) of the Federal Water Pollution Control Act; and

(2) all damages for economic loss or loss of natural resources resulting from such a discharge, including:

(A) any injury to, destruction of, or loss of any real or personal property;

(B) any loss of use of real or personal property;

(C) any injury to, destruction of, or loss of natural resources, including the reasonable costs of assessing such injury, destruction, or loss;

(D) any loss of use of any natural resources, without regard to the ownership or management of such resources;

(E) any loss of income or profits or impairment of earning capacity resulting from injury to or destruction of real or personal property or natural resources, without regard to the ownership of such property or resources; and

(F) any direct or indirect loss of tax, royalty, rental, or net profits share revenue by the Federal Government or any State or political subdivision thereof, for a period of not to exceed one year.

(b) In the case of an injury to, destruction of, or loss of natural resources under subsection (a)(2)(C) of this section, liability shall be to the United States Government and to any State for natural resources within the State or belonging to, managed by, controlled by, or appertaining to such State. The President, or the authorized representative of any State, shall act on behalf of the public as trustee of such natural resources to recover for such damages. Sums recovered shall be available for use to restore, rehabilitate, or acquire the equivalent of such natural resources by the appropriate agencies of the Federal Government or the State government, but the measure of such

damages shall not be limited by the sums which can be used to restore or replace such resources.

(c)(1) The liability of an owner or operator of a vessel or an onshore or offshore facility for damages and removal costs under this section, and inclusive of the limits of liability established under section 311(f) of the Federal Water Pollution Control Act, for each discharge or incident shall not exceed—

(A) $300 per gross ton or $500,000, whichever is greater, of any vessel carrying oil or hazardous substances in bulk or in commercial quantities as cargo;

(B) $300 per gross ton of any other vessel;

(C) the total of all costs of removal under subsection (a)(1) of this section plus $50,000,000 for any offshore facility operated under the authority of or subject to the Outer Continental Shelf Lands Act;

(D) $50,000,000 for any deepwater port subject to the Deepwater Port Act of 1974 (including the liability of the licensee for a discharge from any vessel moored at such port, in any case where $50,000,000 exceeds $300 per gross ton of such vessel); or

(E) $50,000,000 for any other onshore or offshore facility.

(2) Notwithstanding the limitations of paragraph (1) of this subsection, the liability of the owner or operator of a vessel or an onshore or offshore facility under subsection (a) of this section shall be the full and total damages and removal costs not offset by any removal costs incurred on behalf of such owner or operator, if (A) the discharge of oil or a hazardous substance was the result of willful misconduct or gross negligence within the privity and knowledge of the owner or operator or of a gross or willful violation (within the privity and knowledge of the owner or operator) of applicable safety, construction, or operating standards or regulations; of (B) the owner or operator fails or refuses to provide all reasonable cooperation and assistance requested by a responsible official in connection with removal activities under the contingency plan established under section 311(c) of the Federal Water Pollution Control Act.

(3) Notwithstanding the limitations of paragraph (1) of this subsection or the exceptions or defenses of subsection (a) of this section, all costs of removal incurred by the United States Government or any State or local official or agency in connection with a discharge of oil from any offshore facility operated under the authority of or subject to the Outer Continental Shelf Lands Act or a vessel carrying oil as cargo from such a facility shall be borne by the owners and operator of the offshore facility or vessel from which the discharge occurred.

(d) In any case where the owner or operator of a vessel or an onshore or offshore facility can prove that a discharge was caused solely by an act or omission of a third party (or solely by such an act or omission in combination with an act of God, an act of war, or negligence on the part of the United States Government), such third party shall be liable under this section as if such third party were the owner or operator of a vessel or onshore or offshore facility from which the discharge actually occurred. Where the owner or operator of a vessel carrying oil or hazardous substances as cargo or an onshore or offshore facility which handles or stores oil or hazardous substances in bulk or commercial quantities, from which oil or a hazardous substance is discharged, alleges that such discharge was caused solely by an act or omission of a third party, such owner or operator shall promptly pay to the United States Government, and any other claimant, the costs of removal or damages claimed and shall be entitled by subrogation to all rights of the United States Government or other claimant to recover such costs of removal or damages from such third party under this subsection.

(e) The President is authorized to establish by regulation, with respect to any class or category of onshore or offshore facility subject to subsection (c)(1)(E) of this section, a maximum limit of liability under this section of less than $50,000,000 but not less than $8,000,000.

(f) A discharge of oil or a hazardous substance in or on the territorial sea, internal waters, or adjacent shoreline of a foreign nation shall be deemed to be a discharge in violation of section 311(b)(3) of the Federal Water Pollution Control Act for purposes of this section, and claims for compensation for damages and removal costs may be made under this Act by any citizen of a foreign nation or by any foreign nation, if such damages or removal costs, resulted from a discharge of oil, or threat of a discharge of oil, from—

(1) a facility located in the United States or subject to the jurisdiction of the United States;

(2) a vessel incident occurring in the navigable waters of the United States; or

(3) a vessel carrying oil as cargo between two ports subject to the jurisdiction of the United States.

(g) The owner or operator of a vessel shall be liable in accordance with this section and section 311 of the Federal Water Pollution Control Act and as provided under section 7 of this Act notwithstanding any provision of the Act of March 3, 1851 (46 U.S.C. 183ff).

LIABILITY FUND ESTABLISHMENT

SEC. 4. (a)(1) There is hereby established in the Treasury of the United States an Oil Spill Liability Fund, not to exceed $200,000,000, except that such limitation shall be increased to the extent necessary to permit any moneys recovered or collected which are referred to in subsection (b) (2) and (3) of this section being paid into such Fund. The Fund shall be administered by the President and the Secretary of the Treasury, as specified in this section. The Fund may sue and be sued in its own name.

(2) There is hereby established in the Treasury of the United States a Hazardous Substances Liability Fund. After the completion of the study required under subsection (f) of this section and the effective date of any fee on hazardous substances established by the Congress to be placed in such fund, such fund shall repay to the Oil Spill Liability Fund all sums expended out of the Fund pursuant to section 5 of this Act in connection with discharges of hazardous substances, together with interest at a rate equal to that paid on notes or obligations issued under subsection (e) of this section.

(b) The Fund shall be constituted from—

(1) all fees collected pursuant to subsection (c);

(2) all moneys recovered on behalf of the Fund under section 5;

(3) all moneys recovered or collected under section 311(b)(2)(B) of the Federal Water Pollution Control Act.

(c)(1) Beginning ninety days after the enactment of this Act, the Secretary of the Treasury shall collect from the owners of refineries receiving crude oil, and from the owners of terminals receiving any oil for export from or entry into the United States whether for import or transfer to a foreign country, a fee, not to exceed 3 cents per barrel of oil received. Oil upon which a fee has been levied under this paragraph shall not be subject to subsequent levy hereunder. The person who owns such oil shall be responsible for assuring the payment of such fee and shall be obligated to reimburse the owner of such refinery or terminal, as the case may be, the full amount of the fee levied on the oil of that person and paid by the owner of the refinery or terminal.

(2) The Secretary of the Treasury, after consulting with appropriate Federal agencies, may promulgate rules and regulations relating to the collection of the fees authorized by paragraph (1) and, from time to time, the modification thereof. Modifications shall become effective on the date specified therein, but no earlier than the ninetieth day following the date the modifying regulation is published in the Federal Register. Any modification of the fee shall be designed to assure that the Fund is maintained at a level not less than $150,000,000 and not more than $200,000,000. No regulation that modifies fees, nor any modification of such a regulation, whether or not in effect, may be stayed by any court pending completion of judicial review of that regulation or modification.

(3)(A) Any person who fails to collect or pay fees as required by the regulations promulgated under paragraph (2) shall be liable for a civil penalty not to exceed $10,000, to be assessed by the Secretary of the Treasury, in addition to the fees required to be collected or paid and the interest on these fees at the rate the fees would have earned if collected or paid when due and invested in special obligations of the United States in accordance with subsection (d)(2). Upon the failure of any person so liable to pay any penalty, fee, or interest upon demand, the Attorney General shall, at the request of the Secretary of the Treasury bring an action in the name of the Fund against that person for such amount.

(B) Any person who falsifies records or documents required to be maintained under any regulation promulgated under this subsection shall be subject to prosecution for a violation of section 1001 of title 18, United States Code.

(4) The Secretary of the Treasury may, by regulation, designate the reasonably necessary records and documents to be kept by persons from whom fees are to be collected pursuant to paragraph (1) of this subsection, and the Secretary of the Treasury and the Comptroller General of the United States shall have access to such required material for the purpose of audit and examination.

(d)(1) The President shall determine the level of funding required for immediate access in order to meet potential obligations of the Fund.

(2) The Secretary of the Treasury may invest any excess in the Fund, above the level determined under paragraph (1), in interest-bearing special obligations of the United States. Such special obligations may be redeemed at any time in accordance with the terms of the special issue and pursuant to regulations promulgated by the Secretary of the Treasury. The interest on, and the proceeds from the sale of, any obligations held in the Fund shall be credited to and form a part of the Fund.

(e) If at any time the moneys available in the fund are insufficient to meet the obligations of the Fund, the President shall issue to the Secretary of the Treasury notes or other obligations in the forms and denominations, bearing the interest rates and maturities and subject to such terms and conditions as may be prescribed by the Secretary of the Treasury. Redemption of these notes or obligations shall be made by the President from moneys in the Fund. These notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the average market yield on outstanding marketable obligations of comparable maturity. The Secretary of the Treasury shall purchase any note or other obligations issued hereunder and, for that purpose, is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act. The purpose for which securities may be issued under that Act are extended to include any purchase of these notes or obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this subsection. All redemptions, pur-

chases, and sales by the Secretary of the Treasury of these notes or other obligations shall be treated as public debt transactions of the United States. The authortiy of the President to issue notes or other obligations under this subsection shall be subject to such amounts as are provided in appropriation acts.

(f) The President shall establish an interagency task force to investigate all appropriate aspects of requiring a fee on hazardous substances to be collected and placed in the Hazardous Substance Liability Fund established by subsection (a)(2) of this section and the appropriate level at which such fund shall be maintained. Such task force shall also consider whether liability of a discharger or compensation from the Fund ought to be provided for personal injury resulting from discharges of oil or hazardous substances. The report of such investigation, together with legislative recommendations, shall be submitted to the Congress not later than eighteen months after the enactment of this Act.

(g) The Administrator of the Environmental Protection Agency, the Commandant of the Coast Guard, and the Comptroller General shall undertake a study of possible incentives to safer operation of vessels and facilities to reduce the potential of discharges of oil or hazardous substances, and generally of measures to prevent or avoid the occurrence of such discharges. Such study shall address (1) the feasibility of a variable fee for replenishment of the Fund under subsection (c) of this section which takes into account the likelihood of a discharge and the operational experience of individuals or classes, and (2) whether current practices in the insurance and banking industries provide any incentives or disincentives to reducing the potential for discharges of oil or hazardous substances. Such study shall be conducted in consultation with other appropriate Federal and State agencies, the affected industries, and other interested parties. A first report of such study, together with legislative recommendations, if any, shall be submitted to the Congress not later than July 1, 1979, and as appropriate thereafter.

USE OF LIABILITY FUND

SEC. 5. (a) The President shall use the money in the Fund for the following purposes:

(1) payment of any claim for costs of removal or damages in excess of the amount for which the owner or operator of the vessel or onshore or offshore facility from which oil or a hazardous substance is discharged is liable under section 3 of this Act;

(2) payment of any claim for costs of removal of damages where the source of the discharge of oil or a hazardous substance is not known or cannot be identified;

(3) payment of any claim for costs of removal or damages in any case where the claim has not been satisfied in accordance with subsection (b) of this section;

(4) all removal costs or expenses or other costs of carrying out the national contingency plan established under section 311(c) of the Federal Water Pollution Control Act, including removal costs incurred by any person and approved under such national contingency plan;

(5) subject to such amounts as are provided in appropriation Acts, the costs of providing equipment and similar overhead, related to the purposes of this Act and section 311 of the Federal Water Pollution Control Act, and of establishing and maintaining damage assessment capability, for any Federal agency involved in strike forces, emergency task forces, or other response teams under such national contingency plan;

(6) the costs of assessing both short-term and long-term injury to, destruction of, or loss of any natural resources resulting from a discharge of oil or a hazardous substance;

(7) the costs of Federal or State efforts in the restoration, rehabilitation, or replacement or acquiring the equivalent of any natural resources injured, destroyed, or lost as a result of any discharge of oil or a hazardous substance;

(8) reimbursement to any State for the payment of any claims for costs of removal or damages payable under this Act which such State has paid with funds under the control of such State pursuant to the national contingency plan or to a delegation under subsection (b) of this section;

(9) subject to such amounts as are provided in appropriation Acts, not to exceed $10,000,000 per fiscal year, the costs of research related to the purposes of this Act and section 311 of the Federal Water Pollution Control Act, to be performed by Federal agencies including the Environmental Protection Agency, the Fish and Wildlife Service, and the National Oceanic and Atmospheric Administration, as directed by the ocean pollution research coordinating committee established under the Environmental Research, Development, and Demonstration Act of 1978. Such research shall include, but not limited to (A) development and refinement of protocols to determine the type and extent of short and long term injury or loss of natural resources, (B) development and refinement of the best available procedures to identify the value of injured or lost resources, (C) laboratory or field research on the effects of oil and hazardous substances on living and nonliving resources that will provide additional scientific basis for damage assessments, and (D) research on minimizing the damage caused by spill control, dispersal and removal operations. Responsibility under the preceding sentence shall be assigned in accordance with the assessment responsibilities established under subsection (e)(2) of this section and officials responsible for such assessments shall be consulted before proposal of any research plan or appropriation request under the preceding sentence; and

(10) subject to such amounts as are provided in appropriation Acts, the administrative and personnel costs of administering the Fund and this Act.

(b)(1) The President is authorized to promulgate regulations designating one or more Federal officials who may obligate money in the Fund in accordance with subsection (a) of this section or portions thereof. The President is also authorized to delegate authority to obligate money in the Fund or to settle claims to officials of a State with an adequate program operating under a cooperative agreement with the Federal Government.

(2) The President is authorized to delegate the administration of his duties and authorities under this Act to the heads of those Federal departments, agencies, and instrumentalities which the President determines appropriate.

(3)(A) The President shall promulgate, and may from time to time amend, regulations for the presentation, filing, processing, settlement, and adjudication of claims for costs of removal or damages resulting from the discharge of oil or a hazardous substance under this Act.

(B) Whenever the President receives information from any person alleging they have incurred costs of removal or damages resulting from the discharge of oil or a hazardous substance for which the owner or operator of a vessel or onshore or offshore facility is liable under section 3 of this Act, he shall notify the owner, operator, and guarantor of such vessel or onshore or offshore facility of such allegation. Such owner or operator or guarantor, may, within five days after receiving such notification or presentation of any claim by a claimant, deny such allegations, or deny liability for damages for any of the reasons set forth in subsection (a) of section 3 of this Act.

(C) The owner and operator of any vessel or onshore or offshore facility from which oil or a hazardous substance has been discharged shall provide notice to all potential injured parties.

(D) All claims shall be presented in the first instance to the owner, operator, or guarantor of the vessel, or onshore or offshore facility from which oil or a hazardous substance has been discharged. In any case where the claim has not been satisfied in accordance with this paragraph, the claimant may elect to commence an action in court against such owner, operator, or guarantor or to present the claim for payment from the Fund under this section.

(E) No claim may be presented nor may an action be commenced for damages under this Act unless that claim is presented or action commenced within six years from the date of the discharge or the date of the discovery of the loss, whichever is later.

(c)(1) Payment of any claim by the Fund under this section shall be subject to the United States Government acquiring by subrogation all rights of the claimant to recover the costs of removal or damages from the person responsible for such discharge.

(2) Any person, including the Fund, who pays compensation pursuant to this Act to any claimant for damages or costs of removal resulting from a discharge of oil or a hazardous substance shall be subrogated to all rights, claims, and causes of action for such damages and costs of removal such claimant has under this Act or any other law.

(3) Upon request of the President, the Attorney General shall commence an action on behalf of the Fund to recover any compensation paid by the fund to any claimant pursuant to this Act, and, without regard to the limitation of liability provided for in section 3(c), all costs incurred by the Fund by reason of the claim, including interest, administrative and adjudicative costs, and attorney's fees. Such an action may be commenced against any owner, operator, or guarantor, or against any other person who is liable, pursuant to any law, to the compensated claimant or to the Fund, for the damages or costs of removal for which the compensation was paid.

(d) The Fund shall not be available to pay any claim for costs of removal or damages to the extent the discharge or the damages had been caused by the gross negligence or willful misconduct of that particular claimant.

(e)(1)(A) The President, acting through the Administrator of the National Oceanic and Atmospheric Administration, the Administrator of the Environmental Protection Agency, and the Director of the Fish and Wildlife Service, not later than two years after the enactment of this Act, shall promulgate regulations for the assessment of damages for injury to, destruction of, or loss of natural resources resulting from a discharge of oil or a hazardous substance, for the purpose of section 3(a)(2) (C) and (D) of this Act, section 5(a)(7) of this Act, and section 311(f) (4) and (5) of the Federal Water Pollution Control Act.

(B) Such regulations shall specify (i) standard procedures for simplified assessments requiring minimal field observation, including establishing measures of damages based on units of discharge of affected area, and (ii) alternative protocols for conducting assessments in individual cases to determine the type and extent of short and long term injury, destruction, or loss. Such regulations shall identify the best available procedures to determine such damages, including both direct and indirect injury, destruction, or loss and shall take into consideration factors including, but not limited to, replacement

value, use value, and ability of the ecosystem or resource to recover.

(C) Such regulations shall be reviewed and revised as appropriate every two years.

(2) In accordance with such regulations, damages for injury to, destruction of, or loss of natural resources resulting from a discharge of oil or a hazardous substance, for the purposes of section 3(a)(2) (C) and (D) and section 5(a)(7) of this Act and section 311(f) (4) and (5) of the Federal Water Pollution Control Act, shall be assessed by (A) the Director of the Fish and Wildlife Service for living natural resources and their supporting ecosystems over which such Service has management or conservation authority, (B) the Administrator of the National Oceanic and Atmospheric Administration for other natural resources in the marine environment beyond the baseline of the territorial sea, and (C) the Administrator of the Environmental Protection Agency for all other natural resources. Such officials shall act for the President as trustee under section 3(b) of this Act and section 311(f)(5) of the Federal Water Pollution Control Act.

Any determination or assessment of damages for injury to, destruction of, or loss of natural resources for the purposes of section 3(a)(2) (C) and (D) and section 5(a)(7) of this Act and section 311(f) (4) and (5) of the Federal Water Pollution Control Act shall have the force and effect of a rebuttable presumption on behalf of any claimant (including a trustee under section 3(b) of this Act or a Federal agency) in any judicial or adjudicatory administrative proceeding under this Act or section 311 of the Federal Water Pollution Control Act.

(f) The Comptroller General shall provide an audit review team to audit all payments, obligations, reimbursements, or other uses of the Fund, to assure that the Fund is being properly administered and that claims are being appropriately and expeditiously considered. The Comptroller General shall submit to the Congress an interim report one year after the establishment of the Fund and a final report two years after the establishment of the Fund. The Comptroller General shall thereafter provide such auditing of the Fund as is appropriate. Each Federal agency shall cooperate with the Comptroller General in carrying out this subsection.

(g) The Comptroller General, in consultation with the Administrator of the Environmental Protection Agency, shall investigate the necessity for providing assistance in emergencies caused by the release into the environment of any pollutant or other contaminant which presents or may reasonably be anticipated to present an imminent and substantial danger to the public health or welfare, and shall report to the Congress not later than April 1, 1979, on the results of such investigation together with a recommendation on the appropriate level and source of funding for section 504(b) of the Federal Water Pollution Control Act.

FINANCIAL RESPONSIBILITY

SEC. 6. (a)(1) The owner or operator of any vessel over three hundred gross tons (except a non-self-propelled barge that does not carry oil or hazardous substances as cargo or fuel) using any port or place in the United States or the navigable waters of any offshore facility shall establish and maintain in accordance with section 311(p) of the Federal Water Pollution Control Act evidence of financial responsibility sufficient to meet the liability to which the owner or operator of such vessel could be subjected under section 3(c)(1) of this Act. The provisions of paragraphs (3), (4), (5), and (6) of such section 311(p) shall apply to any vessel, or the owner or operator thereof, subject to this section. This subsection shall take effect October 1, 1978.

(2) Any vessel subject to the requirements of this subsection which is found in the navigable waters without necessary evidence of financial responsibility shall be subject to seizure by the United States of any oil or hazardous substances carried as cargo.

(b)(1) The owner or operator of any offshore facility shall establish and maintain evidence of financial responsibility sufficient to meet the liability to which the owner or operator of such facility could be subject under section 3(c)(1) of this Act of $50,000,000, whichever is less. Such evidence of financial responsibility shall be established according to regulations prescribed by the President and comparable to that required under section 311(p) of the Federal Water Pollution Control Act. This subsection shall take effect one hundred and eighty days after enactment of this Act.

(2) The owner or operator of any offshore facility subject to this subsection who fails to comply with this subsection or the regulations prescribed thereunder shall be subject to a fine of not more than $10,000 per day of violation.

STATE LAWS AND PROGRAMS

SEC. 7. Nothing in this Act shall be construed or interpreted as preempting any State from imposing any additional liability or requirements with respect to the discharge of oil or hazardous substances within such State.

CONFORMING AMENDMENTS

SEC. 8. (a) TRANS-ALASKA PIPELINE AUTHORIZATION ACT.—(1) Section 204(b) of the Trans-Alaska Pipeline Authorization Act (87 Stat. 586) is amended, in the first sentence—

(A) by inserting after the words "any area" the words "in the State of Alaska";

(B) by inserting after the words "any activities" the words "related to the Trans-Alaska Oil Pipeline"; and

(C) by inserting at the end of the subsection the following new sentence: "This subsection shall not apply to removal costs covered by the Oil Spill Liability Fund and Compensation Act of 1978".

(2)(A) Section 204(c) of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1653 (c)) is hereby repealed. The Trans-Alaska Pipeline Liability Fund is hereby abolished. All assets of that fund, as of the effective date of this section, shall be transferred to the Oil Spill Liability Fund established by section 4 of this Act. The Oil Spill Liability Fund shall assume any and all liability incurred by the Trans-Alaska Pipeline Liability Fund under the terms of section 204(c) of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1653(c)).

(B) The Secretary of the Interior shall certify to the Secretary of the Treasury the total amount of the claims outstanding against the Trans-Alaska Pipeline Liability Fund at the time the transfer of assets required under paragraph (A) is made. If the Secretary finds that—

(i) the total amount of the assets so transferred is greater than the total amount of the outstanding claims so certified, subject to subparagraph (D) of this paragraph the difference between the amount of the assets so transferred and the amount of the outstanding claims so certified shall constitute an advance payment toward payment of the fee due under section 4(c) of this Act on barrels of oil, and the Secretary may remit such fee until such time as the total amount of the fees so remitted equals the difference between the amount of the assets so transferred and the amount of the outstanding claims so certified; or

(ii) the total amount of the assets so transferred is less than the total amount of the outstanding claims so certified, the Secretary of the Treasury shall increase by 2 cents per barrel the fee imposed under section 4 on barrels of oil until such time as the total amounts of the 2-cents-per-barrel increase so collected equals the difference between the amount of the certified outstanding claims and the amount of the transferred assets.

(C) In the event that the total amount of the actual claims settled is less than the total amount of the outstanding claims certified, the difference between these amounts shall be rebated by the Secretary of the Treasury directly to the operator of the Trans-Alaska oil pipeline for payment, on a pro rata basis, to the owners of the oil and at the time it was loaded on the vessel.

(D) If an owner of oil (as that term is used in section 204(c)(5) of the Trans-Alaska Pipeline Authorization Act) who prior to enactment of this Act paid fees to the operator of the pipeline for transfer to the Trans-Alaska Pipeline Liability Fund receives the benefit of an advance payment under subparagraph (B)(i) of this paragraph for the collection or payment of fees established under section 4(c) of this Act, such owner of oil shall compute, based upon accepted accounting procedures, what the oil production tax and what the royalty paid to the State of Alaska would have been had payments not been made to the Trans-Alaska Pipeline Liability Fund in the amount of fees remitted. The difference between the amounts so computed and amounts actually paid to the State of Alaska shall be paid by each such owner to the State of Alaska. Such owner shall make such payment to the State of Alaska during such time the collection of payment of fees under section 4(c) of this Act is remitted.

(E) For purposes of paragraph (B), the term "barrels of oil" means only barrels of oil which would, but for the repeal made by this paragraph, be subject to the fee imposed under section 204(c)(5) of the Trans-Alaska Pipeline Authorization Act. The term "Secretary" means the Secretary of the Treasury.

(b) INTERVENTION ON THE HIGH SEAS ACT.—Section 17 of the Intervention on the High Seas Act (88 Stat. 10) is amended to read as follows:

"SEC. 17. The Fund established under section 4 of the Oil Spill Liability Fund and Compensation Act of 1978 shall be available to the Secretary for actions taken under section 5 of this Act.".

(c) FEDERAL WATER POLLUTION CONTROL ACT.—Section 311 of the Federal Water Pollution Control Act is amended as follows:

(1) Clause (H) of paragraph (2) of subsection (c) is amended by inserting after the words "of this section" the words "or the fund established under section 4 of the Oil Spill Liability Fund and Compensation Act of 1978, as appropriate,".

(2) Subsection (f) is amended, in the last sentence of paragraph (1), by inserting a comma after the word "vessel" and by adding immediately thereafter "or against any guarantor of an owner's or operator's liability under the Oil Spill Liability and Compensation Fund Act of 1978,".

(3) Subsection (g) is amended, by inserting in the last sentence, after the word "party" the words "or against any guarantor of an owner's or operator's liability under the Oil Spill Liability and Compensation Fund Act of 1978".

(4) Any sums appropriated prior to the enactment of this Act under subsection (k) of such section 311 shall be transferred to the Fund established under section 4 of this Act.

(d) DEEPWATER PORT ACT.—The Deepwater Port Act of 1974 (88 Stat. 2126) is amended as follows:

(1) In section 4(c)(1) strike "section 18(1) of this Act;" and insert in lieu thereof "section 6 of the Oil Spill Liability and Compensation Fund Act of 1978,".

(2) Subsections (b), (d), (e), (f), (g), (h), (i), (j), (l), (n), and clause (1) of subsection (m) of section 18 are deleted.

(3) Clause (3) of subsection (c) of section 18 is amended by striking "Deepwater Port Liability Fund established pursuant to subsection (f) of this section.", and inserting in

lieu thereof "fund established under section 4 of the Oil Spill Liability and Compensation Fund Act of 1978".

(4) Subsection (c), (k), and (m) of section 18 are redesignated (b), (c), and (d), respectively, and clauses (2), (3), and (4) of subsection (m) are redesignated (1), (2), and (3), respectively.

(e) OUTER CONTINENTAL SHELF LANDS ACT AMENDMENTS.—Title III of the Outer Continental Shelf Lands Act Amendments of 1978 is hereby repealed.

(f) Any expenditure under section 5(a) of this Act, other than those (1) under the authority of section 311(c) of the Federal Water Pollution Control Act involving the balance of the contingency fund established under section 311(K) of such Act and transferred to the Fund under section 8(c)(4) of this Act, or (2) involving the balance of the Trans-Alaska Pipeline Liability Fund transferred to the Fund under section 8(a)(2) of this Act, shall be made after October 1, 1978, for any claim arising before such date and after the date of enactment of this Act.

UP AMENDMENT 1996

Mr. HOLLINGS. Mr. President, I send an unprinted amendment to the desk in behalf of Mr. WALLOP.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from South Carolina (Mr. HOLLINGS), on behalf of the Senator from Wyoming (Mr. WALLOP), proposes an unprinted amendment numbered 1996:

On page 56, line 21, add a new paragraph as follows:

(4) If the President determines that a level of liability established by paragraph (1) above or a level of financial responsibility required by section 6 of this Act will have either a significant adverse impact on small business enterprises or a significant anti-competitive impact, the President may adjust such levels of liability or financial responsibility by rule or regulation as follows:

(A) The limit of liability or financial responsibility for facilities subject to subparagraph 3(c)(1)(D), to no less than $35,000,000;

(B) The level of liability for facilities subject to subparagraph 3(c)(1)(C) to the total of all removal costs under subsection 3(a)(1) and an amount for all damages to no less than $35,000,000, or, the level of financial responsibility for such facilities to no less than $35,000,000.

Before publishing said proposed rule or regulation the President shall notify the Committee on Environment and Public Works and the Committee on Commerce, Science and Transportation of the United States Senate and the Committee on Merchant Marine and Fisheries and the Committee on Public Works and Transportation of the United States House of Representatives of his intention to propose said rule or regulation. The notice shall state with particularity the President's justification for said rule or regulation and shall include a statement of the views of the Federal Trade Commission on whether the liability or financial responsibility limit sought to be changed has significant anti-competitive or small business impacts.

UP AMENDMENT NO. 1996

● Mr. WALLOP. Mr. President, as I participated in the hearings and committee debate on this bill, I have become increasingly concerned with the uncertainties which we face as to the effects of this legislation on small- and mid-size business, who must constantly compete with the larger self-insured giants of the energy and transportation industries. I wonder in enacting legislation if we are not franchising the major oil and transportation companies alone for these endeavors.

The often-given answer is that requirements for financial responsibility such as those which this bill demands, are already required by various other acts. But are they in every case? If so, should we be perpetuating them here, if in fact the effects are anticompetitive, discriminatory, and worse, unnecessary.

General provisions of Federal law since 1851 limited the liability of the owner of any vessel to the value of the owners interest in the vessel and her freight. The Supreme Court has interpreted this provision to mean the value of the owner's interest in the vessel and cargo after the collision, assuming there is something left after the collision. More recent Federal acts of general applicability, including the Oil Pollution Act of 1966, the Water Quality Improvement Act of 1970, and finally the Federal Water Pollution Control Act established the spiller is liable only for expenses incurred in removing spilled oil. The upper limit of liability to the Federal Government was set at the lesser of $100 per gross ton of the vessel or $14 million.

In establishing these limits of liability, it was the intent of Congress to encourage and protect American commerce. Congress had to determine upon whose shoulders the economic burden should fall. In the past Congress has decided that innocent parties should bear any overthreshold costs of oil pollution damage. More recently, Congress has decided to shift that economic responsibility to those who directly benefit from the carriage of oil by vessel; the shipowner, the oil industry, and the oil consumer. This is entirely justified, however, it is only justified insofar as it is necessary for the protection of the innocent third parties and the promotion of safe oil handling. We should not abandon sight of our continued goal of promoting commerce, and in this case, of promoting diversified energy exploration, production, and transportation.

On September 18 of this year, the President signed into law the Outer Continental Shelf Lands Act Amendment of 1978. It provides a third party damage and cleanup fund to insure that innocent third parties and the environment would be protected. It also limited the liability of OCS operators to $35 million plus total removal and cleanup costs. The bill before us. S. 2083, increases that liability to $50 million plus total removal costs. I am concerned with the incidental increase in liability by $15 million, for no apparent reason other than it is a neat round figure. In establishing limits of liability, we have a difficult task. There is no doubt a threshold point at which we stop protecting the public at large, and start imposing burdens upon it through restrictions on competition and higher consumer costs. The burden ultimately imposed on small businesses or on any business, must be one that it can bear.

In this case, that burden is manifest in two ways. First, it is a requirement that offshore facilities provide proof of financial responsibility to meet the liability limits. For the large self-insured giants of the energy industry, this is no problem. Those operators with more than one OCS facility need only provide proof of financial responsibility equal to the limits of liability imposed upon any one facility. This alone is a competitive advantage to the larger operators.

We should be encouraging the broadest possible competition for OCS activity, even if it be in the form of joint ventures. Therefore it is important that we not impose additional burdens upon entry into the field unless there are compelling reasons for doing so. If experience proves that a higher liability, and thus financial responsibility limit is required, then Congress will have ample opportunity to raise the limit. But in the meantime, it is unnecessary to substantially increase the cost of insurance coverage for OCS operations. If the insurance industry fails to insure OCS operations at the $50 million level, we have in one fell swoop, excluded all but self-insured companies from OCS operations, a prospect which is not in the national interest.

The liability limit itself may also stifle competition should a catastrophic spill actually occur. Liability limits should be established at levels which reflect a deterrent to unsafe operations and which place a reasonable burden for cleanup and third party compensation on the commercial risk taker. However, the establishment of this superfund insures that spills will in fact be cleaned up and damage to third parties will in fact be compensated. We should not set the liability limit at a level which will discourage competition, and effectively insure that the fund will never be used for just the purpose for which it was established.

If the percentage of small businesses involved is small, all the more reason to adequately assess the impacts of this bill upon their involvement in the industry. It disturbs me that we continually ignore or fail to have adequate information on the consequences of congressional actions on smaller enterprises that exist in our country.

The bill as now written authorizes the President to establish by regulation maximum limits of liability for onshore and offshore facilities other than OCS and deep water ports facilities of less than $50 million but not less than $8 million. Mr. President, my amendment would provide the same opportunity for facilities operated under the authority of the Outer Continental Shelf Lands Act and the Deep Water Port Act of 1974, as well it would not mandate a reduction in liability or financial responsibility requirements. Rather, if the President determines that the level of liability or of financial responsibility has either a significant adverse impact on small business enterprises or a significant anticompetitive impact, he may reduce those liability limits to no less than $35 million in the case of OCS facilities or deep water port facilities, it protects against the possibility that we are unwittingly creating an impossible anticompetitive situation which we cannot quickly correct. Given the precipitous increases in liability limits

for these classes of facilities and vessels which this bill seeks to impose, it is reasonable to allow the same flexibility that we would give other classes of facilities.

Mr. HOLLINGS. Mr. President, I move adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. HOLLINGS. One of the serious concerns that I have with S. 2083, the Oil Spill Liability and Compensation Act, is how it may affect the American trucking industry. The bill, as reported by the Environment and Public Works Committee, has defined an "on shore facility" so as to encompass all rolling stock. Tank trucks are included in this bill with the same maximum limit of liability as multi-million-gallon tank storage facilities, even though the capacity of a cargo tank is at most 10,000 gallons. As I understand the House bill, rolling stock is also covered, but there are some very significant differences which need to be stressed. First of all, the liability for a spill from a tank truck under the Senate bill can never be less than $8 million. This figure bears absolutely no relationship to the competitiveness between land and water transportation, or the relative potential threat of pollution, nor does it recognize the disparate financial burden this places on the trucking industry. The House bill allows the Secretary of Transportation to set the liability limit for truckers by regulation with the understanding that tank trucks would be dealt with separately and more rationally.

Second, the House bill provides that tank trucks, which do not handle more than 1,000 barrels of oil at any one time, are not required to procure evidence of financial responsibility sufficient to satisfy the maximum amount of liability possible under this act. This is a reasonable approach.

Finally, and perhaps most importantly, is that the Senate bill provides that the negligence of a third party is no defense to the liability of an oil carrier unless the carrier can prove that the spill "was caused solely" by a third party. On the other hand, the House bill, and the Senate Commerce Committee version of the bill, provide that a carrier is not liable "to the extent that the incident is caused" by a third party. This approach seems to me to be imminently more equitable. Whatever the merits of the Senate version's strict liability as it applies to maritime traffic and commerce—which I am not convinced of—there is no clear reason to apply it to highway traffic. It would be virtually impossible for a tank truck operator to prove that another party was solely at fault for a discharge.

I do not believe that these provisions in the Senate bill have been adequately or equitably assessed. I realize that the time remaining in this Congress is very short, and I will not stand in the way of this bill going to conference with the House. However, I do want to emphasize my commitment to see these issues resolved in conference in such a way that will not penalize the trucking industry or treat that industry in a manner that is unreasonable or inequitable. Because of the shortage of time remaining, a conference with the House is probably the best way to resolve these problems, but it is imperative that they be effectively dealt with at that time.

Mr. CHAFEE. Mr. President, as the Senator from the Ocean State of Rhode Island and a member of the Environmental Pollution Subcommittee, I am indeed pleased to see S. 2083 come before us today.

I joined Senator MUSKIE and Senator STAFFORD in cosponsoring comprehensive oil spill legislation and found their experience on this issue to be of great value as we proceeded on the legislation in committee. And of course the guidance of our esteemed chairman, Senator RANDOLPH, is always valuable.

The people of my State know full well what disastrous effects can come from a spill, be it an *Argo Merchant* situation, or a lesser, but still damaging spill. The dangers are too great to let another winter go by without comprehensive legislation. The Environment and Public Works Committee has built upon the currently existing section 311 of the Clean Water Act and expanded that structure to provide a network of damage assessment and compensation for oil and hazardous substance spills.

Mr. President, there are several important items in the legislation that I could comment on. But, most importantly, I feel that the damage assessment and research provisions of S. 2083 should be noted. It is within the context of spill effects on natural resources that I should like to continue my remarks.

The demand for energy in this Nation has over the last few years necessitated a tremendous increase in the amount of petroleum and petroleum based products that must be transported in or near the waters of the United States. The spillage of substances which occurs incidental to this large transport business has, as we all know, become a serious problem. Damage to natural resources from oil pollution is a serious side effect, costing society uncounted millions of dollars each year.

Over the past few years we all have been made aware of spectacular spills such as this years *Amoco Cadiz*, the *Torrey Canyon* in 1967 and the *Argo Merchant* in 1976. Each of these spills have cost the environment dearly.

Beyond these large spills there have in the United States from 1972 through 1976, been reported by the Coast Guard an average of 12,291 oil spills per year, 2,588 of which were "mystery spills" with no reported volume.

From these figures it becomes apparent that a system for mitigation and assessment of damages from all types of spills is urgently needed. For obvious reasons of practicality, visibility and economics of scale, a large spill is more susceptible to mitigation and cleanup efforts than is a small one. But it is also clear that the cumulative impacts to natural resources of the small and medium spills is as great or greater than that of the larger spills.

Damages to natural resources from spills come in many forms. A recent report of the National Academy of Sciences outlined five particularly worrisome ecological effects of oil and hazardous substance pollution:

First, the human health hazard from eating contaminated seafood;

Second, the decrease in fisheries resources or damage to other wildlife such as birds and mammals;

Third, the decrease of aesthetic values due to unsightly slicks or oiled beaches;

Fourth, modification of the aquatic ecosystem with resulting decreases in diversity and productivity.

Fifth, modification of habitats which delays or prevents the reestablishment of marine organisms.

In the past our legal system has been largely ineffective in dealing with those who were injured when oil and hazardous substances pollution damaged the environment. Trying to recover claims concerning damages to natural resources through litigation under common law or present statutory authority has been slow, overly complex, and inequitable.

Recognizing much of what has been said, the Congress in 1974 required the Department of Justice to come up with a proposal for a uniform law to provide compensation for cleanup costs and damages from oilspills. The Justice Department report was the precursor of a number of bills on this subject including the bill before us today, The Oil Pollution Liability and Compensation Act of 1978, the superfund bill. The Committee intends loss or damage to natural resources in this legislation assures rapid recovery by injured parties, to insure that the spiller eventually pays to the limits of his statutory liability.

Mr. President, I would also note that while the bulk of our experience with spills is with oil, the committee is of the opinion that damages to natural resources caused by spills of hazardous substances are sufficiently parallel to damages caused by oil spills to warrant the inclusion of hazardous substances in the committee bill's scheme for damage assessment. Therefore, the damage assessment procedure for natural resources applies, under S. 2083, to both oil and hazardous substances spills.

Section 5(c) of the reported bill establishes procedures to be employed in damage assessment. The rulemaking process in the damage assessment scheme is to be carried out jointly by the Environmental Protection Agency, the Fish and Wildlife Service and the National Oceanic and Atmospheric Administration. This rulemaking should establish by regulation simplified assessments procedures to be used in assessing natural resource damage in minor spills. It should also standardize the procedures and protocols for carrying out an assessment in larger more extensive spills.

Mr. President, the committee realized that the state of the art of damage assessment is constantly developing. In response to this situation the committee did two things:

First, they allowed 2 years for the issuance of the regulations required in this section and provided that the regulations be reviewed and updated when necessary every 2 years.

Second, the bill also includes requirements for directed research that will provide information needed to carry out more reliable and credible natural resource damage assessment. The commit-

tee believes that over time the required review of the natural resource damage assessment regulations coupled with new information developed through this directed research program will result in a damage assessment capability that employs the most current scientific techniques for damage assessment.

Mr. President, there is one part of the oil spill legislation to which I would like to devote further attention—namely the preemption issue. The question is whether and to what extent State laws dealing with oil and hazardous substance spills should prevail or be preempted.

Section 7 of the committee bill preserves the power of any State to impose any additional requirements or liability with respect to discharges of oil or hazardous substances within the State. In other words, there is no preemption. This means that a State can collect a fee for and maintain separate cleanup and compensation funds. States could also have separate and higher or unlimited liability statutes.

As might be expected, the preemption issue generated immense interest among the States and the industries affected by this legislation. Indeed, the original bill, introduced in committee, S. 2900, actually contained a minimum preemption provision.

There are several preemption options which could have been selected by the committee. We could have preempted State funds for compensation for damages from spills into navigable waters. Or we could have told the States that they cannot maintain either cleanup or damage compensation funds. Finally, there is the option to preempt all State liability statutes, as well as State funds.

Of course, there are pros and cons to each of these options. The committee provided for no preemption at all. But the preemption of State damage compensation funds does appear to have merit. Under this option, States could maintain funds for containment and cleanup of spills, thus allowing them to respond quickly to these spills. This is extremely important since the majority of spills are small and difficult to get to. Since cleanup costs are often less than overall damages, the size of the State cleanup funds should not be prohibitive. Under this option, the Federal superfund would be the source for damage compensation. This would prevent the burdensome arrangement of shippers and industries having to pay fees into a multitude of State compensation funds, as well as the Federal fund. Since S. 2083 provides for direct access to the superfund, the absence of State damage funds should not cripple the opportunities for recovery.

Mr. President, I have had discussions with representatives from several States, some of which already have oil spill schemes. Their positions are mixed, but several said they could see the merit in a certain amount of preemption, at least in the separate funds area. On the other hand, the State liability statutes issue is very controversial and will be a major point of discussion in conference.

Mr. President, I support S. 2083. I mention the above debate on the preemption issue as background regarding what at least one Member thought about during the bill's development. I know that other Members have studied the issue also.

We have before us today a strong scheme for dealing with oil and hazardous substance spills. It is time to move forward, so that we can resolve our differences with the House. It is time to give this country a comprehensive program that can be counted on to compensate for spill damages to our citizens and our natural resources.

● Mr. STAFFORD. Mr. President, I am pleased that the Senate has chosen to act on S. 2083 so that we can proceed promptly to negotiations with the other House. So much has been said and written about this bill that nearly any comment I make here will be redundant. Nevertheless, two provisions are so important they should be underscored.

S. 2083, as reported from the Committee on Environment and Public Works, differs from other versions in two particulars. First, it provides liability and compensation for discharges of hazardous substances, not just oil. Second, it permits the various States to enact their own legislation in this field.

Frankly, our committee has been criticized for including these two provisions. Some have said that by imposing liability and compensation for discharges of hazardous substances rather than just oil, we were breaking new ground and establishing new precedent. Overlooked is the simple fact that the only Federal legislation on the books which deals with the general problem of spills into waters of the United States—the Federal Water Pollution Control Act—was written by our committee and deals not just with oil, but with both oil and hazardous substances. What other persons have sought to do is abandon the course charted by our committee and by the Congress years ago. Those who seek to establish a new precedent and break with tradition are the advocates of special treatment for the spillers of oil.

In point of fact, discharges of hazardous substances may present a much more serious threat to the environment of this country than discharges of oil. Since the reporting of hazardous substance discharges is still voluntary the spill data collected by the Coast Guard is incomplete. Nevertheless, this sketchy data indicates that there are a large number of hazardous substance spills than of oil. Certainly, the potential for harm is much greater with hazardous substances than with oil. Hazardous substances spread through the environment more easily, as evidenced by the statewide distribution of PBB's in Michigan, where the damage is estimated at $75 million; and, they are much more difficult to remove, as illustrated by the PCB contamination of the Hudson River and Kepone contamination in the James River, where dredging in either case would cost millions or tens of millions of dollars; and, they are much more insidious and harmful as illustrated by the Love Canal incident in New York, where the substances may have caused birth defects, premature deaths, and a variety of other serious personal injuries.

Our committee was urged to eliminate coverage of hazardous substances. We refused, not only because it would have broken with precedent, but because we would have been turning our backs on the public.

The committee also was urged to break with precedent in another area. Instead of permitting States to enact their own legislation in this field, as we have done in past environmental legislation, we were asked to preempt State laws. Again, we chose to adhere to the course set years ago: Federal law establishes only a minimum standard. States wishing to maintain a more stringent standard are free to do so.

The most outspoken opponents of preemption in the committee and subcommittee were the distinguished Senator from Maine, Mr. MUSKIE, and myself. Although I cannot speak for Senator MUSKIE, I can say for myself that I will do all I can to maintain the Senate's version of preemption during a conference on this bill. As a former Governor, I have witnessed too many cases where the Federal Government in the exercise of misguided benevolence has coerced States into accepting weakened safeguards for the sake of unwanted benefits. If the people of a State choose to maintain a pristine environment they have that right, even if the other 49 States and the Federal Government choose otherwise.

There are many other important provisions in this bill, but these two stand above all others as vital to the public interest. I believe the bill reported by the Committee on Environment and Public Works is a sound, responsible piece of legislation.●

● Mr. GRAVEL. Mr. President, for some time this Nation has been concerned about the threats to our shorelines posed by the transportation and storage of oil and hazardous substances. Inestimable quantities of these commodities travel our rivers and oceans and great lakes, in most instances without incident. Then an *Argo Merchant* will run aground or a spill of carbon tetrachloride will occur in a tributary of the Ohio River. It is at that time that we become concerned about our ability to compensate for clean up of spills, and for damages resulting from such spills.

I noticed in the newspapers recently that lawsuits totaling some $300 million have been filed as a result of the *Amoco Cadiz* spill in France. There is no indication that further suits will not be filed as damage assessment continues. In the meantime, those fishermen and homeowners, small businessmen, and others damaged by the incident have no immediate monetary recourse. If that incident had occurred in the United States under current law, our citizens would be in the same situation as the citizens of France. It is to protect our citizens that I endorse the bill reported by the Committee on the Environment and Public Works, and hope that this Congress will resolve once and for all the issues surrounding the establishment of compensation funds for both oil and hazardous substances.

Mr. President, my State of Alaska has more than half of the total U.S. coastline. I think it is necessary that we have a compensation fund that will protect my fellow Alaskans as well as the citizens

of Hawaii and the Lower 48. I think it is necessary that there be a uniform compensation mechanism whereby fishermen whose gear is damaged by spills of oil or whose catch is destroyed by spills of hazardous substances may be immediately recompensated, without having to resort to lengthy and expensive litigation. Property owners along the shoreline are entitled to the same protection, whether they be homeowners or small businessmen. This means that in instances in which the originator of the spill is unknown, or the originator of the spill delays in satisfying a claim, or the limits or liability of the spiller are exceeded in a specific incident, the fund will provide prompt compensation.

Mr. President, this bill does another important thing in providing for a compensation fund for damages resulting from hazardous substances spills. In committee I presented a compromise proposal which the committee adopted in order to resolve the deadlock raised by many legitimate concerns about the entire hazardous substances issue, and the many difficulties and differences that occur with that issue. Basically, my proposal adopted by the committee assures that there be a hazardous substances compensation fund established now, with an 18-month study to be conducted on the important aspects of that fund to make it operational. Establishment of a separate fund with a separate funding mechanism attuned to the peculiarities of hazardous substances will assure that victims of spills of hazardous substances will be compensated, but that hazardous substances, in a word, will pay their share of the compensation costs. Coverage of hazardous spills will be assured once the current litigation over section 311 of the Clean Water Act is resolved.

The hazardous fund would be established immediately under this legislation. While funding for an oil spill fund will be set at 3 cents per barrel, the hazardous fund would not receive any moneys from a fee on hazardous substances until completion of a study to determine such things as the appropriate level of the fund and an appropriate fee mechanism. The study period will not exceed 18 months. Once current litigation over the hazardous substances issue is finally resolved and, therefore, hazardous substances and quantities are adequately identified, and the hazardous substances funding level and fee mechanism are established by virtue of the completion of the hazardous substances study, then funds for compensation for damages from hazardous substances spills can begin to come from the separate hazardous substances fund. In the event the study has not been completed at such time as the litigation over the hazardous substances issue is resolved, then funds for compensation for damages resulting from hazardous spills will be available from the separate oil spill fund. If any moneys are drawn on the oil spill fund, those sums will be repaid with interest at such time as the hazardous fund becomes fully funded in accordance with the study.

The bill also resolves the matter of duplication of coverage of the "superfund" and the trans-Alaskan pipeline liability fund. I offered a provision which was adopted by the committee for inclusion in the bill. In 1973, Congress enacted the Trans-Alaska Pipeline Authorization Act. The TAPS Act established a nonprofit corporation (the Trans-Alaska Pipeline Liability Fund) to provide compensation for damages sustained by persons or entities as the result of discharges of oil from vessels carrying oil transported through the TAPS line. A fee of 5 cents per barrel was fixed, payable by the owner of the oil at the time that the oil was loaded on vessels at the pipeline terminal. To date, some $13 million exists in the TAPS fund, whose funding ceiling is $100 million.

Creation of the superfund now eliminates the necessity of retaining a duplicative TAPS fund. Termination of the TAPS fund means that the nonprofit corporation will be dissolved. A necessary part of this action is distribution of the assets of the corporation.

Various alternatives for distribution of the assets of the fund were explored. The committee finally adopted a method which provided equity to all parties involved. The committee resolution of the matter involved three stages. First, provision was made for full compensation of any outstanding claims against the TAPS fund. Any claims pending or initiated prior to enactment of the superfund will be satisfied from the proceeds of the TAPS fund.

Second, all moneys in excess of those necessary to satisfy claims will be placed in the Treasury as an advance payment against the collection of the fee from the owners of North Slope oil under the superfund, until such time as the amount of money collected from the owners of North Slope oil under the superfund is equal to the excess moneys. In adopting the "advance payment" method the committee agreed that the purposes of the TAPS fund had been met in that North Slope oil had borne the costs of protecting waters through which that oil was transported. Further, the committee agreed that failure to distribute the assets to the owners of the assets would not serve the purposes of equity, and could create some untoward legal situation.

Third, the committee agreed that the State of Alaska should receive in the form of repayment from the owners of the assets of the fund those sums equivalent to the royalty and State of Alaska production (or severance) tax receipts that would have been made absent the requisite payment to the TAPS fund. The State of Alaska owns one-eighth of the oil at Prudhoe Bay (as a royalty share) and in addition sets a production (or severance) tax on the extraction of oil. However, the State of Alaska has not delivered oil across the dock at the pipeline terminal, but rather has taken payment for its oil in cash, after contributing its appropriate share of the costs of transportation of the oil and associated costs.

Under present oil pricing practices, the TAPS fee (similarly, transportation costs) is treated as an offset against the value of the oil at the wellhead (at Prudhoe Bay), where royalty value and production (or severance) tax are determined. Because of the price of North Slope oil is restricted to the world price of oil at the refinery level under existing oil pricing policies, additional costs borne by the producers and owners of the oil (such costs as the TAPS fund fee) cannot be added to the sales price for that oil. Thus, the owners of the oil, and the State of Alaska, have absorbed the cost of the 5 cent per barrel fee. In agreeing to the redistribution of the proceeds through the "advance payment" mechanism, the committee agreed that the State of Alaska was entitled to its share of the assets of the fund in the form of royalty and production (or severance) tax it would otherwise have been able to collect.

Mr. President, this is a very important piece of legislation, and is an important addition to our legislation recently passed and known generically as tanker safety legislation. Until we can assure safe construction and operation of vessels and cleanup and compensation in the event of spills of both oil and hazardous substances we are not doing all we need to do to protect our waters. I look forward to favorable action by the Senate and satisfactory resolution of any outstanding issues with the House in conference.

Mr. President, I would like to have printed in the RECORD an excellent informative article by Michael Harwood, appearing in the September 1978 issue of Harper's. This article, entitled "Assessing the Impact of Tanker Spills," should be of significance to my colleagues.

The material follows:

ASSESSING THE IMPACT OF TANKER SPILLS

OIL AND WATER

(By Michael Harwood)

One morning this January, as I stood at a window in an auditorium at the University of Rhode Island and watched a snowstorm piping up to a blizzard on Narragansett Bay, I marveled at the wonderful complexity of the view enclosed within the frame of the window—the surface of the bay, the moving air, the sky, the gulls and the starlings, man and his constructions and wastes. We are only *beginning*, I thought, to understand how it works and interacts—even though it goes on in our element.

Behind me in the sloped lecture hall conferees gathered for the final, summary session of a three-days symposium, "In the Wake of the *Argo Merchant*," which had been sponsored by the university's Center for Ocean Management Studies. To a great degree, this symposium marked the formal end of an effort by marine scientists to assess the ecological impact of the *Argo Merchant* oil spill near Nantucket more than thirteen months earlier. They'd discovered some interesting things, all right, and had added considerably to the understanding of oil spill behavior and effects. But it seemed to me that the largest lesson they and the *Argo Merchant* spill had to teach the attentive layman was how little we know about the ocean, how little man apparently *cares* to know, and how simple-minded and dishonest, in this context, the environmental debate about oil spills often becomes. If we are still ignorant about many of the things going on in nature, up where we can see them and smell them and taste them, consider how much more difficult it is to observe and understand the three-dimensional ocean, never mind the impact on that ocean of quite suddenly injecting into a small area several million gallons of oil.

Before dawn on December 15, 1976, the tanker *Argo Merchant*, bound in for Salem, Massachusetts, with 7.5 million gallons of

thick industrial-grade oil from a Venezulean refinery, ran aground on Fishing Rip, Nantucket Shoals, twenty-seven miles southeast of Nantucket Island. Her Greek captain tried unsuccessfully to work the ship off the shoal, but she was hard aground, and a cracked seawater intake pipe flooded the engine room, putting out the boilers. At 7:00 a.m. the Coast Guard station at Brant Point on Cape Cod received a Mayday call from the *Argo Merchant*.

Dr. Charles Bates, chief science adviser to the Commandant of the Coast Guard, remembers people at headquarters saying as soon as they heard about the grounding, "No one's ever got a ship off there yet." Still, for that day and the next five, the Coast Guard and private salvagers tried to free the tanker from the shoal, and then at least to save some of her cargo and keep it from the sea. The first signs of an oil leak were seen within hours of the grounding, and by the second night oil was spilling in large amounts. Eventually the tanker broke in pieces, and her entire cargo—except for one quart of oil dipped out as a sample—was lost.

The accident ignited a major environmental uproar, and it also initiated the most intensive and wide-ranging study yet undertaken of the impact of a single oil spill in the ocean. There was good reason for concern. In its raw form and as fuel, oil is toxic—poisonous to most creatures, especially in sudden, heavy doses. The United States and other nations were importing more oil each year, and tanker accidents were bound to increase. At the same time, there seemed to be a national commitment to exploring and drilling for oil on the outer continental shelf; the probes off the coast of New Jersey were already being scheduled. Both the drilling and most of the accidents would happen between the limits of the shelf and the dry land—where nearly all the important activities of the planet's marine life also take place, and where most of the fishing goes on.

It was a new concern, however, and it was still growing. Not ten years had passed since the *Torrey Canyon* disaster on the other side of the Atlantic; a lot of seabirds had been killed then, a lot of British and French beaches oiled, and oil spills had begun to be seriously thought of as potentially dangerous to the environment. But ten years is hardly enough time for the human community to turn its head and really look at something. That fact was reflected in many ways. According to Jack Gould, an organic chemist at the American Petroleum Institute, the oil industry in the United States didn't even think about employing marine biologists until the very end of the 1960s, and the academic community couldn't begin supplying oil spill scientists in any number until the '70s. By the time the *Argo Merchant* went aground, the field wasn't well enough established to attract much grant money, and a large fraction of the available funding went to support research on the technological fixes—how to prevent and clean up oil spills—rather than on research on what the impact of oil was in the ocean environment.

There had been some first-rate ecological studies involving spills close to shore. One of these studies, by scientists at the Woods Hole Oceanographic Institution on the Cape, had tracked the effects of a 1969 spill off West Falmouth in Buzzards Bay; an especially toxic oil—the kind burned in home oil furnaces—had spilled and washed up into salt marshes and been pounded into the sediment of the shallow bay by storm waves. Nine years later, shellfishing was still forbidden in the oiled areas; that's how bad it was. But oil spill studies in general, especially those involving open-ocean oil spills like the *Argo Merchant's*, hadn't advanced very far.

So the people who by nature or profession tended to see oil in the ocean as environmentally horrid immediately saw the *Argo Merchant* event as environmentally horrid, and those who by nature or profession were inclined to view the matter with less alarm viewed the matter with less alarm. The fact was that no one really knew what the oil would do.

The accident had taken place in a major fish-spawning and fish-catching area, near Georges Bank, where there was every likelihood that oil-drilling would begin within a decade. There was concern, too, that if the oil came ashore on Nantucket or anywhere else on Cape Cod, not just the environment but the well-being of everyone engaged in the tourist business might be damaged too; it seemed a good idea to keep a sharp eye on what was happening, in order to be ready to protect and quickly clean up the shoreline if oil went that way. So, while the environmental uproar took center stage on television and the front pages, a diverse, pickup army—and navy and air force—of scientists began monitoring the situation, sampling, testing, observing. The process went on long after the Public Event was over.

Intensive and wide-ranging as the effort was, however, the researchers were often shorthanded and short of time and underfunded; much of their work was catch-as-catch-can, dependent on initiative and luck and at the mercy of the elements. In the end only a relatively small amount of new information came out of it—which is what usually happens with oil-spill studies.

HOW DOES OIL BEHAVE?

The cutter *Vigilant* was the second Coast Guard ship to reach the grounded tanker, and it carried, fortuitously, a representative of the Manomet Bird Observatory in Massachusetts. The observatory had recently been sending trained observers out to sea whenever a ride could be hitched with someone—the Coast Guard, the Woods Hole Oceanographic Institution, the National Marine Fisheries Service. Birds were being killed by oil spills; everyone knew that. And often an oily bird, being dramatically photogenic, became the symbol for an oil spill. But no one actually knew what environmental importance to give to an oily bird, because no one knew very much about the birds in the normal environment. The need for basic information was to surface again and again as scientists studied the *Argo Merchant* spill; the questions of the ornithologists were typical: What species of birds could ordinarily be found off the coast at various seasons of the year, and in what numbers? Would they be mostly adults, or sub-adults, or birds-of-the-year? Would they be feeding, resting, or migrating, and what food resources would they depend on? With oil-drilling planned for Georges Bank, Manomet Bird Observatory had for nine months been trying to provide some of that basic information quickly, which chanced to put a single qualified birder on the scene of the *Argo Merchant* grounding within minutes of the time that the first oil began to dribble from the tanker.

About two o'clock in the afternoon of that same day, Ivan Lissauer of the Coast Guard's Research and Development Center in Groton, Connecticut, heard about the *Argo Merchant*. At the Rhode Island symposium he talked about his experience. The Marine Safety Office of the First Coast Guard District in Boston needed a forecast of the movement of any oil that might spill that day. " 'When do you need it by?' I said, and they answered, 'Well, how about fifteen minutes?' "

A predicting model was needed, and the Coast Guard had one—a mathematical formula for putting together tidal currents, river-mouth currents, and wind effects, so as to forecast at any given moment what spilled oil would do within the next few hours and give the Coast Guard officer in charge an idea of where he ought to station cleanup crews or set out oil-containment booms on the water. The model worked fine, Lissauer said, where it was designed to work—close to shore. Given fifteen minutes to predict what would happen out on Nantucket Shoals—the open ocean—he and his colleagues had had no choice but to apply the inshore model. They took the most recent wind forecasts available (the National Weather Service had already begun supplying special forecasts for the vicinity of the tanker), added in the tidal currents that the charts showed for Nantucket Shoals, and in fifteen minutes were able to tell the First District Marine Safety Office that the winds and the tides would probably keep the oil offshore for the short term.

"We got another call at nine o'clock the next morning," Lissauer said, "and [the Marine Safety Office] asked for more forecasts, and in more detail. [The officer] said, 'Starting at nine o'clock this morning, can you predict for us the movement of the oil?' And I said, 'Certainly.' And he said, 'Well, I'm not finished. Can you predict it, starting every three hours, for the next eight days?' And I said, 'Oh. Do I have more than fifteen minutes?' He said, 'Certainly. How about two hours?' So we decided that to run a large modeling effort was impossible, and to use our basic techniques."

They had very little idea of what the situation was on Fishing Rip that morning; they didn't even know how much oil was spilling. They elected to treat it as a continual skill of x amount of oil per hour, and on that assumption the Coast Guard forecasters in Groton drew a worst-case picture—the farthest the oil was likely to reach in any given direction under the expected weather and tidal conditions.

"We decided that the spill would move offshore for the period of at least three to four days" Lissauer said, "and, in fact, we saw no general movement of the oil toward Nantucket, toward the shoreline, for as much as seven or eight days, and this was the information that we passed to the MSO [Marine Safety Office]."

A lot of the *Argo Merchant* science was done that way, in a great hurry, because the Coast Guard officers on the scene of the grounding, or those responsible for doing something about it, had to have answers right away.

Six hours after the report of the grounding, and three-quarters of an hour before the first sighting of oil in the water, word of an imminent spill was passed to the East Coast Spilled Oil Research Team, one of four such teams newly developed and organized by the National Oceanic and Atmospheric Administration (NOAA) and the Coast Guard through an interagency agreement between NOAA's Environmental Research Laboratories and the Bureau of Land Management. (The Bureau had to have information on oil spill behavior as part of its outer continental shelf assessment and oil-field leasing program.) Two of the four Spilled Oil Research Teams were located in Alaska, and the fourth was on the West Coast of the lower forty-eight. The personnel involved all did other jobs as their regular work—for state agencies, the Coast Guard, and NOAA. But each was to be on call to go and study oil spills as they happened and if and as they showed promise of teaching something new.

The word was passed by a telephone call from someone in the National Marine Fisheries Service to Elaine Chan in NOAA's Center for Experiment Design and Data Analysis in Washington, D.C. Chan, in her mid-twenties and just out of graduate school, was a member of the East Coast team. She phoned the Coast Guard's National Response Center, and as she listened to the description of the situation on Nantucket Shoals she recalled, when I talked to her months later, that "it sounded as if it had tremendous potential." The chief scientist of the Spilled Oil Research Project had gone to Florida, where he was taking a law exam that day; Chan, after conferring with other team members,

made plane reservations to get her to Hyannis, on the Cape, and arranged for a chartered light plane to be available if she arrived before sunset, so that she could fly out to survey the situation right away. She was met in Hyannis by another member of the team, but the day was too far advanced for them to make the scouting flight. "We went to the Holiday Inn," Chan said, "and turned on the television to find out what was going on, because we couldn't get through to the Coast Guard." When they did get through to the Coast Guard, they had to introduce themselves and the Spilled Oil Research Team; the project was so new that very few people were aware of it.

"The next morning we got up and went to the airport and jumped in our plane. We had these air-deployable current probes, which measure surface currents. We explained to the pilot what we were doing, that he shouldn't be alarmed, we weren't bombing the ship, and that we wanted to fly around and find out what the currents in the area were, because there was oil leaking from the ship, and that way we could tell where it was going and perhaps be able to do some research on trajectories, and do some predictive work. Not so much with cleanup in mind, but for correlating the movement of currents and the association of wind, current, oil movement." Their plane had no radio contact with the cutters in the area, but they could talk with Coast Guard aircraft. Air traffic control was being done through a helicopter hovering over the tanker, and they got permision to fly around and do their current measuring.

The current probes were designed to sink to the bottom and then release a dye float that would rise to the surface; after a preset length of time, a second dye float would be released from the bottom. The observers in the aircraft would then have two small plumes of dye on the surface below them. A line drawn between the patches gave the direction of the current, and since the time difference between the release of the two patches was known, if the distance between the patches could be estimated, the speed of the current could be estimated. One of the Coast Guard cutters was in the immediate vicinity of their first current-probe drop. Elaine Chan still does not know for sure whether what happened next was intentional helpfulness or the result of someone's curiosity, but, she said, the cutter "moved over between the two dye marks, and so we took pictures, and we knew exactly how long the cutter was; they just moved around like a yardstick, everywhere we were dumping current probes. It was incredible. We didn't communicate with them, but apparently the helicopter pilot who was doing air traffic control told them what we were doing."

From a scientific and a political point of view, one of the most basic things to be done was to map the progress of the spill and describe the behavior of the oil. The members of the Spilled Oil Research Team did a lot of that on the daily flights they made. Some photo-mapping was carried out at high altitude by the National Aeronautics and Space Administration and by a contractor to the Environmental Protection Agency. Attempts were also made to map from a passing satellite, but a more successful use of a satellite was the electronic tracking of a buoy that floated with the oil for a while, sending radio signals.

For a day the oil was seen heading northwest toward Nantucket; it then curled counterclockwise around the wreck and looped up toward the northeast. At that point—the fourth day after the tanker had grounded—a C-54 aircraft from the Wallops Flight Center of NASA flew over the scene, and from that platform false-color infrared photographs——202 of them, nine-by-nine-inches each—were made of the oil spill. (The ships showed white on the prints, the water blue, the spilled oil turquoise.) The Air Force's Ninth Tactical Intelligence Squadron at Langley Air Force Base then turned these aerial photographs into composite strip mosaics, providing a unique, detailed picture of almost the entire spill. The oil did not simply flow downwind from the *Argo Merchant;* first it writhed snakelike, crosswind through the water, like smoke leaving a chimney in a child's drawing. Some distance south of the grounding, the trail of oil began to curve up toward the northeast, and as it did it started to fray at the edges, fan out lacy branches to each side, and those branches frayed, too, and put out smaller feelers. Close-up study of individual photographs suggested that while the slick seemed to keep together as a stream over many miles, the fraying at the edges represented the breaking up or dispersion of the oil.

That was the fourth day of the event, December 19. From then on, the oil began to drift generally offshore in patches and streaks, blown by the prevailing northwesterlies of winter; and by the last day of 1976, the leading edge of the spilled oil was more than 140 miles southeast of the wreck. Feeling a mixture of relief and fascination, the scientists watched it go. During the worst of the spilling, before Christmas, the oil left the tanker in great glops or as a thick, brown river, and then began to spread out—but not the way it might have been expected to do. The so-called slick seemed to consist of a thin sheen broken by thick clumps of oil that were feet or yards in diameter. Such clumps are nicknamed "pancakes." The Spilled Oil Research Team observed that the oil moved downwind faster than the water it rode on, and that the pancakes outran the sheen. The sheen was apparently fed as the lighter fractions drained from the heavier oil, and as time passed the pancakes became increasingly compressed and thick; when they consisted of fresh oil, they were an inch or two in depth, but pancakes a week or more old might be more than eight inches thick. So they tended to retain their integrity, and this was noticed close to the wreck as well as many miles away. Navy divers remarked on it when they went into the exceedingly cold water of Fishing Rip on December 23; the Spilled Oil Research Team had asked for photographs and moving pictures and observations of the oil at its "interface" with the water—how it acted at the edges and underneath. The oil, reported the divers, behaved like mercury: a patch might become separated from the rest, but it was likely to reattach itself. The underside of the oil was flat, like the top, they said; it didn't trail keels or tentacles of oil, and the edges weren't tattered, either, but well-defined.

Many marine scientists were concerned—and a few were convinced—that the *Argo Merchant's* oil was going to end up on the bottom, probably all over Georges Bank, because that would be the worst place it could happen, and the image implied in translation by the more breathless representatives of the press was of a sort of blanket of oil covering the bottom sand the way chocolate syrup covers vanilla ice cream. Many laymen in the environmental movement instinctively believed this was a possibility. I know it worried me at the time. But there were no data at all to indicate whether or not it was likely. Most oil is light enough to float on water; this Number 6 oil certainly was. However, studies in Alaska had shown that if the water contained modest amounts of clay sediment, spilled oil quickly picked it up, became heavier than water, and sank. The water on Nantucket Shoals and Georges Bank contained shelly sand and other particulate matter, but it did not carry much sediment. No one knew whether the oil and the particles would combine to sink the oil. The Coast Guard was being severely criticized at the time—for the tanker going aground, for the fact that the tanker wasn't refloated, for the oil being spilled—and it was hearing a good deal about the bottom being oiled. So the Spilled Oil Research Team was asked to have the Navy divers, please, while they were at it, take a look and make a few photographs on the bottom. Once down there, the divers could see no farther than ten or twenty feet in any direction; the water was thick with swirling sand. But where they stood the sand appeared to be clean, white, and dotted with clams. They photographed an area ten or fifteen feet square before they came up. The same day, scientists on the *Evergreen*, the Coast Guard research vessel, began making remote photographs of the bottom in the area of the spill. They found no sign of oil there either—not in the photographs and not in the bottom samples they dredged up. Wherever a lot of oil floated on the water, samples of the water column beneath the oil indicated that some petroleum hydrocarbons had mixed downward, but evidently not as far as the bottom. (The researchers suspected that the oil they found floating below the surface was the "cutter stock"—Number 6 oil being basically so gooey that in order to pump it from refinery tanks to tanker holds to customer tanks it must be kept warm and be mixed with a thinner or cutter.) So, far from being paved with oil, the bottom at least *looked* clean; it wasn't until February that sampling grabs in bottom sand began to detect small amounts of oil—droplets and tar specks—in the immediate vicinity of the wreck, particularly in the track of the sunken bow section, which had been worked along the bottom by fierce tidal currents until it was one-and-a-half miles from the stern. Divers who went down to look at the ship that month, however, *saw* no oil on the sand; and sampling grabs made in the summer indicated that only trace amounts of oil remained.

SAMPLING THE OCEAN

Tracking the physical movement of the oil, said Jerry Galt, head of the West Coast Spilled Oil Research Team, is "the easy part." We were talking in the coffee shop of a hotel in Hartford during an EPA meeting on the scientific response to oil spills. "If you want to do an assessment, to find out an environmental impact," he said, "you really have to consider a series of things, and what I call 'Where the Goo Goes' doesn't really tell you anything, because oil doesn't *hurt* water. When the oil's gone, the water's not damaged. The next question is, Who got hurt? Ideally, you'd have to go out and find out what populations were there, which is a sizable undertaking. That kind of biological research involves an incredibly difficult realm. Then the analysis of those samples takes highly qualified people; it's very labor-intensive. Not only that, this doesn't give you the answer, either. It just tells you who got hit. The real question you want to ask is, How did it hurt them? So then you have to do effects studies: once you know who's there, then you have to say, Okay, suppose I put oil on this little fella, what happens to him next? And this is even more expensive, because you need to find out all kinds of subtle things—and it's very difficult to do that kind of stuff in the laboratory, because as soon as you put an animal in the laboratory, it's stressed, and so you don't know if it died because you were keeping it in a tank or because you put oil on it. And even after you've done with that, after you've found out who got hit and how they got hurt, there's still a short of so-what question. Is it really bad to kill ten birds? Yes? No? You can make a guess on that. How about a *thousand* birds? To what extent, when you punch a hole in the environment, can it reseed itself? And that has to do with how big the hole is, how big the natural patches are—what the natural seeding rate, fill-up rate is—of this hole in the environment. And what the repeat time is on the next punch.

And *these,*" Galt said matter-of-factly, "are really very difficult question."

Attempts to answer such questions began at Woods Hole two mornings after the grounding. The Oceanographic Institution called home its research vessel, the *Oceanus,* which was some 400 miles off, and within days a crisis cruise was under way to collect samples of the water from top to bottom and samples of bottom sediments ahead of the apparent course of the floating oil. Then the National Marine Fisheries Service sent out its *Delaware II* for a brief cruise to collect a broad array of samples—fish, shellfish, crabs, plankton, water, oil, and sediments—inside and outside the immediate vicinity of the spill. Plankton were collected from the water below the surface and on the surface, and preserved in Formalin, a fixative, for later studies in laboratories ashore. Fish were examined for external signs of oil. Some of the catch was packed and frozen—lab workers would examine them for signs of oil contamination; other fish were gutted and their stomachs saved in Formalin—they would be studied to see whether and how the ocean food chain might be contaminated by oil. Each of the fish was looked at for indications of spawning; none was that far along. Crabs scooped from the bottom were examined for obvious signs of damage, then numbered and preserved.

Most of the collecting went on south of the spill, but in the last three of the sampling stops—stations 7, 8, and 9—the *Delaware II* was inside the perimeter of the slick. Oil was evident in the surface water samples at 7 and 8, and the surface plankton net was soaked with oil. At station 9, the plankton tow caught not only some specks of oil tar but also a good many fish eggs, which were then preserved in Formalin solution. A small dredge was dropped astern to collect crabs and shellfish for live laboratory studies.

At the scene of the wreck, Elaine Chan was lowered to the deck of the cutter *Vigilant* from a helicopter, so she could show the captain and the marine safety officer on board how to use sterile sampling bags to collect water samples from various depths beside the ship The Coast Guard's research vessel, *Evergreen,* was now sampling and photographing the bottom.

In the several weeks after Christmas water and sediment sampling was done from a variety of vessels. Dozens of current meters were planted for water movement studies. Buoys and sheets of plywood and colored cards were used to mark particular pancakes of oil so that they could be tracked by the daily mapping flights. The National Marine Fisheries Service interviewed fishermen coming into ports as far northeast as Rockland, Maine, and as far south as Point Judith, Rhode Island, to discover the practical impact on fishing and to record any other pertinent observations the fisherman had made. In anticipation of a possible wind shift that would bring part of the spill onshore at Nantucket, a research scheme was devised to sample the intertidal zone on the island—roughly, the strip of vulnerable and ecologically productive territory between the high and low tide marks—to set baselines for future studies of what happened when and if the oil hit there; a team of biologists and chemists made surveys and collections for two days on the island. The *Oceanus* went out to sea again to sample bottom sediments and the sediment load in the water. The research vessel *Endeavor* of the University of Rhode Island's Graduate School for Oceanography began its first *Argo Merchant* cruise on December 28, collected marine life from the water surface and the bottom, and also took water samples. A young mammalogist arrived from the College of the Atlantic in Bar Harbor, Maine, to coordinate observations of any marine mammals that might get mixed up with the oil slick. Early in January the *Delaware II* of the National Marine Fisheries Service began a week's cruise from the tip of Cape Code south into the spill area, with scientists doing much the same sort of broad-spectrum work that had been done in the *Delaware II* cruise before Christmas. They also released more than 200 "seabed drifters"—equipment designed to float free just above the bottom—for a study of bottom currents being done by University of Rhode Island and Fisheries Service oceanographers; that same week another 150 of the bottom drifters were dropped west of the wrecked tanker from a Coast Guard helicopter. Late in the month the *Endeavor* went back to sea with University of Rhode Island scientists aboard to look for oil on the bottom near the wreck, to do preliminary studies of the marine life in sediments there, to look for oil in the water column, and to record the numbers and distribution of seabirds they saw. The cruise ended four days later—earlier than intended—because of bad weather, but the *Endeavor* returned to finish the job the second week in February. By then the Navy had sent a submarine rescue ship, the *Recovery,* to the scene at the request of the Coast Guard's on-scene coordinator, and, when the weather would let them, Navy and Coast Guard divers had used it as a base of operations for dives to inspect the wreck, which lay twisted and broken along the bottom. The University of Rhode Island's *Endeavor* was back for another cruise at the end of February, and that was the last of the major research cruises. Most of the remaining work would be done ashore, in laboratories

Since nobody knew very much about open-ocean oil spills, the *Argo Merchant* accident had seemed to offer an excellent opportunity to do valuable research. But it costs thousands of dollars a day to keep a large research vessel at sea, and that doesn't count the salaries of the scientists on board. Specimens, once collected and brought home, are distributed to various labs, where they are looked at one by one. This is often complicated and time-consuming, taking the attention of administrators who set priorities and schedules and of scientists and lab technicians who design and do the examinations. Just the preparations can be lengthy. For example, if you want to study the condition of vital organs in an important species of baitfish, you might set aside several dozen specimens and from each one carefully removed a bit of brain and liver and heart and gill and reproductive organs and stomach contents, store them in vials and label them—all before beginning to look at them under a microscope or run them through various chemical tests or write down anything about what you've observed.

At best, such study of the *Argo Merchant* spill would cover many months, even years, because past work already indicated that close to shore the effects of an oil spill might be felt for years. Responsible people in the EPA and the Department of the Interior and its Bureau of Land Management and the Fisheries Service all were confident that federal money would be available to finance such long-term studies. But the *Argo Merchant* spill proved to have a fatal flaw: most of the excitement about doing research stemmed from a fear that the oil would go ashore, and instead it went the wrong way. Congress became bored with the idea of long-term studies. The research had little political sex appeal; the oil hadn't done much visible harm, except to a few birds, so what was all the fuss about? Consequently, the federal money that did go into research had to come out of existing department budgets, and the diminished political urgency made great sacrifices unattractive. Private marine research operations such as those of the Woods Hole Institution and the University of Rhode Island, having geared up for long-range studies, were left hanging. Even in National Marine Fisheries Service laboratories much of the time spent on *Argo Merchant* work had to be stolen from other, funded projects.

By the end of February, the last of the major research cruises was over. Because of chronic rough weather, winter is the very worst season to do collecting at sea, but even so, by March, less than three months after the spill, the *Argo Merchant* event had permitted the collection of a considerable amount of data about open-ocean oil spills. That month the National Oceanic and Atmospheric Administration published a thick preliminary report on what had been discovered, what work was still in progress, and what the gross effects of the spill appeared to have been. This report would have been especially useful had the long-range studies been funded.

THE OILY-BIRD SYNDROME

In March, 1977, I went to New Orleans to attend a biennial oil spill conference. It was organized by the Coast Guard, the EPA, and the American Petroleum Institute for the presentation of technical papers about the causes, effects, prevention, and cleanup of spilled oil. Nearly 1,700 people were there, from twenty-six countries—a sizable gathering, mostly of men and women who had had to deal with oil in water as a reality, not an abstraction.

Two things especially caught my attention about this meeting. One was the frank admission by many of the conferees I talked to that there was still a great deal to be learned about oil in water. The second, which contradicted the first, I was already familiar with from other experiences in the environmental debate.

Both the polluters and those of us who think of ourselves as the surrogate pollutees enter the arena of public environmental argument with anticipatory cries of pain and disaster. Each side has a large constituency that sees the other side as incredibly stupid, unrealistic, and immoral. Exaggeration spawns exaggeration. Jerry Galt, of the Spilled Oil Research Team, once remarked: "When you first find out about a spill, the environmental information that you've got is usually terrible. If the person who spilled the oil makes the estimate of how much oil has been spilled, multiply by ten. If an environmentally conscious newspaper makes an estimate of how much oil got spilled, *divide* by ten." Even in New Orleans, with a lot of biological work on *Argo Merchant* samples still had to be done and written up, one heard American oil industry people dismissing the *Argo Merchant's* oil as "on its way to Europe," and as never having reached the bottom; for a clincher, why, "they sent divers down and the bottom was clean." Word of mouth had spread the good news in the industry about the divers' observations, but evidently not about the recent bottom sampling with grabs near the wreck. Not only that, word of mouth had left out a key bit of background data: the divers in December had seen a patch of bottom smaller than the area covered by one of the bed rooms in the hotels where we were staying—four or five steps in any driection. In February, visual observations were made close to the pieces of the ship, along a track a mile-and-a-half long. Not what you'd call a large sample, in either case.

On the other hand, a young representative of the Massachusetts Department of Environmental Protection was retailing quite another story. One got the impression the Massachusetts DEP had a political and psychological stake in there being quite a lot of oil on the bottom, because the department had taken the position all along that the spill was very likely to do a serious amount of harm. Whatever the reason, the Massachusetts DEP representative in New Orleans told

me that he'd just spoken with one of the Coast Guard people studying the spill, and that "they" were now finding oil on the bottom. His Coast Guard contact had said, he related, "If you ask me where the Argo Merchant's oil is, I'd say it's on the bottom." I was positively dazzled; that certainly wasn't what the Commandant's chief science adviser was saying, nor was anyone from the EPA even hinting at such a thing. An associate director of the Woods Hole Oceanographic Institution, who was at the conference, was talking only about a relatively small patch of oil in the sand near the wreck. I cornered the EPA man in charge of oil spills and hazardous materials, Kenneth Biglane, who had had long experience chasing oil spills, and presented him with the different versions of where the oil was. "Well, they're probably all right," he said. "I heard reports of divers who went down to investigate the wreck, and the divers likened the scene to a dust storm. The currents just continually swept the sand before their masks, and if you have that active a bottom, then oil that has been deposited will be covered up, uncovered, recovered." So, like the old joke about New England weather, if you didn't like the data you were getting from the bottom near the wreck, maybe you should just wait a bit and try again. That sort of vanishing-and-reappearing act wasn't unusual, Biglane added. He'd watched the cleanup of the *Torrey Canyon's* oil in 1968 and then had gone back to the British beaches a year-and-a-half later. "I was told that some of that *Torrey Canyon* oil was down six meters—eighteen feet—in the sand." If such uncovering and re-covering as Biglane described was in fact going on all over the bottom beneath where the oil had passed, how could anyone, I wondered, expect to get meaningful data from there about the ongoing effects of the spill? Or prove anything?

From the point of view of that public bugbear, the media, there is something decidely unexciting about a technical meeting of 1,700 people from twenty-six countries, even if the subject of the meeting is something the press and television have recently been devoting many inches and hours to. The winters of 1976 and 1977 had provided a long string of tanker and oil-barge accidents, groundings, leaks, even a disappearance—and a lot of copy and pictures. In the best of all possible worlds, at least the *major* news organizations would take the trouble to learn more about oil spills and the likely effects of different kinds of oil spills, so that their coverage would be better the next time a spill was hot news. But the meeting was in New Orleans, a long way away for many organizations; and the conference lasted three days, meaning that whoever went would be out of the office for five days, including travel time, and would spend a good deal of money. The immediate return would probably be only "soft news," feature stuff, background, nothing exciting. All good excuses, but even so, the limited media representation at the conference was worth remarking. The *Boston Globe* had a reporter there, as might be expected, considering its constituency on the Cape; so did the *Washington Post*, Long Island's *Newsday*, the *Courier-Post of Camden*, New Jersey, the *Journal of Commerce*, the Newhouse News Service, *New Times* and the *Environment Reporter* of Washington and the *New York Times Magazine* were also represented. So was AP radio and a Little Rock, Arkansas, radio station. For full-time presence on the scene, as far as I could tell, that was it, aside from the local news organizations. A few others made brief appearances. A few TV spots made the network news, I heard. The major print wire services displayed very little interest in the proceedings; and one of their New Orleans stringers, who showed up one or twice, distinguished himself by remarking blandly in a press conference that this *Argo Merchant* thing was new to him.

Independent news operations in coastal cities from Alaska to Maine gave the meeting the go-by; none of the big guns in environmental and conservation reporting was there, and none of the major weekly news magazines, either. I wonder if this attitude of the major media organizations—particularly the daily news media—doesn't grossly warp the public's view of the oil-spill problem and affect the way in which it responds to the problem. When an event such as the *Argo Merchant* spill occurs, most reporters have to do catchup homework under great pressure, and that seems a lousy way to cover an important subject; it takes the minor art of writing a two-paragraph auto-accident story and tries to elevate it to handle major and complicated news. So mainly what comes across well is the flashy part of the story—over and over and over—because the reporter doesn't have a grasp of the background or feel at home with the science.

NEW ORLEANS NOTES

Shipwrecks and groundings account for most of the news and for relatively little of the total oil spilled into the environment—no more than 6 percent, probably closer to 3 percent. Much more is "spilled" just to get rid of it: tanker captains flush oil bunkers and bilges with seawater; car owners and service-station attendants pour used crankcase oil down the nearest storm drains; with our furnaces and our automobiles we pump into the air waste products that later come down in rain. Industrial wastes in water account for between 5 and 20 percent (depending on who does the estimating) of the oil in the worlds oceans; and perhaps as much as a third of the oceans' oil burden is dumped with municipal waste either directly or in river water.

Often this sort of spilling is illegal, so a good deal of effort is being devoted to the practical problem of finding the oil in the water. That's made very obvious by papers given at this conference. Dr. Charles Bates, who is here with the Coast Guard Commandant, says that in American waters tanker captains have a habit of waiting until they're in fog or darkness before they order the cargo tanks rinsed out: then, ploop, it's in the water, and by the time the oil slick is visible the ship that put it there is long gone. What the Coast Guard needed to stop this practice was airborne sensing gear that would produce a photographic image identifiable as oil and nothing but oil—evidence that would stand up in court. The equipment is now in service—on one airplane, but with more to come. "We were fortunate enough to hit three different cases on the West Coast where guys were doing naughty things in a fog bank or at night," Charles Bates said, "and we were able to prove to the court that the slick behind the ship was oil." That's detective work, and does not involve the floodlights and the trumpets.

Most of the important things happening in this field, in fact, involve detective work. The standard, accepted liturgy about oil spill fate and effects states that spilled oil becomes less harmful the longer it weathers in the environment. In general, the lighter fractions of oil are thought to be the most toxic, and they are also the most quickly dispersed, evaporated, and washed away, so presumably the harm that oil can do begins to decline the minute it hits the water. But maybe not. One of the more interesting papers presented at the conference involves an experiment done by researchers at the Virginia Institute of Marine Science. They tested the impacts of two kinds of oil on the life of an estuarine marsh—fresh Louisiana crude versus crude that had been artificially weathered for several days beforehand. The weathered crude proved to be more toxic to life in the marsh than the fresh crude, at least within the first 120 hours after the intentional spill. Even the investigators are buffaloed by this result.

The people who care about oil's impact in water are not even in agreement on how serious a problem it is or what aspects of it should concern us most. Oiled wildlife? Damaged breeding territory of marine creatures? Long-term effects? Short-term effects? Big spills? Little spills? The waste of the precious petroleum? The problem is so new we have only begun to sort out our priorities. For example, many of the reporters who are here for the whole conference—and tend to gang together for meals—have an uneasy feeling about the media's emphasis on oily birds. I'm the card-carrying birder in the group, but I must say that I feel uneasy myself.

We know that oily birds, birds killed in spills, are important, and yet we wonder if news presentation hasn't skewed and magnified the importance, all because oiled birds do seem symbolic—and are also marvelously photogenic, especially when held in the oily hands of, let's say, an oily-faced twelve-year-old-girl. One reporter here recalls sourly that during the *Argo Merchant* event she was rousted from bed in the middle of the night by a phone call from the copy desk, "saying they had this fantastic picture of this kid holding the first dead bird, and they were using it way up front, and would I please rewrite my story to include a line from the director of the bird rescues, saying how devastated all the birds were, so they could run their picture."

I've begun asking everyone I interview here what they think about oily birds: that is, are the birds truly symbolic of the environmental threat posed by spilled oil in the water, or are they distracting from the real issues? Apparently it's a good question, because none of the answers are predictable. I've got an oil man suggesting that the oily birds may mean quite a lot and environmentally oriented people suggesting that the birds have been overplayed. Quite a few I've questioned seem baffled, unprepared; they stagger along for a few sentences and then shut down. I sympathize. Raise the oil spill issue to the level of metaphor and see how feeble our grasp is of the whole business.

THE PROBLEMS OF IGNORANCE

I did not know, when I left New Orleans, just how feeble the grasp was, and recognition came only in easy stages. That summer of 1977—by which time Congress had long since refused funding for more research, and almost everyone had difficulty placing the name *Argo Merchant*—I visited the Milford, Connecticut, laboratory of the National Marine Fisheries Service. I wanted to talk to a few of the scientists who had studied the samples of marine life collected in and around the area of the spill. After all these months, I thought, they must have a pretty good idea of what and how serious the impact on the marine environment had been, and why. I was wrong.

Four people set aside the better part of an afternoon to accommodate me: Dr. Fred Thurberg—trim, precise, and friendly, a physiologist; Edith Gould, a biochemist, known as Dusty; Dr. Arlene Longwell, a geneticist; and Kenneth Sherman, the regional director or ecosystems studies for the Fisheries Services; he came by car from his office in the Narragansett laboratory.

From the start, they made it clear that they had operated under considerable handicaps throughout the *Argo Merchant* event. Most marine research laboratories, the one at Milford included, concentrate on special areas of study, and they have full programs that are tied to dates. Papers must be presented at particular professional meetings, or some government agency has paid for research the results of which must be

turned over at a certain time. When the *Argo Merchant* went aground, Fred Thurberg said, the environmental scientists at Milford were "involved in a big study of the effects of cadmium and mercury on lobsters and certain effects of silver on various bivalves. You have a limited number of staff people and a job to do, and this was an extra job with *very* limited extra funds and *no* extra people." In order to do the analyses of samples from the *Argo Merchant* spill, about half of the dozen staff environmental scientists had to take time from their ongoing studies and work overtime as well; the same was true for three of the five members of the genetics department.

Another difficulty was the limited number of samples available. Bad weather and a shortage of money had restricted the fishing when the oil was in the water in a critical area; the samples that were taken had to be parceled out for various sorts of work-up.

But the most crucial problem involved the state of the art. Dusty Gould, for example, was studying effects of chemicals and metals on the message systems that control metabolism—a new field for marine biologists. "It's almost completely exploratory," she said. "You don't really know quite what to look for. One of the most obvious things to look at in an animal that is under what you suspect is stress is in the pathways of mobilization of energy. When the animal is under a very small environmental challenge, that challenge might make him breathe—consume oxygen—a little bit faster. He can still mobilize his reserves, and one common phenomenon of a challenge of this sort is induction of enzymes. If the activity of the enzymes is way below normal, it generally means a more acute stress, that the animal is unable to mount its metabolic defenses. That's a fairly good rule of thumb."

Discovering through the enzyme activity that a marine animal is stressed is one thing, Dusty Gould went on, but "to pinpoint what toxicant or pollutant is responsible for the stress is something I don't think anyone would care to stick his neck out about. I think the most glaring lack in research of this nature right now—and I don't know that it can be done—is to relate, say, body burdens, concentrations in tissues of a specific pollutant—whether it's petroleum hydrocarbons or metals or pesticides—to the specific malfunction." The culprit causing the malfunction can't be tracked yet, as it goes about doing its damage in the system—"there are so many shunts and back alleys and runarounds in metabolism. Whenever you're dealing with a living biological organism, if you punch it in one place it goes out in a couple of other different places. So you can set up your experiment designing many, many controls to protect yourself from flak, and yet if you're wise, you still will not say, 'This is the result of such and such.' What we do is resort to hedging phrases—learned hedging phrases like, 'It is not unreasonable to assume.' You cannot say, 'This is so'—not and be honest or accurate."

Dr. Arlene Longwell came to marine genetics only a few years ago, from medical research. A specialist in the genetics of cells, she had studied plants as well as mammals, so she brought to fisheries research a valuable perspective and training—and a certain undisguised astonishment. "Fisheries biology is not a very large field," she said. "There are far fewer fisheries biologists and marine biologists studying the ocean than there are, for example, medical researchers or crop-breeders." And as far marine geneticists, she said, "There are far more people working with mice."

When the spill occurred and the resulting scientific demands began, Arlene Longwell was working on genetic aspects of shellfish development—ways of improving the shellfish crop; she was also doing genetic studies of marine animals in the ocean off New York City—the New York Bight, one of the most polluted marine territories on the planet. Ken Sherman asked her to take some time from those projects and examine cod and pollock eggs collected on the *Delaware II* cruise just before Christmas. "The number of eggs that they collected at the spill site was rather small, and Ken sent me half of those," she said, "so we were able to do what we had to quite quickly." (In fact, microscopic examinations were made of the dissected embryos of only 79 cod and 162 pollock eggs collected in and around the spill.) "The report we prepared on it was limited, since we had no baseline, we had never worked before with cod or with pollock in any form, whether it was laboratory fish or plankton—plankton includes fish eggs—taken at sea."

She wanted to show me a batch of photographs of what they found. "I think this is the first time that surface membrane contamination has been depicted in a fish egg. Prior to this," she cautioned, "when experimentalists had attempted to contaminate fish eggs in the laboratory with oil, they had failed. I think after they tried to oil the eggs they probably looked at live specimens. Our eggs were fixed—preserved—at sea before we looked at them. The fixative was good, and it was the appropriate thing to use. But a histologist [tissue specialist] or a cytologist [cell specialist] might say, 'Are you certain that oil wasn't fixed *to* the egg membrane in the process of fixation?' Now, I think this is not very likely, but I can't prove it on these samples. Also, they fouled the net with oil when they were collecting in the slick. At one collecting station, eggs were lightly fouled, and at the next they were most heavily fouled; at the same time, the net was getting more and more fouled. I don't think the net was responsible for the egg contamination, but we can't be certain about this." With that foreword spoken, she began dealing off enlargements of microphotographs, which showed eggs and embryos magnified thousands of times, even tens of thousands of times. And as the pictures fell, she described what I was looking at. "Two deformed embryos—you see the egg sphere has collapsed here. Here the embryo is deformed. These globs are oil. Another problem in looking at the *Argo Merchant* cod and pollock eggs was that all the pollock and many of the cod were at the tail-bud and tail-free stages, which are the least likely to suffer maldistribution of chromosomes. After fertilization, you get first cleavage—two cells—then second cleavage—four cells. These are the stages that are very susceptible to irregularities in chromosome division; there are mutagens and carcinogens in oil, and also it produces secondary effects, so these are the stages we like to work with. But there were none of these earlier stages represented except in the cod, and the cod were remarkably better off than the pollock, even though they should have been worse because they were at the earlier stages. However, when you look at fish eggs as plankton, collected from the surface in a net, you're seeing only a small part of the mortality, because after the egg begins to deteriorate, it drops out of the water column, so you don't sample it in plankton. When we estimate mortality and moribundity, using samples taken from the surface, we're seeing only a small part of it." She spoke of the work of Walter Kühnhold, a biologist from the University of Kiel, West Germany; Kühnhold had happened to be at the Fisheries Service's Narragansett lab as a visiting researcher the year that the *Argo Merchant* event occurred, and consequently his investigations were particularly well known to people in the Fisheries Service. "Kühnhold believes that the oil affects the osmoregulation of the membrane around the embryo—its control over what passes in and out," Dr. Longwell said, "so that a lot of the eggs will be dropping out of the water column even *before* they're grossly deteriorated." She laid down a photograph of the membrane of an Atlantic mackerel egg, magnified 10,000 times to show its structure in great detail. It had come from a healthy egg collected near Cox's Ledge, well out to sea off Long Island.

Now another photograph "This is a mackerel egg from the transect between Sandy Hook and Rockaway Beach Inlet in the New York Bight. Plankton specialists would say, just from the gross appearance of the egg alone, that this membrane came from a perfectly healthy, normal embryo—and look at the deterioration of the membrane." In the microphotograph, it closely resembled tapioca pudding, I thought—all full of bubbles. "Some researchers believe that oil has a particular affinity for membranes and does do some damage to the membrane itself although no one has worked with membranes on fish eggs. . . . These are pollock eggs; they were taken as being clean—the normal for pollock. Now this is the pollock at that station 9 near where they found the tar-like slick. This is oil, caked all over here. And this is an antenna of a copepod—a tiny crustacean—caught in the tar on the egg membrane. . . . To look at the cells of the embryos, I pierce a needle through the egg, and use another needle to tear the embryo off. Then I flatten it on a slide; it tends to flatten into a monolayer of cells, so if the embryo has sixty-four cells, you can look in those sixty-four cells and see what states they're in—how their chromosomes appear, how they are dividing. In the case of the *Argo Merchant* material, a good portion of the cells were in states of deterioration—even though, looking at the embryo grossly, from the outside of the egg, you'd say it was all right."

"Which, frankly, was the state of the art before Arlene took her genetic background and applied it to our fisheries problems," Ken Sherman said.

I asked them what they all thought about the damage done by the *Argo Merchant* spill. "It's clear that we did not have a catastrophic kill—mortality of either adult fish or juvenile fish," Ken Sherman said. "To date, we've had nothing to the contrary from anybody in the fishing industry. Now, with respect to the marine ecosystem, we have to look to the long term, and that's just where we are now."

Quite a lot of gross damage to the ecosystem was evident immediately, on the scene, he said—"with respect to those organisms that are farther down the food chain than we ordinarily talk about, like the zooplankton. Those were fairly heavily impacted. And the fish eggs and fish larvae that Arlene looked at, they were very heavily impacted. But moving from that kind of damage to an impact on a stock of fish is a giant step." For example, if an oil spill in December and January affects at least 2,000 square miles of ocean, as this one did, and seems to kill a lot of the fish eggs and larvae and zoo plankton it comes in contact with, that may mean a great deal in terms of the fishery in five years—and then again it may mean very little. Winter is not a biologically productive time at sea, generally speaking, but there was no way to estimate how many fish eggs and larvae and zooplankton lay in the spill's path. Put in a nutshell, no one knows very much about what happens on Georges Bank and vicinity when oil isn't a major factor, and that question, Ken Sherman said, is only beginning to be addressed. So a reliable assessment of the damage done by the spill just wasn't possible.

He was at the blackboard now, a quickly drawn map of the East Coast at his shoulder "In order to deal with the kinds of problems that we're talking about it's necessary to have a strategy and an approach. The U.S. has really not had one up to this point. We've got a whole series of studies"—he drew little circles here and there along

the coastline of his chalked map—"that are done more or less *in vacuo*." Various universities and marine institutes, with various specialists, undertake whatever interests them—and for which they can raise funding, so government and the foundations also play a major role.

"We've not had a focus on this major area," he went on, "except with respect to the ground fish. Largely because of the enormous foreign fishing presence, the National Marine Fisheries Service has had a survey out here with stations located at about fifteen-mile intervals, over this entire piece of continental shelf for about ten years." That's produced valuable population curves for most of the important fish species off the coast, but the Fisheries Service did the sampling only twice a year. In 1977, Ken Sherman said, the survey was at last being done every two months—an improvement, but still not often enough to develop good data on spawning production. The Fisheries Service is filling some of the gaps by getting foreign fishermen—the Soviets and the Poles and the East Germans and the West Germans—to collect samples and data too. "So now we're finally moving into a study of the marine ecosystem. But in the case of the *Argo Merchant*, we had no baseline physiology for these populations." When the spill occurred, the Fisheries Service had nearly finished laying out a program, which it called Ocean Pulse, for developing those baselines, and it used the event not only to refine the approach but also as a dramatic demonstration of why the baselines were needed. Still, no federal money had been dedicated to Ocean Pulse, eight months after the spill, although Ken Sherman said he was confident that it was in the "tube up in the budget cycle."

Even if the baselines were not *specifically* known, I said, here in front of me around the table were experienced fisheries scientists who ought at least to have a *feel* for what they found in the samples they examined. They wouldn't accept that.

"We *have* found in some areas some sublethal, nonchronic effects," Fred Thurberg said. "And whether these are significant, I don't know. It's very likely these were transient changes. There were no massive mortalities observed. I think you'll find in the final report for some of our work, in the limited subsequent sampling that was done, we did find that the fish stocks had returned to a 'normal' state—or at least the fish that are in that *area* now are exhibiting normal hematological profiles, respiratory rates, and so forth."

I had heard that the most common copepod in the water around Nantucket Shoals—a minute shrimplike animal known as *Centropages typicus*, favored as food by many of the creatures in its surface environment—had been "wiped out" by the oil. No, Ken Sherman said; affected, but not wiped out. Then what was the mortality? "Very likely there was *no* mortality, if we consider the literature on the subject. These organisms are filter feeders, and they seem to have the ability to move petroleum hydrocarbons through their alimentary tracts without any apparent harmful effects on the organisms. They generate a fecal pellet, however, which then presumably is passed on to the food web and could be concentrated in filter feeders on the bottom. Or they could pass this on in the food web if those copepods—there's a high probability, actually—are eaten by larval fish. Then we'd get a problem. This has to be looked at. It hasn't been looked at yet."

I asked Ken Sherman what he thought was the most important lesson of the *Argo Merchant* event, and without a second's hesitation he answered, "I'd say the *approach* that's required to deal with the research problem. Somebody's going to have to deal with that—that the ocean environment is a difficult environment to work in. It's multidimensional and it's dynamic." Somebody was developing part of the approach, we all knew—the crisis part; the EPA was beginning a series of regional meetings in which the scientific community and government developed ways to organize and finance rapid, purposeful scientific response to oil spills when bad luck presented good opportunities for studies. But that would not happen often—not nearly so often as the persisted drip-drip-dripping into urban harbors; an oil spill is created by every coastal city every day. Furthermore, it did seem that with all the attention focused in the past twenty years or so on ocean farming and ocean pollution, it shouldn't require a shipwreck off the coast of Massachusetts to get the federal government and scientists moving on concerted research into the ocean environment. I said as much to Ken Sherman. "Marine science," he replied diplomatically, "dealing with *marine populations*, is relatively new. It's only been recently that enough scientists have recognized that we need to deal with the ecosystem and not single species."

A DROP IN THE OCEAN

I didn't see much sign of environmental partisanship at the University of Rhode Island symposium, where the *Argo Merchant* studies were summed up. But count on it, there are those who will be tempted or conditioned to say, two or five or ten years hence, that the *Argo Merchant* spill did/did not cause major environmental damage. Doubtless even now some partisans are keeping a close watch on New England fish-landing totals, in the belief that if there was/was not a marked impact, fish catches will reflect it. How such conclusions can be drawn or even considered is beyond me—so little is known about normal cycles and production curves and the intricate network of relationships within the huge ocean environment. And that condition is not likely to improve any faster than it has. The *Argo Merchant's* most important scientific lesson is still being largely ignored by the federal government, and the Ocean Pulse program for concentrated basic research into the marine environment did not, in fact, find its way into the federal budget for fiscal 1979.

Our attention is drawn to the spectacular. Maybe we need another major oil spill off the East Coast. The general attitude seems to be, How important is all this science stuff, anyway? Well, who knows? Just as good a question—in fact, a better one—would be how *un*-important is it? The human community is committed to plunging ahead as if it knew the answers to this and every other question one might ask, and meanwhile its knowledge of reality trails far behind. We pick up our knowledge in very small increments, and of that the studies of the *Argo Merchant* spill provide a good example; the results, most of them discussed at the University of Rhode Island symposium, add fragments to the jigsaw puzzle, no more.

For instance, oil may stick to clay sediments and sink as a result, but it does not stick well to shelly sand, even when an experimenter is trying to *make* it stick. Predictive mathematical models based on recorded weather patterns and current data can be pretty good on open-ocean spills, if what you want to know is how bad the oil's worst impact could be, but they lack something if more exact predicting is needed. And if a spill happens in a place less well-documented than Nantucket Shoals for current and weather data—a most likely possibility, since that area is one of the best known in the world—then the predicting problem is greatly magnified.

Assessment of the impacts on marine life off Cape Cod is not made any easier by all the ship traffic passing through. The crisis cruise by the Fisheries Service in January, 1977, found petroleum hydrocarbons in water samples at the tip of the Cape, far away from the *Argo Merchant's* oil. At least in the vicinity of major shipping lanes, petroleum is now part of the normal background noise in the ocean environment off New England.

Walter Kühnhold produced further proof of that. He did a background survey of copepods—those tiny shrimplike creatures so nourishing to larval fish—that had been collected near the Cape some time before the spill and were stored in the archives at Narragansett. His idea was to set a clean standard against which the copepods that ran into the *Argo Merchant's* oil could be studied. But his randomly chosen samples, he discovered, carried petroleum hydrocarbon residues. There was no clean standard.

In the lab, Kühnhold also exposed cod eggs and larvae to Number 6 fuel oil in water and demonstrated that it was bad for and often fatal to them. The larvae of a small and important baitfish called the sand launce were apparently badly hurt in the vicinity of the oil, but a population explosion of the sand launce in New England waters continued, even so.

And as for oiled birds, 175 of them were picked up on the beaches of Nantucket Island and Martha's Vineyard between December 20 and January 24 after the spill; most of them were dead or dying. About 1,120 birds of thirteen species were seen near the wreck in the ten days that began with the grounding; most were gulls, and about half the gulls had been oiled to one degree or another. It was assumed that other affected birds—perhaps a great many—had been killed and washed out to sea with the oil, and some probably flew long distances from the scene before they died, or hitched rides on ships because they were too ill to fly; one report said that of ten dead Great Black-backed Gulls that were washed ashore at Dartmouth, Nova Scotia, two carried oil that was identified as having come from the *Argo Merchant*.

Nothing fancy, in short, just a few observations and figures and educated guesses and conclusions. Science rarely moves in leaps and bounds. It plods, nibbling off a crumb of information here, a bite of data there. Only the headlines about results make science seem to work like magic. And there is an inestimable—indeed, virtually infinite—amount still to be learned about the ocean environment. We know just enough to create competing propaganda—a genre that does not require sturdily factual foundations.

Such impressions began to gel when I went to sea late in the summer after the spill. I'd been told by the director of the Fisheries Service's Woods Hole laboratory that none of the planned government research cruises was designed to do follow-up studies on the spill. In fact, the best the Fisheries Service could do was sneak in an occasional extra station as a vessel passed through the spill area on the way to someplace else. But if I wanted to go on a research cruise anyway, it could be arranged. Having tried unsuccessfully for months to get on the water with scientists doing *Argo Merchant* work, I was tempted; and the hearty-sounding lab official to whom I spoke b te ephone because he was in charge of organizing cruises seemed supremely confident—with good reason, it turned out—that if I did go I would learn a lot. So I signed up for a sea-scallop cruise on the *Albatross IV*, which left Woods Hole September 6 for ten days, going as far south as Cape Hatteras before heading back.

The work on such a research vessel continues around the clock, weather permitting. At each preselected Fisheries Service "station"—dots on the ocean identified by intersecting radio beams and lit numbers on digital readout panels—a trawl or dredge or sampling net goes over the stern and after a set time is retrieved and emptied on deck. Sometimes the catch includes the animals

wanted, sometimes not. The scientists count, measure, examine, and record what's been brought aboard. Samples are saved—in a preserving fluid or in the freezers. Then another haul comes in, and the process begins again. It's plodding work.

It takes place in an awesome three-dimensional expanse, too, which not only inspires in this environmentalist certain heretical—and not altogether justified—comparisons between the size of the *Argo Merchant's* cargo and the size of the open sea, but also makes one constantly aware that we seekers-for-knowledge are very small creatures bobbing on the surface of enormous forces. Our saving grace is that we can be audacious, that we can even revel in the exploration. The young chief scientist on the cruise is passionate about the sea; it is his personal generator. He stood in the bow on the third deck one calm morning and discoursed enthusiastically on what we saw in the water far below us, pointing out—as delighted as if he'd never been there before—sea turtles and fish and little riffles and patches under which action might be developing for our delectation. And when the wind piped up and bad weather was upon us, he leaped to the door of the lab, shook his fist at the sky, and shouted good-humored insults at the ancient Norse deity, "Hey, Odin, we aren't afraid of you! Odin is a *jay-rie!*" Still, Odin didn't care—may not even have been tuned to us. One night the sea was so rough that everything on board not tied down was thrown from where it was stowed, and slid, rolled, tumbled, crashed from bulkhead to bulkhead. What a place to do *science.*

A single scene aboard the *Albatross IV* distilled for me the magnitude and pace of the enterprise. One of our scientists was doing her doctoral dissertation on *Scaphopoda*—a class of mollusks—and she needed specimens. The trouble with looking for scaphopods is that they are very small and hard to find, and the act of looking for them—like the act of looking for oil spill impact—is not the same as looking for birds or mushrooms. The chief scientist had added to our schedule for the sake of the scaphopod search a couple of trawls with a special bottom sampler called a Digby, and the scientist in charge of the researcher's watch had also designed a makeshift pipe-dredge that attached to the mouth of the scallop trawl. So she had plenty of bottom mud to examine. "What does a scaphopod look like?" I asked her. "Looks like an elephant's tusk about this long"—she held thumb and forefinger about a quarter-inch apart.

Riding in the center of an almost featureless 360-degree circle, we put out a Digby trawl,, which is two feet wide at its mouth, or a pipe-dredge a couple of inches across at its open end, and they drag along a bottom we couldn't see, in hopes of happening to scoop out a tiny, horn-shaped animal. And we'd get the sediment sample on deck, and the researchers crouched over it there, or took it to our work table, where for an hour, two hours, she washed the mud through screens of different sizes and paused after each wash to poke slowly with a pair of tweezers through the shell fragments and sand. She worked doggedly, mostly alone, holding the table edge with one hand to brace herself against the swell of the sea.●

● Mr. MUSKIE. Mr. President, the Committee on Environmental and Public Works has unanimously reported S. 2083, the Oil Pollution Liability and Compensation Act of 1978, a bill which deserves enactment as a public law before the close of the 95th Congress.

If we do not act now, we allow the continued existence of a time bomb whose detonation no one can predict. For no one can say when another *Argo Merchant* or *Amoco Cadiz* will occur. This bill is designed to address such disasters.

The bill's purpose is to assist our citizens and protect our resources from the economic, environmental, and esthetic consequences of spills of oil and other hazardous substances. It is a tough bill. It is the best approach to the problems such spills create, and the only approach that I believe has a realistic chance of being adopted in this Congress.

Oil spill liability law has been confusing and inadequate in the past. We have tried to protect our citizens along the country's coast and inland waterways by enacting a patchwork of Federal programs, State statutes and nebulous international agreements, each dealing with different circumstances.

Presently, there are five domestic laws which have provisions affecting liability for clean-up and damages from oil spills: the Federal Water Pollution Control Act—which deals only with clean-up—the Trans-Alaska Pipeline Act, the Deepwater Ports Act, the Outer Continental Shelf Lands Act, and the Limitation of Liability Act of 1851. There are also numerous State laws and common law remedies offering legal recourse in the event of an oil spill. Internationally, there have been two conventions—neither of which has been ratified by the United States—and two voluntary agreements that provide for liability and compensation in the event of an oil spill. Voluntary agreements by tanker owners have either failed to provide sufficient relief to private parties or to extend coverage to damages or ecological impairment.

In the case of protection from spills of hazardous materials, the Federal Water Pollution Control Act is the only Federal statute which assesses liability for such spills, and only for clean-up and mitigation, not third party damages. In fact, section 311 of the Federal Water Pollution Control Act treats spills of hazardous substances under the same cleanup liability scheme as spills of oil. Spills of nonremovable hazardous substances are assessed a penalty in lieu of clean-up liability. There is no Federal statute imposing liability for third party damages resulting from spills of hazardous substances.

However, even with all these legal avenues, the average citizen cannot be assured of prompt and adequate compensation for damages suffered from an oi or hazardous substance spill.

What exists today is an uneven mixture of Federal and State laws dealing with spills of oil and hazardous substances. The need exists for a comprehensive law to pull these various schemes together and fill in the holes.

Therefore, we should approve S. 2083, to provide liability and compensation for cleanup costs and damages created by spills of oil and other hazardous substances.

It was in 1967 that the world first grasped the consequences of spilled oil in open waters. The *Torrey Canyon,* a vessel carrying 880,000 barrels of crude oil, ran aground off the southwest coast of England. The seeping oil fouled beaches, killed marine and wildlife but, more important, awakened the international community to the dangers posed by oil-carrying supertankers. The public outcry was great and resulted in an international convention to discuss the expanding tanker technology which threatened to repeat such disasters in greater proportions.

In 1969, ocean discharges of oil came home to America. We witnessed an oil disaster off the Santa Barbara coast when an oil well blew up, gushing almost 14,000 tons of oil onto pristine beaches, killing marine and wildlife. The $8.5 million cleanup cost and the $14.5 million worth of damages resulted in the Department of Interior's first regulations covering liability for Outer Continental Shelf drilling activity.

It was 7 more years before the domestic interest in oil pollution liability laws was renewed. In December of 1976, the Liberian-flag tanker, the *Argo Merchant,* went aground 28 miles from Nantucket Island. The vessel spilled most of its 7.8 million gallons of heavy heating oil, which eventually was taken out to sea and away from important tourist industry along Cape Cod. But for several weeks we all held our breath, wondering whether the vagaries of wind and current patterns would destroy or save the area.

Soon after the *Argo Merchant,* another tanker ran aground in the Delaware River, spilling 135,000 gallons of crude oil into the fertile tidal marshes below Philadelphia.

Last Mar .h, the *Amoco Cadiz* incident off the coast of Brittany, France, left little doubt that the growing world demand for oil has led to larger tankers and greater risks for disaster. The French Government has expended $84 million for cleanup costs alone. Damages are estimated to run well over another $100 million. It is clear that the economic consequences of such spills are far greater than any of us anticipated even a decade ago when the Senate first initiated legislation to deal with this problem.

However, the tragic fact is that it always takes a disaster to ignite concern about the danger of oilspills.

Do we need to wait until another ecological disaster hits our shorelines, or a financial disaster hits those citizens making a livelihood along our coast, to realize that comprehensive legislative action to protect oilspill victims is needed?

Mr. President, coming from a State whose livelihood and soul have evolved from the clean ruggedness of its coastline, I am particularly aware of the concern and the potential for destruction which exists along Maine's 2,300 miles of inlet and bay shoreline.

I ask for support of S. 2083, which was unanimously reported from the Environment and Public Works Committee, because this problem is not going to go away. On the contrary, every year, every month that we neglect to address the problem of inadequacies in our present liability and compensation programs, the greater the risk that more crises will occur—and to a greater extent.

There are numerous spills which occur in American waters every year. A General Accounting Office report identified the sources of oil spills and identified 10,600 oil pollution incidents which occurred in our waters in 1976. These incidents resulted in 23.1 million gallons of oil being spilled. Almost one-third of all spills were caused by oil-carrying vessels. There is no doubt but that our Nation's waters will see increased numbers of such vessels as our dependence on imported oil continues to grow.

The table from the May 16, 1978, report of the General Accounting Office is printed as appendix A.

Increased offshore oil development also enhance the likelihood for oil leakage into the ocean. Texaco, for example, announced last July that it had discovered oil or gas in the Atlantic Ocean off the coast of New Jersey. We can surely expect greater exploration and probable development in that area.

A very real need, then, exists for a comprehensive liability and compensation regime such as is embodied in S. 2083.

S. 2083, as amended and reported, seeks to expand liability limits and coverage of third party damages to put the responsibility of cleanup and damages squarely on those responsible for the act. The concept of a fund, or a "superfund" as this bill has commonly been referred to, is to provide financial protection for victims damaged by a spill where the costs of such damages exceed the spillers' liability. Also, victims would be compensated when the owner of the spilled material cannot be identified. In such cases, S. 2083 provides a fund which would guarantee that all the costs associated with a spill would be compensated through a mechanism which passes these excess costs through to all users of the product.

Before I discuss the major provisions of this legislation, I would first like to emphasize what this bill will not do.

This is not legislation to improve oil tanker safety requirements or to prevent spills. The Oil Pollution Liability and Compensation Act of 1978 would instead provide a means of dealing with removal costs and damages that occur as a result of a spill. It is the purpose of other legislation, namely the pending tanker safety bills, to establish tanker safety and other regulatory safeguards.

S. 2083 does not contain provisions for safer tanker operation, though it leaves in place State laws that may provide such incentives. The absence of provisions providing for incentives for safe operation causes some concern among members of the committee. The committee, therefore, has directed the Environmental Protection Agency, the General Accounting Office, and the Coast Guard to direct a joint study and report on the existence or absence of incentives for safe operation in the industries affected by this legislation.

The bill before us is a reasonable approach to truly protecting our citizens and resources from damages derived from a variety of spills into American waters.

After 3 days of hearings and 3 days of markup by the Subcommittee on Environmental Pollution on a bill I introduced last April, the full Committee on Environment and Public Works unanimously reported an amended version of an oil spill liability bill already reported by the Senate Commerce Committee. The bill differs from versions produced by that committee or the House of Representatives in three important respects.

First, this bill builds upon an existing body of law—section 311 of the Federal Water Pollution Control Act. No new statutory framework would be formed. The House bill and the Senate Commerce Committee legislation, on the other hand, depart from existing law, and so into unchartered waters by creating new statutory structures.

Second, this legislation is unique in that spills of hazardous substances are covered. The committee agreed that the public should have the same protection from damages whether they resulted from discharges of oil or hazardous substances. Testimony to the Subcommittee on Environmental Pollution revealed that hazardous substances, like the Kepone discharged into the James River, can inflict as much, if not greater, damage to natural resources and property as spills of oil.

Third, this bill specifically preserves the right of my State wishing to impose any additional requirements or liability with respect to discharges of oil or hazardous substances within that State. Under this provision, States are free to establish or maintain funds for cleanup or compensation purposes and to collect such fees or penalties as they may establish.

SECTION 311 OF THE FEDERAL WATER POLLUTION CONTROL ACT

This bill addresses the problems of liability and compensation through a variety of provisions and concepts adopted, directly or by reference, from section 311 of the Federal Water Pollution Control Act. Other legislative proposals concerned with oil spill liability would establish an entirely new structure which would depart significantly from the regulatory program which has been in effect since 1970.

The existing provisions under section 311 establish liability out to 200 miles for clean up of spills of oil and hazardous substances and for damages to natural resources. A $35 million appropriated fund presently covers claims beyond the limit of liability. The liability for clean up of spills of oil or removable hazardous substances from vessels, not including inland barges, is set at $150 per gross ton or $250,000, whichever is greater for vessels carrying oil or hazardous substances as cargo. The liability limit is set at $125 per gross ton for inland barges, or $125,000, whichever is greater. The liability limit for onshore and offshore facilities is set at a maximum of $50 million—which could be lowered by the President for certain categories of facilities to not less than $8 million. Contingency funds are permitted to be used in order to protect against threatened discharges.

Under section 311, the President is authorized to establish a national contingency plan which provides for the removal of oil and hazardous substances. This plan is implemented by the Coast Guard. It has been in operation for 7 years and is the basic response mechanism for action in cleaning up oil and hazardous substances spills. Appendix B outlines an example of the chain of events surrounding a major oil spill.

The committee bill proposes to keep this mechanism in place.

HAZARDOUS SUBSTANCES

Since 1972, the Environment and Public Works Committee has integrated all legislative provisions dealing with the spills of oil and hazardous substances. This bill follows in that tradition. The authority to deal with oil and hazardous substances within the same regulatory scheme already exists within section 311 of the Federal Water Pollution Control Act.

Economic damages resulting from discharges of hazardous substances are not presently included under Federal law. The need to include hazardous substances within the provisions of this legislation is no less urgent—and often more urgent—than the need to protect victims of oil spills. Scarcely a week goes by without some new account of a toxic substances debacle which has caused economic loss and threatened public health. To exclude hazardous substances from such a bill at this time, to needlessly delay until another Congress legislation which would compensate the victim of such disasters, would be folly indeed.

Since April 12, when I introduced legislation to establish a comprehensive oil spill liability regime, I have been informed by the Environmental Protection Agency of four more tragic incidents of hazardous substance spills. The information on these four spills is attached as appendix C.

When we speak of establishing a comprehensive Oil Pollution Liability and Compensation Act—we must mean a comprehensive act. If we should turn our backs on the inclusion of hazardous substances in this legislation, we would be enacting only half a law.

PREEMPTION

The third major difference embodied in the legislation reported by the Environment and Public Works Committee is the total preservation of the rights of States to provide for more stringent protection than is offered in the proposed Federal legislation. Section 7 of the bill allows States to establish or maintain funds for cleanup or compensation, to collect such fees or penalties, or penalties as they see fit and, most importantly, to establish more restrictive liability and compensation laws than is provided by the Federal law. The committee agreed that any restriction of such States' rights would ultimately do little good and be contrary to this committee's tradition of preserving the rights of States to impose more restrictive requirements for the purpose of protecting their own citizens, as well as air, water, and land resources.

Because some Members saw preemp-

tion of some innovative State laws as a step backward from comprehensive oil spill compensation protection, the committee chose not to preempt States' rights to their own legislation.

The members of the committee have been confronted with the issue of deciding the degree of State autonomy in the past, and S. 2083 embodies the same approach found in other environmental legislation.

This legislation specifically establishes a baseline, or a national minimum standard. Should States desire to maintain stricter liability or requirements through the adoption of stiffer standards, the bill allows for such action. Those States which believe the Federal program provides enough protection for its resources may choose not to enact additional State laws.

A Library of Congress analysis revealed that 18 States have already enacted their own statutes. Thirteen States chose not to impose limits on liability, while five States decided, as the Federal statute dictates, that a limit should exist. Eight States do not list defenses to liability. Of the 18 States which possess liability statutes, only 11 chose also to establish funds. Only 5 of the 11 chose to maintain their fund by charging fees for the substances involved. And only one State, New Jersey, chose to create separate fees for both oil and hazardous substances.

So, a wide variety of options have been open to the States. The committee believes those options should remain open with the Federal role being one of providing a minimum-level program.

The bill which was ultimately reported excludes any preemptive provisions and has received strong support from coastal State resource offices and offices of State attorneys general. Appendix D contains the recent correspondence specifically addressing the preemption question from States and associations.

Mr. President, it is these three major provisions of this bill which make it different from other legislation and are essential ingredients to any liability and compensation fund bill which will be passed. Frankly, without any one of these basic differences, I might find my support for passage of such legislation waning.

In my opinion, working to enact a bill which does not build upon section 311 of the Federal Water Pollution Control Act, preempts individual State programs, or excludes the coverage for hazardous substance spills, would be a waste of time.

Mr. President, at this point I would like to discuss some of the other key provisions of S. 2083.

COVERAGE AND LIABILITY

The committee bill covers discharges of oil and hazardous substances into all bodies of water already covered under section 311, including the inland waters of the United States and waters out to 200 miles offshore.

Discharge standards are the same as under section 311 of the Federal Water Pollution Control Act. That section prohibits the discharge of oil and other hazardous substances except where the discharge standard for vessels beyond the American territorial waters is specifically spelled out under the 1954 International Convention for the Prevention of Pollution by the Sea by Oil.

Strict liability would be imposed on the owner or operator of any vessel or facility discharging oil or hazardous substances in violation of section 311 of the Federal Water Pollution Control Act. The liability, up to certain established limits, covers removal and mitigation costs or expenses resulting from a spill, restoration and replacement costs for damages to natural resources, and the costs or expenses resulting from damages incurred by any third party.

The limits of liability established by the reported bill are as follows:

First, $300 per gross ton or $500,000, whichever is greater, for vessels carrying oil or hazardous substances in bulk or in commercial quantities as cargo;

Second, $300 per gross ton for other vessels;

Third, all removal costs plus $50,000,000 for facilities under the Outer Continental Shelf Act;

Fourth, $50 million for deepwater ports (including discharges from vessels moored at such ports);

Fifth, $50 million for other facilities unless a lower limit is established by the President for a particular class or category of facility but in no case lower than $8 million.

These liability limits supersede the liability limits set forth in section 311 as these include both removal costs and compensation for damages.

The defenses to liability remain the same as in existing law. Only those spills caused solely by an act of God, an act of war, third-party negligence, or negligence on the part of the U.S. Government would relieve the spiller of liability.

Liability is not limited if caused by willful misconduct or gross negligence within the knowledge of the owner or operator, or by a gross or willful violation of applicable safety, construction, or operating standards or regulations. Failure or refusal to cooperate in cleanup activities also invalidates liability limits.

While damages to natural resources are recovered in monetary terms, this bill recognizes that damages are not necessarily limited to amounts which can be spent for restoration or replacement. A specific damage assessment capability is provided for in the bill to assist in this particular area.

THE FUNDS

The oil spill liability fund, established by S. 2083, is derived from a 3-cent-per-barrel fee on oil. This $200 million fund will be available to pay for the removal of oil discharges and damages resulting from such pollution. Such expenses are to be recovered from the spiller up to his limit of liability.

The Secretary of the Treasury is directed to collect the fees on all offshore, imported, exported, and Alaskan oil until the $200 million mark is reached. The fee would be reinstated when the fund is depleted to the $150 million level. Once the $200 million level is again attained, the levy for the fund will once again be terminated.

At a later date, a fee on hazardous substances will be established to fund a hazardous substances liability fund. Prior to such action, however, a study will be conducted to establish an adequate size and a fair fee structure for a hazardous substances fund. Any payments from the oil fund for hazardous substance spills will be repaid with interest.

There are three major reasons for the implementation of such funds. First, the fund is a tool which can be utilized as a quick source of money for immediate cleanup activities or damage compensation should a spiller not act quickly. Second, such a fund can be used as a source of compensation for claims which are not settled by the spiller because a liability limit has been reached or a defense has been justifiably made. Thus, regardless of a spiller's liability, all victims will be fully compensated.

Third, in situations where a spiller cannot be identified or located, the fund would be available to compensate those suffering economic loss from a discharge. In cases where the assets of an owner or operator are not sufficient to meet the liability, the fund can assure compensation by all those owners and users of oil who contributed the 3-cent-per-barrel fee.

The main purpose of the legislation—to assure prompt cleanup and compensation regardless of the spill's circumstances—is guaranteed. And it is appropriately the oil and hazardous substances consumers, not the general taxpayers, who foot the bill where the spiller does not.

HAZARDOUS SUBSTANCES

In line with the authority embodied in section 311 of the Federal Water Pollution Control Act to deal with oil and hazardous substances within the same regulatory framework, the committee unanimously supported including hazardous substances within the "Superfund" structure.

In order to provide equal treatment of claims for damages from both oil and hazardous substances, to provide uniformity among laws and coverage, to simplify decisionmaking by onscene coordinators, and to minimize administrative procedures, the committee determined that hazardous substances should be included within the coverage of the proposed bill.

Current litigation regarding the section 311 hazardous substances regulations has delayed the effective date of the Environmental Protection Agency's designation of harmful quantities of hazardous substances. Liability for discharges of hazardous substances cannot be imposed until these regulations are effective. At that time, claims and payments could begin. If the litigation is resolved before the 18-month study is completed and Congress has enacted a fee system, payments to cover the costs of hazardous substances would be made from the oil fund and repaid with interest by the newly-established Hazardous Substances Fund.

The committee report on this legislation outlines in more detail the litigation involved with the regulation of hazardous substances. It also provides examples

of the types of hazardous substance spills which might be covered by this bill.

EXISTING LAW

The single comprehensive liability law and compensation fund established in S. 2083 would replace those funds created under the Trans-Alaska Pipeline Act, the Deepwater Ports Act of 1974 and the Fund proposed by the Outer Continental Shelf Lands Act Amendments.

PREEMPTION

Section 7 of the reported bill preserves the rights of States to impose additional requirements or liability with respect to discharges of oil or hazardous substances. States would remain free to establish or maintain funds for compensation and clean-up purposes and would be allowed to collect such fees or penalties as they so desire.

FINANCIAL RESPONSIBILITY

This bill continues the practice under existing laws requiring vessels and offshore facilities to show evidence of financial responsibility for the amount of liability exposure. This assures that the spiller is financially able to pay in the event of a spill.

No showing of financial responsibility is required for onshore facilities.

Mr. President, this has been just a brief summary of S. 2083, and I have tried to outline the most important issues our Members perceived during consideration of the measure. I commend my colleagues' attention to the committee report on this bill which provides an in-depth discussion of the bill and associated issues.

I hope that my colleagues will join with the unanimous opinion of the Environment and Public Works Committee to approve this measure. We must move quickly so that we may go to conference and send a bill to the President before adjournment.

We must provide the best liability and compensation protection we can to those who might suffer from oil or hazardous substance spill damages.

It is our duty to act now.

The material referred to follows:

APPENDIX A: "OILSPILLS, 1976"

Oilspills, 1976

Source of spills	Percent of incidents	Percent of gallons spilled
Vessels	29.1	45.9
Land vehicles	3.9	2.0
Nontransportation-related facilities	26.8	29.5
Pipeline	5.9	18.9
Marine facilities	4.8	1.4
Land facilities	1.6	1.5
Miscellaneous or unknown	27.9	.8
Total	100.0	100.0

APPENDIX "B"

CHRONOLOGICAL ORDER OF EVENTS SURROUNDING A MAJOR OIL SPILL

Situation: A steam-turbine powered foreign flag tanker, 19,000 gross registered tons grounded on a shoal located approximately two nautical miles off the coast of the United States. Vessel cargo: 8 million gallons light crude oil. Weather conditions: severe, seas: 10 ft., wd: 25/kts, sea state: 5.

Vessel condition: hull damaged, water entering room at unknown rate, engine room inoperative as result; listing heavily to port.

Vessel master contacts Coast Guard unit via radio.

Local Coast Guard contacts area Marine Safety Office (MSO).

MSO becomes On-Scene Coordinator (OSC)

OSC initiates response mechanism directing Coast Guard cutter on fisheries patrol to proceed to scene.

OSC notifies National Response Center (NRC). NRC notifies: G-WEP-4, WEP, W, C, CC, LCL, LMI, A, EPA HQ (All components within Coast Guard Headquarters)

OSC notifies State Environmental Agency.

OSC puts oil spill contractors on standby.

OSC initiates overflight.

OSC dispatches Marine Environmental Protection (MEP) and Marine Inspection Office (MIO) personnel to scene.

OSC activates Regional Response Team (RRT) by telephone for their information.

OSC notifies Coast Guard area and Strike Team.

OSC begins sending POLREPS LAW National Contingency Plan (NCP) & COMDTINST 16450.1. (attached)

CGCutter arrives on scene to find vessel hard aground, no pollution yet evident.

OSC contacts agent and owner and issues "Notice of Federal Interest" owner states no action to be taken after high tide.

The Federal Maritime Commission is contacted to obtain information on ship's insurer and relevant data on owner.

Insurer's agent in U.S. is contacted. Received advice to contact the ship's insurer in London directly.

Insurer advises that it has not decided on a course of action.

OSC declares a Federal response, requests and receives project number from Coast Guard district.

National Strike Force (NSF) arrives on scene with Air Deliverable Anti-Pollution Transfer System (ADAPTS).

OSC notifies agent and owner of U.S. assuming control through the Coast Guard.

OSC directs commercial tugs and barge to the scene to commence lightering operations.

Contact is made with Admiralty and Shipping Section, Department of Justice in Washington. A request is made to Justice to assign a trial attorney in order that consultation can begin immediately on legal theories for recovery of cleanup costs.

Telephone contact is made by the Office of Chief Counsel at USCG Headquarters with two international organizations, Tovalop and Cristal. Function of these two groups is to provide compensation for cleanup costs above those available under statute. In addition both groups provide compensation to third parties damaged by the spill.

Tovalop and Cristal requested to advise USCG of vessel's coverage. Specifically is the vessel a Tovalop vessel and is its cargo owned by a Cristal member? Also, will compensation be available to USCG for the costs of cleanup and third party damage claims. Cristal notified because cleanup costs may exceed FMC certificate of financial responsibility.

On scene weather worsens. Ship begins leaking crude oil. Crew of vessel is evacuated. NSF on board.

RRT meets, outlines alternatives. Requests National Response Team (NRT) review their findings.

Tug and barge arrive on scene, weather prohibits lightering attempt.

Overflight planned with OSC, NSF, State Environmental organization as soon as weather permits.

NRT meets; request initiated through DOD representatives for Navy Superintendent of salvage assistance. U.S. Fish & Wildlife assistance bird cleaning.

District requests authority for fund ceiling of $200K.

Chief of Naval Operations (CNO), Washington, D.C. requests Superintendent of Salvage be tasked with technical assistance to the OSC.

USCG receives information that cargo owner has sued the vessel owner for loss of cargo. Department of Justice advised of this. Department of Justice requests that USCG send an attorney to observe depositions. District legal office is requested by Chief Counsel to comply with Department of Justice request.

Vessel owner's attorney petitions for limitation under Limitation of Liability Act, 46 USC 746 *et seq.* in New York. Federal District Court in New York orders that all claims be filed within eight days.

Discussion is held with Department of Justice Trial Attorney and the Claims and Litigation Division, USCG Headquarters, to consider the legal validity of claims for cleanup costs. Cleanup costs now appear to exceed one million dollars.

Coast Guard Oceanographic Unit is requested by OSC to undertake oil spill trajectory.

Commercial salvage company is contracted by Superintendent of Salvage as salvage master.

Overflight reports large slick heading westerly towards shore. Lightering of the vessel begins as weather improves.

Oil spill contractors begin booming off mouths of harbors and estuaries under monitoring of Coast Guard personnel. OSC continues to submit documentation IAW COMDTINST 16450.1.

Department of Justice files protective claim in Limitation proceedings.

EPA representative meets with OSC for contingency planning and to arrange for inland dumping of oil coming ashore.

U.S. Fish and Wildlife establishes a bird cleaning station in conjunction with state authorities.

Oil begins coming ashore along area beaches. Cleanup begins, monitored by Coast Guard personnel, samples are taken for identification.

Additional funds request for ceiling of $1M is approved.

OSC requests and receives authority for establishing a security zone to keep civilians and commercial salvors clear of area.

OSC meets with cleanup contractors, Superintendents of Salvage, NSF, and area authorities.

OSC holds press conference.

Local officials join in cleanup; (harbormaster, shellfish warden, fire and police departments).

EPA meets with State Environmental Office and establishes inland dumping area.

Offloading of vessel completed, estimated loss is held at 2,000,000 gallons, cleanup continues.

Meeting set up by Chief Counsel, USCG, in New York with parties representing shipowner, Cristal, London insurers, cargo interests and the two affected states. Coast Guard attorney from Claims and Litigations Division, Coast Guard Headquarters, the legal office from the affected district, and a DOJ, Admiralty and Shipping attorney present an estimate of claim to responsible parties. Parties agree to consider claim by the United States.

District requests and receives authorization for additional funds ceiling of $1.5 million.

Cleanup completed, Coast Guard and DOJ attorney meet again in New York with vessel's attorney to discuss settlement. Settlement discussions break down.

Coast Guard and DOJ attorney fly to London to meet with Cristal and London insurer to attempt to overcome certain legal stumbling blocks. Parties agree to consider matter once documentation is complete.

Coast Guard convenes Marine Board in New York.

Foreign Flag State convenes Marine Board in New York to inquire into circumstances surrounding the grounding. Coast Guard Headquarters agrees to provide witnesses. Coast Guard and DOJ attorneys represent the interests of the United States.

Pollution removal costs are documented in accordance with COMDTINST 16450.1.

Final documented claim of United States (including all state and Federal agencies) is submitted to Cristal, vessel's attorney and underwriter.

Water Pollution Violation Report completed and submitted to district commander IAW COMDTINST 16450.1.

OSC Report completed and submitted IAW COMDTINST 16450.1.

Meeting held in New York with representatives for owner, Cristal and vessel's underwriter. Settlement agreed upon. U.S. agrees to dismiss claim in the Limitation proceeding in return for payment by underwriter and Cristal. Cristal agrees to notify damaged third parties.

Approval for acceptance of offer is obtained from Coast Guard Headquarters and the Associate Attorney General of United States.

Marine Board concludes that cause of casualty was malfunctioning gyro compass and failure to utilize alternative methods of navigation by vessel master.

Foreign Flag State Marine Board concludes causes were same as those set forth above. Foreign flag state revokes master's document.

APPENDIX "C"

HAZARDOUS SUBSTANCE SPILLS

HAZARDOUS SUBSTANCE SPILL NO. 1

On June 6, a 900 gallon tank of the chlorinated hydrocarbon pesticide methoxychlor fell from a truck and the entire contents entered a small 1.5 million gallon recreational lake near Brightwater, New York—(Long Island). A fish kill occurred in the lake and a smaller fish kill occurred in a second, larger lake. Of major concern were the shellfish beds in the Great South Bay of Long Island Sound into which the chain of lakes flow. The Oil and Special Materials Control Division (OSMCD) of EPA activated and funded the mobile carbon treatment unit from the EPA laboratory at Edison, New Jersey. This unit, called the Environmental Emergency Response Unit or EERU, is capable of filtering contaminated water through its activated carbon tanks at a rate of 600 gallons per minute.

Methoxychlor is a pesticide and is in category X of the Hazardous Substance Regulation. The harmful quantity of a category X substance is one pound. It is estimated that the 900 gallon tank contained about 18 pounds of active ingredient.

The EERU was operational for approximately 8 hours until analysis showed a contamination level of less than 30 parts per billion. The State initiated a sampling program to determine the fate of the methoxychlor. Should high concentrations be encountered in the lake bottom sediment, it may be necessary to drain and dredge one or more of the three lakes to preclude contamination of the shellfish beds in Great South Bay. This effort coupled with the disposal of the dredged material could become a lengthy and expensive operation.

HAZARDOUS SUBSTANCE SPILL NO. 2

Early on June 13, a truck carrier, loaded with 500 fifty gallon cans of the pesticide endosulfan, was involved in an accident on Interstate 5 south of Bakersfield, California. A fire resulted from the accident and the majority of the product, a 33 percent concentration in a kerosene carrier, burned. Although the accident occurred near Grapevien Creek, EPA aerial photography of the site revealed that none of the endosulfan entered the water. The highway was flushed with hot salt water, the runoff contained and removed by vacuum truck. California State personnel have initiated dirt removal along a 500 foot section of the road shoulder.

Endosulfan, a highly toxic insecticide, is an X category substance on the EPA list of designated hazardous substances. One pound of a category X product constitutes a harmful quantity.

In this particular incident, even though none of the product entered the water, an imminent threat could have been produced and actions could have been taken to prevent the entry and subsequent cleanup to remove the threat.

These actions would have been taken only in the absence of quick and proper actions by the spiller.

HAZARDOUS SUBSTANCE INCIDENT NO. 3

A chemical warehouse fire near Dunn, North Carolina, on June 30, 1978, involved a number of pesticides and agricultural chemicals. Among those involved were Diazinon, a category X substance and Malathion, category A (harmful quantity 10 pounds). The local fire department poured 500,000 gallons of water onto the first and contaminated runoff entered the Black River. A sampling program was set up and samples were analyzed by the EPA Laboratory, Athens, Georgia. State personnel were conducting a survey of the river in an attempt to determine environmental damage.

Incidents such as this can produce widespread effects and long lasting environmental damage. Cleanup and restoration may be very complex and in some cases imposible.

HAZARDOUS SUBSTANCE INCIDENT NO. 4

On July 2, 1978, a train derailment near Waveland, Arkansas involved a number of cars containing fuel oil, LPG, crude sulfur and 1 tank car of pentachlorophenol. Region IV emergency response personnel were on scene, however, no surface water contamination or water runoff from fire fighting was reported.

Pentachlorophenol, sometimes called PCP or Penta is a category A substance; the harmful quantity is 10 pounds.

APPENDIX "D"

CORRESPONDENCE

STATE OF NEW YORK,
New York, N.Y., September 19, 1978.

Hon. EDMUND S. MUSKIE,
Chairman, Subcommittee on Environmental Pollution, Committee on Environment and Public Works, U.S. Senate, Russell Senate Office Building, Washington, D.C.

DEAR SENATOR MUSKIE: I am responding to your August 25, 1978, letter regarding S. 2083, the "Oil Spill Liability and Compensation Act of 1978," as reported by the Committee on Environment and Public Works. My office strongly supports the retention of Section 7 of the bill, which states that nothing in the Act shall preempt any state from imposing additional liability or requirements with respect to the discharge of oil or hazardous substances within the state.

In my view any such preemption would be most inappropriate in light of the recognition by the U.S. Supreme Court of "the police power of the States over oil spillage—an insidious form of pollution of vast concern to every coastal city or port and to all the estuaries on which the life of the ocean and the lives of the coastal people are greatly dependent." See *Askew* v. *American Waterways Operators*, 411 U.S. 325, 328–30 (1973).

Any weakening of the no-preemption provision would detrimentally affect the interests of this State. New York has its own Environmental Protection and Spill Compensation Fund, which is supported principally by a per barrel license fee for the transfer of petroleum. This fund may be used, among other things, to pay for damages and clean-up costs incurred by private parties and governmental entities. My office is of the opinion that New York should continue to develop and operate this Fund as provided under State law.

As is well pointed out in the Report on the bill by the Committee on Environment and Public Works, it would be unfortunate to establish a preemptive Federal law which is not as strict as some state laws already in place. For example, New York's Oil Spill Prevention, Control and Compensation Act provides the discharger of oil with fewer defenses than does S. 2083.

Indeed, even Section 7 of S. 2083 should be improved. The New York Act specifically applies to discharges into waters outside the jurisdiction of the state when damage may result within the state. Section 7 could be improved by striking the words "within such State" so as to eliminate any possible argument that preemption could apply to discharges outside of a state which result in damage within the state.

Also of particular concern to my office is the provision regarding the assessment of damage to natural resources. While the Committee Report does declare that nothing in S. 2083 would preclude the states from carrying out their own assessments, it would be clearer if the bill itself specifically would authorize the states to do so. I wish to emphasize that the bill's requirement that assessment protocols and standard assessment procedures be set forth in regulations will prove to be counterproductive if sufficient funds are not appropriated for scientific research on the effects of discharges on natural resources. Without much further research, such regulations will merely reflect our present comparative lack of knowledge regarding these effects.

Finally, as you pointed out in your letter, S. 2083 includes liability for spills of hazardous substances as well as spills of oil. I agree that this is an important feature of the bill and strongly support its retention. Recent spills of hazardous substances in New York and elsewhere highlight the need for immediate legislative action.

I appreciate the opportunity to present our views on this significant bill.

Sincerely,

LOUIS J. LEFKOWITZ,
Attorney General.

STATE OF CONNECTICUT,
September 14, 1978.

Hon. EDMUND S. MUSKIE,
Chairman, Subcommittee on Environmental Pollution, Washington, D.C.

DEAR SENATOR MUSKIE: This is to advise you that I have reviewed S. 2083 which permits States to establish their own liability standards and other requirements which may be more strict than federal standards relative to liability for oil spills.

It is my pleasure to relay to you my complete support of S. 2083 which I believe protects a vital interest of the several States.

Very truly yours,

CARL R. AJELLO,
Attorney General.

STATE OF MARYLAND,
Annapolis, Md., September 8, 1978.

Hon. EDMUND S. MUSKIE,
Chairman, Subcommittee on Environmental Pollution, Committee on Environment and Public Works, United States Senate, Russell Office Building, Washington, D.C.

DEAR SENATOR MUSKIE: On May 2, 1978, I wrote to you expressing Maryland's concerns over certain provisions of the comprehensive oil spill liability legislation, S. 2900, which was being considered by the Subcommittee on Environmental Pollution. This was followed by a letter dated June 19, 1978, which set forth Maryland's specific objections to certain provisions of S. 2900.

We now have had the opportunity to review the provisions of S. 2083 (formerly S. 2900) as amended by the Committee on Environment and Public Works and reported for consideration to the full Senate. The amendments made by the Committee were very responsive to the concerns we previously expressed. The conclusion drawn by Maryland officials, including members of the Attorney General's Office, is that the amended legislation expressly precludes Federal preemption and allows the State of Maryland to continue to charge oil terminal license fees, thereby enabling us to maintain and develop our existing oil pollution cleanup and prevention program.

Our support of the amended legislation is based upon the presumption that Section 4 (c)(1), which prohibits oil that has been subject to the three cents per barrel levy from being subject to a subsequent levy, is not intended to prevent Maryland or other states from requiring a license fee from individuals who receive, store or transfer oil within the state in order to finance their oil spill cleanup and prevention programs. The language in Section 7 of the amended legislation appears to us to support this view.

The majority of oil pollution in Maryland is caused by oil spills of less than 1,000 gallons discharged from the over-filled oil tanks, tank trucks and sundry delivery systems. The Maryland oil pollution program provides the capability for personnel and equipment to be deployed and to be on scene anywhere within the State within two hours of notification of an oil discharge. We are justifiably proud of our existing capability to protect and preserve Maryland waters, particularly the Chesapeake Bay and the Atlantic Coast beaches, from the threat of environmental degradation posed by oil pollution. This rapid oil pollution response program, specifically designed to suit our needs, should not be dismantled or otherwise disrupted by a Federal oil spill liability scheme.

I believe that S. 2083 as reported by your Committee represents a step forward in the protection and preservation of our limited natural resources by providing for a mutually beneficial Federal/State partnership. Again, I wish to express my appreciation for the Subcommittee's responsive action.

Sincerely,

BLAIR LEE III,
Acting Governor.

RESOURCES AGENCY OF CALIFORNIA,
Sacramento, Calif., September 1, 1978.

Hon. EDMUND MUSKIE,
U.S. Senate, Chairman, Subcommittee on Environmental Pollution, Committee on Public Works, Washington, D.C.

DEAR SENATOR MUSKIE: Because of the importance to the State of California of liability for oil and hazardous substance spills, the State, through its Interagency Tanker Task Force, has commented extensively on proposed Federal legislation. The provisions of any Federal oil liability legislation are critical to its ability to achieve the objectives of providing full compensation for damages caused by spills, while providing the maximum incentive to prevent spills. S. 2900 (now amended into S. 2083), will achieve these objectives and the State of California supports the bill wholeheartedly.

As the bill proceeds to the Senate floor, and amendments may be offered, I want to reiterate California's concern over the possible effects of Federal preemption.

PREEMPTION OF STATE LIABILITY LAWS

California is concerned about possible preemption of State liability laws for three reasons: 1) State laws may be needed to provide an adequate incentive to prevent spills; 2) States could be prevented from enacting measures designed to assure more complete recovery for environmental harm; and 3) An overbroad interpretion of preemption language could impair the State's water pollution enforcement authority by preempting the State's statutory damage laws.

H.R. 6803, with its preemption of State liability laws, could actually weaken the incentive to prevent spills. As the Interagency Tanker Task Force has commented earlier, H.R. 6803, while purporting to set a strict liability standard, has such broad defenses that even a negligent spiller could escape liability in some instances. California already has strict liability laws applicable to many spills but these laws, and even the State's negligence laws, would be preempted by H.R. 6803.

Federal preemption could also limit the State's ability to obtain complete compensation for environmental losses. H.R. 6803, like traditional damage law, will limit recovery to losses that are quantifiable to a reasonable certainty. But how can the loss of a brown pelican or a gray whale be priced to a reasonable certainty? Traditional law seems to assume that because something is priceless, it is worthless. Some states, including California, have statutes designed to deal with the problem of placing a value on environmental losses. S. 2900 (now S. 2083) has provisions aimed at the problem, but we should permit further innovation and experimentation by the states, so that better solutions may be discovered.

California's statutory damage laws, which provide the enforcement authority needed for the State to assume responsibility for the permit program under the Clean Water Act, set a civil liability of up to $16,000 per day of spill, in addition to ordinary damages. The State Supreme Court has ruled that these laws are not penalties, but provide compensation for "unquantifiable" damage to the environment. H.R. 6803 does not provide compensation for these losses, and therefore its preemption clause should not be interpreted to preempt California's statutory damage laws. Because these laws provide recovery for damage to natural resources, however, there is a danger that H.R. 6803's preemption provisions could be misconstrued to preempt these laws.

PREEMPTION OF STATE FUNDS

California does not have any funds like the proposed "superfund," supported by taxes or fees on the production or transfer of oil. Preemption of these funds is not a matter of great concern to the State, except to the extent that funds in other states may provide a model for future legislation here in California.

California would be seriously affected, however, if preemption goes beyond the prohibition of taxes or fees on oil transfer or production. Money collected by State agencies in actions to impose liability for water pollution, including liability for cleanup costs, civil liability, and criminal fines, is paid into two State funds, a Cleanup and Abatement Account and a Fish and Wildlife Preservation Fund. Among other purposes, these funds are used to abate water pollution, and to replace lost natural resources. These funds are vital to the maintenance of California's oil spill response capability.

These funds do not impose duplicative or burdensome requirements. There is no greater imposition on the oil industry than if liabilities and penalties were paid into the general fund of the State treasury. It is also clear that Congress does not intend to preempt this kind of fund, yet preemptive language which has been suggested does not expressly limit preemption to taxes or fees on oil. H.R. 6803, for example, prohibits the states from requiring any person to "contribute" to any fund the purpose of which is to pay compensation for losses which may be asserted under the act. If such broad language is adopted, a polluter may argue that civil liability, or even criminal fines, cannot be collected in California because the money goes into a fund used to clean up oil pollution or replace fish and wildlife.

PREEMPTION OF FINANCIAL RESPONSIBILITY REQUIREMENTS

The State of California currently does not set financial responsibility requirements for vessels or facilitates handling or transporting oil. However, the State Lands Commission, a proprietory agency with responsibility for managing the State's sovereign, tide, and submerged lands, is considering regulations for oil terminals on public trust lands. The proposed regulations include a financial responsibility requirement.

At least where State law does not merely duplicate Federal requirements but imposes additional requiremnts, State financial responsibility requirements should be permitted. Establishing financial responsibility requirements which reflect the risk of spills is one way the states can provide an incentive to take precautionary measures to prevent spills.

There is no reason to preempt State financial responsibility requirements applicable to facilities. Facilities, unlike vessels, need only comply with the requirements of a single state, which should not be unduly burdensome.

CONCLUSION

Protection of the environment, and the definition of liability standards and recoverable damages, are two areas traditionally regulated by the states, and of vital concern to the states. When the Federal government enacts legislation in these areas, as it is now for liability for oil and hazardous substance spills, State authority should be preserved as much as possible. Thus, environmental laws, like the Clean Water Act, have permitted the states to set stricter standards, and have sought to preserve State enforcement authority. So, too, previous Federal oil liability laws have not preempted State law. There is no need for Federal oil and hazardous substance liability legislation to deviate from this tradition. Leaving the states free to enact stricter liability standards will further the purposes of Federal law and help maintain the proper balance between State and Federal authority.

Sincerely,

HUEY D. JOHNSON,
Secretary for Resources.

DEPARTMENT OF LEGAL AFFAIRS,
Tallahassee, Fla., September 7, 1978.

Re S. 2083, proposed "Oil Pollution Liability and Compensation Act of 1978"

Hon. EDWARD MUSKIE,
U.S. Senator, Subcommittee on Environmental Protection, Dirksen Office Building, Washington, D.C.

DEAR SENATOR MUSKIE: I have reviewed and support S. 2083, the proposed "Oil Pollution Liability and Compensation Act of 1978." This proposed legislation is particularly important to the State of Florida because of our vast coastline and its importance to our tourist industry.

One of the provisions of the bill of major importance to this State is the fact that the rights of a state to impose additional liability or requirements with respect to discharge of oil or hazardous substances within this State are specifically not preempted. Other provisions of particular importance to me are the ones that provide for recovery of damages for economic loss and loss of tax revenues. Also of importance is that the bill provides for delegation to the State of the authority to settle claims and to obligate money in the Oil Spill Liability Fund.

The Governor and Cabinet of Florida in April 1977, passed a formal Resolution supporting two similar bills, and I am sure that such body would likewise support S. 2083. A copy of that Resolution is enclosed, which shows the interests and concerns of this State.

A copy of this letter is being sent to the Florida delegation enlisting their support for your bill.

Sincerely yours,

ROBERT L. SHEVIN,
Attorney General of Florida.

STATE OF FLORIDA

RESOLUTION

Whereas, the United States is increasingly dependent upon oil transported from foreign and domestic sources through an ever larger fleet of oil tankers; and

Whereas, the worldwide safety record of oil tankers is steadily worsening and recent oil tanker accidents have threatened the marine resources of the United States; and

Whereas, two deepwater ports are proposed to be established in the Gulf of Mexico off the coasts of Texas and Louisiana and supertankers en route to and from these deepwater ports will transit the coastal waters of the State of Florida; and

Whereas, Florida's coastline and coastal waters contain some of the State's most valuable and vulnerable resources, including its beautiful beaches and productive marine systems, all of which are dependent on pollution-free waters; and

Whereas, presently pending before the United States Congress are varying legislative proposals to minimize oil pollution incidents and provide compensation for losses due to such incidents; and

Whereas, S. 182, S. 682, and S. 893 impose minimum safety and navigational standards, including provisions for segregated ballast and manning requirements, which standards are necessary to protect Florida's vulnerable coastal waters and resources; and

Whereas, S. 182 and S. 898 create a Comprehensive Federal Oil Pollution Liability and Compensation Fund governing oil pollution liability and compensation; and

Whereas, S. 182 and S. 898 allow recovery for loss of income or earning capacity due to damages to natural resources without regard to ownership of such resources if the claimant derives a minimum percentage of income from activities which utilize such natural resources; and

Whereas, S. 182 and S. 898 allow payments to local and state governments for loss of tax revenues resulting from oil contamination; and

Whereas, S. 182 and S. 898, contrary to other pending legislation, do not preempt state laws imposing liability for or control over discharges of oil or toxic substances, and allow the administrator of the Compensation Fund to utilize state or local governmental services on a reimbursable basis to perform coastal protection functions, which provisions afford a coastal protection role to the Florida Department of Natural Resources' efforts to prevent and monitor oil spills under Chapter 376, Florida Statutes, and allow flexibility to the Florida Legislature to impose additional requirements or liabilities relative to oil polluting incidents.

Now, therefore, be it resolved that the Governor and Cabinet sitting as the Executive Board of the Department of Natural Resources:

1. Support the requirements for minimum equipment and navigational standards as contained in S. 182, S. 682, and S. 898 as essential to the protection of Florida's coastal resources.

2. Support the above concepts of S. 182 and S. 898 creating the Comprehensive Oil Pollution Liability and Compensation Fund which Fund and procedures afford relief from oil polluting incidents to Florida fishermen, others dependent on non-polluted marine resources, and local and state governments, and allow active participation in coastal protection from oil polluting incidents to be performed by the Florida Legislature and the Florida Department of Natural Resources.

3. Urge the support of these concepts by the Florida Congressional Delegation.

4. Direct that a copy of this Resolution be sent to each member of the Florida Congressional Delegation; to each member of the U.S. Senate Committee on Commerce, Science, and Transportation; and to each member of the U.S. House of Representatives Committee on Merchant Marine and Fisheries.

THE DEPARTMENT OF LAW,
Atlanta, Ga., September 7, 1978.

Re S. 2083—Oil Pollution Liability and Compensation Act of 1978.

Senator EDMUND S. MUSKIE,
Chairman, Subcommittee on Environmental Pollution, Washington, D.C.

DEAR SENATOR MUSKIE: I would like to thank you for providing me with a copy of S. 2083 and requesting my comments on same. The bill certainly appears to take into consideration the states' desire to enforce their own laws in this area, and to participate with the Federal government in the administration of the Oil Spill Liability Fund.

In particular, I speak of subsection 3(b) which authorizes a State to act on behalf of the public to recover damages for the injury, destruction or loss of the State's natural resources; subsection 5(6)(1) which authorizes the President to delegate to states with adequate programs operating under a cooperative agreement with the Federal government, the power to obligate money in the Liability Fund and to settle claims; and Section 7 which provides that the Act shall not be construed or interpreted so as to preempt any state "from imposing any additional liability or requirements with respect to the discharge of oil or hazardous substances within such State." This latter provision would appear to allow the states to collect civil penalties and bring civil actions for damages under its own laws in lieu of proceeding under the Federal Oil Pollution Act, if they so choose.

While this Act may very well preempt the states in the areas of limitations on liability and financial responsibility, it is, in my opinion, by far the best Federal oil pollution bill to be introduced in the Congress to date.

Sincerely,

ARTHUR K. BOLTON,
Attorney General.

COMMONWEALTH OF VIRGINIA,
Richmond, Va., September 5, 1978.

SENATOR EDMUND S. MUSKIE,
Committee on Environment and Public Works, Washington, D.C.

Re S. 2083

DEAR SENATOR MUSKIE: Thank you for your letter of August 29, regarding the Committee's recent action on the Oil Spill Liability Fund and Compensation Act of 1978. As you are aware, the Commonwealth has followed this legislation with great interest, and has appreciated your efforts to encourage the participation and comments of the coastal states. It is particularly gratifying to see that S. 2083, as reported by the Committee, is in substanital conformity with the views and comments we submitted during the Committee's deliberations. Among the most desirable features of the legislation, and one which the Commonwealth and other coastal States have strongly supported, is the disclaimer of preemption contained in Section 7 of the bill.

In comments submitted during the Committee's hearings on the legislation last April, Governor Dalton expressed several reasons for the importance of the non-preemption principle to the effectiveness of the federal-state partnership in dealing with oil spills. I will briefly recapitulate some of those reasons below:

1. Legislation preventing full recovery of cleanup costs and damages from those responsible might hamper State agencies, with scarce funds, in their efforts to perform their primary role in cleaning up smaller spills, and in assisting federal cleanup of larger spills. In Virginia's case, the ability to respond to spills depends on the maintenance of the Virginia Oil Spill Contingency Fund, which in turn is dependent on quick and full recovery of expended funds. While the federal "Superfund" will be of great benefit in this regard, the flexibility afforded by permitting the option of recovery under State law, particularly with regard to minor spills, will ensure, to the extent possible, the integrity of the State program.

2. Requiring claimants to recover costs and damages pursuant to federal law might work a considerable hardship on private claimants, who might find the federal fund remote and recovery expensive and confusing. Long delays in recovery might result if there are a number of claims against the federal fund, and claimants who have suffered damage or expended funds on cleanup may be seriously disadvantaged. Under Virginia law, private claimants may recover damages and cleanup costs in State court, based on strict liability. Under ascheme of federal preemption, all claimants would be forced to aggregate their claim for recovery against the responsible parties, up to the limits of liability, and then present a claim for the excess to the fund. State agencies and local governments would, of course, find themselves in the same position. This might prove to be a very difficult burden, for example, in the case of a waterman or a marina owner who might have to depend on quick recovery for the survival of his business.

3. State oil spill statutes providing for strict and full liability are intended to have a deterrent as well as a remedial purpose on the theory that they will encourage care on the part of those handling oil. The Commonwealth has a direct interest in regulation to protect and preserve its coastal and estuarine resources, and as one approach to regulation has chosen, pursuant to its police power, to make spillers strictly liable for damages and cleanup costs. Federal preemption would weaken or destroy the deterrent effect of State law, and protection of the State's coastal resources would depend in large part on the effectiveness of the Federal scheme as a deterrent.

Thank you again for this opportunity to comment on S. 2083. The efforts of the Committee to preserve the States' authority to regulate oil spills are strongly supported and deeply appreciated.

With kindest regards, I am

Very truly yours,

MARSHALL COLEMAN,
Attorney General.

STATE OF NORTH CAROLINA,
Raleigh, N.C., September 8, 1978.

Senator EDMUND J. MUSKIE,
Subcommittee on Environmental Pollution, Washington, D.C.

DEAR ED: This is to thank you for the opportunity to comment on Senate Bill 2083, the Oil Spill Liability Fund and Compensation Act of 1978, and to add my strong support to your efforts to secure approval of the disclaimer of preemption contained in Section 7 of the bill.

Currently the North Carolina Oil Pollution Control Act, N.C G.S. 143-215.75 et seq. provides for recovery by the state for cleanup costs and for damages to public resources from oil spills and we vigorously oppose federal preemption of state law in these matters for a number of reasons:

1. The various states' experiences with difficulties and delays in recovery against the Federal Water Pollution Control Act fund

testify to the problems inherent in a system whereby the states are required to petition the United States for cleanup and restoration expenditures. Various states have had to contend with delays and administrative difficulties in seeking to recover from that fund, only to discover that the fund was depleted.

2. The ramifications of being totally dependent on the United States for reimbursement for cleanup costs and resource damage and replacement include impairment of the state's abilities to act as guardian of its valuable natural resources. North Carolina currently may attempt to prove in court the value of its damaged resources on a theory of the state's choosing and it is critical to our ability to protect those resources that we maintain this enforcement option.

3. State and federal cooperation in the oil spill area is eminently desirable, but inasmuch as minor spills are more efficiently and promptly handled at the state level it is critical that the integrity of the state's enforcement program be preserved.

Your vigorous efforts to preserve the states' authority to regulate oil spills are noted and greatly appreciated.

With kindest personal regards I am

Very truly yours,

RUFUS L. EDMISTEN,
Attorney General.

NATIONAL CONFERENCE OF
STATE LEGISLATURES,
September 7, 1978.

Hon. EDMUND S. MUSKIE,
Washington, D.C.

DEAR SENATOR MUSKIE: The Senate will soon be voting on the "Oil Spill Liability Fund and Compensation Act of 1978" (S. 2083). As you know, the bill would establish a $200 million federal fund to pay for clean-up costs and damages resulting from spills of oil or other hazardous substances.

As the official representative of the nation's 7600 state legislators, the National Conference of State Legislatures is vitally interested in insuring that federal laws respect individual state's solutions to their own environmental problems. In almost a dozen states the legislatures have already established their own programs, liability limits and funds to cover clean-up costs and damages incurred as a result of oil spills.

Some of these states, including my home state of Oregon, have more demanding liability standards and requirements than those proposed in S. 2083. The rights of the states to apply stricter laws are specifically preserved in both the Clean Water Act and the Deepwater Port Act.

As S. 2083 is now written, the rights of states to establish their own liability standards and their own funds for clean-up costs and damages are preserved. The NCSL strongly supports this position and would be opposed to any efforts to establish a federal law preempting the states from determining their own programs, liability limits and funding mechanisms.

I thank you for your serious consideration of the NCSL position.

Sincerely,

JASON BOE, *President, NCSL.*

NATIONAL ASSOCIATION OF ATTORNEYS GENERAL,
Washington, D.C., September 6, 1978.

Hon. EDMUND S. MUSKIE
Chairman, Subcommittee on Environmental Pollution, Washington, D.C.

DEAR SENATOR MUSKIE: I understand that the Senate will soon consider S. 2083, the Oil Spill Liability Fund and Compensation Act of 1978 which would establish a $200 million liability fund for clean-up costs and damages due to spills of oil or hazardous substances. This is legislation which interests many of our members.

Enclosed are copies of Resolutions adopted by this Association concerning state clean-up of oil spills and limits of liability which are forwarded to you for additional information.

Section 7 of S. 2083 as now drafted does not preempt the states' authority to impose additional liability and requirements for oil spills. We share the concern that the states should be able to have their own programs for control, containment, and removal of oil from state waters.

Thank you very much for your consideration of the views of this Association.

Sincerely yours,

C. RAYMOND MARVIN.

RESOLUTION

OIL SPILLS—LIMITS OF LIABILITY AS ADOPTED AT THE 1977 ANNUAL MEETING

Whereas, existing federal legislation designed to assess liability and provide for cleanup of oil spills; namely, § 311 of the Federal Water Pollution Control Act Amendment of 1972, is inadequate in that it:

1. Provides units of liability which act as a disincentive to responsible parties to take precautions necessary to prevent spills from occurring, and, once they do occur, from undertaking effective containment, cleanup and removal; and

2. Fails to provide for compensation to public and private victims damages by oil spills; and

Whereas, while unlimited liability for cleanup costs, and damages from oil spills is most proper and desirable, it is recognized that the increase in limits of liability of legislation now pending in the United States Congress, albeit too small an increase, is better than no increase at all; and

Whereas, the states are burdened directly with the short and long term impact of oil spills upon their natural resources, economy and citizens, and thereby, have a vital interest in assessing liability, and assisting in the containment, cleanup and removal of spilled oil, and must have available to them every reasonable means of preventing or minimizing the consequences of such spills;

Now, therefore, be it resolved that the National Association of Attorneys General supports legislation now under consideration by the United States Congress which would increase the limits of liability for oil spills, establish a substantial fund from which cleanup costs and damages may be paid, and reserves to the states the right to proceed independently of the fund, and establish their own contingency funds to assist in containment, cleanup and removal of oil spills.

Be it further resolved, that the Washington Counsel of the National Association of Attorneys General is hereby requested to forward a copy of this resolution to the relevant personnel in the legislative and executive branches of the federal government, and to work with such personnel in an effort to effectuate the results advocated by this resolution.

RESOLUTION—STATE CLEAN-UP OF OIL SPILLS AS ADOPTED AT THE 1977 ANNUAL MEETING

Whereas, legislation is now pending in Congress which would set up funds to pay for the clean-up of oil spills; and

Whereas, it is proposed that the President of the United States will be authorized to take immediate action to clean up such spills at the earliest possible time and in so doing draw upon the funds provided for this purpose; and

Whereas, the protection of coastal waters and costs of coastal states from environmental pollution is of grave concern to these coastal states;

Now, therefore, be it resolved by the National Association of Attorneys General that Congress consider legislation that would provide that once an oil spill occurs in or enters into a zone 3 miles from a state's coast the governor of the state, with the approval of the President, be authorized to take such emergency steps as may be necessary to accomplish the immediate clean-up of the oil spill so as to protect coastal waters and the coast of the state involved to the greatest possible extent, with reimbursement for costs incurred to be provided by the federal government's oil clean-up fund.●

● Mr. WALLOP. Mr. President, many times now I have advocated before this body the capability of States to control their internal affairs. I have often stated that the States are in the best position to know their unique needs and fashion solutions to their particular problems. States know best their geography, their economic base, and their individual strengths and weaknesses, and therefore, are usually in a superior position to mold public policy to address their needs. I do not retreat from that general principle. However, I am today departing from it in support of what I believe to be a justifiable exception to the no less viable general rule.

The bill now before us, S. 2083, seeks to provide a comprehensive Federal solution to the problems of cleanup and compensation of injured parties from catastrophic oil spills. The key word here is "comprehensive." For that is precisely what we need at this point. We, the Federal Government, and the States, do not need another layer of regulation to float on the top of the existing segmented schemes which we now have.

S. 2083, as it is before us, provides for the establishment of a fund which, while preempting existing Federal funds and the trans-Alaska pipeline fund, would duplicate funds which now exist in 11 States. If this bill is enacted in its present form, it will not be a "superfund" it will merely be a "another" fund.

The purpose of these funds are not to tie up capital, they are not to provide jobs for administrators, or to raise revenue for other governmental purposes. Their only purpose is to provide compensation for those injured by oil spills, and immediate removal and cleanup of spilled oil. An injured party is in no better position because he has two identical funds from which to draw. Yet the burden on the handlers of oil, and thus ultimately the consumer, is compounded by the existence of duplicative funds.

We are constantly reminded by some, of the needless administrative expense of operating duplicative Federal and State programs in many areas of concern.

While I oftentimes disagree with that contention, I do not here. The interstate movement and potential spillage of oil on the navigable waters and the contiguous zone has always been a matter of Federal concern. It is so because it is a matter of interstate or foreign commerce to be sure. But it is also a matter of national concern because water pollution, and particularly spills of oil and hazardous sub-

stances, do not respect State lines or even national boundaries.

Unless we can ascertain that there is a compelling reason to maintain individual State funds, after the creation of a national fund, they should be preempted so that our commerce is not nickeled and dimed to death. While I do not wish to criticize existing State systems, several examples from the testimony will serve to point out the degree of administrative expense which is inherent in maintaining any fund, and which would be multiplied by dual State and Federal funds for the same cleanup and compensation needs.

The State of Florida for instance has collected over $15 million since its fund was enacted 4 years ago. The fund's administrative expenses run almost $220,000 per year. Yet less than $12,000 has been spent on damage claims since 1974. Funds operated by the States of Maryland and Maine have both spent as much on administrative expenses as they have on cleanup costs.

The second area of concern is preemption of duplicative State oil spill liability laws. Maintenance of State liability laws will not benefit injured third parties since all claims recognized under the Federal law will be fully compensated by either the spiller or the fund. However, while there is no increased benefit, there is a very real danger that conflicting State and Federal laws on oil spill liability will increase delays and recovery and also increase the cost of litigation incurred by third party claimants.

To the extent that State and Federal oil spill liability schemes conflict, it will detract from the balance of burdens and benefits which this bill seeks to create. The handlers of oil are asked to give up a considerable amount in this bill. In addition to being required to contribute to the fund, they will lose almost all of their common law and statutatory defenses to claims for oil spill damages. In most cases, their liability will be increased. In return, proper oil spill liability legislation should provide a uniform system of liability assessments and a comprehensive, efficient procedure for the settlement of claims. Without preemption, we do not accomplish this goal.

To preempt funds and not likewise preempt separate State liability schemes may in practice be unenforceable. If we were to estabilsh such a system, a State might subject a spiller to unlimited liability for third party damages, yet that State would not be empowered to require proof of financial responsibility necessary to meet that liability. Preemption need not prevent a State from engaging in any cleanup operations, prepositioning of equipment, or pollution research and development. States could be free to levy penalties on polluters who violate their laws.

It is important to note that if there is an economic loss which is not covered under this act, States could be free to provide remedies to insure that their citizens are adequately protected. Let me emphasize that. If there are special circumstances in any State which warrant that additional economic losses should be protected against, States could still be free to enter the field, they need not be preempted.

However, States should be preempted from increasing or decreasing the liability limits provided for in the act. This in no way need affect the level of recovery of any third party. The only issue is who pays, the spiller or the fund. With a comprehensive Federal fund, and in an issue of clear national concern, this should be controlled by Federal law.

Mr. President, while I am generally loathe to suggest preemption, I truly believe it is desirable if we are to have a comprehensive nationwide oil pollution liability and compensation system. Without preemption, this bill may not solve the chaos of State and Federal laws on this subject which we now have; it may only add to them. I hope that as we attempt to resolve our differences with the House, we seriously consider adopting some manner of preemption.●

● Mr. BIDEN. Mr. President, I strongly support the adoption of S. 2083, the Oil Pollution Liability and Compensation Act of 1978. The need for such legislation has become increasingly apparent in recent years. I particularly want to commend Senator MUSKIE, chairman of the Environmental Pollution Subcommittee, with whom I sponsored the original comprehensive oil pollution liability bill, for his efforts in bringing this bill to its present point. Passage of this legislation will achieve most of the financial protection against the costs of oil spills that we originally sought.

One of my goals since coming to the Senate has been to get a comprehensive law that would establish financial responsibility for oil and other spills and assure payment of compensation for damages and cleanup costs resulting from them.

The first steps toward tightening the law were taken last fall when the Congress passed the Clean Water Act, which included such important features as increases in the level of liability; extension of the waters covered by the law; and inclusion of damages to natural resources as a part of the cost of cleanup and restoration.

This latest oil pollution liability legislation that the Senate has adopted will add significantly to the protection of the existing Clean Water Act, bringing it close to the standards I envisioned in my 1975 legislation. Among the important features of the bill are:

A $200-million oil pollution liability and compensation fund, financed by a 3-cent tax per barrel of crude oil transported. This fund would assure that all cleanup costs and damage above the limits of liability of any carrier and pay claims when there is delay or where the responsible party cannot be identified or otherwise escapes liability.

An increase in the liability of shippers of crude oil from $150 per gross vessel ton to $300 per gross ton.

Of equal importance, especially to my State of Delaware, a provision for unlimited liability for cleanup costs plus up to $50 million in damages for facilities located on the Outer Continental Shelf.

An enlargement of the definition of damages to include injury to, destruction of or loss of use of real or personal property; loss of profits or income or impairment of earning capacity; and loss of revenues by Federal, State, or local governments.

The retention by States of authority to establishing more strict requirements than Federal standards.

The House of Representatives has already passed an oil spill liability bill. With timely action by the Senate, it may now be possible to secure enactment of a comprehensive bill this year. On a worldwide scale, the break up of the *Amoco Cadiz* off the shores of Brittany has demonstrated again—as if we needed such demonstration—the frightful consequences we face from the increased transportation of more and more oil across the oceans. It has just recently been reported that the French Government expects cleanup costs from this one spill to exceed $100 million, clear evidence of the need for legislation of this nature.

Mr. President, closer to home, activity is already underway in the OCS lands of the Baltimore Canyon to drill for oil, raising possible new hazards for those who enjoy our beaches or depend upon marine resources for a living. Exploratory drilling in the Baltimore Canyon started in March of this year and has rapidly escalated. A May 1977 issue of "OCS Updates" published by the College of Marine Studies at the University of Delaware, commented in an article on "Stricter Rules for Offshore Drilling" as follows:

> The new regulations should benefit Delaware and other states near the Baltimore Canyon. In 1976, the Office of Technology Assessment estimated that on the basis of statistics for production in the Gulf of Mexico, as many as 18 oil spills totaling 40,000 barrels could occur during the expected 30 years of drilling activity in the Baltimore Canyon. The increased vigilance required by the new USGS regulations should make this estimate overly pessimistic.

It is good to know that regulations governing offshore drilling are being tightened and should reduce the danger of spills. But even if the 18 spills predicted by the Office of Technology Assessment can be reduced, we must be prepared to meet whatever spills remain. This requires legislation that will pay for cleaning up spills and will pay damages to the individuals who depend on the sea for a living and restore areas that are damaged. Particularly in this Baltimore Canyon area where so many States share a common offshore area, only a Federal liability fund and Federal regulations will assure maximum protection, even though each State should be able to increase the level of protection.

Unfortunately, in Delaware, offshore drilling is not all we have to worry about. It is reported by the College of Marine Sciences at the University of Delaware that the seven major refineries along the Delaware River need almost a million barrels of oil each day for their operations. All of this must travel in ships sailing through the Delaware Bay and along the Delaware River. Despite a relatively

good safety record, we have had spills before. Unfortunately, no matter what our precautions, we will have them again. There too, the urgent need is protection against a major disaster. An oil spill liability fund and higher liability limits like those in this bill can offer a large measure of such protection.

The specter of oil-washed shores, devastated fish and wildlife resources, and polluted waters is another one of the terrible consequences we endure as a result of our Nation's dependence on petroleum supplies. Yet, while our dependence on this resource has developed over the last century, our appreciation for the problems of preventing and containing oil pollution from the various operations by which we receive our supplies is a relatively recent event. However, with passage of this legislation, real progress will have been made.

Mr. President, it is rewarding to see the work of the past few years about to bear fruit. I am optimistic that we may achieve more than I had dared to hope when I introduced my bill in 1975. No law is ever static and change will surely be needed in the future. However, it appears that an excellent beginning is about to be made.●

Mr. HOLLINGS. I move adoption of the amendment proposed by the Committee on Environment and Public Works.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment, as amended.

The committee amendment, as amended, was agreed to.

Mr. HOLLINGS. Mr. President, I move adoption of the bill.

The PRESIDING OFFICER. If there be no further amendment to be offered, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third meeting and was read the third time.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that H.R. 6803 be discharged from the Committee on Environment and Public Works and Commerce, Science, and Transportation, and that the Senate proceed to the immediate consideration of that bill.

The PRESIDING OFFICER. Without objection, the bill will be stated by title.

The legislative clerk read as follows:

A bill to provide a comprehensive system of liability and compensation for oilspill damage and removal costs, and for other purposes.

Mr. HOLLINGS. Mr. President, I move to strike all after the enacting clause of H.R. 6803 and substitute therefor the text of S. 2083 as amended by the Senate and that the title of H.R. 6803 be amended with the amendment to the title of S. 2083.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from South Carolina.

The motion was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

The bill (H.R. 6803) was passed.

The title was amended so as to read:

A bill to provide for compensation for damages and cleanup costs caused by discharges of oil and hazardous substances, to establish a liability fund, and for other purposes.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that S. 2083 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HOLLINGS. I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NORTH PACIFIC FISHERIES ACT

The PRESIDING OFFICER. What is the pleasure of the Senate.

Mr. BAKER. Mr. President, I ask unanimous consent that it be in order to call up a bill on behalf of Mr. STEVENS, to make technical corrections in the North Pacific Fisheries Act of 1954.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The clerk will state the bill by title.

The legislative clerk read as follows:

A bill (S. 3551) to make technical corrections in the North Pacific Fisheries Act of 1954.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the bill be considered as having been read the first and second times and that the Senate proceeded to its immediate consideration, that it be considered as having been read the third time and passed and the motion to reconsider laid on the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill was passed as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the North Pacific Fisheries Act of 1954 (16 U.S.C. 1021 et seq. is amended as follows:

(1) Paragraph (2) of subsection (b) of Section 11 is amended by striking out the word "subsection"; and

(2) Paragraph (3) of subsection (a) of Section 14 is amended by striking out the period and inserting in lieu thereof a semicolon.

ORDER FOR RECOGNITION OF SENATOR GRAVEL TO CALL UP CONFERENCE REPORT ON H.R. 2329 AND FOR RECESS TO 8:30 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that Mr. GRAVEL be recognized shortly to call up a conference report on H.R. 2329, the Fish and Wildlife Administration Improvement Act, that there be a time limitation of 10 minutes thereon, overall, and that upon the disposition of that conference report and the motion to reconsider is tabled, if no Senator seeks recognition, the Senate stand in recess until the hour of 8:30 tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

FISH AND WILDLIFE IMPROVEMENT ACT OF 1978—CONFERENCE REPORT

Mr. GRAVEL. Mr. President, I submit a report of the committee of conference on H.R. 2329 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 2329) to improve the administration of fish and wildlife programs, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report will be printed in the proceedings of the House of Representatives.)

Mr. GRAVEL. Mr. President, I move the adoption of the conference report.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. GRAVEL. Mr. President, I move that the Senate concur in the Senate amendment No. 32 in disagreement with the House, with amendments, as follows, and I send that to the desk.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. without objection, it is so ordered.

Mr. ROBERT C. BYRD subsequently said: Mr. President, I ask unanimous consent that the order for the calling up of the conference report on H.R. 2329 this evening be vitiated and that any action taken thereon be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the first vote tomorrow that is scheduled will occur at 10 a.m., on the extension of the ERA. Conceivably, a vote could occur prior to that time on getting Senators in, but I do not foresee that, because the time between 8:30 and 9 will be consumed by the orders for the recognition of Senators.

So the rollcall vote, so far as I can see, will be at 10 a.m. on the ERA extension.

The next rollcall vote should occur about 11:15 a.m., and that will be on the adoption of the Roth amendment to the tax bill. That will be an up or down vote; it will be a rollcall vote.

Rollcall votes will occur throughout the day tomorrow. I should think that it

would be a long session tomorrow. I hope that considerable progress can be made in relation to the tax bill.

The Senate will be in on Saturday and will continue with work on the tax bill, and there will be rollcall votes. I do not anticipate that it will be a short day, because much work has yet to be done on the tax bill, and the leadership still hopes that Congress can adjourn sine die by the close of business the following Saturday, October 14. However, this will depend upon final enactment of the tax bill and conference reports on energy, and so forth.

SENATOR EAGLETON'S ABSENCE

Mr. ROBERT C. BYRD. Mr. President, following the vote on the Garn amendment on Wednesday, I commented for the RECORD on the reasons for Senator EAGLETON's absence. Due to a printing error, however, my remarks did not appear adjacent to the vote in the RECORD. Thus, I would like to repeat my comments at this time.

Senator EAGLETON was necessarily absent on official business on Wednesday, because he was in Rome representing the Senate at the funeral of Pope John Paul. Senator EAGLETON accepted this assignment only after considering the business before the Senate, and determining that his absence was not likely to affect the outcome of any key votes. I was pleased that the Senate was able to show its respect and affection for the late Pope by sending as its representative a gentleman of Senator EAGLETON's ability and stature.

I inquired of Mr. EAGLETON if he would go. I felt that someone ought to go representing the Senate.

Ordinarily, the explanation of Senator EAGLETON's absence would merit no further comment.

However, in this particular instance, I would like to add a few more words. Following the vote on the Garn amendment, it was suggested in some press accounts that Senator EAGLETON was dispatched to Rome at the behest of ERA supporters who did not like Senator EAGLETON's views on rescission. Mr. President, I regard such an insinuation as demeaning to the Senate as a whole, and to Senator EAGLETON and myself personally. As the Senator who, with the President, selected Senator EAGLETON for this assignment, I can state categorically that his views on the ERA issue had nothing to do with my choice. I asked Senator EAGLETON to undertake this mission solely because I felt he would most ably represent the Senate, and I am sure my colleagues would join me in expressing gratitude to Senator EAGLETON for accepting this task, and in sensing a feeling of umbrage that such an account would appear in the press in an effort to explain his absence.

I just want to say for the RECORD that the press account was totally in error. It did a disservice to Senator EAGLETON and to the Senate.

RECESS UNTIL 8:30 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in recess until 8:30 a.m. tomorrow.

The motion was agreed to; and at 8:34 p.m. the Senate recessed until tomorrow, Friday, October 6, 1978, at 8:30 a.m.

NOMINATIONS

Executive nominations received by the Senate October 5, 1978:

DEPARTMENT OF STATE

Richard A. Ericson, Jr., of California, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Iceland.

Samuel Rhea Gammon, of Texas, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Mauritius.

EXTENSIONS OF REMARKS

DONT BLAME THE RABBIT

HON. STEVEN D. SYMMS

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 4, 1978

● Mr. SYMMS. Mr. Speaker, the September issue of New Guard, published by Young Americans for Freedom, contains an article by Greg Gegenheimer, of Austin, Tex., on the subject of inflation, the decline of the dollar abroad, and some of the root causes of these problems. In the article Greg makes the point that blaming wage earners for higher price levels is like blaming the rabbit for a positive pregnancy test. I might add that the same analogy could be said for the rising gold price and the decline of the dollar relative to hard currencies such as the Swiss Franc.

I commend this article to my colleagues in Congress:

DON'T BLAME THE RABBIT

(By Greg Gegenheimer)

The newest figures released by the Labor Department show inflation running at a whopping 11 percent. Other indices measure the rate at closer to 16 percent. And to compound this bad news, all indicators show the rate of inflation—whatever its exact number—is accelerating such that if the upward pressure on prices is not checked, we may face a rate of 20 percent by the end of the year.

Mr. Carter's solution is to ask labor and management to hold down their demands for wages and prices. The President's program is the moral equivalent of a WIN button. He acts as if inflation were somehow *our* fault. Well, contrary to the myth the Administration is trying to foster, inflation is not caused by avaricious businessmen or extortionist labor unions. Higher prices and wages are a symptom of inflation, not the cause. And people can hardly be blamed for trying to protect themselves from the declining value of the dollar. Blaming wage earners for a higher price level is like blaming the rabbit for a positive pregnancy test. He is the victim, not the culprit.

In reality there are two major causes for the rise in the Consumer Price Index; and inflation, as economists use the term, is only one part of the problem. The other is the massive increase in regulatory costs that business has incurred within the last few years. These costs, just like the cost of labor or machinery, must be passed along to the consumer in the form of higher commodity prices. The Environmental Protection Agency alone estimates that industry will require $112 billion in capital investment over the decade ending in 1981 for anti-pollution equipment. An additional $100 billion will be required for operational costs.

Now one might well argue that the benefits we derive from cleaner air and water are worth this extra cost. But it is patent nonsense to pretend that these added expenses are not a significant component in the cost of production and thereby the rise in prices. We may anticipate with complete certainty that as the regulatory role of government increases, prices will increase and the responsibility lies with neither labor nor management. It lies with government.

But Mr. Carter's concern seems to lie more with inflation per se, and here is rhetoric is even more deceptive. Only the central government can cause or cure inflation. Mr. Carter and certainly Secretary Blumenthal know this, and their effort to shift the responsibility constitutes the most perfidious kind of demogogery. Inflation is caused by the money supply increasing at a faster rate than the supply of goods and services. And the White House, along with a big-spending Democratic Congress, holds the major responsibility for the increase in the money supply.

When Congress and the President plan to spend billions of dollars more than they take in, that money has to come from somewhere. Typically it is created when Federal Reserve Banks buy government bonds. This operation is the closest thing to magic we have in modern America. By buying Treasury bonds, the Fed simply opens up a checking account for the government in the amount of the bond purchase. Thus by purchasing one billion dollars worth of bonds the Fed *creates*, on the first round, one billion dollars for Mr. Carter and Congress to spend. When that bond becomes due, there is no problem; the Fed simply purchases another bond and with that money, the government retires the first one. Try getting that from a labor union or a board of directors.

This process in itself is not bad. We want the supply of money to increase, otherwise we have deflation, unemployment, depression, and probably revolution. However, if the supply of money increases faster than the stock of goods and services within the system, the value of those plentiful dollars goes down and it takes more pieces of paper to buy the same quantity of goods. That is how we get inflation and business and labor have no more control over the supply of money than ducks do over rain.

But after examining President Carter's record and his plans for the future, we can

well understand why he is playing this shell game. Virtually every economic policy direction he has taken would add to rather than reduce inflation. Carter's 1979 budget calls for a $53 billion deficit. That deficit *has* to exacerbate the inflationary pressure on the dollar and drive its purchasing power down at home as well as abroad. (Contrary to Administration claims, the year-long decline of the dollar on international monetary markets is much more a function of inflationary expectations than it is the trade deficit.)

At his first opportunity, Carter replaced Arthur Burns as Chairman of the Federal Reserve System, because Dr. Burns favored a lower rate of monetary growth, and thereby a lower inflation rate—than the President. While candidate Carter opposed an expanded bureaucracy in Washington, President Carter asked for and received a $10.6 billion Department of Energy, further adding to the deficit. And now apparently Carter has caved in to pressure from the big spenders and will support an expensive national health program.

The President simply refuses to understand that he cannot have all the Federal Programs he wants as well as a stable dollar. And much like a child who gets sick after being warned by his mother that eating too much candy will make him ill, Mr. Carter blames his troubles on the candy, or his mother, anyone but himself.●

VYING TO BE SUGAR DADDY

HON. PAUL SIMON

OF ILLINOIS

Wednesday, October 4, 1978

IN THE HOUSE OF REPRESENTATIVES

● Mr. SIMON. Mr. Speaker, the New Republic recently had an article which I hope my colleagues in the House and Senate will read if they have not. It calls attention to the fact that if we raise sugar prices unnecessarily we will be doing a disservice to the Nation.

"Vying To Be Sugar Daddy" was written by Stephen Chapman, who is described in the magazine as "a Washington writer." I do not know Mr. Chapman or anything about him but my reading of his article suggests that he has researched the subject well and knows what he is writing about.

The choice is basically between holding down inflation for the American public or helping a powerful special interest. That choice should not be too difficult for us.

I am inserting the article at this point in the RECORD.

VYING TO BE SUGAR DADDY

The White House and Congress are locked in combat over an issue that might be depicted as a battle between the haves and the have-nots. The trouble is, no one is taking the side of the have-nots. The fight is about sugar. The White House wants to protect domestic sugar producers and a handful of corporations engaged in sugar processing. The debate is not over the president's desire, but over the degree of his ardor. His rivals, such as senators Russell Long and Frank Church, think that whatever the administration wants to do to help the US sugar industry, it isn't enough. Long and Church, whose states harbor a lot of sugar producers, are old hands at running errands for Big Sugar. Because of these more zealous suitors, Carter's own efforts have managed only to make him a new group of enemies out of the ungrateful beneficiaries of federal sugar programs.

Since he took office, Carter has been pressing for an International Sugar Agreement to govern world sugar trade. Its ostensible purpose is to prevent wild swings in sugar prices by use of reserve "buffer" stocks that would accumulate during periods of oversupply, to raise prices, and deplete during periods of undersupply, to lower them. So far 72 countries have signed the pact, including the United States. The Senate must ratify the agreement, however, and that is where Carter has run into problems. Frank Church is chairman of the subcommittee that has jurisdiction over the sugar treaty, and until he gets what he wants, the ISA will be held hostage. What he wants is higher sugar prices to be achieved through higher tariffs on imports and, if necessary (very likely), import quotas. Right now the world market price for raw sugar is about eight cents a pound. About six cents of import duty raises the US cost of imported sugar—and thus the price domestic producers can demand for their sugar as well—to about 14 cents a pound. Church's own bill would increase tariffs and quotas to push the US price to 17 cents a pound for raw sugar and 21½ cents for refined sugar, increasing to about 21 cents and 26½ cents, respectively, by 1982. But the Senate won't do anything until the House finishes its wrangling over its own two sugar bills. One, passed by the Agricultural Committee, sets the raw sugar price at 16 cents, to be increased every three months. Another, approved by the Ways and Means Committee, sets the price at 15 cents with no built-in increase. Originally the White House wanted to set the price objective at 14½ cents, but now it regards the Ways and Means bill as the only realistic hope.

Governments throughout the world have been fixing sugar prices for decades. Since 1937, world sugar trade has been covered by four successive multinational agreements, but most of it falls under bilateral "preference arrangements." From 1948 to 1974, US trade was regulated by the Sugar Act, which established import quotas and gave subsidies to domestic producers. With the precipitous rise of sugar prices in 1974—at one point raw sugar cost 64.5 cents a pound—Congress let the Sugar Act expire. American sugar producers didn't mind this very much until world prices dropped sharply in 1975. The increased production stimulated by the 1974 boom has kept sugar prices stubbornly low since then. In May 1977, Congress extended some help to sugar producers in the form of a price support of 13.5 cents. The way this works is that sugar producers who wish to do so may put their sugar in government warehouses and receive a "loan" from the government of money equal to the support price. If the market price stays below the support price, the government forgets about the loan and keeps the sugar. If the price rises above the support price, the producer takes his sugar back, sells it and pays off the loan. In effect, the government prevents sugar from sugar producers. They are eager for the precedent the bills would set in shielding American farmers from foreign competition.

On the other side of the controversy are cane refiners and industrial users of sugar—such as softdrink companies and bakeries—who will be faced with higher costs if sugar prices are forced up. Carter's close ties with the Atlanta-based Coca-Cola Company have inflamed the imaginations of his critics, who accuse him of paying off the world's largest soft-dring producer by failing to support the more extravagant sugar price support proposals. Whether or not the charge is accurate, this is one case where what's good for Coca-Cola is good for America. The typical American consumer eats nearly a hundred pounds of sugar a year. The President's Council on Wage and Price Stability calculates that the House Agriculture Committee bill would cost consumers more than $4 billion over the next five years. (The Council doesn't mention that the Ways and Means bill supported by the White House would cost consumers about $1.2 billion.) Church's bill, indisputably the worst of the bunch, carries a price tag of well over $6 billion.

These increased costs will serve no purpose but to line the pockets of producers of sugar and other sweeteners. There is no good reason for the US government to spur inflation in order to prop up an industry badly pressed by foreign competitors. Protection of the domestic sugar industry can't be justified on the familiar rationale offered by steel and petroleum companies, that it is vital to national defense and thus should be kept alive in case war should cut off supplies from abroad. That leaves no reasonable justification but political expedience for a president who once promised to replace Ralph Nader as the nation's principal consumer advocate and who recently railed against organized groups for frustrating his antiinflation efforts: "The fight against inflation becomes nearly impossible when the pressures of special economic interest lobbyists are successful. These lobbyists care absolutely nothing about the national interest—as long as they get theirs." Jimmy Carter was right then. Both he and Congress are wrong now. Ralph Nader's title is secure.

Stephen Chapman is a Washington writer.●

ABORTION: WHAT'S WRONG WITH A RELIGIOUS VIEW?

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 4, 1978

● Mr. HYDE. Mr. Speaker, the volatile issue of abortion still troubles this country, and the battle to protect the defenseless unborn proceeds in the courts as well as in Congress.

Columnist George Will, a Pulitzer Prize winner, whose columns appear in about 300 newspapers throughout our country, has analyzed one aspect of this isssue so well that I want to share his views with my colleagues. This article appeared in the Washington Post on Sunday, September 24, 1978:

ABORTION: WHAT'S WRONG WITH A 'RELIGIOUS' VIEW?

The trial in Brooklyn runs like Tennyson's brook, on and on, as the American Civil Liberties Union and others seek a perverse ruling. It concerns the Hyde Amendment, which narrowly limits Medicaid reimbursement for abortion.

The plaintiffs say the law violates the First Amendment guarantee against "establishment of religion" because it enacts a "religious" view of abortion, and because it was passed as a result of "excessive" religious influence on the legislative process. If successful, the challenge will have a chilling effect, by stigmatizing as constitutionally suspect arguments about abortion (and other matters) that are, or are said to be, religious, and by disadvantaging political efforts by religious groups.

The idea that opposition to public funding of abortion, or to abortion generally, must derive from "religious belief" is preposterous, although perhaps not too preposterous to prevail in some court. Opposition to public funding often rests on the ethics of pluralism: When people are pas-

sionately against an optional practice such as nontherapeutic abortion, public institutions should not subsidize the practice.

Pro-abortion lobbies pretend to favor government "neutrality," but their idea of neutral policy is subsidies for abortions. This definition derives from an absurdity, the idea that a right is null unless government subsidizes the exercise of it. An even more bizarre fallacy employed by the plaintiffs in this case is the argument that a poor woman whose religion countenances abortion is denied "free exercise of religion" unless government subsidizes her abortion.

Opposition to abortion can rest on utterly secular grounds. It is, after all, a biological fact, not a theological assertion, that a distinctive life with its own genetic imprint begins at conception. The abortion argument concerns when this life should be given "legal personality," the protections accorded "persons." Many who oppose abortion do so not because they have religious certitude but because they are uncertain and believe policy should give the benefit of the doubt to even quite young life.

The sudden enactment of antiabortion laws in the late 19th century was actually motivated, in part, by anti-Catholic feeling; Protestants hoped that restrictions on abortions would help their birth rate match that of Catholics. The enactment of these laws coincided not with a "religious" movement but with the development of embryology (previously, most people had believed that a fetus was not alive until "quickening") and the professionalization of medicine.

The flimsiness of the plaintiffs' argument about the necessarily "religious" nature of opposition to subsidized abortions was apparent when one of their lawyers was driven to define a "religious decision" as one that "inheres in the realm that we call conscience." Things get even muddier when the plaintiffs argue that "excessive" participation by religious groups in the abortion debate has produced a "divisiveness" that is evidence that the Hyde Amendment involves unconstitutional "entanglement" between church and state.

Having asserted, falsely, that religious motives must underline limits on abortion, the plaintiffs assert, sinisterly, that such motives can invalidate an otherwise valid law in certain areas of policy. The areas are those in which "strife" may result from "sectarian competition" to shape policy.

The unsurprising conclusion of such analysis is this: When religiously motivated groups conflict with the ACLU and Planned Parenthood and other pro-abortion groups, the law must take the ACLU–Planned Parenthhood side. Otherwise, the law may be unconstitutional because the motives of religious groups who supported it are evidence that it involves "excessive entanglement" between church and state.

In their attempt to sniff out disqualifying motives behind the Hyde Amendment, the plaintiffs have gravely and disapprovingly obtained evidence that many letters to Congress concerning abortion were written on Sunday. An ACLU affidavit reports that Rep. Henry Hyde was observed at a church vigil concerning abortion. ACLU representatives have done a "textual analysis" of Hyde's mail to identify "religious terms" and other alarming language from a list of "key words" (for example, "baby" and "human life"). What a wonderfully appropriate marriage that is between academic and constitutional philistinism.

The arguments of the pro-abortion plaintiffs are ridiculous, but their aim is not amusing. It is to deprive many opponents of the right to seek policies in conformity with their convictions. Having struggled to free the Nazis from legal restraints, the ACLU is now seeking to inhibit the involvement of religious groups in public affairs.●

TRIBUTE TO HIS HOLINESS JOHN PAUL I, A MAN AND PRIEST CALLED THE SMILING LOVE

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 4, 1978

● Mr. BIAGGI. Mr. Speaker, today, I must sadly join mourners the world over in bidding a personal final farewell to a most loving human being, whom I had the joy of meeting and who, in just 34 days deeply touched the hearts and souls of Christianity and her brethren. I speak of the loss in terms of the denial of our hopes and expectations, but he also gave us a legacy of personal and spiritual wealth which will remain with us through the rest of our lives.

The date was August 26, 1978. The place was Michelangelo-famed and glorious Sistine Chapel of the Vatican in Rome. The camerlengo, an interim administrator of the church, and conclave officials approached a cardinal of the church, who was also the patriarch or pastor of the great metropolitan city of Venice, Italy. There was great excitement in that chamber as the attention of the other 110 princes of the Roman Catholic Church, representing a worldwide union of 700 million people, focused on their subject. He was Albino Luciani of Forno di Canale, northern Italy. And he sat as one mortal man, looking very red and flustered, under the grandiose fresco of the "Baptism of Christ." For he, overwhelmed and confused by human emotions, was to be asked to accept the throne of St. Peter as the 263d supreme pontiff, and leader of the Roman Catholic Church.

He replied: "May God forgive you for what you have done in my regard," and later grinning happily, "Perhaps it would have been better if I had said no." What was later to become clear to all the world from those moments was that the church and her people needed and wanted a humble and pastoral man as their director and guardian.

Yet the thought of so many people placing their souls in the hands of one plain, pragmatic spirit put an enormous responsibility on that soul. And Albino Luciani knew it. He felt the same tendency that is sometimes present in all of us, to postpone, to "pass the cup" this one time. He welcomed and understood the reassurances of his friends and colleagues to carry this new burden. But he also knew that it was his turn to take control, to shepherd the flock. And he then allowed himself an infusion of The Spirit and permitted his love to pump through his heart and being.

Albino Luciani saw himself as a simple man, "a little man accustomed to little things and to silence," in his own words. On his role in the church, he was to paint this picture seven years ago:

Some bishops resemble eagles who glide majestically at high levels. Others are nightingales who sing the praises of the Lord in a marvelous way. Others are poor wrens on the lowest bough of the ecclesiastical tree who only squeak, seeking to offer some small thought regarding the great themes. I belong to the final category.

So wrote John Paul to his literary favorite Mark Twain, as part of one of his open letters to famous figures of the past in his book "Illustrissimi". And he wanted the world to know of his human frailties and to put himself at once alongside the victims of this world. "You should know that the Pope who is addressing you has suffered as you have. He was hospitalized eight times and underwent four operations." On the last evening of his life he was openly troubled about the terrorism in Italy. "Even the young people are killing each other." Those may have been his last words. Albino Luciani was also a man who showed that he was not beyond changing his opinion on fundamental issues. And he never hesitated to stand alone, strong and decisive, when upholding his own firm beliefs.

The promise of this man and priest was so great. He wanted so much to teach and be understood by all. "I have to communicate," he once joked. And he did so vividly with innovations of informal gestures, personal anecdotes and good humor. He had changed the style of the papacy.

During his installation homily he called on the world for justice, brotherhood and hope.

These principles are respect for one's neighbor, for his life and for his spiritual and social progress, patience and the desire for reconciliation in the fragile building up of peace.

John Paul belonged to all humanity. Other churches recognized this authentic Christian and saw new hope for improved ties. The new Pontiff favored ecumenism so that all religions be given the same respect as his. One day before his death he told a group of bishops from the Philippines that the Catholic Church must teach higher ideals of Christianity, as well as to work to alleviate misery and need.

John Paul gave us a loving pastoral service. He won our confidence so quickly through his gentle and simple ways. In just 34 days he has made us feel as if we have lost a good friend.

Albino Luciani's origins were deeply rooted among the Italian people. As John Paul he was their hope for a reconciliation of the nation's problems. For he had tremendous warmth and compassion, and at the common level that people could relate to. His smile will remain in the memories of all Italians as a symbol of serenity and sweetness.

I was introduced to the Holy Father while attending a special private audience as part of the U.S. delegation to the papal installation. We spoke in Italian, and I told him my family came from northern Italy. And he told me how nice it was that the sons of Italians are in the Congress of the United States. And we spoke of peace. It was the most marvelous moment of my life. His Holiness Pope John Paul I was a beautiful person. And I could sense his feeling of love and true devotion while in his presence.

May this humble Vicar of Christ now be blessed with the ultimate joy as he would have wanted it. And may God grant us the peace that John Paul had wanted so earnestly for all of us. And may the Holy Spirit once again bring forth as a leader a man and priest who is so much a part of all of us.●

COLUMBUS DAY

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 4, 1978

● Mr. RODINO. Mr. Speaker, I want to take this opportunity to remind my colleagues of a most important national holiday which our country will celebrate on Monday, October 10—Christopher Columbus Day.

Mr. Speaker, I am very proud to be an American of Italian descent. However, Columbus Day is much more than a holiday for Americans of Italian heritage. When I first introduced legislation in 1949 to make Columbus Day a national holiday, I believe very strongly that it would proclaim America's greatest strength—that is, its ethnic diversity. Each heritage is a priceless strand woven into the rich, resplendent tapestry of American culture.

Mr. Speaker, the life of Christopher Columbus serves as an excellent example for us as we pay tribute to the spirit of adventure and the ethnic diversity of America. Christopher Columbus conquered fear and ignorance as he sailed the Atlantic to discover a new land. Yet, if it were not for the Spanish Queen who supported his venture, the Portuguese mapmakers who guided him, and the various other Europeans who manned his ship, the great Italian explorer would never have made his famous discovery.

Mr. Speaker, we are truly a nation of immigrants; and Columbus' lasting accomplishment is his inspiration to those who have come after him—those people of every race, color and creed who landed on these shores and became responsible for the greatness of this nation.

Mr. Speaker, on Sunday, October 9 I will march in the annual Columbus Day parade in Newark, N.J. Thousands of people participate in this glorious event which hails the ethnic diversity of the people of the 10th Congressional District. This is very important because the more we learn about each other's heritage, the more American we truly become. Sunday's parade is a celebration of our appreciation for different cultural backgrounds.

I am very proud of the work that many people in my district have put into making this parade a success, and in particular, Mr. Ace Alagna who is publisher of our appreciation for different cultural nator of the parade.

Mr. Speaker, it is this cooperation and mutual respect for other human beings which we affirm on this Columbus Day. Let us continue in this spirit as we meet the challenges of the future.●

HAS THE CETA PROGRAM REALLY REDUCED UNEMPLOYMENT?

HON. STEVEN D. SYMMS

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 4, 1978

● Mr. SYMMS. Mr. Speaker, apparently there are some journalists and others who believe that the fraud ridden CETA program has actually reduced unemployment. The CETA program is in reality just another income transfer program. Its proponents will argue that it provides jobs and thus returns revenue to the Treasury in the form of taxes paid by those holding the jobs. But don't forget that all of the funds used to pay for the CETA jobs come from the taxes collected from those working in the private sector.

The "Correction, Please" column in the September 20, 1978, issue of Review of the News illustrates some of these points. It reads as follows:

[From the Boston Herald-American, Sept. 6, 1978]

CORRECTION, PLEASE

(Congress returns from its Labor Day recess today to a mare's nest of unfinished business . . . But House and Senate members may be fairly close to agreement on another popular jobs bill, the Comprehensive Employment Training Act (CETA), which has been providing money for about 34,000 public service jobs in Massachusetts.)

Correction: The C.E.T.A. program may be popular with those who profit from it, but the taxpayers who foot the bill for this multi-billion-dollar boondoggle have reason to dislike it.

In fact, the Herald-American itself published a lengthy analysis on June 15th by economic analyst Warren T. Brookes who is highly critical of the program. Brookes stated: "Since the government produces no wealth of its own, it must finance CETA-type jobs by taking the money from the private sector, either by taxes, borrowing, or inflation. When it does this, the money it takes nearly always comes, not from the major established industrial corporations whose incomes can compete with the government securities' 7-8 percent interest rates, but from the marginal businesses which cannot compete for capital against Uncle Sam. The result is that the very industries that have always supplied the most employment to marginal workers (unskilled inner-city youth in particular) are precisely those who are squeezed out by government deficit spending and borrowing. Thus, the CETA jobs program turns out to be nothing more than an expensive income transfer program, taking jobs away from one group of marginal workers in the private sector and giving them to another group in the public sector—and in the process destroying part of the nation's permanent private productive job base."

Indeed, an analysis of the employment figures in Massachusetts over the last four years bears this out, and no doubt illustrates the way the C.E.T.A. program has functioned in other parts of the country as well. Between 1974 and 1978 government employment (state and local, and mostly C.E.T.A.) rose by 23,500 jobs, while the state's private sector experienced a loss of 26,700 jobs. And the rate at which C.E.T.A. jobs are being handed out is increasing. As of April 1978, the state had a total of some 45,000 C.E.T.A. jobs, of which 13,000 were in the private sector as training under Title I, and some 32,000 in state and local government, under Titles II and III. This represents an incredible growth of more than 22,000 C.E.T.A. jobs "created" since May of 1977—in only ten months—and all but a tiny fraction of that growth has been in government employment.

You can now understand why a number of economists have spoken out against the C.E.T.A. program. For example, Dr. James Howell, chief economist of the First National Bank of Boston, testified before a Congressional Committee earlier this year. He reported that "there has been an 18 percent reduction in absolute manufacturing spending from 1972 to 1974," and he warned it was going to get much worse because inner-city businesses could not compete with C.E.T.A. "How can you get 18-year-olds," he asked, "to take $7,000 to $8,000 factory jobs when they can get work on CETA jobs doing light office work at $10,000?" He pointed out that in Fiscal 1978, of the $37 million spent on C.E.T.A. in Boston,. over $27 million was spent just on padding the Boston city bureaucracy, and only $1.4 million had been used for on-the-job training in the private sector.

It will come as no surprise that the C.E.T.A. program has been riddled with graft and corruption. *Newsweek* magazine for April 24, 1978, reported: "Last week Labor Secretary Ray Marshall created a permanent [*sic!*] office of special investigations, with a staff not of nine or 90 but of 200, and while the investigators will be assigned to all the programs Marshall oversees, most are likely to concentrate on CETA. Unhappily, Marshall has found, the army of young, mostly undereducated and largely black unemployed is at least as big and immobile as it was five years ago [*when C.E.T.A. was created*]. And while CETA has succeeded in helping a few of them, it has helped many more whom the program wasn't originally intended to aid—often skilled, white municipal workers. The program is rife with political patronage, and in at least a dozen cities, cases of outright fraud have been discovered in CETA offices."

Responsible Congressmen hope to do something about the C.E.T.A. rip-off. Representative Lawrence Patton McDonald (D.-Georgia) observed in August: "The big-spending bureaucrats think they have a solution in massive taxpayer-funded federal jobs programs. All our previous experience with these programs shows them to be disasters fraught with ineptness, fraud, and corruption. Look at the $11 billion dollar C.E.T.A. program. First of all, C.E.T.A. gives job preferences to ex-convicts and criminals over decent young people trying to get a start. And these C.E.T.A. jobs are one of the biggest areas of corrupt patronage In some areas, C.E.T.A. positions are filled by persons fired from local city and municipal positions in belt-tightening moves by local taxpayers. In other places, C.E.T.A. jobs go only to the friends and relatives of local political figures.

"The House vote to chop $1 billion off the C.E.T.A. budget was only a small step in the right direction. What is needed is to cut out the entire C.E.T.A. program as part of a serious move toward a balanced Budget and tax cut for hard-pressed taxpayers." Where does your Congressman stand?●

PERSONAL EXPLANATION

HON. MARTHA KEYS

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 4, 1978

● Ms. KEYS. Mr. Speaker, on Friday, September 29, 1978, I was unavoidably

absent from the House. Had I been present, I would have voted on matters coming before the House as follows:

"Yea" on rollcall No. 857, on a motion to recede and concur with an amendment to admit into the United States 7,500 Cambodian refugees per year in fiscal years 1979 and 1980;

"Yea" on rollcall No. 858, on agreeing to the rule for the consideration of H.R. 10909, Clinical Laboratories Improvement Act;

"Aye" on rollcall No. 859, on an amendment that sought to delete $209 million from the naval vessels procurement authorization to be used for the settlement of shipbuilding claims.

GENERAL PULASKI'S MEMORIAL DAY

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 5, 1978

● Mr. FLORIO. Mr. Speaker, October 11 will mark the 199th anniversary of Gen. Casimir Pulaski's untimely but heroic death in support of his adopted country's struggle for independence.

Suffering a fatal wound as he led an American cavalry charge through British defenses at the Battle of Savannah, General Pulaski's contribution to the American cause was limited to a short 2 years. But his excellence as a fighter and military strategist during this brief period gave needed leadership to the Continental Army's inexperienced troops. Credited as the "Father of the American Cavalry," General Pulaski's dedication to the principles of justice and liberty—spanning two continents in his brief life of 31 years—will long be remembered by his American and Polish countrymen.

I would like to join my colleagues and communities across America in honor of this great patriot. Like so many of our own sons and fathers, General Pulaski gave his life on foreign soil in pursuit of justice and fairness that free men must have to live.

It is proper, then, that his death be noted and celebrated in order that the ideals he lived for will not be forgotten. Community parades and dedications will again be commenced at this time so that his spirit which moved America closer to political independence can be renewed and aid in our perseverance to strengthen the democratic principles for which General Pulaski committed his life.

I am pleased to bring to the attention of my colleagues that one of our Nation's dedications to General Pulaski will occur on October 8 of this year in the city of Camden, N.J. On this date, the annual "Pulaski Day Parade" will be hosted through the sponsorship of the Polish American Congress.

We can never repay the debt owed to General Pulaski for his donation to democracy. But through small measures of recognition, such as the Camden parade, we can hope to rekindle our memory of his accomplishments and bravery which helped steer a true course for our young Nation. For the millions and millions of Americans who have lived and died under a free government, General Pulaski and his dream of liberty for common people will always be in our gratitude.●

THE 25TH ANNIVERSARY OF GREATER LOWELL ASSOCIATION FOR RETARDED CITIZENS

HON. PAUL E. TSONGAS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 5, 1978

● Mr. TSONGAS. Mr. Speaker, on November 3, 1978, the Greater Lowell Association for Retired Citizens will celebrate their 25th anniversary of service to the Greater Lowell community; embracing, in addition to the city of Lowell, the towns of Billerica, Chelmsford, Dracut, Dunstable, Tewksbury, Tyngsboro, Westford, and Wilmington. The association is to be commended for the fine service it has provided the retarded citizens of the community.

The organization was created through the efforts of about a dozen parents who were concerned that no local aid was available for parents of retarded children or for the retarded themselves. Thanks to the work of these people and the aid of a local legislator, retarded citizens have been given the opportunity they deserve to realize their potential as members of the community. Through specialized training, the retarded have been given the chance to enter into occupations that fully utilize their capabilities.

The growth of this organization has been tremendous. One year after its creation, the president of the association presented a modest budget of $2,190 to the members. This money covered a salary for a teacher one afternoon a week, supplies, summer camp fees, and a speech therapist. The budget also provided a small scholarship for a promising student to take courses to help train the retarded. Local support and encouragement for the association at that time was widespead. Religious, civic, and fraternal organizations offered time, skills, and money. Local businesses and industries lent trained management specialists to aid the association both financially and administratively. Labor organizations and students were also active supporters of the association.

Last year, the budget was in excess of $278,900. Community support and participation has continued. The association has expanded to include a school and recreational facilities, two halfway houses, and two apartment residences for retarded adults, in addition to a full-time executive director and a staff of specialists.

On this their 25th anniversary, I wish to praise the association for the fine job it has done in bringing hope and dignity into the lives of the retarded citizens of the community. I am sure that the association will continue to maintain such a commendable record of community service for years to come.●

VETERANS HOUSING BILL

HON. DOUG BARNARD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 5, 1978

● Mr. BARNARD. Mr. Speaker, included in H.R. 12028, the veterans housing bill that passed the House on September 28, 1978, is a provision amplifying the veterans marker system similar to H.R. 12732 which I sponsored earlier this year. I am pleased that the House and Senate have informally agreed to this language and am hopeful that the Senate will act favorably on this bill, as the House has done.

Specifically, the amendment provides that the Administrator of the Veterans' Administration, in lieu of furnishing a standard Government marker, may remit an allowance equal to the average actual cost incurred by the VA in furnishing Government markers or headstones (including manufacturing and transportation); the allowance to be applied to the purchase price of a conventional monument.

This change in the marker program is one which has been sought by veterans and business alike for over two decades. The impetus behind this measure is the idea that the present marker system does not fulfill the needs and preferences of most veterans and their families with respect to interment.

Inasmuch as Government markers must conform to certain specifications of size and design, they are not individualized or personalized to any degree. In a great many cases, they do not conform in size, shape, color, lettering, or design with the regulations of private cemeteries or family plots. As a consequence, many families simply do not find the Government issued markers a suitable means of marking the graves of deceased veterans.

Evidence abounds that hundreds of these Government procured markers are abandoned in cemeteries, used as secondary markers and relegated to nonrelated uses. Such blatant abuse of the marker system obviates the need for reevaluation and change.

Providing that the VA shall furnish an allowance against the purchase price of a monument affords families the prerogative of selecting an attractive and appropriate memorial which they will cherish along with the memory of the deceased.

Again, I endorse this amendment and commend the Veterans' Affairs Committee and Chairman JACK BRINKLEY of the Housing Subcommittee for the outstanding work they have done in shaping this legislation.●

ILLEGAL IMMIGRATION IV

HON. B. F. SISK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 5, 1978

● Mr. SISK. Mr. Speaker, as the problem of continued illegal immigration into the United States becomes more critical, there is a growing willingness among many decisionmakers to face this challenge. Some have hoped for a quick answer, the latest being the newly discovered petroleum wealth of Mexico. This will create such vast wealth as to end most of Mexico's population and unemployment problems, so it is claimed.

An article by John Huey in the Wall Street Journal of August 30, 1978, argues otherwise. It is an excellent portrayal of the problems now facing Mexico as well as those future problems that can be expected as a consequence of the new found oil. Huey notes:

. . . feeding Mexico today is literally only half the job that it will soon become. Already the 10th largest in the world, Mexico's population is expected to double by the year 2000. This surge, due to a high birth rate coupled with a relatively low death rate, is perhaps Mexico's worst problem, and the one least solvable by oil money . . .

I commend the following excerpts to the attention of my colleagues.

The article follows:

[From the Wall Street Journal, Aug. 30, 1978]

NO FIESTA AHEAD DESPITE RISING WEALTH IN OIL, MEXICO BATTLES INTRACTABLE PROBLEMS

(By John Huey)

MEXICO CITY.—Two years ago, in the waning days of Luis Echeverria's presidency, Mexico seemed near collapse. But since then, the tension that gripped this giant city has been soothed by visions of a sea of oil.

But despite the oil-based balm, the cancers that have eaten away at Mexico for years are still afflicting it. So far the private investment desperately needed to create jobs continues to lag. Mexican workers, robbed of purchasing power by inflation, are raising their wage demands and calling for more and longer strikes. Soaring population growth defies solution. Farm problems persist. And the flood of illegal emigrants to the U.S. continues as the primary safety valve.

It is becoming clear, in the words of a U.S. State Department economist, that "the problems of Mexico won't be solved by oil, and its major problems may well be worsened by it." Indeed, adds a Commerce Department analyst in Washington, "There is a growing school of thought that oil could be very harmful to Mexico right now. It's providing an excuse—a crutch—not to solve the basic structural problems." Some even compare Mexico's breakneck expansion of oil sales to a derelict selling his blood in the morning to buy an afternoon bottle of wine.

GRAVE NEED FOR JOBS

"The economic situation is grave," says Alfonso Sanchez Madariaga, No. 2 man in the Confederation of Mexican Workers, the nation's most-powerful labor group. He believes that the immediate need—quite apart from the future—is for five million new jobs, and he adds, "We are hoping that with the exploitation of oil, the government can create new jobs in all areas of basic industrial production."

But skeptics contend that employment isn't easily increased in "extractive" industries like petroleum, in which creation of one job requires an investment of $100,000 to $200,000, compared with only $1,000 to $2,000 in light manufacturing

"There is no way that oil—its extraction, its refinement or its marketing—will improve employment in Mexico," says the skeptical State Department economist, who adds, "Given the way Mexico is organized, it (petroleum) will worsen income distribution" Professor Calvin Blair, longtime Mexico-watcher at the University of Texas, agrees "If the government uses strong oil revenues as a reason for postponing fiscal reform—particularly tax reform," he says, "income distribution may well worsen"

If some solution isn't worked out, the benefits of oil exports could be largely lost. "Quite simply, the oil boom will be offset if agricultural production isn't increased," Mr. Clouthier says. He notes that production dropped 1% in both 1977 and 1976. And even though 4% growth is forecast for this year, Mr. Clouthier cites projected imports—including 1.8 million tons of corn, 1.6 million tons of oilseeds and 700,000 tons of sorghum—as an alarming trend. As one agribusiness executive asks, "What good will it do to export $1.5 billion in oil in 1985 if we have to use it to pay for half our food in imports?"

BURGEONING POPULATION

Moreover, feeding Mexico today is literally only half the job that it will soon become. Already the 10th largest in the world, Mexico's population is expected to double by the year 2000. This surge—due to a high birth rate coupled with a relatively low death rate—is perhaps Mexico's worst problem, and the one least solvable by oil money. After decades of urging the populace to reproduce, the government's initial efforts to push birth control have met with some success in the past couple of years. But most experts credit that success to acceptance by the educated classes and express little hope of convincing the masses. Besides, demographers note, even if the birth rate suddenly plunged, population growth wouldn't be significantly affected for 20 years because of the multitude of women soon entering their childbearing years.

In the face of all these mounting pressures, Mexico's plan for stability has long been clear, most observers say. And it isn't oil.

"It's the same way the Irish and the English and the Germans and the Italians all solved their problems in the late 19th and early 20th Centuries, when their economies were transforming from agrarian to industrial," Prof. Blair of the University of Texas says. "Between 1890 and 1920, they sent 20 million immigrants to the U.S."

Mexican leaders don't deny the need for emigration. "They've made it clear that they don't feel any sense of responsibility toward helping the U.S. with its problem of undocumented workers," Patrick J. Lucey, U.S. Ambassador to Mexico, says. "The failure of (the U.S.) Congress to act on the question is viewed as a welcome breathing spell."

"We don't know what the real situation is," a wealthy Mexican merchandiser complains, "but we're tired of fantasies. If the government has a plan for this petroleum, it should publicize it. We know the oil is a postponement; we just don't know what it's a postponement of." ●

PIE IN THE SKY

HON. JOHN KREBS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 5, 1978

● Mr. KREBS. Mr. Speaker, on the remote possibility that Kemp-Roth might be mentioned in our congressional districts between now and November 7, I thought this September 22, 1978 editorial from the Los Angeles Times might be of some interest to my colleagues.

[From the LOS ANGELES TIMES, Sept. 7, 1978]

PIE IN THE SKY

A flying circus is coming to town, operating, to paraphrase a great showman of early times, on the premise that there is a taxpayer born every minute.

This circus, with a cast of dozens, is sponsored by the Republican National Committee, which has chartered a jet plane to barnstorm the country, promoting a one-third cut in federal income taxes. Specifically, it is promoting a bill to achieve such a cut and among the people on the plane are its sponsors, Rep. Jack Kemp (R–N.Y.) and Sen. William V. Roth Jr. (R–Del.).

In a sense, California asked for it. Kemp grew up in the Los Angeles area and went to Occidental College, played professional football, and then went to Congress. His bill is patterned after the theories of a USC professor of business economics, Arthur Loffer. And the idea of making such a tax cut the one Republican issue of the 1978 congressional campaigns and the 1980 presidential campaign was encouraged by the evidence of a tax revolt made clear by the big vote on Proposition 13.

Despite these deep California roots, we are skeptical of the whole pitch, as are most economists who have studied it, whether they are liberals or conservatives.

Clearly, there is an antitax mood in the country for the Kemp-Roth team to exploit. Survey after survey shows that many taxpayers, squeezed by high taxes on one side and high costs of food and other necessities on the other, are angry. Even the late Sen. Hubert H. Humphrey was warning several years ago that the United States had to face the fact that it no longer could afford everything it needed, let alone everything it wanted.

Congress is aware of the mood. It is working on a modest cut of about $16 billion for this year, an amount that most economists feel is about right, considering the fact that inflation averaged 11% during the second quarter of this year. It should return to Washington as soon as possible after the elections and begin working on further tax cuts.

But the first order of business is that of setting priorities, deciding which federal programs are no longer necessary and where major cuts in spending can be made. The effect of a one-third cut in federal income could result in chaos, could even reach into vital defense programs and disrupt transportation and flood control and other areas that could upset the entire U.S. economy.

What makes the Kemp-Roth outing a circus is its claim that the tax cut would so stimulate the American economy that federal tax revenues would skyrocket in a matter of years and the government would collect even more money than it does now. It is hard to find economists who agree with that, even among those who have publicly endorsed the Kemp-Roth bill. For example, Herbert Stein, former chairman of the Council of Economic Advisers, thinks the tax cut is about right and expects revenues to fall by a like amount.

We wish the flying circus luck in one part of its mission—keeping the pressure on Congress to get taxes down below the discomfort level. But we hope nobody believes their plan will work the way they say it will.●

NATIONAL BUSINESS WOMEN'S WEEK

HON. MARTY RUSSO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 5, 1978

● Mr. RUSSO. Mr. Speaker, 1 year before women gained the right to vote in this country, an organization was started for working women, which incorporated concepts now widely accepted, such as women helping women and development through education. I say now widely accepted but I point out that at the time it was an innovative and probably even startling approach.

Today, the National Federation of Business and Professional Women's Clubs, with 165,000 members, is celebrating its 60th year and is preparing to observe the 50th anniversary of National Business Women's Week, October 15 through 21, and I want to congratulate this vital organization and commend it for its foresight and courage six decades ago and for its continuing contribution to women and to the business and professional world.

The National Federation of Business and Professional Women's Clubs today demonstrates its continuing awareness and support of women's issues and needs. Through the Business and Professional Women's Foundation, there are scholarship and loan programs, including a loan for the study of engineering and scholarships for women reentering the job market and the organization is an active supporter of the equal rights amendment.

I am particularly proud to single out 1 of the 3,700 chapters of the group for praise. In the Third Congressional District of Illinois, the Oak Lawn Business and Professional Women's Club is probably indicative of the quality of clubs throughout the country. I know this group personally, its fine leadership and dedicated members and the valuable services the club has provided to its members and the community.

True to the goals of the national organization, the Oak Lawn Club strives to elevate the standards for women in the business and professional world and works to promote both an interest and a spirit of cooperation among business and professional women as well as provide career educational opportunities for its colleagues.

September marked the 21st anniversary of the chartering of the club and I know my colleagues join with me in congratulating the Oak Lawn Business and Professional Women's Club.

Today I also want to endorse the proclamation for National Business Women's Week and share a part of it with my colleagues.

Whereas working women constitute 43 million of the Nation's work force, and are constantly striving to serve their communities, their States and their nation in civic and cultural programs, and

Whereas major goals of business and professional women are to help create better conditions for business women through the study of social, educational, economic and political problems; to help them be of greater service to their community; to further friendship with women throughout the world, and

Whereas all of us are proud of their leadership in these many fields of endeavor,

I urge the support and nationwide recognition of National Business Women's Week.●

COMMODITY FUTURES TRADING COMMISSION

HON. NEAL SMITH

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 5, 1978

● Mr. SMITH of Iowa. Mr. Speaker, during House consideration of the conference report on the authorization for the Commodity Futures Trading Commission, the gentleman from Washington referred to my "disappointment" with deletion of the export sales reporting provision added by the House by a vote of 273 to 125. This of course is a great understatement and I take this opportunity now to register my disapproval of the action taken by the conferees. I believe the overwhelming number of my colleagues in the House who supported my position will feel similarly.

Multinational grain companies have been entering into huge contracts to sell grain to state-trading companies such as Russia's and then before the new demand is known, they can buy offsetting contracts on our futures markets and have also found ways to buy more than is needed to cover the contract without being charged with violation of the speculative limits. They have hedged sales of grain from other countries as well as those filled from U.S. supplies. In that case, our farmers pay for the lower price a foreign country sold for.

My provision would have required an exporter to report large export sales within 48 hours to the Commodities Futures Trading Commission. This would have established a more comprehensive and timely reporting of grain sales to foreign countries by those who use U.S. futures markets to hedge if they hold contracts in excess of speculative limits. As a result of this, they would not be able to hedge an entire large fixed price contract before our producers and processors knew of the new demand; and better information would then be available for making production and marketing decisions. It would have closed an enormous loophole in our reporting system, which as administered by USDA is almost meaningless.

In an effort to meet the arguments of those who were fearful of CFTC being unable to administer this system effectively, I worked out a plan prior to the conference which would have replaced the need for most of the present 17 employees at USDA with only 3 employees at the CFTC and resulted in more timely and useful information. We limited application only to large traders with significant positions in the futures markets. Only sales in excess of 100,000 metric tons per day, or in excess of 200,000 per week, had to be reported. And, the scope of the information required was scaled down to the essentials needed to know whether they are violating speculation limits and negate advantages of inside information with foreign state companies. In short, we went more than half way to reinforce a position already bolstered by an enormous House mandate in support of this proposal.

The conferees of the House however acquiesced completely in dropping the provision and returned to our Chamber with the explanation that such a program would be "duplicative" and that USDA was starting a "study" on the matter. What amazes me is that some of the commodity organizations were guillible enough to buy this argument which was spoon-fed by the multinationals and lobbyists for the boards of trade.

These are arguments that the House considered and resoundingly rejected during its consideration of my amendment. We have heard nothing but excuses from USDA for the inadequacy of their own program for years. Then we have a bad example and again USDA and the multinationals assure that another study is in progress. But even more shocking is the complete disregard for the facts that leads USDA and the large exporting giants to persist in their claim that the USDA reporting program does anything more than record historical and statistical data. It does not protect producers, elevators and others from being ripped off. Foreign state trading companies and the overseas arm of an international exporter do not adequately comply with USDA rules, nor will they ever. Several times, Russian grain sales have given us a clear illustration of what can happen when only a foreign state trading company and an international exporter have such information—producers who do not know of the increased demand sell at artifically low prices, the public and others in the industry absorb all the risk through futures contracts and bear all the cost of foreign sales below value. Also, the warning to our industry and Government to prepare for an enlarged transportation and handling problem is delayed. Repeatedly foreign governments, multinational grain companies and speculators have reaped unfair economic advantage at the U.S. producers' and public expense. In some cases, they overbought contracts and then sold them later causing a greater downslide than should have occurred. By being in a position to use a foreign office as a contractee, they can buy in excess of the speculative limits which are effective for domestic traders without fear of being held in violation and they can gain on both the up and the down in price changes which follow.

Only through the reporting procedures passed by the House can such a system be enforced. Only through the Commodity Futures Trading Commission can foreign state trading companies and international exports be required to comply with our law. The CFTC needs this information to do their job and is the only agency which can adequately enforce the requirement to report, regardless of the origin of the grain. They could furnish copies to USDA of more timely and more complete information than USDA now has.

Elimination of the export sales reporting provision was a mistake that will cost our Nation's farmers, elevator operators, processors and consumers dearly and must and I am confident will sometime be corrected. It should have been corrected now before we have more examples of U.S. producers, processors, and consumers being ripped off.●

WOMEN WORKING

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 5, 1978

● Mr. FRASER. Mr. Speaker, in August and September the Wall Street Journal ran a series of articles on the societal effects of the tremendous rise in the number of married women working outside the home—many of them mothers. Americans disagree whether this labor force growth is for better or for worse, but it is not a temporary phenomenon. Ralph Smith, a researcher at the Urban Institute, estimates that more than 44 million women will be in the labor market by 1980.

The Urban Institute's program of research on women and family policy has published many worthwhile reports; some are available free, others at a minimal charge. For a list of their publications on women and families, write: Program of Research on Women and Family Policy, The Urban Institute, 2100 M Street NW., Washington, D.C. 20037.

I feel that the participation of women in the labor market—as in all other spheres—has led and will continue to lead to improvements in our lives as individuals, within our families and as a Nation. From that perspective, I would like to share with my colleagues the August 28 Journal article by Alfred L. Malabre, Jr., "As Their Ranks Swell, Women Holding Jobs Reshape U.S. Society."

[From the Wall Street Journal, Aug. 28, 1978]

WOMEN AT WORK: AS THEIR RANKS SWELL, WOMEN HOLDING JOBS RESHAPE U.S. SOCIETY

WORKING WIVES HELP SHELTER FAMILIES FROM INFLATION; LATER, SHORTER MARRIAGES—RISE OF THE "AFFLUENT" CLASS

(By Alfred L. Malabre, Jr.)

With their help, the country survives $6,000 cars and $60,000 three-bedroom bungalows. They are one reason why schools are closing and child-care centers are jammed. Businesses court them, yet they have forced many a manager to rethink the rules of business. And in millions of homes, they have brought wholesale changes in everything from eating habits to the institution of marriage.

They are the nation's working women, 41 million strong and growing. As anyone who works in an office or attempts daytime deliveries in suburbia can attest, they are hardly an unrecognized phenomenon. But to many economists and sociologists, the steady flow of women out of the home and into the labor force is nothing short of a major event, one that is altering our society in ways still not fully understood.

Listen, for example, to the conclusions of Ralph E. Smith, an economist who closely studies the trend for the Urban Institute, a nonprofit research organization in Washington. The rise in the number of American women who work for pay, he says, amounts to a "subtle revolution" looming at least as large as the Industrial Revolution that shook Europe nearly two centuries ago. Yet, he adds, "it is slow-moving and there is no simple agreement on why it has been happening."

In 1890, when the government began keeping detailed records, 3.7 million women of working age had a job or wanted one. That number didn't include the millions of wives and daughters performing arduous farm chores in a then-rural America. Still, it was small, representing only 18 percent of all working-age females. However, as the population of working-age women rose, the number entering the paid labor force began to grow at an even faster rate. By 1900, one in every five women was in the labor force. By 1920, the participation rate had reached 23 percent. By 1940, it stood at 29 percent.

MORE MOMS AT WORK

Late in World War II, with Rosie the Riveter in full swing, the participation rate reached 37 percent. With peace, many of these women returned home—but not for long. By the 1950s, the climb had resumed; the wartime peak was surpassed in 1956. Now, about half the eligible U.S. female population either has a job or is looking for one.

At this rate, experts say, women who stay at home soon will be just as unusual as women who work in offices or factories once were. As evidence, they point to what's happening among women who, presumably, have the most reason to stay at home: mothers. Over 58 percent of women with schoolage youngsters are working now. More surprising, so are over 41 percent of the mothers of children too young to attend school.

This trend isn't confined to the U.S. The Organization for Economic Development in Paris reports that the labor-force participation rate of women in countries such as Britain and France currently exceeds 40 percent and has risen to over 50 percent in Japan and several Scandinavian nations.

Here and in most other industrialized nations, it's generally agreed, both the migration to cities and the rapid growth of service industries have helped put large numbers of women on payrolls. Years ago, by contrast, women—particularly married ones—had many more reasons not to work. One of the most compelling was the fear of social ostracism.

A WOMAN'S PLACE

In 19th and early 20th Century America, "women were simply not expected to go out and take jobs," says Howard Hayghe, a Labor Department economist who has studied the history of working women. "The idea wasn't accepted, and their role was viewed as being in the home." That dictum has been slow to die. As recently as the 1930s, says Fabian Linden, director of consumer research for the Conference Board, working women mainly "represented a population of the dispossessed, coming primarily from poor backgrounds."

Today, of course, a good job is as much of a status symbol for a middle-class wife as it is for her husband, and even many affluent women now seek work for pay. Observes Betty Friedan, whose 1963 book, "The Feminine Mystique," presaged the modern women's liberation movement: "Evolutionary factors have been forcing women into the work force; women could no longer live within the limits of their traditional role" as housewives.

Certainly, the feminist movement's drive to end sex discrimination in employment and pay is evidence of just how interested women are in work, regardless of their motives for seeking it. But the movement has a long way to go. The majority of women working today hold clerical jobs that provide few chances for advancement. And all of them earn, on the average, only about $6 for every $10 earned by men. That ratio hasn't changed much since 1955, when the government began keeping such data. Analysts explain that the high proportion of women taking entry-level jobs tends to keep the gap constant—despite lessening pay discrimination.

Still, women have made progress. Among the professions, they now account for about 12 percent of the nation's doctors, up from 6 percent in 1950, and close to 10 percent of its lawyers, up from 4 percent in 1950. Nearly one quarter of management jobs belong to them now; that's nearly double the rate three decades ago.

More striking than society's changing attitudes about working women are the economic consequences of having so many of them around. There isn't any doubt, for instance, that working women help the economy prosper. Put another way, analysts say, if the ratio of women in the labor force weren't so high—four out of every 10 workers today are women—we simply couldn't maintain the $2 trillion Gross National Product the country currently enjoys.

For families, the benefit of a wife that works is also obvious: Two paychecks are indeed better than one, and can cushion couples from the squeeze of inflation and unemployment. "Without the enormous influx of women into the job market, the impact of inflation on our living standards would be far more severe," explains Geoffrey H. Moore, an analyst at the National Bureau of Economic Research. And if the husband or wife in a two-income family is laid off, the wages of the other become "a form of unemployment insurance," he adds.

Helping working women spend their wages is a profitable undertaking for many businesses. Mr. Linden, the Conference Board economist who specializes in consumer-spending patterns, gives clothing makers, cosmetics firms, convenience-food producers and restaurants as examples of businesses that prosper because so many women have jobs.

"Women who work tend to spend considerably more on their appearance than those who remain at home," he explains. He also notes that a recent Conference Board study found that families in which both spouses work spend 25 percent more in restaurants each year than those in which only the husband is employed.

ENLARGING THE "AFFLUENT" CLASS

The rise in the number of two-income families, in fact, has enlarged considerably the nation's "affluent" class, currently defined as those families with total annual incomes of $25,000 or more. Roughly 14 percent of all U.S. families were in this category in 1975, up from an inflation-adjusted 8 percent ten years earlier, according to Conference Board data.

This new affluence spurs demand for higher-priced cars, expensive furniture and appliances, and a number of other luxuries once available only to a rich few. "There's no doubt that the rise of the husband-wife working family has helped the vacation business," says an American Express Co. analyst. "Particularly, we find a rise in the number of families taking multi-vacations during the course of a year."

Working wives also keep the American Dream—the single-family home—a reality for many families. That's quite a feat; thanks to intense inflationary pressure, the average cost of a new dwelling now exceeds $60,000. Yet the housing market continues strong even though "most families have to have at least least two incomes to afford a new house," says Michael Sumichrast, chief economist for the National Association of Home Builders. In a twelve-month period that ended in June, he reports, over 47 percent of the families that bought new homes had two wage earners.

TROUBLESOME QUESTIONS

Not all the changes wrought by the advent of the working woman are so salubrious, however. Some economists, for instance, argue that these women aggravate unemployment, which despite three years of economic recovery still persists at a rate of close to 6 percent. The labor market, they say, is simply unable to accomodate all the women who want jobs.

Other observers raise the troublesome question of what adverse impact the decision of a mother to work might have on her children. Day-care centers and outside sitters are poor substitutes for a mother's attention, one typical argument runs. A government analysis avoids any firm conclusion. But it wonders whether working mothers absence from home may be "cutting off communications between generations and contributing to a state of alienation between young people and society."

In any case, it is believed that a link exists between the influx of women into the labor force and such developments as a doubling of the country's divorce rate within the last decade, fewer births among women of child-bearing age and later marriages. In 1950, for instance, 32 percent of the women between 20 and 24 years old hadn't married; now, the comparable rate is close to 45 percent.

(Some psychologists believe delayed marriages are a decided social benefit, allowing couples to mature emotionally before making such a complicated commitment. On the matter of divorce, the Urban Institute's Ralph Smith observes that if a job gives a woman the economic freedom to bail out of a bad marriage, "what's so bad about that?")

THE TAX TRAP

Nor is being a working woman without financial penalties. As many working couples discover every April 15, "two individuals who both work can be taxed more if they are married than if they are single," states a St. Louis Federal Reserve Bank study. That's particularly the case when both spouses have equal—and high—incomes. For instance, if a man and a woman each earn $25,000 a year and happen to be married, they'll pay nearly $2,000 more in taxes to Uncle Sam than if they were single, according to one Treasury Department analysis.

Then there's the Social Security system, drawn up at a time when only the husband worked in most American households. For instance, under its regulations. married working couples with the same total income as one-wage-earner families will receive smaller retirement payments. Though various changes in the law have been proposed, no new legislation appears imminent.

These are sticky public-policy questions, and they are likely to get stickier as time goes by. That's because most analysts believe that the long rise in women's labor-force participation will continue well into the future. "I would expect over 44 million women to be in the labor market by 1980," says Ralph Smith of the Urban Institute. If he's right, that would amount to nearly 52 percent of the expected 1980 population of working-age females.

Such forecasts assume that barriers that tend to discourage some women from working will continue to erode. "As the balance of power continues to shift toward families with more than one earner," Mr. Smith says, employers as well as legislators will adopt more measures to accommodate working wives.

There are several developments, analysts believe, that could inhibit further increases in the ranks of working women.

One is the prospect of reduced demand for schoolteachers, 70 percent of whom are women. After a long, sharp climb, schoolteaching jobs are declining, and for a rather ironic reason: Too many other women are choosing to work instead of have children, thus drying up the need for schools—and schoolteachers. In any case, the decline is expected to persist in the years ahead.

Finally, there is evidence that a long drop in male labor-force participation may be ending. Above 85 percent in 1950, this rate has recently fallen to around 75 percent, largely because men have been retiring earlier than before. The trend toward early retirement may be ending, however; analysts cite recent legislation extending the mandatory retirement age in many businesses to age 70. If more of these men stay on the job, it's reasoned, there won't be any need for women who might want to replace them.●

GASOHOL: AN ENVIRONMENTALLY SOUND ALTERNATIVE ENERGY SOURCE

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 5, 1978

● Mr. LaFALCE. Mr. Speaker, a viable and meaningful national energy program must include a comprehensive plan for the development of environmentally safe alternative energy sources. These renewable energy sources have lamentably received far too little attention in the past, and, as a member of the Congressional Solar Coalition, I have joined with many of my colleagues to vigorously prod the administration and the Department of Energy to devote more time and resources to the swift development of those alternative energy sources.

Understandably enough, when alternative energy sources are mentioned, solar energy immediately comes to mind. Solar power is non-polluting, inexhaustible, and not subject to the dictates of any producers' cartel. Put quite simply, solar power will help avoid the recurrent nightmare of an energy-starved world.

However, another alternative energy source which merits considerably more attention is gasahol or alcohol fuels, Gasohol, which can theoretically be produced from everything ranging from seaweed to surplus grain, can be either a substitute for or an additive to gasoline. Gasohol has two major advantages. First, it could substantially reduce our reliance on imported oil, which would help reduce our staggering trade deficit and strengthen the dollar. Second, gasohol burns more cleanly than gasoline, so that widespread use of gasohol could significantly reduce air pollution. Mr. Hal Bernton, in an article entitled "Paving the way for alcohol fuels" for the Environmental Action magazine, has done a fine job of outlining the case for gasohol; and I want to share that article with my colleagues.

The article follows:

PAVING THE WAY FOR ALCOHOL FUELS

(By Hal Bernton)

The Wisconsin cheese industry had a problem. Each year it was producing some 15 billion pounds of liquid whey and there was no easy means to get rid of it. Some could be converted into lactose (milk sugar) and some spread on farmers' fields. But the rest was useless. So for years the cheesemakers quietly dumped it into the state's rivers and streams.

By 1973, the Environmental Protection Agency was concerned enough about whey pollution to hire the Milbrew Corporation, a Juneau, Wisc. research laboratory, to find a better way to recycle the cheese by-product. Five years later Milbrew came up with a solution. Now the whey is distilled into 194 proof ethyl alcohol, denatured and then trucked out to 36 Illinois gas stations. There it is marketed as "gasohol," a high octane blend that can be pumped into any car's tank.

Priced at about the level of premium blends (70 cents per gallon), gasohol has the overwhelming approval of motorists who have tried it out—not only in Illinois but in Iowa, Nebraska, Minnesota, Wisconsin and Montana. Some even say gasohol gives them more power and better mileage.

Gasaholics not only think they've found the ideal motor fuel of the 1980s. They believe that only through development of alcohol fuels will we simultaneously free ourselves from foreign imports, reduce auto exhaust and find a productive way to re-use organic wastes.

A number of state governments are taking careful note of the Midwest experience and carefully evaluating their own alcohol resources. Any organic material, including surplus grain, wood, corn stalks and even algae, can be distilled into alcohol. The process in most cases is a simple one known to moonshiners around the world. Starches are broken down with heat and enzymes into sugars. The sugars, with the aid of yeast, are then fermented into alcohol. A further by-product of most ethyl alcohol fermentation is a rich protein mash which makes excellent animal feed.

With this in mind, Nebraska is looking to its wheat surplus, Montana to its sugar cane and Maine to its forest wastes. One study funded by the Department of Energy recommends planting the Southwestern deserts with eucalyptus trees that could be converted to alcohol. Some gasoholics have even proposed that government subsidized tobacco should be distilled into alcohol energy. In an alcohol powered world, even New York City would not be left out in the cold, since one of the most plentiful materials for alcohol fuels is garbage.

While the Washington energy bureaucracy tries to figure out what to do about gasohol, other countries are swinging into action. Brazil has an ambitious program to have 20 percent gasohol blends in all gas pumps in the country by 1980; according to The Washington Post, service stations in a half dozen Brazilian cities already sell the 20 percent blend. Volkswagon provided Brazil with a fleet of cars to run on pure alcohol, and General Motors of Brazil modified a fleet of buses to do the same. Individuals can purchase $200 conversion kits from mechanics' shops in Sao Paulo.

The Brazilian government has been purchasing surplus sugar cane since the 1930s for alcohol production. But it is only in recent years, due to rising oil prices, that the government has put a full scale energy independence program into action.

In West Germany, where agricultural land is scarce, the Bonn government is considering using methyl alcohol as a basis for a post petroleum economy. Methyl alcohol, made primary from coal, has one less carbon in its molecular structure than ethyl alcohol and contains substantially less energy per gallon. But when high technology processes are used, it is also significantly cheaper to produce. The West German government, working closely with Volkswagon, has done path-breaking work in overcoming technological obstacles to using pure methyl alcohol in the internal combusion engine.

And Sweden is now considering a number of alcohol alternatives. including one devised by U.S. inventor Donald Brewer. He hopes to build a system in sunnier southern cli-

mates which could produce bumper crops of algae, which would then be distilled into alcohol and shipped to Sweden. Last spring Brewer, who lives in Bethesda, Md., was invited to Sweden to discuss his plan with top government energy officials.

Although the United States now lags behind Sweden, Germany and Brazil in many areas of alcohol research, the fuel has a long and interesting history in this country. Henry Ford recommended it for use in his Model T. During the Great Depression, farmers brewed moonshine in backyard stills and dumped it into their tractors. At one point, Chrysler Motors actually produced cars specially designed to run on pure alcohol and shipped them to oil-poor New Zealand. During the war years, the alcohol industry, aided by government funds, geared up production; but by the 1950s many of the giant distilleries had been abandoned.

Until 1977, most of the U.S. government's alcohol fuels programs were shunted off to an obscure division inside the now defunct Energy Research and Development Administration. A small group of energy officials and academic researchers felt that it should have received a much higher funding level. but their voices were ignored. In the hectic months that preceeded the unveiling of Jimmy Carter's ill fated energy program, virtually no attention was given to the potential of alcohol fuels. The result was a 103-page energy plan grimly warning that there were no substitutes to gasoline which could be developed in time to meet the energy crunch of the 1980s.

Alcohol fuels research and development might have remained buried in some equally obscure corner of the new Department of Energy (DOE) had it not grabbed the attention of a diverse group of Republican and Democratic congressmen. In the fall of 1977, alcohol fuels suddenly emerged from the shadows of the government energy bureaucracy to become a hot political issue.

Farm state senators were the first to jump aboard the bandwagon, envisioning an unlimited new market for surplus crops. One group of Montana farm wives was so taken with the idea they drove all the way to Washington in gasohol powered cars. They were backed up by angry farm strike leaders who were unable to push higher farm price supports past Jimmy Carter's desk.

The grassroots movement for gasohol is strongest in Nebraska, where the state's Agricultural Products Industrial Commission is pushing for construction of a $23 million distillery to make alcohol out of grain. Nebraska's senior Sen. Carl Curtis gave the plan a boost on the national level when he cosponsored an amendment to the 1977 Senate Farm Bill to provide $60 million in federal loan guarantees to build four alcohol plants in different areas of the country.

The farm state senators were soon joined by other politicians with quite different reasons for their support. When New York's powerful Sen. Jacob Javits gave his backing to alcohol fuels, he stressed the critical need to curb foreign oil imports. (If the dollar continues to decline, Javits reasons, the Mideast countries could decide to pull their money out of U.S. banks, causing chaos on Wall St.) Javits and 19 of his colleagues signed a letter to DOE last October urging the agency to devote more attention to alcohol fuels.

Since then alcohol's Senate supporters have repeatedly harangued Energy Secretary James Schlesinger for not moving fast enough to develop gasohol. As a result of congressional pressure, a special Alcohol Fuels Task Force was set up inside the giant bureaucracy. While the Department's top officials now assure Congress that they are planning "an action oriented program aimed at making things happen," according to inside observers opposition to the gasohol concept continues to stymie needed research and development efforts.

High level energy officials aren't the only ones with doubts about gasohol. Mobil and Chevron—two of the largest U.S. oil companies—have waged an extensive public relations campaign to convince the American people that alcohol is not a fuel of the future. The giant companies have consistently fought both state and national legislation that would promote development of alcohol fuels, and last fall Chevron lobbyist Robert Lindquist told a group of Senate staff members that alcohol fuels "have been proposed throughout the history of the motor car, but every time they have been rejected on economic and technical grounds."

Lindquist believes that such fuels are too expensive to market profitably—the Illinois experience notwithstanding—and too "energy inefficient" to produce. He charges that if the United States embarked on a massive program of alcohol production it would end up costing more energy to fuel the distilleries than the distilleries would produce. To emphasize his message, Lindquist has crisscrossed the country to debate key spokesmen for the gasohol concept.

There's a range of scientific opinion on the relative efficiency of the alcohol distillation process. Brazilian scientists insist that their process produces substantially more energy than it uses, while Dr. Leonard Schrueben of Kansas State University insists that it does not. And the long term energy efficiency of the process may indeed depend on development of assorted other technologies, which, together with alcohol production, could take us a long way down the road to energy self efficiency. Once solar energy, or even recycled thermal heat from power plants, is harnessed to power the distilleries, the question of energy efficiency will no longer be debatable.

But the oil companies are not convinced. Mobil Oil has been just as outspoken as Chevron in its campaign against gasohol, and Edward Hennelly, Mobil's general manager for public relations, warned in a letter to Sen. Curtis: "We feel the consumer would not benefit by legislation that requires alcohol to be used as motor fuel. We think a better way to expand gasoline supplies in the future would be to make alcohol from coal and then turn it into gasoline using Mobil's conversion process."

Mobil's patented conversion process, developed with the help of a million dollars in federal research money, takes four gallons of methyl alcohol made from coal and converts it into 1.5 gallons of high octane gasoline. Dick Merrit, a Washington lobbyist who represents the gasohol interests, says he can't understand what's so beneficial about coal to gasoline. "It's like taking four pounds of steak and converting it to a pound and a half of bologna," he says. But it's not hard to see why Mobil is so interested in methyl alcohol. The company owns between four and five billion tons of coal.

Despite attacks from Mobil and Chevron, the oil industry isn't unilaterally opposed to the gasohol concept. Indeed, there is much debate within the American Petroleum Institute (the industry's official mouthpiece) over just what stance it should take.

And some oil companies are moving quietly aheadwith gasohol research. In California, Union Oil Company, an independent, has approached state officials to discuss plans to market a 10 percent gasohol blend made from sugar beets. Gulf Oil has done pioneering work in developing a mutant strain of the same bacteria that causes jungle rot, which can convert any cellulose into starch. The Gulf process can use garbage as well as farm wastes to produce a high quality ethyl alcohol.

But Gulf Oil isn't about to advocate that consumers start pumping alcohol into their gas tanks. "We are not in the gasohol camp," reports Gulf lobbyist Spencer Sheldon. Instead Gulf hopes to use ethyl alcohol as a replacement for the ethylene now used as a raw material in the petrochemical industry. Still, the company may change its position in the future; one Gulf consultant recently estimated that there's enough garbage produced each year to fuel all the automobiles in the country with a 10 percent blend.

But in general the majors appear to have quietly sent out the word to their distributors that gasohol is not a desirable product at this time. One Standard Oil distributor was reportedly told that if he decided to buy gasohol he'd have to remove the company's decals from his pumps.

It's hard to figure out exactly why the large oil companies are so opposed to alcohol fuels development. The underlying reason may stem from the fact that gasohol, unlike gasoline, is simply not a fuel whose production can be easily centralized and controlled. Anyone could conceivably get involved in the business of making alcohol fuels. Municipalities could set up their own distilleries to produce fuel from garbage. Lumber mills could make fuel from wood wastes.

One small farming cooperative, aided by an $86,000 grant from the Department of Commerce, has already set up a makeshift still to produce alcohol for its members. The co-op, which is made up of low income black farmers, takes local corn and, with the aid of a veteran moonshiner named Albert Hubbard, is producing batches of up to 100 gallons of fuel at a time.

The still was made from a bizarre collection of rusted trash bins, brick ovens and gas storage tanks. A series of crudely welded pipe segments connects the distillery's scattered parts. While the set-up lacks the sophistication of the Wisconsin cheese whey plant, the co-op has plenty of incentives to make it work. Widespread crop failures last year left the co-op members deep in debt. Some 90 percent of their cucumber yield was destroyed by insects, disease and drought, and over half the corn was infected with the carcinogenic mold aflatoxin, totally destroying its market value. With tons of spoiled crops on his hands and creditors knocking at the door, the co-op's director, Albert Turner, had to find a new source of income. He now hopes alcohol fuels will someday pay off the bills.

Turner dreams of building a chain of small distilleries throughout the 10 Alabama counties where the co-op has members. Corn mash left over from distillation could be used as pig feed. The animals' manure, in turn, might provide a source of methane gas, which could be used to power the distillery. But for the moment, Turner is moving ahead slowly.

A few hours after he brewed up the first high powered batch of gasohol, a trickle of curious visitors dropped by to check it out. Turner had spread the word around town that he would give away free samples of his home brew to anyone willing to try it out.

His first customer drove his Chevy Impala slowly up to the still, stuck his head out the window and examined the contraption. Turner's face immediately broke out in a wide smile when he recognized the customer as a prominent local minister.

"Hey, Reverend. Come on up and see what I'm doing," he urged. The preacher cautiously got out of his car and listened to Turner's sales pitch. "This alcohol is for cars, not drinking, and it'll be the best fuel you've ever tried." Then he filled a gallon jar with the ethyl alcohol and carefully poured it into the Chevy's tank.

"Crank her up now and see what she'll do," Turner urged the minister as he got back into his car and revved up the engine. After he drove away, Turner walked back to the still where a new batch of alcohol was being made, beaming with satisfaction.

"Once the preacher gets hooked on the stuff the whole congregation will go for it."

While grassroots support is growing, so far there's been relatively little interest in alcohol fuels on the part of environmentalists. But an environmental perspective is needed in a number of areas.

For example, a strong push from environmentalists might help get pure alcohol fuel considered as an alternative to gasoline in highly polluted urban areas. Tests by the state of California show a dramatic reduction in pollution emissions from test cars run on 95 precent pure alcohol.

Tests by the Department of Energy and by the New York Daily News have also indicated that even a 10 percent gasohol blend reduces certain emissions. These studies are now being reviewed by the Environmental Protection Agency (EPA), which is expected to make a policy decision soon on whether gasohol meets the requirements of the Clean Air Act. EPA is concerned that the effects of alcohol on emissions have not been studied thoroughly enough.

If EPA does clear the way for alcohol blends, urban residents could begin converting their engines to be able to use these less polluting fuels. Conversion would cost a few hundred dollars per vehicle.

The shift to gasohol could also help alleviate the buildup of carbon dioxide in the atmosphere. Government researchers already predict a slow rise in atmospheric temperatures (the so-called greenhouse effect) from current use of coal, oil and natural gas.

At the same time a balanced plan is needed so that a sudden shift to "energy farming" doesn't leave a trail of environmental devastation in its wake. Large areas of the West, unsuited for intensive agricultural use, could conceivably be plowed up to produce crops for alcohol. Stable forest management practices could be abandoned by short sighted energy entrepreneurs eager to cash in on quick profits from wood wastes.

The shape of the alcohol fuels industry is still struggling to be defined. Today it appears to be one part Albert Turner, one part Mobil Oil and one part grassroots fervor. By 1980 it will be something altogether different. Will gasohol be a major contributor to energy alternatives and waste recycling? Or a part time concern for a backyard inventor? Right now it's too early to say.●

A CRISIS FOR THE MILITARY RESERVES?

HON. RICHARD NOLAN

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 5, 1978

● Mr. NOLAN. Mr. Speaker, from conversations with a number of my colleagues, I know there is growing concern here in the Congress over the ability of our military Reserves to function in a manner which best serves national security interests.

Late last month, I was able to spend a Sunday morning visiting with Maj. Gen. George Steiner and approximately 500 reservists of the First Battalion, 409th Infantry, at Camp Ripley, Minn.

During the course of our discussions, and as I watched the training progress, General Steiner and his men underscored many of the points being made by Members and by military experts throughout the country: shortages of men and equipment; the need for more incentives to enlist and reenlist; and the need for more specialized training, especially in cold weather environments.

I certainly encourage my colleagues to take the time to visit Reserve units in their home States, and to develop a greater awareness of the critical need for a strong Reserve system in this country.

In that regard, I believe you will find the following letters of great interest. The first letter was sent by me to the President and to the Secretary of Defense. It outlines in some detail a number of special concerns. The second letter is in response, and was prepared by Assistant Secretary of Defense John P. White.

The letters follow:

DEAR MR. PRESIDENT: Over the past few weeks, I have participated in a number of very informative discussions with Minnesota army reservists, Pentagon personnel, other Members of Congress, journalists, and experts in their own right over the state of the United States military reserve system. These individuals, all qualified and astute observers of military policy and military preparedness, are of the opinion that our reserves are in deep trouble. I would like to take this opportunity to relate their concerns to you, along with suggestions to help bring about reversal of an apparently critical decline in our reserve capability.

Some of the most disturbing information I found is contained in an article published in the May 8, 1978 issue of the Chicago Sun-Times under the by-line of Mr. Brian J. Kelly. Mr. Kelly's research, which has obviously been extensive, reveals:

The U.S. Army Reserve is almost 70,000 men below what the Army considers to be its peacetime objective;

The Army National Guard is not only 40,000 men below peacetime objectives, but the number of high school graduates in the guard has plunged from 47 percent in 1972 to 32 percent in 1977;

The Individual Ready Reserve, which must be ready to begin replacing regular unit casualties instantly in time of conflict, is 400,000 men short;

As a Member of Congress, I have consistently urged and voted restraint in the development of nuclear weapons systems and other armaments which, I am convinced, serve neither the interests of peace or national security. Moreover, evidence of rampant waste and cost overruns within the regular military is clear.

However, a great number of us in Congress who share these convictions will, I believe, also lend strong support to responsible efforts to improve the reserve system as an effective and efficient deterrent to nuclear war in Europe. A good many military analysts in the Pentagon and elsewhere now state, for example, that NATO could not win a prolonged conventional conflict with the Warsaw Pact nations of Eastern Europe . . . and that Western Europe could well be lost in a confrontation unless U.S. nuclear weapons are deployed to counter depletion of the reserves. I, for one, do not wish to see America placed in the position of either abandoning Europe to Soviet aggression or destroying mankind. Logically, then, we must assure that our reserves are able to meet any foreseeable challenge.

During my study of the situation, I collected a number of suggestions which may help foster improvement.

(1) Make school attendance more feasible for veterans by breaking up the training period into two six week periods, one year, and by allowing individuals to participate simultaneously in ROTC and the reserves;

(2) Consider bonuses to encourage re-enlistment;

(3) Revise the tax codes to allow a tax credit or deduction for a percentage of reservist's pay;

(4) employ new methods of cooperation to build better relations between the military reserves and the regular army. Joint training sessions could be used extensively;

(5) Increase weekend duty pay;

(6) Extend VA loan program to reservists;

(7) Seek new ways to build family and employer support for the reservist's activities;

(8) Allow reservists to use the commissary once a month on a day of their choosing and allow spouses to use the PX;

(9) Consider moderate tax advantages for employers who support the reserves;

(10) Institute regulations to prevent equipment held by the U.S. military reserves from being diverted for use by foreign nations in time of war;

(11) Support the Summer Career Interest Program . . . a two week summer camp for 14–18 year olds, to introduce them to the skills they can learn in the reserves; generally improve the public relations program for the reserves;

(12) Generally improve the reserve retirement program;

Specifically, I invite you to forward to me your comments already on the validity of the crisis facing the military reserve system, the validity of the above suggestions for dealing with the situation, and the action being taken, to the best of your knowledge, to help solve the problems. I will also welcome your advice as to how I may use my position as a Member of Congress to advance the effort toward improvement of the military reserves.

Looking forward to hearing from you, I am,

Sincerely,

RICHARD NOLAN,
Member of Congress.

ASSISTANT SECRETARY OF DEFENSE,
Washington, D.C., Sept. 14, 1978.

Hon. RICHARD NOLAN,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN NOLAN: On behalf of President Carter and Secretary Brown, I am replying to your recent letters regarding suggestions to help reverse the decline in our reserve strength.

One of the most difficult problems we have been experiencing is the understrength of the Guard and Reserve forces. There has been a steady decline in the strength of the Reserve Forces since the end of conscription. Recent trends indicate that this trend has about stopped, but it does leave us short of mobilization requirements. The shortages are concentrated in the Army Reserve components (Army National Guard and Army Reserve). These shortages result from policy decisions for the active force, for the most part. Longer enlistments (minimum of 3 years) and movement to a smaller active force have provided fewer personnel with less military service obligations remaining for the Reserve forces. Additionally, the abolition of conscription has eliminated the draft-motivated volunteer for direct enlistment in the Reserve forces.

As we moved into the all-volunteer force, our efforts were largely focused on the active forces and we have been successful in maintaining desired active force levels. We are now placing increased emphasis on the Reserve strength problem. There is no easy solution, nor is there any one solution to this problem. We are particularly concerned with the readiness of those reserves that will be needed immediately in the event of open conflict. This is true of both selected reserve units and the individual ready reserve.

In an effort to solve this problem, we are taking action on a series of programs to improve strength levels and training of all the Reserve forces. A number of low-cost initia-

tives have been developed recently and are being processed as indicated.

Split training enlistment option (Army Reserve components): Under this option enlistees enter basic training and advanced individual training in consecutive summers or other seasonal cycles. This eliminates a conflict between the need for reserve active duty and a young enlistee's desire to attend school without delay. This program was implemented in May 1978.

Militia careers programs (Test, Army Reserve components): This test is being conducted in Pennsylvania in selected vocational-technical high schools. Participants in selected military specialties will be recruited during the beginning of their senior year in high school. They will be assigned to vacancies in local guard and reserve units and upon graduation will attend 12-weeks active duty for training. The purpose of this test is to determine effectiveness for attracting quality, technically skilled personnel and to determine what savings in training may result from such a program. This test will begin in September 1978.

We recently established short- and long-term inventory objectives for pretrained individuals, and are evaluating other categories of reserve manpower, not just the individual ready reserve, for meeting these inventory objectives. These objectives were developed with the support of the services and will be used throughout the Department of Defense for planning purposes. The major value of establishing pretrained inventory objectives is the support it offers in prioritizing alternative solutions to the individual manpower issues. I now have a task force working specifically on the pretrained manpower problem.

In the interim, we have implemented several management changes which will increase the supply of trained individuals available for mobilization. These initiatives include:

Termination of automatic transfers from the IRR to the standby reserve (an eligible individual must now specifically request a transfer).

Screening and evaluation of active force and the selected reserve separations to insure that individuals with potential as mobilization assets serve out their military service obligations as members of the IRR.

Establishment of programs to encourage individuals to extend their enlistments in the IRR beyond their military service obligations.

During fiscal year 1979 we will conduct tests on programs to increase the size of the IRR. The first involves direct enlistment into the IRR. The other major test involves varying the military service obligation with the level of participation of the individual, that is, longer service for lighter service.

We are just concluding a major reserve compensation system study. The study group examined the full range of compensation elements and their proposals are currently being evaluated within the Department.

The Congress will most likely provide us authority and funds to pay enlistment bonuses, reenlistment bonuses, and educational assistance to volunteers for selected reserve duty in fiscal year 1979. We will have about $21 million for enlistment incentives and about $4 million for reenlistment incentives. These incentives will be applied to those units and skills where we need the most help and obtain the greatest payoff. We anticipate that these incentives will be of great help in raising strengths.

Without question, each of your suggestions has merit. As you can see, many are being implemented now; others are being staffed.

In sum, we are endeavoring to improve reserve readiness in the most cost-effective manner. Some will not require funding but others will. I hope you can see your way clear to helping us solve the Reserve forces manning problem.

Sincerely,

JOHN P. WHITE,
Assistant Secretary of Defense,
(Manpower, Reserve Affairs & Logistics).●

ABORTION QUESTIONS

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 5, 1978

● Mr. DORNAN. Mr. Speaker, I wish to call to the attention of my colleagues two blatant examples of misrepresentation directed at fellow House Members by the National Abortion Rights Action League and Catholics for a Free Choice. I am confident that, when a comparison is made between the amendments I am offering (see below) and the outlandish statements made by the two pro-abortion lobby groups, their shallow reasoning will be apparent to all.

We need to direct more of our public and private resources at helping women with a distressful pregnancy through their time of crisis. That is why I must insist that groups which specialize in the "alternative to abortion" area be allowed to receive title X funding without all the counseling encumbrances HEW would place on them as a precondition to being a title X grant or contract recipient. Why fault groups like Birthright or Alternatives to Abortion Inc? Why? Because they help girls through a crisis pregnancy? If these groups do not wish to get into the area of counseling, or providing sterilization and contraception, I think that is their right. Why do NARAL and Catholics for a Free Choice wish to force Birthright and like groups into a counseling situation that their experience has taught them to avoid? Really, all these so-called advocates of "free choice" are rather inconsistent.

There are over 900 Birthright and Alternative to Abortion Inc., Clinics and phone service centers located in every congressional district in the United States.

And on the question of natural family planning, there is nothing in the amendments I propose to prohibit nonabortion type methods of child spacing from continuing as they have since the inception of the program in 1970.

My amendment is directed at the anomalous situation of those groups which pioneered natural family planning methods and educational programs not being able to receive title X funding because they concentrate exclusively on natural methods of child spacing. This is much like the situation of George Washington Carver who, although he was intelligent enough to develop the peanut, had to ride in the back of a coach car on a train because he was black.

In a test being conducted under a national child health and human development grant at the Cedars-Sinai Hospital in Los Angeles, Dr. MacLyn Wade has shown some excellent results about the "method" effectiveness of natural family planning methods. In married couples seeking to avoid pregnancy, the symptothermal based method did not have a single surprise pregnancy per 100 couples per year practicing this method. In couples using the mucus method of fertility detection, three surprise pregnancies per 100 couples per year were recorded which are attributable to this method itself.

The user rates for effectiveness in the Cedars-Sinai study show a 90-percent effectiveness in couples seeking to avoid pregnancy who use the symptothermol method of child spacing. I am familiar with other nongovernmental studies which show a higher user effectiveness rate than these current tests. We hear much talk about education. Well, that is what I want to see in this area.

The Health Services Administration of HEW is now using teacher training material developed by an organization which HEW declares is ineligible for title X service delivery grants and contracts. That is the height of ingratitude. I wish to correct both this situation and the utterly false impression conveyed in the NARAL and CFFC letters. It is rather obvious that those who justify the homicide of innocent unborn children, find deliberate deception a rather easy matter.

My amendment regarding abortion and title X does nothing more than specify, in detail, what we in Congress already thought was the law.

When H.R. 12370 was before the House on September 25, 1978, under the Suspension Calendar, the measure failed on a vote of 193 to 193 largely because of the abuses which have come to light under title X—and this in spite of the excellent efforts of Mr. ROGERS (Florida) and Mr. CARTER (Kentucky). These issues need to be resolved on the House floor before we end this session next week.

The material follows:

AMENDMENTS TO H.R. 12370, AS REPORTED: OFFERED BY MR. DORNAN

Page 15, insert after line 17 the following: (C) section 1001 (a) is amended by inserting "(1)" after "operation of", and (2) by inserting before the period a comma and the following: "or (2) projects which provide counseling respecting the alternatives to abortion."

Page 15, insert after line 17 the following: (C) Section 1006 is amended by adding at the end the following new subsection: "(d) The Secretary may not deny an application for a grant or contract under this Title on the basis that the applicant does not provide abortion services, sterilization, or counseling respecting contraception."

Amendment to H.R. 12370, as reported: page 15, insert after line 17 the following:

(C) Section 1006 is amended by adding at the end the following: "No grant or contract authorized by this Title may be made or entered into with an entity which directly or indirectly provides abortion, abortion counseling, or abortion referral services."

(C) Section 1006 is amended by adding at the end the following new subsection: "(d) an application for a grant or contract under section 1001, 1002, or 1003 shall contain assurances satisfactory to the Secretary that each physician who provides services under the program or project for which the grant or contract is applied for will comply with applicable requirements of state law respect-

ing the reporting of pregnancy of an unwed minor."

Page 14, line 19, strike out "before the period a semicolon" and all that follows through line 23 and insert in lieu thereof the following "the following: '; and $136,400,000 for the fiscal year ending September 30, 1979'.".

Page 15, line 1, strike out "a semicolon" and all that follows through line 4 and insert in lieu thereof the following: "the following: '; and $3,000,000 for the fiscal year ending September 30, 1979'.".

Page 15, line 7, strike out "before the period a comma" and all that follows through line 11 and insert in lieu thereof the following: "the following: ', and $68,500,000 for the fiscal year ending September 30, 1979'.".

Page 15, line 14, strike out "before the period a semicolon" and all that follows through line 17 and insert in lieu thereof the following: "the following: '; and $600,000 for the fiscal year ending September 30, 1979'.".

CATHOLICS FOR A FREE CHOICE,
October 3, 1978, Washington, D.C.

DEAR MEMBER OF CONGRESS: Catholics for a Free Choice is writing to urge you to vote for the above bill, the Public Health Services Act, without amendments.

As Catholics who believe in the First Amendment protection to follow one's own religious beliefs when making reproductive decisions, we deplore any attempt by the government to enact laws which promote particular theological views over others and seek to eliminate or restrict access to abortion or family planning.

The increasing number of women who have abortions and seek fertility counseling witnesses the need for satisfactory, readily available and safe contraception. Title X provides for these services and allows for presentation of all options. The amendments proposed by Rep. Robert Dornan (R–Ca) would eliminate federally funded family planning programs to promote instead sectarian programs which do not offer the full range of abortion/contraceptive services that are available. This greatly hinders a woman's right to intelligently make reproductive decisions within her own moral teachings.

If we truly wish to reduce the number of abortions, we need to provide men and women with the most complete and accurate family planning information. Because Title X offers this, Catholics for a Free Choice endorses its passage without amendments which would dilute its intention or effectiveness.

Sincerely,
REV. JOSEPH F. O'ROURKE,
President.

NATIONAL ABORTION RIGHTS ACTION LEAGUE,
Washington, D.C., October 3, 1978.

DEAR REPRESENTATIVE: Each year, more than one million women choose to safely terminate unwanted pregnancies by legal abortion. One-third of these are teenagers. These shocking statistics represent a failure in our society, for it would be far better to prevent an unwanted or mistimed pregnancy. When prevention fails, these women who find themselves unwillingly pregnant need thorough and accurate counseling on all options regarding the disposition of their pregnancies. Whatever their decision, they also need contraceptive counseling so they need not repeat the experience of an unwanted pregnancy

Title X of the Public Health Services Act provides funds for family planning counseling and services. Yet at this time, when such services are so desperately needed by millions of women and families, Rep. DORNAN plans an attempt to eliminate family planning funding.

By exploiting the emotional and political impact of the abortion issue, Rep. DORNAN hopes to convince the Congress to gut federally funded family planning programs. One of his amendments specifically denies funds to any organization which provides abortion counseling, services or referral.

NARAL supports the 1973 Supreme Court decisions and the right of women to choose abortion within the Court guidelines. However, we would certainly like to see a reduction in unwanted pregnancies and thus fewer abortions. Therefore, we strongly support federally funded family planning programs, expanded contraceptive counseling, and research for safe and more effective methods of fertility control. Obviously, improved contraception will reduce the need for abortion. We are distressed to see those who oppose abortion services work equally hard against the preventive programs that would minimize the need for abortion.

Another Dornan amendment would allow Title X funds for organizations which do not even offer contraceptive counseling. Surely the only rational way of curtailing the number of abortions is to offer more and better contraceptive services and counseling, not fewer and more limited. Even the Department of Health, Education and Welfare supports funding of family planning programs and opposes any amendments to this bill.

Personal decisions in the area of family planning and contraception must remain between a woman and her physician.

Sincerely,
KAREN MULHAUSER,
Executive Director.
CAROL WERNER,
Legislative Director.●

IRS PROPOSES TO LEGISLATE

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 5, 1978

● Mr. CRANE. Mr. Speaker, the Internal Revenue Code does not contain a single provision giving the Internal Revenue Service authority to investigate and unilaterally change the tax status of private and religious schools. Nonetheless IRS proposes to do it. With the publication of a proposed revenue procedure on August 22, IRS has presumed to legislate guidelines and standards governing private school admission policies.

When I learned of this IRS incursion upon the legislative province of Congress, I sent the following letter to Commissioner Kurtz:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., September 29, 1978.

Mr. JEROME KURTZ,
IRS,
Washington, D.C.

DEAR COMMISSIONER KURTZ: The Internal Revenue Service proposed a new revenue procedure for private tax exempt schools on August 22, 1978. I strongly object to this proposal.

This new procedure would require private and religious schools to justify their enrollment policies to the IRS or forfeit their tax exemption. I am unaware of any Congressional mandate giving IRS authority to regulate student recruitment in private schools. The IRS function is to collect revenue, not regulate education. If Congress desires to expand its taxing powers to cover charitable institutions which have been traditionally exempt, it will do so by law. Sweeping changes of this nature should not occur by unilateral agency action. Moreover IRS should seriously reconsider any action primarily related to education policies and only indirectly related to tax gathering.

I am not sympathetic in the slightest with discrimination on the basis of race. Therefore I have no sympathy for the recruitment guidelines proposed by IRS. The guidelines require a school to establish a racial recruitment quota. Thus IRS would favor one citizen over another. In other words, IRS would promote the discrimination it seeks to destroy.

Enclosed is an editorial from the Washington Star, August 28, 1978, with which I wholeheartedly agree. In light of the considerable impact of these regulations, I respectfully encourage you to postpone any final action on the proposal until Congress has an opportunity to address the question. As adjournment approaches, I fear that these regulations could become final before Congress has an opportunity to review this issue. Changing the tax status of private and religious schools should be a Congressional decision, not an agency regulation.

Cordially,
PHILIP M. CRANE, M.C.

TAXING PRIVATE SCHOOLS

The power to tax, observed Chief Justice John Marshall on a celebrated occasion, "involves the power to destroy." Destruction, not to mince words, is what the Internal Revenue Service seems to have in mind for the "segregation academies" that flourish wherever public school integration takes hold.

There are an estimated 3,500 such schools, most but not all in the South. They are the primary target of a new "revenue procedure" which the IRS Exempt Organization Division is establishing. Unless these schools significantly expand minority enrollments, or satisfactorily establish their willingness to do so, tax exemption will be denied.

These schools have not found favor with the courts, nor with public opinion. And insofar as their educational aims take a back seat to racial exclusionism, IRS designs on their financial underpinnings are unlikely to be lamented. If the matter went no further, the impending knock of federal tax gatherers at their doors would draw little attention.

But as usual, the pursuit of enlightened social policy by a powerful federal agency raises larger questions.

The rationale of the new IRS rules for private schools is that tax exemption reflects more than a decision by government to ignore what is none of its business; it bestows a positive benefit. Where once it was felt that tax exemption—not only of schools but of churches, museums and other charitable institutions—reflected the view that certain realms of private discretion can and should flourish without government hindrance, there is an increasing tendency to regard tax exemption as a privilege—a privilege to be enjoyed on the government's terms even if taxation was never before contemplated.

So considering, the IRS has cast a jaundiced eye not only at the "segregation academies," but on all private schools, regardless of age or origin. The proposed rules imply that they must conform to notions of social good proclaimed in Washington, not just as to race but as to other matters.

It isn't easy to imagine just where new lines will be drawn, once the old ones are breached. There are many sorts of tax-exempt institutions against which charges of discrimination could be lodged. Some art museums and churches, not to speak of certain clubs, do not conform to exacting notions of social or racial democracy.

Bureaucrats always disavow the logical extremes to which their initial aggressions point. But one year's extreme becomes next year's policy. The IRS is conceding, in theory,

that minority student enrollment is not necessarily the only test of good faith. But a subtle shift of the burden of proof is taking place. There is a vast difference between allowing private institutions the unchallenged right to set rules and practices that couldn't be sustained if they were direct recipients of federal funds, and the new assumption that those rules and practices may exist only at official sufferance and must be justified to IRS inspectors.

Here is a vast engine for the expansion of government power—the assumption that, whatever private activity the IRS now does not tax, it, in effect, *refrains* from taxing.

Thus the IRS "revenue procedure" for private schools, designed to make trouble for practices no one defends in principle, extends the taxing power to erode another realm of private choice and conduct: choice and conduct which, however deplorable or wrongheaded some may think it, once went unchallenged.

"The right to be wrong" used to be considered an important right. It involved not only the freedom to *say* or *think* what did not meet with majority approval, but also freedom to associate, even study, in settings disapproved by a majority.

No longer, it appears. If the IRS has its way in using the tax weapon on private schools, you can bid the latter assumption farewell. And prepare for the next stage of IRS imperialism, too.

By making this proposal, the IRS has reasoned that a tax exemption is Federal assistance. Hence, the Federal assistance gives the Federal Government authority to regulate. In the first place, as I have stated before, this reasoning should only come from Congress. Only Congress can say if it intended to subject private schools to Federal regulation by granting them a tax exemption. But even if we were to accept the IRS reasoning that a tax exemption is Federal financial assistance, IRS would be advocating a policy violative of section 601 of the Civil Rights Act of 1964. Section 601 provides that "No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance." These proposed IRS guidelines would set racial quotas. Just months after Bakke won admission to the University of California, IRS wants to launch a program of Government discrimination. I oppose discrimination on the basis of race in any form.

History has taught me that the greatest atrocities are often performed in the name of the greatest virtues. IRS wants to prevent one citizen from being favored over another in educational opportunity—a great virtue. But these proposals usurp the legislative function of Congress, expand IRS authority beyond tax gathering, and promote the very discrimination they hope to destroy. Consequently I am introducing today a bill which will prevent IRS from adopting any regulation governing private and religious school admission policies until 1981. This will give Congress the time to consider this question if it wishes to review these tax exemptions at all:

A bill to provide that the Internal Revenue Service may not implement certain proposed rules relating to the determination of whether private schools have discriminatory policies

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) during the period beginning on the date of the enactment of this Act and ending on December 31, 1980, the Secretary of the Treasury or his delegate shall not issue—

(1) in final form the proposed revenue procedure described in subsection (b), and

(2) in proposed or final form any regulation, revenue procedure, revenue ruling, or other guidelines which set forth rules substantially similar to the rules set forth in the proposed revenue procedure described in subsection (b).

(b) For purposes of subsection (a), the proposed revenue procedure described in this subsection is the proposed revenue procedure which was published in the Federal Register of August 22, 1978, and which sets forth guidelines to be used in determining whether educational institutions claiming tax exemption under section 501(c)(3) of the Internal Revenue Code of 1954 are operating on a racially nondiscriminatory basis.●

IN THE CASE OF ALEXANDER YAKIR WHO IS DETAINED IN RUSSIA

HON. WILLIS D. GRADISON, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 5, 1978

● Mr. GRADISON. Mr. Speaker, I am pleased to join in the "Vigil for Freedom" sponsored by the Union of Councils for Soviet Jewry on behalf of Soviet Jewish families and individuals who are being detained in the U.S.S.R. as a result of the Soviet Government's repressive emigration policies.

Despite its signature of the Helsinki Accords of 1973, in which the 35 signatory nations committed themselves to pursue policies consistent with basic principles of human rights, the Soviet Government has repeatedly disregarded these principles, including the reunification of divided families whose members live in different countries, religious freedom, minority rights, and free travel between countries.

Today, I bring to my colleagues' attention the plight of Alexander Yakir of Moscow. For over 40 years, Alexander's family has suffered at the hands of repressive Soviet regimes. In 1938, his grandfather, a Soviet Air Force general, was executed during the Stalin purges; his grandmother was exiled to Siberia that same year.

In 1973, Alexander and his parents, Reema and Yevgeny Yakir, applied for exit visas. They were refused on the basis of Yevgeny's secret classification as a mechanical engineer, although his job was entirely routine. He was promptly fired from his job; now he provides for his family with the pittance he receives for technical translations.

In 1976, Alexander reluctantly applied for a visa for himself. He did not wish to leave his parents behind, but his fiancee lives in Israel, and he wished to be reunited with her. He was refused a visa on the incredible grounds that "The U.S.S.R. does not split families."

Now, despite the fact that Alexander applied for permission to emigrate with his parents 4 years ago, the Soviet Government is trying to draft him. If the recruitment is finalized, it means that Alexander will probably have to wait 7 years before his application will be considered again as the Soviet authorities have invariably detained ex-soldiers for at least 5 more years after their 2 years of active service. Thus far, Alexander has steadfastedly refused to answer to the draft. Since he has not gone into hiding, his freedom and possibly his life are in danger.

For three generations the Yakir family has been victimized by the Soviets. It is my hope that another vigil for freedom will not be necessary before Alexander will be permitted to emigrate so that his children may escape the tragic legacy of the Yakirs.●

U.S. AID CUTOFF A MAJOR BOOST FOR NICARAGUAN REDS

HON. ELDON RUDD

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 5, 1978

● Mr. RUDD. Mr. Speaker, an incisive commentary on the efforts of some Carter administration officials to undercut anti-Communist, pro-U.S. governments of Latin America has been written by the knowledgeable columnist Robert D. Heinl, Jr.

Mr. Heinl reports that:

In the name of "human rights," a small but arrogant group of radical policymakers has been sabotaging the security of the Western Hemisphere and going full bore to deliver Nicaragua to the avowed Marxists who are trying to pull down Somoza.

I believe that it is important for Members of Congress and the American people to know who these "radical policymakers" are. To that end, I would like to include the Heinl column at this point in the RECORD:

[From Human Events, Oct. 7, 1978]

U.S. AID CUTOFF A MAJOR BOOST FOR NICARAGUAN REDS

(By Col. Robert D. Heinl, Jr.)

If Nicaraguan President Anastasio Somoza Debayle manages to pull his beleaguered government through its present bad patch, it won't be because the Carter State Department has been giving him any help.

Somoza, a 1946 West Point graduate and unswerving friend of the United States in Central America, has been under originally intermittent attack by Cuban-paid and Cuban-trained Marxist terrorists since 1967 and, now incessantly, by the same forces since 1974.

During the past 18 months of a Carter Administration whose national security and foreign policies are made by McGovernite pacifists and leftists, Somoza and his nation have also been under attack from Foggy Bottom corridors.

In the name of "human rights," a small but arrogant group of radical policymakers has been sabotaging the security of the Western Hemisphere and going full bore to deliver Nicaragua to the avowed Marxists who are trying to pull down Somoza.

Heading this effort are Robert Pastor of

the National Security Council staff, a former employe of the Linowitz Commission which played a central role in giving away the Panama Canal; ex-missionary Brady Tyson of Ambassador Young's staff, who was expelled from Brazil in 1966 after denouncing the Brazilian government as "a front for U.S. foreign policy," which he has consistently opposed and undercut; Mark Schneider, formerly on Sen. Kennedy's staff, now in the State Department's human rights bureaucracy and, like Pastor, previously involved in projects of the far-left Washington Institute for Policy Studies; and, most of all, Assistant Secretary of State Pat Derian, the former Mississippi activist who has been mouthing anti-Somoza statements amid equally damaging blasts at the once-friendly governments of Brazil and Argentina.

The Nicaraguan situation at present is as follows:

The rightist Somoza dynasty, which dates from the 1930s, is under heavy pressure, from sanctuaries in Honduras and Costa Rica, by Nicaraguan-Cuban guerrilla bands calling themselves the FSLN (*Frente Sandinista de Liberación Nacional*), commonly referred to as the Sandinistas.

The Sandinistas are instruments of Fidel Castro. Within 72 hours of their release from prison in return for hostages seized in the Sandinistas' capture of the National Palace on Managua in August, 22 ex-prisoners, accompanied by members of the terrorist raiding party, received heroes' welcomes in Havana.

"Commandante Zero" (Eden Pastora-Gomez), who led the raid and has an 18-year police pedigree, including murder and a litany of terrorist crimes in Central America, was hailed with equal warmth by Panama's pro-Castro, anti-U.S. strongman, Gen. Omar Torrijos Herrera, when he landed at Panama from Managua.

When, in 1954, Communists attempted to take over Guatemala, President Eisenhower reacted promptly to halt the attempted coup; when, in 1963, Castro-backed insurgents tried to topple the government of Venezuela, President Kennedy successfully responded with vigorous, large-scale U.S. aid; when in Bolivia in 1967, Che Guevara arrived to pull down the government, President Johnson sent in the Green Berets to train and organize the counterinsurgency forces that defeated the guerrillas and ultimately killed Guevara.

By contrast, the Carter Administration's response to Nicaragua's ordeal has been to encourage Somoza's assailants.

Nicaragua desperately needs ammunition, spare parts and arms for its U.S.-equipped 7,100-man Guardia Nacional, yet the Administration is denying it the right to buy $3.1 million in light arms authorized by Congress. In the forthcoming annual military assistance bill, the White House has refused to include Nicaragua even as an approved cash purchaser for U.S. military gear.

Fortunately, if ironically, France, Israel and Spain are now selling Somoza weapons he would like to acquire, as Nicaragua has for a half-century, from the United States.

Despite its grave emergency, the Somoza government is even being prevented from declaring a state of martial law on the threat of further U.S. wrath.

There seems to be little doubt that, unless brought to heel, the human rights crew will wreck the carefully wrought inter-American system created by Franklin Roosevelt and Sumner Welles, his brilliant under secretary of state.

Nicaragua seems to head the Administration's hit list, but Argentina and Brazil, let alone Chile, aren't far behind.

A probably accurate forecast recently came from Ambassador Young, speaking in the Dominican Republic when he represented the United States at the inauguration of President Guzmán.

Said Young: "There's going to be a wave of new governments throughout Latin America."

Shortly before, on August 17, Young told a group of U.S. Peace Corps volunteers in Santo Domingo, "There are 20,000 Cubans in Angola doing the same thing the Peace Corps is doing."

HUMAN RIGHTS, ABORTION AND THE LAW

HON. TRENT LOTT

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 5, 1978

● Mr. LOTT. Mr. Speaker, I want to share with my colleagues a paper recently published in "Philosophic Research and Analysis" that was written by one of my constituents, Paul W. Sharkey, Ph. D. Dr. Sharkey is a member of the faculty of the Department of Philosophy and Religion, University of Southern Mississippi. Since the issue of abortion, as well as related matters, will continue to confront us here in the Congress, I think that the observations made by Dr. Sharkey in "human rights, abortion and the law" are particularly noteworthy.

[From Philosophic Research and Analysis, Vol. VII, No. 1, Spring 1978]

HUMAN RIGHTS, ABORTION AND THE LAW

(By Paul W. Sharkey, Ph. D., University of Southern Mississippi)

The problem of abortion is hardly one unique to our age. As an issue of medical ethics it is as old as medicine itself—the Hippocratic Oath required of all physicians that they "give no deadly medicine to anyone if asked, nor suggest any such counsel; and in like manner will not give to any woman a pessary to produce abortion." As a legal and social issue it has recurred in every age. Under the common law, it was a crime to operate upon a pregnant woman for the purpose of procuring an abortion if she was actually quick with child. And, as recently as a decade ago it was almost universally prohibited under state laws except to save the mother's life.

Abortion gained constitutional importance with the 1973 Supreme Court decision in *Roe vs. Wade* as expressed by Justice Blackmun, the Court held that "the right of personal privacy included the abortion decision [but this right] must be considered against important state interests in regulation" which include protection of maternal health, medical standards, and prenatal life. The Court thus interpreted the conflict of interest relating to abortion as involving only three rights—(1) the pregnant woman's right to privacy (2) The State's right to protect the health of the pregnant woman and (3) the State's right to protect the potential human life of the fetus.

In delineating the scope of these rights, Justice Blackmun declared that:

"With respect to the State's important and legitimate interest in the health of the mother, the compelling point, in the light of *present medical knowledge* is at approximately the end of the first trimester . . . This means, . . . that for the period of pregnancy prior to this compelling point, the attending physician, in consultation with his patient, is free to determine, without regulation by the state, that in his medical judgment the patient's pregnancy should be terminated. If that decision is reached, the judgment may be effectuated by an abortion free from interference by the State."

On the other hand:

"With respect to the State's important and legitimate interest in potential life, the compelling point is at viability. Thus is so because the fetus then presumably has the capability of meaningful life outside the mother's womb. State regulative protection of fetal life after viability thus has both logical and biological justifications. If the state is interested in protecting fetal life after viability, it may go so far as to proscribe abortion during that period except when it is necessary to preserve the life or health of the mother."

The basic presuppositions here are that there are no possible conflicts of rights from the beginning of conception itself, and that on the basis of present medical technology the period of pregnancy can be divided among those rights recognized as legitimate so that they will not conflict with one another. I intend to show that both of these presuppositions are false.

An important thing to note is that until the decision in *Roe* v. *Wade*, abortion had not been given the status of a human right—the right to have an abortion. What had once been prohibited, or at least discouraged, is now claimed as a right. Justice White, in his dissenting opinion argued that the majority opinion in this case amounted to the claim that

"During the period prior to the time the fetus becomes viable, the Constitution of the United States values the convenience, whim or caprice of the putative mother more than the life or potential life of the fetus; the Constitution, therefore, guarantees the right to an abortion as against any State law or policy seeking to protect the fetus from an abortion not prompted by more compelling reasons of the mother."

Unfortunately, the legal issues surrounding the problem of abortion are not as clear or simple as the differences between black and white, or in this case, between Blackmun and White. For, while Justice White's arguments point out possible abuses of a liberal abortion law, his critique may also tend toward denial of rights claims on the part of the pregnant woman. On the other hand, Justice Blackmun's arguments seem to deny as legitimate any rights claims made on behalf of the life of the unborn fetus. The implications of this latter position reach much further than the controversial issue of "fetal right to life", extending as well to all those who may claim a right to protect fetal life.

The effect of the Court's ruling was to divide the period of pregnancy into three equal parts, giving to each right an equal portion—to the right of personal privacy goes the first three months, to the state's right to protect the health of the pregnant woman goes the second three months, and finally, to the state's right to protect viable fetal life goes the last three months. It is as though like Solomon, the Court proposed to divide the period of fetal development equally among all those who presented a claim. The unfortunate thing is that, unlike Solomon, the Court actually followed through on its proposal seeing no absurdity in such a solution. In so doing they ignored many of the important and traditional problems surrounding abortion and too simplistically interpreted the nature of the conflicts involved.

The decision in *Roe* v. *Wade* was based upon the supposition that conflicts of rights may occur at some point in time after conception, at various stages in the pregnancy, but are not present from its beginning. This supposition seems entirely arbitrary in that it ignores and automatically excludes the possibility that there may be possible conflicts of rights deriving from the nature of conception itself. For besides the mother and the fetus, there is at least the father who

seems to have a *prima facie* claim to the rights and responsibilities of conception; yet the decision had the effect of nullifying without consideration all rights claims associated with conception except that of the privacy of the mother.

The Court's position is too simplistic and it is not consistent with other fundamental principles of law and medicine. Conception is both medically (biologically) and legally (politico-socially) complex, involving as it does the interaction of two human beings with certain rights, privileges and responsibilities in the creation of a third.

To think that the only concern the law has in conception is that of the privacy of the pregnant female is to ignore a plethora of laws ranging from those attempting to regulate who shall conceive and under what circumstances to those which attempt to establish responsibility for conceptions. Under the first heading are the various issues relating to marriage laws with restrictions and regulations involving age, consent, health, mental and emotional maturity, kinship and sometimes even citizenship, residency or a mandatory waiting period, as well as laws dealing with incest, adultery and prostitution. Under the second heading are various issues relating to laws concerning rape, statutory rape, responsibility for pregnancies conceived between minors, paternity, marriages at common law, and laws relating to the disposition of children produced by unwanted pregnancies—e.g. prohibitions against selling them, adoption laws and heretofore, laws restricting abortions. To cite privacy as the only legitimate concern the law has in conception is to ignore the fact that conception, or the possibility thereof, is related in one way or another to all of these other legal issues. The fact of the matter is that the law has not, and does not consider conception to be a wholly private affair.

Though privacy is indeed a right which is involved in conception it is not the only such right and, therefore, conflicts of rights may arise as a result of conception itself and not merely as a result of factors which come into play later in pregnancy. Let us consider for example, an issue related to just one of the legally sanctioned responsibilities mentioned above—that of paternity. Paternity is *essentially* concerned with responsibilities asserted to derive from conception itself. A suit for paternity is precisely one which alledges *responsibility for conception* and is based upon the supposition that the responsibility is inherent in the nature of conception itself. With rights usually go responsibilities and *vice versa*. It is therefore not unreasonable to assume that if there is a responsibility of paternity there is also a corresponding right of paternity and that it is possible for that right to come into conflict with the pregnant female's right to privacy.

On the one hand, the law holds that a woman may obtain an abortion through private consultation with her physician, free from legal interference as long as it is performed within the first three months of pregnancy. On the other hand, it holds that she may sue the alleged father for paternity in order to establish responsibility for the conception, her care during pregnancy, and paternal care of the progeny. Taken together, the present positions on abortion and paternity imply that the father has responsibilities of paternity, but not rights. It can be argued, however, that if a father may be sued for the responsibilities of paternity, then he ought also be permitted to protect his *rights* or paternity; that is, he ought to have the right to protect his progency from abortion, if he so desires. But this interest, or right, of the father has not been recognized by the Court. If the time-honored belief that rights have corresponding responsibilities, *et vice-versa*, is accepted then this is clearly inconsistent. But even if that belief was not accepted an inconsistency still persists. For, this implies that while a male has legal responsibilities but not rights relating to conception, the female has rights but not responsibilities. This is not consistent with the now much championed equal rights laws. If a female has the right to sue for the protection, care and welfare of her pogency then, in the interest of equal rights, males should have that right also. To hold otherwise is to sanction sex discrimination.

The real possibility of a father's interests being violated under the present laws on abortion can be illustrated by the following not too hypothetical example.

Consider a situation in which a man and woman have conceived. Both want the child at first, but later she decides that she does not (perhaps to punish her mate): She consults her physician, privately obtains an abortion and the father neither knows nor can do anything about it. The Court's more recent ruling in *Planned Parenthood of Missouri vs. Danforth* intensifies the problem further, for it raises possible questions about the responsibility of a father to support his children even within a legitimate marriage. For if it is held that a husband has no right to be consulted concerning a decision to have an abortion, i.e., as to whether or not he will *be* a father, then how can he justifiably be held to the responsibilities of fatherhood? Could a husband demand that his wife have an abortion and refuse to support the child if she does not? If not, then a husband has absolutely no right—or freedom—concerning whether or not he will be required to accept the responsibilities of a child he may not want and which conceivably (forgive the pun) may not be his.

This situation raises the same question of equal rights mentioned above. For through her right to the sole determination of whether or not to have an abortion, a female is absolutely free to reject the responsibilities of an unwanted child, of which there is no doubt that she is the mother, yet the male has no such right and may even be required to accept responsibilities for an unwanted child which is possibly not his. To be just and consistent, either a male must have the right to be involved in the decision of whether or not to have a child and therefore has responsibilities for the support of the child, or he does not have the right to be involved in that decision and therefore does not have responsibilities related to it. To hold otherwise is to seriously damage the traditionally held relation between right and responsibility and to legally institutionalize a double standard favoring females, apparently in violation of the principle of equal rights. Without states having the right to restrict abortions even in the trimester (to at least those which have paternal consultation) the conflict will persist. But this is precisely the prohibition the Court has placed on states. To be consistent the law can either accept its present position on suits for paternity and abortion, but then reject equal rights, or it can accept equal rights and paternity but reject unrestricted abortion, or it can accept equal rights and unrestricted abortion and reject suits for paternity; but, all three cannot be embraced consistently.

An objection has been repeatedly brought to my attention that if a woman does not have an absolute right to an abortion then she may be required to endure the pains and hardships of pregnancy entirely against her will. Much could be and has been said in answer to such an objection. My only concern, however, is to show that it does not necessarily obviate a man's claim to the protection of his pregnancy.

Besides being simplistic in its evaluation of the legal issues relating to abortion, the court was also shortsighted in its evaluation of the limits of medical technology relating to gestation. Experiments conducted in 1975 by three Texas medical researchers have shown that it is possible to transplant an embryo in the earliest stages of development from the conceiving female to a recipient mother and have it survive to be born and grow into a normal individual. This would not only make it possible for a female to be freed of her pregnancy if she so desired, but would also allow for paternal protection of the progency.

Admittedly, this new technique may not presently be practical. However, the point is that the Court has not even recognized the possibility of a father's interest in the protection of his progency. Even if this or other techniques were perfected so as to make it medically practical for a father to secure protection of his unborn progency, the law does not recognize his right to do so. And, the reality of such new medical techniques only serves to intensify the inconsistency already pointed out above.

There are, I believe, many other legal and medical inconsistencies that arise as the result of the Court's recent abortion rulings. For example, a similar argument to that above could be constructed concerning the rights and responsibilities of parents in relation to a minor daughter who legally obtains an abortion without their permission, or inconsistencies in the medical treatment of minors, or inconsistencies in the legally accepted medical criteria for the determination of life and death. A complete discussion of each of these, however, would carry us far beyond the alloted scope of the present paper. For now, it is sufficient to have shown that the Court's rulings on abortion are not adequate, because inconsistent, and should be modified if for no other reason than to achieve consistency in some of our most fundamental concepts of law and justice. If I have succeeded in doing this, then I shall have done enough for the present.●

THE MIDEAST MEETS THE MIDWEST

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 5, 1978

o Mr. STOKES. Mr. Speaker, recently, King Khalid of Saudi Arabia traveled to Cleveland, Ohio, to undergo major heart surgery at the Cleveland Clinic. From all accounts, Mr. Speaker, Cleveland may never be quite the same. The King's entourage, more than 200 strong, has taken the city by storm. It has been reported that the Saudi's generous spending habits have elated local merchants and hotel owners.

Washington Post reporter Rudy Maxa has chronicled this exceptional visit with a rather amusing story on some of the more lucrative East/East transactions. Mr. Speaker, for the enjoyment of my colleagues in the House, I would like to bring the October 4, 1978, article to the attention of my colleagues. I also extend my best wishes to the King for a speedy recovery and a safe return trip to his country.

The article follows:

SAUDI FEVER GRIPS CLEVELAND—THE KING'S HOSPITAL STAY IS A BIG BUCKS BONANZA

(By Rudy Maxa)

CLEVELAND.—A few blocks from the medical clinic where Saudi Arabia's King Khalid underwent heart surgery yesterday is PJ's Auto Wash. A new portable sign in front bills the place as "The King's Car Wash."

"I told the king's staff to 'just consider this your car wash,'" boasts Vince Capello, part-owner of the place where limousines leased by the king and his entourage of over

200 are washed free, thanks to a grateful Capello who says he's delighted his highness is in Cleveland.

Capello isn't alone. Hotel bellboys who find themselves holding $100 bills as tips are happy that the king and his friends are in town. So are wealthy suburbanites who have wanted to rent their houses to the royal family ever since news leaked that a Cleveland Heights home was to be leased for $20,000 a month. (Media attention soon killed the deal.)

Suddenly Cleveland is, in effect, the unofficial capital of Saudi Arabia, and the city is in the grips of Saudi fever. Arabs dressed in Western suits, paying for goods and services in cash, have rented all available limousines, imported several more from Washington, and reserved entire floors of hotels.

The king arrived in Cleveland by private jet last Wednesday for cardiovascular tests at the renowned Cleveland Clinic. He was greeted by Chip Carter. Mayor Dennis Kucinich and his wife were in Washington appearing before the National Press Club, so they could not fulfill a Saudi request to take the queen and 19 children on a tour of the city shortly after the king's arrival.

The king returned to the clinic where he underwent heart surgery in 1972 in a limousine sent to Cleveland by the White House. As he walked toward the hospital door, the king smiled and waved to several hundred spectators, then disappeared inside a wing of 30 rooms—sealed off exclusively for his use and redecorated for his arrival. That was the last the press and public saw of him.

A Camp David-like curtain of secrecy fell over the Arab presence. The hospital is forbidden to say anything about its famous patient, his family and lieutenants refuse to speak to the press, and employes at various hotels housing the royal retinue say nothing to strangers.

As a result, rumors flourish. On Monday the hospital administration finally prevailed on the Saudis to release a statement in response to an erroneous news story claiming the king was about to undergo coronary bypass surgery. After much negotiation, the hospital press office was permitted to issue a two-sentence denial.

The impact of the Saudi presence is visible in the money and logistics of housing a head of state:

In the Park Plaza Hotel, adjacent to the Cleveland Clinic, the Saudis have 81 rooms reserved at a nightly cost of $3,115. Most are about $43 each, but Prince Abdullah Bin Galewy's suite is $225 a day, which makes Princess Al-Anoud's $150-a-day suite seem like a bargain.

The newsstand of the Bond Court Hotel—one of four hotels in which the Saudis have set up camp—offers a modest display of Pierre Cardin jewelry. One day an Arab bought $1,600 worth of the stuff, almost depleting the store's stock.

A bellboy at the Bond Court showed his colleagues a tip he'd received. The 300 Swiss franc note was worth more than he'd ever expected: about $180. Since bellboys agree to share large tips, he was dismayed.

The king's chefs work with the regular kitchen staffs of the hotels, helping to prepare Arab dishes. Coffee shop menus, printed in Arabic, offer chickpea dip and lamb dishes. Their hours have been extended to accommodate the Arab custom of late dinners. Room service charges are considerable, with $50 baskets of fruit ranking as a favorite snack.

An armored car arrives at the hotels each week to pay the king's staff in cash. Mayor Kucinich says he understands that the king keeps a stack of $500 bills near his bedside for dispersal to aides as needed.

In the wealthy hunt country southeast of the city, homeowners are calling real estate brokers to offer their homes for rent.

"I don't care where I go—I'll move to a Hilton," said one homeowner who saw quick profit in the Saudi's willingness to pay big bucks for short-term luxury rentals.

One of Cleveland's premiere estates, Roundwood Manor in Hunting Valley, reportedly was offered to the Saudi's at no charge by its owner, Joseph F. Hrudka, a gasket company mogul. They appear to have accepted the offer. Once owned by the Stouffer family and later by the Fazio grocery chain family, the Georgian home sits on a hill in an exclusive residential neighborhood.

Two days ago a decorator was working to furnish the house. A limousine was parked outside, and Saudi staffers worked inside. Two new 10-speed bikes, their price tags still attached, stood at the front door. Two Western Union trucks, whose drivers were presumably installing telex facilities, were parked outside.

Secret Service agents asked Ohio Bell officials not to reveal the nature of the communication systems the Saudis enjoy, but at least two direct lines link Cleveland with Washington. Rumors of direct links to Saudi Arabia and Geneva (where the king met with Egyptian leaders prior to his arrival in Cleveland) could not be confirmed.

Other secrets include the exact medical condition of the king, though after last night's double coronary bypass operation, the hospital said his condition was "satisfactory." No one knows how long he intends to stay in Cleveland, and just who is with him during his stay. Each day one of his princes, the country's defense minister, visits the king in the afternoon and evening. Like most of the other royalty, the prince tends to stay inside praying (five times a day as Muslim law dictates), reading and chatting with his aides.

A list of reservations at one hotel reveals a number of chefs, military aides, physicians and the Saudi financier who helped bail Carter intimate Bert Lance out of his financial difficulties.

At the Park Plaza, there is a suite reserved in the name of Ghaith Bashad Pharaon, a 37-year-old cigar-puffing Harvard Business School graduate. He purchased Lance's stock in the National Bank of Georgia for $2.4 million. The name of his father, court physician and formerly doctor to the late King Faisal, is also on the list of reservations at the hotel.

Each day businessmen from the Cleveland area arrive at the hotels where the Saudis are headquartered to leave their business cards. Reportedly, the hotel managers generally throw them away.

Except for salesclerks, about the only Middle West natives who have met the Middle East visitors are bar patrons. Despite a Muslim rule against drinking, some of the Saudi aides are surprisingly open about moderate drinking.

Said one security chief as he drank a Heineken: "I believe all things come from our God. And in the Bible it says not to do anything to excess, does it not?" But he acknowledged that he would never drink in Saudi Arabia for fear of a jail sentence.

One young Saudi Arabian, an interpreter, made no secret of his dislike of Cleveland. Nursing a late Sunday afternoon brandy at the Bond Court Hotel bar, he flirted with an airline stewardess, ignoring the Cleveland Browns game on the widescreen television as he lamented the fact he wasn't still in Geneva.

His left eyebrow arched skeptically when the stewardess asked if he'd visited any discos in town. He dismissed the idea with a snort, his thick, handsome lip curling into a sneer.

As he prepared to leave for a nap he became charming, teasing the stewardess: If you come to Saudi Arabia with me, he said, I'll make you my second wife. But, she protested, you wouldn't spend any time with me. "The entire first week," he promised.

More practically, he suggested that his limousine pick her up at her home the next day for a grand shopping spree. He slid his hand around her neck, cradling her head, his almond eyes gazing into hers. She demurred, but finally agreed to consider a date later in the week.

The Saudi smiled and reached into his pocket to pay the bar tab. From a roll of cash, his tapered, manicured fingers gently peeled a $100 bill; it was new money, and the first hundred stuck to the others.●

BALANCES OF POWER BOOK III K: SOUTH AMERICA

HON. JOHN B. BRECKINRIDGE

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 5, 1978

● Mr. BRECKINRIDGE. Mr. Speaker, we now complete the global circle which has been followed by this balance of power series on the regional balance, turning our attention finally to South America.

Although instability in some Latin American countries continues to be fed by insurgent groups who may have international ties, the strength of the armed forces of these countries is only slightly affected. Because an armed challenge to the authority of any country on the South American continent is a remote possibility, the United States is primarily concerned about the ability of our allies to the South to defend our mutual interests in adjacent waters—particularly in the south Atlantic, where vital sea lines of communication extend. The need for effective South American navies will grow as the impact of new 200-mile exclusive economic zones are felt in that region.

The following article shows that despite the potential value of increased U.S. cooperation and assistance in enhancing naval capabilities to better insure successful operations in the south Atlantic when demanded, such opportunities are being lost. As a result, and not unlike the situations previously described in other regions, the regional balance of forces is being permitted to deteriorate not simply by the growth of opposing forces, but by the neglect of our own and that of their supporters.

This article, entitled "South American Navies: Who Needs Them?" is by Robert L. Scheina and first appeared in the U.S. Naval Institute Proceedings in February 1978.

The article follows:

SOUTH AMERICAN NAVIES: WHO NEEDS THEM?

(By Robert L. Scheina)

Latin Americans have sensed a changing attitude in U.S. policy toward providing material assistance to their navies. They believe that should this attitude continue, the culmination will be the complete loss of aid.

Since the early 19th century, the United States has played a dominant role in formulating the international policies of the Western Hemisphere. Regardless of how benevolent U.S. policy may have been, this country generally sought neither the advice nor the consent of its Latin American neighbors. The manifestation of this policy, as it concerns the hemisphere, has been the Monroe Doctrine and its corollaries. The major Latin American nations have viewed this doctrine

as a challenge to their sovereignty, but they have also used it as a shield. In 1913, Chilean diplomat Marcial Martinez de Ferrari expressed the utopian view: "My opinion is that the Monroe Doctrine . . . is an obsolete document, and to consider it as in force is a striking anachronism." [1] However, the Dominican Republic landings of 1965 proved that the Monroe Doctrine is alive and is a reality.

As the major power within the hemisphere, the United States dominates cooperative military ventures. Years ago, the United States initiated a major intra-American naval exercise—UNITAS.[2] The origins of this word are as obscure as the promulgating documentation for the exercises. Since the first exercise in 1960, a U.S. task force, usually consisting of a few destroyer types, some aircraft, and a submarine, annually circumnavigates the South American continent, exercising Latin American naval units in combined antisubmarine exercises. (Antiair warfare and antisurface warfare now constitute about 30 percent of these exercises.) Although the objective of these exercises is not exclusively for training in antisubmarine warfare, this mission does dominate the exercise activity and appears to fulfill the needs of the United States far more than those of our southern allies.[3] This domination of international and hemispheric naval affairs should obligate the United States to support Latin American navies, particularly in antisubmarine warfare—the aspect of naval warfare that we have concluded would best support the needs of the Free World.

PAST TRENDS

From the time of independence in the early part of the 19th century until World War II, Latin American navies purchased modern, sophisticated naval hardware. Often, these navies were so shrewd in negotiating contracts that their acquisitions excited the envy of contemporary superpowers. Latin American navies have possessed trend-setting ships. The Mexican warship *Montezuma* of 1842 was the world's first iron-hulled steam frigate. The Brazilian *Riachuelo* of 1883 has been cited as the model for the first U.S. battleship, *Texas*. The superiority of Brazilian dreadnoughts *Minas Gerais* and *Sao Paulo* was such that, in 1909, rumors circulated that Brazil was acting as an agent for one of the superpowers, for it had no need for such powerful ships.[4] The technology that was demanded by Latin American navies was exemplified by Argentina's negotiations for dreadnoughts *Rivadavia* and *Moreno*. In 1908, Argentina sought bids for the construction of these two ships and numerous minor ones. Fifteen companies representing France, Germany, Great Britain, Italy, and the United States responded. An Argentine commission reviewed these initial submissions, selected the best features from each, and then sent revised guidelines to the competing firms. This process was repeated a second and a third time. The competitors were furious and considered this a looting of their trade secrets. Professor John H. Biles, a noted British naval architect, bitterly wrote:

No shipbuilder in this country can separate the knowledge which he acquires in the building of ships for the British Admiralty from the rest of his knowledge. We may assume that the British battleships embody good ideas and good practice—in all probability the very best. These cannot fail, in a greater or less degree, to become part of the designs which the British shipbuilder first submits to the Argentine Government. In the second inquiry it may be presumed that everything that was good in the first proposals had been seized upon by the Argentine authorities and asked for in the new design. This second request went not only to British builders but to all the builders of the world, and in this way it is exceedingly probable that a serious leakage of ideas and practice of our ships was disseminated through the world by the Argentine Government. The British builders, in replying to this second inquiry, would, in all probability point out that some of the things are impracticable, or have been tried and found undesirable in the British Navy, and the Argentine authorities would be informed on additional matters which have come under the builders' knowledge by their acquaintance with British practice. The third inquiry that was issued showed to all the builders of the world what has been eliminated or modified in the second inquiry; and so the process of leakage went merrily on, and with it that of the education of foreign builders and the Argentina Government.[5]

Professor Biles failed to acknowledge that in 1910 it was a buyer's market, and the Argentines drove a hard bargain. Latin American acquisitions were usually equal or superior to their contemporaries in the navies of the major powers. A U.S. magazine called *The Navy* published a detailed comparison between U.S. (USS *Arkansas* and USS *Wyoming*) and Argentine (the *Rivadavia* and the *Moreno*) battleships under construction in the United States and concluded, "It is patent that the Argentine designs—on the whole—are greatly superior to those of the latest vessels building for the United States." [6] Combatants built for Latin American navies during this first century of independence were technologically equal to their European, Japanese, and North American contemporaries.

Prior to World War II, numerous competing nations shared in the sale of naval armaments to Latin America. Great Britain sold dreadnoughts to Brazil and Chile; cruisers to Argentina, Brazil, Chile, and Peru; and destroyers to most of the major Latin American navies. Italian-built cruisers were in the Argentine Navy, and Italian-constructed submarines were in the Brazilian inventory. The two Argentine dreadnoughts were U.S.-built, as were the four Peruvian submarines. An analysis of the origin of Brazilian warships from 1890 through 1939 shows that 75 percent were British-built, 15 percent were products of continental Europe, 10 percent came from Brazilian yards, and an insignificant fraction came from the United States.[7] Although the impact of British warship construction was less pronounced in Argentina, Chile, and Peru, it is indisputable that, prior to World War II, European yards accounted for the major share of Latin American naval tonnage.

After World War II, the United States became the sole source of supply. The favorable buyer's market, which had existed for a century, had vanished. Relatively new U.S.-built warships were sold to Latin America under monetary terms favorable to the buyers. New, however, does not equate to modern; obsolescence is determined by competition, not age. The USS *Monitor* and HMS *Dreadnoughts* proved this. The operational value of warships acquired from the United States following World War II should be judged by the combat systems on board rather than by the age of the hull and machinery. Electronic and fire control equipment should be considered the accurate measurement. Latin America was acquiring warships that were obsolescent as soon as they were purchased!

By the early 1960s, Latin American navies sought modern replacements from their northern ally. However, U.S. policy at this time was not to sell modern military hardware to Latin America. In 1965, Secretary of Defense Robert McNamara testified before Congress, "we have absolutely opposed the acquisition of what I call sophisticated weapons [by Latin America]." [8] This policy was formalized by law [9] but was corrupted by pragmatic influences. In 1968, the U.S. Ambassador to the Organization of American States, Sol Linowitz, attempted to persuade President Victor Belaunde of Peru not to purchase supersonic jets because such a purchase might stimulate a Latin American arms race. Six months later, however, Mr. Linowitz returned to Peru as a representative of the government with the mission of capturing that arms market for the United States.[10] American credibility was destroyed.

By the late 1960s, the warship construction industry in Europe had sufficiently recovered from World War II to challenge U.S. domination in Latin America. The five major Latin American navies contracted with European yards for major combatants. In 1971–72, two *Leander*-class frigates were laid down in Great Britain for Chile; the *Condell* and the *Lynch* are now operational. Great Britain is constructing six *Niteroi*-class frigates for Brazil and two Type 42 destroyers for Argentina. Italy has sold two *Lupo*-class destroyers to Peru and six to Venezuela. Most of these ships should be operational by 1985. Latin America has satisfied its long-term major combatant needs from its former supplier, Europe. The United States has failed to hold a market which it had hitherto dominated.

U.S. POLICY TODAY

Yesterday, America decided not to sell sophisticated military hardware to Latin America; the United States lost the arms market but did not halt the spread of weapons. Today, the United States threatens to sever aid to nations which do not respect human rights. On 14 April 1977, President Carter outlined before the Permanent Council of the Organization of American States a new U.S. approach toward Latin America, an approach based upon the regard for the individuality and the sovereignty of each nation, respect for human rights, and the relations between developed and developing nations. The human rights aspect of this program is causing much apprehension.

Many Latin American nations are engaged in urban warfare with an opponent no less resolute than the Axis powers of World War II. Their enemy has adopted 20th century guerrilla warfare tactics. In many countries, the revolutionists have a very small following and claim no secure territory. Their chief weapon is terror. The legal government has felt forced, regardless of its respect for human rights, to restrict individual freedoms during the crisis period. Latin American nations fear that such steps, judged essential to ensure success against the enemy, will be interpreted in the United States as an unnecessary restriction of human rights and will lead to the eventual loss of aid.

If U.S. aid to Latin America were cut, both giver and recipient would be adversely affected. Latin American fleets are saturated by aging U.S.-built combatants. Although Argentina, Brazil, Peru, and Venezuela have substantial building programs under way to modernize their fleets, these new ships will not be available in sufficient numbers for approximately seven years. Until that time, these navies are dependent upon obsolete discards from the U.S. Navy. The loss of aid would sever the supply of spare parts at a time when these U.S.-built ships have become most difficult to maintain. There are 16 ships of the 36-year-old *Fletcher* (DD–445) class serving as front-line destroyers in the four most powerful Latin American navies: Argentina, Brazil, Chile, and Peru. The loss of assistance would immobilize half of South America's destroyer force within a short time.

Curtailing military aid to Latin America would also have an impact on the U.S. Navy. This country would lose allies and might even transform them into potential enemies. Latin American navies contributed according to their means (including losses of lives and treasure) to the Allies in World War I, World War II, and Korea. Latin American nations showed Western Hemisphere solidarity during the blockade of Cuba and the Dominican Republic operation. Brazil, the

Footnotes at end of article.

southern giant that sent a naval squadron to European waters during World War I and dominated the South Atlantic during World War II, has already loosened its alliance with the United States. Loss of any of the important Latin American nations would adversely affect America's military posture.

Severing aid would remove American influence from Latin America, the opposite goal of what the policy hopes to achieve. A major piece of hardware such as a ship, tank, or aircraft has a useful life of about 20 years, sometimes longer in the case of ships. The nation supplying the hardware is normally the source of spare parts and usually provides the site for major refits and modernizations. During their 40-year careers, each of the five Latin American dreadnoughts returned to the country of construction for rebuilding or received major technical assistance for reconstruction from that nation. Hence, the hardware supplier obtains favorable economic and military treaties and maintains a continuous presence within the purchasing nation through training missions; additional purchasing habits and political discussions are influenced. Pragmatically, withdrawal of aid has long-term impact only when the supplier is the sole source.

THE EXIGENCY OF MUTUAL TRUST AND COOPERATION

The U.S. Navy needs its Latin American allies. During the "Era of the Massive Retaliation Doctrine," when the consensus was that nuclear war was so horrible that the ultimate outcome would be world destruction, there seemed to be no role for the modernate-size military powers in global strategy. The Vietnam War, the Yom Kippur War, and other recent conflicts have proved the fallacy of this doctrine. Today, articles concerning limited war abound in professional literature, and war games are based upon such scenarios. The possibility of a geographically limited war, conventional and nuclear, is gaining in proponents. In this environment, conventional forces would be extremely important. For a decade, the United States has placed its tactical capability in a secondary position; allies with significant conventional forces are becoming increasingly important.

Naval status today is best expressed by plateaus. Admittedly, the difference between levels can be awesome. Latin American navies, although on the fourth level, are theoretically secure due to their remoteness from potentially hostile land and air forces. If a limited war involving the superpowers became a reality, other world military forces would be significant assets. Argentina operates the small but modernized light carrier *Veinticinco de Mayo*. In 1974, this carrier was fitted with action data automation (ADA)—equivalent to the Navy tactical data system (NTDS). This technology had been the exclusive possession of U.S. and British carriers. The two new Argentine destroyers *Hercules* (1977) and *Santissima Trinidad* (1978) are fitted with ADA and can thus link up with the carrier's system. The *Veinticinco de Mayo*—armed with A–4Q Skyhawk attack jets, S–2F Trackers, and SH–3 Sea King helicopters for antisubmarine warfare and escorted by the new destroyers—is the basis of a carrier strike force.

The six ships of the Brazilian *Niteroi* class will all be operational by 1980. The *Niterois* are some of the best-armed ASW destroyers in the world. Coupled with the carrier *Minas Gerais*, which has recently been overhauled, these ships represent a major ASW force, even by superpower standards. Chile is now operating four modern destroyer types armed with Exocet missiles. Peru is refitting the former Dutch cruiser *De Zeven Provincien* as a helicopter ship. These Latin American warships, plus others not mentioned, would be valuable additions to a pro-United States force.

In order to understand Latin America's naval needs, it is essential to know the missions of the various navies and the resources available to each. U.S. strategists can delineate and dissect the missions and needs of our allies in the North Atlantic Treaty Organization. English-language publications vividly describe Royal Navy aviation and the significance of its decline; the British amphibious force reduction has been publicly analyzed. The South American nations have not had the advantage of such exposure. Which of our southern allies are heavily dependent upon petroleum importation? Which have been struggling to develop an amphibious capability? What missions are unique to Latin American navies?

The prime duty of Latin American navies is national defense. These navies have strived to maintain a balance of power with their neighboring economic and cultural rivals. The primary rivals have been Argentina versus Brazil and Chile versus Peru. The less powerful South American navies and pan-Andean competition complicate this oversimplification. Intra-South American military rivalries are misunderstood by the United States, which has always viewed them as a waste of resources and an unwarranted basis for naval preparedness. In the view of U.S. policemakers, the Rio Treaty [11] and other international commitments eliminate the need for offsetting military forces. The United States has not had a hemispheric rival for more than one hundred years. However, a review of the General Board files—records of the U.S. Navy's policymaking organ—reveals an arms rivalry with even the Royal Navy. Included in the files are "Plan of Operations in case of War with Great Britain," authored by Alfred T. Mahan in 1890, and numerous documents on the same subject entitled "Plan Red" in the 1920s and 1930s.[12] Numerous international agreements and close cultural ties should have precluded the necessity for such preparations. However, the armed forces have the obligation to prepare for all eventualities. The United States apparently considers that this same rationale for preparedness is not valid for Latin America.

The Latin American military is politically active. This role has led many to conclude that armaments dominate national expenditures, thus sapping limited resources. In fact, based upon percentage of gross national product, Latin America spends less on armaments than any other populated world region. During periods of intense competition, Latin American nations have also had the maturity to voluntarily restrict naval armaments by international agreements. In 1904, Argentina and Chile signed the *Pacto de Mayo*, halting a naval arms race.

Today, serving human needs is a prime mission of many Latin American navies. Riverine environments dominate the fronter regions, and these areas are the navies' responsibility. Duties include exploration, settlement, and the welfare of the civilian inhabitants. Recently-commissioned Brazilian river gunboats *Pedro Teixeria, Raposo Tavares, Roraima, Rondonia,* and *Amapa* have special facilities dedicated to serving the medical needs of the Amazon population. In 1976 the Peruvian Navy completed the riverine hospital boat *Rio Morona*, also to serve the civilian population.

ON THE HORNS OF A DILEMMA

Latin America reacted to U.S. arms restriction of the 1960s by seeking alternative suppliers. The possible U.S. policy of the 1970s—the withdrawal of naval aid—leaves Latin America two perceivable alternatives. The first is to obtain material from Western Europe. Continuity of systems and parts gives this much appeal. The major drawback to this is price. An alternative course is the Soviet Union. Today, the U.S.S.R. is anxious to extend its influence in South America. The Soviets perceive that a major arms purchase by a Latin American navy would give them long-term influence. Undoubtedly, they have offered hardware to Latin American navies on favorable economic terms. Given a postulated withdrawal of U.S. assistance, to whom else would Latin America turn for naval aid?

Until U.S. strategists can address the missions and needs of our southern allies as profoundly as they can address those for Europe, the United States will not be able to communicate with South American navies.

FOOTNOTES

[1] Dexter Perkins, *Hands Off: A History of the Monroe Doctrine* (Boston: Little, Brown, and Company, 1941), p. 320.

[2] See "UNITAS X," *United States Naval Institute Proceedings*, July 1970, pp. 73–85.

[3] Robert L. Scheina, "Latin American Naval Purpose," *Proceedings*, September 1977, pp. 116–119.

[4] *Revista General de Marina* (Madrid) 67 (1910): pp. 316–19.

[5] *The Navy* (Washington) July 1910, p. 30.

[6] Ibid., p. 10; *The Navy*, October 1910, p. 264.

[7] Scheina, "Indigenous Latin American Sea Power, 1890–1974" (Unpublished doctoral dissertation, The Catholic University of America, 1976), p. 15.

[8] U.S. Congress, Senate, *Hearings before the Committee on Foreign Relations, Foreign Assistance 1965*, 89th Cong., 1st sess., 1965, p. 632.

[9] Section 504a, and Section 520a of the Foreign Assistance Act of 1971; Section 1, Section 4, Section 33, and Section 35 of the Foreign Military Sales Act for FY 1972.

[10] U.S. Congress, Senate, *Hearings before the Subcommittee on Western Hemisphere Affairs of the Committee on Foreign Relations*, 94th Cong., 1st sess., 1975, p. 27.

[11] Intra-American treaty of reciprocal assistance, entered into by the United States on 3 December 1948. This treaty obligates the signatories to mutual assistance and common defense.

[12] General Board Files, Operational Archives, Naval History Division.●

BALANCE(S) OF POWER SERIES: BOOK IV (H)(II)—DEFENSE INDUSTRIALISTS IN THE USSR

HON. JOHN B. BRECKINRIDGE

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 5, 1978

● Mr. BRECKINRIDGE. Mr. Speaker, in the September 23 issue of the CONGRESSIONAL RECORD I inserted the first part of an article entitled "Defense Industrialists in the USSR" by Karl F. Spielmann, appearing in the September–October 1976, Vol. XXV issue of Problems of Communism. The conclusion of Mr. Spielmann's article follows:

PROBLEMS OF COMMUNISM

RELATIONS WITH THE POLITICAL LEADERSHIP

Until Ustinov's recent promotion to the post of Minister of Defense, three key individuals were particularly well placed to oversee the defense-industrial sector on behalf of the top political decision-makers—Ustinov himself, L. V. Smirnov, and I. D. Serbin. They were in positions where they could both impose the top leadership's will on the defense-industrial ministers and their subordinates and also speak up on the ministers' behalf on crucial policy matters. Ustinov was clearly the most important of the three. With long years of managerial responsibility at various

levels in the defense-industrial sector, he was the most highly placed—as a member of the Politburo and a party secretary. (He was a candidate member of the Politburo for over a decade prior to his acquisition of full membership at the 25th CPSU Congress in March 1976.) Smirnov, who presumably has had a long personal acquaintance with Ustinov (since they were both affiliated earlier with the Ministry of the Defense Industry), has been a full member of the Central Committee and a Deputy Chairman of the USSR Council of Ministers. His importance in the defense-industrial sphere, however, derives from his post as Chairman of the Military-Industrial Commission (VPK)—a body which according to one description, "handles coordination between the Defense Ministry, ministries concerned with military production, and Academy of Sciences institutes engaged in military research and development." [39] Serbin, as head of the Defense Industry Department of the Central Committee, also can be presumed to have an important role in overseeing activities in the defense-industrial ministries and their subordinate elements.[40]

Relations between these defense-industry supervisors and the defense industrialists have likely been heavily conditioned by the nature of the working relationship among these three key individuals as well as by their ties to particular defense industrialists. It seems reasonable to grant that by and large the key defense-industry supervisors have probably had a satisfactory working relationship with one another over the years, and that this has helped to make the defense industrialists responsive to the top leadership and thereby contributed significantly to the sector's successful performance of its defense production tasks. Nevertheless, there were elements in this working relationship that may have made for some divisiveness in the ranks of the defense supervisors and for a less than tight and effective top-level supervision of Soviet weapons efforts.

The first thing to be noted in this regard is that although Ustinov was the party secretary charged with the main responsibility for oversight of the defense industries, the Defense Industry Department of the Central Committee was formally headed by Serbin. If one bears in mind the immense management burdens which the very complexity of modern weapons system imposes,[41] it would appear necessary for Ustinov—however knowledgeable and diligent—to have had a large staff at his disposal in order to perform his duties effectively. Unless he possessed a sizable personal staff of his own (for which we have no evidence), he would presumably have had to rely heavily on the staff resources of Serbin [42] (or possibly on any staff resources that might be attached to L. V. Smirnov's VPK). But even if Ustinov did have staff resources of his own and was not dependent on Serbin's Defense Industry Department of the Central Committee (or the VPK) for support,[43] the very presence of three key supervisors performing basically the same task—each with considerable status and substantial management resources at his individual disposal—may well have contained some potential for divisiveness, and hence for some impairment of management effectiveness. It is noteworthy in this regard that Serbin has held the post of Chief of the Defense Industry Department of the Central Committee for about 18 years.[44] Even if his relationship with Ustinov was basically cordial, it would be unlikely for his long-standing incumbency in this important post not to have tempted him from time to time to "act as his own man." Similarly, Smirnov probably had on the whole a satisfactory working relationship with Ustinov, but his status, too, would suggest that he may have acted as his own man from time to time and not simply seconded Ustinov's opinions.

One might hypothesize therefore that, to the extent that the top defense supervisors did not see eye to eye, the defense industrialists and their subordinates, whose R&D and production efforts these three were supposed to supervise, might have tried to play Smirnov, Ustinov, and Serbin off against one another to enhance their own autonomy. One might further hypothesize that the top Soviet political leadership as a whole would not necessarily have found this situation uncongenial. Having a rough form of checks and balances operating to keep the defense-industry supervisors "honest" would, for example, have helped to assure the Politburo membership of alternative sources of information on weapons programs which involved heavy costs and were difficult for even informed laymen to comprehend.

Ustinov's promotion to the post of Minister of Defense on April 29 (three days after the death of Marshal A. A. Grechko) raises intriguing questions about future supervision of the defense-industrial sector. In the first place, it is noteworthy that the political leadership saw fit—even before this promotion—to raise Ustinov to the rank of full Politburo member (at the 25th Party Congress).

Since Ustinov had been a candidate member since 1965 and had been outranked by Marshal Grechko for the past three years (Grechko was made a full member of the Politburo in April 1973), Ustinov's accession to the status of full Politburo member held some interesting implications. It raised his status vis-à-vis the other defense supervisors and also vis-à-vis Marshal Grechko—with whom Ustinov may not always have been inclined to cooperate. This could be taken to suggest that while the political leadership may have countenanced some slack in supervision of the defense-industrial sector during the preceding several years, it was less predisposed to do so in the future. It is possible that some of the increased management burdens associated with the development and production of sophisticated weapons systems were beginning to be felt and that this necessitated an effort to tighten top-level supervision.

Ustinov's further promotion to the post of Minister of Defense may also have been prompted—at least in part—by the political leadership's concern to improve the overall efficiency of the Soviet defense effort. There has not yet been time for a shakedown of the arrangements affecting supervision of the defense-industrial domain, and there are few clues as to the effects that Ustinov's promotion will have in this area. It is possible that Smirnov (or Serbin) will gradually accede to the sort of authority Ustinov was credited with over the last decade and more. However, even though Ustinov wears a new hat,[45] his shadow may continue to loom large over the supervision of defense production. And unless Smirnov (or Serbin) is willing to live compliantly in his shadow, some of the earlier-noted potential for divisiveness in the defense supervisory effort could well endure (or even increase), thus complicating rather than alleviating Soviet defense-management concerns.

Just as the key supervisors of the defense sector may on occasion have represented something less than a solid phalanx, so, too, the defense industrialists they supervise may stand divided as often as they stand united on major decisions affecting their sector. As already indicated, simply because of their different weapons development and production responsibilities, the top defense industrialists can be expected, from time to time, to have significant disagreements as to what weapons systems should be added to the Soviet arsenal. Which view might prevail in such situations would depend no doubt on a variety of factors—the opinions of Ministry of Defense officials regarding what systems deserve priority treatment, the views of top political leaders, etc. Informal ties between particular defense-industrial ministers and key political decision-makers would probably also be a factor. It would be only reasonable to expect that these ministers, who have had large and rich industrial fiefdoms to protect for many years, have not neglected to cultivate personal connections in the Politburo.

The existence of the Supreme Defense Council (which has only four Politburo members—Brezhnev, Premier A. N. Kosygin, Supreme Soviet Presidium Chairman N. V. Podgorny, and Ustinov—are regular members) probably helps to keep the scope and intensity of bargaining over weapons programs at the top political level within tolerable limits. An organ like the VPK would also seem suited to serve as a mechanism for reaching some consensus on weapons programs before these matters come up for decision in the Politburo. At the same time, the VPK's likely role as the principal coordinating body for defense R&D and production probably makes it the focus of the toughest bargaining among the top defense industrialists. The VPK may thus bear particular witness to differences among the defense industrialists. On the other hand, it may also provide the defense industrialists with a forum for displaying their unity. Consequently, notwithstanding the utility of this organ to the top leadership for enforcing its will on the defense industrialists, the latter may regard the VPK as a political asset for themselves as well, insofar as it facilitates their efforts to press the collective case of the defense-industrial bailiwick as a whole.

The foregoing survey of the key personalities and organizational elements involved suggests that the relationship between the defense industrialists and the political leadership reflects a complex political reality that is difficult to categorize. There are aspects of this relationship which lend support to the notion that central direction prevails in this sphere of the Soviet polity, as in others, and that accordingly the policy impact of the defense industrialists—and even their administrative autonomy—may be severely circumscribed. The special attention given by the political leadership to supervision of defense production efforts, the limits on bargaining inherent in such organs as the Supreme Defense Council, the potential for disagreement among the top defense industrialists themselves, between them and the military, and between the top defense industrialists on the one hand and the designers (and possibly even their own deputy ministers) on the other—these are all features that can be cited in support of the political leadership's ability to impose its will on the defense industrialists.

On the other hand, as we have seen, there are other aspects of the relationship between the defense industrialists and the political leadership that can be emphasized to argue against the notion that the former are basically passive instruments of the regime. If there are divisions on the side of the defense industrialists which the regime can exploit, there may be pertinent divisions on the other side which the defense industrialist can exploit as well—whether among the defense supervisors, within the Supreme Defense Council, or in the Politburo itself. Moreover, the personal ties which the top defense industrialists during their long tenures have likely developed with particular members of the ruling elite would seem to be a substantial political asset for making their influence felt in policy decisions of concern to them. And finally, while divisiveness may occasionally diminish their bargaining power, the defense industrialists would seem to have the capability as well as the institutional mechanism, in the VPK, of closing their own ranks and winning support from their military customer (or customers).

Footnotes at end of article.

Any firm judgment on which of these broad "models" is more accurate than the other requires a searching examination of political interaction between the Soviet defense industrialists and the political leadership over a variety of concrete issues for many years. Unfortunately, the evidence may be lacking to permit such an examination on even one issue. It seems prudent, therefore, to operate on the assumption that, so far as the Soviet defense industrialists are concerned, one-sided application of either "model" is more likely to distort than to capture political reality.

VIEWS ON DÉTENTE

As should be clear from the preceding discussion, the nature of the evidence hardly permits one even to pretend to resolve the question of managerial power in the Soviet defense sector. Yet, if only because the Soviet defense industrialists can easily lose their identity in the kinds of analyses that are usually attempted on the USSR, it is necessary at least to bring the issue to the fore. Discussions of the role of managers in general in the Soviet Union, of the alignment of forces with respect to various Soviet domestic economic priorities and programs, of the impact of the Soviet military establishment on foreign and defense policies—these are all important areas of analysis in which the position of the defense industrialists is often likely to be simply subsumed but probably should not be.

Relying on the meager evidence available to probe the defense industrialists' situation—and having to be wary of indulging in methodological sleight of hand to compensate for the paucity of data—may be somewhat of an unsavory scholarly enterprise that yields few, if any, significant answers. However, more efforts along this line could serve to focus attention on some worthwhile questions to be taken into account in the kinds of analyses noted above. Raising such questions, moreover, may be particularly worthwhile at the present time, when Western policymakers are trying to assess the nature and durability of the Soviet leadership's commitment to détente with the West.

As suggested at the outset, the Soviet defense industrialists are likely to have important stakes in decisions affecting two key elements of the regime's détente policy—SALT and the efforts to secure Western technology to help get the civilian economy out of the doldrums. Of course, having stakes in decisions and being able to shape these decisions are quite different things, and as indicated above, we are very far from any firm conclusions regarding the defense industrialists' influence on policy. It may be useful, however, to make a start by trying to see whether the defense industrialists do at least have particular interests of their own in decisions relating to these two policy areas as distinct from the interests of other groups.

Strategic arms limitation. In the case of SALT, the direct evidence concerning the roles and attitudes of the defense industrialists is, as might be expected, scanty. As Raymond Garthoff has pointed out, the only regular "representative" of the defense industrialists at the talks themselves was P. S. Pleshakov, first as a Deputy Minister and then as Minister of the Radio Industry. Garthoff also noted that L. V. Smirnov, Chairman of the VPK, "played an important direct part in the final negotiation of the interim Agreement limiting strategic offensive arms." Another participant in the talks who, like Smirnov, was probably in a position both to articulate and to refute defense-industrialists' points of view was Academician A. N. Shchukin, whom Garthoff terms "a highly respected 'elder stateman' in military applications of science and technology."[46]

For present purposes, the fact that Pleshakov has been present at the talks is principally important as in indication that the defense industrialists have not had to depend on the Soviet military representatives (or Academy scientists or defense supervisors) to represent their particular "interests." Nevertheless, Pleshakov's status raises some intriguing questions about his effectiveness as a spokesman for these "interests." In the person of Pleshakov, the defense industrialists as a whole were represented through all of SALT I and part of SALT II only by a deputy minister of only one ministry.

It is possible, of course, that Pleshakov was selected basically on the grounds of his technical qualifications. Given the Ministry of the Radio Industry's purview (radars, computers, navigation aids, etc.), he may have been regarded as possessing a special expertise that was particularly crucial in the SALT deliberations on such items as ABM radars and MIRV technology. In this regard, he could well have served the interests of either the regime or the defense industrialists, or of both together.

If technical qualifications were not the main (or only) grounds for Pleshakov's selection, his particular status could equally well be cited to argue that he was selected because he was viewed as being as amenable to articulating the position(s) of the defense supervisors (on behalf of the top leadership) as he would be to giving voice to any conflicting opinions from the defense-industrial minister level. As noted earlier, there are reasons for believing that defense-industrial deputy ministers might not see eye to eye with their ministers on certain key issues, particularly on developments which might make for further organizational changes. It would therefore not be surprising if the defense supervisors have on occasion quietly sought to circumvent the current ministers by establishing contacts with various deputy ministers. Nor would it be all that strange for deputy ministers, with a view to their own career advancement, to try to cultivate personal patrons among the defense-industry supervisors in particular or, more generally, in the upper reaches of the political and military hierarchies. Perhaps Pleshakov was the beneficiary of such processes in being selected for SALT in the first place and subsequently in gaining the post of minister upon Kalmykov's demise in 1974.

While Pleshakov's particular situation may support arguments that he was acting more as the creature of the regime than as the "representative" of the defense industrialists at SALT, one could also argue the contrary. Prior to the signing of the ABM agreement, some analysts held that powerful internal opposition would probably be mounted to block Soviet accession to a curb on ABM efforts.[47] However, as suggested by subsequent analyses,[48] it is possible that no substantial effort was really made by elements in the Soviet military and defense-industrial establishments to block such an agreement, since the Soviets had shown signs of being quite dissatisfied with the performance of their ABM system even before the talks began. Nevertheless, the PVO did stand to lose something by an ABM agreement, as did certain defense-industrial ministries—especially Pleshakov's ministry (with its responsibility for ABM radars). Conceivably, one of the prices which the ministry exacted from the regime in return for the ministry's support of an ABM curb may have been Pleshakov's presence at the bargaining table, where he could, at minimum, look out for the ministry's particular "interests" as agreements were being shaped.

On the whole, the question of Pleshakov's role at SALT serves well to indicate the difficulty of establishing the impact of the defense industrialists on particular Soviet defense or foreign policies. In the absence of more substantial information, one can argue with almost equal plausibility that Pleshakov represented the defense industrialists or that he did not. Similarly, Pleshakov's position does not permit one to discern easily where the "interests" of the defense industrialists converged with those of the military and where they diverged, or where a similar convergence or divergence might have operated between the defense industrialists and the top political decision-makers. This said, however, it is still important to bear in mind that, through the presence of Pleshakov, the defense industrialists would seem to have had at least a greater opportunity to inject their own particular viewpoints into the SALT bargaining process than if they had had to rely entirely on Smirnov, Shchukin, or the military "representatives" to do so.

With respect to any future SALT agreements, the impact of the defense industrialists is even more speculative. Nevertheless, some pertinent observations as to their particular stakes in such agreements can be ventured. In the first place, the defense industrialists may share with the military bureaucrats a concern for the general uncertainties of the strategic situation and thus, like the latter, should not automatically be cast in the role of opponents to further agreements which might, after all, serve to "make the future more predictable."[49] In addition, however, the defense industrialists have distinct cause to associate some specific unwelcome prospects with a strategic context that places a premium on pushing the pace of military technology.

As discussed above, these prospects range from pressures for further reorganizations in the defense-industrial sector, which would likely mean some loss of resources from certain of the present ministries, to increased interdependencies among the ministries and between them and "outside" organizations like the Academy of Sciences. The latter eventuality would at the very least increase the management burdens of the defense industrialists and might also bring greater interference in their affairs by the top leadership's defense-industry supervisors.

Technology transfer from the West. As in the case of SALT, so in the case of the regime's policy of importing technology from the West, the defense industrialists would seem to have a stake which is peculiar to them as a group. This stake is related to the issue of the defense sector's contribution to the civilian economy, first aired by General Secretary Brezhnev in 1971 at the 24th Party Congress. While Brezhnev at the time seemed to be praising this contribution (a view heartily endorsed, as we have seen, by Ministers Zverev and Dement'yev), his comments could also be construed as an exhortation for a greater contribution from the sector.[50] This issue could become increasingly sensitive for the defense industrialists in the future should other inputs—particularly Western capital and technology—not be available at adequate levels to assure the well-being of the civilian economy. Thus, although specific comments on technology-import questions from the defense industrialists are lacking, there is good reason to expect that they ardently welcome the regime's efforts to secure Western technology and capital. While they doubtless seek direct benefits from technology transfers to help meet their defense-production responsibilities, they may see their principal potential benefit to be primarily an indirect one. To the extent that these transfers hold promise of bolstering the civilian economy's health, the defense industrialists may hope that pressures to increase their own contribution to civilian production may be held in check.[51]

Whether this hope is a realistic one is, of course, another matter. The pressures for an increased contribution to civilian production might continue anyhow simply because the defense industries, owing to their comparatively greater capability to diminish the lag between R&D and production, seem better situated than civilian industries to make

Footnotes at end of article.

the infusion of Western technology pay off. Moreover, certain defense industries would probably still have a crucial role to play because of their particular responsibilities—e.g., the Ministry of the Radio Industry in the computer field. Even so, from the defense industrialists' viewpoint, such a situation would probably be preferable to one in which the pressures for a larger defense-industrial contribution to the civilian sector would be even greater—as they might well be if Western technology inputs were unavailable to help the civilian economy directly or to assist the defense-industrial ministries in meeting their civilian production responsibilities.

In any event, the considerations just described suggest that the defense industrialists' perspectives on technology imports may be distinct from those of their managerial counterparts in the civilian economy. It has been argued that "if the trade policy, aimed at bringing an influx of new Western technology into the Soviet economy, threatens any group, it is the economic managers. That influx of innovations promises uncertainty, organizational change, and fewer jobs in the overstaffed ministries."[52] For its part, the Soviet leadership has probably come to believe that what economic changes may be required to make the infusion of Western technology pay off in real benefits to the overall economy will prove less disruptive than other measures (e.g., economic reforms) which might be necessary without this infusion.[53] Out of their particular concern to avoid potential future pressures to increase their own contribution to the civilian sector, the defense industrialists may be more receptive to this view than are their civilian brethren.

IMPLICATIONS

Thus, the particular stakes of the defense industrialists in the regimes decisions on two key elements of Soviet détente policy toward the West—SALT and the effort to secure Western technology—would seem to be not only considerable but also distinguishable in broad terms from those of other concerned parties in the USSR. The defense industrialists, as already pointed out, may be more wary than their military customers about forcing the pace of military technology. At the same time, they may be less wary than their civilian counterparts about an influx of Western technology into the economy. But having noted these distinctions, one should be mindful that these perspectives may not be the only ones that the defense industrialists would bring to specific SALT or technology-import decisions. Moreover, it cannot be easily established that these perspectives have been translated into an impact on policy in the past or will be in the future.

Even if one falls short of making a case that the defense industrialists have been able to exert a direct impact on Soviet defense and foreign policy decisions, their particular perspectives still hold important implications for the future of détente. One of the reasons why so much interest has been generated in recent years in the Soviet defense decision-making environment is a desire to divine the forces that have prompted certain Soviet defense policies and weapons decisions. In particular, nagging questions have arisen about the strategic arms relationship between the USSR and the United States. Do American weapons programs prompt the Soviets to react with new or larger programs of their own? Or, to take one alternative hypothesis, does much of the stimulation for Soviet weapons efforts come rather from internal forces (bureaucratic interests and the like), so that American action or inaction in weapons programs may have little reciprocal effect?

Clearly, if such questions are to be satisfactorily answered, it is important to know what the stakes of the defense industrialists, as one of the interested parties, may be in Soviet weapons programs and, more broadly, in defense and foreign policies, and whether the decision-making environment permits them to influence the relevant decisions. As suggested in the foregoing discussion, the available information permits one to go part way in probing these questions—at least to the point of demonstrating the need for some fresh assessments of what we in the West mean when we speak of the Soviet "military" and the Soviet "managers." Even assuming the introduction of such conceptual refinements, however, some might still question whether it is worth the candle to expend much effort in probing the Soviet defense decision-making environment in view of the difficulty of amassing the concrete information required for assessing the relative influence of any of the principal actors.

The look we have taken at one set of actors involved—the defense industrialists—suggests that the enterprise may still be worthwhile. Greater understanding of the operations of the Soviet defense sector is germane not only to the analytical effort to determine whether its denizens can directly influence the decisions affecting the future of détente between the U.S. and the U.S.S.R. but to another, larger effort as well. One does not have to establish the guiding hand of the defense industrialists in various policies to appreciate that organizational practices and arrangements affecting these industrialists have considerable relevance to the related effort to analyze the nature and extent of the overall Soviet defense burden and its relation to the policy of détente. Several implications for the détente relationship between the United States and the Soviet Union would seem to flow, for example, from changes in Soviet defense-management efficiency attendant upon a determined Soviet effort to force the pace of military technology.

Even assuming that the defense industrialists acquiesce in this effort rather than try to impede it, it would seem difficult for the Soviets to maintain past standards of management efficiency in the defense sector. To be sure, as Western analysts have begun to argue of late,[54] these standards—and the overall efficiency of the Soviet defense effort—have probably not been as high as they were once presumed to be. But, even correcting for possible overstatements in this regard, if our description of the organizational implications of a Soviet policy of determined technological advance in the military sphere is reasonably accurate, a drop in management efficiency would still seem to be in the cards.

Given the prospect of increased organizational interdependencies, added problems of coordination, and the like, it is certainly difficult to see how the Soviets could have the best of two worlds: to continue to enjoy the relatively light management burdens imposed by the simple, reliable weapons systems that are said to have constituted much of the Soviet arsenal in the past, and to simultaneously engage in producing systems that are far from unsophisticated.[55]

If the Soviets cannot have it both ways, the upshot could be a burgeoning of sophisticated weapons programs at a cost which would considerably increase the overall defense burden on the Soviet economy. In the SALT arena, the emphasis on technologically adventurous systems might make technologically adventurous systems might make specific agreements harder to reach, simply because of the inherent difficulty of coping with qualitative (as opposed to quantitative) "arms racing." By the same token, a drop in efficiency in producing such weapons could well increase the economic pressures on the Soviets to seek further agreements. Outside the SALT context, the added defense burden would seem likely to strengthen Soviet incentives to secure Western technology.

In sum, even if the question of the defense industrialists' influence on decision-making is set aside, an increased comprehension of the workings of their sector could help to illumine some of the complexities—both opportunities and dangers—which make a détente relationship with the USSR something other than a simple either-or proposition for the West.

Just as the particular perspectives of the defense industrialists deserve to be kept in mind in analyzing issues of pressing concern to Western policymakers, so, too, the peculiar characteristics of the defense industrialists are germane to the more leisurely pursuit of speculating on the future of the Soviet polity. For those who entertain the possibility of an eventual managerial revolution in the USSR, a look at the defense industrialists would seem to cast additional doubt on that prospect. The managers may be a much more heterogeneous group than they are usually considered to be. Moreover, the defense industrialists—the managers with perhaps the most political assets, in terms of powerful allies and institutional means to express their concerted views—may well view any substantial change in the Soviet polity as more of a bane than a boon to their position and privileges.

FOOTNOTES

[39] Garthoff, "SALT and the Soviet Military," *loc. cit.*, p. 29. Garthoff gives further indications of the key roles of Ustinov and Smirnov, as well as their relative status, in his description of the Supreme (or Higher) Defense Council. He writes that the Council is "the highest body dealing with military and defense matters. . . . Chaired by party General Secretary Brezhnev, this body includes Prime Minister Aleksey N. Kosygin, Chairman of the USSR Supreme Soviet Presidium Nikolay V. Podgornyy, party Secretary Dmitriy F. Ustinov, and Minister of Defense Andrey A. Grechko. Others are called on to attend on occasion, including Defense Ministry and General Staff officers, Smirnov and other VPK members, Foreign Minister Andrey A. Gromyko, and experts from the Academy of Sciences." *Ibid.*

[40] Jerry Hough identified a defense industry department in the Leningrad oblast party committee (*op. cit.*, p. 17). This suggests that lower-level party organizations probably have some role in defense production and that the Defense Industry Department of the Central Committee (the likely apex of such departments in the party hierarchy) probably has a considerable role. However, since the supervisory effort from the center is apparently particularly strong in the defense sector, one may question whether the lower-level party organizations have had the clout and utility in the defense sector ascribed to their role in the civilian sector. These civilian activities—*e.g.*, exercising a supervisory role over enterprises, effecting managerial appointments via *nomenklatura*, and expediting and procuring necessary materials for enterprises—have been well examined in John P. Hardt and Theodore Frankel, "The Industrial Managers," in H. Gordon Skilling and Franklyn Griffiths, *Interest Groups in Soviet Politics*, Princeton, N.J., Princeton University Press, 1971, pp. 188–89.

[41] Analyses of U.S. weapons acquisition provide a useful corrective to the temptation to overstate the degree to which the Soviet defense supervisors are actually able to manage and coordinate Soviet weapons development and production efforts. The complexity of modern weapons systems and the attendant management burdens are particularly well described in Harvey M. Sapolsky, *The Polaris System Development: Bureaucratic and Programmatic Success in Government*, Cambridge, Harvard University Press, 1972.

[42] The likelihood of Ustinov's reliance on

Serbin's staff is indicated in Center for Strategic and International Studies, Georgetown University, *Soviet Decision-Making, Strategic Policy, and SALT*, prepared for the U.S. Arms Control and Disarmament Agency, ACDA/PAB-243, Washington, D.C., December 1974.

[43] It cannot be precluded that Ustinov relied on a personal staff to perform his supervisory responsibilities. His position was different from that of party secretaries who simultaneously head CC departments and thus presumably have sizable department staffs at their immediate disposal (e.g., P. B. Ponomarëv, V. I. Dolgikh, I. V. Kapitonov, K. U. Chernenko, and possibly K. F. Katushev). While we lack definitive information on Central Committee staffing arrangements, it would seem likely that persons in Ustinov's position would rely on personal staffs. There is evidence that General Secretary L. I. Brezhnev depends heavily on his personal staff. While Ustinov obviously was not in Brezhnev's league, the importance of his supervisory functions indicates that he would have needed a large personal staff if he did not rely on Serbin's or Smirnov's staff resources. On Katushev's situation and Brezhnev's personal secretariat, see Center for Strategic and International Studies, *op. cit.*, pp. 13 and 14–17, respectively.

[44] See *Prominent Personalities in the USSR*, p. 547. Serbin has also been a candidate member of the CPSU Central Committee since 1961.

[45] Incidentally, Ustinov is at present the only political leader who is simultaneously a government minister, a party secretary, and a Politburo member.

[46] "SALT and the Soviet Military," loc. cit., p. 29.

[47] See, for example, Graham Allison, *loc cit.* This argument's apparent refutation by subsequent developments demonstrates the perils of transferring Western models of decision-making to Soviet soil.

[48] See Garthoff, "SALT and the Soviet Military," *loc. cit.*, pp. 29–30.

[49] On the possible attitudes of the military, see William Odom, "Who Controls Whom in Moscow," *Foreign Policy* (New York), Summer 1975, p. 122.

[50] Brezhnev, *loc. cit.* His only remarks in a similar vein at the 25th Party Congress earlier this year were confined to the somewhat cryptic comment that "as always, great importance will be attached to producing mass consumer goods at heavy industry enterprises" (a comment which may have been viewed by the defense-industrial sector—a major component of Soviet heavy industry—as a call for continued or increased contributions to the civilian sector). See FBIS, *op. cit.*, Feb. 25, 1976, "Proceedings of the 25th CPSU Congress," Vol. 1, p. 42.

[51] It should perhaps be noted that there is nothing in this situation to suggest a threat to the traditional privileged status of the defense-industrial sector, but merely that the defense industrialists may be called on to produce more in order to justify these privileges.

[52] Odom, *loc. cit.*

[53] Some Western analysts have argued that inputs of Western technology will, in any event, probably have only a marginal impact unless the Soviet leadership is willing to contemplate some serious structural changes in the economy. See, for example, Berliner, *The Innovation Decision . . .*, pp. 513–18, and Nimitz, *op. cit.*, pp. 58–61.

[54] See, for example Marshall, *loc. cit.*

[55] Incidentally, whatever the use of modern management techniques in the past in the defense sector, the Soviets would probably be tempted to turn increasingly to systems-analysis approaches and the like as a way of trying to deal with defense management problems associated with the development, production, and procurement of weaponry of greater and greater sophistication.●

SMALL BUSINESS AND CAPITAL FORMATION

HON. JIM GUY TUCKER

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 5, 1978

● Mr. TUCKER. Mr. Speaker, I received a letter a few weeks ago which I found informative and useful. It was particularly relevant as the Ways and Means Committee considered various small business related bills. Yesterday, when we debated the conference report on Small Business Administration programs and authorizations, I thought it would serve us well to consider the problems that small businessmen face as they attempt to form capital for business expansion. For that reason I am including, for the use of my fellow Members, a copy of this letter:

CINCINNATI SIGN SUPPLIES, INC.,
Cincinnati, Ohio, Setember 7, 1978.

Hon. JAMES G. TUCKER, Jr.
House of Representatives,
Washington, D.C.

DEAR MR. TUCKER: You will be interested, we believe, in the example outlined below which illustrates the problem of small business in the formation of capital, either to cope with inflation or to grow and provide new jobs. It relates to the corporate income tax structure now before the House for consideration.

As you know, lack of working capital is a serious problem for small business which attempts to grow. Unlike large businesses, small businesses cannot issue bonds or stock to the general public in order to raise additional working capital. Banks and other credit grantors do not furnish long-term, equity-type financing to business, but restrict their lending to the short term. Therefore, the only source of additional working capital available to small business is through retaining after-tax profits in the business.

For statistical data we turned to Annual Statement Studies, 1976 Edition, published by the respected Robert Morris Associates, Credit Division, Philadelphia, Pa.[1] In order to present an illustration which would represent a median of small businesses, rather than extremes, we calculated median figures representing 231 different classifications of business, such as, for example: Manufacturers of Clothing, Manufacturers of Furniture, Manufacturers of Motor Vehicles, Wholesalers of Electrical Appliances, Wholesalers of General Groceries, Retail Department Stores, and Retailers of Farm Equipment. These 231 different classifications of business in turn represent 29,243 different companies.

The following median figures were derived from this source:

Collection days for accounts receivable, median, 40 days.

Inventory turnover, median, 4.9 times.

Cost of sales (gross profit 23.9 percent, median, 76.1 percent.

Profit before taxes, median, 4.6 percent.

Wholesalers/distributors would show less gross profit, slower collections.

A study of additional working capital requirements for median small business:

The company plans to hire additional personnel and/or acquire equipment to expand its sales $20,000 per month, or $240,000 per year. Applying median figures set forth above:

1. The company's accounts receivable collection period averages 40 days.

2. The company's average gross profit percent equals 23.9 percent of the sales price.

3. The company's inventory turnover rate is 4.9 times.

4. The company's purchase terms with vendors is 2 percent 10 days, net/30 days.

Using the foregoing assumptions, net working capital will have to be increased as follows:

Accounts receivable increase ($20,000 sales per month x 40 days collection period), $26,700.

Inventory increase ($240,000 Annual Sales × 76.1 percent, cost of sales = $182,600 ÷ 4.9), $37,300.

Total, $64,000.

Less Increase in Accounts Payable, (Monthly sales of $20,000 x 76.1 percent, per day x 10 days), $5,000.

Net Working Capital Increase required, $59,000.

As previously indicated, the only source of additional working capital for the average small business is from the retention of after-tax profits in the business. This would mean, using the preceding example, a company that wanted to expand their sales by $20,000 per month, or $240,000 per year, would have to earn before-tax profits of $113,500 (assuming the company was in the 48 percent tax bracket) in order to fund the required increase in net working capital. This would be impossible to do using the assumed facts in the above example, since the gross profit would be only $57,000. From this gross profit would have to be deducted the usual selling and administrative expenses.

On this basis our median company would generate a net profit before taxes of 4.6 percent of Sales, or $11,000, which would mean that the increased sales volume of $240,000 would provide an increase in net working capital of $5,700 ($11,000 minus 48 percent tax). This is approximately 1/10 of the $59,000 working capital required to sustain an increase in sales of $240,000 per year. This clearly illustrates the need for a corporate tax structure that permits capital formation.

The foregoing would apply to the expenditure for additional employment, productive machinery, delivery vehicles, or other capital outlay for an expansion; hence, it has universal application to all small business.

It should also be considered that these costs will escalate at the rate of inflation and so may be somewhat higher by the time another tax bill is passed.

That such a practical understanding of the problems of capital formation has been overlooked in the past has resulted in taxation which directly prevented formation of capital essential for small business. With this information in hand, it is hoped that the House will set corporate income tax schedules, including surtax exemption, at a level which will allow small business to retain tax-paid income for capital formation.

In so doing, the House would stimulate employment and strengthen the economy. The magnitude of the benefit can be easily appraised from a perusal of the statistical data on small business titled "Small Business on the Economy," which is attached.

Sincerely yours,

JOHN K. LAMB,
For the Business Advertising Council.●

THE LUDDITES RIDE AGAIN

HON. JOHN W. WYDLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 5, 1978

● Mr. WYDLER. Mr. Speaker, as you know, there is a national debate ranging

[1] Original data are copyrighted, referenced with permission. Calculations are our own.

over the role of nuclear power in our national energy supply strategy. Unfortunately, this administration has relegated the nuclear option to a position of "last resort" for electrical power generation despite the fact it is a cleaner, cheaper and safer means than burning fossil fuels. Also, the President and the Congress are still locked in disagreement over the question of what is required for a strong program in breeder reactor development. In both cases, the administration has linked nuclear weapons to nuclear power in a rather naive and irresponsible manner.

I have seen many arguments on both sides of the nuclear debate but none that has placed the recent antinuclear zealotry in sharper historical perspective than the views of Mobile Oil Corp., which has no corporate stake in nuclear power. I believe their analogy between the behavior of the 19th century Luddites and today's anti-nuclear movement is accurate but a major point is missing. The simplistic desire for no-growth and fear of technology on the part of the Clamshell Alliance and others is shared by key members of the administration who, lamentably, can have considerable influence in seeing that such antinuclear policy is implemented. We have seen this influence strikingly in the omission of nuclear from the National Energy Act and in the President's persistent antibreeder rhetoric.

My great concern is simply: Can we afford to let these zealots do all sorts of harm while our citizens hunger for even the glimmer of a real energy supply policy. I am afraid the United States has already proven itself an unreliable nuclear partner which today means we lose business and tomorrow means we shall have no say in nuclear technology.

I recommend the following Mobil editorial on Nuclear Energy to my colleagues:

THE LUDDITES RIDE AGAIN

The Luddites, who rampaged through the industrial centers of England in the years between 1811 and 1816, smashing factories and wrecking machinery, were driven by irrational fear. They believed that factories and machines would somehow reduce workers and artisans to a state of virtual slavery.

Unfortunately, the Luddite apprehension about scientific and industrial progress has never entirely disappeared. Its latest manifestation centers on the debate over nuclear power development.

Frankly, the neo-Luddites are no more logical than their predecessors. Many of the same people who insist that man's technological genius will quickly surmount the formidable problems inherent in developing solar energy and synthetic fuels also insist that man is utterly incapable of dealing with nuclear power.

These people even cite the fear that nuclear power—like the machines the Luddites wished to destroy—may eliminate jobs. In describing his objections to nuclear plant construction, for instance, one member of the Clamshell Alliance wrote in the New York Times that a "fossil fuel/nuclear economy * * * ultimately relies on complex machinery rather than human work." It is tempting to rejoin that so does a washing machine.

Nor has the debate omitted the Luddite cry that machines will lead to slavery. The head of another anti-nuclear group believes, says the Washington Post, that: "Engineers and utility executives are * * * rolling like juggernauts toward controlling society through its electrical umbilical cord."

Although Luddism focused at first on one industry—the manufacture of cloth—eventually it assumed a harder, more revolutionary tone. The modern version is expanding, too, and already has disciples who declare that the principal question is not nuclear power but the way this country shall be governed. One anti-nuclear environmentalist has been quoted as saying: "In some ways, this is a religious war."

If so, we are seeing a misguided crusade. Today, America's nuclear plants generate more electricity in one year than was produced in the whole country in any one year of World War II. By the end of the century, U.S. demand for electricity will be almost three times higher than it is now. What better way to meet that demand than with coal and nuclear power, saving oil and natural gas for use as transport and heating fuels and feedstocks for chemicals?

Frankly, we're not certain that nuclear power is the real target. We suspect that the modern Luddites are longing for return to a simpler, pastoral age, when no one spoke of the atom or nuclear power, scientists wore funny beards and spent their time harmlessly trying to change lead into gold, and a happy peasantry brought in the harvest by hand. It is, of course, a wistful dream of days that never were.

The realities are far different. Much of the world still looks to the United States for technological, scientific, and industrial leadership to provide sustenance and hope to its ever-growing population. To meet its responsibilities as a dynamic society and a world power, the country requires growing supplies of energy. By meeting that need with proven technology, accelerated construction of nuclear plants can help buy time to develop other energy sources on a large scale.

Nor can the country back off from science because science attempts to unfold mysteries. To curb man's acquisition of knowledge is not just short-sighted and foolish; it simply cannot be done. The earlier Luddites found this out; today's, we predict, will relive the same experience.●

NATIONAL FAMILY WEEK

HON. JAMES T. BROYHILL

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 5, 1978

● Mr. BROYHILL. Mr. Speaker, so often as the day's events unfold, we stop and ask ourselves the question, "Why?" "Why did that go wrong?" "Why did that have to happen?"

Never was that question so fitting as on September 3, when young Robert F. Smith III of Hickory, N.C., was critically injured in a water-skiing accident. He died a short 9 days later, never having regained consciousness.

I knew Forest, not as the president of the student council in high school, nor as the son of a good friend, Rev. Dr. R. F. Smith, Jr., but as a bright, inquisitive and ambitious 17-year-old, who loved life, who loved sports, and music, and other people. I knew him as one of those rare young people who combined his talent and outgoing personality with a genuine interest in and compassion for other people. His death is a tragic happenstance, one which compels us all to ask the question, "Why?"

Last week, the House passed a resolution to designate Thanksgiving week as "National Family Week." I believe that the love Forest's family has shown for him is living testimony to the fact that the family is the cornerstone of our society, and is truly the bond which holds us all together.

While we are all struggling to justify this tragic occurrence in our minds, to restore our faith in life and living, I believe that Forest's father's words are especially comforting:

You touched so many lives in your short lifetime, more than most of us will ever touch in three-score and ten. In your life you touched hundreds; in your death you are touching thousands.

And so, I would like to commend to my colleagues the letter Reverend Smith wrote to his son, which is a reminder to all of us in this hectic day and age that the love we have for other human beings, and the basic strength we gain from the family unit, are enduring and transcend all time and age.

Text of letter follows:

[From the Lenoir News-Topic, Sept. 22, 1978]

MINISTER LOOKS AT SON'S DEATH AND ASKS "WHY?"

(By Rev. Dr. R. F. Smith, Jr.)

My dear, dear son, the hundreds of friends and scores of relatives who flooded our home for the past few days have returned to their daily run of duty. I sit alone in your room, the place where you and I have spent many, many hours, talking, discussing, raising more questions than we ever found answers.

All the scaffolding of your short 17 years stands in deafening silence—the catcher's mitt, bulletin board laden with girls' pictures, homecoming ribbons, stubs of special college football tickets, and a few mementos you never told me just what significance they held locked in their mute grasp.

Your drums that often rocked the house (and neighborhood) stand silent, never again to feel the rhythm of your body and soul. Wrinkled basketball shoes, a student council T-shirt with "President" stenciled on the back, a calendar stuffed with never-to-be-filled activities, rough drafts of term papers, an unfinished college application blank, and assorted books lie much as you left them on your desk.

A well-worn and daily-read Bible lies beside your bed, in easy reach. And a German Shepherd named Deacon roams frustratedly in and out of your room, often pausing to lie on the foot of your bed, wondering why you and I have not had any long-night conversations there recently.

Son, you were doing something you loved—water skiing—when it happened. Of course by now you know the whole story, and understand more about everything than we ever will. We still wonder in the wordless silence of questioning spirits, trying to make sense of it all.

You touched so many lives in your short lifetime, more than most of us will ever touch in three-score and ten. In your life you touched hundreds; in your death you are touching thousands.

Yes, we are still asking WHY. Why did this happen? Why did it happen to you? Perhaps we'll never know the answer. Your mother, your sisters—Becky and Rachel—and I continue to ask this question with tears running unashamedly down our faces.

We are seeing many people's lives being changed through all this. And we are grateful. But in all honesty, our one desire is to have you back like you were—full of life, loving everybody you ever met, giving encouragement to people, dreaming dreams,

making things happen, wrestling the car, filling the rec room downstairs with guys under the pretense of studying chemistry (never knew chemistry to be that laugh-producing) and stuffing yourselves with so-called snacks that were in fact major meals. (Mom loved that.) We miss all that, and you, Son.

You and I discussed many questions during these past few years. Now you can find answers to them all. You beat me to it. I hope the first person you look up (after you experience the glory of standing face-to-face with God) is the Apostle Paul. He left a lot of questions dangling. You remember some of them, don't you? Ask him to clear them up.

Then go find Simon Peter, that lovable, impulsive fellow who tried everything, accomplished some, but in his attempts endeared himself to all who have ever slipped and fallen in their faith. You won't have much trouble recognizing him—you've lived in the same house with a guy like him for the past 17 years.

Forest, we miss you. Our lives will never be the same again. We've learned a lot during the past two weeks about ourselves. And we've grown, matured.

I want to thank you for being the greatest son a father could ask for. I've never had to apologize for you or explain you. We have never worried or been concerned about you for a single moment. Somehow you got it all together early, and you had your head on straight. People congratulate your mother and me on being good parents. But, you know what? A good end in football makes the quarterback look great. Thanks for being a good end and making us look good.

You had just begun a course at school in Shakespeare. Soon you would have found a statement in Julius Caesar that your Dad feels describes you:

His life was gentle, and the elements
So mix'd in him that Nature might stand up
And say to all the world,
This was a man!"

And your family? We are struggling, my Son, struggling. Our faith has been tested to the core. The rafters of our theology have trembled. We have touched the bottom, but I'm happy to report to you that the bottom is solid. We shall make it.

God keep you and God keep us all. We hurt, but we know that to hurt deeply is to have loved deeply.

Loving deeply,
Dad, Mom, Becky, Rachel.●

"THE ISSUE OF CRUDE OIL AVAILABILITY TO THE ISRAELI ECONOMY"

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 5, 1978

● Mr. SOLARZ. Mr. Speaker, I would like to make available for the benefit of my colleagues a study recently done for my office by Dario Scuka of the Congressional Research Service on the issue of crude oil availability to the Israeli economy.

Those of us in the Congress dedicated to Israel's survival and security have always been concerned about the prospects for insuring Israel's access to this essential fuel. One of the most promising conclusions of this study is Mr. Scuka's assertion that:

Given the current prospects of an Egypt-Israeli peace treaty, it becomes reasonable to assume that in a framework of peace Egypt, which is a net crude oil exporter, could supply all of Israel's domestic needs of oil. There are clear economic benefits that could accrue to both nations through commercial transaction and joint ventures in the Sinai.

Mr. Speaker, I am sure that all of my colleagues join me in the hope that, as Israel and Egypt move toward the signing of peace treaties, one of the areas of cooperation between these two nations will be in the field of oil exploration and supply. This would benefit Egypt, Israel, and all of America's friends throughout the region.

I ask that the CRS study be inserted at this point in the RECORD:

THE ISSUE OF CRUDE OIL AVAILABILITY TO THE ISRAELI ECONOMY: A REVIEW AND ANALYSIS [1]

(By Dario Scuka, Analyst in International Trade and Finance, Economics Division)

BACKGROUND

Although Israel has been drilling for oil for many years, its prospects of finding significant sources of supply are minimal. The indigenous oil production is limited to a relatively small field in the Negev desert. This output satisfies about 1–2 percent of domestic consumption. Thus, Israel is almost completely dependent on oil imports.

From the time of its occupation of the Sinai in 1967 until 1975, Israel's basic supply of domestic crude oil was obtained from the fields Egypt had developed on-shore and off-shore at Abu Rudais and Ras Sudr on the Red Sea. The occupation of that territory gave Israel an opportunity to operate the fields through the government-owned Netivei Neft Company with some foreign assistance. The rated production of the Sinai fields has been about 80,000–100,000 barrels per day. Authoritative estimates for 1972 show that the Sinai crude oil production at that time accounted for about 80 percent of Israel's consumption.

Historically and traditionally supplemental crude oil has been imported from Iran.[2]

More recently some crude oil is also being obtained from Mexico.

Because of the closure of the Suez Canal in 1967 and for strategic reasons, Israel built a new 42" pipeline from Eilat in the Gulf of Aqaba to Ashkelon on the Mediterranean Sea. The new pipeline together with the old 16" connection from Eilat to Haifa can carry far more than any domestic oil requirement of Israel. In addition, the government-controlled Israeli refining industry has had historically ample excess capacity which has permitted the exportation of some refined products to other Mediterranean countries when crude oil supplies have been available. Lastly, in support of the existing pipeline and refinery situation, Israel also has adequate tankers to move both crude oil into the economy as well as refined products into foreign markets.[3]

[1] The author wishes to acknowledge the assistance of Clyde R. Mark, analyst in Middle Eastern affairs and Richard M. Preece, specialist in international relations, both members of the Foreign Affairs and National Defense Division of CRS.

[2] Oil statistics are a carefully guarded secret in Israel. Iranian oil export statistics do not identify Israel as a point of destination (but then they do not identify South Africa either). Iranian oil export trade, however, has a category designated "unspecified," and in 1975 the government published no data for oil destination at all. The Department of State in 1976 stated that Iran provided almost 70 percent of Israel's crude oil needs.

[3] During the past several years the issue of transshipments of crude oil from Ashkelon to points outside Israel has also received frequent attention. The government has never on record revealed any of their destinations.

CURRENT FRAMEWORK OF CRUDE OIL FLOW TO ISRAEL AND RELATED U.S. POLICIES

The problem of oil supplies to Israel has always been a political one given the overall situation in the Middle East since the creation of the State of Israel. Should the present patterns of supply be altered, the problem could easily escalate into higher costs for oil imports. In fact the cost could increase substantially, but adequate supplies would be available. This conclusion is supported by views of experts in Israel who believe that a total denial of oil to Israel could not be achieved even under the most extreme changes in the region.[4]

In 1975 part of the Sinai oil fields were returned to Egypt as part of the interim peace agreement fashioned by then Secretary of State, Henry A. Kissinger. To compensate for such a loss, the United States agreed to give Israel an additional estimated $400 million a year for five years to facilitate the acquisition of needed crude oil in world markets. At that time, the U.S. government had also extended a guarantee of direct oil supply if Israel could not find a willing seller.[5]

State Department officials asked to elaborate on the UPI report stated that the issue is still classified. A copy of the memorandum between the Governments of Israel and the United States concerning the Egypt-Israel Agreement, dated September 1, 1975, appears on page 249 of the published hearings before the Committee on Foreign Relations, U.S. Senate, on October 6 and 7, 1975, entitled Early Warning System in Sinai. This document sets out the following:

(a) The United States Government "will make every effort to be fully responsive . . . to Israel's . . . energy requirements and to its economic needs."

(b) Israel was expected to make its own independent arrangements for oil supplies, but in the event of not succeeding, the United States would promptly make crude oil available for purchase and, if necessary, secure the needed transportation.

(c) Should the international situation require it (e.g. a possible oil embargo), the arrangement under (b) would be carried out in accordance with the International Energy Agency's conservation and allocation formula as applied by the U.S. Government.

(d) The U.S. obligation under (a)–(c), including the possibility of becoming the supplier of last resort for crude oil, was to last for at least 5 years.

(e) The U.S. Administration was to ask the Congress for funds to construct sufficient storage capacity in Israel commensurate with the quantity of the relinquished oil in the Sinai.

(f) In the annual foreign aid appropriation request to the Congress, the Administration would give special attention to the replacement value of the surrendered crude oil production in Sinai as the cause for additional expenditures by Israel in the importation of oil for the duration of obligation (d).

(g) The amount of crude oil produced in the Sinai and mentioned in the Agreement for purposes of (f) was 4.5 million [metric] tons in 1975. That amount approximates 31.5 million barrels or about 86,000 barrels per day on average.

Our estimate of the value of that quantity of oil in 1975 is about $346 million at then prevailing world prices. In 1978 prices the value increased to about $410 million.

Congressional testimony by the Administration in February 1978 confirms that the United States Government has ". . . certainly fully taken into account replacement costs [of crude oil] in our various aid requests that have come before this committee. We

[4] Israel Economist, April/May 1973, p. 115.

[5] UPI, September 20, 1975 as reported in The Washington Post. Sept. 21, 1975, p. A18.

have also taken costs for oil storage into account." [6] There is no official estimated cost of the storage facilities. An unofficial figure suggests a value of some $150 million.

Soon after the interim agreement was initialed, and even before the handing over of the oil fields, an energy adviser to the Israeli government stated that many offers of alternative supplies were received by Israel at prevailing market prices.[7]

In 1977 when Israel was prospecting and drilling for oil near al-Tur in the Gulf of Suez, the issue received some attention of the Department of State, which issued a statement to the effect that:

"Our legal view is that Israel, as an occupying power, does not have a right to exploit natural resources that were not being exploited when the occupation began . . . . Israeli development is not helpful to get peace negotiations under way." [8]

About that period, the State Department became involved again with the Israeli government over the issue of an American oil company under contract to Egypt. The American crew was set to drill in the Red Sea waters in the Ramadam oil fields region, but Israeli navy units twice drove off the drilling ship from its operational station. Repeated U.S. diplomatic intervention managed to resolve the issue through a minor compromise.[9]

On June 7, 1978, State Department spokesman Hodding Carter said the United States believed Israel had gone beyond the authority of a "belligerent occupant" nation by conducting oil exploration operations in occupied Egyptian territory.

On the basis of numerous statements attributable to both parties involved in the Sinai oil fields issue, and given the current prospects of an Egypt-Israeli peace treaty, it becomes reasonable to assume that in a framework of peace Egypt, which is a net crude oil exporter, could supply all of Israel's domestic needs of oil. There are clear economic benefits that could accrue to both nations through commercial transaction and joint ventures in the Sinai. According to Israeli views, such a process by itself would assure continued peace and stability in the region.[10]

Meanwhile, news dispatches from Cario on January 9, 1978 reported that Egyptian Premier Mamduh Salim made public his government's intention to ask Israel for $2.1 billion in compensation for oil extracted from Sinai fields in nearly eight years of Israeli operation and exploitation of the oil facilities.[11] There has been no measurable public reaction in Israel on this issue so far.

ALTERNATIVE SUPPLIES OF CRUDE OIL TO ISRAEL OUTSIDE THE MIDDLE EAST

Until the 1973 Arab-Israeli war and the concurrent and subsequent Arab oil embargo against the United States, it was generally assumed that virtually all of the supplemental needs of crude oil by the Israeli economy were covered by Iranian exports.

Iranian oil supplies to Israel came into international focus during the Shah's visit to Egypt, when the Iranian monarch mentioned the possibility of withholding crude oil shipments unless Israel showed more flexibility in the search for a solution to Middle East problems. The Shah's visit was unprecedented and took place shortly after the equally unprecedented trip of President Anwar al-Sadat to Jerusalem to seek negotiations with Israel.

Whether or not the Shah's words can be taken seriously, it is safe to assume that Israel has increased its determination to diversify its sources of crude oil supplies. Official information on this subject has not been forthcoming from the Embassy of Israel when queried on the subject. Unofficial sources, and the study of international patterns of oil trade in general, however, suggest that currently Israel is receiving between 20 and 30,000 barrels per day of Mexican crude oil. Private sources in Mexico also state that the Israeli government has expressed a willingness and desire to obtain upward of 100,000 barrels per day of Mexican crude oil, a distinct possibility given the pattern of Mexican oil production and the expressed policy of that government to seek diversification of oil buyers in order to diminish the large dependence on crude sales to the United States, now approximating 90 percent of all exported oil.

Should such a scenario develop any difficulties, other possible sources of oil for Israel within the current world situation in political economy could be Nigeria, Great Britain, Norway and Venezuela, although not necessarily in that order of likelihood. Each of these producers could reasonably accommodate alone Israel's needs from its regular production volumes. Only further development of the situation will tell, however, whether any of them would indeed become significant oil suppliers to Israel.

THE PROBABLE COST TO THE UNITED STATES AS A DIRECT SUPPLIER OF CRUDE OIL TO ISRAEL

Given the global patterns of crude oil flows from producers to consumers, and given the political-economic situation in the Middle East, the probability of the United States having to supply Israel with crude oil from the U.S. domestic production are virtually none.

There have been, however, speculations to this end and this section will try to place this issue in perspective.

Should the United States be required to physically provide the crude oil needed by the Israeli economy (for all practical purposes its total domestic demand), the quantity of crude oil involved would be about 150,000 barrels per day or the equivalent of about 8/10 of 1% of current U.S. national consumption. The economic impact on the total U.S. economy would be relatively small; but open to question remains the effect of the publicity of such a policy on the American public opinion. It should be noted that the current U.S. direct economic aid to Israel substantially exceeds the economic value of all the oil Israel consumes.

The effective economic cost to the U.S. economy would consist of three basic items, two of which are tangible and one intangible. First is the value of the crude oil to be shipped, which Israel is in no position to pay from its present financial resources; second is the cost of transportation; and third is the negative impact of potential commensurate shortages in some sectors of the American economy.

Item 1. Given the best estimated Israeli consumption data of some 55 million barrels of crude oil annually (or 150,000 b/d), the value for such quantity at prevailing world prices the United States pays for imported oil amounts to $731,500,000.

Item 2. Tanker freight costs from the United States are a complicated matter to resolve. First, there is no obligation under current bilateral agreements to pay directly for any transportation of crude oil to Israel. Second, Israeli tanker fleet can be presumed capable for transporting any crude oil to Israel.[12] Third, there is no information available as to the actual costs of Israeli-run tankers. Given the foregoing cautionary notes, the cost of transportation in the context of the above considerations falls in the range between $50 and $80 million. It remains unclear, however, as to who would meet such expenditures.

Item 3. There will be some economic impact, but it would be hard to conceive that any diversification of U.S. oil supplies to Israel would be withdrawn from a small area. Thus the effect will be dispersed across the economic landscape so that a quantifiable economic cost would remain very elusive.

On balance, a combination of possible visible costs of this scenario for the United States would be in the range between $730 million and $810 million.●

[6] U.S. Congress. House. Committee on International Relations. Foreign assistance legislation for fiscal year 1979 (Part 5); hearings before the Subcommittee on Europe and the Middle East, 95th Congress, 2d session. February and March 1978, p. 210.

[7] Yuval Elizur. Israel is offered oil to replace Sinai output. The Washington Post September 9, 1975: A16.

[8] The Washington Post, February 15, 1977, p. A12; also Middle East Economic Survey, February 21, 1977, p. 7.

[9] Middle East Economic Survey, February 21, 1977, p. 7, and direct communication from the Egyptian Desk at the State Department.

[10] Hobart Rowen. Israeli-Egyptian operation; Sharing of A-plants in Sinai is proposed. The Washington Post, February 27, 1978: D7 (Reporting on statements by Yitzchak Modai, Israeli Minister of Energy and Resources.)

[11] The Washington Post, January 10, 1978, p. A 13.

[12] The bilateral agreement mentioned on page 4 calls for the United States Government "to make every effort to help Israel secure the necessary means of transport.' It does not provide for the United States to pay the freight.

TIME TO STOP FREE LIQUOR ON COMMERCIAL AIRLINES

HON. CHARLES E. BENNETT

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 5, 1978

● Mr. BENNETT. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following:

Mr. Speaker, I have introduced legislation (H.R. 177) to prohibit commercial airlines from dispensing free alcoholic beverages to passengers. I introduced this bill for three main reasons:

First, alcoholism is costing the American taxpayers and the American economy billions of dollars a year and I do not believe it should be encouraged by the free distribution of alcoholic beverages on airlines.

Second, nondrinkers have a right to object to the obvious result that transportation costs for them must be increased so that free liquor may be dispensed to other passengers.

Third, the aviation industry is subsidized by the American taxpayers and I do not think that 1 cent of the subsidy should go toward providing free liquor to airline passengers.

Recently, the excellent articles came to my attention on this issue. The first article, included hereunder, was an editorial in the September 25 issue of the Christian Science Monitor.

KEEP LIQUOR OUT OF PLANES

Until recently, U.S. airlines served free liquor to passengers because that was the only way they could compete. Or, at least, that was the excuse airline executives usually offered, explaining that strict federal regulations barred them from lowering their ticket prices to compete as other businesses do. That argument no longer holds water (or liquor),

now that the Civil Aeronautics Board has drastically eased its restrictions, allowing carriers to lower air fares as much as 70 percent.

Airlines as a result of the CAB policy are enjoying a record year; business is booming; air fares are plummeting—and, yet, free liquor continues to flow on certain designated routes, such as the well-traveled one between Atlanta and Los Angeles. Competition should never have tempted the airlines to engage in dubious promotional campaigns that encourage travelers to use a potentially harmful, habit-forming drug in the first place. Airlines, we are pleased to note, have reduced the number of flights on which free alcoholic beverages are served. But with the current mushrooming of discount fares and the trend toward "no frills" flying, surely free liquor is one deplorable frill much of the traveling public would happily do without.

Eastern Airlines president Frank Borman deserves credit for exploring his firm's policy of serving unsolicited wine with meals on the one remaining flight it still supplies with free liquor. The American Council on Alcohol Problems says some of it has wound up in the hands of teen-agers and even younger children traveling alone. We would urge Mr. Borman (himself a nondrinker) and other airline executives not only to stop dispensing free liquor but to seriously question the advisability of providing paid-for liquor as well.

With liquor consumption often called the nation's No. 1 drug problem, airline companies might well consider whether making alcohol so readily available—and in some instances seeming to encourage its consumption—is consonant with their civic and social responsibilities or their corporate obligation to provide beneficial service to the public.

Clearly the practice of one airline of offering wine for $1 a glass with free refills is a dangerous enticement to consume large quantities of liquor. Leaving the serious social and moral implications aside, passengers woozy from alcohol pose a danger to others in the plane (especially if a fast emergency exit were required) or after they are on the ground, where they are apt to be driving a car.

Why is it necessary for airlines to distribute liquor anyway? Theirs should be the business of getting people where they want to go as fast, as safely, and as comfortably as possible. That in itself is a big job.

The second article was printed in a recent issue of the American Issue, published quarterly by the American Council on Alcohol Problems. The article reads as follows:

WINE OFFERED TO CHILDREN AND TEENAGERS ON AIRPLANE TRIGGERS NEW CAMPAIGN

It started on July 1st when Rev. A. V. Richey, Pastor of the First Baptist Church of Highland, California, observed a flight attendant serving wine bottles to some children and teenagers during lunch on an Eastern Airline jumbo jet flying from Atlanta to Los Angeles. After protesting to the flight attendants, he wrote a strong letter to the Federal Aviation Agency, and sent a copy of it to the Executive Director of ACAP.

Then things began to happen. First, on ACAP letterhead a letter went to the President of Eastern, which evoked a personal response saying that flight attendants would be retrained. There was no denial of the facts. Since it was known that United Airline had been offering a glass of wine in coach for $1 with all free refills a passenger might want, a letter was also sent to the President of that airline which drew an immediate Mailgram response saying: "We have received your letter and will be in touch with you as soon as possible. Meanwhile, thank you for your courtesy in writing."

ACAP then sent a general letter to the Civil Aeronautics Board, outlining reasons for banning free drinks on planes and requesting that action, as well as consideration of a total ban of alcohol on planes; this was then sent with a personal letter to each of the five members of the CAB. Letters also went to the FAA, to the President of the Airline Pilots Association, to Ralph Nader, several newspaper editors and others.

An article was then prepared which cited the current incident and others, and reviewed the various reasons for requested action of banning free drinks, and consideration of a total ban, which the various letters had stated. The article was supplied to Twin Circle, a national Catholic magazine published in Los Angeles, which is known to have a strong interest in the alcohol problem. The editor has reported he plans to use the article soon. Since The American Issue reaches many persons besides the readers of Twin Circle we are reprinting the article herein.

FLYING "HIGH" IN THE SKY AND TIME TO DO SOMETHING ABOUT IT!!

(By William N. Plymat)

On July 1st the usual snacks were being served at lunchtime on an Eastern Airlines L 1011 jet, flying from Atlanta to Los Angeles. With each snack came a wine bottle labeled "10C Inglenook Navalle-Chenin Blanc". The stewardesses were serving all passengers. It was a free beverage for all.

Suddenly Rev. A. V. Richey, Pastor of the Baptist Church at Highland California, noticed that a stewardess was serving a little girl who appeared to be between six and eight years of age. When the minister asked the stewardess if she was serving "a little child an alcoholic drink," the reply was: "She won't drink it, she will probably take it to her father, as she is traveling alone." The minister then walked through the plane and saw that every child and teenager on the plane had such a bottle on their plates.

At one point he picked up one of the bottles from the plate of a little girl who appeared to be a first or second grade pupil, to see what was on the label. The little girl asked what it was and he told her it was some kind of alcohol. Then the little girl asked: "Do I have to drink it?" and the minister told her she did not, and that it should not have been served to her. He said a whole row of teenagers were sampling their drinks.

When he arrived home the minister dispatched a letter of complaint to the Federal Aviation Administration, asking for some kind of punitive action to be taken against the airline. He sent a copy of his letter to President Carter, one to Ms. Shirley N. Pettis, his Congresswoman, and one to me. In turn, I've gone into action with letters to the Civil Aeronautics Board, Mr. Frank Borman, President of Eastern Airlines, and Capt. J. J. O'Donnell, President of the Airline Pilots Association.

What are the reasons that airlines should stop offering free drinks on planes and stop any practice that promotes consumption? Here are a few:

(1) Danger to teenagers. Busy flight attendants can not take the time to ask each young person for proof of legal drinking age; besides, the "legal" drinking age in our states varies from 18 to 21. But there is something more important than the "legality" involved. The offer of a "free" drink, especially on a plane as a part of a pleasure trip, provides a powerful inducement and temptation for a first time experience with alcohol and its effects. It is well-known that the younger a person is when he starts to use alcohol, the greater the danger is that he will wind up "hooked" on what is our worst drug. Dr. Jorge Valles, M.D., a psychiatrist at the U.S. Veterans Hospital in Houston, says this: "The younger the age at which an individual starts to ingest alcohol, the greater the changes that he will develop into a chronic alcoholic."

(2) Danger to recovered or recovering alcoholics. It is well-known to many who have been able to stop their addictive drinking which has threatened their lives that they can be strongly tempted with a free drink offered by a friend. Picture such a person being offered a free drink or a small wine bottle by a pretty stewardess. A single such exposure could cause someone to "slip" right back into his addiction.

(3) Danger from drinking on planes and then driving. Many persons have one or more drinks while waiting in an airport. They may board a plane and appear completely sober. Then they drink more on the plane. When they arrive at their destinations they may leave the airports in their own or rental cars, failing to realize their ability to drive safely has been impaired. In a pressurized plane with reduced oxygen, alcohol is not "burned up" with the same speed as on the ground. In fact, in general, one drink in the air has the impact of two on the ground. The National Safety Council urges everyone to wait one hour for each drink consumed before driving a car. A case was reported of a person leaving a plane at the Chicago airport after consuming alcohol and then being involved in a fatal traffic accident near the airport. It is obvious that a person who drinks while traveling by plane and then drives may endanger his own life and the public as well.

(4) Danger in case of an emergency landing. Under government regulations all persons on a plane must be off the plane in 90 seconds in the event of an emergency landing. If plane is packed with people largely sedated by alcohol, it would very likely impair the ability of passengers to quickly follow the instruction of flight attendants. Just one intoxicated passenger could easily prevent many from getting off a plane before an explosion.

(5) Danger of fire on planes. Sometime ago flight attendants began stressing "no smoking" in lavatories. This could have been because of the classic example of the fatal crash of a plane as it approached Paris after a long flight from South America. A passenger had carelessly dropped a cigarette in a towel disposal unit in a toilet, setting the plane on fire. It was not proven whether this passenger had been drinking, but it is known that a drinking passenger could be careless in disposing of a cigarette and cause a grave emergency. The danger of fire on planes is something that many know about, but no one wants to talk about.

(6) Discomforts to passengers. Airplane travel is unique in that passengers are in close proximity to each other. Space is at a premium and speed is important to both passengers and attendants. The evidence is clear that drinking on planes, when added to the other pressures, often causes discomforts, discourtesies, delays, and sometimes disturbances which attendants are called on to handle. A passenger even though only mildly influenced by alcohol may annoy a stewardess or other passengers by loud or boisterous talk. One State Supreme Court judge was arrested when a plane landed because his intoxicated actions on board had endangered lives of passengers. One angry drinking passenger threatened to high-jack a plane if not given immediate access to a toilet. One non-drinking Congressman complained that on relatively short flights meals were delayed while attendants unduly served the drinking passengers and there was not sufficient time to eat before the end of the flight; others have complained of this also.

(7) Discrimination against nondrinking

passengers. When airlines pass out free alcoholic beverages they are incurring expenses which are being paid for by the entire flying public. In January, 1977, all major airline companies were asked how much they were spending for free drinks given passengers. With one exception they all came up with excuses for not providing information. The President of Delta Airlines said: "Because our company purchases alcoholic beverages in many different locations, it would be extremely difficult, if not impossible, even to approximate the amount of money spent on these beverages." He did indicate, however, that if other carriers in competition were to adopt a policy of no longer offering free alcoholic beverages, Delta would adopt a similar policy. Eastern Airlines said: "We do not segregate this cost in our accounting." Western Airlines' President said: "I am sorry that I do not have readily available figures on the cost of providing free alcoholic beverages as opposed to the cost of supplying alcoholic beverages in toto." He might have been able to provide the cost of all alcoholic beverages and then the revenues obtained from sales.

Pan Am was the only airline that came forth with any substantive answer to the question. A Pan Am vice-president said: "The cost of providing free drinks in first class was approximately $1 million in 1976". John J. Hurt, Editor of The Texas Baptist Standard, an official publication of Texas Baptists, in a column told of free drinks spreading from Delta, to National Airlines, and then to Eastern Airlines, and then said: "Eastern said the practice would cost it $1 million on routes where competition now requires the service. It estimated cost to all domestic airlines on all flights at $100 million."

What savings would be experienced if free drinks were removed from all planes? Would it make possible a reduction in air fares? Isn't it time we found out with the help of the Civil Aeronautics Board? Why should a non-drinking passenger be subsidizing the drinking passenger with any part of his air fare—and suffer inconveniences and dangers besides?

VARIOUS WAYS THAT AIR CARRIERS HAVE PROMOTED CONSUMPTION OF ALCOHOL ON PLANES

Some airlines have offered free champagne in connection with meals and others have offered free drinks, not only in first class sections, but also in coach sections. Others have offered small bottles of wine in coach sections in what they sometimes call a "wine basket" lunch. Others have just put a small bottle of wine on the trays of snack lunches offered free to coach as well as first class passengers. A Texas airline was reported to be giving two drinks for the price of one in coach; and another was giving away free bottles of Chivas Regal, an expensive liquor. At one time United Airlines was featuring a wine-tasting in a special area of some jumbo jets; then more recently, United has been offering wine for $1 with all the free refills a passenger would desire. Continental now has a so-called "pub" on some DC–10 flights, and once had a campaign for the Hereford Cows cocktail, involving "50¢ chips" purchasable on the plane. Not too long ago United was offering "Bloody Marys" for 50¢ before 10 A.M. on some flights. In some cases airlines have carried on advertising that has stimulated the idea of a party atmosphere on a flight, as witness Continental's ad headline: "Pub it to Denver". And their ad copy included: "So next trip to Denver, Chicago or Houston, don't just fly—Pub it."

DOING SOMETHING ABOUT IT

A famous religious group has a slogan: "It is better to light a candle than to curse the darkness." If it is time to take some action, what can a citizen do? Here are some suggestions:

(1) Write the Civil Aeronautics Board (CAB), Washington, D.C., 20428. This agency has jurisdiction over pricing of air fares and regulations on in-the-air services. For example, they are responsible for the requirement of no-smoking sections on planes, and recently considered a total ban on smoking on planes. Ask them to end the practice of offering free drinks on airplanes and to issue rules to reduce consumption of alcoholic beverages on planes and to avoid promotive actions by airlines. Upon the showing of enough public interest for good reasons, it is believed this agency would have authority to prohibit the serving of all alcoholic beverages on airplanes.

(2) Write the Federal Aviation Administration (FAAA), Washington, D.C., 20590. This agency has authority over all aspects of safety in the air. Ask them to join forces with the Civil Aeronautics Board to reduce the dangers to passengers because of alcohol drinking in the air by a total ban of alcohol on planes, or some other stringent regulations.

(3) Write your U.S. Representative and Senators in Washington. Call your Public Library or some city official for these names and addresses. Urge the introduction of bills to ban free drinks and/or the vending of all drinks on airplanes.

(4) Write the airline you use and express your feelings on this issue. Urge it to take unilateral action. In addition, if you are ever exposed to an extremely disturbing occurrence created by the use of alcohol on an airplane, report it to your flight attendant so that word can be passed on to the company, and also write to the airline yourself, courteously, of course.●

AMNESTY INTERNATIONAL REPORT ON NORTHERN IRELAND

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 5, 1978

● Mr. BIAGGI. Mr. Speaker, over the past several months I and others on the Ad Hoc Congressional Committee for Irish Affairs have been introducing into the RECORD the report compiled by Amnesty International concerning prison conditions in Northern Ireland's Castlereagh facility. All told, Amnesty cited 78 different cases and approximately one-third of the cases have already been inserted.

The fact remains that peace in Northern Ireland will not occur while these human rights deprivations continue. It is incumbent upon our administration to address the human rights issue in Ireland as they have in so many other places.

What is more disturbing in this matter are reports that the recommendations of a special three-member panel investigating the cases presented by Amnesty and other organizations have been rejected by the Government. The situation begs for reform, yet all suggestions go unheeded by those in a position to make reforms.

I will continue the introduction of these cases into the RECORD along with my colleagues on the committee until all are included. I hope the consciousness of the administration—as well as the Congress—can be raised on the human rights problems in Northern Ireland.

AMNESTY'S REPORT ON NORTHERN IRELAND

CASE NO. 8

Male. Arrested during the latter half of 1977, shortly after his release from prison. He was taken to Castlereagh Holding Centre where he was detained for 3 days. He was subsequently released without charge.

He alleged the following forms of maltreatment during detention:

General beating with open palms and closed fists; kicking, especially to the testicles; direct punches to the head; verbally degraded and humiliated; hair pulled; physically exhausting positions; hyperflexion of wrists; and degrading behaviour (had to pick up matches from the floor).

He claimed to have had the following symptoms immediately after the alleged maltreatment:

Attacks of tachycardia, especially just before further interrogation sessions; pain in left wrist and both knees; bruises; headache, sensitivity to light, dizziness; and "pins and needles" numbness of left big toe.

He also told the medical delegates that while he was in Castlereagh he heard screams, but that he believes they were real and not hallucinations. He lost his sense of time and did not know exactly when it was day or night, although he seems to have been oriented as to the times of the interrogation sessions.

He claimed to have suffered from the following symptoms in the period following his release from detention:

He felt less sociable; he stayed at home much more frequently than before his arrest.

He had difficulty in controlling his emotions, and became easily irritated by other people.

He suffers a very real fear of the police, but there are no further anxiety symptoms.

Previous medical examinations

Case No. 8 was examined by a doctor during his detention in Castlereagh. Several bruises were found and the doctor noted in his report that he complained of tachycardia, headache, dizziness and decreased * * *. The doctor's report is attached.

Examination by the medical delegates during detailed interview

At the time of physical examination, no objective evidence of injuries was found. He told the mission that he still had decreased social contact and barely checked impulses of violence. The detailed examination took place a few weeks after his arrest and interrogation.

Conclusions

The medical delegates were unable to assess how far his arrest and interrogation had contributed to his claims of changed emotional stability and tendency to isolation, because he had spent several months in prison immediately prior to his arrest and it was impossible to know to what degree the imprisonment had affected his condition. Although the medical delegates find consistency between the medical report of his doctor and some of Case No. 8's allegations of maltreatment, the detailed examination was inconclusive and could not further corroborate the allegations.

CASE NO. 8 MEDICAL STATEMENT BY DR. AL

Examined on [Day 2] at Castlereagh. Past history not relevant. Arrested during the latter half of 1977 and taken to Castlereagh. Had two interviews, 2 to 3 hours each. First interview no complaints, second interview no complaints. The following day he had three interviews, from 10 a.m. to 1 p.m., 2 p.m. to 5 p.m., and 7 p.m. to 11 p.m.

First interview, he was beaten by two men with fists and kicked, struck a lot of times on head and body and knocked down. Kicked on testicles 2 to 3 times while lying on ground. He got verbal abuse and was very frightened. He was then made to squat

against a wall in a chair-sitting position and he collapsed onto floor and was pulled up by hair and stood against the wall. Was put squatting again but unable to do so and collapsed and was punched and both wrists forcibly flexed. He asked them to stop bending wrists, but they continued. He was also struck by fists during this time, then told to stand but could not.

Pulled up by hair and made to stand with fingertips against wall with feet away from wall. In this position struck on stomach 10 to 20 times and slapped multiple times in the head and kicked two to three times in the testicles. He cried out with pain.

A third man who was called "the boss" came in and said "Hit him again". This man laughed and said "Give him a good bash" if he didn't answer correctly. Word then came that the police doctor had arrived to examine him, and the men asked him what he would say to the doctor about the bruises. He was examined by the doctor, then back in cell for about 1 hour.

Second interview, on [Day 2] at 2 p.m. No complaints. Offered tea and unable to eat, drank tea only.

Third interview, on [Day 2], 7 p.m. to 11 p.m. by 2 lots of two men. First 2 interviewers gave no abuse. The second pair interviewed him from 10 p.m. to 11 p.m., made him take off his shoes and stand facing wall. Pushed face to wall a lot of times. The bigger one had a strong smell of drink. Both slapped him about the head a lot of times. Smaller one spilled matches and made him pick them up, then gave him verbal abuse about parents, social problems, and said mother was a whore.

The bigger one brought him to the cell and pushed him against cell wall a few times. Allowed to sleep.

On [Day 3], interview 10 a.m. to 12:30 p.m. No complaints.

Second interview, [Day 3], 2 p.m. to 6 p.m. by 2 sets of men. No complaints about first set of men. Second group: pushed about by one of them who tried to make him squat against wall but fell after one minute. Then slapped on head and put crosswise on a chair. Fell off and sat on floor for the remainder of the interview.

On examination:

Scalp tender about right ear. Left right eye, lower lip blue and swollen. Tender above right eyebrow. Neck tender back and front, no marks, all neck movements painful.

½'' abrasion below right elbow. 1'' linear bruise right front upper arm. Both wrists painful on passive movement. 1'' linear bruise on abdomen. Abdomen tender generally, sore at top. Left testicle slightly tender. No marks. Two 1'' fresh bruises left shin. Tender bruise below right knee. Tender on middle of left shin, questionable bruise. Feels sick in stomach.

Blood pressure 115/60. Complaints of throat pain that a.m. Temperature normal, pulse normal. The sore throat seems due to throat muscles.

CASE NO. 64

Male, arrested 1977 and brought to Castlereagh Holding Centre. No information about length of detention or charge. He was offered a medical examination by a police doctor on arrival at Castlereagh, but refused. He had a medical examination by a doctor brought in at the request of his solicitor during his detention in Castlereagh. It is not known whether or not he had a medical examination on release.

Maltreatment alleged: general beating for 1½ hours, especially on the jaws.

Symptoms: no information.

Medical report: by Dr. 01, examination during his stay in Castlereagh.

Signs: none.

Conclusion: In the view of the mission it is unlikely that 1½ hours of general beating would leave no sign of bruises. There is therefore inconsistency between the history and the signs.

CASE NO. 83

Male, arrested 1977 and brought to the Newcastle RUC Station; later transferred to Bessbrook RUC Station. Alleged maltreatment in both detention centers. Detained for four days, then released without charge. Had a medical examination on arrival at the Newcastle RUC Station and also on arrival at Bessbrook RUC Station. During his detention at Bessbrook, he had medical examinations by two different doctors. He had a medical examination before he left the Newcastle RUC Station. No information regarding any medical examination before release from Bessbrook.

Maltreatment alleged: general beating, physically exhausting procedures, hairpulling, direct trauma to the head: karate chops on the back of his head. Threats.

Symptoms (immediate): nausea, unable to think, unable to sleep, pains all over but especially in the area of the 10th and 11th ribs. Alleges that when he received a karate chop on the back of his head he "saw stars". (Later): insomnia, fear, inability to work.

Medical report: On examinations by Dr. D2, No. 1 while still detained, No. 2 the day he was released from the detention center and No. 3 six months later.

Signs: on first examination in detention center, was shivering and frightened. Was easily annoyed and obviously reactively depressed. B/p low, 100/60. Pulse normal. Had clinical signs of fractures of 10th and 11th ribs. A bruise mark over right buttock. A bruise on right back, but not necessarily new. Tenderness in the epigastric area. Urine contained albumen and acetone. Dr. D2 explained the albuminuria as orthostatic, provoked by a long time standing in erect posture with lordosis of the lumbar spine.

On second examination, the day he was released: had no albuminuria, but very shaky and had all the signs mentioned above.

On third examination, six months later: somewhat better, but still showed some mental disturbances. It should be added that Dr. D2 had known this man for 15 years before his detention and asserts that he had always been completely healthy and mentally normal.

Conclusion: There is consistency between alleged maltreatment and the signs. We would add that the proteinuria, as explained by Dr. D2, may also have been provoked by physically exhausting procedures such as those the patient alleged.

The complainant was examined by police doctor T2 and it would be of great value to compare the reports.●

"A VIGIL FOR FREEDOM"

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 5, 1978

● Mr. RODINO. Mr. Speaker, I am proud to participate in "A Vigil for Freedom" for Soviet Jewry. As chairman of the House Judiciary Committee I am very involved in the policies of our country to admit Soviet Jewish refugees and other refugees into the United States. In this regard, it is my belief that America should never abandon its tradition of being a home for all freedom loving people, especially those who are oppressed.

Mr. Speaker, today I want to speak about a young man whom I have never met, but whom I feel as if I know very well. His name is Benjamin Bogomolny, and he is a Soviet Jew living in Moscow who has been trying for 6 years to leave the Soviet Union and join his family in Israel. I first made a statement about Benjamin last July, telling of his trouble obtaining an exit visa and his frequent harassment by the Soviet authorities. There have been taps on his phone, intrusions in his apartment and personal assaults and threats on his life, all ignored by Soviet officials. With Benjamin's friends and family already allowed to emigrate, he lives an isolated existence.

However, my own knowledge of Benjamin is of a warm, friendly young man who is full of hope and strengthened by his faith. Benjamin knows of our concern for him and he has sent me a finely decorated, Russian table spoon as a message of thanks and a reminder not to forget him.

Mr. Speaker, none of us can rightly forget Benjamin's struggle. We have a commitment to speak out for basic human rights and I urge my colleagues to continue to support the international efforts to help Benjamin Bogomolny and other individuals who long to become free.●

PLIGHT OF COL. WULF VILENSKY

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 5, 1978

● Mr. KEMP. Mr. Speaker, I want to express my appreciation to Congressman BRODHEAD for coordinating this year's Vigil for Freedom on behalf of Soviet citizens who have been denied permission to leave the Soviet Union to be reunited with their families. The Union of Councils for Soviet Jewry has worked diligently to keep us informed of the problems that Soviet Jews have encountered in their attempts to obtain exit visas, and I am proud to support Congressman BRODHEAD'S efforts to expose continuing Soviet violation of basket three of the Helsinki Final Act, which grants family reunification rights to Soviet citizens. I share his hope that our participation in this vigil will be of assistance to these families and will result in their reunion in the near future.

It was with deep sadness that I learned of the most recent denial of Col. Wulf Vilensky's exit visa application earlier this year. Colonel Vilensky and his wife, Sonia, are not strangers to the pages of the CONGRESSIONAL RECORD, as they have been trying to join their children in Israel since 1975. As you may recall, Colonel Vilensky is of Lithuanian heritage and served the Soviet Union valiantly during World War II, accruing 26 medals for his bravery. Among those medals is the coveted "Hero of the Country Medal." Regrettably, Soviet officials have not seen fit to reward their hero with an exit visa, and so Colonel Vilensky and his wife are forced to remain in Vilnius, the capital of Lithuania, hoping that their application will be approved when they are allowed to resubmit it.

Mr. Speaker, I have called upon Secretary Brezhnev to review this case once

again, urging him to grant the Vilenskys the visas they have requested. My efforts in behalf of this family will not wane as a result of this latest denial of their rights, and I encourage my colleagues to redouble their support for those Soviet Jews who wish to emigrate to Israel.

Again, I laud Congressman BRODHEAD for his energetic efforts in leading us in our vigil, and hope that my colleagues will continue to fight for Soviet compliance with the Helsinki Final Act.●

FRED FRANZBLAU, JUNIOR ACHIEVER

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 5, 1978

● Mr. DOWNEY. Mr. Speaker, Fred Franzblau of Bohemia, New York has been designated "Male Junior Achiever of the Year" from New York State.

Despite a physical handicap, Fred has been the guiding force behind a very successful junior achievement project on Long Island. In terms of Fred's accomplishments, the word "achievement" is certainly synonymous with courage, skill, and tenacity.

I would like to take this opportunity to share with my colleagues an article that appeared in the Suffolk County News about this remarkable young man:

[From the Suffolk County News, June 22, 1978]

LARGE PAPER CLIP PINS DOWN N.Y. STATE AWARD

Fred Franzblau walked into his math class at Connetquot High School and thought to himself, "Toni Ann and Lorraine are two crazy girls."

The message chalked flamboyantly on the blackboard read, "Fred has won the Junior Achievement Award." Toni Ann and Lorraine sat, with white fingertips, near the back of the room.

"It was nice of them," Fred relates, "everybody in the class congratulated me."

A 15-year-old Bohemia resident who has only limited use of his arms and legs, Fred was named the male Junior Achiever for New York State last month and will be attending a Junior Achiever Conference at Indiana State University in August.

Fred, who placed first in a swimming event at the Suffolk County Special Olympics for Exceptional Children in 1973, said he became interested in Junior Achievement last December after his father, Leonard, was invited to advise a Junior Achievement group at Smithtown High School East.

Junior Achievement is an academic education program guided by business advisers who help high school students organize and manage their own businesses to produce and sell a product to the public. Since there is no Junior Achievement group at Connetquot, Fred attended the Smithtown meetings with his father, a Melville businessman.

"It's not as if I was hanging on my father or anything," Fred explains, "He didn't say, 'Fred, look at this. Do you want to go?' I said, 'Gee Dad, this looks good. I want to go.' "

The 20-member group at Smithtown East formed a small corporation called Mint. The students designed an executive paper clip—a giant paper clip with a marble base that functions as a message holder.

"Actually," Fred points out, "it has three functions. The executive clip serves as a message holder, a paper weight, and, if you get bored, a musical chime." Fred smiles, tapping the tubular paper clip with a fingernail.

As chairman of the research design committee for Mint, Fred was asked by his advisers to enter tests for male achiever of the year.

He was honored at the Future Unlimited Awards Banquet at the Waldorf Astoria Hotel in Manhattan where he sat on the dais with home run king Hank Aaron and basketball superstar Bob McAdoo. "Even Abe Beame was there," he recalls."●

A RESOURCE DENIAL STRATEGY

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 5, 1978

● Mr. McDONALD. Mr. Speaker, there is a many pronged attack taking place these days, it would seem, against the United States remaining a first-class industrial power. The environmentalists are assisting in shutting down American industry at home. American negotiators abroad are giving away our trade advantages. Radicals and other groups are trying to scare us out of the nuclear energy field entirely, while the ecology lobby attempts to take all our land and return it to buffalo grazing. The net result of all such activity is not hard to foresee. Our standard of living will fall and we will become a second- or third-rate power. Anthony Harrigan has caught the drift of his trend very well in a recent editorial that appeared in the U.S. Industrial Council Bulletin for April 1, 1978. I commend it to the attention of my colleagues. The editorial follows:

A RESOURCE DENIAL STRATEGY

(By Anthony H. Harrigan)

Increasingly, the federal government is employing a strategy of resource denial that deprives the American people of access to materials essential to a prosperous, modern society.

A case in point is the federal policy which could designate up to 90 million acres of land as a wilderness region, thereby closing it to mineral exploration.

John E. Swearingen, chairman of the Standard Oil Company of Indiana, warned of the danger of this policy in a recent address to the National Association of County Agricultural Agents.

Mr. Swearingen said that the language of the Wilderness Act, which constitutes the operating directive for the Forest Service, implies that "man is an intruder in nature—in fact, perhaps even an intruder on the planet itself."

In his talk, Mr. Swearingen told the county agents that the government was considering withdrawing millions of acres of prospective oil and gas lands in the Overthrust Belt, which runs through Utah, Wyoming, Montana, and southeastern Idaho. Several important discoveries have made this area "a petroleum province of great potential," he declared. "None of us, be we oil men, miners, ranchers, or farmers, wants to plunder or despoil the planet," he continued. "All we ask is a sensible balance between preservation and use, a balance which acknowledges that man's activities are not necessarily sinful and predatory, but are in fact useful and necessary."

Mr. Swearingen asserted that this lack of balance is especially evident in the activities of newer regulatory bodies in Washington, most of them formed in the 1970s.

He cited the Environmental Protection Agency's refusal to allow farmers in four Midwest states to use more powerful pesticides to stop an infestation of grasshoppers. As a result, he said, "in four of our most important agricultural states, farmers are suffering and food supplies will be reduced. But thanks in large part to the EPA, the grasshoppers are very well-fed and healthy."

The newer regulatory agencies such as the EPA operate without any understanding of or respect for the national interest in terms of industrial strength. They impose restrictions on industrial growth and development that weaken the United States at a time when America faces the most determined economic competitors as well as adversary states and systems intent upon downgrading our national power.

Ironically, laws are being passed to limit mineral exploration in the United States at the very time that the American people have the greatest need of developing their mineral resources.

In the world at large, the Soviet Union has adopted a foreign and military policy that aims at resource denial. This is the grand design in Soviet policy towards Africa, for instance. The Soviets seek to deny the U.S. and its allies access to the vast mineral wealth of Southern Africa—the gold, iron, uranium, copper, chrome, platinum metals, and other specialty metals.

It's imperative, therefore, that the United States seek independence in minerals and in petroleum. This can only be achieved by carrying out a more thorough search for resources within the continental limits of the United States. Therefore, when Congress passes a law that inhibits this search, it strikes at the survival of the Republic.●

THE PLIGHT OF VLADIMIR LIFSHITZ

HON. WILLIAM J. HUGHES

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 4, 1978

● Mr. HUGHES. Mr. Speaker, I am pleased to join my distinguished colleague, Representative BRODHEAD in the "Vigil for Freedom," held in conjunction with the Union Councils for Soviet Jewry. Three years ago, people all over the world had high hopes about what the signing of the Helsinki Final Act would mean to families who were separated by political boundaries. Although the Soviet Union is a signatory of these accords, it has done little to live up to its pledge to facilitate the reunification of these families. Consequently, it is important that the Western World bring pressure upon the Soviet Union to live up to its pledge. As Members of Congress, we can call attention to the plight of various dissidents who want nothing more than to leave the Soviet Union and live with their families in the free world. Such is the case of Vladimir and Bella Lifshitz.

Vladimir and Bella Lifshitz are two refusniks from Vilnius, Lithuania. During the German occupation of their country from 1941 to 1944, they saw the virtual extermination of the large Jewish population. Now in their old age, they have been desperately trying to emigrate to Israel to be reunited with their children. The years may have dimmed their physical strength, but not their courage. For bravely they have made no fewer than 30

appeals to Soviet authorities for permission to join their two daughters. They have been refused on the basis of the "secrets" acquired when Vladimir served as a colonel in the Soviet Army. He left the service 29 years ago.

In a recent letter, their daughter Mrs. Jaffe wrote from Israel:

> The reason for their refusal was secret information that our father had because of his service in the Soviet Army (he left the Russian army in 1948). Both are sick and old people. Nobody from our relatives are left in Russia now. In Israel we are two married daughters with children.
>
> As you can see, the Soviets just find their own excuse and don't let them go. If the situation continues like that, very soon we'll be left without parents. We ask you to help us in any possible way to get them to us in Israel.

To deny an old man and his wife permission to leave the Soviet Union to live with their family in Israel is a cruel abrogation of the human rights so nobly espoused in the Helsinki accords. Although we do not know whether our calling attention to the Lifshitz' family and the many others, who for one reason or another, are denied the freedom to immigrate will give them the opportunity to leave, we have an obligation to make known the plight of Vladimir and Bella Lifshitz in the hope that the spotlight of truth will be strong enough to free them from the darkness of tyranny.●

NASA's 20TH ANNIVERSARY

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 5, 1978

● Mr. DOWNEY. Mr. Speaker, this week NASA celebrates its 20th anniversary. As a member of the Science and Technology Committee I would like to take this opportunity to recognize the achievements of this important and vital agency.

Since the birth of NASA, it has provided our Nation with attainments which had been the exclusive realm of science fiction novelists. NASA achieved the goal President John F. Kennedy set on May 25, 1961, when he declared a national commitment to "landing an American on the Moon in this decade." In 1969, Astronaut Neil Armstrong fulfilled this ambition when he took the giant leap for mankind.

Apollo 11's mission to the Moon was the culmination of NASA's first decade and the beginning of its second decade of achievement. Since that time, the space program has given us Skylab and the accomplishment of keeping our astronauts in space for 84 consecutive days. During the coming decade, the space shuttle will provide us with further advances in space technology and communications which will also have a profound impact here on Earth.

Many citizens nationwide have contributed to NASA's accomplishments. Without the skill of our work force and the strength of our aerospace industry, the space program would never have gotten off the ground. From California to Long Island, thousands of Americans can take credit for NASA's success.

During the past two decades NASA has not only contributed to celestial exploration, but also to the technological advacement of our society. The Vanguard 2, launched in 1959, provided the first photograph of Earth from a satellite. This breakthrough has greatly assisted our meteorologists. NASA has also contributed to communications advancements which have taken place during the last several years. The long-range telecommunications satellites have brought people from all corners of the Earth closer together. NASA's television satellites have captured events which have taken place around the world. As a result of NASA's exploration, we have witnessed in our living rooms happy occasions as well as tragic ones.

During the preceding two decades NASA has given our Nation the gift of exploration. It has made America the technological leader of the world. We must all salute NASA on this momentous 20th anniversary.●

THE CASE OF MARAT OSNIS: DETAINED IN THE SOVIET UNION

HON. BILL ARCHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 4, 1978

● Mr. ARCHER. Mr. Speaker, I am honored to have this opportunity to join in the "Vigil for Freedom" sponsored by the Union of Councils for Soviet Jewry to call attention to the plight of families and individuals who are being detained in the Soviet Union against their will.

All of us are well aware of the promise contained in the Helsinki Final Act of 1975 which committed all 35 signatory nations to policies guaranteeing basic individual human rights for their people. A major part of that agreement involved the reuniting of families whose members have been separated by artificial political boundaries—separations which exist because of the flagrant violation of the commitment to human rights by the Soviet Union.

It is our hope that by calling attention to specific cases involving these violations the Soviet Union's action can be shown to the nations of the world for what they are.

The case of Marat Osnis provides a clear illustration of Soviet policy. In 1972, Marat and his wife Klaudia, along with Marat's parents, Iosif and Vanda Osnis, applied for permission to emigrate from the Soviet Union to Israel. Soon after, Iosif and Vanda were permitted to emigrate. They reluctantly left Marat and Klaudia behind, but with assurances from Soviet authorities that their son and daughter-in-law would soon be following them.

Six long years have passed and the Osnis family is still cruelly separated. Marat and Klaudia have been told that their application to emigrate is being denied because Marat had allegedly been exposed to "state secrets" at his place of employment. However, he had never been asked to sign documents that would even allow his access to classified materials—and many of his fellow workers have been allowed to leave the Soviet Union. Since their application in 1972, the Osnis family has had great difficulties in finding employment and Klaudia has been forced to terminate her studies after 3 years of college. They want nothing more than to join their people and family in a life of peace in their national homeland. I hope that my colleagues will join with me in my wish that this vigil for freedom will result in the early reuniting of the Osnis family in Israel.●

TREATMENT OF WOMEN UNDER SOCIAL SECURITY

HON. MARTHA KEYS

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 5, 1978

● Ms. KEYS. Mr. Speaker, in an effort to secure more equitable treatment for both workingwomen and homemakers under social security, my colleague Mr. FRASER and I have introduced H.R. 3147. Representative FRASER spoke about the bill recently before the Retirement Income Conference. His remarks follow:

SOCIAL SECURITY AND THE DISADVANTAGED MAJORITY

(By DONALD FRASER)

I'm pleased to be here to discuss the economic security of older women. This issue came to my attention several years ago when my wife, Arvonne, and I realized we were hearing from a number of women who, for one reason or another, lacked access to social security benefits. As we explored the extent of this problem, we learned that the social security system generally fails to be a source of retirement income protection for older women.

Women are 70 percent of all over-65 social security beneficiaries who are still poor enough to qualify for welfare. Nearly 40 percent of all non-married older women are poor. These alarming facts make it apparent that the social systems traditionally protecting people from poverty in retirement have drastically failed women.

Women defy the norms of the programs established to protect them. Those norms assume the average woman goes through life dependent on a male spouse who will protect her until death. The dissonance between assumption and reality creates gaps and inequities in a variety of social systems, virtually guaranteeing women poverty in retirement.

We decided to address the economic peril of the older woman by working to improve her access to social security. With a few minor and technical exceptions, the social security laws treat women and men no differently. All workers are taxed at the same rate, all become entitled to benefits by the same circumstances, and all receive benefits computed by the same formula.

In spite of this, older women are still poor because the basic structure of the social security system is not suitable to lifetime work and family patterns characterized by divorce, low wages, and movement in and out of the labor force. Consequently, when women do divorce, they are left without social security coverage for the years they remained home raising children and when they do work, they pay taxes for

benefits they most likely would have received as dependents anyway.

The present system will provide fair and adequate protection for a woman who stays married to the same man and never works in the paid labor force. However, when the rate of divorce approaches 1 for every 2 marriages, when over 90 percent of all women work outside the home, for pay, during some part of their adult lives, and when 40 percent of all older women are poor, we know the system is out-dated.

The structural problems fall into two categories—issues of fairness related to the earnings-replacement features of the system, and issues of adequacy, related to the social insurance or welfare features of the system.

EQUITY

The fairness issues revolve around the dependent benefit available to spouses of fully insured workers. A dependent spouse benefit is half that of the worker's benefit. (For discussion purposes, we'll assume all spouses working in the home are women.) If a wife has worked enough to qualify for social security, she will receive either her own benefit or the dependent spouse benefit, whichever is higher.

The equity problem arises when a wife who never paid social security taxes, receives a "free" benefit while a wife who worked still only qualifies for the same dependent benefit. She complains she paid taxes for a benefit she could have had anyway.

Similarly, a single worker resents that a married worker's taxes will buy a benefit for a dependent, while the same tax paid by a single worker will only buy his or her own benefit.

ADEQUACY

The gaps in coverage can be blamed on the years a woman spends in the home, out of covered employment. Benefit amounts are computed by averaging lifetime earnings. If a woman works enough quarters to qualify for a benefit, the amount will be substantially reduced by zero-earning years averaged into her lifetime earnings. She is penalized for child-rearing.

Secondly, during years out of the paid labor force, a woman can lose access to disability benefits. To become entitled to disability benefits a worker must have spent at least 5 out of the last 10 years in covered employment. A woman could find herself without coverage if her disability occurs in her 6th year out of the paid labor force. Or, if she began her child rearing before ever earning the initial qualifying quarters, she will be left without disability protection until she enters the paid labor force for at least 5 years.

Thirdly, a woman who divorces is left with only a third of the couple's retirement benefit or, if not married more than 20 years, no spouse benefit at all. Congress lowered this duration of marriage requirement from 20 to 10 years, effective next January. Under the new law, divorced homemakers married less than 10 years will have no benefit protection. Further, a woman cannot claim a dependent benefit until her spouse or former spouse claims his. If he is younger than his wife, or decides to continue working beyond age 65, she is left without coverage.

SOLUTIONS

We discovered these problems could be resolved if we restructured the way workers earn entitlements to benefits, eliminating all adult dependent benefits. Our aim is to make social security a neutral factor in the choice a woman makes to work or divorce. The approach embodied in our solution is referred to as "earnings-splitting." We start with the notion that marriage is an economic, as well as a social and emotional partnership. We believe both partners enable family income to be earned so both should have access to any benefit associated with that income.

We propose to have couples combine income and annually credit each social security wage record with an equal portion of the total. Under this system, each year a woman works in the home, her social security record would be credited with half of her husband's wage earned in covered employment. Years in which they are both in the paid labor force, they combine salaries and credit each record with half of the total.

This system closes gaps in coverage by providing the woman working in the home with a continuous wage record. She would no longer have zero-earning years to pull down her benefit amount, and she would retain access to disability protection by keeping her wage record active.

Further, dependence on a divorced spouse becomes irrelevant: the couple's economic partnership lasts only for the duration of the marriage. When the marriage ends, the couple no longer splits earnings for social security purposes. If they both work in covered employment after divorce, they each get credited for 100% of the wages they each earned in covered employment. If they remarry, they enter into a new partnership with that spouse and begin to share earnings credits during the years of that marriage. When individuals reach retirement age, they receive their own primary social security benefit, computed from their own wage records.

The fairness problems are diminished by elimination of the "dependent spouse" benefit. If a single person has no one with whom to share earnings, she or he receives credit for 100% of earnings. The working spouse of a one-earner couple would share those earnings with his wife through which she would develop her own record, during the years she was out of the paid labor force. A bonus dependent benefit at retirement would no longer be necessary.

Similarly, the two-earner couple would be credited with their two incomes and, if they earn more together than a one-earner couple, each of their wage records will be higher and they will receive higher benefits.

Because benefits are weighted in favor of workers with low wage records, a couple in which, for most of its lifetime, only one spouse worked in covered employment, will still be somewhat advantaged. However, this can be viewed as one way of recognizing society's value of work performed in the home as well as a means of avoiding drastic reductions in the sole earner's—usually the husband's—primary benefit. Effectively, we've determined the value to the marriage of work performed in the home as exactly half the annual salary of the spouse working in the paid labor force. The value to society is the advantage the couple will receive from the weighted benefit formula.

STATUS

We've drafted a social security earnings-splitting bill which I introduced for the first time in the 94th Congress. I reintroduced it, along with Congresswoman Martha Keys, during this Congress and we've been successful in securing the co-sponsorship of 60 of our House colleagues.

However, the bill is only a conceptual piece, many redrafts away from enactment. The complexity of the social security system defies analysis of how our plan would affect current and future beneficiaries. Information with which to draft a piece of legislation with the effect we intend has never been collected.

To secure this analysis, the Congresswomen's Caucus, at the urging of Martha Keys, met with HEW Secretary Joe Califano last winter to urge him to give this area some priority. The result was a report released in late February entitled "The Treatment of Women Under Social Security." This report is a basic survey of the problems with the system that adversely affect women and a summary of proposals, piecemeal and comprehensive, to solve those problems.

While the report is an important and unique resource document, it still does not offer the technical analysis we need to draft a good piece of legislation. This information should be provided in a study Martha Keys and I secured in the Social Security Amendments of 1977. This study on sex discrimination is underway in HEW and expected to be released sometime in early January. We're looking forward to the study as a tool for improving, refining, and demonstrating the need for our earnings-splitting proposal.

I had hopes of advancing this legislation in the Senate next year, but, as some of you may know, I was recently defeated in our Minnesota primary. The burden of the legislation will fall on Congresswoman Keys, who also faces a tough re-election fight in November.

To ensure this issue remains before the Congress and a priority for the Administration, public interest and advocacy groups have a critical role to play. Congressional hearings should be called for when the congressionally-mandated study is released. Further, the Social Security Advisory Council is holding a series of hearings throughout the country in October to January at which they should hear that women's poor access to social security benefits is of major concern. The Advisory Council, along with the President's Commission on Pension Policy, should be compelled to play a major role in advancing reform that keeps older women from being the disadvantaged majority.●

NATIONAL DEFENSE MYTH VS. FACT

HON. JOHN H. ROUSSELOT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 5, 1978

● Mr. ROUSSELOT. Mr. Speaker, I want to express my concern that the vote on H.R. 14042 (Department of Defense Appropriations for Fiscal Year 1979) was almost taken by a mere showing of ayes and noes without the presence of a quorum. Do not you feel that we owe the American people a better showing on such an important matter of national concern? It was for that reason that I made the point of order that a quorum be present for this crucial vote. My colleagues are well aware that I have supported not only an adequate but a superior defense system for this country —proven quite clearly by my support of the B–1 bomber and the nuclear powered aircraft carrier programs. I would like to bring to the attention of my colleagues an article written by Kenneth L. Adelman that was published in Thursday's Wall Street Journal (October 5, 1978). Mr. Adelman's comments on defense (the United States vs. the Soviet Union), shows the American people all too well the myths being conveyed to them by the current administration:

[From the Wall Street Journal Oct. 5, 1978]

WEST'S SUPERIORITY: EVEN IF TRUE, IS IT DECISIVE?

(By Kenneth L. Adelman)

The myth of "economism" is emerging in the land and proving all too entrancing. Since seeping into our leaders' collective consciousness, it has helped spark the B-1 cancellation, MX stretch-out, aircraft carrier elimination, and passivity towards Cuban swashbuckling in Africa and nefarious So-

viet behavior in Afghanistan and the Yemens. It may also be casting its insidious shadow over U.S. policies on SALT.

Economism—hereby so christened—holds that American (or Western) economic, technological, and political superiority will prove decisive in any long-term competition with the Soviets. Its holy writ was handed down at Annapolis in June when President Carter expounded on Soviet deficiencies and American strengths in order to "show we need not be overly concerned" or have any "cause for alarm" that the U.S. can "compete and compete successfully" with the Russians. Their leaders, after all, must grapple with intractable economic woes and an inordinately low standard of living.

The Soviets, Mr. Carter pungently continued, "cannot tolerate freely expressed ideas" and have "difficult relations with other nations" since their "cultural bonds with others are few and frayed." This makes them "increasingly unattractive to other nations," even those of a Marxist-Leninist coloration. By contrast, America stands tall and proud with its obvious advantages.

Though sounding shrill to the Russians, Mr. Carter was actually quite charitable. The Kremlin's problems are even more formidable. In economics, the U.S.S.R. has a slower growth rate than at any time since World War II. Its current Five Year Plan, which set embarrassingly unambitious goals, is nonetheless hopelessly behind schedule. Its agricultural system remains primitive, it's unable to extract many essential minerals without outside help and Marxism has gone stale as an idea even within the Soviet bloc.

Economism is thus rooted in the stark reality of Western economic, technological and political superiority. But it leaps into myth when interpreting these facts so as to assure triumph in unremitting U.S.-Soviet competition. It conjures up a false sense of security by trusting in such superiority to effectively assure stability and help preserve the values of freedom.

Ironically, the Annapolis address offers an incisive refutation of the very thesis it strives to develop. The President correctly stated that Moscow "sees military power and military assistance as the best means of expanding influence abroad," is "all too often . . . ready to exploit" any area of instability, "attempts to export a totalitarian and repressive form of government, resulting in a closed society" and defines detente "to mean a continuing aggressive struggle for political advantage and increased influence."

Indeed the Soviets have historically stressed military power, surely their strong suit and the one yielding triumphs over six decades. Through military force, the Bolsheviks seized power in 1917, secured an iron grasp on an empire sprawling over eleven time zones, defeated Hitler, gained dominance over half of Europe, and attained true superpower status with active involvement around the globe.

In the face of sheer power, economic or technological or political advantages offer meek protection. As former Deputy Secretary of Defense Robert Ellsworth has written, throughout history economic health has never been remarkably effective in any international balance of power game. It has prevented neither hegemony nor war—Germany traded most heavily with England immediately before World War I and with Russia up to the eve of its entering World War II—and it has not furnished a basis for international order except in its own sphere of trade and finance.

History is replete with barbarians overrunning more advanced civilizations. As Prof. Hugh Seton-Watson, a specialist on the Soviet bloc, has remarked, "Man is a far more advanced species than the crocodile, but all the same he would be ill-advised to rely on this while swimming in the Ganges."

In fact, the very sparseness of the East in all but the military realm may not prove consoling, as economism would have it, but quite unsettling. No less an expert on Russian schemes than Rumanian leader Nicolae Ceausescu recently explained that the Soviets were "opting for military force in promoting their interests" precisely because of the "lesser level of economic means available to them." If, as some predict, the U.S.S.R. in the latter part of the 1980s ceases to be a net oil exporter—the revenues from which now pay for nearly half of all its imports—and is forced to import oil, it may become more bellicose. During turbulent times in a Persian Gulf state, for example, the Russians might well intervene militarily—of course at the "invitation" of a friendly (though minor) official they thereby elevate as the "legitimate" new leader. Such rapaciousness could take place behind their strong nuclear shield; by then, the Soviets will be able to eliminate the U.S. land-based ICBM force in a first strike and could threaten nuclear devastation for any conventional U.S. response.

The comforting optimism generated by economism is grave indeed when allowed to justify American defense cutbacks, recently most evident in the strategic and naval realms. But the myth becomes more jocular if nonsurrealistic when considered in light of traditional ideologies. Here are the Communist Soviets embracing Adam Smith's notion that "defense is of much more importance than opulence" and the capitalist Americans touting Marx's thesis that economics directs the flow and tempo of history's march.●

BALANCES OF POWER SERIES: BOOK II (M)—SOVIET MERCHANT MARINE GROWTH

HON. JOHN B. BRECKINRIDGE

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 5, 1978

● Mr. BRECKINRIDGE. Mr. Speaker, the strength, and indeed the very survival of the United States depends to a great extent on our continued ability to acquire the raw materials necessary to our industry, and to engage in trade with our partners, of whom all but two are overseas. Clearly, this demands a vital commercial fleet and merchant marine to help keep open the flow of goods in times of conflict. U.S. capabilities in this regard, however, are being matched by a growing and modern Soviet merchant fleet—and naval fleet—as shown by Rear Adm. Ralph M. Ghormley in "Soviet Seapower Puts on Muscle." What purpose is served by our Navy's control over our sealanes (if, indeed, it can) in the absence of a merchant marine with the necessary bottoms to deliver the goods?

The expansion of Soviet merchant shipping is particularly notable for a nation whose foreign trade dependency is much less than our own in strategic terms. And the potential for exploiting this merchant fleet as a strategic weapon is appreciated even more in a comparison of the United States and Soviet instruments of seapower as a whole. This article makes such a comparison and points up the importance for the United States, supposedly a maritime power, to attend to its neglected merchant marine.

This article first appeared in Sealift in May 1978.

[From Sealift, May 1978]

SOVIET SEAPOWER PUTS ON MUSCLE

(By Rear Adm. Ralph M. Ghormley, USN)

(Rear Adm. Ralph M. Ghormley, deputy director of operations at the Defense Communications Agency, Alexandria, Va., graduated from the U.S. Naval Academy in 1949. He served aboard the destroyer USS Orleck and the submarines Sea Fox, Hardhead, Raton and Barb before commanding the nuclear attack submarine Scorpion, the Polaris submarine Sam Rayburn, Submarine Division 53 and the nuclear attack submarine tender L. Y. Spear.

Shore assignments included postgraduate study in communications, nuclear power training, commander of the U.S. Naval Base at Guantanamo Bay, Cuba, and deputy commander of the Naval Electronics Systems Command.)

Any assessment of seapower must do more than count war ships and analyze individual capabilities of those ships. Evaluating the seapower muscle of the USSR requires analysis in terms of Soviet maritime strategies (the use of its seapower), as well as its relative maritime, air and land power.

The USSR has historically been a land oriented power because of its geography and history. In the 9th century a group of Swedes marched into Russia and demanded tribute from the northern Muscovite tribes. Since then, she has been assaulted from all directions.

Between the 13th and 15th centuries Russia was invaded more than 160 times. As a result, for nearly 450 years, Russian leaders established the creation of contiguous land buffer zones as their number one defense priority. The buffer zones, however, continued to be absorbed into the growing nation and in turn they had to be protected by establishment of additional territorial buffers.

Thirty years before Columbus found his way across the Atlantic, the Russian nation was about the size of Ireland, 30,000 square miles. By 1920, the buffering process had increased the area surrounding its central city of Moscow to seven million square miles.

From 1920 to 1945, as a Communist nation exporting its ideologies, the Soviet Union folded in another quarter million square miles, an area about equal in size to that part of the United States east of the Mississippi River. After World War II, for the first time, Soviet influence became dominant in Europe, Poland, Estonia, Latvia, Lithuania, East Germany, Czechoslovakia, Rumania, Bulgaria and Hungary totals another half a million square miles, and serve the USSR as buffer states.

These buffer zones have not provided a complete guarantee, however. In the 1960s, U.S. policy of strategic deterence was backed up by nuclear warheads propelled by 2,500-mile range sea-launched missiles deployed under the oceans on Polaris submarines.

Technology and U.S. ability to react to attack by use of sea launched ballistic missiles, by amphibious assault, or by air strikes from the U.S. or NATO carrier striking forces required that the Soviet Union develop a new type buffer zone—at sea.

By contrast, U.S. security has long been based on seapower. Our ancestors arrived by sea and depended on the sea as a means of settling a new nation, for the many items they needed to develop the vast resources available to them, and for the delivery of U.S. exports. The United States became a dominant world power because of its mastery of the sea—in peace and war.

The boundaries of the United States now total 18,300 miles. Of this, 15,000 miles are either an ocean coastline or along the Saint Lawrence-Great Lakes seaways. Eighty-three percent of the U.S. land mass is touched by water. In 1976, nearly 35,000 foreign flag ships entered U.S. ports and U.S. foreign trade was worth over $235 billion. The

exports, at $113 billion, accounted for 7.5 million industrial and agricultural jobs. U.S. imports of $121 billion created jobs for another eight million Americans.

The economy of the United States is dependent upon seaborne trade. Loss of our ability to continue that trade would not only imperil the sectors of the U.S. economy which are directly involved in importing and exporting, but also could bring our entire resource-dependent industry to a standstill. We don't have to have a war to face that unhappy event, we simply have to be deprived of the use of the sea or of foreign ports, or be put in a position in which there are not enough ships to carry U.S. trade.

The economy of the Soviet Union is not dependent on the sea. The Soviets occupy the single largest land mass in the world. Except for rubber and tin, the raw materials they need are available within their own boundaries or those of their satellites. Except for two countries, all Soviet allies are accessible by land.

The Soviets have 26,000 miles of sea coast. All but a few hundred miles, however, are blocked by ice most of the year. Only a few major ports in the Baltic and Black Sea are ice free the year around.

Today, the USSR exports oil. By contrast, the United States is rapidly becoming a have-not nation. The recent oil crisis should have taught us that we don't have enough oil. We have no chromite or tin. We import more than 90 percent of our asbestos, manganese, beryl, nickel, cobalt, and bauxite. Our automobiles depend on 31 materials from 32 countries; our telephones on 48 materials from 18 countries; our missiles on 10 materials from 15 countries. These are less evident, and don't upset our national love affair with the automobile so many Americans do not realize that the United States is critically short of many other strategic and critical raw materials that we need to keep going, just to keep our economy moving forward and to sustain our way of life—not to mention meeting national defense needs.

We now have access to most of the world to obtain needed commodities, but we need friendly or at least neutral suppliers, and sea lanes and ships to deliver the resources we need. Thus seapower is essential to economic well being and security of our nation and its people.

Although the Soviet Union is not naturally dependent on use of the sea, in the last 20 years it has built a large and powerful navy with class after class of modern ships. The Soviets are obviously competent shipbuilders, willing to make step improvements and determined to do it in quantity.

Any skepticism about their intention to be number one on the seas of the world should be erased by the most spectacular part of their shipbuilding program. Their first aircraft carrier is the largest warship ever built in the Soviet Union. It is an angled deck carrier with a conventional type superstructure on the starboard side. It handles both aircraft and helicopters and additional carriers are under construction.

The Soviet submarine force is also large and growing. Each of their 24 Delta-class submarines carries 12 to 16 submarine launched ballistic missiles whose range is 4,200 nautical miles.

At present building rates they could have 30 Deltas at sea when the first U.S. Trident submarine becomes operational after many years of study and development. The Soviet Union has a number of submarines that carry cruise missiles while the United States is just starting to consider a cruise missile program.

Such a building program causes me to ask "why?" Initially it appeared that Soviet seapower was not meant to enhance their own use of the sea, but rather to deny potential opponents' use of the sea. Simplistically, at least, such sea denial is easier to achieve than sea control. A sea-denial oriented navy can concentrate its entire force on one mission, keeping its opponents' seapower from being effectively employed by either destroying it or restraining it where it cannot contribute to national goals.

On the other hand, a sea control navy such as that of the United States must have enough ships to accomplish two tasks, protect its own and allied transports, whether to maintain a shipping bridge across the North Atlantic in support of NATO or to transport oil around Africa from the Persian Gulf, and prevent hostile forces from interfering with the execution of national policy.

Because of the differences in tasks, even a small navy with a sea denial mission can effectively fight a large navy burdened with a sea control mission. For example, in the War of 1812, our navy inflicted damage far out of proportion to the relative sizes of the small American Navy and the then ruler of the seas, the Royal Navy. Confederate raiders during the Civil War almost wiped out our whaling industry and caused tremendous damage to U.S. trade by their sea denial capability. Their political impact far exceeded their numbers.

The German submarine force in World War I nearly isolated England. In September 1939, Great Britain had 15 battleships, 8 aircraft carriers, 64 cruisers, 184 destroyers and 59 submarines—and the mission of the Royal Navy was sea control. Germany had 2 battleships, no carriers, 11 cruisers, 22 destroyers and 57 submarines, of which only 39 could go to sea. The mission of Hitler's Navy was sea denial.

Those who remember 1942 and '43 know that the German navy nearly succeeded in its attempt to deny allied use of the sea lanes. In June 1940 they had 19 submarines at sea. Those 19 submarines sank 63 ships, 355,000 tons. By February 1941, the Germans were down to a total of 21 submarines. Yet, in March of that year, they sank 43 ships totalling 236,000 tons.

To think of what 250 submarines represent in terms of capability to prevent our use of critical sea lanes, sea lanes linking the United States to NATO allies in Europe—or those needed to sustain U.S. industrial might—is not very soothing.

The World War I and II arsenal of democracy is now an island located in what overnight could become a very unfriendly sea. The cushion of time that unsophisticated weaponry provided in World War I and II allowed us to build up the Navy fleet and merchant marine is not likely to be available again.

Recent Soviet naval literature reflects a broader and more sophisticated approach, however. Couched in Marxist logic, it develops the thesis that because of the growth of technology since World War II the "scientific laws of history" have moved the main class struggle overseas, and that defense of a homeland begins on the high seas.

This new approach says that engagements of fleets in a historical or traditional manner are obsolete. The targets of the fleets are primarily ashore. The ocean depths hide the main Soviet threat to U.S. military and industrial strength, their strategic missile submarines.

Similarly, the principal threat of the west to the Soviet mainland is our own strategic missile submarine force. Soviet recognition that our attack submarines provide a lethal anti-submarine warfare weapon against their own submarine force, and their awareness that their own submarines need protection in transit between home bases and ocean operating areas are reflected by their substantial force of large anti-submarine warfare ships (Krestas, Krivaks, and Kievs). They are designed to destroy U.S. missile carrying submarines at sea as well as to protect their own submarines in transit.

Classic Marxist "contradictions in history" occur when the forces of the working class collide with those of capitalist imperialism. The "laws of history" won't predict time, place, or details, but Marxist logic dictates major conflicts will occur. The new Soviet naval doctrine notes that except for a few conflicts, like that in Southeast Asia, these confrontations generally have resulted in victories for the imperialists who had and effectively employed naval power.

It further holds that with the Eurasian land mass under control of the Soviet army and the movement of the class struggle to an overseas area probably only the Soviet navy can provide the flexibility needed to enable Marxist political, military, and social elements to produce a victory in the local class struggle.

Beneath the Communist euphemisms, that sounds familiar. It is seapower projection, as the U.S. Navy defines it. In fact, the Soviets now look at the use of seapower, including sea control, much as does the U.S. Navy. Both reject the Mahan theorem requiring broad control of the seas—the U.S. Navy having realized the near impossibility of meeting such a wide challenge in the 1960s.

The Soviets express their recognition well, "Modern weapons are so lethal and so fast that sustained dominance by any naval force over any body of water may not be possible." The depth of their appreciation of seapower is reflected in "The Soviet navy is only the maritime tail of the foreign policy dog . . . . The Navy's task is to provide victory on the naval side of a political event, not necessarily just to defeat the enemy at sea."

The Soviet Navy has effective ships. Generally, they are smaller than those of the U.S. Navy, but very seaworthy. They have a large first-strike weapon load and large propulsion plants since the Soviet Navy states that future wars will be fought by forces already on station and that contemporary weaponry is so lethal that he who fires first will probably win, particularly if he uses overpowering and immediate force.

The companion characteristics, modest onboard reload capability and limited endurance, augur a need for Soviet overseas bases or support ships. U.S. ships, to operate on the far sides of the oceans, need built-in staying power as well as an effective auxiliary or support force.

In the broad analysis of seapower, it is clear that the Soviets give equal attention to commercial shipping. They have more than 1,700 merchant ships and rank 9th in the world in tonnage. Three out of five merchant ships are less than 10 years old. In the last 10 years their massive building program produced nearly 1,100 new merchant carriers.

Russia builds her merchant ships at 18 large yards in the USSR, each with at least 2,000 workers. At a recent count, 75 Soviet merchant ships were under construction as were another 15 for other countries. Soviet merchant ships are sound, serviceable ships. They are self-sufficient, equipped with their own cargo handling equipment. Many are roll-on, roll-off ships. They can operate in undeveloped ports on the coasts of Africa, Asia, or South America with little support from shore except a place to put their cargo down.

The Soviets exploit their seapower and project Soviet influence at a time when U.S. maritime labor costs have driven our merchant marine to use automated and sophisticated ships with cargo handling facilities.

Because the Soviet merchant fleet is controlled by the government, it is a powerful political tool. During the Southeast Asia war, Soviet merchant ships sailed 14,000 miles from the Black Sea to deliver war material to Haiphong in North Vietnam. Those ships would then pick up return cargo, undercutting world commercial shipping rates and freezing out other merchant ships.

This had two advantages. It gave the USSR a return on its investment in merchant ships.

Additionally, and perhaps more important, by undercutting rates of western shipping companies, the Soviets could drive them out of economic competition.

Recent statistics show that Soviet ships have visited about 1,100 ports in more than 110 countries in a year's time. A large number of these were in Third World nations where political influence is as much the Soviet goal as economic penetration. Many of these countries are major sources for critical raw materials needed by the United States.

A third source of Soviet seapower is its fishing fleet. It's huge—one of the largest in the world, with more than 20,000 motorized vessels. Soviet trawlers are models of efficiency and are supported by large factory ships which go out for up to a year with the trawlers.

The organization and centralized control of the fishing fleet is impressive. The factory ships process the catch, can it, label it, box it, and transfer the product into freighters that take it home while the professional fishermen remain at sea. As a fishing nation, the Soviet Union, with an annual catch of about 17 billion pounds, ranks second to Japan. By comparison, U.S. fishermen have an annual catch of about four billion pounds.

To provide a sound research base for their seaward look, the USSR also has a tightly controlled, centrally directed oceanographic program, It is of great military and scientific value and provides a base for exploiting the natural resources of the seas.

More than 7,000 Soviet scientists and technicians are involved in the whole spectrum of oceanography and ocean engineering, and about 200 research ships are working in all parts of the world.

The military fleet, the commercial fleet, the fishing fleet, and the oceanographic fleet are all closely and directly controlled by Moscow—an awesome demonstration of Soviet seapower, which provides a continuously expanding capability and reflects a national determination.

Against all this, where does the United States stand? The Soviets have more than 2,400 Navy ships in commission. Of these, more than 1,600 are armed combatants. The U.S. Navy has 458 ships in commission, of which 360 are fighting ships.

The United States has 118 submarines, the Soviets have about 330. We have about 150 destroyers, frigates and cruisers. They have about 280. We have 63 amphibious warfare ships. They have 82. We have 3 patrol boats. They have about 590. We have 101 support or auxiliary ships. They have about 780. The only category in which the United States leads is carriers. We have 13 to their 3.

Because of different ship roles and missions, numbers of ships cannot be used for direct comparisons. But they do illustrate the nature of the problem and the extent of the resources available to each navy.

The problem is not confined to relative strength of Soviet and U.S. Navy forces. In 1954, 25 percent of our imports came to this country on merchant ships flying the U.S. flag. Last year, less than 5 percent of our imports were delivered in U.S flag ships. The USSR imports 50 percent of its material on its own merchant ships; Japan imports 47 percent on Japanese ships; France 38 percent; Britain 35 percent; Italy 23 percent and Sweden 22 percent. Not only is the United States merchant fleet small, we rank 14th in the world in shipbuilding. Given current costs to build and operate ships, the privately-owned U.S. merchant marine is not likely to expand without a national effort.

U.S. fishing programs provide about 1/25th of the estimated world catch of 100 billion pounds although nearly three-quarters of the fish eaten in America are gathered by foreign-flag fishing boats.

For what it's worth, the total world catch 10 years ago was 20 million metric tons. It is now 50 million. In another 10 years, oceans may be less productive. Oceanographic research programs of the United States also are minuscule when compared with other nations, and are miserly when compared to our space research progam.

In the future, the United States will be increasingly subject to economic blackmail. We must reinforce our educational base, our food resources, our industrial technology and our seapower, for these are our strengths.

The U.S. fishing fleet and merchant fleet are as basic to U.S. survival as are industry and agriculture. To provide them with effective security on the oceans, in war or peace, the United States also needs a strong naval force.

No nation has ever controlled its course without seapower, no matter what other strengths it may have had. Maritime power has been and is now an integral part of overall American strength.

Those who control totalitarian governments have a remarkable habit of telling the world exactly what they plan to do, sometimes even providing a timetable. People in the western democracies seem to have developed an equally remarkable tendency to ignore such warnings and we generally do it at our peril. Remember Mein Kampf? Remember Lenin's statement that the road to Paris lies through Indochina? Remember Khrushchev: "We will bury you"?

Adm. Sergie Gorshkoff, the chief of the Soviet navy for over 20 years, has given us fair warning. He said: "The flag of the Soviet Navy flies over the oceans of the world. Sooner or later the United States will have to understand it no longer has control of the seas. Our country has built a modern navy and sent it out into the ocean in order to advance our own state interests."

The Soviet thesis celebrating Lenin's birth centenary contains an additional warning. "Peaceful coexistence has nothing in common with class peace and does not cast even the slightest doubt on the sacred right to use all means, including armed struggle, in the cause."

When the Soviets speak of abolishing war, they refer only to the "predatory, aggressive wars" waged by imperialist and reactionary powers—namely us. Wars which advance the cause of world Communism are "just wars." Americans should listen seriously to these Soviet leaders who are telling us what they intended for the future. We should realize that Soviet seapower provides a means for carrying out their plans, and we had better develop the determination to prepare to meet their challenges.●

GOOD NEWS FROM CONRAIL

HON. FRED B. ROONEY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 5, 1978

● Mr. ROONEY. Mr. Speaker, with legislation already passed by the Senate providing for additional Federal financing of the Consolidated Rail Corporation (ConRail), and soon to be considered in the House, I am pleased to call to the attention of my colleagues some of the details of the significant new labor agreement signed by ConRail and the United Transportation Union (UTU), on September 14. This agreement affects about 22,000 train-service ConRail employees.

In view of the labor difficulties some rail carriers have been having recently, and of the understandable doubts some colleagues may have about ConRail's future, it is my hope that highlighting the ConRail agreement will be encouraging as well as informative.

Let us remember that ConRail was created by Congress as a private, for-profit rail corporation, and that it was restructured from the properties of six bankrupt railroads serving the northeastern quadrant of the Nation.

ConRail, which began operations on April 1, 1976, is the largest railroad in the United States. Its 17,000-mile system stretches from the Mississippi River and Lake Michigan to the Atlantic seaboard, and from Canada to the Ohio and Potomac Rivers. It employs about 91,000 people, owns some 140,000 freight cars, 4,500 locomotives, and has almost 34,000 miles of track to maintain.

ConRail serves a region which includes about 53 percent of the Nation's manufacturing plants which, in turn, employs about 56 percent of all our industrial workers. With its connection at numerous points to other railroads, it is a vital and essential part of our national rail transportation system. Obviously, without ConRail, there would be a total breakdown of that national system.

The demonstrated ability on the part of ConRail management and a major portion of its work force to reach agreement can only be described as progressive and innovative. It vastly improves the chances for ConRail's ultimate success, and should help encourage those of my colleagues who have been doubtful of that prospect to now support H.R. 12161 when it is considered.

By way of background on the ConRail-UTU negotiations, on April 1, 1976, ConRail inherited 285 basic collective bargaining agreements. Of these, 43 were with the UTU. Further, ConRail was mandated by section 504(d) of the Regional Rail Reorganization Act of 1973 to enter into negotiations with the various labor organizations representing its employees in an effort to secure new single collective bargaining agreements for each craft or class of such employees.

It can be said that ConRail inherited no clear set of priorities for the major round of bargaining that would take place in 1977 for the rail industry after the "moratorium" on negotiations, under the national collective bargaining agreement expired on December 31, 1976. In addition, the final system plan—that blueprint for ConRail developed by the U.S. Railway Association—did not explicitly address negotiating goals relating to labor productivity increases.

ConRail did become a member of the National Railway Labor Conference (NRLC), the industry's bargaining group. NRLC leaders believed, evidently, that the most important objective for the industry was to obtain a "crew-consist" agreement—a most troublesome issue dating back to the 1950's, when the industry proposed that railroads be given the unilateral right to determine crew sizes. This issue, perhaps more than any other, has for years divided railroad management and labor and still does today. Believing, however, that separate negotiations with the UTU were consistent with the direction of section 504(d) of the 3–R Act, when negotiations stalled again over this issue in 1977, ConRail

decided to withdraw from the NRLC and to undertake separate negotiations with the UTU.

The agreement I have mentioned marks the fruition of that effort. When fully implemented, it will provide for a reduction in train crew size on almost every freight train operated by ConRail. Furthermore, it insures the establishment, by July 1, 1979, of a single contract with uniform work rules, to replace the 43 separate contracts with the UTU which ConRail inherited.

As noted by Edward Jordan, ConRail's Chairman and chief executive officer, the UTU agreement will help

> • • • enable ConRail to substantially achieve its goal, set forth in its (recently-released) 5-year business plan, of $500 million in savings over the next 5 years as a result of collective bargaining negotiations and the consolidation of bargaining agreements.

Chairman Jordan further said:

> Further it underscores the UTU's continuing support of the ConRail concept and provides firm evidence that the UTU, which represents the largest number of ConRail employees, agrees that increased productivity is essential to ConRail's goal of financial self-sustainability.

Mr. Speaker, I wish to congratulate the officers and members of the UTU for having had the understanding and self-discipline to enter into such an agreement—and for tying their own future, as they must, to ConRail's chances of success. Similarly, I wish to congratulate ConRail management for its persistence and willingness to cooperate with its employees in producing this key agreement. The agreement has the potential of serving as a model for similar agreements elsewhere, an event that would greatly strengthen the rail industry in its effort to compete with other modes, and thus produce a balanced national transportation system.

In brief, the crew-consist agreement—which ConRail will begin to implement on November 1—permits trains to be operated with one conductor and one brakeman, instead of one conductor and two brakemen. Both ConRail and its train-service employees will share in the resultant savings.

For instance, each time a train operates with a reduced crew, each crewmember will receive a $4 allowance above regular pay, with the allowance being subject to future revisions to reflect general wage increases and cost-of-living adjustments. Also, for each crew operated, ConRail will contribute $48.25 to an "employee productivity fund," which amount represents the average basic wage of a third crewmember—of which ConRail now has some 4,500 employees who work as third members of freight train crews—but excludes such other compensation as overtime payments, fringe benefits, and the like. Each employee eligible under the agreement will, in turn, share in this fund in proportion to the tours of duty worked during a year, subject to a maximum of one-third of their individual earnings each year.

The agreement allows reduced crew sizes on all trains of up to 70 cars—with union concurrence being required to reduce the "consist" for trains of over 70 cars in length. The agreement further insures completing agreement with the UTU on other unresolved issues by July 1, 1979.

The package provides for general wage increases of 3 percent, retroactive to April 1, 1978; 2 percent on October 1, 1978; 4 percent on July 1, 1979, and 5 percent on July 1, 1980, with cost-of-living adjustments being made on each January 1 and July 1, which adjustments are retroactive to January 1, 1978, and tied to changes in the Consumer Price Index but subect to an 8-percent annual maximum. It also provides for some improved fringe benefits in the areas of vacation, medical and health plan benefits.

ConRail management may well have made a good many mistakes in these past 2½ years, and I have been free with my criticism when I felt criticism was due. But when that same management team tackles head on, and with apparent success, such major problems as labor costs and improving productivity, it is entitled to our applause and our support.

Finally, Mr. Speaker, when the results of those efforts help insure the possibility of ConRail's ultimate success, in accordance with the congressional plan laid down for it, then it behooves us to continue to support the "ConRail concept." ●

FRANK PINE

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 5, 1978

● Mr. WAXMAN. Mr. Speaker, Mr. Frank Pine, a dedicated citizen and a resident of the famed San Fernando Valley in southern California, will receive the 20th Annual Fernando Award at a dinner-dance on October 27, 1978. Mr. Pine was nominated for this year's award by the Greater Van Nuys Area Chamber of Commerce because of his outstanding service in the area of valleywide transportation. Serving as vice chairman of the Valleywide Streets, Highways and Transportation Committee since its inception has given Frank Pine the opportunity to help acquire an outstanding transportation system, in addition to being a primary spokesman for west valley planning. For over 20 years he has worked to impress upon our State legislators the particular needs of valley residents and business people.

Frank Pine's membership in civic and community organization shows the breadth of its commitments: Past president of the Industrial Association of the San Fernando Valley; lieutenant governnor of California-Nevada-Hawaii District of Kiwanis International; past president of the Van Nuys Kiwanis Club; cofounder and first president of the Executive Dinner Club of the San Fernando Valley; and president of the Southern California Rapid Transit Foundation.

Member for 26 years of the Van Nuys Chamber of Commerce; cofounder and vice-chairman of the Valleywide Committee on Streets, Highways and Transportation; cofounder and member of the board of directors of the Committee Investigating Valley Independent City/County; cofounder of the Breakfast Forum; chairman of the Advisory Committee of the Van Nuys Salvation Army Men's Social Center, and member of the Salvation Army Metropolitan Advisory Board; member of the board of directors of the Mid Valley YMCA; member of the Mayor's Advisory Committee on Rapid Transit; and the mayor's valley representative on a five-county committee which preceded the Metropolitan Transportation Authority. He has been committee and division chairman in the fundraising drives of the American Cancer Society, Red Cross, United Way, and the March of Dimes. He has served in official capacities and has held long membership in the National Association of Realtors, American Industrial Real Estate Association, California Association of Realtors, the San Fernando Valley Board of Realtors, and the Los Angeles Chapter of Lambda Alpha, an international honorary land economics fraternity. It is clear that Frank Pine is a most worthy recipient of the Fernando Award. A statute of Fernando, an Indian brave, the work of sculptor Henry Van Wolf, stands in the Van Nuys Civic Center. The statue symbolizes the qualities of strength, courage, dedication, and leadership. Those honored each year by the chambers of commerce throughout the San Fernando Valley have their names inscribed on the monument as a permanent testimonial of their community's recognition. I know the Members will wish to join with me in extending congratulations and good wishes to Mr. Frank Pine as the 1978 recipient.●

A MAN AND HIS PROGRAM

HON. BOB TRAXLER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 5, 1978

● Mr. TRAXLER. Mr. Speaker, on Saturday, October 14, Sister Cities International will be holding its Michigan State Convention in Bay City, Mich. Mr. Leslie Arndt of Bay City is responsible for this event.

I am sure that many of my colleagues are very familiar with the excellent work of the Sister Cities International program which brings together the citizens of many of our American cities with the citizens of other adopted "sister" cities throughout the world. Through this excellent progam of cooperation, millions of Americans are provided with a chance to learn about the cultures of our friends in other parts of the world, and in turn our friends have an opportunity to learn about the American way of life.

This Michigan State Convention will be the annual high point for the many citizens of the State of Michigan who are involved with the Sister Cities program. The date of the convention, October 14, is particularly significant in that it is also the birthday of former President Dwight D. Eisenhower, the founder of People-to-People International, the essential part of the Sister Cities International program.

I know that this will be an especially successful convention because its chief attraction will be an appearance of G. Mennen "Soapy" Williams, the former Governor of the State of Michigan. Governor Williams is a member of the Sister Cities International Advisory Council.

I am particularly proud of the Bay City, Mich., chapter of the Sister Cities International program. Bay City was the first city in the world to enter the Sister Cities International program. It shares its culture with the cities of Mechelen, Belgium, Ansbach, Germany, and Lome, Togo.

The Sister Cities International program is an excellent one, and it is operated by excellent people. I am very proud of the fact that Leslie Arndt, one of my constituents, is both a Sister Cities International State representative and that he was declared the outstanding volunteer of the year for Sister Cities International. His declaration earned him the "Smile" Award, sponsored annually by the R. T. French Co. of Rochester, N.Y., which firmly supports the Sister Cities program.

Leslie Arndt was the founder and first president of Bay City People-to-People Chapter I, the first chapter in the world. His recognition as the outstanding volunteer of the year will help him to celebrate this 20th anniversary of the Bay City program.

Mr. Arndt has been recognized for his community service on prior occasions. In 1967 he won the Nation's Town Affiliation Award, and also in the same year Gov. George Romney's Michigan Minuteman Award for State leadership in efforts to increase international understanding.

Some people either ignore the interests and conditions of people who live elsewhere in the world, or limit their interest in these problems to what might be provided in news reports. Leslie Arndt believes that the best way to know the interests and problems of people of the world is to get to know the people of the world through the people-to-people program.

Mr. Speaker, I am proud to have had an opportunity to be associated with a program like People-to-People International and a man like Leslie Arndt. I hope all of my colleagues have the good fortune at some time to become involved with a program of this type.

I certainly wish my best to Leslie Arndt and the Bay City Chapter of People-to-People International, and hope that this annual Michigan State Convention of Sister Cities International is the most successful ever. I hope all of my colleagues will join me in these good wishes.●

NATURAL GAS BILL

HON. JOHN B. ANDERSON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 5, 1978

● Mr. ANDERSON of Illinois. Mr. Speaker, it is an irony as tragic as it is ridiculous that a natural gas bill being touted in some quarters as a step toward deregulation will, in fact, require at least 800 more regulators to be implemented and enforced. But it is not surprising that the administration labels things in this upside-down way: The President is determined to keep the promise he made as a candidate that natural gas would be deregulated. Apparently the hope is that words will speak louder than action.

Mr. Speaker, columnist George Will has done us a service by discussing the realities of the situation, not the illusions; and I commend his piece from today's Washington Post to my colleagues:

DEREGULATION "IMPUDENCE"

(By George F. Will)

It is almost over, the spectacle of politicians legislating the value for years hence of a basic commodity, without knowing the supply of it or the demand for it. The House-Senate conference has produced and the Senate has approved a natural gas pricing bill. As this is written, only a House vote stands between that bill and the president's pen.

Natural gas would be sensibly deregulated today if candidate Carter had meant what he said when he endorsed deregulation. Or if, 22 years ago, a lobbyist had not tried to bribe Sen. Francis Case (R-S.D.). In 1956, the House having voted for deregulation, the Senate did too, 53 to 38. Case favored deregulation but voted against it, and President Eisenhower, who favored it, vetoed it anyway, because Case said a lobbyist offered him $2,500 to vote for it.

If the Carter administration succeeds in getting the current gas bill, it will owe its victory to tactics as disturbing as the one that infuriated Eisenhower.

The administration has exploited the coercive potential of the regulating state to silence or "convert" opponents. It has threatened to use supposedly independent agencies, such as the Federal Energy Regulatory Commission (FERC), to punish uncooperative companies.

Carter, who says the idea of deregulation is a song to his heart, who fancies himself a scourge and streamliner of bureaucracy and who wants to drive lawyers from the temple of democracy, favors this bill, which will extend regulation, enlarge bureaucracy and expand the wealth of the lawyers who batten on regulated industries.

The description of this as a "deregulation" bill is intellectual impudence. Today about 40 percent of natural gas is not under price regulations because it is in intrastate markets. This bill would extend regulation to that gas; would deregulate slowly, capriciously and incompletely; and would mean that in 1985, and possibly as late as 1989, it would still be the case that only about 40 percent of natural gas would be free from price controls.

FERC's Office of Enforcement has said the plan is "so complex, ambiguous and contradictory that it would be virtually impossible for this commission to enforce it in a conscientious and equitable manner." FERC's chairman disagrees, but he says he needs 300 more regulators to supplement the 500 new regulators recently approved. The bill would mean a sixfold increase in the cost of regulating natural gas—to $30 million a year. And FERC already has a backlog of 20,000 cases.

Why is a new army of regulators "necessary"? Consider, the multiplied categories for pricing purposes. A well drilled 2.55 miles from an existing well has a price different from that of a well drilled 2.45 miles away. A well drilled to 15,001 feet has one price, a well drilled to 14,999 feet has another. And so it goes, with more than 20 price categories or subcategories (experts disagree about the exact number). As has been said, the bill will do more to increase the supply of gas lawyers than of gas, and the years of litigation and uncertainty will depress investment and production.

Not even the Department of Energy claims that the bill will significantly stimulate production, and continuing—expanding, really—price controls amounts to subsidizing consumption. Robert J. Samuelson, the fine economics writer for National Journal, says of this policy:

"Not the least of its liabilities is a potential stifling effect on the development of Mexico's vast gas reserves. Negotiations between the United States and Mexico over the export of 2 billion cubic feet daily to the United States (3 percent to 4 percent of total consumption) broke down early this year, in part because the Mexicans insisted on a price above the administration's regulated price."

Yet the administration says this bill will prove to Germans and other skeptics that the United States can implement a serious energy policy and so (if you will pardon the non sequitur) will strengthen the dollar. Understandably, the administration wants Congress to disregard the details of the bill and, instead, think of the bill vaguely as a geopolitical gesture.

Incredibly after 18 squandered months, the bill is the heart of the administration's "energy policy." It will become law if, but only if, most House Democrats feel as the Light Brigade felt: duty-bound not to reason why.●

THE SAFE DISPOSAL OF HAZARDOUS WASTES CANNOT WAIT: EPA MUST COMPLY NOW WITH THE CONGRESSIONAL MANDATE

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 5, 1978

● Mr. KEMP. Mr. Speaker, during the past 2 weeks the Buffalo Courier-Express has run a startling series of articles on the serious threats to our environment and public health arising from the improper disposal of toxic and other hazardous wastes. During the past week, the three Members of the congressional delegation from the Buffalo area—Mr. NOWAK, Mr. LAFALCE, and I—have brought that series, authored by Michael Desmond, its importance and its findings to the attention of the House and Nation.

This series was prompted by the discovery of toxic substances leaching through the soil in the Love Canal area of Niagara Falls, N.Y., creating a health hazard so severe that the State had to buy over 240 homes on the site and get the families out of the area. The wastes under the soil there had been covered 25 years ago according to the best technology of the day. But it was not good enough, and we still do not know the final extent to which the leached chemicals have endangered or affected health and the environment.

The national news media attention the Love Canal incident produced brought to surface a large number of incidents of improper, often illegal, disposal. They range throughout the country, from the Northeast and mid-Atlantic, through the South and Midwest, to the west coast. Even Hawaii and Alaska are affected. The correction of the problem is going to

require combined efforts of the Federal, State, and local governments and the private sector.

Movement is underway.

A State legislative committee has already conducted public hearings in the area with an eye toward changes in State law to deal with future disposal, a question yielding different answers from that dealing with past disposal.

In Washington, the House has passed legislation providing EPA with the emergency funds with which to deal with the Love Canal matter, and the State's two Senators have won support for the funds from their colleagues.

The House Interstate and Foreign Commerce Committee's Subcommittee on Oversight and Investigations and that committee's Subcommittee on Transportation and Commerce have been asked to conduct immediate hearings on why the Environmental Protection Agency has delayed implementation of the provisions of the Resource Conservation and Recovery Act, the measure which deals most directly with the question.

Inquiry has been made on the possibility of—and timetable for—an investigation of EPA's "admitted failure" to issue the regulations called for in the Resource Conservation and Recovery Act.

And, of course, EPA has been implored to comply with that timetable and proceed immediately to promulgation of remedial regulations.

I am of the mind, after having finished the Buffalo Courier-Express series, especially the last in that series, "Waste Handling Solutions Can't Wait," that there is no room here for dillydallying around, for shadowboxing with EPA. It is not as if this were a new issue; it is not as if EPA had not already been mandated, after extensive study, congressional hearings and exhaustive consideration of legislative options, to take care of this problem. It is not an area where more statutory authority is being called for. If the timetables contained in the RCRA were unrealistic, and I do not think they were, EPA did not warn us of that during the bill's consideration.

I am increasingly of the mind that EPA is not going to heed our pleas for enforcement of the RCRA, an act whose responsibilities have been assigned by Congress to EPA to fulfill, unless something is done which goes beyond all that we have done to date.

The concluding article in the Desmond series follows:

WASTE HANDLING SOLUTIONS CANNOT WAIT

(By Michael Desmond)

Since hazardous waste isn't going to go away or stop coming, something has to be done, and done quickly, before it buries every citizen.

That may seem obvious to some, but it is apparently not obvious to a wide array of bureaucrats in various levels of government.

For example, the federal Environmental Protection Agency (EPA) is still dawdling on the rules which should turn the Resource Conservation and Recovery Act of 1976 (RCRA) into something more than a dead letter.

The federal Commerce Department has the legal responsibility to study recycling of wastes to re-use them. It has no money for studies.

SMALL STAFF, BIG PROBLEM

California has one person assigned to try to find companies which can use waste from other companies. The Golden State produces an estimated 10 percent of the national annual total of hazardous waste. EPA estimates the national total at 92 billion pounds.

The federal Maritime Commission is paying for a study of sending waste out to sea to be burned in a special incinerator ship. The Courier-Express was present on Wednesday when Steffen W. Plehn, EPA deputy assistant administrator for solid waste, learned of that project for the first time.

NEW YORK'S HISTORY OF CALAMITIES

New York State has a history of chemical waste calamities. It has no record of where many waste dumps are. But it is doing a survey to determine where present sites might become future disasters.

Congress must bear strong criticism because it has done essentially nothing to force EPA to meet the mandates Congress wrote into RCRA. It has also provided very little money for research into newer and better methods for handling waste.

While all of this has been going on, the taxpayers are being hit for massive cleanup bills. A recent Michigan study indicates it will cost state taxpayers there $100 million to clean up a string of environmental disasters.

INDUSTRY AVOIDS COURT PRECEDENT

One attempt to determine who should pay for the cleanup in Michigan fell through when a group of major industries picked up the cleanup cost in one site rather than allow a court to set a precedent by deciding who should pay.

In general, the situation is a little like the old joke about having to hit the mule over the head with a two-by-four to gain his attention. Perhaps if some of the bureaucrats wandering through the problem were forced to live along the Love Canal in Niagara Falls or drink from wells in Toone, Tenn., or live downwind from the Silresim Corp. in Lowell, Mass., they might do something.

THREE URGENT AREAS

There are three distinct areas of activity which have to be undertaken. They are:

1. Completion of rules for the entire waste disposal industry.

2. Large amounts of research into re-using waste.

3. Research to change production methods and cut down the amount of waste.

Fining past dump sites is interwoven with all three.

The basic missing ingredient in the whole situation is any sense of urgency. Life in Washington, D.C., moves along at a steady, even pace, undistracted by any of the harsher realities of life.

INSULARITY IN WASHINGTON

High EPA officials don't worry about what is going on outside of Washington. It is the lower level bureaucrats who have to go out and actually deal with the situations. It is an Eckhardt Beck (EPA Region 2 chief in New York City) personally going around Washington to get action on the Love Canal disaster in Niagara Falls, or a James Stahler (EPA environmental engineer in San Francisco) helping California put together a good hazardous waste program and then helping to sell the same program to other states.

There isn't a lot of that.

Instead, there is Plehn, who admits that no matter what the RCRA rules are, the EPA will be sued by someone. But the agency is racing through the rules process, like a snail.

RULES DELAY INCREASES DANGERS

Every day that the rules are delayed—they were due April 21—bad dumps around the country are filling up and posing a future threat. EPA can do nothing until the rules are completed. So the federal government and many state governments are doing nothing about dumps that are being closed, in the absence of rules.

In trying to control the situation, government officials must watch for a different approach from industry. Based on past examples, some companies may just transfer the manufacture of chemicals overseas, leaving the waste overseas, also.

Many countries have no environmental protection rules at all.

Obviously, moving the production overseas might ease the waste problem in this country. It would still not end waste as a problem to human beings, but simply shift it.

PUBLIC DECISIONS NEEDED

The public is also going to have to make some decisions. If some of the chemicals and chemical products are going to continue in use, it is going to cost.

EPA's Plehn threw out an interesting figure in an interview with The Courier-Express the other day. He estimated it might cost $600 million to $800 million a year to meet the eventual RCRA requirements, when they take effect. That is a substantial amount of money, but only $3 to $4 a year for each citizen.

He pointed out the cost itself may bring about changes. EPA has studied the situation in West Germany, where chemical companies and other hazardous waste makers are now required to pay the full cost of getting rid of the waste. So the consumers foot the bill.

Under the long-delayed RCRA, that system would be instituted in the U.S.

INDUSTRY'S BURDEN EYED

"The volume of waste will be less. The amount of waste will be less when this program is in full operation," Plehn said.

The current target date for completion of RCRA regulations is January 1980. But environmentalists predict EPA will not meet that date.

Without a bludgeoning of EPA by Congress or the public, the agency will continue on its leisurely way. Congress required EPA to come up with the RCRA regulations within 18 months of enactment, which was in 1976. So EPA will be 21 months late—if it sticks to its own schedule.

Industry is already moving in the area of cutting down waste. For example, the Hooker Chemicals & Plastics Corp. has spent $10 million in its Niagara Falls plant on two of its manufacturing operations. One change cut out waste products completely. The other cuts the waste production drastically.

WASTE CAN'T BE HIDDEN

Joe Louis once talked of the boxing ring as a place where you can run, but can't hide. This is true of hazardous waste. As has so often been horribly proven, it's everywhere.

The public has a stake in the situation. That is true for the captains of industry as well as the average citizen. Sometimes it seems as if every day brings another report of the bad effects of another chemical in another locale.

Today, the National Cancer Institute will release a report on the widely used chemical ethylene dichloride (EDC). The study indicates the chemical causes a wide variety of cancer in laboratory animals. The chemical is used to make vinyl chloride, which causes cancer in humans.

HAZARDOUS CHEMICAL ADDED TO FOOD

The chemical is widely used for everything from making other toxic chemicals to producing spices. In a release, the Institute noted, "EDC may appear as a food additive as a result of its use to extract spices such

as annatto, paprika and tumeric." Both annatto and tumeric are used to color food.

LONG-TERM DANGERS POSED

A 1974 study estimated 163 million pounds of the chemical were lost into the environment in 1974 and that use is growing. In an EPA study of surface water in industrialized areas, the chemical was found in 26 percent of the waste samples.

The chemical also causes physical ailments of other kinds, especially blood disorders, and large doses are deadly.

The public must develop an awareness of the long-term dangers. The Love Canal dump had been closed for less than a quarter of a century when it failed to contain wastes. Whether newer and better designed burial sites will be more effective, only time can tell. A "safe" site today could be the next generation's Love Canal.

Both in the long run and the short run, better controls on waste disposal are no substitute for not having as much waste to dispose of.

But there are problems. Richard Herbst is a lawyer and mechanical engineer who is a senior policy adviser in the U.S. Commerce Department. Asked what that department was doing in the chemical waste field, he said, "To be quite frank, we were not given appropriations under the law to undertake the sort of program we should have."

PAPER FLOWS, MONEY TRICKLES

Another Commerce Department official commented, "There's a constant flow of paper from EPA and others in resource conservation." He added, "There's never been a penny appropriated for the Department of Commerce to carry out this act (RCRA)."

The Metallurgy Research Center of the federal Bureau of Mines is doing some research in the field of toxic wastes, especially with sludges containing some metal.

But, basically little is being done by either government or the private sector about hazardous wastes.

From his field perspective, Stahler commented, "We think there should be tax disincentives or even tax incentives." That is, toxic waste producers should be punished or rewarded for inaction or action.

Oregon has a somewhat different approach. Its policy is that if a material can be recycled, it must not be thrown away.

Occasionally, Plehn can cut to the heart of the issue. He told The Courier-Express:

"The problem does not go away. To the extent that wastes are not properly handled or disposed, they tend to come back and lay themselves at your feet. That's one of the grisly facts." ●

EMPLOYEE-INDEPENDENT CONTRACTOR LEGISLATION: A NECESSARY INTERIM RELIEF MEASURE

HON. JAMES R. JONES

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 5, 1978

● Mr. JONES of Oklahoma. Mr. Speaker, the House Ways and Means Committee today took action to address the problems of citizens caught in disputes with the Internal Revenue Service involving their employment status for tax purposes. The committee's action provides necessary interim relief to those taxpayers involved in arguments with the IRS as to their tax status as "employees" versus "independent contractors."

I support the committee's actions, and as a member of the task force of the Ways and Means Committee which was assigned to study this matter, I helped write a portion of the legislation approved by a vote of 33 to 2. I hope that we can secure passage by the full Congress before we adjourn.

Mr. Speaker, this is not an easy issue with which to deal. Like most complex matters, it is also exceedingly important—both for the future of our voluntary tax system, as well as for the continued fiscal health of the social security trust fund. Our approval of H.R. 14159 can only be seen as an interim measure. We will have to grapple with this problem in depth next year, and I plan to continue my study in hopes of developing a permanent solution.

Nevertheless, the measure approved today does have many fine points. As was brought out during our hearings in the task force, many taxpayers who for years have been treated as "independent contractors" are now being subjected to IRS audits and reclassification as "employees." In the process, significant amounts of tax liability are also building up, because of this reclassification.

The bill approved by the full committee would address this problem in a responsible manner. It would forgive past taxes due if the taxpayer can show he acted with a "reasonable basis" in classifying himself or his workers as "independent contractors." The committee made it clear that this provision is to be construed liberally by the IRS in order to halt harassment and legal actions against taxpayers who act in good faith. This forgiveness would extend through 1979, during which time the IRS would be prohibited from drafting new rules and regulations in this area.

This statutory "breathing spell" will allow Congress time to fully study this issue with the idea of providing some legal guideposts to the IRS for the future. The committee was concerned that the IRS bureaucrats were making substantive tax policy which should rightly reside with the elected Representatives of the people.

I do not wish to dismiss the gravity of the problem facing the IRS. They have argued that self-employment taxes are hard to collect, and this is threatening an already over-taxed social security system. I sympathize with their problem, and along with all responsible Members, I share their concern regarding the health of the already over-extended social security trust fund. At the same time, this is an issue which rightly belongs in Congress, not with the IRS. It is an issue I firmly believe we will responsibly address in 1979. But we will do so in a climate that will not unfairly penalize those taxpayers who act in good faith. We will do so in a manner that will provide for public input and discussion into the nature of the problem and the proposed solutions to it.

In the meantime, our actions have both protected the taxpayers and preserved the rights of Congress to make substantive tax policy. I urge my colleagues to support our work in this area.●

DON KOTT—BOY SCOUTS' MAN OF THE YEAR

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 5, 1978

● Mr. ANDERSON of California. Mr. Speaker, it is a pleasure for me to congratulate Don Kott of Wilmington, Calif. on receiving the Man of the Year award from the local Boy Scouts of America. This award will be presented to him at a dinner in his honor on October 28, 1978. Though this honor is bestowed on citizens for their contributions to all types of community improvement efforts, I am sure that those in my home district who have known Don over the years would agree that his contributions in promoting youth programs would, by themselves, be enough to earn him this distinction. I would like to share with you some of the highlights of Don's outstanding career in service to his community and his achievements in the field of business, so that we can understand and appreciate the appropriateness of honoring Don with this coveted award.

Don Kott is a native southern Californian, born in Los Angeles and raised in Wilmington. He attended Phineas Banning High School where, despite the great deal of time he spent working in his father's business, he was elected student body president. After graduation from high school, he continued his education at the University of Southern California, where again he was a leader of his peers, being both a member of the student senate and student fraternity president. He excelled in his academic work, earning membership in the Blue Key, Esquires, and Knights Clubs. He received his bachelor of arts degree in business administration from USC in 1953.

Having a desire to continue with his father's car dealership business, Don traveled to Dearborn, Mich., and to San Francisco to attend the Ford Motor Co.'s Merchandising Institute. He eventually acquired full ownership of his father's business. The business has grown under his leadership, gaining customers, and retaining older ones, some who have patronized the dealership faithfully for over 30 years. It has grown to become one of the largest car dealerships in California's South Bay area.

In addition to his successful business career, Don has been a tireless worker in community service projects, especially those dealing with youth. Among the organizations he has devoted his time to are the Carson Elks Lodge; the Wilmington and Long Beach Rotary Clubs; the Wilmington Lodge of the Masons; the Al Malaikah and El Bekal Temples; the Los Angeles Shrine Club; the Peace Officer Shrine Club; the Variety Club; the Chambers of Commerce in San Pedro, Wilmington, and Carson; the Board of Governors, Los Angeles County National Museum; and the Harbor Area Booster Association, Inc.

Following the tragic urban disturbances of the 1960's, he joined with friends in an effort to help prevent a recurrence by giving youngsters involve-

ment and recreational opportunities. It was during this time he founded the Wilmington Boys Club. The Wilmington community will always be grateful to Don for his service to its youth in this time of greate need.

Through the Wilmington Boys Club, many hundreds of young people have found recreational activities which were unavailable before. And many parents can be thankful to Don for the help he gave them in providing their children with rewarding and beneficial experiences.

Throughout his entire career, Don Kott has worked hard to make our community a better place to live. My wife, Lee, joins me in honoring this man for his years of dedication to community service. His concern for the youth and residents of Wilmington is a worthy example for all of us. We would also like to extend our best wishes to his lovely wife, Margaret, and his daughter, Kelly.●

HOUSE OF REPRESENTATIVES—*Friday, October 6, 1978*

The House met at 10 a.m.

The Chaplain, Rev. Edward G. Latch, D. D., offered the following prayer:

O magnify the Lord with me and let us exalt His name together.—Psalms 34: 3.

O Lord, our God, our help in ages past, our hope for years to come be Thou our guide leading us through the turmoils of these trying times. Help us to unite our actions with our attitudes, our doing with our devotion, and our performances with our principles. By so doing may we lead our people to greater heights of patriotic devotion for the good of all.

Bless the Members of this House of Representatives and so move in their hearts that they may seek first Thy will for the good of our Nation. Make them worthy of these disturbing days, equal to the demands made upon them, and ready for the responsibilities which come to them. Grant them wisdom, grant them courage for this day and the days to come.

In the spirit of Him who went about doing good we pray. Amen.

CALL OF THE HOUSE

Mr. BAUMAN. Mr. Speaker, under rule I, clause 1, of the rules of the House, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. WRIGHT. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 884]

Alexander	Dent	Krueger
Ambro	Dicks	LaFalce
Ammerman	Diggs	Lehman
Applegate	Dornan	Lujan
Archer	Drinan	McCloskey
Armstrong	Eckhardt	McCormack
Bellenson	Edwards, Calif.	McDonald
Boggs	Edwards, Okla.	McKinney
Bonker	Fascell	Madigan
Breckinridge	Flowers	Marks
Broyhill	Ford, Mich.	Martin
Buchanan	Ford, Tenn.	Meeds
Burke, Calif.	Fraser	Metcalfe
Burke, Mass.	Gammage	Michel
Burton, John	Garcia	Mikulski
Caputo	Giaimo	Mikva
Carney	Gibbons	Milford
Chisholm	Goldwater	Moakley
Clausen, Don H.	Hagedorn	Moss
	Harrington	Murphy, Ill.
Cleveland	Heckler	Neal
Cochran	Hillis	Patten
Cohen	Hollenbeck	Pease
Collins, Ill.	Holtzman	Pettis
Conyers	Ireland	Pike
Corman	Jacobs	Quayle
Cotter	Jenrette	Quie
Crane	Kastenmeier	Railsback
de la Garza	Kemp	Rhodes
Delaney	Keys	Rodino
Rudd	Skelton	Vander Jagt
Runnels	Skubitz	Walsh
Santini	Slack	Weaver
Sarasin	Solarz	Whitehurst
Satterfield	Staggers	Wiggins
Scheuer	Teague	Wilson, Tex.
Schroeder	Thone	Wright
Shipley	Tsongas	Young, Alaska
Shuster	Tucker	Young, Tex.
Simon	Udall	

The SPEAKER. On this rollcall 314 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Marks, one of his secretaries.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 11035. An act to incorporate the U.S. Capitol Historical Society.

The message also announced that the Senate agrees to the amendments of the House to a bill of the Senate of the following title:

S. 3259. An act to authorize the permanent establishment of a system of Federal Information Centers.

PERMISSION TO HAVE UNTIL MIDNIGHT TOMORROW TO FILE CONFERENCE REPORT ON H.R. 12929, DEPARTMENT OF LABOR-HEW APPROPRIATION BILL

Mr. FLOOD. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tomorrow to file a conference report on the bill (H.R. 12929) making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending September 30, 1979, and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, I do so only for the purpose of asking the gentleman when we might expect this conference report to be brought to the floor?

Mr. FLOOD. If the gentleman will yield, I will not know that for about half an hour.

Mr. BAUMAN. We previously had entered into agreements that will prevent any substantive votes on Tuesday and Wednesday. My question then is: Will the conference report be brought up before Thursday or thereafter?

Mr. FLOOD. Of course the vote will have to be on Thursday. It will not occur before Thursday.

Mr. BAUMAN. The question is: When will it be brought to the floor and debated?

Mr. FLOOD. The leadership will decide that, of course.

The SPEAKER. Conference reports are brought to the floor as soon as possible. Conference reports take precedence over other legislation.

Mr. BAUMAN. Mr. Speaker, further reserving the right to object, the gentleman from Maryland is aware of that. The only concern I have is that if we are going to debate the major issues that are contained in both the HEW conference report and the foreign aid conference report, that ought to be done on Thursday or thereafter when the Members are going to be here. I do not think many Members would be here on Tuesday or Wednesday, and I would hate to see a situation in which these conference reports are debated and then the votes are put over until the next day and the Members do not understand the issues.

The SPEAKER. If there is any conference report of a substantial nature, the Chair would before he confers recognition consult with the minority leadership.

Mr. BAUMAN. With those assurances from the Speaker I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

APPOINTMENT OF CONFEREES ON H.R. 10587, PUBLIC GRAZING LANDS IMPROVEMENT ACT OF 1978

Mr. PHILLIP BURTON. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 10587) to improve the range conditions of the public grazing lands, with a Senate amendment thereto, disagree to the Sen-

ate amendment, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from California?

Mr. RONCALIO. Mr. Speaker, reserving the right to object, what is the relationship of this bill with the one going to conference this morning?

Mr. PHILLIP BURTON. Mr. Speaker, if the gentleman will yield, this is a request on which, if granted, the gentleman from Wyoming would expect that the Speaker would appoint the gentleman from Wyoming (Mr. RONCALIO), the gentleman from Nevada (Mr. SANTINI), the gentleman from Arizona (Mr. UDALL), and the gentleman from Colorado (Mr. JOHNSON) as conferees on behalf of the House.

Mr. RONCALIO. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from California? The Chair hears none, and appoints the following conferees: Messrs. RONCALIO, UDALL, SANTINI, and JOHNSON of Colorado.

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 12931 FOREIGN ASSISTANCE AND RELATED PROGRAMS APPROPRIATIONS, FISCAL YEAR 1979

Mr. LONG of Maryland. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight to file a conference report on the bill H.R. 12931, a bill making appropriations for foreign assistance and related programs for the fiscal year ending September 30, 1979, and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from Maryland?

Mr. ASHBROOK. Mr. Speaker, reserving the right to object, consistent with what the Speaker previously said, let me point out that this is a controversial bill. As I understand it, most of the amendments offered in the House were kicked out in the conference. I would hope this would not be brought up until the Members come back on Thursday. Can the gentleman from Maryland (Mr. LONG) give us some assurances on that?

Mr. LONG of Maryland. Mr. Speaker, if the gentleman will yield, let me say that I agree with what he has said entirely. It is our hope, in other words, to bring it up on Thursday, we have no intention of bringing it up before that time.

Mr. ASHBROOK. With that explanation, and knowing the gentleman is true to his word, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Maryland?

There was no objection.

CONGRESSIONAL FOREIGN TRIPS MUST BE CURBED

(Mr. LUKEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. LUKEN. Mr. Speaker, I am appalled at the alarming increase in foreign travel by Members of Congress at taxpayers' expense.

In 1977, Congress set a record by spending more than $2.7 million on foreign travel or "junkets," as they are more appropriately known, according to a recent report by Congressional Quarterly (September 30, 1978). More alarming than the total cost is the revelation that only a little more than $1.5 million of the travel was officially reported as required under present rules. Another $1.1 million in Members' junket costs was hidden in the expenses of the State and Defense Departments.

I am personally ashamed that Congress is spending so much of the taxpayers' money on excursions that, while they usually have worthy goals, are simply too expensive to be arranged as freely and generously as they have been.

We can curb junketing by supporting the Carr resolution, House Resolution 339, which I had the privilege of cosponsoring. This measure, now pending in the Rules Committee, would provide for detailed reporting of travel proposals, both before and after congressional trips. All proposed trips would have to detail the exact itinerary, all costs, participants, and expected benefits to the committee involved. All travel would have to be approved by the public, voice vote of the Members.

Under the Carr proposal, emergency travel could still be authorized by the chairman. But most trips would have to be authorized under these stringent rules which are necessary if we are ever going to have an open, conscientious, and frugal Congress, which the people of this nation are crying for.

Merely reporting foreign travel, as required under present rules, is not enough. There were a total of 415 congressional jaunts in 1977, most of which, I dare say, would be difficult to justify. These wasteful practices have to be curtailed, and the best course of action we can take is to support, and pass, the Carr resolution.

IN SUPPORT OF "VIGIL FOR FREEDOM" IN BEHALF OF SOVIET JEWS DETAINED IN THE U.S.S.R.

(Mr. RUSSO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RUSSO. Mr. Speaker, as a result of the Soviet Government's repressive emigration policies, I am happy to join in the "vigil for freedom" sponsored by the Union of Councils for Soviet Jewry on behalf of the Soviet Jewish families and individuals who are being detained in the U.S.S.R.

Today, I bring to my colleagues' attention the case of Grigory Yurkovich Goman and his wife Larissa. The one bright light in their lives has been the birth of their first child, a little girl named Geula—Redemption, in Hebrew. The past 4½ years have been filled with struggle and harassment resulting from their application to leave for Israel. Grigory was first demoted and now is jobless; Larissa, an economist, worked for a time as a telephone operator. The Gomans live in a communal apartment which lost its telephone because of their application. The other tenants are very hostile to them because of this. Their lives were made happier in July 1976 when Geula was born, but she has not been a healthy child. She had digestive difficulties, and recently was hospitalized with double pneumonia.

Meanwhile, the authorities devise new harassments for the Gomans. Recently, Grigory was threatened with being drafted into the army, a move which might prevent his ever reaching Israel. All requests for explanations of their refusals are not answered; authorities refuse to accept their documents, and the mail is not delivered and telegrams are withheld. The Gomans can only wait, hoping that Geula will someday live the reality of her name—redeemed in Israel.

I do not believe that I can add anything more. I can only say that taking note of the tragic circumstances of the Goman family—and so many others like them, that this House be moved to protest the present inhumane immigration policy of the Soviet Union.

MANY AMENDMENTS PROPOSED TO H.R. 11922, DOMESTIC VOLUNTEER SERVICE ACT AMENDMENTS OF 1978

(Mr. GOODLING asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GOODLING. Mr. Speaker, in the event that H.R. 11922, the Domestic Volunteer Service Act Amendments of 1978, comes to the floor for consideration, it is my intention to offer an amendment to strike title V. In the event it is not stricken it will be necessary to correct the legislation on the floor. The following 100 amendments may be offered, not necessarily by me.

This is to advise Members of the House that additional amendments which may be offered will be put in the RECORD in the next few days.

THE FATE OF CZECHOSLOVAKIA, FORMERLY A FREE AND INDEPENDENT NATION

(Mrs. FENWICK asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. FENWICK. Mr. Speaker, it was about 60 years ago, on October 18, that Czechoslovakia presented to President Woodrow Wilson its Declaration of Independence; and it was on the 28th of October that independent Czechoslovakia became a reality, with Thomas Masaryk as its first President.

As a consequence, for the first time in 1,000 years this nation, which had been a great and independent nation before the year 1000, was again independent, free of the Hapsburg Empire.

Then 10 years ago, just about this time of the year, in 1968, we saw the armies

invading this small country, armies from the East, the direction from which invasions have come in the past. At that time a new tyranny was imposed on a free and independent people with an ancient history.

Mr. Speaker, we will not be in session, I believe, on the 18th of October, nor will we be in session on the 28th; but I think we ought to remember that freedom can be taken away, that tyranny is not dying in the world, but, indeed, in some places it is increasing. I think we should bring to the attention of the people of the United States the fate of this small, brave country now under the heel of Soviet arms, tanks, and soldiers, right in their own land.

PARLIAMENTARY INQUIRY

Mr. ASHBROOK. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER. The gentleman will state his parliamentary inquiry.

Mr. ASHBROOK. Mr. Speaker, we are in the last few days of this session. There was considerable confusion this morning. The Members could not hear most of the requests which were made.

The Speaker in the past has assured the Members that any unanimous consent requests other than a personal request would be repeated to the House. I can assume the Speaker will continue that practice for those of us who cannot hear what is going on in the well.

My parliamentary inquiry, Mr. Speaker, is this: Will the Speaker continue, in his fair manner, to protect the Members with respect to the making of any unanimous-consent requests other than something of a personal nature, which are made in the well? Am I correct in that assumption, Mr. Speaker?

The SPEAKER. The Chair will state that the gentleman is correct. All Members' interests will be protected.

Mr. ASHBROOK. I thank the Speaker. There is a lot of confusion here this morning.

The SPEAKER. The Chair will maintain order.

REPORT ON RESOLUTION PROVIDING FURTHER EXPENSES OF COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE

Mr. DENT, from the Committee on House Administration, submitted a privileged report (Rept. No. 95-1732) on the resolution (H. Res. 1364) providing for the further expenses of the Committee on Interstate and Foreign Commerce, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FUNDS FOR INVESTIGATIONS AND STUDIES BY COMMITTEE ON POST OFFICE AND CIVIL SERVICE

Mr. DENT, from the Committee on House Administration, submitted a privileged report (Rept. No. 95–1731) on the resolution (H. Res. 1363) to provide funds for the investigations and studies to be conducted by the Committee on Post Office and Civil Service pursuant to H. Res. 1041, which was referred to the House Calendar and ordered to be printed.

TENTH ANNUAL REPORT ON NATIONAL HOUSING GOAL—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Banking, Finance and Urban Affairs:

To the Congress of the United States:

I herewith transmit the Tenth Annual Report on the National Housing Goal as required by Section 1603 of the Housing and Urban Development Act of 1968.

JIMMY CARTER.

THE WHITE HOUSE, *October 6, 1978.*

MAKING IN ORDER, AT ANY TIME DURING REMAINDER OF SECOND SESSION, 95TH CONGRESS, CONSIDERATION OF CONFERENCE REPORTS AND AMENDMENTS IN DISAGREEMENT, DECLARATION OF RECESSES BY THE SPEAKER, AND ENTERTAINING BY THE SPEAKER OF MOTIONS TO SUSPEND THE RULES

Mr. BOLLING. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1404 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 1404

Resolved, That it shall be in order at any time during the remainder of the second session, Ninety-Fifth Congress, up to and including October 15, 1978: (1) To consider conference reports and amendments reported from conference in disagreement on the same day reported or any day thereafter notwithstanding the provisions of clause 2, Rule XXVIII (but subject to the two-hour availability requirement of that clause), and any said conference report or amendment in disagreement shall be considered as having been read when called up for consideration; (2) for the Speaker to declare recesses at any time, subject to the call of the Chair; and (3) for the Speaker to entertain motions to suspend the rules.

The SPEAKER. The gentleman from Missouri (Mr. BOLLING) is recognized for 60 minutes.

Mr. BOLLING. Mr. Speaker, I yield 30 minutes to the gentleman from Illinois (Mr. ANDERSON). Pending that, I yield myself such time as I may consume.

Mr. Speaker, there was some discussion and some controversy in the Committee on Rules on this resolution. It is, however, the normal although changed rule that is passed at the end of the session, at virtually every end of a session. The change in effect reduces the normal power given to the leadership and the committee structure at the end of the session by not including what has been for a number of years done: The provision that reports from the Committee on Rules can be considered on the day that they are reported. That is not included in this resolution. Otherwise it is a normal, standard, end-of-session resolution.

Mr. ASHBROOK. Mr. Speaker, will the gentleman yield?

Mr. BOLLING. I yield to the gentleman from Ohio.

Mr. ASHBROOK. I thank the gentleman for yielding.

I have done a little checking. Is it normal in the sense that it suspends reading? I do not believe I have seen that in end-of-session resolutions.

Mr. BOLLING. It not only is in the end-of-session resolutions; it is also in the rules in effect because the rule that is involved here, clause 2 of rule XXVIII provides that the provisions of the sentence just ahead of it do not apply during the last 6 days of the session. But the gentleman knows that we never are in a position to say that we are in the last 6 days of a session because we do not pass the adjournment resolution until we are all through, and in effect the rule anticipates the resolution that I am talking about that I brought up.

Mr. ASHBROOK. If my colleague would yield further, I think all of us recognize that the leadership needs certain prerogatives at the end of the session. Sometimes there is a little overreach. I thought in my particular individual case putting in the matter of suspension of reading was a little bit of an overreach, but I guess the gentleman is right as far as the end-of-session rules.

Mr. BOLLING. I think, furthermore, it is important to remember that the 2-hour rule still applies, that it is not a question of bringing up something that is mysterious and not known to anybody because there must be before the Members a copy in some form of the matter that is not being read.

Mr. ASHBROOK. I thank my colleague for yielding and for that explanation.

Mr. ROUSSELOT. Will the gentleman yield?

Mr. BOLLING. I will be glad to yield the gentleman.

Mr. ROUSSELOT. I appreciate the gentleman's yielding. I think some Members are concerned because of the position we were put in, if the gentleman remembers, on the 1976 tax bill where it just came from conference the day before. The loose papers were stacked a yard high, and nobody had really seen the finalized version. Since then we have had to come back and repeal many aspects of that 1976 act because few members really knew what had come out of the conference. I think that is the basic concern that many of us have.

Mr. BOLLING. If my colleague will allow me to reply, my own view is very much like his. I think it is important for the Members of the House to have an opportunity to know what is in bills. I must admit that there are occasions when it is very, very difficult to get that information, even if available, transmitted not only because of the confusion

in the Chamber but because of the inability of Members to concentrate on that particular topic because of other things they must deal with.

The purpose of this gentleman is to see to it that Members know what the Members are voting on and that the House pass legislation that is thought out.

Mr. ROUSSELOT. Mr. Speaker, if the gentleman will yield further, I appreciate the gentleman's comments. I was not so concerned about the gentleman's wish and hope and understanding of what is before us, but I do remember very well that 1976 Tax Act and all the unknown items that were included. The House had to come back later and admit we had acted in haste.

Mr. Speaker, I appreciate the gentleman's comments.

Mr. BOLLING. Mr. Speaker, I reserve the balance of my time.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield myself such time as I may use.

Mr. Speaker, House Resolution 1404 is a special resolution requested by the leadership to permit the facilitation of our legislative business during what will hopefully be the last week of the 95th Congress.

Under the terms of this resolution it would be in order at any time, through Sunday, October 15, 1978, to consider conference reports and amendments reported in disagreement on the same day as reported, but subject to the 2-hour availability rule of clause 2, rule 28. Moreover, any such conference report or amendment in disagreement shall be considered as having been read when called up for consideration.

Second, this resolution makes it possible for the Speaker to declare a recess at any time, subject to the call of the chair; and third, the resolution makes it possible for the Speaker to entertain motions to suspend the rules at any time.

Mr. Speaker, this is a routine procedural resolution which is ordinarily offered at the end of a Congress, with two exceptions: first, this would ordinarily be presented as three separate resolutions rather than as a single resolution; this is the first time I can remember when these three special authorizations have been presented in a single resolution. Second, the resolution states that conference reports or amendments in disagreement shall be considered as having been read when called up for consideration. This is the first time I can ever remember that language being inserted in such a resolution. And, I might point out, the gentleman from Maryland (Mr. BAUMAN) offered an amendment in the Rules Committee to strike the language which dispenses with the reading of a conference report or amendment in disagreement. It was his concern, and one which I must say I share, that in the final hours of a Congress some things are often slipped through in a conference report which we are not aware of and yet which may later prove to be an embarrassment to us. While the 2-hour rule still applies—that is, the requirement that a copy of the conference report or amendment in disagreement be available to Members at least 2 hours prior to consideration—there is no assurance in that rule that Members will avail themselves of the opportunity to read a conference report through in such short time. Eliminating the requirement for a reading by the Clerk will only further compound the likelihood that something could slip through unnoticed—that is, until the press picks up on it later, as has happened in the past.

I would point out to my colleagues that those two unique features of this resolution are the only exceptional provisions from the type of resolution we ordinarily adopt at this stage in a Congress. I would point out to my colleagues that our present House rules permit calling up matters under suspension and conference reports at any time during the last 6 days of a session. However, this rule only applies when the House and Senate have already adopted sine die adjournment resolutions. Since we have not yet adopted such a resolution, there is no way we can determine which will be the last 6 days of this session. That is the main reason this special resolution is necessary. While I voted for the Bauman amendment in committee and against this resolution on final passage for that reason, I will defer to my colleague if he wishes to pursue his opposition further here.

Mr. KAZEN. Mr. Speaker, will the gentleman yield?

Mr. ANDERSON of Illinois. I yield to the gentleman from Texas.

Mr. KAZEN. Mr. Speaker, let me just ask the gentleman, what happens in the case where the report is not available to a Member when he asks for it and then before he knows it, while he is asking for the report, it is being brought up?

Mr. ANDERSON of Illinois. Then he can make a point of order that the rules of the House are not being complied with. In my opinion, the so-called Burton rule, or 2-hour rule, has to be observed even if we adopt the resolution. If you find a conference report is being called up by the Speaker and have not had access to the report at least 2 hours before that time, I think you could make a valid point of order and it would be sustained.

Mr. KAZEN. Mr. Speaker, I thank the gentleman.

Mr. CARTER. Mr. Speaker, will the gentleman yield?

Mr. ANDERSON of Illinois. I yield to the gentleman from Kentucky.

Mr. CARTER. Mr. Speaker, I thank the distinguished gentleman for yielding.

I am sure the gentleman knows at the end of the session how many conference reports come up and how impossible it is for us to take 2 hours to read each and every one of these reports, which all of us should do. It is an impossible task and this is the way that poor legislation comes into being.

Mr. Speaker, if the gentleman would desire to comment on that, I would appreciate it.

Mr. ANDERSON of Illinois. Mr. Speaker, I think I deplore as much as anyone, I say to the gentleman from Kentucky, the tendency that we have to pack too much legislation into the closing days of the session of Congress. I could not differ too much with the gentleman's interpretation of what does sometimes occur. I think we do not have the same kind of judicious handling of legislative matters which we have earlier in the session and which ought to be the rule.

Mr. CARTER. Mr. Speaker, will the gentleman yield further?

Mr. ANDERSON of Illinois. I yield to the gentleman from Kentucky.

Mr. CARTER. Mr. Speaker, I want to thank the gentleman for his very apt remarks. I think they are quite meaningful.

Mr. VOLKMER. Mr. Speaker, will the gentleman yield for a question?

Mr. ANDERSON of Illinois. I yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Speaker, I would like to continue with the discussion which proceeded on this side, and I will ask this question. What does the word, "available," mean? Does that mean it has to be printed or mimeographed or what? What is the gentleman's understanding?

Mr. ANDERSON of Illinois. Mr. Speaker, my understanding of the rule—and I am not the world's greatest expert on the 2-hour rule—is that it has to be printed in some form—mimeographed or otherwise, so that the gentleman can read it.

Mr. VOLKMER. And not just be filed; is that correct?

Mr. ANDERSON of Illinois. No, it has to be available for the gentleman's perusal.

Mr. VOLKMER. Mr. Speaker, I thank the gentleman very much.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. ANDERSON of Illinois. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Speaker, I thank the gentleman for yielding.

I just want to ask the gentleman from Missouri (Mr. BOLLING) about this rule. This resolution takes effect immediately upon its adoption. There has been a previously distributed legislative program for today that has not been formally announced.

Is there any consideration of calling up any conference reports that are otherwise ineligible later today if this rule is now adopted?

Mr. BOLLING. Mr. Speaker, if the gentleman will yield, the gentleman from Missouri is not in a position to answer that, but he will attempt to ascertain the answer to the question.

The SPEAKER. The Chair would state, from what he recalls, that last evening, when the gentleman from Arizona (Mr. UDALL) asked to make in order a conference report today, the gentleman from Ohio (Mr. ASHBROOK) objected. Now, that conference report could possibly be brought up.

Mr. BAUMAN. Mr. Speaker, that is the civil service reform conference report?

The SPEAKER. That is civil service

reform. There are conference reports on SBA and civil service. They will be called up today.

Those are conference reports on the Small Business Minority Investment Act and on civil service reform. They are listed today.

Mr. BAUMAN. Mr. Speaker, may I ask this: If this resolution is adopted, it is the intention to call those conference reports up today?

The SPEAKER. If the resolution is adopted, yes, it would be the leadership's intention to call these conference reports up.

Mr. BAUMAN. Mr. Speaker, none of these conference reports were listed on the program distributed by the majority leader's office.

The SPEAKER. The Chair will say to the gentleman that they have been listed on the tape, the Chair is informed, all night, both on the gentleman's side of the aisle and on our side of the aisle.

Mr. ANDERSON of Illinois. Mr. Speaker, I will proceed, but first I will ask the gentleman from Maryland (Mr. BAUMAN) if he has completed his inquiry.

Mr. BAUMAN. I have, Mr. Speaker, and I thank the gentleman for yielding.

Mr. ANDERSON of Illinois. Mr. Speaker, I just wanted, before my time has expired, to return to the question that was raised by the gentleman from Texas (Mr. KAZEN) a few minutes ago. I have before me now a copy of clause 2 of rule XXVIII, which is the so-called 2-hour rule, and I read therefrom as follows:

> Nor shall it be in order to consider any conference report unless copies of the report and accompanying statement have been available to Members for at least two hours before the beginning of such consideration.

Clearly that implies more than simply filing a report. It does imply that reports in some printed form, either mimeographed copies or Xerox copies by some means of reproduction, will be available to the general membership of the House at least 2 hours before the report is considered here in the House. And in view of the fact that we are for the first time in my memory explicitly including language in this resolution that declares the conference report or any amendment in disagreement shall be considered as having been read, I think it is important to have this assurance and clarification provided for all the Members.

Mr. Speaker, I have no further requests for time, and I reserve the balance of my time.

Mr. BOLLING. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER. The question is on the resolution.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. BAUMAN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 300, nays 56, not voting 76, as follows:

[Roll No. 885]

YEAS—300

Abdnor	Flippo	Murphy, N.Y.
Addabbo	Flood	Murphy, Pa.
Akaka	Florio	Murtha
Anderson, Calif.	Flowers	Myers, Gary
	Flynt	Myers, Michael
Anderson, Ill.	Foley	Natcher
Andrews, N.C.	Ford, Tenn.	Neal
Andrews, N. Dak.	Forsythe	Nedzi
	Fountain	Nichols
Annunzio	Fowler	Nix
Applegate	Fraser	Nolan
Ashley	Frenzel	Nowak
Aspin	Fuqua	O'Brien
AuCoin	Garcia	Oakar
Bafalis	Gaydos	Oberstar
Baldus	Gephardt	Obey
Barnard	Gibbons	Ottinger
Baucus	Gilman	Panetta
Beard, R.I.	Ginn	Patten
Beard, Tenn.	Glickman	Patterson
Bedell	Gonzalez	Pease
Bellenson	Gore	Pepper
Benjamin	Gradison	Perkins
Bennett	Green	Pickle
Bevill	Gudger	Pike
Biaggi	Guyer	Poage
Bingham	Hall	Preyer
Blouin	Hamilton	Price
Boggs	Hanley	Pritchard
Bolling	Hannaford	Pursell
Bonior	Harkin	Quayle
Bonker	Harris	Quillen
Bowen	Hawkins	Rahall
Brademas	Hefner	Rangel
Breaux	Heftel	Reuss
Brinkley	Hightower	Richmond
Brodhead	Holland	Rinaldo
Brooks	Horton	Risenhoover
Brown, Calif.	Hubbard	Roberts
Burke, Fla.	Huckaby	Robinson
Burke, Mass.	Hughes	Roe
Burleson, Tex.	Jacobs	Rogers
Burlison, Mo.	Jenkins	Roncalio
Burton, Phillip	Jenrette	Rooney
Butler	Johnson, Calif.	Rose
Byron	Johnson, Colo.	Rosenthal
Carr	Jones, N.C.	Rostenkowski
Carter	Jones, Okla.	Roybal
Cavanaugh	Jones, Tenn.	Runnels
Cederberg	Jordan	Ruppe
Chappell	Kastenmeier	Russo
Chisholm	Kazen	Ryan
Clay	Keys	Santini
Coleman	Kildee	Scheuer
Conable	Kostmayer	Sebelius
Conte	Krebs	Seiberling
Corcoran	LaFalce	Sharp
Corman	Latta	Sikes
Cornell	Le Fante	Simon
Cornwell	Leach	Sisk
D'Amours	Lederer	Skubitz
Daniel, Dan	Leggett	Slack
Danielson	Lehman	Smith, Iowa
Davis	Levitas	Smith, Nebr.
de la Garza	Lloyd, Calif.	Solarz
Delaney	Lloyd, Tenn.	Spellman
Dellums	Long, La.	Spence
Derrick	Long, Md.	St Germain
Derwinski	Luken	Stanton
Devine	Lundine	Steed
Dickinson	McDade	Steers
Dingell	McFall	Steiger
Dodd	McHugh	Stokes
Downey	McKay	Stratton
Drinan	McKinney	Studds
Duncan, Oreg.	Maguire	Stump
Duncan, Tenn.	Mahon	Thompson
Early	Mann	Thornton
Edgar	Markey	Traxler
Edwards, Ala.	Marks	Treible
Edwards, Calif.	Mattox	Udall
Eilberg	Mazzoli	Ullman
Emery	Meeds	Van Deerlin
English	Metcalfe	Vanik
Erlenborn	Meyner	Vento
Ertel	Miller, Calif.	Volkmer
Evans, Colo.	Miller, Ohio	Waggonner
Evans, Del.	Mineta	Walgren
Evans, Ga.	Minish	Wampler
Evans, Ind.	Mitchell, Md.	Watkins
Fary	Mitchell, N.Y.	Weiss
Fascell	Moakley	Whalen
Fenwick	Moffett	White
Findley	Mollohan	Whitley
Fish	Montgomery	Wilson, Bob
Fisher	Moorhead, Pa.	Wilson, C. H.
Fithian	Mottl	Wilson, Tex.
Wirth	Wylie	Young, Mo.
Wolff	Yates	Zablocki
Wright	Yatron	Zeferetti
Wydler	Young, Fla.	

NAYS—56

Archer	Grassley	Moore
Ashbrook	Hammer-schmidt	Moorhead, Calif.
Badham	Hansen	Myers, John
Bauman	Harsha	Pressler
Broomfield	Holt	Regula
Brown, Mich.	Hyde	Rousselot
Brown, Ohio	Jeffords	Sawyer
Buchanan	Kasten	Schulze
Burgener	Kelly	Shuster
Clausen, Don H.	Kemp	Snyder
	Lagomarsino	Stangeland
Clawson, Del	Lent	Stockman
Collins, Tex.	Livingston	Symms
Coughlin	Lott	Taylor
Cunningham	McClory	Treen
Daniel, R. W.	McDonald	Walker
Dornan	McEwen	Winn
Edwards, Okla.	Marlenee	Young, Alaska
Frey	Marriott	
Goodling		

NOT VOTING—76

Alexander	Goldwater	Quie
Ambro	Hagedorn	Railsback
Ammerman	Harrington	Rhodes
Armstrong	Heckler	Rodino
Blanchard	Hillis	Rudd
Boland	Hollenbeck	Sarasin
Breckinridge	Holtzman	Satterfield
Broyhill	Howard	Schroeder
Burke, Calif.	Ichord	Shipley
Burton, John	Ireland	Skelton
Caputo	Kindness	Staggers
Carney	Krueger	Stark
Cleveland	Lujan	Teague
Cochran	McCloskey	Thone
Cohen	McCormack	Tsongas
Collins, Ill.	Madigan	Tucker
Conyers	Martin	Vander Jagt
Cotter	Mathis	Walsh
Crane	Michel	Waxman
Dent	Mikulski	Weaver
Dicks	Mikva	Whitehurst
Diggs	Milford	Whitten
Eckhardt	Moss	Wiggins
Ford, Mich.	Murphy, Ill.	Young, Tex.
Gammage	Pattison	
Giaimo	Pettis	

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF H.R. 11488, PUBLIC HEALTH SERVICES PLANNING AMENDMENTS

Mr. BOLLING. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1390 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 1390

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Commitee of the Whole House on the State of the Union for the consideration of the bill (H.R. 11488) to amend titles XV and XVI of the Public Health Service Act to revise and extend the authorities and requirements under those titles for health planning and health resources development, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interstate and Foreign Commerce, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recom-

mended by the Committee on Interstate and Foreign Commerce now printed in the bill as an original bill for the purpose of amendment under the five-minute rule, said substitute shall be considered for amendment by titles instead of by sections and each title thereof shall be considered as having been read, and all points of order against said substitute for failure to comply with the provisions of clause 5, rule XXI are hereby waived. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions. Afer the passage of H.R. 11488 it shall be in order in the House to take from the Speaker's table the bill S. 2410 and to move to strike out all after the enacting clause of the said Senate bill and to insert in lieu thereof the provisions contained in H.R. 11488 as passed by the House.

The SPEAKER pro tempore (Mr. EVANS of Colorado). The gentleman from Missouri (Mr. BOLLING) is recognized for 1 hour.

Mr. BOLLING. Mr. Speaker, I yield 30 minutes to the gentleman from Ohio (Mr. LATTA), pending which I yield myself such time as I may consume.

Mr. Speaker, this a perfectly normal rule which brings up a matter which failed under suspension of the rules very narrowly and which would have passed, if it had not been under suspension, by what we describe as an overwhelming majority, by more than 120 votes.

I cannot see any reason to debate the rule and I reserve the balance of my time.

Mr. LATTA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this rule provides 1 hour of general debate for the consideration of H.R. 11488, the health planning and resources development amendments.

Following recent practice in the Rules Committee, the first reading of the bill will be dispensed with. In order to preserve the normal amending process, the committee substitute is made in order as an original bill for the purpose of amendment. The substitute will be read for amendment by titles instead of by sections.

Again following recent practice in the Rules Committee, each of the titles will be considered as having been read for amendment.

There is one waiver of points of order in this rule. Clause 5 of rule XXI prohibits appropriations on a legislative bill. The waiver of this rule is necessary because previously appropriated funds are carried over to a new year in the substitute, and technically this constitutes an appropriation.

Finally, after passage of the House bill, the rule makes it in order to insert the House-passed language in the Senate bill number, in order to expedite going to conference.

Mr. Speaker, the bill made in order by this rule failed to receive the required two-thirds vote under suspension of the rules procedure on September 18, 1978. The vote at that time was 261 yeas to 141 nays.

Mr. Speaker, the purpose of H.R. 11488 is to amend titles XV and XVI of the Public Health Service Act to revise and extend the program of health planning and resources development.

Mr. Speaker, this bill is expensive. It authorizes a total of $1,487 million over 3 fiscal years.

It will affect every hospital in this country directly or indirectly.

Mr. Speaker, I think the Members finally came to realize this the day this bill was up under suspension that it would impact every hospital, and that is the reason a lot of votes were changed in the well. In the interval, I hope Members have had an opportunity to take a look at this bill and to ask the people back home whether this is what they want.

Mr. Speaker, we have had an experience in northwestern Ohio with one of these health-planning organizations. I have reference to the Napoleon Hospital matter, which became well known in northwestern Ohio. The people in that community had their own hospital, and it was condemned. They needed a new hospital. The people went out and voted a levy to build a new facility, only to have one of these health-planning organizations say:

> You can't vote yourself a new hospital. You must transport your people 35 or 40 miles into Toledo and use its facilities.

Mr. Speaker, last winter they could not even get to Toledo by helicopter, because of the snow. I just wonder what these planners would do in a case like this if they had not still had a hospital in Napoleon?

What happened in this case was that these planners were overruled by the State. I understand this legislation would take some of the authority away from the States to overrule these little groups.

Mr. Speaker, I was amazed to learn how these individuals get on these boards. They were not appointed by anybody responsible to the people. One individual said:

> I got on the board because Joe Doe did not want to stay on it any longer, and they just appointed me.

Mr. Speaker, I do not believe this is the democratic way to plan for hospitals.

Mr. Speaker, hopefully, between now and the time this matter comes on for consideration, Members will take a look at what is happening in their particular areas.

Mr. Speaker, I have no requests for time and reserve the balance of my time.

Mr. BOLLING. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF H.R. 13335, AFDC ASSISTANCE AND ERROR REDUCTION INCENTIVE PAYMENTS

Mr. BOLLING. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1367 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 1367

Resolved, That upon the adoption of this resolution it shall be in order to move, section 401(b)(1) of the Congressional Budget Act of 1974 (Public Law 93-344) to the contrary notwithstanding, that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 13335) to amend part A of title IV of the Social Security Act to provide additional fiscal relief for States and political subdivisions with respect to the costs of certain welfare programs, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means, the bill shall be considered as having been read for amendment. No amendment to the bill shall be in order except amendments recommended by the Committee on Ways and Means, which shall not be subject to amendment. At the conclusion of the consideration of the bill, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER pro tempore. The gentleman from Missouri (Mr. BOLLING) is recognized for 1 hour.

Mr. BOLLING. Mr. Speaker, I yield 30 minutes to the gentleman from Ohio (Mr. LATTA). Pending that I yield myself such time as I may consume.

Mr. Speaker, this is a 1-hour closed rule on a simple matter affecting the aid to families and dependent children. There was some discussion of it in the Committee on Rules, but I detect no serious controversy in the matter, and I, therefore, reserve the remainder of my time.

Mr. LATTA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this rule provides 1 hour of general debate for the consideration of H.R. 13335, a bill to provide Federal assistance to States and localities for reductions in AFDC errors.

There are at least a couple of noteworthy provisions in this rule. First, it is a closed rule. No amendments will be in order except amendments recommended by the Committee on Ways and Means and these will not be subject to amendment.

Second, there is a waiver of the Budget Act. However, while it was necessary to include the Budget Act waiver at the time the rule was reported, the waiver is no longer necessary. The rule waives points of order for failure to comply with section 401(b)(1) of the Budget Act.

This section bars the consideration of any bill containing new entitlement authority effective before the first day of fiscal year beginning during the calendar year in which the bill was reported. As applied to this bill, section 401(b)(1) prohibits new entitlement authority effective before October 1, 1978. Now that October 1, 1978 has passed, the waiver is no longer necessary.

There is one other provision in this rule that was rarely used by the Rules Committee before early September, but it is commonplace now. That is, the first reading of the bill is dispensed with.

Mr. Speaker, the bill which this rule makes in order, H.R. 13335, would provide additional fiscal relief for States and political subdivisions with respect to the costs of the AFDC public assistance program. It would authorize up to $400 million in Federal funds for the purpose of providing interim fiscal relief for State and local governments for welfare expenditures.

Mr. GRADISON. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I yield to the gentleman from Ohio.

Mr. GRADISON. I thank the gentleman for yielding.

Mr. Speaker, I take this time merely to indicate that this bill is not without controversy. The rule is certainly a reasonable one, and I am not here to oppose the rule. But I do want to indicate that during the waning days of this session, there are serious questions in my mind about the advisability of passing a bill of this kind which would establish a permanent new program. On the surface this appears to be a desirable step, one intended to reduce the error rate in the error-ridden and fraud-ridden aid to dependent children program, but on closer examination, it becomes apparent that this is really an additional form of revenue sharing. Most States would get money in large amounts whether they do anything about the error rate or not. Therefore, passing this bill at this time would merely set into motion a program of spending which we certainly could do without.

Mr. Speaker, I would like to call to the attention of the House the strong opposition of the President and the Secretary of Health, Education, and Welfare to the bill, and in particular, to read from a letter of Secretary Califano dated September 27 one sentence in which he says, and I quote:

> It does not make sense to authorize up to $400 million for State and local governments to offset welfare expenditures in a time when States are showing budgetary surpluses and the federal government is operating under serious budget deficits.

Mr. Speaker, at this point I include the entire text of the letter of Sept. 27, 1978, from Secretary Califano of HEW on this subject.

WASHINGTON, D.C.,
September 27, 1978.

DEAR REPRESENTATIVE: We understand that the House may soon consider H.R. 13335, a bill to provide Federal Assistance and Incentive Payments to States and Localities for Reductions in AFDC Errors. The Administration strongly opposes H.R. 13335.

The bill, narrowly reported out of the Committee on Ways and Means, would authorize up to $400 million in federal funds during FY 1979 to provide interim fiscal relief to States and localities for welfare expenditures.

We agree with the report of the Committee Ways and Means which says in part, ". . . permanent large scale reductions in State and local welfare costs should be enacted only as a part of comprehensive welfare reform legislation which also makes the programmatic and administrative improvements in the current welfare system that are long overdue." We do not agree with the Committee that interim fiscal relief unrelated to significant program improvements is advisable. On the contrary, it is reasonable to expect that continued fiscal relief without any requirements for needed change would delay even further the movement toward such reforms.

Although this bill is intended to provide a financial incentive to State and local governments to reduce AFDC payment errors, it is doubtful that this could be accomplished by H.R. 13335 for two reasons.

First, improved quality control is a long-term process which requires careful planning, the commitment of additional staff resources, extensive administrative changes, and in some instances action by their respective state legislatures. Temporary fiscal relief measures such as this simply cannot provide the magnitude of incentives necessary for such basic program changes. Even the test period in which State performance is to be judged (October 1978–March 1979) occurs too soon to give States sufficient lead time for major changes in the administration of their programs.

Second, the formula provided in the bill for determining how much fiscal relief a State would lose if performance is not improved, places the major emphasis on reducing errors in high error States to the national average. As a result, it cannot be expected to act as an effective incentive for reaching the 4 percent goal. Thus, even if the fiscal incentives provided for in H.R. 13335 were to be available for a longer period, they could not be expected to achieve the desired result without the addition of stronger fiscal incentives. This is a complex matter and the Department has been working closely with the States for improvements in this area.

We are, in addition, extremely concerned about the high level of funding authorized under this legislation. It does not make sense to authorize up to $400 million for State and local governments to offset welfare expenditures in a time when States are showing budgetary surpluses and the federal government is operating under serious budget deficits.

We urge you to reject H.R. 13335 when it is taken up by the House.

The Office of Management and Budget has advised us that there is no objection to the presentation of this letter and that enactment of H.R. 13335 would not be in accord with the program of the President.

Sincerely,

JOSEPH A. CALIFANO, Jr.

Mr. Speaker, I thank the gentleman from Ohio for his courtesy in yielding.

Mr. BOLLING. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF H.R. 12347, BIOMEDICAL RESEARCH AND TRAINING AMENDMENTS

Mr. BOLLING. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1301 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 1301

Resolved, That upon the adoption of this resolution it shall be in order to move, sections 401(a) and 402(a) of the Congressional Budget Act of 1974 (Public Law 93–344) to the contrary notwithstanding, that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 12347) to amend the Public Health Service Act to revise and extend the programs of assistance for libraries of medicine and the programs of the National Heart, Lung, and Blood Institute and the National Cancer Institute, to revise and extend the program for National Research Service Awards, and for other purposes, and all points of order against said bill for failure to comply with the provisions of clause 5, rule XXI are hereby waived. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interstate and Foreign Commerce, the bill shall be read for amendment under the five-minute rule by titles instead of by sections. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER pro tempore (Mr. EVANS of Colorado). The gentleman from Missouri (Mr. BOLLING) is recognized for 1 hour.

Mr. BOLLING. Mr. Speaker, I yield 30 minutes to the gentleman from Mississippi (Mr. LOTT). Pending that, Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is an absolutely normal 1-hour open rule. I know of no reason to discuss it.

Mr. Speaker, I reserve the balance of my time.

Mr. LOTT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is a 1 hour, open rule permitting consideration of H.R. 12347, the Biomedical Research and Research Training Amendments of 1978. Sections 401(a) and 402(a) of the Congressional Budget Act are waived. These sections limit new spending authority to amounts provided in appropriations acts and prohibit consideration of legislation reported after the May 15 deadline, respectively. It is my understanding there will be amendments offered on the floor to cure the Budget Act violations.

Clause 5, rule XXI (appropriations in legislation) is waived against section 204 of the bill, because it provides new authority to use existing funds in a different way. The bill is to be read for amendments by titles instead of by sections.

This legislation authorizes $5.538 billion for the following four programs: Libraries of Medicine; Heart, Lung, and Blood Institute; National Cancer Institute; and National Research Service Awards. In addition, it includes provisions for research into the effects of low-level radiation.

Mr. Speaker, the total for H.R. 12347 is $204 million above the President's request for the same programs. I find this disturbing, but I know of no opposition to this open rule.

Mr. Speaker, I yield back the balance of my time.

Mr. BOLLING. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF H.R. 12511, CHILD NUTRITION AMENDMENTS OF 1978

Mr. BOLLING. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1411 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 1411

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 12511) to extend for one year the child care food program of the National School Lunch Act and the women, infants, and children program of the Child Nutrition Act of 1966, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Education and Labor, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Education and Labor now printed in the bill as an original bill for the purpose of amendment under the five-minute rule, and all points of order against said substitute for failure to comply with the provisions of clause 7 of rule XVI, clause 5 of rule XXI, and section 303(a)(4) of the Congressional Budget Act of 1974 (Public Law 93-344) are hereby waived. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions. After the passage of H.R. 12511, the House shall proceed, section 303(a)(4) of the Congressional Budget Act of 1974 (Public Law 93-344) to the contrary notwithstanding to the consideration of the bill S. 3085, and it shall then be in order in the House to move to strike out all after the enacting clause of the said Senate bill and to insert in lieu thereof the provisions contained in H.R. 12511 as passed by the House.

The SPEAKER pro tempore. The gentleman from Missouri (Mr. BOLLING) is recognized for 1 hour.

Mr. BOLLING. Mr. Speaker, I yield 30 minutes to the gentleman from Ohio (Mr. LATTA), and pending that, I yield myself such time as I may consume.

Mr. Speaker, this is a 1-hour, open rule, with a couple of necessary waivers contained in it. It brings up a matter that has one controversial section, as I remember the discussion before the Committee on Rules, but there was no strenuous objection to the rule.

Mr. Speaker, I reserve the balance of my time.

Mr. LATTA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this rule provides 1 hour of general debate for the consideration of H.R. 12511, the Child Nutrition Amendments of 1978, which has become known as the school lunch bill.

Mr. Speaker, in order to preserve the normal amending process, this rule makes the committee substitute in order as an original bill for the purpose of amendment.

There are three points of order against the substitute which are waived in this rule. First, points of order against the substitute are waived for failure to comply with the germaneness rule. This waiver is necessary because the original bill is a simple 1-year extension of the existing programs while the substitute makes substantial changes in permanent law.

Second, points of order are waived against the substitute for failure to comply with clause 5, rule XXI, which prohibits appropriations on a legislative bill. This waiver is necessary because there is a provision in the bill allowing funds previously appropriated to be used for new purposes. Technically, this constitutes an appropriation on a legislative bill.

Third, the rule waives points of order for failure to comply with section 303(a)(4) of the Budget Act. This section prohibits consideration of any bill which provides new entitlement authority to become effective during a fiscal year until the first budget resolution for the fiscal year has been agreed to. There is a violation in this bill, which is corrected by the amendment of the Committee on Appropriations. According to a letter from the chairman of the Budget Committee, the amendment will be supported by the Committee on Education and Labor. The chairman of the Budget Committee has agreed to the waiver, based on this assurance.

Mr. Speaker, after passage of this House bill, this rule makes it in order to insert the House-passed language in the Senate bill. In order to allow consideration of the Senate bill, it is again necessary to waive section 303(a)(4) of the Budget Act.

Mr. Speaker, the bill made in order by this rule is expensive. It authorizes $888 million for 1979, $1,137 million for 1980, $1,235 million for 1981, and $1,321 million for 1982. In addition, some of the programs are extended through 1983, for an additional authorization of $406 million.

There is considerable controversy over one provision of this bill. It would mandate that schools in low-income areas provide a school breakfast program.

Mr. BOLLING. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF H.R. 13611, CHILD HEALTH ASSURANCE ACT OF 1978

Mr. BOLLING. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1412 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 1412

Resolved, That upon the adoption of this resolution it shall be in order to move, sections 401(a) and 402(a) of the Congressional Budget Act of 1974 (Public Law 93-344) to the contrary notwithstanding, that the House resolve itself into the Committee on the Whole House on the State of the Union for the consideration of the bill (H.R. 13611) to strengthen and improve the early and periodic screening, diagnosis, and treatment program, and for other purposes, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interstate and Foreign Commerce, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER pro tempore. The gentleman from Missouri (Mr. BOLLING), is recognized for 1 hour.

Mr. BOLLING. Mr. Speaker, I yield 30 minutes to the gentleman from Ohio (Mr. LATTA), and pending that, I yield myself such time as I may consume.

Mr. Speaker, this is another 1-hour, open rule, with a couple of waivers as required. The matters involved are cured either by action taken heretofore or by action expected on the floor.

Mr. Speaker, I do not remember any controversy concerning this rule, and I reserve the balance of my time.

Mr. LATTA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this rule provides 1 hour of general debate for the consideration of H.R. 13611 the Child Health Assurance Act of 1978.

The rule is open to germane amendments. It includes two waivers of the Budget Act, which are necessary to allow consideration of this bill.

First there is a waiver of section 401 (a) of the Budget Act. This section prohibits new contract authority which is not subject to appropriation. Sections 12 (a) and (b) of the bill would authorize the Secretary of HEW to enter into contracts to provide financial assistance with respect to various child health assurance programs.

According to the chairman of the Budget Committee, an amendment will be offered to correct this violation.

In addition, the bill violates section 402(a) of the Budget Act, which requires that authorizations for a fiscal year be reported prior to May 15 preceding the beginning of the fiscal year. This bill contains authorizations effective in fiscal year 1979 and it was not reported prior to May 15, 1978. However, according to the letter from the chairman of the Budget Committee, an amendment will be offered changing the effective date, thus curing the Budget Act violation.

Based on these assurances, Mr. Speaker, the Rules Committee went along with the requested Budget Act waivers.

Mr. Speaker, the bill made in order by this rule authorizes substantial sums. As reported the bill authorizes $299 million for fiscal year 1979, $789 million for fiscal year 1980, $1.11 billion for fiscal year 1981, $1.35 billion for fiscal year 1982 and $1.62 billion for fiscal year 1983.

MAJOR PROVISIONS

The bill provides for an increase in the Federal matching for the early and periodic screening, diagnosis and treatment program.

It mandates coverage for children who are members of two-parent families and for children who are members of families with incomes below a specified national standard. Services provided assessed children are expanded to include basic dental services and limited mental health services. The grace period for continued eligibility under the program is extended from 4 to 6 months. Bonus payments are made available to States that meet certain criteria for good performance.

Mr. BOLLING. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF H.R. 12442, CONSUMER PRODUCT SAFETY COMMISSION

Mr. BOLLING. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1410 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 1410

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 12442) to amend the Consumer Product Safety Act to extend the authorization of appropriations contained in such Act, and for other purposes, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interstate and Foreign Commerce, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit. After the passage of H.R. 12442, it shall be in order in the House to take from the Speaker's table the bill S. 2796 and to move to strike out all after the enacting clause of the said bill and to insert in lieu thereof the provisions contained in H.R. 12442 as passed by the House.

The SPEAKER pro tempore. The gentleman from Missouri (Mr. BOLLING) is recognized for 1 hour.

Mr. BOLLING. Mr. Speaker, I yield 30 minutes to the gentleman from Mississippi (Mr. LOTT), pending which I yield myself such time as I may consume.

Mr. Speaker, this is another 1-hour, open rule. There is no controversy on the rule, so far as I know. There is some controversy on the bill it brings up.

Mr. Speaker, I reserve the balance of my time.

Mr. LOTT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is a 1 hour, open rule allowing consideration of H.R. 12442, the extension of the Consumer Product Safety Act. The first reading of the bill is to be dispensed with. After passage of the bill by the House, the rule makes it in order to take S. 2796 from the Speaker's table and insert H.R. 12442 as passed for the text of the Senate bill.

This legislation extends the Consumer Product Safety Act for 3 fiscal years, 1979–1981. It provides for substantive changes in the Commission's authorities and procedures and extends the right of individuals to sue for damages caused by negligent acts of the Commission until 1981. The present industry-offeror system of developing product safetv standards is supplemented by providing the Commission with authority to write standards in-house. Lastly, the Commission is required to notify foreign countries of items expected to be exported which do not meet a U.S. standard or a proposed U.S. standard.

The legislation authorizes $180 million for the next 3 fiscal years.

Mr. Speaker, there are problems with this bill as written. Permitting the Consumer Product Safety Commission to circumvent the procedure that is in place now for development of guidelines in consultation with industry itself and to write its own standards in-house is disconcerting to say the least. Additionally, this bill would hold an exporter hostage not only to an approved standard but to a mere proposed standard as well. How often are such proposed rules never finalized or, even later, withdrawn?

These problems with this legislation deserve close scrutiny by the Members.

I yield back the balance of my time.

Mr. BOLLING. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announce that the ayes appeared to have it.

Mr. ROUSSELOT. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 360, nays 6, not voting 66, as follows:

[Roll No. 886]

YEAS—360

Abdnor	Conable	Ginn
Addabbo	Conte	Glickman
Akaka	Corcoran	Goldwater
Ambro	Cornell	Gonzalez
Anderson, Ill.	Cornwell	Goodling
Andrews, N.C.	Coughlin	Gore
Andrews, N. Dak.	Cunningham	Gradison
	D'Amours	Grassley
Annunzio	Daniel, Dan	Green
Applegate	Daniel, R. W.	Gudger
Archer	Danielson	Guyer
Ashbrook	Davis	Hall
Ashley	de la Garza	Hamilton
Aspin	Delaney	Hanley
AuCoin	Dellums	Hannaford
Badham	Dent	Hansen
Bafalis	Derrick	Harkin
Baldus	Derwinski	Harris
Barnard	Devine	Harsha
Baucus	Dickinson	Hawkins
Bauman	Dingell	Heckler
Beard, R.I.	Dodd	Hefner
Bedell	Dornan	Heftel
Bellenson	Downey	Hightower
Benjamin	Drinan	Holland
Bennett	Duncan, Oreg.	Holt
Bevill	Early	Holtzman
Biaggi	Eckhardt	Horton
Bingham	Edgar	Howard
Blanchard	Edwards, Ala.	Hubbard
Blouin	Edwards, Calif.	Huckaby
Boggs	Edwards, Okla.	Hughes
Boland	Eilberg	Hyde
Bolling	Emery	Ichord
Bonior	English	Ireland
Bonker	Erlenborn	Jacobs
Bowen	Ertel	Jeffords
Brademas	Evans, Colo.	Jenkins
Breaux	Evans, Del.	Jenrette
Brodhead	Evans, Ga.	Johnson, Calif.
Brooks	Evans, Ind.	Johnson, Colo.
Broomfield	Fary	Jones, N.C.
Brown, Calif.	Fascell	Jones, Okla.
Brown, Mich.	Fenwick	Jones, Tenn.
Brown, Ohio	Findley	Jordan
Buchanan	Fish	Kasten
Burgener	Fisher	Kastenmeier
Burke, Fla.	Fithian	Kazen
Burke, Mass.	Flippo	Kelly
Burleson, Tex.	Flood	Kemp
Burlison, Mo.	Florio	Keys
Burton, Phillip	Flynt	Kildee
Butler	Foley	Kostmayer
Carr	Ford, Mich.	Krebs
Carter	Ford, Tenn.	LaFalce
Cavanaugh	Forsythe	Lagomarsino
Cederberg	Fountain	Latta
Chappell	Fowler	Le Fante
Chisholm	Fraser	Leach
Clausen, Don H.	Frenzel	Lederer
	Fuqua	Leggett
Clawson, Del	Garcia	Lehman
Clay	Gaydos	Lent
Coleman	Gephardt	Levitas
Collins, Tex.	Gilman	Livingston

Lloyd, Calif.	Oakar	Smith, Nebr.
Lloyd, Tenn.	Oberstar	Snyder
Long, La.	Obey	Solarz
Long, Md.	Ottinger	Spellman
Lott	Patten	Spence
Luken	Patterson	St Germain
Lundine	Pattison	Stangeland
McClory	Pease	Stanton
McCloskey	Pepper	Stark
McCormack	Perkins	Steed
McDade	Pickle	Steers
McEwen	Pike	Steiger
McFall	Poage	Stokes
McHugh	Pressler	Stratton
McKinney	Preyer	Studds
Maguire	Price	Stump
Mahon	Pritchard	Symms
Mann	Pursell	Taylor
Markey	Quayle	Thompson
Marks	Rahall	Thornton
Marlenee	Rangel	Traxler
Marriott	Regula	Treen
Mattox	Reuss	Trible
Mazzoli	Richmond	Tucker
Meeds	Rinaldo	Udall
Metcalfe	Risenhoover	Ullman
Michel	Roberts	Van Deerlin
Mikulski	Robinson	Vander Jagt
Miller, Calif.	Roe	Vanik
Miller, Ohio	Rogers	Vento
Mineta	Rooney	Volkmer
Minish	Rose	Waggonner
Mitchell, Md.	Rosenthal	Walgren
Mitchell, N.Y.	Rostenkowski	Walker
Moakley	Rousselot	Wampler
Moffett	Roybal	Waxman
Mollohan	Runnels	Weiss
Moore	Ruppe	Whalen
Moorhead, Calif.	Russo	White
	Ryan	Whitley
Moorhead, Pa.	Santini	Whitten
Mottl	Satterfield	Wilson, Bob
Murphy, N.Y.	Sawyer	Wilson, C. H.
Murphy, Pa.	Scheuer	Wilson, Tex.
Murtha	Schroeder	Winn
Myers, Gary	Schulze	Wirth
Myers, John	Sebelius	Wolff
Myers, Michael	Seiberling	Wright
Natcher	Sharp	Wydler
Neal	Shuster	Wylie
Nedzi	Sikes	Yates
Nichols	Simon	Young, Alaska
Nix	Sisk	Young, Fla.
Nolan	Skubitz	Young, Mo.
Nowak	Slack	Zablocki
O'Brien	Smith, Iowa	Zeferetti

NAYS—6

Brinkley	McDonald	
Gibbons	McKay	
Hammer-schmidt	Mathis	

NOT VOTING—66

Alexander	Duncan, Tenn.	Quillen
Ammerman	Flowers.	Railsback
Anderson, Calif.	Frey	Rhodes
	Gammage	Rodino
Armstrong	Giaimo	Roncallo
Beard, Tenn.	Hagedorn	Rudd
Breckinridge	Harrington	Sarasin
Broyhill	Hillis	Shipley
Burke, Calif.	Hollenbeck	Skelton
Burton, John	Kindness	Staggers
Byron	Krueger	Stockman
Caputo	Lujan	Teague
Carney	Madigan	Thone
Cleveland	Martin	Tsongas
Cochran	Meyner	Walsh
Cohen	Mikva	Watkins
Collins, Ill.	Milford	Weaver
Conyers	Montgomery	Whitehurst
Corman	Moss	Wiggins
Cotter	Murphy, Ill.	Yatron
Crane	Panetta	Young, Tex.
Dicks	Pettis	
Diggs	Quie	

The Clerk announced the following pairs:

Mr. Ammerman with Mr. Walsh.

Mr. Krueger with Mr. Crane.

Mrs. Meyner with Mr. Broyhill.

Mr. Giaimo with Mr. Hillis.

Mr. Flowers with Mr. Cochran of Mississippi.

Mr. Corman with Mr. Rudd.

Mr. John L. Burton with Mr. Quie.

Mr. Mikva with Mr. Wiggins.

Mr. Carney with Mrs. Pettis.

Mrs. Burke of California with Mr. Caputo.

Mr. Moss with Mr. Lujan.

Mr. Teague with Mr. Quillen.

Mr. Roncalio with Mr. Sarasin.

Mr. Staggers with Mr. Railsback.

Mr. Rodino with Mr. Stockman.

Mr. Gammage with Mr. Rhodes.

Mr. Shipley with Mr. Thone.

Mr. Diggs with Mr. Whitehurst.

Mrs. Collins of Illinois with Mr. Frey.

Mr. Alexander with Mr. Hagedorn.

Mr. Cotter with Mr. Duncan of Tennessee.

Mr. Tsongas with Mr. Hollenbeck.

Mr. Anderson of California with Mr. Beard of Tennessee.

Mr. Byron with Mr. Dicks.

Mr. Conyers with Mr. Cohen.

Mr. Breckinridge with Mr. Cleveland.

Mr. Harrington with Mr. Kindness.

Mr. Milford with Mr. Martin.

Mr. Montgomery with Mr. Madigan.

Mr. Panetta with Mr. Skelton.

Mr. Murphy of Illinois with Mr. Watkins.

Mr. Yatron with Mr. Weaver.

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF H.R. 12441, TOXIC SUBSTANCES CONTROL ACT AUTHORIZATION

Mr. BOLLING. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1409 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 1409

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 12441) to amend the Toxic Substances Control Act to increase the authorization of appropriations contained in such Act, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interstate and Foreign Commerce, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit. After the passage of H.R. 12441, it shall be in order in the House to move to discharge the Committee on Interstate and Foreign Commerce from the further consideration of the bill S. 1531 and to move to strike out all after the enacting clause of the said bill and to insert in lieu thereof the provisions contained in H.R. 12441 as passed by the House.

The SPEAKER pro tempore. The gentleman from Missouri (Mr. BOLLING) is recognized for 1 hour.

Mr. BOLLING. Mr. Speaker, I yield 30 minutes to the gentleman from Mississippi (Mr. LOTT). Pending that I yield myself such time as I may consume.

Mr. Speaker, this is a very simple 1-hour open rule. I know of absolutely no controversy on it, and I reserve the remainder of my time.

Mr. LOTT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is a 1-hour, open rule which permits consideration of H.R. 12441, the Toxic Substances Control Act authorization. The first reading of the measure is to be dispensed with. After passage of the bill, it will be in order to move to discharge the Interstate and Foreign Commerce Committee from further consideration of S. 1531 and to insert H.R. 12441 as passed by the House for the text of the Senate bill.

This legislation increases by $33.8 million the fiscal year 1979 authorization to EPA to carry out the provisions of the Toxic Substances Control Act. Earlier, on June 12, the measure was defeated under suspension of the rules by a 190-to-188 vote. It is my view that the reason for this vote was that the bill does nothing other than increase the authorization. To the extent that there are problems with the act itself, the legislation does nothing to correct them.

Otherwise, Mr. Speaker, since this is an open rule, I would not object to its adoption.

Mr. Speaker, I yield back the remainder of my time.

Mr. BOLLING. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a joint resolution of the House of the following title:

H.J. Res. 638. Joint resolution extending the deadline for the ratification of the equal rights amendment.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 6803. An act to provide a comprehensive system of liability and compensation for oilspill damage and removal costs, and for other purposes.

The message also announced that the Senate agrees to the amendment of the House to the amendment of the Senate to a bill of the House of the following title:

H.R. 8200. An act to establish a uniform law on the subject of bankruptcies.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 3551. An act to make technical corrections in the North Pacific Fisheries Act of 1954.

PROVIDING FOR CONSIDERATION OF H.R. 12370, HEALTH SERVICES AMENDMENTS

Mr. BOLLING. Mr. Speaker, by direction of the Committee on Rules, I call up

House Resolution 1408 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 1408

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 12370) to amend the Public Health Service Act and related health laws to revise and extend the programs of financial assistance for the delivery of health services, and for other purposes, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interstate and Foreign Commerce, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit. After the passage of H.R. 12370, it shall be in order in the House to take from the Speaker's table the bill S. 2522 and to move to strike out all after the enacting clause of the said bill and to insert in lieu thereof those provisions contained in H.R. 12370 as passed by the House which correspond to sections 5 and 6(d)(2) of said bill as reported to the House, and it shall then be in order in the House to take from the Speaker's table the bill S. 2474 and to move to strike out all after the enacting clause of the said bill and to insert in lieu thereof as one amendment the remaining provisions contained in H.R. 12370 as passed by the House and the provisions contained in title I of H.R. 12460 as passed by the House.

The SPEAKER pro tempore. The gentleman from Missouri (Mr. BOLLING) will be recognized for 1 hour.

Mr. BOLLING. Mr. Speaker, I yield 30 minutes to the gentleman from Mississippi (Mr. LOTT). Pending that I yield myself such time as I may consume.

Mr. Speaker, this rule sounds more confusing than it really is. It tries to put together, I think successfully, a couple of House bills and a couple of Senate bills, and that is the reason for all the complicated language. Otherwise it is quite a simple matter. The subject matter is very important.

Mr. Speaker, I reserve the remainder of my time.

Mr. LOTT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is a 1-hour, open rule allowing the consideration of H.R. 12370, the Health Services Amendments of 1978. The first reading of the bill is to be dispensed with. There is a provision in the rule which makes it in order in the House, after passage of H.R. 12370, to take from the Speaker's table S. 2522 and to insert in lieu of the text of that bill those provisions contained in H.R. 12370 which correspond to sections 5 and 6(d)(2) of this bill as reported to the House. Then, the rule makes it in order in the House to take S. 2474 from the Speaker's table and to insert in place of the text of that bill the remaining provisions contained in H.R. 12370 as passed by the House and the provisions contained in title I of H.R. 12460 (the Health Centers Amendments of 1978) as passed by the House under suspension on September 19.

This legislation amends and extends authorizations for some 13 ongoing health programs for 3 fiscal years, 1979–81. It provides for the establishment of a select panel for the promotion of child health and amends the emergency medical services program to authorize funds for initial planning and operations grants for fiscal year 1979.

Altogether, the bill authorizes a total of $2,366,860,000 for 3 years. This is $100 million over the President's budget for the same programs.

While I am concerned about the enormous price tag of this legislation, I know of no opposition to the rule.

Mr. Speaker, I yield back the balance of my time.

Mr. BOLLING. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF H.R. 12161, CONRAIL AUTHORIZATION ACT

Mr. BOLLING. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1365 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 1365

Resolved, That upon the adoption of this resolution it shall be in order to move, section 402(a) of the Congressional Budget Act of 1974 (Public Law 93-344) to the contrary notwithstanding, that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 12161) to amend the Regional Rail Reorganization Act of 1973 to authorize additional appropriations to the United States Railway Association for purposes of purchasing securities of the Consolidated Rail Corporation, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interstate and Foreign Commerce, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit. After the passage of H.R. 12161, the House shall proceed, section 402(a) of the Congressional Budget Act of 1974 (Public Law 93-344) to the contrary notwithstanding, to the consideration of the bill S. 2788, and it shall then be in order in the House to move to strike out all after the enacting clause of the said Senate bill and to insert in lieu thereof the provisions contained in H.R. 12161 as passed by the House.

The SPEAKER pro tempore. The gentleman from Missouri (Mr. BOLLING) is recognized for 1 hour.

Mr. BOLLING. Mr. Speaker, I yield 30 minutes to the gentleman from Maryland (Mr. BAUMAN). Pending that, Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is a 1-hour open rule. It brings up the very important matter of financing for the ConRail. I have not heard of any objection to the rule.

Mr. Speaker, I reserve the balance of my time.

Mr. BAUMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 1365 provides 1 hour of general debate for the consideration of H.R. 12161. H.R. 12161 authorizes additional appropriations for the purchase of securities of ConRail.

House Resolution 1365 is an open rule, containing a waiver of section 402(a) of the Congressional Budget Act of 1974. Section 402(a) of the Budget Act provides that it shall not be in order to consider any bill which authorizes the enactment of new budget authority for a fiscal year unless that bill has been reported on or before May 15 preceding the beginning of such fiscal year.

Section (c) of the bill would authorize to be appropriated certain sums for the purchase of securities of the Consolidated Rail Corporation. Since the bill would become effective upon enactment, and since it was not reported on or before May 15, 1977, the bill would be subject to a point of order under section 402(a) of the Budget Act.

However, I am advised that the Committee on Interstate and Foreign Commerce will offer a floor amendment making the bill effective October 1, 1978, thereby curing the Budget Act violation.

The rule further provides that after the passage of H.R. 12161 the House shall proceed to the consideration of the bill S. 2788. It shall then be in order in the House to move to strike out all after the enacting clause of the Senate bill and to insert in lieu thereof the provisions contained in H.R. 12161 as passed by the House. As passed by the Senate, S. 2788 would also be subject to a point of order under section 402(a) of the Budget Act.

Section 2 of S. 2788 authorizes appropriations for the purchase of securities of ConRail. Since the bill would become effective upon enactment, and since it was not reported on or before May 15, 1977, the bill would be subject to a point of order under section 402(a) of the Budget Act. H.R. 12161 as amended, will completely cure the Budget Act violation in the Senate bill, even so a technical waiver of section 402(a) of the Budget Act is necessary to permit consideration of S. 2788 and the committee amendment.

● Mr. GILMAN. Mr. Speaker, I rise in support of the 1-hour, open rule on this legislation.

The committee and the subcommittee are to be commended for the great work that was done on this legislation.

As many of you are aware, I am planning on introducing an amendment designed to make ConRail more responsive to the wishes of Congress, as previously stated by Congress by our acceptance of the final rail systems plan. This document, which was supposed to have been ConRail's official management plan, was brutally ignored by that agency in the matter of their constant refusal to repair the Poughkeepsie railroad bridge. Accordingly, I shall be offering this amendment in the House to bring ConRail into line with our original intent. This amendment, incidentially, has already passed the Senate and is included in the final Senate version of this bill.

I understand that some of our colleagues will be bringing up further amendments which certainly deserve the full consideration of this House.

Accordingly, Mr. Speaker, I urge the House to act favorably upon this bill.●

Mr. BAUMAN. Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

Mr. BOLLING. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

VACATING RESOLUTION

Mr. MOAKLEY. Mr. Speaker, I ask unanimous consent that House Resolution 1373 be laid on the table.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

PROVIDING FOR CONSIDERATION OF H.R. 12577, RAILWAY SAFETY AUTHORIZATION ACT

Mr. MOAKLEY. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1385 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 1385

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 12577) to amend the Federal Railroad Safety Act of 1970 to authorize additional appropriations, and for other purposes, all ponts of order against section 3 of said bill for failure to comply with the provisions of clause 5, rule XXI are hereby waived, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interstate and Foreign Commerce, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise to report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit. After the passage of H.R. 12577, it shall be in order in the House to take from the Speaker's table the bill S. 3081 and to move to strike out all after the enacting clause of the said Senate bill and to insert in lieu thereof the provisions contained in H.R. 12577 as passed by the House.

The SPEAKER pro tempore. The gentleman from Massachusetts (Mr. MOAKLEY) is recognized for 1 hour.

Mr. MOAKLEY. Mr. Speaker, I yield the customary 30 minutes to the gentleman from Mississippi (Mr. LOTT), and pending that, I yield myself such time as I may consume.

Mr. Speaker, the resolution (H. Res. 1385) provides for the consideration of the Federal Railroad Safety Authorization Act of 1978 (H.R. 12577).

It is a 1-hour open rule.

It contains a technical waiver of clause 5 of rule XXI which prohibits appropriations in a legislative act. Section 3 of the bill can be considered a reappropriation in that it would permit funds to be expended under a formula not in place when the funds were appropriated. However, the bill was reported prior to the appropriation and the violation, therefore, is only technical. The Appropriations Committee has indicated no opposition to the waiver.

The rule also contains provisions which permits the companion bill (S. 3081) to be called up so that the text of the House passed bill may be inserted. This is a routine provision which facilitates sending the measure to conference.

Mr. Speaker, I think there is agreement that the rule provides a fair and orderly procedure for the consideration of this bill and I urge the adoption of the resolution.

Mr. LOTT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is a 1-hour, open rule permitting consideration of H.R. 12577, the Federal Railroad Safety Act Authorization of 1978. The first reading of the bill is to be dispensed with. The rule makes it in order to take S. 3081 from the Speaker's table and insert H.R. 12577 as passed by the House in lieu of the text of the Senate bill.

This legislation authorizes $37,725,000 for fiscal year 1979 to fund operations of the Federal Railroad Administration, within the Department of Transportation, to enforce the Federal Railroad Safety Act of 1970. The number of safety inspectors and clerical personnel is increased, and at least 50 percent of funds used by DOT for railroad research and development programs is to be used for safety related purposes. The Hours of Service Act is amended to define "designated terminal" and with respect to hours worked by signal system employees. Finally, the bill requires DOT to conduct a study and evaluation of safety and efficiency of rail transportation, including train lengths and railroad easements.

There are two provisions in this bill, Mr. Speaker, that have the potential of causing serious damage to the railroad industry without promoting safety. These are the so-called designated terminal provision and the requirement that DOT study train lengths.

The matter of what is to be the crew's designated terminal has been interpreted differently by management and labor. The Federal Railroad Administration has stated that the term must be a point agreed upon by both during a collective bargaining procedure. H.R. 12577, however, would mandate that only the home and away-from-home terminals of the crew in question will qualify. As I see it, this bill takes out of collective bargaining an item for which just such a procedure is proper. This is wrong and should be corrected by amendment here on the floor.

Mr. Speaker, I would hope the Members will be attentive to the provision I have mentioned and will consider supporting an amendment to delete it.

I have no requests for time, Mr. Speaker, and I yield back the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF H.R. 11979, LOCAL RAIL SERVICE ASSISTANCE ACT

Mr. MOAKLEY. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1386 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 1386

Resolved, That upon the adoption of this resolution it shall be in order to move, clause (2)(1)(2)(A) of rule XI to the contrary notwithstanding, that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 11979) to amend section 5 of the Department of Transportation Act, relating to local rail service assistance, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interstate and Foreign Commerce, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Interstate and Foreign Commerce now printed in the bill as an original bill for the purpose of amendment under the five-minute rule, said substitute shall be read for amendment by titles instead of by sections, and all points of order against said substitute for failure to comply with clause 7, rule XVI and clause 5, rule XXI are hereby waived. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the na-

ture of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions. After the passage of H.R. 11979 it shall be in order to take from the Speaker's table the bill S. 2981 and to move to strike out all after the enacting clause of the said Senate bill and to insert in lieu thereof the provisions contained in H.R. 11979 as passed by the House.

The SPEAKER pro tempore. The gentleman from Massachusetts (Mr. MOAKLEY) is recognized for 1 hour.

Mr. MOAKLEY. Mr. Speaker, I yield the customary 30 minutes to the gentleman from Mississippi (Mr. LOTT), pending which I yield myself such time as I may consume.

Mr. Speaker, the resolution (H. Res. 1386) provides for the consideration of the Local Rail Service Assistance Act of 1978 (H.R. 11979).

It is a 1-hour open rule.

The Committee on Interstate and Foreign Commerce reported an amendment in the nature of a substitute and the rule contains several provisions generally included in such a case. The rule waives points-of-order against the substitute for failure to comply with clause 7 of rule XVI. A point-of-order on germaneness could be avoided by reporting a clean bill so the waiver is regarded as technical. The other provisions routinely included in such rules provide that the committee amendment will be considered as an original bill for purpose of amendment; permits a separate vote to be demanded on amendments; and provides that the motion to recommit may contain instructions.

The rule also provides a technical waiver of clause 5 of rule XXI which prohibits appropriations in a legislative measure. The Committee on Appropriations has worked closely with the authorizing committee and has indicated no opposition to the waiver.

The rule also provides routine provisions for calling up the companion Senate measure (S. 2981) and inserting the text of the House passed bill. This provision is not controversial and simply facilitates sending the measure to conference.

Mr. Speaker, the rule contains an additional provision which is neither routine nor technical. The rule waives points of order which might lie against consideration of the bill for failure to comply with clause 2(l)(2)(A) of rule XI which requires that no action may be taken by a committee except in the actual presence of a quorum. We believe that the waiver is justified in the present case but I wish to stress that there is no intention that this will serve as any kind of precedent.

Mr. Speaker, the rule provides a fair and orderly procedure for the consideration of this important bill and I urge the adoption of the resolution.

Mr. LOTT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is a 1-hour, open rule that does a peculiar thing—it waives clause 2(1)(2)(a) of rule XI to permit the consideration of H.R. 11979, the Local Rail Service Assistance Act of 1978. This rule of the House is nothing less than the rule requiring that a quorum be present in committee before legislation can be ordered reported. At last count the Committee on Interstate and Foreign Commerce had 43 members. Only 20 were present for the vote on reporting H.R. 11979. I must say that in my 4 years on the Rules Committee I do not recall ever seeing this particular rule waived, and I am ashamed that this House feels it must resort to such a tactic now.

Other terms of this rule provide that the first reading of the bill is to be dispensed with, and the committee amendment is made in order as an original bill for purposes of amendment. The substitute is to be read by titles instead of by sections. In addition to this, clause 7, rule XVI—the germaneness rule—and clause 5, rule XXI—appropriations in a legislative measure—are both waived. The germaneness waiver is proposed because titles 2, 3, and 4 of the substitute were not in the original bill and amend different acts. The appropriations in legislation waiver is contemplated because in section 104 existing funds could be used for a new purpose.

Finally, there is a motion to recommit with or without instructions, and it is made in order to take S. 2981 from the Speaker's table and insert H.R. 11979 as passed by the House for the text of the Senate bill.

The primary purpose of this bill is to amend and expand existing programs of financial assistance to railroad branch lines. There are four titles in the legislation.

Mr. Speaker, to say that this bill was considered in a hasty fashion would be an understatement. In fact, the reporting committee did not even wait for a quorum to vote it out; 10 members of the committee have filed additional or dissenting views lamenting the haste. Under such circumstances I am unable to support this rule.

Mr. Speaker, I yield 5 minutes to the gentleman from Maryland (Mr. BAUMAN).

(By unanimous consent, Mr. BAUMAN was allowed to speak out of order.)

INTER-OCEANIC CANAL STUDY AND COMMISSION

Mr. BAUMAN. Mr. Speaker, I take this time simply to alert the House of Representatives to what usually occurs at this time of year.

Earlier today, the gentleman from Texas (Mr. WRIGHT), the majority leader, was good enough to discuss with the gentleman from Ohio, myself, and others, the program for today.

That included a listing of a number of bills and rules almost all of which have now been acted upon. I believe this is the last pending rule. It also included bills of great importance to the agricultural community, such as the Sugar Act and the Meat Import Act; the Amateur Sports Act, all before 5 o'clock. I understand we will consider also a civil service reform conference report and will probably have a vote.

I have just been informed that it is the intention of the chairman of the Committee on Merchant Marine and Fisheries, on which I have the honor to serve, to call up H.R. 2329. I am not sure whether that is in the form of a conference report or agreeing to amendments of the other body. This is a fish and wildlife bill which has been amended by the other body, and in its place it contains several minor, innocuous provisions that really are not of all that great importance. But the amended bill's main import is a brandnew title II which will create—if you can believe this—an inter-oceanic canal study, a council and a commission to conduct that study regarding the feasibility of building a new canal in Panama. All this at the cost of $7 million.

Now, if this is what the House of Representatives is going to be occupying itself with at this late stage of our deliberations, it seems to me that the Members of this body ought at least to know that beforehand.

The gentleman from Maryland intends to oppose this boondoggle, with every ounce of strength he has. The Committte on Merchant Marine has not been given any draft legislation to implement the Panama Canal treaties or any of the commitments of this country. We have not been given any projections as to the cost of the legislation.

The treaties have had overwhelming opposition, despite the action of the other body, throughout the country, and the polls still show that. Yet, by this bill we are being asked to create a multi-year commission, and a council at $7 million which not only has the right to go forward with recommendations building a sea level canal, with serious environmental considerations, but this commission will be empowered under this bill to conduct foreign affairs without the authority of the State Department.

The bill contains a provision that allows the commission to agree with a foreign country and appoint members of that commission from the other country—as yet unnamed. This is a bit farfetched, and despite the desire of the other body, I think the House ought to know beforehand what is happening.

I certainly will ask for a vote, and hope that it will be overwhelmingly defeated. The issue should be put off until January when it can be properly considered.

Mr. VOLKMER. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Missouri.

Mr. VOLKMER. Does it specifically provide that the commission would study a canal in Panama or Central America?

Mr. BAUMAN. Well, the possibilities are limited. The two that have been mainly mentioned are Nicaragua—if you can believe that—or Panama, and either one seems to me to be controversial enough to wait until January to decide.

Mr. VOLKMER. I thank the gentleman.

Mr. LOTT. Mr. Speaker, I have no further requests for time.

Mr. MOAKLEY. Mr. Speaker, I appreciate the comments of the gentleman from Mississippi on the waiver of clause 2(l)(2)(A) of rule XI. I wish to assure the House that the Committee on Rules does not regard this as a precedent. This is not a waiver which anyone can expect the committee to recommend very often.

We granted the waiver, Mr. Speaker, in this present case on very specific grounds. First, there was no indication that the violation was deliberate. Second, attendance was very close to quorum and the vote was unanimous. Third, we were willing to make allowances at the end of the session since there was no doubt that the committee could have gone back to get authorization. Finally, no one appeared or submitted testimony opposing this waiver.

Mr. Speaker, although I am prepared, as manager for the committee to defend this provision of the rule, I share the concern of the gentleman. I assure my friend from Mississippi that I will join him in the Committee on Rules in opposing this kind of waiver in all but the most extraordinary cases.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF S. 2727, AMATEUR SPORTS ACT OF 1978

Mr. BOLLING. Mr. Speaker, by direction of the Committee on Rules I call up a House resolution (H. Res. 1413) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 1413

Resolved, That upon the adoption of this resolution it shall be in order to move, section 402(a) of the Congressional Budget Act of 1974 (Public Law 93–344) to the contrary notwithstanding, that the House resolve itself into the Committee of the White House on the State of the Union for the consideration of the bill (S. 2727) to promote and coordinate amateur athletic activity in the United States, to recognize certain rights for United States amateur athletes, to provide for the resolution of disputes involving national governing bodies, and for other purposes, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary, the bill shall be considered as having been read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been agreed to, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER pro tempore. The gentleman from Missouri (Mr. BOLLING) is recognized for 1 hour.

Mr. BOLLING. Mr. Speaker, I yield 30 minutes to the gentleman from Mississippi (Mr. LOTT), pending which I yield myself such time as I may consume.

Mr. Speaker, this is the rule that provides for consideration of the last item or the next to the last item of bills that I have on my schedule for today, and I thought that, having spent a couple of hours here, my colleague on the other side of the aisle and I might be indulged in disposing of this one too.

It is not, so far as I know, a controversial rule. It is an open rule and provides for 1 hour of debate. The matter it brings up of course is controversial, but I think it is time for us to deal with the bill.

Mr. Speaker, I reserve the balance of my time.

Mr. LOTT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is a 1-hour, open rule which allows consideration of S. 2727, the Amateur Sports Act of 1978. Section 402(a) of the Congressional Budget Act—the May 15 deadline—is waived. I understand there will be a committee amendment to correct this violation. The bill is to be considered as having been read and open for amendment at any point.

This legislation expands the authority of the U.S. Olympic Committee (USOC) to serve as the coordinating body for all U.S. amateur athletic activities. The committee would be organized as a corporation, with the exclusive power to organize, finance, and to control the representation of the United States in the Olympics and Pan-American games, and to obtain and select amateur representation for such games. The committee would also have power to recognize eligible amateur sports organizations as national governing bodies for any sport which is included in these games, and to develop and implement procedures for resolution of disputes involving amateur athletic personnel, events, or organizations. The bill also authorizes the appropriation of up to $30 million to be used by the Secretary of the Treasury for grants to the committee to assist in the development of amateur athletics in the United States.

On September 26, S. 2727 failed under suspension by a 244 to 158 vote.

Mr. Speaker, I support this open rule.

Mr. BOLLING. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON H.R. 11318, AMENDING SMALL BUSINESS ACT AND SMALL BUSINESS INVESTMENT ACT OF 1958

Mr. ADDABBO. Mr. Speaker, I call up the conference report on the bill (H.R. 11318) to amend the Small Business Act and the Small Business Investment Act of 1958.

The Clerk read the title of the bill.

(For conference report and statement, see proceedings of the House of October 4, 1978.)

The SPEAKER pro tempore. The gentleman from New York (Mr. ADDABBO) will be recognized for 30 minutes, and the gentleman from Pennsylvania (Mr. MCDADE) will be recognized for 30 minutes.

The Chair recognizes the gentleman from New York (Mr. ADDABBO).

Mr. ADDABBO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker I rise in strong support of the conference report on the bill H.R. 11318, Amendments to the Small Business Act and the Small Business Investment Act of 1958, and urge its immediate passage.

This bill passed the House by voice vote on March 20, 1978, and in like fashion, the Senate on September 15 passed the bill by voice vote. This bill will provide greatly needed assistance for the small business community and, in particular, for small businesses owned by the disadvantaged. Included within its provisions are substantial amendments to the minority enterprise small business investment company (MESBIC) program. Since the MESBIC program was first instituted in the early 1970's, it has not operated as efficiently as it could, due in part to the ambiguity of certain statutory provisions. The conference substitute removes those ambiguities, and moreover, provides certain additional measures we believe necessary for successful operation. It is the intent of the conferees that the amendments we have agreed upon will result in an increased flow of desperately needed equity capital to the minority business community. However, I can assure my colleagues that if enacted, we will continue to conduct close oversight on this program, and if need be, we will not hesitate to amend the program further. As far as I am concerned, the true measure of success of the MESBIC program must be the amount of equity investments outstanding in minority-owned businesses. If MESBIC's do not, as a result of these amendments, increase the number of equity investments they make, my subcommittee will conduct a serious reevaluation of the entire program.

The conference report also amends the SBA's surety bond guarantee program in two very important aspects. First, the nature of the Government's guarantee of a surety bond will be clearly and unquestionably established. Second, SBA is given greater latitude to avoid large losses in the program's operation by authorizing it to act in the event of an imminent breach of a surety contract. While the conferees agreed that these preventive measures may reduce the Government's ultimate losses under the program, we recognize that the approach is a novel one. We have therefore placed a 2-year sunset provision on the imminent breach section of the bill. It is our hope that by strengthening this program we can encourage the Nation's surety companies to participate

more fully in the program to the benefit of our small and minority business community.

The main provisions of the conference substitute deal with procurement assistance for small businesses and small businesses owned and controlled by the economically and socially disadvantaged. Title II of the bill strengthens and improves SBA's so-called 8(a) program. Since 1969, the 8(a) program has been used as the primary method of the Federal Government to channel its contracts to the socially and economically disadvantaged.

However, the program was hastily contrived in reaction to the rather vocal demonstrations of that time. It was not intended to achieve any preconceived goal of economic development or to substantially improve the economic position of disadvantaged people in our society.

The conference substitute spells out, for the first time, congressional intent and purpose with respect to this most important program.

Our findings clearly state that groups such as black Americans, Hispanic Americans, and Native Americans, have been and continue to be discriminated against and that this discrimination has led to the social disadvantagement of persons identified by society as members of those groups.

Our criteria for eligibility are "social and economic disadvantage," and the social disadvantage criterion not only takes into account race and ethnic status, but in many cases, recognizes that such status is the sole cause of social disadvantagement.

Economic disadvantage is based on a relative comparison of the assets of an applicant, who must first be found socially disadvantaged, as compared to others in the same type of business who are not socially disadvantaged.

The conferees intend, and it is our purpose, that the primary beneficiaries of this program will be minorities. The criteria should be so interpreted.

However, the eligibility criteria do take into account that other Americans can and do suffer from social and economic disadvantage. In order to meet the eligibility criteria, such an applicant must demonstrate that he or she has been subject to cultural bias because of identity as a member of a group that has generally suffered from such bias. Of course, we hope that SBA will narrowly confine the use of the "cultural bias" test to those instances where, because of residency in a depressed area or similar circumstance, one is, through no fault of his or her own, unable to overcome social barriers.

The 8(a) program is also amended by giving SBA increased authority to select contracts suitable for use in the program.

The bill gives SBA an automatic right of appeal to the head of the buying activity whenever a procurement officer denies the agency an 8(a) contract. In addition, we have established a 2-year pilot program with one agency—which will be designated by the President—where SBA can actually select for the 8(a) program any contract it wants. If the procurement officer of the designated agency fails to agree with SBA as to terms and conditions, appeal can be made to the head of the agency, who must offer the contract to SBA on such terms and conditions as such head may establish.

The conference substitute also creates another 2-year pilot program whereby, under very stringent circumstances, SBA can waive all Federal bonding requirements—whether legislatively or administratively imposed—for its 8(a) contractors for their first year in the program, if they are "start-up" concerns. SBA, according to the bill, must promulgate final rules within 90 days of the bill's enactment into law, regarding all amendments we have made to the program. We trust, for the purposes of the bond waiver provision, SBA's rules will define "start-up" with a view to how long the disadvantaged person has been in a business where bonding in required. In addition, it is our intent that the definition of start-up not include those cases where a person is merely reincorporating in order to take advantage of the waiver provision.

The conference substitute also contains a section giving greater management and technical assistance to small disadvantaged businesses.

These provisions are extremely important for the potential success of the 8(a) program. Senator NUNN has done an outstanding job in this area, and his provisions were readily accepted by the House conferees.

The remaining sections of the conference substitute pertain to increasing both prime and subcontracting opportunities for small business and small business owned by the socially and economically disadvantaged.

In the subcontracting area, on most large Federal contracts, the prime contractor—if a big business—must come up with a subcontracting plan for small and disadvantaged business prior to the award of the prime contract. These plans require that the prime do a number of specific things to increase subcontracting possibilities for small and disadvantaged businesses. The plan is to be included in the contract as a material term so that if the terms of the plan are breached, so is the contract. It is sincerely hoped that the new subcontracting requirements will result in small business, and in particular, small disadvantaged businesses, receiving a more equitable share of the Federal purchase dollar.

Additional provisions in the bill increases assistance to small businesses wishing to sell to the Government. The most important of these provisions, in my opinion, creates in each buying agency of the Federal Government, an Office of Small and Disadvantaged Business Utilization. The director of this office has supervisory authority over all employees of the agency to the extent that their duties and responsibilities touch upon sections 8 and 15 of the Small Business Act. The director reports to and is accountable only to the head of the agency, or the second ranking person within that agency. The grant of authority under the bill is such that the director, if the agency head agrees, can direct any procurement officer in that agency to make any particular requirement either an 8(a) contract or a small business set-aside.

This bill is by no means a panacea designed to cure all the ills besetting the minority business community. It is, however, a giant step—a desperately needed step—in the right direction. For the first time, Congress is squarely addressing this vital issue. Let this bill not signal the end of our deliberations but only the prelude for further action.

I thank the gentleman from Maryland (Mr. MITCHELL), a former member of this committee, for his help.

I thank the ranking minority member, the gentleman from Pennsylvania (Mr. MCDADE) and all members of the subcommittee and committee for their help and patience in the long months of deliberation.

I also commend our staff for their excellent work.

I urge the adoption of this conference report.

Mr. MCDADE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of this conference agreement and urge my colleagues to vote for its passage. The bill represents a long distillation process and the conferees spent many difficult hours finding a compromise. I recommend this conference report because it will, in my opinion, offer much needed new direction to the small and minority business opportunity programs.

The bill's significant aspects include real improvement for:

Small and minority subcontracting;

Outreach management and technical assistance programs for both urban and rural small businesses; and

New opportunities for minority businesses to find capital sources.

I want to emphasize the efforts of both Houses to reach a compromise. Although no one is entirely happy with the bill, the House conferees yielded to the Senate's rather inflexible position on some items so that we might bring back to you most of the House-passed version. On balance, I think the House version of the bill has been upheld in the conference.

For these reasons, I urge your support.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. MCDADE. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Speaker, this is undoubtedly a worthy measure, but I want to direct a question to someone as to what the program is after this conference report. It may well determine whether or not we need a rollcall on this measure. Maybe the gentleman from Texas, who is in the back of the Chamber, might be willing to respond, or someone else.

The SPEAKER pro tempore. The Chair would advise the gentleman from Maryland that the Speaker has agreed that the gentleman from Arizona (Mr. UDALL) will be recognized on the civil service reform bill.

Mr. BAUMAN. I thank the Chair and

I thank the gentleman from Pennsylvania for yielding.

● Mr. SMITH of Iowa. Mr. Speaker, I rise in support of the conference report on H.R. 11318, a bill to clarify and expand procurement and financial programs for small businesses and small businesses owned by disadvantaged individuals.

Under the authority of section 8(a) of the Small Business Act, SBA in affect operates a subcontracting program to award to disadvantaged individuals contracts for goods and services needed by Federal departments and agencies. The goal of this program is to allow these small businesses to develop as viable enterprises and acquire the ability to do business without the need for this special assistance.

There have been some instances where ineligible individuals have used disadvantaged persons as "fronts" and have taken advantage of this program. The bill addresses this problem in several respects.

First, it expressly requires that small businesses, in order to be eligible, must be 51 percent owned and operated by socially and economically disadvantaged individuals, which the bill defines.

Second, it expressly requires SBA to determine that an applicant has the requisite contract, financial and management assistance to promote the competitive viability of the firm within a reasonable period of time and that with assistance under this program, the firm does have the potential to successfully "graduate" from the program and enter the mainstream of successful small businesses.

I hope that these and other related provisions of the bill, together with SBA Administrator Weaver's commitment to take the necessary administrative action, will prevent abuses from occurring in the future and will revitalize the program and provide necessary assistance to small businesses owned and operated by disadvantaged individuals.

The bill also contains provisions designed to encourage contracting and subcontracting with small businesses; to facilitate the providing of venture-type capital to small businesses owned and operated by disadvantaged persons; and to make improvements in SBA's surety bond guarantee program.

This bill is probably the most extensive small business procurement and minority enterprise bill ever considered by the Congress. I want to take this opportunity to congratulate the subcommittee chairman, JOE ADDABBO, and its ranking minority member, JOE MCDADE, for their untiring efforts to secure passage of this important legislation. I also want to commend the other members of the Small Business Committee and those other Members of the House, including PARREN MITCHELL, who also contributed to this effort.

I urge all Members to support the conference report.●

● Mr. DRINAN. Mr. Speaker, I rise in enthusiastic support of the conference report accompanying H.R. 11318, and to commend the gentleman from New York (Mr. ADDABBO) and each of the House conferees for their excellent and expeditious work on this legislation.

I and more than 100 of my House colleagues have a special interest in the enactment of H.R. 11318. Several of the provisions adopted by the Senate—and subsequently approved by the House conferees this week—were drawn directly from the Small Business Government Contracting Reform Act, H.R. 9321, which I introduced as original legislation early last year with HENRY REUSS and BERKLEY BEDELL.

Our action in the House laid the groundwork for a companion Senate bill, S. 2259, introduced 11 months ago by Senators HATHAWAY and NELSON. This bill was subject to 2 days of public hearings, and was subsequently modified and approved by the Senate Small Business and Governmental Affairs Committees last August.

The conference agreement will increase competition and improve small business access to Government procurement contracts in three major respects. First, small firms will now have free access to bid sets and specifications, citations to each relevant Federal law and regulation, and the name and number of an agency contact with respect to each Federal contract opportunity. Second, under a carefully balanced formula, applicable to both advertised and negotiated Government contracts, prime Federal contractors must now demonstrate a good faith effort to maximize the participation of small businesses in their subcontracting. Third, each Federal agency with contract authority must establish an "Office of Small and Disadvantaged Business Utilization," with a mandate to serve as a liaison with small and minority businesses seeking procurement information and assistance.

Each of these major provisions—open access to bidding materials, expanded small business subcontracting requirements, and the establishment of a small business liaison within each agency—were first proposed in our Small Business Government Contracting Reform Act more than a year ago.

Senators HATHAWAY and NELSON are also responsible for two additional contracting reform proposals in the conference report: An automatic small business set-aside for contracts under $10,000, and a mandate for the development of a "unified" Federal procurement regulation to replace the current panoply of separate regulations for each Federal agency. Both of these provisions will add substantially to the participation of small firms in Government procurement.

I would be remiss if I did not acknowledge that certain provisions of H.R. 9321—particularly contract simplification, establishment of minimum bidding periods, and arbitration of minor contract disputes—were not incorporated in the legislation before us today. I can assure the 105 cosponsors of the bill, however, that the prospects of enacting the remaining provisions during the 96th Congress are excellent. I have discussed the Small Business Government Contracting Reform Act with OMB's administrator of procurement policy, Lester A. Fettig, and been assured that it reflects the priorities of the administration. In short, the support for reform of contract procedures affecting small businesses has been growing steadily, and there is every reason to expect that it will continue to do so.

In the meantime, Mr. Speaker, adoption of the conference report on H.R. 11318 will provide welcome and well-deserved business opportunities for thousands of small firms across the United States. It is legislation which reflects the hard work of dozens of Members of Congress, and it deserves our overwhelming support.●

Mr. MCDADE. Mr. Speaker, I yield back the balance of my time.

GENERAL LEAVE

Mr. ADDABBO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report on the bill, H.R. 11318.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. ADDABBO. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

AUTHORIZING CLERK OF THE HOUSE TO MAKE CORRECTION IN ENROLLMENT OF H.R. 11318, AMENDING SMALL BUSINESS ACT AND SMALL BUSINESS INVESTMENT ACT OF 1958

Mr. ADDABBO. Mr. Speaker, I offer a concurrent resolution (H. Con. Res. 739) to correct an error in the enrollment of H.R. 11318, a bill to amend the Small Business Act and Small Business Investment Act of 1958, and ask unanimous consent for its immediate consideration.

The Clerk read the concurrent resolution as follows:

H. CON. RES. 739

Resolved by the House of Representatives (the Senate concurring), That the Clerk of the House is authorized and directed to correct section 203, line 4, by striking "7(i)" and inserting "7(j)" in the enrollment of the bill, (H.R. 11318) to amend the Small Business Act and the Small Business Investment Act of 1958.

Mr. ADDABBO. Mr. Speaker, I move the previous question on the concurrent resolution.

The previous question was ordered.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON S. 2640, CIVIL SERVICE REFORM ACT OF 1978

Mr. UDALL. Mr. Speaker, I call up the conference report on the Senate bill (S. 2640) to reform the civil service laws.

The Clerk read the title of the Senate bill.

(For conference report and statement, see proceedings of the House of October 5, 1978.)

The SPEAKER pro tempore. The gentleman from Arizona (Mr. UDALL) will be recognized for 30 minutes, and the gentleman from Illinois (Mr. DERWINSKI) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Arizona (Mr. UDALL).

GENERAL LEAVE

Mr. UDALL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of the conference report on the Senate bill S. 2640, Civil Service Reform Act of 1978.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

Mr. UDALL. Mr. Speaker, this bill passed the House several weeks ago by a large vote. We had five or six long sessions with the Senate. Basically we have brought back a bill that I think the Members of the House can approve. Most of the House provisions with regard to title VII, which was the most contentious matter before the conference, were resolved in favor of the position of the House.

The Senior Executive Service which was another key part of the bill, was maintained, in large part, in accordance with the position of the House, although we did modify the so-called Spellman amendment in order to meet objections by the Senate conferees.

All in all, I think this is a good conference report. I strongly recommend it to the House.

I reserve the balance of my time.

Mr. ROUSSELOT. Mr. Speaker, I think that most Members on this side of the aisle were satisfied with the conference report.

I rise in support of the civil service reform conference report. My colleagues will recall that the House version of S. 2640 passed this body on September 13 by a vote of 385 yeas to 10 nays. I can assure those who voted against the bill at that time that the House-Senate conferees have produced a better bill than the one they earlier opposed. I can also assure those who voted for the bill that the House position was protected in most instances. Congressman UDALL, acting as chairman of the conference committee, performed his duties in a fair, reasonable manner to provide the fullest opportunity for debate and compromise on the various points of difference between the two bills.

Briefly, the Civil Service Reform Act of 1978—

Establishes a Merit Systems Protection Board with a special counsel to handle employee appeals and to protect the merit system;

Streamlines the procedure for disciplining and dismissing incompetent, nonproductive employees;

Sets up a performance appraisal system and establishes performance criteria for individual job classifications;

Creates a Senior Executive Service of outstanding Federal employees in grades 16 and above to administer Federal programs.

Codifies to a large degree, the Federal labor-management program previously operated under an Executive order;

Establishes a "whistleblower protection" system for employees who disclose illegal or improper Government activity;

Links quality of performance to the granting of pay raises to managers in the grades of 13 through 15; and

Strengthens personnel management by giving authority to the Office of Personnel Management to direct personnel matters in the executive branch.

Many of the Members shared my concern that veterans' preference rights be protected in the reform package. S. 2640 reflects the House position on veterans' preference and efforts to alter the definition of a veteran for the purposes of Federal employment preference were defeated.

The conference report also contains two House amendments which received wide support on the House floor—the Leach amendment placing a cap on Federal employment and the Levitas amendment which made discourtesy and rudeness grounds for an employee's dismissal.

Mr. Speaker, I urge the adoption of the conference report to accompany S. 2640, the Civil Service Reform Act of 1978.

The gentleman from Ohio (Mr. ASHBROOK) wishes to ask a few questions, so I now yield to him.

Mr. ASHBROOK. Mr. Speaker, I thank my colleague, the gentleman from California (Mr. ROUSSELOT) for yielding to me.

I would like to ask my distinguished friend, the gentleman from Arizona (Mr. UDALL) what happened to the amendment that was accepted, that I offered, regarding the personnel files of the Civil Service Commission and the destruction of the former loyalty oath files? That amendment, as I understand it, was stricken out in the conference.

Could my colleague give me a reason why that happened?

Mr. UDALL. Mr. Speaker, if the gentleman will yield, let me say to my friend, the gentleman from Ohio (Mr. ASHBROOK) that we reluctantly had to give up the matter of the gentleman's amendment. I have a letter from the Chairman of the Civil Service Commission, dated September 19, 1978, and I will ask to include that in the RECORD at this point:

U.S. CIVIL SERVICE COMMISSION,
Washington, D.C., September 19, 1978.

Hon. MORRIS K. UDALL,
Vice Chairman, Committee on Post Office and Civil Service, House of Representatives, Washington, D.C.

DEAR MR. UDALL: I would like to call to your attention certain problems which we have with Congressman Ashbrook's amendment to the civil service reform bill, which pertains to the retention of this agency's security investigation reports.

The stated purpose of the Ashbrook amendment, Section 905 of Title IX of S. 2640, as passed by the House, is to prevent the destruction of security files used by the Commission in establishing the suitability of applicants for Federal employment, so that Congress might have the opportunity to study and take action on the question of the disposal of these files. The amendment speaks in terms of the files being disposed of in accordance with the provisions of Executive Order 10450.

There are four files at issue here:

1. The Security Investigations Index covering all persons as to whom security investigations have been conducted by any department or agency under Executive Order 10450, and which includes the central index established and maintained by the Commission under Executive Order 9835 of March 21, 1947. The retention schedule established pursuant to law for this file is 20 years and the file has been purged of all cards for individuals on whom there has been no investigative case since 1955, but they have not yet been destroyed.

2. The Investigations Case Flies consisting of the reports of investigations conducted by the Civil Service Commission. The retention schedule established pursuant to law is 20 years, but no files have as yet been destroyed.

3. The Security Research Source File on Organizations. This is a file of numerous documents containing information about individuals and organizations and used as a source of leads information about the activities of organizations and individuals allegedly involved in alien ideological movements.

4. The Name Index to the Security Research File. This is an alphabetical index of the names of individuals and organizations referred to in the source documents included in the file above.

The main files at issue are items 3 and 4. Upon the passage of the Privacy Act of 1974, the Commission reviewed its file holdings for compliance with that Act. It was determined that the two files were not in compliance with the provisions of Section (e)(7) of that Act and that they could not be brought into compliance with that Act since the information contained in a large part of them deals with how persons exercised their First Amendment Rights.

Because of that conclusion, the Commission directed that the use of the file be terminated and that both the name index and the source materials be destroyed. Use of the files has been stopped. However, they have not been destroyed because of the request of the Senate, during its investigations of intelligence activities, that all agencies retain investigative or intelligence files until their inquiries were completed. This request was lifted in December, 1977 and we commenced to seek, through the Archivist, the necessary legal authority to accomplish the destruction.

However, during hearings before the Subcommittee on Criminal Laws and Procedures of the Senate's Committee on the Judiciary, Mr. Robert J. Drummond, Jr., then Director of the Commission's Bureau of Personnel Investigations, and I testified that the Commission was planning to destroy the index to the Security Research Organizational Files. Senators Eastland and Thurmond of the Committee, in a letter to me dated March 1, 1978, asked that we postpone taking any action with respect to the index and the Files themselves until Congress had an opportunity to consider the matter and make a finding. In my March 13, 1978 reply, I agreed to comply with their request, pending further discussion with the staff of the Committee. What we have done is stopped using the index, thereby making the organizational files inactive. Copies of this correspondence are enclosed.

Since we have given the Senate Committee this assurance, we view the Section 905 as completely unnecessary and urge that it be stricken entirely from the Bill in Conference.

Should this not be possible, the Section needs technical correction since Executive Order 10450 does not cover the disposition of

the Index File; only its maintenance. Therefore, the words, at the end of the section, "shall be disposed of in accordance with the provisions of such Executive Order" should be stricken and the following words substituted: "shall not be disposed of."

Sincerely yours,

ALAN K. CAMPBELL,
Chairman.

Mr. UDALL. In brief, basically what the letter said was that there were inadequate hearings to give us a basis on which to really write an intelligent amendment on this subject, and that it conflicted with the Privacy Act and that the Civil Service Commission would do all in its power to carry out the substance of the gentleman's concerns, which he expressed, and that we would not include the language, and on that basis we did not insist on the Ashbrook amendment.

Mr. ASHBROOK. Mr. Speaker, if my colleague would respond to a further inquiry, I saw that letter, I received a copy of it, the gentleman was kind enough to send it to me several weeks ago when he received it. Of course, all we have in that letter is the assurance of the Chairman of the Civil Service Commission that they would not proceed. But the thing that concerns me the most was that he gave this assurance personally to the senior Senator from Mississippi, Senator EASTLAND, a gentleman who is retiring. I think the thing that concerns me is that when Senator EASTLAND is no longer here, that the Civil Service Chairman has not made that assurance ironclad to anybody else. I personally feel it should be language that is contained in the civil service reform, but I understand it was not. I also understand that next year there will be hearings on some proposals which will be made regarding this particular bill. As so often happens in a bill of this type, it overreaches in some areas and leaves out some areas.

There will be legislation next year. I would only hope that we could take a good hard look at that at that time because personally I do not look upon the assurance contained in a letter as meaning that much. I would like to have a greater stamp of authority.

Secondly, I do not believe the Congress should give up on its prerogative to legislate where it deems it important, just on the assurance of a Commissioner or on that of the chairman of a Commission who may or may not be in that office in 6 months, a year, 2 years, or 4 years.

I understand what happened. My colleague has answered my question to my satisfaction. If, in the course of events, both of us are back here next year, perhaps we can take a second look at the matter at that time.

Mr. UDALL. I appreciate the gentleman's comment. I appreciate his sincere interest in this subject, and his strong view and perhaps we can get a little more assurance for him next year.

Mr. ASHBROOK. Mr. Speaker, I thank my colleague, the gentleman from Arizona, and I yield back the balance of my time.

Mr. UDALL. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Colorado (Mrs. SCHROEDER).

Mrs. SCHROEDER. Mr. Speaker, I rise in support of the conference report to accompanying S. 2640, the Civil Service Reform Act.

Our committee has worked long and hard on this bill.

I want to compliment the gentleman from Arizona (Mr. UDALL) for his 29 straight hours on the floor and who knows how many in conference.

Mr. Speaker, I think this bill is a good piece of legislation; and I think, in all fairness to everyone, we should speedily move to adopt the conference report.

Again, I think it is a very good piece of legislation.

Mr. Speaker, our committee and the entire House has worked long and diligently to consider and improve upon President Carter's proposal to reform Federal personnel management. I think all of us can be proud of what we have accomplished. I do not consider this bill the final word on civil service reform, but I do think this is a worthy and responsible piece of legislation.

Let me touch on a couple of pieces we added to this legislation. A great deal and attention and effort went into devising a workable way to protect Federal employees who disclose illegality or waste and to assure that the complaints of these employees are taken seriously. The conference report provides very strong protections against firing and other forms of job discrimination when they are attempted in reprisal for the disclosure of information. A special counsel is created who can investigate these reprisals, seek discipline against Federal officials who take reprisal actions, protect the employee, and obtain injunctions against continued reprisals on very short order.

The special counsel is an official with broad and necessary prosecutorial powers. I urge the President to appoint an individual to this position who is dedicated to fairness, justice, and the interests of employees. All too often in the past, high civil service employees have lacked some or all of these qualifications.

Special whistleblower protections are provided in the Federal Bureau of Investigations, necessitated, in part, by the woeful history of this agency in terms of eliminating internal wrongdoing. An FBI employee is guaranteed protection if he or she follows the procedures set out. If the employee makes public disclosures of wrongdoing, however, this statute does not serve as authorization for the Bureau to take reprisals. The general policy of protecting whistleblowers runs to all Government instrumentalities.

Along these lines, the bill applies the merit system principles to all units of the Federal Government, regardless of whether they are under the basic civil service system. Hence, while specific enforcement provisions are not mandated for agencies like CIA and GAO, the legislation makes it clear that whistleblowers should be protected in these agencies.

In terms of taking employee complaints seriously, the legislation establishes a complaint handling mechanism to assure that significant charges are subject to significant investigations. All these investigations are conducted by the agency which allegedly has the illegality within it, with oversight and review by the special counsel, the Congress, and the President. A public log of these charges and the resolution of them is provided for so that the public can make sure that wrongdoing is not covered up in the Federal Government. I believe that this procedure will assure that a scandal like the current one at GSA will never again fester as long before disclosure. Remember that there were GSA whistleblowers in the early seventies; unfortunately, their charges were not taken seriously.

The bill does provide for mandated investigations where the Special Counsel determines that the charges raised by the employee have a significant likelihood of validity. Beyond this requirement, however, is the instruction to the special counsel to send all charges to the agency head involved, regardless of whether the special counsel finds a substantial likelihood of validity. By this, we intended that the agency head should seriously examine all allegations. These complaints should serve as an early warning system to an agency head that trouble may be brewing in the agency. They should give the agency head the opportunity to obviate the trouble before public disclosure and embarrassment force changes. Agency heads should look at these whistleblower complaints as a valuable resource and not as a nuisance. Nothing in this legislation precludes an agency head from ordering a full scale investigation of any charges forwarded, regardless of whether the special counsel thought an investigation warranted.

One of the crucial aspects of this legislation is that we have provided for a system of personal accountability for Federal officials. If a boss takes a reprisal against an employee, that boss can be punished. If an investigation results in a finding that an agency official engaged in wrongdoing, that agency official can and should be punished. The public log can provide, by listing the name of a culpable official, that an individual suffers personal punishment for his or her misdeeds. In the bureaucracy, responsibility has been diffused and culpability institutionalized. Only when we start treating federal officials as individuals, rewarding them for excellence and punishing them for misconduct, can we expect them to strive for greatness.

Another aspect of this legislation which I consider noteworthy is the direction by Congress to the special counsel to exercise a power which the Civil Service Commission, by administrative fiat, has decided not to exercise. That is the power to investigate improper withholdings of information under the Freedom of Information Act. Although the 1974 amendments to the act have been enormously successful. I believe the Freedom of Information Act would have worked even better if there were oversight of agency compliance by somebody, in this case the special counsel. The Civil Service Commission has not exercised this oversight. In this bill, we instruct

the special counsel to investigate arbitrary and capricious withholdings of information, regardless of whether there has been an administrative or judicial determination of such.

Mrs. SCHROEDER. Mr. Speaker, when the House passed the Leach amendment to establish a temporary employment ceiling, it included a provision that would require that a part-time career employee be counted as a fraction determined by dividing 40 hours into the average number of hours of the part-time worker's regularly scheduled workweek.

The conference changed this language to permit agencies to count part-time employees by the fractional method, when their number exceeds the number of part-time employees who were on board on September 30, 1977.

However, for agencies to take advantage of this provision in the Leach amendment, OMB must develop regulations that will allow agencies to use the fractional accounting system for agencies which want to hire more part-time employees. I would like to stress that this provision is included in the conference report and that OMB must develop regulations that will give agencies the opportunity to count part-time employees in excess of the September 30, 1977, employment figure by hours worked when ceiling time comes at the end of September 1979.

I am not entirely pleased with the compromise reached on the dual compensation amendment. It provides some improvement but it will need to be looked at again to make it more uniform in its application to regular and nonregular military. The exception in the compromise amplifies the unfortunate differences between the two.

Mr. UDALL. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas (Mr. KAZEN).

Mr. KAZEN. Mr. Speaker, I thank the gentleman for yielding.

I just want to take this time to ask the chairman whether the amendments put in the bill by the House concerning veterans' preference are identical in this report.

Mr. UDALL. Basically, the House position prevailed; but there were some differences with the Senate, and some modest changes were made.

Mr. KAZEN. What were the differences? This subject is a very important one, and I think the position of the House was very clear with respect to veterans' preference.

Mr. UDALL. I am told with regard to the issue of preference and who is eligible for preference, there is no difference whatever and that the House position was maintained. The same is true with regard to employment preference or retention rights. There was no change or retreat from the House position on that score.

Mr. KAZEN. In other words, the veterans' preference, as we have it today and as the House passed it, is intact in this conference report; is that correct?

Mr. UDALL. Eligibility and the rights a veteran has with regard to preference are maintained in the same form. There were some technical differences.

Mr. KAZEN. What are those differences?

Mr. UDALL. We agreed to greater rights for disabled veterans than were contained in the House provision.

Mr. KAZEN. Was there any cutoff date or do they have unlimited preference, the way it is now, as far as the length of time is concerned?

Mr. UDALL. It is unlimited.

Mr. KAZEN. And this applies to all veterans; is that correct?

Mr. UDALL. Yes.

Mr. KAZEN. Mr. Speaker, I thank the gentleman.

Mr. UDALL. Mr. Speaker, I yield 2 minutes to the gentleman from Georgia (Mr. LEVITAS).

Mr. LEVITAS. Mr. Speaker, I thank the chairman for yielding, and I commend the gentleman from Arizona (Mr. UDALL) on the outstanding work he has done in bringing this important conference report back to the House for final approval.

There is one vital point I would like to inquire about with respect to an amendment, or a series of amendments, which I offered and which was adopted when the bill was in the House. The amendments related to establishing, specifically and expressly, this discourteous conduct to the public by a Federal employee shall be a ground for taking appropriate disciplinary action. I note that a major portion of that amendment has been retained in the bill. In one area, however, it is not expressly contained in the conference report, as such.

I would like to receive assurance from the chairman that, nevertheless, discourtesy on the part of a Federal employee under certain circumstances can constitute grounds for the application of the provisions of both subchapter 1 and under subchapter 2, as well.

Mr. UDALL. Absolutely. I want to assure the gentleman that the thrust and purpose of the amendment he offered on the House floor has been maintained. There was great concern on the part of the Senate that this very vague standard of discourtesy could be abused as a ground for discharge or a ground for punishing an employee. But the heart and substance of what the gentleman was trying to do is in here. It is stated in slightly different words. I can assure the gentleman that discourtesy can be the basis for removal action, and I hope we will get a little more courtesy out of Federal officials as a result of the good work of the gentleman from Georgia.

Mr. LEVITAS. I thank my distinguished colleague. I might say I am thinking of printing up cards containing this provision on it and distributing them to the citizens of the United States so that they may carry with them a reminder to all concerned that, as people, as citizens, and as taxpayers, they are entitled to be treated courteously.

Mr. UDALL. That is not a bad idea, if I may say to the gentleman.

Mr. Speaker, I have no further requests for time.

Mr. DERWINSKI. Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. GILMAN).

Mr. GILMAN. I thank the gentleman for yielding.

Mr. Speaker, I want to commend the acting chairman of the committee, the gentleman from Arizona (Mr. UDALL) for having worked so diligently to bring this measure out of conference, and the ranking minority member, the distinguished gentleman from Illinois (Mr. DERWINSKI) for laboring on behalf of the minority.

Mr. Speaker, I rise in reluctant support for the conference report to accompany S. 2640, the Civil Service Reform Act of 1978.

As my colleagues may recall, I initially expressed strong reservations regarding the merits of this legislation. I believed then, and to a much lesser extent now, that S. 2640 or H.R. 11280, whichever provided first, too much authority to the Director of the Office of Personnel Management, without adequate checks on his authority or safeguards to deter abuse through the unfettered exercise of this overwhelming authority; and second, that this bill permitted a return to the spoils system of an earlier era and all the evils that accompany a political patronage system of rewards in place of merit staffing principles.

However, through amendments that I offered successfully in committee and on the House floor in conjunction with similar efforts by Senator MATHIAS and Senator STEVENS in the Senate, I believed that enough protections were written into this legislation to minimize the dangers posed by this bill and to plug the most glaring loopholes. For these reasons, I deeply regret the failure of the House conferees to protect the substance of a number of my amendments.

Fortunately, Senator MATHIAS and Senator STEVENS were more successful. All of their substantive amendments remained intact, assuring the necessary minimal protection for career employees.

It is for this reason, as well as the public perception for the need for reform within the Federal bureaucracy, that I today vote in favor of this conference report, albeit reluctantly, as I have stated.

In closing, I do wish to commend my colleague and good friend, the gentleman from New York (Mr. HANLEY) one of the House conferees and all of the House conferees for their splendid efforts in defending veterans' preference, and in some instances, actually strengthening preference eligibility rights in this legislation. Again the Congress has successfully fended off an administration attempt to dilute or strip veterans of their hard-earned rights.

There is no question that some civil service reform is needed. Hopefully, in the forthcoming 96th session, there will be an opportunity to make this reform more effective.

Mr. DERWINSKI. Mr. Speaker. I yield myself such time as I may consume.

Mr. Speaker, I might add at this point after the long hours in committee and long hours on the floor and in the conference, it seems almost anticlimactic

but the gentleman from Arizona (Mr. UDALL) did an excellent job in managing this bill.

Mr. Speaker, the conference agreement on S. 2640 is a sound, constructive legislative bill that provides the first major overhaul of the Federal civil service system in 95 years.

Although it is complex and comprehensive legislation, it has a strong and clear underlying theme: to create an efficient and responsive civil service system to serve the American public.

To accomplish this, the conference report contains these key features:

Creation of the Office of Personnel Management with strengthened authority to administer civilian personnel policy in the executive branch;

Establishment of an independent Merit Systems Protection Board and a special counsel to provide protection against improper personnel practices and ensure due process for employees;

Creation of a Senior Executive Service to provide flexibility in assignment, ensure management competence, make managers more accountable, and to provide compensation linked to performance;

Establishment of a merit pay system for midlevel managers under which pay adjustments will be determined by performance rather than merely by length of service.

Mr. Speaker, when the record of the 95th Congress is reviewed, this will be remembered as one of our finest hours.

By this action, the House is reaffirming its commitment to good government. It is a demonstration of bipartisan statesmanship which is particularly significant, coming as it does only 4 weeks before congressional elections.

When President Carter transmitted his civil service reform to the Congress this spring he correctly pointed out the serious defects in the present system. "It has become a bureaucratic maze," he said, "which neglects merit, tolerates poor performance, permits abuse of legitimate employee rights, and mires every personnel action in redtape, delay, and confusion."

These are logical reasons for seeking reform. Throughout the tedious process of developing this final package, I shared the President's concern, for he was speaking not only for his own administration but for Republican and Democratic administrations before him.

Much of what developed stems from recommendations of the Hoover Commission in the early 1950's. Both Presidents Eisenhower and Nixon made efforts in this direction, so there is a strong and clear Republican influence in what we now consider.

However, the history of the bill will show that of necessity it was a bipartisan effort that in its early stages in committee could well have been scuttled by a majority of the majority.

As a member of the Republican Party, which has long been committed to seeing that the Government truly serves the people, I have been happy to play a role in achieving civil service reform.

The public expects and demands a revamped and revitalized civil service system. Proposition 13 is not exclusively limited to money issues. It encompasses a much broader message, namely, that Government must mend its errant ways and that a shakeup of an unwieldly and unresponsive bureaucracy is long overdue.

The legislation we approve today is not in behalf of any single President. It will benefit and serve future Presidents and their administrations. But, above all, the true beneficiary of this governmental reformation is the American taxpayer.

Mr. UDALL. Mr. Speaker, in closing debate I want to pay a special tribute to the gentleman who is here in the Chamber with me today. He is the chairman of our Committee on Post Office and Civil Service. He will be retiring at the end of this Congress. He served for a couple of decades in this institution with real dignity and with real distinction. His role in the bill was important. He was the chairman of our committee through the arduous process of trying to put a bill together, scheduled to have our hearings promptly, kept tempers under control and was there himself through long hours both in the conference and in the committee stages. I think the House and the country owe a real debt of gratitude to the gentleman from Pennsylvania, Mr. ROBERT NIX.

There is a lot of credit to go around, Mr. Speaker, in connection with this historic legislation, and I would be remiss if I did not say that we would not have a bill here today without the help of the gentleman from Illinois (Mr. DERWINSKI) who played a very key and constructive role in all of this.

We had an exceptional staff headed by David Minton, Bob Lockhart, and Pierce Myers, without whose help we would not have had this fine bill. I thank all of the staff for the exceptional work they did.

Mr. KAZEN. Mr. Speaker, will the gentleman yield?

Mr. UDALL. I yield to the gentleman from Texas.

Mr. KAZEN. I thank the gentleman for yielding.

I also want to commend the gentleman from Arizona (Mr. UDALL) and the gentleman from Pennsylvania (Mr. NIX) for the work they have done on this report. It has been a really thankless job. There are some who are happy and some who are not.

I want to congratulate them for the job they have done.

For the sake of clarification, I will ask the gentleman to tell me what was done with the so-called double-dipping provision. How did that finally wind up?

Mr. UDALL. We retained the essence of the double-dipping provision, though it was modified. It was essentially the House bill.

Mr. KAZEN. How much is the base for a level 5 employee at the executive level?

Mr. UDALL. It is $47,500 and that is the limit we put on double dipping.

Mr. KAZEN. That is the figure in the bill as it left the House, as I recall.

Mr. UDALL. And that is maintained.

Mr. KAZEN. That figure is maintained?

Mr. UDALL. Yes.

Mr. DERWINSKI. Mr. Speaker, I yield such time as he may consume to the gentleman from Iowa (Mr. LEACH) who is the author of one of the major amendments in the bill.

Mr. LEACH. Mr. Speaker, I rise in strong support of the conference report and am pleased to inform my colleagues that the House-passed amendment to the civil service reform bill to limit Federal employment has in essence been retained.

I would like to commend the conferees, particularly Mr. UDALL and Mr. DERWINSKI, for their efforts to provide a meaningful limit on the size and scope of the Federal Government and would like to take this opportunity to outline to my colleagues what the substitute language will accomplish.

Briefly, the statutory ceiling is set at the total number of direct and indirect civilian employees of the executive branch, excluding the Postal Service, as of September 30, 1977. According to the Office of Management and Budget there were 2,131,144 direct hires working for the Federal Government in September 1977. Another 83,395 were classified as indirect hires. The number of Federal employees on September 30, 1979, 1980, and 1981, is not to exceed those totals. A separate ceiling has been established—numbering 60,000—to protect those students and disadvantaged youth employed under special employment programs.

In order to provide incentive for Federal managers to hire part-time personnel, the language provides that in the event the number of part-time employees exceeds the number so employed on September 30, 1977, additional part-time employees may be counted as a fraction of full-time and credited on that basis against the total ceiling.

Further, it is important to note the President is given authority to hire additional employees so long as that number does not exceed the growth in the population at large, if it is in the national interest. I am hopeful the President will give timely notice to the Congress in exercising authority under this provision.

Finally, the language states that the President shall not increase the contracting out of personal services, except in cases in which it is to the financial advantage of the government to do so.

It should be made clear, at this point, that the adoption of an end of the fiscal year compliance date, instead of a yearlong ceiling, is not meant to authorize excessive levels of employment during the remaining 11 months of the year nor is it meant to encourage Federal managers to meet program needs by hiring temporary personnel whose employment may be terminated in time to meet the September 30 deadlines set in the amendment. There will be an effort to maintain strong oversight over the implementation of these provisions. Any indication of hiring, in whatever category of employment, meant to end-run the Congress on this point will be closely scrutinized.

It should also be emphasized that the ban on additional contracting for personal services shall coincide with the September 30, 1977, date for limiting all Federal employment. Further, it is understood that the President, in establishing regulations on contracting for personal services, shall narrowly interpret the words, "financial advantage of the government." This is necessary in order to prevent wholesale contracting out to circumvent the letter and spirit of the employment limitation. It would violate the intent of this provision to contract for additional services without a commensurate reduction in Federal employment covered under the statutory employment ceiling. Regulations promulgated by the President should also provide that in each instance where the Government determines it is in its financial advantage to contract for personal services and on that basis increases contracting out beyond the level for September 30, 1977, this information will be contained in appropriate reports required to be filed by the Office of Personnel Management.

Mr. Speaker, there was a major effort by all interested parties to reach agreement on these provisions. I believe they represent a balance between limited government and the need for management flexibility.

● Mr. LEHMAN. Mr. Speaker, I rise in strong support of the conference report on the Civil Service Reform Act of 1978.

Today, we are enacting a truly landmark bill which the President correctly cited as the "centerpiece of Government reorganization." This significant accomplishment is a testament to the persistent efforts of the President and the Post Office Committee leadership, especially MO UDALL, to bring about meaningful and fundamental changes in the century-old civil service system.

Seven months have elapsed since the President reported to Congress that:

> The [civil service] system has serious defects. It has become a bureaucratic maze which neglects merit, tolerates poor performance, permits abuse of legitimate employee rights, and mires every personnel action in red tape, delay and confusion.

Accompanying the President's message was a proposed bill to remedy these deficiences. The Post Office and Civil Service Committee on which I serve conducted 13 days of hearings and nearly an equal number of sessions marking up the legislation. What emerged from the committee and later from the House was basically an affirmation of the President's plan to streamline and update the Federal personnel system.

The conferees have now produced a bill that maintains most of the President's essential proposals.

The conference report recognizes that the Civil Service Commission has acquired responsibilities over the years which oftentimes conflict with one another since it acts as a rulemaker, prosecutor, judge, and employee advocate. Under the reform bill these overlapping duties have been severed and placed under the authority of two distinct entities.

The Office of Personnel Management will handle personnel administration throughout the civil service system. Such activities as examination, training and administration of pay and benefits will fall under OPM's authority.

The Merit Systems Protection Board will act as the enforcement arm of the civil service system. It will have the power to review agency dismissals, demotions, and other adverse action cases against individual employees. In addition, the Merit Systems Protection Board will be authorized to investigate certain matters and take appropriate steps with respect to improper activities reported by so-called "whistleblowers." The "whistleblower" amendment, which I cosponsored during committee markup, will protect those individuals who expose wrongdoing, and at the same time introduce a mechanism for taking remedial action when any kind of improper activity is disclosed.

This provision has the potential to check legal and administrative improprieties which occur at all levels of management and will hopefully discourage bureaucratic abuses and excesses from recurring.

The successful administration of any Federal program or office, depends, to a large degree, on the quality and competence of senior level managers. Currently, our system offers few rewards to attract and retain first rate administators inasmuch as manages now receive automatic pay raises and promotions based on longevity. The creation of the Senior Executive Service will provide high level executives with adequate incentives to excel at their job by correlating salary increases to work performance, thus promoting a competitive atmosphere similar to our free enterprise system. Fortunately, the House amendment which would have limited the SES to 3 Federal agencies for a 3-year trial run was eliminated in conference. Had this amendment prevailed it would have weakened the chance of attracting quality supervisors to the SES. To dispel fears about politicalization of this corps, a Government-wide cap has been imposed on the number of political appointees who may be selected to fill SES positions. Moreover, two-thirds of the SES positions in each agency must be reserved for career Federal employees.

Mr. Speaker, a major criticism leveled against the civil service system dealt with employees rights. The press in particular was quick to pick up on employees who apparently abused the rules by prolonging a transfer, demotion, or dismissal. This will no longer be possible, however. Instead of the "preponderance of evidence rule" a manager now will only have to prove by "substantial evidence" that the employee is performing unsatisfactorily and therefore should be dismissed. The new standard adopted by the conferees will enhance a manager's authority to remove incompetent and inefficient workers within a reasonably shorter length of time.

As a counterbalance to these new procedures the conference report contains stronger measures to allow Federal workers to organize, join, and contribute to a union. Presently, labor-management relations are governed by an Executive order issued during the Kennedy administration. During this 16-year period the unions have acted responsibly on behalf of their members. As a result employee unions have earned the statutory recognition and protection provided under this bill.

Mr. Speaker, this is a good bill. It represents the collective efforts of many people. It has balanced the needs of the Federal employee to feel secure from political and personal reprisals against the public's expectations for an honest, hard-working, and efficient civil service system. I intend to support this bill and encourage my colleagues to do the same.●

● Mr. TAYLOR. Mr. Speaker, although I have mixed emotions about some of the "reforms" we are about to enact, I support the civil service conference report because I have reached the conclusion that Congress ought to give our current president some new tools with which to better manage the Federal Government's vast bureaucracy.

Whether President Carter's administration uses these new tools properly, or injects partisan politics into the top levels of Government and endangers the impartial administration of our laws, remains to be seen.

As a conferee who signed the report, I want to note that from the taxpayer's point of view, the measure has been substantially improved in conference with the Senate. It is better than the version of H.R. 11280 which the House passed, and it is certainly a far cry from the bill that was reported by the Post Office and Civil Service Committee.

There are several areas where the conference report improves the House-passed bill, by moving closer to language contained in the Senate version. There are also areas where the effect of some House provisions have been limited. In addition, amendments offered by our colleagues from Georgia (Mr. LEVITAS) and from Iowa (Mr. LEACH) are retained.

In the area of making it easier to remove, demote or discipline employees for lack of performance, the conference agreed to provisions which will ease the current process.

Instead of continuing to require a supervisor to show by a "preponderence of evidence" that an employee's performance is lacking, in order to have an agency decision upheld when the employee lodges an appeal with the Merit Systems Protection Board, the conference decided to adopt what is known as the "substantial evidence" test.

The agency will still have to prove its charges, but it will be easier for agency managers to document that in at least one critical element of the employee's job, the employee has failed to meet required performance standards.

In this regard, the conference agreed to most of the amendment offered by Mr. LEVITAS to H.R. 11280, to the effect that unacceptable performance will include "conduct that demonstrates a pattern of recurring discourtesy to the public."

In the area of Federal labor-management relations, the conference report is

closer to the Senate bill in several major areas, and as a result, does not go too far beyond the current Executive order.

There is no doubt in my mind that the conference report will increase to some degree the role of Federal employee unions in dealing with Government managers, and there are provisions that I personally would rather see left out.

However, the conference report does guarantee that each employee will have the freedom of choice to join or not to join a union; and the statement of managers specifically mentions that nothing in the conference report authorizes, or is intended to authorize, the negotiation of an agency shop or union shop.

Two additional items contained in the conference report that I believe taxpayers will appreciate, Mr. Speaker, are the adoption of the amendment offered by Mr. LEACH to H.R. 11280 limiting the total number of Federal executive branch employees; and a 2-year restriction on pay and grade retention for employees who are downgraded as a result of grade reclassifications or reductions-in-force due to reorganizations.

While I have my doubts about whether the Senior Executive Service will work as well as the Carter administration thinks, and while I also have reservations about the implementation of the merit pay provisions for middle-level managers, I think this is a worthwhile bill.

Mr. Speaker, this legislation makes major changes in our Federal personnel system. It takes the first step toward a goal of reforming the civil service into a system where merit will be rewarded and incompetence unprotected.

But this bill, which is being labeled as a major domestic victory for President Carter, is not the final step in that effort of reform.

It will be up to future Congresses to assure the American people that the Civil Service Reform Act of 1978 was worth all the effort. It will be up to future Congresses to maintain vigilant oversight over the new Office of Personnel Management, and over the new Merit Systems Protection Board, and over the new Federal Labor Relations Authority.

Mr. Speaker, I yield back the balance of my time.●

● Mr. HARRIS. Mr. Speaker, the challenge before the Congress with regard to the important matter of civil service reform has been to improve and streamline government operations and efficiency while retaining an independent and professional corps of government workers. I must say to my colleagues today that when the House adjourns shortly and we go back to face the voters, we are going to have to face the fact that we have failed in this mission.

Many of those in this Chamber will gleefully report that much has been done to accomplish this end. It may be a period of months, or even years, before many of my colleagues understand the impact of this bill which will open up our Government to increased politicization of the civil service. I am going to submit though, that the average Federal employee will understand the bill's essential failure much sooner. I remember a time just before I came to this House when its Members were anxious to get credit back home for improving the operation of the Post Office. Congress at that point came up with the politically popular innovation of "reforming" the Post Office by "making it run like a business". It sounded good at the time, but I do not know too many of my colleagues who voted on that measure at the time who do not today regret their hastiness in "reforming" the Post Office.

There is not any question about the popularity of "kicking the bureaucrats" but the advisability of "postalizing" the civil service through the adoption of this "reform" bill today is highly questionable, and my colleagues will be haunted by their failure to enact adequate safeguards against the "quick" solution which seems so plausable to many today. I want the record to reflect that this House was reminded that it was the career civil service kept this Government operating when it was paralyzed in the aftermath of our most recent attempt to politicize the bureaucracy—in the Nixon administration.

The action of the Congress in enacting an open door to political manipulation will require a much greater commitment on the part of Congress to exercise its oversight and investigatory responsibilities with regard to the operation of the civil service. As a member of your Committee on Post Office and Civil Service, I am prepared to take up that commitment.

The Senior Executive Service as proposed by President Carter was meritorious in many ways, offering management flexibility and incentives for good performance in office. But its gaping loophole left intact by both Houses and the conference committee, will enable the President to name too many of Government's senior executives from the ranks of his political devotees.

Administration after administration has missed the boat on the issue of "getting control" of the bureaucracy. Each "new team" in Washington comes in with the firmest belief that every civil servant is a political holdover from the administration. Each new administration approached the executive departments with a determination to "place" its people in all of the key positions of authority.

I am going to point out to my colleagues that we will have true civil service reform, and truly improved efficiency of Government operations, when we achieve an understanding in the executive branch of the way to approach both good management and the realization of its objectives. That approach is separate out by function, those employees who are political and those who are career professional.

The Harris substitute to the title of this bill which creates a Senior Executive Service (Title IV) would have accomplished this. The amendment would have made the SES a career service only. Had the President wished to designate certain jobs at grades GS16–18 to be filled by political appointees, the duties of the job would have to have met certain standards prescribed by law, such as engaging in the advocacy of administrative programs or serving as a confidential assistant to a political appointee.

Under this bill as passed, although there is a percentage limit on the number of jobs that can be filled by political appointees, this limit has no relationship to the responsibilities of the job. Thus, the head of a division handling grants, contracts, or tax returns can be a political appointee.

By rejecting this approach, Congress failed to exercise clear controls over which positions are filled by career individuals and which by political appointees. And it would have provided that the type of appointment—career or political—would be determined by the responsibilities of the job, not an arbitrary agency—or government-wide "magic" number.●

● Mr. GARCIA. Mr. Speaker, I rise in support of the Civil Service Reform Act conference report with a great deal of pleasure.

As a member of the Post Office and Civil Service Committee, I was involved in the development of this long needed reform and noted the many long hours of conscientious consideration and deliberation it received by the members and staffs involved. This conference report reflects their concern and the success of their efforts. I feel proud of this bill for this reason and because it includes my first successful attempt to amend legislation here.

Beyond my own satisfaction of having influenced our country's public policy, I am deeply gratified that my colleagues in committee, on the floor, and in conference have shared by views that such legislation is needed.

As many of you know, the expressed intent of my provision is to increase the number of minorities on the civil service register. It will strengthen the affirmative action program of the civil service, by instituting statutes which enforce a meaningful outreach and recruitment program while in no way even implying hiring quotas. The provision is not a panacea—we all know, too well, the folly of those who attempt to offer simple solutions for deeply rooted social inequities and expect them to disappear. In offering this amendment to the bill, it was my intention and sincerest desire only to increase the accessibility of civil service jobs to the minority communities of our country.

I must say, finally, that I could not have gotten this amendment through without the support and help of my colleagues—in the committee, in the House, and in conference. I will long remember the gracious tolerance shown by the more senior Members of this body to their most junior colleague.●

Mr. UDALL. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. HARRIS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 365, nays 8, not voting 59, as follows:

[Roll No. 887]

YEAS—365

Abdnor	Downey	Kelly
Addabbo	Drinan	Kemp
Akaka	Duncan, Oreg.	Keys
Ambro	Duncan, Tenn.	Kildee
Anderson, Calif.	Early	Kindness
	Eckhardt	Kostmayer
Anderson, Ill.	Edgar	Krebs
Andrews, N.C.	Edwards, Ala.	LaFalce
Andrews, N. Dak.	Edwards, Calif.	Lagomarsino
	Edwards, Okla.	Latta
Annunzio	Eilberg	Le Fante
Applegate	Emery	Leach
Archer	English	Lederer
Ashbrook	Erlenborn	Lehman
Ashley	Ertel	Lent
Aspin	Evans, Colo.	Levitas
AuCoin	Evans, Del.	Livingston
Badham	Evans, Ga.	Lloyd, Calif.
Bafalis	Evans, Ind.	Lloyd, Tenn.
Baldus	Fary	Long, La.
Barnard	Fascell	Long, Md.
Baucus	Fenwick	Lott
Bauman	Findley	Luken
Beard, R.I.	Fish	Lundine
Beard, Tenn.	Fisher	McClory
Bellenson	Fithian	McCloskey
Benjamin	Flippo	McCormack
Bennett	Flood	McDade
Bevill	Florio	McDonald
Biaggi	Flynt	McFall
Bingham	Foley	McHugh
Blanchard	Ford, Mich.	McKinney
Blouin	Ford, Tenn.	Madigan
Boggs	Forsythe	Maguire
Boland	Fountain	Mahon
Boiling	Fowler	Mann
Bonior	Fraser	Markey
Bonker	Frenzel	Marks
Bowen	Frey	Marlenee
Brademas	Fuqua	Marriott
Breaux	Garcia	Mathis
Brinkley	Gaydos	Mattox
Brodhead	Gephardt	Mazzoli
Brooks	Gibbons	Meeds
Broomfield	Gilman	Metcalfe
Brown, Calif.	Ginn	Meyner
Brown, Mich.	Glickman	Michel
Brown, Ohio	Goldwater	Mikulski
Buchanan	Goodling	Milford
Burgener	Gore	Miller, Calif.
Burke, Fla.	Gradison	Miller, Ohio
Burke, Mass.	Grassley	Mineta
Burleson, Tex.	Green	Minish
Burlison, Mo.	Gudger	Mitchell, Md.
Burton, John	Guyer	Mitchell, N.Y.
Burton, Phillip	Hall	Moakley
Butler	Hamilton	Moffett
Byron	Hammer-schmidt	Mollohan
Carr		Montgomery
Carter	Hanley	Moore
Cavanaugh	Hannaford	Moorhead, Calif.
Cederberg	Hansen	
Chisholm	Harkin	Moorhead, Pa.
Clausen, Don H.	Harsha	Mottl
	Hawkins	Murphy, N.Y.
Clawson, Del	Heckler	Murphy, Pa.
Clay	Hefner	Murtha
Coleman	Heftel	Myers, John
Collins, Tex.	Hightower	Myers, Michael
Conable	Holland	Natcher
Conte	Holtzman	Neal
Corcoran	Horton	Nedzi
Corman	Howard	Nichols
Cornell	Hubbard	Nix
Cornwell	Huckaby	Nolan
Coughlin	Hughes	Nowak
Cunningham	Hyde	O'Brien
D'Amours	Ichord	Oakar
Daniel, Dan	Ireland	Oberstar
Daniel, R. W.	Jacobs	Obey
Danielson	Jeffords	Ottinger
de la Garza	Jenkins	Patten
Delaney	Jenrette	Patterson
Dellums	Johnson, Calif.	Pattison
Dent	Johnson, Colo.	Pease
Derrick	Jones, N.C.	Pepper
Derwinski	Jones, Okla.	Perkins
Devine	Jones, Tenn.	Pickle
Dickinson	Jordan	Pike
Dingell	Kasten	Poage
Dodd	Kastenmeier	Pressler
Dornan	Kazen	Preyer
Price	Shuster	Vanik
Pritchard	Sikes	Vento
Pursell	Simon	Volkmer
Quayle	Skubitz	Waggonner
Quillen	Slack	Walgren
Rangel	Smith, Iowa	Walker
Regula	Smith, Nebr.	Wampler
Reuss	Snyder	Watkins
Richmond	Solarz	Waxman
Rinaldo	Spence	Weiss
Roberts	St Germain	Whalen
Robinson	Stangeland	White
Roe	Stanton	Whitley
Rogers	Stark	Whitten
Roncalio	Steed	Wilson, Bob
Rooney	Steiger	Wilson, Tex.
Rose	Stockman	Winn
Rostenkowski	Stokes	Wirth
Rousselot	Stratton	Wolff
Roybal	Studds	Wright
Runnels	Stump	Wydler
Russo	Symms	Wylie
Ryan	Taylor	Yates
Santini	Thornton	Yatron
Satterfield	Traxler	Young, Alaska
Sawyer	Treen	Young, Fla.
Scheuer	Trible	Young, Mo.
Schroeder	Tucker	Young, Tex.
Schulze	Udall	Zablocki
Sebelius	Ullman	Zeferetti
Seiberling	Van Deerlin	
Sharp	Vander Jagt	

NAYS—8

Davis	Holt	Steers
Gonzalez	Myers, Gary	Wilson, C. H.
Harris	Spellman	

NOT VOTING—59

Alexander	Gammage	Rhodes
Ammerman	Giaimo	Risenhoover
Armstrong	Hagedorn	Rodino
Bedell	Harrington	Rosenthal
Breckinridge	Hillis	Rudd
Broyhill	Hollenbeck	Ruppe
Burke, Calif.	Krueger	Sarasin
Caputo	Leggett	Shipley
Carney	Lujan	Sisk
Chappell	McEwen	Skelton
Cleveland	McKay	Staggers
Cochran	Martin	Teague
Cohen	Mikva	Thompson
Collins, Ill.	Moss	Thone
Conyers	Murphy, Ill.	Tsongas
Cotter	Panetta	Walsh
Crane	Pettis	Weaver
Dicks	Quie	Whitehurst
Diggs	Rahall	Wiggins
Flowers	Railsback	

The Clerk announced the following pairs:

Mr. Ammerman with Mr. Broyhill.
Mrs. Burke of California with Mr. Caputo.
Mr. Cotter with McEwen.
Mr. Flowers with Mr. Quie.
Mr. Murphy of Illinois with Mr. Sarasin.
Mr. Leggett with Mr. Thone.
Mr. Mikva with Mr. Walsh.
Mr. Harrington with Mr. Wiggins.
Mr. Moss with Mr. Cohen.
Mr. Shipley with Mr. Martin.
Mr. Rodino with Mr. Railsback.
Mr. Tsongas with Mr. Crane.
Mr. Giaimo with Mr. Rudd.
Mr. Krueger with Mr. Lujan.
Mr. Staggers with Mr. Ruppe.
Mr. Teague with Mr. Whitehurst.
Mr. Thompson with Mr. Cleveland.
Mr. Weaver with Mr. Cochran of Mississippi.
Mr. Skelton with Mr. Hagedorn.
Mr. McKay with Mrs. Pettis.
Mr. Diggs with Mr. Hillis.
Mr. Dicks with Mr. Hollenbeck.
Mrs. Collins of Illinois with Mr. Bedell.
Mr. Conyers with Mr. Alexander.
Mr. Chappell with Mr. Carney.
Mr. Gammage with Mr. Panetta.
Mr. Sisk with Mr. Rahall.
Mr. Rosenthal with Mr. Breckinridge.
Mr. Risenhoover with Mr. Rhodes.

So the conference report was agreed to.

The result of the vote was announced as above recorded.

MOTION OFFERED BY MR. UDALL

Mr. UDALL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. UDALL moves that the House recede from its amendment to the title of the bill S. 2640.

The motion was agreed to.

A motion to reconsider was laid on the table.

SUGAR STABILIZATION ACT OF 1978

Mr. FOLEY. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 13750) to implement the International Sugar Agreement between the United States and foreign countries; to protect the welfare of consumers of sugar and those engaged in the domestic sugar-producing industry; to promote the export trade of the United States; and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Washington (Mr. FOLEY).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 13750, with Mr. DAN DANIEL in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Monday, October 2, all time for general debate had expired. Pursuant to the rule, the bill will be considered under the 5-minute rule by titles, and each title shall be considered as having been read.

It shall be in order to consider the committee amendment recommended by the Committee on Ways and Means to title I prior to the consideration of the committee amendment recommended by the Committee on Agriculture.

The Clerk will report the Ways and Means Committee amendments.

(The portion of the bill to which the amendments, refer is as follows:)

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Sugar Stabilization Act of 1978".

TITLE I—INTERNATIONAL SUGAR AGREEMENT

SEC. 101. The President is hereby authorized to—

(a) limit the entry into the United States of sugar from any country, territory, or area which is not a member of the International Sugar Organization;

(b) prohibit the entry into the United States of any quantity of sugar which is not accompanied by a valid certificate of contribution to the stock financing fund and other documentation as may be required by the International Sugar Agreement;

(c) require the keeping of such records, statistics, and other information, and the rendering of such reports, relating to the importation, distribution, prices, and consumption of sugar as the President may from time to time prescribe;

(d) take such other action and issue such rules and regulations, which shall have the force and effect of law, as the President may consider necessary or appropriate to imple-

ment the rights and obligations of the United States under the International Sugar Agreement; and

(e) exercise any of the powers and duties conferred on the President under this title I through such department, agency, or officer of the United States as the President may direct.

SEC. 102. Any person failing to make any report or keep any record as required by or pursuant to section 101, or making any false report or record or knowingly violating any rule or regulation issued by the President pursuant to section 101, shall, upon conviction, be punished by a fine of not more than $1,000 for each violation.

SEC. 103. The President shall submit to the Congress an annual report on the International Sugar Agreement. Such report shall contain full information on the operation of the agreement, including full information with respect to the general level of prices of sugar and relationship to any domestic program of the United States for sugar. The report shall also include a summary of the actions the United States and the International Sugar Organization have taken to protect the interests of the United States consumers and producers.

WAYS AND MEANS COMMITTEE AMENDMENTS

The Clerk read the Ways and Means Committee amendments, as follows:

Ways and Means Committee amendments:

Page 2, line 2, insert "International" before "Sugar".

Page 2, between lines 3 and 15, insert the following:

SEC. 2. DEFINITIONS.

For purposes of this Act—

(1) The term "person" has the same meaning as is given to such term in section 1 of title 1 of the United States Code.

(2) The term "Secretary" means the Secretary of Agriculture.

(3) The term "TSUS" means the Tariff Schedules of the United States (19 U.S.C. 1202).

(4) The term "United States", when used in a geographical context, means the several States, the District of Columbia, and the Commonwealth of Puerto Rico.

Page 2, strike out line 16 and all that follows thereafter down through line 25 on page 6 and insert the following:

TITLE I—INTERNATIONAL SUGAR AGREEMENT, 1977

SEC. 101. DEFINITIONS.

For purposes of this title—

(1) The term "Agreement" means the International Sugar Agreement, 1977 signed at New York City on December 9, 1977.

(2) The term "entry" means the entry for any purpose, and the withdrawal from warehouse for consumption, in the customs territory of the United States.

(3) The term "sugar" has the same meaning as is given to such term in paragraph (12) of Article 2 of the Agreement.

SEC. 102. IMPLEMENTATION OF AGREEMENT.

On and after the entering into force of the Agreement with respect to the United States, and for such period before January 1, 1983, as the Agreement remains in force, the President may, in order to carry out and enforce the provisions of the Agreement—

(1) regulate the entry of sugar by appropriate means, including, but not limited to—

(A) the imposition of limitations on the entry of sugar which is the product of foreign countries, territories, or areas not members of the International Sugar Organization, and

(B) the prohibition of the entry of any shipment or quantity of sugar not accompanied by a valid certificate of contribution or such other documentation as may be required under the Agreement;

(2) require of appropriate persons the keeping of such records, statistics, and other information, and the submission of such reports, relating to the entry, distribution, prices, and consumption of sugar and alternative sweeteners as he may from time to time prescribe; and

(3) take such other action, and issue and enforce such rules or regulations, as he may consider necessary or appropriate in order to implement the rights and obligations of the United States under the Agreement.

SEC. 103. DELEGATION OF POWERS AND DUTIES.

The President may exercise any power or duty conferred on him by this title through such agencies or officers of the United States as he shall designate.

SEC. 104. CRIMINAL OFFENSES.

Any person who—

(1) fails to keep any information, or to submit any report, required under section 102;

(2) submits any report under section 102 knowing that the report on any part thereof is false; or

(3) knowingly violates any rule or regulation issued to carry out this title;

is guilty of an offense and upon conviction thereof is punishable by a fine of not more than $1,000.

SEC. 105. REPORT TO CONGRESS.

The President shall submit to Congress, on or before April 1 of each year, a report on the operation and effect of the Agreement during the immediately preceding year. The report shall contain, but not be limited to—

(1) information with respect to world and domestic sugar demand, supplies, and prices during the year concerned;

(2) projections with respect to world and domestic sugar demand, supplies and prices; and

(3) a summary of the international and domestic actions taken during the year concerned under the Agreement and under domestic legislation to protect the interests of United States consumers and producers of sugar.

Mr. FOLEY (during the reading). Mr. Chairman, has the Clerk begun to read title I?

The CHAIRMAN. The gentleman is correct. The Clerk will continue to read the Ways and Means Committee amendments to title I.

Mr. VANIK (during the reading). Mr. Chairman, a parliamentary inquiry. As I take it, the Clerk is now reading the Ways and Means Committee amendments to title I.

The CHAIRMAN. The gentleman is correct.

Mr. FOLEY. Mr. Chairman, I believe the rule provides that the title may be considered as read.

The CHAIRMAN. We are reading the Ways and Means Committee amendment, for the information of the gentleman.

Mr. FOLEY (during the reading). Mr. Chairman, I ask unanimous consent that further reading of the amendment recommended by the Committee on Ways and Means be dispensed with, and that it be printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Washington?

There was no objection.

Mr. FOLEY. Mr. Chairman, this amendment is acceptable from the standpoint of the Committee on Agriculture and we urge its adoption.

● Mr. VANIK. Mr. Chairman, title I of the bill provides for the implementation of the International Sugar Agreement, or ISA negotiated in 1977 among the world's major sugar exporting and importing nations.

This agreement is designed to stabilize the price of sugar in the range of 11 to 21 cents over the next 5 years, thus saving consumers from the type of high world sugar prices we had in 1974, and saving producers from today's disastrously low prices of around 7 cents a pound.

The United States led in negotiating the ISA, and it is an important diplomatic achievement, providing assistance to many less developed countries who are totally or primarily dependent on sugar for their national economies. The ISA places little or no burden on the United States, but does require we limit imports from non-ISA members and prohibit imports of sugar on which a small fee has not been paid for the financing of buffer stockpiles. The United States is the world's largest importer of sugar, and our participation in the agreement is essential for its success.

On the ISA issue, the House Agriculture Committee and the Subcommittee are agreed and the substance of the language of the two committees in implementing the ISA is, for all intents and purposes, identical.

We think the Ways and Means language has fine-turned some points, and we hope our changes are substituted.●

The CHAIRMAN. The question is on the committee amendments recommended by the Committee on Ways and Means.

The committee amendments were agreed to.

The CHAIRMAN. It shall now be in order to consider en bloc the committee amendments recommended by the Committee on Agriculture to title II prior to consideration of the committee amendment recommended by the Committee on Ways and Means. The Clerk will report the amendments of the Committee on Agriculture.

(The portion of the bill to which the amendments refer is as follows:)

TITLE II—DOMESTIC SUGAR PROGRAM

Subtitle A—Definitions

SEC. 201. For the purpose of this Act—

(a) The term "person" means an individual, partnership, corporation, association, or other legal entity.

(b) The term "sugars" means any grade or type of saccharine product derived from sugarcane or sugar beets, which contains sucrose, dextrose, or levulose.

(c) The term "sugar" means raw sugar or direct-consumption sugar.

(d) The term "raw sugar" means any sugars, whether or not principally of crystalline structure, which are to be further refined or improved in quality to produce any sugars principally of crystalline structure or liquid sugar.

(e) The term "direct-consumption sugar" means any sugars principally of crystalline structure and any liquid sugar which are not to be further refined or improved in quality.

(f) The term "liquid sugar" means any sugars (exclusive of sirup of cane juice produced from sugarcane grown in the United States) which are principally not of crystalline structure and which contain, or which are to be used for the production of any

sugars principally not of crystalline structure which contain, soluble nonsugar solids (excluding any foreign substances that may have been added or developed in the product) equal to 6 per centum or less of the total soluble solids.

(g) Sugars in dry amorphous form shall be considered to be principally of crystalline structure.

(h) The term "raw value" of any quantity of sugars means its equivalent in terms of ordinary commercial raw sugar testing ninety-six sugar degrees by the polariscope, determined in accordance with regulations to be issued by the Secretary. The principal grades and types of sugar and liquid sugar shall be translated into terms of raw value in the following manner:

(1) for direct-consumption sugar, derived from sugar beets and testing ninety-two or more sugar degrees by the polariscope, by multiplying the number of pounds thereof by 1.07;

(2) for sugar, derived from sugarcane and testing ninety-two sugar degrees by the polariscope, by multiplying the number of pounds thereof by 0.93;

(3) for sugar, derived from sugarcane and testing more than ninety-two sugar degrees by the polariscope, by multiplying the number of pounds thereof by the figure obtained by adding to 0.93 the result of multiplying 0.0175 by the number of degrees and fractions of a degree of polarization above ninety-two degrees;

(4) for sugar and liquid sugar, testing less than ninety-two sugar degrees by the polariscope, by dividing the number of pounds of the "total sugar content" thereof by 0.972; and

(5) the Secretary may establish rates for translating sugar and liquid sugar into terms of raw value for (a) any grade or type of sugar or liquid sugar not provided for in the foregoing and (b) any special grade or type of sugar or liquid sugar for which he determines that the raw value cannot be measured adequately under the provisions of parargaphs (1) to (4), inclusive, of this subsection.

(i) The term "total sugar content" means the sum of sucrose and reducing or invert sugars contained in any grade or type of sugar or liquid sugar.

(j) The term "quota" means that quantity of sugar or liquid sugar, or that quantity of sugar-containing products, which may be entered, during any sugar supply year, from foreign countries.

(k) The term "to enter" means to enter, or withdraw from warehouse, for consumption in the United States, and the term "entry" means the entry, or withdrawal from warehouse, for consumption in the United States.

(l) The term "International Sugar Agreement" means the International Sugar Agreement 1977 signed at New York on December 9, 1977.

(m) The term "Secretary" means the Secretary of Agriculture.

(n) The term "sugar supply year" means the twelve-month period beginning October 1 of any year and ending September 30 of the following year, designated by the calendar year in which it commences.

(o) The term "United States" means the States, the District of Columbia and Puerto Rico.

Subtitle B—Quota and Fee Provisions

ANNUAL ESTIMATE OF CONSUMPTION IN THE UNITED STATES

SEC. 202. (a) The Secretary shall determine for each sugar supply year the amount of sugar needed to meet the requirements of consumers in the United States, to maintain and protect the domestic sugar-producing industry, and to attain on an annual average basis the price objective set forth in subsection (b) of this section. Such determination shall be made during July of the year preceding the sugar supply year for which the determination is being made and at such other times during the sugar supply year as may be required to attain the objectives of this subsection: *Provided*, That the determination for the sugar supply year 1978 shall be made and published in the Federal Register within thirty days after the effective date of this Act.

(b) The price objective referred to in subsection (a) of this section for the sugar supply year 1978 is a price of 16 cents per pound of sugar, raw value, delivered to New York including freight and the applicable tariff and fees. For the first semiannual period of the sugar supply year 1979, the sugar supply year price objective shall be adjusted and announced in July 1979, to be effective October 1, 1979, and such adjusted price objective shall maintain for such semiannual period the ratio determined in July 1979, between the adjusted price objective and the average of the parity index (1967 = 100) and the wholesale price index (1967 = 100) for the 2nd calendar quarter of 1979 which is the same as the ratio that existed between (1) the price objective for the sugar supply year 1978 and (2) the simple average of such indices for the twelve months immediately preceding July 1978. Beginning April 1980, and each semiannual period thereafter, the price objective shall be adjusted and announced within thirty days after the end of the previous semiannual period, so as to maintain for the semiannual period the same ratio between the adjusted price objective and the average of the parity index (1967 = 100) and the wholesale price index (1967 = 100) for the immediately preceding three calendar months as the ratio that existed between (1) the price objective for the 1978 sugar supply year and (2) the simple average of such indices for the twelve calendar months immediately preceding July 1978.

(c) For purposes of subsection (b) of this section—

(1) The term "parity index (1967 = 100)" means the index of prices paid by farmers for commodities and services, including interest, taxes, and farm wage rates, as published monthly by the Department of Agriculture.

(2) The term "wholesale price index (1967 = 100)" means such index as determined monthly by the Department of Labor.

QUOTA OR QUOTAS FOR FOREIGN COUNTRIES

SEC. 203. (a) Whenever a determination is made, pursuant to section 202, of the amount of sugar needed to meet the requirements of consumers, the Secretary shall establish a sugar quota, or revise the existing quota, for foreign countries. The amount of such quota shall be the amount by which such determination exceeds the amount of domestically produced sugar which the Secretary determines will be available for marketing during the sugar supply year. Notwithstanding any other provision of law, the Secretary may allocate such quota on a country-by-country basis and may auction the right to enter sugar under any quota established under this section.

(b) Notwithstanding any other provision of this Act, the Secretary is authorized to limit, on a quarterly basis, the entry of sugar within the quota or quotas for foreign countries during any sugar supply year if the Secretary determines that such limitation is necessary to achieve the price objective of the Act: *Provided*, That the Secretary shall so limit the entry of sugar within any such quota at any time during the sugar supply year when the simple average of prices of raw sugar, delivered to New York including freight and the applicable tariff and fees, for twenty consecutive market days is 5 per centum or more below the price objective determined pursuant to section 202.

(c) The quantity authorized to be entered from any country under this section may be filled only with sugar produced from sugar beets or sugarcane grown in such country.

ADJUSTMENTS IN QUOTA OR QUOTAS FOR FOREIGN COUNTRIES

SEC. 204. The Secretary shall, whenever the facts are ascertainable by him, determine whether, in view of the current inventories of sugar, the estimated production from the average of sugarcane or sugar beets planted, and other pertinent factors, the quantity of domestically produced sugar available for marketing during the sugar supply year will be less than the quantity determined in establishing the quota or quotas for foreign countries under section 203. Whenever the Secretary makes such determination, he shall increase the quota or quotas for foreign countries under section 203 by the amount of such deficit. In determining quota adjustments under this section the Secretary shall act to provide at all times throughout the sugar supply year the full distribution of the amount of sugar which the Secretary has determined to be needed under section 202 of this Act to meet the requirements of consumers.

IMPORT FEE

SEC. 205. Whenever the simple average of the daily prices for raw sugar, delivered to New York including freight and the applicable tariff and fees, is below the price objective determined under section 202 of this Act for twenty consecutive market days, the Secretary shall, as a condition for importing sugar under section 203 of this Act, establish an import fee as provided in this section: *Provided*, That the Secretary may establish such fee at any time within thirty market days after the date of enactment of this Act. The fee shall be such amount as the Secretary determines will, when added to the daily price for raw sugar, adjusted as provided above, achieve the price objective determined pursuant to section 202 of this Act. The fee shall be adjusted from time to time, but not more frequently than once each quarter as may be required to achieve the purpose of this section. Such fee shall be imposed on a per pound, raw value, basis, and shall be applied uniformly. Any funds collected as import fees pursuant to this section shall be covered into the Treasury as miscellaneous receipts. Import fees shall be treated for administrative purposes, including drawback upon exportation, as duties imposed by the Tariff Act of 1930, but such fees shall not be considered as duties for the purpose of granting any preferential concession under any international obligation of the United States.

IMPORTATION OF DIRECT-CONSUMPTION SUGAR

SEC. 206. (a) Except as provided in subsection (c) of this section, none of the quota or quotas established for foreign countries may be filled by direct-consumption sugar.

(b) The limitations imposed by this section, and the enforcement provisions of title II applicable thereto, shall continue in effect and shall not be subject to suspension pursuant to the provisions of section 306 of this Act unless the President acting thereunder specifically finds and proclaims that a national economic or other emergency exists with respect to sugar or liquid sugar which requires the suspension of the direct-consumption limitations of this section.

(c) Notwithstanding any other provisions of this Act, whenever the Secretary, after public rulemaking procedure, makes a finding that a lack of raw sugar refining capacity within the United States has created an imminent shortage of direct-consumption sugar for consumers in the United States, the

Secretary may permit as much of the quota or quotas for foreign countries established under this Act to be filled on a temporary basis with direct-consumption sugar as is necessary to meet such imminent shortage.

SUSPENSION OF QUOTA AND FEES

SEC. 207. Whenever the Secretary finds that the simple average of the daily prices for raw sugar, delivered to New York including freight and the applicable tariff and fees, exceeds by more than 20 per centum the current price objective determined pursuant to section 202 for twenty consecutive market days, the Secretary shall suspend the quota or quotas and any import fee established pursuant to section 203. Whenever the Secretary finds that the simple average of the daily price of raw sugar, adjusted as provided above, is less than 20 per centum above the current price objective determined pursuant to section 202 for twenty consecutive market days, the Secretary shall thereupon reestablish such quotas or quotas and import fees as may be required to achieve such price objective.

SUGAR-CONTAINING PRODUCTS

SEC. 208. (a) If the Secretary determines that the prospective entry of any sugar-containing product or mixture or beet sugar molasses will substantially interfere with the attainment of the objectives of this Act, the Secretary may limit the quantity of such product, mixture, or beet sugar molasses to be entered from any country or area to a quantity which the Secretary determines will not so interfere: *Provided*, That the quantity to be entered from any country or area in any sugar supply year shall not be reduced below the average of the quantities of such product, mixture, or beet sugar molasses annually entered during such three-year period as the Secretary may select for which reliable data of the entry of such product, mixture, or beet sugar molasses are available. The term "beet sugar molasses" as used in this subsection does not include beet sugar molasses imported under item 155.40 of the Tariff Schedules of the United States for the purposes of citric acid production.

(b) If the Secretary determines that the prospective entry of any sugar-containing product or mixture or beet sugar molasses will substantially interfere with the attainment of the objectives of this Act and there are no reliable data available of such importation or bringing in of such product, mixture, or beet sugar molasses for three consecutive years, the Secretary may limit the quantity of such product, mixture, or beet sugar molasses to be entered during each sugar supply year from any country or area to a quantity which the Secretary determines will not substantially interfere with the attainment of the objectives of the Act. In the case of a sugar-containing product or mixture, such quantity from any one country or area shall not be less than a quantity containing one hundred short tons, raw value, of sugar or liquid sugar.

(c) In determining whether the actual or prospective entry of a quantity of a sugar-containing product or mixture will or will not substantially interfere with the attainment of the objectives of this Act, the Secretary shall take into consideration the total sugar content of the product or mixture in relation to other ingredients or to the sugar content of other products or mixtures for similar use, the costs of the mixture in relation to the costs of its ingredients for use in the United States, the present or prospective volume of importations relative to past importations, the type of packaging, whether it will be marketed to the ultimate consumer in the identical form in which it is entered or the extent to which it is to be further subjected to processing or mixing with similar or other ingredients, and other pertinent information which will assist him in making such determination. In making determinations pursuant to this section, the Secretary shall conform to the rulemaking requirements of section 4 of the Administrative Procedure Act.

(d) Notwithstanding the foregoing provisions of the section, the Secretary shall each year, beginning with the sugar supply year 1978, limit the quantity of sweetened chocolate, candy, and confectionery provided for in items 156.30 and 157.10 of part 10, schedule 1, of the Tariff Schedules of the United States which may be entered, as hereinafter provided. The quantity which may be so entered during any sugar supply year shall be determined in the fourth quarter of the preceding sugar supply year and the total amount thereof shall be equivalent to the larger of (1) the average yearly quantity of the products entered under the foregoing items of the Tariff Schedules of the United States for the three sugar supply years immediately preceding the year in which such quantity is determined or (2) a quantity equal to 5 per centum of the amount of sweetened chocolate and confectionery of the same description of United States manufacture sold in the United States during the most recent sugar supply year for which data are available. The total quantity to be entered under this subsection may be allocated to countries on such basis as the Secretary determines to be fair and reasonable, taking into consideration the past importations or entries from such countries. For purposes of this subsection the Secretary shall accept statistical data of the United States Departmen of Commerce as to the quantity of sweetened chocolate and confectionery of United States manufacture sold in the United States.

PROHIBITED ACTS

SEC. 209. All persons are hereby prohibited—

(a) from entering into the United States from any foreign country or countries, or any other area outside the United States, any sugar or liquid sugar, or sugar-containing product, after the applicable quota has been filled;

(b) from bringing or importing into the Virgin Islands for consumption therein, any sugar or liquid sugar in excess of one hundred pounds in any sugar supply year produced from sugarcane or sugar beets grown outside the United States; and

(c) from exporting to any foreign country any sugar or liquid sugar produced from sugar beets or sugarcane grown in the United States or imported into the United States within the quota for any foreign country or countries except as provided in section 211.

Subtitle C—Related Provisions

DETERMINATION IN TERMS OF RAW VALUE

SEC. 210. (a) The sugar determinations provided for in section 202 and all sugar quotas shall be made or established in terms of raw value.

(b) For the purposes of this title, liquid sugar shall be included with sugar in making the determinations provided for in section 202 and in the establishment or revision of sugar quotas.

EXPORTATION OF SUGAR

SEC. 211. (a) Sugar or liquid sugar entered into the United States under an applicable bond, established pursuant to orders or regulations issued by the Secretary for the express purpose of subsequently exporting the equivalent quantity of sugar or liquid sugar as such, or in manufactured articles, shall not be charged against the quota for any foreign country or countries.

(b) Exportation within the meaning of sections 309 and 313 of the Tariff Act of 1930 shall be considered to be exportation within the meaning of this section.

INAPPLICABILITY OF QUOTA AND FEE PROVISIONS

SEC. 212. The provisions of this title shall not apply to (1) the first ten short tons, raw value, of direct consumption sugar or liquid sugar entered from any foreign country in any sugar supply year; (2) the first ten short tons, raw value, or direct consumption sugar or liquid sugar entered from any foreign country in any sugar supply year for religious, sacramental, educational, or experimental purposes; (3) liquid sugar entered from foreign countries in individual sealed containers of such capacity as the Secretary may determine not in excess of one and one-tenth gallons each; or (4) any sugar or liquid sugar entered for the distillation of alcohol, including all polyhydric alcohols or for livestock feed (including pet food), or for the production of livestock feed (including pet food), or for the production (other than distillation) of alcohol, including all polyhydric alcohols, but not including any such alcohol or resulting byproducts for human food consumption.

AGRICULTURE COMMITTEE AMENDMENTS

The Clerk read as follows:

Committee on Agriculture amendments:

Page 13, line 17, strike out "average" and insert in lieu thereof "acreage".

Page 14, line 10, strike out "importing" and insert in lieu thereof "entering";

Page 15, line 12, strike out "306" and insert in lieu thereof "307";

Page 17 on each of lines 2, 4, 5, 10, and 14, strike out "beet";

Page 17, lines 6 and 7, strike out "subsection" and "imported" and insert in lieu thereof "section" and "entered", respectively;

Page 17, line 13, strike out "such importation or bringing in" and insert in lieu thereof "the entry";

Page 21, lines 19, 20 and 21, strike out "or for livestock feed (including pet food), or for the production of livestock feed (including pet food)";

Page 21, line 21, insert "by" immediately after "than".

Mr. FOLEY (during the reading). Mr. Chairman, I ask unanimous consent that further reading of the amendments recommended by the Committee on Agriculture be dispensed with and that they be printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Washington?

There was no objection.

The CHAIRMAN. The question is on the amendments recommended by the Committee on Agriculture.

The amendments recommended by the Committee on Agriculture were agreed to.

AMENDMENT RECOMMENDED BY COMMITTEE ON WAYS AND MEANS

The CHAIRMAN. The Clerk will now report the amendment recommended by the Committee on Ways and Means.

The Clerk read as follows:

Amendment recommended by Committee on Ways and Means: Page 7, strike out line 1 and all that follows thereafter down through line 24 on page 21 and insert the following:

TITLE II—IMPORT RESTRICTIONS ON SUGAR

SEC. 201. DEFINITIONS.

For purposes of this title—

(1) The phrase "average daily price for United States raw sugar imports" means the average of the daily market prices for sugar in pounds, raw value, in bulk, landed and delivered at Atlantic and Gulf ports, including

the cost of insurance, freight, loading, unloading, and import duties.

(2) The term "entered" means entered, or withdrawn from warehouse, for consumption in the customs territory of the United States; and the term "entry" means the entry, or withdrawal from warehouse, for such consumption.

(3) The term "price objective" means the price set forth in section 202(a).

(4) The term "quota" means the total quantity of any sugar or sugar-containing product produced in all foreign countries, territories, or areas that may be entered, without regard to source, in any sugar supply year or supply year quarter.

(5) The term "raw value" has the same meaning as is given to such term in headnote 1 to subpart A of part 10 of schedule 1 of the TSUS.

(6) The term "sugar" means any sugar, sirup, and molasses provided for in items 155.20 and 155.30 of the TSUS.

(7) The term "sugar supply year" means the 12-month period beginning on October 1 of each calendar year with each such year being designated by the year in which the beginning date occurs.

(8) The term "supply year quarter" means any of the 3-month periods beginning on October 1, January 1, April 1, or July 1 of any sugar supply year.

SEC. 202. PRICE OBJECTIVE AND AVERAGE DAILY PRICES.

(a) PRICE OBJECTIVE.—(1) The price objective for each sugar supply year beginning after September 30, 1978, is 15 cents per pound, raw value.

(b) AVERAGE DAILY PRICES.—(1) The Secretary shall determine on a continuing basis the average daily price for United States raw sugar imports and shall monitor the prices of sugar and sugar-containing products in the import trade of the United States.

(2) The Secretary shall publish the determinations made under paragraph (1) in the Federal Register on such periodic basis as he deems appropriate.

SEC. 203. SECRETARIAL RECOMMENDATIONS REGARDING SPECIAL IMPORT DUTIES BACKUP QUOTAS.

(a) SPECIAL IMPORT DUTIES.—(1) Not later than 30 days before the beginning of each sugar supply year which commences after September 30, 1979, the Secretary shall—

(A) on the basis of best available information, estimate whether the average daily price for United States raw sugar imports during such sugar supply year will be below the price objective; and

(B) if the estimation under subparagraph (A) is in the affirmative, recommend to the President that he impose such special import duties on the entry of such sugar (including, but not limited to, refined sugar) and, if appropriate, such sugar-containing products as the Secretary determines to be necessary to assure that the average daily price for United States raw sugar imports will result in the price objective for such sugar supply year being achieved.

(2) With respect to the 1978 sugar supply year, the Secretary shall make the estimation described in paragraph (1)(A) and, if applicable, the recommendations described in paragraph (1)(B) not later than 30 days after the date of the enactment of this Act.

(b) BACK-UP QUOTAS.—Whenever the Secretary has reason to believe that the special import duties imposed on the entry of any sugar or sugar-containing product on the basis of any recommendation made by him under subsection (a), and adjusted pursuant to subsection (c), are not resulting in the price objective for the sugar supply year being achieved, the Secretary shall recommend to the President, as a further adjustment under subsection (c), that he impose in addition to such special import duties, such quotas, on a supply year quarter basis, on the articles concerned as the Secretary determines to be necessary to achieve such price objective. Any such quota in effect during the last supply year quarter of any sugar supply year may be recommended by the Secretary, at the time his recommendations for the next sugar supply year are made under subsection (a), for continuation during the first supply year quarter of such next year.

(c) REVIEW AND ADJUSTMENTS OF DUTIES AND QUOTAS.—The Secretary shall review, on a supply year quarter basis, the effect of all special import duties and quotas imposed as a result of recommendations made by him under subsections (a) and (b). On the basis of such review, the Secretary may recommend to the President such adjustments with respect to the amount of any such duty or quota, or with respect to sugar or sugar-containing products to which any such duty or quota should be extended or removed, as the Secretary determines to be necessary to achieve the price objective for the sugar supply year concerned. The Secretary shall submit a report to the President containing the results of each review conducted under this subsection, together with any adjustment recommendation the Secretary deems appropriate, not later than the 60th day after the beginning of the supply year quarter for which the review is made.

(d) PUBLICATION OF RECOMMENDATIONS AND REPORTS.—Each recommendation made by the Secretary to the President under subsection (a) or (b), and each report prepared under subsection (c), shall be promptly published by the Secretary in the Federal Register.

SEC. 204. IMPOSITION BY PRESIDENT OF SPECIAL IMPORT DUTIES AND BACK-UP QUOTAS.

(a) IN GENERAL.—Upon receiving any recommendation of the Secretary under section 203 (a), (b), or (c), the President shall promptly proclaim, under the authority of the headnotes to subpart A of part 10 of schedule 1 of the TSUS and subject to subsections (b) and (c), such special import duties or quotas, as the case may be, with respect to such sugar and sugar-containing products as the President deems necessary to achieve the price objective for the sugar supply year concerned.

(b) SPECIAL PROVISIONS RELATING TO PROCLAMATIONS.—(1) Any proclamation issued by the President on the basis of any recommendation made by the Secretary under section 203(a) regarding sugar with respect to the 1978 sugar supply year shall apply with respect to articles entered on or after the date of such proclamation.

(2) Except as provided in subsection (c)(3)—

(A) any special import duty imposed by the President on the basis of any recommendation made by the Secretary under section 203(a) with respect to any sugar supply year after September 30, 1979, shall be proclaimed by the President not less than 30 days before the beginning of the sugar supply year in which such special import duties apply; and

(B) any quota imposed by the President on the basis of any recommendation made by the Secretary under section 203(b), and any adjustment made by the President to any special import duty or quota on the basis of any recommendation made by the Secretary under section 203(c), shall be proclaimed by the President not less than 30 days before the beginning of the supply year quarter in which such quota or adjustment, as the case may be, first takes effect.

(c) SPECIAL RULES FOR SUGAR-CONTAINING PRODUCTS.—(1) If any recommendation is made by the Secretary under section 203 (a) or (c) with respect to the initial imposition of any special import duty on any sugar-containing product and the President has reason to believe that such product will adversely affect, or is adversely affecting, the achievement of the price objective during the sugar supply year concerned, the President may not impose any special import duty on the sugar content of such product before—

(A) requesting the United States International Trade Commission to undertake an investigation to determine whether, and to what extent, the entry of such product is adversely affecting the achievement of the price objective; and

(B) taking into consideration the results of such investigation.

The United States International Trade Commission shall submit to the President a report on any investigation requested by him under this subsection within 60 days after the date of such request.

(2) After the initial imposition of any special import duty on any sugar-containing product, no further investigation under paragraph (1) is required with respect to the adjustment of that duty pursuant to section 203(c), the imposition of a quota on the product concerned pursuant to section 203(b), or the adjustment of that quota pursuant to section 203(c).

(3) To the extent that the investigation requirements under paragraph (1) result in the President being unable to meet the applicable requirements under subsection (b)(2) regarding the proclamation of special import duties with respect to sugar-containing products for any sugar supply year or supply year quarter, as the case may be; the President may proclaim such duty within the applicable 30-day period referred to in subsection (b)(2) or on or after the beginning of the sugar supply year or supply year quarter concerned. Any such proclamation shall apply with respect to articles entered on or after the date of such proclamation.

(d) QUOTA AUCTION AUTHORITY.—If the President imposes any quota on any sugar or sugar-containing product as a result of any recommendation made by the Secretary under section 203 (b) or (c), the President may allocate articles entered under such quota by auction of the right of entry under such regulations as he shall prescribe. Any revenue received pursuant to any such auction shall be covered into the Treasury of the United States as miscellaneous receipts.

SEC. 205. PROHIBITED ACTS.

(a) CERTAIN IMPORTS AND EXPORTS.—No person may—

(1) bring or import into the Virgin Islands in any sugar supply year, for consumption in such Islands, any sugar in excess of one hundred pounds if such sugar was produced from sugarcane or sugar beets grown outside the United States; or

(2) export to any foreign country any sugar entered under any quota proclaimed under headnote 2 to subpart A of part 10 of schedule 1 of the TSUS.

(b) CIVIL PENALTY.—Any person who knowingly violates, knowingly attempts to violate, or knowingly participates or aids in the violation of subsection (a) shall forfeit to the United States the sum equal to three times the market value at the time of the commission of any such act, of that quantity of sugar involved in the violation, which forfeiture shall be recoverable in a civil suit brought in the name of the United States.

SEC. 206. EXEMPT ARTICLES OF SUGAR.

This title does not apply with respect to any sugar or sugar-containing product—

(1) of any aggregate value not exceeding $25 in any one shipment, if entered as samples for the taking of orders, for the personal use of the importer, or for research; or

(2) entered for the production of alcohol, including any polyhydric alcohol, other than any alcohol or resulting byproduct for human food consumption.

SEC. 207. CERTAIN EXPORTATIONS OF SUGAR.

Any sugar entered under an applicable bond, established pursuant to orders or regulations issued by the Secretary, for the express purpose of the subsequent exportation of an equivalent quantity of sugar as such, or in manufactured articles, shall not be charged against any quota proclaimed under headnote 2 to subpart A of part 10 of schedule 1 of the TSUS. Any exportation within the meaning of sections 309 and 313 of the Tariff Act of 1930 shall be treated as an exportation for the purposes of this section.

SEC. 208. SUSPENSION OF TITLE.

If the President finds that a national economic or other emergency exists with respect to sugar, the President may by proclamation suspend the operation of this title, and headnote 2(b) to subpart A of part 10 of schedule 1 of the TSUS to the extent that it applies with respect to this title, until such time as the President finds and proclaims that such emergency no longer exists. The Secretary shall make such investigations, and prepare such reports, as the President may require for purposes of carrying out this section.

SEC. 209. REGULATIONS.

The Secretary shall issue such rules and regulations as he determines to be necessary or appropriate to carry out his functions and duties under sections 201 through 208.

SEC. 210. AMENDMENTS TO TSUS.

The headnotes to subpart A of part 10 of schedule 1 of the TSUS are amended—

(1) by amending headnote 1 to read as follows:

"1. For the purposes of this subpart—

"(i) the term 'degree', as used in the 'Rates of Duty' columns of this subpart, means sugar degree as determined by polariscopic test;

"(ii) the term 'total sugars' means the sum of the sucrose and reducing or invert sugars contained in any grade or type of sugars, sirups, and molasses; and

"(iii) the term 'raw value' means the equivalent of such articles in terms of ordinary commercial raw sugar testing 96 degrees by the polariscope as determined in accordance with regulations issued by the Secretary of the Treasury. The principal grades and types of sugar shall be translated into terms of raw value in the following manner:

"(A) For sugar described in item 155.20, by multiplying the number of pounds thereof by the greater of 0.93, or 1.07 less 0.0175 for each degree of polarization under 100 degrees (and fractions of a degree in proportion).

"(B) For sugar described in item 155.30, by multiplying the number of pounds of the total sugars thereof by 1.07.

"(C) The Secretary of the Treasury shall establish methods for translating sugar into terms of raw value for any special grade or type of sugar for which he determines that the raw value cannot be measured adequately under the above provisions.";

(2) by amending headnote 2 by inserting "(a)" immediately after "2.", and by adding at the end thereof the following:

"(b) In addition to the authority of the President under section 201 of the Trade Expansion Act of 1962 (19 U.S.C. 1821) to proclaim modifications of the rates of duty and quotas on imports of sugars, sirups, and molasses provided for in items 155.20 and 155.30 the President shall, subject to the conditions and requirements of (a)(i) and for purposes of carrying out, and subject to, title II of the International Sugar Stabilization Act of 1978, proclaim—

"(1) special import duties (not to exceed 15 cents per pound, raw value) on—

"(A) imports of any such sugars, sirups, and molasses, or

"(B) the content of any such sugars, sirups, and molasses in imported products containing such sugars, sirups, and molasses; and

"(ii) quotas on the sugar, sirup, and molasses content of imported products described in (i)(B).

Any special import duty proclaimed under this subdivision on the entry of any article shall be in addition to any other duty imposed by law on such entry, and may not be made the subject of any preferential concession under any law or international obligation of the United States."; and

(3) by amending headnote 3 by striking out "For purposes of this headnote," and all that follows thereafter.

Mr. VANIK (during the reading). Mr. Chairman, I ask unanimous consent that the amendment recommended by the Committee on Ways and Means be considered as read and printed in the RECORD. I think every member of the committee is aware of the language of the amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. VANIK. Mr. Chairman, I urge the House to support the Ways and Means Committee version of title II.

The Ways and Means substitute seeks to insure the continued survival of the domestic sugar industry during the current period of distressed world prices by establishing a price objective of 15 cents per pound raw value for sugar beginning sugar supply year 1978 (which started Sunday) through sugar supply year 1982. The requirement that imported sugar, which constitutes roughly half of U.S. supplies, be entered at least at this price will enable domestic producers to obtain roughly the same 15 cents for U.S.-grown sugars.

Our substitute obtains the 15-cent price objective through the imposition of special import duties to insure that over the sugar supply year, on the average, the price of imported sugar achieves the price objective. If the special import duties and adjustments to them fail to result in imported sugar entering at the price objective, the President may proclaim quotas on sugar designed to achieve the price objective and may allocate quota import rights by auction, the proceeds of such auctions to go to the Treasury.

Under the Ways and Means amendment, the price objective remains stable at 15 cents. Unlike the Agriculture Committee bill, the price objective does not escalate. The Ways and Means Committee language very clearly does not legislate any new direct payments authority. Rather, it relies on existing 1949 law and commitment from the USDA to make direct payments to processors/producers to reflect any changes in the cost of production of sugar above the 15-cent price objective level. Changes in the cost of production shall be calculated by the USDA in the same manner as for other crops under the 1977 Food and Agriculture Act.

Our proposal over 5 years will provide producers a return on land and management above costs of $955 million compared to the $2.9 billion in increased profits provided by the Agriculture Committee bill. The increased cost to consumers and users over the 5 years under the Ways and Means Committee substitute will be almost half a billion compared to nearly $4 billion under the agriculture bill. Of course, a lot of this will be recovered to the Treasury through increased tariffs on sugar. Thus, the net cost to users and taxpayers is only $200 million under our substitute and nearly $2 billion under the agriculture bill.

Support of the Ways and Means bill is a clear opportunity for the House to take a stand against building further inflation into our economy.

At the same time, our bill provides nearly $1 billion more to producers/processors over the next 5 years than they would be receiving under present law. Our 15 cent-price objective is more than adequate. As the Chief Economist of the USDA testified:

(15 to 15.2 cents per pound) implicitly assumes that everybody just recently bought their land and paid a high interest on it, or alternatively stated, it is valuing land at its current price times the interest rate that the Federal Land Bank charged in the year of concern.

The Department estimates that a 15 cent level will provide a rate of return on land of 7 or 8 percent in addition to a return on management costs. This is pure profit to those many producers who have owned their land for generations.

Fifteen cents is roughly the average cost of production, which means that more than half the producers will be guaranteed a profit under our bill; we do not see the need or justification for providing profits to those who are the less efficient, high-cost producers.

I would note that the sugar industry is a cyclical one. There are fat years and lean years. Three and four years ago, when sugar prices were around 60 cents, the consumer received no protection from high prices, and the industry made some $2.5 billion in profits in 2 years. The Hawaiian growers alone made $430 million in 1 year. In a single year, many producers recovered their entire equity commitment. Now the industry is on hard times and profits are low or there are even losses. They want the taxpayer to guarantee them a return. But prices will go up again—perhaps as soon as 3 years from now. Who will guarantee the consumer protection then? Why should we be guaranteeing this industry profits above the average cost of production and above changes in the cost of production when the consumer is never protected against high prices?

Finally, I just want to say that the food inflation that would be caused by the Agriculture Committee's version of title II would be so serious that the bill would have to be vetoed. If Members really want a sugar bill and protection against world sugar prices of 7.5 cents per pound, they will support the Ways and Means version as the only version which has a chance of being signed into law. I quote from a recent letter to the Speaker from President Carter:

The pricing provisions in the Agriculture Committee bill are highly inflationary. Ac-

cording to our analyses, the bill would cost consumers nearly $3.5 billions more over the five-year life of the bill than would the Ways and Means Committee version. This is unacceptable. We are opposed to any change in the sugar pricing provisions from those reported by the Ways and Means Committee. Adoption of a higher or escalating market price objective threatens any sugar legislation this session."

To insure the enactment of a noninflationary sugar bill, I urge the Members to support the 15-cent nonescalator version of this legislation.

AMENDMENT OFFERED BY MR. STEIGER TO THE WAYS AND MEANS COMMITTEE AMENDMENT

Mr. STEIGER. Mr. Chairman, I offer an amendment to the Ways and Means Committee amendment.

The Clerk read as follows:

Amendment offered by Mr. STEIGER to the Ways and Means Committee amendment: Amend the section heading and subsection (a) of section 202, as proposed by the Committee, to read as follows:

SEC. 202. PRICE OBJECTIVES AND AVERAGE DAILY PRICES

(a) PRICE OBJECTIVE—(1) The price objectives for sugar supply years beginning after September 30, 1978, are as follows:

(A) The price objective for the 1978 sugar supply year is 15 cents per pound, raw value.

(B) The price objective for the 1979 sugar supply year is 15 cents per pound, raw value, adjusted by the Secretary to reflect the percentage change between the average cost of production for—

(i) the 1977 and 1978 sugar supply years, and

(ii) the 1976 and 1977 sugar supply years.

(C) The price objective for each of the 1980, 1981, and 1982 sugar supply years shall be the price objective for the sugar supply year immediately preceding each such year, adjusted by the Secretary to reflect the percentage change between the average cost of production for—

(i) the two sugar supply years immediately preceding the sugar supply year for which the adjustment is made; and

(ii) the two sugar supply years immediately preceding the sugar supply year which immediately precedes the sugar supply year for which the adjustment is made.

(2) For purposes of this subsection, the adjusted cost of production for each sugar supply year shall be determined by the Secretary on the basis of such information as the Secretary finds necessary and appropriate for the purpose and shall be limited to the (A) variable cost, (B) machinery ownership cost, and (C) general farm overhead cost, allocated to the crop involved on the basis of the proportion of the value of the total production derived from such crop.

(3) The Secretary shall determine the price objectives under this subsection for each sugar supply year occurring after September 30, 1979, during July of the year in which such sugar supply year begins. The Secretary shall promptly publish each such determination in the Federal Register.

Immediately after subsection (d) of section 204, as proposed by the Committee insert:

(e) RESTRICTIONS ON PRICE SUPPORT AUTHORITY.—During such time as this title has force and effect, except as provided in section 310, the imposition under subsection (a) of special import duties or quotas, as the case may be, with respect to sugar or sugar containing products shall be the exclusive method of achieving the price objective, and shall be in lieu of any statutory or regulatory mechanism established for the purpose of achieving, through direct payments, the price support level for producers and processors of sugar cane and sugar beets, notwithstanding any other provision of law.

Amend paragraph (2) of section 210, as proposed by the Committee, to read:

(2) by amending headnote 2 by inserting "(a)" immediately after "2.", and by adding at the end thereof the following:

"(b) In addition to the authority of the President under section 201 of the Trade Expansion Act of 1962 (19 U.S.C. 1821) to proclaim modifications of the rates of duty and quotas on imports of sugars, sirups, and molasses provided for in items 155.20 and 155.30, the President shall, subject to the conditions and requirements of (a)(1) and for purposes of carrying out, and subject to, title II of the International Sugar Stabilization Act of 1978, proclaim—

"(i) special import duties on—

"(A) imports of any sugars, sirups, and molasses, or

"(B) the content of any such sugars, sirups, and molasses in imported products containing such sugars, sirups, and molasses; and

"(ii) quotas on the sugar, sirup, and molasses content of imported products described in (i)(B),

Any special import duty proclaimed under this subdivision on the entry of any article shall be in addition to any other duty imposed by law on such entry and may not be made the subject of any preferential concession under any law or international obligation of the United States.";

Mr. STEIGER (during the reading). Mr. Chairman, I ask unanimous consent that further reading of the amendments be dispensed with and that it be printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. VANIK. Mr. Chairman, I reserve a point of order against the amendment.

The CHAIRMAN. Does the gentleman from Ohio insist upon his point of order?

POINT OF ORDER

Mr. VANIK. Yes, Mr. Chairman, I insist on my point of order.

The CHAIRMAN. The gentleman from Ohio is recognized in support of his point of order.

Mr. VANIK. Mr. Chairman, I oppose consideration of the amendment offered by Mr. STEIGER since it is clearly nongermane to the substitute and title II before us.

The annotations to the rules of the House state that "restrictions, qualifications, and limitations sought to be added by way of amendment must be germane to the provisions of the bill," (cite: rule XVI(7), § 800, p. 539) and further, that "the burden of proof is on the proponent of an amendment to establish its germaneness," (cite: rule XVI(7), § 794, p. 528) and where an amendment is equally susceptible to more than one interpretation, one of which will render it not germane, the Chair will rule it out of order. (June 20, 1975.)

Mr. STEIGER's amendment effectively prohibits the operation of existing law—law which is not repealed, not amended, and not even cited in the substitute before us.

For these reasons, I ask that Mr. STEIGER's amendment be ruled nongermane to this substitute and title II.

The CHAIRMAN. Does the gentleman from Wisconsin (Mr. STEIGER) desire to be heard on his point of order?

Mr. STEIGER. Yes, I do, Mr. Chairman.

The CHAIRMAN. The gentleman from Wisconsin is recognized.

Mr. STEIGER. Mr. Chairman, the Members will notice that the provision has been very carefully drawn so that it is an exclusive remedy. It says, if I may direct the attention of the Chair to page 2, the following:

During such time as this title has force and effect . . . the imposition under subsection (a) of special import duties or quotas with respect to sugar or sugar-containing products shall be the exclusive method of achieving the price objective and shall be in lieu of any statutory or regulatory mechanism established otherwise, notwithstanding any other provision of law.

I would further, Mr. Chairman, direct attention to page 15 of the committee report of the Committee on Ways and Means. The Members will note on page 15 of that committee report that the Committee on Ways and Means says the following:

The Department of Agriculture has pledged to the Committee that direct payments will be made under the 1949 Agricultural Act to guarantee processors/producers protection against any increases in the cost of production, as calculated under the 1977 Food and Agriculture Act, above the 15-cent price objective level.[4] It is the committee's understanding and intent that direct payments will *not* be used to bring the price of sugar up to the 15-cent level; rather, the special import duties and quotas will be used to obtain the 15-cent figure.

I think, Mr. Chairman, it is fairly clear that the original Committee on Ways and Means bill dealt with this issue and that the language prepared in my amendment is, in fact, germane and consonant with the purposes and objectives of title II and amends exclusively title II as a way of achieving the goal.

Mr. VANIK. Mr. Chairman, on my point of order I specifically complain about the item that is included in the amendment offered by the gentleman from Wisconsin (Mr. STEIGER), subsection (e) on page 2. I want to read the summary of H.R. 17350 in the report of the Committee on Ways and Means on page 11 in the third paragraph, second sentence:

The Ways and Means Committee bill very clearly does not legislate any new direct payments authority; rather, it relies on existing law and commitment from the USDA[2] to make direct payments to processors * * *

I contend that the amendment offered by my distinguished colleague, the gentleman from Wisconsin (Mr. STEIGER), is subject to a point of order on this point.

The CHAIRMAN (Mr. DAN DANIEL). The Chair is prepared to rule.

The Ways and Means Committee amendment very clearly does not legislate any new direct support payments authority, a matter not within that committee's jurisdiction; rather, as stated on page 11 of their report, it is intended to rely on existing law and commitment from the U.S. Department of Agriculture to make direct payments to processors/producers to reflect any changes in the

cost of production of sugar above the 15-cent price objective level.

The language on page 15 of the report cited by the gentleman from Wisconsin is not in the amendment but simply states an intent, and the Chair, therefore, hold the amendment not germane to the amendment recommended by the Committee on Ways and Means and sustains the point of order.

AMENDMENT OFFERED BY MR. STEIGER TO THE WAYS AND MEANS COMMITTEE AMENDMENT

Mr. STEIGER. Mr. Chairman, I offer an amendment to the Ways and Means Committee amendment.

The Clerk read as follows:

Amendment offered by Mr. STEIGER to the Ways and Means Committee amendment:

Amend the section heading and subsection (a) of section 202, as proposed by the Committee, to read as follows:

SEC. 202. PRICE OBJECTIVES AND AVERAGE DAILY PRICES

(a) PRICE OBJECTIVES—(1) The price objectives for sugar supply years beginning after September 30, 1978, are as follows:

(A) The price objective for the 1978 sugar supply year is 15 cents per pound, raw value.

(B) The price objective for the 1979 sugar supply year is 15 cents per pound, raw value, adjusted by the Secretary to reflect the percentage change between the average cost of production for—

(i) the 1977 and 1978 sugar supply years, and

(ii) the 1976 and 1977 sugar supply years.

(C) The price objective for each of the 1980, 1981, and 1982 sugar supply years shall be the price objective for the sugar supply year immediately preceding each such year, adjusted by the Secretary to reflect the percentage change between the average cost of production for—

(i) the two sugar supply years immediately preceding the sugar supply year for which the adjustment is made; and

(ii) the two sugar supply years immediately preceding the sugar supply year which immediately precedes the sugar supply year for which the adjustment is made.

(2) For purposes of this subsection, the adjusted cost of production for each sugar supply year shall be determined by the Secretary on the basis of such information as the Secretary finds necessary and appropriate for the purpose, and shall be limited to the (A) variable cost, (B) machinery ownership cost, and (C) general farm overhead cost, allocated to the crop involved on the basis of the proportion of the value of the total production derived from such crop.

(3) The Secretary shall determine the price objectives under this subsection for each sugar supply year occurring after September 30, 1979, during July of the year in which such sugar supply year begins. The Secretary shall promptly publish each such determination in the Federal Register.

Mr. STEIGER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. STEIGER. Mr. Chairman, the amendment that is now before us, for the Members who have copies of the Steiger amendment, is all of the amendment minus that provision relating to prohibiting direct payments. What we are dealing with in this section is the question as to whether or not there ought to be a modest cost of production adjustment above the 15-cent level proposed in the Committee on Ways and Means version. It is my considered judgment that in fact, given the labor provisions, given the knowledge that we have as to what is happening in inflationary pressures across the country and around the world, it is important for us to keep in mind two fundamental facts: One, if we fail to provide the escalator and the marketplace objective as the sole basis on which we make the decision, we are in fact asking for there to be payments from the Treasury. That is the clear intent of the Ways and Means Committee version. That is the clear understanding of what is involved.

I do not believe in the concept of direct payments to sugar processors.

Second, when we have the kind of situation that we have in sugar, in my judgment, it is sensible for us to use the market as the basis on which the allocations are to be made and, therefore, I offer this modest cost-of-production escalator to the Ways and Means Committee version because I believe that is a preferable route for us to take rather than setting a high price, rather than the quota system adopted by the Committee on Agriculture. To be fair, I suspect there are no easy choices in any of this for us, but I think it is fairly safe to say that the fight that will take place here is one between those who believe that we ought to use governmental payments as a way to hold down price to the end user, even though it can contribute just as much to inflation, if not more, as compared to those who believe we ought to use the market to be determinant—whether or not you believe it is appropriate for us to continue to use a system that will enable sugar producers to have at least a fair shot at competing and producing sugar domestically in the United States.

While I think the other system will make it difficult for them to do that and will not, it seems to me, end up saving the consumer 1 red cent; so I believe in the escalator provision as a modest effort to reach an agreement between the two versions.

I hope it will be adopted.

Mr. FOLEY. Mr. Chairman, will the gentleman yield?

Mr. STEIGER. I yield to the gentleman from Washington.

Mr. FOLEY. Mr. Chairman, I thank the gentleman from Wisconsin and want to compliment him for this amendment. Although I wish the gentleman had also found it possible to slightly increase the price objectives, his recognition of the need for a production cost adjustment, I think, reflects his typical fairness and objectivity in considering legislation on the floor.

I would, however, like to make one small addition to the gentleman's comments. As I am sure he would agree, the term "escalator", which we sometimes use as a shorthand term, is more properly a production cost adjustment factor. Under the circumstances, it is perfectly possible that the adjustment might result in either a downward or an upward pressure in terms of price, depending on the situation. Is that not correct?

Mr. Chairman, I commend the gentleman and urge our colleagues and others present to vote in support of his amendment.

Mr. STEIGER. Mr. Chairman, the gentleman from Washington is absolutely correct. The use of the word "escalator" is a bad one and ought not to be used. It is a cost adjustment to reflect what happens in the real world.

Mr. FOLEY. Mr. Chairman, if the gentleman will yield further, before I have to answer a member of the committee suggesting, "Has that ever happened?" I will hasten to say, yes, it has happened this year with respect to the production cost of wheat.

Mr. STEIGER. The gentleman is correct and I am grateful for his support.

Mr. Chairman, I yield to the gentleman from Louisiana (Mr. MOORE).

Mr. MOORE. Mr. Chairman, I have studied the amendment and find it interesting and an amendment that I would like to support.

In looking at the amendment, I would like to ask the gentleman to consider a question as to how the amendment would work. Should the Secretary of Agriculture determine the adjusted cost of production should go up or should go down by 5 percent, is it the gentleman's intent that the price objective also in his amendment would go up?

The CHAIRMAN. The time of the gentleman from Wisconsin has expired.

(At the request of Mr. MOORE, and by unanimous consent, Mr. STEIGER was allowed to proceed for 2 additional minutes.)

Mr. MOORE. Mr. Chairman, if the gentleman will yield further, is it the gentleman's intent in his amendment that the price objective, which in his amendment is stated at 15 cents, would likewise go up or down by the same percentage as found by the Secretary, if the adjusted cost of production went up or down?

Mr. STEIGER. The answer is yes. If you look at how you are working it and you consider what it refers to, you understand that. The language of the amendment reflects a change, because we are saying that the price objective is 15 cents per pound raw value, adjusted by the Secretary to reflect the percentage change between the average cost of production for—and the amendment goes on. That is the difference between the present circumstance.

What we need to do is look at what would happen under the current practice, which is a cent increase, where if you went from 8 to 8.3, a 0.3 of a cent increase, the same would happen to the cost of production price objective, 15 to 15.3.

What is being proposed in this amendment is a percentage increase, so that if it is a 3.7-percent increase, by going from 8 to 8.3, and; in other words, by looking at the 1978 price objective of 15 cents to be projected in 1979 at that same 3.7-percent increase at 15.55.

Mr. MOORE. Mr. Chairman, if the gentleman will yield further, I would like to ask concerning the amendment,

the amendment does not spell out that the Secretary shall determine or shall find as a cost of production the cost of the processing of beet sugar or cane sugar or corn sweeteners. Is it the intent of the gentleman to use this percentage, rather than actual cents, as it is done in other escalators of this type in existing law, that this is done to, in fact, recognize the undesignated production cost?

Mr. STEIGER. It says that the price objective is to be adjusted by the percentage change, rather than an absolute change in the designated cost items. But processing costs as well as certain other production costs are not included in the designated cost items. I recognize, however, that there is a close relationship, in the case of sugar, between production and processing activities.

Mr. VANIK. Mr. Chairman, I rise in opposition to the amendment offered by our distinguished colleague, the gentleman from Wisconsin (Mr. STEIGER), the ranking minority member of our Subcommittee on Trade.

The gentleman's amendment is simply inefficient and wastes hundreds of millions of dollars needlessly. It is inflationary: It is projected to drive sugar up to 19.1 cents by 1982; it will cost user/consumers an extra $2 billion.

The goal of the gentleman's amendment is to protect producers against increased costs of production through a formula which drives up the price of imported sugar, thus allowing the price of domestic sugar to move up to the imported price level.

The problem is, we import half of our sugar consumption: to increase the price of imported sugar in order to increase the price domestic growers receive, is only 50 percent effective. For every extra dollar the consumer will spend on sugar under the gentleman's proposal, 50 cents will not benefit the producer he is seeking to help. A 50-percent cost-benefit ratio is pretty poor.

As the administration has noted, "a 1-cent increase in the cost of producing sugar in the United States can be offset by about $125 million in payments from taxpayers to sugar producers and processors"—and the direct payments method is the method relied on in the Ways and Means bill.

But to increase producer returns by $125 million through an increase of one-cent-a-pound in the market price for sweeteners costs users and consumers $315 to $325 million, because the market price rises for all sweeteners consumed in the United States, including imported sugar.

Providing income support to some 13,000 sugar growers can be done much more efficiently than by increasing the price of sugar and sweeteners to 216 million consumers—a more efficient means is direct compensation.

Under the 5 years of this new sugar program, it is estimated that the gentleman's escalator formula will increase the price of sugar to a level of about 19.1 cents—which the USDA estimates will be about 1.6 cents above the price of imported sugar in 5 years and 1.2 cents above the direct payment or established price in 5 years. This 1.6 cents difference will mean an extra $500 million in annual consumer food costs and inflation by the end of this sugar program.

Under the ISA, it is already expected that sugar prices will increase; a further escalator is not needed.

For reasons of efficiency and for anti-inflation reasons, I oppose the escalator amendment.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, will the gentleman yield?

Mr. VANIK. I am happy to yield to my distinguished colleague, the gentleman from Pennsylvania.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, the Subcommittee on Economic Stabilization of the Banking Committee, of which I am chairman, has as part of its job an examination of the inflation problem in all of its many aspects. While most elements of this problem are controversial, there is no serious dispute on one point: Namely, that a part of the rise in prices is directly due to actions by the Federal Government itself. Each of these actions has a reason, of course, but the net result of all of them is to make our inflation problem worse.

The bill before us today is a perfect example of that problem. The price of sugar is going to be fixed by the Government in one way or another, and I concede that in the present world situation of vast oversupply there is really no alternative to a Government program. But we have a straightforward choice between a moderate and fairly stable price for sugar—in the Ways and Means Committee amendments—and a high and escalating price for sugar in the Agriculture Committee amendments. What we do today will directly and measurably affect the rate of inflation next year and the following years.

A vote for the Ways and Means bill does not mean disaster for sugar producers. They will be protected by Government cash payments as needed to keep their incomes in line with rising costs of production, without forcing consumers to pay higher costs for not only domestic but imported sugar, as the Agriculture Committee bill would do.

I would like to make one final point that has not been much emphasized in this debate, involving the International Sugar Agreement. If Congress should approve the Agriculture Committee version of this legislation—and if by some miracle the President allowed it to become law—U.S. membership in the Sugar Agreement would become impossible for all practical purposes, and without U.S. membership the agreement would almost certainly collapse. For the moment, that would not mean very much to us, either as producers or consumers. But in the longer run, it might make a lot of difference because the International Sugar Agreement promises to provide us a kind of insurance against another episode of world shortages, and prices of 60 cents a pound or more, such as occurred earlier in this decade. Remember that the United States, by Government programs, can insulate itself against low world prices but, because we import about half of what we consume, we cannot insulate ourselves against high world prices. No one can be certain that the new international agreement will work as planned, but its provisions for building up stocks in the exporting countries now while prices are low should give us some sort of assurance of adequate supply later when prices threaten to shoot up.

Mr. Chairman, we simply can no longer neglect the inflation problem, as we used to do, when we pass bills here in Congress that affect costs or prices. If the price of sugar goes up because we choose the more inflationary version of this legislation, we will have no one to blame but ourselves.

Mr. VANIK. Mr. Chairman, I want to thank the gentleman from Pennsylvania (Mr. MOORHEAD) the chairman of the Subcommittee on Economic Stabilization.

I would like to ask this question of the gentleman: I assume the gentleman would oppose the Steiger amendment, which has the effect of destroying the purposes that are set forth in the proposal of the Committee on Ways and Means and would cost the consumer and user $1.7 billion.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, if the gentleman will yield, I do oppose it, and I submit that the proposal of the Committee on Ways and Means is the soundest one from the standpoint of inflation.

Mr. VANIK. Mr. Chairman, I thank the distinguished gentleman from Pennsylvania.

Mr. FINDLEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I assume that many members of this committee received in the mail a handwritten message from the President of the United States yesterday in regard to the inflationary impact of the public works bill.

I did not receive one, but I presume that most of my colleagues did. I would like to read from a copy of that message, as it appeared in today's Washington Post. It said:

To Members of Congress.

The Producers Price Index for finished goods rose 0.9% in September (an annual rate of 11.4%).

I urge you to help me control inflation and to set an example of leadership for the nation by supporting my veto of the public works bill.

Mr. Speaker, I was impressed by the comment the gentleman from Ohio (Mr. VANIK) made just now about the inflationary impact of the amendment offered by the gentleman from Wisconsin which would seem to me to reach far beyond the inflationary impact of the public works bill which was subject to the veto and override question as of yesterday.

Now, I am sure the gentleman from Ohio, being the author of the Ways and Means substitute, has had close communication with the White House, and I would like to have his assurance that the President will veto the sugar bill if it comes to his desk with this inflationary amendment attached to it. Could the gentleman enlighten us on the attitude of the White House as to the reaction of the President to this escalator amendment offered by the gentleman from Wisconsin (Mr. STEIGER)?

Mr. VANIK. Mr. Chairman, if the gentleman will yield, I would like to quote

from the letter of the President to the Speaker, on Oct. 2, 1978, in which he says:

The pricing provisions in the Agriculture Committee bill are highly inflationary. According to our analyses, the bill would cost consumers nearly $3.5 billion more over the five-year life of the bill than would the Ways and Means Committee version. This is unacceptable. We are opposed to any change in the sugar pricing provisions from those reported by the Ways and Means Committee. Adoption of a higher or escalating market price objective threatens any sugar legislation this session.

I think what is implied in the statement is the threat of a veto.

Mr. FINDLEY. So we could proceed on the assumption of a Presidential veto if this amendment is accepted and reaches the President's desk?

Mr. VANIK. If the gentleman will yield further, I have also a letter from Secretary Bergland to the committee and, in talking about the escalating market price objective that would be achieved through the agricultural bill, he says:

I am convinced that the President's advisers would unanimously recommend that he veto a measure with pricing provisions higher than those reported by the Ways and Means Committee.

Mr. FINDLEY. I thank the gentleman for that clarification.

Mrs. FENWICK. Mr. Chairman, will the gentleman yield?

Mr. FINDLEY. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. I thank the gentleman for yielding. I will be very brief. I hope this is not inappropriate, but I would like to talk for the consumers, about the impact of inflation upon them.

One man wrote me as follows:

I am not a wealthy man. I have not taken a week's vacation in over 4 years. . . .

My reason for writing is inflation and taxes. Last year, August 1977, I had $2,200 in my savings account. This month the passbook shows $485. For the first time in my life I have had to take money out of the bank to live.

This is how these programs are paid for—in the lives of people like this man who wrote me this letter today.

Mr. FINDLEY. Mr. Chairman, I might say, in clarification, that the gentlewoman might wish to use this in responding to her constituent: The Ways and Means bill before us would raise the price of sugar. The effect of the Steiger amendment would be to raise it still higher. The effect of the Agriculture Committee version would raise it still higher. The only way we can avoid legislating higher sugar prices is to reject this legislation in its entirety in any form today.

Mrs. FENWICK. Mr. Chairman, I thank my colleague, and I expect to follow his suggestion.

Mr. JOHNSON of Colorado. Mr. Chairman, will the gentleman yield?

Mr. FINDLEY. I yield to the gentleman from Colorado.

Mr. JOHNSON of Colorado. I thank the gentleman for yielding.

Mr. Chairman, if the gentleman's proposal is to be accepted, and if all of the rhetoric about inflation, which I reject, is accepted by this body, would not the gentleman acknowledge that a large percentage of sugar producers in the United States would have to go out of business?

Mr. FINDLEY. I think there would be some processing plants in trouble, but producers have choices for land use. They do not have to plant sugar beets. They can plant other things. And I think it is a mistake for us to have government policy which locks producers into a particular commodity.

Mr. JOHNSON of Colorado. My point is that the sugar producers would have to shift to other commodities, in all probability, a large number of them; there is not any question of that.

Mr. FINDLEY. I think that is a fair assessment, and that is the way our marketplace should function.

Mr. JOHNSON of Colorado. And then the gentleman is perfectly willing to become reliant on foreign sugar? That is the upshot of the gentleman's position.

Mr. FINDLEY. I believe in the comparative advantage of trade, that we ought to produce what we can do most efficiently and buy from abroad what we cannot.

Mr. JOHNSON of Colorado. Will not the gentleman acknowledge, if his position is followed, that we will become totally dependent upon foreign sugar?

Mr. FINDLEY. No, I do not think the sugar-producing efficiency of our country really has been tested. I have great confidence in the efficiency of the American producer, and given the discipline of the marketplace forces, I think the American farmer can find ways to produce sugar even more cheaply than he has at the present time.

Mr. JOHNSON of Colorado. The gentleman knows that the costs of production are higher than 15 cents? Miles and reams of testimony indicate that.

Mr. FINDLEY. I recall an observation of the late Senator from Illinois, Paul Douglas, who said:

If we put price supports high enough, we can probably grow bananas on Pike's Peak.

Mr. FOLEY. Mr. Chairman, I move to strike the requisite number of words.

I am just going to take a moment, Mr. Chairman, to respond to some of the suggestions of my good friend from Illinois. One of the suggestions he makes is, that it is easy for American sugar producers to go to alternate crops. I think this is much easier said than done, as he appreciates.

We have, of course, the testimony of Secretary Bergland referred to in this debate. Secretary Bergland recently said, "We know it costs about 16 cents a pound to produce American sugar."

We have in the bill reported by the Committee on Agriculture a price objective which is not inflated but a reflection of what it actually costs to produce the sugar.

There has been an enormous amount of concern expressed here about 15- or 16-cent sugar. Memories should be long enough to remember 3 or 4 years back, when the American consumers were spending two and three times as much for sugar as the wildest predictions that this legislation would bring upon us even with Mr. STEIGER's amendment. Why was that happening? It was happening because of world shortage.

It was happening because of a shortage of sugar in the very small so-called "free" world market, which escalated those prices and cost American consumers billions of dollars.

I would be willing to predict that if we take the advice of the gentleman from Illinois and reject this bill in any form today, we will see in a very short time the death of the American sugar industry. And when that happens, I want to at least have had the chance of warning my colleagues that we will be totally vulnerable to imported sugar. We will be totally vulnerable to those wild swings that move the price of sugar from 10 cents to 15 cents, 25 cents, 30 cents, 40 cents, 50 cents, 60 cents a pound, and there will be no domestic production to maintain any stability.

From 1934 until 1974 we had a sugar program a Sugar Act, that maintained stability of our sugar prices to the mutual advantage of sugar producers and consumers. Unfortunately, in 1974 a bill to extend that act failed of passage on the House floor. Very shortly thereafter we felt the impact of a greater rise in the price of sugar than we have experienced in all of our history, even in wartime.

So, what we are asking for today is a reasonable—a reasonable kind of protection in order that a portion of our sugar may continue to come from domestic production. We are not trying to have every single pound of sugar come from domestic production. About half is going to have to be imported. But we want, upon some reasonable basis, to assure the survival of the domestic sugar industry.

The gentleman from Wisconsin (Mr. STEIGER) has offered a compromise between the bill reported by the Committee on Agriculture, which provides for a cost of production adjustment, and the bill reported by the Ways and Means Committee which does not.

I think his is a very reasonable amendment. The gentleman from Wisconsin is known to both sides of the aisle as a reasonable competent and objective legislator. I urge that we adopt the Steiger amendment.

Mr. FINDLEY. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from Iliinois.

Mr. FINDLEY. Mr. Chairman, I am sure the gentleman from Washington, having many farmer constituents himself, realizes that there are farmers and there are farmers; some with efficiency, some lacking in efficiency.

I am sure he would not want to leave the impression that all sugar producers raise sugar at the same cost of production. I am sure he would also recognize that if we should have Government pricing at a level high enough to assure a return for the least efficient then the most efficient is going to have a terrific bonanza.

Mr. FOLEY. I would say to the gentleman, there is a difference in cost of production of sugar in some parts of the country, but when we talk about a 7½ cents price for sugar, there is no place in the world that can produce sugar for 7½ cents. That is below the cost of production in any country I know. It is a totally unreasonable figure and total fol-

ly to expect that we are going to get sugar at anything like that price.

We have a glut of sugar in the world market, and if we were to take the artificially low price which such a glut produces as a basis for determining the price for which Americans should produce sugar, we would be living in a dream world which would become a nightmare world in just a few years.

Mr. DE LA GARZA. Mr. Chairman, I rise in support of the Steiger amendment.

I do so because I appreciate the interest with which the distinguished gentleman and a very distinguished member of the Ways and Means Committee has tried to bring us to a middle ground, as the gentleman from Washington Chairman FOLEY has said, from no price adjustment in one bill to a price adjustment in another. I think this is a statesmanlike approach and I support it.

I would like to clarify some things. Always there are some very ingenious arguments which are brought against this legislation, but there are a couple of points I would like to bring out.

First, when we mention the wholesale price index and that it rises 10 or 11 percent, I would point out the biggest increase in that index, in the last several indexes, has been in diamonds and oil. They are included in the whole thing. But will the Members tell me which housewife goes out and buys a diamond every week? So let us not put that into the index. The wholesale price index has to be put aside because the highest cost increases in that are for diamonds and oil.

Also, we are talking here I guess in the context of the way in which Congress usually speaks—in millions and in billions and how many millions. But I want to bring it down to the context of south Texas, of Mission, Tex. I would point out that 1-penny increase in the price of sugar to the consumer means a 96-cent increase in 1 year. That is what it means. Our colleagues are used to speaking in millions and billions, but I cannot explain that in south Texas. I say it is 96 cents. It is 96 cents in 1 year, and that is what a 1-penny increase in sugar will mean to the consumer. That is what the Department of Agriculture says.

Further, the increases in the food consumption, and this is from the Department of Agriculture on September 25, the prices of all food items, primarily fresh fruits and vegetables, are subject to seasonal changes. Now, listen to this: Actually those food prices constitute only 17.7 percent of the total cost of living.

Even rather significant changes in the prices of one or two food items have a relatively small impact on the total cost of living.

So let us bring it down to what we are speaking about. We are speaking about the cost of living. We are speaking about what it is going to do to the American housewife.

Again I tell the Members, as I did in the debate: We can spend 96 cents in 1 year to help an industry stay alive, or we can spend, that is the average American can spend that amount for one drink at a lounge, or for 1½ packages of cigarettes, or for one milkshake, or for one hamburger, all in one day, and the American sugar producer is asking only that we do it in 1 year for him. That is what it is all about.

Forget the $200 million and the half billion and the millions that are going to be used by the other Members. We cannot escape the fact that it is only 96 cents in 1 year. The average kid spends more than that to go to the movies on Saturday afternoon.

This is an escalator for the price paid to the workers in the sugar industry. It will go up every year. Without an adjustment for the producer you are putting him at a deficit.

I think this is a fair compromise because you are imposing a burden on the producer already for 20 cents an hour every year. Is it not fair that you should give to him a supply adjustment on the cost of production to comply with the provision you are already imposing on the producer?

I think it is a fair compromise. I think it is very statesmanlike of the gentleman from Wisconsin (Mr. STEIGER), a distinguished member of the Committee on Ways and Means, to see the light, and to say that if you impose on the farmer an obligation then give him the leeway to cover that obligation, give him the leeway to pay the worker the extra 20 cents, give him the cost of living increase.

Mr. VANIK. Mr. Chairman, will the gentleman yield?

Mr. DE LA GARZA. I yield to the gentleman from Ohio.

Mr. VANIK. Mr. Chairman, the gentleman from Texas (Mr. DE LA GARZA) knows very well that the Ways and Means Committee bill provides for payment of an increase in labor cost through a direct payment program. The gentleman knows that.

The CHAIRMAN. The time of the gentleman has expired.

Mr. MOORE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, this is a compromise and it is one we ought to support. It is not like the version in the Agriculture Committee's bill. It is not everything that a sugar producer would really like to have, but it is a good compromise.

It is very unfair to tell the sugar producer: You are going to have to increase the wages of everybody who works on your farm every year, and pay them more than any minimum wage law ever enacted by this Congress but your price is not going to go up. That is unfair. That is the way the substitute reads without this amendment.

The gentleman from Wisconsin (Mr. STEIGER) has offered an amendment to help bring that back into the realm of fairness.

Second, what you are doing with the Committee on Ways and Means substitute without this escalator amendment by the gentleman from Wisconsin (Mr. STEIGER is you are going to continue the charade on the taxpayer that long ago we had discovered they know already.

What you are saying is that we are going to keep sugar cheap in the marketplace but then we are going to pay the difference out of the Treasury and somehow or other this is not going to cost you anything, somehow or other Uncle Sam will pay it. But that is wrong and it does not mean that you, the consumer and the taxpayer, will not pay for it. There is a cost. This is simply a ruse, it is a sham on the taxpayers and the consumers.

Actually I submit the Committee on Ways and Means proposal will cost more, not less, than the marketplace approach of the Amendment.

A moment ago the gentleman from Ohio said that the amendment offered by the gentleman from Wisconsin (Mr. STEIGER) would cost about $300 million a year, and that that was more than what his substitute would cost. Let us take a look at that. The substitute is going to cost $129 million per year for every 1 cent of the sugar payment you pay the farmer.

No. 2, it is going to cost $105 million in lost import duties and fees that we will never collect, import fees that we would have collected, if we would have enacted the Steiger amendment.

No. 3, we found last year, through July of 1978, the de la Garza amendment to last year's farm bill, which operates like the Committee on Ways and Means substitute, resulted in the Government having an exposure of $471 million in storage costs and loans. Sure, we are not going to lose all of that, but we will lose about $50 million. So we already have $284 million in costs, but to that you have got to add the costs of the Government in administering this program.

Has any program ever been created by the Federal Government that did not cost something to administer? The administrative cost for the feed grain program last year was $7.2 million for administration only.

We can see a comparable sum in here, so add that to the ante, and then, somehow or other, Uncle Sam has to borrow this money on which he is going to pay interest. He is going to borrow the money to pay the administrators; he is going to borrow the money to pay the storage costs; and he is going to borrow the money for those farmers to whom he is going to lend money. Add all of that up, and we have well over the $300 million the amendment approach is supposed to cost. Taking the arguments of the gentleman from Ohio to be correct, we still have costs of well over $300 million in his substitute. We are trying to fool the taxpayers and giving the farmer, the consumer, the taxpayers one more farm program. They do not want that. They do not want direct payments. They do not want payments out of the Treasury. They want it paid for in the marketplace where it ought to be.

Therefore, Mr. Chairman, I say let us support the Steiger amendment, and let us be honest with the taxpayers and stop trying to fool them.

Mrs. SMITH of Nebraska. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the Steiger amendment.

Mr. Chairman, I rise in support of the substitute offered by the gentleman from Wisconsin (Mr. STEIGER). The escalator clause is an essential part of a sugar program which makes it possible for our producers to stay in business.

The price objective of 16-cents per pound as provided for in title II of the Agricultural Committee bill is barely the cost of production. Many of the producers of sugarbeets in western Nebraska tell me that the 16-cent figure is not adequate enough. They feel it should be 17 cents or higher in order for them to keep producing for the domestic sugar market. I am sure that this is true of other sugar-producing areas as well.

If domestic producers are forced to accept the 15-cent price objective of the substitute offered by the gentleman from Ohio, they would be faced with the situation of losing money on their crop or switching to other crops which might be more profitable but in surplus supply. I will state for the record that they have gone through too many lean years to be faced with the prospect of any more.

The sweetener industry in the United States is able to supply a little over half the sugar needs of American consumers. The rest is imported from traditional suppliers around the world, but chiefly from the Philippines, the Dominican Republic, and Brazil.

There is a market here for every pound that our producers raise. Their production adds billions to the economy. We should not be party to any arrangement which would force them out of business. The less they supply, the greater our dependence on imported sources.

We all know what this dependence means as far as supply and prices are concerned. We are going through it on oil and coffee. We can not do too much about those products, but we can do something about sugar. We can sustain a viable domestic industry which will be able to contribute to an adequate supply and stabilize prices for the consumer.

The realization of the price objective of 16 cents per pound for the 1978 sugar year through a fee and quota system will help us sustain this industry. It will keep our producers in business and get away from Government subsidies, which our producers do not want. The import fees will bring in some $2 billion to the Treasury over the length of the act. Instead of paying out money from the Treasury, the adoption of the fee and quota system will permit us to add some for a change.

The provision to adjust the price objective periodically is important language in the bill. We have accepted the principle if an escalator clause in almost all of our programs which are subject to changing economic conditions and increasing inflationary pressures. We have incorporated the principle in Federal salary schedules, social security benefits, retirement benefits, and so forth. We must provide the same protection for the thousands of farmers who are engaged in the business of helping supply our sugar needs.

It all boils down to the question, "Do we need a domestic sugar industry?" All the evidence supports a resounding "yes" to that question and backs up the need for adopting the Sugar Stabilization Act with the language of title II as incorporated in H.R. 13750, reported by the Agriculture Committee.

This act becomes an insurance policy for American consumers. It means that our domestic sugar industry can keep on producing. It gets us away from the uncertainty of world market conditions which are subject to severe flucuation in both supply and price. It protects our consumers and our producers. The Agriculture Committee's version of the bill is the one we must adopt. I urge my colleagues to vote against the Vanik substitute for title II in that bill and to support the compromise amendment offered by my colleague from Wisconsin (Mr. STEIGER).

Mr. JOHNSON of Colorado. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the Steiger amendment.

Mr. Chairman, I do not intend to take the full 5 minutes. However, there are some points which I think should be made about the situation we will face if the Steiger amendment is not passed.

If the Steiger amendment is not passed, Mr. Chairman, we will be mandating 15-cent-a-pound sugar, with the subsidy feature which the administration is already indicating they do not want to utilize.

There has been no computation on the part of the Committee on Ways and Means or the administration or any other person who has talked about the costs which are involved with the 16-cent sugar and an escalator clause.

The people who have been talking about the inflationary aspects of an escalator clause or of the Committee on Agriculture version have never given figures as to what it is going to cost if we do not have an escalator and if we do not have the Agriculture Committee version. Nobody has bothered to tell us what is going to be the cost of unemployment when people are placed out of work as a result of sugar producers and sugar processors going out of the sugar business. Nobody has computed what the loss of revenue is going to be. Nobody has computed what the costs are going to be when farmers shift to other commodities. We pay people not to grow other commodities. We make deficiency payments so that if they shift into other kinds of commodities where we do have a deficiency payment program, there will be payment out of the Treasury which will be going to farmers who were formerly growing sugar. Nobody has computed what the cost of that is going to be.

Mr. Chairman, the figures which have been given about the inflationary nature of the escalator clause and of 16-cent sugar are totally without value.

We do know this, Mr. Chairman, that the chief economist of the Agriculture Department testified before the International Trade Commission earlier this year. He said at 17.4 cents, 30 percent of the sugar producers in the United States will go broke because it costs them more to produce.

Mr. Chairman, it costs 30 percent of the producers in the United States more than 17.4 cents to produce sugar. We cannot really expect people to produce a product for less than it costs them. That is what the Committee on Ways and Means wants to do.

They are mandating increased costs to the producer, and they are fixing at a low level his income. It does not make any sense. The ultimate result of their proposal would be to go to total reliance on foreign sugar. If that is what we want to do, if we want to become reliant on foreign sugar and foreign sugar producers, then do not vote for the Steiger amendment. But if we want to have a viable industry, we have to vote for the Steiger amendment.

Mr. TRAXLER. Mr. Chairman, will the gentleman yield?

Mr. JOHNSON of Colorado. I yield to the gentleman from Michigan.

Mr. TRAXLER. I thank the gentleman for yielding. I want to concur in his remarks.

I would like to advise the House that I represent one of the finest sugar beet growing areas in the United States. My German and Polish farmers can raise a beet and extract that sugar as efficiently as any beet-growing area in the world. The figure is correct. It costs them about 16 cents per pound. The reason that sugar is selling in New York City for 7 or 8 or 9 cents is because they are dumping it there the same way the foreign specialty steel producers dumped steel here at below the cost of production.

Please understand that the foreign sugar producing countries have long-term contracts with the consumer nations around the world.

We heard the distinguished gentlewoman speak a few minutes ago on what the contract price of sugar is, the free floating sugar. The free floating sugar that drifts into New York City at f.o.b. 9 cents a pound is far below the cost of production in Haiti or any other foreign sugar producing country.

If you want to put my farmers out of business, do it quickly and swiftly with a sword. Do not strangle them quietly and slowly in the night. Stand up and say, "We are sacrificing you in the name of free trade, not fair trade."

I thank the gentleman for yielding.

Mr. JOHNSON of Colorado. I thank the gentleman for his contribution. He touched on a point that I want to bring out, and then I will yield back the remainder of my time. He touched on a point that I think should be stressed here. The ITC study has shown that the American farmer is the most efficient sugar producer in the world. He produces more per hour than anybody else in the world, but he does not work at foreign labor prices, and he does not buy at foreign prices. He has to pay American prices, and he is entitled to a fair return on that. I think we all know that. So I urge the Members to vote for the Steiger amendment.

Mr. CONTE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I heard so much about his dumping and about this two-tier pricing, but we have got the same problem in

textiles, in shoes, transformers, conductors—you name it. I do not see anybody putting a bill in here that they should have some kind of a floor or some kind of price support from the Federal Government.

Mr. Chairman, I rise in opposition to this one-sided proposal. The sponsors of this consumer rip-off want this body to somehow believe that the poor farmer is being drummed out of existence at the hands of the "dastardly" foreign producers. An examination of the facts will put this fallacy to rest.

The farmer who produces sugar comprises one-half of 1 percent of all the farms in the United States, or about 13,000 of the 2.7 million or so farms. Thus, we are directing our attention to a select group. This group becomes more selective when you consider the giant producer-refiners literally dominate the industry. Such giants as the U.S. Sugar Corp., partially owned by Steward Mott; the Great Western Sugar Corp., owned by the H. L. Hunt heirs; the Heinz Co.; and the huge Hawaiian and Floridian grower-processors, such as Dole. So we are really focusing the lion's share of our attention on the giants in the industry, the same giants that stand to reap most of the benefits of this "sweet-little-deal," to the disadvantage of the consumers.

As my colleagues know, the world price for sugar is roughly 7 cents per pound. However, the price we have to pay in the New York market, for example, is about 13.5 cents per pound, thanks to the Federal programs currently in force to raise these prices. By granting the giant corporations that grow and process sugar this windfall profit, we force the American consumers to pick up the tab, to the tune of $1.2 billion a year! We now have before us a proposal that would further raise the cost of sugar to the American consumers, from the current 13.5 cents per pound to 16 cents. This would undoubtedly be increased in conference when the House "rolls-over and concedes" to the Senate with the predicted figure of 17 cents per pound. Finally, the scheme has a "sweetener," in that it allows for this figure to rise up to 21 cents within 3 years! Not a bad deal for those struggling corporations, especially when you compare this price to the world price of 7 cents a pound.

The proposal calls for the imposition of tariffs on the import of sugar to achieve the artificial price. However, if this scheme fails, the proposal calls for the Department of Agriculture to use preexisting authority to make direct payments to processors, not producers, in the amount equal to the difference between market price and the artificial price. The payment to processors is the same foul deal with which we have been faced in the past, since the money would not go to the small farmers, but to the giant processors who are supposed to passthrough this payment to the growers. The temptation is too great to "lose" this passthrough in the accounting process.

Second, this faulty deal again benefits the giant combination grower-processors, who will keep this payment, and use it to further underprice the small farmer. The result is the small grower is forced out of the industry and the giant grower-processors increase their monopoly. This has been the experience in Hawaii and in Florida, where the old saying is a reality: "The rich get richer and the poor get poorer." However, in this instance the process is facilitated by Uncle Sam.

Mr. Chairman, the most repulsive aspect of this "sweet deal." is its total disregard for the impact on the consumers, especially today when the American consumer is faced with double-digit inflation. Since this product is a basic staple for much of our food supply, any increase in the cost would have an immediate and damaging impact on other food costs, and, the rate of inflation.

I firmly believe that these giant growers do not need this additional windfall at the expense of the hardpressed American consumers. If the industry cannot function profitably at a price that is more than double the current world price, then it is time we assist them in turning their attentions to more competitive areas, and allow the consumers to benefit from the abundant supply of inexpensive world sugar.

I urge my colleagues to deny the "fattened producers" the additional "sweet taste" of another rip-off and to reject this "sweet deal." The consumers have been "beet" en over the head with this industry "cane" long enough. It is time we put the consumers first.

Mr. TREEN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I cannot help but comment for just a few seconds on the words we just heard from the gentleman from Massachusetts. I was here a few years ago and heard that same refrain when we were talking about extending the Sugar Act, which gave us price stability in this country for 40 years. The gentleman from Massachusetts railed on about that and inveighed us not to extend that act, and we did not. The price went to over 60 cents per pound.

The fact of the matter is that this legislation has protection for the consumer that the gentleman from Massachusetts is concerned with and that we are all concerned with. It has protection, because in this legislation there is a protective mechanism when the price exceeds the price objective by a certain percentage, 20 percent over the price objective for a certain number of days. When that happens, the mechanism goes to work to take off the quotas, take off the import fees, to stabilize the price.

But the point I wanted to make, and the reason I asked for this time, is to go back to when this legislation started. It started out at 17 cents a pound. Now, that was a reasonable figure. It was exactly in the mid-range of what we are trying to do through the international sugar agreement. That agreement tries to stabilize prices throughout the world and the free trade range is 15 to 19 cents under that agreement.

If the price falls below 15 cents, certain things take place with respect to quotas and buffer stocks. If it rises above 19 cents, buffer stocks are released. Thus, we have recognized by international agreement that there should be a range between 15 and 19 cents a pound raw value for sugar. That is why this legislation started out with 17 cents a pound price objective. That is a reasonable figure.

The Committee on Agriculture cut this to 16 cents a pound. Now, if we adopt the amendment of the gentleman from Ohio (Mr. VANIK) we will be down to 15 cents, which is the bottom of this free trade range. If we do that, it is only fair that we adopt the Steiger amendment, which will give some protection against rising costs.

The USDA, in its February 1978 report, puts the cost of production—and there is no profit in this—of beet sugar at 15.37 cents and of cane sugar at 15.25 cents. That was the projected figure for this year's crop, and inflation has run higher than the administration expected.

We expect that the average cost throughout the country will be at least 16 cents per pound. The bill as amended will provide only 15 cents per pound. The amendment offered by the gentleman from Wisconsin (Mr. STEIGER) will not affect the price for this year; it will be 15 cents. The adjustment will not take place until the 1979 crop year.

Mr. BREAUX. Mr. Chairman, will the gentleman yield?

Mr. TREEN. I will be glad to yield to the gentleman from Louisiana.

Mr. BREAUX. Mr. Chairman, I want to commend the gentleman from Louisiana (Mr. TREEN) for his remarks, and I want to associate myself with those remarks in support of the amendment offered by the gentleman from Wisconsin (Mr. STEIGER). I think it is a fair compromise, and I think it is one that everyone could agree with.

Mr. TREEN. Mr. Chairman, I appreciate my colleague's remarks.

Mr. Chairman, I will just make this last point: As has been said by others, we are mandating in this legislation a 20-cent-per-hour increase for the next 4 years for labor. We are mandating that, so it is manifestly unfair if we do that and do not adopt the Steiger amendment which would provide a modest adjustment mechanism.

Mr. BAFALIS. Mr. Speaker, will the gentleman yield?

Mr. TREEN. I yield to the gentleman from Florida.

Mr. BAFALIS. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I think there is a great deal of misunderstanding regarding the Steiger amendment. I would like to try to put it in perspective.

Whether one is for or against this sugar bill, it seems to me, if we are against direct subsidy payments from the Treasury, we would want to support the Steiger amendment because the bill of the Committee on Ways and Means says in essence that if the production cost of sugar increases, the additional moneys will be paid to the processor and

divided with the farmer, and they will be paid out of the Treasury.

The Steiger amendment requires the additional cost to be passed on to the user.

Two-thirds of the sugar used in this country is consumed by industrial users. So this means that under the committee version our taxes are going to subsidize the Coca-Colas and the cookie makers and all the rest of them.

So, Mr. Chairman, even if we are against the bill, we should support the Steiger amendment.

Mr. TREEN. Mr. Chairman, the gentleman is absolutely correct.

Mr. Chairman, I urge support of the Steiger amendment.

Mrs. HECKLER. Mr. Chairman, I move to strike the requisite number of words.

Mr. SIMON. Mr. Chairman, will the gentlewoman yield?

Mrs. HECKLER. I am happy to yield to the gentleman from Illinois.

Mr. SIMON. Mr. Chairman, if I may, I will take just 1 moment. I recognize the time constraints upon us here.

It seems to me there are two fundamental things we have to recognize. One is that sugar farmers do need help, and we are all in agreement on that.

The second is that indexation is in and of itself inflationary, and that this bill is inflationary. Somehow we ought to be able to come up with better answers than this one, and I personally, much as I have great respect for the gentleman from Wisconsin (Mr. STEIGER), think his amendment ought to be defeated.

Mr. Chairman, I thank the gentlewoman for yielding.

Mr. ANDREWS of North Dakota. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I would like to point out one or two things that have not quite been made clear.

My colleague, the gentleman from Illinois (Mr. SIMON) just made the point that indexation is inflationary, but we handle the food stamp appropriation bill in that manner and we index food stamps to protect the people.

We are talking about protection for consumers, here, too, and I think it ought to be made crystal clear that the American sugar producing industry is an efficient industry.

The world price that has been alluded to is not the world price. Ninety percent of the sugar produced in this world moves at contracted prices under agreements for 20 cents and above. We are talking a price level in this bill of about 15 cents, 16 cents, 17 cents—a bargain for the American consumer.

I think we ought to also address ourselves to the good point my colleague, the gentleman from Massachusetts (Mr. CONTE) brought out. He said: Who is putting a program like this together for our transformer industry, for the electrical gear industry or the steel industry?

There is legislation to protect those industries. It is called the Antidumping Act. And if quantities of their products were being brought into this country at below the cost of production, we would immediately impose a countervailing duty.

That is all this bill does. All this bill does is to say that there is no way we can produce sugar in this country at the dumping price of world sugar. And if a country like Brazil sells 90 percent of their production to the European economic community at 25 cents, and overproduces, they can dump the temporary surplus at any price. One year the American consumer will pay 60 cents, another year they may pay 8 cents. But that is not fair to the American consumers, nor is it fair to the American farmer.

One last point that ought to be made: The inflationary spiral comes about because of many things, one of them being the unfavorable balance of payments. And if we wreck the American sugar industry, a commodity we can produce here, that is going to mean several billion dollars we have to pay for overseas import sugar, meaning that much less we have available to pay for overseas imports of oil that we can not produce domestically.

When you consider all of these points, I can assure my colleagues that the consumers of this country will be better served by this bill, right along with the sugar producers, and our economy will be better served by this bill, because it would protect against our problems of balance of payments and it would insure equity to a domestic industry against dumping. And that is exactly what it is.

I resent the statements that are going on on this floor, saying, in effect, that we are not effective producers, that the American sugar farmers are not efficient producers. We are. But we cannot produce in competition with disaster prices for temporary surpluses dumped on the American market.

Mr. SYMMS. Mr. Chairman, will the gentleman yield?

Mr. ANDREWS of North Dakota. I yield to the gentleman from Idaho.

Mr. SYMMS. I thank the gentleman for yielding.

Mr. Chairman, I would like to make one point in addition to what the gentleman has said.

On the Steiger amendment, the argument here is whether you want direct payments to industrial users of sugar, as the Ways and Means Committee bill calls for, or do you want to accept the Steiger provisions on import fees. Whether you are for or against this bill, if you want direct payments to big sugar users, then vote against it, and if you do not want that, then vote for the Steiger amendment and then decide what you want to do about the sugar bill later this afternoon.

Mr. LIVINGSTON. Mr. Chairman, will the gentleman yield?

Mr. ANDREWS of North Dakota. I yield to the gentleman from Louisiana.

Mr. LIVINGSTON. I thank the gentleman for yielding, and I want to commend my colleague for his statement. I might add that the arguments against this bill and against this amendment are aimed at the need for stability in the marketplace, and the fact that inflation will be curtailed if this bill and this amendment are defeated. Quite frankly, if you put the domestic sugar industry out of business and reduce American employment, and create an environment such that world market can dictate American sugar prices, I think inflation is going to skyrocket, and I think the consumer is not going to benefit. It is a very bad idea to reject this bill. I advocate the entire body adopt the Steiger amendment.

Mr. NOLAN. Mr. Chairman, will the gentleman yield?

Mr. ANDREWS of North Dakota. I yield to the gentleman from Minnesota.

Mr. NOLAN. I thank the gentleman for yielding.

Mr. Chairman, I want to commend the gentleman from North Dakota for pointing out how efficient our producers are, and I would like to point out, in addition to that, that our producers pay the workers who work in our sugar production activities a fair and considerable wage and, in fact, will be paying them even better wages if this bill is enacted, this is as opposed to the kind of slave-like wages that are paid by producers in nations where most of the imported sugar comes from, causing considerable deprivation, malnutrition, and hunger in those nations.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Wisconsin (Mr. STEIGER) to the Ways and Means Committee amendment.

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. VANIK. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 194, noes 164, not voting 74, as follows:

[Roll No. 888]

AYES—194

Abdnor	Clawson, Del	Hall
Akaka	Clay	Hammer-schmidt
Andrews, N.C.	Coleman	Hansen
Andrews, N. Dak.	Collins, Tex.	Harkin
Annunzio	Cornell	Hawkins
Archer	Cunningham	Hefner
Ashbrook	Daniel, Dan	Heftel
Badham	Daniel, R. W.	Hightower
Bafalis	de la Garza	Holland
Baldus	Dellums	Holt
Barnard	Derrick	Hubbard
Baucus	Derwinski	Huckaby
Bauman	Devine	Ichord
Beard, Tenn.	Dickinson	Ireland
Bedell	Dodd	Jenrette
Benjamin	Dornan	Johnson, Calif.
Bevill	Edwards, Ala.	Johnson, Colo.
Blouin	Edwards, Okla.	Jones, N.C.
Boggs	English	Jones, Tenn.
Bonior	Evans, Colo.	Jordan
Bonker	Evans, Ga.	Kazen
Bowen	Evans, Ind.	Kelly
Breaux	Fary	Kildee
Brinkley	Fithian	Kindness
Brown, Calif.	Flippo	Krebs
Buchanan	Flood	Lagomarsino
Burgener	Flowers	Latta
Burke, Fla.	Flynt	Leach
Burleson, Tex.	Foley	Leggett
Burlison, Mo.	Ford, Tenn.	Livingston
Burton, John	Fountain	Long, La.
Burton, Phillip	Fraser	Lott
Butler	Frenzel	McCloskey
Byron	Frey	McCormack
Carr	Gephardt	McDonald
Cavanaugh	Glickman	McEwen
Cederberg	Goldwater	McFall
Chisholm	Gore	Madigan
Clausen, Don H.	Grassley	Mahon
	Gudger	Marlenee
	Guyer	

Marriott	Preyer	Symms
Mathis	Price	Taylor
Metcalfe	Pritchard	Thornton
Michel	Pursell	Traxler
Miller, Calif.	Robinson	Treen
Miller, Ohio	Roncalio	Trible
Mineta	Rooney	Tucker
Mitchell, Md.	Rose	Vander Jagt
Mitchell, N.Y.	Rousselot	Volkmer
Montgomery	Roybal	Waggonner
Moore	Runnels	Wampler
Moorhead, Calif.	Ryan	Watkins
Myers, John	Satterfield	Waxman
Natcher	Schroeder	White
Neal	Shuster	Whitley
Nedzi	Sikes	Whitten
Nichols	Slack	Wilson, Bob
Nolan	Smith, Iowa	Winn
O'Brien	Smith, Nebr.	Wirth
Oakar	Spence	Wright
Oberstar	Stangeland	Yatron
Obey	Steed	Young, Alaska
Poage	Steiger	Young, Fla.
Pressler	Stokes	Young, Tex.
	Stump	Zablocki

NOES—164

Addabbo	Gilman	Murtha
Ambro	Ginn	Myers, Gary
Anderson, Calif.	Gonzalez	Myers, Michael
	Goodling	Nix
Anderson, Ill.	Gradison	Nowak
Applegate	Green	Ottinger
Aspin	Hamilton	Patten
AuCoin	Hanley	Patterson
Beard, R.I.	Hannaford	Pattison
Beilenson	Harris	Pepper
Bennett	Harsha	Perkins
Biaggi	Heckler	Pickle
Bingham	Holtzman	Pike
Blanchard	Howard	Quayle
Brademas	Hughes	Quillen
Brodhead	Hyde	Rangel
Brooks	Jacobs	Regula
Broomfield	Jeffords	Reuss
Brown, Mich.	Jenkins	Richmond
Brown, Ohio	Jones, Okla.	Rinaldo
Burke, Mass.	Kastenmeier	Rosenthal
Carter	Kemp	Rostenkowski
Conte	Keys	Ruppe
Corman	Kostmayer	Russo
Cornwell	LaFalce	Santini
Coughlin	Le Fante	Sawyer
D'Amours	Lederer	Scheuer
Danielson	Lehman	Schulze
Delaney	Lent	Selberling
Dent	Levitas	Sharp
Dingell	Lloyd, Calif.	Simon
Downey	Lloyd, Tenn.	Snyder
Drinan	Long, Md.	Solarz
Duncan, Oreg.	Luken	Spellman
Duncan, Tenn.	Lundine	St Germain
Early	McClory	Stanton
Eckhardt	McDade	Stark
Edgar	McHugh	Steers
Edwards, Calif.	McKinney	Stockman
Eilberg	Maguire	Stratton
Emery	Markey	Studds
Erlenborn	Marks	Udall
Ertel	Mattox	Ullman
Evans, Del.	Mazzoli	Van Deerlin
Fascell	Meyner	Vanik
Fenwick	Mikulski	Walgren
Findley	Milford	Walker
Fish	Minish	Weiss
Fisher	Moakley	Whalen
Florio	Moffett	Wilson, C. H.
Ford, Mich.	Mollohan	Wolff
Forsythe	Moorhead, Pa.	Wydler
Fowler	Mottl	Wylie
Gaydos	Murphy, N.Y.	Yates
Gibbons	Murphy, Pa.	Young, Mo.

NOT VOTING—74

Alexander	Davis	Murphy, Ill.
Ammerman	Dicks	Panetta
Armstrong	Diggs	Pease
Ashley	Fuqua	Pettis
Boland	Gammage	Quie
Bolling	Garcia	Rahall
Breckinridge	Giaimo	Railsback
Broyhill	Hagedorn	Rhodes
Burke, Calif.	Harrington	Risenhoover
Caputo	Hillis	Roberts
Carney	Hollenbeck	Rodino
Chappell	Horton	Roe
Cleveland	Kasten	Rogers
Cochran	Krueger	Rudd
Cohen	Lujan	Sarasin
Collins, Ill.	McKay	Sebelius
Conable	Mann	Shipley
Conyers	Martin	Sisk
Corcoran	Meeds	Skelton
Cotter	Mikva	Skubitz
Crane	Moss	Staggers
Teague	Vento	Wiggins
Thompson	Walsh	Wilson, Tex.
Thone	Weaver	Zeferetti
Tsongas	Whitehurst	

The Clerk announced the following pairs:

On this vote:

Mr. Rogers for, with Mr. Zeferetti against.
Mr. Vento for, with Mr. Pease against.
Mr. Armstrong for, with Mr. Cleveland against.
Mr. Martin for, with Mr. Sarasin against.
Mr. Broyhill for, with Mr. Corcoran of Illinois against.
Mr. Quie for, with Mr. Walsh against.
Mr. Sebelius for, with Mr. Hollenbeck against.
Mr. Lujan for, with Mr. Horton against.
Mr. Rahall for, with Mr. Garcia against.

Messrs. HYDE, DOWNEY, PATTERSON of California, ERLENBORN, and BROWN of Michigan changed their vote from "aye" to "no."

Mr. FLOWERS changed his vote from "no" to "aye."

So the amendment to the Ways and Means Committee amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. DE LA GARZA TO THE WAYS AND MEANS COMMITTEE AMENDMENT

Mr. DE LA GARZA. Mr. Chairman, I offer an amendment to the Ways and Means Committee amendment.

The Clerk read as follows:

Amendment offered by Mr. DE LA GARZA to the Ways and Means Committee Amendment: Page 24, line 21, amend section 203 by striking the period at the end of subsection (a) and inserting in lieu thereof a colon and adding: "*Provided*, That if country-by-country quotas are ever allocated, no quota shall be allocated to any nation which imported more than 10,000 short tons of sugar, in any form, during the previous twelve calendar months, and further, import allocations will be apportioned among the various nations (1) in accordance with their willingness and ability to fulfill quota obligations and (2) in a manner and in amounts consistent with each nation's adherence to and practice of generally recognized principles of civil and human rights.".

Mr. DE LA GARZA (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. DE LA GARZA. Mr. Chairman, the gentleman from Pennsylvania (Mr. DENT) had a previous appointment with his doctor this afternoon, and on his behalf and mine I am offering this amendment. It is a very simple amendment.

The amendment says that if ever there should be country-by-country quotas allotted—the odds are probably there will not, but if there ever should be country quotas allotted—the principles of civil and human rights in those countries would be considered as part of the criteria that we look at before allowing country-by-country quotas. In behalf of the gentleman from Pennsylvania (Mr. DENT) and myself, I would urge an aye vote on this amendment.

Mr. FOLEY. Mr. Chairman, will the gentleman yield?

Mr. DE LA GARZA. I yield to the gentleman from Washington.

Mr. FOLEY. I thank the gentleman for yielding.

Mr. Chairman, speaking for the Committee on Agriculture on this side, we have no objection to the amendment.

Mr. JOHNSON of Colorado. Mr. Chairman, will the gentleman yield?

Mr. DE LA GARZA. I yield to the gentleman from Colorado.

Mr. JOHNSON of Colorado. I thank the gentleman for yielding.

We have no objection to the amendment.

Mr. VANIK. Mr. Chairman, will the gentleman yield?

Mr. DE LA GARZA. I yield to the gentleman from Ohio.

Mr. VANIK. I thank the gentleman for yielding.

As far as the Committee on Ways and Means group, we have no objection.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. DE LA GARZA), to the Ways and Means Committee amendment.

The amendment to the Ways and Means Committee amendment was agreed to.

The CHAIRMAN. Are there other amendments to the Ways and Means Committee Amendment?

AMENDMENT OFFERED BY MICHAEL O. MYERS TO THE WAYS AND MEANS COMMITTEE AMENDMENT

Mr. MICHAEL O. MYERS. Mr. Chairman, I offer an amendment to the Ways and Means Committee Amendment.

The Clerk read as follows:

Amendment offered by Mr. MICHAEL O. MYERS to the Ways and Means Committee amendment: Page 30, line 24, delete the period after "consumption" and insert in lieu thereof ", or (3) entered for the production of yeast or citric acid."

Mr. MICHAEL O. MYERS. Mr. Chairman, I am offering an amendment to section 204 of the bill which would authorize the President to impose fees and quotas against imports of sugar-containing products, including molasses. My amendment is to assure that imports of beet sugar molasses to be used in the production of baker's yeast will not be covered by fees or quotas under this legislation.

In manufacturing baker's yeast American producers depend upon imported beet sugar molasses for a growing medium. This is because virtually all American sugar beets are grown in areas with severe winters where the beets are often frozen. Molasses made of frozen beets contains colloids that interfere with the fermentation and drying processes of yeast production. In other words, dry baker's yeast production is not a market that is presently available to American beet sugar farmers or refiners. Cane sugar molasses is not used in dry yeast production.

American yeast producers ought not be faced with the possibility that an essential raw material in their production will be subject to substantial fees

or even quotas on importation. This is especially true at the present time, when new yeast-making facilities are getting off the ground. These facilities will expand American exports of yeast, helping to offset our unfavorable balance of trade. It would be ironic if these facilities were denied access to imported beet sugar molasses.

The need for this amendment was brought to my attention by the Philadelphia Industrial Development Corp. The Corporation has advised me that the imports of beet sugar molasses for yeast production—molasses of a kind that is not available in the United States—will provide hundreds of new jobs in the Philadelphia port area.

My amendment will in no way injure the interest of American sugar beet growers. It will assure the supplies of a raw material necessary for increasing our export trade, and it will protect hundreds of new jobs for American workers. I urge its adoption by the House.

Mr. FOLEY. Mr. Chairman, will the gentleman yield?

Mr. MICHAEL O. MYERS. I yield to the gentleman from Washington.

Mr. FOLEY. I thank the gentleman for yielding.

We have examined the amendment on this side. As far as the Committee on Agriculture is concerned, we have no objection to the amendment.

Mr. VANIK. Mr. Chairman, will the gentleman yield?

Mr. MICHAEL O. MYERS. I yield to the gentleman from Ohio.

Mr. VANIK. I thank the gentleman for yielding.

Mr. Chairman, we have examined the amendment on this side and have no objection to the amendment.

Mr. STEIGER. Mr. Chairman, will the gentleman yield?

Mr. MICHAEL O. MYERS. I yield to the gentleman from Wisconsin.

Mr. STEIGER. I appreciate the gentleman's yielding.

Mr. Chairman, this amendment is acceptable on our side.

Mr. MICHAEL O. MYERS. It is my understanding that it would not. As far as my understanding is, it would not.

My amendment deals only with the production of yeast. I am including an exemption on the importation of sugar beet molasses for the production of yeast. Citric acid is already in the committee version.

Mr. JOHNSON of Colorado. Mr. Chairman, will the gentleman yield?

Mr. MICHAEL O. MYERS. I yield to the gentleman from Colorado.

Mr. JOHNSON of Colorado. I thank the gentleman for yielding.

We have no objection to the amendment on this side.

Mr. MICHAEL O. MYERS. I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. MICHAEL O. MYERS) to the Ways and Means Committee amendment.

The amendment to the Ways and Means Committee amendment was agreed to.

The CHAIRMAN. Are there other amendments to the Ways and Means Committee amendment?

Mr. VANIK. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, by the action of the the committee in adopting the Steiger amendment, we have now reached a situation in which the bill provides for payments that are going to increase the payments of sugar to over 19 cents a pound. It is a very costly amendment, as I pointed out in my argument against the amendment. It is only 50 percent effective.

I think that with the adoption of this amendment, the legislation, as far as I am concerned, is no longer acceptable, because it has this tremendous cost factor added to it. I urge my colleagues in the House to vote against the bill in its final form, since by the adoption of the amendment we have now made, in my judgment, the legislation is unacceptable to the consumers of America. I think the people of America would like to do something constructive for the sugar producers without having this forced system of higher costs built into the legislation.

Mr. ULLMAN. Mr. Chairman, will the gentleman yield?

Mr. VANIK. I yield to the gentleman from Oregon.

Mr. ULLMAN. Mr. Chairman, I appreciate the gentleman yielding and I appreciate the gentleman's statement, but I would like to say that the bill, even as amended, is essential. I would have to urge the Members of the House to vote for the Ways and Means Committee amendment and then vote for the bill on final passage.

Mr. VANIK. Mr. Chairman, I want to point out to my colleagues that the effect of the adoption of this bill in its present form means that the conference would vary somewhere between 19 cents and whatever the final action is in the other body.

I look upon this as a very inflationary proposal. I think under these circumstances it is to the best interests of the people of America that we vote down the sugar legislation in its present form.

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. VANIK. I yield to my colleague, the gentleman from Ohio.

Mr. SEIBERLING. Mr. Chairman, I noticed in the paper yesterday that wholesale food prices are taking another big increase and I suggest this is not the time for the Congress to be raising prices at the grocery store for the American housewife.

As I understand what the gentleman says, that is exactly what this bill, as amended, would do.

Mr. VANIK. Mr. Chairman, this is precisely right. This bill, as amended, will increase the cost to the consumers of America by almost $2 billion, by $1.7 billion. I think in its present form, the legislation is totally unacceptable. I do not think it offers any real basis for compromise or adjustment in conference.

I urge my colleagues to vote down the bill in its final form.

Mr. FINDLEY. Mr. Chairman, I move to strike the requisite number of words.

I rise in opposition to the committee amendment, as amended.

I am sure the argument will be made in private conversation, if not during the course of debate, that a good bill, a bill that will represent fairly the interests of the consumers, will be worked out in conference and let us place our confidence in the conference procedure.

We ought to face some very plain facts. Whatever emerges from the committee and is reported by the House of Representatives is going to be taken into conference, in which there will be enormous influence upward on the price of sugar.

One of the principal personalities involved, a Member of the other body, has in his hip pocket the energy bill. He has in his hip pocket the tax bill. He has in his hip pocket nobody knows what other goodies, highly important to the President of the United States, and no matter what form of sugar legislation we approve to go to conference with the Senate, we can be sure that the interests represented by that gentleman are going to be forcibly presented and the result will be sugar prices at higher level than reported by the Ways and Means Committee in its original action.

I would have to forecast that the President of the United States, being eager to get an energy bill through, a tax bill through and whatever else through, will hardly be in a position to do other than agree to signing the sugar legislation.

Now, we should also keep in mind that we need not pass the Sugar Act for producers in this country to have fair protection. Existing law which will still be on the books after the end of this year will give the President of the United States adequate authority to protect the interests of domestic producers. That protection will vary, of course, depending upon the world price of sugar, but at the lowest conceivable level, it would be at about 11 cents a pound and it would probably be nearer 13 cents a pound. To me that is adequate protection against foreign competition.

We should also keep in mind that this legislation calls for government pricing of a major food commodity. Is that the direction we want to go in our country?

I would hope that our commitment is to the market system, with the efficiencies and the economies that the market system produces. There is no need for us to be inflicting higher prices upon the American consumer, but that is precisely what we will be doing if we vote this day to report a sugar bill.

Mr. STOCKMAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I just want to take this opportunity to reiterate the sentiments of the gentleman from Illinois (Mr. FINDLEY) and the gentleman from Ohio (Mr. VANIK). I want to take this time to remind the House of the absolutely blatant game of "up the ante" that is being played here on this whole sugar question.

I would remind my colleagues that the world price of sugar is now about 8 cents a pound. That is abnormally low. But given the huge reserves and excess stocks that are in the world today, about 34 million tons, there is absolutely no chance in the next 2 or 3 years that the world price will move up much above 11 or 12 cents a pound. The members of the committee know that. The normal world stock level is about 15 million or 18 million tons, and we would have to work the present huge surplus—double the normal level—off before we would see the market price go much higher than it is today.

Last June or in June of 1977, the domestic price in this country was 11 cents a pound for raw sugar, and that reflected the minor tariff we had over the 8-cent world price. We then hastily adopted an amendment to the 1977 farm bill, and that was not even voted on in the Committee of the Whole. That raised the price of sugar in this country to 14 cents a pound. That was about 15 months ago.

Then the Committee on Agriculture went to work this summer to raise the price. They would raise it again to 17 cents a pound, but seeing they could not move that through, they put it at 16 cents, with an escalator that ties it to the wholesale price index. That has nothing to do with sugar production costs, and that would probably raise sugar prices up to 25 cents a pound.

In the last week and a half it has become apparent that even that would not pass, so we had a compromise worked out at the last minute to modify the escalator, but nevertheless it will take the price of sugar in this country to 19 cents a pound.

But that still is not the end of this game of "up the ante," because this bill, as the gentleman from Illinois (Mr. FINDLEY) pointed out so correctly, will be written in conference at the 11th hour, with no time left and no bargaining leverage available to the House conferees, because all the chips are in the back pocket of the chairman of the Senate Finance Committee, who has all kinds of tools he can hold everybody hostage with, including the granting of an extension of the discretionary authority on the antidumping act because of the January 1 deadline.

So we are going to end up with a bill from that conference committee that will be sent down to the President at the 11th hour that will bring the price of sugar up to 25 cents or perhaps even more.

Mr. Chairman, if we want to vote to triple the price of sugar, to triple it during a period when inflation is back in double-digit range, during a period when just last month we have seen food prices escalate at a rate of 18 percent, if in that kind of inflationary environment we want to triple the price, then we can go ahead and vote for this amendment. That is what may occur, only because of the committee's unwillingness to consider some kind of reasonable program.

Mr. STEIGER. Mr. Chairman, will my colleague, the gentleman from Michigan yield?

Mr. STOCKMAN. I yield to the gentleman from Wisconsin.

Mr. STEIGER. Mr. Chairman, the gentleman from Michigan is an articulate and very intelligent Member of this body. I am sure he misspoke when he said we were going to triple the price of sugar in 18 months. That is simply not what happens under any scenario as written in the other body or in this body.

Mr. STOCKMAN. Let me say you have adopted a policy within an 18-month period that eventually will insure the tripling of the price of sugar over what it is in the world market today and over what it was in this country 18 months ago. If you want to do that for 14,000 producers who farm 1 percent of the arable land in this country, the cropland, whose revenues amount to less than 2 percent of the agricultural production, if you want to do it for them, then you are going to be doing it for everybody. There are other industries that have import competition, and if we do this for the sugar industry, then I would expect that every one of them would line up and want to be given the same treatment. I tell the Members that that is the best formula I can think of for runaway inflation and for literally collapsing the whole economic system right out from under our feet.

Mr. FOLEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I had hoped the gentleman would yield to me, because I did not think the gentleman, as careful as he usually is, regardless of his opinions, would like to leave this committee with the impression that 8 cents is an economic world price for sugar. He knows it is not. There is no country in the world that can sustain the production of sugar for 8 cents a pound unless it does so under the most depressed conditions of labor that are imaginable.

It is true, as the gentleman points out, that there is a great surplus of sugar. That is why the world price is at 8 cents a pound. I would remind the gentleman that in the past surpluses have traditionally been followed by periods of shortage. Looking back over the last 3 or 4 years when just such a shortage occurred, we must remember that we were paying 30 cents, 40 cents, and 50 cents a pound for sugar. So as the horror stories of 17 cents are thrown out here, remember that in 1974 and 1975 sugar was selling for 50–60 cents.

Unless we protect our industry from being subjected to dumping of sugar from around the world, we are not going to have any kind of a domestic sugar industry, and we will be forced to relive that sugar price nightmare of 1974 and 1975 again.

What we have done in adopting the Steiger amendment is no different than what we have done in other agricultural programs. We have simply provided for a very moderate kind of production cost adjustment which can go down as well as up. This year, for example, the production on wheat went down, proving conclusively that the approach we are considering will not automatically and inevitably raise the price of sugar to 19 cents.

The goal of the International Sugar Agreement is to establish a price corridor of 11 cents to 21 cents a pound. Both the Ways and Means Committee bill and our bill, provide important authorities needed for U.S. participation in this price-stabilizing international accord.

I think if we look at this legislation carefully, we will concur that the adoption of the Steiger amendment represents a reasonable compromise to the Ways and Means substitute.

There is no horror story here. No member need be embarrassed about supporting this legislation. In fact, if we are seriously interested in the welfare of the consumer, as I am sure everybody in this Chamber is, we should all be very careful before allowing the destruction of the American sugar industry as our bulwark against total dependence on the world sugar market, whose prices have gone from peak to valley so dramatically in the last decade.

I would just like to remind my colleagues that there are very few countries in the world that are totally dependent on the so-called world market. As Mr. ANDREWS of North Dakota indicated, almost every country has some kind of sugar program. We had one for 40 years. The so-called free market, which is very small and very volatile, is known far and wide for its enormous swing in price and instability. Clearly reasonable levels are in the interest of everybody in this country, producer and consumer alike.

Mr. FINDLEY. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from Illinois.

Mr. FINDLEY. Mr. Chairman, I am sure the gentleman would agree with me that legislation of the sort now before this committee will not necessarily prevent the wild gyrations of prices, because back in the 1973 and 1974 period, the price of sugar went way beyond, way above the price set by the Sugar Act long before that act expired.

Mr. FOLEY. I would say to the gentleman that we are going to be more vulnerable to that kind of price swing if there is not a domestic sugar industry in existence in this country. I think the gentleman would be the first to complain if other agricultural commodities were being subjected to the same type of below-cost dumping the sugar industry is being threatened by under current world conditions.

I really think it is unfair and unreasonable to take a depressed price, which everybody knows results from an enormous world surplus, and hang that out as a fair world price. Eight cents is not a fair price. Eight cents is not a price that any country can depend on growing or producing sugar for. I think the gentlemen in the well are aware of that, and when they suggest that this represents a fair price, they are arguing in favor of that, something that no American consumer is going to expect.

The CHAIRMAN. The time of the gentleman from Washington has expired.

(At the request of Mr. FINDLEY and by unanimous consent, Mr. FOLEY was allowed to proceed for 1 additional minute.)

Mr. FINDLEY. If the gentleman will yield further, would the gentleman not

agree that permanent law, which would be on the books after January in the event that we do nothing, would give the administration the opportunity to protect domestic prices so that they would not go, under any circumstances, below 11 cents a pound? The gentleman talks about 8 cents. The real key figure is 11 cents.

Mr. DE LA GARZA. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from Texas.

Mr. DE LA GARZA. I think we cannot eradicate or erase history, Mr. Chairman. When the legislation was defeated and we no longer had a Sugar Act, granted the price was going up, but with the same law the gentleman quotes that the President had at that time—and the gentleman was successful in defeating sugar legislation—that is when the price went up to 40, 50, and 60 cents.

The CHAIRMAN. The time of the gentleman from Washington has again expired.

Mr. ULLMAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I strongly urge the Members to stay with the committee bill. We will be able to work this problem out a lot better in conference if we stay with the committe bill, at the committee level. So, I urge a vote against this amendment.

The CHAIRMAN. The question is on the Ways and Means Committee amendment, as amended.

PARLIAMENTARY INQUIRY

Mr. VANIK. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. VANIK. Mr. Chairman, there is some doubt and uncertainty as to what the vote is on. Could we have the Clerk read the amendment?

The CHAIRMAN. The question is on the Ways and Means Committee amendment, as amended.

The question was taken, and the Chairman being in doubt the Committee divided; and there were—ayes 67; noes 29.

So the Ways and Means Committee amendment, as amended, was agreed to.

The CHAIRMAN. Pursuant to the rule, title III is considered as read.

It shall be in order to consider en bloc the committee amendments recommended by the Committee on Agriculture to title III and then to consider en bloc the committee amendments recommended by the Committee on Ways and Means.

The Clerk will report the Agriculture Committee amendments.

(The portion of the bill to which the amendments refer is as follows:)

TITLE III—GENERAL PROVISIONS

Farm Labor Provisions

SEC. 301. (a) Beginning with the sugar supply year 1978, every producer of sugar beets and sugarcane for sugar shall pay to each person employed on the farm in the production, cultivation, and harvesting of sugar beets and sugarcane wages as follows:

(1) When employed on a time basis, the rates per hour shall be not less than the following:

Sugar supply year:	*All areas except Hawaii and Puerto Rico*[1]
1978	$3.00
1979	3.20
1980	3.40
1981	3.60
1982	3.80

[1] Hawaii and Puerto Rico: As required by labor union agreement or Federal or local law.

Rates for field equipment operators shall be not less than 10 per centum more than the above rates.

(2) When employed on a piecework basis, the rates shall be not less than the rates for the 1978 crop as published in the Federal Register of January 10, 1978 (42 F.R. 1476), increased each sugar supply year beginning October 1979 in the same proportion as the hourly rates are increased in the above table.

(b) Any producer who fails to pay the wages provided for in subsection (a) of this section shall be liable to the employee or employees affected in the amount of their unpaid wages and in additional equal amount as liquidated damages. Action to recover such liability may be maintained against any producer in any Federal or State court of competent jurisdiction by any one or more employees for and in behalf of himself or themselves and other employees similarly situated. No employee shall be a party plaintiff to any such action unless he gives his consent in writing to become such a party and such consent is filed in the court in which such action is brought. The court in such action shall, in addition to any judgment awarded to any plaintiff, allow a reasonable attorney's fee to be paid by the defendant, and costs of such action. The right provided by this subsection to bring an action by or on behalf of any employee, and the right of any employee to become a party plaintiff to any such action, shall terminate upon the filing of a complaint by the Secretary in an action under section 303 in which restraint is sought of any further delay in the payment of unpaid wages owing to such employee under subsection (a) of this section by a producer liable therefor under the provisions of this subsection.

(c) The Secretary is authorized to supervise the payment of the unpaid wages owing to any employee or employees under this section, and the agreement of any employee to accept such payment shall upon payment in full constitute a waiver by such employee of any right he may have under subsection (b) of this section to such unpaid wages and an additional amount as liquidated damages. The Secretary may bring an action in any court if competent jurisdiction to recover the amount of the unpaid wages and an equal amount as liquidated damages. The right provided by subsection (b) to bring an action by or on behalf of any employee and of any employee to become a party plaintiff to any such action shall terminate upon the filing of a complaint by the Secretary in an action under this subsection in which a recovery is sought of unpaid wages under subsection (a) or liquidated damages provided by this subsection owing to such employee by a producer under the provisions of subsection (b), unless such action is dismissed without prejudice on motion of the Secretary. Any sums thus recovered by the Secretary on behalf of an employee pursuant to this subsection shall be held in a special deposit account and shall be paid, on order of the Secretary, to the employee or employees affected. Any such sums not paid to an employee because of inability to do so within a period of three years shall be covered into the Treasury of the United States as miscellaneous receipts.

(d) Actions for unpaid wages and liquidated damages under this section shall be forever barred unless commenced within two years after the cause of action accrued.

(e) All producers of sugar beets and sugarcane are hereby prohibited from discharging or in any other manner discriminating against any employee engaged in the production, cultivation and harvesting of sugar beets or sugarcane on the farm because such employee has made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or litigation under this section. Any person knowingly violating this subsection shall, upon conviction, be punished by a fine of not more than $1,000 for each such violation.

(f) All producers of sugar beets and sugarcane are hereby prohibited from charging, or permitting to be charged, directly or indirectly, persons employed on the farm in the production, cultivation, or harvesting of sugar beets and sugarcane, any amount in excess of the reasonable cost for the furnishing to any such person of goods or services customarily furnished to employees engaged in the production, cultivation, or harvesting of sugar beets or sugarcane in the area. Any person knowingly violating this subsection shall, upon conviction, be punished by a fine of not more than $1,000 for each such violation.

(g) The Secretary shall issue such regulations as he deems necessary to assure that the producer shall furnish each person employed on the farm in the production, cultivation, and harvesting of sugar beets and sugarcane workmen's compensation insurance during the time so employed. Such insurance coverage shall be deemed adequate if it meets the requirements of the law in States in which such insurance is mandatory, or if it meets such standards as are established by law in States in which such insurance is not mandatory.

REGULATIONS AND DETERMINATIONS

SEC. 302. (a) The Secretary is authorized to make such rules and regulations, which shall have the force and effect of law, as may be necessary to carry out the powers vested in the Secretary by this Act. Any person knowingly violating any rule or regulation of the Secretary issued pursuant to this Act shall, upon conviction, be punished by a fine of not more than $1,000 for each such violation.

(b) Each determination issued by the Secretary in connection with quotas and fees under title II shall be promptly published in the Federal Register and shall be accompanied by a statement of the bases and considerations upon which such determination was made.

AGRICULTURE COMMITTEE AMENDMENTS

The Clerk read the Agriculture Committee amendments as follows:

Page 35, line 14, insert "an" immediately after "in";

Page 35, line 15, strike out "Action" and insert in lieu thereof "An action"; "(c)";

Page 36, line 17, insert the paragraph designation "(1)" immediately after "(c)";

Page 36, line 24, strike out "The Secretary may bring an action in any court if" and insert in lieu thereof the following:

Any hearing on a claim for unpaid wages shall be conducted by an attorney designated by the General Counsel of the Department of Agriculture from among the attorneys employed in the Office of the General Counsel of that Department, and the decision of such attorney shall be issued promptly thereafter to the extent possible within thirty days after the conclusion of the hearing. Within thirty days after the issuance of such decision, any person who is adversely affected by such decision may obtain a review of such decision by filing a petition with the judicial

officer appointed by the Secretary pursuant to section 450d of title 5, United States Code. Any person who is adversely affected by a decision of the judicial officer hereunder may obtain judicial review of such decision by filing a complaint, within thirty days after such decision, with the United States district court for the district in which such person resides. Upon the filing of the complaint, the court shall have jurisdiction to affirm, set aside, or modify the decision of the judicial officer, and the findings of the judicial officer as to the facts, if supported by substantial evidence, shall be final and conclusive.

(2) The Secretary may bring an action in any court of;

Page 40, immediately after line 3, insert a new subsection (h) as follows:

(h) Investigations of possible violations of provisions of this section shall be conducted by the Office of the Inspector General of the Department of Agriculture.

Page 44, immediately before line 20, insert the paragraph designated "Termination Date";

Page 44, line 21, strike out "308" and insert in lieu thereof "309";

Page 44, immediately after line 22, insert a new section 310 as follows:

1978 CROP PRICE SUPPORT PROGRAM

SEC. 310. Nothing contained in this Act shall affect the provisions of section 201(f) of the Agricultural Act of 1949 relating to the 1978 crop of sugar beets and sugar cane.

Mr. FOLEY (during the reading). Mr. Chairman, I ask unanimous consent that further reading of the Agriculture Committee amendments be dispensed with, and that they be printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Washington?

There was no objection.

The CHAIRMAN. The question is on the Agriculture amendments.

The Agriculture committee amendments were agreed to.

The CHAIRMAN. The Clerk will read the Ways and Means Committee amendments en bloc.

WAYS AND MEANS COMMITTEE AMENDMENTS

The Clerk read the Ways and Means Committee amendments as follows:

Ways and Means Committee amendments:

Page 34, line 14, strike out "GENERAL PROVISIONS" and insert "FARM LABOR PROVISIONS".

Page 34, strike out line 16.

Page 34, between lines 16 and 18, insert "SEC. 301. WAGE STANDARDS.".

Page 34, line 18, strike out "SEC. 301.", after "(a)" insert "IN GENERAL.—", and before "sugar" insert "1978".

Page 34, line 19, strike out "1978," and insert "(as defined in section 201(7))".

Page 35, line 11, after "(b)" insert "VIOLATION OF WAGE STANDARDS.—".

Page 36, line 17, after "(c)" insert "ADMINISTRATION.—".

Page 38, line 16, after "(d)" insert "BARRING OF ACTIONS—."

Page 38, line 20, after "(e)" insert "DISCRIMINATION PROHIBITED.—".

Page 39, line 6, after "(f)" insert "EXCESSIVE CHARGES PROHIBITED.—".

Page 39, line 18, after "(g)" insert "COMPENSATION INSURANCE.—".

Page 40, strike out line 7 and all that follows thereafter down through line 19 on page 40 and insert the following:

(i) REGULATIONS.—The Secretary shall issue such rules and regulations as may be necessary or appropriate to carry out the provisions of this title. Any person who knowingly violates any such rule or regulation is guilty of an offense and upon conviction thereof is punishable by a fine of not more than $1,000.

Page 41, line 1, insert the following:

TITLE IV—MISCELLANEOUS PROVISIONS

SEC. 401. DEFINITION.

As used in this title the term "sugar" has the same meaning as is given to such term in section 201(6).

Page 41, strike out line 5.

Page 41, between lines 5 and 7, insert, "SEC. 402. JURISDICTION OF COURTS.".

Page 41, line 7, strike out "SEC. 303.".

Page 41, lines 11, 12, and 13, strike out "to this Act and to review any regulation issued pursuant to this Act in accordance with chapter 7 of title 5, United States Code" and insert "thereto".

Page 41, strike out lines 21 through line 6 on p. 42.

Page 42, strike out line 7.

Page 42, between lines 7 and 9, insert "SEC. 403. FURNISHING OF INFORMATION TO SECRETARY.".

Page 42, line 7, strike out "SEC. 305.".

Page 42, strike out line 22.

Page 42, between lines 22 and 24, insert "SEC. 404. INVESTMENTS BY OFFICIALS PROHIBITED.".

Page 42, line 24, strike out "SEC. 306.", and strike out "shall," and insert "may,".

Page 43, line 1 and line 4, strike out "or liquid sugar".

Page 43, strike out lines 7 through 18, inclusive.

Page 43, strike out line 19.

Page 43, between lines 19 and 21, insert "SEC. 405. SURVEYS AND INVESTIGATIONS.".

Page 43, line 21, strike out "SEC. 308.", and after "(a)" insert "REQUIRED SURVEYS AND INVESTIGATIONS.—".

Page 44, line 6, after "(b)" insert "OTHER INVESTIGATIONS, SURVEYS, AND RESEARCH.—", and strike out "is authorized to" and insert "may".

Page 44, lines 7 and 11, strike out "is authorized to" and insert "may".

Page 44, strike out lines 15 through 22, inclusive, and insert the following:

SEC. 406. TERMINATION OF ACT.

Except for title I, this Act shall cease to have force and effect as of the close of September 30, 1983.

Mr. VANIK (during the reading). Mr. Chairman, I ask unanimous consent that the committee amendments be considered as read and printed in the RECORD.

These amendments really are conforming the style.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The CHAIRMAN. The question is on the Ways and Means Committee amendments.

The Ways and Means Committee amendments were agreed to.

AMENDMENT OFFERED BY MR. KELLY

Mr. KELLY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. KELLY: Page 18, immediately after line 16, strike all that follows through page 22, line 23.

Mr. KELLY. Mr. Chairman, I think this would be a good time to pause just momentarily and get some sort of perspective about what we are doing. What we are really doing here is we are trying to save an American industry, and we are trying to save an American industry for the good of the consumer and for the good of the American workers because we need jobs in America. And so, if it costs the consumers a little bit more to save this American industry, that makes a lot of sense.

But now why is it that American industry has to be saved in world competition? Is it because of taxes and welfare programs and inflation that is caused by the same Government that is now galloping up to help that industry? I think that it is.

Now if we are going to save this industry and we are going to save the jobs of the people that work there, then why is it that this same legislation, that is designed to save an industry at the expense of the consumers, provides that there is going to be a minimum wage which exceeds the standard minimum wage for the Nation? We are going to arbitrarily set a level of wages that has nothing to do with production. We are not going to require these people to come to work on time or to produce any more. We are just going to set a wage level that is purely political so that we can establish how good we are to American workers.

But when we get through with this legislation, the industry that we are now trying to save is going to be more vulnerable to foreign competition than it has ever been because while some nations are willing to put their people to work we insist on putting ours on welfare and we insist arbitrarily, out of the good of our hearts, on establishing wages that are noncompetitive.

The industry now cannot stand the help that the Government is giving it and we are now ready to give it more, so it clearly does not make any sense.

I will, at the proper time, request permission to include a letter from the American Farm Bureau Federation to the chairman of the Committee on Agriculture which says in part that:

The American Farm Bureau strongly supported basic provisions of this legislation as it proceeded through the House Committee on Agriculture until the minimum wage provisions were included.

The American Farm Bureau Federation Board of Directors reviewed this matter in late August, 1978, and urged that the minimum wage provisions of the bill be deleted.

(The letter referred to is as follows:)

HON. THOMAS S. FOLEY,
Chairman, Committee on Agriculture, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: H.R. 13750, the Sugar Stabilization Act of 1978, a bill reported by the House Committee on Agriculture, will be voted upon this week by the House of Representatives.

Farm Bureau strongly supported basic provisions of this legislation as it proceeded through the House Committee on Agriculture until the minimum wage provisions were included.

The American Farm Bureau Federation Board of Directors reviewed this matter in late August 1978, and urged that the minimum wage provisions of the bill be deleted.

Farm Bureau policy on sugar for 1978 as adopted by the voting delegates of the member State Farm Bureaus states:

". . . We support long-term legislation to protect the interests of domestic producers and maintain a viable sugar industry. Long-term sweetener legislation should provide reasonable levels for raw and refined sweetener imports. These import levels should be set on a quarterly basis to meet the needs of U.S. consumers. Such legislation should not specify separate minimum wage rates for

agricultural workers engaged in sugar production.

Sincerely.

JOHN C. HART,
Director American Farm Bureau Federation.

Industry after industry in American agriculture now is being crushed and burdened by the weight of foreign imports. If we start to impose this kind of arbitrary wage levels on all of agriculture, then none of American agriculture is going to support it and we will see the same vulnerability that we have in sugar in every part of agriculture.

Clearly what is happening is that 25 percent of American sweeteners are corn now. This was not true 7 years ago, but it is true now, and corn is biting more every year into the sweetener industry, will the result be that we will have to start doing these good things for the corn industry as well and the corn farmers will be subjected to the minimum wages. Then when we have sugar and corn, then why not the rest of American agricultural products? And right now everyone in this House knows that every industry in the United States that is labor intensive, dealing in agriculture, is barely able to keep its nose out of the water, and if they go down our economy goes down, the ability of this Nation to be self-sufficient in the production of food goes down. What we are doing here just simply makes no sense. We have no basis for arbitrarily establishing wages in agriculture. What we are doing will make this industry less competitive than it is now and at great expense to the consumer.

The passage of this legislation will cause all of agriculture to be more susceptible to union organization, and this should not be the price for saving an industry in the name of the consumer.

We are establishing a precedent here that is bad for all of our agriculture. What is happening here is going to happen to all of agriculture. If you are interested in farmers, this is a bad bill. If you are interested in consumers, this is a bad bill. But if you are interested in more bureaucracy, more inflation, more taxes, more governmental interference, then you have got a gem here.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida (Mr. KELLY).

The amendment was rejected.

AMENDMENT OFFERED BY MR. VANIK

Mr. VANIK. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. VANIK: On page 45, line 2, insert the following: "Notwithstanding any other provision of law, the Secretary may waive a portion of the principal or interest, or both, at such times and in such amounts as he determines necessary, in order to encourage the repayment of outstanding loans obtained from the Commodity Credit Corporation with respect to sugar produced from the 1977 and 1978 crops of sugar beets and sugarcane; except that such waiver authority shall be exercised in such a manner as not to affect unduly the market prices for sugar.".

Mr. VANIK (during the reading). Mr. Chairman, I ask unanimous consent that further reading of the amendment be dispensed with and that it be printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. VANIK. Mr. Chairman this amendment is designed to insure that the Government through the Commodity Credit Corporation does not become the holder of quantities of sugar placed under loan and will have to be redeemed. The price support loan program will be available to the producers of the 1978 crop until market prices strengthen, as a result of the quotas and fees provided for under the act. Under the bill the price of imported and domestic sugar thus should move more rapidly to the level fixed by law, thus insuring that the storage in 1977 will be redeemed for the loan value and the interest charges under the Department of Agriculture administration that administers the loans, but for the crop year 1978, if they are placed under loan, they may be redeemed for the loan value plus 7 percent interest, and it will be a close call, Mr. Chairman, whether the sugar prices in the fall of 1979 will equal this redemption rate.

As a result, the public may be stuck with the expense of owning and holding quantities of sugar. The situation is particularly serious because, unlike most other CCC crops, sugar deteriorates if kept in storage for a long period.

Mr. Chairman, his amendment allows the Secretary of Agriculture to waive just enough principal or interest payment to insure that sugar is redeemed and moved into the normal channels of commerce.

While this provision may result in some cost, it is definitely less expensive than supporting sugar at a higher price objective or causing the CCC and the public to become owners of stockpiles of sugar.

Mr. Chairman, I urge adoption of the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. VANIK).

The amendment was agreed to.

● Mr. FITHIAN. Mr. Chairman, much has been made during these debates about the need to insure the continuation of our domestic sugar industry. All of the measures we have under consideration today take note of this goal in their statements of purpose. I think we should also keep in mind the ways in which these measures would provide some measure of protection for other segments of U.S. agriculture as well.

Many of you have had visits or letters from grower-members of the National Corn Growers Association seeking your support for the Agriculture Committee bill. And with good cause. We are currently facing one of the largest corn surpluses ever. Our producers are urgently trying to develop and enlarge all available corn markets. And one of the markets with greatest potential for corn farmers in the sweetener market.

Over the past decade the amount of corn sold by farmers to companies in the corn-sweetener business has doubled, and will probably reach around 400 million bushels this year according to USDA. Since corn sweeteners are marketed in competition with sugar, any Government action designed to protect the market returns of sugar growers will have a like effect on the market for corn farmers and corn sweetener manufacturers. Likewise, any action which assists sugar growers alone through a program of direct payments will have a decided anticompetitive effect on the corn industry.

Proposals which would protect the domestic sugar grower from unfair competition with Government-subsidized sugar from abroad would likewise allow the corn farmer to compete with the domestic sugar industry on a fair and equitable basis by selling a substantial amount of his crop to the corn sweetener producers. So, while in the main we are focusing our attention on the necessary protection to be applied to our domestic sugar cane and sugar beet producers, we should also keep in mind the vital effect which any sugar legislation will have on our Nation's millions of corn farmers and the growing sweetener industry.●

● Mr. ANNUNZIO. Mr. Speaker, we are dealing with legislation today which will take American candy out of the mouths of babes—and replace it with imported sweets instead. This would be the effect of approving the Ways and Means version of the Sugar Stabilization Act of 1978, H.R. 13750. President Carter repeatedly warns us about the weakening of the dollar and our worsening trade deficit, yet has come out in opposition to a bill which the Agriculture Committee has formulated to establish a viable sugar industry, and reduce our level of imports.

As well as assuring the sugar industry what is really a fair return, this version of the bill will aid a business which is one of the major consumers of sugar—the candy and confectionery industry, which employs thousands of individuals in my home State of Illinois. The bill approved by the Agriculture Committee would put a limit on the amount of candy which can be imported from abroad to compete with American products. This measure would have several important benefits for the whole Nation. It would benefit the sugar industry, which is the major goal of this legislation, by expanding demand from one of its major customers. It would reduce our payments deficit by limiting imports, and it would provide even more jobs for Americans by increasing the demand for American candy products.

Many people have cried out that this bill is unfair to consumers. In fact, the interests of shoppers are well protected in this legislation. The Agriculture Committee's version provides for the suspension of quotas and import fees once the price of sugar reaches a certain level. It must also be remembered that the cost of sugar to consumers under this bill will still be sigificantly below its price just a few years ago. Furthermore, by achieving the price objective through fees and quotas, we will be able to avoid paying sugar producers direct subsidies, which come out of the taxpayers' pockets.

The bill also protects the consumer by

maintaining domestic control over the price of sugar. Under the Ways and Means bill, price increases will be tied to rises in the world price of sugar, over which we do not have total control. We are being handed an opportunity to regain control over part of our economy, and we cannot afford to turn it down.●

● Mr. DRINAN. Mr. Chairman, I rise in support of the amendment offered by the gentleman from Michigan, and I commend him for his leadership in the fight against the unfair and inflationary pricing provisions of H.R. 13750, the Sugar Stabilization Act.

This legislation is a classic example of an attempt to protect a small special interest at the expense of the American people. Title II of the bill, which this amendment would strike, protects domestic sugar producers by guaranteeing a domestic sugar price of at least $0.15 per pound. In creating this artificial price support, H.R. 13750 would cost American consumers an average of $30.80 each in higher sugar costs over the 4-year span of the bill. In addition, title II would destroy the recently negotiated International Sugar Agreement, which the United States organized with the hope of bringing genuine stability to the world sugar market.

Enactment of this legislation would significantly limit sugar imports, thereby reducing supply and raising price. Furthermore, these limits on imports will harm our Nation's trade with sugar producing countries. American consumers and underdeveloped nations would suffer just to guarantee the U.S. sugar growers artificially high profits.

The most serious problem created by this bill is its inflationary impact. Over the 4 year life of this act, the pricing provisions contained in title II would raise the price of sugar to as much as $0.25 per pound, an increase that would, in and of itself, raise the Consumer Price Index for Food by 0.71 percent.

In June of 1977 this body adopted the de la Garza amendment to the Agriculture bill, despite my objections and those of 164 of my colleagues. That amendment hiked the price of sugar from $0.11 to $0.14 per pound, a move that has already cost American consumers $1 billion. Now, the corporate giants who dominate the sugar producing industry want the American consumer, beset by inflation in food prices, to sweeten their profits still further. I trust that the House will not swallow this bitter pill.

Under the provisions of the Agriculture Committee bill, the domestic sugar price would be initially pegged at $0.15 per pound. This increase alone will cost consumers $270 million, but this still is not enough to satisfy the sugar lobby. They have arranged to link the price of sugar to the Wholesale Price Index and the Index of Prices Paid by Farmers. These two indices, which have virtually nothing to do with the cost of producing sugar, would serve as perpetual, automatic price escalators. Every 6 months, the price would be increased to reflect the predictable increases in these indices, which consistently rise faster than the overall rate of inflation.

Based on these automatic increases, it is quite likely that the price of sugar will rise to an incredible $0.25 per pound by 1982, for a percent increase of 85 percent over current levels.

In addition, by linking the price of sugar to these indexes, title II of this bill will insure that the laws of supply and demand will never operate with regard to this agricultural commodity, so consumers will overpay in perpetuity. Even if consumer demand falls off in the face of these massive price increases, the price will remain unaffected.

In short, this bill will create incredible inflationary pressures in the food sector of our economy, which is already being buffeted by inflation. American consumers cannot afford to absorb this increase, and there is absolutely no reason why they should be asked to do so. It is not at all clear that sugar producers need special help. The proponents of this legislation claim that producers are currently losing $0.02 for every pound they sell. But this figure is skewed upward by a built-in bias in the U.S. Department of Agriculture's price evaluation system. Moreover, the cyclical nature of this industry requires price evaluation over a number of years. It is typical for agricultural producers to have 1 or 2 boom years in a cycle that will make up for leaner years during the remainder of the cycle. The sugar industry is no exception. If one averages out the industry's profits and losses since 1971, one finds that the sugar producers have enjoyed a healthy profit margin of 14.7 percent. The average profit margin for American business for that period is 3 to 7 percent. Clearly, the sugar producers are not an endangered species.

It should be clearly understood that this bill was not designed to constitute a relief measure for struggling small farmers. In fact, nothing could be further from the truth. The 16,000 sugar farms are only a minute fraction of the Nation's 2.7 million farms, and this bill would primarily benefit the large corporations which dominate domestic sugar production. Ninety percent of domestic sugarcane is grown by the 30 largest producers. These 30 corporations alone would benefit to the tune of $2.5 billion under the terms of this bill. One sugar company alone, Amstar, would gain $265 million.

If the Congress genuinely wants to help the small growers, it should enact a deficiency payment program, such as exists for corn, wheat, and cotton. This would be a relatively inexpensive program, costing less than $50 million, and would directly provide relief to those farmers most in need, while avoiding large price increases for consumers.

We should not reverse longstanding congressional policy and move to guarantee excessive profits for sugar producers. We have never given such support to the producers of any other commodity, and there is no good reason to do so now.

Certainly, no one could argue that sugar is more important, economically or nutritionally, than corn, wheat, or soybeans, or that sugar growers have lower overall profit margins. Title II of H.R. 13750, dealing with domestic prices, is actually a flagrant price-fixing scheme designed to rob the American people and reward a few large corporations.

This bill is also deficient in terms of its impact on trade relations with other nations. The United States has spent the last 5 years negotiating with the major sugar-exporting countries, which are, not incidentally, the less developed nations, in which we have invested billions of dollars to assist their economic development. The recently concluded International Sugar Agreement (ISA) would stabilize the world price of sugar, which has swung from a high of $0.60 to a low of $0.06 per pound within the last 5 years, by establishing a world price that would float between $0.11 and $0.21 per pound.

H.R. 13750 would decrease U.S. imports by approximately 25 percent, according to Secretary of Agriculture Bergland. In the process, it would destroy the ISA and severely depress the world market price. Needless to say, this would be a disaster not only for U.S. consumers, but also for the less developed nations who depend on sugar exports to finance continued development.

Enactment of this bill will also be counterproductive in terms of our own agricultural self interest. We invested a great deal of time and effort in urging Japan and the Common Market countries to lower their agricultural trade barriers. To raise our barriers now would not only be hypocritical, but it would also be counterproductive, leading to retaliation by other nations, thereby seriously impeding the efforts of U.S. growers to export agricultural commodities. Our negative balance of payments, an important component of inflation, would worsen. In this manner, H.R. 13750 would contribute still further to the inflationary spiral.

Some have argued that the defeat of this bill might facilitate the establishment of an international sugar cartel that could ultimately drive up sugar prices. This argument is nonsense. Sugar is not a fixed commodity, like oil. It is renewable, and easily grown. In fact, sugar is currently grown in 82 countries in literally every corner of the world. There is no way that a successful cartel could be established under these conditions. But even if this could occur, the increased price of sugar would make it economical to extract fructose from corn, thus allowing us to use our corn supply to destroy the cartel.

In conclusion, I believe that the pricing provisions of H.R. 13750, contained in title II, would unfairly and unnecesarily punish consumers. I voted against similar inflationary legislation in the past, and I will continue to do so. The opponents of title II include representatives from all segments of our society.

This special interest provision is opposed by representatives of consumers (Consumer Federation of America, National Taxpayers Union), labor (National Association of Farmworker Organizations, International Longshoreman's Association (AFL–CIO)), and industry (United States Refiners' Association, Sugar Users Group).

Mr. Chairman, inflation is widely recognized as one of the Nation's most serious problems. This title of H.R. 13750 would cost American consumers up to $6 billion, short circuit the free enterprise system, destroy the International Sugar Agreement, and compound our balance-of-payments problems. Title II, which the amendment before us would strike, represents narrow special interest legislation of the most pernicious kind. It would work to the detriment of the Nation in order to increase profits in a very profitable industry. I urge my colleagues to adopt this amendment to remove the pricing provisions from the Sugar Stabilization Act. Should these provisions remain, it is our duty to say no to special interests and defeat the bill.●

● Mr. KRUEGER. Mr. Chairman, I wish to speak in favor of the Sugar Stabilization Act as reported by the House Agriculture Committee, and to express to my colleagues why I believe this legislation is worthy of support.

Ever-increasing amounts of foreign sugar have been dumped on our market by foreign producers unable to find any other nation willing to accept their excess stock. As a result, U.S. domestic prices are severely depresed, and producers in Texas, the State I represent, and in other States throughout the Nation, are losing money on every pound of sugar cane and sugar beets they produce.

Surely the necessity of legislation to stop damaging imports and to assure the domestic producer a fairer price of production should take on an urgency because we have seen employment opportunities and investment potential lost through shutdown of sugar industry facilities. In addition, the Agriculture Committee's formal report and other studies indicate many further reasons for enactment of this measure, four of which I believe bear special attention:

Inflation control: During the 5-year period of the program which would be initiated by the Sugar Stabilization Act, receipts to the U.S. Treasury are expected to be almost $2 billion through imposition of import fees.

Reduced Government interference: In addition, the legislation cuts Government costs by eliminating costly support programs and Federal controls on producers.

Employment opportunities: The legislation eases pressures resulting from dumping of foreign sugar which has forced the closing of some sugar industry facilities, and so preserves valuable employment opportunities within the industry.

Balance of payments: Because U.S. farmers currently produce only about 55 percent of the total U.S. consumption of sugar each year, imports account for the remainder and contribute significantly to the U.S. trade inbalance. Passage of the Stabilization Act offers a degree of assurance that our important production base of 55 percent will not be eroded.

On behalf of the Nation's sugar producers and the Nation's sugar consumers, I respectfully request that you indicate your awareness of the magnitude of the problem before us, and your foresightedness in correcting the problem, by voting in favor of the Sugar Stabilization Act as reported by the House Agriculture Committee.●

● Mr. McKAY. Mr. Chairman, I rise to speak in support of H.R. 13750, the Sugar Stabilization Act of 1978.

Enactment of this legislation is essential for the survival of a domestic sugar industry. The domestic sugar industry presently produces only 58 of U.S. consumers' demand for sweetness. Foreign sugar imports make up the balance and contribute more than $1 billion to the Nation's trade deficit.

This cheap foreign sugar has depressed the market price to below the domestic cost of raising sugar beets and cane. Already many cane and beet growers have gone out of business. The Sugar Stabilization Act of 1978 must be passed now because the current sugar price support law expires at the end of the 1978 crop.

H.R. 13750 establishes a 16 cents per pound price objective for raw sugar.

This price objective would be maintained by quotas and import fees. The bill does not call for price support payments to domestic growers. The import quotas on sugar are compatible with U.S. policy on other farm commodities, such as dairy products, cotton, peanuts, and meat. Lastly, the price objective of 16 cents would be 60 percent of parity which is lower than support levels for milk, tobacco, peanuts, wool, and wheat.

Opponents of this bill charge that it is inflationary. This is a misconception. The price objective in this bill is only 16 percent higher than the price objective in the old Sugar Act, when it expired at the end of 1974. Meanwhile the Wholesale Price Index has increased 26 percent. Furthermore, the index of prices paid by farmers is up 22 percent.

It is important to remember that soft drink beverages and sugar containing food processors purchase nearly 3 quarters of all sugar sold in the United States. These processors raised their average composite prices 48.6 percent between 1973 and 1977, while sugar prices increased only 6 percent. Clearly a modest sugar price increase can be easily absorbed by these middlemen who have been enjoying record profits at the expense of both sugar producers and consumers. The simple fact remains that this bill would add less than $5 a year to the food cost of an urban family of four. This is a small price to pay for saving our domestic sugar industry.

And the domestic industry must be preserved to protect American consumers from the wild gyrations in the world sugar market. Eighty-five percent of the sugar produced around the world is consumed in the country of origin. This leaves only 15 percent to be dumped in the world market for purchase by the United States. If this world excess is scarce, as was the case in the early 1970's, prices skyrocket. But if there is a surplus, as is currently the case, prices are well below the cost of production any place in the world.

Finally, H.R. 13750 specifically provides for a price ceiling mechanism to protect consumers.●

● Mr. LEGGETT. Mr. Chairman, The matter we are considering here is one of great complexity and great importance. This issue has heated over the past few weeks to a point where we have all become practically deluged in correspondence, position papers, charges and counter charges.

I believe that if we are to make rational decisions and take action that is appropriate and in the best interests of the country as a whole, we must first clear the air for a moment and look solely at the heart of this issue.

What is at stake here? First, and foremost, this legislation is aimed at making sure the United States has the capacity and will to produce, domestically, a highly used commodity—sugar. To do so under our valued system of free enterprise, we must make certain that Government policies are in concert with legitimate producer needs and do not artifically restrict U.S. sugar producers from providing this commodity.

Now, there has been a great deal of letter swapping over just where we draw the line in the matter of Government involvement in sugar production. There is little doubt left among us, I believe, that the cost of sugar production has markedly increased and that other countries export sugar to the United States at deflated prices.

These factors leave our U.S. sugar producers in a very unenviable position, and it is in the national interest that we act to make certain the U.S. sugar industry is not crippled by such factors.

The question, then, is—to what extent do we act? I am speaking here of the central question of the market price objective to be established for the next 5 years.

We have all seen the many different proposals for this price objective—ranging from a low of 14.5 cents to a high of 17 cents or more. I can say, first hand, that the price of producing beet sugar in my home State of California is now some 17.1 cents per pound. In that light, I would characterize as highly unrealistic and bankrupting for the price objective to be set at the 14-to-15-cent-per-pound level.

On the other hand, I do not believe that the Congress should be in the position of guaranteeing a profit to anyone. I could not, therefore, support the high of 17 cents or more per pound price objective.

It is my much considered position that the Committee on Agriculture, under the distinguished leadership of the gentleman from Washington, has arrived at the correct and proper amount of 16 cents per pound to establish as the price objective.

The second issue at stake here—and one that has received perhaps the most attention in the last few days—is what effect this price objective will have on the national economy, particularly the inflation rate.

Let us not kid ourselves, or the American people: Any price support level above 14.5 cents per pound will eventually increase the price of sugar in our supermarkets. The 14.5-cent level is simply unrealistic, and both versions of what

the price objective should be call for levels that will eventually affect the price of a pound of sugar to American consumers.

There are, however, other economic factors involved here that must be considered.

The level established by the committee will have positive and meaningful impact on other areas of the economy that, likewise, affect the inflation rate. For example, the Congressional Budget Office estimates that the committee bill would reduce Federal outlays by a net $540 million in fiscal 1979, and would increase revenues from import fees by $1 billion 685 million in fiscal 1980–83. This amount of positive impact cannot be claimed by the Ways and Means Committee version.

It is my opinion, Mr. Chairman, that the committee has struck a delicate balance in stabilizing our important sugar industry while also reducing Federal outlays and increasing Federal revenues. I believe that it was a difficult balance to establish, especially in light of the growing controversy and confusion on this issue, and one that should not be tampered with.●

● Mr. BROWN of California. Mr. Speaker, the Sugar Stabilization Act is a much needed piece of legislation that offers hope for sugar farmers and farm laborers and offers stable prices for consumers. In addition, this act implements the International Sugar Agreement needed to stabilize the world price for raw sugar. I hope that my colleagues will see the need for the enactment of the Agriculture Committee bill and vote in favor of a stable sugar supply.

Opponents of this bill have harped on its inflationary impact in the marketplace. An unstable market is inflationary not a stable one. The wild price swings of the past have allowed gouging and "perverse pricing" on the part of the industrial users, the food processors. Prices for sugar-containing foods and beverages increased 48.6 percent between 1973 and 1977 while sugar prices increased only 6 percent. Prices in the market do not reflect the farmers' costs but rather are a result of the "up two, down one" pricing methods used in too many retail industries. In fact, current prices do not even cover the cost of production for sugar farmers.

A stable market will allow predictable pricing for the consumer without excessive profit to the producer. The increase to 16 cents per pound to the farmer will only cost the American consumer about $1.25 per year, if the cost is passed straight through by the processors. Charges of unwarranted, costly price increases are not true. The price increase to 16 cents per pound will help the sugar beet farmers of my State and the other producing States. Production costs are averaging approximately 17 cents per pound in California and will go higher as operating costs increase. This legislation will help these farmers and benefits will accrue to the family-sized sugar operation that makes up much of the western and midwestern production.

The labor provision, setting the sugar field workers wages at $3 per hour is another overdue measure. This provides a decent wage scale for both organized and unorganized field workers. In addition, this section also provides guarantees for strict enforcement and the right of dispute and redress for the workers.

I have supported this approach since its introduction and have urged others to do the same. We can insure a fair return for our domestic sugar producers without harming the consumer by the enactment of this bill. The only losers in this approach are the speculators and gougers who have profited from the price fluctuations of the past.●

The CHAIRMAN. Are there further amendments? If not, under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. DAN DANIEL, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 13750) to implement the International Sugar Agreement between the United States and foreign countries; to protect the welfare of consumers of sugar and those engaged in the domestic sugar-producing industry; to promote the export trade of the United States; and for other purposes, pursuant to House Resolution 1354, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. FINDLEY

Mr. FINDLEY. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman opposed to the bill?

Mr. FINDLEY. I am, Mr. Speaker.

The SPEAKER. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. FINDLEY moves to recommit the bill, H.R. 13750, to the Committee on Agriculture, and to the Committee on Ways and Means.

The SPEAKER. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER. The question is on the motion to recommit.

The motion to recommit was rejected.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. VANIK. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 186, nays 159, not voting 87, as follows:

[Roll No. 889]

YEAS—186

Abdnor	Frey	Neal
Akaka	Gephardt	Nichols
Andrews, N.C.	Glickman	Nix
Andrews, N. Dak.	Goldwater	Nolan
Annunzio	Gore	O'Brien
Badham	Grassley	Oakar
Bafalis	Gudger	Oberstar
Baldus	Guyer	Obey
Baucus	Hanley	Patterson
Beard, Tenn.	Hannaford	Pepper
Bedell	Hansen	Perkins
Benjamin	Harkin	Poage
Bevill	Hawkins	Pressler
Bingham	Hefner	Preyer
Boggs	Heftel	Rangel
Bonior	Hightower	Robinson
Bonker	Holland	Rogers
Bowen	Howard	Rose
Breaux	Hubbard	Rostenkowski
Brinkley	Huckaby	Roybal
Brooks	Ichord	Ryan
Brown, Calif.	Ireland	Satterfield
Burgener	Jeffords	Schroeder
Burke, Fla.	Jenrette	Shuster
Burleson, Tex.	Johnson, Calif.	Sikes
Burlison, Mo.	Johnson, Colo.	Sisk
Burton, John	Jones, N.C.	Slack
Burton, Phillip	Jones, Okla.	Smith, Iowa
Carr	Jones, Tenn.	Smith, Nebr.
Carter	Jordan	Snyder
Cavanaugh	Kasten	Spence
Cederberg	Kazen	Stangeland
Chisholm	Keys	Steed
Clausen, Don H.	Kildee	Steiger
Clay	Kindness	Stokes
Coleman	Krebs	Stump
Corman	Lagomarsino	Symms
Cornell	Latta	Taylor
Daniel, Dan	Leach	Thornton
de la Garza	Leggett	Traxler
Delaney	Lehman	Treen
Dellums	Livingston	Tucker
Derrick	Lloyd, Calif.	Ullman
Derwinski	Long, La.	Vander Jagt
Dickinson	Lott	Volkmer
Dingell	McCloskey	Waggonner
Duncan, Oreg.	McCormack	Wampler
Edwards, Ala.	McFall	Watkins
Edwards, Calif.	Madigan	Waxman
English	Mahon	White
Evans, Colo.	Marlenee	Whitley
Evans, Ga.	Marriott	Whitten
Evans, Ind.	Mathis	Wilson, Bob
Fary	Metcalfe	Wilson, C. H.
Fithian	Michel	Wilson, Tex.
Flood	Miller, Ohio	Winn
Flynt	Mineta	Wirth
Foley	Mitchell, Md.	Wright
Ford, Tenn.	Montgomery	Yatron
Fountain	Moore	Young, Alaska
Frenzel	Murtha	Young, Tex.
	Myers, John	Zablocki
	Natcher	

NAYS—159

Addabbo	Devine	Harris
Ambro	Dodd	Heckler
Anderson, Calif.	Dornan	Holt
Anderson, Ill.	Downey	Holtzman
Applegate	Drinan	Hughes
Archer	Duncan, Tenn.	Hyde
Ashbrook	Early	Jacobs
AuCoin	Eckhardt	Jenkins
Barnard	Edgar	Kastenmeier
Bauman	Edwards, Okla.	Kelly
Beard, R.I.	Emery	Kemp
Beilenson	Erlenborn	Kostmayer
Bennett	Ertel	LaFalce
Biaggi	Evans, Del.	Le Fante
Brademas	Fascell	Lederer
Brodhead	Fenwick	Lent
Broomfield	Findley	Levitas
Brown, Mich.	Fisher	Long, Md.
Brown, Ohio	Florio	Luken
Buchanan	Ford, Mich.	Lundine
Burke, Mass.	Forsythe	McClory
Butler	Fowler	McDade
Byron	Gaydos	McDonald
Clawson, Del	Gibbons	McHugh
Collins, Tex.	Gilman	McKinney
Conte	Ginn	Maguire
Conyers	Gonzalez	Mann
Cornwell	Goodling	Markey
Coughlin	Gradison	Marks
Cunningham	Green	Mattox
D'Amours	Hall	Mazzoli
Daniel, R. W.	Hamilton	Meyner
Danielson	Hammer-schmidt	Mikulski
		Milford

Miller, Calif.	Pursell	Spellman
Minish	Quayle	St Germain
Moakley	Quillen	Stanton
Moffett	Regula	Steers
Mollohan	Reuss	Stockman
Moorhead, Calif.	Richmond	Stratton
	Rinaldo	Studds
Moorhead, Pa.	Rosenthal	Trible
Murphy, N.Y.	Rousselot	Udall
Murphy, Pa.	Runnels	Van Deerlin
Myers, Gary	Ruppe	Vanik
Myers, Michael	Russo	Walker
Nedzi	Santini	Weiss
Nowak	Sawyer	Whalen
Patten	Scheuer	Wolff
Pattison	Schulze	Wydler
Pickle	Seiberling	Wylie
Pike	Sharp	Yates
Price	Simon	Young, Fla.
Pritchard	Solarz	Young, Mo.

NOT VOTING—87

Alexander	Flippo	Quie
Ammerman	Flowers	Rahall
Armstrong	Fraser	Railsback
Ashley	Fuqua	Rhodes
Aspin	Gammage	Risenhoover
Blanchard	Garcia	Roberts
Blouin	Giaimo	Rodino
Boland	Hagedorn	Roe
Bolling	Harrington	Roncalio
Breckinridge	Harsha	Rooney
Broyhill	Hillis	Rudd
Burke, Calif.	Hollenbeck	Sarasin
Caputo	Horton	Sebelius
Carney	Krueger	Shipley
Chappell	Lloyd, Tenn.	Skelton
Cleveland	Lujan	Skubitz
Cochran	McEwen	Staggers
Cohen	McKay	Stark
Collins, Ill.	Martin	Teague
Conable	Meeds	Thompson
Corcoran	Mikva	Thone
Cotter	Mitchell, N.Y.	Tsongas
Crane	Moss	Vento
Davis	Mottl	Walgren
Dent	Murphy, Ill.	Walsh
Dicks	Ottinger	Weaver
Diggs	Panetta	Whitehurst
Eilberg	Pease	Wiggins
Fish	Pettis	Zeferetti

The Clerk announced the following pairs:

On this vote:

Mr. Krueger for, with Mr. Mottl against.

Mr. McKay for, with Mr. Ammerman against.

Mr. Vento for, with Mr. Mikva against.

Mr. Chappell for, with Mr. Eilberg against.

Mr. Armstrong for, with Mr. Cleveland against.

Mr. Quie for, with Mr. Hollenbeck against.

Mr. Skubitz for, with Mr. Corcoran of Illinois against.

Mr. Sebelius for, with Mr. Horton against.

Mr. Thone for, with Mr. Mitchell of New York against.

Mr. Cochran of Mississippi for, with Mr. Sarasin against.

Mr. Pease for, with Mr. Lujan against.

Mrs. Collins of Illinois for, with Mr. Cohen against.

Mr. Rahall for, with Mr. Conable against.

Mr. Panetta for, with Mr. Walsh against.

Mr. Hagedorn for, with Mr. Fish against.

Until further notice:

Mr. Rodino with Mr. Martin.

Mr. Ashley with Mrs. Pettis.

Mr. Boland with Mr. Hillis.

Mrs. Burke of California with Mr. Railsback.

Mr. Harrington with Mr. Rudd.

Mr. Gammage with Mr. Whitehurst.

Mr. Bolling with Mr. Caputo.

Mr. Fuqua with Mr. Broyhill.

Mr. Murphy of Illinois with Mr. McEwen.

Mr. Shipley with Mr. Harsha.

Mr. Flowers with Mr. Crane.

Mr. Moss with Mr. Rhodes.

Mr. Zeferetti with Mr. Wiggins.

Mr. Cotter with Mr. Weaver.

Mr. Roe with Mr. Tsongas.

Mr. Rooney with Mr. Stark.

Mr. Staggers with Mr. Risenhoover.

Mr. Teague with Mr. Roberts.

Mr. Thompson with Mr. Alexander.

Mr. Aspin with Mr. Blanchard.

Mr. Blouin with Mr. Carney.

Mr. Meeds with Mr. Ottinger.

Mr. Diggs with Mr. Davis.

Mr. Walgren with Mr. Skelton.

Mr. Roncalio with Mr. Flippo.

Mr. Fraser with Mr. Garcia.

Mr. Giaimo with Mr. Dicks.

Mr. Breckinridge with Mr. Dent.

Messrs. YOUNG of Florida, MURPHY of New York, and BARNARD changed their vote from "yea" to "nay."

So the bill was passed.

The result of the vote was announced as above recorded.

The title was amended so as to read: "A bill to implement the International Sugar Agreement, 1977 between the United States and foreign countries, to protect the welfare of consumers of sugar and of those engaged in the domestic sugar industry, and for other purposes.".

A motion to reconsider was laid on the table.

AUTHORIZING CLERK TO CORRECT PUNCTUATION, CROSS-REFERENCES, AND SECTION NUMBERS IN ENGROSSMENT OF H.R. 13750

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that the Clerk be authorized to correct punctuation, cross-references, and section numbers in the engrossment of the bill, H.R. 13750.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

GENERAL LEAVE

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include therein extraneous matter on the bill H.R. 13750, just passed.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

REQUEST FOR CONSIDERATION OF SENATE AMENDMENTS TO HOUSE AMENDMENT TO SENATE AMENDMENT TO H.R. 8200, ESTABLISHING UNIFORM LAW ON BANKRUPTCIES

Mr. EDWARDS of California. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 8200) to establish a uniform law on the subject of bankruptcies, with Senate amendments to the House amendment to the Senate amendment thereto, and concur therein.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from California?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, I do so not to address myself to the substance of the bill before us, the Bankruptcy Act, but to call to the attention of the House that this Committee, which is the opposite number of the Committee on the Judiciary in the other body, has at the present time either acted finally or in some form on some 70 House Immigration and Claims bills which have not been brought to the floor of the other body and acted upon.

Now, two of those bills happen to be bills the gentleman from Maryland introduced, but they cover the waterfront from the gentleman from California, (Mr. PHILLIP BURTON) over to the most conservative. Some of the Democratic leadership, including the gentleman from Arizona (Mr. UDALL) is on the list. So, it is a distinguished group notwithstanding the fact that the gentleman from Maryland is included.

Repeated requests to the leadership of the Judiciary Committee in the other body have produced no action whatsoever. I do not know why they are being held up. I have been told that there are personality difficulties and other difficulties, but every one of these bills are House bills that have passed, in the House, the rigorous tests of objectors and have been passed by the full House. But no action is being taken.

I would like to have some word of expression from members of this committee as to what we can do about this situation in the closing days to get these bills moving. There is no controversy on them, but nothing is being done. If they want bankruptcy acts and other bills of their committee, it seems to me that they ought to be able to consider that legislation.

Mr. EDWARDS of California. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from California.

Mr. EDWARDS of California. I thank the gentleman for yielding to me. I was not earlier acquainted with the delay in the other body on these very important bills that the gentleman from Maryland describes. I assure the gentleman from Maryland that I am just as concerned as he is that that delay is taking place, even though the gentleman from California does not have any bills included in the list.

I assure the gentleman from Maryland that on Monday next, or Tuesday next—and I believe the other body will be in session on Monday and I will be here—if Mr. BUTLER, my ranking minority member on the Committee on Civil and Constitutional Rights, is also present, we will go to our compatriots and friends on the Senate Judiciary Committee and see if we can shake them loose.

Mr. ASHBROOK. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Ohio.

Mr. ASHBROOK. Mr Speaker, inasmuch as I do not have bills and I am not in that distinguished group, and since we are going to find out what happens on Monday or Tuesday, I will object, and we will see what happens.

The SPEAKER. Objection is heard.

CONFERENCE REPORT ON H.R. 10587, PUBLIC GRAZING LANDS IMPROVEMENT ACT OF 1978

Mr. UDALL submitted the following conference report and statement on the

bill (H.R. 10587) to improve the range conditions of the public grazing lands:

CONFERENCE REPORT (H. REPT. 95–1737)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 10587), to improve the range conditions of the public grazing lands, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

That this Act may be cited as the "Public Rangelands Improvement Act of 1978".

FINDINGS AND DECLARATION OF POLICY

SEC. 2. (a) The Congress finds and declares that—

(1) vast segments of the public rangelands are producing less than their potential for livestock, wildlife habitat, recreation, forage, and water and soil conservation benefits, and for that reason are in an unsatisfactory condition;

(2) such rangelands will remain in an unsatisfactory condition and some areas may decline further under present levels of, and funding for, management;

(3) unsatisfactory conditions on public rangelands present a high risk of soil loss, desertification, and a resultant underproductivity for large acreages of the public lands; contribute significantly to unacceptable levels of siltation and salinity in major western watersheds including the Colorado River; negatively impact the quality and availability of scarce western water supplies; threaten important and frequently critical fish and wildlife habitat; prevent expansion of the forage resource and resulting benefits to livestock and wildlife production; increase surface runoff and flood danger; reduce the value of such lands for recreational and esthetic purposes; and may ultimately lead to unpredictable and undesirable long-term local and regional climatic and economic changes;

(4) the above-mentioned conditions can be addressed and corrected by an intensive public rangelands maintenance, management, and improvement program involving significant increases in levels of rangeland management and improvement funding for multiple-use values;

(5) to prevent economic disruption and harm to the western livestock industry, it is in the public interest to charge a fee for livestock grazing permits and leases on the public lands which is based on a formula reflecting annual changes in the costs of production;

(5) the Act of December 15, 1971 (85 Stat. 649, 16 U.S.C. 1331 et seq.), continues to be successful in its goal of protecting wild free-roaming horses and burros from capture, branding, harassment, and death, but that certain amendments are necessary thereto to avoid excessive costs in the administration of the Act, and to facilitate the humane adoption or disposal of excess wild free-roaming horses and burros which because they exceed the carrying capacity of the range, pose a threat to their own habitat, fish, wildlife, recreation, water and soil conservation, domestic livestock grazing, and other rangeland values;

(b) The Congress therefore hereby establishes and reaffirms a national policy and commitment to:

(1) inventory and identify current public rangelands conditions and trends as a part of the inventory process required by section 201(a) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1711);

(2) manage, maintain and improve the condition of the public rangelands so that they become as productive as feasible for all rangeland values in accordance with management objectives and the land use planning process established pursuant to section 202 of the Federal Land Policy and Management Act (43 U.S.C. 1712);

(3) charge a fee for public grazing use which is equitable and reflects the concerns addressed in paragraph (a)(5) above;

(4) continue the policy of protecting wild free-roaming horses and burros from capture, branding, harassment, or death, while at the same time facilitating the removal and disposal of excess wild free-roaming horses and burros which pose a threat to themselves and their habitat and to other rangeland values;

(c) The policies of this Act shall become effective only as specific statutory authority for their implementation is enacted by this Act or by subsequent legislation, and shall be construed as supplemental to and not in derogation of the purposes for which public rangelands are administered under other provisions of law.

SEC. 3. As used in this Act—

(a) The terms "rangelands" or "public rangelands" means lands administered by the Secretary of the Interior through the Bureau of Land Management or the Secretary of Agriculture through the Forest Service in the sixteen contiguous Western States on which there is domestic livestock grazing or which the Secretary concerned determines may be suitable for domestic livestock grazing.

(b) The term "allotment management plan" is the same as defined in section 103(k) of the Federal Land Policy Management Act of 1976 (43 U.S.C. 1702(k)), except that as used in this Act such term applies to the sixteen contiguous Western States.

(c) The term "grazing permit and lease" means any document authorizing use of public lands or lands in national forests in the sixteen contiguous Western States for the purpose of grazing domestic livestock.

(d) The term "range condition" means the quality of the land reflected in its ability in specific vegetative areas to support various levels of productivity in accordance with range management objectives and the land use planning process, and relates to soil quality, forage values (whether seasonal or year round), wildlife habitat, watershed and plant communities, the present state of vegetation of a range site in relation to the potential plant community for that site, and the relative degree to which the kinds, proportions, and amounts of vegetation in a plant community resemble that of the desired community for that site.

(e) The term "native vegetation" means those plant species, communities, or vegetative associations which are endemic to a given area and which would normally be identified with a healthy and productive range condition occurring as a result of the natural vegetative process of the area.

(f) The term "range improvement" means any activity or program on or relating to rangelands which is designed to improve production of forage; change vegetative composition; control patterns of use; provide water; stabilize soil and water conditions; and provide habitat for livestock and wildlife. The term includes, but is not limited to, structures, treatment projects, and use of mechanical means to accomplish the desired results.

(g) The term "court ordered environmental impact statement" means any environmental statements which are required to be prepared by the Secretary of the Interior pursuant to the final judgment or subsequent modification thereof as set forth on June 18, 1975, in the matter of Natural Resources Defense Council against Andrus.

(h) The term "Secretary", unless specifically designated otherwise, means the Secretary of the Interior.

(i) The term "sixteen contiguous Western States" means the States of Arizona, California, Colorado, Idaho, Kansas, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Utah, Washington, and Wyoming.

RANGELANDS INVENTORY AND MANAGEMENT

SEC. 4. (a) Following enactment of this Act, the Secretary of the Interior and the Secretary of Agriculture shall update, develop (where necessary) and maintain on a continuing basis thereafter, an inventory of range conditions and record of trends of range conditions on the public rangelands, and shall categorize or identify such lands on the basis of the range conditions and trends thereof as they deem appropriate. Such inventories shall be conducted and maintained by the Secretary as a part of the inventory process required by section 201(a) of the Federal Land Policy and Management Act (43 U.S.C. 1711), and by the Secretary of Agriculture in accordance with section 5 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1603); shall be kept current on a regular basis so as to reflect changes in range conditions; and shall be available to the public.

(b) The Secretary shall manage the public rangelands in accordance with the Taylor Grazing Act (43 U.S.C. 315–315(o)), the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701–1782), and other applicable law consistent with the public rangelands improvement program pursuant to this Act. Except where the land use planning process required pursuant to section 202 of the Federal Land Policy and Management Act (43 U.S.C. 1712) determines otherwise or the Secretary determines, and sets forth his reasons for this determination, that grazing uses should be discontinued (either temporarily or permanently) on certain lands, the goal of such management shall be to improve the range conditions of the public rangelands so that they become as productive as feasible in accordance with the rangeland management objectives established through the land use planning process, and consistent with the values and objectives listed in sections 2(a) and (b)(2) of this Act.

RANGE IMPROVEMENT FUNDING

SEC. 5. (a). In order to accomplish the purposes of this Act, there are hereby authorized to be appropriated the sum of an additional $15,000,000 annually in fiscal years 1980 through 1982; for fiscal years 1983 through 1986 an amount no less than the amount authorized for 1982; and for fiscal years 1987 through 1999 an amount not less than $5,000,000 annually more than the amount authorized for fiscal year 1986. Such funds shall be in addition to any range, wildlife, and soil and water management moneys which have been requested by the Secretary under the provisions of section 318 of the Federal Land Policy and Management Act, and in addition to the moneys which are available for range improvements under section 401 of the Federal Land Policy and Management Act (43 U.S.C. 1751).

(b) Any amounts authorized by this section not appropriated in one or more fiscal years shall be available for appropriation in any subsequent years.

(c) No less than 80 per centum of such funds provided herein shall be used for on-the-ground range rehabilitation, maintenance and the construction of range improvements (including project layout, project design, and project supervision). No more than 15 per centum of such funds provided herein shall be used to hire and train such experienced and qualified personnel as are

necessary to implement on-the-ground supervision and enforcement of the land use plans required pursuant to section 202 of the Federal Land Policy and Management Act (43 U.S.C. 1712) and such allotment management plans as may be developed. Such funds shall be distributed as the Secretary deems advisable after careful and considered consultation and coordination, including public hearings and meetings where appropriate, with the district grazing advisory boards established pursuant to section 403 of the Federal Land Policy and Management Act (43 U.S.C. 1753), and the advisory councils established pursuant to section 309 of the Federal Land Policy and Management Act (43 U.S.C. 1739), range user representatives, and other interested parties. To the maximum extent practicable, and where economically sound, the Secretary shall give priority to entering into cooperative agreements with range users (or user groups) for the installation and maintenance of on-the-ground range improvements.

(d) Prior to the use of any funds authorized by this section the Secretary shall cause to have prepared an environmental assessment record on each range improvement project. Thereafter, improvement projects may be constructed unless the Secretary determines that the project will have a significant impact on the quality of human environment, necessitating an environmental impact statement pursuant to the National Environmental Policy Act prior to the expenditure of funds.

GRAZING FEES

SEC. 6. (a) For the grazing years 1979 through 1985, the Secretaries of Agriculture and Interior shall charge the fee for domestic livestock grazing on the public rangelands which Congress finds represents the economic value of the use of the land to the user, and under which Congress finds fair market value for public grazing equals the $1.23 base established by the 1966 Western Livestock Grazing Survey multiplied by the result of the Forage Value Index (computed annually from data supplied by the Economic Research Service) added to the Combined Index (Beef Cattle Price Index minus the Price Paid Index) and divided by 100: *Provided*, That the annual increase or decrease in such fee for any given year shall be limited to not more than plus or minus 25 per centum of the previous year's fee.

(b) The second sentence of section 401(b)(1) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1751(b)(1)) is hereby amended by adding the words "or $10,000,000 per annum, whichever is greater" after the words "50 per centum", and by substituting the word "sixteen" for the word "eleven" before the words "contiguous Western States".

GRAZING LEASES AND PERMITS

SEC. 7. (a) Section 402(b)(3) of the Federal Land Policy and Management Act (43 U.S.C. 1752) is amended by striking the period at the end of the proviso and adding ": *Provided further*, That the absence of completed land use plans or court ordered environmental statements shall not be the sole basis for establishing a term shorter than ten years unless the Secretary determines on a case-by-case basis that the information to be contained in such land use plan or court ordered environmental impact statement is necessary to determine whether a shorter term should be established for any of the reasons set forth in items (1) through (3) of this subsection.".

(b) Section 402(a) of the Federal Land Policy and Management Act is hereby amended by substituting the word "sixteen" for the word "eleven" before the words "contiguous Western States".

ALLOTMENT MANAGEMENT PLANS

SEC. 8. Sections 402 (d) and (e) (43 U.S.C. 1752 (d) and (e)) are hereby amended—

(a) by changing subsection (d) to read as follows:

"(d) All permits and leases for domestic livestock grazing issued pursuant to this section may incorporate an allotment management plan developed by the Secretary concerned. However, nothing in this subsection shall be construed to supersede any requirement for completion of court ordered environmental impact statements prior to development and incorporation of allotment management plans. If the Secretary concerned elects to develop an allotment management plan for a given area, he shall do so in careful and considered consultation, cooperation and coordination with the lessees, permittees, and landowners involved, the district grazing advisory boards established pursuant to section 403 of the Federal Land Policy and Management Act (43 U.S.C. 1753), and any State or States having lands within the area to be covered by such allotment management plan. Allotment management plans shall be tailored to the specific range condition of the area to be covered by such plan, and shall be reviewed on a periodic basis to determine whether they have been effective in improving the range condition of the lands involved or whether such lands can be better managed under the provisions of subsection (e) of this section. The Secretary concerned may revise or terminate such plans or develop new plans from time to time after such review and careful and considered consultation, cooperation and coordination with the parties involved. As used in this subsection, the terms 'court ordered environmental impact statement' and 'range condition' shall be defined as in the 'Public Rangelands Improvement Act of 1978.'".

(b) by deleting in subsection (e) the words "Prior to October 1, 1988, or thereafter, in" and by inserting "In".

APPROPRIATIONS

SEC. 9. Notwithstanding any other provision of this Act, authority to enter into cooperative agreements and to make payments under this Act shall be effective only to the extent or in such amounts as are provided in advance in appropriation Acts.

GRAZING ADVISORY BOARDS

SEC. 10. Section 403(a) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1753) is amended by substituting the word "sixteen" for the word "eleven" before the words "contiguous Western States".

NATIONAL GRASSLANDS EXEMPTIONS

SEC. 11. Ann National Grasslands are exempted from the provisions of this Act.

EXPERIMENTAL STEWARDSHIP PROGRAM

SEC. 12. (a) The Secretaries of Interior and Agriculture are hereby authorized and directed to develop and implement, on an experimental basis on selected areas of the public rangelands which are representative of the broad spectrum of range conditions, trends, and forage values, a program which provides incentives to, or rewards for, the holders of grazing permits and leases whose stewardship results in an improvement of the range condition of lands under permit or lease. Such program shall explore innovative grazing management policies and systems which might provide incentives to improve range conditions. These may include, but need not be limited to—

(1) cooperative range management projects designed to foster a greater degree of cooperation and coordination between the Federal and State agencies charged with the management of the rangelands and with local private range users,

(2) the payment of up to 50 per centum of the amount due the Federal Government from grazing permittees in the form of range improvement work,

(3) such other incentives as he may deem appropriate.

(b) No later than December 31, 1985, the Secretaries shall report to the Congress the results of such experimental program, their evaluation of the fee established in section 6 of this Act and other grazing fee options, and their recommendations to implement a grazing fee schedule for the 1986 and subsequent grazing years.

ADVISORY COUNCILS

SEC. 13. The first line of section 309(a) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1739) is amended by deleting "is authorized to" and inserting in lieu thereof "shall".

WILD HORSES AND BURROS

SEC. 14(a). Subsection 3 (b) and (c) and (d) of the Act of December 15, 1971 (85 Stat. 649; 16 U.S.C. 1333 (b)(3)) are hereby amended to read as follows:

"(b)(1) The Secretary shall maintain a current inventory of wild free-roaming horses and burros on given areas of the public lands. The purpose of such inventory shall be to: Make determinations as to whether and where an overpopulation exists and whether action should be taken to remove excess animals; determine appropriate management levels of wild free-roaming horses and burros on these areas of the public lands; and determine whether appropriate management levels should be achieved by the removal or destruction of excess animals, or other options (such as sterilization, or natural controls on population levels). In making such determinations the Secretary shall consult with the United States Fish and Wildlife Service, wildlife agencies of the State or States wherein wild free-roaming horses and burros are located, such individuals independent of Federal and state government as have been recommended by the National Academy of Sciences, and such other individuals whom he determines have scientific expertise and special knowledge of wild horse and burro protection, wildlife management and animal husbandry as related to rangeland management.

"(2) Where the Secretary determines on the basis of (i) the current inventory of lands within his jurisdiction, (ii) information contained in any land use planning completed pursuant to section 202 of the Federal Land Policy and Management Act of 1976; (iii) information contained in court ordered environmental impact statements as defined in section 2 of the Public Range Lands Improvement Act of 1978; and (iv) such additional information as becomes available to him from time to time, including that information developed in the research study mandated by this section, or in the absence of the information contained in (i–iv) above on the basis of all information currently available to him, that an over-population exists on a given area of the public lands and that action is necessary to remove excess animals, he shall immediately remove excess animals from the range so as to achieve appropriate management levels. Such action shall be taken, in the following order and priority, until all excess animals have been removed so as to restore a thriving natural ecological balance to the range, and protect the range from the deterioration associated with overpopulation:

"(A) The Secretary shall order old, sick, or lame animals to be destroyed in the most humane manner possible;

"(B) The Secretary shall cause such number of additional excess wild free-roaming horses and burros to be humanely captured and removed for private maintenance and care for which he determines an adoption demand exists by qualified individuals, and for which he determines he can assure humane treatment and care (including proper transportation, feeding, and handling): *Provided*, That, not more than four animals may be adopted per year by any individual unless the Secretary determines in writing that such individual is capable of humanely caring for more than four animals, including the transportation of such animals by the adopting party; and

"(C) The Secretary shall cause additional excess wild free-roaming horses and burros for which an adoption demand by qualified individuals does not exist to be destroyed in the most humane and cost efficient manner possible.

(b)(3) For the purpose of furthering knowledge of wild horse and burro population dynamics and their interrelationship with wildlife, forage and water resources, and assisting him in making his determination as to what constitutes excess animals, the Secretary shall contract for a research study of such animals with such individuals independent of Federal and State government as may be recommended by the National Academy of Sciences for having scientific expertise and special knowledge of wild horse and burro protection, wildlife management and animal husbandry as related to rangeland management. The terms and outline of such research study shall be determined by a research design panel to be appointed by the President of the National Academy of Sciences. Such study shall be completed and submitted by the Secretary to the Senate and House of Representatives on or before January 1, 1983.

"(c) Where excess animals have been transferred to a qualified individual for adoption and private maintenance pursuant to this Act and the Secretary determines that such individual has provided humane conditions, treatment and care for such animal or animals for a period of one year, the Secretary is authorized upon application by the transferee to grant title to not more than four animals to the transferee at the end of the one year period.

"(d) Wild free-roaming horses and burros or their remains shall lose their status as wild free-roaming horses or burros and shall no longer be considered as falling within the purview of this Act—

"(1) upon passage of title pursuant to subsection (c) except for the limitation of subsection (c)(1) of this section; or

"(2) if they have been transferred for private maintenance or adoption pursuant to this Act and die of natural causes before passage of title; or

"(3) upon destruction by the Secretary or his designee pursuant to subsection (b) of this section; or

"(4) if they die of natural causes on the public lands or on private lands where maintained thereon pursuant to section 4 and disposal is authorized by the Secretary or his designee; or

"(5) upon destruction or death for purposes of or incident to the program authorized in section 3 of this Act; *Provided*, That no wild free-roaming horse or burro or its remains may be sold or transferred for consideration for processing into commercial products.

SEC. 14(b) A new subsection (f) is added to section 2 of the Act of December 15, 1971, as amended (16 U.S.C. 1332) to read as follows:

"(f) "excess animals" means wild free-roaming horses or burros (1) which have been removed from any area by the Secretary pursuant to applicable law or, (2) which must be removed from an area in order to preserve and maintain a thriving natural ecological balance and multiple use relationship in that area."

And the Senate agree to the same.

MO K. UDALL,
TENO RONCALIO,
JIM SANTINI,
JAMES P. JOHNSON,
Managers on the Part of the House.

FRANK CHURCH,
JAMES A. MCCLURE,
PAUL LAXALT,
Managers on the Part of the Senate.

JOINT STATEMENT OF THE COMMITTEE OF CONFERENCE ON H.R. 10587

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 10587) to provide for a program to improve the condition of the public rangelands, and for other purposes, submit the following joint statement in explanation of the effect of the language agreed upon by the managers and recommended in the accompanying conference report.

EXPLANATION OF ACTIONS TAKEN (BY SECTION)

Section 1—Title

Both bills title the bill "The Public Range Lands Improvement Act of 1978".

Section 2—Findings and policy

The findings and policy sections of both bills are virtually identical. The Senate version was accepted by the conferees as it contains several minor wording and technical changes to conform the findings and policy to the version of the bill ultimately agreed upon. As the conferees agreed to incorporate a section dealing with wild horses and burros, the House findings and policy on horses and burros were accepted.

Section 3—Definitions

Most of the definitions in both bills were identical or similar, but the conferees accepted the Senate version. The major change involved deletion of the House definitions of "environment impact improvements" and "nonenvironment impact improvements". The conferees agreed with the Senate and the Administration that these definitions, although designed to facilitate the initiation of range improvements, might actually result in unnecessary confusion and possible litigation. Clearly, it is the desire of both the House and the Senate, that range improvements which will not have adverse environmental impacts, be allowed to proceed expeditiously. The conferees trust that this desire will be communicated to the field level, and feel the Department of Interior's guidelines of December 12, 1977, are very helpful in this regard.

Although the conferees discarded the House's definitions, the conferees support the similar guidelines which are outlined on page 10 of the Senate's report on H.R. 10587 (Senate Report 95-1237). The conferees further agree with the language at page 15 of the House Report (95-1122) which indicates fencing along highways to protect the public health and safety, and fencing to mark boundaries, to prevent against livestock trespass, and to protect riparian habitat are also in the category of range improvements which the Senate report indicates should be initiated to "facilitate the environmentally sound management of the range". Of course, even with these guidelines, considerable discretion and latitude on the question of the environmental impact of range improvements remains with the Secretary of Interior. Given the mandate of the National Environmental Policy Act, this result cannot be avoided. Any attempts to delineate hard and fast rules as to exactly those improvements which would, 100 percent of the time, involve either significant or insignificant environmental impacts, would be arbitrary. The impacts of improvements must be judged on a case-by-case basis, and that is exactly what the National Environmental Policy Act and H.R. 10587 require.

The conferees also agreed to the Senate bill's revision of several definitions which streamline the definitions section and add a definition of "range improvement". The Senate's definitions also apply various provisions of the bill to the states of North Dakota, Kansas and Oklahoma—states that were not covered in the House version. This brings to total number of states covered by the bill to 16. While very little acreage is involved in these three states, the conferees agreed with the Administration that grazing problems in these states are similar to those in the eleven Western States, South Dakota and Nebraska, and saw no objection to their inclusion in the bill.

Section 4—Rangelands inventory and management

Both bills had identical sections except for two technical conforming amendments in the Senate bill which were accepted by the conferees.

Section 5—Range improvement funding

Under both bills, $360 million is allocated to range improvements over the next 20 years. The need for such moneys is discussed in detail in both Committee Reports, and the conferees would only repeat the request for a Civil Service Commission review of the job qualification and training of range managers which appears on page 13 of the House Report.

The conferees accepted the Senate language on funding which reflects the Administration's revised drafting to insure the full $360 million is authorized for appropriation. However, because the Senate deleted fiscal year 1979 funding to overcome possible Budget Act problems, the conferees agreed to extend the funding so that it terminates in fiscal year 1999 instead of 1998.

The net effect is to authorize appropriations of $365 million instead of the original $360 million.

The conferees also agreed to the Senate deletion of subsection (4)(c) of the House bill which would have required the President to fully request the funding in the bill, or, if not, to indicate whether a lesser level was suggested or dictated by the Office of Management and Budget. The Administration found this language strongly objectionable. The conferees expect, however, that this Administration, and future Administrations, will see the wisdom of utilizing the full level of funding authorized by H.R. 10587.

The conferees further agreed to the Senate's dropping of subsections 4(f-h) of the House bill. This conforms the provisions of section 5 with the previously discussed deletion of the terms "environment impact improvements" and "nonenvironment impact improvements".

Section 6—Grazing fees

Apart from a technical amendment to apply section 6 to the 16 Western States, the bills are identical. Subsections 5(c) and (d) of the House bill have been transferred to a new section (section 12) and are discussed at that point in this report.

Section 7—Grazing leases and permits

Both bills are identical except for a Senate technical amendment applying the provision to the 16 Western States.

Section 8—Allotment management plans

The Senate language was adopted to clarify that the incorporation of existing allotment management plans in grazing permits or leases need not await completion of a court ordered environmental impact statement. This is consistent with the amended final judgment of *NRDC* v. *Andrus*.

The background and need for section 8 is fully explained on pages 23–25 of the House Report.

Section 9—Appropriations

The bills are identical, and this section complies with section 401(a) of the Congressional Budget Act of 1974 by limiting all authority for entering into cooperative agreements in the bill to such extent or in such amounts as are provided in advance in appropriations acts.

Section 10—Grazing advisory boards

The conferees agreed to the Senate version so that the 16 Western states are covered.

Section 11—National grasslands exemptions

Both bills contain identical language excluding all National Grasslands from the provisions of H.R. 10587.

Section 12—Experimental stewardship program

The Senate version was agreed to, and places subsections 5(c) and (d) of the House bill in a new section. In so doing, it eliminates the specific House reference to lower grazing fees as one of the options to provide an incentive for good stewardship of the range. While lower grazing fees are an option that may be pursued by the Secretaries to encourage good stewardship, the conferees did not wish to place undue emphasis on lower grazing fees as opposed to other options or combinations of options. The conferees note that the Senate Report contains detailed instructions and suggestions as to how this program should be implemented, and the conferees request the Secretaries to pay close attention to the Senate Report language.

Section 13—Advisory councils

The conferees adopted section 13 of the Senate bill which mandates the establishment of multiple-use advisory councils. These councils were made discretionary under section 309(a) of the Federal Land Policy and Management Act of 1976, and, unfortunately, have not been established. The conferees strongly believe in the value of these multiple-use councils, and expect the Secretary of Interior to establish them as soon as possible, preferably on a district or management unit level.

Section 14—Wild horses and burros

The conferees agreed to an amended version of section 7 of the House bill dealing with wild horses and burros. In particular, a limit of 4 animals per individual per year was placed on horses and burros which may be placed for adoption, unless the Secretary makes a written finding that an adopting party is capable of humanely caring for more than 4 animals. The limit of 4 animals was chosen because most horse trailers hold no more than 4. In addition, the number of adopted animals to which title can be transferred after a one-year holding period is reduced from five to four.

The conferees further agreed to retain the House bill's mandate to the Secretaries to remove excess wild horses and burros from the public lands. However, to insure that the data upon which a determination of excess number is calculated is as accurate as possible, the conferees added language authorizing the Secretary to contract for research and studies by individuals whom the National Academy of Sciences recommends as having scientific expertise and special knowledge of wild horse and burro problems. Consultation with such individuals is also mandated, and the conferees expect that this consultation will be taken seriously, and will carefully consider the views of the experts recommended by the National Academy of Sciences, as well as other experts the Secretary may identify.

To increase the level of scientific information concerning wild horses and burros currently available to assist the Secretary in determining appropriate herd size and management levels, Subsection 14(b)(3) requires the Secretary to contract with individuals independent of Federal and State government for a wild horse and burro research study. Such contractors would be recommended by the President of the National Academy of Sciences.

The conferees intend that the purpose of the research program shall be to:

1) Develop data on the biology of wild horses and burros, including the population dynamics of wild horse and burro herds;

2) Identify principles and procedures for managing populations of wild horses and burros in accordance with the policies and objectives of this Act;

3) Develop information concerning the availability and use of forage and water resources, dietary and habitat overlaps, and other factors relevant to the determination of the number of wild free-roaming horses and burros that a herd area can sustain; and

4) Provide the Secretaries of Interior and Agriculture with scientific information upon which to make the determination as to excess animals required by this Act.

The conferees intend that the research program should be conducted over at least two breeding seasons in order to obtain a valid study. The conferees also intend that the National Academy of Sciences appoint a panel to design the research program. Such panel should be comprised of persons representative of those interests and parties directly and presently concerned with the status of wild horses and burros, including wild horse and burro protection associations, humane societies, wildlife protection groups, the Bureau of Land Management, the Forest Service, and such other individuals or organizations.

The conferees intend that the study shall be submitted to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives no later than January 1, 1983.

In summary, the conferees agreed that excess numbers of wild horses and burros must be removed from the range, but that caution must be exercised in determining what constitutes excess numbers. The ongoing inventories of range soil, vegetation and water conditions, and the information contained in court ordered environmental impact statements should be particularly helpful in this regard. As is explained on page 23 of the House Report, the culling of horses and burros on the range may comprise the most humane manner of eliminating excess numbers. However, although the bill refers to culling in the most "cost efficient manner possible", the conferees direct that it not be accomplished in an indiscriminate manner using airplanes, helicopter gunships, or from vehicles. Rather culling should be accomplished by Federal personnel or state game officials in a selective fashion, with close attention to maintaining a stable and viable breeding population of animals that are not in excess of appropriate management levels. The goal of wild horse and burro management, as with all range management programs, should be to maintain a thriving ecological balance between wild horse and burro populations, wildlife, livestock, and vegetation, and to protect the range from the deterioration associated with overpopulation of wild horses and burros.

MO K. UDALL,
TENO RONCALIO,
JIM SANTINI,
JAMES P. JOHNSON,
Managers on the Part of the House.

FRANK CHURCH,
JAMES A. MCCLURE,
PAUL LAXALT,
Managers on the Part of the Senate.

MEAT IMPORT ACT OF 1978

Mr. ULLMAN. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 11545) to modify the method of determining quantitative limitations on the importation of certain articles of meat and meat products, to apply quantitative limitations on the importation of certain additional articles of meat, meat products, and livestock, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from Oregon (Mr. ULLMAN).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 11545, with Mr. FITHIAN in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee rose on Monday, October 2, 1978, all time for general debate on the bill had expired. Pursuant to the rule, the Clerk will now read the amendment in the nature of a substitute recommended by the Committee on Ways and Means now printed in the reported bill as an original bill for the purpose of amendment.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2 of the Act of August 22, 1964, entitled "An Act to provide for the free importation of certain wild animals, and to provide for the imposition of quotas on certain meat and meat products" (19 U.S.C. 1202 note) is amended to read as follows:

"SEC. 2. (a) This section may be cited as the 'Meat Import Act of 1978'.

"(b) For purposes of this section—

"(1) The term 'entered' means entered, or withdrawn from warehouse, for consumption in the customs territory of the United States.

"(2) The term 'meat articles' means the articles provided for in the Tariff Schedules of the United States (19 U.S.C. 1202) under—

"(A) item 106.10 (relating to fresh, chilled, or frozen cattle meat),

"(B) item 106.20 (relating to fresh, chilled, or frozen meat of goats and sheep (except lambs)), and

"(C) items 107.55 and 107.60 (relating to prepared and preserved beef and veal (except sausage)) if the articles are prepared, whether fresh, chilled, or frozen, but not otherwise preserved.

"(3) The term 'Secretary' means the Secretary of Agriculture.

"(c) The aggregate quantity of meat articles which may be entered in any calendar year after 1978 may not exceed 1,204,600,000 pounds; except that this aggregate quantity shall be—

"(1) increased or decreased for any calendar year by the same percentage that the estimated average annual domestic commercial production of meat articles in that calendar year and the 2 preceding calendar years increases or decreases in comparison with the average annual domestic commercial production of meat articles during calendar years 1968 through 1977; and

"(2) adjusted further under subsection (d).

For purposes of paragraph (1), the estimated annual domestic commercial production of meat articles for any calendar year does not include the carcass weight of live cattle specified in items 100.40, 100.43, 100.45, 100.53, and 100.55 of such Schedules entered during such year.

"(d) The aggregate quantity referred to in subsection (c), as increased or decreased under paragraph (1) of such subsection, shall be adjusted further for any calendar year after 1978 by multiplying such quantity by a fraction—

"(1) the numerator of which is the average annual per capita production of domestic cow beef during that calendar year (as estimated) and the 4 calendar years preceding such calendar year; and

"(2) the denominator of which is the average annual per capita production of domestic cow beef in that calendar year (as estimated) and the preceding calendar year.

For the purposes of this subsection, the phrase 'domestic cow beef' means that portion of the total domestic cattle slaughter designated by the Secretary as cow slaughter.

"(e) For each calendar year after 1978, the Secretary shall estimate and publish—

"(1) before the first day of such calendar year, the aggregate quantity prescribed for such calendar year under subsection (c) as adjusted under subsection (d); and

"(2) before the first day of each calendar quarter in such calendar year, the aggregate quantity of meat articles which (but for this section) would be entered during such calendar year.

In applying paragraph (2) for the second or any succeeding calendar quarter in any calendar year, actual entries for the preceding calendar quarter or quarters in such calendar year shall be taken into account to the extent data is available.

"(f)(1) If the aggregate quantity estimated before any calendar quarter by the Secretary under subsection (e)(2) is 110 percent or more of the aggregate quantity estimated by him under subsection (e)(1), and if there is no limitation in effect under this section for such calendar year with respect to meat articles, the President shall by proclamation limit the total quantity of meat articles which may be entered during such calendar year to the aggregate quantity estimated for such calendar year by the Secretary under subsection (e)(1); except that no limitation imposed under this paragraph for any calendar year may be less than 1,200,000,000 pounds.

"(2) If the aggregate quantity estimated before any calendar quarter by the Secretary under subsection (e)(2) is less than 110 percent of the aggregate quantity estimated by him under subsection (e)(1), and if a limitation is in effect under this section for such calendar year with respect to meat articles, such limitation shall cease to apply as of the first day of such calendar quarter. If any such limitation has been in effect for the third calendar quarter of any calendar year, then it shall continue in effect for the fourth calendar quarter of such year unless the proclamation is suspended or the total quantity is increased pursuant to subsection (g).

"(g)(1) Notwithstanding the preceding subsections, the total quantity of meat articles which may be entered during any calendar year after 1978 (as established for such year under the preceding subsections and effective as of the third calendar quarter of such year) may be—

"(A) increased by the President by 10 percent if the average index ratio for the first two calendar quarters of such year is 1.10 or higher; or

"(B) decreased by the President by 10 percent if the average index ratio for the first two calendar quarters of such year is .90 or lower.

"(2) For purposes of this subsection, the index ratio for any calendar quarter is the number obtained by dividing the Department of Agriculture Farm Price of Cattle Index for the calendar quarter by the Department of Labor Beef and Veal Price Index for the calendar quarter.

"(3) The Secretary shall compute the average index ratio for the first two quarters of each calendar year after 1978 before the beginning of the third calendar quarter of the year.

"(h) The Secretary shall allocate the total quantity proclaimed under subsection (f)(1), and any increase in such quantity provided for under subsection (g), among supplying countries on the basis of the shares of the United States market for meat articles such countries supplied during a representative period. Notwithstanding the preceding sentence, due account may be given to special factors which have affected or may affect the trade in meat articles. The Secretary shall certify such allocations to the Secretary of the Treasury.

"(i) The Secretary shall issue such regulations as he determines to be necessary to prevent circumvention of the purposes of this section.

"(j) All determinations by the President and the Secretary under this section shall be final.".

SEC. 2. This Act shall take effect January 1, 1979, and shall cease to have force and effect at the close of December 31, 1988.

Mr. ULLMAN (during the reading). Mr. Chairman, I ask unanimous consent that the Committee amendment in the nature of a substitute be considered as read, printed in the RECORD and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Oregon?

There was no objection.

Mr. SMITH of Iowa. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I urge the House to favorably consider this bill.

The present law passed the House in 1964. At that time I voted against the bill and I said, in part, that that formula was an upside down formula that works the wrong way for both consumers and producers.

The formula in that bill provided that when domestic production increases and imports would be less needed by consumers and do more harm to producers, the supply of imports could increase. When the domestic supply reduces and imports could increase, the supply that could be imported is reduced.

It was upside down, as I have said.

I was the only Member from the Iowa delegation to vote against it. The Cattlemen's Association even campaigned against me in my district. I explained then that the formula was upside down, and I am even more convinced now. That bill was only designed to regulate the flow of lean imported meat to the amount of excess fat meat that was available. When there are excess supplies in the United States, farmers tend to feed cattle longer while waiting for a better market and thus the amount of excess fat is increased. Whenever the farmers feed more to the cattle or have excess fat on their cattle that increases the weight available and therefore there is demand for 3 pounds of lean meat for each 4 pounds of excess fat as far as the processors and packers are concerned.

At last the consumers and the producers can both see that this was an upside down formula. At least now we can have a formula that turns it around, and this is one bill that both consumers and producers ought to support.

Mr. VANIK. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Iowa. I yield to the gentleman from Ohio.

Mr. VANIK. Mr. Chairman, I want to express to the gentleman in the well the gratitude those of us on the committee have had for the extensive help and cooperation he gave us on this legislation. He was very helpful in suggesting many approaches and was one of our guideposts in arriving at what we think is a very fair and equitable bill from the standpoint of both the producers and the consumers.

Mr. STEIGER. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Iowa. I yield to the gentleman from Wisconsin.

Mr. STEIGER. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I would echo and second the remarks of the distinguished gentleman from Ohio (Mr. VANIK). In all the work that has been done on this bill, the gentleman in the well (Mr. SMITH of Iowa) has done just an extraordinarily good job in giving us some guidance and help. He helped to educate us as well. I do congratulate him on what he has done.

Mr. Chairman, I think this is a good bill and I hope we can pass it quickly.

Mr. SMITH of Iowa. I thank the gentleman from Wisconsin very much.

I just want to say this in addition. The formula I would have preferred is slightly different. It would not have had a floor or ceiling. The committee reported out a bill that has a floor. Although I think the floor is workable, I would have preferred either no floor or else both a floor and a ceiling.

However, let us keep in mind there are only a few days left in this session and I am fearful that, if we tinker too much with this bill, we will not have any bill at all. One thing is clear—this is a better bill than the existing law and we ought to pass it.

Mr. VANIK. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, H.R. 11545, as reported, amends the Meat Import Act of 1964. The purpose of the bill is to stabilize U.S. beef and veal production and prices at levels adequate to provide a fair return to domestic producers of beef and veal and to insure U.S. consumers of beef and veal adequate supplies at reasonable, stable prices. This bill was introduced by our colleague, Mr. POAGE, of Texas.

H.R. 11545, as amended, modifies the method of determining quota levels by the adoption of a countercyclical formula. Under current law, import quotas are highest when domestic production is high and supplies are plentiful. The quotas are lowest when domestic production is low and supplies are tighter. The current law has provided for a steady growth in imports over long periods of time as domestic production increases. However, within the shorter time frame of a cattle cycle it operates in a manner not complimentary to supply and demand conditions in the U.S. market. Under the countercyclical formula proposed in H.R. 11545, the limitations on imports would vary inversely with U.S. production of beef and veal so as U.S. production decreases, import limitations will be liberalized, and vice versa. This formula utilizes a current base period, 1968–77, representing a complete cattle cycle and also contains a countercyclical adjustor which causes the formula to react more consistently and rapidly to changes in the domestic cattle market.

H.R. 11545 modifies the President's authority to suspend or increase the quotas. The Committee believes that the adoption of a countercyclical formula should provide more long-term stability for the domestic cattle industry and consumers, thus reducing the need for Presidential action. The bill would permit the President to increase or decrease quotas by 10 percent only in response to changes in a price index ratio which reflects rapidly changing prices of meat at the retail and farm levels.

The bill also provides for a minimum level of imports of 1.2 billion pounds per year. This provision was adopted to assure supplying countries a guaranteed minimum quantity of imports the United States will accept in the future.

During the May 22 and June 19 hearings on meat legislation, the Subcommittee on Trade heard testimony from witnesses expressing concern about a loophole in existing law whereby exporting countries could circumvent the quota by subjecting quota meats to certain processing prior to entry into the United States. H.R. 11545 eliminates this loophole by extending the quota limitations to include these particular processed items. The bill also takes into account the impact of live cattle imports by excluding their carcass weight from the tonnage included in the computation of yearly domestic production, a figure which is used in the formula for determining import quotas.

The bill would become effective January 1, 1979 and would cease to be effective December 31, 1988, a time period encompassing approximately one complete cattle cycle.

The Administration supports the countercyclical method of determining import levels included in H.R. 11545 as it is believed to be no more restrictive than current law over a full cattle cycle. The Administration opposes provisions to restrict the present authority the President has to increase or suspend the quotas. They also prefer an effective yearly import floor of 1.3 billion pounds of meat instead of the 1.2 billion pound minimum level provided for in this bill.

The Committee on Ways and Means has carefully considered the views of the administration, Members of Congress, producers, importers and consumers and believes the bill before you to be meritorious.

The Committee ordered H.R. 11545, as amended, to be favorably reported by a roll call vote of 22 ayes to 11 nays on August 16. I urge my colleagues to support the passage of this bill.

AMENDMENT OFFERED BY MR. BAFALIS

Mr. BAFALIS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BAFALIS: Page 15, line 25, strike out the closing quotation marks and the final period.

Page 15, after line 25, insert the following: "(k) The Secretary of Agriculture shall study the regional economic impact of imports of meat articles and report the results of his study, together with any recommendations (including recommendations for legislation, if any) to the Committee on Ways and Means of the House of Representatives and to the Committee on Finance of the Senate not later than December 31, 1979.".

Mr. BAFALIS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. BAFALIS. Mr. Chairman, there has been a great deal of concern in Florida, as well as various other coastal States importing beef, as to whether or not these imports are being properly distributed nationwide or if a disproportionate amount of the imported tonnage is being stored and later sold in their regions.

The other body adopted a provision in the Beef Import Act of 1978 which would direct the Secretary of Agriculture to conduct a study of the regional impact of meat imports and report the results of such a study to the House Ways and Means Committee and to the Senate Finance Committee not later than December 31, 1979.

I firmly believe that such a study is necessary for us to determine the impact, if any, these imports are having on the various coastal States and urge you to support my amendment which is identical to the provision adopted by the other body.

Mr. VANIK. Mr. Chairman, will the gentleman yield?

Mr. BAFALIS. I yield to the gentleman from Ohio.

Mr. VANIK. I have no objection to the gentleman's amendment to instruct the Secretary to conduct a study on the impact of beef imports on geographic areas surrounding the major ports of entry. This issue has been under discussion for quite a while and hopefully this study will provide the input needed to resolve the controversy. I applaud the gentleman for his concern about this issue.

As a matter of fact, Mr. Chairman, the same principle ought to apply to other imports. It is a very desirable provision. As I say, I have no objection to it.

Mr. BAFALIS. I thank the gentleman.

Mr. STEIGER. Mr. Chairman, will the gentleman yield?

Mr. BAFALIS. I yield to the gentleman from Wisconsin.

Mr. STEIGER. Mr. Chairman, I appreciate very much my colleague, the gentleman from Florida, (Mr. BAFALIS) yielding to me.

Mr. Chairman, the amendment which the gentleman from Florida (Mr. BAFALIS), a distinguished and able member of the Committee on Ways and Means, has proposed is clearly acceptable. I think it makes sense and ought to be adopted.

Mr. BAFALIS. I thank the gentleman.

Mr. WAMPLER. Mr. Chairman, will the gentleman yield?

Mr. BAFALIS. I yield to the gentleman from Virginia.

Mr. WAMPLER. Mr. Chairman, I rise in support of H.R. 11545—amendments to the Meat Import Act of 1964—which I consider most important to the maintenance of a sound cattle industry in this country as well as reasonable and stable meat prices for consumers.

I am particularly pleased to support this bill because it is nearly identical to one I introduced last March.

This legislation is vital to the cattle industry for a number of reasons, Mr. Chairman. Although the 1964 meat import law which it amends has been helpful in keeping the United States from becoming a dumping ground for foreign beef surpluses, it badly needs revision. The problem is—it limits the amounts of fresh, chilled, and frozen beef and veal which can be imported to 7 percent of U.S. commercial production.

Therefore, as U.S. production increases, so do imports—and as U.S. production drops, imports drop. These fluctuations aggrevate the problems of domestic overproduction of beef and veal as well as domestic shortages.

H.R. 11545 will establish a countercyclical method of determining meat import levels, increasing them when domestic production is low and restricting them when it is high. This will help to stabilize U.S. beef and veal production and prices at levels adequate to insure a fair return to producers. At the same time, it will keep prices from dropping unreasonably low during liquidation periods and enable cattlemen to stay in business and keep up with rising inflation.

Most importantly, this legislation will tighten the flexibility the President now

has to suspend meat import quotas and permit massive importation of foreign beef and veal, as he did last June—an action which was harmful to both cattle producers and consumers.

Mr. Chairman, I urge the House to act favorably on H.R. 11545.

Mr. STANGELAND. Mr. Chairman, will the gentleman yield?

Mr. BAFALIS. I yield to the gentleman from Minnesota.

Mr. STANGELAND. Mr. Chairman, I rise in support of this legislation which provides us with the somewhat unique opportunity to provide economic stability in a domestic industry and to bring order in consumer prices, and to do so at no cost to the U.S. taxpayer.

The adoption of the countercyclical formula is a sensible step which deserves our support. Even the administration has indicated its support for this formula change since over the course of the cattle cycle it is no less restrictive on imports than current law.

There are two provisions in this legislation which need to be changed if we are to achieve the bill's objectives. The first is the 1.2 billion pound floor on annual meat import quotas. The countercyclical formula itself provides for an automatic floor and there is not need to establish this minimum. The bill contains no ceilings on imports and, indeed, provides for their increase over the formula amount under certain unique conditions. We should let the formula work and not dictate minimums.

The other provision which I find unacceptable is the 10-year life of this legislation. As a supporter and cosponsor of Sunset legislation, I want to explain my opposition to a termination date in this particular instance. The cattle cycle itself is a 10-year period; thus, this provision undermines the basic purpose of the bill which is to establish long-term policy which will guarantee stable prices and ample supplies. I do believe that the best interest of the domestic producer and the consumer is better served by eliminating this termination date. With these amendments I believe this bill achieves its objectives.

After many lean years our cattle industry recently began to revive. However, we all know what happened. Imports were allowed to increase and cattle prices declined significantly. Such reactions on the part of the Government only works to our overall detriment. Cattlemen become discouraged, if not bankrupt. I urge that we act now, before it is too late, to save our cattle industry. This measure provides the help that is needed and I hope it will be overwhelmingly approved.

Mr. PRESSLER. Mr. Chairman, will the gentleman yield?

Mr. BAFALIS. I yield to the gentleman from South Dakota.

Mr. PRESSLER. Mr. Chairman, I rise in strong support of this bill.

Mr. Chairman, I rise in support of the Meat Import Act.

Last May, several South Dakotans came to Washington to testify before the House Ways and Means Committee in order to get a bill like the one before us today on the House floor for a vote. While I am not satisfied with this measure, I do believe it will do a great deal to bring stability to our domestic beef industry.

The Meat Import Act of 1964 has not provided the protection our domestic beef industry needs, and this lack of protection has hurt not only our family farmers and ranchers who raise cattle, but consumers as well. Many of our cattle producers are just beginning to recover the market they lost in 1973 when consumers boycotted beef due to high prices. The countercyclical formula contained in this bill will tie any increased imports to actual cow-calf production. This will insure that there is stability in our domestic industry, and that consumers will have an adequate supply of beef at reasonably stable prices. It is my hope the countercyclical formula will eliminate the fluctuations that have occurred in the industry and in the prices consumers pay for beef.

While I would have liked the bill to be more comprehensive, I believe it is a step in the right direction. Ideally, many of my constituents would have liked labeling provisions included in the bill so our consumers would know when they are purchasing foreign-produced beef. South Dakota producers and consumers agree that foreign beef should be labeled, and meet the same quality standards we require for U.S.-produced beef.

The legislation before us is not just a measure to aid U.S. cattle producers. It is a bill that will assist producers and consumers. I sincerely hope the House and Senate will act quickly to get the Meat Import Act to the President's desk before the end of the session.

Mr. GRASSLEY. Mr. Chairman, will the gentleman yield?

Mr. BAFALIS. I yield to the gentleman from Iowa.

Mr. GRASSLEY. Mr. Chairman, I would like to take this opportunity to make a few remarks on H.R. 11545, the Meat Import Act of 1978. I am pleased that the Ways and Means Committee has moved forward with legislation to amend the Meat Import Act of 1964. However, I have some reservations about the language of the bill as reported out of committee which I will discuss a little later.

It became clear earlier this year when President Carter renegotiated the import quotas and thus allowed more meat to be imported into this country that legislation to amend the Meat Import Act of 1964 was going to be needed. As early as June 1 of this year, I became concerned about the possibility that the import quotas would be renegotiated. Following are my remarks which appeared in the CONGRESSIONAL RECORD of June 1:

We are hearing rumors that the President is considering suspending import quotas under the 1964 meat import law. I am very concerned about the prospects as such. Allowing more imports into this country will surely have an adverse impact on livestock producers. I also think that suspending import quotas is not in the best interest of the consumer in the long run.

Sure enough President Carter soon made the decision to allow an additional 200 million pounds of meat to be imported into the United States during the remainder of this year. The President's decision came at a time when corn belt cattle feeding operations had experienced negative returns for cattle marketed in 15 of 23 quarters prior to the announcement of his decision. Although it can be debated how much the President's decision directly affected the cattle market, the fact is that the market on fat cattle and calves dropped dramatically. I had been concerned that an announcement of plans to renegotiate quotas would send such a signal to the marketplace. That decision was simply unfair to the cattle producers in this country.

Mr. Chairman, I am pleased that the Ways and Means Committee has reported out a bill which makes much needed changes in the formula used to determine the quotas. The legislation before us modifies the method of determining quotas by the adoption of a counter-cyclical formula. Under current law import quotas are highest when domestic production is high and supplies are plentiful. The quotas are lowest when domestic production is low and thus domestic supplies are tighter. As I understand it, the new formula adds a little common-sense and the limitation on imports will vary inversely with U.S. production. That is, as U.S. production increases imports will be held down and when U.S. production is down more imports will be allowed to enter the U.S. market.

However, Mr. Chairman, I think that it is imperative that we allow this formula to work. This brings me to a point which concerns me and that is the 1.2 billion pound floor mandated by H.R. 11545. This floor will actually not allow the countercyclical formula to work. There is no comparable provision which places a ceiling on the amount which can be imported. I feel it is just another example of the unconcern for the American cattle producers.

I do support the main provisions of this legislation and hope that we can correct a couple of the provisions of the bill which was reported from the committee. If we do this, in my opinion, we will be sending a message to the cattle producers in this country that we are concerned about their survival and are willing to support policies which will allow them to remain viable.

Mr. ABDNOR. Mr. Chairman, will the gentleman yield?

Mr. BAFALIS. I yield to the gentleman from South Dakota.

Mr. ABDNOR. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I just want to say that I commend the committee for coming out with this legislation. It is something upon which I have been working and in

which I have been vitally interested ever since I first came to Congress.

Mr. Chairman, this legislation is long overdue, and again, I commend the committee for coming forth with the legislation.

Although I support the general thrust of the bill—and testified before the Ways and Means Committee in support of the countercyclical concept—I see no need for an annual import minimum of 1.2 billion pounds, which is, in effect, a guaranteed floor for foreigners.

I am hopeful this flaw will be corrected by amendment together with the unfortunate "sunset" provision which would terminate the act on December 31, 1988. The approach of that deadline will be an unsettling factor for both producers and consumers. It runs counter to the basic philosophy of this legislation, which is meant to promote stability and predictability for both groups.

Mr. LAGOMARSINO. Mr. Chairman, will the gentleman yield?

Mr. BAFALIS. I yield to the gentleman from California.

Mr. LAGOMARSINO. Mr. Chairman, I thank the gentleman for yielding.

I rise in support of this legislation. I urge its approval.

Mr. BAFALIS. Mr. Chairman, I thank the gentleman, and I thank the chairman of the subcommittee and the ranking minority member.

I urge the committee to adopt this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida (Mr. BAFALIS).

The amendment was agreed to.

Mr. ULLMAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, there will be at least one amendment offered to limit the import floor, which would make it totally unacceptable to the President.

There will be two other amendments offered which will raise the import floor and strengthen Executive control, and those amendments will make the bill totally unacceptable among the producers of beef in this country.

Mr. Chairman, this bill is a compromise which has been carefully worked out, and I urge the Members to vote against the amendments and to support the committee bill. That will be the only chance we will have of getting a measure which will be enacted into law and signed by the President.

Mr. KAZEN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the Meat Import Act of 1978, H.R. 11545, because I believe this legislation will serve every American, whether he be a producer of meat or a consumer. In simple terms, it means stability of prices. When our domestic supplies are scarce, more imported meat could come into our country and our retail markets, but when our domestic supply is in surplus, we would not admit the same import quantities.

I trust I surprise no one in the House that I am concerned about ranchers and cattlemen who represent a large economic base for rural America, but I want to say that every American household has an interest in an economically sound meat supply program. I stress the word "supply." If ranchers cannot foresee adequate pay for their labor, they will not raise cattle. If local bankers cannot foresee adequate returns to the rancher and feedlot operator as the cattle move to market, they cannot make the loans essential to the producers. As the economic process continues, short supplies of animals heading to market not only reduce jobs at the packing plant, the railroads and truckers, and the markets, but they also increase the price of meat to every consumer in the Nation.

The bill includes the provisions in the similar measure which I have introduced. It provides countercyclical balances for the market. I want to stress, however, that the consumer as well as the producer can benefit from this legislation.

Last June, an Executive order increased the import quota level to 200 million pounds over the quota level. Did meat prices to the consumer come down? The answer is no. Producers, who had seen some hope of adequate returns on their work and investment, lost their confidence that their market prospects were good. The cattle supply went down, and the market anticipated possible shortages of domestic beef and therefore held the price line at the meat market and supermarket.

The purpose of this legislation, as it is in my bill, is to provide a careful balance of producers' and consumers' interests. The Department of Agriculture believes that this countercyclical formula is less restrictive than the present law controlling imports, and I say that it will serve the wage-earners and housewives well, along with the ranchers and cattlemen.

I urge my colleagues to vote for passage of this bill.

Mr. KREBS. Mr. Chairman, will the gentleman yield?

Mr. KAZEN. Yes; I yield to the gentleman from California.

Mr. KREBS. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I, too, rise in support of this legislation. As has been stated repeatedly, it is long overdue. It will get us away from the ebbs and rises of the market. It will afford both the producer and the consumer protection.

Mr. Chairman, I think this legislation is in the best interests of the American people, so I urge adoption of the legislation.

AMENDMENT OFFERED BY MR. GIBBONS

Mr. GIBBONS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GIBBONS: Pages 14 and 15, strike all of the language in subsection (g) and insert in lieu thereof:

"(g)" The President may suspend any proclamation made under subsection (f), or increase the total quantity proclaimed under such subsection, if he determines and proclaims that—

(1) such action is required by overriding economic or national security interests of the United States, giving special weight to the importance to the Nation of the economic well-being of the domestic livestock industry;

(2) the supply of articles of the kind described in subsection (b)(2) will be inadequate to meet domestic demand at reasonable prices; or

(3) trade agreements entered into after the date of the enactment of this Act ensure that the policy set forth in subsections (c) and (d) will be carried out.

Any such suspension shall be for such periods, and any such increase shall be in such amount, as the President determines and proclaims to be necessary to carry out the purposes of this subsection."

Mr. FINDLEY. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceednigs under the call when a quorum of the committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to rule XXIII, clause 2, futher proceedings under the call shall be considered as vacated.

The Committee will resume its business.

The Chair recognizes the gentleman from Florida (Mr. GIBBONS).

Mr. GIBBONS. Mr. Chairman, I thank those faithful 100 Members who came to hear these pearls of wisdom.

This bill is an improvement over the existing law, but this bill has one serious defect in it—a defect so serious that this bill may never become law. I hate to even mention the word around here again, because I know the House is most sensitive, after yesterday's exercise. I have not been assured by the man that he would veto this bill, but I have been assured by people around him that, unless this amendment is adopted, the bill will be vetoed.

What is this amendment? This amendment attempts to take the American consumer and the American cattleman out of the straitjacket of this very formulaistic proposal that is in this bill that ties absolute quotas, absolute maximums, that can be imported in this country to certain statistical industries. It says, in effect, that the President has the power to come in and to step in and to vary these quotas if he finds that it is in the overriding economic and national interests of this country that he do so, after giving special weight—special weight—to the importance of the well-being of the livestock industry.

What could be fairer than that?

This bill would never have allowed the importation of any cattle into this country, any meat into this country, within the last 10 years under the formula that was to be engrafted in it. It would have

been triggered only once in the last 10 years.

Yesterday we all read in the Washington Post—I carried around copies, and if the Members had not read it I was going to give it to them here on the floor, and copies of the Washington Star—that we have had an increase in the price of food in the last month, and the leader in that has been an increase in the price of beef.

Now, beef people are sensible people, and they try to do the best they can. But we should not tie the hands of the man who is in charge of this country by some very legalistic formula, tied to a bunch of economic indicators and statistics that would not give him the power, after he decides and reports to this Congress, that it is in the overriding economic interest of this country that these very material formulae be varied and that he be allowed to increase these quotas or to decrease these quotas, as the case may be.

That is all that it does. I think that this amendment should be adopted. This is a very stringent tying of the hands of the President in making fundamental economic decisions that finally only he can make, given the complexity of our economic system.

The present law gives him that authority. There is no clear case that it has ever been abused. This proposed legislation takes that authority away from him, and I am here today merely to ask the Members to return that authority to the President, after he has given special weight to the interests of the cattle interests of the United States. I do not think we can be any fairer than that.

I believe, unless this is put in the law, that this bill will never become law.

Mr. ULLMAN. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the countercyclical formula in this bill is intended to clearly reduce or eliminate the President's need to suspend quotas, acting only under very extreme conditions which are allowed in the bill. The whole concept of a countercyclical formula is to provide some degree of certainty and stability for producers. That is what this bill is all about. Also, to provide some degree of stability and certainty for consumers and for importers, the people who bring meat in, who need to know in advance; the consumers need to know.

We have to move toward price stability. That is what this bill does. During times of low cattle prices, many cattlemen push for tighter import controls. During times of high prices, some consumers push for unlimited imports. In the long run, this compounds the cycle, causing the problems.

The language in this bill permits the President to increase or decrease imports by 10 percent in response to absolute changes in the farm price of cattle and beef and veal prices, not to the periodic political pressure, that should not dictate action in this area. I would think the President would welcome the limitations in the formula in this bill. He can increase or decrease imports by 10 percent in response to real changes and under a real formula that is built on a countercyclical principle that is sound.

In June 1978, the President took action to allow an additional 200 million pounds to be imported above the trigger level. That act resulted in a depression of cattle prices which had been increasing after a long period, many years, of depressed prices and severe and widespread losses among livestock producers. It did not help the consumer one whit.

We need to get back to price stability. Under the formula in this bill, the President does not need the authority that he had to have under the old formula. Therefore, I strongly urge that the committee vote down the Gibbons amendment.

Mr. STEIGER. Mr. Chairman, will the gentleman yield?

Mr. ULLMAN. I yield to the gentleman from Wisconsin.

Mr. STEIGER. Mr. Chairman, I am grateful to my chairman for yielding to me.

Mr. Chairman, I want to join in the remarks of the distinguished chairman of the Ways and Means Committee. The last point the gentleman from Oregon made is the one that I think is important for us to keep in mind. Under the old law, there might have been a reason why it was necessary to preserve the kind of Presidential discretion which the law contains. What we have done in this new proposal is to crank in a formula that makes broad, unlimited Presidential authority much less required or necessary from either the consumer's standpoint or the producer's standpoint. Such authority does not make sense, given the way we have devised the formula in this bill. I urge the committee to reject the Gibbons amendment.

Mr. ULLMAN. I thank the gentleman. The gentleman is absolutely right.

Mr. VANIK. Mr. Chairman, will the gentleman yield?

Mr. ULLMAN. I yield to the gentleman from Oregon.

Mr. VANIK. Mr. Chairman, I want to point out that in subcommittee we very carefully studied the question of Presidential discretion, and I think our concensus was that we ought to establish trade laws in such a way that insofar as practicable they become self-operative.

And insofar as we just eliminate or reduce arbitrary discretion, which is the situation with the present law, we felt it was necessary from the standpoint of the producers and consumers, the importers and the people who produce in foreign countries, so that they know exactly and precisely what the rules are that we operate by.

I had a difficult experience a short time ago, earlier this year, on the exercise of the Presidential discretion on a matter that affected fasteners, the fastener industry. I just felt that the decision made by the President at that time was very arbitrary. I want to point out that at that time we calculated there was an import impact of 50 percent. Here we are talking about a 7-percent impact in the cattle industry.

But in any event I think the language we have adopted in the Ways and Means proposal sets a parameter by which we can define the discretion, and I think it makes the law self-operative, and I think that is to the advantage of everyone involved, the consumers and the producers and those who produce for America in foreign places.

Mr. ULLMAN. I thank the gentleman from Ohio.

I urge that we reject the amendment.

Mr. LEDERER. Mr Chiarman, I move to strike the last word and I rise in support of the amendment.

I would say to my colleagues that most of the beef imported into the United States is lean beef. This lean beef is combined with the fat and scraps of American-produced beef to make hamburger and other staple products. This imported beef is absolutely necessary. Given the demand for hamburger and the economical products, it is absolutely impossible for American producers to produce the required quantities of lean beef.

This makes up 7 percent of the supply of American beef. It has never risen above 8.3 percent. I would ask my colleagues to support the amendment.

Mr. HARRIS. Mr. Chairman, will the gentleman yield?

Mr. LEDERER. I yield to the gentleman from Virginia.

Mr. HARRIS. I thank the gentleman for yielding.

I join my colleague and my esteemed friend in his remarks. He has pointed out the fundamental economic facts of this and the fallacy that I think is involved in this bill.

I compliment the gentleman for his remarks.

Mr. PICKLE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, let me simply add this additional thought. If there is any one thing that has caused a great deal of uncertainty and anguish, if not fear, to the cattlemen it is the ability of the President to bring in additional meat imports any time he wants to do it.

The purpose of the bill is to establish the countercyclical principle to make it work both ways. The bill has a proviso in it that does give the President a 10-percent leeway based on the ratio of the index by the DOL and the index by USDA. That is as much leeway I think as the President really wanted, or at least we thought that. At least it gives him an alternative.

How can we say that is too complex. The principle of countercyclical is no more complex than the principle we have got on the Presidential authority. I simply say to the Members we ought to keep this and ought not to spend any more time on this amendment and we ought to vote it down and proceed to consider the merits of this bill.

Ms. KEYS. Mr. Chairman, I move to strike the last word.

It seems to me there is one point made by the gentleman from Pennsylvania that should be responded to. He alluded to the fact that this beef which is imported is the lean, poor quality beef that goes into hamburger, but the problem is that the market that is interrupted is the market of fed cattle.

The cattlemen who took their supply to be marketed during the month of June, after the Presidential announcement, found all of their income for the year was lost.

This amendment should be defeated and a stable supply that this bill will bring should be good for the consumers as well as for the producers.

Mr. FINDLEY. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment offered by the gentleman from Florida (Mr. GIBBONS).

Mr. Chairman, I am troubled that there seems to be such a dearth of support for what strikes me as very constructive, reasonable amendment to this bill. I draw the attention of my colleagues to the language of this amendment offered by the gentleman from Florida (Mr. GIBBONS).

It says that the President shall suspend any proclamation under this act if any of three conditions should develop.

Let me cite them.

The first condition is: If required by overriding economic or national security interests of the United States.

Would any member of this committee really challenge the wisdom of the President of the United States being able to set aside a proclamation requirement in that circumstance?

I hear no response. I would be glad to have any response if anyone would challenge the legitimacy of that exception.

I hear no response.

Let me cite the next one.

If the supply of articles of the kind described will be inadequate to meet domestic demand at reasonable prices.

Now, Mr. Chairman, we represent consumers as well as producers. I have got cattle producers in my district. I have got hog producers in my district. I also have a lot of consumers. Whatever we legislate surely should be geared to reasonableness for the consumers.

Would anyone challenge the legitimacy of a provision which would allow the President to set aside the proclamation requirement for that item?

I would be glad to hear anyone challenge that or speak in opposition to it.

I hear calls of "vote" but no responses.

My answer is: Let us get on with the vote. It is now 4:30 and everybody wants to go back to their home districts—they could not be, I guess.

Let me continue with the third requirement.

If trade agreements entered into after the date of the enactment of this act insure that the policy set forth in these subsections will be carried out.

Who would deny the President the opportunity to set aside the proclamation requirement in that instance?

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield for a response?

Mr. FINDLEY. I will gladly yield to the gentleman from Texas (Mr. ECKHARDT) for a response.

Mr. ECKHARDT. I would question what is "overriding" and what is "reasonableness." These are very loose terms.

This bill provides a specific formula, and to delegate authority on the question of what is considered overriding and what is considered reasonable, simply opens the door to decisions that are unlimited in scope.

Mr. FINDLEY. I will say to the gentleman from Texas (Mr. ECKHARDT) that we can hardly sit in judgment of the changing conditions, day by day. The only authority of the Federal Government that can possibly respond to such an infinite variety of changing conditions is the President of the United States.

Maybe it seems strange to you that I, as a member of the minority party, should be speaking up for Presidential flexibility on this point.

I would also submit that those advocating this bill seem to be putting themselves in the position of using protectionist devices. Recognizing the vital importance of our overseas markets to the wellbeing of American agriculture, as well as to the wellbeing of the entire economy, we are a trading nation. Our sales overseas last year were in the range of about $26 billion in the agricultural field, we imported about 12 or 13. We are trying to bring down the barriers which deny access of our agricultural products to certain markets. If, at the same time, we try to bring down barriers we set in law protectionist devices on the import of food products into this country, how can we hope to expand our market opportunities abroad?

Mr. HARRIS. Mr. Chairman, will the gentleman yield on that point?

Mr. FINDLEY. Yes, I yield to the gentleman from Virginia.

Mr. HARRIS. Mr. Chairman, does the gentleman see in this bill, then, a step away from our old reciprocal trade agreement philosophy? Does the gentleman see in this bill a step by Congress to return to legislative tariffs and quotas, something we have been away from since the great days of Hall and others who formulated the reciprocal trade agreements bill?

Mr. FINDLEY. Perhaps this is a case of being born again.

Mr. HARRIS. Does the gentleman feel that perhaps some of the Democrats have forgotten our heritage? Does the gentleman agree with this provision which would give the President some trade negotiation authority and which this bill would take away from him without the amendment?

The CHAIRMAN. The time of the gentleman from Illinois (Mr. FINDLEY) has expired.

(On request of Mr. HARRIS and by unanimous consent, Mr. FINDLEY was allowed to proceed for 2 additional minutes.)

Mr. HARRIS. Will the gentleman yield further?

Mr. FINDLEY. Yes, I yield to the gentleman from Virginia.

Mr. HARRIS. Mr. Chairman, does the gentleman feel that if we take this step with regard to meat, we will probably take it with regard to other commodities and that the President no longer will have trade negotiation authority on any product?

Mr. FINDLEY. It seems a very dangerous trend. I would not be prolonging consideration of this bill today if I felt confident that in these waning hours of this Congress this bill would die. I have heard some suggestions that the President will veto it. If that should occur, then my concern is unjustified; but I do not have any clear signal to that effect.

If somebody could pass the message that the President definitely is going to veto this bill, I will yield back my time.

Again, I hear no response; but I will yield back my time anyway.

Mr. BAUCUS. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman and members of the committee, I will be very brief. I have two points.

No. 1, the proposed amendment gives unlimited discretion to the President. He could suspend the quotas for such periods of time and in such amounts as he deems necessary. That is unlimited. Therefore, I submit it is a very unreasonable amendment.

No. 2, the implied criticism is that consumers need protection, too. Let me remind consumers and those representing consumers that we in America need a strong agricultural base. We need to keep family farms and family ranches operating. In these days it is more and more difficult for farmers to make ends meet. Costs are rising. Difficulties are mounting. Their prices are not increasing. Younger people are not staying on the farms and the ranches. Furthermore, with land prices escalating, it is very tempting for family farmers trying to make a living to sell out their properties to developers at high prices or to sell to larger operations. If that happens, on down the road, our consumers and the people who particularly represent consumers are going to find that that concentration of agricultural power is going to force much higher prices down the road than we think is going to happen today.

Mr. Chairman, I submit that the long-range interests of both producers and consumers is the bill we have before us, and we should vote down the amendment offered by the gentleman from Florida (Mr. GIBBONS), because it is not in the best interests of America.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida (Mr. GIBBONS).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. GIBBONS. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count. One hundred eight Members are present, a quorum.

Mr. BAUMAN. Mr. Chairman, I demand a division.

On a division (demanded by Mr. BAUMAN) there were—ayes 18, noes 43.

So the amendment was rejected.

AMENDMENT OFFERED BY MR. BURLESON OF TEXAS

Mr. BURLESON of Texas. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BURLESON of Texas: On page — line 21 following the word "exceed", strike the figure "1,204,000,000" and substitute "739,400,000" pounds.

On page 12, line 5 following the word "years", strike "1968 through 1977" and substitute "1959 through 1963".

On page 12 line 17 following the word "during", strike the words "that calendar year (as estimated) and the 4" and substitute "the 10".

Mr. BURLESON of Texas (during the reading). Mr. Chairman, I ask unanimous consent that further reading of the amendment be dispensed with and that it be printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. BURLESON of Texas. Mr. Chairman, I am offering this amendment on behalf of my colleague, the gentleman from Texas (Mr. POAGE), who had to leave the Chamber. I assure the Members that I will probably take a lot less time than Mr. POAGE would if he were here.

Mr. Chairman, the amendment offered by the gentleman from Texas (Mr. POAGE), will tell you everything if you will read it, but it is through pages 11 and 12 and has to do with some change in the countercyclical formula which Mr. POAGE believes would be more nearly consistent with the application to current law. It is in the original legislation introduced some time ago. I know the Members on both sides are familiar with the formula and the amounts contained in the bill by the other body sponsored by my junior Senator from Texas (Mr. BENTSEN). It is just this simple. Under current law projected over the 10-year period there would be imports of 12,719,000 pounds. Of course, also under the formula there is some adjustment here or could be under the House bill out of the Committee on Ways and Means. That figure is 14,399, and the bill by the other body and which is proposed by this amendment is 13,441,000. In other words, it is just a figure between what is in the current law and what is in the bill from our Committee on Ways and Means on the countercyclical formula. It is flexible. It is more liberal—and I use that word advisedly—than what is now in current law, broader and more easily administered, it would seem to me, than what is in the bill before us. I hope that the managers might accept this amendment.

Mr. Chairman, I yield back the remainder of my time.

Mr. ULLMAN. Mr. Chairman, I urge the Members to reject this amendment. This is the Bentsen formula. The formula that is in the bill has been carefully worked out. The formula that we have in the bill is approved by Secretary Bergland. He may not like some of the other portions of the bill, but this is one that he thinks is fair and that he could live with. If you go to the Bentsen formula, the President has already said he will veto that formula. It would reduce imports by a very large amount.

Mr. Chairman, I urge the Members to stay with the very sound, well-worked-out formula we have in the bill, and reject the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. BURLESON).

The question was taken; and on a division (demanded by Mr. FINDLEY) there were—ayes 20, noes 18.

RECORDED VOTE

Mr. FINDLEY. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 131, noes 139, not voting 162, as follows:

[Roll No. 890]

AYES—131

Abdnor	Fowler	Montgomery
Andrews, N.C.	Fraser	Moore
Andrews, N. Dak.	Gephardt	Nichols
Archer	Ginn	Nolan
Ashbrook	Gonzalez	Pickle
Bafalis	Goodling	Pressler
Barnard	Gore	Preyer
Baucus	Grassley	Regula
Bauman	Gudger	Robinson
Bedell	Guyer	Rose
Bevill	Hall	Runnels
Blouin	Hamilton	Ruppe
Bowen	Hammer-schmidt	Satterfield
Breaux	Hansen	Sawyer
Brinkley	Harkin	Schroeder
Brooks	Hefner	Sharp
Brown, Mich.	Hightower	Sikes
Brown, Ohio	Holland	Skubitz
Buchanan	Holt	Smith, Nebr.
Burgener	Huckaby	Spence
Burleson, Tex.	Ireland	Stangeland
Burlison, Mo.	Jacobs	Stanton
Butler	Jeffords	Steed
Carr	Jenkins	Symms
Carter	Johnson, Calif.	Taylor
Cederberg	Johnson, Colo.	Thornton
Clausen, Don H.	Jones, N.C.	Treen
Clawson, Del	Jones, Okla.	Trible
Coleman	Kazen	Tucker
Collins, Tex.	Kelly	Volkmer
Daniel, Dan	Keys	Waggonner
Daniel, R. W.	Kindness	Walker
de la Garza	Lagomarsino	Wampler
Devine	Latta	Watkins
Dickinson	Leach	White
Edwards, Ala.	Leggett	Whitley
Edwards, Okla.	Long, La.	Whitten
English	Lott	Wilson, Bob
Ertel	Madigan	Wilson, Tex.
Evans, Colo.	Mahon	Winn
Evans, Ga.	Mann	Wirth
Flynt	Marlenee	Wright
Foley	Mathis	Young, Alaska
	Miller, Ohio	Young, Tex.

NOES—139

Addabbo	Fascell	Maguire
Anderson, Calif.	Fenwick	Markey
Anderson, Ill.	Findley	Marks
Annunzio	Fisher	Mazzoli
Applegate	Fithian	Metcalfe
Baldus	Flood	Meyner
Bellenson	Fountain	Michel
Benjamin	Frenzel	Mikulski
Bennett	Gibbons	Mineta
Biaggi	Gilman	Mitchell, Md.
Bingham	Gradison	Moakley
Boggs	Green	Moffett
Brademas	Harris	Mollohan
Brodhead	Hawkins	Moorhead, Calif.
Brown, Calif.	Heckler	Murphy, N.Y.
Burke, Fla.	Holtzman	Murphy, Pa.
Burke, Mass.	Hughes	Murtha
Byron	Jenrette	Myers, Gary
Chisholm	Jordan	Myers, Michael
Clay	Kasten	Natcher
Conte	Kastenmeier	Nedzi
Corman	Kemp	Nowak
Cornwell	Kildee	Oakar
Coughlin	Kostmayer	Oberstar
D'Amours	Krebs	Obey
Danielson	LaFalce	Ottinger
Derwinski	Lederer	Patten
Dingell	Lehman	Patterson
Downey	Lent	Pattison
Drinan	Levitas	Pike
Duncan, Oreg.	Livingston	Price
Early	Long, Md.	Pursell
Eckhardt	McCloskey	Quayle
Emery	McDade	Rangel
Erlenborn	McFall	Reuss
Fary	McHugh	Richmond
Roe	McKinney	Udall
Rogers	Sisk	Ullman
Rosenthal	Slack	Van Deerlin
Rostenkowski	Solarz	Vanik
Roybal	Spellman	Waxman
Russo	Steers	Weiss
Ryan	Steiger	Whalen
Scheuer	Stockman	Yates
Seiberling	Stokes	Young, Fla.
Simon	Stratton	Zablocki
	Studds	

NOT VOTING—162

Akaka	Florio	Nix
Alexander	Flowers	O'Brien
Ambro	Ford, Mich.	Panetta
Ammerman	Ford, Tenn.	Pease
Armstrong	Forsythe	Pepper
Ashley	Frey	Perkins
Aspin	Fuqua	Pettis
AuCoin	Gammage	Poage
Badham	Garcia	Pritchard
Beard, R.I.	Gaydos	Quie
Beard, Tenn.	Giaimo	Quillen
Blanchard	Glickman	Rahall
Boland	Goldwater	Railsback
Bolling	Hagedorn	Rhodes
Bonior	Hanley	Rinaldo
Bonker	Hannaford	Risenhoover
Breckinridge	Harrington	Roberts
Broomfield	Harsha	Rodino
Broyhill	Heftel	Roncalio
Burke, Calif.	Hillis	Rooney
Burton, John	Hollenbeck	Rousselot
Burton, Phillip	Horton	Rudd
Caputo	Howard	Santini
Carney	Hubbard	Sarasin
Cavanaugh	Hyde	Schulze
Chappell	Ichord	Sebelius
Cleveland	Jones, Tenn.	Shipley
Cochran	Krueger	Shuster
Cohen	Le Fante	Skelton
Collins, Ill.	Lloyd, Calif.	Smith, Iowa
Conable	Lloyd, Tenn.	Snyder
Conyers	Lujan	St Germain
Corcoran	Luken	Staggers
Cornell	Lundine	Stark
Cotter	McClory	Stump
Crane	McCormack	Teague
Cunningham	McDonald	Thompson
Davis	McEwen	Thone
Delaney	McKay	Traxler
Dellums	Marriott	Tsongas
Dent	Martin	Vander Jagt
Derrick	Mattox	Vento
Dicks	Meeds	Walgren
Diggs	Mikva	Walsh
Dodd	Milford	Weaver
Dornan	Miller, Calif.	Whitehurst
Duncan, Tenn.	Minish	Wiggins
Edgar	Mitchell, N.Y.	Wilson, C. H.
Edwards, Calif.	Moorhead, Pa.	Wolff
Eilberg	Moss	Wydler
Evans, Del.	Mottl	Wylie
Evans, Ind.	Murphy, Ill.	Yatron
Fish	Myers, John	Young, Mo.
Flippo	Neal	Zeferetti

The Clerk announced the following pairs:

On this vote:

Mr. Chappell for, with Mr. McDonald against.

Mr. McCormack for, with Mr. Santini against.

Mr. McKay for, with Mr. Garcia against.

Mr. Krueger for, with Mr. Eilberg against.

Mr. Shipley for, with Mr. Diggs against.

Mr. Armstrong for, with Mr. Staggers against.

Mr. Cochran of Mississippi for, with Mr. Schulze against.

Mr. Sebelius for, with Mr. Rinaldo against.

Mr. Corcoran of Illinois for, with Mr. Sarasin against.

Mr. Lujan for, with Mr. Hollenbeck against.

Mr. Marriott for, with Mr. Walsh against.

Mr. O'Brien for, with Mr. Cleveland against.

Mr. WHITTEN changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

● Mr. KRUEGER. Mr. Chairman, I have spoken on many different occasions—both during formal hearings and in other

forums—about the pressing need for meat import legislation, and today I would like again to express my support for legislation limiting imports of foreign meat into our country and to urge your support of the Meat Import Act now before us.

In addition to cosponsoring countercyclical meat import legislation of my own, I have also been critical of the administration's decision of last June allowing an additional 200 million pounds of imported meat into the United States this year. The Meat Import Act embodies two of the most necessary concepts to help move us toward more equitable meat import policy; it contains both a countercyclical formula provision for meat import levels and also a provision for elimination of the President's discretionary authority to permit more meat imports. These two changes are needed now if ever we hope to bring ranchers away from the borrowing window at the bank and take them back to branding cattle on the ranch.

Last fall, I testified before the International Trade Commission that, due to the influx of imported cattle and meat, producers have been forced to take losses on the sale of animals. Many have kept their businesses alive only by borrowing on the value of their land. I pointed out then that, after the land has been mortgaged to the hilt, banks would one day have to be paid back, and we would see an even larger decrease in the number of domestic cattle producers. This situation has not improved since I last testified, and in some cases conditions have worsened. Entry into the domestic cattle production business has become almost an impossible task. Virtually no young person who wishes to initiate a cattle operation can afford the expense of waiting out the lean years in the hope that cattle prices might someday increase.

One of the reasons for this situation is U.S. meat import policy, and countercyclical legislation will help correct this policy by insuring that meat imports will be restrained when domestic production is high.

In addition, by strictly limiting Presidential authority to increase quotas, and by implementing the Meat Import Act provision allowing only a 10-percent increase or decrease in the quota if cattle prices reach predetermined levels, we can further assure that our market will not again be flooded with unneeded foreign-produced meat.

The Moore amendment to the Meat Import Act, which eliminates the 1.2 billion pound minimum for meat imports in each calendar year, is also an important step toward controlling imports so that stability can be restored in the domestic meat market and consumers can have reliable supplies of U.S. meat.

One further step is necessary. In addition to setting limits on imports and Presidential authority, existing loopholes in meat import legislation should be plugged. I have authored legislation to accomplish this through changes in the present law, and I would like to take this opportunity to tell you about it. My legislation would require that inspection standards applied to foreign produced meat be equal to that of domestic produced meat, and so would correct present law which puts the U.S. producer at a disadvantage by placing less stringent requirements upon foreign competition than domestic producers must meet in our own country.

Unless a countercyclical formula is enacted, Presidential discretionary quota authority is limited, minimum import levels are abolished, and loopholes in the Meat Import Act of 1964 are eliminated, our body of law regulating meat imports will continue in many respects to be little more than a sieve which allows millions of pounds of nonquota foreign meat annually to seep into American markets.

Therefore, on behalf of the Texas meat producer and myself, I urge my colleagues to vote in favor of the Meat Import Act as amended by Congressman MOORE.●

● Mr. JOHNSON of Colorado. Mr. Chairman, I rise in support of this bill. Last June when President Carter advised us he was taking action to increase imports of foreign meat, I noted that his decision was yet another example of the administration's belief that those Americans who produce food in this country should not have an opportunity to earn a fair return on their investment. At that time, I urge that we take up the consideration of proposed meat import legislation similar to that now before us.

Meat imports play an important role in the American cattle cycle, accounting for 15 to 20 percent of the total U.S.-processed beef supply, the fastest growing segment of the beef market. The existing formula for calculating meat imports makes no sense in that quota limits are highest when domestic production is high and decrease when domestic production is low. This simply amplifies the price swings in the cattle cycle which means periodically consumers will pay very high prices and periodically producers will suffer severe losses, forcing many of them out of business.

H.R. 11545 would correct this problem by changing the way in which we determine the quantitative limits on imports of foreign meat and certain meat products. The bill establishes a countercyclical quota formula which allows more imported meat when U.S. supplies are low and limits imports when our domestic supply is in surplus. This will assure long-term stability for the U.S. cattle industry and U.S. consumers a more stable supply of beef at reasonable prices.

In supporting the countercyclical approach, I am concerned that its effectiveness will be thwarted by another provision of this bill which mandates a 1.2-billion-pound annual import floor. There is no need for such an import minimum, since the countercyclical formula has its own floor. Any floor imposed outside of that determined through the countercyclical formula will prevent the proper functioning of the formula. A floor, especially at the high level proposed in the bill, could result in excessive supplies of beef coming in up to the floor at the very time in the cattle cycle when domestic prices are depressed and foreign imports are needed least. If the formula is not allowed to function on the "low side," when it acts to reduce imports, because domestic supply is ample or expanding, producers will overliquidate their cow herds which would mean even shorter supplies and higher prices for the consumer. Hopefully, we will be able to strike the 1.2-billion-pound floor from the bill with an amendment.

I am also glad to see that this bill limits the President's discretionary authority over meat import levels and places responsibility back where it belongs with the Congress.

With the passage of this legislation, we will be able to insure the continuation of a strong, viable domestic cattle industry, capable of providing adequate supplies of meat at prices fair to producer and consumer alike.●

● Mr. BEDELL. Mr. Chairman, I rise in support of H.R. 11545, the Meat Import Act of 1978, and ask permission to revise and extend my remarks.

H.R. 11545 amends the Meat Import Act of 1964 so as to make two important improvements in that measure. First, it would establish a new quota formula for calculating the amount of meat that could be imported into the United States in any 1 year. The new formula is designed to work in a so-called "countercyclical" manner, which simply means that meat import quotas will be allowed to rise in those years when domestic production is relatively low and that when domestic production is high, quotas will be lowered.

This countercyclical approach is just the inverse of the formula now in operation. The existing quota formula tends to increase meat imports at precisely the time when domestic production is high and consequently exacerbates and prolongs the lows of the traditional cattle marketing cycle. This, in turn, has meant the economic collapse of thousands of otherwise efficient and industrious cattle producers who lacked the capital to weather such sustained losses, and has served as a disincentive to others to rebuild their herds.

Moreover, the instability that has been generated by this irrational formula has been hard not only on domestic cattle producers, it has also run counter to consumer interests. Stability over the long term is in the best interests of consumers as well as producers. The current system has promoted gyrations in market prices which are usually reflected in higher retail meat prices.

The second major change in existing law made by H.R. 11545 circumscribes the discretionary authority of the President to tamper with the quota levels once they are in position. The distortions in the marketplace that such tampering can lead to were vividly demonstrated only a short time ago when, on June 9, the President announced his decision to renegotiate upward the voluntary restraint levels by 200 million pounds, an act which necessitated the suspension of

the quota. This additional 200 million pounds of meat, while perhaps not all that important in the strict quantitative sense, proved to be of enormous psychological significance. The immediate response to the President's action was a loud outcry from the domestic cattle industry and a sharp decline in cattle prices, and it augured a potentially dramatic interruption in domestic herd rebuilding activity.

Several days before the President was to make his fateful decision, I strongly urged that he refrain from raising the import quota levels because of its dubious value as an antiinflation device and its certain demoralizing effect on the Nation's cattle producers. The latter ramification was, and still is, especially important, because the President's action served as a disincentive to many producers who might have otherwise taken the considerable risks involved in rebuilding their herds. The longer the delays in full-scale herd rebuilding, the more severe and sustained will be the supply shortfall of beef and the higher meat prices will be in the long term. Unfortunately, my appeal went unheeded, and I believe that the unfolding of events since the President's announcement have largely borne out my prediction.

The measure before us today recognizes the potential for destabilization implicit in the existing discretionary authority the President has to suspend quotas, and it, therefore, attempts to place some reasonable limits on that authority by conditioning any future quota manipulation on an objective comparison of the ratio of the farm price index for cattle to the retail meat price index. If the former were to increase 10 percent faster than the latter during the first two calendar quarters of any year, the President would then have the authority to increase the quota levels by up to 10 percent. The President would also have the authority to reverse that action if the opposite situation existed.

I believe that these new parameters on the existing discretionary authority to suspend quotas are reasonable and merit support. It seems to me that one of the prime benefits of this piece of legislation is that it promises to substitute a consistent, stable mechanism for determining import levels for what has proven to be a highly volatile and destabilizing method of setting annual meat import quotas. The American cattleman is no different from any other businessman in his need for certainty in order to make sound production decisions. And, the consumer ultimately benefits from this same consistency, since retail price fluctuations would be merged into a more predictable price curve.

In the wake of the President's recent decision to suspend the existing quota levels, I introduced legislation that would have provided for prior congressional notification of any future intent to take such action. My reasoning for such legislation is as follows: If the President were to inform both agriculture committees of Congress 30 days in advance of such decision to suspend quotas, there would be an opportunity for input from all affected groups, from cattlemen to consumers. I cannot help but believe that had enough discussion been generated before the President's most recent decision to raise meat import quota levels, such precipitous and ill-advised action would not have been taken and the damage that it caused averted. It is my belief that a prior notification requirement would still be useful, if only because the best public policy is made after a full presentation of the facts and after all the potential ramifications of a proposed action are fully explored. However, because I am more committed to the passage of the general measure that I am to advancing specific causes, I am willing to refrain from amending the act any further.

In conclusion, Mr. Chairman, it is my belief that the Meat Import Act of 1978, while not perfect, is badly needed to restore some consistency and stability to the domestic cattle market. I would ask that my colleagues look at this measure in the broad context of the long-range stability it is sure to bring, and give it their support. The American cattle producer has not asked for more, and he certainly should not be expected to ask for less.●

● Mr. DRINAN. Mr. Chairman, I rise in opposition to the unnecessary and highly inflationary Meat Import Act of 1978. At a time when food costs are spiraling out of control, it would be unconscionable for the Congress to enact legislation which will benefit a handful of large producers at the expense of the American public. Beef prices have increased by a nationwide average of 45 percent in the last 6 months alone. Now we are told that this is not enough, and that we must create a mechanism which will guarantee even higher prices on a permanent basis.

There is simply no need to restrict meat imports. Imports now account for just 7 percent of U.S. beef consumption, and this level has remained stable, never exceeding 8.3 percent in the past 15 years. No evidence has been presented to support the argument that a steady, relatively small supply of imported beef has damaged the domestic cattle industry.

In fact, meat imported from abroad does not even compete directly with domestic beef. Almost 85 percent of the income of U.S. cattlemen comes from relatively fatty, grain-fed beef, used for steaks and roasts. Imported beef is of the leaner, less expensive variety, and it is used primarily in conjunction with grain-fed domestic beef in hamburgers and hot dogs. The imported beef thus supplements, rather than competes with, domestically produced beef.

Because lean, imported meat is used in the less expensive beef products such as hamburgers, any increase in its price will have an especially severe impact on those with lower incomes. The bill before us thus punishes most harshly those least able to afford it.

The President's principal aid in the administration's effort to combat inflation, Ambassador Robert Strauss, has estimated that enactment of the Meat Import Act would result in an increase of 15 to 17 cents per pound of beef purchased by the American consumer. This price increase is over and above the existing cost and does not include the expected, continuing inflation of beef prices.

While the price of beef was relatively low from 1975–77, this was the result of overproduction and the attendant operation of the law of supply and demand. Many times we have seen producers petition the Congress for special legislation to provide them with relief from the temporary, normal workings of the law of supply and demand. Many times in the past we have provided such assistance, usually creating strong inflationary pressures and almost always costing the American consumer dearly. But when the law of supply and demand results in excessive prices, do these same producers interfere with the natural forces of the marketplace and lower their prices and their inflated profits? I am unable to recall such an occurrence.

The very healthy 45-percent increase in beef prices during the past 6 months has alleviated the difficulty encountered by some cattle producers. The normal forces of the market, which created the glut in 1975, have now swung the pendulum back. Imports did not cause the lower prices, and a cutback in them now will not address the overall problem of price fluctuation. The only thing such a quota on imported beef will achieve is a permanent increase in the price which Americans pay for less expensive beef.

H.R. 11545 not only establishes quotas for imported beef, it also effectively removes the President's authority to lift restrictions on meat imports when domestic prices are excessively high. This would leave the consumer totally helpless in the event of very steep price increases. The traditional safety valve of emergency Presidential action will be virtually excluded under the terms of the Meat Import Act.

Enactment of H.R. 11545 will not only hurt American consumers, it will also cause serious problems for the United States at the ongoing multilateral trade negotiations. If we enact this unnecessary protectionist bill, the countries which sell beef here will surely retaliate. At the present time, the United States is fighting hard in the negotiations for greater market access for American grain-fed beef in foreign countries. Cattle producers will almost certainly lose this potentially significant market if they insist on and receive the limits on imports contained in H.R. 11545. The long-term interests of consumers and producers alike lie not in this protectionist and inflationary approach, but rather in the removal of existing trade barriers so that U.S. producers can increase their supply economically by selling their virtually unique, grain-fed beef to other nations. The bill before us can only lead to higher prices and more barriers to U.S. beef exports. Ultimately, it will exacerbate our balance-of-payments deficit. The interests of all Americans will be served by the defeat of this inflationary bill.●

● Mr. GLICKMAN. Mr. Chairman, I rise in strong support of H.R. 11545, the Meat Import Act of 1978. The present system has clearly not worked. It has not helped consumers, and it has not helped the livestock industry. Instead, it has only worsened the cyclical fluctuations which mean chaos for this important industry and has meant extremes in consumer prices.

The bill we are considering is a positive step, and—above all—it is logical. It will permit imports to increase when domestic production is down, and it will keep exports at reasonable levels when domestic production is sufficient to supply American consumers the meat they demand at reasonable prices. It will give the Nation's cattlemen assurance that increasing their output will not mean more imports will force their return so low that their operations become unprofitable. And it will let consumers know that price levels will stay within reason.

There has been some criticism of the fact that this bill would constrain the President's authority to suspend quotas. and an amendment will be offered to restore that authority. I will oppose that amendment. The ability of a President—regardless of who it may be—to decide on his own to suspend quotas and to permit an influx of imports that will force down prices leaves a big question mark in the picture for American livestock producers. Let us not forget that these are businessmen who need to plan. Uncertainty hinders that ability, and that is a particular problem when there are so many other factors beyond the control of producers which make this industry so subject to sharp changes in economic condition. What we need to do here is minimize the uncertainty and provide some stability. Then. this industry will be better able to plan to meet domestic consumer needs.

American livestock producers want to be able to meet the domestic demand for meat. That is in their best interest and the Nation's. This legislation will help them plan to do just that. It will help smooth out the boom-bust cycles that help no one and hurt us all. The bill is a logical approach, based on sound economic principles. I urge each of my colleagues to join me in a favorable vote.●

● Mr. MICHAEL O. MYERS. Mr. Chairman, I rise in opposition to H.R. 11545 and urge my colleagues to vote against passage of this bill. H.R. 11545 is an unnecessary piece of legislation. It will not benefit anyone in this country except the cattlemen and even for them it has been shown that their problems are not a result of meat imports but are a direct result of the 10-year cattle cycle which will not be resolved at all by this bill.

In 1977 at the request of the cattle growers themselves the U.S. Trade Commission conducted a thorough investigation of the effects of meat imports on the U.S. cattle industry. And in a unanimous decision found that imported meat was not a cause of harm to the American beef producer.

More important than that finding, however, is the effect that this bill will have on the average American. Imported lean manufacturing beef is absolutely necessary to supplement insufficient U.S. production of that product. Given the large demand in this country for hamburgers, hotdogs, and comparable products, it is economically impossible for the U.S. industry to produce sufficient quantities of lean manufacturing beef. What will happen if this bill goes through is that hamburger meat will have to be made with high quality table cuts of beef and the price per pound will soar. It is estimated that regular hamburger meat would go to over $2 per pound. The better grades of beef are already out of the price range for many lower income consumers and now we are going to pass a bill that will put hamburger out of reach as well. The effect of this bill on the consumer will be disastrous and I for one do not want to have to explain to my constituents why I felt it necessary that they pay the price for this bill.

Imported lean beef is essential to maintain reasonable consumer prices and yet the imported beef makes up only 7 percent of the total supply of U.S. beef. This country still exports more beef cattle products than it imports and that is as it should be. It helps the balance of trade, the balance of payments and the economic situation of the Nation in general. And yet if this bill is passd the exports may also drop off and their benefit to the country is lost.

Another point I want to make note of is the potential ripple effect of this legislation on our American ports. If we cut back on the level of meat imports, countless jobs will be lost by the ports, the longshoremen and related services. We cannot allow this to happen in order to pass a bill whose overall effect on the Nation is so unsure at this time. There are too many variables and too many questions in this bill. It is a bill whose time has not come and I urge the House to defeat this legislation.●

● Mr. HAGEDORN. Mr. Chairman, I rise in support of the amendment offered by my colleague, Mr. MOORE, which would remove the floor of 1.2 billion pounds of annual imports from the countercyclical formula in H.R. 11545.

The countercyclical formula is a reasonable approach to correct the inequities of the Meat Import Act of 1964 which has caused problems to consumers and producers alike. Currently, the 1964 act allows imports of beef and veal to increase proportionate to domestic production, in effect serving to exaggerate the boom and the bust of the cattle cycle. Rather than perpetuating this policy, and adjusting meat imports on the basis of exactly the wrong criteria, I favor the countercyclical formula proposed in H.R. 11545. This formula would insure that meat imports would rise when shortages of beef and veal developed in the United States, and that they would decline during periods of high domestic beef and veal production.

Had H.R. 11545 been in effect during the period of 1970–74, the total amount of beef and veal imports coming into this country would have increased by more than 330 million pounds. The primary objective of this legislation is not to exclude imports, but to revise existing import quotas to insure that such imports enter this country in a manner, and at a time, designed to complement domestic production yields, rather than to frustrate them.

The countercyclical formula, therefore, automatically adjusts itself to the supply and demand of the market and assures consumers of an adequate supply of beef at reasonable prices. At the same time, this formula will benefit the producer by reducing price volitility that forces them to liquidate their herds.

If we indeed believe that the countercyclical formula will effectively accomplish these ends, then it is beyond my comprehension to understand why we need to place a floor of 1.2 billion pounds of annual imports. On the one hand, we propose a formula which will automatically adjust itself and therefore alleviate political tinkering in the marketplace, and on the other hand, some want to tack on 1.2 billion pounds annual floor. With the adoption of a floor provision, we will find ourselves right back where we started.

Low prices to cattlemen, aggravated by a guaranteed import floor will cause producers to reduce their herds and once again suffer severe losses. According to a survey conducted by the Farm Journal earlier this year, 80 percent of all livestock producers in the Midwest felt that imports of meat and dairy products decreased the prices that they received last year. Thirty-eight percent noted a serious impact upon their prices. During the period from 1974–77, beef producers suffered over $30 billion in losses. The typical livestock producer, in other words, is not a protectionist, and recognizes that the health of his industry, to a great extent, is dependent upon free international trade. What he cannot understand, however, is an import policy, apparently adopted by the administration, in which there are never any genuinely good times during which to compensate for the bad times.

By placing a floor on the formula, we guarantee protection to the importer while negating the efforts of our domestic producers during times of high beef supplies. Essentially, we are changing the formula into a one-way street.

In closing, let me question how the arbitrary figure of 1.2 billion pounds was decided. It appears that the administration took the figure from our total 1978 beef imports of 1.3 billion pounds, the highest it has ever been, and then decided to compromise down to 1.2 billion pounds.

I strongly urge you to support the amendment offered by Mr. MOORE to eliminate the floor provision and thus allow the countercyclical formula to operate on its own merit.●

Mr. ULLMAN. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker having resumed the chair, Mr. FITHIAN, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the

bill (H.R. 11545) to modify the method of determining quantitative limitations on the importation of certain articles of meat and meat products, to apply quantitative limitations on the importation of certain additional articles of meat, meat products, and livestock, and for other purposes, had come to no resolution thereon.

ESTABLISHING UNIFORM LAW ON BANKRUPTCIES

Mr. HARRIS. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 8200) to establish a uniform law on the subject of bankruptcies, with Senate amendments to the House Amendment to the Senate amendment thereto, and concur therein.

The Clerk read the title of the bill.

The Clerk read the Senate amendments to the House amendment to the Senate amendment, as follows:

Page 17, line 16, of the House engrossed amendment, after "broker" insert: except with respect to section 746(c) which applies to margin payments made by any debtor to a commodity broker or forward contract merchant

Page 21, line 9, of the House engrossed amendment, after "362" insert ", 922,".

Page 55, line 15, strike out "or" the third time it appears.

Page 55, after line 15, insert:

(7) under subsection (a) of this section, of the commencement of any action by the Secretary of Housing and Urban Development to foreclose a mortgage or deed of trust in any case in which the mortgage or deed of trust held by said Secretary is insured or was formerly insured under the National Housing Act and covers property, or combinations of property, consisting of five or more living units; or

Page 55, line 16, strike "(7)" and insert "(8)".

Page 89, line 12, of the House engrossed amendment, after "(iii)" insert: other than a tax of a kind specified in section 523(a)(1)(B) or 523(a)(1)(C),

Page 93, lines 17 and 18, of the House engrossed amendment, strike out "510(a) or 510(c)" and insert "510".

Page 97, line 1, of the House engrossed amendment, after "in" insert "section 523(a)(1) or".

Page 103, line 6, of the House engrossed amendment, after "transfer" insert "or recovers a setoff".

Page 108, line 1, of the House engrossed amendment, strike out "becomes" and insert "became".

Page 122, line 21, of the House engrossed amendment, strike out "later" and insert "earlier".

Page 132, line 4 of the House engrossed amendment, after "broker" insert "or forward contract merchant".

Page 161, line 9, of the House engrossed amendment, strike out "77a" and insert "78a".

Page 169, line 17, of the House engrossed amendment, after "entity;" insert "or".

Page 169, line 23, of the House engrossed amendment, strike out "or".

Page 170, line 3, of the House engrossed amendment, strike out "(iii)" and insert "(III)".

Page 170, line 13, of the House engrossed amendment, after "entity:" insert "or".

Page 170, line 19, of the House engrossed amendment, strike out "or".

Page 170, line 24, of the House engrossed amendment, strike out "(iii)" and insert "(III)".

Page 171, line 15, of the House engrossed amendment, strike out "or".

Page 171, line 20, of the House engrossed amendment, strike out "(iii)" and insert "(III)".

Page 178, line 10, of the House engrossed amendment, after "broker" insert "or forward contract merchant or is a settlement payment made by a clearing organization".

Page 213, line 15, of the House engrossed amendment, strike out "equity".

Page 213, line 19, of the House engrossed amendment, strike out "equity".

Page 213, line 20, of the House engrossed amendment, strike out "equity".

Page 236, of the House engrossed amendment, strike out all after line 10 over to and including line 20 on page 237 and insert:

§ 1168. Rolling stock equipment

(a) The right of a secured party with a purchase-money equipment security interest in, or of a lessor or conditional vendor of, whether a trustee or otherwise, rolling stock equipment or accessories used on such equipment, including superstructures and racks, that are subject to a purchase-money equipment security interest granted by, leased to, or conditionally sold to, the debtor to take possession of such equipment in compliance with the provisions of a purchase-money equipment security agreement, lease, or conditional sale contract, as the case may be, is not affected by section 362 or 363 of this title or by any power of the court to enjoin such taking of possession, unless—

(1) before 60 days after the date of the commencement of a case under this chapter, the trustee, subject to the court's approval, agrees to perform all obligations of the debtor under such security agreement, lease, or conditional sale contract, as the case may be; and

(2) any default, other than a default of a kind specified in section 365(b)(2) of this title, under such security agreement, lease, or conditional sale contract, as the case may be—

(A) that occurred before such date and in an event of default therewith is cured before the expiration of such 60-day period; and

(B) that occurs or becomes an event of default after such date is cured before the later of—

(i) 30 days after the date of such default or event of default; and

(ii) the expiration of such 60-day period.

(b) The trustee and the secured party, lessor, or conditional vendor, as the case may be, whose right to take possession is protected under subsection (a) of this section, may agree, subject to the court's approval, to extend the 60-day period specified in subsection (a)(1) of this section.

Page 259, in the table of sections, of the House engrossed amendment, after the item which reads:

"15101. Definitions."

insert

15102. Rule of construction.

Page 261, after line 7, of the House engrossed amendment, insert:

§ 15102. Rule of construction.

In this title, a reference to a section that is made inapplicable under section 15103(f) of this chapter refers to the section of this chapter that replaces such inapplicable section.

Page 263, lines 1 and 2, of the House engrossed amendment, strike out "subsection (a)(2) of this section" and insert "section 322(a)(2)".

Page 271, line 9, of the House engrossed amendment, strike out "507(1)" and insert "507(a)(1)".

Page 272, lines 3 and 4, of the House engrossed amendment, strike out "circuit court for the circuit in which such district is located" and insert "district court for such district".

Page 272, line 20, of the House engrossed amendments, after "districts." insert: In each instance, the President shall give due consideration to the recommended nominee or nominees of the Judicial Council of the Circuit within which an appointment is to be made.

Page 279, of the House engrossed amendments, strike out lines 9 to 16, inclusive, and insert:

(1) in subsection (c), by deleting "or district" and inserting "district or bankruptcy judge"; and

(2) in subsection (d), by striking out "or district judge" and inserting in lieu thereof", district judge or bankruptcy judge".

Page 279, line 25, of the House engrossed amendments, strike out "three" and insert: "two".

Page 280, lines 13 and 14, of the House engrossed amendments strike out "one year, and one bankruptcy judge to serve for".

Page 281, of the House engrossed amendment strike out all after line 6, over to and including line 4, on page 286.

Page 286, of the House engrossed amendment, strike out lines 7 to 12, inclusive, and insert:

(1) by inserting a comma and "and bankruptcy courts, the judges of which are entitled to hold office for a term of 14 years" immediately before the period at the end of the paragraph beginning with "The term 'court of the United States' "; and

(2) by inserting a comma and "and judge of the bankruptcy courts, the judges of which are entitled to hold office for a term of 14 years" immediately before the period at the end of the paragraph beginning with "The term 'judge of the United States' ".

Page 289, of the House engrossed amendment, after the table of sections, insert:

"§ 581. United States trustees"

Page 298, line 2, of the House engrossed amendment, strike out "Each" and insert: "Based on need each."

Page 298, line 9, of the House engrossed amendment, after "court." insert: If there is no clerk, the Bankruptcy Judge shall perform the duties of this subsection.

Page 299, of the House engrossed amendment, strike out lines 11 to 17, inclusive, and insert: in open court. The Judicial Conference shall prescribe that the record be taken by electronic sound recording means, by a court reporter appointed or employed by such bankruptcy court to take a verbatim record by shorthand or mechanical means, or by an employee of such court designated by such court to take such a verbatim record.

Page 301, of the House engrossed amendment, strike out lines 17 to 19, inclusive, and insert: "judgment, order, or decree of an appellate panel created under section 160 or a district court of the United States, or from a final judgment, order or decree of a bankruptcy court of the United States if the parties to such appeal agree to a direct appeal to the court of appeals.".

Page 302, line 7, of the House engrossed amendment, strike out "163(a)" and insert: "160(a)"

Page 304, line 1, of the House engrossed amendment, strike "COURTS OF APPEALS" and insert: "DISTRICT COURTS"

Page 304, line 12, of the House engrossed amendment, strike out "courts of appeals" and insert: "district courts"

Page 304, line 16, of the House engrossed amendment, strike out "courts of appeals, the courts of appeals" and insert: "district courts, the district courts"

Page 304, line 21, of the House engrossed amendments strike out "courts of appeals" and insert: "district courts"

Page 304, line 23, of the House engrossed amendment, strike out "court of appeals" and insert: "district courts"

Page 306, lines 16 and 17, of the House engrossed amendment, strike out "section 541, 544(b), or 544(c)" and insert: "section 541 or 544(b)"

Page 310, line 16, of the House engrossed amendment, strike out "1978" and insert: "1979"

Page 311, line 2, of the House engrossed amendment, strike out "163(a)" and insert: "160(a)"

Page 311, line 5, of the House engrossed amendment, strike out "163(a)" and insert: "160(a)"

Page 311, of the House engrossed amendment, strike out line 12 and insert:

"90. District Courts and Bankruptcy Courts ---------- 1471".

Page 321, line 22, of the House engrossed amendment, strike out "507(1)" and insert: "507(a)(1)"

Page 337, strike out lines 19 to 23 of the House engrossed amendment, and insert:

(o) The annuity of an employee who is a bankruptcy judge is computed with respect to service after March 31, 1979 and before April 1, 1984, as a bankruptcy judge and his military service (not exceeding five years) creditable under section 8332 of this title by multiplying 2½ percent of his average annual pay by the years of that service.

Page 338, of the House engrossed amendment, in the matter following line 2, strike out:

"7____January 1, 1970, to March 31, 1979.
8____After March 31, 1979."

and insert:

"7____After January 1, 1970."

Page 341, line 11, of the House engrossed amendment, after, "302," insert: "314(j),"

Page 341, line 13, of the House engrossed amendment, strike out "314(j)"

Page 341, of the House engrossed amendment, strike out lines 24 and 25 and insert:

(b) Notwithstanding subsection (a) of this section, sections 1165, 1167, 1168, 1169, and 1171

Page 342, line 21, of the House engrossed amendment, strike out "1979," and insert: "1978,"

Page 343, line 14, of the House engrossed amendments, after "by" insert: "the Chief Judge of the Circuit Court after consultation with"

Page 343, line 15, of the House engrossed amendments, after "bankruptcy" insert: "upon the expiration of his" appointed term as referee

Page 350, line 18, of the House engrossed amendment, after "period," insert: "the Congress strongly recommends"

Page 350 of the House engrossed amendments, strike out lines 24 and 25, and insert: court administration, supporting personnel, or bankruptcy court rules shall be chosen from among the United States bankruptcy judges.

Mr. HARRIS (during the reading). Mr. Chairman, I ask unanimous consent to dispense with further reading of the Senate amendment, to the House amendment to the Senate amendment, and that they be printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Virginia?

There was no objection.

The SPEAKER. Is there objection to the first request of the gentleman from Virginia?

Mr. BAUMAN. Reserving the right to object, Mr. Speaker, the gentleman from California who made this request earlier has assured us of his willingness to try to work with the other body regarding the claims under the bill.

I assure the gentleman from Virginia we appreciate that, and I withdraw my reservation of objection.

● Mr. EDWARDS of California. Mr. Speaker, I will not undertake a detailed explanation of all of the changes made by the Senate amendments to the House amendments to the Senate amendment in the nature of a substitute to H.R. 8200. However, there are several aspects of the Senate amendments which require elaboration.

First, an amendment has been made to section 362(b) to permit the Secretary of the Department of Housing and Urban Development to commence an action to foreclose a mortgage or deed of trust. The commencement of such an action is necessary for tax purposes. The section is not intended to permit the continuation of such an action after it is commenced nor is the section to be construed to entitle the Secretary to take possession in lieu of foreclosure.

Second, the Senate amendment changes the new 28 U.S.C. 771 by inserting the words "based on need" as a prerequisite for a bankruptcy court to be entitled to a clerk of court. It was the unanimous consensus of the Subcommittee on Civil and Constitutional Rights based on an extensive hearing record compiled over a 3-year period that the need has been established. Thus the language is not a limitation but is a statement of fact. There is a need for a bankruptcy court to have a clerk; and based on that need, 28 U.S.C. 771 entitles the court to a clerk. In certain limited circumstances, however, there may be no need for a separate clerk for each bankruptcy office, as where there are two bankruptcy offices within a single district and the bankruptcy court may have a clerk at one location and a deputy clerk at the other location.

Third, the Senate previously had concurred in the view that bankruptcy judges shall be appointed by the President by and with the advice and consent of the Senate. However, the Senate has now added a provision which requires that in the appointment of bankruptcy judges to the 14-year terms established by the legislation, the "President shall give due consideration to the recommended nominees of the Judicial Council of the Circuit within which an appointment is to be made."

Unfortunately, the language is not as clear as it might be. Obviously, it is not intended that a Circuit Council "nominate" a person for appointment by the President. The Circuit Council only recommends. Nor is it intended that the person or persons recommended by the Council be the only persons whom the President may consider. If it were otherwise, there might well be serious constitutional questions with respect to the separation of powers. The role of the Circuit Council is limited to making recommendations, if it chooses to do so. It is not required to do so and each Council will determine for itself whether it is appropriate or desirable for it to make any recommendations. In the final analysis, the President is free to nominate whomever he considers best qualified from among the recommendations of the Circuit Council or from those he receives from any other source.

Fourth, a further change made by the Senate is to eliminate any retirement plan for the judges to be appointed in 1984 and thereafter. Obviously, Congress will have to remedy this situation before any such appointments are made. The Senate amendment also substantially reduces the retirement benefits which would have been accorded to incumbents who serve through the transition period. The present bankruptcy judges, who have worked so hard and so long for bankruptcy reform, are, of course, troubled by this development. However, in a selfless spirit based on their commitment to reform rather than personal gain, they lent their full support to the legislation.

I now renew my personal commitment to attempt to establish a rational and fair retirement system for these dedicated public servants.

The Senate amendments contain two provisions which were inadvertently included by the Senate in the bill and should not have been contained in it. We are accepting these changes only because of the lateness of the session and our concern with insuring passage of this much-needed legislation. I refer to insertions in section 404(b) which involve the chief judge of the circuit in passing on the qualifications of incumbent bankruptcy judges who are to be continued in office during transition and to language relating to the use of the title "bankruptcy judge."

With respect to the authority given to the chief judge of the circuit, this authority is limited. Section 404(b) provides that the term of a referee who is serving on the date of enactment of this act is extended to and expires on March 31, 1984. The amendment provides that during the period commencing on October 1, 1979 and ending on March 31, 1984, a referee serving on the date of enactment shall continue to serve during transition unless such referee is found to be not qualified by the chief judge of the circuit after consultation with the merit screening committee. The merit screening committees provided for under the act are composed of the president of the State bar association, the dean of a law school within the State and the president of the local bar association, or their designees. Determining the qualifications of an incumbent judge to continue to sit is a most serious responsibility, and for this reason we have created these panels of three eminent lawyers to make such determinations. It is contemplated, therefore, that in the absence of a finding by the panel that a judge is unqualified, there would be no such determination by the chief judge.

Furthermore, it should be noted that, by the terms of the Senate amendment, the chief judge of the circuit is given no part in the transition process until October 1, 1979. Accordingly, sitting bankruptcy judges whose terms expire on or after the date of enactment of this legislation but before October 1, 1979 will have their terms extended to March 31, 1984 without any action being required of the chief judges of their respective

circuits. Indeed, the extension of terms which expire before October 1, 1979 are not subject to review by the merit screening committees. Such judges shall be entitled to exercise all of the powers of a U.S. bankruptcy judge during transition.

With respect to the use of the title "bankruptcy judge," it appears to me that there may well have been a clerical error in the place of insertion of the Senate amendment. The Senate inserted the language "upon the expiration of his appointed term as referee" before the word "shall" on line 16 of the enrolled bill. It would appear that this phrase was meant to have been inserted before the word "shall" on line 17. With that correction, the Senate amendment can be understood. Without that correction the amendment creates some ambiguities as to the use of the title "bankruptcy judge." As I understand it the Senate had no intention to impair the right of incumbent bankruptcy judges to use that title either now or during their transition period service. It is certainly not the intention of the House to do so. The title "bankruptcy judge" is presently conferred by the Rules of Bankruptcy Procedure, and it is our intention that the title should also become statutory as of October 1, 1979.●

The SPEAKER. Is there objection to the first request of the gentleman from Virginia?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. HARRIS. Mr. Chairman, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on this legislation, H.R. 8200.

The SPEAKER. Is there objection to the request of the gentleman from Virginia?

There was no objection.

IN THE MATTER OF REPRESENTATIVE EDWARD J. PATTEN

Mr. FLYNT, from the Committee on Standards of Official Conduct, submitted a privileged report (Rept. No. 95–1740) which was referred to the House Calendar and ordered to be printed.

IN THE MATTER OF REPRESENTATIVE CHARLES H. WILSON OF CALIFORNIA

Mr. FLYNT, from the Committee on Standards of Official Conduct, submitted a privileged resolution (H. Res. 1414, Rept. No. 95–1741) which was referred to the House Calendar and ordered to be printed.

IN THE MATTER OF REPRESENTATIVE JOHN J. McFALL

Mr. FLYNT, from the Committee on Standards of Official Conduct, submitted a privileged resolution (H. Res. 1415, Rept. No. 95–1742) which was referred to the House Calendar and ordered to be printed.

IN THE MATTER OF REPRESENTATIVE EDWARD R. ROYBAL

Mr. FLYNT, from the Committee on Standards of Official Conduct, submitted a privileged resolution (H. Res. 1416 Rept. No. 95–1743) which was referred to the House Calendar and ordered to be printed.

PERMISSION TO HAVE UNTIL MIDNIGHT, SATURDAY, OCTOBER 7, 1978, TO FILE CONFERENCE REPORT ON H.R. 5037 FOR THE RELIEF OF JACK R. MISNER

Mr. DINGELL. Mr. Speaker, I ask unanimous consent that the managers may have until midnight, Saturday, October 7, 1978, to file a conference report on the bill (H.R. 5037) a bill for the relief of Jack R. Misner, which is the energy conservation section of the National Energy Act.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

PERMISSION TO HAVE UNTIL MIDNIGHT, SATURDAY, OCTOBER 7, 1978, TO FILE CONFERENCE REPORT ON H.R. 4018, SUSPENDING DUTY ON CERTAIN DOXORUBICIN HYDROCHLORIDE ANTIBIOTICS

Mr. DINGELL. Mr. Speaker, I ask unanimous consent that the managers may have until midnight, Saturday, October 7, 1978, to file a conference report on the bill (H.R. 4018) an act to suspend until the close of June 30, 1980, the duty on certain doxorubicin hydrochloride antibiotics, which is the electrical utilities section of the National Energy Act.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

LEGISLATIVE PROGRAM

(Mr. DEL CLAWSON asked and was given permission to address the House for 1 minute.)

Mr. DEL CLAWSON. Mr. Speaker, I take this time to inquire of the majority leader the schedule for the balance of this week, if any, and the schedule for next week, if he can so advise use.

Mr. WRIGHT. Mr. Speaker, will the distinguished gentleman yield?

Mr. DEL CLAWSON. I would be happy to yield to the gentleman.

Mr. WRIGHT. Mr. Speaker, I am honored and delighted to respond to the acting minority leader, the gentleman from California (Mr. DEL CLAWSON), a man whom we shall miss around these parts, a man who has made many friends, a man who has always been a professional, always upholding the dignity and the responsibilities of this chamber. He has earned distinction and recognition on the part of his colleagues who elected him chairman of the Republican Policy Committee. He has served actively and well on the Committee on Rules of the House of Representatives, and I should simply like to take this moment to pay my respects. I know I speak for all of the Members of the House in saying we all pay our respects to the very distinguished, affable, friendly, and kind gentleman from California (Mr. DEL CLAWSON) who will long be remembered in this chamber.

Mr. DEL CLAWSON. Mr. Speaker, the response of my good friend, the majority leader, the gentleman from Texas (Mr. WRIGHT) is certainly appreciated, but that was not my original inquiry.

Mr. WRIGHT. Oh, so the gentleman really wants to know about the business for next week?

Mr. DEL CLAWSON. That was my purpose in taking this 1 minute.

Mr. WRIGHT. In response to the inquiry of the distinguished gentleman from California, let me say that there is no more business for today. This will conclude the business for this week. It will be my purpose soon to ask unanimous consent that when we adjourn today we adjourn to meet at 10 o'clock on Tuesday next, October 10, 1978.

Monday, being Columbus Day, we have no session scheduled.

On Tuesday it has been agreed that there will be no votes, and that any votes will go over.

We hope to have the Consent Calendar and the Private Calendar, and then we will consider 21 bills on suspension. I believe the gentleman from California has a copy of the list of bills scheduled to be considered.

Mr. DEL CLAWSON. Is the list identical to the list we have on this side of the aisle?

Mr. WRIGHT. It is one and the same list. The list of those 21 bills will be printed in the RECORD at this point for the information of all Members.

The list referred to follows:

1. H.R. 8696—IRC Amendments for Recipients of Retroactive VA Benefits.
2. H.R. 13092—IRC Amendment re Small Tax Case Procedures.
3. H.R. 9893—IRC Amendments re Income Limitations for the Elderly.
4. H.R. 12532—IRC Amendments re Income Averaging.
5. H.R. 12592—IRC Amendments to Section 4941.
6. H.R. 3553—IRC Amendments re Tax Counseling for the Elderly.
7. H.R. 8222—Duty-free Treatment for Items Produced in U.S. Possessions.
8. H.R. 13719—IRC Amendments re Guam and Virgin Islands Taxes.
9. S. 3373—U.S. Code, Title 10 Amendments, for Girl Scouts.
10. S. 957—Dispute Resolution Act.
11. H.R. 14089—Interstate Horseracing Act.
12. H.R. 14030—U.S. Code, Title 28 Amendments, re Court Interpreters.
13. H.R. 9701—Federal Government Employees' Financial Statements.
14. S. 3336—Provide Services for Drug-Dependent Offenders.
15. H. Res. 1372—Nobel Peace Prize for Soviet Watchers of Helsinki Agreement.
16. H.R. 13500—Presidential Records Act of 1978.
17. H R. 10161—Relief of Eastern Telephone Company (Resolve Two Senate Amendments).
18. H.R. 12647—Noise Control Act of 1978, Reauthorization.
19. H.J. Res. 1157—Export-Import Bank Act Amendments.
20. S. 1503—Pertaining to Losses Resulting from the Chemical "Tris".
21. H.R. 4727—Amend Rules of Evidence Concerning Privacy of Rape Victims.

Mr. WRIGHT. Following the suspensions, we will take up a conference report on H.R. 12050, the Tuition Tax Credit Act of 1978, and House Resolution 86 concerning cosponsorship.

Thereafter, we shall take up general debate only on the following bills:

H.R. 11488, Public Health Services Planning Amendments, under an open rule, with 1 hour of general debate.

H.R. 13335, AFDC Assistance and Error Reduction Incentive Payments, under a modified open rule, with 1 hour of general debate.

H.R. 12347, Biomedical Research and Training Amendments, under an open rule, with 1 hour of general debate.

H.R. 12511, Child Nutrition Amendments of 1978 (School Lunch bill), under an open rule, with 1 hour of general debate.

On Wednesday, the House will meet at 10 a.m., and there will be general debate only on the following bills:

H.R. 13611, Child Health Assurance Act of 1978, under an open rule, with 1 hour of general debate.

H.R. 12442, Consumer Product Safety Commission, under an open rule, with 1 hour of general debate.

H.R. 12370, health services amendments, subject to a rule being granted.

H.R. 12161, ConRail Authorization Act, under an open rule, with 1 hour of general debate.

H.R. 12577, Railway Safety Authorization Act, under an open rule, with 1 hour of general debate.

H.R. 11979, Local Rail Service Assistance Act, under an open rule, with 1 hour of general debate.

S. 2727, Amateur Sports Act of 1978, under an open rule, with 1 hour of general debate.

Again, there will be general debate only on Wednesday.

On Thursday, Friday, and Saturday, the House will meet at 10 a.m.

We will consider a conference report on S. 1566, Foreign Intelligence Surveillance Act, and a conference report on H.R. 6536, the D.C. Retirement Reform Act.

Then we will have the recorded votes on the suspension bills which have been held over from Tuesday.

Then we will take up H.R. 11545, the Meat Import Act, to complete consideration.

Next we will take up S. 2727, the Amateur Sports Act of 1978, to vote on the amendments and the bill.

Then we will take up House Resolution 1308, the Executive Reorganization Plan No. 4 (ERISA).

Following that, we will consider the conference report on H.R. 8444, the National Energy Act.

Mr. DEL CLAWSON. May I interrupt the majority leader right at that point.

Could the gentleman apprise us to when the Committee on Rules will meet to provide a rule for that conference report? I understand it is going to be under a rule.

Mr. WRIGHT. I am sorry that I do not have that information. I do not see the chairman of the Committee on Rules on the floor at this moment, but it would be presumed that they would meet some time prior to Thursday of next week.

In any event, it is planned that that bill, which would be the big bill for the week and the remainder of the session, would be scheduled in that sequence, on Friday, I think; possibly Thursday, but conceivably on Friday.

Then we must take up H.R. 11274, the Middle Income Student Assistance Act, under an open rule, with 1 hour of general debate.

Next we will consider H.R. 2852, countercyclical assistance, subject to the granting of a rule.

Then we will vote on amendments and bills which earlier have gone through general debate, in the following order:

H.R. 11488—Public Health Services Planning Amendments.

H.R. 13335—AFDC Assistance and Error Reduction Incentive Payments.

H.R. 12347—Biomedical Research and Training Amendments.

H.R. 12511—Child Nutrition Amendments of 1978 (School Lunch).

H.R. 13611—Child Health Assurance Act of 1978.

H.R. 12442—Consumer Product Safety Commission.

H.R. 12370—Health Services Amendments.

H.R. 12161—Conrail Authorization Act.

H.R. 12557—Railway Safety Authorization Act.

H.R. 11979—Local Rail Service Assistance Act.

At that point we would plan to consider resolutions from the Committee on Standards of Official Conduct.

Mr. DEL CLAWSON. It has been called to my attention that the citations were not listed on those. Should they have been listed or will they be available to us?

Mr. WRIGHT. It has not been decided whether there will be one or several resolutions, whether they would be presented en bloc or whether they would be considered separately.

Mr. DEL CLAWSON. Then we will know at what time the citations will be considered en bloc rather than separately; is that correct?

Mr. WRIGHT. Let me respond to the gentleman by saying that we will give Members advance notice.

The SPEAKER. May I say to the gentleman that the chairman of the Committee on Standards of Official Conduct just filed the three reports and resolutions separately, and they will be called up as separate individual resolutions.

Mr. DEL CLAWSON. I thank the Speaker.

Mr. WRIGHT. Following that we would consider H.R. 11153, Federal Reclamation Dams Safety, under an open rule, with 1 hour of debate;

H.R. 13471, Financial Institutions Regulatory Act of 1978, on which we would hope to complete consideration;

H.R. 12299, Domestic Violence Act of 1978;

H.R. 13778, Department of Education Organization Act;

H.R. 11922, Domestic Volunteer Service;

H.R. 12533, Indian Child Welfare Act; and

H.R. 14104, Endangered Species Act; in each instance under an open rule, with 1 hour of general debate, with the exception of H.R. 13778, Department of Education Organization Act which will be under an open rule, but with 2 hours of debate. We would hope to complete that program. Having done so, we would be in a position to adjourn on Saturday.

The House will adjourn by 8 p.m. on all other days except Thursday, Friday, and Saturday. I think Members should be on notice, however, that on Thursday, Friday, and Saturday the House might find it necessary to stay in session until quite late.

Mr. DEL CLAWSON. Mr. Speaker, the majority leader has not mentioned the tax bill. Has that been taken off the calendar, or are we going to have that before us in a conference report?

Mr. WRIGHT. Let me respond to the gentleman simply by saying that that is one of the two most important things remaining in this session of Congress. Certainly we have not taken it off the calendar. That bill is simply not yet ready for scheduling.

The SPEAKER. Conference reports may be brought up at any time.

Mr. DEL CLAWSON. I thank the Speaker.

So we probably will have that the latter part of the week as well?

Mr. WRIGHT. Yes, indeed. We fully anticipate that we will have a vote on the conference report on the Tax Reduction Act. Any conference reports, of course, not previously mentioned and eligible for consideration may be scheduled and brought up at any time. Any further program we would be happy to announce later.

Mr. DEL CLAWSON. I thank the gentleman. Then should we plan to go to church early Sunday morning, or should we prepare to remain here?

Mr. WRIGHT. I would say if the gentleman has a chance, he might plan it at 11 o'clock rather than at 8:30.

Mr. DEL CLAWSON. In other words, the gentleman recommends the Alka-Seltzer mass for Sunday morning; is that correct?

Mr. WRIGHT. I would.

Mr. DEL CLAWSON. I thank the gentleman.

ADJOURNMENT TO 10 O'CLOCK TUESDAY, OCTOBER 10, 1978

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 10 o'clock a.m. on Tuesday next.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

MAKING IN ORDER CALL OF CONSENT CALENDAR ON TUESDAY, OCTOBER 10, 1978

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that it may be in

order to call the Consent and Private Calendars on Tuesday, October 10.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

Mr. BAUMAN. Reserving the right to object, I think it probably would be more productive if the gentleman asked only for the Consent Calendar. Earlier today the gentleman from Maryland pointed out the problem of 60 immigration claims bills being held in the other body for no good reason. I certainly would object to the Private Calendar being made in order until that situation is cleared up.

The SPEAKER. Will the gentleman from Texas separate the requests?

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that it may be in order to call the Consent Calendar on Tuesday, October 10.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that Calendar Wednesday business in order on Wednesday next may be dispensed with.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

TRUTH IN DEFENSE, PART VI: THE STRATEGIC BALANCE

(Mr. CARR asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. CARR. Mr. Speaker, yesterday during the 1-minute period I told the House that by 1 o'clock I would have distributed copies of comments on remarks made yesterday by Mr. Paul Nitze on the NBC "Today Show." I apologize for having failed to meet that self-imposed deadline. Therefore, I rise again today to insert into the RECORD an analysis of Mr. Nitze's misleading statements. My colleague, the gentleman from New York, (Mr. DOWNEY) is a coauthor of these remarks. A copy is being sent Mr. Nitze, together with an offer to insert any response he may wish to make, in full and without further comment, into the RECORD:

TRUTH IN DEFENSE, PART SIX, U.S. STRATEGIC FORCES' CONTINUED SUPERIORITY OVER SOVIETS' STRATEGIC FORCES

Normally it has been the practice of the Truth in Defense series to send our criticism in advance to the person or organization criticized, and to allow two or three weeks for that person or organization to submit a response; we have always offered to circulate the response, in full, at the same time as the criticism.

This morning, however, the Committee on the Present Danger is publishing a paper of the U.S.-Soviet military balance. We have not seen this analysis in full; efforts to obtain it from Dr. Eugene Rostow, the chairman of this organization, were unsuccessful. However, Mr. Paul Nitze, its military expert and presumed author, appeared this morning on the Today Show. His views expressed on this program can be presumed to be what he considers the highlights of the paper; for many Americans, this is the only portion to which they will be exposed. Our comments thus apply to Mr. Nitze's televised statements rather than to the full paper.

Mr. Nitze's statements on the U.S.-Soviet strategic forces balance are among the most distorted, misleading, and intellectually dishonest we have ever seen. Because of this extraordinary circumstance and because of the need for timely response if truth is to catch up with misstatement, we are departing from our normal practice and are publishing our criticism without giving Mr. Nitze opportunity for simultaneous reply. We are, however, sending our comments to him together with our offer to circulate his response, in full and without comment, whenever it arrives.

STATEMENT

Mr. Nitze made the following assertions:

(1) That U.S. submarine-launched missiles have only "one hundredth" the power of some Soviet missiles. Since no qualifications or offsetting data were offered, the listener was clearly meant to be left with the belief that Soviet strategic forces are one hundred times more powerful than those of the United States.

(2) That the power of U.S. forces which would survive a Soviet first strike is inferior to Soviet forces, and that it is or will shortly become insufficient to deter the Soviets.

FACT

The U.S. Poseidon submarine launched missile can carry 14 nuclear warheads of .04 megatons (MT) each, totalling .56 MT. The largest-megaton Soviet missiles, the SS–9 and the single-warhead version of the SS–18, carry 25 MT, giving a ratio of 45 rather than 100. But considering that Poseidon typically carries 10 rather than 14 warheads we can ignore Mr. Nitze's poetic license with the numbers, which is quite modest in light of the fact that he has (A) used the wrong measure, (B) applied it selectively and taken it out of context, and (C) ignored compelling and authoritative evidence which refutes his entire thesis.

DISCUSSION

(A) Megatonnage as measure of strength. For complex technical reasons, megatonnage is a deficient measure of the destructive ability of nuclear warhead. It largely measures a warhead's ability to heat low-value air and vaporize low-value dirt, rather than to destroy high-value military and industrial targets at ground level.

While no single measure tells the whole story, megaton equivalents, adjusted megaton equivalents, and hard-target lethality, all adjusted for reliability and alert rates, are considerably more valid than megatons.

Megatonnage is, as Mr. Nitze suggested in passing, useful as an indicator of fallout, which in turn is a good indicator of probable civilian fatalities. However, the U.S. does not target population; most of our recent weapons advances have been oriented toward reducing megatonnage while increasing our ability to place larger numbers of warheads more accurately on larger numbers of targets, thus maximizing counter-economic and counter-military potential. Soviet published writings also indicate a lack of interest in counter-population attacks, as do recent trends in their weapons programs. As is typical, they have lagged a number of years behind us, but now they too are reducing their megatonnage in order to improve their warhead numbers.

Thus, large megatons have been rejected as a primary objective by both sides. Mr. Nitze knows this. For him to cite megatonnage as his primary measure can only mean one of two things. First, he may believe that we should reverse our policies, de-MIRV, and orient our forces against the Soviet populace. This would be a strategy deserving serious consideration, but to the best of our knowledge he has not advocated this; he certainly did not do so this morning. Second, he may have chosen megatons for the sole reason that they enabled him to place U.S. forces in the least favorable light.

(B) Selection of missiles out of context. We could claim that—

Some U.S. missiles have 9 times the yield of some Soviet missiles.

The most common U.S. ICBM has 90 times the counterforce first-strike hard-target kill capability of the most common Soviet ICBM.

The U.S. can maintain deployment of 24 times as many SLBM warheads as the Soviet Union.

All of these comparisons would be true. But all would be meaningless and intellectually dishonest because they would be derived by seeking those examples which place the U.S. in the most favorable light, while ignoring Soviet strong points.

This is the mirror image of what Mr. Nitze has done. In addition to selecting megatons as his standard solely because it most favors the Soviets, he has selected the smallest-megaton U.S. missile for comparison with the largest-megaton Soviet missile.

If Mr. Nitze had said, "This is what I find when I compare the smallest U.S. missile with the largest Soviet missile by the measure which most accentuates this difference, although other measures lead to the contrary conclusion," we would have had no quarrel with him. But what he has done is akin to presenting a blind man with an elephant's tail and telling him an elephant is like a snake. Such deception should not be tolerated.

(C) Overall U.S. superiority. We could argue forever about whether warheads, megaton equivalents, hard target lethality, or any of the other 15 or so measures of strategic capability is the most valid. All are limited and invalid to some extent in that they project ability to destroy a hypothetical idealized target set which does not exist in the real world.

Fortunately, the Defense Department has released its analysis of what the strategic forces of the two sides could do to the real world target complex. This is given on page 104 of the latest unclassified Defense Department Report.

U.S. CAPABILITY AGAINST MILITARY AND ECONOMIC TARGETS FOLLOWING A SOVIET SURPRISE ATTACK AND U.S. RESPONSE, EXPRESSED AS A PERCENTAGE OF SOVIET CAPABILITY

End Fiscal Year	*U.S. capability*
1978	156
1980	105
1982	130
1983	130
1985	116
1987	112

This chart is the definitive answer to strategic balance questions for several reasons:

First, it is based on the latest and best classified estimates of the capability of each side.

Second, as we have said, it is derived by projecting the effect of real warheads on real targets, one by one, taking into account *all* factors of capability, reliability, target characteristics, etc.

Third, it assumes that the Soviets will launch a fully generated sneak attack which will catch us by surprise.

Even under these worst-case circumstances, after U.S. retaliation our ability to destroy economic and military targets will be 56% better than the Soviets' if the attack occurs tomorrow morning. Looking over the next ten years, this margin fluctuates up and down, but is always in favor of the U.S.

Does this mean the U.S. has or will have an exploitable nuclear superiority over the Soviets? Of course not. The damage which would be wrought by both sides is so cataclysmic that a 50% fluctuation in force size one way or the other is of no significance except to trivia collectors.

It does mean that Mr. Nitze's claim that Soviet surviving forces would be so superior to ours that we would not have a deterrent is in direct contradiction to the best judgment of the U.S. defense and intelligence communities.

It may be that this judgment is wrong. If Mr. Nitze feels that it is, he should state his case. He has not done so. Instead he has avoided all mention of this authoritative evidence and has selected those bits and pieces which, when taken out of context, support his case.

We urge you to insist on seeing the whole elephant.

Sincerely,

BOB CARR,
Member of Congress.
TOM DOWNEY,
Member of Congress.

TRIBUTE TO VIRGIL PARTCH, CARTOONIST

(Mr. BADHAM asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BADHAM. Mr. Speaker, when that great Roman philosopher, Publius Terrentius Afer, wrote, "I bid him look into the lives of men, as though into a mirror and from others to take an example for himself," it almost seems as though he was writing about the American cartoonist, Virgil Partch.

Because when Partch, who signs his cartoons "Vip," the signature known the world around, he has completed a work which at once is outlandish in its portrayal, pungent in its message, devilish in its merriment, and knee-slapping in its humor.

For Virgil Partch is himself—through his work at the drawing board—a mirror into the lives of men and he has taken examples from us all in portraying the idiosyncracies, the foibles, the failures and successes of mankind.

With these comments, I should like to take the floor today to call attention of my colleagues to a unique celebration which is to take place on October 24, 1978, at the Balboa Bay Club in Newport Beach, Calif., which is in the 40th Congressional District, which I represent.

On that occasion, a group of his friends will gather together to celebrate the event of Partch's 62d birthday, a birthday party which is sure to go down in history as a zany event worthy of the zany celebrants.

To characterize Partch's impact on the way of life in the United States and, indeed, on the free world as an aberration would be unfair to one of the great cartoonists of our time.

For nearly 40 years Virgil Partch's pointed pen has delivered a steady diet of laughs to millions. He is not mean, vicious, or partisan in his delivery, Partch just draws life as it is—made up of Abraham Lincoln's legendary common men and women, who stumble and bumble their way through life, some days up and some days down.

Reaching this pinnacle of life as a successful satirist as well as the age of senior citizen majority, social security-wise, has been a long, hard tussle for Virgil Partch.

As a youth, Partch attended the University of Arizona and Chuinard Art Institute in Los Angeles, ending up as an animator for Walt Disney before the onset of World War II. Contemplating the meager $35 a week he was earning, Partch started sending cartoons off to magazines.

One day his mail box had a surprise, $50 from New Yorker, more than an entire week's earnings at Disney. That did it, and Virgil Partch has been a free lancer ever since.

Except, of course, for a stint in World War II, which saw him as Gen. Joseph Stillwell's personal cartoonist at Fort Ord. Later, history tells us that the 45th Infantry Division, fighting its way up through the mountains in Italy in one of the nastiest, and most unrewarding fights of the war, had among its members one of the best-known cartoonists of the day—Bill Mauldin.

Little did Bill Mauldin, or the rest of us, know that hidden in the dark decesses of the 45th Division, just waiting to break out, was Virgil Partch.

Perhaps his best-known cartoon of that period was a drawing of a GI taking a bath in his battle helmet. Completely in the helmet as two score assorted native types watched implacably.

From that point, Partch developed into one of the top humorists of our time, his best-known character being "Big George," who is the epitome of Partch's stumbling, bumbling common man.

Partch's work, in addition to the syndicated Big George panels and strips, has appeared in almost every major American magazine, he has published two dozen books and won international awards for his drawings.

As we pause today to pay tribute to Virgil Partch on the floor of the Congress of the United States, I feel that it is only fitting that all of us, no matter how great our position, how severe the daily challenges, or how lofty our ambitions, must remember just one thing:

There's a little bit of Big George in each of us.

BANKS ARE PHASING OUT CONSUMER-ORIENTED SERVICES

The SPEAKER. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

● Mr. ANNUNZIO. Mr. Speaker, the days of consumer-oriented banking services are numbered. Very quietly, banks all over the country are phasing out free checking services and are raising existing charges on a variety of banking services.

A new trend among financial institutions is to reduce the number of free customer services and to concentrate on increasing profits. To avoid alienating customers with large balances, a very popular method is to impose fees only on customers who fall below a certain minimum balance requirement.

The rationale is that these small-time accounts do not generate sufficient revenue anyway. So, if the small-time depositor does not like the fees, he can take his business elsewhere. In fact, some bank executives openly admit they are trying to run off the small saver because the profits from these accounts are so slim.

This new outlook on customer services is being discussed at bank executive meetings and in the pages of financial publications. But, the extent to which this trend is catching on is exemplified by the firm of Sheshunoff & Co. of Austin, Tex. This company is conducting seminars across the country that promote customer service fee increases and instruct bankers of the easiest way to go about it.

Alex Sheshunoff, president of the company, explained his marketing strategy in a recent Wall Street Journal article. Sheshunoff suggests that banks first increase fees on bounced checks. His logic is that the overdrawn customer feels guilty and is not likely to fight the increase because of his embarrassment of having a check bounce.

As for other fee increases, Sheshunoff advises bank executives of how to notify customers. He tells his audiences to put the announcement in the monthly statement, at the bottom of the page where the customer is not likely to notice it rather than sending out a separate notice.

He also tells bankers to check State laws to see if there is any requirement to notify the customer at all. And he urges the bankers not to bother stating what percent the fees are being increased, because there is no law requiring this.

Mr. Speaker, these deceptive tactics are an insult to the American public. Consumers have a great deal of confidence in the banking industry and its members. In fact, a recent Gallup poll found that only the institution of organized religion is trusted more by the American public than the banking industry. These sneaky fee increases are in complete violation of that trust.

The consumer-be-damned philosophy can also be seen in the marketing plans for the new service of transaction accounts. Beginning November 1, customers can authorize banks to automatically transfer their funds from savings to checking accounts to cover checks as they come in. In effect, the banks will be paying interest on checking accounts. But, only the large depositors will benefit from transaction accounts, in most instances. Most banks which will offer the accounts have announced high monthly service fees of $4 and $5 and balance requirements as high as $2,000.

Bank of America, the Nation's largest bank, will charge $3 a month for the service, plus a charge of 10 cents per

check, plus requiring a minimum balance of $500 to qualify for the service. Citibank, the Nation's second largest bank, will charge transaction account customers $5 a month for the service, unless customers maintain a balance of $1,000. Service fees will not be imposed on customers with a balance over $1,000.

The smaller banks invariably follow the larger banks' example when instituting fees for a new banking service. So, we can expect that most banks will enact such charges and transaction accounts will offer little or no benefit to the average depositor.

Mr. Speaker, this entire trend to damn the small saver not only shows a greediness on the part of the financial institutions of our country but also a rejection of the whole concept of consumer service.●

A REFLECTION ON THE COLORADO RIVER BASIN—EIS DEBATE

The SPEAKER. Under a previous order of the House, the gentleman from California (Mr. BROWN) is recognized for 10 minutes.

● Mr. BROWN of California. Mr. Speaker, yesterday, as you know, due to an unfortunate timing situation we had two important votes which related to water development and policy in the West. This was unfortunate because these two votes had almost nothing to do with each other, and they should not have been linked in the minds of Members of Congress.

The veto override vote, of course, was intimately tied in with the wisdom of building certain individual water projects, some of which were in the Colorado River Basin. The vote on exempting the Colorado River Basin from the requirement of a comprehensive environmental impact statement had nothing to do with the wisdom of constructing or not constructing individual water projects. Rather, it was a vote on whether we should know what the impact of the aggregate of water projects is upon the Colorado River Basin, its industries and its inhabitants. Thus, this was not a vote on water projects, but instead was a vote on gaining knowledge about water projects.

If I was an outside observer, unaware of the debate and level of knowledge Member's had on the amendment to the Interior Department appropriations bill, I would be dismayed to learn that the House voted against knowledge yesterday. But I know better. In spite of serious efforts to fully inform Members, many yesterday voted in ignorance or with misinformation. This is not unsurprising, since the House had never heard of this issue before yesterday, the debate on the issue was literally bisected by the debate on the President's veto of water projects, and the crush of business this week has been nearly impossible for anyone to follow. It is certain, however, that this subject will receive closer attention and scrutiny next year.

The narrow issue, of course, is whether the Congress intended the National Environmental Policy Act of 1969 to require river basin wide environmental impact statements. The broader issues is whether basin wide environmental impact statements are a good idea. I would like to address the second point, since that will be the matter before the Congress next year.

Regardless of whether one calls them "environmental impact statements," or some other name, it seems completely reasonable, and scientifically necessary to conduct basinwide reviews of projects that are so completely interrelated as are the projects up and down the Colorado River. In the great bays and lakes of our land, we all recognize the interrelationship of dredging a new ship canal to fisheries, for example. The Chesapeake Bay, and all of its tributaries, is being modeled by the Army Corps of Engineers in a massive installation called the Chesapeake Bay hydraulic model which will cost over $20 million before it is completed for construction and operation. One of the main reasons for this model is to understand the impacts, often unintended, upon the currents, salinity, pollution, and wildlife of planned public works projects. This one model is only one of many tools being used to understand this one ecosystem. I frankly don't know if a "comprehensive environmental impact statement" is prepared for the Chesapeake Bay, but I do know that the knowledge our research is gathering in this eastern ecosystem is the same type of knowledge a "comprehensive EIS" would gather in the western ecosystem of the Colorado River Basin.

It is interesting that in yesterday's debate on amendment No. 49 to the Interior appropriations bill, the distinguished minority leader, Mr. RHODES, stated that the information being sought by those seeking a comprehensive EIS is already available. I believe this is a slight overstatement, but it is not too far from the truth. The studies that have been done on the Colorado River Basin, and the individual environmental impact statements on the multitude of individual projects up and down the river do make up a body of important, and nearly complete data. What has not been done, although the Department of Interior is in the process of doing it, is putting all of this data together to explain how each of the pieces relate to the whole. From the headwaters of the Colorado River and its tributaries to the Mexican border, every drop of water in the Colorado River has been committed to some future use. The years of Federal involvement, not to mention State and local involvement, have completely altered the natural environment in the West, and the quality of the water in the river. The projects we are now beginning to construct are, in reality, pollution control technologies which are attempting to clean up the water after it has already been spoiled. The classic example of this is the proposed desalting plant at Yuma, Ariz., which is supposed to remove the water the users upstream have made saline so that our treaty obligations with Mexico can be met, and our neighbors south of the border can have water fit for plants.

The Congress has authorized dozens of projects that have not been built, and whose impacts have not yet been felt. No one knows what the impact of all of these projects will be upon water quality or water supply at any given point along the river. If we guess wrong, you can be certain other massive expenditures, like the proposed Yuma desalting plant, will be proposed to save the investment we have already made in public works projects. As we have seen with the Nation's air and water pollution control programs, it is far more expensive to clean up a pollution problem, than to design from the beginning to avoid one.

One other key reason exists for the development of a comprehensive environmental impact statement. Scientists, especially climatologists, have recently come to the conclusion that the allocation of water in the Colorado River is based upon an inaccurate overestimate of the quantity of water one can expect in an "average" year to flow down the Colorado. The "wet" and "dry" cycles of climate have only recently been charted accurately and the implications to the Colorado River Basin are simply tremendous. The various water projects which we have authorized, but which are not built, may, once completed, result in an overdemand for the water in the Colorado River Basin. The recent drought in California was less serious than it might have been because the central Arizona project was not completed, and California used some of Arizona's water. Once the central Arizona project is completed, no such emergency supply of water would exist. The next drought may be far worse for an even greater number of people, as a consequence.

Mr. Speaker, I make these points to alert Members to the significance of this issue, and urge them to begin thinking today about their attitude next year toward requiring a comprehensive environmental impact statement for the Colorado River Basin.●

CRIME SUBCOMMITTEE TO HOLD FIELD HEARINGS ON LEAA REAUTHORIZATION IN CALIFORNIA

The SPEAKER. Under a previous order of the House, the gentleman from Michigan (Mr. CONYERS) is recognized for 5 minutes.

● Mr. CONYERS. Mr. Speaker, the Subcommittee on Crime, which I chair, will begin the first of a series of hearings on legislation to reform and reauthorize the Law Enforcement Assistance Administration. The administration's proposal to reestablish LEAA was introduced in the House as H.R. 13397, and I have introduced my own reform bill, known as H.R. 13948. Both bills will be considered at these hearings.

This field hearing will be held on October 11, 1978, beginning at 9:30 a.m. in the city council chambers, 14th and Washington Streets, Oakland, Calif.

Individuals wishing to testify or sub-

mit a statement for the record should address their requests to the Subcommittee on Crime, House Committee on the Judiciary, 207E Cannon House Office Building, Washington, D.C. 20515.●

PERSONAL STATEMENT

The SPEAKER. Under a previous order of the House, the gentleman from New York (Mr. OTTINGER) is recognized for 5 minutes.

● Mr. OTTINGER. Mr. Speaker, on rollcall No. 889, final passage of the Sugar Act, I was in the Chamber involved in a conference and inadvertently failed to vote. Had I voted I would have voted, "nay."●

HUMAN RIGHTS IN NICARAGUA

The SPEAKER. Under a previous order of the House, the gentleman from Illinois (Mr. METCALFE) is recognized for 5 minutes.

● Mr. METCALFE. Mr. Speaker, recent events in Nicaragua are of concern to all. An article in the September 29, 1978, issue of the Baltimore Sun points up in a very strong manner the issues involved. I would like to include the article in the RECORD for the information of my colleagues:

NICARAGUAN ENVOY TO U.N. RESIGNS, DENOUNCES SOMOZA

NEW YORK.—The second-ranking diplomat in Nicaragua's mission to the United Nations resigned yesterday, denounced his government for alleged "genocide" against the Nicaraguan people and called for the ouster of President Anastasio Somoza Debayle.

The presidents of Venezuela and Colombia sent a joint message to the secretary general of the U.N. denouncing the Nicaraguan government and calling for swift U.N. action against it.

Ambassador Enrique Paguaga Fernandez announced his resignation at a press conference he called at the U.N. Correspondents Club here, at which he distributed copies of a letter to the president of the U.N. General Assembly, Indalecio Llevano of Colombia.

Mr. Paguaga has served in the Nicaraguan mission for five years and currently is alternate permanent representative.

He said he expected to ask the U.S. for political asylum and would request police protection for his family.

"I telephoned my wife a little while ago," Mr. Paguaga said, "and she was all right. I don't know what I'll be doing now, perhaps setting up a peanut stand here," he said with a laugh.

The diplomat said he hoped news of his resignation and his reasons for resigning would reach other members of the Nicaraguan diplomatic corps and officials in Nicaragua to encourage them to join the struggle against General Somoza.

"I denounce the kidnaping, murder and torture of hundreds of Nicaraguan farmers and countless other victims of the Managua dictatorship," he said.

He compared "indiscriminate strafing and bombing" of such communities as Masaya, Leon, Chinandega, Jinotepe, Diriamba, Rivas, Esteli and Matagalpa by government warplanes with the destruction of the Basque town of Guernica by Nazi planes in 1937 during the Spanish Civil War.

Language nearly as harsh was used in the note from presidents Carlos Andres Perez of Venezuela and Julio Cesar Turbay Ayala of Colombia to Kurt Waldheim, the U.N. Secretary General.

The note also charged the Somoza regime with "genocide" in "flagrant violation of the human-rights provisions of the United Nations Charter."

The two presidents took note of the charter's stipulation that no member nation may intervene in the internal affairs of another, but asserted that this provision in no way prevents U.N. action when the question is one of human rights.

The note asked Mr. Waldheim to refer the matter to the appropriate U.N. organs.

In his meeting with the press, Mr. Paguaga asserted that there had been a "conspiracy of silence" about the brutality of the Nicaraguan government during the past 44 years that must finally be broken.

Currently, he charged, the Somoza government is firing on Red Cross ambulances, executing women and children, and "is recruiting and using foreign mercenaries in pursuing its genocide against the Nicaraguan people."

He criticized "important North American news media" for implying that the current armed insurrection in Nicaragua is "the work of a certain political ideology." The insurrection, he asserted, is back by the Nicaraguan people as a whole, in support of genuine democracy.

Mr. Paguaga's resignation followed a speech at the General Assembly Wednesday by his country's foreign minister and his own superior, Julio C. Quintana.

Mr. Quintana's speech denounced the rebels in Nicaragua as "terrorists," and said they had seized nearly 3,000 hostages in demanding freedom for "so-called political prisoners."

The foreign minister said Nicaragua "firmly respects the principles of human rights" and that the presidential term would end in 1981, at which time elections would be held.

FRANKENSTEIN IN OUR ECONOMY?

The SPEAKER. Under a previous order of the House, the gentleman from Florida (Mr. PEPPER) is recognized for 5 minutes.

● Mr. PEPPER. Mr. Speaker, I wish to call to the attention of our colleagues, and all who read the CONGRESSIONAL RECORD an article to be published by the New York Times in the very near future. Mr. Arthur Burck, a distinguished economist and my longtime friend, wrote this knowledgeable and informative article after making several trips to Washington to testify before various congressional committees.

I do believe my colleagues and all who read this RECORD will find the remarks of this brilliant economist to be most enlightening.

FRANKENSTEIN IN OUR ECONOMY?

(By Arthur Burck)

FOREWORD

This paper is a condensation of statements made by the author during recent appearances before Congressional Committees, Congressional leaders and FTC Commissioners:

The Senate Subcommittee on Antitrust & Monopoly, July 28, 1978.

The House Small Business Subcommittee on Antitrust, July 26, 1978.

The Honorable Al Ullman, Chairman, The House Committee on Ways & Means, July 28, 1978.

Senator Claude Pepper, the revered dean of American legislators, July 26, 1978.

The Federal Trade Commission, July 26, 1978.

The Senate Subcommittee on Antitrust & Monopoly, May 5, 1977.

A Frankenstein monster is rampant in our economy. Its composite creator was a succession of legislators who for a generation have written tax laws that unwittingly undermine the incentives needed for a vibrant free enterprise system.

If this force is left uncontrolled, we will invite fulfillment of Nikita Khrushchev's dire prediction of the atrophy and decay of our economy when he shouted: "We will bury you!" The damage we are inadvertently inflicting on ourselves could hardly be more devastating than if it were planned by some commisar, since major Soviet goals could well include: (1 destruction of the innovative small business sector, and (2 emasculation of our free enterprise system by concentrating our economy in a few hands through wholesale and indiscriminate merging of our huge companies.

Our vital innovative small business sector is fighting for survival.

America needs a continual flow of creative entrepreneurs ready to challenge new horizons, but in recent years the obstacles too often have been insurmountable. Starved of capital, deprived of incentives, submerged in bureuacratic red tape and surrounded by the burgeoning bigness of the corporate giants, the small business sector has become a victim of the upheavals and recessions of the 1970's.

The small entrepreneur, while not yet extinct, has become an endangered species. Yet it has been the innovator—the smaller business—that has provided many of the jobs, the technology and the continuing growth that have fueled our post-war prosperity that has tapered off in the past decade. The greatness of American industry has been based in large part on the creativity of entrepreneurs who start small but whose companies eventually become leaders. From lilliputian beginnings, there has emerged in recent decades not only technology giants such as Xerox, Polaroid, Control Data and Texas Instruments but also innovative growth companies in mundane industries: McDonald's in hamburgers, Revlon in cosmetics, Block in accounting, Beatrice in foods, Eckerd in drug stores, Occidental in oil and Hyatt in hotels are but a few examples.

Indeed, when the history of our times is written, the period 1950–70 will go down as our Economic Golden Age, when through technological and other advances we did for living standards and material well-being what the 15th Century Italian Rennaissance did for the Arts. To be sure, the large companies made their fair share of contributions to the national weal, but the point is that it was the entrepreneur who often provided the spark and the genius that propelled our economy.

Why has this vibrancy been lost in the seventies? The simple answer is that booby traps inadvertently placed in our tax laws have eliminated some basic incentives. For example, the principal obstacle facing innovators is the fact that the flow of capital to smaller companies dried up to a trickle in recent years. Yet huge pools of incipient venture capital lie stagnant. Why? Holding back the flow are capital-gains taxes that in the past decade have almost doubled.

Why should an investor gamble on small ventures where the risk is great but where any gain is absorbed by taxes at present confiscatory rates? These improvident tax changes not only drive investors from the market but also shrink the supply of entrepreneurs, present and future.

With respect to present entrepreneurs, the tax laws inexorably push them into mergers with corporate giants having quality stocks for tax-free exchanges that avoid the confiscatory capital-gains taxes. In this way en-

trepreneurism becomes shackled by the bureaucracy that is inherent in bigness.

The supply of future entrepreneurs is also curbed by the reshuffling of incentives that resulted from tax changes. At one time ambitious employees of large firms had incentive to leave and start up their own businesses. Taxes on salaries then reached 70%. However, in recent years while the gains rate was almost doubled, the tax rate on salaries was reduced to 50%. And so there is little incentive to leave the shelter of large companies where in recent years salaries have skyrocketed—over a thousand executives are now paid a package exceeding $500,000 a year, and many get more. Why leave such security to gamble everything, and then if one succeeds, face a capital-gains tax about the same percentage?

To be sure, in the past entrepreneurism has brought huge rewards to its successful practitioners. A few years ago the IRS estimated that there were 175,000 millionaires. Most achieved such status through entrepreneurial activity, and most of the rest—the second or third generation millionaires—can trace their fortunes to an entrepreneurial father or grandfather.

Many are disturbed that entrepreneurs can achieve such rewards, and so it is understandable that populist feelings are behind moves to increase the capital-gains tax—or indeed to abolish entirely the advantage. However, if that is the course our government elects to follow, there should be clear understanding that the state must then be the supplier of capial—in short, socialism.

Our free enterprise system is doomed unless we curtail the incessant takeover/merger activity of the giants.

Now let's look at the other "fifth column" that threatens to undermine our system: the excessive economic concentration that stems from too many mergers involving giant corporations. Since bigness is viewed by many as American as apple pie, it is only natural for most people to ignore the daily headlines reporting the continual merging of corporate giants. We have been lulled into attitudes that equate bigness with efficiency when in fact the opposite more often is true.

As the Russians know only too well, huge business enterprises are no different than the huge government bureaucracies: unwieldy, unimaginative, unventuresome, undemocratic. With each major step toward concentration, we move closer to the point when our business world becomes indistinguishable from the Soviet system. As was aptly noted by Eugen Loebl, formerly a Czechoslovak business leader, "It is frightening to observe to what an extent we are taking over many features of the Soviet system. . . .giant government, giant corporations, giant trade unions are taking over the role of a giant politibureau."

The threat of socialism in America in the context of excessive mergers is by no means a new idea. Indeed in 1901 historian Woodrow Wilson warned against the merger wave that then engulfed the nation, with a similar admonition:

"The programmes of socialists and extremists proposed a remedy which was but a completion of the process: the virtual control of all industry. . . . by the government itself." (Wilson, A History of the American People, 1901 ed, Vol. 5, p. 267.)

The seriousness of the resultant concentration is illustrated by one significant statistic: already by 1969 the 200 largest controlled the same share of manufacturing assets as the thousand largest in 1941, and the concentration accelerates at an ever faster pace.

Incredible though it may seem, the bulk of the concentration is traceable directly or indirectly to tax benefits that our government has bestowed upon our giant corporations. These tax benefits were originally designed to keep our economy dynamic and flexible—largely for the benefit of smaller business entities—but the giants have seized upon and exploited to the hilt these advantages. It is hard to imagine how the Kremlin could have been more successful in accelerating concentration than with the loopholes we created and then let the giants exploit.

These questionable mergers injure the nation in other ways:

1. The failure rate among acquisitions made by the giants is high, with resultant hardship to employees, communities and investors.

2. The improvidence of these mergers often doesn't surface until many years later. Current examples are the huge steel companies acquired in the sixties by LTV and Lykes through excessive debt that diverted capital needed to make them competitive with the advanced technology of the Japanese. In a desperate effort to salvage these failing enterprises, the companies are about to be merged into the nation's fourth largest steel company, with the reluctant blessing of the Administration—the current LTV-Lykes fiasco.

3. Mergers involving large companies can contribute to the breakdown of communities.

4. Many subtle anticompetitive factors result from larger mergers.

5. Mergers have been and are a causal factor contributing to inflation, recessions and excessive stock fluctuations.

6. Instead of building new plants or products, the giants are spending billions of dollars on sterile investments that create nothing new.

7. Last but not least, corporate giantism threatens our democratic institutions.

Tax benefits make the giants successful wooers in the corporate mating game. The giants are not to be blamed—indeed they would be derelict to their stockholders if they did not exploit available opportunities. The fault is that the tax laws permit—indeed encourage—the gigantic companies to acquire the most desirable independent companies.

Generally, it is only the smaller companies that really need to be sold or merged. When businesses reach a certain size, other options usually are available for overcoming problems that can be resolved only by sale when a company is small. However, whether there is need to sell or not, the Nation would be better served if the buyers were investors or a medium or small company—but not a giant. Yet the present ground rules encourage further bigness since in the corporate mating game the large companies have the cards stacked in their favor: They have blue chip and/or high multiple stocks for tax-free barter, and an ability to borrow on advantageous terms.

Let's illustrate in a few examples what goes on in the esoteric world of high finance:

Heaven for the average seller of a business is a generously-priced "tax-free" exchange. Without tax he "rolls over" his present investment for the marketable stock of another company, preferably a prestigious giant.

For example, General Electric recently bought Utah International for a price of $2.2 billion; it was a "tax-free deal" since the selling stockholders were paid in GE stock. But if a former holder of Utah International preferred to change his investment from GE to some innovative small business, he'd be assessed a gains tax up to 49 percent. It is ridiculous that small business is starved for capital at the very time when the giants are so loaded with cash and/or credit that they are spending billions on takeovers—often just to use up their surplus liquid assets.

This weird result exists because our tax laws "lock in" investments except insofar as investors move up to bigger companies through taxfree mergers. So the big get bigger, and no investor can escape to reinvest in small business without a horrendous tax penalty.

If given any choice, the seller of a business obviously opts for a tax-free merger, and the bigger the partner the better because the blue-chip stocks of huge companies confer more advantages. Aside from complete liquidity, the seller can get whatever cash he needs without any gains tax by going to the bank and borrowing, using his new stock as collateral.

In the past year most of the hostile takeovers have been for cash. The hostile tender offer has become a telling weapon in reducing to vassalage huge companies targeted by corporate predators on the prowl. When the target company has widely scattered public stockholders, the "tax-free" problem becomes a negligible factor.

We now turn to the catalyst that makes feasible these cash takeovers: again a tax subsidy from Uncle Sam. Most of these huge deals float only because of mammoth tax savings generated by the tax deduction of the interest on the borrowings that finance these takeovers. This means that about half of the carrying charges of the acquisition are borne by the U.S. Treasury.

Now, smaller companies can't get away with this sort of thing—legislators have been diligent in curtailing interest deductions for the small; Section 279 of the "Tax Reform Act of 1969" limits interest deductions on some acquisitions that smaller companies might make. And when an individual taxpayer borrows to make investments and tries to deduct more than $10,000 interest annually, he's in trouble. But the giants have been recipients of government largesse that probably totals scores of billions during recent decades.

These garagantuan giveaways will come as startling news to most people—and yet these practices have been around for a long time. For example, nine years ago I wrote and circulated among scores of government and business leaders a paper denouncing these practices, just as I now do. No one then seemed interested in a subject that was so frightfully complex and technical. But that is why the problem persists: the giants are able to avoid change because of the ease in obfuscating issues that are sophisticated and complex.

And so it has been easy for all of us, each in our own way, to become a collective Dr. Frankenstein. We already have vacillated too long in facing these basic issues. Will we have the time to wait much longer? Almost every day another company is devoured by a giant, thanks to these tax benefits.

These abuses can be eliminated by simple legislation.

1. Revitalization of small businesses can be achieved by tax deferrals that long-range will benefit all taxpayers.

My proposal is incredibly simple. Huge pools of sterile capital lie dormant in stocks and properties where there are large unrealized gains. If owners could sell and reinvest the proceeds in small businesses and defer capital-gains taxes until a subsequent sale of the successor investment, abundant capital would become available.

In other words, give prospective small business investors the same sort of "rollover" advantage enjoyed by homeowners, or investors who sell to the giants. If we can give "rollover" benefits of $2.2 billion to help General Electric and the stockholders of Utah International, what's so radical about this proposal—one that alone could restore the innovative sector to its former fluorescence?

2. Most large mergers can be curtailed by two simple prohibitions:

a. Large companies should be denied the privilege of a tax-free exchange unless they

can demonstrate in specific situations benefit to the overall economy.

b. Similarly, large companies should be denied deductibility of interest on borrowings to finance acquisitions. Flexibility would remain for the giants to make small acquisitions out of cash flow or the proceeds of divestitures.

It should be noted that the above recommendations involve minimal extension of bureaucratic activity. By and large, the reforms are designed to be self-operating in curtailing undesirable mergers.

In my judgment, these provisions would have stifled 9 out of 10 of the objectionable huge mergers in recent years.

Shouldn't the tax-free exchange be done away with entirely? Emphatically no, I say. In 25 years of specialization in these problems, the writer has observed countless—perhaps thousands—transactions where legitimate and proper ends were served by tax-free mergers or acquisitions. This privilege was originally written into the law in recognition that in a dynamic capitalistic economy, it is essential that there be flexibility to meet changing conditions and that to lock companies and businesses into a vise would destroy the dynamism that is the heartbeat of our free enterprise system. These privileges were structured primarily to benefit the small and growing business, and it is therefore ironic that it has been the giants that have been making primary use of these tax techniques for objectives contrary to the original purposes.

Reconciliation of these problems without setting class upon class will require the calibre of statesmanship and wisdom that has guided our nation in times of past crisis.

If we spend less time in promoting egalitarianism and more time in providing the incentives and means for the uplifting of the downtrodden masses, our democracy could flourish beyond our fondest hopes.

Today the economy is in gross imbalance, in large part because of the withering of independent businesses that in the past have been the backbone of our free America. It is late; but never too late for history is written not in decades, but in centuries.

Long range, we need not fear the dominance of the giants if we now curb their power to merge at will. History shows that time will inevitably erode the power of the giants and the powerful, just as it did the dinosaurs. For recent proof look at the listing of corporate giants that domnated Amerca in 1918 or even 1928. It is unbelievable how many of yesterday's corporate leaders have so soon slipped into obscurity or indeed complete demise.

Nevertheless, many of the impatient are disturbed by today's power of the giants and so they lash out with programs to demolish huge corporations through forced divestiture. Breaking up the giants would not only be an economic nightmare but also a paradise for the bureaucrats. (I know firsthand because I once was an SEC lawyer that helped break up of the public utility holding companies.) Such harsh governmental intrusion is not necessary because as above noted time itself will erode the strength of these giants. To be sure, the processes of democracy move at a slow pace and therefore some of the goals will be distant and not achievable until the next century. Nevertheless, we must show the same concern and patience for future generations as did our founding forefathers.

Moreover, smaller and newer life structures have a capacity to inseminate, grow and reproduce at a pace that can be astounding. Thus if we give the creative genius of our population adequate tools and incentives, there will come a time when the present giants are no longer so dominant. The innovator will create vast new jobs and wealth that will bring about egalitarianism through the process of upgrading instead of downgrading. Populists should not worry about the fortunate few who are now at the top; their days of dominance are limited, not only by estate taxes but also by the atrophy and decadence that invariably accompany entrenched wealth.

In conclusion, the stage is set for proliferation of new ventures if we restore a balanced economy by curtailing the giants and at the same time providing our innovative talent the means to start anew the countless businesses that in time will again become the backbone of an independent and prospering America.●

THE SOVIET ENERGY PROGRAM

(Mr. PRICE asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. PRICE. Mr. Speaker, two of the leading writers on energy matters, John J. Fialka of the Washington Star and Thomas O'Toole of the Washington Post recently completed a tour of energy installations in Finland and the Soviet Union. En route they prepared a number of articles on their observations which provide an excellent insight into the plans and activities of the Soviet Union in the energy field.

Mr. Fialka's article from the Star of October 4 and Mr. O'Toole's article from the Post of October 5 which I include at the close of my remarks summarize observations on Soviet activities in the nuclear energy field.

I highly commend these articles to all of my colleagues. I make the sad observation that the Soviets are ahead of us in implementing the nuclear energy program we developed for our Nation in 1962.

NUCLEAR PLANT IN FINLAND SHOWCASE FOR SOVIETS

(By John J. Fialka)

LOVIISA, FINLAND.—The large, silo-like structure built near here on an island in the Gulf of Finland bears witness to the first success of the Soviet Union in what appears to be a major push to sell nuclear power plants in the West.

Finnish engineers, who have labored mightily to make the Soviet nuclear equipment conform to much tougher U.S. safety standards, have dubbed the plant "Eastinghouse" for its marriage of a Soviet reactor, German control equipment and an emergency cooling system designed by the Westinghouse Electric Corp.

The Soviets are so proud of the completed reactor that they have begun bringing potential customers from Third World nations, including Iraq and Iran, to visit the site. One reason for the Soviet pride is that the plant has been operating at about 85 percent efficiency—considerably higher than most American-built reactors.

The plant at Loviisa is the Soviets' foot in the door of a market long dominated by American and, to a lesser extent, European companies. The Soviet Union is bound to gain a larger share of nuclear business when it opens the world's largest reactor manufacturing facility sometime in the 1980s. That operation will have the unprecedented capability of manufacturing entire nuclear plants on an assembly line—turning them out "like cookies," in the words of one diplomat.

As the Finns have learned, much of the Soviet Union's commercial nuclear power operations are shrouded by military-style secrecy.

No Westerners have seen the massive atomic reactor plant, called "Atommash," which is believed located in the vicinity of Volgodonsk, south of Moscow.

When the Finns decided to build a plant near Loviisa, they invited a number of Western companies to submit designs and bids. However, they ended the competition by inviting their powerful neighbor, the Soviet Union, to underbid the competition. The Soviets sold the plant for $250 million, roughly half the going U.S. price at the time. They also sweetened the deal.

"It came with very, very favorable long-term financing for us," explained Kalevi Numminen, a member of the board of the state-owned Imatran Voima Co., which owns the Loviisa plant.

Politics have tended to flavor much that has happened at Loviisa since.

The Soviet construction crews, numbering up to 1,000 workers, arrived in 1970 and established self-contained communities apart from the population of Loviisa, which is 60 miles east of Helsinki.

The Finns ran into a political wall early on when they decided they had to visit Soviet plants to see exactly how the nuclear fuel was made before they could certify that the plant was safe to run at peak capacity—slightly less than half that of the current generation of U.S. plants.

Although the request was made at the highest levels, sources said, the Soviets were adamant in their refusal saying it was against Soviet law for any foreigner to see Soviet uranium enrichment plants where the exotic isotope U-235, which is used in nuclear fission, is separated and concentrated.

Because the Soviet plants, like their American counterparts, are used to supply enriched uranium to their nation's nuclear weapons program, the Soviets have never publicly revealed their whereabouts. Western observers believe they are located in Siberia, where vast amounts of hydroelectric power are available.

Nor have the Soviets ever revealed exactly what they do with the long-lived radioactive nuclear wastes.

Under Soviet contract provisions, fuel supplied with the plant is retrieved and returned to the Soviet Union when it is spent.

"What they sell they take back," explained Anders Palmgren, superintendent of the Loüsa plant. For us the fuel is more or less leased. After that, it's their problem."

Under U.S. and European contracts user nations buy the fuel for keeps and must devise waste disposal systems of their own. They also are left with substantial amounts of plutonium, a residual component of the spent fuel.

Because plutonium is also the primary material used to make nuclear weapons, the question of ownership of the plutonium in fuel purchased from the United States currently is troubling the Carter administration. Japan and Austria are pressing the United States for permission to send their used fuel to third countries for reprocessing, a matter that requires U.S. approval under current contracts.

The Soviets "have total control (of nuclear fuel)," said a U.S. diplomat. "When it comes to non-proliferation, they are almost holier than thou."

According to Western estimates, the Soviets have sold nuclear power plants under similar arrangements to Bulgaria, Poland, East Germany and Czechoslovakia. There are also believed to be negotiations under way with Libya and Cuba.

The Soviets also have begun contracting to enrich uranium fuel purchased elsewhere. So far France, Great Britain, West Germany and Italy have arranged to send uranium to the Soviet Union for enrichment.

As for the Finns, they say they are happy

with their dealings with the Soviets. Next month a Finnish envoy will go to Moscow to see whether the Soviets are interested in a joint venture in their nuclear export business using Finnish engineers to equip Russian plants with U.S.-style safety features.

Meanwhile a second Soviet plant at Loviisa is near completion, and the Finns are considering a third—one of the first to be produced at the "Atommash" plant.

UNLIKE UNITED STATES, SOVIETS PIN NUCLEAR HOPES ON BREEDER UNIT

(By Thomas O'Toole)

OBNINSK, U.S.S.R.—In contrast to the United States, where President Carter has moved to restrict the use of plutonium, the Soviet Union is developing it as a nuclear fuel to generate electricity.

The Soviets are in the midst of a construction program that in two years will find them generating 720,000 kilowatts of electricity from the two largest plutonium breeders in the world.

If no unforeseen difficulties are encountered in these two plants, the Soviets plan to start construction in 1983 of a third breeder that will more than double their breeder-produced electric capacity.

The United States does not operate a breeder electric plant and has no firm plans to build one. Carter ordered a halt to the proposed Clinch River, Tenn., breeder reactor, which would have produced 500,000 kilowatts of power, to find an alternate nuclear process that does not breed plutonium.

Plutonium breeder reactors produce their own source of fuel and do not rely on what many view as a diminishing supply of uranium. Critics of the process complain that the plutonium produced can also be used to make nuclear weapons.

Carter opposes development of the breeder plants for that reason and has urged other nations to follow suit. Carter has also deferred indefinitely U.S. plants to produce plutonium for civilian use.

Indications here are that Soviet civilian nuclear energy technicians receive only small amounts of plutonium for experimental use from the Soviet military establishment. The overwhelming bulk of the Soviet plutonium is controlled by the military, Western experts think.

"We don't see any difficulties moving to plutonium," said Mikhail Troyanov, deputy director of the Institute of Physics and Power Engineering. The institute, 80 miles southwest of Moscow, is where the Soviet nuclear power program was born 24 years ago.

"After 1990, breeders should be built in the Soviet Union in large numbers," Troyanov added.

Troyanov was speaking to American science writers on a trip arranged in cooperation with the Soviets by the Atomic Industrial Forum, a Washington-based trade association. It is made up of major nuclear suppliers including Westinghouse and General Electric. The forum vigorously opposed Carter's efforts to stop the Clinch River breeder reactor.

Soviet nuclear leaders, while not criticizing Carter's Clinch River cancellation, question the wisdom of the move. The Soviets say they see no alternative to plutonium as a replacement for what they say is an inevitable dwindling of uranium supply.

There is a worldwide debate on how much uranium can be dug out of the earth's crust, in part because uranium is hard to find and in part because mining interests are only beginning to explore aggressively for it.

The Carter administration takes the optimistic view that there is as much as 4 million tons of extractable uranium in the United States. The National Academy of Sciences believes the United States can hope to mine one-third that much.

The Soviet Union does not advertise the size of its uranium reserves, except to point out that they are not limitless. The Soviets already import raw uranium ore from East Germany, Poland and Czechoslovakia.

While clearly ahead of the rest of the world in engineering electric plants to burn plutonium, the Soviets have had their share of trouble getting there.

The Soviets placed their first breeder near Shevchenko on the eastern shore of the Caspian Sea, a desert where oil, natural gas, managanese and phosphates are produced. The plant was built to produce electricity and also steam to desalt Caspian sea water for industry in the surrounding desert.

In 1974, one year after the Shevchenko breeder went into operation, one of the six loops of tubes that carry liquid sodium metal to transport heat from the nuclear reactor to the steam generators swelled and broke. The accident that followed mixed 125 gallons of water with one ton of sodium, more than enough to start a flash fire.

Parts of the Western press described the fire as an explosion saying that U.S. spy satellites had witnessed the accident. The West had no details of what really happened until Soviet nuclear scientists began a year ago to tell their colleagues in the West what took place.

Sodium is a combustible metal that will ignite on contact with water in a violent enough way to release explosive hydrogen from water. One American nuclear engineer said that the Soviets described the incident at Shevchenko as "something like a grain elevator explosion" but that nobody was killed or injured. The Soviets insist the accident was not serious enough to shut down the plant.

"This failure was so insignificant," Troyanov said, "that not only was it impossible for sputniks to see it but the local populace didn't even notice it."

Whoever noticed it, the accident has proved to be costly and time consuming for the Soviet Union. The ruptured coolant tube still has not been repaired, forcing the Shevchenko breeder to operate ever since at 65 percent of its rated power—where it is to stay until next year, when a new steam generator is shipped from Czechoslovakia and a new coolant loop installed.

The incident at Shevchenko may have had something to do with the delays the Soviets have encountered with their second big breeder, a 600,000-kilowatt plant being built near Belyoyarsk in the Ural Mountains.

The Beloyarsk breeder has been under construction since 1968 and was to be finished in 1973. Officials now say it will be ready next year or the year after. Troyanov insists the Shevchenko accident did not cause the Belyoyarsk delays. He blamed "normal machinery and construction delays."

Belyoyarsk will use an entirely different kind of sodium coolant.

While far advanced in designing and building the machinery for plutonium breeders, the Soviets curiously are 5 to 10 years away from operating their breeders on plutonium. They use uranium as the fuel in Shevchenko and will start up the Belyoyarsk breeder with uranium in the core of the reactor.

This is significant because breeders are more efficient if they use plutonium as their start-up fuel. Uranium will breed plutonium but not nearly at the rate that plutonium itself breeds fresh plutonium. A plutonium breeder will double its fuel supply in 10 years or less. A uranium breeder might take more than 20 years to breed as much fuel as it burns. ●

THE RIGHT MENACE

(Mr. SOLARZ asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SOLARZ. Mr. Speaker, I would like to bring to the attention of my colleagues an article by Irving Howe in The New Republic. Mr. Howe, who was a professor of mine at Brandeis University, is undoubtedly one of our country's foremost literary critics and political commentators. Mr. Howe is the author of numerous books including the best selling "World of Our Fathers" which in brilliant fashion describes and documents the incredible story of Eastern European Jewish immigrants in the United States.

In his New Republic article, Mr. Howe assesses the current state of American politics, which he finds to be dominated by a surge to the right and a crude, mean spirited, demagogic attack on the welfare state. He finds this attack on our social programs to be unwarranted and duplicitous. Although he concedes that some welfare state programs are flawed, he believes, as I do, that they have made life better for millions of people and humanized our society.

Mr. Howe also believes that liberalism and the welfare state will survive the latest onslaught. As he puts it—

If the predicted 1979 recession materializes . . . you may be sure there will reappear a strong popular demand for effective social action sponsored and financed by the federal government . . . The primitive conservative ideology, as it proposes a return to a laissez faire that never was, will crumble to nothingness. This is because it is nothing, a mere ideological phantasm.

As usual, Irving Howe placed the proper perspective on political events. Unlike many political pundits, he is not overwhelmed by the latest electoral victory or public opinion poll. He has proven himself right on the passing importance of many political phenomenon, from Joe McCarthy to the New Left. It is likely that he will prove himself correct about the New Right.

I respectfully request that his entire article now be placed in the RECORD.

THE RIGHT MENACE

(By Irving Howe)

The main thrust of American social and political thought since World War II has been toward the right. There have been interruptions, of course. For six or seven years the new left took center stage and conservative ideologues went into retreat, partly because some of them, headed by Irving Kristol, had imprudently endorsed Richard Nixon as the candidate of "prudence." (I assume that conservative thinkers drawn to theologies of Guilt can yield to the smaller experience of shame.) Now, in the 1970s many of the themes first announced in the 1950s by rightward-moving publicists are being rehearsed again, though usually at a lower intellectual level.

There is one major reason for this rightward turn. The reason is Communism. Stalinist politics have been a dominant energy in the world these past several decades, and a severe reaction was predictable. Those of us opposed to conservatism must acknowledge the unavoidability, even the rough "justice," of this reaction. Historically, it is

their turn. Faded conservative arguments take on new plausibility, in some eyes, after the crimes of Stalinism and the failures of Social Democracy. It is a worldwide reaction. In France young intellectuals declare as revelation ("socialism is Gulag") notions that seemed simplistic when Max Eastman came out with them in 1940. But that's Paris.

In America there is another deep if seldom acknowledged reason for the rightward turn. The reason is a new feeling about the blacks. There were high, no doubt excessive, hopes in the early 1960s that we were entering an era of good feeling. Now, it seems not just to gutter whites, all that has been blasted to hell. Many blacks seem lost in demoralization, pathology, crime. The black community appears leaderless. The self-destructive ideology of "black power" has come to little. And the expectation, perhaps foolish, that blacks would simply adapt to the styles and manners of middle-class whites has been dashed.

This, I'm afraid, is the way many people, intellectuals among them, feel about the blacks. Good feelings?—light years away. These whites have not reckoned with the tremendous difficulties that a true integration of white and black might have brought, nor with the still greater difficulties that failure to achieve such an integration has indeed brought. They have not reckoned with the social costs of our unwillingness as a society to remedy the unmeasured handicaps of millions of blacks. They have not reckoned with the despair which the "uncompleted revolution" has brought to blacks, including, for understandable reasons, those whose conditions have improved these recent years.

This attitude may not exactly be racism, though there are signs of that too. It does reflect an unspoken persuasion that the "black problem" is beyond solution. (Conservatives, especially if Oakeshotten, take pleasure in the thought that problems are really beyond solution, for it satisfies their craving for a complex universe.) Even among people who believe they are sympathetic toward blacks, this persuasion gives rise to sentiments of despair, sometimes disdain. Walk through Times Square or certain streets in Detroit, and see if you can free yourself entirely from this despair, even this disdain. If you are a serious liberal or socialist, or simply a humane person, you will struggle against such sentiments. But it is hard not to succumb to these emotional equivalents, inchoate presentiments, of that conservatism represented by Edward Banfield's benighted notions about the poor and James Wilson's sheriff-like prescriptions for handling crime. Getting tough is the best way not to think, and this kind of thought comes to little more than getting tough.

There is a third reason for the rightward turn. The welfare state, or the skimpy version that we have had in America these last four decades, has obviously encountered serious difficulties, some foreseen, others not. These difficulties, by and large, are the consequence of social and economic progress, a genuine improvement in the lives of most Americans; yet they also provide opportunities for conservative counterattack, a little of it serious, a lot demagogic. The conservative counterattack proposes, in effect, a rollback of the welfare state—and perhaps, if the first blows succeed, a virtual destruction of its welfare and reform measures.

A fourth reason for the rightward turn is the dreamlike quality of the 1970s, as if the years had passed but time did not move. Perhaps this has been a result of the weariness and disillusionment, with its tawdry ethic of the first person singular, which is a legacy of the late 1960s. The period of the new left saw the rise and then tragic waste of social idealism, but it also saw an indulgence in foolish sectarianism. A whole generation that should have taken the lead in moving toward social change was burned out. Waste is the name of American radicalism.

Many Americans were frightened by the hullaballoo of the late 1960s. Opportunities for major reform were frittered away in verbal violence, dopey irrationalism, apocalyptic gesture. You cannot go through such an experience without suffering—and inducing in others—a social-political hangover. People harden, become afraid, close their hearts. Many intellectuals, once socialist or even further left, were frightened by the new left experience, for it was perhaps the stupidest new left tactic to direct the fiercest blows against those who were politically closest.

Nevertheless, there were shameful public events which drove idealistic young people into the trap of nihilism. Those who lent themselves to, or failed sufficiently to fight, the catastrophes of Nixon, Vietnam, Watergate must share responsibility for this waste of social energy. It is also true that we pay for the absence of a democratic left in this country by having to put up with recurrent eruptions of an antidemocratic "left."

The conservative intellectuals wanted a politics of civility, and so do I, insofar as it remains within reach of my fallen nature. Still, I find myself wondering why their anger at the incivility of new left students was so much sharper than their anger at government officials who ordered the terror bombings in Vietnam and Cambodia while often lying about what they were doing. Civility is a desirable norm of democratic politics, but there are occasions when politics need the vigor that comes from a momentary suspension of that norm. The conservative intellectuals lacked the imagination for (or suppressed the memory of) those calculated rudenesses that insurgent groups must sometimes employ if they are to be heard at all. An attachment to civility can too easily lead to social deafness.

A fifth reason for the recent growth of conservatism in America is a new sophistication among the corporations, which have finally come to see, not so much that ideas count, but that intellectuals can come in handy.

The principal target of the new conservative offensive is the welfare state. Undoubtedly it has helped to save American capitalism. Many capitalists see the welfare state as an enemy, but some conservative thinkers know better. Sophisticated chaps like Irving Kristol understand that some form of welfare state is necessary if the capitalism they wish to protect is to endure; they simply propose to keep the welfare segment of it on short rations.

By the welfare state I mean a capitalist economy still dominated by the interplay of private property and corporate owners, but one in which economic policy is to some extent publicly controlled and the freedom of property owners to dispose of their wealth is politically limited. The state performs at least two functions here. It steps in to modulate the excesses of the economy, helping to create rationality and order, and thereby to save capitalism from its own tendency to destruction. And it steps in to provide humanizing reforms, as a response to insurgent groups and communities.

By its very nature the welfare state cannot long maintain an equilibrium. It is always subject to serious inner conflicts. It becomes vulnerable to the attacks of newly enfranchised or empowered groups, as well as the counterattacks of traditional ruling elites which turn against it as soon as they have been brought to new confidence by its ministrations.

The American welfare state is a frail construct. It is frail in comparison to the more generous development of its counterparts in certain European countries, and frail when seen against the potential beneficience that the proper use of American wealth could bring about. Nevertheless, it has achieved some successes in humanizing capitalist society and cushioning the blows that society periodically delivers to people spread across the lower levels of the income scale. Social security, unemployment insurance, old age pensions, medical programs: these benefits, notwithstanding some flaws, have made life better for millions of people.

I want to insist on this point, for here most conservative ideologues go mute. William Buckley seems not to care much about help during the months one cannot get a job: that never has been his problem. More sensitive and reflective conservatives ought to be pressed, however. Have not these interventions of society into the economy improved the lives of millions of people? And if so, is it not conceivable that others might too?

There have been failures in the welfare state. Unavoidably so. Some failures are due to the fact that social reforms, even when meant to serve the common good, can easily be twisted—by stacked federal agencies, by corrupt local governments—to serve private ends. Still more: the welfare state often functions in accordance with the priorities of maldistributed wealth (the recent history of housing is a major example) simply because it functions within the bounds and accepts the norms of the corporate economy. The state may on occasion act as a countervailing force to the dynamic of that economy, but the latter is usually powerful enough to tame the former.

Some failures of the welfare state are due to inadequate support. Pat Moynihan, who edges close to the new conservatism, has written: "The social reforms [of the mid-1960s] had been oversold and, with the coming of the war, *underfinanced to the degree that seeming failure could be ascribed almost to intent.*" (Emphasis added) Nathan Glazer, a good man fallen among conservatives, writes that in "Great Society" innovations like Model Cities and Community Action there was "not very much money." In 1972, for instance, Model Cities spent all of $500 million, and one reason, he admits, this program did not live up to expectations was "lack of money."

It has become fashionable to say "you can't solve problems by throwing money at them," a proposition at least as indisputable as "a stitch in time saves nine." But it is also true, and right now far more important, that without spending money (you don't have to throw, you can lob it), social problems cannot be solved. We don't even have an adequate idea of what a decent social expenditure would be in America, so impoverished is our collective imagination by the skewed priorities of Pentagon excess, advertising waste and regressive taxes. All discussion of the costs of proposed social measures is distorted by a reactionary calculus that figures the costs but fails to consider the benefits. A dollar the government spends on health care is a "bad" thing, even if it replaces a dollar or more that would otherwise be spent in the private sector. By contrast, we ignore the enormous dollar costs to the economy—I leave aside the merely human costs—of the level of unemployment that is now coming to be accepted as inevitable.

Other failures of the welfare state are indeed a result of the waste, inefficiency and corruption alleged against it. No defender of social change need have the slightest hesitation in admitting this, or accepting the necessity for sharper audits, greater controls. But analytical care is needed. Rip-offs by doctors in Medicare programs, widely publicized in the last few years, are not a necessary aspect of medical welfare; they result from provisions built into the Medicare system which encourage this version of "private enterprise"; similar rip-offs do not occur in the British health system, whatever its flaws.

Still other failures of the welfare state, as

one might expect, result from poor experiments, ordinary human weakness, unforeseen difficulties. That the solution to some problems casts up new problems is a thought which must surely have occurred to someone before *The Public Interest* was founded. The suggestion that the public search for solutions should be abandoned is perhaps new.

It is a common theme of conservatism to urge caution, even inaction, on the ground that action leads to unforeseen and usually undesirable consequences. No doubt. But what this wisdom fails to add is that sloth, delay, the failure to act—act, say, in behalf of our dying cities and unemployed black youth—must also lead to undesirable consequences that are quite foreseeable.

The welfare state, I would say, is entering its second stage. The first stage, though it met with bitter resistance from corporate interests, some intellectuals and Robert Frost, was relatively simple: we legislated in the 1930s some social reforms that many capitalist countries in Europe had managed to live with since the early years of the century. American liberals and radicals in the late 1920s and early 1930s knew precisely which "immediate demands" they wanted to put forward. In doing so they helped prepare the way for the New Deal. Today everything is more complicated.

There is the vexing problem of inflation; there is the threat of a decline in economic growth; there is a demoralizing sense, which conservatism feeds upon and reinforces, that our problems have become intractable. We have a strong awareness of the troubles of the welfare state, but apart from overdue immediate demands (for instance, national health insurance) it becomes harder to articulate these troubles as precise issues or proposals. The next step begins to look like "structural" reforms that would bite a little deeper into the "prerogatives" of the corporations. Ralph Nader speaks about the extension of democracy to within the corporation, so that workers and consumers might have a voice in making decisions; Robert Lekachman speaks about the need to redistribute income, become especially acute when economic growth has slowed down and we may not be able to count on a mounting GNP to bring a little more to everyone; Michael Harrington speaks about the need for "social control of credit" in order to bring the investment policies of banks into line with commonly accepted needs and values. We are approaching dangerous territories. The corporations are right to be nervous.

Which brings us back to my last reason for today's rightward turn: a new sophistication among corporations about the uses of ideology and the handiness of intellectuals. Irving Kristol has been telling them that intellectuals, jealous of expense accounts, yachts and other perquisites, want to challenge the authority of the corporations; he summons the corporations to a new militancy and cleverness, with the implication that there will be some intellectuals prepared to help—as indeed there will be. Suddenly a raft of new "institutes," "research centers" and magazines appears. Ben Wattenberg, the glossy Pangloss of the dead center, finds powerful sponsors to help spread his words of cheer. The literary shrewdness of Mobil and Exxon institutional advertising strikes the eye.

This is an interesting, probably important, new development in our political life. It comes at a moment of coarser signs too: my friends in the trade union movement tell me that not in 40 years have they encountered such aggressive efforts by employers to break unions. At long last the American bourgeoisie is being taught the ideology of class consciousness. As you might expect, its teachers are often ex-radicals. Talk about the "cunning of history!"

There is conservative thought that is traditional, serious and worthy of consideration. But what is happening in America now, though reinforced by the conservative ideologues, is something else again. It is the start of a crude, mean-spirited, demagogic attack on the welfare state, a kind of class struggle by some of the haves against many of the have-nots.

The main conservative outcry has been against government intervention into economic life: "federal bureaucrats telling us what to do." It is a slogan always likely to find a response among the middle class, for it invokes a cherished American tradition of Emersonian individualism, which still can be manipulated into a vision of an America proud and independent, with entrepreneurs freely competing against one another.

There are three problems with this vision. First, this America in which the government left its citizens happily free to enjoy the wonders of free enterprise has been a mirage at least since the Civil War. The state has intervened actively into economic life, since the building of the great intercontinental railroads. It has provided innumerable kinds of aid to business interests, from tariffs to tax breaks to direct and indirect subsidies. The notion of a private economy composed of small businesses in vigorous competition has been fantasy for about as long a time. In the age of late capitalism, with its overwhelming concentration of wealth and power, the vision of *a laissez-faire* society of individual entrepreneurs is nothing more than a handy myth for conservative ideologues. It serves the same function for them that the myth of "the withering away of the state" serves Marxist ideologues.

Second, attacks on government intervention occur mainly when the issue is social legislation on behalf of the disadvantaged or regulation to protect individuals from corporate excesses. Corporate interests and conservative spokesmen rarely find intolerable those violations of the "free market" which bring them substantial benefits, such as trade protectionism, tax preferences and regulations that shield corporations from the rigors of competition with one another.

Conservative ideologues were not heard to complain in March, for example, when President Carter authorized vigorous federal intervention in the market for copper (as they had not complained when the federal government bailed out Lockheed and Penn Central). "Under pressure from the copper industry and western political leaders" (according to *The Washington Post*), Carter agreed to have the government buy 225,000 tons of copper at a cost of $250 million, in order to help wipe out a world surplus that was depressing the copper producers' profits. The after effects of Proposition 13 in California have demonstrated, by contrast, that when calls for lower government spending are heeded, it is the schools and libraries that are curtailed.

Third, the trend toward increasing interpenetration of state and economy is all but inevitable. It is part of an inner, largely autonomous drive of late capitalist society to find a way of simultaneously achieving social stability and maximum profits. The crucial political-social question for our time becomes: Under whose social auspices does this drive toward economic collectivism occur? Will it serve the interests of corporate hegemony or will it be modulated politically in behalf of democratic and egalitarian values?

These points are reinforced by Michael Harrington:

"Under the conditions of late capitalism, the government is already engaged in underwriting—and in a sense socializing—the losses and risk capital of the giant corporations . . . Washington is, in effect, nationalizing broken-down, losing railroad lines while permitting the profitable systems to make even more money. Moreover, business wants tax revenues to provide it with cash for investment. And in 1976 the government was paying for 62 percent of the nation's research and development, the results of which are turned over to the corporations for private exploitation. There are proposals on the board to provide one hundred billion in easy money for the energy industry so that it can correct the calamities it did so much to generate.

"Therefore the question is not, as corporate ideologists often pretend, whether Washington will keep its hands off the private sector. Big business wants the government to intervene, but only to federalize risks and losses, and not to shape the profits or take part in the decision making."

Those of us who want social reforms that could lead to an improved welfare state would be foolish to deny that there are accompanying serious problems. Of course there are limits to feasible taxation, though it is by no means clear that we have reached these limits in the United States, especially if, unlikely as it now seems, a truly progressive tax system were introduced. Of course there is a serious problem of bureaucracy, though it is hard to know how much of the outcry against it derives from genuine experience and how much is stimulated by propaganda.

Bureaucracy is hardly unique to the welfare state. It can be found in rich bloom among the very corporations that print advertisements denouncing governmental bureaucracy. It can be found in Communist, fascist and democratic societies. It can be found in relatively backward societies like Egypt and Greece. Wherever you have large-scale social organization there is likely to appear a bureaucratic apparatus, sometimes serving beneficial ends, sometimes becoming a parasite on society, usually both. All this ought to be ABC; but it needs to be repeated in reply to the unscrupulous simplifications with which conservatism favors us these days. As if bureaucracy thrived only in Washington! As if they never had any down in Georgia! As if it were unknown in General Motors or the University of Chicago!

The notion that only government has a bureaucracy parallels the notion that the private economy is composed of rugged individual entrepreneurs. But the truth is that large organizations are an inevitable feature of late capitalism—indeed, they are likely to become larger; that bureaucracies are an inevitable feature of large organizations; and that the crucial question is whether these will or can be brought under adequate social control.

Let me indulge a heresy at this point. If a dose of bureaucracy is the price we must pay for humane social arrangements, then the price is worth paying. About half a year ago I had to deal with the Social Security bureaucracy after my father died, and I found it quite decent and efficient, certainly no worse than that of Bell Telephone or Con Edison. "For example is no proof," runs a Yiddish proverb, and I therefore make no large claims for my experience. But when I consider how very much my father's old age was eased by those bureaucracies which chaps like William Buckley find it so easy to sneer at, I want to go out into the streets and join some sort of demonstration—maybe we'll yet have one—against the current menace from the right.

People like myself, democratic socialists or socialist liberals, have learned something from traditional conservative thought—perhaps more accurately, from the ideas of the great tradition of liberalism that have been stressed by more reflective conservatives in recent years. We have learned to recognize the autonomy of politics as a realm of human activity worthy of practical and theoretical attention in its own right, and not simply as an epiphenomenon of class struggle (though it is that too). We have learned to fear excessive concentration of power in any human agency, be it the state or the corporation, trade union bureaucracies or political parties, and to value the interplay of limited

powers within a democratic structure. We have come to appreciate the canniness regarding the dynamic of politics that is to be found, say, in *The Federalist Papers*. We have come to see that bureaucracy creates problems almost certain to survive the life-span of capitalism or any other social system, even if some of the roots of bureaucracy lie in the injustices of present society. We have come to recognize that a limited market might help to lubricate the social relationships that would arise in a democratic socialist society based on decentralized and largely autonomous units of production and distribution. And above all else, we value democracy as a good in itself, indeed, *the supreme good of political life*, not reducible to any particular system of "relations of production."

In recent years there have been some occasions of similar cultural response among conservatives and socialists. Like the conservatives, we socialists have looked with dismay at tendencies in American academic life to dismiss the heritage of Western culture as "irrelevant," for we were taught that a major injustice of modern society was its denial of the cultural heritage to the dispossessed and impoverished, and that one task of a democratic socialism or an insurgent liberalism is to make available the culture of the past to the plebeians of the present.

I think our sense of tradition can sometimes be richer and more vital than that of most conservatives, for we see not just The Tradition, as the New Critics and their followers tended to use that term: a heritage fixed, monolithic and patrician. We see a multiplicity of traditions, competing, replacing, interacting. Within the culture of the West we find our tradition also, voices of insurgency, radicalism, egalitarianism and protest. Unlike American know-nothings and "swingers," we share with some conservatives a deep affection for the past, but we insist that it isn't all theirs.

With the preceding gesture of (more or less) good will, and without pretending to a comprehensive discussion of conservative thought, let me focus briefly on two major concerns of conservatism as these affect directly the present struggle over the welfare state. They are, first, the relation between the economic system and political democracy and, second, the problem of equality.

Conservative voices employ a seductive mixture of slogan and argument regarding the alleged necessity for capitalism as the sole or crucial bulwark of democracy.

It is said that freedom can survive only when there are competing, more-or-less autonomous social institutions able to check the demands and excesses of one another, and that capitalism provides the best setting for satisfying that condition. By breaking down the barriers between state and society, socialism and even (say the more rigid conservatives) the welfare state tend to create a new Leviathan that must lead to regimentation.

Now, it approaches a tautology to say that a society that nationalizes its entire economy will risk an excessive concentration of power. Add a one-party regime, and the tautology seems complete. What it tells us is that Stalinism is Stalinism, and totalitarianism is totalitarianism. But if we consider the practices and proposals of democratic socialists and if we look at the facts about the welfare state, it becomes clear that the conservative argument, while possessing some cautionary value, is a simplistic deduction from an ideological system.

It is clear that capitalism does not require, nor necessarily encourage, democracy. Elements of the German bourgeoisie helped Hitler come to power; German capitalism continued to thrive once the Nazis destroyed democracy. Few capitalists resisted Hitler, fewer went to concentration camps. It was the Jews and the radicals who suffered the hell of Dachau and Buchenwald. German capitalism managed to live through the Hohenzollern monarchy, the Weimar republic, the Nazi years, and the Bonn republic. Nor have capitalist societies and their ruling classes shown any notable reluctance to have democracy destroyed in Italy, Japan, Argentina, Brazil or other countries. Where capitalism and democracy do manage to coexist, there are other causal factors at work, such as a high level of prosperity, an educated public, a national tradition, a vital liberalism. But capitalism can get along very well without democracy.

In countries with more ambitious and comprehensive welfare states than we have in America—Sweden, Holland, Denmark, England, Israel—there has been no concurrent erosion of political freedoms. On the contrary, these welfare states under socialist management are among the few in which democracy is secure. In fact, there has been a growth of political and social freedoms under the welfare state—though admittedly the freedom to hire labor at semi-starvation wages or the freedom of old people to starve to death for lack of pensions has been curtailed. And the reasons why democracy is so healthy in these welfare states ought to be clear: insurgent social groups, only yesterday powerless, can gain new strength; with new strength comes confidence; with confidence comes an entry into political life; and with that entry comes the stirring up of new conflicts and liveliness; the breaking down of ethnic and racial prejudices. Previously mute segments of the population, finding their voices, begin to taste the pleasures and risks of participation, and thereby deepen the foundations of democracy, even as they sometimes rattle its windows too. If there is truth to the conservative argument that a healthy democracy rests on the activity of "intermediary structures," those institutions that stand between state and individual, then in modern society the welfare state makes a genuine contribution to democracy. For—at least in part—it enfranchises and empowers the previously weak; it gives them a sense of possibility; it raises for them the vision of becoming subjects, not merely objects, of history.

Surely the same holds true for the United States these past 40 years. Despite all the cries about encroachments on liberty, we have not suffered any serious loss of liberties that can be attributed to the welfare state. Are not automobile workers freer now, with their UAW, to speak out their opinions and desires than they were in the days of Henry Ford's plant police? Are not blacks in the South freer now to speak out their opinions and desires than they were in the days of lynching and segregation? The erosions of our liberties—McCarthyism, loyalty checks, FBI and CIA escapades—have come not from the growth of the welfare state, but rather from political misconduct by elements of society that bitterly oppose the welfare state.

There have been some powerful demands for the limitation of personal liberties in recent years, but these have come mostly from conservatives alarmed by the growth of "permissiveness" and the breakdown of customary patterns of social deference. Resistance to rights for homosexuals; efforts to deny women a resort to abortion; contempt for feminist demands; proposals for censorship of pornography and obscenity; approval of wiretapping and other modes of unsolicited surveillance: these are customary subjects of conservative rhetoric—some primitive, some sophisticated. How odd it seems that conservatives who believe governmental efforts to regulate pollution or provide employment for jobless black youths or help American cities are steps toward a "statist" destruction of liberties should at the same time urge this very state to intervene actively in order to regulate matters of private morality which usually are delicate and ambiguous, and therefore best left to the persons involved.

In modern democracies, the state does not constitute the monolithic Leviathan summoned by conservative imaginations. Kenneth Arrow has pointed out:

"As recent events in the United States have shown, even the existing political machinery is not at the disposal of the current political leadership. The bureaucracy or, better yet, the many conflicting bureaucracies are not so easily controlled. If the democratic, legal tradition is strong, there are many sources of power in a modern state. Adding functions of economic control to the present range may indeed only increase the diversity of interests and therefore alternative power sources. . . . This failure of coordination is not an unmixed blessing. But it certainly suggests that a modern state, no matter how all-encompassing, is likely to have a fully adequate range of alternative power centers, if that is an adequate protection for democracy."

The conservative argument that democracy requires capitalism is as simplistic as the argument sometimes advanced by socialists that democracy is "fully" possible only under socialism. Democracy cannot flourish under all economic systems, but clearly it can flourish under different ones. The conservative argument, as it comes to us these days, rests upon a crude historical determinism that is a parody of Marxism, a Marxism for the right. (The best presentation of the liberal-social democratic view regarding the welfare state and political freedom, by the way, was offered by Sidney Hook in a debate with Max Eastman 30 years ago. It is reprinted in Hook's book, "Political Power and Personal Freedom.")

The prospect of a serious progressive income redistribution seems remote in America right now, yet this possibility seem to trouble conservatives even more than the growth of the welfare state. Threats to cash flow, however speculative, are apparently more alarming than threats to personal liberty, however allegedly immediate.

Three conservative strategies of persuasion currently cluster around this age-old and complicated issue: first, that it is socially and morally undesirable to reach a condition of human equality; second, that equality cannot really be enforced short of the destruction of freedom; and third, that no one really cares about income discrepancies except for a few intellectuals besotted by ideology and hungry for power. The last point is stressed by Irving Kristol, a writer admirable for transparency. Kristol probably is correct in saying that (right now) not many Americans care about an egalitarian redistribution of income (though many poor ones want benefits not available in any other way). But we might recall that there were probably blacks who were "content" with segregation. That the victims of an inequity don't recognize it as such, or fail to express strong resentment, hardly provides a moral justification for perpetuating it.

Neither liberals nor social democrats espouse a society in which an absolute equality of income and wealth is enforced by the state. In the Western democracies the crucial question is whether the present vast disproportions of income and wealth, and therefore of power, can be justified by the values of democracy or indeed any other values that conservatives profess. During the first, Rooseveltian phase of the welfare state there was a modest tendency toward an egalitarian redistribution of income. But according to Herman Miller, the statistician formerly with the U.S. Bureau of the Census, "income distribution in the U.S. has remained virtually unchanged for one-quarter of a century." The Census Bureau, in its Current Population Reports, informs us that in 1974, the poorest fifth of American families received 5.4 percent of national in-

come while the top fifth received 41 percent; these figures are virtually the same as those for 1947.

Distribution of wealth statistics is harder to come by, since there is systematic withholding of information on this matter. The economist Lester Thurow, in his 1975 book *Generating Inequality*, estimates that between 1953 and 1969 the share of total wealth in America held by the top one-half of one percent of the population ranged from 20 to 24 percent, and the share of the top one percent from 25 to 29 percent. There are plenty of other statistics available, but these should serve to illustrate my point.

Now the disproportions revealed here seem to me so indefensible that I can imagine someone neither liberal nor socialist, indeed someone seriously conservative, going at least part of the way with proposals for an egalitarian redistribution. First, for the sheer justice of it, not a small reason. Second, because it would surely make stronger the social foundations of democracy.

By what social or moral principle, meanwhile, can conservative thinkers justify a situation in which, say, the great-grandchildren of Henry Ford inherit hundreds of millions for which they have done no work, indeed, done nothing but be born Fords, while millions of other Americans live out their lives in need and deprivation? (Ah, scoffs a sophisticated voice, that old socialist complaint about Henry Ford! I blush at being caught out, and continue.) How can conservative thinkers ask us seriously to believe that they support "equality of opportunity" when in fact the starting points at which "contestants" begin are so utterly different?

One common conservative justification for such extreme disproportions of income and wealth is that all of us naturally wish to pass on to our heirs the fruit of our labor or talent. This is something to which we can respond. Pass on enough to get through college; pass on enough even to buy a yacht; pass on still more, say, enough for a country home in Connecticut. But is there no limit? Does the present concentration of wealth and income constitute a sacred principle beyond change?

A 19th century social philosopher once wrote:

"The properties of money are my own [the possessor's] properties . . . What I am and can do is, therefore, not at all determined by my individuality. I am ugly, but I can buy the most beautiful woman for myself. Consequently, I am not ugly, for the effect of ugliness, its power to repel, is annulled by money. . . . I am a detestable, dishonorable, unscrupulous and stupid man, but money is honored and so also is its possessor."

This speaks to a visible reality, the reality of J. Paul Getty, Howard Hughes, H. L. Hunt, a thousand others. That the unspoken premises of this passage from Marx regarding the intrinsic worth of individuals once stripped of social rank and accidents of birth, bear a striking resemblance to values claimed by the conservatives ought to make at least a few of them think again about its truth.

Having brought in Marx, I might as well quote Rousseau:

"By equality, we should understand, not that the degrees of power and riches are to be absolutely identical for everybody; but that power shall never be great enough for violence, and shall always be exercised by virtue of rank and law; and that, in respect of riches, no citizen shall ever be wealthy enough to buy another, and none poor enough to be forced to sell himself."

That, with due allowance to the complexities of application, is the nub of the matter. It is the direction that counts.

One more conservative argument is favored these days, adorned in its fancier versions with bell-shaped curves. It is the argument of what might be called appropriate rewards. It is only just, runs this opinion, that people of outstanding gifts or those who have made remarkable contributions to humanity should receive outstanding rewards. Radicals who propose to move toward a more egalitarian society would thwart and perhaps suppress the energies of the outstanding, thereby spreading a pall of mediocrity.

But do the gifted really require as an incentive material rewards large enough to produce the degree of socioeconomic inequality that exists today? My strong impression is that most of the people who have done the most to make our life better—from Jonas Salk to George Balanchine, from Walter Reuther to Artur Schnabel—have been content with relatively modest material rewards. They may want recognition, opportunity, applause, honor; but they seldom have much interest in accumulating millions. They seem content with the sort of increments that are quite compatible with a society tilted in an egalitarian direction.

In arguing against egalitarianism, the conservatives put on a cap labelled "realism," insisting that only money talks and all else is fantasy. When they argue against the liberal stress on welfare measures, however, they shift to the cap of "idealism." Thus, the same Irving Kristol who incites corporate leaders to defend their interests against the "New Class" intellectuals speaks with the voice of traditionalist austerity to declare that: "A nation whose politics revolves around such issues as day-care centers or school lunches or the 'proper' cost of false teeth is a nation whose politics is squalid. . . ." Clucking away about the decay of moral standards, the debasement of politics to materialist conflict, the conservatives now affirm only spiritual values, with which they are intimate.

It ought to cut two ways. If Mr. Kristol and his friends are too high-minded to worry about day-care centers, school lunches and false teeth, they also ought to reflect that an egalitarian society would free many more people than our present one does from these petty concerns, and permit them to share the joys of high-minded idealism. And when you come to think of it, why should not a genuine conservative, content with his sufficient quota of goods, living a life of restrained contemplation and keeping a strict watch on his Original Sin: why should not such a conservative find a certain appeal in a vision of a moderate egalitarianism? Not a rigid or fanatical egalitarianism, but one that allows for necessary differences to compensate for dangerous or hard work and to reward achievements of exceptional value or beauty, yet discourage the gross disparities in wealth and income that now prevail?

Indeed a serious conservative ought to be tempted by this vision of moderate egalitarianism. If the conservative outlook rests on a Jeffersonian hope for a society of independent and self-sufficient citizens, then clearly, as Jefferson himself understood, it must seek to avoid the kinds of differentials in income, wealth and power that characterize late capitalism in the US.

The recent upsurge of conservatism has been accompanied by, and is partly the result of, a political and intellectual crisis of American liberalism. That crisis is due mainly to the difficulties of coping with the second phase of the welfare state. It is a serious crisis and it demands some sustained reconsiderations. But the eager voices on both far right and far left which pronounce American liberalism dead are surely mistaken, for the liberal tradition runs powerfully in this country. It has lived through earlier and perhaps greater difficulties, and it seems to be endowed with a rare gift for resurrection.

The great line of American thought remains that of romantic liberalism. Better yet, our romantic liberalism as tempered and complicated by the communal stress of Melville and the late Whitman. In its simpler versions the dominant Emersonianism and the curmudgeon individualism of Thoreau, despite a radical bent originally, now lend themselves too easily to a crude self-assertiveness, a narrow-spirited "privatism," an indifference to social obligation which are common elements of contemporary conservatism. By contrast, we can still turn with warmth to the humanely sympathetic outlook of the Melville who wrote Moby Dick, the Whitman of Democratic Vistas. I don't mean, of course, that these texts provide any political or social prescriptions, nor do I invoke the author's posthumous blessing for my ideas. But in their balancing of personal freedoms against collective obligations, in their growing awareness that the modern world requires something more complicated and even perilous than is available to the Ahabs of the 19th and 20th centuries, these writers can art a moral possibility.

Neither an ideological conservatism nor an uninflected Marxism has yet been able to find much grounding in America, and perhaps it is just as well. The central problem now is to revitalize liberalism in the context of a faltering welfare state.

If the predicted 1979 recession materializes—and the dominant powers in this country seem intent upon seeing that it does—you may be sure there will reappear a strong popular demand for effective social action sponsored and financed by the federal government (though often managed, one hopes, by decentralized and democratic agencies). The primitive conservative ideology, as it proposes a return to a laissez faire that never was, will crumble to nothingness. This is because it is nothing, a mere ideological phantasm. The sophisticated conservative strategy of enduring elements of the welfare state while steadily trying to cripple it will be a far more formidable antagonist.

A formidable antagonist requires a sharpening of thought, a gathering of strength. There is a big political fight ahead.●

CONFERENCE REPORT ON H.R. 12929

Mr. FLOOD submitted the following conference report and statement on the bill (H.R. 12929) making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending September 30, 1979, and for other purposes.

CONFERENCE REPORT (H. REPT. No. 95–1746)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 12929) making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending September 30, 1979, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 5, 11, 19, 28, 30, 43, 47, 53, 54, 63, 73, 74, 88, 89, 93, 94, 95, 101, 102, 105, 109, 110, and 111.

That the House recede from its disagreement to the amendments of the Senate numbered 1, 36, 46, 49, 58, 68, 75, 82, 84, 96, 97, 98, 99, 107, and 108, and agree to the same.

Amendment numbered 3: That the House recede from its disagreement to the amendment of the Senate numbered 3, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$59,754,000"; and the Senate agree to the same.

Amendment numbered 4: That the House recede from its disagreement to the amendment of the Senate numbered 4, and agree

to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$171,224,000"; and the Senate agree to the same.

Amendment numbered 7: That the House recede from its disagreement to the amendment of the Senate numbered 7, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$125,500,000"; and the Senate agree to the same.

Amendment numbered 8: That the House recede from its disagreement to the amendment of the Senate numbered 8, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$712,115,000"; and the Senate agree to the same.

Amendment numbered 10: That the House recede from its disagreement to the amendment of the Senate numbered 10, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$1,600,000"; and the Senate agree to the same.

Amendment numbered 12: That the House recede from its disagreement to the amendment of the Senate numbered 12, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$162,849,000"; and the Senate agree to the same.

Amendment numbered 14: That the House recede from its disagreement to the amendment of the Senate numbered 14, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$917,000,000"; and the Senate agree to the same.

Amendment numbered 17: That the House recede from its disagreement to the amendment of the Senate numbered 17, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$61,920,000"; and the Senate agree to the same.

Amendment numbered 21: That the House recede from its disagreement to the amendment of the Senate numbered 21, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$205,000,000"; and the Senate agree to the same.

Amendment numbered 26: That the House recede from its disagreement to the amendment of the Senate numbered 26, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$114,305,000"; and the Senate agree to the same.

Amendment numbered 34: That the House recede from its disagreement to the amendment of the Senate numbered 34, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$153,649,000"; and the Senate agree to the same.

Amendment numbered 37: That the House recede from its disagreement to the amendment of the Senate numbered 37, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$33,444,000"; and the Senate agree to the same.

Amendment numbered 40: That the House recede from its disagreement to the amendment of the Senate numbered 40, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$741,022,000"; and the Senate agree to the same.

Amendment numbered 41: That the House recede from its disagreement to the amendment of the Senate numbered 41, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$462,972,000"; and the Senate agree to the same.

Amendment numbered 48: That the House recede from its disagreement to the amendment of the Senate numbered 48, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$7,760,913,000"; and the Senate agree to the same.

Amendment numbered 50: That the House recede from its disagreement to the amendment of the Senate numbered 50, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "($3,077,132,000)"; and the Senate agree to the same.

Amendment numbered 51: That the House recede from its disagreement to the amendment of the Senate numbered 51, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$3,448,382,000"; and the Senate agree to the same.

Amendment numbered 52: That the House recede from its disagreement to the amendment of the Senate numbered 52, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "($3,077,132,000)"; and the Senate agree to the same.

Amendment numbered 55: That the House recede from its disagreement to the amendment of the Senate numbered 55, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$786,100,000"; and the Senate agree to the same.

Amendment numbered 56: That the House recede from its disagreement to the amendment of the Senate numbered 56, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$710,600,000"; and the Senate agree to the same.

Amendment numbered 59: That the House recede from its disagreement to the amendment of the Senate numbered 59, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$341,350,000"; and the Senate agree to the same.

Amendment numbered 61: That the House recede from its disagreement to the amendment of the Senate numbered 61, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$976,637,000"; and the Senate agree to the same.

Amendment numbered 62: That the House recede from its disagreement to the amendment of the Senate numbered 62, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$17,500,000"; and the Senate agree to the same.

Amendment numbered 64: That the House recede from its disagreement to the amendment of the Senate numbered 64, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$774,453,000"; and the Senate agree to the same.

Amendment numbered 65: That the House recede from its disagreement to the amendment of the Senate numbered 65, and agree to the same with an amendment, as follows: Restore the matter stricken by said amendment amended to read as follows: "of which $10,000,000 for Part B, subpart 2 of the Vocational Education Act shall remain available until expended."

And the Senate agree to the same.

Amendment numbered 67: That the House recede from its disagreement to the amendment of the Senate numbered 67, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "($2,600,000,000)"; and the Senate agree to the same.

Amendment numbered 69: That the House recede from its disagreement to the amendment of the Senate numbered 69, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "($550,000,000)"; and the Senate agree to the same.

Amendment numbered 70: That the House recede from its disagreement to the amendment of the Senate numbered 70, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$3,922,650,000"; and the Senate agree to the same.

Amendment numbered 71: That the House recede from its disagreement to the amendment of the Senate numbered 71, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$3,895,750,000"; and the Senate agree to the same.

Amendment numbered 76: That the House recede from its disagreement to the amendment of the Senate numbered 76, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$393,000,000"; and the Senate agree to the same.

Amendment numbered 85: That the House recede from its disagreement to the amendment of the Senate numbered 78, and agree to the same with an amendment, as follows: In lieu of the sums proposed by said amendment insert "$266,475,000"; and the Senate agree to the same.

Amendment numbered 79: That the House recede from its disagreement to the amendment of the Senate numbered 79, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$180,000,000"; and the Senate agree to the same.

Amendment numbered 86: That the House recede from its disagreement to the amendment of the Senate numbered 85, and agree to the same with an amendment, as follows: Restore the matter stricken by said amendment amended to read as follows:

"HEALTH PROFESSIONS GRADUATE STUDENT LOAN INSURANCE FUND

"For necessary expenses for the Health Professions Graduate Student Loan Insurance Fund, authorized by title VII, part C, subpart 1 of the Public Health Service Act, the Secretary is authorized to issue to the Secretary of the Treasury notes or obligations, in an amount not to exceed a total of $2,500,000, without fiscal year limitation, to maintain the adequacy of the fund, but only with respect to payments authorized under section 734."

And the Senate agree to the same.

Amendment numbered 86: That the House recede from its disagreement to the amendment of the Senate numbered 86, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$92,300,000"; and the Senate agree to the same.

Amendment numbered 87: That the House recede from its disagreement to the amendment of the Senate numbered 87, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$38,483,000"; and the Senate agree to the same.

Amendment numbered 91: That the House recede from its disagreement to the amendment of the Senate numbered 91, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$155,300,000"; and the Senate agree to the same.

The committee of conference report in disagreement amendments numbered 2, 6, 9, 13, 15, 16, 18, 20, 22, 23, 24, 25, 27, 29, 31, 32, 33,

35, 38, 39, 42, 44, 45, 57, 60, 66, 72, 77, 80, 81, 83, 90, 92, 100, 103, 104, and 106.

DANIEL J. FLOOD,
WILLIAM H. NATCHER,
NEAL SMITH,
EDWARD J. PATTEN,
DAVID R. OBEY,
EDWARD R. ROYBAL,
LOUIS STOKES,
GEORGE MAHON,
ROBERT H. MICHEL
(except as to amendments 4, 50–54, 107, 108, and PHS positions),
SILVIO O. CONTE,
GEORGE M. O'BRIEN,
ELFORD A. CEDERBERG
(except for amendments 4, 107, and 108),
Managers on the Part of the House.

WARREN G. MAGNUSON,
WILLIAM PROXMIRE,
ERNEST F. HOLLINGS,
TOM EAGLETON
(with exception to the abortion language),
BIRCH BAYH,
LAWTON CHILES,
QUENTIN N. BURDICK,
DANIEL K. INOUYE,
EDWARD W. BROOKE,
CLIFFORD P. CASE,
RICHARD S. SCHWEIKER,
CHARLES MCC. MATHIAS, JR.,
MILTON R. YOUNG,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 12929) making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending September 30, 1979, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

TITLE I—DEPARTMENT OF LABOR

EMPLOYMENT AND TRAINING ADMINISTRATION

Federal unemployment benefits and allowances

Amendment No. 1: Inserts language proposed by the Senate which permits the Department to pay benefits to and on behalf of Redwood forest industry workers adversely affected by the expansion of the Redwood National Park in northern California.

Amendment No. 2: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment which provides that amounts received or recovered pursuant to section 208(e) of Public Law 95–250 shall be available for payments to Redwood forest industry workers.

LABOR-MANAGEMENT SERVICES ADMINISTRATION

Salaries and expenses

Amendment No. 3: Appropriates $59,754,000, instead of $59,354,000 as proposed by the House and $59,954,000 as proposed by the Senate. The increase of $400,000 over the House bill is for 28 additional permanent positions.

The conferees direct that 90 full-time compliance officers be dedicated solely to Organized Crime Strike Force activities, with the understanding that adequate support staff will be forthcoming from the Department of Justice. The conferees further direct the Department to submit supplemental requests for strike force program positions if it deems such positions necessary to fulfill its responsibilities under this program.

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

Salaries and expenses

Amendment No. 4: Appropriates $171,224,000, instead of $167,474,000 as proposed by the House and $174,774,000 as proposed by the Senate. The increase of $3,750,000 over the House bill is for 200 additional permanent positions, including 150 industrial hygienists and 50 support staff.

Amendment No. 5: Restores language deleted by the Senate which allows the Occupational Safety and Health Administration to inspect any farm, regardless of size, that maintains a temporary labor camp. The conferees will expect the Secretary of Labor to place the primary emphasis of enforcement efforts with respect to migrant labor camps on operations with 10 or more employees. The Secretary is directed to report to both House and Senate Appropriations Committees on migrant labor camp inspection experience and results, including: number of employees affected by inspections; size categories of establishments inspected; and the actual number, type and severity of violations found in large and small camps. Reports should be submitted with the fiscal year 1980 budget and at the end of fiscal year 1979.

Amendment No. 6: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment which reads as follows: *"Provided further*, That none of the funds appropriated under this paragraph shall be obligated or expended for the proposal or assessment of any civil penalties for the violation or alleged violation by an employer of 10 or fewer employees of any standard, rule, regulation, or order promulgated under the Occupational Safety and Health Act of 1970 (other than serious, willful or repeated violations and violations which pose imminent danger under section 13 of the Act) if, prior to the inspection which gives rise to the alleged violation, the employer cited has (1) voluntarily requested consultation under a program operated pursuant to section 7(c)(1) or section 18 of the Occupational Safety and Health Act of 1970 or from a private consultative source approved by the Administration and (2) had the consultant examine the condition cited and (3) made or is in the process of making a reasonable good faith effort to eliminate the hazard created by the condition cited as such was identified by the aforementioned consultant, unless changing circumstances or workplace conditions render inapplicable the advice obtained by such consultants.".

MINE SAFETY AND HEALTH ADMINISTRATION

Salaries and expenses

Amendment No. 7: Appropriates $125,500,000, instead of $123,500,000 as proposed by the House and $127,500,000 as proposed by the Senate.

TITLE II—DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

HEALTH SERVICES ADMINISTRATION

Health services

Amendment No. 8: Appropriates $712,115,000, instead of $681,092,000 as proposed by the House, and $721,834,000 as proposed by the Senate. The conference agreement includes the following changes from the amounts proposed by the House:

Health Underserved Rural Areas	+$1,500,000
Black Lung Clinics	+7,500,000
Maternal and Child Health Research & Training	+1,823,000
PHS Hospitals and Clinics	+20,000,000
Payment to Hawaii	+200,000

Amendment No. 9: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an amendment which provides 9,258 full-time permanent positions instead of 9,413 full-time permanent positions as proposed by the Senate. The amendment reads as follows:

In lieu of the matter inserted by said amendment, insert the following: "including 9,258 full-time permanent positions".

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 10: Earmarks $1,600,000 for payments to the State of Hawaii for care and treatment of persons afflicted with Hansen's Disease (leprosy), instead of $1,400,000 as proposed by the House, and $2,000,000 as proposed by the Senate.

CENTER FOR DISEASE CONTROL

Preventive health services

Amendment No. 11: Restores the language proposed by the House which allows the Center for Disease Control to purchase insurance for official motor vehicles in foreign countries.

Amendment No. 12: Appropriates $162,849,000, instead of $159,060,000 as proposed by the House and $166,289,000 as proposed by the Senate. The conference agreement includes the following change from the amounts proposed by the House:

Disease Surveillance	+$3,789,000

Amendment No. 13: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment which provides 3,982 full-time permanent positions.

NATIONAL INSTITUTES OF HEALTH

National Cancer Institute

Amendment No. 14: Appropriates $917,000,000 instead of $889,192,000, as proposed by the House and $937,500,000, as proposed by the Senate.

Amendment No. 15: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an amendment which provides 2,062 full-time permanent positions instead of 2,076 full-time permanent positions as proposed by the Senate. The amendment reads as follows:

In lieu of the matter inserted by said amendment, insert the following: "including 2,062 full-time permanent positions".

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

National Heart, Lung, and Blood Institute

Amendment No. 16: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an amendment which provides 788 full-time permanent positions instead of 791 full-time permanent positions as proposed by the Senate. The amendment reads as follows:

In lieu of the matter inserted by said amendment, insert the following: "including 788 full-time permanent positions".

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

National Institute of Dental Research

Amendment No. 17: Appropriates $61,920,000 instead of $63,841,000 as proposed by the House and $60,000,000, as proposed by the Senate.

Amendment No. 18: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment which provides 287 full-time permanent positions.

National Institute of Arthritis, Metabolism and Digestive Diseases

Amendment No. 19: Deletes language proposed by the Senate requiring this Institute to conduct research on neuromuscular diseases.

Amendment No. 20: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment whicn provides 642 full-time permanent positions.

National Institute of Neurological and Communicative Disorders and Stroke

Amendment No. 21: Appropriates $205,000,000 instead of $188,910,000, as proposed by the House and $225,000,000 as proposed by the Senate.

Amendment No. 22: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment which provides 567 full-time permanent positions.

National Institute of Allergy and Infectious Diseases

Amendment No. 23: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an amendment which provides 649 full-time permanent positions instead of 651 full-time permanent positions as proposed by the Senate. The amendment reads as follows:

In lieu of the matter inserted by said amendment, insert the following: "including and not to exceed 649 full-time permanent positions."

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

National Institute of General Medical Sciences

Amendment No. 24: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an amendment which will appropriate $231,085,000, instead of $225,092,000 as proposed by the House, and $230,000,000 as proposed by the Senate. The amendment reads as follows:

In lieu of the sum proposed by said amendment insert the following: "$231,058,000."

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 25: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an amendment which provides 179 full-time permanent positions instead of 180 full-time permanent positions as proposed by the Senate. The amendment reads as follows: "including 179 full-time permanent positions".

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

National Institute of Child Health and Human Development

Amendment No. 26: Appropriates $114,305,000 instead of $119,005,000, as proposed by the House and $109,605,000, as proposed by the Senate.

Amendment No. 27: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment which provides 400 full-time permanent positions.

National Institute on Aging

Amendment No. 28: Appropriates $54,526,000, as proposed by the House instead of $49,500,000 as proposed by the Senate.

Amendment No. 29: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an amendment which provides 258 full-time permanent positions instead of 263 full-time permanent positions as proposed by the Senate. The amendment reads as follows:

In lieu of the matter inserted by said amendment, insert the following: "including 258 full-time permanent positions".

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Nationall Eye Institute

Amendment No. 30: Deletes language proposed by the Senate which identifies retinopathy caused by histoplasmosis as an area of research.

Amendment No. 31: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an amendment which provides 186 full-time permanent positions instead of 191 full-time permanent positions as proposed by the Senate. The amendment reads as follows:

In lieu of the matter inserted by said amendment, insert the following: "including 186 full-time permanent positions".

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

National Institute of Environmental Health Sciences

Amendment No. 32: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an amendment which will appropriate $73,512,000 instead of $73,227,000 as proposed by the House, and $70,000,000 as proposed by the Senate. The amendment reads as follows:

In lieu of the sum proposed by said amendment insert the following: "$73,512,000".

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 33: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an amendment which provides 405 full-time permanent positions instead of 401 full-time permanent positions as proposed by the Senate. The amendment reads as follows:

In lieu of the matter inserted by said amendment, insert the following: "including 405 full-time permanent positions".

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Research resources

Amendment No. 34: Appropriates $153,649,000 instead of $152,899,000, as proposed by the House and $153,899,000, as proposed by the Senate.

Amendment No. 35: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment which provides 80 full-time permanent positions.

John E. Fogarty International Center for Advanced Study in the Health Sciences

Amendment No. 36: Appropriates $8,989,000 as proposed by the Senate, instead of $8,789,000 as proposed by the House.

National Library of Medicine

Amendment No. 37: Appropriates $33,444,000 instead of $31,887,000, as proposed by the House and $35,000,000, as proposed by the Senate.

Amendment No. 38: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an amendment which provides 503 full-time permanent positions instead of 505 full-time permanent positions as proposed by the Senate. The amendment reads as follows:

In lieu of the matter inserted by said amendment, insert the following: "including 503 full-time permanent positions".

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Office of the Director

Amendment No. 39: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an amendment which provides 4,780 full-time permanent positions instead of 4,770 full-time permanent positions as proposed by the Senate. The amendment reads as follows:

In lieu of the matter inserted by said amendment, insert the following: "including 4,780 full-time permanent positions".

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Alcohol, Drug Abuse and Mental Health Administration

Alcohol, Drug Abuse, and Mental Health

Amendment No. 40: Appropriates $741,022,000 instead of $730,022,000, as proposed by the House and $752,022,000, as proposed by the Senate. The conference agreement includes the following changes from the amounts proposed by the House:

Mental Health Research	+$3,000,000
Mental Health Training	+5,000,000
Drug Abuse Research	+3,000,000

Health Resources Administration

Health Resources

Amendment No. 41: Appropriates $462,972,000 instead of $463,012,000, as proposed by the House and $439,131,000, as proprosed by the Senate. The conference agreement includes the following changes from the amounts proposed by the House:

Capitation Grants	−$3,100,000
Exceptional Need Scholarships	−2,000,000
Interdisciplinary Training	+2,860,000
Area Health Education Centers	+2,000,000
Supply and Distribution Reports	−2,700,000
Public Health Traineeships	+1,900,000
Health Administration Traineeships	+1,000,000

The conferees agree that start-up assistance shall be available to Tufts Veterinary School, along with the other institutions identified in the House and Senate reports, and that these funds be made available to the schools no later than February 1, 1979.

Amendment No. 42: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an amendment which provides 1,275 full-time permanent positions instead of 1,300 full-time permanent positions as proposed by the Senate. The amendment reads as follows:

In lieu of the matter inserted by said amendment, insert the following: "including 1,275 full-time permanent positions".

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 43: Restores the language proposed by the House for loan guarantees and interest subsidies under Part B of title VII of the Public Health Service Act.

Assistant Secretary for Health

Salaries and Expenses

Amendment No. 44: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an

amendment which appropriates $51,232,000 instead of $52,518,000 as proposed by the House and $55,417,000 as proposed by the Senate. The amendment read as follows:

In lieu of the sum proposed by said amendment insert: "$51,232,000".

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees agree that the Office of Health Practices Assessment and the Office of Special Health Initiatives are to be phased out.

Amendment No. 45: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment which provides 1,921 full-time permanent positions.

Positions Authorized for Health Agencies

The conferees agree that the employment levels identified in the bill are not intended to mandate a specific level of employment. The conferees agree that whenever the Secretary determines that he can achieve program goals and objectives with fewer employees, the Congress should be notified of such action through either a rescission or reprogramming request.

Health Care Financing Administration

Grants to States for Medicaid

Amendment No. 46: Appropriates $11,250,000,000 as proposed by the Senate instead of $11,515,000,000 as proposed by the House.

Amendment No. 47: Deletes language proposed by the Senate which would have provided authority to carry over into FY 1979 any leftover FY 1978 funds. Also deletes language proposed by the Senate which would have limited the time period for States to submit claims for Federal Medicaid matching.

Although the conferees have decided against a fixed time limitation for submitting welfare claims at this time, the Appropriations Committees are concerned about the difficulty of estimating current funding requirements for medicaid, assistance payments and social services programs if States can be reimbursed out of current appropriations for claims that occurred in previous years. While not wishing to penalize States that have legitimate reasons for submittal of late claims, the conferees believe that the Federal, State, and local agencies in the public assistance programs must keep their accounting records up to date and eliminate such retroactive funding practices. When similar language was dropped last year, the conferees requested the Department of Health, Education, and Welfare to present to the Appropriations Committees a full study on the fiscal and administrative impact that a time limitation would have at the Federal, State, and local level. No such study has as yet been received by the Committees. The conferees expect that the Department will submit this report concurrent with submission of the FY 1980 budget.

Payment to Health Care Trust Funds

Amendment No. 48: Appropriates $7,760,913,000 instead of $7,756,913,000 as proposed by the House and $7,762,913,000 as proposed by the Senate. This will provide $33,000,000 for medicaid-related PSRO hospital review costs as opposed to the $29,000,000 provided by the House and the $35,000,000 provided by the Senate. The conferees have further agreed that HEW should manage the total PSRO hospital review program so that costs for this activity do not exceed $85,000,000 in FY 1979 as opposed to the $91,300,000 estimated in the President's Budget.

Quality Care Management, Research and Administration

Amendment No. 49: Appropriates $106,612,000 as proposed by the Senate instead of $101,612,000 as proposed by the House.

EDUCATION DIVISION

Office of Education

Elementary and Secondary Education

Amendment No. 50: Earmarks $3,077,132,000 for title I, part A of the Elementary and Secondary Education Act instead of $3,077,570,000 as proposed by the House and $2,888,595,000 as proposed by the Senate.

Amendment No. 51: Appropriates $3,448,382,000 for "Elementary and secondary education" instead of $3,448,870,000 as proposed by the House and $3,255,345,000 as proposed by the Senate.

Amendment No. 52: Provides that $3,077,132,000 for title I, part A of the Elementary and Secondary Education Act shall become available for obligation on July 1, 1979 instead of $3,077,570,000 as proposed by the House and $2,888,595,000 as proposed by the Senate.

Amendment No. 53: Earmarks $190,000,000 for title IV, part C of the Elementary and Secondary Education Act as proposed by the House instead of $193,000,000 as proposed by the Senate.

Amendment No. 54: Appropriates an additional $7,400,000 for title IV, part C of the Elementary and Secondary Education Act as proposed by the House instead of $4,400,000 as proposed by the Senate.

School Assistance in Federally Affected Areas

Amendment No. 55: Appropriates $786,100,000 instead of $823,400,000 as proposed by the House and $769,100,000 as proposed by the Senate.

Amendment No. 56: Earmarks $710,600,000 for payments under sections 2 and 3 of Public Law 81-874 instead of $747,900,000 as proposed by the House and $693,600,000 as proposed by the Senate.

Amendment No. 57: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the Senate amendment, amended to read as follows: ": *Provided*, That the total amount paid with respect to entitlements under section 3(b) of that title shall not exceed the amount paid under that section in fiscal year 1978, and any reductions required thereby shall be derived by proportionately reducing the payments applied for by all local educational agencies under section 3(b).".

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 58: Appropriates $30,000,000 for school construction authorized by Public Law 81-815 as proposed by the Senate instead of $33,000,000 as proposed by the House.

EMERGENCY SCHOOL AID

Amendment No. 59: Appropriates $341,350,000 instead of $327,000,000 as proposed by the House and $352,700,000 as proposed by the Senate. The conferees are agreed that the appropriation includes $70,000,000 for special programs and projects; $25,000,000 for magnet schools, pairing, and neutral site schools; and $41,350,000 for training and advisory services.

Amendment No. 60: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the Senate amendment which requires the Assistant Secretary of HEW, in awarding grants under this program, to treat applicants carrying out a voluntary desegregation plan in the same manner as applicants carrying out court ordered desegregation plans.

EDUCATION FOR THE HANDICAPPED

Amendment No. 61: Appropriates $976,637,000 instead of $971,825,000 as proposed by the House and $981,450,000 as proposed by the Senate. The conferees are agreed that the appropriation includes $17,500,000 for preschool incentive grants and $57,687,000 for special education manpower development.

Amendment No. 62: Earmarks $17,500,000 for preschool incentive grants instead of $15,000,000 as proposed by the House and $20,000,000 as proposed by the Senate.

OCCUPATIONAL, VOCATIONAL, AND ADULT EDUCATION

Amendment No. 63: Deletes exception for part B, subpart 2 of the Vocational Education Act proposed by the Senate.

Amendment No. 64: Appropriates $774,453,000 instead of $766,007,000 as proposed by the House and $787,456,000 as proposed by the Senate. The conferees are agreed that the appropriation includes $474,766,000 for basic state grants, $43,497,000 for consumer and homemaking education, $5,000,000 for State planning, and $10,000,000 for programs of national significance.

Amendment No. 65: Earmarks $10,000,000 to remain available until expended for programs of national significance instead of $29,557,000 as proposed by the House. The Senate deleted all funds for this purpose.

Amendment No. 66: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the Senate amendment which earmarks $112,317,000 for program improvement supportive services.

Student Assistance

Amendment No. 67: Earmarks $2,600,000,000 for basic educational opportunity grants instead of $3,373,100,000 as proposed by the House and $2,140,600,000 as proposed by the Senate. The conferees deleted funds for institutional allowances.

Amendment No. 68: Earmarks $76,750,000 for incentive grants for State scholarships as proposed by the Senate instead of $86,750,000 as proposed by the House.

Amendment No. 69: Earmarks $550,000,000 for work study grants instead of $520,000,000 as proposed by the House and $600,000,000 as proposed by the Senate.

Amendment No. 70: Appropriates $3,922,650,000 for "Student assistance" instead of $4,675,750,000 as proposed by the House and $3,513,250,000 as proposed by the Senate.

Amendment No. 71: Earmarks $3,895,750,000 to remain available until September 30, 1980 instead of $4,651,350,000 as proposed by the House and $3,486,350,000 as proposed by the Senate.

Amendment No. 72: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the Senate amendment amended to read as follows: "That such funds may be expended notwithstanding the provisions of section 1208(a)(2) of the Higher Education Act: *Provided further*, That

(1) Funds appropriated in this Act for Basic Educational Opportunity Grants under the Higher Education Act of 1965 shall be used to make basic grants consistent with the Schedule of Expected Family Contribution in effect as of October 1, 1978, except that (A) such schedule shall not have an assessment rate on parental discretionary income in excess of 10.5 per centum, (B) such schedule shall not reduce the maximum basic grant below $1,800, and (C) such schedule shall retain the provisions relating to independent students as were in effect for the academic year 1978-79.

(2) If funds contained in this Act available for basic educational opportunity grants are insufficient to satisfy fully all basic grant entitlements as determined by the Family Contribution Schedule as modified by paragraph (1), the amount paid with respect to each such entitlement shall be—

(A) the full amount in the case of any entitlement which exceeds $1,600;

(B) in the case of any entitlement which exceed $1,200 but does not exceed $1,600, 90 per centum thereof;

(C) in the case of any entitlement which

exceeds $1,000 but does not exceed $1,200, 75 per centum thereof;

(D) in the case of any entitlement which exceeds $800 but does not exceed $1,000, 70 per centum thereof;

(E) in the case of any entitlement which exceeds $600 but does not exceed $800, 65 per centum thereof; and

(F) in the case of any entitlement which does not exceed $600, 50 per centum thereof.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The managers emphasize that the conference agreement of BEOG's was an unusual action taken only because sufficient time was not available to address this matter in the regular legislative process. The provisions contained in this agreement, shall supercede those provisions in the Family Contribution Schedule in effect as of October 1 which are inconsistent with the provisions of this legislation. Such inconsistent provisions are null and void.

The conferees agree that the minimum grant will be $200 for a family with an income of $25,000.

Higher and Continuing Education

Amendment Nos. 73 and 74: Restore legal citation proposed by the House.

Amendment No. 75: Inserts legal citation proposed by the Senate.

Amendment No. 76: Appropriates $393,000,000 instead of $390,000,000 as proposed by the House and $394,000,000 as proposed by the Senate. The conferees are agreed that the appropriation includes $16,000,000 for university community services, $15,000,000 for cooperative education, and $2,000,000 for law school clinical experience.

Amendment No. 77: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the Senate amendment which extends the availability of the 1978 appropriation for the Wayne Morse Chair on Law and Politics until September 30, 1980.

Library Resources

Amendment No. 78: Appropriates $266,475,000 instead of $257,975,000 as proposed by the House and $274,975,000 as proposed by the Senate. The conferees are agreed that the appropriation includes $67,500,000 for public libraries, $180,000,000 for school libraries, and $6,000,000 for research libraries.

Amendment No. 79: Earmarks $180,000,000 for title IV, part B of the Elementary and Secondary Education Act instead of $175,000,000 as proposed by the House and $185,000,000 as proposed by the Senate.

Special Projects and Training

Amendment No. 80: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the Senate amendment with an amendment which appropriates $134,472,000 instead of $133,535,000 as proposed by the House and $131,911,000 as proposed by the Senate. The conferees are agreed that the appropriation includes the following:

Program:	*Amount*
Gifted and Talented Children	$3,780,000
Community Schools	5,376,000
Career Education	32,500,000
Consumer Education	3,601,000
Arts in Education	3,000,000
Dissemination	14,000,000
Educational TV Programming	6,000,000
Teacher Centers	12,625,000
Planning and Evaluation	5,250,000

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 81: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the Senate amendment which earmarks $1,840,000 for metric education projects.

Educational Activities Overseas (Special Foreign Currency Program)

Amendment No. 82: Deletes $2,000,000 proposed by the House.

Salaries and Expenses

Amendment No. 83: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the Senate amendment which authorizes the transfer of up to $10,000,000 in loan collections from the student loan insurance fund to this appropriation account.

Student Loan Insurance Fund

Amendment No. 84: Appropriates $714,314,000 as proposed by the Senate instead of $725,814,000 as proposed by the House.

Health Professions Graduate Student Loan Insurance Fund

Amendment No. 85: Provides not to exceed $2,500,000 in authority to borrow from the U.S. Treasury to maintain the adequacy of the fund instead of $5,000,000 as proposed by the House. Also deletes appropriation of $1,500,000 proposed by the House.

National Institute of Education

Amendment No. 86: Appropriates $92,300,000 instead of $97,500,000 as proposed by the House and $90,071,000 as proposed by the Senate.

Office of the Assistant Secretary for Education

Salaries and Expenses

Amendment No. 87: Appropriates $38,483,000 instead of $39,363,000 as proposed by the House and $37,603,000 as proposed by the Senate.

Social Security Administration

Supplemental Security Income Program

Amendment No. 88: Deletes language proposed by the Senate which would have provided authority to carry over into FY 1979 any leftover FY 1978 funds.

Assistance Payments Program

Amendment No. 89: Deletes language proposed by the Senate which would have provided authority to carry over into FY 1979 any leftover FY 1978 funds. Also deletes language proposed by the Senate which would have limited the time period during which States could submit claims for Federal matching in the assistance payments program.

National Commission on Social Security

Amendment No. 90: reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment which appropriates $500,000. The House bill included no funds for this new commission.

Refugee Assistance

Amendment No. 91: Appropriates $155,300,000 instead of $160,300,000 as proposed by the Senate and $147,500,000 as proposed by the House. The conferees agreed to add $5.3 million over the House allowance in order to continue the six-year phase-out of all components of the Cuban refugee program except the 100 percent reimbursement for the expenses of current SSI recipients. The conferees do not expect this special treatment to be extended to any Cuban refugee assistance recipients who become eligible for SSI in future years. The phase-out of educational assistance to Dade County will follow the same percentage formula applied to all other parts of the program specified in the conference report on the fiscal year 1978 bill.

The conferees also agreed to a total of $7.5 million for special projects authorized under section 2(c) of the Indochina Migration and Refugee Assistance Act of 1975 instead of the $5 million proposed by the House.

Amendment No. 92: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment amended to read as follows: "*Provided*, That $7,500,000 of the foregoing amount shall be apportioned for the purposes of the special projects authorized by section 2(c) of the Indochina Migration and Refugee Assistance Act of 1975, as amended, to be administered primarily by the private voluntary resettlement agencies."

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Limitation on Administrative Expenses

Amendment No. 93: Establishes a limitation on Social Security administrative expenses of $2,234,587,000 as proposed by the House instead of $2,251,587,000 as proposed by the Senate.

Special Institutions

Amendment No. 94: Deletes language proposed by the Senate authorizing these institutions to make purchases through the General Services Administration. The conferees note that a permanent provision to accomplish this purpose is included in the Second Supplemental Appropriations Act of 1978.

Assistant Secretary for Human Development Services

Grants to States for Social and Child Welfare Services

Amendment No. 95: Deletes language proposed by the Senate which would have provided authority to carry over any leftover FY 1978 funds into FY 1979. Also deletes language proposed by the Senate which would have provided a limitation on the period of time available to States to submit claims for Federal matching payments under social services programs.

Adoptions Opportunities

Amendment No. 96: Appropriates $5,000,000 as proposed by the Senate. No funds for this purpose were included in the House bill.

Research and Training Activities (Special Foreign Currency Program)

Amendment No. 97: Deletes $3,000,000 proposed by the House.

Departmental Management

Office for Civil Rights

Amendment No. 98: Appropriates $71,156,000 as proposed by the Senate instead of $72,156,000 as proposed by the House.

General Departmental Management

Amendment No. 99: Appropriates $128,026,000 as proposed by the Senate instead of $128,813,000 as proposed by the House.

Amendment No. 100: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the Senate amendment which extends the availability of funds, included in the First Supplemental Appropriation Act for 1978 for expenses related to the takeover of the Tacoma Indian Hospital by the State of Washington.

Policy Research

Amendment No. 101: Appropriates $25,000,000 as proposed by the House instead of $27,000,000 as proposed by the Senate.

GENERAL PROVISIONS

Amendment No. 102: Reduces the total amount of budget authority provided in this Act for the Department of Health, Education, and Welfare by $1,000,000,000 as proposed by the House, instead of $2,000,000,000 as proposed by the Senate.

The conferees intend that reductions totaling $1 billion be made in the individual accounts covering the programs cited by the Inspector General in his report of March 31, 1978 as containing waste, fraud, and abuse. In other words, the Secretary of Health, Edu-

cation, and Welfare shall not spend more than the total allocated individually for these programs in this Act minus $1,000,000,000. The Secretary shall submit to Congress 30 days following enactment of this Act a plan showing the breakdown of this reduction among the individual programs, based on projected waste, fraud, and abuse savings in each program, and shall report to the Congress periodically on progress in achieving the goals identified in the plan.

Amendment No. 103: Reported in disagreement.

Amendment No. 104: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment which provides that no funds in the bill for the Department of Health, Education, and Welfare may be used to pay the compensation of experts or consultants (other than full-time employees) or organizations thereof, or to procure by contract the services of experts or consultants or organizations thereof, in excess of $194,000,000 during fiscal year 1979.

TITLE III—RELATED AGENCIES

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

Salaries and expenses

Amendment No. 105: Appropriates $648,000 as proposed by the House, instead of $683,000 as proposed by the Senate.

TITLE IV—GENERAL PROVISIONS

Amendment No. 106: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment which provides that no funds in the bill shall be used to pay the salary or expenses of any grant or contract recipient or agent acting for such recipient to engage in any activity designed to influence legislation or appropriations pending before the Congress.

Amendment No. 107: Deletes language proposed by the House which would have prohibited the use of funds in the bill in connection with the issuance, implementation, or enforcement of any rule, regulation, standard, guideline, recommendation, or order which includes any ratio, quota, or other numerical requirement related to race, creed, color, national origin, or sex, and which requires any individual or entity to take any action with respect to (1) the hiring or promotion policies or practices of such individual or entity, or (2) the admissions policies or practices of such individual or entity.

Amendment No. 108: Deletes language proposed by the House which would have provided that of the total budget authority provided in the bill, for payments not required by law, two percent shall be withheld from obligation and expenditure, provided that no single appropriation account, activity, or project can be reduced by more than five percent.

Amendment No. 109: Deletes language proposed by the Senate which would have prohibited the enforcement until May 1, 1979 of the recent cotton dust exposure standard promulgated by the Occupational Safety and Health Administration.

The conferees direct the Secretary of Labor and the Occupational Safety and Health Administration to conduct a study which reviews the technical standards relating to the occupational exposure to cotton dust in an effort to develop viable alternatives which are less costly and more technologically feasible. The study should also review the inflationary impact of these standards and the effect of the standards on the ability of the U.S. cotton and textile industry to compete with foreign industry.

The Secretary is directed to work with the National Academy of Sciences and the National Institute for Occupational Safety and Health in conducting this study.

The study should be submitted to the appropriate committees of the Congress no later than March 1, 1979.

Amendment No. 110: Deletes language proposed by the Senate which would have prohibited the use of funds in the bill in connection with the issuance, implementation, or enforcement of any rule, regulation, standard, guideline, recommendation, or order which includes any quota related to race, creed, color, national origin, or sex, and which requires any individual or entity to take any action with respect to the admissions policies or practices of any institution of higher education.

Amendment No. 111: Deletes language proposed by the Senate which would have prohibited the use of funds in the bill for expenses or activities of the National Commission on the International Year of the Child. The conferees are agreed, however, that no funds will be made available for the International Year of the Child until a definitive spending plan has been sent to the Appropriations Committees of Congress and approval received.

CONFERENCE TOTAL WITH COMPARISONS

The total new budget (obligational) authority for the fiscal year 1979 recommended by the Committee of Conference, with comparisons to the fiscal year 1978 amount, the 1979 budget estimates, and the House and Senate bills for 1979 follow:

New budget (obligational) authority, fiscal year 1978	$52,835,284,000
Budget estimates of new (obligational) authority, fiscal year 1979	57,338,938,000
House bill, fiscal year 1979	56,585,102,000
Senate bill, fiscal year 1979	54,507,666,000
Conference agreement	56,054,029,000
Conference agreement compared with:	
New budget (obligational) authority, fiscal year 1978	+3,218,745,000
Budget estimates of new (obligational) authority, fiscal year 1979	−1,284,909,000
House bill, fiscal year 1979	−531,073,000
Senate bill, fiscal year 1979	+1,546,363,000

DANIEL J. FLOOD,
WILLIAM H. NATCHER,
NEAL SMITH,
EDWARD J. PATTEN,
DAVID R. OBEY,
EDWARD R. ROYBAL,
LOUIS STOKES,
GEORGE MAHON,
ROBERT H. MICHEL
(except as to amendments 4, 50–54, 107, 108, and PHS positions),
SILVIO O. CONTE,
GEORGE M. O'BRIEN,
ELFORD A. CEDERBERG
(except for amendments 4, 107, and 108),
Managers on the Part of the House.

WARREN G. MAGNUSON,
WILLIAM PROXMIRE,
ERNEST F. HOLLINGS,
TOM EAGLETON
(with exception to the abortion language),
BIRCH BAYH,
LAWTON CHILES,
QUENTIN N. BURDICK,
DANIEL K. INOUYE,
EDWARD W. BROOKE,
CLIFFORD P. CASE,
RICHARD S. SCHWEIKER,
CHARLES MCC. MATHIAS, JR.,
MILTON R. YOUNG,
Managers on the Part of the Senate.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. BROYHILL (at the request of Mr. MICHEL), for today, on account of official business.

Mr. COTTER (at the request of Mr. WRIGHT), for today, on account of official business.

Mr. MURPHY of Illinois (at the request of Mr. WRIGHT), for today, on account of holding hearings of the Select Committee on Narcotics Abuse and Control.

Mr. RODINO (at the request of Mr. WRIGHT), for today, on account of illness in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. BEILENSON) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes today.

Mr. GONZALEZ, for 5 minutes, today.

Mr. BROWN of California, for 10 minutes, today.

Mr. CONYERS, for 5 minutes, today.

Mr. OTTINGER, for 5 minutes, today.

Mr. METCALFE, for 5 minutes, today.

Mr. PEPPER, for 5 minutes, today.

Mr. BENNETT, for 30 minutes October 10, October 11, October 12.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. GILMAN, to revise and extend his remarks and include extraneous material during consideration of House Resolution 1365, the rule on H.R. 12161, today.

Mr. SOLARZ, and to include extraneous matter notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $1,386.

(The following Members (at the request of Mr. LEACH) and to include extraneous matter:)

Mr. MCCLORY.
Mr. WYDLER.
Mr. DERWINSKI.
Mr. DEVINE.
Mr. STEERS.
Mr. SNYDER.
Mr. WHALEN.
Mr. WAMPLER.
Mr. MOORHEAD.
Mr. FRENZEL in three instances.
Mr. SYMMS.
Mr. PRESSLER.

(The following Members (at the request of Mr. BEILENSON) and to include extraneous matter:)

Mr. BROWN of California.
Mr. ANDERSON of California in three instances.
Mr. GONZALEZ in three instances.
Mr. RODINO in three instances.
Mr. DENT.
Mr. APPLEGATE.
Mr. SISK in two instances.

Mr. FISHER.
Mrs. SCHROEDER.
Mr. MARKEY.
Mr. EILBERG in 10 instances.
Mr. PEPPER.
Mrs. MEYNER.
Mr. WOLFF.
Mr. MCDONALD.
Mr. BRECKINRIDGE.
Mr. WON PAT.
Mr. ICHORD.
Mr. POAGE.
Mr. GLICKMAN.
Mr. RYAN.
Mr. MINETA.
Mr. SHARP.
Mr. SOLARZ.
Mr. DERRICK.

ENROLLED BILLS SIGNED

Mr. THOMPSON, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 9370. An act to provide for the development of aquaculture in the United States, and for other purposes;

H.R. 10600. An act for the relief of Thomas Joseph Hunter and Rose Hunter;

H.R. 13797. An act to authorize establishment of the Fort Scott National Historic Site, Kansas, and for other purposes;

H.R. 13991. An act to provide for the United States to hold in trust for the Susanville Indian Rancheria of Lassen County, Calif., approximately 120 acres of land; and

H.R. 14026. An act to provide means for the acquisition and retention of title to certain lands by the village corporation organized pursuant to the Alaska Native Claims Settlement Act for the Natives of the village of Kake, Alaska, and for other purposes.

ADJOURNMENT

Mr. BEILENSON. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 22 minutes p.m.), under its previous order, the House adjourned until Tuesday, October 10, 1978, at 10 o'clock a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

5103. A communication from the President of the United States, transmitting proposed supplemental appropriations for fiscal year 1979 for the Department of Energy (H. Doc. No. 95–394); to the Committee on Appropriations and ordered to be printed.

5104. A letter from the Inspector General of the Department of Health, Education, and Welfare, transmitting notice of the Department's intention to proceed to Phase III of Project Cross Check, which will match the Department of Defense active duty military employee file against the guaranteed student loan default file; to the Committee on Education and Labor.

5105. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a copy of Presidential Determination No. 78–18, and the justification therefor, suspending the provisions of section 620(x) of the Foreign Assistance Act of 1961 so as to permit the resumption of full military cooperation with Turkey, and making the necessary findings in support thereof, pursuant to section 13(a) of the International Security Assistance Act of 1978 (Public Law 95–384); to the Committee on International Relations.

5106. A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting a copy of an order entered in the case of an alien found admissible to the United States, pursuant to section 212(a)(28)(I)(ii) of the Immigration and Nationality Act; to the Committee on the Judiciary.

5107. A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, withdrawing a previously submitted order suspending deportation under the authority of section 244(a)(1) of the Immigration and Nationality Act, pursuant to section 244(c) of the act; to the Committee on the Judiciary.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. DENT: Committee on House Administration. House Resolution 1363. Resolution to provide funds for the investigations and studies to be conducted by the Committee on Post Office and Civil Service pursuant to House Resolution 1041 (Rept. No. 95–1731). Referred to the House Calendar.

Mr. DENT: Committee on House Administration. House Resolution 1364. Resolution providing for the further expenses of the Committee on Interstate and Foreign Commerce (Rept. No. 95–1732). Referred to the House Calendar.

Mr. STAGGERS: Committee on Interstate and Foreign Commerce. H.R. 14089. A bill to regulate interstate commerce with respect to parimutual wagering on horseracing, to maintain the stability of the horseracing industry, and for other purposes (Rept. No. 95–1733). Referred to the Committee of the Whole House on the State of the Union.

Mr. ULLMAN: Committee on Ways and Means. H.R. 10239. A bill to amend the Internal Revenue Code of 1954 to clarify the tax status of certain industrial development bonds issued to provide facilities for the furnishing of water including water used to cool thermal generating plants or to generate hydroelectric energy; with amendment (Rept. No. 95–1734). Referred to the Committee of the Whole House on the State of the Union.

Mr. JOHNSON of California: Committee on Public Works and Transportation. Report pursuant to section 302(b) of the Congressional Budget Act of 1974 (Rept. No. 95–1735). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee of conference. Conference report on H.R. 10587. (Rept. No. 95–1737). Ordered to be printed.

Mr. ROBERTS: Committee on Veterans' Affairs. Report pursuant to section 302(b) of the Congressional Budget Act of 1974 (Rept. No. 95–1738). Referred to the Committee of the Whole House on the State of the Union.

Mr. ULLMAN: Committee on Ways and Means. H.R. 13619. A bill to amend the Internal Revenue Code of 1954 to make technical corrections in the provisions relating to individual retirement plans; with amendment (Rept. No. 95–1739). Referred to the Committee of the Whole House on the State of the Union.

Mr. FLYNT: Committee on Standards of Official Conduct. Report in the matter of Representative Edward J. Patten (Rept. No. 95–1740). Referred to the House Calendar.

Mr. FLYNT: Committee on Standards of Official Conduct. House Resolution 1414. Resolution: Investigation pursuant to House Resolution 252 in re Representative Charles H. Wilson of California (Rept. No. 95–1741). Referred to the House Calendar.

Mr. FLYNT: Committee on Standards of Official Conduct. House Resolution 1415. Resolution: Investigation pursuant to House Resolution 252 in re Representative John J. McFall (Rept. No. 95–1742). Referred to the House Calendar.

Mr. FLYNT: Committee on Standards of Official Conduct. House Resolution 1416. Resolution: Investigation pursuant to House Resolution 252 in re Representative Edward R. Roybal (Rept. No. 95–1743). Referred to the House Calendar.

Mr. ULLMAN: Committee on Ways and Means. H.R. 13336. A bill to amend the Internal Revenue Code of 1954 to provide an exemption from withholding of tax on nonresident aliens for ship suppliers in respect of certain commissions paid to nonresident aliens; with amendment (Rept. No. 95–1744). Referred to the Committee of the Whole House on the State of the Union.

Mr. ULLMAN: Committee on Ways and Means. H.R. 13758. A bill to amend the Internal Revenue Code of 1954 to provide the same treatment, with respect to determination of sources of income, for interest paid by foreign branches of domestic banks and interest paid by foreign branches of domestic savings and loan institutions; with amendment (Rept. No. 95–1745). Referred to the Committee of the Whole House on the State of the Union.

Mr. FLOOD: Committee of conference. Conference report on H.R. 12929 (Rept. No. 95–1746). Ordered to be printed.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. EILBERG: Committee on the Judiciary. H.R. 12431. A bill for the relief of Yom, Chong Ok; with amendment (Rept. No. 95–1736). Referred to the Committee of the Whole House.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. DORNAN:

H.R. 14255. A bill to curb inflation by providing for the reduction of the annual rates of pay for Members of Congress and for certain appointed Federal officials, and for other purposes; to the Committee on Post Office and Civil Service.

By DORNAN (for himself, Mr. HANSEN, Mr. HYDE, Mr. MOORHEAD of California, Mr. LUKEN, Mr. BAUCUS, Mr. MOTTL, Mr. YOUNG of Florida, Mr. YOUNG of Alaska, Mr. BADHAM, Mr. DERWINSKI, Mr. DEVINE, Mr. LLOYD of California, Mr. HANNAFORD, Mr. PATTERSON of California, Mr. DON H. CLAUSEN, Mr. LAGOMARSINO, Mr. SYMMS, Mr. STOCKMAN, Mr. CUNNINGHAM, Mr. CARTER, Mr. MARRIOTT, Mr. KELLY, Mr. GUYER, and Mr. DUNCAN of Tennessee):

H.R. 14256. A bill to amend the Internal Revenue Code of 1954 to provide for tax reductions and reforms; jointly, to the Committees on Ways and Means, Government Operations, and Rules.

By Mr. DEL CLAWSON (for himself and Mr. BROWN of Ohio):

H.R. 14257. A bill to amend the Internal Revenue Code of 1954 to provide for tax reductions and reforms; to the Committee on Ways and Means.

By Mr. CONABLE:

H.R. 14258. A bill to amend the Intenal Revenue Code of 1954 to allow for the deductibility of certain local service charges when imposed in lieu of real property taxes; to the Committee on Ways and Means.

H.R. 14259. A bill to require that the Administrator of the Health Care Financing Administration be appointed by the President with the advice and consent of the Senate; jointly, to the Committees on Ways and Means, and Interstate and Foreign Commerce.

By Mr. DUNCAN of Tennessee:

H.R. 14260. A bill to direct the Secretary of Health, Education, and Welfare to make the medicaid and medicare programs more effective and efficient by utilizing, in the administration of such programs, a uniform system of medical terminology which is based on the standard system of medical terminology utilized by the medical profession; jointly, to the Committees on Ways and Means, and

By Mr. GREEN:

H.R. 14261. A bill to direct the Secretary of the Treasury to reimburse State and local governments for providing certain protection with respect to certain foreign diplomatic missions located in the United States and with respect to certain foreign officials; to the Committee on International Relations.

By Mr. HANLEY (for himself, Mr. BROYHILL, Mr. DOWNEY, Mr. GUYER, Mr. HUGHES, Mr. PATTISON of New York, and Mr. TREEN):

H.R. 14262. A bill to provide for an equitable procedure for establishing congressional districts; to the Committee on the Judiciary.

By Mr. LAFALCE:

H.R. 14263. A bill to amend the Federal Water Pollution Control Act relating to certain international treaties and agreements; to the Committee on Public Works and Transportation.

By Mr. ROGERS:

H.R. 14264. A bill to identify and assess the need for personnel to administer and implement environmental protection laws under the jurisdiction of the Environmental Protection Agency and the need for personnel to enable entities subject to such laws to company with the requirements of such laws and to provide authority for programs to be administered by the Secretary of Health, Education, and Welfare and the Administrator of the Environmental Protection Agency to assist in meeting the needs for such personnel, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. VANDER JAGT:

H.R. 14265. A bill providing that certain foreign losses which were economically incurred before December 31, 1975, will not be subject to the loss recapture rules of the Tax Reform Act of 1976; to the Committee on Ways and Means.

By Mrs. HOLT (for herself, Mr. BOWEN, Mr. CLEVELAND, Mr. CORCORAN of Illinois, Mr. ROBERT W. DANIEL, Jr., Mr. DAVIS, Mr. EDWARDS of Oklahoma, Mr. LEACH, Mr. MOORHEAD of California, Mr. PANETTA, Mr. QUAYLE, Mr. RUPPE, Mr. SNYDER, Mr. STEERS, Mr. TREEN, Mr. WINN, and Mr. YATRON):

H.R. 14266. A bill to improve the congressional budget process by the establishment in the House of Representatives of a two-step budget procedure for the consideration of a first required concurrent resolution on the budget to the Committee on Rules.

By Mr. McDADE:

H.R. 14267. A bill to provide for the elimination of inactive and overlapping Federal programs, to require authorizations of new budget authority for Government programs and activities at least every 4 years, to establish a procedure for zero-base review and evaluation of Government programs and activities every 4 years, to require disclosure of the projected costs and savings of actions proposed through bills and joint resolutions of the Congress, and for other purposes; to the Committee on Rules.

By Ms. MIKULSKI (for herself and Mr. STEERS):

H.R. 14268. A bill to amend title 4 of the United States Code to restrict the authority of any State or political subdivision to impose any income tax on any compensation paid to any individual who is not a domiciliary or resident of such State or political subdivision; to the Committee on the Judiciary.

By Mr. HUGHES (for himself, Mr. BAUCUS, Mr. BURGENER, Mr. CARR, Mr. EDGAR, Mrs. FENWICK, Mr. MCCORMACK, Mr. MURPHY of Pennsylvania, Mr. PANETTA, Mr. PATTERSON of California, Mr. SEIBERLING, Mr. STARK, Mr. VENTO, Mr. WEAVER, Mr. WINN, and Mr. WON PAT):

H.J. Res. 1162. Joint resolution proposing an amendment to the Constitution of the United States to provide that Members of the House of Representatives shall serve terms of 4 years and that such Members may not serve more than three consecutive terms; to the Committee on the Judiciary.

By Mr. JACOBS (for himself, Mr. KRUEGER, Mr. BOWEN, Mr. JONES of North Carolina, Mr. HUBBARD, Mr. D'AMOURS, Mr. MAZZOLI, Mr. NOWAK, Mr. JONES of Tennessee, Mrs. FENWICK, Mr. JENKINS, Mr. PRESSLER, Mr. BAFALIS, Mr. NATCHER, Mrs. SMITH of Nebraska, Mr. HAMMERSCHMIDT, and Mr. FINDLEY):

H.J. Res. 1163. Joint resolution to amend the Constitution of the United States to provide for balanced budgets and elimination of the Federal indebtedness; to the Committee on the Judiciary.

By Mr. VENTO (for himself, Mrs. SPELLMAN, Mr. BONKER, Mr. CORNWELL, Mr. HANLEY, Mr. YOUNG of Missouri, Mr. WALSH, Mr. LEDERER, Mr. BENJAMIN, and Mr. STOCKMAN):

H.J. Res. 1164. Joint resolution to direct the Civil Aeronautics Board to disapprove any renewal and terminate any effect of the Airlines Mutual Aid Pact and to provide for a study and report on alleviating airline strikes; to the Committee on Public Works and Transportation.

By Mr. FLYNT:

H. Res. 1414. Resolution, investigation pursuant to House Resolution 252 in re Representative Charles H. Wilson of California.

H. Res. 1415. Resolution, investigation pursuant to House Resolution 252 in re Representative John J. McFall.

H. Res. 1416. Resolution investigation pursuant to House Resolution 252 in re Representative Edward R. Roybal.

MEMORIALS

Under clause 4 of rule XXII,

494. The SPEAKER presented a memorial of the Senate of the Commonwealth of Pennsylvania, relative to the Community Services Administration's program of grants to low-income families to meet unpaid energy and utility bills and related expenses; to the Committee on Education and Labor.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. EDWARDS of Oklahoma introduced a bill (H.R. 14269) for the relief of Regina O. Marcelino, which was referred to the Committee on the Judiciary.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 10909

By Mr. ROGERS:

—Page 5, strike out "(1)" in line 20.

Page 6, line 1, strike out "(A)" and insert in lieu thereof "(1)", line 4, strike out "(B)" and insert in lieu thereof "(2)", line 8, strike out "(C)" and insert in lieu thereof "(3)".

Page 6, strike out line 11 and all that follows through line 8 on page 7 and insert in lieu thereof the following:

"(4) prescribe qualifications for the following categories of clinical laboratory personnel: Directors and other supervisory personnel of clinical laboratories, laboratory technical personnel, and any other category of laboratory personnel for which, as determined by the Secretary, the prescription of qualifications is appropriate, which qualifications (A) shall include alternative requirements for each such category of laboratory personnel, (B) may include within the alternative requirements for any such category requirements of training, experience, examination, and education, (C) shall include within the alternative requirements for each such category a requirement which does not include an education requirement, (D) shall include requirements designed to insure the continued competency of the personnel subject to the requirements, and (E) shall take into account advances in the sciences and improvements in the technology used in laboratory testing which may require specialty personnel, and

Page 7, line 9, strike out "(G)" and insert in lieu thereof "(5)".

Page 7, strike out lines 13 through 21.

Page 8, beginning in line 10, strike out "done" and insert in lieu thereof "conducted on an unannounced basis but".

Page 9, line 8, strike out "10" and insert in lieu thereof "5".

Page 10, in lines 1 and 7, strike out "technologists" and insert in lieu thereof "laboratory technical personnel".

Page 13, beginning in line 3 strike out "directors, supervisory personnel, technologists, or technicians in clinical laboratories" and insert in lieu thereof "directors and other supervisory personnel of clinical laboratories and laboratory technical personnel".

Page 20, line 24, strike out "10" and insert in lieu thereof "5".

Page 23, line 5, strike out "10" and insert in lieu thereof "5".

Page 24, line 23, strike out "who" and insert in lieu thereof "who knowingly or willfully".

Page 25, beginning in line 23 strike out "significant hazard to the public health" and insert in lieu thereof "substantial risk of illness or injury".

Page 28, insert after the period in line 25 the following: "Such thirty-day period shall be tolled during the pendency of any grievance procedure or effort at conference, conciliation, or mediation respecting such discharge or discrimination."

Page 35, line 4, strike out ", technologists, and technicians" and insert in lieu thereof "and laboratory technical personnel".

Page 35, line 25, strike out "technical".

Page 36, line 1, strike out "laboratory personnel" and insert in lieu thereof "laboratory technical personnel".

Page 33, insert after line 21 the following:

"ADMINISTRATION OF SECTION

"SEC. 378. (a) There is established in the Department of Health, Education, and Welfare an advisory council on clinical laboratories which shall advise, consult with, and make recommendations to, the Secretary with respect to—

"(1) national standards promulgated under section 371,

"(2) the implementation and administration of this part, and

"(3) coordination between the enforcement of this part and clinical laboratory regulatory programs of States with primary enforcement responsibility for the purpose of avoiding duplicate enforcement.

The advisory council shall be composed of individuals who, as a result of their training, experience, or attainments, are well qualified to assist in carrying out the functions of the advisory council. The membership shall include representatives of nationally recognized laboratory accrediting entities; directors of State laboratory licensing programs; owners, operators, and directors of laboratories; members of professional and other associations concerned with laboratories and laboratory personnel; representatives of laboratories which are engaged in research; representatives of hospitals; and members of the public; and, as ex officio members the designated representatives of the Secretary of Health, Education, and Welfare, the Secretary of Defense, and the Administrator of Veterans Affairs. The Secretary shall make appointments to the advisory council in such a manner that the membership is fairly representative of the interests described in the preceding sentence. Members of the advisory council to be appointed from the public shall be individuals who are not employed by, or do not receive (either directly, or through a spouse) any income from, clinical laboratories or any entity which is a supplier of clinical laboratories. Section 222(b) shall apply with respect to members of the advisory council.

"(b) The Secretary shall establish, within the Department of Health, Education, and Welfare, an Office of Clinical Laboratories which shall establish a uniform regulatory policy for the administration, implementation, and enforcement of this part and the laboratory certification and regulatory functions administered under the Federal Food, Drug, and Cosmetic Act and titles XVIII and XIX of the Social Security Act.

Page 33, line 23, strike out "378" and insert in lieu thereof "379".

Page 43, line 4, strike out "AMENDMENT" and insert in lieu thereof "AMENDMENTS".

Page 43, insert after line 4 the following:

SEC. 201. (a) The first sentence of section 1123(a) of the Social Security Act is amended by striking out "1977" and inserting in lieu thereof "1979".

Page 43, line 5, strike out "SEC." and insert in

H.R. 11545

By Mr. GIBBONS:

—Pages 14 and 15, strike all of the language in subsection (g) and insert in lieu thereof:

(g) The President may suspend any proclamation made under subsection (f), or increase the total quantity proclaimed under such subsection, if he determines and proclaims that—

(1) such action is required by overriding economic or national security interests of the United States, giving special weight to the importance to the Nation of the economic well-being of the domestic livestock industry;

(2) the supply of articles of the kind described in subsection (b)(2) will be inadequate to meet domestic demand at reasonable prices; or

(3) trade agreements entered into after the date of the enactment of this Act ensure that the policy set forth in subsections (c) and (d) will be carried out.

Any such suspension shall be for such periods, and any such increase shall be in such amount, as the President determines and proclaims to be necessary to carry out the purposes of this subsection.

—Pages 14 and 15, strike all of the language in subsection (g) and insert in lieu thereof:

(g) The President may suspend any proclamation made under subsection (f), or increase the total quantity proclaimed under such subsection, if he determines and proclaims that—

(1) such action is required by overriding economic or national security interests of the United States, giving special weight to the importance to the Nation of the economic well-being of the domestic livestock industry;

(2) the supply of articles of the kind described in subsection (b)(2) will be inadequate to meet domestic demand at reasonable prices; or

(3) trade agreements entered into after the date of the enactment of this Act ensure that the policy set forth in subsections (c) and (d) will be carried out.

Any such suspension shall be for period of one year, and any such increase shall be in such amount, as the President determines and proclaims to be necessary to carry out the purpose of this subsection.

—Page 14, line 3, strike "1,200,000,000" and insert in lieu thereof "1,300,000,000".

—Page 14, line 3, strike "1,200,00,000" and insert in lieu thereof "1,250,000,000".

—Pages 14 and 15, strike all of the language in subsection (g) and insert in lieu thereof:

(g) The President may suspend any proclamation made under subsection (f), or increase the total quantity proclaimed under such subsection, if he determines and proclaims that—

(1) such action is required by overriding economic or national security interests of the United States, giving special weight to the importance to the Nation of the economic well-being of the domestic livestock industry;

(2) the supply of articles of the kind described in subsection (b)(2) will be inadequate to meet domestic demand at reasonable prices; or

(3) trade agreements entered into after the date of the enactment of this Act ensure that the policy set forth in subsections (c) and (d) will be carried out.

Any such suspension shall be for a period of 6 (six) months and any such increase shall be in such amount, as the President determines and proclaims to be necessary to carry out the purposes of this subsection.

—Pages 14 and 15, strike all of the language in subsection (g) and insert in lieu thereof:

(g) The President may increase the total quantity proclaimed under subsection (f), if he determines and proclaims that—

(1) such action is required by overriding economic or national security interests of the United States, giving special weight to the importance to the Nation of the economic well-being of the domestic livestock industry;

(2) the supply of articles of the kind described in subsection (b)(2) will be inadequate to meet domestic demand at reasonable prices; or

(3) trade agreements entered into after the date of the enactment of this Act ensure that the policy set forth in subsections (c) and (d) will be carried out.

Any such suspension shall be for such periods, and any such increase shall be in such amount, as the President determines and proclaims to be necessary to carry out the purposes of this subsection.

—Pages 14 and 15, strike all of the language in subsection (g) and insert in lieu thereof:

(g) The President may suspend any proclamation made under subsection (f), or increase the total quantity proclaimed under such subsection, if he determines and proclaims that—

(1) such action is required by overriding economic or national security interests of the United States, giving special weight to the importance to the Nation of the economic well-being of the domestic livestock industry;

(2) the supply of articles of the kind described in subsection (b)(2) will be inadequate to meet domestic demand at reasonable prices; or

(3) trade agreements entered into after the date of the enactment of this Act ensure that the policy set forth in subsections (c) and (d) will be carried out.

Any such suspension shall be for such periods, and any such increase shall be in such amount, as the President determines and proclaims to be necessary to carry out the purposes of this subsection.

Any such suspension shall be immediately reported to the Congress and such suspension may be overriden by the adoption of a joint resolution.

H.R. 11922

By Mr. GOODLING:

—Page 13, strike out line 11 and all that follows through page 18, line 6, and redesignate the following sections accordingly.

—Page 18, line 8, strike out "601(a)" and insert in lieu thereof "501(a)".

—Page 18, beginning on line 9, strike out ", as so redesignated in section 6(a),".

—Page 18, line 14, strike out "601(a)" and insert in lieu thereof "501(a)".

—Page 19, beginning on line 1, strike out ", as so redesignated in section 6(a),".

—Page 19, line 4, strike out "601(a)" and insert in lieu thereof "501(a)".

—Page 19, beginning on line 5, strike out ", as so redesignated in section 6(a),".

—Page 19, line 10, strike out "603" and insert in lieu thereof "503".

—Page 19, line 11, strike out ", as so redesignated in section 6(a),".

—Page 19, line 15, strike out "605" and insert in lieu thereof "505".

—Page 19, line 16, strike out ", as so redesignated in section 6(a),".

—Page 15, after line 14, insert the following new subsection:

(d) The Director, in awarding grants to sponsor agencies in a State for any fiscal year, shall require that 50 percent of the funds made available under such grants shall be used for programs in rural areas of such State.

—Page 13, line 11, insert "and Rural" after "Urban".

—Page 13, line 20, insert "AND RURAL" after "URBAN".

—Page 13, line 25, insert "and rural" after "urban".

—Page 14, line 6, insert "and rural areas" after "neighborhoods".

—Page 14, line 17, insert "and rural" after "Urban".

—Page 14, line 25, insert "or rural" after "urban".

—Page 15, line 20, insert "or rural areas" after "area".

—Page 17, line 16, insert "and rural" after "Urban".

—Page 18, in the matter following line 3, strike out the item relating to title V and insert the following new item:

"TITLE V—URBAN AND RURAL VOLUNTEER PROGRAMS

—Page 18, in the matter following line 3, strike out the item relating to section 604 and insert the following new item:

"Sec. 604. Urban and rural volunteer programs.

—Page 15, line 10, insert after the period the following:

The Director shall not establish any minimum population requirement applicable to jurisdictions served by sponsoring agencies submitting applications under subsection (a).

—Page 17, beginning on line 20, strike out "The sums appropriated" and all that follows through "such title" on line 23, and insert in lieu thereof the following: "No funds appropriated pursuant to this section or section 605 of this Act for any fiscal year shall

be available for use by the Director in administering the provisions of title V of this Act.".

—Page 17, beginning on line 20, strike out "The sums appropriated" and all that follows through "such title" on line 23, and insert in lieu thereof the following: "No funds appropriated pursuant to this section for any fiscal year shall be available for use by the Director in administering the provisions of title V of this Act. Not more than 1 percent of the funds appropriated pursuant to section 605 of this Act for any fiscal year shall be available for use by the Director in administering the provisions of title V of this Act.".

—Page 15, after line 14, insert the following:

"(d) Notwithstanding the provisions of section 402(2) of this Act, the Director shall not have any authority to employ experts or consultants, or organizations thereof, in connection with carrying out the provisions of this title.

—Page 15, after line 7, insert the following:

"(b) No funds received by a sponsor agency under this section may be used for—

"(1) any administrative costs arising in connection with any program carried out by such agency under the grant or contract involved; or

"(2) the purchase or leasing of any supplies, other than materials, tools, and supplies specified in subsection (a)(2)(B).

—Page 15, line 8, strike out "(b)" and insert in lieu thereof "(c)".

—Page 15, line 11, strike out "(c)" and insert in lieu thereof "(d)".

—Page 13, beginning on line 24, strike out "help relieve the serious social and economic decline of" and insert in lieu thereof "establish programs designed to provide necessary assistance to older persons residing in".

—Page 14, beginning on line 5, strike out "and to halt and reverse the decline of municipal services and the deterioration of neighborhoods" and insert in lieu thereof "in order to carry out programs designed to provide necessary assistance to older persons".

—Page 14, line 22, insert "in connection with the provision of necessary assistance to older persons" after "groups".

—Page 15, line 3, strike out "improvement" and insert after "projects" the following: "designed to provide necessary assistance to older persons".

—Page 15, line 5, strike out ", tools,".

—Page 15, line 6, strike out "improvement".

—Page 15, line 7, insert after "projects" the following: "designed to provide necessary assistance to older persons".

—Page 17, line 17, insert "(a)" after "Sec. 604.".

—Page 17, line 23, strike out the quotation marks and the period following the quotation marks.

—Page 17, after line 23, insert the following:

"(b) No funds appropriated under subsection (a) for any fiscal year may be obligated or expended for any development, program, management, or consultant activity under title V if the amount appropriated for such fiscal year under section 602(a) to carry out part A of title II is less than $30,000,000.".

—Page 17, line 17, insert "(a)" after "Sec. 604.".

—Page 17, line 23, strike out the quotation marks and the period following the quotation marks.

—Page 17, after line 23, insert the following:

"(b) No funds appropriated under subsection (a) for any fiscal year may be obligated or expended for any development, program, management, or consultant activity under title V if the amount appropriated for such fiscal year under section 602(b)(1)(A) to carry out section 211(a) is less than $40,000,000.".

—Page 17, line 17, insert "(a)" after "Sec. 604.".

Page 17, line 23, strike out the question marks and the period following the quotation marks.

Page 17, after line 23, insert the following:

"(b) No funds appropriated under subsection (a) for any fiscal year may be obligated or expended for any development, program, management, or consultant activity under title V if the amount appropriated for such fiscal year under section 602(b)(1)(B) to carry out section 211(b) is less than $15,000,000.".

—Page 16, after line 21, insert the following:

"ANNUAL REPORTS

"SEC. 505. The Director shall submit a report regarding the administration of this title to the President and to the Congress as soon as practicable after the end of each fiscal year. Each such report shall—

"(1) include a detailed statement of activities carried out under each grant or contract made by the Director during the fiscal year involved; and

"(2) list the name and address of each person receiving a grant from, or entering into a contract with, the Director during such fiscal year.

Page 16, line 23, strike out "Sec. 505." and insert in lieu thereof "Sec. 506.".

Page 18, in the matter following line 1, strike out the item relating to section 505 and insert in lieu thereof the following:

"Sec. 505. Annual reports.

"Sec. 506. Definitions.

—Page 15, line 2, insert after "volunteers" the following: "(in amounts of not more than $50 for each volunteer)".

—Page 15, after line 10, insert the following:

"(c) The Director shall establish, by regulation, specific criteria relating to the types of materials, tools, and supplies which may be obtained under subsection (a)(2)(B) and the purposes for which such materials, tools, and supplies may be used. Such criteria shall include a requirement that volunteers and neighborhood groups shall obtain the approval of the sponsor agency before using any funds provided under this section for the acquisition of such materials, tools, and supplies.

Page 15, line 11, strike out "(c)" and insert in lieu thereof "(d)".

—Page 17, line 17, insert "(a)" after "SEC. 604.".

Page 17, line 23, strike out the quotation marks and the period following the quotation marks.

Page 17, after line 23, insert the following:

"(b)(1) No funds appropriated under subsection (a) for fiscal year 1979 may be obligated or expended to carry out title V if the amount appropriated for such fiscal year under section 602 to carry out title II is less than $72,600,000.

"(2) No funds appropriated under subsection (a) for fiscal year 1980 may be obligated or expended to carry out title V if the amount appropriated for such fiscal year under section 602 to carry out title II is less than $75,000,000.".

—Page 17, line 17, insert "(a)" after "SEC. 604.".

Page 17, line 23, strike out the quotation marks and the period following the quotation marks.

Page 17, after line 23, insert the following:

"(b) Of the amounts appropriated under subsection (a) for any fiscal year—

"(1) $10,000,000 shall be made available by the Director for projects which are designed for the sole purpose of providing assistance to older persons residing in urban areas; and

"(2) $10,000,000 shall be made available by the Director for project which are designed for the sole purpose of providing assistance to older persons residing in rural areas.".

—Page 9, after line 5, insert the following new section (and redesignate the following sections and references to sections accordingly):

ASSIGNMENT OF VOLUNTEERS

SEC. 2. (a) The first sentence of section 103(d) of the Domestic Volunteer Service Act of 1973 is amended—

(1) by inserting "and to the chief elected official or the governing body of the unit of general local government (in any case in which there is no chief elected official) of the locality concerned," after "of the State concerned,"; and

(2) by striking out "him" and inserting in lieu thereof "them".

(b) The last sentence of section 103(d) of the Domestic Volunteer Service Act of 1973 is amended by inserting ", or by the chief elected official or the governing body of the unit of general local government (in any case in which there is no chief elected official) of the locality concerned," after "the State concerned" each place it appears therein.

—Page 15, line 18, insert "Governor or other chief executive officer of the State concerned and the" before "chief elected official".

Page 15, line 21, strike out "is" and insert in lieu thereof "are".

Page 15, line 24, strike out "concurs" and insert in lieu thereof "concur".

Page 16, line 1, insert "Governor or other chief executive officer, and such" before "official", and insert a comma after "body".

Page 16, line 3, insert "Governor or other chief executive officer, and such" before "official", insert a comma after "body", and strike out "receives" and insert in lieu thereof "receive".

Page 16, line 6, insert "Governor or other chief executive officer, and such" before "official", insert a comma after "body", and strike out "fails" and insert in lieu thereof "fail".

Page 16, line 6, insert "Governor or other chief executive officer, or the" before "official".

Page 16, line 7, insert ", as the case may be," after "body".

—Page 10, after line 9, insert the following new section (and redesignate the following sections and references to sections accordingly):

APPROVAL OF PROJECTS

SEC. 4. (a) Title I of the Domestic Volunteer Service Act of 1973 is amended by adding at the end thereof the following new part:

"PART D—GENERAL PROVISIONS

"APPROVAL OF PROJECTS

"SEC. 131. No program or project may be approved under this title by the Director unless such program or project has been submitted to the Governor or other chief executive officer of the State concerned, and to the chief elected official or the governing body of the unit of general local government (in any case in which there is no chief elected official) of the locality concerned, and has not been disapproved by them within 45 days of such submission.".

(b) The table of contents for the Domestic Volunteer Service Act of 1973 is amended by inserting after the item relating to section 123 the following new items:

"PART D—GENERAL PROVISIONS

"Sec. 131. Approval of projects.".

—Page 10, after line 14, insert the following new section (and redesignate the following sections accordingly):

APPROVAL OF PROJECTS

SEC. 5. (a) Title III of the Domestic Volunteer Service Act of 1973 is amended by adding at the end thereof the following new section:

"APPROVAL OF PROJECTS

"SEC. 303. No program or project may be approved under this title by the Director

unless such program or project has been submitted to the Governor or other chief executive officer of the state concerned, and to the chief elected official or the governing body of the unit of general local government (in any case in which there is no chief elected official) of the locality concerned, and has not been disapproved by them within 45 days of such submission.".

(b) The table of contents for the Domestic Volunteer Service Act of 1973 is amended by inserting after the item relating to section 302 the following new items:

"Sec. 303. Approval of projects.".

—Page 14, line 10, strike out "for" and insert in lieu thereof "to provide not more than 50 percent of the cost of."

Page 15, after line 14, insert the following:

"(d) The non-Federal contribution to the cost of any volunteer program carried out under this title shall be in cash.

—Page 14, line 10, strike out "for" and insert in lieu thereof "to provide not more than 75 percent of the cost of."

Page 15, after line 14, insert the following:

"(d) The non-Federal contribution to the cost of any volunteer program carried out under this title shall be in cash.

—Page 14, line 10, strike out "for" and insert in lieu thereof "to provide not more than 90 percent of the cost of."

Page 15, after line 14, insert the following:

"(d) The non-Federal contribution to the cost of any volunteer program carried out under this title shall be in cash.

—Page 17, line 18, strike out "$40,000,000 for each of the fiscal years 1979 and 1980" and insert in lieu thereof "$5,000,000 for fiscal year 1979".

—Page 17, line 18, strike out "$40,000,000 for each of the fiscal years 1979 and 1980" and insert in lieu thereof $10,000,000 for fiscal year 1979."

—Page 17, line 18, strike out $40,000,000 for each of the fiscal years 1979 and 1980" and insert in lieu thereof "$15,000,000 for fiscal year 1979".

—Page 13, beginning on line 22, strike out "This title" and all that follows through "urban areas." on line 25, and insert in lieu thereof the following: "This title provides for programs of volunteer services to help elderly citizens.".

—Page 13, beginning on line 25, strike out "The" and all that follows through page 14, line 6.

—Page 14, strike out line 7 and line 8.

—Page 14, strike out line 16 and all that follows through page 15, line 17, and insert in lieu thereof the following: "programs shall be designed to carry out projects to provide grants, not to exceed $15,000, to a sponsor agency in urban or rural areas which serves to improve the community.".

—Page 14, strike out line 17 through line 22 and insert in lieu thereof the following:

"(1) a program for volunteers possessing specific skills to help local governments meet the needs of the elderly; and

—Page 14, line 16, strike out "be comprised of".

Page 14, beginning on line 17, strike out "a program, which shall be called the Urban Service Corps, which shall".

Page 14, line 23, insert "include" before "a program".

Page 14, beginning on line 23, strike out "which shall be called the Neighborhood Volunteer Fund".

—Page 14, beginning on line 18, strike out "which shall establish projects in urban areas which mobilize part-time" and insert in lieu thereof "for".

—Page 14, line 20, strike out "on a request-for-service basis".

—Page 14, beginning on line 20, strike out "in order to attempt to match specific needs of local governments and neighborhood groups".

—Page 14, beginning on line 21, strike out "and neighborhood groups".

—Page 14, beginning on line 23, strike out "a program, which shall be called the Neighborhood Volunteer Fund, to".

—Page 14, line 25, strike out "$15,000" and insert in lieu thereof "$2,000".

—Page 14, line 25, strike out "$15,000" and insert in lieu thereof "$3,000".

—Page 14, line 25, strike out "$15,000" and insert in lieu thereof "$4,000".

—Page 14, line 25, strike out "$15,000" and insert in lieu thereof "$5,000".

—Page 14, line 25, strike out "in an urban area".

—Page 15, beginning on line 1, strike out "(A) reimburse" and all that follows through "and (B)" on line 4.

—Page 15, beginning on line 3, strike out "; and (B)" and all that follows through "projects" on line 7.

—Page 14, beginning on line 15, strike out "Such programs" and all that follows through page 15, line 7, and insert in lieu thereof the following:

Each such program shall—

"(1) establish projects in urban or rural areas which mobilize part-time volunteers who possess specific skills on a request-for-service basis in order to attempt to match specific needs of local governments in connection with the provision of necessary assistance to older persons; and

"(2) provide grants, not to exceed $15,000, to a sponsor agency in an urban or rural area, which such sponsor agency may use to—

"(A) reimburse the out-of-pocket expenses of volunteers working on neighborhood and community projects designed to provide necessary assistance to older persons; and

"(B) provide volunteers and neighborhood groups with the materials and supplies necessary to carry out neighborhood and community projects designed to provide necessary assistance to older persons.

—Page 15, after line 14, insert the following:

"(d) In order to encourage efficiencies, avoid duplication, close unnecessary service gaps, and generally promote more effective administration, the Director shall require that programs assisted under this title shall be carried out so as to supplement other programs which provide assistance to older persons.

—Page 15, line 8, insert "(1)" after "(b)".

Page 15, line 8, strike out "The" and insert in lieu thereof "Subject to the provisions of paragraph (2), the".

Page 15, line 10, insert after the period the following: "The Director shall transmit to each House of the Congress and regulation prescribed by the Director under this paragraph.

Page 15, after line 10, insert the following:

"(2)(A) Any regulation prescribed by the Director under paragraph (1) shall not be effective unless, during the first period of 60 calendar days of continuous session of the Congress after the date of transmittal to the Congress, both Houses of the Congress pass a concurrent resolution the matter after the resolving clause of which reads as follows: 'The Congress hereby approves the proposed regulation transmitted by the Director of the ACTION Agency to the Congress on , 19 .'

"(B) For purposes of this paragraph—

"(i) continuity of session of the Congress is broken only by an adjournment sine die; and

"(ii) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of the 60-day period."

—Page 15, line 20, strike out "urban".

—Page 16, line 3, strike out "thirty" and insert in lieu thereof "forty".

—Page 16, line 3, strike out "thirty" and insert in lieu thereof "fifty".

—Page 16, line 3, strike out "thirty" and insert in lieu thereof "sixty".

—Page 16, line 3, strike out "thirty" and insert in lieu thereof "seventy".

—Page 16, beginning on line 6, strike out "the official or governing body shall be deemed to have concurred in the project" and insert in lieu thereof "then the project may not be approved by the Director".

—Page 13, line 12, insert "(1)" after "(a)".

Page 17, after line 5, insert the following new paragraph:

(2) The provisions of title V of the Domestic Volunteer Service Act of 1973, as added by paragraph (1), are repealed effective at the close of September 30, 1979.

Page 17, line 18, strike out "each of the fiscal years 1979 and 1980" and insert in lieu thereof "fiscal year 1979".

—Page 16, after line 21, insert the following:

"POLITICAL ACTIVITIES

"Sec. 505. (a) No part of any funds appropriated to carry out this title shall be used to finance, directly or indirectly, any activity designed to influence the outcome of any election to Federal officer or any voter registration activity, or to pay the salary of any officer or employee who, in his official capacity as such an officer or employee, engages in any such activity.

"(b) For purposes of this section, the terms 'election' and 'Federal office' have the meanings given them in section 301 of the Federal Election Campaign Act of 1971.

Page 16, line 23, strike out "Sec. 505." and insert in lieu thereof "Sec. 506.".

Page 18, in the matter following line 3, strike out the item relating to section 505 and insert in lieu thereof the following:

"Sec. 505. Political activities.

"Sec. 506. Definitions.

—Page 13, strike out line 5 and all that follows through line 10 and insert in lieu thereof the following: "Act of 1973 is amended—

"(1) by striking out 'or political affiliation' and inserting in lieu thereof 'political affiliation, or handicap'; and

"(2) by adding at the end thereof the following new sentence: 'For the purposes of this section, and for the purposes of title VI of the Civil Rights Act of 1964, programs or activities receiving the services of volunteers shall be deemed to be receiving Federal financial assistance.'.".

—Page 16, after line 21, insert the following:

"PROHIBITION OF CERTAIN ACTIVITIES

"Sec. 505. Each sponsor agency shall provide assurances to the Director that no employee of such agency, and no volunteer participating in any project under this title under the direction of such agency, while carrying out any activities under this title, shall engage in, or encourage others to engage in—

"(1) any rioting or civil disturbance;

"(2) any activity which is in violation of any outstanding injunction of any court of competent jurisdiction; or

"(3) any other illegal activity.

—Page 16, line 23, strike out "Sec. 505." and insert in lieu thereof "Sec. 506.".

—Page 18, in the matter following line 3, strike out the item relating to section 505 and insert in lieu thereof the following:

"Sec. 505. Prohibition of certain activities.

"Sec. 506. Definitions.

—Page 16, after line 21, insert the following:

"REPAYMENT OF FEDERAL FUNDS

"Sec. 505. Whenever the Director, after giving reasonable notice and opportunity for hearing to any sponsor agency, finds that the project for which a grant or contract was received no longer complies with the provisions of this title, or with the relevant application as approved by the Director, the Director shall notify such sponsor agency of such findings and shall require such sponsor agency to make repayments to the Director in amounts equal to the amount of financial assistance provided to the sponsor agency for such project under this title. The Di-

rector may authorize the continuance of payments with respect to any project pursuant to this title which is being carried out by such sponsor agency and which is not involved in the noncompliance.

—Page 16, line 23, strike out "SEC. 505." and insert in lieu thereof "SEC. 506.".

—Page 18, in the matter following line 3, strike out the item relating to section 505 and insert in lieu thereof the following:

"Sec. 505. Repayment of Federal funds.
"Sec. 506. Definitions.

—Page 6, after line 8, insert the following new section (and redesignate the following sections accordingly):

MATCHING REQUIREMENTS

SEC. 504. The director may not waive in whole or in part any matching local contribution.

—Page 16, after line 21, insert the following:

"DURATION OF GRANTS AND CONTRACTS

"SEC. 505. Any grant or contract made by the Director under section 502 shall have a duration of not more than 1 year. The Director shall review each such grant or contract before its expiration and the Director shall have the authority to extend a grant or contract at the end of such 1-year period if the Director determines that such extension will further the purpose of this title.

—Page 26, line 23, strike out "SEC. 505." and insert in lieu thereof "SEC. 506.".

—Page 18, in the matter following line 3, strike out the item relating to section 505 and insert in lieu thereof the following:

"Sec. 505. Duration of grants and contracts.
"Sec. 506. Definitions.

—Page 16, after line 21, insert the following:

"DURATION OF GRANTS AND CONTRACTS

"SEC. 505. (a) Any grant or contract made by the Director under section 502 shall have a duration of not more than 1 year. The Director shall review each such grant or contract before its expiration and the Director shall have the authority to extend a grant or contract at the end of such 1-year period if the Director determines that such extension will further the purpose of this title.

"(b) The Director shall not have any authority to delegate the review of grants and contracts required in subsection (a) to any other officer or employee of the ACTION Agency.

—Page 16, line 23, strike out "Sec. 505." and insert in lieu thereof "Sec. 506.".

Page 18, in the matter following line 3, strike out the item relating to section 505 and insert in lieu thereof the following:

"Sec. 505. Duration of grants and contracts.
"Sec. 506. Definitions.

—Page 14, line 25, strike out "$15,000" and insert in lieu thereof "$10,000".

—Page 15, line 13, strike out "10 percent" and insert in lieu thereof "5 percent".

—Page 16, line 1, strike out "Such" and insert in lieu thereof "If such official or governing body concurs in the carrying out of the project, then such".

Page 16, line 7, strike out "concurred in" and insert in lieu thereof "disapproved".

—Page 16, after line 21, insert the following:

"CONGRESSIONAL REVIEW OF REGULATIONS

"SEC. 505. (a) Any regulation or guideline prescribed by the Director under this title shall be submitted to each House of the Congress not later than 120 days before such regulation or guideline is scheduled to take effect. No such regulation or guideline may take effect unless it is approved by both Houses of the Congress in accordance with subsection (b).

"(b)(1) Any regulation or guideline prescribed by the Director under this title shall not be effective unless, during the first period of 60 calendar days of continuous session of the Congress after the date of transmittal to the Congress, both Houses of the Congress pass a concurrent resolution the matter after the resolving clause of which reads as follows: 'The Congress hereby approves the proposed transmitted by the Director of the ACTION Agency to the Congress on , 19 .' (The first blank space shall be filled with a reference to the regulation or guideline involved and the second blank space shall be filled with the date of transmittal to the Congress.)

"(2) For purposes of this subsection—

"(A) continuity of session of the Congress is broken only by an adjournment sine die; and

"(B) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of the 60-day period.

—Page 16, line 23, strike out "SEC. 505." and insert in lieu thereof "SEC. 506.".

—Page 18, in the matter following line 3, strike out the item relating to section 505 and insert in lieu thereof the following:

"Sec. 505. Congressional review of regulations.
"Sec. 506. Definitions.

—Page 17, line 22, strike out "13 per centum" and insert in lieu thereof "1 per centum".

—Page 16, after line 21, insert the following:

"PROGRAM PLAN

"SEC. 505. (a) The Director shall prepare and publish in the Federal Register a program plan designed to implement the provisions of this title. The Director shall transmit such program plan to each House of the Congress for review under subsection (b) after such publication of the program plan in the Federal Register. The Director may not make any grants or enter into any contracts under section 502 until such program plan has taken effect in accordance with the provisions of this section.

"(b)(1) The program plan prepared by the Director under subsection (a) shall not be effective if, during the first period of 90 calendar days of continuous session of the Congress after the date of transmittal to the Congress, either House of the Congress adopts a resolution the matter after the resolving clause of which reads as follows: 'The proposed program plan transmitted by the Director of the ACTION Agency to the Congress on , 19 , is hereby disapproved.'

"(2) For purposes of this subsection—

"(A) continuity of session of the Congress is broken only by an adjournment sine die; and

"(B) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of the 60-day period.

—Page 16, line 23, strike out "Sec. 505." and insert in lieu thereof "Sec. 506.".

—Page 18, in the matter following line 3, strike out the item relating to section 505 and insert in lieu thereof the following:

"Sec. 505. Program plan.
"Sec. 506. Definitions.

—Page 16, after line 21, insert the following:

"CONSULTATION

"SEC. 505. The Director shall consult with the Secretary of Housing and Urban Development and with the Director of the Community Services Administration before prescribing rules to carry out the provisions of this title.

Page 16, line 23, strike out "Sec. 505." and insert in lieu thereof "SEC. 506.".

Page 18, in the matter following line 3, strike out the item relating to section 505 and insert in lieu thereof the following:

"Sec. 505. Consultation.
"Sec. 506. Definitions.

—Page 16, after line 21, insert the following:

"CONSULTATION WITH COMMISSIONER ON AGING

"SEC. 505. The Director shall consult with the Commissioner on Aging, and with directors of State agencies on aging and local area agencies on aging who are designated by the Commissioner on Aging, before prescribing any rule to carry out the provisions of this title which the Director determines will have any impact upon older persons.

—Page 16, line 23, strike out "SEC. 505." and insert in lieu thereof "Sec. 506.".

—Page 18, in the matter following line 3, strike out the item relating to section 505 and insert in lieu thereof the following:

"Sec. 505. Consultation with Commissioner on Aging.
"Sec. 506. Definitions.

—Page 15, line 16, insert "(a)" after "SEC. 503.".

Page 16, after line 8, insert the following:

"(b) In any case in which the Director intends to designate a particular sponsor agency as the agency which shall exercise primary responsibility with respect to the carrying out of projects under this title in an urban area, the Director shall—

"(1) consult with the chief elected official or the governing body of the unit of general local government (in any case in which there is no chief elected official) of such urban area with respect to such designation;

"(2) request such official or governing body, as the case may be, to submit a list of sponsor agencies in such urban area from which such designation may be made; and

"(3) make such designation from any list submitted by such official or governing body, as the case may be, under paragraph (2).

—Page 15, after line 14, insert the following:

"(d) The Director shall make available, through the regional and State offices of the ACTION Agency, technical assistance and other appropriate assistance to sponsor agencies, upon request, to assist them in carrying out projects under this title.

—Page 19, after line 19, insert the following new section (and redesignate the following section accordingly):

Transfer of RSVP Program to Administration on Aging

SEC. 8. (a)(1) Section 201(a) of the Domestic Volunteer Service Act of 1973 is amended by striking out "Director" and inserting in lieu thereof "Commissioner on Aging (hereinafter in this part referred to as the 'Commissioner')".

(2) Section 201(b) of the Domestic Volunteer Service Act of 1973 is amended by striking out "Director" each place it appears therein and inserting in lieu thereof "Commissioner".

(3) Section 201(c) of the Domestic Volunteer Service Act of 1973 is amended by striking out "Director" and inserting in lieu thereof "Commissioner".

(b)(1) Part C of title II of the Domestic Volunteer Service Act of 1973 is amended by adding at the end thereof the following new section:

"APPLICABILITY TO COMMISSIONER ON AGING

"Sec. 224. The provisions of this part shall be applicable to the Commissioner on Aging with respect to the administration of part A.".

(2) The table of contents for the Domestic Volunteer Service Act of 1973 is amended by inserting after the item relating to section 223 the following new item:

"Sec. 224. Applicability to Commissioner on Aging.".

(c)(1) All personnel, property, records, obligations, commitments, and unexpended balances of appropriations, authorizations, allocations, and other funds, which are employed, held, used, or available to the ACTION Agency in connection with the administration of part A of title II of the Domestic Volunteer Service Act of 1973 shall be transferred to the Administration on Aging. The transfer of personnel under this subsection shall be without reduction in classification or compensation for 1 year after such transfer, except that the Commissioner on Aging shall have full authority to

assign personnel during such 1-year period in order to efficiently carry out functions transferred to the Administration under this subsection.

(2) All orders, determinations, rules, regulations, contracts, and privileges relating to functions transferred in this section—

(A) which have been issued, made, granted, or allowed to become effective by the ACTION Agency; and

(B) which are in effect on the date of the enactment of this Act and which are not inconsistent with the provisions of this Act;

shall continue in effect according to their terms until modified, terminated, superseded, set aside or repealed by the Commissioner on Aging, by any court of competent jurisdiction, or by operation of law.

—Page 19, after line 19, insert the following new section (and redesignate the following section accordingly):

TRANSFER OF FOSTER GRANDPARENT PROGRAM TO ADMINISTRATION ON AGING

SEC. 8. (a)(1) Section 211(a) of the Domestic Volunteer Service Act of 1973 is amended—

(A) by striking out "Director" the first place it appears therein and inserting in lieu thereof "Commissioner on Aging (hereinafter in this part referred to as the 'Commissioner')"; and

(B) by striking out "Director" the second place it appears therein and inserting in lieu thereof "Commissioner".

(2) Section 212(a) of the Domestic Volunteer Service Act of 1973 is amended by inserting "or Commissioner, as the case may be," after "Director" each place it appears therein.

(b)(1) Part C of title II of the Domestic Volunteer Service Act of 1973 is amended by adding at the end thereof the following new section:

"APPLICABILITY TO COMMISSIONER ON AGING

"SEC. 224. The provisions of this part shall be applicable to the Commissioner on Aging with respect to the administration of section 211(a).".

(2) The table of contents for the Domestic Volunteer Service Act of 1973 is amended by inserting after the item relating to section 223 the following new item:

"SEC. 224. Applicability to Commissioner on Aging.".

(c)(1) All personnel, property records, obligations, commitments, and unexpended balances of appropriations, authorizations, allocations, and other funds, which are employed, held, used, or available to the ACTION Agency in connection with the administration of section 211(a) of the Domestic Volunteer Service Act of 1973 shall be transferred to the Administration on Aging. The transfer of personnel under this subsection shall be without reduction in classification or compensation for 1 year after such transfer, except that the Commissioner on Aging shall have full authority to assign personnel during such 1-year period in order to efficiently carry out functions transferred to the Administration under this subsection.

(2) All orders, determinations, rules, regulations, contracts, and privileges relating to functions transferred in this section—

(A) which have been issued, made, granted, or allowed to become effective by the ACTION Agency; and

(B) which are in effect on the date of the enactment of this Act and which are not inconsistent with the provisions of this Act;

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or repealed by the Commissioner on Aging, by any court of competent jurisdiction, or by operation of law.

—Page 19, after line 19, insert the following new section (and redesignate the following section accordingly):

TRANSFER OF SENIOR COMPANION PROGRAM TO ADMINISTRATION ON AGING

SEC. 8. (a)(1) Section 211(b) of the Domestic Volunteer Service Act of 1973 is amended by striking out "Director" and inserting in lieu thereof "Commissioner on Aging (hereinafter in this part referred to as the 'Commissioner')".

(2) Section 212(a) of the Domestic Volunteer Service Act of 1973 is amended by inserting "or Commissioner, as the case may be," after "Director" each place it appears therein.

(b)(1) Part C of title II of the Domestic Volunteer Service Act of 1973 is amended by adding at the end thereof the following new section:

"APPLICABILITY TO COMMISSIONER ON AGING

"SEC. 224. The provisions of this part shall be applicable to the Commissioner on Aging with respect to the administration of section 211(b).".

(2) The table of contents for the Domestic Volunteer Service Act of 1973 is amended by inserting after the item relating to section 223 the following new item:

"SEC. 224. Applicability to Commissioner on Aging.".

(c)(1) All personnel, property, records, obligations, commitments, and unexpended balances of appropriations, authorizations, allocations, and other funds, which are employed, held, used, or available to the ACTION Agency in connection with the administration of section 211(b) of the Domestic Volunteer Service Act of 1973 shall be transferred to the Administration on Aging. The transfer of personnel under this subsection shall be without reduction in classification or compensation for 1 year after such transfer, except that the Commissioner on Aging shall have full authority to assign personnel during such 1-year period in order to efficiently carry out functions transferred to the Administration under this subsection.

(2) All orders, determinations, rules, regulations, contracts, and privileges relating to functions transferred in this section—

(A) which have been issued, made, granted, or allowed to become effective by the ACTION Agency; and

(B) which are in effect on the date of the enactment of this Act and which are not inconsistent with the provisions of this Act;

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or repealed by the Commissioner on Aging, by any court of competent jurisdiction, or by operation of law.

—Page 19, after line 19, insert the following new section (and redesignate the following section accordingly):

TRANSFER OF VISTA PROGRAM TO COMMUNITY SERVICES ADMINISTRATION

SEC. 8. (a) Section 102 of the Domestic Volunteer Service Act of 1973 is amended by inserting after "Director" the following: "of the Community Services Administration (hereinafter in this part referred to as the 'Director')".

(b)(1) All personnel, property, records, obligations, commitments, and unexpended balances of appropriations, authorizations, allocations, and other funds, which are employed, held, used, or available to the ACTION Agency in connection with the administration of part A of title I of the Domestic Volunteer Service Act of 1973 shall be transferred to the Community Services Administration. The transfer of personnel under this subsection shall be without reduction in classification or compensation for 1 year after such transfer, except that the Director of the Community Services Administration shall have full authority to assign personnel during such 1-year period in order to efficiently carry out functions transferred to the Administration under this subsection.

(2) All orders, determinations, rules, regulations, contracts, and privileges relating to functions transferred in this section—

(A) which have been issued, made, granted, or allowed to become effective by the ACTION Agency; and

(B) which are in effect on the date of the enactment of this Act and which are not inconsistent with the provisions of this Act;

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or repealed by the Director of the Community Services Administration, by any court of competent jurisdiction, or by operation of law.

—Page 19, after line 19, insert the following new section (and redesignate the following section accordingly):

TRANSFER OF UNIVERSITY YEAR FOR ACTION PROGRAM TO OFFICE OF EDUCATION

SEC. 8. (a)(1) Section 112 of the Domestic Volunteer Service Act of 1973 is amended—

(A) by striking out "Director" the first place it appears therein and inserting in lieu thereof "Commissioner of Education (hereinafter in this part referred to as the 'Commissioner')"; and

(B) by striking out "Director" the second place it appears therein and inserting in lieu thereof "Commissioner".

(2) Section 113(c) of the Domestic Volunteer Service Act of 1973 is amended by striking out "Director" each place it appears therein and inserting in lieu thereof "Commissioner".

(3) Section 114(c) of the Domestic Volunteer Service Act of 1973 is amended by striking out "Director" and inserting in lieu thereof "Commissioner".

(b)(1) All personnel, property, records, obligations, commitments, and unexpended balances of appropriations, authorizations, allocations, and other funds, which are employed, held, used, or available to the ACTION Agency in connection with the administration of part B of title I of the Domestic Volunteer Service Act of 1973 shall be transferred to the Office of Education. The transfer of personnel under this subsection shall be without reduction in classification or compensation for 1 year after such transfer, except that the Commissioner of Education shall have full authority to assign personnel during such 1-year period in order to efficiently carry out functions transferred to the Office of Education under this subsection.

(2) All orders, determinations, rules, regulations, contracts, and privileges relating to functions transferred in this section—

(A) which have been issued, made, granted, or allowed to become effective by the ACTION Agency; and

(B) which are in effect on the date of the enactment of this Act and which are not inconsistent with the provisions of this Act;

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or repealed by the Commissioner of Education, by any court of competent jurisdiction, or by operation of law.

—Page 19, after line 19, insert the following new section (and redesignate the following section accordingly):

TRANSFER OF SPECIAL VOLUNTEER PROGRAMS TO OFFICE OF EDUCATION

SEC. 8. (a)(1) Section 122 of the Domestic Volunteer Service Act of 1973 is amended—

(A) by striking out "Director" the first place it appears therein and inserting in lieu thereof "Commissioner of Education (hereinafter in this part referred to as the 'Commissioner')"; and

(B) by striking out "Director" the second, third, and fourth places it appears therein

and inserting in lieu thereof "Commissioner".

(2) Section 123 of the Domestic Volunteer Service Act of 1973 is amended by striking out "Director" each place it appears therein and inserting in lieu thereof "Commissioner."

(b)(1) All personnel, property, records, obligations, commitments, and unexpended balances of appropriations, authorizations, allocations, and other funds, which are employed, held, used, or available to the ACTION Agency in connection with the administration of part C of title I of the Domestic Volunteer Service Act of 1973 shall be transferred to the Office of Education. The transfer of personnel under this subsection shall be without reduction in classification or compensation for 1 year after such transfer, except that the Commissioner of Education shall have full authority to assign personnel during such 1-year period in order to efficiently carry out functions transferred to the Office of Education under this subsection.

(2) All orders, determinations, rules, regulations, contracts, and privileges relating to functions transferred in this section—

(A) which have been issued, made, granted or allowed to become effective by the ACTION Agency; and

(B) which are in effect on the date of the enactment of this Act and which are not inconsistent with the provisions of this Act;

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or repealed by the Commissioner of Education by any court of competent jurisdiction, or by operation of law.

—Page 18, strike out line 14 and all that follows through page 19, line 3, and insert in lieu thereof the following new subsection:

(b) Section 601(a) of the Domestic Volunteer Service Act of 1973, as so redesignated in section 6(a), is amended by adding at the end thereof the following new sentence: "If additional amounts are made available for expenditure on programs authorized under part A of title I in any fiscal year, the Director shall transfer such additional amounts for use in carrying out the provisions of part A of title II."

—Page 19, strike out line 15 and all that follows through line 19 and insert in lieu thereof the following new subsection:

(e) Section 605 of the Domestic Volunteer Service Act of 1973, as so redesignated in section 6(a), is amended to read as follows:

"ADMINISTRATION AND COORDINATION

"SEC. 605. There is authorized to be appropriated for each of the fiscal years ending September 30, 1979, and September 30, 1980, $20,000,000 for the administration of this Act as authorized in title IV.".

—Page 18, strike out line 7 and all that follows through page 19, line 19, and insert in lieu thereof the following new section:

AUTHORIZATION OF APPROPRIATIONS

SEC. 7. (a) Section 601 of the Domestic Volunteer Service Act of 1973, as so redesignated in section 6(a), is amended by striking out "and" after "1977," and by inserting "and September 30, 1979," after "1978,".

(b)(1) Section 602(a) of the Domestic Volunteer Service Act of 1973, as so redesignated in section 6(a), is amended by striking out "and" after "1977," and by inserting "and September 30, 1979," after "1978,".

(2) Section 602(b)(1) of the Domestic Volunteer Service Act of 1973, as so redesignated in section 6(a), is amended by striking out "and" after "1977," each place it appears therein, and by inserting "and September 30, 1979," after "1978," each place it appears therein.

(c) Section 603 of the Domestic Volunteer Service Act of 1973, as so redesignated in section 6(a), is amended by striking out "and" after "1977," and by inserting "and September 30, 1979," after "1978,".

(d) Section 604 of the Domestic Volunteer Service Act of 1973, as so redesignated in section 6(a), is amended by striking out "and" after "1977," and by inserting "and September 30, 1979," after "1978,".

—Page 18, strike out line 7 and all that follows through page 19, line 19, and insert in lieu thereof the following new section:

AUTHORIZATION OF APPROPRIATIONS

SEC. 7. (a) Section 601 of the Domestic Volunteer Service Act of 1973, as so redesignated in section 6(a), is amended by striking out "and" after "1977," and by inserting "September 30, 1979, and September 30, 1980," after "1978,".

(b)(1) Section 602(a) of the Domestic Volunteer Service Act of 1973, as so redesignated in section 6(a), is amended by striking out "and" after "1977," and by inserting "September 30, 1979, and September 30, 1980," after "1978,".

(2) Section 602(b)(1) of the Domestic Volunteer Service Act of 1973, as so redesignated in section 6(a), is amended by striking out "and" after "1977," each place it appears therein, and by inserting "September 30, 1979, and September 30, 1980," after "1978." each place it appears therein.

(c) Section 603 of the Domestic Volunteer Service Act of 1973, as so redesignated in section 6(a), is amended by striking out "and" after "1977," and by inserting "September 30, 1979, and September 30, 1980," after "1978,".

(d) Section 604 of the Domestic Volunteer Service Act of 1973, as so redesignated in section 6(a), is amended by striking out "and" after "1977," and by inserting "September 30, 1979, and September 30, 1980," after "1978,".

—Page 17, line 18, strike out "each of the fiscal years 1979 and 1980" and insert in lieu thereof "fiscal year 1979".

—Page 10, after line 9, insert the following new section (and redesignate the following sections and references to sections accordingly):

RETIRED SENIOR VOLUNTEER PROGRAM

SEC. 4. Section 201(a) of the Domestic Volunteer Service Act of 1973 is amended—

(1) in paragraph (3) thereof, by striking out "and" at the end thereof;

(2) in paragraph (4) thereof, by striking out the period at the end thereof and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(5) volunteers selected to serve in the program will not be selected on the basis of their incomes, and persons responsible for administering the program will not take into account income levels in establishing criteria for the receipt of services under the program.".

—Page 19, after line 25, add the following new section:

REVIEW OF PERSONNEL ACTIONS

SEC. 9. (a) The United States Civil Service Commission (hereinafter in this section referred to as the "Commission") shall carry out a comprehensive review of personnel actions taken by the Director of the ACTION Agency, and by any other officer or employee of the ACTION Agency, during the 2-year period immediately before the date of the enactment of this Act. The purpose of such review shall be to determine whether any violation of Federal law relating to the competitive service occurred in connection with any such personnel action.

(b) The Commission shall report its findings to each House of the Congress as soon as practicable after completion of the review required in subsection (a).

—Page 19, after line 25, add the following new section:

AUDIT OF PROGRAMS

SEC. 9. (a) The Comptroller General of the United States (hereinafter in this section referred to as the "Comptroller General") shall carry out a comprehensive audit of each program administered under the Domestic Volunteer Service Act of 1973 on the date of the enactment of this Act. The purpose of each such audit shall be to determine whether any recipient of grants, subgrants, contracts, subcontracts, or loans under such Act has engaged in any misuse of Federal financial assistance.

(b) The authority of the Comptroller General established in section 422(b) of the Domestic Volunteer Service Act of 1973 shall apply in the case of any audit carried out by the Comptroller General under subsection (a).

(c) The Comptroller General shall submit a report to each House of the Congress with respect to each audit carried out by the Comptroller General under subsection (a) as soon as practicable after the completion of such audit.

—Page 10, after line 14, insert the following new section (and redesignate the following sections and references to sections accordingly):

POLITICAL ACTIVITIES

SEC. 5. Section 403(a) of the Domestic Volunteer Service Act of 1973 is amended—

(1) by inserting "(1)" after "Sec. 403. (a)";

(2) by striking out "election to Federal office," and inserting in lieu thereof "Federal election, any election to a State or local office (including nonpartisans elections and elections for representatives to constitutional conventions),";

(3) by striking out the last sentence thereof; and

(4) by adding at the end thereof the following new paragraph:

"(2) For purposes of this section—

"(A) the term 'Federal election' means—

"(i) a general, special, primary, or runoff election for Federal office;

"(ii) a convention or caucus of a political party which has authority to nominate a candidate for Federal office;

"(iii) a primary election held for the selection of delegates to a national nominating convention of a political party; and

"(iv) a primary election held for the expression of a preference for the nomination of persons for election to the office of President; and

"(B) the term 'Federal office' means the office of President or Vice President of the United States, and the office of Senator or Representative in, or Delegate or Resident Commissioner to, the Congress.".

—Page 10, after line 14, insert the following new section (and redesignate the following sections and references to sections accordingly):

POLITICAL ACTIVITIES

SEC. 5. Section 403(a) of the Domestic Volunteer Service Act of 1973 is amended—

(1) by inserting "(1)" after "Sec. 403. (a)"; and

(2) by adding at the end thereof the following new paragraph:

"(2) If the Director determines that any recipient of funds under this Act has used such funds, or has permitted the use of such funds, for any activity prohibited in paragraph (1), then the Director shall terminate payments to such recipient under the grant or contract involved in accordance with the provisions of section 412.".

—Page 10, after line 14, insert the following new section (and redesignate the following sections and references to sections accordingly):

POLITICAL ACTIVITIES

SEC. 5. Section 403(a) of the Domestic Volunteer Service Act of 1973 is amended by

inserting after the first sentence thereof the following new sentence: "Any recipient of Federal financial assistance under this Act may not use funds from any source for any purpose described in the preceding sentence during the period for which such Federal financial assistance is available for use by such recipient.".

—Page 10, after line 15, insert the following:

SEC. 5. (a) Section 404(d) of the Domestic Volunteer Service Act of 1973 is amended by inserting "(1)" after "(d)" and by adding at the end thereof the following new paragraph:

"(2) If the Director determines that any recipient of funds under this Act has used such funds, or has permitted the use of such funds, for any activity prohibited in paragraph (1), then the Director shall terminate payments to such recipient under the grant or contract involved in accordance with the provisions of section 412.".

Page 10, line 16, strike out "Sec. 5. (a)" and insert in lieu thereof "(b)", and redesignate the following subsections accordingly.

—Page 10, after line 15, insert the following:

SEC. 5. (a) Section 404(d) of the Domestic Volunteer Service Act of 1973 is amended by adding at the end thereof the following new sentence: "Any recipient of Federal financial assistance under this Act may not use funds from any source for any purpose described in the preceding sentence during the period for which such Federal financial assistance is available for use by such recipient.".

Page 10, line 16, strike out "Sec. 5. (a)" and insert in lieu thereof "(b)", and redesignate the following subsections accordingly.

—Page 11, strike out line 3 and all that follows through page 12, line 12, and insert in lieu thereof the following new subsection:

(b)(1) The National Voluntary Service Advisory Council is hereby abolished.

(2)(A) Title IV of the Domestic Volunteer Service Act of 1973 is amended by striking out section 405.

(B) The table of contents for the Domestic Volunteer Service Act of 1973 is amended by striking out the item relating to section 405.

—Page 12, after line 4, insert the following new paragraph (and redesignate the following paragraphs accordingly):

(6) The second sentence of section 405(a) of the Domestic Volunteer Service Act of 1973 is amended by inserting "may not include any regularly employed officer or employee of the Federal Government, and" after "members". The fifth sentence of section 405(a) of the Domestic Volunteer Service Act of 1973 is amended by striking out "other than those regularly employed by the Federal Government" and inserting in lieu thereof "other than the Director and Deputy Director of the ACTION Agency".

—Page 12, strike out line 5 and all that follows through line 7 and insert in lieu thereof the following:

(6) Section 405(b)(2) of the Domestic Volunteer Service Act of 1973 is amended—

(A) by striking out "upon the request of the Director,";

(B) in subparagraph (B) thereof, by striking out "and" at the end thereof; and

(C) by inserting before the period at the end thereof the following: ", and (D) the reduction of paperwork requirements imposed upon State and local program administrators and upon program grantees under this Act".

—Page 13, after line 10, insert the following new section (and redesignate the following sections and references to sections accordingly):

REDUCTION OF PAPERWORK

SEC. 6. (a) Title IV of the Domestic Volunteer Service Act of 1973 is amended by adding at the end thereof the following new section:

"REDUCTION OF PAPERWORK

"SEC. 423. In order to reduce unnecessary, duplicative, or disruptive demands for information, the Director, in consultation with other appropriate agencies and organizations, shall continually review and evaluate all requests for information made under this Act and take such action as may be necessary to reduce the paperwork required under this Act. The Director shall request only such information as the Director deems essential to carry out the purposes and provisions of this Act.".

(b) The table of contents for the Domestic Volunteer Service Act of 1973 is amended by inserting after the item relating to section 422 the following new item:

"Sec. 423. Reduction of paperwork.".

—Page 13, after line 10, insert the following new section (and redesignate the following sections and ref accordingly):

TERMINATION OF PROJECTS

SEC. 6. (a) Title IV of the Domestic Volunteer Service Act of 1973 is amended by adding at the end thereof the following new section:

"TERMINATION OF PROJECTS

"SEC. 423. The Director shall not renew any contract or grant to carry out any project under this Act upon the expiration of such contract or grant if the chief executive officer of the State in which such project is being carried out, or the chief elected official or the governing body of the unit of general local government (in any case in which there is no chief elected official) of the locality in which such project is being carried out, furnishes written notice to the Director (before the expiration of such contract or grant) specifying that such officer, official, or governing body, as the case may be, does not concur in the renewal of such contract or grant.".

(b) The table of contents for the Domestic Volunteer Service Act of 1973 is amended by inserting after the item relating to section 422 the following new item:

"Sec. 423. Termination of projects.".

—Page 10, line 16 insert "(1)" after "Sec. 5. (a)".

Page 11, after line 2, insert the following new paragarph:

(2) Section 404 of the Domestic Volunteer Service Act of 1973 is amended by adding at the end thereof the following new subsection:

"(h) If the Director determines that any person receiving payments under any contract or grant providing assistance under this Act has failed to comply with any provision of this section, then the Director shall terminate any further payments under such contract or grant. The provisions of section 412 (2) shall apply to any action of the Director to terminate payments under this subsection.".

—Page 14, line 9, strike out "Director" and insert in lieu thereof "Commissioner on Aging (hereinafter in this title referred to as the 'Commissioner')".

Page 14, line 14, strike out "Director" and insert in lieu thereof "Commissioner".

Page 14, line 15, strike out "Director" and insert in lieu thereof "Commissioner".

Page 15, line 8, strike out "Director" and insert in lieu thereof "Commissioner".

Page 15, line 11, strike out "Director" and insert in lieu thereof "Commissioner".

Page 15, line 22, strike out "Director" and insert in lieu thereof "Commissioner".

Page 15, line 23, strike out "Director" and insert in lieu thereof "Commissioner".

Page 16, line 2, strike out "Director" and insert in lieu thereof "Commissioner".

Page 16, line 4, strike out "Director" each place it appears therein and insert in lieu thereof "Commissioner".

Page 16, line 10, strike out "Director" and insert in lieu thereof "Commissioner".

Page 16, line 17, strike out "Director" and insert in lieu thereof "Commissioner".

—Page 19, line 3, strike out "80 per centum" and insert lieu thereof "$25,000,000".

H.R. 12370

By Mr. VOLKMER:

—Page 15, add after line 17 the following: (5) Section 1006 is amended by adding at the end the following new subsection: "(d) No program or project which directly or indirectly receives funds under this title may prescribe or dispense any prescription drug or device used for birth control purposes, to an unemancipated child under the age of 16 unless the parent or guardian of such child is notified of the intent to prescribe or dispense such drugs or devices."

H.R. 12441

By Mr. COLLINS of Texas:

—Page 1, strike out line 5 and insert in lieu thereof the following:

and insert in lieu thereof "$21,000,000", and by inserting ", $26,000,000 for the fiscal year ending September 30, 1980, and $31,000,000 for the fiscal year ending September 30, 1981" after "September 30, 1979".

—Page 1, line 5, strike out "$50,000,000" and insert in lieu thereof "$21,000,000".

H.R. 13778

By Mr. QUAYLE

(To the amendment offered by Mr. BROOKS in the nature of a substitute)

—Page 13, at line 12, delete (c)(1) in its entirety and insert in lieu thereof:

"(c)(1) The Council shall be composed of thirteen members, appointed by the President, to be selected from the following categories:

(A) one member from a panel of at least three members submitted by the National Governors' Conference;

(B) one member from a panel of at least three members submitted jointly by the National League of Cities and the United States Conference of Mayors;

(C) one member from a panel of at least three members submitted by the National Education Association;

(D) one member from a panel of at least three members submitted by the American Federation of Teachers;

(E) one member from a panel of at least three members of the National Congress of Parents and Teachers;

(F) one member from a panel of at least three members submitted by the National School Boards Association;

(G) one member from a panel of at least three members of the American Association of School Administrators;

(H) one member from a panel of at least three members of the American Association of University Professors;

(I) one member from a panel of at least three members of the American Association of Independent Colleges and Universities;

(J) one member from a panel of at least three members of the American Council on Education;

(K) one member from a panel of at least three members of the Education Commission of the States;

(L) one member from a panel of at least three members of the National Association of State Directors of Special Education;

(M) one member from a panel of at least three members of the National Student Association.

Redesignate the succeeding lines and sections accordingly.

—page 13, at line 12, delete (c)(1) in its entirety and insert in lieu thereof:

"(c)(1) The Council shall be composed of twenty-eight members, appointed by the President, to be selected from each of the following categories:

(A) two members from a panel of at least

four Governors submitted by the National Governors' Conference;

(B) two members from a panel of at least four members of the State legislative bodies submitted by the Board of Managers of the Council of State Governments;

(C) two member from a panel of at least four mayors submitted jointly by the National League of Cities and the United States Conference of Mayors;

(D) two members from a panel of at least four elected county officers submitted by the National Association of Counties;

(E) two members from a panel of at least four representatives submitted by the National Congress of Parents and Teachers:

(F) two members from a panel of at least four representatives submitted by the Council of American Private Education;

(G) two members from a panel of at least three representatives submitted by the National School Boards Association;

(H) two members from a panel of at least four representatives submitted by the American Association of School Administrators;

(I) one member from a panel of at least three representatives submitted by the National Education Association;

(J) one member from a panel of at least three representatives submitted by the Association of Governing Boards of Universities and Colleges;

(K) two members from a list of at least four representatives submitted by the Association of Governing Boards of Universities and Colleges;

(L) two members from a list of at least four representatives submitted by the American Association of University Professors;

(M) two members from a list of at least four representatives submited by the American Conference of Academic Deans; and

(N) two members from a list of at least four representatives submitted by the National Association of Independent Colleges and Universities."

Redesignate the succeeding lines and sections accordingly.

—Page 13, at line 12, delete (c)(1) in its entirety and insert in lieu thereof:

"(c)(1) The Council shall be composed of thirty-eight members, appointed by the President, to be selected from each of the following:

(A) two members from a panel of at least four Governors submitted by the National Governors' Conference;

(B) two members from a panel of at least four members of the State legislative bodies submitted by the Board of Managers of the Council of State Governments;

(C) two members from a panel of at least four mayors submitted jointly by the National League of Cities and the United States Conference of Mayors;

(D) two members from a panel of at least four elected county officers submitted by the National Association of Counties;

(E) two members from a panel of at least four representatives submitted by the National Congress of Parents and Teachers;

(F) two members from a panel of at least four representatives submitted by the Council of American Private Education;

(G) two members from a panel of at least three representatives submitted by the National School Boards Association;

(H) two members from a panel of at least four representatives submitted by the American Association of School Administrators;

(I) one member from a panel of at least three representatives submitted by the National Education Association;

(J) one member from a panel of at least three representatives submitted by the Association of Governing Boards of Universities and Colleges;

(K) two members from a list of at least four representatives submitted by the Association of Governing Boards of Universities and Colleges;

(L) two members from a list of at least four representatives submitted by the American Association of University Professors;

(M) two members from a list of at least four representatives submitted by the American Conference of Academic Deans; and

(N) two members from a list of at least four representatives submitted by the National Association of Independent Colleges and Universities."

Redesignate the succeeding lines and sections accordingly.

—page 21, Sec. 401. line 14, insert a new "(b)(1)" to read,

"(b)(1) The number of employees in the new Department of Education shall be limited to no more than 8.968."

Page 22. Sec. 401. strike subsection "(c)" (regarding additional professional and technical employees.)

—Page 23, line 19, Sec. 402. after period insert "However, only as a last resort shall consultants from outside the Government be used in the Department of Education."

Redesignate succeeding lines accordingly.

—page 23, at line 20, insert a new Section 403 to read,

"ANNUAL AUTHORIZATION OF PERSONNEL

SEC. 403. Notwithstanding any other provisions of this:

(1) Congress shall authorize the end strength as of the end of each fiscal year for personnel for the Department except as provided in subsection (b)(1) for fiscal year beginning October 1, 1978, and ending September 30, 1979, Congress shall authorize the end strength for any fiscal year by prescribing the maximum number of personnel that may be employed by the Department on the last day of such fiscal year. No funds may be appropriated for any fiscal year to or for the use of personnel of the Department unless the end strength for personnel of the Department for that fiscal year has been authorized by law.

(2) The end strength for personnel authorized by law for the Department for any fiscal year shall be apportioned among the offices and agencies of the Department in such numbers as the Secretary shall prescribe. Except as provided in subsection (b)(2), the Secretary shall, within 120 days of the enactment of the legislation authorizing the end strength for personnel of the Department for any fiscal year, prepare and transmit to the Congress a report showing the allocation of such personnel among the offices and agencies of the Department. Such report shall include explanations and justifications for the allocations of personnel made by the Secretary among the offices and agencies of the Department.

(3) In computing the authorized end strength for personnel of the Department for any fiscal year, there shall be included all direct-hire and indirect-hire personnel employed to perform functions of the Department whether employed on a part-time or full-time or interim basis, but excluding special employment categories for students and disadvantaged youth, including temporary summer employment.

(4) Whenever any functions, power, duty, or activity is transferred or assigned in any fiscal year after the effective date of this Act to the Department from a department or agency outside of the Department, the end strength for personnel authorized for the Department for such fiscal year shall be adjusted to reflect the decreases in personnel required as a result of such transfer or assignment.

(a)(1) For the fiscal year beginning October 1, 1978, and ending September 30, 1979, the Department is authorized an end strength for personnel equal to the sum of (A) the number of personnel to be employed by the Department under the authorizations provided by other sections of this Act, and (B) the number of personnel transferred, under authority of this Act, to the Department from other departments and agencies of the Government during such fiscal year, as determined by the Director of the Office of Management and Budget. If the Secretary determines such action is necessary for the effective administration of the Department, he may employ additional personnel during such fiscal year in excess of the number authorized under the preceding sentence, but the number of such additional personnel may not exceed 1 precent of the number authorized under the preceding sentence.

(2) For the fiscal year beginning October 1, 1978, and ending September 30, 1979, the Secretary shall prepare and transmit the report required by subsection (a)(2) within 120 days after the effective date of this Act.

Redesignate the succeeding lines and sections and the table of contents accordingly.

S. 2727

By Mr. VOLKMER:

—On page 41, strike line 10 and all that follows through line 23.

On page 42, strike line 12 and all that follows through line 21.

REGULATION OF LOBBYING ACT

In compliance with Public Law 601, 79th Congress, title III, Regulation of Lobbying Act, section 308(b), which provides as follows:

(b) All information required to be filed under the provisions of this section with the Clerk of the House of Representatives and the Secretary of the Senate shall be compiled by said Clerk and Secretary, acting jointly, as soon as practicable after the close of the calendar quarter with respect to which such information is filed and shall be printed in the CONGRESSIONAL RECORD.

The Clerk of the House of Representatives and the Secretary of the Senate jointly submit their report of the compilation required by said law and have included all registrations and quarterly reports received.

REGISTRATIONS*

*All alphanumeric characters and monetary amounts refer to receipts and expenditures on page 2, paragraphs D and E of the Quarterly Report Form.

The following registrations were submitted for the third calendar quarter 1978:

(NOTE.—The form used for report is reproduced below. In the interest of economy in the RECORD, questions are not repeated, only the essential answers are printed, and are indicated by their respective letter and number.)

FILE ONE COPY WITH THE SECRETARY OF THE SENATE AND FILE TWO COPIES WITH THE CLERK OF THE HOUSE OF REPRESENTATIVES:

This page (page 1) is designed to supply identifying data; and page 2 (on the back of this page) deals with financial data.

PLACE AN "X" BELOW THE APPROPRIATE LETTER OR FIGURE IN THE BOX AT THE RIGHT OF THE "REPORT" HEADING BELOW:

"PRELIMINARY" REPORT ("Registration"): To "register," place an "X" below the letter "P" and fill out page 1 only.

"QUARTERLY" REPORT: To indicate which one of the four calendar quarters is covered by this Report, place an "X" below the appropriate figure. Fill out both page 1 and page 2 and as many additional pages as may be required. The first additional page should be numbered as page "3," and the rest of such pages should be "4," "5," "6," etc. Preparation and filing in accordance with instructions will accomplish compliance with all quarterly reporting requirements of the Act.

Year: 19_____

REPORT

PURSUANT TO FEDERAL REGULATION OF LOBBYING ACT

P	QUARTER			
	1st	2d	3d	4th
(Mark one square only)				

NOTE ON ITEM "A".—(a) IN GENERAL. This "Report" form may be used by either an organization or an individual, as follows:

(i) "Employee".—To file as an "employee", state (in Item "B") the name, address, and nature of business of the "employer". (If the "employee" is a firm [such as a law firm or public relations firm], partners and salaried staff members of such firm may join in filing a Report as an "employee".)

(ii) "Employer".—To file as an "employer", write "None" in answer to Item "B".

(b) SEPARATE REPORTS. An agent or employee should not attempt to combine his Report with the employer's Report:

(i) Employers subject to the Act must file separate Reports and are not relieved of this requirement merely because Reports are filed by their agents or employees.

(ii) Employees subject to the Act must file separate Reports and are not relieved of this requirement merely because Reports are filed by their employers.

A. ORGANIZATION OR INDIVIDUAL FILING:

1. State name, address, and nature of business.

2. If this Report is for an Employer, list names of agents or employees who will file Reports for this Quarter.

NOTE ON ITEM "B".—*Reports by Agents or Employees.* An employee is to file, each quarter, as many Reports as he has employers, except that: (a) If a particular undertaking is jointly financed by a group of employers, the group is to be considered as one employer, but all members of the group are to be named, and the contribution of each member is to be specified; (b) if the work is done in the interest of one person but payment therefor is made by another, a single Report—naming both persons as "employers"—is to be filed each quarter.

B. EMPLOYER.—State name, address, and nature of business. If there is no employer, write "None."

NOTE ON ITEM "C".—(a) The expression "in connection with legislative interests," as used in this Report, means "in connection with attempting, directly or indirectly, to influence the passage or defeat of legislation." "The term 'legislation' means bills, resolutions, amendments, nominations, and other matters pending or proposed in either House of Congress, and includes any other matter which may be the subject of action by either House"—§ 302(e).

(b) Before undertaking any activities in connection with legislative interests, organizations and individuals subject to the Lobbying Act are required to file a "Preliminary" Report (Registration).

(c) After beginning such activities, they must file a "Quarterly" Report at the end of each calendar quarter in which they have either received or expended anything of value in connection with legislative interests.

C. LEGISLATIVE INTERESTS, AND PUBLICATIONS in connection therewith:

1. State approximately how long legislative interests are to continue. If receipts and expenditures in connection with legislative interests have terminated, ☐ place an "X" in the box at the left, so that this Office will no longer expect to receive Reports.

2. State the general legislative interests of the person filing and set forth the *specific* legislative interests by reciting: (a) Short titles of statutes and bills; (b) House and Senate numbers of bills, where known; (c) citations of statutes, where known; (d) whether for or against such statutes and bills.

3. In the case of those publications which the person filing has caused to be issued or distributed in connection with legislative interests, set forth: (a) Description, (b) quantity distributed; (c) date of distribution, (d) name of printer or publisher (if publications were paid for by person filing) or name of donor (if publications were received as a gift).

(Answer items 1, 2, and 3 in the space below. Attach additional pages if more space is needed)

4. If this is a "Preliminary" Report (Registration) rather than a "Quarterly" Report, state below what the nature and amount of anticipated expenses will be; and if for an agent or employee, state also what the daily, monthly, or annual rate of compensation is to be. If this is a "Quarterly" Report, disregard this item "C4" and fill out item "D" and "E" on the back of this page. Do not attempt to combine a "Preliminary" Report (Registration) with a "Quarterly" Report.

AFFIDAVIT

[Omitted in printing]

PAGE 1

A. Adams, Duque & Hazeltine, Suite 701, 1000 16th Street, Washington, D.C. 20036.
B. GATX Corp., 120 South Riverside Plaza, Chicago, Ill. 60606.

A. Agency for Instructional Television, Box A, Bloomington, Ind. 47401.

A. Donald G. Agger, DGA International, Inc., 1225 19th Street NW., Washington, D.C. 20036.
B. DGA International, Inc., 1225 19th Street NW., Washington, D.C. 20036 (for Airbus Industrie, Avenue Lucien Servanty, 31700 Blagnac, France).

A. Akin, Gump, Hauer & Feld, 1155 15th Street NW., 1100 Madison Office Building, Washington, D.C. 20005.
B. Arlington Red Top Cab Co., 1200 North Hudson Street, Arlington, Va. 22201.

A. Akin, Gump, Hauer & Feld, 1155 15th Street NW., 1100 Madison Office Building, Washington, D.C. 20005.
B. International Taxicab Association, 11300 Rockville Pike, Rockville, Md. 20852.

A. Akin, Gump, Hauer & Feld, 1100 Madison Office Building, 1155 15th Street NW., Washington, D.C. 20005.
B. The John Akridge Co., 1627 K Street NW., Washington, D.C. 20006.

A. Akin, Gump, Hauer & Feld, 1100 Madison Office Building, 1155 15th Street NW., Washington, D.C. 20005.
B. Northwest Exploration Co., 315 East 200 South, Box 1526, Salt Lake City, Utah 84111.

A. Alcalde, Henderson, O'Bannon & Kline, 1911 North Fort Myer Drive, Suite 1207, Rosslyn, Va. 22209.
B. The Brunswick Corp., 1 Brunswick Plaza, Skokie, Ill. 60076.

A. Frederick K. Alderson, Edison Electric Institute, 1140 Connecticut Avenue NW., Suite 1010, Washington, D.C. 20036.
B. Edison Electric Institute, Governmental Affairs Division, 1140 Connecticut Avenue NW., Washington, D.C. 20036.

A. American Parents Committee, 1346 Connecticut Avenue NW., Washington, D.C. 20036.
B. Child Welfare League of America, 1346 Connecticut Avenue NW., Washington, D.C. 20036.

A. Cyrus T. Anderson, 400 First Street NW., Washington, D.C. 20001.
B. Revere Copper and Brass, 605 Third Avenue, New York, N.Y. 10016.

A. Stanton D. Anderson, 1156 15th Street NW., Suite 1200, Washington, D.C. 20005.
B. Surrey, Karasik and Morse, 1156 15th Street NW., Suite 1200, Washington, D.C.

A. Wayne C. Anderson, 100 De Forest Avenue, East Hanover, N.J. 07936.
B. Nabisco, Inc., 100 De Forest Avenue, East Hanover, N.J. 07936.

A. Laureen E. Andrews, 1730 M Street NW., Washington, D.C. 20036.
B. The League of Women Voters of the United States, 1730 M Street NW., Washington, D.C. 20036.

A. Carl F. Arnold, 1100 Connecticut Avenue NW., Washington, D.C. 20036.
B. American Family Corp., 1902 Wynnton Road, Columbus, Ga. 31906.

A. Arnold & Porter, 1229 19th Street NW., Washington, D.C. 20036.
B. The London Commodity Exchange Co. Ltd., Cereal House, 58 Mark Lane, London EC3R 7NE, England; International Commodities Clearing House, Ltd., Roman Wall House, 1–2 Crutched Friars, London EC3N 2AN, England.

A. Atlantic Container Line, 80 Pine Street, New York, N.Y. 10005.

A. Aviation Consumer Action Project, 1346 Connecticut Avenue NW., Suite 717, Washington, D.C. 20036.

A. Bache Halsey Stuart Shields, Inc., 100 Gold Street, New York, N.Y. 10038.

A. Baker & Daniels, 1800 M Street NW., Washington, D.C. 20036.
B. The Consumer Bankers Association, 1725 K Street NW., Washington, D.C. 20006.

A. Baker & McKenzie, 815 Connecticut Avenue NW., Washington, D.C. 20006.
B. Cambridge Research and Development Group, 21 Bridge Square, Westport, Conn. 06880.

A. Baker & McKenzie, 815 Connecticut Avenue NW., Washington, D.C. 20006.
B. Magnatex Corp., One Marienfeld Place, Midland, Tex. 79701.

A. Dennis J. Barbour, 1015 18th Street NW., Washington, D.C. 20036.
B. American College of Preventive Medicine, Association of Teachers of Preventive Medicine, American Occupational Medical Association, 1015 18th Street NW., Washington, D.C. 20036.

A. Barrett Smith Schapiro Simon & Armstrong, 26 Broadway, Suite 1400, New York, N.Y. 10004.
B. The New York State Urban Development Corp., 1345 Avenue of the Americas, New York, N.Y. 10019.

A. Thea Rossi Barron, DGA International, Inc., 1225 19th Street NW., Washington, D.C. 20036.
B. DGA International, Inc., 1225 19th Street NW., Washington, D.C. 20036 (for Government of Morocco, Rabat, Morocco).

A. Bruce A. Beam, American Electric Power Corp., 2 Broadway, New York, N.Y. 10004; 8814 Lewinsville Road, McLean, Va. 22102.
B. American Electric Power Corp., 2 Broadway, New York, N.Y. 10004.

A. George W. Beatty, 1200 18th Street NW., Washington, D.C. 20036.
B. ASARCO, Inc., 120 Broadway, New York, N.Y. 10005.

A. Kim Alan Benjamin, 1725 DeSales Street NW., Suite 403, Washington, D.C. 20036.
B. American Society for Medical Technology, 1725 DeSales Street NW., Suite 403, Washington, D.C. 20036.

A. Charles Bernhardt, National Federation of Federal Employees, 1016 16th Street NW., Washington, D.C. 20036.
B. National Federal of Federal Employees, 1016 16th Street NW., Washington, D.C. 20036.

A. Beveridge, Fairbanks & Diamond, One Farragut Square South, Washington, D.C.
B. Union Mines, 9 West 57th Street, New York, N.Y. 10019.

A. Sarah Massengale Billock, American Hospital Association, 444 North Capitol Street NW., No. 500, Washington, D.C. 20001.
B. American Hospital Association, 840 North Lake Shore Drive, Chicago, Ill. 60611.

A. Birch, Horton, Bittner & Monroe, 4400 Jenifer Street NW., Suite 300, Washington, D.C. 20015.
B. American Kitchen Foods, Inc., 99 Powerhouse Road, Roslyn, N.Y. 11577.

A. Birch, Horton, Bittner & Monroe, 4400 Jenifer Street NW., Suite 300, Washington, D.C. 20015.
B. Potlach Corp., Two Embarcadero Center, 20th Floor, San Francisco, Calif. 94120.

A. Barbara A. Blake, Sierra Club, 330 Pennsylvania Avenue SE., Washington, D.C. 20003.
B. Sierra Club, 530 Bush Street, San Francisco, Calif. 94108.

A. Robert W. Blanchette, Alston, Miller & Gaines, 1800 M Street NW., Washington, D.C.
B. IC Industries, 1625 I Street NW., Suite 810, Washington, D.C.

A. Blum, Parker & Nash, Suite 408, 1015 18th Street NW., Washington, D.C. 20036.
B. National Union Electric Corp., 575 Adams Avenue, Philadelphia, Pa. 19120.

A. Bowling Proprietors Association of America, Box 5802, Arlington, Tex. 76011.

A. Boyden, Kennedy, Romney & Howard, 1000 Kennecott Building, Salt Lake City, Utah 84133.
B. Northwest Pipeline Co., 315 East Second South, Salt Lake City, Utah.

A. David Alan Bradley, 1106 Prince Edward Street, Fredericksburg, Va. 22401.
B. National Community Action Agency Executive Directors Association, 815 15th Street NW., No. 610, Washington, D.C. 20005.

A. Bregman, Abell, Solter & Kay, 1900 L Street NW., Suite 610, Washington, D.C. 20036.
B. American Car Rental Association, 1201 K Street NW., Washington, D.C.

A. Bregman, Abell, Solter & Kay, 1900 L Street NW., Washington, D.C. 20036.
B. Truck Renting and Leasing Association, 1201 K Street NW., Washington, D.C.

A. Jerome J. Breiter, 3251 Old Lee Highway, Suite 501, Fairfax, Va. 22030.
B. National Limestone Institute, Inc., 3251 Old Lee Highway, Suite 501, Fairfax, Va. 22030.

A. John S. Brunson, 2250 Transco Tower, Houston, Tex. 77056.
B. Bob Perry, 11930 South Belt, Houston, Tex.

A. Micheal W. Buckner, United Mine Workers of America, 900 15th Street NW., Washington, D.C. 20005.
B. United Mine Workers of America, 900 15th Street NW., Washington, D.C. 20005.

A. Burger King Corp., P.O. Box 520783, General Mail Facility, Miami, Fla. 33152.

A. Quentin L. Burgess, 733 15th Street NW., Washington, D.C. 20005.
B. Legal Services Corp., 733 15th Street NW., Washington, D.C. 20005.

A. Timothy F. Burns, 901 North Washington Street, Alexandria, Va. 22314.
B. Society of American Florists, 901 North Washington Street, Alexandria, Va. 22314.

A. Burr, Pease & Kurtz, Inc., 810 N Street, Anchorage, Alaska 99501.
B. Eklutna, Inc., 604 K Street, Anchorage, Alaska 99501.

A. Theresa Ann Burt, 1010 Vermont Avenue NW., Washington, D.C. 20005.
B. Arizona Opera Co., 412 North 6th Avenue, Tucson, Ariz. 85705, et al.

A. John R. Butz, 110 Maryland Avenue NE., Box 43, Washington, D.C. 20002.
B. Non-Commissioned Officers Association of the U.S.A., P.O. Box 2268, San Antonio, Tex. 78298.

A. Carl Byoir and Associates, Inc., 1750 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. Railway Progress Institute Tank Car Safety Committee, 700 North Fairfax Street, Alexandria, Va. 22314.

A. John W. Byrnes, 1775 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. Foley, Lardner, Hollabaugh & Jacobs, 1775 Pennsylvania Avenue NW., Washington, D.C. 20006 (for Republic of the Philippines).

A. Cadwalader, Wickersham & Taft, Eleven Dupont Circle, Suite 450, Washington, D.C. 20036.
B. International Paper Co., 220 East 42d Street, New York, N.Y. 10017.

A. James R. Calloway, 1101 Connecticut Avenue NW., Washington, D.C. 20036.
B. Northrop Corp., 1701 North Fort Myer Drive, Suite 1208, Arlington, Va. 22209.

A. Camp, Carmouche, Palmer, Barsh & Hunter, 1200 17th Street, Washington, D.C. 20036.
B. ACLI International, Inc., New York, N.Y.

A. Caplin & Drysdale, 1101 17th Street NW., Washington, D.C. 20036.
B. Clark Oil and Refining Corp., 8530 West National Avenue, Milwaukee, Wis. 53227; and American Family Life Assurance Co. of Georgia, P.O. Box 1459, Columbus, Ga. 31902.

A. Harlon B. Carter, 1600 Rhode Island Avenue NW., Washington, D.C. 20036.
B. National Rifle Association of America, 1600 Rhode Island Avenue NW., Washington, D.C. 20036.

A. Donald T. Chunn, Title Associates, Inc., Route 2, Box 89, Columbia, Tenn. 38401.
B. Title Associates, Inc., Route 2, Box 89, Columbia, Tenn. 38401.

A. Cladouhos & Brashares, 1750 New York Avenue NW., Washington, D.C. 20006.
B. International Processors, 4100 One Shell Square, New Orleans, La. 70139.

A. Anne Harrison Clark, Population Resource Center, Inc., 110 Maryland Avenue NE., Washington, D.C. 20002.
B. Population Resource Center, Inc., 622 Third Avenue, New York, N.Y. 10017.

A. Cole Corette & Bradfield, 1200 17th Street NW., Washington, D.C. 20036.
B. International Six, Ltd., c/o William Gulley, 7831 Welch Court, Alexandria, Va. 22310.

A. William J. Colley, 1200 17th Street NW., Washington, D.C. 20036.
B. Patton, Boggs and Blow, 1200 17th Street NW., Washington, D.C. 20036 (for American Retail Federation).

A. William J. Colley, 1200 17th Street NW, Washington, D.C. 20036.
B. Patton, Boggs and Blow, 1200 17th Street NW., Washington, D.C. 20036 (for Ocean Minerals Co.).

A. Calvin J. Collier, Hughes Hubbard & Reed, 1660 L Street NW., Washington, D.C. 20036.
B. Pfizer, Inc., 1700 Pennsylvania Avenue NW., Washington, D.C. 20006.

A. Collier, Shannon, Rill, Edwards & Scott, 1055 Thomas Jefferson Street NW., No. 308, Washington, D.C. 20007.
B. Tanners' Council of America, Inc., 411 Fifth Avenue, New York, N.Y. 10016.

A. Charles P. Collins, 6542 Marlo Drive, Falls Church, Va. 22042.
B. ICX Aviation, Inc., Dulles International Airport, Washington, D.C. 20041.

A. John T. Conway, American Nuclear Energy Council, 1750 K Street NW., Suite 300, Washington, D.C. 20006.
B. American Nuclear Energy Council, 1750 K Street NW., Suite 300, Washington, D.C. 20006.

A. K. Crawford Cook, Inc., P.O. Box 50485, Columbia, S.C. 29250.

A. K. Richard Cook, General Electric Co., 777 14th Street NW., Suite 700, Washington, D.C. 20005.
B. General Electric Co., 3135 Easton Turnpike, Fairfield, Conn. 06431.

A. Cook, Ruef, Spann & Weiser, Inc., P.O. Box 5845, Columbia, S.C. 29250.

A. Raymond L. Courage, 1750 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. Carl Byoir and Associates, Inc., 1750 Pennsylvania Avenue NW., Washington, D.C. 20006 (for Railway Progress Institute Tank Car Safety Committee, 700 North Fairfax Street, Alexandria, Va. 22314).

A. Covington & Burling, 888 16th Street NW., Washington, D.C. 20006.
B. American Watch Association, 10 East 40th Street, New York, N.Y. 10016.

A. Covington & Burling, 888 16th Street NW., Washington, D.C. 20006.
B. Association of Maximum Service Telecasters, Inc., 1735 DeSales Street NW., Washington, D.C. 20036.

A. Covington & Burling, 888 16th Street NW., Washington, D.C. 20006.
B. Lydall, Inc, 615 Parker Street, Manchester, Conn. 06040.

A. Covington & Burling, 888 16th Street NW., Washington, D.C. 20006.
B. Standard Brands, Inc., 625 Madison Avenue, New York, N.Y. 10022.

A. R. LaVaun Cox, 180 East First South Street, Salt Lake City, Utah 84139.
B. Mountain Fuel Supply Co., 180 East First South Street, Salt Lake City, Utah 84139.

A. Cramer, Visser, Lipsen & Smith, 475 L'Enfant Plaza, SW., Suite 4100, Washington, D.C. 20024.
B. Northwest Alaska Pipeline Co., 1730 Pennsylvania Avenue, Suite 230, Washington, D.C.

A. William C. Cramer, 475 L'Enfant Plaza SW., Suite 4100, Washington, D.C. 20024.
B. Cramer, Visser, Lipsen & Smith, 475 L'Enfant Plaza SW., Washington, D.C. 20024; and Northwest Alaska Pipeline Co., 1730 Pennsylvania Avenue, Suite 230, Washington, D.C.

A. David T. Crow, 2805 Terrace Drive, Apt. 110, Chevy Chase, Md. 20015.
B. The Fertilizer Institute, 1015 18th Street NW., Washington, D.C. 20036.

A. John L. Davidson, Jr., The St. Louis Mercantile Library Association, 510 Locust Street, St. Louis, Mo. 63188.
B. The St. Louis Mercantile Library Association, 510 Locust Street, St. Louis, Mo. 63188.

A. Thomas A. Davis, 1776 F Street NW., Suite 108, Washington, D.C. 20006.
B. Florida Sugar Cane League, Inc., P.O. Box 1148, Clewiston, Fla. 33440.

A. Thomas A. Davis, 1776 F Street NW., Suite 108, Washington, D.C. 20006.
B. United Egg Producers, 3951 Snapfinger Parkway, Suite 580, Decatur, Ga. 30032.

A. DeKalb AgResearch, Sycamore Road, DeKalb, Ill. 60115.

A. Bradford T. Dempsey, 512 West Maple Avenue, No. 210, Vienna, Va. 22180.

A. Dewey, Ballantine, Bushby, Palmer & Wood, 1775 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. Krivit & Krivit, 101 Duddington Place SE., Washington, D.C. 20003.

A. Dewey, Ballantine, Bushby, Palmer & Wood, 140 Broadway, New York, N.Y. 10005.
B. Needham, Harper & Steers, Inc., 909 Third Avenue, New York, N.Y. 10022.

A. DGA International, Inc., 1225 19th Street NW., Washington, D.C. 20036.
B. Government of Morocco, Rabat, Morocco.

A. Patricia C. Dickson, 600 Pennsylvania Avenue SE., Suite 205, Washington, D.C. 20003.
B. Citizens Committee for the Right to Keep and Bear Arms, Bellefield Office Park, 1601 114th SE., Suite 151, Bellevue, Wash. 98004.

A. Dickstein, Shapiro & Morin, 2101 L Street NW., Washington, D.C. 20037.
B. Custom Automotive Sound Association, Inc., 2101 L Street NW., Suite 1000, Washington, D.C. 20037.

A. Discover America Travel Organizations, Inc., 1100 Connecticut Avenue NW., Washington, D.C. 20036.

A. Doub, Purcell, Muntzing & Hansen, 1775 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. Indianapolis Water Co., Indianapolis, Ind.

A. Kevin J. Driscoll, American Bar Association, 1800 M Street NW., Washington, D.C. 20036.
B. American Bar Association, 1155 East 60th Street, Chicago, Ill. 60637.

A. Duncan, Brown, Weinberg & Palmer, 1775 Pennsylvania Avenue NW., Suite 1200, Washington, D.C. 20006.
B. Western Fuels Association, Inc., 1835 K Street NW., Suite 412, Washington, D.C. 20006.

A. Dunnington, Bartholow & Miller, 161 East 42d Street, New York, N.Y. 10017.
B. Bessemer Securities Corp., 245 Park Avenue, New York, N.Y. 10017.

A. R. Ken Dyar, 1620 Southeast 127th Avenue, Vancouver, Wash. 98664.
B. Central Lincoln People's Utility District, 255 Southwest Coast Highway, Newport, Oreg.

A. Patricia S. Ebaugh, 1730 Rhode Island Avenue NW., Suite 911, Washington, D.C. 20036.
B. St. Joe Minerals Corp., 250 Park Avenue, New York, N.Y. 10017.

A. Stephen L. Edmiston, Disabled American Veterans, 807 Maine Avenue SW., Washington, D.C. 20024.
B. Disabled American Veterans, 3725 Alexandria Pike, Cold Spring, Ky., 41076.

A. Perry R. Ellsworth, National Council of Agricultural Employers, 1425 H Street NW., Washington, D.C. 20005.

B. National Council of Agricultural Employers, 1425 H Street NW., Washington, D.C. 20005.

A. Carl F. Emde, Air Products and Chemicals, Inc., 1800 K Street NW., Suite 1016, Washington, D.C. 20006.
B. Air Products and Chemicals, Inc., P.O. Box 538, Allentown, Pa. 18105.

A. Vicki Erickson, Food Marketing Institute, 1750 K Street NW., Washington, D.C.
B. Food Marketing Institute, 1750 K Street NW., Washington, D.C.

A. Far West Ski Association, 3325 Wilshire, Suite 1340, Los Angeles, Calif. 90010.

A. Lois M. Felder, Retail Clerks International Union, AFL–CIO, 1775 K Street NW., Washington, D.C. 20006.
B. Retail Clerks International Union, AFL–CIO, 1775 K Street NW., Washington, D.C. 20006.

A. Fellowship Square Foundation, Inc., 11450 North Shore Drive, Reston, Va. 22090.

A. Edward T. Fergus, Bache Halsey Stuart Shields, Inc., 100 Gold Street, New York, N.Y. 10038.
B. Bache Halsey Stuart Shields, Inc., 100 Gold Street, New York, N.Y. 10038.

A. Jack Ferguson Associates, Inc., 513 A Street SE., Washington, D.C. 20003.
B. Cook Inlet Regional, Inc., 2525 C Street, Suite 100, Anchorage, Alaska 99509.

A. Jack Ferguson Associates, 513 A Street SE., Washington, D.C. 20003.
B. D–2 Steering Council, 1015 West Fifth Avenue, Suite 435, Anchorage, Alaska 99501.

A. Vincent J. Ferri, 444 North Capitol Street NW., No. 820, Washington, D.C. 20001.
B. Professional Air Traffic Controllers, 444 North Capitol Street NW., Suite 820, Washington, D.C. 20001.

A. Michael D. Fischer, 1775 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. Foley, Lardner, Hollabaugh & Jacobs, 1775 Pennsylvania Avenue NW., Washington, D.C. 20006 (for Republic of the Philippines).

A. John B. Fisher, Suite 500, 1629 K Street NW., Washington, D.C. 20006.
B. Serenity Arabian Stud, Inc., Millwood Road, Citra, Fla. 32627.

A. Charles L. Fishman, 633 East Capitol, Washington, D.C.

A. Foley, Lardner, Hollabaugh & Jacobs, 1775 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. Republic of the Philippines.

A. Edward H. Forgotson, O'Neill & Forgotson, 1220 19th Street NW., Suite 303, Washington, D.C. 20036.
B. Texas Utilities Co., 2001 Bryan Tower, Dallas, Tex. 75201; and Texas Oil and Gas Co., Fidelity Union Tower, 31st Floor, Dallas, Tex. 75201.

A. William C. France, National Motorsports Committee of ACCUS, Suite 302, 1735 K Street NW., Washington, D.C. 20006.
B. National Motorsports Committee of ACCUS, Suite 302, 1735 K Street NW., Washington, D.C. 20006.

A. Gregory N. Friberg, 444 North Capitol Street NW., Suite 409, Washington, D.C. 20001.
B. Associated Builders and Contractors, 444 North Capitol Street NW., Suite 409, Washington, D.C. 20001.

A. Joseph B. Friedman, 1028 Connecticut Avenue NW., Washington, D.C. 20036.
B. Lucas, Friedman & Mann, 1028 Connecticut Avenue NW., Washington, D.C. 20036 (for Republic of the Philippines).

A. Gustave Fritschie, 1101 Connecticut Avenue NW., Suite 700, Washington, D.C. 20036.
B. National Fisheries Institute, 1101 Connecticut Avenue NW., Suite 700, Washington, D.C. 20036.

A. Galland, Kharasch, Calkins & Short, 1054 31st Street NW., Washington, D.C. 20007.
B. Atlantic Container Line, 80 Pine Street, New York, N.Y. 10005.

A. Thomas G. Geiler, 1600 Rhode Island Avenue NW., Washington, D.C. 20036.
B. National Rifle Association of America, 1600 Rhode Island Avenue NW., Washington, D.C. 20036.

A. J. F. Godfrey, P.O. Box 186, Fort Worth, Tex. 76101.
B. The Western Co. of North America, P.O. Box 186, Fort Worth, Tex. 76101.

A. Charles E. Goodell, DGA International, Inc., 1225 19th Street NW., Washington, D.C. 20036.
B. DGA International, Inc., 1225 19th Street NW., Washington, D.C. 20036 (for Government of Morocco, Rabat, Morocco).

A. Kirk L. Gray, 2030 M Street NW., Washington, D.C. 20036.
B. Common Cause, 2030 M Street NW., Washington, D.C. 20036.

A. Mark E. Grayson, National Tire Dealers and Retreaders Association, 1343 L Street NW., Washington, D.C. 20005.
B. National Tire Dealers and Retreaders Association, 1343 L Street NW., Washington, D.C. 20005.

A. William I. Greener, Jr., 1750 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. Carl Byoir & Associates, Inc., 1750 Pennsylvania Avenue NW., Washington, D.C. 20006 (for Railway Progress Institute Tank Car Safety Committee, 700 North Fairfax Street, Alexandria, Va. 22314).

A. John T. Gruvenhoff, 6410 Rockledge Drive, Suite 208, Bethesda, Md. 20034.
B. MEGO Corp., 41 Madison Avenue, New York, N.Y. 10010.

A. Guayule Rubber Growers Association, 840 Sierra Madre, San Marino, Calif. 91108.
B. Guayule Rubber Growers Association, 840 Sierra Madre, San Marino, Calif. 91108.

A. Hamel, Park, McCabe & Saunders, 1776 F Street NW., Washington, D.C. 20006.
B. Beneficial Foundation, 1300 Market Street, Wilmington, Del. 19899.

A. Toni Harrington, Suite 905, 955 L'Enfant Plaza North SW., Washington, D.C. 20024.
B. American Honda Motor Co., Inc., 100 Alondra Boulevard, Gardena, Calif. 90247.

A. Norman B. Harnett, Disabled American Veterans, 807 Maine Avenue SW., Washington, D.C. 20024.
B. Disabled American Veterans, 3725 Alexandria Pike, Cold Spring, Ky. 41076.

A. Walter A. Hasty, 1801 K Street NW., Suite 230, Washington, D.C. 20006.
B. The Procter and Gamble Mfg. Co., 301 East Sixth Street, Cincinnati, Ohio 45202.

A. Clyde M. Heiner, 180 East First South Street, Salt Lake City, Utah 84139.
B. Mountain Fuel Supply Co., 180 East First South Street, Salt Lake City, Utah 84139.

A. Heinold Commodities, Inc., 222 South Riverside Plaza, Chicago, Ill. 60606.

A. Thomas R. Hendershot, Obermayer, Rebmann Maxwell and Hippel, 2011 I Street NW., Suite 500, Washington, D.C. 20006.
B. Philadelphia Gas Works, 1518 Walnut Street, Philadelphia, Pa. 19105.

A. Carol C. Henderson, American Library Association, 110 Maryland Avenue NE., Suite 101, Box 54, Washington, D.C. 20002.
B. American Library Association, 50 East Huron Street, Chicago, Ill. 60611.

A. Hill, Christopher and Phillips, 1900 M Street NW., Washington, D.C. 20036.
B. Frank E. Basil, Inc., of Delaware, 1101 15th Street NW., Suite 507, Washington, D.C. 20005.

A. Hogan & Hartson, 815 Connecticut Avenue NW., Washington, D.C. 20006.
B. Bessemer Securities Corp., 245 Park Avenue, New York, N.Y. 10017.

A. Hogan & Hartson, 815 Connecticut Avenue NW., Washington, D.C. 20006.
B. Patagonia Corp., 149 North Stone Avenue, Tucson, Ariz. 85701.

A. Kelly Holley, 1619 Massachusetts Avenue NW., Washington, D.C. 20036.
B. American Paper Institute, Inc., 260 Madison Avenue, New York, N.Y. 10016.

A. A. Linwood Holton, Jr., American Council of Life Insurance, Inc., 1850 K Street NW., Washington, D.C. 20006
B. American Council of Life Insurance, Inc., 1850 K Street NW., Washington, D.C. 20006.

A. Fortescue W. Hopkins, Box 218, Daleville, Va. 24083.
B. Virgil L. Frantz, Graham-White Manufacturing Co., P.O. Box 1099, Salem, Va., and Milton K. Blank, 2802 Longview Avenue SW., Roanoke Va. 24014.

A. Robert Jack Horn, 1819 H Street NW., Suite 950, Washington, D.C. 20006.
B. The Detroit Edison Co., 2000 Second Street, Detroit, Mich. 48226.

A. Houger, Garvey & Schubert, 1725 K Street NW., Suite 303, Washington, D.C. 20006.
B. American Pyrotechnics Association, 407 Campus Avenue, Chestertown, Md. 21620.

A. Robert C. Houser, Jr., 1775 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. Foley, Lardner, Hollabaugh & Jacobs, 1775 Pennsylvania Avenue NW., Washington, D.C. 20006 (for Republic of the Philippines).

A. Gary E. Hughes, American Council of Life Insurance, Inc., 1850 K Street NW., Washington, D.C. 20006.
B. American Council of Life Insurance, Inc., 1850 K Street NW., Washington, D.C. 20006.

A. Frederick D. Hunt, Jr., 1835 K Street NW., No. 515, Washington, D.C. 20006.
B. American Academy of Actuaries, 1835 K Street NW., No. 515, Washington, D.C. 20006.

A. Robert C. Hunt, 1750 Old Meadow Road, McLean, Va. 22102.
B. Brick Institute of America, 1750 Old Meadow Road, McLean, Va. 22102.

A. ICX Aviation, Inc., Dulles International Airport, P.O. Box 17124, Washington, D.C. 20041.

A. Ronald K. Ikejiri, 1730 Rhode Island Avenue NW., No. 204, Washington, D.C. 20036.
B. National Japanese American Citizens League, 1765 Sutter Street, San Francisco, Calif. 94115.

A. Nancy J. Ingalsbee, 3325 Wilshire, Suite 1340, Los Angeles, Calif. 90010.
B. Farwest Ski Association, 3325 Wilshire, Suite 1340, Los Angeles, Calif. 90010.

A. Investment Annuities Institute, Inc., Suite 1128, 1120 Connectitcut Avenue NW., Washington, D.C. 20036.

A. Leslie A. Janka, DGA International, Inc., 1225 19th Street NW., Washington, D.C. 20036.
B. DGA Lnternational, Inc., 1225 19th Street NW., Washington, D.C. 20036 (for Government of Morocco, Rabat, Morocco).

A. Anita Johnson, Environmental Defense Fund, 1525 18th Street NW., Washington, D.C. 20036.
B. Environmental Defense Fund, 1525 18th Street NW., Washington, D.C. 20036.

A. Jones, Day, Reavis & Pogue, 1100 Connecticut Avenue NW., Washington, D.C. 20036.
B. Communications Satellite Corp., 950 L'Enfant Plaza SW., Washington, D.C. 20024.

A. Jones, Day, Reavis & Pogue, 1100 Connecticut Avenue NW., Washington, D.C. 20036.
B. Control Data Corp., 6003 Executive Boulevard, Rockville, Md. 20852.

A. Gerald Jones, Paralyzed Veterans of America, Inc., 4330 East-West Highway, Suite 300, Washington, D.C. 20014.
B. Paralyzed Veterans of America, Inc., 4330 East-West Highway, Suite 300, Washington, D.C. 20014.

A. Robert L. Jordan, Far West Ski Association, 3325 Wilshire Boulevard, No. 1340, Los Angeles, Calif. 90010.
B. Far West Ski Association, 3325 Wilshire Boulevard, No. 1340, Los Angeles, Calif. 901.

A. Marjorie J. Josiah, 1620 I Street NW., Suite 603, Washington, D.C. 20006.
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A. Milton M. Kaufmann, 19102 Roman Way, Gaithersburg, Md.
B. The Fund for Animals, Inc., 140 West 57th Street, New York, N.Y. 10019.

A. The Keefe Co., 1625 Massachusetts Avenue, Suite 505, Washington, D.C. 20036.
B. American Family Life Assurance Co., P.O. Box 1459, Columbus, Ga. 31902.

A. John J. Kelly, 900 15th Street NW., Washington, D.C. 20005.
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A. Catherine B Klarfeld, 1775 Pennsylvania Avenue NW., Washington, D.C. 20006.

B. Foley, Lardner, Hollabaugh & Jacobs, 1775 Pennsylvania Avenue NW., Washington, D.C. 20006 (for Republic of the Philippines).

A. The Kroger Co., 1014 Vine Street, Cincinnati, Ohio.

A. Kurrus Dyer Jacobi & Mooers, 1055 Thomas Jefferson Street NW., Washington, D.C. 20007.
B. Facts and Comparisons, Inc., 111 West Port Plaza, St. Louis, Mo. 63141.

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A. Sandra L. LaFevre, 1000 Connecticut Avenue NW., Suite 304, Washington, D.C. 20036.
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A. James H. Lake, 1819 H Street NW., No. 230. Washington, D.C. 20006.

A. John A. Lancaster, Paralyzed Veterans of America, Inc., 4330 East-West Highway, Suite 300, Washington, D.C. 20014.
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A. Latham, Watkins & Hillis, 1625 K Street NW., Suite 500, Washington, D.C. 20006.
B. National Association of Real Estate Investment Trusts, Inc., 1101 17th Street NW., Suite 700, Washington, D.C. 20036.

A. Dennis Lavallee, National Association of Plumbing—Heating—Cooling, Contractors, 1016 20th Street NW., Washington, D.C. 20036.
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A. Charles B. Lavin, Jr., 7006 Redmiles Road, Laurel, Md. 21010.
B. American Subcontractors Association, 815 15th Street NW., Washington, D.C. 20005.

A. LeBoeuf, Lamb, Leiby & MacRae, 1757 N Street NW., Washington, D.C. 20036.
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A. Leighton, Conklin & Lemov, 2033 M Street NW., Suite 800, Washington, D.C. 20036.
B. American Express Co., 1700 K Street NW., Suite 702, Washington, D.C. 20006.

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B. Fireman's Fund Insurance Co., 1600 Los Gamos Drive, San Rafael, Calif. 94911.

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B. Bulova Watch Co., Bulova Park, Flushing, N.Y. 11370.

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A. E. David Lewis, Society of American Wood Preservers, Inc., 1401 Wilson Boulevard, Suite 205, Arlington, Va. 22009.
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A. Lewis, Rice, Tucker, Allen & Chubb, 611 Olive Street, Suite 1400, St. Louis, Mo. 63101.
B Laclede Steel Co., Equitable Building, St. Louis, Mo. 63102.

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A. H. Wesley McAden, 1707 L Street NW., Suite 650, Washington, D.C. 20036.
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A. Population, Resource Center, Inc., 622 Third Avenue, New York, N.Y. 10017.

A. James B. Potter, Jr., The American Waterways Operators, Inc., 1600 Wilson Boulevard, Suite 1101, Arlington, Va. 22209.
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A. Lloyd T. Preslar, DGA International, Inc., 1225 19th Street NW., Washington, D.C. 20036.
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A. Gerald R. Prout, Burson-Marsteller, 1800 M Street NW., No. 750S, Washington, D.C. 20036.
B. Gould, Inc., 1831 Chestnut Street, St. Louis, Mo. 63160.

A. Quinn, Jacobs, Barry & Dick, 1700 Pennsylvania Avenue NW., Washington, D.C. 20006.
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A. Rogers & Wells, 1666 K Street NW., Washington, D.C. 20006.
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A. Rebecca D. Shapiro and Associates, 111 C Street SE., Washington, D.C. 20003.
B. Pueblo of Zia, General Delivery, San Ysidro, N. Mex. 87053.

A. Mark Sharfman, 8050 South 13th Place, Phoenix, Ariz. 85040.

A. Joseph H. Sharlitt, 1747 Pennsylvania Avenue NW., Washington, D.C.
B. Cornavin, Inc., et al.

A. Shaw, Pittman, Potts & Trowbridge, c/o Ramsay D. Potts, 1800 M Street NW., Washington, D.C. 20036.
B. Atlas Minerals Division, 2406 Prudential Plaza, Denver, Colo. 80202.

A. Shaw, Pittman, Potts & Trowbridge, c/o Ramsay D. Potts, 1800 M Street NW., Washington, D.C. 20036.
B. Bixby Ranch Co., 523 West Sixth Street, Los Angeles, Calif. 90014.

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B. National Rifle Association of America, 1600 Rhode Island Avenue NW., Washington, D.C. 20036.

A. Souther, Spauldink, Kinsey, Williamson & Schwabe, 1200 Standard Plaza, Portland, Oreg. 97204.
B. American Greyhound Track Operators Association, 139 Southeast 14th Lane, Miami, Fla. 33131.

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B. Farm Bureau Mutual Insurance Co. of Arkansas, P.O. Box 31, Seventh at High Street, Little Rock, Ark. 72203.

A. Sutherland, Asbill & Brennan, 1666 K Street NW., Washington, D.C. 20006.
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A. Sutherland, Asbill & Brennan, 1666 K Street NW., Washington, D.C. 20006.

B. Kentucky Farm Bureau Mutual Insurance Co., 120 South Hubbard Lane, Louisville, Ky. 40207; and FB Insurance Co., 120 South Hubbard Lane, Louisville, Ky. 40207.

A. Sutherland, Asbill & Brennan, 1666 K Street NW., Washington, D.C. 20006.
B. Mutual of Omaha Insurance Co., Dodge at 33d Street, Omaha, Nebr. 68131; and United Benefit Life Insurance Co., Dodge at 33d Street, Omaha, Nebr. 68131.

A. Sutherland, Asbill & Brennan, 1666 K Street NW., Washington, D.C. 20006.
B. South Carolina Farm Bureau Mutual Insurance Co., P.O. Box 124, Cayce, S.C. 29033.

A. Sutherland, Asbill & Brennan, 1666 K Street NW., Washington, D.C. 20006.
B. Southern Farm Bureau Life Insurance Co., P.O. Box 78, Jackson, Miss. 39205; Southern Farm Bureau Casualty Insurance Co., P.O. Box 1985, Jackson, Miss. 39205; and Mississippi Farm Bureau Mutual Insurance Co., Jackson, Miss.

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A. Thomas J. Touhey, Sullivan, Beauregard, Clarkson, Moss, Brown & Johnson, 1800 M Street NW., Suite 925, Washington, D.C. 20036.
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A. TransAfrica, 1325 18th Street NW., Suite 202, Washington, D.C. 20036.

A. William C. Triplett, II, 955 L'Enfant Plaza North SW., Suite 905, Washington, D.C. 20024.
B. American Honda Motor Co., Inc., 100 W. Alondra Boulevard, Gardena, Calif. 90247.

A. Unicare Services, Inc., 105 West Michigan Street, Milwaukee, Wis. 53203.

A. Richard F. Vander Veen, 950 28th Street SE., Grand Rapids, Mich. 49508.
B. American Seating Co., 901 Broadway NW., Grand Rapids, Mich. 49508.

A. Gilda Ventresca, American Hospital Association, 444 North Capitol Street NW., No. 500, Washington, D.C. 20001.
B. American Hospital Association, 840 North Lake Shore Drive, Chicago, Ill. 60611.

A. Brenda R. Viehe-Naess, American Insurance Association, 1025 Connecticut Avenue NW., Suite 415, Washington, D.C. 20036.
B. American Insurance Association, 1025 Connecticut Avenue NW., Suite 415, Washington, D.C. 20036.

A. Robert P. Visser, 475 L'Enfant Plaza SW., Suite 4100, Washington, D.C. 20024.
B. Cramer, Visser, Lipsen & Smith, 475 L'Enfant Plaza SW., Washington, D.C. 20024; and Northwest Alaska Pipeline Co., 1730 Pennsylvania Avenue, Suite 230, Washington, D.C.

A. Vorys, Sater, Seymour & Pease, 1800 M Street NW., Suite 800 South, Washington, D.C. 20036.
B. Kenneth D. Beck & C. C. Pruitt, Jr., Co., 52 East Gay Street, Columbus, Ohio 43215.

A. Vorys, Sater, Seymour & Pease, 1800 M Street NW., Suite 800 South, Washington, D.C. 20036.
B. University of Hawaii at Manoa, College of Tropical Agriculture, Honolulu, Hawaii 96822.

A. Charls E. Walker Associates, Inc., 1730 Pennsylvania Avenue NW., Washington, D.C. 20006.

A. Linda Walker-Hill, Hill and Knowlton, Inc., 1425 K Street NW., Washington, D.C. 20005.
B. Hill and Knowlton, Inc., 633 3d Avenue, New York, N.Y. 10017.

A. Webster & Sheffield, 1 Rockefeller Plaza, New York, N.Y. 10020; 1750 New York Avenue NW., Washington, D.C. 20006.
B. Pitkin County (City of Aspen), Colo., 601 Main Street, Aspen, Colo.

A. Lee J. Weddig, 1101 Connecticut Avenue NW., Suite 700, Washington, D.C. 20036.
B. National Fisheries Institute, 1101 Connecticut Avenue NW., Suite 700, Washington, D.C. 20036.

A. Donald G. Weinert, National Society of Professional Engineers, 2029 K Street NW., Washington, D.C. 20006.
B. National Society of Professional Engineers, 2029 K Street NW., Washington, D.C. 20000.

A. The Western Company of North America, P.O. Box 186, Fort Worth, Tex. 76101.

A. Scott C. Whitney, 1747 Pennsylvania Avenue NW., Suite 300, Washington, D.C. 20006.
B. Colt Industries, Inc., 430 Park Avenue, New York, N.Y. 10022.

A. Wickwire, Lewis, Goldmark, Dystel & Schorr, 500 Maynard Building, Seattle, Wash. 98104.
B. Arctic Slope Regional Corp., Arctic Slope Native Association, Inupiat Community of the Arctic Slope, P.O. Box 129, Barrow, Alaska 99723.

A. Everett H. Wilcox, Jr., Alston, Miller & Gaines, 1800 M Street NW., Washington, D.C. 20036.
B. IC Industries, 1625 I Street NW., Suite 810, Washington, D.C.

A. Williams & Connolly, 1000 Hill Building, Washington, D.C. 20006.
B. Air Transport Association of America, 1709 New York Avenue NW., Washington, D.C. 20006.

A. Williams & Jensen, 1101 Connecticut Avenue NW., Washington, D.C. 20036.
B. American Textile Manufacturers Institute, 1101 Connecticut Avenue NW., Suite 300, Washington, D.C. 20036.

A. Williams & Jensen, 1130 17th Street NW., Washington, D.C. 20036.
B. Consolidated Foods Corp., 1305 South LaSalle Street, Chicago, Ill. 60603.

A. Williams & Jensen, 1130 17th Street NW., Washington, D.C. 20036.
B. The First Boston Corp., 20 Exchange Place, New York, N.Y. 10005.

A. Williams & Jensen, 1130 17th Street, NW., Washington, D.C. 20036.
B. Hawaiian Sugar Planters Association, 1151 K Street, Suite 723, Washington, D.C. 20005.

A. Wilmer, Cutler & Pickering, 1666 K Street NW., Washington, D.C. 20006.
B. The State of Alaska, Department of Revenue, Pouch SB, Juneau, Alaska 99981.

A. Winston & Strawn, Suite 1040, 1730 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. Robert W. Galvin, Route 2, Box 160–H, Barrington, Ill. 60010.

A. Witkowski, Weiner, McCaffrey and Brodsky, 1750 K Street NW., Suite 1130, Washington, D.C. 20006.
B. Ad Hoc Mobile Home Finance Group, 1750 K Street NW., Suite 1130, Washington, D.C. 20006.

A. Charles A. Wood, National Fuel Gas Distribution Corp., Room 900, 10 Lafayette Square, Buffalo, N.Y. 14203
B. National Fuel Gas Distribution Corp., National Fuel Gas Supply Corp.; National Gas Storage Corp.; Seneca Resources Corp.

A. World Wide Products, 1224 Coast Village Circle, Santa Barbara, Calif. 93108.

A. Pamela K. Young, National Association of Manufacturers, 7250 York Avenue South No. 511, Edina, Minn. 55435.
B. National Association of Manufacturers 1776 F Street NW., Washington, D.C. 20006

A. Joseph A. Zielezienski, 7604 Boulder Street, North Springfield, Va. 22151.
B. Watkins Johnson Co.

A. Joseph Zucker, National Association of Railroad Passengers, 417 New Jersey Avenue SE., Washington, D.C. 20003.
B. National Association of Railroad Passengers, 417 New Jersey Avenue SE., Washington, D.C. 20003.

A. Daniel I. Zwick, American Hospital Association, 444 North Capitol Street NW., No. 500, Washington, D.C. 20001.
B. American Hospital Association, 840 North Lake Shore Drive, Chicago, Ill. 60611.

A. Carl E. Zwisler III, 7315 Wisconsin Avenue, Washington, D.C. 20014.
B. International Franchise Association, 7315 Wisconsin Avenue, Washington, D.C. 20014.

QUARTERLY REPORTS*

*All alphanumeric characters and monetary amounts refer to receipts and expenditures on page 2, paragraphs D and E of the Quarterly Report Form.

The following reports for the fourth calendar quarter of 1977 were received too late to be included in the published reports for that quarter:

FILE ONE COPY WITH THE SECRETARY OF THE SENATE AND FILE TWO COPIES WITH THE CLERK OF THE HOUSE OF REPRESENTATIVES:

This page (page 1) is designed to supply identifying data; and page 2 (on the back of this page) deals with financial data.

PLACE AN "X" BELOW THE APPROPRIATE LETTER OR FIGURE IN THE BOX AT THE RIGHT OF THE "REPORT" HEADING BELOW:

"PRELIMINARY" REPORT ("Registration"): To "register," place an "X" below the letter "P" and fill out page 1 only.

"QUARTERLY" REPORT: To indicate which one of the four calendar quarters is covered by this Report, place an "X" below the appropriate figure. Fill out both page 1 and page 2 and as many additional pages as may be required. The first additional page should be numbered as page "3," and the rest of such pages should be "4," "5," "6," etc. Preparation and filing in accordance with instructions will accomplish compliance with all quarterly reporting requirements of the Act.

Year: 19_____

REPORT

PURSUANT TO FEDERAL REGULATION OF LOBBYING ACT

P	QUARTER			
	1st	2d	3d	4th
(Mark one square only)				

NOTE ON ITEM "A".—(a) IN GENERAL. This "Report" form may be used by either an organization or an individual, as follows:
(i) "Employee".—To file as an "employee", state (in Item "B") the name, address, and nature of business of the "employer". (If the "employee" is a firm [such as a law firm or public relations firm], partners and salaried staff members of such firm may join in filing a Report as an "employee".)
(ii) "Employer".—To file as an "employer", write "None" in answer to Item "B".
(b) SEPARATE REPORTS. An agent or employee should not attempt to combine his Report with the employer's Report:
(i) Employers subject to the Act must file separate Reports and are not relieved of this requirement merely because Reports are filed by their agents or employees.
(ii) Employees subject to the Act must file separate Reports and are not relieved of this requirement merely because Reports are filed by their employers.

A. ORGANIZATION OR INDIVIDUAL FILING:
1. State name, address, and nature of business.

2. If this Report is for an Employer, list names of agents or employees who will file Reports for this Quarter.

NOTE ON ITEM "B".—*Reports by Agents or Employees.* An employee is to file, each quarter, as many Reports as he has employers, except that: (a) If a particular undertaking is jointly financed by a group of employers, the group is to be considered as one employer, but all members of the group are to be named, and the contribution of each member is to be specified; (b) if the work is done in the interest of one person but payment therefor is made by another, a single Report—naming both persons as "employers"—is to be filed each quarter.

B. EMPLOYER.—State name, address, and nature of business. If there is no employer, write "None."

NOTE ON ITEM "C".—(a) The expression "in connection with legislative interests," as used in this Report, means "in connection with attempting, directly or indirectly, to influence the passage or defeat of legislation." "The term 'legislation' means bills, resolutions, amendments, nominations, and other matters pending or proposed in either House of Congress, and includes any other matter which may be the subject of action by either House"—§ 302(e).
(b) Before undertaking any activities in connection with legislative interests, organizations and individuals subject to the Lobbying Act are required to file a "Preliminary" Report (Registration).
(c) After beginning such activities, they must file a "Quarterly" Report at the end of each calendar quarter in which they have either received or expended anything of value in connection with legislative interests.

C. LEGISLATIVE INTERESTS, AND PUBLICATIONS in connection therewith:

1. State approximately how long legislative interests are to continue. If receipts and expenditures in connection with legislative interests have terminated, ☐ place an "X" in the box at the left, so that this Office will no longer expect to receive Reports.

2. State the general legislative interests of the person filing and set forth the *specific* legislative interests by reciting: (a) Short titles of statutes and bills; (b) House and Senate numbers of bills, where known; (c) citations of statutes, where known; (d) whether for or against such statutes and bills.

3. In the case of those publications which the person filing has caused to be issued or distributed in connection with legislative interests, set forth: (a) Description, (b) quantity distributed; (c) date of distribution, (d) name of printer or publisher (if publications were paid for by person filing) or name of donor (if publications were received as a gift).

(Answer items 1, 2, and 3 in the space below. Attach additional pages if more space is needed)

4. If this is a "Preliminary" Report (Registration) rather than a "Quarterly" Report, state below what the nature and amount of anticipated expenses will be; and if for an agent or employee, state also what the daily, monthly, or annual rate of compensation is to be. If this is a "Quarterly" Report, disregard this item "C4" and fill out item "D" and "E" on the back of this page. Do not attempt to combine a "Preliminary" Report (Registration) with a "Quarterly" Report.

AFFIDAVIT

[Omitted in printing]

COPIES WITH THE CLERK OF THE HOUSE OF REPRESENTATIVES:

NOTE ON ITEM "D."—(a) *In General.* The term "contribution" includes *anything of value.* When an organization or individual uses printed or duplicated matter in a campaign attempting to influence legislation, money received by such organization or individual—for such printed or duplicated matter—is a "contribution." "The term 'contribution' includes a gift, subscription, loan, advance, or deposit of money, or anything of value, and includes a contract, promise, or agreement, whether or not legally enforceable, to make a contribution"—Section 302(a) of the Lobbying Act.

(b) IF THIS REPORT IS FOR AN EMPLOYER.—(i) *In General.* Item "D" is designed for the reporting of all receipts from which expenditures are made, or will be made, in accordance with legislative interests.

(ii) *Receipts of Business Firms and Individuals.*—A business firm (or individual) which is subject to the Lobbying Act by reason of expenditures which it makes in attempting to influence legislation—but which has no funds to expend except those which are available in the ordinary course of operating a business not connected in any way with the influencing of legislation—will have no receipts to report, even though it does have expenditures to report.

(iii) *Receipts of Multipurpose Organizations.*—Some organizations do not receive any funds which are to be expended solely for the purpose of attempting to influence legislation. Such organizations make such expenditures out of a general fund raised by dues, assessments, or other contributions. The percentage of the general fund which is used for such expenditures indicates the percentage of dues, assessments, or other contributions which may be considered to have been paid for that purpose. Therefore, in reporting receipts, such organizations may specify what that percentage is, and report their dues, assessments, and other contributions on that basis. However, each contributor of $500 or more is to be listed, regardless of whether the contribution was made solely for legislative purposes.

(c) IF THIS REPORT IS FOR AN AGENT OR EMPLOYEE.—(i) *In General.* In the case of many employees, all receipts will come under Items "D 5" (received for services) and "D 12" (expense money and reimbursements). In the absence of a clear statement to the contrary, it will be presumed that your employer is to reimburse you for all expenditures which you make in connection with legislative interests.

(ii) *Employer as Contributor of $500 or More.*—When your contribution from your employer (in the form of salary, fee, etc.) amounts to $500 or more, it is not necessary to report such contribution under "D 13" and "D 14," since the amount has already been reported under "D 5," and the name of the "employer" has been given under Item "B" on page 1 of this report.

D. RECEIPTS (INCLUDING CONTRIBUTIONS AND LOANS):

Fill in every blank. If the answer to any numbered item is "None," write "None" in the space following the number.

Receipts (other than loans)

1. $_____Dues and assessments
2. $_____Gifts of money or anything of value
3. $_____Printed or duplicated matter received as a gift
4. $_____Receipts from sale of printed or duplicated matter
5. $_____Received for services (e.g., salary, fee, etc.)

6. $_____TOTAL for this Quarter (Add items "1" through "5")
7. $_____Received during previous Quarters of calendar year

8. $_____TOTAL from Jan. 1 through this Quarter (Add "6" and "7")

Loans Received

"The term 'contribution' includes a . . . *loan* . . ."—Sec. 302(a).

9. $_____TOTAL now owed to others on account of loans
10. $_____Borrowed from others during this Quarter
11. $_____Repaid to others during this Quarter

12. $_____"Expense money" and Reimbursements received this Quarter

Contributors of $500 or more (from Jan. 1 through this Quarter)

13. Have there been such contributors?

Please answer "yes" or "no": _____

14. In the case of each contributor whose contributions (including loans) during the "period" from January 1 through the last days of this Quarter total $500 or more:

Attach hereto plain sheets of paper, approximately the size of this page, tabulate data under the headings "Amount" and "Name and Address of Contributor"; and indicate whether the last day of the period is March 31, June 30, September 30, or December 31. Prepare such tabulation in accordance with the following example:

Amount	*Name and Address of Contributor*
	(*"Period"* from Jan. 1 through _____, 19____)
$1,500.00	John Doe, 1621 Blank Bldg., New York, N.Y.
$1,785.00	The Roe Corporation, 2511 Doe Bldg., Chicago, Ill.
$3,285.00	TOTAL

NOTE ON ITEM "E".—(a) *In General.* "The term 'expenditure' includes a payment, distribution, loan, advance, deposit, or gift of money or anything of value, and includes a contract, promise, or agreement, whether or not legally enforceable, to make an expenditure"—Section 302(b) of the Lobbying Act.

(b) IF THIS REPORT IS FOR AN AGENT OR EMPLOYEE. In the case of many employees, all expenditures will come under telephone and telegraph (Item "E 6") and travel, food, lodging, and entertainment (Item "E 7").

E. EXPENDITURES (INCLUDING LOANS) in connection with legislative interests:

Fill in every blank. If the answer to any numbered item is "None," write "None" in the spaces following the number.

Expenditures (other than loans)

1. $_____Public relations and advertising services
2. $_____Wages, salaries, fees, commissions (other than item "1")
3. $_____Gifts or contributions made during Quarter
4. $_____Printed or duplicated matter, including distribution cost
5. $_____Office overhead (rent, supplies, utilities, etc.)
6. $_____Telephone and telegraph
7. $_____Travel, food, lodging, and entertainment
8. $_____All other expenditures

9. $_____TOTAL for this Quarter (Add "1" through "8")
10. $_____Expended during previous Quarters of calendar year

11. $_____TOTAL from January 1 through this Quarter (Add "9" and "10")

Loans Made to Others

"The term 'expenditure' includes a . . . *loan* . . ."—Sec. 302(b).

12. $_____TOTAL now owed to person filing
13. $_____Lent to others during this Quarter
14. $_____Repayment received during this Quarter

15. Recipients of Expenditures of $10 or More

In the case of expenditures made during this Quarter by, or on behalf of the person filing: Attach plain sheets of paper approximately the size of this page and tabulate data as to expenditures under the following heading: "Amount," "Date or Dates," "Name and Address of Recipient," "Purpose." Prepare such tabulation in accordance with the following example:

Amount	*Date or Dates—Name and Address of Recipient—Purpose*
$1,750.00	7-11: Roe Printing Co., 3214 Blank Ave., St. Louis, Mo.—Printing and mailing circulars on the "Marshbanks Bill."
$2,400.00	7-15, 8-15, 9-15: Britten & Blaten, 3127 Gremlin Bldg., Washington, D.C.—Public relations service at $800.00 per month.
$4,150.00	TOTAL

A. Robert J. Aagre, Chamber of Commerce of the United States, 1615 H Street NW., Washington, D.C. 20062.
B. Chamber of Commerce of the United States, 1615 H Street NW, Washington, D.C. 20062.
E. (9) $11.50.

A. Actors Equity Association, 1500 Broadway, New York, N.Y. 10036.
D. (6) $2,500. E. (9) $2,500.

A. Ad Hoc Committee on Concerned Parents, P.O. Box 313, Lexington, Ma. 02173.
D. (6) $1,564.75. E. (9) $1,399.16.

A. Bruce Adams, 2030 M Street NW., Washington, D.C. 20036.
B. Common Cause, 2030 M Street NW., Washington, D.C. 20036.
D. (6) $6,524.97. E. (9) $293.37.

A. Adams, Duque & Hazeltine, 523 West Sixth Street, Los Angeles, Calif. 90014.
B. GATX Corp., 120 South Riverside Plaza, Chicago, Ill. 60606.
D. (6) $1,526.63. E. (9) $1,435.18.

A. Thomas L. Adams, Jr., 1101 15th Street NW., Washington, D.C. 20005.
B. Republic Steel Corp., Republic Building, Cleveland, Ohio 44101.

A. Terrance M. Adlhock, 1775 K Street NW., Suite 310, Washington, D.C. 20006.
B. El Paso Natural Gas Co., P.O. Box 1492, El Paso, Tex. 79978.
D. (6) $2,700. E. (9) $331.39.

A. Advisors Inc., 229 Pennsylvania Avenue SE., Washington, D.C. 20003.
B. Electronic Data Systems Corp., 7171 Forest Lane, Dallas, Tex. 75230.
E. (9) $200.

A. Aerospace Industries Association of America, Inc., 1725 DeSales Street NW., Washington, D.C. 20036.
D. (6) $11,630.17. E. (9) $11,630.17.

A. AFL–CIO Maritime Committee, 100 Indiana Avenue NW., Washington, D.C. 20001.
D. (6) $5,150. E. (9) $4,216.32.

A. Donald G. Agger, DGA International, Inc., 1225 19th Street NW., Washington, D.C. 20036.
B. DGA International, Inc., 1225 19th Street NW., Washington, D.C. 20036 (for Aerospatiale, 37 Boulevard de Montmorency, 75016 Paris, France).

A. Donald G. Agger, DGA International, Inc., 1225 19th Street NW., Washington, D.C. 20036.
B. DGA International, Inc., 1225 19th Street NW., Washington, D.C. 20036 (for Airbus Industrie, Avenue Lucien Servanty, 31700 Blagnac, France).
D. (6) $57.69.

A. Air Products and Chemicals, Inc., P.O. Box 538, Allentown, Pa. 18105.
E. (9) $12.50.

A. Aircraft Owners & Pilots Association, P.O. Box 5800, Washington, D.C. 20014.
E. (9) $4,671.68.

A. Randolf H. Aires, 1211 Connecticut Avenue NW., Suite 802, Washington, D.C. 20036.
B. Sears, Roebuck and Co., Sears Tower, Chicago, Ill. 60684.
D. (6) $1,000. E. (9) $69.73.

A. G. Colburn Aker, 1425 K Street NW., Washington, D.C. 20005.
B. Hill and Knowlton, Inc., 633 Third Avenue, New York, N.Y. 10017.
D. (6) $2,200.

A. Akin, Gump, Hauer & Feld, 1100 Madison Office Building, 1155 15th Street NW., Washington, D.C. 20005.
B. The John Akridge Co., 1627 K Street NW., Washington, D.C. 20006.
D. (6) $3,500.

A. Akin, Gump, Hauer & Feld, 1100 Madison Office Building, 1155 15th Street NW., Washington, D.C.
B. Coastal States Gas Producing Co., 9 Greenway Plaza, Houston, Tex. 77046.
D. (6) $2,500. E. (9) $11.

A. Akin, Gump, Hauer & Feld, 1100 Madison Office Building, 1155 15th Street NW., Washington, D.C. 20005.
B. E & J Gallo Winery, P.O. Box 1130, Modesto, Calif. 95353.
D. (6) $3,000.

A. Akin, Gump, Hauer & Feld, 1100 Madison Office Building, 1155 15th Street NW., Washington, D.C. 20005.
B. Haskins & Sells, 1114 Avenue of the Americas, New York, N.Y. 10036.
D. (6) $1,200.

A. Akin, Gump, Hauer & Feld, 1100 Madison Office Building, 1155 15th Street NW., Washington, D.C. 20005.
B. Northwest Alaskan Pipeline Co., 1801 K Street NW., Suite 901, Washington, D.C. 20006.
D. (6) $22,000.

A. Akin, Gump, Hauer & Feld, 1100 Madison Office Building, 1155 15th Street NW., Washington, D.C. 20005.
B. Sun Co., Inc., 1608 Walnut Street, Philadelphia, Pa. 19103.
D. (6) $7,500. E. (9) $873.70.

A. Akin, Gump, Hauer & Feld, 1100 Madison Office Building, 1155 15th Street NW., Washington, D.C. 20005.
B. Vickers Petroleum Corp., P.O. Box 2240, Wichita, Kans. 67201.
D. (6) $1,000.

A. Alaska Coalition, Inc., 620 C Street SE., Washington, D.C. 20003.
D. (6) $47,189.25. E. (9) $47,516.87.

A. James J. Albertine, Interstate Natural Gas Association of America, 1660 L Street NW., Suite 601, Washington, D.C. 20036.
B. Interstate Natural Gas Association of America, 1660 L Street NW., Suite 601, Washington, D.C. 20036.
D. (6) $300.

A. Alcalde, Henderson, O'Bannon & Kline, 1911 North Fort Myer Drive, Suite 1207, Rosslyn, Va. 22209.
B. Air Sunshine, 1129 Simonton Street, Key West, Fla.
D. (6) $750.

A. Alcalde, Henderson, O'Bannon & Kline, 1911 North Fort Myer Drive, Suite 1207, Rosslyn, Va. 22209.
B. Associated Industries of Florida, 203 South Adams Street, Tallahassee, Fla. 32302.

A. Alcalde, Henderson, O'Bannon & Kline, 1911 North Fort Myer Drive, Suite 1207, Rosslyn, Va. 22209.
B. Association of Local Transport Airlines, 1801 K Street NW., Suite 803, Washington, D.C. 20006.

A. Alcalde, Henderson, O'Bannon & Kline 1911 North Fort Myer Drive, Suite 1207, Rosslyn, Va. 22209.
B. The Brunswick Corp., One Brunswick Plaza, Skokie, Ill. 60076.
D. (6) $1,500.

A. Alcalde, Henderson, O'Bannon & Kline, 1911 North Fort Myer Drive, Suite 1207, Rosslyn, Va. 22209.
B. Computer Sciences Corp., 1616 North Ft. Myer Drive, Arlington, Va. 22209.
D. (6) $3,000.

A. Alcalde, Henderson, O'Bannon & Kline, 1911 North Fort Myer Drive, Suite 1207, Rosslyn, Va. 22209.
B. The Continental Group, Inc., 633 Third Avenue, New York, N.Y. 10017.
D. (6) $3,000.

A. Alcalde, Henderson, O'Bannon & Kline, 1911 North Fort Myer Drive, Suite 1207, Rosslyn, Va. 22209.
B. Tampa Electric Co., P.O. Box 111, Tampa, Fla. 33601.
D. (6) $1,500.

A. Alcalde, Henderson, O'Bannon & Kline, 1911 North Fort Myer Drive, Suite 1207, Rosslyn, Va. 22209.
B. Tampa Port Authority, P.O. Box 2192, Tampa, Fla. 33601.
D. (6) $3,600.

A. Alcalde, Henderson, O'Bannon & Kline, 1911 North Fort Myer Drive, Suite 1207, Rosslyn, Va. 22209.
B. Jim Walter Corp., P.O. Box 22601, Tampa, Fla. 33622.
D. (6) $3,000.

A. Alderson, Ondov, Leonard & Sween, 105 East Oakland Avenue, Austin, Minn. 55912.
B. The Hormell Foundation, Austin, Minn. 55912.

A. G. Kenneth Aldrich, National Association of Manufacturers, 222 South Prospect Avenue, Park Ridge, Ill. 60068.
D. (6) $225.

A. Willis W. Alexander, American Bankers Association, 1120 Connecticut Avenue, NW., Washington, D.C. 20036.
B. American Bankers Association, 1120 Connecticut Avenue NW., Washington, D.C. 20036.
D. (6) $1,875. E. (9) $29.25.

A. Maxton M. Allcox, 400 First Street NW., Room 801, Washington, D.C. 20001.
B Brotherhood of Maintenance of Way Employes, 12050 Woodward Avenue, Detroit, Mich. 48203.
D. (6) $5,791.66.

A. Robert D. Allen, 2845 Summit Drive, Hillsborough, Calif. 94010.
B. Bechtel Power Corp., 50 Beale Street, P.O. 3965, San Francisco, Calif. 94119.

A. Alliance of American Insurers, 20 North Wacker Drive, Chicago, Ill. 60606.
E. (9) $11,440.

A. Ricardo R. Alvarado, 6108 Fort Hunt Road, Alexandria, Va. 22307.
B. Lockheed Corp., P.O. Box 551, Burbank, Calif. 91520.
D. (6) $1,480. E. (9) $439.72.

A. American Academy of Family Physicians, 1740 West 92d Street, Kansas City, Mo. 64114.
D. $1,193.24. E. $1,193.24.

A. American Arts Alliance, Inc., 424 C Street NE., Washington, D.C. 20002.
D. (6) $62,486.30. E. (9) $67,845.55.

A. American Association of Meat Processors, 224 East High Street, Elizabethtown, Pa. 17022.
D. (6) $49.81.

A. American Automobile Association, 8111 Gatehouse Road, Falls Church, Va. 22042.

A. American Bankers Association, 1120 Connecticut Avenue NW., Washington, D.C. 20036.
D. (6) $41,022.65. E. (9) $41,022.65.

A. American Children's Citizenship Rights League, 157 Route de Grand-Lancy, 1213 Omex, Geneva, Switzerland.
D. (6) $100. E. (9) $100.

A. American Council for Capital Formation, 1425 K Street NW., Suite 1007, Washington, D.C. 20005.
D. (6) $4,800. E. (9) $4,709.07.

A. American Council of Life Insurance, Inc., 1850 K Street NW., Washington, D.C. 20006.
D. (6) $605. E. (9) $158.

A. American Farm Bureau Federation, 225 Touhy Avenue, Park Ridge, Ill. 60068; 425 13th Street NW., Washington, D.C. 20004.
D. (6) $51,074. E. (9) $51,074.

A. American Federation of Labor and Congress of Industrial Organizations, 815 16th Street NW., Washington, D.C. 20006.
E. (9) $117,782.89.

A. American Feed Manufacturers Association, 1701 North Ft. Myer Drive, Arlington, Va. 22209.
D. (6) $2,500. E. (9) $2,500.

A. American Frozen Food Institute, 1700 Old Meadow Road, McLean, Va. 22101.
D. (6) $145,162.50. E. (9) $550.

A. American Gas Association, 1515 Wilson Blvd., Arlington, Va. 22209.
D. (6) $19,776.49. E. (9) $19,776.49.

A. American Hellenic Institute, Public Affairs Committee, Inc., 1730 K Street NW., Washington, D.C. 20006.
D. (6) $500. E. (9) $661.32.

A. American Honey Producers Assn., P.O. Box 368, Minco, Okla. 73059.
D. (6) $2,107.50. E. (9) $9,349.51.

A. American Hotel & Motel Association, 888 Seventh Avenue, New York, N.Y. 10019.
D. (6) $22,220.91. E. (9) $27,858.33.

A. The American Humane Association, P.O. Box 1266, Denver, Colo. 80201.
E. (9) $1,800.

A. American Insurance Association, 85 John Street, New York, N.Y. 10038.
D. (6) $57,815.25. E. (9) 57,815.25.

A. American Land Title Association, 1828 L Street NW., Washington, D.C. 20036.
E. (9) $4,601.

A. American League for International Security Assistance, Suite 4400, 475 L'Enfant Plaza SW., Washington, D.C. 20024.
D. (6) $7,990.09 E. (9) $7,990.09.

A. American Maritime Association, 17 Battery Place North, New York, N.Y. 10004, 1612 K Street, N.W., Washington, D.C. 20006.

A. American Meat Institute, P.O. Box 3556, Washington, D.C. 20007; 1600 Wilson Boulevard, Arlington, Va.
E. (9) $9.

A. American Medical Association, 535 North Dearborn Street, Chicago, Ill. 60610.
D. (6) $1,008.75. E. (9) $34,541.46.

A. American Nuclear Energy Council, 1750 K Street, NW., Suite 300, Washington, D.C.
D. (6) $29,331.10. E. (9) $43,770.19.

A. American Nurses' Association, 2420 Pershing Road, Kansas City, Mo. 64108.
D. (6) $6,898.72. E. (9) $6,898.72.

A. American Petroleum Institute, 2101 L Steet NW., Washington, D.C. 20037.
D. (6) $85,569. E. (9) $161,353.

A. American Physical Therapy Association, 1156 15th Street NW., Washington, D.C. 20005.
D. (6) $6,880.37. E. (9) $6,880.37.

A. American Plywood Association, 1119 A Street, Tacoma, Wash. 98401.

A. American Podiatry Association, 20 Chevy Chase Circle, Washington, D.C. 20015.
E. (9) $15,164.76.

A. American Postal Workers Union, 817 14th Street NW., Washington, D.C. 20005.
D. (6) $2,453,537.73. E. (9) $147,174.63.

A. American Public Transit Association, 1100 17th Street NW., Washington, D.C. 20036.
D. (6) $5,400. E. (9) $33,514.

A. The American Radio Relay League, Inc., 225 Main Street, Newington, Conn. 06111.
D. (6) 4,778,132.

A. American Seed Trade Association, 1030 15th Street NW., Suite 964, Washintgon, D.C. 20005.
E. (9) $3,000.

A. American Short Line Railroad Association, 2000 Massachusetts Avenue NW., Washington, D.C. 20036.
D. (6) $966.64. E. (9) $966.64.

A. Americar. Surveys, Embassy Square, Suite 901, 2000 N Street NW., Washington, D.C. 20036.
B. National Customs Brokers & Forwarders Association of America, Inc., One World Trade Center, Suite 1109, New York, N.Y. 10048.
D. (6) $287.50. E. (9) $155.37.

A. American Textile Manufacturers Institute, Inc., Wachovia Center, 400 South Tryon Street, Charlotte, N.C. 28285.
D. (6) $37,563.86. E. (9) $37,563.86.

A. American Veterinary Medical Association, 1522 K Street NW., No. 828, Washington, D.C. 20005.
D. (6) $50. E. (9) $455.

A. The American Waterways Operators, Inc., 1600 Wilson Boulevard, Suite 1101, Arlington, Va. 22209.
D. (6) $2,760.44. E. (9) $2,753.

A. Americans for Alaska, Inc., P.O. Box 50, Riverwood, Md. 21139.
D. (6) $8,400. E. (9) $6,697.29.

A. Morris J. Amitay, 444 North Capitol Street NW., No. 412, Washington, D.C. 20001.
B. American Israel Public Affairs Committee, 444 North Capitol Street NW., No. 412, Washington, D.C. 20001.
D. (6) $6,874.98.

A. Anthony L. Anderson, Sun Co., Inc., 1800 K Street NW., Suite 820, Washington, D.C. 20006.
B. Sun Co., Inc., 100 Matsonford Road, Radnor, Pa. 19087.
D. (6) 2,350. E. (9) $3,558.

A. Gwen A. Anderson, American Sign & Indicator Corp., 1220 19th Street, Washington, D.C. 20036.
B. American Sign & Indicator Corp., 2310 Fancher Way, P.O. Drawer 2727, Spokane, Wash. 99220.
D. (6) $1,500. E. (9) $801.98.

A. Anderson, Pendleton, McMahon, Peet & Donovan, 1000 16th Street NW., Suite 701, Washington, D.C. 20036.
B. Embassy of Chile, 1732 Massachusetts Avenue NW., Washington, D.C. 20036.
D. (6) $4,166. E. (9) $208.41.

A. Robert L. Anderson, Deere & Co., John Deere Road, Moline, Ill. 61265.
B. Deere & Co., John Deere Road, Moline, Ill. 61265.

A. Stanton D. Anderson, 1156 15th Street NW., Suite 1200, Washington, D.C. 20005.
B. Surrey, Karasik and Morse, 1156 15th Street NW., Washington, D.C. 20005.

A. Wm. C. Anderson, 1101 16th Street NW., Washington, D.C. 20036.
B. Independent Petroleum Association of America, 1101 16th Street NW., Washington, D.C. 20036.
E. (9) $19.75.

A. Emmet Andrews, American Postal Workers Union, AFL–CIO, 817 14th Street NW., Washington, D.C. 20005.
B. American Postal Workers Union, AFL–CIO, 817 14th Street NW., Washington, D.C. 20005.
D. (6) $7,387.90.

A. Robert C. Angel, 1000 Connecticut Avenue NW., Washington, D.C. 20036.
B. U.S.-Japan Trade Council, 1000 Connecticut Avenue NW., Washington, D.C. 20036
D. (6) $300.

A. Jack R. Angell, United Gas Pipe Line Co., 1101 17th Street NW., Washington, D.C. 20036.
B. United Gas Pipe Line Co., P.O. Box 1478, Houston, Tex. 77001.
D. (6) $1,320. E. (9) $26.50.

A. Scott P. Anger, American Petroleum Refiners Association, 1200 18th Street NW., Suite 607, Washington, D.C. 20036.
B. American Petroleum Refiners Association, 1200 18th Street NW., Suite 607, Washington, D.C. 20036.
D. (6) $150.

A. C. Stephen Angle, Marathon Oil Co., 1800 M Street NW., Washington, D.C. 20036.
B. Marathon Oil Co., Findlay, Ohio 45840.
E. (9) $280.62.

A. J. Donald Annett, 1050 17th Street NW., No. 500, Washington, D.C.
B. Texaco Inc., 2000 Westchester Avenue, White Plains, N.Y. 10650.
D. (6) $200.

A. APA Co., 400 First Street NW., Washington, D.C. 20001.
B. University of Health Sciences/The Chicago Medical School, 2020 West Ogden Avenue, Chicago, Ill. 60612.
D. (6) $750.

A. John Archer, American Automobile Association, 8111 Gatehouse Road, Falls Church, Va. 22042.
B. American Automobile Association, 8111 Gatehouse Road, Falls Church, Va. 22042.

A. Carl F. Arnold, 1100 Connecticut Avenue NW., Washington, D.C. 20036.
B. American Petroleum Institute, 2101 L Street NW., Washington, D.C. 20037.
D. (6) $8,750.01.

A. Carl F. Arnold, 1100 Connecticut Avenue NW., Washington, D.C. 20036.
B. National Realty Committee, 2033 M Street NW., Washington, D.C. 20036.
D. (6) $1,914.

A. Carl F. Arnold, 1100 Connecticut Avenue NW., Washington, D.C. 20036.
B. Quintana Petroleum Corp., P.O. Box 3331, Houston, Tex. 77001.
D. (6) $750.

A. Carl F. Arnold, 1100 Connecticut Avenue NW., Washington, D.C. 20036.
B. Quintana Refinery Co., P.O. Box 3331, Houston, Tex. 77001.
D. (6) $750.

A. Carl F. Arnold, 1100 Connecticut Avenue NW., Washington, D.C. 20036.
B. Securities Industry Association, 20 Broad Street, New York, N.Y. 10005.
D. (6) $1,050.

A. Arnold & Porter, 1229 19th Street NW., Washington, D.C. 20036.
B. The Kroger Co., 1014 Vine Street, Cincinnati, Ohio 45201.
D. (6) $2,509.94. E. (9) $8.10.

A. Arnold & Porter, 1229 19th Street NW., Washington, D.C. 20036.
B. The London Commodity Exchange Co. Ltd., Cereal House, 58 Mark Lane, London EC3R 7 NE, England; International Commodities Clearing House, Ltd., Roman Wall House, 1-2 Crutched Friars, London EC3N 2AN, England.
E. (9) $55.

A. Arnold & Potter, 1229 19th Street NW., Washington, D.C. 20036.
B. Maritz, Inc., 1355 North Highway Drive, Fenton, Mo. 63026.
E. (9) $42.86.

A. Arnold & Porter, 1229 19th Street NW., Washington, D.C. 20036.
B. MFA Mutual Insurance Co., 1817 West Broadway, Columbia, Mo. 65201.
E. (9) $206.81.

A. Maureen Aspin, 2030 M Street NW., Washington, D.C. 20036.
B. Common Cause, 2030 M Street NW., Washington, D.C. 20036.
D. (6) $5,250 E. (9) $59.65.

A. Associated Employers, Inc., 6009 Rittiman Plaza, San Antonio, Tex. 78218.

A. Associated Third Class Mail Users, 1725 K Street NW., Suite 607, Washington, D.C. 20006.
D. (6) $600. E. (9) $600.

A. Association for the Advancement of Invention & Innovation, 1911 Jefferson Davis Highway, Suite 301, Arlington, Va. 22202.
D. (6) $1,302. E. (9) $2,816.52.

A. Association for the Improvement of the Mississippi River, c/o Ramsey D. Potts, 1800 M Street NW., South Building, Washington, D.C. 20036.
E. (9) $805.50.

A. Association of American Publishers, 1707 L Street NW., Suite 480, Washington, D.C. 20036.
D. (6) $5,632.18. E. (9) $5,632.18.

A. Association of American Railroads, American Railroads Building (211), 1902 L Street NW., Washington, D.C. 20036.
D. (6) $32,522.55. E. (9) $32,522.55.

A. Association of American Veterinary Medical Colleges, 1522 K Street NW., No. 828, Washington, D.C. 20005.
D. (6) $50. E. (9) $80.

A. Association of Maximum Service Telecasters, Inc., 1735 DeSales Street NW., Washington, D.C. 20036.
E. (9) $19.83.

A. The Association of Trial Lawyers of America, 1050 31st Street NW., Washington, D.C. 20007.
D. (6) $9,282.50. E. (9) $9,282.50.

A. Association on Japanese Textile Imports, Inc., 551 Fifth Avenue, New York, N.Y. 10017.
E. (9) $250.

A. George J. Aste, United Airlines, 1825 K Street NW., Suite 607, Washington, D.C. 20006.
B. United Airlines, P.O. Box 66100, Chicago, Ill. 60666.
D. (6) $1,500.

A. Atlantic Richfield Co., 515 South Flower Streeet, Los Angeles, Calif. 90071.
E. (9) $3,745.30.

A. John S. Autry, Johns-Manville Corp., 1025 Connecticut Avenue NW., Suite 214, Washington, D.C. 20036.
B. Johns-Manville Corp., P.O. Box 5108, Denver, Colo 80217.
D. (6) $1,000. E. (9) $1,200.

A. Aviation Consumer Action Project, 1346 Connecticut Avenue NW., Suite 717, Washington, D.C. 20036.
E. (9) $240.

A. Avon Products, Inc., 9 West 57th Street, New York, N.Y. 10019.
E. (9) $384.83.

A. Craig H. Baab, American Bar Association, 1800 M Street NW., Washington, D.C. 20036.
B. American Bar Association, 1155 East 60th Street, Chicago, Ill. 60637.
D. (6) $600. E. (9) $50.

A. Bache, Halsey, Stuart, Shields, Inc., 100 Gold Street, New York, N.Y. 10038.
E. (9) $3,625.

A. Carl E. Bagge, Coal Building, Washington, D.C. 20036.
B. National Coal Association, Coal Building, Washington, D.C. 20036.
D. (6) $1,900. E. (9) $208.88.

A. Charles W. Bailey, 8316 Arlington Boulevard, Suite 600, Fairfax, Va. 22038.
B. National Right to Work Committee, 8316 Arlington Boulevard, Suite 600, Fairfax, Va. 22038.

A. George F. Bailey, Jr., Alabama Railroad Association, P.O. Box 21, Montgomery, Ala. 36101.
B. Alabama Railroad Association, P.O. Box 21, Montgomery, Ala., 36101.
D. (6) $207.60. E. (9) $245.80.

A. William W. Bailey, 1700 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. The Proprietary Association, 1700 Pennsylvania Avenue NW., Washington, D.C. 20006.
D. (6) $6,000. E. (9) $139.30.

A. David L. Baird, Jr., 1899 L Street NW., Suite 1100, Washington, D.C. 20036.
B. Exxon Corp., 1251 Avenue of Americas, New York, N.Y.
E. (9) $42.20.

A. Baker & Botts, 1701 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. Houston Lighting & Power Co., P.O. Box 1700, Houston, Tex. 77001.

A. Baker & Botts, 1701 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. Pennzoil Co., Pennzoil Place, P.O. Box 2967, Houston, Tex. 77002.

A. Baker & Daniels, 1800 M Street NW., Washington, D.C. 20036.
B. The Consumer Bankers Association, 1725 K Street NW., Washington, D.C. 20006.
E. (9) $20.50.

A. Baker & Daniels, 1800 M Street NW., Washington, D.C. 20036.
B. Independent Refiners Association of America, 1220 19th Street NW., Washington, D.C. 20036.

A. Donald Baldwin, Donald Baldwin Associates, Suite 906, 1625 I Street NW., Washington, D.C. 20006.
B. National Taxpayers Union, 325 Pennsylvania Avenue NW., Washington, D.C. 20006.
D. (6) $3,600.

A. Richard L. Baldwin, 225 Main Street, Newington, Conn. 06111.
B. The American Radio Relay League, Inc., 225 Main Street, Newington, Conn. 06111.
D. (6) $35,000.

A. Jacqueline Balk-Tusa, 1625 I Street NW., No. 809, Washington, D.C. 20006.
B. Boise Cascade Corp., 1625 I Street NW., No 809, Washington, D.C. 20006.
D. (6) $9,123.

A. Michael Baly III, American Gas Association, 1515 Wilson Boulevard, Arlington, Va. 22209.
B. American Gas Association, 1515 Wilson Boulevard, Arlington, Va. 22209.
D. (6) $2,800. E. (9) $616.39.

A. Will G. Barber, 1300 American Bank Tower, Austin, Tex. 78701.
B. Texas Medical Association, 1801 North Lamar Boulevard, Austin, Tex. 78701.
D. (6) $250. E. (9) $80.

A. Dennis J. Barbour, 1015 18th Street NW., Washington, D.C. 20036.
B. American College of Preventive Medicine, 1015 18th Street NW., Washington, D.C. 20036.
D. (6) $45.

A. Dennis J. Barbour, 1015 18th Street, NW., Washington, D.C. 20036.
B. Association of Teachers of Preventive Medicine, 1015 18th Street NW., Washington, D.C. 20036.
D. (6) $45.

A. Wayne B. Bardsley, Investment Co. Institute, 1775 K Street NW., Washington, D.C. 20006.
B. Investment Co. Institute, 1775 K Street NW., Washington, D.C. 20006.
D. (6) $4.25.

A. Robert O. Barker, 801 Northland Towers West, Southfield, Mich. 48075.
B. National Association of Manufacturers, 1776 F Street NW., Washington, D.C. 20006.
D. (6) $1,500. E. (9) $54.60.

A. Thomas H. Barksdale, Jr., 2101 L Street NW., Washington, D.C. 20037.
B. American Petroleum Institute, 2101 L Street NW, Washington, D.C. 20037.
D. (6) $6,235. E. (9) $135.

A. John H. Barnard, Jr., 803 Ironbark Place, Orinda, Calif. 94563.
B. Bechtel Corp., 50 Beale Street, P.O. Box 3965, San Francisco, Calif. 94119.

A. Roger H. Barnard, National Association of Federal Credit Union, P.O. Box 3769, Washington, D.C. 20007.
B. National Association of Federal Credit Unions, P.O. Box 3769, Washington, D.C. 20007.

A. Barnes, Richardson & Colburn, 1819 H Street NW., Suite 400, Washington, D.C. 20006.
B. American Importers Association, 420 Lexington Avenue, New York, N.Y. 10016.
D. (6) $11,000. E. (9) $267.62.

A. Barnes, Richardson & Colburn, 1819 H Street NW., Washington, D.C. 20006.
B. Meat Importers Council of America, 1 Penn Plaza, New York City, N.Y. 10001.
D. (6) $500. E. (9) $500.

A. Barnett, Alagia & Carey, 1627 K Street NW., Washington, D.C. 20006.
B. Florida Fruit & Vegetable Association, 4401 East Colonial Drive, Orlando, Fla. 32814.
D. (6) $2,500.

A. James C. Barr, National Association of Federal Credit Unions, P.O. Box 3769, Washington, D.C. 20007.
B. National Association of Federal Credit Unions, P.O. Box 3769, Washington, D.C. 20007.
D. (6) $300. E. (9) $9.75.

A. Richard L. Barr, Iowa Railway Association, 620 Capital City Bank Building, Des Moines, Iowa 50309.
B. Iowa Railway Association, 620 Capital City Bank Bldg., Des Moines, Iowa 50309.
E. (9) $449.22.

A. Barrett, Smith, Schapiro, Simon & Armstrong, 26 Broadway, Suite 1400, New York, N.Y. 10004.
B. New York Cocoa Exchange, Inc., and New York Cocoa Clearing Association, Inc., 127 John Street, New York, N.Y. 10038.
D. (6) $99. E. (9) $12.63.

A. Barrett, Smith, Schapiro, Simon & Armstrong, 26 Broadway, Suite 1400, New York, N.Y. 10004.
B. New York Coffee and Sugar Exchange, Inc., and New York Coffee and Sugar Clearing Association, Inc., 4 World Trade Center, New York, N.Y. 10048.
D. (6) $1,260. E. (9) $168.61.

A. Robert W. Barrie, General Electric Co., 777 14th Street NW., Washington, D.C. 20005.
B. General Electric Co., 3135 Easton Turnpike, Fairfield, Conn. 06431.
D. (6) $2,000.

A. David S. Barrows, 1201 Southwest 12th, Suite 300, Portland, Oreg. 97205.
B. Association of Oregon and California Land Grant Counties, Douglas County Court House, Roseburg, Oreg. 97470.
D. (6) $1,200.

A. Richard A. Barton, Direct Mail Marketing Association, Inc., 1730 K Street NW., Suite 905, Washington, D.C. 20006.
B. Direct Mail Marketing Association, 6 East 43d Street, New York, N.Y. 10017.
D. (6) $3,125. E. (9) $100.

A. Robert E. Bates, Jr., 1100 Connecticut Avenue NW., Washington, D.C., 20036.
B. Mobil Oil Corp., 150 East 42d Street, New York, N.Y. 10017.
D. (6) $1,125.

A. Laurie C. Battle, 1709 New York Avenue NW., Suite 801, Washington, D.C. 20006.
B. United States League of Savings Associations, 111 East Wacker Drive, Chicago, Ill.
D. (6) $2,425.

A. Batzell, Nunn & Bode, 1523 L Street NW., Washington, D.C. 20005.
B. Independent Terminal Operators Association, 1523 L Street NW., Washington, D.C. 20005.
D. (6) $1,376.50.

A. Batzell, Nunn & Bode, 1523 L Street NW., Washington, D.C. 20005.
B. JOC Oil, Inc., Olympic Tower, 645 Fifth Avenue, New York, N.Y. 10022.
D. (6) $2,336.25.

A. Batzell, Nunn & Bode, 1523 L Street NW., Washington, D.C. 20005.
B. Mt. Airy Refining Co., International Energy Building, 256 North Belt East, Suite 150, Houston, Tex. 77060.
D. (6) $3,640.

A. Gary L. Bauer, Direct Mail/Marketing Association, 1730 K Street NW., Suite 905, Washington, D.C. 20006.
B. Direct Mail/Marketing Association, 6 East 43d Street, New York, N.Y.
D. (6) $1,000. E. (9) $100.

A. Marvella Bayh, American Cancer Society, Inc., 1875 Connecticut Avenue NW., Suite 1018, Washington, D.C. 20009.
B. American Cancer Society, Inc., 777 Third Avenue, New York, N.Y. 10017.
D. (6) $322. E. (9) $2,453.50.

A. Tina Marts Beach, General Electric Co., 777 14th Street NW., Washington, D.C.
B. General Electric Co., 3135 Easton Turnpike, Fairfield, Conn.
D. (6) $25.

A. Bruce A. Beam, American Electric Power Corp., 2 Broadway, New York, N.Y. 10004; 8814 Lewinsville Road, McLean, Va. 22102.
B. American Electric Power Corp., 2 Broadway, New York, N.Y. 10004.

A. Bruce A. Beam, Appalachian Power Co., 40 Franklin Road SW., Roanoke, Va. 24011.
B. Appalachian Power Co., 40 Franklin Road SW., Roanoke, Va. 24011.
D. (6) $1,346.40. E. (9) $1,400.46.

A. John E. Bearer, 1001 Broad Street, Johnstown, Pa. 15907.
B. GPU Service Corp., 260 Cherry Hill Road, Parsippany, N.J. 07054.
D. (6) $2,230.04. E. (9) $1,889.97.

A. Donald S. Beattie, Railway Labor Executives' Association, 400 First Street NW., Washington, D.C. 20001.
B. Railway Labor Executives' Association, 400 First Street NW., Washington, D.C. 20001.
D. (6) $2,441.06.

A. Christine T. Beatty, 1730 Rhode Island Avenue NW., Suite 911, Washington, D.C. 20036.
B. St. Joe Minerals Corp., 250 Park Avenue, New York, N.Y. 10017.
D. (6) $2,410.

A. Robert J. Becker, Joint Council of Allergy and Immunology, 401 East Prospect Avenue, Suite 210, Mount Prospect, Ill. 60056; 229 North Hammes Avenue, Joliet, Ill. 60435.
B. Joint Council of Allergy and Immunology, 401 East Prospect Avenue, Suite 210, Mount Prospect, Ill. 60056.

A. Alexander B. Bell, 9618 Cottrell Terrace, Silver Spring, Md. 20903.

B. United Association of Journeymen and Apprentices of the Plumbing and Pipe Fitting Industry of the United States and Canada, 901 Massachusetts Avenue NW., Washington, D.C. 20001.
D. (6) $3,750. E. (9) $223.15.

A. C. Thomas Bendorf, 1620 I Street NW., Washington, D.C. 20006.
B. The Association of Trial Lawyers of America, 1050 31st Street NW., Washington, D.C. 20007.
D. (6) $3,000. E. (9) $100.

A. C. Robert Benedict, 603 Pennsylvania Avenue SE., Washington, D.C. 20003.
B. American Osteopathic Hospital Association, 930 Busse Highway, Park Ridge, Ill. 60068.
D. (6) $1,650. E. (9) $518.

A. Bruce Benefield, TRW, Inc., 2030 M Street NW., Suite 800, Washington, D.C. 20036.
B. TRW, Inc., Suite 800, 2030 M Street NW., Washington, D.C. 20036.
D. (6) $1,000.

A. Kenneth U. Benjamin, Jr., American Medical Association, 1776 K Street N.W., Washington, D.C. 20006.
B. American Medical Association, 535 North Dearborn Street, Chicago, Ill., 60610.
D. (6) $2,887.50. E. (9) $253.14.

A. Kim Allan Benjamin, 1725 DeSales Street NW., Suite 403, Washington, D.C. 20036.
B. American Society for Medical Technology 1725 DeSales Street NW., Suite 403, Washington, D.C. 20036.
D. (6) $400. E. (9) $100.

A. Douglas P. Bennett, 499 South Capitol Street SW., No. 407, Washington, D.C. 20003.
B. Association of Executive Recruiting Consultants, Inc., 30 Rockefeller Plaza, New York, N.Y. 10020.
E. (9) $29.03.

A. Douglas P. Bennett, 499 South Capitol Street SW., No. 407, Washington, D.C. 20003.
B. Eugene C. Cashman, 141 West Jackson Boulevard, Chicago, Ill. 60604.

A. Douglas P. Bennett, 499 South Capitol Street SW., No. 407, Washington, D.C. 20003.
B. National Restaurant Association, Suite 850, 1850 K Street NW., Washington, D.C. 20006.
D. (6) $4,000. E. (9) $126.01.

A. Douglas P. Bennett, 499 South Capitol Street SW., No. 407, Washington, D.C. 20003.
B. Pepsi-Co., Inc., Purchase, N.Y.
D. (6) $29.50 E. (9) $5.89.

A. James M. Bennett, Jos. Schlitz Brewing Co., 235 West Galena Street, Milwaukee, Wis. 53212.
B. Jos. Schlitz Brewing Co., 235 West Galena Street, Milwaukee, Wis. 53212.

A. William C. Bennett, Jr., 1025 Connecticut Avenue N.W., Washington, D.C. 20036.
B. Atlantic Richfield Co., 515 South Flower Street, Los Angeles, Calif. 90071.
D. (6) $405.

A. Walter L. Benning, 14901 Ritchie Road, Centreville, Va. 22020.
B. Manufactured Housing Institute, 1745 Jeff Davis Highway, Arlington, Va. 22202.
D. (6) $1,500. E. (9) $550.

A. Kenneth W. Bergen, Bingham, Dana & Gould, 100 Federal Street, Boston, Mass. 02110.

B. The First National Bank of Boston, 100 Federal Street, Boston, Mass. 02110.
D. (6) $1,400.

A. David Berick, 317 Pennsylvania Avenue SE., Washington, D.C. 20003.
B. Environmental Policy Center, 317 Pennsylvania Avenue, Washington, D.C. 20003.
D. (6) $2,240.

A. Berman & Associates, 1776 K Street NW., Washington, D.C. 20006.
B. CNA, CNA Plaza, Chicago, Ill. 60685.
D. (6) $1,500.

A. Berman & Associates, 1776 K Street NW., Washington, D.C. 20006.
B. Dutcher Industries, 7617 Convoy Court, San Diego, Calif. 92111.
D. (6) $3,000.

A. Berman & Associates, 1776 K Street NW., Washington, D.C. 20006.
B. Loews Corp., 666 Fifth Avenue, New York, N.Y.
D. (6) $3,000.

A. Berman & Associates, 1776 K Street NW., Washington, D.C. 20006.
B. Unicare Services, Inc., 105 West Michigan Street, Milwaukee, Wis. 53203.
D. (6) $3.750.

A. Berman & Associates, 1776 K Street NW., Washington, D.C. 20006.
B. Warner Communications, Inc., 75 Rockefeller Plaza, New York, N.Y.
D. (6) $12,000.

A. William R. Berman, American Automobile Association, 8111 Gatehouse Road, Falls Church, Va. 22042.
B. American Automobile Association, 8111 Gatehouse Road, Falls Church, Va. 22042.

A. Arthur S. Berner, Inexco Oil Co., Suite 1900, 1100 Milam Building, Houston, Tex. 77002.
B. Inexco Oil Co., 1100 Milam Building, Suite 1900, Houston, Tex. 77002.

A. Berry, Epstein, Sandstrom & Blatchford, 1700 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. Centre National Interprofessional De L'Economie Laitiere 8, Rue Danielle Casanova, 75002 Paris, France.
D. (6) $2,400.

A. Berry, Epstein, Sandstrom & Blatchford, 1700 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. Constructora Nacional de Carros de Ferrocarril, S.A., Av. Universidad y, Miguel Laurent, Mexico 12, D.F.
D. (6) $17,250. E. (9) $519.68.

A. Berry, Epstein, Sandstrom & Blatchford, 1700 Pennsylvania Avenue NW., No. 670, Washington, D.C. 20006.
B. East-West Trade Council, 1700 Pennsylvania Avenue NW., Washington, D.C. 20006.
D. (6) $4,800.

A. Berry, Epstein, Sandstrom & Blatchford, 1700 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. Energy Consumers & Producers Association, Petroleum Plaza, Box 1726, Seminole, Okla. 74868.
D. (6) $2,502.

A. Berry, Epstein, Sandstrom & Blatchford, 1700 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. Great Western Sugar Co., P.O. Box 5308, Denver, Colo. 80217.
D. (6) $9,675. E. (9) $470.69.

A. Berry, Epstein, Sandstrom & Blatchford, 1700 Pennsylvania Avenue NW., No. 670, Washington, D.C. 20006.
B. Meat Products Group, American Importers Association, 420 Lexington Avenue, New York, N.Y. 10017.
E. (9) $1,617.26.

A. Berry, Epstein, Sandstrom & Blatchford, 1700 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. National Pest Control Association, 8150 Leesburg Pike, Vienna, Va.
D. (6) $5,587.50. E. (9) $116.58.

A. Max N. Berry, Berry, Epstein, Sandstrom & Blatchford, 1700 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. Committee to Assure the Availability of Casein, 1700 Pennsylvania Avenue NW., Washington, D.C. 20006.
D. (6) $1,000.

A. Robert A. Best, 475 L'Enfant Plaza SW., Suite 4400, Washington, D.C. 20024.
B. American League for International Security Assistance, Inc., 475 L'Enfant Plaza SW., Suite 4400, Washington, D.C. 20024.
D. (6) $1,500. E. (9) $250.

A. Robert A. Best, 475 L'Enfant Plaza SW., Suite 4400, Washington, D.C. 20024.
B. TADCO Enterprises, Inc., 1625 I Street NW., Washington, D.C. 20006 (for Archer Daniels Midland Co., Decatur, Ill. 62525).
D. (6) $600.

A. Robert L. Bevan. American Bankers Association, 1120 Connecticut Avenue NW., Washington, D.C 20036.
B. American Bankers Association, 1120 Connecticut Avenue NW., Washington, D.C. 20036.
D. (6) $1,200. E. (9) $40.60.

A. Beveridge, Fairbanks & Diamond, 1 Farragut Square South, Washington, D.C. 20006.
B. Florida Power & Light Co., P.O. Box 01310, Miami, Fla. 333101.
D. (6) $1,500.

A. Beveridge, Fairbanks & Diamond, 1 Farragut Square South, Washington, D.C. 20006.
B. International Paper Inc., 1620 I Street NW., Suite 700, Washington, D.C. 20006.

A. Beveridge, Fairbanks & Diamond, 1 Farragut Square South, Washington, D.C. 20006.
B. New England Fish Co., Pier 89, Seattle, Wash. 98119.

A. Beveridge, Fairbanks & Diamond, 1 Farragut Square South, Washington, D.C. 20006.
B. New England Power Co., 20 Turnpike Road, Westborough, Mass. 01581.
D. (6) $2,800.

A. Beveridge, Fairbanks & Diamond, 1 Farragut Square South, Washington, D.C. 20006.
B. The Society of Plastics, Inc., 1150 17th Street NW., Suite 1000, Washington, D.C. 20036.

A. Beveridge, Fairbanks & Diamond, 1 Farragut Square South, Washington, D.C. 20006.
B. SoGen Swiss International Corp., 20 Broad Street, New York, N.Y. 10005.
D. (6) $200.

A. Beveridge, Fairbanks & Diamond, 1 Farragut Square South, Washington, D.C. 20006.
B. Union Mines, 9 West 57th Street, New York, N.Y. 10019.
D. (6) $900.

A. Beveridge, Fairbanks & Diamond, 1 Farragut Square South, Washington, D.C. 20006.
B. Union Seas, c/o The Corporation Trust, Inc., 25 South Charles Street, Baltimore, Md. 21201.

A. Eileen M. Biermann, 512 Washington Building, Washington, D.C. 20005.
B. National Association of Small Business Investment Co., 512 Washington Building, Washington, D.C. 20005.
D. (6) $550.

A. Walter J. Bierwagen, 5025 Wisconsin Avenue NW., Washington, D.C. 20016.
B. Amalgamated Transit Union, AFL–CIO, 5025 Wisconsin Avenue NW., Washington, D.C. 20016.

A. Thomas E. Biery, Mid-Continent Oil & Gas Association, 1800 K Street NW., Suite 620, Washington, D.C. 20006.
B. Mid-Continent Oil & Gas Association, 1111 Thompson Building, Tulsa, Okla. 74103.
D. (6) $3,363. S. (9) $78.89.

A. Linda M. Billings, Sierra Club, 330 Pennsylvania Avenue SE., Washington, D.C. 20003.
B. Sierra Club, 530 Bush Street, San Francisco, Calif. 94108.
D. (6) $5,922. E. (9) $49.80.

A. Birch, Horton, Bittner & Monroe, 4400 Jenifer Street NW., Suite 300, Washington, D.C. 20015.
B. American Kitchen Foods, Inc., 99 Powerhouse Road, Roslyn, N.Y. 11577.

A. Birch, Horton, Bittner & Monroe, 4400 Jenifer Street NW., Suite 300, Washington, D.C. 20015.
B. Coastal States Gas Corp., 9 Greenway Plaza, Houston, Tex 77046.

A. Birch, Horton, Bittner & Monroe, 4400 Jenifer Street NW., Suite 300, Washington, D.C. 20015.
B. Columbia Gas System Service Corp., 20 Montchanin Road, Wilmington, Del. 19807.

A. Birch, Horton, Bittner & Monroe, 4400 Jenifer Street NW., Suite 300, Washington, D.C. 20015.
B. Global Seafoods, Inc., 1 Canal Plaza, Portland, Maine 04111.

A. Birch, Horton, Bittner & Monroe, 4400 Jenifer Street NW., Suite 300, Washington, D.C. 20015.
B. Potlatch Corp., 2 Embarcadero Center, 20th Floor, San Francisco, Calif. 94120.

A. Birch, Horton, Bittner & Monroe, 4400 Jenifer Street NW., Suite 300, Washington, D.C. 20015.
B. Steering Council for Alaska Lands, 1016 West Sixth Avenue, Suite B, Anchorage, Alaska 99501.

A. Birch, Horton, Bittner & Monroe, 4400 Jenifer Street NW., Suite 300, Washington, D.C. 20015.
B. Westinghouse Electric Corp., 1801 K Street NW., Washington, D.C. 20015.

A. John L Birkinbine, Jr., National Association of Manufacturers, 222 South Prospect Avenue, Park Ridge, Ill. 60068.
B. National Association of Manufacturers, 1776 F Street NW., Washington, D.C. 20006.
D. (6) $225.

A. C. Thomason Bishop III, National Association of Manufacturers, 704 Lisburn Road, Camp Hill, Pa. 17011.
B. National Association of Manufacturers, 1776 F Street NW., Washington, D.C. 20006.
D. (6) $212.50.

A. Neal R. Bjornson, National Milk Producers Federation, 30 F Street NW., Washington, D.C. 20001.
B. National Milk Producers Federation, 30 F Street NW., Washington, D.C. 20001.
D. (6) $2,125. E. (9) $20.50.

A. Brent Blackwelder, 317 Pennsylvania Avenue SE., Washington, D.C. 20003.
B. Environmental Policy Center, 317 Pennsylvania Avenue SE., Washington, D.C. 20003.
D. (6) $2,799.99.

A. Donna C. Blair, 1025 Connecticut Avenue NW., Washington, D.C.
B. Atlantic Richfield Co., 515 South Flower Street, Los Angeles, Calif. 90071.
D. (6) $250. E. (9) $140.

A. Richard W. Blake, 1776 K Street NW., No. 900, Washington, D.C. 20006.
B. American Sugarbeet Growers Association, 1776 K Street NW., No. 900, Washington, D.C. 20006.
D. (6) $433.50.

A. Robert W. Blanchette, Alston, Miller & Gaines, 1800 M Street NW., Washington, D.C. 20036.
B. Agri-Businessmen, Inc., 141 West Jackson Boulevard, Chicago, Ill.

A. Robert W. Blanchette, Alston, Miller & Gaines, 1800 M Street NW., Washington, D.C. 20036.
B. Board of Trade Clearing Corp., 141 West Jackson Boulevard, Chicago, Ill.
D. (6) $41.67.

A. Robert W. Blanchette, Alston, Miller & Gaines, 1800 M Street NW., Washington, D.C. 20036.
B. IC Industries, 1625 Eye Street NW., Suite 810, Washington, D.C.
D. (6) $42. E. (9) $4.

A. Kenneth T. Blaylock, American Federation of Government Employees, 1325 Massachusetts Avenue NW., Washington, D.C. 20005.
B. American Federation of Government Employees, 1325 Massachusetts Avenue NW., Washington, D.C. 20005.
D. (6) $14,511. E. (9) $1,978.90.

A. Michael K. Blevins, National Society of Professional Engineers, 2029 K Street NW., Washington, D.C. 20006.
B. National Society of Professional Engineers, 2029 K. Street NW., Washington, D.C. 20006.
D. (6) $1,250.

A. Richard W. Bliss, 1140 Connecticut Avenue NW., Suite 1010, Washington, D.C. 20036.
B. Edison Electric Institute, 1140 Connecticut Avenue NW., Suite 1010, Washington, D.C. 20036.
D. (6) $840. E. (9) $59.

A. L. Thomas Block, Irving Trust Co., One Wall Street, New York, N.Y. 10015.
B. Irving Trust Co., One Wall Street, New York, N.Y. 10015.
D. (6) $400. E. (9) $125.

A. Mark Bloomfield, American Council for Capital Formation, 1425 K Street NW., Washington, D.C. 20005.
B. American Council for Capital Formation, 1425 K Street NW., Washington, D.C. 20005.
D. (6) $1,960.

A. Mark Andrew Bloomfield, 1661 Crescent Place NW., No. 309, Washington, D.C. 20009.
B. American Electronics Association, 2600 El Camino Real, Palo Alto, Calif. 94306.
D. (6) $3,200. E. (9) $126.69.

A. Jack A. Blum, 1015 18th Street NW., Washington, D.C. 20036.
B. Independent Gasoline Marketers Council, 1015 18th Street NW., Washington, D.C. 20036.
D. (6) $10,000. E. (9) $10,651.05.

A. Jared O. Blum, 1730 M Street NW., Suite 610, Washington, D.C. 20036.
B. Direct Selling Association, 1730 M Street NW., Suite 610, Washington, D.C. 20036.
D. (6) $1,000. E. (9) $121.95.

A. Wayne F. Boan, National Association of Manufacturers, 601 North Vermont Avenue, Los Angeles, Calif. 90004
B. National Association of Manufacturers, 1776 F Street NW., Washington, D.C. 20006.
D. (6) $1,300.

A. Seth M. Bodner, 1101 15th Street NW., Suite 803, Washington, D.C. 20005
B. Lead-Zinc Producers Committee, 1101 15th Street NW., Washington, D.C. 20005.
D. (6) $1,500.

A. Becky Bogard, 2000 Florida Avenue NW., Washington, D.C. 20009
B. National Rural Electric Cooperative Association, 2000 Florida Avenue NW., Washington, D.C. 20009.
D. (6) $195.50.

A. Theodore D. Bogue, 2000 P Street NW., Suite 708, Washington, D.C. 20036.
B. Health Research Group, 2000 P Street NW., Suite 708, Washington, D.C. 20036.
D. (6) $500.

A. Christie K. Bohner, 900 17th Street NW., No. 1016, Washington, D.C. 20006
B. Kaiser Steel Corp., 900 17th Street NW., No. 1016, Washington, D.C. 20006.

A. Patricia M. Boinski, 1025 Connecticut Avenue NW., Washington, D.C. 20036.
B. Atlantic Richfield Co., 515 South Flower Street, Los Angeles, Calif. 90071.
D. (6) $12.30. E. (9) $3.

A. Robert J. Bolger, National Association of Chain Drug Stores, Inc., 1911 Jefferson Davis Highway, Suite 504, Arlington, Va. 22202.
B. National Association of Chain Drug Stores, Inc., 1911 Jefferson Davis Highway, Suite 504, Arlington, Va. 22202.
D. (6) $1,650.

A. A. Dewey Bond, American Meat Institute, P.O. Box 3556, Washington, D.C. 20007.
B. American Meat Institute, P.O. Box 3556, Washington, D.C. 20007; 1600 Wilson Boulevard, Arlington, Va.
D. (6) $500.

A. L. H. Bonin, Jr., 1025 Connecticut Avenue NW., Suite 700, Washington, D.C. 20036.
B. Gulf Oil Corp., Pittsburgh, Pa. 15230.
D. (6) $2,400. E. (9) $362.75.

A. Jay Bonitt, 300 Maryland Avenue NE., Washington, D.C. 20002.
B. The Bendix Corp., 300 Maryland Avenue NE., Washington, D.C. 20002.
D. (6) $1,125.

A. Sharon Lee Bonitt, Shell Oil Co., 1025 Connecticut Avenue NW., Washington, D.C. 20036.
B. Shell Oil Co., One Shell Plaza, P.O. Box 2463, Houston, Tex. 77001.
D. (6) $500.

A. Edward T. Borda, 1625 I Street NW., Suite 1023, Washington, D.C. 20006.
B. Association of General Merchandise Chains, Inc., 1625 I Street NW., Suite 1023, Washington, D.C. 20006.
D. (6) $4,000. E. (9) $520.

A. Charles G. Botsford, 1730 M Street NW., Washington, D.C. 20036.
D. (6) $2,627.90. E. (9) $288.80.

A. Robert R. Bowers, West Virginia Petroleum Council, Suite 714, Atlas Building, Charleston, W. Va. 25301.
B. American Petroleum Institute, 2101 L Street NW., Washington, D.C. 20037.
D. (6) $300. E. (9) $267.

A. Edward L. Bowley, American Postal Workers Union, AFL–CIO, 817 14th Street NW., Washington, D.C. 20005.
B. American Postal Workers Union, AFL–CIO, 817 14th Street NW., Washington, D.C. 20005.
D. (6) $10,662.59. E. (9) $2,466.14.

A. Randal Bowman, 1600 Rhode Island Avenue NW., Washington, D.C. 20036.
B. National Rifle Association of America, 1600 Rhode Island Avenue NW., Washington, D.C. 20036.
D. (6) $500. E. (9) $5.58.

A. Francis J. Boyd, Jr., 3251 Old Lee Highway, Suite 501, Fairfax, Va. 22030.
B. National Limestone Institute, Inc., 3251 Old Lee Highway, Suite 501, Fairfax, Va. 22030.
E. (9) $35.10.

A. Georgiana Smith Boyd, 1800 M Street NW., Suite 750 South, Washington, D.C. 20036.
B. Burson-Marsteller (for Tax Equity for Americans Abroad), 1800 M Street NW., Washington, D.C. 20036.

A. John G. Boyd, 1801 K Street NW., Washington, D.C. 20006.
B. International Business Machines, Old Orchard Road, Armonk, N.Y. 10504.
D. (6) $392. E. (9) $70.12.

A. Sheila H. Boykin, National Health Law Program, Inc., 1200 15th Street NW., Washington, D.C. 20005.
B. The National Health Law Program, Inc., 2401 Main Street, Santa Monica, Calif. 90405.
D. (6) $1,707.75. E. (9) $1,888.62.

A. Robert E. Bradford, 1750 K Street NW., Washington, D.C. 20006.
B. Food Marketing Institute, 1750 K Street NW., Washington, D.C. 20006.
D. (6) $2,000.

A. Frank W. Bradley, Chevron U.S.A. Inc., 1700 K Street NW., Washington, D.C. 20006.
B. Chevron U.S.A. Inc. subsidiary of Standard Oil Co. of California), 1700 K Street NW., Washington, D.C. 20006.
E. (9) $100.

A. Wayne W. Bradley, American Medical Association, 535 North Dearborn Street, Chicago, Ill. 60610.
B. American Medical Association, 535 North Dearborn Street, Chicago, Ill. 60610.
D. (6) $400. E. (9) $179.15.

A. Charles N. Brady. American Automobile Association, 8111 Gatehouse Road, Falls Church, Va. 22042.
B. American Automobile Association, 8111 Gatehouse Road, Falls Church, Va. 22042.

A. Charles G. Bragg, P.O. Box 12285, Memphis, Tenn. 38112
B. National Cotton Council of America, P.O. Box 12285, Memphis, Tenn.

A. Raymond F. Bragg, Jr., American Petroleum Refiners Association, 1200 18th Street NW., Suite 607, Washington, D.C. 20036.
B. American Petroleum Refiners Association, 1200 18th Street NW., Suite 607, Washington, D.C. 20036.
D. (6) $100.

A. David C. Branand, American Mining Congress, 1100 Ring Building, Washington, D.C.
B. American Mining Congress, 1100 Ring Building, Washington, D.C.
D. (6) $10.58. E. (9) $2.95

A. Robert M. Brandon, Public Citizen's Tax Reform Research Group, 133 C Street SE., Washington, D.C. 20003.
B. Public Citizen's Tax Reform Research Group, 133 C Street SE., Washington, D.C. 20003.
D. (6) $2,062.50.

A. John Henry Brebbia, Alston Miller & Gaines, 1800 M Street NW., Suite 1000, Washington, D.C. 20036.
B. Electro Signal Lab, Inc., 1022 Hingham Street, Rockland, Mass. 02370.

A. Jerome J. Breiter, 1800 K Street NW., Washington, D.C. 20006.
B. Hercules, Inc., 910 Market Street, Wilmington, Del. 19899.
D. (6) $674. E. (9) $67.

A. Edward J. Brenner, Suite 301, 1911 Jefferson Davis Highway, Arlington, Va. 22202.
B. Association for the Advancement of Invention and Innovation, Suite 301, 1911 Jefferson Davis Highway, Arlington, Va. 22202.

A. Miles H. Bresee, Jr., 170 Altura Way, Greenbrae, Calif. 94904.
B. Bechtel Corp., 50 Beale Street, P.O. Box 3965, San Francisco, Calif 94119.
D. (6) $150. E. (9) $570.69.

A. Jeffrey Bricker, 460 Park Avenue, New York. N.Y. 10022.
B. Fallek Chemical Corp., 460 Park Avenue, New York, N.Y. 10022.
D. (6) $125. E. (9) $103.43.

A. Claude S. Brinegar, 461 South Boylston Street, Los Angeles, Calif. 90017.
B. Union Oil Co. of California, 461 South Boylston Street, Los Angeles, Calif. 90017.
D. (6) $206.90.

A. Belva B. Brissett, 1771 N Street NW., Washington, D.C. 20036.
B. National Association of Broadcasters, 1771 N Street NW., Washington, D.C.
D. (6) $1,406.25.

A. John B. Brock, Quintana Refinery Co., P.O. Box 3331, Houston, Tex. 77001.
B Quintana Refinery Co., P.O. Box 3331, Houston, Tex. 77001.

A. David A. Brody, Anti-Defamation League of B'nai B'rith, 1640 Rhode Island Avenue NW., Washington, D.C. 20036.
B. Anti-Defamation League of B'nai B'rith, 315 Lexington Avenue, New York, N.Y. 10016.
D. (6) $1,800.

A. Michael D. Bromberg, 1101 17th Street NW., Suite 310, Washington, D.C. 20036.
B. Federation of American Hospitals, 1101 17th Street NW., Suite 310, Washington, D.C. 20036.
D. (6) $4,500.

A. Dale E. Brooks, Chevron U.S.A., Inc., 1700 K Street NW., Washington, D.C. 20006.
B. Chevron U.S.A., Inc. (subsidiary of Standard Oil Co. of California), 1700 K Street NW., Washington, D.C. 20006.

A. Phillip D. Brooks, Volunteer State Oil Committee, 18th Floor, Third National Bank Building, Nashville, Tenn. 37219.
B. American Petroleum Institute, 2101 L Street NW., Washington, D.C. 20037.
D. (6) $140. E. (9) $138.33.

A. Timothy George Brosnahan, Suite 750 South, 1800 M Street NW., Washington, D.C. 20036.
B. Burson-Marsteller (for Tax Equity for Americans Abroad), Suite 750 South, 1800 M Street NW., Washington, D.C. 20036.

A. Timothy George Brosnahan, Suite 750 South, 1800 M Street NW., Washington, D.C. 20036.
B. Burson-Marsteller (for Technicare Corp., Solon, Ohio), Suite 750 South, 1800 M Street NW., Washington, D.C. 20036.

A. Brotherhood of Railway, Airline, and Steamship Clerks, Freight Handlers, Express and Station Employes, 815 16th Street NW., Washington, D.C. 20006.
B. Brotherhood of Railway, Airline, and Steamship Clerks, Freight Handlers, Express and Station Employes, 3 Research Place, Rockville, Md. 20850.
D. (6) $29,637. E. (9) $29,637.

A. Donald B. Brotzman, Rubber Manufacturers Association, 1901 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. Rubber Manufacturers Association, 1901 Pennsylvania Avenue NW., Washington, D.C. 20006.
D. (6) $8,000. E. (9) $34.80.

A. Charles B. Brown, 900 17th Street NW., Washington, D.C. 20006.
B. Kaiser Aluminum and Chemical Corp., 900 17th Street NW., Washington, D.C. 20006.
D. (6) $240. E. (9) $34.31.

A. David S. J. Brown, 1101 17th Street NW., Suite 604, Washington, D.C. 20036.
B. Monsanto Co., 800 North Lindbergh Boulevard, St. Louis, Mo. 63166.
D. (6) $450. E. (9) $350.75.

A. Dennis E. Brown, National Association of Manufacturers, 2 Militia Drive, Lexington, Mass. 02173.
B. National Association of Manufacturers, 1776 F Street NW., Washington, D.C. 20006.

A. Gary A. Brown, 1101 17th Street NW., Suite 700, Washington, D.C. 20036.
B. National Association of Real Estate Investment Trusts, Inc., 1101 17th Street NW., Suite 700, Washington, D.C. 20036.
D. (6) $550.

A. J. D. Brown, American Public Power Association, 2600 Virginia Avenue NW., Washington, D.C. 20037.
B. American Public Power Association, 2600 Virginia Avenue NW., Washington, D.C. 20037.
D. (6) $350.

A. John J. Brown, 1125 17th Street NW., Washington, D.C. 20036.
B. International Union of Operating Engineers, 1125 17th Street NW., Washington, D.C. 20036.
D. (6) $4,000. E. (9) $325.

A. Karen H. Brown, 1750 K Street NW., Washington, D.C. 20006.
B. Food Marketing Institute, 1750 K Street NW., Washington, D.C. 20006.
D. (6) $500.

A. Michael F. Brown, American Frozen Food Institute, 919 18th Street NW., Washington, D.C.
B. American Frozen Food Institute, 1700 Old Meadow Road, McLean, Va. 22102.
D. (6) $200.

A. William E. Brown, Ford Motor Co., 815 Connecticut Avenue NW., Washington, D.C. 20006.
B. Ford Motor Co., Dearborn, Mich.
D. (6) $968. E. (9) $270.55.

A. Stanley R. Browne, 1701 Pennsylvania Avenue NW., Suite 1120, Washington, D.C. 20006.
B. E. I. du Pont de Nemours & Co., 1007 Market Street, Wilmington, Del. 19898.
D. (6) $450. E. (9) $15.

A. Brownstein Zeidman & Schomer, 1025 Connecticut Avenue NW., Washington, D.C. 20036.
B. Holiday Inns, Inc., 3742 Lamar Avenue, Memphis, Tenn. 38118.

A. Brownstein Zeidman & Schomer, 1025 Connecticut Avenue NW., Washington, D.C. 20036.
B. International Foodservice Manufacturers Association, 875 North Michigan Avenue, Chicago, Ill. 60611.

A. Brownstein Zeidman & Schomer, 1025 Connecticut Avenue NW., Washington, D.C. 20036.
B. International Franchise Association, 7315 Wisconsin Avenue, Bethesda, Md. 20014.

A. John R. Bruch, P.O. Box 5000, Cleveland, Ohio 44101.
B. The Cleveland Electric Illuminating Co., P.O. Box 5000, Cleveland, Ohio 44101.
D. (6) $1,800.

A. Jacqueline M. Brunell, American Nurses' Association, 1030 15th Street NW., Washington, D.C. 20005.
B. American Nurses' Association, 2420 Pershing Road, Kansas City, Mo. 64108.
D. (6) $2,132. E. (9) $24.60.

A. Fred J. Bruner, Indiana & Michigan Electric Co., 2101 Syp Run Avenue, Fort Wayne, Ind. 46801.
B. Indiana and Michigan Electric Co., 2101 Syp Run Avenue, Fort Wayne, Ind. 46801.
D. (6) $856.40. E. (9) $940.62.

A. Paul A. Brunkow, 1776 F Street NW., Washington, D.C. 20006.
B. National Association of Manufacturers, 1776 F Street NW., Washington, D.C. 20006.
D. (6) $1,300.

A. Michael E. Brunner, American Meat Institute, P.O. Box 3556, Washington, D.C. 20007.
B. American Meat Institute, P.O. Box 3556, Washington, D.C. 20007; 1600 Wilson Boulevard, Arlington, Va.
D. (6) $3,000. E. (9) $298.63.

A. J. Charles Bruse, 1700 Pennsylvania Avenue NW., Suite 750, Washington, D.C. 20006.
B. Allstate Enterprises, Inc., Allstate Plaza, Northbrook, Ill. 60062.

A. J. Charles Bruse, 1700 Pennsylvania Avenue NW., Suite 750, Washington, D.C. 20006.
B. Allstate Insurance Co., Allstate Plaza, Northbrook, Ill. 60062.

A. Harvey F. Brush, 2006 Washington Street, San Francisco, Calif. 94109.
B. Bechtel, Inc., 50 Beale Street, P.O. Box 3965, San Francisco, Calif. 94119.

A. Philip N. Buckminster, 1100 Connecticut Avenue NW., Washington, D.C. 20036.

B. Chrysler Corp., 12000 Lynn Townsend Drive, Highland Park, Mich. 48288.
D. (6) $2,000. E. (9) $242.92.

A. Stephen Bull, Burson-Marsteller, 1800 M Street NW., Suite 750–S, Washington, D.C. 20036.
B. Burson-Marsteller, Suite 750–S, 1800 M Street NW., Washington, D.C. 20036 (for Tax Equity for Americans abroad).

A. David A. Bunn, 1211 Connecticut Avenue NW., Washington, D.C. 20036.
B. Magazine Publishers Association, 575 Lexington Avenue, New York, N.Y. 10022.
D. (6) $4,000. E. (9) $300.

A. David A. Bunn, Parcel Shippers Association, 1211 Connecticut Avenue NW., Washington, D.C. 20036.
B. Parcel Shippers Association, 1211 Connecticut Avenue NW., Washington, D.C. 20036.
D. (6) $1,000. E. (9) $700.

A. Norman D. Burch, 1775 K Street NW., Washington, D.C. 20006.
B. College of American Pathologists, 7400 North Skokie Boulevard, Skokie, Ill. 60076.
D. (6) $3,375. E. (9) $43

A David G Burden, 200 East Randolph Drive, Chicago, Ill 60601
B. Standard Oil Co. (Indiana), 200 East Randolph Drive, Chicago, Ill. 60601.
D. (6) $310. E. (9) $359.19.

A. Thomas G. Burke, 1625 I Street NW., Suite 1023, Washington, D.C. 20006.
B. Association of General Merchandise Chains, Inc., 1625 I Street NW., Suite 1023, Washington, D.C. 20006.
D. (6) $1,000. E. (9) $125.

A. Phillip C. Burnett, 1918 North Parkway, Memphis, Tenn. 38112.
B. National Cotton Council of America, P.O. Box 12285, Memphis, Tenn. 38112.
D. (6) $553.85. E. (9) $76

A. Charles S. Burns, Phelps Dodge Corp., 1620 I Street NW., Washington, D.C. 20006.
B. Phelps Dodge Corp., 300 Park Avenue, New York, N.Y. 10022.
D. (6) $1,200.

A. Timothy F. Burns, 901 North Washington Street, Alexandria, Va. 22314.
B. Society of American Florists, 901 North Washington Street, Alexandria, Va. 22314.
D. (6) $300. E. (9) $15.

A. Burson-Marsteller, Suite 750 South, 1800 M Street NW., Washington, D.C. 20036.
B. Technicare Corp., 29100 Aurora Road, Solon, Ohio 44139.

A. Burwell, Hansen & Manley, 1815 H. Street NW., Suite 550, Washington, D.C. 20006.
B. Trans International Airlines, Inc., P.O. Box 2504, Airport Station, Oakland, Calif. 94614.
D. (6) $398.75. E. (9) $2.70.

A. John M. Burzio, Hydeman, Mason & Goodell, 1220 19th Street NW., Washington, D.C. 20036.
B. The Bureau of National Affairs, Inc., 1231 25th Street NW., Washington, D.C. 20037.
E. (9) $47.50.

A. John M. Burzio, Hydeman, Mason & Goodell, 1220 19th Street NW., Washington, D.C. 20036.
B. Magazine Publishers Association, Inc., Magazine Center, 575 Lexington Avenue, New York, N.Y. 10022.
D. (6) $6,183.75. E. (9) $223.59.

A. Nicholas J. Bush, 1899 L Street NW., Suite 1100, Washington, D.C. 20036.
B. Exxon Corp., 1251 Avenue of the Americas, New York, N.Y.
E. (9) $364.

A. Gary Bushell, 780 Bank and Trust Tower, P.O. Box 173, Corpus Christi, Tex. 78477.
B. Atlantic Richfield Co., 1601 Bryan Street, Dallas, Tex. 75221.
D. (6) $12,501. E. (9) $207.63.

A. Business Executives Move for New National Priorities, 901 North Howard Street, Baltimore, Md. 21201.
D. (6) $3,955. E. (9) $793.63.

A. James J. Butera, 1709 New York Avenue NW., Washington, D.C. 20006.
B. National Association of Mutual Savings Banks, 200 Park Avenue, New York, N.Y. 10017.
D. (6) $2,500. E. (9) $343.04.

A. Butler, Binion, Rice, Cook & Knapp, 818 Connecticut Avenue NW., Washington, D.C. 20006.
B. Inexco Oil Co., Suite 1900, 1100 Milam Building, Houston, Tex. 77002.
D. (6) $315.

A. Kenneth W. Butler, 1155 15th Street NW., No. 713, Washington, D.C. 20005.
B. American Consulting Engineers Council, 1155 15th Street NW., Washington, D.C. 20005.
D. (6) $600.

A. John W. Byrnes, Foley, Lardner, Hollabaugh & Jacobs, 1775 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. Foley, Lardner, Hollabaugh & Jacobs (for American Family Mutual Insurance Co.), 1775 Pennsylvania Avenue NW., Washington, D.C. 20006.

A. John W. Byrnes, Foley, Lardner, Hollabaugh & Jacobs, 1775 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. Foley, Lardner, Hollabaugh & Jacobs (for Cabot Corp.), 1775 Pennsylvania Avenue NW., Washington, D.C. 20006.

A. John W. Byrnes, Foley, Lardner, Hollabaugh & Jacobs, 1775 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. Foley, Lardner, Hollabaugh & Jacobs (for Fort Howard Paper Co.), 1775 Pennsylvania Avenue NW., Washington, D.C. 20006.

A. John W. Byrnes, Foley, Lardner, Hollabaugh & Jacob, 1775 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. Foley, Lardner, Hollabaugh & Jacobs (for Insurance Association of Connecticut), 1775 Pennsylvania Avenue NW., Washington, D.C. 20006.

A. John W. Byrnes, Foley, Lardner, Hollabaugh & Jacob, 1775 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. Foley, Lardner, Hollabaugh & Jacobs (for Johnson Controls, Inc.), 1775 Pennsylvania Avenue NW., Washington, D.C. 20006.

A. John W. Byrnes, 1775 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. Foley, Lardner, Hollabaugh & Jacobs, 1775 Pennsylvania Avenue NW., Washington, D.C. 20006 (for Republic of the Philippines).

A. Cable, McDaniel, Bowie & Bond, 900 Blaustein Building, Baltimore, Md. 21201.
B. Crown Central Petroleum Corp., 1 North Charles Street, P.O. Box 1168, Baltimore, Md. 21203.

A. Cadwalader, Wickersham & Taft, 11 Dupont Circle NW., Suite 450, Washington, D.C. 20036.
B. Amex Commodities Exchange, Inc., 86 Trinity Place, New York, N.Y. 10006.
D. (6) $1,680. E. (9) $5.

A. Cadwalader, Wickersham & Taft, 11 Dupont Circle, Suite 450, Washington, D.C. 20036.
B. Associated Metals & Minerals Corp., 30 Rockefeller Plaza, New York, N.Y. 10020.
D. (6) $397.50. E. (9) $5.

A. Cadwalader, Wickersham & Taft, 11 Dupont Circle NW., Suite 450, Wahington, D.C. 20036.
B. Mocatta Metals Corp., 25 Broad Street, New York, N.Y. 10006.
D. (6) $9,975. E. (9) $69.73.

A. Morrison G. Cain, American Speech and Hearing Association, 10801 Rockville Pike, Rockville, Md. 20852.
B. American Speech and Hearing Association, 10801 Rockville Pike, Rockville, Md. 20852.

A. Alan Caldwell, 1825 K Street NW., Washington, D.C. 20006.
B. Del Monte Corp., 1 Market Plaza, San Francisco, Calif. 94119.
D. (6) $1,000. E. (9) $50.

A. Frank W. Calhoun, 500 Gulf Building, Houston, Tex. 77002.
B. El Paso Natural Gas Co., P.O. Box 2185, Houston, Tex. 77001.
E. (9) $674.16.

A. F. Patricia Callahan, 1211 Connecticut Avenue NW., 802, Washington, D.C. 20036.
B. Sears, Roebuck and Co., Sears Tower, Chicago, Ill. 60684.
D. (6) $320. E. (9) $54.20.

A. Peter E. Callanan, 1100 Connecticut Avenue NW., Washington, D.C. 20036.
B. Honeywell Inc., Honeywell Plaza, Minneapolis, Minn. 55408.
D. (6) $450. E. (9) $405.

A. Calorie Control Council, 64 Perimeter Center East, Atlanta, Ga. 30346.
E. (9) $4,004.

A. Victoria Calvert, American Frozen Food Institute, 919 18th Street NW., Washington, D.C. 20006.
B. American Frozen Food Institute, 1700 Old Meadow Road, McLean, Va. 22101.
D. (6) $50.

A. Donald L. Calvin, New York Stock Exchange, Inc., 11 Wall Street, N.Y. 10005.
B. New York Stock Exchange, Inc., 11 Wall Street, New York, N.Y. 10005.

A. C. R. Campbell, Jr., Suite 900, 1120 Connecticut Avenue NW., Washington, D.C. 20036.
B. General Telephone & Electronics Corp., 1 Stamford Forum, Stamford, Conn. 06904.
D. (6) $500. E. (9) $97.50.

A. Carl C. Campbell, 1030 15th Street NW., Suite 700, Washington, D.C. 20005.
B. National Cotton Council of America, P.O. Box 12285, Memphis, Tenn. 38112.
D. (6) $635.38.

A. Alyce D. Canaday, Pacific Power & Light Co., 918 16th Street NW., Washington, D.C. 20006.
B. Pacific Power & Light Co., Public Service Building, Portland, Oreg. 97204.
D. (6) $400. E. (9) $440.83.

A. David A. Caney, The American Institute of Architects, 1735 New York Avenue NW., Washington, D.C. 20006.
B. The American Institute of Architects, 1735 New York Avenue NW., Washington, D.C. 20006.
D. (6) $5,337.50. E. (9) $618.95.

A. W. Dean Cannon, Jr., 9800 South Sepulveda Boulevard, Suite 500, Los Angeles, Calif. 90045.

B. California Savings and Loan League, 9800 South Sepulveda Boulevard, Suite 500, Los Angeles, Calif. 90045.
D. (6) $2,000. E. (9) 1,910.12.

A. Marvin H. Caplan, Industrial Union Department, AFL–CIO, 815 16th Street NW., Washington, D.C. 20006.
B. Industrial Union Department, AFL–CIO, 815 16th Street NW., Washington, D.C. 20006.
D. (6) $5,066.75. E. (9) $116.35.

A. Caplin & Drysdale, 1101 17th Street NW., Washington, D.C. 20036.
B. Clark Oil & Refining Corp., 8530 West National Avenue, Milwaukee, Wis. 53227 and American Family Life Assurance Co. of Georgia, P.O. Box 1459, Columbus, Ga. 31902.
D. (6) $13,478. E. (9) $170.68.

A. Caplin & Drysdale, 1101 17th Street NW., Washington, D.C. 20036.
B. Council on Foundations, Inc., 888 Seventh Avenue, New York, N.Y. 10019.
D. (6) 1,212.76. E. (9) $34.60.

A. Caplin & Drysdale, 1101 17th Street NW., Washington, D.C. 20036.
B. Salomon Brothers, 1 New York Plaza, New York, N.Y. 10004.
E. (9) $57.05.

A. Ronald A. Capone, Kirlin, Campbell & Keating, 1150 Connecticut Avenue NW., No. 800, Washington, D.C. 20036.
B. Council of European & Japanese National Shipowners' Association, 17/18 Bury Street, London, EC3A 5AH England.
E. (9) $621.24.

A. Milton F. Capps, 196 Sweet Wood Circle, Columbia, S.C. 29210.
B. J. Crawford Cook, Inc., 2218 Terrace Way, Columbia, S.C. 29205; and Cook, Ruef, Spann and Weiser, Inc., 1735 St. Julian Place, Columbia, S.C. 29204.
D. (6) $6,057.66. E. (9) $624.79.

A. Charles E. Capron, 2401 Calvert Street NW., Suite 905, Washington, D.C. 20008.
E. (9) $112.

A. Isaac R. Caraco, 4532 Park Monaco, Calabasas Park, Calif. 91302.
B. Bechtel Power Corp., 50 Beale Street, P.O. Box 3965, San Francisco, Calif. 94119.

A. Norval E. Carey, 2021 K Street NW., Washington, D.C. 20006.
B. General Atomic Co., San Diego, Calif.
D. (6) $1,000. E. (9) $375.

A. Charles R. Carlisle, 1730 Rhode Island Avenue NW., Suite 911, Washington, D.C. 20036.
B. St. Joe Minerals Corp., 250 Park Avenue, New York, N.Y. 10017.
D. (6) $9,360. E. (9) $651.76.

A. Peter Carlson, 317 Pennsylvania Avenue SE., Washington, D.C. 20003.
B. Environmental Policy Center, 317 Pennsylvania Avenue SE., Washington, D.C.
D. (6) $1,400.

A. Chapin Carpenter, Jr., Magazine Publishers Association, Inc., 1629 K Street NW., No. 603, Washington, D.C. 20006.
B. Magazine Publishers Association, Inc., 575 Lexington Avenue, New York, N.Y. 10022.
D. (6) $1,500.

A. Jack Carpenter, American Mining Congress, 1100 Ring Building, Washington, D.C.
B. American Mining Congress, 1100 Ring Building, Washington, D.C.
D. (6) $76.92 E. (9) $30.05.

A. L. C. Carpenter, Midcontinent Farmers Association, 201 South 7th Street, Columbia, Mo. 65201.
B. Midcontinent Farmers Association, 201 South 7th Street, Columbia Mo. 65201.
D. (6) $5,299.32. E. (9) $1,160.62.

A. John R. Carson, 20 Chevy Chase Circle, Washington, D.C. 20015.
B. American Podiatry Association, 20 Chevy Chase Circle, Washington, D.C. 20015.
D. (6) $8,000.

A. Charles S. Carter, 1440 Connecticut Avenue, Washington, D.C. 20036.
B. Edison Electric Institute, 1140 Connecticut Avenue, Washington, D.C. 20036.
D. (6) $65. E. (9) $6.

A. David C. Carter, Beet Sugar Trade Association, 1156 15th Street NW., Suite 1019, Washington, D.C. 20005.
B. U.S. Beet Sugar Association, 1156 15th Street NW., Washington, D.C. 20005.
D. (6) $937.64. E. (9) $93.50.

A. Harlon B. Carter, 1600 Rhode Island Avenue NW., Washington, D.C. 20036.
B. National Rifle Association of America, 1600 Rhode Island Avenue NW., Washington, D.C. 20036.
D. (6) $162.50.

A. Joseph L. Carter, Jr., Association of American Railroads, 40 Ivy Street SE., Washington, D.C. 20003.
B. Association of American Railroads, 1920 L Street NW., Washington, D.C. 20036.
D. (6) $341.25. E. (9) $79.65.

A. James P. Carty, National Association of Manufacturers, 1776 F Street NW., Washington, D.C. 20006.
B. National Association of Manufacturers, 1776 F Street NW., Washington, D.C. 20006.
D. (6) $385.

A. John S. Casey, 207 Duke Drive, Heflin, Ala. 36264.
B. Alabama Railroad Association, P.O. Box 21, Montgomery, Ala. 36101.

A. Casey, Lane & Mittendorf, 815 Connecticut Avenue NW., Suite 802, Washington, D.C. 20006.
B. Independent Gas Producers Committee, 2601 Northwest Expressway, Oklahoma City, Okla. 73112.
D. (6) $4,415. E. (9) $428.08.

A. Casey, Lane & Mittendorf, 815 Connecticut Avenue NW., Suite 802, Washington, D.C. 20006.
B. Kansas Delaware Tribe of Indians, Inc., 1909 Aladdin, Norman, Okla. 73609.
E. ((9) $162.81.

A. Casey, Lane & Mittendorf, 815 Connecticut Avenue NW., Suite 802, Washington, D.C. 20000.
B. Slurry Transport Association, 490 L'Enfant Plaza East, Suite 320, Washington, D.C. 20024.
D. (6) $4,968.75. E. (9) $446.92.

A. Casey, Lane & Mittendorf, 815 Connecticut Avenue NW., Suite 802, Washington, D.C. 20006.
B. Texas Oil & Gas Corp., 2700 Union Fidelity Tower, Dallas, Tex. 75201.
D. (6) $1,908.75. E. (9) $336.13.

A. Casey, Lane & Mittendorf, 815 Connecticut Avenue NW., Suite 802, Washington, D.C. 20006.
B. Wabanex Energy Corp., Ltd., 759 Victoria Square, Montreal, Quebec H2Y 2K4 Canada.
D. (6) $115. E. (9) $199.73.

A. James B. Cash, Jr., American Bankers Association, 1120 Connecticut Avenue NW., Washington, D.C. 20036.
B. American Bankers Association, 1120 Connecticut Avenue NW., Washington, D.C. 20036.
D. (6) $3,000. E. (9) $255.

A. Allen R. Caskie, American Council of Life Insurance, Inc., 1850 K Street NW., Washington, D.C. 20006.
B. American Council of Life Insurance, Inc., 1850 K Street NW., Washington, D.C. 20006.

A. John J. Castellani, National Association of Manufacturers, 1776 F Street NW., Washington, D.C. 20006.
B. National Association of Manufacturers, 1776 F Street NW., Washington, D.C. 20006.
D. (6) $277.50. E. (9) $32.55.

A. Philip T. Cavanaugh, Chevron USA, Inc., 1700 K Street NW., Washington, D.C. 20006.
B. Chevron USA Inc. (a subsidiary of Standard Oil Co. of California), 1700 K Street NW., Washington, D.C. 20006.
D. (6) $300. E. (9) $180.

A. Frank R. Cawley, Agricultural Publishers Association, Inc., P.O. Box 2351, Falls Church, Va. 22042.
B. Agricultural Publishers Association, Inc., P.O. Box 2351, Falls Church, Va. 22042.
D. (6) $300. E. (9) $57.78.

A. Dorothy D. Cecelski, 2030 M Street NW., Washington, D.C. 20036.
B. Common Cause, 2030 M Street NW., Washington, D.C. 20036.
D. (6) $4,312.50.

A. Owen R. Chaffee, 203 Yoakum Parkway, No. 1012, Alexandria, Va. 22304.
B. Manufactured Housing Institute, 1745 Jeff Davis Highway, Arlington, Va. 22202.
D. (6) $3,000. E. (9) $500.

A. Jerry L. Chambers, National Association of Manufacturers, 704 Lisburn Road, Camp Hill, Pa. 17011.
B. National Association of Manufacturers, 1776 F Street NW., Washington, D.C. 20006.
D. (6) $1,000.

A. J. W. Chandler, York Division, Borg-Warner Corp., 1101 17th Street NW., Washington, D.C. 20036.
B. York Division, Borg-Warner Corp., South Richland Avenue, York, Pa.
E. (9) $29.94.

A. Chapman, Duff and Paul, 1730 Pennsylvania Avenue NW., Suite 1200, Washington, D.C. 20006.
B. Bundesverband deutscher Banken (Association of German Banks), Mohrenstr. 35–41, 5000 Cologne 1, Germany.
D. (6) $2,000. E. (9) $1,460.79.

A. William C. Chapman, 1660 L Street NW., Washington, D.C. 20036.
B. General Motors Corp., 3044 West Grand Boulevard, Detroit, Mich. 48202.
D. (6) $3.000. E. (9) $4,681.54.

A. John E. Chapoton, 2100 First City National Bank Building, Houston, Tex. 77002.
B. Vinson & Elkins, 2100 First City National Bank Building, Houston, Tex. 77002 (for American General Capital Management, Inc., 717 5th Avenue, New York, N.Y. 10022).

A. John E. Chapoton, 2100 First City National Bank Building, Houston, Tex. 77002.
B. Vinson & Elkins, 2100 First City National Bank Building, Houston, Tex. 77002 (for Belco Petroleum Corp, 1 Dag Hammarskjold Plaza, New York, N.Y. 10017).
D. (6) $580. E. (9) $964.77.

A. John E. Chapoton, 2100 First City National Bank Building, Houston, Tex. 77002.
B. Vinson & Elkins, 2100 First City National Bank Building, Houston, Tex. 77002 (for

Domestic Wildcatters Association, 900 First City National Bank Building, Houston, Tex. 77002).
D. (6) $8,250. E. (9) $146.72.

A. John E. Chapoton, 2100 First City National Bank Building, Houston, Tex. 77002.
B. Vinson & Elkins, 2100 First City National Bank Building, Houston, Tex. 77002 (for Quintana Petroleum Corp., 500 Jefferson, Houston, Tex. 77002).
E. (9) $146.71.

A. John E. Chapoton, 2100 First City National Bank Building, Houston, Tex. 77002.
B. Vinson & Elkins, 2100 First City National Bank Building, Houston, Texas 77002 (for J. N. Warren, Allan C. King, 900 First City National Bank Building, Houston, Tex. 77002).

A. Seymour M. Chase, 1250 Connecticut Avenue, Washington, D.C. 20036.
B. The AST companies, viz., American Subscription Television, Inc. et al.
D. (6) $600.

A. Leslie Cheek, III, Crum & Forster Corp., 1120 Connecticut Avenue NW., Suite 1142, Washington, D.C. 20036.
B. Crum & Forster Corp., Madison Avenue at Canfield Road, P.O. Box 2387, Morristown, N.J. 08960.
D. (6) $12,500. E. (9) $679.36.

A. Jane H. Cheever, The First National Bank of Boston, 100 Federal Street, Boston, Mass. 02110.
B. The First National Bank of Boston, 100 Federal Street, Boston, Mass. 02110.
D. (6) $59. E. (9) $136.75.

A. Chemical Specialties Manufacturers Association, 1001 Connecticut Avenue NW., Washington, D.C. 20036.
D. (6) $115.21. E. (9) $115.21.

A. Chester, Saxbe, Hoffman & Willcox, 8 East Broad Street, Columbus, Ohio 43215.
B. Cox Langford & Brown, 21 Dupont Circle, Washington, D.C. (for National Collegiate Athletic Association, U.S. Highway 50 and Null Avenue, P.O. Box 1902, Shawnee Mission, Kans. 66222).

A. Vanessa Lea Chiapetta, 9637 Starlight Court, Apt. 217, Dallas, Tex. 75220.
B. Doctors for the Equal Rights Amendment, P.O. Box 19531, Dallas, Tex. 75219.
E. (9) $211.

A. Children's Rights, Inc., 3443 17th Street NW., Washington, D.C. 20010.
D. (6) $97.35. E. (9) $101.75.

A. Phillip R. Chisholm, National Oil Jobbers Council, Inc., 1707 H Street NW., 11th floor, Washington, D.C. 20006.
B. National Oil Jobbers Council, Inc., 1707 H Street NW., 11th floor, Washington, D.C. 20006.
D. (6) $6,125. E. (9) $168.19.

A. Hal M. Christensen, 1101 17th Street NW., Washington, D.C. 20036.
B. American Dental Association, 1101 17th Street NW., Washington, D.C. 20036.
D. (6) $3,000.

A. Chugach Electric Association, Inc., P.O. Box 3518, Anchorage, Alaska 99501.
E. (9) $3,878.45.

A. Cigar Association of America, Inc., 1120 19th Street NW., Washington, D.C. 20036.

A. Citizens Committee for the Right To Keep and Bear Arms, 1601 114th Southeast, Suite 151, Bellevue, Wash. 98004.
D. (6) $169,353.96. E. (9) $81,987.85.

A. Citizens for Government Fairness, P.O. Box 1336, Brawley, Calif. 92227.
D. (6) $132,445.49. E. (6) $61,850.65.

A. Citizens for the Management of Alaska, Lands, Inc., P.O. Box 3256, DT. Anchorage, Alaska 99510.
D. (6) $206,932.75. E. (9) $143,441.29.

A. Citizens for Tax Reform in 1978, Inc., 1730 Pennsylvania Avenue NW., Suit 230, Washington, D.C. 20006.
D. (6) $2,547. E. (9) $3,700.92.

A. Cladouhos & Brashares, 1750 New York Avenue NW., Washington, D.C. 20006.
B. Crown Central Petroleum Corp., 1 North Charles Street, P.O. Box 1168, Baltimore, Md. 21203.

A. Cladouhos & Brashares, 1750 New York Avenue NW., Washington, D.C. 20006.
B. International Processors, 4100 One Shell Square, New Orleans, La. 70139.

A. Bob Clark & Associates, Suite 1908, 400 Madison Street, Alexandria, Va. 22314.
B. Ryder System, Inc., P.O. Box 520816, Miami, Fla.
D. (6) $875.

A. Earl W. Clark, 100 Indiana Avenue NW., Washington, D.C. 20001.
B. Labor-Management Maritime Committee, 100 Indiana Avenue NW., Washington, D.C. 20001.
D. (6) $3,039. E. (9) $117.10.

A. James W. Clark, Jr., American Optometric Association, 1730 M Street NW., Washington, D.C. 20036.
B. American Optometric Association, c/o Dr. Wendell D. Waldie, 3111 Aloma, Wichita, Kans. 67211.
D. (6) $95. E. (9) $300.71.

A. Kimball Clark, Association of American Railroads, 40 Ivy Street SE., Washington, D.C. 20003.
B. Association of American Railroads, 1920 L Street NW., Washington, D.C. 20036.
D. (6) $277.76. E. (9) $228.46.

A. Clark Oil & Refining Corp., 8530 West National Avenue, Milwaukee, Wis. 53227.
E. (9) $500.

A. Richard W. Clark, 2030 M Street NW., Washington, D.C. 20036.
B. Common Cause, 2030 M Street NW., Washington, D.C. 20036.
D. (6) $2,750.01. E. (9) $155.75.

A. Thomas R. Clark, General Electric Co., 777 14th Street NW., Washington, D.C. 20005.
B. General Electric Co., 777 14th Street NW., Washington, D.C. 20005.
D. (6) $88.10.

A. Vernon A. Clark, 1660 L Street NW., Suite 215–16, Washington, D.C. 20036.
B. Outdoor Advertising Association of America, Inc., 1660 L Street NW., Suite 215–16, Washington, D.C. 20036.
D. (6) $550. E. (9) $498.

A. Donald M. Clarke, Manufacturing Chemists Association, 1825 Connecticut Avenue NW., Washington, D.C. 20009.
B. Manufacturing Chemists Association, 1825 Connecticut Avenue NW., Washington, D.C. 20009.
D. (6) $300. E. (9) $150.

A. Wade P. Clarke, Jr., Deere & Company, John Deere Road, Moline, Ill. 61265.
B. Deere & Company, John Deere Road, Moline, Ill. 61265.
D. (6) $300. E. (9) $525.

A. Jacob Clayman, 815 16th Street NW., Washington, D.C. 20006.
B. Industrial Union Department, AFL–CIO, 815 16th Street NW., Washington, D.C. 20006.
D. (6) $1,375.

A. Cleary, Gottlieb, Steen & Hamilton, 1250 Connecticut Avenue NW., Washington, D.C. 20036.
B. Synthetic Organic Chemical Manufacturers Association, 1075 Central Park Avenue, Scarsdale, N.Y. 10533.

A. Cleary, Gottlieb, Steen & Hamilton, 1250 Connecticut Avenue NW., Washington, D.C. 20036.
B. Time-Critical Shipment Committee.
D. (6) $13 E. (9) $89.53.

A. Earle C. Clements, 1776 K Street NW., Washington, D.C. 20006.
B. The Tobacco Institute, Inc., 1776 K Street NW., Washington, D.C. 20006.
D. (6) $85. E. (9) $85.

A. Franklin Clements, 900 15th Street NW., Washington, D.C. 20005.
B. United Mine Workers of America, 900 15th Street NW., Washington, D.C. 20005.
D. (6) $1,697.93. E. (9) $1,783.

A. Ronald D. Clements, 1140 Connecticut Avenue NW., Suite 1010, Washington, D.C. 20036.
B. Edison Electric Institute, 1140 Connecticut Avenue NW., Suite 1010, Washington, D.C. 20036.
D. (6) $65. E. (9) $6.

A. Clifford, Glass, McIlwain & Finney, 815 Connecticut Avenue NW., Washington, D.C. 20006.
B. American Electric Power Co., Inc., 2 Broadway, New York, N.Y. 10004.
D. (6) $1,350. E. (9) $358.60.

A. Clifford, Glass, McIlwain & Finney, 815 Connecticut Avenue NW., Washington, D.C. 20006.
B. Avco Corp., 750 Third Avenue, New York, N.Y. 10017.
D. (6) $5,355. E. (9) $1,339.

A. Clifford, Glass, McIlwain & Finney, 815 Connecticut Avenue, Washington, D.C. 20006.
B. Joint Corporate Committee on Cuban Claims, c/o Lone Star Industries, Inc., P.O. Box 5050, Greenwich, Conn. 06830.
D. (6) $900. E. (9) $270.

A. Clifford, Glass, McIlwain & Finney, 815 Connecticut Avenue NW., Washington, D.C. 20006.
B. New York Cocoa Exchange, Inc., and New York Cocoa Clearing, Association, Inc., 127 John Street, New York, N.Y. New York Coffee and Sugar Exchange, Inc., 4 World Trade Center, New York, N.Y.
D. (6) $2,920. E. (9) $742.

A. Clifford, Glass, McIlwain & Finney, 815 Connecticut Avenue NW., Washington, D.C. 20006.
B. Warner-Lambert Co., 201 Tabor Road, Morris Plains, N.J. 07950.

A. CNA, CNA Plaza, Chicago, Ill. 60685.
E. (9) $1,500.

A. Coalition on American Rivers, P.O. Box 2667 Station A, Champaign, Ill. 61820.
D. (6) $2,824.50. E. (9) $3,818.57.

A. The Coca-Cola Co., P.O. Drawer 1734, Atlanta, Ga. 30301.
E. (9) $1,601.32.

A. Lynn Coodington, 317 Penn Avenue SE., Washington, D.C. 20003.

B. Environmental Policy Center, 317 Penn Avenue SE., Washington, D.C. 20003.
D. (6) $6,249.99. E. (9) $30.43.

A. John J. Coffey, Suite 638, 2101 L Street NW., Washington, D.C. 20037.
B. Western Oil and Gas Association, 609 South Grand Avenue, Suite 910, Los Angeles, Calif. 90017.
D. (6) $825.

A. Jeffery Cohelan, Group Health Association of America, Inc., 1717 Massachusetts Avenue NW., No. 701, Washington, D.C. 20036.
B. Group Health Association of America, Inc., 1717 Massachusetts Avenue NW., No. 701, Washington, D.C. 20036.
D. (6) $4,914.

A. David Cohen, 2030 M Street NW., Washington, D.C. 20036.
B. Common Cause, 2030 M Street NW., Washington, D.C. 20036.
D. (6) $11,749.98. E. (9) $573.03.

A. Thomas Cohen, 2030 M Street, NW., Washington, D.C. 20036.
B. Common Cause, 2030 M Street NW., Washington, D.C. 20036.
D. (6) $3,999.99.

A. Cohen and Uretz, 1775 K Street NW., Washington, D.C. 20006.
B. Estate of Sylvia S. Buring, 1837 Harbor Avenue, Memphis, Tenn. 38113.
E. (9) $52.30.

A. Marcus Cohn, Cohn and Marks, 1920 L Street NW., Washington, D.C. 20036.
B. Wometco Enterprises, Inc., P.O. Box 2440, Miami, Fla. 33128.
D. (6) $500.

A. Cole Corette & Bradfield, 1200 17th Street NW., Washington, D.C. 20036.
B. American Express Co., American Express Plaza, New York, N.Y. 10004.

A. Cole Corette & Bradfield, 1200 17th Street NW., Washington, D.C. 20036.
B. The Chase Manhattan Bank, 1 Chase Manhattan Plaza, New York, N.Y. 10015.
D. (6) $4,734.50. E. (9) $34.03.

A. E. William Cole, Jr., 461 South Boylston Street, Los Angeles, Calif. 90017.
B. Union Oil Company of California, 461 South Boylston Street, Los Angeles, Calif. 90017.
D. (6) $600. E. (9) $434.60.

A. Eleanor Cole, UBA, Inc., 1800 M Street NW., 460 South, Washington D.C. 20036.
B. UBA, Inc., 1800 M Street NW., 460 South Washington, D.C. 20036.
D. (6) $1,000.

A. Ken W. Cole, Security Life Building, Denver, Colo. 80202.
B. Standard Oil Co., Indiana, 200 East Randolph Drive, Chicago, Ill. 60601.
D. (6) $390. E. (9) $544.18.

A. R. Michael Cole, 2030 M Street NW., Washington, D.C. 20036.
B. Common Cause, 2030 M Street NW., Washington, D.C. 20036.
D. (6) $7,750.02. E. (9) $121.70.

A. Robert E. Cole, GMC, 1660 L Street NW., Washington, D.C.
B. General Motors Corp., 1660 L Street NW., Washington, D.C.

A. William J. Colley, 1200 17th Street NW., Washington, D.C. 20036.
B. Cardio Pulmonary Contractors Association, 1200 17th Street NW., Washington, D.C. 20036.
D. (6) $6,000.

A. William J. Colley, 1200 17th Street NW., Washington, D.C. 20036.
B. College of American Pathologists, 7400 North Skokie Boulevard, Skokie, Ill. 60076.

A. William J. Colley, 1200 17th Street NW., Washington, D.C. 20036.
B. National Pharmaceutical Alliance, P.O. Box 13547, St. Petersburg, Fla. 33733.
D. (6) $7,500.

A. William J. Colley, 1200 17th Street NW., Washington, D.C. 20036.
B. Patton, Boggs & Blow, 1200 17th Street NW., Washington, D.C. 20036 (for Ad Hoc 602 Committee).
D. (6) $2,375.

A. William J. Colley, 1200 17th Street NW., Washington, D.C. 20036.
B. Patton, Boggs and Blow, 1200 17th Street NW., Washington, D.C. 20036 (for Air Products and Chemical Co.).

A. William J. Colley, 1200 17th Street NW., Washington, D.C. 20036.
B. Patton, Boggs and Blow, 1200 17th Street NW., Washington, D.C. 20036 (for American Guild of Authors and Composers).

A. William J. Colley, 1200 17th Street NW., Washington, D.C. 20036.
B. Patton, Boggs and Blow, 1200 17th Street NW., Washington, D.C. 20036 (for American Imported Automobile Dealers Association).

A. William J. Colley, 1200 17th Street NW., Washington, D.C. 20036.
B. Patton, Boggs and Blow, 1200 17th Street NW., Washington, D.C. 20036 (for American Maritime Association).

A. William J. Colley, 1200 17th Street NW., Washington, D.C. 20036.
B. Patton, Boggs and Blow, 1200 17th Street NW., Washington, D.C. 20036 (for American Society of Association Executives).
D. (6) $375.

A. William J. Colley, 1200 17th Street NW., Washington, D.C. 20036.
B. Patton, Boggs and Blow, 1200 17th Street NW., Washington, D.C. 20036 (for Boating Industry Association).

A. William J. Colley, 1200 17th Street NW., Washington, D.C. 20036.
B. Patton, Boggs and Blow, 1200 17th Street NW., Washington, D.C. 20036 (for Business Roundtable).

A. William J. Colley, 1200 17th Street NW., Washington, D.C. 20036.
B. Patton, Boggs and Blow, 1200 17th Street NW., Washington, D.C. 20036 (for Chicago Board Options Exchange).

A. William J. Colley, 1200 17th Street NW., Washington, D.C. 20036.
B. Patton, Boggs and Blow, 1200 17th Street NW., Washington, D.C. 20036 (for Committee Concerned with Safe Banking Act).

A. William J. Colley, 1200 17th Street NW., Washington, D.C. 20036.
B. Patton, Boggs and Blow, 1200 17th Street NW., Washington, D.C. 20036 (for Computer Sciences Corp.).

A. William J. Colley, 1200 17th Street NW., Washington, D.C. 20036.
B. Patton, Boggs and Blow, 1200 17th Street NW., Washington, D.C. 20036 (for Council of State Chambers of Commerce).

A. William J. Colley, 1200 17th Street NW., Washington, D.C. 20036.
B. Patton, Boggs and Blow, 1200 17th Street NW., Washington, D.C. 20036 (for Energy Advances).

A. William J. Colley, 1200 17th Street NW., Washington, D.C. 20036.
B. Patton, Boggs and Blow, 1200 17th Street NW., Washington, D.C. 20036 (for Independent U.S. Tanker Owners).

A. William J. Colley, 1200 17th Street NW., Washington, D.C. 20036.
B. Patton, Boggs and Blow, 1200 17th Street NW., Washington, D.C. 20036 (for Machinery Dealers National Association).

A. William J. Colley, 1200 17th Street NW., Washington, D.C. 20036.
B. Patton, Boggs and Blow, 1200 17th Street NW., Washington, D.C. 20036 (for Marathon Oil).
D. (6) $1,125.

A. William J. Colley, 1200 17th Street NW., Washington, D.C. 20036.
B. Patton, Boggs & Blow, 1200 17th Street NW., Washington D.C. 20036 (for Mars, Inc.).
D. (6) $500.

A. William J. Colley, 1200 17th Street NW., Washington, D.C. 20036.
B. Patton, Boggs & Blow, 1200 17th Street NW., Washington, D.C. (for Mocotta Metals).
D. (6) $1,750.

A. William J. Colley, 1200 17th Street NW., Washington, D.C. 20036.
B. Patton, Boggs & Blow, 1200 17th Street NW., Washington, D.C. 20036 (for National Association of Engine and Boat Manufacturers).

A. William J. Colley, 1200 17th Street NW., Washington, D.C. 20036.
B. Patton, Boggs & Blow, 1200 17th Street NW., Washington, D.C. 20036 (for Jack Phillip and Son, Inc.).
D. (6) $875.

A. William J. Colley, 1200 17th Street NW., Washington, D.C. 20036.
B. Patton, Boggs & Blow, 1200 17th Street NW., Washington, D.C. 20036 (for Pyrotechnic Signal Manufacturers Association).
D. (6) $500.

A. William J. Colley, 1200 17th Street NW., Washington, D.C. 20036.
B. Patton, Boggs & Blow, 1200 17th Street NW., Washington, D.C. 20036 (for Reading Co.).

A. William J. Colley, 1200 17th Street NW., Washington, D.C. 20036.
B. Patton, Boggs & Blow, 1200 17th Street NW., Washington, D.C. 20036 (for Redwood Industry Park Committee).

A. William J. Colley, 1200 17th Street NW., Washington, D.C. 20036.
B. Patton, Boggs & Blow, 1200 17th Street NW., Washington, D.C. 20036 (for State of Louisiana).

A. William J. Colley, 1200 17th Street NW., Washington, D.C. 20036.
B. Patton, Boggs & Blow, 1200 17th Street NW., Washington, D.C. 20036 (for Uncle Ben's Foods).

A. Calvin J. Collier, Hughes, Hubbard & Reed, 1660 L Street NW., Washington, D.C. 20036.
B. Pfizer, Inc., 1700 Pennsylvania Avenue NW., Washington, D.C. 20006.
D. (6) $360. E. (9) $16.30.

A. Collier, Shannon, Rill, Edwards, and Scott, 1055 Thomas Jefferson Street NW., Washington, D.C. 2007.
B. American Feed Manufacturers Association, 1701 North Fort Myer Drive, Arlington, Va. 22209.
D. (6) $210.

A. Collier, Shannon, Rill, Edwards and Scott, 1055 Thomas Jefferson Street NW., Suite 308, Washington, D.C. 20007.
B. Food Marketing Institute, 1750 K Street NW., Washington, D.C. 20006.
D. (6) $1,000.

A. Collier, Shannon, Rill, Edwards and Scott, 1055 Thomas Jefferson Street NW., Suite 308, Washington, D.C. 20007.
B. National Broiler Council, 1155 15th Street NW., Washington, D.C. 20005.
D. (6) $450.

A. Collier, Shannon, Rill, Edwards and Scott, 1055 Thomas Jefferson Street NW., Suite 308, Washington, D.C. 20007.
B. Tools and Stainless Steel Industry Committee, 1055 Thomas Jefferson Street NW., Washington, D.C. 20007.
D. (6) $1,200. E. (9) $525.

A. Bruce Collins, National Cable Television Association, Inc., 918 16th Street NW., Washington, D.C. 20006.
B. National Cable Television Association, Inc., 918 16th Street NW., Washington, D.C. 20006.
D. (6) $1,562. E. (9) $45.

A. Paul G. Collins, One Jackson Walkway, Providence, R.I. 02903.
B. New England Commercial Banking Caucus, One Jackson Walkway, Providence, R.I. 02903.

A. Robert B. Collyer, UBA, Inc., 1800 M Street NW., 460 South, Washington, D.C. 20036.
B. UBA, Inc., 1800 M Street NW., 460 South, Washington, D.C. 20036.
D. (6) $1,000.

A. Colorado Railroad Association, 420 Denver Club Building, Denver, Colo. 80202.

A. Committee for a Uniform Investment Tax Credit, 1050 17th Street NW., Suite 1112, Washington, D.C. 20036.
D. (6) $10,000 E. (9) $2,520.

A. Committee for Consumers No-Fault, 1220 19th Street NW., Suite 500, Washington, D.C. 20036.
D. (6) $17,300. E. (9) $6,274.44.

A. Committee for Humane Legislation, Inc., 2101 L Street NW., Washington, D.C. 20037; 11 West 60th Street, New York, N.Y. 10023.
D. (6) $18,255.16. E. (9) $20,900.96.

A. Committee of Americans for the Canal Treaties, 1019 19th Street NW., Washington, D.C. 20036.
D. (6) $1,115.81. E. (9) $2,132.27.

A. Committee of Urban Program Universities, Suite 802, 11 Dupont Circle, Washington, D.C. 20036.
D. (6) $15,000. E. (9) $8,867.98.

A. Committee on Capital Formation, Morgan, Lewis & Bockius, 1800 M Street NW., Suite 700, Washington, D.C. 20036.
D. (6) $650. E. (9) $650.

A. Committee to Assure the Availability of Casein, 1700 Pennsylvania Avenue NW., Washington, D.C. 20006.
D. (6) $2,500. E. (9) $1,000.

A. Common Cause, 2030 M Street NW., Washington, D.C. 20036.
D. (6) $1,272,176.72. E. (9) $376,473.46.

A. Lance Compa, 917 15th Street NW., Washington, D.C. 20005.

B. United Electrical, Radio and Machine Workers of America, 11 East 51st Street, New York, N.Y. 10022.
D. (6) $3,744. E. (9) $97.50.

A. Computer and Communications Industry Association, 1500 Wilson Boulevard, Suite 512, Arlington, Va. 22209.
D. (6) $120,875. E. (9) $14,576.

A. Stephen R. Conafay, 1700 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. Pfizer, Inc., 235 East 42d Street, New York, N.Y. 10017.
D. (6) $340. E. (9) $380.

A. Congress Watch, 133 C Street SE., Washington, D.C. 20003.
D. (6) $34,847.90. E. (9) $34,847.90.

A. Raymond F. Conkling, 1050 17th Street NW., Washington, D.C. 20036.
B. Texaco, Inc., 2000 Westchester Avenue, White Plains, N.Y. 10650.
D. (6) $150. E. (9) $16.70.

A. James T. Conner, 1140 Connecticut Avenue NW., Washington, D.C. 20036.
B. Mobay Chemical Corp., P.O. Box 4913, Hawthorn Road, Kansas City, Mo.
E. (9) $1,340.

A. Robert J. Conner, 1100 Connecticut Avenue NW., Washington, D.C. 20036.
B. Chrysler Corp., 12000 Lynn Townsend Drive, Highland Park, Mich. 48288.
D. (6) $500. E. (9) $1,909.60.

A. Stephen N. Conner, Route 1, Box 165, Easton, Md. 21601.
B. Ministry of Foreign Affairs, Kingdom of Saudi Arabia, c/o Royal Embassy of Saudi Arabia, 1520 18th Street NW., Washington, D.C.
D. (6) $10,000. E. (9) $5,182.88.

A. Albert J. Conners, Air Force Sergeants Association, Inc., 1608 Pittsfield Lane, Bowie, Md. 20715.
B. Air Force Sergeants Association, Inc., 4235 28th Avenue, Marlow Heights, Md. 20031.

A. John J. Connolly, The American Waterways Operators, Inc., 1600 Wilson Boulevard, Suite 1101, Arlington, Va. 22209.
B. The American Waterways Operators, Inc., 1600 Wilson Boulevard, Suite 1101, Arlington, Va. 22209.
D. (6) $2,000.

A. Jerry C. Connors, American Automobile Association, 8111 Gatehouse Road, Falls Church, Va. 22042.
B. American Automobile Association, 8111 Gatehouse Road, Falls Church, Va. 22042.

A. Consolidated Natural Gas Service Co., Inc., Four Gateway Center, Pittsburgh, Pa. 15222.

A. Constructora Nacional de Carros de Ferrocarril, S.A., Av. Universidad y Miguel Laurent, Mexico 12, D.F. (Mexican Association of Railroad Car Manufacturers.).
E. (9) $17,451.05.

A. Contract Carrier Conference of American Trucking Associations, Inc., 1730 Rhode Island Avenue NW., Suite 801, Washington, D.C. 20036.

A. John T. Conway, 1750 K Street NW., Suite 300, Washington, D.C.
B. American Nuclear Energy Council, 1750 K Street NW., Suite 300, Washington, D.C.
D. (6) $1,750. E. (9) $76.35.

A. Charles F. Cook, American Mining Congress, 1100 Ring Building, Washington, D.C. 20036.
B. American Mining Congress, 1100 Ring Building, Washington, D.C. 20036.
D. (6) $238.49. E. (9) $11.75.

A. Frederick N. Cook, Vermont Petroleum Association, P.O. Box 566, Montpelier, Vt. 05602.
B. American Petroleum Institute, 2101 L Street NW., Washington, D.C. 20037.
D. (6) $300.

A. Harry N. Cook, 1130 17th Street NW., Washington, D.C. 20036.
B. The National Waterways Conference, Incorporated.

A. J. Crawford Cook, P.O. Box 5845, Columbia, S.C. 29250.
B. J. Crawford Cook, Inc., 2218 Terrace Way, Columbia, S.C.; Cook, Ruef, Spann and Weiser, Inc., 1735 Street Julian Place, Columbia, S.C. 29204.
D. (6) $10,769.36. E. (9) $5,257.53.

A. J. Crawford Cook, Inc., P.O. Box 50485, Columbia, S.C. 29250.
D. (6) $200,000. E. (9) $166,622.43.

A. K. Richard Cook, General Electric Co., 777 14th Street NW., Suite 700, Washington, D.C. 20005.
B. General Electric Co., 3135 Easton Turnpike, Fairfield, Conn. 06431.

A. Robert M. Cook, Livestock Marketing Association, 4900 Oak Street, Kansas City, Mo. 64112.
B. Livestock Marketing Association, 4900 Oak Street, Kansas City, Mo. 64112.
E. (9) $2,034.60.

A. Cook, Ruef, Spann and Weiser, Inc., P.O. Box 5845, Columbia, S.C. 29250.
D. (6) $150,000. E. (9) $4,283.48.

A. Eileen D. Cooke, American Library Association, 110 Maryland Avenue NE., Suite 101, Box 54, Washington, D.C. 20002.
B. American Library Association, 50 East Huron Street, Chicago, Ill. 60611.
D. (6) $861.

A. Benjamin Y. Cooper, Printing Industries of America, Inc., 1730 North Lynn, Arlington, Va. 22209.
B. Printing Industries of America, Inc., 1730 North Lynn Street, Arlington, Va. 22209.
E. (9) $60.99.

A. Edward Cooper, 1600 I Street NW., Washington, D.C. 20006.
B. Motion Picture Association of America, Inc., 1600 I Street NW., Washington, D.C. 20006.

A. Joshua W. Cooper, 626 South Lee Street, Alexandria, Va. 22314.
B. Portsmouth-Kittery Armed Services Committee, Inc., Box 1123, Portsmouth, N.H. 03801.
D. (6) $1,250. E. (9) $594.05.

A. Mitchell J. Cooper, 1001 Connecticut Avenue NW., Washington, D.C. 20036.
B. Council of Forest Industries, 1055 West Hastings Street, Vancouver 1, Canada.
D. (6) $3,000.

A. Mitchell J. Cooper, 1001 Connecticut Avenue NW., Washington, D.C. 20036.
B. Footwear Division, Rubber Manufacturers Association, 1901 Pennsylvania Avenue NW., Washington, D.C. 20006.
D. (6) $10,500

A. Cooperative League of the U.S.A., 1828 L Street NW., Suite 1100, Washington, D.C. 20036.
D. (6) $5,500. E. (9) $768.

A. Darrell Coover, National Association of Independent Insurers, 1625 I Street NW., Suite 1001, Washington, D.C. 20006.
B. National Association of Independent Insurers, 2600 River Road, Des Plaines, Ill. 60018.
D. (6) $2,000. E. (9) $296.

A. Paul Corbin, 1028 Connecticut Avenue NW., Suite 516, Washington, D.C. 20036.
B. Ponchartrain State Bank, Metairie, La. 70003.
D. (6) $3,750. E. (9) $700.

A. Carl B. Cordes and Thomas V. Glynn, Battle, Fowler, Jaffin, Pierce & Kheel, 280 Park Avenue, New York, N.Y. 10017.
B. State Troopers Fraternal Association of New Jersey, Inc., 30 Newport Drive, Howell, N.J. 07731.
D. (6) $7,600. E. (9) $49.46.

A. Bennett J. Corn, New York Coffee and Sugar Exchange, Inc., Four World Trade Center, New York, N.Y. 10048.
B. New York Coffee and Sugar Exchange, Inc., Four World Trade Center, New York, N.Y. 10048.
D. (6) $181.81. E. (9) $272.70.

A. Richard L. Corrigan, 1155 15th Street NW., No. 713, Washington, D.C. 20005.
B. American Consulting Engineers Council, 1155 15th Street NW., Washington, D.C. 20005.
D. (6) $812.50.

A. Allan D. Cors, 1800 K Street NW., Suite 1104, Washington, D.C. 20006.
B. Corning Glass Works, Corning, N.Y. 14830.
D. (6) $500.

A. R. H. Cory, 1510 American Bank Tower, Austin, Tex. 78901.
B. Central and South West Services, Inc., One Main Place, Dallas, Tex.
D. (6) 802.30. E. (9) $580.01.

A. John E. Cosgrove, Public Employee Department, AFL–CIO, 815 16th Street NW., Washington, D.C. 20006.
B. Public Employee Department, AFL–CIO, 815 16th Street NW., Washington, D.C. 20006.
D. (6) $9,781.72.

A. David Cosson, 2626 Pennsylvania Avenue NW., Washington, D.C. 20037.
B. National Telephone Cooperative Association, 2626 Pennsylvania Avenue NW., Washington, D.C. 20037.
D. (6) $1,525.

A. Michael E. Costello, 1660 L Street NW., Suite 901, Washington, D.C. 20036.
B. Texas Eastern Transmission Corp., P.O. Box 2521, Houston, Tex. 77001.
E. (9) $275.40.

A. Carol Coston, 2030 M Street NW., Washington, D.C. 20036.
B. Common Cause, 2030 M Street NW., Washington, D.C. 20036.
D. (6) $687.50. E. (9) $12.

A. The Cosmetic, Toiletry, and Fragrance Association, Inc., 1133 15th Street NW., Suite 1200, Washington, D.C. 20005.
D. (6) $2,050. E. (9) $2,050.

A. Council of State Chambers of Commerce, 499 South Capitol Street SW., Suite 412, Washington, D.C. 20003.
D. (6) $704.80. E. (9) $97.81.

A. Douglas Couttee, Retail Clerks International Union, AFL–CIO, 1775 K Street NW., Washington, D.C. 20006.
B. Retail Clerks International Union, AFL–CIO, 1775 K Street NW., Washington, D.C. 20006.
D. (6) $6,697.10. E. (9) $1,218.16.

A. Covington & Burling, 888 16th Street NW., Washington, D.C. 20006.
B. American Association of Oral and Maxillofacial Surgeons, 211 East Chicago Avenue, Chicago, Ill. 60611.
D. (6) $17,150. E. (9) $30.75.

A. Covington & Burling, 888 16th Street NW., Washington, D.C. 20006.
B. American Watch Association, 10 East 40th Street, New York, N.Y. 10016.
E. (9) $50.75.

A. Covington & Burling, 888 16th Street NW., Washington, D.C. 20006.
B. Anchor National Life Insurance Co., Camelback at 22d Street, Phoenix, Ariz. 85016.
E. (9) $70.66.

A. Covington & Burling, 888 16th Street NW., Washington, D.C. 20006.
B. Association of Maximum Service Telecasters, Inc., 1735 DeSales Street NW., Washington, D.C. 20036.

A. Covington & Burling, 888 16th Street NW., Washington, D.C. 20006.
B. Delmarva Poultry Industry, Inc., R.D. No. 2, Box 47, Georgetown, Del. 19947.
E. (9) $171.37.

A. Covington & Burling, 888 16th Street NW., Washington, D.C. 20006.
B. Interbank Card Association, 888 Seventh Avenue, New York, N.Y. 10019.
D. (6) $2,000.

A. Covington & Burling, 888 16th Street NW., Washington, D.C. 20006.
B. Investment Co. Institute, 1775 K Street NW, Washington, D.C. 20006.
E. (9) $663.23.

A. Covington & Burling, 888 16th Street NW., Washington. D.C. 20006.
B. Irving Trust Co., One Wall Street, New York, N.Y. 10015.
D. (6) $5,000. E. (9) $256.78.

A. Covington & Burling, 888 16th Street NW., Washington, D.C. 20006.
B. Lydall, Inc., 615 Parker Street, Manchester, Conn. 06040.
E. (9) $47.72.

A. Covington & Burling, 888 16th Street NW., Washington, D.C. 20006.
B. National Committee for Limited Profit Housing, c/o HHH Construction Corp., 515 Madison Avenue, New York, N.Y. 10022.

A. Covington & Burling, 888 16th Street NW., Washington, D.C. 20006.
B. National Federation of Independent Business, 921 Washington Building, Washington, D.C. 20005.

A. Covington & Burling, 888 16th Street NW., Washington, D.C. 20006.
B. Hugo Neu, 380 Madison Avenue, New York, N.Y. 10017; Hugo Neu & Sons, Inc., 380 Madison Avenue, New York, N.Y. 10017.
E. (9) $31.12.

A. Covington & Burling, 888 16th Street NW., Washington, D.C. 20006.
B. Perdue Inc., P.O Box 1537, Salisbury, Md. 21801.
E. (9) $1.41.

A. Covington & Burling, 888 16th Street NW., Washington, D.C. 20006.
B. Pyramid Ventures Group, Inc., P.O Box 1671, Morgan City, La. 70380.

A. Covington & Burling, 888 16th Street NW., Washington, D.C. 20006.
B. Standard Brands Inc., 625 Madison Avenue, New York, NY. 10022.
E. (9) $364.55.

A. Covington & Burling, 888 16th Street NW., Washington, D.C. 20006.
B. The Superior Oil Co., P.O Box 1521, Houston, Tex. 77001.

A. Eugene S. Cowen, 2759 Unicorn Lane, Washington, D.C. 20015.
B. American Broadcasting Co, 1150 17th Street NW., Washington, D.C. 20036.
D. (6) $123.

A. Carol A. Cowgill, American Academy of Family Physicians, 475 L'Enfant Plaza West SW., Suite 2970, Washington, D.C. 20024.
B. American Academy of Family Physicians, 1740 West 92d Street, Kansas City, Mo. 64114.
D. (6) $757.35. E. (9) $57.79.

A. C. Bryan Cox, P.O. Box 139, Kansas City, Mo. 64141.
B. Kansas City Life Insurance Co., P.O. Box 139, Kansas City, Mo. 64141.
E. (9) $396.35.

A. R. LaVaun Cox, 180 East First South Street, Salt Lake City, Utah 84139.
B. Mountain Fuel Supply Co., 180 East First South Street, Salt Lake City, Utah 84139.
D. (6) $315. E. (9) $743.80.

A. William D. Crawford, 400 First Street NW., Washington, D.C. 20001.
B. Brotherhood Railway Carmen of the United States and Canada, 4929 Main Street, Kansas City, Mo. 64112.
D. (6) $1,470.

A. Richard E. Cristol, Calorie Control Council, 64 Perimeter Center East, Atlanta, Ga. 30346.
B. Robert H. Kellen Co., 64 Perimeter Center East, Atlanta, Ga. 30346 (for Calorie Control Council, 64 Perimeter Center East, Atlanta, Ga. 30346).
D. (6) $290.

A. P. H. Croft, American Short Line Railroad Association, 2000 Massachusetts Avenue NW., Washington, D.C. 20036.
B. American Short Line Railroad Association, 2000 Massachusetts Avenue NW., Washington, D.C. 20036.
D. (6) $1,149.99. E. (9) $1,256.35.

A. Bobby E. Crow, P.O. Box 683, Houston, Tex. 77001.
B. Columbia Gulf Transmission Co., P.O. Box 683, Houston, Tex. 77001.
D. (6) $590.63. E. (9) $779.36.

A. Jack A. Crowder, American Textile Manufacturers Institute, Inc., Suite 300, 1101 Connecticut Avenue NW., Washington, D.C. 20036.
B. American Textile Manufacturers Institute, 400 South Tryon Street, Suite 2124, Charlotte, N.C. 28285.
D. (6) $2,000. E. (9) $38.

A. George D. Crowley, Jr., Shaw, Pittman, Potts & Trowbridge, 1800 M Street NW., Washington, D.C. 20036.
B. Marlene C. McGuirl, 3416 P Street NW., Washington. D.C. 20007.
D. (6) $333. E. (9) $38.40.

A. Richard D. Cudahy, Suite 701, 1050 17th Street NW., Washington, D.C. 20036.

B. Central and South West Corp., P.O. Box 1631, Wilmington, Del. 19899.
D. (6) $750. E. (9) $6.

A. Frank Cummings, 1140 Connecticut Avenue NW., Washington, D.C. 20036.
B. The Institute of Electrical and Electronics Engineers, Inc., 345 East 47th Street, New York, N.Y. 10022.
D. (6) $3,700.

A. John T. Curran, Laborers' International Union of North America, AFL–CIO, 905 16th Street NW., Washington, D.C. 20006.
B. Laborers' International Union of North America, AFL–CIO, 905 16th Street NW., Washington, D.C. 20006.
D. (6) $10,977.27. E. (9) $462.85.

A. Curtis, Mallet-Prevost, Colt & Mosle, 100 Wall Street, New York, N.Y. 10005.
B. United States Trust Co. of New York, 45 Wall Street, New York, N.Y. 10005.
D. (6) $415. E. (9) $219.69.

A. Mimi Cutler, 1346 Connecticut Avenue NW., Suite 717, Washington, D.C. 20036.
B. Aviation Consumer Action Project, P.O. Box 19029, Washington, D.C. 20036.
E. (9) $240.

A. Everett E. Cutter, 620 Southwest Fifth Avenue Building, Suite 912, Portland, Oreg. 97204.
B. Oregon Railroad Association, 620 Southwest Fifth Avenue Building, Suite 912, Portland, Oreg. 97204.

A. William K. Dabaghi, American Bankers Association, 1120 Connecticut Avenue NW., Washington, D.C. 20036.
B. American Bankers Association, 1120 Connecticut Avenue NW., Washington, D.C. 20036.
D. (6) $1,015. E. (9) $211.21.

A. William Kay Daines, American Retail Federation, 1616 H Street NW., Washington, D.C. 20006.
B. American Retail Federation, 1616 H Street NW., Washington, D.C. 20006.
D. (6) $400. E. (9) $26.

A. Tracy Danese, P.O. Box 529100, Miami, Fla. 33152.
B. Florida Power & Light Co., P.O. Box 529100, Miami, Fla 33152.
D. (6) $687.96. E. (9) $756.24.

A. William H. Darden, Reynolds Metals Co., 1620 Eye Street NW., Washington, D.C. 20006.
B. Reynolds Metals Co., 6601 West Broad Street, Richmond, Va. 23261.
D. (6) $750. E. (9) $30.

A. Thomas Roger Dart, Alabama Petroleum Council, 660 Adams Avenue, Suite 188, Montgomery, Ala. 36104.
B. American Petroleum Institute, 2101 L Street NW., Washington, D.C. 20037.
D. (6) $268.75. E. (9) $31.76.

A. Philip J. Daugherty, Industrial Union Department, AFL–CIO, 815 16th Street NW., Washington, D.C. 20006
B. Industrial Union Department, AFL–CIO, 815 16th Street NW., Washington, D.C. 20006.
D. (6) $5,066.75.

A. Clarence F. Davan, Jr., Great Western Sugar Co., P.O. Box 5308 T.A., Denver, Colo. 80217.
B. The Great Western Sugar Co., P.O. Box 5308 T.A., Denver, Colo. 80217.
D. (6) $3,200. E. (9) $742.59.

A. John B. Davenport, Jr., 2000 Florida Avenue NW., Washington, D.C. 20009.
B. National Rural Electric Cooperative Association, 2000 Florida Avenue NW., Washington, D.C. 20009.
D. (6) $192.06.

A. Daniel I. Davidson, Spiegel & McDiarmid, 2600 Virginia Avenue NW., Washington, D.C. 20037.
B. Northern California Power Agency, 770 Kiely Blvd., Santa Clara, Calif. 95051 (Cities of Alameda, Biggs, Gridley, Healdsburg, Lodi, Lompoc, Palo Alto, Reading, Roseville, Santa Clara, Ukiah, California, and Associate member, Plumas-Sierra Rural Electric Cooperative).

A. John L. Davidson, Jr., The St. Louis Mercantile Library Association, 510 Locust Street, St. Louis, Mo. 63188.
B. The St. Louis Mercantile Library Association, 510 Locus Street, St. Louis, Mo. 63188.

A. Charles W. Davis, One First National Plaza, No. 5200, Chicago, Ill. 60603.
B. First Chicago Corp., One First National Plaza, Chicago, Ill. 60670.

A. Charles W. Davis, One First National Plaza, No. 5200, Chicago, Ill. 60603.
B. Inland Steel Co., 30 West Monroe Street, Chicago, Ill. 60603.

A. Charles W. Davis, One First National Plaza, No. 5200, Chicago. Ill 60603.
B. National Association of Independent Insurers, 2600 River Road, Des Plaines, Ill. 60018.
D. (6) $2,060.

A. Charles W. Davis, One First National Plaza, No. 5200, Chicago, Ill. 60603.
B. Northwest Industries, Inc., 6300 Sears Tower, Chicago, Ill. 60606.
D. (6) $150.

A. Charles W. Davis, One First National Plaza, No. 5200, Chicago, Ill. 60603.
B. Peoples Gas Co., 122 South Michigan Avenue, Chicago, Ill. 60603.
D. (6) $3,450.

A. Charles W. Davis, One First National Plaza, No. 5200, Chicago, Ill. 60603.
B. Sears, Roebuck, and Co., Sears Tower, Chicago, Ill. 60684.
E. (9) $245.59.

A. Charles W. Davis, One First National Plaza, No. 5200, Chicago, Ill. 60603.
B. Trans Union Corp., 90 Half Day Road, Lincolnshire, Ill. 60015.
D. (6) $1,400.

A. Edward M. Davis, American Nuclear Energy Council, 1750 K Street NW., Suite 300, Washington, D.C.
B. American Nuclear Energy Council, 1750 K Street NW., Suite 300, Washington, D.C.
D. (6) $3,000. E. (9) $49.96.

A. Kenneth E. Davis, 1025 Connecticut Avenue NW., No. 202, Washington, D.C. 20036.
B. Rohm and Haas Co., Independence Mall West, Philadelphia, Pa. 19105.
D. (6) $500. E. (9) $286.10.

A. Ovid R. Davis, The Coca-Cola Co., P.O. Drawer 1734, Atlanta, Ga. 30301.
B. The Coca-Cola Co., P.O. Drawer 1734, Atlanta, Ga. 30301.
D. (6) $310. E. (9) $525.45.

A. R. Hilton Davis, Chamber of Commerce of USA, 1615 H Street NW., Washington, D.C. 20062.
B. Chamber of Commerce of the USA, 1615 H Street NW., Washington, D.C. 20062.

A. Robert W. Davis, Ford Motor Co., 815 Connecticut Avenue NW., Washington, D.C. 20006.
B. Ford Motor Co., Dearborn, Mich.
D. (6) $2,600. E. (9) $994.61.

A. Thomas A. Davis, Davis & McLeod, 499 South Capitol Street SW., Suite 407, Washington, D.C. 20003.
B. American Horse Council, Inc., 1700 K Street NW., Washington, D.C. 20006.
D. (6) $2,083.25. E. (9) $427.69.

A. Thomas A. Davis, Davis & McLeod, 499 South Capitol Street SW., No. 407, Washington, D.C. 20003.
B. Eugene C. Cashman, 141 W. Jackson, Chicago, Ill. 60604.
E. (9) $189.18.

A. Thomas A. Davis, Davis & McLeod, 499 South Capitol Street SW., No. 407, Washington, D.C. 20003.
B. Chicago Board of Trade, LaSalle at Jackson, Chicago, Ill. 60604.
D. (6) $3,593.75. E. (9) $383.83.

A. Thomas A. Davis, Davis & McLeod, 499 South Capitol Street SW., No. 407, Washington, D.C. 20003
B. Florida Power and Light Co., P.O. Box 013100, Miami, Fla. 33101.
E. (9) $6.57.

A. Thomas A. Davis, Davis & McLeod, 499 South Capitol Street SW., No. 407, Washington, D.C. 20003.
B. Florida Sugar Cane League, Inc., P.O. Box 1148, Clewiston, Fla. 33440.
D. (6) $750. E. (9) $22.57.

A. Thomas A. Davis, Davis & McLeod, 499 South Capitol Street SW., No. 407, Washington, D.C. 20003.
B. National Cattlemen's Association, 1001 Lincoln Street, Denver, Colo. 80201.
D. (6) $1,125. E. (9) $385.11.

A. Thomas A. Davis, Davis & McLeod, 499 South Capitol Street SW., No. 407, Washington, D.C. 20003.
B. National Corporation for Housing Partnerships d/b/a National Housing Partnerships, 1133 15th Street NW., Washington, D.C. 20005.

A. Thomas A. Davis, Davis & McLeod, 499 South Capitol Street SW., No. 407, Washington, D.C. 20003.
B. United Egg Producers, 3941 Snapfinger Parkway, Suite 580, Decatur, Ga. 30032.
D. (6) $585.94. E. (9) $19.26.

A. Walter L. Davis, Retail Clerks International Union, AFL–CIO, 1775 K Street NW., Washington, D.C. 20006.
B. Retail Clerks International Union, AFL–CIO, 1775 K Street NW., Washington, D.C. 20006.
D. (6) $750.

A. Gaston de Bearn, Hoffman-La Roche Inc., 1775 K Street NW., No. 300, Washington, D.C. 20006.
B. Hoffman-La Roche Inc., 340 Kingsland Street, Nutley, N.J. 07110.

A. Deaver & Hannaford, Inc., 2030 M Street NW., Suite 403, Washington, D.C. 20036.
B. National Venture Capital Association, 2030 M Street NW., Suite 403, Washington, D.C. 20036.
D. (6) $7,000. E. (9) $429.93.

A. Tony T. Dechant, The Farmers' Educational and Co-Operative Union of America, Denver, Colo. 80251; 1012 14th Street NW., Washington, D.C. 20005.
B. The Farmers' Educational and Co-Operative Union of America (National Farmers Union) Denver, Colo., 80251; 1012 14th Street NW., Washington, D.C. 20005.
D. (6) $5,000. E. (9) $72.93.

A. Winston M. Decker, 1522 K Street NW., No. 828, Washington, D.C. 20005.
B. American Veterinary Medical Association, 1522 K Street NW., No. 828, Washington, D.C. 20005.
D. (6) $420.

A. Winston M. Decker, 1522 K Street NW., No. 828, Washington, D.C. 20005.
B. Association of American Veterinary Medical Colleges, 1522 K Street, No. 828, Washington, D.C. 20005.
D. (6) $80.

A. DECQ Committee, P.O. Box 5551, Beverly Hills, Calif. 90210.
D. (6) $3,500. E. (9) $24,365.09.

A. Catharine B. Deely, 1730 M Street NW., Washington, D.C. 20036.
B. The League of Women Voters of the United States, 1730 M Street NW., Washington, D.C. 20036.
D. (6) $755.

A. deKieffer & Associates, 1055 Thomas Jefferson Street NW., Washington, D.C. 20007.
B. Bureau of National and International Communications, Private Bag X152, Pretoria, 0001, Republic of South Africa.
D. (6) $5,501. E. (9) $1,868.20.

A. DeLaney & Patrick, 1801 K Street NW., Suite 1104, Washington, D.C. 20006.
B. Cargill Inc., P.O. Box 9330, Minneapolis, Minn. 55440.
D. (6) $654.95.

A. DeLaney & Patrick, 1801 K Street NW., Suite 1104, Washington, D.C. 20006.
B. Dynamic Instrument Corp., 933 Long Island Parkway, Hauppauge, N.Y. 11787.
D. (6) $1,957.73.

A. DeLaney & Patrick, 1801 K Street NW., Suite 1104, Washington, D.C. 20006.
B. Trade Adjustment Assistance Coordinating Committee.
D. (6) $2,000.

A. John L. Delano, Montana Railroad Association, Box 1172, Helena, Mont. 59601.
B. Montana Railroad Association, Box 1172, Helena, Mont. 59601.
E. (9) $1,068.96.

A. Myra J. DeLapp, 1901 L Street NW., Suite 702, Washington, D.C. 20036.
B. Security Pacific National Bank, 333 South Hope Street, Los Angeles, Calif. 90071.
D. (6) $621.50. E. (9) $181.82.

A. Garry J. DeLoss, 317 Pennsylvania Avenue SE., Washington, D.C. 20003.
B. Environmental Policy Center, 317 Pennsylvania Avenue SE., Washington, D.C. 20003.
D. (6) $3,000.

A. John H. Denman, Missouri Oil Council, 428 East Capitol, Suite 203, Jefferson City, Mo. 65101.
B. American Petroleum Institute, 2101 L Street NW., Washington, D.C. 20037.
D. (6) $578. E. (9) $41.

A. Wells Denyes, Eastman Chemical Products, Inc., 500 12th Street SW., Washington, D.C. 20024.
B. Eastman Chemical Products, Inc., P.O. Box 431, Kingsport, Tenn. 37662.
D. (6) $75. E. (9) $5.

A. Department for Professional Employees, AFL–CIO, 815 16th Street NW., Washington, D.C. 20006.
D. (6) $6,000. E. (9) $3,059.15.

A. Desautels Associates, Inc., 1725 K Street NW., Suite 811, Washington, D.C. 20006.
B. Flavor and Extract Manufacturers Association of the United States, 900 17th Street NW., Washington, D.C. 20006.
D. (6) $1,800.

A. Desautels Associates, Inc., 1725 K Street NW., Suite 811, Washington, D.C. 20006.
B. Merrill Lynch, Pierce, Fenner & Smith, Inc., 1 Liberty Plaza, New York, N.Y. 10006.
D. (6) $2,000.

A. Claude J. Desautels, 1725 K Street NW., Suite 811, Washington, D.C. 20006.
B. Xerox Corp., 490 L'Enfant Plaza East SW., Washington, D.C.
D. (6) $500.

A. Dennis Devaney, 1750 K Street NW., Washington, D.C. 20006.
B. Food Marketing Institute, 1750 K Street NW., Washington, D.C. 20006.
D. (6) $1,500.

A. John M. Devaney, The American Institute of Architects, 1735 New York Avenue NW., Washington, D.C. 20006.
B. The American Institute of Architects, 1735 New York Avenue NW., Washington, D.C. 20006.
D. (6) $4,143.75.

A. R. Daniel Devlin, Trans World Airlines, Inc., 1000 16th Street NW., Washington, D.C. 20036.
B. Trans World Airlines, Inc., 605 Third Avenue, New York, N.Y. 10016.
D. (6) $260.

A. Dewey, Ballantine, Bushby, Palmer & Wood, 140 Broadway, New York, N.Y. 10005.
B. Needham, Harper & Steers, Inc., 909 Third Avenue, New York, N.Y. 10022.
E. (9) $15.20.

A. Ralph B. Dewey, Pacific Gas and Electric Co., 1050 17th Street NW., No. 1180, Washington, D.C. 20036
B. Pacific Gas & Electric Co., 77 Beale Street, San Francisco, Calif. 94106.
D. (6) $2,922.50. E. (9) $1,664.01.

A. DGA International, Inc., 1225 19th Street NW., Washington, D.C. 20036.
B. Airbus Industrie, Avenue Lucien Servanty, 31700 Blagnac, France.
D. (6) $583. E. (9) $50,637.38.

A. DGA International, Inc., 1225 19th Street NW., Washington, D.C. 20036.
B. Krauss-Maffei AG, Krauss-Maffei-Strasse 2, 8000 Munich, Federal Republic of Germany.
D. (6) $115.50. E. (9) 1,213.89.

A. DGA International, Inc., 1225 19th Street NW., Washington, D.C. 20036.
B. Societe Nationale Industrielle Aerospatiale, 37 Boulevard de Montmorency, 75016 Paris, France.
D. (6) $345. E. (9) $1,789.05.

A. DGA International, Inc., 1225 19th Street NW., Washington, D.C. 20036.
B. Thomson-CSF, Division Equipements Avioniques, 178 Boulevard Gabriel Peri, 92240 Malakoff, France.
D. (6) $212.50. E. (9) $722.55.

A. John M. Dickerman, John Dickerman & Associates, Inc., 1730 Rhode Island Avenue NW., Washington, D.C. 20036.
B. National Lumber & Building Material Dealers Association, 1990 M Street NW., Suite 350, Washington, D.C. 20036.
D. (6) $6,000. E. (9) $319.42.

A. Dickstein, Shapiro & Morin, 2101 L Street NW., Washington, D.C. 20037.
B. American Petroleum Institute, 2101 L Street NW., Washington, D.C. 20037.

A. John R. Dierker, 1150 17th Street NW., Washington, D.C. 20036.
B. McDonnel Douglas Corp., P.O. Box 516, St. Louis, Mo. 63166.
D. (6) $300. E. (9) $116.

A. Paula A. Dilley, Marathon Oil Co., 1800 M Street NW., Suite 975, Washington, D.C. 20036.
B. Marathon Oil Co., Findlay, Ohio 45840.

A. Timothy V. A. Dillon, 1850 K Street NW., Suite 380, Washington, D.C. 20006.
B. Westlands Water District, P.O. Box 5222, Fresno, Calif. 93755.
D. (6) $3,993.25. E. (9) 243.25.

A. Michael F. Dineen, Lumbermens Mutual Casualty Co., Suite 206, 600 Pennsylvania Avenue SE., Washington, D.C. 20003.
B. Lumbermens Mutual Casualty Co., Long Grove, Ill. 60049.
D. (6) $1,800.

A. Harley M. Dirks, American Medical Association, 1776 K Street NW., Washington, D.C. 20006.
B. American Medical Association, 535 North Dearborn Street, Chicago, Ill. 60610.
D. (6) $2,887.50. E. (9) $238.60.

A. Disabled American Veterans, 3725 Alexandria Pike, Cold Spring, Ky. 41076.
D. (6) 33,186.07. E. (9) $33,186.07.

A. J. L. Disque, 556 Morris Avenue, Summit, N.J. 07901.
B. CIBA–GEIGY Corp.
D. (6) $1,865. E. (9) $960.

A. Dobrovir, Oakes, Gebhardt & Scull, 2005 L Street NW., Washington, D.C. 20036.
B. The Fund for Constitutional Government, 121 Constitution Avenue NE., Washington, D.C. 20002.
D. (6) $760. E. (9) $0.60.

A. Norman L. Dobyns, Cutler-Hammer, Inc., 1660 L Street NW., No. 912, Washington, D.C. 20036.
B. Cutler-Hammer, Inc., 4201 North 27th Street, Milwaukee, Wis. 53216.
E. (9) $125.

A. Doctors for the Equal Rights Amendment, P.O. Box 19531, Dallas, Tex. 75219.
D. (6) $615. E. (9) $3,849.60.

A. H. A. Doersam, 517 Powell Drive, Annapolis, Md. 21401.
B. Household Finance Corp., HFC International Headquarters, 2700 Sanders Road, Prospect Heights, Ill. 60070.
E. (9) $1,359.89.

A. James F. Doherty, Group Health Association of America, Inc., 1717 Massachusetts Avenue NW., No. 701, Washington, D.C. 20036.
B. Group Health Association of America, Inc., 1717 Massachusetts Avenue NW., No. 701, Washington, D.C. 20036.
D. (6) $10,125.

A. John D. Doherty, Jr., 900 17th Street NW., Washington, D.C. 20006.
B. The Chase Manhattan Bank, National Association, 1 Chase Manhattan Plaza, New York, N.Y. 10015.
D. (6) $166.67. E. (9) $95.06.

A. Robert C. Dolan, Edison Electric Institute, 1140 Connecticut Avenue NW., Suite 1010, Washington, D.C. 20036.
B. Edison Electric Institute, Governmental Affairs Division, 1140 Connecticut Avenue NW., Washington, D.C. 20036.
D. (6) $140. E. (9) $31.

A. Hollis M. Dole, 1025 Connecticut Avenue NW., Washington, D.C. 20036.
B. Atlantic Richfield Co., 515 South Flower Street, Los Angeles, Calif 90071.
D. (6) $950.

A. David P. Dolgen, Seafarers International Union, AGLIW District, 815 16th Street NW., Room 510, Washington, D.C. 20006.
B. Seafarers International Union, AGLIW District, 815 16th Street NW., Washington, D.C. 20006.
D. (6) $3,500. E. (9) $888.61.

A. Domestic Wildcatters Association, 900 First City National Bank Building, Houston, Tex. 77002.
D. (6) $5,000. E. (9) $41,910.75.

A. Leo J. Donahue, 230 Southern Building, Washington, D.C. 20005.
B. American Association of Nurserymen, 230 Southern Building, Washington, D.C. 20005.

A. Richard M. Donaldson, 1700 Guildhall Building, Cleveland, Ohio 44115.
B. The Standard Oil Co. (Ohio), Midland Building, Cleveland, Ohio 44115.

A. The Reuben H. Donnelley Corp., 2000 Clearwater Drive, Oak Brook, Ill. 60521.

A. Francis X. Dooley, 525 School Street SW., Washington, D.C. 20024.
B. American Road and Transportation Builders Association, 525 School Street SW., Washington, D.C.
D. (6) $2,500. E. (9) $51.50.

A. Doub, Purcell, Muntzing & Hansen, 1775 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. American Rice, Inc., Houston, Tex.
D. (6) $1,000.

A. Doub, Purcell, Muntzing & Hansen, 1775 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. The Board of Trade of Kansas City, Missouri, Inc., Kansas City, Mo. 64112.
D. (6) $500.

A. Doub, Purcell, Muntzing & Hansen, 1775 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. Chicago Mercantile Exchange, Chicago, Ill.

A. Doub, Purcell, Muntzing & Hansen, 1775 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. CSR, Lt., Sydney, Australia.
D. (6) $750.

A. Doub, Purcell, Muntzing & Hansen, 1775 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. Indianapolis Water Co., Indianapolis, Ind.
D. (6) $500.

A. Doub, Purcell, Muntzing & Hansen, 1775 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. Pioneer Corp., Amarillo, Tex.
E. (6) $1,000.

A. Charlene Dougherty, 1525 18th Street NW., Washington, D.C. 20036.
B. Environmental Defense Fund, 1525 18th Street NW., Washington, D.C. 20036.
D. (6) $31. E. (9) $5,023.96.

A. H. Eugene Douglas, Memorex Corp., 1970 Chain Bridge Road, McClean, Va. 22102.
B. Memorex Corp., San Tomas at Central Expressway, Santa Clara, Calif., 95052.
D. (6) $5,124. E. (9) $350.

A. Sally L. Douglas, National Federation of Independent Business, 490 L'Enfant Plaza East SW., Washington, D.C. 20024.

B. National Federation of Independent Business, 490 L'Enfant Plaza East SW., Suite 3206, Washington, D.C. 20024.
D. (6) $400.

A. Dow, Lohnes & Albertson, 1225 Connecticut Avenue NW., Washington, D.C. 20036.
B. Chicago Metropolitan Higher Education Council, Douglas Library, Chicago State University, 95th Street at King Drive, Chicago, Ill. 60628.
E. (9) $6,323.17.

A. Dow, Lohnes & Albertson, 1225 Connecticut Avenue NW., Washington, D.C. 20036.
B. Univest Corp., 777 East Wisconsin Avenue, Milwaukee, Wis. 53202.
D. (6) $87.50.

A. Richard Morgan Downey, 10801 Rockville Pike, Rockville, Md. 20852.
B. American Speech and Hearing Association, 10801 Rockville Pike, Rockville, Md. 20852.
E. (9) $6,200.

A. John C. Doyle, Jr., Environmental Policy Center, 317 Pennsylvania Avenue SW., Washington, D.C. 20003.
B. Environmental Policy Center, 317 Pennsylvania Avenue SE., Washington, D.C. 20003.
D. (6) $900.

A. Robert H. Boyle, 1120 Connecticut Avenue NW., No. 310, Washington, D.C. 20036.
B. Society of Military Widows, P.O. Box 254, Coronado, Calif. 92118.
D. (6) $1,582.99.

A. Robert H. Doyle, 1120 Connecticut Avenue NW., No. 310, Washington, D.C. 20036.
B. Water Quality Association, 477 East Butterfield Road, Lombard, Ill. 60148.
D. (6) $2,500.

A. Nancy Drabble, 133 C Street SE., Washington, D.C. 20003.
B. Congress Watch, 133 C Street SE., Washington, D.C. 20003.
D. (6) $3,250.

A. James E. Drake, American Medical Association, 1776 K Street NW., Washington, D.C. 20006.
B. American Medical Association, 535 North Dearborn Street, Chicago, Ill. 60610.
D. (6) $2,984.85. E. (9) $304.65.

A. R. Larry Drake, Consumers Power Co. 212 West Michigan Avenue, Jackson, Mich. 49201.
B. Consumers Power Co., 212 West Michigan Avenue, Jackson, Mich. 49201.
D. (6) $150. E. (9) $60.

A. Andrew Drance, 2020 North 14th Street, Room 402, Arlington, Va. 22201.
B. Media General, Inc., 333 East Grace Street, Richmond, Va. 23219.
D. (6) $334.99. E. (9) $14.65.

A. Thomas E. Drumm, Jr., 1730 Rhode Island Avenue NW., Washington, D.C. 20036.
B. Macmillan, Inc., 1730 Rhode Island Avenue NW., Washington, D.C. 20036.
D. (6) $400. E. (9) $2,380.

A. Franklin B. Dryden, 1776 K Street NW., Washington, D.C. 20006.
B. The Tobacco Institute, 1776 K Street NW., Washington, D.C. 20006.
D. (6) $200. E. (9) $100.

A. Lawrence M. Dubin, One First National Plaza, No. 5200, Chicago, Ill. 60603.
B. Peoples Gas Co., 122 South Michigan Avenue, Chicago, Ill. 60603.
D. (6) $3,450.

A. Morgan D. Dubrow, 2000 Florida Avenue NW., Washington, D.C. 20009.
B. National Rural Electric Cooperative Association, 2000 Florida Avenue NW., Washington, D.C. 20009.
D. (6) $145.

A. Ann Anderson Duff, NL Industries, Inc., 1150 Connecticut Avenue NW., Washington, D.C. 20036.
B. NL Industries. Inc., 1230 Avenue of the Americas, New York, N.Y. 10020.
D. (6) $1,000.

A. Michael J. Duff, National Paint & Coatings Association, Inc., 1500 Rhode Island Avenue NW., Washington, D.C. 20005.
B. National Paint & Coatings Association, Inc., 1500 Rhode Island Avenue NW., Washington, D.C. 20005.
D. (6) $1,000. E. (9) $9.

A. Francis J. Duggan, Association of American Railroads, 40 Ivy Street SE., Washington, D.C. 20003.
B. Association of American Railroads, 1920 L Street NW., Washington, D.C. 20036.
D. (6) $623.39. E. (9) $443.06.

A. William E. Duke, 1025 Connecticut Avenue NW., Washington, D.C. 20036.
B. Atlantic Richfield Co., 515 South Flower Street, Los Angeles, Calif. 90071.
D. (6) $900. E. (9) $450.

A. Mervin E. Dullum, 1629 K Street NW., Room 204, Washington, D.C. 20006.
B. Delta Air Lines, Inc., Hartsfield Atlanta International Airport, Atlanta, Ga. 30320.
D. (6) $200. E. (9) $42.

A. Duncan, Brown, Weinberg & Palmer, 1775 Pennsylvania Avenue NW., Suite 1200, Washington, D.C. 20006.
B. Iva May Harvey, Route 7, Box 117, Blythe, Calif. 92225.
D. (6) $80.

A. Douglas G. Dunn, Northern Natural Gas Co. 1133 15th Street NW., Washington, D.C. 20005.
B. Northern Natural Gas Co., 2223 Dodge Street, Omaha, Nebr. 68102.
D. (6) $1,500.

A. Dunnells, Duvall & Porter, 1220 19th Street NW., Washington, D.C. 20036.
B. United Action for Animals, Inc., 205 East 42d Street, New York, N.Y.
D. (6) $380.

A. David F. Dunning, Calorie Control Council, 64 Perimeter Center East, Atlanta, Ga. 30346.
B. Robert H. Kellen Co., 64 Perimeter Center East, Atlanta, Ga. 30346 (for Calorie Control Council, 64 Perimeter Center East, Atlanta, Ga. 30346).
D. (6) $900.

A. Dunnington, Bartholow & Miller, 161 East 42d Street, New York, N.Y. 10017.
B. Bessemer Securities Corp., 245 Park Avenue, New York, N.Y. 10017.
E. (9) $415.77.

A. James A. Dupree, Ford Motor Co., 815 Connecticut Avenue NW., Washington, D.C. 20006.
B. Ford Motor Co., Dearborn, Mich. 48121.
D. (6) $3,200. E. (9) $1,026.

A. Joseph L. Duran, the First National Bank of Boston, 100 Federal Street, Boston, Mass. 02110.

B. The First National Bank of Boston, 100 Federal Street, Boston, Mass. 02110.
D. (6) $332.19. E. (9) $495.13.

A. Dutcher Industries, 7617 Convoy Court, San Diego, Calif. 92111.
E. (9) $3,000.

A. L. L. Duxbury, Burlington Northern, Inc., 2000 L Street NW., Suite 506, Washington, D.C. 20036.
B. Burlington Northern, Inc., 176 East Fifth Street, St. Paul, Minn. 55101.
D. (6) $2,000. E. (9) $1,132.62.

A. Jean F. Dye, 12700 Lake Avenue, Lakewood, Ohio 44107.
B. National Congress of Parents and Teachers, 700 North Rush Street, Chicago, Ill. 60611.
E. (9) $1,363.20.

A. Jack D. Early, the Madison Building, Suite 514, 1155 15th Street NW., Washington, D.C. 20005.
B. National Agricultural Chemicals Association, 1155 15th Street NW., Suite 514, Washington, D.C. 20005.
D. (6) $275. E. (9) $27.

A. Roy W. Easley, Association of Maximum Service Telecasters. Inc., 1735 De Sales Street NW., Washington, D.C. 20036.
B. Association of Maximum Service Telecasters, Inc., 1735 De Sales Street NW., Washington, D.C. 20036.

A. East-West Trade Council, 1700 Pennsylvania Avenue NW., Washington, D.C. 20006.
D. (6) $3,525. E. (9) $40.85.

A. George H. Eatman, American Gas Association, 1515 Wilson Boulevard, Arlington, Va. 22209.
B. American Gas Association, 1515 Wilson Boulevard, Arlington, Va. 22209.
D. (6) $2,800. E. (9) $287.05.

A. Joan Eazarsky, Phelps Dodge Corp., 1620 I Street NW., Washington, D.C. 20006.
B. Phelps Dodge Corp., 300 Park Avenue, New York, N.Y. 10022.
D. (6) $150.

A. Patricia S. Ebaugh, 1730 Rhode Island Avenue NW., Suite 911, Washington, D.C. 20036.
B. St. Joe Minerals Corp., 250 Park Avenue, New York, N.Y. 10017.
D. (6) $1,125. E. (9) $14.75.

A. Donald R. Ebe, 1800 K Street NW., Suite 800, Washington, D.C. 20006.
B. The Goodyear Tire & Rubber Co., Akron, Ohio 44316.
D. (6) $1,500.

A. Robert E. Ebel, ENSERCH Corp., 1025 Connecticut Avenue NW., Suite 1206, Washington, D.C. 20036.
B. ENSERCH Corp., 301 South Harwood Street, Dallas, Tex. 75201.
D. (6) $1,450. E. (9) $801.

A. Jack Eckerd Corp., P.O. Box 4689, Clearwater, Fla. 33518.
E. (9) $550.

A. N. Boyd Ecker, 1100 Connecticut Avenue NW., Washington, D.C. 20036.
B. Mobil Oil Corp., 150 East 42d Street, New York, N.Y. 10017.
D. (6) $1,500. E. (9) $15.80.

A. Daniel J. Edelman, Inc., 1730 Pennsylvania Avenue NW., No. 460, Washington, D.C. 20006.
B. American Seat Belt Council, 271 North Avenue, New Rochelle, N.Y. 10801.
D. (6) $14,000. E. (9) $6,257.24.

A. Daniel J. Edelman, Inc., 1730 Pennsylvania Avenue NW., No. 460, Washington, D.C. 20006.
B. National Utility Contractors Association, 815 15th Street NW., Suite 838, Washington, D.C. 20005.
D. (6) $500. E. (9) $212.26.

A. Edelman International Corp., 1730 Pennsylvania Avenue NW., No. 460, Washington, D.C. 20006.
B. DGA International, 1225 19th Street NW., Washington, D.C. 20036 (for Airbus Industrie, Avenue Lucien Servanty, 31700 Blagnac (Toulouse) France).
D. (6) $45,000. E. (9) $5,050.22.

A. Edelman International Corp., 1730 Pennsylvania Avenue NW., No. 460, Washington, D.C. 20006.
B. Government of Turkey/Embassy of Turkey, 1606 23d Street NW., Washington, D.C. 20008.
D. (6) $23,300. E. (9) $10,297.83.

A. William R. Edgar, 1025 Connecticut Avenue NW., Suite 517, Washington, D.C. 20036.
B. General Aviation Manufacturers Association, 1025 Connecticut Avenue NW., Suite 517, Washington, D.C. 20036.
D. (6) $2,594.22.

A. Arthur B. Edgeworth, Jr., 1709 New York Avenue NW., Suite 801, Washington, D.C. 20006.
B. United States League of Savings Associations, 111 East Wacker Drive, Chicago, Ill.
D. (6) $3,750.

A. Edison Electric Institute, Governmental Affairs Division, 1140 Connecticut Avenue, Suite 1010, Washington, D.C. 20036.
D. (6) $1,293. E. (9) $8,272.

A. Clifford E. Edwards, National Rural Letter Carriers' Association, 1750 Pennsylvania Avenue NW., Washington, D.C.
B. National Rural Letter Carriers' Association, 1750 Pennsylvania Avenue NW., Washington, D.C.
D. (6) $34.88. E. (9) $34.88.

A. Jonathan W. Edwards, 507 Second Street NE., Washington, D.C. 20002.
B. Blue Ribbon Sports, 8285 Southwest Nimbus Avenue, Suite 115, Beaverton, Oreg. 97005.

A. Jonathan W. Edwards, 507 Second Street NE., Washington, D.C. 20002.
B. The Confederated Tribes of Warm Springs, Warm Springs, Oreg. 97761.

A. Jonathan W. Edwards, 507 Second Street NE., Washington, D.C. 20002.
B. The Navajo Nation, Window Rock, Ariz. 86515.

A. Jonathan W. Edwards, 507 Second Street NE., Washington, D.C. 20002.
B. Portland General Electric, 121 Southwest Salmon Street, Portland, Oreg. 97204.

A. Macon T. Edwards, 1030 15th Street NW., Suite 700, Washington, D.C. 20005.
B. National Cotton Council of America, P.O. Box 12285, Memphis, Tenn. 38112.
D. (6) $1,800. E. (9) $74.51.

A. H. Brent Egbert, 1800 K Street NW., Suite 920, Washington, D.C. 20006.
B. BankAmerica Corp., Bank of America Center, San Francisco, Calif.
D. (6) $257.76. E. (9) $199.39.

A. Charles E. Ehrhart, 1800 K Street NW., Suite 924, Washington, D.C. 20006.
B. Ralston Purina Co., Checkerboard Square, St. Louis, Mo. 63188.
D. (6) $400. E. (9) $134.

A. Adelaide K. Eisenmann, 607 G Street SW., Washington, D.C. 20024.
B. Panamanian Committee for Human Rights, Box 570843, Miami, Fla. 33157.

A. Richard Eisenmann, 607 G Street, SW., Washington, D.C. 20024.
B. Panamanian Committee for Human Rights, Box 578043, Miami, Fla. 33157.
E. (9) $157.87.

A. George K. Eliades, Society of American Wood Preservers, Inc., 1401 Wilson Boulevard, Suite 205, Arlington, Va. 22209.
B. Society of American Wood Preservers, Inc., 1401 Wilson Boulevard, Suite 205, Arlington, Va. 22209.
D. (6) $320. E. (9) $570.

A. J. Burton Eller, Jr., 425 13th Street NW., Suite 1020, Washington, D.C. 20004.
B. National Cattlemen's Association, 1001 Lincoln Street, Denver, Colo. 80203.
D. (6) $1,000.

A. Charles W. Elliott, Wisconsin Petroleum Council, 25 West Main Street, Room 703, Madison, Wis. 53703.
B. American Petroleum Institute, 2101 L Street NW., Washington, D.C. 20037.

A. John Doyle Elliott, 5500 Quincy Street, Hyattsville, Md. 20784.

A. Dorothy A. Ellsworth, 1300 Connecticut Avenue NW., Washington, D.C. 20036.
B. International Association of Machinists and Aerospace Workers, 1300 Connecticut Avenue NW., Washington, D.C. 20036.
D. (6) $4,057.50. E. (9) $620.45.

A. Perry R. Ellsworth, National Council of Agricultural Employers, 1425 H Street NW., Washington, D.C. 20005.
B. National Council of Agricultural Employers, 1425 H Street NW., Washington, D.C. 20005.
D. (6) $2,500. E. (9) $2.

A. Roy Elson, 1771 N Street NW., Washington, D.C. 20036.
B. National Association of Broadcasters, 1771 N Street NW., Washington, D.C. 20036.
D. (6) $4,200. E. (9) $525.

A. Law Offices of Northcutt Ely, Watergate 600 Building, Washington, D.C. 20037.
B. Associated Electric Cooperative, Inc., Springfield, Mo. 65801.
D. (6) $3,033.75.

A. Law Offices of Northcutt Ely, Watergate 600 Building, Washington, D.C. 20037.
B. Ocean Mining Associates, Gloucester Point, Va.
D. (6) $6,000.

A. Carl F. Emde, Air Products & Chemicals, Inc., 1800 K Street NW., Suite 1016, Washington, D.C. 20006.
B. Air Products & Chemicals, Inc., P.O. Box 538, Allentown, Pa. 18105.

A. Emergency Committee for American Trade, 1211 Connecticut Avenue NW., Washington, D.C. 20036.
D. (6) $20,016.38. E. (9) $20,832.42.

A. Emerson Electric Co., c/o Ramsay D. Potts, 1800 M Street NW., Washington, D.C. 20036.
E. (9) $22,183.82.

A. William Emerson, TRW, Inc., 2030 M Street NW., Washington, D.C.
B. TRW, Inc., 23555 Euclid Avenue, Cleveland, Ohio 44117.
D. (6) $1,000.

A. Lowell J. Endahl, 2000 Florida Avenue NW., Washington, D.C. 20009.
B. National Rural Electric Cooperative Association, 2000 Florida Avenue NW., Washington, D.C. 20009.
D. (6) $235.

A. Energy Action Educational Foundation, 1523 L Street NW., Washington, D.C. 20005.
D. (6) $3,375. E. (9) $3,703.31.

A. Energy Consumers & Producers Association, Petroleum Plaza, Box 1726, Seminole, Okla. 74868.
D. (6) $10,000. E. (9) $750.

A. Gertrude Engel, 2450 Virginia Avenue NW., Washington, D.C. 20037.
B. Bob Hoffman, York Barbell Co., York Pa. 17405.
D. (6) $1,950. E. (9) $404.62.

A. M. Dale Ensign, 1800 M Street NW., Suite 295, Washington, D.C. 20036.
B. Husky Oil Co., P.O. Box 380, Cody, Wyo. 82414.
E. (9) $661.87.

A. Environmental Policy Center, 317 Pennsylvania Avenue SE., Washington, D.C. 20003.
D. (6) $28,371.70. E. (9) $55,784.

A. James R. Enyart, 1101 17th Street NW., Suite 604, Washington, D.C. 20036.
B. Monsanto Co., 800 North Lindbergh Boulevard, St. Louis, Mo. 63166.
D. (6) $500. E. (9) $39.85.

A. John M. Erskine, Jr., P.O. Box 3092, Houston, Tex. 77001.
B. Standard Oil Co. (Indiana), P.O. Box 3092, Houston, Tex. 77001.

A. Jerry N. Ervin, Quintana Refinery Co., P.O. Box 3331, Houston, Tex. 77001.
B. Quintana Refinery Co., P.O. Box 3331, Houston, Tex. 77001.

A. John T. Estes, 1150 Connecticut Avenue NW., No. 700, Washington, D.C. 20036.
B. Allied Chemical Corp., P.O. Box 3000-R, Morristown, N.J. 07960.
D. (6) $500. E. (9) $60.40.

A. Brock Evans, Sierra Club, 330 Pennsylvania Avenue SE., Washington, D.C. 20003.
B. Sierra Club, 530 Bush Street, San Francisco, Calif. 94108.
D. (6) $8,640. E. (9) $179.

A. Robert D. Evans, American Bar Association, 1800 M Street NW., Washington, D.C. 20036.
B. American Bar Association, 1155 East 60th Street, Chicago, Ill. 60637.
D. (6) $400. E. (9) $50.

A. Fawn K. Evenson, 1611 North Kent Street, Arlington, Va. 22209.
B. American Footwear Industries Association, Inc., 1611 North Kent Street, Arlington, Va. 22209.
D. (6) $400. E. (9) $61.

A. Robert R. Fahs, Cargill, Inc., 1050 17th Street NW., 12th floor, Washington, D.C. 20036.
B. Cargill, Inc., P.O. Box 9300, Minneapolis, Minn. 55440.
D. (6) $2,500. E. (9) $6.

A. Edward Falck, Edward Falck & Co., 1625 I Street NW., Washington, D.C. 20006.
B. Delhi International Oil Corp., 3500 First International Building, Dallas, Tex. 75270.

A. Thomas B. Farley II, 2101 L Street NW., Washington, D.C. 20037.
B. American Petroleum Institute, 2101 L Street NW., Washington, D.C. 20037.
D. (6) $3,825. E. (9) $106.50.

A. The Farmers' Educational and Cooperative Union of America, Denver, Colo. 80251; 1012 14th Street NW., Washington, D.C. 20005.
D. (6) $86,502. E. (9) $46,971.05.

A. John W. Farquhar, Food Marketing Institute, 1750 K Street NW., Washington, D.C. 20006.
B. Food Marketing Institute, 1750 K Street NW., Washington, D.C.
D. (6) $1,500.

A. Dolores L. Farr, American Nurses' Association, 1030 15th Street NW., Washington, D.C. 20005.
B. American Nurses' Association, 2420 Pershing Road, Kansas City, Mo. 64108.
D. (6) $2,503. E. (9) $62.05.

A. R. Roy Fausset, 1050 17th Street NW., No. 301, Washington, D.C. 20036.
B. Freeport Minerals Co., 200 Park Avenue, New York, N.Y. 10017.
D. (6) $300.

A. Federation of American Controlled Shipping, 17 Battery Place North, New York, N.Y. 10004.
D. (6) $1,000.92. E. (9) $1,000.92.

A. Federation of American Hospitals, 1101 17th Street NW., Suite 310, Washington, D.C. 20036.
D. (6) $7,650. E. (9) $7,650.

A. Federation of American Scientists, 307 Massachusetts Avenue NE., Washington, D.C. 20002.
E. (9) $2,235.57.

A. Arthur S. Fefferman, American Council of Life Insurance, Inc., 1850 K Street NW., Washington, D.C. 20006.
B. American Council of Life Insurance, Inc., 1850 K Street NW., Washington, D.C. 20006.

A. Andrew Feinstein, 133 C Street SE., Washington, D.C. 20003.
B. Congress Watch, 133 C Street SE., Washington, D.C. 20003.
D. (6) $3,250.

A. John W. Feist, 900 17th Street NW., No. 1016, Washington, D.C. 20006.
B. Kaiser Steel Corp., 900 17th Street NW., No. 1016, Washington, D.C. 20006.
D. (6) $1,667.

A. Lois M. Felder, Retail Clerks International Union, AFL–CIO, 1775 K Street NW., Washington, D.C. 20006.
B. Retail Clerks International Union, AFL–CIO, 1775 K Street NW., Washington, D.C. 20006.
D. (6) $7,342.27. E. (9) $2,109.13.

A. Stuart Feldstein, National Cable Television Association, Inc., 918 16th Street NW., Washington, D.C. 20006.
B. National Cable Television Association, Inc., 918 16th Street NW., Washington, D.C. 20006.
D. (6) $2,250.

A. Fellowship Square Foundation, Inc., 11450 North Shores Drive, Reston, Va. 22090.
E. (9) $554.

A. Kenneth E. Feltman, National Association of Manufacturers, 1776 F Street NW., Washington, D.C. 20006.
B. National Association of Manufacturers, 1776 F Street NW., Washington, D.C. 20006.
D. (6) $400.

A. Edward T. Fergus, c/o Bache Halsey Stuart Shields, Inc., 100 Gold Street, New York, N.Y. 10038.
B. Bache Halsey Stuart Shields, Inc., 100 Gold Street, New York, N.Y. 10038.
D. (6) $700.

A. Jack Ferguson Associates, Inc., 513 A Street SE., Washington, D.C. 20003.
B. Cook Inlet Regional, Inc., 2525 C Street, Suite 100, Anchorage, Alaska 99509.
E. (9) $3,104.03.

A. Jack Ferguson Associates, Inc., 513 A Street SE., Washington, D.C. 20003.
B. Northwest Alaska Pipeline Co., P.O. Box 1526, Salt Lake, Utah 84110.
E. (9) $5,489.20.

A. Jack Ferguson Associates, Inc., 513 A Street SE., Washington, D.C. 20003.
B. State of Alaska, Department of Revenue and the Multi State Tax Commission, Pouch S, Juneau, Alaska.
D. (6) $5,000.

A. Jack Ferguson Associates, Inc., 513 A Street SE., Washington, D.C. 20003.
B. Steering Council for Alaska Lands, 1016 West 6th Avenue, Suite 435, Anchorage, Alaska 99501.
E. (9) $3,312.37.

A. Jack Ferguson Associates, Inc., 513 A Street SE., Washington, D.C. 20003.
B. U.S. Borax & Chemical Corp., 3075 Wilshire Boulevard, Los Angeles, Calif. 90010.
D. (6) $13,950. E. (9) $8,436.51.

A. James H. Ferguson, 1625 I Street NW., Suite 926, Washington, D.C. 20006.
B. American Society for Personnel Administration, 30 Park Drive, Berea, Ohio 44017.
D. (6) $5,000. E. (9) $800.

A. Manuel D. Fierro, 1155 15th Street NW., Washington, D.C. 20005.
B. Pharmaceutical Manufacturers Association, 1155 15th Street NW., Washington, D.C. 20005.

A. Herbert A. Fierst, 610 Ring Building, 1200 18th Street NW., Washington, D.C. 20036.
B. Council of Forest Industries of B.C., 1500/1055 West Hastings Street, Vancouver V6E 2H1, British Columbia, Canada.
D. (6) $9,999.99. E. (9) $322.

A. Paul Finger, 2027½ O Street NW., Washington, D.C. 20036.
B. Manufactured Housing Institute, 1745 Jeff Davis Highway, Arlington, Va. 22202.
E. (9) $25.

A. Matthew P. Fink, 1775 K Street NW., Washington, D.C. 20006.
B. Investment Company Institute, 1775 K Street NW., Washington, D.C. 20006.
D. (6) $282.75. E. (9) $51.55.

A. Thomas D. Finnigan, Union Carbide Corp., 1730 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. Union Carbide Corp., 270 Park Avenue, New York, N.Y. 10017.
E. (9) $125.66.

A. Firearms Lobby of America, 325 Pennsylvania Avenue NE., Washington, D.C. 20003.
D. (6) $7,432. E. (9) $4,939.29.

A. First Class Mailers Association, Inc., 1101 New Hampshire Avenue NW., Suite 107, Washington, D.C. 20037.
E. (9) $56.

A. The First National Bank of Boston, 100 Federal Street, Boston, Mass. 02110.
E. (9) $17,543.97.

A. Michael D. Fischer, 1775 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. Foley, Lardner, Hollabaugh & Jacobs (for Republic of the Philippines), 1775 Pennsylvania Avenue NW., Washington, D.C. 20006.

A. Richard L. Fischer, 1000 16th Street NW., Washington, D.C. 20036.
B. Standard Oil Co., (Indiana), 200 East Randolph Drive, Chicago, Ill. 60601.
D. (6) $218. E. (9) $163.

A. Margaret Fitzgerald-Bare, 2030 M Street NW., Washington, D.C. 20036.
B. Common Cause, 2030 M Street NW., Washington, D.C. 20036.
D. (6) $3,843.78.

A. T. E. Fitzgerald, Jr., 18913 Quail Valley Boulevard, Gaithersburg, Md. 20760.
B. Household Finance Corp., 2700 Sanders Road, Prospect Heights, Ill. 60070.
E. (9) $1,044.87.

A. Hilliard J. Fjord, 602 Main Street, Cincinnati, Ohio 45202.
B. The Ohio River Co., 580 Walnut Street, Cincinnati, Ohio 45202.
D. (6) $1,500. E. (9) $12.41.

A. Susan G. Flack, American Retail Federation, 1616 H Street NW., Washington, D.C. 20006.
B. American Retail Federation, 1616 H Street NW., Washington, D.C. 20006.
D. (6) $2,000. E. (9) $66.45.

A. James J. Flanagan, 20 Turnpike Road, Westborough, Mass. 01581.
B. New England Power Service Co., 20 Turnpike Road, Westborough, Mass. 01581.
D. (6) $1,528.17. E. (9) $908.47.

A. Charles D. Fleishman, 2625 Clearbrook Drive, Arlington Heights, Ill. 60005.
B. American Fishing Tackle Manufacturers Association, 2625 Clearbrook Drive, Arlington Heights, Ill. 60005.

A. Ronald L. Floor, American Textile Manufacturers Institute, Inc., 1150 17th Street NW., Suite 1001, Washington, D.C. 20036.
B. American Textile Manufacturers Institute, Inc., Suite 2124, 400 South Tryon Street, Charlotte, N.C. 28285.
D. (6) $650. E. (9) $19.38.

A. James F. Flug, 2904 Brandywine Street NW., Washington, D.C. 20008.
B. Energy Action Educational Foundation, 1523 L Street NW., Washington, D.C. 20005.
D. (6) $2,326.

A. Robert P. Fogarty, 3499 Ridgewood Drive, Columbus, Ohio 43220.
B. National Association of Manufacturers, 1776 F Street NW., Washington, D.C. 20006.
D. (6) $1,000.

A. Foley, Lardner, Hollabaugh & Jacobs, 1775 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. American Family Mutual Insurance Co., 3099 East Washington Avenue, Box 7430, Madison, Wisc. 53707.
D. (6) $1,062. E. (9) $2.67.

A. Foley, Lardner, Hollabaugh & Jacobs, 1775 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. Cabot Corporation and Subsidiaries, 125 High Street, Boston, Mass. 02110.
D. (6) $2,805. E. (9) $109.16.

A. Foley, Lardner, Hollabaugh & Jacobs, 1775 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. Fort Howard Paper Co., 1919 South Broadway, Green Bay, Wisc. 54305.
D. (6) $1,030. E. (9) $16.66.

A. Foley, Lardner, Hollabaugh & Jacobs, 1775 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. Insurance Association of Connecticut, 60 Washington Street, Hartford, Conn. 06106.
D. (6) $14,725. E. (9) $215.74.

A. Foley, Lardner, Hollabaugh & Jacobs, 1775 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. Johnson Controls, Inc., 507 East Michigan Street, P.O. Box 423, Milwaukee, Wisc. 53201.
D. (6) $2,875.

A. Foley, Lardner, Hollabaugh & Jacobs, 1775 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. Republic of the Philippines.
E. (9) $30.

A. Food and Beverage Trades Department, AFL–CIO, 815 16th Street NW., Washington, D.C. 20006.
D. (6) $6,881.93. E. (9) $6,881.93.

A. Food Marketing Institute, 1750 K Street NW., Washington, D.C. 20006.
D. (6) $8,500. E. (9) $8,500.

A. Food Policy Center, 538 7th Street SE., Washington, D.C. 20003.
D. (6) $19,306.73. E. (9) $28,825.74.

A. Gordon Forbes, 203 Hanover Building, 480 Cedar Street, St. Paul, Minn. 55101.
B. Minnesota Railroads Association.
D. (6) $500. E. (9) 649.10.

A. Forest Farmers Association, P.O. Box 95385, Atlanta, Ga., 30347.

A. James W. Foristel, American Association of Ophthalmology, 1100 17th Street NW., Washington, D.C. 20036.
B. American Association of Opthalmology, 1100 17th Street NW., Washington, D.C. 20036.

A. John S. Forsythe, American Council of Life Insurance, Inc., 1850 K Street NW., Washington, D.C. 20006.
B. American Council of Life Insurance, Inc., 1850 K Street NW., Washington, D.C. 20006.
D. (6) $200.

A. Ebert E. Fournace, 301 Cleveland Avenue SW., Canton, Ohio 44702.
B. Ohio Power Co., 301 Cleveland Avenue SW., Canton, Ohio 44702; (subsidiary of American Electric Power Co., Inc., 2 Broadway, New York, N.Y. 10004.
D. (6) $576. E. (9) $214.15.

A. Albert A. Fox., Jr., Suite 700, 1150 Connecticut Avenue NW., Washington, D.C. 20036.
B. Allied Chemical Corp., P.O. Box 3000–R, Morristown, N.J. 07960.
D. (6) $120. E. (9) $30.

A. John G. Fox, 2000 L Street NW., Washington, D.C. 20036; 195 Broadway, New York, N.Y. 10007.
B. American Telephone & Telegraph Co., 195 Broadway, New York, N.Y. 10007.

A. Joe H. Foy, Houston Natural Gas Corp., P.O. Box 1188, Houston, Tex. 77001.
B. Houston Natural Gas Corp., P.O. Box 1188, Houston, Tex. 77001.

A. William C. France, National Motorsports Committee of ACCUS, Suite 302, 1735 K Street NW., Washington, D.C. 20006.
B. National Motorosports Committee of ACCUS, Suite 302, 1735 K Street NW., Washington, D.C. 20006.

A. William H. G. France, National Motorsports Committee of ACCUS, Suite 302, 1735 K Street NW., Washington, D.C. 20006.
B. National Motorsports Committee of AC CUS, Suite 302, 1735 K Street NW., Washington, D.C. 20006.

A. Harley Frankel, 1520 New Hampshire Avenue NW., Washington, D.C. 20036.
B. Children's Defense Fund of the Washington Research Project, Inc.
D. (6) $2,243.31. E. (9) $66.48.

A. Walter L. Frankland, Jr., 1717 K Street NW., Washington, D.C. 20006.
B. Silver Users Association, 1717 K Street NW., Washington, D.C. 20006.
D. (6) $937.50. E. (9) $126.45.

A. Harry L. Freeman, American Express Co., 1700 K Street NW., Washington, D.C. 20006.
B. American Express Co., American Express Plaza, New York, N.Y., 10004.

A. James O. Freeman, 1709 New York Avenue NW., Suite 801, Washington, D.C. 20006.
B. United States League of Savings Associations, 111 East Wacker Drive, Chicago, Ill.
D. (6) $2,645. E. (9) $48.

A. Paul A. Freeman, 2626 Pennsylvania Avenue NW., Washington, D.C. 20037.
B. National Telephone Cooperative Association, 2626 Pennsylvania Avenue NW., Washington, D.C. 20037.
D. (6) $250.

A. David T. French, Suite 850, 2020 K Street NW., Washington, D.C. 20006.
B. American Bakers Association, Suite 850, 2020 K Street NW., Washington, D.C. 20006.

A. Verrick O. French, National Retail Merchants Association, 1000 Connecticut Avenue NW., No. 700, Washington, D.C. 20036.
B. National Retail Merchants Association. 100 West 31st Street, New York, N.Y. 10001
D. (6) $750. E. (9) $75.

A. Susan Fridy, National Milk Producers Federation, 30 F Street NW., Washington, D.C. 20001.
B. National Milk Producers Federation, 30 F Street NW., Washington, D.C. 20001.
D. (6) $1,170. E. (9) $93.92.

A. Fried, Frank, Harris, Shriver & Kampelman, 600 New Hampshire Avenue NW., Washington, D.C. 20037.
B. Cheyenne River Sioux Tribe, Box 100, Eagle Butte, S. Dak.
D. (6) $652. E. (9) $9.40.

A. Fried, Frank, Harris, Shriver & Kampelman, 600 New Hampshire Avenue NW., Washington, D.C. 20037.
B. Metlakatla Indian Community, P.O. Box 8, Metlakatla, Alaska 99926.
E. (9) $9.

A. Fried, Frank, Harris, Shriver & Kampelman, 600 New Hampshire Avenue NW., Washington, D.C. 20037.
B. The Nez Perce Tribe, Lapwai, Idaho.
D. (6) $200. E. (9) 9.05.

A. Fried, Frank, Harris, Shriver & Kampelman, 600 New Hampshire Avenue NW., Washington, D.C. 20037.
B. The Oglala Sioux Tribe of the Pine Ridge Reservation, Pine Ridge, S. Dak. 57770.
E. (9) $7.50.

A. Fried, Frank, Harris, Shriver & Kampelman, 600 New Hampshire Avenue NW., Washington, D.C. 20037.
B. Pueblo of Laguna, Laguna, N. Mex.
D. (6) $2,039. E. (9) $10.55.

A. Fried, Frank, Harris, Shriver & Kampelman, 600 New Hampshire Avenue NW., Washington, D.C. 20037.
B. Rosebud Sioux Tribe, Rosebud, S. Dak.

A. Fried, Frank, Harris, Shriver & Kampelman, 600 New Hampshire Avenue NW., Washington, D.C. 20037.
B. The Seneca Nation of Indians, Box 231, Salamanca, N.Y. 14779.
D. (6) $48. E. (9) $8.75.

A. Philip P. Friedlander, Jr., 1343 L Street NW., Washington, D.C., 20005.
B. National Tire Dealers and Retreaders Association, Inc., 1343 L Street NW., Washington, D.C. 20005.
D. (6) $1,000. E. (9) $15.

A. Joseph B. Friedman, 1028 Connecticut Avenue NW., Washington, D.C. 20036.
B. Lucas, Friedman & Mann (for Republic of the Philippines), 1028 Connecticut Avenue NW., Washington, D.C. 20036.

A. Gay H. Friedmann, 1150 Connecticut Avenue NW., Suite 717, Washington, D.C. 20036.
B. Southern California Gas Co., 720 West 8th Street, M.L. 1208, Los Angeles, Calif. 90017.
D. (6) $2,187.50. E. (9) $16.50.

A. Owen V. Frisby, 900 17th Street NW., Washington, D.C. 20006.
B. The Chase Manhattan Bank, National Association, 1 Chase Manhattan Plaza, New York, N.Y. 10015.
D. (6) $234. E. (9) $1,191.83.

A. Robert D. Fritz, Brotherhood of Railway, Airline & Steamship Clerks, Freight Handlers, Express & Station Employes, 815 16th Street NW., Washington, D.C. 20006.
B. Brotherhood of Railway, Airline & Steamship Clerks, Freight Handlers Express & Station Employes, 3 Research Place, Rockville, Md. 20850.
D. (6) $2,100. E. (9) $1,050.

A. Charles H. Fritzel, National Association of Independent Insurers, 1625 I Street NW., Suite 1001, Washington, D.C. 20006.
B. National Association of Independent Insurers, 2600 River Road, Des Plaines, Ill. 60018.
D. (6) $1,500. E. (9) $210.

A. Jeffrey A. Fritzlen, Clark Oil & Refining Corp., 1150 Connecticut Avenue NW., Suite 1005, Washington, D.C. 20036.
B. Clark Oil & Refining Corp., 8530 West National Avenue, Milwaukee, Wis. 53227.
D. (6) $500.

A. Cornelius F. Froeb, Cities Service Co., 1660 L Street NW., Suite 207, Washington, D.C. 20036.
B. Cities Service Co., 1660 L Street NW., Suite 207, Washington, D.C. 20036.
D. (6) $130.

A. E. Douglas Frost, 1025 Connecticut Avenue NW., No. 308, Washington, D.C. 20036.
B. American Bus Association, 1025 Connecticut Avenue NW., No. 308, Washington, D.C. 20036.
D. (6) $1,362.62. E. (9) $1,362.62.

A. Gordon H. Fry, 3251 Old Lee Highway, Suite 501, Fairfax, Va. 22030.
B. National Limestone Institute, Inc., 3251 Old Lee Highway, Suite 501, Fairfax, Va. 22030.
E. (9) $15.62.

A. Diane Fuchs, Public Citizen's Tax Reform Research Group, 133 C Street SE., Washington, D.C. 20003.
B. Public Citizen's Tax Reform Research Group, 133 C Street SE., Washington, D.C. 20003.
D. (6) $600.

A. David C. Fullarton, 2626 Pennsylvania Avenue NW., Washington, D.C. 20037.
B. National Telephone Cooperative Association, 2626 Pennsylvania Avenue NW., Washington, D.C. 20037.
D. (6) $500.

A. Ronald K. Fuller, 1150 Connecticut Avenue NW., Suite 517, Washington, D.C. 20036.
B. San Diego Gas & Electric, 101 Ash Street, San Diego, Calif. 92112.
D. (6) $1,200.

A. Terry Gabrielson, 490 L'Enfant Plaza, No. 3202, Washington, D.C. 20024.
B. Transcontinental Gas Pipe Line Corp., 2700 South Post Oak Road, Houston, Tex. 77001.
D. (6) $450. E. (9) $24.75.

A. Gadsby & Hannah, 60 State Street, Boston, Mass.
D. (6) $9,900. E. (9) $4,805.18.

A. James E. Gaffigan, American Hotel & Motel Association, Suite 1006, 1101 Connecticut Avenue NW., Washington, D.C. 20036.
B. American Hotel & Motel Association, 888 Seventh Avenue, New York, N.Y. 10019.
D. (6) $735.

A. Gailor, Elias & Matz, 700 E Street SE., Washington, D.C. 20003.
B. Maryland State Share Insurance Corp., 901 North Howard Street, Baltimore, Md. 21201.
D. (6) $200 E. (9) $15.

A. Gailor, Elias & Matz, 700 E Street SE., Washington, D.C. 20003.
B. National Association of State Savings & Loan Supervisors, 1001 Connecticut Avenue NW., Suite 800, Washington, D.C. 20036.
D. (6) $200. E. (9) $15.

A. Gailor, Elias & Matz, 700 E Street, Washington, D.C. 20003.
B. North Carolina Guaranty Savings Corp., Suite 504 Wachovia Building, Box 2612, Raleigh, N.C. 27602.
D. (6) $200. E. (9) $15.

A. Norman S. Gaines, 1150 Connecticut Avenue NW., Suite 805, Washington, D.C. 20036.
B. RJR Industries, Inc., P.O. Box 2959, Winston-Salem, N.C. 27102.
D. (6) $695.05. E. (9) $8.50.

A. Mark J. Gallagher, 1707 L Street NW., No. 400, Washington, D.C. 20036.
B. National Committee for a Human Life Amendment, 1707 L Street NW., No. 400, Washington, D.C. 20036.
D. (6) $6,901.86. E. (9) $1,180.03.

A. Galland, Kharasch, Calkins & Short, 1054 31st Street NW., Washington, D.C. 20007.
B. Atlantic Container Line, 80 Pine Street, New York, N.Y. 10005.
D. (6) $435. E. (9) $435.

A. Robert M. Gants, National Constructors Association, 1101 15th Street NW., Washington, D.C. 20005.
B. National Constructors Association, 1101 15th Street NW., Suite 1000, Washington, D.C. 20005.
D. (6) $3,000. E. (9) $64.

A. M. D. Garber, Jr., Phillips Petroleum Co., 2101 L Street NW., Sixth Floor, Washington, D.C. 20037.
B. Phillips Petroleum Co., Bartlesville, Okla. 74004.

A. Gardner, Carton & Douglas, 1120 Connecticut Avenue NW., Washington, D.C. 20036.
B. Elmer W. Kneip, 911 West Fulton Street, Chicago, Ill. 60607.
D. (6) $40.

A. John W. Gardner, 2030 M Street NW., Washington, D.C. 20036.
B. Common Cause, 2030 M Street NW., Washington, D.C. 20036.
D. (6) $4,000.02. E. (9) $508.15.

A. Wendell P. Gardner, Jr., 1211 Connecticut Avenue NW., No. 802, Washington, D.C. 20036.
B. Sears, Roebuck & Co., Sears Tower, Chicago, Ill., 60684.
D. (6) $800. E. (9) $40.

A. W. Bradford Gary, 3M Co., 3M Center, St. Paul, Minn. 55101.
B. Minnesota Mining & Manufacturing Co. (3M), 3M Center, St. Paul, Minn. 55101.
E. (9) $10.

A. Lillian B. Gaskin, American Bar Association, 1800 M Street NW., Washington, D.C. 20036.
B. American Bar Association, 1155 East 60th Street, Chicago, Ill. 60637.
D. (6) $400. E. (9) $50.

A. Philip Gasteyer, 1709 New York Avenue NW., Suite 801, Washington, D.C. 20006.
B. United States League of Savings Associations, 111 East Wacker Drive, Chicago, Ill.
D. (6) $1,600.

A. Margaret L. Gehres, Chamber of Commerce of the United States, 1615 H Street NW., Washington, D.C. 20062.
B. Chamber of Commerce of the United States, 1615 H Street NW., Washington, D.C. 20062.
E. (9) $5.20.

A. Robert C. Gelardi, Calorie Control Council, 64 Perimeter Center East, Atlanta, Ga. 30346.
B. Robert H. Kellen Co., 64 Perimeter Center East, Atlanta, Ga. 30346 (for Calorie Control Council, 64 Perimeter Center East, Atlanta, Ga. 30346.
D. (6) $600.

A. Morton A. Geller, The First National Bank of Boston, 100 Federal Street, Boston, Mass. 02110.
B. The First National Bank of Boston, 100 Federal Street, Boston, Mass. 02110.
D. (6) $425. E. (9) $478.86.

A. General Aviation Manufacturers Association, 1025 Connecticut Avenue NW., Suite 517, Washington, D.C. 20036.
E. (9) $2,594.22.

A. Joseph G. Gerard, Ford Motor Co., 815 Connecticut Avenue NW., Washington, D.C. 20006.
B. Ford Motor Co., Dearborn, Mich.
D. (6) $1,800. E. (9) $1,043.13.

A. Louis Gerber, Communications Workers of America, 1925 K Street NW., Washington, D.C. 20006.
B. Communications Workers of America, 1925 K Street NW., Washington, D.C. 20006.
D. (6) $3,635.49. E. (9) $39.05.

A. Donald H. Gerrish, Suite 850, 2020 K Street NW., Washington, D.C. 20006.
B. American Bakers Association, Suite 850, 2020 K Street NW., Washington, D.C. 20006.
D. (6) $207.50. E. (9) $8.35.

A. William T. Gibb III, American Council of Life Insurance, Inc., 1850 K Street NW., Washington, D.C. 20006.
B. American Council of Life Insurance, Inc., 1850 K Street NW., Washington, D.C. 20006.

A. Wayne Gibbens, Mid-Continent Oil & Gas Association, 1800 K Street NW., Suite 620, Washington, D.C. 20006.
B. Mid-Continent Oil & Gas Association, 1111 Thompson Building, Tulsa, Okla. 74103.
D. (6) $3,938. E. (9) $62.15.

A. Anne Marie Gibbons, 2600 Virginia Avenue NW., Suite 212, Washington, D.C. 20037.
B. American Public Power Association, 2600 Virginia Avenue NW., Suite 212, Washington, D.C. 20037.
D. (6) $400.

A. Jonathan Carl Gibson, 330 Pennsylvania Avenue SE., Washington, D.C. 20003.
B. Sierra Club, 530 Bush Street, San Francisco, Calif. 94108.
D. (6) $4,624.98. E. (9) $9.30.

A. John E. Giles, 1600 I Street NW., Washington, D.C. 20006.
B. Motion Picture Association of America, Inc., 1600 I Street NW., Washington, D.C. 20006.

A. Mark W. Gillaspie, Houston Natural Gas Corp., P.O. Box 1188, Houston, Tex. 77001.
B. Houston Natural Gas Corp., P.O. Box 1188, Houston, Tex. 77001.
D. (6) $256. E. (9) $252.

A. Neal P. Gillen, American Cotton Shippers Association, 1707 L Street NW., Suite 460, Washington, D.C. 20036.
B. American Cotton Shippers Association, 1707 L Street NW., Suite 460, Washington, D.C. 20036.
D. (6) $15,000. E. (9) $597.22.

A. James T. Gillice, 1776 F Street NW., Washington, D.C.
B. Alliance of American Insurers.
D. (6) $1,500. E. (9) $170.

A. Michael J. Giuffrida, 1469 Quail Hollow Road, Harrisburg, Pa. 17112.
B. National Frozen Food Association, Inc., 1 Chocolate Avenue, P.O. Box 398, Hershey, Pa. 17033.
D. (6) $272.42. E. (9) $210.49.

A. Dave Givens, Tennessee Railroad Association, 916 Nashville Trust Building, Nashville, Tenn. 37201.
B. Class I Railroads in Tennessee.
E. (9) $669.80.

A. George L. Gleason, American Nuclear Energy Council, 1750 K Street NW., Suite 300, Washington, D.C.
B. American Nuclear Energy Council, 1750 K Street NW., Suite 300, Washington, D.C.
D. (6) $2,625. E. (9) $19.87.

A. Elmer G. Cleske, 1629 K Street NW., Suite 400, Washington, D.C. 20006.
B. Flight Safety International, Inc., Marine Air Terminal, LaGuardia Airport, Flushing, N.Y. 11371.
D. (6) $275.

A. George T. Glover, 1140 Connecticut Avenue NW., Washington, D.C. 20036.
B. Edison Electric Institute, 1140 Connecticut Avenue NW., Washington, D.C. 20036.
D. (6) $115. E. (9) $24.

A. Godfrey Associates, Inc., 918 16th Street NW., S-501, Washington, D.C. 20006.
E. (9) $54.15.

A. Godfrey Associates, Inc., 918 16th Street NW., S-501, Washington, D.C. 20006.
B. Patton, Boggs & Blow, 1200 17th Street NW., Washintgon, D.C. 20006.
E. (9) $54.15.

A. Horace D. Godfrey, 918 16th Street NW., S-501, Washington, D.C. 20006.
B. Godfrey Associates, Inc., 918 16th Street NW., S-501, Washington, D.C. 20006.
D. (6) $3,000. E. (9) $108.30.

A. Patrick L. Godfrey, National Association of Manufacturers, 601 North Vermont Avenue, Los Angeles, Calif. 90004.
B. National Association of Manufacturers, 1776 F Street NW., Washington, D.C. 20006.
D. (6) $1,400.

A. Harvey S. Gold, Velsicol Chemical Corp., 910 17th Street NW., Suite 1000, Washington, D.C. 20006.
B. Velsicol Chemical Corp., 341 East Ohio Street, Chicago, Ill. 60611.

A. Howard S. Goldberg, DGA International, Inc., 1225 19th Street NW., Washington, D.C. 20036.
B. DGA International, Inc., 1225 19th Street NW., Washington, D.C. 20036 (for Aerospatiale, 37 Boulevard de Montmorency, 75016 Paris, France).
D. (6) $32.70.

A. Howard S. Goldberg, DGA International, Inc., 1225 19th Street NW., Washington, D.C. 20036.
B. DGA International, Inc., 1225 19th Street NW., Washington, D.C. 20036 (for Airbus Industrie, Avenue Lucien Servanty, 31700 Blagnac, France).

A. Carl Goldfield, American Public Power Association, 2600 Virginia Avenue NW., Suite 212, Washington, D.C. 20037.
B. American Public Power Association, 2600 Virginia Avenue NW., Suite 212, Washington, D.C. 20037.
D. (6) $500.

A. William M. Goldstein, Morgan, Lewis & Bockius, 1800 M Street NW., Suite 700 North, Washington, D.C. 20036.
B. Committee for Capital Formation Through Dividend Reinvestment, 1800 M Street NW., Suite 700 North Washington, D.C. 20036.
D. (6) $25.

A. John Goldsum, P.O. Box 1148, Austin, Tex. 78767.
B. Texas Power & Light Co., Dallas, Tex.; Texas Electric Service Co., Ft. Worth, Tex.; Dallas Power & Light Co., Dallas, Tex.; Central Power & Light Co., Corpus Christi, Tex.; West Texas Utilities Co., Abilene, Tex.

A. Jack Golodner, 1140 Connecticut Avenue NW., Washington, D.C. 20036.
B. Actors Equity Association, 1500 Broadway, New York, N.Y. 10036.
D. (6) $2,500. E. (9) $720.

A. Jack Golodner, 815 16th Street NW., Washington, D.C. 20006.
B. Department for Professional Employees, AFL-CIO, 815 16th Street NW., Washington, D.C. 20006.
D. (6) $924.99.

A. Ruth Gonze, 2600 Virginia Avenue NW., Washington, D.C. 20037.
B. American Public Power Association, 2600 Virginia Avenue NW., Washington, D.C. 20037.
D. (6) $600.

A. Don A. Goodall, 1625 I Street NW., Suite 401, Washington, D.C. 20006.
B. American Cyanamid Co., Wayne, N.J. 07470.
D. (6) $300. E. (9) $86.18.

A. Charles E. Goodell, DGA International, Inc., 1225 19th Street NW., Washington, D.C. 20036.
B. DGA International, Inc., 1225 19th Street NW., Washington, D.C. 20036 (for Aerospatiale, 37 Boulevard de Montmorency, 75016 Paris, France).

A. Charles E. Goodell, DGA International, Inc., 1225 19th Street NW., Washington, D.C. 20036.
B. DGA International Inc., 1225 19th Street NW., Washington, D.C. 20036 (for Krauss-Maffei AG, Krauss-Maffei-Strasse 2, 8000 Munich, FRG).

A. Vance Goodfellow, 307 4th Avenue, South, P.O. Box 15047, Minneapolis, Minn. 55415.
B. Crop Quality Council, 307 4th Avenue, South, P.O. Box 15047, Minneapolis, Minn. 55415.
D. (6) $8,081.25.

A. Vivian Goodier, National Cable Television Association, Inc., 918 16th Street NW., Washington, D.C. 20006.
B. National Cable Television Association, Inc., 918 16th Street NW., Washington, D.C. 20006.
D. (6) $425. E. (9) $30.

A. Robert F. Goodwin, Meredith Corp., 1850 K Street NW., Suite 275, Washington, D.C. 20006.
B. Meredith Corp., 1850 K Street NW., Suite 275, Washington, D.C. 20006.
D. (6) $40. E. (9) $41.75.

A. Brenda J. Gore, 1155 15th Street NW., Washington, D.C. 20005.
B. The LTV Corp., 1525 Elm Street, Dallas, Tex. 75222.
D. (6) $500.

A. Frank D. Gorham III, 1150 Connecticut Avenue NW., Suite 805, Washington, D.C. 20036.
B. RJR Industries, Inc., P.O. Box 2959, Winston-Salem, N.C. 27102.
D. (6) $811.54. E. (9) $15.50.

A. Frederick D. Goss, 2626 Pennsylvania Avenue NW., Washington, D.C. 20037.
B. National Telephone Cooperative Association, 2626 Pennsylvania Avenue NW., Washington, D.C. 20037.
D. (6) $425.

A. Edward Gottlieb & Associates, 633 3rd Avenue, New York, N.Y. 10017.
B. Hecon Corp., Flextime Division, 31 Park Road, Tinton Falls, N.J. 07724.

A. Gould, Reichert & Strauss, 2613-20 Carew Tower, Cincinnati, Ohio 45202.
B. Francis J. Rorke, Box 1336, Cristobal, Canal Zone, et al.

A. Carl F. Graham, Amway Corp., 7575 East Fulton Road, Ada, Mich. 49355.
B. Amway Corp., 7575 East Fulton Road, Ada, Mich. 49355.

A. Lawrence T. Graham, American Hotel & Motel Association, Suite 1006, 1101 Connecticut Avenue NW., Washington, D.C. 20036.
B. American Hotel & Motel Association, 888 Seventh Avenue, New York, N.Y. 10019.
D. (6) $735.

A. Allan Grant, American Farm Bureau Federation, 225 Touhy Avenue, Park Ridge, Ill. 60068.

B. American Farm Bureau Federation, 225 Touhy Avenue, Park Ridge, Ill. 60068.
D. (6) $1,500.

A. John F. Grant, Printing Industries of America, Inc., 1730 North Lynn Street, Arlington, Va. 22209.
B. Printing Industries of America, Inc., 1730 North Lynn Street, Arlington, Va. 22209.
D. (6) $1,550. E. (9) $825.

A. Wm. W. Grant, Utah International, Inc., 1150 Connecticut Avenue NW., Washington, D.C. 20036.
B. Utah International, Inc., 550 California Street, San Francisco, Calif. 94104.
E. (9) $476.19.

A. James A. Gray, 7901 Westpark Drive, McLean, Va. 22102.
B. National Machine Tool Builders' Association, 7901 Westpark Drive, McLean, Va. 22102.
D. (6) $1,131. E. (9) $25.

A. Kirk L. Gray, 2030 M Street NW., Washington, D.C. 20036.
B. Common Cause, 2030 M Street NW., Washington, D.C. 20036.
D. (6) $1,687.50.

A. Martha W. Gray, Independent Petroleum Association of America, 1101 16th Street NW., Washington, D.C. 20036.
B. Independent Petroleum Association of America, 1101 16th Street NW., Washington, D.C. 20036.
E. (9) $2.

A. Mark E. Grayson, National Tire Dealers & Retreaders Association, 1343 L Street NW., Washington, D.C. 20005.
B. National Tire Dealers & Retreaders Association, 1343 L Street NW., Washington, D.C. 20005.
D. (6) $500. E. (9) $20.

A. Samuel A. Grayson, Union Pacific Railroad, 611 Idaho Building, 216 North 8th, Boise, Idaho 83702.
B. Union Pacific Railroad, 1416 Dodge Street, Omaha, Nebr. 68179.
E. (9) $1,240.59.

A. The Great Western Sugar Co., P.O. Box 5308 T.A., Denver, Colo. 80217.
E. (9) $44,182.90.

A. Donald R. Greelev, 1101 17th Street NW., Suite 603, Washington, D.C. 20036.
B. Celanese Corp., 1211 Avenue of the Americas, New York, N.Y. 10036.
D. (6) $625. E. (9) $82.96.

A. Mark Green, 133 C Street SE., Washington, D.C. 20003.
B. Congress Watch, 133 C Street SE., Washington, D.C. 20003.
D. (6) $4,250.

A. Howard Greenberg, 7426 Arrowood Road, Bethesda, Md. 20034.
B. Public Timber Purchasers Group, 1214 Oregon Bank Building, Portland, Oreg. 97204.
D. (6) $4,500.

A. Margit S. Greenspon, 2626 Pennsylvania Avenue NW., Washington, D.C. 20037.
B. National Telephone Cooperative Association, 2626 Pennsylvania Avenue NW., Washington, D.C. 20037.
D. (6) $900.

A. Dale W. Greenwood, Washington Railroad Association, 612 Hoge Building, Seattle, Wash. 98104.
B. Washington Railroad Association, 612 Hoge Building, Seattle, Wash. 98104.
E. (9) $1,128.94.

A. Saunders Gregg, Entex, Inc., P.O. Box 2628, Houston, Tex. 77001.
B. Entex, Inc., P.O. Box 2628, Houston, Tex. 77001.
D. (6) $500. E. (9) $677.

A. William G. Grief, 1155 15th Street NW., Washington, D.C. 20005.
B. Bristol-Myers Co., 345 Park Avenue, New York, N.Y. 10022.
D. (6) $9,000. E. (9) $493.15.

A. Lori Gribbin, 1025 Connecticut Avenue NW., No. 202, Washington, D.C. 20036.
B. Rohm & Haas Co., Independence Mall West, Philadelphia, Pa. 19105.
D. (6) $500. E. (9) $74 26.

A. Grocery Manufacturers of America, Inc., 1010 Wisconsin Avenue NW., Suite 800, Washington, D.C. 20007.

A. Frank N. Grossman, Santa Fe Industries, Inc., Suite 840, 1100 Connecticut Avenue NW., Washington, D.C. 20036.
B. Santa Fe Industries, Inc., 224 South Michigan Avenue, Chicago, Ill. 60604.
D. (6) $1,500. E. (9) $300.

A. John T. Grupenhoff, Grupenhoff & Endicott, 6410 Rockledge Drive, Suite 208, Bethesda, Md. 20034.
B. MEGO Corp., 41 Madison Avenue, New York, N.Y. 10010.
D. (6) $750.

A. James J. Gudinas, American Automobile Association, 8111 Gatehouse Road, Falls Church, Va. 22042.
B. American Automobile Association, 8111 Gatehouse Road, Falls Church, Va. 22042.

A. Kenneth J. Guido, 2030 M Street NW., Washington, D.C. 20036.
B. Common Cause, 2030 M Street NW., Washington, D.C. 20036.
D. (6) $900.

A. Thomas M. Gunn, P.O. Box 516, St. Louis, Mo. 63166.
B. McDonnell Douglas Corp., P.O. Box 516, St. Louis, Mo. 63166.
D. (6) $115. E. (9) $110.

A. Jerry Guth, 815 Connecticut Avenue NW., Washington, D.C. 20006.
B. Armco, Inc., 815 Connecticut Avenue NW., Washington, D.C. 20006.
D. (6) $1,500.

A. Marjorie Guthrie, 250 West 57th Street, New York, N.Y. 10019.

A. C. James Hackett, American Plywood Association, 1119 A Street, Tacoma, Wash. 98401.
B. American Plywood Association, 1119 A Street, Tacoma, Wash. 98401.

A. Craig Hackler, Rural Route 1 Box 177–5, Kearneysville, W. Va. 25430.
B. Independent Consultants, Inc., 1120 Connecticut Avenue NW., No. 1128, Washington, D.C. 20036.
D. (6) $100.

A. Loyd Hackler, American Retail Federation, 1616 H Street NW., Washignton, D.C. 20006.
B. American Retail Federation, 1616 H Street NW., Washington, D.C. 20006.
D. (6) $2,000. E. (9) $157.

A. Paul R. Haerle, Thelen, Marrin, Johnson & Bridges, Two Embarcadero Center, Room 2200, San Francisco, Calif. 94111.
B. Energy Transportation Systems, Inc., P.O. Box 3965, San Francisco, Calif. 94119.
E. (9) $1,808.05.

A. Peter H. Hahn, 918 16th Street NW., No. 501, Washington, D.C. 20006.
B Chromalloy American Corp., 120 South Central Avenue, St. Louis, Mo. 63105.
D. (6) $1,500. E. (9) $1,250.

A. Thomas F. Hairston, 461 South Boylston Street, Los Angeles, Calif. 90017.
B. Union Oil Co. of California, 461 South Boylston Street, Los Angeles, Calif. 90017.
E. (9) $343.38.

A. Hall, Estill, Hardwick, Gable, Collingsworth & Nelson, 1701 Pennsylvania Avenue NW., Suite 404, Washington, D.C. 20006.
B. The Williams Cos., One Williams Center, Tulsa, Okla. 74101.

A. Floyd D. Hall, International Air Transport Association, 277 Park Avenue, New York, N.Y. 10017.
B. International Air Transport Association, 1000 Sherbrooke Street West, Montreal, Que. Canada H3A 2R4.
E. (9) $142.80.

A. Douglas L. Hallett, 523 West Sixth Street, Los Angeles, Calif. 90014.
B. Adams, Duque & Hazeltine, 10th Floor, Pacific Mutual Building, Los Angeles, Calif.
D. (6) $711.53. E. (9) $1,301.29.

A. Joseph Halow, North American Export Grain Association, Inc., 1800 M Street NW., Washington, D.C. 20036.
B. North American Export Grain Association, Inc., 1800 M Street NW., Washington, D.C. 20036.
D. (6) $9,500.

A. Jerald V. Halvorsen, Allied-General Nuclear Services, 2120 L Street NW., Suite 245, Washington, D.C. 20037.
B. Allied-General Nuclear Services, P.O. Box 847, Barnwell, S.C. 29812.
E. (9) $274.93.

A. Hamel, Park, McCabe & Saunders, 1776 F Street NW., Washington, D.C. 20006.
B. Beneficial Foundation, 1300 Market Street, Wilmington, Del. 19899.
E. (9) $10.

A. Hamel, Park, McCabe & Saunders, 1776 F Street NW., Suite 400, Washington, D.C. 20006.
B. Central Bank for Cooperatives and Associated District Banks, P.O. Box 17889, Denver, Colo. 80217.
D. (6) $150.

A. Hamel, Park, McCabe & Saunders, 1776 F Street NW., Washington, D.C. 20006.
B. United Student Aid Funds, Inc., 200 East 42d Street, New York, N.Y. 10017.

A. Philip W. Hamilton, 1901 L Street NW., Washington, D.C. 20036.
B. Wilson E Hamilton and Associates, Inc., 1901 L Street NW., Washington, D.C. 20036 (for National Labor-Management Foundation, Louisville, Ky.).
E. (9) $134.95.

A. Patricia L. Hanahan, 1155 15th Street NW., Washington, D.C. 20005.
B. Bristol-Myers Co, 345 Park Avenue, New York, N.Y. 10022.
D. (6) $525.

A. Christopher G. Hankin, 3251 Old Lee Highway, Suite 501, Fairfax, Va. 22030.
B. National Limestone Institute, Inc., 3251 Old Lee Highway, Suite 501, Fairfax, Va. 22030.
E. (9) $21.95.

A. Geoge J. Hanks, Jr., Union Carbide Corp., 1730 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. Union Carbide Corp., 270 Park Avenue, New York, N.Y. 10017.
E. (9) $39.79.

A. Erling Hansen, Group Health Association of America, Inc., 1717 Massachusetts Avenue NW., No. 701, Washington, D.C. 20036.
B. Group Health Association of America, Inc., 1717 Massachusetts Avenue NW., No. 701, Washington, D.C. 20036.
D. (6) $4,750.

A. Peter J. Hapworth, 1850 K Street NW., Suite 850, Washington, D.C. 20006.
B. National Restaurant Association, 1850 K Street NW., Washington, D.C. 20006; One IBM Plaza, Suite 2600, Chicago, Ill. 60611.
D. (6) $800. E. (9) $201.

A. Martha Hardee, 4311 Cedar Springs, Dallas, Tex. 75219.
B. Doctors for the Equal Rights Amendment, P.O. Box 19531, Dallas, Tex. 75219.
E. (9) $211.

A. Chester L. Harding, Jr., National Association of Manufacturers, 1719 Route 10, Parsippany, N.J. 07054.
B. National Association of Manufacturers, 1776 F Street NW., Washington, D.C. 20006.
D. (6) $225.

A. William E. Hardman, 9300 Livingston Road, Washington, D.C. 20022.
B. National Tool, Die, and Precision Machining Association, 9300 Livingston Road, Washington, D.C. 20022.

A. Eugene J. Hardy, 1776 F Street NW., Washington, D.C. 20006.
B. National Association of Manufacturers, 1776 F Street NW., Washington, D.C. 20006.
D. (6) $2,500.

A. Andrew E. Hare, 8316 Arlington Boulevard, Suite 600, Fairfax, Va. 22038.
B. National Right to Work Committee, 8316 Arlington Boulevard, Suite 600, Fairfax, Va. 22038.
D. (6) $500. E. (9) $218.

A. Bryce L. Harlow, Grocery Manufacturers of America, Inc., 1010 Wisconsin Avenue NW., Suite 800, Washington, D.C. 20007.
B. Grocery Manufacturers of America, Inc., 1010 Wisconsin Avenue NW., Suite 800, Washington, D.C. 20007.
D. (6) $5.

A. Donald L. Harlow, Air Force Sergeants Association, Inc., 310 Riley Street, Falls Church, Va. 22046.
B. Air Force Sergeants Association, 4235 28th Avenue, Marlow Heights, Md. 20031.

A. William B. Harman, Jr., American Council of Life Insurance, Inc., 1850 K Street NW., Washington, D.C. 20006.
B. American Council of Life Insurance, Inc., 1850 K Street NW., Washington, D.C. 20006.
D. (6) $90. E. (9) $8.

A. John L. Harmer, 7135 J Bar B, Roseville, Calif. 95678.
D. (6) $30,000. E. (9) $41,000.

A. C. Wayne Harmon, 1025 Connecticut Avenue NW., Suite 700, Washington, D.C. 20036.
B. Gulf Oil Corp., P.O. Box 1166, Pittsburgh, Pa., 15230.

A. Michael T. Harrigan, 2033 M Street NW., Suite 701, Washington, D.C. 20036.
B. U.S. Olympic Committee, P.O. Box 4000, Colorado Springs, Colo 80930.
D. (6) $3,750. E. (9) $57.20.

A. Saul J. Harris, 1140 Connecticut Avenue NW., Washington, D.C. 20036.
B. Edison Electric Institute, 1140 Connecticut Avenue NW., Washington, D.C. 20036.
D. (6) $380. E. (9) $5.

A. Jim Harrison, Committee of Urban Program Universities, Suite 802, 11 Dupont Circle, Washington, D.C.
B. Committee of Urban Program Universities, Suite 802, 11 Dupont Circle, Washington, D.C.
D. (6) $5,000. E. (9) $454.53.

A. William C. Hart, 1625 I Street NW., Washington, D.C. 20006.
B. Columbia Gas System Service Corp., 20 Montchanin Road, Wilmington, Del. 19807.
D. (6) $325.50. E. (9) $165.50.

A. Hartford Fire Insurance Co., Hartford Plaza, Hartford, Conn. 06115
E. (9) $7,100.

A. Clifford J. Harvison, National Tank Truck Carriers, Inc., 1616 P Street NW., Washington, D.C. 20036.
B. National Tank Truck Carriers, Inc., 1616 P Street NW., Washington, D.C. 20036.

A. Walter A. Hasty, Jr., 1801 K Street NW., Suite 230, Washington, D.C. 20006.
B. The Procter & Gamble Manufacturing Co., 301 East Sixth Street, Cincinnati, Ohio 45202.
D. (6) $385.

A. Mary W. Haught, Sun Co., Inc., 1800 K Street NW., Suite 820, Washington, D.C. 20006.
B. Sun Co., Inc., 100 Matsonford Road, Radnor, Pa. 19087.
D. (6) $2,000. E. (9) $275.

A. Charles W. Havens III, Reinsurance Association of America, 1025 Connecticut Avenue NW., No. 512, Washington, D.C. 20036.
B. Reinsurance Association of America, 1025 Connecticut Avenue NW., No. 512, Washington, D.C. 20036.

A. Sidney G. Hawkes, The Mead Corp., 1000 Connecticut Avenue NW., Suite 715, Washington, D.C. 20036.
B. The Mead Corp., Mead World Headquarters, Courthouse Plaza NE., Dayton, Ohio 45463.
D. (6) $1,250.

A. John H. Hawkins, Jr., Alabama Power Co., 600 North 18th Street, Birmingham, Ala. 35291.
B. Alabama Power Co., 600 North 18th Street, Birmingham, Ala. 35291.
D. (6) $8,814. E. (9) $6,232.64.

A. Robert T. Hayden, United Steelworkers of America, 815 16th Street NW., Suite 706, Washington, D.C. 20006.
B. United Steelworkers of America, Five Gateway Center, Pittsburgh, Pa. 15222.
D. (6) $7,001.80. E. (9) $1,417.87.

A. Health Research Group, 2000 P Street NW., Suite 708, Washington, D.C. 20036.
D. (6) $1,527.10. E. (9) $1,527.10.

A. Patrick B. Healy, National Milk Producers Federation, 30 F Street NW., Washington, D.C. 20001.
B. National Milk Producers Federation, 30 F Street NW., Washington, D.C. 20001.
D. (6) $487.50.

A. Heavy and Specialized Carriers Conference, Inc., 1155 16th Street NW., Washington, D.C. 20036.

A. John F. Heilman, Disabled American Veterans, 807 Maine Avenue SW., Washington, D.C. 20024.
B. Disabled American Veterans, 3725 Alexandria Pike, Cold Spring, Ky. 41076.
D. (6) $8,805. E. (9) $147.74.

A. Clyde M. Heiner, 180 East First South Street, Salt Lake City, Utah 84139.
B. Mountain Fuel Supply Co., 180 East First South Street, Salt Lake City, Utah 84139.
D. (6) $363. E. (9) $601.39.

A. Robert B. Heiney, Box 569, Lake of the Woods, Locust Grove, Va. 22508.
B. Gerber Products Co., Fremont, Mich. 49412.
D. (6) $4,120.

A. Heinold Commodities, 222 South Riverside Plaza, Chicago, Ill. 60606.
E. (9) $1,460.

A. Ross E. Heller, 2626 Pennsylvania Avenue NW., Washington, D.C. 20037.
B. National Telephone Cooperative Association, 2626 Pennsylvania Avenue NW., Washington, D.C. 20037.

A. Harry V. Helton, 1800 Southwest First, Suite 520, Portland, Oreg. 97201.
B. Reynolds Metals Co., 6601 West Broad Street, Richmond, Va. 23261.
E. (9) $3,323.12.

A. William S. Hemsley, Jr., 1000 16th Street, NW., Suite 701, Washington, D.C. 20036.
B. Adams, Duque & Hazeltine, Seventh Floor, Solar Building.
D. (6) $815.10. E. (9) $133.89.

A. Thomas R. Hendershot, Obermayer, Rebmann, Maxwell and Hippel, 2011 I Street NW., Suite 500, Washington, D.C. 20006.
B. American Gas Association, 1515 Wilson Boulevard, Arlington, Va. 22209.
D. (6) $2,585.

A. Richard Dean Henderson, Private Truck Council of America, Inc., 1101 17th Street NW., Washington, D.C. 20036.
B. Private Truck Council of America, Inc., 1101 17th Street NW., No. 1008, Washington, D.C. 20036.

A. Henkel & Lamon, 229 Peachtree Street NE., Suite 2500, Atlanta, Ga. 30303.
B. The National Association of Pension Consultants and Administrators, Inc., 151 Ellis Street NE., Atlanta, Ga. 30303.
D. (6) $3,149.50. E. (9) $263.90.

A. Edmund P. Hennelly, 150 East 42d Street, New York, N.Y. 10017.
B. Mobil Oil Corp., 150 East 42d Street, New York, N.Y. 10017.
D. (6) $1,500.

A. George F. Hennrikus, Jr., The Retired Officers Association, 1625 I Street NW., Washington, D.C. 20006.
B. The Retired Officers Association, 1625 I Street NW., Washington, D.C. 20006.
D. (6) $3,578.

A. Hercules, Inc., 910 Market Street, Wilmington, Del. 19899.
E. (9) $3,730.

A. Carolyn A. Herr, 2000 Florida Avenue NW., Washington, D.C. 20009.
B. National Rural Electric Cooperative Association, 2000 Florida Avenue NW., Washington, D.C. 20009.
D. (6) $100.

A. Herrick, Allen, & Davis, 1701 K Street NW., Suite 706, Washington, D.C. 20006.
B. Amusement and Music Operators As-

sociation, 35 East Wacker Drive, Suite 1940, Chicago, Ill. 60601.
D. (6) $109.99.

A. Esther Herst, 510 C Street NE., Washington, D.C. 20002.
B. National Committee Against Repressive Legislation, 1250 Wilshire Boulevard, Los Angeles, Calif. 90017.
D. (6) $2,730. E.(9) $2,327.80.

A. Elena Hess, 3705 Porter Street NW., Washington, D.C. 20016.
B. Self-Determination for D.C., Room 300, 2030 M Street NW., Washington, D.C. 20036.
D. (6) $5,417. E. (9) $60.

A. Ted A. Heydinger, Chamber of Commerce of the United States, 1615 H Street NW., Washington, D.C. 20062.
B. Chamber of Commerce of the United States, 1615 H Street NW., Washington, D.C. 20062.
E. (9) $147.49.

A. Andrew I. Hickey, Jr., Federal National Mortgage Association, 1133 15th Street NW., Washington, D.C. 20005.
B. Federal National Mortgage Association, 1133 15th Street NW., Washington, D.C. 20005.
D. (6) $13,575. E. (9) $1,005.64 .

A. Frederic W. Hickman, One First National Plaza, Chicago, Ill. 60603.
B. First Chicago Corp., One First National Plaza, Chicago, Ill. 60670.

A. Frederic W. Hickman, One First National Plaza, No. 5200, Chicago, Ill. 60603.
B. National Association of Independent Insurers, 2600 River Road, Des Plaines, Ill. 60018.
D. (6) $2,060.

A. Frederic W. Hickman, One First National Plaza, No. 5200, Chicago, Ill. 60603.
B. Northwest Industries, Inc., 6300 Sears Tower, Chicago, Ill. 60606.
D. (6) $150.

A. Frederic W. Hickman, One First National Plaza, No. 5200, Chicago, Ill. 60603.
B. Peoples Gas Co., 122 South Michigan Avenue, Chicago, Ill. 60603.
D. (6) $3,450.

A. Frederic W. Hickman, One First National Plaza, No. 5200, Chicago, Ill. 60603.
B. Trans Union Corp., 90 Half Day Road, Lincolnshire, Ill. 60015.
D. (6) $1,400.

A. Janet E. Hieber, 317 Pennsylvania Avenue SE., Washington, D.C. 20003.
B. Environmental Policy Center, 317 Pennsylvania Avenue SE., Washington, D.C. 20003.
D. (6) $3,000.

A. J Thomas Higginbotham, Mellon Bank, N.A., Pittsburgh, Pa. 15230.
B. Mellon Bank, N.A. and Mellon National Corp., Mellon Square, Pittsburgh, Pa. 15230.
D. (6) $2,000. E. (9) $1,867.16.

A. Gerald Jerry Hill, 6 Executive Park Drive, Atlanta, Ga. 30329.
B. Standard Oil Co. (Indiana), 200 East Randolph Drive, Chicago, Ill. 60601.
D. (6) $241.52. E. (9) $188.75.

A. J. Eldred Hill, Jr., UBA, Inc., 1800 M Street NW., 460 South, Washington, D.C. 20036.
B. UBA, Inc., 1800 M Street NW., 460 South, Washington, D.C. 20036.
D. (6) $2,000.

A. Hill ann Knowlton, Inc., 1425 K Street, NW., Suite 1000, Washington, D.C. 20005.
B. Florists' Transworld Delivery Association, P.O. Box 2227, Southfield, Mich. 48037.

A. E. Joseph Hillings, National Airlines, Inc., 1025 Connecticut Avenue NW., Washington, D.C.
B. National Airlines, Inc., P.O. Box 592055 AMF, Miami, Fla. 33159.
D. (6) $1,100. E. (9) $20.

A. Kathryn Hilton, National Cable Television Association, Inc., 918 16th Street NW., Washington, D.C.
B. National Cable Television Association, Inc., 918 16th Street NW., Washington, D.C.
D. (6) $1,687.

A. Joe Hinson, National Forest Products Association, 1619 Massachusetts Avenue NW., Washington, D.C. 20036.
B. National Forest Products Association, 1619 Massachusetts Avenue NW., Washington, D.C. 20036.
D. (6) $600. E. (9) $60.

A. Bertram E. Hirsch, 76–17 250 Street, Bellerose, N.Y. 11426.
B. Fallon Paiute and Shoshone Tribes, Fallon, Nev.
D. (6) $500.

A. Bertram E. Hirsch, 76–17 250 Street, Bellerose, N.Y. 11426.
B. Sisseton-Wahpeton Sioux Tribe, Sisseton, S. Dak. 57262.
D. (6) $219.33. E. (9) $18.66.

A. Janet L. Hirshberg, 2626 Pennsylvania Avenue NW., Washington, D.C. 20037.
B. National Telephone Cooperative Association, 2626 Pennsylvania Avenue NW., Washington, D.C. 20037.
D. (6) $175.

A. Lawrence S. Hobart, American Public Power Association, 2600 Virginia Avenue NW., Washington, D.C. 20037.
B. American Public Power Association, 2600 Virginia Avenue NW., Washington, D.C. 20037.
D. (6) $1,200.

A. Claude E. Hobbs, Westinghouse Electric Corp., 1801 K Street NW., Washington, D.C. 20006.
B. Westinghouse Electric Corp., Westinghouse Building, Gateway Center, Pittsburgh, Pa. 15222.
D. (6) $1,500. E. (9) $515.

A. Ralph D. Hodges, Jr., National Forest Products Association, 1619 Massachusetts Avenue NW., Washington, D.C. 20036.
B. National Forest Products Association, 1619 Massachusetts Avenue NW., Washington, D.C. 20036.
E. (9) $3,741.45.

A. Lawrence S. Hoffheimer, 6845 Elm Street, Suite 511, McLean, Va 22101.
B. American Group Practice Association, 20 South Quaker Lane, Alexandria, Va. 22314.
D. (6) $5,000. E. (9) $850.

A. Lawrence S. Hoffheimer, National Multiple Sclerosis, 6845 Elm Street, Suite 511, McLean, Va. 22101.
B. National Multiple Sclerosis Society, 205 East 42d Street, New York, N.Y. 10017.
D. (6) $3,750. E. (9) $1,250.

A. Ellen S. Hoffman, 1520 New Hampshire Avenue NW., Washington, D.C. 20036.
B. Children's Defense Fund of the Washington Research Project, Inc.
D. (6) $690.24. E. (9) $62.65.

A. Herbert E. Hoffman, American Bar Association, 1800 M Street NW., Washington, D.C.
B. American Bar Association, 1155 East 60th Street, Chicago, Ill. 60637.
D. (6) $400. E. (9) $50.

A. Hogan & Hartson, 815 Connecticut Avenue NW., Washington, D.C. 20006.
B. Bessemer Securities Corp., 245 Park Avenue, New York, N.Y. 10017.

A. Hogan & Hartson, 815 Connecticut Avenue NW., Washington, D.C. 20006.
B. Champlin Petroleum Co., P.O. Box 9365, Fort Worth, Tex. 76107.
D. (6) $9,361.25. E. (9) $555.29.

A. Hogan & Hartson, 815 Connecticut Avenue NW., Washington, D.C. 20006.
B. Direct Selling Association, 1730 M Street NW., Washington, D.C. 20036.
D. (6) $22,657.

A. Hogan & Hartson, 815 Connecticut Avenue NW., Washington, D.C. 20006.
B. Energy Transportation Systems, Inc., 50 Beale Street, San Francisco, Calif. 94119.
D. (6) $790. E. (9) $29.50.

A. Hogan & Hartson, 815 Connecticut Avenue NW., Washington, D.C. 20006.
B. Patagonia Corp., 149 North Stone Avenue, Tucson, Ariz. 85701.

A. Hogan & Hartson, 815 Connecticut Avenue NW., Washington, D.C. 20006.
B. Schrader Stoves, Inc., Energy Alternatives, Inc., J N J Enterprises, Inc., c/o Fisher Stoves International, Inc., P.O. Box 10605, Eugene, Oreg. 97440.
D. (6) $1,500.

A. Wendell M. Holloway, Ford Motor Co., 815 Connecticut Avenue NW., Washington, D.C. 20006.
B. Ford Motor Co., Dearborn, Mich.
D. (6) $1,999.99. E. (9) $960.63.

A. J. K. Holman, Consolidation Coal Co., 1130 17th Street NW., Washington, D.C. 20036.
B. Consolidation Coal Co., Consol Plaza, Pittsburgh, Pa. 15241.
D. (6) $300.

A. Lee B. Holmes, 1709 New York Avenue NW., Suite 801, Washington, D.C. 20006.
B. United States League of Savings Associations, 111 East Wacker Drive, Chicago, Ill.
D. (6) $1,450.

A. Peter E. Holmes, General Electric Co., 777 14th Street NW., Washington, D.C. 20005.
B. General Electric Co., 3135 Easton Turnpike, Fairfield, Conn. 06431.
D. (6) $1,500.

A. John W. Holton, American Bankers Association, 1120 Connecticut Avenue NW., Washington, D.C. 20036.
B. American Bankers Association, 1120 Connecticut Avenue NW., Washington, D.C. 20036.
D. (6) $2,000.

A. Fortescue W. Hopkins, Box 218, Daleville, Va. 24083.
B. Graham-White Manufacturing Co., P.O. Box 1099, Salem, Va. 24153.

A. Fortescue W. Hopkins, Box 218, Daleville, Va. 24083.
B. Virgil L. Frantz, Graham-White Manufacturing Co., P.O. Box 1099, Salem, Va. 24153; Milton K. Blank, 2802 Longview Avenue SW., Roanoke, Va. 24014.
D. (6) $2,600. E. (9) $718.88.

A. The Hormel Foundation, Austin, Minn. 55912.

A. Robert Jack Horn, 1819 H Street NW., Suite 950, Washington, D.C. 20006.
B. The Detroit Edison Co., 2000 Second Avenue, Detroit, Mich. 48226.
D. (6) $344.

A. Michael E. Horrell, American Nuclear Energy Council, 1750 K Street NW., Suite 300, Washington, D.C.
B. American Nuclear Energy Council, 1750 K Street NW., Suite 300, Washington, D.C.
D. (6) $2,047.50. E. (9) $29.10.

A. Houdaille Industries, Inc., One Financial Plaza, Ft. Lauderdale, Fla. 33394.
E. (9) $7,200.

A. Houger, Garvey & Schubert, 1725 K Street NW., Suite 303, Washington, D.C. 20006.
B. American Pyrotechnics Association, 407 Campus Avenue, Chestertown, Md. 21620.
D. (6) $75. E. (9) $264.20.

A. Thomas B. House, American Frozen Food Institute, 1700 Old Meadow Road, McLean, Va. 22102.
B. American Frozen Food Institute, 1700 Old Meadow Road, McLean, Va. 22102.
D. (6) $750.

A. Robert C. Houser, Jr., 1775 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. Foley, Lardner, Hollabaugh & Jacobs, 1775 Pennsylvania Avenue NW., Washington, D.C. 20006 (for Republic of the Philippines).

A. Houston Natural Gas Corp., P.O. Box 1188, Houston, Tex. 77001.
E. (9) $14,572.39.

A. Joe L. Howell, 1700 Pennsylvania Avenue NW., Suite 750, Washington, D.C. 20006.
B. Allstate Enterprises, Inc., Allstate Plaza, Northbrook, Ill. 60062.

A. Joe L. Howell, 1700 Pennsylvania Avenue NW., Suite 750, Washington, D.C. 20006.
B. Allstate Insurance Co., Allstate Plaza, Northbrook, Ill. 60062.

A. John B. Howerton, ASARCO, Inc., 1730 Rhode Island Avenue NW., Suite 206, Washington, D.C. 20036.
B. ASARCO, Inc., 120 Broadway, New York, N.Y. 10005.
D. (6) $1,500.

A. Clifford T. Howlett, Jr., Georgia-Pacific Corp., 1735 I Street NW., Washington, D.C. 20006.
B. Georgia-Pacific Corp., 900 SW Fifth Avenue, Portland, Oreg. 97204.
E. (9) $750.

A. Karl T. Hoyle, National Association of Federal Credit Unions, P.O. Box 3769, Washington, D.C. 20007.
B. National Association of Federal Credit Unions, P.O. Box 3769, Washington, D.C. 20007.
D. (6) $300. E. (9) $60.75.

A. Royston C. Hughes, Florida Gas Transmission Co., 1711 Venetian Way, Winter Park, Fla. 32789.
B Florida Gas Transmission Co., P.O Box 44, Winter Park, Fla. 32790.

A. William G. Hughes, National Association of Federal Veterinarians, Suite 836, 1522 K Street NW., Washington, D.C. 20005.
B. National Association of Federal Veterinarians, Suite 836, 1522 K Street NW., Washington, D.C. 20005.
D. (6) $84.

A. Edward L. Huie, Suite 415, Wheaton Plaza North, Wheaton, Md. 20902.
B. National Association of Air Traffic Specialists, Inc., Suite 415, Wheaton Plaza North, Wheaton, Md. 20902.
D. (6) $5,085. E. (9) $800.48.

A. David C. Hull, 1030 15th Street NW., Suite 700, Washington, D.C. 20005.
B. National Cotton Council of America, P.O. Box 12285, Memphis, Tenn. 38112.
D. (6) $905. E. (9) $1.77.

A. William J. Hull, 401 Carew Tower, Cincinnati, Ohio.
B. Ohio Valley Improvement Association, Inc.

A. Keith R. Hundley, 1625 I Street NW., Suite 902, Washington, D.C. 20006.
B. Weyerhaeuser Co., Tacoma, Wash. 98401.
D. (6) $200.

A. Burt H. Hunley, Chevron U.S.A., Inc., 1700 K Street NW., Suite 1204, Washington, D.C. 20006.
B. Chevron U.S.A., Inc., 1700 K Street NW., Suite 1204, Washington, D.C. 20006.
D. (6) $150. E. (9) $75.

A. Acacia Graham Hunt, Suite 850, 2020 K Street NW., Washington, D.C. 20006.
B. American Bakers Association, Suite 850, 2020 K Street NW., Washington, D.C. 20006.
D. (6) $135. E. (9) $6.45.

A. Richard M. Hunt, NL Industries, Inc., Suite 1009, Connecticut Building, 1150 Connecticut Avenue NW., Washington, D.C. 20036.
B. NL Industries, Inc., 1230 Avenue of the Americas, New York, N.Y. 10020.
D. (6) $2,000.

A. James L. Huntley, Retail Clerks International Union, AFL–CIO, 1775 K Street NW., Washington, D.C. 20006.
B. Retail Clerks International Union, AFL–CIO, 1775 K Street NW., Washington, D.C. 20006.
D. (6) $8,889.92. E. (9) $1,372.59.

A. Gerard F. Hurley, Suite 602, 1129 20th Street NW., Washington, D.C. 20036.
B. National Club Association, Suite 602, 1120 20th Street NW., Washington, D.C. 20036.
D. (6) $2,000. E. (9) $3,885.06.

A. John Edward Hurley, 1101 New Hampshire Avenue NW., Suite 107, Washington, D.C. 20037.
E. (9) $107.

A. John Edward Hurley, 1101 New Hampshire Avenue NW., Suite 107, Washington, DC. 20037.
B. National Association for Free Enterprise, 1101 New Hampshire Avenue NW., Suite 107, Washington, D.C. 20037.

A. John F. Hussey, 1101 17th Street NW., Suite 604, Washington, D.C. 20036.
B. Monsanto Co., 800 North Lindbergh Boulevard, St. Louis, Mo. 63166.
D. (6) $500. E. (9) $151.89.

A. Dewey M. Hutchins, Eastman Kodak Co., 500 12th Street SW., Washington, D.C. 20024.
B. Eastman Kodak Co., 343 State Street, Rochester, N.Y. 14650.
D. (6) $375. E. (9) $132.

A. Randy Huwa, 2030 M Street NW., Washington, D.C. 20036.
B. Common Cause, 2030 M Street NW., Washington, D.C. 20036.
D. (6) $3,600. E. (9) $284.55.

A. Lee M. Hydeman, Hydeman, Mason & Goodell, 1220 19th Street NW., Washington, D.C. 20036.
B. Continental Air Lines, Inc., Los Angeles International Airport, Los Angeles, Calif. 90009.

A. Lester S. Hyman, Leva, Hawes, Symington, Marton & Oppenheimer, 815 Connecticut Avenue NW., Washington, D.C. 20006.
B. Bulova Watch Co., Inc., Bulova Park, Flushing, N.Y. 11370.
E. (9) $21.32.

A. Frank N. Ikard, 2101 L Street NW., Washington, D.C. 20037.
B American Petroleum Institute, 2101 L Street NW., Washington, D.C. 20037.
D. (6) $3,750.

A Ronald K. Ikejiri, Japanese American Citizens League, 1730 Rhode Island Avenue NW., No. 204, Washington, D.C. 20036.
B. National Japanese American Citizens League, 1765 Sutter Street, San Francisco, Calif 94115.
D. (6) $3,200. E. (9) $2,872.

A. Atilla S. Ilkson, National Association of Realtors, 925 15th Street NW., Washington, D.C. 20005.
B. National Association of Realtors, 430 North Michigan Avenue, Chicago, Ill. 60611; 925 15th Street NW., Washington, D.C. 20005.
D. (6) $2,000 E. (9) $202.43.

A. Independent Consultants, Inc., 1120 Connecticut Avenue NW., No. 1128, Washington, D.C. 20036.
D (6) $100.

A. Independent Data Communications Manufacturers Association, Inc., 1735 New York Avenue NW., Washington, D.C. 20066.

A. Independent Insurance Agents of America, Inc., 85 John Street, New York, N.Y. 10038.
E. (9) $18,137.64.

A. Industrial Union Department, AFL–CIO, 815 16th Street NW., Washington, D.C. 20006.
D. (6) $13,713.70. E. (9) $13,713.70.

A. G. Conley Ingram, Citizens & Southern National Bank Building, 35 Broad Street, Atlanta, Ga. 30303.
B. Board of Trade Clearing Corp., 141 West Jackson Building, Chicago, Ill. 60604.
D. (6) $736.

A. International Association of Machinists & Aerospace Workers, 1300 Connecticut Avenue NW., Washington, D.C. 20036.
E. (9) $12,947.26.

A. International Brotherhood of Painters & Allied Trades, 1750 New York Avenue NW., Washington, D.C. 20006.
E. (9) $1,527.82.

A. International Brotherhood of Teamsters, 25 Louisiana Avenue NW., Washington, D.C. 20001.
E. (9) $23,872.28.

A. International Union of Electrical, Radio & Machine Workers, AFL–CIO, 1126 16th Street NW., Washington, D.C. 20036.
D. (6) $600. E. (9) $300.

A. International Union of Operating Engineers, 1125 17th Street NW., Washington, D.C. 20036.
E. (9) $4,475.

A. International Union, United Automobile, Aerospace & Agricultural Implement Workers of America, UAW, 8000 East Jefferson, Detroit, Mich. 48214.
D. (6) $197,322. E. (9) $197,322.

A. Investment Co., Institute, 1775 K Street NW., Washington, D.C. 20006.

E. (9) $2,739.51.

A. Investment Counsel Association of America, Inc., 127 East 59th Street, New York, N.Y. 10022.

A. Iron Ore Lessors Association, Inc., 1500 First National Bank Building, Saint Paul, Minn. 55101.
D. (6) $9,487.36. E. (9) $9,142.55.

A. William A. Irvine, 1725 K Street NW., Suite 607, Washington, D.C. 20006.
B. Associated Third Class Mail Users, 1725 K Street NW., Suite 607, Washington, D.C. 20006.
D. (6) $600.

A. Joseph S. Ives. 2000 Florida Avenue NW., Washington, D.C. 20009.
B. National Rural Electric Cooperative Association, 2000 Florida Avenue NW., Washington, D.C. 20009.
D. (6) $128.

A. Robert A. Jablon, Spiegel & McDiarmid, 2600 Virginia Avenue NW., Washington, D.C. 20037.
B. Fort Pierce Utilities Authority of the City of Fort Pierce, Gainesville-Alachua County Regional Electric Water & Sewer Utilities, Sebring Utilities Commission, Cities of Homestead, Kissimmee, Lakeland, Tallahassee, Fla.
D. (6) $420. E.(9) $80.

A. James K. Jackson, Baker, Hostetler, Frost & Towers, 818 Connecticut Avenue NW., Washington, D.C. 20006.
B. Sun Company, Inc., 100 Matsonford Road, Radnor, Pa. 19087.

A. Mary Jo Jacobi, National Association of Manufacturers, 1776 F Street NW., Washington, D.C. 20006.
B. National Association of Manufacturers, 1776 F Street NW., Washington, D.C. 20006.
D. (6) $258.

A. Walter K. Jaenicke, National Forest Products Association, 1619 Massachusetts Avenue NW., Washington, D.C. 20036.
B. National Forest Products Association, 1619 Massachusetts Avenue NW., Washington, D.C. 20036.
D. (6) $2,775. E. (9) $275.

A. E. A. Jaenke, 1735 I Street NW., Suite 610, Washington, D.C. 20006.
B. E. A. Jaenke & Associates, Inc., 1735 I Street NW., Suite 610, Washington, D.C. 20006.
D. (6) $1,000.

A. E. A. Jaenke & Associates, Inc., 1735 I Street NW., Washington, D.C. 20006.
B. The Cooperative League of the U.S.A., 1828 L Street NW., Washington, D.C. 20036.
D. (6) $500.

A. E. A. Jaenke & Associates, Inc., 1735 I Street NW., Washington, D.C. 20006.
B. Land O'Lakes, Inc., 614 McKinley Place, Minneapolis, Minn. 55413.
D. (6) $500.

A. E. A. Jaenke & Associates, Inc., 1735 I Street NW., Washington, D.C. 20006.
B. Midcontinent Farmers Association, Columbia, Mo. 65201.
D. (6) $500.

A. Evie Jarvis, National Forest Products Association, 1619 Massachusetts Avenue NW., Washington, D.C. 20036.
B. National Forest Products Association, 1619 Massachusetts Avenue NW., Washington, D.C. 20036.
D. (6) $81.

A. T. Destry Jarvis, 529 Tennessee Avenue, Alexandria, Va. 22305.

B. National Parks & Conservation Association, 1701 18th Street NW., Washington, D.C. 20009.
E. (9) $5,020.

A. Joseph A. Jeffrey, American Mining Congress, 1100 Ring Building, Washington, D.C. 20036.
B. American Mining Congress, 1100 Ring Building, Washington, D.C.
D. (6) $274.70.

A. Joseph S. Jenckes, Abbott Laboratories, 1730 M Street NW., Suite 808, Washington, D.C. 20036.
B. Abbott Laboratories, Abbott Park, North Chicago, Ill. 60064.

A. Jennings, Strouss & Salmon, 111 West Monroe, Phoenix, Ariz. 85003.
B. Shamrock Foods Co., 2228 North Black Canyon, Phoenix, Ariz.
D. (6) $90.

A. W. Pat Jennings, Slurry Transport Association, 490 L'Enfant Plaza East SW., Suite 3210, Washington, D.C. 20024.
B. Slurry Transport Association, 490 L'Enfant Plaza East SW., Suite 3210, Washington, D.C. 20024.
D. (6) $2,200.

A. Chris L. Jensen, Florida Petroleum Council, 111 North Gadsden Street, Tallahassee, Fla. 32301.
B. American Petroleum Institute, 2101 L Street NW., Washington, D.C. 20037.
D. (6) $472.50. E. (9) $549.12.

A. A. W. Jessup, 1899 L Street NW., No. 1100, Washington, D.C. 20036.
B. Exxon Corp., 1251 Avenue of the Americas, New York, N.Y. 10020.
E. (9) $209.84.

A. Guy E. Jester, 2150 Kienlen Avenue, St. Louis, Mo. 63136.
B. Association for the Improvement of the Mississippi River, 10 Broadway, St. Louis, Mo 63136.

A. Charles E. Joeckel, Jr., Disabled American Veterans, 807 Maine Avenue SW., Washington, D.C. 20024.
B. Disabled American Veterans 3725 Alexandria Pike, Cold Spring, Ky. 41076.
D. (6) $5,153. E. (9) $60.

A. Walter W. John, Organization of Professional Employees of the U.S. Department of Agriculture, Washington, D.C. 20250.
B. Organization of Professional Employees of the U.S. Department of Agriculture, Room 1414–S Building, Washington, D.C. 20250.
D. (6) $300.

A. Ronald P. Johnsen, Columbia Gas System Service Corp., 1625 I Street NW., Washington, D.C. 20006.
B. Columbia Gas System Service Corp., 20 Montchanin Road, Wilmington, Del. 19807.
D. (6) $175. E. (9) $179.94.

A. Bob Johnson, National Cable Television Association, Inc., 918 16th Street NW., Washington, D.C. 20006.
B. National Cable Television Association, Inc., 918 16th Street NW., Washington, D.C. 20006.
D. (6) $2,234. E. (9) $301.

A. David H. Johnson, Mississippi Petroleum Council, P.O. Box 42, Jackson Miss. 39205.
B. American Petroleum Institute, 2101 L Street NW., Washington, D.C. 20037.

A. Johnson, Hoar & Company, Inc., 1220 19th Street, NW., Suite 201, Washington, D.C. 20036.

B. Allstate Insurance Co., c/o Van Ness, Feldman & Sutcliffe, 1220 19th Street, Suite 500, Washington, D.C. 20036.
D. (6) $10.31. E. (9) $1,137.50.

A. Johnson, Hoar & Company, Inc., 1220 19th Street NW., Suite 201, Washington, D.C. 20036.
B. Committee for Consumers No-Fault c/o Van Ness, Feldman & Sutcliffe, 1220 19th Street NW., Suite 500, Washington, D.C. 20036.
D. (6) $21.63. E. (9) $159.65.

A. Jess Johnson, Jr., Shell Oil Co., 1025 Connecticut Avenue NW., Washington, D.C. 20036.
B. Shell Oil Co., 1 Shell Plaza, P.O. Box 2463, Houston, Tex. 77001.
D. (6) $500.

A. John B. Johnson, Alabama Petroleum Council, 660 Adams Avenue, Suite 188, Montgomery, Ala. 36104.
B. American Petroleum Institute, 2101 L Street NW., Washington, D.C. 20037.
D. (6) $381.25.

A. Rady A. Johnson, 1000 16th Street NW., Washington, D.C. 20036
B. Standard Oil Co. (Indiana), 200 East Randolph Drive, Chicago, Ill. 60601.
D. (6) $1,850. E. (9) $171.87.

A. Reuben L. Johnson, 1012 14th Street NW., Washington, D.C. 20005.
B. The Farmers' Educational and Cooperative Union of America, Denver, Colo. 80251; 1012 14th Street NW., Washington, D.C. 20005.
D. (6) $6,646.18. E. (9) $217.53.

A. Richard W. Johnson, Jr., 110 Maryland Avenue NE., Box 43, Washington, D.C. 20002.
B. Non Commissioned Officers Association of the U.S.A., P.O. Box 2268, San Antonio, Tex. 78298.
D. (6) $2,156.40. E. (9) $291.85

A. Spencer A. Johnson, Paperboard Packaging Council, 1800 K Street NW., Suite 600, Washington, D.C. 20006.
B. Paperboard Packaging Council, 1800 K Street NW., Suite 600, Washington, D.C. 20006.
D. (6) $225.

A. Stanley L. Johnson, 1050 17th Street NW., Washington, D.C. 20036.
B. Texaco Inc., 2000 Westchester Avenue, White Plains, N.Y. 10650.
D. (6) $60.

A. William Johnson, Consumers Power Co., 1150 Connecticut Avenue NW., Washington, D.C. 20036.
B. Consumers Power Co., 212 West Michigan Avenue, Jackson, Mich. 49201.
D. (6) $600.

A. James D. Johnston, 1660 L Street NW., Washington, D.C. 20036.
B. General Motors Corp., 3044 West Grand Boulevard, Detroit, Mich 48202.
D. (6) $3,600. E. (9) $2,665.30.

A. Joint Corporate Committee on Cuban Claims, Lone Star Industries, Inc., P.O. Box 5050, Greenwich, Conn. 06830.
D. (6) $5,500. E. (9) $1,170.

A. Bruce O. Jolly, Jr., Independent Bankers Association of America, 1625 Massachusetts Avenue NW., Washington, D.C. 20036.
B. Independent Bankers Association of America, 1168 South Main, Sauk Centre, Minn. 56378.
E. (9) $50.

A. Charlie W. Jones, Man-Made Fiber Producers Association, Inc., 1150 17th Street NW., Suite 310, Washington, D.C. 20036.

B. Man-Made Fiber Producers Association, Inc., 1150 17th Street NW., Washington, D.C. 20036.
E. (9) $150.

A. Jones, Day, Reavis & Pogue, 1100 Connecticut Avenue NW., Washington, D.C. 20036.
B. Avon Products, Inc., 9 West 57th Street, New York, N.Y. 10019.
D. (6) $309. E. (9) $68.70.

A. Jones, Day, Reavis & Pogue, 1100 Connecticut Avenue NW., Washington, D.C. 20036.
B. Pacific Southwest Airlines, 3225 North Harbor Drive, San Diego, Calif. 92101.

A. James E. Jones, Jr., Alliance of American Insurers, 1776 F Street NW., No. 504, Washington, D.C. 20006.
B. Alliance of American Insurers, 20 North Wacker Drive, Chicago, Ill. 60606.
D. (6) $1,650. E. (9) $190.

A. L. Dan Jones, Independent Petroleum Association of America, 1101 16th Street NW., Washington, D.C. 20036.
B. Independent Petroleum Association of America, 1101 16th Street NW., Washington, D.C. 20036.
E. (9) $29.38.

A. Phillip W. Jones, Railway Progress Institute, 700 North Fairfax Street, Alexandria, Va. 22314.
B. Railway Progress Institute, 700 North Fairfax Street, Alexandria, Va. 22314.
D. (6) $487.50.

A. Randall T. Jones, 1030 15th Street NW., Suite 700, Washington, D.C.
B. National Cotton Council of America, P.O. Box 12285, Memphis, Tenn. 38112.
D (6) $500. E. (9) $9.55.

A. Donald L. Jordan, Alliance of American Insurers, 1776 F Street NW., Washington, D.C. 20006.
B. Alliance of American Insurers, 20 North Wacker Drive, Chicago, Ill. 60606.
D. (6) $1,950. E. (9) $95.

A. James N. Juliana, 1750 New York Avenue NW., Suite 340, Washington, D.C. 20006.
B. Braniff International, Exchange Park, Dallas, Tex. 75235.
D. (6) $398.63.

A. H. Richard Kahler, 1850 K Street NW., Suite 925, Washington, D.C. 20006.
B. Caterpillar Tractor Co., 100 Northeast Adams Street, Peoria, Ill. 61629.
D. (6) $2,500. E. (9) $2,035.44.

A. Ann P. Kahn, National Congress of Parents & Teachers, 9202 Ponce Place, Fairfax, Va. 22030.
B. National Congress of Parents & Teachers, 700 North Rush Street, Chicago, Ill. 60611.
E. (9) $66.91.

A. Kaiser Steel Corp., 900 17th Street NW., No. 1016, Washington, D.C. 20006.
E. (9) $3,842.89.

A. Irving K. Kaler, Kaler, Lefkoff, Pike & Fox, Suite 2101, 100 Colony Square, 1175 Peachtree Street NE., Atlanta, Ga. 30361.
B. Outdoor Advertising Association of America, Inc., 1660 L Street NW., Suite 215–16, Washington, D.C. 20036.
D. (6) $3,250. E. (9) $506.88.

A. Donald J. Kaniewski, Laborers' International Union of N.A., AFL–CIO, 905 16th Street NW., Washington, D.C. 20006.
B. Laborers' International Union of N.A., AFL–CIO, 905 16th Street NW., Washington, D.C. 20006.
D. (6) $4,749.99. E. (9) $140.60.

A. Julius Kaplan, 1218 16th Street NW., Washington, D.C. 20036.
B. Kirkwood, Kaplan, Russin & Vecchi, 1218 16th Street NW., Washington, D.C. 20036.
E. (9) $122.39.

A. Richard T. Kaplar, Motor Vehicle Manufacturers Association, of the United States, Inc., 1909 K Street NW., Washington, D.C. 20006.
B. Motor Vehicle Manufacturers Association of the United States, Inc., 320 New Center Building, Detroit, Mich. 48202.
D. (6) $980. E. (9) $20.

A. Charles W. Karcher, 1780 Guildhall, Cleveland, Ohio 44115.
B. The Standard Oil Co. (Ohio), Midland Building, Cleveland, Ohio 44115.

A. Gene Karpinski, 133 C Street SE., Washington, D.C. 20003.
B. Congress Watch, 133 C Street SE., Washington, D.C. 20003.
D. (6) $3,750.

A. Joseph E. Karth, 475 L'Enfant Plaza SW., Suite 4400, Washington, D.C. 20024.
B. American League for International Security Assistance, Inc., 475 L'Enfant Plaza SW., Suite 4400, Washington, D.C. 20024.
D. (6) $6,000. E. (9) $490.09.

A. Joseph E. Karth, 475 L'Enfant Plaza SW., Suite 4400, Washington, D.C. 20024.
B. General Electric Co., 777 14th Street NW., Washington, D.C. 20005.
D. (6) $3,500. E. (9) $1,645.50.

A. Joseph E. Karth, 475 L'Enfant Plaza SW., Suite 4400, Washington, D.C. 20024.
B. Special Committee for U.S. Exports, 1666 K Street NW., Washington, D.C. 20005.
D. (6) $3,500.

A. Joseph E. Karth, 475 L'Enfant Plaza SW., Suit 4400, Washington, D.C. 20024.
B. TADCO Enterprises, Inc., 1625 I Street NW., Washington, D.C. 20006; Archer Daniels Midland, Decatur, Ill. 62525.
D. (6) $3,500.

A. Candace Sue Kasper, 4525 Sylvester No. 207, Dallas, Tex. 75219.
B. Doctors for the Equal Rights Amendment, P.O. Box 19531, Dallas, Tex. 75219.
E. (9) $211.

A. Anthony R. Katz, Burson-Marsteller, 1800 M Street NW., Washington, D.C. 20036.
B. Burson-Marsteller (for Gould, Inc.), 1800 M Street NW., Suite 750 South, Washington, D.C. 20036.

A. Linda E. Katz, 3350 Huntley Square Drive, T–2, Temple Hills, Md. 20031.
B. Chicago, Rock Island & Pacific Railroad Co., 332 South Michigan Avenue, Chicago, Ill. 60604.
D. (6) $5,000. E. (9) $610.59.

A. Kathryn Kavanagh, 2030 M Street NW., Washington, D.C. 20036.
B. Common Cause, 2030 M Street NW., Washington, D.C. 20036.
D. (6) $3,000.

A. Everett E. Kavanaugh, the Cosmetic, Toiletry & Fragrance Association, Inc., 1133 15th Street NW., Suite 1200, Washington, D.C. 20005.
B. The Cosmetic, Toiletry & Fragrance Association, Inc., 1133 15th Street NW., Suite 1200, Washington, D.C. 20005.
D. (6) $1,000. E. (9) $50.

A. William J. Keating, 725 15th Street NW., Washington, D.C. 20005.
B. National Grain & Feed Association, P.O. Box 28328, Washington, D.C. 20005.
D. (6) $8.50. E. (9) $8.50.

A. Keck, Cushman, Mahin & Cate, 8300 Sears Tower, 233 South Wacker Drive, Chicago, Ill. 60606.
B. Schwinn Bicycle Co., 1856 North Kostner Avenue, Chicago, Ill. 60639.
D. (6) $585. E. (9) $23.48.

A. Howard B. Keck, 555 South Flower Street, Los Angeles, Calif. 90071.
B. The Superior Oil Co., 555 South Flower Street, Los Angeles, Calif. 90071.
E. (9) $300.

A. W. M. Keck, Jr., 1801 Avenue of the Stars, Suite 1110, Los Angeles, Calif. 90067.

A. Patricia Keefer, 2030 M Street NW., Washington, D.C. 20036.
B. Common Cause, 2030 M Street NW., Washington, D.C. 20036.
D. (6) $6,200.01. E. (9) $362.02.

A. David C. Keehn, Air Products & Chemicals, Inc., 1800 K Street NW., Suite 1016, Washington, D.C. 20006.
B. Air Products & Chemicals, Inc., P.O. Box 538, Allentown, Pa. 18105.
D. (6) $12.50.

A. Jefferson D. Keith, 8150 Leesburg Pike, Suite 1100, Vienna, Va. 22180.
B. National Pest Control Association, 8150 Leesburg Pike, Suite 1100, Vienna, Va. 22180.
D. (6) $500.

A. Robert H. Kellen, Calorie Control Council, 64 Perimeter Center East, Atlanta, Ga. 30346.
B. Robert H. Kellen Co. (for Calorie Control Council, 64 Perimeter Center East, Atlanta, Ga. 30346), 64 Perimeter Center East, Atlanta, Ga. 30346.
D. (6) $600.

A. John B. Kelley, 1025 Connecticut Avenue NW., Suite 1200, Washington, D.C. 20036.
B. Avco Co., 1275 King Street, Greenwich, Conn. 06830.
D. (6) $1,500.

A. Paul J. Kelley, 2727 North Central Avenue, Phoenix, Ariz. 85004.
B. U-Haul International, Inc., 2727 North Central Avenue, Phoenix, Ariz. 85004.
D. (6) $2,000. E. (9) $1,719.89.

A. Ty Kelley, National Association of Chain Drug Stores, Inc., 1911 Jefferson Davis Highway, Suite 504, Arlington, Va. 22202.
B. National Association of Chain Drug Stores, Inc., 1911 Jefferson Davis Highway, Suite 504, Arlington, Va. 22202.
D. (6) $1,500.

A. Stephen S. Kellner, 1001 Connecticut Avenue NW., Suite 1120, Washington, D.C. 20036.
B. Chemical Specialties Manufacturers Association, 1001 Connecticut Avenue NW., Suite 1120, Washington, D.C. 20036.
D. (6) $69.44. E. (9) $45.77.

A. Carol A. Kelly, American Textile Manufacturers Institute, Inc., 1101 Connecticut Avenue NW., No. 300, Washington, D.C. 20036.
B. American Textile Manufacturers Institute, 400 South Tryon Street, Suite 2124, Charlotte, N.C. 28285.
D. (6) $3,850. E. (9) $128.76.

A. Harold V. Kelly, 1101 15th Street NW., Washington, D.C. 20005.
B. Republic Steel Corp., Republic Building, Cleveland, Ohio 44101.

A. John T. Kelly, 1155 15th Street NW., Washington, D.C. 20005.

B. Pharmaceutical Manufacturers Association, 1155 15th Street NW., Washington, D.C. 20005.

A. Thomas J. Kenan, 1000 Fidelity Plaza, Oklahoma City, Okla. 73102.
B. Coquina Oil Corp., P.O. Box 2690, Midland, Tex.
E. (9) $516.29.

A. William J. Kendrick, Air Products & Chemicals, Inc., P.O. Box 538, Allentown, Pa. 18105.
B. Air Products & Chemicals, Inc., P.O. Box 538, Allentown, Pa. 18105.

A. James J. Kennedy, Jr., Brotherhood of Railway, Airline & Steamship Clerks, Freight Handlers, Express & Station Employees, 815 16th Street NW., Washington, D.C. 20006.
B. Brotherhood of Railway, Airline & Steamship Clerks, Freight Handlers, Express & Station Employees, 3 Research Place, Rockville, Md. 20850.
D. (6) $7,000. E. (9) $1,610.

A. Robert T. Kenney, 1050 17th Street NW., Washington, D.C. 20036.
B. Texaco, Inc., 2000 Westchester Avenue, White Plains, N.Y. 10650.
D. (6) $60.

A. Jeremiah J. Kennedy, Jr., Union Carbide Corp., 1730 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. Union Carbide Corp., 1730 Pennsylvania Avenue NW., Washington, D.C. 20006.
E. (9) $520.85.

A. Kenyon & Kenyon, Reilly, Carr & Chapin, 59 Maiden Lane, New York, N.Y. 10038.
B. Estate of Bert N. Adams, 1461 West 16th Place, Yuma, Ariz., et al.
E. (9) $5.

A. Gilbert W. Keyes, P.O. Box 3999, Seattle, Wash. 98124.
B. The Boeing Co., P.O. Box 3707, Seattle, Wash.
D. (6) $230.62. E. (9) $170.43.

A. William S. Kies, 1750 K Street NW., Washington, D.C. 20006.
B. Food Marketing Institute, 1750 K Street NW., Washington, D.C. 20006.
D. (6) $500.

A. Richard H. Kimberly, Kimberly-Clark Corp., Executive Suite, 3390 Peachtree Road NE., Atlanta, Ga. 30326.
B. Kimberly-Clark Corp., North Lake Street, Neenah, Wis. 54956.
D. (6) $30.98. E. (9) $222.44.

A. Timothy J. Kincaid, Alston, Miller & Gaines, 1800 M Street NW., Suite 1000, Washington, D.C. 20036.
B. Board of Trade Clearing Corp., 141 West Jackson Boulevard, Chicago, Ill. 60604.
D. (6) $500. E. (9) $15.

A. Charles L. King, American Council of Life Insurance, Inc., 1850 K Street NW., Washington, D.C. 20006.
B. American Council of Life Insurance, Inc., 1850 K Street NW., Washington, D.C. 20006.
D. (6) $125.

A. Dean King, National Rural Letter Carrier's Association, 1750 Pennsylvania Avenue NW., Washington, D.C.
B. National Rural Letter Carriers' Association, 1750 Pennsylvania Avenue NW., Washington, D.C.
D. (6) $7.50. E. (9) $7.50.

A. G. Jack King, Allegheny Airlines, Inc., Washington National Airport, Washington, D.C. 20001.

B. Allegheny Airlines, Inc., Washington National Airport, Washington, D.C. 20001.
D. (6) $1,000. E. (9) $22.

A. Gibson Kingren, Group Health Association of America, Inc., 1717 Massachusetts Avenue NW., No. 701, Washington, D.C. 20036.
B. Group Health Association of America, Inc., 1717 Massachusetts Avenue NW., No. 701, Washington, D.C. 20036.
D. (6) $6,750.

A. John M. Kinn, 934 Jaysmith Street, Great Falls, Va. 22066.
B. The Institute of Electrical and Electronics Engineers, Inc., 2029 K Street NW., Suite 601, Washington, D.C. 20006.
D. (6) $2,500. E. (9) $450.

A. Irvin M. Kipnes, Kipnes & Associates, 7909 Old Falls Road, McLean, Va. 22102.
B. John L. Harmer, 7135 J Bar B Drive, Roseville, Calif. 95678.
D. (6) $20,000. E. (9) $1,727.31.

A. John R. Kirk, Bingham, Dana & Gould, 100 Federal Street, Boston, Mass. 02110.
B. The First National Bank of Boston, 100 Federal Street, Boston, Mass. 02110.
D. (6) $9,200. E. (9) $482.24.

A. Kirkland & Ellis, 1776 K Street NW., Washington, D.C. 20006.
B. Grocery Manufacturers of America, Inc., 1010 Wisconsin Avenue NW., Washington, D.C. 20007.

A. Saul B. Klaman, National Association of Mutual Savings Banks, 200 Park Avenue, New York, N.Y. 10017.
B. National Association of Mutual Savings Banks, 200 Park Avenue, New York, N.Y. 10017.
D. (6) $253.85.

A. Catherine B. Klarfeld, 1775 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. Foley, Lardner, Hollabaugh & Jacobs (for Republic of the Philippines), 1775 Pennsylvania Avenue NW., Washington, D.C. 20006.

A. Richard P. Kleeman, Association of American Publishers, Inc., 1707 L Street NW., No. 480, Washington, D.C. 20036.
B. Association of American Publishers, Inc., 1707 L Street NW., No. 480, Washington, D.C. 20036.

A. Richard A. Kline, 1150 17th Street NW., Suite 609, Washington, D.C. 20036.
B. Council of Active Independent Oil & Gas Producers, 1150 17th Street NW., Suite 609, Washington, D.C. 20036.
D. (6) $5,000.

A. Keith R. Knoblock, American Mining Congress, 1100 Ring Building, Washington, D.C. 20036.
B. American Mining Congress, 1100 Ring Building, Washington, D.C. 20036.
D. (6) $79.95. E. (9) $9.10.

A. John C. Knott, Burlington Northern, Inc., Burlington Northern Station, Casper, Wyo. 82601.
B. Burlington Northern, Inc., 176 East Fifth Street, St. Paul, Minn. 55101.
D. (6) $986.28. E. (9) $850.21.

A. C. Neal Knox, 1600 Rhode Island Avenue NW., Washington, D.C. 20036.
B. National Rifle Association of America, 1600 Rhode Island Avenue NW., Washington, D.C. 20036.
D. (6) $1,375.

A. Philip M. Knox, Jr., 1211 Connecticut Avenue NW., Suite 802, Washington, D.C. 20036.

B. Sears, Roebuck & Co., Sears Tower, Chicago, Ill. 60684.
D. (6) $750.

A. Ruth E. Kobell, 1012 14th Street NW., Washington, D.C. 20005.
B. The Farmers' Educational & Co-Operative Union of America, Denver, Colo. 80251; 1012 14th Street NW., Washington, D.C. 20005.
D. (6) $3,323.12. E. (9) $113.17.

A. Bradley R. Koch, 2000 Florida Avenue NW., Washington, D.C. 20009.
B. National Rural Electric Cooperative Association, 2000 Florida Avenue NW., Washington, D.C. 20009.
D. (6) $130.40.

A. George W. Koch, 1010 Wisconsin Avenue NW., Washington, D.C. 20007.
B. Grocery Manufacturers of America, Inc., 1010 Wisconsin Avenue NW., Washington, D.C. 20007.
D. (6) $120.06.

A. Robert M. Koch, 3251 Old Lee Highway, Suite 501, Fairfax, Va. 22030.
B. National Limestone Institute, Inc., 3251 Old Lee Highway, Suite 501, Fairfax, Va. 22030.
E. (9) $53.16.

A. Tony Korioth, Law Offices of Tony Korioth, P.O. Box 12901, Capital Station, Austin, Tex. 78711.
B. Texas Municipal League Workers' Compensation Joint Insurance Fund, 1020 Southwest Tower, 211 East Seventh Street, Austin, Tex. 78701.
D. (6) $1,440.

A. Horace R. Kornegay, Suite 1200, 1776 K Street NW., Washington, D.C. 20006.
B. The Tobacco Institute, Inc., 1776 K Street NW., Washington, D.C. 20006.
D. (6) $500. E. (9) $150.

A. Kenneth S. Kovack, United Steelworkers of America, 815 16th Street NW., Suite 706, Washington, D.C. 20006.
B. United Steelworkers of America, 5 Gateway Center, Pittsburgh, Pa. 15222.
D. (6) $7,001.80. E. (9) $1,853.86.

A. Michael J. Kowalsky, Cigar Association of America, Inc., 1120 19th Street NW., Washington, D.C. 20036.
B. Cigar Association of America, Inc., 1120 19th Street NW., Washington, D.C. 20036.
D. (6) $10,746.17.

A. Mylio S. Kraja, National Legislative Commission, 1608 K Street NW., Washington, D.C.
B. The American Legion, 700 North Pennsylvania Street, Indianapolis, Ind.
D. (6) $7,881. E. (9) $1,657.93.

A. Stephen W. Kraus, American Council of Life Insurance, Inc., 1850 K Street NW., Washington, D.C. 20006.
B. American Council of Life Insurance, Inc., 1850 K Street NW., Washington, D.C. 20006.
D. (6) $20.

A. Raymond R. Krause, 1700 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. Pfizer, Inc., 235 East 42d Street, New York, N.Y. 10017.
D. (6) $225.

A. Lawrence E. Kreider, Conference of State Bank Supervisors, 1015 18th Street NW., Washington, D.C. 20036.
B. Conference of State Bank Supervisors, 1015 18th Street NW., Washington, D.C. 20036.

A. The Kroger Co., 1014 Vine Street, Cincinnati, Ohio.

E. (9) $2,046.05.

A. L. Wayne Krug, Union Oil Co. of California, 461 South Bolyston Street, Los Angeles, Calif. 90017.
B. Union Oil Co. of California, 461 South Boylston Street, Los Angeles, Calif. 90017.
E. (9) $100.

A. Anthony L. Kucera, The American Waterways Operators, Inc., 1600 Wilson Boulevard, Suite 1101, Arlington, Va. 22209.
B. The American Waterways Operators, Inc., 1600 Wilson Boulevard, Suite 1101, Arlington, Va. 22209.
D. (6) $300.

A. Lloyd R. Kuhn, Aerospace Industries Association, 1725 DeSales Street NW., Washington, D.C. 20036.
B. Aerospace Industries Association of America, Inc., 1725 DeSales Street NW., Washington, D.C. 20036.
D. (6) $10,500. E. (9) $1,377.35.

A. Thomas R. Kuhn, American Nuclear Energy Council, 1750 K Street NW., Suite 300, Washington, D.C.
B. American Nuclear Energy Council, 1750 K Street NW., Suite 300, Washington, D.C.
D. (6) $2,280. E. (9) $162.95.

A. Donald L. Mooers, Kurrus, Dyer, Jacobi & Mooers, 1055 Thomas Jefferson Street NW., Suite 418, Washington, D.C. 20007.
B. Coalition for New York, 230 Park Avenue, New York, N.Y. 10017.
D. (6) $2,000.

A. Donald L. Mooers, Kurrus, Dyer, Jacobi & Mooers, 1055 Thomas Jefferson Street NW., Suite 418, Washington, D.C. 20007.
B. Facts & Comparisons, Inc., 111 West Port Plaza, Suite 423, St. Louis, Mo. 63141.
D. (6) $2,500.

A. Daniel M. Kush, CertainTeed Corp., Suite 610, 1627 K Street NW., Washington, D.C.
B. CertainTeed Co., P.O. Box 860, Valley Forge, Pa. 19482.
D. (6) $300. E. (9) $45.01.

A. Kutak Rock & Huie, 1101 Connecticut Avenue NW., 11th Floor, Washington, D.C. 20036.
B. Citibank, N.A., 399 Park Avenue, New York, N.Y. 10043.
D. (6) $1,500. E. (9) $105.66.

A. Kutak Rock & Huie, 1650 Farnam Street, Omaha, Nebr. 68102.
B. E. F. Hutton & Co., Inc., 1 Battery Park Plaza, New York, N.Y. 10004.
D. (6) $6,225. E. (9) $1,478.13.

A. Labor-Management Maritime Committee, 100 Indiana Avenue NW., Washington, D.C. 20001.
D. (6) $12,690. E. (9) $5,485.

A. Laborers' International Union of North America, AFL–CIO, 905 16th Street NW., Washington, D.C. 20006.
E. (9) $20,992.88.

A. Laclede Steel Co., Equitable Building, St. Louis, Mo. 63102.
E. (9) $2,877.50.

A. Philip A. Lacovara, Hughes Hubbard & Reed, 1660 L Street NW., Washington, D.C. 20036.
B. Bristol-Myers Co., 1155 15th Street NW., Washington, D.C. 20036.
D. (6) $200. E. (9) $4.

A. Philip A. Lacovara, Hughes Hubbard & Reed, 1660 L Street NW., Washington, D.C. 20036.
B. Merck & Co., Inc., P.O. Box 2000, Rahway, N.J. 07065.
D. (6) $200. E. (9) $4.

A. Philip A. Lacovara, Hughes Hubbard & Reed, 1660 L Street NW., Washington, D.C. 20036.
B. Pfizer, Inc., 1700 Pennsylvania Avenue NW., Washington, D.C. 20006.
D. (6) $200. E. (9) $4.

A. Walter B. Laessig, 1101 17th Street NW., Suite 700, Washington, D.C. 20036.
B. National Association of Real Estate Investment Trusts, 1101 17th Street NW., Suite 700, Washington, D.C. 20036.
D. (6) $5,000. E. (9) $16.85.

A. Sarah M. Laird, 1730 M Street NW., Washington, D.C. 20036.
B. The League of Women Voters of the United States, 1730 M Street NW., Washington, D.C. 20036.
D. (6) $952.04. E. (9) $3,832.82.

A. Lake Carriers' Association, 1411 Rockefeller Building, Cleveland, Ohio 44113.

A. A. M. Lampley, United Transportation Union, 400 First Street NW., Suite 704, Washington, D.C. 20001.
B. United Transportation Union, 400 First Street NW., Suite 704, Washington, D.C. 20001.
E. (9) $100.

A. David W. Landsidle, National Association of Manufacturers, 1776 F Street NW., Washington, D.C. 20006.
B. National Association of Manufacturers, 1776 F Street NW., Washington, D.C. 20006.
D. (6) $225.

A. Karl S. Landstrom, 510 North Edison Street, Arlington, Va. 22203.
B. Geothermal Resources International, Inc., 4676 Admiralty Way, Suite 503, Marina del Rey, Calif. 90291.
D. (6) $650.

A. Lane and Edson, South 1800 M Street NW., Suite 400, Washington, D.C. 20036.
B. National Leased Housing Association, 1800 M Street NW., Suite 400 South, Washington, D.C. 20036.
D. (6) $450.

A. James J. LaPenta, Jr., LIUNA, 905 16th Street NW., Washington, D.C. 20006.
B. Laborers' International Union of North America, AFL–CIO, 905 16th Street NW., Washington, D.C. 20006.
D. (6) $2,744.32. E. (9) $42.85.

A. Clifford LaPlante, 955 L'Enfant Plaza North SW., Washington, D.C. 20024.
B. The Boeing Co., P.O. Box 3707, Seattle, Wash. 98124.
D. (6) $950. E. (9) $237.35.

A. Lucille Larkin, National Cable Television Association, Inc., 918 16th Street NW., Washington, D.C. 20006.
B. National Cable Television Association, Inc., 918 16th Street NW., Washington, D.C. 20006.
D. (6) $82.50.

A. Reed E. Larson, 8316 Arlington Boulevard, Suite 600, Fairfax, Va. 22038.
B. National Right to Work Committee, 8316 Arlington Boulevard, Suite 600, Fairfax, Va. 22038.
D. (6) $45.

A. Theodore A. Lattanzio, 1600 Rhode Island Avenue NW., Washington, D.C. 20036.
B. National Rifle Association, 1600 Rhode Island Avenue NW., Washington, D.C. 20036.
D. (6) $100.

A. George H. Lawrence, American Gas Association, 1515 Wilson Boulevard, Arlington, Va. 22209.
B. American Gas Association, 1515 Wilson Boulevard, Arlington, Va. 22209.
D. (6) $200.

A. Kenneth L. Lay, 641 Via Lugano, Winter Park, Fla. 32789.
B. Florida Gas Transmission Co., P.O. Box 44, Winter Park, Fla. 32790.

A. Lead-Zinc Producers Committee, 1101 15th Street NW., Suite 803, Washington, D.C. 20005.
D. (6) $1,110. E. (9) $2,395.62.

A. John I. Le Berre, 900 17th Street NW., Washington, D.C. 20006.
B. Kaiser Aluminum & Chemical Corp., 900 17th Street NW., Washington, D.C. 20005.
D. (6) $400. E. (9) $50.

A. Robert F. Lederer, 230 Southern Building, Washington, D.C. 20005.
B. American Association of Nurserymen, 230 Southern Building, Washington, D.C. 20005.

A. Charles W. Lee, 148 Duddington Place SE., Washington, D.C. 20003.
B. Committee for Full Funding of Education Programs, 148 Duddington Place SE., Washington, D.C.
D. (6) $80.

A. Joseph L. Leitzinger, 900 Fourth Avenue, Seattle, Wash. 98164.
B. Simpson Timber Co., 900 Fourth Avenue, Seattle, Wash. 98164.
D. (6) $925. E. (9) $378.56.

A. Gilbert LeKander, 1629 K Street NW., No. 801, Washington, D.C. 20006.
B. Montana Power Co., 40 East Broadway, Butte, Mont. 59701; Washington Water Power Co., Box 3727, Spokane, Wash. 92220.
D. (6) $300.

A. Lynette B. Lenard, 1800 M Street NW., Suite 700S, Washington, D.C. 20036.
B. The Dow Chemical Co., Midland, Mich. 48640.
D. (6) $1,000. E. (9) $236.25.

A. Earl T. Leonard, Jr., The Coca-Cola Co., P.O. Drawer 1734, Atlanta, Ga. 30301.
B. The Coca-Cola Co., P.O. Drawer 1734, Atlanta, Ga 30301.
D. (6) $275. E. (9) $490.87.

A. Kaye Conniff Leonard, 918 16th Street NW., Suite 402, Washington, D.C. 20006.
B. Southern Furniture Manufacturers Association, 918 16th Street NW., Suite 402, Washington, D.C. 20006.
D. (6) $4,875.

A. Lloyd Leonard, 1730 M Street NW., Washington, D.C. 20036.
B. The League of Women Voters of the United States, 1730 M Street NW., Washington, D.C. 20036.
D. (6) $697.84.

A. Will E. Leonard, 900 17th Street NW., Suite 714, Washington, D.C. 20006.
B. Universal Leaf Tobacco Co., Inc., Hamilton Street at Broad, Richmond, Va. 23260.
D. (6) $1,150.

A. Steven H. Lesnik, Lumbermens Mutual Casualty Co., Long Grove, Ill. 60049.
B. Lumbermens Mutual Casualty Co., Long Grove, Ill. 60049.
D. (6) $300.

A. Gilbert B. Lessenco, Wilner & Scheiner, 2021 L Street NW., Washington, D.C. 20036.

B. General Mills, Inc., 9200 Wayzata Boulevard, Minneapolis, Minn. 55440.
D. (6) $150.

A. Leva, Hawes, Symington, Martin & Oppenheimer, 815 Connecticut Avenue NW., Washington, D.C. 20006.
B. Consolidated Edison Co. of New York, Inc., 4 Irving Place, New York, N.Y. 10003.
D. (6) $156.25.

A. Leva, Hawes, Symington, Martin & Oppenheimer, 815 Connecticut Avenue NW., Washington, D.C. 20006.
B. Cooperative for American Relief Everywhere, Inc., 660 First Avenue, New York, N.Y. 10016.
D. (6) $225.

A. Leva, Hawes, Symington, Martin & Oppenheimer, 815 Connecticut Avenue NW., Washington, D.C. 20006.
B. Sharon Mihnovets, 2190 Pine Spring Road, Falls Church, Va.
E. (9) $52.51.

A. Leva, Hawes, Symington, Martin & Oppenheimer, 815 Connecticut Avenue NW., Washington, D.C. 20006.
B. National Association for Hospital Development, 1700 K Street, NW., Suite 605, Washington, D.C. 20006.

A. Leva, Hawes, Symington Martin & Oppenheimer, 815 Connecticut Avenue NW., Washington, D.C. 20006.
B. National Beer Wholesalers' Association of America, 5205 Leesburg Pike, Falls Church, Va. 22041.
E. (9) $277.30.

A. Leva, Hawes, Symington, Martin & Oppenheimer, 815 Connecticut Avenue NW., Washington, D.C. 20006.
B. National Council of Community Hospitals, 815 Connecticut Avenue NW., Washington, D.C. 20006.

A. Leva, Hawes, Symington, Martin & Oppenheimer, 815 Connecticut Avenue NW., Washington, D.C. 20006.
B. National Franchise Association Coalition, P.O. Box 366, Fox Lake, Ill. 60020.
D. (6) $500. E. (9) $441.94.

A. Harry LeVine, Jr., General Electric Co., 777 14th Street NW., Washington, D.C.
B. General Electric Co., 3135 Easton Turnpike, Fairfield, Conn.
D. (6) $260.

A. Lewis, Rice, Tucker, Allen and Chubb, 611 Olive Street, Suite 1400, St. Louis, Mo. 63101.
B. Laclede Steel Co., Equitable Building, St. Louis, Mo. 63102.
D. (6) $2,500. E. (9) $382.50.

A. Lewis, Rice, Tucker, Allen & Chubb, 611 Olive Street, Suite 1400, St. Louis, Mo. 63101.
B. The St. Louis Mercantile Library Association, 510 Locust Street, St. Louis, Mo. 63188.
D. (6) $1,702. E. (9) $686.26.

A. Robert G. Lewis, 1012 14th Street NW., Washington, D.C. 20005.
B. The Farmers' Educational and Co-Operative Union of America, Denver, Colo. 80251; 1012 14th Street NW., Washington, D.C. 20005.
D. (6) $1,874.04. E. (9) $59.74.

A. Stuart A. Lewis, 1800 M Street NW., Suite 1010, Washington, D.C. 20036.
B. Association of Reserve City Bankers, 1800 M Street NW., Suite 1010, Washington, D.C. 20036.
D. (6) $200.

A. Susan Paris Lewis, 2030 M Street NW., Washington, D.C. 20036.
B. Common Cause, 2030 M Street NW., Washington, D.C. 20036.
D. (6) $1,500.

A. Walter R. Lewis, Jr., National Association of Manufacturers, 704 Lisburn Road, Camp Hill, Pa. 17011.
B. National Association of Manufacturers, 1776 F Street NW., Washington, D.C. 20006.
D. (6) $212.50.

A. Ronald L. Leymeister, American Bankers Association, 1120 Connecticut Avenue NW., Washington, D.C. 20036.
B. American Bankers Association, 1120 Connecticut Avenue NW., Washington, D.C. 20036.
D. (6) $500. E. (9) $108.45.

A. William C. Lienesch, 238 10th Street SE., Washington, D.C. 20003.
B. National Parks & Conservation Association, 1701 18th Street NW., Washington, D.C. 20009.
D. (6) $1,443.97. E. (9) $51.78.

A. Russell B. Light, 955 L'Enfant Plaza North SW., Washington, D.C. 20024.
B. The Boeing Co., P.O. Box 3707, Seattle, Wash. 98124.
D. (6) $704.13. E. (9) $601.25.

A. Edward J. Lincoln, 1000 Connecticut Avenue NW., Washington, D.C. 20026.
B. United States-Japan Trade Council, 1000 Connecticut Avenue NW., Washington, D.C. 20036.
D. (6) $16.

A. Charles W. Linderman, Slurry Transport Association, 490 L'Enfant Plaza East SW., Suite 3210, Washington, D.C. 20024.
B. Slurry Transport Association, 490 L'Enfant Plaza East SW., Suite 3210, Washington, D.C. 20024.
D. (6) $250.

A. Zel E. Lipsen, 1150 Connecticut Avenue, Suite 1109, Washington, D.C. 20036.
B. Westinghouse Electric Corp., 1801 K Street NW., Washington, D.C. 20006.
E. (9) $600.

A. Andrew Litsky, National Cable Television Association, Inc., 918 16th Street NW., Washington, D.C. 20006.
B. National Cable Television Association, Inc., 918 16th Street NW., Washington, D.C. 20006.
D. (6) $1,169.

A. E. F. Livaudais, Jr., 1025 Connecticut Avenue NW., Washington, D.C. 20036.
B. Atlantic Richfield Co., 515 South Flower Street, Los Angeles, Calif. 90071.
D. (6) $360. E. (9) $75.

A. Livestock Marketing Association, 4900 Oak Street, Kansas City, Mo. 64112.
E. (9) $8,140.53.

A. Frank M. Lobach, The Reuben H. Donnelley Corp., 2000 Clearwater Drive, Oak Brook, Ill. 60521.
B. The Reuben H. Donnelley Corp., 2000 Clearwater Drive, Oak Brook, Ill. 60521.

A. Lobel, Novins & Lamont, 1523 L Street NW., Washington, D.C. 20005.
B. National Association of Credit Management, 475 Park Avenue, New York, N.Y.
D. (6) $6,921.03. E. (9) $270.92.

A. Harold D. Loden, American Seed Trade Association, 1030 15th Street NW., Suite 964, Washington, D.C. 20005.
B. American Seed Trade Association, 1030 15th Street NW., Suite 964, Washington, D.C. 20005.
D. (6) $2,000.

A. Robert H. Loeffler, 1050 17th Street NW., Suite 701, Washington, D.C. 20036.
B. State of Alaska, Department of Natural Resources, Pouch M, State Capitol Building, Juneau, Alaska 99811.
D. (6) $1,520. E. (9) $9.50.

A. Loews Corp. 666 Fifth Avenue, New York, N.Y. 10019.
E. (9) $3,000.

A. Nils A. Lofgren, Motor Vehicle Manufacturers Association, of the U.S., Inc., 1909 K Street NW., Washington, D.C. 20006.
B. Motor Vehicle Manufacturers Association, of the U.S., Inc., 320 New Center Building, Detroit, Mich. 48202.
D. (6) $150. E. (9) $25.

A. Law Offices of Sheldon I. London, 1725 DeSales Street NW., Suite 401, Washington, D.C. 20036.
B. American Hardware Manufacturers Association, 117 East Palatine Road, Palatine, Ill. 60067.
D. (6) $1,500.

A. Robert W. Long, American Mining Congress, 1100 Ring Building, Washington, D.C.
B. American Mining Congress, 1100 Ring Building, Washington, D.C.
D. (6) $57.14.

A. Loomis, Owen, Fellman & Howe, 2020 K Street NW., Washington, D.C. 20006.
B. Association of Bituminous Contractors, 2020 K Street NW., Washington, D.C. 20006.

A. Loomis, Owen, Fellman & Howe, 2020 K Street NW., Washington, D.C. 20006.
B. Classroom Publisher Association, 2020 K Street NW., Washington, D.C. 20006.

A. Loomis, Owen, Fellman & Howe, 2020 K Street NW., Washington, D.C. 20006.
B. Industrial Diamond Association, 59 East Main Street, Moorestown, N.J. 08057.

A. Loomis, Owen, Fellman & Howe, 2020 K Street NW., Washington, D.C. 20006.
B. Linen Supply Association of America, 1250 East Hallendale Beach Boulevard, Hallandale, Fla. 33009.

A. Loomis, Owen, Fellman & Howe, 2020 K Street NW., Washington, D.C. 20006.
B. National Association of Casualty & Surety Agents, 5225 Wisconsin Avenue, NW., Washington, D.C. 20016.

A. Loomis, Owen, Fellman & Howe, 2020 K Street NW., Washington, D.C. 20006.
B. National Association of Manufacturers, 1776 F Street NW., Washington, D.C. 20006.

A. Loomis, Owen, Fellman & Howe, 2020 K Street NW., Washington, D.C. 20006.
B. Optical Manufacturers Association, 1901 North Ft. Myer Drive, Arlington, Va. 22209.

A. Christopher LoPiano, United Mine Workers of America, 900 15th Street, NW., Washington, D.C. 20005.
B. United Mine Workers of America, 900 15th Street NW., Washington, D.C. 20005.
D. (6) $1,097.92. E. (9) $17.60.

A. Edward J. Lord, National Legislative Commission, 1608 K Street NW., Washington, D.C.
B. The American Legion, 700 North Pennsylvania Street, Indianapolis, Ind.
D. (6) $5,043. E. (9) $496.45.

A. Philip J. Loree, 17 Battery Place North, New York, N.Y. 10004.
B. Federation of American Controlled Shipping, 17 Battery Place North, New York, N.Y. 10004.
D. (6) $200.

A. Judith A. Lorenson, 1960 Lake Clay Drive, Chesterfield, Mo. 63017.
B. Chromalloy American Corp., 120 South Central Avenue, St. Louis, Mo. 63105.
D. (6) $7,500. E. (9) $301.92.

A. Robert E. Losch, McNutt, Dudley Easter-Wood & Losch, 910 17th Street NW., Washington, D.C. 20006.
B. American Dredging Co., P.O. Box 328, Fort Washington, Pa. 19034.
D. (6) $24,500. E. (9) $2,104.85.

A. James F. Lovett, 1801 K Street NW., Washington, D.C. 20006.
B. Westinghouse Electric Corp., Westinghouse Building, Gateway Center, Pittsburgh, Pa. 15222.
D. (6) $1,000. E. (9) $200.

A. Robert C. Lower, 1200 Citizens & Southern National Bank Building, 35 Broad Street, Atlanta, Ga. 30303.
B. Board of Trade Clearing Corp., 141 West Jackson Boulevard, Chicago, Ill. 60604.
D. (6) $270.

A. Robert C. Lower, 1200 Citizens & Southern National Bank Building, 35 Broad Street, Atlanta, Ga. 30303.
B. Rosenthal & Co., 141 West Jackson Boulevard, Chicago, Ill. 60604.
D. (6) $405.

A. Gerald M. Lowrie, 1120 Connecticut Avenue NW., Washington, D.C. 20036.
B. American Bankers Association, 1120 Connecticut Avenue NW., Washington, D.C. 20036.
D. (6) $2,000.

A. Lucas, Friedman & Mann, 1028 Connecticut Avenue NW., Washington, D.C. 20036.
B. Coushatta Tribe of Louisiana, c/o Ernest Sickey, Elton, La. 70532.

A. Lucas, Friedman & Mann, 1028 Connecticut Avenue NW., Washington, D.C. 20036.
B. McNamara Construction of Manitoba, Ltd., 255 Consumers Road, Willowdale, Ontario.

A. Lucas, Friedman & Mann, 1028 Connecticut Avenue NW., Washington, D.C. 20063.
B. Republic of the Philippines.
E. (9) $30.

A. John S. Lucas, Jr., National Association of Manufacturers, 1776 F Street NW., Washington, D.C. 20006.
B. National Association of Manufacturers, 1776 F Street NW., Washington, D.C. 20006.
D. (6) $335.

A. William F. Ludlam, Sr., P.O. Box 5282, Virginia Beach, Va 23455.
B. ARBA Licensees Association, P.O. Box 10, Cocoa Beach, Fla. 32931.
E. (9) $447.

A. Lumbermens Mutual Casualty Co., Long Grove, Ill. 60049.
E. (9) $3,146.

A. Milton F. Lunch, National Society of Professional Engineers, 2029 K Street NW., Washington, D.C. 20006.
B. National Society of Professional Engineers, 2029 K Street NW., Washington, D.C. 20006.
D. (6) $1,000.

A. Christian J. Lund, 1125 15th Street NW., Washington, D.C. 20005.
B. United Technologies Corp., United Technologies Building, Hartford, Conn. 06101; 1125 15th Street NW., Washington, D.C. 20005.
D. (6) $10,000. E. (9) $24.60

A. Lund Levin & O'Brien, 1625 I Street NW., Washington, D.C. 20006.
B. Federation of American Controlled Shipping, 17 Battery Place North, New York, N.Y. 10004.
D. (6) $300. E. (9) $12.

A. Lund Levin & O'Brien, 1625 I Street NW., Washington, D.C. 20006.
B. National Product Liability Council, Box 11111, Cincinnati, Ohio 45211.
E. (9) $61.44.

A. Lund Levin & O'Brien, 1625 I Street NW., Washington, D.C. 20006.
B. Pennsylvania Power & Light Co., Two North 9th Street, Allentown, Pa. 18101.
D. (6) $750. E. (9) $105.65.

A. Lund Levin & O'Brien, 1625 I Street NW., Washington, D.C. 20006.
B. Shanghai Power Co., 100 West Tenth Street, Wilmington, Del. 19801.
D. (6) $120.

A. James H. Lynch, Jr., American Federation of Government Employees, 1325 Massachusetts Avenue NW., Washington, D.C. 20005.
B. American Federation of Government Employees, 1325 Massachusetts Avenue NW., Washington, D.C. 20005.

A. Richard Lyng, American Meat Institute, P.O. Box 3556, Washington, D.C. 20007.
B. American Meat Institute, P.O. Box 3556, Washington, D.C. 20007; 1600 Wilson Boulevard, Arlington, Va.
D. (6) $500.

A. Timothy MacCarthy, Motor Vehicle Manufacturers Association of the United States, Inc., 1909 K Street NW., Washington, D.C. 20006.
B. Motor Vehicle Manufacturers Association of the United States, Inc., 320 New Center Building, Detroit, Mich. 48202.
D. (6) $180.

A. Russell MacCleery, National Tire Dealers & Retreaders Association, 1343 L Street NW., Washington, D.C. 20005.
B. National Tire Dealers & Retreaders Association, Inc., 1343 L Street NW., Washington, D.C. 20005.
D. (6) $400. E. (9) $2.50.

A. Alan G. Macdonald, 1025 Connecticut Avenue NW., Suite 700, Washington, D.C. 20036.
B. Gulf Oil Corp., P.O. Box 1166, Pittsburgh, Pa. 15230.
D. (6) $3,600.

A. Kathleen Clifford MacDonough, Suite 750 South, 1800 M Street NW., Washington, D.C. 20036.
B. Burson-Marsteller (for Technicare Corporation, Solon, Ohio), 1800 M Street NW., Suite 750 South, Washington, D.C. 20036.

A. A. Everette MacIntyre, Room 710, 1900 L Street NW., Washington, D.C. 20036.
B. Grocery Manufacturers of America, Inc., 1010 Wisconsin Avenue NW., Suite 800, Washington, D.C. 20007.
D. (6) $1,825.

A. James E. Mack, National Confectioners Association, 5101 Wisconsin Avenue, NW., Suite 506, Washington, D.C. 20016.
B. National Confectioners Association, 36 South Wabash Avenue, Chicago, Ill. 60603.
D. (6) $17,000. E. (9) $2,250.67.

A. James H. Mack, 7901 Westpark Drive, McLean, Va. 22102.
B. National Machine Tool Builders' Association, 7901 Westpark Drive, McLean, Va. 22102.
D. (6) $822. E. (9) $500.

A. Duncan H. Mackenzie, 3019 Goat Hill Road, Bel Air, Md. 21014.
D. (6) $210. E. (9) $227.60.

A. John P. Mackey, Ad Hoc Committee in Defense of Life, Inc., 810 National Press Building, Washington, D.C. 20045.
B. Ad Hoc Committee in Defense of Life, Inc., 150 East 35th Street, New York, N.Y. 10016.
D. (6) $4,327.50 E. (9) $8,249.23.

A. Thomas J. Mader, 2030 M Street NW., Washington, D.C. 20036.
B. Common Cause, 2030 M Street NW., Washington, D.C. 20036.
D. (6) $4,650. E. (9) $26.

A. James B. Magnor, National Airlines, Inc., 1025 Connecticut Avenue NW., Washington, D.C. 20036.
B. National Airlines, Inc., P.O. Box 592055 AMF, Miami, Fla.
D. (6) $30.

A. John R. Maguire, 10612 Runaway Lane, Great Falls, Va. 22066.
B. Manufactured Housing Institute, 1745 Jeff Davis Highway, Arlington, Va. 22202.
D. (6) $500.

A. W. Terry Maguire, National Newspaper Association, 1627 K Street NW., Washington, D.C. 20006.
B. National Newspaper Association, 1627 K Street NW., Suite 400, Washington, D.C. 20006.
D. (6) $1,800. E. (9) $1,624.

A. John F. Mahoney, American Medical Association, 1776 K Street NW., Washington, D.C. 20006.
B. American Medical Association, 535 North Dearborn Street, Chicago, Ill. 60610.
D. (6) $3,610.44. E. (9) $567.35.

A. Andre Maisonpierre, Alliance of American Insurers, 1776 F Street NW., Washington, D.C. 20006.
B. Alliance of American Insurers, 20 North Wacker Drive, Chicago, Ill. 60606.
D. (6) $950. E. (9) $210.

A. J. Wilson Malloy, Jr., Eastman Chemical Products, Inc., 500 12th Street SW., Washington, D.C. 20024.
B. Eastman Chemical Products, Inc., P.O. Box 431, Kingsport, Tenn. 37662.
D. (6) $570. E. (9) $21.

A. Dennis Maloney, Wien Air Alaska, Inc 4100 International Airport Road, Anchorage, Alaska 99502.
D. (6) $600. E. (9) $694.93.

A. The Management Group, 1211 Connecticut Avenue NW., Suite 403, Washington, D.C. 20036.
B. U.S. Industrial Council, P.O. Box 2686, Nashville, Tenn. 37219.
D. (6) $1,500.

A. Carter Manasco, 5932 Chesterbrook Road, McLean, Va. 22101.
B. National Coal Association, 1130 17th Street NW., Washington, D.C. 20036.
D. (6) $9,000. E. (9) $97.25.

A. Mike Manatos, 1801 K Street NW., Suite 230, Washington, D.C. 20006.

B. The Procter & Gamble Manufacturing Co., 301 East Sixth Street, Cincinnati, Ohio 45202.
D. (6) $30.

A. Man-Made Fiber Producers Association, Inc., 1150 17th Street NW., Washington, D.C. 20036.
E. (9) $650.

A. Forbes Mann, 1155 15th Street NW., No. 1004, Washington, D.C. 20005.
B. The LTV Corp., 1525 Elm Street, Dallas, Tex. 75222.
D. (6) $2,000. E. (9) $550.

A. James H. Mann, 1028 Connecticut Avenue NW., Washington, D.C. 20036.
B. Lucas, Friedman & Mann (for Republic of the Philippines), 1028 Connecticut Avenue NW., Washington, D.C. 20036.

A. Manufactured Housing Institute, 1745 Jeff Davis Highway, Arlington, Va. 22202.
D. (6) $8,350. E. (9) $8,350.

A. Manufacturing Chemists Association, Inc., 1825 Connecticut Avenue NW., Washington, D.C. 20009.
D. (6) $5,000. E. (9) $3,000.

A. Dallace E. Marable, NAM, 1776 F Street NW., Washington, D.C. 20006.
B. National Association of Manufacturers, 1776 F Street NW., Washington, D.C. 20006.
D. (6) $1,050. E. (9) $18.60.

A. March for Life, Inc., P.O. Box 2950, Washington, D.C. 20013.
D. (6) $4,568.61. E (9) $6,721.96.

A. Charles T. Marck, 1800 M Street NW., Suite 700 South, Washington, D.C. 20036.
B. The Dow Chemical Co., Midland, Mich. 48640.
D. (6) $1,000. E. (9) $250.

A. R. V. Mariani, Brotherhood of Railway, Airline & Steamship Clerks, Freight Handlers, Express & Station Employes, 815 16th Street NW., Washington, D.C. 20006.
B. Brotherhood of Railway, Airline & Steamship Clerks, Freight Handlers, Express & Station Employees, 3 Research Place, Rockville, Md. 20850.
D. (6) $1,050. E (9) $1,590.

A. David J. Markey, 1771 N Street NW., Washington, D.C. 20036.
B. National Association of Broadcasters, 1771 N Street NW., Washington, D.C. 20036.
D. (6) $2,000. E. (9) $295.19.

A. Lawrence D. Markley, P.O. Box 3518, Anchorage, Alaska 99501.
B. Chugach Electric Association, Inc., P.O. Box 3518, Anchorage, Alaska 99501.
D. (6) $1,468.08. E. (9) $2,410.37.

A. Ralph J. Marlatt, Professional Insurance Agents, 400 North Washington Street, Alexandria, Va. 22314.
B. Professional Insurance Agents, 400 North Washington Street, Alexandria, Va. 22314.
D. (6) $100. E. (9) $450.

A. John C. Marlin, 309 West Nevada, Urbana, Ill. 61801.
B. Coalition on American Rivers, P.O. Box 2667, Station A, Champaign, Ill. 61820.
D. (6) $2,505.

A. Jack D. Maroney, 1300 American Bank Tower, Austin, Tex. 78701.
B. Texas Medical Association, 1801 North Lamar Boulevard, Austin, Tex. 78701.
D. (6) $250. E. (9) $80.

A. Marshall & Ilsley Bank, 770 North Water Street, Milwaukee, Wis. 53202.

A. J. Paull Marshall, Association of American Railroads, 40 Ivy Street SE., Washington, D.C. 20003.
B. Association of American Railroads, 1920 L Street NW., Washington, D.C. 20036.
D. (6) $765. E. (9) $356.79.

A. David O. Martin, Kimberly-Clark Corp., North Lake Street, Neenah, Wis. 54956.
B. Kimberly-Clark Corp., North Lake Street, Neenah, Wis. 54956.
D. (6) $150. E. (9) $335.

A. Katherine E. Martin, Association of American Railroads, 40 Ivy Street SE, Washington, D.C. 20003.
B. Association of American Railroads, 1920 L Street NW., Washington, D.C. 20036.
D. (6) $238.49. E. (9) $90.84.

A. Thomas A. Martin, 2101 L Street NW., Washington, D.C. 20037.
B. American Petroleum Institute, 2101 L Street NW., Washington, D.C. 20037.
D. (6) $650.

A. Joseph J. Martyak, American Gas Association, 1515 Wilson Boulevard, Arlington, Va. 22209.
B. American Gas Association, 1515 Wilson Boulevard, Arlington, Va. 22209.
D. (6) $2,800. E. (9) $295.41.

A. Maryland Savings-Share Insurance Corp., 901 North Howard Street, Baltimore, Md. 21201.
E. (9) $92.50.

A. Mike M. Masaoka, Association on Japanese Textile Imports, Inc., Suite 520, The Farragut Building, 900 17th Street NW., Washington, D.C. 20006.
B. Association on Japanese Textile Imports, Inc., 551 Fifth Avenue, New York, N.Y. 10017.
D. (6) $250.

A. Mike M. Masaoka, Masaoka-Ishikawa & Associates, Inc., Suite 520, 900 17th Street NW., Washington, D.C. 20006.
B. West Mexico Vegetable Distributors Association, P.O. Box 848, Nogales, Ariz. 85621.
D. (6) $500.

A. Paul J. Mason, American Council of Life Insurance, Inc., 1850 K Street NW., Washington, D.C. 20006.
B. American Council of Life Insurance, Inc., 1850 K Street NW., Washington, D.C. 20006.

A. Cliff Masa III, National Association of Manufacturers, 1776 F Street NW., Washington, D.C. 20006.
B. National Association of Manufacturers, 1776 F Street NW., Washington, D.C. 20006.
D. (6) $250.

A. William F. Massmann, Dr. Pepper Co., P.O. Box 225086, Dallas, Tex. 75265.
B. Dr. Pepper Co., P.O. Box 225086, Dallas, Tex. 75265.
D. (6) $140. E. (9) $225.

A. Robert A. Matthews, Railway Progress Institute, 700 North Fairfax Street, Alexandria, Va. 22314.
B. Railway Progress Institute, 700 North Fairfax Street, Alexandria, Va. 22314.
D. (6) $487.50.

A. Joanne E. Mattiace, 1211 Connecticut Avenue NW., No. 802, Washington, D.C. 20036.
B. Sears, Roebuck & Co., Sears Tower, Chicago, Ill. 60684.
D. (6) $187.50. E. (9) $30.

A. Robert R. Mattson, Standard Oil Co. (Indiana), 200 East Randolph Drive, Mail Code 6402, Chicago, Ill. 60601.
B. Standard Oil Co., 200 East Randolph Drive, Chicago, Ill. 60601.
D. (6) $300. E. (9) $284.

A. Albert E. May, Council of American-Flag Ship Operators, 1625 K Street NW., Washington, D.C. 20006.
B. Council of American-Flag Ship Operators, 1625 K Street NW., Washington, D.C. 20006.
D. (6) $463. E. (9) $8.75.

A. James C. May, 1010 Wisconsin Avenue NW., No. 800, Washington, D.C. 20007.
B. Grocery Manufacturers of America, Inc., 1010 Wisconsin Avenue NW., No. 800, Washington, D.C. 20007.

A. Harold R. Mayberry, Jr., Chamber of Commerce of the United States, 1615 H Street NW., Washington, D.C. 20062.
B. Chamber of Commerce of the United States, 1615 H Street NW., Washington, D.C.

A. Mayer, Brown & Platt, 888 17th Street NW., Washington, D.C.
B. Aerospace Industries Association of America, Inc., 1725 De Sales Street NW., Washington, D.C. 20036.

A. Mayer, Brown & Platt, 888 17th Street NW., Suite 400, Washington, D.C. 20006.
B. Brunswick Corp., 1 Brunswick Plaza, Skokie, Ill. 60076.

A. Mayer, Brown & Platt, 888 17th Street NW., Washington, D.C. 20006.
B. The ERISA Industry Committee, Suite 1201, 1750 Pennsylvania Avenue NW., Washington, D.C. 20006.
D. (6) $115.

A. Mays, Valentine, Davenport & Moore, 1101 Connecticut Avenue NW., No. 1200, Washington, D.C. 20036.
B. Grocery Manufacturers of America, 1010 Wisconsin Avenue NW., Washington, D.C. 20007.

A. Mays, Valentine, Davenport & Moore, 1101 Connecticut Avenue NW., No. 1200, Washington, D.C. 20036.
B. Morrison-Knudsen, 1 Morrison-Knudsen Plaza, Boise, Idaho 83729.

A. H. Wesley McAden, 1707 L Street NW., Suite 650, Washington, D.C. 20036.
B. California Planting Cotton Seed Distributors, P.O. Box 1281, Bakersfield, Calif. 93302.
D. (6) $1,500. E. (9) $860.

A. H. Wesley McAden, 1707 L Street NW., Suite 650, Washington, D.C. 20036.
B. J. G. Boswell Co., 333 South Hope Street, Los Angeles, Calif. 90017.
D. (6) $2,100. E. (9) $1,313.

A. H. Wesley McAden, 1707 L Street NW., Suite 650, Washington, D.C. 20036.
B. Salyer Land Co., P.O. Box 488, Corcoran, Calif. 93212.
D. (6) $2,100 E. (9) $1,313.

A. Richard F. McAdoo, 1901 L Street NW., Suite 702, Washington, D.C. 20036.
B. Security Pacific National Bank, 333 South Hope Street, Los Angeles, Calif. 90071.
D. (6) $1,808. E. (9) $337.54.

A. F. Stephen McArthur, 444 North Capitol Street NW., No. 412, Washington, D.C. 20001.
B. American Israel Public Affairs Committee, 444 North Capitol Street NW., No. 412, Washington, D.C. 20001.
D. (6) $4,500.

A. William J. McAuliffe, Jr., American Land Title Association, 1828 L Street NW., Washington, D.C. 20036.
B. American Land Title Association, 1828 L Street NW., Washington, D.C. 20036.
D. (6) $575.

A. Ann McBride, 2030 M Street NW., Washington, D.C. 20036.
B. Common Cause, 2030 M Street NW., Washington, D.C. 20036.
D. (6) $6,750.

A. John A. McCahill, 2033 M Street NW., Suite 701, Washington, D.C. 20036.
B. U.S. Olympic Committee, P.O. Box 4000, Colorado Springs, Colo 80930.
D. (6) $3,750. E. (9) $55.95.

A. William C. McCamant, 1725 K Street NW., Washington, D.C. 20006.
D. (6) $300.

A. John A. McCart, Public Employee Department, AFL–CIO, 815 16th Street NW., Washington, D.C. 20006.
B. Public Employee Department, AFL–CIO, 815 16th Street NW., Washington, D.C. 20006.
D. (6) $2,038.74.

A. McClure & Trotter, 1100 Connecticut Avenue NW., Suite 600, Washington, D.C. 20036.
B. Allied Capital Corp., 1625 I Street NW., Suite 603, Washington, D.C. 20006.
E. (9) $8.01.

A. McClure & Trotter, 1100 Connecticut Avenue NW., Suite 600, Washington, D.C. 20036.
B. Avon Products, Inc., 9 West 57th Street, New York, N.Y. 10019.
E. (9) $56.96.

A. McClure & Trotter, 1100 Connecticut Avenue NW., Suite 600, Washington, D.C. 20036.
B. Cities Service Co., Box 300, Tulsa, Okla. 74102.
E. (9) $129.23.

A. McClure & Trotter, 1100 Connecticut Avenue NW., Suite 600, Washington, D.C. 20036.
B. The Coca-Cola Co., P.O. Box 1734, Atlanta, Ga. 30301.
E. (9) $50.35.

A. McClure & Trotter, 1100 Connecticut Avenue NW., Suite 600, Washington, D.C. 20036.
B. Gulf & Western Industries, Inc., 1 Gulf & Western Plaza, New York, N.Y. 10023.
E. (9) $149.41.

A. McClure & Trotter, 1100 Connecticut Avenue NW., Suite 600, Washington, D.C. 20036.
B. Mobil Oil Corp., 150 East 42d Street, New York, N.Y. 10017.
E. (9) $319.81.

A. McClure & Trotter, 1100 Connecticut Avenue NW., Suite 600, Washington, D.C. 20036.
B. Tidewater Marine Service, Inc., 3308 Tulane Avenue, New Orleans, La.

A. McClure & Trotter, 1100 Connecticut Avenue NW., Suite 600, Washington, D.C. 20036.
B. United Artists Corp., 729 7th Avenue, New York, N.Y. 10019.

A. Joel C. McConnell, Jr., Independent Bankers Association of America, 1625 Massachusetts Avenue NW., Washington, D.C. 20036.
B. Independent Bankers Association of America, 1168 South Main, Sauk Centre, Minn. 56378.
E. (9) $1,000.

A. Bruce A. McCrodden, Suite 650, 1050 17th Street NW., Washington, D.C. 20036.
B. The Standard Oil Co. (Ohio), Midland Building, Cleveland, Ohio 44115.
D. (6) $600.

A. D. McCurrach, 1500 Wilson Boulevard, No. 609, Arlington, Va. 22209.
B. National School Supply & Equipment Association, 1500 Wilson Boulevard, No. 609, Arlington, Va. 22209.

A. Albert L. McDermott, American Hotel & Motel Association, Suite 1006, 1101 Connecticut Avenue NW., Washington, D.C. 20036.
B. American Hotel & Motel Association, 888 7th Avenue, New York, N.Y. 10019.
D. (6) $1,481.32.

A. E. T. McDonald, Brotherhood of Railway, Airline & Steamship Clerks, Freight Handlers, Express & Station Employes, 815 16th Street NW., Washington, D.C. 20006.
B. Brotherhood of Railway, Airline & Steamship Clerks, Freight Handlers, Express & Station Employees, 3 Research Place, Rockville, Md. 28050.
D. (6) $2,100. E. (9) $1,050.

A. Jack McDonald Associates, 6845 Elm Street, No. 512, McLean, Va. 22101.
B. Northrop Corp., 1800 Century Park East, Los Angeles, Calif. 90067.
D. (6) $4,500. E. (9) $2,450.

A. James McDonald, 6845 Elm Street, No. 512, McLean, Va. 22101.
B. Jack McDonald Associates, Inc., 6845 Elm Street, No. 512, McLean, Va. 22101 (for Northrop Corp., 1800 Century Park East, Los Angeles, Calif. 90067).
D. (6) $2,250.

A. Joseph A. McElwain, 40 East Broadway, Butte, Mont. 59701.
B. The Montana Power Co., Butte, Mont. 59701.
E. (9) $223.54.

A. Ruth Gordon McGill, 5437 Druid Lane, Dallas, Tex. 75209.
B. Doctors for the Equal Rights Amendment, P.O. Box 19531, Dallas, Tex. 75219.
E. (9) $3,849.60.

A. J. Raymond McGlaughlin, 400 1st Street NW., Room 801, Washington, D.C. 20001.
B. Brotherhood of Maintenance of Way Employees, 12050 Woodward Avenue, Detroit, Mich. 48203.
D. (6) $11,012.36.

A. Jerome J. McGrath, Interstate Natural Gas Association of America, 1660 L Street NW., Suite 601, Washington, D.C. 20036.
B. Interstate Natural Gas Association of America, 1660 L Street NW., Suite 601, Washington, D.C. 20036.
D. (6) $500.

A. Joseph B. McGrath, National Forest Products Association, 1619 Massachusetts Avenue NW., Washington, D.C. 20036.
B. National Forest Products Association, 1619 Massachusetts Avenue NW., Washington, D.C. 20036.
D. (6) $7,875. E. (9) $750.

A. Peter McGuire, National Association of Retired and Veteran Railway Employees, Inc., 400 First Street NW., Washington, D.C. 20001.
B. National Association of Retired and Veteran Railway Employees, Inc., P.O. Box 6060, Kansas City, Kans. 66106; Hotel and Restaurant Employees & Bartenders International Union, 1666 K Street NW., Washington, D.C. 20006; International Conference of Police Associations, 1239 Pennsylvania Avenue SE., Washington, D.C.
D. (6) $900. E. (9) $350.

A. Marlene C. McGuirl, 3416 P Street NW., Washington, D.C. 20007.
E. (9) $333.

A. Clarence M. McIntosh, Jr., Railway Labor Executives' Association, 400 First Street NW., Washington, D.C. 20001.
B. Railway Labor Executives' Association, 400 First Street NW., Washington, D.C. 20001.
D. (6) $1,045.39.

A. Lyn R. McIntosh, American Nuclear Energy Council, 1750 K Street NW., Suite 300, Washington, D.C.
B. American Nuclear Energy Council, 1750 K Street NW., Suite 300, Washington, D.C.
D. (6) $1,500. E. (9) $102.51.

A. Robert S. McIntyre, Public Citizen's Tax Reform Research Group, 133 C Street SE., Washington, D.C. 20003.
B. Public Citizen's Tax Reform Research Group, 133 C Street SE., Washington, D.C. 20003.
D. (6) $937.50.

A. James D. McKevitt, National Federation of Independent Business, 490 L'Enfant Plaza East SW., Suite 3206, Washington, D.C. 20024.
B. National Federation of Independent Business, 490 L'Enfant Plaza East SW., Suite 3206.
D. (6) $3,500. E. (9) $85.

A. C. A. Mack McKinney, 110 Maryland Avenue NE., Box 43, Washington, D.C. 20002.
B. National Headquarters, Marine Corps League, 933 North Monroe Street, Suite 321, Arlington, Va. 22201.

A. C. A. Mack McKinney, 110 Maryland Avenue NE., Box 43, Washington, D.C. 20002.
B. Non-Commissioned Officers Association of the U.S.A., P.O. Box 2268, San Antonio, Tex. 78298.
D. (6) $5,150.78. E. (9) $6,647.85.

A. John S. McLees, Chamber of Commerce of the United States, 1615 H Street NW., Washington, D.C. 20062.
B. Chamber of Commerce of the United States, 1615 H Street NW., Washington, D.C. 20062.
E. (9) $250.

A. Michael R McLeod, Davis & McLeod, 499 South Capitol Street SW., No. 407, Washington, D.C. 20003.
B. Chicago Board of Trade, LaSalle at Jackson, Chicago, Ill. 60604.
D. (6) $3,593.75. E. (9) $73.99.

A. Michael R McLeod, Davis & McLeod, 499 South Capitol Street SW., No. 407, Washington, D.C. 20003.
B. Florida Sugar Cane League, Inc., P.O. Box 1148, Clewiston, Fla. 33440.
D. (6) $1,500. E. (9) $30.88.

A. Michael R. McLeod, Davis & McLeod, 499 South Capitol Street SW., No. 407, Washington, D.C. 20006.
B. National Cattlemen's Association, 1001 Lincoln Street, Denver, Colo. 80201.
D. (6) $1,125. E. (9) $52.89.

A. Michael R. McLeod, Davis & McLeod, 499 South Capitol Street SW., No. 407, Washington, D.C. 20003.
B. United Egg Producers, 3951 Snapfinger Parkway, Suite 580, Decatur, Ga. 30032.
D. (6) $1,171.88. E. (9) $2.18.

A. William F. McManus, General Electric Co., 777 14th Street NW., Washington, D.C. 20005.
D. (6) $400. E. (9) $135.50.

A. C. W. McMillan, 425 13th Street NW., Suite 1020, Washington, D.C. 20004.
B. National Cattlemen's Association, 1001 Lincoln Street, Denver, Colo. 80203.
D. (6) $1,500.

A. Craig L. McNeese, P.O. Box 1700, Houston, Tex. 77001.
B. Houston Lighting & Power Co., P.O. Box 1700, Houston, Tex. 77001.
D. (6) $351. E. (9) $326.

A. McNutt, Dudley, Easterwood & Losch, 910 17th Street NW., Washington, D.C. 20006.
B. Republic of Turkey, 1606 23d Street NW., Washington, D.C. 20008.
D. (6) $6,300. E. (9) $1,620.68.

A. Joseph J. Meder, Interlake, Inc., 1050 17th Street NW., Suite 1160, Washington, D.C. 20036.
B. Interlake, Inc., Commerce Plaza, 2015 Spring Road, Oak Brook, Ill. 60521.
D. (6) $6,840. E. (9) $171.33.

A. David O. Meeker, The American Institute of Architects, 1735 New York Avenue NW., Washington, D.C. 20006.
B. The American Institute of Architects, 1735 New York Avenue NW., Washington, D.C. 20006.
D. (6) $1,500.

A. Louis L. Meier, Jr., American Society of Civil Engineers, 1625 I Street NW., Washington, D.C. 20006.
B. American Society of Civil Engineers, United Engineering Center, 345 East 47th Street, New York, N.Y. 10017.
D. (6) $1,050. E. (9) $393.

A. F. A. Meister, Jr., 1611 North Kent Street Arlington, Va. 22209.
B. American Footwear Industries Association, Inc., 1611 North Kent Street, Arlington, Va. 22209.
D. (6) $350. E. (9) $15.

A. R. Otto Meletzke, American Council of Life Insurance, Inc., 1850 K Street NW., Washington, D.C. 20006.
B. American Council of Life Insurance, Inc., 1850 K Street NW., Washington, D.C.
D. (6) $20. E. (9) $150.

A. Memorex Corp., 1970 Chain Bridge Road, McLean, Va. 22102; San Tomas at Central Expressway, Santa Clara, Calif. 95052.
D. (6) $8,124. E. (9) $400.

A. Marilee Menard, National Broiler Council, 1155 15th Street NW., Washington, D.C. 20005.
B. National Broiler Council, 1155 15th Street NW., Washington, D.C. 20005.
D. (6) $600.

A. Marc Messing, 317 Pennsylvania Avenue SE., Washington, D.C. 20003.
B. Environmental Policy Center, 317 Pennsylvania Avenue SE., Washington, D.C. 20003.
D. (6) $2,625. E. (9) $38.96.

A. Tanya K. Metaksa, 1600 Rhode Island Avenue NW., Washington, D.C. 20036.
B. National Rifle Association, 1600 Rhode Island Avenue NW., Washington, D.C. 20036.
D. (6) $750.

A. Nancy S. Metler, American Nuclear Energy Council, 1750 K Street NW., Suite 300, Washington, D.C.
B. American Nuclear Energy Council, 1750 K Street NW., Suite 300, Washington, D.C.
D. (6) $542.50. E. (9) $19.79.

A. Metzger, Shadyac & Schwarz, 1 Farragut Square South, Ninth Floor, Washington, D.C. 20006.
B. Melex, U.S.A. Inc., 1201 Front Street, Raleigh, N.C. 27609.
D. (6) $300.

A. James G. Michaux, 1801 K Street NW., Suite 903, Washington, D.C. 20006.
B. Federated Department Stores, Inc., 222 West Seventh Street, Cincinnati, Ohio 45202.
D. (6) $500.

A. Ronald A. Michieli, 425 13th Street NW., Suite 1020, Washington, D.C. 20004.
B. National Cattlemen's Association, 1001 Lincoln Street, Denver, Colo. 80203.
D. (6) $1,000.

A. Mid-Continent Oil & Gas Association, 1111 Thompson Building, Tulsa, Okla. 74103.
D. (6) $807.23. E. (9) $7,702.36.

A. Joy Midman, National Association of Private Psychiatric Hospitals, 1701 K Street NW., Washington, D.C. 20006.
B. National Association of Private Psychiatric Hospitals, 1701 K Street NW., Washington, D.C. 20006.
D. (6) $250.

A. Roy H. Millenson, Association of American Publishers, 1707 L Street NW., Suite 480, Washington, D.C. 20036.
B. Association of American Publishers, 1707 L Street NW., Suite 480, Washington, D.C. 20036.
D. (6) $2,000. E. (9) $72.

A. A. Stanley Miller, 910 16th Street, Room 302, Washington, D.C. 20006.
B. Federation of American Controlled Shipping, 17 Battery Place North, New York, N.Y. 10004.
D. (6) $200.

A. Miller & Chevalier, 1700 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. American Gas Association, 1515 Wilson Boulevard, Arlington, Va. 22209.
D. (6) $4,955. E. (9) $7.50.

A. Miller & Chevalier, 1700 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. Hercules Inc., 910 Market Street, Wilmington, Del. 19899.
D. (6) $815.

A. Miller & Chevalier, 1700 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. IDS Life Insurance Co., IDS Tower, Minneapolis, Minn. 55402.
D. (6) $8,255.

A. Miller & Chevalier, 1700 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. Morgan Guaranty Trust Co. of New York, 23 Wall Street, New York, N.Y. 10015.
D. (6) $12,777.50. E. (9) $416.19.

A. Dale Miller, 377 Mayflower Hotel, Washington, D.C. 20036.
B. Gulf Intracoastal Canal Association, Houston, Tex.
D. (6) $262.50. E. (9) $47.21.

A. Dale Miller, 377 Mayflower Hotel, Washington, D.C. 20036.
B. Texasgulf Inc., Stamford, Conn.
D. (6) $450. E. (9) $411.65.

A. Luman G. Miller, Oregon Railroad Association, 620 Southwest Fifth Avenue Building, Suite 912, Portland, Oreg. 97204.
B. Oregon Railroad Association, 620 Southwest Fifth Avenue Building, Suite 912, Portland, Oreg. 97204.
E. (9) $770.81.

A. Millman Broder & Curtis, 1730 M Street NW., Suite 908, Washington, D.C. 20036.
B. National Council of Senior Citizens, 1511 K Street NW., Washington, D.C. 20005.
D. (6) $4,500. E. (9) $176.49.

A. John F. Mills, 1776 K Street NW., Washington, D.C. 20005.
B. The Tobacco Institute, Inc., 1776 K Street NW., Washington, D.C. 20006.
D. (6) $400.

A. Stephan M. Minikes, Butler, Binion, Rice, Cook & Knapp, 818 Connecticut Avenue NW., Washington, D.C. 20006.
B. Seatrain Lines, Inc., 1 Chase Manhattan Plaza, New York, N.Y. 10005.

A. Charles W. Mitchell, 7915 Sherwood Road, Ruxton, Md. 21204.
B. Americans for Alaska, P.O. Box 50, Riderwood, Md. 21139.
D. (6) $120. E. (9) $178.

A. Clarence Mitchell, Washington Bureau, NAACP, 733 15th Street NW., Suite 410, Washington, D.C. 20005.
B. National Association for the Advancement of Colored People, 1790 Broadway, New York, N.Y. 10019.
D. (6) $4,000.

A. Donald Craig Mitchell, 1601 F Street, Anchorage, Alaska 99501; 510 A Street NE., Washington, D.C. 20002.
B. Alaska Federation of Natives, 550 West Eighth Avenue, Anchorage, Alaska 99501.
D. (6) $8,750. E. (9) $750.

A. Thomas F. Mitchell, Georgia-Pacific Corp., 1735 Eye Street NW., Washington, D.C. 20006.
B. Georgia-Pacific Corp., 900 Southwest Fifth Avenue, Portland, Oreg. 97204.
D. (6) $328.

A. Richard Mizrack, 270 Madison Avenue, New York, N.Y. 10016.
B. Wolf, Haldenstein, Adler, Freeman & Herz, 270 Madison Avenue, New York, N.Y. 10016 (for Fallek-Lankro Corp., Tuscaloosa, Ala.).
D. (6) $650. E. (9) $105.50.

A. Phillip W. Moery, 612 East Capitol, No. 2, Washington, D.C. 20003.
B. Surrey, Karasik & Morse, 1156 15th Street NW., Washington, D.C. 20005 and Westway Trading Corp., 464 Hudson Terrace, Englewood Cliffs, N.J. 07632.
D. (6) $300. E. (9) $30.

A. Robert M. Moliter, General Electric Co., 777 14th Street NW., Washington, D.C. 20005.
B. General Electric Co., 3135 Easton Turnpike, Fairfield, Conn. 06431.
D. (6) $96.

A. John V. Moller, Motor Vehicle Manufacturers Association of the United States, Inc., 1909 K Street NW., Washington, D.C. 20006.
B. Motor Vehicle Manufacturers Association of the United States, Inc., 300 New Center Building, Detroit, Mich. 48202.
D. (6) $180. E. (9) $5.

A. John S. Monagan, 1730 Pennsylvania Avenue NW., Suite 1010, Washington, D.C. 20006.
B. U.S. Olympic Committee, 57 Park Avenue, New York, N.Y. 10016.

A. Michael Monroney, 2030 M Street NW., Suite 800, Washington, D.C. 20036.
B. TRW, Inc., 23555 Euclid Avenue, Cleveland, Ohio 44117.
D. (6) $1,000.

A. Montgomery Ward & Co., Inc., 1100 Connecticut Avenue NW., No. 530, Washington, D.C. 20036.
B. Montgomery Ward & Co., Inc., 535 West Chicago Avenue, Chicago, Ill. 60671.
E. (9) $100.

A. G. Merrill Moody, Association of American Railroads, 40 Ivy Street SE., Washington, D.C. 20003.
B. Association of American Railroads, 1920 L Street NW., Washington, D.C. 20036.
D. (6) $127.34. E. (9) $55.05.

A. Rush Moody, Jr., 1701 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. Vinson & Elkins (for Lone Star Steel Co., P.O. Box 35888, Dallas, Tex. 75235), 1701 Pennsylvania Avenue, Suite 1120, Washington, D.C. 20006.

A. John M. Mooney, Suite 2200, 2 Embarcadero Center, San Francisco, Calif. 94111.
B. Bechtel Corp., 50 Beale Street, San Francisco, Calif.
D. (6) $300.

A. Alan J. Moore, The Atchison, Topeka & Santa Fe Railway Co., Suite 840, 1100 Connecticut Avenue NW., Washington, D.C. 20036.
B. The Atchison, Topeka & Santa Fe Railway Co., 80 East Jackson Boulevard, Chicago, Ill. 60604.
D. (6) $1,000. E. (9) $150.

A. Powell A. Moore, 1155 15th Street NW., Suite 424, Washington, D.C. 20005.
B. Mondakota Gas Co., P.O. Box 224, Billings, Mont. 59103.

A. Powell A. Moore, 1155 15th Street NW., Suite 424, Washington, D.C.
B. Southern Natural Gas Co., P.O. Box 2563, Birmingham, Ala. 35202.
D. (6) $2,240.

A. Earl J. Morgan, 1150 17th Street NW., Washington, D.C. 20036.
B. McDonnell Douglas Corp., P.O. Box 516, St. Louis, Mo. 63166.
D. (6) $260. E. (9) $25.50.

A. Jo V. Morgan, Jr., 1050 17th Street NW., Washington, D.C. 20036.
B. The American Humane Association, P.O. Box 1266, Denver, Colo. 80201.
D. (6) $1,800.

A. Morgan, Lewis & Bockius, 1800 M Street NW., Suite 700 North, Washington, D.C. 20036.
B. Committee on Capital Formation, 1800 M Street NW., Suite 700 North, Washington, D.C. 20036.
D. (6) $25. E. (9) $25.

A. Morison, Murphy, Abrams & Haddock, 1776 K Street NW., Suite 900, Washington, D.C. 20006.
B. The Sperry & Hutchinson Co., 330 Madison Avenue, New York, N.Y. 10017.

A. Stephen C. Morrisette, NC Petroleum Council, P.O. Box 167, Raleigh, N.C. 27602.
B. American Petroleum Institute, 2101 L Street NW., Washington, D.C. 20037.
D. (6) $130. E. (9) $211.78.

A. Lynn E. Mote, Northern Natural Gas Co., 1133 15th Street NW., Suite 503, Washington, D.C. 20005.
B. Northern Natural Gas Co., 2223 Dodge Street, Omaha, Nebr. 68102.
D. (6) $2,000.

A. John J. Motley III, National Federation of Independent Business, 490 L'Enfant Plaza East SW., Suite 3206, Washington, D.C. 20024.
B. National Federation of Independent Business, 490 L'Enfant Plaza East SW., Suite 3206, Washington, D.C. 20024.
D. (6) $2,250. E. (9) $400.

A. Motor Vehicle Manufacturers Association of the United States, Inc., 300 New Center Building, Detroit, Mich. 48202.
D. (6) $5,619.51. E. (9) $5,619.51.

A. Mountain Fuel Supply Co., 180 East First South Street, Salt Lake City, Utah 84139.
E. (6) $3,271.29.

A. Karen Mulhauser, 825 15th Street NW., Washington, D.C. 20005.
B. National Abortion Rights Action League, 825 15th Street NW., Washington, D.C. 20005.
D. (6) $278.

A. William G. Mullen, National Newspaper Association, 1627 K Street NW., Suite 400, Washington, D.C. 20006.
B. National Newspaper Association, 1627 K Street NW., Suite 400, Washington, D.C. 20006.
E. (9) $125.

A. John P. Mulligan, 1101 17th Street NW., Washington, D.C. 20036.
B. Tuna Research Foundation, 1101 17th Street NW., Washington, D.C. 20036.
D. (6) $1,125.

A. Mullin, Connor & Rhyne, 1000 Connecticut Avenue, Washington, D.C. 20036.
B. Alberto de la Vega-Ripol, Flemingstrsse 46, 8000 Munich 81, West Germany.
E. (9) $27.70.

A. Tracy Mullin, National Retail Merchants Association, 1000 Connecticut Avenue NW., No. 700, Washington, D.C. 20036.
B. National Retail Merchants Association, 100 West 31st Street, New York, N.Y. 10001.
D. (6) $300. E. (9) $25.

A. Robert J. Mullins, 1012 14th Street NW., Washington, D.C. 20005.
B. The Farmers' Education & Co-Operative Union of America, Denver, Colo. 80251; 1012 14th Street NW., Washington, D.C. 20005.
D. (6) $3,323.12. E. (9) $21.30.

A. Anne G. Murphy, 3415 South Stafford Street, Arlington, Va. 22206.
B. Public Broadcasting Service, 475 L'Enfant Plaza SW., Washington, D.C. 20024.
D. (6) $9,490. E. (9) $86.69.

A. Richard E. Murphy, 2020 K Street NW., Washington, D.C. 20006.
B. Service Employees International Union, AFL–CIO, 2020 K Street NW., Suite No. 200, Washington, D.C. 20006.
D. (6) $1,000. E. (9) $200.

A. D. Michael Murray, 1120 Connecticut Avenue NW., No. 1128, Washington, D.C. 20036.
B. Chicago Milwaukee, St. Paul & Pacific Railroad, 516 West Jackson Boulevard, Chicago, Ill. 60606.
D. (6) $300. E. (9) $35.

A. D. Michael Murray, 1120 Connecticut Avenue NW., No. 1128, Washington, D.C. 20036.
B. The Cleveland Cliffs Iron Co., 1460 Union Commerce Building, Cleveland, Ohio 44115.
D. (6) $200. E. (9) $43.

A. D. Michael Murray, 1120 Connecticut Avenue NW., No. 1128, Washington, D.C. 20036.
B. Freeport Minerals Co., 161 East 42d Street, New York, N.Y. 10017.
D. (6) $200. E. (9) $33.

A. D. Michael Murray, 1120 Connecticut Avenue NW., No. 1128, Washington, D.C. 20036.
B. Iron Ore Lessors Association, 1500 First National Bank Building, St. Paul, Minn. 55101.
D. (6) $150.

A. D. Michael Murray, 1120 Connecticut Avenue NW., No. 1128, Washington, D.C. 20036.
B. LTV Corp., P.O. Box 5003, Dallas, Tex. 75222.
D. (6) $200.

A. D. Michael Murray, 1120 Connecticut Avenue NW., No. 1128, Washington, D.C. 20036.
B. National Association of Industrial & Office Parks, 1901 North Fort Myer Drive, No. 1100, Arlington, Va. 22209.
D. (6) $250. E. (9) $82.

A. D. Michael Murray, 1120 Connecticut Avenue NW., No. 1128, Washington, D.C. 20036.
B. National Council of Coal Lessors, 1130 17th Street NW., Washington, D.C. 20035.
D. (6) $250.

A. Margaret R. Murray 1339 Wisconsin Avenue NW., Washington, D.C. 20007.
B. Heinold Commodities, 222 South Riverside Plaza, Chicago, Ill. 60606.
D. (6) $1,460.

A. William E. Murray, 2000 Florida Avenue NW., Washington, D.C. 20009.
B. National Rural Electric Cooperative Association, 2000 Florida Avenue NW., Washington, D.C. 20009.
D. (6) $172.

A. Thomas H. Mutchler, International Paper Co., 1620 I Street NW., Suite 700, Washington, D.C. 20006.
B. International Paper Co., 1620 I Street NW., Suite 700, Washington, D.C. 20006.
D. (6) $300.

A. Harold D. Muth, 1600 Wilson Boulevard, Suite 1101, Arlington, Va. 22209.
B. The American Waterways, 1600 Wilson Boulevard, Suite 1101, Arlington, Va. 22209.
D. (6) $300. E. (9) $3.

A. Fred J. Mutz, American Bankers Association, 1120 Connecticut Avenue NW., Washington, D.C. 20036.
B. American Bankers Association, 1120 Connecticut Avenue NW., Washington, D.C. 20036.
D. (6) $2,500. E. (9) $42.50.

A. Gary D. Myers, The Fertilizer Institute, 1015 18th Street NW., Washington, D.C. 20036.
B. The Fertilizer Institute, 1015 18th Street NW., Washington, D.C. 20036.
D. (6) $500. E. (9) $344.64.

A. J. Walter Myers, Jr., Forest Farmers Association, P.O. Box 95385, Atlanta, Ga. 30347.
B. Forest Farmers Association, P.O. Box 95385, Atlanta, Ga. 30347.

A. Daniel Nachtigal, Morgan, Lewis & Bockius, 1800 M Street NW., Suite 700 North, Washington, D.C. 20036.
B. Committee for Capital Formation Through Dividend Reinvestment, 1800 M Street NW., Suite 700 North, Washington, D.C. 20036.

A. Gerald P. Nagy, National Home Furnishings Association, 1025 Vermont Avenue NW., Washington, D.C. 20005.
B. National Home Furnishings Association, 405 Merchandise Mart, Chicago, Ill. 60654.
D. (6) $560.

A. John J. Nangle, National Association of Independent Insurers, 1625 I Street NW., Suite 1001, Washington, D.C. 20006.
B. National Association of Independent Insurers, 2600 River Road, Des Plaines, Ill. 60018.
D. (6) $500.

A. Raymond Nathan, 5025 Garfield Street NW., Washington, D.C. 20016.
B. American Ethical Union, 2 West 64th Street, New York, N.Y. 10023.

D. (6) $750. E. (9) $30.10.

A. National Agricultural Chemicals Association, 1155 15th Street NW., Washington, D.C. 20005.
D. (6) $302. E. (9) $302.

A. National Air Carrier Association, 1730 M Street NW., Suite 710, Washington, D.C. 20036.
D. (6) $1,250. E. (9) $1,250.

A. National Association for Free Enterprise, 1101 New Hampshire Avenue NW., Suite 107, Washington, D.C. 20037.

A. National Association for Humane Legislation, Inc., 675 Pinellas Point Drive South, St. Petersburg, Fla. 33705.
D. (6) $5.95.

A. National Association of Air Traffic Specialists, Inc., Suite 415, Wheaton Plaza North, Wheaton, Md. 20902.
D. (6) $87,644.64. E. (9) $5,888.48.

A. National Association of Chain Drug Stores, Inc., 1911 Jefferson Davis Highway, Suite 504, Arlington, Va. 22202.
E. (9) $2,430.

A. National Association of Federal Veterinarians, Suite 836, 1522 K Street NW., Washington, D.C. 20005.
E. (9) $213.75.

A. National Association of Furniture Manufacturers, 8401 Connecticut Avenue, Suite 911, Washington, D.C. 20015.
D. (6) $1,750. E. (9) $1,230.

A. National Association of Manufacturers, 1776 F Street NW., Washington, D.C.
D. (6) $77,530.15. E. (9) $77,530.15.

A. National Association of Mutual Savings Banks, 200 Park Avenue, New York, N.Y. 10017.
D. (6) $10,307.57. E. (9) $10,307.57.

A. National Association of Pension Consultants and Administrators, Inc., 151 Ellis Street NE., Atlanta, Ga. 30303.
D. (6) $19,325. E. (9) $3,860.71.

A. National Association of Real Estate Investment Trusts, Inc., 1101 17th Street NW., Suite 700, Washington, D.C. 20036.
D. (6) $6,500. E. (9) $6,448.15.

A. National Association of Realtors, 430 North Michigan Avenue, Chicago, Ill.; 925 15th Street NW., Washington, D.C.
E. (9) $26,070.55.

A. National Association of Wheat Growers, 1030 15th Street NW., Suite 1030, Washington, D.C. 20005.
D. (6) $14,556.26. E. (9) $8,151.90.

A. National Audio-Visual Association, 3150 Spring Street, Fairfax, Va. 22031.
D. (6) $14,062.81. E. (9) $10,759.59.

A. National Broiler Council, 1155 15th Street NW., Washington, D.C. 20005.
D. (6) $1,650. E. (9) $1,650.

A. National Business Aircraft Association, One Farragut Square South, Washington, D.C. 20006.
E. (9) $16.

A. National Cable Television Association, Inc., 918 16th Street NW., Washington, D.C. 20006.
D. (6) $9,636.50. E. (9) $10,057.50.

A. National Cattlemen's Association, 1001 Lincoln Street, Denver, Colo. 80203.
E. (9) $4,183.

A. National Coal Association, Coal Building, Washington, D.C. 20036.
D. (6) $834,854.10 E. (9) $19,191.18.

A. National Committee Against Repressive Legislation, 1250 Wilshire Boulevard, Los Angeles, Calif. 90017.
D. (6) $3,393.71. E. (9) $6,008.87.

A. National Committee for Symphony Orchestra Support, 1100 17th Street NW., Suite 313, Washington, D.C. 20036.
D. (6) $57,429.90. E. (9) $21,984.35.

A. National Consumer Finance Association, 1000 16th Street NW., Washington, D.C. 20036.
E. (9) $1,520.

A. National Cotton Council of America, P.O. Box 12285, Memphis, Tenn. 38112.
D. (6) $13,437.73. E. (9) $13,437.73.

A. National Council for a Responsible Firearms Policy, Inc., 1028 Connecticut Avenue, NW., Washington, D.C. 20036.
D. (6) $162.24.

A. National Council for a World Peace Tax Fund, 2111 Florida Avenue, NW., Washington, D.C. 20008.
D. (6) $7,711.91. E. (9) $7,788.59.

A. National Council of Agricultural Employers, 435 Southern Building, 1425 H Street NW., Washington, D.C. 20005.
D. (6) $255. E. (9) $2,647.

A. National Electrical Manufacturers Association, 2101 L Street NW., Washington, D.C. 20037.
D. (6) $2,564. E. (9) $2,564.

A. National Federation of Independent Business, 490 L'Enfant Plaza SW., Washington, D.C. 20024; 150 West 20th Avenue, San Mateo, Calif. 94403.
D. (6) $71,775. E. (9) $71,775.

A. National Forest Products Association, 1619 Massachusetts Avenue NW., Washington, D.C. 20036.
D. (6) $18,682.45. E. (9) $18,682.45.

A. National Guard Association of the United States, 1 Massachusetts Avenue NW., Washington, D.C. 20001.
D. (6) $601,869. E. (9) $1,264.30.

A. National Home Furnishings Association, 405 Merchandise Mart, Chicago, Ill. 60654.
E. (9) $1,110.85.

A. National Housing Conference, Inc., 1126 16th Street NW., Washington, D.C. 20036.
D. (6) $26,982.62. E. (9) $43,013.52.

A. National Leased Housing Association, Suite 400 South, 1800 M Street NW., Washington, D.C. 20036.
D. (6) $450. E. (9) $450.

A. National Limestone Institute, Inc., 3251 Old Lee Highway, Suite 501, Fairfax, Va. 22030.
D. (6) $6,782.57. E. (9) $6,782.57.

A. National Milk Producers Federation, 30 F Street NW., Washington, D.C. 20001.
D. (6) $6,204.26. E. (9) $6,204.26.

A. National Motorsports Committee of ACCUS, Suite 302, 1735 K Street NW., Washington, D.C. 20006.
E. (9) $76.59.

A. National Oil Jobbers Council, Inc., 1707 H Street NW., 11th Floor, Washington, D.C. 20006.
D. (6) $127,641.77. E. (9) $14,411.94.

A. National Pest Control Association, 8150 Leesburg Pike, Suite 1100, Vienna, Va. 22180.
D. (6) $6,300. E. (9) $7,409.08.

A. National Product Liability Council, Box 11111, Cincinnati, Ohio 45211.
D. (6) $5,120. E. (9) $4,244.74.

A. National Retail Merchants Association, 100 West 31st Street, New York, N.Y. 10001.
E. (9) $3,225.

A. National Right to Life Committee, Inc., Suite 341, National Press Building, 529 14th Street NW., Washington, D.C. 20045.
D. (6) $11,000. E. (9) $10,900.

A. National Right to Work Committee, 8316 Arlington Boulevard, Suite 600, Fairfax, Va. 22038.
D. (6) $3,334. E. (9) $3,334.

A. National Rural Electric Cooperative Association, 2000 Florida Avenue NW., Washington, D.C. 20009.
E. (9) $5,659.66.

A. National Rural Letter Carriers' Association, 1750 Pennsylvania Avenue NW., Washington, D.C.
D. (6) $7,711. E. (9) $2,601.

A. National Savings and Loan League, 1101 15th Street NW., Suite 400, Washington, D.C. 20005.
D. (6) $17,211. E. (9) $1,298.

A. National Security Traders Association, Inc., 55 Broad Street, New York, N.Y. 10004.
E. (9) $1,875.

A. National Society of Professional Engineers, 2029 K Street NW., Washington, D.C. 20006.
D. (6) $12,500. E. (9) $13,450.

A. National Soft Drink Association, 1101 16th Street NW., Washington, D.C. 20036.
D. (6) $371,515. E. (9) $26,740.10.

A. National Solid Wastes Management Association, 1120 Connecticut Avenue NW., Suite 930, Washington, D.C. 20036.

A. National Telephone Cooperative Association, 2626 Pennsylvania Avenue NW., Washington, D.C. 20037.
E. (9) $3,775.

A. National Tire Dealers & Retreaders Association, 1343 L Street NW., Washington, D.C. 20005.
D. (6) $1,957.50. E. (9) $1,957.50.

A. National Water Resources Association, 955 L'Enfant Plaza North SW., Suite 1202, Washington, D.C. 20024.
D. (6) $7,072.04. E. (9) $8,933.44.

A. National Woman's Christian Temperance Union, 1730 Chicago Avenue, Evanston, Ill. 60201.
D. (6) $1,131. E. (9) $2,015.40.

A. Alexander W. Neale, Jr., Conference of State Bank Supervisors, 1015 18th Street NW., Washington, D.C. 20036.
B. Conference of State Bank Supervisors, 1015 18th Street NW., Washington, D.C. 20036.
D. (6) $2,762. E. (9) $8,281.

A. J. T. Nelson, Suite 704, 1000 Connecticut Avenue NW., Washington, D.C. 20036.

B. Household Finance Corp., HFC International Headquarters, 2700 Sanders Road, Prospect Heights, Ill. 60070.
D. (6) $2,475. E. (9) $819.53.

A. L. James Nelson, National Association of Manufacturers, 222 South Prospect Avenue, Park Ridge, Ill. 60068.
B. National Association of Manufacturers, 1776 F Street NW., Washington, D.C. 20006.
D. (6) $925.

A. Lloyd A. Nelson, 12200 Brookhaven Drive, Silver Spring, Md. 20902.
B. Fellowship Square Foundation, Inc., 11450 North Shore Drive, Reston, Va. 22090.
E. (9) $22.50.

A. Richard A. Nelson, The Reuben H. Donnelley Corp., 2000 Clearwater Drive, Oak Brook, Ill. 60521.
B. The Reuben H. Donnelley Corp., 2000 Clearwater Drive, Oak Brook, Ill. 60521.

A. Robert W. Nelson, 2000 Florida Avenue NW., Washington, D.C. 20009.
B. National Rural Electric Cooperative Association, 2000 Florida Avenue NW., Washington, D.C. 20009.
D. (6) $160.

A. Michael A. Nemeroff, Sidney & Austin, 1730 Pennsylvania Avenue NW., Washington, D.C.
B. De Kalb AgResearch, Inc., Sycamore Road, De Kalb, Ill. 60115.
E. (9) $67.93.

A. A. S. Nemir Associates, Suite 1230, Pennsylvania Building, Washington, D.C. 20004.
B. Brazilian Sugar and Alcohol Institute, Rio de Janeiro, Brazil.
E. (9) $553.56.

A. NETWORK, 1029 Vermont Avenue NW., No. 650, Washington, D.C. 20005.
D. (6) $3,916.92. E. (9) $17,510.13.

A. E. John Neumann, Baltimore Gas and Electric Co., 1523 L Street NW., Suite 500, Washington, D.C. 20005.
B. Baltimore Gas and Electric Co., Gas and Electric Building, P.O. Box 1475, Baltimore, Md. 21203.
D. (6) $670.90. E. (9) $180.

A. Robert B. Neville, 1850 K Street NW., Suite 850, Washington, D.C. 20006.
B. National Restaurant Association, 1850 K Street NW., Washington, D.C.; One IBM Plaza, Suite 2600, Chicago, Ill.
D. (6) $6,500. E. (9) $37,514.80.

A. Louis H. Nevins, 1709 New York Avenue NW., Suite 200, Washington, D.C. 20006.
B. National Association of Mutual Savings Banks, 200 Park Avenue, New York, N.Y. 10017.
D. (6) $3,593.75. E. (9) $1,162.29.

A. New England Fisheries, Pier 89, Seattle, Wash. 98119.
D. (6) $2,773. E. (9) $650.

A. New York Committee of International Committee of Passenger Lines, 25 Broadway, New York, N.Y. 10004.
D. (6) $17,500. E. (9) $24,576.

A. Bill Newbold, 1901 North Fort Myer Drive, Arlington, Va. 22209.
B. Bill Newbold & Associates, 1901 North Fort Myer Drive, Arlington, Va. 22209.
D. (6) $4,800.

A. Kathryn L. Newman, 1101 15th Street NW., Washington, D.C. 20005.
B. Republic Steel Corp., Republic Building, Cleveland, Ohio 44101.

A. Thomas E. Newman, National Association of Manufacturers, 2 Militia Drive, Lexington, Mass. 02173.
B. National Association of Manufacturers, 1776 F Street NW., Washington, D.C. 20006.
D. (6) $250.

A. Charles E. Nichols, 101 Constitution Avenue NW., Washington, D.C. 20001.
B. United Brotherhood of Carpenters and Joiners of America, 101 Constitution Avenue NW., Washington, D.C. 20001.
E. (9) $200.10.

A. F. Clayton Nicholson, Box 15, Route 1, Henryville, Pa. 18332.
B. Northern Helex Co., 2223 Dodge Street, Omaha, Nebr. 68102.
D. (6) $2,375. E. (9) $643.40.

A. John B. Nicholson, 1101 17th Street NW., Suite 700, Washington, D.C. 20036.
B. National Association of Real Estate Investment Trusts, Inc., 1101 17th Street NW., Suite 700, Washington, D.C. 20036.
D. (6) $300.

A. Donald R. Niemi, Caterpillar Tractor Co., 100 Northeast Adams Street, Peoria, Ill. 61629.
B. Caterpillar Tractor Co., 100 Northeast Adams Street, Peoria, Ill. 61629.
D. (6) $720. E. (9) $1,117.44.

A. Patrick J. Nilan, American Postal Workers Union, AFL–CIO, 817 14th Street NW., Washington, D.C. 20005.
B. American Postal Workers Union, AFL–CIO, 817 14th Street NW., Washington, D.C. 20005.
D. (6) $13,255.03. E. (9) $3,947.09.

A. Nan Fielding Nixon, 309 Fourth Street SE., Apt. 7, Washington, D.C. 20003.
B. Office of Government and Community Affairs, Grays Hall 16, Harvard University, Cambridge, Mass.
D. (6) $6,600. E. (9) $801.33.

A. NL Industries, Inc., 1230 Avenue of the Americas, New York, N.Y. 10020.
E. (9) $3,000.

A. H. Christopher Nolde, National Soft Drink Association, 1101 16th Street NW., Washington, D.C. 20036.
B. National Soft Drink Association, 1101 16th Street NW., Washington, D.C. 20036.

A. Richard B. Norment, IV, National Association of Manufacturers, 1719 Route 10, Parsippany, N.J. 07054.
B. National Asociation of Manufacturers, 1776 F Street NW., Washington, D.C. 20006.
D. (6) $600.

A. North American Export Grain Association, Inc., 1800 M Street NW., Washington, D.C. 20036.
E. (9) $9,500.

A. Northeast Utilities Service Co., Selden Street, Berlin, Conn.
E. (9) $1,583.82.

A. N.O.S.I. ("Not One Square Inch"), 4082 Howard Street, Los Alamitos, Calif. 90720.

A. Franklin W. Nutter, Reinsurance Association of America, 1025 Connecticut Avenue NW., No. 512, Washington, D.C. 20036.
B. Reinsurance Association of America, 1025 Connecticut Avenue NW., No. 512, Washington, D.C. 20036.

A. Seward P. Nyman, 20 Chevy Chase Circle, Washington, D.C. 20015.
B. American Podiatry Association, 20 Chevy Chase Circle, Washington, D.C. 20015.
D. (6) $850.

A. Mary E. Oakes, 1800 K Street NW., Washington, D.C.
B. Hercules Inc., 910 Market Street, Wilmington, Del. 19899.
D. (6) $360. E. (9) $110.

A. Coleman C. O'Brien, 1709 New York Avenue NW., Suite 801, Washington, D.C. 20006.
B. United States League of Savings Associations, 111 East Wacker Drive, Chicago, Ill.
D. (6) $1,875. E. (9) $51.70.

A. Raymond V. O'Brien, International Telephone and Telegraph Corp., 1707 L Street NW., Suite 200, Washington, D.C. 20036.
B. International Telephone and Telegraph Corp., 320 Park Avenue, New York, N.Y. 10022.
D. (6) $125. E. (9) $15.

A. G. H. Ochenrider, Grumman Aerospace Corp., 1600 Wilson Boulevard, Arlington, Va. 22209.
B. Grumman Aerospace Corp., Bethpage, N.Y. 11714.
D. (6) $2,500. E. (9) $1,100.

A. W. Brice O'Brien, American Mining Congress, 1100 Ring Building, Washington, D.C.
B. American Mining Congress, 1100 Ring Building, Washington, D.C.
D. (6) $109.50. E. (9) $80.

A. William B. O'Connell, 111 East Wacker Drive, Chicago, Ill. 60601.
B. United States League of Savings Associations, 111 East Wacker Drive, Chicago, Ill. 60601.
D. (6) $1,450. E. (9) $271.80.

A. O'Connor & Hannan, 1747 Pennsylvania Avenue NW., Suite 600, Washington, D.C. 20006.
B. American Clinical Laboratory Association, 1747 Pennsylvania Avenue NW., Suite 600, Washington, D.C. 20006.
D. (6) $3,500.

A. O'Connor & Hannan, 1747 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. American Institute of Certified Public Accountants, 1620 Eye Street NW., Washington, D.C. 20006.

A. O'Connor & Hannan, 1747 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. American Public Transit Association, 1100 17th Street NW., Washington, D.C.
D. (6) $3,750. E. (9) $12.

A. O'Connor & Hannan, 1747 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. City of Minneapolis, 307 City Hall, Minneapolis, Minn. 55415.
D. (6) $3,455. E. (9) $15.

A. O'Connor & Hannan, 1747 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. De Kalb AgResearch, Inc., Sycamore Road, De Kalb, Ill.
D. (6) $3,595.

A. O'Connor & Hannan, 1747 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. Hennepin County, 2300 Government Center, Minneapolis, Minn. 55487.
D. (6) $2,398.50. E. (9) $18.

A. O'Connor & Hannan, 1747 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. Hospital Financing Study Group, New York, N.Y.

A. O'Connor & Hannan, 1747 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. National Association of Personnel Consultants, 1012 14th Street NW., Washington, D.C. 20006.
D. (6) $750.

A. O'Connor & Hannan, 1747 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. National Committee for Quality Health Care, New York, N.Y.

A. O'Connor & Hannan, 1747 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. John Nuveen & Co., Inc., 209 South LaSalle Street, Chicago, Ill. 60604.

A. O'Connor & Hannan, 1747 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. Pioneer Hi-Bred International, Inc., 1206 Milberry Street, Des Moines, Iowa 50306.
D. (6) $5,833.

A. O'Connor & Hannan, 1747 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. Securities Industry Association, 490 L'Enfant Plaza East SW., Washington, D.C. 20024.

A. L. L. O'Connor, 20 North Wacker Drive, Chicago, Ill. 60606.
B. Profit Sharing Council of America, 20 North Wacker Drive, Chicago, Ill. 60606.

A. Robert C. Odle, Jr., International Paper Co., 1620 Eye Street NW., No. 700, Washington, D.C. 20006.
B. International Paper Co., 1620 Eye Street NW., No. 700, Washington, D.C. 20006.
D. (6) $350. E. (9) $100.

A. Ashton J. O'Donnell, 89 Fair Oaks Lane, Atherton, Calif. 94025.
B. Bechtel Inc., 50 Beale Street, P.O. Box 3965, San Francisco, Calif. 94119.

A. Patrick E. O'Donnell, J. C. Penney Co., Inc., 1156 15th Street NW., Washington, D.C. 20005.
B. J. C. Penney Co., Inc., 1301 Avenue of the Americas, New York, N.Y. 10019.
D. (6) $85.

A. Kathleen L. O'Flaherty, American Bankers Association, 1120 Connecticut Avenue NW., Washington, D.C. 20036.
B. American Bankers Association, 1120 Connecticut Avenue NW., Washington, D.C. 20036.
D. (6) $100. E. (9) $25.05.

A. Bartley O'Hara, 25 Louisiana Avenue NW., Washington, D.C. 20001.
B. International Brotherhood of Teamsters, 25 Louisiana Avenue NW., Washington, D.C. 20001.
D. (6) $8,025.

A. James G. O'Hara, Patton, Boggs & Blow, 1200 17th Street NW., Washington, D.C. 20036.
B. American Federation of Teachers, Eleven Dupont Circle NW., Washington, D.C. 20036.
D. (6) $437.50.

A. James G. O'Hara, Patton, Boggs & Blow, 1200 17th Street NW., Washington, D.C. 20036.
B. General Motors Corp., 1660 L Street NW., Washington, D.C. 20036.
D. (6) $625.

A. Matthew D. O'Hara, 1010 Wisconsin Avenue NW., Suite 800, Washington, D.C. 20007.
B. Grocery Manufacturers of America, 1010 Wisconsin Avenue NW., Suite 800, Washington, D.C. 20007.
D. (6) $243.54.

A. Alvin E. Oliver, 725 15th Street NW., Washington, D.C. 20005.
B. National Grain and Feed Association, P.O. Box 28328, Washington, D.C. 20005.
D. (6) $22.71.

A. Van R. Olsen, 1156 15th Street NW., Suite 1019, Washington, D.C. 20005.
B. U.S. Beet Sugar Association, 1156 15th Street NW., Washington, D.C. 20005.
D. (6) $1,297.79.

A. Nancy J. Olson, Johns-Manville Corp., 1025 Connecticut Avenue NW, Suite 214, Washington, D.C. 20036.
B. Johns-Manville Corp., P.O. Box 5108, Denver, Colo. 80217.
D. (6) $400. E. (9) $500.

A. W. J. Olwell, Retail Clerks International Union, AFL–CIO, 1775 K Street NW., Washington, D.C. 20006.
B. Retail Clerks International Union, AFL–CIO, 1775 K Street NW., Washington, D.C. 20006.
D. (6) $10,054.57. E. (9) $3,515.45.

A. Olwine, Connelly, Chase, O'Donnell & Weyher, 299 Park Avenue, New York, N.Y. 10017.
B. U.S. Industries, Inc., 250 Park Avenue, New York, N.Y. 10017.
D. (6) $732. E. (9) $13.39.

A. Samuel Omasta, 3251 Old Lee Highway, Suite 501, Fairfax, Va. 22030.
B. National Limestone Institute, Inc., 3251 Old Lee Highway, Suite 501, Fairfax, Va. 22030.
E. (9) $34.25.

A. R. E. Omohundro, National Association of Federal Veterinarians, 1522 K Street NW., Suite 836, Washington, D.C. 20005.
B. National Association of Federal Veterinarians, 1522 K Street NW., Suite 836, Washington, D.C. 20005.
D. (6) $96.

A. O'Neill & Forgotson, 1220 19th Street NW., Suite 303, Washington, D.C. 20036.
B. Texas Utilities Co., 2001 Bryan Tower, Dallas, Tex. 75201; Texas Oil & Gas Co., Fidelity Union Tower, Dallas, Tex. 75201.
D. (6) $20,000. E. (9) $3,530.

A. Organization of Professional Employees of the U.S. Department of Agriculture, Room 1414–S Building, Washington, D.C. 20250.
D. (6) $1,473.48. E. (9) $565.25.

A. John L. Oshinski, United Steelworkers of America, 815 Sixteenth Street NW., Suite 706, Washington, D.C. 20006.
B. United Steelworkers of America, Five Gateway Center, Pittsburgh, Pa. 15222.
D. (6) $7,082.55. E. (9) $2,596.09.

A. J. Denis O'Toole, American Bankers Association, 1120 Connecticut Avenue NW., Washington, D.C. 20036.
B. American Bankers Association, 1120 Connecticut Avenue NW., Washington, D.C. 20036.
D. (6) $666. E. (9) $25.

A. Roland A. Ouellette, 1660 L Street NW., Suite 501, Washington, D.C. 20036.
B. General Motors Corp., 3044 West Grand Boulevard, Detroit, Mich.
D. (6) $3,600. E. (9) $2,939.03.

A. Outdoor Power Equipment Institute, 1901 L Street NW., Suite 700, Washington, D.C. 20036.
E. (9) $2,770.

A. J. Allen Overton, Jr., American Mining Congress, 1100 Ring Building, Washington, D.C.
B. American Mining Congress, 1100 Ring Building, Washington, D.C.
D. (6) $673.14. E. (9) $29.

A. William H. Owens, Jr., 1101 17th Street NW., Washington, D.C. 20036.
B. American Dental Association, 1101 17th Street NW., Washington, D.C. 20036.
D. (6) $1,000.

A. Raymond S. Page, Jr., Mill Creek Terrace, Gladwyne, Pa. 19035.
B. Campbell Soup Co., Campbell Place, Camden, N.J. 08101.

A. Henry S. Palau, The Retired Officers Association, 1625 I Street NW., Washington, D.C. 20036.
B. The Retired Officers Association, 1625 I Street NW., Washington, D.C. 20006.
D. (6) $565.

A. Paperboard Packaging Council, 1800 K Street NW., Suite 600, Washington, D.C. 20006.
E. (9) $274.12.

A. Joel B. Paris III, P.O. Box 28031, Atlanta, Ga. 30328.
B. Northrop Corp., 1701 North Ft. Myer Drive, Suite 1208, Arlington, Va. 22209.

A. Tom E. Paro, Association of Maximum Service Telecasters, Inc., 1735 DeSales Street NW., Washington, D.C. 20036.
B. Association of Maximum Service Telecasters, Inc., 1735 DeSales Street NW., Washington, D.C. 20036.

A. Robert D. Partridge, 2000 Florida Avenue NW., Washington, D.C. 20009.
B. National Rural Electric Cooperative Association, 2000 Florida Avenue NW., Washington, D.C. 20009.
D. (6) $294.65.

A. Nicholas D. Pasco, 600 New Hampshire Avenue NW., Suite 420, Washington, D.C. 20037.
B. Shipbuilders Council of America, 600 New Hampshire Avenue NW., Suite 420, Washington, D.C. 20037.
D. (6) $1,000. E. (9) $224.73.

A. Richard M. Patterson, 1800 M Street NW., Suite 700S, Washington, D.C. 20036.
B. The Dow Chemical Co., Midland, Mich. 48640.
D. (6) $500. E. (9) $239.50.

A. William H. Patterson, General Electric Co., 777 14th Street NW., Washington, D.C.
B. General Electric Co., 3135 Easton Turnpike, Fairfield, Conn.
D. (6) $220.

A. Kenton H. Pattie, National Audio-Visual Association, Inc., 3150 Spring Street, Fairfax, Va. 22031.
B. National Audio-Visual Association, Inc., 3150 Spring Street, Fairfax, Va. 22031.
D. (6) $2,153.35. E. (9) 289.75.

A. Patton, Boggs & Blow, 1200 17th Street NW., Washington, D.C. 20036.
D. (6) $8,500.

A. Patton, Boggs & Blow, 1200 17th Street NW., Washington, D.C. 20036.
B. Ad Hoc Committee of Zonal Electric Heating Manufacturers, 150 Avenue L, Newark, N.J. 07101.
D. (6) $87.

A. Patton, Boggs & Blow, 1200 17th Street NW., Washington, D.C. 20036.
B. Ad Hoc Committee on Section 602, 1101 16th Street NW., Suite 300, Washington, D.C. 20006.
D. (6) $1,500. E. (9) $2,392.40.

A. Patton, Boggs & Blow, 1200 17th Street NW., Washington, D.C. 20036.
B. Air Products & Chemicals, Inc., P.O. Box 538, Allentown, Pa. 18105.
D. (6) $300. E. (9) $6.

A. Patton, Boggs & Blow, 1200 17th Street NW., Washington, D.C. 20036.
B. Alyeska Pipeline Service Corp., P.O. Box 576, Bellevue, Wash. 98004.

A. Patton, Boggs & Blow, 1200 17th Street NW., Washington, D.C. 20036.

B. American Imported Automobile Dealers Association, 1129 20th Street NW., Washington, D.C. 20036.
D. (6) $150. E. (9) $14.50.

A. Patton, Boggs & Blow, 1200 17th Street NW., Washington, D.C. 20036.
B. American Maritime Association, 17 Battery Place, New York, N.Y. 10004.

A. Patton, Boggs & Blow, 1200 17th Street NW., Washington, D.C. 20036.
B. American Retail Federation, 1616 H Street NW., Washington, D.C. 20006.
D. (6) $1,825. E. (9) $900.

A. Patton, Boggs & Blow, 1200 17th Street NW., Washington, D.C. 20036.
B. American Society of Association Executives, 1101 16th Street NW., Washington, D.C. 20036.
D. (6) $750. E. (9) $460.50.

A. Patton, Boggs & Blow, 1200 17th Street NW., Washington, D.C. 20036.
B. Armco Steel Corp., General Offices, Middletown, Ohio 45042.
D. (6) $150.

A. Patton, Boggs & Blow, 1200 17th Street NW., Washington, D.C. 20036.
B. Association of General Merchandise Chains, 1625 Eye Street NW., Washington, D.C. 20006.
D. (6) $150.

A. Patton, Boggs & Blow, 1200 17th Street NW., Washington, D.C. 20036.
B. Association of Oil Pipelines, 1725 K Street NW., Washington, D.C. 20006.

A. Patton, Boggs & Blow, 1200 17th Street NW., Washington, D.C. 20036.
B. Association of Trial Lawyers of America, 20 Garden Street, Cambridge, Mass. 02138.
D. (6) $5,712.50. E. (9) $305.07.

A. Patton, Boggs & Blow, 1200 17th Street NW., Washington, D.C. 20036.
B. Bath Iron Works Corp., 700 Washington Street, Bath, Maine 04530.

A. Patton, Boggs & Blow, 1200 17th Street NW., Washington, D.C. 20036.
B. Boating Industry Association, 401 North Michigan Avenue, Chicago, Ill. 60601; National Association of Engine & Boat Manufacturers, P.O. Box 5555, Grand Station, New York, N.Y., 10017.
D. (6) $437.50. E. (9) $17.75.

A. Patton, Boggs & Blow, 1200 17th Street NW., Washington, D.C. 20036.
B. The Business Roundtable, 1801 K Street NW., Washington, D.C.

A. Patton, Boggs & Blow, 1200 17th Street NW., Washington, D.C. 20036.
B. Central American Sugar Council, 1200 17th Street NW., Washington, D.C.
D. (6) $700 E. (9) $27.50.

A. Patton, Boggs & Blow, 1200 17th Street NW., Washington, D.C. 20036.
B. Chicago Board Options Exchange, LaSalle at Jackson, Chicago, Ill. 60604.
D. (6) $150.

A. Patton, Boggs & Blow, 1200 17th Street NW., Washington, D.C. 20036.
B. Chippewa-Cree Tribe, Rocky Boy Reservation, Box Elder, Mont. 59521.
D. (6) $85. E. (9) $3.

A. Patton, Boggs & Blow, 1200 17th Street NW., Washington, D.C. 20036.
B. City of Birmingham, City Hall, Birmingham, Ala. 35203.
D. (6) $168. E. (9) $16.32.

A. Patton, Boggs & Blow, 1200 17th Street NW., Washington, D.C. 20036.
B. Committee Concerned with the Safe Banking Act, 5500 Veterans Memorial Boulevard, Metairie, La. 70003.
D. (6) $150.

A. Patton, Boggs & Blow, 1200 17th Street NW., Washington, D.C. 20036.
B. Council of State Chambers of Commerce, 1028 Connecticut Avenue N.W., Suite 1018, Washington, D.C. 20036.
D. (6) $115.

A. Patton, Boggs & Blow, 1200 17th Street NW., Washington, D.C. 20036.
B. Donaldson, Lufkin & Jenrette, Inc., 140 Broadway, New York, N.Y. 10005.

A. Patton, Boggs & Blow, 1200 17th Street NW., Washington, D.C. 20036.
B. Federal Pacific Electric Co., 150 Avenue L, Newark, N.J. 07101.

A. Patton, Boggs & Blow, 1200 17th Street NW., Washington, D.C. 20036.
B. Frontier Spar Corp., P.O. Box 235, Salem, Ky. 42078.
D. (6) $420. E. (9) $1,125.

A. Patton, Boggs & Blow, 1200 17th Street NW., Washington, D.C. 20036.
B. General Mills Corp., 9200 Wayzata Boulevard, Minneapolis, Minn. 55426.
D. (6) $1,601.25. E. (9) $494.28.

A. Patton, Boggs & Blow, 1200 17th Street NW., Washington, D.C. 20036.
B. Hobby Industry of America, 200 Fifth Avenue, New York, N.Y. 10010.

A. Patton, Boggs & Blow, 1200 17th Street NW., Washington, D.C. 20036.
B. Independent U.S. Tanker Owners Committee, 1612 K Street NW., Suite 510, Washington, D.C. 20006.

A. Patton, Boggs & Blow, 1200 17th Street NW., Washington, D.C. 20036.
B. Institute of Electrical and Electronics Engineers, 2029 K Street NW., Washington, D.C. 20006.

A. Patton, Boggs & Blow, 1200 17th Street NW., Washington, D.C. 20036.
B. Institute of Scrap Iron and Steel, Inc., 1729 H Street NW., Washington, D.C. 20006.
D. (6) $174. E. (9) $11.90.

A. Patton, Boggs & Blow, 1200 17th Street NW., Washington, D.C. 20036.
B. Landmark Services, Inc., 900 Ohio Drive SW., Washington, D.C. 20024.

A. Patton, Boggs & Blow, 1200 17th Street NW., Washington, D.C. 20036.
B. Lane, Powell, Moss & Miller, 1700 Washington Building, Seattle, Wash. 98101.

A. Patton, Boggs & Blow, 1200 17th Street NW., Washington, D.C. 20036.
B. LOOP, Inc., 1010 Common Street, 250 Bank of New Orleans Building, New Orleans, La. 70112.

A. Patton, Boggs & Blow, 1200 17th Street NW., Washington, D.C. 20036.
B. Louisiana Pacific Corp., 1300 South West Fifth Avenue, Portland, Oreg. 97201.
D. (6) $1,625. E. (9) $25.08.

A. Patton, Boggs & Blow, 1200 17th Street NW., Washington, D.C. 20036.
B. Machinery Dealers National Association, 1400 20th Street NW., Washington, D.C. 20036.
D. (6) $300.

A. Patton, Boggs & Blow, 1200 17th Street NW., Washington, D.C. 20036.
B. Marathon Oil Co., 539 South Main Street, Findlay, Ohio 45840.

A. Patton, Boggs & Blow, 1200 17th Street NW., Washington, D.C. 20036.
B. Mars, Inc., 1651 Old Meadow Road, McLean, Va. 22101.
D. (6) $2,650. E. (9) $930.39.

A. Patton, Boggs & Blow, 1200 17th Street NW., Washington, D.C. 20036.
B. Mocatta Metals Corp., 35 Broad Street, New York, N.Y. 10004.
D. (6) $3,156.25. E. (9) $20,054.63.

A. Patton, Boggs & Blow, 1200 17th Street NW., Washington, D.C. 20036.
B. National Medical Care, Inc., 560 Sylvan Avenue, Englewood Cliff, N.J. 07632.

A. Patton, Boggs & Blow, 1200 17th Street NW., Washington, D.C. 20036.
B. National Retail Merchants Association, 1000 Connecticut Avenue NW., Washington, D.C. 20036.
D. (6) $150.

A. Patton, Boggs & Blow, 1200 17th Street NW., Washington, D.C. 20036.
B. New Process Co., 220 Hickory Street, Warren, Pa. 16366.
D. (6) $2,000.

A. Patton, Boggs & Blow, 1200 17th Street NW., Washington, D.C. 20036.
B. Northwest Pipeline Corp., 315 East 200 South, Salt Lake City, Utah 84111.
D. (6) $20,250. E. (9) $145.63.

A. Patton, Boggs & Blow, 1200 17th Street NW., Washington, D.C. 20036.
B. Ocean Minerals Co., 465 North Bernardo, Mountain View, Calif. 94040.
D. (6) $13,356.25. E. (9) $184.

A. Patton, Boggs & Blow, 1200 17th Street NW., Washington, D.C. 20036.
B. Pepsico, Inc., Purchase, N.Y. 10577.
D. (6) $300. E. (9) $6.83.

A. Patton, Boggs & Blow, 1200 17th Street NW., Washington, D.C. 20036.
B. Jack Philip & Son, Inc., 724 Dupont Plaza Center, Miami, Fla. 33131.
D. (6) $2,212.50. E. (9) $892.90.

A. Patton, Boggs & Blow, 1200 17th Street NW., Washington, D.C. 20036.
B. Pillsbury Corp., 608 Second Avenue South, Minneapolis, Minn. 55402.
D. (6) $1,601.25. E. (9) $494.28.

A. Patton, Boggs & Blow, 1200 17th Street NW., Washington, D.C. 20036.
B. Pyrotechnical Signal Manufacturers Association, Inc., 1730 K Street NW., Suite 1300, Washington, D.C. 20006.
D. (6) $420. E. (9) $500.

A. Patton, Boggs & Blow, 1200 17th Street NW., Washington, D.C. 20036.
B. Radiation Imaging Products Division, National Electrical Manufacturers Association, 2101 L Street NW., Washington, D.C. 20036.
D. (6) $125. E. (9) $22.50.

A. Patton, Boggs & Blow, 1200 17th Street NW., Washington, D.C. 20036.
B. Ralston Purina Co., Checkerboard Square, St. Louis, Mo. 63188.

A. Patton, Boggs & Blow, 1200 17th Street NW., Washington, D.C. 20036.
B. Reader's Digest Association, Inc., Pleasantville, N.Y. 10570.
D. (6) $4,000.

A. Patton, Boggs & Blow, 1200 17th Street NW., Washington, D.C. 20036.

B. Redwood Industry Park Committee, 2750 Sand Hill Road, Menlo Park, Calif. 94205.
D. (6) $1,875. E. (9) $36.40.

A. Patton, Boggs & Blow, 1200 17th Street NW., Washington, D.C. 20036.
B. St. Joe Minerals Corp., 1730 Rhode Island Avenue NW., Suite 911, Washington, D.C. 20036.
D. (6) $587.50. E. (9) $18.90.

A. Patton, Boggs & Blow, 1200 17th Street NW., Washington, D.C. 20036.
B. State of Louisiana, Department of Conservation, P.O. Box 44275, Baton Rouge, La. 70804.
D. (6) $150.

A. Patton, Boggs & Blow, 1200 17th Street NW., Washington, D.C. 20036.
B. Tax Corporation of America, 2441 Honolulu Avenue, Montrose, Calif. 91020.

A. Patton, Boggs & Blow, 1200 17th Street NW., Washington, D.C. 20036.
B. Todd Shipyards Corp., 1 State Street Plaza, New York, N.Y. 10004.

A. Patton, Boggs & Blow, 1200 17th Street NW., Washington, D.C. 20036.
B. United Plant Guard Workers of America, 25510 Kelly Road, Roseville, Mich. 48066.
D. (6) $62.50.

A. Patton, Boggs & Blow, 1200 17th Street NW., Washington, D.C. 20036.
B. Virgin Islands Manufacturers and Importers Association, Inc., % Thomas Travis, 1290 Avenue of the Americas, New York, N.Y. 10019.
D. (6) $625. E. (9) $3.

A. Barbara Jo Pease, Shell Oil Co., 1025 Connecticut Avenue NW., Suite 200, Washington, D.C. 20036.
B. Shell Oil Co., P.O. Box 2463, Houston, Tex. 77001.
D. (6) $500.

A. Pennsylvania Power & Light Co., 2 North 9th Street, Allentown, Pa. 18101.
E. (9) $855.65.

A. Dominic V. Pensabene, Chevron U.S.A. Inc., 1700 K Street NW., Washington, D.C. 20006.
B. Chevron U.S.A. Inc. (subsidiary of Standard Oil Company of California), 1700 K Street NW., Washington, D.C. 20006.
D. (6) $50. E. (9) $25.

A. Gregory M. Pensabene, Santa Fe Industries, Inc., Suite 840, 1100 Connecticut Avenue NW., Washington, D.C. 20036.
B. Santa Fe Industries, Inc., 224 South Michigan Avenue, Chicago, Ill. 60604.
D. (6) $1,000. E. (9) $150.

A. J. Carter Perkins, Shell Oil Co., 1025 Connecticut Avenue NW., Suite 200, Washington, D.C. 20036.
B. Shell Oil Co., 1 Shell Plaza, P.O. Box 2463, Houston, Tex. 27001.
D. (6) $1,000.

A. Tony Perkins, 2000 Florida Avenue NW., Washington, D.C. 20009.
B. National Rural Electric Cooperative Association, 2000 Florida Avenue NW., Washington, D.C. 20009.
D. (6) $100.

A. John P. Perrin, American Osteopathic Association, 1611 North Kent Street, Suite 803-A, Arlington, Va. 22209.
B. American Osteopathic Association, 1611 North Kent Street, Suite 803-A, Arlington, Va. 22209.
D. (6) $2,218.85. E. (9) $2,263.85.

A. Susan Perry, American Public Transit Association, 1100 17th Street NW., Washington, D.C. 20036.
B. American Public Transit Association, 1100 17th Street NW., Washington, D.C. 20036.
D. (6) $2,100. E. (9) $244.09.

A. Tom E. Persky, National Association of Manufacturers, 1776 F Street NW., Washington, D.C. 20006.
B. National Association of Manufacturers, 1776 F Street NW., Washington, D.C. 20006.
D. (6) $250.

A. John Joseph Peter, 1701 North Ft. Myer Drive, Suite 1208, Arlington, Va. 22209.
B. Northrop Corp., 1701 North Ft. Myer Drive, Suite 1208, Arlington, Va. 22209.
D. (6) $7,500. E. (9) $3,036.92.

A. Mary B. Peterson, General Motors Corp., 1660 L Street NW., Washington, D.C.
B. General Motors Corp., 3044 West Grand Boulevard, Detroit, Mich. 48202.
D. (6) $3,000. E. (9) $2,576.16.

A. Paul F. Petrus, 1100 Connecticut Avenue NW., Washington, D.C. 20036.
B. Mobil Oil Corp., 150 East 42d Street, New York, N.Y. 10017.
D. (6) $1,200.

A. John Pflieger, Time, Inc., 888 16th Street NW., Washington, D.C. 20006.
B. Time Inc., Time & Life Building, Rockefeller Center, New York, N.Y.
D. (6) $1,700. E. (9) $550.

A. Pharmaceutical Manufacturers Association, 1155 15th Street NW., Washington, D.C.

A. John P. Philbin, 1100 Connecticut Avenue NW., Washington, D.C. 20036.
B. Mobil Oil Corp., 150 East 42nd Street, New York, N.Y. 10017.
D. (6) $1,500.

A. Barbara F. Phillips, 1620 Eye Street NW., Washington, D.C. 20006.
B. Energy Transportation System, Inc., P.O. Box 7598, San Francisco, Calif. 94120.
D. (6) $145.44. E. (9) $160.70.

A. Physicians National Housestaff Association, 1029 Vermont Avenue NW., Suite 308, Washington, D.C. 20005.
E. (9) $1,400.

A. Sam Pickard, 1101 17th Street NW., Suite 604, Washington, D.C. 20036.
B. Monsanto Co., 800 North Lindbergh Boulevard, St. Louis, Mo. 63166.
D. (6) $500.

A. Ace Pickens, 1300 American Bank Tower, Austin, Tex. 78701.
B. Texas Medical Association, 1801 North Lamar Boulevard, Austin, Tex. 78701.
D. (6) $250. E. (9) $80.

A. Wilhelm Pickens, 1600 Rhode Island Avenue NW., Washington, D.C. 20036.
B. National Rifle Association of America, 1600 Rhode Island Avenue NW., Washington, D.C. 20036.
D. (6) $750. E. (9) $35.05.

A. Pierce, Atwood, Scribner, Allen, Smith & Lancaster, One Monument Square, Portland, Maine 04101.
B. Great Northern Paper Co., 75 Prospect Street, Stamford, Conn. 06901.
D. (6) $251. E. (9) $39.

A. Pierson, Ball & Dowd, 1200 18th Street NW., Washington, D.C. 20036.
B. Satellite Business Systems, 8003 Westpark Drive, McLean, Va. 22101.
D. (6) $2,500.

A. Pierson Semmes Crolius and Finley, 1054 31st Street NW., Washington, D.C. 20007.
B. American Land Title Association, 1828 L Street NW., Washington, D.C. 20036.
D. (6) $320. E. (9) $23.27.

A. Pierson Semmes Crolius and Finley, 1054 31st Street NW., Washington, D.C. 20007.
B. Edgington Oil Co., 2400 East Artesia Boulevard, Long Beach, Calif.

A. Pierson, Semmes Crolius and Finley, 1054 31st Street NW., Washington, D.C. 20007.
B. Independent Refiners' Association of California, 900 Wilshire Boulevard, Los Angeles, Calif. 90048.
E. (9) $3.73.

A. David E. Piper, Public Power Council, 1310 Main Street, Vancouver, Wash. 98666.
B. Public Power Council, 1310 Main Street, Vancouver, Wash. 98666.

A. Plains Cotton Growers, Inc., P.O. Box 3640, Lubbock, Tex. 79452.
D. (6) $13,209.58. E. (9) $1,350.

A. E. Rogers Pleasants, 1701 Pennsylvania Avenue NW., Suite 1120, Washington, D.C. 20006.
B. E I. du Pont de Nemours & Co., 1007 Market Street, Wilmington, Del. 19898.
D. (6) $120. E. (9) $6.75.

A. James L. Pledger, National Savings & Loan League, 1101 15th Street NW., Suite 400, Washington, D.C. 20005.
B. National Savings & Loan League, 1101 15th Street NW., Suite 400, Washington, D.C. 20005.
D. (6) $14.36.

A. Frances A. Pollak, 1800 K Street NW., Suite 800, Washington, D.C. 20006.
B. The Goodyear Tire & Rubber Co., 1144 East Market Street, Akron, Ohio 44316.
D. (6) $1,000.

A. Everett O. Post, National Association of Service Contractors, 1511 K Street NW., Washington, D.C. 20005.
B. National Association of Service Contractors, 1511 K Street NW., Washington, D.C. 20005.
D. (6) $250. E. (9) $14.05.

A. Alonzo M. Poteet, Veterans of Foreign Wars of the United States, 200 Maryland Avenue NE., Washington, D.C. 20002.
B. Veterans of Foreign Wars of the United States, 200 Maryland Avenue NE., Washington, D.C. 20002.
D. (6) $2,500.

A. Potter International, Inc., 900 17th Street NW., Suite 300, Washington, D.C. 20006.
B. Rockwell International, Inc., 600 Grant Street, Pittsburgh, Pa. 15219.
D. (6) $5,000.

A. Potter International, Inc., 900 17th Street NW., Suite 300, Washington, D.C. 20006.
B. Rohr Industries, Inc., P.O. Box 23000, San Diego, Calif. 92123.
D. (6) $3,000.

A. Potter International, Inc., 900 17th Street NW., Suite 300, Washington, D.C. 20006.
B. Western Shipbuilding Association, P.O. Box 3976, San Francisco, Calif. 94119.
D. (6) $3,000.

A. Ramsay D. Potts, Shaw, Pittman, Potts & Trowbridge, 1800 M Street NW., Washington, D.C. 20036.
B. Investment Co. Institute, 1775 K Street NW., Washington, D.C. 20006.
D. (6) $1,875. E. (9) $22.75.

A. Robert D. Powell, Suite 401, 734 15th Street NW., Washington, D.C. 20005.
B. National Business Aircraft Association, 1 Farragut Square South, Washington, D.C. 20006.

A. Carlton H. Power, 1918 North Parkway, Memphis, Tenn. 38112.
B. National Cotton Council of America, P.O. Box 12285, Memphis, Tenn. 38112.
D. (6) $462.50.

A. John J. Power, 101 Constitution Avenue NW., Washington, D.C. 20001.
B. United Brotherhood of Carpenters & Joiners of America, 101 Constitution Avenue NW., Washington, D.C. 20001.
D. (6) $4,017.83. E. (9) $521.53.

A. Marilyn J. Prasinos, 1730 K Street NW., Washington, D.C. 20006.
B. American Hellenic Institute Public Affairs Committee, Inc., 1730 K Street NW., Suite 903, Washington, D.C. 20006.
D. (6) $60.

A. Prather Seeger Doolittle & Farmer, 1101 16th Street NW., Washington, D.C. 20036.
B. American Petroleum Institute, 2101 L Street NW., Washington, D.C.

A. Prather, Seeger, Doolittle & Farmer, 1101 16th Street NW., Washington, D.C. 20036.
B. Bankers' Association for Foreign Trade, 1101 16th Street NW., Washington, D.C. 20036.
D. (6) $8,000.

A. Prather, Seeger, Doolittle & Farmer, 1101 16th Street NW., Washington, D.C. 20036.
B. The First National Bank of Chicago, 1 First National Plaza, Chicago, Ill. 60670.
D. (6) $500.

A. William C. Prather, United States League of Savings Associations, 111 East Wacker Drive, Chicago, Ill. 60601.
B. U.S. League of Savings Associations, 111 East Wacker Drive, Chicago, Ill. 60601.
D. (6) $678.

A. William B. Prendergast, Distilled Spirits Council of the United States, 1300 Pennsylvania Building, Washington, D.C. 20004.
B. Distilled Spirits Council of the United States, 1300 Pennsylvania Building, Washington, D.C. 20004.
D. (6) $750.

A. Lloyd T. Preslar, DGA International, Inc., 1225 19th Street NW., Washington, D.C. 20036.
B. DGA International, Inc. (for Aerospatiale, 37 Boulevard de Montmorency, 75016 Paris, France), 1225 19th Street NW., Washington, D.C. 20036.
D. (6) $21.15.

A. Lloyd T. Preslar, DGA International, Inc., 1225 19th Street NW., Washington, D.C. 20036.
B. DGA International, Inc., (for Airbus Industrie, Avenue Lucien Servanty, 31700 Blagnac, France), 1225 19th Street NW., Washington, D.C. 20036.

A. Preston, Thorgrimson, Ellis, Holman & Fletcher, 1776 F Street NW., Suite 201, Washington, D.C. 20006.
B. Bonneville Power Administration Industrial Customers, Suite 310, Lloyd Building, 700 Northeast Multromak Street, Portland, Oreg. 97232.
D. (6) $2,630.50.

A. Preston, Thorgrimson, Ellis, Holman & Fletcher, 1776 F Street NW., Suite 201, Washington, D.C. 20006.
B. Citronelle-Mobile Gathering, Inc., 717 First Southern Federal Tower, Mobile, Ala. 36616.
D. (6) $3,845.

A. Preston, Thorgrimson, Ellis, Holman & Fletcher, 1776 F Street NW., Suite 201, Washington, D.C. 20006.
B. Moore McCormack Resources, Inc., 1 Landmark Square, Stamford, Conn.
D. (6) $1,420.

A. Preston, Thorgrimson, Ellis, Holman & Fletcher, 1776 E Street NW., Suite 201, Washington, D.C. 20006.
B. Pacific Seafood Processors Association, 1600 South Jackson Street, Seattle, Wash. 98144.
D. (6) $2,191.50.

A. Preston, Thorgrimson, Ellis, Holman & Fletcher, 1776 F. Street NW., Suite 201, Washington, D.C. 20006.
B. Seatrain Lines, Inc., 1 Chase Manhattan Plaza, New York, N.Y. 10005.
D. (6) $750.

A. Preston, Thorgrimson, Ellis, Holman & Fletcher, 1776 F Street NW., Suite 201, Washington, D.C. 20006.
B. Tennessee Gas Pipeline Co., P.O. Box 2511, Houston, Tex. 77001.
D. (6) $4,640.

A. Preston, Thorgrimson, Ellis, Holman & Fletcher, 1776 F Street NW., Suite 201, Washington, D.C. 20006.
B. Wometco Enterprises, Inc., 306 North Miami Avenue, Miami, Fla. 33128.
D. (6) $1,680.

A. Forrest J. Prettyman, 730 15th Street NW., Washington, D.C. 20005.
B. Association of Bank Holding Co.'s, 730 15th Street NW., Washington, D.C. 20005.
D. (6) $625.

A. Patricia Pride, Financial Accounting Standards Board, 1100 17th Street NW., Washington, D.C. 20036.
B. Financial Accounting Standards Board, High Ridge Park, Stamford, Conn. 06905.
D. (6) $86.54. E. (9) $48.47.

A. Arnold J. Prima, Jr., The American Institute of Architects, 1735 New York Avenue NW., Washington, D.C. 20006.
B. The American Institute of Architects, 1735 New York Avenue NW., Washington, D.C. 20006.
D. (6) $1,200.

A. Jerry C. Pritchett, Mechanical Contractors Association of America, 5530 Wisconsin Avenue, Suite 750, Washington, D.C. 20015.
B. Mechanical Contractors Association of America, Inc., 5530 Wisconsin Avenue, Suite 750, Washington, D.C. 20015.

A. Profit Sharing Council of America, 20 North Wacker Drive, Chicago, Ill. 60606.

A. Pro-Life Congressional District Action Committee IN-2, 3310 Lindbergh Drive, Indianapolis, Ind. 26227.
E. (9) $18.48.

A. Pro-Life Congressional District 11, P.O. Box 727, San Carlos, Calif. 94070.
D. (6) $121.15. E. (9) $45.32.

A. The Proprietary Association, 1700 Pennsylvania Avenue NW., Washington, D.C.
E. (9) $6,139.30.

A. Gerald R. Prout, Suite 750 South, 1800 M Street NW., Washington, D.C. 20036.
B. Burson-Marsteller, Suite 750 South, 1800 M Street NW., Washington, D.C. 20036 (for Tax Equity for Americans Abroad).

A. Gerald Robert Prout, Suite 750 South, 1800 M Street NW., Washington, D.C. 20036.
B. Burson-Marsteller, Suite 750 South, 1800 M Street NW., Washington, D.C. 20036 (for Technicare Corp., Solon, Ohio).

A. Jerry Z. Pruzan, 1025 Connecticut Avenue NW., Washington, D.C. 20036.
B. Atlantic Richfield Co., 515 South Flower Street, Los Angeles, Calif. 90071.
D. (6) $300.

A. Public Citizen's Tax Reform Research Group, 133 C Street SE., Washington, D.C. 20003.
D. (6) $4,042.76. E. (9) $4,042.76.

A. Public Employee Department, AFL-CIO, 815 16th Street NW., Washington, D.C. 20006.
D. (6) $28,508.90. E. (9) $29,140.17.

A. Philip N. Pulizzi, Jr., NAM, 1776 F Street NW., Washington, D.C. 20006.
B. National Association of Manufacturers, 1776 F Street NW., Washington, D.C. 20006.
D. (6) $400.

A. David E. Pullen, Johns-Manville Corp., 1025 Connecticut Avenue NW., Suite 214, Washington, D.C. 20036.
B. Johns-Manville Corp., P.O. Box 5108, Denver, Colo. 80217.
D. (6) $600. E. (9) $700.

A. Earle W. Putnam, 5025 Wisconsin Avenue NW., Washington, D.C. 20016.
B. Amalgamated Transit Union, AFL-CIO, 5025 Wisconsin Avenue NW., Washington, D.C. 20016.

A. Howard Pyle III, 1150 Connecticut Avenue NW., Suite 805, Washington, D.C. 20036.
B. R. J. Reynolds Industries, Inc., P.O. Box 2959, Winston-Salem, N.C. 27102.
D. (6) $329.67. E. (9) $2.20.

A. Robert N. Pyle, P.O. Box 3731, Washington, D.C. 20007.
B. Independent Bakers Association, P.O. Box 3731, Washington, D.C. 20007.
D. (6) $3,000.

A. Quintana Refinery, P.O. Box 3331, Houston, Tex. 77001.

A. Alex Radin, American Public Power Association, 2600 Virginia Avenue NW., Washington, D.C. 20037.
B. American Public Power Association, 2600 Virginia Avenue NW., Washington, D.C. 20037.
D. $549.86.

A. Richard W. Rahn, American Council for Capital Formation, 1425 K Street NW., Washington, D.C. 20005.
B. American Council for Capital Formation, 1425 K Street NW., Washington, D.C. 20005.
D. (6) $1,425.

A. Railway Labor Executives' Association, 400 First Street NW., Washington, D.C. 20001.
D. (6) $38,400. E. (9) $38,400.

A. Railway Progress Institute, 700 North Fairfax Street, Alexandria, Va. 22314.

A. Gretchen P. Ralph, 303 Kimry Moor, Fayetteville, N.Y. 13066.
B. National Committee for Symphony Orchestra Support, 1100 17th Street NW., Suite 313, Washington, D.C. 20036.
D. (6) $3,500. E. (9) $172.06.

A. Wm. J. Randall, Suite 821, 1515 Jefferson Davis Highway, Arlington, Va. 22202.
B. City of Independence, Mo., 106 West Maple Street, Independence, Mo. 64050.

D. (6) $1,500. E. (9) $1,135.

A. Wm. J. Randall, Suite 821, 1515 Jefferson Davis Highway, Arlington, Va. 22202.
B. United States Railway Association, 955 L'Enfant Plaza SW., Washington, D.C. 20024.
D. (6) $5,000. E. (9) $960.

A. R. Ray Randlett, 1150 Connecticut Avenue NW., Suite 700, Washington, D.C. 20036.
B. Allied Chemical Corp., P.O. Box 3000–R, Morristown, N.J. 07960.
D. (6) $208.

A. Arthur G. Randol III, American Nuclear Energy Council, 1750 K Street NW., Suite 300, Washington, D.C.
B. American Nuclear Energy Council, 1750 K Street NW., Suite 300, Washington, D.C.
D. (6) $3,675. E. (9) $72.10.

A. Jerry Rapp, 1155 15th Street NW., Suite 502, Washington, D.C. 20005.
B. Bristol-Myers Co., 345 Park Avenue, New York, N.Y. 10022.
D. (6) $525.

A. D. Michael Rappoport, Salt River Project, P.O. Box 1980, Phoenix, Ariz. 85001.
B. Salt River Project, P.O. Box 1980, Phoenix, Ariz. 85001.
D. (6) $2,405.15. E. (9) $2,146.85.

A. G. J. Rauschenbach, COMSAT, 950 L'Enfant Plaza SW., Washington, D.C. 20024.
B. Communications Satellite Corp., 950 L'Enfant Plaza SW., Washington, D.C. 20024.
D. (6) $500. E. (9) $530.

A. Susan E. Recce, 1600 Rhode Island Avenue NW., Washington, D.C. 20036.
B. National Rifle Association of America, 1600 Rhode Island Avenue NW., Washington, D.C. 20036.
D. (6) $505. E. (9) $40.03.

A. G. G. Reckley Associates, 2737 Devonshire Place No. 9 NW., Washington, D.C. 20008.
B. Kootznoowoo, Inc., P.O. Box 116, Angoon, Alaska 99820.
D. (6) $3,500. E. (9) $1,228.11.

A. G. G. Reckley Associates, 2737 Devonshire Place No. 9 NW., Washington, D.C. 20008.
B. 13th Regional Corp., 1800 Westlake North, Suite 313, Seattle, Wash.

A. Jerry Rees, 1030 15th Street NW., Suite 1030, Washington, D.C. 20005.
B. National Association of Wheat Growers, 1030 15th Street NW., Suite 1030, Washington, D.C. 20005.
D. (6) $1,543.32.

A. Thomas M. Rees, 1101 Connecticut Avenue NW., Suite 403, Washington, D.C. 20036.
B. American Constituency Overseas (ACO), George E. Fischer Associates, 2152 DuPont Drive, 106, Irvine, Calif. 92715.

A. Thomas M. Rees, 1101 Connecticut Avenue NW., Suite 403, Washington, D.C. 20036.
B. California Savings & Loan League, 9800 South Sepulveda Boulevard, Los Angeles, Calif. 90045.

A. Thomas M. Rees, 1101 Connecticut Avenue NW., Suite 403, Washington, D.C. 20036.
B. Fluor Corp., 1627 K Street NW., Washington, D.C. 20006.

A. Thomas M. Rees, 1101 Connecticut Avenue NW., Suite 403, Washington, D.C. 20036.
B. Imperial Resources Association, P.O. Box 119, Brawley, Calif. 92227.

A. J. Ronald Reeves, Allegheny Airlines, Inc., Washington National Airport, Washington, D.C. 20001.
B. Allegheny Airlines, Inc., Washington National Airport, Washington, D.C. 20001.
D. (6) $2,000. E. (9) $224.67.

A. John T. Reggitts, Jr., R.D. No. 2, Boonton Avenue, Boonton, N.J. 07005.

A. Frank D. Register, National Association of Retail Grocers of the United States, Inc., 11800 Sunrise Valley Drive, Reston, Va. 22091.
B. National Association of Retail Grocers of the United States, Inc., 11800 Sunrise Valley Drive, Reston, Va. 22091.
D. (6) $400. E. (9) $74.

A. Reid & Priest, 1701 K Street NW., Washington, D.C. 20006.
B. Governmental Affairs Division of the Edison Electric Institute, 1140 Connecticut Avenue NW., Suite 1010, Washington, D.C. 20036.
D. (6) $30.

A. Harry O. Reinsch, 1310 Jones Street, Apt. 902, San Francisco, Calif. 94109.
B. Bechtel Power Corp., 50 Beale Street, P.O. Box 3965, San Francisco, Calif. 94119.

A. W. W. Renfroe, 69 Fountain Place, Frankfort, Ky. 40601.
B. Kentucky Railroad Association, 69 Fountain Place, Frankfort, Ky. 40601.
E. (9) $716.54.

A. Diane Rennert, 1707 L Street NW., Washington, D.C. 20036.
B. Association of American Publishers, 1707 L Street NW., Washington, D.C. 20036.
D. (6) $950. E. (9) $356.66.

A. Jamie Replogle, 1101 16th Street NW., Washington, D.C. 20036.
B. Independent Petroleum Association of America, 1101 16th Street NW., Washington, D.C. 20036.
E. (9) $7.43.

A. The Retired Officers Association, 1625 I Street NW., Washington, D.C. 20006.
D. (6) $5,320.

A. John H. Reurs, 25 Broadway, New York, N.Y. 10004.
B. New York Committee of International Committee of Passenger Lines, 25 Broadway, New York, N.Y. 10004.
D. (6) $9,375. E. (9) $650.

A. Nancy C. Reynolds, 300 Maryland Avenue NE., Washington, D.C. 20002.
B. The Bendix Corp., 300 Maryland Avenue NE., Washington, D.C. 20002.
D. (6) $1,300.

A. William L. Reynolds, National Savings & Loan League, 1101 15th Street NW., Suite 400, Washington, D.C. 20005.
B. National Savings & Loan League, 1101 15th Street NW., Suite 400, Washington, D.C. 20005.
D. (6) $800. E. (9) $345.

A. C. B. Rhoads, Jr., Bell Telephone Co. of Pennsylvania, 1 Parkway, 15th Floor, Philadelphia, Pa. 19102.
B. The Bell Telephone Co. of Pennsylvania, 1 Parkway, Philadelphia, Pa. 19102.
D. (6) $60. E. (9) $297.20.

A. Kent Rhodes, the Reader's Digest Association, Inc., Pleasantville, N.Y. 10570.
B. The Reader's Digest Association, Inc., Pleasantville, N.Y. 10570.
D. (6) $2,500.

A. Rice Genocide Research, P.O. Box 7307, Washington, D.C. 20044; 3046 Roosevelt, Detroit, Mich. 48216.
E. (9) $160.

A. Theron J. Rice, Continental Oil Co., 1130 17th Street NW., No. 400, Washington, D.C. 20036.
B. Continental Oil Co., High Ridge Park, Stamford, Conn. 06904.

A. Alan H. Richardson, American Public Power Association, 2600 Virginia Avenue NW., Washington, D.C. 20037.
B. American Public Power Association, 2600 Virginia Avenue NW., Washington, D.C. 20037.
D. (6) $1,000.

A. K. O. Richardson, Brotherhood of Railway, Airline & Steamship Clerks, Freight Handlers Express & Station Employes, 815 16th Street NW., Washington, D.C. 20006.
B. Brotherhood of Railway, Airline & Steamship Clerks, Freight Handlers Express & Station Employes, 3 Research Place, Rockville, Md. 28050.
D. (6) $1,620. E. (9) $810.

A. Lloyd C. Richardson, Jr., South Dakota Railroads Association, P.O. Box 489, Aberdeen, S. Dak. 57401.
B. South Dakota Railroads Association, P.O. Box 489, Aberdeen, S. Dak. 57401.
D. (6) $1,375. E. (9) $569.76.

A. Russell W. Richardson, Lear Siegler, Inc., Suite 1002, 1911 Jefferson Davis Highway, Arlington, Va. 22202.
B. Lear Siegler, Inc., 3171 South Bundy Drive, Santa Monica, Calif. 90406.

A. Sheffield C. Richey, Jr., 7901 Westpark Drive, McLean, Va. 22102.
B. National Machine Tool Builders' Association, 7901 Westpark Drive, McLean, Va. 22102.
D. (6) $375. E. (9) $250.

A. Cary Ridder, 317 Pennsylvania Avenue SE., Washington, D.C. 20003.
B. Environmental Policy Center, 317 Pennsylvania Avenue SE., Washington, D.C. 20003.
D. (6) $966.

A. E. Philip Riggin, 1608 K Street NW., Washington, D.C.
B. The American Legion, 700 North Pennsylvania Street, Indianapolis, Ind.
D. (6) $4,569. E. (9) $254.34.

A. Douglas V. Rigler, 1775 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. Foley, Lardner, Hollabaugh & Jacobs (for Republic of the Philippines), 1775 Pennsylvania Avenue NW., Washington, D.C. 20006.

A. John S. Rippey, 730 15th Street NW., Washington, D.C. 20005.
B. Association of Bank Holding Companies, 730 15th Street NW., Washington, D.C. 20005.
D. (6) $562.50. E. (9) $48.40.

A. Carol A. Risher, Association of American Publishers, 1707 L Street NW., Washington, D.C. 20036.
B. Association of American Publishers, 1707 L Street NW., Washington, D.C. 20036.
D. (6) $1000. E. (9) $625.

A. Nancy J. Risque, Suite 650, 1050 17th Street, NW., Washington, D.C. 20036.
B. The Standard Oil Co. (Ohio), Midland Building, Cleveland, Ohio 44115.

A. James E. Ritchie, 499 South Capitol Street SW., Suite 400, Washington, D.C. 20003.
B. Gaming Industry Association of Nevada, Inc., 1 East First Street, No. 1007, Reno, Nev. 89501.

D. (6) $1,667. E. (9) $999.97.

A. James E. Ritchie, 499 South Capitol Street SW., Suite 400, Washington, D.C. 20003.
B. National Association of Off-Track Betting, P.O. Box 446, Batavia, N.Y. 14020.
D. (6) $3,500. E. (9) $4,137.23.

A. James E. Ritchie, 499 South Capitol Street SW., Suite 400, Washington, D.C. 20003.
B. Nevada Resort Association, 932 East Sahara Avenue, Las Vegas, Nev. 89104.
D. (6) $3,333. E. (9) $1,999.94.

A. Stark Ritchie, 2101 L Street NW., Washington, D.C. 20037.
B. American Petroleum Institute, 2101 L Street NW., Washington, D.C. 20037.

A. Geo. W. Ritter, 3914 King Arthur Road, Annandale, Va. 22003.
B. Alton Box Board Co., Alton, Ill. 62002.
D. (6) $6,250. E. (9) $1,228.

A. Paul H. Robbins, National Society of Professional Engineers, 2029 K Street NW., Washington, D.C. 20006.
B. National Society of Professional Engineers, 2029 K Street NW., Washington, D.C. 20006.
D. (6) $1,500.

A. Perry A. Roberts, c/o Ramsay D. Potts, 1800 M Street NW., Washington, D.C. 20036.
B. Emerson Electric Co., 8100 Florissant, St. Louis, Mo. 63136.
E. (9) $616.35.

A. William S. Roberts, National Rural Electric Cooperative Association, 2000 Florida Avenue NW., Washington, D.C. 20009.
B. National Rural Electric Cooperative Association, 2000 Florida Avenue NW., Washington, D.C. 20009.
D. (6) $70.

A. Hope E. Robertson, 317 Pennsylvania Avenue SE., Washington, D.C. 20003.
B. Environmental Policy Center, 317 Pennsylvania Avenue SE., Washington, D.C. 20003.
D. (6) $3,000.

A. Charles A. Robinson, Jr., 2000 Florida Avenue NW., Washington, D.C. 20009.
B. National Rural Electric Cooperative Association, 2000 Florida Avenue NW., Washington, D.C. 20009.
D. (6) $233.28.

A. John K. Robinson, Chamber of Commerce of the United States, 1615 H Street NW., Washington, D.C.
B. Chamber of Commerce of the United States, 1615 H Street NW., Washington, D.C.
E. (9) $25.

A. Antoinette K. Roche, 2021 K Street NW., Suite 709, Washington, D.C. 20006.
B. General Atomic Co., San Diego, Calif.
D. (6) $500. E. (9) $25.

A. Betty P. Rocker, Seafarers International Union, 815 16th Street NW., Washington, D.C. 20006.
B. Seafarers International Union of North America, 675 Fourth Avenue, Brooklyn, N.Y. 11232.
D. (6) $2,500. E. (9) $135.14.

A. Thomas G. Roderick, 1101 16th Street NW., No. 400, Washington, D.C. 20036.
B. Consolidated Natural Gas Service Co., Inc., 4 Gateway Center, Pittsburgh, Pa. 15222.

A. Ted V. Rodgers, 1000 Connecticut Avenue NW., Suite 304, Washington, D.C. 20036.
B. Nationwide Insurance Co's. & Affiliates, 1 Nationwide Plaza, Columbus, Ohio 43216.
D. (6) $3,000. E. (9) $150.

A. Robert Rodriguez, 2030 M Street NW., Washington, D.C. 20036.
B. Common Cause, 2030 M Street NW., Washington, D.C. 20036.
D. (6) $3,600.

A. Mitch Rofsky, 133 C Street SE., Washington, D.C. 20003.
B. Congress Watch, 133 C Street SE., Washington, D.C. 20003.
D. (6) $3,477.

A. Donald L. Rogers, 730 15th Street NW., Washington, D.C. 20005.
B. Association of Bank Holding Co's., 730 15th Street NW., Washington, D.C. 20005.
D. (6) $1,187.50.

A. Margaret Rogers, Printing Industries of America, Inc., 1730 North Lynn Street, Arlington, Va. 22209.
B. Printing Industries of America, Inc., 1730 North Lynn Street, Arlington, Va. 22209.
D. (6) $1,000. E. (9) $73.50.

A. Terrence L. Rogers, American Federation of Government Employees, 1325 Massachusetts Avenue NW., Washington, D.C. 20005.
B. American Federation of Government Employees, 1325 Massachusetts Avenue NW., Washington, D.C. 20005.
D. (6) $5,048.40. E. (9) $12,400.70.

A. Rogers & Wells, 1666 K Street NW., Washington, D.C. 20006.
B. The Deltona Corp., 3250 Southwest Third Avenue, Miami, Fla. 33129.

A. Rogers & Wells, 1666 K Street NW., Washington, D.C. 20006.
B. Martina Navratilova, Dallas, Tex.

A. Rogers & Wells, 1666 K Street NW., Washington, D.C. 20006.
B. C. H. Sprague & Son Co., 125 High Street, Boston, Mass. 02110.

A. Rogers & Wells, 1666 K Street NW., Washington, D.C. 20006.
B. Squibb Corp., 40 West 57th Street, New York, N.Y. 10019.

A. Martin H. Rogol, 239 10th Street SE., Washington, D.C. 20003.
B. Food Policy Center, 538 Seventh Street SE., Washington, D.C. 20003.
D. (6) $7,002.

A. Richard A. Rohrbach, 1625 I Street NW., No. 809, Washington, D.C. 20006.
B. Boise Cascade Corp., 1625 I Street NW., No. 809, Washington, D.C. 20006.
D. (6) $15,000.

A. John F. Rolph III, American Bankers Association, 1120 Connecticut Avenue NW., Washington, D.C. 20036.
B. American Bankers Association, 1120 Connecticut Avenue NW., Washington, D.C. 20036.
D. (6) $2,000.

A. Nicholas Roomy, Jr., Appalachian Power Co., P.O. Box 1986, Charleston, W. Va. 25327.
B. Appalachian Power Co., P.O. Box 1986, Charleston, W. Va. 25327 (subsidiary of the American Electric Power Co., Inc., 2 Broadway, New York, N.Y. 10004).
D. (6) $608.04. E. (9) $527.02.

A. Kevin M. Rooney, Long Island Lighting Co., 250 Old Country Road, Mineola, N.Y. 11501.
B. Long Island Lighting Co., 250 Old Country Road, Mineola, N.Y. 11501.
D. (6) $1,125. E. (9) $1,050.

A. James C. Rosapepe, Rosapepe & Associates, 101 North Columbus Street, Suite 400, Alexandria, Va. 22314.
B. Rosapepe & Associates (for Interfaith Center on Corporate Responsibility, New York, N.Y. 10027), 101 North Columbus Street, Suite 400, Alexandria, Va. 22314.
D. (6) $600. E. (9) $84.48.

A. David N. Rose, 180 East First South Street, Salt Lake City, Utah 84139.
B. Mountain Fuel Supply Co., 180 East First South Street, Salt Lake City, Utah 84139.
D. (6) $345. E. (9) $643.10.

A. Walda W. Roseman, National Public Radio, 2025 M Street NW., Washington, D.C. 20036.
B. National Public Radio, 2025 M Street NW., Washington, D.C. 20036.
D. (6) $9,000. E. (9) $94.74.

A. Albert B. Rosenbaum III, National Tank Truck Carriers, Inc., 1616 P Street NW., Washington, D.C. 20036.
B. National Tank Truck Carriers, Inc., 1616 P Street NW., Washington, D.C. 20036.

A. Seymour N. Ross, DGA International, Inc., 1225 19th Street NW., Washington, D.C. 20036.
B. DGA International, Inc. (for Thomson-CSF (AVS), 178 Boulevard Gabriel Piri, 92240 Malakoff, France), 1225 19th Street NW., Washington, D.C. 20036.
D. (6) $20.67. E. (9) $3.

A. Alan J. Roth, Spiegel & McDiarmid, 2600 Virginia Avenue NW., Washington, D.C. 20037.
B. Fort Pierce Utilities Authority of the City of Fort Pierce, Gainesville-Alachua County Regional Electric Water & Sewer Utilities, Sebring Utilities Commission, Cities of Homestead, Kissimmee, Lakeland, State, Tallahassee, Fla.
D. (6) $1,100. E. (9) $800.

A. Edwin Rothschild, 1615 Anderson Road, McLean, Va. 22101.
B. Energy Action Educational Foundation, 1523 L Street NW., Washington, D.C. 20005.
D. (6) $66.30.

A. Donald D. Rounds, South Dakota Petroleum Council, P.O. Box 669, Pierre, S. Dak. 57501.
B. American Petroleum Institute, 2101 L Street NW., Washington, D.C. 20032.
D. (6) $82.50.

A. William C. Rountree, 1050 17th Street, NW., Suite 650, Washington, D.C. 20036.
B. The Standard Oil Co. (Ohio), Midland Building, Cleveland, Ohio 44115.
D. (6) $12. E. (9) $1,548.95.

A. Rouss & O'Rourke, Lawyers Building, 231 East Vermijo, Colorado Springs, Colo. 80903; 1614 20th Street NW., Washington, D.C. 20009.
B. Union Nacional de Productores de Azucar, S.A. de C.V. Balderas 36, Mexico, D.F. Mexico.
D. (6) $4,000. E. (9) $2,982.24.

A. Eugene F. Rowan, J. C. Penney Co., Inc., 1156 15th Street NW., Washington, D.C. 20005.
B. J. C. Penney Co., Inc., 1301 Avenue of the Americas, New York, N.Y. 10019.
D. (6) $184.50. E. (9) $127.14.

A. Kathryn Coe Royce, 1600 Rhode Island Avenue NW., Washington, D.C. 20036.
B. National Rifle Association of America, 1600 Rhode Island Avenue NW., Washington, D.C. 20036.
D. (6) $505. E. (9) $41.68.

A. Donald M. Rubel, 3889 North 30th Street, Arlington, Va. 22207.
B. Meat Importers Council of America, Inc., 1 Penn Plaza, New York, N.Y. 10001.
D. (6) $810. E. (9) $46.18.

A. James S. Rubin, 1150 Connecticut Avenue NW., Suite 700, Washington, D.C. 20036.
B. Allied Chemical Corp., P.O. Box 3000–R, Morristown, N.J. 07960.
D. (6) $1,192. E. (9) $8.

A. Steven J. Rukavina, 1010 Wisconsin Avenue NW., Suite 800, Washington, D.C. 20007.
B. Grocery Manufacturers of America, Inc., 1010 Wisconsin Avenue NW., Suite 800, Washington, D.C. 20007.

A. Perry A. Russ, Society of American Florists & Ornamental Horticulturists, 901 North Washington Street, Alexandria, Va. 22314.
B. Society of American Florists & Ornamental Horticulturists, 901 North Washington Street, Alexandria, Va. 22314.

A. Albert R. Russell, P.O. Box 12285, Memphis, Tenn. 38112.
B. National Cotton Council of America, P.O. Box 12285, Memphis, Tenn. 38112.

A. Robert M. Russell, 2170 Piedmont Road NE., Atlanta, Ga. 30324.
B. Orkin Exterminating Co., 2170 Piedmont Road NE., Atlanta, Ga. 30324.
D. (6) $280.

A. Wally Rustad, 2000 Florida Avenue NW., Washington, D.C. 20009.
B. National Rural Electric Cooperative Association, 2000 Florida Avenue NW., Washington, D.C. 20009.
D. (6) $100.

A. J. T. Rutherford & Associates, Inc., 1660 L Street NW., Washington, D.C. 20036.
B. American Association of Bionalysts/International Society of Clinical Laboratory Technicians, 800 Ambassador Building, St. Louis, Mo.
D. (6) $700. E. (9) $1,407.40

A. J. T. Rutherford & Associates, Inc., 1660 L Street NW., Washington, D.C. 20036.
B. American College of Radiology, 20 North Wacker Drive, Chicago, Ill. 60606.
D. (6) $900. E. (9) $1,498.68.

A. J. T. Rutherford & Associates, Inc., 1660 L Street NW., Washington, D.C. 20036.
B. American Optometric Association, 1730 M Street NW., Washington, D.C. 20036.
D. (6) $1,000. E. (9) $2,004.75.

A. J. T. Rutherford & Associates, Inc., 1660 L Street NW., Washington, D.C. 20036.
B. Hospital Pharmacies, Inc., 10960 Wilshire Boulevard, Los Angeles, Calif. 90024.

A. J. T. Rutherford & Associates, Inc., 1660 L Street NW., Washington, D.C. 20036.
B. Rebecca D. Shapiro & Associates, 111 C Street SE, Washington, D.C. 20003.

A. Ella Marice Ryan, J. C. Penney Co., Inc., 1156 15th Street NW., Washington, D.C. 20005.
B. J. C. Penney Co., Inc., 1301 Avenue of the Americas, New York, N.Y. 10019.
D. (6) $100. E. (9) $23.25.

A. John F. Ryan, International Telephone & Telegraph Corp., 1707 L Street NW., Suite 200, Washington, D.C. 20036.
B. International Telephone & Telegraph Corp., 320 Park Avenue, New York, N.Y. 10022.
D. (6) $62. E. (9) $5.50.

A. Joseph P. Saba, 1156 15th Street NW., Washington, D.C. 20005.
B. Surrey, Karasik and Morse, 1156 15th Street NW., Washington, D.C. 20005.

A. The St. Louis Merchantile Library Association, 510 Locust Street, St. Louis, Mo. 63188.
E. (9) $2,388.26.

A. Frank P. Sanders, 815 Connecticut Avenue NW., Washington, D.C.
B. The Flying Tiger Line, Inc., Los Angeles International Airport, Los Angeles, Calif.
D. (6) $510.

A. Frank P. Sanders, 815 Connecticut Avenue NW., Washington, D.C.
B. The Signal Companies, Inc. 9665 Wilshire Boulevard, Beverly Hills, Calif. 90212.
D. (6) $250.

A. Charles E. Sandler, 2101 L Street NW., Washington, D.C. 20037.
B. American Petroleum Institute, 2101 L Street NW., Washington, D.C. 20037.
D. (6) $5,000.

A. Sandler & Travis, 330 Madison Avenue, Suite 2850, New York, N.Y. 10017; 444 Brickell Avenue, Suite 905, Miami, Fla. 33131.
B. Virgin Islands Manufacturers & Importers Association, P.O. Box "Q", Kings Hill Post Office, Christiansted, V.I. 00850.
D. (6) $1,039.55.

A. Peter G. Sandlund, Room 400, 919 18th Street NW., Washington, D.C. 20006.
B. Council of European & Japanese National Shipowners' Associations, 17/18 Bury Street, London EC3A 5AH, England.
D. (6) $300.

A. Harold B. Say, 916 Prince Street, Alexandria, Va. 22314.
B. Veterans of World War I of the U.S.A., Inc., 916 Prince Street, Alexandria, Va. 22314.
D. (6) $157.50.

A. Thomas T. Scambos, DGA International, Inc., 1225 19th Street NW., Washington, D.C. 20036.
B. DGA International, Inc., 1225 19th Street NW., Washington, D.C. 20036 (for Krauss-Maffei AG, Krauss-Maffei-Strasse 2, 8000 Munich, FRG).
D. (6) $64.91.

A. Thomas T. Scambos, DGA International, Inc., 1225 19th Street NW., Washington, D.C. 20036.
B. DGA International, Inc., 1225 19th Street NW., Washington, D.C. 20036 (for Thomson-CSF (AVS), 178 Boulevard Gabriel Péri, 92240 Malakoff, France).

A. Harold A. Schaitberger, International Association of Fire Fighters, 1750 New York Avenue NW., Washington, D.C. 20006.
B. International Association of Fire Fighters, 1750 New York Avenue NW., Washington, D.C. 20006.
D. (6) $7,787.58.

A. Jay T. Scheck, Jr., Ford Motor Co., 815 Connecticut Avenue NW., Washington, D.C. 20006.
B. Ford Motor Co., Dearborn, Mich.
D. (6) $1,800. E. (9) $979.81.

A. Lois M. Schell, National Association of Manufacturers, 222 South Prospect Avenue, Park Ridge, Ill. 60068.
B. National Association of Manufacturers, 1776 F Street NW., Washington, D.C. 20006.
D. (6) $170.

A. Jacques T. Schlenger, 1800 Mercantile Bank and Trust Building, 2 Hopkins Plaza, Baltimore, Md. 21202.
B. Maryland Savings-Share Insurance Corp., 901 North Howard Street, Baltimore, Md. 21201.
E. (9) $92.50.

A. Stephen I. Schlossberg, 1125 15th Street NW., Suite 600, Washington, D.C. 20005.
B. International Union, United Automobile, Aerospace and Agricultural Implement Workers of America (UAW), 8000 East Jefferson Avenue, Detroit, Mich. 48214.
D. (6) $12,965.96. E. (9) $1,526.26.

A. Allan D. Schlosser, 1000 Connecticut Avenue NW., Washington, D.C. 20036.
B. United States-Japan Trade Council, 1000 Connecticut Avenue NW., Washington, D.C. 20036.
D. (6) $400.

A. Richard M. Schmidt, Jr., 1920 L Street NW., Suite 700, Washington, D.C.
B. Association of American Publishers, Inc., 1707 L Street NW., Suite 480, Washington, D.C. 20036.
D. (6) $500.

A. Robert L. Schmidt, National Cable Television Association, Inc., 918 16th Street NW., Washington, D.C. 20006.
B. National Cable Television Association, Inc., 918 16th Street NW., Washington, D.C. 20006.
D. (6) $227. E. (9) $45.

A. Terry L. Schmidt, Terry L. Schmidt Associates, Inc., 1701 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. American College of Emergency Physicians, 3900 Capital City Boulevard, Lansing, Mich. 48906.
D. (6) $900.

A. Andy Schneider, National Health Law Project, 1200 15th Street NW., Room 503, Washington, D.C. 20005.
B. The National Health Law Program, Inc., 2401 Main Street, Santa Monica, Calif. 90405.
D. (6) $254. E. (9) $303.91.

A. John M. Schobel, Jr., New York Coffee and Sugar Exchange, Inc., 4 World Trade Center, New York, N.Y. 10048.
B. New York Coffee and Sugar Exchange, Inc., 4 World Trade Center, New York, N.Y. 10048.
D. (6) $651.48. E. (9) $591.01.

A. Michael M. Schoor, National Society of Professional Engineers, 2029 K Street NW., Washington, D.C. 20006.
B. National Society of Professional Engineers, 2029 K Street NW., Washington, D.C. 20006.
D. (6) $2,500.

A. Anthony Schopp, 1110 Spring Street, Silver Spring, Md. 20910.
B. Machinery Dealers National Association, 1110 Spring Street, Silver Spring, Md. 20910.

A. A. Kolbet Schrichte, National Restaurant Association, 1850 K Street NW., Suite 850, Washington, D.C. 20006.
B. National Restaurant Association, 1850 K Street NW., Washington, D.C. 20006; 1 IBM Plaza, Suite 2600, Chicago, Ill. 60611.
D. (6) $1,325. E. (9) $35.50

A. Kathy Schroeher, 2030 M Street NW., Washington, D.C. 20036.
B. Common Cause, 2030 M Street NW., Washington, D.C. 20036.
D. (6) $4,612.53.

A. Robert L. Schultz, Iowa Petroleum Council, 1012 Fleming Building, Des Moines, Iowa 50309.

B. American Petroleum Institute, 2101 L Street NW., Washington, D.C. 20037.
D. (6) $427.50. E. (9) $590.85.

A. Donald H. Schwab, Veterans of Foreign Wars of the United States, 200 Maryland Avenue NE., Washington, D.C. 20002.
B. Veterans of Foreign Wars of the United States, 200 Maryland Avenue NE., Washington, D.C. 20002.
E. (9) $769.05.

A. Carl F. Schwensen, 1030 15th Street NW., Suite 1030, Washington, D.C. 20005.
B. National Association of Wheat Growers, 1030 15th Street NW., Suite 1030, Washington, D.C. 20005.
D. (6) $1,330.40.

A. Harold B. Scoggins, Jr., 1101 16th Street NW., Washington, D.C. 20036.
B. Independent Petroleum Association of America, 1101 16th Street NW., Washington, D.C. 20036.
E. (9) $36.25.

A. David A. Scott, Mississippi Petroleum Council, P.O. Box 42, Jackson, Miss. 39205.
B. American Petroleum Institute, 2101 L Street NW., Washington, D.C. 20037.
D. (6) $675.

A. Earl W. Sears, P.O. Box 12285, Memphis, Tenn. 38112.
B. National Cotton Council of America, P.O. Box 12285, Memphis, Tenn. 38112.
D. (6) $1,406.25. E. (9) $54.10.

A. David Seidner, 1155 15th Street NW., No. 713, Washington, D.C. 20005.
B. American Consulting Engineers Council, 1155 15th Street NW., Washington, D.C. 20005.
D. (6) $312.25.

A. Self-Determination for the District of Columbia, Room 300, 2030 M Street NW., Washington, D.C. 20036.
D. (6) $16,203. E. (9) $17,111.

A. Stanton P. Sender, 1211 Connecticut Avenue NW., Washington, D.C. 20036.
B. Sears, Roebuck & Co., Sears Tower, Chicago, Ill. 60684.
D. (6) $500. E. (9) $10.

A. Seven Months Session for Congress, 7201 Wood Hollow Drive, No. 337, Austin, Tex.
E. (9) $443.

A. J. Richard Sewell, 1701 K Street NW., Suite 503, Washington, D.C. 20006.
B. Florida Power & Light Co., P.O. Box 529100, Miami, Fla. 33152.
D. (6) $1,078. E. (9) $199.48.

A. Robert L. Shafer, 1700 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. Pfizer Inc., 235 East 42d Street, New York, N.Y. 10017.
D. (6) $525. E. (9) $575.

A. Barbara J. Shailor, 1300 Connecticut Avenue NW., Washington, D.C. 20036.
B. International Association of Machinists and Aerospace Workers, 1300 Connecticut Avenue NW., Washington, D.C. 20036.
D. (6) $3,381.24. E. (9) $394.82.

A. James M. Shamberger, Reinsurance Association of America, 1025 Connecticut Avenue NW., No. 512, Washington, D.C. 20036.
B. Reinsurance Association of America, 1025 Connecticut Avenue NW., No. 512, Washington, D.C. 20036.
E. (9) $30.60.

A. Shamrock Foods Co., 2228 North Black Canyon, Phoenix, Ariz. 85009.
E. (9) $90.80.

A. Lloyd D. Shand, Monsanto Co., 1101 17th Street NW., Washington, D.C. 20036.
B. Monsanto Co., 800 North Lindbergh Boulevard, St. Louis, Mo. 63166.
D. (6) $300. E. (9) $200.

A. Harry D. Shapiro, 1800 Mercantile Bank & Trust Building, 2 Hopkins Plaza, Baltimore, Md. 21201.
B. Maryland Savings-Share Insurance Corp., 901 North Howard Street, Baltimore, Md. 21201.
E. (9) $92.50.

A. Rebecca D. Shapiro & Associates, 111 C Street SE., Washington, D.C. 20003.
B. Ak Chin Indian Community, Route 1, Box 12, Maricopa, Ariz. 85239.
D. (6) $1,250. E. (9) $130.

A. Rebecca D. Shapiro & Associates, 111 C Street SE., Washington, D.C. 20003.
B. All Indian Pueblo Council, Inc., P.O. Box 6507, Albuquerque, N. Mex. 87107.

A. Rebecca D. Shapiro & Associates, 111 C Street SE., Washington, D.C. 20003.
B. Cheyenne River Sioux Tribe, P.O. Box 590, Eagle Butte, S. Dak. 57625.
D. (6) $400. E. (9) $20.

A. Rebecca D. Shapiro & Associates, 111 C Street SE., Washington, D.C. 20003.
B. Makah Tribal Council, P.O. Box 115, Neah Bay, Wash. 98357.
D. (6) $500. E. (9) $20.

A. Rebecca D. Shapiro & Associates, 111 C Street SE., Washington, D.C. 20003.
B. Pueblo of Zia, General Delivery, San Ysidro, N. Mex. 87053.
D. (6) $300. E. (9) $70.

A. Rebecca D. Shapiro & Associates, 111 C Street SE., Washington, D.C. 20003.
B. Quinault Indian Nation, P.O. Box 1118, Taholah, Wash. 98587.
D. (6) $625. E. (9) $40.

A. Rebecca D. Shapiro & Associates, 111 C Street SE., Washington, D.C. 20003.
B. Yakima Indian Nation, P.O. Box 151, Toppenish, Wash. 98948.
D. (6) $835. E. (9) $65.

A. John J. Sharkey, 1629 K Street NW., Room 204, Washington, D.C. 20006.
B. Delta Air Lines, Inc., Hartsfield Atlanta International Airport, Atlanta, Ga. 30320.
D. (6) $986.50. E. (9) $107.

A. Luther W. Shaw, 1625 I Street NW., Suite 827, Washington, D.C. 20006.
B. Paluszek & Leslie Associates, 1500 Broadway, New York, N.Y. 10036.
E. (9) $9.90.

A. Shaw, Pittman, Potts & Trowbridge, 1800 M Street NW., Washington, D.C. 20036.
B. American Childrens' Citizenship Rights League, ACCRL, 157 Route du Grand-Lancy, 1213 Onex, Geneva, Switzerland and Samuel Cummings, P.O. Box 88, Monte Carlo, Monaco.
E. (9) $193.23.

A. Shaw, Pittman, Potts & Trowbridge, 1800 M Street NW., Washington, D.C. 20036.
B. Association for the Improvement of the Mississippi River, 10 Broadway, St. Louis, Mo. 63102.
D. (6) $797. E. (9) $8.50.

A. Shaw, Pittman, Potts & Trowbridge, 1800 M Street NW., Washington, D.C. 20036.
B. Atlas Minerals Division, Atlas Corp., 2506 Prudential Plaza, Denver, Colo. 80202.
D. (6) $6,655.50. E. (9) $45.50.

A. Shaw, Pittman, Potts & Trowbridge, 1800 M Street NW., Washington, D.C. 20036.
B. Bixby Ranch Co., 523 West 6th Street, Los Angeles, Calif. 90014.
D. (6) $500.

A. Shaw, Pittman, Potts & Trowbridge, 1800 M Street NW., Washington, D.C. 20036.
B. Emerson Electric Co., 8100 Florissant, St. Louis, Mo. 63136.
D. (6) $19,698. E. (9) $79.60.

A. Shaw, Pittman, Potts & Trowbridge, 1800 M Street NW., Washington, D.C. 20036.
B. Institute of Foreign Bankers, c/o Mrs. Elizabeth Tobon, 200 Park Avenue, Suite 303, Room 23, New York, N.Y. 10017.
E. (9) $1,285.81.

A. Shaw, Pittman, Potts & Trowbridge, 1800 M Street NW., Washington, D.C. 20036.
B. Radioactive Waste Management Group c/o Shaw, Pittman, Potts & Trowbridge, 1800 M Street NW., Washington, D.C. 20036.
D. (6) $4,863.04.

A. Shearman & Sterling, 53 Wall Street, New York, N.Y. 10005.
B. Citibank, N.A., 399 Park Avenue, New York, N.Y. 10022.
D. (6) $2,000. E. (9) $107.

A. John J. Sheehan, United Steelworkers of America, 815 16th Street NW., Suite 706, Washington, D.C. 20006.
B. United Steelworkers of America, 5 Gateway Center, Pittsburgh, Pa. 15222.
D. (6) $9,052.47. E. (9) $2,197.49.

A. Spencer C. Sheldon, 1025 Connecticut Avenue NW., Suite 700, Washington, D.C. 20036.
B. Gulf Oil Corp., P.O. Box 1166, Pittsburgh, Pa. 15230.
D. (6) $375. E. (9) $13.

A. Jowanda Shelton, 2101 L Street NW., Washington, D.C. 20037.
B. Committee for Humane Legislation, 11 West 60th Street, New York, N.Y. 10023.
D. (6) $5,100.

A. Norman R. Sherlock, 1025 Connecticut Avenue NW., No. 308, Washington, D.C. 20036.
B. American Bus Association, 1025 Connecticut Avenue NW., No. 308, Washington, D.C. 20036.
D. (6) $929.86. E. (9) $929.86.

A. Morris Shipley, 1629 K Street NW., Room 204, Washington, D.C. 20006.
B. Delta Air Lines, Inc., Hartsfield Atlanta International Airport, Atlanta, Ga. 30320.
D. (6) $800. E. (9) $52.69.

A. Harvey A. Shipman, 2021 K Street NW., Suite 700, Washington, D.C. 20006.
B. Penn Central Transportation Co., 1700 Market Street, Philadelphia, Pa. 19103.

A. W. Ray Shockley, American Textile Manufacturers Institute, Inc., 1101 Connecticut Avenue NW., Suite 300, Washington, D.C. 20036.
B. American Textile Manufacturers Institute, 400 South Tryon Street, No. 2124, Charlotte, N.C. 28285.
D. (6) $2,550. E. (9) $152.80.

A. Scott Shotwell, National Forest Products Association.
B. National Forest Products Association, 1619 Massachusetts Avenue NW., Washington, D.C. 20036.
D. (6) $2,475. E. (9) $50.

A. Candice J. Shy, 1025 Connecticut Avenue, NW., Suite 1206, Washington, D.C. 20036.
B. Enserch Corp., 301 South Harwood Street, Dallas, Tex. 75201.
D. (6) $550. E. (9) $771.

A. Lawrence E. Siegel, 1101 16th Street NW., Washington, D.C. 20036.
B. Independent Petroleum Association of America, 1101 16th Street NW., Washington, D.C. 20036.
D. (6) $3,000. E. (9) $258.49.

A. Mark A. Siegel, Mark A. Siegel and Associates, 734 15th Street NW., Suite 403, Washington, D.C. 20005.
B. Tadco Enterprises, 1625 I Street NW., Suite 1009, Washington, D.C. 20006.
D. (6) $6,000.

A. Richard H. Siemsen, % Ramsay D. Potts, 1800 M Street NW., Washington, D.C. 20036.
B. Emerson Electric Co., 8100 Florissant, St. Louis, Mo. 63136.
E. (9) $1,789.87.

A. David Silver, Investment Company Institute, 1775 K Street NW., Washington, D.C. 20006.
B. Investment Company Institute, 1775 K Street NW., Washington, D.C. 20006.
D. (6) $150. E. (9) $28.86.

A. Silver Users Association, 1717 K Street NW., Washington, D.C. 20006.
D. (6) $400. E. (9) $2,117.11.

A. Stanley C. Simon, Simon & Twombly, Two Turtle Creek Village, Dallas, Tex. 75219.
B. The Southland Corp., 2828 North Haskell Avenue, Dallas, Tex. 75204.
D. (6) $1,874. E. (9) $480.65.

A. Talmage E. Simpkins, 100 Indiana Avenue NW., Washington, D.C. 20001.
B. AFL–CIO Maritime Committee, 100 Indiana Avenue NW., Washington, D.C. 20001.
D. (6) $240. E. (9) $259.62.

A. Talmage E. Simpkins, 100 Indiana Avenue NW., Washington, D.C. 20001.
B. Labor-Management Maritime Committee, 100 Indiana Avenue NW., Washington, D.C. 20001.
D. (6) $3,039. E. (9) $95.29.

A. Thomas K. Singer, 900 17th Street NW., Washington, D.C. 20006.
B. Kaiser Aluminum & Chemical Corp., 900 17th Street NW., Washington, D.C. 20006.
D. (6) $840.75. E. (9) $41.

A. Richard L. Sinnott & Co., 888 17th Street NW., Suite 212, Washington, D.C. 20006.
B. Citizens for Management of Alaska Lands, P.O. Box 3256 DT, Anchorage, Alaska 99510.
D. (6) $1,500.

A. Richard L. Sinnott & Co., 888 17th Street NW., Suite 212, Washington, D.C. 20006.
B. Port of Oakland, Oakland, Calif. 94607.
D. (6) $1,250.

A. Marcus W Sisk, Jr., 1775 K Street NW., Washington, D.C. 20006.
B. American Bakers Association, 2020 K Street NW., Washington, D.C. 20006.
D. (6) $675. E. (9) $11.03.

A. David A. Skedgell, American Gas Association, 1515 Wilson Boulevard, Arlington, Va. 22209.
B. American Gas Association, 1515 Wilson Boulevard, Arlington, Va. 22209.
D. (6) $500. E. (9) $200.

A. William J. Skinner, 815 15th Street NW., Washington, D.C. 20005.
B. American Association of Colleges of Pharmacy, 4630 Montgomery Avenue, Bethesda, Md. 20014.
D. (6) $222.18. E. (9) $10.65.

A. William J. Skinner, 815 15th Street NW., Washington, D.C. 20005.
B. United States Pharmacopeial Convention, Inc., 12601 Twinbrook Parkway, Rockville, Md. 20852.
D. (6) $772.71. E. (9) $100.89.

A. Barney J. Skladany, Jr., 1100 Connecticut Avenue NW., Washington, D.C. 20036.
B. Mobil Oil Corp., 150 East 42d Street, New York, N.Y. 10017.
D. (6) $1,125.

A. Carstens Slack, Phillips Petroleum Co., 1825 K Street NW., Washington, D.C. 20006.
B. Phillips Petroleum Co., Bartlesville, Okla. 74004.

A. F. Slatinshek & Association, Inc., 218 North Lee Street, Alexandria, Va. 22314.
B. Grumman Aerospace Corp., Bethpage, N.Y. 11714; United Technologies Corp., 1125 15th Street NW., Washington, D.C. 20005; General Dynamics Corp., Pierre LacLede Center, St. Louis, Mo. 63105.
D. (6) $550.

A. G. Bernard Slebos, United Airlines, 1825 K Street NW., No. 607, Washington, D.C. 20006.
B. United Airlines, P.O. Box 66100, Chicago, Ill. 60666.
D. (6) $2,000. E. (9) $164.07.

A. Jonathan W. Sloat, 1010 Wisconsin Avenue NW., Washington, D.C. 20007.
B. Grocery Manufacturers of America, Inc., 1010 Wisconsin Avenue NW., Washington, D.C. 20007.

A. William Jay Slosberg, 7305 Brennon Lane, Chevy Chase, Md. 20015.
B. Committee of Americans for the Canal Treaties, 1019 19th Street NW., Suite 1120, Washington, D.C. 20036.

A. Slurry Transport Association, 490 L'Enfant Plaza East SW., Suite 3210, Washington, D.C. 20024.
D. (6) $57,996. E. (9) $5,279.79.

A. Small Producers for Energy Independence, Suite 970, Fourth Financial Center, Wichita, Kans. 67202.
D. (6) $31,817.38. E. (9) $5,100.

A. Stephen K. Small, Suite 3212, 490 L'Enfant Plaza East SW., Washington, D.C. 20024.
B. Securities Industry Association, 490 L'Enfant Plaza East SW., Washington, D.C 20024.
D. (6) $900. E. (9) $134.97.

A. Donald E. Smiley, 1899 L Street NW., Suite 1100, Washington, D.C. 20036.
B. Exxon Corp., 1251 Avenue of the Americas, New York, N.Y.
E. (9) $290.56.

A. Arthur J. Smith, Shell Oil Co., 1025 Connecticut Avenue NW., Suite 200, Washington, D.C. 20036.
B. Shell Oil Co., P.O. Box 2463, Houston, Tex.
D. (6) $500.

A. Smith, Barney Real Estate Corp., 1345 Avenue of the Americas, New York, N.Y. 10019.
E. (9) $1,682.

A. Cathy Smith, 620 C Street SE., Washington, D.C. 20003.
B. Friends of the Earth, 620 C Street SE., Washington, D.C. 20003.
D. (6) $2,235.

A. J. Kenneth Smith, Sun Co., Inc., 1800 K Street NW., Suite 820, Washington, D.C. 20006.
B. Sun Co., Inc., 100 Matsonford Road, Radnor, Pa. 19087.
D. (6) $6,500. E. (9) $1,450.

A. Michael P. Smith, the New York State Bankers Association, 485 Lexington Avenue, New York, N.Y. 10017.
B. New York State Bankers Association, 485 Lexington Avenue, New York, N.Y. 10017.
D. (6) $750. E. (9) $874.

A. P. Daniel Smith, 1600 Rhode Island Avenue NW., Washington, D.C. 20036.
B. National Rifle Association of America, 1600 Rhode Island Avenue NW., Washington, D.C. 20036.
D. (6) $500. E. (9) $12.82.

A. Robert Bland Smith, Jr., American Council of Life Insurance, Inc., 1850 K Street NW., Washington, D.C. 20036.
B. American Council of Life Insurance, Inc., 1850 K Street NW., Washington, D.C. 20036.
D. (6) $150.

A. Robert Wm. Smith, Railway Progress Institute, 700 North Fairfax Street, Alexandria, Va. 22314.
B. Railway Progress Institute, 700 North Fairfax Street, Alexandria, Va. 22314.

A. William H. Smith, 1120 Connecticut Avenue NW., Washington, D.C. 20036.
B. American Bankers Association, 1120 Connecticut Avenue NW., Washington, D.C. 20036.

A. Wayne H. Smithey, Ford Motor Co., 815 Connecticut Avenue NW., Washington, D.C. 20006.
B. Ford Motor Co., Dearborn, Mich.
D. (6) $2,500. E. (9) $371.90.

A. Arthur V. Smyth, 1625 I Street NW., Washington, D.C. 20006.
B. Weyerhaeuser Co., Tacoma, Wash. 98401.
D. (6) $1,150. E. (9) $26.

A. Frank B. Snodgrass, 1100 17th Street NW., Suite 306, Washington, D.C. 20036.
B. Burley and Dark Leaf Tobacco Export Association, 1100 17th Street NW., Suite 306, Washington, D.C. 20036.
D. (6) $797.05. E. (9) $43.46.

A. John M. Snow, National Association of Furniture Manufacturers, 8401 Connecticut Avenue, Suite 911, Washington, D.C. 20015.
B. National Association of Furniture Manufacturers, 8401 Connecticut Avenue, Suite 911, Washington, D.C. 20015.
D. (6) $500. E. (9) $30.

A. Snyder & Ball Associates, Inc., 1600 Wilson Boulevard, No. 720, Arlington, Va. 22209.
B. Gould, Inc., 10 Gould Center, Rolling Meadows, Ill. 60008.
D. (6) $75.

A. J. R. Snyder, United Transportation Union, 400 First Street NW., Suite 704, Washington, D.C. 20001.
B. United Transportation Union, 400 First Street NW., Suite 704, Washington, D.C. 20001.
E. (9) $150.

A. John M. Snyder, 600 Pennsylvania Avenue SE., Suite 205, Washington, D.C. 20003.
B. Citizens Committee for the Right to Keep and Bear Arms, Bellefield Office Park, 1601 114th SE., Suite 151, Bellevue, Wash. 98004.
D. (6) $5,100.

A. Society for Animal Protective Legislation, P.O. Box 3719, Georgetown Station, Washington, D.C. 20007.
D. (6) $14,463.28. E. (9) $14,933.43.

A. Edmund T. Sommer, Jr., Council of American-Flag Ship Operators, 1625 K Street NW., Washingon, D.C. 20006.
B. Council of American-Flag Ship Operators, 1625 K Street NW., Washington, D.C. 20006.
D. (6) $110. E. (9) $5.

A. S. L. Sommer and Associates, Inc., 1800 North Kent Street, Suite 1104, Arlington, Va. 22209.
B. Northrop Corp., 1701 North Fort Myer Drive, Suite 1208, Arlington, Va. 22209.
D. (6) $15,000. E. (9) $13,129.41.

A. Leland R. Sorteberg, National Rural Letter Carriers' Association, 1750 Pennsylvania Avenue NW., Washington, D.C.
B. National Rural Letter Carriers' Association, 1750 Pennsylvania Avenue NW., Washington, D.C.
D. (6) $3.25. E. (9) $3.25.

A. South Dakota Railroads Association, P.O. Box 489, Aberdeen, S. Dak. 57401.
E. (9) $569.76.

A. Shelby E. Southard, 1828 L Street NW., Suite 1100, Washington, D.C. 20036.
B. Cooperative League of the U.S.A., 1828 L Street NW., Suite 1100, Washington, D.C. 20036.
D. (6) $5,500. E. (9) $768.

A. Souther, Spaulding, Kinsey, Williamson & Schwabe, 1200 Standard Plaza, Portland, Oreg. 97204.
B. American Greyhound Track Operators Association, 139 Southeast 14th Lane, Miami, Fla. 33131.
D. (6) $5,000. E. (9) $16.08.

A. Souther, Spaulding, Kinsey, Williamson & Schwabe, 1200 Standard Plaza, Portland, Oreg. 97204.
B. National Forest Products Association, 1619 Massachusetts Avenue NW., Washington, D.C.
D. (6) $15,000. E. (9) $1,418.95.

A. Souther, Spaulding, Kinsey, Williamson & Schwabe, 1200 Standard Plaza, Portland, Oreg. 97204.
B. Public Power Council, 1310 Main Street, Vancouver, Wash. 98666.
E. (9) $50.

A. Rodney K. Spackman, N.A.M., 601 North Vermont Avenue, Los Angeles, Calif. 90004.
B. National Association of Manufacturers, 1776 F Street NW., Washington, D.C. 20006.
D. (6) $800.

A. Girardeau A. Spann, Public Citizen, Inc., 2000 P Street NW., Suite 700, Washington, D.C. 20036.
B. Public Citizen, Inc., Box 19404, Washington, D.C. 20036.
D. (6) $360.

A. Philip J. Spear, 8150 Leesburg Pike, Suite 1100, Vienna, Va. 22180.
B. National Pest Control Association, 8150 Leesburg Pike, Suite 1100, Vienna, Va. 22180.
D. (6) $250.

A. Frank J. Specht, Schenley Distillers, Inc., 1725 De Sales Street NW., Washington, D.C. 20036.
B. Schenley Distillers, Inc., 888 Seventh Avenue, New York, N.Y. 10019.

A. William C. Spence, P.O. Box 683, Houston, Tex. 77001.
B. Columbia Gulf Transmission Co., P.O. Box 683, Houston, Tex. 77001.
D. (6) $400. E. (9) $445.75.

A. George Spiegel, Spiegel & McDiarmid, 2600 Virginia Avenue NW., Washington, D.C. 20037.
B. Northern California Power Agency, 770 Kiely Boulevard, Santa Clara, Calif. 95051; cities of Alameda, Biggs, Gridley, Healdsburg, Lodi, Lompoc, Palo Alto, Redding, Roseville, Santa Clara, Ukiah, Calif. and associate member, Plumas-Sierra Rural Electric Cooperative.

A. Spiegel & McDiarmid, 2600 Virginia Avenue NW., Washington, D.C. 20037.
B. Northern California Power Agency, et al., 770 Kiely Boulevard, Santa Clara, Calif. 95051.

A. Larry N. Spiller, American Consulting Engineers Council, 1155 15th Street NW., No. 713, Washington, D.C. 20005.
B. American Consulting Engineers Council, 1155 15th Street NW., Washington, D.C. 20005.
D. (6) $1,850. E. (9) $75.

A. Joseph L. Spilman, Jr., 2101 L Street NW., Washington, D.C. 20037.
B. American Petroleum Institute, 2101 L Street NW., Washington, D.C. 20037.
D. (6) $600.

A. Earl C. Spurrier, Monsanto Co., 1101 17th Street NW., Suite 604, Washington, D.C. 20036.
B. Monsanto Co., 800 North Lindbergh Boulevard, St. Louis, Mo. 63166.
D. (6) $80.

A. Squibb Corp., 40 West 57th Street, New York, N.Y. 10019.

A. Squire, Sanders & Dempsey, 21 Dupont Circle NW., Washington, D.C. 20036.
B. American Society of Anesthesiologists, 515 Busse Highway, Park Ridge, Ill. 60068.
D. (6) $640.70. E. (9) $401.50.

A. Squire, Sanders & Dempsey, 21 Dupont Circle NW., Washington, D.C. 20036.
B. National Collegiate Athletic Association, U.S. Highway 50 and Nall Avenue, P.O. Box 1906, Shawnee Mission, Kans. 66222.
E. (9) $32.25.

A. Sally W. Staebler, Smith, Miro, Hirsch and Brody, 1100 Fisher Building, Detroit, Mich. 48202.
B. International Precious Metals Corp., 6451 North Federal Highway, Suite 1101, Fort Lauderdale, Fla. 33308.
E. (9) $7,572.98.

A. Lynn E. Stalbaum, National Milk Producers Federation, 30 F Street NW., Washington, D.C. 20001.
B. National Milk Producers Federation, 30 F Street NW., Washington, D.C. 20001.
D. (6) $2,000. E. (9) $307.24.

A. The Standard Oil Co. (Ohio), Midland Building, Cleveland, Ohio 44115.
E. (9) $2,160.95.

A. David P. Stang, Suite 601, 1629 K Street NW., Washington, D.C. 20006.
B. J. Ray McDermott and Co., Inc., 1010 Common Street, New Orleans, La. 70160.
D. (6) $124.50.

A. David P. Stang, Suite 601, 1629 K Street NW., Washington, D.C. 20006.
B. National Ocean Industries Association, 1100 17th Street NW., Washington, D.C.
D. (6) $345.09.

A. David P. Stang, Suite 601, 1629 K Street NW., Washington, D.C. 20006.
B. Ocean Minerals Co., P.O. Box 4531, Mountain View, Calif. 94040.
D. (6) $420.78.

A. David P. Stang, Suite 601, 1629 K Street NW., Washington, D.C. 20006.
B. Fred J. Russell, P.O. Box 54228, Los Angeles, Calif. 90054.
D. (6) $132.91.

A. M. B. Stanley, Room 900, 815 Connecticut Avenue NW., Washington, D.C. 20006.
B. Ford Motor Co., The American Road, Dearborn, Mich. 48121.
D. (6) $1,376.61. E. (9) $280.58.

A. Melvin L. Stark, 1707 L Street NW., Suite 321, Washington, D.C. 20036.
B. Hartford Insurance Group, Hartford Plaza, Hartford, Conn. 06115.
D. (6) $6,000.

A. Walter M. Starke, P.O. Box 2563, Birmingham, Ala. 35202.
B. Southern Natural Gas Co., P.O. Box 2563, Birmingham, Ala. 35202.
D. (6) $720. E. (9) $347.35.

A. State and Federal Associates, Inc., 1101 15th Street NW., Suite 205, Washington, D.C. 20005.
B. National Association of Convenience Stores, 5205 Leesburg Pike, Suite 305, Falls Church, Va. 22041.
D. (6) $2,360. E. (9) $11.25.

A. State and Federal Associates, Inc., 1101 15th Street NW., Suite 205, Washington, D.C. 20005.
B. Potato Chip/Snack Food Association, 5205 Leesburg Pike, Baileys Crossroads, Va. 22041.
D. (6) $1,775. E. (9) $56.43.

A. State and Federal Associates, Inc., 1101 15th Street NW., Suite 205, Washington, D.C. 20005.
B. Schering-Plough Corp., Galloping Hill Road, Kenilworth, N.J. 07033.
D. (6) $10,105. E. (9) $644.35.

A. Charles D. Statton, 2130 Oaks Drive, Hillsborough, Calif. 94010.
B. Bechtel Power Corp., 50 Beale Street, P.O. Box 3965, San Francisco, Calif. 94119.

A. Randolph J. Stayin, 1150 Connecticut Avenue NW., No. 504, Washington, D.C. 20036.
B. Taft, Stettinius & Hollister, Dixie Terminal Building, Cincinnati, Ohio 45202 (for Special Committee for Workplace Product Liability Reform), 1150 Connecticut Avenue NW., No. 504, Washington, D.C. 20036.

A. Theodore P. Stein, 2030 M Street NW., Washington, D.C. 20036.
B. Common Cause, 2030 M Street NW., Washington, D.C. 20036.
D. (6) $3,375.

A. David J. Steinberg, National Council for a Responsible Firearms Policy, Inc., 1028 Connecticut Avenue NW., Washington, D.C. 20036.
B. National Council for a Responsible Firearms Policy, Inc., 1028 Connecticut Avenue NW., Washington, D.C. 20036.

A. Steptoe & Johnson, 1250 Connecticut Avenue NW., Washington, D.C. 20036.
B. Robert College of Istanbul, Turkey, 380 Madison Avenue, New York, N.Y. 10017.

A. Karen L. Stevens, 512 Washingotn Building, Washington, D.C. 20005.
B. National Association of Small Business Investment Co., 512 Washington Building, Washington, D.C. 20005.
D. (6) $500.

A. Stephen A. Stitle, 1901 L Street NW., Washington, D.C. 20036.

B. Eli Lilly and Co., 307 East McCarty Street, Indianapolis, Ind. 46206.
D. (6) $3,000. E. (9) $150.

A. B. R. Stokes, American Public Transit Association, 1100 17th Street NW., Washington, D.C. 20036.
B. American Public Transit Association, 1100 17th Street NW., Washington, D.C. 20036.
D. (6) $522. E. (9) $522.

A. William M. Stover, Manufacturing Chemists Association, Inc., 1825 Connecticut Avenue NW., Washington, D.C. 20009.
B. Manufacturing Chemists Association, Inc., 1825 Connecticut Avenue NW., Washington, D.C. 20009.
D. (6) $1,000. E. (9) $100.

A. Richard B. Straus, 444 North Capitol Street NW., No. 412, Washington, D.C. 20001.
B. American Israel Public Affairs Committee, 444 North Capitol Street NW., No. 412, Washington, D.C. 20001.
D. (6) $7,099.98.

A. John D. Stringer, Alliance of American Insurers, 1776 F Street NW., Washington, D.C. 20006.
B. Alliance of American Insurers, 20 North Wacker Drive, Chicago, Ill. 60606.
D. (6) $2,250. E. (9) $305.

A. George W. Strong, Houston Natural Gas Corp., P.O. Box 1188, Houston, Tex. 77001.
B. Houston Natural Gas Corp., P.O. Box 1188, Houston, Tex. 77001.
D. (6) $1,700. E. (9) $30.80.

A. Stroock & Stroock & Lavan, 61 Broadway, New York, N.Y. 10006; 1150 17th Street NW., Suite 600, Washington, D.C. 20036.
B. Bank Hapoalim B.M., 50 Rothschild Boulevard, Tel Aviv, Israel.
E. (9) $310.

A. Norman Strunk, 111 East Wacker Drive, Chicago, Ill. 60601.
B. United States League of Savings Associations, 111 East Wacker Drive, Chicago, Ill. 60601.
D. (6) $5,062.50. E. (9) $577.69.

A. Robert B. Stulberg, 2000 P Street NW., Suite 708, Washington, D.C. 20036.
B. Health Research Group, 2000 P Street NW., Suite 708, Washington, D.C. 20036.
D. (6) $500.

A. Walter B. Stults, 512 Washington Building, Washington, D.C. 20005.
B. National Association of Small Business Investment Co., 512 Washington Building, Washington, D.C. 20005.
D. (6) $4,000.

A. Eugene F. Sturgeon, 182 Crater Lane, Kensington, Conn.
B. Northeast Utilities Service Co., Selden Street, Berlin, Conn.
D. (6) $688.85. E. (9) $894.97.

A. Harold R. Sullivan, 1750 K Street NW., Washington, D.C. 20006.
B. Food Marketing Institute, 1750 K Street NW., Washington, D.C. 20006.
D. (6) $1,500.

A. Roger H. Sullivan, Hawaiian Sugar Planters' Association, 723 Investment Building, Washington, D.C. 20005.
B. Hawaiian Sugar Planters' Association, Aiea, Hawaii 96701.
E. (9) $68.65.

A. Sullivan & Worcester, 1025 Connecticut Avenue NW., Washington, D.C. 20036.
B. Deutsche Bank AG, Grosse Gallus-Strasse 10–14, 6 Frankfurt (Main), West Germany.
D. (6) $35,605.

E. (9) $2,260.72.

A. Sullivan & Worcester, 1025 Connecticut Avenue NW., Washington, D.C. 20036.
B. Marion Laboratories, Inc., 10236 Bunker Ridge Road, Kansas City, Mo. 64137.
D. (6) $7,267. E. (9) $678.41.

A. Duward F. Sumner, Jr., Professional Insurance Agents, 400 North Washington Street, Alexandria, Va. 22314.
B. Professional Insurance Agents, 400 North Washington Street, Alexandria, Va. 22314.
D. (6) $100. E. (9) $450.

A. Surrey, Karasik and Morse, 1156 15th Street NW., Suite 1200, Washington, D.C. 20005.
B. Westway Trading Corp., 464 Hudson Terrace, Englewood Cliffs, N.J.
D. (6) $330. E. (9) $330.

A. Sutherland, Asbill & Brennan, 1666 K Street NW., Washington, D.C. 20006.
B. Farm Bureau Mutual Insurance Co. of Arkansas, P.O. Box 31, Seventh at High Street, Little Rock, Ark. 72203.
E. (9) $164.14.

A. Sutherland, Asbill & Brennan, 1666 K Street NW., Washington, D.C. 20006.
B. Kansas Farm Bureau Life Insurance Co., 2321 Anderson Avenue, Manhattan, Kans. 66502; Farm Bureau Mutual Insurance Co., KFB Insurance Co., Manhattan, Kans.
E. (9) $164.14.

A. Sutherland, Asbill & Brennan, 1666 K Street NW., Washington, D.C. 20006.
B. Kentucky Farm Bureau Mutual Insurance Co., 120 South Hubbard Lane, Louisville, Ky. 40207; FB Insurance Co., 120 South Hubbard Lane, Louisville, Ky. 40207.
E. (9) $164.14.

A. Sutherland, Asbill & Brennan, 1666 K Street NW., Washington, D.C. 20006.
B. Mutual of Omaha Insurance Co., Dodge at 33d Street, Omaha, Nebr. 68131; United Benefit Life Insurance Co., Dodge at 33d Street, Omaha, Nebr. 68131.
E. (9) $164.14.

A. Sutherland, Asbill & Brennan, 3100 First National Bank Tower, Atlanta, Ga. 30303; 1666 K Street, Washington, D.C. 20006.
B. Oglethorpe Electric Membership Corp., 3951 Snapfinger Parkway, Decatur, Ga. 30035.
D. (6) $66.

A. Sutherland, Asbill & Brennan, 1666 K Street NW., Washington, D.C. 20006.
B. South Carolina Farm Bureau Mutual Insurance Co., P.O. Box 124, Cayce, S.C. 29033.
E. (9) $164.14

A. Sutherland, Asbill & Brennan, 1666 K Street NW., Washington, D.C. 20006.
B. Southern Farm Bureau Life Insurance Co., P.O. Box 78, Jackson, Miss. 39205; Southern Farm Bureau Casualty Insurance Co., P.O. Box 1985, Jackson, Miss. 39205; Mississippi Farm Bureau Mutual Insurance Co., Jackson, Miss.
E. (9) $164.14.

A. Sutherland, Asbill & Brennan, 1666 K Street NW., Washington, D.C. 20006.
B. United Farm Bureau Family Life Insurance Co., 130 East Washington Street, Indianapolis, Ind. 46204; United Farm Bureau Mutual Insurance Co., 130 East Washington Street, Indianapolis, Ind. 46204.
E. (9) $164.14.

A. Frank S. Swain, National Federation of Independent Business, 490 L'Enfant Plaza East SW., Suite 3206, Washington, D.C. 20024.
B. National Federation of Independent Business, 490 L'Enfant Plaza East SW., Suite 3206, Washington, D.C. 20024.
D. (6) $2,250. E. (9) $146.80.

A. Glenn A. Swanson, Independent Bankers Association of America, 1625 Massachusetts Avenue NW., Suite 203, Washington, D.C. 20036.
B. Independent Bankers Association of America, Sauk Centre, Minn. 56378.
D. (6) $69,215.06. E. (9) $19,128.84.

A. Irving W. Swanson, 11212 Farmland Drive, Rockville, Md. 20852.
B. Harris Corp., 2600 Virginia Avenue NW., Washington, D.C. 20037.
D. (6) $12,267.93. E. (9) $267.57.

A. David A. Sweeney, 25 Louisiana Avenue NW., Washington, D.C. 20001.
B. International Brotherhood of Teamsters, 25 Louisiana Avenue NW., Washington, D.C. 20001.
D. (6) $10,031.25.

A. John R. Sweeney, 800 Solar Building, 1000 16th Street NW., Washington, D.C. 20036.
B. Bethlehem Steel Corp., Bethlehem, Pa. 18016.
D. (6) $295. E. (9) $149.

A. Rosemarie Sweeney, 1659 32d Street NW., Washington, D.C. 20007.
B. American Osteopathic Association, 1611 North Kent Street, Suite 803–A, Arlington, Va. 22209.
D. (6) $1,330. E. (9) $79.96.

A. Richard Preston Swigart, 1660 L Street NW., Suite 201, Washington, D.C. 20036.
B. American Can Co., American Lane, Greenwich, Conn. 06830.
E. (9) $444.96.

A. Russell A. Swindell, P.O. Box 2635, Raleigh, N.C. 27602.
B. North Carolina Railroad Association, P.O. Box 2635, Raleigh, N.C. 27602.
D. (6) $1,253.67. E. (9) $1,111.33.

A. Michael T. Swinehart, 1422 West Peachtree Street NW., Suite 612, Atlanta, Ga. 30309.
B. National Association of Manufacturers, 1776 F Street NW., Washington, D.C. 20006.
D. (6) $293.

A. Howard Symons, Congress Watch, 133 C Street SE., Washington, D.C. 20003.
B. Congress Watch, 133 C Street SE., Washington, D.C. 20003.
D. (6) $750.

A. Robert Taft, Jr., 1150 Connecticut Avenue NW., Washington, D.C. 20036.
B. Taft, Stettinius & Hollister, Dixie Terminal Building, Cincinnati, Ohio 45202; and Family Leisure Centers, Inc., 1906 Highland Avenue, Cincinnati, Ohio 45219.
D. (6) $3,400.

A. Robert Taft, Jr., 1150 Connecticut Avenue NW., Washington, D.C. 20036.
B. Taft, Stettinius & Hollister, Dixie Terminal Building, Cincinnati, Ohio 45202; and Grocery Manufacturers of America, Inc., 1010 Wisconsin Avenue NW., No. 800, Washington, D.C. 20007.
D. (6) $4,040. E. (9) $13.20.

A. Robert Taft, Jr., 1150 Connecticut Avenue NW., Washington, D.C. 20036.
B. Taft, Stettinius & Hollister, Dixie Terminal Building, Cincinnati, Ohio 45202; and Special Committee for Workplace Product Liability Reform, 1150 Connecticut Avenue NW., No. 504, Washington, D.C. 20036.
D. (6) $9,800. E. (9) $867.14.

A. Robert Taft, Jr., 1150 Connecticut Avenue NW., Washington, D.C. 20036.
B. Taft, Stettinius & Hollister, Dixie Terminal Building, Cincinnati, Ohio 45202; and Taft Broadcasting Co., 1906 Highland Avenue, Cincinnati, Ohio 45219.
D. (6) $7,000.

A. Robert Taft, Jr., 1150 Connecticut Avenue NW., Washington, D.C. 20036.
B. Taft, Stettinius & Hollister, Dixie Terminal Building, Cincinnati, Ohio 45202; and Werner Von Clemm, New York, N.Y.
D. (6) $500. E. (9) $25.

A. Susan Tannenbaumm, 2030 M Street NW., Washington, D.C. 20036.
B. Common Cause, 2030 M Street NW., Washington, D.C. 20036.
D. (6) $6,250.02. E. (9) $71.20.

A. Norman Wilson Tanner, Jr., 1660 L Street NW., Suite 215–16, Washington, D.C. 20036.
B. Outdoor Advertising Association of America, Inc., 1660 L Street NW., Suite 215–16, Washington, D.C. 20036.
D. (6) $112. E. (9) $16.

A. William M. Tartikoff, 1775 K Street NW., Washington, D.C. 20006.
B. Investment Company Institute, 1775 K Street NW., Washington, D.C. 20006.
D. (6) $289. E. (9) $41.60.

A. David K. Taylor, Jr., 1100 Connecticut Avenue NW., No. 620, Washington, D.C. 20036.
B. Mobil Oil Corp., 150 East 42nd Street, New York, N.Y. 10017.
D. (6) $375.

A. Sid Taylor, National Taxpayers Union, 325 Pennsylvania Avenue SE., Washington, D.C. 20003.
B. National Taxpayers Union, 325 Pennsylvania Avenue SE., Washington, D.C. 20003.
D. (6) $1,200. E. (9) $689.48.

A. William K. Tell, Jr., 1050 17th Street NW., Washington, D.C. 20036.
B. Texaco Inc., 2000 Westchester Avenue, White Plains, N.Y. 10650.
D. (6) $50. E. (9) $23.89.

A. Paul Tendler, 2020 K Street NW., Suite 420, Washington, D.C. 20006.
B. Paul Tendler Associates, 2020 K Street NW., Suite 420 Washington, D.C. 20006 (for National Federation of Licensed Practical Nurses).
D. (6) $1,500. E. (9) $1,785.

A. Tennessee Gas Pipeline Co., P.O. Box 2511, Houston, Tex. 77001.
E. (9) $4,831.65.

A. Robert P. Terzian, 1140 Conecticut Avenue NW., Suite 1010, Washington, D.C. 20036.
B. Edison Electric Institute, 1140 Connecticut Avenue NW., Suite 1010, Washington, D.C. 20036.
D. (6) $176. E. (9) $10.

A. Thevenot, Murray & Scheer, 1120 Connecticut Avenue NW., No. 1128, Washington, D.C. 20036.
B. National Association of Stevedores, 919 18th Street NW., Washington, D.C. 20006.
D. (6) $500. E. (9) $271.

A. Thevenot, Murray and Scheer, 1120 Connecticut Avenue NW., No. 1128, Washington, D.C. 20036.
B. Swaziland Sugar Association, Mbabane, Swaziland.
D. (6) $4,000.

A. Craig G. Thibaudeau, 3251 Old Lee Highway, Suite 501, Fairfax, Va. 22030.
B. National Limestone Institute, Inc., 3251 Old Lee Highway, Suite 501, Fairfax, Va. 22030.
E. (9) $14.82.

A. 13th Congressional District Action Committee, 7370 Pegasus Way, San Jose, Calif. 95139.
D. (6) $341.05. E. (9) $310.97.

A. 38th Pro Life Congressional District Action Committee, 5684 Bon View Terrace, Williamsville, N.Y. 14221.
E. (9) $15.

A. 39th Congressional District Action Committee, R.D. 2, Allegany, N.Y. 14706.
E. (9) $49.

A. John W. Thomas, 1522 K Street NW., No. 828, Washington, D.C. 20005.
B. American Veterinary Medical Association, 1522 K Street NW., No. 828, Washington, D.C. 20005.
D. (6) $35.

A. John W. Thomas, 1522 K Street NW., No. 828, Washington, D.C. 20005.
B. Association of American Veterinary Medical Colleges, 1522 K Street NW., No. 828, Washington, D.C. 20005.

A. Robert L. Thomas, National Association of Private Psychiatric Hospitals, 1701 K Street NW., Washington, D.C. 20006.
B. National Association of Private Psychiatric Hospitals, 1701 K Street NW., Washington, D.C. 20006.
D. (6) $250.

A. Fred D. Thompson, Thompson, Crawford & Rodgers, First American Center, 14th Floor, Nashville, Tenn. 37238.
B. Westinghouse Electric Corp., 1801 K Street NW., Washington, D.C. 20006.
D. (6) $3,708. E. (9) $1,419.06.

A. Jerry P. Thompson, 1300 Connecticut Avenue NW., Washington, D.C. 20036.
B. International Association of Machinists and Aerospace Workers, 1300 Connecticut Avenue NW., Washington, D.C. 20036.
D. (6) $4,463.25. E. (9) $30.

A. Kenneth W. Thompson, Interstate Natural Gas Association of America, 1660 L Street NW., Suite 601, Washington, D.C. 20036.
B. Interstate Natural Gas Association of America, 1660 L Street NW., Suite 601, Washington, D.C. 20036.
D. (6) $300.

A. Melissa A. Thompson, Popluation Resource Center, 110 Maryland Avenue NE., Washington, D.C. 20002.
B. Population Resource Center, 622 Third Avenue, New York, N.Y. 10017.

A. Roger G. Thompson, Kentucky Power Co., 15th Street & Carter Avenue, Ashland, Ky. 41101.
B. Kentucky Power Co., 15th Street & Carter Avenue, Ashland, Ky. 41101.
D. (6) $584. E. (9) $584.

A. William D. Thompson, Lear Siegler, Inc., 1001 Connecticut Avenue NW., Suite 601, Washington, D.C. 20036.
B. Lear Siegler, Inc., 3171 South Bundy Drive, Santa Monica, Calif. 90406.
D. (6) $3,000. E. (9) $297.73.

A. Terence Hastings Thorn, American Gas Association, 1515 Wilson Boulevard, Arlington, Va. 22209.
B. American Gas Association, 1515 Wilson Boulevard, Arlington, Va. 22209.
D. (6) $525. E. (9) $220.14.

A. Robert T. Thornburg, Minnesota Petroleum Council, 1020 Northern Federal Building, St. Paul, Minn. 55102.
B. American Petroleum Institute, 2101 L Street NW., Washington, D.C. 20037.
D. (6) $271.32. E. (9) $42.70.

A. Cyrus C. Tichenor III, 1050 17th Street NW., Washington, D.C. 20036.
B. A. H. Robins Co., Inc, 1407 Cummings Drive, Richmond, Va 23220.
D. (6) $6,000. E. (9) $7,892.66.

A. Paul J. Tierney, 1100 17th Street NW., Suite 1107, Washington, D.C. 20036.
B. Transportation Association of America, 1100 17th Street NW., Suite 1107, Washington, D.C. 20036.

A. Wallace F. Tillman, 2000 Florida Avenue NW., Washington, D.C. 20009.
B. National Rural Electric Cooperative Association, 2000 Florida Avenue NW., Washington, D.C. 20009.
D. (6) $195.

A. Timmons and Co., Inc., 1776 F Street NW., Washington, D.C. 20006.
B. American Inland Waterways Committee, 7733 Forsyth Boulevard, St. Louis, Mo. 63105.
D. (6) $775.

A. Timmons and Co., Inc., 1776 F Street NW., Washington, D.C. 20006.
B. American Petroleum Institute, 2101 L Street NW., Washington, D.C. 20037.
D. (6) $975.

A. Timmons and Co., Inc., 1776 F Street NW., Washington, D.C. 20006.
B. The Association of Trial Lawyers of America, 1050 31st Street NW., Washington, D.C. 20007.
D. (6) $800.

A. Timmons and Co., Inc., 1776 F Street NW., Washington, D.C. 20006.
B. Baxter Travenol Laboratories, Inc., One Baxter Parkway, Deerfield, Ill. 60015.
D. (6) $375.

A. Timmons and Co., Inc., 1776 F Street NW., Washington, D.C. 20006.
B. H. J. Heinz Co., P.O. Box 57, Pittsburgh, Pa. 15230.
D. (6) $550.

A. Timmons and Co., Inc., 1776 F Street NW., Washington, D.C. 20006.
B. Major League Baseball, 75 Rockefeller Plaza, New York, N.Y. 10019.
D. (6) $800.

A. Timmons and Co., Inc., 1776 F Street NW., Washington, D.C. 20006.
B. Middle South Services, Inc., Box 61000, New Orleans, La. 70161.
D. (6) $975.

A. Timmons and Co., Inc., 1776 F Street NW., Washington, D.C. 20006.
B. National Rifle Association of America, 1600 Rhode Island Avenue NW., Washington, D.C. 20036.
D. (6) $575.

A. Timmons and Co., Inc., 1776 F Street NW., Washington, D.C. 20006.
B. Northrop Corp., 1800 Century Park East, Los Angeles, Calif. 90067.
D. (6) $575.

A. Timmons and Co., Inc., 1776 F Street NW., Washington, D.C. 20006.
B. G. D. Searle & Co., P.O. Box 1045, Skokie, Ill. 60076.
D. (6) $450.

A. Timmons and Co., Inc., 1776 F Street NW., Washington, D.C. 20006.
B. Standard Oil Co. of Indiana, 1000 16th Street NW., Washington, D.C. 20036.
D. (6) $1,125.

A. Michael L. Tiner, Retail Clerks International Union, AFL–CIO, 1775 K Street NW., Washington, D.C. 20006.
B. Retail Clerks International Union, AFL–CIO, 1775 K Street NW., Washington, D.C. 20006.
D. (6) $6,454.76. E. (9) $843.50.

A. E. Linwood Tipton, 910 17th Street NW., Washington, D.C. 20006.
B. International Association of Ice Cream Manufacturers & Milk Industry Foundation, 910 17th Street NW., Washington, D.C. 20006.
E. (9) $576.59.

A. Tobacco Associates, Inc., 1101 17th Street NW., Suite 912, Washington, D.C. 20036.
E. (9) $2,526.

A. James R. Tobin, Becton Dickinson & Co., Mack Centre Drive II, Paramus, N.J. 07652.
B. Becton Dickinson & Co., Mack Centre Drive II, Paramus, N.J. 07652.
D. (6) $2,000. E. (9) $225.

A. Warren D. Toburen, Cities Service Co., 1660 L Street NW., Suite 207, Washington, D.C. 20036.
B. Cities Service Co., 1660 L Street NW., Washington, D.C. 20036.
D. (6) $155.

A. David R. Toll, 1140 Connecticut Avenue NW., Suite 1010, Washington, D.C. 20036.
B. Edison Electric Institute, 1140 Connecticut Avenue NW., Suite 1010, Washington, D.C. 20036.
D. (6) $1,213. E. (9) $48.

A. William R. Tolley, Jr., 2600 Virginia Avenue NW., 8th Floor, Washington, D.C. 20037.
B. Harris Corp., Melbourne, Fla. 32919.
E. (9) $225.25.

A. Howard A. Topel, 1000 Connecticut Avenue, Washington, D.C. 20036.
B. Mullin, Connor and Rhyne, 1000 Connecticut Avenue, Washington, D.C. 20036 (for Alberto de la Vega-Ripol. Flemingstrasse 46. 8000 Munich 81, West Germany).
D. (6) $19.20.

A. John M. Torbet, 1745 Jefferson Davis Highway, Arlington, Va. 22202.
B. Rockwell International.
D. (6) $32.25. E. (9) $244.95.

A. Joseph P. Trainor, Brotherhood of Railway, Airline & Steamship Clerks, Freight Handlers, Express & Station Employes, 815 16th Street NW., Washington, D.C. 20006.
B. Brotherhood of Railway, Airline & Steamship Clerks, Freight Handlers, Express & Station Employes, 3 Research Place, Rockville, Md. 20850.
D. (6) $6,750. E. (9) $2,317.37.

A. Transportation Association of America, 1100 17th Street NW., Suite 1107, Washington, D.C. 20036.

A. Paula C. Treat, National Home Furnishings Association, 1025 Vermont Avenue NW., Washington, D.C. 20005.
B. National Home Furnishings Association, 405 Merchandise Mart, Chicago, Ill. 60654.
D. (6) $375.

A. W. M. Trevarrow, 976 National Press Building, Washington, D.C. 20045.
B. American Motors Corp., 27777 Franklin Road, Southfield, Mich. 48076.
D. (6) $6,625. E. (9) $275.50.

A. Richard S. Tribbe, Trans World Airlines, Inc., 1000 16th Street NW., Washington, D.C. 20036.
B. Trans World Airlines, Inc., 605 Third Avenue, New York, N.Y. 10016.
D. (6) $325.

A. Paul E. Trimble, Lake Carriers' Association, 1411 Rockefeller Building, Cleveland, Ohio 44113.
B. Lake Carriers' Association, 1411 Rockefeller Building, Cleveland, Ohio 44113.

A. Glenwood S. Troop, Jr., 1709 New York Avenue NW., Suite 801, Washington, D.C. 20006.
B. United States League of Savings Associations, 111 East Wacker Drive, Chicago, Ill.
D. (6) $8,500. E. (9) $151.50.

A. George G. Troutman, General Electric Co., 777 14th Street NW., Washington, D.C.
B. General Electric Co., 3135 Easton Turnpike, Fairfield, Conn.
D. (6) $400.

A. Tuna Research Foundation, 1101 17th Street NW., Washington, D.C. 20036.
D. (6) $12,808. E. (9) $2,647.36.

A. Bruce H. Turnbull, National Retail Merchants Association, 1000 Connecticut Avenue NW., No. 700, Washington, D.C. 20036.
B. National Retail Merchants Association, 100 West 31st Street, New York, N.Y. 10001.
D. (6) $400. E. (9) $25.

A. Richard F. Turney, 1725 K Street NW., Washington, D.C. 20006.
B. Courtney & McCamant, 1725 K Street NW., Washington, D.C. 20006.
D. (6) $300.

A. Shela C. Turpin, American Bankers Association, 1120 Connecticut Avenue NW., Washington, D.C. 20036.
B. American Bankers Association, 1120 Connecticut Avenue NW., Washington, D.C. 20036.
D. (6) $1,200. E. (9) $36.

A. Joan E. Twiggs, 1730 M Street NW., Washington, D.C. 20036.
B. The League of Women Voters, 1730 M Street NW., Washington, D.C. 20036.
D. $439.26.

A. Stewart L. Udall, Duncan, Brown, Weinberg & Palmer, 1765 Pennsylvania Avenue, Suite 1200, Washington, D.C. 20006.
B. The Alaska Federation of Natives, 550 West Eighth Street, Anchorage, Alaska 99503.
D. (6) $800.

A. Jerry G. Udell, American Retail Federation, 1616 H Street NW, Washington, D.C. 20006.
B. American Retail Federation, 1616 H Street NW., Washington, D.C. 20006.
D. (6) $100. E. (9) $50.

A. Joseph Uehlein, Industrial Union Department, AFL–CIO, 815 16th Street NW., Washington, D.C. 20006.
B. Industrial Union Department, AFL–CIO, 815 16th Street NW., Washington, D.C. 20006.
D. (6) $1,445.60. E. (9) $43.25.

A. Unicare Services, Inc., 105 West Michigan Street, Milwaukee, Wis. 53203.
E. (9) $3,750.

A. United Action for Animals, Inc., 205 East 42d Street, New York, N.Y. 10017.
D. (6) $2,391.54. E. (9) $2,391.54.

A. United Brotherhood of Carpenters & Joiners of America, 101 Constitution Avenue NW., Washington, D.C. 20001.
E. (9) $4,545.76.

A. United Egg Producers, 3951 Snapfinger Parkway, Suite 580, Decatur, Ga. 30035.
E. (9) $1,950.

A. United Gas Pipe Line Co., P.O. Box 1478, Houston, Tex. 77001.
E. (9) $2,026.10.

A. United Mine Workers of America, 900 15th Street NW., Washington, D.C. 20005.
E. (9) $5,571.51.

A. U.S. Cane Sugar Refiners' Association, 1001 Connecticut Avenue, Washington, D.C. 20036.
E. (9) $7,047.51.

A. United States-Japan Trade Council, 1000 Connecticut Avenue NW., Washington, D.C., 20036.
D. (6) $836. E. (9) $836.

A. United States League of Savings Associations, 111 East Wacker Drive, Chicago, Ill.
E. (9) $79,840.52.

A. U.S. Maritime Committee, Inc., 600 New Hampshire Avenue NW., Washington, D.C. 20037.
D. (6) $5,581.60. E. (9) $23,229.11.

A. United States and Overseas Employees Tax Fairness Committee, 1101 15th Street NW., Suite 1000, Washington, D.C. 20005.
D. (6) $31,000. E. (9) $53,029.41.

A. Lloyd N. Unsell, 1101 16th Street NW., Washington, D.C. 20036.
B. Independent Petroleum Association of America, 1101 16th Street NW., Washington, D.C. 20036.
E. (9) $69.25.

A. Howard S. Useem, 1101 16th Street NW., Washington, D.C. 20036.
B. Independent Petroleum Association of America, 1101 16th Street NW., Washington, D.C. 20036.
E. (9) $15.05.

A. Lynn Kay Utzinger, Cities Service Co., 1660 L Street NW., Suite 207, Washington, D.C. 20036.
B. Cities Service Co., 1660 L Street NW Suite 207, Washington, D.C. 20036.
D. (6) $50.

A. Jack J. Valenti, 1600 I Street NW., Washington, D.C. 20006.
B. Motion Picture Association of America, Inc., 1600 I Street NW., Washington, D.C. 20006.

A. Francis R. Valeo, 818 18th Street NW., Washington, D.C. 20006.
B. United Nations University, D.C., 1180 U.N., New York, N.Y.
D. (6) $4,500. E. (9) $1,069.53.

A. Van Ness, Feldman & Sutcliffe, 1220 19th Street NW., Suite 500, Washington, D.C. 20036.
B. Allstate Insurance, Allstate Plaza, Northbrook, Ill. 60062.
D. (6) $500. E. (9) $4.

A. Van Ness, Feldman & Sutcliffe, 1220 19th Street NW., Suite 500, Washington, D.C. 20036.
B. American Institute for Certified Public Accountants, 1620 I Street NW., Washington, D.C. 20006.

A. Van Ness, Feldman & Sutcliffe, 1220 19th Street NW., Suite 500, Washington, D.C. 20036.
B. Arctic Slope Regional Corp., Barrow, Alaska.

D. (6) $1,400. E. (9) $173.45.

A. Van Ness, Feldman & Sutcliffe, 1220 19th Street NW., Suite 500, Washington, D.C. 20036.
B. Association of Local Transport Airlines, 1801 K Street NW., Washington, D.C. 20006.

A. Van Ness, Feldman & Sutcliffe, 1220 19th Street NW., Suite 500, Washington, D.C. 20036.
B. Basin, Inc., P.O. Box 2297, Midland, Tex. 79702.
D. (6) $800. E. (9) $57.55.

A. Van Ness, Feldman & Sutcliffe, 1220 19th Street NW., Suite 500, Washington, D.C. 20036.
B. Car and Truck Renting & Leasing Association, 1725 K Street NW., Washington, D.C. 20006.

A. Van Ness, Feldman & Sutcliffe, 1220 19th Street NW., Suite 500, Washington, D.C. 20036.
B. Central & South West Corp., P.O. Box 1631, Wilmington, Del. 19899.
D. (6) $180. E. (9) $8.

A. Van Ness, Feldman & Sutcliffe, 1220 19th Street NW., Suite 500, Washington, D.C. 20036.
B. Delaware & Hudson Railway Co., Albany, N.Y. 12207.
D. (6) $8,970. E. (9) $233.40.

A. Van Ness, Feldman & Sutcliffe, 1220 19th Street NW., Suite 500, Washington, D.C. 20036.
B. Huntington's Disease Coalition, 250 West 57th Street, New York, N.Y. 10019.
E. (9) $7.

A. Van Ness, Feldman & Sutcliffe, 1220 19th Street NW., Suite 500, Washington, D.C. 20036.
B. North Slope Borough, P.O. Box 69, Barrow, Alaska 99723.
D. (6) $1,010. E. (9) $45.50.

A. Van Ness, Feldman & Sutcliffe, 1220 19th Street NW., Suite 500, Washington, D.C. 20036.
B. Northern Tier Pipeline Co., P.O. Box 5568, 1776 Lincoln Street, Denver, Colo. 80217.
D. (6) $960. E. (9) $73.

A. Van Ness, Feldman & Sutcliffe, 1220 19th Street NW., Suite 500, Washington, D.C. 20036.
B. Palm Beach-Broward Farmers Committee for Legislative Action, P.O. Box 396, Boynton Beach, Fla. 33435.
D. (6) $170. E. (9) $16.

A. Van Ness, Feldman & Sutcliffe, 1220 19th Street NW., Suite 500, Washington, D.C. 20036.
B. Republic Geothermal, Inc., 11823 East Slauson Avenue, Suite 1, Santa Fe Springs, Calif. 90670.
E. (9) $3.

A. Van Ness, Feldman & Sutcliffe, 1220 19th Street NW., Suite 500, Washington, D.C. 20036.
B. South Florida Tomato & Vegetable Growers Association, P.O. Drawer B.B., Homestead, Fla. 33030.
D. (6) $170. E. (9) $16.

A. Van Ness, Feldman & Sutcliffe, 1220 19th Street NW., Suite 500, Washington, D.C. 20036.
B. South West Winter Vegetable Growers Association, P.O. Box 1670, Immokalee, Fla. 33934.
D. (6) $170. E. (9) $16.

A. Van Ness, Feldman & Sutcliffe, 1220 19th Street NW., Suite 500, Washington, D.C. 20036.
B. Wheelabrator-Frye Inc., Liberty Lane, Hampton, N.H. 03842.
D. (6) $640. E. (9) $114.28.

A. H. Stewart Van Scoyoc, 1701 Pennsylvania Avenue NW., Suite 1120, Washington, D.C. 20006.
B. E. I. du Pont de Nemours & Co., 1007 Market Street, Wilmington, Del. 19898.
D. (6) $45. E. (9) $9.

A. Lois W. Van Valkenburgh, 3512 Halcyon Drive, Alexandria, Va. 22305.
B. Citizens Committee for UNICEF, 110 Maryland Avenue NE., Washington, D.C. 20002.
D. (6) $551.15. E. (9) $5.15.

A. John A. Vance, Pacific Gas & Electric Co., 1050 17th Street NW., No. 1180, Washington, D.C. 20036.
B. Pacific Gas & Electric Co., 77 Beale Street, San Francisco, Calif. 94106.
D. (6) $454.20. E. (9) $3,490.59.

A. Velsico Chemical Corp., 341 East Ohio Street, Chicago, Ill. 60611.

A. Jerry T. Verkler, P.O. Box 2521, Houston, Tex. 77001.
B. Texas Eastern Transmission Corp., P.O. Box 2521, Houston, Tex. 77001.
E. (9) $70.93.

A. Richard Vernon, American Council of Life Insurance, Inc., 1850 K Street NW., Washington, D.C. 20006.
B. American Council of Life Insurance, Inc., 1850 K Street NW., Washington, D.C. 20006.

A. Larry R. Veselka, 1101 Connecticut Avenue NW., Washington, D.C. 20036.
B. Vinson & Elkins, 1101 Connecticut Avenue NW., No. 900, Washington, D.C. 20036, (for Houston Natural Gas Corp.).
D. (6) $10,538. E. (9) $921.59.

A. Larry R. Veselka, 1101 Connecticut Avenue NW., Suite 900, Washington, D.C. 20036.
B. Vinson & Elkins, 1101 Connecticut Avenue NW., No. 900, Washington, D.C. 20036 (for Texas Eastern Transmission Corp.).
D. (6) $2,525.

A. Rudolph A. Vignone, 1800 K Street NW., Suite 800, Washington, D.C. 20006.
B. The Goodyear Tire & Rubber Co., Akron, Ohio 44316.
D. (6) $2,500.

A. Walter D. Vinyard, Jr., American Insurance Association, 1025 Connecticut Avenue NW., Suite 415, Washington, D.C. 20036.
B. American Insurance Association, 1025 Connecticut Avenue NW., Suite 415, Washington, D.C. 20036.
D. (6) $1,500. E. (9) $250.

A. Virgin Islands Manufacturers & Importers Association, P.O. Box Q, Kings Hill Post Office, Christiansted, V.I. 00850.
D. (6) $3,498.68. E. (9) $3,498.68.

A. Andrew Vitali, Jr., 2101 L Street NW., Washington, D.C. 20037.
B. American Petroleum Institute, 2101 L Street NW., Washington, D.C. 20037.
D. (6) $6,000. E. (9) $152.

A. Frank A. Vlazny, The Reuben H. Donnelley Corp., 2000 Clearwater Drive, Oak Brook, Ill. 60521.
B. The Reuben H. Donnelley Corp., 2000 Clearwater Drive, Oak Brook, Ill. 60521.

A. Betty Vorhies, United Egg Producers, 499 South Capitol Street SW., Suite 411, Washington, D.C. 20003.
B. United Egg Producers, 3951 Snapfinger Parkway, Suite 580, Decatur, Ga. 30035.
D. (6) $1,200.

A. Robert J. Wager, Suite 850, 2020 K Street NW., Washington, D.C. 20006.
B. American Bakers Association, Suite 850, 2020 K Street NW., Washington, D.C. 20006.
D. (6) $953.12. E. (9) $7.60.

A. Herbert R. Waite, The First National Bank of Boston, 100 Federal Street, Boston, Mass. 02110.
B. The First National Bank of Boston, 100 Federal Street, Boston, Mass. 02110.
D. (6) $2,000. E. (9) $2,534.

A. Robert E. Waldron, Associated Petroleum Industries of Michigan, 930 Michigan National Tower, P.O. Box 10070, Lansing, Mich. 48901.
B. American Petroleum Institute, 2101 L Street NW., Washington, D.C. 20037.
D. (6) $463.70.

A. E. F. Waldrop, Jr., Association of American Railroads, 40 Ivy Street SE., Washington D.C. 20003.
B. Association of American Railroads, 1920 L Street NW., Washington, D.C. 20003.
D. (6) $414.

A. Charls E. Walker Associates, Inc., 1730 Pennsylvania Avenue NW., Washington, D.C. 20006.

A. Charls E. Walker Associates, Inc., 1730 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. Allegheny Airlines, Inc., Washington National Airport, Washington, D.C. 20001.

A. Charls E. Walker Associates, Inc., 1730 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. Allen Products Co., Inc., P.O. Box 2187, R.D. No. 3, Allentown, Pa. 18001.

A. Charls E. Walker Associates, Inc., 1730 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. Aluminum Co. of America, Washington, D.C. 20006.
D. (6) $500.

A. Charls E. Walker Associates, Inc., 1730 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. AMAX, Inc., AMAX Center, Greenwich, Conn. 06830, et al.

A. Charls E. Walker Associates, Inc., 1730 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. American Airlines, Inc., 633 Third Avenue, New York, N.Y. 10017.
D. (6) $700.

A. Charls E. Walker Associates, Inc., 1730 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. Bechtel Corp., 1620 I Street NW., Washington, D.C. 20006.
D. (6) $625.

A. Charls E. Walker Associates, Inc., 1730 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. Bethlehem Steel Corp., Bethlehem, Pa. 18016.
D. (6) $500.

A. Charls E. Walker Associates, Inc., 1730 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. The Business Roundtable, 1801 K Street NW., Washington, D.C. 20006.

D. (6) $500.

A. Charls E. Walker Associates, Inc., 1730 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. Dresser Industries, 1100 Connecticut Avenue NW., Room 310, Washington, D.C. 20036.
D. (6) $625.

A. Charls E. Walker Associates, Inc., 1730 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. E. I. du Pont de Nemours & Co., Wilmington, Del. 19898.
D. (6) $500.

A. Charls E. Walker Associates, Inc., 1730 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. Eastern Air Lines, Inc., 10 Rockefeller Plaza, New York, N.Y. 10020.
D. (6) $700.

A. Charls E. Walker Associates, Inc., 1730 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. Fluor Engineers & Constructors, Inc., 3333 Michelson Drive, Irvine, Calif. 92730.
D. (6) $625.

A. Charls E. Walker Associates, Inc., 1730 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. Ford Motor Co., The American Road, Dearborn, Mich. 48121.
D. (6) $500.

A. Charls E. Walker Associates, Inc., 1730 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. General Electric Co., Washington, D.C. 20005.
D. (6) $500.

A. Charls E. Walker Associates, Inc., 1730 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. Getty Oil Co., 3810 Wilshire Boulevard, Los Angeles, Calif. 90010.

A. Charls E. Walker Associates, Inc., 1730 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. The Goodyear Tire & Rubber Co., 1800 K Street NW., Washington, D.C. 20006.
D. (6) $500.

A. Charls E. Walker Associates, Inc., 1730 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. Hughes Airwest, San Francisco International Airport, San Francisco, Calif. 94128.

A. Charls E. Walker Associates, Inc., 1730 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. International Paper Co., 1620 I Street NW., Suite 700, Washington, D.C. 20006.

A. Charls E. Walker Associates, Inc., 1730 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. ITT, 320 Park Avenue, New York, N.Y. 10022.

A. Charls E. Walker Associates, Inc., 1730 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. Lone Star Steel Co., 2200 West Mockingbird Lane, Dallas, Tex. 75215.
D. (6) $3,333.33.

A. Charls E. Walker Associates, Inc., 1730 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. Magma Power Co., 631 South Witmer Street, Los Angeles, Calif. 90017.

A. Charls E. Walker Associates, Inc., 1730 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. McCulloch Oil Corp., 10880 Wilshire Boulevard, Los Angeles, Calif. 90024.

A. Charls E. Walker Associates, Inc., 1730 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. National Bankers Association, 490 L'Enfant Plaza East S.W., Washington, D.C. 20024.
D. (6) $400.

A. Charls E. Walker Associates, Inc., 1730 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. Owens-Illinois, Inc., Owens-Illinois Building, P.O. Box 1035, Toledo, Ohio 43666.
D. (6) $500.

A. Charls E. Walker Associates, Inc., 1730 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. Pan American World Airways, Inc., Pan Am Building, New York, N.Y. 10017.
D. (6) $700.

A. Charls E. Walker Associates, Inc., 1730 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. Piedmont Airlines, Smith Reynolds Airport, Winston-Salem, N.C. 27102.

A. Charls E. Walker Associates, Inc., 1730 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. Procter & Gamble, Cincinnati, Ohio 45201.
D. (6) $500.

A. Charls E. Walker Associates, Inc., 1730 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. Pullman-Kellogg, Division of Pullman, Inc., 1300 Three Greenway Plaza East, Houston, Tex. 77046.
D. (6) $625.

A. Charls E. Walker Associates, Inc., 1730 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. Trans Union Corp., 90 Half Day Road, Lincolnshire, Ill. 60015.
D. (6) $700.

A. Charls E. Walker Associates, Inc., 1730 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. Trans World Airlines, Inc., 605 Third Avenue, New York, N.Y. 10016.
D. (6) $700.

A. Charls E. Walker Associates, Inc., 1730 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. Union Carbide, 270 Park Avenue, New York, N.Y. 10017.
D. (6) $500.

A. Charls E. Walker Associates, Inc., 1730 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. Union Oil Co., 461 South Boylston, Los Angeles, Calif. 90017.

A. Charls E. Walker Associates, Inc., 1730 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. United Air Lines, Inc., P.O. Box 66100, Chicago, Ill. 60666.
D. (6) $700.

A. Linda Walker-Hill, Hill & Knowlton, Inc., 1425 K Street NW., Washington, D.C. 20005.
B. Hill & Knowlton, Inc., 633 Third Avenue, New York, N.Y. 10017.
D. (6) $785. E. (9) $20.

A. R. Duffy Wall, 1050 17th Street NW., No. 301, Washington, D.C. 20036.
B. Freeport Minerals Co., 200 Park Avenue, New York, N.Y. 10017.
D. (6) $300.

A. Carl S. Wallace, 1800 K Street NW., Suite 614, Washington, D.C. 20006.
B. Purolator, Inc., 255 Old New Brunswick Road, Piscataway, N.J. 08854.
D. (6) $523.04.

A. Don Wallace Associates, Inc., 1707 L Street NW., Suite 540, Washington, D.C. 20036.
B. American Sugar Cane League of the U.S.A., Inc., 416 Whitney Building, New Orleans, La. 70130.
D. (6) $7,500. E. (9) $8,322.85.

A. Don Wallace Associates, Inc., 1707 L Street NW., Suite 540, Washington, D.C. 20036.
B. American Textile Machinery Association, 1730 M Street NW., Suite 804, Washington, D.C. 20036.
D. (6) $1,800. E. (9) $2,179.32.

A. Don Wallace Associates, Inc., 1707 L Street NW., Suite 540, Washington, D.C. 20036.
B. Cotton Warehouse Association of America, 1707 L Street NW., Suite 540, Washington, D.C. 20036.
D. (6) $9,375. E. (9) $10,004.73.

A. J. W. Walsh, Brotherhood of Railroad Signalmen, 400 First Street NW., Washington, D.C. 20001.
B. Brotherhood of Railroad Signalmen, 601 West Golf Road, Mount Prospect, Ill. 60056.
D. (6) $350.

A. Johnnie M. Walters, Hunton & Williams, P.O. Box 19230, Washington, D.C. 20036.
B. Vepco, Seventh & Franklin Streets, Richmond, Va.
E. (9) $15.

A. Phyllis Walters, Burson-Marsteller, 1800 M Street NW., 750S.
B. Burson-Marsteller, Suite 750 South, 1800 M Street NW., Washington, D.C. 20036 (for Tax Equity for Americans Abroad).

A. John F. Wanamaker, The Retired Officers Association, 1625 I Street NW., Washington, D.C. 20006.
B. The Retired Officers Association, 1625 I Street NW., Washington, D.C. 20006.
D. (6) $1,177.

A. Alan S. Ward, 818 Connecticut Avenue NW., Washington, D.C. 20006.
B. Baker, Hostetler, Frost & Towers, 818 Connecticut Avenue NW., Washington, D.C. 20006 (for The Soap & Detergent Association, 475 Park Avenue South at 32d Street, New York, N.Y. 10016.

A. Gregg Ward, SMACNA, 8224 Old Courthouse Road, Vienna, Va. 22180.
B. Sheet Metal & Air Conditioning Contractors' National Association, Inc., 8224 Old Courthouse Road, Vienna, Va. 22180.
D. (6) $800. E. (9) $300.

A. Jack Ware, 2101 L Street NW., Washington, D.C. 20037.
B. American Petroleum Institute, 2101 L Street NW., Washington, D.C. 20037.
D. (6) $5,885. E. (9) $127.40.

A. Michael O. Ware, Continental Oil Co., 1130 17th Street NW., Washington, D.C. 20036.
B. Continental Oil Co., High Ridge Park, Stamford, Conn. 06904.

D. (6) $800.

A. Peter F. Warker, TRW, Inc., 2030 M Street NW., Washington, D.C. 20036.
B. TRW, Inc., 23555 Euclid Avenue, Cleveland, Ohio 44117.
D. (6) $850. E. (9) $21.

A. Washington State NARAL, P.O. Box 15549, Seattle, Wash. 98115.
D. (6) $1,534.16. E. (9) $2,437.36.

A. Michael G. Wasserman, 1200 Citizens & Southern National Bank Building, 35 Broad Street, Atlanta, Ga. 30303.
B. Board of Trade Clearing Corp., 141 West Jackson Boulevard, Chicago, Ill. 60604.

A. Nan Waterman, 2030 M Street NW., Washington, D.C. 20036.
B. Common Cause, 2030 M Street NW., Washington, D.C. 20036.
D. (6) $5,250. E. (9) $1,182.03.

A. George A. Watson, 1612 K Street NW., Suite 800, Washington, D.C. 20006.
B. The Ferroalloys Association, Suite 800, 1612 K Street NW., Washington, D.C. 20006.
E. (9) $1,500.

A. Ralph J. Watson, 1745 Jefferson Davis Highway, Arlington, Va. 22202.
B. Rockwell International.
D. (6) $495. E. (9) $180.38.

A. George B. Watts, National Broiler Council, 1155 15th Street NW., Washington, D.C. 20005.
B. National Broiler Council, 1155 15th Street NW., Washington, D.C. 20005.
D. (6) $600.

A. James L. Watts, 512 Washington Building, Washington, D.C. 20005.
B. National Association of Small Business Investment Co., 512 Washington Building, Washington, D.C. 20005.
D. (6) $3,400.

A. William J. Way, General Motors Corp., 1660 L Street NW., Washington, D.C. 20036.
B. General Motors Corp., 3044 West Grand Boulevard, Detroit, Mich. 48202.
D. (6) $2,500. E. (9) $1,947.25.

A. Raymond J. Weatherly, 1745 Jeff Davis Highway Suite 511, Arlington, Va. 22202.
B. Manufactured Housing Institute, 1745 Jeff Davis Highway, Arlington, Va. 22202.
D. (6) $1,500. E. (9) $600.

A. William H. Weatherspoon, North Carolina Petroleum Council, P.O. Box 167, Raleigh,, N.C. 27602.
B. American Petroleum Institute, 2101 L Street NW., Washington, D.C. 20037.
D. (6) $200. E. (9) $292.74.

A. Webster & Chamberlain, 1747 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. American Society of Radiologic Technologists, 500 North Michigan Avenue, Suite 836, Chicago, Ill. 60611.
D. (6) $1,800.

A. Webster & Chamberlain, 1747 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. National Club Association, 1129 20th Street NW., Washington, D.C.
D. (6) $350.

A. Webster & Chamberlain, 1747 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. National Sporting Goods Association, 717 North Michigan Avenue, Chicago, Ill. 60611.
D. (6) $550.

A. Webster & Chamberlain, 1747 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. Sand Springs Home, c/o E. J. Doerner, 1200 Atlas Building, Tulsa, Okla.
D. (6) $1,200. E. (9) $41.82.

A. Webster & Sheffield, 1750 New York Avenue NW., Washington, D.C. 20006.
B. National Conference of Bankruptcy Judges, c/o Webster & Sheffield, 1750 New York Avenue NW., Washington, D.C. 20006.
D. (6) $3,750. E. (9) $259.89.

A. Webster & Sheffield, 1 Rockefeller Plaza, New York, N.Y. 10020.
B. Smith, Barney Real Estate Corp. (subsidiary of Smith, Barney, Harris, Upham & Co., Inc.), 1345 Avenue of the Americas, New York, N.Y. 10019.
D. (6) $1,682. E. (9) $1,327.

A. Weisman, Celler, Spett, Modlin & Wertheimer, 1025 Connecticut Avenue NW., No. 317, Washington, D.C. 20036.
B. Beneficial Management Corp., 200 South Street, Morristown, N.J.

A. Weisman, Celler, Spett, Modlin & Wertheimer, 1025 Connecticut Avenue NW., No. 317, Washington, D.C. 20036.
B. National Football League Players Association, 1300 Connecticut Avenue NW., Washington, D.C. 20036.
D. (6) $2,000.

A. Morton N. Weiss, 55 Broad Street, New York, N.Y. 10004.
B. National Security Traders Association, Inc., 55 Broad Street, New York, N.Y. 10004.
D. (6) $1,875.

A. Dennis W. Weissman, 1725 De Sales Street NW., Suite 403, Washington, D.C. 20036.
B. American Society for Medical Technology, 1725 De Sales Street NW., Suite 403, Washington, D.C. 20036.
D. (6) $1,350. E. (9) $150.

A. L. H. Wells, Shell Oil Co., 1025 Connecticut Avenue NW., Suite 200, Washington, D.C. 20036.
B. Shell Oil Co., P.O. Box 2463, Houston, Tex. 77001.
D. (6) $500.

A. W. R. Werner, CertainTeed Corp., 1627 K Street NW., Suite 610, Washington, D.C. 20006.
B. CertainTeed Corp., P.O. Box 860, Valley Forge, Pa. 19482.
D. (6) $650. E. (9) $170.

A. Fred Wertheimer, 2030 M Street NW., Washington, D.C. 20036.
B. Common Cause, 2030 M Street NW., Washington, D.C. 20036.
D. (6) $10,500. E. (9) $948.09.

A. Harry H. Westbay III, 1625 I Street NW., Suite 805, Washington, D.C. 20006.
B. St. Regis Paper Co., 150 East 42d Street, New York, N.Y. 10017.
D. (6) $1,200. E. (9) $600.

A. West Mexico Vegetable Distributors Association, P.O. Box 848, Nogales, Ariz. 85621.
E. (9) $500.

A. Harvey J. Wexler, Continental Airlines, Inc., 1050 17th Street NW., No. 1060, Washington, D.C. 20036.
B. Continental Airlines, Inc., International Airport, Los Angeles, Calif. 90009.
D. (6) $2,000. E. (9) $1,100.

A. Brian B. Whalen, International Harvester, 401 North Michigan Avenue, Chicago, Ill. 60611.
B. International Harvester, 401 North Michigan Avenue, Chicago, Ill. 60611.
D. (6) $2,500. E. (9) $3,661.51.

A. Clyde A. Wheeler, Jr., 1800 K Street NW., Suite 820, Washington, D.C. 20006.
B. Sun Co., Inc., 100 Matsonford Road, Radnor, Pa. 19087.
D. (6) $14,000. E. (9) $2,675.

A. Edwin M. Wheeler, The Fertilizer Institute, 1015 18th Street NW., Washington, D.C. 20036.
B. The Fertilizer Institute, 1015 18th Street NW., Washington, D.C. 20036.
E. (9) $25.

A. Thomas E. Wheeler, National Cable Television Association, Inc., 918 16th Street NW., Washington, D.C. 20006.
B. National Cable Television Association, Inc., 918 16th Street NW., Washington, D.C. 20006.
D. (6) $995. E. (9) $342.

A. White & Case, 1747 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. New England Petroleum Corp., 825 Third Avenue, New York, N.Y. 10022.

A. White & Case, 1747 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. Joseph E. Seagram & Sons, Inc., 375 Park Avenue, New York, N.Y. 10022.
D. (6) $38.

A. Donald F. White, American Retail Federation, 1616 H Street NW., Washington, D.C. 20006.
B. American Retail Federation, 1616 H Street NW., Washington, D.C. 20006.
D. (6) $1,250. E. (9) $185.

A. John C. White, Private Truck Council of America, Inc., 1101 17th Street NW., Washington, D.C. 20036.
B. Private Truck Council of America, Inc., 1101 17th Street NW., No. 1008, Washington, D.C. 20036.

A. John S. White, Marathon Oil Co., 1800 M Street NW., Washington, D.C. 20036.
B. Marathon Oil Co., Findlay, Ohio 45840.
E. (9) $206.25.

A. Alton W. Whitehouse, Jr., 1750 Midland Building, Cleveland, Ohio 44115.
B. The Standard Oil Co. (Ohio), Midland Building, Cleveland, Ohio 44115.

A. Louis M. Whitlock, Beker Industries Corp., P.O. Box 396, Carlsbad, N. Mex. 88220.
B. Beker Industries Corp., 124 West Putnam Avenue, Greenwich, Conn. 06830.
E. (9) $29.39.

A. Wickham, Craft & Cihlar, 1050 17th Street, NW., Suite 1100, Washington, D.C. 20036.
E. Allegheny Airlines, National Airport, Washington, D.C. 20001.
D. (6) $55.

A. Wickham, Craft & Cihlar, 1050 17th Street, NW., Suite 1100, Washington, D.C. 20036.
B. American Airlines, 633 3rd Avenue, New York, N.Y. 10017.
D. (6) $55.

A. Wickham, Craft & Cihlar, 1050 17th Street, NW., Suite 1100, Washington, D.C. 20036.
B. Committee for a Uniform Investment Tax Credit, 1050 17th Street, NW., Suite 1112, Washington, D.C. 20036.
D. (6) $360.

A. Wickham, Craft & Cihlar, 1050 17th Street, NW., Suite 1100, Washington, D.C. 20036.
B. Congaree Limited Partnership, 222 West Adams Street, Suite 821, Chicago, Ill. 60606.

A. Wickham, Craft & Cihlar, 1050 17th Street, NW., Suite 1100, Washington, D.C. 20036.
B. Eastern Air Lines, Miami International Airport, Miami, Fla. 33148.
D. (6) $55.

A. Wickham, Craft & Cihlar, 1050 17th Street, NW., Suite 1100, Washington, D.C. 20036.
B. Encyclopaedia Britannica, Inc., 425 North Michigan Avenue, Chicago, Ill. 60611.

A. Wickham, Craft & Cihlar, 1050 17th Street, NW., Suite 1100, Washington, D.C. 20036.
B. Hughes Air West, San Francisco International Airport, San Francisco, Calif. 44128.
D. (6) $55.

A. Wickham, Craft & Cihlar, 1050 17th Street, NW., Suite 1100, Washington, D.C. 20036.
B. Pan American World Airways, Pan Am Building, New York, N.Y. 10017.
D. (6) $55.

A. Wickham, Craft & Cihlar, 1050 17th Street, NW., Suite 1100, Washington, D.C. 20036.
B. Piedmont Airlines, Smith Reynolds Airport, Winston Salem, N.C. 27102.
D. (6) $55.

A. Wickham, Craft & Cihlar, 1050 17th Street, NW., Suite 1100, Washington, D.C. 20036.
B. Ryder System, Inc., 3600 Northwest 82nd Avenue, Miami, Fla. 33166.

A. Wickham, Craft & Cihlar, 1050 17th Street, NW., Suite 1100, Washington, D.C. 20036.
B. Trans World Airlines, 605 Third Avenue, New York, N.Y. 10016.
D. (6) $55.

A. Wickham, Craft & Cihlar, 1050 17th Street, NW., Suite 1100, Washington, D.C. 20036.
B. United Airlines, Inc., P.O. Box 66100, Chicago, Ill. 60666.
D. (6) $55.

A. Leonard M. Wickliffe, 1801 "K" Street NW., Suite 221, Washington, D.C. 20006.
B. California Railroad Association, 1127 Eleventh Street, Suite 242, Sacramento, Calif. 95814.
D. (6) $11,000.01. E. (9) $3,296.13.

A. Wickwire, Lewis, Goldmark, Dystel & Schorr, 500 Maynard Building, Seattle, Wash. 92104.
B. Arctic Slope Regional Corp., Arctic Slope Native Association, Inupiat Community of the Arctic Slope, P.O. Box 129, Barrow, Alaska 99723.
D. (6) $791. E. (9) $666.

A. Everett H. Wilcox, Jr., Alston, Miller & Gaines, 1800 M St. NW., Washington, D.C.
B. IC Industries, 1625 I St. NW., Suite 810, Washington, D.C.
D. (6) $24. E. (9) $4.

A. Thomas D. Wilcox, 919 18th Street NW., Washington, D.C. 20006
B. National Association of Stevedores, 919 18th Street NW., Washington, D.C. 20006.
D. (6) $6,250. E. (9) $2,335.01

A. Jerry C. Wilkerson, 7315 Wisconsin Avenue, Washington, D.C. 20014.
B. International Franchise Association, 7315 Wisconsin Avenue, Washington, D.C. 20014.
D. (6) $1,026.91. E. (9) $262.

A. Wilkinson, Cragun & Barker, 1735 New York Avenue NW., Washington, D.C. 20006.
B. American Society of Travel Agents, Inc., 711 5th Avenue, New York, N.Y. 10022.
E. (9) $1,867.36.

A. Wilkinson, Cragun & Barker, 1735 New York Avenue NW., Washington, D.C. 20006.
B. Arapahoe Tribe of Indians, Fort Washakie, Wyo.
E. (9) $87.40.

A. Wilkinson, Cragun & Barker, 1735 New York Avenue NW., Washington, D.C. 20006.
B. Association of Data Processing Service Organizations, Inc., 210 Summit Avenue, Montvale, N.J. 07645.

A. Wilkinson, Cragun & Barker, 1735 New York Avenue NW., Washington, D.C. 20006.
B. Bonneville International Corp., 36 South State Street, Salt Lake City, Utah.
E. (9) $725.85.

A. Wilkinson, Cragun & Barker, 1735 New York Avenue NW., Washington, D.C. 20006.
B. Brigham Young University, Provo, Utah.
E. (9) $4.43.

A. Wilkinson, Cragun & Barker, 1735 New York Avenue NW., Washington, D.C. 20006.
B. The Church of Jesus Christ of Latter-Day Saints, 10 East North Temple, Salt Lake City, Utah.
E. (9) $205.58.

A. Wilkinson, Cragun & Barker, 1735 New York Avenue NW., Washington, D.C. 20006.
B. College Placement Council, Inc., 65 Elizabeth Street, Bethlehem, Pa.
E. (9) $66.80.

A. Wilkinson, Cragun & Barker, 1735 New York Avenue NW., Washington, D.C. 20006.
B. Confederated Salish and Kootenai Tribes of the Flathead Reservation, Montana.
E. (9) $549.70.

A. Wilkinson, Cragun & Barker, 1735 New York Avenue NW., Washington, D.C. 20006.
B. The Hoopa Valley Tribe, P.O. Box 817, Hoopa, Calif.
E. (9) $106.98.

A. Wilkinson, Cragun & Barker, 1735 New York Avenue NW., Washington, D.C. 20006.
B. Independent Data Communications Manufacturers Association, Inc., 1735 New York Avenue NW., Washington, D.C. 20006.

A. Wilkinson, Cragun & Barker, 1735 New York Avenue NW., Washington, D.C. 20006.
B. Independent Insurance Agents of America, 85 John Street, New York, N.Y. 10038.
D. (6) $7,431.50. E. (9) $150.

A. Wilkinson, Cragun & Barker, 1735 New York Avenue NW., Washington, D.C. 20006.
B. Nana Regional Corp., Inc., Box 49, Kotzebue, Alaska 99752.
E. (9) $29.55.

A. Wilkinson, Cragun & Barker, 1735 New York Avenue NW., Washington, D.C. 20006.
B. State of Hawaii, Department of Regulatory Agencies, P.O. Box 531, Honolulu, Hawaii.
D. (6) $912.50.

A. Wilkinson, Cragun & Barker, 1735 New York Avenue NW., Washington, D.C. 20006.
B. The Three Affiliated Tribes of the Fort Berthold Reservation, New Town, N. Dak.
E. (9) $75.82.

A. Sandra L. Willett, 624 C Street SE., Washington, D.C. 20003.
B. National Consumers League, 1028 Connecticut Avenue, NW., No. 522, Washington, D.C. 20036.
D. (6) $325.

A. Williams & Connolly, 1000 Hill Building, Washington, D.C. 20006.
B. Business Roundtable, 405 Lexington Avenue, New York, N.Y. 10017.
E. (9) $1.35.

A. Williams & Connolly, 1000 Hill Building, Washington, D.C. 20006.
B. CBS, Inc., 1800 M Street, NW., Washington, D.C. 20036.

A. Williams & Connolly, 1000 Hill Building, Washington, D.C. 20006.
B. Federal National Mortgage Association, 1133 15th Street NW., Washington, D.C.

A. Williams & Connolly, Hill Building, Washington, D.C. 20006.
B. William H. Sullivan, Jr., 500 Neponset Avenue, Dorchester, Mass. 02122.
E. (9) $299.86.

A. Harding deC. Williams, National Savings and Loan League, 1101 15th Street NW., Suite 400, Washington, D.C. 20005.
B. National Savings and Loan League, 1101 15th Street NW., Suite 400, Washington, D.C. 20005.
E. (9) $50.

A. Harry D. Williams, 1025 Connecticut Avenue NW., Suite 507, Washington, D.C. 20036.
B. Ashland Oil, Inc., P.O. Box 391, Ashland, Ky. 41101.
D. (6) $2,000.

A. Lee Williams, American Retail Federation, 1616 H Street NW., Washington, D.C. 20006.
B. American Retail Federation, 1616 H Street NW., Washington, D.C. 20006.
D. (6) $1,600.

A. Lucinda L. Williams, 1101 17th Street NW., Suite 310, Washington, D.C. 20036.
B. Federation of American Hospitals, 1101 17th Street NW., Suite 310, Washington, D.C. 20036.
D. (6) $3,150.

A. Williams, Myers and Quiggle, 888 17th Street NW., Washington, D.C. 20006.
B. Church Alliance for Clarification of ERISA, % Gary S. Nash, 511 North Akard Building, Suite 331, Dallas, Tex. 75201.
E. (9) $361.18.

A. Robert E. Williams, United Airlines, 1825 K Street NW., No. 607, Washington, D.C. 20006.
B. United Airlines, P.O. Box 66100, Chicago, Ill. 60666.
D. (6) $1,500. E. (9) $549.72.

A. Bertram C. Willis, International Telephone and Telegraph Corp., 1707 L Street NW., Suite 200, Washington, D.C. 20036.
B. International Telephone and Telegraph Corp., 320 Park Avenue, New York, N.Y. 10022.
D. (6) $150. E. (9) $20.

A. Allen W. Wills, Memorex Corp., 1970 Chain Bridge Road, McLean, Va. 22102.
B. Memorex Corp., San Tomas at Central Expressway, Santa Clara, Calif. 95052.
D. (6) $3,000. E. (9) $50.

A. George S. Wills, 7914 Sherwood Road, Ruxton, Md. 21204.
B. Americans for Alaska, P.O. Box 50, Riderwood, Md. 21139.
D. (6) $2,412. E. (9) $428.34.

A. Wilmer, Cutler & Pickering, 1666 K Street NW., Washington, D.C. 20006.
B. The Business Roundtable, 1801 K Street NW., Washington, D.C. 20006.
D. (6) $1,425.

A. Wilmer, Cutler & Pickering, 1666 K Street NW., Washington, D.C. 20006.
B. The State of Alaska, Department of Revenue, Pouch SB, Juneau, Alaska 99981.
E. (9) $40.84.

A. Henry T. Wilson, 1750 New York Avenue NW., Washington, D.C. 20006.
B. International Brotherhood of Painters and Allied Trades, 1750 New York Avenue NW., Washington, D.C. 20006.
D. (6) $913.50.

A. Winston P. Wilson, 523 North Forrest Street, Forrest City, Ark. 72335.
B. Northrop Corp., 1701 North Ft. Myer Drive, Suite 1208, Arlington, Va. 22209.
D. (6) $6,600. E. (9) $2,950.

A. Albert Winchester, 2030 M Street NW., Washington, D.C. 20036.
B. Common Cause, 2030 M Street NW., Washington, D.C. 20036.
D. (6) $3,343.75.

A. Joseph B. Winkelmann, 925 15th Street NW., Washington, D.C. 20005.
B. National Association of Realtors, Government Affairs Office, 925 15th Street NW., Washington, D.C. 20005.
D. (6) $1,500. E. (9) $1,231.71.

A. James R. Winnie, Cities Service Gas Co., P.O. Box 25128, Oklahoma City, Okla. 73125.
B. Cities Service Gas Co., P.O. Box 25128, Oklahoma City, Okla. 73125.
D. (6) $33.63.

A. Curtin Winsor, Jr., 900 17th Street NW., Washington, D.C. 20006.
B. The Chase Manhattan Bank, National Association, 1 Chase Manhattan Plaza, New York, N.Y. 10015.
D. (6) $77. E. (9) $24.31.

A. Winston & Strawn, 1730 Pennsylvania Avenue NW., No. 1040, Washington, D.C. 20006.
B. Atlanta/LaSalle Corp., 150 South Wacker Street, Chicago, Ill. 60600.

A. Winston & Strawn, 1730 Pennsylvania Avenue NW., No. 1040, Washington, D.C. 20005.
B. Building Owners and Managers Association International, 1221 Massachusetts Avenue NW., Washington, D.C. 20005.
D. (6) $130. E. (9) $8.40.

A. Winston & Strawn, 1730 Pennsylvania Avenue NW., No. 1040, Washington, D.C. 20006.
B. Robert W. Galvin, Route 2, Box 160–H, Barrington, Ill. 60010.

A. Winston & Strawn, 1730 Pennsylvania Avenue NW., No. 1040, Washington, D.C. 20006.
B. Gould Inc., 8550 Bryn Mawr Avenue, Chicago, Ill. 60631.
D. (6) $6,585.

A. Winston & Strawn, 1730 Pennsylvania Avenue NW., No. 1040, Washington, D.C. 20006.
B. International Council of Shopping Centers, 665 Fifth Avenue, New York, N.Y. 10022.
D. (6) $840. E. (9) $66.25.

A. Winston & Strawn, 1730 Pennsylvania Avenue NW., No. 1040, Washington, D.C. 20006.
B. New England Petroleum Corp., 825 Third Avenue, New York, N.Y. 10022.
D. (6) $682.50.

A. Mark E. Winter, American Land Title Association, 1828 L Street NW., Washington, D.C. 20036.
B. American Land Title Association, 1828 L Street NW., Washington, D.C. 20036.
D. (6) $3,000.

A. Karen T. J. Winterbottom, American Osteopathic Association, 1611 North Kent Street, Suite 803–A, Arlington, Va. 22209.
B. American Osteopathic Association, 1611 North Kent Street, Suite 803–A, Arlington, Va. 22209.
D. (6) $1,500. E. (9) $1,577.67.

A. Jane Wishner, 2030 M Street, NW., Washington, D.C. 20036.
B. Common Cause, 2030 M Street NW., Washington, D.C. 20036.
D. (6) $2,799.99.

A. Witkowski, Weiner, McCaffrey and Brodsky, 1750 K Street NW., Suite 1130, Washington, D.C. 20006.
B. Ad Hoc Mobile Home Finance Group, 1750 K Street NW., Suite 1130, Washington, D.C. 20006.
D. (6) $160.

A. H. C. Witthaus, General Motors Corp., 1660 L Street NW., Suite 501, Washington, D.C. 20036.
B. General Motors Corp., 3044 West Grand Boulevard, Detroit, Mich. 48202.
D. (6) $3,000. E. (9) $1,567.74.

A. Erving Wolf, Inexco Oil Co., Suite 1900, 1100 Milam Building, Houston, Tex. 77002.
B. Inexco Oil Co., Suite 1900, 1100 Milam Building; Houston, Tex. 77002.
E. (9) $324.91.

A. Frank R. Wolf, 1901 North Moore Street, Suite 804, Arlington, Va. 22209.
B. National Farm & Power Equipment Dealers Association, 10877 Watson Road, St. Louis, Mo. 63127.
D. (6) $500.

A. Wolf Haldenstein Adler Freeman & Herz, 270 Madison Avenue, New York, N.Y. 10016.
B. Fallek-Lankro Corp., P.O. Box H, Tuscaloosa, Ala.
D. (6) $1,000. E. (9) $831.26.

A. James E. Wolf, The Trane Co., 2020 14th Street, North Arlington, Va. 22201.
B. The Trane Co., 3600 Panmel Creek Road, La Crosse, Wis. 54601.
D. (6) $1000. E. (9) 59.70.

A. Kenneth Wollack, 444 North Capitol Street NW., No. 412, Washington, D.C. 2001.
B. American Israel Public Affairs Committee, 444 North Capitol Street NW., No. 412, Washington, D.C. 20001.
D. (6) $8,250.

A. Don Womack, 1150 Connecticut Avenue NW., Suite 1013, Washington, D.C. 20036.
B. Texas Utilities Services Inc., 2001 Bryan Tower, Dallas, Tex. 75201.
D. (6) $1687. E. (9) $111.52.

A. Charles A. Wood, National Fuel Gas Distribution Corp., 10 Lafayette Square, Room 900, Buffalo, N.Y. 14203.
B. National Fuel Gas Distribution Corp., National Gas Storage Corp., National Fuel Gas Supply Corp., Seneca Resources Corp.
D. (6) $411.52. E. (9) $159.75.

A. Wilbur S. Wood, National Rural Letter Carriers Association, 1750 Pennsylvania Avenue, NW., Washington, D.C.
B. National Rural Letter Carriers' Association, 1750 Pennsylvania Avenue, NW., Washington, D.C.
D. (6) $3. E. (9) $3.

A. Diane Woodruff, Committee of Urban Program Universities, 11 Dupont Circle, Suite 802, Washington, D.C. 20036.
B. Committee of Urban Program Universities, 11 Dupon Circle, Suite 802, Washington, D.C. 20026.
D. (6) $1,875. E. (9) $227.90.

A. M. Alan Woods, DGA International, Inc., 1225 19th Street NW., Washington, D.C. 20036.
B. DGA International, Inc., 1225 19th Street NW., Washington, D.C. 20036 (for Airbus Industrie, Avenue Lucien Servanty, 31700 Blagnac, France).
D. (6) $121.99. E (9) $1.60.

A. M. Alan Woods, DGA International, Inc., 1225 19th Street NW., Washington, D.C. 20036.
B. DGA International, Inc., 1225 19th Street, NW., Washington, D.C. 20036 (for Thomson-CSF (AVS) 178 Boulevard Gabriel Péri, 92240 Malakoff, France).
D. (6) $42.56.

A. William E. Woods, National Association of Retail Druggists, 1750 K Street NW., Washington, D.C. 20006.
B. National Association of Retail Druggists, 1750 K Stret NW., Washington, D.C. 20006.
D. (6) $750. E. (9) $150.

A. James W. Woodward, The Reuben H. Donnelley Corp., 2000 Clearwater Drive, Oak Brook, Ill. 60521.
B. The Reuben H. Donnelley Corp., 2000 Clearwater Drive, Oak Brook, Ill. 60521.

A. Perry W. Woofter, 2101 L Street NW., Washington, D.C. 20037.
B. American Petroleum Institute, 2101 L Street NW., Washington, D.C. 20037.
D. (6) $5,000. E. (9) $185.

A. Paige Wooldridge, Box 1006, Bluefield, W. Va. 24701.
B. National Council of Coal Lessors, Inc., 1130 17th Street, NW., Suite 230, Washington, D.C. 20036.
D. (6) $7,500. E. (9) $1,068.56

A. Melanie Woolston, 20 A Seventh Street, SE., Washington, D.C. 20003.
B. Self-Determination for D.C., 2030 M Street, NW., Room 300, Washington, D.C. 20036.
D. (6) $3,188.50. E. (9) $757.

A. World Federalist Political Education Committee, 600 Valley Road, Wayne, N.J. 07470.
D. (6) $2,518.79. E. (9) $4,418.91.

A. W. Robert Worley, 1546 Farnell Court, Apt. 3, Decatur, Ga. 30033.
B. Georgia Power Co., 270 Peachtree Street NW., Atlanta, Ga. 30302.
D. (6) $3,100. E. (9) 2,694.25.

A. Edward E. Wright, 1819 H Street NW., Suite 1175, Washington, D.C. 20006.
B. G–4 Childrens' Coalition, 7309 Delfield Street, Chevy Chase, Md. 20015.
D. (6) $775. E. (9) $91.77.

A. Franklin L. Wright Jr., 1709 New York Avenue NW., Suite 200, Washington, D.C. 20006.

B. National Association of Mutual Savings Banks, 200 Park Avenue, New York, N.Y. 10017.
D. (6) $2,250. E. (9) $85.05.

A. Wyman, Bautzer, Rothman & Kuchel, Suite 1140, The Watergate 600, 600 New Hampshire Avenue NW., Washington, D.C. 20037.
B. Bristol Bay Native Corp., P.O. Box 220, Anchorage, Alaska 99501.
D. (6) $65.

A. Wyman, Bautzer, Rothman & Kuchel, Suite 1140, The Watergate 600, 600 New Hampshire Avenue NW., Washington, D.C. 20037.
B. Petersen Publishing Co., 8490 Sunset Boulevard, Los Angeles, Calif. 90060.
D. (6) $62.50.

A. John Yarmola, Seafarers International Union of North America, 815 16th Street NW., Room 510, Washington, D.C. 20006.
B. Seafarers International Union of North America.
D. (6) $2,500. E. (9) $312.34.

A. Pamela K. Young, National Association of Manufacturers, 7250 York Avenue South No. 511, Edina, Minn. 55435.
B. National Association of Manufacturers, 1776 F Street NW., Washington, D.C. 20006.
D. (6) $5. E. (9) $1.

A. Reynolds Young, 1120 Connecticut Avenue, Washington, D.C.
B. American Bankers Association, 1120 Connecticut Avenue NW., Washington, D.C. 20036.
D. (6) $1,100. E. (9) $550.

A. Eugene A. Yourch, 17 Battery Place North, New York, N.Y. 10004.
B. Federation of American Controlled Shipping, 17 Battery Place North, New York, N.Y. 10004.
D. (6) $200.

A. Donald Zahn, 8316 Arlington Boulevard, Suite 600, Fairfax, Va. 22038.
B. National Right to Work Committee, 8316 Arlington Boulevard, Suite 600, Fairfax, Va. 22038.
D. (6) $333. E. (9) $103.

A. Lynn Zakupowsky, General Electric Co., 777 14th Street NW., Washington, D.C. 20005.
B. General Electric Co., 3135 Easton Turnpike, Fairfield, Conn. 06431.
D. (6) $500.

A. John S. Zapp, 1776 K Street NW., Washington, D.C. 20006.
B. American Medical Association, 535 North Dearborn Street, Chicago, Ill., 60610.
D. (6) $3,870. E. (9) $439.66.

A. Donald P. Zeifang, 1771 N Street NW., Washington D.C. 20036.
B. National Association of Broadcasters, 1771 N Street NW., Washington, D.C. 20036.
D. (6) $3,000. E. (9) $265.

A. Stanley Zimmerman, Conset, 1820 Jefferson Place NW., Washington, D.C. 20036.
B. Conset, 1820 Jefferson Place NW., Washington, D.C. 20036.

A. Barry Zorthian, Time Inc., 888 16th Street NW., Washington, D.C.
B. Time Inc., Time & Life Building, Rockefeller Center, New York, N.Y. 10020.
D. (6) $2,950. E. (9) $900.

A. Paul G. Zurkowski, 4720 Montgomery Lane, Bethesda, Md. 20014.
B. Information Industry Association, 4720 Montgomery Lane, Bethesda, Md. 20014.
D. (6) $500. E. (9) $4.50.

A. Charles O. Zuver, American Bankers Association, 1120 Connecticut Avenue NW., Washington, D.C. 20036.
B. American Bankers Association, 1120 Connecticut Avenue NW., Washington, D.C. 20036.
D. (6) $3,500. E. (9) $87.96.

A. Frances Zwenig, 133 C Street SE., Washington, D.C. 20003.
B. Congress Watch, 133 C Street SE., Washington, D.C. 20003.
D. (6) $2,750.

A. Carl E. Zwisler III, 7315 Wisconsin Avenue, Washington, D.C. 20014.
B. International Franchise Association, 7315 Wisconsin Avenue, Washington, D.C.
D. (6) $1211.53. E. (9) $347.30.

QUARTERLY REPORTS*

*All alphanumeric characters and monetary amounts refer to receipts and expenditures on page 2, paragraphs D and E of the Quarterly Report Form.

The following quarterly reports were submitted for the second calendar quarter 1977:

(NOTE.—The form used for report is reproduced below. In the interest of economy in the RECORD, questions are not repeated, only the essential answers are printed, and are indicated by their respective letter and number.)

FILE ONE COPY WITH THE SECRETARY OF THE SENATE AND FILE TWO COPIES WITH THE CLERK OF THE HOUSE OF REPRESENTATIVES:

This page (page 1) is designed to supply identifying data; and page 2 (on the back of this page) deals with financial data.

PLACE AN "X" BELOW THE APPROPRIATE LETTER OR FIGURE IN THE BOX AT THE RIGHT OF THE "REPORT" HEADING BELOW:

"PRELIMINARY" REPORT ("Registration"): To "register," place an "X" below the letter "P" and fill out page 1 only.

"QUARTERLY" REPORT: To indicate which one of the four calendar quarters is covered by this Report, place an "X" below the appropriate figure. Fill out both page 1 and page 2 and as many additional pages as may be required. The first additional page should be numbered as page "3," and the rest of such pages should be "4," "5," "6," etc. Preparation and filing in accordance with instructions will accomplish compliance with all quarterly reporting requirements of the Act.

Year: 19_____

REPORT

PURSUANT TO FEDERAL REGULATION OF LOBBYING ACT

	QUARTER			
P	1st	2d	3d	4th
(Mark one square only)				

NOTE ON ITEM "A".—(a) IN GENERAL. This "Report" form may be used by either an organization or an individual, as follows:
(i) "Employee".—To file as an "employee", state (in Item "B") the name, address, and nature of business of the "employer". (If the "employee" is a firm [such as a law firm or public relations firm], partners and salaried staff members of such firm may join in filing a Report as an "employee".)
(ii) "Employer".—To file as an "employer", write "None" in answer to Item "B".
(b) SEPARATE REPORTS. An agent or employee should not attempt to combine his Report with the employer's Report:
(i) Employers subject to the Act must file separate Reports and are not relieved of this requirement merely because Reports are filed by their agents or employees.
(ii) Employees subject to the Act must file separate Reports and are not relieved of this requirement merely because Reports are filed by their employers.

A. ORGANIZATION OR INDIVIDUAL FILING:
1. State name, address, and nature of business.

2. If this Report is for an Employer, list names of agents or employees who will file Reports for this Quarter.

NOTE ON ITEM "B".—*Reports by Agents or Employees.* An employee is to file, each quarter, as many Reports as he has employers, except that: (a) If a particular undertaking is jointly financed by a group of employers, the group is to be considered as one employer, but all members of the group are to be named, and the contribution of each member is to be specified; (b) if the work is done in the interest of one person but payment therefor is made by another, a single Report—naming both persons as "employers"—is to be filed each quarter.

B. EMPLOYER.—State name, address, and nature of business. If there is no employer, write "None."

NOTE ON ITEM "C".—(a) The expression "in connection with legislative interests," as used in this Report, means "in connection with attempting, directly or indirectly, to influence the passage or defeat of legislation." "The term 'legislation' means bills, resolutions, amendments, nominations, and other matters pending or proposed in either House of Congress, and includes any other matter which may be the subject of action by either House"—§ 302(e).
(b) Before undertaking any activities in connection with legislative interests, organizations and individuals subject to the Lobbying Act are required to file a "Preliminary" Report (Registration).
(c) After beginning such activities, they must file a "Quarterly" Report at the end of each calendar quarter in which they have either received or expended anything of value in connection with legislative interests.

C. LEGISLATIVE INTERESTS, AND PUBLICATIONS in connection therewith:

1. State approximately how long legislative interests are to continue. If receipts and expenditures in connection with legislative interests have terminated, place an "X" in the box at the left, so that this Office will no longer expect to receive Reports. ☐

2. State the general legislative interests of the person filing and set forth the *specific* legislative interests by reciting: (a) Short titles of statutes and bills; (b) House and Senate numbers of bills, where known; (c) citations of statutes, where known; (d) whether for or against such statutes and bills.

3. In the case of those publications which the person filing has caused to be issued or distributed in connection with legislative interests, set forth: (a) Description, (b) quantity distributed; (c) date of distribution, (d) name of printer or publisher (if publications were paid for by person filing) or name of donor (if publications were received as a gift).

(Answer items 1, 2, and 3 in the space below. Attach additional pages if more space is needed)

4. If this is a "Preliminary" Report (Registration) rather than a "Quarterly" Report, state below what the nature and amount of anticipated expenses will be; and if for an agent or employee, state also what the daily, monthly, or annual rate of compensation is to be. If this is a "Quarterly" Report, disregard this item "C4" and fill out item "D" and "E" on the back of this page. Do not attempt to combine a "Preliminary" Report (Registration) with a "Quarterly" Report.

AFFIDAVIT

[Omitted in printing]

PAGE 1

A. Albert E. Abrahams, 925 15th Street NW., Washington, D.C. 20005.
B. National Association of Realtors, 430 North Michigan Avenue, Chicago, Ill. 60611, and 925 15th Street NW., Washington, D.C. 20005.
D. (6) $3,875. E. (9) $829.38.

A. ACLI International Inc., 110 Wall Street, New York, N.Y. 10005.
E. (9) $1,252.74.

A. Actors Equity Association, 1500 Broadway, New York, N.Y. 10036.
D. (6) $2,500. E. (9) $2,500.

A. Ad-Hoc Committee for Competitive Telecommunications, 520 North Capitol Street NW., No. 800, Washington, D.C. 20001.
D. (6) $10,000. E. (9) $14,260.77.

A. Ad Hoc Committee of Concerned Parents, P.O. Box 343, Lexington, Mass. 02173.
D. (6) $421. E. (9) $1,204.93.

A. Barbara Ann Alderson, 1619 Massachusetts Avenue NW., Washington, D.C. 20036.
B. American Paper Institute, Inc., 260 Madison Avenue, New York, N.Y. 10016.

A. George Alderson, 323 Maryland Avenue NE., No. 5, Washington, D.C. 20002.
B. Sierra Club, 330 Pennsylvania Avenue SE., Washington, D.C. 20003.
D. (6) $1,334. E. (9) $8.

A. Susan Alexander, Zero Population Growth, 1346 Connecticut Avenue NW., Washington, D.C. 20036.
B. Zero Population Growth, 1346 Connecticut Avenue NW., Washington, D.C. 20036.
D. (6) $572. E. (9) $5.60.

A. Roger D. Allan, 1957 E Street NW., Washington, D.C. 20006.
B. The Associated General Contractors of America, 1957 E Street NW., Washington, D.C. 20006.

A. Anne Genevieve Allen, Los Angeles Division, Rockwell International, International Airport, Los Angeles, Calif. 90009.
B. Rockwell International, Los Angeles Division, International Airport, Los Angeles, Calif. 90009.
D. (6) $335.94. E. (9) $576.73.

A. Robert D. Allen, 2845 Summit Drive, Hillsborough, Calif. 94010.
B. Bechtel Power Corp., 50 Beale Street, P.O. Box 3965, San Francisco, Calif. 94119.

A. American Advertising Federation, 1225 Connecticut Avenue NW., Suite 401, Washington, D.C. 20036.
D. (6) $3,622. E. (9) $1,087.

A. American Arts Alliance, Inc., 424 C Street NE., Washington, D.C. 20002.
D. (6) $18,809.02. E. (9) $46,225.88.

A. American Federation of State, County and Municipal Employees, AFL–CIO, 1625 L Street NW., Washington, D.C.
E. (9) $28,308.95.

A. American Health Planning Association, 2560 Huntington Avenue, Suite 305, Alexandria, Va. 22303.
D. (6) $18,994. E. (9) $18,994.

A. American Honda Motor Co., Jnc., 955 L'Enfant Plaza North SW., Suite 905, Washington, D.C. 20024.
E. (9) $446.19.

A. American Hospital Association, 840 North Lake Shore Drive, Chicago, Ill. 60611.
D. (6) $26,073.09. E. (9) $26,073.09.

A. The American Humane Association, P.O. Box 1266, Denver, Colo. 80201.
E. (9) $1,800.

A. American Israel Public Affairs Committee, 444 North Capitol Street NW., Washington, D.C. 20001.
D. (6) $59,154. E. (9) $88,870.41.

A. The American League of Anglers, 810 18th Street NW., Washington, D.C. 20006.
D. (6) $5,000. E. (9) $3,201.

A. American Maritime Association, 17 Battery Place North, New York, N.Y. 10004, 1612 K Street NW., Washington, D.C. 20004.

A. American Public Transit Association, 1100 17th Street NW., Washington, D.C. 20036.
D. (6) $9,290. E. (9) $10,216.16.

A. The American Radio Relay League, Inc., 225 Main Street, Newington, Conn. 06111.
D. (6) $4,778,132.

A. American Textile Machinery Association, 1730 M Street NW., Washington, D.C. 20036.
D. (6) $155.40.

A. Morris J. Amitay, 444 North Capital Street, Washington, D.C. 20001.
B. American Israel Public Affairs Committee, 444 North Capitol Street NW., Washington, D.C. 20001.
D. (6) $6,874.98.

A. J. L. Anderson, Time, Inc., 888 16th Street, NW., Washington, D.C. 20006.
B. Time Inc., Time & Life Building, Rockefeller Center, New York, N.Y.
D. (6) $2,500. E. (9) $375.49.

A. Jane K. Anderson, The Carborundum Co., Kennecott Copper Corp., 1022 15th Street NW., Washington, D.C. 20005.
B. The Carborundum Co., Kennecott Copper Corp., 1022 15th Street NW., Washington, D.C.

A. Scott G. Andrson, Burlington Northern, Inc., Suite 506, 2000 L Street NW., Washington, D.C. 20036.
B. Burlington Northern, Inc., 176 East 5th Street, St. Paul, Minn. 55101.
D. (6) $1,900. E. (9) $742.28.

A. Linda M. Anzalone, Chamber of Commerec of the U.S., 1615 H Street NW., Washington, D.C. 20062.
B Chamber of Commerce of the U.S., 1615 H Street NW., Washington, D.C. 20062.
E. (9) $25.

A. Fred Armstrong, 1957 E Street NW., Washington, D.C. 20006.
B. The Associated General Contractors of America, 1957 E Street NW., Washington, D.C. 20006.

A. Carl F. Arnold, 1100 Connecticut Avenue NW., Washington, D.C. 20036.
B. American Petroleum Institute, 2101 L Street NW., Washington, D.C. 20037.
D. (6) $8,750.01.

A. Carl F. Arnold, 1100 Connecticut Avenue NW., Washington, D.C. 20036.
B. National Realty Committee, 2033 M Street NW., Washington, D.C. 20036.
D. (6) $833.

A. Carl F. Arnold, 1100 Connecticut Avenue NW., Washington, D.C. 20036.
B. Quintana Petroleum Corp., P.O. Box 3331, Houston, Tex. 77001.
D. (6) $1,250.

A. Carl F. Arnold, 1100 Connecticut Avenue NW., Washington, D.C. 20036.
B. Quintana Refining Co., P.O. Box 3331, Houston, Tex. 77001.
D. (6) $1,250.

A. Carl F. Arnold, 1100 Connecticut Avenue NW., Washington, D.C. 20036.
B. Securities Industry Association, 20 Broad Street, New York, N.Y. 10005.
D. (6) $1,167.

A. Arnold & Porter, 1229 19th Street NW., Washington, D.C. 20036.
B. American Association of Dealers in Ancient, Oriental and Primitive Art, 159½ East 94th Street, New York, N.Y. 10028.

A. Arnold & Porter, 1229 19th Street NW., Washington, D.C. 20036.
B. Commissioner of Baseball, 15 West 51st Street, New York, N.Y. 10019.

A. Arnold & Porter, 1229 19th Street NW., Washington, D.C. 20036.
B. Price Waterhouse & Co., 1259 Avenue of the Americas, New York, N.Y. 10020.

A. Arnold & Porter, 1229 19th Street NW., Washington, D.C. 20036.
B. State Farm Mutual Automobile Insurance Co., One State Farm Plaza, Bloomington, Ill. 61701.
D. (6) $904. E. (9) $8.

A. Arnold & Porter, 1229 19th Street NW., Washington, D.C. 20036.
B. Recording Industry Association of America, Inc., One East 57th Street, New York, N.Y. 10022.
D. (6) $167.

A. Arnold & Porter, 1229 19th Street NW., Washington, D.C. 20036.
B. West Mexico Vegetable Distributors Association, P.O. Box 848, Nogales, Ariz.
D. (6) $15,640.71. E. (9) $4,491.66.

A. Jean Arthurs, 4023 25th Road North, Arlington, Va. 22207.
B. Military Widows, 4023 25th Road North, Arlington, Va. 22207.

A. Joseph Ashooh, 1957 E Street NW., Washington, D.C. 20006.
B. The Associated General Contractors of America, 1957 E Street NW., Washington, D.C. 20006.

A. The Associated General Contractors of America, 1957 E Street NW., Washington, D.C. 20006.

A. Association of Data Processing Service Organizations, Inc., 210 Summit Avenue, Montvale, N.J. 07645.
D. (6) $110,798.

A. Association of Media Producers, 1707 L Street NW., Suite 515, Washington, D.C. 20036.
D. (6) $5,536. E. (9) $5,420.

A. Association of Oil Pipe Lines, 1725 K Street NW., Washington, D.C. 20006.

A. Association on Japanese Textile Imports, Inc., 551 Fifth Avenue, New York, N.Y. 10017.
E. (9) $250.

A. George J. Aste, United Airlines, 1825 K Street NW., No. 607, Washington, D.C. 20006.
B. United Airlines, P.O. Box 66100, Chicago, Ill. 60666.
D. (6) $1,500.

A. Richard W. Averill, American Optometric Association, 243 North Lindbergh Boulevard, St. Louis, Mo. 63141.

B. American Optometric Association, c/o Dr. Wendell D. Waldie, 3111 Aloma, Wichita, Kans. 67211.

A. Aviation Consumer Action Project, P.O. Box 19029, Washington, D.C. 20036.
E. (9) $50.

A. Bache, Halsey, Stuart, Shields, Inc., 100 Gold Street, New York, N.Y. 10038.
E. (9) $700.

A. Emil F. Baker, 1303 New Hampshire Avenue, NW., Washington, D.C. 20036.
B. Fleet Reserve Association, 1303 New Hampshire, Avenue, NW., Washhington, D.C. 20036.

A. Richard L. Baldwin, 225 Main Street, Newington, Conn. 06111.
B. The American Radio Relay League, Inc., 225 Main Street, Newington, Conn. 06111.
D. (6) $35,000.

A. John H. Barnard, Jr., 803 Ironbark Place, Orinda, Calif. 94563.
B. Bechtel Corp., 50 Beale Street, P.O. Box 3965, San Francisco, Calif. 94119.

A. Roger H. Barnard, National Association of Federal Credit Unions, P.O. Box 3769, Washington, D.C. 20007.
B. National Association of Federal Credit Unions, P.O. Box 3769, Washington, D.C. 20007.

A. James C. Barr, National Association of Federal Credit Unions, P.O. Box 3769, Washington, D.C. 20007.
B. National Association of Federal Credit Unions, P.O. Box 3769, Washington, D.C. 20007.
D. (6) $300. E. (9) $12.06.

A. Eileen Barthelmy, The American League of Anglers, 810 18th Street NW., Washington, D.C. 20006.
B. The American League of Anglers, 810 18th Street NW., Washington, D.C. 20006.
D. (6) $1,371. E. (9) $80.

A. Davis M. Batson, 1155–15th Street NW., Suite 611, Washington, D.C. 20005.
B. Ethyl Corp., 1155 15th Street NW., Suite 611, Washington, D.C. 20005.
D. (6) $750.

A. Lucius D. Battle, Communications Satellite Corp., 950 L'Enfant Plaza SW., Washington, D.C. 20024.
B. Communications Satellite Corp., 950 L'Enfant Plaza SW., Washington, D.C. 20024.
D. (6) $800.

A. James R. Baxter, 1957 E Street NW., Washington, D.C. 20006.
B. The Associated General Contractors of America, 1957 E Street NW., Washington, D.C. 20006.

A. Michael K. Beard, 100 Maryland Avenue NE., Washington, D.C. 20002.
B. National Coalition to Ban Handguns, 100 Maryland Avenue NE., Washington, D.C. 20002.
D. (6) $4,121.76. E. (9) $965.44.

A. Howard H. Bell, 1225 Connecticut Avenue NW., Suite 401, Washington, D.C. 20036.
B. American Advertising Federation, 1225 Connecticut Avenue NW., Washington, D.C. 20036.
D. (6) $375.

A. Winston Everett Bell, P.O. Box 5463, Las Vegas, Nev. 89102.

A. Douglas P. Bennett, 499 South Capitol Street SW., No. 407, Washington, D.C. 20003.
B. Association of Executive Recruiting Consultants, Inc., 30 Rockefeller Plaza, New York, N.Y. 10020.
D. (6) $650. E. (9) $77.52.

A. Douglas P. Bennett, 499 South Capitol Street SW., No. 407, Washington, D.C. 20003.
B. Eugene C. Cashman, 141 West Jackson Boulevard, Chicago, Ill. 60604.
E. (9) $10.69.

A. Douglas P. Bennett, 499 South Capitol Street SW., No. 407, Washington, D.C. 20003.
B. National Restaurant Association, Suite 850, 1850 K Street NW., Washington, D.C. 20006.
D. (6) $2,400. E. (9) $342.32.

A. Douglas P. Bennett, 499 South Capitol Street SW., No. 407, Washington, D.C. 20003.
B. Pepsi-Co., Inc., Purchase, N.Y.
E. (9) $35.82.

A. Kenneth W. Bergen, Bingham, Dana & Gould, 100 Federal Street, Boston, Mass. 02110.
B. The First National Bank of Boston, 100 Federal Street, Boston, Mass. 02110.
E. (9) $140.85.

A. Randolph C. Berkeley, National Association for Uniformed Services, 6200 Lakeview Drive, Falls Church, Va. 22041.
B. National Association for Uniformed Services, 956 North Monroe Street, Arlington, Va. 22201.
D. (6) $790.

A. Charles Bernhardt, 1016 16th Street NW., Washington, D.C. 20036.
B. National Federation of Federal Employees, 1016 16th Street NW., Washington, D.C. 20036.

A. Linda M. Billings, Sierra Club, 330 Pennsylvania Avenue SE., Washington, D.C. 20003.
B. Sierra Club, 530 Bush Street, San Francisco, Calif. 94108.
D. (6) $5,922. E. (9) $184.90.

A. Charles L. Binsted, National Congress for Petroleum Retailers, Inc., No. 301, 2021 K Street NW., Washington, D.C. 20006.
B. National Congress of Petroleum Retailers, No. 301, 2021 K Street NW., Washington, D.C. 20006.
D. (6) $1,554. E. (9) $1,575.

A. Barbara A. Blake, Sierra Club, 330 Pennsylvania Avenue SE., Washington, D.C. 20003.
B. Sierra Club, 530 Bush Street, San Francisco, Calif. 94108.
D. (6) $2,250. E. (9) $100.

A. Helen Blank, American Parents Committee, 1346 Connecticut Avenue NW., Washington, D.C. 20036.
B. American Parents Committee, 1346 Connecticut Avenue NW., Washington, D.C. 20036.
D. (6) $4020.

A. Blum, Parker & Nash, 1015 18th Street NW., No. 408, Washington, D.C. 20036.
B. Association of Independent Corrugated Converters, 2530 Crawford Avenue, Evanston, Ill. 60201.
D. (6) $6,000. E. (9) $652.84.

A. Blum, Parker & Nash, 1015 18th Street NW., No. 408, Washington, D.C. 20036.
B. Computer & Communications Industry Association, 1500 Wilson Boulevard, Suite 512, Arlington, Va. 22209.
D. (6) $562.50.

A. Blum, Parker & Nash, 1015 18th Street NW., No. 408, Washington, D.C. 20036.
B. Northwest Pipeline Corp., P.O. Box 1526, Salt Lake City, Utah 84110.
D. (6) $3,000.

A. Blum, Parker & Nash, 1015 18th Street NW., No. 408, Washington, D.C. 20036.
B. Zenith Radio Corp., 1000 Milwaukee Avenue, Glenview, Ill. 60025.
D. (6) $14,750. E. (9) $877.99.

A. Boasberg, Hewes, Finkelstein & Klores, 2101 L Street NW., No. 906, Washington, D.C. 20037.
B. National Board of Young Men's Christian Associations, 291 Broadway, New York, N.Y. 10007.
D. (6) $10,749.99.

A. Carolyn Bode, 2941 28th Street NW., Washington, D.C. 20008.
B. Women's Lobby, Inc., 201 Massachusetts Avenue NE., Washington, D.C. 20002.
D. (6) $1,430.

A. Theodore D. Bogue, 2000 P Street NW., Suite 708, Washington, D.C. 20036.
B. Health Research Group, 2000 P Street NW., Suite 708, Washington, D.C. 20036.
D. (6) $250.

A. Bonneville Associates, Inc., 747 East South Temple, Suite 111, Salt Lake City, Utah 84102.
B. Western Regional Council, P.O. Box 8144, Salt Lake City, Utah 84108.
E. (9) $6,788.72.

A. Thomas C. Borzilleri, National Retired Teachers Association/American Association of Retired Persons, 1909 K Street NW., Washington, D.C. 20049.
B. National Retired Teachers Association/American Association of Retired Persons, 1909 K Street NW., Washington, D.C. 20049.
D. (6) $249.23.

A. G. Stewart Boswell, American Textile Manufacturers Institute, Inc., 1101 Connecticue Avenue NW., Suite 300, Washington, D.C. 20036.
B. American Textile Manufacturers Institute, Suite 2124, South Tryon Street, Charlotte, N.C. 28285.
D. (6) $3,082.50. E. (9) $234.45.

A. Mary M. Bourdette, 733 15th Street NW., Washington, D.C. 20005.
B. Legal Services Corp., 733 15th Street NW., Washington, D.C. 20005.
D. (6) $807.46. E. (9) $70.25.

A. A. D. Bourland, 1660 L Street NW., Washington, D.C. 20036.
B. General Motors Corp., 3044 West Grand Boulevard, Detroit, Mich.
D. (6) $3,000. E. (9) $2,846.99.

A. Melvin J. Boyle, International Brotherhood of Electrical Workers, 1125 15th Street NW., Washington, D.C. 20005.
B. International Brotherhood of Electrical Workers, AFL–CIO–CLC, 1125 15th Street NW., Washington, D.C. 20005.
D. (6) $8,500.

A. Gene M. Bradley, 955 L'Enfant Plaza North SW., Washington, D.C. 20024.
B. The Boeing Co., P.O. Box 3707, Seattle, Wash. 98124.
D. (6) $400. E. (9) $231.61.

A. Joseph E. Brady, 5018 East Summer Moon Lane, Phoenix, Ariz. 85014.
B. National Coordinating Committee of the Beverage Industry, Sheraton Gibson Hotel, Cincinnati, Ohio.

A. S. Gail Bramblett, National Education Association, 1201 16th Street NW., Washington, D.C. 20036.

B. National Education Association, 1201 16th Street NW., Washington, D.C. 20036.
D. (6) $3,867.80. E. (9) $239.56.

A. Bregman, Abell, Solter & Kay, 1900 L Street NW., Suite 610, Washington, D.C. 20036.
B. The Air Transport Association of America, 1709 New York Avenue NW., Washington, D.C. 20036.
D. (6) $800.

A. Bregman, Abell, Solter & Kay, 1900 L Street NW., Suite 610, Washington, D.C. 20036.
B. American Psychiatric Association, 1700 18th Street NW., Washington, D.C. 20009.
D. (6) $750.

A. Bregman, Abell, Solter & Kay, 1900 L Street NW., Suite 610, Washington, D.C. 20036.
B. Trans World Airlines, 1000 16th Street NW., Washington, D.C. 20036.
D. (6) $1,250.

A. Bregman, Abell, Solter & Kay 1900 L Street NW., Suite 610, Washington, D.C. 20036.
B. The Washington Psychiatric Society, 1700 18th Street NW., Washington, D.C.

A. Miles H. Bresee, Jr., 170 Altura Way, Greenbrae, Calif. 94904.
B. Bechtel Corp., 50 Beale Street, P.O. Box 3965, San Francisco, Calif. 94119.
D. (6) $37.50. E. (9) $531.33.

A. Jeffrey Bricker, 460 Park Avenue, New York, N.Y. 10022.
B. Fallek Chemical Corp., 460 Park Avenue, New York, N.Y. 10022.
D. (6) $125. E. (9) $166.92.

A. Bill Brier, 1150 Connecticut Avenue NW., Suite 805, Washington, D.C. 20036.
B. R. J. Reynolds Industries, Inc., P.O. Box 2959, Winston-Salem, N.C. 27102.
D. (6) $494.51. E. (9) $73.31.

A. Claude S. Brinegar, 461 South Boylston Street, Los Angeles, Calif. 90017.
B. Union Oil Co. of California, 461 South Boylston Street, Los Angeles, Calif. 90017.
E. (9) $122.28.

A. Belva B. Brissett, 1771 N Street NW., Washington, D.C. 20036.
B. National Association of Broadcasters, 1771 N Street NW., Washington, D.C. 20036.
D. (6) $1,406.25. E. (9) $101.

A. John B. Brock, Quintana Refinery Co., P.O. Box 3331, Houston, Tex. 77001.
B. Quintana Refinery Co., P.O. Box 3331, Houston, Tex. 77001.

A. Brotherhood of Railway, Airline & Steamship Clerks, Freight Handlers, Express & Station Employees, 815 16th Street NW., Washington, D.C. 20006.
B. Brotherhood of Railway, Airline & Steamship Clerks, Freight Handlers, Express & Station Employees, 3 Research Place, Rockville, Md. 20850.
D. (6) $34,009. E. (9) $34,009.

A. Charles B. Brown, 900 17th Street NW., Washington, D.C. 20006.
B. Kaiser Aluminum & Chemical Corp., 900 17th Street NW., Washington, D.C. 20006.
D. (6) $300. E. (9) $16.70.

A. Charles T. Brown, Cities Service Co., Box 100, Miami, Ariz. 85539.
B. Cities Service Co., Box 100, Miami, Ariz. 85539.

A. Richard Brown, 2030 Alan Place NW., Washington, D.C. 20009.

B. Committee of Americans for the Canal Treaties, Inc., 1019 19th Street NW., Washington, D.C. 20036.
D. (6) $1,500.

A. Harvey F. Brush, 2006 Washington Street, San Francisco, Calif. 94109.
B. Bechtel Inc., 50 Beal Street, P.O. Box 3965, San Francisco, Calif. 94119.

A. David A. Bunn, 1211 Connecticut Avenue NW., Washington, D.C. 20036.
B. Magazine Publishers Association, 575 Lexington Avenue, New York, N.Y. 10022.
D. (6) $4,000. E. (9) $300.

A. David A. Bunn, Parcel Shippers Association, 1211 Connecticut Avenue NW., Washington, D.C. 20036.
B. Parcel Shippers Association, 1211 Connecticut Avenue NW., Washington, D.C. 20036.
D. (6) $1,000. E. (9) $700.

A. George J. Burger, National Federation of Independent Business, 150 West 20th Avenue, San Mateo, Calif. 94403.
B. National Federation of Independent Business, 150 West 20th Avenue, San Mateo, Calif. 94403.
D. (6) $1,000.

A. Quentin L. Burgess, 733 15th Street NW., Washington, D.C. 20005.
B. Legal Services Corp., 733 15th Street NW., Washington, D.C. 20005.
D. (6) $241.02. E. (9) $5.75.

A. Timothy F. Burns, 901 North Washington Street, Alexandria, Va. 22314.
B. Society of American Florists, 901 North Washington Street, Alexandria, Va. 22314.
D. (6) $300. E. (9) $15.

A. Frank W. Calhoun, 500 Gulf Building, Houston, Tex. 77002.
B. El Paso Natural Gas Co., P.O. Box 2185, Houston, Tex. 77001.
E. (9) $667.55.

A. Calorie Control Council, 64 Perimeter Center East, Atlanta, Ga. 30346.
E. (9) $5,785.

A. Arthur E. Cameron, 918 16th Street NW., Suite 406, Washington, D.C. 20006.
B. Cataphote Division, Ferro Corp., P.O. Box 2369, Jackson, Miss. 39205.
D. (6) $5,791.

A. Arthur E. Cameron, 918 16th Street NW., Suite 406, Washington, D.C. 20006.
B. LFE Corp., 1601 Trapelo Road, Waltham, Mass. 02154; Eagle Signal Corp., 8004 Cameron Road, Austin, Tex. 78753; Safetran Systems Corp., 7721 National Turnpike, Louisville, Ky. 40214.
D. (6) $5,375.

A. John E. Campbell, American Hospital Association, 444 North Capitol Street NW., No. 500, Washington, D.C.
B. American Hospital Association, 840 North Lake Shore Drive, Chicago, Ill. 60611.

A. W. Dean Cannon, Jr., 9800 South Sepulveda Blvd., Los Angeles, Calif. 90045.
B. California Savings and Loan League, 9800 South Sepulveda Blvd., Los Angeles, Calif. 90045.
D. (6) $2,000.

A. Ross Capon, National Association of Railroad Passengers, 417 New Jersey Avenue SE., Washington, D.C. 20003.
B. National Association of Railroad Passengers, 417 New Jersey Avenue SE., Washington, D.C. 20003.
D. (6) $4,998.05.

A. Isaac R. Caraco, 4532 Park Monaco, Calabasas Park, Calif. 91302.
B. Bechtel Power Corp., 50 Beale Street, P.O. Box 3965, San Francisco, Calif. 94119.

A. Carella, Bain, Gilfillan & Rhodes, Gateway I, Suite 2404, Newark, N.J. 07102.
B. Wagner Electric Corp., 100 Misty Lane, Parsippany, N.J. 07054.
E. (9) $2,850.

A. Richard M. Carrigan, National Education Association, 1201 16th Street NW., Washington, D.C. 20036.
B. National Education Association, 1201 16th Street NW., Washington, D.C. 20036.
D. (6) $4,953.30 E. (9) $287.28.

A. Charles T. Carroll, 1957 E Street NW., Washington, D.C. 20006.
B. The Associated General Contractors of America, 1957 E Street NW., Washington, D.C. 20006.
D. (6) $2,000.

A. Catholics for a Free Choice, 201 Massachusetts Avenue NE., No. 105, Washington, D.C. 20002.
D. (6) $8,203.44. E. (9) $4,442.41.

A. John E. Chapoton, 2100 First City National Bank Building, Houston, Tex. 77002.
B. Vinson & Elkins, 2100 First City National Bank Building, Houston, Tex. 77002 (for Lone Star Steel Co., P.O. Box 35888, Dallas, Tex. 75235).
D. (6) $6,800.

A. Sarah Chasis, 122 East 42d Street, New York, N.Y. 10017.
B. Natural Resources Defense Council, Inc., 122 East 42d Street, New York, N.Y. 10017.
D. (6) $56.42.

A. Yvonne M. Chicoine, 316 Pennsylvania Avenue SE., Washington, D.C. 20003.
B. The American Conservative Union, 316 Pennsylvania Avenue SE., Washington, D.C. 20003.
D. (6) $3,125.07.

A. Children's Rights, Inc., 3443 17th Street NW., Washington, D.C. 20010.
D. (6) $93.85. E. (9) $46.60.

A. Chugach Electric Association, Inc., P.O. Box 3518, Anchorage, Alaska 99501.
E. (9) $7,005.98.

A. Julia Churchman, Preservation Action, 2101 L Street NW., Washington, D.C. 20037; 2222 Q Street NW., Apartment 53, Washington, D.C. 20008.
B. Preservation Action, 2102 L Street NW., Washington, D.C. 20037.
D. (6) $1,762.88. E. (9) $141.67.

A. Citizens for Management of Alaska Lands, Inc., P.O. Box 3256, Anchorage, Alaska 99510.
D. (6) $130,523.17. E. (9) $128,530.05.

A. Cladouhos & Brashares, 1750 New York Avenue NW., Washington, D.C. 20006.
B. Ashland Oil, Inc., 1401 Winchester Avenue, Ashland, Ky.

A. Cladouhos & Brashares, 1750 New York Avenue NW., Washington, D.C. 20006.
B. Crown Central Petroleum Corp., One North Charles Street, P.O. Box 1168, Baltimore, Md. 21203.

A. Cladouhos & Brashares, 1750 New York Avenue NW., Washington, D.C. 20006.
B. Toyota Motor Sales, U.S.A., 2055 West 190th Street, Torrance, Calif. 90504.

A. Anne Harrison Clark, 10564 Jason Lane, Columbia, Md. 21044.

B. National Consumers League, 1028 Connecticut Avenue NW., Washington, D.C. 20036.
D. (6) $300. E. (9) $175.

A. Kathleen Ann Clarken, National Federation of Independent Business, 490 L'Enfant Plaza East SW., Suite 3206, Washington, D.C. 20024.
B. National Federation of Independent Business, 490 L'Enfant Plaza East SW., Suite 3206, Washington, D.C. 20024.
D. (6) $400.

A. Coalition for New York, Inc., 230 Park Avenue, New York, N.Y. 10017.
D. (6) $2,000. E. (9) $2,000.

A. Coalition on American Rivers, P.O. Box 2667, Station A, Champaign, Ill. 61820
D. (6) $8,124.35. E. (9) $3,935.69.

A. Jerry S. Cohen, Suite 708, 1776 K Street NW., Washington, D.C. 20006.
B. National Congress of Petroleum Retailers, Suite 301, 2021 K Street NW., Washington, D.C.
D. (6) $3,000.

A. Rhea L. Cohen, 10 Greendale Place, Greenbelt, Md. 20776.
B. Sierra Club, 330 Pennsylvania Avenue SE., Washington, D.C. 20003.
D. (6) $4,625. E. (9) $101.75.

A. Cohen and Uretz, 1775 K Street NW., Fourth Floor, Washington, D.C. 20006.
B. Wometco Enterprises, Inc., 306 North Miami Avenue, P.O. Box 2440, Miami, Fla. 33128.

A. Timothy A. Colcord, 1620 I Street NW., Washington, D.C. 20006.
B. Visa U.S.A., Inc., 555 California Street, San Francisco, Calif. 84126.
D. (6) $6,875. E. (9) $1,736.37.

A. Cole Corette & Bradfield, 1200 17th Street NW., Washington, D.C. 20036.
B. American Express, American Express Plaza, New York, N.Y. 10004.
D. (6) $52.90. E. (9) $10.33.

A. Michael P. Cole, 424 Vassar Avenue, Berkeley, Calif. 94708.
B. Bechtel Corp., 50 Beale Street, P.O. Box 3965, San Francisco, Calif. 94119.

A. John M. Collier, 4436 Perrier Street, New Orleans, La. 70115.
B. Southern Forest Products Association, P.O. Box 52468, New Orleans, La. 70152.
D. (6) $7,800. E. (9) $2,437.32.

A. Paul G. Collins, One Jackson Walkway, Providence, R.I. 02903
B. New England Commercial Banking Caucus, One Jackson Walkway, Providence, R.I. 02903.

A. Committee for Do-It-Yourself Household Moving, 1100 17th Street NW., Suite 1000, Washington, D.C., 20036.

A. Committee for 806.30 and 807, Inc., 1611 North Kent Street, Suite 800, Arlington, Va. 22209.
D. (6) $8,850. E. (9) $17,279.83.

A. Committee for Humane Legislation, Inc., 2101 L Street NW., Washington, D.C. 20037; 11 West 60th Street, New York., N.Y. 10023.
D. (6) $25,483.34. E. (9) $42,547.19.

A. Committee of Producers of High Carbon Ferrochromium, c/o Airco Alloys Division, 85 Chestnut Avenue, Montvale, N.J. 08645.
E. (9) $1,000.

A. Raymond F. Conkling, 1050 17th Street NW., Washington, D.C. 20036.
B. Texaco, Inc., 2000 Westchester Avenue, White Plains, N.Y. 10650.

A. James T. Conner, 1140 Connecticut Avenue NW., Washington, D.C. 20036.
B. Mobay Chemical Corp., P.O. Box 4913, Hawthorn Road, Kansas City, Mo. 64120.
E. (9) $645.

A. Consolidated Rail Corp., P.O. Box 23451, L'Enfant Plaza, Washington, D.C. 20024.
E. (9) $19,973.

A. Consumer Action Now, Inc., 317 Pennsylvania Avenue, Washington, D.C. 20003.
D. (6) $6,417.07. E. (9) $9,567.18.

A. J. Crawford Cook, P.O. Box 5845, Columbia, S.C. 29250.
B. J. Crawford Cook, Inc., 2218 Terrace Way, Columbia, S.C. 29205; and Cook, Ruef, Spann & Weiser, Inc., 1735 St. Julian Place, Columbia, S.C. 29204 (for the Royal Embassy of Saudia Arabia).
D. (6) $10,769.36. E. (9) $6,479.07.

A. J. Crawford Cook, Inc., P.O. Box 50485, Columbia, S.C. 29202.
D. (6) $151,993.60. E. (9) $162,312.53.

A. Cook, Ruef, Spann & Weiser, Inc., P.O. Box 5845, Columbia, S.C. 29250.
D. (6) $113,644.01. E. (9) $6,486.23.

A. Carl B. Cordes and Thomas V. Glynn, Battle, Fowler, Jaffin, Pierce & Kheel, 280 Park Avenue, New York, N.Y. 10017.
B. State Troopers Fraternal Association of New Jersey, Inc., 30 Newport Drive, Howell, N.J. 07731.
D. (6) $2,550. E. (9) $561.06.

A. Allan D. Cors, 1800 K Street NW., Suite 1104, Washington, D.C. 20006.
B. Corning Glass Works, Corning, N.Y. 14830.
D. (6) $450.

A. Glen S. Corso, National Association of Home Builders of the United States, 15th and M Streets NW., Washington, D.C. 20005.
B. National Association of Home Builders of the United States, 15th and M Streets NW., Washington, D.C. 20005.
D. (6) $6,221.99. E. (9) $855.64.

A. The Cosmetic, Toiletry and Fragrance Association, Inc., 1133 15th Street NW., Suite 1200, Washington, D.C. 20005.
D. (6) $2,050. E. (9) $2,050.

A. Clark R. Cossé III, 5644 Hawthorne Place, New Orleans, La. 70124.
B. Southern Forest Products Association, P.O. Box 52468, New Orleans, La. 70152.
D. (6) $6,650. E. (9) $2,437.32.

A. Council of Vietnam Veterans, Inc., Suite 931, 1346 Connecticut Avenue NW., Washington, D.C. 20036.
E. (9) $2,664.97.

A. Eric Cox, 3133 Connecticut Avenue NW., Washington, D.C. 20008.
B. World Federalist Political Education Committee, 600 Valley Road, Wayne, N.J. 07470.
D. (6) $1,416.65.

A. Kenneth A. Cox, 1150 17th Street NW., Washington, D.C. 20036.
B. MCI Communications Corp., 1150 17th Street NW., Washington, D.C. 20036.
D. (6) $3,910.69. E. (9) $16.

A. Richard C. Creighton, 1957 E Street NW., Washington, D.C. 20006.
B. The Associated General Contractors of America, 1957 E Street NW., Washington, D.C. 20006.
D. (6) $4,000.

A. Joseph M. Cribben, 6900 Valley Brook Drive, Falls Church, Va. 22042.
B. United Association of Journeymen and Apprentices of the Plumbing and Pipe Fitting Industry of the United States and Canada, 901 Massachusetts Avenue NW., Washington, D.C. 20001.
D. (6) $1,750. E. (9) $60.10.

A. Thomas G. Crikelair, National Association of Railroad Passengers, 417 New Jersey Avenue SE., Washington, D.C. 20003.
B. National Association of Railroad Passengers, 417 New Jersey Avenue SE., Washington, D.C. 20003.
D. (6) $688.48.

A. Richard E. Cristol, Robert H. Kellen Co., 64 Perimeter Center East, Atlanta, Ga. 30346.
B. Robert H. Kellen Co., 64 Perimeter Center East, Atlanta, Ga. 30346; (for Calorie Control Council, 64 Perimeter Center East, Atlanta, Ga. 30346.
D. (6) $600.

A. Douglas A. Crowley, 1957 E Street NW., Washington, D.C. 20006.
B. The Associated General Contractors of America, 1957 E Street NW., Washington, D.C. 20006.

A. James M. Cubie, Union of Concerned Scientists, 1025 15th Street NW., Washington, D.C. 20005.
B. Union of Concerned Scientists, 1208 Massachusetts Avenue, Cambridge, Mass. 02138.
E. (9) $2,995.07.

A. William E. Cumberland, Mortgage Bankers Association of America, 1125 15th Street NW., Washington, D.C. 20005.
B. Mortgage Bankers Association of America, 1125 15th Street NW., Washington, D.C. 20005.
D. (6) $498. E. (9) $1,054.

A. Robert J. Cushman, National Association of Home Builders of the United States, 15th and M Streets NW., Washington, D.C. 20005.
B. National Association of Home Builders of the United States, 15th and M Streets NW., Washington, D.C. 20005.
D. (6) $3,388.07. E. (9) $702.65.

A. Mimi Cutler, 1346 Connecticut Avenue NW., Washington, D.C. 20036.
B. Aviation Consumer Action Project, P.O. Box 19029, Washington, D.C. 20036.
D. (6) $50.

A. John M. Damgard, ACLI International Inc., 888 17th Street NW., No. 902, Washington, D.C. 20006.
B. ACLI International Inc., 110 Wall Street, New York, N.Y. 10005.
D. (6) $1,000.

A. Alice Daniel, 733 15th Street NW., Washington, D.C.
B. Legal Services Corp., 733 15th Street N.W., Washington, D.C. 20005.
D. (6) $92.32.

A. Daniels, Houlihan & Palmeter, 1819 H Street NW., Washington, D.C. 20006.
B. American Importers Association, 420 Lexington Avenue, New York, N.Y. 10017.
D. (6) $3,000. E. (9) $180.11.

A. Daniels, Houlihan & Palmeter, 1819 H Street NW., Washington, D.C. 20006.
B. Associacao Brasileira de Produtores de

Ferro Ligas, ABRAFE, Grupo 1305, Rio de Janiero, Brazil.
E. (9) $161.17.

A. Joan E. Dannenbaum, 1707 L Street NW., Suite 515, Washington, D.C. 20036.
B. Association of Media Producers, 1707 L Street NW., Suite 515, Washington, D.C. 20036.
D. (6) $4,000. E. (9) $250.

A. Philip J. Daugherty, Industrial Union Department, AFL–CIO, 815 16th Street NW., Washington, D.C. 20006.
B. Industrial Union Department, AFL–CIO, 815 16th Street NW., Washington, D.C. 20006.
D. (6) $4,946.50. E. (9) $158.45.

A. Davis & McLeod, 499 South Capitol Street SW., Suite 407, Washington, D.C. 20003.
B. American Horse Council, Inc., 1700 K Street NW., No. 400, Washington, D.C. 20006.
D. (6) $2,083.84. E. (9) $114.95.

A. Thomas A. Davis, Davis & McLeod, 499 South Capitol Street SW., Suite 407, Washington, D.C. 20003.
B. Eugene C. Cashman, 141 West Jackson Boulevard, Chicago, Ill. 60604.
E. (9) $10.42.

A. Thomas A. Davis, Davis & McLeod, 499 South Capitol Street SW., Suite 407, Washington, D.C. 20003.
B. Chicago Board of Trade, LaSalle at Jackson, Chicago, Ill. 60604.
D. (6) $2,500. E. (9) $440.76.

A. Thomas A. Davis, Davis & McLeod, 499 South Capitol Street SW., Suite 407, Washington, D.C. 20003.
B. Florida Power & Light Co., P.O. Box 013100, Miami, Fla. 33101.
D. (6) $996.31. E. (9) $5.47.

A. Thomas A. Davis, Davis & McLeod, 499 South Capitol Street SW., Suite 407, Washington, D.C. 20003.
B. National Cattlemen's Association, 1001 Lincoln Street, Denver, Colo. 80201.
D. (6) $1,125. E. (9) $195.23.

A. Thomas A. Davis, Davis & McLeod, 499 South Capitol Street SW., Suite 407, Washington, D.C. 20003.
B. National Corporation for Housing Partnerships, 1133 15th Street NW., Washington, D.C. 20005.
D. (6) $433.44. E. (9) $0.85

A. P. M. Davison, Jr., North Dakota Railway Lines, 418 East Rosser Avenue, P.O. Box 938, Bismarck, N. Dak. 58501.
B. North Dakota Railway Lines, 418 East Rosser Avenue, P.O. Box 933, Bismarck, N. Dak. 58501.

A. Dawson, Riddell, Taylor, Davis & Holroyd, 723 Washington Building, Washington, D.C. 20005.
B. Air Transport Association, 1709 New York Avenue NW., Washington, D.C. 20005.
D. (6) $6,000.

A. Dawson, Riddell, Taylor, Davis & Holroyd, 723 Washington Building, Washington, D.C. 20005.
B. American Bus Association, 1025 Connecticut Avenue NW., Washington, D.C. 20036.
D. (6) $3,500.

A. Dawson, Riddell, Taylor, Davis & Holroyd, 723 Washington Building, Washington, D.C. 20005.
B. Beneficial Finance Co., Morristown, N.J. 07960.

A. Dawson, Riddell, Taylor, Davis & Holroyd, 723 Washington Building, Washington, D.C. 20005.
B. C.I.T Financial Corp., 650 Madison Avenue, New York, N.Y. 10022.

A. Dawson, Riddell, Taylor, Davis & Holroyd, 723 Washington Building, Washington, D.C. 20005.
B. Consumer Credit Insurance Association, 307 North Michigan Avenue, Chicago, Ill. 60601.

A. Dawson, Riddell, Taylor, Davis & Holroyd, 723 Washington Building, Washington, D.C. 20005.
B. The Hormel Foundation, Austin, Minn. 55912.

A. Dawson, Riddell, Taylor, Davis & Holroyd, 723 Washington Building, Washington, D.C. 20005.
B. Legislature of the Virgin Islands, Charlotte Amalie, St. Thomas, V.I. 00801.
D. (6) $6,250.

A. Dawson, Riddell, Taylor, Davis & Holroyd, 723 Washington Building, Washington D.C. 20005.
B. Opticians Association of America, 1250 Connecticut Avenue NW., Washington, D.C. 20036.

A. Dawson, Riddell, Taylor, Davis & Holroyd, 723 Washington Building, Washington, D.C. 20005.
B. United States Brewers Association, Inc., 1750 K Street NW., Washington, D.C. 20006.

A. Dawson, Riddell, Taylor, Davis & Holroyd, 723 Washington Building, Washington, D.C. 20005.
B. Virgin Islands Gift & Fashion Shop Association, St. Thomas, V.I. 00801.
D. (6) $3,000.

A. Deaver & Hannaford, Inc., 2030 M Street, NW., Suite 403, Washington, D.C. 20036.
B. National Venture Capital Association, 2030 M Street NW., Suite 403, Washington, D.C. 20036.
D. (6) $7,500. E. (9) $739.34.

A. DECQ Committee, P.O. Box 5551, Beverly Hills, Calif. 90210.
D. (6) $50,442. E. (9) $6,229.04.

A. Stephen T. DeLaMater, Halliburton Co., 3211 Southland Center, Dallas, Tex. 75201.
B. Halliburton Co., 3211 Southland Center, Dallas, Tex. 75201.
D. (6) $250. E. (9) $225.

A. Department for Professional Employees, AFL–CIO, 815 16th Street NW., Washington, D.C. 20006.
D. (6) $2,000. E. (9) $2,000.

A. Ralph B. Dewey, Pacific Gas & Electric Co., 1050 17th Street NW., No. 1180, Washington, D.C. 20036.
B. Pacific Gas & Electric Co., 77 Beale Street, San Francisco, Calif. 94106.
D. (6) $4,007.50. E. (9) $1,885.40.

A. Dickstein, Shapiro & Morin, 2101 L Street NW., Washington, D.C. 20037.
B. Agtek International Inc., 189 Elm Street, New Canaan, Conn. 06840.

A. Dickstein, Shapiro & Morin, 2101 L Street NW., Washington, D.C. 20037.
B. American Petroleum Institute, 2101 L Street NW., Washington, D.C. 20037.
D. (6) $200.

A. Dickstein, Shapiro & Morin, 2101 L Street NW., Washington, D.C. 20037.
B. Holstein-Fresion Association of America; Holstein-Fresion Services, Inc., Suite 2500, 1500 Main Street, Springfield, Mass. 01115.

A. Dickstein, Shapiro & Morin, 2101 L Street NW., Washington, D.C. 20037.
B. International Brotherhood of Teamsters, 25 Louisiana Avenue NW., Washington, D.C. 20001.

A. Dickstein, Shapiro & Morin, 2101 L Street NW., Washington, D.C. 20037.
B. Kennecott Copper Corp., 161 East 42d Street, New York, N.Y.
D. (6) $6,980.

A. Dickstein, Shapiro & Morin, 2101 L Street NW., Washington, D.C. 20037.
B. Marine Engineers Beneficial Association, 444 North Capitol Street, Washington, D.C. 20001.

A. Dickstein, Shapiro & Morin, 2101 L Street NW., Washington, D.C. 20037.
B. Mitsubishi International Corp., 1730 Pennsylvania Avenue NW., Washington, D.C. 20006.

A. Dickstein, Shapiro & Morin, 2101 L Street NW., Washington, D.C. 20037.
B. National Federation of Societies for Clinical Social Work, 698 West End Avenue, New York, N.Y. 10025.
D. (6) $1,000.

A. Dickstein, Shapiro & Morin, 2101 L Street NW., Washington, D.C. 20037.
B. Tennessee Gas Transmission Co., P.O. Box 2511, Houston, Tex. 77001.

A. Dickstein, Shapiro & Morin, 2101 L Street NW., Washington, D.C. 20037.
B. U.S. Tour Operators Association, 1671 Wilshire Boulevard, Los Angeles, Calif. 90017.

A. Discover America Travel Organizations, Inc., 1100 Connecticut Avenue NW., Washington, D.C. 20036.
D. (6) $29,906. E. (9) $29,906.

A. DK Consultants, Inc., 918 16th Street NW., Suite 402, Washington, D.C. 20006.
B. Aberrant Behavior Center, 1250 Dallas Federal Savings Tower, Dallas, Tex. 74225.
D. (6) $38.09. E. (9) $38.09.

A. DK Consultants, Inc., 918 16th Street NW., Suite 402, Washington, D.C. 20006.
B. Houston Atlas, Inc., 9441 Baythrone Drive, Houston, Tex. 77041.
D. (6) $616.59. E. (9) $616.59.

A. DK Consultants, Inc., 918 16th Street NW., Suite 402, Wasington, D.C. 20006.
B. National Association of Property Owners, 5353 First International Building, Dallas, Tex. 75270.

A. James F. Doherty, Group Health Association of America, Inc., 1717 Masachusetts Avenue NW., No. 701, Washington, D.C. 20036.
B. Group Health Association of America, Inc., 1717 Massachusetts Avenue NW., No. 701, Washington, D.C. 20036.
D. (6) $9,375.

A. Dana Dolloff, 1620 I Street NW., No. 700,
B. International Paper Co., 1620 Eye Street NW., No. 700, Washington, D.C. 20006.
D. (6) $400. E. (9) $245.

A. Domestic Wildcatters Association, 900 First City National Bank Building, Houston, Tex. 77002.
D. $50,000. E. (9) $40,000.12.

A. Doub, Purcell, Muntzing & Hansen, 1775 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. American Rice, Inc., Houston, Tex.
D. (6) $1,000.

A. Doub, Purcell, Muntzing & Hansen, 1775 Pennsylvania Avenue NW., Washington, D.C. 20006.

B. The Board of Trade of Kansas City, Missouri, Inc., Kansas City, Mo. 64112.
D. (6) $500.

A. Doub, Purcell, Muntzing & Hansen, 1775 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. Chicago Mercantile Exchange, Chicago, Ill.
D. (6) $500.

A. Doub, Purcell, Muntzing & Hansen, 1775 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. CSR, Ltd., Sydney, Australia.
D. (6) $750.

A. Doub, Purcell, Muntzing & Hansen, 1775 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. National Agricultural Chemicals Association, Washington, D.C.
D. (6) $2,000.

A. Doub, Purcell, Muntzing & Hansen, 1775 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. Pioneer Corp., Amarillo, Tex.
D. (6) $1,000.

A. Sally L. Douglas, National Federation of Independent Business, 490 L'Enfant Plaza East, SW., Suite 3206, Washington, D.C. 20024.
B. National Federation of Independent Business, 490 L'Enfant Plaza East, SW., Suite 3206, Washington, D.C. 20024.
D. (6) $400.

A. Dow, Lohnes & Albertson, 1225 Connecticut Avenue NW., Washington, D.C. 20036.
B. Chicago Metropolitan Higher Education Council, Douglas Library, Chicago State University, 95th Street at King Drive, Chicago, Ill. 60628.
E. (9) $15,817.74.

A. William DuChessi, 815 16th Street NW., Washington, D.C.
B. Amalgamated Clothing & Textile Workers Union, 99 University Place, New York, N.Y. 10033.
D. (6) $4,717.31. E. (9) $100.

A. David F. Dunning, Robert H. Kellen Co., 64 Perimeter Center East, Atlanta, Ga. 30346.
B. Robert H. Kellen Co., 64 Perimeter Center East, Atlanta, Ga. 30346 (for Calorie Control Council, 64 Perimeter Center East, Atlanta, Ga. 30346).
D. (6) $2,200.

A. Clifford E. Edwards, National Rural Letter Carriers' Association, 1750 Pennsylvania Avenue NW., Washington, D.C.
B. National Rural Letter Carriers' Association, 1750 Pennsylvania Avenue NW., Washington, D.C.
D. (6) $31.20. E. (9) $31.20.

A. Thomas Ehrlich, 733 15th Street NW., Washington, D.C. 20005.
B. Legal Services Corp., 733 15th Street NW., Washington, D.C.
D. (6) $313.68. E. (9) $2.50.

A. Phyllis Eisen, Zero Population Growth, Inc., 1346 Connecticut Ave., NW., Washington, D.C. 20036.
B. Zero Population Growth, 1346 Connecticut Avenue NW., Washington, D.C.
D. (6) $238. E. (9) $69.

A. John Ellis, 1957 E St. NW., Washington, D.C. 20006.
B. The Associated General Contractors of America, 1957 E Street NW., Washington, D.C. 20006.

A. Roy Elson, 1771 N Street NW., Washington, D.C. 20036.
B. National Association of Broadcasters, 1771 N Street NW., Washington, D.C. 20036.
D. (6) $4,200. E. (9) $562.50.

A. Thomas W. Elwood, National Retired Teachers Association/American Association of Retired Persons, 1909 K Street NW., Washington, D.C. 20049.
B. National Retired Teachers Association/American Association of Retired Persons, 1909 K Street NW., Washington, D.C. 20049.
D. (6) $196.59. E. (9) $29.80.

A. John W. Emeigh, National Rural Letter Carriers' Association, 1750 Pennsylvania Avenue NW., Washington, D.C.
B. National Rural Letter Carriers' Association, 1750 Pennsylvania Avenue NW., Washington, D.C.

A. Emergency Committee for American Trade, 1211 Connecticut Avenue NW., Washington, D.C. 20036.
D. (6) $11,137.13. E. (9) $11,066.70.

A. William Emerson, TRW Inc., 2030 M Street NW., Washington, D.C. 20036.
B. TRW Inc., 23555 Euclid Avenue, Cleveland, Ohio 44117.
D. (6) $1,000.

A. Gertrude Engel, 2450 Virginia Avenue NW., Washington, D.C. 20037.
B. Bob Hoffman, York Barbell Co., York, Pa. 17405.
D. (6) $1,800. E. (9) $507.47.

A. Jerry N. Ervin, Quintana Refinery Co., P.O. Box 3331, Houston, Tex. 77001.
B. Quintana Refinery Co., P.O. Box 3331, Houston, Tex. 77001.

A. Donald H. Estey, Jr., Hospital Association of New York State, 15 Computer Drive West, Albany, N.Y. 12205.
B. Hospital Association of New York State, 15 Computer Drive West, Albany, N.Y.
D. (6) $600. E. (9) $509.22.

A. Ethyl Corp., 1155 15th Street NW., Suite 611, Washington, D.C. 2005.
E. (9) $750.

A. Brock Evans, Sierra Club, 330 Pennsylvania Avenue SE., Washington, D.C. 20003.
B. Sierra Club, 530 Bush Street, San Francisco, Calif. 94108.
D. (6) $8,500. E. (9) $185.

A. Federal Express Corp., AMF Box 30167, Memphis, Tenn. 38130.
E. (9) $21,762.82.

A. Joseph D. Feeney, 222 South Riverside Plaza, Chicago, Ill. 60606.
B. Western Railroad Association., 222 South Riverside Plaza, Suite 1200, Chicago, Ill. 60606.
D. (6) $3,124.95.

A. Bernard Fensterwald, 2101 L Street N.W., Suite 203, Washington, D.C. 20037.
B. Committee for Humane Legislation, Inc., 11 West 60th Street, New York, N.Y. 10023.
D. (6) $6,000. E. (9) $1,534.50.

A. Bernard Fensterwald, Jr., 2101 L Street N.W., Suite 203, Washington, D.C. 20037.
B. National Nutritional Foods Association 7727 South Painter Avenue, Whittier, Calif. 90602.
D. (6) $3,000. E. (9) $415.38.

A. Edward T. Fergus, c/o Bache, Halsey, Stuart, Shields, Inc., 100 Gold Street, New York, N.Y. 10038.
B. Bache, Halsey, Stuart, Shields, Inc., 100 Gold Street, New York, N.Y. 10038.
D. (6) $700.

A. Frederick Finn, National Cable Television Association, Inc., 918 16th Street NW., Washington, D.C. 20006.
B. National Cable Television Association, Inc., 918 16th Street NW., Washington, D.C. 20006.
D. (6) $1,500.

A. Laurie A. Fiori, National Retired Teachers Association/American Association of Retired Persons, 1909 K Street NW., Washington, D.C. 20049.
B. National Retired Teachers Association/American Association of Retired Persons, 1909 K Street NW., Washington, D.C. 20049.
D. (6) $248.08. E. (9) $51.

A. First Class Mailers Association, Inc., 1101 New Hampshire Avenue, NW. Suite 107, Washington, D.C. 20037.
D. (6) $450. E. (9) $40.

A. First Pro Life Congressional District Action Committee, 10 North 77th Avenue, Pensacola, Fla. 32506.
D. (6) $12.06. E. (9) $24.96.

A. Charles L. Fishman, 633 East Capitol Street, Washington, D.C.
D. (6) $10,000. E. (9) $500.

A. Mark Fitzgerald, National Association of Home Builders of the United States, 15th and M Streets, NW., Washington, D.C. 20005.
B. National Association of Home Builders of the United States, 15th and M Streets, Washington, D.C. 20005.
D. (6) $2,637.96. E. (9) $58.40.

A. James H. Fitzpatrick, Hospital Association of New York State, 15 Computer Drive West, Albany, N.Y. 12205.
B. Hospital Association of New York State, 15 Computer Drive West, Albany, N.Y. 12205.
D. (6) $170. E. (9) $114.

A. Forest Farmers Association, P.O. Box 95385, Atlanta, Ga. 30347.
E. (9) $275.75.

A. Alice Frandsen, 10311 Folk Street, Silver Spring, Md. 20902.
B. Women's Lobby, Inc., 201 Massachusetts Avenue NE., Washington D.C. 20002.

A. J. Dee Frankfourth, P.O. Box 403, Eagle River, Alaska 99577.
B. Alaska Coalition, 620 C Street SE., Washington, D.C. 20003; The Wilderness Society, 1901 Pennsylvania Avenue NW., Washington, D.C. 20006.
D. (6) $2,200. E. (9) $214.35.

A. Charles L. Frazier, National Farmers Organization 475 L'Enfant Plaza SW., Washington, D.C. 200024.
B. National Farmers Organization, Corning, Iowa 50841.
D. (6) $2,722.50. E. (9) $3,971.42.

A. Robert M. Frederick, The National Grange, 1616 H Street NW., Washington, D.C. 20006.
B. The National Grange, 1616 H Street NW., Washington, D.C. 20006.
D. (6) $7,222.50.

A. Burton D. Fretz, 806 15th Street NW., Washington, D.C. 20005.
B. Migrant Legal Action Program, Inc., 806 15th Street NW., Washington, D.C. 20005.
D. (6) $3,255.50. E. (9) $14.90.

A. Fried, Frank, Harris, Shriver & Kampelman, 600 New Hampshire Avenue NW., Washington, D.C. 20037.
B. Vought Corp. P.O. Box 5907, Dallas, Tex. 75222.
E. (9) $5,608.82.

A. Marie Louise Friendly, Preservation Action, 2101 L Street NW., Washington, D.C. 20037.
B. Preservation Action, 2101 L Street NW., Washington, D.C. 20037.
D. (6) $1,160.73. E. (9) $120.67.

A. Friends Committee on National Legislation, 245 Second Street NE., Washington, D.C. 20002.
D. (6) $55,723. E. (9) $63,385.

A. Sharon Frink, Zero Population Growth, Inc., 1346 Connecticut Avenue NW., Washington, D.C. 20036.
B. Zero Population Growth, Inc., 1346 Connecticut Avenue NW., Washington, D.C. 20036.
D. (6) $227.

A. Robert D. Fritz, Brotherhood of Railway, Airline & Steamship Clerks, Freight Handlers, Express & Station Employees, 815 16th Street NW., Washington, D.C. 20006.
B. Brotherhood of Railway & Airline Clerks, Freight Handlers, Express & Station Employees, 3 Research Place, Rockville, Md. 20850.
D. (6) $2,400. E. (9) $4,837.

A. Robert Furniss, 133 C Street SE., Washington, D.C. 20003.
B. Congress Watch, 133 C Street SE., Washington, D.C. 20003.
D. (6) $400.

A. Norman S. Gaines, 1150 Connecticut Avenue NW., Suite 305, Washington, D.C. 20036.
B. RJR Industries, Inc., P.O. Box 2959, Winston-Salem, N.C. 27102.
D. (6) $695.05. E. (9) $21.24.

A. William R. Canser, Jr., 4804 Folse Drive, Metairie, La. 70002.
B. Southern Forest Products Association, P.O. Box 52468, New Orleans, La. 70152.
D. (6) $1,425.

A. Leo J. Gehrig, American Hospital Association, 444 North Capitol Street NW., No. 500, Washington, D.C. 20001.
B. American Hospital Association, 840 North Lake Shore Drive, Chicago, Ill. 60611.
D. (6) $2,530.51. E. (9) $275.95.

A. Robert C. Gelardi, Robert H. Kellen Co., 64 Perimeter Center East, Atlanta, Ga. 30346.
B. Robert H. Kellen Co., 64 Perimeter Center East, Atlanta, Ga. 30346 (for Calorie Control Council, 64 Perimeter Center East, Atlanta, Ga. 30346.
D. (6) $1,200.

A. John Gentille, 1957 E Street NW., Washington, D.C. 20006.
B. The Associated General Contractors of America, 1957 E Street NW., Washington, D.C. 20006.
A. Claire M. Geoghegan, 520 North Capitol Street NW., No. 800, Washington, D.C. 20001.
B. Ad-Hoc Committee for Competitive Telecommunications, 520 North Capitol Street NW., Washington, D.C. 20001.
D. (6) $6,807.72.

A. Louis Gerber, Communications Workers of America, 1925 K Street NW., Washington, D.C. 20006.
B. Communications Workers of America, 1925 K Street NW., Washington, D.C. 20006.
D. (6) $3,635.39. E. (9) $3,703.17.

A. Llewellyn H. Gerson, 1019 19th Street NW., Washington, D.C. 20036.
B. United Fresh Fruit & Vegetable Association, 1019 19th Street NW., Washington, D.C. 20036.
D. (6) $5,500. E. (9) $644.80.

A. Jonathan Carl Gibson, 330 Pennsylvania Avenue SE., Washington, D.C. 20003.
B. Sierra Club, 530 Bush Street, San Francisco, Calif. 94108.
D. (6) $2,382.72. E. (9) $11.55.

A. Norma J. Gilbert, 1776 K Street NW., Suite 200, Washington, D.C. 20006.
B. Motorola, Inc., 1776 K Street NW., Suite 200, Washington, D.C. 20006.
D. (6) $1,200. E. (9) $85.03.

A. Arthur P. Gildea, Holiday Park East, Rm. 428–432, 801–B West Eighth Street, Cincinnati, Ohio 45203.
B. Brewery and Soft Drink Workers Conference, U.S.A. and Canada, I.B.T., Affiliate, 1400 Renaissance Drive, Suite 406, Park Ridge, Ill. 60068.

A. Jonah Gitlitz, 1225 Connecticut Avenue NW., Suite 401, Washington, D.C. 20036.
B. American Advertising Federation, 1225 Connecticut Avenue NW., Suite 401, Washington, D.C. 20036.
D. (6) $625.

A. Robert Glavin, American Hospital Association, 444 North Capitol Street NW., No. 500, Washington, D.C. 20001.
B. American Hospital Association, 840 North Lake Shore Drive, Chicago, Ill. 60611.
D. (6) $295.13. E. (9) $41.81.

A. Richard C. Gohla, 6525 Belcrest Road, Hyattsville, Md. 20782.
B. Retail Bakers of America, Presidential Building, Suite 250, 6525 Belcrest Road, Hyattsville, Md. 20782.

A. Lloyd L. Golding, National Association of Truck Stop Operators, Inc., 700 North Fairfax Street, No. 505, Alexandria, Va. 22314.
B. National Association of Truck Stop Operators, Inc., 700 North Fairfax Street, No. 505, Alexandria, Va. 22314.
D. (6) $1,260.

A. Michael E. Goldman, 1730 K Street NW., Suite 1101, Washington, D.C. 20006.
B. National Treasury Employees Union, 1730 K Street NW., Suite 1101, Washington, D.C. 20006.
E. (9) $464.86.

A. Neil B. Goldstein, Sierra Club, 500 Second Avenue, New York, N.Y. 10017.
B. Sierra Club, 530 Bush Street, San Francisco, Calif. 94108.
D. (6) $5,250. E. (9) $837.12.

A. Jack Golodner, 1140 Connecticut Avenue NW., Washington, D.C. 20036.
B. Actors Equity Association, 1500 Broadway, New York, N.Y. 10036.
D. (6) $2,500. E. (9) $210.

A. Jack Golodner, 815 16th Street NW., Washington, D.C. 20006.
B. Department for Professional Employees, AFL–CIO, 815 16th Street NW., Washington, D.C. 20006.
D. (6) $2,000.

A. Brenda J. Gore, 1155 15th Street NW., Washington, D.C. 20005.
B. The LTV Corp., 1525 Elm Street, Dallas, Tex. 75222.
D. (6) $500.

A. Frank D. Gorham, III, 1150 Connecticut Avenue NW., Suite 805, Washington, D.C. 20036.
B. RJR Industries, Inc., P.O. Box 2959, Winston-Salem, N.C. 27102.
D. (6) $811.54. E. (9) $188.67.

A. Edward Gottlieb & Associates, 633 Third Avenue, New York, N.Y. 10017.
B. Florists' Transworld Delivery Association, P.O. Box 2227, Southfield, Mich. 48037.

A. Edward Gottlieb & Associates, 633 Third Avenue, New York, N.Y. 10017.
B. Hecon Corp., Flextime Division, 31 Park Road, Tinton Falls, N.J. 07724.

A. John K. Gram, Public Timber Purchasers Group, 1214 Oregon Bank Bldg., Portland, Oreg. 92704.
B. Public Timber Purchasers Group, 1214 Oregon Bank Building, Portland, Oreg. 97204.
D. (6) $554. E. (9) $554.

A. James W. Green, National Education Association, 1201 16th Street, NW., Washington, D.C. 20036.
B. National Education Association, 1201 16th Street, NW., Washington, D.C. 20036.
D. (6) $5,572.20. E. (9) $329.18.

A. P. Michael Greenwald, American Hospital Association, 444 North Capitol Street NW., No. 500, Washington, D.C. 20001.
B. American Hospital Association, 840 North Lake Shore Drive, Chicago, Ill. 60611.
D. (6) $759.20.

A. Harold H. Griffin, 1050 17th Street, NW., No. 320, Washington, D.C. 20036.
B. Family Health Program, Inc., 2925 North Palo Verde Avenue, Long Beach, Calif. 90815.
D. (6) $2,625. E. (9) $160.32.

A. J. Randall Groves, Bryant, Groves & Essex, 1490 Southern National Center, Charlotte, N.C. 28202.
B. Mastrom, Inc., Asheville, N.C.
D. (6) $150.

A. Jerry Guth, 815 Connecticut Avenue NW., Washington, D.C. 20006.
B. Armco Inc., 815 Connecticut Avenue NW., Washington, D.C. 20006.
D. (6) $1,500.

A. James M. Hacking, National Retired Teachers Assoication/American Association of Retired Persons, 1909 K Street NW., Washington, D.C. 20049.
B. National Retired Teachers Association/American Association of Retired Persons, 1909 K Street NW., Washington, D.C. 20049.
D. (6) $369.23. E. (9) $158.50.

A. Harriett Perkins Hackney, 1801 K Street NW., Suite 811, Washington, D.C. 20006.
B. The Business Roundtable, 405 Lexington Avenue, New York, N.Y. 10017 and 1801 K Street NW., Washington, D.C. 20006.
D. (6) $100. E. (9) $30.

A. Hageman, Kirkland & Coughlin, 5600 14th Avenue NW., Seattle, Wash. 98107.
B. Loren Bergh, 9517 8th NW., Seattle, Wash. 98117, et al.

A. Floyd D. Hall, International Air Transport Association, 277 Park Avenue, New York, N.Y. 10017.
B. International Air Transport Association, 1000 Sherbrooke Street West, Montreal, Quebec, Canada H3A 2R4.

A. Harry L. Hall, National Multiple Sclerosis Society, 6845 Elm Street, McLean, Va. 22101.
B. National Multiple Sclerosis Society, 205 East 42d Street, New York, N.Y. 10017.
D. (6) $3,750.

A. Norman S. Halliday, 600 Pennsylvania Avenue SE., No. 300, Washington, D.C. 20003.
D. (6) $400.

A. Norman S. Halliday, 600 Pennsylvania Avenue SE., No. 300, Washington, D.C. 20003.

B. National Association of Greeting Card Publishers, 600 Pennsylvania Avenue SE., No. 300, Washington, D.C. 20003.
D. (6) $1,300. E. (9) $300.

A. Seymour Halpern, 540 Madison Avenue, New York, N.Y. 10022.
B. Sydney S. Baron & Co., Inc., 540 Madison Avenue, New York, N.Y. 10022 (for American Can Co., American Lane, Greenwich, Conn.).
D. (6) $1,000. E. (9) $225.

A. Seymour Halpern, 540 Madison Avenue, New York, N.Y. 10022.
B. Sydney S. Baron & Co., Inc., 540 Madison Avenue, New York, N.Y. 10022 (for Republic of China, Embassy of the Republic of China, 2311 Massachusetts Avenue, Washington, D.C.).
D. (6) $1,000. E. (9) $225.

A. Seymour Halpern, 540 Madison Avenue, New York, N.Y. 10022.
B. Sydney S. Baron & Co., Inc., 540 Madison Avenue, New York, N.Y. 10022 (for Republic of South Africa, Department of Information, Private Bag Xi52, Pretoria 001).
D. (6) $1,000. E. (9) $225.

A. Erling Hansen, Group Health Association of America, Inc., 1717 Massachusetts Avenue NW. No. 701, Washington, D.C. 20036.
B. Group Health Association of America, Inc., 1717 Massachusetts Avenue NW., No. 701, Washington, D.C. 20036.
D. (6) $4,500.

A. Arthur Harding, National Cable Television Association, Inc., 918 16th Street NW., Washington, D.C. 20006.
B. National Cable Television Association, Inc., 918 16th Street, NW., Washington, D.C. 20006.
D. (6) $1,300. E. (9) $17.

A. Bryce L. Harlow, 1010 Wisconsin Avenue NW., Suite 800, Washington, D.C. 20007.
B. Grocery Manufacturers of America, Inc., 1010 Wisconsin Avenue NW., Suite 800, Washington, D.C. 20007.
D. (6) $40.

A. John L. Harmer, 10 East South Temple Street, No. 696, Salt Lake City, Utah 84111.
D. (6) $72,000. E. (9) $72,000.

A. Toni Harrington, Suite 905, 955 L'Enfant Plaza North SW., Washington, D.C. 20024.
B. American Honda Motor Co., Inc., 100 Alondra Boulevard, Gardena, Calif. 90247.
D. (6) $150.

A. Kay Harrold, 825 15th Street, NW., Washington, D.C. 20005.
B. National Abortion Rights Action League, 825 15th Street, NW., Washington, D.C. 20005.
D. (6) $177.69.

A. Rita M. Hartz, 1016 16th Street NW., Washington, D.C. 20036.
B. National Federation of Federal Employees, 1016 16th Street NW., Washington, D.C. 20036.
D. (6) $1,419.36.

A. Clifford J. Harvison, National Tank Truck Carriers, Inc., 1616 P Street NW., Washington, D.C. 20036.
B. National Tank Truck Carriers, Inc., 1616 P Street NW., Washington, D.C. 20036.

A. Michael M. Hash, American Hospital Association, 444 North Capitol Street NW., No. 500, Washington, D.C. 20001.
B. American Hospital Association, 840 North Lake Shore Drive, Chicago, Ill. 60611.
D. (6) $6,288.46. E. (9) $278.32.

A. Lewis B. Hastings, 1776 K Street NW., Suite 200, Washington, D.C. 20006.
B. Motorola, Inc., 1776 K Street NW., Suite 200, Washington, D.C. 20006.
D. (6) $500. E. $200.

A. Walter A. Hasty, Jr., 1801 K Street NW., Suite 811, Washington, D.C. 20006.
B. The Business Rountable, 405 Lexington Avenue, Suite 811, New York, N.Y. and 1801 K Street NW., Washington, D.C. 20006.
D. (6) $1,000. E. (9) $180.

A. Robert T. Hayden, United Steelworkers of America, 815 16th Street NW., Suite 706, Washington, D.C. 20006.
B. United Steelworkers of America, 5 Gateway Center, Pittsburgh, Pa. 15222.
D. (6) $6,745.64. E. (9) $1,690.09.

A. Health Research Group, 2000 P Street NW., Suite 708, Washington, D.C. 20036.
D. (6) $440.97. E. (9) $440.97.

A. Harry V. Helton, 1800 SW First, Suite 520, Portland, Oreg. 97201.
B. Reynolds Metals Co., 6601 West Broad Street, Richmond, Va. 23261.
E. (9) $809.25.

A. Stuart L. Hill, 12010 Devilwood Drive, Potomac, Md. 20854.
B. Bechtel Inc., 50 Beale Street, P.O. Box 3965, San Francisco, Calif. 94119.
E. (9) $404.17.

A. Arthur Hintze, 1957 E Street NW., Washington, D.C. 20006.
B. The Associated General Contractors of America, 1957 E Street NW., Washington, D.C. 20006.

A. James D. Hittle, 3137 South 14th Street, Arlington, Va. 22204.
B. Vought Corp., P.O. Box 5907, Dallas Tex. 75222.
D. (6) $4,500. E. (9) $5,608.82.

A. Charles L. Hoebel, Carrier Corp., Suite 510, 1025 Connecticut Avenue NW., Washington, D.C. 20036.
B. Carrier Corp., Carrier Tower, Box 4800, Syracuse, N.Y. 13221.
D. (6) $3,080. E. (9) $258.

A. Austin B. Hogan, Jr., American Hospital Association, 444 North Capitol Street NW., No. 500, Washington, D.C. 20001.
B. American Hospital Association, 840 North Lake Shore Drive, Chicago, Ill. 60611.
D. (6) $1,655.20. E. (9) $240.25.

A. Hogan & Hartson, 815 Connecticut Avenue, Washington, D.C. 20006.
B. Champlin Petroleum Co., P.O. Box 9365, Fort Worth, Tex. 76107.
D. (6) $12,092.50. E. (9) $796.06.

A. Douglass C. Horstman, 1612 K Street NW., Suite 906, Washington, D.C. 20006.
B. Maytag Co., Northern Textile Association.
D. (6) $6,000. E. (9) $2,000.

A. Hospital Association of New York State, 15 Computer Drive West, Albany, N.Y. 12205.
D. (6) $1,483.20. E. (9) $1,885.52.

A. Houdaille Industries, Inc., 1 Financial Plaza, Fort Lauderdale, Fla. 33394.
E. (9) $2,200.

A. Arthur L. Howard, 1100 H Street NW., Washington, D.C. 20080.
B. Washington Gas Light Co., 1100 H Street NW., Washington, D.C. 20080.
D. (6) $14.86. E. (9) $15.05.

A. Thomas Howarth, 1625 L Street NW., Washington, D.C. 20036.
B. American Federation of State, County & Municipal Employees, AFL–CIO, 1625 L Street NW., Washington, D.C. 20036.
D. (6) $4,625. E. (9) $217.17.

A. Karl T. Hoyle, National Association of Federal Credit Unions, P.O. Box 3769, Washington, D.C. 20007.
B. National Association of Federal Credit Unions, P.O. Box 3769, Washington, D.C. 20007.
D. (6) $300. E. (9) $133.21.

A. Peter W. Hughes, National Retired Teachers Association/American Association of Retired Persons, 1909 K Street NW., Washington, D.C. 20049.
B. National Retired Teachers Association/American Association of Retired Persons, 1909 K Street NW., Washington, D.C. 20049.
D. (6) $670.38.

A. Edward L. Huie, Suite 415, Wheaton Plaza North, Wheaton, Md. 20902.
B. National Association of Air Traffic Specialists, Inc., Suite 415, Wheaton Plaza North, Wheaton, Md. 20902.
D. (6) $5,932.50. E. (9) $467.33.

A. Gregory A. Humphrey, American Federation of Teachers, AFL–CIO, 11 Dupont Circle NW., Washington, D.C. 20036.
B. American Federation of Teachers, AFL–CIO, 11 Dupont Circle NW., Washington, D.C. 20036.
D. (6) $8,500. E. (9) $517.48.

A. Joan L. Huntley, 955 L'Enfant Plaza North SW., Washington, D.C. 20024.
B. The Boeing Co., P.O. Box 3707, Seattle, Wash. 98124.
D. (6) $179.01. E. (9) $18.

A. Gerard F. Hurley, Suite 602, 1129 20th Street NW., Washington, D.C. 20036.
B. National Club Association, Suite 602, 1129 20th Street NW., Washington, D.C. 20036.
D. (6) $2,000. E. (9) $2,377.47.

A. John Edward Hurley, 1101 New Hampshire Avenue NW., Suite 107, Washington, D.C. 20037.
E. (9) $150.

A. John Edward Hurley, 1101 New Hampshire Avenue NW., Suite 107, Washington, D.C. 20037.
B. National Association for Free Enterprise, 1101 New Hampshire Avenue NW., Suite 107, Washington, D.C. 20037.

A. Raymond D. Hurley, Suite 405, 1828 L Street NW., Washington, D.C. 20036.
B. Owens-Corning Fiberglas Corp., Fiberglas Tower, Toledo, Ohio 43659.

A. Bernard J. Imming, 1019 19th Street NW., Washington, D.C. 20036.
B. United Fresh Fruit and Vegetable Association, 1019 19th Street NW., Washington, D.C. 20036.
D. (6) $1,375.

A. Institution of Foreign Bankers, 95 Wall Street, New York, N.Y. 10005.
D. (6) $40,806.56.

A. International Union of Electrical, Radio and Machine Workers, AFL–CIO, 1126 16th Street NW., Washington, D.C. 20036.
B. IUE–AFL–CIO–CLC, 1126 16th Street NW., Washington, D.C. 20036.
D. (6) $600. E. (9) $300.

A. David L. Ivey, National Parking Association, 1101 17th Street NW., Washington, D.C. 20036.

B. National Parking Association, 1101 17th Street NW., Washington, D.C. 20036.
D. (6) $3,000.

A. James K. Jackson, Baker, Hostetler, Frost & Towers, 818 Connecticut Avenue NW., Washington, D.C. 20006.
B. Sun Co., Inc., 100 Matsonford Road, Radnor, Pa. 19087.

A. Gary L. Jarmin, 316 Pennsylvania Avenue SE., No. 400, Washington, D.C. 20003.
B. The American Conservative Union, 316 Pennsylvania Avenue SE., Washington, D.C. 20003.
D. (6) $5,384.54.

A. Herbert N. Jasper, 520 North Capitol Street NW., No. 800, Washington, D.C. 20001.
B. Ad-Hoc Committee for Competitive Telecommunications, 520 North Capitol Street NW., No. 800, Washington, D.C. 20001.
D. (6) $12,923.10.

A. Robert K. Jenkins, Jr., National Board of Young Men's Christian Associations, 1666 Connecticut Avenue NW., Washington, D.C.
B. National Board of Young Men's Christian Associations, 291 Broadway, New York, N.Y. 10007.
D. (6) $150.

A. Walter W. John, Organization of Professional Employees of the U.S. Department of Agriculture, Room 1247–S Building, Washington, D.C. 20250.
B. Organization of Professional Employees of the USDA, Room 1247–S Building, Washington, D.C. 20250.
D. (6) $300.

A. Bruce T. Johnson, Mortgage Bankers Association of America, 1125 15th Street NW., Washington, D.C. 20005.
B. Mortgage Bankers Association of America, 1125 15th Street NW., Washington, D.C. 20005.
D. (6) $3,750. E. (9) $4,779.

A. David H. Johnson, Mississippi Petroleum Council, 215 Lamar Life Building, P.O. Box 42, Jackson, Miss. 39205.
B. American Petroleum Institute, 2101 L Street NW., Washington, D.C. 20037.

A. Jerome W. Johnson, P.O. Box 9158, Amarillo, Tex. 79105.
B. Outdoor Advertising Association of America, Inc., 1660 L Street NW., Suite 215–16, Washington, D.C. 20036.
E. (9) $1,774.19.

A. Wilson S. Johnson, National Federation of Independent Business, 150 West 20th Avenue, San Mateo, Calif. 94403.
B. National Federation of Independent Business, 150 West 20th Avenue, San Mateo, Calif. 94403.
D. (6) $500. E. (9) $300.

A. David Johnston, 1957 E Street NW., Washington, D.C. 20006.
B. The Associated General Contractors of America, 1957 E Street NW., Washington, D.C. 20006.

A. John W. Johnstone, Jr., Committee of Producers of High Carbon Ferrochromium, c/o Leva, Hawes, Symington, Martin & Oppenheimer, 815 Connecticut Avenue NW., Washington, D.C. 20006.
B. Airco, Alloys of Airco, Inc., Committee of Producers of High, Carbon Ferrochromium, c/o Leva, Hawes, Symington, Martin & Oppenheimer, 815 Connecticut Avenue NW., Washington, D.C. 20006.

A. Charlie W. Jones, Man-Made Fiber Producers Association, Inc., 1150 17th Street NW., Washington, D.C. 20036.
B. Man-Made Fiber Producers Association, Inc., 1150 17th Street NW., Suite 310, Washington, D.C. 20036.
D. (6) $450. E. (9) $150.

A. Ernest W. Jones, 1957 E Street NW., Washington, D.C. 20006.
B. The Associated General Contractors of America, 1957 E Street NW., Washington, D.C. 20006.

A. H. Richard Kahler, 1850 K Street NW., Suite 925, Washington, D.C. 20006.
B. Caterpillar Tractor Co., 100 Northeast Adams Street, Peoria, Ill. 61629.
D. (6) $2,500. E. (9) $1,935,94.

A. Gary Paul Kane, 15th and M Streets NW., Washington, D.C. 20005.
B. National Association of Home Builders of the United States, 15th and M Streets NW., Washington, D.C. 20005.
D. (6) $6,562.49. E. (9) $395.64.

A. Julius Kaplan, 1218 16th Street NW., Washington, D.C. 20036.
B. Kirkwood, Kaplan, Russin & Vecchi, 1218 16th Street NW., Washington, D.C. 20036.
E. (9) $315.94.

A. Richard T. Kaplar, Motor Vehicle Manufacturers Association of the United States, Inc., 1909 K Street NW., Washington, D.C. 20006.
B. Motor Vehicle Manufacturers Association of the United States, Inc., 320 New Center Building, Detroit, Mich. 48202.
D. (6) $30. E. (9) $20.

A. Everett E. Kavanaugh, The Cosmetic, Toiletry & Fragrance Association, Inc., 1133 15th Street NW., Suite 1200, Washington, D.C. 20005.
B. The Cosmetic Toiletry & Fragrance Association, Inc., 1133 15th Street NW., Suite 1200, Washington, D.C. 20005.
D. (6) $1,000. E. (9) $50.

A. Robert C. Keeney, 1019 19th Street NW., Washington, D.C. 20036.
B. United Fresh Fruit & Vegetable Association, 1019 19th Street NW., Washington, D.C. 20036.
D. (6) $243.75. E. (9) $23.29.

A. Robert H. Kellen, 64 Perimeter Center East, Atlanta, Ga. 30346.
B. Robert H. Kellen Co., 64 Perimeter Center East, Atlanta, Ga. 30346 (for Calorie Control Council, 64 Perimeter Center East, Atlanta, Ga. 30346.
D. (6) $300.

A. Paul J. Kelley, U-Haul International, Inc., 2727 North Central Avenue, Phoenix, Ariz. 85004.
B. U-Haul International, Inc., 2727 North Central Avenue, Phoenix, Ariz. 85004.
D. (6) $2,000. E. (9) $781.80.

A. James J. Kennedy, Jr., Brotherhood of Railway, Airline & Steamship Clerks, Freight Handlers, Express & Station Employees, 815 16th Street NW., Washington, D.C. 20006.
B. Brotherhood of Railway, Airline, & Steamship Clerks, Freight Handlers, Express & Station Employees, 3 Research Place, Rockville, Mr. 20850.
D. (6) $7,000. E. (9) $8,606.

A. William J. Kenny, 1730 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. Algonquin Gas Transmission Co.

A. William J. Kenny, 1730 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. American Gas Association.

A. William J. Kenny, 1730 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. Bay State Gas Co., Fitchburg Gas & Electric Light Co.
D. (6) $5,200. E. (9) $4,100.

A. Gilbert W. Keyes, P.O. Box 3999, Seattle, Wash. 98124.
B. The Boeing Co., P.O. Box 3707, Seattle, Wash. 98124.
D. (6) $359.23. E. (9) $385.24.

A. Kristina Kiehl, 8720 Milford Avenue, Silver Spring, Md. 20910.
B. Women's Lobby, Inc., 201 Massachusetts Avenue NE., Washington, D.C. 20002.
D. (6) $1,430.

A. Roberta D. Kimball, 1957 E Street, NW., Washington, D.C. 20006.
B. The Associatied General Contractors of America, 1957 E Street, NW., Washington, D.C. 20006.

A. James L. Kimble, 1025 Connecticut Avenue, Suite 415, American Insurance Association, Washington, D.C. 20036.
B. American Insurance Association, 1025 Connecticut Avenue, Suite 415, Washington, D.C. 20036.
D. (6) $1,500. E. (9) $250.

A. Dean King, National Rural Letter Carriers' Association., 1750 Pennsylvania Avenue, NW., Washington, D.C.
B. National Rural Letter Carriers' Association, 1750 Pennsylvania Avenue, NW., Washington, D.C.
D. (6) $22.15. E. (9) $22.15.

A. G. Jack King, Allegheny Airlines, Inc., Washington National Airport, Washington, D.C. 20001.
B. Allegheny Airlines, Inc., Washington National Airport, Washington, D.C. 20001.
D. (6) $1,000.

B. Group Health Association of America, Inc., 1717 Massachusetts Avenue, NW., No. 701, Washington, D.C. 20036.
D. (6) $6,750.

A. John M. Kinn, 934 Jaysmith Street, Great Falls, Virginia 22066.
B. The Institute of Electrical and Electronic Engineers, Incorporated (IEEE), 2029 "K" Street, NW., Suite 601, Washington, D.C. 20006.
D. (6) $2,500. E. (9) $450.

A. John R. Kirk, Bingham, Dana & Gould, 100 Federal Street, Boston, Mass. 02110.
B. The First National Bank of Boston, 100 Federal Street, Boston, Mass. 02110.
E. (9) $262.82.

A. Sally Ann Kirkpatrick, American Insurance Association. 1025 Connecticut Avenue NW., Suite 415, Washington, D.C. 20036.
B. American Insurance Association, 1025 Connecticut Avenue NW., Suite 415, Washington, D.C. 20036.
D. (6) $750. E. (9) $125.

A. Allie C. Kleinpeter, Jr., 666 North Street, P.O. Box 2871, Louisiana Bankers Association, Baton Rouge, La. 70821.
B. Louisiana Bankers Association, 666 North Street, P.O. Box 2871, Baton Rouge, La. 70821.
D. (6) $500.

A. Jeffrey W. Knight, Friends of the Earth, 620 C Street SE., Washington, D.C. 20003.
B. Friends of the Earth, 620 C Street SE., Washington, D.C. 20003.
D. (6) $2,640.

A. William G. Kopit, Epstein Becker Borsody & Green, 1900 M Street NW., Suite 730, Washington, D.C. 20036.

B. American Association of Professional Standards Review Organizations, 1900 M Street NW., Washington, D.C. 20036.
D. (6) $1,500. E. (9) $85.49.

A. William G. Kopit, Epstein Eecker Borsody & Green, 1900 M Street NW., Suite 305, Washington, D.C. 20036.
B. American Health Planning Association, 2560 Huntington Avenue, Suite 305, Alexandria, Va. 22303.
D. (6) $1,000.

A. Kenneth S. Kovack, United Steelworkers of America, 815 16th Street NW., Suite 706, Washington, D.C. 20006.
B. United Steelworkers of America, 5 Gateway Center, Pittsburgh, Pa. 15222.
D. (6) $6,745.64. E. (9) $1,705.25.

A. Edward DeW. Kratovil, American Can Co., American Lane, Greenwich, Conn. 06830.
B. American Can Co., American Lane, Greenwich, Conn. 06830.
E. (9) $1,646.06.

A. Krivit & Krivit, 101 Duddington Place SE., Washington, D.C. 20003.
B. City of Bridgeport, Conn., City of Camden, N.J., Gloucester County, N.J., CETA-Hudson County, N.J.
D. (6) $34,000. E. (9) $210.

A. Joseph A. Kuchler, American Hospital Association, 444 North Capitol Street NW., No. 500, Washington, D.C. 20001.
B. American Hospital Association, 840 North Lake Shore Drive, Chicago, Ill. 60611.
D. (6) $1,384.25.

A. Philip Kugler, American Federation of Teachers, AFL–CIO, 11 Dupont Circle NW., Washington, D.C. 20036.
B. American Federation of Teachers, AFL–CIO, 11 Dupont Circle NW., Washington, D.C. 20036.
D. (6) $8,188.50. E. (9) $666.89.

A. Dan Kuykendall, 918 16th Street NW., Suite 402, Washington, D.C. 10006.
B. DK Consultants, Inc., 918 16th Street NW., Suite 402, Washington, D.C. 20006.

A. Dan Kuykendall, 918 16th Street NW., Suite 402, Washington, D.C. 10006.
B. Southern Furniture Manufacturers Association, 918 16th Street NW., Suite 402, Washington, D.C. 20006.
D. (6) $13,266.14. E. (9) $13,266.14.

A. David R. Lambert, The National Grange, 1616 H Street NW., Washington, D.C. 20006.
B. The National Grange, 1616 H Street NW., Washington, D.C. 20006.
D. (6) $4,000.

A. A. M. Lampley, United Transportation Union, 400 First St. NW., Suite 704, Washington, D.C. 20001.
B. United Transportation Union, 400 First Street, NW., Suite 704, Washington, D.C. 20001.
E. (9) $150.

A. Duncan L. Lane, Jr., The Bureau of National Affairs, Inc., 1231 25th Street NW., Washington, D.C. 20037.
B. The Bureau of National Affairs, Inc., 1231 25th Street NW., Washington, D.C. 20037.
E. (9) $258.10.

A. Clifford LaPlante, 955 L'Enfant Plaza North SW., Washington, D.C. 20024.
B. The Boeing Co., P.O. Box 3707, Seattle, Wash. 98124.
D. (6) $950. E. (9) $174.29.

A. Robert B. Laurents, National Association for Uniformed Services, 7205 Reservoir Road, Springfield, Va. 22150.
B. National Association for Uniformed Services, 956 North Monroe Street, Arlington, Va. 22201.
D. (6) $1,475.

A. Dennis Lavallee, 13407 Canyon Court, Silver Spring, Md. 20904.
B. American Footwear Industries Association, 1611 North Kent Street, Arlington, Va. 22209.
D. (6) $37.50. E. (9) $9.95.

A. Susannah Lawrence, 4452 Farraday Place NW., Washington, D.C. 20016.
B. Consumer Action Now, 317 Pennsylvania Avenue SE., Washington, D.C. 20003.
D. (6) $2,245.24. E. (9) $94.57.

A. Kenneth L. Lay, Florida Gas Transmission Co., 641 Via Lugano, Winter Park, Fla. 32789.
B. Florida Gas Transmission Co., P.O. Box 44, Winter Park, Fla. 32790.

A. Charles W. Lee, 148 Duddington Place SE., Washington, D.C. 20003.
B. Committee for Full Funding of Education Programs, 148 Duddington Place SE., Washington, D.C.
D. (6) $15.

A. Leighton, Conklin & Lemov, 2033 M Street NW., Washington, D.C. 20036.
B. National Manufactured Housing Federation, 2033 M Street NW., Washington, D.C. 20036.

A. Leighton, Conklin & Lemov, 2033 M Street NW., Washington, D.C. 20036.
B. Radioactive Waste Management Group, c/o Shaw, Pittman, Potts & Trowbridge, 1800 M Street NW., Washington, D.C. 20036.

A. Joseph L. Leitzinger, 900 Fourth Avenue, Seattle, Wash. 98164.
B. Simpson Timber Co., 900 Fourth Avenue, Seattle, Wash. 98164.
D. (6) $200. E. (9) $180.42.

A. Gilbert LeKander, 1629 K Street NW., No. 801, Washington, D.C. 20006.
B. Montana Power Co., 40 East Broadway, Butte, Mont. 59701; Washington Water Power Co., Box 3727, Spokane, Wash. 92220.
D. (6) $550.

A. Kaye Conniff Leonard, 918 16th Street NW., Suite 402, Washington, D.C. 20006.
B. Southern Furniture Manufacturers Association, 918 16th Street NW., Suite 402, Washington, D.C. 20006.
D. (6) $4,500.

A. Leva, Hawes, Symington, Martin & Oppenheimer, 815 Connecticut Avenue NW., Suite 1001, Washington, D.C. 20006.
B. Commerzbank Aktiengesellschaft, 4 Duesseldorf, Postfach 1137, West Germany.
D. (6) $37,120. E. (9) $19,453.91.

A. Leva, Hawes, Symington, Martin & Oppenheimer, 815 Connecticut Avenue NW., Washington, D.C. 20006.
B. Committee of Producers of High Carbon Ferrochromium, c/o Leva, Hawes, Symington, Martin & Oppenheimer, 815 Connecticut Avenue NW., Washington, D.C. 20006.
D. (6) $500.

A. Leva, Hawes, Symington, Martin & Oppenheimer, 815 Connecticut Avenue NW., Washington, D.C. 20006.
B. Commonwealth Edison Co., 1 First National Plaza, Chicago, Ill.
E. (9) $12.80.

A. Leva, Hawes, Symington, Martin & Oppenheimer, 815 Connecticut Avenue NW., Suite 1001, Washington, D.C. 20006.
B. General Cable Corp., 500 West Putnam Avenue, Greenwich, Conn. 06830.
D. (6) $22.50.

A. Leva, Hawes, Symington, Martin & Oppenheimer, 815 Connecticut Avenue NW., Washington, D.C. 20006.
B. Mrs. Sharon Mihnovets, 2910 Pine Spring Road, Falls Church, Va.
E. (9) $103.79.

A. Leva, Hawes, Symington, Martin & Oppenheimer, 815 Connecticut Avenue NW., Suite 1001, Washington, D.C. 20006.
B. Union Investment GmbH, Neue Mainzer Strasse 33–35, D–6000 Frankfurt a. Main 1, West Germany.

A. Susan Paris Lewis, 2030 M Street NW., Washington, D.C. 20036.
B. Common Cause, 2030 M Street NW., Washington, D.C. 20036.
D. (6) $3,000.

A. Liberty Lobby, Inc., 130 3d Street SE., Washington, D.C. 20003.
D. (6) $64,116.40. E. (9) $70,325.89.

A. Pamela Lippe, 620 C Street SE., Washington, D.C. 20003.
B. Friends of the Earth, 620 C Street SE., Washington, D.C. 20003.
D. (6) $2,250.

A. Zel E. Lipsen, 1150 Connecticut Avenue NW., Suite 1109, Washington, D.C. 20036.
B. Westinghouse Electric Corp., 1801 K Street NW., Washington, D.C. 20006.
E. (9) $500.

A. Nils Lofgren, Motor Vehicle Manufacturers Association of the U.S., Inc., 1909 K Street NW., Washington, D.C. 20006.
B. Motor Vehicle Manufacturers Association of the United States, Inc., 320 New Center Building, Detroit, Mich. 48202.
D. (6) $300.

A. J. Patrick Logue, American Hospital Association, 444 North Capitol Street NW., No. 500, Washington, D.C. 20001.
B. American Hospital Association, 840 North Lake Shore Drive, Chicago, Ill. 60611.
D. (6) $685.62.

A. Lucas, Friedman & Mann, 1028 Connecticut Avenue NW., Washington, D.C. 20036.
B. Coushatta Tribe of Louisiana, c/o Ernest Sickey, Tribal Chairman, Elton, La. 70532.

A. Lucas, Friedman & Mann, 1028 Connecticut Avenue NW., Washington, D.C. 20036.
B. McNamara Construction of Manitoba, Ltd., 255 Consumers Road, Willowdale, Ontario.

A. William F. Ludlam, Sr., ARBA Licensees Association, P.O. Box 5282, Virginia Beach, Va. 23455.
B. ARBA Licensees Association, P.O. Box 10, Cocoa Beach, Fla. 32931.
E. (9) $717.

A. Timothy MacCarthy, Motor Vehicle Manufacturers Association of the United States, Inc., 1909 K Street NW., Washington, D.C. 20006.
B. Motor Vehicle Manufacturers Association of the United States, Inc., 320 New Center Building, Detroit, Mich. 48202.
D. (6) $144.

A. Leonard W. Mall, 1010 Wisconsin Avenue NW., Suite 800, Washington, D.C. 20007.
B. Grocery Manufacturers of America, Inc., 1010 Wisconsin Avenue NW., Suite 800, Washington, D.C. 20007.
D. (6) $650.

A. Man-Made Fiber Producers Association, Inc., 1150 17th Street NW., Washington, D.C. 20036.
E. (9) $650.

A. John V. Maraney, 324 East Capitol Street NE., Washington, D.C. 20003.
B. National Star Route Mail Carriers' Association, 324 East Capitol Street NE., Washington, D.C. 20003.

A. R. V. Mariani, Brotherhood of Railway, Airline and Steamship Clerks, Freight Handlers, Express and Station Employees, 815 16th Street NW., Washington, D.C. 20006.
B. Brotherhood of Railway, Airline and Steamship Clerks, Freight Handlers, Express and Station Employees, 3 Research Place, Rockville, Md. 20850.
D. (6) $1,320. E. (9) $2,686.

A. David J. Markey, 1771 N Street NW., Washington, D.C. 20036.
B. National Association of Broadcasters, 1771 N Street NW., Washington, D.C. 20036.
D. (6) $2,000. E. (9) $323.48.

A. Lawrence D. Markley, P.O. Box 3518, Anchorage, Alaska 99501.
B. Chugach Electric Association, Inc., P.O. Box 3518, Anchorage, Alaska 99501.
D. (6) $3,425.52. E. (9) $3,580.46.

A. John C. Marlin, 309 West Nevada, Urbana, Ill. 61801.
B. Coalition on American Rivers, P.O. Box 2667, Station A, Champaign, Ill. 61820.
D. (6) $2,505. E. (9) $78.63.

A. Dan V. Maroney, Jr., 5025 Wisconsin Avenue, NW., Washington D.C. 20016.
B. Amalgamated Transit Union, AFL–CIO, 5025 Wisconsin Avenue NW., Washington, D.C.

A. C. Travis Marshall, 1776 K Street NW., Washington, D.C. 20006.
B. Motorola, Inc., 1776 K Street NW., Washington, D.C. 20006.
D. (6) $2,000. E. (9) $250.

A. John B. Martin, National Retired Teachers Association/American Association of Retired Persons, 1909 K Street NW., Washington, D.C. 20049.
B. National Retired Teachers Association/American Association of Retired Persons, 1909 K Street NW., Washington, D.C. 20049.
D. (6) $579.69. E. (9) $10.15.

A. Jon G. Massey, P.O. Box 8293, Washington, D.C. 20024.
B. Oil Investment Institute, P.O. Box 8293, Washington, D.C. 20024.

A. James C. May, 1010 Wisconsin Avenue NW., Washington, D.C. 20007.
B. Grocery Manufacturers of America, Inc., 1010 Wisconsin Avenue NW., Washington, D.C. 20007.

A. H. Wesley McAden, 1707 L Street NW., Suite 650, Washington, D.C. 20036.
B. California Planting Cotton Seed Distributors, P.O. Box 1281, Bakersfield, Calif. 93302.
D. (6) $1,500. E. (9) $860.

A. J. R. McAlpin, 815 Connecticut Avenue NW., Washington, D.C. 20006.
B. Armco, Inc., 815 Connecticut Avenue NW., Washington D.C. 20006.
D. (6) $600. E. (9) $310.

A. F. Stephen McArthur, 444 North Capitol Street NW., Washington, D.C. 20001.
B. American Israel Public Affairs Committee, 444 North Capitol Street NW., Washington D.C. 20001.
D. (6) $4,500.

A. John F. McClelland, National Association of Retired Federal Employees, 1533 New Hampshire Avenue NW., Washington, D.C. 20036.
B. National Association of Retired Federal Employees, 1533 New Hampshire Avenue NW., Washington, D.C. 20036.
D. (6) $1,170. E. (9) $7.

A. Joel C. McConnell, Jr., Independent Bankers Association of America, 1625 Massachusetts Avenue NW., Washington, D.C. 20036.
B. Independent Bankers Association of America, 1168 South Main, Sauk Centre, Minn. 56378.
E. (9) $800.

A. D. McCurrach, 1500 Wilson Boulevard, No. 609, Arlington, Va. 22209.
B. National School Supply and Equipment Association, 1500 Wilson Boulevard, No. 609, Arlington, Va. 22209.

A. Francis O. McDermott, 1750 K Street NW., Suite 1110, Washington, D.C. 20006.
B. Balcor Co., 10024 Skokie Boulevard, Skokie, Ill. 60077.
D. (6) $300.

A. Francis O. McDermott, 1750 K Street NW, No. 1110, Washington, D.C. 20006.
B. Big Prairie Farms, Inc., c/o J. J. White, 100 State Street, Beardstown, Ill. 62618.

A. Francis O. McDermott, 1750 K Street NW., Suite 1110, Washington, D.C. 20006.
B. First Chicago Corp., One First National Plaza, Chicago, Ill. 60670.

A. Francis O. McDermott, 1750 K Street NW., Suite 1110, Washington, D.C. 20006.
B. Iowa Beef Processors, Inc., Dakota City, Nebr. 68731.

A. Francis O. McDermott, 1750 K Street NW., Suite 1110, Washington, D.C. 20006.
B. JMB Realty Corp., 875 North Michigan Avenue, Suite 3804, Chicago, Ill. 60611.
D. (6) $300.

A. Francis O. McDermott, 1750 K Street NW., Suite 1110, Washington, D.C. 20006.
B. National Association of Independent Insurers, 2600 River Road, Des Plaines, Ill. 60018.
D. (6) $215.

A. Francis O. McDermott, 1750 K Street NW., Suite 1110, Washington, D.C. 20006.
B. Peoples Gas Co., 122 South Michigan Avenue, Chicago, Ill. 60603.
D. (6) $2,370.

A. Francis O. McDermott, 1750 K Street NW., Washington, D.C. 20006.
B. Sears, Roebuck and Co., Sears Tower, Chicago, Ill. 60684.

A. Francis O. McDermott, 1750 K Street NW., Suite 1110, Washington, D.C. 20006.
B. Trans Union Corp., 90 Half Day Road, Lincolnshire, Ill. 60015.
D. (6) $130.

A. Francis O. McDermott, 1750 K Street NW., No. 1110, Washington, D.C. 20006.
B. Trustees Under Will of Warren Wright, c/o The First National Bank of Chicago, One First National Plaza, Chicago, Ill. 60603.

A. E. T. McDonald, Brotherhood of Railway, Airline and Steamship Clerks, Freight Handlers, Express and Station Employees, 815 16th Street NW., Washington, D.C. 20006.
B. Brotherhood of Railway, Airline and Steamship Clerks, Freight Handlers, Express and Station Employees, 815 16th Street NW., Washington, D.C. 20006.
D. (6) $2,860. E. (9) $5,604.

A. John J. McHale, Jr., 1318 North George Mason Drive, Arlington, Va. 22205.
B. Consolidated Rail Corp., P.O. Box 23451, L'Enfant Plaza, Washington, D.C. 20024.
D. (6) $1,500.

A. Walter McHugh, American Hospital Association, 444 North Capitol Street NW., No. 500, Washington, D.C. 20001.
B. American Hospital Association, 840 North Lake Shore Drive, Chicago, Ill. 60611.
D. (6) $494.10. E. (9) $21.

A. James D. McKevitt, National Federation of Independent Business, 490 L'Enfant Plaza East SW., Suite 3206, Washington, D.C. 20024.
B. National Federation of Independent Business, 490 L'Enfant Plaza East SW., Suite 3206, Washington, D.C. 20024.
D. (6) $3,500. E. (9) $65.

A. Michael R. McLeod, Davis & McLeod, 499 South Capitol Street SW., Suite 407, Washington, D.C. 20003.
B. Florida Sugar Cane League, Inc., P.O. Box 1148, Clewiston, Fla. 33440.
D. (6) $1,500. E. (9) $28.33.

A. Michael R. McLeod, Davis & McLeod, 499 South Capitol Street SW., Suite 407, Washington, D.C. 20003.
B. National Cattlemen's Association, 1001 Lincoln Street, Denver, Colo. 80201.
D. (6) $1,125. E. (9) $9.83.

A. Michael R. McLeod, Davis & McLeod, 499 South Capitol Street SW., No. 407, Washington, D.C. 20003.
B. United Egg Producers, 3951 Snapfinger Parkway, Suite 580, Decatur, Ga. 30032.
D. (6) $520.83. E. (9) $4.78.

A. L. Bradley McNally, 1700 Pennsylvania Avenue NW., No. 200, Washington, D.C. 20006.
B. Blue Cross & Blue Shield Associations, 1700 Pennsylvania Avenue NW., No. 200, Washington, D.C. 20006.
D. (6) $600.

A. Ronald E. McWilliams, 955 L'Enfant Plaza North SW., Washington, D.C. 20024.
B. The Boeing Co., P.O. Box 3707, Seattle, Wash. 98124.
D. (6) $63.62. E. (9) $15.

A. Louis L. Meier, Jr., American Society of Civil Engineers, 1625 Eye Street NW., Washington, D.C. 20006.
B. American Society of Civil Engineers, United Engineering Center, 345 East 47th Street, New York, N.Y. 10017.
D. (6) $870. E. (9) $990.

A. Nanine Meiklejohn, 1625 L Street NW., Washington, D.C. 20036.
B. American Federation of State, County & Municipal Employees, AFL–CIO, 1625 L Street NW., Washington, D.C. 20036.
D. (6) $6,803. E. (9) $171.

A. Faye L. Mench, National Retired Teachers Association/American Association of Retired Persons, 1909 K Street NW., Washington, D.C. 20049.
B. National Retired Teachers Association/American Association of Retired Persons, 1909 K Street NW., Washington, D.C. 20049.
D. (6) $155.77.

A. Harold Mercer, Committee of Producers of High Carbon Ferrochromium, c/o Leva, Hawes, Symington, Martin & Oppenheimer, 815 Connecticut Avenue NW., Washington, D.C. 20006.
B. Airco Alloys of Airco, Inc., Committee of Producers of High Carbon Ferrochromium, c/o Leva, Hawes, Symington, Martin & Oppenheimer, 815 Connecticut Avenue NW., Washington, D.C. 20006.

A. Ted H. Meredith, 6030 Warwick Court, New Orleans, La. 70114.

B. Southern Forest Products Association, P.O. Box 52468, New Orleans, La. 70152.
D. (6) $3,009.

A. Charles L. Merin, National Association of Retired Federal Employees, 1533 New Hampshire Avenue NW., Washington, D.C. 20036.
B. National Association of Retired Federal Employees, 1533 New Hampshire Avenue NW., Washington, D.C. 20036.
D. (6) $950. E. (9) $80.

A. Edward L. Merrigan, 6000 Connecticut Avenue NW., Washington, D.C. 20015.
B. Central Gulf Lines, Inc., International Trade Mart, No. 2 Canal Street, New Orleans, La. 70130.
E. (9) $93.77.

A. Edward L. Merrigan, 6000 Connecticut Avenue NW., Washington, D.C. 20015.
B. Dirilyte Co. of America, Inc., 320 West Jefferson Road, Kokomo, Ind.

A. Edward L. Merrigan, 6000 Connecticut Avenue NW., Washington, D.C. 20015.
B. Holly Corp., 3327–2001 Bryan Tower, Dallas, Tex. 75201.

A. Edward L. Merrigan, 6000 Connecticut Avenue NW., Washington, D.C. 20015.
B. Klineman Associates, Inc., 1345 Avenue of the Americas, New York, N.Y. 10019.

A. Edward L. Merrigan, 6000 Connecticut Avenue NW., Washington, D.C. 20015.
B. National Association of Recycling Industries, Inc., 330 Madison Avenue, New York, N.Y. 10017.
D. (6) $8,333. E. (9) $197.79.

A. Edward L. Merrigan, 6000 Connecticut Avenue NW., Washington, D.C. 20015.
B. National Council of Farmer Cooperatives, 1129 20th Street NW., Washington, D.C. 20006.
D. (6) $150.

A. Edward L. Merrigan, 6000 Connecticut Avenue NW., Washington, D.C. 20015.
B. John Tudor, 18 E. 53d Street, New York, N.Y. 10022.
D. (6) $6,000. (9) $304.54.

A. F. Andy Messing, Jr., 316 Pennsylvania Avenue SE., Washington, D.C. 20003.
B. The American Conservative Union, 316 Pennsylvania Avenue SE., Washington, D.C. 20003.
D. (6) $8,076.95.

A. James G. Michaux, 1801 K Street NW., Suite 903, Washington, D.C. 20006.
B. Federated Department Stores, Inc., 222 West Seventh Street, Cincinnati, Ohio 45202.
D. (6) $500.

A. Migrant Legal Action Program, Inc., 806 15th Street NW., Washington, D.C. 20005.
E. (9) $6,978.99.

A. Sharon Mihnovets, 2910 Pine Spring Road, Falls Church, Va.

A. Miller & Chevalier, 1700 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. DECO Committee, P.O. Box 5551, Beverly Hills, Calif. 90210.
D. (6) $5,105. E. (9) $1,010.85.

A. Clinton R. Miller, National Health Federation, 212 West Foothill Boulevard, Monrovia, Calif. 91016.
B. National Health Federation, 212 West Foothill Boulevard, Monrovia, Calif. 91016.
D. (6) $443. E. (9) $225.

A. Deborah Imle Miller, National Association of Home Builders of the United States, 15th and M Streets NW., Washington, D.C. 20005.
B. National Association of Home Builders of the United States, 15th and M Streets NW., Washington, D.C. 20005.
D. (6) $1,820.03 E. (9) $154.71.

A. Joseph S. Miller, 19 Third Street NE., Washington, D.C. 20002.
B. Association of American Railroads, 1920 L Street NW. Washington, D.C. 20035.
D. (6) $4,500. E. (9) $760.50.

A. Joseph S. Miller, 19 Third Street NE., Washington, D.C. 20002.
B. MEBA Political Action Fund, 444 North Capitol Street, Washington, D.C. 20001.
E. (9) $810.

A. Joseph S. Miller, 19 Third Street NE., Washington, D.C. 20002.
B. The Navajo Nation, Window Rock, Ariz. 86515.
D. (6) $3,750. E. (9) $350.

A. Joseph S. Miller, 19 Third Street NE., Washington, D.C. 20002.
B. O&C Counties Association, Box 1530, Route 3, Roseburg, Oreg. 97470.

A. Joseph S. Miller, 19 Third Street NE., Washington, D.C. 20002.
B. Port of Portland, Box 3529, Portland, Oreg. 97208.
D. (6) $1,200.

A. Joseph S. Miller, 19 Third Street NE., Washington, D.C. 20002.
B. Professional Air Traffic Controllers Organization, 444 North Capitol Street, Washington, D.C. 20001.
D. (6) $2,000.

A. Joseph S. Miller, 19 Third Street NE., Washington, D.C. 20002.
B. Western Forest Industries Association, 1500 Southwest Taylor, Portland, Oreg. 97205.
D. (6) $3,000. E. (9) $525.

A. Maya Miller, 1739 N Street NW., Washington, D.C. 20036.
B. Women's Lobby, Inc., 201 Massachusetts Avenue NE., Washington, D.C. 20002.
E. (9) $10,000.

A. Donald Craig Mitchell, 1601 F Street, Anchorage, Alaska 99501; 510 A Street NE., Washington, D.C. 20002.
B. Alaska Federation of Natives, 550 West Eighth Avenue, Anchorage, Alaska 99501.
E. (9) $750.

A. Marian E. Moe, 821 15th Street NW., Suite 638, Washington, D.C. 20005.
B. Center on Social Welfare Policy and Law, 821 15th Street NW., Washington, D.C. 20005.
D. (6) $2,125. E. (9) $80.

A. Christopher Monek, 1957 E Street NW., Washington, D.C. 20006.
B. The Associated General Contractors of America, 1957 E Street NW., Washington, D.C. 20006.

A. Michael Monroney, 2030 M Street NW., Suite 800, Washington, D.C. 20036.
B. TRW, Inc., 23555 Euclid Avenue, Cleveland, Ohio 44117.
D. (6) $1,000.

A. Rush Moody, Jr., 1701 Pennsylvania Avenue, Washington, D.C. 20006.
B. Vinson & Elkins, 1701 Pennsylvania Avenue, Suite 1120, Washington, D.C. 20006; (for Lone Star Steel Co., P.O. Box 35888, Dallas, Tex. 75235).
D. (6) $15,700.

A. John M. Mooney, Suite 2200, 2 Embarcadero Center, San Francisco, Calif. 94111.
B. Bechtel Corp., 50 Beale Street, San Francisco, Calif. 94105.

A. April D. Moore, 1867 California Street NW., Washington, D.C. 20009.
B. National Consumers League, 1028 Connecticut Avenue NW., No. 522, Washington, 20036.
D. (6) $30.

A. Jo V. Morgan, Jr., 1050 17th Street NW., Washington, D.C. 20036.
B. The American Humane Association, P.O. Box 1266, Denver, Colo. 80201.
D. (6) $1,800.

A. John Morgan, Communications Workers of America, 1925 K Street NW., Washington, D.C. 20006.
B. Communications Workers of America, 1925 K Street NW., Washington, D.C. 20006.
D. (6) $588. E. (9) $8.

A. Sol Mosher, Crown Zellerbach, 1660 L Street NW., Suite 915, Washington, D.C. 20036.
B. Crown Zellerbach, 1 Bush Street, San Francisco, Calif. 94119.
E. (9) $250.

A. Moss, Frink & Franklin, Watergate 600, Suite 480, Washington, D.C. 20037.
B. American Federation of Government Employees, 1325 Massachusetts Avenue NW., Washington, D.C. 20005.

A. Moss, Frink & Franklin, Watergate 600, Suite 480, Washington, D.C. 20037.
B. District of Columbia Federation of Musicians Local 161–710, 5020 Wisconsin Avenue NW., Washington, D.C. 20016.

A. Moss, Frink & Franklin, Watergate 600, Suite 480, Washington, D.C. 20037.
B. Kellogg Co., 235 Porter Street, Battle Creek, Mich. 49016.

A. Moss, Frink & Franklin, Watergate 600, Suite 480, Washington, D.C. 20037.
B. KUTV, Inc., 179 Social Hall Avenue, Salt Lake City, Utah 84111.

A. Moss, Frink & Franklin, Watergate 600, Suite 480, Washington, D.C. 20037.
B. Ogden Standard-Examiner, P.O. Box 951, Ogden, Utah 84402.

A. Moss, Frink & Franklin, Watergate 600, Suite 480, Washington, D.C. 20037.
B. Radwaste Management Group, 1800 M Street NW., Washington, D.C. 20036.
D. (6) $37.50.

A. Moss, Frink & Franklin, Watergate 600, Suite 480, Washington, D.C. 20037.
B. Steering Council for Alaska Lands, 1016 West Sixth Avenue, Suite B, Anchorage, Alaska 99501.
D. (6) $1,875.

A. Moss, Frink & Franklin, Watergate 600, Suite 480, Washington, D.C. 20037.
B. Sunsat Energy Council, Watergate 600, Suite 480, Washington, D.C. 20037.

A. Moss, Frink & Franklin, Watergate 600, Suite 480, Washington, D.C. 20037.
B. Thiokol Corp., P.O. Box 1000, Newtown, Pa. 18940.

A. Moss, Frink & Franklin, Watergate 600, Suite 480, Washington, D.C. 20037.
B. United Parcel Service of America, Inc., Greenwich Office Park 5, Greenwich, Conn. 06830.

A. Moss, Frink & Franklin, Watergate 600, Suite 480, Washington, D.C. 20037.
B. Utah Power & Light Co., 1407 West North Temple Street, Salt Lake City, Utah 84101.

A. John J. Motley III, National Federation of Independent Business, 490 L'Enfant Plaza East SW., Suite 3206, Washington, D.C. 20024.
B. National Federation of Independent Business, 490 L'Enfant Plaza East SW., Suite 3206, Washington, D.C. 20024.
D. (6) $2,250. E. (9) $425.

A. Nicholas Mottern, RFD Millwood, Va. 22646.
B. Food Policy Center, 538 Seventh Street SE., Washington, D.C. 20003.
D. (6) $2,333.34.

A. Christopher M. Mould, National Board of YMCA, 1666 Connecticut Avenue NW., Washington, D.C. 20009.
B. National Board of Young Men's Christian Associations, 291 Broadway, New York, N.Y. 10007.
D. (6) $500.

A. John P. Mulligan, 1101 17th Street NW., Washington, D.C. 20036.
B. Tuna Research Foundation, 1101 17th Street NW., Washington, D.C. 20036.
D. (6) $1,125.

A. Daniel J. Mundy, Building and Construction Trades Department, 815 16th Street NW., Suite 603, Washington, D.C. 20006.
B. Building and Construction Trades Department, 815 16th Street NW., Suite 603, Washington, D.C. 20006.
D. (6) $7,874.88. E. (9) $858.75.

A. Thomas H. Mutchler, 1620 I Street NW., Suite 700, Washington, D.C. 20006.
B. International Paper Co., 1620 I Street NW., Suite 700, Washington, D.C. 20006.
D. (6) $300. E. (9) $50.

A. J. Walter Myers, Jr., Forest Farmers Association, P.O. Box 95385, Atlanta, Ga. 30347.
B. Forest Farmers Association, P.O. Box 95385, Atlanta, Ga. 30347.
D. (6) $112.25. E. (9) $133.50.

A. NANA Regional Corp., Inc., Box 4–U, Anchorage, Alaska.
E. (9) $1,995.15.

A. Bernard Nash, 1015 18th Street NW., Washington, D.C. 20036.
B. Association of Independent Corrugated Converters, 2530 Crawford Avenue, Evanston, Ill. 60201.
D. (6) $6,000. E. (9) $652.84.

A. Bernard Nash, 1015 18th Street NW., No. 408, Washington, D.C. 20036.
B. Computer & Communications Industry Association, 1500 Wilson Boulevard, Suite 512, Arlington, Va. 22209.
D. (6) $562.50.

A. Bernard Nash, 1015 18th Street NW., No. 408, Washington, D.C. 20036.
B. Northwest Pipeline Corp., P.O. Box 1526, Salt Lake City, Utah 84110.
D. (6) $3,000.

A. Bernard Nash, 1015 18th Street NW., No. 408, Washington, D.C. 20036.
B. Zenith Radio Corp., 1000 Milwaukee Avenue, Glenview, Ill. 60025.
D. (6) $14,750. E. (9) $877.99.

A. National Air Carrier Association, 1730 M Street NW., Suite 710, Washington, D.C. 20036.
D. (6) $1,250. E. (9) $1,250.

A. National Association for the Advancement of Colored People, 1790 Broadway, New York, N.Y. 10019.
D. (6) $27,019. E. (9) $27,046.

A. National Association for Free Enterprise, 1101 New Hampshire Avenue NW., Suite 107, Washington, D.C. 20037.

A. National Association for Uniformed Services, 966 North Monroe Street, Arlington, Va. 22201.
D. (6) $38,083.55. E. (9) $6,051.91.

A. National Association of Air Traffic Specialists, Inc., Suite 415, Wheaton Plaza North, Wheaton, Md. 20902.
D. (6) $103,795.48. E. (9) $6,399.83.

A. National Association of Corporate Directors, 1100 17th Street NW., Suite 1000, Washington, D.C. 20036.
D. (6) $2,228.60. E. (9) $1,959.99.

A. National Association of Home Builders of the United States, 15th and M Streets NW., Washington, D.C. 20005.
D. (6) $85,127.91. E. (9) $86,612.14.

A. National Association of Railroad Passengers, 417 New Jersey Avenue SE., Washington, D.C. 20003.
D. (6) $27,515.81. E. (9) $31,159.10.

A. National Association of Retired Federal Employees, 1533 New Hampshire Avenue NW., Washington, D.C. 20036.
D. (6) $10,369.20. E. (9) $10,398.10.

A. National Association of Truck Stop Operators, Inc., 700 North Fairfax Street, No. 505, Alexandria, Va. 22314.
D. (6) $13,775.92. E. (9) $13,775.92.

A. National Beer Wholesalers' Association of America, 5205 Leesburg Pike, Falls Church, Va. 22401.

A. National Board of Young Men's Christian Associations, 291 Broadway, New York, N.Y. 10007.
D. (6) $2,782,964. E. (9) $11,499.99.

A. National Coalition to Ban Handguns, Inc., 100 Maryland Avenue NE., Washington, D.C. 20002.
D. (6) $26,976.09. E. (9) $56,428.90.

A. National Committee for Symphony Orchestra Support, 1100 17th Street NW., No. 313, Washington, D.C. 20036.
D. (6) $10,728.60. E. (9) $14,712.63.

A. National Consumer Finance Association, 1000 16th Street NW., Washington, D.C. 20036.
E. (9) $420.

A. National Council of Agricultural Employers, 1425 H Street NW., 435, Southern Building, Washington, D.C. 20005.
D. (6) $9,413. E. (9) $3,725.

A. National Council to Control Handguns, 810 18th Street NW., Washington, D.C. 20006.
D. (6) $142,444.20. E. (9) $14,978.51.

A. National Counsel Associates, Inc., 421 New Jersey Avenue SE., Washington, D.C. 20003.
B. American Paratransit Institute, Inc., 1747 Pennsylvania Avenue, Suite 1000, Washington, D.C. 20006.
D. (6) $10,560. E. (9) $279.85.

A. National Counsel Associates, Inc., 421 New Jersey Avenue SE., Washington, D.C. 20003.
B. Belco Petroleum Corp., 1 Dag Hammarskjold Plaza, New York, N.Y. 10017.
D. (6) $10,853.25.

A. National Counsel Associates, Inc., 421 New Jersey Avenue SE., Washington, D.C. 20003.
B. Cenco Instruments, 2600 South Kostner Avenue, Chicago, Ill.
D. (6) $11,000.

A. National Counsel Associates, Inc., 421 New Jersey Avenue SE., Washington, D.C. 20003.
B. Domestic Wildcatters Association, 900 First National Bank Building, Houston, Tex. 77002.
D. (6) $2,000. E. (9) $79.75.

A. National Counsel Associates, 421 New Jersey Avenue SE., Washington, D.C. 20003.
B. International Rectifier, 9220 Sunset Boulevard, Los Angeles, Calif. 90069.
D. (6) $2,500.

A. National Counsel Associates, Inc., 421 New Jersey Avenue SE., Washington, D.C. 20003.
B. North American Telephone Association, 1030 15th Street NW., Washington, D.C. 20036.
D. (6) $31,698. E. (9) $942.11.

A. National Counsel Associates, Inc., 421 New Jersey Avenue SE., Washington, D.C. 20003.
B. Southern Railway System, P.O. Box 1808, Washington, D.C. 20013.
D. (6) $5,400. E. (9) $905.35.

A. National Counsel Associates, Inc., 421 New Jersey Avenue SE., Washington, D.C. 20003.
B. Trailways, Inc., 1500 Jackson Street, Dallas, Tex. 75201.
D. (6) $12,000. E. (9) $1,513.87.

A. The National Federation of Business and Professional Women's Clubs, Inc., 2012 Massachusetts Avenue NW., Washington, D.C. 20036.
D. (6) $431,468.10 E. (9) $5,068.97.

A. National Federation of Federal Employees, 1016 16th Street NW., Washington, D.C. 20036.
D. (6) $8,165.58. E. (9) $8,165.58.

A. National Federation of Independent Business, 490 L'Enfant Plaza SW., Washington, D.C. 20024.
B. National Federation of Independent Business, 150 West 20th Avenue, San Mateo, Calif. 94403.
D. (6) $42,871. E. (9) $42,871.

A. The National Grange, 1616 H Street NW., Washington, D.C. 20006.
D. (6) $146,024.74. E. (9) $18,097.50.

A. National Hairdressers & Cosmetologists Association, 3510 Olive Street, St. Louis, Mo. 63103.
D. (6) $1,432.04.

A. National Parking Association, 1101 17th Street NW., Washington, D.C. 20036.
E. (9) $3,723.76.

A. National Product Liability Council, Box 11111, Cincinnati, Ohio 45211.
E. (9) $325.95.

A. National Rifle Association of America, 1600 Rhode Island Avenue NW., Washington, D.C. 20036.
D. (6) $10,430. E. (9) $87,260.

A. National Right to Life Committee, Inc., Suite 341, National Press Building, 529 14th Street NW., Washington, D.C. 20045.
D. (6) $11,000. E. (9) $10,900.

A. National Rural Letter Carriers' Association, 1750 Pennsylvania Avenue NW., Washington, D.C.
D. (6) $4,294. E. (9) $2,546.86.

A. National Savings & Loan League, 1101 15th Street NW., Suite 400, Washington, D.C. 20005.
D. (6) $10,253. E. (9) $940.

A. National School Transportation Association, 9001 West Braddock Road, Room 310, Springfield, Va. 22151.
D. (6) $1,951. E. (9) $1,951.

A. National Water Resources Association, 955 L'Enfant Plaza North SW., Suite 1202, Washington, D.C. 20024.
D. (6) $8,058.36. E. (9) $10,069.08.

A. National Woman's Christian Temperance Union, 1730 Chicago Avenue, Evanston, Ill. 60201.
D. (6) $1,725.50. E. (9) $2,137.58.

A. Frances E. Neely, 245 Second Street NE., Washington, D.C. 20002.
B. Friends Committee on National Legislation, 245 Second Street NE., Washington, D.C. 20002.
D. (6) $2,301.

A. A. S. Nemir Associates, Suite 1230, Pennsylvania Building, Washington, D.C. 20004.
B. Brazilian Sugar & Alcohol Institute, Rio de Janeiro, Brazil.
E. (9) $384.27.

A. John A. Nevius, Whiteford, Hart, Carmodoy & Wilson, 1050 17th Street NW., Washington, D.C. 20036.
B. District of Columbia Bankers Association, 1709 New York Avenue NW., Washington, D.C. 20006.

A. Frank Newham, National Rural Letter Carriers' Association, 1750 Pennsylvania Avenue NW., Washington, D.C.
B. National Rural Letter Carriers' Association, 1750 Pennsylvania Avenue NW., Washington, D.C.

A. Harold Frank Newman, 900 17th Street NW., Washington, D.C. 20006.
B. Kaiser Foundation Health Plan, Inc.
D. (6) $8,562.01. E. (9) $1,500.

A. The Newspaper Guild, AFL–CIO, 1125 15th Street NW., Suite 835, Washington, D.C. 20005.
E. (9) $1,583.57.

A. Robert W. Nolan, 1303 New Hampshire Avenue NW., Washington, D.C. 20036.
B. Fleet Reserve Association, 1303 New Hampshire Avenue NW., Washington, D.C. 20036.
D. (6) $100.

A. Julia J. Norrell, National Association of Home Builders of the United States, 15th & M Streets NW., Washington, D.C. 20005.
B. National Association of Home Builders of the United States, 15th & M Streets NW., Washington, D.C. 20005.
D. (6) $6,090.09. E. (9) $1,089.24.

A. North American Telephone Association, 1030 15th Street NW., Washington, D.C. 20036.
D. (6) $31,689. E. (9) $942.11.

A. Frank Northcutt, 7139 Hunters Ridge Drive, Dallas, Tex. 75248.
B. Southwest Homefurnishings Association, 4313 North Central Expressway, Dallas, Tex. 75205.

A. Victor L. Nutt, 600 New Hampshire Avenue NW., Suite 920, Washington, D.C. 20037.
B. Gulf & Western Industries, Inc., 600 New Hampshire Avenue NW., Suite 920, Washington, D.C. 20037.
D. (6) $200.

A. Hubert K. O'Bannon, 1532 34th Street NW., Washington, D.C. 20067.

B. Consolidated Rail Corp., P.O. Box 23451, L'Enfant Plaza, Washington, D.C. 20024.
D. (6) $1,200.

A. Ashton J. O'Donnell, 89 Fair Oaks Lane, Atherton, Calif. 94025.
B. Bechtel Inc., 50 Beale Street, P.O. Box 3965, San Francisco, Calif. 94119.

A. Patrick E. O'Donnell, J. C. Penney Co., Inc,. 1156 15th Street NW., Washington, D.C. 20005.
B. J. C. Penney Co, Inc., 1301 Avenue of the Americas, New York, N.Y. 10019.
D. (6) $115.

A. Bradford C. Oelman, Owens-Corning Fiberglas Corp., 900 17th Street NW., Suite 508, Washington, D.C., 20006.
B. Owens-Corning Fiberglas Corp., Fiberglas Tower, Toledo, Ohio 43659.

A. Therese S. Ogle, 825 15th Street NW., Washington, D.C. 20005.
B. National Abortion Rights Action League, 825 15th Street NW., Washington, D.C. 20005.
D. (6) $3,000.

A. Matthew D. O'Hara, 1010 Wisconsin Avenue NW., Suite 800, Washington, D.C. 20007.
B. Grocery Manufacturers of America, 1010 Wisconsin Avenue NW., Suite 800, Washington, D.C. 20007.
D. (6) $46.35.

A. Oil Investment Institute, P.O. Box 8293, Washington, D.C.

A. John F. O'Neal, 600 New Hampshire Avenue NW., Suite 952, Washington, D.C. 20037.
B. Commodity Exchange, Inc., Four World Trade Center, Southeast Plaza Building, New York, N.Y. 10048.
D. (6) $3,630.

A. John F. O'Neal, 600 New Hampshire Avenue NW., Suite 952, Washington, D.C. 20037.
B. International Precious Metals Corp., 6451 North Federal Highway No. 1101, Ft. Lauderdale, Fla. 33308.
D. (6) $3,212.50.

A. Charles Orasin, 810 18th Street NW., Washington, D.C. 20006.
B. National Council to Control Handguns, 810 18th Street NW., Washington, D.C. 20006.
D. (6) $2,292.30. E. (9) $5.

A. Organization of Professional Employees of the U.S. Department of Agriculture, Room 1247, South Building, Department of Agriculture, Washington, D.C. 20250.
D. (6) $1,473.48. E. (9) $565.25.

A. John L. Oshinksi, United Steelworkers of America, 815 Sixteenth Street NW., Suite 706, Washington, D.C. 20006.
B. United Steelworkers of America, Five Gateway Center, Pittsburgh, Pa. 15222.
D. (6) $6,824.39. E. (9) $2,683.58.

A. J. Denis O'Toole, National Association of Home Builders of the United States, 15th & M Streets NW., Washington, D.C. 20005.
B. National Association of Home Builders of the United States, 15th & M Streets NW., Washington, D.C. 20005.
D. (6) $6,602.99. E. (9) $597.08.

A. Gerard Paul Panaro, 6525 Belcrest Road, Hyattsville, Md. 20782.
B. Retail Bakers of America, Presidential Building, Suite 250, 6525 Belcrest Road, Hyattsville, Md. 20782.
D. (6) $35.

A. Paraplegic Cure Research, 100 Maryland Avenue NE., Washington, D.C. 20002.
D. (6) $210. E. (9) $158.89.

A. Judy E. Park, National Association of Retired Federal Employees, 1533 New Hampshire Avenue NW., Washington, D.C. 20036.
B. National Association of Retired Federal Employees, 1533 New Hampshire Avenue NW., Washington, D.C. 20036.
D. (6) $1,500. E. (9) $46.10.

A. William H. Patterson, General Electric Co., 777 14th Street NW., Washington, D.C.
B. General Electric Co., 3135 Easton Turnpike, Fairfield, Conn.
D. (6) $115.

A. David J. Pattison, 1750 K Street NW., Washington, D.C. 20006.
B. Health Insurance Association of America, Inc., 1750 K Street NW., Washington, D.C.; 919 Third Avenue, New York, N.Y.; 332 South Michigan Avenue, Chicago, Ill.

A. James M. Pierce, Jr., 1016 16th Street, NW., Washington, D.C. 20036.
B. National Federal of Federal Employees, 1016 16th Street NW., Washington, D.C. 20036.
D. (6) $1,186.

A. Pendleton & McLaughlin, 888 17th Street NW., Suite 700, Washington, D.C. 20006.
B. Canned & Cooked Meat Importers' Association, 888 17th Street NW., Suite 700, Washington, D.C. 20006.
D. (6) $830. E. (9) $1,300.58.

A. Pennzoil Co., P.O. Box 2967, Houston, Tex.
E. (9) $9,120.

A. Dominic V. Pensabene, Chevron USA Inc,. 1700 K Street NW., Washington, D.C. 20006.
B. Chevron USA Inc., a subsidiary of Standard Oil Co. of California, 1700 K Street NW., Washington, D.C. 20006.
D. (6) $50. E. (9) $25.

A. Pepper, Hamilton & Scheetz, 1776 F Street NW., Washington, D.C. 20006.
B. Coalition of Concerned Charities, c/o Annette Gnospelius, 1776 F Street NW., Suite 200, Washington, D.C. 20006.
D. (6) $1,800.

A. A. Harold Peterson, 715 Cargill Building, Minneapolis, Minn. 55402.
B. National R.E.A. Telephone Association, 715 Cargill Building, Minneapolis, Minn. 55402.
D. (6) $3,333.33. E. (9) $2,743.33.

A. Paul E. Pierce, National Association of Truck Stop Operators, Inc., 700 North Fairfax Street, No. 505, Alexandria, Va. 22314.
D. (6) $3,374.99.

A. Grant C. Pinney, 730 North Balsam Street, Ridgecrest, Calif. 93555.
B. Sierra Sands Unified School District, 730 North Balsam Street, Ridgecrest, Calif. 93555.

A. James L. Pledger, National Savings and Loan League, 1101 15th Street NW., Suite 400 Washington, D.C. 20005.
B. National Savings and Loan League, 1101 15th Street NW., Suite 400, Washington, D.C. 20005.

A. Rafe Pomerance, 620 C Street SE., Washington, D.C. 20003.
B. Friends of the Earth, 620 C Street SE., Washington, D.C. 20003.
D. (6) $2,640.

A. Garry C. Porter, 11356 Southeast Black Road, Olalla, Wash. 98359.
B. The Boeing Co., P.O. Box 3707, Seattle, Wash. 98124.

A. A. Frank Portmann, III, Amax Coal Co., 105 S. Meridian Street, Indianapolis, Ind., 46225.
B. Amax Coal Co., 105 S. Meridian Street, Indianapolis, Ind. 46225.
D. (6) $2,250. E. (9) $150.

A. John Post, 1801 K Street NW., Suite 811, Washington, D.C. 20006.
B. The Business Roundtable, 405 Lexington Avenue, New York, N.Y., and 1801 K Street, No. 811, Washington, D.C.
D. (6) $200. E. (9) $40.

A. Janet Power, 1620 I Street NW., Washington, D.C. 20006.
B. VISA-USA Inc., 555 California Street, San Francisco, Calif. 94126.
D. (6) $3,000.

A. Prather Seeger Doolittle & Farmer, 1101 16th Street NW., Washington, D.C. 20036.
B. American Petroleum Institute, 2101 L Street NW., Washington, D.C.
D. (6) $500.

A. Prather Seeger Doolittle & Farmer, 1101 16th Street NW., Washington, D.C. 20036.
B. Bankers' Association for Foreign Trade, 1101 16th Street NW., Washington, D.C. 20036.
D. (6) $8,000.

A. Prather Seeger Doolittle & Farmer, 1101 16th Street NW., Washington, D.C. 20036.
B. The First National Bank of Chicago, One First National Plaza, Chicago, Ill. 60670.
D. (6) $500.

A. Preservation Action, 2101 L Street NW., Suite 906, Washington, D.C. 20037.
D. (6) $6,892. E. (9) $12,892.90.

A. PROD, Inc., 2000 P Street NW., Suite 612, Washington, D.C. 20036.
B. PROD, Inc., 2000 P Street NW., Washington, D.C. 20036.
E. (9) $331.55.

A. Pro-Life Congressional District Action Committee IN-2, 3310 Lindbergh Dr., Indianapolis, Ind. 46277.
E. (9) $13.05.

A. Public Timber Purchasers Group, 1214 Oregon Bank Building, Portland, Oreg. 97204.
D. (6) $34,500. E. (9) $9,062.

A. Purcell & Nelson, 1776 F Street NW., Washington, D.C. 20006.
B. The Business Roundtable, 405 Lexington Avenue, New York, N.Y. 10017.
D. (6) $153.

A. Howard Pyle III, 1150 Connecticut Avenue NW., Suite 805, Washington, D.C. 20036.
B. R. J. Reynolds Industries, Inc., P.O. Box 2959, Winston-Salem, N.C. 27102.
D. (6) $329.67. E. (9) $9.50.

A. Quintana Refinery Co., P.O. Box 3331, Houston, Tex. 77001.

A. Donald A. Randall, 1625 K Street NW., Suite 1205, Washington, D.C. 20006.
B. Automotive Service Councils, Inc., 188 Industrial Drive, Suite 112, Elmhurst, Ill. 60126.
D. (6) $6,000. E. (9) $2,900.

A. Donald A. Randall, 1625 K Street NW., Suite 1205, Washington, D.C. 20006.
B. National Association for Milk Marketing Reform, 1625 K Street NW., Suite 1206, Washington, D.C. 20006.
D. (6) $4,000. E. (9) $650.

A. Sydney C. Reagan, 6815 Prestonshire, Dallas, Tex. 75225.
B. Southwestern Peanut Shellers Association, 6815 Prestonshire, Dallas, Tex. 75225.
D. (6) $150.

A. J. Gene Raymond, 1016 16th Street NW., Washington, D.C. 20036.
B. National Federal of Federal Employees, 1016 16th Street NW., Washington, D.C. 20036.
D. (6) $1,085.63.

A. G. G. Reckley Associates, 2737 Devonshire Place No. 9 NW., Washington, D.C. 20008.
B. Kootznoowoo Inc., P.O. Box 116, Angoon, Alaska 99820.
D. (6) $3,000. E. (9) $1,504.47.

A. Patricia Record, Midwest Office, Sierra Club, 444 West Main, Madison, Wis. 53703.
B. Sierra Club, 530 Bush Street, San Francisco, Calif. 94108.
D. (6) $2,887.50. E. (9) $768.93.

A. Recording Industry Association of America, Inc., 1 East 57th Street, New York, N.Y. 10022.
D. (6) $58,195. E. (9) $49,927.63.

A. Recreation Vehicle Industry Association, P.O. Box 204, 14650 Lee Road, Chantilly, Va. 22021.
E. (9) $19,800.

A. Campbell L. Reed, 1957 E Street NW., Washington, D.C. 20006.
B. The Associated General Contractors of America, 1957 E Street NW., Washington, D.C. 20006.

A. Don T. Reves, 245 2d Street NE., Washington, D.C. 20002.
B. Friends Committee on National Legislation, 245 2d Street NE., Washington, D.C. 20002.
D. (6) $3,522.

A. Allegheny Airlines, Inc., Washington National Airport, Washington, D.C. 20001.
B. Allegheny Airlines, Inc., Washington National Airport, Washington, D.C. 20001.
D. (6) $2,000. E. (9) $133.63.

A. Anne Regenstein, 2920 Upton Street NW., Washington, D.C.
B. Women's Lobby, Inc., 201 Massachusetts Avenue NE., Washington, D.C. 20002.

A. J. E. Reinke, 1030 15th Street NW., Washington, D.C. 20005.
B. Eastern Air Lines, Inc., 1030 15th Street NW., Washington, D.C. 20005.
E. (9) $1,930.

A. Harry O. Reinsch, 1310 Jones Street, Apt. 902, San Francisco, Calif. 94109.
B. Bechtel Power Corporation, 50 Beale Street, P.O. Box 3965, San Francisco, Calif. 94119.

A. Reserve Officers Association of U.S., 1 Constitution Avenue NE., Washington, D.C. 20002.
D. (6) $1,443.23. E. (9) $2,740.11.

A. William L. Reynolds, National Savings & Loan League, 1101 15th Street NW., Suite 400, Washington, D.C. 20005.
B. National Savings & Loan League, 1101 15th Street NW., Suite 400, Washington, D.C. 20005.
D. (6) $640. E. (9) $290.

A. Edmund B. Rice, American Hospital Association, 444 North Capitol Street NW., No. 500, Washington, D.C. 20001.
B. American Hospital Association, 840 North Lake Shore Drive, Chicago, Ill. 60611.
D. (6) $1,470. E. (9) $118.41.

A. K. O. Richardson, Brotherhood of Railway, Airline & Steamship Clerks, Freight Handlers, Express & Station Employees, 815 16th Street NW., Washington, D.C. 20006.
B. Brotherhood of Railway, Airline & Steamship Clerks, Freight Handlers, Express & Station Employees, 3 Research Place, Rockville, Md. 20850.
D. (6) $1,200. E. (9) $2,523.

A. Russell W. Richardson, Lear Siegler, Inc., Suite 1002, 1911 Jefferson Davis Highway, Arlington, Va. 22202.
B. Lear Siegler, Inc., 3171 South Bundy Drive, Santa Monica, Calif. 90406.
D. (6) $80. E. (9) $54.40.

A. James W. Riddell, 723 Washington Building, Washington, D.C. 20005.
B. The Kellogg Co., Battle Creek, Mich. 49016.

A. James W. Riddell, 723 Washington Building, Washington, D.C. 20005.
B. W. K. Kellogg Foundation, Battle Creek, Mich. 49016.

A. James W. Riddell, 723 Washington Building, Washington, D.C. 20005.
B. Volume Footwear Retailers of America, 51 East 42d Street, New York, N.Y. 10017.

A. Mark J. Riedy, Mortgage Bankers Association of America, 1125 15th Street NW., Washington, D.C. 20005.
B. Mortgage Bankers Association of America-Trade Association, 1125 15th Street NW., Washington, D.C. 20005.
D. (6) $1,875. E. (9) $6,923.

A. Roadside Business Association, 9001 West Braddock Road, Room 310, Springfield, Va. 22151.
D. (6) $581.72. E. (9) $581.72.

A. Kenneth Roberson, 193 Stuart Road, Valley Stream, N.Y. 11581.
B. Meat Importers Council of America, Inc., 1 Penn Plaza, New York, N.Y. 10001.

A. Robinson, Silverman, Pearce, Aronsohn, & Berman, 230 Park Avenue, New York, N.Y. 10017.
B. National Realty Committee, Inc., 2033 M Street NW., Washington, D.C. 20036.
D. (6) $1,500. E. (9) $250.

A. Howard W. Robison, 3903 Franklin Street, Kensington, Md. 20795.
B. Consolidated Rail Corp., P.O. Box 2345, L'Enfant Plaza, Washington, D.C. 20024.
D. (6) $2,250.

A. Betty P. Rocker, Seafarers International Union, 815 16th Street NW., Washington, D.C. 20006.
B. Seafarers International Union of North America, 675 4th Avenue, Brooklyn, N.Y. 11232.
D. (6) $2,500. E. (9) $88.80.

A. Ted V. Rodgers, Suite 304, 1000 Connecticut Avenue NW., Washington, D.C. 20036.
B. Nationwide Insurance Companies & Affiliates, 246 North High Street, Columbus, Ohio 43216.
D. (6) $2,500. E. (9) $350.

A. Bruce N. Rogers, National Association of Home Builders of the United States, 15th and M Streets NW., Washington, D.C. 20005.

B. National Association of Home Builders of the United States, 15th and M Streets NW., Washington, D.C. 20005.
D. (6) $1,363.75 E. (9) $140.12.

A. Albert B. Rosenbaum, III, National Tank Truck Carriers, Inc., 1616 P Street NW., Washington, D.C. 20036.
B. National Tank Truck Carriers, Inc., 1616 P Street NW., Washington, D.C. 20036.

A. Eugene F. Rowan, J. C. Penney Co., Inc., 1156 15th Street NW., Washington, D.C. 20005.
B. J. C. Penney Co., Inc., 1301 Avenue of the Americas, New York, N.Y. 10019.
D. (6) $176.42. E. (9) $112.14.

A. Sheryl P. Rutledge, 1100 H Street NW., Washington, D.C. 20080.
B. Washington Gas Light Co., 1100 H Street NW., Washington, D.C. 20080.
D. (6) $1,126.16. E. (9) $84.78.

A. Ella Marice Ryan, 1156 15th Street NW., Washington, D.C. 20005.
B. J. C. Penney Co., Inc., 1301 Avenue of the Americas, New York, N.Y. 10019.
D. (6) $125. E. (9) $62.69.

A. Jennifer Sauve, National Association of Home Builders of the United States, 15th and M Streets NW., Washington, D.C. 20005.
B. National Association of Home Builders of the United States, 15th and M Streets NW., Washington, D.C. 20005.
D. (6) $7,678.86. E. (9) $546.80.

A. Jerome D. Schaller, 1101 15th Street NW., Washington, D.C. 20005.
B. Minnesota Mining & Manufacturing Co., 3M Center, St. Paul, Minn. 55101.
E. (9) $2,694.20.

A. Robert I. Schramm, 1725 K Street NW., Suite 909, Washington, D.C. 20006.
B. The Superior Oil Co. and Superior Farming Co., 1725 K Street NW., Washington, D.C. 20006.

A. Allan D. Schimmel, 639 South Carolina Avenue SW., Washington, D.C. 20024.
B. Consolidated Rail Corp., P.O. Box 23451, L'Enfant Plaza, Washington, D.C. 20024.
D. (6) $1,628.

A. Anne Schmitt, 10601 Wise Owl Way, Great Falls, Va. 22060.
B. Women's Lobby, Inc., 201 Massachusetts Avenue NE., Washington, D.C. 20002.
D. (6) $1,430.

A. Frank Schneller, 1957 E Street, NW., Washington, D.C. 20006.
B. The Associated General Contractors of America, 1957 E Street NW., Washington, D.C. 20006.

A. Scientific Apparatus Makers Association, 1140 Connecticut Avenue NW., Suite 610, Washington, D.C. 20036.
B. Scientific Apparatus Makers Association, 1140 Connecticut Avenue NW., Suite 610, Washington, D.C. 20036.
D. (6) $5,280. E. (9) $5,355.

A. David A. Scott, Mississippi Petroleum Council, P.O. Box 42, Jackson, Miss. 39205.
B. American Petroleum Institute, 2101 L Street NW., Washington, D.C. 20037.
D. (6) $1,350. E. (9) $671.97.

A. Donald A. Scott, 1957 E Street NW., Washington, D.C. 20006.
B. The Associated General Contractors of America, 1957 E Street NW., Washington, D.C. 20006.

A. John W. Scott, the National Grange, 1616 H Street NW., Washington, D.C. 20006.
B. The National Grange, 1616 H Street NW., Washington, D.C. 20006.
D. (6) $6,875.

A. Andrea I. Semmes, 1957 E Street NW., Washington, D.C. 20006.
B. The Associated General Contractors of America, 1957 E Street NW., Washington, D.C. 20006.

A. Rebecca D. Shapiro & Associates, 111 C Street SE., Washington, D.C. 20003.
B. Ak Chin Indian Community, Route 1, Box 12, Maricopa, Ariz. 85239.
D. (6) $1,250. E. (9) $125.

A. Rebecca D. Shapiro & Associates, 111 C Street SE., Washington, D.C. 20003.
B. All Indian Pueblo Council, Inc., 907 Indian School Road, NW., Albuquerque, N. Mex., 87107.
D. (6) $1,250. E. (9) $65.

A. Rebecca D. Shapiro & Associates, 111 C Street SE., Washington, D.C. 20003.
B. Cheyenne River Sioux Tribe, P.O. Box 590, Eagle Butte, S. Dak. 57625.
D. (6) $380. E. (9) $20.

A. Rebecca D. Shapiro & Associates, 111 C Street SE., Washington, D.C. 20003.
B. Makah Tribal Council, P.O. Box 115, Neah Bay, Wash. 98357.
D. (6) $500. E. (9) $20.

A. Rebecca D. Shapiro & Associates, 111 C Street SE., Washington, D.C. 20003.
B. Quinault Indian Nation, P.O. Box 1118, Taholah, Wash. 98587.
D. (6) $625. E. (9) $38.

A. Rebecca D. Shapiro & Associates, 111 C Street SE., Washington, D.C. 20003.
B. Yakima Indian Nation, P.O. Box 632, Toppenish, Wash. 98948.
D. (6) $835. E. (9) $75.

A. Shearman & Sterling, 53 Wall Street, New York, N.Y. 10005.
B. Citibank, N.A. Commercial Bank, 399 Park Avenue, New York, N.Y.
D. (6) $6,800. E. (9) $184.

A. John P. Sheffey, National Association for Uniformed Services, 956 North Monroe Street, Arlington, Va. 22201.
B. National Association for Uniformed Services, 956 North Monroe Street, Arlington, Va. 22201.
D. (6) $1,125.

A. Jowanda Shelton, 2101 L Street NW., Washington, D.C. 20037.
B. Committee for Humane Legislation, Inc., 11 West 60th Street, New York, N.Y. 10023.
D. (6) $5,100.

A. Dale Sherwin, 888 17th Street NW., No. 902, Washington, D.C. 20006.
B. A. E. Staley Manufacturing Co., 2200 Eldorado Street, Decatur, Ill. 62525.
D. (6) $1,500. E. (9) $676.

A. Nelson T. Shields, 810 18th Street NW., Washington, D.C. 20006.
B. National Council to Control Handguns, 810 18th Street NW., Washington, D.C. 20006.
D. (6) $1,608.33 E. (9) $5.

A. James K. Shiver, 1629 K Street NW., Washington, D.C. 20006.
B. Diamond Shamrock Corp., Cleveland, Ohio.

A. Sidley & Austin, 1730 Pennsylvania Avenue NW., Washington, D.C. 20006; 1 First National Plaza Chicago, Ill. 60603.
B. Canadian Pacific, Ltd., Windsor Station, Montreal, Quebec, Canada, et al.
E (9) $1,632.83.

A. Silverstein & Mullens, 1776 K Street NW., Washington, D.C. 20006.
B. Association for Advanced Life Underwriting, 1922 F Street NW., Washington, D.C. 20006.
D. (6) $2,625. E. (9) $175.

A. Silverstein & Mullens, 1776 K Street NW., Washington, D.C. 20006.
B. Bristol-Myers Co., 345 Park Avenue, New York, N.Y. 10002.

A. Silverstein & Mullens, 1776 K Street NW., Washington, D.C. 20006.
B. Champion International Corp., 1 Landmark Square, Stamford, Conn. 06921.

A. Silverstein & Mullens, 1776 K Street NW., Washington, D.C. 20006.
B. Federal National Mortgage Association, 1133 15th Street NW., Washington, D.C. 20005.

A. Silverstein & Mullens, 1776 K Street NW., Washington, D.C. 20006.
B. General American Transportation Co., 120 South Riverside Plaza, Chicago, Ill. 60606.

A. Silverstein & Mullens, 1176 K Street NW., Washington, D.C. 20006.
B. Government of the Netherlands Antilles, Fort Amsterdam Willemstad, Curacao, Netherlands Antilles.

A. Silverstein & Mullens, 1776 K Street NW., Washington, D.C. 20006.
B. Music Corp. of America, Inc., 100 Universal City Plaza, Universal City, Calif. 91608.

A. Silverstein & Mullens, 1776 K Street NW., Washington, D.C. 20006.
B. National Association of Home Builders, 15th and M Streets NW., Washington, D.C.

A. Silverstein & Mullens, 1776 K Street NW., Washington D.C. 20006.
B. National Savings & Loan League, 1200 17th Street NW., Washington, D.C. 20036.

A. Silverstein & Mullens, 1776 K Street NW., Washington, D.C. 20006.
B. Ogden Transportation Corp., 277 Park Avenue, New York, N.Y. 10017.

A. Silverstein & Mullens, 1776 K Street NW., Washington, D.C. 20006.
B. Venezuelan-American Chamber of Commerce and Industry, Apartado 5181, Caracas 101, Venezuela.

A. Thomas K. Singer, 900 17th Street, NW., Washington, D.C. 20006.
B. Kaiser Aluminum & Chemical Corp. 900 17th Street NW., Washington, D.C. 20006.
D. (6) $1,154. E. (9) $85.50.

A. Marcus W. Sisk, Jr., 1775 K Street NW., Washington, D.C. 20006.
B. American Bakers Association, 2020 K Street NW., Washington, D.C. 20006.
D. (6) $1,100. E. (9) $21.65.

A. Marcus W. Sisk, Jr., 1775 K Street NW., Washington, D.C. 20006.
B. Tosco Corp., 10100 Santa Monica Boulevard, Los Angeles, Calif. 90067.
D. (6) $1,200. E. $78.80.

A. Stephen L. Skardon, Jr., National Association of Retired Federal Employees, 1533 New Hampshire Avenue NW., Washington, D.C. 20036.
B. National Association of Retired Federal Employees, 1533 New Hampshire Avenue NW., Washington, D.C. 20036.
D. (6) $900. E. (9) $65.

A. G. Bernard Slebos, United Airlines, 1825 K Street NW., No. 607, Washington, D.C. 20006.
B. United Airlines, P.O. Box 66100, Chicago, Ill. 60666.
D. (6) $2,000. E. (9) $107.

A. Jonathan W. Sloat, 1425 K Street NW., Suite 900, Washington, D.C. 20005.
B. Grocery Manufacturers of America, Inc., 1425 K Street NW., Suite 900, Washington, D.C. 20005.
D. (6) $17.50.

A. Smathers, Symington & Herlong, 1700 K Street NW., Washington, D.C. 20006.
B. The American Horse Council 1700 K Street NW., Washington, D.C. 20006.
D. (6) $5,500. E. (9) 693.18.

A. Smathers, Symington & Herlong, 1700 K Street NW., Washington, D.C. 20006.
B. American Inland Waterway Committee, 7733 Forsyth Boulevard, St. Louis, Mo.
D. (6) $3,750. E. (9) $274.01.

A. Smathers, Symington & Herlong, 1700 K Street NW., Washington, D.C. 20006.
B. The Arthritis Foundation, 422 C Street NW., Washington, D.C.
D. (6) $5,000. E. (9) $5.31.

A. Smathers, Symington & Herlong, 1700 K Street NW., Washington, D.C. 20006.
B. Burlington Northern, 176 East Fifth Street, St. Paul, Minn. 55101.
D. (6) $1,500. E. (9) $3.45.

A. Smathers, Symington & Herlong, 1700 K Street NW., Washington, D.C. 20006.
B. National Hockey League, 2 Pennsylvania Plaza, New York, N.Y. 10001.
D. (6) $8,500. E. (9) $113.47.

A. Smathers, Symington & Herlong, 1700 K Street NW., Washington, D.C. 20006.
B. Pennzoil Co., Houston, Tex. 77001.
D. (6) $6,000. E. (9) $67.33.

A. Milton E. Smedsrud, Law Office Building, Fergus Falls, Minn. 56537.
B. Communicating for Agriculture, Inc., Law Office Building, Fergus Falls, Minn. 56537.
D. (6) $11,643.07. E. (9) $11,625.79.

A. John G. Smillie, 900 17th Street NW., Washington, D.C. 20006.
B. The Permanente Medical Group.
D. (6) $19,710. E. (9) $1,049.54.

A. Cathy Smith, 620 C Street SE., Washington, D.C. 20003.
B. Friends of the Earth, 620 C Street, SE., Washington, D.C. 20003.
D. (6) $1,950.

A. Elizabeth M. Smith, 815 16th Street NW., Room 310, Washington, D.C. 20006.
B. Amalgamated Clothing & Textile Workers Union, 15 Union Square, New York, N.Y. 10003.
D. (6) $6,250. E. (9) $165.23.

A. Gordon L. Smith, 1425 K Street NW., Suite 1000, Washington, D.C. 20005.
B. Edward Gottlieb & Associates, 633 Third Avenue, New York, N.Y. 10017 (for Florists' Transworld Delivery Association).

A. Gordon L. Smith, 1425 K Street NW., Suite 1000, Washington, D.C. 20005.
B. Edward Gottlieb & Associates, 633 Third Avenue, New York, N.Y. 10017 (for Hecon Corp., Flextime Division).

A. Talbott Collins Smith, Chamber of Commerce of the United States, 1615 H Street NW., Washington, D.C.
B. Chamber of Commerce of the United States, 1615 H Street NW., Washington, D.C.
E. (9) $25.

A. Edward F. Snyder, 245 Second Street NE., Washington, D.C. 20002.
B. Friends Committee on National Legislation, 245 Second Street NE., Washington, D.C. 20002.
D. (6) $4,322.

A. J. R. Snyder, United Transportation Union, 400 First Street NW., Suite 704, Washington, D.C. 20001.
B. United Transportation Union, 400 First Street NW., Suite 704, Washington, D.C. 20001.
E. (9) $250.

A. Janice N. Somers, National Federation of Independent Business, 490 L'Enfant Plaza East SW., Suite 3206, Washington, D.C.
B. National Federation of Independent Business, 490 L'Enfant Plaza East SW., Suite 3206, Washington, D.C.
D. (6) $400.

A. Sonosky, Chambers & Sachse, 2030 M Street NW., Washington, D.C. 20036.
B. Seminole Indian Tribe of Florida, 6073 Stirling Road, Hollywood, Fla. 33024.

A. Sonosky, Chambers & Sachse, 2030 M Street, NW., Washington, D.C. 20036.
B. Sioux Nation, Fort Thompson, S. Dak., et al.

A. Leland R. Sorteberg, National Rural Letter Carriers' Association, 1750 Pennsylvania Avenue NW., Washington, D.C.
B. National Rural Letter Carriers' Association, 1750 Pennsylvania Avenue NW., Washington, D.C.
D. (6) $8.10. E. (9) $8.10.

A. Southern Forest Products Association, P.O. Box 52468, New Orleans, La. 70152.
D. (6) $33,372.85. E. (9) $33,372.85.

A. Southwest Homefurnishings Association, 4313 North Central Expressway, Dallas, Tex. 75205.

A. Southwestern Peanut Shellers Association, 6815 Prestonshire, Dallas, Tex. 75225.
D. (6) $150. E. (9) $150.

A. James M. Sprouse, 1957 S Street NW., Washington, D.C. 20006.
B. The Associated General Contractors of America, 1957 E Street NW., Washington, D.C. 20006.

A. John W. Sroka, 1957 E Street N.W., Washington, D.C. 20006.
B. The Associated General Contractors of America, 1957 E Street NW. Washington D.C. 20006.

A. Sally W. Staebler, Smith, Miro, Hirsch & Brody, 1100 Fisher Building Detroit Mich. 48202.
B. International Precious Metals Corp., 6451 North Federal Highway, Suite 1101, Fort Lauderdale, Fla. 33308.
E. (9) $1,748.

A. David E. Stahl, National Association of Home Builders of the United States, 15th and M Streets NW., Washington, D.C. 20005.
B. National Association of Home Builders of the United States, 15th and M Streets NW., Washington, D.C. 20005.
D. (6) $2,965.25. E. (9) $28.18.

A. M. B. Stanley, Room 900, 815 Connecticut Avenue NW., Washington, D.C. 20006.
B. Ford Motor Co., The American Road, Dearborn, Mich 48121.
D. (6) $1,145.85. E. (9) $467.66.

A. Charles D. Stratton, 11517 Cushman Road, Rockville, Md. 20852.
B. Bechtel Power Corp., 500 Beale Street, P.O. Box 3965, San Francisco, Calif. 94119.

A. George E. Steele, Jr., Steele & Utz, 1225 19th Street NW., Washington, D.C. 20036.
B. Zoological Action Committee, Inc, 1225 19th Street NW., Washington, D.C. 20036.
D. (6) $4,000. E. (9) $4,000.

A. Elliot J. Stern, American Health Planning Association, 2560 Huntington Avenue, Suite 305, Alexandria, Va. 22303.
B. American Health Planning Association, 2560 Huntington Avenue, Suite 305, Alexandria, Va. 22303.
D. (6) $18,994. E. (9) $18,994.

A. Sarah Jane Stewart, 825 15th Street NW., Washington, D.C. 20005.
B. National Abortion Rights Action League, 825 15th Street NW., Washington, D.C. 20005.
D. (6) $309.23.

A. Travis B. Stewart, Hoffman-La Roche, Inc., 1775 K Street NW., Washington, D.C. 20006.
B. Hoffmann-La Roche, Inc., 340 Kingsland Street, Nutley, N.J. 07110.
D. (6) $1,000. E. (9) $250.

A. George Stockton, 1957 E Street NW., Washington, D.C. 20006.
B. The Associated General Contractors of America, 1957 E Street NW., Washington, D.C. 20006.

A. B. R. Stokes, American Public Transit Association, 1100 17th Street NW., Washington, D.C. 20036.
B. American Public Transit Association, 1100 17th Street NW., Washington, D.C. 20036.
D. (6) $597. E. (9) $637.50.

A. Richard B. Straus, 444 North Capitol Street NW., Washington, D.C. 20001.
B. American Israel Public Affairs Committee, 444 North Capitol Street NW., Washington, D.C. 20001.
D. (6) $7,099.98.

A. Roger J. Stroh, 1019 18th Street NW., Washington, D.C. 20036.
B. United Fresh Fruit & Vegetable Association, 1019 19th Street NW., Washington, D.C. 20036.
D. (6) $318.75. E. (9) $26.18.

A. Sullivan & Worcester, 1025 Connecticut Avenue NW., Washington, D.C. 20036.
B. Deutsche Bank AG, Grosse Gallus-Strasse 10–14, 6 Frankfurt (Main) West Germany.

A. Sullivan & Worcester, 1025 Connecticut Avenue NW., Washington, D.C. 20036.
B. Marion Laboratories, Inc., 10236 Bunker Ridge Road, Kansas City, Mo. 64137.
D. (6) $7,200. E. (9) $47.87.

A. Sutherland, Asbill & Brennan, 1666 K Street NW., Washington, D.C. 20006.
B. Estate of Cartter Lupton, c/o Miller & Martin, Volunteer State Life Building, Chattanooga, Tenn. 37402.
E. (9) $10.

A. Frank S. Swain, National Federation of Independent Business, 490 L'Enfant Plaza East SW., Suite 3206, Washington, D.C. 20024.
B. National Federation of Independent Business, 490 L'Enfant Plaza East SW., Suite 3206, Washington, D.C. 20024.
D. (6) $2,250. E. (9) $328.96.

A. John L. Sweeney, 13931 Esworthy Road, Germantown, Md. 20767.
B. Consolidated Rail Corp., P.O. Box 23451, L'Enfant Plaza, Washington, D.C. 20024.
D. (6) $6,000.

A. Swerdloff Associates, Inc., 18 West 10th Street, New York, N.Y. 10011.
B. Coalition for New York, Inc., 230 Park Avenue, New York, N.Y. 10017.
D. (6) $750.

A. Robert D. Swezey, Jr., 1150 17th Street NW., Washington, D.C. 20036.
B. MCI Communications Corp., 1150 17th Street NW., Washington, D.C. 20036.
D. (6) $3,542.81. E. (9) $66.31.

A. Angelo Tarallo, Committee of Producers of High Carbon Ferrochromium, c/o Leva, Hawes, Symington, Martin & Oppenheimer, 815 Connecticut Avenue NW., Washington, D.C. 20006.
B. Airco, Inc., a member of the Committee of Producers of High Carbon Ferrochromium, c/o Leva, Hawes, Symington, Martin & Oppenheimer, 815 Connecticut Avenue NW., Washington, D.C. 20006.

A. Task Force against Nuclear Pollution, Inc., P.O. Box 1817, Washington, D.C. 20013.
D. (6) $12,546.55. E. (9) $9,302.52.

A. Taxation with Representation, 6830 North Fairfax Drive, Arlington, Va. 22213.
D. (6) $51,080.12. E. (9) $69,939.13.

A. Tennessee Gas Pipeline Co., P.O. Box 2511, Houston, Tex. 77001.
E. (9) $7,088.41.

A. 10th Pro-Life Congressional District Action Committee, 1338 Lafayette Street, Cape Coral, Fla. 33904.
D. (6) $26.44. E. (9) $61.64.

A. Fred D. Thompson, Thompson, Crawford & Rodgers, First American Center, Nashville, Tenn. 37238.
B. Westinghouse Electric Corp., 1801 K Street NW., Washington, D.C. 20006.
D. (6) $5,862. E. (9) $2,277.20.

A. William D. Thompson, Lear Siegler, Inc., 1001 Connecticut Avenue NW., Suite 601, Washington, D.C. 20036.
B. Lear Siegler, Inc., 3171 South Bundy Drive, Santa Monica, Calif. 90406.
D. (6) $3,000. E. (9) $223.97.

A. Samuel Thurm, 1725 K Street NW., Washington, D.C. 20006.
B. Association of National Advertisers, 155 East 44 Street, New York, N.Y. 10017.

A. Drew V. Tidwell, Consumer Bankers Association, 1725 K Street NW., Suite 1410, Washington, D.C. 20006.
B. The Consumer Bankers Association, 1725 K Street NW., Suite 1410, Washington, D.C. 20006.
D. (6) $2,000. E. (9) $3,529.73.

A. William D. Toohey, 1100 Connecticut Avenue NW., Washington, D.C. 20036.
B. Discover America Travel Organizations, Inc., 1100 Connecticut Avenue NW., Washington, D.C. 20036.
D. (6) $1,942.

A. Thomas J. Trabucco, 1016 16th Street NW., Washington, D.C. 20036.
B. National Federation of Federal Employees, 1016 16th Street NW., Washington, D.C. 20036.
D. (6) $4,474.40.

A. Joseph P. Trainor, Brotherhood of Railway, Airline & Steamship Clerks, Freight Handlers, Express & Station Employees, 815 16th Street NW., Washington, D.C. 20006.
B. Brotherhood of Railway & Airline Clerks, Freight Handlers, Express & Station Employees, 3 Research Place, Rockville, Md. 20850.
D. (6) $6,750. E. (9) $9,233.

A. W. M. Trevarrow, 976 National Press Building, Washington, D.C. 20045.
B. American Motors Corp., 27777 Franklin Road, Southfield, Mich. 48076.
D. (6) $6,125. E. (9) $312.25.

A. William C. Triplett II, Suite 905, 955 L'Enfant Plaza North SW., Washington, D.C. 20024.
B. American Honda Motor Co., Inc., 100 Alondra Boulevard, Gardena, Calif. 90247.
D. (6) $200.

A. Tuna Research Foundation, 1101 17th Street NW., Washington, D.C. 20036.
D. (6) $13,414. E. (9) $2,842.45.

A. St. Clair J. Tweedie, Scientific Apparatus Makers Association, 1140 Connecticut Avenue NW., Suite 610, Washington, D.C. 20036.
B. Scientific Apparatus Makers Association (SAMA), 1140 Connecticut Avenue NW., Suite 610, Washington, D.C. 20036.
D. (6) $2,100.

A. United Fresh Fruit & Vegetable Association, 1019 19th Street NW., Washington, D.C. 20036.
D. (6) $9,055.07. E. (9) $9,055.07.

A. Richard F. Vander Veen, 950 28th Street SE., Grand Rapids, Mich. 49508.
B. Citibank, N.A., 399 Park Avenue, New York, N.Y. 10022.

A. Richard F. Vander Veen, 950 28th Street SE., Grand Rapids, Mich. 49508.
B. Consumers Power Co., 212 West Michigan Avenue, Jackson, Mich. 49201.

A. C. John Vermilye, United States Steel Corp., 818 Connecticut Avenue NW., Washington, D.C. 20006.
B. United States Steel Corp., 600 Grant Street, Pittsburgh, Pa. 15230.
D. (6) $142.71. E. (9) $3.20.

A. Ingrid A. Voorhees, 1957 E Street NW., Washington, D.C. 20006.
B. The Associated General Contractors of America, 1957 E Street NW., Washington, D.C. 20006.
D. (6) $1,500.

A. Abe J. Voron, 6204 White Oak Lane, Tamarac, Fla. 33319.
B. National Radio Broadcasters Association, Suite 500, 1705 De Sales Street NW., Washington, D.C. 20036.
D. (6) $2,050. E. (9) $820.

A. Vorys, Stater, Seymour & Pease, 1800 M Street, Suite 800 South, Washington, D.C. 20036.
B. International Agricultural Development Service, 1133 Avenue of the Americas, New York, N.Y. 10036.
D. (6) $8,609.94. E. (9) $48.06.

A. Johanna H. Wald, 2345 Yale Street, Palo Alto, Calif.
B. Natural Resources Defense Council, Inc., 2345 Yale Street, Palo Alto, Calif. 94306.
D. (6) $130.03.

A. Jerome R. Waldie, 100 Indiana Avenue NW., Washington, D.C. 20001.
B. Alameda Naval Employees' Association, Alameda Naval Air Station, Alameda, Calif. 94501.
D. (6) $3,125. E. (9) $190.46.

A. Jerome R. Waldie, 100 Indiana Avenue NW., Washington, D.C. 20001.
B. American Ass'n of Independent News Distributors, 25 Kearny Street, No. 300, San Francisco, Calif.
D. (6) $2,835. E.(9) $125.

A. Jerome R. Waldie, 100 Indiana Avenue, Washington, D.C. 20001.
B. American League of Anglers, 75 Rockefeller Plaza, No. 1705, New York, N.Y. 10019.
D. (6) $2,000. E. (9) $352.29.

A. Jerome R. Waldie, 100 Indiana Avenue, Washington, D.C. 20001.
B. Contra Costa County Water Agency, Administration Building, Martinez, Calif. 94553.
D. (6) $5,000. E. (9) $173.55.

A. Jerome R. Waldie, 100 Indiana Avenue, Washington, D.C. 20001.
B. Friend of the Earth, 124 Spear Street, San Francisco, Calif. 94105.
D. (6) $150. E. (9) $115.

A. Jerome R. Waldie, 100 Indiana Avenue, Washington, D.C. 20001.
B. Mineral King District Association, P.O. Box 205, Three Rivers, Calif. 93271.

A. Jerome R. Waldie, 100 Indiana Avenue, Washington, D.C. 20001.
B. National Association of Letter Carriers, 100 Indiana Avenue NW., Washington, D.C. 20001.
D. (6) $8,849.98. E. (9) $1,972.68.

A. Jerome R. Waldie, 100 Indiana Avenue, Washington, D.C. 20001.
B. National Council of Bureau of Indian Affairs and Indian Health Service Locals, 540 N Street NW., Washington, D.C. 20024.

A. Jerome R. Waldie, 100 Indiana Avenue, Washington, D.C. 20001.
B. National Franchise Association Coalition, P.O. Box 366, Fox Lake, Ill. 60020.
D. (6) $1,000. E. (9) $152.45.

A. Jerome R. Waldie, 100 Indiana Avenue, NW., Washington, D.C. 20001.
B. Task Force One, P.O. Box 5602, Oxnard, Calif. 93030.
D. (6) $1,050. E. (9) $142.90.

A. Carol Ann Ward, National Federation of Independent Business, 490 L'Enfant Plaza East SW., Suite 3206, Washington, D.C. 20024.
B. National Federation of Independent Business, 490 L'Enfant Plaza East SW., Suite 3206, Washington, D.C. 20024.
D. (6) $400.

A. Gregg Ward, SMACNA, 8224 Old Courthouse Road, Vienna, Va. 22180.
B. Sheet Metal and Air Conditioning Contractors' National Association, Inc., 8224 Old Courthouse Road, Vienna, Va. 22180.
D. (6) $800. E. (9) $300.

A. Warner Communications, Inc., 75 Rockefeller Plaza, New York, N.Y. 10019.
E. (9) $10,000.

A. Washington Gas Light Co., 1100 H Street NW., Washington, D.C. 20080.
E. (9) $1,299.10.

A. Washington State NARAL, P.O. Box 15549, Seattle, Wash. 98115.
D. (6) $4,669.05. E. (9) $4,456.72.

A. Fred W. Wegner, National Retired Teachers Association/American Association of Retired Persons, 1909 K Street NW., Washington, D.C. 20049.
B. National Retired Teachers Association/American Association of Retired Persons, 1909 K Street NW., Washington, D.C. 20049.
D. (6) $374.42.

A. Frances E. Welles, 810 18th Street NW., Washington, D.C. 20006.

B. National Council to Control Handguns, 810 18th Street NW., Washington, D.C. 20006.
D. (6) $2,327.50. E. (9) $5.

A. William B. Welsh, 1625 L Street NW., Washington, D.C. 20036.
B. American Federation of State, County and Municipal Employees, AFL–CIO, 1625 L Street NW., Washington, D.C. 20036.
D. (6) $14,660. E. (9) $100.

A. Western Railroad Association, 222 South Riverside Plaza, Room 1200, Chicago, Ill. 60606.
D. (6) $6,158.37. E. (9) $6,185.37.

A. White & Case, 1747 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. New England Petroleum Corp., 825 Third Avenue, New York, N.Y. 10022.

A. White & Case, 1747 Pennsylvania Avenue NW., Washington, D.C. 20006.
B. Joseph E. Seagram & Sons, Inc., 375 Park Avenue, New York, N.Y. 10022.

A. Evelyn J. White, 2301 Market Street, Philadelphia, Pa. 19101.
B. Philadelphia Electric Co., 2301 Market Street, Philadelphia, Pa. 19101.
E. (9) $890.

A. Donald W. Whitehead, Suite 816, 1620 I Street NW., Washington, D.C. 20006.
B. Alternative Wastewater Management Association, Suite 816, 1620 I Street NW., Washington, D.C. 20006.
D. (6) $300. E. (9) $145.32.

A. Wickwire, Lewis, Goldmark, Dystel & Schorr, 500 Maynard Building, Seattle, Wash. 98104.
B. Arctic Slope Regional Corp., Arctic Slope Native Association, Inupiat Community of the Arctic Slope, P.O. Box 129, Barrow, Alaska 99723.
D. (6) $800. E. (9) $35.93.

A. Rebecca Wilcox, 900 17th Street NW., Washington, D.C. 20006.
B. Kaiser Foundation Health Plan, Inc.
D. (6) $8,000.

A. Thomas D. Wilcox, 919 18th Street NW., Washington, D.C. 20006.
B. National Association of Stevedores, 919 18th Street NW., Washington, D.C. 20006.

A. Sandra L. Willett, 3028 Dumbarton Avenue NW., Washington, D.C. 20007.
B. National Consumers League, 1028 Connecticut Avenue NW., No. 522, Washington, D.C. 20036.
D. (6) $325.

A. Williams & Connolly, Hill Building, Washington, D.C. 20006.
B. William H. Sullivan, Jr., 500 Neponset Avenue, Dorchester, Mass. 02122.
E. (9) $274.30.

A. Harding deC. Williams, National Savings and Loan League, 1101 15th Street NW., Suite 400, Washington, D.C. 20005.
B. National Savings and Loan League, 1101 15th Street NW., Suite 400, Washington, D.C. 20005.
E. (9) $72.

A. Williams & Jensen, 1130 17th Street NW., Washington, D.C. 20036.
B. American Medicorp, Inc., 111 Presidential Boulevard, Bala Cynwyd, Pa.

A. Williams & Jensen, 1130 17th Street NW., Washington, D.C. 20036.
B. American Physical Therapy Association, 1156 15th Street NW., Washington, D.C. 20005.

A. Williams & Jensen, 1130 17th Street NW., Washington, D.C. 20036.
B. American Quasar Petroleum Co., 2500 Fort Worth National Bank Building, Fort Worth, Tex. 76102.
D. (6) $500. E. (9) $50.

A. Williams & Jensen, 1130 17th Street NW., Washington, D.C. 20036.
B. The Association of Family Farmers, 1130 17th Street NW., Washington, D.C. 20036.
D. (6) $600. E. (9) $60.

A. Williams & Jensen, 1130 17th Street NW., Washington, D.C. 20036.
B. Bangor Punta Operations, Inc., 1 Greenwich Plaza, Greenwich, Conn. 06830.

A. Williams & Jensen, 1130 17th Street NW., Washington, D.C. 20036.
B. Blyth Eastman Dillion & Co., Inc., McGraw-Hill Building, 1221 Avenue of the Americas, New York, N.Y. 10020.

A. Williams & Jensen, 1130 17th Street NW., Washington, D.C. 20036.
B. C. Brewer & Co., Ltd., P.O. Box 1826, Honolulu, Hawaii 96801; and IU International Management Corp., 1500 Walnut Street, Philadelphia, Pa. 19102.
D. (6) $200. E. (9) $20.

A. Williams & Jensen, 1130 17th Street NW., Washington, D.C. 20036.
Domestic Petroleum Council, 1130 17th Street NW., Suite 600, Washington, D.C. 20036.
D. (6) $900. E. (9) $90.

A. Williams & Jensen, 1130 17th Street NW., Washington, D.C. 20036.
B. Estee Lauder, Inc., 767 Fifth Avenue, New York, N.Y. 10002.

A. Williams & Jensen, 1130 17th Street NW., Washington, D.C. 20036.
B. Institute for Due Process for Financial Institutions, 1130 17th Street NW., Washington, D.C. 20036.
D. (6) $100. E. (9) $10.

A. Williams & Jensen, 1130 17th Street NW., Washington, D.C. 20036.
B. IU International Management Corp., 1500 Walnut Street, Philadelphia, Pa. 19102.
D. (6) $400. E. (9) $40.

A. Williams & Jensen, 1130 17th Street NW., Washington, D.C. 20036.
B. Krause Milling Co., P.O. Box 1156, Milwaukee, Wis. 53201.
D. (6) $60. E. (9) $10.

A. Williams & Jensen, 1130 17th Street NW., Washington, D.C. 20036.
B. The Louisiana Land & Exploration Co., P.O. Box 60350, New Orleans, La. 70160.
D. (6) $750. E. (9) $75.

A. Williams & Jensen, 1130 17th Street NW., Washington, D.C. 20036.
B. National Association of Water Companies, Box 387, Washington, D.C. 20044.
D. (6) $200. E. (9) $20.

A. Williams & Jensen, 1130 17th Street NW., Washington, D.C. 20036.
B. Nationwide Insurance Co., 1 Nationwide Plaza, Columbus, Ohio 43216.
D. (6) $900. E. (9) $90.

A. Williams & Jensen, 1130 17th Street NW., Washington, D.C. 20036.
B. Northrop Corp., 1800 Century Park East, Los Angeles, Calif. 90067.
D. (6) $700. E. (9) $70.

A. Williams & Jensen, 1130 17th Street NW., Washington, D.C. 20036.
B. The Pillsbury Co., 608 Second Avenue South, Minneapolis, Minn. 55402.
D. (6) $25.

A. Williams & Jensen, 1130 17th Street NW., Washington, D.C. 20036.
B. The Superior Oil Co., First City National Bank Building, Houston, Tex. 77002.
D. (6) $150.

A. Williams & Jensen, 1130 17th Street NW., Washington, D.C. 20036.
B. Texas County Irrigation and Water Resources Association, 118 West 6th Street, Guymon, Okla. 73942.
D. (6) $300. E. (9) $15.

A. Robert E. Williams, United Airlines, 1825 K Street NW., No. 607, Washington, D.C. 20006.
B. United Airlines, P.O. Box 66100, Chicago, Ill. 60666.
D. (6) $1,500. E. (9) $439.

A. John C. Williamson, 1825 K Street NW., Washington, D.C. 20006.
B. Mortgage Insurance Companies of America, 1825 K Street NW., Washington, D.C. 20006.
D. (6) $2,000. E. (9) $170.14.

A. John C. Williamson, 1825 K Street NW., Washington, D.C. 20006.
B. National Apartment Association, 1825 K Street NW., Washington, D.C. 20006.
D. (6) $1,200.

A. Peters Willson, Zero Population Growth, Inc., 1346 Connecticut Avenue NW., Washington, D.C. 20036.
B. Zero Population Growth, 1346 Connecticut Avenue NW., Washington, D.C.
D. (6) $1,666. E. (9) $33.

A. R. J. Winchester, Pennzoil Co., P.O. Box 2967, Houston, Tex. 77001.
B. Pennzoil Co., P.O. Box 2967, Houston, Tex. 77001.
D. (6) $6,870. E. (9) $2,250.

A. James R. Winnie, Cities Service Gas Co., P.O. Box 25128, Oklahoma City, Okla. 73125.
B. Cities Service Gas Co., P.O. Box 25128. Oklahoma City, Okla. 73125.
D. (6) $157.50. E. (9) $1048.90.

A. Frank R. Wolf, 1901 North Moore Street, Suite 804, Arlington, Va. 22209.
B. Gerber Products Co., 445 State Street, Fremont, Mich. 49412.
D. (6) $600.

A. Frank R. Wolf, 1901 North Moore Street, Suite 804, Arlington, Va. 22209.
B. National Farm & Power Equipment Dealers Association, 10877 Watson Road, St. Louis, Mo. 63127.
D. (6) $500.

A. Sidney M. Wolfe, 2000 P Street, NW., Suite 708 Washington, D.C. 20036.
B. Health Research Groups, 2000 P Street NW., Suite, 708, Washington, D.C. 20036.

A. Kenneth Wollack, 444 North Capitol Street NW., Washington, D.C. 20001.
B. American Israel Public Affairs Committee, 444 North Capitol Street NW., Washington, D.C. 20001.
D. (6) $8,250.

A. Burton C. Wood, Mortgage Bankers Association of America, 1125 15th Street NW., Washington, D.C. 20005.
B. Mortgage Bankers Association of America, 1125 15th Street NW., Washington, D.C. 20005.
D. (6) $5,938. E. (9) $19,667.

A. Merle E. Wood, Marion Laboratories, Inc., 10236 Bunker Ridge Road, Kansas City, Mo. 64137.
B. Ewing M. Kauffman, Marion Laboratories, Inc., 10236 Bunker Ridge Road, Kansas City, Mo. 64137.
D. (6) $405. E. (9) $616.

A. Merle E. Wood, Marion Laboratories, Inc., 10236 Bunker Ridge Road, Kansas City, Mo. 64137.
B. Marion Laboratories, Inc., 10236 Bunker Ridge Road, Kansas City, Mo. 64137.
D. (6) $520. E. (9) $764.

A. Wilbur S. Wood, National Rural Letter Carriers' Association, 1750 Pennsylvania Avenue, NW., Washington, D.C.
B. National Rural Letter Carriers' Association, 1750 Pennsylvania Avenue NW., Washington, D.C.
D. (6) $5.40. E. (9) $5.40.

A. World Federalist Political Education Committee, 600 Valley Road, Wayne, N.J. 07470.
D. (6) $2,595.52. E. (9) $6,447.68.

A. Wyatt & Saltzstein, 1300 Wyatt Building, Washington, D.C. 20005.
B. American Business Press, Inc., 205 East 42d St., New York, N.Y. 10017.
D. (6) $2,687.50. E. (9) $125.

A. Donald Yarborough, Paraplegia Cure Research, 100 Maryland Avenue, NE., Washington, D.C. 20002.
B. Paraplegia Cure Research, 100 Maryland Avenue NE., Washington, D.C. 20002.
D. (6) $90.

A. Jack Yelverton, 1303 New Hampshire Avenue NW., Washington, D.C. 20036.
B. Fleet Reserve Association, 1303 New Hampshire Avenue NW., Washington, D.C. 20036.

A. Robert Zacharias, 1957 E Street NW., Washington, D.C. 20006.
B. The Associated General Contractors of America, 1957 E Street NW., Washington, D.C. 20006.
A. Barry W. Zander, 6113 Amhurst Street, Metairie, La. 70003.
B. Southern Forest Products Association. P.O. Box 52468, New Orleans, La. 70152.
D. (6) $5,198. E. (9) $2,437.32.

A. Edison R. Zayas, National Federation of Independent Business, 490 L'Enfant Plaza East SW., Suite 3206, Washington, D.C. 20024.
B. National Federation of Independent Business, 490 L'Enfant Plaza East SW., Suite 3206, Washington, D.C. 20024.
D. (6) $2,250. E. (9) $200.

A. Donald P. Zeifang, 1771 N Street NW., Washington, D.C. 20036.
B. National Association of Broadcasters, 1771 N Street NW., Washington, D.C. 20036.
D. (6) $3,000. E. (9) $264.

A. Zero Population Growth, Inc., 1346 Connecticut Avenue NW., Washington, D.C. 20036.
D. (6) $546. E. (9) $6,442.

A. Stanley Zimmerman, Conset, 1820 Jefferson Place NW., Washington, D.C. 20036.
B. Conset, 1820 Jefferson Place NW., Washington, D.C. 20036.
D. (6) $200. E. (9) $20.

A. Ziontz, Pirtle, Morisset, Ernstoff & Chestnut, 208 Pioneer Building, 600 First Avenue, Seattle, Wash. 98104.
B. Confederated Tribes of the Colville Indian Reservation, P.O. Box 150, Nespelem, Wash. 99155.
D. (6) $1,020.80. E. (9) $258.39.

A. Ziontz, Pirtle, Morisset, Ernstoff & Chestnut, 208 Pioneer Building, 600 First Avenue, Seattle, Wash. 98104.
B. Lummi Tribe of Indians, 2616 Kwina Road, Bellingham, Wash. 98225.
D. (6) $1,624. E. (9) $262.18.

A. Ziontz, Pirtle, Morisset, Ernstoff & Chestnut, 208 Pioneer Building, 600 First Avenue, Seattle, Wash. 98104.
B. Makah Indian Tribe, P.O. Box 115, Neah Bay, Wash. 98357.
D. (6) $1,861.80. E. (9) $262.61.

A. Ziontz, Pirtle, Morisset, Ernstoff & Chestnut, 208 Pioneer Building, 600 First Avenue, Seattle, Wash. 98104.
B. Metlakatla Indian Community, P.O. Box 8, Metlakatla, Alaska 99926.

A. Ziontz, Pirtle, Morisset, Ernstoff & Chestnut, 208 Pioneer Building, 600 First Avenue, Seattle, Wash. 98104.
B. Northern Cheyenne Indian Tribe, P.O. Box 128, Lame Deer, Mont. 59043.
E. (9) $2.25.

A. Ziontz, Pirtle, Morisset, Ernstoff & Chestnut, 208 Pioneer Building, 600 First Avenue, Seattle, Wash. 98104.
Z. Quileute Indian Tribe, P.O. Box 279, LaPush, Wash. 98350.
E. (9) $2.27.

A. Ziontz, Pirtle, Morisset, Ernstoff & Chestnut, 208 Pioneer Building, 600 First Avenue, Seattle, Wash. 98104.
B. Suquamish Indian Tribe, P.O. Box 556, Suquamish, Wash. 98392.

A. Zoological Action Committee, 1225 19th Street NW., Washington, D.C. 20036.
D. (6) $5,677.95. E. (9) $4,851.68.

A. Joseph Zucker, National Association of Railroad Passengers, 417 New Jersey Avenue SE., Washington, D.C. 20003.
B. National Association of Railroad Passengers, 417 New Jersey Avenue SE., Washington, D.C. 20003.
D. (6) $2,201.58.

A. Paul G. Zurkowski, 4720 Montgomery Lane, Bethesda, Md. 20014.
B. Information Industry Association, 4720 Montgomery Lane, Bethesda, Md. 20014.
D. (6) $500. E. (9) $7.45.

QUARTERLY LOBBY POSTCARD

The following Quarterly Lobby Postcards were filed with the Clerk of the House of Representatives for the third calendar quarter of 1979:

A POSTCARD MAY BE USED WHEN A REGISTRANT HAS NOT INCURRED REPORTABLE RECEIPTS AND EXPENDITURES AND HAS NOT ENGAGED IN ANY LOBBYING ACTIVITY DURING THE QUARTER.

NOTE: THE FOLLOWING INFORMATION IS BEING PROVIDED FOR INFORMATIONAL PURPOSES ONLY.

The Postcard has been reproduced below:

HLF3

QUARTERLY LOBBY POSTCARD

To be submitted in lieu of a Quarterly Report when registrant has not incurred reportable receipts or expenditures and has not engaged in any lobbying activity during the quarter.

IMPORTANT: File a separate postcard for each employer or client

REGISTRANT _____

Business Address _____
(number, street/P.O. Box)

_____
(city, state, zip code)

Employer _____

(If REGISTRANT is an agent of someone OTHER THAN "EMPLOYER" state below whose interest is represented. If not applicable, state "NONE".)

CLIENT _____

For the period (check one box only):

19 ____

☐ April 10 Report (Jan. 1—Mar. 31)
☐ July 10 Report (April 1—June 30)
☐ Oct. 10 (July 1—Sept. 30)
☐ Jan. 10 (Oct. 1—Dec. 31)

I certify that the above named registrant did not engage in any lobbying activities or incur reportable receipts or expenditures in connection with previous or future lobbying activities. I am aware that the Act requires a resumption of reporting in the event that activity commences; otherwise I can continue to submit a postcard in lieu of a report.

Executed on _____ *(date)* _____ *(signature)*

A. John J. Adams.
B. Hunton & Williams (for Ethyl Corp.).

A. John J. Adams.
B. Hunton & Williams (for Virginia Electric & Power Co.).

A. V. J. Adduci.
B. Motor Vehicle Manufacturers Association of the United States, Inc.

A. Adfast Systems, Inc.

A. The Adherence Group.

A. Alan P. Agle.

A. Airlift International, Inc.

A. Akin, Gump, Hauer & Feld.
B. American Collectors Association, Inc.

A. Akin, Gump, Hauer & Feld.
B. American Polygraph Association.

A. Akin, Gump, Hauer & Feld.
B. Beacon Oil Co.

A. Akin, Gump, Hauer & Feld.
B. Northwest Exploration Co.

A. Akin, Gump, Hauer & Feld.
B. Northwest Pipeline Co.

A. Akin, Gump, Hauer & Feld.
B. Sun Pipeline Co.

A. Akin, Gump, Hauer & Feld.
B. United Refining Co.

A. Alaska Fund, Inc.

A. John Allen.
B. Union Oil Co. of California.

A Joseph C. Allwarden.
B. Kollsman Instrument Co.

A. Amalgamated Transit Union.

A. Amalgamated Transit Union, National Capital Local 689.

A. American Advertising Federation, Inc.

A. American Association of Blood Banks.

A. American Committee on United States-Soviet Relations.

A. American Institute of Merchant Shipping.

A. American Radio Relay League.

A. Jane K. Anderson.
B. The Carborundum Co.

A. John D. Aquilino.
B. National Rifle Association.

A. John C. Archer.
B. Brown & Root, Inc.

A. Mayer L. Aron.

A. Walter G. Asmus.
B. Adfast Systems, Inc.

A. Association of Government Accountants.

A. George J. Aste.
B. United Airlines.

A. Allan E. Auger.
B. Great Western Sugar Co.

A. Frank M. Ault.
B. Norwich-Eaton Pharmaceuticals.

A. James A. Austin.
B. American Feed Manufacturers Association.

A. John D. Austin, Jr.
B. American Mining Congress.

A. Walter C. Ayers.
B. American Petroleum Institute.

A. Richard L. Baldwin.
B. American Radio Relay League.

A. Dennis J. Barbour.
B. American Occupational Medical Association.

A. Roger H. Barnard.
B. National Association of Federal Credit Unions.

A. Lucius D. Battle.
B. Communications Satellite Corp.

A. John F. Battles.
B. American Petroleum Institute.

A. Sadie R. Baulch.
B. National Forest Products Association.

A. Donald W. Bedell.
B. Bedell Associates (for Diamond/Sunsweet, Inc.).

A. Howard H. Bell.
B. American Advertising Federation, Inc.

A. Winston Everett Bell.

A. O. M. Berge.
B. Brotherhood of Maintenance of Way Employes.

A. Berry, Epstein, Sandstrom & Blatchford.
B. Orkin Exterminating.

A. Frank Bianco.
B. 10th Pro-Life Congressional District Action Committee.

A. Billig, Sher & Jones.
B. Adherence Group.

A. Robert J. Bird.
B. Occidental Life Insurance Co.

A. Robert J. Bird.
B. Paul Revere Life Insurance.

A. Robert J. Bird.
B. Zachry, Inc.

A. H. R. Bishop.
B. American Investment Co.

A. Steven H. Blackwell.
B. National Telephone Cooperative Association.

A. Jerald Blizin.
B. Hill and Knowlton, Inc.

A. Jeffrey W. Bolotin.
B. Alston, Miller & Gaines (for Electro Signal Lab, Inc.).

A. Frank J. Bowden, Jr.
B. American Petroleum Institute.

A. John Henry Brebbia.
B. Alston, Miller & Gaines (for Electro Signal Lab, Inc.).

A. Belva B. Brissett.
B. National Association of Broadcasters.

A. Henry W. Brook.
B. Nuclear Fuel Services, Inc.

A. Albert D. Brown.
B. Associated Employers, Inc.

A. Vincent D. Brown.
B. American Petroleum Institute.

A. Brownstein, Zeidman and Schomer.
B. Mortgage Guaranty Insurance Co.

A. Brownstein, Zeidman and Schomer.
B. New York State Urban Development Corp.

A. A. T. Brust.
B. Westvaco Corp.

A. Bryant, Groves & Essex.
B. Mastrom, Inc.

A. David J. Burch.
B. National Constructors Association.

A. Burr, Pease & Kurtz.
B. Eklutna, Inc.

A. Michael F. Butler.
B. Grocery Manufacturers of America.

A. Jerry L. Campbell.
B. Tennessee Valley Public Power Association.

A. David L. Cantor.
B. Edison Electric Institute.

A. Charles E. Capron.

A. Donald Capshaw.
B. Airlines Pilots Assn./Southern Airways.

A. John L. Casey.
B. Scudder, Stevens & Clark (for Investment Counsel Association of America, Inc.).

A. Rita L. Castle.
B. Caterpillar Tractor Co.

A. Robert B. Catell.
B. Brooklyn Union Gas Co.

A. Chain Saw Manufacturers Association.

A. Henry Chajet.
B. American Mining Congress.

A. Donald E. Channell.
B. Southern Furniture Manufacturers Association.

A. John E. Chapoton.
B. Vinson & Elkins (for Lone Star Steel Co.).

A. John E. Chapoton.
B. Vinson & Elkins (for Petroleum Equipment Suppliers Association).

A. Chemtex Fibers, Inc.

A. Howard P. Chester.
B. Stone, Glass & Clay Coordinating Committee.

A. James M. Christian.
B. Potomac Electric Power Co.

A. Carlton S. Clark.
B. Baltimore Gas and Electric Co.

A. Gilbert M. Clark.
B. American Association of Blood Banks.

A. William F. Clarken.
B. International Council of Airshows.

A. A. Stephens Clay.
B. Kilpatrick, Cody, Rogers, McClatchey & Regenstein (for Furniture Rental Association of America).

A. Clay Pipe Industry Depletion Committee.

A. Coalition of Automotive Associations.

A. Coalition of Concerned Charities.

A. Thomas B. Coates.
B. American Petroleum Institute.

A. Lynn Coddington.
B. Environmental Policy Center.

A. Marcus Cohn.
B. Cohn and Marks (for Wometco Enterprises, Inc.).

A. Michael P. Cole.
B. Bechtel.

A. Stacey W. Cole.
B. American Petroleum Institute.

A. Coles & Goertner.
B. Crown Central Petroleum Corp.

A. Collier, Shannon, Rill, Edwards & Scott.
B. Allegheny Ludlum Industries, Inc.

A. Collier, Shannon, Rill, Edwards & Scott.
B. American Footwear Industries Association, Inc.

A. Collier, Shannon, Rill, Edwards & Scott.
B. Can Manufacturers Institute.

A. Collier, Shannon, Rill, Edwards & Scott.
B. Republic of China.

A. Charles P. Collins.
B. ICX Aviation, Inc.

A. Richard Colvin.

A. Committee for Do-It-Yourself Household Moving.

A. Committee to Save the Panama Canal.

A. Community Antenna Television Association. Inc.

A. John B. Conlan.
B. Western Association of Christian Schools.

A. Connecticut Bankers Associations.

A. Cook & Franke.
B. M. & I. Marshall & Ilsley Bank.

A. Jesse D. Cooper.
B. American Petroleum Institute.

A. Patrick H. Corcoran.
B. Association of Oil Pipe Lines.

A. Corcoran, Youngman & Rowe.
B. Arthur Young and Co.

A. Corcoran, Youngman & Rowe.
B. Underwriters Laboratories.

A. Alfred C. Cordon.
B. Cordon and Jacob (for Buffalo Broadcasting Co., Inc.).

A. John A. Corry.
B. Morgan Guaranty Trust Co. of New York.

A. John P. Cosgrove.
B. National Committee for Research in Neurological and Communicative Disorders.

A. Daniel T. Coughlin.
B. Jos. Schlitz Brewing Co.

A. Raymond L. Courage.
B. Carl Byoir and Associates (for Railway Progress Institute).

A. Roger C. Cramton.
B. Legal Services Corp.

A. Max Creinin.

A. Donald A. Crosier.
B. American Petroleum Institute.

A. Marian B. S. Crymer.
B. National Women's Christian Temperance Union.

A. Cuba Claims Association.

A. Thomas A. Daly.
B. National Soft Drink Association.

A. Daniel S. Danielson.
B. American Optometric Association.

A. Danzansky, Dickey, Tydings, Quint & Gordon.
B. Japan Atomic Industrial Forum.

A. Stephen I. Danzansky.
B. Danzansky, Dickey, Tydings, Quint & Gordon (for Government of Antiqua).

A. Joseph Dauskys.
B. Rubber Manufacturers Association.

A. David R. Davis.
B. American Petroleum Institute.

A. George R. Davis.
B. Amalgamated Transit Union, National Capital Local 689.

A. Charles W. Day.
B. Ford Motor Co.

A. J. Edward Day.
B. Associated Third Class Mail Users.

A. J. Edward Day.
B. Electronic Industries Association.

A. John Russell Deane III.
B. Deane, Snowdon, Shutler, Garrish & Cherardi (for Coalition of Automotive Associations).

A. John Russell Deane III.
B. Deane, Snowdon, Shutler, Garrish & Cherardi (for Specialty Equipment Manufacturers Association).

A. Stephen T. DeLaMater.
B. Halliburton, Co.

A. DeLaney & Patrick.
B. Continental Grain Co.

A. Charles J. DiBona.
B. American Petroleum Institute.

A. Reuben H. Donnelly Corp.

A. William D. D'Onofrio.
B. National Association for Neighborhood Schools.

A. William D. D'Onofrio.
B. Positive Action Committee, Inc.

A. Patrick B. Donoho.
B. National Association of Chain Drug Stores, Inc.

A. Joseph W. Dorn.
B. Kilpatrick, Cody, Rogers, McClatchey & Regenstein (for Furniture Rental Association of America).

A. Duob, Purcell, Muntzing & Hansen.
B. Campbell Taggart, Inc.

A. Doub, Purcell, Muntzing & Hansen.
B. L. T. Barringer and Co.

A. Doub, Purcell, Muntzing & Hansen.
B. Planters Peanuts.

A. Jerome L. Dreyer.
B. Association of Data Processing Service Organizations.

A. Deborah Drudge.
B. Healthy America.

A. W. H. Drushel, Jr.
B. Vinson & Elkins (for Quintana Petroleum Corp.).

A. Thomas J. Duffy.
B. Duffy & Jordan (for Soap & Detergent Association).

A. Mari Lee Dunn.
B. American Council for Capital Formation.

A. Duncan, Brown, Weinberg & Palmer.
B. Aloha Association.

A. Duncan, Brown, Weinberg & Palmer.
B. East Bay Regional Park District.

A. Duncan, Brown, Weinberg & Palmer.
B. Foothills Pipe Lines (Yukon) Ltd.

A. Duncan, Brown, Weinberg & Palmer.
B. Huron-Clinton.

A. Duncan, Brown, Weinberg & Palmer.
B. Kenai Native Association, Inc.

A. Duncan, Brown, Weinberg & Palmer.
B. Koniag, Inc.

A. Duncan, Brown, Weinberg & Palmer.
B. Mid-West Electric Consumers' Association.

A. Duncan, Brown, Weinberg & Palmer.
B. Shee Atika, Inc.

A. Duncan, Brown, Weinberg & Palmer.
B. Western Railroad Association.

A. Frederick Dutton.
B. Embassy of Saudi Arabia.

A. Richard O. Duvall.
B. Dunnells, Duvall, Bennett & Porter (for Zena Co.).

A. Henry I. Dworshak.
B. American Mining Congress.

A. Eaton Associates.

A. Robert E. L. Eaton.
B. Eaton Associates.

A. Daniel J. Edelman, Inc.
B. Alaska Airlines.

A. V. Anne Edlund.
B. Motor Vehicle Manufacturers Association of the United States.

A. J. C. B. Ehringhaus, Jr.
B. The Tobacco Institute.

A. Timothy L. Elder.
B. Caterpillar Tractor Co.

A. Steven G. Ellis.
B. Burson-Marsteller (for American Waterways Operators).

A. Carl F. Emde.
B. Air Products and Chemicals, Inc.

A. John W. Emeigh.
B. National Rural Letter Carriers' Association.

A. Employers Insurance of Wausau.

A. Ralph Engel.
B. Chemical Specialties Manufacturers Association.

A. Charles T. Engle.
B. American Conservative Union.

A. John R. Englehorn.
B. Texasgulf, Inc.

A. Mrs. Charles H. Evans.
B. Right-To-Life-Congressional District Action Committee—3d Congressional District.

A. David C. Evans.
B. Brick Institute of America.

A. Joseph O. Evans.

A. Robert J. Falasca.
B. American Seed Trade Association, Inc.

A. Clinton Fawcett.
B. Coastal States Gas Corp.

A. Peter J. Fearey.
B. California Council for Environmental and Economic Balance.

A. Robert Ferrie.
B. Intalco Aluminum Co.

A. Paul J. Finazzo.
B. Airlift International, Inc.

A. First National Boston Corp.

A. John B. Fisher.
B. Mrs. Hanna-Luise Heck.

A. Aaron I. Fleischman.
B. Fleischman & Walsh (for Warner Cable Corp.).

A. Raymond J. Foley.
B. National Candy Wholesalers Association, Inc.

A. Joseph L. Fraites.
B. New York Coffee and Sugar Exchange, Inc.

A. Fraser/Associates.

A. Robert E. Freer, Jr.
B. Kimberly-Clark Corp.

A. Annette P. Fribourg.
B. National Association of Manufacturers.

A. George L. Frick.
B. American Petroleum Institute.

A. Kenneth E. Frick.
B. Western Cotton Growers Association.

A. James M. Freidman.
B. Cleveland Electric Illuminating Co.

A. Gardner, Carton & Douglas.
B. Sealed Power Corp.

A. Edward A. Garmatz.
B. Baltimore Gas and Electric Co.

A. James J. Garry.
B. New York Coffee and Sugar Exchange.

A. Gas Appliance Manufacturers Association.

A. Jose A. Gemeil.
B. Samuel E. Stavisky and Associates, Inc. (for Brazilian Coffee Institute).

A. Genentech, Inc.

A. George W. Gephart.
B. Baltimore Gas and Electric Co.

A. William L. Gifford.
B. General Electric Co.

A. Arthur P. Gildea.
B. Brewery and Soft Drink Workers Conference.

A. Jonah Gitlitz.
B. American Advertising Federation, Inc.

A. John P. Gleason, Jr.
B. Brick Institute of America.

A. Thomas G. Godfrey.
B. Godfrey, Neshek, Worth, Howarth & Lessle (for Kikkoman Foods, Inc.).

A. Vance V. Goodfellow.
B. Crop Quality Council.

A. Robert K. Gray.
B. Hill and Knowlton, Inc.

A. Virginia M. Gray.

A. Edward M. Green.
B. American Mining Congress.

A. Michael B. Green.
B. Montgomery Ward & Co., Inc.

A. Wayne Green.
B. 73, Inc.

A. William I. Greener, Jr.
B. Carl Byoir and Associates, Inc. (for Railway Progress Institute).

A. Roger F. Griffin.
B. Bechtel Corp.

A. Roebrt J. Grimm.
B. Avon Products, Inc.

A. Chester A. Groseclose, Jr.
B. South Dakota Railroads Association.

A. John T. Grupenhoff.
B. Grupenhoff & Endicott (for American Academy of Dermatology).

A. Roy C. Haberkern, Jr.
B. Milbank, Tweed, Hadley & McCloy (for The Chase Manhattan Bank, N.A.).

A. Martin Ryan Haley and Associates, Inc.
B. Agri-Business, Inc.

A. Martin Ryan Haley and Associates, Inc.
B. M & M/Mars Div. of Mars, Inc.

A. Martin Ryan Haley and Associates, Inc.
B. Tobacco Tax Council.

A. Martin Ryan Haley and Associates, Inc.
B. Yandell and Hiller, Inc.

A. J. Lincoln Hallowell.
B. New England Petroleum Corp.

A. Halt, Inc.

A. Bryce N. Harlow.
B. Procter & Gamble Manufacturing Co.

A. Godfrey Harris.
B. Harris/Ragan Management Corp. (for Embassy of Panama).

A. Robert L. Harris.
B. Aluminum Association.

A. David A. Hartquist.
B. Collier, Shannon, Rill, Edwards & Scott (for United States Fastener Manufacturing Group).

A. Paul T. Hasse.
B. Halt, Inc.

A. Healthy America.

A. Robert E. Heggestad.
B. Casey, Scott & Canfield (for Manufactured Housing Institute).

A. Spencer A. Heine.
B. Montgomery Ward & Co., Inc.

A. Ross E. Heller.
B. National Telephone Cooperative Association.

A. Phil D. Helmig.
B. Atlantic Richfield Co.

A. Thomas R. Hendershot.
B. Obermayer, Rebmann, Maxwell & Hippel (for American Society of Farm Managers and Rural Appraisers, Inc.).

A. Thomas R. Hendershot.
B. Obermayer, Rebmann, Maxwell & Hippel (for National Customs Brokers and Forwarders of America, Inc.).

A. Thomas R. Hendershot.
B. Obermayer, Rebmann, Maxwell & Hippel (for Partnership Placements, Inc.).

A. Thomas R. Hendershot.
B. Obermayer, Rebmann, Maxwell & Hippel (for Pennsylvania Food Processors Association).

A. Donald A. Henriksen.
B. Atlantic Richfield Co.

A. Paul T. Hicks.
B. American Petroleum Institute.

A. Hogan & Hartson.
B. Counsel of European and Japanese National Shipowners' Association.

A. Henry W. Holling.
B. Caterpillar Tractor Co.

A. Eric Holmes, Jr.
B. American Petroleum Institute.

A. Richard C. Holmquist.
B. American Mining Congress.

A. Charles R. Hoover.
B. Jennings, Strouss & Salmon (for Shamrock Foods).

A. C. T. Hoversten.
B. National Advertising Co.

A. Hudson & Leftwich.
B. City of Detroit, Mich.

A. Hudson & Leftwich.
B. City of Kansas City, Mo.

A. David Emery Hughes.
B. Union Mutual Life Insurance Co.

A. Milton F. Huntington.
B. American Petroleum Institute.

A. E. Hamilton Hurst.
B. Nalco Chemical Co.

A. B. Melvin Hurwitz.
B. Coastal States Gas Corp.

A. Hydeman, Mason & Goodell.
B. Atlantic Container Line, GIE.

A. David C. Hyer.
B. American Petroleum Institute.

A. Independent U.S. Tanker Owners' Committee.

A. Robert L. James.
B. BankAmerica Corp.

A. James C. Jennings.
B. Hill and Knowlton, Inc.

A. H. Bradley Johnson.
B. American Mining Congress.

A. Wilson S. Johnson.
B. National Federation of Independent Business.

A. David A. Johnston.
B. Associated General Contractors of America.

A. Jones, Day, Reavis & Pogue.
B. Associated Gas Distributors.

A. Ronald K. Jones.

A. James V. Jordan III.
B. Southern Natural Gas Co.

A. William R. Joyce, Jr.
B. Vance & Joyce (for Embassy of Bolivia).

A. Ardon B. Judd, Jr.
B. Dresser Industries, Inc.

A. Linda Eileen Katz.
B. Chicago, Rock Island and Pacific Railroad Co.

A. Donald W. Keller.
B. Quitana Petroleum Corp.

A. John J. Kelley.
B. United Mine Workers of America.

A. Robert F. Kelly.
B. E. I. du Pont de Nemours & Co., Inc.

A. William J. Kendrick.
B. Air Products and Chemicals, Inc.

A. William F. Kennedy.
B. General Electric Co.

A. Robert M. Ketchel.
B. General Electric Co.

A. Richard F. Kibben.
B. Business Roundtable.

A. F. L. Kinney.
B. Northeast Utilities Service Co.

A. Alan G. Kirk, II.
B. Potomac Electric Power Co.

A. Arthur E. Klauser.
B. Dow Corning Corp.

A. Allie C. Kleinpeter, Jr.
B. Louisiana Bankers Association.

A. John J. Klocko, III.
B. E. I. du Pont de Nemours & Co.

A. Charles F. Knight.
B. Emerson Electric Co.

A. Gary D. Knight.
B. U.S. Chamber of Commerce.

A. Jeffrey W. Knight.
B. Friends of the Earth.

A. Charles B. Kornmann.
B. South Dakota Railroads Association.

A. Amos Kramer.
B. American Petroleum Institute.

A. Norman G. Kurland.
B. Bangert & Co.

A. David M. F. Lambert.
B. Brownstein, Zeidman & Schomer (for Jewish Employment Vocational Services, Inc.).

A. Thomas M. Landin.
B. SmithKline Corp.

A. Lawrence C. Laser.
B. Cities Service Co.

A. Glenn T. Lashley.
B. American Automobile Association.

A. Charles B. Lavin, Jr.
B. American Subcontractors Association.

A. Richard A. Leahy.
B. David L. Babson & Co. (for Investment Counsel Association of America, Inc.).

A. Robert J. Leigh.
B. National Telephone Cooperative Association.

A. Leighton, Conklin & Lemov.
B. The Clorox Co.

A. Leighton & Conklin.
B. Fireman's Fund American Life Insurance Co.

A. Leighton & Conklin.
B. General Atomic Co.

A. Leighton & Conklin.
B. National Manufactured Housing Federation.

A. Leighton & Conklin.
B. Radioactive Waste Management Group.

A. Richard L. Lesher.
B. Chamber of Commerce of the United States.

A. Leva, Hawes, Symington, Martin & Oppenheimer.
B. General Electric Co.

A. Leva, Hawes, Symington, Martin & Oppenheimer.
B. Glass Packaging Institute.

A. Leva, Hawes, Symington, Martin & Oppenheimer.
B. Sharon Mihnovets.

A. Law Offices of John F. Lillard III.
B. American Solar Energy Association, Inc.

A. Robert G. Litschert.
B. Edison Electric Institute.

A. H. Richard Lloyd, Jr.
B. General Electric Co.

A. James T. Lloyd.
B. Continental Air Lines, Inc.

A. Frank M. Lobach.
B. The Reuben H. Donnelley Corp.

A. Kathleen Clifford MacDonough.
B. Burson-Marsteller (for Tax Equity for Americans Abroad).

A. Curtis T. Mackey.
B. National Insulation Contractors Association.

A. W. Thomas H. MacNew.
B. Boeing Vertol Co.

A. H. J. Maginnis.

A. Robert L. Maier.
B. Kaiser Aluminum & Chemical Corp.

A. Lila M. Mallette.

A. Carl Marcy.

A. D. V. Maroney, Jr.

A. D. V. Maroney, Jr.
B. Amalgamated Transit Union.

A. Martin, Whitfield, Smith & Bebchick.
B. Alaska International Air, Inc.

A. Mike M. Masaoka.
B. American Japanese Trade Committee.

A. Mike M. Masaoka.
B. Nisei Lobby.

A. Jon G. Massey.
B. Oil Investment Institute.

A. Mastrom, Inc.

A. C. V. & R. V. Maudlin.
B. Joint Government Liaison Committee.

A. Anthony F. Mauriello.
B. American Petroleum Institute.

A. Thomas H. Maxedon.
B. American Petroleum Institute.

A. Mayer, Brown & Platt.
B. Nokota Corp.

A. Robert E. Mayer.

A. Hugh A. McBride.
B. Kybe Corp.

A. Linda A. McCorkle.
B. Blum, Parker & Nash (for Independent Gasoline Marketers Council).

A. William T. McCormick, Jr.
B. American Gas Association.

A. Robert E. McCoy.
B. Exxon Corp.

A. Michael D. McDonald.
B. American Petroleum Institute.

A. Darryl D. McEwen.
B. Society of American Florists.

A. Thomas H. McGannon.
B. Chemtex Fibers, Inc.

A. James M. McGarry, Jr.
B. Eaton Associates.

A. Jack E. McGregor.
B. New England Petroleum Corp.

A. William F. McKenna.
B. Silver, Freedman, Housley & Taff.

A. Brian James McNeeley.
B. National Association of Chain Drug Stores.

A. William H. Megonnell.
B. Edison Electric Institute.

A. Harold E. Mesirow.
B. Stencel Aero Engineering Corp.

A. M. Barry Meyer.
B. Aluminum Association.

A. Milton E. Meyer, Jr.

A. Miller, Cassidy, Larroca & Levin.
B. Alaska Federation of Natives, International.

A. Miller, Cassidy, Larroca & Lewin.
B. American Motors Corp.

A. Miller & Chevalier.
B. H. E. Butt.

A. Maya Miller.
B. Women's Lobby, Inc.

A. Paul J. Miller.
B. Sonnenschein, Carlin et al. (for Investment Counsel Association of America, Inc.).

A. R. Eric Miller.
B. Bechtel Corp.

A. William P. Miller, Jr.
B. American Society of Mechanical Engineers.

A. Millman, Broder & Curtis.
B. American Brotherhood for the Blind.

A. Edward J. Milne.
B. Edison Electric Institute.

A. Stacey J. Mobley.
B. E. I. du Pont de Nemours & Co.

A. Mocatta Metals Corp.

A. Andrew Molchan.
B. National Association of Federally Licensed Firearms Dealers.

A. Herman J. Molzahn.
B. American Waterways Operators.

A. John S. Monagan.
B. Connecticut Bankers Association.

A. John C. Monsul.

A. Nelson B. Moore, Jr.
B. Edward Howard & Co. (for Calorie Control Council).

A. E. Joyce Morgan.
B. American Mining Congress.

A. Roger L. Mozingo.
B. The Tobacco Institute.

A. Robert M. Mulligan.
B. International Association of Ice Cream Manufacturers and Milk Industry Foundation.

A. James J. Murphy.
B. Laclede Gas Co.

A. Paul J. Myer.
B. American Broadcasting Co., Inc.

A. Law Offices of Timothy D. Naegele.
B. PruLease, Inc.

A. National Grain and Feed Association.

A. National Small Business Index.

A. Mark D. Nelson.
B. E. I. du Pont de Nemours & Co.

A. Richard A. Nelson.
B. The Reuben H. Donnelley Corp.

A. Milton E. Neshek.
B. Kikkoman Foods, Inc.

A. John A. Nevius.
B. Whiteford, Hart, Carmody & Wilson (for District of Columbia Bankers Association).

A. Frank Newham.
B. National Rural Letter Carriers' Association.

A. Nicholson & Carter.
B. American Chamber of Commerce in Italy, Inc.

A. Nicholson & Carter.
B. American Chamber of Commerce in Spain, Inc.

A. Nicholson & Carter.
B. Association of American Chambers of Commerce—Europe and Mediterranean, Inc.

A. 19th Pro-Life Congressional District Action Committee.

A. Frank Northcutt.
B. Southwest Homefurnishings Association.

A. Nuclear Fuel Services, Inc.

A. Victor L. Nutt.
B. Gulf & Western Industries, Inc.

A. John F. O'Brien.
B. American Petroleum Institute.

A. Mary Eileen O'Brien.
B. Dow Corning Corp.

A. O'Connor & Hannan.
B. National Association of Independent Lumbermen.

A. Leonard F. O'Connor.
B. The First National Bank of Boston.

A. John A. O'Donnell.
B. Philippine Sugar Commission.

A. Richard C. O'Hara.
B. Harness Tracks of America.

A. Oil Investment Institute.

A. George C. P. Olsson.
B. Ocean Spray Cranberries, Inc.

A. David E. Ortman.
B. Friends of the Earth.

A. G. Oliver Papps.
B. American Petroleum Institute.

A. Herschell E. Parent.
B. American Petroleum Institute.

A. Michael J. Parker.
B. National Rifle Association of America.

A. Richard A. Paysor.
B. Chromalloy American Corp.

A. Beth Peacock.
B. General Foods Corp.

A. Ben F. Peake.
B. American Association of Blood Banks.

A. Pepper, Hamilton & Scheetz.
B. Coalition of Concerned Charities.

A. Victor J. Perini, Jr.
B. Highway Users Federation for Safety and Mobility.

A. Scott H. Phillips.
B. Howell Corp.

A. Stuart F. Pierson.
B. Verner, Liipfert, Bernard & McPherson (for Pan Am, LTV, Consolidated Freightways, Overnite, Trailways, Airline of Portugal, Finnair, Commonwealth of Puerto Rico, Puyallup Indians, N.W. Indian Fisheries Commission).

A. Pineapple Growers Association of Hawaii.

A. Robert N. Pitner.

A. Ronald L. Platt.
B. Burger King Corp.

A. Michael M. Pocost.
B. American Petroleum Institute.

A. William K. Ponder.
B. Terros, Inc.

A. S. J. Poray-Tucholski.
B. Bermejo River Project Development Association.

A. Ramsay D. Potts.
B. National Committee on Locks and Dam 26.

A. James T. Prendergast.
B. Staff Builders, Inc.

A. Preston, Thorgrimson, Ellis, Holman & Fletcher.
B. Intalco Aluminum Corp.

A. Preston, Thorgrimson, Ellis, Holman & Fletcher.
B. Kyokuyo Co., Inc.

A. Preston, Thorgrimson, Ellis, Holman & Fletcher.
B. OPASTCO.

A. Preston, Thorgrimson, Ellis, Holman & Fletcher.
B. Port of Seattle.

A. Preston, Thorgrimson, Ellis, Holman & Fletcher.
B. Seafarers International Union.

A. Preston, Thorgrimson, Ellis, Holman & Fletcher.
B. The 13th Regional Corp.

A. Preston, Thorgrimson, Ellis, Holman & Fletcher.
B. Transportation Institute.

A. Daniel B. Priest.

A. Gerald R. Prout.
B. Burson-Marsteller (for American Waterways Operators).

A. William A. Quinlan.
B. Retail Bakers of America.

A. Clifford H. Raber.
B. McDonald's Corp.

A. Julian O. Read.
B. Read-Poland, Inc. (for Central & South West Corp.).

A. G. G. Reckley Associates.
B. Ketchikan Indian Corp.

A. Campbell L. Reed.
B. Associated General Contractors of America.

A. Dwight C. Reed.
B. National Soft Drink Association.

A. Leidy R. Reel, Jr.
B. Disabled Officers Association.

A. Paul Reiber.
B. International Air Leases, Inc.

A. Murray P. Reiser.
B. Edward Blankstein, Inc.

A. James J. Reynolds.
B. American Institute of Merchant Shipping.

A. Austin T. Rhoads.
B. International Association of Ice Cream Manufacturers and Milk Industry Foundation.

A. M. Lee Rice.
B. Ogden Corp.

A. Leister L. Richards.
B. Alaska Movers Association

A. Harry H. Richardson.
B. Louisiana Railroads.

A. Morris A. Riley.
B. American Medical Association.

A. Jerome Robinson.
B. Florida Restaurant Association.

A. Katherine Robinson.
B. American Paper Institute.

A. Byron G. Rogers.
B. Denver Board of Water Commissioners.

A. Frank W. Rogers.
B. American Petroleum Institute.

A. Frank W. Rogers.
B. Vetco Offshore Industries.

A. Rogers & Wells.
B. Central American Pipeline Co.

A. Rogers & Wells.
B. F&M Schaefer Corp.

A. Rogers & Wells.
B. A. Johnson & Co., Inc.

A. Rogers & Wells.
B. Overseas Shipholding Group, Inc.

A. Rogers & Wells.
B. Seyforth Laboratories, Inc.

A. Rogers & Wells.
B. S. Shamash & Sons, Inc.

A. Rogers & Wells.
B. Tax Equity for Americans Abroad.

A. Rogers & Wells.
B. Teachers Insurance & Annuity Association.

A. Rogers & Wells.
B. Twentieth Century Fox Film Corp.

A. John C. Rohrbaugh.
B. Emerson Electric Co.

A. William F. Ross.
B. American Petroleum Institute.

A. John W. Rowland.
B. Amalgamated Transit Union.

A. Richard Royce.
B. Brush Wellman.

A. Leonard H. Ruppert.
B. American Petroleum Institute.

A. Russell J. Ryan, Jr.
B. Consolidated Office Building, Inc.

A. Fred J. Sacco.
B. American Petroleum Institute.

A. Carl K. Sadler.
B. American Federation of Government Employees.

A. Carroll J. Savage.
B. Eastman Kodak Co.

A. Carroll J. Savage.
B. TRW, Inc.

A. Carroll J. Savage.
B. Xerox Corp.

A. Herbert Y. Schandler.
B. American League for International Security Assistance, Inc.

A. Gerald Schneider.
B. International Environmental Education Services, Inc.

A. N. Donald Schroeder.
B. American Petroleum Institute.

A. Stanley W. Schroeder.
B. Gas Appliance Manufacturers Association, Inc.

A. Evi Schwartz.
B. Fallek-Lankro Corp.

A. Pamela Sederholm.
B. Brown & Root, Inc.

A. Ronald C. Seeley.
B. Estate of Burt N. Adams.

A. Seyfarth, Shaw, Fairweather & Geraldson.
B. Dresser Industries, Inc.

A. Seyfarth, Shaw, Fairweather & Geraldson.
B. Trans-Union Corp.

A. Mark P. Sharfman.

A. John H. Sharon.
B. Mauritius Sugar Syndicate.

A. Richard N. Sharood.
B. Great Lakes and European Lines, Inc.

A. Shaw, Pittman, Potts & Trowbridge.
B. Investment Counsel Association of America, Inc.

A. Seymour Sheriff.
B. Man-Made Fiber Producers Association.

A. Russell L. Shipley, Jr.
B. National Candy Wholesalers Association, Inc.

A. James K. Shiver.
B. Hughes, Sears & Shiver, Inc. (for Diamond Shamrock Corp.).

A. Bernard H. Sieracki.
B. Illinois Petroleum Council.

A. Karen Sikkema.
B. Union Oil Co. of California.

A. Janet Sillaway.
B. United Effort Trust.

A. Robert C. Singer.
B. The Soap & Detergent Association.

A. Gordon L. Smith.
B. Hill & Knowlton, Inc. (for Florists' Transworld Delivery Association).

A. Gordon L. Smith.
B. Edward A. Gottlieb & Associates (for Hecon Corp., Flextime Division).

A. William H. Smith.
B. American Bankers Association.

A. Carl A. Soderblom.
B. Nevada Railroad Association (for Southern Pacific Transportation Co. and Western Pacific Railroad Co.).

A. Sonosky, Chambers & Sachse.
B. Seminole Indian Tribe of Florida.

A. Sonosky, Chambers & Sachse.
B. Sioux Nation.

A. Southwest Home Furnishings Association.

A. Larry M. Speakes.
B. Hill & Knowlton, Inc.

A. Specialty Equipment Manufacturers Association.

A. John F. Speer, Jr.
B. International Association of Ice Cream Manufacturers and Milk Industry Foundation.

A. Staff Builders, Inc.

A. Samuel E. Stavisky.
B. Samuel E. Stavisky & Associates, Inc. (for Brazilian Coffee Institute).

A. Samuel E. Stavisky & Associates, Inc.
B. Brazilian Coffee Institute.

A. Randolph J. Stayin.
B. Taft, Stettinius & Hollister (for American Hospital Association).

A. Art Stewart.
B. The Great Western Sugar Co.

A. Mrs. Frank Ross Stewart.

A. Edward W. Stimpson.
B. General Aviation Manufacturers Association, Inc.

A. John H. Studebaker.

A. Robert Taft, Jr.
B. Taft, Stettinius & Hollister (for American Hospital Association).

A. Robert Taft, Jr.
B. Taft, Stettinius & Hollister (for Capitol Hill Hospital).

A. Robert Taft, Jr.
B. Taft, Stettinius & Hollister (for Sisters of Charity of Cincinnati, Ohio).

A. Warren Tanner.
B. Organization of Independent Artists.

A. Harvey M. Tettlebaum.

A. L. D. Tharp, Jr.
B. Interstate Natural Gas Association of America.

A. 36th Congressional District Action Committee.

A. Diana H. Thomas.
B. American Conservative Union.

A. Marvin I. Thompson.

A. Myron B. Thompson.
B. The Kamehameha School/Bernice P. Bishop Estate.

A. Eugene M. Thore.

A. Grace F. Thorpe.

A. Samuel Thurm.
B. Association of National Advertisers, Inc.

A. Charles R. Titus.
B. The Society of the Plastics Industry.

A. David G. Todd.

A. Jay Charles Townley.
B. Schwinn Bicycle Co.

A. 12th Congressional District Pro-Life Action Committee.

A. 23d Pro-Life Congressional District Action Committee.

A. Union Mutual Life Insurance Co.

A. Vance & Joyce.
B. Embassy of Bolivia.

A. Sheldon B. Vance.
B. Vance & Joyce (for Embassy of Bolivia).

A. Richard F. Vander Veen.
B. Citibank, N.A.

A. Richard F. Vander Veen.
B. Consumers Power Co.

A. James A. Venema.
B. National Assoc. for Neighborhood Schools, Inc.

A. Verner, Liipfert, Bernhard & McPherson.
B. Small Producers for Energy Independence.

A. R. Eric Vige.
B. Cities Service Co.

A. Francis A. Vlazny.
B. The Reuben H. Donnelly Corp.

A. Vorys, Sater, Seymour & Pease.
B. Ohio Medical Indemnity.

A. Warren W. Walkley.
B. General Electric Co.

A. Raymond C. Wallace.
B. Amalgamated Transit Union.

A. Bonnie B. Wan.
B. Montgomery Ward & Co., Inc.

A. Leonard Warner.
B. Len Warner, Inc.

A. Robert B. Washington, Jr.
B. Danzansky, Dickey, Tydings, Quint & Gordon (for Government of Antigua).

A. Webster & Chamberlain.
B. Associated Credit Bureaus.

A. Webster & Chamberlain.
B. Truck Body & Equipment Association.

A. Joan Weinstock.
B. American Optometric Association.

A. Donald W. Whitehead.
B. Alternative Wastewater Management Association.

A. Anne Wickham.
B. Friends of the Earth.

A. Thomas C. Williams.
B. National Football League.

A. Thomas C. Williams.
B. Norfolk & Western Railway Co.

A. Wilmer, Cutler & Pickering.
B. Bristol-Myers Co.

A. Wilmer, Cutler & Pickering.
B. Dealer Bank Association.

A. Wilmer, Cutler & Pickering.
B. Morgan Guaranty Trust Co.

A. Wilmer, Cutler & Pickering.
B. Motor Vehicle Manufactures Association of the United States, Inc.

A. Wilmer, Cutler & Pickering.
B. National Corporation for Housing Partnerships.

A. Dorothy R. Wilson.
B. Coalition of Concerned Charities.

A. Richard F. Witherall.
B. Colorado Railroad Association.

A. Glenn P. Witte.
B. International Association of Ice Cream Manufacturers.

A. Frank R. Wolf.
B. Gerber Products Co.

A. Sidney M. Wolfe.
B. Health Research Group.

A. James W. Woodward.
B. The Reuben H. Donnelley Corp.

A. Ronald L. Wooten.
B. American Mining Congress.

A. George M. Worden.
B. Hill and Knowlton, Inc.

A. Dee Workman.
B. Mobil Oil Corp.

A. Wyman, Bautzer, Rothman & Kuchel.
B. California Canners & Growers.

A. Wyman, Bautzer, Rothman & Kuchel.
B. Eklutna, Inc.

A. Roger H. Zion.

A. Laurence W. Zoeller.
B. Burson-Marsteller (for American Waterways Operators).

SENATE—*Friday, October 6, 1978*

(Legislative day of Thursday, September 28, 1978)

The Senate met at 8:30 a.m., on the expiration of the recess, and was called to order by the acting President pro tempore (Mr. QUENTIN N. BURDICK).

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Let us pray:

Almighty God, who has watched over this Nation from the beginning until now and made us stewards of Thy great gifts, grant us the wisdom to use our inheritance for the making of a better world. Let Thy benediction be upon all who serve in this Chamber and all who support and assist the Members of this body, that together we may be good workmen. Prepare us for surprises, for disappointments, for failure, and for success. In all changes guide us by the wisdom of the Founding Fathers. Reinforce all human strength by the greater energy of divine grace that we may not be overcome by frayed nerves or worn emotions. Reward our efforts by inner peace and the knowledge that we have followed One who came not to be served but to serve, in whose holy name we pray. Amen.

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. The Senator from West Virginia is recognized.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I do not need any of my time so I yield it back.

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. The Senator from Tennessee is recognized.

Mr. BAKER. Mr. President, I do not have any requirement for my time, and I yield it back also.

SPECIAL ORDER

The ACTING PRESIDENT pro tempore. Pursuant to a previous order, the Senator from Vermont (Mr. LEAHY) is recognized for not to exceed 15 minutes.

S. 3552—THE NATIONAL RURAL DEVELOPMENT BANK ACT OF 1978

Mr. LEAHY. Mr. President, I rise today to introduce S. 3552, the National Rural Development Bank Act of 1978. I believe this legislation is critical to our efforts to bring planned, conscientious development to rural areas.

I lay this bill before the Senate with the hope that it will draw considerable comment and refinement during the remainder of this year. The Rural Development Bank Act of 1978 will focus renewed emphasis and vigor on the Rural Development Act of 1972. It has been 6 years since the passage of the 1972 act and we still do not have an effective rural development policy. We do have an important collection of evolving programs, but they lack a clear, comprehensive focus. The Rural Development Bank Act of 1978 will pull together and execute the intent of Congress embodied in the 1972 Rural Development Act. It will foster a balanced national development policy where rural areas are given the consideration they deserve. This intent has not been realized to date on any effective broad scale.

The bank which I propose will help all rural residents. In fact, it will help urban residents too; for many of our urban problems were created by and continually fester due to a lack of attention to rural needs. Perhaps most importantly, this bank will bring financial services to some of the hardest to reach pockets of poverty in this country. That is, the bank will not only service outlying rural communities, but will reach those rural places inside of standard metropolitan statistical areas. These are often the most impoverished rural areas and are habitually passed over by both the rural and urban advocates.

Mr. President, there can be no doubt that the services to be provided by this bank are needed in rural America. For example, rural per capita income lags considerably behind its urban counterpart; as a rule, rural homeowners pay higher mortgage interest rates over shorter amortization periods than do urban residents. In addition, rural banks are generally small with limited access to capital, consequently, a major portion of their assets are sometimes tied up in Government bonds and are not loanable resources.

The Rural Development Bank Act of 1978 would alleviate many of these rural problems. It would provide adequate capitalization for a majority of those projects essential to rural economic development efforts. Small rural banks are severely limited to the amount of credit they can dedicate to any individual rural development project or borrower. This bill would correct this situation by channeling additional capital into rural America for farm and nonfarm rural development.

Mr. President, allow me to present a thumbnail sketch of this legislation to the Senate.

This bill would establish a National Rural Development Bank to serve as a basic source of financial assistance to lending institutions that have purchased, refinanced, discounted, or rediscounted nonfarm rural development loans made by local rural banks and other local financial institutions.

It would also set up a board for the bank composed of 13 Presidential appointees, 3 ex officio members, and 12 members elected by the bank stockholders to set bank policy and procedures.

In addition, it would authorize the appropriation of not more than $200 million annually over 10 years for the purchase of capital stock in the bank by the Secretary of the Treasury.

In its organization and operations, the proposed bank would:

First, rely on the existing private rural banking and financial system and not create a major new bureaucracy to administer the bank's operations;

Second, be owned and controlled by the independent rural investment institutions themselves;

Third, create an additional independent source of capital for farm and nonfarm rural development that can be utilized by rural financial institutions, and not be required to operate within the constraints of the Federal and State political structure;

Fourth, work with correspondent banks or with rural banks themselves to increase the liquidity and security of rural development loans;

Fifth, join with local banks and other investors to make joint-venture equity investments in rural development projects on a limited basis; and

Sixth, require the purchase of bank stock by borrowers who are rural development project sponsors and joint venture cosponsors.

The proposed National Rural Development Bank would establish one national bank.

It would authorize the national bank to deal directly with local private banks and other financial institutions.

As things now stand, control of nonfarm rural development credit rests in the executive branch of the Federal Government—nowhere else. The administration's action on the Rural Development Act provisions for guaranteed and insured loans for rural industrial development and community facilities forces reliance on the rural development insurance fund for virtually all nonfarm rural credit.

The Office of Management and Budget has set a ceiling on these guaranteed and insured loans and has made them sub-

ject to the present budgetary and appropriations process. This, coupled with the administration's reluctance to provide adequate personnel for the Farmers Home Administration reinforces the need for an independent, nonfarm rural capital generating institution like the proposed National Rural Development Bank.

Unless more credit is made available for projects which can pay at least part of their own way, small towns will never be able to use local tax dollars to provide those basic services which improve the quality of rural life. Adequate credit for the provision of these services will make rural communities attractive for commercial and industrial expansion.

Mr. President, on March 27, 1978, President Carter proposed the creation of a National Development Bank. This bank, it is said, would increase the economic activity of many impoverished urban and rural areas. It is said that this National Development Bank would increase the number of new permanent, private sector employment activities in economically distressed urban and rural areas.

However, the reality is that the National Development Bank is tailored to meet the needs of our urban areas. These are pressing needs which this Government must address and President Carter should be commended for his sensitivity to them. I will support the creation of such a bank. And yet, even though I support the National Development Bank, certain aspects of it disturb me.

Mr. President, I am disturbed because the National Development Bank is purported to be a bank which will help both rural and urban areas. If this were the case the National Development Bank would be a great boon to all Americans. However, this is not the case at all.

The title of the President's proposed bank, the National Development Bank, is a misnomer. It should be titled the Urban Development Bank, for it is not national in concept, rather, it is wholly urban oriented.

Why is it wholly urban oriented? There is a litany of complex answers to this question, however, though complex they are simply understood by anyone with a concern for our rural sector.

Mr. President, the National Development Bank is proposed as a keystone to the President's urban policy. Its design process included no rural advocates. Its proposed Board of Directors—the Secretaries of HUD, Commerce, and Treasury—does not include the most obvious member were this bank to have a truly rural focus—the Secretary of Agriculture.

The major structural barrier in the National Development Bank to rural development assistance regards eligibility criteria. The National Development Bank's eligibility criteria relies heavily upon rates of unemployment in an area. This is an implicit urban bias because rural unemployment rates and levels of underemployment are notoriously underestimated. And although it is said that rural areas would compete only with other rural areas for the National Development Bank's service, there is no provision in the legislation to guarantee that rural areas receive an equitable portion of the Bank's financing.

Mr. President, the National Development Bank is an urban development bank—make no mistake.

Now, I have absolutely no qualms with developing a bank to assist our beleaguered cities. They need it, they deserve it, and I will support such an institution.

But please, do not pull the urban wool over our rural eyes. Let no one pretend any longer that the urban development bank is even going to begin to serve the credit needs of rural America.

As I have stated, the need for an urban development bank is great. But so too is the need for a rural development bank—this cannot be denied.

Mr. President, the lack of credit for rural development projects is infamous. This Government has begun to engender an atmosphere in rural areas which would be more attractive to private development. For example, the Farmer's Home Administration provides some loans for public and nonprofit associations's water supply and sewer services improvement. But we have not taken the most critical, most important, most meaningful step toward raising the quality of life in rural areas. We must take this critical step. We must create a banking mechanism which will finally bring financial backing to credit starved rural America.

The concept of a rural area spurs many deep and romantic ideals in the heart of Americans. We hear "rural" and we think of peaceful, bucolic country hills. We see expansive plains free from congestion, overpopulation, and smog. We drive through rural America and marvel at the quaint towns and weathered rustic homes of our rural residents. This rural America that we hold in the mind's eye is out there, and I thank God that it is.

However, Mr. President, there is another side to rural America. A side which, ironically, is masked by its own calm beauty. The weathered homes make terrific snapshots but we must think of the people who live in those drafty shacks with no plumbing, no sewage facilities, and no jobs.

Mr. President, one-third of our population is rural and yet this population holds 41 percent of the Nation's poor, over 50 percent of the substandard housing, less than 12 percent of our medical doctors, 53 percent of the educationally deprived children, and on and on. Rural America needs help—Federal help. Now.

Mr. President, rural America needs help to get off of the treadmill of Federal social service aid and onto the path of indigenous private and community development.

The vast majority of this assistance must come from the private sector. The National Rural Development Bank Act of 1978 will stimulate this private sector activity. It will help keep rural credit funds in rural areas and small communities. And, it will help get new credit funds to rural areas from the major money markets.

Now, I must admit I have some reservations about creating another Federal bank. But this one is necessary. Surely, a government which goes to great lengths to create international and urban development banks can have no argument with us when we look at the proposed National Development Bank, see that it has no rural focus, and hence decide to try to bring similar banking services to where it is perhaps most necessary—rural America.

Mr. President, who can in good conscience argue against a rural development bank which is a bank for banks which will ultimately be of no cost to the Federal Government, which encourages local development autonomy and is essential to America's development?

Mr. President, I am not about to advance the position that this bill, as now written, is perfect. Admittedly certain sections must be revised, expanded, or contracted and redefined. Rather, I think of the bill as a mound of clay which I am placing on the public potter's wheel. Public comment, hearings both here and around the country, and expert commentary will be relied upon to help shape and design this bank legislation. This design process will take place during the next several months.

Mr. President, at the start of the 96th Congress, I will be reintroducing this bill in a revised form—a form which the public will mold, a form which is economical, equitable, and expedient.

Mr. President, I ask unanimous consent that the bill be printed in toto in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3552

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Rural Development Bank Act of 1978".

TITLE I—NATIONAL RURAL DEVELOPMENT BANK ACT OF 1978

SEC. 101. The Rural Development Act of 1972 is amended by adding at the end thereof the following:

"TITLE VII—NATIONAL RURAL DEVELOPMENT BANK ACT OF 1978

"Subtitle A—Findings, Purposes, and Definitions

"SEC. 701. TITLE AND FINDINGS AND PURPOSE.—(a) This title may be cited as the "National Rural Development Bank Act of 1978".

"(b) Congress hereby finds that—

"(1) community services and facilities and the income earning opportunities needed by farm and forestry people to increase their incomes and raise their quality of life are shared by all other residents living in rural areas;

"(2) to raise rural income and increase the accessibility to farm and rural residents of high-quality community facilities and services, it is necessary that all the resources in rural communities be used at maximum effectiveness and efficiency;

"(3) the conduct of industry and commerce, as well as farming and forestry, provide jobs and income that contribute to the tax base necessary to establish and maintain adequate rural facilities and services; the same circumstances are essential to expanding the service loads and hence the abil-

ity of rural electrification and telephone systems to pay overhead costs for service to farmers and other rural residents and repay indebtedness on Government-insured and guaranteed loans;

"(4) balanced geographic distribution of the Nation's population is essential to the prosperity, general welfare, and domestic tranquility of the urban as well as the rural areas of the United States;

"(5) to achieve and maintain balanced geographic distribution of the Nation's population, it is necessary to attain balanced geographic distribution of profitable private economic enterprises, income earning opportunities, and high-quality community facilities, services, and public works;

"(6) additional capital investment and financial resources are essential to establish and operate private economic enterprises, public works, community facilities, and services in rural areas;

"(7) much of the needed investment must come from outside of rural areas;

"(8) much of the outside investment and credit needed by rural areas will be made available by the Nation's existing network of commercial and investment banks, the Farm Credit System, and other rural financial institutions, and by other private enterprises and local and State governments buttressed and supplemented by the direct, insured, and guaranteed loans, technical assistance, and grants provided under the Consolidated Farm and Rural Development Act and other titles of this Act;

"(9) the size of investment or credit required by the sponsors of significant rural development projects often exceeds the regulated lending limits and investment standards of existing rural financial institutions (even when a part of the loan is insured or guaranteed under the Consolidated Farm and Rural Development Act) so that existing arrangements do not provide fully to rural investors and financial institutions the liquidity, flexibility, and usable financial resources they require to be fully responsive to expanding rural development investment and credit needs;

"(10) the potential investors, public or private, who wish to construct and operate significant rural development projects do not have sufficient access to investment funds from existing credit and investment entities.

"(c) It is the policy of Congress to meet the need for additional investment funds by establishing a local-lender-and-borrower-owned facility that will provide equity-participation investment funds to sponsors of rural development projects and financial assistance to local lenders and to those with whom loans extended by local lenders are refinanced, discounted, rediscounted, or to whom such loans are sold.

"(d) It is therefore the purpose of this title to provide for a permanent rural development investment and financial institution that will organize and make available a stable, continuous, and dependable source of financial resources that will provide equity-participation investment, loans, and the discounting, rediscounting, refinancing, and purchase of loans extended by rural financial institutions to the residents of rural areas, agricultural producer organizations and other cooperatives (except where they are able to obtain needed credit from the Banks for Cooperatives under the Farm Credit Act of 1971), rural industrial and commercial enterprises, quasi-public bodies in rural areas, Indian tribes on Federal and State reservations or other federally recognized Indian tribal groups, and units of general and special purpose government in rural areas to establish, construct, and operate private and public facilities, works, and services in rural areas and provide remunerative employment to increasing numbers of rural residents.

"SEC. 702. DEFINITIONS.—As used in this title—

"(a) The term 'rural area' means all territory of a State, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, American Samoa, or Guam that (1) is not within any standard metropolitan statistical area, as designated by the Office of Management and Budget, and (2) in addition, all territory within any such standard metropolitan statistical area that is also within counties, parishes, towns, plantations (in Maine), and townships having a population density of less than two hundred persons per square mile, as determined by the Secretary of Agriculture according to the latest decennial census of the United States.

"(b) The term 'rural development purpose' means any project undertaken by any private industrial or commercial enterprise or by any multistate region, State, multijurisdictional general purpose planning and development district, or local government or instrumentality thereof, that contributes or will contribute to attainment of the objectives of the revitalization and development of rural areas as provided in section 901(a) of the Agricultural Act of 1970, or the enhancement of any rural area as a place to live and make a living. Such term specifically includes, but is not limited to, projects that provide increased employment or income for or directly benefit rural residents and that—

"(1) establish or improve public works or community services, or facilities;

"(2) encourage private investment in, or promote the establishment and expansion of, industrial or commercial enterprises, including, but not limited to, investor-owned and cooperative marketing and other service associations and enterprises;

"(3) provide manpower development and training;

"(4) improve the quality and accessibility of rural community facilities and services;

"(5) promote the conservation, development, and proper utilization of natural resources;

"(6) establish and improve public educational facilities, including, but not limited to, community and junior colleges, vocational and technical schools, and other institutions of higher education, and encourage the development of improved educational methods;

"(7) establish and improve land, water, and air transportation systems and service;

"(8) assist in the solution of problems related to law enforcement activities;

"(9) establish safe, sanitary, and comfortable housing;

"(10) establish and improve health care and preventative practice facilities and services, including, but not limited to, facilities for vocational rehabilitation, and generally promote improved health and nutrition of residents of rural areas;

"(11) provide direct financial incentives to industry to create jobs in rural areas; or

"(12) establish and improve facilities and services that will enhance the quality of the environment and provide abatement and control of pollution.

"(c) The term 'rural development project' means an organized proposal or activity that does or will contribute to the attainment of one or more rural development purposes.

"(d) The term 'local general government' means the government of a municipality, county, parish, town, or township as such terms are defined and used by the United States Bureau of the Census.

"(e) The term 'Board' means the National Rural Development Bank Board established under subtitle B of this title.

"(f) The term 'Bank' means the National Rural Development Bank established under subtitle C of this title.

"(g) The term 'Participant' means any rural bank or other rural financial institution designated as a Participating Rural Development Financial Institution under subtitle D of this title.

"(h) The term 'Supporting financial institution' means any person or financial institution within the United States that has purchased, discounted, rediscounted, or refinanced all or part of a rural development loan extended to an eligible sponsor by a Participant.

"(i) The term 'rural development loan' means an identifiable unit of credit or other financial assistance extended to an eligible sponsor to construct or operate a rural development project.

"(j) The term 'Governor' means the executive officer of the National Rural Development Bank.

"(k) The term 'financial assistance' means (1) the purchase of legal obligations and the discount, rediscount, and refinancing of any note, draft, or other obligation and similar legal instruments evidencing and securing the repayment of a secured rural development loan advanced by a rural financial institution for the establishment or operation of any project required to attain a rural development purpose, regardless of whether such loan is insured or guaranteed in whole or in part by an instrumentality of the Federal Government; (2) the providing of funds for joint-venture equity investment in rural development projects; or (3) the extending of loans to eligible sponsors of rural development projects who are unable to obtain needed credit from other existing financial institutions at reasonable rates.

"(l) The term 'joint-venture equity investment' means the investment of funds by the Bank jointly with another private or public rural development project sponsor to establish and operate a rural development project.

"(m) The term 'eligible sponsor' means—

"(1) any of the following who propose to or are engaged in establishing or operating a rural development project:

"(A) public and quasi-public bodies;

"(B) cooperative associations as defined in the Agricultural Marketing Act (42 Stat. 388; 12 U.S.C. 1141j(a)), if such associations are unable to borrow from the Banks for Cooperatives;

"(C) other cooperatives;

"(D) corporations;

"(E) partnerships;

"(F) individual proprietors;

"(G) multijurisdictional general purpose planning and development districts established by the legislature or Governor of a State;

"(H) persons and firms;

"(I) owners of rural homes;

"(J) municipalities;

"(K) resource conservation and development project sponsors under title III of the Bankhead-Jones Farm Tenant Act;

"(L) sponsoring associations carrying out projects under the Watershed Protection and Flood Prevention Act;

"(M) corporate entities established by sponsors of concerted education and training service projects carried out jointly by the Department of Agriculture, the Department of Health, Education, and Welfare, and the Department of Labor;

"(N) councils of government established under State law if rural areas are included within their jurisdiction;

"(O) private associations;

"(P) local development districts organized under the Appalachian Development Act;

"(Q) economic development districts organized under the Economic Development Act of 1965;

"(R) technical vocational schools;

"(S) Indian tribes on Federal and State reservations or other federally recognized Indian tribal groups; and

"(T) resource conservation and develop-

ment districts under the Bankhead-Jones Farm Tenant Act; and

"(2) whose proposed or operating project is declared eligible based upon—

"(A) review of the proposed project by the governing body of the multijurisdictional general purpose planning and development district, if any, established by the legislature or Governor of the State concerned and a certification by such body that the proposed private or public facility, work, or service is not inconsistent with the current areawide general purpose development plan, if any, for the multijurisdictional district;

of the State concerned and a certification by such body that the proposed private or public facility, work, or service is not inconsistent with the current areawide general purpose development plan, if any, for the multijurisdictional district;

"(B) determination that the private or public facility, work, or service provided by the project will be located in and operate primarily in a rural area to increase the employment of, or for the benefit of, rural residents and that the proposed project promises to make a net increase in the number of jobs, or median family income or improve the quality of life in the rural area served;

"(C) determination that the proposed undertaking is not inconsistent with the Federal, State, or local laws or regulations relating to protecting the quality of the environment.

"(n) The term 'voting stockholder' means any Participant, borrower, or Joint-venture-cosponsor who owns voting stock in the Bank.

"(o) The term 'Joint-venture-cosponsor' means an eligible sponsor who joins with the Bank in making a joint-venture equity investment in a rural development project under provision of subtitle E of this title.

"Subtitle B—National Rural Development Board

"SEC. 703. THE NATIONAL RURAL DEVELOPMENT BANK BOARD; NOMINATION AND APPOINTMENT OF MEMBERS; ORGANIZATION AND COMPENSATION.—(a) There is hereby established a National Rural Development Bank Board (hereinafter referred to as the 'Board') composed of thirteen appointed, three ex officio, and twelve elected members. The appointed members shall be appointed by the President, by and with the advice and consent of the Senate, not more than seven of whom shall be from the same political party nor more than one of whom shall be from any one State. In making appointments to the Board the President shall select persons who are especially qualified to serve on the Board because of their education, training, and experience and shall provide a fair representation on the Board of the different geographic regions and minority persons of the United States and the several economic interests in rural development. The representative of the Secretary of Agriculture on the Farm Credit Board, the Governor of the Farm Credit Administration, and the Governor of the Bank shall be ex officio members of the Board and shall not be eligible to vote. One elected member shall be chosen by voting stockholders of the rural areas served by each regional office of the Bank.

"(b) All members of the Board shall be citizens of the United States and not less than twenty-one members, exclusive of ex officio members, shall be legal residents of rural areas in which the Bank is authorized by this Act to extend financial assistance for projects to carry out rural development purposes.

"(c) The Board shall elect a chairman and vice chairman from among its appointed and elected members. The Board shall elect a secretary from among its members or from outside its membership. Such officers shall be elected for terms of one year and shall hold office until their successors have been elected.

"(d) No member of the Board, other than the ex officio members, shall, while serving as a member of the Board, be an officer or employee of the United States or of the Bank or of the Farm Credit System.

"(e) Appointed and elected members of the Board shall serve for terms of six years, except that (1) a person appointed to fill an unexpired term shall serve only for the remainder of the term for which his predecessor was appointed or elected, and (2) with respect to the first members appointed and elected to such Board, five shall be appointed and five elected for terms of six years, five shall be appointed and five elected for terms of four years, and three shall be appointed and two elected for terms of two years. A vacancy on the Board shall not affect the power of such Board to act. Members shall serve until their successors are duly appointed or elected and qualified.

"(f) The Board is authorized to establish its own rules of procedure for conducting its business, except that a majority of all members of such Board shall constitute a quorum for the transaction of its business.

"(g) Each appointed and elected member of the Board shall receive $200 a day for not more than one hundred days of meetings each year and all members shall be reimbursed for travel and expenses incurred in attending meetings of such Board and in discharge of their official duties with due regard to laws with respect to allowances which may be made on account of travel and subsistence expenses of officers and employees and of the United States. Nothing in the preceding sentence shall be construed to limit the number of days of meeting each year to one hundred days.

"(h) The Board shall hold at least six regularly scheduled meetings a year and such additional meetings at such times and places as it may determine. Special meetings shall be held at any time at the call of the chairman or by any three members of such Board.

"SEC. 704. POWERS OF THE BOARD.—The Board shall establish the general policy for the guidance of the Bank in carrying out this title; may require such reports as it deems necessary from the Bank; and shall provide for the examination of the condition of and general supervision over the performance of the powers, functions, and duties vested in the Bank and in Participants, which, in the judgment of the Board, relate to matters of broad and general supervisory, or policy nature. The Board shall function as a unit without delegating any of its functions to individual members, but may appoint committees and subcommittees for studies and reports for consideration by such Board. It shall not operate in an administrative capacity.

"SEC. 705. ANNUAL REPORT.—The Board shall make an annual report to Congress on the condition of the Bank, including analytical program evaluation and cost effectiveness studies, and recommendations it deems necessary to improve the operation of the Bank in providing supplementary investment required to attain the purpose of this title.

An annual report shall also be prepared by the Board describing the type rural development projects financed by the Bank, geographic distribution of the Bank's loans, the number of loans made to minority related rural development projects, and the level of the Banks loan activities directed toward rural areas with poverty levels above the national average.

"Subtitle C—National Rural Development Bank

"SEC. 706. ESTABLISHMENT; TITLE.—There is established a National Rural Development Bank as a federally chartered instrumentality of the United States subject to policies of the Board. Its charter may be modified from time to time by the Board in any manner not inconsistent with the provisions of this title as may be necessary or expedient to implement this title.

"SEC. 707. CORPORATE EXISTENCE; GENERAL CORPORATE POWERS.—The Bank shall be a body corporate, subject to the general supervision of the Board and shall have power to—

"(1) adopt and use a corporate seal;

"(2) have succession until dissolved under the provisions of this title or other Acts of Congress;

"(3) make contracts;

"(4) sue and be sued;

"(5) acquire, hold, dispose, and otherwise exercise all the usual incidents of ownership of real and personal, tangible and intangible property necessary or convenient for its business;

"(6) operate under the policy direction of the Board;

"(7) prepare and disseminate information to the general public on use, organization, and functions of the Bank and to investors on merits of its securities;

"(8) require appropriate bonds or other provision for protection of the assets of the Bank against losses occasioned by employees;

"(9) prescribe rules and regulations necessary or appropriate for carrying out the provisions of this title;

"(10) prescribe its bylaws, subject to approval of the Board, and provide in such bylaws for—

"(A) the classes of its stocks and the manner in which such stock shall be issued, transferred, and retired;

"(B) the election or appointment of its officers and executive employees;

"(C) property acquired, held, or transferred;

"(D) the conduct of its general business; and

"(E) the exercise and enjoyment of the privileges granted to it by law;

"(11) deposit its securities and its current funds with any member bank of the Federal Reserve System, and pay fees therefor and receive interest thereon as may be agreed. When designated for that purpose by the Secretary of the Treasury, it shall be a depository of public money, except receipts from customs, upon such regulations as may be prescribed by the Secretary; may be employed as fiscal agent of the Government, and shall perform all such reasonable duties as a depository of public money or financial agent of the Government as may be required of it. No Government funds deposited under provisions of this subsection shall be invested in loans or bonds or other obligations of the bank;

"(12) buy and sell obligations of or insured or guaranteed by the United States or of any agency thereof, or securities backed by the full faith and credit of such agency, and make such other investments as may be authorized by the Board;

"(13) delegate to Participants and Joint-venture-cosponsors such functions vested in or delegated to the Bank, as it may determine appropriate;

"(14) exercise by its authorized officers, employees, or agents all such incidental powers as may be necessary or expedient to carry out the business of the Bank;

"(15) purchase, refinance, or discount rural development loans and participants in such loans made by local rural financial institutions from such institutions and from other financial institutions that have purchased, discounted, or refinanced such loans; and

"(16) make joint-venture equity investment in rural development projects.

"SEC. 708. APPOINTMENT OF GOVERNOR; SAL-

ARY AND EXPENSE ALLOWANCE.—(a) The Governor shall be appointed by, and serve at the pleasure of, the Board.

"(b) The compensation of the Governor shall be at the rate prescribed for positions in level IV of the Executive Schedule provided for under section 5315 of title 5, United States Code. The Federal Board shall fix the allowance for his or her necessary travel and subsistence expenses or per diem in lieu thereof.

"SEC. 709. COMPLIANCE WITH BOARD ORDERS.—The Governor shall be responsible; subject to the supervision and control of the Board, for carrying out the functions of the Bank and the policies of such Board. The Governor shall carry out all orders and directives received from the Board.

"SEC. 710. RURAL DEVELOPMENT BANK ORGANIZATION.—The Governor is authorized, in carrying out the powers and duties now or hereafter vested in the Governor by this title and acts supplementary thereto, to establish and to fix the powers and duties of such offiers to serve within regions, divisions, and instrumentalities as the Governor may deem necessary to insure the proper and efficient administration of the functions of the Bank including the establishment of Regional Banks coterminous with the twelve regions of the Farm Credit System.

"SEC. 711. ADMINISTRATIVE EXPENSES.—The Bank may, within the limits of funds available therefor, make necessary expenditures for personnel, services, and rent at the seat of Government and elsewhere; contract stenographic reporting services; purchase and exchange of law books, books of reference, periodicals, and newspapers; expenses of attendance at meetings and conferences; purchase, operation, and maintenance at the seat of Government and elsewhere of motor-propelled passenger-carrying vehicles and other vehicles; printing and binding; and such other facilities and services, including temporary employment by contract or otherwise, as it may from time to time find necessary for the proper administration of the provisions of this title.

"SEC. 712. ENUMERATED POWERS.—The Bank shall, in addition to the corporate powers enumerated in section 707, have the following powers, functions, and responsibilities in connection with the provision of financial assistance to Participants, to Joint-venture-cosponsors, and to those who purchase, discount, or refinance rural development loans extended by Participants:

"(1) to make studies of rural lending and investment needs, the need for better geographic distribution of population and economic opportunity, appraisal and credit standards, and credit requirements of rural industrial and commercial enterprise;

"(2) to develop acceptable national and regional standards, procedures, and appraisal forms; and

"(3) to prescribe price and cost levels to be used in such standards, joint venture investment, appraisals, and lending.

"SEC. 713. GOVERNANCE OF POLICIES, PROGRAMS, AND PROCEDURES OF THE BANK.—(a) The Board shall establish and promulgate policies and regulations, not inconsistent with provisions of this title, to govern the policies, programs, and procedures of the Bank.

"(b) The policies of the Bank, for so long as the Secetary of the Treasury holds stock in such Bank for the United States, shall be subject to prior approval by the Secretary of the Treasury.

"SEC. 714. FINANCIAL AND OTHER SUPERVISION.—The Bank, Participants, and Joint-venture-cosponsors shall be subject to the supervision of the Farm Credit Administration with respect to all procedures relating to financial examinations, including audits. The Board shall arrange with the Federal Farm Credit Board to utilize the services of the Farm Credit Administration examiners for investigative, accounting, and administrative auditing of the work of the Bank in an orderly, efficient, and effective manner. The Farm Credit Administration is authorized to provide such services on a mutually agreeable reimbursable basis.

"SEC. 715. EXAMINATIONS AND REPORTS; AUDITS.—(a) Except as provided in this title, each office and division of the Bank, Participants, and Joint-venture-cosponsors, at such times as the Board may determine, shall be examined and audited by examiners of the Farm Credit Administration on a reimbursable basis, but in no event shall any such institution be examined and audited less frequently than once a year. If the Board determines it to be necessary or appropriate, the required examinations and audits may be made by independent certified public accountants, certified by a regulatory authority of a State, in accordance with generally accepted auditing standards. Upon request of the Governor of the Bank, credit examiners shall also make examinations of any organization other than a national bank, to which, or with which, the Bank contemplates extending financial assistance or delegating authority under this title. For the purposes of this title, examiners of the Farm Credit Administration shall be subject to the same requirements, responsibilities, and penalties as are applicable to examiners under the National Bank Act, the Federal Reserve Act, the Federal Deposit Insurance Act, and other provisions of law and shall have the same powers and privileges as are vested in such examiners by law. A report of each audit of the Bank or other institution for any fiscal year shall be made by the Farm Credit Administration through the Board to the President of the United States and to Congress not later than six months following the close of such fiscal year. The Farm Credit Administration shall be reimbursed by the Bank for the cost of performing such audits.

"(d) The Bank, Participants, and Joint-venture-cosponsors shall be subject to audit by the General Accounting Office at such times and to such extent as the Comptroller General of the United States shall determine.

"SEC. 716. CONDITIONS OF OTHER BANKS AND LENDING INSTITUTIONS.—The Comptroller of the Currency is authorized and directed, upon request of the Board to furnish for the exclusive and confidential use of the Board such reports, records, and other information as the Comptroller may have available relating to the financial condition of national banks through, for, or with which the Bank has made or contemplates making discounts, loans, or delegations of power.

"SEC. 717. CONSENT TO THE AVAILABILITY OF REPORTS AND TO EXAMINATIONS.—Any organization other than State banks, trust companies, and savings associations shall, as condition precedent to security discount privileges or delegated powers with the Bank for the exclusive and confidential use of the Bank, file with such Bank its written consent to examination by the Board examiners as may be directed by the Farm Credit Administration; and State banks, trust companies, and savings associations may be required in like manner to file a written consent that reports of their examination by constituted State authorities may be furnished by such authorities upon request of the Farm Credit Administration.

"SEC. 718. REORTS OF CONDITIONS OF INSTITUTIONS RECEIVING LOANS OR DEPOSITS OR REDELEGATED POWERS.—The executive departments, boards, commissions, and independent establishments of the Government of the United States, the Federal Deposit Insurance Corporation, the Comptroller of the Currency, the Board of Governors of the Federal Reserve banks are severally authorized under such conditions as they may prescribe, upon request of the Board, to make available to the Bank in confidence all reports, records, or other information relating to the condition of any Participant or Joint-venture-cosponsor to which the Bank has or is contemplating extending financial assistance or for which it has or contemplates using as a custodian of securities or other credit instruments, or which it is using as or contemplates using as a depository, or to which it has or contemplates delegating powers under this Act. The Federal Reserve banks in their capacity as depositories, agents, and custodians for bonds, debentures, and other obligations issued by the Bank or book entries thereof are also authorized and directed, upon request of the Board to make available for audit all appropriate books, accounts, financial records, files, and other papers.

"SEC. 719. JURISDICTION.—The Bank, Participants, and Joint-venture-cosponsor shall for the purposes of jurisdiction be deemed to be a citizen of the State, commonwealth, or District of Columbia in which its principal office is located. No district court of the United States shall have jurisdiction of any action or suit by or against any private financial institution exercising delegated powers under this title, upon the ground that it was incorporated under this title or that the United States owns any stock thereof, nor shall any district court of the United States have jurisdiction, by removal or otherwise, of any suit by or against such institution except in cases by or against the United States or by or against any officer of the United States and except in cases by or against any receiver or conservator of any such institution appointed in accordance with the provisions of this title.

"SEC. 720. STOCK ISSUANCE; RETIREMENT; FRANCHISE TAX.—(a) The Bank shall issue stock which shall be purchased by the Secretary of the Treasury on behalf of the United States as an initial investment in the stock of such Bank to help such Bank to inaugurate financial assistance operations. During the time such stock is outstanding, the pertinent provisions of the Government Corporation Control Act shall be applicable to the Bank. Notwithstanding the requirements for annual audits and annual reports to Congress contained in sections 202 and 203 of the Government Corporation Control Act the operations of the Bank shall also be subject to audit by the General Accounting Office at such times and to such extent as the Comptroller General of the United States shall determine.

"(b) For any year or part thereof, in which the Secretary of the Treasury holds any stock in the Bank, such Bank, before declaring any dividends, shall pay to the United States as a franchise tax a sum equal to the lower of (1) 25 per centum of its net earnings for the year, or (2) a rate of return on such investment calculated at a rate determined by the Secretary of the Treasury equal to the average annual rate of interest on all public issues of debt obligations of the United States issued during the fiscal year ending next before such tax is due, multiplied by the percentage that the number of days such stock is outstanding is of three hundred and sixty-five days. Such payments shall be deposited in the miscellaneous receipts of the Treasury.

"SEC. 721. CAPITALIZATION OF THE BANK.—Subject to the provisions of this title, and approved of the Board, the Governor is authorized to issue from time to time and to have outstanding voting and nonvoting capital stock of an aggregate par value of not to exceed the par value of stock purchased by the Secretary of the Treasury plus not to exceed 2 per centum of the amount of outstanding financial assistance and joint-venture equity investment.

"SEC. 722. BANK STOCK; VALUE; SHARES; VOTING; DIVIDENDS.—(a) The capital stock of the Bank shall be divided into shares of par

value of $5 each and may be of such classes as may be determined by the Board.

"(b) Voting stock of the Bank shall be held only by such Participants as obtain financial assistance from the Bank and Joint-venture-cosponsors, which stock shall not be transferred, pledged, or hypothecated except as authorized pursuant to this title. Any Participant or Joint-venture-cosponsor may elect to receive nonvoting stock in lieu of voting stock.

"(c) Nonvoting stock may be issued to the Secretary of the Treasury and may also be issued to Participants. When a Participant reduces its total outstanding indebtedness to the Bank, or when a Joint-venture-cosponsor has retired the Bank's investment, its voting stock may be converted at par value, or such greater value as the Bank may from time to time determine, into nonvoting stock, or may be redeemed in cash or as a credit to extinguish final indebtedness at such value as the Bank may from time to time determine. Nonvoting stock or other evidences of indebtedness of the Bank held by the Secretary of the Treasury may be retired at any time, subject to approval of the Board, and shall be retired each year to the extent of the availability of earnings in accordance with the provisions of this Act.

"(d) The earnings of the Bank shall be determined in accordance with approved accounting principles and practices, as established by the Board subject to examination under policies of the General Accounting Office. Earnings shall be distributed as follows:

"First, not less than 10 per centum of net earnings for the year shall be paid into the reserve fund of the Bank until said reserve fund shall equal 150 per centum of outstanding stock.

"Second, not less than 10 per centum of net earnings for the year shall be paid into the capital surplus fund of the Bank.

"Third, the franchise tax shall be paid as required by section 720(b) for any year in which any stock is held by the Secretary of the Treasury.

"Fourth, not less than 10 per centum of net earnings shall be used for retirement of nonvoting stock and other evidences of indebtedness, of the Bank held by the Secretary of the Treasury.

"Fifth, dividends shall be paid on nonvoting stock held by investors other than the Secretary of the Treasury at a rate not exceeding the average cost to the Bank of funds obtained through issuance of bonds, debentures, and other evidences of indebtedness in its funding operations.

"Sixth, dividends shall be paid on voting stock of the Bank as determined by the Board.

"(e) Dividends shall not be payable on any stock held by the Secretary of the Treasury.

"SEC. 723. POWER TO BORROW, ISSUE NOTES, BONDS, DEBENTURES, AND OTHER OBLIGATIONS.—The Bank, subject to supervision of the Board, shall have power to issue its own notes, bonds, debentures, or other similar obligations, fully collateralized by the notes, mortgages, joint-venture equities, and security instruments it holds in the performance of its functions under this title in such sums, maturities, rate of interest, and terms and conditions of each issue as it may determine.

"SEC. 724. AGGREGATE OF OBLIGATIONS; SECURITY.—(a) No issues of long-term notes, bonds, debentures, or other obligations by the Bank shall be approved in an amount that, when added to the amount of other bonds, debentures, long-term notes, or other similar obligations issued and outstanding, exceeds twenty times the capital and surplus of the Bank, or such lesser amount as the Board shall establish by regulation.

"(b) The Bank shall have on hand at the time of issuance of any long-term notes, bonds, debentures, or other similar obligations, and shall at all times thereafter maintain, free from any lien or other pledge, notes, and other obligations representing rural development loans made, refinanced, rediscounted, or purchased under the authority of this Act, equities in joint-venture equity investments, obligations of the United States or any agency thereof direct or fully guaranteed, other readily marketable securities approved by the Board, or cash, in an aggregate value equal to the total amount of long-term notes, bonds, debentures, or other similar obligations outstanding for which the Bank is primarily liable.

"SEC. 725. LIABILITY OF THE BANK.—(a) The Bank shall be fully liable on notes, bonds, debentures, or other obligations issued by it.

"(b) The United States shall not be liable or assume any liability directly or indirectly thereon.

"SEC. 726. BONDS AS INVESTMENTS.—The bonds and other similar obligations issued under the authority of this title shall be lawful investments for all fiduciary and trust funds and may be accepted as security for all public deposits. Any obligation issued by the Bank pursuant to this title shall be deemed to be exempt securities within the meaning of laws administered by the Securities and Exchange Commission, to the same extent as securities that are direct obligations guaranteed as to principal or interest by the United States.

"SEC. 727. PURCHASE AND SALE BY FEDERAL RESERVE SYSTEM.—Any members of the Federal Reserve System may buy and sell bonds, debenture, or other similar obligations issued under the authority of this title, and any Federal Reserve bank may buy and sell such obligations to the same extent and subject to the same limitations placed upon the purchase and sale by such banks of State, county, district, and municipal bonds under section 14(b) of the Federal Reserve Act.

"SEC. 728. PURCHASE AND SALE OF OBLIGATIONS.—The Bank may purchase its own obligations and may provide for the sale of obligations issued by it, through a fiscal agent or agents, by negotiation, offer, bid, or syndicate sale, and to deliver such obligations by book entry, wire transfer, or such other means as may be appropriate.

"SEC. 729. INVESTMENTS AND GUARANTEES.—The Bank is authorized to—

"(1) buy and sell securities it has guaranteed or whose mortgages it has insured or in which it has invested;

"(2) invest funds not needed in its financing operations in such property and obligations as it may determine;

"(3) guarantee securities in which it has invested for the purpose of facilitating their sale; and

"(4) guarantee and insure rural development loans made by other lenders.

"SEC, 730. VOLUNTARY LIQUIDATION; INSOLVENCY; RECEIVERSHIPS; AND CONSERVATORS.—(a) The Bank shall not go into voluntary liquidation without the consent of the Board and with such consent may liquidate only in accordance with regulations prescribed by the Board.

"(b) Upon default of any obligation by the Bank such Bank may be declared insolvent and placed in the hands of a conservator or a receiver appointed by the Board and the proceedings thereon shall be in accordance with regulations of the Board regarding such insolvencies.

"SEC. 731. FINANCIAL ASSISTANCE.—(a) The Bank is authorized to extend financial assistance to eligible sponsors, Participants, and such financial institutions as have extended financial assistance to Participants in accordance with provisions of this title.

"(2) The Bank is authorized to invest its funds in joint-venture equity investments in rural development projects.

"(c) The Bank shall develop criteria to assure that projects assisted by it are not inconsistent with the comprehensive planning, if any, for the development of the multi-jurisdictional general purpose planning and development districts in which such projects are proposed to be located, and to assure that such projects will not be disruptive of Federal programs that authorize assistance for the development of like or similar projects in the same rural area.

"(d) Financial assistance extended under this section may not exceed the total capital cost of the project to be financed.

"(e) In any case in which the Bank undertakes to provide assistance to a State or local government under subsection (a) of this section for the development of a project for which any other department or agency of the Federal Government (under another law of the United States) will also provide funds—

"(1) the assistance provided by the Banker under subsection (a) may be in the full amount needed by the State or local government to finance such project (including the amount of the funds which will be provided by such other department or agency), but the funds to be provided by such other department or agency with respect to such project shall become payable (notwithstanding any contrary provision in the law under which they are payable) to the Bank in lieu of being paid directly to such government; and

"(2) the Bank may accept in return (A) an obligation or obligations of such State or local government covering only the difference between such full amount and the amount of the funds that are payable with respect to such project by such other department or agency, plus (B) a commitment from such other department or agency to pay the funds that are to be provided by it and are payable to the Bank as described in paragraph (1), in order to insure that such State or local government will not have to include within its debt limit that portion of the indebtedness incurred for the financing of such development that is attributable to funds provided by such other department or agency.

"SEC. 732. INTEREST RATES AND OTHER CHARGES.—Financial assistance provided by the Bank shall bear interest at a rate or rates, and on such terms and conditions, as may be determined by the Board from time to time. In setting rates and charges, it shall be the objective to provide the types of financial assistance needed on a sound business basis at the lowest reasonable cost, taking into account the cost of money to the Bank, the necessary reserves, capital surplus, and expenses of the Bank, and the orderly retirement of the capital subscriptions of the United States. The security documents may provide for the interest rate or rates to vary from time to time during the period of the assistance in accordance with the rate or rates currently being charged by the Bank.

"SEC. 733. SECURITY.—Financial assistance extended by Regional Banks established pursuant to the provisions of section 710 of this title shall be secured by all of the best available security owned or to be acquired by the beneficiary as may be required adequately to secure the obligation.

"SEC. 734. DELEGATION OF DUTIES AND POWERS TO PARTICIPANTS AND JOINT-VENTURE-COSPONSORS.—The Bank is authorized, by order, rule, or regulation, to delegate to any Participant, Joint-venture-cosponsor, or Supporting financial institutions who extend fi-

nancial assistance to any Participant such of the duties, powers, and authority of the Bank with respect to such Participant or the officers and employees thereof, in the rural area wherein such Participant is located, as may be determined to be in the interest of effective administration. Any Participant, or other person to which any such duties, powers, or authority may be delegated, is authorized and empowered to accept, perform, and exercise such duties, powers, and authority as may be so delegated to it.

"SEC. 735. AGREEMENTS FOR SHARING LOSSES.—The Bank may enter into agreements with Participants, Joint-venture-cosponsors, or eligible sponsors for sharing the gains and losses on financial assistance extended and joint-venture equity investments made under this title.

"SEC. 736. NATURE OF OBLIGATIONS.—All obligations issued by the Bank shall be lawful investments, and may be accepted as security, for all fiduciary, trust, and public funds the investment or deposit of which shall be under the authority or control of the United States or of any officer or employee thereof.

"SEC. 737. TAX STATUS.—(a) The real property and tangible personal property of such Bank shall be subject to Federal, State, and local taxation to the same extent, according to its value, as similar property held by other persons is taxed.

"(b) The income of the Bank and from any obligations purchased by such Bank from any Federal, State, or local governmental or quasi-governmental body, and any obligation issued by such Bank shall be subject to Federal, State, and local taxation to the same extent as the income of obligations of private corporations are taxed.

"(c) The Bank shall be liable for the franchise tax as provided by section 720(b) of this title.

"(d) Notwithstanding the foregoing provisions of this section, the Bank shall not be subject to Federal, State, or local income taxes for any period in which capital stock in such Bank is held by the Secretary of the Treasury for the United States.

"Subtitle D—Participating Rural Development Financial Institutions

"SEC. 738. DESIGNATION.—Any National or State bank, savings institution, credit union, or other financial institution making loans in rural areas for rural development purposes, shall, upon application, be considered for designation as a Participating Rural Development Financial Institution, referred to in this title as a "Participant".

"SEC. 739. FUNCTIONS OF PARTICIPANTS.—Any Participant and any Supporting financial institution, is authorized, subject to provisions of this title, to obtain financial assistance from the Bank and to issue obligations for purchase by the Bank, and to perform such other duties as the Bank may delegate and the Participant or Supporting financial institution agrees to undertake.

"SEC. 740. PURCHASE OF CAPITAL STOCK.—(a) Any Participant may purchase voting capital stock in the Bank in an amount (at par value) equal to at least 1 per centum and not more than 10 per centum of the amount of the financial assistance received from the Bank.

"(b) Participants are authorized to purchase voting stock of the Bank.

"(c) Any of the institutions listed in section 738 of this title may purchase nonvoting stock in the Bank equal to at least 1 per centum and not more than 10 per centum of the financial assistance received.

"SEC. 741. GOVERNANCE OF PARTICIPANTS.—With respect to all evidence of financial assistance and other obligations that a Participant shall present to the Bank, the policies, rules, regulations, and procedures followed shall be in accordance with the rules and regulations established by the Board. The designation of any institution as a Participant may be canceled by the Bank. Any Participant whose designation has been canceled under this section may appeal the cancellation to the Board. The decision of the Board shall be final. The Board shall establish appropriate rules and regulations and review bodies to implement expeditious, orderly, and fair consideration of appeals filed by Participants objecting to canceled designations or other matters related to their relationship to the Bank.

"SEC. 742. TERMS AND CONDITIONS.—The terms and conditions under which financial assistance may be made available to Participants, directly or through other financial institutions, shall be established by the Board. Such terms and condtions may vary depending on the rural development purpose for which such assistance is to be used and the practices of the supporting regional financial institutions involved.

"SEC. 743. A Participant, as a condition of eligibility for financial assistance with respect to any rural development loan it has extended, shall require the deposit by the borrower of such loan of 5 per centum of the amount of that part of the loan for which the financial assistance of the Bank is requested. Such amount shall be utilized by the Participant to purchase on behalf of the borrower voting capital stock of the Bank and shall transmit such stock to the borrower.

"Subtitle E—Joint-Venture Equity Investment in Rural Development Projects

"SEC. 744. JOINT-VENTURE-COSPONSORS; INVESTMENT IN JOINT-VENTURES WITH ELIGIBLE SPONSORS.—(a) The Bank is authorized, subject to regulations approved by the Board, to make investments in rural development projects proposed or established by Joint-venture-cosponsors directly, or through a Participant.

"(b) The Board shall establish standards and criteria to govern the making of investments in joint-ventures with Joint-venture-cosponsors.

"SEC. 745. The Bank and the Joint-venture-cosponsor with whom the Bank has entered into a joint-equity investment in a rural development project shall share in the profits of the project in the same ratio as the amounts of their several investments.

"SEC. 746. Such joint-venture rural development projects shall be subject to all Federal, State, and local taxes.

"SEC. 747. No rural development project shall be eligible for joint-venture investment by the Bank if the project can otherwise obtain necessary credit or investment for the full amount of the investment from any obtained elsewhere on reasonable terms.

"SEC. 748. The investment made by the Bank in joint-venture projects shall not exceed the extent to which the total cost of the project exceeds the amount that can be obtained eleswhere on reasonable terms.

"SEC. 749. The joint-venture agreement between a Joint-venture-cosponsor and the Bank shall provide—

"(1) that such cosponsor will, as soon as financially able, purchase the investment of the Bank, and

"(2) the control over the joint-venture shall be apportioned between the Bank and the cosponsor in accordance with the relative amounts of investment of each in the project.

"SEC. 750. A Joint-venture-cosponsor may purchase not less than 1 per centum and not more than 10 per centum of the Bank investment in a joint-venture of voting capital stock of the Bank.

"SEC. 751. SEPARABILITY.—If any provision of this title, or the application thereof to any person or in any circumstances, is held invalid, the remainder of this title, and the application of such provision to other persons or in other circumstances shall not be affected thereby.

"SEC. 752. RESERVATION OF RIGHT TO AMEND OR REPEAL.—The right to alter, amend, or repeal any provision or all of this title is expressly reserved.

"SEC. 753. APPROPRIATIONS.—There is authorized to be appropriated to the Secretary of the Treasury an amount not to exceed $200,000,000 annually for not to exceed ten years from date of enactment of this title for the purchase of capital stock of the National Rural Development Bank."

SEC. 102. AMENDMENTS TO OTHER LAWS.—(a) Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following:

"(95) Governor of the National Rural Development Bank."

(b) Section 5316 of title 5, United States Code is amended by adding at the end thereof the following:

"(132) Deputy Governor of the National Rural Development Bank.".

(c) Paragraph Seven of section 5136 of the Revised Statutes (12 U.S.C. 24) is amended by adding at the end thereof a new sentence as follows: "Notwithstanding any other provision in this paragraph, the association may purchase the stock, bonds, or other obligations of the National Rural Development Bank created pursuant to the authority of the Rural Development Bank Act of 1978.".

TITLE II—GENERAL PROVISIONS

EFFECTIVE DATES

SEC. 201. The provisions of this Act shall take effect one hundred and twenty days after the date enactment of this Act, or on such earlier date as the President may prescribe and publish in the Federal Register, except that at any time after the date of enactment of this Act, (1) the additional administrators provided for in section 301 of this Act may be nominated and appointed as provided in that title, and (2) the Secretary may promulgate regulations at any time after the date of enactment of this Act. Funds available to any department or agency (or any official or component thereof), functions of which are transferred to the Secretary of Agriculture by title III of this Act, may, with approval of the Director of the Office of Management and Budget, be used to pay the compensation and expenses of any officer appointed pursuant to title III of this Act until such time as funds for that purpose are otherwise available.

The ACTING PRESIDENT pro tempore. The bill will be received and appropriately referred.

PRESIDENTIAL VETO OF PUBLIC WORKS BILL

Mr. LEAHY. Mr. President. I wish to send my congratulations to President Carter for his courageous and successful veto of the public works bill. He had my total support in his stand. Here is why:

I have spent a lot of time in the past few months in the Appropriations Committee room.

I went back to that room recently and sat alone under the chandeliers. I looked up at the cascading tiers of glass and the rich-colored murals on the walls and

ceiling. I thought of all the billions we appropriated.

It is so easy to say: "Million—billion—trillion." Add a few zeroes and change the first letter and spend more money. Speaking for myself as a member of the Appropriations Committee, I am numbed by the sheer volume of figures of dollars passing before my scrutiny. And I would venture to say many of my congressional colleagues are equally numbed.

What does it all add up to? Inflation, that word that we all use liberally sprinkled through press releases and newsletters and speeches. Even the economists do not understand the vicious cycle of inflation, but we throw it around when it suits the cause we advocate at the moment.

I know something about the word inflation. It starts under those beautiful chandeliers. It rebounds in the bureaucracy, spreads through the economy and drives up to the cost of everything from toothpicks to clothing. We can help stop inflation and follow President Carter's courageous lead. All we have to do is stop spending so much money.

Easier said than done? Sure. But after the President's veto, we are going to spend less. Let us just continue the momentum he has begun.

Mr. President, I yield the remainder of my time to the distinguished Senator, my friend from Wisconsin.

Mr. PROXMIRE. Mr. President, I thank the distinguished Senator from Vermont from my heart. I appreciate it very much. He is most accommodating and helpful.

HUMAN RIGHTS AND GENOCIDE CONVENTION INEXTRICABLY LINKED

Mr. PROXMIRE. Mr. President, concern for human rights cannot be the sole responsibility of governments. Other organizations, other sectors of society, must recognize that human rights—above all the right to live—must be actively protected by all.

I am heartened that the National Academy of Science has recognized the sacredness of human life. Robert W. Kates reports in the August 11 issue of Science magazine that the scientific community has assumed the burden of caring about those who are oppressed within their own community.

Indeed, though Mr. Kates specifically discusses the insidious torture of Indonesian scientists, he ultimately makes a statement affirming the fundamental importance of human rights for all.

I read:

Beginning in 1945 and up to the present, a major international shift took place in human rights activities. Human rights today are not merely moral rights, they are international legal rights. An internationally accepted code of human rights—economics, social, political, and religious—has been developed. Most nations have not ratified that code, fewer Nations implement those rights. . . . But almost all nations give lip service to it, and many nations have signed treaties that accept at least a portion of the evolved code. There is an international standard for human rights.

The document Mr. Kates refers to is the "Universal Declaration of Human Rights." One of the specific conventions embodied in this declaration is the Genocide Convention.

Mr. President, if the scientific community can arrive as such an all-encompassing edict for human rights, why cannot the U.S. Senate?

We can, Mr. President.

We can start by ratifying the Genocide Convention.

Mr. President, I ask unanimous consent that an article appearing in Science Magazine of August 11, 1978, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From Science, Aug. 11, 1978]

HUMAN ISSUES IN HUMAN RIGHTS

(By Robert W. Kates)

To be active in defense of human rights is to confront human issues both disturbing and difficult. For almost 2 years a committee of the National Academy of Sciences (NAS) has sought to develop a sustained program of human rights activity appropriate to its membership and its tradition of concern for the rights of scientific workers.

THE ACADEMY COMMITTEE

The Committee on Human Rights was chartered by the council of the academy and is composed of seven members of the academy and three liaison members from the National Academy of Engineering and the Institute of Medicine (1). Exceptional support is given to it by the staff of the Commission on International Relations (2). The committee received financial support from the academy's endowment funds.

Our activity focuses on the plight of individual scientists, engineers, and medical personnel suffering severe repression. Such cases may originate in the files of Amnesty International, with the initiative of a member of the academy, in a letter from a victim's friend or family, or in the informal reviews that we have undertaken of the fate of scientific workers in different areas.

When a case of severe repression has been identified, we begin a further process of inquiry that always involves consultations with a responsible spokesperson of the country where our colleague resides or is imprisoned and, where possible, with members of human rights organizations and scientific institutions, with a representative of the U.S. embassy in the country involved, and with the victim's family and friends. A great deal of care goes into these inquiries as we try to maintain the same standards of evidence, balance, and open-mindedness that characterize academy assessments on scientific matters.

When a clear-cut case has been developed—clear-cut in the sense that there is a strong basis to assume that an individual is, indeed, undergoing severe repression—we formulate a series of requests appropriate to the case and prepare a public statement and the requests are reviewed by the academy's 12 elected councillors; when approved, sometimes after revision, they are made public. Once this is done, our committee tries to undertake a sustained effort in behalf of the aggrieved individual, combining public remonstrance with appeals to the concerned government, their national academy if such exists, or other scientific institutions, and providing moral support to the individual and his or her family.

A major feature of the committee's effort is our correspondent network of some 350 members of the academy who have volunteered to receive communications from the committee and to act upon them. Thus, the efforts of the committee are amplified as correspondents write or cable governmental representatives, offer support to families, and call attention to the plight of individuals within their professional societies, at their workplace, or through their international contacts.

Currently, inquiries and other efforts are being directed in behalf of individuals in 11 countries, and public statements have been issued in behalf of 18 individuals: Federico Alvarez-Rojas, Claudio Santiago Bermann, Gabriela Carabelli, Juan Carlos Gallardo, Antonio Misetich, Eduardo Pasquini, and Elena Sevilla of Argentina; Vladimir Lastuvka and Ales Machacek of Czechoslovakia; José Luis Massera of Uruguay; Sergei A. Kovalev, Yuriy F. Orlov, and Antoliy B. Shcharanskiy of the U.S.S.R.; T. W. Kamil, I. Made Sutayasa, Bursono Wiwoho, and Kamaluddin Singgih of Indonesia; and Ibrahima Ly of Mali.

The last five cases, which we have just formally adopted, can demonstrate some of the committee's process. The Indonesian scientists have each been held incommunicado from immediate families and relatives for long periods of time. They are representative of a much larger number of Indonesians (3) who also are being held, often without trial, without access to legal counsel, and without other opportunity to have their arrest and detention clarified or adjudicated.

T. W. Kamil, about 50 years old, is one of Indonesia's leading linguistic scholars from the University of Jakarta; he studied at the University of Michigan. He was arrested on 30 October 1965 and has been detained since that time. He is reported to be held at Nusakembangan prison.

I. Made Sutayasa, believed to be about 36 years old, was an archeologist employed at the National Research Center of Archeology until 1975 when he was arrested in Jakarta upon his return from a conference of archeologists in Australia. He has not been formally charged or tried; it is believed he is being held on the island of Bali. He is married and has four children and may have been a member of the Indonesian Communist Party before it was banned.

Bursono Wiwoho, about 55 years old, was professor of educational psychology at Gadjah Mada University in Jogjakarta, Java. Professor Wiwoho had been a member of the National Planning Board under the Sukarno government and at the time of his arrest in late 1965 was chairman of the Indonesian Association of Scientists. He is reported to be either in Jogjakarta prison or detained on Buru Island, the location of a permanent resettlement camp for untried political prisoners. He participated in the nationalist movement to gain independence from the Dutch, after which he studied in Prague from 1951 to 1954 where he earned a degree in psychology. He later headed the psychology department of Gadjah Mada University in Jogjakarta and was a founder of the Indonesian Scholars Association. He is reported to be in poor health.

Kamaluddin Singgih, age 47 years, was teaching in the department of mechanical engineering at the Technological Institute in Bandung when detained January 1966. Later that same year he was released to assist in flood control projects—only to be taken into custody again in January 1967. Originally imprisoned in Salmba prison in Jakarta, he is now on Buru Island. Singgih studied physics and engineering at Stuttgart between 1960 and 1965 and was reputed to be sympathetic to the Communist Party.

Our information concerning these Indonesian colleagues is thinner than for most of our cases. Three of them have been in de-

tention for upwards of 12 years and their very isolation makes it difficult to obtain current information about them. Thus we have quietly and privately sought—so far without success—to obtain clarification as to their status from the government of Indonesia.

We know somewhat more about Ibrahima Ly, a Ph.D. in mathematics from Moscow State University and, until his arrest and imprisonment, a mathematics teacher at the Ecole Normale Superieure in Bamako, Mali. He was arrested in June 1976 along with 14 other persons who were accused of writing a political tract that urged Malians to vote "no" in a referendum called by the Malian government to approve a new constitution. He was subsequently brought to trial in April 1975 under charges of subversion against the government, found guilty, and sentenced to 4 years of imprisonment.

Our list of concerns does not always get longer. The scientific community can share in the satisfaction that Juan Carlos Gallardo of Argentina has been released and is again working in physics in the United States and that Elena Sevilla should follow shortly. And among those cases that were resolved during the course of our inquiries, we note that:

Ismail Mohammed, who spoke out against segregationist policies in South Africa and was detained there in September 1976 and fired from his university post, is now practicing mathematics again at another university.

Grigoriy Chudnovskiy, a gifted young Soviet mathematician was permitted to leave the U.S.S.R. with his brother, David, who is also a mathematician, and his elderly parents; he is currently in the United States receiving treatment for myasthenia gravis.

Taysir al Arouri, a Palestinian physicist, who was detained for 2 years without charge or trial by the Israeli government, has been released; it is hoped that he will return to his position at Bir Zeit University, teaching physics and mathematics.

Professor "X," an African mathematician, fearful of his life if he returns to his country, has had his visa extended to remain in the United States.

In all of these cases, our inquiries were some of many such efforts and remonstrances from scientific societies and individual scientists. We can all share in the satisfaction of their resolution.

But these are still the exceptions. Four Argentinian physicists (Alvarez-Rojas, Carabelli, Misetich, and Pasquini) are simply reported as "not registered" by the Argentinian government. Massera enters his third year in prison in Uruguay despite his willingness to leave the country and take up an offer of a post in Italy. Kovalev enters his fourth year in prison despite offers from Stanford and Cornell for visiting posts. In Czechoslovakia, the appeal by Machacek has been rejected and Lastuvka's sentence has been reduced by 1 year by the Czechoslovakian Supreme Court. They still remain as the first imprisoned victims of the Charter 77 movement, a Czechoslovakian effort to monitor human rights. Orlov and Shcharansky have been summarily tried and found guilty in the U.S.S.R.

As we sought to develop our program in our initial year of activity, we faced three major issues:

Whose human rights?
Which human rights?
How do we act for human rights?

WHOSE HUMAN RIGHTS?

The issue of whose human rights we were concerned with touches on the essence of a basic question that we had to consider: "Are scientists special?" After some months of discussion and reading, the consensus of our committee was negative.

Scientists are not special, neither as victims nor as torturers do we deserve to be singled out. It is true, as the Ziman report (4) states, that science as an activity has certain characteristics—a reverence for truth that leads its practitioners to query and dissent, a process of verification that requires open dissemination and communication, a universality of discourse and goals whose common language and pursuits go beyond national borders—that may be readily seen as threatening to authoritarian regimes or even in conflict with nation-building goals. But the Sierra Chica prison in Argentina is filled not with scientists but with young workers and students. As Philip Handler put it in an interview in BioScience (5):

"* * * tortured shoemakers hurt quite as hard as tortured scientists. Protesting only for scientists doesn't quite fit with my own beliefs about all of this. Scientists happen to be a little bit more visible. The world knows about them. The shoemakers are taken off behind the barn and shot."

If we scientists are not special, though, why limit our human rights activities to our own—to scientists, engineers, and health personnel? Our answer is simply: they are our own. We hope that other groups—trade unions, bar associations, women's groups, and shoemakers everywhere are equally or more active. But we will surely be more effective in indentifying victims, in documenting their cases, and in supporting them, if we can appeal to that special quality of collegiality that we share and if we can use for such appeals the established avenues of scientific communication. In so doing, however, we know that in many, if not most cases, the nameless victims of repression have few if any scientists among them, and in some cases, scientists serve with the repressors.

Having chosen to limit our efforts to "our own" we were still left with some issues of definition: how far do we extend the concept of scientist and at what point in a career does an individual become a scientific colleague? Our answer, in keeping with the universality of science, was to seek a similar universality of outreach: not merely to the well-known and well-connected, not only to the ideologically similar, but to all victims in science, engineering, and medicine wherever they may be.

It is understandable that our academy officers have taken the strongest possible position in defense of Sakharov, a foreign associate of the academy; that as academicians who are well known and well connected we know and thus respond to the victims from our own ranks; or even that some of us more readily respond to victims of our own personal ideological persuasion. But it cannot be, and it is not, the position of our committee to limit our efforts to such cases.

Thus we have spent a considerable portion of our collective energy on trying to extend our knowledge of the plight of individuals in the less-known areas of the world and to examine the situation in our own and other countries of similar ideological persuasion. We have done so even at the cost of limiting our efforts in behalf of better-known cases, often to the pique and annoyance of our own members and colleagues.

We are, of course, limited in just how well we extend ourselves. In many parts of the world, science is poorly developed and so are our contacts with those areas. And we surely miss or rationalize away some of the travesties of human rights in our own midst. But it is not for want of trying.

WHICH HUMAN RIGHTS?

In considering the second issue—Which human rights?—I urge a reading of the Ziman report. (4) It makes one basic point and makes it well. Beginning in 1945 and up to the present, a major international shift took place in human rights activity. Human rights today are not merely moral rights, they are international legal rights. An internationally accepted code of human rights—economics, social, political, and religious—has been developed. Most nations have not ratified that code, fewer nations implement those rights, and in only one case, the Council of Europe, does an effective international appeals court exist (6). But almost all nations give lip service to it, and many nations have signed treaties that accept at least a portion of the evolved code. There is an international standard for human rights.

Using this standard is extremely helpful to us in our selection process. We do not have to sit in judgment of our colleagues now more than 12 years in Indonesian prison camps or 13 months in Lefertovo prison. When the Israeli government says that Taysir al Arouri "incited terrorist activities" or Uruguayan officials say that Massera was found guilty of "subversive association" (7) we do not need to make judgments that are clearly beyond our knowledge. It is sufficient to know that Al Arouri has been detained without being tried or charged under so-called Jordanian Administrative Law (which is really the relic of the British Mandate Law and which ironically was used to imprison many preindependence Israeli patriots). And to know that Massera probably has been tortured and has certainly suffered physical impairment, even though Uruguay has an established tradition of allowing opponents exile and there is a post in Italy for him and his wife (who is also imprisoned).

Thus, we draft our requests—an end to torture, rights to trial, to representation, to visitation, to courtroom observers, to receive and send scientific literature, to exile (as opposed to continued detention), to humanitarian release (in case of hardship), and to extension of existing amnesty. All of these are rights implicit in the international code.

In requesting compliance with the international code, we need not underestimate the threats that nations perceive from dissidents: we live in a world where terrorism is a reality and not limited to national liberation or the overthrow of tyranny, where subversion and dissent may threaten all but the stringest and oldest of societies. Nonetheless, the prisons of the world would empty of prisoners of conscience if countries would adhere to the minimal rights of the Universal Declaration of Human Rights and its successor documents.

If we take international rights seriously and try to use them effectively to refute the charge of intervention in the internal affairs of other countries, we cannot choose them selectively. We Americans have an ideological bent that selectively equates human rights with certain civil and political rights, ignoring many other rights embodied in those covenants. Those who would dispute our right to speak out raise this issue repeatedly with us. Here are three examples. A member of an American scientific society who was born in Argentina, writes an open letter to the society's president condemning his action to protest the repression of Argentinian colleagues:

"You [the President] have called attention to nefarious practices in Argentina. Well, I must tell you that the average citizen there has more freedom in some aspects than we have here. Have you heard . . . that hundreds of thousands of elderly people, and some not so elderly, in certain areas of the United States are locking themselves up and starving because of the fear of street violence. Our American cities are filled with men and women like the elderly couple in New York who committed double suicide recently for fear of going out and being mugged again. Have you . . . written letters to President Carter about this shameful problem . . . [a] problem unknown in Argentina?"(8).

The Iranian representative to the World Bank writes:

"In spite of some 30 years of debate over this complex issue in the United Nations, American and Western libertarian philosophy still regards 'human rights' in a very narrow context: as essentially political, universal and timeless.

"But as far as the third world is concerned, they are largely one-sided, passive and abstract. They reflect political rights for the redress of grievances, personal immunity for unlawful or unnecessary search and seizure, habeas corpus privileges, due process of law for incarceration or imposition of fines, the absence of cruel and inhuman punishment, and a host of other individual freedoms of action.

"But they are silent about the society's obligation toward the individual; they say little about the right to employment, the right to obtain a meaningful education, the right to enjoy a minimum of life's amenities. These 'active' and 'positive' sides (that is, society's obligations) are either ignored or considered as secondary in the roster of Western "human rights'."(9)

A Soviet legal expert echoes these sentiments:

"When they discuss human rights, many Western ideologists emphasize not socioeconomic problems but the freedom of the individual. Without question [these are] an essential element of democracy.

"All these are not enough, however, in our view. We believe that society must also guarantee the individual the right to education, to work, and to material security. . . . There are now 17 million unemployed in the industralized capitalist countries . . . we have no unemployment [in the USSR] since the beginning of the thirties." (10).

I have the impression that many human rights activists respond to these concerns as if they were red herrings to be ignored or a rationalization for repression and not to be credited with serious attention. In my opinion, this would be in error. To justify a sentence for Kovalev or Orlov by the fact that we tolerate a high unemployment rate in the United States or to excuse the thousands of kidnappings in Argentina on the basis of the muggings that occur in the United States would clearly be nonsense. But to ignore the substance of these challenges would be a serious mistake.

The international codification of human rights provides for economic and social rights as well as political rights. To use one of the examples cited: it is indeed shameful that in the richest nation on earth 6 to 7 percent of the work force is almost always out of work, and 30 to 40 percent of black youth seem permanently unemployed. Our most rational goals for unemployment ranges from 4 to 6 percent; in contrast, not only in socialist countries, but in many Western European countries, a 1 percent rate is considered a national calamity.

Let us welcome a genuine dialogue. As we point out to our Soviet colleagues that their remarkable employment record is not enhanced by denying dissidents the right to work, let us also consider ways in which we in science and technology may work to enhance the right of all to work, to have security in our cities, and to meet basic human needs.

There is another view as to which human rights can be asserted. It is the view of Sir Andrew Huxley and other British scientists within the Royal Society. He distinguishes between defense of the political rights of dissident scientists and the defense of scientific rights in the face of intrusion of the state. He notes:

"The persecutions of the present day are not directed against scientific doctrines or against scientific enquiry as such; they are directed against individual citizens who have had the courage to speak up against oppressive features of the regimes under which they live. Among these brave individuals there are, for example, writers and medical men as well as scientists. The appropriate reaction therefore comes from us not as scientists but as citizens; if we wish to join in some corporate protest, it should be through one whose prime concern is with science. If a scientific body publicly takes a step whose justification is political and not scientific, it will lose the right to claim that it is acting purely in the defense of science on some future occasion when it wishes to speak out against, say, a repetition of the Lysenko affair." (11)

In choosing the clear-cut case of Lysenko and the role of some political dissidents, Sir Andrew has the advantage of posing the extreme cases to support his opinion. Unfortunately, we find it more difficult to grapple with the continuum of repression, to determine just what is scientific and what is political. To cite just two examples:

Some Argentine scientists appear to have been denounced, killed, or imprisoned because they differed on scientific policy with the military or were actively reformist in the governance of their institute or university.

Many Soviet scientists who are clearly political dissidents are punished by manipulating the institutions and even the literature of science: they are denied work, advancement, and degrees, and their works are even excised from the literature. Pressure is brought on their colleagues to acquiesce to or carry out these acts.

Drawing lines in science and human rights is difficult. We presume little righteousness in the way we have drawn ours, but we fail to see the incongruity of a scientific society concerning itself with the human condition of fellow scientists as well as with their scientific doctrine.

HOW DO WE ACT FOR HUMAN RIGHTS?

Having chosen to speak to the internationally agreed-upon human rights of individual scientists, the issue of method still remains. How do we act in behalf of those rights?

Our major effort has been to develop an approach that matches patience with persistence. Our committee began work a year prior to President Carter's initiatives, and the academy's human rights activities date back to 1956. But we are sufficiently wise, or cynical, to note how cyclic and fluctuating public and government interest in current issues seem to be. Ours is a nation given to hyperbole; we fear that the crusade for human rights may go the way of the "great society" or the "war against poverty." It is irresponsible for members of human rights groups to raise the hopes of victims for redress and then turn to some other seemingly more current or pressing issue. Thus we have tried to develop a capability for patient, sustained, and persistent inquiry and support.

At the same time we have had to face (and continue to face) various tactical issues. From time to time we have been pressed by academy members and friends toward quite differing views. One member stated his dilemma as follows:

"I applaud Carter's statements on human rights as an aspect of national policy. Will a letter from a lowly academic and civil servant, even though a member of NAS, really add anything to Carter's forceful statements and the NAS Committee declaration? Whatever it does, will it also be at the cost of the cordial working relations, indeed friendships, that I have managed to open up over the last decade with a number of Soviet scientists not to mention the matter of field access? Or worse, will it get my Soviet friends in trouble? It is easy to be for human rights when you're not personally threatened by their loss."(8)

After much thought, this member did write one of the most moving letters I have encountered, expressing to Soviet authorities that it was the very respect and affection he had for their country and for his scientific colleagues that impelled him to appeal in behalf of an imprisoned colleague.

A very different view is expressed by a participant in the exchange program organized by the academy:

"Our experience at a meeting in the USSR shows that generalized protest is almost useless, but specific threats and promises can accomplish a lot.

"My protest is against the Academy's decision to exert no actual pressure on the Soviets. Therefore since the Academy is useless on this issue, individuals and groups of American scientists have to protest against the Academy as well as against Soviet behavior." (8)

In response to this and similar concerns, our position continues to be to hold to the universality principle, to not restrict the channels of scientific communictation in the name of trying to maintain and extend them. This is our institutional position and it is my own. But it is not necessarily the position of all individual scientists. Scientific communication is in the last analysis a voluntary act, like so much we do. Increasingly, more and more scientists may withhold their participation in exchanges with individuals or groups they feel are unresponsive or even complicit in repressing colleagues. This has clearly been the response in the wake of the Orlov conviction in the U.S.S.R. His heavy sentence, closed trial, and the apparent treatment of his family and friends dismayed much of the scientific community. Individuals and groups, many with deep personal commitment to scientific exchange with the Soviet Union, canceled or delayed their planned trips, seminars, and meetings.

THE DISTORTIONS OF HUMANITY, NATIONS, AND SCIENCE

How we allow the pain of the victim and the cacophony of protest to enter the quiet and generally well-mannered house of international science is a question that will persist and recur. But lurking in the nether darkness of questions asked but not answered are the most troubling of all issues, those raised by the profound distortions of humanness, nationhood, and science that follow in the wake of repression.

Torture is widespread. According to Amnesty International it occurs in some 60 nations. It is not limited to the Idi Amins or to the secret police of the world.

Our own country was accused by responsible observers of countenancing the use of torture and serious violations of human rights in South Vietnam and of permitting the teaching of highly questionable interrogation techniques in countries receiving assistance in the training of domestic police. Because of the European Covenant on Human Rights, Britain has compensated victims of inhuman and degrading techniques used in Northern Ireland.

It is not clear how much technical skill is needed to employ the electric shock apparatus used in basement cells. And one cannot imagine the professional standards of the doctors who patch up the victims in silence or of the psychiatrists who prescribe "treatment" for the dissidents they label insane. But surely they demonstrate that our scientific ethic is not universal and that it fails us now, as it did when horrors were perpetrated in scientifically run concentration camps.

For scientists to be active in defense of human rights is to learn and relearn what Rabelais knew in 1532: "Science without conscience spells but destruction of the spirit". (12)

REFERENCES AND NOTES

1. Christian Anfinsen, Lipman Bers, Clifford Geertz, Franklin Long, John Ross, and Berta V. Scharrer serve with me from the academy. Daniel Drucker and William Slich-

ter are the liaison members of the National Academy of Engineering, and Adam Yarmolinsky is the liaison member for the Institute of Medicine.

2. Murray Todd serves as Executive Secretary, assisted by Jay Davenport, Sandra Erb, and Gerson Sher.

3. Estimated by the Indonesian government to number 29,000, of whom 10,000 were to be released in December 1977 and the remainder by the end of 1978. These estimates are contested by Amnesty International and some Indonesian human rights releases and purported leaders who place the number in excess of 50,000.

4. Our most valuable reading was the report of a committee chaired by J. Ziman: The Council for Science and Society in collaboration with the British Institute of Human Rights, *Scholarly Freedom and Human Rights* (Rose, London, 1977).

5. E. M. Leeper, interview with Philip Handler, "Academy shifts emphases to keep up with the times," *BioScience* 27, 244 (April 1977).

6. For a less optimistic view and excellent review of the status of implementing these rights, see William Korey, "U.N. human rights: Illusion and reality," *Freedom at Issue* 42, 27 (September–October 1977).

7. Communications to the Committee on Human Rights (1977).

8. Communication to the Commitee on Human Rights, paraphrased slightly to preserve anonymity (1977).

9. Jahangir Amuzegar, "Rights and wrongs," *New York Times* (29 January 1978), section IV, p. 17.

10. Interview with Vladimir Kudryavtsev, "Human rights: How they are understood in the U.S.S.R.," *Soviet Life* (July 1977).

11. Excerpt from an address by Andrew Huxley to the British Association for the Advancement of Science, August 1977. Reprinted in *Chemical and Engineering News* (26 September 1977), p. 5.

12. Francois Rabelais, *Gargantua and Pantagruel*, book II, chapter 8 (1532) (Heritage Press, New York, 1942).

13. I gratefully acknowledge the assistance of M. Berberian, C. Gediman, E. Grohman, and the staff and members of the Committee on Human Rights in the preparation of this article.

WISCONSIN CONSTITUENTS REPLY TO PROXMIRE QUESTIONNAIRE

Mr. PROXMIRE. Mr. President, briefly on another subject, I just received responses to a questionnaire sent out to my constituents in Wisconsin. Some 10,000 respondents replied, and the questionnaire brought some surprising responses. For instance, a majority favored reinstituting the draft, which surprised me because I am opposed to the draft, and I felt a majority would oppose it. The majority was narrow, but in a time of peace that, frankly, very much surprised me.

Also a decisive majority favored a universal system requiring all Americans to serve for 2 years in the military or some other Government agency. That would be both costly and a direct interference with individual freedom, as well as highly inflationary, but this is what the majority of my consistuents have called for.

While I expected a majority of Wisconsin citizens to agree that inflation is our No. 1 problem, I was astonished by the overwhelming agreement. A huge 81 percent called it our No. 1 problem. Crime was a distant second with 9 percent of the respondents calling it most important.

A final surprise was the overwhelming support for stricter enforcement of the 55-mile-per-hour speed limit. Again and again I have met Wisconsin citizens who were protesting the 55-mile-per-hour speed limit. But here we have the most emphatic kind of endorsement, better than 2 to 1. A ringing 68 percent of the respondents support stricter enforcement compared to only 32 percent who oppose it.

Wisconsinites overwhelmingly supported the President in his veto of the defense bill containing the nuclear aircraft carrier, and also agreed with the President on lifting the embargoes against Turkey and Rhodesia. They favored an economic embargo of Uganda but decisively rejected military intervention by the United States to bring down the Idi Amin regime.

Mr. President, I ask unanimous consent that a copy of the questionnaire with the questions and answers be printed in the RECORD.

There being no objection, the questionnaire was ordered to be printed in the RECORD, as follows:

LAST MONTH'S QUESTIONNAIRE RESULTS

Here are the highlights of how you voted in response to the September newsletter.

By the overwhelming margin of 92 percent to 8 percent, you emphatically agreed with my attempt to cut $25 billion or 5 percent from the federal budget. Wow! and Hooray! Among the areas you singled out for cuts were foreign aid, Congress, general government, and welfare.

You opposed the nuclear aircraft carrier 72 percent to 28 percent and supported the lifting of the embargoes against Turkey and Rhodesia. You approved of an economic embargo against Idi Amin's Uganda but strongly resisted the use of force to bring down his regime.

Your answers indicated a skepticism toward the all volunteer force but support for a universal system of service.

Printed below is a list of all the questions and your answers given in percentages.

What do you think about the following foreign policy issues?

1. The President has vetoed the Military Procurement Bill due to the insistence of Congress in funding a nuclear aircraft carrier at a cost of $2.4 billion.

Do you agree or disagree with the President?

	Percent
Agree	72
Disagree	28

2. The Congress has voted to lift the embargo on arms sales to Turkey.

Do you agree or disagree with this decision?

	Percent
Agree	66
Disagree	34

3. The Congress has voted to lift the embargo aganist Rhodesia if the country has free supervised elections with all blacks and whites voting.

Do you agree or disagree with this vote?

	Percent
Agree	84
Disagree	16

4. U.N. Ambassador Andrew Young has come in for criticism lately.

How do you assess the job he has been doing?

	Percent
Acceptable	35
Unacceptable	65

5. Do you believe the United States should initiate a full economic embargo against the regime of Idi Amin in Uganda?

	Percent
Yes	82
No	18

6. Should the United States use force, if necessary, to bring down the Idi Amin government in Uganda?

	Percent
Yes	17
No	83

7. Do you think the United Nations should take military action, if necessary, to stop the genocide occurring in Cambodia?

	Percent
Yes	44
No	56

8. One new strategic plan under consideration by the Pentagon is to dig thousands of missile silos and move a number of missiles around from silo to silo. Critics say this will accelerate the arms race and make more targets in the U.S. come under fire. Proponents say this plan will help keep our land based missiles invulnerable.

Do you agree or disagree with this new plan?

	Percent
Agree	36
Disagree	34
Undecided	30

9. There has been a great deal of discussion lately about whether or not the all volunteer army is working.

Do you think the all volunteer force is effective?

	Percent
Yes	42
No	58

Do you think we should reinstitute the draft?

Yes	52
No	48

Do you think women should be able to volunteer for combat duty as do men?

	Percent
Yes	61
No	39

Do you think a universal system (where everyone must serve for two years in the military or some other government agency) is a good idea?

	Percent
Yes	60
No	40

10. Do you think the United States should provide either economic or military aid to the Peoples Republic of China (Mainland China) if requested?

	Percent
Yes	26
No	74

11. If the price of obtaining full diplomatic relations with the Peoples Republic of China (Mainland China) is breaking off relations with the Republic of China (Taiwan), should we do that?

	Percent
Yes	24
No	76

WHAT IS YOUR OPINION ABOUT THE FOLLOWING DOMESTIC ISSUES?

12. What do you believe is the No. 1 problem facing the United States today? (Choose one).

	Percent
Unemployment	6
Inflation	81
Faster economic growth	1
Crime	9
Relations with the Soviet Union	3

13. Would you favor a cut of $25 billion or 5 percent from President Carter's proposed

$500 billion budget as one way of fighting inflation?

	Percent
Yes	92
No	8

14. Which of the following areas would you be willing to see cut if you favor a reduction in the Federal budget of up to 5 percent?

a. Defense	Percent
Cut	36
Not cut	64
b. Foreign Aid	
Cut	89
Not cut	11
c. Law enforcement	
Cut	12
Not cut	88
d. Post Office	
Cut	66
Not cut	34
e. Parks and recreation	
Cut	53
Not cut	47
f. Agriculture supports or research	
Cut	39
Not cut	61
g. Supports or aid for business	
Cut	59
Not cut	41
h. Space exploration	
Cut	63
Not cut	37
i. Veterans benefits	
Cut	29
Not cut	71
j. Environmental projects	
Cut	57
Not cut	43
k. Job and employment training programs	
Cut	50
Not cut	50
l. Assisted housing	
Cut	56
Not cut	44
m. Highways and mass transit	
Cut	39
Not cut	61
n. Health	
Cut	30
Not cut	70
o. Education	
Cut	44
Not cut	56
p. Welfare	
Cut	83
Not cut	17
q. Congress	
Cut	86
Not cut	14
r. Social Security	
Cut	27
Not cut	73
s. General government	
Cut	93
Not cut	7

t. My No. 1 candidate for spending cuts is Welfare (which received a higher proportion of the votes in this category than any other, 35 percent of the total).

The fate of President Carter's National Energy Plan remains very much in the news. Congress has been studying the plan since April 20th of last year.

How would you vote on the following proposals?

15. Coal Conversion: require industries that us oil and natural gas to shift to coal.

	Percent
Yes	67
No	33

16. Utility Rate Reform: higher rates as energy use increases; lower rates for less energy use during off-peak periods.

	Percent
Yes	69
No	31

17. Tax large cars with low fuel efficiency: the gas guzzler tax.

	Percent
Yes	60
No	40

18. Ban gas guzzlers altogether.

	Percent
Yes	39
No	61

19. Provide low interest loans and low income grants to homeowners and renters to make energy conservation improvements.

	Percent
Yes	65
No.	35

20. Give tax credits for the installation of solar energy equipment.

	Percent
Yes	64
No	36

21. Give tax credits for residential insulation.

	Percent
Yes	64
No	36

22. Approve deregulation of domestic oil prices.

	Percent
Yes	45
No	55

23. Approve deregulation of domestic natural gas prices.

	Percent
Yes	44
No	56

24. Oil and gas taxes: impose a big tax increase on oil and natural gas to discourage demands with rebates to consumers through tax cuts.

	Percent
Yes	25
No	75

25. Stop federal funding of the breeder reactor which produces weapons grade plutonium.

	Percent
Yes	50
No	50

26. Provide for stricter enforcement of the 55 mph speed limit.

	Percent
Yes	68
No	32

Mr. PROXMIRE. I thank the distinguished Senator from Vermont, and I yield back the remainder of the time.

Mr. ROBERT C. BYRD. Mr. President, how much time was yielded back?

The ACTING PRESIDENT pro tempore. The Senator yielded back 3 minutes.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that 2 minutes of that be given to Mr. BAYH and 1 minute to Mr. GARN.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

EXTENDING THE DEADLINE FOR RATIFICATION OF ERA RESOLUTION (H.J. RES. 638)

Mr. BAYH. Mr. President, I ask unanimous consent that in an effort of being fair that the time from here on in, instead of being charged to the Senator from South Carolina, who has the time, be taken out of both sides equally.

The PRESIDING OFFICER (Mr. PROXMIRE). Is there objection? The Chair hears none, and it is so ordered.

Mr. BAYH. Mr. President, I would like to make one observation. We are meeting here today to take another small step toward completing the goal established by our Founding Fathers and Mothers over 200 years ago of full equality for all of our citizens. The extension of the equal rights amendment, of course, is the business before the Senate, and several of our Members will be addressing themselves to that later on this morning.

It seemed to me to be both appropriate and prophetic that the distinguished Member of this body who is now Presiding Officer (Mr. PROXMIRE) opened this morning's session urging this country to ratify the Genocide Convention.

Indeed, the goals of America are the kinds of goals that should be spread and cultured, nursed openly, and harvested wherever human souls live. If there is any country in the world that should be committed to the principles of the Genocide Convention—which, by the way, says the United States itself condemns genocide—it seems to me the United States ought to be leading the charge.

I congratulate the distinguished Senator from Wisconsin for this participation and insistence, and I think we are going to win that battle, just as we are going to win this one. That, too, will be another small step in achieving the goals this country stands for.

The PRESIDING OFFICER. The Chair thanks the distinguished Senator from Indiana.

Under the previous order, the Senator from South Carolina (Mr. THURMOND) is recognized for not to exceed 8 minutes. The time lost had to be prorated.

Mr. THURMOND. Mr. President, I rise today to announce my opposition to House Joint Resolution 638. I want to stress, however, that my opposition is not based on the merits of the equal rights amendment but on the belief that the proposal to extend the time to ratify this amendment is unconstitutional and fundamentally unfair. A close study of this issue reveals that a time limit once established on a proposed amendment cannot be extended. However, if for some reason this body chooses to overlook that constitutional restriction, an extension still would require a vote of a two-thirds majority and should allow States the right to change their mind and rescind prior ratifications. I will make a brief statement on each of these points.

Mr. President, during the debates on this issue, much has been said about the 7-year time limit. Some argue that this is only a procedural matter and can be extended at the will of Congress. A close study of the Supreme Court decision in Dillon against Gloss and the history behind that case illustrates clearly that this is not so.

Congress for the first time set a time limit for ratification on the 18th amendment. There were several reasons for this, but the one most often stressed during the congressional debates was that some amendments never ratified were still lingering from the 19th century. Opponents challenged this in Dillon arguing that article V of the Constitution allowed Congress to propose amendments but not to set time limits. The

Court ruled, however, that the time limitation was valid because article V permitted Congress to set a reasonable time for ratification. The Court in fact stated that a time limit was proper in that "all may know what it is and speculation on what is a reasonable time may be avoided." Further, the Court defended the limitation as insuring an opportunity to act on the amendment with regard to the sentiment and needs of the time and if not ratified during that period "it ought to be regarded as waived, and not voted upon, unless a second time proposed by Congress." It is clear from this decision, that once the time period is set, as it is here, the amendment must be ratified by the required number of States within that period. House Joint Resolution 638 violates these principles in that it does not propose the ERA anew but attempts to extend a time limitation that in fact cannot be extended. Moreover, by extending the period, the Congress is setting a precedent that promotes speculation of when an amendment will have final action, contrary to the Court's decision.

While testifying during the hearings on this resolution our former colleague, Sam Ervin, who amply illustrated his firm grasp of constitutional principles both on this floor and as chairman of the Subcommittee on the Constitution, pointed out another concept in the Dillon case. In discussing the amending process, the Court declared that proposal and ratification of amendments "are not treated as unrelated acts, but as succeeding steps in a single endeavor." Extending the ratification period is adding another endeavor to the process and thus as Senator Ervin stated it "undertakes to do in two endeavors what the Supreme Court declared must be done in one."

Mr. President, another reason why I cannot support this measure is the rejection by the Senate of two amendments which could have restored some constitutional integrity and fairness to House Joint Resolution 638—I am speaking, of course, of the amendment which would have required two-thirds majority for extension and the amendment which would have allowed States to rescind their ratifications during the extended period.

Mr. President, it is the clear mandate of article V of the Constitution that an amendment to the Constitution be proposed by a two-thirds majority of both bodies of Congress. This mandate was expressed when, by a two-thirds vote, the ERA, with the 7-year time limit, was proposed to the States as an amendment to the Constitution. House Joint Resolution 638 is an important part of that amendment; in fact, it is the only lifeline it has after March 22, 1979. It is, therefore, mandatory that the measure also comply with the two-thirds requirement of article V.

Mr. President, the proponents of House Joint Resolution 638 argue that the debate on the ERA is still very much alive and should not be forced to end next year; however, this measure will allow debate to continue only in the States that have not yet ratified. The basic unfairness of this is why I supported the amendment of the Senator from Utah, which would have allowed all the States to debate this issue during the extension period. However, this amendment was rejected and the Senate is now left with a "stacked deck" which, by its very nature can only benefit one side.

In conclusion, Mr. President, I implore my colleagues not to consider a vote on this measure as synonymous with a vote on the ERA, because it is not. This measure concerns important constitutional principles which can be sustained only by voting against House Joint Resolution 638. To forsake these principles for the ERA, regardless of its merits, would indeed be an injustice to the Constitution.

The PRESIDING OFFICER. Under the previous order, the Senator from Arizona (Mr. DECONCINI) is recognized for not to exceed 15 minutes.

Mr. DECONCINI. Mr. President, I have drafted and submitted to the chair an amendment to House Joint Resolution 638. I do not call it up at this point because I have become convinced that it would be inappropriate as an amendment to a House joint resolution. My amendment makes a change in Federal law, and is not part of the "incidental" powers of Congress under article V.

However, Mr. President, I believe that the amendment I have drafted raises a very important and serious issue which my colleagues should consider. My concern is the use of Federal tax moneys for the support—directly or indirectly—of boycotts. Clearly, Mr. President, Americans individually and collectively possess the right to engage in boycotts.

The question I raise, however, is substantively different. Should Federal tax dollars collected from all Americans for necessary governmental services go to private organizations to pursue economic boycotts? I cannot believe anyone in the Chamber would support such a proposition. Yet, it appears that there is little concern or agitation over this matter. I see a serious threat to the amending process in the involvement of Federal dollars with an economic boycott of States that fail to ratify a proposed amendment. It was the clear intent of the framers that the power to ratify be given to the States. The use of Federal moneys, even indirectly, to force States to ratify subverts that grant of power. I urge my colleagues, especially those who support the ERA as I do, to give serious thought to the precedent established if we continue to give Federal funds to groups supporting the boycott. The States must be free of any Federal influence in their decisions on ratification, no matter what the merits of the proposed amendment. This question transcends the issue of the equal rights amendment. It touches the foundations of our Federal form of government.

A second aspect of the boycott that troubles me is the effect it is having on those the ERA is designed to aid—women in low-paying jobs. The loss of revenue by States being boycotted occurs mostly in the tourism and convention related industries. These losses are massive by current estimates: $160 million in Atlanta, Ga., $19 million in Missouri, $185 million in Las Vegas, according to newspaper sources. Yet, there is no indication these State legislatures have changed their votes because of the boycott. On the contrary, they have filed suit against the National Organization for Women, which indicates to me a hardening of attitudes against the ERA. What has resulted from the boycott is that losses in the convention industries have forced employers to reduce the number of service employees: maids, waitresses, cooks, and maintenance personnel. These women are most in need of the income their low-paying jobs provide. In conclusion, the boycott, in my opinion, is neither facilitating passage of the ERA nor benefiting those women most in need of protection.

Mr. President, in spite of my serious concern and objection to the boycott and to the Federal involvement with those who support it, I will vote to extend the time for ratification of the equal rights amendment. I have supported equality for women long before I was elected to this body. I find no merit to the argument that the family can survive only at the price of denying women full equality under the law. I find no substance to the contention that women will be unable to continue in their roles as mothers and wives if they have to bear the burdens of full equality. It has long been my belief that these arguments misapprehend the nature of equality and women in our society. Equality can mean no less than the freedom to chose one's role in life unhindered by artificial barriers. Yet in our society today, those barriers still exist for women who chose or are by circumstances forced to be self-sufficient and independent. No woman will be denied the right to parent her children or assume the role of homemaker because she has full equality under the law. Rather, this right will be insured because of her status as parent and spouse without denying her other rights because of her status as a woman.

Mr. President, the history of our Nation has been one of a continually expanding franchise. From the narrow electorate of propertied white adult males, the right to vote has been expanded to include minorities, women, and persons over 18 years of age. These rights were not won easily. Ratification of the equal rights amendment will not be done easily. It is consistent with this expanding franchise that the equal rights amendment be made part of our Constitution. I firmly believe it will be accomplished, and I am committed to accomplishing it. My belief goes beyond political necessity or basic fairness, it is grounded in fundamental morality. I believe the Creator endowed each of us with the gift of life. To allow discrimination based on race or sex denies this fundamental truth.

Mr. President, the issue of equal rights for women has been mired in unreasoned emotionalism and uninformed fear. It is ironic that the most ardent opponents of equal rights are women. I empathize their fears, for surely equality represents

a new chapter in the history of American women and of the American society. And surely we cannot now know all this equality will bring. Yet, I cannot sympathize with their fears, for my understanding of our Nation's history and my own experience tell me that the expansion of equality has always improved the lot of the whole.

Mr. President, the issues we have decided—extension, recission, and majority vote—are of importance in their own right. Yet, they pale in comparison to the fundamental nature of the issue of women's equality. That decision will alter the course of our Nation permanently, and is inexorably wedded to the course of the human race as a whole.

Mr. BAYH. Mr. President, I yield to the Senator from California.

The PRESIDING OFFICER (Mr. MELCHER). The Senator from California.

Mr. CRANSTON. Mr. President, for many months now I have been studying carefully the issues surrounding the debate on the proposed ERA extension. The decision I reached to fully and wholeheartedly support the extension was not one made lightly. While I have consistently been a supporter of ERA, I was acutely aware throughout my examination of the extension question itself, and of the related issues of simple majority vote and rescission, that any action taken by the 95th Congress on these matters would establish a significant constitutional precedent.

There are those who argue that this Congress should not address the extension issues since the precedents for these issues are not precisely established. Mr. President, I reject that argument. I do not believe that is just cause for us to defer making responsible judgments on these issues. Certainly, it is our responsibility to examine the extension questions in their historical constitutional, legislative, and judicial context, and to chart from those precedents a future course. This was the approach which guided the formulation of my own conclusions on the extension questions.

HISTORY OF THE ERA

The matter of the ERA extension is the latest aspect of an endeavor that has been half-a-century in the making.

The equal rights amendment was first introduced in the Congress in 1923. Nearly 50 years later it won final approval—the House of Representatives, on October 12, 1971, passed by a vote of 354 to 23 the resolution (H.J. Res. 208) proposing the amendment to the States. On March 22, 1972, by a vote of 84 to 8, the Senate passed the resolution. I voted in favor of passage.

Mr. President, the argument is being advanced that the passage in recent years of Federal legislation and the issuance of Executive orders designed to eliminate sex discrimination and promote affirmative action makes the equal rights amendment unnecessary. I disagree.

Just last year the U.S. Civil Rights Commission undertook a title-by-title review of the United States Code in which it found over 800 instances of sex bias in our Federal laws. We have made progress in recent years in enacting legislation aimed at eliminating sex bias, but there is much that remains to be done. When we consider, for example, the fact that women today earn only 59 percent of what men earn, it is obvious that we have a long way still to go. Passage of the ERA would establish a needed national policy against sex discrimination, and would be a giant step toward the eventual elimination of sex bias.

The resolution proposing the ERA to the States reads as follows:

HOUSE JOINT RESOLUTION 208

Proposing an amendment to the Constitution of the United States relative to equal rights for men and women.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That

The following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission by the Congress:

"SECTION 1. Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex.

"SECTION 2. The Congress shall have the power to enforce, by appropriate legislation, the provisions of this article.

"SECTION 3. This amendment shall take effect two years after the date of ratification."

Mr. President, to date 35 States have ratified the ERA. Ratification by three additional States is necessary to achieve the three-fourths required by the Constitution for the amendment to become law.

The resolutions proposing extension of this time period, House Joint Resolution 638, which sucessfully passed the House of Representatives on August 15 by a vote of 233–189 and Senate Joint Resolution 134 which is currently pending before the Senate Judiciary Committee and of which I am an original cosponsor, have been offered in recognition of the fact that debate on the ERA and the need for its enactment is still very much with us. Extension of the time for ratification will permit the remaining 15 States to consider this vital measure.

HOUSE JOINT RESOLUTION 638

Mr. President, today we are considering House Joint Resolution 638 which proposes to extend the deadline for ratification of the equal rights amendment from March 22, 1979 to June 30, 1982—a 3-year, 3-month, and 8-day extension.

THE POWER OF CONGRESS TO EXTEND THE RATIFICATION PERIOD

Mr. President, central to the measure before us is the question, Does Congress have the power to extend the ratification period?

Article V of the Constitution sets forth the constitutional amendment process. No mention is made of time limits for consideration by the States of proposed amendments. For the first 17 amendments, no deadlines were imposed.

Mr. President, on two occasions the Supreme Court has referred to article V with regard to time limitations on the ratification process.

The case of *Dillon* v. *Gloss*, 256 U.S. 368 (1921), involved a defendant convicted of an offense under a statute passed by Congress to enforce the 18th amendment (the prohibition amendment). The defendant contended, inter alia, that Congress had no power to set a time limit for ratification, and that, as a result, the amendment itself was void since the 65th Congress had placed a 7-year limit on ratification.

In rejecting this argument, the Court stated:

Of the power of Congress, keeping within reasonable limits, to fix a definite period for the ratification we entertain no doubt. As a rule the Constitution speaks in general terms, leaving Congress to deal with subsidiary matters of detail as the public interests and changing conditions may require; and Article V is no exception to the rule. Whether a definite period for ratification shall be fixed so that all may know what it is and speculation on what is a reasonable time may be avoided, is, in our opinion, a matter of detail which Congress may determine as an incident of its power to designate the mode of ratification. 256 U.S., at 375–76.

The second case, *Coleman* v. *Miller*, 307 U.S. 433 (1939), involved, inter alia, the claim that the "Child Labor Amendment" proposed by Congress in 1924, without Congress having set a time limit for ratification, could no longer be ratified by the State of Kansas in 1937, since 13 years had elapsed since its submission to the States. The Court reiterated in Coleman that the question of what constitutes a reasonable period of time for purposes of ratification of a proposed amendment "lies within the congressional province."

The 7 year time period originally set for ratification of the equal rights amendment was not a part of the text—or substance—of the proposed amendment; it was a part of the proposing language. The 7-year limit was chosen only because that was the time frame Congress had initiated when the 18th amendment and subsequent amendments were proposed to the States.

The Department of Justice, in preparing for the President a position paper on the ERA extension question, undertook a study of the possible reliance by ratifying States on the 7-year limit in the proposing language. The study concluded that no such reliance could be documented—those States which approved House Joint Resolution 208 were ratifying the substance of the resolution and not the proposing language which includes the reference to the 7-year time frame.

Mr. President, in answering the question; does Congress have the power to extend the ratification period, I can only conclude: Yes.

And I have concluded in the affirmative, as well, to the question, should Congress extend the ratification period.

The Court, in Coleman against Miller, in addition to recognizing the right of Congress to determine what constitutes a reasonable period of time for purposes of ratification, also set forth a number of factors which Congress might consider

in making such a determination. Specifically, the Court in Coleman referred to the following factors:

. . . the nature and extent of publicity and the activity of the public and of the legislatures of the several States in relation to any particular consideration . . . When a proposed amendment springs from a conception of economic needs, it would be necessary, in determining whether a reasonable time had elapsed since its submission, to consider the economic conditions prevailing in the country, whether these had so far changed since the submission as to make the proposal no longer responsive to the conception which inspired it or whether conditions were such as to intensify the feeling of need and the appropriateness of the proposed remedial action. In short, the question of a reasonable time in many cases would involve . . . an appraisal of a great variety of relevant conditions, political, social, and economic. [307 U.S. 433, 453–3 (1939).]

Mr. President, when we consider, for example, that women represent 41.9 percent of the labor force, that 70 percent of the women in the labor force work because they are the sole support of their families or their income is needed to bring the family income up to $10,000, and when we consider that women earn 59 percent of what men earn and the percentage continues to decline, there is no doubt in my mind that the economic needs of women today are such, to use the words of the Court, "as to intensify the feeling of need and the appropriateness of the proposed (equal rights amendment)." In addition, when we consider the fervor with which those favoring and those opposing the ERA are currently debating this issue, there is no doubt in my mind that the issue is very much still alive.

Thus, Mr. President, there is no doubt in my mind that Congress both has the power and should exercise that power to extend the period for ratification of the proposed equal rights amendment.

A SIMPLE MAJORITY VOTE IS SUFFICIENT TO EXTEND THE RATIFICATION PERIOD

Mr. President, another question relative to the extension resolution is whether it's approval requires a two-thirds majority vote of each House of Congress, or whether a simple majority vote by each House is sufficient.

Mr. President, article V of the Constitution is very explicit about the few instances for which a super majority vote is required. These instances are impeachment, expulsion of a member, ratification of a treaty, overriding of a presidential veto, or proposal of an amendment. A super majority vote is not required for matters of detail incident to the process of ratification, such as setting the mode for ratification or certifying final ratification. Since the time period for ratification is also such a detail—it has nothing to do with the substance of the proposed ERA—it seems clear to me that it should not require a two-third's vote.

Mr. President, the House Judiciary Committee thoroughly examined this question as one factor of its consideration of the extension resolution. It voted 23 to 8 to consider the extension resolution in the context of a simple majority vote rather than in the context of an alternative proposal which would have required a two-thirds vote.

Accepting that a majority vote is sufficient, a related question has been raised concerning the necessity for a Presidential signature in order to render effective the extension resolution. The question has been raised because there is no precedent as to the effect of a joint resolution which has passed by simple majority vote and which does not include signature by the President.

Mr. President, now is the time for us to set that precedent.

It is clear that the Executive has no role to play in the amendment process. The Supreme Court so held in the case of *Hollingsworth* v. *Virginia*, 3 Dall. 378. which was decided in 1798. Article V sets forth as Congress' responsibility that of establishing the mode of ratification. There have been instances in our history where the President has played a symbolic role by signing a proposed amendment, as in the case of President Lincoln and the 13th amendment, and in signing certifications of ratification, as in the case of President Johnson in signing the 24th and 25th amendments, but by their actions these Presidents were merely proclaiming their own personal support for the amendments, and not asserting any claim of power in affecting the amendment process.

Thus, Mr. President, it is my position that a simple majority vote is sufficient for approval of the extension resolution, and certainly a presidential signature is unnecessary in rendering its effectiveness.

SHOULD THE EXTENSION RESOLUTION INCLUDE PROVISION FOR STATES TO RESCIND PRIOR RATIFICATION

Mr. President, it is being argued that if an extension resolution is approved, it is "only fair" that it include a provision allowing States to rescind their previous ratification. I disagree.

In my judgment, an amendment to House Joint Resolution 638 allowing rescission would be contrary to constitutional, congressional, and judicial history. It appears that the provision of the right to rescind would itself require a separate amendment to the Constitution. Moreover, an amendment to House Joint Resolution 638 allowing rescission would be an inappropriate ursurption by this Congress of the power of a subsequent Congress to interpret the validity of a State's ratification.

Mr. President, in looking to constitutional history for guidance on the question of rescission, scholars agree that the only original framer of the Constitution who addressed the matter was James Madison. During the constitutional ratification debates in the State of New York, Madison stated, in a letter to Alexander Hamilton, that a State's ratification must be unconditional and irrevocable.

Throughout our country's history, Madison's principle has been upheld and accepted. Congress has consistently taken the position that a State's attempt to rescind is ineffectual.

In 1868, Congress adopted a resolution declaring that the 14th amendment had been ratified, discounting the rescission of two of the States which had previously ratified. These States, New Jersey and Ohio, were counted within the 28 States (which at that time constituted the required three-fourths majority) required for ratification.

The issue again arose in 1920 in connection with the 19th amendment. Tennessee attempted to rescind its ratification. Its action was disregarded.

In 1924 an amendment to article V of the Constitution was proposed to specifically allow States to rescind ratification. In introducing the proposal, which failed, its sponsors stated:

It is apparent that under Article V, as now drawn, no State can change its vote from the affirmative to the negative . . . once ratified by a State, that State can not change, even though it does so before a sufficient number of States have ratified. . . .

Mr. President, these constitutional and congressional precedents were cited by the Supreme Court in the Coleman case in commenting on the decision of the Kansas Supreme Court. The Kansas court has stated in its opinion that:

It is generally agreed by the lawyers, statesmen and publicists who have debated this question that a state legislature which has rejected an amendment proposed by Congress may later reconsider its action and give its approval, but the ratification, once given, cannot be withdrawn.

Mr. President, it was the Coleman case, too, which made it clear that the Congress sitting at the time the State ratifications are presented will be the interpreter of artivle V as to whether the requisite number of States have approved an amendment.

Mr. President, it is my view that there is no constitutional basis for attaching a rescission amendment to the pending resolution. Indeed, the constitutional precedents weigh against permitting such an amendment.

CONCLUSION

Mr. President, it took 72 years for women to win the right to vote. The effort to secure constitutional equality for women has been 55 years in the making. That effort is on the threshold of completion. Approval of House Resolution 638 is important to final accomplishment of this human rights quest to establish a constitutional foundation for the elimination of sex bias in our Nation.

I am proud to cast my vote in favor of this historic measure.

Mr. President, it has been a great privilege to work with Senator BIRCH BAYH and others who have led this effort to bring this measure to the floor, to surmount the obstacles that lay in its path in terms of the issue of rescission, the issue of whether or not two-thirds approval was required, and other questions that were raised about this measure. The people across the country who have fought the battle for ERA, the many women and the many men who have worked with them, have done a magnificent job and I congratulate all who have been involved in the struggle.

The PRESIDING OFFICER. Under the previous order the Senator from Minnesota (Mrs. HUMPHREY) is recognized for not to exceed 15 minutes.

Mr. BAYH. A parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. BAYH. I ask the distinguished Presiding Officer if it is a fair interpretation of our present time situation that the Senator from Minnesota is the next who has a special order but the unused time of the Senator from Arizona has been given to the Senator from Indiana to be shared with other colleagues. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. BAYH. I thank the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mrs. HUMPHREY. I thank the Senator from Indiana.

Mr. President, we are here today to consider House Joint Resolution 638, legislation that would extend the period of time by 3 years and 3 months for the States' consideration of the equal rights amendment. Mr. President, I strongly support the ERA and I strongly support the ERA extension legislation. In fact, I testified before Senator BAYH'S Subcommittee on the Constitution in support of the proposal that we are considering today.

As a member of a distinct senatorial minority of two, I am sure my male colleagues can understand my very strong and deep feelings about the unequal status of women in this country. The absence of women in this very Chamber is, to me, as a Senator, a vivid daily reminder of the continuing barriers to women's full participation in the resolution of the fundamental social, economic, and political questions confronting our Nation. If I successfully accomplish only one task in my short term of office, I should like to think that I have helped to convince some of my more skeptical colleagues of the vital importance of the ERA and of the equally vital need for the extension legislation.

Before proceeding, however, I would like to read the ERA amendment for the benefit of my colleagues. The proposed equal rights amendment to the United States Constitution would provide the following:

"SECTION 1. Equality of Rights shall not be denied or abridged by the United States or by any state on account of sex.

"SEC. 2. The Congress shall have the power to enforce, by appropriate legislation, the provisions of this article.

"SEC. 3. This amendment shall take effect two years after the date of ratification."

That is all the propcsed amendment says, yet in a whole variety of areas, misunderstandings about the impact of ERA on American life abound. And it is due in part to such misunderstanding about the original amendment that some in this Chamber are opposed to the extension legislation we are considering today.

For these reasons, I think it is important to point out some of the prevailing myths and to clarify what the ERA would and would not do, if ratified. The general principles on which the equal rights amendment rests are quite simple. Essentially, the amendment requires that our Government—Federal, State, and local—treat each person, male and female, as an individual; that is, the amendment prohibits discrimination on the basis of a person's sex. It is also important to point out that the amendment is applicable only to governmental action; it does not affect private action or social relationships between men and women.

As noted by the report of the House Judiciary Committee on the equal rights amendment:

The Equal Rights Amendment embodies a moral value judgment that a legal right should not depend upon sex but upon other factors—factors which are common to both sexes. This judgment is rooted in the basic concern of (our) society with the individual, and with the right of each individual to develop his own potentiality. . . . However, the resolution does not require that women must be treated in all respects the same as men. 'Equality' does not mean 'sameness'.

Opponents of the equal rights amendment would have us believe that passage of the amendment would threaten our family life and ultimately undermine the advances women have secured thus far. For example, the question of the impact of the ERA on domestic relations has generated considerable controversy.

Opponents often argue that ratification of the ERA would threaten the very basis of family life by requiring that wives take paying jobs outside the home to share equally in the responsibility of family support. I should like to paraphrase a Yale Law School study and a report of the Association of the Bar of the City of New York that examined this question.

According to these studies, the ERA would not require mathematically equal contributions to family support from husband and wife. Instead, the support obligations of each spouse would be defined in functional terms based on the resources of husband and wife, their earning power and, most importantly, their nonmonetary contributions to the family welfare. These would be permissible and practical under ERA. Thus, passage of the ERA would not weaken family life by requiring wives to take on paying jobs outside the home. Quite the contrary. Under ERA, homemakers' contributions to family life would be recognized, valued and taken into account. Under ERA, the American homemakers' status would be enhanced.

I can assure my colleagues that I would never support any proposal that I believed would, in any way, undermine American family life or create added unnecessary burdens for American women.

Another area of misunderstanding with regard to the impact of the ERA involves military service. It is true that women who are physically and otherwise qualified to serve in combat and noncombat positions in the Armed Forces will not be prohibited from doing so under the equal rights amendment. However, there are a number of facts in this regard that should be pointed out.

First, studies have shown that 9 out of 10 positions in the Armed Forces are noncombat positions. Moreover, a study of the 1971 draft revealed that of the 1.9 million men in this country eligible for the draft, less than 1 percent of the eligible males in the entire country were ever assigned to a combat unit. And given the extremely high physical standards required for combat duty, it is fair to assume that significantly less than 1 percent of all women in this country would qualify for such positions.

Second, Congress has traditionally established a number of exemptions from military service. I believe Congress can continue those exemptions and draft them in a sex-neutral way. For example, it could be that under ERA, an exemption could be established for any parent, mother or father, or for the parent that has the primary responsibility for rearing the children.

Looking at the facts in this way, I feel it is clear that passage of the ERA would not create insurmountable problems with respect to women and military service. In fact, the integration of women in the services would allow them access to GI and other benefits which they have in the past been denied.

Another area of misunderstanding about the ERA involves protective legislation. Opponents argue that ratification of ERA would rob women of all the legislative protections and exemptions which they have finally secured after long struggle.

It is true that many States have laws which restrict the conditions of employment of females. Yet many of these laws confer no real benefit. Under ERA, certain discriminatory laws which entirely prohibit women from certain occupations would be unconstitutional. But those laws which do confer genuine benefits and which provide real protection will, it is to be expected, be extended to apply to both men and women equally. As pointed out in testimony during Senate hearings on the ERA:

"The fears of some opponents of the Equal Rights Amendment that its adoption would nullify laws that presently protect women are unfounded—since the equality of treatment can be achieved by extending the benefits of those laws to men rather than by removing them for women.

These, then, are the facts in response to some of the concerns about the original equal rights amendment that have generated the opposition to the extension legislation that is under consideration today.

I know that many of these fears are prompted by most well-intentioned motives. The opponents fear that the ERA would irreparably and irrevocably change our society. I too believe that the ERA would bring about changes in American society—yet slowly—and only for the better. In fact, those 16 States which have passed ERA amendments to their State constitutions have not witnessed any immediate or dramatic changes in culture or lifestyles. These States have simply affirmed on the public record their commitment to guarantee equal rights for all citizens.

In my testimony before Senator BAYH'S Subcommittee on the Constitution, I stated that I believed the extension legislation should be passed for three principal reasons. First, ratification of the

ERA represents the will of the majority. To date, 35 States representing 73 percent of the population have ratified the equal rights amendment. If, after 7 years, only a minority of Americans had indicated their support for the ERA, it would be difficult to make a case for extension legislation. However, in view of the fact that a majority of Americans have already expressed their support for this proposal, allowing the States to continue consideration of the ERA under the present circumstances is clearly consistent with our most fundamental ideals.

The second reason that I believe the extension legislation should be supported is that the forging of a national consensus on any important issue takes a long time. The ERA obviously has raised a host of questions unanticipated by its proponents. Comprehensive examination of these questions may take longer than anticipated, but because the course of debate does not conform to an arbitrary timetable is not a justifiable reason to cut it short prematurely.

Finally, I believe the extension legislation should be enacted because, despite progress in the area of women's rights, the ERA is still needed. Recent court rulings, especially the Bakke decision, have made clear that the "equal protection clause" of the 14th amendment which presumably guarantees equal protection of the law to all citizens, does not automatically and under all circumstances apply to women.

Clearly, enactment of the equal rights amendment is needed to give an unmistakable signal to the courts on the will of the American people with respect to equal rights for women.

And I feel that ratification of the ERA is needed from a broader perspective as well. Over two centuries after establishing a national commitment to preserve and enhance liberty, justice and inalienable rights for all, ratification of the equal rights amendment—finally—would put our society formally on record in support of equal rights for the majority of its citizenry.

Unfortunately, there are no precedents to guide us with respect to the question of extending the deadline for the States' consideration. Yet clearly, the ERA is an issue of great significance to many, many Americans—both men and women—and under these circumstances plain common-sense tells us that we should permit the ongoing debate in the States to continue. I urge my colleagues to approve the proposed legislation to extend the deadline for ratification of the ERA by the States.

Mr. President, I think it would be appropriate to recall the words of Hubert Humphrey on women's rights. In urging ratification of the ERA, he said:

> It now is time that we allow women to take their share of responsibility for the successes and failures of the future.
>
> It is time to put a stop to the cultural and educational practices which rigidly mold women from their earliest years to seek and expect second rate wages and positions of employment with no opportunity of advancement.
>
> It is time we took advantage of the vast talents of over half our population.

Mr. President, as a woman and as a Senator I feel deeply privileged to have the opportunity to cast my vote in favor of House Joint Resolution 638.

Mr. BAYH. Mr. President, I yield myself 30 seconds to say to my distinguished colleague from Minnesota that she quoted a great Senator, who said it not one iota better than the present Senator from Minnesota.

This Senate and this country and the women of America are deeply indebted to the distinguished Senator from Minnesota, not only for her remarks, but for the active participation and the force she brought as an original sponsor of this measure, as well as the hard work she devoted during those critical days we went through this last week.

Several Senators addressed the Chair.

The PRESIDING OFFICER. Under the previous order, the Senator from Utah (Mr. GARN) is recognized for not to exceed 15 minutes.

Mr. RIEGLE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. RIEGLE. I was under the impression that the time agreement for the Senator from Utah was to commence at 9:30. Am I mistaken in that notion?

Mr. GARN. That was my understanding, Mr. President.

The PRESIDING OFFICER. There were a series of 15-minute orders and that unconsumed time has been yielded back to the Senator from Indiana.

Mr. BAYH. With all respect, the unconsumed time was yielded to the Senator from Indiana.

The PRESIDING OFFICER. The Chair has just stated that.

The Senator from Indiana may yield his time as he sees fit.

Mr. BAYH. How much time does the Senator want?

Mr. RIEGLE. Perhaps 2 minutes.

Mr. GARN. Mr. President, I ask unanimous consent that the time between now and 9:30 be given to the Senator from Indiana to dispose of.

Mr. BAYH. I object to that because I want my friend from Utah to express himself.

Mr. GARN. No, I said between now and 9:30. Mine would be 9:30 to 9:45. There are 3 minutes before that. Now, if we quit talking about it——

The PRESIDING OFFICER. The Chair has already stated the Senator from Indiana had that time.

Mr. BAYH. I yield the last 3 minutes of this additional time to the Senator from New York.

I apologize to the Chair for the confusion.

Mr. JAVITS. Mr. President, I am grateful to Senator RIEGLE for yielding to me, as I have other conferences to attend, and I thank the Senator from Utah.

Mr. President, as is not untypical of this Chamber, all is quiet. There are few Senators here on the eve of a very momentous vote. I think it is as momentous as the grant of suffrage to women years ago and it is likely to materially influence the politics and history of our country, because, Mr. President, while the Federal statutes are quite replete with measures which provide for equal pay for women, equal opportunities in employment, and in many other areas of what we call civil rights and civil liberties, the fact is that State laws are also replete with all kinds of discrimination against women in connection with marriage, in connection with the opportunities for different types of employment, in connection with the conditions under which they work.

Mr. President, these will be clarified by this amendment. This amendment will have a major, perhaps even an earth-shattering effect, and that is the way it is intended to be. That is why we want a constitutional amendment.

Mr. President, also, we must remember that the amendment will change the climate in this country. There will be a new recognition by women of their responsibilities as well as of their opportunities.

I see them participatng far more than they have in the life of the country.

Now, let us take the Congress as an example, Mr. President. In this Chamber, we have two women. Yet, they constitute half the population.

Mr. President, the American voter wants to choose, as he has chosen 98 men and 2 women. But, Mr. President, this is because women have not bid for that kind of responsibility, with the background, the experience, and the public knowledge of this which men have acquired in this country and which they have held over the centuries. Comparably, the numbers in the House of Representatives in terms of percentage are even smaller.

This is but one example of the new climate, the new relationship, toward the social order of our country and its political order which women will assume.

Mr. President, I consider it an unusual, historic privilege, having served here for so long, to speak in behalf of the ERA this morning, when it is very likely to pass its test here and to have an opportunity to be approved by the States, and to express my devout hope that at long last justice will be done and the ERA will have its opportunity.

The PRESIDING OFFICER. The time of the Senator has expired.

The Senator from Utah is recognized, under the previous order, for 15 minutes.

Mr. GARN. Mr. President, as we come to this vote, the only real disappointment I feel is that those of us who are opposed to the extention never were able to separate the issue of ERA from the process. I feel badly about that; because, however people feel about ERA—for or against—I think we are abusing the Constitution, and it should not have been done for ERA, for abortion, for population election of the President, or for any constitutional amendment. I sincerely mean that, regardless of the amendment that has been before us. My position would have been exactly the same in trying to defend the constitutional amending process.

Today, an editorial in the Washington Post—which does not too often agree with my positions—is significant. I will read a couple of paragraphs from it and

then will ask unanimous consent that the entire editorial be printed in the RECORD.

They speak about how they are in favor of ERA and always have been, and state:

Our concerns were with the fairness and the wisdom—in terms of precedents as well as politics—of changing a time limit once the Congress had established it. We believed such a change might diminish support for the ERA as well as destroy the useful idea that amendments should represent the prevailing national consensus during a predetermined period of time.

Those were my concerns, Mr. President: Fairness and wisdom.

They conclude by saying:

We would rest easier with this extension if Congress had adopted the view that during those 39 months states could also rescind their prior ratifications. That would have reduced the drawbacks of the precedent that is being created. But that view has been rejected on both sides of Capitol Hill.

Mr. President, I ask unanimous consent to have the editorial printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

THE ERA EXTENSION

It is almost a foregone conclusion that Congress will approve today a 39-month extension of the period during which states can ratify the Equal Rights Amendment. The House passed the necessary resolution in August, and the votes by which amendments to the resolution have been defeated in the Senate suggest that the Senate will pass it easily today. Although we have expressed reservations in the past about the wisdom of this extension, we join now with those who are urging the Senate to approve it overwhelmingly.

Our reservations about the ERA extension never included the basic argument made against it on Capitol Hill—that Congress lacks power to extend. The Constitution gives Congress the principal role in the amending process, and it can do almost anything it wants in terms of time limits and tabulating state ratifications. Our concerns were with the fairness and the wisdom—in terms of precedents as well as politics—of changing a time limit once Congress had established it. We believed such a change might diminish support for the ERA as well as destroy the useful idea that amendments should represent the prevailing national consensus during a predetermined period of time.

Proponents of the extension have a strong case that the ERA ought to be regarded differently from most other constitutional amendments. Unlike most of the others proposed in the last century, which dealt with the structure or powers of government, ERA is directed at a social, economic and moral issue: the status of women in society. Unlike the others, it has been subjected to an unprecedented outpouring of deceitful or untrue propaganda. And, most important, unlike the others, the ERA has never been given fair consideration in several state legislatures where internal politics or procedural games have taken precedence over honest consideration.

A majority of the Members of Congress—and the President—have been persuaded by these arguments that the unfairness already done to the ERA by its opponents more than offsets the potential unfairness of a ratification extension. Insofar as that is a judgment on the tactics employed in the past by some of those opposed to the ERA, we agree; they have not been willing to let the ERA stand or fall on its own merits.

A year ago, when this extension was proposed, it seemed possible that it would not be needed. There was hope then that in certain state legislatures—most notably Illinois, Florida and Virginia—the issue would be handled fairly this year. But it was not. This, more than anything else, negates any concerns that an extension is either unfair or politically unwise.

Because of what has happened in the legislatures, it is not unreasonable for Congress to decide that proponents of the ERA should have an additional 39 months to persuade a handful of states that it should be ratified. The time period is short—less than half of what was sought a year ago—and the issue is very much alive. More than two-thirds of the states have already said they want this amendment in the Constitution. The extension is, in reality, a concession by Congress that it misjudged six years ago the time needed for a controversial amendment to receive fair consideration in 50 legislatures.

We would rest easier with this extension if Congress had adopted the view that during those 39 months states could also rescind their prior ratifications. That would have reduced the drawbacks of the precedent that is being created. But that view has been rejected on both sides of Capitol Hill. One can hope, at least, that the value of this extension as a precedent will be discounted in the future because of the peculiar nature of the factors that made it necessary now.

Mr. GARN. I also share that view; and I am disappointed, once again, that we were not able to separate the emotion of those who very much favor ERA, and have a right to do so, from the constitutional process in trying to bend it so that the ERA could be passed.

Mr. President, we are about to vote on House Joint Resolution 638, the resolution purporting to extend the period during which States may ratify the proposed equal rights amendment. It is important to clarify what we are voting on, and to review some of the arguments advanced for and against the extension, so that the American people will understand what Congress is trying to do today—and, what is perhaps more important, what we are not trying to do.

Five points stand out above all:

First, the extension resolution is unconstitutional. Congress does not have the power to bind the 35 States that ratified the ERA resolution containing limiting language, to a similar but distinct resolution that omits the limiting language.

Second, the extension resolution could have had a limited constitutional effect, of creating a new 39-month period in which 38 States might ratify the ERA, if it had been passed properly. Since the resolution was not called up under a two-thirds rule, however, and since it did not pass the House by a two-thirds vote, it cannot operate as a new proposal of an amendment that could be ratified by the States.

Third, the debate in Congress on the extension resolution was largely directed to the merits of the ERA, rather than to the very different question of constitutionality of extension. This underscores the very limited value of this resolution even as persuasive authority for the courts, who will ultimately have to rule on the constitutionality of the rescission. That so many Members of Congress were unable to separate their desire for the ratification of the ERA from their judgment on the constitutional effect of a rescission underscores the danger of the argument that questions of amendment procedure are "political questions," on which Congress can do anything it wishes without the chastening effect of judicial review.

Fourth, to the extent that proponents of the extension did address the constitutionality of extension, and of the related question of rescission, they largely relied on several myths about the text, history, and interpretation of article V of the Constitution. Some of these myths were of very recent vintage, woven specially for the occasion of the debate on this unprecedented and unconstitutional resolution.

Fifth, and most important of all, both the proponents and the opponents of this resolution seem to be in agreement that State legislatures are free to rescind their ratifications of the ERA. Let me repeat that: even the ardent proponents of this extension, and the Senators who voted against the Garn amendment that would have recognized the right to rescind, indicated very clearly that States may rescind their ratifications. We disagree only on who has the right to determine the validity of those rescissions. Some, including Senator BAYH and the other major proponents of extension, feel that a future Congress will sit in judgment on the rescissions. Others, including myself, feel that the U.S. Supreme Court will ultimately decide whether the rescissions are valid. The message to the States should be clear: If you no longer approve of the ERA, then rescind your ratification. It is the only way you can signal to the ultimate tribunal that you no longer can be counted as part of the "contemporaneous consensus" needed for ratification. The entire Congress agrees that a contemporaneous consensus is necessary, and that some future tribunal will have to judge whether it exists. So no State should be dissuaded from rescinding. On the contrary, there is more reason now than ever before for States to take affirmative action to indicate their change in sentiment.

I will discuss each of these points briefly, Mr. President, but I cannot exhaust the list of things that are wrong with this resolution in the short time available. There will be lawsuits over this resolution; indeed, it might be called the Constitutional Lawyers Relief Act of 1978. I hope that the courts, in reviewing the record, will consider all the floor proceedings and all the data and opinions inserted in the RECORD by myself and others over the last 6 weeks or so. After a review of those data and opinions and these proceedings, I am confident that the action we are about to take will not bear scrutiny.

I hope the Court ultimately will look at just the constitutional process. They will not be involved in the politics of deciding whether they are for or against a particular amendment.

I. THE UNCONSTITUTIONALITY OF THE EXTENSION RESOLUTION

Mr. President, article V of the Constitution, like many other provisions in that document, is very short. It provides as follows:

The Congress, whenever two-thirds of both Houses shall deem it necessary, shall propose Amendments to this Constitution, or, on the Application of the Legislatures of two-thirds of the several States, shall call a Convention for proposing Amendments, which, in either Case, shall be valid to all Intents and Purposes, as part of this Constitution, when ratified by the Legislatures of three-fourths of the several States, or by Conventions in three-fourths thereof, as the one or the other Mode of Ratification may be proposed by the Congress: Provided that no Amendment which may be made prior to the Year One thousand eight hundred and eight shall in any Manner affect the first and fourth Clauses in the Ninth Section of the first Article; and that no State, without its Consent, shall be deprived of its equal Suffrage in the Senate.

Article V does not attempt to set out every detail of the amending process. But it does state certain principles, assigning the power of proposal to Congress, and of final ratification to the States.

It has been suggested that where the Constitution is silent, Congress is free to legislate. This is contrary to the general principle that our Federal Government is one of limited powers, and to the principle announced in the 10th amendment that residual power is in the States rather than in the Federal Government. Nevertheless, it is arguable that as an incident to its power to propose amendments and to designate the mode of ratification. Congress may enact "housekeeping" legislation to provide for matters of detail that may arise in the amending process.

Congress may not, however, use its "housekeeping" power to alter the delicate balance of State and Federal power in the amending process. It may not, under the pretext of providing for a situation not expressly mentioned in article V, do violence to the principles clearly stated by that article.

Article V does not expressly mention extension. Nor does it mention rescission. Nor, for that matter, does it mention any number of other hypothetical proposals; but the absence of a specific reference in the Constitution is hardly evidence that the framers intended Congress to have a free hand in deciding whether a certain procedure is valid or invalid. On the contrary, a procedure may be so far-fetched that the framers never thought anybody would propose it, and felt no need to prohibit it. Article V, for instance, does not expressly prohibit Congress from unilaterally deciding to treat Puerto Rico as a State for the purpose of securing a three-fourths majority of the States; but nobody would seriously propose that Congress may do so.

Taking a careful look at this extension resolution, I think it is fair to say that it falls into the class of procedures so far-fetched that the framers would not have thought they needed to prohibit it, It is certainly not a matter of detail. It takes way from the States the right to ratify or reject the proposal they were presented in 1972, retroactively turning each State ratification into a blank check made to the order of Congress. This violates the balance of State and Federal power that was so carefully drawn in article V.

Here is what happened in 1972. Congress presented the States with a resolution containing certain limiting language. The resolution stated that—

[T]he following article . . . shall be valid . . . as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years . . .

Thirty-five States ratified that resolution. As Prof. Jules Gerard has pointed out, 24 States expressly mentioned the time limit in their ratifying resolutions. The other States also ratified the entire resolution, as limited by the time limit. They ratified no other resolution. Congress now proposes to take the ratifications of House Joint Resolution 208 of 1972, and to declare unilaterally that those ratifications are also to be regarded as ratifications of House Joint Resolution 638 of 1978, which does not contain the 7-year time limit, but substitutes a longer time limit.

Senator BAYH has admitted during this debate that Congress would be powerless to bind the 35 ratifying States to this new congressional resolution if the time limit were in the text of the proposed amendment. But he argues that since the time limit was in the resolving clause and not in the text, Congress is free to go back and take out the limiting language. This is wrong, for two reasons. First, it ignores the fact that every State had the time limit on the bargaining table when it ratified. There is no need to rely on hypothetical "reliance" by the States, although Professor Gerard makes a persuasive case that such reliance did exist. Simple contract law, which is after all just a way to determine whether there has been a meeting of the minds between parties to a transaction, is enough. The States that ratified the resolution with the limiting language cannot be presumed to have given their acceptance to a resolution containing no such language.

The history of the amending process provides another equally strong reason to reject the reasoning of Senator BAYH, which is also the reasoning of the Justice Department and of the majority of the "constitutional experts" Senator BAYH has relied upon in debate. The location of the limitation in the resolving clause was clearly intended to differ only in style, not in substance, from a limitation in the text.

Grover Rees III has detailed this history in his memorandum to the House subcommittee:

The Effect of the Location of the Seven-Year Limitation.

If the seven-year limitation were in the text of the proposed amendment itself, it is difficult to imagine anyone suggesting that Congress could now change the text and thereby bind states which had previously ratified the amendment to the new language. The time limit is, however, located in the preamble, or "resolving clause."

Since Congress presented its entire resolution to the states, the location of the time limit should make no difference. The seven-year provision was on the bargaining table, so to speak, when the states indicated their assent. The location should only make a difference if the legislative history affirmatively suggests that the states had reason to know that the seven-year limitation was not binding on Congress, and could be changed at will. There is not a trace of any such evidence in the history of the E.R.A. or of constitutional amendments generally; indeed, there is affirmative evidence to the contrary. It is clear that the location of the time limit in the resolving clause was purely a matter of form, to which no substantive importance was attached by those who drafted and voted on the E.R.A.

Interestingly, the location of the seven-year limitation seems to have been the work of Senator Ervin, an E.R.A. opponent. When the amendment was introduced in the 91st Congress, it contained no time limit at all. During debate on the resolution, Senator Ervin introduced an amendment which, among other things, imposed a seven-year limit. He said it "would require" that ratification occur within seven years for the E.R.A. to be valid, adding:

Certainly, any proposed amendment to the Constitution of the United States for which there is any real demand can be ratified by the legislatures of the required number of States within 7 years after the date of its submission.—[116 Cong. Rec. 36302 (1970)]

Senator Dole added that the "provision requiring that the amendment be ratified within 7 years has been included in amendments proposed by Congress commencing with the 18th, and will prevent an anomaly amendment from lingering in limbo for an indefinite number of years." Id. 36450. That proponents of the limitation intended it to have the same effect as similar clauses in prior amendments is significant, since until the 23rd Amendment, these clauses were all contained in the text of the amendments themselves.

Senator Ervin's amendment to the E.R.A. resolution passed, over the opposition of Senator Bayh and other leading E.R.A. proponents (Senator Bayh expressing his opposition to other parts of the Ervin amendment, and not mentioning the time limitation). The E.R.A. was not passed by the Senate in the 91st Congress, but when it was introduced in the 92d Congress (H.J. Res. 208, S.J. Res. 8, 9), it contained the time limitation exactly as worded by the Ervin amendment. The Ervin language remained in the resolution as approved by the Senate Judiciary Committee. The committee report, submitted by Senator Bayh, noted under "Legislative History" that the time limit had been included as a result of the Ervin amendment in the 91st Congress [Sen. Report No. 92–689, 92d Cong., 2d Sess. 1972 at 4–5]. The report also stated: "The proposed Equal Rights Amendment reads as follows: . . . the following article . . . shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission . . ." Id. at 1–2 (emphasis added). The report added:

This is the traditional form of a joint resolution proposing a constitutional amendment for ratification by the States. The seven year time limitation assures that ratification reflects the contemporaneous views of the people. It has been included in every amendment added to the Constitution in the last 50 years. It is interesting to note that the longest period of time ever taken to ratify a proposed amendment was less than 4 years.—[Id. at 20]

Not a word in the legislative history of the E.R.A. indicates that Senator Ervin, who proposed the time limitation, or the Senate Judiciary Committee, who reported it favorably,

or anyone in Congress or in the state legislatures, intended the limitation to have any different substantive effect because of its location in the resolving clause rather than in the text. The obvious reason is that language in the resolving clause does not actually become part of the Constitution when the amendment is ratified, whereas a limitation in the text would "clutter up" the Constitution with language which had become ineffective. That no substantive distinction was drawn is underlined by the committee report's casual inclusion of the resolving clause in what purports to be a recital of the text of the Amendment. Moreover, the numerous references to similar language in past amendments imply that the E.R.A. provision was intended to have the same effect as the previous limitations, most of which had been contained in the text of the amendments, and which therefore clearly could not have been tampered with by Congress after some states had ratified.

It is instructive to examine the first instance in which Congress placed the time limitation in a resolving clause, rather than in the text of a proposed amendment which ultimately became part of the Constitution. The 23rd Amendment, granting the Presidential vote to residents of the District of Columbia, was proposed by S.J. Res. 39 in the 86th Congress. This resolution originally contained no language about the D.C. vote at all, but was instead a resolution, favorably reported by the Senate Judiciary Committee, to propose a constitutional amendment providing for emergency interim appointments of members of the House of Representatives. The Senate added the D.C. language, and then the House kept the new language and deleted the original language about House appointments. The resolution itself, however, had a long and well-documented legislative history, with particular reference to the seven-year time limitation for ratification.

The committee report on S.J. Res. 39 [Sen. Report No. 86–561, 86th Congress, 1st Sess.], says the resolution was "identical in text" to S.J. Res. 8, which had passed the Senate in the 84th Congress. S.J. Res. 8, when introduced by Senator Kefauver in the 84th Congress, contained a time limitation in the text of the amendment. Prior to committee hearings on the resolution, Kefauver apparently wrote to a number of constitutional law scholars, asking for suggestions on the language of the amendment. Only one response of those printed in the record of the hearings recommended a change in the location of the seven-year limitation. Professor Noel Dowling of Columbia Law School drafted an entire new version of the resolution, noting:

"The 7-year limitation is put in the resolution rather than in the text of the amendment. There is no doubt about the power of Congress to put it there; and it will be equally effective. The usual way, to be sure, has been to write the limitation into the amendment; but we hope such an unnecessary cluttering up of the Constitution can be ended."

[Hearing before a Subcommittee of the Committee on the Judiciary, United States Senate, 84th Cong., 1st. Sess., on S.J. Res. 8 (1955), at 34]

The committee substituted Dowling's language for the original. In response to a question from Senator Russell in Senate floor debate, Senator Kefauver stated:

"The general idea was that it was better not to make the 7-year provision a part of the proposed constitutional amendment itself. It was felt that that would clutter up the Constitution. Sometimes that is done. We wanted to put the 7-year limitation in the preamble. So the intention of the preamble is that it must be ratified within 7 years in order to be effective."—[101 Cong. Rec. 6628 (1955)]

In response to Senator Russell's continued questioning, Senator Kefauver agreed to an amendment, which was then passed by the Senate, to insert the word "only" before "if ratified . . . within 7 years" in the resolving clause. Senator Kefauver made it clear that he and the Judiciary Committee staff felt the addition of the word would not change the effect of the limitation. Id.

Professor Dowling's letter, and the subsequent exchange on the Senate floor, are the only evidence of legislative intent behind the location of the time limit in the resolution that eventually became the vehicle for ratification of the 23rd Amendment—the apparent model for subsequent proposed amendments which include the limit in the resolving clause. They indicate that the change was made purely in the interest of a more elegant Constitution, and with no intention of altering the substantive effect of the time limitation so as to allow Congress to modify it after ratification by a number of states.

In conclusion, Mr. President, Congress may not make an offer to the States, secure acceptance of that offer, and declare unilaterally 7 years later that the acceptance applies to a different offer. And no "housekeeping" power in Congress can justify such an enhancement of the limited congressional role in the amending process at the expense of the role given to the States by article V.

II. THE FATALLY DEFECTIVE PROCEDURES

As I have pointed out, Mr. President, Congress is perfectly free to resubmit the ERA for ratification by the States, and to designate a reasonable time for such ratification. If we had followed the proper procedures in adopting the resolution we are about to vote upon today, it could fairly be construed as such a referral to the States. However, the U.S. Supreme Court has pointed out in Powell against McCormack that Congress may not use mere nomenclature to do something with a simple majority vote when the Constitution requires a two-thirds vote to achieve the same effect. Thus the House could not "exclude" Adam Clayton Powell under a rule requiring a simple majority, since the Constitution required a two-thirds vote to "expel" him. And we cannot "extend" the ERA by a simple majority vote and pass it on to the States for 3 additional years, when to achieve the same effect by an original proposing resolution would require a two-thirds vote of both Houses, by the clear language of article V.

Prof. Charles Black of the Yale Law School, in a letter I have already inserted into the RECORD, presents yet another reason that this extension proposal, to have whatever validity it might have under any theory of the amending process, needs a two-thirds vote in each House:

It is my opinion that a two-thirds vote is required for this extension proposal. As I said in my testimony before the House Subcommittee, the original resolution that passed both Houses of Congress and sent ERA to the country was worded in a clearly and expressly conditional form, providing that the text of the amendment should have validity as part of the Constitution, if the ratification took place within seven years. This integral proposal—a proposal for validity conditioned on a certain time-limited event—was the only thing that any body ever voted on or could have voted on; it was, in fact, the only proposal ever made to the States. It is impossible to know how many votes on the proposal were influenced by the inclusion of this time limitation. We do know that it was carefully considered and intended to have serious effect as a part of the proposal. But the main strength of my case is in the text of the proposal itself. It proposes that validity be conditional on ratification within seven years. That conditional proposal was the only proposal that ever passed. It seems to me plainly to follow that an alteration in the content of the proposal has to be passed by the same majority required to pass the proposal.

I think that if the act of extension were to have been offered on the day following the passage of the original proposal, and if it had been suggested that a simple majority vote was enough, the ludicrousness of this position would have been entirely clear, but I can't see why it would make any difference that a good deal of time has elasped.

Some people say that this matter of time pending is a "mere" procedural matter. This kind of thing is somewhat hard to understand on the part of lawyers, because lawyers know that the difference between a lynching and a fair trial is only a matter of procedure. I would add that nothing could be more important than the following of meticulously correct procedure with respect to the amendment of the American Constitution—the basic document legitimating our government.

III. THE FAILURE TO ADDRESS THE REAL ISSUES

From the moment that this extension proposal began to surface, it became clear that its only chance for success was for the proponents to focus on the merits of the ERA and to ignore or gloss over the grave constitutional questions involved. Mr. President, if this extension proposal had been suggested in connection with an antiabortion amendment, or even with a noncontroversial amendment to provide for the Presidential succession or to make the marigold the national flower, this Congress would not have given it the time of day. But the lobbyists for the extension made it clear that they regarded a vote on extension as a vote on the ERA. Senators were told, "We know that if you're for women, you'll find a constitutional argument that will allow you to vote for the extension." And too many Senators who discussed this extension proposal were unable to confine themselves to its constitutional merits. Instead, they said how much they loved their daughters, and spent time refuting the idea the ERA would lead to co-ed restrooms and homosexuality in the schools. Those were not the issues.

Perhaps it is unfair to blame Senators and Congressmen from concerning themselves with the political aspects of the problem. They are legislators, and it is their job to vote for the result they think desirable for their constituents. But who will ensure that the proper constitutional procedures are followed? Traditionally, that is the function of the courts. Yet the extension proponents claim that the courts will not intervene in this case, even if Congress should act in a constitutionally questionable manner. They say it is a nonjusticiable "political question." Yet the precedents for such a view, which I shall discuss, are very weak; and the practical folly of it, the real danger of it, could not have been more vividly illustrated than by the

fact that when we should have been calmly and dispassionately analyzing the meaning of article V, we were instead worrying about restrooms and constituent pressures. I look forward to the day, and it is certain to come, when this issue will get the fair trial it deserves, in a tribunal whose job it is to adjudicate and not to legislate. I am confident that the U.S. Supreme Court will not shirk its responsibility to give article V of the Constitution a day in court.

IV. CONSTITUTIONAL MYTHOLOGY

As I have indicated before, Mr. President, the few constitutional arguments that were advanced for the extension resolution rested on a novel and flawed view of the amending procedure. It is a view in which Congress reigns supreme, performing the multiple roles of prosecutor, judge, jury and executioner.

Here are some of the elements of this Byzantine model of the amending process, some of the myths about the text and history of article V that have been thrown together especially for the purpose of this debate:

First, there is the myth that article V commits the final resolution of constitutional questions arising in the amending process to Congress. Some Members of Congress may even have operated under the impression that the text of article V contained such a grant of power. The following excerpt from the House subcommittee hearings illustrates this fact:

Ms. HOLTZMAN. Does Congress have to accept the ratifications by two-thirds vote?

Professor BLACK. Cetrainly not. No, indeed.

Ms. HOLTZMAN. Isn't that inextricably linked to the substance?

Professor BLACK. But the acceptance of ratification by Congress is not an article V power. It is not so stated. It is not in article V. As a matter of fact——

Ms. HOLTZMAN. Where is it?

Professor BLACK. It is not anywhere. There is no statement as to who accepts ratification. It is a matter of practice from time to time. And it has been changed from time to time.

* * * * *

Ms. HOLTZMAN. Profesor Black, surely there must be something in the Constitution that gives Congress the power to accept amendments?

Professor BLACK. If you say so, show it to me. If you say there is. I would think that would put the burden on you to tell me where it is. I don't happen to recall if there is a passage like that.

I don't have the whole thing memorized by heart, but I don't believe there is.

Ms. HOLTZMAN. So Congress has no constitutional power to determine whether ratifications have properly taken place, whether 38 States have ratified?

Other Members of Congress have suggested that Congress has an implicit right to resolve all constitutional questions in the amending process, despite the absence of any language in article V suggesting such a power. The only authority for such a congressional power is in the case of Coleman against Miller. That case was widely criticized, even at the time it came out, as confusing and internally inconsistent. Professor Orfield, the most widely recognized contemporary expert on the amending process, did not know what to make of it. The case, even if it can somehow be reconciled with commonsense and with the clear language of article V, does not have anything to do with extension. Nobody had ever suggested extension at the time. And since the holding of Coleman was that some cases arising out of the amending process, but not others, were nonjusticiable, it cannot be authority for anything outside its own facts.

Most important, Coleman has been implicitly overruled by much later and more reasoned Supreme Court decisions, including Baker against Carr and Powell against McCormack.

Powell is the strongest case. Adam Clayton Powell had been denied his seat in the House, and he sued the Speaker of the House and won, over the strong contention of his opponents that this was a "political question" on which the House could do anything it wanted and be immune to judicial review. The Court actually reversed the House's judgment on its own internal rules. Can it thus be seriously argued that the Court will close its eyes while Congress tampers with the very structure of the Constitution? I think not. And I think it unfair to continue citing Coleman as if it were a respected and undisturbed precedent.

The reasoning of Powell and of Baker leaves no room for the reasoning of Coleman. The Court will not shy away from an issue because it involves a possible conflict with Congress, or because Congress has done the allegedly unconstitutional action in the past, or because Congress has used nomenclature to make the appearance of doing something it has a right to do, while achieving a result it is otherwise prohibited from achieving. But Senator BAYH has said that Coleman is still good law because Powell distinguished it. That assertion, Mr. President, simply does not survive a careful reading of Powell. It is true that Coleman was one of a laundry list of old cases that Powell cited for the proposition that there are such things as political questions. But that was all. There was no discussion of Coleman, and no examination of its logic or its facts. You cannot read Powell and continue to hold the belief that the courts will blindly give effect to an unconstitutional act of Congress, on the strength of the "political questions doctrine." Yet that is what the proponents of extension would have us believe.

Another myth concerns the case of Dillon against Gloss. Contrary to what has been asserted, this case did not recognize any right in Congress to extend a ratification deadline. Dillon merely stated the obvious:

That Congress has the power to limit its own proposals, by imposing a reasonable time limit in the first place.

Dillon did not hold that Congress could come back, after 35 States had voted on its original proposal, and change that proposal without giving the States a chance to indicate whether they liked the change.

On the contrary, Dillon affirmed the concept that a "contemporaneous consensus" was needed for ratification. As such, the only importance that case has for the present debate is to underscore the right of each State to rescind its ratification—especially if the period is extended beyond the original 7 years.

Perhaps the newest and most creative myth to emerge from these proceedings is something called "Madison's Principle." Nobody had ever heard of "Madison's Principle" until just a few months ago, when the Assistant Attorney General of the United States unearthed a letter from James Madison to Alexander Hamilton, took it entirely out of context, misstated its conclusion, and elevated the remains into a sacred precedent.

What really happened was that New York was considering the adoption of the original Constitution. Some members of the New York legislature were concerned that the document contained no bill of rights, and they wanted to ratify the Constitution with the condition or proviso that a bill of rights be ratified by other States. Madison replied that such a conditional ratification would not be enough to make New York a member of the Union. That is all that happened.

Several points need to be made about Madison's letter: First, it did not even purport to interpret article V, the provision for constitutional amendments. Indeed, article V had not even been adopted. The New York Legislature was discussing the ratification of the Constitution itself, not of any amendment to it. Senator BAYH has suggested that what Madison thought about the adoption of the Constitution must have been the same as what he thought about the ratification of amendments. But that suggestion cannot stand in the face of the clear action of the framers when they wrote two different articles for the two different procedures—article V for amendments to the Constitution, and article VII for the adoption of the Constitution itself by the 13 original States. The two articles contain entirely different formulas and procedures, because they involve two entirely different situations. So even if Madison really had said that the States could not rescind, it would have had no bearing on article V, which is the only question before us today.

But even assuming for the sake of argument that Madison was talking about constitutional amendments, a close examination of his words tends to support the State right to rescind. What Madison said was that a conditional ratification is no ratification:

A reservation of a right to withdraw if amendments be not decided on . . . is a conditional ratification, that . . . does not make New York a member of the New Union, and consequently . . . she does not be received on that plan. Compacts must be reciprocal, this principle would not in such a case be preserved.

What Madison was saying was that if two parties to a compact ratify it with different thoughts in mind, there is no meeting of the minds, and so the compact is totally ineffective. Applying this reasoning to rescission and extension, if a State ratified in the erroneous impression that it could rescind—or on condition that the proposal expire in 7 years—

its ratification would be totally ineffective. Instead, the proponents of extension without rescission would have us believe that a conditional ratification would be absolutely valid, as though it contained no condition at all. This is simply not what Madison was saying. The proponents of an unfair extension should be ashamed to give Madison's name to their novel and meet-to-order "principle."

One of the biggest distortions concerns the so-called "historic precedent" of the 14th amendment. I think it is important to review what actually happened on that day in 1868, to show how weak the precedent really is. The reconstruction precedent is discussed in a comment in volume 37 of the Louisiana Law Review:

On July 20, 1868, Secretary of State William Seward announced that he had received documents from legislatures in at least three-fourths of the states purporting to certify ratification of the fourteenth amendment. He noted, however, that he had also received official notice that Ohio and New Jersey had withdrawn their consent to the amendment. Expressing his "doubt and uncertainty" as to the legality of these resolutions, he certified that if the Ohio and New Jersey ratifications were still in force, the amendment was valid as part of the Constitution.

On the following day, both houses of Congress passed a resolution declaring that three-fourths of the states, including Ohio and New Jersey, had ratified and that the amendment was part of the constitution. The record of the proceedings suggests bluntly that the Republican majority neither knew nor cared whether the Constitution gave states the right to rescind. The Senate passed the resolution without debate and without a roll-call vote. In the House, the entire debate appears to have lasted only a minute or two. A Massachusetts Republican moved to send the resolution, not to the Judiciary Committee, but to the Committee on Reconstruction. A Democrat protested that "it is an important question, and should go to the committee on the Judiciary." The Republican floor leader then indicated that his intention was to "pass it now," without any committee consideration at all. After some discussion of the idea of adding Georgia to the list (on the strength of a telegram in the possession of the Speaker which a Democrat suggested was a fabrication), the resolution was passed by a near-perfect party line vote. The Congressmen who voted that Ohio and New Jersey could not rescind were, virtually man for man, those who five months earlier had voted to impeach President Andrew Johnson for his refusal to obey unconstitutional orders.

It should be emphasized that this Congressional action was never tested in court. By the time the Supreme Court was called upon to construe the fourteenth amendment, in the 1873 *Slaughterhouse Cases*, four additional states had ratified the amendment so that ratification *vel non* by Ohio and New Jersey was a moot point.

Apparently, the resolution of the Reconstruction Congress was not regarded as an important precedent even by contemporaries. The discussion over including Georgia—whose ratification would have brought the total to three-fourths even without Ohio and New Jersey—suggests that the Republican leadership was not entirely confident the gambit would succeed. Moreover, two years later New York rescinded its ratification of the fifteenth amendment, and the Secretary of State did not certify the amendment as valid until enough states had ratified so that New York's action was moot. Shortly thereafter, the Senate twice rejected attempts to declare that no state might rescind its ratificaton of any future amendment.

The Justice Department, and the Assistant Attorney General in particular, have done yeoman service in the creation and promulgation of tall stories about the amending process. In addition to "Madison's Principle," the Assistant Attorney General's memorandum to the House subcommittee contained the following language:

However, the 92d Congress did not put a time limit in the text of the ERA but rather stated in the proposing resolution that the States should have at least 7 years to consider ratification of the amendment.

The fabrication, out of whole cloth, of the words "at least," gives one a bit of the flavor of the Justice Department's approach. Of course, the Assistant Attorney General posed not as an advocate of the administration's position on the ERA, determined to get it through whatever the effect on the integrity of the amending process, but as a counselor, whose role is "not to discuss the merits of the proposed extension but rather to provide whatever legal advice I can regarding the constitutional issues raised by this resolution."

The national press subsequently reported that the Justice Department had "ruled" that Congress could extend and that States could not rescind. I suppose that after we pass this resolution, there will be reports that Congress has "ruled" about extension and rescission. But, of course, the Assistant Attorney General and the Congress cannot "rule" anything about the Constitution. As Professor Black put it when he spoke to the House subcommittee, "Congress has the right to say anything it wants to, but the question is whether the Supreme Court should give effect to what they say, as it is with all questions of constitutionality of acts of Congress."

All of these myths are part of the central fallacy that this is a matter resolved by precedent, so that Congress need not consider the constitutionality or fairness of what it is doing. Mr. President, there are no precedents here. And the only thing that can be said about the weak and illogical precedents that have been advanced is what the Supreme Court said in Powell against McCormack:

That an unconstitutional action has been taken before surely does not render that same action any less unconstitutional at a later date. . . . The relevancy of [such] cases is limited largely to the insights they afford in correctly ascertaining the draftsmen's intent. Obviously, therefore, the precedential value of these cases tends to increase in proportion to their proximity to the Convention in 1787.

The advocates of extension have cited a few isolated incidents that began with the reconstruction. Those precedents, if anything, show why even more concern for fairness and constitutionality is needed when we are dealing with the Constitution than with ordinary legislation, and why there is a pressing need for judicial review of congressional actions that affect the structure of the Constitution.

The political branches, Congress and the executive, have shown what they can do when they go about making rules of constitutional law. Now it is time for the judicial branch to straighten out the mess we have made, to restore some fairness and logic and certainly to the amending process.

V. THE STATE RIGHT TO RESCIND

I cannot emphasize too strongly, Mr. President, that this resolution does not affect in any way the State right to rescind ratification of proposed constitutional amendments. That right exists. It is a necessary conclusion from the concept of "contemporaneous consensus" of which Hamilton spoke in the Federalist No. 85, and which was affirmed by the Supreme Court in Dillon against Gloss. And it flows from pure fairness and common sense. If you have 38 States that have indicated their consent to a proposal, and four that have withdrawn, then you have a "consensus" of only 34. That is not enough.

The Senate rejected my amendment, which would have reaffirmed the right to rescind, as a limitation to mitigate the unfairness of rescission. But if there is an absolute right to rescind, flowing from the constitutional requirement of consensus, then nothing we do here can detract from that right.

Yet the opponents of my amendment did not base their opposition on the absence of a state right to rescind. I quote Senator BAYH:

Anyone listening to my voice or anyone else's voice who is responsibly debating this on the other side of this issue has to have heard us say that we do not know what the answer to this is, that the proper time to decide is after the necessary three-fourths of the States have ratified.

It was by appealing to the Senate to be "neutral" on the question of rescission that Senator BAYH ably persuaded 54 Members of this body to reject my amendment:

I do not see how the rescission effort is going to be blunted in any way by a neutral action here when it has not been blunted by specific legal advice to the contrary up to now.

Those are the words of Senator BAYH. And I agree that the rescission effort should not be blunted, for it is a just and good effort.

The right to rescind has long had the support of thoughtful scholars. In 1942, Prof. Lester Orfield wrote the definitive treatise on the amending process. In "Amending the Federal Constitution," Professor Orfield indicated that the right to rescind was fair and logical:

Ratification by less than three-fourths of the states is ineffectual. Such is the theoretical approach. But there are even stronger practical arguments. It is more democratic to allow the reversal of prior action. A truer picture of public opinion at the final date of ratification is obtained. No great confusion is likely to result from such a rule. Not to allow reversal of an acceptance may cause a cautious legislature not to act.

Moreover, Professor Orfield, writing only a few years after the Coleman decision—the major "precedent" cited by opponents of rescission, although its fact had nothing to do with rescission—largely discounted the effects of that case, and concluded that "there has as yet been no test of the finality of a ratification."

Prof. Charles Black, who of all the eminent constitutional scholars invited

to speak before the House subcommittee, was the only one who had previously published anything about the amending process, strongly supports the right to rescind. He calls the view that an affirmative vote cannot be reconsidered, but that a negative vote can be reconsidered time and time again, a "silly lobster-trap" model of the amending process.

Senator Sam Ervin, a former Member of this body who has long been respected for his sincerity and erudition in constitutional law, believes strongly in the right to rescind.

But that is not all. Outside the context of the ERA controversy—that is, when they were able to separate the constitutional question from the desirability of a particular amendment—the Senate unanimously passed a bill that recognized a State right to rescind. The vote was 84 to 0. That was in 1971. The report of the Judiciary Committee—signed by Senator BAYH, among others—strongly endorsed the right to rescind:

> The question of whether a State may rescind an application once made has not been decided by any precedent, nor is there any authority on the question. It is one for Congress to answer. [Note that this statement deals with an application of a state for a Constitutional convention.] Congress previously has taken the position that having once ratified an amendment, a State may not rescind.
>
> The committee is of the view that the former ratification rule should not control this question and, further, should be changed with respect to ratifications. Since a two-thirds consensus among the States in a given period of time is necessary to call a convention, obviously the fact that a State has changed its mind is pertinent—An application is not a final action. It merely registers the State's views. A State is always free, of course, to reject a proposed amendment. On these grounds, it is best to provide for rescission. Of course, once the constitutional requirement of petitions from two-thirds of the States has been met and the amendment machinery is set in motion, these considerations no longer hold, and rescission is no longer possible. On the basis of the same reasoning, a State should be permitted to retract its ratification, or to ratify a proposed amendment it previously rejected. Of course, once the amendment is part of the Constitution this power does not exist.

The current struggle illustrates the unfairness of denying the right to rescind. Thirty of the thirty-five States that ratified the ERA did so in 1972 or 1973. Since then there have been five additional ratifications—and four rescissions. The ERA was aging gracefully toward a peaceful death when the ratifications that had not been rescinded would expire according to their own terms. Now this has been cast into doubt. There is a greater incentive than ever for States that no longer support the ERA to take affirmative action to indicate their rejection. Before today, there was perhaps no need for that. But Congress has left the States with no choice.

Senator BAYH and others are of the opinion that some future Congress, the Congress that is sitting when there are 38 ratifications by the most inflated count, will be the ultimate tribunal to rule on whether the rescissions are valid. I personally believe the Supreme Court will rule. In either case, one rescission should be enough, because if there are 38 ratifications and one rescission, there is no "contemporaneous consensus" of 38 States. But suppose there are 12 rescissions. Suppose there are 20. If there are only four or five, then perhaps Senator BAYH's future Congress could ignore them, by saying that they are from small and unimportant States, or that ERA opponents distorted the issues, or that we simply love our wives and daughters enough not to quibble over a few States. But what about 20 rescissions? Would Congress declare an amendment adopted that had only 18 States currently endorsing it? And would the Supreme Court close its eyes and give effect to such a declaration? I think not.

So the message to the States is clear. Rescission is not only permissible; after today, it may be the only way to avoid being counted as part of a trumped-up "consensus." Under Senator BAYH's theory or my own, a State that wants out of that nonexistent consensus should signal that intention immediately by rescinding its ratification of ERA.

VI. ONE EXTENSION DESERVES ANOTHER

Finally, Mr. President, I point out that we are about to vote on this resolution; 10 days ago, before the debate had even begun, we set an arbitrary time for the vote. Yet the issue is still alive. There is more feeling, pro and con, on this resolution today than ever before. Why cut off the debate at some arbitrary point?

Mr. President, I propose that we go ahead and hold the vote this morning. Give every Senator 15 minutes to make up his or her mind. But at the expiration of that 15-minute period, do not just shut off the debate. Instead, I suggest that the "no" votes on this resolution—those of us who will vote against the resolution because we do not feel it is fair—be considered final and binding on the Senators who cast them. I have worked very hard in trying to oppose this resolution, and I think it is important. I would like to continue the debate. So I propose that after the vote, I be granted an additional 2 weeks to try to get Senators who voted "yes" to change their minds.

Some may ask why I am proposing that only one side be given the chance to change their minds. The answer is simply that I want to win. I want all votes on my side locked into place, and we will work on Senator BAYH's side for 2 weeks to try to change them.

There must be some moment of finality to this whole rollcall process, and I think it should be after I have won. That is when we will cut it off. So when a Senator finally sees the light and votes my way, his decision-making power lapses. But that is no reason to shut off the debate altogether. After all, what is fair is fair.

Obviously, I say this with tongue in cheek, but I think it makes my point. That is what I have been trying to accomplish in behalf of the Constitution of the United States during the last 2 weeks.

Mr. President, I yield the final 5½ minutes of my time to the distinguished Senator from Virginia.

Mr. SCOTT. I appreciate the Senator from Utah yielding to me.

Mr. President, there is no doubt in my mind that every Member of the Senate wants equal rights for women—in the field of employment opportunities, in salaries, in promotion. They believe in the concept of equal pay for equal work. That is where the discrimination is against women.

However, there is no precedent for extending the time for a constitutional amendment.

It has never been done before. Doubt arises regarding the meaning of the language that is in this resolution that is before us. It could include sending women into the front line in combat in infantry positions. It could remove the traditional control of the States over marriage and divorces. It could tend to legitimatize homosexual marriages, male and male, female and female. That sounds a little ridiculous to us, if we just think of it out of context, and yet we know that there are people who will take such cases into court and say there can be no discrimination of any kind on the basis of sex.

There is also doubts regarding the procedure that could lead to further judicial encroachment into the legislative field. The proponents would pass this joint resolution by a majority vote. They would not have it signed by the President. If we look at article I, section 7 of the Constitution we find that all regular bills and resolutions are signed by the President. Then if we look at article V, that is the amending article, it provides that there shall be a two-thirds vote of each House of Congress on constitutional amendments. Neither of these provisions of the Constitution are being followed. It was not reported by the Subcommittee on the Constitution which held hearings on the matter. It was not considered by the full Judiciary Committee. We do not even have a Senate measure before us. It is a House resolution that was brought in before us under very unusual procedure.

Mr. President, we are asking that there be court interpretations of the things that the House of Representatives and the Senate should pass upon.

It would be preferable in my judgment to defeat this resolution and pass a revised constitutional amendment, properly worded and pass it by two-thirds vote. I believe it could be ratified within a year's time, as most of our constitutional amendments are ratified.

Mr. President, if there is any time remaining I reserve it.

The PRESIDING OFFICER. Who yields time?

Mr. BAYH. Mr. President, I yield myself just 30 seconds to say that I concur with the Senator from Virginia. If the courts do rule on this issue, I hope the courts look at the procedure and I hope the courts will look and understand that the reason that measure did not come out of the Judiciary Committee was because of the position of the Senator from

Virginia where he, as one man, was in a position to use his rights, which is certainly his right to keep that bill in committee and I hope that the court weighs the rights of one U.S. Senator against the rights of about 110 million women. And I think we know how the scales of justice are weighing those rights.

Mr. SCOTT. Mr. President, will the Senator yield very briefly?

Mr. BAYH. I only had 30 seconds.

The PRESIDING OFFICER. The Senator from Virginia has 2 minutes remaining.

Mr. SCOTT. Is it not a fact that had the Subcommittee on the Constitution considered it, it would have been a 3-to-3 vote? The Senator knows this. I know it. So do not blame one man. Blame two men and one woman.

Mr. BAYH. The Senator would not have had to put it in the subcommittee, but when it got in the full committee he knows very well, he said he is going to take advantage of his rights. I do not criticize him for doing that. But in looking at why we are here now without following what he described as the normal committee process, we are using the rules of the Senate which make it possible for us to avoid one person or two people or three people, a small minority of the people from blocking the wishes of the majority.

Mr. SCOTT. The Senator is entirely right that I would have attempted to do this, but I do not recall saying that I would have.

Several Senators addressed the Chair.

The PRESIDING OFFICER. Under the previous order the Senator from Indiana is recognized for not to exceed 15 minutes.

Mr. BAYH. Mr. President, I yield 2 minutes to our distinguished colleague from Michigan who has been such a force in this effort to get equal rights for women and men.

Mr. RIEGLE. I thank the Senator for yielding. I briefly wish to make a few points.

First, I commend the Senator from Indiana for his really astonishing leadership under the most trying circumstances in bringing this issue through today and hopefully to a successful vote in just a matter of minutes.

I also commend Senator HUMPHREY for her leadership and for the really exquisite statement that she also made today in behalf of this extension.

What we seek here is only equal justice under the law, in Federal laws and in State laws. Those who say we should use the 14th amendment should know that we have not been successful in using the 14th amendment. We need something that can address the intricacies of the law. There are 800 differentiations on sex alone in the Federal Code, and tens of thousands of differentiations in the 50 States laws that have to be set right. We can do that in one blow with the equal rights amendment.

It is interesting with respect to a time limit. There was no time limit on the women's suffrage amendment, and that to me is the closest parallel to the equal rights amendment today. In fact, there should not even be a time limit on the ERA in my judgment.

If we are successful at 10 a.m. with our vote I say to those within earshot who care about equal rights that we must take this new time period, if it is granted, and go to work immediately in all of the 15 States that remain. It is going to be essential that we get those remaining three States and we get them as quickly as possible.

The kind of obstruction and misrepresentation and the kind of phony arguments that have been raised over the last 7 years will continue to confront us. I think it is essential that we not lose a moment's time in going out and using this extension to get this job done and to see to it that the women of the country are elevated from second class citizenship to exactly the same footing under the law that men have enjoyed for 200 years. Then we can do down the road together, men and women alike, having the same laws, protections, guarantees, and opportunities available without regard to sex.

So I hope that when we call the roll very shortly, we will have a strong vote in favor of extension which ultimately means a vote for equal justice under the law.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. BAYH. I yield 1 minute to the distinguished Senator from Montana.

The PRESIDING OFFICER. The Senator from Montana.

Mr. PAUL G. HATFIELD. Mr. President, as I said in my earlier statement urging the rejection of the Senator from Utah's (Mr. GARN) amendment, none of us has—nor can any of us have—an accurate notion as to whether the foray we are about to take into uncharted constitutional territory will be subject to judicial review. Will the line of cases ending with Coleman against Miller 40 years ago, on point with respect to the article V amending process, rule, or will more recent general pronouncements on the justiciability of "political questions," represented by Baker against Carr and Powell against McCormack, prevail? Both sides have made respectable arguments for either proposition.

Like my friend, the distinguished Senator from Arkansas (Mr. HODGES), I have satisfied myself that the lesson all the precedents teach us is that the decision to extend is ours, and ours alone. We must decide. If any aspect of our action today—presuming that the question on the resolution is answered affirmatively—will likely be the subject of judicial review for constitutionality, it will occur on the issue of reasonableness; that is, is the basis for our decision to extend the period for ratification rational, taking into account all relevant factors? I say this, because there was no clear majority of the Supreme Court on this very question in Coleman.

On that question, the opinion of Mr. Chief Justice Hughes in the Coleman case leaves us a valuable legacy of guidance. Citing with approval the Court's holding in Dillon against Gloss, that Congress had the power to fix a reasonable time for ratification, the Court said:

> Where are to be found the criteria for such a judicial determination (of reasonableness)? None are to be found in Constitution or statute. In their endeavor to answer this question petitioners' counsel have suggested that at least two years should be allowed; that six years would not seem to be unreasonable long; that seven years had been used by the Congress as a reasonable period; that one year, six months and thirteen days was the average time used in passing upon amendments which have been ratified since the first ten amendments; that three years, six months and twenty-five days has been the longest time used in ratifying. To this list of variables, counsel adds that "the nature and extent of publicity and the activity of the public and of the legislatures of the several States in relation to any particular proposal should be taken into consideration." *That statement is pertinent, but there are additional matters to be examined and weighed. When a proposed amendment springs from conception of economic needs, it would be necessary, in determining whether a reasonable time had elapsed since its submission, to consider the economic conditions prevailing in the country, whether these had so far changed since the submission as to make the proposal no longer responsive to the conception which inspired it or whether conditions were such as to intensify the feeling of need and the appropriateness of the proposed remedial action. In short, the question of a reasonable time in many cases would involve, as in this case it does involve, an appraisal of a great variety of relevant conditions, political, social and economic * * * [T]here conditions are appropriate for the consideration of the political departments of the Government. The questions they involve are essentially political and not justiciable. They can be decided by the Congress with the full knowledge and appreciation ascribed to the national legislature of the political, social and economic conditions which have prevailed during the period since the submission of the amendment.* 307 U.S. 433, 453–54 (emphasis supplied).

It would be well for us, then, to apply our "full knowledge and appreciation . . . of the political, social and economic conditions which have prevailed during the period since the submission of the amendment." At the outset, it has been made abundantly clear that, in fixing a reasonable time for extension initially in House Joint Resolution 208, this body quite properly made no effort to foretell those conditions; that is a burden which rests exclusively with the Congress which will review ratification certificates. Rather, the only observations which were offered at the time is that a 7-year ratification period was "customary" and "proper," because it carried the Court's imprimatur of "reasonableness in Dillon, and that the amendment should not be hanging over our head (sic) forever."

What have the prevailing conditions been in our land since the submission of the amendment? Have they so far changed since that time as to make the proposal no longer responsive to the conception which inspired it, or are conditions such as to intensify the feeling of need and the appropriateness of the proposed remedial action?

Is the equal rights amendment politically alive? Have the feelings of need and appropriateness intensified in the last 6½ years? I ask my colleagues to look up from this Chamber into its crowded galleries at the multicolored buttons and banners variously proclaim-

ing and denouncing its merits. The controversy already generated by this amendment shows no signs of immediate abatement.

Have conditions so changed in the realm of electoral politics as to pale the apparent need for the equal rights amendment? Look about again. The distinguished Senators from Minnesota (Mrs. HUMPHREY) and Alabama (Mrs. ALLEN) will be absent when this body is next convened, and the prospects for even an equal number of their gender in the 96th Congress are remote here. It has already been noted by the Senator from Massachusetts (Mr. KENNEDY) that women, now 53 percent of all registered voters, are woefully underrepresented at all levels of government.

Is it still a viable proposition that uniform economic and social parity for women cannot be achieved reasonably without a prohibition on sex-based discrimination integrated into the supreme law of the land? The distinguished floor manager of this resolution, the Senator from Indiana (Mr. BAYH), has carefully documented already the fact that women, a statistical majority in both the population and the workforce, still work in jobs for which they are demonstrably overqualified for lower wages and salaries than their male counterparts. This body has been embarrassingly reticent to take up the Lee Metcalf fair employment practices resolution, and the other body seems even more shy.

Leaving these observations aside, one need look no further than the recent progress of the law in eradicating discrimination based on sex. Over 100 years of litigation challenging sex discrimination as violative of the equal protection clause of the 14th amendment, outside the environs of Federal enforcing legislation, has been largely ineffective. Applying the "rational basis" test to various State statutes of a patently discriminatory nature, the Supreme Court, on several occasions through that period, upheld them as a reasonable means of effecting the States' purpose in protecting women so that they may carry out their marital and maternal functions. In 1873, the Court upheld Illinois' right to deny women a license to practice law, *Bradwell* v. *State*, 83 U.S. 130. Concurring in that decision, Justice Bradley stated:

> Man is, or should be, woman's protector and defender. The natural and proper timidity and delicacy which belongs to the female sex evidently unfits it for many of the occupations of civil life. The constitution of the family organization, which is founded in the divine ordinance as well as the nature of things, indicates the domestic atmosphere as that which properly belongs to the domain and functions of womanhood. The harmony, not to say identity, of interests and views which belong, or should belong to the family institution is repugnant to the idea of a woman adopting a distinct and independent career from that of her husband * **
>
> * * * The paramount destiny and mission of woman are to fulfill the noble and benign offices of wife and mother. This is the law of the Creator. 83 U.S. at 141.

In separate decisions, the Court upheld the right of Oregon and New York to preclude women from working in restaurants and similar establishments beyond daylight hours, for essentially the same reasons, *Muller* v. *Oregon*, 208 U.S. 412 (1908), and *Radice* v. *New York*, 264 U.S. 292 (1924). Just 30 years ago, the Court ruled that Michigan could prohibit women from tending bar unless they were the wives or daughters of male owners, *Goesaert* v. *Cleary*, 335 U.S. 464 (1948).

Progress in eliminating sexual discrimination after Federal civil rights enactments has been spotty, at best. Forty years after women's suffrage became the law of the land, the Supreme Court upheld the constitutionality of a Florida statute exempting women from jury service, *Hoyt* v. *Florida*, 368 U.S. 57 (1961), a ruling which survived until just 3 years ago, *Taylor* v. *Louisiana*, 419 U.S. 522 (1975). In 1963 and 1964, Congress passed the Equal Pay Act and title VII of the Civil Rights Act to eliminate wage discrimination based only on sex and forbidding private employers from discriminating on the basis of race, color, religion, sex, or national origin. Two cases decided early in this decade seemed to demonstrate a change in the Court's attitude toward sex discrimination and the strictures of the 14th amendment, *Reed* v. *Reed*, 404 U.S. 71 (1971), and *Frontiero* v. *Richardson*, 411 U.S. 677 (1973), to the point where the plurality opinion in Frontiero attempted to make sex a suspect classification, subject to strict judicial scrutiny, as it had done in cases of discrimination based on alienage, voting, national origin, and race, years before. The Court relied only on its decision in Reed, however, stating that it was reluctant to establish a stronger standard for review, since the equal rights amendment had been proposed, was still pending and, if ratified, would resolve the issue, 411 U.S. 677, 692 (Powell, J., concurring; emphasis supplied). Further retreat occurred the following year when the Court returned to the rational basis test to uphold a "for widows only" property tax exemption, *Kahn* v. *Shevin*, 416 351 (1974) and again in 1975, when a Federal statute guaranteeing female military officers 13 years of commissioned service before a mandatory discharge for want of promotion, males similarly situated being limited to 9 years, was held to be constitutional, *Schlesinger* v. *Ballard*, 419 U.S. 498 (1975). In its most recent sex discrimination ruling based solely on the equal protection clause, the Court sustained a California State employee disability plan which excluded pregnancy-related disabilities from compensable benefits, *Geldulding* v. *Aiello*, 417 U.S. 484 (1974).

Confusion and controversy resulted from the Court's decision in *General Electric Co.* v. *Gilbert*, 429 U.S. 125 (1976), wherein the majority reviewed previous 14th amendment sex-discrimination cases, specifically Geldulding, the language and its perception of the legislative intent of title VII, and the Equal Employment Opportunity Commission's implementing guidelines, and ruled that the petitioner's employee disability benefit plan which excluded benefits for absence due to pregnancy and childbirth, while permitting sterilization benefits, did not per se constitute a violation of title VII. Stating that the case involved not men versus women but pregnant women versus nonpregnant "persons," the Court reasoned that, since discrimination based on pregnancy is not one based on gender and since title VII applies only to discrimination based on gender, title VII does not apply to discrimination based on pregnancy. The clear implication is that the Court believes that sex discrimination under title VII can occur only when all persons disadvantaged by discriminatory treatment based on a "sex-unique characteristic," such as pregnancy, are of one sex and all advantaged persons are of the other. The fact that Congress had something else in mind is evidenced by the introduction of legislation in both Houses of this Congress to overrule Gilbert.

As one Commissioner has noted, the ramifications of Gilbert are frightening:

> Today, with a greater dependency on women as a means of financial support, the Gilbert decision places the families of such women in serious economic jeopardy should they become pregnant and have to leave work without disability compensation. Therefore, such a decision may serve to either discourage working women, who cannot afford the loss of income, from becoming pregnant or encourage them to resort to an early termination of their pregnancies.

Mr. President, I ask unanimous consent that a casenote from the John Marshall Journal of Practice and Procedure by Marcia Lynn Cohen entitled, "*General Electric Co.* v. *Gilbert*: The plight of the working woman," 11 John Marshall J. 215 (1977), be printed in full in the RECORD at this point as a part of my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

GENERAL ELECTRIC COMPANY V. GILBERT: THE PLIGHT OF THE WORKING WOMAN

Historically, the legislative and judicial branches of the government have been faced with the problem of defining the role of women in society and determining whether certain practices by states and private employers constitute sex discrimination. In the late nineteenth and early twentieth centuries, sex discrimination cases arose under the equal protection clause of the fourteenth amendment.[1] These cases involved state legislation concerning the unequal treatment of men and women in their choices of profession,[2] employment[3] and hours.[4] In deciding these cases the Supreme Court applied the fourteenth amendment rational basis test and concluded that the state's purpose in protecting women so that they may carry out their maternal functions justified the legislation.[5]

In 1920 a significant change in favor of women's rights came about with the passage of the nineteenth amendment giving women the right to vote.[7] However, social attitudes toward women have been slow to change. As late as 1961 the Supreme Court was still using the protective rationale of the earlier twentieth century cases when it upheld a

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Florida statute exempting women from jury service.[8]

In 1963, Congress began taking positive steps to combat sex discrimination by passing the Equal Pay Act as part of the Fair Labor Standards statute.[9] This provision outlawed sex discrimination in the payment of wages to employees performing jobs requiring equal skill and responsibilities under similar conditions. In 1964, Congress passed Title VII of the Civil Rights Act which stated that a private employer could no longer discriminate on the basis of race, color, religion, sex or national origin,[10] unless such discrimination was based on a bona fide occupational qualification.[11]

Following the congressional acts of the sixties, the Supreme Court's decisions in *Reed v. Reed* [12] and *Frontiero v. Richardson* [13] demonstrated a change in the Court's attitude toward sex discrimination under the fourteenth amendment.[14] In *Reed*, the Court held that a classification based on sex must bear a "fair and *substantial* relation to the object of the legislation, so that all persons similarly circumstanced shall be treated alike." [15] The plurality opinion in *Frontiero* attempted to carry this a step further by finding sex to be a suspect classification subject to strict judical scrutiny [16] but failed to do so because the concurring opinion maintained that as long as this case could be decided on the basis of *Reed*, strict scrutiny was not necessary.[17] However, in one of the most recent fourteenth amendment cases concerning sex discrimination, *Geduldig v. Aiello*,[18] the Court seemed to be slowing its pace in eliminating unequal treatment between men and women.

In *Geduldig*, the Supreme Court held that a California state disability plan which excluded pregnancy-related disabilities did not constitute a violation of the equal protection clause of the fourteenth amendment. Following *Geduldig*, several lower courts reviewed private employment disability plans which excluded pregnancy under Title VII.[19] In contrast to *Geduldig*, these courts held that the disability plans constituted sex discrimination in violation of Title VII, distinguishing *Geduldig* on the ground that it was a fourteenth amendment case.[20] It was in view of this conflict that the case of *General Electric Co. v. Gilbert* [21] came before the Supreme Court.

FACTS AND FINDINGS OF THE LOWER COURTS

Seeking both declaratory relief and damages, Martha Gilbert and other female employees of defendant General Electric Company [22] brought a class action [23] arising out of defendant's refusal to provide them with disability benefits for absence due to pregnancy and childbirth.[24] The insurance plan under attack provided nonoccupational sickness and accident benefit payments for a wide range of disabilities; however, disabilities relating to pregnancy, miscarriage and childbirth were excluded.[25]

The district court held that the exclusion of pregnancy-related disabilities was "sex-discrimination" in violation of Title VII, and the relief prayed for was granted.[26] The Fourth Circuit Court of Appeals affirmed the district court holding.[27] On appeal, the Supreme Court granted certiorari [28] to resolve the question as to whether the exclusion of pregnancy-related disability benefits constituted sex discrimination in violation of Title VII.

GILBERT IN THE SUPREME COURT

In an opinion written by Justice Rehnquist, the Supreme Court reversed the holding of the lower courts and held that the exclusion of pregnancy-related disabilities from a disability plan is not sex discrimination and therefore not a violation of Title VII.[29] In reaching its holding, the Court was faced with determining what Congress intended the term "sex discrimination" to mean under Title VII. The Court began by considering Title VII on it face [30] and the legislative history surrounding its enactment.[31] Finding no definition of sex discrimination in either source, the Court looked to the guidelines promulgated by the Equal Employment Opportunity Commission [32] and the cases and concepts concerning sex discrimination under the fourteenth amendment. One of the cases under the fourteenth amendment that the Court considered was *Geduldig* v. *Aiello*.[33]

Geduldig, a group of women attacked a California statutory disability insurance plan. They contended that since the plan did not include coverage of pregnancy-related disabilities, it violated their rights under the equal protection clause of the fourteenth amendment. The Supreme Court took the view that such under-inclusiveness was not a denial of equal protection. The Court reached this conclusion by finding that the plan promoted legitimate state interests.[34] Furthermore, the Court concluded that the state's exclusion of pregnancy from its health plan did not amount to invidious discrimination under the equal protection clause of the fourteenth amendment.[35]

Analysis

The Supreme Court in *Gilbert* initially noted that *Geduldig* was relevant not only because it was a sex discrimination case, but also because of its similar factual situation.[36] In addition, the Court stated that in *Geduldig* it had held that there was no sex discrimination and that as a result it had been unnecessary to determine which fourteenth amendment standard of review to use. Therefore, although *Geduldig*, unlike *Gilbert*, was a fourteenth amendment case, the Court reasoned that *Geduldig* was directly on point since it is only a finding of sex-based discrimination which is necessary to prove a violation of Title VII.[37]

Sex discrimination and the concept of sex-unique characteristics

In reaching its holding, the Supreme Court in *Gilbert* relied particularly on "footnote 20" from *Geduldig*.[38] "Footnote 20" stated in part that, "[w]hile it is true that only women can become pregnant, it does not follow that every legislative classification concerning pregnancy is a sex-based classification like those considered in *Reed* and *Frontiero*." [39] Essentially, "footnote 20" distinguishes between the situation where men and women are treated differently because of sex alone, as occurred in *Reed* and *Frontiero*,[40] and the situation where a difference in treatment is based on a sex-unique [41] characteristic. The concept of sex-unique characteristic is defined as a distinction made affecting only men or only women because of some unique physical characteristic possessed only by one sex,[42] such as pregnancy in women or beard growth in men.[43] The distinction made in "footnote 20" is crucial to the decision in *Gilbert* and presents the problem confronted by the Court in determining whether differences based on the sex-unique characteristic of pregnancy constituted sex discrimination in violation of Title VII. Quoting from "footnote 20," the Court stated that the situation in *Gilbert* is not a case involving men versus women but pregnant women versus nonpregnant persons.[44] This implies that sex discrimination under Title VII can only occur when all disadvantaged persons are of one sex and all advantaged persons are of the other.[45]

Thus, the Court reasoned that since discrimination based on pregnancy is not one based on gender and since Title VII applies only to discrimination based on gender, then Title VII does not apply to discrimination based on pregnancy.[46] The Court therefore construed the congressional intent as to the meaning of sex discrimination under Title VII to exclude distinctions based upon the sex-unique characteristic of pregnancy.[47]

Discriminatory effect

The Court in *Gilbert* did not end its analysis by showing that there was no sex discrimination *per se* on the face of General Electric's plan. Instead, it looked to another portion of "footnote 20" which stated that discrimination may also be shown if the "distinctions involving pregnancy are mere pretexts designed to effect an invidious discrimination against members of one sex or the other." [48] However, since pregnancy is significantly different from other disabilities covered by General Electric's plan, the *Gilbert* Court found that the exclusion of pregnancy-related disability benefits was not a pretext for discriminating against women.[49]

In reemphasizing the fact that *Gilbert* was a Title VII action, the Court stated that a prima facie violation of the Title is established by proof that a facially neutral classification has a discriminatory effect on a particular group.[50] Even absent proof of intent to discriminate, the Court stated that a violation of Title VII is proven if the effect of such a classification is found to be discriminatory.[51] On this point the Court concluded that the burden of showing discriminatory effect had not been sustained.[52] The Court reasoned that in light of the fact that the same fiscal and actuarial benefits accrued to both men and women from General Electric's plan, that since both sexes were equally protected for the same risks and since the plan was not worth more to men than to women, no gender-based discriminatory effect had been shown, and therefore there was no violation of Title VII.[53]

From a different perspective, the dissent approached the question of discriminatory effect by categorizing General Electric's plan into three sets of effects.[54] First, the plan covered all disabilities mutually affecting men and women. Second, all disabilities that were male-specific or predominantly affected males were covered. Third, disabilities which were female-specific or which predominantly affected females were covered, except pregnancy. This dissent stated that the majority focused its analysis on the first category and therefore the finding of a lack of discriminatory effect was understandable. However, the dissent found that in light of the coverage of all male-specific disabilities, the exclusion of pregnancy showed a discriminatory effect on women.[55]

The Court summarized its findings by stating that sex discrimination had not been shown by the terms of General Electric's plan or by its effect.[56] It stated that had such discrimination as defined in *Geduldig* been established or had discriminatory effect been shown, a violation of Title VII would have existed.[57] However, the Court in *Gilbert* could not end its search for the meaning of sex discrimination under Title VII without considering the guidelines promulgated by the Equal Employment Opportunity Commission.

The role of the Equal Employment Opportunity Commission guidelines

The Equal Employment Opportunity Commission was the agency created under Title VII [58] for the general purpose of preventing employers from participating in any unlawful employment practices in violation of the Title.[59] The Commission was given the authority to issue procedural regulations and guidelines in order to carry out the provisions of Title VII.[60]

The Court looked specifically to the provisions of the *Guidelines on Discrimination Because of Sex* issued by the EEOC in April 1972, which stated that pregnancy was a temporary disability and should be treated as such under an employment disability

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plan.[61] The Court decided that although the guidelines were not to be given "great deference" [62] in determining legislative intent, they were entitled to at least some consideration.[63] The Court adopted the classical rule in *Skidmore* v. *Swift & Co.* [64] as the standard to employ in deciding how much consideration should be given to the EEOC guidelines. In *Skidmore*, the Court held that administrative rulings and interpretations were not controlling upon the courts, although they may be resorted to for guidance.[65] The weight to be given these agency pronouncements "will depend upon the thoroughness evident in its consideration, the validity of its reasoning, its consistency with earlier and later pronouncements, and all those factors which give it power to persuade, if lacking power to control." [66] In applying the *Skidmore* standard, the Court noted in a 1966 opinion letter issued by the General Counsel of the EEOC which stated that an "employer who excludes from its long-term salary continuation program those disabilities which result from pregnancy and childbirth would not be in violation of Title VII." [67] The Court reasoned that since this letter was inconsistent with the 1972 guidelines, the guidelines should be accorded little weight in determining congressional intent as to the meaning of sex discrimination.[68]

The Court further noted that the guidelines should carry less weight because they were enacted almost eight years after Title VII.[69] However, in his dissent, Justice Brennan strongly attacked this contention by stating that the length of time before issuance shows that, at the very least, the 1972 guidelines represented "a particularly conscientious and reasonable product of EEOC deliberations." [70] In Justice Brennan's view the guidelines therefore should be given great deference.[71]

The Court also specifically looked to that portion of Title VII's legislative history which discussed the Equal Pay Act and found an indication of congressional intent contrary to that which was promulgated in the EEOC guidelines.[72] The Court relied on a Senate amendment to Title VII to the effect that it was not unlawful for an employer to differentiate upon the basis of sex in determining the amount of wages or compensation to be paid if it is authorized by the Equal Pay Act.[73] The Equal Pay Act has been interpreted by the Wage and Hour Administrator to mean that even if an employer makes unequal benefit fund contributions based on sex, for employees of opposite sexes, it does not violate the Act if the resulting benefits are equal for all employees.[74] The Court's finding of a consistency between the amendment and the interpretations of the Wage and Hour Administrator was construed as showing a clear legislative intent that not all unequal treatment between sexes is sex discrimination.[75] Since this was contrary to the EEOC guidelines, the Court decided that the guidelines should not be followed.[76]

The Court's conclusion that the EEOC guidelines were not indicative of congressional intent lends further support to its decision that Congress did not intend Title VII to include distinctions between men and women based upon the sex-unique characteristic of pregnancy. The *Gilbert* Court's holding that the exclusion of pregnancy-related disabilities from General Electric's disability insurance plan did not constitute sex discrimination in violation of Title VII presents interesting implications for the future of the working woman and Title VII.

THE IMPLICATIONS OF THE GILBERT DECISION

As a result of the Supreme Court decision in *Gilbert*, Congress and various other interested parties have taken positive steps to negate its effects. For instance, the EEOC decided to stand firm in its position that the denial of pregnancy-related disability payments from an insurance plan constitutes sex discrimination in violation of Title VII.[77] In like manner, the New York Court of Appeals held that the denial of such disability benefits was impermissible discrimination in violation of the New York Human Rights Law.[78]

On March 15, 1977, legislation was introduced in both houses of Congress which would amend Title VII to specifically prohibit discrimination based on pregnancy.[79] If the proposed amendment is passed, the *Gilbert* decision will lose its precedential value and the denial of pregnancy-related disability benefits will constitute a prima facie violation of Title VII.[80] If Congress chooses not to pass the amendment thereby leaving *Gilbert* in effect, it will remain lawful under Title VII for a private employer to discriminate on the basis of a sex-unique characteristic, specifically, pregnancy.[81] Furthermore, if the amendment to Title VII is not passed, the *Gilbert* decision may prove to have varied sociological implications for the working woman. Today, with a greater dependency on women as a means of financial support, the *Gilbert* decision places the families of such women in serious economic jeopardy should they become pregnant and have to leave work without disability compensation.[82] Therefore, such a decision may serve to either discourage working women, who cannot afford the loss of income, from becoming pregnant or encourage them to resort to an early termination of their pregnancies.[83]

FOOTNOTES

[1] U.S. CONST. amend. XIV § 1.
No State shall make or enforce any law which should abridge the privileges or immunities of citizens of the United States; nor shall any State derive any person of life, liberty or property, without due process of law; *nor deny to any person within its jurisdiction the equal protection of the laws.* (emphasis added).

[2] *See* Bradwell v. State, 83 U.S. (16 Wall.) 130 (1873) (upholding the right of the State of Illinois to deny a woman a license to practice law).

[3] *See* Goesaert v. Cleary, 355 U.S. 464 (1948) (upholding a Michigan statute prohibiting a woman from tending bar unless she was the wife or daughter of a male owner).

[4] *See* Radice v. New York, 264 U.S. 292 (1924) (upholding a New York statute which did not allow women to work in restaurants at night); Muller v. Oregon, 208 U.S. 412 (1908) (upholding an Oregon statute which did not allow women to work in certain establishments more than ten hours a day).

[5] *See* G. GUNTHER, CONSTITUTIONAL LAW at 657 (9th ed. 1976). The rational basis test, sometimes referred to as the minimal scrutiny test or permissive review, upholds classifications if the court can find a rational relationship between their existence and the legislative goal which the state is trying to achieve.

[6] *See* notes 2–4 *supra*.
The courts took the view that if they limited the woman's role outside the home, they were promoting not only her health and welfare, but also preserving the well-being of the race.

Justice Bradley, in his concurring opinion in Bradwell v. State, 83 U.S. (16 Wall.) 130 (1873), summed up the general attitude of the judiciary when he stated:

"Man is, or should be, woman's protector and defender. The natural and proper timidity and delicacy which belongs to the female sex evidently unfits it for many of the occupations of civil life. The constitution of the family organization, which is founded in the divine ordinance as well as in the nature of things, indicates the domestic sphere as that which properly belongs to the domain and functions of womanhood. The harmony, not to say identity, of interests and views which belong, or should belong, to the family institution is repugnant to the idea of a woman adopting a distinct and independent career from that of her husband. . . .

". . . The paramount destiny and mission of woman are to fulfill the noble and benign offices of wife and mother. This is the law of the Creator." Id. at 141.

[7] U.S. CONST. amend. XIX. "The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of sex."

[8] Hoyt v. Florida, 368 U.S. 57 (1961). This case was finally overruled by Taylor v. Louisiana, 419 U.S. 522 (1975), where the Court held that barring women from jury service was an unconstitutional denial of the sixth amendment jury trial guarantee.

[9] U.S.C. § 206(d)(1) (1070) reads in pertinent part: No employer having employees subject to any provisions of this section shall discriminate, within any establishment in which such employees are employed, between employees on the basis of sex by paying wages to employees in such establishment at a rate less than the rate at which he pays employees of the opposite sex in such establishment for equal work on jobs the performance of which requires equal skill, effort and responsibility, and which are performed under similar working conditions, except where such payment is made pursuant to (i) a seniority system; (ii) a merit system; (iii) a system which measures earnings by quantity or quality of production; or (iv) a differential based on any other factor other than sex.

[10] 42 U.S.C. § 2000e–2 (1970 & Supp. V 1975) provides: (a) Employer practices. It shall be an unlawful employment practice for an employer—

(1) to fail or refuse to hire or to discharge an individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex or national origin; or

(2) to limit, segregate, or classify his employees or applicants for employment in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee, because of such individual's race, color, religion, sex, or national origin.

[11] 42 U.S.C. § 2000e–2(e) (1970) provides: Notwithstanding any other provision of this subchapter . . . (1) it shall not be an unlawful employment practice for an employer to hire and employ employees . . . on the basis of his religion, sex or national origin in those certain instances where religion, sex, or national origin is a bona fide occupational qualification reasonably necessary to the normal operation of that particular business or enterprise.

[12] 404 U.S. 71 (1971).

[13] 411 U.S. 677 (1973).

[14] *But see* Kahn v. Shevin, 416 U.S. 351 (1974) where the Court upheld a "for widows only" property tax exemption using the rational basis test: Schlesinger v. Ballard, 419 U.S. 498 (1975) where the Court upheld a statute guaranteeing female officers 13 years of commissioned service before a mandatory discharge for want of promotion, while male officers were only allowed nine years.

[15] Reed v. Reed, 404 U.S. 71, 76 (1971) (emphasis added). In this case, the Court declared an Idaho probate statute unconstitutional under the equal protection clause of the fourteenth amendment because men were given preference over women when both were of the same entitlement class for appointment as administrator of a decedent's estate.

[16] 411 U.S. 677 (1973). In *Frontiero*, the Court struck down as unconstitutional a statute which provided that a serviceman may claim his wife as a dependent without regard as to whether she really was, whereas a servicewoman had to prove that her hus-

band was a dependent before she could claim him as one.

For a discussion of the standard of strict judicial scrutiny see G. GUNTHER, CONSTITUTIONAL LAW at 658–59 (9th ed. 1975). A stricter standard of review is used in instances where discrimination is based upon a suspect classification or concerns a fundamental right. If such a test is invoked by the Court, the state must show a "compelling state interest" for maintaining such classifications before they are upheld. This is oftentimes called strict judicial scrutiny or active review.

The Supreme Court has held that the following classifications are subject to strict judicial scrutiny: Graham v. Richardson, 403 U.S. 365 (1971) (alienage); Harper v. Virginia Bd. of Election, 383 U.S. 663 (1966) (voting); Oyama v. California, 332 U.S. 633 (1948) (national origin); Korematsu v. United States, 323 U.S. 214 (1944) (race).

[17] 411 U.S. 677, 692 (1973) (Powell, J., concurring). The concurring opinion further stated that it was reluctant at this time to categorize sex as a suspect classification, due to the dependency of the equal rights amendment, which would resolve this issue. "To act before its passage would be to perform a legislative duty, not appropriate for the Court." *Id.*

[18] 417 U.S. 484 (1974).

[19] *See*, e.g., Satty v. Nashville Gas Co., 552 F.2d 850 (6th Cir. 1975); Hutchison v. Lake Oswego School Dist. No. 7, 519 F.2d 961 (9th Cir. 1975); Gilbert v. General Elec. Co., 519 F.2d 661 (4th Cir. 1975); Communication Workers of America v. American Tel. & Tel. Co. 513 F.2d 1024 (2d Cir. 1975); Wetzel v. Liberty Mutual Ins. Co., 511 F.2d 199 (3d Cir. 1975); Sale v. Waverly-Shell Rock Bd. of Educ., 390 F. Supp. 784 (N.D. Iowa 1975); Vineyard v. Hollister Elementary School Dist., 64 F.R.D. 580 (N.D. Cal. 1974); Polston v. Metropolitan Life Ins. Co., 11 Fair Empl. Prac. Cas. 380 (W.D. Ky. 1975).

[20] *See* Comment, *Waiting for the Other Shoe—Wetzel and Gilbert in the Supreme Court*, 25 EMORY L.J. 125, 147–51 (1976).

[21] 429 U.S. 125 (1976).

[22] The individual plaintiffs were present or former employees of General Electric's Salem, Virginia plant who became pregnant during 1971 or 1972 and who presented claims for disability benefits which were denied.

Named as co-plaintiffs in this action were the International Union of Electrical Radio and Machine Workers, AFL–CIO–CLC, the bargaining representative for employees of General Electric at plants throughout the United States and Local 161, which represents employees at the Salem, Virginia plant.

[23] Gilbert v. General Elec. Co., 59 F.R.D. 267, 272 (E.D. Va. 1973), where the court held that the class met the requirements of FED. R. CIV. P. 23(a)(d)(2).

The named plaintiffs were designated as class representatives for the class composed of all females who were or had ever been employed on or after the date measured at ninety days prior to the earliest date of the filing of charges with the Equal Employment Opportunity Commission or who became employed during the pendency of the suit and also all females whose claims were filed before such date and were still pending on such date. This class was composed of approximately 100,000 women, employed nationwide by General Electric. *Id.*

The named plaintiffs were also designated as class representatives of the subclass seeking damages. It was composed of those female employees who were or had been employed by General Electric during the period stated above and who had suffered damages as a result of being unable to work due to childbirth on or after such date. The subclass numbered approximately 5,659 female employees. *Id.*

[24] These charges were first filed with the Equal Employment Opportunity Commission and were then processed by the Commission as required by statute. 42 U.S.C. § 2000e–5 (1970 & Supp. V 1975). The Commission found reasonable cause to believe that General Electric was engaged in acts of sex discrimination in violation of Title VII by excluding pregnancy-related disabilities from its insurance plan. Attempts at conciliation proved unsuccessful and the case was then filed in the District Court for the Eastern District of Virginia.

After several procedural questions concerning proper venue, (Gilbert v. General Elec. Co., 347 F. Supp. 1058 (E.D. Va 1972)); compulsory joinder, (Gilbert v. General Elec. Co., 59 F.R.D. 273 (E.D. Va. 1973)); counterclaims, (Gilbert v. General Elec. Co., 59 F.R.D. 267 (E.D. Va. 1973)); and class determination, (Gilbert v. General Elec. Co., 59 F.R.D. 267 (E.D. Va. 1973)) were decided, the district court proceeded to hear the case on the merits. Gilbert v. General Elec. Co., 375 F. Supp. 367 (E.D. Va. 1974).

[25] The General Electric Insurance Plan with Comprehensive Medical Expense Benefits, as amended January 26, 1970, provides nonoccupational sickness and accident benefit payments to all employees in an amount equal to 60% of an employee's straight time earnings. Payments were to begin on the eighth day of total disability and continue for a maximum of 26 weeks for any one continuous period of disability or successive periods due to the same or related causes. Benefit payment coverage would terminate on the date active work ceased because of disability or pregnancy.

The plan would pay disability benefits for male or female employees due to the following causes:

(a) sclerosis of the liver
(b) lung cancer
(c) emphysema
(d) injury incurred in auto accident
(e) injury incurred in sport activity of employee
(f) injury incurred in a fight
(g) following a program for the cure of alcoholism
(h) injury incurred in an attempted suicide
(i) drug addiction
(j) following a program for the cure of drug addiction
(k) sterilization
(l) elective surgical operations unrelated to pregnancy
(m) elective plastic surgery
(n) following a program of psychiatric treatment.

Gilbert v. General Elec. Co., 375 F. Supp. 367, 374 (E.D. Va. 1974).

In addition, General Electric provided income for present and former employees who for various other reasons are unable to work. For example, it maintained policies covering medical expenses for not only present employees and their dependents, but also pensioners and their dependents, benefits in case of layoffs, supplemental military pay benefits for employees serving in the Armed Services and attending training camps or participating in emergency duty and retirement income under a pension plan. Brief for Appellee at 95, Gilbert v. General Elec. Co., 519 F.2d 661 (4th Cir. 1975).

[26] Gilbert v. General Elec. Co., 375 F. Supp. 367 (E.D. Va. 1974). In reaching its decision, the court made the following specific findings:

(1) While pregnancy is perhaps most often voluntary, a substantial incidence of negligent or accidental conception also occurs.

(2) Pregnancy, *per se*, is not a disease.

(3) A pregnancy without complications is normally disabling for a period of six to eight weeks, which time includes the period from labor and delivery or slightly before, through several weeks of recuperation.

(4) Ten percent of pregnancies are terminated by miscarriage, which is disabling.

(5) Five percent of pregnancies are complicated by diseases which are found in nonpregnant persons but which may have been stimulated by pregnancy. Five percent of pregnancies are complicated by pregnancy-related diseases. These complications are diseases which may lead to disability. *Id.* at 377.

The court also found that the plan was objectionable because it excluded from coverage a disability unique to women while including disabilities which affect only men. *Id.* at 382.

The court further found that despite substantial testimony and statistics relating to the enormous increased cost of the plan if pregnancy were included, it was of too speculative a nature to be of probative value in determining actual future costs. *Id.* at 379.

In holding General Electric's actions to be deliberate and intentional, the court stated: There is no rational distinction to be drawn between pregnancy-related disabilities and a disability arising from any other cause. The defendant does not exclude from coverage any disability because it was voluntarily incurred other than disabilities arising from childbirth and other pregnancy-related conditions. That this is sex discrimination is self-evident. *Id.* at 385–86.

[27] Gilbert v. General Elec. Co., 519 F.2d 661 (4th Cir. 1975). The majority took note of the *Geduldig* case which had been decided a year earlier and found that it was not controlling, distinguishing it as a case treating sex discrimination under the fourteenth amendment and not as a case under Title VII. Therefore, since the case at bar was one of statutory interpretation and not constitutional analysis, the issues presented and the approach taken by the court in resolving the issues had to be different.

To satisfy constitutional Equal Protection standards, a discrimination need only be 'rationally supportable' . . . Title VII authorizes no such test . . . It represents a flat and absolute prohibition against all sex discrimination in conditions of employment. *Id.* at 667.

[28] 423 U.S. 822 (1975).

[29] 429 U.S. at 145–46.

[30] For the text of Title VII concerning unlawful employment practices, *see* note 10 *supra*.

[31] The inclusion of the word "sex" within Title VII of the Civil Rights Act occurred almost as if it were an afterthought, and discussion of the addition was very brief. Therefore, the legislative history provided the Court with little basis for determining congressional intent as to the meaning of sex discrimination. *See* 110 CONG. REC. 2577–84 (1964).

The amendment to add "sex" to the Civil Rights Act met with opposition from various representatives and women's rights groups. The thrust of their arguments centered around the point that sex discrimination involves problems different from those relating to racial or religious discrimination and the addition of sex to the Act would not be to the best advantage of women. *Id.* at 2577. It is interesting to note that only one of the 11 male members of the House who spoke in favor of the amendment voted for the Civil Rights Bill as amended. *See* 110 CONG. REC. 2577–84 (1964). *See generally* Miller, *Sex Discrimination and Title VII of the Civil Rights Act of 1964*, 51 MINN. L. REV. 877, 879-85 (1967); 110 CONG. REC. 2728, 13837 (1964).

[32] *See generally* notes 58–76 and accompanying text *infra*.

[33] 417 U.S. 484 (1974).

[34] *Id.* at 496. In *Geduldig*, the Court found that the following state interests justified

the plan: maintaining the self-supporting nature of the program; distributing the sources in such a way so that they are adequate for the disabilities covered; and maintaining the contribution level at a rate which would not unduly burden the employees, especially those in the low income bracket.

[35] *Id.* at 494.

[36] 429 U.S. at 133. However, in Rentzer v. California Unemployment Ins. Appeals Bd., 32 Cal. App. 3d 604, 108 Cal. Rptr. 336 (1973), the California Appellate Court construed California's plan to preclude only the payment of benefits for disability accompanying normal pregnancy. In this way, the plan was different from General Electric's, which precluded payments of normal pregnancies as well as pregnancies accompanied by complications.

[37] 429 U.S. at 136.

[38] "Footnote 20" states:

The dissenting opinion to the contrary this case is a far cry from cases like *Reed v. Reed* and *Frontiero v. Richardson*, involving discrimination based upon gender as such. The California insurance program does not exclude anyone from benefit eligibility because of gender but merely removes one physical condition—pregnancy—from the list of compensable disabilities. While it is true that only women can become pregnant, it does not follow that every legislative classification concerning pregnancy is a sex-biased classification like those considered in *Reed, supra*, and *Frontiero, supra*. Normal pregnancy is an objectively identifiable physical condition with unique characteristics. Absent a showing that distinctions involving pregnancy are mere pretexts designed to effect an invidious discrimination against the members of one sex or the other, lawmakers are constitutionally free to include or exclude pregnancy from the coverage of legislation such as this on any reasonable basis, just as with respect to any other physical condition.

The lack of identity between the excluded disability and gender as such under this insurance program becomes clear upon the most cursory analysis. The program divides potential recipients into two groups—pregnant women and nonpregnant persons. While the first group is exclusively female, the second includes members of both sexes. The fiscal and actuarial benefits of the program thus accrue to members of both sexes. 417 U.S. at 496–97 n. 20. This footnote has become controversial because commentators have disagreed as to whether it was just dictum or whether it was added only to combat a rigorous dissent. *See, e.g.*, note 19 *supra* (lower courts treating "footnote 20" as not controlling). *See generally* Larson, *Sex Discrimination as to Maternity Benefits*, 1975 DUKE L.J. 805, 809–14 (1975); Comment, *Geduldig v. Aiello: Pregnancy Classifications and the Definition of Sex Discrimination*, 75 COLUM. L. REV. 441, 443–48 (1975); Comment, *Waiting for the Other Shoe—Wetzel and Gilbert in the Supreme Court*, 25 EMORY L.J. 125, 143–46 (1976); Note, *Pregnancy and Sex-Based Discrimination in Employment: A Post-Aiello Analysis*, 44 CIN. L. REV. 57, 69–74 (1975); Note, *Title VII, Pregnancy and Disability Payments: Women and Children Last*, 44 GEO. WASH. L. REV. 381, 387–88 (1976).

[39] 417 U.S. at 496 n.20.

[40] *See* notes 15–16 and accompanying text *supra*. In these cases the sole distinguishing characteristic was a difference in sex.

[41] *See generally* articles cited in note 38 *supra*. This concept is sometimes referred to as "sex-linked" or "sex-plus." *See, e.g.*, cases cited in note 19 *supra* involving the sex-unique characteristic of pregnancy.

[42] Comment, *Waiting for the Other Shoe—Wetzel and Gilbert in the Supreme Court*, 25 EMORY L.J. 125, 139 (1976).

[43] Rafford v. Randle E. Ambulance Serv., 348 F. Supp. 316 (S.D. Fla. 1972) (where the court held that men are not victims of sex discrimination when forced to shave off their beards, a uniquely male characteristic, as a condition of employment).

[44] 429 U.S. at 135.

[45] *But see* Sprogis v. United Air Lines, Inc., 444 F.2d 1194, 1198 (7th Cir. 1971) where the court stated:

The effect of the statute [Title VII] is not to be diluted because discrimination adversely affects only a portion of the protected class. Discrimination is not to be tolerated under the guise of physical properties possessed by one sex. . . .

[46] *See* Larson, *Sex Discrimination as to Maternity Benefits*, 1975 Duke L.J. 805, 811 (1975).

[47] However, there are indications in the legislative history of Title VII to support the position that distinctions on the basis of pregnancy violate Title VII. *See* 110 CONG. REC. 2728, 13837 (1964), where an amendment was proposed in each house of Congress to insert "solely" before the categories of discrimination, so that in order to prove a violation of Title VII the alleged discrimination must have been the only reason. The purpose of the amendment was to make sure that nothing would be left uncertain for the Court to interpret. The amendment, however, was defeated. From this it can be inferred that Title VII's application was not to be limited to discrimination based on sex alone, but was to include the sex-unique situation.

[48] 429 U.S. at 134.

[49] *Id.* at 136.

[50] *Id.* at 137. For a discussion of discriminatory effect, see Washington v. Davis, 426 U.S. 229, 246–48 (1976); Griggs v. Duke Power Co., 401 U.S. 424, 431 (1971).

[51] 401 U.S. at 432.

[52] 429 U.S. at 137. However, Justice Brennan in his dissent noted that the majority could have found discriminatory intent by looking at General Electric's past history of sex discrimination and the fact that all other voluntary conditions except pregnancy were covered by the plan. *Id.* at 149–53.

[53] *Id.* at 138. Quoting from "footnote 20" the Court stated that "[t]here is no risk from which men are protected and women are not. Likewise, there is no risk from which women are protected and men are not."

[54] *Id.* at 155 (Brennan, J., dissenting).

[55] Cases have held that if an inference of discrimination is shown, the burden of proof shifts to the employer to show justification for his plan. *See* Boston Chapter NAACP, Inc. v. Beecher, 504 F.2d 1017, 1019–20 (1st Cir. 1974); United States v. United Bro. of Carpenters & Joiners, Local 169, 457 F.2d 210, 214 (7th Cir. 1972); United States v. Hayes Int'l Corp., 456 F.2d 112, 120 (5th Cir. 1972); United States v. Ironworkers Local 86, 443 F.2d 544, 551 (9th Cir. 1971). The majority did not find such an inference. However, it seems contrary to the general policy of Title VII not to conclude that at least an inference of discrimination was shown by the fact that all other disabilities were covered except pregnancy.

[56] 429 U.S. at 135.

[57] *Id.* at 137 n. 15.

[58] 42 U.S.C. § 2000e–4(a) (1970 & Supp. V 1975).

The Equal Employment Opportunity Commission is hereinafter referred to in the text and footnotes as the "EEOC."

[59] *Id.* § 2000e–5(a) (1970 & Supp. V 1975).

[60] 42 U.S.C. § 2000e–12(a) (1970) reads in pertinent part: "The Commission shall have the authority from time to time to issue, amend, or rescind suitable procedural regulations to carry out the provisions of this subchapter."

See General Elec. Co. v. Gilbert, 429 U.S. 125, 141 (1976), where the Court stated that Congress did not confer upon the EEOC the authority to promulgate rules or regulations.

[61] The relevant portion of the guideline reads as follows: Disabilities caused or contributed to by pregnancy, miscarriage, abortion, childbirth and recovery therefrom are, for all job-related purposes, temporary disabilities and should be treated as such under any health or temporary disability insurance or sick leave plan available in connection with employment. Written and unwritten employment policies and practices involving matters such as . . . benefits and privileges, reinstatement, and payment under any health or temporary disability insurance or sick leave plan formal or informal, shall be applied to disability due to pregnancy or childbirth on the same terms and conditions as they are applied to other temporary disabilities.

29 C.F.R. § 1604.10(b) (1972).

For discussion of the EEOC guidelines, see Comment, *Disability Benefits for Pregnant Employees Under Title VII of the Civil Rights Act of 1964*, 9 CREIGHTON L. REV. 360, 361–63 (1975); Comment, *Current Trends in Pregnancy Benefits—1972 EEOC Guidelines Interpreted*, 24 DE PAUL L. REV. 127 (1974); Comment, *Waiting for the Other Shoe—Wetzel and Gilbert in the Supreme Court*, 25 EMORY L.J. 125, 127–38 (1976).

[62] *But see* Griggs v. Duke Power Co., 401 U.S. 423, 434 (1971) and cases accompanying note 19 *supra*. Courts have given other agency guidelines great deference in determining congressional intent. *See* United States v. City of Chicago, 400 U.S. 8, 10 (1970) (Court held that a definition given to a term by the Interstate Commerce Commission should be given deference when interpreting the Interstate Commerce Act because the agency has greater oversight of the problem); Power Reactor Dev. Co. v. International Union of Electrical, Radio & Mach. Workers, AFL–CIO, 367 U.S. 396, 408 (1961) (Court held that regulations issued by the Atomic Energy Commission should be given that respect which is customarily given to a practical administrative construction of a disputed problem).

[63] 429 U.S. at 141.

[64] 323 U.S. 134 (1944).

[65] *Id.* at 140.

[66] *Id.*

[67] General Counsel Opinion Letter, EMPL. PRAC. GUIDE (CCH) ¶ 17,304.49 (Nov. 10, 1966).

See EEOC Decision No. 70–360, 1973 EMPL. PRAC. DEC. ¶ 6084 (Dec. 16, 1969) which affirmed the position of the 1966 opinion letter. However, in EEOC Decision No. 71–1474, 1973 EMPL. PRAC. DEC. ¶ 6221 (Mar. 19, 1971) the Commission changed its earlier position to that promulgated in the 1972 guidelines.

[68] There is further authority for the proposition that the views of an administrative agency will not be followed when their position flatly contradicts a previous pronouncement. *See, e.g.*, United Hous. Foundation, Inc. v. Forman, 421 U.S. 837, 858–59 (1975); F.T.C. v. Jantzen, Inc., 356 F.2d 253, 257n.4 (9th Cir. 1966).

[69] 429 U.S. at 142.

[70] *Id.* at 157 (Brennan, J., dissenting). In opposition to Justice Brennan's argument see Comment, *Current Trends in Pregnancy Benefits—1972 EEOC Guidelines Interpreted*, 24 DE PAUL L. REV. 127, 130 (1974), which discusses a deposition taken in the case of Newmon v. Delta Airlines, 374 F. Supp. 238 (N.D. Ga. 1973). Sonia Fuentes, Chief of the Legislative Council Division of the EEOC at the time the guidelines were written stated that before issuing the 1972 guidelines no medical or financial studies were conducted, and that she had no expertise in medicine, economics or labor relations. Fuentes also stated that of the five people who drafted the guidelines, two were law students.

[71] 429 U.S. at 157.

[72] *Id.* at 143. In Espinosa v. Farah Mfg. Co., 414 U.S. 86, 94 (1973) the Court stated that great deference may be given to EEOC guidelines unless they are "inconsistent with an

obvious congressional intent not to reach the employment practice in question" or there are "compelling indications that it is wrong."

[73] Senator Bennett's amendment became part of 42 U.S.C. § 2000e-2(h) (1970). The amendment stated:

". . . It shall not be an unlawful employment practice under this subchapter for any employer to differentiate upon the basis of sex in determining the amount of the wages or compensation paid or to be paid to employees of such employer if such differentiation is authorized by the provisions of section 206(d) of Title 29 [The Equal Pay Act]."

See 110 CONG. REC. 13647 (1964) which states that this amendment was necessary to make sure the provision of the Equal Pay Act would not be nullified if a conflict arose between it and Title VII.

[74] The Wage & Hour Administrator, having the authority to interpret the Equal Pay Act stated:

"If employer contributions to a plan providing insurance or similar benefits to employees are equal for both men and women, no wage differential prohibited by the equal pay provisions will result from such payments, even though the benefits which accrue to the employees in question are greater for one sex than for the other. The mere fact that the employer may make unequal contributions for employees of opposite sexes in such a situation will not, however, be considered to indicate that the employer's payments are in violation of section 6(d), if the resulting benefits are equal for such employees." 29 C.F.R. § 800.116(d) (1975).

[75] 429 U.S. at 145.

[76] However, Justice Brennan's dissent points out instances which show that the guidelines are consistent with congressional intent:

"[P]rior to 1972, Congress enacted just such a pregnancy inclusive rule to govern the distribution of benefits for 'sickness' under the Railroad Unemployment Insurance Act, 45 U.S.C. § 351(K)(2). Furthermore, shortly following the announcement of the EEOC's rule, Congress approved . . . an essentially identical promulgation by the Department of Health, Education and Welfare, under Title IX of the Education Amendments of 1972, 20 U.S.C. (1970 ed., Supp. II) § 1681(a). *See* 45 C.F.R. § 86.57(c) (1976). Moreover, federal workers subject to the jurisdiction of the Civil Service Commission now are eligible for maternity and pregnancy coverage under their sick leave program. *See* Federal Personnel Manual, c.630, subch. 13 § 13-2 (FPM Supp. 990-2, May 6, 1975." *Id.* at 158.

[77] EEOC COMPL. MAN. (CCH) ¶ 3200 (Dec. 30, 1976). However, at the present time, the EEOC has ceased processing allegations identical to those in *Gilbert*, in light of the decision rendered in that case. *Id.*

[78] Brooklyn Union Gas Co. v. New York State Human Rights Appeal Bd., 41 N.Y.2d 84, 359 N.E.2d 393 (1976). "The determination of the Supreme Court, while instructive, is not binding on our court. . . ." *Id.* at 87 n.1, 359 N.E.2d at 395 n.1.

[79] The proposed amendment reads as follows:

"The terms 'because of sex' or 'on the basis of sex' include, but are not limited to, because of or on the basis of pregnancy, childbirth or related medical conditions; and women affected by pregnancy, childbirth or related medical conditions shall be treated the same for all employment-related purposes, including receipt of benefits under fringe benefit programs, as other persons not so affected but similar in their ability or inability to work, and nothing in . . . this title shall be interpreted to permit otherwise." S. 995, 95th Cong., 1st Sess. (1977).

Extension lobbying by the Campaign to End Discrimination Against Pregnant Workers was responsible for the introduction of the amendment. Its passage is being supported by many organizations including major feminist groups, labor unions, the Leadership Conference on Civil Rights and the National Education Association. The *Spokeswomen*, April 15, 1977 at 1. At the time of this printing, the proposed amendment has been passed by the Senate. For a discussion of the amendment see 123 CONG. REC. 4142-45 (1977).

[80] It should be noted that notwithstanding the amendment, actions brought under the fourteenth amendment would continue to be controlled by the holding of *Geduldig v. Aiello*, 417 U.S. 484 (1974), and the denial of pregnancy-related benefits would continue to be constitutionally permissible.

[81] This decision seems to possess overtones of the earlier twentieth century cases where women were necessarily thought to be in need of protection. By allowing an employer to discriminate against women based on pregnancy, the practical implication may be to put women back into the home, where they were historically thought to belong.

[82] *See* 123 CONG. REC. 4143 (1977). Approximately 46% of all women over 16 years are in the labor force; 39 million are working or seeking work. Twenty-five million of these women are doing so because of the basic need to support their families.

[83] *Id.*

Mr. PAUL G. HATFIELD. Mr. President, looking at the question of dissipation of sex-based discrimination from another perspective, can it be said that the States themselves have made creditable progress in their legislative and judicial endeavors to the point where a Federal equal rights amendment, uniform in meaning and application, is no longer an urgent need? From where I stand, the view is no less discouraging.

Sixteen States have already adopted constitutional provisions substantially similar to the proposed amendment. Two States, Wyoming and Utah, adopted equal rights provisions incident to their recognition of universal suffrage in 1889 and 1895, respectively; Utah, while it was still a territory. Both provisions read as follows:

The rights of citizens of (this) State to vote and hold office shall not be denied or abridged on account of sex. Both male and female citizens of this State shall enjoy equally all civil, political and religious rights and privileges.

Other than holding that the right to property was one of the civil rights guaranteed without regard to sex, the Wyoming courts have never interpreted that State's provision definitively, nor have they even articulated a standard of review. In 1915, the Utah Supreme Court rejected a challenge to an ordinance that required men but not women to either work on county roads or, instead, pay an annual tax. The court stated that a separate classification for women has "always been made and enforced from time immemorial * * * [F]emales, in the nature of things, cannot respond to all the demands of the State." *Salt Lake City* v. *Wilson*, 46 Utah 60 (1915). Sixty years later, while conceding that a father's claim for custody of his children was entitled to the same consideration as the mother's, the court rejected it, stating that the law need not "blindly ignore obvious and essential biological differences." *Cox* v. *Cox*, 532 P.2d 994, 996 (1975).

In four more States, including my own State of Montana, no judicial review standard has yet been established. In Massachusetts and Hawaii, no challenges under recent equal rights provisions have yet been ruled upon at the appellate level. The New Mexico Supreme Court successfully avoided establishing a meaningful standard for review in 1974 when it ruled, in an appeal challenging the constitutionality of an alimony statute under which an award was made to the wife, that the award was proper since the trial court had treated both husband and wife as equals. *Schaab* v. *Schaab*, 87 N.M. 220 (1974). In five separate ERA-based challenges arising before I ascended the bench in Montana, the State Supreme Court has avoided ruling directly on each claim presented. The first two were dismissed on technical grounds, one was decided on other grounds, and the fourth was mooted by a supervening statute. In the final case, two discriminatory testamentary provisions were construed together to support the conclusion that, since the challenged statute limiting the wife's testamentary power is similar in effect to a comparable statute limiting the husband's power in dower, both men and women are treated equally. Estate of Kujath, 545 P.2d 662 (1976).

In the remaining States in which the language or legislative intent of the provisions themselves are stronger on the subject of gender-based discrimination or in which the courts have looked beyond the "rational basis" test, the standards of review vary widely. In Virginia, for example, while the legislative framers intended for any suspected case of sex discrimination to be strictly scrutinized, the Supreme Court has held that Virginia's ERA is "no broader than the equal protection clause of the 14th amendment to the Constitution of the United States" and prohibits only "invidious, arbitrary discrimination on the basis of sex." *Archer* v. *Mayes*, 213 Va. 633, 638 (1973). On that basis, the court found the statute exempting certain women from jury duty to be reasonable because "women are still regarded as the center of home and family life." 213 Va. at 638.

The high courts of Alaska, Colorado, Connecticut, Maryland, and Texas have indicated that strict scrutiny must be employed in deciding cases under their respective States' ERA's; none has yet been presented a case squarely requiring resolution under them. Only the Illinois Supreme Court has made definitive rulings, based on strict scrutiny reviews, on a variety of sex-based discrimination challenges, including the resolution of inconsistent results in that State's intermediate courts.

Pennsylvania and Washington, in interpreting their equal rights amendments, are the only two States which approach having absolute standards of review, where the courts operate in an area somewhere between requiring a closer fit between the assumptions on which statutory classifications are based and the gender-based classifications themselves and absolutely prohibiting sex as a category for legal classification.

It must be said that the courts in all 16 of these States cannot be said to be operating in purely arbitrary fashion. Because they are presented with differing constitutional provisions, colored by differing regional and local perspectives

on questions of perceived sex roles and differences across the entire spectrum of human relations, they are forced toward different conclusions. Construction and application of equal rights amendments present the same hard questions of case-by-case analysis and resolution. The point to be made is that, unless our society as a whole is to be condemned to piecemeal, inconsistent interpretations which will build upon one another until the discord is so great that Federal judicial intervention is necessary anyway, a Federal equal rights amendment would promote fairness and uniformity at the outset. I submit that the savings in social dislocation and the mere expense of judicial problem-solving, in the long run, would be substantial.

Mr. President, I ask unanimous consent that a comment from the California Law Review by Lujuana Wolfe Treadwell and Nancy Wallace Page entitled, Equal Rights Provisions: The Experience Under State Constitutions, 65 Calif. L. Rev. 1086 (1977), be printed in full in the RECORD at this point as a part of my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

EQUAL RIGHTS PROVISIONS: THE EXPERIENCE UNDER STATE CONSTITUTIONS

(Much of the controversy over the proposed Equal Rights Amendment to the United States Constitution concerns how such a provision would be interpreted by federal courts. In the search for an answer to this question, the authors examine the results reached by state courts in the sixteen states that have already adopted provisions substantially the same as the proposed federal amendment. The authors concluded that, while the results have been far from uniform, the emerging trend is toward a level of analysis similar to the strict scrutiny used in race discrimination cases, but with some important differences.)

"We hold these truths to be self-evident: that all men and women are created equal"—Women's Rights Convention, Seneca Falls, New York, July 19, 1848.

So spoke the women of Seneca Falls; [1] the words were borrowed from Jefferson, but the idea that women were the equals of men was new to American thinking. The drive to achieve women's suffrage overshadowed any idea of adopting a national statement of sexual equality. When women's suffrage became a reality in 1920, however, the National Women's Party revived the idea of a formal statement of equality. In 1923, at the seventy-fifth anniversary celebration of the Seneca Falls meeting, it proposed an equal rights amendment to the Constitution. The amendment was introduced in Congress the same year [2] but made little progress. Although it was repeatedly reintroduced during the next few decades, the proposal never commanded much public attention. [3]

In the 1960's, renewed interest in the rights of women produced another attempt to secure a constitutional provision ending discrimination by reason of sex.[4] An Equal Rights Amendment [ERA] was adopted by both houses of Congress in 1971 and submitted to the states for ratification.[5] Of the thirty-eight states required to place it in the Constitution, thirty-five have thus far ratified.[6]

The ratification process has been accompanied by a spirited debate, always intense, and at times even bitter; but all sides agree that the crucial question is how the ERA, once adopted, will be interpreted by the Supreme Court.[7] Specifically, the question is whether, under an ERA, the Court will analyze claims of sex discrimination in the same way it now treats claims of racial discrimination. The Court itself has acknowledged the significance of this question.[8]

While this debate has continued, a parallel but less publicized development has been taking place in a number of jurisdictions. The constitutions of sixteen states now contain some form of guarantee against sex-based discrimination.[9] The decisions of courts in these states interpreting their constitutional guarantees may cast some light on the large question of the probable impact of the Federal ERA, should it become part of the Constitution. The impact will depend on how the Court construes the ERA.

State courts examining a statute or a practice challenged on the ground that it violates the state's equal rights amendment have proceeded in one of several ways. First, some courts have avoided construing their state's ERA altogether, either by deciding cases on some other basis or by deferring to the legislature. This approach is exemplified by decisions in Montana and New Mexico.[10]

A second approach that some courts practice is to apply the standard of review traditionally employed by the Supreme Court in equal protection cases under the fourteenth amendment where no suspect classification or fundamental interest is involved. Under this standard, a legislature is permitted wide latitude in treating certain groups of citizens differently from others: a classification will violate the equal protection clause only if it rests on grounds entirely irrelevant to the achievement of the legislative objective.[11] The only constitutional requirement is that there must be some conceivable rational relationship between the classification and the legislative goal.[12] When this standard has been used by courts, legislative classifications based on sex have seldom been disturbed.[13] This "rational basis" standard [14] has been used in most states that do not have ERA's [15] and in three states where an ERA has been adopted.[16]

A third standard of review used by some courts is strict scrutiny. This standard was developed in equal protection cases involving "suspect" categories such as race [17] and alienage [18] or involving such fundamental rights as the right to travel,[19] to vote,[20] or to criminal appeals.[21] Under this standard the challenged statutory classification will be upheld only if it is necessary to advance a compelling state interest and only then if there is no less burdensome alternative.[22] This is a powerful tool for securing the rights of groups that have been subjected to discrimination in the past. Absent an ERA in their state constitutions, however, only two states have identified sex as a suspect classification.[23] To date only one of the sixteen states that have adopted an ERA has applied a strict scrutiny standard, although a number of others have indicated that they would do so in a proper case.[24]

Fourth, the courts of two states have applied a standard of review more penetrating than strict scrutiny.[25] Although the standard has been used in only a few cases, it is conceivable that this standard will evolve into a prohibition of all sex-based discrimination that is not based on the unique physical characteristics of each sex.[26]

The Supreme Court [27] has, like many legislators [28] and commentators,[29] anticipated that under an ERA either strict scrutiny or an absolute standard of review will be applied to claims of sex discrimination.[30] In spite of such expectations, however, this has not happened in every state with an ERA. Some states have adopted only a rational basis standard of review, while other states, nominally adopting one standard of review, have in fact used a variety of standards, depending on the facts of each particular case.

This Comment will examine the experience of states with ERA's, and attempt to describe the factors that might bear on a state's choice of a standard of review, and explain why states with similar standards arrive at different conclusions when faced with similar facts.

I.—THE EXPERIENCE UNDER STATE EQUAL RIGHTS AMENDMENTS

A. States without an established standard of review

The courts of five states with equal rights provisions have not yet established a judicial standard for reviewing sex-based equal rights claims. Although Wyoming has the oldest equal rights provision, the provision has never been definitively interpreted.[31] In Massachusetts and Hawaii no challenges under recent equal rights provisions have yet reached the appellate level. In New Mexico and Montana, two other states with modern ERA's, the appellate courts have been able to resolve sex-based claims without construing the equal rights provision.

In New Mexico's only appellate-level ERA decision, *Schaab* v. *Schaab*,[32] the state supreme court gave effect to a challenged alimony statute, reasoning that it treated "husband and wife with exact equality." [33] The court considered the award of alimony to the wife proper because the trial court had treated both litigants as equals.[34] Since neither the statute nor the trial court had in this instance discriminated on the basis of sex, the court was not forced to determine which standard of review is required by New Mexico's ERA.

In Montana, no decision has been based expressly on that state's ERA, although five appellate cases have raised equal rights issues. The supreme court has on three occasions refused to consider the constitutionality of state statutes which allow wives but not husbands to receive alimony. The first two challenges were dismissed on technical grounds.[35] In the third case, the court found that payments made by the husband to his wife were not "alimony," and therefore did not fall under the challenged statutes.[36] In a fourth case the challenged sentencing statute had recently been revised in accordance with the ERA; the court therefore declared the issue moot.[37]

In the final case considered by the Montana court, the challenged statute limiting the wife's testamentary power was construed in conjunction with a comparable dower statute limiting the husband's testamentary power, with the result that the two sex-defined statutes, read together, treated men and women equally.[38] Thus, despite five challenges based upon the ERA, the Montana courts have not yet decided a case on the basis of that state's ERA. The experience of Montana and the other states with untested ERA's illustrates that enactment of an ERA does not necessarily lead to a swift pronouncement from the state's high court on the status of women's rights. Awaiting the proper case can be a tedious process. Legislative reform under an ERA may precede court action.[39]

B. States that follow a rational basis standard

A second group of states is applying a standard of review in sex discrimination cases very similar to that traditionally applied in equal protection cases. In Louisiana, Virginia, and Utah, state ERA's have been largely ineffectual in eliminating sex-based categories from statutes. Although the courts of these states employ a similar standard of review, the unique history of each ERA has caused them to reach different results. Thus, a comparison of the results in these states must take into account the legislative history of each state's provision.

Footnotes at end of article.

Utah granted suffrage to its women citizens when it was still a territory.[40] To ensure the continuation of this privilege. delegates to the state constitutional convention in 1895 included a clause guaranteeing civil and political rights without regard to sex.[41] But it is unlikely that the all male constitutional convention considered that this clause, despite its broad implications, might have significance in matters other than suffrage.

Over the years, the Utah courts have conformed to the expectations of the provision's drafters. In 1915, the Utah Supreme Court rejected a challenge to an ordinance that required men but not women to either work on county roads or else pay an annual tax.[42] The court stated that a separate classification for women has "always been made and enforced for time immemorial. . . . [F]emales, in the nature of things, cannot respond to all the demands of the state." [43]

Sixty years later, with a fidelity to precedent more impressive for its consistency than for its attention to intervening social changes, the Utah courts were still reviewing cases under the equal rights clause along much the same lines. In *Cox* v. *Cox*,[44] the court rejected a father's claim to custody of his minor children. While conceding that his claim was entitled to the same consideration as the mother's, the court emphasized that the law need not "blindly ignore obvious and essential biological differences." [45]

Because the Utah equal rights provision originated in an era when few people seriously considered women to be the legal or biological equals of men, it is not surprising that the provision has been ineffective in promoting women's equality.

Louisiana is unique in that the provisions of its 1974 constitution expressly dictate the standard of revew to be used in sex discrimination cases.[46] Article I, Section 3, of the new constitution defines two standards of permissible state discrimination. Laws discriminating against racial or religious groups are absolutely prohibited. Laws discriminating on the basis of other factors, including sex, are, however, prohibited only if they are arbitrary, capricious or unreasonable.[47] The adoption of two separate standards was deliberate.[48] The delegates to the constitutional convention explicitly intended that Louisiana courts should apply to sex-based discrimination that which in the delegates' view, was the traditional equal protection analysis developed by the United States Supreme Court.

The Louisiana courts have followed the mandate of the constitutional drafters, using the traditional societal roles of women to justify sexually discriminatory statutes.[49] They have not examined whether women generally have remained in their traditional roles or whether the traditional concepts apply to the parties before the court. For example, in *State v. Barton*,[50] defendant moved to quash a charge of criminal neglect of his wife on the ground that the statute, which applied only to husbands, violated the state ERA. The court rejected his argument, saying that distinctions based on sex were permissible so long as the classification is not unreasonable or arbitrary. Inasmuch as "it presently remains a fact of life that, between two spouses, the husband is invariably the means of support for the couple," [51] the legislative discrimination against men was reasonable and not in violation of the state constitution.

Traditional roles of women also have been used to justify sexually discriminatory statutes in Louisiana child custody cases. In *Broussard v. Broussard*,[52] a husband challenged the trial court's express preference for the mother in awarding custody. The appellate court found sufficient legal basis for a maternal preference in the "biological connexity" between mother and child and in the mother's traditional responsibility for the day to day care of minor children.[53]

As in Utah, Louisiana courts are without a legislative mandate to require justifications for sexually discriminatory statutes that would meet a strict scrutiny standard. Nevertheless, within the constitutional directive, the courts could require a closer match between the classification and the statutory purpose by examining whether the justifications offered in support of the sex-based classification can be supported by objective data or are merely myths.

Virginia stands out as a state in which a mandate for strict scrutiny in sex discrimination cases has been given to the courts, but the courts have failed to comply. The result is that judicial interpretation of the Virginia ERA has been similar to that of the Louisiana and Utah courts, despite the very different intentions of its drafters.

Virginia gained its equal rights provision in 1971 as part of a major revision of the state constitution. Article I, section 11, enumerated sex along with race, color, and national origin, as a category that was to be free from "any governmental discrimination." [54] The drafters of the equal rights clause, and the Virginia General Assembly in adopting it, expected that a strict standard of review would be applied by the courts.[55] The Virginia Supreme Court, however, did not conform to these expectations. Instead, the court stated that Virginia's equal rights provision was "no broader than the equal protection clause of the Fourteenth Amendment to the Constitution of the United States" and prohibited only "invidious, arbitrary discrimination upon the basis of sex." [56] The court found the statute exempting certain women from jury duty to be reasonable because "women are still regarded as the center of home and family life." [57] The court thus failed to show the same intolerance toward classifications based on sex as to those based on race or religion. Instead of requiring that the state show a compelling interest to justify the classification, the court relied on traditional views of the role of women in society and applied the least stringent standard of review available.

In general, the courts of Utah, Louisiana, and Virginia have deferred to legislative classifications based on sex. They refuse to examine the assumptions on which the classifications are based, finding them reasonable if they can be justified on any conceivable set of facts. These courts willingly adopt as the norm traditional roles for men and women without examining how well they reflect current societal patterns or the life style of the individual. In these states, the ERA's have been ineffectual in eliminating sex stereotypes embodied in the law. Even where the clear legislative intent is otherwise, as in Virginia, the courts have failed to reconsider their traditional views of women.

C. States that apply a standard of strict scrutiny

The high courts of Alaska, Colorado, Connecticut, Maryland, and Texas have indicated that strict scrutiny must be employed in deciding cases under their state's ERA,[58] although none has yet been presented a case requiring resolution under the ERA. Yet even these pronouncements leave some significant questions unanswered. Will all classifications based on sex be held discriminatory? If so, what will be required to justify such legislative classifications? Are certain types of cases more likely to persuade courts to validate distinctions based on sex? Will the courts accept notions of the "normal" or traditional role of women to justify distinctions, as states using the rational basis standard of review have done? Until the courts in these states squarely confront an ERA case, such questions will not be answered. The experience of courts in Illinois is, however, relevant to these questions.

The Illinois Supreme Court is the only state court to actually apply strict scrutiny in deciding a case under an ERA.[59] The court looked to the intent of the drafters who had placed the ERA in the new state constitution.[60] The supreme court quoted at length from the convention debates over the ERA in *People v. Ellis*,[61] a case concerning a statute under which female offenders were treated as juveniles up to age eighteen, but males only up to age seventeen. It found that proponents of the ERA wanted women to have the same "type of equality" as had "long been held to apply to blacks." [62] Consequently, the court held that article I, section 18, required that classifications based on sex be considered "suspect." To be held valid, such classifications "must withstand 'strict judicial scrutiny.' " [63] The high court subsequently reaffirmed this view in a similar statutory challenge.[64]

The intermediate appellate courts of Illinois have generally followed the lead of the supreme court in refusing to uphold any sex classification not required by a compelling state interest. They have rejected "maternal preference" as a basis for custody awards, even though the children whose custody was disputed were of "tender years." [65] Similarly, they have refused to prefer a mother over a father when the father claimed custody of an illegitimate child.[66]

In criminal cases, however, the appellate courts have been less consistent in their results. Statutes upheld in one judicial district [67] have been invalidated in another.[68] An example of this is the incest law. The law provides stiffer penalties for a father who commits incest with his daughter [69] than for a mother involved in incest with her son.[70] Most of the appellate districts have recognized that because the incest provisions involve discrimination by reason of sex,[71] *People v. Ellis* [72] requires strict judicial scrutiny of the classification. The courts disagree, however, on whether there is sufficient justification for the incest law's distinctions between men and women.[73]

Two courts have upheld the statute, but on different rationales. In *People v. York*,[74] the court held that stiffer penalties were imposed on fathers, not because they were male—sons and brothers who commit incestuous acts are subject to the lesser penalties—but because a father may more easily abuse his position in the family.[75] The *York* court thus sidestepped the issue of whether the state's interest in the distinction was compelling by finding that it was not, in fact, based on sex. The court in *People v. Williams* [76] did seek to justify the statutory classifications on the basis of a compelling state interest. The court stated that the vast majority of incest cases involve a father's abuse of a daughter,[77] and that this was a more serious social problem since social and psychological harm and unwanted pregnancy are more likely to accompany father-daughter incest.[78] It is unclear, though, to what extent these justifications actually distinguish the situations of sons and brothers or are the result of social stereotypes. Moreover, it is unclear on what basis such "state" interests may be categorized as "compelling."

In contrast, another Illinois appellate court has twice [79] rejected as not compelling the justifications for the statutory classification given in the comment [80] to the incest section of the Illinois Criminal Code. The three reasons there offered for the distinction between men and women—(1) to prevent abuse of family authority, (2) to avoid the risk of genetically defective offspring, and (3) to reflect cultural tradition—were examined in detail and rejected.[81]

The Illinois Supreme Court resolved the dispute between the appellate districts by upholding the distinctions in the statute between father-daughter incest and other forms of incest. It did not, however, settle the more

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interesting question of how the strict scrutiny standard of review should be applied to distinctions based on physical differences, holding instead that the state's interest in guarding daughters from the potential physical trauma of pregnancy justifies the classification, even under the rational relationship standard.[82]

The Illinois experience suggests that even where the state's highest court has announced the proper standard of review, uniform results are not automatic. The strict scrutiny test involves determining whether there is sexual discrimination and whether justification for the discrimination rests on a compelling state interest. There is still disagreement, though, over what constitutes sex discrimination and over what state interests are compelling.

D. States that approach an absolute standard

The courts of two states, Pennsylvania and Washington, have employed a standard of review requiring greater justification for discriminatory statutes than that required by strict scrutiny. Whether the standard of review employed by these courts permits any justification of sex-based discrimination cannot be determined until a broader range of cases has been heard. As in the other states examined, the threshold question has been whether the challenged statute discriminates on the basis of sex.[83] Here, however this determination has been dispositive because, once discrimination has been established, both states have thus far denied effect to the challenged statute.

Pennsylvania's courts have found that sex discrimination in family law and in criminal sentencing violates the state's ERA. In divorce actions, the courts have eliminated the presumption that the father has the principal burden of supporting minor children,[84] have invalidated a statute that permitted courts the discretion to require husbands but not wives to pay alimony pendente lite,[85] and have eliminated the common law rebuttable presumption that "where a husband obtains his wife's property without adequate consideration, . . . a trust is created in her favor."[86] The courts also have extended to wives the right to recover damages for loss of consortium [87] and have invalidated a statute that required the consent of mothers but not fathers for the adoption of illegitimate children.[88]

In the single criminal case decided by a Pennsylvania court under the ERA, that part of a challenged sentencing statute that prohibited courts from imposing minimum sentences on convicted women while requiring courts to impose minimum sentences on convicted men was invalidated.[89] The effect of the statute was that women were eligible for parole immediately after incarceration, but that men were ineligible until they had served a minimum sentence. As a result of this decision, courts must now give both men and women minimum sentences.

There has been less ERA litigation in Washington than in Pennsylvania. In *Singer v. Hara,*[90] a challenge to Washington's marriage laws by two homosexual men, a court of appeals failed to find discrimination, reasoning that since no one of either sex could marry someone of the same sex, men and women were treated equally. *Singer* demonstrates that when strongly held social values are threatened or high economic costs are at stake, courts will be able to avoid upsetting established practices even under the strictest construction of an ERA by refusing to define the challenged practice as discrimination based on sex.

The larger question of what the ERA demands when a statute does discriminate was addressed by a Washington court in *Darrin v. Gould.*[91] This case and a similar Pennsylvania case, *Commonwealth v. Pennsylvania Interscholastic Athletic Ass'n,*[92] are the two most far-reaching ERA decisions yet. In each case it was held that a state high school athletic association by-law prohibiting girls from participating in interscholastic sports because of their sex violates the ERA.[93]

In *Darrin,* the Washington Supreme Court declared unconstitutional under that State's ERA a bylaw of the Washington Interscholastic Association that prohibited girls from participating in interscholastic contact football.[94] First, the court held that the regulation did discriminate on the basis of sex, overturning the lower court's finding that " 'the classification . . . is not based on sex per se but upon the nature of the game of football. . . .' "

"[The lower court's finding] ignores . . . undisputed evidence that WIAA regulations prohibited girls from playing on boys' football teams . . . regardless of the girls' ability to play and regardless of whether the school had a girls' football team. The classification was clearly one based on sex—not one based on ability to play."[95]

The court then proceeded to reject the three main justifications for the bylaw offered by the defendant. First, the court found little merit in the argument that the majority of girls are not able to compete successfully with boys in contact football. The fact that some boys could not meet team requirements did not disqualify other boys from playing football.[96] Second, in response to the argument that girls would encounter greater risk of injury than boys, the court stated that serious injury to the procreative organs is not a substantial risk and that the risk of injury to the average boy is not a reason for denying boys the opportunity to play.[97] Third, the court considered the Association's argument that construing the ERA to permit girls to participate in contact sports would open all athletic teams to both sexes, thus disrupting girls' athletic programs. The court called this argument conjectural because the school in question had no girls' contact football team.[98] In rejecting these justifications, the court clearly indicated that once sex discrimination is found, no broad generalizations about the sexes will be persuasive.

Similarly, in *Pennsylvania Interscholastic Athletic Ass'n,* the court found that a similar challenged classification was discriminatory and summarily held that it violated the ERA on its face.[99] The justifications presented by the Association were that the average girl was more likely to be injured than the average boy participating in co-ed athletics and that fewer girls would have the opportunity to participate if they were forced to compete with boys for limited team positions. These arguments failed to impress the court.

The existence of certain characteristics to a greater degree in one sex does not justify classification by sex rather than by the particular characteristic. . . . If any individual girl is too weak, injury-prone, or unskilled, she may, of course, be excluded from competition on that basis but she cannot be excluded solely on the basis of her sex without regard to her relevant qualifications.[100]

The court concluded that none of the proposed justifications for the by-law, "even if proved, could sustain its legality."[101]

Whether the Pennsylvania and Washington courts are requiring only a closer fit between the assumptions on which statutory classifications are based and the sex-based classifications themselves, or are absolutely prohibiting sex as a legal category [102] is still open to speculation. The fact that both courts were willing to consider the justifications for the sex classification offered by the defendants indicates that neither court has gone so far as to create an absolute ban.[103] Apparently neither court has adopted a sex-blind standard analagous to the colorblind standard articulated by Justic Harlan in his dissenting opinion to *Plessy* v. *Ferguson.*[104] Under a sex-blind or absolute standard, a court could uphold as constitutional a sex-based statute, such as the Washington law prescribing that marriage be between persons of the opposite sex, only by defining the statute as not involving sex discrimination.[105] A court that is unable to construe the challenged statute as nondiscriminatory would be forced to invalidate it under an absolute standard. As the law now stands in Washington and Pennsylvania, if a case arises that presents persuasive justifications for different treatment of the sexes—for example, one based on widely held moral values, high economic costs, or the unique physical characteristics of the sexes—a court of either state could hold the statute valid under its ERA and its case law.

If the standard now being employed in Washington and Pennsylvania primarily requires a better fit between the sex-based classification and the reasons justifying it, then this standard might be described as creating a presumption of unconstitutionality. Where this presumption is employed, it cannot be rebutted by unsubstantiated generalizations about differences between the sexes or by proven differences between the sexes that do not hold true for all or a high percentage of the members in a given sex-category. This standard would require functional categories [106] before a distinction could be given effect.

II.—STATE ERA'S AND BEYOND

A. Factors producing inconsistent results

Courts from state to state have given very different meanings to equal rights provisions that appear quite similar on the surface. Various standards of judicial review are being employed. Where the standards are nominally the same, they may produce different results in similar cases. In states using a rational basis standard of review, the traditional, stereotyped social roles of the sexes constitute a rational basis sufficient to uphold a discriminatory statute.[107] In states where courts have adopted strict scrutiny, as they have in a plurality of enacting states, the sex discriminations most obviously based solely on social stereotypes are not surviving.[108] As the basis for the distinctions approaches the actual or presumed physical differences between men and women, however, these courts begin to waver in their commitment to equality between the sexes.[109] Finally, two states have taken the position that virtually no distinctions between the sexes are valid under an ERA.[110] But even this standard may prove to be less than absolutely prohibitive of the use of sexual clasifications.[111]

Certain variables may account for the differences between the states. First, the historical origin of an equal rights provision may influence a court's perception of its intended function. Two states, Utah and Wyoming, have had equal rights provisions since the 1890's. In both states these provisions were enacted to serve as a bulwark for the state's pioneering guarantees of women's suffrage, and not for any broader purpose.[112] It is not surprising, therefore, to find that their equal rights provisions are being interpreted more narrowly than recently adopted ERA's.[113] In addition Utah's interpretation of the rights guaranteed to women must be influenced to some extent by the traditional role assigned to women by the Mormon Church, the most powerful social and political force in the state. As a consequence of these two factors, the Utah Supreme Court will permit "old notions" about sex roles to justify different treatment of the sexes.[114]

Historical origins alone, however, do not in all cases explain a state court's adherence to a rational basis standard of review. Equal rights provisions were added to the Louisiana and Virginia constitutions during the height of the women's movement. But while the constitutional drafters in Louisiana wanted

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a traditional standard of review, and the drafters in Virginia wanted the courts to examine sex classifications carefully,[115] the courts of both states have readily accepted sex stereotypes as a justification for statutory differences. The conservative Southern culture and the region's high esteem for the traditional role of women must be advanced as a possible explanation for the courts' interpretation of their ERA's. Since stereotypes and "old notions" of sex roles provide the rational basis needed to uphold a statute, the ERA in these states has to a large extent been neutralized.

Where a strict scrutiny standard, or a standard which goes beyond strict scrutiny, has been adopted, the decisions produce a more complex pattern. Certain types of discriminatory statutes are easily found in violation of an ERA. Where rights or benefits are available to, or restrictions are imposed upon, one sex at a different age than the other, the classifications are not likely to be sustained;[116] the discrimination is obvious, while the state interest is slight or nonexistent. Consequently, courts feel especially competent to replace the legislative decision with their own.

Rigid views of proper paternal and maternal roles rarely persuade these courts, especially in the area of family law. Old rules denying to fathers custody of their children or denying alimony or attorney's fees to a needy ex-husband have failed to meet the constitutional test.[117] Similarly, statutes or practices based on the presumption that the male is every family's sole breadwinner are generally held invalid.[118]

Sex-based distinctions in criminal sex offense statutes are least likely to be found in violation of an ERA. With one exception,[119] no rape, statutory rape, incest, or similar statute has been invalidated, even though the courts may explicitly recognize the differential treatment of men and women under the statute.[120] Several factors may contribute to the courts' reluctance to invalidate these statutes. First, defendants in sex offense cases do not ordinarily provoke much sympathy. Under such circumstances, a court might very well hesitate to reverse a conviction on equal protection grounds. Second, if the rape or incest statute were invalidated, a void would be left in the criminal code until the legislature adopted new provisions. The prospect of "crimes" not chargeable under an existing statute would be unacceptable to the public as well as to the courts. The third, and most justifiable, reason why the courts let discriminatory sex offense statutes stand is that these classifications may be seen as based on actual physical differences between the sexes. Under many of the rape statutes, for example, the crime is expressly defined in terms of forced intercourse by a male with a female victim.[121] There is no converse physical act. Furthermore, forced intercourse with a female victim may result in an unwanted pregnancy. For most courts, this is sufficient reason to uphold the statutory discrimination.[122]

Other types of statutes involving physical differences between the sexes give courts great difficulty in determining the proper outcome under the state ERA. It is here that the judicial techniques developed in equal protection cases involving claims of racial discrimination seem most likely to prove inadequate, for while it is generally agreed that there are no functional differences between individuals of different races, it is clear that there are irreducible functional differences between men and women.

The first difficulty is determining whether or not the statutory distinction is based on a physical difference. The "biological connexity" between mother and infant may justify a maternal preference in one court's child custody case, while another court may perceive this to be a social stereotype. Different minimum marriage ages for men and women in one court may be viewed as based on different ages of biological maturation; another court may view them as arising from societal standards of appropriate and acceptable teenage behavior. Similarly, differences in size and strength may be seen as sexually determined physical characteristics that are valid for drawing distinctions based on sex, or they may be perceived as insufficiently related to sex and therefore impermissible.[123] Thus far the courts have little guidance in determining whether a statute is based on physical or societal sex differences under ERA's.

The second difficulty is determining whether acknowledged physical differences between the sexes in fact justify the statutory discrimination. Must every male or every female possess the presumed characteristic in question? Will evidence that a significant majority possesses it suffice? Even where sex-based classifications are founded upon generalizations that are true for all members of the sex, will any kind of disparate treatment be permissible? These are hard, questions both for courts and legal analysts, and no single explanation can account for the different results reached under the ERA's of the various states.

One final factor to note is that, although the idea of the ERA is closely associated in the public mind with the feminist movement, the large majority of appellate litigants claiming violations of their rights under a state ERA have, so far, been men.[124] It is easy to see why this is so. Many of the challenged statutes were so-called "protective" statutes enacted to provide financial support for women traditionally dependent on their husbands. Others reinforced commonly held assumptions: mothers are better caretakers of young children than fathers, the family authority figure is the father, girls mature earlier than boys, etc. To the extent that women were protected by these statutes, they have placed burdens on men, and so men have sought to overturn them. In addition, many of the statutes challenged in these cases were, in fact, discriminating against men. This is especially true of those statutes based on traditional social assumption, such as that men provide the family income while women are financially dependent. Moreover, judicial practices such as the preference for placing children in the custody of the mother are also overtly discriminatory.

At the same time, those statutes and practices which have hindered women's employment and educational progress to a large extent fall under the Federal Civil Rights Acts.[125] Suits based on educational or employment discrimination would not be brought in state courts, nor would the issue of a state ERA be raised. Thus we find many cases involving ex-husbands trying to avoid paying alimony or attorney's fees [126] or involving fathers seeking custody of their children,[127] but few cases involving women denied equal employment opportunities or other job-related benefits.[128]

B. Toward an ideal standard

The various standards of review used by the courts in states with ERA's inevitably raise one question: How can courts best implement the policy of treating individuals as equals regardless of their sex? They must do no less than treat sex as a suspect classification, requiring the state to make a substantial showing that a distinction based on sex is justified by an important state interest. They can do no more than absolutely prohibit the use of sex as a tool of legal classification. The best approach lies between these two.

Traditional strict scrutiny, a balancing process which weighs the goal of equal rights for women and men against other state policies and interests, is not the best method for achieving sexual equality because it is too flexible. Under such a test courts determine both the amount of weight given sexual equality and the degree and kind of proof necessary to show a substantial state interest in the classification. The values of the individual judge can too easily circumvent the policies behind the ERA. Until strict scrutiny is uniformly applied in its most rigorous form, the strict scrutiny standard will produce some disappointing results.

Arguments in favor of an absolute ban on sex-based discrimination have been presented by Brown, Emerson, Falk, and Freedman in their leading article on the federal ERA.[129] Their analysis focuses on four premises which, they argue, underlie the ERA and mandate its construction as an absolute prohibition. First, the administrative technique of grouping or averaging individuals into classes should not be acceptable where the factor of sex is concerned. Second, no exception to a policy of equal treatment should be allowed, since unequal treatment cannot be confined to a single area. "Equal rights for women . . . is a unity." [130] Third, they argue that there is no objective basis on which to justify differential treatment of men and women. "Not only is such a system inevitably repressive of one group, but it affords no standard of comparison between different groups." [131] Fourth, if the legislatures and courts could determine when differential treatment is justified, the status of women would remain unchanged, since these institutions "maintain the existing system of discrimination . . . ." [132]

An absolute prohibition of sex-based classifications would create some problems of its own; consequently, it is not clear that this standard would be most desirable to equal rights proponents. First, it would undoubtedly eliminate affirmative action; [133] second, it fails to recognize biological and other differences between the sexes which make certain limited differences in legal treatment acceptable; [134] and third, it allows courts to treat issues of sexual classification summarily and thus ignore present underlying social and economic realities,[135] such as the existence of different employment and educational opportunities for men and women, differing wage rates for men and women, and different parental role conditioning of men and women. Some of these problems might be dealt with through carefully prescribed exceptions to the prohibition, but the question of who would define such exceptions is troublesome, as is the inflexibility of such a legal construct.

Because courts acting under an ERA are not limited to the standards of review developed under the Equal Protection Clause, they can develop new standards designed to achieve the policy of the ERA, equality for women and men. To define a new test is beyond the scope of this Comment, but it is suggested that the ideal standard would lie between strict scrutiny and an absolute ban. Such a test could establish a strong presumption that any sex-based classification was unconstitutional. In order to sustain the sex-based classification, the state would have to show that no other basis of classification would achieve the purpose behind the statutory distinction. Such a standard would require a closer match between the sex classification and the purpose of the distinction than strict scrutiny now requires.

The method used by the Supreme Court of Washington in *Darrin*[136] could be interpreted as such a new standard. The Court carefully examined the challenged regulation to determine its purpose. It then analyzed each of the several purposes for the regulation argued by the athletic association. The analysis consisted of first determining the par-

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ticular characteristics important to the classification's purpose, such as strength and proneness to injury, and then looking at both the excluded and included classes to see whether or not the divider—sex—matched the characteristics. The court found that the match was far from perfect. There are strong females and weak females, and there are strong males and weak males. The court found that because a sex-based regulation was not necessary to and did not achieve any of the stated goals, it was unconstitutional. Such a standard of review would focus attention on the purpose of the statute and on the reasoning of the legislature in creating the classification. An effective ERA should encourage this type of thorough judicial inquiry.

CONCLUSION

The case law under state equal rights provisions reveals that decisions emerge from many sources, including, but not limited to standard of review applied. Other factors clearly influence decisions, but the standard of review adopted provides the framework within which the courts must resolve ERA claims now and in the future. The experience in the states reveals that passage of an Equal Rights Amendment forces all but the most stubborn of courts to apply a standard of strict scrutiny in reviewing sexually discriminatory statutes and actions.

The concept of sexual equality in America, proclaimed at Seneca Falls 129 years ago, has now become a strong force in American politics and law. The federal Equal Rights Amendment has been passed by Congress and needs the votes of only three more states to become a part of the Constitution. Sixteen states have enacted their own Equal Rights Amendments and are adjusting their legal systems to the mandate for sexual equality. Legislatures in many states, both those with and those without ERA's are revising state statutes to make them sex-neutral. The concept of sexual equality is now unquestionably a part of our law.

FOOTNOTES

[1] E. FLEXNER, A CENTURY OF STRUGGLE 75 (1959).

[2] "Men and women shall have equal rights throughout the United States and every place subject to its jurisdiction.

"Congress shall have power to enforce this article by appropriate legislation." H.R.J. Res. 75, 68th Cong., 1st Sess. (1923); S.J. Res. 21, 68th Cong., 1st Sess. (1923).

[3] E. JANEWAY, WOMEN: THEIR CHANGING ROLES 128 (1973); I. MURPHY, PUBLIC POLICY ON THE STATUS OF WOMEN 17 (1973); W. O'NEILL, EVERYONE WAS BRAVE 17 (1969).

[4] *Introduction to* THE EQUAL RIGHTS AMENDMENT PROJECT, THE EQUAL RIGHTS AMENDMENT: A BIBLIOGRAPHIC STUDY at xv (1976).

[5] *Id.* at xvi. Proposed Amendment XXVII reads as follows:

Section 1. Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex.

Section 2. The Congress shall have the power to enforce, by appropriate legislation, the provisions of this article.

Section 3. This amendment shall take effect two years after the date of ratification.

H.R.J. Res. 208, 92d Cong., 1st Sess. (1971); S.J. Res. 8, 92d Cong., 1st Sess. (1971).

[6] As of June 1977, the following states had not ratified the ERA: Alabama, Arizona, Arkansas, Florida, Georgia, Illinois, Louisiana, Mississippi, Missouri, Nevada, North Carolina, Oklahoma, South Carolina, Utah, and Virginia. Three states, Nebraska, Tennessee, and Idaho, have voted to rescind their ratification, but it is not yet clear whether a state may rescind its ratification of a Constitutional amendment.

[7] Legal commentators have also examined this problem. *See, e.g.*, Brown, Emerson, Falk & Freedman, *The Equal Rights Amendment: A Constitutional Basis for Equal Rights for Women*, 80 Yale L.J. 871 (1971) [hereinafter cited as Brown, Emerson, Falk & Freedman]; Freund, *The Equal Rights Amendment is Not the Way*, 6 Harv. C.R.-C.L. L. Rev. 234 (1971).

[8] Frontiero v. Richardson, 411 U.S. 677 (1973). Powell, J., joined by Blackmun, J., and Burger, C. J., said in his concurring opinion that ratification of the ERA would resolve "the precise question" of whether sex, like race, should be identified as a suspect category. *Id.* at 692. If it were so identified, a court would closely scrutinize allegedly discriminatory statutes.

[9] The states are: Alaska, Colorado, Connecticut, Hawaii, Illinois, Louisiana, Maryland, Massachusetts, Montana, New Mexico, Pennsylvania, Texas, Utah, Virginia, Washington and Wyoming. The specific constitutional provision of each appears *infra* in the Appendix.

The Utah and Wyoming provisions appeared in those states' original constitutions. The provisions in Illinois, Louisiana, Maryland, and Montana were added when these states adopted new constitutions. Virginia gained its provision when its old constitution was revised. Thus, not all of the provisions are amendments. Nevertheless, the label "equal rights amendment" or "ERA" will be used throughout this Comment.

[10] See text accompanying notes 33–39 *infra*.

[11] McGowan v. Maryland, 366 U.S. 420, 425–26 (1961); Royster Guano Co. v. Virginia, 253 U.S. 412, 415 (1920).

[12] The state need not justify the relationship. The Court will not find a relationship arbitrary as long as it can conceive of reasons to justify it. Railway Express Agency v. New York City, 336 U.S. 106 (1949). Goesaert v. Cleary, 335 U.S. 464 (1948), is an example of this standard applied to an instance of alleged sex discrimination. *Goesaert* was overruled by Craig v. Boren, 97 S. Ct. 451 (1976).

[13] *E.g.*, Murphy v. Murphy, 232 Ga. 352, 206 S.E.2d 458 (1974), *cert. denied*, 421 U.S. 929 (1975) (provision allowing alimony to wives only is not violative of 14th amendment); Warshafsky v. Journal Co., 63 Wis. 2d 130, 216 N.W.2d 197 (1974) (statute letting boys deliver papers at age 12, but girls not until 18 does not violate 14th amendment); Wark v. State, 266 A.2d 62 (Me. 1970) (longer sentences for escaped male prisoners do not violate 14th amendment); Allred v. Heaton, 336 S.W.2d 251 (Tex. App. 1960) (not unconstitutional to deny woman admission to all-male state college).

[14] Because of the requirement of a "rational relationship," this term has often been used by courts to refer to this standard of review. *E.g.*, Jefferson v. Hackney, 406 U.S. 535, 546, 549 (1972); Dandridge v. Williams, 397 U.S. 471, 487 (1970); McGowan v. Maryland, 366 U.S. 420, 426 (1961); Williamson v. Lee Optical Co., 348 U.S. 483, 489 (1955).

[15] *See, e.g.*, cases cited at note 13, *supra*.

[16] The states are Louisiana, Utah, and Virginia. See text accompanying notes 41–57 *infra*.

[17] *E.g.*, Loving v. Virginia, 388 U.S. 1 (1967).

[18] *E.g.*, Hernandez v. Texas, 347 U.S. 475 (1954).

[19] *E.g.*, Shapiro v. Thompson, 394 U.S. 618 (1969).

[20] *E.g.*, Harper v. Virginia Bd. of Elections, 383 U.S. 663 (1966).

[21] *E.g.*, Griffin v. Illinois, 351 U.S. 12 (1956).

[22] McLaughlin v. Florida, 379 U.S. 184, 192 (1964).

[23] Sail'er Inn, Inc. v. Kirby, 5 Cal. 3d 1, 18–20; 485 P.2d 529, 539–40; 95 Cal. Rptr. 329, 339–40 (1971); Hanson v. Hutt, 83 Wash. 2d 195, 517 P.2d 599 (1973).

[24] See text accompanying note 58 *infra*.

[25] The states are Pennsylvania and Washington. See text accompanying notes 83–106 *infra*.

[26] *See* Brown, Emerson, Falk & Freedman, *supra* note 7, at 893–96.

[27] Frontiero v. Richardson, 411 U.S. 677, 692 (1973) (Powell, J., concurring).

[28] People v. Ellis, 57 Ill. 2d 127, 129, 311 N.E.2d 98, 100 (1974); JOINT PRIVILEGES AND ELECTIONS COMMITTEES OF THE GENERAL ASSEMBLY, COMMONWEALTH OF VIRGINIA, RATIFICATION OF THE EQUAL RIGHTS AMENDMENT TO THE CONSTITUTION OF THE UNITED STATES OF AMERICA 19 (1974); Uda, *Equality for Men and Women, Three Approaches: Frontiero, the Equal Rights Amendment and the Montana Equal Dignities Provision*, 35 MONT. L. REV. 325, 334 (1974).

[29] *E.g.*, Brown, Emerson, Falk & Freedman, supra note 7; Freund, *supra* note 7.

[30] *See* Gunther, *The Supreme Court, 1971 Term—Foreword: In Search of Evolving Doctrine on a Changing Court: A Model for a Newer Equal Protection*, 86 HARV. L. REV. 1, 19 (1972), where the author speculated that a new standard of equal protection review might be developing in the Supreme Court, one more vigorous in its scrutiny than the old rational relationship formula, but less demanding than "strict scrutiny." It focuses on the means used by a legislature to reach its objective, instead of evaluating the objective itself. Reed v. Reed, 404 U.S. 71 (1971), is one of the cases from which Gunther developed the idea of a new middle-level of scrutiny. At issue in *Reed* was an Idaho statute requiring the selection of a male as administrator of an estate where a male and a female were otherwise equally qualified to serve. The Court found the state's objective—to reduce the workload of probate courts—so insufficient as to amount to the kind of arbitrary legislative choice forbidden by the 14th amendment. In Craig v. Boren, 97 S. Ct. 451 (1976) the Court continued this type of analysis. Citing *Reed*, it stated that "classifications by gender must serve important governmental objectives and must be substantially related to achievement of those objectives." None of the cases yet decided under state ERA's, however, has used this middle-level standard.

[31] As a territory, Wyoming was a pioneer in allowing women the right to vote. When its constitution was drafted in 1889, the delegates to the constitutional convention feared that a clause doing no more than granting women suffrage would fail to achieve its purpose. JOURNAL OF WYOMING CONSTITUTIONAL CONVENTION 348–49 (1889). The drafters added two clauses as a safeguard. First an equality clause was added: "Both male and female citizens of this state shall equally enjoy all civil, political and religious rights and principles." WYO. CONST., art. 6, § 1. Second, a legal rights clause was drafted that listed sex, together with race and color, as classes whose political rights could not be abridged. WYO. CONST., art. 1, § 3. Only one sex discrimination case has been decided directly on the basis of the equality clause. In Ward Terry & Co. v. Hensen, 75 Wyo. 444, 297 P.2d 213 (1956), the court held that the right to property was one of the civil rights guaranteed without regard to sex, but did not articulate its standard of review.

[32] 87 N.M. 220, 531 P.2d 954 (1974).

[33] *Id.* at 223, 531 P.2d at 957.

[34] This reasoning reoccurs in ERA cases. Some courts, while acting under provisions requiring sexual equality, in fact assess the women's economic status by standards different from those used to assess the man's economic status. This double standard within a sex-neutral legal system is most pronounced in child custody cases, where parental qualities and behavior are often evaluated on the basis of stereotyped views of what constitutes a "good mother" or "good father" rather than by looking for the qualities of a "good parent," a sex-neutral concept. *See* Anagnostopoulos v. Anagnostopoulos, 22 Ill. App. 3d 479, 317 N.E.2d 681 (1974); Marcus v. Marcus, 24 Ill. App. 3d 401, 320 N.E.2d 581 (1974).

[35] Clontz v. Clontz, 166 Mont. 206, 531 P.2d 1003 (1975); Grant v. Grant, 166 Mont. 229, 531 P.2d 1007 (1975). The court refused to entertain the husband's constitutional claims because of their failure to notify the state attorney general that a constitutional issue was to be raised, as required by the Montana rules of appellate procedure.

[36] Englund v. Englund, 547 P.2d 841, 842 (Mont. 1976).

[37] State v. Craig, 545 P.2d 649 (Mont. 1976). State v. Craig0

[38] Estate of Kujath, 545 P.2d 662 (Mont. 1976).

[39] For example, Washington has amended 120 sections of its code to comply with that state's ERA. *See* Dybwad, *Implementing Washington's ERA: Problems With Wholesale Legislative Reform*, 49 WASH. L. REV. 571 (1974). In most ERA states the legislatures continue to bring the statutory law into accord with the constitutional mandate. In Texas, however, legislative reform in the area of family law was apparently done without consideration of that state's equal rights amendment. Sampson, *The Texas Equal Rights Amendment and the Family Code: Litigation Ahead*, 5 TEX. TECH. L. REV. 631 (1974).

[40] UTAH CONST. art IV, § 1. The text of this provision appears in the Appendix. While there is some disagreement as to whether art. IV, § 1, should be considered equivalent to an equal rights amendment, the Utah Attorney General's office considers it "a broad grant of equal rights to women and certainly is not limited to just suffrage rights." Letter from E. R. Callister, Jr., Assistant Attorney General, State of Utah to Brenda Hancock, Coordinator of Utah Governor's Commission on the Status of Women (Aug. 30, 1976); letter from Brenda Hancock to Nancy Page (Jan. 21, 1977).

[41] OFFICIAL REPORT OF THE PROCEEDINGS AND DEBATES OF THE CONSTITUTIONAL CONVENTION FOR THE STATE OF UTAH, 407–08, 421–28, 464, 492 (1895).

[42] Salt Lake City v. Wilson, 46 Utah 60, 148 P. 1104 (1915).

[43] *Id.* at 68–69, 148 P. at 1107.

[44] 532 P.2d 994 (Utah 1975).

[45] *Id* at 996. Most recently in Stanton v. Stanton, 30 Utah 2d 315, 517 P.2d 1010 (1974), *rev'd* 421 U.S. 7 (1975), the Utah court found reasonable a statute setting the age of majority for males at twenty-one and for females at eighteen on the basis of the "numerous interesting differences" between the sexes. After reversal by the United States Supreme Court, the Utah court on remand continued to insist that "[t]o judicially hold that males and females attain their maturity at the same age is to be blind to the biological facts of life." Stanton v. Stanton, 552 P.2d 112, 114 (Utah 1976). The Supreme Court again reversed. 97 S. Ct. 717 (1977).

[46] The Louisiana Constitution of 1921 had no equal protection clause.

[47] LA. CONST. art. 1, § 3. This provision, the text of which appears in the Appendix, guaranteed equal protection of the state laws to Louisianans for the first time.

[48] Hargrave, *The Declaration of Right of the Louisiana Constitution of 1974*, 35 LA. L. REV. 1, 8 (1974); Jenkins, *The Declaration of Rights*, 21 LOY. L. REV. 9, 18 (1975).

[49] In this regard the Louisiana courts have been less insistent upon sexual equality than has the United States Supreme Court. *See* Califano v. Goldfarb, 97 S. Ct. 1021 (1977); Craig v. Boren. 97 Ct. 451 (1976); Reed v. Reed, 404 U.S. 71 (1971).

[50] 315 So. 2d (La. 1975).

[51] *Id.* at 291. The dissenting opinion of Justice Barham recognized that male support of the family was not universal. On this basis, he would have found no rational basis for the statute unless criminal liability was also imposed on those wives who left their husbands destitute. *Id.* at 292–93.

[52] 320 So. 2d 236 (La. App. 1975).

[53] *Id.* at 238.

[54] The pertinent part of art. I, § 11 is reprinted in the Appendix.

[55] JOINT PRIVILEGES AND ELECTIONS COMMITTEE OF THE GENERAL ASSEMBLY, COMMONWEALTH OF VIRGINIA, *supra* note 28, at 19.

[56] Archer v. Mayes, 213 Va. 633, 638, 194 S.E.2d 707, 711 (1973). The challenged statute exempted women but not men from jury duty if they were responsible for the care of a young child or a disabled person. The question has since been mooted by a revision of the statute exempting any "person" with the requisite responsibilities. VA. CODE §§ 8–208.6(26), 8–208.10 (Supp. 1973).

[57] 213 Va. at 638, 194 S.E.2d at 710.

[58] Wright v. Action Vending Co., 544 P.2d 82 (Alas. 1975) (wife's claim for loss of consortium denied because state's workmen's compensation statute provides exclusive remedy); People v. Green, 183 Colo. 25, 514 P.2d 769 (1973) (rape statute not void under ERA because its distinctions between the sexes not based on sex but on elements of the crime); Page v. Welfare Comm'r, 170 Conn. 258, 305 A.2d 1118 (1975) (regulation that children of working wife not be counted as her dependents in computing her liability for support of indigent parent could not survive any equal protection attack); Maryland State Rd. of Barber Examiners v. Kuhn, 270 Md. 496, 312 A.2d 216 (1973) (statute forbidding cosmetologists to cut male hair bears no rational relation to any legitimate state purpose); Mercer v. Bd. of Trustees, North Forest I.S.D., 538 S.W. 2d 201 (Tex. App. 1976) (regulation of male student's hair length by school does not violate ERA because schools may establish rules for children in formative years.

[59] People v. Ellis, 57 Ill. 2d 127, 311 N.E. 2d 98 (1974).

[60] Ill. Const., art I, § 18. The text of this provision appears in the Appendix.

[61] 57 Ill. 2d, 127, 130–31, 311 N.E. 2d 98, 100 (1974).

[62] Id.

[63] Id. at 132–33, 311 N.E. 2d at 101. The court found that the challenged age distinction did not meet the test of a "compelling state interest". Prior to adoption of the ERA, Illinois courts had employed the rational basis test to sex-based statutory challenges. See People v. Pardo, 47 Ill. 2d 420, 424, 265 N.E. 2d 656, 658 (1970), appeal dismissed sub nom. Pardo v. Illinois, 402 U.S. 992 (1971).

[64] In Phelps v. Bing, 58 Ill. 2d 32, 316 N.E. 2d 775 (1974) the court examined a challenged statute that permitted females to marry at 18 without parental consent, at 16 with consent, and at 15 with court order. Males were required to be 21, 18, and 16, respectively. The court invalidated the statute because it could find no compelling state interest to justify the distinctions between boys and girls.

[65] Randolph v. Dean, 27 Ill. App. 3d 913, 327 N.E. 2d 473 (1975); Anagnostopoulos v. Anagnostopoulos, 22 Ill. App. 3d 479, 317 N.E. 2d 681 (1974); Marcus v. Marcus, 24 Ill. App. 3d 401, 320 N.E. 2d 581 (1974).

[66] People ex rel. Irby v. Dubois, 41 Ill. App. 3d 609, 354 N.E. 2d 562 (1976).

[67] People v. Williams, 32 Ill. App. 3d 547, 336 N.E. 2d 26 (1975); People v. York, 29 Ill. App. 3d 113, 329 N.E. 2d 845 (1975).

[68] People v. Yocum, 31 Ill. App. 3d 586, 335 N.E. 2d 183 (1975); People v. Boyer, 24 Ill. App. 3d 671, 321 N.E. 2d 312 (1974), rev'd, 63 Ill. 2d 433, 349 N.E. 2d 50 (1976). On the reversal of Boyer, see text accompanying note 82, infra.

[69] ILL. ANN. STAT. ch. 38, § 11–10 (Smith-Hurd 1972 Supp.). Penalties under this section range from 2-20 years.

[70] ILL ANN. STAT. ch. 38, § 11-11 (Smith-Hurd 1964). This section, which also covers brother-sister incest, provides for penalties of from 1-10 years.

[71] People v. Williams, 32 Ill. App. 3d 547, 336 N.E.2d 26 (1975); People v. York, 29 Ill. App. 3d 113, 329 N.E.2d 845 (1975).

[72] 57 Ill. 2d 127, 311 N.E.2d 98 (1974).

[73] *Compare* People v. Williams, 32 Ill. App. 3d 547, 336 N.E.2d 26 (1975) *and* People v. York, 29 Ill. App. 3d 113, 329 N.E.2d 845 (1975) *with* People v. Yocum, 31 Ill. App. 3d 586, 335 N.E.2d 183 (1975) *and* People v. Boyer, 24 Ill. App. 3d 761, 321 N.E.2d 312 (1974), *rev'd*, 63 Ill. 2d 433, 349 N.E.2d 50 (1976).

[74] 29 Ill. App. 3d 113, 329 N.E.2d 845 (1975).

[75] *Id.* at 115, 329 N.E. 2d at 846.

[76] 32 Ill. App. 3d 547, 336 N.E.2d 26 (1975).

[77] Ten out of the 11 appealed cases in Illinois arising from criminal incest convictions involved father-daughter incest. Comment on ILL. ANN. STAT. ch. 38, § 11-11, Committee Comments to the Criminal Code of 1961 (Smith-Hurd 1964).

[78] 32 Ill. App. 3d at 551, 336 N.E.2d at 30.

[79] People v. Yocum, 31 Ill. App. 3d 586, 335 N.E.2d 183 (1975); People v. Boyer, 24 Ill. App. 3d 671, 321 N.E.2d 312 (1974), *rev'd* 63 Ill. 2d 433, 349 N.E.2d 50 (1976).

[80] Comment on ILL. ANN STAT. ch. 38, § 11–11, Committee Comments to the Criminal Code of 1961 (Smith-Hurd 1964).

[81] People v. Yocum, 31 Ill. App. 3d 586, 335 N.E.2d 183 (1975). The court also pointed out that risk of genetic damage was not present at all in incest between fathers and adoptive or step-daughters, yet this is included as a reason for the heavier penalty. *Id*, at 589, 335 N.E.2d at 185.

[82] People v. Boyer, 63 Ill. 2d 433, 434, 349 N.E.2d 50, 51 (1976).

[83] The resolution of this question is not always self-evident. In fact, some controversial cases have been dealt with summarily by a determination that disparate treatment of the sexes did not involve discrimination. Most notable in this regard is General Electric Co. v. Gilbert, 97 S. Ct. 401 (1976), in which the Supreme Court found that the challenged insurance plan did not involve sex discrimination in not including coverage for pregnancy. The court reasoned "[t]here is no risk from which men are protected and women are not. Likewise, there is no risk from which women are protected and men are not." *Id.* at 409. The Court could instead have viewed the disparate treatment as discriminatory by finding that men were insured against all medical risks and women were not. Thus, resolution of this threshold question will in fact determine the outcome in many cases.

[84] Conway v. Dana, 456 Pa. 536, 318 A.2d 324 (1974).

[85] Henderson v. Henderson, 458 Pa. 67, 327 A.2d 60 (1974).

[86] Butler v. Butler, 464 Pa. 522, 347 A.2d 477 (1975).

[87] Hopkins v. Blanco, 457 Pa. 90, 320 A.2d 139 (1974).

[88] Adoption of Walker, 360 A.2d 603 (Pa. 1976).

[89] Commonwealth v. Butler, 458 Pa. 289, 328 A.2d 851 (1974).

[90] 11 Wash. App. 247, 522 P.2d 1187 (1974).

[91] 85 Wash. 2d 859, 540 P.2d 882 (1975).

[92] 18 Pa. Commw. Ct. 45, 334 A.2d 839 (1975).

[93] In *Pennsylvania Interscholastic Athletic Ass'n*, the court found that state funding of high school athletic programs constituted the requisite state action. 18 Pa. Commw. Ct. 45, 49, 334 A.2d 839, 842 (1975).

[94] The court selected its standard of review on the basis of its belief that the voters ratifying the ERA must have intended that the state courts be more rigorous in dealing with sex-based classifications than they had been under the strict scrutiny standard used prior to the ERA's ratification. 85 Wash. 2d 859, 871, 540 P.2d 882, 889 (1975). *See* Han-

son v. Hutt, 83 Wash. 2d 195, 512 P.2d 599 (1973); WASH. CONST. art. I, § 12.

[95] 85 Wash. 2d at 875, 540 P.2d at 891.

[96] *Id.* at 876, 540 P.2d at 892.

[97] *Id.*

[98] *Id.* at 877, 540 P. 2d at 892. Because the court did not reject the underlying premise, future cases may raise the issue of separate but equal treatment of the sexes. The United States Supreme Court recently considered this issue when it affirmed by an equally divided court, Justice Rehnquist taking no part in the decision, a Third Circuit case holding that school district regulations establishing gender-based classifications for admission to college-preparatory high schools do not violate the equal protection clause of the Constitution where two single-sex schools offer equal educational opportunities and where attendance at either the girls' or boys' school is voluntary. Vorcheimer v. School District of Philadelphia, 45 U.S.L.W. 4378 (U.S. April 12, 1977), *aff'g* 532 F. 2d 880 (3d Cir. 1976). Although this case arose in Pennsylvania and its ERA was pleaded, the district court refused to exercise pendant jurisdiction to ocnsider it, stating that Pennsylvania case law was inadequately developed in the area of education. 400 F. Supp. 326, 323–33 (E.D. Pa. 1975).

[99] Commonwealth v. Pennsylvania Interscholastic Athletic Ass'n, 18 Pa. Commw. Ct. 45, 50, 334 A. 2d 839, 842–3 (1975).

[100] *Id.* at 50, 334 A. 2d at 843.

[101] *Id.* at 48, 334 A. 2d at 841.

[102] In *Welfare of Hauser*, the court stated in dicta that *Darrin* construes the ERA to create "an absolute prohibition against discrimination *based on* sex." 15 Wash. App. 231, 239, 548, P.2d 333, 337 (1976) (emphasis in original). The possibility of this interpretation has provoked critical comment. *E.g.*, 14 DUQ. L. REV. 101, 106 (1975); Note, *Commonwealth v. Pennsylvania Interscholastic Athletic Association: A Stride Toward Equality of the Sexes or a Misstep?*, 37 U. PITT. L. REV. 234, 240 (1975).

[103] Instead of creating an absolute ban on sex-based distinctions, the cases may support two other conclusions: (1) that the justifications offered were unpersuasive, or (2) that the state's policy of sex neutrality as articulated by the ERA outweighs the justifications presented. The impact of *PIAA* and *Darrin* remains ambiguous. Furthermore, the *Darrin* decision emphasizes that the evidence presented by the Association was unsatisfactory *as evidence:* it was conjectural, "scintilla evidence . . . insufficient to support a finding." 85 Wash. 2d 859, 874, 540 P.2d 882, 892 (1975). This could be read to imply that a justification supported by substantial evidence might overcome the presumption of unconstitutionality created by the initial finding of sex discrimination.

[104] 163 U.S. 537, 559 (1896).

[105] Singer v. Hara, 11 Wash. App. 247, 522 P.2d 1187 (1974).

[106] Whereas sex-based categories are usually a shorthand way of classifying an objective factor: strength, breadwinner, authority figure, etc., functional categories would describe these factors directly in order to define the class affected by the statute.

[107] See text accompany notes 44–52, *supra.*

[108] *E.g.*, Page v. Welfare Comm'r, 170 Conn. 258, 365 A.2d 1118 (1975); People *ex rel.* Irby v. Dubois, 41 Ill. App. 3d 609, 354 N.E.2d 562 (1976).

[109] People v. Green, 183 Colo. 25, 514 P.2d 769 (1973); Finley v. State, 527 S.W.2d 553 (Tex. Crim. App. 1975).

[110] Commonwealth v. Pennsylvania Interscholastic Athletic Ass'n, 18 Pa. Commw. Ct. 45, 334 A.2d 839 (1975). Darrin v. Gould, 85 Wash. 2d 859, 540 P.2d 882 (1975).

[111] *See* Singer v. Hara, 11 Wash. App. 247, 522 P.2d 1187 (1975); text accompanying note 89, *supra.*

[112] See note 35 *supra*, and text accompanying notes 40–41 *supra.*

[113] There has been no recent litigation involving Wyoming's ERA. A case arising the the future could cause the state's high court to update its interpretation. See note 31 *supra.*

[114] *E.g.*, Stanton v. Stanton, 30 Utah 2d 315, 517 P. 2d 1010 (1974), *rev'd*, 421 U.S. 7 (1975), *enforced*, 552 P. 2d 112 (Utah 1976), *rev'd*, 97 S. Ct. 717 (1977).

[115] *See* notes 48 and 55 *supra.*

[116] *See* People v. Ellis, 57 Ill. 2d 127, 311 N.E. 2d 98 (1974); Phelps v. Bing, 58 Ill. 2d 32, 316 N.E. 2d 775 (1974); Texas Woman's University of Chayklintaste, 521 S.W. 2d 949 (Tex. Civ. App.) *rev'd on other grounds*, 530 S.W. 2d 927 (Tex. 1975) (requirement that women students under 23 must live in officially provided on-campus housing, while male students were not provided with similar housing, nor similarly restricted, was found to violate the Texas ERA by discriminating against both groups).

[117] Anagnostopoulos v. Anagnostopoulos, 22 Ill. App. 9d 479, 482, 317 N.E. 2d 681, 683–84 (1974); Marcus v. Marcus, 24 Ill. App. 3d 401, 407, 320 N.E. 2d 581, 585 (1974); Minner v. Minner, 19 Md. App. 154, 310 A. 2d 208 (1973); Lipshy v. Lipshy, 525 S.W. 2d 222 (Tex. App. 1975).

[118] *But see* People v. Elliott, 186 Colo, 65, 525 P. 2d 457 (1974) (court suggests that liability for felony non-support will be extended to wives in a proper case); Friedman v. Friedman, 521 S.W. 2d 111 (Tex App. 1975) (both parents must support their children, but services as well as money count towards meeting the support obligation). *See also* Butler v. Butler, 347 A. 2d 477 (Pa. 1975); Sampson, *supra* note 39, at 636–37.

[119] People v. Boyer, 24 Ill. App. 3d 671, 321 N.E.2d 97 (1974), *rev'd*, 63 Ill. 2d 433, 349 N.E.2d 50 (1976). See text accompanying notes 69–82 *supra.*

[120] People v. Salinas, 551 P.2d 703 (Colo. 1976); People v. Medrano, 24 Ill. App. 3d 429, 321 N.E.2d 97 (1974).

[121] *E.g.*, COLO. REV. STAT. § 40–22–25(1)(a) (1963); TEX. PENAL CODE § 21.02(a) (Vernon 1974).

[122] *E.g.*, People v. Medrano, 24 Ill. App. 3d 429, 321 N.E.2d 97 (1974); Finley v. State, 527 S.W.2d (Tex. Crim. App. 1975). This justification has also been used to uphold discriminatory incest statutes. *E.g.*, People v. Williams, 32 Ill. App. 3d 547, 336 N.E.2d 26 (1975).

[123] Commonwealth v. Pennsylvania Interscholastic Athletic Ass'n, 18 Pa. Commw. Ct. 45, 334 A.2d 839 (1975); Darrin v. Gould, 85 Wash. 2d 859, 540 P.2d 882 (1975). While variations in size and strength exist within each sex and therefore cannot be used to justify sexually discriminatory treatment certain physical characteristics exist exclusively within one sex. Physical characteristics such as the ability to become pregnant and the ability to impregnate are the clearest examples of such physical differences. The United States Supreme Court has, however, rejected the argument that discrimination based on pregnancy violates the Constitution. The Court held that such discrimination is also between pregnant and non-pregnant women and thus not discrimination based on sex. Geduldig v. Aiello, 417 U.S. 484 (1974); Gilbert v. General Electric, 97 S. Ct. 40 (1976).

[124] In Colorado, for example, four out of the five ERA cases thus far have had male plaintiffs. People v. Salinas, 551 P.2d 703 (Colo. 1976); People v. Barger, 550 P.2d 1281 (Colo. 1976); People v. Elliott, 186 Colo. 65 525 P.2d 457 (1974); People v. Green, 183 Colo. 25, 514 P.2d 769 (1973). In Sylvara v. Industrial Comm'n, 550 P.2d 869 (Colo. 1976) a female plaintiff raised the constitutional issue. Similarly, of four Maryland ERA cases, three were brought by a man. Brooks v. State, 24 Md. App. 334, 330 A.2d 670 (1975); Colburn v. Colburn, 20 Md. App. 346, 316 A.2d 283 (1974) and Minner v. Minner, 19 Md. App. 154, 310 A.2d 208 (1973). In the fourth case, cosmetologists of both sexes were seeking to cut male hair. Maryland State Bd. of Barber Examiners v. Kuhn, 270 Md. 496, 312 A.2d 216 (1973).

[125] 42 U.S.C. § 2000e–2 (1971), Civil Rights Act of 1964 § 703, as amended by Educational Amendments Act of 1972 § 901, 20 U.S.C. § 1681 et seq. (1976).

[126] Lane v. Lane, 35 Ill. App. 3d 276, 340 N.E.2d 705 (1975); Minner v. Minner, 19 Md. App. 154, 310 A.2d 208 (1973); Cooper v. Cooper, 513 S.W.2d 229 (Tex. App. 1974).

[127] King v. Vancil, 34 Ill. App. 3d 831, 341 N.E.2d 65 (1975); Marcus v. Marcus, 24 Ill. App. 3d 401, 320 N.E.2d 581 (1974).

[128] E.g., Sylvara v. Industrial Comm'n, 550 P.2d 869 (Colo. 1976). Plaintiff challenged a state rule denying unemployment insurance benefits until 13 weeks after termination of pregnancy as violating the 14th amendment equal protection clause and Colorado's EPA. The court found the rule unconstitutional under the 14th amendment and did not reach the ERA issue.

[129] Brown, Emerson, Falk & Freedman, *supra* note 7, at 890.

[130] *Id.* at 891–92.

[131] *Id.* at 892.

[132] *Id.*

[133] *See* Bakke v. Regents of Univ. of Cal., 18 Cal. 3d 34, 553 P.2d 1152, 131 Cal. Rptr. 680 (1976), *cert. granted*, 45 U.S.L.W. 3555 (U.S. Feb. 22, 1977).

[134] Brown, Emerson, Falk & Freedman, *supra* note 7, at 893–900.

[135] *See e.g.*, Butler v. Butler, 347 A.2d 477 (Pa. 1975).

[136] 85 Wash. 2d 859, 540 P.2d 882 (1975); see text accompanying notes 94–98, *supra.*

Mr. PAUL G. HATFIELD. Mr. President, there is a second aspect to our policy role here which must be discussed. It can be said that law is the elevation of custom or belief to the solemn dignity of common obligation.

In volume 2 of his commentaries, Blackstone asked:

Is not the culture of morals, and of social duty, an object worthy of the attention of every wise legislature?

The elevation of custom or belief to law, unfortunately, can as likely be the product of prejudice or expediency as the culture of morals or social duty. Such is the English common law legacy of presumed male superiority in the possession and inheritance of real property, known to suffering law students as the rule of primogeniture. The rule was born into the English common law after the Battle of Hastings in 1066 and successively enforced by William's Norman and Saxon successors until its effective repeal by the lands acts of 1926 and 1933. Its common law meaning and application were described by the Supreme Court in *Bates* v. *Brown*, 5 Wall. 710, 715–16 (1866):

The male issue is admitted before the female. When there are two or more males, the eldest only shall inherit, but females altogether.

In collateral inheritances, the male stock is preferred to the female. Kindred of the blood of the male ancestor, however, remote, are admitted before those of the blood of the female, however near, unless where the lands have, in fact, descented from the female.

These principles sprang from the martial

genius of the feudal system. When that system lost its vigor, and in effect, passed away, they were sustained and cherished by the spirit which controlled the civil polity of the kingdom.

The dominant principles in the British constitution have always been monarchical and aristocratic. These canons tend to prevent the diffusion of landed property, and to promote its accumulation in the hands of the few. They thus conserve the splendor of the nobility and the influence of the leading families, and rank and wealth are the bulwarks of the throne. The monarch and the aristocracy give to each other reciprocal support. Power is ever eager to enlarge and perpetuate itself, and the privileged classes cling to these rules of descent with a tenacity characteristic of their importance—as means to the end they are intended to help to subserve.

Reaction to this sacred autocratic objective among the pre-Revolutionary colonials was as diverse as they themselves were. New York accepted and applied primogeniture as did Maryland, Virginia, and the Carolinas, where plantation economies built upon the concentrated possession of land and slaves thrived. Curiously, the Massachusetts colony rejected this feudal incident but replaced it with an identical male-domination inheritance statute inspired by the influence of the Mosaic code upon the Calvinists. It derived from John Cotton's draft taken directly from the Bible:

V. Inheritances are to descent naturally to the next of kinne, according to the law of nature delivered by God. Numb. 27, 7, 10, 11.

VI. If a man have more sonnes than one, then a double portion to be assigned and bequeathed to the oldest sonne, according to the law of God, unless his own demerit doe deprive him of his birthright. The like for personall estates. Deut. 21, 17; Chro. 5, 1.

Pennsylvania followed suit.

The Declaration of Independence ensconced the right of all men to hold and enjoy property as tertiary only to life and liberty. Again, the Court in Bates:

With the close of the Revolution came a new state of things. There was no monarch, and no privileged class. The equality of the legal rights of every citizen was a maxim universally recognized and acted upon as fundamental. The spirit from which it proceeded has founded and shaped our institutions, State and National, and has impressed itself upon the entire jurisprudence of the country.

So, the beliefs of the Age of Enlightenment, elevated into law, overthrew the incidents of feudalism in the matter of exclusive male entitlement to property; the Roman code swept away the Hebrew and Anglo-Saxon influences. But did they eradicate the larger custom? Thomas Jefferson, who attacked primogeniture in 1776, went to his death doubting the full equality of the African race. The equal protection clause of the 14th amendment did not begin to mean equal educational opportunity for all until 86 years after it was ratified. Full economic opportunity for women today is so in doubt as to make this amendment necessary.

Let us finish the job of equality. Let us, by giving added life to this debate and this amendment, award ourselves the opportunity to elevate what we believe to what we must do.

Mr. President, this amendment is, in my opinion, the most appropriate method of assuring that the blessings of liberty are not denied to any American solely on the basis of sex. Besides its significance as the supreme law of the land and its role as the social contract between the governors—the people—and their executors in the Federal-State partnership, the Constitution is, most importantly, the symbolic embodiment of the hopes and aspirations of all people seeking to be free.

To make the technical argument that a constitutional amendment is not legally necessary to effect eventual full equality of the sexes is to deny this larger role. The same arguments were applied to the 13th and 14th amendments; if so noble a man as Lincoln had not the vision to realize this fact, our Nation's long and painful climb out of the darkness of slavery might not yet be accomplished. As it was, it was the prevalence of excessively narrow legal minds and those clever enough to exploit this tendency which impeded its progress. In conscience, who can deny the same fulfillment of equality before the law accorded to a minority of our population to that segment which is now the majority?

To imply that the Constitution is so self-executing that ERA's adoption will automatically bring a torrent of horrible and unforeseeable consequences not only misunderstands its integrity, it also betrays a fundamental lack of faith in our established methods of making, executing and interpreting laws to give it meaning. The specter of unisex restrooms totally ignores the right of privacy already found to be guaranteed by the first and fourth amendments. The thought of mothers torn from their children by universal military conscription must mean that those who believe it also believe that, as a people, we are incapable of choosing between rationality and foolishness. If that is true, how have we survived under an ever-enlarging Bill of Rights? The plain truth is that we have found more freedom in the Constitution than its framers expected—that was their hope; historically, we have been humanly reluctant but ultimately unafraid to extend it.

The genius of the document is that it recognizes that only fundamental truths may be stated in absolute terms, that, in itself, truth is invariable but its application in an imperfect world is not. Thus, it is wrong for government to act to abridge freedom of speech but, as Oliver Wendell Holmes made clear, it is not only necessary but socially desirable to prevent a false cry of "Fire!" in a crowded theater. By the same token, it is wrong for government to deny to women the same rights as are given to men but, in the definition and execution of those rights, it is absurd to suppose that laws written by people must be totally blind to human realities to comply with that truth.

It is continually said that the turns which the Watergate affair finally took affirmed the basic principle that we are governed by laws, not people. That is true. What is not often said is that it was people guided by an unfailing faith in the law and themselves which made the law work. I have faith in our ability to recognize what is right, to say so and to govern ourselves accordingly. To collectively fear the law is to fear ourselves.

I thank the Senator.

Mr. BAYH. Mr. President, I yield 30 seconds to the Senator from Wyoming.

Mr. WALLOP. Mr. President, when the Senate votes this morning on the ERA extension resolution, House Joint Resolution 638, I will, after much reflection, vote against it. My vote is not a vote against equal rights for women and men in this country, something I firmly believe in. It is, instead, a vote for the integrity of our Constitution and the amendment process which is being stretched to its outermost boundaries, if not beyond, by the proposed extension.

I cannot overemphasize my personal commitment to the fundamental proposition that all people—women and men alike—should be treated equally in the eyes of our laws. As a Senator from the "Equality State," I have long believed in, and have abided by, the Wyoming constitution which extends the protections of the law equally to "all members of the human race." These are the words of article I, section 6. The Wyoming constitution also provides in article 6, section 1 that:

Both male and female citizens of this state shall equally enjoy all civil, political and religious rights and privileges.

Just as my own State would not tolerate discrimination against men or women on the basis of sex, neither should the laws and Constitution of our land.

Yet, how are we to protect all American citizens against invidious discrimination based on sex? The 92d Congress offered one answer to this question when it proposed the equal rights amendment. That Congress followed the letter, spirit and Supreme Court interpretations of article V of the Constitution.

Mr. President, unlike the 92d Congress, the 95th Congress will, if the Senate approves House Joint Resolution 638, be venturing into uncharted constitutional waters. The proposed extension of the ratification period for the equal rights amendment has no clear basis in the Constitution. It is without legal, constitutional, or congressional precedent. How ironic, indeed, that an extension is not expressly authorized by the very Constitution it would, effectively, amend.

I am afraid that the instrument of our democracy will suffer from this distortion of the amendment process. Men and women around the country have already begun to protest the unfairness of an extension period without allowing the States to rescind prior ratifications. Will not a vast number of Americans lose confidence in our Constitution if we pass an extension which protects and encourages one side of the debate while denying the other side an equal and effective voice in the amendment process? Mr. President, I am afraid that the extension, which is intended to ensure equality and justice

for all, will work an injustice upon the Constitution and therefore on the people of the United States.

Mr. President, I submit that Congress is obliged by article V of the Constitution to do by constitutional amendment what it now seeks to do by this novel constitutional aberration called "extension." Are we not, in reality, submitting the equal rights amendment anew to the States for ratification within 39 months which, by the terms of article V, requires the approval of two-thirds of both Houses and which would, quite significantly, allow all States to take a fresh and contemporar look at this vital issue of equal rights?

It may well be the conviction of this Congress that the need for an amendment promoting and protecting the equal rights of women and men is as compelling today as it was in 1972 when it was submitted to the States. Nonetheless, there is no doubt in my mind that the proper mode for ratification is not by way of an extension which raises serious constitutional questions. Rather, if 38 States have not ratified the equal rights amendment by March 22, 1979, it will then be up to the Congress to reconsider the merits of the proposed equal rights amendment, to redraft an equal rights amendment to comport with basic notions of fundamental fairness and equality and to start the ratification process running from square one by submitting an equal rights amendment to the States for ratification. Only under those circumstances will all Americans feel that they have been given a fair chance to be heard on this critical issue and only in that way will the integrity of our Constitution be preserved.

Mr. BAYH. Mr. President, I yield 5 minutes to the Senator from Hawaii.

Mr. MATSUNAGA. Mr. President, "Hawaii No Kaoi." In Hawaiian that means "Hawaii is Number One," in the move for women, I am proud to be able to say that Hawaii is indeed No. 1, for the Hawaii State Legislature was the first to ratify the Congress-passed equal rights amendment to the Federal Constitution, acting within 2 hours after Congress had approved the proposal in 1972. Moreover, in November 1972, the people of Hawaii voted by an overwhelming majority to add a similar equal rights amendment to their own State constitution.

As one of Hawaii's two House Members at that time, I joined the highly respected Congresswoman from Michigan, Martha Griffiths, in leading the fight to pass the 1972 resolution, and I joined other equal rights proponents in urging the people of my State to adopt a State ERA. With the same personal convictions, and in the full knowledge that I am representing the views of a majority of my constituents, I rise today in support of the proposed extension of the ratification deadline to June 30, 1982.

Frankly, I had hoped that 37 other States would act favorably on the ERA with a dispatch equal to Hawaii's—or at least within the procedural time limit proposed by Congress. Along with many other staunch supporters of the ERA, I was reluctant to consider the possibility that Congress might be asked to extend the time limit, and, as a lawyer, I envisioned a number of constitutional and legal questions which might arise if we did. During the last several months, however, I have had an opportunity to review the arguments of constitutional scholars and plain citizens on both sides of the issue, and I have concluded that the American people and their elected representatives at the State level deserve more time to study this important social question, and that Congress, under the Constitution, can give them that time.

EXTENSION

The original equal rights amendment, introduced in Congress 55 years ago, had no time limit. Indeed the idea that Congress should impose a deadline for ratification of any constitutional amendment is a relatively recent innovation. Twenty-six amendments to the U.S. Constitution have been ratified and in only eight cases did Congress impose a ratification time limit. When the Constitution itself was submitted to the States for ratification, New York State balked at ratifying without an assurance that all of the proposed amendments would be ratified promptly. One of the framers of the Constitution, James Madison, in reply to this question, stated unequivocably that the Constitution must be ratified in toto and forever. Said Madison: "A reservation of a right to withdraw if amendments be not decided on * * * within a certain time" is a "conditions ratification" not contemplated by the Constitution. Twelve amendments were proposed and, within 3 years, the first 10 (the Bill of Rights) were ratified by 11 of the original 14 States. It is interesting to note that the remaining three of the original States—Massachusetts, Georgia, and Connecticut—ratified the Bill of Rights in 1939.

A time limit for ratification of a proposed constitutional amendment was first proposed by Congress in 1917 in connection with the 18th amendment (prohibition). There is no evidence that the choice of a 7-year time limit was anything but an arbitrary choice by the Congress. However, the setting of any kind of a time limitation was such a radical departure from the previous practice that it was challenged in court. In the case of Dillon against Gloss, in 1921, the U.S. Supreme Court ruled that Congress has the power to set time limits for the ratification of constitutional amendments to assure that ratification is "contemporaneous." The Court ruled that Congress has such authority under its constitutional power to propose the mode by which amendments shall be ratified, in short, that a time limit could be part of the procedural machinery established by the Congress for the ratification of an amendment. The Court further ruled that such time limits should be "reasonable," clearly not intending that heated public debate on a question of great social importance should be stifled.

The authority of Congress to establish a time frame for the ratification of a constitutional amendment was further clarified in the case of Coleman against Miller (1939) which arose over the ratification of a proposed amendment which would give Congresss the power to prohibit child labor. The amendment was submitted to the States for ratification in 1924 without a time limit and has yet to be ratified. The practice of hiring children to work in coal mines and factories, once acceptable in this country, has long since been prohibited by progressive State laws. In the mid-1930's, however, some 10 years after the amendment was proposed, several State legislatures ratified it. Coleman against Miller raised the question of whether such ratifications were "contemporaneous" and had been accomplished within a "reasonable" period of time. In its decision, the Court again upheld the authority of the Congress to establish the procedure by which amendments should be ratified, adding that such decisions were political and not within the jurisdiction of a court.

Opponents of the proposed extension of the deadline for ratification of the equal rights amendments have argued that Congress would be "tampering with the sacred U.S. Constitution" if the limit is extended. However, this review of our Nation's history reveals that the 7-year time limit is neither in the Constitution nor is it "sacred." Congress has the power to set a reasonable time limit for ratification of a proposed constitutional amendment and if, after reviewing the political situation, Congress decides that 7 years is not long enough, then Congress has the power to extend the time limit. The power to decide whether ratification is "contemporaneous" and whether the time limit is "reasonable" belongs to Congress and Congress alone.

RESCISSION

Mr. President, I have also been told by opponents of House Joint Resolution 638 that if Congress extends the time limit for ratification of the ERA, it should also permit States to rescind their prior ratification of the amendment. Some argue that under the circumstances, rescission would be a right required by the Constitution and others have told me that "fairness" demands that States be permitted to rescind. Again, however, a review of the facts reveals that the Constitution is silent and that existing precedents uphold the view that rescission should not be permitted.

Congress has considered the question of rescission before, in the case of the 14th amendment, for example. In that case, two State legislatures passed resolutions rescinding their previous ratification of the proposed amendment. Before certifying the amendment for inclusion in the Constitution, the State Department referred the rescission question to Congress. A concurrent resolution, expressing the sense of Congress that the amendment had been ratified was passed and the amendment became part of the Constitution.

Similar questions arose during the ratification of the 15th amendment (voting rights for former slaves) and the 19th amendment (voting rights for women) and in both cases, no validity was attached to the rescission efforts. In addition, previous Congresses have failed to act on proposed constitutional amendments which would permit rescission, apparently recognizing not only the fact that the existing Constitution does not recognize rescissions, but also the prob-

lems which might arise in the ratification of future amendments if State legislatures were permitted to rescind or "erase" the actions of prior legislatures.

In all prior cases, the question of rescission was not considered until the proposed amendment had apparently been ratified, and Congress never recognized any right to rescind prior ratification of an amendment. The Congress always upheld the view expressed by James Madision, that ratification was forever. If fairness is involved in this question, it compels us to treat the equal rights amendment in the same manner and to refuse to recognize any rescission effort by the States.

TWO-THIRDS VOTE

A third question which arises in connection with the extension of the time limit for ratification of the ERA is whether or not a two-thirds vote is required to pass the extension resolution. The Constitution clearly requires that the texts of proposed amendments be adopted by a two-thirds vote of the Congress. However, article V of the Constitution gives Congress the power to propose a mode of ratification without specifying how it should be done. The Supreme Court has upheld the power of Congress to establish a ratification procedure, but declined to say how it should be done, leaving that so-called "political" question up to the Congress.

In the case of the equal rights amendment, the 7-year time limit is not part of the proposed amendment's text. As we have seen, no time limit at all was attached to the ERA resolution until the eve of its passage by Congress. Some opponents of the extention resolution have pointed out that several State legislatures ratified the proposing resolution as well as the text of the amendment, that this constitutes a conditional ratification, and that such legislatures should have the right to rescind ratification if the required three-fourths of the States do not ratify the ERA within 7 years. There appears to be no basis for such a belief on the part of the State legislatures or on the part of the Congress for, as we have seen, conditional ratifications and rescission have never been recognized in the entire 200-year history of the United States. It seems clear that Congress has the right to set the mode of ratification and to amend it, if that seems wise, by simple majority vote, so long as any proposed time limit is "reasonable" and permits "contemporaneous" ratification.

IS THE ERA STILL NEEDED?

Mr. President, no one can deny that ratification of the ERA is still a "contemporaneous" question. The debate on the merits of the ERA has become increasingly heated in the last few years. Opponents of the amendment argue that "no one knows."

Mr. President, there is a saying in Hawaii "Hawaii no kaoi." In Hawaiian it means Hawaii is number one, and in the area of civil rights I honestly can say Hawaii is number one, and in the area of the equal rights amendment Hawaii was the first to ratify the amendment, and moreover in 1972 Hawaii amended its own constitution to provide ERA.

What will happen if it is ratified, predicting that women will lose rights they have long enjoyed. The question of extending the time limit for ratification of the ERA has caused a great deal of anguish, not only among opponents of the amendment but also among some of its staunchest defenders, including several women's organizations and "liberal" newspapers. They argue that women have made many gains in the last few years under laws passed by Congress and the State legislatures and that the ERA may no longer be needed.

To those women who are afraid of losing certain rights which they now enjoy, let me say that no special right or privilege is safe as long as our Constitution does not even guarantee equal rights to women under the law. As recently as 1970, the courts in one State ruled that a wife was "at most a superior servant to her husband . . . only chattel, with no personality, no property, and no legally recognized feelings or rights." (*Clouston v. Remlinger*, Ohio, 1970). Even more recently than that, the courts of Louisiana finally struck down the longstanding "head and master law," under which married women were for many years denied the right to manage and dispose of their own property. Both the Napoleonic Code, on which the Louisiana law was based, and English common law, on which much of our laws are based, hold that "by marriage, the husband and wife are one person in law . . . the very being and existence of the woman is suspended during the marriage." No existing law guarantees a homemaker the right to support in accordance with her needs and her contributions to the family's welfare. It is only when she leaves the home and seeks separate maintenance, alimony, or child support that the courts recognize her as a person in her own right. Even then, less than one-half of the divorced mothers in this country manage to collect court-ordered child support on a regular basis.

Not only have the courts held that married women are "chattel"—which is defined as "property, such as a slave or bondsman"—but the courts have held on several occasions that men and women are not entitled to equal protection under the Constitution. The noted women's rights activist, Susan B. Anthony, was convicted of a Federal offense after she voted in the Presidential election of 1872 and the court found her not entitled to "equal protection" under the 14th amendment. A separate constitutional amendment was required to give women the right to vote. As late as June 1978, in the case of Bakke against University of California Board of Regents, the Supreme Court warned that the 14th amendment could not be interpreted to apply to gender-based discrimination. The likelihood of more suits is very great, for the U.S. Justice Department, in a survey conducted last year, found 800 Federal laws which discriminate against women, not counting Federal administrative regulations or State laws. Moreover, despite the enactment of the Equal Pay Act of 1963, studies continue to show that a working woman who is a college graduate is likely to earn less than a male high school dropout. Women who choose to pursue careers have to work doubly hard to reach the top ranks—and still get paid less than men who do the same type of work.

Ratification of the ERA will not deprive women of privileges which they now enjoy; it will give them legal standing in their own right, and it will guarantee to women the same constitutional rights which men enjoy.

Yes, Mr. President, there is no question in this Senator's mind that the ERA is very much needed even in this day and age. Time for its full consideration and ratification by the States is fast running out. If we truly believe that our own daughters should be guaranteed the same rights and privileges guaranteed to our sons under that greatest human documents of all times, the Constitution of the United States, then we must this day vote "aye" to the adoption of House Joint Resolution 638.

I thank the Senator.

Mr. BAYH. Mr. President, I yield 30 seconds to the Senator from California (Mr. HAYAKAWA) for a unanimous-consent request.

The PRESIDING OFFICER. The Senator from California.

Mr. HAYAKAWA. Mr. President, I fully agree with my distinguished colleague from Hawaii about the rights of women. I have been an advocate of women's rights since I married a Lucy Stoner myself. For the first 9 years of our marriage she went by her maiden name.

I do have reservations, however, about the extension. And I have a statement here I would like to make.

I have followed the debates over the equal rights amendment with more than casual interest. I was an early reader of Virginia Woolf's feminist essay of 1929, "A Room of One's Own." In the 1930's I applauded the poetry of Dorothy Parker and Edna St. Vincent Millay—especially those poems which expressed the right of a woman to her own emotions, undominated by male expectations of how women ought to feel. I have always believed in the right of women to their own identity.

I had no problem with the fact that my wife, for the first 9 years of our marriage, went by her maiden name. We have been married 41 years and have 3 grownup children. She has always maintained her independent interests and continues with her career to this day. I am fully for equal rights.

But I must admit that I am not fully persuaded by the campaigners for the equal rights amendment. Every day judicial decrees and administrative decisions in government and business advance the cause of women. Women have entered the police force in large numbers across the country. Women in the military are given the same basic training as men; preparation for actual combat duty seems only a step away. In the U.S. Senate, administrative and legislative assistants, who a generation ago were likely to be middle-aged men, are now more than likely to be women, including young women in their twenties, some of whom will be Senators themselves a couple of decades from now.

Best of all, women are entering colleges of engineering and getting good jobs on graduation. The entire spirit of the times favors the continuing advance of women. But the ERA campaigners maintain a paranoid tone, as if women were making no progress at all and were still locked in the Middle Ages.

Apart from the wisdom or unwisdom of the equal rights amendment, we are also faced with the question of an extension of time for its ratification. The pro-ERA people who are urging this extension seem to be oblivious to the fact that it will also be advantageous to the anti-ERA forces. With four States having rescinded their ratification (whether or not that recission is legally recognized), it is clear that the anti-ERA movement has a momentum of its own, as does the ERA movement itself.

All 26 amendments that are now part of the Constitution have been ratified within 4 years of their proposal. The past six amendments have all contained a 7-year deadline for ratification. I fail to see any special circumstances in this instance that would justify making so great a change in our traditional practices in amending the Constitution and thereby establishing a precedent, the consequences of which have not been publicly debated.

Finally, I believe the pro-ERA people are making a profound public relations error in pushing for this extension of time. They are saying in effect, "It's the ninth inning and we are three runs behind; we insist that the game go into extra innings." In thus arguing for a change in the rules because they are losing, they are compromising the moral basis of their position. As one of my friends (male) says, "The girls just don't want to play fair." And as another of my friends (female) replied, "Women are like that when they don't get their way." It is a terrible mistake for the women's movement thus to reinforce the stereotype of women as irrational beings—a belief that has stood in the way of women's rights at least since the days of Aristotle.

If the extension of time for the ratification of ERA comes to a vote in the Senate, I shall vote "no." I do not believe that the process of amending the Constitution should be altered so casually, and in response to a single issue.

The ERA campaign has done much to sensitize us all to the inequalities that still confront women, especially as regards property rights. If the deadline passes with the amendment not yet ratified, I hope its proponents will accept the defeat gracefully and come back with a better campaign. The next time around, the equal rights campaign should be unencumbered with such subordinate (and far more debatable) issues as abortion rights and lesbian rights, and unclouded by debates over the legitimacy of the extension of time for ratification.

No one disputes the right of women to their personhood. All sorts of things happening around us indicate that an equal rights amendment, stripped of nonessentials and presented on its own merits, is somethig the public is just about ready to accept. Its proponents should be working now on a less diffuse, more accurately targeted, and better argued campaign. I wish them success.

Mr. BAYH. Mr. President, I am about to close this debate, and I do not intend to repeat all of the substantive issues which have been succinctly and vividly portrayed as being the reason behind the need to extend the equal rights amendment, except to point out those areas of discrimination.

I think the RECORD has been made exceptionally well, but we have been told here again this morning we are talking about a procedural question as to the adoption of the amendment, and the process must be fair. So, in closing, perhaps it would be wise to remind ourselves what the past procedure has been.

It has been clear from every court decision on this subject and by every action of the Congress of the United States that Congress has the authority to determine what a reasonable time is under the circumstances to consider a constitutional amendment. Eight times Congress has said 7 years is a reasonable time. Eighteen times Congress has said there should be no time limit whatsoever.

This morning we are asking the Senate to join the House in telling the country that 10 years is a reasonable time limit. But what about past procedures? I remind my colleagues that this is no ordinary constitutional amendment. We are talking about equality of opportunity and equal justice for over half of the people of this country, over 100 million American citizens.

Let us look at history. We fought a Revolutionary War, no time limit; we passed a Bill of Rights, no time limit; we fought a War Between the States, no time limit; we passed the 14th and 15th amendments, no time limit; we passed an amendment giving the women of America the right to vote, no time limit.

I suggest that the precedent, the procedures, that have been followed by this country are that we have not put a time limit on the pursuit of equality and opportunity whenever a sizable number of Americans were denied these basic and fundamental American rights, and we are not going to start now by putting a time limit on the pursuit of equality and justice for the women and men of America.

The VICE PRESIDENT. One minute remains.

Mr. BAYH. Mr. President, I ask unanimous consent that certain wires, letters, and correspondence supporting the equal rights amendment be printed in the RECORD along with my closing remarks which should be inserted at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NOTRE DAME LAW SCHOOL,
South Bend, Ind., October 3, 1978.

Senator BIRCH BAYH,

Please urge upon the Senate that discussions of rescission of ratification are inappropriate in consideration of legislation to extend the ratification deadline on the Equal Rights Amendment. Any discussion of rescission in connection with the extension issue is premature, improper and would set a precedent inconsistent with constitutional law.

THOMAS L. SHAFFER,
Professor of Law.
EDWARD MCGLYNN GAFFNEY, JR.,
Associate Professor of Law.

WASHINGTON, D.C., *October 3, 1978.*

Hon. JAMES O. EASTLAND,
Senate Office Building,
Washington, D.C.

Please oppose all rescission amendments to ERA extension.

BARBARA NICHOLS,
President, American Nurses Assn.

WASHINGTON, D.C., *September 28, 1978.*

Hon. BIRCH BAYH,
Senate Office Bldg.,
Washington, D.C.

DEAR SENATOR: The International Brotherhood of Teamsters supports the legislation now pending before the Senate, to extend the deadline for ratification of the Equal Rights Amendment.

The people of thirty-five states have voted to amend the Constitution to provide women equal rights under the law. Given the vital importance of the amendment and out of fairness to those who have already voiced their support, a time extension would appear most reasonable.

Approximately twenty-five percent of our over two million members are women, who are entitled to the same rights and protections under the law now enjoyed by men.

Therefore, we would strongly urge that on Tuesday, October 3, you vote to end debate on the extension, and once cloture is invoked, vote to extend the deadline on ERA and against any amendments which would allow for rescission of ratification by the State legislatures.

Thank you for your consideration in this matter.

Sincerely,

FRANK E. FITZSIMMONS,
General President, International Brotherhood of Teamsters.

NATIONAL LEAGUE OF CITIES,
Washington, D.C., October 3, 1978.

DEAR SENATOR: The National League of Cities strongly supports the proposed extension of the deadline for State ratification of the Equal Rights Amendment.

We believe the arguments made against the extension are without foundation in our constitutional history. If, as is conceded, Congress has plenary power to determine the time period for ratification of a constitutional amendment, there is little doubt that the Congress can extend that time period if it determines that additional time is required for the public to debate the proposed amendment fully.

The National League of Cities believes that equal rights for women is a fundamental right and must be made part of the Nation's basic law. We urge you to support the extension of the ratification deadline.

Sincerely,

ALAN BEALS,
Executive Director.

UNITED CHURCH OF CHRIST,
New York, N.Y., September 26, 1978.

DEAR SENATOR: I am writing at the request of the United Church of Christ Advisory Commission on Women to urge you once again to support the passage of the ERA extension resolution, S.R. 134, in this session of the Senate. I also encourage you to work against any amendment allowing rescission to be attached to this resolution, since rescission is a separate matter for consideration by a future Congress after the Equal Rights Amendment has been ratified.

I thank you for your serious consideration

of this issue of justice which is of great concern to the 1.8 million members of the United Church of Christ and to all Americans.

Sincerely,

AVERY D. POST,
President.

SISTERS OF CHARITY OF THE BLESSED VIRGIN MARY,
Dubuque, Iowa, September 18, 1978.

SENATOR BIRCH BAYH,
U.S. Senate,
Washington, D.C.

DEAR SENATOR BAYH: At this time we feel it is important that the Sisters of Charity of the Blessed Virgin Mary, a Congregation of 1,550 members, serving people in thirty-one states of our United States of America, express to you our support of the extension of time for ERA, H.J. 638. We believe that more time is needed for a reasonable discussion of this issue.

We urge you to vote for H.J. Res. 638 without crippling amendments, including those which make it possible for states to rescind their ratification of the ERA (i.e., go back on their commitment to equality). We also urge you to vote for cloture on the first cloture vote in case of filibuster.

We would like to stress the point that ERA has no connection with abortion, and that all polls show that 58–60 percent of the Catholic people nationally support ERA.

As members of the Office of Ministry representing the Sisters of Charity of the Blessed Virgin Mary, we support ERA as an issue of Social Justice.

Sincerely,

Sr. THERESE FRELO, BVM,
Office of Ministry, Coordinator.
Sr. THERESE CALUORI, BVM,
Office of Ministry, Associate Coordinator.
Sr. MARGARET M. FLYNN, BVM,
Office of Ministry, Secretary.

AMERICAN LIBRARY ASSOCIATION,
Washington, D.C., September 25, 1978.

DEAR SENATOR: On behalf of the American Library Association, a nonprofit educational association of some 35,000 members, I am writing to urge you to vote in support of H.J. Res. 638, the resolution to extend the deadline for ratification of the Equal Rights Amendment.

Although women constitute over 80 percent of the library profession, statistics compiled in a number of surveys of library personnel indicate consistently that compensation for women is lower than for men and that women are significantly under-represented in management roles. Equal employment and opportunity in the profession require support of equal rights for women. Accordingly the Association has taken action to eliminate discrimination on the basis of sex, in the form of internal policies and programs, over the past several years. Nonetheless, in recognition of the fact that efforts in support of equal rights for women must be on a national scale to be truly effective, and in recognition of the fact that the pursuit of equal rights can have no deadlines, we call upon you for support in allowing the legislators of the fifty states time to arrive at a just decision.

Sincerely,

EILEEN D. COOKE,
Director, ALA Washington Office.

PORT ARTHUR, TEXAS,
September 27, 1978.

Senator BIRCH BAYH,
Pro ERA Leader, U.S. Senate, Capitol,
Washington, D.C.

DEAR SIR: I haven't had time to do much research on the alleged necessity for amending the U.S. Constitution by adopting the women's equal rights amendment. I just a few minutes ago finished looking through the Federalist Papers (no mention of women), selected writings of James Madison (no mention of women), a book "The Basic Ideas of Alexander Hamilton" (no mention of women, except letters to his wife), and a book by former Chief Justice Earl Warren with this statement, "As the delegates of the Constitutional Convention trudged out of Independence Hall on September 17, 1787, an anxious woman in the crowd waiting at the entrance inquired of Benjamin Franklin, "Well, Doctor, what have we got, a republic or a monarchy?"

"A republic," Franklin replied, "if you can keep it."

(On the CBS Evening News, just now I saw a red-headed woman reporter in a major league baseball locker-room full of lightly dressed baseball players, and Walter Cronkite came on and said, "And that's the way it is September 27, 1978.")

I went to a baseball game the other day, in the Domed Stadium in Houston. Before the game, everyone rose to their feet and gave the Pledge of Allegiance to the Flag:

"I pledge allegiance to the flag of the United States of America and to the republic for which it stands, one nation under God, indivisible, with liberty and justice for all."

No doubt, women have been, and to a large extent still are, taken for granted, and have very little power to protect their rights. And this condition will continue, for all citizens, not just women, until the United States Government carries out its constitutional duty to "establish justice" for all citizens of the United States.

A good start can be made by making all qualified lawyers in the United States public employees, and paying them a salary like other public employees.

I am also for the adoption of the Equal Rights Amendment.

Sincerely,

HUGH WILSON.

DOCTORS FOR THE EQUAL RIGHTS AMENDMENT,
Dallas, Texas.

DEAR SENATOR BAYH: Doctors for E.R.A. urge you to vote *no* to any attempt to amend S.J. Res. 134 to allow states to rescind ratification of the Equal Rights Amendment.

Not enough attention has been paid to the fair and legal option of REPEAL as the Constitutional alternative to rescission. Failure of an amendment for lack of a ¾ majority is not the same as a consensus against it. The Constitution provides that an undesirable amendment can be eliminated by a clear ¾ majority opposed to it; what could be more fair than to require that we proceed in the same way to get rid of an amendment as to instate it? Last year fourteen states defeated proposals to rescind, and there is now consensus among a clear majority of states in favor of the E.R.A. The tragedy for our nation is that the frightening possibility that the will of a majority of states is likely to be thwarted.

We are alarmed at the irresponsible movement to allow rescission. Extension of the deadline for an amendment is a new and untested idea, but rescission is an old idea which has failed to meet the constitutionality challenge many times. James Madison was the first to argue against rescission; he astutely perceived that it is human nature to avoid taking a firm stand if at all possible, and it was the founding forefathers' intention to guard the Constitution and the amending process against the all too common failing of being wishy-washy. After Madison, the case against rescission was reaffirmed by four lines of legislative and judicial decisions:

1) Article V of the Constitution recognizes only the affirmative act of ratification. The founding fathers did not include rescission in Article V.

2) Congress declared that the 14th and 15th Amendments ratified, despite resolutions by several states to rescind their previous ratifications.

3) Congress has twice, in 1924 and 1973, considered amending Article V to allow rescission, thereby recognizing that Congress is powerless to validate rescissions.

4) The Supreme Court has upheld the refusal of Congress to recognize rescissions in *Hawke* v. *Smith* (1920), *Lesser* v. *Garnett* (1922), *Dillon* v. *Gloss* (1927), and *Coleman* v. *Miller* (1939).

REPEAL has been tried and successfully tested in the case of Amendment 18. Please bring this to the attention of your colleagues who may ask you to vote for rescission. Doctors for E.R.A. will withdraw our support from the bill for extension, should rescission be attached.

Sincerely,

L. RUTH GUY, Ph. D.,
SUZANNE AHN, M.D.

AMERICAN PSYCHOLOGICAL ASSOCIATION,
Washington, D.C., September 30, 1978.

MEMBER,
U.S. Senate,
Washington, D.C.

DEAR SENATOR: The Equal Rights Amendment (ERA) has been an important social justice issue for psychologists. In addition, women's disadvantaged status is destructive to the mental health and well-being of both sexes. Mental health professionals have an ethical mandate to support the ERA and to refute the myths about its negative impact.

We would like to draw your attention to the April 1978 report of the Subpanel on the Mental Health of Women of the President's Commission on Mental Health. That report documents the social, economic and psychological consequences of women's inequality. After considering the statistics on rape, incest, domestic violence, depression and alcohol and drug abuse, the Subpanel endorsed the ERA as a strategy for the primary prevention of mental health problems of women.

The data from public opinion polls show that the majority of persons support the ERA. We would also like to draw your attention to the number and diversity of the professional organizations that concur in the Subpanel's view of the need for the ERA. These groups represent the mainstream of our society. Many consider the ERA as so important that they will not schedule meetings in the states that have not ratified the ERA. Please understand that if ERA's deadline were to expire, the members of such organizations could not, in good conscience, attend meetings in states that had been successful in blocking constitutional equality for women. Denying the extension could be unfair and harmful to unratified states that will have an opportunity to pass the ERA when the extension is granted.

The link between women's disadvantaged status and mental health has only recently received attention by the President's Commission. Mental health professionals need time to communicate the facts to the public so that all persons can better understand the benefits of equal rights for the mental health and well-being of both sexes. H.J. Res. 638 can provide that needed time.

The members of the Board of Social and Ethical Responsibility of the American Psychological Association urge you to do all you can to insure passage of the extension of the deadline for the ERA.

Sincerely,

Carolyn B. Block, Ph. D., Chair, APA Board of Social and Ethical Responsibility, for Psychology; Sidney W. Bijou, Ph. D.; Stuart Cook, Ph. D.; Leslie H. Hicks, Ph. D.; Patricia A. Hollander, J. D.; Irwin Hyman, Ed. D.; Judy F. Rosenblith, Ph. D.; Seymour Sarason, Ph. D.; Derald W. Sue, Ph. D.; Dalmas Taylor, Ph. D.

U.S. STUDENT ASSOCIATION,
Washington, D.C., October 3, 1978.

To: U.S. Senators
From: Joel Packer, Legislative Director; Dianne Piché, Women's Program Coordinator.
Re H.J. Res. 638 (Extension of the deadline for ratification of the Equal Rights Amendment)

The United States Student Association (USSA), which represents three million college and university students, urges you to vote in favor of H.J. Res. 638, which extends the deadline for ERA ratification by three years and three months. We also strongly urge you to vote against the Garn (R–Utah) amendment, which permits states to rescind their previous ratification. Lastly, we urge you to vote against any other weakening amendments, such as those that will be offered by Sen. Scott (R–VA).

The seven-year time limit now in the resolving clause of the ERA is an arbitrary limit that is not part of the Constitution. Of the 26 amendments now in the Constitution, eighteen were submitted to the states without any ratification period. The seven-year limit was first attached to the 18th Amendment (regarding Prohibition) as a compromise and was selected without any real rationale. Since then, every amendment, except the 19th Amendment, has had the seven-year limitation attached as "custom."

The Supreme Court has ruled that Congress has the power to fix a definite time period in which states must act upon ratification (*Dillon* v. *Gloss*, 246 U.S. 368 (1927)). The Court has also stated that Congress, without any review by the courts, may decide what is a reasonable length of time for ratification (*Coleman* v. *Miller*, 307 U.S. 433 (1939)). It is clear that it is within the Constitutional powers of Congress, as enumerated in Article V of the Constitution, to determine whether states have had ample and reasonable time to consider ratification of proposed amendments, and to extend such time if it so desires. As the Justice Department has stated, "The sole issues before Congress with respect to extension are, therefore, whether the political, economic and social issues which gave rise to the proposed amendment remain vital and whether the states have had adequate time to debate the proposed amendment.

The issues which prompted Congress to pass the proposed amendment in 1972 are even more vital and pertinent today. Many recent Supreme Court decisions, such as the 1977 Vorsheimer ruling which permitted the exclusion of a student from a Philadelphia public technological school because of her sex, and the Gilbert ruling in which the Court stated that Title VII of the Civil Rights Act does not prevent employers from discriminating against women by denying disability benefits for pregnancy, point to the need for the ERA. In addition, a recent review of the U.S. Code revealed over 800 sex-biased laws. The cumulative effect of such laws assign women, solely on the basis of sex, inferior and subordinate roles in society.

The Equal Rights Amendment, as well as the extension, enjoy wide support from the public. The most recent Harris poll (conducted from June 27 to July 1, 1978) found 57 per cent of the public favoring extension of the time limit. This same poll found 55 per cent of Americans support the ERA, an increase over earlier polls. As you are all aware, 100,000 individuals representing some 300 different organizations rallied on July 9 in Washington in support of ERA and extension. 35 states, which comprise over 70 per cent of the population, have already voted to ratify the ERA.

In key unratified states, the issue of equal rights has become subservient to the March 22, 1979 deadline. Small numbers of opponents of the ERA have resorted to delay tactics to prevent the amendment from being considered by the full legislature. The passage of the extension will remove this time pressure and allow the legislators to fully and fairly debate and act upon the ERA.

We believe rescission is unconstitutional and should not be included in H.J. Res. 638. There have been three previous cases in which Congress has ruled rescission; they were the ratification of the 14th, 15th, and 19th Amendments. In each case when states attempted to rescind their ratification, Congress has refused to recognize the validity of the rescission, even when its determination was decisive on the issue of whether sufficient numbers of states had ratified the pending amendment. In addition, judicial precedent proves that rescission is unconstitutional. Even if one thinks rescission is constitutional, adoption of the Garn amendment would have no binding force. The only Congress which could validate a state's rescission would be the Congress in session at the time 38 states have ratified the ERA. The 95th Congress cannot vote to bind the actions of a future Congress.

While there are certainly many legal issues involved in H.J. Res. 638, it is basically a moral question. The ERA will make women's rights permanent and beyond the reach of politics. Equal opportunity and equal treatment under the law are incomplete and inconsistent. There are too many cracks in the various laws, regulations, and court rulings through which women's rights can and do slip. Our student members believe women's rights must be written into the Constitution and once again urge you to vote in favor of H.J. Res. 638 and against rescission.

[From the Los Angeles Times, Sept. 29, 1978]

ERA: NO DODGING

Senate Majority Leader Robert C. Byrd (D-W.Va.) has maneuvered the measure extending the deadline for ratifying the Equal Rights Amendment onto the Senate calendar. Next Tuesday the measure will face a key procedural test vote. Without this proposed extension, ERA backers would have only six months to win ratification in three more states for a national policy stating that women shall not have their rights abridged just because they are women.

We have in the past addressed why ERA is still needed legally, and why Congress would be perfectly justified in extending the ratification deadline. Now we want to speak to a question that seems genuinely to trouble legislators: If they extend the ratification deadline with the aim of convincing some states to change their minds to vote "yes," shouldn't they allow states that have already voted "yes" to change their minds and vote "no"? Four state legislatures—in Idaho, Nebraska, Tennessee and Kentucky—have already done so, although the Kentucky move was vetoed.

Article V of the Constitution deals with the amendment process. It specifically gives states the power to ratify—that is, agree—but does not mention rescission—rejecting that ratification once given. That may seem unfair. But a look at constitutional history shows that the only way to remedy that situation if it is a problem—and we aren't convinced that it is—is by amending Article V. The Justice Department made that very point in testimony last fall by Asst. Atty. Gen. John M. Harmon before the House subcommittee on civil and constitutional rights.

Rescission is not a new issue. James Madison wrote Alexander Hamilton during the debates over ratifying the Constitution itself that "the Constitution requires an adoption in toto and forever." Madison was discussing whether New York could conditionally ratify the Constitution, but, through the years, his principle has been tested and upheld as it applies to rescission.

For example, after the Civil War, Ohio and New Jersey attempted to withdraw their ratification of the 14th Amendment. Yet the list certifying states that had ratified the amendment included Ohio and New Jersey. Congress approved the list, and that was that.

In 1920, Tennessee attempted to rescind its ratification of the 19th Amendment five days after the process had been deemed final. That move likewise was disallowed.

Following that—in 1924—a New York Senator and a Tennessee congressman introduced an amendment to Article V of the Constitution to give states the right to change their votes—either way—until an amendment became effective. The proposal apparently never came to a vote.

The courts entered the picture in 1937 in considering whether a child-labor amendment submitted to the states in 1924 could still be considered open for ratification. Kansas had changed from a "no" to a "yes" note, and several outvoted legislators challenged that procedure. In Coleman v. Miller, the Kansas Supreme Court held that "it is generally agreed by lawyers, statesmen and publicists who have debated this question that a state legislature which has rejected an amendment proposed by Congress may later reconsider its action and give its approval, but that a ratification once given cannot be withdrawn." The U.S. Supreme Court upheld that decision.

Opponents of ERA charge that those favoring extension are trying to change the rules in the middle of the game by lengthening the time for ratification. While we do not consider equal rights for women a game, we think this constitutional-law outline shows that it is the opponents who want to change the rules by tacking a highly debatable procedural change—rescission—onto a long-overdue, thoroughly aired ERA.

Rescission authority must be dealt with separately. The urgency now is for ERA backers to win clear commitments from senators to limit debate on the issue, and then to vote for the extension itself. They cannot be allowed to dodge the question.

[From The Washington Post, Oct. 6, 1978]

THE ERA EXTENSION

It is almost a foregone conclusion that Congress will approve today a 39-month extension of the period during which states can ratify the Equal Rights Amendment. The House passed the necessary resolution in August, and the votes by which amendments to the resolution have been defeated in the Senate suggest that the Senate will pass it easily today. Although we have expressed reservations in the past about the wisdom of this extension, we join now with those who are urging the Senate to approve it overwhelmingly.

Our reservations about the ERA extension never included the basic argument made against it on Capitol Hill—that Congress lacks power to extend. The constitution gives Congress the principal role in the amending process, and it can do almost anything it wants in terms of time limits and tabulating state ratifications. Our concerns were with the fairness and the wisdom—in terms of precedents as well as politics—of changing a time limit once Congress had established it. We believed such a change might diminish support for the ERA as well as destroy the useful idea that amendments should represent the prevailing national consensus during a predetermined period of time.

Proponents of the extension have made a strong case that the ERA ought to be regarded differently from most other constitutional amendments. Unlike most of the others proposed in the last century, which dealt with the structure or powers of government, ERA is directed at a social, economic and moral issue; the status of women in society. Unlike the others, it has been subjected to an unprecedented outpouring of deceitful or untrue propaganda. And, most important, unlike the others, the ERA has never been given fair consideration in several state legislatures where internal

politics or procedural games have taken precedence over honest consideration.

A majority of the members of Congress—and the president—have been persuaded by these arguments that the unfairness already done to the ERA by its opponents more than offsets the potential unfairness of a ratification extension. Insofar as that is a judgment on the tactics employed in the past by some of those opposed to the ERA, we agree; they have not been willing to let the ERA stand or fall on its own merits.

A year ago, when this extension was proposed, it seemed possible that it would not be needed. There was hope then that in certain state legislatures—most notably Illinois, Florida and Virginia—the issue would be handled fairly this year. But it was not. This, more than anything else, negates any concerns that an extension is either unfair or politically unwise.

Because of what has happened in the legislatures, it is not unreasonable for Congress to decide that proponents of the ERA should have an additional 39 months to persuade a handful of states that it should be ratified. The time period is short—less than half of what was sought a year ago—and the issue is very much alive. More than two-thirds of the states have already said they want this amendment in the Constitution. The extension is, in reality, a concession by Congress that it misjudged six years ago the time needed for a controversial amendment to receive fair consideration in 50 legislatures.

We would rest easier with this extension if Congress had adopted the view that during those 39 months states could also rescind their prior ratifications. That would have reduced the drawbacks of the precedent that is being created. But that view has been rejected on both sides of Capitol Hill. One can hope, at least, that the value of this extension as a precedent will be discounted in the future because of the peculiar nature of the factors that made it necessary now.

Mr. BAYH. Mr. President, at historic occasions such as these, it is difficult to put into words the deep affection and respect that I have for the women and men of my staff and other Senators' staffs who have made the succesful passage of the equal rights amendment extension resolution possible. We all acknowledge that we Members of the Senate—both women and men—are the only people who can make our votes count. However, we also gratefully acknowledge that we cannot do this alone. Without the daily briefings, prodding, and determined efforts of our staffs we would not be able capably to fulfill our constitutional duties to the Senate, our constituents and our country. I would like to take a brief moment to honor these women and men, affectionately referred to as the "Hill Staffers" for they are in every sense the strength behind each of us. I believe this personal recognition is most appropriate in view of their many contributions to the progress which we achieved in the Senate body today. This was a unique opportunity and they achieved a sterling performance.

Before I continue with congratulations and thanks to our Senate staffers, I believe that it is most appropriate for me to pause and hail my counterpart on the House side, DON EDWARDS, the Chairman of the Subcommittee on Civil and Constitutional Rights, and all his sister and brother colleagues for their part in this successful achievement.

Mr. President, I would like to give my personal thanks to Barbara Dixon, my legislative assistant who managed this effort with great dedication, determination, and diligence. Thanks "Barb," Tom Connaughton, my legislative director, without whose assistance I would be at a loss. And Barbara Douglas, Ann Sherman, and Ann Church. Lastly, I thank my press assistant, Carol Sanger, whose constructive efforts have benefited me immensely in the ERA extension resolution passage.

Mr. President, as chairman of the Senate Committee on the Judiciary, Subcommittee on the Constitution, I also thank my subcommittee staff who time and time again never dropped the mantle. Let me take this opportunity to single out several subcommittee staff members who I have the distinct privilege of working with in the ERA extension resolution passage. Mary Kaaren Jolly, staff director of the subcommittee, lent her expertise in constructing the constitutional arguments involved in this issue, which became a "new frontier" in our constitutional amendment process. Thanks, Mary. Nels Ackerson, chief counsel and executive director of the subcommittee, was instrumental in unfolding the intricacies of several constitutional policies which were distinctive issues in the Senate debates. Thanks, Nels. Finally, my heartfelt thanks pour out to Linda Rogers-Kingsbury and Chris Johnson. It is difficult to mention each and every staff member who assisted me in preparing for these Senate debates. But, I rise and toast all the staff on the Subcommittee on the Constitution and my own personal staff.

Mr. President, I do not take lightly my role in the Senate with respect to my duties on the Subcommittee on the Constitution. I realize that we all must never forget "it is the Constitution" we are amending. Let me close with a quotation from Thomas Jefferson, who, I believe stated it most eloquently. I can think of no more appropriate constitutional scholar than one of its principal architects to call upon during this bicentennial era:

The voice of the majority decides, for the res majoris partis is the law of all council, elections, etc., where not otherwise provided.

We have voted today by a margin of 60 to 36 to reflect the will of the majority of the people of this great Nation that there shall be no time limit on equality. But we in the Senate did not act alone—we acted with the many hands and minds of concerned Americans and most particularly our own staffs.

ERA: THANKS AND APPRECIATION

Mr. President, it is only befitting that I should recognize a number of our colleagues who I am deeply and sincerely grateful to for their consideration, courtesy and thought in assisting me with the equal rights amendment extension resolution. I could begin by listing all the Members of this great body and their respective staffs. However, I would like to pay special tribute to the following Senators and their named staffers, without whose long and diligent hours of work, this effort would not have been possible. From the bottom of my heart, I thank my good friends and colleagues and these "Hill staffers.":

Senator RIEGLE (Stephanie Smith and Carolyn Short);

Senator KENNEDY (Bob McNamara and Susan Willis);

Senator JAVITS (Alan Fox and Sylvia Lieberman);

Senator BROOKE (Ralph Neas);

Senator HATFIELD (Oregon) (Jennifer Oldfield);

Senator LEAHY (Susan Brannigan);

Senator MATSUNAGA (Elma Henderson);

Senator CRANSTON (Roy Greenaway and Fran Butler);

Senator METZENBAUM (Ricky Tigert);

Senator SARBANES (Judith Davidson);

Senator HUMPHREY (Maureen Norton);

Senator MOYNIHAN (George Kuhn);

Senator DURKIN (Jane Yanulis);

Senator PROXMIRE (Ron Tammen);

Senator CHAFEE (Nancy Barrows);

Senator HATFIELD (Montana) (Tim Hart and Tom Boland);

Senator CLARK (Karen Stuck); and

Senator ABOUREZK (Gwen Steingraber).

Mr. President, it is with further gratitude that I acknowledge our majority leader, Senator ROBERT BYRD, who had the pleasant duty of seeing that this resolution was brought before the Senate for consideration this week. As you all know, it would be impossible for me to adequately express the full measure of my appreciation for his efforts throughout these past few days.

It is with great pride that I salute these Senators and their staffs along with all the other Senators of this body who are cosponsors of S.J. Res. 134.

Mr. CHURCH. Mr. President, I wish that I could vote in favor of this time extension for the ERA proposal. As an original sponsor of the measure, I want to see it succeed.

But the end, however meritorious, does not justify the means. In this case, the cause is right, but the method is wrong.

By the action we are about to take, Congress will declare that if a State legislature, having rejected the ERA, reconsiders and approves it, the approval will count. On the other hand, if a State legislature, having approved the ERA, reconsiders and rejects it, the rejection will be disregarded. In other words, only affirmative action will be recognized. A State may change its mind one way but not the other, even though the proposal is not binding—and cannot be considered as the law—until three-quarters of the States have decided in its favor. Only then is it made part of the Constitution. Until then, States should remain free to change their position, one way or the other.

Idaho is a case in point. Our legislature first approved the ERA proposal, but later reconsidered and voted to rescind its earlier action. Even though I disagree with the decision of the Idaho legislature in rejecting the ERA, I cannot quarrel with its right to make that decision. Nor can I cast my vote in favor of a proce-

dure which would disregard the action taken by the legislature of my own State.

When it comes to amending the Constitution of the United States, the highest law of the land, it is quite wrong to adopt a procedure which fails to confer equal rights to both sides. This procedure is so unreasonable and unfair I cannot, in good conscience, endorse or support it.

In the end, I believe it will backfire and endanger, if not defeat, the cause itself.

● Mr. DOLE. Mr. President, as a supporter of the equal rights amendment the Senator from Kansas shares the disappointment of other supporters at our apparent defeat in the State legislatures. Nonetheless, I am unwilling to vote for this resolution.

House Joint Resolution 638 amounts to impermissible tampering with amendatory rules that have long been considered fair and equitable. Prior to this, I doubt that many citizens or Senators would have thought that an amendment, good or bad, could be kept alive by extending its deadline. Likewise, I doubt that many would have argued that it made much difference whether the time limit was set forth in the body of the amendment itself, or in some other part of the resolution.

Certainly it makes sense to put the deadline in the proposing language to keep the clutter out of our Constitution. Before this extension effort, few of us would have seen any significance in the location of the deadline.

AN ERA SUPPORTER

For my own part, I have supported ERA for so long that it feels rather unusual to be standing opposite so many ERA proponents. But the ERA and the ERA extension are different questions. Just as I have strongly supported ERA on principle, I feel compelled to oppose the extension on principle.

ALREADY CONVINCED ON THE MERITS

The Senator from Kansas has heard and read some outstanding statements on behalf of the equal rights amendment during the course of this week. Indeed, I can associate myself with most of what has been said about the merits of ERA. I found those arguments persuasive, but unnecessary in my case because I am already persuaded on the merits of ERA. Rather, it is the extension that bothers this Senator.

The health of a democracy demands an occasional willingness to forgo the desire to win—where winning conflicts with procedural fair play.

YES TO THE DISTRICT—NO TO THE EXTENSION

A roughly similar analogy can be drawn to my vote on D.C. representation. Since the new D.C. Senate seats would probably be controlled by Democrats during the near future, I had to suppress my natural desire for Republican victories in the Senate in favor of the greater good—in this case the right to representation for the District of Columbia. Forsaking a partisan desire to win in favor of fairness for the District—this Senator said yes to voting representation for the District.

And I must say no to the extension—for the same reason. As an ERA supporter I would like to win—but my sense of fairness and my desire to defend sound constitutional procedure demands a "no" vote on the extension.

Such votes are never easy. Invariably many who normally stand with you on substance, do not understand your concern about procedure, precedent, and fairness.

But U.S. Senators, charged as we are with defending the Constitution, must be the guardians of procedural fairness if our democracy is to continue and flourish. Granting this extension would be a result-oriented procedural decision fraught with danger. I must oppose precedents today that may return to haunt us in the future.

I recognize that this is an extremely important constitutional amendment. If the significance of an issue could justify this 11th hour manipulation of the rules—then ERA would be at the top of the list of candidates for such treatment. In my view, the unfairness is not justified even in this case.

Certainly, a number of my problems with the unfairness of this extension would have been obviated had we passed the Garn rescission amendment on Wednesday. In fact, I would have voted for the extension had rescission passed. Unfortunately, it failed and none of the unfairness of House Joint Resolution 638 has been eliminated. In effect we are changing the rules without expressly allowing State legislatures to change their minds. Therefore, I cannot support this resolution.

Perhaps, this experience has taught us that such deadlines should always be expressed in the text of the constitutional amendment. If this is the only effect of today's vote, and if Congress wishes to limit its extension powers, the net effect for the future may be the mandatory cluttering up of our Constitution. I hope that is the only effect of today's vote. But an argument may be made at some point in the future that there is really no difference between placing the time limitation in the constitutional amendment and placing it in the language of the resolution. Apparently most Members of this Senate disagree and feel that the location of the deadline is very significant. But proponents of some future extension—where the deadline was expressed in the text—may argue that: First, extensions are allowed and, second, a minor thing like location of the deadline should not stop their extremely valuable, highly meritorious amendment. If that extension is as heavily lobbied as this one was, I am unwilling to predict the outcome with any certainty.

The dangers of extension require this Senator to continue his support of the original 7-year deadline. When we originally considered ERA we thought that would be sufficient. Unfortunately, our optimism was unfounded. But having written the rules, we should not now seek to change them simply because we are entering the final stretch without a victory.●

● Mr. WILLIAMS. Mr. President, as one of the sponsors of the Senate resolution to extend the time for ratifying the equal rights amendment, I strongly support the resolution now before us, House Joint Resolution 638.

I commend my good friend and colleague, Senator BAYH, for his dedication to the cause of equal rights and for his perseverance in bringing this resolution before us. The distinguished majority leader, Senator BYRD, also deserves a great deal of credit for securing a time agreement that has allowed full debate of the issues, while assuring a final vote on the resolution in this session of Congress.

When Congress overwhelmingly passed the equal rights amendment in 1972, it attached a preamble to the amendment indicating that ratification should be achieved within 7 years. Now 6½ years later, 35 of the requisite 38 States have ratified. These States represent nearly three-fourths of the population of the United States. If we let this opportunity to extend the ratification period pass, we will be ignoring the wishes of the people of those States, as well as the people in unratified States who want ERA to become part of the Constitution. Time and time again, public opinion polls have shown strong support for ERA among the men and women of this country. But a few legislators in a few States have succeeded in thwarting the will of the great majority of the American people.

ERA is as much a current issue today as it was in 1972. It remains one of the most vital issues of justice and human rights confronting our Nation. It is an issue that will not go away.

The U.S. Constitution gives the Congress the power to designate the "mode of ratification" of constitutional amendments. The Supreme Court has determined that in carrying out this power, the Congress may, as a procedural matter, set a reasonable time for ratification, as "the public interests and changing conditions may require." In passing various amendments, the Congress has, at different times, chosen to set no time limit, to include a time limit in the text of the amendment, or, in the case of the ERA, to separate the time limit from the amendment itself. The latter option leaves the Congress free to modify the time limit without changing the text of the amendment. The extension of time provided in House Joint Resolution 638 is clearly the prerogative of Congress.

Furthermore, since the extension will not modify the test of the ERA, a two-thirds vote on the extension resolution is unnecessary. Article V of the Constitution very specifically spells out the cases in which a supermajority of Congress or the States is required in the consideration of constitutional amendments. No supermajority of Congress is required to determine the mode of ratification or details of the ratification process. I am pleased that both the Senate and House have agreed that a simple majority is all that is required to pass House Joint Resolution 638.

Many have raised the question of whether States which have ratified the ERA should be allowed to rescind that ratification. The Supreme Court has ruled that the Congress sitting at the time that three-fourths of the States

have ratified has the power to determine whether a State's ratification (or rescission) is valid. Using this power, the Congress has denied the right of rescission in the cases of the 14th, 15th, and 19th amendments. Those actions do not, however, bind future Congresses in their determination of the validity of rescissions. And there is a serious constitutional question as to whether this Congress, in passing a rescission amendment to House Joint Resolution 638, could bind a future Congress. The resolution before us now, and the ERA itself, are neutral on the question of rescission. An amendment to the resolution specifically sanctioning rescission would be misleading and contrary to congressional precedent. For this reason, I voted against the rescission amendments that were proposed, and believe that the Senate made the right decision in rejecting them.

Moreover, we are all aware that if the Senate passed any amendment to House Joint Resolution 638, it would be highly unlikely that a compromise resolution could be agreed to with the House prior to the scheduled congressional adjournment. I believe it is incumbent upon us to pass House Joint Resolution 638 unamended in order to give the States additional time to decide this critical question. Will we assure equal justice for men and women under the law, or will we continue to allow our laws to discriminate solely on the basis of sex? The choice is before us now as it was 6½ years ago. I urge my colleagues to support House Joint Resolution 638.●

● Mr. STEVENSON. Mr. President, the resolution to extend the time for ratification of the amendment raises an issue distinct from that of equal rights, but just as important. It is an issue of procedural due process.

During the debate I argued that an amendment to the Constitution aimed at securing fairness should itself be secured by means that are fair and that fairness and commonsense required the ratification process to produce a reasonably contemporaneous expression of public opinion. The Constitution, it would seem, requires no less.

A judgment on rescission can only be made by the Congress sitting at the time the 38th State ratifies, or ultimately by the Supreme Court, and in no event by this Congress. Accordingly, I offered an amendment which stated the neutrality of the Congress on the question of rescission. The Senate rejected that course and subsequently rejected an amendment purporting to approve rescission. Thus, the signal we have sent to the States is premature and misleading. It implies that Congress has decided rescissions will not be respected. This is not the case, and the States should not be misled.

The Supreme Court will determine if the Congress has any voice at all upon this subject. The available authority suggests that Congress does have a voice—but only after the requisite number of States ratify. Only then, after all, is the Congress in a position to consider the length of time elapsed between Congressional approval and ratification by the 38th State and the number of rescissions. It is conceivable that if and when the last State ratifies, as long as a decade after congressional approval, many States will have attempted to rescind their ratification. And it is not likely that the Founders intended us to disregard the opinion of the Nation in order to respect the opinion of one State.

In the unusual circumstances of this case, I believe the Congress should evaluate efforts to rescind in reaching a determination as to whether ratification represents a reasonably contemporaneous expression of the will of the people.

Although I am troubled by the judgments the Congress has made, I nevertheless intend to vote for this unprecedented extension of time. The decisions Congress made with regard to rescission are not binding. And the issue now is whether the equal rights amendment should remain available to the States for further consideration. While I have often expressed my view that the rights embodied in this amendment are already embodied in the Constitution, I do think that its adoption is important. The equal rights of women should be given explicit recognition in the Constitution and all the moral authority of that instrument.

The implementation of those rights may be facilitated by their explicit recognition. And I fear that defeat of an explicit commitment to the equal rights of all, regardless of their sex, would set back the long, hard effort begun with our Founders to declare all people free. The struggle for equal rights will never end. And I will never be party to its delay or defeat. I only wish, Mr. President, that we had signaled to the American people that equal rights would be secured by equal methods.●

● Mr. ANDERSON. Mr. President, none of us could have predicted in 1972 when the equal rights amendment passed this body that we would be here today to discuss a longer ratification period. No one thought more than 7 years would be needed. When I signed Minnesota's ratification of the ERA in 1973 as Governor, I believed that the amendment would be ratified well within the 7-year period.

Little did any of us know, then, of the political obstacles the ERA would face. Who among us could have predicted that the ERA would be treated as a political football in some State legislatures, with deciding votes cast for reasons having nothing whatever to do with the amendment itself? Indeed, who could have predicted the extent to which the issue would be confused by opponents.

The ERA is a simple statement of legal equality. This national commitment to constitutional equality is vitally needed.

The Constitution does not adequately protect women from discrimination today. In 1975, the earnings of working women were just 57 percent of men's earnings. Discriminatory laws still exist at the Federal, State and local levels. Clearly, the need for the ERA, which will invalidate all laws which treat men and women differently, is with us today as strong as ever.

The Supreme Court has ruled that Congress has the responsibility to determine a "reasonable" time for ratification of a constitutional amendment under the provisions of article V of the Constitution. In Coleman against Miller, decided in 1939, the Court ruled that in deciding what is a reasonable time, Congress must make an appraisal of "a great variety of relevant conditions, political, social, and economic."

Mr. President, I believe that the most important "relevant condition" for us to consider today is the widespread public support for the ERA. A majority of Americans, including those in unratified States, continue to support the ERA. The States which have ratified represent almost three-quarters of the population. The American people want to see equal justice for both sexes. By extending the deadline for ratification of the ERA, Congress can insure that sufficient time be available for passage.

Mr. President, I am not pleased that House Joint Resolution 638 has become a necessity. However, there is no question in my mind that this resolution is entirely fair and constitutional. House Joint Resolution 638 has my full support, and I urge my colleagues to support it today.●

● Mr. CULVER. Mr. President, today we have the opportunity to extend the deadline for ratification of the equal rights amendment, and it is imperative that the U.S. Senate approve this extension. With only three States needed for ratification, the time period will expire on March 22, 1979, before several State legislatures have had the opportunity to vote on the ERA. I have reviewed the procedural and constitutional questions of extending the ratification period very carefully, and I am confident that this is a proper step.

It is clear that women have been denied full economic and social equality throughout our Nation's history. Ratification of the ERA will help to end this discrimination. In 1972, Congress overwhelmingly passed the equal rights amendment to the Constitution because we recognized the need for clear constitutional language ending sexual discrimination. This is a basic principle of a country dedicated to justice and equality for all persons.

Though progress has been made to help assure full equality to all individuals, there is no doubt that much remains to be done. The gap between the earning power of men and women is widening rather than lessening. In 1971, for example, women earned 63 cents for every dollar men earned, but by 1975, that figure was 57 cents. Women continue to occupy fewer prestige employment positions.

Women college professors earn, on the average, $3,000 less than male college professors with comparable qualifications. In addition, there is a quota set for the number of women who may serve in the military, and those women are required to have a higher educational level than men in order to be admitted, resulting in denial of education, insurance, job training, and veteran and retirement benefits, including preference for civil service positions, to women. A 1977 review of the United States Code revealed over 800 sex-biased laws—laws that do

not protect women, but in many instances subordinate them.

Mr. President, Iowa was the fourth State to ratify the equal rights amendment, on March 24, 1972, just 2 days after it was passed by the U.S. Senate. Six years later, during the 1978 session of Iowa's 67th General Assembly, an equal rights amendment to the Iowa Bill of Rights received its initial approval by wide margins. This emphasizes the need for continuation of public discussion on this vital issue.

This is not an issue that will go away. By approving House Joint Resolution 638, and extending the ratification period to June 30, 1982, we reiterate our commitment to full equality to every American citizen. I urge my colleagues to support this resolution.●

● Mr. HEINZ. Mr. President, I rise in support of this necessary action.

I have long been a supporter of the ERA. One of the issues now being discussed is whether the Congress can or should extend this period. I believe that Congress does have the authority to do this, and the Supreme Court similarly viewed this question as being within the legitimate powers of Congress in its ruling in *Dillion* v. *Gloss*, 256 U.S. 368 (1921). In that decision the Court stated:

Of the power of the Congress, keeping within reasonable limits, to fix a definite period for the ratification we entertain no doubt. As a rule the Constitution speaks in general terms, leaving Congress to deal with subsidiary matters of detail as the public interests and changing conditions may require; and Article V is no exception to the rule. Whether a definite period for ratification shall be fixed so that all may know what it is and speculation on what is a reasonable time may be avoided, is, in our opinion, a matter of detail which Congress may determine as an incident of its power to designate the mode of ratification. It is not questioned that seven years, the period fixed in this instance, was reasonable, if power existed to fix a definite time; nor could it well be questioned considering the periods within which prior amendments were ratified.

The equal rights amendment which is the subject of our debate here today is not, as many would suppose, a mammoth document unleashing a host of horrors upon the Nation. The equal rights amendment consists of three simple sections:

Section 1.—Equality or rights under the law shall not be denied or abridged by the United States or by any state on account of sex.

Section 2.—The Congress shall have the power to enforce by appropriate legislation, the provisions of this article.

Section 3.—This amendment shall take effect two years after the date of ratification.

That is it. That is the entire equal rights amendment that is causing such a furor. I believe it is an honest attempt to secure justice and fairness to all, and I support it.

Many have claimed there is no need for an equal rights amendment. Even our former colleague, Senator Sam J. Ervin, Jr., suggested as much in his recent 18-page statement in opposition to the ERA. Responding to Senator Ervin, a homemaker from Doylestown, Pa., had this to say:

"Our country has come a long way in the half century of my lifetime, as evidenced by the legislation, executive order and federal departmental regulations you refer to in broad outline. But the cobwebs of sex discrimination cannot be swept clean by piece meal attack on each area where they manifest and reveal themselves. There are times when a great wrong becomes so obvious that slow pecking at it becomes an insult to those who are wronged. Some seek to right such wrongs by violence—as did our own founding fathers in 1776. Women have chosen to use the democratic process (from which they are largely excluded) and by that process will continue to work for ratification of the Equal Rights Amendment.

You would have us pursue the way of tediously continuing to legislate each discrimination that remains. How could an ordinary person like myself become aware of all the laws and regulations under which his/her equal rights are guaranteed? If, at some point, I felt myself to be specifically in need of that knowledge, it would become necessary to engage legal counsel at considerable cost. The ERA is so simple and so easily comprehended, that I could feel quite secure and knowledgeable about my protection under the Law of the Land as regards to sex discrimination. Your way is a lawyer's paradise.

Supposition that "virtually all the states have repealed their firmer laws discriminating against women in major respects" is as naive as your satisfaction "that the legislatures of the several states were such insignificant laws may still remain will forthwith repeal them if they are called to their attention". The process by which "calling to attention" is done, is not as simple as you make it sound. It often means expensive legal suits, appeals and more appeals as my survey of cases has revealed, not to mention the complexity of the legislative process."

In my own State of Pennsylvania, which passed a State equal rights amendment in 1972, there is an effort to bring the State laws into conformity with the ERA. Spearheaded by Helen Wise, a courageous legislator in Harrisburg, a package of 26 conforming measures were introduced this year, 18 of which have already been adopted, to address such problems as:

The law which allows for registration of naturalized citizens through the husband only. It has been amended to change "husband" to "spouse."

Department of Public Welfare Act providing for programs of assistance to "mothers." Since there are no programs currently sponsored by the Department of Public Welfare for mothers only, the terminology is amended to read "parents."

Inheritance and Estate Tax Act granting a deduction in the transfer of a decedent's property where there is a husband surviving, even though he is able to pay the tax. The applicable section has been amended to use the words "surviving spouse" and thus make the benefit available where the wife survives the husband as well.

Clearly there is a need for the ERA in our Nation today. To deny this need will not make the problems go away. It is time for this Nation to stand out as a beacon of light to those whose human policies we hope to improve, and to say to the world: "There are no second class citizens in our country, and all persons are equal under our law."●

Mr. ROBERT C. BYRD. Mr. President, I ask for the yeas and nays.

The VICE PRESIDENT. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

EXTENDING THE DEADLINE FOR RATIFICATION OF ERA

The VICE PRESIDENT. Under the previous order, the hour of 10 o'clock having arrived, the Senate will now proceed to vote on House Joint Resolution 638, which the clerk will report.

The second assistant legislative clerk read as follows:

A joint resolution (H.J. Res. 638) extending the deadline for ratification of the equal rights amendment.

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair maintain order throughout the rollcall, and the clerk repeat the names and the responses as Senators vote.

The VICE PRESIDENT. The Senate will be in order. The yeas and nays have been ordered, and the clerk will call the roll.

Mr. ROBERT C. BYRD. Mr. President, may we have order in the Senate?

The VICE PRESIDENT. The Senate will be in order.

The clerk will resume the calling of the roll.

The call of the roll was resumed and concluded.

Mr. CRANSTON. I announce that the Senator from Alabama (Mrs. ALLEN), the Senator from Mississippi (Mr. EASTLAND) and the Senator from Colorado (Mr. HASKELL) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Texas (Mr. TOWER) is necessarily absent.

I further announce that, if present and voting, the Senator from Texas (Mr. TOWER) would vote "nay."

The VICE PRESIDENT. Have all Senators voted?

The result was announced—yeas 60, nays 36, as follows:

[Rollcall Vote No. 450 Leg.]

YEAS—60

Abourezk	Hatfield, Paul G.	Packwood
Anderson	Hathaway	Pearson
Bayh	Heinz	Pell
Bentsen	Hodges	Percy
Biden	Humphrey	Proxmire
Brooke	Inouye	Randolph
Burdick	Jackson	Ribicoff
Byrd, Robert C.	Javits	Riegle
Case	Johnston	Sarbanes
Chafee	Kennedy	Schmitt
Clark	Leahy	Sparkman
Cranston	Magnuson	Stafford
Culver	Mathias	Stevens
DeConcini	Matsunaga	Stevenson
Durkin	McGovern	Stone
Eagleton	McIntyre	Weicker
Glenn	Melcher	Williams
Gravel	Metzenbaum	Young
Griffin	Moynihan	
Hart	Muskie	
Hatfield, Mark O.	Nelson	

NAYS—36

Baker	Curtis	Hayakawa
Bartlett	Danforth	Helms
Bellmon	Dole	Hollings
Bumpers	Domenici	Huddleston
Byrd, Harry F., Jr.	Ford	Laxalt
Cannon	Garn	Long
Chiles	Goldwater	Lugar
Church	Hansen	McClure
	Hatch	Morgan

Nunn	Scott	Wallop
Roth	Stennis	Zorinsky
Sasser	Talmadge	
Schweiker	Thurmond	

NOT VOTING—4

Allen	Haskell	Tower
Eastland		

So the joint resolution (H.J. Res. 638) was passed.

[Applause in the galleries.]

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the House joint resolution was agreed to.

Mr. BAYH. Mr. President, I move to lay that motion on the table.

The VICE PRESIDENT. The galleries are admonished to refrain from any exhibition of approval or disapproval.

The question is on agreeing to the motion to lay on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The VICE PRESIDENT. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. PAUL G. HATFIELD). Without objection, it is so ordered.

Mr. ROBERT C. BYRD. May we have order in the Senate, Mr. President?

The PRESIDING OFFICER. The Senate will be in order.

REVENUE ACT OF 1978

The PRESIDING OFFICER. Under the previous order the Senate will now resume consideration of H.R. 13511, which the clerk will state by title.

The second assistant legislative clerk read as follows:

Calendar 1187, H.R. 13511, a bill to amend the Internal Revenue Code of 1954 to reduce income taxes, and for other purposes.

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The pending question is on the amendment by the Senator from Delaware (Mr. ROTH) on which there shall be 1 hour of debate to be equally divided and controlled by the Senator from Louisiana (Mr. LONG) and the Senator from Delaware (Mr. ROTH).

Who yields time?

Mr. CURTIS. Mr. President, I ask unanimous consent that we may have a quorum call charged to neither side.

Mr. ROBERT C. BYRD. Mr. President, I shall have to object. I am perfectly agreeable to having a quorum call charged equally to both sides. We have just had a quorum call in order to clear out the Chamber and the galleries. If it is charged equally——

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. CURTIS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time? If neither side yields time, time runs equally.

Mr. LONG. Mr. President, with the understanding that time will be charged against both sides, I ask unanimous consent that we may have a quorum call.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

Mr. ROTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

AMENDMENT NO. 3881

Mr. ROTH. Mr. President, I yield myself 10 minutes.

Mr. President. I believe that what we do today on the vote coming up on the Roth-Kemp across-the-board tax cut is the most important decision that this Senate will take on this legislation.

I believe it is of first importance that the Senate give a signal to the private sector that we are going to move in a new direction, that we are going to give the private sector an opportunity to show what it can do.

I would point out that there seems to be general consensus that our economy is not moving well.

Two weeks ago, the Wharton School of Finance, for example, pointed out that the economy will probably go into a slump by the end of next year unless further tax cuts are enacted.

I would point out that the Budget Committee, on page 28 of their concurrent resolution for 1979, makes much the same conclusion. They say on page 28:

The committee recognizes that significant fiscal policy changes—tax reduction or expenditure increases beyond those reflected in the Committee's FY 1979 decisions—will almost surely be required to maintain economic growth through FY 1983.

I believe that there is a consensus here, just as there was when President Kennedy sent his message to the Congress: The time has come not to substantially increase Government spending, but instead to relieve the tax drag on the private sector.

I think it is important to recognize that the Roth-Kemp tax cut is no greater than that anticipated through 1983, and the same budget document that I just referred to.

But I think it is important that Congress take the initiative here for two reasons.

One, the point I already have made, that we give a signal that this country is moving into a new direction; that we want to relieve the tax drag; that we want to promote savings in the private sector, on the part of all working people. We want to promote investment. We want to create capital formation. We want to create permanent, meaningful jobs in the private sector for the poor and the unemployed.

It is important to recognize that this is the one step we can take, the one signal we can give, that has a long-term implication for this country, that we are trying to make a basic change, and not continue this pattern of tinkering with taxes, making no substantial change, and discontinuing this route of stagnation with unemployment.

The one point I want to reemphasize today is the fact that if this Congress does not make a change in the tax measure before us, working America faces a substantial tax increase. Any family of four which has an income of $10,000 or higher will be facing substantial increases because of inflation and the social security tax increases of 1978 and 1979.

I point out once again what is happening in middle America. A man or woman in a family of four who makes $20,000 is now paying taxes of $3,251. By 1983, if we do not provide some permanent tax relief, that person will have a tax increase to nearly $6,000 because of the increase in social security taxes, because of the impact of inflation. To maintain the same purchasing power, so far as income is concerned, that $20,000 will have to increase to $28,000.

There are many people in the private sector who are not fortunate enough to get cost-of-living increases; but even if they are, they still will face downward mobility because of the substantial tax bite, the larger tax bite, that will be taken out. As I pointed out, it will grow from $3,251—these are average figures—to $5,688.

All the Senate Finance Committee tax cut bill tries to do is to offset 1 year of inflation and social security taxes, 1979. It does nothing for 1978. It is questionable that it even will offset 1979. It does nothing for 1980, 1981, 1982, and 1983.

It is no wonder that the Wharton School of Finance and others are saying that tax cuts will be essential if we are going to get this country moving again.

Mr. President, there has been a great deal of talk about our proposal having inflationary impact. Let us look at the facts.

No. 1, the Budget Committee, in its report, points out that if equivalent tax cuts or spending are not enacted in the future, we will have trouble keeping the economy moving upward. For that reason, they take the position that substantially new tax cuts will be necessary in the future or, in the alternative, increase in spending. So there is general agreement that what we are proposing is not larger than what this economy requires.

I point out that the size of the Roth-Kemp tax cuts is no larger than the additional taxes the Federal Government will be taking from the working people of America. By 1983, additional social security taxes, inflation taxes, will roughly equal $283 billion. Roth-Kemp would only return to the private sector roughly $256 billion.

One can quibble about figures, but what we are pointing out is that, basically, the Roth-Kemp proposal, the

across-the-board tax cut, only offsets the tax increases that are now in place because of social security increases and the effect of inflation on the working family.

I also point out that, instead of having a policy of pessimism, negativism, a continuance of what we have done in the past, which has not worked, what we are proposing is a program of growth. Many economists point out that Roth-Kemp would result in substantial increased savings.

The PRESIDING OFFICER. The time of the Senator has expired. Who yields time?

Mr. BAKER. Mr. President, what is the parliamentary situation with respect to control of time?

The PRESIDING OFFICER. The time is under the control of the Senator from Delaware and the Senator from Louisiana.

Who yields time?

Mr. ROTH. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator has 14 minutes remaining.

Mr. ROTH. I yield myself 3 additional minutes.

Mr. President, I point out that the increase in savings that would result from Roth-Kemp, as an anti-inflation measure, would enable the Government to borrow without going into competition for funds needed in the private sector, which is a strong change from the effect of recent tax cuts. By promoting savings on the part of the American people and by promoting capital formation, it will bring about, in turn, growth without inflation in the economy.

One of the most significant changes that would come about through this legislation would be the creation of jobs in the private sector. Economists have estimated that in 5 years it would create as many as 4 million or 5 million new jobs—1 million jobs in the current year; and Roth-Kemp means that those on the low end of the economic scale will have the opportunity to move into the mainstream, to have taxpaying jobs. That takes these people off welfare, relieves the burdens on the Federal budget, and gets the country moving in the direction we want.

Unfortunately, it has not been the policy of the economists in Government to consider the feedback effect. They do not seem to recognize that the type of cut has a very substantial influence and impact on the economy. The Roth-Kemp proposal will cause the economy to grow in such a manner that it will make us more competitive with our foreign competition.

One of the problems in America today is that our plants are obsolete, compared with those of the Japanese and the Germans. They must be modernized; they must incorporate the latest technologies. That means there must be capital, capital formation.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. ROTH. I yield myself 1 additional minute.

This capital formation will help working Americans by increasing production, so that their increased earnings will be real earnings and will not be eaten up by inflation.

It will help the poor by creating meaningful jobs in the private sector.

So, Mr. President, I urge the adoption of the Roth-Kemp legislation as a means of getting off the backs of middle America who otherwise face a substantial tax increase and equally importantly it will restore the American dream of a better life for all Americans by promoting work, savings, investment, and productivity.

I yield back the remainder of my time.

Mr. BAKER. Mr. President, will the Senator yield to me briefly?

Mr. ROTH. I am happy to yield such time as the Senator from Tennessee desires.

Mr. BAKER. Mr. President, I thank the Senator from Delaware.

How much time is remaining?

The PRESIDING OFFICER. The Senator from Delaware has 13 minutes; the Senator from Louisiana has 24 minutes.

Mr. BAKER. Mr. President, if I could have 5 minutes, I will be grateful to the Senator from Delaware.

Mr. ROTH. I yield 5 minutes.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. BAKER. Mr. President, I rise to pay my respects and tribute to the distinguished Senator from Delaware for his leadership in sponsoring, formulating and popularizing the Roth-Kemp amendment.

There are some in this Chamber, indeed some on this side of the aisle, who may quarrel with some aspects of the amendment as it stands, but I think there is virtually no one in this Chamber who would seriously dispute the proposition that the song the people of the United States are singing at this time is, "We want the Government off our backs and out of our hair."

Most people understand, certainly those of us in this Chamber know, that there are few easy answers to most of the critical problems that confront the country. But many of us in this Chamber would agree, I think, that one of the things we can do is to consider a prudent and timely measure to relieve the tax burden on the average American taxpayer.

I believe the Roth-Kemp proposal is such an effort.

I took special pride a year-and-a-half ago when the Republican Senators in conference assembled adopted by a virtual unanimous vote a statement of economic and tax policy which provided three elements:

First, that there should be a tax cut;

Second, that it should be of substantial dimension; and

Third, that it should be for more than 1 year so that taxpayers of the United States could depend on it in their future planning for investment, retirement and recreation, their plans to educate their children, to build their homes, to buy automobiles, and the like.

I also remember, Mr. President, that at the time, the administration called that proposal unwise, in fact irresponsible.

So I observed with some interest that the administration later advocated essentially the same proposal that the Republican conference had suggested a year-and-a-half ago. The Roth-Kemp amendment now before the Senate is in substantial agreement with the statement of principle adopted by Republican Senators last year and I believe it is in substantial agreement with what the people of the United States require at this time.

So, Mr. President, whether we agree with every aspect of the Roth-Kemp proposal or not, I urge my colleagues, all of them, but particularly those on this side of the aisle, to support this measure because I think it responds in the very best traditions of representative government to the song that the people of the United States are singing this year.

I thank the Senator for yielding.

Mr. ROTH. Mr. President, I ask the Senator from Tennessee to reserve the remainder of the time he has not used.

Mr. BAKER. Mr. President, rather than claim that time, I relinquish to the Senator from Delaware, or reinstate to the Senator from Delaware, the control of whatever time remains under the previous order.

Mr. LONG. Mr. President, if this amendment should be agreed to, especially just the first year of it be agreed to, people will think that the Senate must have absolutely lost its mind. Any thoughtful person would have to think that we must have political schizophrenia because on yesterday we voted to say that we should shift the tax cuts from the big corporations down to the small corporations and the small employers. Now here comes the Kemp-Roth amendment saying we should shift the tax cuts from the little people up to the big people.

For example, on the first year of Kemp-Roth, compared to the committee bill, this amendment would take $1,400 million—to be exact, $1,376 million—away from little people making less than $50,000, and who would get it? Well, every nickel of it, plus some—$1,609 million—in all would shift to people who make more than $50,000.

In other words, as far as individuals are concerned, it would be a shift of about $1 billion and a half away from the people, away from the many, toward the benefit of the few who are doing very well, indeed, making over $50,000 a year.

If you would compare it to the Senate, it would mean we would be voting for Senators to reduce our tax at the expense of everyone who works in the Senate office buildings, and if you are talking about the average working man, it means that only the chief executive officers and the plant managers would be getting the tax cut; that is, it would increase the tax cut for the chairman of the board, the president of the corporation, and the executive officers, at the expense of the workers.

Now, the bill is already being criticized with the argument that we have done too much for the very successful people in the country. We find a lot of criticism, and I do not offer any apology

for what we have done about capital gains. I will explain that later on.

But the bill has been criticized on the House side and the Senate side, saying we are doing a lot for the affluent in this bill. Do we want to do more, especially if that is going to be done at the expense of the low-income people and the middle-income people for the benefit of the upper-income people?

I would hardly think that the Senate, having voted on yesterday for a shift of tax cuts from the big corporations for the benefit of the small corporations and the individual employers, would now want to turn around and do just the opposite, shift the tax cut for the benefit of the wealthy at the expense of the middle income and the poor. It just does not make a lot of sense, Mr. President. Therefore, when the time comes I am going to ask for a division so we vote on the first part, the 1979 tax cut first, and we vote on the rest of it thereafter.

The rest of it, Mr. President, is really fiscally irresponsible.

Here is a thoughtful statement from Dr. Arthur Burns, speaking for the American Enterprise Institute.

If we were going to have a tax cut and a spending cut that would make some sense, but he said to vote for a huge tax cut without a spending cut—let me just quote him. He is speaking of that. He said:

> I would add that if we went the Kemp-Roth route and simultaneously cut expenditures, indeed if we cut expenditures a little more then tax revenue I would gladly embrace a proposal, but that is not the proposal as it now stands. They seek to cut taxes and apparently believe that expenditures will take care of themselves. I deem it unwise to take that chance.

There is the real pillar of fiscal responsibility speaking, Mr. President.

How much time do I have remaining, Mr. President?

Mr. ROTH. Mr. President, will the Senator yield for a question?

Mr. LONG. In just a moment.

The PRESIDING OFFICER. The Senator has 18 minutes remaining.

Mr. LONG. I yield for a question.

Mr. ROTH. Will the Senator from Louisiana support the Roth-Kemp if we added a restraint on the spending side? The Senator from Delaware would be happy to consider such a proposal.

Mr. LONG. I would want to see where the cut would apply, Senator.

Let me read what I found somewhat amusing, and it entertained those on the House side when it was stated. Here is a Democrat, Mr. PIKE, speaking, and he was talking about the fiscal irresponsibility of this amendment on the House side. He said:

> We always have to have a tax cut in election year. Everybody knows we have a tax cut every election year, but weep, ladies and gentlemen; grieve; lament for the death of fiscal responsibility in the party of Calvin Coolidge and Alfred M. Landon and Herbert Hoover and Robert Taft. As a great American President once said, "If they were alive today, they would be spinning in their graves."
>
> Fiscal responsibility has been replaced by political pie in the sky. We all know that the Republican party is in trouble, but we did not think in its death throes it was willing to sell its immortal soul.

Now that, Mr. President, is how this amendment looks to a great number of people. Here is an enormous tax cut in the outyear where it goes as high as—imagine this, Mr. President, in the outyears it goes as high as—well, in 1982 it would be $126 billion, and in 1983 $151 billion.

As many thoughtful people have pointed out, such an enormous tax cut, if it could be achieved with a spending cut in a responsible fashion, could be—it might very well be—a good idea. But to vote a huge tax cut just assuming you are not going to have a horrible deficit would be highly irresponsible.

Mr. ROTH. Mr. President, will the Senator yield for a question?

Mr. LONG. Senator, I yield on your time. My time is very short indeed now.

Mr. ROTH. What is the time situation?

The PRESIDING OFFICER (Mr. HARRY F. BYRD, JR.). The Senator from Delaware has 7 minutes remaining; the Senator from Louisiana has 16 minutes.

Mr. LONG. What was that again?

The PRESIDING OFFICER. The Senator from Delaware has 7 minutes remaining; the Senator from Louisiana has 16 minutes remaining.

Mr. ROTH. I yield myself 1 minute.

I would just point out that the distinguished Senator from Louisiana said at a recent press luncheon:

> Today in the United States we have taxes on individuals and corporations so high that they kill initiative and stifle new competition.

He goes on to say:

> We would make more revenue for the Government if we reduced the rates.

Of course, what the distinguished chairman is doing is referring to static studies of the economy. That misses the whole point.

The whole point of the Roth-Kemp legislation is to get the country moving up by lowering the tax rates. By doing so we intend to promote savings, we intend to promote investment, we intend to promote productivity, and the creation of jobs in the private sector. So it is false economy to try to claim that the Roth-Kemp amendment will not result in a growing economy.

I point out, Mr. President, that there are many economists—Alan Greenspan and a list of others—who say Roth-Kemp is exactly the kind of medicine this country needs today.

I also point out that by making a commitment to revenues we will also be imposing upon ourselves discipline, discipline on the budgetary process, and I think that is desirable.

I yield back my time.

Mr. LONG. Mr. President, I suggest the absence of a quorum.

Mr. ROTH. Mr. President, will the Senator withhold that? I yield 2 minutes to the distinguished Senator from Nebraska.

Mr. LONG. I withhold my request.

Mr. CURTIS. Mr. President, I am for balancing the budget by reducing expenditures not by further gouging the taxpayers.

There is but one issue here and that is what is an equitable way to cut taxes. This bill provides for an increase in the personal exemption; it provides for an increase in the earned income credit. These take care of the very low-income people.

I submit that the way to cut taxes from that point on is to apply the same percentage cut across the board.

Regardless of what an individual's income happens to be, if we can cut taxes by 8 percent or 10 percent or 5 percent they should all be treated alike.

Personal exemption, and many other provisions of the bill, intentionally, and rightly so, affect the lower income brackets. The way we can serve the economy of the United States is to give our tax relief the same percentage to all taxpayers.

There are two things involved in a tax reduction: one, the treatment of the individual; and, second, the effect on our economy in general.

If we vote to apply tax relief to help our economy in general, it means more jobs, more transactions, more opportunities for individuals of all ages and all circumstances.

If a tax cut results in enabling some individuals to have more of their money to invest and more of their money to buy something that can only be produced by other men having jobs, we have helped everybody.

So we must keep in mind in a tax reduction bill justice to individuals and the welfare of our economy as a whole, and the welfare of our economy can best be served by having some tax relief through a percentage figure that applies to all people.

I shall vote for the Roth-Kemp amendment because of the principle involved.

I yield back the remainder of my time.

Mr. LONG. Mr. President, I yield 2 minutes to the Senator from Colorado.

Mr. HART. Mr. President, I thank the distinguished floor manager.

The criticism of the Roth-Kemp proposal all along is that it does not tie its tax cuts to the control on the growth of Government spending. I think it is important for our colleagues to understand that in voting on this measure this will not be the only opportunity they will have to vote on a tax cut proposal.

There is, of course, the Finance Committee's proposal, very close to what the administration has proposed, but there are others of us who will be offering tax cut proposals, and the Senator from Colorado intends to offer a proposal which is an extended tax cut carefully calculated to the needs of the growth of the economy, to pursue some of the same goals as the sponsors of the pending measure.

But the proposal which the Senator from Colorado will offer ties very carefully and very closely the tax cuts to the control on the growth of Federal Government spending that is in the minds of many people, many economists of the right and left, conservative and liberal, as being the kind of measure we need.

I hope our colleagues understand that in casting a vote on the Roth proposal that will not be their only opportunity in this tax debate to vote on a tax cut

proposal, either between the Roth or the committee's position.

I thank the distinguished leader for this time.

Mr. LONG. Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator from Louisiana has 10 minutes. The Senator from Delaware has 5 minutes.

Mr. LONG. Mr. President, I ask unanimous consent that I might suggest the absence of a quorum for no more than 3 minutes.

The PRESIDING OFFICER. The time to be charged to whom?

Mr. LONG. Me.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LONG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LONG. Mr. President, I yield 5 minutes to the Senator from Maine.

Mr. MUSKIE. I thank the distinguished floor manager for yielding.

Other Senators may think it strange that Senator LONG and Senator MUSKIE are on the same side of an issue. Actually, we often are, and I take just a second to compliment the Finance Committee for reporting to the floor a bill which is within and consistent with the revenue assumptions of the second budget resolution. We may not agree on all the components of the bill, but the committee has scrupulously observed all the limits of the Congressional budget resolution. It is in that connection that I would like to make my first observation in connection with the Kemp-Roth proposal.

The Senate will have no doubt, I hope, that the Kemp-Roth proposal, which as first submitted provided for a tax cut of 10 percent in 1979, another 10 percent in 1980, and another 10 percent in 1981, has been modified; and the modification suggests precisely why.

By the first year modification, the reduction was reduced from 10 percent to 7 percent, making up the difference in the later years, because 10 percent would have breached the budget. In other words, notwithstanding the cuts we have been able to make since January in budget authortiy and outlays and in the deficit, under the budget process, we still would not have been able to accommodate the 10 percent cut for this year that the distinguished Senator from Delaware projected in his bill.

So his bill as originally introduced would have produced for this year the very result that those of us who opopse it predict for future years: It would have added to the deficit, it would have added to the inflationary pressures, and it would have reduced the possibility of balancing the budget at some time in the future.

The distinguished Senator from Delaware earlier used the Budget Committee report to justify his projection of future year implications. Let me sum those up very succinctly and briefly.

The Budget Committee's 5-year projections assumed $47 billion of possible additional tax cuts or spending in fiscal year 1983. In other words, there would be that much free board to accommodate additional tax cuts or spending, in addition to the tax cuts in the Senate bill that is before us. By comparison, the Roth amendment would provide tax cuts of $124 billion beyond the Finance Committee bill in fiscal year 1983. This is $77 billion more than provided in the budget assumptions, and it would add $40 billion aditional to the deficit in 1983.

Mr. President, if I may address myself to the underlying philosophy of Kemp-Roth, the 1983 inflation rate if Kemp-Roth is enacted would be nearly 2 percentage points higher under Roth than with the more moderate fiscal stimulus in the 5-year projection in the Budget Committee's report on the second budget resolution. Moreover, this estimate of inflation is conservative in view of the difficulty of achieving a 4 percent unemployment rate, given the demographic and structural changes in the labor market and the inflationary psychology evident in the economy today.

In other words, the Budget Committee's report is conservative in the light of the almost impossible challenge of achieving that 4 percent unemployment rate in fiscal year 1983—an argument, indeed, that I gather will be advanced by the opponents of the Humphrey-Hawkins bill, if and when that bill comes before the Senate for debate.

In addition, Mr. President, the budget deficit would also rise sharply as a result of the Roth tax cut, even after accounting for the substantial reflow produced by the increased GNP.

The net impact on the deficit after reflows of the Senate tax bill as amended by Senator ROTH would be approximately $80 billion by fiscal year 1983. The more moderate fiscal picture in the committee report would have a net impact of about $40 billion, so that the Roth deficit, in 1983, would be about $40 billion higher.

We project the budget to be roughly in balance under the committee's assumptions in fiscal year 1983, because the deficit will fall as the private sector growth raises revenue. On comparable assumptions about the strength of private sector demand, Roth would then show a deficit of about $38 billion in fiscal year 1983, almost identical to the $38.8 billion deficit in the second budget resolution for this fiscal year, 1979.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. MUSKIE. Mr. President, could I have another minute?

The PRESIDING OFFICER. Does the Senator from Louisiana yield further?

Mr. LONG. Yes.

Mr. MUSKIE. So, Mr. President, a larger part of the revenue reflows would be generated under Roth by increased inflation, particularly in the later years. A comparison between the Senate bill with the Roth amendment and the committee's projection is shown in the table which I ask unanimous consent to have printed in the RECORD at this point.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

[Fiscal years; in percent]

	1979	1980	1981	1982	1983
Senate bill with Roth amendment:					
Real GNP growth	3.9	4.5	4.9	4.3	3.9
Unemployment	5.7	5.2	4.6	4.3	4.1
Inflation	6.7	6.1	6.5	6.9	7.7
Deficit	−39	−64	−71	−59	−38

	1979	1980	1981	1982	1983
Committee's projections:					
Real GNP growth	3.9	3.6	4.3	4.3	4.3
Unemployment	5.7	5.5	5.2	5.0	4.7
Inflation	6.7	6.1	5.8	5.8	6.0
Deficit	−39	−44	−30	−13	+3

Mr. MUSKIE. Finally, it must be noted that these projections assume continued rapid growth under Roth in spite of its severe inflationary impact. In fact, as CBO has noted, this may not be realistic.

This growth would require very rapid growth of the money supply, well above the Federal Reserve's targets. The Federal Reserve is most unlikely to accommodate this rapid inflationary growth, and would almost surely restrict monetary growth to a much slower rate.

The PRESIDING OFFICER. The Senator's 1 minute has expired.

Mr. MUSKIE. May I ask the Senator for 1 more minute?

Mr. LONG. Yes.

Mr. MUSKIE. One result would then be sharply higher interest rates and the "crowding out" of housing and business investment by consumption spending—exactly the opposite of the increased capital formation which Roth-Kemp proponents claim. The high interest rates would then terminate the rapid expansion with a credit crunch, and the economy would fall into recession.

These are our projections of the long-term impacts of Kemp-Roth.

I yield back whatever time is left.

● Mr. HATCH. I rise to pay tribute to my friend and colleague from Delaware. Mr. ROTH, for his excellent leadership all over America for the Roth-Kemp tax-rate reduction. The Senator from Delaware is one of the most astute and innovative men in the Senate, especially on tax and financial matters. He and Congressman KEMP deserve tremendous credit for building their proposal from a zero acceptance to their present position of powerful endorsement by the Republican Party and the general public throughout the country. I salute my colleague and, regardless of the outcome of the vote today, commend him for providing a real choice for America—a choice between a static economy, fluctuating between the twin problems of inflation and stagflation, and a dynamic economy where we will outproduce both problems.●

● Mr. PELL. Mr. President, I favor and will vote for substantial income tax cuts for individuals.

Substantial tax cuts, particularly for middle-income families, are necessary and are justified to offset the increase in social security withholding taxes scheduled for next year. Substantial tax cuts are necessary to relieve the squeeze on family budgets caused by constantly increasing living costs, and an increasing burden of local and State taxes.

Substantial tax cuts for individuals are justified to maintain economic growth and to avoid a slowdown in our economy next year.

For all of these reasons I favor and will vote for substantial tax cuts for individuals in the tax bill now being considered by the Senate.

I will vote, however, against the excessive, reckless and dangerous tax cuts proposed in the Kemp-Roth amendment.

These tax cuts pose not the danger, but the virtual certainty, of fueling the fires of inflation by creating hugh Federal Govenment budget deficits—deficits as high as $130 billion according to the House Budget Committee.

Business Week, a magazine known to espouse conservative and prudent fiscal doctrines, said in an August 7 editorial,

Kemp-Roth would add $100 billion to a deficit that is already dangerously swollen. It would touch off an inflationary explosion that would wreak the country and impoverish everyone on a fixed income.

That same view is held by most leading economists.

Mr. President, the Kemp-Roth proposal is cruelly deceptive, because the dollars it gives in tax relief would be quickly and surely eaten away by the runaway inflation it would cause.

For that reason, I shall vote against the Kemp-Roth amendment, and for a substantial and responsible tax cut.●

Mr. SCHMITT. I am pleased to continue my support for the Roth-Kemp tax cut proposal by cosponsoring S. 1860, the Tax Reduction Act.

Americans are asking for tax reductions and Congress must respond to that call. The recent passage of proposition 13 in California has brought the taxpayers revolt out of the realm of wishful thinking and into political reality. There are signs in several States that more actions along this line will be forthcoming; for example:

Passage by the Arizona Legislature of a constitutional amendment limiting tax revenues to 7 percent of personal income in the State. The measures will be on the November ballot.

Passage by the Delaware Legislature of a bill to limit State spending to 98 percent of anticipated revenues.

Passage of a bill in the Massachusetts House to slash local property taxes by about $1 billion by limiting assessments to 2.5 percent of fair market value.

Announcement of a hiring freeze in Maryland by Acting Gov. Blair Lee III. (In Prince Georges County a group of residents has started a petition drive to freeze the county's property tax levy at the 1979 level.)

Endorsement by Maine's outgoing Governor, James B. Longley, of a citizens' effort to introduce a tax limitation amendment in the State legislature next January.

A proposal by the chairman of the Minnesota Senate's Tax Committee to cut property taxes and raise sales taxes to cover the difference.

Qualified approval by Washington Gov. Dixy Lee Ray to an initiative drive for a statute limiting State property tax increases to 6 percent a year. Washington in 1972 placed a constitutional ceiling on local property taxes.

Consideration of a State spending limit scheduled next month by the Hawaii Legislature.

On the national level, 24 State legislatures have passed resolutions calling for a constitutional convention to consider an amendment requiring a balanced Federal budget. If 34 States pass such resolutions, Congress would have to convene a national convention to prepare one or more constitutional amendments. It is clear that we are faced with a national movement of major proportions. In my view, the Roth-Kemp tax reduction bill is an excellent initial response to the demands of our people for tax reduction.

Further steps, however, must be taken to meet the demands of the people for more responsible Federal fiscal policies. It is clear that the most critical economic problems facing our Nation domestically and internationally are Government-created inflation, declining productivity, unemployment, and overregulation of the economy. Although the symptoms of these problems reinforce each other, there are commonsense solutions to each problem. If we begin to solve the problems, the symptoms will begin to recede.

INFLATION

The Federal Government's 5-year fiscal policy should: first, reduce the net Federal deficit by about $10 billion per year; second, permanently reduce taxes on the productive portions of our economy by about $10 billion per year; third, permanently reduce capital gains taxes to 25 percent; fourth, reduce the rate of growth of the Federal budget by about 2 percentage points per year until it falls below the rate of the growth of the GNP; and, fifth, require that the total Federal budget be no more than 20 percent of the GNP.

UNEMPLOYMENT

Tax policy should establish annual permanent decreases in personal and business taxes which will, first, encourage small business development and hiring; second, create increased long-term demand; and, third, create investment in increased industrial production and productivity.

Congress should increase the incentives for able-bodied persons on welfare to seek private sector employment or training for future private sector employment.

Monetary policy and fiscal policy should follow courses of restraint so that business and investment confidence can contribute directly to the creation of private sector jobs.

Social security taxes and minimum wage legislation should be considered in light of their impact on unemployment so that the bottom rungs of the economic ladder to success can be restored for unemployed youth and for those with dreams of starting their own business.

ENERGY

Regulatory and tax policy should create the incentives for production and efficient use of our vast domestic resources of oil, natural gas, coal, uranium, geothermal and solar energy, so that energy costs can be driven down by competition and increased low-cost domestic supply.

Both the administration and the congressional majority have failed to recognize that the high cost of energy is caused by Federal regulation that prevent the increases in domestic production that can break the back of the OPEC cartel. It is not caused by too little energy regulation and taxation.

The guarantee of a free market price structure for new domestic oil and natural gas would rapidly begin the discovery and production of a resource base of at least 300 billion barrels of oil and 700 trillion cubic feet of natural gas. That would provide several decades of supply while the Nation develops alternatives as fast as possible but without the threat to our national security and national economy that we now face.

REGULATION

Federal regulatory policy must be streamlined so that Congress can review major regulatory programs for their inflationary impacts on the economy before they became law. The method proposed in the Regulation Reduction and Congressional Control Act, S. 2011, should be examined as one mechanism for congressional approval or disapproval of major regulations to be implemented by Federal agencies.

These efforts, if undertaken as part of a comprehensive economic plan, would prove to be a tremendous impetus to the productive sector of the economy. The resulting increases in production would lead to significant reductions in both unemployment and inflation. The Roth-Kemp tax proposal is a necessary first step in the development of an economic policy that can solve the many economic and social problems facing the Nation.

The direct economic effects of this bill would be as follows:

First. It would provide substantial tax cuts to all income classes of taxpayers. While the tax cuts would average a one-third reduction in tax liabilities, the progressive nature of the present individual income tax structure would be preserved, and, in fact, enhanced slightly, since the tax cuts would be somewhat larger (as a proportion of present tax of present tax liability) in lower tax rate brackets.

Second. The individual income tax cut would be accomplished by reducing tax rates from the present range of 14 to 70 percent to a new lower range of 8 to 50 percent. Reduction of the marginal individual income tax rates should provide greater incentives to investment and risk taking, and thus accelerate the creation of jobs in the Nation's economy.

Third. The reduction in corporate income tax rates in the Roth-Kemp pro-

posal has two important characteristics. First, the overall tax rate on corporate income would be reduced by 3 percentage points. This would increase the after tax rate of return on corporate investment and thereby provide a stimulus to the purchase of corporate securities and to capital investment. Second, the bill would increase the corporate surtax exemption, a change which has major support in the small business community. This tax change would provide larger tax benefits to smaller corporations with net income in the range of $50,000 to $150,000.

It has been argued that such sweeping tax reductions would reduce tax revenues and increase the Federal deficit. But an analysis of the last major tax reduction in the Kennedy administration shows that it is likely that Federal revenues will increase rather than decrease. In 1963, the range of rates levied on personal income was reduced from 20 to 90 percent to 14 to 70 percent, and the corporate tax rate was cut from 52 to 48 percent. The Kennedy administration projected revenue losses of $89 billion over 6 years, but actually realized a gain of $54 billion over 6 years. The reason is that lower taxes increase incentives to work and produce, so the gross national product rises. While tax rates may have declined, there is a bigger pie to be divided—thus, after a few months delay, Federal revenues go up.

There are important similarities between present economic conditions and those which existed in 1964 when the Kennedy tax cut took effect. In 1978, we are approximately 3 years into an economic recovery from a recession, as we were in 1964.

In 1978, as in 1964, we have an unemployment rate which is lower than during the recession, but nonetheless allows considerable room for improvement. Our present unemployment rate is 6.1 percent, down from 9.1 percent during May of 1975. Thus, full employment has not yet been attained although among married males we seem to be very close. Similarly, in 1964, the unemployment rate (on an annual basis) was 5.2 percent, down from 6.7 percent in 1961. Two years after the 1964 tax cut, the unemployment rate had declined to 3.8 percent.

The two areas are also similar in terms of industrial capacity utilization, indicating room for expansion of output. In 1964, the capacity utilization rate for total manufacturing using the Federal Reserve Board measure, was 85.7 percent, substantially below full capacity. In the fourth quarter of 1977 the rate was 82.8 percent, up from the 70.9 percent rate experienced in the first quarter of 1975, but below the 1964 level and substantially below full capacity. The capacity utilization rate rose to 9.1 percent 2 years after the 1964 tax cut.

There are clearly many similarities between current economic conditions and those faced by the Nation in 1963–64. The Roth-Kemp tax reduction proposal is simply an attempt to apply a remedy with a proven history of success to current economic conditions. It offers the kind of sweeping reform that Americans are asking for, in stark contrast to the Carter tax proposals which are really a tax "wolf's" plan "in sheep's clothing."

It is time to reduce taxes on the productive sector of the economy so that more Americans can be put to work creating and producing the new goods and services that our economy has the potential to produce. The Roth-Kemp proposals would accomplish that goal and deserves the support of the American people, Republicans and Democrats alike.

The PRESIDING OFFICER. Who yields time?

Mr. LONG. Mr. President, I reserve the remainder of our time. Does the Senator from Delaware care to be heard at this point?

Mr. ROTH. Mr. President, I would just like to point out that the arguments that have been made by the distinguished Senator from Maine are the same old tired arguments that have put this country where it is today.

What I am proposing with the Roth-Kemp legislation—and I welcome my colleague from the House side, who is here with us—what we are proposing is to give a signal to the country that we are going to move in a new direction, that we are going to remove the tax drag from the American economy, in an attempt to promote savings, to promote investment, to promote the creation of jobs in the private sector, by providing some buoyancy in the economy.

It is about time that this country change its direction. It is about time that the Senate shows some leadership instead of continuing along the same old tired path that we have gone for the last 20 or 30 years.

Sure, you can pull out some of these economic studies, static studies that do not consider the basis of a tax cut. We are dealing here with growth, the supply side.

Mr. President, I think the most serious vote we will have is the one we face immediately on whether we are going to move in a new direction to promote growth, to promote jobs in the private sector, and to give some aid to those in the $10,000 to $50,000 bracket, and provide the assistance, the tax relief, they so badly need.

That is the question we face with this vote.

Mr. LONG. Mr. President, I would like to make one final appeal to Senators, particularly our friends on the other side of the aisle.

We need a tax cut. The business people need it to stimulate business; individuals need it to stimulate consumption. It is needed to help ease the burden of the social security tax increase in January, and it is needed to ease the burden of inflation.

Mr. President, if this amendment is agreed to, those who sponsor it are entitled to have a majority of the conferees. The House has already said they would not take it. It either means a deadlocked conference or it means that the President will veto the bill. He has threatened to veto what we have here now because the bill spends a lot of money in the out years.

There is not the slightest doubt, Mr. President, that if this amendment is agreed to, all the businesses, corporations, poor people, welfare clients, low-income people, the whole bunch of them just will not get a tax cut. The Congress will fail to keep its commitments. A vote for this amendment, Mr. President, is not a vote for a tax cut; it is a vote for no tax cut at all. The President will veto the bill, if it gets that far. Obviously, the House will not accept the amendment, and it will not vote to override, even if we stayed here until Christmastime.

In the last analysis, a vote for the amendment will mean no tax cut. Therefore, I hope the Senate will not agree to the amendment.

Mr. ROTH. One thing I would say in conclusion, Mr. President, is that I hope this will become law. I hope that the President would use the advice of the distinguished leader of the Finance Committee, that when it gets to the White House and he signs it he says it is mine.

Mr. LONG. I would hope and pray over it, Mr. President, but I know what will happen. I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back. The yeas and nays have been ordered.

Mr. LONG. I ask for the yeas and nays, Mr. President.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Delaware. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. STAFFORD. Mr. President, on this vote, I have a live pair with the Senator from Texas (Mr. TOWER). If he were present and voting, he would vote aye. I voted nay; therefore, I withdraw my vote.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. ANDERSON) and the Senator from Colorado (Mr. HASKELL) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Texas (Mr. TOWER) is necessarily absent.

The PRESIDING OFFICER. The Senate will be in order.

I assume all Senators in the Chamber have voted.

The result was announced—yeas 36, nays 60, as follows:

[Rollcall Vote No. 451 Leg.]

YEAS—36

Baker	Griffin	Percy
Bartlett	Hansen	Proxmire
Bellmon	Hatch	Roth
Biden	Hayakawa	Schmitt
Chafee	Heinz	Schweiker
Curtis	Helms	Scott
Danforth	Johnston	Sparkman
Dole	Laxalt	Stevens
Domenici	Lugar	Thurmond
Garn	McClure	Wallop
Goldwater	Nunn	Young
Gravel	Packwood	Zorinsky

NAYS—60

Abourezk	Ford	McGovern
Allen	Glenn	McIntyre
Bayh	Hart	Melcher
Bentsen	Hatfield, Mark O.	Metzenbaum
Brooke	Hatfield, Paul G.	Morgan
Bumpers	Hathaway	Moynihan
Burdick	Hodges	Muskie
Byrd, Harry F., Jr.	Hollings	Nelson
Byrd, Robert C.	Huddleston	Pearson
Cannon	Humphrey	Pell
Case	Inouye	Randolph
Chiles	Jackson	Ribicoff
Church	Javits	Riegle
Clark	Kennedy	Sarbanes
Cranston	Leahy	Sasser
Culver	Long	Stennis
DeConcini	Magnuson	Stevenson
Durkin	Mathias	Stone
Eagleton	Matsunaga	Talmadge
Eastland		Weicker
		Williams

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Stafford, against.

NOT VOTING—3

Anderson	Haskell	Tower

So the amendment (No. 3881) was rejected.

Mr. LONG. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. TALMADGE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JACKSON. Mr. President, I ask unanimous consent that Larry Phillips, of my staff, have the privilege of the floor during the consideration of the pending tax bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. METZENBAUM. Mr. President, I make the same request for Rick Sloan.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1997

(Purpose: To provide for a reduction in individual tax rates)

Mr. BUMPERS. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

Mr. KENNEDY. May we have order, Mr. President?

The PRESIDING OFFICER. May we have order so that the clerk may be able to state the amendment?

The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Arkansas (Mr. BUMPERS), for himself and Mr. KENNEDY, proposes an unprinted amendment numbered 1997 to the Packwood amendment numbered 3880.

Mr. BUMPERS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

Mr. LONG. I object, Mr. President. It does not appear that long.

The assistant legislative clerk proceeded to read the amendment.

Mr. BUMPERS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with. I will be happy to explain the amendment as best I can.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The amendment is as follows:

At the end of the amendment, insert the following:

SEC. REDUCTION IN RATES.

(a) IN GENERAL.—Section 1 (relating to tax imposed) is amended by striking out subsections (a), (b), (c), and (d) and inserting in lieu thereof the following:

"(a) General Rule.—There is hereby imposed on the taxable income, for the taxable years beginning in the calendar years specified in subsection (b)(2), of every—

"(1) married individual (as defined in section 143) who makes a single return jointly with his spouse under section 6013, and every surviving spouse (as defined in section 2(a)), a tax determined under the applicable schedule for the taxable year,

"(2) head of a household (as defined in section 2(b)), a tax determined under the applicable schedule for the taxable year,

"(3) every individual (other than a surviving spouse as defined in section 2(a) or the head of a household as defined in section 2(b)) who is not a married individual (as defined in section 143) a tax determined under the applicable schedule for the taxable year, and

"(4) a married individual (as defined in section 143) who does not make a single return jointly with his spouse under section 6013 a tax equal to one-half the tax which would be determined for an individual described in paragraph (1) with the same taxable income.

(b) APPLICABLE SCHEDULES.—For purposes of subsection (a) the applicable schedule for—

"(A) individuals described in subsection (a)(1) is schedule 2,

"(B) individuals described in subsection (a)(2) is schedule 3, and

"(C) individuals described in subsection (a)(3) is schedule 1.

"SCHEDULE 1

"If the taxable income is over the amount in the left-hand column but not over the amount in the right-hand column:		The tax is the amount in the left hand column plus a percentage (as shown) over the amount of the taxable income shown in the right-hand column:	
$2,300	$3,400	0+13%	$2,300
$3,400	4,400	$143+14%	3,400
$4,400	6,500	$283+16%	4,400
$5,500	8,500	$619+20%	6,500
$8,500	10,800	$1,019+24%	8,500
$10,300	12,900	$1,525+24%	10,800
$12,900	15,000	$2,079+26%	12,900
$15,000	18,200	$2,575+30%	15,000
$18,200	23,500	$3,535+34%	18,200
$23,500	28,800	$5,337+39%	23,500
$28,800	34,100	$7,404+44%	28,800
$34,100	41,500	$9,736+49%	34,100
$47,500	55,300	$13,362+55%	41,500
$55,300	81,800	$20,952+63%	55,300
$81,800	108,300	$37,647+68%	81,800
$108,300		$55,667+70%	108,300

"SCHEDULE 2

"If the taxable income is over the amount in the left-hand column but not over the amount in the right-hand column:		The tax is the amount in the left hand column plus a percentage (as shown) over the amount of the taxable income shown in the right-hand column:	
"$3,400	$5,500	0+13%	$3,400
$5,500	7,600	$273+14%	5,500
$7,600	11,900	$567+16%	7,600
$11,900	16,000	$1,255+21%	11,900
$16,000	20,200	$2,116+25%	16,000
$20,200	24,600	$3,166+29%	20,200
$24,600	29,900	$4,442+32%	24,600
$29,900	35,200	$6,138+38%	29,900
$35,200	45,800	$8,152+43%	35,200
$45,800	60,000	$12,710+49%	45,800
$60,000	85,600	$19,663+54%	60,000
$85,600	109,400	$33,492+59%	85,600
$109,400	162,400	$47,534+64%	109,400
$162,400	215,400	$81,454+68%	162,400
$215,400		$117,494+70%	215,400

"SCHEDULE 3

"If the taxable income is over the amount in the left-hand column but not over the amount in the right-hand column:		The tax is the amount in the left hand column plus a percentage (as shown) over the amount of the taxable income shown in the right-hand column:	
"$3,000	$5,100	0+13%	$3,000
$5,100	7,200	$273+14%	5,100
$7,200	9,400	$367+16%	7,200
$9,400	12,500	$919+22%	9,400
$12,500	15,700	$1,601+24%	12,500
$15,700	18,900	$2,369+27%	15,700
$18,900	24,200	$3,233+31%	18,900
$24,200	29,500	$4,876+36%	24,200
$29,500	34,800	$6,734+42%	29,500
$34,800	45,400	$9,010+46%	34,800
$45,400	61,300	$13,886+54%	45,400
$61,300	82,500	$22,472+59%	61,300
$82,500	109,000	$34,980+63%	82,500
$109,000	162,000	$51,675+68%	109,000
$162,000		$87,715+70%	162,000

(b) Effective Date.—(1) The amendments made by this section shall apply with respect to taxable years beginning after December 31, 1978. The Secretary shall adjust the tables prescribed under section 3402(a), effective July 1, 1979, to reflect one-half of the full year effect of the amendment made by this section for wages paid after June 30, 1979. The tables in effect on January 1, 1979, shall continue in effect with respect to wages paid before July 1, 1979.

Mr. BUMPERS. Mr. President, I thank the distinguished floor manager for not objecting. It should not take an inordinate length of time to dispose of the amendment, because it is fairly simple in its intent and its purpose.

There is a common perception across the country, and I believe it is a legitimate one, despite the very best efforts of the committee, and I applaud the committee for their diligence and the time they have spent on this bill, that the people of this country who need tax relief most are the ones who also are being slighted most under this bill.

One of the primary reasons for the tax cut is to protect people against the impending social security increases and against inflation. I think the committee probably considered a 7-percent annual inflation rate in arriving at these figures. Let me cite some statistics that will indicate that the very lowest income people in this country do very well under this bill and those people in the very highest income brackets do very well. However, if you happen to be in the $10,000 to $30,000 income bracket, even with the tax cut that you are going to get, because of the rate structure in the committee bill, you are not going to be much better off with inflation; and if the inflation rate is more than 7 percent, you will get nothing out of this tax bill.

The vast majority of the American people fall into the category of $10,000 to $30,000 incomes. It is keeping faith with those people that I think is most important. Inflation has eroded our credibility with them. They are the backbone, literally the stability, of the country. They are the ones who are not being treated fairly under this bill.

Let me cite an example, first, of what happens to those income categories so far as the inflation rate is concerned.

Those people in the $10,000 to $15,000 a year income bracket will get protection against an inflation rate of 8.7 percent. This means that if the inflation rate is

7 percent, those people are going to get only an additional 1.7 percent benefit from this bill. They are going to get an 8.7-percent inflation protection, but if the inflation rate is 7 percent, they wind up with virtually nothing.

The people in the $15,000 to $20,000 a year income category get an 8.9 percent protection against inflation, or 1.9 percent above the inflation rate and that is practically nothing.

The people in the $20,000 to $30,000 income bracket get only a 7.7-percent protection against inflation, so they get only seven-tenths of 1 percent protection over and above the inflation rate.

Now, I will go to the bottom of the rung and the top of the rung and cite what has been happening to those people.

If you are in the zero to $5,000 income, you get a 12.8-percent protection against inflation, or an effective tax reduction of 5.8 percent.

If you are in the $5,000 to $10,000 annual income category—and there are a vast number of Americans in that category—you get a 15.7-percent protection against inflation, or an 8.7-percent actual cut in your taxes.

But go up to the highest annual incomes, and listen to this: If you are making $50,000 to $100,000 a year, you are protected to the extent of 12.1 percent, or an actual tax cut of 5.1 percent.

If you are making $100,000 to $200,000, which represents about one-tenth of 1 percent of the American people, you get a 17.9-percent protection against inflation, or a 10.9-percent cut in your taxes.

If you are one of those rare specimens making more than $200,000 a year, you get an inflation protection of 74 percent, or 10 times the projected inflation rate of 7 percent.

Mr. President, I do not see how, in good conscience, we can ignore these statistics. I believe them. How can we go to the American people and say, "If you are making between $20,000 and $30,000 a year, you are going to get a tax cut of seven-tenths of 1 percent, but if you happen to be making more than $200,000 a year, you get a tax cut of 67 percent"? You cannot do it. I do not think the committee intended it. I doubt that the committee really considered this inflation factor and the kind of tax cuts we are providing.

Let me state what it means in actual dollars.

If you make $10,000 a year and you are a married person with two children, your tax liability under the bill is $254 a year. Under our proposal, your tax liability would be $223, and we would save you an additional $31.

That is not anything monumental. At least, it is better than the committee bill, and we are saying to the American people that we recognize that the people who make $10,000 to $30,000 a year are the ones who are being wiped out in the economic atmosphere of the country right now.

If you are making $15,000 a year, your liability under the present law would be $1,233. That is your tax liability. Under our proposal, it would be $1,103; so we would give you an additional $130 tax break.

If you are making $20,000 a year and are married with two children, your tax liability under the committee bill is $1,984. We cut it to $1,864, or a $120 tax break.

Mr. President, this does not seem very drastic to me. Admittedly, it has a total cost of more than $3 billion. But regardless of the cost—and I am as concerned about that as anybody else, and I intend to vote for some of the amendments offered here to restore some revenues in this bill—my concern is that we have these big benefits for the people earning under $10,000 and big benefits to the people earning more than $50,000, and we are literally breaking faith with everybody in between.

Mr. President, inflation is the No. 1 problem in the country. We know it; the American people know it. They demonstate it every time they are asked in the Gallup poll or the Harris poll what they consider the major problem in this country, and it is always inflation.

Right now, this bill provides an average of 10.6 percent in tax cuts against inflation, or a net cut—still assuming that the inflation rate is going to be 7 percent—an average tax cut to the American people of 3.6 percent.

What we do in this amendment is to keep faith with the middle-income working people in this country and increase their inflation protection an average of 94 percent. I think it is the very least we can do.

I urge my colleagues to consider this amendment seriously, to look at the charts to see who is going to benefit and who is not.

I yield to the distinguished Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I hope the Senate will give favorable consideration to this amendment.

At the outset, I join in commending the chairman of the Finance Committee and the members of the Finance Committee for helping the neediest people in our society. I think that in the past 20 years that has been a major factor in the Finance Committee's deliberations.

We have enacted the low-income allowance, the standard deduction, the increased personal exemption, the general credit, the earned-income credit, and a variety of other factors which have shown sensitivity to bringing low-income groups in our society off the tax rolls. In general, we have tried to protect the lowest income groups first, the middle income groups next, and the upper income groups third.

However, the pending committee bill reverses these priorities. Through its actions increasing the earned-income credit and providing additional tax relief for capital gains, the committee bill provides reasonable generous relief for the lowest income groups and extremely generous relief for the highest income groups. But the middle income groups are shortchanged. They are the hole in the committee's doughnut.

When inflation and the social security tax increases are taken into account, those in the $10,000 to $50,000 income groups receive substantially less protection from the committee bill than other income groups. I believe that additional protection for these groups is needed. This amendment would provide such relief. For a family of four with income of $15,000 the amendment would provide an additional $130 in tax relief.

The lower and middle income groups deserve additional protection, because they are the groups hit hardest by inflation, especially in essential areas like food, housing, medical care, and energy, where prices have been rising even more rapidly than the Consumer Price Index. For example, in the first half of 1978, the cost of these four basic necessities rose at an annual rate of 13.2 percent, compared to a 5.2-percent increase for other commodities.

The proposed amendment takes nothing from other income groups. By rate changes, it simply allocates among the lower and middle income groups the $4.5 billion necessary to provide a fairer distribution of the overall tax relief in the committee bill.

The amendment will not violate the budget resolution, since the additional relief will be made available through withholding beginning on July 1, 1979, in a fashion similar to that used by the committee for the increase in the earned-income credit.

I recognize that the amendment will generate additional revenue losses in future years, which must be offset by other changes if a sound fiscal and budget policy is to be achieved. But middle income groups are entitled to share fairly in any tax relief granted by Congress. The amendment that Senator BUMPERS and I are proposing will enhance the likelihood that the interests of these income groups will not be neglected, as they are in the committee bill.

Mr. President, the amendment offers tax relief of $3.7 billion at 1978 income levels. The revenue loss will be $4.528 billion in calendar year 1979.

As the charts in the back of the Chamber show, the purpose of the Bumpers-Kennedy amendment is basically to bring the middle class to the conference table. They will really not be effectively at the conference table without this amendment because, if they are shortchanged in the bill as it leaves the Senate, they will be shortchanged in the final bill that comes back from the conference.

Mr. President, the primary purpose of this tax reduction legislation is to protect taxpayers against the effects of inflation, which is actually a tax increase because it pushes people into higher tax brackets without any increase in real earnings. Another major purpose is to protect taxpayers against the social security tax increases scheduled for next January 1.

The House bill was actually even more unsatisfactory than the Senate committee bill, because it protects only those earning over $50,000 a year against last year's inflation and the social security tax increase scheduled for January 1,

1979. All income groups under $50,000 would not be fully protected against the inflation tax increase and the social security tax increase.

The Senate Finance Committee bill protects everyone against inflation and the social security tax increase for 1 year. But the bill gives substantial additional protection only to the lowest and highest income groups. The middle class is left out.

For 1979, the committee bill and our amendment would provide protection against the following levels of inflation:

	Committee (percent)	Bumpers/ Kennedy (percent)
$0–$5,000	5.8	7.1
$5,000–$10,000	8.7	13.4
$10,000–$15,000	1.7	7.8
$15,000–$20,000	1.2	7.8
$20,000–$30,000	0.7	3.5
$30,000–$50,000	0.6	1.1
$50,000–$100,000	5.1	5.3
$100,000–$200,000	10.9	11.1
Over $200,000	67.0	67.1

Mr. President I ask unanimous consent that four tables showing the revenue effects of the amendment and comparisons to the House and Senate committee bills may be printed in the Record.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

TABLE I.—AGGREGATE TAX EFFECTS IN 1979

[1978 income levels, in millions of dollars]

Expanded income class (thousands)[1]	Inflation tax increase[2]	Social security tax increase[3]	House bill tax cut[4]	Net tax change
Below $5	192	42	−51	+183
$5 to $10	984	86	−433	+637
$10 to $15	1,075	120	−852	+343
$15 to $20	1,310	297	−1,345	+262
$20 to $30	2,121	1,345	−3,037	+429
$30 to $50	1,808	1,005	−2,640	+173
$50 to $100	944	218	−1,388	−226
$100 to $200	286	45	−512	−181
$200 and over	105	11	−689	−573
Total	8,824	3,169	−10,948	+1,045

[1] Expanded income equals adjusted gross income plus tax preferences (as defined under the minimum tax) less investment interest to the extent of investment income.

[2] Tax change from indexing the rate brackets, general tax credit, personal exemption, zero bracket amount and earned income credit for a 7-percent inflation.

[3] Tax increase from increase in social security tax rate from 6.05 percent to 6.13 percent and increase in wage base from $18,900 to $22,190.

[4] Tax change from individual income tax changes in House bill except provisions dealing with unemployment compensation and inflation adjustment for capital gains.

TABLE II.—TAX RELIEF FOR LOW- AND MIDDLE-INCOME GROUPS

[Dollar amounts in millions; 1978 income levels]

					Senate Finance Committee bill			Proposed amendment		
Expanded income class	Inflation tax increase	Social security tax increase	Combined inflation and social security tax increase	Senate Finance Committee bill tax relief	Additional relief over inflation and social security (4)−(3)	Percent additional protection against inflation (6)÷(2) (5)÷(1)	Protected inflation rate (percent)	Additional tax relief above committee bill	Percent additional protection against inflation	Protected inflation rate (percent)
0 to $5,000	$192	$42	$236	$395	$159	83	12.8	$37	102	14.1
$5,000 to $10,000	984	86	1,070	2,292	1,222	124	15.7	661	191	20.4
$10,000 to $15,000	1,075	120	1,195	1,449	254	24	8.7	941	111	14.8
$15,000 to $20,000	1,310	297	1,607	1,966	359	27	8.9	1,103	112	14.8
$20,000 to $30,000	2,121	1,345	3,466	3,681	215	10	7.7	847	50	10.5
$30,000 to $50,000	1,808	1,005	2,813	2,960	147	8	7.6	147	16	8.1
$50,000 to $100,000	944	218	1,162	1,849	687	73	12.1	30	76	12.3
$100,000 to $200,000	286	45	331	776	445	156	17.9	6	158	18.1
Over $200,000	105	11	116	1,121	1,005	957	74.0	1	958	74.1
Total	8,824	3,169	11,993	16,490	4,497	51	10.6	3,773	94	13.6

TABLE III.—BUMPERS/KENNEDY AMENDMENT

	Additional tax relief					Additional tax relief			
Income groups	Millions	Percent distribution	Average SFC & tax relief	Average additional tax relief	Income groups	Millions	Percent distribution	Average SFC & tax relief	Average additional tax relief
0 to $5,000	$37	1.0	$54	$9	$50,000 to $100,000	$30	0.8	$1,294	$22
$5,000 to $10,000	661	17.5	128	42	$100,000 to $200,000	6	.2	2,595	22
$10,000 to $15,000	941	24.9	104	69	Over $200,000	1	0	14,372	21
$15,000 to $20,000	1,103	29.2	170	96					
$20,000 to $30,000	847	22.5	284	66	Total	3,773	100.0	231	58
$30,000 to $50,000	147	3.9	507	25					

TABLE IV.—FEDERAL INDIVIDUAL INCOME TAX BURDEN: SINGLE PERSON AND MARRIED COUPLE WITH NO, 1, 2, AND 4 DEPENDENTS

[Assuming deductible personal expenses of 23 percent of income]

	Tax liability														
	Single person			Married couple with no dependents			Married couple with 1 dependent			Married couple with 2 dependents			Married couple with 4 dependents		
Adjusted gross income	Under SFC	Under the proposal	Reduction	Under SFC	Under the proposal	Reduction	Under SFC	Under the proposal	Reduction	Under SFC	Under the proposal	Reduction	Under SFC	Under the proposal	Reduction
$3,000	0	0	0	0	0	0	−360	−360	0	−360	−360	0	−360	−360	0
$5,000	250	227	23	0	0	0	−600	−600	0	−600	−600	0	−600	−600	0
$6,000	422	379	43	84	78	6	−600	−600	0	−600	−600	0	−600	−600	0
$8,000	787	719	68	374	343	31	−136	−152	16	−276	−282	6	−360	−360	0
$10,000	1,177	1,129	48	702	631	71	414	363	51	254	223	31	−36	−42	6
$12,500	1,584	1,555	29	1,152	1,031	121	972	871	101	792	711	81	454	413	41
$15,000	2,027	2,017	10	1,614	1,476	139	1,414	1,266	149	1,233	1,103	130	873	783	90
$17,500	2,526	2,517	9	1,999	1,880	119	1,799	1,670	129	1,599	1,460	139	1,220	1,091	129
$20,000	3,094	3,085	9	2,416	2,316	100	2,184	2,074	110	1,984	1,864	120	1,584	1,444	140
$25,000	4,343	4,334	9	3,358	3,297	62	3,100	3,029	72	2,860	2,779	82	2,380	2,279	102
$30,000	5,697	5,688	9	4,436	4,413	23	4,156	4,123	33	3,876	3,853	43	3,316	3,253	63
$35,000	7,199	7,190	9	5,664	5,642	22	5,344	5,322	22	5,024	5,002	22	4,394	4,270	25
$40,000	8,865	8,856	9	7,034	7,012	22	6,654	6,632	22	6,274	6,252	22	5,616	5,594	22
$50,000	12,538	12,529	9	10,195	10,173	22	9,765	9,743	22	9,335	9,313	22	8,475	8,453	22
$60,000	16,371	16,362	9	13,614	13,592	22	13,124	13,102	22	12,646	12,624	22	11,786	11,764	22
$70,000	20,221	20,212	9	17,387	17,365	22	16,897	16,875	22	16,407	16,385	22	15,427	15,405	22
$80,000	24,071	24,062	9	21,190	21,168	22	20,690	20,668	22	20,190	20,168	22	19,200	19,178	22
$90,000	27,921	27,912	9	25,040	25,018	22	24,540	24,518	22	24,040	24,018	22	23,040	23,018	22
$100,000	31,771	31,762	9	28,890	28,868	22	28,390	28,368	22	27,890	27,868	22	26,890	26,868	22

Staff of the Joint Committee on Taxation.

Mr. KENNEDY. One chart shows the available protection against inflation. If the inflation rate is 7 percent next year, the chart shows that the middle income groups are really not protected at all. Persons in the $15,000 to $20,000 income group are protected only against 1.2 percent inflation. But people in the top group are protected against 67 percent inflation. Of course, no one expects that sort of inflation. The figure just shows how enormously well they are protected by the committee bill, while the middle income groups get nothing. And that is not fair.

So our amendment, Mr. President, is effectively to bring this middle income group to the conference table. It is focused on that group that we think is the hole in the committee donut.

We commend the committee for the work in behalf of the lowest group. I have reservations about the extent we should be granting relief to the wealthy in the capital gains area. But the highest and lowest income groups do very well in the bill, compared to the middle income groups.

I believe that with the acceptance of this amendment, the conferees are going to be under a greater obligation to work out an adjustment that conforms with the budget and with fairness to middle income taxpayers. It will give the $10,000 to $50,000 group a front row seat at the conference table.

Mr. DOLE. Mr. President, will the Senator yield?

Mr. KENNEDY. I yield to the Senator.

Mr. DOLE. I am interested in the amendment offered by the distinguished Senator from Massachusetts. I am wondering if we will run into any budget problems. Are we faced with any budget problems because of the potential cost of the amendment?

Mr. KENNEDY. For this particular year, there is a $1 billion or so window in the budget resolution. This amendment falls within that for this fiscal year. Because it does become effective in the current year, we avoid the issue in the debate during consideration of the Roth-Kemp amendment. So the amendment conforms to this year's. In the future, it will have to meet the other priorities of fiscal policy.

Mr. DOLE. It will extend beyond 1 year?

Mr. KENNEDY. What we are dealing with here is only the tax rates. A question has been asked, although not in this particular debate, why do we not just redistribute the tax relief in the committee bill, instead of adding additional relief. But effectively, because of the capital gains-earned income split in the high income group, we could not find enough to redistribute with cutting back too sharply on those who do not have capital gains. There is only about $1 billion that could be redistributed. So we decided to offer additional relief.

Mr. LONG. Mr. President, the Senator is speaking for a further tax cut of $4.5 billion a year.

The chart to which the Senator makes reference includes a number of items that I believe Senators should understand. One of them, as I understand it, is that he would include on his chart the effect of 2 years' inflation. We in the committee found that there is enough money available in the budget to provide a tax cut large enough to take care of next year's increase in social security, and in addition we could take care of the inflation that has occurred in the last year.

(Mr. HUDDLESTON assumed the chair.)

Mr. LONG. There simply was not enough money in the budget, Mr. President to take care of inflation for 2 years, that is for the inflation that occurred last year and the inflation that occurred the year before.

Of course, some could contend that we should try, if we could, to adjust for inflation since the 1976 act. The fact is that there is just not enough money in the budget to do that and, therefore, if cannot be done in the budget.

What the Senator would seek to do here is to provide this very large tax cut, which ordinarily would go beyond the budget, but he would say that people would earn the tax cut from January up until July. They would not start getting the benefit of it until July, and then starting in July they would start getting the benefit in the withholding. Then at the end of the year they would get a big refund because they would not have the benefit of it from January until July.

By holding back the tax cut that people would have under law until they were paid or at least received a refund in the following year, the Senator would keep the cost of his amendment within the budget.

It still works out for a further tax cut of $4.5 billion. If the Senator's proposal were one to take effect just within the next year it would work out that it would be subject to the same budgetary objection that was made last night in that it falls in a future year. But in this case it would not be, because it starts in this year and then continues over into the following year.

But no matter how you move the figures around to meet the budget, Mr. President, it still works out to a $4.5 billion tax cut that the budget does not have the money to cushion, most of it occurring in the next out year, that is, after July 1 next year, and then going up, following in the months and years that occur thereafter. The money is not there to pay for it, Mr. President.

We have had a great deal of expression of concern about the cost in the out years already, and this increases it by about another $4.5 billion.

It would mean, if agreed to, that the provisions in the energy bill, the tuition tax credit, the earned income credit abroad, the effort to cut the tax on airplane tickets would have to be squeezed out in the main in order to make room for it.

The Senator says the tax bill we have before us does a great deal for people in tax brackets of $50,000 and over. I assume he is referring to the fact that this bill proposes a major reduction in capital gains tax.

Mr. President, it was my privilege to be in this body when John F. Kennedy was President of the United States. At that time he sent to us a recommendation that instead of taxing 50 percent of the gain on a capital gain, that we tax it at ordinary income rates, but that we tax only 30 percent of the gain.

His Secretary of Treasury, Douglas Dillon, his Under Secretary of Treasury, Mr. Henry Fowler, came before the committees to testify that this would not cost the Government any revenues, because they said it will cause a stimulative effect on the economy, it will cause a great number of additional transactions, and will result in an additional increase in economic activity, which will mean that it will cost us nothing.

In effect, they were testifying that the rate on capital gains, even at that time, was so high that it was counterproductive. People would not make gains that they should make otherwise.

I believe at one point in President John F. Kennedy's statement, he said, "A rising tide raises all boats." So if you make it reasonable, if you keep the tax from being so high the people will not be deterred from engaging in capital gains transactions, from selling a farm, selling a home, selling an office building, selling some stock, it was the view of President John F. Kennedy, ably testified to by Douglas Dillon and Henry Fowler, his Secretary of Treasury and Under Secretary of Treasury, that there would be induced effects, which means more transactions, more business, more commerce, resulting from those transactions that would make money for the Government.

So, Mr. President, you would have no budget loss.

Now, knowing that those arguments were made, I took it upon myself to write Mr. Fowler, and he came and testified before us that that was still his opinion; that since that time capital gains taxes have been raised a great deal more, because of the so-called tax reform bill. The minimum tax being made applicable to it was an add-on tax, and he testified before the committee—and I will make available to all Senators his testimony—that in his judgment this tax cut would actually have a positive impact on revenues, and it would make money for the Government.

Mr. Douglas Dillon wrote a very strong letter saying the same thing.

Mr. William Simon, who served as Secretary of Treasury with distinction, under President Ford, made the same statement.

We have the same statement made by Mr. George Shultz, a great economist as well as a great Cabinet officer, who served under President Nixon.

In fact, six former Secretaries of Treasury said the same thing. The same statement was made by a majority of those who had served with distinction on

the Federal Reserve Board, and by those who served in position of Under Secretary and high positions in the Treasury, whose opinion was sought.

There was a division of opinion among those on the Council of Economic Advisers. Some said "yes," some said "no." I will make available to all Senators their

But the point is it is the prevailing view, the overwhelming majority view, statements as we discussed this matter in the debate.

Mr. President, of those who have had the responsibility of studying these matters that what the committee did on capital gains is no bonanza for the wealthy. Everybody would get a cut in the tax they pay on capital gains, be they in the lowest bracket or in the highest bracket, but because it would result in more capital gains and those who make these transactions, those who buy office buildings would repair them and improve them; and those who would buy small factories or plants would fix them up, because they wanted to make better use of them; those who buy stock in a company would be the activist type who see some potential for the company, while those who sell would not be the activist type, and it would be a matter of separating those who do not see potential from those who do.

It would move the economy, and it would have a positive effect on the budget.

I will make available to the Senators the statements. I have had them printed, and we will bring them in before this debate is over showing that there is no loss to the Government. It is a matter of reducing a counterproductive tax that is slowing down this economy.

Just to give you an example, Mr. President, oftentimes the capital gains tax is taxing nothing but inflation. Let us assume for the sake of argument that a person bought some land, and he bought it at $1,000 an acre. Then 10 years later he sells it for $2,000 an acre. In real terms, the $2,000 will not buy one bit more than the $1,000 would have bought at the time he bought the land. So the tax is on a purely fictitious gain. He is being taxed, because the Government failed to maintain the purchasing power of its money.

In a situation of that sort, it amounts to a tax on capital, not a tax on income at all. It amounts to more than a 100-percent tax on income, because there is no income in a real sense. Contrary to the views of President Carter, the American people understand that. President Carter thought we ought to tax capital gains as just ordinary income. That had a lot of appeal to a lot of people, up until the Roper organization went out and took a poll of the American people. They said, "Do you think we ought to tax capital gains the same way we tax ordinary income?" What did the American people say? The great majority of them said:

Oh, no, a capital gains transaction is an entirely different thing from the ordinary income that you receive in terms of wages, dividends, and things of that sort.

So, recognizing that, the committee also recognized the wisdom of those who served under President John F. Kennedy, those who served under President Lyndon B. Johnson, and those who served under President Nixon and President Ford, and we recommended that the tax be cut to make it a productive tax rather than a counterproductive tax.

So the Senator says, "Well, these people in the $50,000 to $150,000 and up bracket are being given a bonanza" with the great bonuses they are supposed to be getting.

Mr. President, the Government would make money by that, and that is testimony to the ability of those who have that kind of responsibility.

Mr. CURTIS. Mr. President, will the Senator yield?

Mr. LONG. In just a moment.

Furthermore, when you list those people up there with $50,000 to $150,000 because they get a great benefit, because of the cut in the capital gains tax, let us keep in mind who it is we are talking about.

Mr. President, it was my good fortune, some years ago, to buy a little farm on the outskirts of Baton Rouge from an elderly couple; the old man was a retired plantworker, and the dear old lady was a schoolteacher. She had inherited 200 acres of land from her father, they had worked very hard to try to make it on that land, with very little topsoil. The city of Baton Rouge began to approach it, and I thought I could probably buy it and it would pay out over a period of time.

I made those people an offer, and they accepted. I should imagine those people at no time in their lives made more than $20,000 a year, but the year they signed that contract they would go down as people who made $150,000 or almost $200,000. Next door to them here was another citizen, a brother, a fellow who had a little house, awfully old, and badly in need of repair; he would do a little farming on that, and had a modest amount of income. The year he sold his property, it would look as though that man was in the $100,000 and up bracket, a millionaire.

No such thing, Mr. President. All he did was sell Grandpa's farm, something they had saved and tried to keep up during a lifetime. But they are listed as millionaires on that chart, because they sold something they inherited from Grandpa.

That does not convey quite the picture. When one looks at a chart like that, it looks like a lot of people are millionaires, because they sell something that has been in the family for a long period of years.

Mr. President, I yield to the Senator from Nebraska.

Mr. CURTIS. I thank my distinguished chairman, and I commend him for what he has pointed out here.

Mr. President, a person of very modest income can on one occasion sell his small farm or his residence, he has a big paper gain as a result of inflation, and in those circumstances we cannot point to that taxpayer and say he is in such and such a bracket, because it is a one-time happening, on a gain that is not real.

I also commend the Senator for pointing out the effect on our economy of capital gains reduction.

Who benefits when we have an ongoing economy, with plenty of jobs? Who benefits? The more jobs there are available, the easier it is for young people who have never had a job to get one. The more jobs there are available, the easier it is for the individual who is not very productive and has not had much training to get a job.

Our tax burden is in the neighborhood of $400 billion. How that is applied to our economy can have a great deal of effect on how the economy runs. So, in measuring how the tax bill affects this bracket or that bracket, you have to measure the local effect of his stake in an economy that is running well and providing jobs. So I commend the Senator.

Now, the chart over there has factors in it that represent certain judgments as to what you should figure in there as to who gains what. I call attention to table 5 on page 34 of the committee report. The last column shows what percent of tax reduction each bracket gets, compared to the present law.

Those under $5,000 have their taxes reduced by 68.3 percent. Those from $5,000 to $10,000 have a tax reduction of 27.8 percent. Those from $10,000 to $15,000 have a tax reduction of 8.5 percent. Then it runs on down: 8.2 percent, 7.5 percent, 5.9 percent, and the like. That is what we have done on the individual taxes.

This same chart, in the next-to-the-last column, shows that 77 percent of the tax relief granted in this bill goes to those people making less than $50,000. Here is something else: Nearly 60 percent of the individual tax reduction goes to those who make under $30,000 a year. Sixty-five percent of the tax reduction goes to those who make between $10,000 and $50,000, and 77.3 percent—almost 80 percent—goes to those who make less than $50,000.

These things are complex. These tables were worked out over many months by professional staff. They were not concocted to win arguments or to persuade; they were to inform the committee. They are as objectively drawn, I think, as they could be.

I thank my distinguished chairman for yielding. I did not intend to take so much of his time.

Mr. LONG. I yield the floor, Mr. President.

Mr. KENNEDY. Mr. President, I listened with interest to the argument of the chairman of the Finance Committee, saying that there was just not enough money to go around to protect everyone against inflation.

The fact of the matter is that the Senate Finance Committee would protect some people against inflation, and went well beyond that.

The lowest and highest income groups are well protected, but the middle income groups are not.

The Senator from Louisiana says, "We

cannot understand why we should be questioning the issue of capital gains, that in the 1960's President Kennedy advocated a lowering of the rates."

He did, Mr. President, but it is also important, when you represent the position of a previous administration, you state the full position, not just part of the position.

In reading from the tax message he sent to Congress in 1963, which recommended the 70 percent exclusion for capital gains, he also said:

I therefore recommend the following changes, the nature of which requires their consideration as a unified package

I underline "as a unified package."

coupling taxation with more sensible, equitable limitations.

Included in that package is the full taxation on gains on property transferred at death, the recapture of depletion on the sale of oil and gas properties, the recapture of all depreciation on buildings sold at gain, taxation on timber income as ordinary income, taxation on all coal sales as ordinary income, taxation as ordinary income of long-term deferred sales, and on and on.

So if you are going to present a position, you should present it fully, not just selectively talking about 30 percent for capital gains. I, for one, would cosponsor with the chairman of the Finance Committee the 30 percent reduction, if he had a package which included the same measures which were recommended in 1963. But that is not the issue.

Mr. President, we will probably get into a discussion later about capital gains. It is always interesting to realize, as we will talk further about it, that two-thirds of the capital gains relief goes to people above $50,000. Effectively, that is what we are talking about. The recommendation of the Senate Finance Committee is going to mean a $20,000 saving for every taxpayer who makes over $200,000 in income. It is going to mean $20,000 to him.

We are talking here about $125 for the person who makes $25,000. The Senate Finance Committee is talking about $20,000 for the person who has $200,000 in income.

That brings this into somewhat sharper perspective.

Mr. President, what we are effectively trying to do is to bring the middle-income people to that conference table. I think it is essential for the Senate to do so, when we look at what the conferees will be considering in the House-passed bill, which is a sizable net tax increase, based on inflation and the increase in social security.

Mr. President, I would hope that the Senate would consider favorably this particular amendment.

Mr. LONG. Mr. President, the Senator's argument that those in the high brackets will save $20,000 a year is based on the assumption that the Government is going to lose money by reducing the capital gains tax rate.

The Senator talks about the fact that there were a lot of other items in the recommendations by John F. Kennedy that did not become law. There were also a lot of items that did become law, and I am happy that they did. I fought for them. I was the floor manager of that bill. I was not the chairman of the Finance Committee at the time. I was the ranking member. It was a very big tax cut. At that point, Mr. Harry F. Byrd, Sr., did not think it was responsible to cut taxes that much unless you were going to cut spending just as much. It fell on me as the next Democrat to see what I could do about passing that bill.

Mr. President, Douglas Dillon, who testified for that capital gains tax cut, is still here. He is still living. He is still available to us to tell us how he arrived at the conclusion that you would make money by cutting the tax on capital gains. That man is still very much alive and well and able to give us the benefit of his views.

We have his letter. He can state for you how he arrived at the conclusion that you would make money by cutting capital gains and show you the same factors apply today, the same general logic applies, that if you do that you will make money by cutting the tax on capital gains.

So when we talk about cutting the capital gains tax rate, we are not talking about losing any $2 billion a year to the Government as the Senator from Massachusetts would like to contend. We are talking about reducing a counterproductive tax down to the point where the Government makes money rather than losing money at it.

Again let me point out that in many cases you are applying a tax that goes above 40 percent on income that does not exist at all, purely imaginary income.

A person buys land at $1,000 an acre and 10 years later he sells it at $2,000 an acre. The money that he is getting is worth only 50 cents on the dollar for what he paid when he bought the property. So he made nothing. But he is going to pay a big tax on that.

If you reduce the tax rate, it is more likely that he would sell the property to somebody who could make better use of it than he does. When he does it, by virtue of the fact that they make better use of the property, being a farm, a factory, a building, whatever it might be, that generates more income for the Government. Also, it produces the secondary and tertiary benefits, because people make further investments.

Because these people sell the property that they inherited from their fathers or grandfathers and grandmothers, and made a one-time gain which is a once-in-a-lifetime gain they made when they sold their home, sold their farm, or sold their little business, to say someone is a millionaire is no such thing. He has the good fortune of having perhaps $100,000, or maybe even less than that, maybe $50,000 or $60,000 worth of resources that that person could sell.

They would all have a tax cut and it would generate revenue for the Government.

Mr. President, since we use the minimum tax, not as an alternative tax but as an add-on tax, what was once a 25-percent tax on capital gains has been moved up to a 49-percent tax on capital gains in the extreme case.

Obviously, if that is the tax rate where most that is being taxed is inflation, it is so discouraging that people are just not going to make the transaction, even if the economics would otherwise compel it. So it locks in assets. It slows up the economy. It has a very bad overall result on the economy.

But the Senator is not seeking to change that. I assume later on he will seek to eliminate the amendment that cuts the tax on capital gains. All we are talking about here now is this add-on, another $4.5 billion in tax cuts.

Mr. President, the budget will not stand it. It may be that at some future point we could find ways to cut spending so we could have a further tax cut.

But the same logic that compelled us to vote down the Roth amendment applies to this, except that the Roth amendment did not involve as much money. We just do not have that much money to vote responsibly to reduce taxes by that much. To do so would mean that we would have to eliminate and squeeze out some of the other things we have already voted for, such as the insulation credit, which has been passed twice by the Senate; the legislation to do something about the tuition credit for young people going to college, or the legislation to take care of the working people who go abroad and seek to earn some money and take American know-how abroad and bring profits back to this country. Those things would have to be squeezed out, even though we in the Senate felt they ought to be acted upon.

Mr. President, I hope the amendment is not agreed to.

Mr. BUMPERS. Mr. President, the Senator from Massachusetts and I are not going to belabor this point. I simply want to say that I am inclined to agree with some of the points the chairman makes on capital gains. I may vote against my good friend from Massachusetts on the capital-gains thing and I do not think we ought to bog down here in this debate on the merits or demerits of the capital-gains reduction provided for in the Senate bill. The facts are that the tables showing the effect of our amendment do in fact assume that that reduction is going to be made. Whether you agree with that or not is something else. We are talking about the number of dollars and who is going to get the benefit of them.

There are 87 million taxpayers in this country. Eighty-seven million returns are filed with IRS every year. Eighty-four percent of those have below $30,000 in income. Sixteen percent are the people in this country who file income tax returns with incomes over $30,000, a very small number. When you get above $50,000, the numbers of taxpayers involved go down exponentially. We are not asking here to debate the merits of the capital-gains tax. What we are saying is let us provide simple justice and

simple equity to the people who need it the most.

Everybody in this body knows very well that the Members here do not have tax shelters, because they know that any kind of tax shelter they have would represent some kind of conflict of interest. Most of us just have to list our income, go down the table, and pay it. I personally have had to borrow money the last 3 years to pay mine, but I am not suggesting that I want to go down into the $20,000-income category to avoid that.

Look at what we are doing, Mr. President. We are saying to the people in the zero to $5,000 income category, instead of getting a 5.8-percent reduction above inflation, we are going to give you 7.1 percent. In the $10,000 to $15,000 income group—and I believe that is where the vast number of those 87,000,000 taxpayers are, making $13,000 a year. That is the median income.

In that category, the $10,000 to $15,000 a year income, under the Finance Committee's bill, those people are only going to derive a 1.7-percent net tax cut. That is based on an anticipated 7-percent inflation rate. As the Senator from Massachusetts pointed out, right now, the wholesale price index as of last night is on an annual basis of 10 percent.

Even the CPI is well above 7 percent right now.

I bet that right now, for the first 9 months of this year, the Consumer Price Index is up over 8.5 percent. If that is true and if it holds for the rest of this year, these people get no tax cut; we leave them right where they are.

On the $20,000 to $30,000 income, those people, under the Senate Finance Committee bill, are getting a seven-tenths of 1 percent tax cut, still assuming the inflation rate is 7 percent. If the inflation rate should be 8.5 percent, those people actually would lose almost 1 percent under this bill. Under this amendment, we give those people a 3.5-percent cut above the anticipated inflation rate.

I do not see how we can do less. I do not like the cost of this amendment. When the Senator from Massachusetts and I talked about this thing yesterday, I said:

> You know, I am really a fiscal conservative. I really believe in trying to help the President balance the budget. I believe we can have a viable economy and still not spend more than we can take in.

If I may digress for just a minute, the American people ought to be told that in this year's budget, which is almost $500 billion, $64 billion of that is in loans. We are not actually spending more than we take in. Sixty-four billion dollars is in loans to the communities and the States of this country to do things they ought to be doing, but that they are going to be paying us back for. That is the reason people get water and sewer treatment facilities, because they can borrow the money at reasonable rates of interest from the Federal Government, and $64 billion of this year's budget is in that category.

Five billion dollars of it is in the strategic oil reserve. That is an appreciating asset.

I am not for deficit spending, but I am saying it is sometimes just not the way people paint it to be. I want to help the President keep his commitment to balance the budget for 1981 and I think Congress has done a yeoman's job in cutting the President's estimated deficit of $68 billion down to $38 billion. Maybe we can cut off $2 or $3 billion more before we get out of here next week.

But I cannot in good conscience allow the figures, which do not lie, to remain unchanged. I cannot in good conscience go back to 80 to 85 percent of the people in my State and say, "We took care of the poorest of the poor and the richest of the rich and all you other 85 percent of the people, good luck."

That is what we are going to be doing if we do not adopt this amendment. I strongly urge my colleagues to vote aye.

Mr. KENNEDY. Mr. President, I think this argument has been made and made effectively. What this particular amendment, regardless of your view about capital gains, is saying is that we are preserving what was done by the Senate Finance Committee for the lowest income groups. We have given modest relief for the $5,000 to $10,000 group. We have not attempted to reduce the protections for the highest income groups, which are represented by capital gains, in this amendment. But the one significant hole in the donut, Mr. President, has been the middle-income group. What we are doing is attempting to protect them against the problems of inflation and the social security increases. That is fundamentally the issue.

I think many people will have the perception that we have done very well for the highest income groups in this country in the Finance Committee legislation and the House bill. I personally think the bill goes too far. But we are not, in this amendment, adjusting or changing that particular fact. All we are trying to do is insure adequate protection for the middle-income group. I certainly hope that this amendment will be accepted.

Mr. LONG. Mr. President, we in the Committee on Finance attempted to leave some room—we voted for as much in the way of tax cuts as we thought the budget could afford. Then we tried to leave some room in the budget for the energy bill and the tuition credit, and some of the other pressing items that have already been passed by the Senate and which are in conference with the House of Representatives.

This amendment would use up and preempt the slack that we left for the other items in the budget. On a 4-year basis, the cost is $4.5 billion. By moving the dates so it goes into effect January 1 but the withholding rates do not change until July 1, it would hold down the first-year budget year cost to $906 million. But the $4.5 billion tax cut, added on top of something that the administration tells us in the letters we have before us, is already a bigger out-year cost than the budget can afford. So the fact is that we cannot afford it. We do not have the money to pay for it and take care of the other items to which reference has been made.

Here is a letter from the Secretary of the Treasury having to do with amendments of this sort. It was certainly intended to cover the Roth amendment, but it also covers these others.

It says:

> The Administration is strongly opposed to the adoption of any of such amendments.

It goes on:

> These excessive outyear costs would prejudice our efforts to reduce the budget deficit and bring inflation under control. The inflation rate, which has begun to decline from the double digit pace of the first half of this year, must remain our number one concern and must be steadily reduced through the remainder of this decade.

So it goes.

Mr. President, we have voted for as much tax cut as is available in this area. This is a matter that works out to be a budget-busting resolution.

It stays within the budget this year, I understand that. But, in the out year, it drastically increases the revenue loss by $4.5 billion a year. That is something that we just do not have the money at this time to cushion and it preempts the tax cuts for energy and other matters.

I hope it is not agreed to, Mr. President.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. KENNEDY. Mr. President, that letter was directed toward the Roth-Kemp amendment. Mr. Lubick of Treasury indicated to us it was not directed at our amendment, and the language of the amendment obviously does not refer to our amendment.

Mr. LONG. My understanding is that the Treasury would go along with this amendment if the Senate was successful in raising other revenues by these other so-called reforms the administration recommended, which have not been agreed to by the House or Senate committee.

Of course, that remains to be seen, whether they will be passed to raise revenue.

Mr. KENNEDY. The point is that we can raise the revenue to pay for it here in the Senate, or in the conference.

I am hopeful other measures will raise the revenue, and I intend to offer amendments to do so.

But, if it goes to conference, the conferees at least will be able to consider it.

Mr. HATHAWAY. Mr. President, I want to join the Senator from Arkansas and the Senator from Massachusetts in support of this amendment.

First, I want to commend the chairman of the Finance Committee for bringing up a bill which I think is more equitable than the House bill.

I want to point out that the class of

people we are trying to give a little better break to with respect to this amendment is in the income class where they are paying, in addition to their income taxes, property taxes, sales taxes, social security tax and of course everybody else is paying those also but as a percentage of their income, these, essentially, head taxes are much greater.

They are also the people who are getting the most impact of all taxes.

We know the corporations, the businessmen, the lawyers and doctors, those in the upper-income brackets, can pass on most of the increased taxes that are assessed upon them to others. Whereas, in this group, we are talking about the clerks, the white-collar workers, and the vast amount of blue-collar workers who are not in that position to pass on that impact to anyone else; 80 percent of the blue-collar workers are not organized, are not members of labor unions, and find it very difficult to get the pay raises from time to time to offset that burden.

I am hopeful the Members would keep in mind just what the status is of this particular group we are trying to protect, and that they are actually more entitled to protection, more entitled to tax cuts, than any other group that is in the overall bill.

Mr. KENNEDY. Mr. President, just a final comment.

I ask unanimous consent to have printed in the RECORD the letter and attachments of the Secretary of the Treasury dated October 3. I will just read this relevant paragraph:

Second, the bill's tax relief is unbalanced. While the distribution of the individual's tax cuts is better than in the House version, it is still not satisfactory. The tax cuts for middle income families barely offset the 1979 Social Security tax increase and one year's inflation, while the relief afforded very high income taxpayers offsets these factors many times over. The individual relief should be redistributed in favor of middle income taxpayers.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF THE TREASURY,
Washington, October 3, 1978.

DEAR SENATOR: The Finance Committee has reported H.R. 13511, the Revenue Act of 1978, to the full Senate for debate. In some respects, the bill marks an improvement over the House version. However, the Administration has major objections to the Committee bill.

First, the tax reductions in the bill are excessive and inflationary. The Finance Committee bill exceeds the Administration's proposed net tax reductions by $5.4 billion in calendar 1979, by $5.3 billion in FY 1980, and by $6.7 billion in FY 1981. These excessive outyear costs would prejudice our efforts to reduce the budget deficit and bring inflation under control. The inflation rate, which has begun to decline from the double digit pace of the first half of this year, must remain our number one concern and must be steadily reduced through the remainder of this decade. The budget deficit in FY 1979 will be about $40 billion. We must reduce that deficit as quickly as possible, and this requires discipline not only on spending but on the size of this tax cut, and not solely for FY 1979 but also for FY 1980, 1981 and beyond. The Finance Committee bill does not reflect an adequate anti-inflationary discipline in the outyears. It would seriously compromise the outyear budget flexibility and discretion of both the Congress and the Administration.

Second, this bill's tax relief is unbalanced. While the distribution of the individual's tax cuts is better than the House version, it is still not satisfactory. The tax cuts for middle income families barely offset the 1979 Social Security tax increase and one year's inflation, while the relief afforded very high income taxpayers offsets these factors many times over. The individual relief should be redistributed in favor of middle income taxpayers.

Third, the bill is deficient in that its alternate minimum tax permits very high income taxpayers to shelter more of their income from tax than does present law. I'm sure you agree that every taxpayer should contribute a reasonable amount to the costs of government.

The Senate Finance Committee bill does not accomplish this objective. Accordingly, the alternative minimum tax in the bill needs strengthening.

Fourth, the bill ignores most of the proposals for structural reform advanced by the Administration and instead would clutter the tax law with a collection of new and inequitable preferences, loopholes, and special interest tax breaks. For example: tax forgiveness for those inheriting appreciated property; reopening a loophole for bond issues engineered by one securities firm; revival of expired investment credits to benefit a single company; a special exception to reporting requirements for charge account tips; preferential tax postponement for executives of trade associations; and special accounting rules for a few large corporate farms.

A major source of the first three problems—excessive outyear costs, unbalanced distribution of relief, and excessive tax sheltering—lies in the Committee's additions to the House bill in the area of capital income taxation. The House bill cut capital gains taxes by about $1.7 billion on an annual basis, reducing the maximum tax rate on capital gains to 35 percent. The Senate Finance Committee supplemented this very generous relief with another $1.4 billion in revenue losses, further reducing the maximum tax rate on capital gains to only 21 percent (versus 70 percent on ordinary income). Facing stringent budget constraints, the bill's relief for capital gains should be more reasonable in amount and should, as noted, be accompanied by a genuinely effective alternative minimum tax.

The budget constraints also make inadvisable the Committee's liberalization of depreciation rules, another addition to the House bill. The revenue cost of this provision, $1.9 billion, hits hardest in the outyears. These costs cannot be responsibly undertaken until competing budget needs for those outyears are assessed by future Congresses.

Taken together, these added features have made the bill too large from the point of fiscal prudence and have skewed its relief inequitably toward the very highest income brackets.

I urge you to help improve the bill on the Senate floor. While the FY 1979 fiscal impact of the bill is about right, the outyear revenue losses are clearly excessive. The American economy needs a tax cut which allows progressive reduction in the budget deficit, and the American people deserve a cut that is more balanced and equitable.

It is especially important that the Senate refrain from further enlarging the revenue losses.

In this regard, I wish to re-emphasize our opposition to indexing the tax system to inflation. This dangerous and unworkable experiment would mark a surrender by the Congress in the fight against inflation.

I am enclosing a detailed description of H.R. 13511, together with revenue estimates and a summary of the Treasury's position on each provision.

I am also enclosing two tables. The first compares, for fiscal and calendar years 1979, 1980, and 1981, the size of the net tax reductions under the Administration's proposals (including urban initiatives), H.R. 13511 as passed by the House, and H.R. 13511 as reported by the Finance Committee. This table illustrates the excessive current and outyear costs associated with the Finance Committee bill.

The second table shows the distribution of the tax changes attributable to the capital gains provisions of the Finance Committee bill. Of the $3.1 billion in tax relief provided by these provisions, the table demonstrates that about 30 percent of the benefits go to those with expanded incomes of $200,000 and more. Over two-thirds of the benefits go to those earning more than $50,000 annually.

I look forward to working with you to make H.R. 13511 comport with budgetary constraints and basic principles of tax equity.

Sincerely,

W. MICHAEL BLUMENTHAL.

TABLE 1.—*Revenue effects of the administration's tax proposals and H.R. 13511 as passed by the House and by the Senate Finance Committee—calendar year liabilities and fiscal year receipts, 1979–81*

[Dollars in billions]

	Calendar years			Fiscal years		
	1979	1980	1981	1979	1980	1981
Administration's proposals [1]	−33.5	−39.4	−48.1	−22.5	−36.7	−43.3
House bill [2]	−31.6	−35.9	−45.5	−18.3	−33.5	−40.2
Senate Finance Committee bill [2]	−38.9	−44.5	−55.8	−20.6	−42.1	−50.1

[1] Includes the urban initiatives proposals in the Midsession Review of the budget and the extension of temporary tax reductions as estimated by the Joint Committee on Taxation.

[2] Includes offsetting revenues from induced capital gains and the extension of temporary tax reductions as estimated by the Joint Committee on Taxation.

Source: Office of the Secretary of the Treasury, Office of Tax Analysis, October 2, 1978.

TABLE 2.—*Distribution of tax changes from capital gains provisions of the Senate Finance bill—1978 levels of income*

Expanded income class	Capital gains provisions as reported	
	Tax change (millions)	Percentage distribution
Less than $5,000	−$6	0.2
$5,000–$10,000	−25	0.8
$10,000–$15,000	−64	2.1
$15,000–$20,000	−119	3.9
$20,000–$30,000	−292	9.6
$30,000–$50,000	−509	16.7
$50,000–$100,000	−716	23.5
$100,000–$200,000	−425	13.9
$200,000 and over	−894	29.3
Total	−3,051	100.0

Source: Office of the Secretary of the Treasury, Office of Tax Analysis, October 2, 1978.
NOTE.—Details may not add to totals due to rounding.

Mr. KENNEDY. The paragraph I read is what this amendment is intended to do, and that is an additional reason for the support.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Arkansas. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Alabama (Mrs. ALLEN), the Senator from Minnesota (Mr. ANDERSON), and the Senator from Colorado (Mr. HASKELL) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Virginia (Mr. SCOTT), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The PRESIDING OFFICER. The Senate will be in order. Are there any Senators in the Chamber who are not yet recorded?

The result was announced—yeas 52, nays 43, as follows:

[Rollcall Vote No. 452 Leg.]

YEAS—52

Abourezk	Hatfield,	Melcher
Bayh	Mark O.	Metzenbaum
Biden	Hatfield,	Nelson
Brooke	Paul G.	Packwood
Bumpers	Hathaway	Pell
Burdick	Heinz	Percy
Case	Helms	Proxmire
Church	Hodges	Randolph
Clark	Huddleston	Riegle
Cranston	Humphrey	Sarbanes
Culver	Inouye	Sasser
DeConcini	Jackson	Sparkman
Dole	Kennedy	Stevens
Domenici	Leahy	Stevenson
Durkin	Magnuson	Stone
Ford	McClure	Thurmond
Griffin	McGovern	Williams
Hart	McIntyre	Zorinsky

NAYS—43

Baker	Glenn	Moynihan
Bartlett	Goldwater	Muskie
Bellmon	Gravel	Nunn
Bentsen	Hansen	Pearson
Byrd,	Hatch	Ribicoff
Harry F., Jr.	Hayakawa	Roth
Byrd, Robert C.	Hollings	Schmitt
Cannon	Javits	Schweiker
Chafee	Johnston	Stafford
Chiles	Laxalt	Stennis
Curtis	Long	Talmadge
Danforth	Lugar	Wallop
Eagleton	Mathias	Weicker
Eastland	Matsunaga	Young
Garn	Morgan	

NOT VOTING—5

Allen	Haskell	Tower
Anderson	Scott	

So Mr. BUMPERS' amendment (No. UP 1997) was agreed to.

Mr. BUMPERS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. KENNEDY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3880

The PRESIDING OFFICER (Mr. RIEGLE). The question then occurs on the amendment, as amended, of the Senator from Oregon.

Mr. PACKWOOD. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MUSKIE addressed the Chair.

The PRESIDING OFFICER. The Senator from Maine.

Mr. PACKWOOD. The rollcall has started.

Mr. MUSKIE. Is the rollcall under way?

The PRESIDING OFFICER. The Chair will advise no one has yet answered, so the Senator is able to seek and gain recognition at this point.

Mr. MUSKIE. Discussion is in order?

The PRESIDING OFFICER. The Senator is correct.

Mr. MUSKIE. Mr. President, I will not take much time.

The PRESIDING OFFICER. The Senator will suspend until we have order in the Chamber.

Let me ask, if I may, that Senators find seats and conversations cease.

The Senator from Maine.

Mr. MUSKIE. Mr. President, I expected further amendments would be offered to the Packwood amendment and what I am about to say I could have had an opportunity to say later.

Senators will remember the point of order I raised last night to the Roth amendment. The Packwood amendment is subject to the same point of order, under my interpretation of the act.

I am not going to raise it at this point because the Senate spoke to me twice very loudly last night. I see no point in going down that rough path again so soon.

In the course of debate on this tax measure occasions for raising this same point of order will arise because there is a provision in the bill that came out of the committee which is subject to it, and there are other amendments being offered or being considered to be offered that would be subject to it.

I just want to be sure before we finally nail down into the budget process the ruling that the Senate itself made last night, which Senators understand fully the effect of that on budgetary discipline over revenues.

In talking to several Senators since last night I gather that a substantial number of them did not understand what that would imply.

Senator BELLMON and I are going to do our best to see to it that they are given an opportunity to understand before I make the point of order again because we have not yet had the opportunity to take that educational program and put it into effect. I am not going to raise the point of order now and risk getting another precedent before I am ready to make it.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. MUSKIE. I yield to my good friend, the majority leader.

Mr. ROBERT C. BYRD. I congratulate the Senator on his decision not to make that point of order now. I voted with him last night. I voted with him also on tabling the motion to reconsider. But the matter was settled by the Senate at that time.

I wish to see us get on with this bill, dispose of it, and a future time if the Senator wants to raise a point of order again I might be constrained to support him. But I hope it will not be done on this bill because I want to see us complete action on this bill.

The Senator made a fine statement last night. I thought he was right, but the Senate made its decision at that time. Perhaps in due time the Senate will want to change its decision. I am glad the Senator is not going to make that point of order, and I hope it will not be made on this bill again.

Mr. MUSKIE. Mr. President, I will reserve final judgment on that second point, may I say to the distinguished majority leader, but I am so concerned that what we have done is removed for all practical purposes the budget discipline with respect to revenues, and I just want the Senate to know that we are considering what we might do to fully inform Senators before they act finally and set this precedent finally into law.

So my position now is the Packwood amendment is subject to this point of order. I will not raise this point of order now. But I will add nothing further to my comments at this point and not object.

May I say I discussed this with the distinguished floor manager of the bill, and he understands I will not make the point of order now and that at some point we may have a further opportunity to discuss this issue and maybe I can, in the meantime, educate him as well as other Senators on what it is that bothers me about the whole business.

Mr. LONG. Mr. President, as the manager of this big tax bill, when one managing such a bill has the roof cave in on him, as I had it cave in on me on the previous amendment involving a $4.5 billion add-on to this tax bill, I must concede it would be a great bit of consolation to the Senator from Louisiana and the chairman of the committee if he had available to him the same point of order that the Senator from Maine speaks to.

Mr. President, first, may I thank the distinguished Senator for his help since we voted last night, his helping me to try to hold down the further spending

on this bill. I appreciate his help on both the Roth amendment and the Kennedy amendment. He was doing his job as he saw it. in a dedicated fashion, quite contrary to his own feeling on the merits, trying to maintain the budgetary balance of this Congress, and I appreciate his help.

I went to him and personally asked him for his help, and he has helped me, and I appreciate it.

Let me say, Mr. President, however, if the Senator's position were sustained by the Senate, we would still be subject to amendments for the off years. For example, Mr. ROTH still could have moved his dates over by several months, and he still could offer an amendment that would have the enormous impact that his amendment would have had.

He had the right to offer it in a revised form even if Mr. MUSKIE's position had been sustained.

From my point of view, Mr. President, I have every intention at the time, the way things are going—and I hope the Senate will support my position and Mr. MUSKIE's position in saying that we have loaded as much cost on this bill as it can stand the way it is now. I have had the experience of standing here, even with the support of the chairman of the Budget Committee, and having the Senate further load a revenue bill down.

At the end of it I would expect to offer my little fiscal responsibility amendment to say that when this bill comes back from conference it should be a fiscally responsible bill and it should be within the budget target.

We had something of that sort, I think, on the 1976 Tax Act. The Chairman of the Budget Committee was aghast and very dismayed at the time that bill finally passed after about 6 weeks, and I do say there have been some enormous cost factors added to it, and I added an amendment to say it was the sense of the Senate that in conference the bill should be pared down to the point where it stayed within the budget objectives. There was no objection to it even though I guess some perhaps doubted that that would work.

But when we went to conference, that was the first thing the House agreed to. They said, "Here is an amendment you have which we would like to agree to. You say you would like to keep this within the budget target. That is one amendment you have got that we will take." The conference started from that point forward.

If the Senate insists on loading a revenue bill of this sort far bevond any hope of maintaining a balanced budget in any year for the future, I would hope that we would still succeed before the bill finally becomes law in paring it down to the point where it is a fiscally responsible bill.

We, of course, can have our differences about the matter. I have felt, and I do feel, that notwithstanding the tremendous burden it places on those of us managing the bill in trying to be responsible about the matter, that we still ought to have the right of Senators to offer amendments that would have an impact not during the budget year but in the year immediately following the budget year in which we are working and, of course, I cheerfully respect the right of a Senator to renew the point if he wants to do it.

It is my feeling that we ought to have some meeting and talk about the matter.

The Senator made a good case. I must say I never heard a better case made for such a weak case than the one the Senator made.

[Laughter.]

Mr. MUSKIE. Is that a compliment?

Mr. LONG. Yes. I would like to have an opportunity to talk with the Senator and work with him to try to resolve our differences, because he is a great chairman, a great American. I not only admire him but genuinely love the Senator. He is one of the great men I have had the pleasure and opportunity of knowing in this life.

Mr. MUSKIE. Mr. President, will the Senator yield?

Mr. LONG. Yes.

Mr. MUSKIE. I know the Senator will come back from the conference with a bill that is consistent with the budget. The Senator has done that before. I may say that every day of exposure to the chairman of the Finance Committee by the chairman of the Budget Committee shows the Senator from Louisiana to have great effectiveness, sometimes to my complete frustration. But the Senator does live up to the expectations of the final result in conference. I would rather see some of those results achieved on the Senate floor, but the Senator himself has explained why that historically has been very difficult. So he has constituted himself a one-man revenue-responsibility Senator when he goes to conference and pretty well does what he sets out to do.

As to the makeup of a tax bill, we can all have differences, but he has demonstrated his willingness to live within the aggregates laid out in the budget resolution, and for that I would like to express my appreciation even though we have differences about procedures and maybe other differences from time to time.

So I thank the Senator for his kind remarks. May I say, in addition, that although I may not appear to be enjoying our vigorous exchanges when we disagree, in retrospect I always count them among the high points of my Senate career.

Mr. LONG. Mr. President, I would like to remind the Senator and all Senators that the Senator from Louisiana oftentimes comes off losing when he finds himself at odds with the Senator from Maine, and that it was less than a couple of weeks ago when he and I had a difference of opinion. I really must confess the Senator was the overwhelming victor. I think he beat me by about 2 to 1 on a similar type budget matter. All I can say is I am sure he was right because the Senate agreed he was right.

I enjoy debating with the Senator, and in the spirit of the Senate we ought to present our views and try to persuade the Senate we are right, and if we are wrong, at least if we lose, then I try to persuade myself the Senate was right. Sometimes I find it very difficult to do so.

But I do have tremendous respect and appreciation for what the Senator has done, and I hope he will continue to help me as the manager of this bill to try to hold it down to a responsible budget figure.

Mr. MUSKIE. I will do my best.

Mr. PACKWOOD. Mr. President, I would just like to remind the Senate before we vote that this is a college-only tuition tax credit provision. It is within the budget limitations that have previously been approved by the Budget Committee. In fact, it is slightly reduced from that because it is the conference, House-Senate conference, version, and those were scaled down from the Senate version to reduce the costs of the bill.

Mr. MUSKIE. Mr. President, will the Senator yield?

Mr. PACKWOOD. I yield.

Mr. MUSKIE. The Senator is correct in what he said. The point of order, if I had raised it, would have been to the fact that the credits increased in out years, and it is on that point only. But with respect to overall costs, the Senator is correct that this is a more conservative provision in terms of its budgetary costs, and I am happy to endorse that view.

Mr. LONG. Mr. President, I believe I should explain my position, because I favor this tuition credit. I do not favor it on this bill, though of course I will cheerfully accept the verdict of the Senate, which I am sure will be, in all likelihood, an overwhelming vote for it.

As I say, I have voted for it in years gone by, but I will not vote for it on this particular occasion, because, when we have worked out a conference report to send it down to the President, I devoutly hope and pray he will sign it. But the President has previously vetoed a bill providing this credit, and if the President would not sign that bill and he is the kind of Chief Executive I believe him to be, and the kind of willful man most Presidents are, he will take the attitude, having vetoed that bill, as he did veto it, that he is not going to sign any other bill that has that on.

That would mean he would veto the whole tax bill; and I really believe he has the moral fortitude and the political courage to do that, if he thinks it is a bad bill.

Presidents do that kind of thing; if they think it is a bad bill and it should not be done, and they veto it, and you send it back to them on some other bill, they have a way of vetoing that one, too.

I hope we will not wind up in that situation, where all the work we have done for 2 solid years all goes for naught.

I want my able friend from Oregon to understand why I do not feel the Senate should support it at this point, because I feel if the President did indeed veto the exact same language when it went down to him as a separate bill, it is my deep fear that he would veto this bill because it is on there.

Mr. ROTH. Mr. President, will the Senator yield?

Mr. LONG. I am happy to yield to the Senator from Delaware.

Mr. ROTH. As a prime proponent of

this measure, I would assume the distinguished Senator from Louisiana is not a party to any certain knowledge that the President is going to veto it?

Mr. LONG. No, I hope very much he will sign it. My name is on it. If the President asks my views, I will ask him to sign it. But as the Senator knows, I have been on his side for a long time on this. I have fought for it in conference, more than a year ago, on the social security bill, when we tried to do it. But I persuaded the Senator he was not going to be able to get it then, and he himself graciously removed it from the bill, but he said he was going to renew it, and I commend him for that and congratulate him on his work in this area.

I just want to remind Senators that this bill has a lot more in it than this tax credit, and we might at some point have the problem of getting it back off.

Mr. ROTH. I just wanted to make sure that the President has not made the final decision, and that we can hope he will sign it when it comes to the White House in the next couple of days.

Mr. LONG. Mr. President, I have tried to urge the President to stop threatening so many vetoes before a bill comes to his desk; that it is sort of like waving a red flag in front of Congress, it upsets them and tends to make them react in an aggressive fashion, and that it is much better not to do that.

But if it should work out that way, I would just like Senators to understand my problems in this connection.

● Mr. BELLMON. Mr. President, I will vote against the amendment. I have consistently opposed tuition tax credits; and I see nothing in this version of it to cause me to change my position on the issue.

Some will say: "We have done a good job. This is an extremely limited tax credit. It is limited to post secondary education; and the credit is smaller than the one passed by the Senate just last month."

I must respond, Mr. President, that I have never believed that a tax credit of even $500 was going to solve the problems of a family that could not afford to send their children to college; and a $100 credit—rising to $250 in 1980 and 1981 is obviously not an answer to this problem.

We must ask, then, Mr. President, just what is this credit going to accomplish? I can only envision one of two possible objectives to be served by this legislation. Either it is a political sop to the middle-income taxpayer who is crying for relief; or it is a foot in the door for those who would advocate much more generous credits. I can support neither of these. The middle-income taxpayer would be better served if we were to save the $2,644,000,000 this would cost between now and 1982—and though I may be fighting a losing battle, Mr. President, I shall vote to do just that.

All of our major higher education legislation is scheduled for reauthorization next year. That seems to me the appropriate time to consider expansions of Federal programs for this purpose. As my colleagues may know, I believe an affordable loan program is a much more appropriate, much more fiscally feasible approach to the problem this bill is supposed to address. I have introduced a bill (S. 3403) which would create such a program. I look forward to hearings on my proposal next year. I sincerely hope we will come up with a solution to the problems confronting parents with college age children, who need assistance to finance their educations. Some may argue that these parents should not be asked to wait; but better to wait for a solution than to settle now for a sop.

As I said earlier, Mr. President, I may be fighting a losing battle. Even if we defeat this amendment and if the bill we passed last month is vetoed and the veto is sustained, many will argue that we must somehow respond to the demand for middle-income tuition assistance now—perhaps by appropriating money for the President's proposed expansion of existing grant and loan programs. It is not that I do not sense the political pressure in this election year. We all do. But we owe it to ourselves to carefully consider what we are doing. We should carefully examine the question: what should be the form and extent of middle-income tuition assistance? And then we should carefully relate the answer to existing programs.

Mr. President, I must continue to argue for an orderly process and careful consideration, before we commit ourselves to billions of dollars for a new program—whether it be a tax credit or a spending proposal. As I said earlier, therefore, I shall oppose this amendment; and I urge my colleagues to do likewise.●

SEVERAL SENATORS! Vote

The PRESIDING OFFICER. The question is on agreeing to the amendment, as amended, of the Senator from Oregon (Mr. PACKWOOD). The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Alabama (Mrs. ALLEN), the Senator from Minnesota (Mr. ANDERSON), the Senator from Colorado (Mr. HASKELL), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Virginia (Mr. SCOTT), the Senator from Texas (Mr. TOWER), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

The PRESIDING OFFICER. Are there any Senators in the Chamber who have not voted?

The result was announced—yeas 67, nays 26, as follows:

[Rollcall Vote No. 453 Leg.]

YEAS—67

Baker	Ford	Jackson
Bayh	Garn	Johnston
Bentsen	Goldwater	Kennedy
Biden	Gravel	Laxalt
Brooke	Griffin	Leahy
Bumpers	Hatch	Lugar
Byrd, Harry F., Jr.	Hatfield, Mark O.	Magnuson
Cannon	Hatfield, Paul G.	Mathias
Case	Hathaway	Matsunaga
Church	Heinz	McClure
Danforth	Helms	McIntyre
DeConcini	Hodges	Melcher
Dole	Hollings	Moynihan
Domenici	Huddleston	Nelson
Durkin	Humphrey	Packwood
Eagleton	Inouye	Pearson
Eastland	Jepsen	Percy
Randolph	Schmitt	Proxmire
Ribicoff	Schweiker	Wallop
Riegle	Sparkman	Weicker
Roth	Stevens	Williams
Sarbanes	Stevenson	Zorinsky
Sasser	Thurmond	

NAYS—26

Abourezk	Culver	Metzenbaum
Bartlett	Curtis	Morgan
Bellmon	Glenn	Muskie
Burdick	Hansen	Nunn
Byrd, Robert C.	Hart	Pell
Chafee	Hayakawa	Stafford
Chiles	Javits	Stone
Clark	Long	Talmadge
Cranston	McGovern	

NOT VOTING—7

Allen	Scott	Young
Anderson	Stennis	
Haskell	Tower	

So the amendment (No. 3880), as amended, was agreed to.

Mr. PACKWOOD. I move to reconsider the vote by which the amendment was agreed to.

Mr. KENNEDY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3808

(Purpose: To eliminate the authorization of $500,000,000 in fiscal relief for States and local governments)

Mr. DANFORTH. Mr. President, I call up amendment numbered 3808 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Missouri (Mr. DANFORTH, for himself, Senators BELLMON, BENTSEN, BUMPERS, CHILES, DECONCINI, EAGLETON, HODGES, PACKWOOD, and STEVENS) proposes amendment numbered 3808, as follows:

Beginning with line 12 on page 383, strike out all through line 14 on page 387.

Redesignate sections 602 through 609 as sections 601 through 608.

Mr. DANFORTH addressed the Chair.

Mr. McCLURE. Would the Senator yield for a unanimous-consent request?

Mr. DANFORTH. Certainly.

Mr. McCLURE. I thank the Senator for yielding.

Mr. President, I ask unanimous consent that Rob Fersh and Gale Picker of the Budget Committee be granted privilege of the floor during debate and vote on this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLURE. I thank the Senator for yielding.

Mr. DANFORTH. Mr. President, this amendment is offered on behalf of myself and Senators BELLMON, BENTSEN, BUMPERS, CHAFEE, CHILES, DECONCINI, DOMENICI, EAGLETON, HODGES, PACKWOOD, STONE, TOWER, ROTH, and BARTLETT. It would strike section 601, which is the fiscal relief section of the bill.

Mr. President, much has been said already in the last 2 days about the budgetary effects of this tax bill and its effect on increasing the deficit, and there has been speculation as to whether or not it will be the kind of bill which the President will sign.

This amendment would strike an authorization of $500 million for fiscal relief to the States. It would, therefore, assist with the budget problem which we are otherwise facing with this bill. My

amendment would strike the fiscal relief section of the bill which was added by the Finance Committee over the strenuous objection of the administration.

Therefore, if our concern is to fashion a bill which is likely to be signed by the President, one thing we could do to make the bill more acceptable to the President is to adopt this amendment and strike the fiscal relief provision.

The fiscal relief provision of the bill has no real place in a tax bill. That is, this provision does not provide for any tax relief. It does not provide for any economic relief for people. It does not provide for any economic relief to organizations, businesses, and the like.

Instead, what it is a grant of funds from the Federal Government to State governments in an authorized amount up to $\$1/2$ billion, of which it has been predicted that approximately $315 million would actually be claimed by the State governments.

It is fiscal relief without any strings at all.

I saw in one letter written by Senators MOYNIHAN and CRANSTON to a Member of the Senate that it was described as welfare fiscal relief. It is not welfare fiscal relief. There is no requirement in the law that a single penny of this money has to be spent for welfare. There is no requirement that a single penny of this money has to find its way to the poor people of this country.

Instead, it is a no-strings grant to State governments without any kind of legal obligation at all on the State governments to use the money for the poor. They can build golf courses with it, if they like. They can erect statutes or build office buildings if they like. Anything they want to do with the money is all right.

The distribution formula in the bill has no relation whatever to the need of the States that are the recipients of the funds.

There was absolutely no effort to allocate the money between the States to those States where it is needed.

I am certain that it is true that there are some States in the Union which have serious economic problems, but it is equally true that there are a number of States that do not have serious economic problems and, in fact, have a surplus in their own budgets.

Yet this bill is a shotgun approach. This provision is a shotgun approach to distributing funds around the country and, in that respect, it is very similar to the countercyclical revenue-sharing problem we faced a week ago last Saturday here on the floor of the Senate.

There is, in fact, no evidence—no evidence—of a general need by the States for fiscal relief.

In 1977, State and local governments had an aggregate surplus of $29.6 billion—an aggregate surplus in State and local governments.

We all know that the Federal budget has no surplus. Instead we have a deficit. We are facing a deficit of about $40 billion.

So the theory of this bill is to distribute money from the Federal Treasury, which has a deficit, to State governments on a shotgun type basis, whether or not the State in question actually needs the funds.

The largest recipient of the funds under this provision, by far, is the State of California. Out of an estimated $315 million to be distributed, California is estimated to receive approximately $68 million.

Is there a need in California for the $68 million?

I do not see how we can justify it because California has just enacted a one-shot income tax reduction in its State of $675 million for 1978.

How can we say to the people of America that we are going to ship from the rest of the country $68 million to California because they have just cut their own tax liability of their own people by $675 million?

The second largest recipient of funds is New York under this section. They are estimated to receive $39 million.

I would say this to the two Senators from New York who are here today. I spent 3 years of my life living in New York, living on the island of Manhattan. I started my professional career in New York. I have great compassion and concern for it, and I am sure that it has special circumstances.

For that reason, Senator MOYNIHAN has repeatedly made very eloquent arguments that we should do something for New York, and we have affirmatively responded to those arguments in the loan guarantee that we just passed for New York. We affirmatively responded to that special plea for New York City.

So there is no lack of compassion for New York and there is no lack of compassion from me. I am not telling New York City or State to drop dead.

In fact, under this particular bill, under this section, no funds would be distributed until next September, almost a year from now. If between now and September there is some special need for New York, I would be delighted to work with Senators MOYNIHAN and JAVITS to try to see what we can do.

The point simply is this: If there is a targeted special need for New York State of $39 million, let us give New York State $39 million. Let us not create a $500 million authorization, of which approximately $315 million will be distributed around the countryside, because some of that money will have to fall on New York.

In other words, if we are going to create a program and increase a program for the relief of the States, let us target the relief, so it does some good, rather than just "drop it out of airplanes" as we are doing once again under the bill as it now stands.

It was argued in the Finance Committee that this section is designed to help the poor. It will not help the poor.

To repeat: There is no requirement in the law that a single penny of this money must be used to assist the poor. Instead, it can be used for any purpose.

Moreover, the distribution formula that is contained in the bill has nothing to do with where the poor reside. If the intention of the bill is to help the poor, surely the distribution should have something to do with where the poor are, but it does not.

For example, New York State has 7 percent of the poor people in this country, and it would receive 14.1 percent of the authorized funds. By contrast, Texas has 7.5 percent—somewhat more of the poor people in the country than New York has—and Texas, instead of receiving 14.1 percent, would receive 3 percent

The State of Maine has 2.8 percent of the Nation's poor and would receive 6/10ths of 1 percent of the authorized funds under this program.

The computation of distribution is made on the basis of general revenue-sharing formula plus AFDC distribution formula and then applying an error rate formula on top of it, to come up with the final computation.

The strange thing about the use of the error rate—and it is not the real error rate; it is shifts and movements in the error rate that are measured here—is that some places are cut out entirely. For example, the District of Columbia, according to projections from HEW—and all of us here know that there are poor people in the District of Columbia—would receive nothing under this proposal. The State of Arkansas would receive nothing. The State of Mississippi would receive nothing. I was told that my own State of Missouri would receive nothing, and then I was told that maybe it would receive a little something.

How can you have a program that is styled in a letter sent out by Senator CRANSTON and Senator MOYNIHAN as being welfare fiscal relief when it does not have anything to do with welfare, does not help the poor, and none of it goes to the District of Columbia or the State of Mississippi?

Welfare reform, if we are going to have it, would be to progress toward equal treatment between the States, not to provide absolutely nothing for that one State which perhaps more than others should be helped. So this is not welfare reform.

Mr. President, I think I have pretty well presented my case at this point.

Mr. BELLMON. Mr. President, will the Senator yield?

Mr. DANFORTH. I yield.

Mr. BELLMON. Are we under a time agreement?

Mr. DANFORTH. No.

Mr. BELLMON. Mr. President, I commend the distinguished Senator from Missouri (Mr. DANFORTH) for leading this effort to drop the so-called "fiscal relief" payments from this tax bill. The Senator from New York (Mr. MOYNIHAN) and I have been having a friendly disagreement about this issue for many months—back at least to the debate on the first budget resolution for fiscal year 1979. Senator MOYNIHAN is obviously convinced that fiscal relief is an important priority for Federal funds. I believe that Senators DANFORTH, MOYNIHAN, and I, as well as many other Senators, agree that the Federal Government will need to increase its share of welfare costs in order to get some needed improvements made in the welfare system. What we disagree on is whether there should be fiscal relief in

fiscal year 1979—before we deal with any of the needed changes in the AFDC program. The real question is, which comes first, fiscal relief or welfare reform? In my opinion, both should come together.

I am encouraged by the progress that has been made this year on some of the changes Senators DANFORTH, RIBICOFF, BAKER, and I advocated in the welfare reform bill we introduced last March—S. 2777. The bill before the Senate contains several things we advocated. The CETA bill now in conference with the House has a number of features very close to the jobs proposals we advocated in S. 2777.

I want to remind Senator MOYNIHAN that S. 2777 would shift to the Federal level well over half of the AFDC costs currently borne by State and local governments. So Senator DANFORTH and I are not opposed to fiscal relief. We are for it, apparently on a large scale—and I believe a more equitable basis—than Senator MOYNIHAN has proposed, since the welfare reform bill he cosponsored provided only about half as much permanent fiscal relief as did S. 2777.

Mr. President, here are the problems I see with the fiscal relief provisions in this bill:

First. No reform would be achieved with the spending of this large sum of money. Indeed, there is no requirement that the State use the money to help poor people. I believe that is a point every Member of the Senate should realize.

It is really another form of general revenue-sharing, with a special allocation formula.

Second. Many of the State and local governments that will get this money do not need it as badly as the Federal Government does, and Senator DANFORTH has made this point very well. We still are groping for the elusive goal of a balanced Federal budget. Many States have large surpluses. The money the States would receive simply would be added, presumably, to those surpluses, at the time the Federal Government is running a deficit anticipated to be between $35 billion and $40 billion.

Third. This type of payment can become addictive. Supposedly, this is a one-time payment. But last fiscal year we handed out $187 million on roughly the same terms. The more times we do this, the stronger the pressure becomes for Congress to continue along the same paths and to become more generous year by year. The more times we do this, the stronger the pressure will be for us to continue doing it.

Fourth. This bill would provide money to the States and localities very late in fiscal year 1979. If Congress and the administration get together on a welfare reform bill in the next session of Congress, there is no reason why increased Federal matching for AFDC costs could not take effect at the beginning of fiscal year 1980. In other words, we could provide fiscal relief almost as quickly as part of a welfare reform package as we would do under this bill.

Fifth. There are many better uses for the $350 million or so that would be paid out of the Federal Treasury as fiscal relief if the Danforth amendment is not adopted. One better choice would be to reduce the Federal budget deficit. But there are other alternatives as well for spending the money. I am sure we will consider many of those if we adopt the Danforth amendment and do not spend money in this way.

Sixth. There are inequities in the distribution formula for the money. I appreciate the actions the Finance Committee has taken to correct as many of those as possible. My own State of Oklahoma, for example, would receive about $4 million under this bill. It would have received nothing had the Finance Committee not written in a protection for States which have AFDC error rates that are still quite low, although now higher than they were in some of the earlier rating periods. Again, I appreciate this change, and I thank the committee for this consideration. But I point out that the bill still produces some unjustifiable results. As I understand it—and the Senator from Missouri has made the point—Mississippi, which had an AFDC error rate of 9.2 percent in the July to December 1977 rating period, would get no fiscal relief under this bill unless it reduced its error rate to 6 percent or less during the next 6 months. On the other hand, I understand that New York, with an error rate of 11.9 percent in the July to December 1977 rating period, would get $39 million even if it achieved no improvement at all during the next 6-month rating period. I do not think this is fair, and I believe it shows the difficulties we get into when we try to hand out money in this fashion.

In short, Mr. President, the Senate should delay provision of AFDC fiscal relief until we resolve some of the welfare reform issues that I believe all of us agree need to be resolved. The Federal Government needs this money right now more than the States and localities do.

I urge adoption of the Danforth amendment.

The Federal Government needs this money now far more than most of the States and localities do.

I strongly urge that the Danforth amendment be approved.

Mr. CHAFEE. Mr. President, I rise in support of the Danforth amendment.

There is not a Senator in this Chamber who does not say either here or at home, or both, how concerned he is about inflation. This is the No. 1 topic of concern to the citizens of the Nation. We are going to do something about it. Yes, we are going to do something about it except if it involves a little bit of spending that affects us all for our own States.

Mr. President, I received recently from the sponsors of this bill a very interesting letter which shows that they are playing hard ball, but the gravy train is getting geared up ready to roll. They point out in a very polite, nice letter urging my support for what they call the welfare fiscal relief act amendment, and they simply want to point out that $2,390,000,000 adjusted for AFEC error rates would flow to Rhode Island in fiscal 1979 under this provision.

We hope you will join us in seeking to retain it.

Cordially,

Signed by both of the prime sponsors of this.

This puts it very blunt. This gets right to the point. They do not fool around. They get right to the point. The gravy train is going to roll for my State and jump on board so we can get something.

I want something for my State just as much as anyone in the Chamber does, Mr. President, and I am sure as both the sponsors of this part of the tax bill do.

But I believe that I speak for the citizens of my State, and I think all of us can say the same thing that the principal concern our people have is inflation and the only way we are going to do something about it is to make every effort to cut back spending.

I do not think there is a person in this Chamber who is not voting to reduce taxes, and indeed I voted to reduce taxes. But at the same time I want to cut down spending to the greatest extent possible.

So I commend the able Senator from Missouri for his amendment. I listened to him debate on this. I thought the points he made were extremely good as backed up by the Senator from Oklahoma, and I certainly hope that this amendment prevails today.

Mr. DANFORTH. Mr. President, I am happy that Senator CHAFEE read from the letter that he had received because I have seen the same kind of letter that was sent to another Member of the Senate which made the same point.

The point is, do not vote for the Danforth amendment because some of the money is to be distributed here will go to your State.

It just seems to me that we have had so much of that around here. When you talk about pork barrel politics, that is it.

Senator CHAFEE called it the gravy train. That is exactly what that is. It is announcing to people in the Senate, "Hey, folks, the gravy train is pulling out of the station; better get on board."

That is what has gone wrong. It is not as though we are doing something generous by giving our money in Washington to California, New York, Rhode Island, Missouri, or whatever. It does not belong to us in Washington. The money belongs to the people. It belongs to them, the people in the gallery; it belongs to people throughout this country. Scattering around some $315,000,000 of the taxpayers money on the theory that some of it falls on your State is not justification. If we drop it out of the airplane, some of it is bound to fall on you. I think it is just absolutely wrong.

I commend my colleague from Rhode Island for his statement.

Mr. CHAFEE. Mr. President, I wonder if the Senator from Missouri will yield for a question.

Mr. DANFORTH. Certainly.

Mr. CHAFEE. As the Senator knows this money comes to Washington through taxes, and then they say we are distributing it out to the States. I suppose some can say well what comes in goes out. But there is a skim factor, is there not?

Mr. DANFORTH. That is absolutely correct.

Mr. CHAFEE. The skim factor is for the bureaucracy here in Washington to

pay this public servant or that public servant or that GS–19, that GS–10. I do not know what the filter rate is. What the skim rate is. But if it is less than 20 percent I would be amazed before the shower falls gently as soft as dew back on New York, back on California, a pittance perhaps on Rhode Island, not too much, just enough to tempt, just enough to tempt us, "Come along for $2.3 million."

Well, Mr. President, I do not think we can be bought for $2.3 million. It is tempting, but we will resist. We will resist because our hopes are that somehow this little effort in resisting will assist in curbing this vicious inflation.

Not everyone in the United States is included into some indexing system. Not everyone is like the civil servants or the retired military that on October 1 received a pay raise because the inflation index went up, and they are taken care of. That is great.

But what about the people who saved? Remember those ads when we were growing up that showed the silver-haired mother and father in their row boat in Florida saying, "I retired in Florida on $200 a month." These were the ads that tempted people to save and make this effort. That was in 1939 and 1940. Two hundred dollars would not get them through a week now.

And if there is one thing we can do in this Senate, it is attempt to curb Government spending and thus reduce the inflation that is working such wicked effects on this Nation.

I thank the Senator.

Mr. MOYNIHAN. Mr. President, many large consequences have been predicted for the Roth-Kemp multibillion-dollar tax cut, perhaps the most extraordinary proposal in American fiscal history. As I calculate it, it is a proposal to cut approximately $350 billion from our finances in the next 4 years. It is said that it would be the most extraordinarily irresponsible act that has been contemplated in the history of political economics.

Mr. President, it was said that it would have consequences, and indeed it has produced consequences—within 45 minutes.

It has turned the Senators from Rhode Island and Missouri into prudent fiscal conservatives alarmed at the thought that $305 million going to welfare recipients might bring about an increase in the price index. Less than and hour after voting to dismantle the finances of the American Government they come before us alarmed that a few small dollars might go to welfare recipients. At one moment, $350 billion is scarcely enough; $305 million threatens the very Republic. Twenty minutes later, I say to Senators——

Mr. DANFORTH. Mr. President, will the Senator yield?

Mr. MOYNIHAN. Not yet.

Mr. DANFORTH. Mr. President, will the Senator yield on that point?

Mr. MOYNIHAN. I say to Senators the Kemp-Roth bill has had consequences beyond even my imagination—and I predicted dire consequences.

It has turned two reasonably easy-going men into legislators terrified at the thought that the slightest compensation for the poorest people of this country would undermine the veritable value of the dollar—the base of the Republic and the foundation to which all true men repair in times of difficulty. To them, $350 billion is fine 1 minute and $350 million is subversive, alarming, terrifying, and the act of wild-eyed spenders bent upon ruining the sacred integrity of American fiscal policy.

Well, sir, it has been instructive. I would say this: One might have expected that the frenzied Keynesianism of the Republican Party would not be long lasting and, indeed, it appears to have lasted about 45 minutes.

Well, anything for a new sensation.

Mr. DANFORTH. Mr. President, will the Senator yield?

Mr. MOYNIHAN. The Senator will yield for a question.

Mr. DANFORTH. All right, for a question. Is it not true that your statement is erroneous and that, in fact, this is not $315 million for the poor but, in fact, there is no requirement in this law that a single penny go to the poor? This is just distributing money to the State governments and they can spend it any way they want to, for golf courses, bowling alleys, or statues?

Mr. MOYNIHAN. No, the answer is no. The Senator asked a question to which I was going to address myself until I found that the Senator from Rhode Island had so quickly reverted to his normally careful ways after such a dramatic lapse.

These moneys will provide the Federal share of AFDC payments to States. As we all know, money is fungible, so that in some respects you cannot accurately follow the flow of dollars. But it would, according to basic principles of public finance, be accurate to say that every nickel of this money will go in payments to AFDC families or to defraying the administrative expenses of making those payments. That is the only legitimate way to describe this measure. This is matching Federal money for AFDC.

Mr. DANFORTH. Mr. President, will the Senator yield while he is getting his notes together so I can just correct the record on that?

Mr. MOYNIHAN. I would prefer not to yield until I have finished speaking. But if the Senator really feels I said something wrong, please say so.

Mr. DANFORTH. The Senator said something wrong.

Mr. MOYNIHAN. All right, I yield for that.

Mr. DANFORTH. I would just point out that my office talked today to a Mr. Barry Van Lare, who is the Associate Commissioner for Family Assistance, the office which administers the AFDC program, and put the question. HEW states the money can be spent in any way the State cares to spend it.

Mr. MOYNIHAN. I am baffled by this. I do not know if the man knows what he is saying. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. METZENBAUM). The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOYNIHAN. Now, Mr. President, I am sorry to have interrupted the Senate for this moment. If I seem uncertain in my response it is out of sheer bafflement.

Section 403(a) of the Social Security Act is the measure that provides matching payments for aid to families of dependent children. Now, what in the name of heaven was that man saying to you?

Mr. DANFORTH. We will be happy to——

Mr. MOYNIHAN. Let me make clear that I do not think the Senator is in any way trying to give misinformation. But I am quite baffled by this contention. Mr. President, I suggest the absence of a quorum and we can settle this thing.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BENTSEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BENTSEN. Mr. President, as a cosponsor of the Danforth amendment, I would like to take a few moments to explain why I think it makes eminent good sense and should be accepted by the Senate.

Senator DANFORTH proposes to eliminate a $500 million expenditure from the tax bill. That fact alone makes the amendment attractive at a time when we are deeply and legitimately concerned about the level of government expenditures.

But I would urge my colleagues to support this amendment not merely because it saves money. I would submit that the proposal is as logical as it is fiscally responsible.

The pending legislation contains what might be described as a $500 million incentive payment, to be doled out among the States in order to encourage what is loosely described as "welfare reform." The basic thrust of the legislation is to establish a 4-percent target for welfare errors, and and to reward the various States as they eliminate errors and move toward this 4-percent goal.

This is a commendable objective. No doubt about it. We can all agree that welfare reform and the elimination of errors is an important national priority.

I am not at all convinced, however, that we can afford to spend half a billion dollars at this time in the name of fiscal relief or welfare reform, particularly when the proposal being considered is so blatantly unfair and ineffective.

The proposal Senator DANFORTH seeks to delete is generous in the extreme to two categories of States: those with unusually high welfare expenditures and those with traditionally sloppy accounting procedures. The two categories, of course, are not mutually exclusive.

New York and California have tradi-

tionally been the two States most generous to their welfare recipients. It comes as small surprise, then, that these two States could receive 28 percent of all the funds distributed under the proposed formula, while they have only 16.3 percent of the poor people in this country.

By way of comparison, Texas—with 7.5 percent of the poor—could only get 3 percent of the funds. Similar imbalances apply to States such as Louisiana, Georgia, South Carolina, Tennessee, and Kentucky. The basic rule involved here is: the more you pay, the more you get.

The shortcomings of this proposal are not limited to a skewed distribution of funds. The legislation in question would also reward the States which have had the highest rates of error. It transforms a history of carelessness into a virtue. Because of the way the formula works, a State with a 6.7 percent error rate could collect nothing, while a neighboring State with a 12-percent rate could reap millions of dollars.

Mr. President, I think it was our distinguished former colleague from Illinois who once remarked that "You take a few million dollars here and a few million there, and pretty soon you are talking about real money."

Well, today we are talking about real money: a $500 million program of dubious merit has been affixed to a tax bill in the name of welfare reform. I think—in the name of fiscal responsibility and for that matter in the name of welfare reform—we should strike it.

This is hardly the time to be increasing expenditures for welfare. During the past year—that is, April 1977–78—43 jurisdictions had a decrease in the number of welfare recipients; 19 showed an absolute decrease in the amount of welfare payments. Nationwide, there has been a 4.2 percent decline in the number of recipients, with the CBO predicting a further drop.

At a time when we are facing a $40 billion budget deficit and a taxpayers revolt, I find it difficult to believe that we are actually contemplating an expenditure of this magnitude on such an ill-advised project.

How is it that the Federal Government, with high levels of expenditures and a crushing deficit, can open its purse further to the States that enjoy—by even the most conservative estimate—a $6 billion surplus? Why do we have to provide an expensive incentive for the States to clean up their welfare rolls when the States already have the incentive enough; when they pay between 17 and 50 percent of the cost of their oversights?

If the case can be made for more fiscal relief to the States, then let us provide that relief through the general revenue sharing program, not through some bizarre subsidy tucked away in the tax bill.

Mr. President, we do not need this expense and we cannot afford it. I urge the adoption of the Danforth amendment.

Mr. MOYNIHAN. Mr. President, I will not detain the Senate at any great length on this matter. First of all, I spoke to the curious proposition of members who had just voted for the most extraordinary tax cut in history coming along and expressing great alarm at a fiscal relief measure in welfare.

Second, I would have to say that this proposition is unfamiliar to me—to have it suddenly suggested that somehow this money was not going to be extended under the title of fiscal relief. It is under that title that it has been expended and is being expended in this very year, as a matter of fact.

I do not know why we have to come in and break the chain of thought by such a contrary contention. It is simply not the case; the case is what I said to be the case.

I do feel that something is being sapped from our national life when letters such as this from the Senator from Missouri and others are circulated, in which opposition is stated, not to an extraordinary proposition, but to a commitment in the Democratic platform.

This is a commitment in my political party's platform: fiscal relief for State governments. I believe it is to be found in the Republican platform as well. It is nothing out of the ordinary.

But it is said that the money is allocated not on the basis of where the poor reside, but to the States that have given higher benefits to their poor in the past; that the allocation does nothing to equalize the treatment of the poor in different States.

What this is saying, Mr. President, is that those States which have shown a responsibility, a sense that they would discharge their responsibility to their poor, are estopped; they made a mistake, and now have taxes far out of line with other regions, and that is too bad.

Why are there more poor people in Texas than in New York? Well, surely the Senator from Texas knows why. It is because the people of Texas, and the government of Texas, leave their poor people poor, and so does the government of Oklahoma, sir.

Other States have chosen not to do that. There is a volume recently published by the National Institute of Education called "Tax Wealth In the Fifty States." It is a very eloquent inquiry into the tax capacities and the tax efforts of the States, utilizing an econometric contour worked out by Selmer Mushkin and our own Alice Rivlin in 1964. I commend it to all Senators.

Now, the State of Texas actually has a higher tax capacity than the State of New York. Based a 100 average, New York has 102, Texas has 113. But we in New York tax ourselves at a tax effort of 152, and Texas has a tax effort of 68.

Yes, you have more poor people, but that is not because you must; you have the same capacity to provide for your poor as we do, but you do not.

Mr. LONG. Mr. President, will the Senator yield?

Mr. MOYNIHAN. I would be happy to yield.

Mr. LONG. Is it not a fact of life that under the present welfare program, each State is permitted to decide for itself just how far it wants to go, how much money it wants to put into this welfare program, and that some States do a lot more than others?

There was a time when Louisiana was regarded by some as a welfare State. That was a time when Louisiana was paying more money in its program for the aged than the State of New York.

That was many years ago, may I say, more than 30 years ago, before I came to the Senate. I helped to make the State's program that way.

But New York, since that time, has seen fit to do a great deal more for its low-income people. It saw fit to raise benefits and do a lot more for people, not only in this area, may I say to the Senator—is it not a fact that they have also done a lot more in terms of education? For example, in Louisiana, where we pride ourselves on being very liberal, we never felt we could provide young people an opportunity to go to college without paying tuition, while a great university in New York, as I understand it, has had a policy of trying to provide young people an opportunity to go to college even though they could not pay the tuition.

Each State has had the privilege of deciding for itself how much of its resources it would choose to put into an effort to help its poor.

Mr. MOYNIHAN. That is right.

Mr. LONG. Some States, including New York, including Illinois, including California, went the extra mile in trying to help their poor.

Now they find themselves with a problem. They have a high-cost program. But when we seek to provide additional money to the States, and give it to those States that do what they can to improve the efficient administration of their programs, is it not fair that those States making the greater effort, on a matching basis, ought to receive more than those making the lesser effort?

I am not trying to find fault with States which provide lower payments. Those are good people, and they make their decision on the basis of their resources as their conscience dictates.

But it is also somewhat unfair, is it not, to suggest that because a State tried to go the extra mile to look after their low-income people and their poor, they should not be given some consideration when we try to help them with a very heavy burden, the burden of caring for the poor?

This money, as I understand it—and I ask the Senator if this is not correct—is to go for the low-income people; it is for their benefit.

Mr. MOYNIHAN. Entirely correct.

Mr. LONG. If States want to do it, and I hope they will, this gives them what it will take to at least try to provide some meager increase in cost-of-living payments for these poor people.

Mr. MOYNIHAN. May I say that in my own State there has been no increase in 4 years and the true value has declined by 28 percent.

The gentlemen who composed this letter have mixed their grounds. They have said, "You do not need to do anything for New York, as it were, or California, because those States do not have that many poor people," knowing full well

that we do not have that many poor people because we have followed a national policy to try to eliminate poverty.

The Federal Government has always encouraged people to raise these standards—they are not very high—by helping them match. And having said, "Too bad that you did that, that is your problem now," at the same time they invoke the claim that, "We in State X or Y have poor people and somehow can make a claim on a collective response." Follow me. If you get no credit for having eliminated your poor by taxing yourself to do so, certainly you claim no consideration for not having done so, because we have already said people are on their own.

It is like the well-known case of the child that murdered his parents and asked for clemency on the grounds that he was an orphan. Just like that, you are tearing up a compact that has been around for a long time—a compact which says we try to help each other. The fact of helping is not something to be used against you in argument, but perhaps something quietly to be acknowledged—it is not a dishonorable thing.

I happen to think it is not an act, or a product, of irresponsible behavior that there are not as many poor people in New York as there are in some other places. There are not as many because we tax ourselves higher than any State in the Nation so that those 3-year-old children do not live in poverty. When other States of very considerable wealth let their 3-year-old children live in poverty, their distress makes no very great claim on me. It is easily correctable.

I hate to see an ethic of common provision rendered in this Chamber. I hate to see the people of my State, who for three generations have embraced national levels of provision, told that we made a mistake, that now we are in trouble and no one else cares, and that we will have to get out of it on our own.

Mr. BELLMON. Will the Senator yield?

Mr. MOYNIHAN. I have one more thing to say and I have nothing else to say after that.

Yesterday and the day before, I attended meetings in the majority leader's office. We were attempting to determine whether we were going to get the votes to put through the water projects in Louisiana, Oklahoma, Colorado, the Mississippi Valley——

Mr. BELLMON. New York.

Mr. MOYNIHAN. And the Great Plains.

New York had less than 1 percent. Considering what we pay in taxes, we were going to pay 20 times the amount we would have received—three tiny recreational projects.

Those water bills are for the great American desert and for the Mississippi Valley. I daresay I was going to vote to override the President's veto. I will say it now even if lightning strikes and we lose that tiny project in Cattaraugus County.

It is a simple national ethic of provision to which we respond. It is the American desert, and not just the Arizona desert. There is a social calamity in the middle of New York City and it is an American calamity of welfare as much as it is New York's. But if it turns out that our side, having tried to do something about our children, made a mistake, then this would not be the country that Franklin D. Roosevelt set out to make it.

Mr. President, I have nothing more to say. I yield the floor.

Mr. BELLMON. Will the Senator yield?

Mr. MOYNIHAN. My senior colleague has the floor.

Mr. JAVITS. I yield.

Mr. BELLMON. Senator MOYNIHAN was pointing out that if we do not go along with this, we will render the policy for the poor. If the Senator will look at it, the largest item is what we call income transfers and that virtually all goes to the poor.

Mr. MOYNIHAN. No, it does not. It goes to social security payments, where it should go. Those are not poor people but retired people.

Mr. BELLMON. A great deal goes to food stamps, to school lunches, to medicare, to medicaid. The whole proposition is to aid people who cannot help themselves. I do not think it is fair to say that if we do not come along with another $350 million we have broken our covenant with the poor people.

Mr. MOYNIHAN. I did not say that. I was referring to the argument introduced in the letter transfer. I said there was a fundamental conflict in that argument—to say that those States which, in response to national commitments, had fulfilled them on their own, were now to be told that therefore they could make no further claim on the national resources, but those States which had been derelict or for whatever reason had not fulfilled them, could make such claim, then we have set an example of what not to do. If those States with significantly greater tax capacities than my own—and half the tax effort—somehow claim they are more deserving than those States foolish enough to have looked after their children on their own, then I think we have introduced a counterproductive principle. In any event, I have finished talking and I wish to sit down.

The PRESIDING OFFICER. The senior Senator from New York.

Mr. JAVITS. Mr. President, I bring up two points which I have been fighting on here for years, which Senator MOYNIHAN has touched upon accurately. One is the sudden burst of honest indignation from Texas, Missouri, Rhode Island—how outraged they are being about $315 million. He has pointed out very accurately that these Senators voted in the main for the Roth-Kemp bill, which, in my judgment, would have made inflation go to 20 percent, if we were unwise enough to go through with it. That was OK.

But worse than that, Mr. President, we appropriate billions for farm price supports. Has anybody ever heard me get up, and I have been here for years, and inveigh against it on the ground that those farmers are doing just fine, why give them supports?

Mr. President, here are the figures: Agricultural subsidies in 1977, $1.5 billion, and, in 1978, $4.358 billion estimated. What kind of chicken feed is Senator MOYNIHAN engaged in this kind of relief?

And, Mr. President, what about these rivers and harbors? Senator MOYNIHAN was talking to me about sustaining the override of the veto, which was then in the House. He pointed out that we had $77 million in projects as against roughly $2 billion elsewhere, and that we would pay back over $3 billion in taxes.

Mr. MOYNIHAN. Seventeen billion dollars.

Mr. JAVITS. Seventeen billion. New York would pay back over $17 billion in taxes over a period of years in order to pay the bills of others.

Mr. President, what about all these formulae that I have been fighting about here for years, absolutely slanted against New York 20 and 30 years ago, doubling the per capita income to show that States are poor, not just leaving it to the figures but doubling it, in order to get more money out of the common till for particular purposes in those States?

Are their poor any less poor than ours, or their blind any less blind than ours?

Mr. President, I must say this "honest indignation" is very, very wrongly placed. I looked at this very carefully. I am not given to doing things blind. What has happened is that New York has paid a very heavy penalty for a major demographic shift in this country.

In my native city of New York—and everybody knows this; it is common knowledge, but I shall state it—there has been a change of 3 million of the 8 million population from normal-earning workers to poor. Most of those poor get support. That public support really busted New York. Sure, New York has had lots of other troubles, but what really busted it was this demographic fact, because New York City pays 25 percent of the welfare cost. New York State pays 25 percent of the welfare cost. When it comes to Federal reimbursement, Texas gets 70 percent, we get 50 percent. There is your disparity right there. Texas gets 70 percent, we get 50 percent.

What has happened? What has happened is that we have an unemployment rate two points above that of most States, certainly above the national average. New York City has one of the highest unemployment rates in the country and so have the main population centers of western New York.

Why? Because we are hemorrhaging due to the loss of jobs. Why? Because industry is moving out and not moving in, precisely because of the heavy burden of taxation brought on in part because of this disparity in Federal reimbursement.

And I getting up here to inveigh against these gentlemen, that they are competing against my State unfairly, taking away its business and keeping other business from coming there, just because they have not done what we have done—to wit, treat our poor as fairly? Never in New York State's history has there been a waiting period. Why did the blacks flow from Mississippi and Alabama and other States to New York in the 1950's and the 1960's? Because, as far as those States' payments were concerned they

could starve to death down there on $50 a month. So they moved. They voted with their feet, as the saying goes. For that, we should not be penalized.

What is happening here is that New York is to get some reimbursement for the things which it has done, really, beyond the call of national duty and due to a major national demographic shift. The amount involved is certainly, compared to all the things I have just outlined, modest enough so that it deserves redress. We pass private bills here by the bushelful to redress injustices. This is a public bill to redress an injustice.

Senator MOYNIHAN is entitled to enormous credit for fighting this through the Committee on Finance and getting it passed here once.

I hope that, for these reasons of basic equity and fairness, the Senate will sustain the section.

Mr. DANFORTH. Mr. President, will the Senator yield?

Mr. JAVITS. I yield.

Mr. DANFORTH. I do not know if the senior Senator from New York was present when I made my presentation a while ago, but I made the point in that presentation that I am certainly not anti-New York. I had the privilege of living for 3 years of my life, after I got out of law school, in Manhattan, practicing law in New York, living in an apartment in New York. I agree with those who say that New York is our window on the world and that New York is certainly entitled to every consideration. Even assuming that that is the case, I ask the Senator this: Why do we have to spend $315 million, scattered around the country, not necessarily on the basis of need, to provide $39 million for New York?

Second, as long as we are scattering it around, why do we not provide something for the District of Columbia? The District of Columbia has poor people, too. All you have to do is drive around the District of Columbia and look, and I do not think we have been ungenerous in taking care of them. Yet, under this, the District of Columbia would not get a penny.

How about Mississippi? Are there not poor people there? We are the Federal Government. We allegedly are concerned about poor people no matter where they live, whether they live in New York, the District of Columbia, or Mississippi. Why do we not provide for the poor people in Mississippi, or the poor people in Arkansas, or the poor people in Alaska in this bill? As a matter of fact, New York, which has 7 percent of the poor, gets 14 percent of the benefit under this bill. Maybe that is justified, but there are disparities up and down this table. All you have to do is look at it. It does not make any sense.

The Senator from New York has consistently said, in the time I have been in the Senate, that we need carefully focused, targeted approaches to solving our problems. Why, then, have a program that just spreads the money around in the hope that some of it will come into New York?

Mr. JAVITS. I answer the Senator's question by saying I think he is completely blinded by his own point. Nobody contends for 30 seconds—I have not heard it—that this is a program to spread money around to the poor. It is a program to redress injustice. It is a program to redress a demographic difficulty which concerns not only New York but other States in which they suffer adversely in terms of their welfare payments. So, over the years, an effort has been made to try to redress that difference, because of the excess burden upon New York and other States—and that is the reason, I assume, for the division by the Finance Committee.

Mr. DANFORTH. I never——

Mr. JAVITS. If I may just continue. The Senator took a little while.

Therefore, the Senator's argument is completely irrelevant. This is not a program to aid the poor. Senator BELLMON just pointed out that there are billions in the budget in various kinds of transfer payments. AFDC payments alone, by the way, are $5.6 billion a year. So this is not a program to get a helicopter and sprinkle money around. That is not its justification. That is not, as I understand it, the justification claimed by Senator MOYNIHAN, who is its author. The justification is a rectification of injustices of the past; therefore, a sum of money is provided to try to rectify those injustices.

Now, if Senators have any argument with the way it is done, the amendment should be not to strike it and not make the argument that is not deserved, that it just is spreading largess to the poor, but to state a particularization of the way they want this amendment reformed so that it reflects the purpose of the man who proposed it.

Mr. DANFORTH. If the Senator will yield, I have never made that argument.

Mr. JAVITS. I am sorry, I am not quite through.

The Senator is making the argument now that it is some largess to the poor.

Mr. DANFORTH. I never made that argument.

Mr. JAVITS. The Senator has just done it. And therefore, it should not be scattered around to particularly benefit a lot of States; why not give $39 million to New York? Well, we do not want your $39 million except on the basis of justice to redress past injustice. That is all that Senator MOYNIHAN has argued.

Now I yield.

Mr. DANFORTH. I just say that I have never made the argument that this is money that goes to the poor.

Mr. JAVITS. Mr. President, I may be hard of hearing, but that is what I have heard and I think that is what the whole Chamber has heard constantly.

Mr. DANFORTH. If the Senator has heard it that way, let me restate my argument, because I had an extensive debate with his junior colleague. There were a couple of quorum calls on just this issue.

This money is not designed to help the poor. There is nothing in this proposal to help the poor. There is no assurance that a penny will go into the pockets of the poor people in this country. This is money that goes to State governments. Some of it has to be passed through to local governments; most of it goes to State governments. The money goes to State governments to do with as they wish.

They do not have to spend it on the poor. They do not have to spend it on welfare programs. They can spend it on anything they want. They can spend it on putting up buildings, salaries for their State officials, limousines; anything that the State wants to do, this money can be spent for. It is not meant to help the poor and it is not distributed on the basis of a formula of where the poor reside.

That is exactly the point. New York has 7 percent of the poor; New York gets 14 percent of the benefit. Texas has 7.5 percent of the poor; Texas gets 3 percent of the benefits. It does not make any sense at all.

Mr. CRANSTON and Mr. JAVITS addressed the Chair.

Mr. JAVITS. Mr. President, if I may just finish, I think I heard the Senator very, very distinctly argue only 4 minutes ago, that this was just spreading money around for the poor and if we wanted to give New York $39 million, let us just give it to them.

As to his argument that it just goes to the State, Senator MOYNIHAN has dealt effectively with that. As to the point on Texas, let me point out first that Texas gets a 70–percent reimbursement from the Federal Government, and second, the poverty level is based on a national standard. In New York, you can be poor, and you are really poor, and have an income 1½ times or double the national standard. So those figures, in my judgment, are not convincing.

The essential point that I am making, whatever the Senator may want to make me make, is that this is a redress for past injustice, with the State paying far more than it should have paid for demographic reasons affecting the United States and that, therefore, this reimbursement is not unfair.

If the Senator objects to the way in which it is distributed, it is his privilege to try to amend the amendment, or the provision, in order to make it what in his opinion may be more fair.

But that is not the Senator's purpose. The Senator is moving to strike it all on the ground it should not be done, and that is what I fight and thoroughly disagree with. That is the point of my argument.

Mr. CRANSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mr. CRANSTON. Mr. President, I ask unanimous consent that John Steinberg and Babette Polzer be granted privilege of the floor during debate and votes on this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRANSTON. Mr. President, there is little I can add to the eloquent, forceful and factual statements made by my two colleagues from New York. I join them in feeling very strongly that it is important for us to provide some fiscal relief to States and counties from the burden of welfare costs, and, in doing that to help poor people, which we very

plainly do by the approach involved in the language this amendment would strike.

We cannot continue to hold fiscal relief hostage to the broader welfare reforms we all want to accomplish. Senator MOYNIHAN has been leading the effort to achieve reforms in the welfare system in our country for 10 years or more.

Always we hear the argument that next year we will get a great bill and, therefore, we should do nothing this year. The result, however, is that the proposals become so complicated and costly and controversial that nothing ever happens.

Now, we have an opportunity to at least take one small step that will not undercut, in any way, future efforts to do more.

I trust all of us, no matter what side we are on on this particular amendment, will join in the effort once again next year to achieve something great and grand. But I am not very optimistic, because of all the troubles we have had in that effort up to now.

I remind my colleagues we have waited for relief to be provided the States and counties year after year. It has not come, and who suffers? It is not some amorphous State government. It is the welfare recipients who do not receive cost-of-living increases. They are the ones who suffer from our inaction. They are the ones who will suffer from our inaction now if that is the course we take.

Without fiscal relief, we can expect that there will not be cost-of-living increases. It is poor and hungry people that will suffer as a result.

This measure is designed to help poor people. Concerns have been expressed about the fact that roughly one-quarter of the funds that would be provided by the provisions now in the bill would go to New York and California.

I would simply like to point out that one-quarter of the welfare recipients on the AFDC program live in New York and California. Where else would the relief then appropriately go in any percentage allocation? The fiscal relief in this bill falls where the recipients are.

I would like to point out that many recipients in my State of California came from Missouri, Oklahoma, Texas, and other States, some even from New York State. Many are doing well. Many are paying property taxes and other taxes that go to provide relief for those who are not doing that well.

What about property taxes? The real tax revolt in our country and I have seen it in my State of California, is most of all over property taxes.

A direct impact of this measure, insofar as taxation is concerned, would be on local property taxpayers. These are the people who are carrying most of the burden of welfare, and they need relief.

This measure now in the bill that would be knocked out if this amendment prevails provides some relief for those property taxpayers. This measure provides that the bulk of the relief will be passed through to local governments in States where local governments share in welfare costs to help relieve property taxpayers from the fiscal burdens of supporting welfare recipients.

Following the vote in my State on proposition 13, pollsters working at the polling places found that a majority of the people who voted for proposition 13 thought they were voting to relieve the burdens that they pay on the property tax.

Here is an effort to respond to that complaint, to that burden, that feeling that is widespread in the country, and is not limited to my State of California.

Let me finally say in regard to the error rate factor in the formula for distribution of relief, it provides a real incentive for States and localities to reduce errors in administration of welfare programs.

There has been a great deal of concern about error and fraud. Well, here is an effort to get at that, so strike it out of the bill, let error continue, do not reward States like my own that have done something about reducing error.

Despite our efforts and those of the administration to get more comprehensive reform enacted, we have been unable to get more extensive changes. This measure does provide for discouraging error, for providing some property tax relief, and for helping poor people.

I urge rejection of the amendment.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, first, I ask unanimous consent that Mark Asch of Senator METZENBAUM'S staff be granted privilege of the floor during debate and votes on this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUMPERS. Mr. President, this debate between city boys and country boys is going to be a prevalent practice here on the floor, and I regret it.

I must say, I do not see it in those terms. One of those terms, as I see it, is that this morning Senator KENNEDY and I offered an amendment to this bill which will cut $3.7 billion its first year. But it is all going to the people in this country who need tax relief more than anybody else, and that is the category from $10,000 to $30,000.

This tax bill does a very good job of taking care of the poorest of the poor. The zero to $10,000 a year get anywhere from 8 to 12 percent in tax relief above the inflation plus social security rate.

It is a big help to them, and the Finance Committee should be commended for doing that.

Something else they did, of course, takes care of the very richest of the rich, because the people making over $200,000 get a 64-percent tax cut.

That makes no sense.

But that is not totally relevant to what I want to talk about here. What I want to talk about is that here is a chance for the U.S. Senate to save $500 million in order to fund a very good amendment that was adopted this morning, $500 million that is going to States based on their AFDC error rate, but is totally irrelevant in the disbursement and spending of the money to the poor.

The county judges in my State, God bless them, I know they would not do it, but if they should happen to get anything under this formula, and it is not likely for my State to get anything, but, if they did, they can build a monument to themselves. There is nothing in this bill that says this money will go to these children.

All we are doing is using the formula as a little carrot to say, "If you reduce your error rate, we'll give you a little money."

Mr. MOYNIHAN. Will the Senator yield?

Mr. BUMPERS. I am happy to.

Mr. MOYNIHAN. I do not want to persist in this, but the Senator has been misinformed. This money will be transferred to the States under the provision of matching grants for AFDC.

Apparently the point cannot be made. But I assure the Senator I am correct in this matter.

Mr. BUMPERS. I may be misinformed. I do not want to misspeak myself.

Can the Senator quote me the part of the statute that says that this will go back to the States, and the subdivisions, for that purpose?

Mr. MOYNIHAN. Yes.

Mr. BUMPERS. Because it might possibly go to the merit of my argument.

Mr. MOYNIHAN. I appreciate that. It is just that I quoted it earlier. It is section 403.

Mr. BUMPERS. If I may proceed.

Mr. MOYNIHAN. We have it right here.

The Senator knows that there is a section of the Social Security Act under which funds are appropriated to be transferred to the States to provide for AFDC payments.

Mr. BUMPERS. Will the Senator repeat that?

Mr. MOYNIHAN. The Senator knows that there is a section in the Social Security Act which provides for the transfer of Federal funds to the States to provide for AFDC payments.

Mr. BUMPERS. Yes, I am familiar with that.

Mr. MOYNIHAN. That is section 403. Title VI in this bill, fiscal relief for States and political subdivisions with respect to costs of welfare programs, states:

> The last paragraph of Section 403(a) . . . is amended.

It does not have much to do with the argument of the Senator from Arkansas.

Mr. BUMPERS. I am pleased if I stand corrected.

Mr. MOYNIHAN. I do not know how this idea got going.

Mr. BUMPERS. The Senator from New York has diminished the strength of my speech by one decibel, if that is correct.

Mr. MOYNIHAN. I just did not want the Senator from Arkansas to say something that was wrong.

Mr. BUMPERS. The Senator can assure me and my colleagues that any funds that go to the States under this measure will indeed be used by the States to fund every AFDC program?

Mr. MOYNIHAN. That is correct.

Mr. DANFORTH. Mr. President, will the Senator yield?

Mr. BUMPERS. I yield.

Mr. DANFORTH. The Senator from Arkansas was correct in his original statement. The Senator from New York is not correct.

These moneys are received by the States with no strings at all. My office has communicated with HEW. I reported the gist of the telephone conversation on the floor. We have called to HEW. A letter is on the way explaining it. There is absolutely no requirement nor any assurance that any of this money has to go to AFDC recipients or anybody else who is poor.

Mr. DOLE. Mr. President, will the Senator yield?

Mr. BUMPERS. I yield.

Mr. DOLE. Perhaps the Senator from New York will agree that some proviso can be added to the language of the Moynihan amendment which would indicate clearly that the funds could not be used to supplant funds that now may be in the hands of the States or localities but must be used for those who might be eligible under the AFDC program.

That might satisfy almost everyone in the Chamber.

Mr. MOYNIHAN. I would be happy to do that.

Mr. BUMPERS. I appreciate the suggestion of the Senator from Kansas.

Mr. DOLE. Would that satisfy the Senator from Arkansas, if that were done?

Mr. BUMPERS. It would help my feelings a good deal. I do not think Arkansas will get any of the money, anyway. I hope the amendment of the Senator from Missouri will be adopted and that no State will get any money under this. But if they do, it will be fair if it goes under the AFDC program to AFDC children.

To continue, Mr. President, I should like to make a couple of observations.

If you go to the Rotary Clubs, what do they talk about? Balance the budget. That is all you hear.

Let me point out something about the budget: 25 percent of it, $127 billion, is going back to the States and local governments. Do you know what it was about 10 or 15 years ago? Five percent. The Federal Government, which is in 10 times worse shape than any State in the Nation, is now becoming nothing but a tax collector for the States and local subdivisions.

I was led to believe that this provision of the bill simply gives $500 million more to the States in revenue sharing.

The Governor of my State has just been elected to this august body by telling everybody he is leaving a $60 million surplus. In a billion-dollar budget for our State, there is a $60 million surplus, and half of that budget down there is coming from the Federal Government, which has a $38 billion deficit.

Mr. BENTSEN. Mr. President, will the Senator yield?

Mr. BUMPERS. I yield.

Mr. BENTSEN. This is interesting, and I am getting a little weary of hearing it time and time again. The same Governors turn around and talk about the waste in the Federal Government.

Mr. BUMPERS. I am one of them.

Mr. BENTSEN. And the waste in Congress, and what kind of deficit budget we have up here, and the fact that they are running on a surplus budget. Then they turn around and want more diversion of Federal funds to the States, unaccountable, to spend as they desire.

Mr. BUMPERS. The Senator is absolutely right. He hit me right between the eyes, because when I was Governor and ran for the Senate, I boasted about the big surplus I left and the great financial condition the State was in—and it was. We do not allow a deficit in my State, because we cannot spend more than we take in.

We send $500 or $315 million—whatever figure you want to accept—back to the States, almost every one of which has a surplus, and build our deficit another half billion. That is the prerogative of this body, and we can do it if we wish.

Let me tell you something else: It happened while I was Governor of my State. We had one of the lowest error rates in AFDC. Since I left, the error rate has been going up a little, and we are now up to about 9 percent. Our base under this bill would be about 6.7 percent.

Do you know something else? The Senator from New York said a moment ago that New York City—because the blacks in the South had been voting with their feet and emigrating to the North—that the inner city of New York City was a social calamity.

I do not want to denigrate my State, because I am telling you that it is one of the most beautiful States in the Nation, and I hope you will come to see us—but do not stay. We are being inundated now. It is a beautiful State, and I want to keep it that way. But we have had a social calamity ever since Reconstruction, in my State; 1.6 percent of the Nation's population are poor. Eighteen percent of the people in my State are under the poverty line.

What are we going to get out of this? Not a thin dime; not a red cent. Last year, this group appropriated $187 million for the same purpose, to alleviate the suffering of the States, and what did we get? Not one red cent.

The District of Columbia has a 20-percent error rate. If the District of Columbia reduces its error rate to 10 percent, it is going to come in for a healthy share of this. But if a State already has a 5-percent error rate and just cannot get it any lower, and is doing a magnificent job, I do not care if 50 percent of the people in the State are poor, they are not going to get a red cent, under this provision. Where is the equity in that?

Can you tell me how you can justify this in your conscience? Do not think of it in political terms. Just think of it in plain, commonsense, helping the poor terms. Can you justify it? Of course you cannot.

I will tell you something else: When the Senator from New York talks about the blacks flowing out of the South into the urban areas of the country, he is right. In 1935, my State had 33 percent of the population black. When I was Governor, it was 16 percent, and it is now almost 18 percent.

I want to make two points. No. 1, the blacks did not leave my State because they wanted to. They left because of economic circumstances.

It was a disaster for everybody during the depression, but especially for blacks. They left not because they wanted to. They loved that State, and that is where their families were. They did not go to New York from my State. They went to Kansas City, Chicago, St. Louis, and Detroit. But they are coming home; they are coming back. We are pleased to have them. They are coming back to their families and to a little more space, a little cleaner air, and to economic opportunities which never existed before.

So I recognize that the urban areas in this country, indeed, have had a problem in dealing with some of the problems we have exported. But let me tell you something: When the blacks left the South, it did not leave the rest of us in any better shape. We still were economically deprived.

I do not want to fight Reconstruction or the Civil War over again. All I am telling you is that we are struggling. We are trying to get there. We still have an inordinate number of people in my State who are very, very poor.

Mr. President, I hate to keep fighting this battle, but the truth of the matter is, No. 1, that we cannot afford it.

No. 2, it is a grossly inequitable proposition. I hate to keep talking about it, because we are not proud to be poor; we are not proud in Arkansas of being 48th in per capita income, 48th in earned family income, 49th in something else, and 50th in something else. God knows, I am doing everything I can, and have for 8 years, to try to raise our standard of living there, to improve the quality of life for the people there, and we are doing it. But we are not going to continue doing it very long if you say to us, "It is too bad about you being poor. We are going to put out $500 million for the poor folks; but because of the formula and the fact that you have twice as many poor per capita as any other State in the Nation, or the Nation's average, you have pretty good error rate in the AFDC program, so you are not going to get anything under this."

I cannot support it.

I supported aid to New York City five times when it came up on the floor, and I said that is not the most politically popular act I ever did back home. We never had free tuition for our people. The child of the poorest dirt farmer in Franklin County pays $200 a semester for his child to go to the University of Arkansas.

I was happy to do it. When the unique situation such as that arises again, I will do it again.

I am not that parochial in my outlook. I voted for billions of dollars for ConRail. The railroads in my State are just fine, making money hand over fist. And ConRail is bankrupt. I voted for ConRail, because they told me 17 States in the Northeastern part of the country would go bankrupt if I did not. I did it. I knew the economic disaster that the Northeastern part of the country would suffer if I did not. I did it, so I am trying to tell the Senator I am not parochial in my outlook. But I am not going to vote for something that deprives my State of any money at all, when we have twice as many poor per capita as the rest of the Nation.

I yield the floor.

Mr. CURTIS. Mr. President, I rise in opposition to the pending amendment.

I do not view it as an economy vote. I believe that if you consider the possible expenditures for AFDC, and that is what is involved here, in the next 2 or 3 or 4 or 5 years, a vote to strike this money out will increase the overall expenditures.

First, this is not a no-strings grant that we are making to the States. The formula is tied to the quality control issue. That is a substantial portion of the funds will not be made available until the States do a better job of reducing their error rates.

This is a highly desirable goal, and I believe it. I believe we should be doing everything possible to encourage its accomplishment.

There are two philosophies of welfare reform. Many of us believe that the more reform you have right at home close to the people the more real reform you are going to have. You are going to have a concern for people at home. You are going to have more input from the people rather than national bureaucrats.

There are others who believe that welfare reform means more of a Federal-dominated system.

I am thoroughly convinced that if the latter view prevails we will have some sort of guaranteed annual income or family assisted plan, or whatever you choose to call it, a plan where the less you work the more you get. I think the States will be able to reverse that.

It is my honest feeling that, if this money is stricken out of here, it will add to the momentum of a demand on the part of the States for the wrong kind of welfare reform early next year.

I judge no man. Those who believe exactly opposite of what I do about welfare reform not only have a right to their opinion, but I respect their opinion. But there are those who are for this amendment who believe that we should have a welfare reform. This goes into that area and makes use of that philosophy of a guaranteed annual income. I respect their views. I disagree. But I do not believe for a minute that striking this money from the bill is a matter of economy. I think that it will lead to greater Federal expenditures in the field covered by AFDC in the next 3, 4, or 5 years than if we left it in there.

Mr. President, I think on the part of some, not all, this thinking motivated some of the votes in the Finance Committee, and while there has been a lot of oratory about welfare reform, the big broad plans have been submitted here and come to naught. The Finance Committee under the leadership of Senator LONG with the aid of such men as Senator TALMADGE have little by little brought in reform measures that have been good for the country and good for the people involved. Work programs, programs compelling runaway fathers to support their children, programs to collect from individuals who have it, who should be supporting their family, and I could go on and on and enumerate welfare reform that has been taking place. I believe a denial of this money will retard that and lead to an economic situation in the States that will play right into the hands of those who base their hope on welfare reform on nationalizing welfare.

For that reason, I shall oppose the amendment. I realize that others are opposing it for different reasons.

Mr. MOYNIHAN. The Senator is welcome.

Mr. CURTIS. But the Supreme Court of Nebraska has said that a trial judge's decision will not be overruled if he arrives at the right decision even though he reasoned by the wrong road.

Mr. MOYNIHAN. On that exemplary note, Mr. President, I propose that the matter has been carefully discussed by none so eloquently or elegantly as by the ranking member of our committee, the incomparable Senator CURTIS. Why do we note vote?

Mr. ROBERT C. BYRD. Vote.

Mr. CURTIS. I thank the Senator. He is very kind.

Mr. MOYNIHAN. Vote. No one is going to make a better speech or a more persuasive one. No one will come more precisely to the heart of the matter and produce the correct solution. When we have attained a degree of limited perfection we ought to desist, lest we challenge the godhead of perfection himself, which is a risk and brings woe.

Mr. DANFORTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. MOYNIHAN. Vote.

The PRESIDING OFFICER. Was the Senator from Missouri seeking recognition?

Mr. DANFORTH. Yes.

The PRESIDING OFFICER. The Senator has been recognized.

Mr. DANFORTH. I thank the Chair. I appreciate that.

Mr. President, just a few brief points and then I, also, am ready for a vote.

First, in response to Senator CURTIS, will this fiscal relief proposal encourage States to reduce their error rate? The answer to that question is "No." The States already have every incentive to reduce their error rate. For every dollar they reduce their error rate the State gets 50 cents as it is.

Second, would frittering away this money at this time make it more difficult next year to have a meaningful welfare reform program? Of course, it would.

If welfare reform requires any additional funds at all, to the extent that we waste it now we will not have it available to go along with a meaningful welfare reform program.

I think Senator CURTIS has stated it well. But I do not agree with the way he seeks to do it. I agree with the point, the same point, made by Senator BELLMON who is pushing for welfare reform.

Third, with respect to the use of these funds, I cannot say that the messenger from HEW has been exactly Mercury with winged feet in delivering it over here, but we have the text of the letter which has been dictated over the phone, and it says as follows:

DEAR SENATOR DANFORTH: It is my understanding that Section 601 of H.R. 13511, the Revenue Act of 1978, as presently drafted amends Section 403 of the Social Security Act to provide additional Fiscal Relief to State and local government.

It is our interpretation that Section 403 of the Social Security Act does not impose any limitations on the use of these funds by State and local government except that the funds must be passed through as required by the Act to local governments which share in the cost of the AFDC program. As a result we have responded to inquires from States that these monies may be used for any purposes that they choose.

Sincerely,

BARRY L. VAN LARE,
Associate Commissioner for Family Assistance.

So the answer to that is part of the funds have to be passed through to local governments under certain conditions, but with respect to the use of the funds, they go to the general treasury of the State or local government and they can be used for any purpose at all, not necessarily for welfare purposes.

Finally, and in summation, Mr. President, I would say this: This is a chance to save somewhere between $300 million and $500 million from this tax bill. It is an opportunity to delete a section of the bill which is opposed by the administration.

It is money which is distributed to the States not on the basis of need but on the basis of a very strange formula that does not have anything to do with the local or State need. It is money which does not aid the poor, which does not go to the poor—to welfare recipients—but goes to State governments. It goes to State governments even in cases of States which have surpluses, or States, such as California, which has recently reduced its State income tax because apparently they do not need the money. Therefore, it is simply frittering money away, and that is why it should be deleted.

Mr. President, I yield the floor and I ask for the yeas and nays.

The PRESIDING OFFICER (Mr. SARBANES). The Senator has requested the yeas and nays on his amendment. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Missouri has yielded the floor. The Senator from Kansas is recognized.

Mr. DOLE. Mr. President, I think there is a great deal of concern by many of us who serve on the Finance Committee. We had this matter before us last year. I think there was some agreement on $185 million or $187 million, and at that time I expected it would be about half of what might be needed.

As I understand, H.R. 7200 contained this provision, and I think many of us who voted initially for so-called fiscal relief have the same doubts as the distinguished Senator from Missouri has had, and one the Senator from Kansas has is raised by the distinguished Senator from Nebraska.

I think I might ask a question of the distinguished Senator from New York: We are not in any way trying to impede any progress of welfare reform by passing this bill?

Mr. MOYNIHAN. Certainly not. We are making the case that this is one of the aspects of welfare reform. Certainly not.

Mr. DOLE. Is this going to be an on-

going process where every year you are going to ask for more funds to avoid——

Mr. MOYNIHAN. No. Hopefully next year we will get a comprehensive program. Hopefully we were going to have one this year, but we did not.

Mr. DOLE. Because I think there is a great deal of concern expressed by Senator BELLMON and others, and whether we agree on standardization of benefits or eligibility or whatever, there is a great deal of concern about the cost of welfare reform and when we will approach welfare reform, when we will actually have welfare reform, and there is some feeling that by this effort—and I do not ascribe that motive to anyone—that we might be delaying real welfare reform.

Finally, with reference to the letter just dictated to the distinguished Senator from Missouri (Mr. DANFORTH), I assume that would be true in any case. When you pour money into a pot I assume you can probably say you could use it for nearly any purpose.

UP AMENDMENT NO. 1998

It may not solve the problem, but I think we all share the same concern about how the money should be used. I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislature clerk read as follows:

The Senator from Kansas (Mr. DOLE) proposes an unprinted amendment numbered 1998:

On page 387, at the end of line 14, insert the following new subsection:

(f) any funds payable to a State or subdivision thereof pursuant to this section may be used by such State or subdivision only for purposes of making payments under Part A of title IV of the Social Security Act.

● Mr. EAGLETON. Mr. President, I wish to associate myself with the most forthright remarks made by my distinguished colleague from my home State of Missouri. In my opinion, the Moynihan proposal is dead wrong for two reasons: First, this "so-called fiscal relief for welfare costs" proposal does not require States to use this money to pay for welfare costs—in many States this money could be used for such unrelated things such as building bridges, paving highways, providing for cost-of-living increases to State employees, and so forth; and second, the Federal Government, which is approximately $40 billion in debt, is giving financial assistance to the States who are in the black by a estimated $5 to $6 billion. Frankly, I do not understand why the Federal Government thinks that we can be so generous with our money considering the fact that we are running a $40 billion deficit.

During the discussion of this proposal it is my understanding that some Senators and their staffs have alleged that the reason Senators DANFORTH and myself are opposed to this fiscal relief proposal advanced by Senator MOYNIHAN is because Missouri (according to the chart on pages 228, 229, and 230 of the Finance Committee report) does not receive any fiscal relief, because our ADC error rate increased between 1975 and 1977.

For the benefit of my fellow Senators, and in order to set the record straight, I would like to take a moment to provide some historical perspective on the ADC program in Missouri. In 1974, Missouri ADC benefits were based upon a maximum grant formula. In very simple terms, this means that no matter what the State determined to be the standard of need for a family of four, with no income, they could receive no more than $170 per month in ADC benefits. This benefit level ranked Missouri near the bottom compared to other States in the amount of money provided to ADC recipients. Obviously, this formula was programed into all State computers and monthly checks were sent out to approximately 240,000 ADC recipients based upon this formula. In 1974, our error rate was 13.7 percent. I am not proud of that rate, but I do point out that my State had a better error rate than 15 other States in 1974. In 1975, the error rates were again computed—Missouri was still using this so-called maximum grant formula—and my State's error rate decreased to 11.2 percent. In 1975 Missouri had an error rate better than 20 States. Clearly, Missouri was making real progress in reducing its error rate. In 1976 and 1977, the Missouri State Legislature debated and then finally enacted into law legislation that changed the ADC benefit formula so that ADC recipients would on the average receive approximately a 15-percent increase in their benefits. The new "percentage of need formula" officially began in my State in July of 1977. Simply stated, this formula allows a recipient to receive 70 percent of the standard of need, minus income, in benefits. Under the old law, the maximum a family of four could receive with no income in my State was $170. The new percentage of need proposal would allow that same family to receive a maximum of almost $260 per month. As to be expected, when this change was made the computer programs, and application forms all had to be changed. In addition, staffs had to be retrained in order to understand the new benefit formula. It so happens that in July of 1977 the new quality control error rate was measured, and at this time Missouri's error rate increased to 14.1 percent. As is easily understandable, this increase in error rate was almost totally due to the change from one program to another. Missouri was not becoming more lax on catching welfare cheaters, we were simply implementing a new more sophisticated benefits formula. By the Moynihan proposal, my State would be penalized, because we increased our welfare benefits to poor people—this is not what I call welfare relief.

Just so my colleagues understand that Missouri is not soft on welfare fraud, I want to point out that Missouri has an outstanding Department of Investigation which for sake of comparison is almost identical to the Office of Inspector General at HEW. Just last year, the Missouri Department of Investigation filed approximately 450 ADC criminal fraud suits which amounted to approximately $630,000. I submit that most States cannot match this record.

Soon, States will be required to send to HEW the results of their new quality control studies, and according to early information, the Missouri error rate will drop to close to 12 percent—a drop of approximately 2 percent since December of 1977. I think all my colleagues will agree that this is certainly a step in the right direction.

Mr. President, let me reiterate that even if Missouri benefited financially from the Moynihan proposal I would oppose it for the reasons stated earlier in my statement.

The Moynihan proposal is nothing more than revenue sharing—it is certainly not fiscal relief for welfare costs.●

Mr. DANFORTH. Mr. President, I raise a point of order.

The PRESIDING OFFICER. The Senator from Missouri raises a point of order. The Senator will state the point of order.

Mr. DANFORTH. Mr. President, I raise the point of order that that amendment to my amendment is not in order since my amendment is an amendment to strike.

The PRESIDING OFFICER. It is the Chair's understanding that the amendment submitted by the Senator from Kansas is not an amendment to the amendment of the Senator from Missouri, but is an amendment to the language in the bill which the Senator from Missouri seeks to strike and, therefore, the amendment offered by the Senator from Kansas is in order.

Mr. MOYNIHAN. The manager of the bill would like to say the amendment is acceptable.

Mr. DOLE. I think the amendment speaks for itself. I am not certain it solves the problem, but at least it indicates the concern that the Senator from Missouri has, the Senator from Kansas has, the Senator from Arkansas has, and everyone in the Chamber has, and I hope it will be acceptable.

Mr. MOYNIHAN. It is, and I thank the Senator from Kansas.

Mr. DANFORTH. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state his inquiry.

Mr. DANFORTH. Mr. President, if this amendment is accepted, what is the status of the amendment I have offered?

The PRESIDING OFFICER. The question would then recur on the amendment of the Senator from Missouri.

Mr. DANFORTH. On this amendment, whether this amendment is agreed to or not, then this amendment would be the pending business, and the question would recur on the amendment that I offered?

The PRESIDING OFFICER. The Senator's amendment would then be the pending business, the Senator is correct. But it is in order for the Senator from Kansas to offer this amendment for the Senate to consider at this time.

The question is on agreeing to the amendment offered by the Senator from Kansas.

All in favor, "Aye." Opposed, "No." The "ayes" appear to have it. The "ayes" have it. The amendment is agreed to.

Mr. DANFORTH. Mr. President, I ask for a division.

Mr. MOYNIHAN. Does the Senator——

The PRESIDING OFFICER. The Chair will say to the Senator that the amendment has been agreed to. The Chair announced the result of the vote on the amendment and, therefore, the demand for a division comes too late. The Senator can move to reconsider. The Chair stated that it appeared that "ayes" had it and hesitated and then went on to announce the results.

Mr. LONG. Mr. President, I would just like to say one additional word about the issue that is before us. The point has been made that the formula before us is generous to the State of New York and even to the State of California.

Many times we have voted for formulas to help the poor in the States, and to help States to help their poor. We have looked at the per capita incomes of the States and considered their problems; we have looked at many factors and generally, we have been very favorable to States like the one I have the honor to represent, the State of Louisiana, because it has a lot of poor people and has a low per capita income.

But, Mr. President, the formula before us does take into account at least the problems of a State trying to help its people. It does take into account the fact that the State of New York has a problem, because that State has tried to help its poor to the extent that it has almost moved itself into fiscal insolvency, trying to look after the needs of its people.

It is legitimate that we should consider the plight of the State as well as the plight of its people in a Federal aid program seeking to provide a better life for people.

The Senator from Nebraska made a point which I think is relevant to this entire problem. There are those in the Department of Health, Education, and Welfare who do not want to see us do anything to help ease the burden of welfare on the States. There are some of those people who want to keep the squeeze on the States, to the extent that these gentlemen will come in almost on their knees, begging the Federal Government to take the welfare program off their hands. This program is costing the States a lot of money. Those at HEW would hope that they could buy the program from the States and pay them a profit for selling it, in effect.

If they could put that over, Mr. President, they feel they could have a very much larger program. The Congressional Budget Office costed out the last welfare reform program they proposed at $20 billion a year over and above what we have now, and undoubtedly they could bring a vast constituency to that porgram by making millions of more people eligible for it.

That sort of effort might be succesful; then again, it might not. It would certainly run into opposition here in Congress. But why should we in the Senate play that game of putting pressure on the States, trying to make it more and more difficult for them to look after their poor, in order to cooperate in a scheme to make them come begging the Federal Government to take the welfare program off their hands?

As long as it is a State program we ought to leave it to the States, and leave for debate the question of the merits of whether we want to go into a federalized program, put 20 million people on the rolls, and all of those issues.

Mr. President, if we had been waiting for a vast Federal program to solve this problem, and doing nothing in the meantime, we would not have the earned income credit, we would not have the jobs credit, we would not have public service jobs, we would not have a great number of things we have done to help the States solve the problem. The situation would have become worse and worse; and while perhaps that would have brought pressure on the States and caused the Governors to scream in even more anguish for the Federal Government to take it off their hands, it would have, at the same time, caused a lot of poor people to suffer very badly.

Mr. President, we should not seek that sort of answer to the problem. The answer is to ease the burden on the States, to provide them with some additional resources to take care of their poor who, so far as the Federal Government is concerned, have not even had a cost-of-living increase for years. If anything has been done, it has had to be done by the States coming up with additional funds.

It is time we should look at the problem of the States, Mr. President; and I hope very much the amendment of the Senator from Missouri will not be agreed to. It seems to me it is time we consider this problem both with regard to the needs of the people as well as the needs of the States.

Mr. ROBERT C. BYRD. Mr. President, could we vote on the amendment? I believe it has been sufficiently debated.

Mr. DANFORTH. Mr. President, I will be prepared to vote in 30 seconds.

Mr. ROBERT C. BYRD. All right.

Mr. DANFORTH. Mr. President, I considered making a motion to reconsider the vote on the Dole amendment, but because that amendment is so purely cosmetic, and really adds nothing whatever to the substance of what is before us, I think it would accomplish nothing whatsoever to have a rollcall vote on that amendment. Therefore, I am prepared to proceed with a rollcall vote on my amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Missouri (Mr. DANFORTH). The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Alabama (Mrs. ALLEN), the Senator from Minnesota (Mr. ANDERSON), the Senator from Colorado (Mr. HASKELL), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Mississippi (Mr. STENNIS), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

I further announce that, if present and voting, the Senator from West Virginia (Mr. RANDOLPH) would vote "yea."

Mr. STEVENS. I announce that the Senator from New Mexico (Mr. DOMENICI), the Senator from Utah (Mr. HATCH), and the Senator from Texas (Mr. TOWER), are necessarily absent.

I further announce that, if present and voting, the Senator from Texas (Mr. TOWER) would vote "yea."

The PRESIDING OFFICER. Are there any Members in the Senate who have not voted who wish to vote?

The result was announced—yeas 52, nays 37, as follows:

[Rollcall Vote No. 454 Leg.]

YEAS—52

Baker	Eastland	Metzenbaum
Bartlett	Ford	Muskie
Bayh	Garn	Nunn
Bellmon	Goldwater	Packwood
Bentsen	Hansen	Pearson
Biden	Hart	Proxmire
Bumpers	Hatfield, Mark O.	Roth
Byrd, Harry F., Jr.	Heinz	Sasser
Cannon	Helms	Schmitt
Chafee	Hodges	Scott
Chiles	Hollings	Sparkman
Church	Laxalt	Stafford
Clark	Leahy	Stevens
Culver	Lugar	Stone
Danforth	McClure	Thurmond
DeConcini	McGovern	Wallop
Eagleton	McIntyre	Weicker
		Young

NAYS—37

Brooke	Hathaway	Morgan
Burdick	Hayakawa	Moynihan
Byrd, Robert C.	Humphrey	Nelson
Case	Inouye	Pell
Cranston	Jackson	Percy
Curtis	Javits	Ribicoff
Dole	Johnston	Riegle
Durkin	Kennedy	Sarbanes
Glenn	Long	Schweiker
Gravel	Magnuson	Stevenson
Griffin	Mathias	Williams
Hatfield, Paul G.	Matsunaga	Zorinsky
	Melcher	

NOT VOTING—11

Abourezk	Haskell	Stennis
Allen	Hatch	Talmadge
Anderson	Huddleston	Tower
Domenici	Randolph	

So the amendment (No. 3808) was agreed to.

Mr. DANFORTH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BUMPERS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3686

(Purpose: Providing for cost-of-living adjustments in rate of tax, zero bracket amounts, and personal exemptions)

Mr. GRIFFIN. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Michigan (Mr. GRIFFIN), for himself, Mr. HART, Mr. DOLE, and Mr. BROOKE, proposes an amendment numbered 3686.

Mr. GRIFFIN. Mr. President, I ask unanimous consent that further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 18, after line 25, insert the following:

"SEC. 105. COST-OF-LIVING ADJUSTMENTS.

"(a) RATES OF TAX.—Section 1 (relating to tax imposed) is amended by adding at the end thereof the following new subsections:

"'(f) COST-OF-LIVING ADJUSTMENT.—

"'(1) CHANGES IN AMOUNT.—At the beginning of each calendar year as soon as the necessary data become available from the Bureau of Labor Statistics of the Department of Labor, the Secretary of Labor shall report to the Secretary the ratio which the price index for the preceding calendar year bears to the price index for the second preceding calendar year. Each dollar amount listed in the tables under subsections (a), (b), (c), (d), and (e) of this section under the heading "If the taxable income is:" shall be multiplied by such ratio and, as multiplied, shall, except as provided in subsection (f), be the amounts in effect under each such subsection for taxable years beginning in the calendar year in which such report is made.

"'(2) AMOUNT OF TAX.—The Secretary shall adjust each dollar amount in the tables under subsections (a), (b), (c), (d), and (e) of this section under the heading "The tax is:" to reflect the changes made under paragraph (1).

"'(3) DEFINITION.—For purposes of paragraph (1), the term "price index" means the average over a calendar year of the Consumer Price Index (all items—United States city average) published monthly by the Bureau of Labor Statistics.

"'(g) ADJUSTMENTS FOR CHANGES IN ZERO BRACKET AMOUNTS.—The Secretary shall, after adjusting each dollar amount under subsection (f), adjust each such dollar amount to reflect any adjustment in any zero bracket amount under section 63(i) and each such amount, as adjusted, shall be the amount in effect for taxable years beginning in the calendar year in which the adjustment is made.'.

"(b) ZERO BRACKET AMOUNTS.—Section 63 (relating to the definition of taxable income) is amended by adding at the end thereof the following new subsection:

"'(i) COST-OF-LIVING ADJUSTMENT.—Upon receipt of the report with respect to the price index ratio by the Secretary under section 1(f), the Secretary shall multiply each dollar amount listed in subsection (d) of this section by such ratio and, as multiplied, each such amount shall be the amount in effect under such subsection for taxable years beginning in the calendar year in which such adjustment is made.'.

"(c) PERSONAL EXEMPTIONS.—Section 151 (relating to allowance of deductions for personal exemptions) is amended by adding at the end thereof the following new subsection:

"'(f) COST-OF-LIVING ADJUSTMENT.—Upon receipt of the report with respect to the price index ratio by the Secretary under section 1(f), the Secretary shall multiply each dollar amount in subsections (b), (c), (d), and (e) of this section by such ratio and, as multiplied, each such dollar amount shall be the amounts in effect under each such subsection for taxable years beginning in the calendar year in which such adjustment is made.'.

"(d) TECHNICAL AND CONFORMING AMENDMENTS.—

"(1) Section 6012(a)(1) (relating to persons required to make returns of income) is amended by adding at the end thereof the following new subparagraph:

"'(D) Each time the Secretary makes a cost-of-living adjustment under sections 63(i) and 151(f), the Secretary shall adjust each dollar amount—

"'(i) under subparagraph (A) to correspond to the cost-of-living adjustments made under sections 63 and 151, and

"'(ii) under subparagraph (B) to correspond to the cost-of-living adjustments made under section 151,

and such amounts, as adjusted, shall be the amounts in effect under each such subparagraph for taxable years beginning in the calendar year in which the Secretary makes such adjustment.'

"(2) Subparagraph (A) of section 6013(b)(3) (relating to assessment and collection in the case of certain returns of husband and wife), as amended by section 102(b)(2) of this Act, is amended by adding at the end thereof the following new sentence: 'Each time an adjustment is made under section 151(f), the Secretary shall adjust the dollar amounts under clauses (ii) and (iii) to correspond to such adjustments.'.

"(3) Subsection (a) of section 3402 (relating to income tax collected at source), as amended by section 101(e) of this Act, is amended by inserting before the last sentence the following new sentence: 'Notwithstanding the preceding sentence, each calendar year the Secretary shall to the extent necessary modify the tables in effect under such sentences to reflect the full calendar year effect of the adjustments which the Secretary makes under section 1(f), 63(i), and 151(f) during such year and such tables, as modified, shall apply with respect to wages paid during the period which the Secretary determines to be necessary to reflect such full year effect.'.

"(4) Subparagraph (B) of section 3402(m)(1) (relating to withholding allowances based on itemized deductions), as amended by section 101(e)(2) of this Act is amended—

"(A) by striking out '$3,400' and inserting in lieu thereof 'the dollar amount in section 63(d)(1)'; and

"(B) by striking out '$2,300' and inserting in lieu thereof 'the dollar amount in section 63(d)(2)'.

"(5) Subparagraph (C) of section 402(e)(1) of the Internal Revenue Code of 1954 (relating to imposition of separate tax on lump sum distributions), as amended by section 101(d)(1) of this Act, is amended by striking out '$2,300' and inserting in lieu thereof 'the dollar amount in section 63(d)(2)'.

"(e) STUDY OF EFFECTS OF INDEXING.—

"(1) STUDY.—The Council on Wage and Price Stability, in cooperation with Department of the Treasury, shall—

"(A) conduct a study and investigation with respect to changes in the distribution of Federal individual income tax returns and income reported on such returns across marginal brackets during calendar years 1960 through the latest calendar year for which information is available before the completion of such study, including an estimate of the effects which making adjustments for cost-of-living increases would have had following the Revenue Act of 1964 on—

"(i) the gross national product,

"(ii) employment and unemployment,

"(iii) wages and the personal disposable income of individuals,

"(iv) individual income tax liability,

"(v) personal or individual savings,

"(vi) interest rates,

"(vii) prices,

"(viii) Federal revenues,

"(ix) tax shelters, and

"(x) such other economic statistics which the Council determines appropriate; and

"(B) conduct a study and investigation with respect to the estimated effect of the amendments made by the provisions of this section during the first 2 taxable years for which it is in effect on the items referred to in clauses (i) through (x) of subparagraph (A).

"(2) RECORDS.—The Council shall report to the Congress—

"(A) with respect to its findings under the study conducted under paragraph (1)(A) no later than January 1, 1982; and

"(B) with respect to its findings under the study conducted under paragraph (1)(B) no later than January 1, 1983.

"(f) EFFECTIVE DATES.—

"(1) Except as provided in paragraphs (2) and (3), the amendments made by this section shall apply to taxable years beginning after December 31, 1979, and before January 1, 1984.

"(2) The first report required to be made under sections 1, 63, and 151 of the Internal Revenue Code of 1954, as amended by this section, shall be made before February 1, 1980, and shall indicate the ratio which the price index for calendar year 1979 bears to the price index for 1978.

"(3) The amendments made by paragraphs (3) and (4) of subsection (d) shall apply with respect to remuneration paid after December 31, 1979, and before January 1, 1984.".

On page 19, line 1, strike out "105" and insert in lieu thereof "106".

On page 19, line 9, insert "106," after "102,".

Mr. GRIFFIN. Mr. President, I understand that Senator HART who will follow me, has some cosponsors to add, but I ask unanimous consent at this time that the following Senators be added as cosponsors: Mr. DANFORTH, Mr. PERCY, Mr. SCHMITT, Mr. GOLDWATER, Mr. DOMENICI, Mr. TOWER, Mr. HATCH, Mr. HAYAKAWA, Mr. HATFIELD of Oregon, Mr. LUGAR, Mr. Mr. MCCLURE, Mr. STEVENS, and Mr. ROTH.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRIFFIN. It is time for the government to stop holding American taxpayers hostage to the unending spiral of raging inflation.

The best way to do that is to automatically adjust—or index—tax rates each year to offset increases in the cost of living. This will insulate taxpayers from the harsh tax impact of inflation and will eliminate the current system of nonlegislated, hidden tax increases.

That is precisely what this amendment is designed to do, and I am firmly convinced it is the single most valuable and important step we can take to provide meaningful—not artificial—tax relief for American taxpayers.

Mr. President, not more than 2 hours ago, the Senate went on record as saying that we must do more, $3.8 billion worth more to insulate middle-income taxpayers from the tax impact of inflation in 1979. That is the Kennedy amendment. This amendment would say that we should do the same thing beyond 1979. This amendment would index or automatically adjust the tax rates, beginning in 1980, for a 4-year period.

Last year, a similar amendment was offered by the senior Senator from Michigan and, in many respects, this is the same amendment, but it has several provisions that have been incorporated from bills that were offered by the Senator from Colorado (Mr. HART), the Senator from Massachusetts (Mr. BROOKE), and the Senator from Kansas (Mr. DOLE). Last year, this similar amendment was defeated by a vote of 24 to 64.

Of course, that was before the proposition 13 tidal wave from California began to sweep over the entire country. That was before the term "taxflation" became a widely used code word to cryptically describe the insidious and de-

moralizing process now built into our tax code that makes American wage earners poorer every year even though they get raises to keep up with the cost of living. And, perhaps equally important, it was offered at a time when it appeared that inflation had been brought under control.

Unhappily, the fires of inflation are raging once again. Just yesterday, we all received a note from President Carter asking us to help him control inflation; the wholesale price index for the month of September had jumped 0.9 percent—an annualized rate of 11.4 percent—an ominous foreboding for retail consumer prices.

Today, by this amendment, we are asking the Senate to take the Government's profit incentive out of inflation. Nobel Prize winning economist, Milton Friedman—who is widely regarded as the father of the tax indexing concept—estimates that when the cost of living rises 10 percent, Government revenues go up—not 10 percent, but 16.5 percent.

That is because so many people are pushed into higher and higher tax brackets. In other words, the greater the rate of inflation, the greater the Government's windfall.

To give those figures some life and illustrate what they mean to real people, let us consider what is happening to the average working man with a family, whose wages are tied to the cost of living. Let us assume this family had an income of $15,000 last year, in 1977. Let us be conservative—or, after yesterday's news, the better term is probably "optimistic"—and assume that we will have an 8-percent rate of inflation this year, 1978.

Now, the family that earned $15,000 in 1977 will have to have an increase in earnings of $1,200 in 1978 to keep even with 8 percent inflation.

But, although the family's purchasing power has not improved one iota over the year before, that wage earner is pushed up into a much higher tax bracket. His taxes will go up not 8 percent—but 19 percent.

He will be paying an additional $260 in taxes, $150 of which is inflation gravy for the Federal Treasury.

And the impact of taxflation becomes harsher and more pronounced as a wage earner climbs the economic ladder. A family that earned $30,000 in 1977 would have to earn $32,400 in 1978 to keep pace with 8 percent inflation. But, at $32,400, his tax bill will increase by $857—$420 of which can be appropriately described as the Government's windfall inflation profit. This is taxflation with a vengeance.

The tax indexation amendment now before the Senate is designed to take the American taxpayer off of the taxflation treadmill. Very simply, it would:

Adjust the personal income rates, the personal exemption, and the zero bracket amount—that is, the standard deduction—to reflect increases in the cost of living during the previous year as measured by the consumer price index, beginning with the taxable year 1980.

Provide for indexing to remain in effect through the taxable year ending December 31, 1983—that is, a 4-year period—at which point Congress will have the opportunity to review and determine whether to continue it.

Authorize a study to be conducted by the Council on Wage and Price Stability to focus on the impact of the indexation system on the GNP, employment, Federal revenues, inflation, savings, and other pertinent economic and social issues. The Council would be required to report its findings to Congress by January 1, 1983—as the program enters its final year—in order to allow sufficient time for thorough review.

We believe this amendment offers a moderate, cautious and responsible approach to providing meaningful tax relief from the impact of taxflation. The 4-year experience with indexation will allow us enough time to gage the impact of indexation on our economy. The study provided for in our amendment will give us the empirical data and information necessary to make an educated, well-informed decision at the end of the 4-year period as to whether the indexing approach merits continuation. Our amendment represents a logical and rational way to proceed.

Mr. President, before closing, I would like to point out that indexing is no longer a new or esoteric tax concept.

Indexing is being used successfully in a number of countries around the world, including Canada, France, Luxembourg, Denmark, Israel, Brazil, the Netherlands, and most recently, Australia.

Canada's experience with indexing—which began in 1974—has been particularly rewarding. The rate of increase in Canadian Government spending dropped from 15.9 percent in 1974, to 10.2 percent in 1975, to 2.7 percent in 1976, and to 2.1 percent in 1977.

The American people understand tax indexation and want it. A recent Roper public opinion poll disclosed that 60 percent of the American people would prefer an automatic annual adjustment of their income tax rates for inflation rather than waiting for tax cuts granted by Congress.

Finally, the Finance Committee has now had an opportunity to hold hearings on tax indexation, and a number of leading economists testified in favor of it.

Mr. President it is a cliche to say that tax indexation is an idea whose time has come. But cliches generally become cliches because there is much truth in them. I believe we all realize that any tax cut we enact this year will only provide temporary and partial relief for taxpayers before its impact is quickly eroded by inflation. To provide meaningful and lasting relief we must couple the tax cuts in this year's bill with indexation of tax rates in the following years.

This will neutralize the tax impact of future inflation and insulate taxpayers. We believe our amendment provides a "commonsense" approach to ending the current system of taxation without legislation.

It needs to be adopted, and I hope that this amendment will be adopted by the Senate at this time.

Mr. President, I will yield to the Senator from Colorado.

Mr. NELSON. Will the Senator yield for the purpose of a unanimous-consent request?

Mr. GRIFFIN. I am glad to.

Mr. NELSON. Mr. President, I ask unanimous consent that Larry Gage and Judy Robinson be granted privilege of the floor during consideration of the pending legislation and the votes thereon.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Chair recognizes the Senator from Colorado.

Mr. HART. Mr. President, I ask unanimous consent that the Senator from Minnesota (Mr. ANDERSON), the Senator from New Hampshire (Mr. MCINTYRE), and the Senator from Arizona (Mr. DECONCINI) be added as cosponsors to this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HART. Mr. President, we have today a hidden system of taxation without legislation. I join with Senators GRIFFIN, DOLE, BROOKE, and others, in submitting an amendment to insulate taxpayers from the tax impact of inflation by automatically adjusting tax rates to reflect increases in the cost of living. This Congress will fail to enact a truly meaningful tax measure if we do not provide relief from the cruelest of all taxes, the hidden, perverse, inflation tax.

Inflation continues to push people into higher and higher tax brackets, even though they may have no increase in their real income. Their average tax rate rises, that is, their tax burden grows faster than the rate of inflation. The result is that they have less to spend, and even worse, less to save and invest. The most effective way to remedy this situation is to adjust the tax code for inflation. Inflation adjustments, or indexing as this procedure is sometimes called, automatically correct the income tax system to prevent inflation from pushing taxpayers into higher and higher tax brackets.

Ironically, the big winner in times of high inflation is the Government. The Government has a vested interest in maintaining inflation, since the current system permits the Goverment windfall tax revenue of about $6 billion a year. Indexing would end Washington's inflation bonus.

More importantly, it would encourage fiscal responsibility since an indexed tax system would require Congress to reduce and control spending or take the necessary action to acquire additional funds. The question, quite simply, is one of accountability. The question is whether Congress should continue to use the unlegislated tax of inflation to subsidize new legislative initiatives. I believe it is fundamentally wrong for the U.S. Treasury to be reaping a windfall in increased revenues each year, without the Congress ever having to enact a tax bill that the President must sign. The Federal Government will continue to take advantage

of this unfair economic phenomenon unless Congress acts now.

Mr. President, the mechanics of our amendment are straightforward. It would adjust the personal income tax rates, the zero bracket deduction and the personal exemption, to reflect increases in the cost of living as measured by the Consumer Price Index, beginning with the taxable year 1980. The proposal provides for indexing to remain in effect through 1983 at which point Congress will have an opportunity to review and determine whether it should be continued. Our amendment also authorizes a study to be conducted by the Council on Wage and Price Stability to focus on the effects of indexing on our tax structure and economy.

Mr. President, opponents of this proposal argue that indexing is inflationary or that it is at least giving in to inflation.

Past experience in other countries has shown that indexing is neither the cause nor the cure of inflation. However, without indexing, the worker whose wage increase just makes up for the rate of inflation is pushed up into a higher tax bracket. Just to keep him even, his wages must rise faster than the cost of living. The inflation penalty inherent in the present tax structure is one of the basic causes for inflationary wage demands, since workers must receive inflationary wage increases in excess of the cost-of-living increase simply to maintain the actual value of their take-home pay. Indexing is a critical step toward reducing the burden of inflation on taxpayers, but it cannot be considered an inflation cure. Congress must also seriously consider a total economic package such as the one I proposed earlier in this debate, which includes restraints on the Federal budget.

Mr. President, I must emphasize that indexing personal income taxes is not intended to be a correction for all the inequities of the current income tax law, nor need it be the final determining factor about the size of income tax revenues. Adoption of tax indexing does not preclude any other changes the President wishes to propose or the Congress wishes to enact. With indexation, the Congress could, of course, still change the degree of income tax progression or the amount of income tax collections. Income tax indexation simply guarantees that taxpayers will not be subject to nonlegislated tax increases.

Mr. President, the issues of tax reduction and tax reform raise some of the most complex and frustrating questions facing this Congress. As Thomas Jefferson remarked,

> Taxation is in fact the most difficult function of government—and that against which their citizens are apt to be refractory. The general aim is therefore to adopt the mode most consonant with the circumstances and sentiments of the country.

I think it is clear that our present system of taxation is far from "consonant with the circumstances and sentiments of the country." Indexing the tax code may be one of the most sound and equitable ways to make it so.

Although the idea of indexing is not a new one, its application in this country has not yet been tried. It has been successfully employed in other nations, but the dynamics of every country's economy are different. It seems logical, therefore, that we begin by establishing a simple, modest approach which will offer both Congress and the American people an opportunity to evaluate indexing on its merits. It is for this reason that our proposal focuses on taking the first step of indexing the personal income tax rates.

Mr. President, my State of Colorado has enacted an indexing proposal, much as it was the leader nationally in demonstrating the benefits of sunshine legislation several years ago.

I should like to quote the Denver Post of June 27, 1978, in this regard:

> In this inflation wracked era, indexing of income taxes may be an idea whose time has come. . . . Congress has passed a series of ballyhooed "tax cuts" since 1963—but they have done little more than offset the automatic tax increases quietly levied by inflation. Obviously some congressmen would rather raise taxes automatically and then cut them with a flourish before election time. Yet, such cynicism no longer fools the voters and only fans the tax revolt. . . . The ideological gulf is crossed by a common belief that government should face the public honestly if it needs a tax increase, not try to sneak one in on the sly.

Mr. President, I hope that the House and the Senate will follow the example which my State of Colorado already has adopted, and that is to adopt an indexing proposal such as we have put forward.

Mr. GOLDWATER. Mr. President, will the Senator from Michigan yield me a minute or two?

Mr. LONG. Mr. President, I would like to say a word or two on this matter, and then the other side can speak for the amendment.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. LONG. Mr. President, this amendment should not be agreed to.

The way we have been doing business in Congress, confronted with inflation, is to look year by year to see what the erosion of inflation has been and to make such tax decreases as the fiscal integrity of government will permit, in order to provide as much tax relief as we can afford to relieve those who are adversely affected.

When we do that, Mr. President, invariably we tend to do more for those at the bottom end of the scale than we do for those at the top end of the scale. If you are going to make a straight across-the-board inflation adjustment, then you will do as much for those in the 70 percent bracket, percentagewise, as you will for those in the 14 percent bracket. So that when you look at what inflation is doing to people, the kind of legislation Congress votes is more in line with what the committee recommended and what the Senate voted for when it voted for the Kennedy amendment, to say that we will put more of the relief in the middle-income brackets and the low-income brackets.

By contrast, if you have this so-called automatic inflation adjustment, it would appear to be a better deal for the wealthy, for the people making $50,000 and more, because that way they get, percentagewise, the same tax cut that would be received by a middle-income person—a man with a wife and two children.

So, instead of everybody getting a 6-percent tax cut, what tends to happen is that the low-income people and the middle-income people, for the reason that inflation is making them suffer a lot more than those making $100,000 or more, would tend to get, in percentage terms, a better break. What is wrong with that? The person making $100,000 certainly is in a better position to stand the ravages of inflation than the person making only $10,000 a year, with a family of the same size.

That is how it works out when Congress looks at it. Congress studies it and Congress says, "Let us see who is getting the worst of it, who we can help, who has a problem."

I can understand that those who are in the top income brackets would like to say, "Make it all automatic." But if you did that, they would be disappointed with the way it would work out. It would wind up being a complete illusion and farce for them; because if you put the automatic tax adjustment into effect, you repeatedly are going to put the Government in the position that it has a big deficit.

So, rather than pass a tax cut bill, as we are trying to do now, we will have to pass a tax increase; and the millionaires, who think they are going to get a better tax break out of the automatic tax adjustment, will be fooled, because if we pass a tax increase, we will look at their situation and we will see that the man making $100,000 a year is in a better position to pay more taxes than the fellow making $10,000 a year who has a wife and two children.

So that would do exactly what the wealthy people hope they are going to prevent. That is how it would work out. But the big difference would be that instead of looking at what inflation is doing and giving a tax adjustment to try to take care of the effects of inflation on people, according to the best judgment of those in Congress, after we have looked at their problem, we would do it all in advance, without having looked, and we would wind up with a big deficit and a tax increase instead of a tax cut.

Mr. President, if Senators buy this approach and this Government is to survive at all, it means you are going to have a tax increase and a big one in every Congress. It means that the Government will constantly have far bigger deficits and far more fiscal problems than it has now.

We can talk about economy all we want, but the only way a government can survive is if the government has revenue to finance itself.

I do not have the slightest doubt that with this amendment in the bill, the President will not accept it. You will not have any bill. You never will get a tax cut. You will tell these affluent people who thought they were going to get the better of it by indexing, "It's too bad you don't get a tax cut, but we tried to do well by you. The President wouldn't go

along, or the House wouldn't agree to it," or something of that sort. But it means no tax cut.

We can either move for a tax cut or be foolhardy and load this bill down with something that cannot become law, and we will wind up having no tax cut at all.

Senators should know when they are well off. House Members should know when they are well off.

Here you have a situation in which, whether it is your fault or not, at least you will be able to vote for a tax cut; and if we cannot keep inflation from moving ahead, you can vote for a tax cut again in the next Congress. Instead, you put into operation a system whereby we will have to ask everybody to vote for a tax increase, and a big one, in every Congress; and if we cannot pass it, the Government will be so deep in debt that inflation will be beyond anybody's belief. If you think you have seen inflation up to now, you have no idea what you are in for.

Why do we want to do a useless thing? We would be far better off to look at our problems, analyze the problems of history, see what inflation has done to them, and vote for a tax cut we can afford, and distribute the money to those we think are the most deserving and have the best case for it, in the wisdom of Congress.

Otherwise, we will be doing something politicians are famous for doing—talking it out, making all these big promises, telling people all we have done for them, when we really have not done much of anything, and then winding up with the whole thing going down the drain, the bill failing to pass. Then we can go home and report to the people that, far from giving them the tax cut they were promised, they do not get the tax cut; they do not even get an adjustment for the social security tax. In fact, they get a tax increase, because the tax cut we passed last year is due to expire.

So, after we got through with all this talk about the tax cut the people are going to get, they would get a tax increase.

If we cannot do any better than that, Mr. President, we should just turn in our uniforms and say, "Well, somebody else will have to run this show for us."

I can understand that some of our friends on the Republican side of the aisle might say, "Fine. We know the President won't sign it. The Secretary of the Treasury is adamant against it. We know this is the one thing more than anything else that the President and the Treasury are opposed to. But that is all right—we are going to persevere and push ahead with it. Damn the torpedoes—full speed ahead. Send it to the President's desk to get it vetoed."

I suppose 100 percent of the Republicans could do that and go home and say:

> Look what a bunch of fakers those Democrats were. They talked about that tax you are going to get. You did not get your tax cut. All you got was a tax increase out of all that conversation.

How can we Democrats explain that?

Mr. President, it would be a very foolhardy thing to do. I hope very much the Senate will not agree to the amendment, so in due course I will move to table the amendment after others have had a chance to respond to my thoughts about this subject.

Mr. HART. Mr. President, the Senator from Kansas will want to make remarks as well as the Senator from Massachusetts. But I shall take a couple minutes.

The distinguished floor manager says that the Members of Congress do not know when they are well off, and the presumption is because the treasury is getting all this money that it has not legislated for we should just pretend it is a free gift and not ask any questions.

The only problem with that is that money comes from somewhere, and it is coming from our constituents and the taxpayers' pockets.

The other argument unfortunately the Senator makes presumes that the American people are stupid. The American people are smart enough to know that inflation is driving them into higher tax brackets and we are picking their pockets without ever having passed the bill.

The arguments the Senator makes are terrific, if the American people do not know what is going on. They know what is going on. That is their money that comes in here.

We are supposed to think we are better off because we did not have to pass a bill to get that money and not ask any questions because our constituents are not going to know what is going on anyway and we can legislate a tax break for them every year and they think we are terrific. They are wising up. My constituents know that inflation is taking money out of their paychecks and that I have not had to vote for the money. If they did not know that the Senator's argument might prevail.

He has made the best argument for our amendment, a brilliant argument, and that is if this amendment passes Congress will have to pass a tax increase and then will have to tax the rich people. That is exactly right. And that is exactly what this Congress should do.

Mr. LONG. Mr. President, will the Senator yield?

Mr. HART. I yield.

Mr. LONG. Mr. President, the Senator made a statement that the Treasury is well off. I am not impressed that the Treasury is well off. Maybe someone down there is well off because he is receiving a salary to work for the Government.

But here is the Treasury speaking for this Government with $800 billion in debt. They have an annual deficit of $40 billion. They have a balance of payments deficit the like of which one can hardly imagine. One would wonder why on Earth anyone would trust our paper money around the world with the kind of deficits we are running.

I do not gain the impression that the Treasury is well off. It seems to me the Treasury needs a little aid. How can we even justify the big deficit we are running now? How can we justify the tax cut we are voting now? The only way we can justify it is because we have some people out of work and we are trying to get the economy into full steam and in the hopes of doing that we are going to run a deficit at least for another year and next year we will try to cut the deficit in half.

Mr. BROOKE. Mr. President, I have listened very attentively to the distinguished floor manager of the bill and the statement that he made had been made by the President, that this indexing bill has really helped in the higher brackets and not those in the lower brackets.

Mr. President, the narrower the brackets and the personal exemption is a larger percentage of income in the low brackets. So inflation pushes people up the bracket ladder faster in the lower brackets and hurts them the most. That is an economic fact of life. We have to recognize that.

I think that is why the Advisory Council on Intergovernmental Relations made that point when they endorsed indexing as a constant.

Mr. President, I am very pleased and very proud to introduce this indexing amendment to the Revenue Act of 1978, together with my distinguished colleagues from Michigan, Senator GRIFFIN, from Kansas, Senator DOLE, from Colorado, Senator HART, and there are other cosponsors. As I understand Senator PAUL G. HATFIELD of Montana is a cosponsor as well.

Obviously this indexing amendment has bipartisan support. We believe it is a concept whose time has arrived.

There are people across this country who are suffering from what we call "taxflation." They may not understand the definition of it, but they certainly know what happens to their income. When their income increases they are pushed up into a higher tax bracket and when they get up into that higher tax bracket they pay higher tax, and when they pay that higher tax in many instances they end up with a net loss rather than a net gain.

So it is more beneficial to them not to have had the income increase, because of the fact that they have been the victim of bracket creeping or "taxflation."

Mr. President, this is money which I believe the Federal Government has never been entitled to. They are not entitled to that money. What the income taxpayer should be paying taxes on is constant real dollars not inflated dollars. And they are suffering in this country, because they are being compelled to pay more taxes than they should pay in the first instance and more taxes than the Government should take in the second instance.

So here it is, the Government has billions of dollars which it receives annually because of taxflation which they look upon as theirs and which they spend. So that in turn fuels the inflationary fire.

That is what we are talking about, very simply, Mr. President. That is why Senator GRIFFIN, Senator DOLE, Senator HART, Senator PAUL G. HATFIELD, and I and many others felt it necessary to file this amendment to this bill.

The amendment is similar to bills that each of us introduced at other times in Congress. I introduced one which was called the Anti-Inflation Tax Relief and Reform Act. Senator GRIFFIN introduced another one. I do not recall the name of it. But he introduced another one. Sen-

ator DOLE introduced one. I think Senator HART introduced one.

The purpose was to relieve the burden that tax-inflation has played on the American taxpayer. That is all it is, pure and simple.

As we all know, our system of progressive tax rates was designed for a world of stable prices, but regrettably, although we have made attempts in recent years to stabilize prices, I do not think there is anyone in this Chamber or elsewhere in this country who would deny that we just have not reached that goal.

And during this period it is the American taxpayer who has suffered immensely from our inflationary problems. For as these prices have risen, as I have said, there has been a steady "bracket creep," as inflated nominal incomes move our taxpayers into these higher tax brackets. As a result, even when a family's income merely grows with the cost of living, the average rise in tax rates consumes or exceeds any real economic gain.

An illustration of this situation was pointed out by Mr. John Pierson of the Wall Street Journal. According to Mr. Pierson, the typical family of four that made $15,000 last year paid taxes of $1,335 or 9.2 percent of its income. Yet, even if this family receives a 7 percent pay increase to match this year's anticipated inflation rate, its taxes will go up faster in 1978 to $1,613 or 10 percent of income. Moreover, according to Mr. Pierson's calculations, after 10 years of illusory increases, the family's tax rate would climb to 17.8 percent, almost double what it was a decade earlier.

Mr. President, I suggest, and we, Senator GRIFFIN, Senator DOLE, Senator HATFIELD, Senator HART, and others suggest, in this amendment that this type of tax hike which occurs without congressional approval was not intended by the original designers of the American tax system. They never foresaw this, they never intended it, and it was never designed with this in mind.

Therefore, we propose that our legislation provide that beginning with the taxable year 1980—and the distinguished Senator from Louisiana, I think, was concerned about what might happen next year—but we are talking about beginning with the year 1980, personal income rates, the personal exemption, and the zero bracket amount will be adjusted to reflect increases in the cost of living during the previous year as measured by the Consumer Price Index.

In addition, the amendment would authorize a study to be conducted by the Council on Wage and Price Stability, and the study would focus on the impact of the indexation system on the GNP, employment, Federal revenues, inflation, savings, and other pertinent economic and social issues.

The Council would be required to report its findings to Congress by January 1, 1983. This would allow sufficient time for thorough, exhaustive review.

Finally, and this is very important, Mr. President, the amendment contains a 4-year sunset provision. Under our amendment, indexing would remain in effect through the taxable year ending December 31, 1983, whereupon Congress will have the opportunity to determine whether indexing should be continued. So you are not locked in. In short, if it does not work you can change it.

We have even provided that in this amendment.

I am aware that one of the arguments advanced against indexing is that inflation brings in more Government revenues and indexing will reduce these revenues. However, I would point out that indexing will assure that the Government will receive only those revenues to which the Government is entitled, and that is the way it ought to be. It also has been stated that indexing will remove the impetus for legislative review for the inequities that exist in our tax system.

To this I would respond that indexing is, and must be, an adjunct to legislative review.

Indeed, advocacy of this indexing plan should not in any way be interpreted as favoring an abdication of the continuing congressional responsibility to comprehensively reform our tax structure. I think every member of the Senate Committee on Finance ought to understand that, that our intent has never been to in any way abdicate that responsibility. On the contrary, I strongly believe that we in Congress have the same responsibility to review the distribution of the tax burden, and in cases where an inequity in the system is disclosed we should act expeditiously to correct these situations.

Mr. President, in conclusion I would like to point out that it is not uncommon for us to use an indexing mechanism to account for inflationary increases. In fact, it has been used by various segments of the economy. In other countries where indexing has been used, it has proved to be successful. So we already have precedents upon which we can draw.

Mr. President, this indexing amendment would simply provide a more equitable tax system for, in my opinion, an equitable taxing system takes real income, not nominal income, into account, and this is precisely what our indexing amendment will do.

Certainly this is something our taxpayers deserve and, therefore, Mr. President, I urge my colleagues to expeditiously pass this important and necessary legislation.

In the waning hours of this 95th Congress I hope we will not go home and leave the American taxpayer in the unenviable and intolerable position that he and she find themselves in today with this taxflation over which he or she has absolutely no control whatsoever. The only way, the only sensible, the only efficient and effective way, to combat it is by adopting an indexing provision, which is the amendment Senators GRIFFIN, DOLE, HART, HATFIELD, and I, and others have presented to this Senate.

I urge its adoption. I thank the Chair.

Mr. GOLDWATER. Mr. President, I am very happy and proud to be a cosponsor of this amendment, and I do not intend to speak at great length on it.

I firmly believe that unless we adopt indexing—and I personally would make it a permanent part of tax legislation, not just until 1984—but while I hate to say this, I do not think any person in this room will see the end of inflation in this country, because we are not attacking it, and we are not going at it, in the right way.

Now, indexing might provide a way of telling the Federal Government, "Look, you are only going to get so much money, and that is all you are going to get, so start cutting your sails out of the cloth that we are providing you and not cut it out of illusory income that comes from nonindexed taxes, taxes that go up every year, because people's income goes up."

Of course, I have gotten used on this floor to hearing time after time that indexing is only going to help the affluent, will help the rich.

I argue against that vehemently. I think I am right in saying that less than 1½ percent of our people can be classed as millionaires, and when you want to get into the less affluent and say those making over $100,000, I do not know the figures, but I have a feeling that the total we are talking about would be less than 4 percent.

Now, who is always taking the big load of taxation in this country? It has been the so-called little man, on up to the middle class. Some 80 or 85 percent of all the money raised in this country comes from those people. In fact, if we desired to, and passed a law and took all the income from people making over $100,000 a year, I think it would run the Government about 2 weeks, maybe a little less.

So, Mr. President, I think this is a very worthwhile amendment, contrary to what the floor leader of the bill says. I have great respect for him, and generally vote 100 percent with him on these tax measures and am guided by his judgment; but on this particular issue I think he is wrong, and I think the time has come for us to provide the American people with some kind of idea of what taxes are going to be like.

I happen to come from the State that has the second largest number of retired people living in it per capita, and I watch what those people are going through. People who retired on very nice incomes, either provided by themselves plus social security, or provided by company plans or union plans, people who came out there to retire 5 or 10 or 15 years ago, are now frankly not able to cut it—only because they do not know what taxes are going to be, and they have no additional income. Every year their taxes creep up and creep up and creep up. In fact, in my State we are attempting to put indexing in our Tax Code, not just for income, but for land and everything else that is sold.

I do not think it is fair for the Federal Government, which is totally responsible for the inflation in this country—totally responsible—to say to the American wage earner, "Look, you are going to have to pay for this inflation." Some day we are going to have a Congress with enough guts to start saying "No" to the ridiculous spending that goes on in this country. Some day some President, and I hope it is President Carter will have the courage to balance the

budget. In fact, I told him when I first saw him after the inauguration:

If you can balance the budget in 4 years, I am going to ask the Democratic Party to let me renominate you at their convention.

I felt rather safe. I still feel safe. But I hope he does well in his efforts, and really puts some muscle into it, and not just talk.

We are never going to solve our inflation problem, Mr. President, if we just keep on doing what we are doing today; and we are not going to solve inflation unless we provide a small modicum of relief for the small income taxpayer.

I am very happy to be a cosponsor of this amendment, and I urge my fellow Senators to vote for it.

Mr. DOLE. Mr. President, the No. 1 problem in our tax system is inflation. During periods of inflation, the net effect of the current tax system is to push low- and middle-income taxpayers into higher tax brackets, without any corresponding increase in the real purchasing power.

DOUBLE DIGIT INFLATION

Mr. President, it is certainly no secret that we are in the midst of an inflation crisis. During the last two quarters, the inflation rate in this country has been at double-digit levels. Yesterday, the administration announced that the wholesale price index increased at nine-tenths of 1 percent, which means we can expect more inflation in future months. The inflation rate for 1978 will be substantially higher than that over the previous year. In fact, the inflation rate under the Carter administration is almost twice as high as it was in the last year of the Ford administration.

TAXFLATION

Mr. President, taxflation is a cruel tax. As an individual earns more money to keep up with the continuing rise in the cost of living, he is pushed into a higher tax bracket. Although he receives an increase in his gross income, there is actually a decrease in his real purchasing power, because he must pay a greater percentage of his income in Federal taxes. Let me give you an example how tax inflation works. A taxpayer who earns $15,000 in 1978 will have to earn $16,200 in 1979 just to maintain his purchasing power with our 8 percent inflation rate. However, the taxpayer's real tax liability will be increased $260. An individual earning $30,000 will have to increase his income up to $32,400 just to stay even with inflation, but his tax bill will rise by $850. Taxflation is easy to understand and the Senator from Kansas believes it is easy to stop.

FINANCE COMMITTEE AMENDMENT

During the markup on the Revenue Act of 1978, I introduced a program to make periodic inflation adjustments in our tax system. My proposal, which is similar to the amendment pending today, called for an inflation adjustment for 2 years, effective 1980, to the personal exemption, the tax brackets, and the zero bracket amount Unfortunately, the proposal was narrowly defeated.

INDEXING

Mr. President, periodic inflation adjustments to the tax system—indexing—would help neutralize the tax impact of inflation by maintaining the effective rate of taxation for any given income level at the rate originally legislated. The bill reported by the Finance Committee does not adequately protect taxpayers against tax increases caused by inflation.

UNLEGISLATED TAX HIKE

Taxflation is an automatic, unlegislated and unsigned tax hike that cheats the American worker. Government revenues increase at a greater rate than inflation. A report by the Joint Committee on Taxation estimated that a 10-percent inflation rate will increase Government revenues by 12.5 percent. Other economists have said that the windfall profit for the Government is even greater. Dr. Emil Sunley of the Department of the Treasury has stated that tax receipts increase by 1½ times as fast as the rate of inflation. According to the Congressional Budget Office, tax inflation will take as much as $45 billion in 1983 from the American taxpayer. We must put a stop to the effects of tax inflation. I believe that the appropriate vehicle is to adopt the amendment providing for an annual tax inflation adjustment.

INDEXING IS FAIR

Mr. President, there is no tax reform that is more important to the American taxpayer than the tax equalization amendment. Periodic inflation adjustment is fair. It is equitable. It is simple. It is an idea whose time has come.

TREASURY OPPOSITION

The Treasury Department told the Finance Committee in a hearing last April on a proposal which I introduced, S. 2738, the Tax Indexation Act of 1978, that there is no need to index the tax system, because Congress periodically reduces taxes. However, I say that the need for indexing has been underlined by congressional action that has enacted yearly tax cuts for the last 3 years. Now, we have another major tax bill before us. It is true that Congress has tried to keep tax inflation under control by periodically cutting taxes. However, this system has not worked. Furthermore, periodic reduction is deceiving. When the economy becomes too distorted by inflation and taxes are rising too rapidly, Congress tells the American taxpayer that it is going to reduce his taxes.

Congress pats itself on the back and gives itself credit for this "enlightened action." However, the taxpayer is usually in no better condition than if the taxflation were eliminated. The Senator from Kansas does not believe that we are fooling the American taxpayer.

NOT A TAX CUT

Mr. President, the legislation before the Senate is not a tax cut. This legislation is before the Senate, because tax inflation has put an onerous burden on the American taxpayer. In effect, past tax reduction by Congress in the bill before the Senate is nothing more than a repeal of the automatic tax increases caused by inflation.

Mr. President, there are those in this Chamber who would say that indexing the tax system would be the acceptance of inflation. This, of course, is not true. The fact is, the Federal Government is the benefactor of tax inflation. It is the Federal Government that receives the yearly windfall bonus of tax inflation. Each year, the Government receives billions and billions of dollars in new revenue. I believe that this vested interest should stop.

Mr. President, indexing does not mean that Congress will not have the authority to reform the tax laws or to provide for real tax cuts. Indexing would mean that Congress would have to muster the political courage to raise the money to front new spending programs. Indexing would bring discipline back to the Federal budget process.

I might say this is an idea that has been around for some time. It is one Milton Friedman advanced some years ago. It was first called to my attention by our former distinguished colleague from New York, Senator Buckley. I remember going to a breakfast meeting with Milton Friedman and Senator Buckley some 4 years ago or more. One of the leaders in that effort was Senator Bob Taft, of Ohio. Senator Taft and Senator Buckley are no longer in this body, but other leaders have taken their places; and one who has been very active over the years has been the Senator from Michigan (Mr. GRIFFIN). It has been his efforts and initiative, and the efforts and initiative of the distinguished Senator from Massachusetts (Mr. BROOKE) and the distinguished Senator from Colorado (Mr. HART) that have kept the idea alive.

I think it is fair to predict—it may not happen today, but I would wager that within the next 4 or 5 or 6 years we are going to have indexing, because as more and more States adopt indexing, there will be more and more pressure upon the Members of Congress to do the same thing.

We have indexing in California, in a modified way. The distinguished Senator from Colorado has pointed out how well it is accepted in the State of Colorado. We have indexing in the State of Arizona. It is being considered by a number of other legislative leaders across the country.

It seems to me that one thing the American people understand—they know that taxes may be necessary, they know that inflation may not be desirable, but sometimes it happens, but it is pretty hard to understand or explain to the taxpayer why that taxpayer, man or woman or both, must pay taxes on inflation.

All we are suggesting is that starting in 1980—it does not affect this tax bill; we just suggest that starting in 1980, for a period of 4 years, we are going to index just three areas—not everything, but three areas.

For example, if we have a $1,000 personal exemption, as we will if this bill passes, as I assume it will, and the inflation rate should be 6 percent in 1979, then we would increase that personal exemption by $60. That is just how

simple it is. I repeat, there have been a lot of examples given about what happens to the wage earner if he is making $15,000, with 8 percent inflation. The wage earner gets the cost-of-living increase and his income goes up to $16,200, but that is not all that goes up. The taxes go up. He does not have any more earning power, no more real dollars, but he gets a tax increase of 19 percent, and pays $260 more in taxes.

It just seems to me that, when we look at taxflation costing the American people $9 billion a year—we heard the distinguished Senator from Massachusetts this morning, in discussing his good amendment, say that we were not addressing the problem of inflation; we have heard our distinguished chairman on the floor indicate that we are probably going to take care of inflation and the increased social security costs and that is about all; we have heard our distinguished colleague from Delaware, the author of the so-called Roth-Kemp bill, discuss inflation and the need for substantial tax reduction—but I would just suggest that though this particular approach to tax relief has not gotten as much publicity and probably has not been talked about as much as other proposals, it has a great deal of merit. The American people understand it. There are not any curves. We are just saying, "You don't pay taxes on inflation."

As the Senator from Massachusetts pointed out, those who suffer the most are those at the lower end of the economic scale, and they will benefit most from this proposal, the Griffin-Brooke-Hart proposal.

So it seems to me that we have a real opportunity. We have a bipartisan opportunity. This matter was raised in a Republican administration, the Ford administration. We lost. We could not get the support of those who now tell us they cannot support it in the Treasury Department. They have not changed. The same people there make the basic decisions. They were there in the last administration, and they are there in this administration.

But now we have some precedents for indexing, because of an outstanding Member of Congress on the House side, Representative BILL ARCHER, from Texas. He offered an indexing proposal on capital gains, and it was adopted by a vote of almost 2 to 1 in the House of Representatives. So I suggest that Members of Congress understand indexing, and the American taxpayer understands inflation. The American taxpayer does not understand why he has to pay taxes on inflation, and all we say is, "You just take out inflation and pay taxes on the rest."

For those who say that indexing takes away discipline, it does not take away the discipline. If we are going to have inflation, it is still going to inflate the cost of everything you buy. We just say that when it comes to paying taxes for the Federal Government, we are going to try to keep you whole.

It is going to be automatic. We are not going to have the ritual every year or every 2 years of Congress saying, "We are going to cut your taxes" when we do not cut your taxes. As I say, though we call this measure before us a tax cut bill, it is not a tax cut bill. Anybody who might be under the impression that he is going to get a tax cut, if he will just add up the total of what inflation will cost, along with the increase in social security costs next year, when you add that up and compare it with what you are going to get in a tax cut next year, if you break even you are lucky.

That is some help. I do not suggest that it is not a help, but it is not a generous act of the Government, because it is the taxpayers' money. But it will be of some help to the taxpayers.

I think it is time that we stopped the endless cycle of illusory tax cuts. We have had tax cuts for each of the past 3 years. If we could have a system of indexing, and we indexed the personal exemption, we indexed the tax brackets to take care of that so-called bracket creep, and we indexed the zero bracket, it seems to me that if we would do that we would address the problem.

Let me suggest that this is not a narrow position. It is not an effort to offend the President of the United States. It is not an effort to offend anyone on this floor. It has a number of cosponsors, including the Senator from Arizona who has just spoken (Mr. GOLDWATER), the Senator from Idaho (Mr. MCCLURE), the Senator from California (Mr. HAYAKAWA), the Senator from Missouri (Mr. DANFORTH), the Senator from New Mexico (Mr. SCHMITT), the Senator from Alaska (Mr. STEVENS), the Senator from Texas (Mr. TOWER), the Senator from New Mexico (Mr. DOMENICI), the Senator from Minnesota (Mr. ANDERSON), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Indiana (Mr. LUGAR), the Senator from Illinois (Mr. PERCY), the Senator from Delaware (Mr. ROTH), the Senator from Arizona (Mr. DECONCINI), and the Senator from Oregon (Mr. MARK O. HATFIELD).

That is a rather broad-based group of Senators of different philosophical approaches, from different parts of the country, all concerned about taxes, all concerned about the proper way to address the problem.

Let me also add this, and then I will yield to the distinguished Senator from Wyoming.

Indexing is not a new concept. Sixty-three percent of all Federal expenditures are indexed, as are some of the current provisions in the Tax Code. Indexing takes place in the food stamp program, social security program, SSI, civil service salaries. Current pension tax laws are indexed, as is the excise tax on the use of oil and natural gas, currently pending in the tax conference, which may or may not become law. Indexing does help keep down Federal expenditures.

Canada, since adopting tax indexing, has experienced a decline in the real rate of Government spending. In Canada real growth in Federal spending declined from 15.9 percent in 1974 to 2.7 percent in 1976.

Indexing is simple. It does not complicate the tax laws. It applies to all taxpayers. All taxpayers suffer from inflation, so all taxpayers benefit from indexing.

Mr. President, I ask unanimous consent to have printed in the RECORD a very eloquent statement delivered by former Senator Jim Buckley in which he outlines his long-held views on indexing. The statement he made at the time is somewhat broader than the proposal before us, but I believe it indicates another former outstanding Member of this body who was known for his conscience of conservatism, a conscience regarding responsible spending, concern about a way to approach taxes and tax cuts with proper adjustments. I believe the statement might be of interest. I ask unanimous consent that it be made part of the RECORD following my remarks.

The PRESIDING OFFICER (Mr. PELL). Without objection, it is so ordered.

(See exhibit 1.)

Mr. DOLE. As far as this Senator is concerned all the points have been covered. I would just reemphasize that indexing is not complicated. It would help the taxpayers cope with some of the problems of inflation. It would eliminate the annual ritual in the Congress. It would end the congressional vested interest in the yearly taxflation windfall profits. Somebody has to pay when we have inflation and it is always the taxpayer. It is not the Government. The Government is the beneficiary. The chief beneficiary of inflation is the U.S. Government. I would hope that we would indicate by our vote that there is broad support for this concept.

EXHIBIT 1

STATEMENT OF JAMES L. BUCKLEY

I am pleased to have this opportunity to address the Finance Committee on a subject which I advocated for a great many years. While in the Senate, I was actively involved in the efforts to introduce indexing into the tax system. I continue to be committed to that objective.

S. 2738, the Tax Indexation Act of 1978, is similar to legislation that I proposed in the 94th Congress. Senator Dole has expanded the concept and made some improvements which I would like to discuss later. What needs to be addressed first is the major inequities that tax inflation introduces into the tax system.

During periods of inflation, the net effect of the current system of taxation is to push low and middle-income taxpayers into higher tax brackets without any corresponding increase in their real purchasing power. Tying the Federal income tax to the cost-of-living index would help neutralize the tax impact of inflation by maintaining the effective rate of taxation for any given level of income at the rate originally legislated.

An example will illustrate the point. Suppose an individual is earning $10,000 per year in 1978 and that inflation averaged 7 percent per year for the next ten years. If that taxpayer receives cost-of-living pay increases which keep pace with inflation, his income would be $20,000 in 1988. Yet, that $10,000 increase in income would not be able to buy any more than his lower salaries. In fact, his income would have less purchasing power because of the increase in Federal tax rates.

Assuming the taxpayer is the head of a typical family of four, he would be required to pay approximately 6 percent of his 1978 earnings in Federal income tax. How-

ever, because inflation would have the effect of lifting this same individual into ever higher tax brackets, by 1988 he would be required to pay over 13 percent of his earnings to the Federal Government. Thus, although his real income in terms of purchasing power remains unchanged, his increase in "money" income will cause him to pay more than twice as much in taxes leaving him poorer in 1988 despite a doubling of his dollar income.

Another point to make is that tax inflation has the most adverse effect on those in low and middle income tax brackets. An individual whose $100,000 is doubled to $200,000 in ten years would only have his taxes increased from 43 percent to 54 percent.

I believe that Congress should enact appropriate legislation to protect the individual taxpayer from the consequences of inflation. The Government is principally responsible for inflation, yet, it is the only one whose income is not hurt by that inflation.

Indexing the tax system would eliminate this windfall profit for the U.S. Treasury. If Congress wants to spend more money in real terms, it should have to make the decision to tax people at higher rates to pay for the increased spending. The tax benefits from inflation in the present system are a disincentive for Congress to control inflation.

The most indefensible inequity of inflation is that the Government profits from the inflation it causes. Tax indexation would require Congress to show the political courage to vote for tax increases if new Government revenues are desired. Hopefully, this situation would make Congress less eager to spend the public's money.

Some have argued that indexing is in itself inflationary. Indexing does not in any way affect inflation nor does it imply a willingness to "live with" inflation. To lower inflation, other monetary and fiscal remedies should be pursued. What indexing can do is to reduce the adverse consequences of inflation for individuals and business while other anti-inflation efforts are put into effect. If indexing acts as a curb on congressional spending habits, that is an extra bonus that can only help in the fight against inflation.

The need for indexation has been underlined by congressional action in enacting yearly tax reductions for the past three years. Passage of indexing legislation would bring stability to our tax system. Taxpayers, both individual and corporate, would not have to wait for Congress to act to offset the bigger bite of inflation. No more would American taxpayers be bounced up and down by the yearly game of tax increase/tax reduction.

The need for indexing is emphasized by the administration's tax program. President Carter's tax proposal has been billed as an offset for higher social security taxes and inflation. However, the President failed to tell us that his tax cut would only keep many Americans even and then only for a short time.

The Congressional Budget Office has predicted that tax inflation will swell the U.S. Treasury by $45 billion in 1983. The President's tax cut will barely make a dent in that figure. Even if adopted in its present form, the President's package would leave the vast majority of Americans paying more taxes than they are now.

S. 2738 is an excellent first step to take in adoption of indexing for our tax system. The bill indexes the most important sections of the tax code. Under S. 2738, the zero bracket amount, the tax rate tables, the personal exemption, the corporate surtax exemption, individual retirement accounts and Keogh contributions, the gift exclusion, the unified estate credit, the general tax credit, the earned income tax credit, the tax credit for the elderly, the child care tax credit, the limitations on investment tax credit, the minimum tax threshold, the current exempt amount for the exchange of personal residences by individuals over age 65 and the basis of assets would all be adjusted.

Many of these sections have substantial impacts on the most vulnerable group in our society to inflation, the elderly. Those on fixed incomes do not even receive the advantage of cost-of-living increases as do many workers. Therefore, indexing such items as the tax credit for the elderly and the exempt amount on home sales are particularly important in restoring tax equity for this group.

The bill provides for increases in allowable contributions to IRA's and Keogh plans. I believe that it is important for the government to provide the proper incentive for individuals to plan for their own retirements. If inflation continues at present rates for 20 years, the present limit on IRA contributions will certainly be inadequate to meet future living expenses.

The earned income credit was added to the code to eliminate any work disincentives that receiving welfare payments might have for low income individuals. Yet, as welfare payments have increased with inflation, the earned income credit has not kept pace. Indexing this credit will ensure that having a job will always be more profitable than taking welfare.

The Dole bill also acknowledges the importance of the business community in establishing a stable, non-inflationary growth in the economy. Corporate tax rates will not be indexed but several tax sections important to businesses will. Small business will benefit from indexing of the corporate surtax. The surtax amount has been raised in the past but never in an orderly fashion that reflects the changing needs of business.

The other business provisions that are indexed are the limitation on investment tax credit and the basis of assests. The investment tax credit is particularly important in promoting the capital expansion which is needed for future business expansion. This bill would also adjust the cost basis of an asset to reflect changes in the purchasing power of the dollar. Thus an individual would pay capital gains tax on the sale of a capital asset only on the real increase in value and not on a fictitious inflationary gain. Adjustments to basis for inflation would benefit individuals who dispose of their assets as well as businesses.

Indexing has worked well in other countries. Canada is an excellent example of the benefits derived from indexing the tax system. Yet, indexing has not been tried in a tax system and economy as complicated as ours. While I believe that indexing will be successful, Senator Dole has taken a cautious approach in his bill.

The inflation adjustment in S. 2738 would only be equal to two-thirds of the increase in the consumer price index. This percentage is large to curb tax inflation. Yet, by being less than the rate of inflation, no charges that indexing is itself inflationary can be made.

The indexing authority will automatically expire after 5 years. Thus, the Congress can review the success of the program. The increases will be made only once a year, which is no more often than recent major tax legislation.

The adjustments will be automatically put into effect each year. There is another safeguard built into the bill at this point. The President could, by executive order, stop the increase for any year. That decision would be subject to a one-House veto by Congress.

This legislation is an important reform for every taxpayer. No longer would Congress be able to hide tax increases behind the mask of inflation. Since tax indexing was first proposed, the principle has gained increasing support from business as well as academic quarters. In the two years since I left Congress, I have found evidences of that support from many different sources. I am certain that the country would benefit from indexation of taxes and the Dole bill, S. 2738, is a good place to start.

Mr. GRIFFIN. Will the Senator yield for a point right there, on the fact that it is the Government which profits, which is the beneficiary of inflation?

Mr. DOLE. I yield.

Mr. GRIFFIN. Going back to the point that when the cost of living goes up 10 percent, it would be understandable if the revenues going to the Federal Treasury went up 10 percent. If we adopt this indexing provision, that is how much the Federal Government revenues would increase. But at the present time under our present system, the revenues going to the Federal Treasury go up not 10 percent, but 16 percent. There is a bonus that the Federal Government gets by promoting inflation. It seems to me that if we want to do something about inflation we ought to take away the incentive that there is now built into the system to promote inflation.

Right now we have a built-in incentive to promote policies and programs that generate inflation, because the Federal Government can increase taxes that way without the Congress voting for it. It seems to me this is unconscionable.

Mr. BROOKE. And because they have moneys to which they are not entitled, they spend money which they really have not earned, or not justifiably earned.

Mr. DOLE. I will yield the floor. I believe the Senator from Wyoming was waiting.

Mr. DANFORTH. Will the Senator yield?

Mr. HANSEN. I yield.

Mr. DANFORTH. The only argument I have heard against inflation is that the reasons for holding down inflation would be lost.

I am sorry. The only arguments I have heard against inflation is that the argument is made if we index tax brackets somehow we will lose our will to fight inflation and, therefore, we will do a poor job of containing inflation.

I would just raise the point that it does not seem to me that we have been doing a very good job of fighting inflation without indexing. As a matter of fact, the points that the Senator from Michigan and the Senator from Kansas have made are exactly right, that when you are trying to finance a Federal deficit, the best thing that can be done insofar as the Government is concerned is to have a high rate of inflation which will put people into higher brackets.

As a matter of fact, the percent of the gross national product consumed by taxes has persistently gone up over the last two decades. What the administration is banking on, I am afraid, is the tax increase caused not by what Congress does but what inflation does, by putting people into higher and higher brackets. How does the President hope to have a balanced budget by 1981 or 1982 or 1983, whenever he wants his balanced budget? The way that he is going to accomplish it is very simple. He says he wants to hold down spending, but he also wants to increase revenues, to squeeze the deficit. The way he increases revenues very simply is to rely on infla-

tion putting people into higher and higher brackets.

So, really, there has been no disincentive to inflation. It has helped the Federal Government in that it has helped to raise revenues. It has helped to squeeze the deficit that we keep trying to increase by our spending policies. The people who will suffer as a result of inflation and tax policy are the taxpayers themselves.

I believe the Senator from Michigan is to be commended for his leadership on indexing. As a matter of fact, I remember last year when we had the tax bill the Senator from Michigan was the one then who raised the question on indexing.

During the discussions in the Senate Finance Committee on the question of indexing, the Senator from Kansas repeatedly made the point that the Senator from Michigan (Mr. GRIFFIN) was the one who had so consistently pressed this question.

I might just point out one other question. The Senator brought it up in connection with the tax bill in 1977. We did have a tax bill in 1977 and we also had one in 1976. We had one in 1974, in 1975, in 1972, and in 1969. In all those years we had tax bills. Why do we have to have tax bills every year? Why do we have to spend so much time fussing around with the Internal Revenue Code? Almost every year we have to have a tax bill which creates so much uncertainty for the economy. Why? Because we desperately have to adjust the tax rates in order to hold people at least a little bit harmless from the effect of inflation.

So the whole instability in the economy, the unpredictability of the Internal Revenue Code, the fact that we keep changing the rules on the American people, flows in part, because we always have to have a tax bill, because we do not have indexing. We always have to have these ad hoc adjustments that we make to the tax tables.

Mr. HANSEN. Mr. President, it does not make me particularly happy to have to take issue with so many colleagues whom I hold in such high regard, but I must say that I am not only disturbed but I am perplexed by what my friends are saying.

It seems strange indeed that anyone would consider advocating a course of action by the Government of the United States that flies in the face of facts as directly as this proposal does.

Ask people in Canada how indexing is working. Ask people in Brazil how it is working. Ask anybody with a savings account how it is working, or anyone who is living on a pension. They can all tell you that if you index, you are going to relieve the pain a little bit for those people whose major concern is simply taxes, but you do not solve the problem at all. It is like telling your son, who comes home every night drunk and wakes up the next morning with a great big headache, "We will get a bigger bottle of Alka Seltzer for you."

That is what we are doing when we are talking about indexing. We are not telling him what is wrong with his mode of life. We are not telling him that what he needs to do in order to get over those headaches in the morning is to stop drinking. Instead, we are saying, "Take one of these aspirin, or take some Alka Seltzer and you are going to feel better."

That is all indexing does. It does not solve any problems at all. I think my colleagues know that as well as I know it.

It is true that Congressman ARCHER introduced an indexing proposal for capital gains. I oppose it, and submit this: Wages and earned income, to which most Federal taxes apply, reflect the increases of inflation. It is certainly true that the Government takes a bigger bite. So long as we fail to recognize the good sense of the proposal that was made by the distinguished senior Senator from Virginia, to balance the budget, we are going to have this problem. He told us what we can do about it: Balance the budget and nothing else. All of the rhetoric is not going to get at the problem. The very first day we get a handle on the Federal budget and stop spending money that the Federal Government has not earned or has not collected, we shall start to address the problem.

As far as capital gains go, it is true that if a person has held an asset for 10 or 15 or 20 years and he sells it, he can very well wind up with less purchasing power than was represented by the cost of that article in the first place. I was one who felt that there should be and could very properly be some indexing of capital gains by means of a sliding scale on the gain, rather than by changing the cost basis of that property.

There is a better chance of wages keeping up to reflect inflation than there is for an asset that has been held for a long time. I simply wanted to make that point, Mr. President, in order that colleagues might understand that I oppose the indexing proposal offered by Congressman BILL ARCHER of Texas.

What we are proposing here sounds good. This is the day when everyone is concerned about taxes. If a politican can get up on the floor of the Senate and say, "I am going to bring you some relief" it sounds good. I grant that the typical American has little confidence that we are going to take the steps that we need to take, that we are, in essence, going to stop drinking every Saturday night and try, one weekend, to stay sober. As quickly as we do "stay sober," we shall have made a major breakthrough in getting at the root cause of our problem.

Some say that inflation helps the Government. Well, it really does not help the Government. We are dishonest with ourselves and we are dishonest with the people when we attempt to justify in any way a program that thrusts the burden of inflation ever more heavily upon our shoulders. I do not expect that, because of what I say or because of what Senator BYRD has said that we are going to come up with a balanced budget very quickly. But I do say that that is the only real relief.

I think that one of the reasons we ought not to take the step that is, this afternoon, being proposed is that it does tend to be the kind of palliative that will encourage some people to believe that inflation is not a real, serious problem. In fact, inflation is our worst problem. I hope that we will not index, because it could incline the people of this country who do not examine the problem in its entirety, to conclude that we have taken a step that really is going to do away with the bad effects of inflation.

Mr. HART. Will the Senator yield?

Mr. HANSEN. I am happy to yield.

Mr. HART. The Senator said this proposal is offered as a palliative, a remedy, to make the American taxpayers feel good; therefore, it is misdirected and will not cause people to face up to the real problems. Speaking only as one cosponsor and as a Senator who offered an indexing amendment very similar to this 6 months ago, that is not the issue. That is not the purpose, at least for this Senator's support for this measure. The issue is fairness.

The issue is not to make people feel good or to make our constituents happy. The issue is what is fair.

Inflation is stealing from people and putting their money in the Federal Treasury when Congress has not acted. I do not support this measure because my constituents are going to be happier or think that we have done something for them. I support this measure because it is fair.

The system we have now is unfair. That is the issue.

Mr. HANSEN. No, if the Senator from Colorado will let me take the floor again, let me say this: When somebody is stealing from you, the issue is not what is fair, the issue is what is honest. Honesty is what is at stake here, it is not fairness.

If the Senator wants to say, let us be fair and see that every pickpocket gets his fair share and that you do not have more taken out of your pockets than anybody else, I admit there could be validity to the argument of my friend from Colorado. But that is not the issue. The issue is what is right and what is honest. This proposal really does not have any merit when it is tested on that score.

Mr. HART. If the Senator will yield, does the Senator suggest that this amendment is dishonest and the present system is honest? I do not agree with the Senator from Wyoming. It is dishonest to take money from the American people under a nonlegislated system, which is what this is. It is dishonest.

Mr. HANSEN. What is dishonest, I say to my friend, is for Congress to spend, time after time, more money than has been collected in taxes. That is the basic dishonesty. That is the burden that falls heavily upon everyone and particularly upon those who have tried to do the right thing by their families, tried to be self-supporting, tried to be self-sufficient, to assume the responsibilities that good citizens ought to assume. That is where the basic fault lies.

I say that simply to increase the aspirin dosage is not going to strike at that at all. In the short run, it may be contended that people will suffer less who, for one reason or another are going to be suffering from inflation. But basically, we are taking the wrong approach. We need to see not how fair we can be, but, rather, how honest we can be.

I do not accuse the Senator from Col-

orado of dishonesty and he took me out of context if he infers that I did.

All I am saying is that this approach is not an honest approach to the problem. An honest approach to the problem is to stop inflation. It is not to try to ease up the burden a little bit.

The people who are not relieved, are those who cannot be indexed by the Federal Government through this tax gimmick and who are going to suffer no matter what we do in the way of taxes. There are a lot of those out there. There are a lot of those who would be getting into enterprises and expanding jobs and increasing productivity and fighting inflation, who would do so if we were honest with our tax laws and addressed the problem for what it really is.

Mr. HART. If the Senator will yield, I will just repeat what I said in my remarks and I think the cosponsors have said.

No one who offered this amendment suggested that this is being offered as a solution to the problem of inflation. It is not.

Mr. HANSEN. Then I do not think it should be considered.

Mr. HART. It is being considered because it is fair.

Mr. HANSEN. Let us go in the right direction instead of trying to fight a rear guard action to see why the bad guys are catching up with us. What we ought to be doing is facing the enemy of inflation immediately instead of running away from it, or letting it take a bite out.

Mr. HART. The Senator from Wyoming and the Senator from Colorado are missing in the night.

This is not offered as a solution to inflation. There are other solutions to that which some of us will debate, and offer——

Mr. HANSEN. There is one real solution, offered by the Senator from Virginia: balance the budget. It is very simple. It will work. It works every time it has ever been tried.

We do not have the courage, because what we like to do is get up on this floor and pontificate and tell people how we are taking care of them and yielding to their demands to spend money we do not have, to appropriate funds that have not been collected by this Government. That is basic to the problem of inflation. That is all I am saying.

Indexing provides a bigger bottle of aspirin. But what we ought to be doing is saying, "Let's drink a little bit less Saturday night."

Mr. HART. What the Senator says is, "Don't do what is fair, honest, and just" in this specific instance because we want to keep people paying under an unfair system as we go so they will take some other remedy the Senator believes in.

They are totally separate.

Mr. HANSEN. No; I say to my friend from Colorado, this is not fair, honest, and just because it only addresses the problem for part of the people.

Now, if we want to be fair, honest, and just; I say we have got to be that way with every last human being in the United States.

All the Senator is doing with this proposal is selecting out those persons who feel the crunch of inflation in a higher tax bracket. It does follow that after wages are raised, people get into a higher tax bracket. This is only part of the problem addressed by the amendment.

I say we ought to strike at inflation at its roots. That means balancing the budget. It means not starting out on a bunch of harebrained schemes and proposals, that try to do everything for everybody, try to relieve each individual citizen of his responsibilities; try to convince Americans to believe that our Government is wealthy enough and omniscient enough to provide his every need.

So I say, simply, that until we meet the test of being honest and fair and just with everybody, we ought not take the step that is proposed here this afternoon.

Mr. HART. That is a wonderful argument for saying, "Don't do anything until you do what I think ought to be done."

This is not offered as a solution to inflation. It is offered as a corrective to a fundamental injustice and inequity in the tax laws. We can do that.

Mr. HANSEN. The problem is not the fundamental inequity in the tax laws. The problem is the fundamental inequity of inflation. It is spending money we do not have. If we get our spending house in order, we do not need to worry about tax rates, for they will take care of themselves.

Indexing attempts only to relieve a bit of the burden that inflation places upon individuals when they get into a higher tax bracket and have to pay out more in taxes.

It is not a sound approach.

Mr. HART. Nothing in the world prevents this body from correcting that injustice, and attempting to do what the Senator from Wyoming is suggesting, which I do not particularly agree with, but that is another debate.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. Mr. President, this is not a new idea. It is one that was suggested by the distinguished Senator from Michigan in 1977, and at that time the distinguished Senator from Wyoming voted for it. This amendment is not any different than the amendment in 1977.

I do not suggest that the amendment is the answer to inflation. It is trying to ease inflation as far as the taxpayers are concerned. It is not the answer to a balanced budget. As far as the Senator from Kansas knows, we are not considering an amendment to balance the budget. I would vote for such an amendment if it were offered on the tax bill.

Many of us concerned who have offered the amendment, do not believe that it is a tax scheme. We think it has a great deal of merit.

If it is fair to index capital gains, why not earned income.

Mr. HANSEN. Will the Senator yield on that point?

Mr. DOLE. Yes.

Mr. HANSEN. I can give one very basic, fundamental, good reason for not doing that.

I think the Senator from Kansas would agree with me that wages have gone up, not regularly and uniformly, but sporadically. They have been rising in response to increased inflation and a higher cost of living. Adjustments have been made, if not annually, then every 3 or 4 years.

But I read what George Meany said and I am sure the Senator from Kansas and the Senator from Michigan have, and wages do go up. But, with one basic difference.

I am surprised my friend from Kansas would get himself into this kind of situation, to give me the opportunity to explain the difference, because I think he knows very well.

If we have a farm in Kansas that we bought 35 years ago, the cost of that farm has not risen every year, or every 3 or 4 years.

That is the basic difference, and I ask my friend from Kansas if he does not agree with me.

Mr. DOLE. I agree. However I can show just about the same effect on wages.

Mr. HANSEN. Does my friend from Kansas suggest that he can show me instances where wages have not risen, the cost of a farm purchased 25 years ago has not risen, is that the point he is trying to make?

Mr. DOLE. Let me give an example. I am not trying to make any particular point, but only suggesting that the amendment has as much merit as other amendments. Just as much merit as it had last year when the Senator from Wyoming voted for it.

Mr. HANSEN. The Senator from Wyoming is older and smarter now.

Mr. DOLE. Let us take a family of four, earning $15,000 in 1955, who increases their income to match inflation.

That same family, just to take care of inflation, would be earning $32,900 in 1976, or a 120-percent gain.

Yet, the same family has moved from the 22-percent tax bracket to the 36-percent tax bracket, and the family tax bill has increased from $1,540 in 1955 to $6,600 in 1976, for an increase of 330 percent. The fact is the family, because of Federal tax policy, in real terms, is 11 percent worse off in 1976 than it was in 1955.

I agree with the Senator from Wyoming that we should index capital gains. In fact, I offered the Archer amendment and got three votes for indexing capital gains. I made the effort to index capital gains. It is still part of the House bill, and I hope it ends up as part of the law. As the Senator knows, there is strong opposition in the administration to indexing.

I think it is fair to say that all we want to do with this amendment is to try to keep people whole on an automatic basis and not wait for the tax ritual every year in Congress.

Mr. HANSEN. I think the Senator from Kansas failed to make the point I thought he was seeking to establish.

My statement was that the cost of a farm or any property that would be subject to a capital gains tax has not changed.

The instances that the Senator from Kansas cited, so far as wages are con-

cerned, I think reflected that fact that despite the increase in wages, they have not kept up with inflation. I could not agree with him more. He is absolutely right. That is why the fundamental problem is inflation, not anything else.

I would be happy to forget all about capital gains tax changes insofar as indexing is concerned, and I would be happy to forget all the other concerns we have, if the Government, from this day forward, would come up with a balanced budget. We would bring inflation under control almost overnight.

I agree with the Senator from Kansas that wages have not kept even, but that is precisely the point why we should not be supplying larger doses of aspirin to Americans, encouraging them to believe we have solved the problem. We have not solved any problem. All we have done is to make them think their heads are not as big Monday morning as they really are.

Mr. DOLE. I do not think we have any basic difference. I believe it is a question of whether the matter before us has as much merit as some other matter we probably are not going to have in this bill; namely, the indexing of capital gains.

Mr. President, according to Bureau of Labor Statistics, the real after-tax pay of the average worker has not increased in 13 years, not since 1965. It is clear we are not going to solve the inflation problem with this amendment. However, if inflation goes down, indexing goes down. If inflation goes down to 1 percent or below, then the amendment costs nothing. That is fine. We are all for it. In the meantime, why make the taxpayer pay taxes on inflation?

Mr. GRIFFIN. Mr. President, will the Senator yield?

Mr. DOLE. I yield.

Mr. GRIFFIN. I say, with all due respect to my friend from Wyoming, for whom I have great and genuine affection, that I do not think he quite understands what we are trying to do here. He talks about the wage earner perhaps not getting wage increases that are adequate to keep pace with the cost of living. Suppose he does get a pay raise that keeps pace with the cost of living. The point is that he has gained nothing in purchasing power. He has more dollars that are worth less; and in terms of purchasing power, he is in exactly the same position as before.

The question is, should he then pay a higher rate of taxation on his pay? The point of this amendment is that he should not. The Senator from Wyoming seems to go along with the indexing of capital gains.

Mr. HANSEN. No. As a matter of fact, I voted against it.

Mr. GRIFFIN. On capital assets. I thought the Senator went along with that.

Mr. HANSEN. No.

Mr. GRIFFIN. I am sorry. I thought he was for the amendment offered by Representative ARCHER.

If you have a house and you paid $10,000 for it and then so many years later you sold it for $15,000, if in the interim the cost of living has gone up 50 percent, obviously you have not really gained anything, and you should not have to pay a capital gain; and under the Archer provision, you would not have to.

If you are a wage earner and you get a pay raise, I would say it depends on how much of a pay raise you get as to whether your taxes should go up. If your pay raise is only enough to keep even with the cost of living, you should not have to pay a higher percentage. Obviously, if your pay raise takes you above the increase in the cost of living, you should go into a higher tax bracket and you should pay a higher percentage of your income.

It seems to me that the same principle that applies to capital gains surely should apply in the case of wages, just to be equitable, just to be fair. I am not against the application of it for capital gains, but it seems to me that it has a higher priority when it comes to wages for the average wage earner.

Mr. DOLE. The point is indexing applies to all taxpayers, and indexing is not complicated.

In fact, Mr. Roper came before the Finance Committee in June. We talked about indexing, and we talked about fairness, the very thing which the Senator from Colorado pointed out. People are concerned about fairness. The Roper poll released to the Finance Committee showed that 60 percent of the American people preferred indexing to the periodic tax cuts now legislated by Congress.

That is all we suggest. That does not mean that we will not make other changes in the tax laws. It just says that, so far as tax brackets are concerned and exemptions are concerned and standard deductions are concerned, they are going to be indexed.

It seems to me that that would be a pretty easy product to sell. We probably will not be successful and may lose by a vote or two today—perhaps one or two more than that. I doubt that, if we consider this on its merits. I do not think the chairman is prepared to accept the amendment. Is that the right assumption?

Mr. TALMADGE. Yes.

Mr. DOLE. I have already given the merits three times.

Mr. President, I think the Senator from Illinois wanted to make a brief statement, and then we will be ready to vote.

Mr. PERCY. Mr. President, I have listened to the colloquy in the last few minutes with great interest.

I do not know of any principle of taxation that people understand better than the problems that we are trying to solve through indexation.

While going up in an elevator in a downtown building in Chicago last week, a young man said:

> I'm a secretary. After a year, I have gotten a hundred-dollar-a-month increase in wages. I was overjoyed when I received it, until I realized that 32 percent of that is going to be taxed away.

In estimating a top-level salary for a secretary, I think she probably has another shock coming to her when she realizes that social security and the State income tax will also come out, and she probably is going to pay 40 percent of that wage increase in taxation.

I do not think anyone would say that is fair; or that she should not feel disillusioned as a result of waiting a long time for a wage increase that now is going to be taxed away at a level she thought never should apply to a person in her income level.

The bill that the Senate Finance Committee has reported is a far better bill than I envisioned we would have when I listened to the proposals of the administration and when I reviewed the House bill. It has gone a long way toward recognizing some of the very fundamental problems we have in this country with respect to capital formation. We must create incentives for that capital to be invested in capital equipment which will be backing up jobs. This eventually will allow us to produce goods at a noninflationary level and absorb wage increases, and not pass those wage increases on in the form of price increases. But it is going to take a while to do that.

I believe we can go further than we have in the committee bill in the area of recognizing the problem that this young secretary faces and everyone else faces who receives a wage increase.

As has been said on the floor already, for every 10-percent increase in inflation, the United States Government reaps a 16.5-percent increase in revenues. There is something wrong with that.

The bill reported by the Financing Committee provides only a 1-year partial protection against inflation. It provides additional rate reductions intended to offset the impact of higher social security taxes next year only.

Unless tax rates are adjusted each year to reflect increases in inflation, the effect of any tax cut bill passed this year will be eroded quickly.

I think that is what the amendment offered by the distinguished Senator from Michigan (Mr. GRIFFIN) is designed to do, to arrest tax increases created by inflation. As we all know confidence in the economy depends upon the ability of people to foresee they are going to have a certain amount of income in the future.

This is why I opposed the $50 rebate. People getting a $50 bill back are not going to go out and buy an automobile made in Detroit, but if they see that they are going to get steady recognition over a period of years of the inflationary impact on their wage increases they will anticipate purchases that can be made with confidence.

That will stimulate the economy and will get the economy moving again in the right direction.

So for that reason I fully support this amendment and I am proud to be a cosponsor of it.

Mr. GRIFFIN. Mr. President, will the Senator yield?

Mr. TALMADGE. I yield to the distinguished Senator from Michigan.

UP AMENDMENT NO. 1999

Mr. GRIFFIN. Mr. President, I send to the desk a technical modification of the amendment just to make it conform

with the fact that we are not dealing with the original House bill.

The PRESIDING OFFICER. The Senator has a right to modify his amendment.

The modification is as follows:

On page 1, line 1, of amendment No. 3686, strike "18" and insert "159".

On page 1, line 1, strike "26" and insert "15".

On page 1, line 2, strike "Sec. 105" and insert "Sec. 108".

Mr. TALMADGE. Mr. President, I shall shortly move to table the amendment, and I ask that attachés of the Senate to tell Senators in adjoining rooms and cloakrooms to come to the Chamber so we can have a sufficient number of Senators to order a table motion.

I think everything on this issue has been said that can be said.

I particularly commend the distinguished senior Senator from Wyoming for the argument that I heard him make, and also the distinguished chairman of the Committee on Finance.

If this amendment is agreed to it will reduce revenues of the Federal Government by $1.4 billion for every percentage point of inflation.

Assume the inflation rate this year will be 8 percent. That would mean we would have $10 billion shortfall in revenue next year.

What is the problem with inflation now? It is primarily a shortfall in Federal revenue, running the Government with printing press money, so that to my mind would be fighting inflation in a similar manner as trying to fight a fire with gasoline. It would do just exactly the opposite of what it is intended to do.

Mr. President, I move to table the amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER (PAUL G. HATFIELD). The question is on agreeing to the motion to lay on the table the amendment as modified, of the Senator from Michigan.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Alabama (Mrs. ALLEN), the Senator from Minnesota (Mr. ANDERSON), the Senator from Colorado (Mr. HASKELL), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from West Virginia (Mr. RANDOLPH), and the Senator from Alabama (Mr. SPARKMAN) are necessarily absent.

I further announce that, if present and voting, the Senator from West Virginia (Mr. RANDOLPH) would vote "yea."

Mr. STEVENS. I announce that the Senator from New Mexico (Mr. DOMENICI), the Senator from Utah (Mr. HATCH), and the Senator from Texas (Mr. TOWER) are necessarily absent.

I further announce that, if present and voting, the Senator from TEXAS (Mr. TOWER) would vote "nay."

The PRESIDING OFFICER. Are there any Senators in the Chamber who have not voted?

The result was announced—yeas 53, nays 37, as follows:

[Rollcall Vote No. 455 Leg.]

YEAS—53

Bayh	Glenn	Morgan
Bellmon	Gravel	Moynihan
Bentsen	Hansen	Muskie
Bumpers	Hathaway	Nelson
Burdick	Hodges	Nunn
Byrd, Harry F., Jr.	Hollings	Pell
	Humphrey	Ribicoff
Byrd, Robert C.	Inouye	Riegle
Cannon	Javits	Sarbanes
Case	Johnston	Sasser
Chafee	Kennedy	Stafford
Chiles	Leahy	Stennis
Clark	Long	Stevenson
Cranston	Mathias	Stone
Culver	Matsunaga	Talmadge
Eagleton	McGovern	Weicker
Eastland	Melcher	Williams
Ford	Metzenbaum	Zorinsky

NAYS—37

Baker	Hart	McIntyre
Bartlett	Hatfield, Mark O.	Packwood
Biden		Pearson
Brooke	Hatfield, Paul G.	Percy
Church		Proxmire
Curtis	Hayakawa	Roth
Danforth	Heinz	Schmitt
DeConcini	Helms	Schweiker
Dole	Jackson	Scott
Durkin	Laxalt	Stevens
Garn	Lugar	Thurmond
Goldwater	Magnuson	Wallop
Griffin	McClure	Young

NOT VOTING—10

Abourezk	Haskell	Sparkman
Allen	Hatch	Tower
Anderson	Huddleston	
Domenici	Randolph	

So the motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. LONG. I move to lay that motion on the table.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Maine.

AMENDMENT NO. 3849

Mr. MUSKIE. Mr. President, I call up my amendment No. 3849, and ask that it be reported.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Maine (Mr. MUSKIE) proposes an amendment numbered 3849.

Mr. MUSKIE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

Mr. CURTIS. Mr. President, reserving the right to object, is the amendment printed?

Mr. MUSKIE. Yes, the amendment is printed.

The PRESIDING OFFICER. The amendment is printed, but it has not arrived.

Mr. CURTIS. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. BUMPERS. Mr. President, I do not want to intervene, but if the Senator from Maine is withdrawing his amendment——

AMENDMENT NO. 3678 (AS MODIFIED)

(Purpose: To add an additional title)

Mr. MUSKIE. Mr. President, I ask that my amendment No. 3678 be called up. It is identical to the other one. This one was offered to the Import-Export Bank Act legislation. I simply modified the opening lines to conform to this measure. It has been available for several days, so I call up that one.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Maine (Mr. MUSKIE) on behalf of himself, Mr. ROTH and Mr. GLENN, proposes an amendment numbered 3678, as modified.

Mr. MUSKIE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

Mr. CURTIS. I object.

The PRESIDING OFFICER. Objection is heard. The clerk will read the amendment.

CLOTURE MOTION

Mr. ROBERT C. BYRD. Mr. President, I send to the desk a cloture motion.

The PRESIDING OFFICER. The Senator has that right.

A cloture motion having been presented under rule XXII, the Chair, without objection, directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on H.R. 13511, a bill to amend the Internal Revenue Code of 1954 to reduce income taxes, and for other purposes.

Robert C. Byrd, Gaylord Nelson, Muriel Humphrey, Harrison A. Williams, Jr., Spark M. Matsunaga, Donald W. Riegle, Jr., Alan Cranston, Russell B. Long, Abraham Ribicoff, Robert Dole, Howard H. Baker, Jr., Jacob K. Javits, Clifford P. Hansen, Howard M. Metzenbaum, Barry Goldwater, Carl T. Curtis, James B. Pearson, Lowell P. Weicker, Jr., Richard S. Schweiker, and Paul Laxalt.

The PRESIDING OFFICER. The clerk will resume the reading of the amendment.

The legislative clerk read as follows:

"TITLE VII—SUNSET ACT OF 1978

"PART A—GENERAL PROVISIONS

"SEC. 701. This title may be cited as the 'Sunset Act of 1978'.

"SEC. 702. The purposes of this title are—

"(1) to require that most Government programs be reauthorized according to a schedule at least once every ten years;

"(2) to limit the length of time for which Government programs can be authorized to ten years;

"(3) to bar the expenditure of funds for Government programs which have not been provided for by a law enacted during the ten-year sunset reauthorization cycle; and

"(4) to encourage the reexamination of selected Government programs each Congress.

"SEC. 703. (a) For purposes of this title:

"(1) The term 'budget authority' has the meaning given to it by section 3(2) of the Congressional Budget Act of 1974.

"(2) The term 'permanent budget authority' means budget authority provided for an indefinite period of time or an unspecified number of fiscal years which does not require recurring action by the Congress, but does not include budget authority provided for a specified fiscal year which is available

for obligation or expenditure in one or more succeeding fiscal years.

"(3) The term 'Comptroller General' means the Comptroller General of the United States.

"(4) The term 'agency' means an executive agency as defined in section 105 of title 5, United States Code, except that such term includes the United States Postal Service and the Postal Rate Commission but does not include the General Accounting Office.

"(5) The term 'sunset reauthorization cycle' means the period of five Congresses beginning with the Ninety-seventh Congress and with each sixth Congress following the Ninety-seventh Congress.

"(b) For purposes of this title, each program (including any program exempted by provisions of law from inclusion in the Budget of the United States) shall be assigned to the functional and subfunctional categories to which it is assigned in the Budget of the United States Government, fiscal year 1979. Each committee of the Senate or the House of Representatives which reports any bill or resolution which authorizes the enactment of new budget authority for a program not included in the fiscal year 1979 budget shall include, in the committee report accompanying such bill or resolution (and, where appropriate, the conferees shall include in their joint statement on such bill or resolution), a statement as to the functional and subfunctional category to which such program is to be assigned.

"(c) For purposes of parts B, C, D, and F of this title, the reauthorization date applicable to a program is the date specified for such program under section 711(b).

"PART B—REAUTHORIZATIONS OF GOVERNMENT PROGRAMS

"SEC. 711. (a) Each Government program (except those listed in section 713) shall be reauthorized at least once during each sunset reauthorization cycle during the Congress in which the reauthorization date applicable to such program (pursuant to subsection (b)) occurs.

"(b) The first reauthorization date applicable to a Government program is the date specified in the following table, and each subsequent reauthorization date applicable to a program is the date ten years following the preceding reauthorization date:

Programs included within subfunctional category and first reauthorization date:

254 Space, Science, Applications and Technology.
272 Energy Conservation.
301 Water Resources.
352 Agriculture and Research Services.
371 Mortgage Credit and Thrift Insurance.
376 Other Advancement and Regulation of Commerce.
501 Elementary, Secondary, and Vocational Education.
601 General Retirement and Disability Insurance.
602 Federal Employment Retirement and Disability.
703 Hospital and Medical Care for Veterans.
806 Other General Government.
851 General Revenue Sharing, September 30, 1982.
051 Department of Defense—Military.
053 Atomic Energy Defense Activities.
154 Foreign Information and Exchange Act.
251 General Science and Basic Research.
306 Other Natural Resources.
351 Farm Income Stabilization.
401 Ground Transportation.
502 Higher Education.
553 Education and Training of Health Care Work Force.
701 Income Security for Veterans.
752 Federal Litigative and Judicial Activities.
802 Executive Director and Management.

Programs included within subfunctional category and first reauthorization date.

803 Central Fiscal Operations, September 30, 1984.
054 Defense Related Activities.
152 Military Assistance.
155 International Financial Programs.
253 Space Flight.
255 Supporting Space Activities.
274 Emergency Energy Preparedness.
302 Conservation and Land Management.
304 Pollution Control and Abatement.
407 Other Transportation.
504 Training and Employment.
506 Social Services.
554 Consumer and Occupational Health and Safety.
704 Veterans Housing.
751 Federal Law Enforcement Activities.
801 Legislative Functions.
852 Other General Purpose Fiscal Assistance, September 30, 1986.
153 Conduct of Foreign Affairs.
271 Energy Supply.
303 Recreational Resources.
402 Air Transpotation.
505 Other Labor Services.
551 Health Care Services.
604 Public Assistance and Other Income Supplements.
702 Veterans Education, Training, and Rehabilitation.
753 Federal Correctional Activities.
805 Central Personnel Management.
902 Other Interest, September 30, 1988.
151 Foreign Economic and Financial Assistance.
276 Energy Information, Policy, and Regulation.
372 Postal Service.
403 Water Transportation.
451 Community Development.
452 Area and Regional Development.
453 Disaster Relief and Insurance.
503 Research and General Education Aids.
552 Health Research.
603 Unemployment compensation.
705 Other Veterans Benefits and Services.
754 Criminal Justice Assistance.
804 General Property and Record Management.
901 Interest on the Public Debt, September 30, 1990.

"(c)(1) It shall not be in order in either the Senate or the House of Representatives to consider any bill or resolution, or amendment thereto, which authorizes the enactment of new budget authority for a program for a period of more than ten fiscal years, for an indefinite period, or (except during the Congress in which such next reauthorization date occurs) for any fiscal year beginning after the next reauthorization date applicable to such program. Notwithstanding the preceding sentence, it shall be in order to consider a bill or resolution for the purpose of considering an amendment to the bill or resolution which would make the authorization period conform to the requirement of such sentence.

"(2)(A) It shall not be in order in either the Senate or the House of Representatives to consider any bill or resolution, or amendment thereto, which provides new budget authority for a program for any fiscal year beginning after the first (or any subsequent) reauthorization date applicable to such program under paragraph (b), unless the provision of such new budget authority is specifically authorized by a law which constitutes a required authorization for such program.

"(B) For the purposes of this subsection, the term 'required authorization' means a law authorizing the enactment of new budget authority for a program, which complies with the provisions of paragraph (1) and is enacted during the Congress in which the reauthorization date for such program occurs, or during a Congress after such date and prior to the Congress in which the next reauthorization date for such program occurs.

"(3) No new budget authority may be obligated or expended for a program for a fiscal year beginning after the last fiscal year in a sunset reauthorization cycle unless a provision of law providing for the continuation of such program has been enacted during such sunset reauthorization cycle.

"(4) Any provision of law providing permanent budget authority for a program shall cease to be effective (for the purpose of providing such budget authority) on the first reauthorization date applicable to such program.

"(5) It shall not be in order in either the Senate or the House of Representatives to consider any bill or resolution, or amendment thereto, which provides new budget authority for a program unless the bill or resolution, or amendment thereto, (or the report which accompanies such bill or resolution) includes a specific reference to the provision of law which constitutes a required authorization for such program. Notwithstanding the preceding sentence, it shall be in order to consider a bill or resolution for the purpose of considering an amendment which provides such reference to the appropriate provision of law.

"SEC. 712. (a) It shall not be in order in either the Senate or the House of Representatives to consider any bill or resolution, or amendment thereto, which has been reported by a committee and which authorizes the enactment of new budget authority for a program for a fiscal year beginning after the next reauthorization date applicable to such program, unless a reauthorization review (to the extent the committee or committees having jurisdiction deem appropriate) of such program has been completed during the Congress in which the reauthorization date for such program occurs (or during a subsequent Congress when such required authorization is considered), and the report accompanying such bill or resolution includes a separate section entitled 'Reauthorization Review' recommending, based on such review, whether the program or the laws affecting such program should be continued without change, continued with modifications, or terminated, and also includes, to the extent the committee or committees having jurisdiction deem appropriate, each of the following matters:

"(1) Information and analysis on the organization, operation, costs, results, accomplishments, and effectiveness of the program.

"(2) An identification of any other programs having similar objectives, and a justification of the need for the proposed program in comparison with those other programs which may be potentially conflicting or duplicative.

"(3) An identification of the objectives intended for the program, and the problems or needs which the program is intended to address, including an analysis of the performance expected to be achieved, based on the bill or resolution as reported.

"(4) A comparison of the amount of new budget authority which was authorized for the program in each of the previous four fiscal years and the amount of new budget authority provided in each such year.

"(b) It shall not be in order in either the Senate or the House of Representatives to consider a bill or resolution, or amendment thereto, which authorizes the enactment of new budget authority for a program for which there previously has been no such authorization unless the report accompanying such bill or resolution sets forth, to the extent that the committee or committees having jurisdiction deem appropriate, the information specified in subsection (a) (2) and (3).

"(c) Each committee having legislative ju-

risdiction over a program included in section 713 shall conduct a review of such program of the type described in subsection (a) at least once during each sunset reauthorization cycle, during the Congress in which the reauthorization date applicable to such program occurs, and shall submit to the Senate or the House of Representatives, as the case may be, a report containing its recommendations and other information of the type described in subsection (a) to the extent that the committee deems appropriate. It shall not be in order to consider a bill or resolution reported by the committee having legislative jurisdiction which authorizes the enactment of new budget authority for such program unless such report accompanies such bill or resolution, or has been submitted during the Congress in which the reauthorization date for such program occurred as provided in section 711(b), whichever first occurs.

"SEC. 713. (a) Section 711(c) shall not apply to the following:

"(1) Programs included within functional category 900 (Interest).

"(2) Any Federal programs or activities to enforce civil rights guaranteed by the Constitution of the United States or to enforce antidiscrimination laws of the United States, including but not limited to the investigation of violations of civil rights, civil or criminal litigation or the implementation or enforcement of judgments resulting from such litigation, and administrative activities in support of the foregoing.

"(3) Programs which are related to the administration of the Federal judiciary and which are classified in the fiscal year 1979 budget under subfunctional category 752 (Federal litigative and judicial activities).

"(4) Payments of refunds of internal revenue collections as provided in title I of the Supplemental Treasury and Post Office Departments Appropriation Act of 1949 (62 Stat. 561), but not to include refunds to persons in excess of their tax payments.

"(5) Programs included in the fiscal year 1979 budget in subfunctional categories 701 (Income security for veterans). 702 (Veterans education, training, and rehabilitation), 704 (Veterans housing), and programs for providing health care which are included in such budget in subfunctional category 703 (Hospital and medical care for veterans).

"(6) The following social security and Federal employee retirement programs:

"(A) Programs funded through trust funds which are included with subfunctional categories 551 (Health care services), 601 (General retirement and disability insurance), or 602 (Federal employee retirement and disability).

"(B) Retirement pay and retired pay of military personnel on the retired lists of the Army, Navy, Marine Corps, and the Air Force, including the Reserve components thereof, retainer pay for personnel of the Inactive Fleet Reserve; and payments under section 4 of Public Law 92-425 and chapter 73 of title 10, United States Code (survivor's benefits), classified in the fiscal year 1979 budget in subfunctional category 051 (Department of Defense—military).

"(C) Retirement pay and medical benefits for retired commissioned officers of the Coast Guard, the Public Health Service Commissioned Corps,, and the National Oceanic and Atmospheric Commissioned Corps and their survivors and dependents, classified in the fiscal year 1979 budget in subfunctional category 551 (Health care services) or in subfunctional category 306 (Other natural resources).

"(D) Retired pay of military personnel of the Coast Guard and Coast Guard Reserve, members of the former Lighthouse Service, and for annuities payable to beneficiaries of retired military personnel under the retired serviceman's family protection plan (10 U.S.C. 1431-1446) and survivor benefit plan (10 U.S.C. 1447-1455), classified in the fiscal year 1979 budget in subfunctional category 403 (Water transportation).

"(E) Payments to the Central Intelligence Agency Retirement and Disability Fund, classified in the fiscal year 1979 budget in subfunctional category 054 (Defense-related activities).

"(F) Payments to the Civil Service Retirement and Disability Fund for financing unfunded liabilities, classified in the fiscal year 1979 budget in subfunctional category 805 (Central personnel management).

"(G) Payments to the Foreign Service Retirement and Disability Fund, classified in the fiscal year 1979 budget in subfunctional category 153 (Conduct of foreign affairs).

"(H) Payments to the Federal Old-Age and Survivors Insurance and the Federal Disability Insurance Trust Funds, classified in the fiscal year 1979 budget in various subfunctional categories.

"(I) Administration of the retirement and disability programs set forth in this section.

"(b) If a question is raised in the Senate with respect to the application of any paragraph of subsection (a) to any bill, resolution, or amendment, or to any provision of law, the Presiding Officer shall submit the question to the Senate for decision.

"SEC. 714. (a) It is the sense of the Congress that all programs should be considered and reauthorized in program categories which constitute major areas of legislative policy. Such authorizations should be for sufficient periods of time to enhance oversight and the review and evaluation of Government programs.

"(b) The reauthorization schedule contained in section 711(b) may be changed by concurrent resolution of the two Houses of the Congress (except that changes in the schedule affecting permanent appropriations may be made only by law).

"(c) All messages, petitions, memorials, concurrent resolutions, and bills proposing changes in section 711(b) and all bills proposing changes in section 713(a), shall be referred first to the committee with legislative jurisdiction over any program affected by the proposal and sequentially to the Committee on Rules in the House of Representatives or to the Committee on Rules and Administration in the Senate as provided for in subsection (d).

"(d) Except as provided in subsection (f), the Committee on Rules in the House of Representatives or the Committee on Rules and Administration in the Senate shall report any concurrent resolution or bill referred to it under the provisions of subsection (c) and which previously has been reported favorably by a committee of legislative jurisdiction within thirty days (not counting any day on which the Senate or the House of Representatives is not in session), beginning with the day following the day on which such resolution or bill is so referred, with its recommendations.

"(e) The recommendations of the Committee on Rules or the Committee on Rules and Administration pursuant to subsection (d) or (f) shall include a statement on each of the following matters:

"(1) The effect the proposed change would have on the sunset reauthorization schedule.

"(2) The effect the proposed change would have on the jurisdictional and reauthorization responsibilities and workloads of the authorizing committees of Congress.

"(3) Any suggested grouping of similar programs which would further the goals of this title to make more effective comparisons between programs having like objective.

"(f) Any concurrent resolution or bill proposing a change in section 711(b) or 713(a) which has been reported by a committee before June 1, 1980, shall be referred in the House to the Committee on Rules and in the Senate to the Committee on Rules and Administration. Such committee shall report an omnibus concurrent resolution or bill containing its recommendations regarding the proposed changes by July 1, 1980, and consideration of such bill or resolution shall be highly privileged in the House of Representatives and privileged in the Senate. The provisions of subsections (c) and (d) of section 1017 of the Impoundment Control Act of 1974, insofar as they relate to consideration of rescission bills, shall apply to the consideration of concurrent resolutions and bills proposing changes reported pursuant to this subsection, amendments thereto, motions and appeals with respect thereto, and conference reports thereon.

"(g) It shall not be in order in the Senate or the House of Representatives to consider a bill or resolution reported pursuant to subsection (b), (c), (d), or (f) which proposes a reauthorization date for a program beyond the final reauthorization date of the sunset reauthorization cycle then in progress. Notwithstanding the preceding sentence, it shall be in order to consider a bill or resolution for the purpose of considering an amendment which meets the requirements of this subsection.

"PART C—PROGRAM INVENTORY

"SEC. 721. (a) The Comptroller General and the Director of the Congressional Budget Office, in cooperation with the Director of the Congressional Research Service, shall prepare an inventory of Federal programs (hereafter in this part referred to as the 'program inventory').

"(b) The purpose of the program inventory is to advise and assist the Congress in carrying out the requirements of parts B and D. Such inventory shall not in any way bind the committees of the Senate or the House of Representatives with respect to their responsibilities under such parts and shall not infringe on the legislative and oversight responsibilities of such committees. The Comptroller General shall compile and maintain the inventory, and the Director of the Congressional Budget Office shall provide budgetary information for inclusion in the inventory.

"(c) Not later than July 1, 1979, the Comptroller General, after consultation with the Director of the Congressional Budget Office and the Director of the Congressional Research Service, shall submit the program inventory to the Senate and House of Representatives.

"(d) In the report submitted under this section, the Comptroller General, after consultation and in cooperation with and consideration of the views and recommendations of the Director of the Congressional Budget Office, shall group programs into program areas appropriate for the exercise of the review and reexamination requirements of this title. Such groupings shall identify program areas in a manner which classifies each program in only one functional and only one subfunctional category and which is consistent with the structure of national needs, agency missions, and basic programs developed pursuant to section 201(i) of the Budget and Accounting Act, 1921.

"(e) The program inventory shall set forth for each program each of the following matters:

"(1) The specific provision(s) of law authorizing the program.

"(2) The Committees of the Senate and the House of Representatives which have legislative or oversight jurisdiction over the program.

"(3) A brief statement of the purpose or purposes to be achieved by the program.

"(4) The committees which have jurisdiction over legislation providing new budget authority for the program, including the ap-

propriate subcommittees of the Committees on Appropriations of the Senate and the House of Representatives.

"(5) The agency and, if applicable, the subdivision thereof responsible for administering the program.

"(6) The grants-in-aid, if any, provided by such program to State and local governments.

"(7) The next reauthorization date for the program.

"(8) A unique identification number which links the program and functional category structure.

"(9) The year in which the program was originally established and, where applicable, the year in which the program expires.

"(10) Where applicable, the year in which new budget authority for the program was last authorized and the year in which current authorizations of new budget authority expire.

"(f) The inventory shall contain a separate tabular listing of programs which are not required to be reauthorized pursuant to section 711(c).

"(g) The report also shall set forth for each program whether the new budget authority provided for such programs is—

"(1) authorized for a definite period of time;

"(2) authorized in a specific dollar amount but without limit of time;

"(3) authorized without limit of time or dollar amounts;

"(4) not specifically authorized; or

"(5) permanently provided,

as determined by the Director of the Congressional Budget Office.

"(h) For each program or group of programs, the program inventory also shall include information prepared by the Director of the Congressional Budget Office indicating each of the following matters:

"(1) The amounts of new budget authority authorized and provided for the program for each of the preceding four fiscal years and, where applicable, the four succeeding fiscal years.

"(2) The functional and subfunctional category in which the program is presently classified and was classified under the fiscal year 1979 budget.

"(3) The identification code and title of the appropriation account in which budget authority is provided for the program.

"SEC. 722. The General Accounting Office, the Congressional Research Service, and the Congressional Budget Office shall permit the mutual exchange of available information in their possession which would aid in the compilation of the program inventory.

"SEC. 723. The Office of Management and Budget, and the executive agencies and the subdivisions thereof shall, to the extent necessary and possible, provide the General Accounting Office with assistance requested by the Comptroller General in the compilation of the program inventory.

"SEC. 724. Each committee of the Senate and the House of Representatives, the Congressional Budget Office, and the Congressional Research Service shall review the program inventory as submitted under section 721 and not later than October 1, 1979, each shall advise the Comptroller General of any revisions in the composition or identification of programs and groups of programs which it recommends. After full consideration of the reports of all such committees and officials, the Comptroller General in consultation with the committees of the Senate and the House of Representatives shall report, not later than December 31, 1979, a revised program inventory to the Senate and the House of Representatives.

"SEC. 725. (a) The Comptroller General, after the close of each session of the Congress, shall revise the program inventory and report the revisions to the Senate and the House of Representatives.

"(b) After the close of each session of the Congress, the Director of the Congressional Budget Office shall prepare a report, for inclusion in the revised inventory, with respect to each program included in the program inventory and each program established by law during such session, which includes the amount of the new budget authority authorized and the amount of new budget authority provided for the current fiscal year and each of the five succeeding fiscal years. If new budget authority is not authorized or provided or is authorized or provided for an indefinite amount for any of such five succeeding fiscal years with respect to any program, the Director shall make projections of the amounts of such new budget authority necessary to be authorized or provided for any such fiscal year to maintain a current level of services.

"(c) Not later than one year after the first or any subsequent reauthorization date, the Director of the Congressional Budget Office, in consultation with the Comptroller General and the Director of the Congressional Research Service, shall compile a list of the provisions of law related to all programs subject to such reauthorization date for which new budget authority was not authorized. The Director of the Congressional Budget Office shall include such a list in the report required by subsection (b). The committees with legislative jurisdiction over the affected programs shall study the affected provisions and make any recommendations they deem to be appropriate with regard to such provisions to the Senate and the House of Representatives.

"SEC. 726. The Comptroller General and the Director of the Congressional Budget Office shall include in their respective reports to the Congress pursuant to sections 202(f) and 702(e) of the Congressional Budget Act of 1974 an assessment of the adequacy of the functional and subfunctional categories contained in section 211(b) for grouping programs of like missions or objectives.

"SEC. 727. (a) The Director of the Congressional Budget Office shall tabulate and issue an annual report on the progress of congressional action on bills and resolutions reported by a committee of either House or passed by either House which authorize the enactment of new budget authority for programs.

"(b) The report shall include an up-to-date tabulation for the fiscal year beginning October 1 and the succeeding four fiscal years of the amounts of budget authority (1) authorized by law or proposed to be authorized in any bill or resolution reported by any committee of the Senate or the House of Representatives, or (2) if budget authority is not authorized or proposed to be authorized for any of the five fiscal years, the amounts necessary to maintain a current level of services for programs in the inventory.

"(c) The Director of the Congressional Budget Office shall issue periodic reports on the programs and the provisions of laws which are scheduled for reauthorization in each Congress pursuant to the reauthorization schedule in section 711(b). In these reports, the Director shall identify each provision of law which authorizes the enactment of new budget authority for programs scheduled for reauthorization and the title of the appropriation bill, or part thereof, which would provide new budget authority pursuant to each authorization.

"PART D—PROGRAM REEXAMINATION

"SEC. 731. (a) Each committee of the Senate and the House of Representatives periodically shall provide through the procedures established in section 732, for the conduct of a comprehensive reexamination of selected programs or groups of programs over which it has jurisdiction.

"(b) In selecting programs and groups of programs for reexamination, each committee shall consider each of the following matters:

"(1) The extent to which substantial time has passed since the program or group of programs has been in effect.

"(2) The extent to which a program or group of programs appears to require significant change.

"(3) The resources of the committee with a view toward undertaking reexaminations across a broad range of programs.

"(4) The desirability of examining related programs concurrently.

"SEC. 232. (a)(1) The funding resolution first reported by each committee of the Senate in 1980, and thereafter for the first session of each Congress, shall include a section setting forth the committee's plan for reexamination of programs under this part. Such plan shall include each of the following matters:

"(A) The programs to be reexamined and the reasons for their selection.

"(B) The scheduled completion date for each program reexamination: *Provided*, That such date shall not be later than the end of the Congress preceding the Congress in which the reauthorization date applicable to a program occurs as provided in section 711(b), unless the committee explains in a statement in the report accompanying its proposed funding resolution the reasons for a later completion date, except that reports on programs scheduled for reauthorization during the 97th Congress and selected for reexamination in a committee's plan adopted in 1980 may be submitted at any time until February 15, 1982.

"(C) The estimated cost for each reexamination.

"(2) The report accompanying the funding resolution reported by each committee in 1980 and thereafter for the first session of each Congress, shall with respect to each reexamination include in its plan both the following matters:

"(A) A description of the components of the reexamination.

"(B) A statement of whether the reexamination is to be conducted (i) by the committee, or (ii) at the request and under the direction of or under contract with, the committee, as the case may be, by one or more instrumentalities of the legislative branch, one or more instrumentalities of the executive branch, or one or more nongovernmental organizations, or (iii) by a combination of the foregoing.

"(3) It shall not be in order to consider a funding resolution reported by a committee of the Senate in 1980, and thereafter for the first session of a Congress unless—

"(A) such resolution includes a section containing the information described in paragraph (1) and the report accompanying such resolution contains the information described in paragraph (2); and

"(B) the report required by subsection (c) with respect to each program reexamination scheduled for completion during the preceding Congress by such committee has been submitted for printing.

"(4) It shall not be in order to consider an amendment to the section of a funding resolution described in paragraph (1) reported by a committee for a year—

"(A) if such amendment would require reexamination of a program which has been reexamined by such committee under this section during any of the five preceding years;

"(B) if such amendment would cause such section not to contain the information described in paragraph (1) with respect to each program to be reexamined by such committee; or

"(C) if notice in writing of intention to propose such amendment has not been given to such committee and the Committee on Rules and Administration in the Senate not later than January 20 of the calendar year in which such year begins or the first day

of the session of the Congress in which such year begins, whichever is later. The notice required by this subparagraph shall include the substance of the amendment intended to be proposed and, if such amendment would add one or more programs to be reexamined, shall include the information described in paragraphs (1) and (2) with respect to each such program. This subparagraph shall not apply to amendments proposed by such committee or by the Committee on Rules and Administration, as the case may be.

"(b) In order to achieve coordination of program reexamination each committee shall, in preparing each reexamination plan required by subsection (a), consult with appropriate committees of the Senate or appropriate committees of the House of Representatives, as the case may be, and shall inform itself of related activities of and support or assistance that may be provided by (1) the General Accounting Office, the Congressional Budget Office, the Congressional Research Service, and the Office of Technology Assessment, and (2) appropriate instrumentalities in the executive and judicial branches.

"(c) Each committee shall prepare and have printed a report with respect to each reexamination completed under this part. Each such report shall be delivered to the Secretary of the Senate not later than the date specified in the resolution and printed as a Senate document. To the extent permitted by law or regulation, such number of additional copies as the committee may order shall be printed for the use of the committee. If two or more committees have legislative jurisdiction over the same program or portions of the same program, such committees may reexamine such program jointly and submit a joint report with respect to such reexamination.

"(d) The report pursuant to subsection (c) shall set forth the findings, recommendations, and justfications with respect to the program, and shall include to the extent the committee deems appropirate, each of the following matters:

"(1) An identification of the objectives intended for the program and the problem it was intended to address.

"(2) An identification of any other program having potentially conflicting or duplicative objectives.

"(3) A statement of the number and types of beneficiaries or persons served by the program.

"(4) An assessment of the effectiveness of the program and the degrees to which the original objectives of the program or group of programs have been achieved.

"(5) An assessment of the relative merits of alternative methods which could be considered to achieve the purposes of the program.

"(6) Information on the regulatory, privacy, and paperwork impacts of the program.

"(e) A report submitted pursuant to this section shall be deemed to satisfy the reauthorization review requirements of part B.

"SEC. 733. Each department or agency of the executive branch which is responsible for the administration of a program selected for reexamination pursuant to this part, shall, not later than six months before the completion date specified for reexamination reports pursuant to section 732(a)(1)(B), submit to the Office of Management and Budget and to the appropriate committee(s) of the Senate and the House of Representatives a report of its findings, recommendations, and justifications with respect to each of the matters set forth in section 732(d), and the Office of Management and Budget shall submit to such committee(s) such comments as it deems appropriate.

"SEC. 734. For the purposes of this part:

"(1) The term 'funding resolution' means, with respect to each committee of the Senate, the first authorization resolution reported by such committee for a year under section 133(g) of the Legislative Reorganization Act of 1946, or any action taken in lieu of such funding resolution, which in any event shall occur not later than May 15.

"(2) An amendment to a funding resolution includes a resolution of the Senate which amends such funding resolution.

"PART E—CITIZENS' COMMISSION ON THE ORGANIZATION AND OPERATION OF GOVERNMENT

"SEC. 741. There is authorized to be established, as an independent instrumentality of the United States, the Citizens' Commission on the Organization and Operation of Government (hereinafter in this part referred to as the 'Commission').

"SEC. 742. It is hereby declared to be the policy of the Congress to promote economy, efficiency, and improved service in the transaction of the public business in the departments, agencies, independent instrumentalities, and other authorities of the executive branch of the Government.

"SEC. 743. (a) The Commission shall conduct a nonpartisan study and investigation of the organization and methods of operation of all departments, agencies, independent instrumentalities, and authorities of the executive branch of the Government in the following major policy areas:

"(1) International affairs and defense.
"Functions:
"050—National defense.
"150—International affairs.
"(2) Resources and technology:
"Functions:
"250—General Science, space, and technology.
"270—Energy.
"300—Natural resources and environment.
"(3) Economic development.
"Functions:
"350—Agriculture.
"370—Commerce and housing credit.
"400—Transportation.
"450—Community and regional development.
"(4) Human resources.
"Functions:
"500—Education, training, employment, and social services.
"550—Health.
"600—Income security.
"700—Veterans benefits and services.
"(5) General Government.
"Functions:
"750—Administration of justice.
"800—General Government.
"850—General purpose fiscal assistance.
"900—Interest.

The Commission shall make such recommendation as it determines necessary to—

"(1) increase the effectiveness of Government services, programs, and activities by changing the structure and execution of administrative responsibilities;

"(2) improve delivery of services through elimination of needless duplication or overlap, consolidation of similar services, programs, activities, and functions, and termination of such services, programs, and activities which have outlived their intended purposes;

"(3) maintain expenditures at levels consistent with the efficient performance of essential services, programs, activities, and functions;

"(4) simplify and eliminate overlaps in agency regulatory functions by review of the laws, regulations, and administrative reports and precedures; and

"(5) determine the appropriate responsibilities of each level of government, the manner and alternative means for each level of government to finance such responsibilities, the forms and extent of intergovernmental aid and assistance, and the organization required for proper balance and division of respective Federal, State, and local government roles, responsibilities, and authorities.

"(b) The Commission shall submit to the President, the Committee on Governmental Affairs of the Senate, and the Committee on Government Operations of the House of Representatives such interim reports as it deems advisable, and, not later than four years after the appointment and qualification of a majority of the Commission Members, a final report setting forth the Commission's findings and recommendations. The final report of the Commission shall include the comments of the appropriate congressional committees.

"(c) At least once every year for two years after the submission of the final report, the Comptroller General shall report to the Congress on the status of actions taken on the Commission's final report.

"SEC. 744. (a) The Commission shall be composed of fifteen members appointed from among individuals with extensive experience in or knowledge of United States Government as follows:

"(1) Five members appointed by the President by and with the advice and consent of the Senate.

"(2) Five members appointed by the President pro tempore of the Senate, three upon recommendation of the majority leader and two upon recommendation of the minority leader of the Senate.

"(3) Five members appointed by the Speaker of the House of Representatives, three upon recommendation of the majority leader and two upon recommendation of the minority leader of the House.

"(b)(1) Two members appointed under subsection (a)(1) shall be appointed to serve as Chairman and Vice Chairman (as provided in paragraph (2) of this subsection) and shall not engage in any other business, vocation, or employment. Such two members shall not be of the same political affiliation.

"(2) The member described in paragraph (1) who is, when appointed, not of the same political affiliation as the President shall serve as Chairman of the Commission and the other such member shall serve as Vice Chairman of the Commission.

"(c) Of the members appointed and qualified under subsection (a)(1) other than the members to whom subsection (b) applies, not more than two shall be of the same political affiliation.

"(d) Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner in which the original appointment was made.

"(e) Eight members of the Commission shall constitute a quorum, but the Commission may establish a lesser number to constitute a quorum for the purpose of holding hearings.

"SEC. 745. (a) The Commission or, on the authorization of the Commission, any subcommittee or member thereof, may, for the purpose of carrying out the provisions of this part, hold such hearings and sit and act at such times and places, administer such oaths, and require, by subpena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, and documents as the Commission or such subcommittee or member may deem advisable.

"(b)(1) Subpenas shall be issued under the signature of the Chairman or any member of the Commission designated by him and shall be served by any person designated by the Chairman or such member. Any member of the Commission may administer oaths or affirmation to witnesses appearing before the Commission.

"(2) The provisions of section 1821 of title 28, United States Code, shall apply to witnesses summoned to appear at any such hearing. The per diem and mileage allowances to witnesses summoned under authority conferred by this section shall be paid from funds appropriated to the Commission.

"(3) Any person who willfully neglects or refuses to appear, or refuses to qualify as a witness, or to testify, or to produce any evidence in obedience to any subpena duly issued under the authority of this section shall be fined not more than $500, or imprisoned for not more than six months, or both. Upon the certification by the Chairmen of the Commission of the facts concerning any such willful disobedience by any person to the United States attorney for any judicial district in which such person resides or is found, such attorney may proceed by information for the prosecution of such person for such offense.

"(c) The Commission is authorized to secure directly from the head of any department, agency, independent instrumentality, or other authority of the executive branch of the Government, available information which the Commission deems useful in the discharge of tis duties. All departments, agencies, independent instrumentalities, and other authorities of the executive branch of the Government shall cooperate with the Commission and furnish all information requested by the Commission in accordance with existing law.

"SEC. 746. (a) Subject to such rules and regulations as may be adopted by the Commission, the Commission shall have the power—

"(1) to appoint and fix the compensation of an Executive Director and such additional staff personnel as it deems necessary in accordance with the provisions of title 5, United States Code, governing appointments in the competitive service, and chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, and—

"(A) in the case of the Executive Director, at a rate equal to that of level V of the Executive Schedule under section 5316 of title 5, United States Code; and

"(B) in the case of not more than three additional staff members, at rates not in excess of the maximum rate for GS–18 of the General Schedule under section 5332 of such title; and

"(2) to procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5, United States Code.

"(b) The Commission is authorized to enter into agreements with the General Services Administration for procurement of necessary financial and administrative services, for which payment shall be made by reimbursement from funds of the Commission in such amounts as may be agreed upon by the Chairman and the Administrator of the General Services Administration.

"SEC. 747. (a) The Chairman of the Commission shall receive compensation at a rate equal to the rate prescribed for level III of the Executive Schedule under section 5314 of title 5, United States Code, and the Vice Chairman shall receive compensation at a rate equal to the rate prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

"(b) All other members of the Commission who are not officers or employees of the Federal Government shall receive compensation at the rate of $200 for each day such member is engaged in the performance of the duties vested in the Commission.

"(c) Members of the Commission shall be reimbursed for travel, subsistence, and other necessary expenses incurred in connection with their activities as members of the Commission.

"SEC. 748. The Commission shall cease to exist ninety days after the submission of its final report.

"SEC. 749. There is authorized to be appropriated until September 30, 1983, without fiscal year limitations, the sum of $4,000,000 to carry out the provisions of this part.

"SEC. 750. The Commission shall be subject to the Federal Advisory Committee Act.

"PART F—MISCELLANEOUS

"SEC. 751. Section 206 of the Budget and Accounting Act, 1921 (31 U.S.C. 15), is amended by inserting immediately before the period a comma and 'or at the request of a committee of either House of Congress presented after the day on which the President transmits the budget to the Congress under section 201 of this Act for the fiscal year'.

"SEC. 752. Nothing in this Act shall require the public disclosure of matters that are specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy and are in fact properly classified pursuant to such Executive order, or which are otherwise specifically protected by law. In addition nothing in this Act shall require any committee of the Senate to disclose publicly information the disclosure of which is governed by Senate Resolution 400, Ninety-fourth Congress, or any other rule of the Senate.

"SEC. 753. (a) The provisions of this section and sections 711(a), 711(b), 711(c)(1), 711(c)(2), 711(c)(5), 712, 713(b), 714(a), 714(c), 714(d), 714(e), 714(f), 714(g), part D (except section 733) section 755, and section 756 of this title are enacted by the Congress.

"(1) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they shall be considered as part of the rules of each House, respectively, or of that House to which they specifically apply, and such rules shall supersede other rules only to the extent that they are inconsistent therewith; and

"(2) with full recognition of the constitutional right of either House to change such rules (so far as relating to such House) at any time, in the same manner, and to the same extent as in the case of any other rule of such House.

"(b) In the Senate, paragraphs (2) and (5) of section 711(c) shall also be treated as amendments to rule XVI of the Standing Rules of the Senate.

"(c) Any provision of this Act which is enacted as an exercise of the rulemaking power of the Senate may be waived or suspended in the Senate by a majority vote of the Members voting.

"SEC. 754. (a) To assist in the review or reexamination of a program, the head of an agency which administers such program and the head of any other agency, when requested, shall provide to each committee of the Senate and the House of Representatives which has legislative jurisdiction over such program such studies, information, analyses, reports, and assistance as the committee may request.

"(b) Not later than six months prior to the first reauthorization date specified for a program in section 711(b) the head of the agency which administers such program or the head of any other agency, when requested by a committee of the Senate or House of Representatives, shall conduct a review of those regulations currently promulgated and in use by that agency which the committee specifically has requested be reviewed and submit a report to the Senate or the House of Representatives as the case may be, setting forth the regulations that agency intends to retain, eliminate, or modify if the program is reauthorized and stating the basis for its decision.

"(c) On or before October 1 of the year preceding the Congress in which occurs the reauthorization date for a program, the Comptroller General shall furnish to each committee of the Senate and the House of Representatives which has legislative jurisdiction over such program a listing of the prior audits and reviews of such program completed during the preceding six years.

"(d) Consistent with the discharge of the duties and functions imposed by law on them or their respective Offices or Service, the Comptroller General, the Director of the Congressional Budget Office, the Director of the Office of Technology Assessment, and the Director of the Congressional Research Service shall furnish to each committee of the Senate and the House of Representatives such information, analyses, and reports as the committee may request to assist it in conducting reviews or evaluations of programs.

"SEC. 755. (a) For purposes of this section and part B, the term 'required authorization waiver resolution' means only a resolution of the Senate or the House of Representatives—

"(1) which is introduced by the chairman of a committee pursuant to subsection (b);

"(2) which waives the provisions of subsection 711(c)(2) of this title for the purpose of allowing consideration of a bill or resolution providing new budget authority for a program for not more than one fiscal year in an amount which does not exceed the amount of new budget authority required to maintain the current level of services being provided during the fiscal year preceding the fiscal year for which new budget authority would be provided; and for purposes of this section, such current level of services shall be determined initially from the report submitted to the Congress pursuant to section 605 of the Congressional Budget Act of 1974 and shall be certified by the Director of the Congressional Budget Office; and

"(3) the matter after the resolving clause of which is as follows: 'That it is in order in the Senate (House of Representatives) to consider a bill (resolution) providing new budget authority for ——— for the fiscal year ——— in an amount not to exceed $———.' (with the first blank space being filled with identification of the program; the second blank space being filled with the fiscal year for which the new budget authority would be provided; and the third blank space being filled with the amount of new budget authority necessary to maintain the current level of services for such program for the fiscal year preceding the fiscal year for which such new budget authority would be provided).

"(b) The chairman of the committee of the Senate or the House of Representatives having legislative jurisdiction over a program or programs shall introduce a required authorization waiver resolution for such program or programs not later than the fifth day (not counting any day on which the Senate or the House, as the case may be, is not in session) following the occurrence of either of the following:

"(1) A bill authorizing the enactment of new budget authority for the same program or programs has been under consideration for not less than fifteen hours, including debate on the motion to consider the authorization bill, and no limitation of debate has been agreed to; or

"(2) A bill authorizing the enactment of new budget authority for the same program or programs has been vetoed by the President and such veto has been sustained by either the Senate or the House of Representatives.

"(c) A required authorization waiver resolution relating to a program introduced in, or received by, the Senate or the House of Representatives shall be referred to the appropriate committee of the Senate or the House of Representatives, as the case may be; except that any resolution introduced, received after September 1 of the second session of a Congress shall immediately be placed on the appropriate calendar. With respect to any resolution still pending before a committee on September 1, of the second session of a Congress, the committee shall

be automatically discharged and the resolution placed on the appropriate calendar.

"(d) The provisions of section 912 of title 5, United States Code, relating to the consideration of resolutions of disapproval of reorganization plans shall apply in the House of Representatives and the Senate to the consideration of required authorization waiver resolutions.

"SEC. 756. The Committees on Governmental Affairs and on Rules and Administration of the Senate and the Committees on Government Operations and on Rules of the House of Representatives shall review the operation of the procedures established by this title, and shall submit a report not later than December 31, 1986, and each five years thereafter, setting forth their findings and recommendations. Such reviews and reports may be conducted jointly.

"SEC. 757. There are hereby authorized to be appropriated through fiscal year 1990 such sums as may be necessary to carry out the review requirement of parts B and D and the requirements for the compilation of the inventory of Federal programs as set forth in part C.".

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. GLENN. Mr. President, I was seeking recognition before the Senator from Virginia.

Mr. HARRY F. BYRD, JR. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. HARRY F. BYRD, JR. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MUSKIE addressed the Chair.

The PRESIDING OFFICER. The Senator from Maine.

Mr. MUSKIE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. HARRY F. BYRD, JR. I object.

Mr. MUSKIE. Mr. President, I move that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Objection is heard.

The clerk will continue to call the roll.

Mr. MUSKIE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The roll-call is in progress. A parliamentary inquiry is not in order.

The second assistant legislative clerk resumed calling the roll.

Mr. ROBERT C. BYRD. Mr. President. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. GLENN addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

AMENDMENT NO. 3681, AS MODIFIED

Mr. GLENN. Mr. President, I call up my amendment No. 3681, as modified, to amendment No. 3678, as modified, to H.R. 13511.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Ohio (Mr. GLENN), for himself and others, proposes an amendment numbered 3681.

Mr. GLENN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment, as modified, is as follows:

PART G—TAX EXPENDITURES

SEC. 761. (a) For purposes of this part—

(1) The term "tax expenditure provision" means any provision of Federal law which allows a special exclusion, exemption, or deduction in determining liability for any tax or which provides a special credit against any tax, a preferential rate of tax, or a deferral of tax liability.

(2) The term "Committee on Ways and Means" means the Committee on Ways and Means of the House of Representatives.

(3) The term "Committee on Finance" means the Committee on Finance of the Senate.

(4) The term "Joint Tax Committee" means the Joint Committee on Taxation of the Congress.

SEC. 762. (a) Not later than July 1, 1979, the Director of the Congressional Budget Office after consultation with the Joint Tax Committee shall prepare an inventory of tax expenditures provisions (hereafter in this part referred to as the "tax inventory") and submit a report thereon to the Committee on Ways and Means and the Committee on Finance. The report shall include for each tax expenditure provision—

(1) the statute, regulation, ruling, or other circumstance which is the basis for the tax expenditure provision;

(2) an identification of the tax against which the tax expenditure provision allows a special exclusion, exemption, or deduction in determining liability or provides a special credit, a preferential rate of tax, or a deferral of tax liability;

(3) a brief statement of the purpose or purposes to be achieved by the tax expenditure provision;

(4) the period of time, if any, for which the tax expenditure provision has been in effect;

(5) the estimated revenue loss from the tax expenditure provision for the preceding 4 fiscal years;

(6) an analysis of the distributional impact of the tax expenditure provision; and

(7) the functional and subfunctional category of the budget in which the tax expenditure provision is classified.

(b) The General Accounting Office, the Congressional Research Service, and the Office of Technology Assessment shall provide the Congressional Budget Office and the Joint Tax Committee with information requested which would aid in the compilation of the tax inventory.

(c) The Department of the Treasury, the Office of Management and Budget, and the other agencies shall, to the extent necessary and possible, provide the Congressional Budget Office and the Joint Tax Committee with any assistance requested for the preparation of the tax inventory.

SEC. 763. The Committee on Ways and Means and the Committee on Finance shall review the tax inventory submitted as provided in section 262 and, not later than October 1, 1979, shall advise the Director of the Congressional Budget Office of any proposed revisions in the composition or identification of tax expenditure provisions in the tax inventory. After considering the advice of such committees, such Director, in consultation with the Joint Tax Committee, shall report, not later than December 1, 1979, a revised tax inventory to the House and the Senate.

SEC. 764. (a) The Director of the Congressional Budget Office, after the close of each session of the Congress, shall revise the tax inventory after consultation with the Joint Tax Committee and issue a report on the revisions thereto to the Senate and House of Representatives. Such report shall indicate, with respect to each tax-expenditure provision established during such session, the revenue loss which will result in the current fiscal year and the 5 succeeding fiscal years.

(b) The Director of the Congressional Budget Office shall tabulate and issue periodic reports to the Senate and the House of Representatives on the progress of congressional action on bills and resolutions reported by the Committee on Ways and Means or the Committee on Finance or passed by either House which affect tax expenditure provisions and each new tax expenditure provision proposed to be enacted by any bill or resolution reported, with respect to the amount of revenue loss which would result in the next fiscal year and each of the 4 succeeding fiscal years.

SEC. 765. (a) During the Ninety-sixth Congress, the Committee on Ways and Means and the Committee on Finance shall report, and the Congress shall complete action on, a bill prescribing a schedule of reauthorization dates, with such modifications as may be necessary to take into account the considerations set forth in section 266 for all tax expenditure provisions (other than those specifically exempted in the bill) in the tax inventory, or, if not in such inventory, which are in effect on the date of the enactment of such bill or which have been enacted or otherwise established as of such date will become effective after such date. Under such schedule there shall be 5 first reauthorization dates for tax expenditure provisions beginning with September 30, 1982, and continuing on September 30 of each of the following 4 even-numbered years, and each subsequent reauthorization date applicable to a tax expenditure provision shall be the date 10 years following the preceding reauthorization date.

(b) Upon enactment of the bill described in subsection (a), and subject to the exemptions and modifications provided pursuant to subsection (a) and (d), each tax expenditure provision shall cease to be effective on January 1 of the year following the first (or subsequent) reauthorization date provided in the schedule adopted pursuant to subsection (a) and the bills, resolution, or amendments thereto enacted pursuant to the subsection (d), unless it would otherwise cease to be effective at an earlier date, or unless it is reauthorized by a law enacted after the date of enactment of this Act and during or subsequent to the Congress in which it is scheduled for reauthorization.

(c) It shall not be in order in either the Senate or House of Representatives to consider a bill or resolution, or amendment thereto, which provides for the reauthorization of all or part of a tax expenditure provision which is in the schedule adopted pursuant to subsection (a) or which was enacted pursuant to subsection (d) (i) for an indefinite period of time, (ii) for a period exceeding 10 taxable years, or (iii) (except during the Congress in which the next reauthorization date for such provision occurs) for any taxable year beginning after the next reauthorization date applicable to such tax expenditure provision.

(d) After the enactment of the bill described in subsection (a), it shall not be in order in either the Senate or the House of Representatives to consider any bill, resolution, or amendment thereto which proposes the enactment of a tax expenditure provision which does not constitute a reauthorization under subsection (c) that does not have a

reauthorization date (and subsequent reauthorization dates) which conform with the schedule provided in subsection (a): *Provided*, That any such bill, resolution, or amendment thereto may be specifically exempted from the requirements of this subsection: *And provided further*, That such modifications as may be necessary to take into account the consideration set forth in section 266 may be prescribed in any such bill, resolution, or amendment thereto.

(e) Reauthorization dates shall be prescribed under subsections (a) and (d) so as to provide for a review of tax expenditure provisions during the same Congress as the review under part B of programs having similar objectives, consistent with providing an even distribution of the work of reviewing tax expenditure provisions during each Congress and taking into consideration the economic impact of the review process and the interest of avoiding adverse impact on previously acquired assets.

SEC. 766. In carrying out the requirements of section 265 the Committee on Ways and Means, the Committee on Finance, and the Congress may prescribe such transition rules, conforming and technical changes, and substitute provisions to to minimize unfairness, to mitigate any adverse effect which might result for taxpayers who have relied on a tax expenditure provision, or to provide for an orderly end of the effectiveness of any such provision.

SEC. 767. It shall not be in order in either the Senate or the House of Representatives to consider a bill, resolution, or amendment thereto which proposes a reauthorization date for a tax expenditure provision beyond the final reauthorization date of the current sunset reauthorization cycle.

SEC. 768. (a) It shall not be in order in either the Senate or the House of Representatives to consider any bill, resolution, or amendment thereto, which provides for the reauthorization of a tax expenditure provision for a taxable year beginning after the next reauthorization date applicable to such provision, unless a reauthorization review of such provision has been completed during the Congress in which the reauthorization date for such provision occurs, and the report accompanying such bill or resolution includes a recommendation as to whether the tax expenditure provision should be continued without change, continued with modifications, or terminated, and includes, in the scope and detail the Committee on Ways and Means and the Committee on Finance deem appropriate, the following:

(1) information and analysis on the operation, costs, results, accomplishments, and effectiveness of the tax expenditure provision;

(2) an identification of any other tax expenditure provisions or any other programs having similar objectives, and a justification of the need for the proposed tax expenditure in comparison with those tax expenditure provisions or programs which may be potentially conflicting or duplicative; and

(3) an identification of the objectives intended for the tax expenditure provision, and the problems or needs which the tax expenditure provision is intended to address, including an analysis of the performance expected to be achieved, based on the bill or resolution as reported.

(b) It shall not be in order in either the Senate or the House of Representatives to consider any bill, resolution, or amendment thereto, which proposes the enactment of a new tax expenditure provision unless the bill, resolution, or amendment thereto is accompanied by a report which sets forth, in the scope and detail the Committee on Ways and Means and the Committee on Finance, as they deem appropriate, the information specified in subsections (a)(2) and (a)(3) of this section.

Mr. GLENN. Mr. President, I yield to the Senator from Maine.

The PRESIDING OFFICER. The Senator from Maine.

Mr. MUSKIE. Mr. President, we could have saved some time, some valuable time, in the discussion of these issues if we had followed the normal practice with respect to the calling up of amendments.

I cannot recall many occasions on which the offerer of an amendment was cut off from discussing his own amendment. If the intention was to discourage me from discussing my amendment, I assure the Senator who was responsible that it did not discourage me.

I say to the leadership—I see the distinguished minority leader on the floor—that if it is the desire of the leadership to dispose of this matter as expeditiously as possible without taking time away from the Senate, we could agree, Senator GLENN and I, on a time agreement of an hour and a half for discussion of the amendment and action on it. I suspect that is not what the opposition wishes, but I want to make that offer, so that the leadership will fully understand that we are not the Senators who wish to delay the Senate.

Mr. BAKER. Mr. President, will the Senator yield?

Mr. MUSKIE. I yield to my good friend, the minority leader.

Mr. BAKER. I thank the distinguished Senator from Maine and the distinguished Senator from Ohio.

As they may know, there is a conference in progress at this time in the majority leader's office, in an attempt to see whether there is some basis for arranging a time agreement that would cover not only the matter that the Senator from Maine is interested in but also the entire tax bill and the several amendments to it.

In doing an inventory on this side of the aisle I find that there are between 22 and 27 amendments yet to be disposed of, and probably a similar number on the other side. So we have a great deal of work yet to do.

I must say that I am not sure that this is the best place for this measure, although certainly the distinguished Senator from Maine and the distinguished Senator from Ohio are entitled to offer their amendments to this bill.

For the moment at least, if such a unanimous-consent request is propounded—that is, to limit time on this amendment—in deference to the negotiations that are underway now and in consideration of the amendments we have yet to deal with, some germane and some not germane, I would find it necessary to object.

I wanted to pass that information along to the Senator from Maine, so that he would understand the circumstances.

Mr. MUSKIE. I understand. I say to the Senator that I could not agree more. I would rather have a different place to offer this legislation, but I have been working on it 3 years, trying to find what everybody would agree is the right place.

I have all kinds of cosponsors. I have more than a majority of the Senate to cosponsor it. It has been reported out of the Governmental Affairs Committee twice in 3 years, referred to the Rules Committee twice in 3 years, reported to the Senate floor four times. In addition, it has been scrutinized and examined closely by the majority leader and by the majority whip, in order to refine it further.

I have been urged to be patient. I have been reassured that we would find a place and a time. Yet, that place and time never seem to occur.

So, earlier this week, I indicated an intention to put the amendment on the Export-Import Bank bill. What happened? Even before I offered it, a filibuster was begun, a filibuster against a nonexistent amendment, so far as the parliamentary situation was concerned, by my good friend the floor manager of this bill, Senator CURTIS; I think Senator BYRD joined at one point, and I think Senator TALMADGE joined at one point. It was made very clear to me that extended debate was going to be engaged in if I sought to be so presumptuous as to offer it on the Export-Import Bank bill.

Today is Friday. The object is to adjourn by next Saturday. Well, the opportunities for getting consideration are fast disappearing. I am not one who normally seeks to encumber tax bills with a lot of irrelevant or nongermane amendments, and the Senator knows that. But the leadership, the exigencies of the floor, the pressures of other legislation have put the Senator from Maine in a corner, out of which he seeks to escape.

So I called up the amendment here tonight, and I am willing to have a vote on my amendment without any debate at all, because I am certain every Senator on this floor knows what this bill is.

This is the sunset bill, which a substantial majority of the Senate have cosponsored, and either that cosponsorship meant they would support it or not. I am willing to take my chances without any debate, so that we can dispose of it in the next 15 minutes.

No one knows what the Byrd amendment is all about. That would not require a great deal of time. It might take more time because its real intentions have been somewhat obfuscated by the quality of the debate that took place before it was even offered.

I simply assure the leadership that I use this occasion to transmit the message, not with any expectation that the minority leader will respond immediately, but simply to transmit the message that I do not really need much debate, although I have considerable material. All I want is simply a vote. I do not even want to read the first sentence of this speech. I am sure my good friend understands.

Mr. BAKER. I assure the Senator that, at least by this part of this leadership, his message is heard and understood.

The Senator will recall that I am a cosponsor of the bill, or I was, and I would support this. I must confess that I have different views and a different attitude toward the amendment from the attitude and views of the Senator from Ohio.

I am sure the distinguished Senator from Maine understands that in suggest-

ing that it would be necessary to object if the unanimous-consent request were propounded at this time, I am not acting according to my own position, necessarily, but rather to protect what I conceive to be the views of a number of Senators on this side of the aisle and, I suspect, on the other side as well.

Mr. MUSKIE. I understand.

Mr. President, I shall take a few minutes simply to get into the subject of the sunset bill and then be happy to yield to my good friend from Ohio so that he might spend some time disabusing the Senate of misinterpretations of his amendment which have had currency in the last few days.

(Mr. EAGLETON assumed the Chair.)

Mr. MUSKIE. Mr. President, I call up my amendment with great awareness of the many demands on our legislative schedule in the days that lie ahead, and I am cognizant of the fact that sunset, as accompanied by the Glenn amendment, is a complex piece of legislation.

Nevertheless, I can think of few more important acts this body can take, in the waning days of the 95th Congress, than to demonstrate a solid commitment to curbing inflation by bringing Federal spending under control—and to respond in a thoughtful, reasoned way to the public concern that Government today is not working as well as it should.

And that, as I see it, is what sunset is all about.

It is a most important idea, with great potential for positive change. It is not new to public debate. Indeed, we have been talking about sunset for nearly 3 years.

Mr. President, the amendment I am offering today is identical in substance to the sunset amendment I introduced earlier this week with Senators ROTH, GLENN, the distinguished majority leader (Mr. ROBERT C. BYRD), the distinguished majority whip (Mr. CRANSTON), and 46 other of my colleagues.

This amendment represents the latest of many refinements in this sunset legislation, as we attempt to fashion the best and most workable bill possible to bring to the Senate floor.

The sunset legislation has gone through 13 days of hearings in the Governmental Affairs Committee, with more than 50 witnesses commenting on its every provision. It has twice been favorably reported by that committee. It has twice been considered by the Rules Committee, and just 2 months ago was favorably reported by that committee as well. Virtually every committee of the Senate has been consulted as this bill has moved along.

From the very beginning, the sunset bill has been well received. It is cosponsored by more than half the Members of this body, and by well over a hundred Members of the House. Groups as diverse as Common Cause and the Chamber of Commerce support it as an essential step in further strengthening congressional spending control.

After almost 3 years of debate, I believe the public now deserves a decision on this promising idea. And the Senate needs to make that decision without any further delay.

Obviously, I hope my colleagues will decide to give sunset a try. The reasons for doing so are numerous and sound.

When I first introduced sunset legislation almost 3 years ago, I was moved by three principal concerns.

First, as chairman of the Budget Committee, I was concerned that budget reform notwithstanding, the Federal budget was increasingly beyond firm congressional control. Indeed, in 1975, we had a much smaller portion of the budget at our discretion than we did a decade before. In 1965, almost half of all Federal spending was controllable, through the regular reauthorization and appropriations processes. By 1975, that figure had shrunk to only 25 percent.

Second, I was troubled by growing evidence that we had created an array of programs so complex they were unable to do the job. GAO report after GAO report documented waste of the taxpayers' money, simple because one arm of the Governmnt did not know what all the others were doing. And with fragmented agency and committee jurisdiction, Congress had no established mechanism for addressing the kinds of problems the GAO reports highlighted so well.

And third, I was concerned that poll after poll showed public confidence in Government going steadily down. More and more Americans seemed to feel that Government was not working well.

Three years ago, sunset seemed a reasonable and imaginative response to these concerns.

In its provision for the regular reauthorization of virtually all Federal programs, sunset offered a way to bring the Federal budget back under systematic congressional control.

By requiring the review of similar programs at the same time, sunset provided an opportunity to consider all of Federal policy in one area at once—with an eye toward eliminating wasted resources which could be put to better use.

And by demonstrating a firm commitment to the difficult task of making Government more effective, sunset seemed an excellent way to demonstrate to the public that we in Congress are doing our job.

Today, these arguments for sunset are stronger than ever.

In 1978, although the proportion of uncontrollable spending in the budget has stabilized, it has not declined. We seriously debate national priorities each year, with only a fraction of the budget at our command. Three quarters of Federal spending decisions are made whether Congress acts or not.

In 1978, we have made little, if any, progress in streamlining and simplifying the many programs on the books. Committee reform helped. But we still have overlapping programs scattered all over downtown and Capitol Hill.

State and local governments continue to cite excessive program fragmentation and redtape as a major obstacle to effective policy. And the GAO continues to churn out evidence of wasted dollars, because of a program structure which has grown needlessly complex.

And in 1978, public concern over ineffective Government reached a new high, proposition 13 and its offspring in other States.

Three years ago, I was convinced that these conditions argued persuasively for the kind of change sunset would entail. I am even more convinced today.

But Mr. President, today, there is an additional argument for sunset, more compelling than all the rest. The argument is the resurgence of inflation—public enemy No. 1—viewed by 80 percent of the public as the most serious problem our Nation faces.

What has sunset to do with inflation? In the public's view, clearly a great deal. According to the latest Harris survey, 76 percent of the American people view Federal spending as the principal cause of inflation. And a look at the projections for future budgets argues the case for the public's concern.

As part of its 5-year projections for the first budget resolution for fiscal year 1979, the Budget Committee calculated the potential cost of 31 new programmatic initiatives likely to come before Congress between now and 1983. The list was by no means exhaustive. But it did include such major items as national health insurance and additional defense expeditures which would result from a failure of the SALT talks.

The committee found that between 1980 and 1983, these 31 initiatives could cost as much as $416 billion in new spending. The committee also found, as did CBO, that with a moderate rate of growth between now and then, we could expect only about $120 billion in additional revenues to pay for these new demands.

These numbers pose a very sobering dilemma.

Many of the initiatives the committee studied are programs we need—and the public wants to have. And there will undoubtedly be others before the next decade is out. After all, the agenda for our Nation is far from being complete.

Yet with the economy approaching full capacity—and with inflation on the rise—spending increases of the magnitude projected by the committee are clearly out of the question. For under today's economic conditions, massive Federal deficits like we have known in recent years will succeed only in making inflation worse.

Bringing Government spending under control, eliminating wasteful and low-priority spending, reducing the burdens on the taxpayers, making room for new priorities—the numbers tell us we can afford new programs in only one of four ways: By running massive deficits and sending inflation through the roof; by raising taxes substantially to pay for new demands; by across-the-board cuts in spending, as many have proposed; or by selective cuts in programs we now have but which we may not need.

The first two of these options would be both economic and political suicide.

The third option would make room in the budget—but in an irresponsible and indiscriminate way.

The final option would be difficult,

but doable. And, in my view, it is the most responsible of the four.

It would require a commitment from every one of us to put our favorite programs to the test—to see if they are still needed, or if they are working well. This is not a prospect likely to warm a politician's heart. But given our other options, I suggest we have no choice.

And whether we like it or not, the initiative must come first from us.

It is the Congress which sets national policy, through the programs we enact. If those programs have grown unresponsive and ineffective, it is we who must bear much of the blame. For it is our job not just to initiate new programs—but also to insure that the old programs are working as well as they should.

More importantly, it is the Congress which has ultimate control over Federal spending, through our power of the purse. If that power is substantially eroded by decisions made in the past, we have an obligation to reassess those decisions so that new initiatives can be pursued.

Today, I think we are failing to meet our responsibility on both counts. And that is why an idea like sunset is so important at this time.

Mr. President, I want there to be no misunderstanding of my motives on this matter. I take a back seat to no one in support of the many worthy goals we have sought to achieve through Federal initiatives in recent years. And I believe that Congress must continue to take the lead in shaping Government as a positive force in our society.

But I am concerned that we in Congress are increasingly unable to do an effective job of legislating for the future, because our hands are so bound by the past.

As a result, we are limiting both present and future budgets—and the priorities they define.

We are denying our constituents an effective return on the tax dollars they pay.

And, in 1978, we are inviting the specter of Government spending driving inflation out of sight.

For all these reasons, I have been pushing sunset legislation for the last 3 years. For all these reasons, I urge Senate passage of sunset now.

Sunset offers us a unique opportunity to provide the extra spending discipline that we need.

It will not do so overnight, nor in a very exciting way.

But over the long haul, it is the only responsible vehicle I see which can help free up scarce resources to direct to new problems as they arise and to give the taxpayers relief.

For the life of me I cannot see why any Member of this body should resist working to that objective toward a program of this kind.

And given the dwindling budget options available to us, I can think of few more positive steps we can take. For the needs of our Nation are not set in concrete. And the Nation is not well served by a Government which is.

At the outset of my remarks, Mr. President, I noted that sunset, although untried, is not new to public debate. Nevertheless, there remains much confusion as to precisely what it is.

In its most general sense, a sunset law is one which states that certain specified activities of Government will come to an end—the sun will set—unless specifically continued by the legislative branch of Government. Within this broad definition, however, the term "sunset" can take many different shapes. Sunset laws have been adopted in several States to date, in widely differing forms.

The sunset bill I have proposed is keyed very specifically to the way Congress works. It seeks to remedy a congressional problem by building upon existing congressional processes—and to use those processes more fully to help us do a better job.

Mr. ROTH addressed the Chair.

Mr. MUSKIE. I am not finished, may I say to the Senator.

In spite of the mystique of sunset, the approach taken in the bill now before us is very simple indeed.

Title I sets out a 10-year, five-Congress schedule for the review and reauthorization of all Federal programs, with only a few exceptions. Within this schedule, programs are grouped by budget function and subfunction, in order to encourage review of programs with related purposes during the same period of time.

The bill requires that all programs, save the few exceptions—including those now permanent—be specifically reauthorized in accordance with the schedule. To enforce this requirement, title I also provides that a point of order will lie against consideration of an appropriation for any program not so reauthorized.

These two provisions—the reauthorization requirement and the schedule for review—are, taken together, the essence of the sunset bill. Either provision without the other would leave the process incomplete. Reauthorization without a schedule of orderly groupings of programs would require Congress to make a decision—but offers no guarantee that such decision will be made with a view of the forest as a whole. Without the reauthorization requirement, there is no guarantee that the decision will be made at all.

Mr. President, there is obviously a great deal more in this bill than the two provisions I have just described. But by and large, the rest of the bill is aimed at supporting Congress and its committees in meeting the procedures of title I. The program inventory in title II, for example, is intended to give Congress the best possible information on what all the programs are. The waiver provision in title V is provided to insure that the reauthorization requirements of sunset are not used to frustrate the majority will.

In formulating this legislation, Mr. President, we had two very simple goals in mind. We wanted to force a regular congressional decision on all programs on the books. And we wanted those decisions to be made in a broader context than that in which they are made today.

To promote these goals, we sought a process as flexible as possible—a framework in which Congress could continue to do what it does best—to make political judgments and decisions about public policy.

We worked from the assumption that no reform, no matter how well intentioned or conceived, will work unless Congress wants it to—that better decisionmaking cannot be legislated, it can only be encouraged and facilitated.

In the amendment now before us, we have a bill which meets this test. It establishes a limited, explicit process. But beyond a minimal threshold it does not dictate how that process should be carried out.

I stress this point, Mr. President, because of concerns I have heard that sunset is too heavy-handed an approach. Many people seem to think that sunset seeks to accomplish many things which it, in fact, does not.

For example, sunset does not suggest that future spending priorities be changed. It is completely neutral where specific areas of spending are concerned.

Nor is sunset a disguised version of the old meat-axe approach. Program termination is not a stated goal. The so-called termination mechanism—the reauthorization requirement—is a means to an end, not an end itself. Its sole purpose is to force a decision on the continuation of each program, at least once every 10 years.

On this point, I would like to emphasize, Mr. President, that the sunset mechanism is not radical or new. It is nothing more than the reauthorization process we now use every day of our legislative lives.

Precisely because this mechanism is not new, the sponsors of sunset have rejected the idea of a sunset pilot test. Congress does not need to test the reauthorization process—we already know how it works. What we do need is to apply that process more comprehensively. And that is what sunset would do.

Finally, this bill does not dictate how programs should be reviewed. Contrary to widespread opinion, this is not an evaluation bill. To be sure, title III is specifically concerned with the comprehensive reexamination of a few programs every year. This provision is an important complement to the basic reauthorization requirements of title I. But it is, in my view, largely incidental to the basic sunset process.

Mr. President, there is probably more confusion on this one issue than on any other aspect of the legislation. I ask unanimous consent that a lengthy but enlightening quotation from the Governmental Affairs Committee report on S. 2 be printed in the RECORD at this point in my remarks.

There being no objection, the excerpt from the report was ordered to be printed in the RECORD, as follows:

EXCERPT

Sometimes it will decide to extend a program without any change whatsoever. It will be satisfied that the program is doing the job for which it was established. Sometimes, however, Congress will want to consider major changes in an existing program. In its search for program improvements, Congress will take its cues and clues from a variety of sources.

It might look to the ballot box and its constituency for political guidance. It might examine budgetary data for information on the cost of the program. It might conduct hearings to enable those affected by the program to tell their side of the story. It might commission a large-scale evaluation by its own staff or by outside experts. But Congress alone will decide on the scope and type of review to be undertaken. Sunset thus opens to Congress a full range of options, only one of which is the formal evaluation of programs.

Evaluation ought never to be more than one of a number of methods available to Congress when it reconsiders programs. Letters from back home, newspaper editorials, testimony at hearings, on-site visits, and cost-benefits analyses—all are grist for the legislative mill.

Even when it applies evaluative findings to programs under review, Congress is much more the consumer than the doer of evaluations. . . . In the division of labor between the legislative and executive branches, most program evaluations are conducted by the executive. Evaluation has become a billion-dollar industry in the United States, with thousands of evaluations completed each year by Government agencies, think tanks, and private organizations. . . .

When it reconsiders programs, Congress can dip into the pool of available evaluations and apply the findings to the authorization decisions it must make. Congress does not have to evaluate de novo, as if nothing of value has been done by others. Sometimes, however, Congress will take a fresh look, either because other evaluations are not available or because it wants to apply different criteria to the decision at hand. In such circumstances, title III of the bill provides for Congress to formally select some programs for evaluation.

The basic purpose of sunset is to compel Congress to reconsider its past program enactments. All that sunset requires is that Congress take positive action to reauthorize the programs which it wishes to continue. The thrust in sunset is reconsideration, not reevaluation. Nothing in the sunset concept would require Congress to embark on a wholesale evaluation of all programs scheduled for termination. When it reconsiders an expiring program, Congress can decide on the most appropriate course of action.

Mr. MUSKIE. This is a lengthy quotation, but it makes an important point—relevant not just to the evaluation question but to the entire tone of this bill.

It is not the purpose of sunset to impose an arbitrary discipline to tell Congress what to do.

It is very much the intent of sunset that Congress and its committees be in charge—but at the same time, have greater opportunities to do a better job.

Under the bill now before us, opportunities would be available which I think we badly need: A chance to look back at all the baggage we have accumulated through the years; a chance to renew and strengthen our commitment to those past efforts which continue to fill a need; and a chance to shift resources and energy away from those which have lost their usefulness, in order to free up resources for needs which lie ahead.

These opportunities exist today—but only where one quarter of the budget is concerned. If nothing else, sunset promises to close that gap, and make our options more complete.

Mr. President, there is one other issue in the sunset debate which has prompted widespread concern. That issue is the additional workload which sunset would entail.

The workload issue is the most persistent and difficult we have faced in working on this bill. The legislation has been revised and refined in countless ways to respond to this very real concern.

Among other changes, we lengthened the review cycle from 4 years in the original proposal to 10 in the current amendment. We dropped the cumbersome program review guidelines, and left virtually all decisions about the scope and depth of review to the authorizing committees themselves.

In the context of the workload debate, it is important to keep in mind a point I made earlier—that sunset is not a program evaluation bill. To require Congress to evaluate, in depth, one-fifth of all programs every 2 years would clearly be an undoable task. But that task is not even contemplated in the provisions of this bill.

This is not to say that the requirements of sunset will not add to our work. Obviously, they will. For example, programs which are now permanent would have to be reviewed and reauthorized at least once every 10 years. On the other hand, programs now reauthorized at more frequent intervals may be stretched out to a longer lifespan.

On the whole, sunset, in its present form, would involve what I believe is a manageable workload. But for those who would like a precise answer to this question, there is no way I can oblige.

Trying to project workload is a very difficult thing to do. What one committee considers a single program, another committee considers only a part.

Moreover, we have no way of knowing how future Congresses will act. For example, there is evidence of a growing trend toward omnibus authorization bills. Whether this trend will continue, we have no idea today.

My own response to the workload argument is that a great many people have labored on this bill to make it as workable as we could. Having done so, I would argue that whatever the workload demands of sunset, there is a job that needs to be done. To suggest that we cannot review the entire Federal budget in a space of 10 years is to say that a process like sunset is long overdue.

Mr. President, many other questions have been raised about sunset over the course of the bill's 3-year life. I have commented on those which I feel are most important. I urge my colleagues to raise any other concerns they may have, so that we can discuss them here today.

Before going on to discuss the specific provisions of the bill, I would like to make one remaining point.

The legislation now before us has come a long way in the past 3 years. Those of us who have worked on it have learned a great deal about the nature of the Federal program structure. Through this learning process, many who were once skeptical have been convinced that the need for sunset is real.

In an important way, this increased awareness is what sunset is all about—having at our disposal the knowledge to make informed decisions concerning legislation we enact.

This is no mean accomplishment, as we know from budget reform. Whatever specific fiscal impact the budget process has had, its greatest contribution has been in increased awareness of how the daily decisions we make affect the budget as a whole.

Sunset offers us the same kind of opportunity. It is an opportunity we dare not let slip away.

Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. MUSKIE. Who has the floor?

The PRESIDING OFFICER. The Senator from Ohio has the floor.

Mr. MUSKIE. Mr. President, I have completed my preliminary statement. I thank the distinguished Senator from Ohio for yielding to me for making it.

I would like to express the hope that he would also yield to the distinguished Senator from Delaware (Mr. ROTH), who is the original cosponsor of this legislation, and who I see is ready to make a statement on it, as well as the distinguished Senator from Delaware (Mr. BIDEN), who has been early and faithful in support of this proposition.

Mr. HANSEN. Mr. President, will the distinguished Senator from Ohio give me about a 30-second opportunity, out of order, to correct the RECORD?

Mr. GLENN. Mr. President, I will yield for such purpose, but first I yield to the Senator from Delaware.

Mr. BIDEN. Mr. President, I rise today to support the adoption of the sunset proposal before us. I am a long-time advocate and supporter.

I first started working on this idea in the fall of 1974. I introduced my sunset bill in the 94th Congress. My friend from Maine introduced a different version in that same Congress. Now we have joined forces with one proposal which I believe has great merit.

When adopted, it will provide Congress with an essential tool for reviewing the need for Federal programs; controlling the growth of Federal spending; alleviating the overkill of regulatory activity; and restraining the sprawling Federal bureaucracy. I know that is a lot to claim for one proposal. But I have been working on this idea for years—as has my friend and colleague from Maine—and I am convinced it can lead to more effective and responsible congressional control over our Government, without sacrificing a single essential Government service. In fact, it should enhance the provision of truly necessary Government services.

This is a great moment for me. It is one I have looked forward to for years. It is also a moment I have feared might never come. The fact that this amendment is before us today is testimony to the perserverence of my distinguished chairman on the Budget Committee and colleague here in the Senate, Senator MUSKIE. He has sought the passage of sunset, or spending control legislation for years now. He has most effectively used

his chairmanship of the Subcommittee on Intergovernmental Relations to research the need for such legislation and to demonstrate that need to the Senate.

He has argued persuasively for such legislation long before the Nation ever heard of Proposition 13. During my tenure in the Senate, I have seen him secure passage of many bills of importance to the welfare of the Nation over heavy opposition. I think he is about to do it here again today. It has been my pleasure to stand with him during this fight and to work toward the common goal we have sought for years.

I want to focus my remarks on several of the questions that are so often asked about sunset legislation:

What is this proposal—what will it require and how will it work?

Is this not a radical proposal that will threaten essential Government services?

Do we know enough about how sunset will work? Do we not need more study?

Why is it important that we consider this now—in the last minute jam of a session?

Is this really important? Is it not just another set of rules and procedures that Congress will ignore?

How does this tie in with the congressional budget process? Is that process not enough to control Federal spending?

The distinguished Senator from Maine has described the pending proposal in some detail. I need not do it again. Simply stated the bill would terminate most Federal spending programs automatically on a regular schedule. Then, after a careful review by the appropriate Senate committee, the Senate and the Congress would decide whether to continue the program—or modify it—or terminate it. The two parts go together—the possibility of termination forces a review—and the review assures that the decision to continue or not continue the program will be a rational one. It is really a very simple mechanism—like all good mechanisms: It is also good because it builds on the existing practice of reauthorization.

The congressional budget process has shown what a good procedure can do. It has held down the total budget—billions of dollars below what the aggregate proposals of all committees would have been. It has sorted out national priorities. But by its nature it deals in setting those major priorities. It cannot and should not examine programs in detail. Thus it can determine that there is need for allocating additional national resources for defense. But it cannot examine all the ingredients of an effective national defense. This sunset proposal builds on the budget process to be certain that when Congress allocates money for an important national objective like defense, that money will be well used to meet the objectives. Waste makes no useful contribution to defense or any other function.

Mr. President, in listing the subjects that I wanted to review today, I suggested that we should discuss the need for sunset legislation. Actually, I do not really think we should have to discuss it.

However, starting with the most important reason first, we need legislation of this kind because the American people know we are not doing our job of stemming the tide of Government growth in this country. They know we are not doing our best to provide effective programs to meet their needs, but are choosing the easy way of trying to overwhelm problems with a multitude of duplicative programs. This is clear from my constituent mail. I think the perenially low performance ratings that Congress gets shows this. So I have felt for a long time that Congress should act to control government before the electorate forces action upon us.

In this connection, there appeared on August 24 a lead story in the Wall Street Journal headlined "Proposals To Restrict Expenditures or Taxes Are Picking up Steam." Well they certainly are and I could not be happier. As I indicated, both my chairman and I proposed bills to control Federal spending before it became a popular national issue. And for that reason I was particularly interested in the comment by John Shannon of the Advisory Commission on Intergovernmental Relations that "They are all realizing that the fat boy on the block is Uncle Sam." The article then goes on to state that in a recent poll "* * * 62 percent of the respondents said the biggest waster of their tax money was the Federal Government."

I am sure this does not come as a surprise to the distinguished Senator from Maine nor is it a surprise to me. We have both been seeking responsible solutions to Federal waste for many years. The need is to pass responsible, workable solutions like those before us today before we are forced to take drastic, perhaps unwise, action. I hope my colleagues will recognize the need to put our own house in order. The real need for this legislation lies in the citizens demand for it.

Mr. President, there were a number of other important points in the Journal article and I ask unanimous consent that it be printed in full at this point in the RECORD for the information of my colleagues.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

PROPOSAL TO RESTRICT EXPENDITURES OR TAXES IS PICKING UP STEAM

(By James M. Perry)

SEATTLE.—State Rep. Ellen Craswell works her way down the port side of the Walla Walla, a ferryboat making the 5:15 rush-hour run from Seattle to Winslow, and collects signatures for Initiative 62.

"Would you sign our petition to limit the growth of state government?" Mrs. Craswell asks an elderly, gray-haired woman who is seated alone reading a Gothic novel. "I will," the woman says, "but I'll tell you this: Your proposal doesn't go far enough."

Mrs. Craswell, an enthusiastic Ronald Reagan Republican, shakes her head in mock despair. A year ago, in her first year in the legislature, she introduced a bill similar to Initiative 62, which would slow the rate of spending by the state. And her colleagues laughed at her. Too "radical," she was told. Now she is a "moderate."

But if the legislators wouldn't listen a year ago, the people certainly are listening now. Mrs. Craswell and the co-chairman of her group, State Rep. Ron Dunlap, expect to collect more than 700,000 signatures for Initiative 62. That would be a record for the State of Washington, eclipsing the 699,600 signatures that were picked up a few years ago on petitions to roll back salary increases that members of the legislature had voted for themselves. That one went on to a smashing victory in a general election. Most people think Initiative 62 will do the same, although it wouldn't go on the ballot until November 1979.

A NATIONAL MOVEMENT

"I've been in a lot of campaigns," Mr. Dunlap says, "but I've never seen anything like this. This is the most significant policy question before our state—maybe ever. And it's becoming the most significant policy question before the whole country."

Indeed, all across the country from Washington to Maine, people like Ellen Craswell and Ron Dunlap are buttonholing citizens with their petitions and collecting signatures by the thousands for various kinds of initiatives, propositions and constitutional amendments that would limit state taxes and spending. The clipboard has become the political symbol for 1978.

The success they have achieved at the state level is whetting their appetite for the ultimate battle—constitutional or statutory restrictions on spending by the federal government.

This so-called tax rebellion is personified by three people: Howard Jarvis, the father of California's famous Proposition 13; Lewis Uhler, president of the National Tax Limitation Committee; and John Shannon, an assistant director of the Advisory Commission on Intergovernmental Relations in Washington, D.C.

AVOIDING THE "MEAT AX"

It was Mr. Jarvis, with his tax-cutting Proposition 13, who turned Ellen Craswell from a "radical" to a "moderate."

Proposition 13, Mrs. Craswell says, disapprovingly, "is a meat ax. We tell people you can have a meat ax or you can have the moderate, reasonable solution we believe Initiative 62 to be."

Proposition 13, passed overwhelmingly by California voters June 6, says property can't be taxed at more than 1% of its estimated 1976 market value, that assessments can't be increased by more than 2% in any year unless the property is sold, and that no taxes can be increased and no new taxes added without the approval of two-thirds of the voters.

Mrs. Craswell's Initiative 62 says the growth rate of general state tax revenues (including the sales tax and property taxes collected by the state) cannot exceed the average growth rate of total state personal income over the three preceding years. "In other words," Mrs. Craswell explains, "state taxes won't increase faster than our pocketbooks."

JARVIS AND UHLER

Mrs. Craswell's patron is Mr. Uhler, former chairman of Ronald Reagan's tax-reduction task force and now president of the National Tax Limitation Committee. Mr. Uhler's group is seeking to put initiatives like 62 on the ballot in dozens of states.

The crusty Mr. Jarvis is contemptuous of Mr. Uhler's efforts. "Those expenditure limitations," he says, "don't cut spending, they give in to it. We aren't interested in slowing the rate of growth; we want government to operate with less money."

The lines will be drawn this fall between Mr. Jarvis's proposal and Mr. Uhler's.

Initiatives like Proposition 13 almost surely will be on the ballot Nov. 7 in four states—Michigan, Oregon, Nevada and Idaho.

"It's the best we could do," Mr. Jarvis says "We only had two months to put this together. I don't think getting on the ballot in four states is bad. This thing isn't like instant coffee. It's taken 15 long, lousy years to get where we are today."

Initiatives like Washington's 62 will be on the ballot this fall in at least four states also—in Michigan, cheek by jowl with a Proposition 13, and in Colorado, Texas and Arizona. Maine and Hawaii are possibilities.

A similar initiative was proposed in California but wasn't approved by the state legislature in time to be placed on the November ballot. The proposal was supported by Gov. Edmund G. Brown Jr. as a supplement to Proposition 13. The same Gov. Brown who once said Proposition 13 would be disastrous now says it gives Californians "a once-in-a-lifetime opportunity to reduce government growth."

"Wow!" says Mr. Jarvis. "Did you ever see a U-turn like that?"

"The transformation in public opinion over the last five years has been incredible," Mr. Uhler says. "People were satisfied with the way things were then. Now they are issuing demands for cuts. The result is that we have emerged as moderate and responsible people, supported by most of the politicians."

Mr. Shannon and his colleagues at the Advisory Commission on Intergovernmental Relations, an agency created by Congress 20 years ago to monitor the operation of the American federal system, continue to preach moderation. In a way, they are what is left of the "liberal" solution.

END OF THE "BULL MARKET?"

"For 30 years," Mr. Shannon says, "state and local finance has been a bull market. But now there is clear evidence that an increasing number of citizens no longer want the state-local sector to keep growing at a faster clip than the growth in their own income."

Even before Proposition 13, he says, some states had been making strides in cutting the growth in spending. At least 14 states had placed restrictions on the power of local officials to raise property taxes. At least five states had taken steps to control the rate of growth in state spending. And most states had turned to special tax exemptions and tax deferrals to help overburdened homeowners.

Reluctantly, Mr. Shannon accepts constitutional amendments that restrict state spending increases to real growth in the state's economy. He also favors indexing personal income taxes to prevent inflation from pushing taxpayers into higher brackets. (With indexing, adjustments are made to relieve people of having to pay taxes on that part of their income that reflects higher prices rather than increased purchasing power.) And he backs various measures to strengthen political accountability for the public officials responsible for new spending programs and higher taxes.

Colorado, he notes, already has indexed personal income taxes. Arizona passed a law indexing its deductions, credits and exemptions, and Gov. Brown, riding the crest of the taxpayers' rebellion, has proposed indexing in California.

But to "hard fiscal conservatives," Mr. Shannon concedes, all of this is "weak tea." "There is blood on their teeth," Mr. Shannon says, and he suspects the focus of the tax rebellion is switching from the states to the federal government. "They are all realizing that the fat boy on the block is Uncle Sam."

AN EYE ON THE "FAT BOY"

The results of a number of recent polls suggest that Americans are beginning to look at the "fat boy." In polls commissioned by Mr. Shannon's agency prior to the adoption of Proposition 13, respondents said they got the most for their tax money from the federal government. But in polls taken by Gallup, NBC and CBS after Proposition 13, the federal government dropped all the way from first to last. And in one of the polls, 62% of the respondents said the biggest waster of their tax money was the federal government.

So Mr. Jarvis and Mr. Uhler are switching targets right now. A committee of Mr. Uhler's National Tax Limitation Committee met July 26 to begin drafting an amendment to the U.S. Constitution that would put a squeeze on federal spending. "The time is ripe for it," Mr. Uhler says. "We have the momentum."

The amendment that the committee will draft will be more detailed than an amendment Rep. Philip Crane, an Illinois Republican and announced presidential candidate, already has introduced. The Crane amendment would limit total outlays by the federal government to one-third of the average national income for the three prior calendar years, with escape provisions for wars and national emergencies.

Mr. Jarvis isn't impressed. "It would take 20 years to pass a constitutional amendment," he says. "The country don't have that long. We'd all be in our graves."

So, he says, he will push for a national Proposition 13. Last week in Fort Worth, Texas, he announced a "freedom-for-taxpayers" plan that calls for Congress to cut federal taxes by $50 billion; this would be accomplished by reducing income taxes 20% across the board and by eliminating capital-gains taxes. The plan, which also would require that federal spending be slashed by $100 billion over a four-year period, is designed to limit the amount of money that the government collects.

"If they can't collect it," he says, "they can't spend it."

Mr. BIDEN. Whenever sunset legislation is discussed around the Senate, the question of whether there really is a problem comes up. After all, it is said, congressional committees conduct oversight hearings on programs all the time. Many programs are reauthorized periodically and receive annual appropriations and can be reviewed then. So why do we need a new review process?

That issue was well addressed by Harry Havens of the General Accounting Office in his testimony before the Rules Committee on June 8 of this year. He listed four broad deficiencies that were cited as the need for sunset reform proposals of some kind. These were:

Incomplete coverage of the reauthorization process;

Inadequate attention to broad policy subjects;

Incomplete review coverage of Federal programs and activities; and

Lack of clarity and specificity in statements of the objectives of programs and activities.

In other words, we do not know what programs are supposed to do; our reviews of programs are incomplete; and we cannot see the forest for the trees, as the saying goes.

Of course, the GAO has been pushing for effective program review for a long time.

What did the staff working group on S. 2 and S. 1244 have to say about need? Stated clearly in one sentence on page 1 of its report the group said:

. . . the staff working group concluded that . . . improvements in the program authorization and review process were desirable . . .

I could not say it more clearly myself. Admittedly the group differed on the mechanism to achieve the goal.

One problem in demonstrating the need for better review of Federal spending is that there are so many programs, managed by so many agencies that it is an overwhelming job just to master the data and present a comprehensible statement of the problem. I think the best job I have seen is that done by the Government Operations Committee in studying sunset in 1976. Its findings, presented in August 1976, are so definitive that as far as I know no one else has tried it since. Yet we have had this information before us for 2 years and only now are ready to act on it.

I ask unanimous consent that excerpts from the 1976 report of the Committee on Government Operations be printed in the RECORD to fully document the need for legislation of this kind.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

EXCERPTS

THE PROLIFERATION OF FEDERAL PROGRAMS

The 1976 Catalog of Federal Domestic Assistance lists 1030 programs administered by 52 Federal agencies. In Fiscal Year 1976, these programs provided an estimated $59.8 billion to the 50 states and nearly 80,000 units of local government, for a total of almost 25 percent of Federal domestic outlays and an estimated 25.2 percent of all State and local government expenditures.

In the health field alone, there are 302 different programs, administered by 11 separate Federal agencies. Under the broad category of community development, there are 259.

(NOTE.—The numbers in this section are taken from the Catalog of Federal Domestic Assistance and, therefore, are based on different assumptions than the numbers used elsewhere in the report that were compiled from GAO or CBO data.)

As the program category is narrowed, the number of programs is no less bewildering. The 1976 Federal Catalog lists 39 different programs under the Veterans category, with another 28 under the heading Veterans Medical Facilities and Services. Under the category of Vocational Education, there are 27 different programs listed. The reader is referred to the Job Training Subcategory of the Employment, Labor and Training Category for other programs in this area. Under the heading of Transportation, there are 45 separate entries.

A GAO study on health services in outpatient health centers in the District of Columbia, found seven different programs—administered by HEW and OEO. Coordination was so lacking, the GAO found, that one neighborhood had eight clinics, several of which were badly underutilized.

Another GAO study of the use of military maintenance facilities found extensive duplication and underutilization of these facilities because of the emphasis each service placed on developing its own facilities rather than sharing existing facilities of other services. The study concluded that substantial long-range savings could be realized through greater inter-service maintenance, but that despite repeated encouragement from the Department of Defense, the individual services had continued to circumvent both the spirit and intent of such policy.

An HEW study found over 50 Federal programs providing some type of service to handicapped youth. Most of these programs were administered by HEW—by 14 separate units within that department. A GAO study of the HEW study found no point within

HEW at which all these efforts were coordinated.

Finally, a study by the Joint Economic Committee found 62 separate programs involved in providing aid to the needy and social insurance, at a projected cost in fiscal year 1975 of $142 billion.

Note: Since 1966 the importance of categorical programs in the total Federal aid picture has lessened. In 1966, categoricals comprised 98 percent of total Federal aid. By 1975, they comprised about 75 percent, with block grants and general support aid (revenue sharing, e.g.) accounting for the difference.

THE GROWTH OF PERMANENT PROGRAMS

Side-by-side with the growth in the number of Federal programs over the last 10 years has been a dramatic increase in the amount of Federal funds spent on programs with permanent appropriations—funds spent without any review by Congress. From 1966 to 1976, these programs have become the fastest growing component of the Federal budget, tripling from $55 billion in 1966 to $165 billion in 1976.

In a different category, but representing a similar problem are the very large number of programs with permanent authorizations—programs enacted with authorizations stating "such sums as may be necessary" and containing no termination date.

A review of programs under the jurisdiction of the Senate Agricultural Committee (chosen because such a list had been prepared by the GAO at that Committee's request), showed 277 programs operating under permanent legislative authority. Only 65 programs were based on legislation which provided fixed termination dates. The 277 permanent programs represented a total year 1977. The 65 programs subject to periodic reauthorization comprised $6.8 billion in fiscal year 1977 budget requests.

What these two examples point out is that there is a significant segment of the Federal budget which escapes congressional review on a regular cycle.

THE GROWTH IN UNCONTROLLABLE SPENDING

The cost of continuing all 1976 programs in the 1977 budget was estimated at approximately $45–$50 billion higher than last year's spending level. Thus, despite targeted program cutbacks, the first budget resolution for fiscal year 1977 set spending at $413 billion, about $40 billion above the final budget figure for FY 1976.

Most of this growth is attributable to the increase in "uncontrollable" spending, which in 1967 accounted for about 59 percent of that year's budget but which in 1977 will take up roughly 77 percent of all Federal spending. Thus, uncontrollable spending is, in the words of one witness, "bleeding" the controllables. This witness, Dr. Allen Schick of the Congressional Research Service, testified further, that: "If we compared the 1966 and 1976 budgets, we would find dozens of major programs which were funded then, but not now. We would find dozens more which have grown less than inflation. And we would find dozens in which there is a significant and growing gap between the amount authorized and the amount actually appropriated."

Thus every year the uncontrollables are reducing the policy options open to the Congress in determining priorities for Federal spending.

THE GROWTH IN GOVERNMENTAL AGENCIES

In addition to the proliferation of programs administered by the Federal government, there has also been an extraordinary growth in the number of Federal agencies, commissions, bureaus and the like. According to the Library of Congress, from 1960 to 1974, 329 such governmental bodies were created, while only 126 were abolished. Of the 329 themselves, only 63 had been abolished by 1974. In 1974 alone, 85 separate governmental bodies were created.

THE GROWTH OF FEDERALLY-MANDATED LAYERS OF GOVERNMENT

The last decade has seen not only a rapid growth in the activities of the Federal government, but also a mushrooming of new layers of government mandated or spawned by Federal programs.

At the highest level, there are 10 Federal Regional Councils, promoted by the Nixon administration as part of its New Federalism efforts to decentralize Federal activities.

Far more significant in terms of numbers and confusion are the single and multipurpose districts required or spawned by various Federal grant-in-aid programs.

According to a study by the Advisory Commission on Intergovernmental Relations on substate regionalism, released in 1974, over 4,000 geographic program areas had been recognized under 24 different Federal programs involving 11 Federal agencies. These included 481 Law Enforcement Planning regions, 957 Community Action agencies, 419 Cooperative Area Manpower Planning System Councils, 247 Air Quality Regions, 195 Comprehensive Areawide Health Planning agencies, and 165 Resources Conservation and Development districts, among others.

Mr. BIDEN. Some people seem concerned that this legislation is a threat to effective Government action. That is not so. A major concern is the requirement for periodic reauthorization of Federal programs, or automatic termination as it is often called. The feeling is that this is too abrupt or radical a change. Or that it will threaten the continuation of many worthwhile programs now on the books.

This proposal threatens only bad or wasteful programs. All it does is to bring programs out for a public review by the entire Congress. The concept of reauthorization, or automatic termination, is not new. Many programs are periodically renewed right now. Many programs are studied right now. All this proposal does is to adopt already existing congressional procedures, perfect them and extend them to virtually all programs.

There do not seem to be any really reliable figures as to what percentage of programs are subject to periodic reauthorization. The scope of programs that are reauthorized regularly ranges from defense to health to education to aid to the elderly to revenue sharing. This periodic review is not now regarded as a threat, but as an opportunity. An opportunity by proponents of these programs to improve them. So I really see little reason why the reauthorization process should be looked upon as a threat to some other programs, unless they are really not worthwhile. The other half of this proposal, the concept of program evaluation and review is certainly not new. I have not attempted a complete review of congressional oversight, but it is easily traceable to 1946 in the Legislative Reorganization Act which provides:

In order to assist the Congress in—

(1) its analysis, appraisal, and evaluation of the application, administration, and execution of the laws enacted by the Congress, and

(2) its formulation, consideration, and enactment of such modifications of or changes in those laws, and of such additional legislation, as may be necessary or appropriate, each standing committee of the Senate and the House of Representatives shall review and study, on a continuing basis, the application, administration, and execution of those laws, or parts of laws, the subject matter of which is within the jurisdiction of that committee.

There it is, program evaluation and review. Nothing new or radical about it.

The only thing radical and new about this proposal is the new, more effective use it would make of old tried and true congressional processes. It takes the concept of reauthorization, requires it for most programs, and then says that before you reauthorize there must be an evaluation on which to base the decision about continuing the program.

The section of the Legislative Reorganization Act of 1946 cited above did not work very well, because nothing forced the study and the review. Reauthorization has not worked as well as it might, because reauthorization was not always accompanied by a careful study of the program. So tie the two together and require periodic reauthorization as well as a study of the program before you consider reauthorization.

That is a combination that could achieve good results. It will force committees to look more carefully at their programs. It will give Members of the House and Senate a chance to look at every program and to have some basis for judging its merit.

As is often the case with good ideas, this one is not really new. Certainly it is not radical or threatening.

Another issue that always arises is the question of further study, although I just cannot imagine why it should have to be discussed. The ideas behind sunset, as discussed earlier, are not new or difficult to understand. Sunset proposals have been pending before the Senate at least since I introduced my bill in July 1975, 3 years ago. They have been studied by two committees and a staff study group representing all committees.

The history of sunset in the Senate is a rather long one. It is a history filled with lengthy study and hearings, but also, unfortunately, with delays which killed it in 1976. I do not see how there can be further profitable study of this proposal. Rather it is time for the full Senate to dispose of the issue.

Two sunset bills were introduced in the 95th Congress. I introduced my sunset bill, S. 2067, in July 1975. Senator MUSKIE introduced his bill, S. 2925, in February 1976. The Subcommittee on Intergovernmental Relations of the Governmental Operations Committee then held 7 days of hearings on the bill and eventually it was reported favorably. The bill was then referred to the Committee on Finance and the Committee on Rules and Administration. The latter committee held important hearings on the bill. The bill was finally placed on the Calendar on September 20, 1976, too late to receive consideration in the 94th Congress.

In the spring of 1977 both Senator MUSKIE and I introduced new sunset bills, both drafted to take account of comments on earlier legislation and particularly the hearings on the Committee on Rules and Administration. The Intergovernmental Relations Subcommittee then held 6 days of hearings on S. 2 and

a revised version of it was reported favorably. It was then referred to the Committee on Rules and Administration where my bill, S. 1244, had already been referred.

The Rules Committee then took a significant step. Following hearings on the two bills, Chairman CANNON asked the chairman of each standing committee to appoint the staff director (or designee) of his committee to a study group to review S. 2 and S. 1244 and recommend whatever modifications seemed necessary. This was most appropriate since the workload of a sunset bill inevitably falls upon the committees and their staff. While one would have expected an eager response to this opportunity, with a few notable exceptions the response was poor. I had a representative at the meetings, yet seldom, if ever, were a majority of the committees represented. Most were represented below the level of staff director. While the staff working group did, indeed, draft a new proposal, it could hardly be said to represent the concentrated efforts of the Senate committee staffs. This is not to derogate the efforts of those who did attend meetings and work diligently. Some of their proposals are incorporated in the modified proposal before us today.

Following this staff study, the Rules Committee met again and, after hearing from the General Accounting Office, Chairman PELL asked that representatives of Senator MUSKIE and myself meet with the GAO and try to come up with a mutually acceptable version. This was done and a bill emerged that I believe blends the best features of all of the proposals. Since then, other changes have been made to achieve the widest possible support.

I have reviewed the history of sunset to show that this proposition has been long and carefully considered. Any Senator with any real interest or concern has had an opportunity to be heard and, indeed, to participate in drafting legislation. I see no reason for delaying final action any longer.

Is this legislation really so important? What is so urgent about it that we are considering it now, right at the end of a session? I would answer that in two ways.

Sunset is of concern right now, because of the bleak outlook for Federal finances over the next few years. In July the Director of OMB appeared before the Budget Committee to present the administration's forecast of Federal spending for the fiscal years 1980 and 1981. The projections showed what the administration called the unacceptable prospect of a $100 billion increase in Federal spending over the next 2 fiscal years. It is one thing to call such figures unacceptable. It is something else to do something about them. If we are not to remain in a deficit position forever, it is essential that we develop the tools to restrain spending. Four years of work has convinced me that sunset legislation is an essential tool. With the present rate of Federal spending we cannot get it too soon.

● Mr. MARK O. HATFIELD. Mr. President, the sunset legislation we are now considering is the product of years of refinement and months of negotiation. As now fashioned, it represents a meaningful tool for budget reform. I am proud to cosponsor this measure and to rise today in its support.

Enactment of this sunset bill is a method of insuring additional accountability over Government spending. Such accountability is being demanded by the American people and is required in the name of fiscal restraint. To address the public's economic concerns, and to act responsibly in bringing the inflationary spiral under control, more comprehensive and stringent oversight of Federal spending is needed. Sunset constitutes an appropriate and important means to this end.

Sunset legislation mandates that all but a handful of Federal programs will undergo periodic review and will necessitate reauthorization. It requires that similar programs will undergo such review concurrently. Such a process enables Congress to detect wasteful and inefficient spending overlaps. Programs which were good in concept but which have become misdirected or which have survived past their useful life, can be eliminated. Mr. President, this is a commonsense way for Congress to approach its responsibilities toward the Federal budget.

Contrary to the views of some critics, sunset will not bring the Government to a halt or instantly curtail programs on which the public has been led to rely. The charge is baseless. Sunset legislation per se does not vest Congress with the power to terminate Government programs. That power resides in the Constitution. Instead, sunset mandates that program review will be regular, comprehensive, and systematic. It is a sensible and effective means for Congress to order, and proceed with, its oversight agenda.

While I fully support the sunset proposal offered by the senior Senator from Maine, I believe it suffers from one glaring omission. The omission regards the lack of any provision in this legislation to encompass Federal tax expenditures.

Mr. President, tax expenditure statutes account for a revenue loss to the Federal Government estimated at $136 billion for fiscal year 1979. This figure represents some one-fourth of the total amount currently drawn from the Treasury to fund direct spending for Federal activities. Moreover, the vast portion of these tax expenditures is authorized for indefinite periods and is not systematically reviewed. To leave tax expenditures out of sunset coverage is to leave a huge gap in our management of Federal fiscal resources.

Effective budgetary control means that direct spending and tax expenditures must be viewed in light of one another. If the tax expenditure amendment is defeated, the benefits that will accrue from sunset procedures will be significantly impaired. Sunset without tax expenditure coverage would still be an improvement over the present hodgepodge brand of oversight, but the great potential this legislation enjoys for sound fiscal planning and restraint will never be substantially realized.

Mr. President, I believe strongly that passage of a tax expenditure amendment is critical to the success of sunset legislation, and I urge that the Senate enact it.●

Mr. GLENN. Mr. President, I am extremely pleased to see that the full Senate will now have an opportunity to debate, and I hope can get to a final conclusion on, the sunset legislation.

The distinguished Senator from Maine has worked very hard and long on this for several years. I have worked with him on various portions of this for most of that period of time. In helping fashion this legislation, this amendment, which we are now considering, and which I have further amended, is the product of extensive debate in committee in the 94th and 95th Congresses. I believe the product of that effort is a workable bill which I fully support.

I consider "sunset" to be extremely significant and necessary and I urge my colleagues to support it. The amendment is designed to provide for an effective congressional oversight procedure for the reevaluation of Federal programs. In so doing, "sunset" can help to restore confidence in the ability of Congress to control Federal Government. Too many Americans feel they are not getting their money's worth for the average 20 percent of each paycheck which is sent to the Federal Treasury. They are very much concerned about the possibility of double-digit inflation, and they want the Government to hold the line on Federal spending and reduce the massive annual budget deficit which has become so commonplace in recent years.

(Mr. ABOUREZK assumed the chair.)

Mr. GLENN. Mr. President, I believe that sunset can at least start to address some of the concerns which the American people have about the way in which our Government operates.

Our citizens are demanding a more efficient, responsive, and competent government—one that can effectively deal with the problems which concern them, not one that merely grows unrestrained without any real direction. The American people desire and deserve such a government. "Sunset" can be an important step in meeting some of these demands.

"Sunset" legislation has the potential for substantially upgrading the performance of the Government. The purpose of this amendment, according to the Governmental Affairs Committee report, is to "* * * establish a systematic and orderly procedure for the reconsideration by Congress of its past program enactments." The procedure which is utilized in this amendment consists of a 10-year schedule for the reauthorization of substantially all Federal programs and a procedure for their review in a systematic fashion.

The amendment which we are considering is a good one as far as it applies to Federal spending programs, however, I believe it to be deficient unless it applies equally to tax expenditures as well. Tax expenditures to the sunset mechanism is essential if we are to effectively achieve the objectives of the bill. I have offered that amendment to reinstate what was originally a tax incentive title in the original "sunset" legislation.

Sunset is an extremely worthwhile proposal. I believe that the Senate should have an opportunity to record itself pro or con on the merits of the sunset proposal at the earliest possible time.

Now, Mr. President, with direct regard to the sunset tax amendment that I have offered, I offer it along with Senators HATFIELD of Oregon, MUSKIE, GRIFFIN, JACKSON, CHAFEE, MCCLURE, MORGAN, KENNEDY, HATHAWAY, MATHIAS, CLARK, BROOKE, and HART.

The amendment, Mr. President, would extend the sunset concept beyond its application just to Federal spending programs by also requiring periodic review and reauthorization of tax expenditure provisions. The purpose is to subject such tax incentive provisions to the same type of systematic review as is required of direct expenditure programs under Senator MUSKIE's sunset amendment. The bulk of the policy decision involved would be made in the 96th Congress, in the establishment of a specific review schedule. The only decision specifically embodied in the amendment, and I would stress this, is the decision to go ahead with a comprehensive review of tax expenditures.

If we do get this to a vote, Mr. President, that will be the choice for each and every Senator here. A vote for this amendment will be a vote for an orderly review process.

Mr. ROBERT C. BYRD. Will the Senator yield?

Mr. GLENN. I yield.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that I may suggest the absence of a quorum without the floor being taken away from the Senator from Ohio (Mr. GLENN).

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MATHIAS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. BIDEN. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

The second assistant legislative clerk continued the call of the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I shall shortly yield to Mr. GLENN briefly, but before I do so I am going to ask unanimous consent to set aside temporarily the amendment by Mr. MUSKIE with the understanding that on tomorrow morning, when the Senate resumes consideration of the tax bill, he or Mr. GLENN would be recognized to continue their discussion of that pending amendment. That would allow the Senate to proceed with some other amendments to the tax bill tonight which are not in controversy which will not require rollcall votes.

It would allow other business to be dispensed with tonight and some progress will be made thereby.

I, therefore, yield to Mr. GLENN so he can offer a cloture motion.

Mr. GLENN. I thank the distinguished majority leader.

CLOTURE MOTION

Mr. GLENN. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER (Mr. CHILES). The cloture motion having been presented under rule 22, the Chair, without objection, directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate upon Amendment No. 3678 (as modified), the Sunset Act of 1978, to the bill (H.R. 13511), an Act to amend the Internal Revenue Code of 1954, to reduce income taxes, and for other purposes.

Edmond S. Muskie, William D. Hathaway, John Glenn, Dennis DeConcini, Thomas F. Eagleton, Adlai E. Stevenson, Charles H. Percy, James Abourezk, Mark O. Hatfield, Joseph B. Biden, Jr., Birch Bayh, Patrick J. Leahy, Howard M. Metzenbaum, Lowell P. Weicker, Jr., Ernest F. Hollings, John C. Culver.

UNANIMOUS-CONSENT REQUEST

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent now that the amendment by Mr. MUSKIE be temporarily laid aside for the purpose of other amendments being called up tonight to the tax bill, amendments which are not in controversy which will only require a voice vote and for the purpose of allowing certain other housekeeping matters and conference reports about which there is no controversy to be called up, with the understanding that tomorrow morning, when the Senate resumes consideration of the tax bill, Mr. MUSKIE would again be recognized, along with Mr. GLENN, and there be no rollcall votes tonight.

Mr. CURTIS. Mr. President, reserving the right to object, and I shall not object, what is the pending business now?

Mr. ROBERT C. BYRD. The pending business is the amendment by Mr. GLENN to the amendment by Mr. MUSKIE to the bill.

Mr. CURTIS. When we resume on that, will it be the Glenn amendment or the Muskie amendment?

Mr. ROBERT C. BYRD. The Glenn amendment would still be pending as an amendment to the Muskie amendment.

Mr. CURTIS. Mr. President, will the distinguished majority leader yield for a parliamentary inquiry?

Mr. ROBERT C. BYRD. I yield.

Mr. CURTIS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. CURTIS. As I understand it, two cloture motions have been filed. In what order will they be voted upon?

The PRESIDING OFFICER. In the order in which they are filed.

Mr. CURTIS. Very well.

Mr. PACKWOOD. Mr. President, reserving the right to object, what did the majority leader say about tonight in calling up amendments?

Mr. ROBERT C. BYRD. There would be only amendments called up that could be accepted by the managers of the bill and could be voice voted or, if not, there would not be any rollcall votes thereon tonight.

Mr. PACKWOOD. Then I think I will object. I have an amendment I want to call up that is controversial and I am sure will require a roll call vote. I thought we were going to dispose of these tonight, and I was ready to go tonight.

The PRESIDING OFFICER. Objection is heard.

Several Senators addressed the Chair.

Mr. ROBERT C. BYRD. I yield to the Senator from Arizona (Mr. GOLDWATER).

Mr. GOLDWATER. Mr. President, did the distinguished majority leader set a time to come back in tomorrow?

Mr. ROBERT C. BYRD. Yes. The Senate will convene at 9 a.m. tomorrow morning.

Mr. MATHIAS. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield to the Senator from Maryland.

Mr. MATHIAS. Mr. President, I wish to say a few words in support of the important amendment offered by my distinguished colleague from the State of Maine. I cosponsored this legislation when it was first introduced, and voted for its passage in the Governmental Affairs Committee. I consider it vital. The concept of this legislation is irresistible; the need for it is irrefutable.

The mood of the country is, at the very least, troubled; some would say rebellious. Rising inflation and the perception that Government is bloated and inefficient have raised demands for reform. Cries are heard throughout the country for an end to waste and for severe cuts in Government spending.

Sunset is a logical, responsible and orderly response to this public concern. We, in Congress, should commit ourselves to reexamining every cent we now spend. We should make sure every Federal dollar is being used as effectively and efficiently as possible.

Mr. President, this type of legislation is long overdue. It provides for automatic termination of Federal programs unless Congress determines, through a review process, that they should be reauthorized or reenacted. The bill simply requires Congress to do its job better and more thoroughly. It requires Congress to reconsider past policies and programs in a way that will allow us to shift resources away from programs we no longer need or from those that are not working well. We need to free up those resources and to put them to work in new, more effective ways.

The Senate Budget Committee recently calculated the cost of 31 new program initiatives likely to be before Congress over the next 5 years. It found that between 1980 and 1983 the cost of these new programs could run as high as $416 billion in new spending. When we factor in our rate of growth, as the budget com-

mittee found, we can fairly project that $120 billion in additional revenues would be needed to pay for these new programs.

We cannot raise taxes to pay for new programs. The American people are already groaning under the tax load. Equally out of the question is increasing the budget deficit. But neither can we ignore the legitimate demands of the future, except at our peril.

What we can do, and what we must do, is to reconsider what we spend now and to realine our spending with our changing national priorities. That is what Sunset is all about. It is a process to help us put sense in our spending and bring inflation under control. The Sunset approach is vastly preferable to arbitrary, mindless across-the-board budget cuts that inevitably fall most heavily on the shoulders of the weak. It offers us an orderly approach to legislation that will benefit all Americans equally.

Mr. President, I urge my colleagues to support this important measure. If we succeed in enacting this legislation this year, I think it will be regarded eventually as the most significant accomplishment of the 95th Congress.

Passage of Sunset legislation now, combined with our earlier passage of the second congressional budget resolution, will be a clear sign to the American people that Congress has heard their appeals for relief and has responded responsibly and constructively.

Several Senators addressed the Chair.

Mr. ROBERT C. BYRD. Mr. President, I yield to the minority leader.

Mr. GLENN. Mr. President, a parliamentary inquiry.

Mr. ROBERT C. BYRD. I yield for that purpose.

Mr. GLENN. A parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. GLENN. When we had the last quorum call it was my understanding when we came back from that quorum call I retained the right to the floor.

Mr. ROBERT C. BYRD. The Senator is correct.

Mr. GLENN. Under the unanimous-consent agreement that was propounded here, and it was not agreed to because objection was heard, my parliamentary inquiry is: Do I still have priority on the right to the floor?

The PRESIDING OFFICER. The Senator is correct. He has priority.

Mr. ROBERT C. BYRD. The Senator is correct.

The PRESIDING OFFICER. He yielded to the distinguished majority leader.

Mr. ROBERT C. BYRD. The Senator has the floor under the unanimous-consent request.

Mr. GLENN. I will yield to the majority leader, reserving my right to the floor. I yield to him for whatever purposes.

The PRESIDING OFFICER. Under the unanimous-consent agreement he has that right.

Mr. GLENN. Whatever he participates in right here, I reserve the right to the floor this evening unless we have the other unanimous-consent request approved that we agreed to in the cloakroom.

Mr. ROBERT C. BYRD. The Senator is absolutely correct. I apologize for taking the floor. I had no right to the floor. I had forgotten about the order for the recognition of the Senator.

Mr. BAKER. Mr. President, will the majority leader yield? Will the Senator from Ohio yield to me without losing his right to the floor?

Mr. ROBERT C. BYRD. He has yielded to me. I yield to the minority leader.

Mr. BAKER. Mr. President, I hope we might still find a way to arrive at a unanimous-consent agreement to postpone consideration of the Muskie-Glenn amendment until tomorrow. The distinguished Senator from Oregon (Mr. PACKWOOD) has an amendment that will require a rollcall vote, and I judge his principal concern is finding a time certain to vote on that amendment. I wonder if we can work our way around this dilemma and find a time certain to vote on tomorrow?

Mr. PACKWOOD. I would be happy to call it up and lay it down tonight and arrange a time to vote tomorrow morning.

Mr. ROBERT C. BYRD. Perhaps the managers of the bill, the chairman of the committee, would respond.

Mr. LONG. Mr. President, I do not think I would object to calling it up and discussing it and voting on it at a time certain tomorrow.

If it is the amendment I think it is it has more than one feature to it. It is subject to a lot of debate and I would want to have a division so that people can vote for the part they want to vote for and vote against the part they do not want to vote for.

Mr. PACKWOOD. Mr. President, I do not want to take the Senate by surprise. The amendment eliminates DISC, and it cuts the corporate rate by a percent, which is roughly a tradeoff in revenue. On behalf of Senator KENNEDY and myself, we are offering this amendment, which is not a complicated amendment, and would not require a great deal of discussion.

Mr. LONG. I think the Senator ought to know that it would be my intention to insist on a division so that we would vote on whatever part comes first. If DISC is the first part of it, then we would vote on that and then vote on the second part, and that would be the reduction in the rate. Senators might want to vote for one part and not another part. and if they did. that would be their privilege. They could vote for all of it.

Mr. PACKWOOD. I would prefer to vote on it as a whole, but if it is divisible.

Mr. LONG. The Senator said something very logical, with which I thoroughly agree. I never object to anybody doing something that he has a right to do.

Mr. KENNEDY. Mr. President, will the floor manager yield?

Mr. ROBERT C. BYRD. I yield.

Mr. KENNEDY. If we can have a time limitation, we could vote on it this evening. The concern some of us have is if the cloture motion is carried, it would preclude us from consideration of this type of amendment. So if the leader wants to agree on an hour's time limitation, we could do it this evening. I am reluctant, quite frankly, while we have got some Members here, just to lay it down and have a discussion from the Senator from Oregon and myself this evening and then vote on it tomorrow morning. We would be glad to agree to an hour's time limitation.

Mr. ROBERT C. BYRD. Mr. President, Mr. KENNEDY has suggested a time agreement and a vote on it tonight.

The PRESIDING OFFICER. The Chair is having a little difficulty hearing who has the floor now.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the amendment by Mr. MUSKIE be temporarily laid aside, with the understanding that on tomorrow morning it would be the pending question, which it would be in any event without request, but that Mr. MUSKIE would then be recognized—he or Mr. GLENN—to discuss it, and that in the meantime this evening the Senate proceed to the consideration of the amendment by Mr. PACKWOOD; that there be a time limitation of a half hour to the side, at which time the Senate will vote.

Mr. LONG. Mr. President, I do not think we need that much time. I would hope we would limit ourselves to 15 minutes on each side.

Mr. CURTIS. Mr. President, reserving the right to object, there are individuals awav from the Chamber, some of them in the dining room here and elsewhere. Could we fix the vote at a specific time, such as 9:15?

Mr. BUMPERS. Mr. President, reserving the right to object, I did not hear the last statement of the Senator from Nebraska about 9:15.

Mr. ROBERT C. BYRD. There were suggestions that the vote occur at 9 and there were suggestions that the vote occur at 9:15. I think the manager and ranking manager are willing to make it 9 in relation to the amendment tonight.

The PRESIDING OFFICER. Is there objection?

Mr. MELCHER. Mr. President, reserving the right to object, if I could have 2 minutes to pass a wilderness bill while the rest of them get ready, I would not object.

[Laughter.]

Mr. ROBERT C. BYRD. That is a fair bargain.

The PRESIDING OFFICER. Without objection, it is so ordered.

MONTANA WILDERNESS AND RESERVE EXTENSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Chair lay before the Senate a message from the House on H.R. 13972.

The PRESIDING OFFICER laid before the Senate H.R. 13972, an act to designate the Great Bear Wilderness, Flathead National Forest, and enlarge the Bob Marshall Wilderness, Flathead and Lewis and Clark National Forests,

State of Montana, which was read twice by its title.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its consideration.

UP AMENDMENT NO. 2000

Mr. MELCHER. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Montana (Mr. MELCHER) proposes an unprinted amendment numbered 2000:

On page 1, line 6, strike the word "September" and insert "October".

On page 1, line 10, strike "ninety thousand, five" and insert "eighty-five thousand, seven".

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Montana.

The amendment was agreed to.

Mr. MELCHER. Mr. President, I simply want to explain that the amendment extends the corridor of the nonwilderness area for about a distance of a half mile between the Great Northern tracks and Highway Two on the northern boundary.

Furthermore, the Senate amendment does restrict or pull back the boundary on Morrison Creek south for about 1½ miles to 2 miles to leave excluded from the wilderness area that portion of Morrison Creek and Crescent Creek to allow the opportunity for both snowmobiling, oil, and gas exploration in that excluded area, and for other multiple uses.

That is, in sum and substance, the Senate amendment, and I can report that it is agreed to on both sides.

Mr. GOLDWATER. Mr. President, will the Senator yield for a question?

Mr. MELCHER. I would be delighted to yield.

Mr. GOLDWATER. Does this bill contain any park, monument, wilderness areas outside of Montana?

Mr. MELCHER. No. I can report to the Senator from Arizona that it is totally within the State of Montana. It is an extension of a reserve, if we count Glacier Park as a reserve, down across the nonwilderness area to the Great Bear area which we are acting upon to join with the Bob Marshall wilderness area and the Scapegoat wilderness area which has long been advocated by our late colleague, Senator Metcalf, who has long championed this cause. I think it is a tribute to him that the Senate can accept it.

The PRESIDING OFFICER (Mr. STONE). The question is on the engrossment of the Senate amendment and third reading of the bill.

The bill (H.R. 13972) was ordered to be engrossed for a third reading, was read the third time and, as amended, was passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

REVENUE ACT OF 1978

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. PACKWOOD. Mr. President, do I understand now that we are going to vote on this amendment at 9 o'clock, and that the remaining time is equally divided?

The PRESIDING OFFICER. That is correct.

Mr. PACKWOOD. I am going to call up the amendment in just a moment, but there are different figures on it. I will call it up in a moment.

I might advise Senators that if the committee chairman asks for a division, there might be two votes.

This is an amendment sponsored by the Senator from Massachusetts (Mr. KENNEDY) and myself, which will be very——

Mr. ROBERT C. BYRD. Mr. President, the Senator is trying to explain the amendment. He does not have but 15 minutes in which to do it. I hope the Senate will be in order.

The PRESIDING OFFICER. The Senate will be in order.

Mr. ROBERT C. BYRD. Mr. President, does the Senator want the yeas and nays on his amendment?

Mr. PACKWOOD. Yes.

The PRESIDING OFFICER. Is there objection to ordering the yeas and nays before the amendment is reported? Without objection, it will be in order to ask for the yeas and nays.

Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. PACKWOOD. The amendment is very simple to understand. It eliminates DISC, the Domestic International Sales Corporation. It takes the revenues which are gained from eliminating DISC and uses them, in turn, to reduce the corporate tax rate, by one-half percent now and completely with 1 percent starting in 1982. The corporate tax will thus be lower than it is in the bill. As we have it in the bill, it is cut to 46 percent, and under my amendment, by 1982 it would be cut to 45 percent.

These are the very simple pros and cons of the amendment: If you were to ask most corporations which they prefer to have, DISC, the Domestic International Sales Corporation, or a 1 percent reduction in the corporate tax rate, they would choose the 1 percent reduction in the corporate tax rate.

There are two kinds of corporations which would probably prefer DISC. First are not all, but some, of the multinational corporations, the very large corporations which are heavily involved in exports, and are quite profitable corporations. For them, DISC is a windfall, to my mind, for exports they would make whether or not DISC existed.

Second, there are a very few small specialized corporations which, although small, are heavily involved in exports, and of course they would prefer a tax incentive oriented toward exports.

For the great bulk of the corporations in this country, however, many of the big and almost all of the small corporations, whether they are slightly involved in exports or not at all, would much prefer a 1 percent reduction in the corporate profits tax to maintaining DISC.

I send the amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

UP AMENDMENT NO. 2001

(Subsequently numbered amendment No. 4007)

(Purpose: To provide for a phase-out of the deferral available under the DISC provisions and a corresponding reduction in the maximum corporation tax rate)

The legislative clerk read as follows.

The Senator from Oregon (Mr. PACKWOOD) proposes an unprinted amendment numbered 2001.

Mr. PACKWOOD. I ask unanimous consent that a further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 341, between lines 17 and 18, insert the following new sections:

SEC. —. CORPORATE RATE REDUCTIONS.

(a) IN GENERAL.—Section 11 (relating to tax imposed on corporations) is amended to read as follows:

"SEC. 11. TAX IMPOSED.

"(a) CORPORATIONS IN GENERAL.—A tax is hereby imposed for each taxable year on the taxable income of every corporation.

"(b) AMOUNT OF TAX.—The amount of the tax imposed by subsection (a) shall be the sum of—

"(1) 17 percent of so much of the taxable income as does not exceed $25,000;

"(2) 20 percent of so much of the taxable income as exceeds $25,000 but does not exceed $50,000;

"(3) 30 percent of such much of the taxable income as exceeds $50,000 but does not exceed $75,000;

"(4) 40 percent of so much of the taxable income as exceeds $75,000 but does not exceed $100,000; plus

"(5) a percent of so much of the taxable income as exceeds $100,000 equal to—

"(A) 46 percent for taxable years beginning in 1979,

"(B) 45½ percent for taxable years beginning after September 30, 1979, and

"(C) 45 percent for taxable years beginning after December 31, 1981.

"(c) EXCEPTIONS.—Subsection (a) shall not apply to a corporation subject to a tax imposed by—

"(1) section 594 (relating to mutual savings banks conducting life insurance business),

"(2) subchapter L (sec. 801 and following, relating to insurance companies), or

"(3) subchapter M (sec. 851 and following, relating to regulated investment companies and real estate investments trusts).

"(d) FOREIGN CORPORATIONS.—In the case of a foreign corporation, the tax imposed by subsection (a) shall apply only as provided by section 882.".

(b) CONFORMING AMENDMENTS.—

(1) CROSS REFERENCES RELATING TO CORPORATIONS.—Paragraph (7) of section 12 (relating to cross references relating to tax on corporations) is amended to read as follows:

"(7) For limitations on benefits of graduated rate schedule provided in section 11(b), see section 1551.".

(2) CAPITAL GAINS FOR CORPORATIONS.—Subpargraph (B) of section 57(a)(9) is amended by striking out "the sum of the normal tax

rate and surtax rate under section 11" each place it appears and inserting in lieu thereof "the highest rate of tax specified in section 11(b).

(3) DIVIDENDS RECEIVED ON CERTAIN PREFERRED STOCK.—Subparagraph (B) of section 244(a)(2) (relating to dividends received on certain preferred stock) is amended by striking out "the sum of the normal tax rate and the surtax rate of the taxable year prescribed by section 11" and inserting in lieu thereof "the highest rate of tax specified in section 11(b)".

(4) DIVIDENDS PAID ON CERTAIN PREFERRED STOCK OF PUBLIC UTILITIES.—Subparagraph (B) of section 247(a)(2) (relating to dividends paid on certain preferred stock of public utilities) is amended by striking out "the sum of the normal tax rate and the surtax rate for the taxable year specified in section 11" and inserting in lieu thereof "the highest rate of tax specified in section 11(b)".

(5) TAX ON UNRELATED BUSINESS INCOME OF CHARITABLE, ETC., ORGANIZATIONS.—

(A) IMPOSITION OF TAX.—Paragraph (1) of section 511(a) (relating to charitable, etc., organizations taxable at corporation rates) is amended by striking out "a normal tax and a surtax" and inserting in lieu thereof "a tax".

(B) ORGANIZATIONS SUBJECT TO TAX.— Paragraph (2) of section 511(a) is amended by striking out "taxes" each place it appears and inserting in lieu thereof "tax".

(6) POLITICAL ORGANIZATIONS.—Paragraph (1) of section 527(b) (relating to tax imposed) is amended to read as follows:

'(1) IN GENERAL.—A tax is hereby imposed for each taxable year on the political organization taxable income of every political organization. Such tax shall be computed by multiplying the political organization taxable income by the highest rate of tax specified in section 11(b)."

(7) HOMEOWNERS ASSOCIATIONS.—Paragraph (1) of section 528(b) (relating to tax imposed) is amended to read as follows:

"(1) IN GENERAL.—A tax is hereby imposed for each taxable year on the homeowners association taxable income of every homeowners association. Such tax shall be computed by multiplying the homeowners association taxable income by the highest rate of tax specified in section 11(b)."

(8) LIFE INSURANCE COMPANIES.—Paragraph (1) of section 802(a) (relating to tax imposed) is amended by striking out "a normal tax and surtax" and inserting in lieu thereof "a tax".

(9) MUTUAL INSURANCE COMPANIES.—

(A) IN GENERAL.—Subsection (a) of section 821 (relating to tax on mutual insurance companies to which part II applies) is amended to read as follows:

"(a) IMPOSITION OF TAX.—

"(1) IN GENERAL.—A tax is hereby imposed for each taxable year on the mutual insurance company taxable income of every mutual insurance company (other than a life insurance company and other than a fire, flood, or marine insurance company subject to the tax imposed by section 831). Such tax shall be computed by multiplying the mutual insurance company taxable income by the rates provided in section 11(b).

"(2) CAP ON TAX WHERE INCOME IS LESS THAN $12,000.— The tax imposed by paragraph (1) shall not exceed 34 percent of the amount by which the mutual insurance company taxable income exceeds $6,000.".

(B) SMALL COMPANIES.—Paragraph (1) of section 821(c) (relating to alternative tax for certain small companies) is amended to read as follows:

"(1) IMPOSITION OF TAX.—

"(A) IN GENERAL.—There is hereby imposed for each taxable year on the income of every mutual insurance company to which this subsection applies a tax (which shall be in lieu of the tax imposed by subsection (a)). Such tax shall be computed by multiplying the taxable investment income by the rates provided in section 11(b).

"(B) CAP WHERE INCOME IS LESS THAN $6,000.—The tax imposed by subparagraph (A) shall not exceed 34 percent of the amount by which the taxable investment income exceeds $3,000.".

(10) ELECTION BY MUTUAL INSURANCE COMPANY WHICH IS A RECIPROCAL.—Paragraph (1) of section 826(c) (relating to exception) is amended to read as follows:

"(1) is subject to the tax imposed by section 11;".

(11) REGULATED INVESTMENT COMPANIES.—Paragraph (1) of section 852(b) (relating to method of taxation of companies and shareholders) is amended to read as follows:

"(1) IMPOSITION OF TAX ON REGULATED INVESTMENT COMPANIES.—There is hereby imposed for each taxable year upon the investment company taxable income of every regulated investment company a tax computed as provided in section 11, as though the investment company taxable income were the taxable income referred to in section 11.".

(12) REAL ESTATE INVESTMENT TRUSTS.—Paragraph (1) of section 857(b) (relating to imposition of normal tax and surtax on real estate investment trusts) is amended to read as follows:

"(1) IMPOSITION OF TAX ON REAL ESTATE INVESTMENT TRUSTS.—There is hereby imposed for each taxable year on the real estate investment trust taxable income of every real estate investment trust a tax computed as provided in section 11, as though the real estate investment trust taxable income were the taxable income referred to in section 11.".

(13) TAX ON INCOME OF FOREIGN CORPORATIONS CONNECTED WITH UNITED STATES BUSINESS.—The heading of subsection (a) of section 882 (relating to tax on income of foreign corporations connected with United States business) and the heading of paragraph (1) of such subsection are amended to read as follows:

"(a) IMPOSITION OF TAX.—

"(1) IN GENERAL.—.".

(14) FOREIGN TAX CREDIT.—Paragraph (2) of section 907(a) (relating to reduction in amount allowed as foreign tax under section 901) is amended to read as follows:

"(2) the percentage which is equal to the highest rate of tax specified in section 11(b).".

(15) SPECIAL DEDUCTION FOR WESTERN HEMISPHERE TRADE CORPORATION.—Subparagraph (B) of section 922(a)(2) (relating to general rule) is amended by striking out "the sum of the normal tax rate and the surtax for the taxable year prescribed by section 11" and inserting in lieu thereof "the highest rate of tax specified in section 11(b).".

(16) ELECTION BY INDIVIDUALS TO BE SUBJECT TO TAX AT CORPORATE RATES.—Subsection (c) of section 962 (relating to surtax exemption with respect to individuals subject to tax at corporate rates) is amended to read as follows:

"(c) PRORATION OF EACH SECTION 11 BRACKET AMOUNT.—For purposes of applying subsection (a)(1), the amount in each taxable income bracket in the tax table in section 11(b) shall not exceed an amount which bears the same ratio to such bracket amount as the amount included in the gross income of the United States shareholder under section 951(a) for the taxable year bears to such shareholder's pro rata share of the earnings and profits for the taxable year of all controlled foreign corporations with respect to which such shareholder includes any amount in gross income under section 951(a).".

(17) TREATMENT OF RECOVERIES OF FOREIGN EXPROPRIATION LOSSES.—Paragraph (4) of section 1351(d) (relating to adjustment for prior tax benefits) is amended to read as follows:

"(4) SUBSTITUTION OF CURRENT TAX RATE.—For purposes of this subsection, the rates of tax specified in section 11(b) for the taxable year of the recovery shall be treated as having been in effect for all prior taxable years.".

(18) AMENDMENTS OF SECTION 1551.—

(A) Subsection (a) of section 1551 (relating to disallowance of surtax exemption and accumulated earnings credit) is amended—

(i) by striking out "disallow the surtax exemption (as defined in section 11(d))" and inserting in lieu thereof "disallow the benefits of the rates contained in section 11(b) which are lower than the highest rate specified in such section", and

(ii) by striking out "such exemption or" and inserting in lieu thereof "such benefits or".

(B) The section heading of section 1551 is amended to read as follows:

"SEC. 1551. DISALLOWANCE OF THE BENEFITS OF THE GRADUATED CORPORATE RATES AND ACCUMULATED EARNINGS CREDIT.".

(C) The table of sections for part I of subchapter B of chapter 6 is amended by striking out the item relating to section 1551 and inserting in lieu thereof the following new item:

"Sec. 1551. Disallowance of the benefits of the graduated corporate rates and accumulated earnings credit.".

(19) LIMITATIONS ON CERTAIN MULTIPLE TAX BENEFITS IN THE CASE OF CERTAIN CONTROLLED CORPORATIONS.—

(A) IN GENERAL.—Subsection (a) of section 1561 (relating to limitations on certain multiple tax benefits in the case of certain controlled corporations) is amended—

(i) by striking out paragraph (1) and inserting in lieu thereof the following:

"(1) amounts in each taxable income bracket in the tax table in section 11(b) which do not aggregate more than the maximum amount in such bracket to which a corporation which is not a component member of a controlled group is entitled,",

(ii) by striking out "amount" each place it appears in the second sentence and inserting in lieu thereof "amounts", and

(iii) by striking out the last sentence.

(B) CERTAIN SHORT TAXABLE YEARS.—Paragraph (1) of section 1561(b) (relating to certain short taxable years) is amended to read as follows:

"(1) the amount in each taxable income bracket in the tax table in section 11(b),".

(20) REPEAL OF CERTAIN OBSOLETE PROVISIONS.—

(A) Subsection (c) of section 6154 (defining estimated tax) is amended to read as follows:

"(c) ESTIMATED TAX DEFINED.—For purposes of this title, in the case of a corporation the term 'estimated tax' means the excess of—

"(1) the amount which the corporation estimates as the amount of the income tax imposed by section 11 or 1201(a), or subchapter L of chapter 1, whichever is applicable, over

"(2) the amount which the corporation estimates as the sum of the credits against tax provided by part IV of subchapter A of chapter 1.".

(B) Subsection (e) of section 6655 (defining tax) is amended to read as follows:

"(e) DEFINITION OF TAX.—For purposes of subsections (b) and (d), the term 'tax' means the excess of—

"(1) the tax imposed by section 11 or 1201(a), or subchapter L of chapter 1, whichever is applicable, over

"(2) the credits against tax provided by part IV of subchapter A of chapter 1.".

(c) EFFECTIVE DATE.—The amendments

made by this section shall apply to taxable years beginning after December 31, 1978.

(d) Application with section 301.—Section 301 of this Act is hereby repealed, effective on the day after the date of enactment of this Act. The amendments made by that section shall not apply with respect to any taxable year.

SEC. 381. REPEAL OF DISC.

(a) PHASEOUT OF DISC BENEFITS.—

(1) DEEMED DISTRIBUTIONS BY DISC IN YEARS ENDING IN 1979 OR 1980.—Section 955(b)(1) is amended—

(A) by striking out "one-half" at the beginning of subparagraph (F)(i) and inserting in lieu thereof "the applicable percentage",

(B) by striking out "an amount equal to" at the beginning of subparagraph (F)(ii) and inserting in lieu thereof "an amount equal to the applicable percentage of", and

(C) by adding at the end thereof the following: "For purposes of clause (i) of subparagraph (F), the applicable percentage for a taxable year ending after December 31, 1978, is 66⅔ percent if it ends in 1979 and 83⅓ percent if it ends in 1980. For purposes of clause (ii) of subparagraph (F), the applicable percentage for a taxable year ending after December 31, 1978, is 50 percent if it ends in 1979 and 20 percent if it ends in 1980."

(b) SOURCE OF DISTRIBUTIONS.—Section 996(a)(2) is amended by adding a new sentence immediately after the last sentence to read as follows: "In the case of an actual distribution described in the preceding sentence made with respect to taxable years ending in 1979 or 1980, the first sentence of this paragraph shall apply to 33⅓ percent and 16⅔ percent of such amount, respectively, and paragraph (1) shall apply to the remaining amount of such distribution for those respective taxable years."

(c) REPEAL.—Part IV (sections 991 through 997) of subchapter N of chapter 1 (relating to domestic international sales corporations) is hereby repealed.

(d) TREATMENT OF TERMINATED DISCs.—Subchapter N of chapter 1 (relating to tax on income from sources within or without the United States) is amended by adding after part III the following new part:

"PART IV—TAXATION OF SHAREHOLDERS OF TERMINATED DISC

"Sec. 985. Taxation of accumulated DISC income to shareholders.
"Sec. 986. Rules for allocation in the case of distributions and losses.
"Sec. 987. Special subchapter C rules.
"Sec. 988. Definitions.

"SEC. 985. TAXATION OF ACCUMULATED DISC INCOME TO SHAREHOLDERS.

"(a) GENERAL RULE.—A shareholder of a terminated DISC (as defined in section 988(a)) shall be subject to taxation as provided in this chapter, but subject to the modifications of this part.

"(b) DEEMED DISTRIBUTIONS.—

"(1) GENERAL RULE.—If—

"(A) a terminated DISC has accumulated DISC income at the end of any taxable year ending after 1980, and

"(B) its accumulated DISC income exceeds the average adjusted basis of its export related assets (as defined in section 988(b)),

then a shareholder of the terminated DISC shall be deemed to have received on the last day of such taxable year a dividend equal to his pro rata share of such excess.

"(2) TERMINATION DISTRIBUTIONS.—

"(A) A shareholder of a corporation which is a terminated DISC and which makes the election described in paragraph (3) shall be deemed to have received at the time specified in subparagraph (B) a distribution taxable as a dividend equal to his pro rata share of the accumulated DISC income of such corporation.

"(B) Distributions described in subparagraph (A) shall be deemed to be received in equal installments on the last day of each of 10 taxable years of the corporation following the year in which the corporation makes the election described in paragraph (3).

(3) ELECTION.—If the terminated DISC elects, at such time and in such manner as the Secretary shall prescribe by regulations, to have paragraph (2) apply, then paragraph (2) shall apply (and paragraph (1) shall not apply) for the taxable year and all succeeding taxable years.

"(c) GAIN ON DISPOSITION OF STOCK IN A TERMINATED DISC.—

"(1) IN GENERAL.—If a shareholder disposes of stock in a terminated DISC, any gain realized on such disposition, notwithstanding any other provision of this title, shall be recognized and be included in gross income as a dividend to the extent provided in paragraph (2).

"(2) AMOUNT INCLUDED.—The amount described in paragraph (1) shall be included in gross income as a dividend to the extent of the accumulated DISC income of the terminated DISC which is attributable to the stock disposed of and which was accumulated in taxable years of such corporation during the period or periods the stock disposed of was held by the shareholder which disposed of such stock.

"SEC. 986. RULES FOR ALLOCATION IN THE CASE OF DISTRIBUTIONS AND LOSSES.

"(a) RULES FOR ACTUAL DISTRIBUTIONS AND CERTAIN DEEMED DISTRIBUTIONS.—

"(1) IN GENERAL.—Any actual distribution (other than a distribution to which section 985(c) applies) to a shareholder by a terminated DISC, which is made out of earnings and profits, shall be treated as made—

"(A) first, out of previously taxed income, to the extent thereof,

"(B) second, out of accumulated DISC income, to the extent thereof, and

"(C) finally, out of other earnings and profits.

"(2) DEEMED DISTRIBUTIONS.—Any deemed distribution described in section 985(b) shall be treated as made out of accumulated DISC income, to the extent thereof.

"(3) EXCLUSION FROM GROSS INCOME.—Amounts distributed out of previously taxed income shall be excluded by the distributee from gross income except for gains described in subsection (d)(2).

"(b) ORDERING RULE FOR LOSSES.—If for any taxable year, a terminated DISC incurs a deficit in earnings, and profits, such deficit shall be chargeable—

"(1) first, to earnings and profits described in section (a)(1)(C), to the extent thereof,

"(2) second, to accumulated DISC income, to the extent thereof, and

"(3) finally, to previously taxed income.

A deficit in earnings and profits shall not be applied against accumulated DISC income which has been determined is to be deemed distributed to the shareholders in accordance with section 985(b)(2).

"(c) PRIORITY OF DISTRIBUTIONS.—Any actual distribution made during a taxable year shall be treated as being made subsequent to any deemed distribution made during such year.

"(d) ADJUSTMENT TO BASIS.—

"(1) ADDITIONS TO BASIS.—Amounts representing deemed distributions in accordance with section 985(b) shall increase the basis of the stock with respect to which the distribution is made.

"(2) REDUCTIONS OF BASIS.—The portion of an actual distribution made out of previously taxed income shall reduce the basis of the stock with respect to which it is made, and to the extent that it exceeds the adjusted basis of such stock, shall be treated as gain from the sale or exchange of property. In the case of stock includible in the gross estate of a decedent for which an election is made under section 2032 (relating to alternate valuation), this paragraph shall not apply to any distribution made after the date of the decedent's death and before the alternate valuation date provided by section 2032.

"(e) ADJUSTMENT TO PREVIOUSLY TAXED INCOME.—Earnings and profits deemed distributed under section 985(b) shall increase previously taxed income.

"(f) EFFECT OF PREVIOUS DISPOSITION OF TERMINATED DISC STOCK.—

"(1) SHAREHOLDER PREVIOUSLY TAXED INCOME ADJUSTMENT.—If—

"(A) gain with respect to a share of stock of a terminated DISC is treated under section 985(c) (or was treated under section 995(c) before its repeal by the Revenue Act of 1978) as a dividend or as ordinary income, and

"(B) any person subsequently receives an actual distribution made out of accumulated DISC income, or a deemed distribution made pursuant to section 985(b) with respect to such share,

such person shall treat such distribution in the same manner as a distribution from previously taxed income to the extent that (i) the gain referred to in subparagraph (A), exceeds (ii) any other amounts with respect to such share which were treated under this paragraph (or under section 996(d)(1) as in effect before its repeal by the Revenue Act of 1978) as made from previously taxed income. In applying this paragraph with respect to a share of stock in a terminated DISC, gain on the acquisition of such share by the terminated DISC or gain on a transaction prior to such acquisition shall not be considered gain referred to in subparagraph (A).

"(2) CORPORATE ADJUSTMENT UPON REDEMPTION.—If section 985(c) applies to a redemption of stock in a terminated DISC, the accumulated DISC income shall be reduced by an amount equal to the gain described in section 985(c) with respect to such stock which is (or has been) treated as ordinary income, except to the extent distributions with respect to such stock have been treated under paragraph (1).

"(g) EFFECTIVELY CONNECTED INCOME.—In the case of a shareholder who is a nonresident alien individual or a foreign corporation, trust, or estate, gains referred to in section 985(c) and all distributions out of accumulated DISC income including deemed distributions shall be treated as gains and distributions which are effectively connected with the conduct of a trade or business conducted through a permanent establishment of such shareholder within the United States.

"SEC. 987. SPECIAL SUBCHAPTER C RULES.

"For purposes of applying the provisions of subchapter C of chapter 1, any distribution of property to a corporation by a terminated DISC which is made out of previously taxed income or accumulated DISC income shall—

"(1) be treated as a distribution in the same amount as if such distribution of property were made to an individual, and

"(2) have a basis, in the hands of the recipient corporation, equal to the amount determined under paragraph (1).

"SEC. 988. DEFINITIONS.

"(a) TERMINATED DISC.—For purposes of this title, the term 'terminated DISC' means, with respect to any taxable year, a corporation which was a DISC (within the meaning of section 992(a)(1) as in effect for taxable years of such corporation ending before January 1, 1981) in a preceding taxable year and at the beginning of the taxable year has undistributed previously taxed income or accumulated DISC income.

"(b) EXPORT RELATED ASSETS.—For purposes of this part, export related assets of a corporation are—

"(1) export property (as defined in subsection (c));

"(2) assets used primarily in connection with the sale, lease, rental, manufacture, storage, handling, transportation, packaging, assembly or servicing of export property, or the performance of engineering or architectural services for construction projects located (or proposed for location) outside the United States or managerial services in furtherance of the sale, lease, rental, or servicing of export property, or of the construction projects described in this paragraph;

"(3) accounts receivable and evidences of indebtedness which arise solely by reason of the sale, lease, rental, or servicing of export property by such corporation;

"(4) money, bank deposits, and other similar temporary investments which, under regulations prescribed by the Secretary, are reasonably necessary to meet the working capital requirements of such corporation attributable to export related activity;

"(5) obligations arising in connection with a producer's loan (as defined in subsection (d)) made in a taxable year of such corporation ending before January 1, 1981;

"(6) obligations issued, guaranteed, or insured, in whole or in part, by the Export-Import Bank of the United States or the Foreign Credit Insurance Association in those cases where such obligations are acquired from such Bank or Association or from the seller or purchaser of the goods or services with respect to which such obligations arose;

"(7) obligations issued by a domestic corporation organized solely for the purpose of financing sales of export property pursuant to an agreement with the Export-Import Bank of the United States under which such corporation makes export loans guaranteed by such bank.

"(c) EXPORT PROPERTY.—

"(1) IN GENERAL.—For purposes of this part, the term 'export property' means property—

"(A) manufactured, produced, grown, or extracted in the United States,

"(B) held primarily for sale, lease, or rental, in the ordinary course of trade or business, by a terminated DISC, for direct use, consumption, or disposition outside the United States, and

"(C) not more than 50 percent of the fair market value of which is attributable to articles imported into the United States.

In applying subparagraph (C), the fair market value of any article imported into the United States shall be its appraised value, as determined by the Secretary under section 402 or 402a of the Tariff Act of 1930 (19 U.S.C., 1401a or 1402) in connection with its importation.

"(2) EXCLUDED PROPERTY.—For purposes of this part, the term 'export property' does not include—

"(A) property leased or rented by a terminated DISC for use by any member of a controlled group (as defined in section 990 (f)) which includes the terminated DISC,

"(B) patents, inventions, models, designs, formulas, or processes, whether or not patented, copyrights (other than films, tapes, records, or similar reproductions, for commercial or home use), good will, trademarks, trade brands, franchises, or other like property,

"(C) products of a character with respect to which a deduction for depletion is allowable (including oil, gas, coal, or uranium products) under section 613 or 613A, or

"(D) products the export of which is prohibited or curtailed under section 4(b) of the Export Administration Act of 1969 (50 U.S.C. App. 2403(b)) to effectuate the policy set forth in paragraph (2)(A) of section 3 of such Act (relating to the protection of the domestic economy).

Subparagraph (C) shall not apply to any commodity or product at least 50 percent of the fair market value of which is attributable to manufacturing or processing, except that subparagraph (C) shall apply to any primary product from oil, gas, coal, or uranium. For purposes of the preceding sentence, the term 'processing' does not include extracting or handling, packing, packaging, grading, storing, or transporting.

"(3) PROPERTY IN SHORT SUPPLY.—If the President determines that the supply of any property described in paragraph (1) is insufficient to meet the requirements of the domestic economy, he may by Executive order designate the property as in short supply. Any property so designated shall be treated as property not described in paragraph (1) during the period beginning with the date specified in the Executive order and ending with the date specified in an Executive order setting forth the President's determination that the property is no longer in short supply.

"(d) PRODUCER'S LOANS.—Obligations shall be treated as arising out of a producer's loan only to the extent such obligations were so treated under section 993(d) as in effect for taxable years of a corporation ending before January 1, 1981.

"(e) UNITED STATES DEFINED.—For purposes of this part, the term 'United States' includes the Commonwealth of Puerto Rico and the possessions of the United States.

"(f) DEFINITIONS OF DIVISIONS OF EARNINGS AND PROFITS.—For purposes of this part:

"(1) ACCUMULATED DISC INCOME.—Accumulated DISC income is that portion of the earnings and profits of a corporation which constituted accumulated DISC income under section 996(f)(1) (as in effect for the last taxable year of such corporation ending in 1980) determined at the end of the last taxable year of such corporation ending in 1980, adjusted as provided in section 986.

"(2) PREVIOUSLY TAXED INCOME.—Previously taxed income is that portion of the earnings and profits of a corporation which constituted previously taxed income under section 996(f)(2) (as in effect for the last taxable year of such corporation ending in 1980) determined at the end of the last taxable year of such corporation ending in 1980, adjusted as provided in section 986.

"(3) OTHER EARNINGS AND PROFITS.—Other earnings and profits are those described in neither paragraph (1) nor (2).

"(g) DISPOSITION.—For purposes of this part, a disposition includes a sale, exchange, or distribution."

(e) TECHNICAL AND CONFORMED AMENDMENTS.—

(1) Section 246 is amended by striking out subsection (d) and by inserting new subsection (d) to read as follows:

"(d) DIVIDENDS FROM A TERMINATED DISC.—No deduction shall be allowed under section 243 in respect of a dividend from a corporation which is a terminated DISC (as defined in section 988(a)) to the extent such dividend is paid out of the corporation's accumulated DISC income or previously taxed income."

(2) Section 751(c) is amended as follows:

(A) Strike out "stock in a DISC (as described in section 992(a))," and insert in lieu thereof "stock in a terminated DISC (as described in section 988(a))".

(B) Strike out "section 995(c)," and insert in lieu thereof "section 985(c),".

(3) Section 861(a)(2) is amended by striking out subparagraph (D) and by inserting new subparagraph (D) to read as follows:

"(D) from a terminated DISC (as defined in section 988(a)) except to the extent the dividend would have been treated (under regulations prescribed by the Secretary) as income from sources without the United States if distributed in a taxable year ending before January 1, 1981."

(4) Section 901(d) is amended as follows:

(A) Strike out "TREATMENT OF DIVIDENDS FROM A DISC OR FORMER DISC" from the heading of subsection (d) and insert in lieu thereof "TREATMENT OF DIVIDENDS FROM A TERMINATED DISC".

(B) Strike out "dividends from a DISC or former DISC (as defined in section 992(a))" and insert in lieu thereof "dividends from a terminated DISC (as defined in section 998(a))".

(5) Section 904(d)(1)(B) is amended by striking out "dividends from a DISC or former DISC (as defined in section 992(a))" and by inserting in lieu thereof "dividends from a terminated DISC (as defined in section 988(a))".

(6) Section 908(a) is amended by striking out "993(a)(3)" and by inserting in lieu thereof "990(f)", by striking out "999(b)" and by inserting "990(b)", and by striking out "999" from paragraph (2) and by inserting in lieu thereof "990".

(7) Section 936 is amended by striking out subsection (f) and by inserting new subsection (f) to read as follows:

"(f) TERMINATED DISC INELIGIBLE FOR CREDIT.—No credit shall be allowed under this section to a corporation for a taxable year for which it is a terminated DISC (as defined in section 988(a)) or in which it owns at any time stock in a terminated DISC."

(8) Section 999 is amended as follows:

(A) Subsection (f) is redesignated as subsection (g) and the following subsection is inserted after subsection (e):

"(f) DEFINITION OF CONTROLLED GROUP.—For purposes of this section, the term 'controlled group' has the meaning assigned to such term by section 1563(a), except that the phrase 'more than 50 percent' shall be substituted for the phrase 'at least 80 percent' each place it appears therein, and section 1563(b) shall not apply."; and

(B) Subsections (a)(1), (b)(1), (b)(2)(A), and (c)(1) are amended by striking out "(within the meaning of section 993(a)(3))" and inserting in lieu thereof "(within the meaning of subsection(f))";

(C) Subsection (c) is amended as follows:

(i) Paragraph (1) is amended by striking out "Sections 908(a), 952(a)(3), and 995(b)(3)," and by inserting in lieu thereof "section 908(a),".

(ii) Paragraph (2) is amended by striking out "section 908(a), the addition to subpart F income under section 952(a)(3), and the amount of deemed distribution under section 995(b)(1)(D)(ii) for the taxable year, if any," and by inserting in lieu thereof "section 908(a)".

(9) Section 999 (as amended) is redesignated as section 990.

(10) Section 1504(b)(7) is amended by striking out "A DISC or former DISC (as defined in section 992(a))" and by inserting in lieu thereof "A terminated DISC (as defined in section 988(a))".

(11) Section 6011 is amended by striking out subsection (c) and by inserting new subsection (c) to read as follows:

"(c) RETURNS, ETC., OF TERMINATED DISC's.—

"(1) RECORDS AND INFORMATION.—A terminated DISC (as defined in section 988(a)) shall for the taxable year—

"(A) furnish such information to persons who were shareholders at any time during such taxable year, and to the Secretary, and

"(B) keep such records, as may be required by regulations prescribed by the Secretary.

"(2) RETURNS.—A terminated DISC shall file for the taxable year such returns as may be prescribed by the Secretary by forms or regulations."

(12) Section 6072(b) is amended by striking out the last sentence thereof and by inserting in lieu thereof the following: "Forms and returns required for a taxable year by section 6011(e)(2) (relating to returns of a terminated DISC) may, under regulations prescribed by the Secretary, be

filed on or before the fifteenth day of the ninth month following the close of the taxable year".

(13) Section 6501(g) is amended by striking out paragraph (3).

(14) The heading of section 6686 is amended to read as follows:

"SEC. 6686. FAILURE OF TERMINATED DISC TO FILE RETURNS"

(15) The item relating to section 6686 in the table of sections for subchapter B of chapter 68 is amended to read as follows:

"Sec. 6686. Failure of terminated DISC to file returns."

(16) The table of parts for subchapter N of chapter 1 is amended to read as follows:

"Part IV. Taxation of shareholders of terminated DISCs."

(17) The table of sections for part V of subchapter N of chapter 1 is amended by redesignating section 999 as section 990.

(18) Section 506 of the Revenue Act of 1971 (Public Law 92-178, 85 Stat. 553), relating to annual reports to Congress by the Secretary of the Treasury, is hereby repealed.

(f) EFFECTIVE DATES.—

(1) The amendments made by subsections (a) and (b) are effective with respect to taxable years of a domestic international sales corporation ending after December 31, 1978.

(2) The amendments made by subsections (c), (d), and (e) are effective with respect to taxable years of a terminated DISC ending after 1980, except that the repeal of section 506 of the Revenue Act of 1971 by subsection (e)(18) is effective December 31, 1978.

Mr. PACKWOOD. Mr. President, I have explained the amendment. It is simple: You pay your money and you take your choice. If your choice is the continuation of an existing subsidy for major corporations that are already involved in exporting and will continue to export whether or not they have DISC, you will oppose this amendment.

If you think American corporations would be better off to have a one-half percent corporate profit tax reduction now, and 1 percent in 1982, and if you think this would help increase domestic productivity and provide more jobs for this country than by having DISC, you should vote in favor of the amendment.

Mr. RIBICOFF. Mr. President, I rise to oppose the amendment.

The proposal that we eliminate DISC is untimely and unwise. It also ignores our country's serious trade problems and the flow of current events.

This country has a very serious trade problem, which can no longer be attributed solely to the larger volume of oil imports. The trade deficit for 1978 will be about $33 billion, the highest in history. For the first time in modern history, we have a trade deficit in manufactured goods which may be as high as $8 billion in 1978. The dollar is sinking at an unprecedented rate. In the last 12 months the dollar has declined 57 percent against the Swiss franc; 42 percent against the yen; and 19 percent against the mark. The decline in the dollar has already contributed one-half to 1 percent to the inflation rate and will continue to fuel inflation.

The PRESIDING OFFICER. If the Senator will suspend momentarily, the Chair would like some order. The Senate will please be in order.

The Senator from Connecticut.

Mr. RIBICOFF. Congress, only a little over 2 years ago, in connection with its consideration of the Tax Reform Act of 1976, rejected elimination of these provisions by a 72 to 16 vote. All of the arguments for repeal of DISC were made then. The opponents of DISC have two problems: (A) They ignore a cumulative trade deficit from 1969 through 1978 of $62 billion; and (B) they offer nothing to replace DISC.

If the decline in the dollar is making U.S. goods more competitive overseas, then now is the time to press the advantage rather than withdraw.

DISC holds special benefits for agriculture. Agricultural products, broadly defined, comprise the largest category of DISC exports. Farm groups, such as the National Farm Coalition, actively support expanded trade in farm products. In 1977, this country had a surplus of trade in agricultural products amounting to approximately $10.5 billion. The value of farm exports, about $24 billion, accounted for 25 percent of cash receipts from farm marketings.

DISC is also beneficial to capital-intensive exporters. This is of particular importance that this country—rich in natural resources—is becoming the source of raw materials for other countries' manufacturing industries. DISC actually helps keep manufacturing jobs here in the United States.

According to a recent prediction, the United States will import more than $100 billion in oil by 1985, twice what we import today. This country, like Japan and West Germany, is going to need exports, and lots of them, in order to pay for our huge oil imports.

About 2.5 million manufacturing jobs produce for export, and that is about one out of every seven manufacturing jobs in the United States. Every third acre of farmland produces for export. We exported some $24 billion of agricultural products last year. DISC has stimulated a significant portion of the increase in U.S. exports since 1971. This conclusion is supported by independent analyses, company experiences, and a critical analysis of the administration and other reports. By 1975, DISC contributed as much as $9.9 billion in additional exports. It accounted for as much as 14 percent of the increases in exports to which it is applicable.

How does DISC affect exports?

The DISC provisions stimulate export principally by allowing a tax-deferred buildup of a capital fund which must then be used to finance exports. Another effect can be reduced prices for export items, but this is not a necessary consequence for the provision to succeed in its purpose—stimulating exports. At least 95 percent of DISC's assets must be invested in export related property. Companies commonly use DISC funds for the following purposes:

To finance export receivables (which are generally riskier and longer term);

To begin, expand, and improve export marketing and promotion programs; and

To lend to the parent company for investment in new or modernized facilities.

This amendment by the Senator from Oregon and the Senator from Massachusetts does not raise revenues—it simply transfers revenues presently being used as an incentive to exports and spreads it out among all taxpayers, whether or not they export. In fact, most of the revenues will go to the same businesses, but they will no longer be required to increase their exports each year, as they are required under DISC. And they will no longer be required to invest in export assets, as required under DISC.

Mr. JAVITS. Mr. President, will the Senator yield very briefly?

Mr. RIBICOFF. I yield to the Senator from New York.

Mr. JAVITS. Mr. President, I thoroughly agree with the Senator, and wish to say that he has put his finger on exactly the principal point, which is that public policy requires encouragement of exports. That is why the continuation of DISC is essential.

An excellent analysis of this point is made in the following statement by Reginald Jones, chairman and chief executive officer of one of the leading exporters of the United States—General Electric of Schenectady, N.Y.

I quote:

I hold no special brief for DISC if someone can come up with something better, but the point is that DISC is in place, and it is the only partial offset we have to the tax rebates that other governments use to help their export industries. European-based exporters enjoy tax refunds of value-added taxes on all purchases, ranging from about 4% and 10% of the final sales price of their goods, plus a waiver of the value-added tax on anything they export. Against that, the DISC provisions provide a tax deferment that equals about 1% to 2% of the sales price of qualifying U.S. exports. Thus, DISC only provides a small and partial offset to the tax advantages of our foreign competitors. Nevertheless, it has had some positive effect because in the years after DISC was enacted, U.S. exports rose from $43 billion in 1971 to $120 billion in 1977. Recently, export growth has slowed down as foreign economies—our potential customers—have run into trouble. Export orders are now much harder to get.

Mr. President, because of the need to encourage exports, I oppose the elimination of DISC.

Mr. RIBICOFF. Mr. President, let me point out again that 95 percent of the assets of DISC must be export related. We are going to have to export or die in this country. It is absolutely essential.

I yield to the Senator from Nebraska.

Mr. CURTIS. Mr. President, the Senator may recall that about the time DISC was started, a young man appeared and said he and his friend had started a two-man business. They discovered that most of their opportunities were in exports, and DISC had been responsible for that; and at that time he was employing about 10 or 11 people.

I relate that to show that it is not a benefit limited to the large multinational corporations, but it gives an opportunity to any taxpayer who has a product or ambition or something some other man might need to engage in foreign export.

DISC was intended to stimulate U.S. exports and to partially offset the com-

petitive advantages provided to foreign exporters by their governments.

According to various measures—including a critical analysis of recent Treasury Department reports, independent analysis and company experiences—DISC has stimulated a significant portion of the dramatic increase in U.S. exports since 1971. By 1975, DISC contributed as much as $9.9 billion in additional exports. Because of the increased exports attributable to DISC, there have been substantial secondary economic gains throughout the U.S. economy, including significant increases in U.S. gross national product and employment. In addition, the rise in exports and economic activity resulting from DISC have generated increases in Federal tax revenues which more than offset the initial DISC deferral.

Serious reverses in U.S. trade in recent years call for a strong national export policy. As in the past, DISC plays an important role in stimulating exports and in U.S. trade policy. In light of the need to stimulate more exports and the current status of international proceedings on the question of export promotion practices, the elimination of DISC at that time is clearly inappropriate.

Mr. RIBICOFF. Let me add that if you are a small business, and if your export profits are below $100,000, you do not have the same requirements as large corporations, so there are definite benefits to small business in DISC.

I am pleased to yield to the Senator from Kansas.

Mr. DOLE. I know in 1976 the Senator from Kansas and the Senator from Minnesota, Senator MONDALE, worked out a compromise on this. At that time benefits were placed on an incremental basis, and U.S. companies were getting these benefits only to the extent their exports were increased. We also reduced the cost of that program about a third. It seems to this Senator we have made some progress. If we just look at the commotion caused in the European community because of DISC, the clear concern expressed by the European community over DISC is, in my view, the best indication that it has an impact and is playing an important role in increasing exports. I support the chairman.

Mr. President, I ask unanimous consent that a document entitled "Arguments Against Repeal of DISC" be printed at this point in the RECORD.

There being no objection, the document was ordered to be printed in the RECORD, as follows:

ARGUMENTS AGAINST REPEAL OF DISC

1. DISC is more an item of trade policy than of tax reform and it is imperative that trade implications of repeal of DISC not be ignored. The underlying purpose of DISC is to remove an existing distortion in international trade and investment. In addition to establishing a workable system of intercompany pricing on the export of goods, DISC was created to put American exporters on a more nearly equal tax footing with foreign competitors in the world market.

2. In recent years, the United States has incurred alarming deficits in the balance of trade and the balance of payments. The U.S. share of world exports has been decreasing steadily for the past two decades. At a time when our trade position is so precarious, it would be short-sighted to eliminate the major incentive we provide for encouraging U.S. exports. In this situation it is difficult to accept the argument that DISC should be repealed because it is not efficient enough in encouraging exports—that argument might hold more weight if we were not in this present trade crisis or if those urging repeal could offer other programs which clearly would be more effective in stimulating exports.

3. Unlike many of our trading partners, the United States taxes the worldwide income of its corporations. Sooner or later, an American company is taxed on both its production and marketing of export goods. Many foreign countries, including France, Belgium and the Netherlands, to name a few, do not tax the foreign sales income earned on their exports.

4. Many foreign countries give their exporters tax exemptions through rebates of indirect taxes like the value-added tax. The border tax adjustments vary from country to country and from product to product, but on the average the tax is about 15 percent. Therefore, the foreign exporter gets a 15 percent rebate on exports while the American company is taxed an additional 15 percent on his exports, placing the American exporter at any obvious competitive disadvantage.

5. Border tax adjustments are only one kind of tax benefit offered by other countries to their exporters. In France, for example, foreign branch and subsidiary income is not taxed, foreign source dividends are not taxed, and intercompany pricing rules are not enforced, in addition to the border tax adjustments and other export tax incentives. None of these tax incentives for exports are offered to American exporters. Moreover, a French company can route its exports through a tax haven subsidiary and funnel off a substantial portion of the profits. In contrast, for U.S. exporters, this type of income would be currently subject to tax under the subpart F provisions.

6. But the export incentives offered to exporters by many of our trade partners are not limited to tax incentives. Again, using France as an example, there is a long list of nontax incentives that indirectly benefit exporters. A French exporter gets financing assistance at a 7.5 percent rate of interest. In insurance, the French exporter could have production risks, currency fluctuations, market developments and exhibition expenses all insured. But a United States company cannot insure against any of these things.

7. The European community has challenged the legality of DISC under Article XVI of the GATT, and the United States has filed counterclaims against the legality of the European Community's border tax adjustments. The GATT panels have found that both the U.S. and the European practices are export subsidies in violation of GATT. However, these findings have not been accepted by the GATT council because the European Community while insisting that DISC be proscribed, has refused to accept the findings against their tax policies. It is important to emphasize that these European policies involve a far greater benefit to their export industries than DISC does to ours—to unilaterally repeal DISC would eliminate any possible chance we have of getting the Europeans to agree to eliminate their tax practices which are so injurious to our trade position in exchange for our willingness to cut back on DISC. In the GATT negotiations, the United States bargaining position is dependent on DISC, for it enables the United States to get concessions on border tax adjustments from other nations in return for compromises on DISC.

8. The clear concern demonstrated by the European community over DISC is the best indication of its important role in increasing U.S. exports.

9. In the 1976 Act, DISC benefits were placed on an incremental basis so that U.S. companies would get DISC benefits only to the extent that they increase their exports. Therefore, DISC can no longer be viewed as giving windfall benefits.

10. Opponents of DISC argue that most of its benefits go to big business. This is true, but it is only true because most of our exports are made by large companies. DISC benefits are proprotional to the amount of exports of a company because it is a program intended to increase our exports and improve our balance of trade. In fact, small businesses get proportionally a larger benefit from DISC because the incremental rules adopted in 1976 do not apply to small DISCs.

Mr. RIBICOFF. I think it is important to know that the United States is up against every type of foreign subsidy, and these foreign multinational companies that we compete with are getting from their countries all the breaks that our manufacturers do not get. DISC pales in comparison to the amount of subsidies other countries offer exporters. Let me give some examples.

France totally exempts foreign source income from tax. It also has special subsidies for certain industries, like steel.

In Belgium foreign source income is taxed at one-quarter of the rate applied to income from domestic sources.

In The Netherlands a company is taxed on its worldwide income, but it is almost never taxed in practice on income derived from foreign branches.

Japan allows tax deferral for a percentage of gross exports receipts if they are set aside for research.

So what will be accomplished by the repeal of DISC by this country, which has desperate balance of trade problems? Every major manufacturing exporting country in the world has special benefits for its exporters. Here the only break we give to American exporters is DISC and now we are going to remove that.

Mr. DURKIN. Will the Senator yield?

Mr. RIBICOFF. I yield.

Mr. DURKIN. I thank the Senator from Connecticut. I could not agree more with his remarks and the remarks of the Senator from New York. I would like to underscore the remarks made heretofore.

In my own State of New Hampshire there are a number of corporations, small corporations, and if it were not for DISC they could not continue to operate and provide jobs in the State of New Hampshire.

I thank the Senator from Connecticut.

Mr. ROTH. Will the Senator yield?

Mr. RIBICOFF. I am pleased to yield to my colleague.

Mr. ROTH. I thank the Senator.

I join with the distinguished senior Senator from Connecticut in expressing my concern over this amendment. I can think of no time less appropriate for this kind of change. It seems to me, as we are proceeding with multinational trade negotiations, it would indeed be foolhardy for this country to dispense with one of the few advantages that we give business in competing with the strong competition we have from abroad.

One of the most serious problems this

Nation faces is the balance of trade problem. Rather than to restrict what few advantages or help we give them we should look for new ways of assistance.

I was interested that in 1977 the Building and Construction Trades Department of the AFL–CIO noted that the present massive U.S. trade imbalance of $25 billion to $30 billion for 1977 would translate into hundreds of thousands of additional U.S. jobs, if the trade balance were significantly lower. They resolved that Congress should develop an adequate effective incentive program to meet the economic pressures created by foreign subsidy programs.

Of course, if we did away with the DISC program, with no substitution, we would be moving in just the opposite direction. I believe this would be a mistake both from the standpoint of jobs and from the standpoint of our foreign trade deficit and business generally, and I join the Senator in opposing this.

Mr. STEVENSON. Will the Senator yield?

Mr. RIBICOFF. I yield.

Mr. STEVENSON. The United States, Mr. President, is running a yearly trade deficit of about $30 billion at this time, and manufactures running about $12 billion a year. The dollar is sinking erratically and with its sinking is causing recession. I would refer the Members of the Senate to hearings of the Subcommittee on International Finance. One of the volumes is dated March 9, 1978. It includes 40 pages of descriptions of the tax incentives offered by other countries for their exporters. The principal incentive offered by the United States for its exporters is DISC.

I do not mean to suggest for a moment that DISC is the most efficient means by which we can maintain our competitive position in the world, but it is the only program that we have. I would ask the Senator from Connecticut, who is also the chairman of the Subcommittee on Trade of the Finance Committee, if in these circumstances, with the decline of the dollar, a $30 billion trade deficit, the tax incentives and supports offered by other countries to their exporters which are detailed in this volume, would it be wiser for the United States, instead of unilaterally disarming itself, to withdraw its support of exporters as part of the multilateral negotiating process, and what would happen to such efforts if the United States without really attempting to do so were unilaterally in the Congress to repeal DISC?

Mr. RIBICOFF. We would be taking away from Mr. Strauss, who is negotiating on subsidies and countervailing duties, the only weapon he has in his arsenal. Our trading partners hate DISCs. They look at DISC as a competitive factor against them. DISC is the only thing that we have to try to negotiate in Geneva. Maybe some day we will get rid of DISC, but we should not get rid of DISC until our competitors in world trade do something to take away their subsidies.

The PRESIDING OFFICER. The time of the Senator from Connecticut has expired. The Senator from Oregon has 12 minutes.

Mr. KENNEDY. Will the Senator yield?

Mr. PACKWOOD. I yield.

Mr. KENNEDY. Mr. President, I welcome the opportunity to join with my colleague from Oregon in cosponsoring this amendment. First of all, Mr. President, I think it might be of some interest and relevancy to this discussion that we consider the Treasury's finding in their April report of this year on what DISC has meant in terms of the foreign exchange in the whole issue of export expansion. I will just read one line included in chapter 1.

> However, most of the expansion was due to factors other than DISC.

And then it goes on to explain that the principal reasons have been floating exchange rates, the devaluation of the dollar, and the increase in world trade. When DISC was adopted we were on a fixed rate of exchange, but that has changed dramatically.

Mr. President, it is interesting, when we listen to my good friend from New Hampshire talk about those small industries up in New Hampshire, to know that small little company is getting the aid and assistance from DISC. But what about all other New Hampshire corporations that are paying higher tax rates because of DISC. We could give relief to the many, by taking DISC away from the few.

Under present law, parent corporation is permitted to form a "paper" DISC subsidiary to obtain tax benefits for export sales.

Federal income tax is deferred on one-half of DISC income in excess of its base level export income. The base level is 67 percent of the DISC's average export income over a 4-year period.

The effect of DISC for those corporations that are unaffected by the incentive rule is to reduce the corporate tax rate on export income from 48 to 36 percent, or even 24 percent in some cases.

The estimated revenue loss from DISC is over $1.3 billion in fiscal year 1979 and over $1.5 billion in fiscal year 1980.

The proposed amendment would repeal DISC over a 3-year period.

There are many arguments against disc. It was designed to promote U.S. exports in a world of fixed exchange rates; that world no longer exists. DISC now involves a significant waste of money—$1.3 billion in fiscal year 1979.

According to the most recent Treasury study, DISC is cost inefficient, generating only between $1 to $3 billion in additional exports for a $1.3 billion revenue cost.

U.S. export growth since 1971 has been generated by the two devaluations of the dollar, the shift to the international system of floating exchange rates in March 1973, inflation of export prices and the increase in the real volume of world trade, not DISC.

Since the export industry is capital intensive, DISC is an inefficient and perhaps counter-productive subsidy if jobs are the goal. Dollars for DISC are one of the least efficient job-creating incentives, ranking well behind almost all other incentives. For example, Labor Department data show that, per dollar of expenditure, 50 percent more jobs are created by a general tax cut, compared to spending on exports. According to a 1975 study of the House Budget Committee, a $1.4 billion DISC tax expenditure might create at most, 16,000 jobs. As a direct Federal expenditure, the same $1.4 billion would create 112,000 jobs in defense, 120,000 jobs in health, 150,000 jobs in education, and 240,000 public service jobs. The 1977 Treasury DISC study concluded that DISC may actually produce a decline in U.S. jobs.

Under floating exchange rates, DISC may actually cause a net U.S. job loss. Increased exports strengthen the dollar, leading to increased imports. Since U.S. imports are historically labor-intensive, such as shoes, textiles, and automobiles, a net job loss may result. Thus, increases in exports are not the same as increases in net exports or improvements in the overall U.S. trade balance.

DISC is a windfall for large multinational U.S. exporters who would be exporting anyway; 22.5 percent of DISC benefits went to only 10 corporations; 66 percent went to 316 corporations with assets over $250 million. U.S. corporations do not even use DISC benefits to make export sales more competitive; in a recent study, 76 percent of corporations surveyed reported that DISC had no effect on their export prices.

Export profits are extremely high. The Treasury report shows DISC companies earned about 15 percent on export sales, over double the 6.5 percent profit margin on domestic sales. A tax subsidy like DISC is hardly needed when export sales are already so profitable.

DISC's are just paper corporations that exist only in file drawers and on accountants' balance sheets. They have no real economic substance.

DISC is a subsidy for foreign consumers. Because of DISC, goods produced for American consumption are taxed more heavily than goods produced for foreign consumption. Some large U.S. corporations use DISC simply to offer more favorable long-term payment conditions for foreign purchasers.

DISC was enacted in 1971 as an antidote to deferral. Yet the deferral subsidy costs $665 million, whereas DISC costs $1.3 billion.

Mr. President, in July 1975, President Lee Morgan of Caterpillar Tractor testified before the House Ways and Means Committee that, although Caterpillar had received $9 million in DISC tax benefits:

> I am not really sure that we did anything extra in order to generate additional exports. Not much has happened, at least in our company, in order to earn the tax deferral that has come from DISC.

A recent study, based on a survey of 142 large corporations, found that of 110 DISC-electing firms, 35 percent said that DISC had no impact on export sales, 1 percent said it decreased sales and 64 percent said it increased export sales.

DISC has been one of the most notorious tax overruns in the history of the Internal Revenue Code. When originally enacted in 1971, the estimated Treas-

ury cost was $100 million for 1972 and $170 million for 1973. Actual costs were $350 million and $620 million, respectively, or four times the original estimate, and the cost has continued to climb.

DISC is a violation of our international trade commitments; a GATT panel held it to be a prohibited export subsidy under GATT.

More than 100 bipartisan independent economists and tax experts in 1976 called for repeal of DISC as a wasteful and inefficient tax subsidy that distorts the free market system.

Finally, President Carter urged repeal of DISC as part of his 1978 tax program.

Mr. President, the Carter administration as part of its review and the study in the development of its export policy, within the last 10 days, made numerous recommendations for expanding exports. But it left DISC out. A week ago last Monday, the administration announced its program for expanding exports, but not including DISC. Mr. President, I ask unanimous consent that this message may be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The message follows:

STATEMENT BY THE PRESIDENT

It is important for this Nation's economic vitality that both the private sector and the Federal government place a higher priority on exports. I am today announcing a series of measures that evidences my Administration's strong commitment to do so.

The large trade deficits the United States has experienced in recent years have weakened the value of the dollar, intensified inflationary pressures in our own economy, and heightened instability in the world economy. These trade deficits have been caused by a number of factors. A major cause has been our excessive reliance on imported oil. We can reduce that reliance through the passage of sound energy legislation this year. Another factor is that the United States economy has been growing at a stronger pace in recent years than the economies of our major trading partners. That has enabled us to purchase relatively more foreign goods while our trading partners have not been able to buy as much of our exports. We will begin to correct this imbalance as our trading partners meet the commitments to economic expansion they made at the Bonn Summit.

The relatively slow growth of American exports has also been an important factor in our trade deficit problem. Over the past 20 years, our exports have grown at only half the rate of other industrial nations and the United States has been losing its share of world markets. Until now, both business and government have accorded exports a relatively low priority. These priorities must be changed.

The measures I am announcing today consist of actions this Administration has taken and will take to:

(1) provide increased direct assistance to United States exporters;

(2) reduce domestic barriers to exports; and

(3) reduce foreign barriers to our exports and secure a fairer international trading system for all exporters.

These actions are in furtherance of the commitment I made at the Bonn Summit to an improved United States export performance.

DIRECT ASSISTANCE TO UNITED STATES EXPORTERS

1. *Export-Import Bank.* I have consistently supported a more effective and aggressive Export-Import Bank. During the past two years, my Administration has increased Eximbank's loan authorization fivefold—from $700 million in FY 1977 to $3.6 billion for FY 1979. I intend to ask Congress for an additional $500 million in FY 1980, bringing Eximbank's total loan authorization to $4.1 billion. These authorizations will provide the Bank with the funds necessary to improve its competitiveness, in a manner consistent with our international obligations, through increased flexibility in the areas of interest rates, length of loans, and the percentage of a transaction it can finance. The Bank is also moving to simplify its fee schedules and to make its programs more accessible to smaller exporters and to agricultural exporters.

2. *SBA Loans to Small Exporters.* The Small Business Administration will channel up to $100 million of its current authorization for loan guarantees to small business exporters to provide seed money for their entry into foreign markets. Small exporting firms meeting SBA's qualifications will be eligible for loan guarantees totalling up to $500,000 to meet needs for expanded production capacity and to ease cash flow problems involving overseas sales or initial marketing expenses.

3. *Export Development Programs.* I am directing the Office of Management and Budget to allocate an additional $20 million in annual resources for export development programs of the Departments of Commerce and State to assist United States firms, particularly small and medium-sized businesses, in marketing abroad through: a computerized information system to provide exporters with prompt access to international marketing opportunities abroad and to expose American products to foreign buyers;

Risk sharing programs to help associations and small companies meet initial export marketing costs; and

Targeted assistance to firms and industries with high export potential and intensified short-term export campaigns in promising markets.

4. *Agricultural Exports.* Agricultural exports are a vital component of the U.S. trade balance. Over the past 10 years, the volume of U.S. farm exports has doubled and the dollar value has nearly quadrupled. Trade in agricultural products will contribute a net surplus of almost $13 billion in fiscal year 1978. This strong performance is due in part to this Administration's mutifaceted agricultural export policy, which will be strengthened and which includes:

An increase of almost $1 billion (up from $750 million in FY 1977 to $1.7 billion in FY 1978) in the level of short-term export credits.

An increase of almost 20% in the level of funding support for a highly successful program of cooperation with over 60 agricultural commodity associations in market development.

Efforts in the Multilateral Trade Negotiations to link the treatment of agricultural and nonagricultural products.

Opening trade offices in key importing nations in order to facilitate the development of these markets.

Aggressive pursuit of an international wheat agreement, to ensure our producers a fair share of the expanding world market.

Support of legislation to provide intermediate export credit for selective agricultural exports.

5. *Tax Measures.* I am hopeful that Congress will work with the Administration to promptly resolve the tax problems of Americans employed abroad, many of whom are directly involved in export efforts. Last February, I proposed tax relief for these citizens amounting to about $250 million a year. I think this proposal, which Congress has not approved, deals fairly and, during a time of great budget stringency, responsibly with this problem. I remain ready to work with the Congress to resolve this issue, but I cannot support proposals which run contrary to our strong concerns for budget prudence and tax equity.

My Administration's concern for exports is matched by our obligation to ensure that government-sponsored export incentives constitute an efficient use of the taxpayers' money. The DISC tax provision simply does not meet that basic test. It is a costly (over $1 billion a year) and inefficient incentive for exports. I continue to urge Congress to phase DISC out or at least make it simpler, less costly, and more effective than it is now, and my Administration stands ready to work with Congress toward that goal.

REDUCTION OF DOMESTIC BARRIERS TO EXPORTS

Direct financial and technical assistance to United States firms should encourage them to take advantage of the increasing competitiveness of our goods in international markets. Equally important will be the reduction of government-imposed disincentives and barriers which unnecessarily inhibit our firms from selling abroad. We can and will continue to administer the laws and policies affecting the international business community firmly and fairly, but we can also discharge that responsibility with a greater sensitivity to the importance of exports than has been the case in the past.

1. *Export Consequences of Regulations.* I am directing the heads of all Executive departments and agencies to take into account and weigh as a factor, the possible adverse effect on our trade balance of their major administrative and regulatory actions that have significant export consequences. They will report back on their progress in identifying and reducing such negative export effects where possible, consistent with other legal and policy obligations. I will make a similar request of the independent regulatory agencies. In addition, the Council of Economic Advisers will consider export consequences as part of the Administration's Regulatory Analysis Program.

There may be areas, such as the export of products which pose serious health and safety risks, where new regulations are warranted. But through the steps outlined above, I intend to inject a greater awareness throughout the government of the effects on exports of administrative and regulatory actions.

2. *Export Controls for Foreign Policy Purposes.* I am directing the Departments of Commerce, State, Defense, and Agriculture to take export consequences fully into account when considering the use of export controls for foreign policy purposes. Weight will be given to whether the goods in question are also available from countries other than the United States.

3. *Foreign Corrupt Practices Act.* At my direction, the Justice Department will provide guidance to the business community concerning its enforcement priorities under the recently enacted foreign antibribery statute. This statute should not be viewed as an impediment to the conduct of legitimate business activities abroad. I am hopeful that American business will not forego legitimate export opportunities because of uncertainty about the application of this statute. The guidance provided by the Justice Department should be helpful in that regard.

4. *Antitrust Laws.* There are instances in which joint ventures and other kinds of cooperative arrangements between American firms are necessary or desirable to improve our export performance. The Justice Department has advised that most such foreign joint ventures would not violate our antitrust laws, and in many instances would actually strengthen competition. This is especially true for one-time joint ventures created to participate in a single activity, such as a large construction project. In fact, no such joint conduct has been challenged under the antitrust laws in over 20 years.

Nevertheless, many businessmen apparently are uncertain on this point, and this uncertainty can be a disincentive to exports. I have, therefore, instructed the Justice Department, in conjunction with the Commerce Department, to clarify and explain the scope of the antitrust laws in this area, with special emphasis on the kinds of ventures that are unlikely to raise antitrust problems.

I have also instructed the Justice Department to give expedited treatment to requests by business firms for guidance on international antitrust issues under the Department's Business Review Program. Finally, I will appoint a business advisory panel to work with the National Commission for the Review of the Antitrust Laws.

5. *Environmental Reviews.* For a number of years the export community has faced the uncertainty of whether the National Environmental Policy Act (NEPA) requires environmental impact statements for Federal export licenses, permits and approvals.

I will shortly sign an Executive Order which should assist U.S. exports by eliminating the present uncertainties concerning the type of environmental reviews that will be applicable and the Federal actions relating to exports that will be affected. The Order will make the following export-related clarifications:

Environmental Impact Statements will not be required for Federal export licenses, permits, approvals, and other export-related actions that have potential environmental effects in foreign countries.

Export licenses issued by the Departments of Commerce and Treasury will be exempt from any environmental reviews required by the Executive Order.

Abbreviated environmental reviews will be required only with respect to (1) nuclear reactors, (2) financing of products and facilities whose toxic effects create serious public health risks, and (3) certain Federal actions having a significant adverse effect on the environment of non-participating third countries or natural resources of global importance.

Accordingly, this Order will establish environmental requirements for only a minor fraction (well below 5 percent) of the dollar volume of United States exports. At the same time, it will provide procedures to define and focus on those exports which should receive special scrutiny because of their major environmental impacts abroad. This Executive Order will fairly balance our concern for the environment with our interest in promoting exports.

REDUCTION IN FOREIGN TRADE BARRIERS AND SUBSIDIES

We are also taking important international initiatives to improve U.S. export performance. Trade restrictions imposed by other countries inhibit our ability to export. Tariff and especially non-tariff barriers restrict our ability to develop new foreign markets and expand existing ones. We are now working to eliminate or reduce these barriers through the Multilateral Trade Negotiations in Geneva.

United States export performance is also adversely affected by the excessive financial credits and subsidies which some of our trading partners offer to their own exporters. One of our major objectives in the MTN is to negotiate an international code restricting the use of government subsidies for exports. In addition, I am directing the Secretary of the Treasury to undertake immediate consultations with our trading partners to expand the scope and tighten the terms of the existing International Arrangement on Export Credits.

I hope that our major trading partners will see the importance of reaching more widespread agreements on the use of export finance, to avoid a costly competition which is economically unsound and ultimately self-defeating for all of us. These international agreements are essential to assure that American exporters do not face unfair competition, and this Administration intends to work vigorously to secure them.

CONCLUSION

While these initiatives will assist private business in increasing exports, our export problem has been building for many years and we cannot expect dramatic improvement overnight. Increasing our exports will take time, and require a sustained effort. Announcement of my Administration's export policy is not the end of our task, but rather the beginning. To ensure that this issue continues to receive priority attention, I am asking Secretary Kreps, in coordination with officials from other concerned government agencies, to direct the continuation of efforts to improve our export potential and performance.

I will shortly sign an Executive Order to reconstitute a more broadly-based President's Export Council to bring a continuous flow of fresh ideas into our government policy-making process. I expect this Council to report to me annually through the Secretary of Commerce.

Increasing U.S. exports is a major challenge—for business, for labor, and for government. Better export performance by the United States would spur growth in the economy. It would create jobs. It would strengthen the dollar and fight inflation.

There are no short-term, easy solutions. But the actions I am announcing today reflect my Administration's determination to give the United States trade deficit the high-level, sustained attention it deserves. They are the first step in a long-term effort to strengthen this Nation's export position in world trade.

Mr. President, this argument that we ought to arm Bob Strauss with DISC so he can negotiate it away is the same argument we heard in 1976. What has actually happened is that it encouraged other countries to retaliate and, in some instances, violate the GATT agreement.

Finally, Mr. President, I think a very serious argument can be made that DISC is actually costing jobs in the United States. It is for this reason that not only the administration, but also the workers, support this amendment.

If exports do expand because of DISC, what we actually do is strengthen the dollar. Therefore, we make it cheaper to import more. If we make it cheaper to import more, it will cost American jobs in import industries which are labor intensive. This loss of jobs may very well more than offset the increase of jobs in export industries, which are capital intensive. It is for that reason that the labor groups have opposed DISC, because they do actually think that it is costing jobs. This is particularly true for our good friends from South Carolina in the shoe and textile industries.

So I think for those reasons, Mr. President, DISC has not been effective, it goes to a very small, select group, and substantial numbers of that group say that it has no effect or impact.

Mr. President, what the amendment of the Senator from Oregon does is use the savings on DISC to reduce the tax rate on corporations across the country. That is effectively what they are doing. It seems to me, Mr. President, that is a fair and equitable way to deal with this problem. This position is supported by the studies of the Treasury, supported by the workers and, I think, supported by many others who feel that if we are going to have a $1.3 billion revenue loss a more favorable and fairer way of distributing it is through a reduction of the corporate tax rate.

Mr. PACKWOOD. Mr. President, let me emphasize again that if you were simply to say to a corporation who does some exporting, "Do you want to keep DISC or get rid of it?" of course, they are going to say, "I want to keep DISC." They get some little benefit out of it. But if you say to them, "Would you rather have DISC or a cut in the corporate rate?" they will say a cut in the corporate rate.

This morning, I had my staff check with some of the principal corporations in Oregon, asking them if they would be willing to make this exchange. These are corporations somewhat involved or heavily involved in export. Tektronics, a company employing over 15,000, in Portland, Oreg., making oscilloscopes, heavily involved in overseas exports and manufacturing, yes.

Hyster Co., one of the world's largest manufacturers of trucks, yes.

Georgia Pacific, forest and wood products, and Boise Cascade, the same. They would all make the trade. They would all say, "Sure, we would like to keep DISC as an exporting incentive but we would rather take a reduction in the corporate rate. That would give us more money to produce more jobs, it will give us more flexibility."

The companies that export are going to keep exporting. The best testimony we had on that was 2 years ago from the president of Caterpillar, again, one of the principal exporters of the United States and selling their machines all over the world.

This is what he said:

> I am not really sure that we did anything extraordinary to generate additional exports. Not much has happened, at least at our company, in order to earn the tax deferral that has come from DISC.

They had just received an annual $9 million DISC benefit—bonus—for doing nothing. For doing exactly the same thing they would be doing whether or not they had DISC.

If you want to waste money inefficiently to encourage exports, keep DISC. If you want to find a way to increase productivity in this country, produce jobs, you can eliminate DISC and do almost nothing to discourage imports. This is such a cost-ineffective way that it not only is a waste of our money, but if we wanted to use the same amount of money to encourage exports, there are a dozen other ways to do it better than DISC.

I reserve the remainder of my time.

Does the Senator from Massachusetts wish some more time?

Mr. KENNEDY. Mr. President, just a final comment. The position of the Senator from Oregon and others supporting the amendment has the support of the administration, the AFL–CIO, and even the Wall Street Journal. That is an unusual combination of support for any amendment.

Mr. LEAHY. May I suggest to the Senator from Massachusetts that under

those circumstances, at least one of the three must have made a mistake somewhere along the line.

Mr. PERCY. Mr. President. I rise in opposition to the amendment offered by the Senator from Oregon to cut DISC.

DISC was created as an export incentive and it has served as virtually the only export incentive this country has had.

The Tax Reform Act of 1976 put DISC on an incremental basis and generally tightened up this program. It is now serving our exporters and, despite the President's announcement of an export promotion program, DISC is our only Federal commitment to exports. Its elimination would certainly be a signal to our trading partners that this country is not serious about reducing our trade imbalance, which hit $26 billion last year and is forecast as being as great or greater this year.

Illinois is the largest exporting State in the Nation because of its productive agriculture and innovative manufacturers. DISC has played an important role in bringing our Illinois firms and farms into exporting and has helped chop the balance-of-payments deficit we have.

Although it is essential to reduce our oil imports, recent months have seen the most dramatic increases in imports in manufactured goods. Our trading partners are aiding their exports in the most comprehensive ways and yet we do so little to develop our export markets. We are the target of export promotion programs of Japan and Western European countries, yet we do not seek to enact our own. DISC is the most significant incentive we have. Rather than signaling the world we will not counter their efforts, we need a hard-hitting program.

The President's recently released export incentive program is much less than I had anticipated and could not support an elimination of DISC.

Mr. PACKWOOD. I am prepared to vote if no other Senator wants time.

Mr. LONG. Mr. President, I ask that in voting, we have a division of the amendment. First, pages 1 through 16, the corporate tax cut; and second, pages 17 to the end, elimination of the DISC.

Mr. PACKWOOD. I did not hear the request.

Mr. RIBICOFF. I yield back all of my time.

The PRESIDING OFFICER. Since the amendment is susceptible of that division, the Senator is within his rights to request it and the amendment will be so divided.

Mr. CURTIS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Nebraska will state it.

Mr. CURTIS. What do we vote on first?

Mr. LONG. First we vote on a further tax cut whether the second point carries or not. Then we vote on the DISC portion.

The PRESIDING OFFICER. The Senator is correct, in the order in which it appears.

Mr. BUMPERS. Mr. President, will the Senator from Oregon yield me 1 minute?

Mr. KENNEDY. I yield 1 minute to the Senator from Arkansas.

Mr. BUMPERS. Mr. President, I have not been actually involved in the debate. I simply read the position paper on this amendment and I have concluded that I intend to support it. There are a number of things that I could say that have persuaded me to do this, but, No. 1, I have been, almost without exception, trying to get the whole DISC loophole closed ever since I have been in the Senate.

One of the most compelling things in this, and I know the point has been made but it is worth making again, is that 22 percent of the tax benefits from DISC go to 10 corporations. Twenty-two percent of the $1.300 billion a year that the DISC costs the U.S. Treasury goes to 10 corporations.

I can tell you that in my State, we have a few DISC's and some of those people will be unhappy with my position. I can also tell you that we have hundreds of corporations who are paying the 48-percent tax rate who would do much better. They would get the capital investment that we hear so much about and they would get the incentive we hear so much about if we reduced their rate to 45 percent. This, as I understand it, is a revenue wash. I think it is one of the most productive, one of the finest opportunities to give the American business community an opportunity to invest, an incentive to invest, an incentive to expand, with the very least damage. Corporations of this country who are exporting right now are going to export with or without DISC. It is to their advantage to do it. So I urge my colleagues to support the amendment.

I thank the Senator for yielding.

The PRESIDING OFFICER. The time on the amendment has expired. Inasmuch as the yeas and nays were ordered prior to the division, the yeas and nays will apply to both divisions. The yeas and nays have been ordered. The question is on agreeing to the first division. The clerk will call the roll on division 1.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Alabama (Mrs. ALLEN), the Senator from Minnesota (Mr. ANDERSON), the Senator from Mississippi (Mr. EASTLAND), the Senator from Colorado (Mr. HASKELL), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Minnesota (Mrs. HUMPHREY), the Senator from Louisiana (Mr. JOHNSTON), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Michigan (Mr. RIEGLE), the Senator from Maryland (Mr. SARBANES), and the Senator from Alabama (Mr. SPARKMAN) are necessarily absent.

I further announce that, if present and voting, the Senator from West Virginia (Mr. RANDOLPH) would vote "nay."

Mr. STEVENS. I announce that the Senator from New Mexico (Mr. DOMENICI), the Senator from Utah (Mr. HATCH), the Senator from California (Mr. HAYAKAWA), the Senator from Kansas (Mr. PEARSON), the Senator from Virginia (Mr. SCOTT), the Senator from Texas (Mr. TOWER), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

The PRESIDING OFFICER (Mr. MATSUNAGA). Are there any Senators who have not yet voted?

The result was announced—yeas 48, nays 34, as follows:

[Rollcall Vote No. 456 Leg.]

YEAS—48

Abourezk	Durkin	McGovern
Bartlett	Eagleton	Melcher
Bayh	Garn	Morgan
Bellmon	Gravel	Moynihan
Biden	Griffin	Muskie
Brooke	Hart	Packwood
Bumpers	Hatfield,	Pell
Burdick	Paul G.	Percy
Byrd,	Hathaway	Proxmire
Harry F., Jr.	Heinz	Schmitt
Chafee	Helms	Schweiker
Church	Hodges	Stevens
Clark	Hollings	Thurmond
Culver	Kennedy	Wallop
Danforth	Laxalt	Weicker
DeConcini	Lugar	Zorinsky
Dole	McClure	

NAYS—34

Baker	Hatfield,	Nelson
Bentsen	Mark O.	Nunn
Byrd, Robert C.	Inouye	Ribicoff
Cannon	Jackson	Roth
Case	Javits	Sasser
Chiles	Leahy	Stafford
Cranston	Long	Stennis
Curtis	Magnuson	Stevenson
Ford	Mathias	Stone
Glenn	Matsunaga	Talmadge
Goldwater	McIntyre	Williams
Hansen	Metzenbaum	

NOT VOTING—18

Allen	Hayakawa	Riegle
Anderson	Huddleston	Sarbanes
Domenici	Humphrey	Scott
Eastland	Johnston	Sparkman
Haskell	Pearson	Tower
Hatch	Randolph	Young

So division 1 of the amendment (UP No. 2001) was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote by which division 1 was agreed to.

Mr. PACKWOOD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question now occurs on division 2. On this question the yeas and nays have been ordered, and the clerk will call the roll.

Mr. LONG. Mr. President, a point of order. Is division 2 the repeal of the DISC?

The PRESIDING OFFICER. The Chair does not hear the Senator.

Mr. LONG. Will the Chair inform the Senate whether division 2 is a repeal of the DISC, the Domestic International Sales Corporation?

The PRESIDING OFFICER. It is so identified, the Chair informs the chairman.

Mr. MAGNUSON. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The clerk will not commence until there is order in the Chamber. The point of order made by the Senator from Washington is well taken. The Senate is not in order.

Senators will please take their seats. Senators will cease conversation on the floor. The Senate will be in order. The clerk will not commence until there is order in the Chamber.

Mr. ROBERT C. BYRD. Mr. President, this will be the last amendment on which there will be a rollcall vote tonight. However, as Senators well know,

sometimes the votes are so close that motions to reconsider and motions to lay on the table are made. If that should happen—if the vote should be close—it is possible that there could be another vote; but if the vote is not close, this will be the last vote tonight.

Mr. BUMPERS. Mr. President, will the Senator yield for a question?

Mr. ROBERT C. BYRD. I yield.

Mr. BUMPERS. Will some of us who have what we consider to be noncontroversial amendments have an opportunity to offer them tonight?

Mr. ROBERT C. BYRD. I ask the manager of the bill to respond.

Mr. LONG. I think we might as well do those tomorrow, if it is all right with the Senator. I suggest that we do them tomorrow. Will the Senator be here tomorrow?

Mr. MUSKIE. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent for 1 minute, and I yield to the Senator.

Mr. MUSKIE. Does the majority leader expect rollcall votes tomorrow?

Mr. ROBERT C. BYRD. Yes; I expect rollcall votes tomorrow. Senators are in town, and they stayed in town expecting to have rollcall votes tomorrow, and I hope we will make progress on the bill tomorrow. The Senate will come in at 8:30 tomorrow morning.

The PRESIDING OFFICER. The question is on agreeing to Division 2 of the amendment. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Alabama (Mr. ALLEN), the Senator from Minnesota (Mr. ANDERSON), the Senator from Mississippi (Mr. EASTLAND), the Senator from Colorado (Mr. HASKELL), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Minnesota (Mrs. HUMPHREY), the Senator from Louisiana (Mr. JOHNSTON), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Michigan (Mr. RIEGLE), the Senator from Maryland (Mr. SARBANES), and the Senator from Alabama (Mr. SPARKMAN) are necesarily absent.

I further announce that, if present and voting, the Senator from West Virginia (Mr. RANDOLPH) would vote "Nay."

Mr. STEVENS: I announce that the Senator from New Mexico (Mr. DOMENICI), the Senator from Utah (Mr. HATCH), the Senator from California (Mr. HAYAKAWA), the Senator from Kansas (Mr. PEARSON), the Senator from Virginia (Mr. SCOTT), the Senator from Texas (Mr. TOWER), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

The PRESIDING OFFICER. Are there Senators who have not yet voted?

The result was announced—yeas 28, nays 54, as follows:

[Rollcall Vote No. 457 Leg.]

YEAS—28

Abourezk	Byrd, Harry F., Jr.	Culver
Bayh	Byrd, Robert C.	Eagleton
Biden	Church	Hart
Bumpers	Clark	Hathaway
Burdick	Hollings	Hodges
Kennedy	Melcher	Packwood
Leahy	Metzenbaum	Pell
McGovern	Morgan	Proxmire
McIntyre	Muskie	Zorinsky
	Nelson	

NAYS—54

Baker	Gravel	Moynihan
Bartlett	Griffin	Nunn
Bellmon	Hansen	Percy
Bentsen	Hatfield, Mark O.	Ribicoff
Brooke	Hatfield, Paul G.	Roth
Cannon	Heinz	Sasser
Case	Helms	Schmitt
Chafee	Inouye	Schweiker
Chiles	Jackson	Stafford
Cranston	Javits	Stennis
Curtis	Laxalt	Stevens
Danforth	Long	Stevenson
DeConcini	Lugar	Stone
Dole	Magnuson	Talmadge
Durkin	Mathias	Thurmond
Ford	Matsunaga	Wallop
Garn	McClure	Weicker
Glenn	Packwood	Williams
Goldwater	Pell	

NOT VOTING—18

Allen	Hayakawa	Riegle
Anderson	Huddleston	Sarbanes
Domenici	Humphrey	Scott
Eastland	Johnston	Sparkman
Haskell	Pearson	Tower
Hatch	Randolph	Young

So division 2 of the amendment (UP No. 2001) was rejected.

Mr. RIBICOFF. Mr. President, I move to reconsider the vote by which division 2 was rejected.

Mr. LONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. LONG. Mr. President, I believe Senators should know that in their generosity today they have broken the bank.

Mr. CURTIS. Mr. President, may we have order?

The PRESIDING OFFICER. The Senator's point is well taken. The Senate will be in order. The Senator from Louisiana will suspend until there is order in the Chamber.

Mr. LONG. The fiscal generosity with which the Senate has voted today has now moved this bill to a tax cut of a total of $22.133 billion. The budget allows $21.900 billion, so now the Senate has voted for about $200 million more tax cuts than the budget will permit.

Technically, Mr. President, we can still operate because some of the generosity went on the bill and some of it went on the committee amendment. But when we try to combine the two something is going to have to be squeezed out.

So, I would challenge the conscience of Senators to think about it overnight, think about what they would like to do.

Mind you, the Senate has already voted for more tax cuts, to add more tax cuts, to the bill than the budget will permit, and that assumes no energy bill, no energy tax bill at all. Even the Hart amendment that was passed, that assumes none of that. That assumes nothing about the noisy airplanes which passed the House and which was scheduled to be considered. It assumes nothing about section 911 dealing with workers and Americans doing business overseas. In other words, just all the other things that have been passed, it only assumes just what is here that the Senate has voted on, and the Senate has voted to exceed the budget by about $200 million.

So, we are about $200 million over the budget.

Now Senators can meditate overnight as to how they would like to try to get it back inside the budget.

I would point out that there was a total of the committee bill which was $20.530 billion. The Haskell amendment amounted to a tax saving or overall tax saving of $200 million.

Tuition credit would cost $330 million, the individual rate cuts would cost another $910 million, and the corporate rate cut just voted would cost another $563 million for a total of $22.133 billion.

So from this point forward if Senators want to think in terms of providing further tax cuts they will have to be thinking about which among these items claim the highest priority.

Mr. PERCY. Mr. President, will the distinguished Senator yield for a question?

Mr. NELSON. Mr. President, may we have order so that we can hear the dialog?

The PRESIDING OFFICER. The Senate will be in order. The Senator from Louisiana still has the floor.

Mr. LONG. I yield for a question first to the Senator from Illionis.

Mr. PERCY. The Senator from Illinois is very sympathetic with the floor manager's position and problem. The Senator from Illinois has two amendments, neither one of which will cost a dime to the Treasury. Is it possible for them to be taken up—and I believe there are other Senators tonight who would like to take up amendments—so long as they do not require rollcall votes? Would it be possible to take them up tonight?

The PRESIDING OFFICER. Will the Senator from Illinois use the microphone, please?

Mr. LONG. Let me say, Mr. President, that I am willing to stay around and consider amendments we hope will not be controversial, and will not require a rollcall vote. In the event it would appear that the amendment might be something the Senate would like to vote on a rollcall, I would have to insist that that be brought up subsequently.

The Senator from Wisconsin wanted to announce that he hopes to consider another bill which is not a revenue bill.

Mr. NELSON. I can do it tonight or not; if there are others who want amendments in, that does not bother me. Mine is agreed on all sides, I will just wait until tomorrow sometime, when it is convenient.

But I wonder if the Senator will yield for a request.

Mr. LONG. Yes.

Mr. NELSON. There is an issue involving locks and dam 26 as to which the distinguished Senator from Louisiana is well informed. Language is being worked out on that, I understand. I want to see the language before it is acted upon. Do I have assurance that that issue, which has been controversial and may not be any more, I do not know, will not be considered tonight?

Mr. BAKER. Mr. President, will the

Senator yield to me just half a moment on that point?

Mr. NELSON. Yes.

Mr. BAKER. If the distinguished manager of the bill——

The PRESIDING OFFICER. The Senator from Louisiana has the floor.

Mr. LONG. Mr. President, I know of no plan to consider locks and dam 26 tonight. The Senator is correct that progress is being made toward working out a compromise with Mr. DOMENICI and other Senators that we would hope that the Secretary of Transportation could recommend. I am happy, as I say, that progress is being made. I would say things are looking up; it looks like we might reach an agreement. But we are not ready yet, Senator.

Mr. NELSON. Well, fine. I just wanted to have the opportunity to look at the final language, and so I would not want it considered later tonight.

I will withhold the other amendment I have that is noncontroversial, and has nothing to do with this bill, until we have a free moment.

Mr. PERCY. Mr. President, will the Senator from Wisconsin yield for a unanimous-consent request on that point?

The PRESIDING OFFICER. The Senator from Louisiana has the floor.

Mr. LONG. I yield first to the minority leader, and then I will yield to the Senator from Illinois.

Mr. BAKER. I will not take but just a minute.

First, I must tell the Senator that I must protect a Member on this side in respect to locks and dam 26, so I would object in any event to consideration of that tonight.

Second, the Senator from Texas (Mr. BENTSEN) and I have an amendment which is noncontroversial, and I would hope we could dispose of that tonight.

Mr. LONG. I yield to the Senator from Illinois.

Mr. PERCY. Mr. President, the following statement pertains to locks and dam 26:

Mr. President, I would like to comment on the recent amendment offered by my colleague from Illinois concerning lock and dam 26 at Alton, Ill. While the amendment is not fully acceptable to either this Congress or this administration, it does serve as a reminder that lock and dam 26 remains in hostage because of our combined inability to actively negotiate a reasonable and acceptable position on users fees before this session of Congress adjourns.

The Senate authorized the construction of lock and dam 26 in May of this year, as a part of a water resources bill that the President has indicated he may veto because of its cost. We need to act expeditiously to crystalize a compromise that will allow this Congress the opportunity to approve a lock and dam 26 proposal that contains a reasonable user fee. To allow this project to elude us once again would be a great disservice to the American economy.

We have discussed this project for most of this decade and still we do not have agreement on a proposal that will assure construction of this essential project. Every day we continue to delay places greater strain on a worn out facility and allows inflation to further drive up the cost of the new construction.

There is no question about the need for this new construction that will replace a lock and dam that is essential for the movement of commodities on the Mississippi River. The economy of the Midwest and the entire Nation are dependent upon the efficient operation of this Inland Waterway System. Moving grain, fuel and other vitally important commodities to their markets is absolutely essential. Providing a lock and dam that can do that job is our responsibility.

We should resolve this issue during this Congress so that we can move on to other pressing matters before us. To devote so much time to this project and not reach agreement would be a tragedy and an injustice.

Therefore, I once again ask all parties to this controversy for their attention and support for the effort to reach a compromise so that we can offer an acceptable proposal to the President that will authorize construction of lock and dam 26.

UP AMENDMENT NO. 2002

(Purpose: To eliminate the requirement that married taxpayers must file a joint return to benefit from the exclusion for disability payments)

Mr. BUMPERS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Arkansas (Mr. BUMPERS) proposes an unprinted amendment numbered 2002.

Mr. BUMPERS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, add the following new section:

"SEC. ——. (a) Paragraphs (4) and (6) of subsection (d) of section 105 of the Internal Revenue Code of 1954, as amended by subsection (a) of section 505 of the Tax Reform Act of 1976, Public Law 94–455, approved October 4, 1976, are hereby repealed.

(b) Paragraphs (5) and (7) of subsection (d) of section 105 of the Internal Revenue Code of 1954, as amended by subsection (a) of section 505 of the Tax Reform Act of 1976, Public Law 94–455, approved October 4, 1976, are hereby renumbered (4) and (5).

(c) The amendments made by this section shall be effective as of the effective date of section 505 of the Tax Reform Act of 1976, Public Law 94–455, approved October 4, 1976.

Mr. BUMPERS. Mr. President, if I may have the attention of the floor manager for a moment, this amendment, in my opinion, rectifies what I think must be an omission in the present 1976 law.

It works like this:

Right now people who are totally disabled, under 65 years of age, are entitled to up to $5,200 a year in such pay exclusions. However, if a husband and wife combined have incomes exceeding $15,000 a year, the sick pay exclusion phases out, dollar for dollar, of every dollar they have in their income jointly in excess of $15,000.

Mr. President, the purpose of this requirement is unhappily clear. It apparently is designed to attribute to a taxpayer whatever income his or her spouse may have for the purposes of computing the $15,000 phaseout. The taxpayer loses the benefit of the exclusion.

I have a specific case; I will tell you quite frankly this was brought to my attention by a hardship case in my State. But my point is simply this: What we did in 1976 was to provide that the sick pay exclusion only counts if you file a joint return. So a wife who may literally contribute nothing to the support of her husband, who is totally disabled, may make $15,000 a year, and he may have an income of $5,200 a year, and he loses the entire sick pay exclusion. I cannot believe that the Senate or Congress intended that.

Second, they must file a joint return if they are living together. This is another one of those instances where we encourage people to live separate and apart. In the case I am talking about, the man is totally disabled, his wife has an income, and he loses the exclusion. But if he wants to move out of the house, they do not have to get a divorce, all they have to do is separate and live in separate houses, and he is entitled to the exclusion; and they may file separate returns.

What this amendment does is simply allow these people to file separate returns. It takes away the mandate that they file a joint return and attribute the wife's or husband's income to the other, depending on which one is disabled.

Incidentally, I might give you another illustration. I am sure there are some cases where both husband and wife are totally disabled. It is conceivable that each one of them would have a $15,000 income or, say, a $12,500 income, and jointly they would have $25,000 income. They would lose the entire $10,000 exclusion. And you know that when people are totally disabled, their medical expenses are exorbitant. It is, I think, a grievous injustice to these people, and I strongly recommend the amendment to my colleagues, and hope that the floor managers will be able to accept this amendment.

Mr. LONG. Mr. President, as the Senator has said, there is a problem in this area. He has made quite a good statement for his amendment. I cannot say that this is necessarily the answer to the problem; it is one answer to it.

If it be the judgment of the Senate that this matter should go to conference, I would be glad to discuss it with the House of Representatives and with the representatives of the Treasury in conference, and if we can work it out I would be glad to help solve the problem. Perhaps the amendment might be the answer. I regret to say that I am not that much of an expert on the problem. But there is a problem here, and I would be glad to consider it if the Senate would like to have it considered.

Mr. KENNEDY. Mr. President, will the Senator yield for a question?

Mr. LONG. Yes.

Mr. KENNEDY. Has the Treasury expressed an opinion on this amendment?

Mr. LONG. I am just not aware of the Treasury's position with regard to this, Senator.

Mr. KENNEDY. I have a paper provided by the Treasury, which indicates their opposition to it.

I have just come across this in the last minute or two. I wonder what the reaction of the committee was.

Mr. LONG. I must confess I was unaware of it. The Treasury did not show the Finance Committee or the Joint Committee on Taxation the courtesy of letting them know their views on this matter.

If the Senator from Massachusetts said they provided those views, then they did. He is much better informed than I. That being the case, I would urge the Senator to withhold his amendment.

Mr BUMPERS. I want to thank the Senator from Massachusetts for pointing out the compassion, concern, and sensitivity that the Treasury Department always shows in cases such as this. What they are saying is that the people who are fully able, healthy, able-bodied and making any amount of income they want to can file separate returns and take advantage of whatever loopholes there may be in the law to file separate returns, but if you happen to be disabled you have to file a joint return and lose your sick pay exclusion. What is $5,200 to people who are disabled?

I will tell you what, if I thought the Secretary of the Treasury had anything to do with what the Senator from Massachusetts read I would demand his resignation tmorrow. It is the most outrageous thing I ever heard of in my life.

I would hope that the committee will accept this amendment and at least take it to conference, get the Treasury Department to give it to the conference firsthand, let them tell the committee in conference that they are opposed to this amendment, that they are opposed to people who are disabled filing separate returns, which everybody who is able-bodied in this country is permitted to do.

Mr. LONG. Mr. President, I would hope that the Senator would withhold his amendment at this point.

Mr. BUMPERS. Mr. President, I withdraw my amendment without losing my right to reintroduce it during the course of this debate. I will contact the Treasury Department and I will do my very best to get them to reverse their position on this.

The PRESIDING OFFICER. The Senator from Arkansas has the right to withdraw his amendment. The amendment is withdrawn.

AMENDMENT NO. 3589

(Purpose: To extend the time within which charitable trusts may be reformed to qualify for the charitable deduction)

Mr. BUMPERS. Mr. President, I call up amendment No. 3589 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Arkansas (Mr. BUMPERS) proposes an amendment numbered 3589.

Mr. BUMPERS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, add the following new section:

SEC. . AMENDMENT OF GOVERNING INSTRUMENTS TO MEET REQUIREMENTS FOR GIFTS OF SPLIT INTEREST TO CHARITY.

(a) CHARITABLE LEAD TRUSTS AND CHARITABLE REMAINDER TRUSTS IN THE CASE OF ESTATE TAX.—The first sentence of paragraph (3) of section 2055(e) is amended to read as follows: "In the case of a will executed before December 31, 1977, or a trust created before such date, if a deduction is not allowable at the time of the decedent's death because of the failure of an interest in property which passes from the decedent to a person, or for a use, described in subsection (a) to meet the requirements of subparagraph (A) or (B) of paragraph (2) of this subsection, and if the governing instrument is amended or conformed on or before December 31, 1978, or, if later, on or before the 30th day after the date on which judicial proceedings begun on or before December 31, 1978 (which are required to amend or conform the governing instrument), become final, so that interest is in a trust which meets the requirements of such subparagraph (A) or (B) (as the case may be), a deduction shall nevertheless be allowed."

(b) CHARITABLE LEAD TRUSTS AND CHARITABLE REMAINDER TRUSTS IN THE CASE OF INCOME AND GIFT TAXES.—Under regulations prescribed by the Secretary of the Treasury or his delegate, in the case of trusts created before December 31, 1977, provisions comparable to section 2055(e)(3) of the Internal Revenue Code of 1954 (as amended by subsection (a)) shall be deemed to be included in sections 170 and 2522 of the Internal Revenue Code of 1954.

Mr. BUMPERS. I will do my best to explain this.

Mr. President, at the expense of getting a good editorial in the Washington Post in a couple of days about pork barreling and so forth, again, most of us perhaps do not admit it on the floor of the Senate but I am happy to admit that Arkansas College, a small college in the northern part of the State, which serves a very fine area of the State, was granted a substantial charitable bequest. But because they did not know about it until after December 31, 1977, they are now faced with the possibility of being liable for a $40,000 estate tax.

What I am asking is that they be allowed until December 31, 1978, to file suit to amend the charitable bequest, which they could have done, incidentally, last year, had they known about it because in 1977 we extended the time for amending charitable bequests to make these technical corrections to perfect the charitable bequest until December 31, 1977. I am asking that we extend that to December 31, 1978, to give this particular college an opportunity to file suit between now and the end of the year to perfect the imperfections of that charitable bequest and let this private college get the benefit of it. It is worth approximately $40,000 to it, and it is simple justice, simple equity. I hope the committee will accept it.

Mr. LONG. Mr. President, my information on this is that the Treasury does not oppose the Senator's amendment. This deals with a type of thing that has been done before. The last time it was done it was indicated that it was not intended to be done again. But it may be that the case the Senator had in mind might have such compelling merit that it has to be treated the same as others that have had the same consideration. If that were the case, perhaps it should be considered in line with others who had the same consideration in the past.

I am not aware of any Treasury opposition. As a matter of fact, since the last amendment came up I have been handed a Treasury sheet or a mimeographed sheet which says Treasury is not opposed to the Senator's amendment.

Mr. BUMPERS. I thank the Senator. I am sure the Senator will want to hear from the Senator from Massachusetts before he agrees to accept this amendment.

Does the Senator from Massachusetts want to speak?

Mr. KENNEDY. No.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BUMPERS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BUMPERS. Mr. President, before offering another amendment, I would like to ask the distinguished chairman if the proposed amendment which I have on file dealing with deferred compensation for physicians who perform services for the State has been discussed with the floor manager.

Mr. LONG. We simply do not have that information now, but if the Senator will bring it up tomorrow I believe we will have the information.

Mr. BUMPERS. I will not offer it at this time. I will offer it tomorrow. I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

UP AMENDMENT NO. 2003 (SUBSEQUENTLY NUMBERED AMENDMENT NO. 4008)

(Purpose: To provide for the current capital treatment of certain estimated losses experienced in connection with the loss of savings through fraud and mismanagement of an uninsured thrift institution)

Mr. DECONCINI. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Arizona (Mr. DECONCINI) proposes an unprinted amendment numbered 2003.

Mr. DECONCINI. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 383, between lines 8 and 9, insert the following new section:

SEC. 510. TREATMENT OF LOSS OF SAVINGS THROUGH FRAUD AND MISMANAGEMENT OF AN UNINSURED THRIFT INSTITUTION.

In the case of a taxpayer who establishes, to the satisfaction of the Secretary of the Treasury, the amount of the loss he may reasonably be expected to suffer in connection with his savings (whether in the form of demand or time deposits) in a thrift institution which was placed under a temporary receiver in December, 1975, and which, as of March 14, 1977, was being administered by trustees appointed by a judge of a United States District Court, the amount of the loss so established by the taxpayer shall, at the election of the taxpayer (made at such time and in such manner as the Secretary may require), be treated as a short-term capital loss from the sale or exchange of a capital asset suffered for the taxable year of that taxpayer beginning in 1977 for purposes of chapter 1 of the Internal Revenue Code of 1954. In the case of a taxpayer who has attained the age of 65 years before January 1, 1978, the provisions of section 1211(b)(2) of the Internal Revenue Code of 1954 (relating to limitations on capital losses for taxpayers other than corporations) shall be applied under the preceding sentence by substituting "$4,000" for "$2,000" where it appears in subparagraph (A). If the amount of such loss is finally determined to be smaller than the amount established by the taxpayer under the provisions of this Act, the difference between the two amounts shall be treated as income to the taxpayer, for purposes of such chapter, on the date of such final determination.

On page 129, after the item relating to section 509 of the bill, add the following new item:

"SEC. 510. TREATMENT OF LOSS OF SAVINGS THROUGH FRAUD AND MISMANAGEMENT OF AN UNINSURED THRIFT INSTITUTION.".

Mr. DECONCINI. Mr. President, this amendment will help to alleviate the hardships caused to depositors when Lincoln Thrift Association of Phoenix, Ariz., and U.S. Thrift Association of Tucson, Ariz., were placed under a temporary receiver, and ultimately a court appointed trusteeship.

My amendment, which is identical to S. 1261, that I introduced on April 16, 1977, directs the Secretary of the Treasury to allow individuals victimized by the Lincoln Thrift affair to recapture part of their losses through the application of various tax provisions. These individuals, primarily senior citizens who lost their life savings, would be permitted to treat their loss as a loss from the sale of exchange of a capital asset. The approach taken by this amendment is justified by the very unusual circumstances surrounding the Lincoln Thrift collapse and the large number of persons who will be unable to gain any relief in any other manner.

In addition, taxpayers would be able to declare the loss immediately rather than wait until their savings are declared worthless. Each taxpayer affected would be allowed to deduct up to $2,000 of losses against ordinary income. Another special provision for persons 65 years or older has been added, allowing them to deduct up to $4,000. As under current law, the individual would be allowed to carry the losses forward up to the total amount of the loss. In the event that the individual recovers more of the loss than anticipated, there is a recapture provision which treats the difference between the losses declared and the losses incurred as taxable income at the time of final disposition by courts.

Lincoln Thrift Association and U.S. Thrift Association, which had 66 branch offices in Arizona, raised $52,887,492 from about 20,000 investors. There were approximately 33,000 different accounts between the 2 thrift associations. They offered the public an opportunity to purchase essentially three types of securities in the form of interest bearing debt instruments: First, passbooks with interest generally at 6 percent; second, time certificates at between 1 to 4 years maturity at generally from 6½ percent to 8 percent; and third, subordinated notes from 8 percent to 9 percent with normaliy a 5 year maturity date. Within these classifications of security holders, there were variations on the particular terms of the debt instrument. All of these securities were registered under Arizona law. As of December 3, 1975, the thrift associations had outstanding securities in the following amounts:

	Lincoln Thrift	U.S. Thrft
Passbooks	$13,207,325	$3,728,008
Time certificates	22,915,000	8,578,500
Subordinated notes	6,780,000	3,077,500
Totals	42,902,325	15,384,008

Both thrift associations were qualified under Arizona law which allowed them to receive funds from investors and then reinvest the investors' funds. They were not regulated as such under Federal law and were not insured by an agency of the Federal Government.

In Arizona, thrift companies were regulated by the Securities Division of the Arizona Corporation Commission. Under Arizona law, restrictions were placed on the use which a thrift company can make of funds supplied by its investors. These restrictions, which were designed to uphold the safety and liquidity of the assets, included prohibitions against purchase of real estate, prohibitions of loans to officers and directors of the thrift association, prohibitions against unsecured loans, the limitation of loans to 2 years, and the maintenance of statutory reserves.

On October 29, 1975, the Securities and Exchange Commission commenced a formal investigation which was greatly assisted by the Arizona Corporation Commission and the Arizona Attorney General. The Commission filed a civil injunctive action in the United States District Court for the District of Arizona on November 24, 1975, against Lincoln Thrift Association; Lincoln Leasing Corp. (a wholly owned subsidiary of Lincoln Thrift Association); U.S. Thrift Association; U.S. Thrift Leasing Corp. (a wholly owned subsidiary of U.S. Thrift Association); Omaha Surety Corp. of Phoenix, Ariz.; Robert H. Fendler of Phoenix, the principal officer and director of the corporate defendants who owned and controlled both thrift associations; James R. Holman of Phoenix, Ariz., the attorney for the corporate defendants; and Leonard H. Forman of Phoenix, Ariz., the public accountant for the corporate defendants.

The complaint alleged that the defendants violated the antifraud provisions of the Federal securities laws in the offer and sale of the thrift certificates, thrift passbooks, and other debt instruments issued by Lincoln Thrift Association and U.S. Thrift Association. The complaint also alleged that the defendants did not use the investors' funds in the manner described in their prospectus and advertising, but instead, appropriated the investors' funds to finance their own speculative enterprises. The defendants were further charged with concealing the insolvent financial condition of the respective thrift associations from investors by preparing and distributing false financial statements.

In addition, the complaint alleged that the defendants misrepresented the safety of the investment by falsely stating the adequacy of the insurance which was purported to protect deposits in the thrift associations. This purported insurance was provided by Omaha Surety Corp. of America, an undisclosed affiliate of both Lincoln Thrift Association and U.S. Thrift Association. The assets of Omaha Surety Corp. of America were insufficient to cover the insurance written and were composed of receivables from the thrift associations. The insurance purported to have terms which resembled insurance provided by the Federal Deposit Insurance Corporation. In addition to seeking an injunction to prevent future violations of the Federal securities laws, the Securities and Exchange Commission asked the court to appoint an equity receiver to take charge of the assets of the thrift associations in order that all investors could be treated equally.

The Honorable Walter E. Craig, United States district judge, entered a temporary restraining order immediately which prevented the withdrawal of funds from the thrift associations and the dissipation of any assets by the defendants or the destruction of any documents pending further hearings on the matter. A hearing was held on November 26, 1975, and evidence was submitted with respect to the violations of the law and the appropriateness of the appointment of a temporary receiver for the corporate defendants. After hearing the evidence, the court continued the temporary restraining order until December 2, 1975, and ruled that a temporary receiver would be appointed at that time. On December 2, the court appointed Continental Service Corp., a subsidiary of the Continental Bank of Phoenix, Ariz., as the temporary receiver.

The temporary receiver's duties under the court order were to conserve and marshal the assets of Lincoln Thrift Association, U.S. Thrift Association, and their numerous subsidiaries for the bene-

fit of investors and to report to the court the true condition of the companies.

On March 15, 1976, the temporary receiver and its auditors filed a three-volume report with the court. This report stated that Lincoln Thrift Association, U.S. Thrift Association and their numerous subsidiaries and affiliates as of December 3, 1975, on a consolidated basis, had total assets of $38,028,204 and total liabilities of $69,183,983. These liabilities include $52,887,204 due to investors.

Additionally, the report revealed that the thrift associations were operated in violation of virtually every regulation under the Arizona State Thrift Company Act. The thrift associations' statutory reserves were not maintained in Government securities or cash as required to insure liquidity, but were invested in affiliated companies. That is, the statutory reserves in U.S. Thrift Association consisted of investments in Lincoln Thrift Association and its subsidiaries. Conversely, the statutory reserves for Lincoln Thrift Association consisted of investments in U.S. Thrift Association and its subsidiaries. Since each entity was insolvent, the statutory reserves were worthless. The proceeds from the sale of the securities were illegally invested in real estate, illegally loaned to officers and directors of the thrift associations and illegally loaned in unsecured transactions or in transactions in excess of 2 years. Investors' funds were unlawfully used by the thrift associations for operating overhead, salaries, and other business expenses.

As the result of the insolvency of the two thrift associations and the mismanagement by former officers and directors, the temporary receiver recommended that the assets of the thrift associations remain under court supervision. Negotiations with the defendants resulted in their consenting to the entry of an order appointing an independent board of trustees and special counsel for the thrift associations on May 7, 1976. At the same time the court entered a consensual permanent injunction against further violations of the antifraud provisions of the Federal securities laws against Robert H. Fendler, Lincoln Thrift Association, U.S. Thrift Association, Lincoln Leasing Corp., U.S. Thrift Leasing Corp., and Omaha Surety Corp. of America.

Mr. President, I might add, that in light of the developments relative to Lincoln Thrift and U.S. Thrift Associations, which were the only thrift associations operating in Arizona, the Arigona State Legislature has repealed the Thrift Company Act.

The trustees are charged with managing the remaining assets of the companies in the best interests of the investors and are required to report to the court the best methods of either liquidating or reorganizing the companies.

To date, three partial returns of depositors' investments have been distributed. In July of 1977, investors received a 10 percent return; 7 percent was returned in December of 1977; and in July of 1978, an additional 8 percent was returned. Thus, most depositors of Lincoln Thrift Association and U.S. Thrift Association have had 25 percent of their investments returned. The board of trustees has projected that upon final settlement, depositors will have had returned to them between 35 and 40 percent of their investment. Further, it is estimated, that final settlement of depositors claims is at least 2 years in the future.

This bill is an attempt to provide a measure of immediate relief to those depositors who have financially suffered from this thrift fiasco. Families had deposited their entire life's savings, as much as $25,000 or $35,000, with dreams of realizing a secure retirement, only to discover their dream had vanished because of the fraudulent practices of these thrift companies. Well over 50 percent of the depositors are 65 years of age, or older, with many on fixed income, such as social security.

Obviously, all depositors will not receive the benefits of this proposed legislation, only those with a taxable income. But enactment will be a direct message from the United States Congress to the 20,000 depositors of U.S. and Lincoln Thrift that we are concerned about their welfare, that we do have a humane interest in their financial difficulties, and that we are responsive to their needs.

In conclusion, I want to quote a portion of a letter from a retired citizen of Sun City, Ariz., that further demonstrates the necessity for such legislation:

> As you well know many folks in Arizona have lost money because of either Lincoln Thrift or U.S. Thrift. It has now been over a year that our money has been held up and goodness only knows when ever a fraction thereof will be released to us. In addition it would appear that that fraction will be rather small. According to current rulings of the IRS we cannot take any credit on our income tax until that fraction is finally determined. Some of us may even die before that figure is determined. Even a ten or twenty percent credit would be wonderful if we were allowed to claim same on our 1976 tax returns and to do it now.

Mr. President, I urge my colleagues to support this measure.

I have discussed this with the manager of the bill.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. LONG. Mr. President, this amendment would permit depositors who suffered a loss of all or part of their savings in a thrift institution——

Mr. KENNEDY. Mr. President, I cannot hear. May we have order in the Chamber?

The PRESIDING OFFICER. The point of order is well taken. The Senate will be in order.

The Senator from Louisiana.

Mr. LONG. Mr. President, the amendment would permit depositors who suffered a loss of all or part of their savings in a thrift institution to elect to deduct the estimated loss for their taxable year beginning in 1977, even though the amount of the loss has not been finally determined by the end of that year.

In addition, depositors who are 65 before January 1, 1978, could deduct up to $4,000 of the loss against the ordinary income for 1977 rather than $2,000.

The amendment would apply only to depositors in a thrift institution which was placed under a temporary receiver in December 1975, and which, as of March 14, 1977, was being administered by trustees appointed by a judge or U.S. district court.

Mr. President, we are not aware and have not been informed of the Treasury position on this matter. It may be that some other Senator might have been, but we have not.

Has the Senator from Arizona been informed of any Treasury objection?

Mr. DECONCINI. No, I have not.

Mr. LONG. We are not aware of it. We just do not have it.

Mr. KENNEDY. Did the Senator read what the Treasury's position has been?

Mr. LONG. I do not know the Treasury's position on the amendment. As far as we are concerned, I personally have no objection to the amendment. If it be the judgment of the Senate that the Senate should accept the amendment, we will discuss it in conference. Perhaps we shall find out what Treasury thinks about it at that point. The amendment does have merit and I am sure that some arguments can be made both ways on it. It is a matter that we could discuss in conference if it be the judgment of the Senate that we should agree to the amendment.

Mr. KENNEDY. Mr. President, it is my understanding that Treasury is opposed to this amendment.

Mr. LONG. The Senator from Massachusetts might very well have more information about the Treasury position than we have. We have had the good fortune of obtaining, since we discussed the first Bumpers amendment, a mimeographed sheet from the Treasury which indicated that the Treasury does not support it. It does not explain the reason. It says the Treasury does not support the first Bumpers amendment. That was not available to me and, so far as I know, it was not available to our staff, when Mr. BUMPERS brought up his amendment.

Mr. KENNEDY. Mr. President, I think that with any general legislation, there are a number of worthwhile and valuable special provisions that ought to be favorably considered by the Senate. But I think that we ought to know on each of these occasions who the beneficiaries are and what the position of the Treasury is on each of those, so that the Members of the Senate have that information. I have reservations about considering items such as this unless we have a position from the Treasury. I hope that we shall not consider this amendment further this evening until we get the reaction of the Treasury. Then the Senate will be on notice and can work its will.

Mr. LONG. Mr. President, we cannot consider objected-to amendments this evening and I hope the Senator will withhold his amendment at this point and perhaps we can consider it at a later date. Perhaps at that point, we might have an expression from the Treasury.

Mr. DECONCINI. If the Senator from Louisiana will yield, I should be glad to explain to the Senator from Massachusetts who is involved here: About 20,000 depositors, over 50 percent of them 60

years or older, who have invested in what is known as the Lincoln Thrift Association, uninsured. They have lost all their savings and this would only give them the ability to deduct some of those losses against their income tax and if, in fact, which is very doubtful, there is any recapture, they would have to pay it back to the receivership. But that is not going to happen.

The estimated amount of possible revenue involved in the Treasury is $200,000. These are senior citizens who, most of them, have moved to Arizona from Massachusetts, Iowa, and other fine States. The institution was closed due to fraud and the president has been convicted of criminal fraud and is awaiting sentencing pending appeal.

This is, I should think, worthy enough, with the kind consultation of the chairman of the committee, to take it to conference and see what can be worked out. If nothing, we shall have to come back next year.

I appreciate immensely the willingness of the distinguished Senator from Louisiana to do that for these people. It is the only relief I can get. I cannot get anything else under criminal sanctions that have been imposed against the officers.

This is something that is a real humanistic problem, with senior citizens who invested and have nothing, nothing at all.

I hope the Senator from Massachusetts can see his way clear to letting the committee accept this amendment and see what can be done in the conference committee.

(Mr. MORGAN assumed the chair.)

Mr. METZENBAUM. Mr. President, it seems to me if there are depositors in a thrift association who will lose their funds, A, they would normally be in a position to write off a portion of those funds under the tax laws; second, if that is not the case or there is something special about this case, it occurs to me that we would be setting a dangerous precedent here this evening to say that depositors in one particular thrift association can be treated especially, because I am certain that many other financial institutions in the country have found themselves in a position of insolvency.

I think at 10:05 in the evening, we ought not to accept an amendment of this kind without really understanding what its total implications are—not just for those who are involved in this situation, but to see to it that we are not setting a precedent for others without any rhyme or reason for doing so.

I hope that the chairman of the Committee on Finance will not see fit to accept the amendment under these circumstances.

Mr. LONG. Mr. President, I regret that we are compelled to do business in the way that we are. I do not complain about it. It is one of those things that happens all the time. If I had my way, we would be proceeding through this bill in sequence; we would be moving title by title and everybody would be in a position to know what we are going to consider next. That being the case, we could do business in a much more orderly fashion and be better advised, both from the Treasury's point of view and anyone else's who wanted to make his point of view known.

I think the Senate knows that the manager of the bill sought consent that we proceed title by title, proceed in sequence. That consent was not given. That being the case, we are compelled to go on a catch-as-catch-can basis. Under the circumstances, when an unprinted amendment is offered, those at Treasury have the right to complain that they did not know about the amendment, did not know it was going to be offered, only learned about it recently and were not in a position to react. So, under the circumstances, I am now informed that the Treasury does oppose the amendment.

I hope that perhaps the Senator can discuss this matter with those who represent the Treasury during the next day or so and perhaps he could work out something with them that they will not object to. Under the circumstances, I regret to say that we shall have to urge the Senator to withhold the amendment.

Mr. DECONCINI. Mr. President, if the Senator will yield, I shall agree to withdraw this amendment if I can have unanimous consent that it can be brought up again on a time limitation basis prior to passage. I would be glad to have a half hour, no longer than a half hour, or 1 hour. If I can get such a unanimous-consent agreement, I shall be glad to do that.

Mr. LONG. I have no objection, I say to the Senator. I hope very much that the matter can be worked out.

Mr. DECONCINI. Mr. President, I ask unanimous consent that the pending amendment be withdrawn, with the understanding and unanimous consent of this body that it can be brought up prior to passage, with not more than 1 hour of debate.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The amendment was withdrawn.

UP AMENDMENT NO. 2004

(Purpose: To amend the source of income rules of the Internal Revenue Code so as to permit the more efficient use of railroad rolling stock)

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. PERCY. Mr. President, I send to the desk an amendment and ask that it be considered.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Illinois (Mr. PERCY) proposes an unprinted amendment numbered 2004.

Mr. PERCY. I ask unanimous consent that further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 341, line 12, insert the following:

SEC. 380. INCOME FROM CERTAIN RAILROAD ROLLING STOCK TREATED AS INCOME FROM SOURCES WITHIN THE UNITED STATES.

(a) GENERAL RULE.—Section 861 of the Internal Revenue Code of 1954 (relating to income from sources within the United States) is amended by adding at the end thereof the following new subsection:

"(f) INCOME FROM CERTAIN RAILROAD ROLLING STOCK TREATED AS INCOME FROM SOURCES WITHIN THE UNITED STATES.—

"(1) GENERAL RULE.—For purposes of subsection (a) and section 862(a), if

"(A) a taxpayer leases railroad rolling stock which is section 38 property (or would be section 38 property but for section 48(a)(5)) to a domestic common carrier by railroad or a corporation which is controlled, directly or indirectly, by one or more such common carriers, and

"(B) the use under such lease is expected to be used within the United States,

all amounts includible in gross income by the taxpayer with respect to such railroad rolling stock (including gain from sale or other disposition of such railroad rolling stock) shall be treated as income from sources within the United States. The requirements of subparagraph (B) of the preceding sentence shall be treated as satisfied if the only expected use outside the United States is use by a person (whether or not a United States person) in Canada or Mexico on a temporary basis which is not expected to exceed a total of 90 days in any taxable year.

"(2) PARAGRAPH (1) NOT TO APPLY WHERE LESSOR IS A MEMBER OF CONTROLLED GROUP WHICH INCLUDES A RAILROAD.—Paragraph (1) shall not apply to a lease between 2 members of the same controlled group of corporations (as defined in section 1563) if any member of such group is a domestic common carrier by railroad or a switching or terminal company referred to in subparagraph (B) of section 184(d)(1).

"(3) DENIAL OF FOREIGN TAX CREDIT.—No credit shall be allowed under section 901 for any payments to foreign countries with respect to any amount received by the taxpayer with respect to railroad rolling stock which is subject to paragraph (1)."

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendment made by subsection (a) shall apply to all railroad rolling stock placed in service with respect to the taxpayer after the date of the enactment of this Act.

(2) ELECTION TO EXTEND SECTION 861(f) TO RAILROAD ROLLING STOCK PLACED IN SERVICE BEFORE DATE OF ENACTMENT.—

(A) IN GENERAL.—At the election of the taxpayer, the amendment made by subsection (a) shall also apply, for taxable years beginning after the date of the enactment of this Act, to all railroad rolling stock placed in service with respect to the taxpayer on or before such date of enactment. Such an election may not be revoked except with the consent of the Secretary of the Treasury or his delegate.

(B) MANNER AND TIME OF ELECTION AND REVOCATION.—An election under subparagraph (A), and any revocation of such an election, shall be made in such manner and at such time as the Secretary of the Treasury or his delegate may by regulations prescribe.

Mr. PERCY. Mr. President, as I understand it, there is no objection from the Treasury Department to this amendment and it is acceptable to the floor managers of the bill.

The purpose of the amendment is to remove the existing obstacle to the free flow of leased railroad rolling stock between the United States, Canada, and Mexico which is caused by the source of income rules of the Internal Revenue Code. This will permit U.S. railroads to obtain greater utilization of their existing supply of equipment and to route their traffic in the fastest and most efficient manner. Such an improvement in

efficiency is especially important at the present time, when rolling stock is in short supply.

The amendment will permit leased rolling stock to be treated on a par with aircraft and ships. Under existing law, lessors of aircraft and ships are given an election to treat all income from the rental of ships and aircraft as from sources within the United States. The amendment would provide for similar treatment in the case of railroad rolling stock which is leased to a U.S. railroad or a corporation which is controlled by one or more U.S. railroads. However, the new source of income rules would only apply where the rolling stock is to be used outside the United States on a temporary basis—less than 90 days in a taxable year.

The substantive provisions of the amendment were adopted by the House of Representatives last week, after hearings held by the Ways and Means Committee. The only reason that this matter was not considered by the Finance Committee was that it arrived on this side of the Hill too late to be considered in the Finance Committee's markup of H.R. 13511.

The amendment is noncontroversial; it has been approved by the Department of Transportation and not opposed by the Treasury Department. It is also supported by the railroads, particularly those located close to the border between Canada and the United States and whose business involves a significant amount of traffic to and through Canada.

Last, but certainly not least, the adoption of the amendment will not result in a significant decrease in revenue. Under existing law, leased rolling stock which would be subject to the amendment does not, as a practical matter, travel outside the United States. Thus the income from such cars is presently U.S. source income. The amendment merely permits a lessor to continue to treat the income from such cars as U.S. source income, even though the cars may be temporarily outside the country. Thus, there will be no significant loss of revenue.

Mr. LONG. Mr. President, this bill does not result in any significant revenue loss. The amendment was passed by the House on H.R. 12352, and it is not opposed by the Treasury.

The amendment provides that the income or loss from rental of the railroad rolling stock is to be U.S. source income or loss if the rolling stock is not used outside the United States, except on a temporary basis not expected to exceed 90 days.

This modification would prevent the potential loss of lessors' foreign tax credits.

Personally, I have no objection to the amendment.

Mr. PERCY. I thank my distinguished colleague.

I have no further comments to make.

Mr. HATHAWAY. Will the Senator yield?

Mr. PERCY. Yes.

Mr. HATHAWAY. Will the Senator add my name as a cosponsor of the amendment?

Mr. PERCY. Of course.

The PRESIDING OFFICER. The Senator's name will be added.

Mr. KENNEDY. Mr. President, what is the loss? As I understand it, this is the similar rule used for airlines and ships and is now being extended to the railroad cars?

Mr. PERCY. That is right.

Mr. KENNEDY. What is the revenue loss?

Mr. PERCY. The only comment the Senator from Illinois could obtain on this from either the House or the Treasury Department was that there is not a significant decrease in revenue.

It may be something, but it is insignificant.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. DANFORTH. Mr. President, has the previous bill been disposed of?

The PRESIDING OFFICER. No.

The question is on agreeing to the amendment——

Mr. PERCY. The Senator from Illinois would like a vote on this amendment, and then he has an additional quick amendment, then he will finish his business.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Illinois.

The amendment (UP No. 2004) was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 2005

(Subsequently numbered Amendment 4009)

(Purpose: to change the period for the payment of taxes under Section 416(a))

Mr. PERCY. Mr. President, I send my last amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Illinois (Mr. PERCY) proposes an unprinted amendment numbered 2005.

Mr. PERCY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment is as follows:

On page 383, between lines 8 and 9, insert the following:

"SEC. 510. TIME FOR PAYMENT OF MANUFACTURERS EXCISE TAX ON RODS, CREELS, ETC.

(a) IN GENERAL.—Section 6302 (relating to mode or time of collecting tax) is amended by adding at the end thereof the following new subsection:

"(d) TIME FOR PAYMENT OF MANUFACTURERS EXCISE TAX ON RODS, CREELS, ETC.—The tax imposed by section 4161(a) (relating to manufacturers excise tax on rods, creels, etc.) shall be due and payable—

"(1) in the case of articles sold during the quarter ending December 31, on March 31,

"(2) in the case of articles sold during the quarter ending March 31, on June 30,

"(3) in the case of articles sold during the quarter ending June 30, on September 24, and

"(4) in the case of articles sold during the quarter ending September 30, at such time as the Secretary may by regulations prescribe.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) of this section shall apply to articles sold after December 31, 1978.

Mr. PERCY. Mr. President, this amendment would simply postpone the payment of the manufacturers' excise tax on fishing equipment. It would not reduce the taxes presently paid. Rather it would help a small domestic industry which has a uniquely seasonal character.

This change in the excise tax payment date will not affect general revenues in any way. The funds collected through this excise tax have since 1952 been used to support the Federal aid and fish restoration program which is used in conservation and fish restoration efforts throughout the United States. The industry supported the creation of this program and the excise tax that makes it possible and continues this support for the tax today. These small businesses are concerned, however, about the timing of the collection.

The House Ways and Means Committee held hearings on this bill last year and reported it to the floor earlier this year. The committee, in its report, specifically stated that the bill would "not affect the aggregate fiscal year collection of the manufacturers excise tax on fishing equipment." There will be no cost to the public.

Under the present law, sales of fishing rods, creels, reels, and artificial lures are subject to a 10 percent manufacturers' excise tax. Treasury regulations require that the excise tax must be paid at certain times, if the sales for a period exceed $2,000. Specifically, when the liability for all excise taxes—reported on IRS form 720—exceeds $2,000 for any month in the preceding calendar quarter, the manufacturer must pay the taxes on a semimonthly basis within 9 days after the close of the period involved.

Consequently, payment corresponds with time of shipment. Time of payment in the fishing equipment business, however, is often months later. In fact, fishing tackle manufacturers do not historically receive payment until 5 months after shipment has occurred.

Basically, the tackle manufacturers' cycle begins with product development during the summer months, followed by order-taking in late summer and shipments starting in October and continuing through March. To induce distributors to purchase equipment throughout the year and thereby make efficient use of their plants and maintain employment levels, virtually every member of the industry offers extended credit terms.

Mr. President, as a result of these factors, the fishing tackle industry—which is composed mostly of small businesses—must use short-term financing to pay this excise tax. In its committee report to H.R. 6853, the Ways and Means Committee concluded that:

This payment problem is unique to the fishing equipment industry. . . .

My amendment would delay the excise tax so that it would be payable on March 31 for articles sold during the quarter ending December 31; on June 30 for

articles sold during the quarter ending March 31 and on September 24 for articles sold during the quarter ending June 30. No change would be made for articles sold during the last quarter of the calendar year but the Treasury could change the regulations for this quarter of the Secretary felt it appropriate to do so.

Mr. President, the delay in the payment of this excise tax will remove a real burden from the backs of America's small businesses engaged in the manufacture of fishing equipment, without costing the taxpayers a dime. I urge my colleagues to support this amendment, which embodies the text of a bill Senator NELSON introduced this year and of which Senator BELLMON and I are cosponsors.

Mr. President, I ask unanimous consent to add the distinguished Senator from Michigan (Mr. GRIFFIN) as a cosponsor of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Will the Senator yield?

Mr. PERCY. I am happy to yield.

Mr. STEVENS. Did I understand the Senator to say the net receipts to the Treasury in any fiscal year will not be affected by the Senator's amendment?

Mr. PERCY. They are not affected at all.

What this will do, however, let us be sure we understand this, it will save these small manufacturers the cost of borrowing money for a period of 4 or 5 months.

They will borrow the money to pay the Treasury and pay probably 11 percent, 12 percent, 12.5 percent interest for those 4 or 5 months.

They, themselves, do not receive payment.

The Senator from Illinois was in a business that was highly seasonal and every attempt was made to maintain steady employment with 50 percent of the sales occurring at Christmas time.

It is much more economical to keep the people in the factory, keep production under way, keep employment going throughout the course of the year.

In the fishing industry, they make the shipments, and the dealers carry the inventory in their stock, but they do not pay for it until later.

Mr. STEVENS. I say to the Senator that any business that is on an accrual accounting system will have the same situation develop. When our timber people cut timber and they send it out of our State, they still pay their taxes on an accrual basis, and they pay them within a taxable year.

I want to make certain, because the moneys the Senator is talking about are distributed to the conservation fund, that the payments into the fund, according to Senator's amendment, would be the same in that fiscal year. Is that correct?

Mr. PERCY. That is correct.

Mr. STEVENS. Can the Senator tell me what happened to the bill in the House?

Mr. PERCY. The Senator from Illinois understands that it was reported in April but was never brought to a vote on the floor.

Mr. STEVENS. I am not going to oppose it. I hope that if it is adopted, the Senator will not move to reconsider. We handled this as a part of the budget in our subcommittee and the Appropriations Committee. I would have liked to have had a chance to look this matter over. I am not certain that it is as uncontroversial in terms of its impact on the program as the Senator feels. I think it may be setting a precedent. In terms of handling businesses which should be dealing on an accrual basis, that may be very difficult for us to handle in this field.

I understand the Senator's position with regard to it, but I have a little difficulty with this.

Mr. PERCY. As authority for the fact that this is a unique situation, the Senator from Illinois uses the report from the Ways and Means Committee, report to H.R. 6853. The report says:

This payment problem is unique to the fishing equipment industry.

In the experience of my distinguished colleague from Alaska, when shipments are made by the timber industry, is it not true that they are billed as they are made and payment is received by the timber industry?

In this case, in order to keep manufacturing level throughout the course of the year despite the highly seasonal nature of the sales, the industry, as a matter of trade practice, does not bill the customer for it until 5 months later, when the customer actually is making sales himself.

When interest costs were 3, 4, or 5 percent, a small business man could afford to do that. But many times, the profit margins of a small business person are not more than 4 or 5 percent. If they are paying 12 percent or 12.5 percent for their money, for a period of 5 months, that could wipe out the profits of this particular industry.

Mr. STEVENS. I say to the Senator that I do not know the circumstances. I do not oppose the Senator's amendment. I hope it is adopted. It is based on a report of the House.

I hope that out of courtesy to those of us who handle the area, if it is adopted, we will wait until tomorrow to have it reconsidered, if that is required.

Mr. MOYNIHAN. Mr. President, I am required to say that the Treasury Department at this time cannot support the amendment of the Senator from Illinois.

The general proposition, as I understand it, is that this is an industry whose credit practices are somewhat different from the general industrial norm, which does not commend itself to the Treasury as the case for making an exception with respect to a general tax practice.

I believe it would be the desire of the managers of the bill that the Senator from Illinois, who clearly knows a great deal more about this than does the Senator from New York, might be willing to discuss it with the Treasury and come back to the matter when perhaps a common position has been reached.

Mr. PERCY. Perhaps my distinguished colleague, the floor manager of the bill, will consider this: Let us have a vote on this; but the Senator from Illinois, as a courtesy to the distinguished Senator from Alaska and to any other Senator who would want to study this matter, would not move to reconsider it, and it could be brought up and reconsidered at any time.

Mr. MOYNIHAN. I would be happy to do that—it is a reasonable thought—if the Senator would understand that if the Treasury continues to oppose, the senior manager of the bill might feel called upon to object to reconsideration.

Mr. PERCY. With that understanding, there is no problem with that.

The Senator from Illinois has not talked personally to the Treasury about this matter. I would be very happy to discuss this question with them; and the Senator from Illinois may seriously object and have a feeling—not because the amounts here are nothing, but if they think it would set a bad precedent that others would want to follow, then the Senator from Illinois would have to give full consideration to that.

The Senator from Illinois is relying upon the House Ways and Means Committee report that this is a unique problem to the fishing industry.

Mr. MOYNIHAN. Mr. President, I believe I will have to withdraw the proposal I have just made. The Treasury opposition is of an order that makes the chairman of the committee feel that it would not be proper to proceed at this time.

Mr. PERCY. In that event, Mr. President, because of the lateness of the hour and the number of my colleagues who have other amendments they wish to offer—it is now 10:30 in the evening—the Senator from Illinois asks unanimous consent to withdraw the amendment. He would like to discuss this matter with the Treasury Department and see whether or not we can gain their support for it.

The PRESIDING OFFICER. The amendment is withdrawn.

UP AMENDMENT NO. 2006

(Purpose: To extend through 1979 the treatment of National Research Service Awards as scholarships under Section 117)

Mr. JAVITS. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from New York (Mr. JAVITS), for himself and Mr. HATHAWAY, offers an unprinted amendment numbered 2006.

Mr. JAVITS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 211, strike lines 14 through 24 and insert the following:

SEC. 161. CERTAIN GOVERNMENT SCHOLARSHIP AND AWARD PROGRAMS.

(a) GOVERNMENT HEALTH PROFESSION SCHOLARSHIP PROGRAMS.

Subsection (c) of Section 4 of the Act entitled "An Act to suspend until the close of June 30, 1975, the duty on certain carboxymethyl cellulose salts, and for other purposes" (Public Law 93-483; 88 Stat. 1457) approved October 26, 1974, is amended—

(1) by striking out "1979" and inserting in lieu thereof "1980", and

(2) by striking out "1983" and inserting in lieu thereof "1984".

(b) NATIONAL RESEARCH SERVICE AWARDS.

(1) GENERAL RULE.—Any amount paid to, or on behalf of, an individual from appropriated funds as a national research service award under section 472 of the Public Health Service Act shall be treated as a scholarship or fellowship grant under section 117 of the Internal Revenue Code of 1954.

(2) EFFECTIVE DATE.—The provisions of subsection (b) shall apply to awards made during calendar years 1974 through 1979.

Mr. JAVITS. Mr. President, this is an amendment to extend the treatment of National Research Service Awards as scholarships, and therefore nontaxable, under section 117 of the Code.

Mr. President, this amendment relates to National Research Service Awards which are awarded to our brightest people in the health professions, to pursue basic research. It seeks to exempt from taxation this financial assistance, this expenditure for assistance for education and living expenses. The grantee agrees to work in health research for a period of years after completion of education.

This measure is included in H.R. 9251, which relates to another matter—to wit, the taxation of Americans living abroad, on which the conferees have been unable to agree. Therefore, it is hung up in that bill.

Because Congress has established the National Research Service Awards to encourage individuals to pursue basic research so vital to our Nation's health, I believe it is important not to provide a disincentive to participation in the program through taxation of the grant. I understand, however, that the Joint Committee on Internal Revenue Taxation and others are studying the issue of the appropriate tax treatment for scholarships and other grants. Therefore, my amendment covers awards made only through 1979, rather than the permanent exclusion which I would prefer.

My amendment makes only one minor modification of the Senate-passed measure in H.R. 9251. Whereas H.R. 9251 provides scholarship treatment only through 1979, my amendment would provide such scholarship treatment for awards made through 1979. This change gives certainty to students that receive an award of 2 or 3 or 4 years' duration that the tax treatment will not be changed while they are in the middle of their programs. This certainty is important, for many students on tight budgets would be forced to drop from the program because they were unable to meet the additional tax burden that would arise.

The committee bill provides this same certainty for participants in the Public Health Service and Armed Forces programs by extending tax-exempt treatment through 1983 for students entering the program through 1979. Because the Public Health Service/Armed Forces programs are generally 4 years whereas the National Research Service Awards are frequently postdoctoral and therefore of varying durations, I have placed no outer limit on the exemption. Rather, the limit will be the duration of the award, which in most if not all cases will be less than the 4 years provided for the Public Health Service/Armed Forces awards.

It is my understanding that there is no objection to this effort to encourage our young people—as we are encouraging them in the Public Health Service and Armed Forces programs—in order to induce them to undertake this kind of work.

I urge my colleagues to accept this amendment.

Mr. LONG. Mr. President, is this an unprinted amendment which the Senator is offering?

The PRESIDING OFFICER. That is correct.

Mr. LONG. Mr. President, I hope the Senator will let his amendment be printed and let this matter go over. Then we will be in a position to obtain the position of those in the Treasury, and we will be in a position to be better informed about the amendment.

I am informed that this is essentially the same thing that the Senate has passed in H.R. 9251, so that what the Senator is offering has been expressed as the will of the Senate on a previous occasion.

Mr. JAVITS. That is the reason I offered it. I was going to say that. I gather that it has gone through the scrutiny that is required for all these amendments.

Mr. LONG. I understand that the Treasury does not oppose this amendment. Mr. President, and I have no objection to it. The Senate having passed it before, I have no objection.

The PRESIDING OFFICER. (Mr. HODGES). The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. JAVITS. Mr. President. I move to reconsider the vote by which the amendment was agreed to.

Mr. LONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Missouri.

UP AMENDMENT NO. 2007

(Purpose: Bondholder Taxable Option)

Mr. DANFORTH. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Missouri (Mr. DANFORTH) proposes an unprinted amendment numbered 2007.

Strike page 289, line 1 through page 296, line 6.

Mr. DANFORTH. Mr. President, when the Finance Committee met last week to mark up the tax bill it approved a proposal of mine which will have a major impact on the municipal financing. I am referring to the bondholder taxable bond option contained in section 336 of the bill and described on pages 143 through 150 of the Finance Committee report.

This provision, I am convinced, will be of immense value to all State and local governments by reducing their costs of borrowing and improving the efficiency of the municipal bond market. At the same time, the proposal will improve the horizontal and vertical equity of our Federal tax structure.

My proposal will accomplish the reduction of municipal borrowing costs—but avoid all the potential fears expressed by local government officials and the securities industry when the administration proposed its taxable bond option earlier this year.

Unfortunately, my proposal did not receive much notice until this past week. My staff has made dozens of calls for the offices of mayors and Governors across the country in attempt to explain the important differences between this proposal and the administration's original proposal. Municipal security analysts, were consulted.

At this point, let me quote from several of the letters I have received on the proposals:

U.S. Treasury Department: We support this proposal. This provision would not mean any increased Federal involvement in State and local financing. But it would help State and local governments by making their bonds more attractive to persons in income brackets that are not high enough to justify investment in tax-exempt issues. This provision would improve municipal financing prospects and would also enhance the equity of the income tax system.

Public Securities Association: We understand that the proposal is intended to achieve several objectives, including reducing the cost of State and local government borrowing and improving the efficiency of the municipal bond market. PSA supports these important objectives, but in view of the potential broad impact of the proposal, we believe that detailed industry analysis of it is appropriate.

National Governors' Association: You have broken new ground on the crucial issue of State and local financing, and we support further study of your idea.

When I brought this matter up in committee I indicated that I would personally withdraw the amendment on the floor if substantial opposition arose. Although, no one has raised substantive objections, there does appear to be great concern that we not pass this proposal in a rush to adjourn without the benefit of careful consideration and study.

I understand this reasonable reaction to a proposal that would have such a major impact—no matter how beneficial that impact might be. It is for these reasons that I offer this amendment to strike section 336 from the bill and request that a study be made of the proposal to be completed early in the next session, hopefully by the Joint Committee on Taxation. I am also seeking the chairman's assistance to schedule a hearing in the Finance Committee early in the next session so that this proposal can receive prompt and careful consideration.

Mr. LONG. Mr. President, I applaud the Senator's decision to move to strike his own amendment in order that it can receive more thorough consideration in depth.

As the Senator knows the Treasury favors the amendment and feels that it is a significant step forward, but the Senator is wise, in my judgment, to be cautious and to be sure that all who

might have a concern about the matter have an opportunity to be heard and make their position clear.

I honestly believe that is the best way to be sure we are passing good legislation and not doing something we might later regret.

Mr. DANFORTH. I wonder if I could secure some kind of agreement that perhaps the Joint Committee on Taxation could analyze this and maybe we could have a hearing on it in the Finance Committee some time early next year.

Mr. LONG. The Senator may be sure that the staff will be happy to assist him, and I have no doubt we can arrange for a hearing. Perhaps it will by the Taxation Subcommittee, but we can work it out and have a hearing and invite those interested to make their views known.

Mr. DANFORTH. Fine.

Mr. KENNEDY. Mr. President, will the Senator just yield for a brief comment?

Mr. DANFORTH. I yield.

Mr. KENNEDY. I commend the Senator for pressing this particular proposal forward.

As the Senator knows, the taxable bond option was a concept which was accepted in 1969 by the House of Representatives.

One of the distinguished Members, Congressman REUSS, has been pressing this for a number of years.

I believe that it offers a very creative, imaginative way of providing new capital opportunities for municipalities and for other governmental groups.

I think it is an imaginative, creative idea, and I just commend the Senator for moving it forward and join with him in hoping we can come up with a proposal that is going to permit the formulation of new capital for many of the communities.

I think many of the municipalities have not understood this as clearly as the Senator, and I think it is a very worthy and commendable idea. I just commend the Senator and indicate that I am very hopeful that the final result will be the kind of constructive, positive action the Senator desires.

Mr. DANFORTH. I thank the Senator very much.

I am hopeful that the initial reaction was very favorable by bond brokers, by local governments, and the like. It came along too quickly. I think it is only fair to everyone to let the idea simmer down a little bit and give people an opportunity to really analyze it.

SEVERAL SENATORS. Vote!

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Missouri.

The amendment was agreed to.

The PRESIDING OFFICER. The Senator from Tennessee.

UP AMENDMENT NO. 2008

(SUBSEQUENTLY NUMBERED AMENDMENT 3975)

(Purpose: To exempt from any excise tax imposed on trailers any trailer designed to be used with a light-duty for farming purposes or for transporting horses or livestock)

Mr. BAKER. Mr. President, I have an amendment at the desk which I understand has been cleared on both sides and it is noncontroversial, and I ask the clerk to state it.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Tennessee (Mr. BAKER) for himself and Mr. BENTSEN proposes unprinted amendment numbered 2008.

Mr. BAKER. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 383, between lines 8 and 9, add the following new section:

SEC. 510. EXCISE TAX EXEMPTION FOR CERTAIN TRAILERS DESIGNED TO BE USED WITH LIGHT DUTY VEHICLES.

(a) IN GENERAL.—Section 4063(a) of the Internal Revenue Code of 1954 (relating to exemptions from motor vehicle excise taxes) is amended by adding at the end thereof the following new paragraph.

"(8) CERTAIN TRAILERS USED FOR FARMING OR FOR TRANSPORTING HORSES OR LIVESTOCK.—The tax imposed under section 4061(a) shall not apply in the case of any trailer or semitrailer, or any chassis or body for any trailer or semitrailer, which is—

"(A) suitable for use with a vehicle having a gross vehicle weight of 10,000 pounds or less (as determined under regulations prescribed under section 4061(a)(2)), and

"(B) designed to be used for farming purposes (determined in accordance with section 6420(c)) or for transporting horses or livestock.".

(b) FLOOR STOCKS REFUNDS.—

(1) IN GENERAL.—Where, before the day after the date of enactment of this Act, any article made exempt from taxations by reason of the amendment made by subsection (a) has been sold by the manufacturer, producer, or importer and on such day is held by a dealer and has not been used and is intended for sale, there shall be credited or refunded (without interest) to the manufacturer, producer, or importer an amount equal to the tax paid by such manufacturer, producer, or importer on his sale of the article, if—

(A) claim for such credit or refund is filed with the Secretary of the Treasury or his delegate before the first day of the tenth calendar month beginning after the day after the date of the enactment of this Act based upon a request submitted to the manufacturer, producer, or importer before the first day of the seventh calendar month beginning after the day after the date of the enactment of this Act by the dealer who held the article in respect of which the credit or refund is claimed; and

(B) on or before the first day of such tenth calendar month reimbursement has been made to the dealer by the manufacturer, producer, or importer in an amount equal to the tax paid on the article or written consent has been obtained from the dealer to allowance of the credit or refund.

(2) LIMITATION ON ELIGIBILITY FOR CREDIT OR REFUND.—No manufacturer, producer, or importer shall be entitled to credit or refund under paragraph (1) unless he has in his possession such evidence of the inventories with respect to which the credit or refund is claimed as may be required by regulations prescribed by the Secretary of the Treasury or his delegate under this subsection.

(3) OTHER LAWS APPLICABLE.—All provisions of law, including penalties, applicable with respect to the taxes imposed by section 4061 of the Internal Revenue Code of 1954 shall, insofar as applicable and not inconsistent with paragraphs (1) and (2) of this subsection, apply in respect of the credits and refunds provided for in paragraph (1) to the same extent as if the credits or refunds constituted overpayments of the tax.

(c) DEFINITIONS.—For purposes of subsection (b)—

(1) The term "dealer" includes a wholesaler, jobber, distributor, or retailer.

(2) An article shall be considered as "held by a dealer" if the title thereto has passed to such dealer (whether or not delivery to him has been made) and if for purposes of consumption title to such article or possession thereof has not at any time been transferred to any person other than a dealer.

(d) EFFECTIVE DATE—

The amendment made by susbsection (a) of this section shall apply with respect to articles sold on or after the day after the date of the enactment of this Act.

On page 129, after the item relating to section 509 of the bill, add the following new item:

"SEC. 510. EXCISE TAX EXEMPTION FOR CERTAIN TRAILERS DESIGNED TO BE USED WITH LIGHT-DUTY VEHICLES.".

Mr. BAKER. Mr. President, my amendment would add to H.R. 13511 the text of H.R. 2984, a bill passed by the House earlier this year to exempt from the excise tax imposed on trailers any trailer designed to be used with a light-duty vehicle for farming purposes or for transporting horses or livestock.

In 1971, the Congress amended section 4061 of the Internal Revenue Code to exempt from the 10-percent manufacturers excise tax on trucks, buses, tractor and trailers, light-duty trailers suitable for use with vehicles having a gross vehicle weight of 10,000 pounds or less. This provision exempted the majority of farm and ranch trailers that are characterized as gooseneck trailers which are suitable for use with light-duty trucks. The original intent of the Congress would have exempted all but three-axle trailers of this configuration. However, restrictive regulations by the IRS have limited the availability of the exclusion in the case of trailers used for farming or livestock transport purposes.

This is so because Treasury regulations use, as a primary determinant of gross vehicle weight, the maximum load-carrying capability of the axles. The trailers in question are manufactured by a relatively small number of producers who lack the precise engineering standards required to respond to the technical limitations imposed by the IRS. They often use axles produced for use as components of recreational vehicles or mobile homes, because these axles are generally readily available at reasonable prices. These axles, however, may have a load-carrying capability of more than 10,000 pounds and, even though they are used in farming to carry loads of less than that capacity, they are disqualified under IRS rules from the excise tax exemption.

Mr. President, I am pleased that the distinguished Senator from Texas (Mr. BENTSEN) has joined with me in cosponsoring this amendment to alleviate a situation in which trailers designed to haul feed to cattle, sheep, horses, and so forth are exempt, but trailers designed to haul the same livestock to market are taxable.

Mr. President, this amendment was approved by the House of Representatives as H.R. 2984 on May 8, 1978. It was adopted by the Senate Finance Committee as an amendment to another tax bill, H.R. 1920, in August. Unfortunately, however, the amendment was dropped from that measure before the Senate approved H.R. 1920. I ask unanimous consent that excerpts from the House Ways

and Means Committee's report on H.R. 2984 which explain in more detail the provisions of this measure be printed at this point in the RECORD.

There being no objection, the excerpts were ordered to be printed in the RECORD, as follows:

EXCERPTS FROM HOUSE REPORT 95-988 ON H.R. 2984

PRESENT LAW

Under present law, a manufacturers excise tax of 10 percent is imposed on sales of chassis and bodies of trucks, buses, highway tractors, or their related trailers and semitrailers by a manufacturer, producer, or importer of such an article (sec. 4061(a) of the Internal Revenue Code of 1954).[1]

Present law provides an exclusion from the tax in the case of sales of chassis and bodies of light-duty trucks, buses, trucks trailers, and semitrailers (sec. 4061(a)(2)).[2] To be eligible for this exclusion, the chassis or body of the truck trailer or semitrailer must be "suitable for use" with a trailer or semitrailer having a gross vehicle weight of 10,000 pounds or less, determined in accordance with Treasury Department regulations (sec. 4061(a)(2)).[3] Furthermore, in order to be exempt, the truck trailer or semitrailer itself must be suitable for use with a towing vehicle having a gross vehicle weight of 10,000 pounds or less (sec. 4061(a)(2)).

Before the Revenue Act of 1971, which repealed the tax on automobiles and their trailers and semitrailers, the automobile tax rate applied to "trailers and semitrailers * * * suitable for use in connection with passenger automobiles." (Sec. 4061(a)(2)(B).) The Service ruled that "one-horse and two-horse trailers are considered to be suitable for use in connection with passenger automobiles, inasmuch as they possess actual and practical fitness for such use." Three-horse and 4-horse trailers were "concluded to be primarily designed for highway use in combination with taxable trucks." Rev. Rul. 68-584, 1968-2 CB 492.

[1] The tax is scheduled to be reduced to 5 percent on October 1, 1979. Revenues from this tax go to the Highway Trust Fund (through September 30, 1979).

[2] The 7-percent manufacturers excise tax on automobiles, etc., was repealed by the Revenue Act of 1971 (Pub. L. 92-178). Since many persons use smaller trucks, etc., as passenger vehicles, sales of light-duty trucks, trailers, and semitrailers also were excluded from the 10-percent truck excise tax by the 1971 Act.

[3] "Gross vehicle weight" is defined as the maximum total weight of a loaded vehicle. (Treas. Regs. § 48.4061(a)-1(f)(3)(i)). The maximum total weight of a loaded vehicle is the gross vehicle weight rating of the manufactured article as specified or established by the manufacturer, unless such a rating is unreasonable in light of the particular facts and circumstances. Generally, a manufacturer must specify or establish a weight rating for each chassis, body, or vehicle sold by it if the item requires no significant post-manufacture modification (Treas. Regs. § 48.4061(a)-1(f)(3)(ii)). The manufacturer's gross vehicle weight rating must take into account the strength of the chassis frame, the axle capability (capacity and placement), and the spring, brake, rim, and tire capacities. The lowest weight rating component ordinarily is determinative of the gross vehicle weight (Treas. Regs. § 48.4061(a)-1(f)(3)(v)). The total of the axle ratings is the sum of the maximum load-carrying capability of the axles and, in the case of a trailer or semitrailer, the weight that is to be borne by the vehicle used in combination with the trailer or semitrailer for which gross vehicle weight is determined (Treas. Regs. § 48.4061(a)-1(f)(3)(vi)).

REASONS FOR CHANGE

The committee understands that the present requirement for exemption from the manufacturers excise tax for trailers having gross vehicle weights of 10,000 pounds or less is administered by the Internal Revenue Service in a manner which imposes unrealistically low limits in the case of trailers designed to be used for farming purposes, or designed to be used for transporting horses or livestock. Under the Treasury Regulations, the primary determinant of gross vehicle weight frequently is the maximum load carrying capability of the axles (see footnote 3, above). The committee understands that manufacturers of farming trailers, and of trailers designed to be used for transporting horses or livestock, often use axles produced for use as components of recreational vehicles or mobile homes, because these axles generally are readily available at reasonable prices. However, because of the particular conditions generally dealt with in the recreational vehicle and mobile home industries, axles designed for use as components of such vehicles often may be rated at more than 10,000 pounds. Nevertheless, in the case of trailers designed to be used for farming purposes or for transporting horses or livestock, those same axles would be used only in carrying loans of 10,000 pounds or less. Accordingly, the committee concludes that such items should be eligible for the light-duty truck exemption.

The committee, therefore, has decided to exempt trailers designed to be used for farming purposes or for transporting horses or livestock from the 10-percent manufacturers excise tax where such trailers are suitable for use with light-duty towing vehicles.

EXPLANATION OF THE BILL

Under the bill, an exemption is provided from the 10-percent manufacturers excise tax for certain trailers or semitrailers which are designed to be used for farming purposes or for transporting horses or livestock. The bill, in effect, eliminates the present law requirement for exemption that a trailer or semitrailer designed for such purposes have a gross vehicle weight of 10,000 pounds or less. However, the bill retains the present law limitations on the size of such a trailer or semitrailer—that it be suitable for use with a light-duty vehicle having a gross vehicle weight of 10,000 pounds or less. If a body or chassis is sold separately, then it must be suitable for use with such a trailer or semitransfer's order to qualify under the exemption.

The bill does not affect the separate 8-percent manufacturers excise tax on parts and accessories (sec. 4061(b)).

To avoid creating competitive disadvantages which might arise because of the relative sizes of dealers' inventories, and in conformity with prior practice, the bill provides for floor stocks refunds or credits (without interest) with respect to all articles exempted by the bill that are in dealers' inventories on the day after the date of enactment. These floor stocks refunds (or credits) are to be available with respect to exempted trailers or semitrailers (and their chassis and bodies), sold by the manufacturer, producer, or importer on or before the date of enactment which have not been used, but are intended for sale by the dealer. The credits or refunds for these floor stocks must be claimed by the manufacturer, producer, or importer before the first day of the 10th calendar month beginning after the day after the date of enactment of the bill, based upon requests submitted to it from the dealer before the first day of the 7th calendar month beginning after the day after the date of enactment. Also, on or before the first day of the 10th calendar month beginning after the day after the date of enactment, the manufacturer, producer, or importer must have reimbursed the dealer for the tax or obtained the dealer's written consent to the refund or credit. In addition, the manufacturer, producer, or importer must have in its possession evidence of the inventories on which the credit or refund is claimed (to the extent required by Treasury regulations).

An article is considered "held by a dealer", for these purposes, if title to the article has passed to the dealer (even if delivery has not been made). However, the article will not be considered "held by a dealer" unless title to the article or possession of the article has never been transferred to a non-dealer for purposes of consumption. The term "dealer" is defined to include a wholesaler, jobber, distributor, or retailer.

EFFECTIVE DATE

The exemptions made by the bill apply with respect to articles sold on or after the day the bill's enactment.

Mr. BAKER. I hope that the distinguished managers of the bill will agree to including this provision as a part of the Revenue Act of 1978.

Mr. PACKWOOD. Mr. President, was that an amendment that was voted on or not?

Mr. BAKER. No, it was not.

Mr. PACKWOOD. Then I will wait.

Mr. LONG. Mr. President, this measure has been passed by the House notwithstanding the Treasury's objection. It involves a revenue loss of about $2 million per year.

I have no doubt that if anyone wants a rollcall vote on it, the amendment will be agreed to.

If anyone wants to object to it, knowing the Treasury does not favor a reduction of this excise tax, since it would like to keep all revenue it is receiving from excise taxes, but knowing that this is popular and would undoubtedly be the will of the Senate if the Senate votes on this matter. I would respect the Senator's right to see the amendment go over.

In this case, Mr. President, I would certainly be willing to vote for the amendment. But if anyone wants to have it go over, we will have it go over because I have no doubt that, if the Senate votes on it, the Senate will vote for the amendment.

Mr. KENNEDY. Mr. President, I think the Treasury does have strong objections to this particular amendment, and I think we ought to have it go over.

Mr. BAKER. Mr. President, if that is the case, I had understood this was an amendment which would not be controversial, in that case I think the very best thing to do, since the Senator from Texas is not here at this time to speak on his own behalf, and since he is cosponsoring it, the best course would be to withdraw the amendment.

Mr. President, I therefore ask that the amendment be withdrawn.

The PRESIDING OFFICER. The Senator has that right.

Mr. BAKER. Mr. President, I ask that the amendment be withdrawn.

Mr. LONG. Mr. President, I would hope the Senator will bring his amendment up at a later date because the Senator well knows we were not going to have any rollcall votes tonight, and have no doubt that the Senate will vote for it.

Mr. PACKWOOD addressed the Chair.

The PRESIDING OFFICER. Does the Senator wish to propose an amendment? The Chair would simply advise the Sen-

ator from Oregon that a number of Senators have come and been placed on the list. The Senator from North Carolina had asked to be called following the Senator from Tennessee.

Mr. PACKWOOD. Will the Chair put me on the list after the Senator from North Carolina?

The PRESIDING OFFICER. The Senator should know that the Senators who asked are the Senator from North Carolina, the Senator from Maine, the Senator from Kansas, and I will now put the Senator from Oregon on the list, and the Senator from New York.

Mr. MORGAN. Mr. President, unless there is objection, I ask unanimous consent that the Senator from Maine go ahead because I understand his amendment will only take a few minutes.

The PRESIDING OFFICER. The Senator from Maine.

UP AMENDMENT NO. 2009

Mr. HATHAWAY. I thank the Senator from North Carolina.

I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Maine (Mr. HATHAWAY) proposes an unprinted amendment numbered 2009.

Mr. HATHAWAY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

At the appropriate place in the committee amendment add the following new title:

TITLE . TECHNICAL CORRECTIONS OF THE TAX REFORM ACT OF 1976

SEC. . TECHNICAL AMENDMENTS TO INCOME TAX PROVISIONS AND ADMINISTRATIVE PROVISIONS.

(a) AMENDMENTS RELATING TO RETENTION OF PRIOR LAW FOR RETIREMENT INCOME CREDIT UNDER SECTION 37(e).—

(1) CLARIFICATION THAT SPOUSE UNDER AGE 65 MUST HAVE PUBLIC RETIREMENT SYSTEM INCOME.—Paragraph (2) of section 37(e) (relating to election of prior law with respect to public retirement system income) is amended by striking out "who has not attained age 65 before the close of the taxable year" and inserting in lieu thereof "who has not attained age 65 before the close of the taxable year (and whose gross income includes income described in paragraph (4)(B))".

(2) CLARIFICATION THAT QUALIFYING SERVICES MUST HAVE BEEN PERFORMED BY TAXPAYER OR SPOUSE.—Subparagraph (B) of section 37(e)(4) (defining retirement income) is amended by inserting "and who performed the services giving rise to the pension or annuity (or is the spouse of the individual who performed the services)" after "before the close of the taxable year".

(3) DISREGARD OF COMMUNITY PROPERTY LAWS.—Subsection (e) of section 37 (relating to election of prior law with respect to public retirement system income) is amended—

(A) by redesignating paragraph (8) as paragraph (9) and by inserting after paragraph (7) the following new paragraph:

"(8) COMMUNITY PROPERTY LAWS NOT APPLICABLE.—In the case of a joint return, this subsection shall be applied without regard to community property laws.",

(B) by striking out "paragraph (8)(A)" in paragraph (4)(B) and inserting in lieu thereof "paragraph (9)(A)"; and

(C) by striking out "paragraph (8)(B)" in paragraph (5)(B) and inserting in lieu thereof "paragraph (9)(B)".

(4) EFFECTIVE DATES.—

(A) The amendments made by paragraphs (1) and (2) shall apply to taxable years beginning after December 31, 1975.

(B) The amendments made by paragraph (3) shall apply to taxable years beginning after December 31, 1977.

(b) AMENDMENTS RELATING TO THE MINIMUM TAX.—

(1) SPECIAL RULES FOR MINIMUM TAX IN THE CASE OF SUBCHAPTERS CORPORATIONS AND PERSONAL HOLDING COMPANIES.—

(A) Paragraph (1) of section 57(a) (relating to adjusted itemized deductions) is amended by striking out "An amount" and inserting in lieu thereof "In the case of an individual, an amount".

(B) The last sentence of section 57(a) (relating to items of tax preference) is amended by striking out "Paragraphs (1), (3), and" and inserting in lieu thereof "Paragraphs (3) and".

(C) Subsection (1) of section 58 (defining corporation) is amended by striking out "Except as provided in subsection (d)(2), for purposes of this part" and inserting in lieu thereof "For purposes of this part (other than section 57(a)(9))".

(2) DIVISION OF $10,000 AMOUNT AMONG MEMBERS OF CONTROLLED GROUPS.—Subsection (b) of section 58 (relating to members of controlled groups) is amended to read as follows:

"(b) MEMBERS OF CONTROLLED GROUPS.—In the case of a controlled group of corporations (as defined in section 1563(a)), the $10,000 amount specified in section 56 shall be divided among the component members of such group in proportion to their respective regular tax deductions (within the meaning of section 56(c)) for the taxable year."

(3) COMPUTATION OF ADJUSTED ITEMIZED DEDUCTIONS IN THE CASE OF ESTATES AND TRUSTS.—Paragraph (2) of section 57(b) (relating to computation of adjusted itemized deductions in the case of estates and trusts) is amended to read as follows:

"(2) SPECIAL RULES FOR ESTATES AND TRUSTS.—

"(A) IN GENERAL.—In the case of an estate or trust, for purposes of paragraph (1) of subsection (a), the amount of the adjusted itemized deductions for any taxable year is the amount by which the sum of the deductions for the taxable year other than—

"(i) the deductions allowable in arriving at adjusted gross income,

"(ii) the deduction for personal exemption provided by section 642(b),

"(iii) the deduction for casualty losses described in section 165(c)(3),

"(iv) the deductions allowable under section 651(a), 661(a), or 691(c), and

"(v) the deductions allowable to a trust under section 642(c) to the extent that a corresponding amount is included in the gross income of the beneficiary under section 662(a)(1) for the taxable year of the beneficiary with which or within which the taxable year of the trust ends,

exceeds 60 percent (but does not exceed 100 percent) of the adjusted gross income of the estate or trust for the taxable year.

"(B) DETERMINATION OF ADJUSTED GROSS INCOME.—For purposes of this paragraph, the adjusted gross income of an estate or trust shall be computed in the same manner as in the case of an individual, except that—

"(i) the deductions for costs paid or incurred in connection with the administration of the estate or trust, and

"(ii) to the extent provided in subparagraph (C), the deductions under section 642(c),

shall be treated as allowable in arriving at adjusted gross income.

"(C) TREATMENT OF CERTAIN CHARITABLE CONTRIBUTIONS.—For purposes of this paragraph, the following deductions under section 642(c) (relating to deductions for amounts paid or permanently set aside for charitable purposes) shall be treated as deductions allowable in arriving at adjusted gross income:

"(i) deductions allowable to an estate,

"(ii) deductions allowable to a trust all of the unexpired interests in which are devoted to one or more of the purposes described in section 170(c)(2)(B),

"(iii) deductions allowable to a trust which is a pooled income fund within the meaning of section 642(c)(5),

"(iv) deductions allowable to a trust which are attributable to transfers to the trust before January 1, 1977, and

"(v) deductions allowable to a trust, all of the income interest of which is devoted solely to one or more of the purposes described in section 170(c)(2)(B), which are attributable to transfers pursuant to a will or pursuant to an inter vivos trust in which the grantor had the power to revoke at the date of his death."

(4) SECTION 691(c) DEDUCTION NOT TAKEN INTO ACCOUNT FOR DETERMINING ADJUSTED ITEMIZED DEDUCTIONS.—Paragraph (1) of section 57(b) is amended by striking out "and" at the end of subparagraph (C), by inserting "and" at the end of subparagraph (D), and by inserting after subparagraph (D) the following new subparagraph:

"(E) the deduction allowable under section 691(c),".

(5) ALLOCATION OF ITEMS OF TAX PREFERENCE IN THE CASE OF ESTATES AND TRUSTS.—Paragraph (1) of section 58(c) (relating to estates and trusts) is amended by striking out "on the basis of the income of the estate or trust allocable to each" and inserting in lieu thereof "in accordance with regulations prescribed by the Secretary".

(6) EFFECTIVE DATE.—The amendments made by this subsection shall take effect as if included in the amendments made by section 301 of the Tax Reform Act of 1976.

(c) SICK PAY.—

(1) IN GENERAL.—Section 105(d) is amended by striking out paragraphs (4) and (6), by redesignating paragraph (5) as paragraph (4) and paragraph (7) as paragraph (6), and by inserting after paragraph (4) the following new paragraph:

"(5) SPECIAL RULES FOR MARRIED COUPLES.—

"(A) MARRIED COUPLE MUST FILE JOINT RETURN.—Except in the case of a husband and wife who live apart at all times during the taxable year, if the taxpayer is married at the close of the taxable year, the exclusion provided by this subsection shall be allowed only if the taxpayer and his spouse file a joint return for the taxable year.

"(B) APPLICATION OF PARAGRAPHS (2) AND (3).—In the case of a joint return—

"(i) paragraph (2) shall be applied separately with respect to each spouse, but

"(ii) paragraph (3) shall be applied with respect to their combined adjusted gross income.

"(C) DETERMINATION OF MARITAL STATUS.—For the purposes of this subsection, marital status shall be determined under section 143(a).

"(D) JOINT RETURN DEFINED.—For purposes of this subsection, the term 'joint return' means the joint return of a husband and wife made under section 6013."

(2) CONFORMING AMENDMENTS.—

(A) Subsection (c)(3) of section 505 of the Tax Reform Act of 1976 (relating to disability retirement) is amended by striking out "section 105(d)(5)" and inserting in lieu thereof "section 105(d)(4)".

(B) Subsection (c) and (e)(1) of section 301 of the Tax Reduction and Simplification Act of 1977 (relating to effective date of changes in the exclusion for sick pay) are each amended by striking out "section 105(d)(7)" and inserting in lieu thereof "section 105(d)(6)".

(3) EFFECTIVE DATE.—

(A) The amendments made by paragraphs (1) and (2)(A) shall take effect as if included in section 105(d) of the Internal Revenue Code of 1954 as such section was amended by section 505(a) of the Tax Reform Act of 1976.

(B) The amendments made by paragraph (2)(B) shall take effect as if included in section 301 of the Tax Reduction and Simplification Act of 1977.

(d) NET OPERATING LOSSES.—

(1) AMENDMENT OF SECTION 172(b)(1)(B).—The second sentence of subparagraph (B) of section 172(b)(1) (relating to years to which net operating losses may be carried) is amended by striking out "and (F)" and inserting in lieu thereof "(F), and (G)".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to losses incurred in taxable year ending after December 31, 1975.

(e) EFFECTIVE DATE FOR FISCAL YEAR TAXPAYER FOR CONSTRUCTION PERIOD INTEREST AND TAXES.—Paragraph (1) of section 201(c) of the Tax Reform Act of 1976 is amended to read as follows:

"(1) in the case of nonresidential real property if the construction period begins on or after the first day of the first taxable year beginning after December 31, 1975.".

(f) CLARIFICATION OF PROVISIONS PROVIDING TAX INCENTIVES TO ENCOURAGE THE PRESERVATION OF HISTORIC STRUCTURES.—

(1) DEFINITION OF CERTIFIED HISTORIC STRUCTURES.—Subsection (d) of section 191 (relating to amortization of certain rehabilitation expenditures for certified historic structures) is amended by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively, and by striking out paragraph (1) and inserting in lieu thereof the following new paragraphs:

"(1) CERTIFIED HISTORIC STRUCTURE.—The term 'certified historic structure' means a building or structure which is of a character subject to the allowance for depreciation provided in section 167 and which—

"(A) is listed in the National Register, or

"(B) is located in a registered historic district and is certified by the Secretary of the Interior to the Secretary as being of historic significance to the district.

"(2) REGISTERED HISTORIC DISTRICT.—The term 'registered historic district' means—

"(A) any district listed in the National Register, and

"(B) any district—

"(i) which is designated under a statute of the appropriate State or local government, if such statute is certified by the Secretary of the Interior to the Secretary as containing criteria which will substantially achieve the purpose of preserving and rehabilitating buildings of historic significance to the district, and

"(ii) which is certified by the Secretary of the Interior to the Secretary as meeting substantially all of the requirements for the listing of districts in the National Register."

(2) AMENDMENT OF CROSS REFERENCES.—Subsection (g) of section 191 (relating to cross references) is amended to read as follows:

"(g) CROSS REFERENCES.—

"(1) For rules relating to the listing of buildings, structures, and historic districts in the National Register, see the Act entitled 'An Act to establish a program for the preservation of additional historic properties throughout the Nation, and for other purposes', approved October 15, 1966 (16 U.S.C. 470 et seq.).

"(2) For special rules with respect to certain gain derived from the disposition of property the adjusted basis of which is determined with regard to this section, see sections 1245 and 1250."

(3) SPECIAL RULES FOR RECAPTURE OF AMORTIZATION DEDUCTION.—

(A) Paragraph (2) of section 1245(a) (relating to gain from dispositions of certain depreciable property) is amended—

(i) by striking out "190, or 191" the first place it appears and inserting in lieu thereof "or 190" and

(ii) by striking out "190, or 191" the second and third place it appears and inserting in lieu thereof "190, or (in the case of property described in paragraph (3)(C)) 191".

(B) Subparagraph (D) of section 1245(a)(3) (relating to gain from dispositions of certain depreciable property) is amended by striking out "190, or 191" and inserting in lieu thereof "or 190".

(C) Paragraph (3) of section 1250(b) (relating to depreciation adjustments) is amended by striking out "190 or 191" and inserting in lieu thereof "or 190".

(D) Paragraph (2) of section 57(a) (relating to items of tax preference) is amended by inserting "or 191" after "167(k)".

(E) Paragraph (4) of section 1250(b) (relating to definition of additional depreciation) is amended—

(i) by inserting "or amortization" after "depreciation" the second and third places it appears, and

(ii) by inserting "or 191" after "167(k)" each place it appears.

(4) STRAIGHT LINE METHOD IN CERTAIN CASES.—Subsection (n) of section 167 is amended to read as follows:

"(n) STRAIGHT LINE METHOD IN CERTAIN CASES.—

"(1) IN GENERAL.—In the case of any property in whole or in part constructed, reconstructed, erected, or used on a site which was, on or after June 30, 1976, occupied by a certified historic structure (or by any structure in a registered historic district) which is demolished or substantially altered after such date—

"(A) subsections (b), (j), (k), and (l) shall not apply, and

"(B) the term 'reasonable allowance' as used in subsection (a) means only an allowance computed under the straight line method.

The preceding sentence shall not apply if the last substantial alteration of the structure is a certified rehabilitation.

"(2) EXCEPTIONS.—The limitations imposed by this subsection shall not apply—

"(A) to personal property, and

"(B) in the case of demolition or substantial alteration of a structure located in a registered historic district, if the Secretary of the Interior certified to the Secretary—

"(i) before the beginning of the demolition or substantial alteration of such structure that such structure—

"(I) is not a certified historic structure, and

"(II) is not of historic significance to the district; or

"(ii) after the beginning of the demolition or substantial alteration of such structure, that—

"(I) such structure was not a certified historic structure,

"(II) such structure was not of historic significance to the district, and

"(III) the taxpayer has certified to the Secretary that, at the time of such demolition or substantial alteration, he in good faith was not aware of any certification requirement under this subparagraph.

"(3) DEFINITIONS.—For purposes of this subsection, the terms 'certified historic structure', 'registered historic district', and 'certified rehabilitation' have the respective meanings given such terms by section 191(d)."

(5) DEMOLITION OF CERTAIN HISTORIC STRUCTURES.—Subsection (b) of section 280B (relating to special rule for registered historic districts) is amended to read as follows:

"(b) SPECIAL RULE FOR REGISTERED HISTORIC DISTRICTS.—For purposes of this section, any building or other structure located in a registered historic district (as defined in section 191(d)(2)) shall be treated as a certified historic structure unless the Secretary of the Interior has certified—

"(1) before the beginning of the demolition or substantial alteration of such structure that such structure—

"(A) is not a certified historic structure, and

"(B) is not of historic significance to the district; or

"(2) after the beginning of the demolition or substantial alteration of such structure, that—

"(A) such structure was not a certified historic structure,

"(B) such structure was not of historic significance to the district, and

"(C) the taxpayer has certified to the Secretary that, at the time of such demolition or substantial alteration, he in good faith was not aware of the certification requirement under this subparagraph.".

(6) SUBSTANTIALLY REHABILITATED HISTORIC PROPERTY.—

(A) Paragraph (1) of section 167(o) (relating to substantially rehabilitated historic property) is amended by inserting "(other than property with respect to which an amortization deduction has been allowed to the taxpayer under section 191)" after "substantially rehabilitated historic property".

(B) Paragraph (2) of section 167(o) is amended by striking out "section 191(d)(3)" and inserting in lieu thereof "section 191(d)(4)".

(7) AMORTIZATION ALLOWABLE TO PERSONS WITH CERTAIN LEASE INTERESTS.—Section 191(f) (relating to treatment of life tenants and remaindermen) is amended to read as follows:

"(f) SPECIAL RULES FOR CERTAIN INTERESTS.—

"(1) LIFE TENANT AND REMAINDERMAN.—In the case of property held by one person for life with remainder to another person, the deduction under this section shall be computed as if the life tenant were the absolute owner of the property and shall be allowable to the life tenant.

"(2) CERTAIN LESSEES.—

"(A) IN GENERAL.—In the case of a lessee of a certified historic structure who has expended amounts in connection with the certified rehabilitation of such structure which are properly chargeable to capital account, the deduction under this section shall be allowable to such lessee with respect to such amounts.

"(B) AMORTIZABLE BASIS.—For purposes of subsection (a), the amortizable basis of such lessee shall not exceed the sum of the amounts described in subparagraph (A).

"(C) LIMITATION.—Subparagraph (A) shall apply only if on the date of the certified rehabilitation is completed, the remaining term of the lease (determined without regard to any renewal periods) extends—

"(i) beyond the last day of the useful life (determined without regard to this section) of the improvements for which the amounts described in subparagraph (A) were expended, and

"(ii) for not less than 30 years.".

(4) EFFECTIVE DATE.—The amendments made by this subsection shall take effect as if included in the respective provisions of the Internal Revenue Code of 1954 to which such amendments relate, as such provision were added to such Code, or amended, by section 2124 of the Tax Reform Act of 1976.

(g) FOREIGN CONVENTIONS.—

(1) DEDUCTIONS NOT DISALLOWED TO EMPLOYER WHERE EMPLOYEE INCLUDES AMOUNTS IN GROSS INCOME.—Subparagraph (D) of section 274(h)(6) (relating to application of subsection to employer as well as to traveler) is amended to read as follows:

"(D) SUBSECTION TO APPLY TO EMPLOYER AS WELL AS TO TRAVELER.—

"(i) Except as provided in clause (ii), this subsection shall apply to deductions otherwise allowable under section 162 or 212 to any person, whether or not such person is the individual attending the foreign convention. For the purposes of the preceeding sen-

tence such person shall be treated, with respect to each individual, as having selected the same 2 foreign conventions as were selected by such individual.

"(ii) This subsection shall not deny a deduction to any person other than the individual attending the foreign convention with respect to any amount paid by such person to or on behalf of another person if includible in the gross income of such other person. The preceding sentence shall not apply if such amount is required to be included in any information return filed by such person under part III of subchapter A of chapter 61 and is not so included.".

(2) INDIVIDUALS RESIDING IN FOREIGN COUNTRIES.—Section 274(h)(6) is amended by adding at the end thereof the following new subparagraph:

"(E) Individuals Residing in Foreign Countries.—For purposes of this subsection, in the case of an individual citizen of the United States who establishes to the satisfaction of the Secretary that he was a bona fide resident of a foreign country at the time that he attended a convention in such foreign country, such individual's attendance at such convention shall not be considered as attendance at a foreign convention.".

(3) TECHNICAL AMENDMENT.—The first sentence of section 274(h)(3) is amended by striking out "more than one-half" and inserting in lieu thereof "at least one-half".

(4) EFFECTIVE DATE.—The amendments made by this subsection shall apply to conventions beginning after December 31, 1976.

(h) RENTAL OF FORMER PRINCIPAL RESIDENCE.—

(1) IN GENERAL.—Subsection (d) of section 280A (relating to use of residence for personal purposes) is amended by adding at the end thereof the following new paragraph:

"(3) RENTAL OF PRINCIPAL RESIDENCE.—

"(A) IN GENERAL.—For purposes of applying subsection (c)(5) to deductions allocable to a qualified rental period, a taxpayer shall not be considered to have used a dwelling unit for personal purposes for any day during the taxable year which occurs before or after a qualified rental period described in subparagraph (B)(i), or before a qualified rental period described in subparagraph (B)(ii), if with respect to such day such unit constitutes the principal residence (within the meaning of section 1034) of the taxpayer.

"(B) QUALIFIED RENTAL PERIOD.—For purposes of subparagraph (A), the term 'qualified rental period' means a consecutive period of—

"(i) 12 or more months which begins or ends in such taxable year, or

"(ii) less than 12 months which begins in such taxable year and at the end of which such dwelling unit is sold or exchanged, and for which such unit is rented to a person other than a member of the family (as defined in section 267(c)(4)) of the taxpayer, or is held for rental, at a fair rental."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect as if included in section 280A of the Internal Revenue Code of 1954, as such provision was added to such Code by section 601(a) of the Tax Reform Act of 1976.

(i) CLARIFICATION OF LAST SENTENCE OF SECTION 337(c)(2).—

(1) IN GENERAL.—Subsection (c) of section 337 (relating to limitations on application of section 337) is amended by striking out the last sentence of paragraph (2) and by adding at the end of such subsection the following new paragraph:

"(3) SPECIAL RULE FOR AFFILIATED GROUP.—

"(A) IN GENERAL.—Paragraph (2) shall not apply to a sale or exchange by a corporation (hereinafter in this paragraph referred to as the 'selling corporation') if—

"(i) within the 12-month period beginning on the date of the adoption of a plan of complete liquidation by the selling corporation, the selling corporation and each distributee corporation is completely liquidated, and

"(ii) none of the complete liquidations referred to in clause (i) is a liquidation with respect to which section 333 applies.

"(B) DEFINITIONS.—For purposes of subparagraph (A)—

"(i) The term 'distributee corporation' means a corporation in the chain of includible corporations to which the selling corporation or a corporation above the selling corporation in such chain makes a distribution in complete liquidation within the 12-month period referred to in subparagraph (A)(i).

"(ii) The term 'chain of includible corporations' includes, in the case of any distribution, any corporation which (at the time of such distribution) is in a chain of includible corporations for purposes of section 1504(a) (determined without regard to the exceptions contained in section 1504(b)). Such term includes, where appropriate, the common parent corporation."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to sales or exchanges made pursuant to a plan of complete liquidation adopted after December 31, 1975.

(j) CERTAIN TRANSACTIONS INVOLVING TWO OR MORE INVESTMENT COMPANIES.—

(1) AMENDMENTS OF SECTION 368(a)(2)(F).—

(A) The first sentence of clause (iii) of section 368(a)(2)(F) is amended—

(i) by striking out "more than 50 percent" and inserting in lieu thereof "50 percent or more"; and

(ii) by striking out "more than 80 percent" and inserting in lieu thereof "80 percent or more."

(B) The first sentence of clause (vi) of section 368(a)(2)(F) is amended by striking out "is not diversified within the meaning" and inserting in lieu thereof "does not meet the requirements".

(C) The second sentence of such clause (vi) is amended to read as follows: "If such investment company acquires stock of another corporation in a reorganization described in section 368(a)(1)(B), clause (i) shall be applied to the shareholders of such investment company as though they had exchanged with such other corporation all of their stock in such company for stock having a fair market value equal to the fair market value of their stock of such investment company immediately after the exchange."

(D) Subparagraph (F) of section 368(a)(2) is amended by adding at the end thereof the following new clauses:

"(vii) For purposes of clauses (ii) and (iii), the term 'securities' includes obligations of State and local governments, commodity futures contracts, shares of regulated investment companies and real estate investment trusts, and other investments constituting a security within the meaning of the Investment Company Act of 1940 (15 U.S.C. 80a-2(36)).

"(viii) In applying paragraph (3) of section 267(b) in respect of any transaction to which this subparagraph applies, the reference to a personal holding company in such paragraph (3) shall be treated as including a reference to an investment company and the determination of whether a corporation is an investment company shall be made as of the time immediately before the transaction instead of with respect to the taxable year referred to in such paragraph (3):"

(2) EFFECTIVE DATES.—

(A) Except as provided in subparagraphs (B) and (C), the amendments made by paragraph (1) shall apply as if included in section 368(a)(2)(F) of the Internal Revenue Code of 1954 as added by section 2131(a) of the Tax Reform Act of 1976.

(B) Clause (viii) of section 368(a)(2)(F) of the Internal Revenue Code of 1954 (as added by paragraph (1)) shall apply only with respect to losses sustained after September 26, 1977.

(C) Clause (vii) of section 368(a)(2)(F) of the Internal Revenue Code of 1954 (as added by paragraph (1)) shall apply only with respect to transfers made after September 26, 1977.

(k) AT RISK PROVISIONS.—

(1) CLERICAL AMENDMENT TO EFFECTIVE DATE.—Subparagraph (A) of section 204(c)(3) of the Tax Reform Act of 1976 is amended by striking out "section 465(c)(1)(B)" and inserting in lieu thereof "section 465(c)(1)(C)".

* * * * *

(2) CLARIFICATION OF SECTION 465(d).—Subsection (d) of section 465 (defining loss for purposes of the at risk provisions) is amended by striking out "(determined without regard to this section)" and inserting in lieu thereof "(determined without regard to the first sentence of subsection (a))".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on October 4, 1976.

(l) AMENDMENTS RELATING TO USE OF ACCRUAL ACCOUNTING FOR FARMING.—

(1) AUTOMATIC 10-YEAR ADJUSTMENT PERIOD FOR FARMING CORPORATIONS REQUIRED TO USE ACCRUAL ACCOUNTING.—Paragraph (3) of section 447(f) (relating to coordination with section 481) is amended—

(A) by striking out "(except as otherwise provided in such regulations)", and

(B) by inserting "(or the remaining taxable years where there is a stated future life of less than 10 taxable years)" after "10 taxable years".

(2) AUTOMATIC 10-YEAR ADJUSTMENT FOR FARMING SYNDICATES CHANGING TO ACCRUAL ACCOUNTING.—If—

(A) a farming syndicate (within the meaning of section 464(c) of the Internal Revenue Code of 1954) was in existence on December 31, 1975, and

(B) such syndicate elects an accrual method of accounting (including the capitalization of preproductive period expenses described in section 447(b) of such Code) for a taxable year beginning before January 1, 1979, then such election shall be treated as having been made with the consent of the Secretary of the Treasury or his delegate and, under regulations prescribed by the Secretary of the Treasury or his delegate, the net amount of the adjustments required by section 481(a) of such Code to be taken into account by the taxpayer in computing taxable income shall be taken into account in each of the 10 taxable years (or the remaining taxable years where there is a stated future life of less than 10 taxable years) beginning with the year of change.

(3) EXTENDING FAMILY ATTRIBUTION TO SPOUSE IN THE FARMING SYNDICATE RULES.—

(A) Subparagraph (E) of section 464(c)(2) (defining farming syndicate) is amended by striking out "(within the meaning of section 267(c)(4))" and inserting in lieu thereof "(or a spouse of any such member)".

(B) Paragraph (2) of section 464(c) is amended by adding at the end thereof the following new sentence: "For purposes of subparagraph (E), the term 'family' has the meaning given to such term by section 267(c)(4)."

(4) EFFECTIVE DATE.—The amendments made by paragraphs (1) and (3) shall take effect as if included in section 447 or 464 (as the case may be) of the Internal Revenue Code of 1954 at the time of the enactment of such sections.

(m) EXTENSION OF CERTAIN PROVISIONS TO FOREIGN PERSONAL HOLDING COMPANIES.—

(1) SECTION 465.—Subsection (a) of section 465 (relating to deductions limited to amount at risk in case of certain activities) is amended—

(A) by striking out "In the case of a taxpayer (other than a corporation which is neither an electing small business corporation (as defined in section 1371(b)) nor a personal holding company (as defined in section 542)) engaged" and inserting in lieu

thereof "In the case of an individual engaged"; and

(B) by adding at the end thereof the following new sentence: "For purposes of this section, an electing small business corporation (as defined in section 1371(b)), a personal holding company (as defined in section 542), and a foreign personal holding company (as defined in section 552) shall be treated as an individual."

(2) SECTION 189.—Subsection (a) of section 189 (relating to amortization of real property construction period interest and taxes) is amended—

(A) by striking out "an electing small business corporation (within the meaning of section 1371(b)), or personal holding company (within the meaning of section 542),"; and

(B) by adding at the end thereof the following new sentence: "For purposes of this section, an electing small business corporation (as defined in section 1371(b)), a personal holding company (as defined in section 542), and a foreign personal holding company (as defined in section 552) shall be treated as an individual."

(3) SECTION 280.—Subsection (a) of section 280 (relating to certain expenditures incurred in production of films, books, records, or similar property) is amended—

(A) by striking out "Except in the case of a corporation (other than an electing small business corporation (as defined in section 1371(b)) or a personal holding company (as defined in section 542)) and except" and inserting in lieu thereof "In the case of an individual, except"; and

(B) by adding at the end thereof the following new sentence: "For purposes of this section, an electing small business corporation (as defined in section 1371(b)), a personal holding company (as defined in section 542), and a foreign personal holding company (as defined in section 552) shall be treated as an individual."

(4) EFFECTIVE DATES.—

(A) The amendments made by paragraph (1) shall take effect as if included in the amendment made by section 204(a) of the Tax Reform Act of 1976.

(B) The amendments made by paragraph (2) shall take effect as if included in the amendment made by section 201(a) of the Tax Reform Act of 1976.

(C) The amendments made by paragraph (3) shall take effect as if included in the the amendment made by section 210(a) of the Tax Reform Act of 1976.

(n) DEFINITION OF CONDOMINIUM MANAGEMENT ASSOCIATION.—

(1) IN GENERAL.—Paragraph (2) of section 528(c) (defining condominium management association) is amended by striking out "as residences" and inserting in lieu thereof "by individuals for residences".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to taxable years beginning after December 31, 1973.

(o) DEFINITION OF PERSONAL HOLDING COMPANY.—

(1) IN GENERAL.—The last sentence of section 542(a)(2) of the Internal Revenue Code of 1954 (relating to stock ownership requirement) shall not apply in the case of an organization or trust organized or created before July 1, 1950, if at all times on or after July 1, 1950, and before the close of the taxable year such organization or trust has owned all of the common stock and at least 80 percent of the total number of shares of all other classes of stock of the corporation.

(2) EFFECTIVE DATE.—The provisions of paragraph (1) shall apply with respect to taxable years beginning after December 31, 1976.

(p) SPECIAL RULE FOR GAIN ON PROPERTY TRANSFERRED TO TRUST AT LESS THAN FAIR MARKET VALUE.

(1) ADDITIONAL TAX TO APPLY ONLY TO RECOGNIZED GAINS.—

(A) IN GENERAL.—Subsections (a)(1), (a)(2), and (b)(1) of section 644 (relating to special rule for gain on property transferred to trust at less than fair market value) are each amended by striking out "gain realized" each place it appears and inserting in lieu thereof "gain recognized".

(B) SPECIAL RULE FOR SUBSTITUTED BASIS PROPERTY.—Subsection (d) of section 644 (relating to special rule for short sales) is amended to read as follows:

"(d) SPECIAL RULES.—

"(1) SHORT SALES.—If the trust sells the property referred to in subsection (a) in a short sale within the 2-year period referred to in such subsection, and 2-year period shall be extended to the date of the closing of such short sale.

"(2) SUBSTITUTED BASIS PROPERTY.—For purposes of this section, in the case of any property held by the trust which has a basis determined in whole or in part by reference to the basis of any other property which was transferred to the trust—

"(A) the initial transfer of such property in trust by the transferor shall be treated as having occurred on the date of the initial transfer in trust of such other property,

"(B) subsections (a)(1)(B) and (b)(2) shall be applied by taking into account the fair market value and the adjusted basis of such other property, and

"(C) the amount determined under subsection (b)(2) with respect to such other property shall be allocated (under regulations prescribed by the Secretary) among such other property and all properties held by the trust which have a basis determined in whole or in part by reference to the basis of such other property."

(2) TREATMENT OF NET OPERATING LOSSES, CAPITAL LOSSES, ETC., WHICH MAY AFFECT TRANSFEROR'S TAX IN OTHER YEARS.—Section 644(a)(2) (relating to additional tax on gain on property transferred to trust at less than fair market value) is amended by adding at the end thereof the following new sentence: "The determination of tax under clause (i) of subparagraph (A) shall be made by not taking into account any carryback, and by not taking into account any loss or deduction to the extent that such loss or deduction may be carried by the transferor to any other taxable year."

(3) TECHNICAL AMENDMENT.—Paragraph (1) of section 644(f) is amended by striking out "subsection (a)" and inserting in lieu thereof "subsection (a) (other than the 2-year requirement of paragraph (1)(A) thereof)".

(4) CONFORMING AMENDMENT TO REVISION OF SECTION 644.—Section 1402(b)(1) of the Tax Reform Act of 1976 (relating to holding period for long-term capital gains treatment) is amended by striking out subparagraph (K) thereof.

(5) EFFECTIVE DATES.—

(A) Except as provided in subparagraph (B), the amendment made by this subsection shall apply to transfers in trust made after May 21, 1976.

(B) The amendment made by paragraph (4) shall take effect on October 4, 1976.

(q) ALLOWANCE OF FOREIGN TAX CREDIT FOR ACCUMULATION DISTRIBUTIONS.—

(1) SPECIAL RULES FOR FOREIGN TRUST.—

(A) Subsection (d) of section 665 is amended to read as follows:

"(d) TAXES IMPOSED ON THE TRUST.—For purposes of this subpart—

"(1) IN GENERAL.—The term 'taxes imposed on the trust' means the amount of the taxes which are imposed for any taxable year of the trust under this chapter (without regard to this subpart or subpart A of part IV of subchapter A) and which, under regulations prescribed by the Secretary, are properly allocable to the undistributed portions of distributable net income and gains in excess of losses from sales or exchanges of capital assets. The amount determined in the preceding sentence shall be reduced by any amount of such taxes deemed distributed under section 666 (b) and (c) or 669 (d) and (e) to any beneficiary.

"(2) FOREIGN TRUSTS.—In the case of any foreign trust, the term 'taxes imposed on the trust' includes the amount, reduced as provided in the last sentence of paragraph (1), of any income, war profits, and excess profits taxes imposed by any foreign country or possession of the United States on such foreign trust which, as determined under paragraph (1), are so properly allocable."

(B) Section 667 is amended by adding at the end thereof the following new subsection:

"(d) SPECIAL RULES FOR FOREIGN TRUST.—

"(1) FOREIGN TAX DEEMED PAID BY BENEFICIARY.—

"(A) IN GENERAL.—In determining the increase in tax under subsection (b)(1)(D) for any computation year, the taxes described in section 665 (d) (2) which are deemed distributed under section 666 (b) or (c) and added under subsection (b)(1)(C) to the taxable income of the beneficiary for any computation year shall, except as provided in subparagraphs (B) and (C), be treated as a credit against the increase in tax for such computation year under subsection (b)(1)(D).

"(B) DEDUCTION IN LIEU OF CREDIT.—If the beneficiary did not choose the benefits of subpart A of part III of subchapter N with respect to the computation year, the beneficiary may in lieu of treating the amounts described in subparagraph (A) (without regard to subparagraph (C)) as a credit may treat such amounts as a deduction in computing the beneficiary's taxable income under subsection (b)(1)(C) for the computation year.

"(C) LIMITATION ON CREDIT; RETENTION OF CHARACTER.—

"(i) LIMITATION ON CREDIT.—For purposes of determining under subparagraph (A) the amount treated as a credit for any computation year, the limitations under subpart A of part III of subchapter N shall be applied separately with respect to amounts added under subsection (b)(1)(C) to the taxable income of the beneficiary for such computation year. For purposes of computing the increase in tax under subsection (b)(1)(D) for any computation year for which the beneficiary did not choose the benefits of subpart A of part III of subchapter N, the beneficiary shall be treated as having chosen such benefits for such computation year.

"(ii) RETENTION OF CHARACTER.—The items of income, deduction, and credit of the Trust shall retain their character (subject to the application of section 904(f)(5)) to the extent necessary to apply this paragraph.

"(D) COMPUTATION YEAR.—For purposes of this paragraph, the term 'computation year' means any of the three taxable years remaining after application of subsection (b)(1)(B).".

(C) The last sentence of section 667(b)(1) is amended by inserting "(other than the amount of taxes described in section 665(d)(2))" after "taxes".

(2) RECAPTURE OF OVERALL FOREIGN LOSS.—Section 904(f) is amended by adding at the end thereof the following new paragraph:

"(5) ACCUMULATION DISTRIBUTIONS OF FOREIGN TRUST.—For purposes of this chapter, in the case of amounts of income from sources without the United States which are treated under section 666 (without regard to subsections (b) and (c) thereof if the taxpayer choose to take a deduction with respect to the amounts described in such subsections under section 667(d)(1)(B)) as having been distributed by a foreign trust in a preceding taxable year, that portion of such amounts equal to the amount of any overall foreign loss sustained by the beneficiary in a year prior to the taxable year of the beneficiary in which such distribution is received from the trust shall be treated as income from sources within the United States (and not income

from sources without the United States) to the extent that such loss was not used under this subsection in prior taxable years, or in current taxable year, against other income of the beneficiary.".

(3) EFFECTIVE DATES.—

(A) The amendments made by paragraph (1) shall apply to distributions made in taxable years beginning after December 31, 1975.

(B) The amendments made by paragraph (2) shall take effect as if included in section 904(f) of the Internal Revenue Code of 1954, as such provision was added to such Code by section 1032(a) of the Tax Reform Act of 1976.

(r) RETENTION OF CHARACTER OF AMOUNTS DISTRIBUTED FROM ACCUMULATION TRUST TO NONRESIDENT ALIENS AND FOREIGN CORPORATIONS.—

(1) IN GENERAL.—Section 667 (relating to treatment of amounts deemed distributed by trust in preceding years) is amended by adding at the end thereof the following new subsection:

"(e) RETENTION OF CHARACTER OF AMOUNTS DISTRIBUTED FROM ACCUMULATION TRUST TO NONRESIDENT ALIENS AND FOREIGN CORPORATIONS.—In the case of a distribution from a trust to a nonresident alien individual or to a foreign corporation, the first sentence of subsection (a) shall be applied as if the reference to the determination of character under section 662(b) applied to all amounts instead of just to tax-exempted interest."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to distributions made in taxable years beginning after December 31, 1975.

(s) LIMITATION ON ALLOWANCE OF PARTNERSHIP IN THE CASE OF NONRECOURSE LOANS.—

(1) IN GENERAL.—Section 704(d) (relating to limitation on allowance of partnership losses) is amended by striking out the last sentence and by adding the following at the end thereof: "The preceding sentence shall not apply with respect to any activity to the extent that section 465 (relating to limiting deductions to amounts at risk in case of certain activities) applies, nor shall it apply to an activity involving the holding of real property (other than mineral property). For purposes of the preceding sentence, the holding of real property shall be treated as a separate activity and personal property and services which are incidental to making real property available as living accommodations shall be treated as part of the activity of holding such real property.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to liabilities incurred after December 31, 1976.

(t) EXEMPT INTEREST DIVIDENDS OF REGULATED INVESTMENT COMPANIES.—

(1) TREATMENT OF TAX-EXEMPT INTEREST FOR PURPOSES OF THE 90-PERCENT AND 30-PERCENT TESTS.—Subsection (b) of section 851 (relating to limitations on the definition of regulated investment company) is amended by adding at the end thereof the following new sentence: "For purposes of paragraphs (2) and (3), amounts excludable from gross income under section 103(a)(1) shall be treated as included in gross income."

(2) LOSSES ATTRIBUTABLE TO TAX-EXEMPT INTEREST WHERE STOCK IS HELD LESS THAN 31 DAYS.—Paragraph (4) of section 852(b) (relating to loss on sale or exchange of stock held less than 31 days) is amended to read as follows:

"(4) LOSS ON SALE OR EXCHANGE OF STOCK HELD LESS THAN 31 DAYS.—

"(A) LOSS ATTRIBUTABLE TO CAPITAL GAIN DIVIDEND.—If—

"(i) under subparagraph (B) or (D) of paragraph (3) a shareholder of a regulated investment company is required, with respect to any share, to treat any amount as a long-term capital gain, and

"(ii) such share is held by the taxpayer for less than 31 days,

then any loss (to the extent not disallowed under subparagraph (B)) on the sale or exchange of such share shall, to the extent of the amount described in clause (i), be treated as a long-term capital loss.

"(B) LOSS ATTRIBUTABLE TO EXEMPT-INTEREST DIVIDEND.—If—

"(i) a shareholder of a regulated investment company receives an exempt-interest dividend with respect to any share, and

"(ii) such share is held by the taxpayer for less than 31 days,

then any loss on the sale or exchange of such share shall, to the extent of the amount of such exempt-interest dividend, be disallowed.

"(C) DETERMINATION OF HOLDING PERIODS.—For purposes of this paragraph, the rules of section 246(c)(3) shall apply in determining whether any share of stock has been held for less than 31 days; except that '30 days' shall be substituted for the number of days specified in subparagraph (B) of section 246(c)(3)."

(3) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1975.

(u) AMENDMENTS RELATING TO REAL ESTATE INVESTMENT TRUSTS.—

(1) ANNUAL ACCOUNTING PERIOD.—Section 859 (relating to adoption of annual accounting period), as redesignated by section 372(d)(6) of the Act, is further amended to read as follows:

"SEC. 859. ADOPTION OF ANNUAL ACCOUNTING PERIOD.

"For purposes of this subtitle—

"(1) a real estate investment trust shall not change to any accounting period other than the calendar year, and

"(2) a corporation, trust, or association may not elect to be a real estate investment trust for any taxable year beginning after October 4, 1976, unless its accounting period is the calendar year.

Paragraph (2) shall not apply to a corporation, trust, or association which was considered to be a real estate investment trust for any taxable year beginning on or before October 4, 1976."

(2) AMENDMENT OF SECTION 856(c)(3).—Subparagraph (D) of section 856(c)(3) is amended by inserting "(other than gain from prohibited transactions)" after "and gain".

(3) EXCISE TAX ON REIT UNDISTRIBUTED INCOME.—

(A) Paragraph (3) of section 6501(e) (relating to limitations on assessment and collection) is amended by striking out "or 43" and inserting in lieu thereof "43, or 44".

(B) Subsection (b) of section 1605 of the Tax Reform Act of 1976 (relating to technical amendments) is amended by striking out paragraph (1) thereof.

(C) Subparagraph (D) of section 1605(b)(5) of the Tax Reform Act of 1976 is amended to read as follows:

"(D) by striking out 'of chapter 43 tax for the same taxable years,' in subsection (c)(1) and inserting in lieu thereof 'of chapter 43 tax for the same taxable year, of chapter 44 tax for the same taxable year,'."

(4) CORRECTION OF CROSS REFERENCE.—Subparagraph (B) of section 859(b)(2) is amended by striking out "section 6601(c)" and inserting in lieu thereof "section 6601(b)".

(5) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on October 4, 1976.

(v) AMENDMENTS RELATING TO TREATMENT OF FOREIGN INCOME.—

(1) FOREIGN TAX CREDITS NOT DISALLOWED ON CERTAIN DISTRIBUTIONS MADE BY POSSESSIONS CORPORATIONS.—

(A) IN GENERAL.—Paragraph (1) of section 901(g) (relating to certain taxes paid with respect to distributions from possessions corporations) is amended to read as follows:

"(1) IN GENERAL.—For purposes of this chapter, any tax of a foreign country or possession of the United States which is paid or accrued with respect to any distribution from a corporation—

"(A) to the extent that such distribution is attributable to periods during which such corporation is a possessions corporation, and

"(B)(i) if a dividends received deduction is allowable with respect to such distribution under part VIII of subchapter B, or

"(ii) to the extent that such distribution is received in connection with a liquidation or other transaction with respect to which gain or loss is not recognized,

shall not be treated as income, war profits, or excess profits taxes paid or accrued to a foreign country or possession of the United States, and no deduction shall be allowed under this title with respect to any amount so paid or accrued."

(B) DEFINITION OF POSSESSIONS CORPORATION.—Paragraph (2) of section 901(g) (defining possessions corporation) is amended—

(i) by striking out "or during which section 931" and inserting in lieu thereof ", during which section 931", and

(ii) by inserting before the period at the end thereof the following: ", or during which section 957(c) applied to such corporation".

(C) EFFECTIVE DATES.—The amendment made by subparagraph (A) shall apply as if included in section 901(g) of the Internal Revenue Code of 1954 as added by section 1051(d)(2) of the Tax Reform Act of 1976. The amendments made by subparagraph (B) shall apply to distributions made after the date of the enactment of this Act in taxable years ending after such date.

(2) FOREIGN TAX CREDIT ADJUSTMENTS FOR CAPITAL GAINS.—

(A) IN GENERAL.—Paragraph (2) of section 904(b) (relating to treatment of capital gains for purposes of the foreign tax credit limitation) is amended by striking out "For purposes of subsection (a)—" and inserting in lieu thereof "For purposes of this section—".

(B) SOURCE RULE.—Subparagraph (C) of section 904(b)(3) is amended by striking out "For purposes of this paragraph, there" and inserting in lieu thereof "There".

(C) SOURCE RULE FOR LIQUIDATIONS OF CERTAIN FOREIGN CORPORATIONS.—Paragraph (3) of section 904(b) (relating to source rules for gain from the sale of certain personal property) is amended by redesignating subparagraph (D) as subparagraph (E) and by inserting after subparagraph (C) the following new subparagraph:

"(D) GAIN FROM LIQUIDATION OF CERTAIN FOREIGN CORPORATIONS.—Subparagraph (C) shall not apply with respect to a distribution in liquidation of a foreign corporation to which part II of subchapter C applies if such corporation derived less than 50 percent of its gross income from sources within the United States for the 3-year period ending with the close of such corporation's taxable year immediately preceding the year during which the distribution occurred."

(D) EFFECTIVE DATE.—The amendments made by this paragraph shall apply to taxable years beginning after December 31, 1975.

(3) TREATMENT OF CERTAIN CAPITAL LOSS CARRYOVERS AND CARRYBACKS FOR PURPOSES OF THE LIMITATION ON CREDIT FOR FOREIGN TAXES.—

(A) IN GENERAL.—Clause (iii) of section 904(2)(2)(A) (relating to treatment of capital gains of corporations for purposes of the foreign tax credit limitation) is amended by striking out "any net capital loss" and inserting in lieu thereof "for purposes of determining taxable income from sources without the United States, any net capital loss (and any amount which is a short-term capital loss under section 1212(a))".

(B) EFFECTIVE DATE.—The amendment made by subparagraph (A) shall apply to

taxable years beginning after December 31, 1975.

(4) TREATMENT OF CAPITAL LOSS CARRYOVERS FOR PURPOSES OF FOREIGN LOSS RECAPTURE.—

(A) IN GENERAL.—Subparagraph (A) of section 904(f)(2) (defining overall foreign loss) is amended by striking out "or any capital loss carrybacks and carryovers to such year under section 1212".

(B) FOREIGN OIL RELATED LOSSES.—Subparagraph (A) of section 904(f)(4) (relating to determination of foreign oil related loss where section 907 applies) is amended by striking out "or any capital loss carrybacks and carryovers to such year under section 1212".

(C) EFFECTIVE DATE.—The amendments made by this paragraph shall apply—

(i) to overall foreign losses sustained in taxable years beginning after December 31, 1975, and

(ii) to foreign oil related losses sustained in taxable years ending after December 31, 1975.

(5) EFFECTIVE DATE FOR RECAPTURE OF FOREIGN OIL RELATED LOSSES.—

(A) IN GENERAL.—Paragraph (1) of section 1032(c) of the Tax Reform Act of 1976 is amended to read as follows:

"(1) IN GENERAL.—Except as provided in paragraphs (2), (3), and (5), the amendment made by subsection (a) shall apply to losses sustained in taxable years beginning after December 31, 1975. The amendment made by subsection (b)(1) shall apply to taxable years beginning after December 31, 1975. The amendment made by subsection (b)(2) shall apply to losses sustained in taxable years ending after December 31, 1975."

(B) FOREIGN OIL RELATED LOSSES.—Subsection (c) of section 1032 of the Tax Reform Act of 1976 is amended by adding at the end thereof the following new paragraph:

"(5) FOREIGN OIL RELATED LOSSES.—The amendment made by subsection (a) shall apply to foreign oil related losses sustained in taxable years ending after December 31, 1975."

(6) TRANSITIONAL RULES FOR CERTAIN MINING OPERATIONS.—The second sentence of paragraph (2) of section 1031(c) of the Tax Reform Act of 1976 is amended to read as follows: "In the case of a loss sustained in a taxable year beginning before January 1, 1979, by any corporation to which this paragraph applies, if section 904(a)(1) of such Code (as in effect before the enactment of this Act) applies with respect to such taxable year, the provisions of section 904(f) of such Code shall be applied with respect to such loss under the principles of such section 904(a)(1)."

(7) TRANSITIONAL RULES FOR RECAPTURE OF CERTAIN FOREIGN LOSSES.—

(A) COMPUTATION OF DEFICIT IN EARNINGS AND PROFITS FOR PURPOSES OF THE RECAPTURE OF CERTAIN FOREIGN LOSSES.—Paragraph (4) of section 1032(c) of the Tax Reform Act of 1976 (relating to limitation based on deficit in earnings and profits for purposes of the recapture of foreign losses) is amended by adding at the end thereof the following new sentence: "For purposes of the preceding sentence, there shall be taken into account only earnings and profits of the corporation which (A) were accumulated in taxable years of the corporation beginning after December 31, 1962, and during the period in which the stock of such corporation from which the loss arose was held by the taxpayer and (B) are attributable to such stock."

(B) RECAPTURE OF POSSESSION LOSSES DURING TRANSITIONAL PERIOD WHERE TAXPAYER IS ON A PER-COUNTRY BASIS.—

(i) Subsection (c) of section 1032 of the Tax Reform Act of 1976 (relating to effective dates for recapture of foreign losses) is amended by adding at the end thereof the following new paragraph:

"(6) RECAPTURE OF POSSESSION LOSSES DURING TRANSITIONAL PERIOD WHERE TAXPAYER IS ON A PER-COUNTRY BASIS.—

"(A) APPLICATION OF PARAGRAPH.—This paragraph shall apply if—

"(i) the taxpayer sustained a loss in a possession of the United States in a taxable year beginning after December 31, 1975, and before January 1, 1979,

"(ii) such loss is attributable to a trade or business engaged in by the taxpayer in such possession on January 1, 1976, and

"(iii) the taxpayer chooses to have the benefits of subpart A of part III of subchapter N apply for such taxable year and section 904(a)(1) of the Internal Revenue Code of 1954 (as in effect before the enactment of this Act) applies with respect to such taxable year.

"(B) NO RECAPTURE DURING TRANSITION PERIOD.—In any case to which this paragraph applies, for purposes of determining the liability for tax of the taxpayer for taxable years beginning before January 1, 1979, section 904(f) of the Internal Revenue Code of 1954 shall not apply with respect to the loss described in subparagraph (A)(i).

"(C) RECAPTURE OF LOSS AFTER THE TRANSITION PERIOD.—In any case to which this paragraph applies—

"(i) for purposes of determining the liability for tax of the taxpayer for taxable years beginning after December 31, 1978, section 904(f) of the Internal Revenue Code of 1954 shall be applied with respect to the loss described in subparagraph (A)(i) under the principles of section 904(a)(1) of such Code (as in effect before the enactment of this Act); but

"(ii) in the case of any taxpayer and any possession, the aggregate amount to which such section 904(f) applies by reason of clause (i) shall not exceed the sum of the net incomes of all affiliated corporations from such possession for taxable years of such affiliated corporations beginning after December 31, 1975, and before January 1, 1979.

"(D) TAXPAYERS NOT ENGAGED IN TRADE OR BUSINESS ON JANUARY 1, 1976.—In any case to which this paragraph applies but for the fact that the taxpayer was not engaged in a trade or business in such possession on January 1, 1976, for purposes of determining the liability for tax of the taxpayer for taxable years beginning before January 1, 1979, if section 904(a)(1) of such Code (as in effect before the enactment of this Act) applies with respect to such taxable year, the provisions of section 904(f) of such Code shall be applied with respect to the loss described in subparagraph (A)(i) under the principles of such section 904(a)(1).

"(E) AFFILIATED CORPORATION DEFINED.—For purposes of subparagraph (C)(ii), the term 'affiliated corporation' means a corporation which, for the taxable year for which the net income is being determined was not a member of the same affiliated group (within the meaning of section 1504 of the Internal Revenue Code of 1954) as the taxpayer but would have been a member of such group but for the application of subsection (b) of such section 1504."

(ii) Paragraph (3) of section 1031(c) of the Tax Reform Act of 1976 is amended by striking out the last sentence.

(8) LIMITATIONS ON FOREIGN TAX CREDIT WHERE INDIVIDUAL HAS FOREIGN OIL AND GAS EXTRACTION INCOME.—

(A) REDUCTION IN FOREIGN TAX CREDIT FOR CERTAIN INDIVIDUALS HAVING FOREIGN OIL AND GAS EXTRACTION INCOME.—Subsection (a) (as amended by section 301(b)(14) of this Act) of section 907 (relating to special rules in case of foreign oil and gas income) is further amended to read as follows:

"(a) REDUCTION IN AMOUNT ALLOWED AS FOREIGN TAX UNDER SECTION 901.—In applying section 901, the amount of any oil and gas extraction taxes paid or accrued (or deemed to have been paid) during the taxable year which would (but for this subsection) be taken into account for purposes of section 901 shall be reduced by the amount (if any) by which the amount of such taxes exceeds the product of—

"(1) the amount of the foreign oil and gas extraction income for the taxable year,

"(2) multiplied by—

"(A) in the case of a corporation, the percentage which is equal to the highest rate of tax under section 11, or

"(B) in the case of an individual, a fraction the numerator of which is the tax against which the credit under section 901(a) is taken and the denominator of which is the taxpayer's entire taxable income."

(B) APPLICATION OF SECTION 904 SEPARATELY TO FOREIGN OIL RELATED INCOME OF INDIVIDUALS.—Subsection (b) of section 907 (relating to application of section 904 limitation) is amended to read as follows:

"(b) APPLICATION OF SECTION 904 LIMITATION.—The provisions of section 904 shall be applied separately with respect to—

"(1) foreign oil related income, and

"(2) other taxable income."

(C) TECHNICAL AMENDMENT.—Paragraph (4) of section 904(f) (relating to recapture of overall foreign loss) is amended by striking out "In the case of a corporation to which section 907(b)(1) applies" and inserting in lieu thereof "In making the separate computation under this subsection with respect to foreign oil related income which is required by section 907(b)".

(D) EFFECTIVE DATES.—

(i) The amendments made by this paragraph shall apply, in the case of individuals, to taxable years ending after December 31, 1974, and, in the case of corporations, to taxable years ending after December 31, 1976.

(ii) In the case of any taxable year ending after December 31, 1975, with respect to foreign oil related income (within the meaning of section 907(c) of the Internal Revenue Code of 1954), the overall limitation provided by section 904(a)(2) of such Code shall apply and the per-country limitation provided by section 904(a)(1) of such Code shall not apply.

(9) EFFECTIVE DATE FOR DISALLOWANCE OF FOREIGN TAX CREDIT FOR CERTAIN PRODUCTION-SHARING CONTRACTS.—The second sentence of paragraph (3) of section 1035(c) of the Tax Reform Act of 1976 (relating to tax credit for production-sharing contracts) is amended to read as follows: "A contract described in the preceding sentence shall be taken into account under paragraph (1) only with respect to amounts (A) paid or accrued to the foreign government before January 1, 1978, and (B) attributable to income earned before such date."

(10) FOREIGN TAXES ATTRIBUTABLE TO SECTION 911 EXCLUSION.—

(A) IN GENERAL.—The last sentence of section 911(a) (relating to earned income from sources without the United States) is amended to read as follows:

"An individual shall not be allowed as a deduction from his gross income any deductions (other than those allowed by section 151, relating to personal exemptions), to the extent that such deductions are properly allocable to or chargeable against amounts excluded from gross income under this subsection. For purposes of this title, the amount of the income, war profits, and excess profits taxes paid or accrued by any individual to a foreign country or possession of the United States for any taxable year shall be reduced by an amount determined by multiplying the amount of such taxes by a fraction—

"(A) the numerator of which is the tax determined under subsection (d)(1)(B), and

"(B) the denominator of which is the sum of the amount referred to in subparagraph

(A), plus the limitation imposed for the taxable year by section 904(a).".

(B) EFFECTIVE DATE.—The amendment made by subparagraph (A) shall apply to taxable years beginning after December 31, 1976.

(11) SALE OF ASSETS BY A POSSESSIONS CORPORATION.—

(A) IN GENERAL.—Subsection (a) of section 936 (relating to Puerto Rico and possession tax credit) is amended by redesignating paragraph (2) as paragraph (3) and by amending so much of paragraph (1) as precedes subparagraph (A) thereof to read as follows:

"(1) IN GENERAL.—Except as provided in paragraph (3), if a domestic corporation elects the application of this section and if the conditions of both subparagraph (A) and subparagraph (B) of paragraph (2) are satisfied, there shall be allowed as a credit against the tax imposed by this chapter an amount equal to the portion of the tax which is attributable to the sum of—

"(A) the taxable income, from sources without the United States, from—

"(i) the active conduct of a trade or business within a possession of the United States, or

"(ii) the sale or exchange of substantially all of the assets used by the taxpayer in the active conduct of such trade or business, and

"(B) the qualified possession source investment income.

"(2) CONDITIONS WHICH MUST BE SATISFIED.—The conditions referred to in paragraph (1) are:".

(B) INCOME FROM SALE OF CARRYOVER BASIS PROPERTY NOT TAKEN INTO ACCOUNT.—

(i) Subsection (d) of section 936 (relating to definitions) is amended by adding at the end thereof the following new paragraph:

"(3) CARRYOVER BASIS PROPERTY.—

"(A) IN GENERAL.—Income from the sale or exchange of any asset the basis of which is determined in whole or in part by reference to its basis in the hands of another person shall not be treated as income described in subparagraph (A) or (B) of subsection (a)(1).

"(B) EXCEPTION FOR POSSESSIONS CORPORATIONS, ETC.—For purposes of subparagraph (A), the holding of any asset by another person shall not be taken into account if throughout the period for which such asset was held by such person section 931, this section, or section 957(c) applied to such person.".

(ii) The heading of such subsection (d) is amended to read as follows:

"(d) DEFINITIONS AND SPECIAL RULES.—".

(C) EFFECTIVE DATE.—The amendments made by this paragraph shall apply as if included in section 936 of the Internal Revenue Code of 1954 at the time of its addition by section 1051(b) of the Tax Reform Act of 1976.

(12) GAIN ON DISPOSITION OF STOCK IN A DISC.—

(A) DELAY IN EFFECTIVE DATE.—Paragraph (4) of section 1101(g) of the Tax Reform Act of 1976 (relating to effective date for amendment relating to gain or disposition of DISC stock) is amended by striking out "December 31, 1975" and inserting in lieu thereof "December 31, 1976".

(B) TECHNICAL AMENDMENT.—Paragraph (1) of section 995(c) (relating to gain on disposition of stock in a DISC) is amended by adding at the end thereof the following new sentence:

"Subparagraph (C) shall not apply if the person receiving the stock in the disposition has a holding period for the stock which includes the period for which the stock was held by the shareholder disposing of such stock."

(C) EFFECTIVE DATE.—The amendment made by subparagraph (B) shall apply to dispositions made after December 31, 1976, in taxable years ending after such date.

(13) LIMITATION ON PARTNER'S TAX WHERE PARTNER RECEIVES AMOUNT TREATED AS SALE OF SECTION 1248 STOCK.—

(A) IN GENERAL.—Section 751 (relating to unrealized receivables and inventory items) is amended by adding at the end thereof the following new subsection:

"(e) LIMITATION ON TAX ATTRIBUTABLE TO DEEMED SALES OF SECTION 1248 STOCK.—For purposes of applying this section and sections 731, 736, and 741 to any amount resulting from the reference to section 1248(a) in the second sentence of subsection (c), in the case of an individual, the tax attributable to such amount shall be limited in the manner provided by subsection (b) of section 1248 (relating to gain from certain sales or exchanges of stock in certain foreign corporations)."

(B) CROSS REFERENCE.—Section 736 (relating to payments to a retiring partner or a deceased partner's successor in interest) is amended by adding at the end thereof the following new subsection:

"(c) CROSS REFERENCE.—

"For limitation on the tax attributable to certain gain connected with section 1248 stock, see section 751(e)."

(C) EFFECTIVE DATE.—The amendments made by this paragraph shall apply to transfers beginning after October 9, 1975, and to sales, exchanges, and distributions taking place after such date.

(14 EXCISE TAX ON TRANSFERS OF PROPERTY TO FOREIGN PERSONS TO AVOID FEDERAL INCOME TAX.—

(A) TRANSFERS INVOLVING ESTATES.—Section 1491 (relating to tax on transfer to avoid income tax) is amended by striking out "trust" each place it appears therein and inserting in lieu thereof "estate or trust".

(B) CLARIFICATION OF PARAGRAPH (3) OF SECTION 1492.—Paragraph (3) of section 1492 (relating to nontaxable transfers) is amended to read as follows:

"(3) To a transfer described in section 367; or".

(C) EFFECTIVE DATE.—The amendments made by this paragraph shall apply to transfers after October 2, 1975.

(15) ELECTION TO TREAT NONRESIDENT ALIEN INDIVIDUAL AS RESIDENT OF THE UNITED STATES.—

(A) PROVISIONS AFFECTED BY ELECTION.—Paragraph (1) of section 6013(g) (relating to election to treat nonresident alien individual as resident of the United States) is amended to read as follows:

"(1) IN GENERAL.—A nonresident alien individual with respect to whom this subsection is in effect for the taxable year shall be treated as a resident of the United States—

"(A) for purposes of chapters 1 and 5 for all of such taxable year, and

"(B) for purposes of chapter 24 (relating to wage withholding) for payments of wages made during such taxable year."

(B) CONFORMING AMENDMENT.—Paragraph (5) of section 6013(g) (relating to termination of election by Secretary) is amended by striking out "chapter 1" and inserting in lieu thereof "chapters 1 and 5".

(C) YEAR OF RESIDENCY.—Paragraph (1) of section 6013(h) (relating to return for year nonresident alien becomes resident) is amended—

(i) by striking out "chapter 1" and inserting in lieu thereof "chapters 1 and 5", and

(ii) by inserting before the period at the end thereof the following: ", and for purposes of chapter 24 (relating to wage withholding) for payments of wages made during such taxable year."

(D) CERTAIN AMOUNTS WITHHELD UNDER CHAPTER 3 TREATED AS OVERPAYMENTS OF TAX.—Subsection (b) of section 6401 (relating to excessive credits) is amended by adding at the end thereof the following new sentence: "For purposes of the preceding sentence, any credit allowed under paragraph (1) of section 32 (relating to withholding of tax on nonresident aliens and on foreign corporations) to a nonresident alien individual for a taxable year with respect to which an election under section 6013(g) or (h) is in effect shall be treated as an amount allowable as a credit under section 31."

(E) EFFECTIVE DATES.—The amendments made by this paragraph—

(i) to the extent that they relate to chapter 1 or 5 of the Internal Revenue Code of 1954, shall apply to taxable years ending on or after December 31, 1975, and

(ii) to the extent that they relate to wage withholding under chapter 24 of such Code, shall apply to remuneration paid on or after the first day of the first month which begins more than 90 days after the date of the enactment of this Act.

(16) NONRESIDENT ALIEN INDIVIDUAL ALLOWED TO BE TREATED AS RESIDENT OF THE UNITED STATES.—

(A) IN GENERAL.—Paragraph (2) of section 6013(g) (relating to election to treat nonresident alien individual as resident of the United States) is amended by striking out "who, at the time an election was made under this subsection," and inserting in lieu thereof "who, at the close of the taxable year for which an election under this subsection was made,".

(B) EFFECTIVE DATE.—The amendment made by subparagraph (A) shall apply to taxable years beginning after December 31, 1975.

(w) AMENDMENT OF SECTION 1239(a).—

(1) IN GENERAL.—Subsection (a) of section 1239 (relating to gain from sale of depreciable property between certain related taxpayers) is amended by striking out "subject to the allowance for depreciation provided in section 167" and inserting in lieu thereof "of a character which is subject to the allowance for depreciation provided in section 167".

(2) EFFECTIVE DATE.—The amendment made of paragraph (1) shall apply as if included in the amendment made to section 1239 of the Internal Revenue Code of 1954 by section 2129(a) of the Tax Reform Act of 1976.

(x) RECAPTURE OF DEPRECIATION ON PLAYER CONTRACTS.—

(1) IN GENERAL.—Subparagraph (C) of section 1245(a)(4) (defining previously unrecaptured depreciation with respect to contracts transferred) is amended to read as follows:

"(C) PREVIOUSLY UNRECAPTURED DEPRECIATION WITH RESPECT TO CONTRACTS TRANSFERRED.—For purposes of subparagraph (A)(ii), the term 'previously unrecaptured depreciation' means the amount of any deduction allowed or allowable to the taxpayer transferor for the depreciation of any contracts involved in such transfer."

(2) RECAPTURE OF DEPRECIATION WITH RESPECT TO INITIAL CONTRACTS.—Subparagraph (B) of section 1245(a)(4) (defining previously unrecaptured depreciation with respect to initial contracts) is amended—

(A) by inserting "attributable to periods after December 31, 1975," after "depreciation" in clause (i),

(B) by inserting "incurred after December 31, 1975," after "losses" in clause (i), and

(C) by inserting "described in clause (i)" after "amounts" in clause (ii).

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to transfers of player contracts in connection with any sale or exchange of a franchise after December 31, 1975.

(y) TREATMENT OF PENSIONS AND ANNUITIES

FOR 50-PERCENT MAXIMUM RATE ON PERSONAL SERVICE INCOME.—

(1) IN GENERAL.—Subparagraph (A) of section 1348(b)(1) (defining personal service income) is amended by striking out "pension or annuity" and inserting in lieu thereof "pension or annuity which arises from an employer-employee relationship or from tax-deductible contributions to a retirement plan".

(2) TECHNICAL AMENDMENT.—The last sentence of section 1348(b) is amended by striking out "earned income" and inserting in lieu thereof "personal service income".

(3) EFFECTIVE DATE.—The amendments made by paragraph (1) this section shall apply to taxable years beginning after December 31, 1976.

(z) CHANGES IN THE SUBCHAPTER S PROVISIONS.—

(1) GRANTOR TRUST MAY BE TREATED AS PERMITTED SHAREHOLDER AFTER DECEDENT'S DEATH; GRANTOR OR GRANTOR TRUST MUST BE INDIVIDUAL.—Paragraph (1) of subsection (e) of section 1371 (as redesignated by section 341(b)(2) of this Act) is amended to read as follows:

"(1)(A) A trust all of which is treated as owned by the grantor (who is an individual who is a citizen or resident of the United States) under subpart E of part I of subchapter J of this chapter.

"(B) A trust which was described in subparagraph (A) immediately before the death of the grantor and which continues in existence after such death, but only for the 60-day period beginning on the day of the grantor's death. If a trust is described in the preceding sentence and if the entire corpus of the trust is includible in the gross estate of the grantor, the preceding sentence shall be applied by substituting '2-year period' for '60-day period'."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to taxable years beginning after December 31, 1976.

(aa) WITHHOLDING OF FEDERAL TAXES ON CERTAIN INDIVIDUALS ENGAGED IN FISHING—

(1) IN GENERAL.—Section 1207(f)(4) of the Tax Reform Act of 1976 (relating to effective date of provisions relating to withholding on certain individuals engaged in fishing) is amended by striking out "December 31, 1971" each place it appears and inserting in lieu thereof "December 31, 1954".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect on October 4, 1976.

(bb) WITHDRAWALS FROM INDIVIDUALS RETIREMENT ACCOUNTS, ETC.—

(1) IN GENERAL.—The last sentence of section 4973(b) (relating to excess contributions to individual retirement accounts, etc.) is amended by striking out "solely because of employer contributions to a plan or contract described in section 219(b)(2)" and inserting in lieu thereof "solely because of ineligibility under section 219(b)(2) or section 220(b)(3)".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply as if included in section 1501 of the Tax Reform Act of 1976 at the time of the enactment of such Act.

(cc) AMENDMENTS RELATING TO DISCLOSURE OF TAX RETURNS.—

(1) DISCLOSURE OF MAILING ADDRESS FOR PURPOSES OF COLLECTING CERTAIN STUDENT LOANS.—

(A) Subsection (m) of section 6103 (relating to disclosure of taxpayer identity information) is amended to read as follows:

"(m) DISCLOSURE OF TAXPAYER IDENTITY INFORMATION.—

"(1) TAX REFUNDS.—The Secretary may disclose taxpayer identity information to the press and other media for purposes of notifying persons entitled to tax refunds when the Secretary, after reasonable effort and lapse of time, has been unable to locate such persons.

"(2) FEDERAL CLAIMS.—Upon written request, the Secretary may disclose the mailing address of a taxpayer to officers and employees of an agency personally and directly engaged in, and solely for their use in, preparation for any administrative or judicial proceeding (or investigation which may result in such a proceeding) pertaining to the collection or compromise of a Federal claim against such taxpayer in accordance with the provisions of section 3 of the Federal Claims Collection Act of 1966.

"(3) NATIONAL INSTITUTE FOR OCCUPATIONAL SAFETY AND HEALTH.—Upon written request, the Secretary may disclose the mailing address of taxpayers to officers and employees of the National Institute for Occupational Safety and Health solely for the purpose of locating individuals who are, or may have been, exposed to occupational hazards in order to determine the status of their health or to inform them of the possible need for medical care and treatment.

"(4) INDIVIDUALS WHO HAVE DEFAULTED ON STUDENT LOANS.—

"(A) IN GENERAL.—Upon written request by the Commissioner of Education, the Secretary may disclose the mailing address of any taxpayer who has defaulted on a loan made from the student loan fund established under part E of title IV of the Higher Education Act of 1965 for use only for purposes of locating such taxpayer for purposes of collecting such loan.

"(B) DISCLOSURE TO INSTITUTIONS.—Any mailing address disclosed under subparagraph (A) may be disclosed by the Commissioner of Education to any educational institution with which he has an agreement under part E of title IV of the Higher Education Act of 1965 only for use by officers, employees or agents of such institution whose duties relate to the collection of student loans for purposes of locating individuals who have defaulted on student loans made by such institution pursuant to such agreement for purposes of collecting such loans."

(B) Paragraph (3) of section 6103(a) is amended by inserting ", subsection (m)(4)(B)," after "subsection (e)(1)(D)(iii)".

(C) Paragraph (2) of section 7213(a) (relating to penalties for unauthorized disclosure of information) is amended—

(i) by striking out "or any local" and inserting in lieu thereof ", any local";

(ii) by inserting ", or any educational institution" after "enforcement agency"; and

(iii) by striking out "section 6103(d) or (l)(6)" and inserting in lieu thereof "subsection (d), (l)(6), or (m)(4)(B) of section 6103".

(2) DISCLOSURE OF TAX RETURN INFORMATION REGARDING SPECIAL FUEL EXCISE TAXES.—Subsection (d) of section 6103 (relating to disclosure to State tax officials) is amended by inserting "31," after "24,".

(3) RETURN INFORMATION OTHER THAN TAXPAYER RETURN INFORMATION.—Paragraph (2) of section 6103(l) (relating to return information other than taxpayer return information) is amended by adding at the end thereof the following new sentence: "For purposes of this paragraph, the name and address of the taxpayer shall not be treated as taxpayer return information."

(4) DISCLOSURE OF RETURN INFORMATION CONCERNING POSSIBLE CRIMINAL ACTIVITIES.—Paragraph (3) of section 6103(l) (relating to disclosure of return information concerning possible criminal activities) is amended by adding at the end thereof the following new sentence: "For purposes of the preceding sentence, the name and address of the taxpayer shall not be treated as taxpayer return information if there is return information (other than taxpayer return information) which may constitute evidence of a violation of Federal criminal law."

(5) DISCLOSURE UNDER TAX CONVENTIONS.—Section 6103(k)(4) (relating to disclosure of return information under income tax conventions) is amended—

(A) by striking out "income" in the caption thereof,

(B) by inserting "or gift and estate tax" after "income tax", and

(C) by inserting ", or other convention relating to the exchange of tax information," after "convention" the first place it appears.

(6) CRIMINAL PENALTY FOR UNAUTHORIZED DISCLOSURE OF INFORMATION.—Section 7213(a) (relating to unauthorized disclosure of information) is amended—

(A) by striking out "to disclose" in paragraphs (1), (2), and (5) and inserting in lieu thereof "willfully to disclose",

(B) by striking out "to thereafter print or publish" in paragraph (3) and inserting in lieu thereof "thereafter willfully to print or publish", and

(C) by striking out "to offer" in paragraph (4) and inserting in lieu thereof "willfully to offer".

(7) NO CIVIL LIABILITY FOR GOOD FAITH BUT ERRONEOUS INTERPRETATION OF DISCLOSURE REQUIREMENTS.—Section 7217 (relating to civil damages for unauthorized disclosure of return and return information) is amended—

(A) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively;

(B) by inserting after subsection (a) the following new subsection:

"(b) NO LIABILITY FOR GOOD FAITH BUT ERRONEOUS INTERPRETATION.—No liability shall arise under this section with respect to any disclosure which results from a good faith, but erroneous, interpretation of section 6103."; and

(C) by striking out "An action" in subsection (d) (as so redesignated) and inserting in lieu thereof "PERIOD FOR BRINGING ACTION.—An action".

(8) EFFECTIVE DATES.—

(A) Except as provided in subparagraph (B), the amendments made by this subsection shall take effect January 1, 1977.

(B) The amendments made by paragraph (6) (7) shall apply with respect to disclosures made after the date of the enactment of this Act.

(dd) AMENDMENTS RELATING TO INCOME TAX RETURN PREPARERS.—

(1) NEGOTIATIONS OF CHECKS BY STATE.—Subsection (f) of section 6695 (relating to negotiations of check) is amended by adding at the end thereof the following new sentence: "The preceding sentence shall not apply with respect to the deposit by a bank (within the meaning of section 581) of the full amount of the check in the taxpayer's account in such bank for the benefit of the taxpayer."

(2) DEFINITION.—Clause (iii) of section 7701(a)(36)(B) (relating to exceptions from the definition of income tax return preparer) is amended to read as follows:

"(iii) prepares as a fiduciary a return or claim for refund for any person, or".

(3) DEFINITION OF RULE.—Section 6694(a) (relating to negligent or intentional disregard of rules and regulations by income tax return papers) is amended by adding at the end thereof the following new sentence: "For purposes of the preceding sentence, the term 'rule' shall not include any revenue ruling, or written determination (as defined in section 6110(b)(1)) unless such written determination directly applies to the return or claim prepared.".

(4) EFFECTIVE DATE.—The amendments made by this subsection shall apply to documents prepared after December 31, 1976.

(ee) CLARIFICATION OF DECLARATION JUDGMENT PROVISIONS WITH RESPECT TO REVOCATIONS OF OR OTHER CHANGES IN THE QUALIFICATIONS OF CERTAIN ORGANIZATIONS.—

(1) QUALIFICATION OF CERTAIN RETIREMENT PLANS.—Subsection (a) of section 7476 (relating to declaratory judgments relating to

qualification of certain retirement plans) is amended by adding at the end thereof the following new sentence: "For purposes of this section, a determination with respect to a continuing qualification includes any revocation of or other change in a qualification."

(2) CLASSIFICATION OF ORGANIZATIONS UNDER SECTION 501(c)(3), ETC.—Subsection (a) of section 7428 (relating to declaratory judgments relating to status and classification of organizations under section 501(c)(3), etc.) is amended by adding at the end thereof the following new sentence: "For purposes of this section, a determination with respect to a continuing qualification or continuing classification includes any revocation of or other change in a qualification or classification."

(3) EFFECTIVE DATE.—The amendments made by paragraphs (1) and (2) shall take effect as if included in section 7476 or 7428 of the Internal Revenue Code of 1954 (as the case may be) at the respective times such sections were added to such Code.

(ff) CONTRIBUTIONS OF CERTAIN GOVERNMENT PUBLICATIONS.—

(1) IN GENERAL.—Paragraph (1) of section 1231(b) (relating to definition of property used in trade or business) is amended—

(A) by striking out "or" at the end of subparagraph (B),

(B) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof a comma and "or", and

(C) by adding at the end thereof the following new subparagraph:

"(D) a publication of the United States Government (including the Congressional Record) which is received from the United States Government, or any agency thereof, other than by purchase at the price at which it is offered for sale to the public, and which is held by a taxpayer described in paragraph (6) of section 1221.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply with respect to sales, exchanges, and contributions made after October 4, 1976.

(gg) EXEMPTION FOR LIGHT-DUTY TRUCK PARTS.—

(1) IN GENERAL.—Section 4063 (relating to exemption of motor vehicles and parts) is amended by adding at the end thereof the following new subsection:

"(e) PARTS FOR LIGHT-DUTY TRUCKS.—The tax imposed by section 4061(b) shall not apply to the sale by the manufacturer, producer, or importer of any article which is to be resold by the purchaser or in connection with the first retail sale of a light-duty truck, as described in section 4061(a)(2), or which is to be resold by the purchaser to a second purchaser for resale by such second purchaser on or in connection with the first retail sale of a light-duty truck."

(2) CONFORMING AMENDMENTS.—

(A) Section 4221(c) (relating to manufacturer relieved from liability in certain cases) is amended by inserting "4063(e)," after "4063(b),".

(B) Section 4222(d) (relating to registration in the case of tax-free sales) is amended by inserting "4063(e)," after "4063(b),".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the first day of the first calendar month beginning more than 20 days after the date of the enactment of this Act.

SEC . TECHNICAL, CLERICAL, AND CONFORMING AMENDMENTS TO ESTATE AND GIFT TAX PROVISIONS.

(a) AMENDMENTS RELATING TO TREATMENT OF SECTION 306 STOCK.—

(1) APPLICATION OF "FRESH START" TO SECTION 306 STOCK.—Subsection (a) of section 306 (relating to dispositions of certain stock) is amended by adding at the end thereof the following new paragraph:

"(3) ORDINARY INCOME FROM SALE OR REDEMPTION OF SECTION 306 STOCK WHICH IS CARRYOVER BASIS PROPERTY ADJUSTED FOR 1976 VALUE.—

"(A) IN GENERAL.—If any section 306 stock was distributed before January 1, 1977, and if the adjusted basis of such stock in the hands of the person disposing of it is determined under section 1023 (relating to carryover basis), then the amount treated as ordinary income under paragraph (1)(A) of this subsection (or the amount treated as a dividend under section 301(c)(1)) shall not exceed the excess of the amount realized over the sum of that—

"(i) the adjusted basis of such stock on December 31, 1976, and

"(ii) any increase in basis under section 1023(h).

"(B) REDEMPTION MUST BE DESCRIBED IN SECTION 302(b).—Subparagraph (A) shall apply to a redemption only if such redemption is described in paragraph (1), (2), or (4) of section 302(b)."

(2) CLARIFICATION THAT SECTION 303 OVERRIDES SECTION 306.—Subsection (b) of section 306 (relating to exceptions) is amended by adding at the end thereof the following new paragraph:

"(5) SECTION 303 REDEMPTIONS.—To the extent that section 303 applies to a distribution in redemption of section 306 stock.".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to the estates of decedents dying after December 31, 1979.

(b) COORDINATION OF DEDUCTION FOR ESTATE TAXES ATTRIBUTABLE TO INCOME IN RESPECT OF A DECEDENT WITH THE CAPITAL GAIN DEDUCTION, ETC.—

(1) IN GENERAL.—Subsection (c) of section 691 (relating to deduction for estate taxes in the case of income in respect of decedents) is amended by adding at the end thereof the following new paragraph:

"(4) COORDINATION WITH CAPITAL GAIN DEDUCTION, ETC.—For purposes of section 1201, 1202, and 1211, and for purposes of section 57(a)(9), the amount of any gain taken into account with respect to any item described in subsection (a)(1) shall be reduced (but not below zero) by the amount of the deduction allowable under paragraph (1) of this subsection with respect to such item."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply with respect to decedents dying after the date of the enactment of this Act.

(c) AMENDMENTS RELATING TO CARRYOVER BASIS.—

(1) Amendments relating to the postponement of the effective date of carryover basis provisions.—

(A) FAIR MARKET VALUE WHERE FARM VALUATION ELECTED.—Subsection (a) of section 1014 (relating to basis of property acquired from a decedent) is amended to read as follows:

"(a) IN GENERAL.—Except as otherwise provided in this section, the basis of property in the hands of a person acquiring the property from a decedent or to whom the property passed from a decedent shall, if not sold, exchanged, or otherwise disposed of before the decedent's death by such person, be—

"(1) the fair market value of the property at the date of the decedent's death, or

"(2) in the case of an election under either section 2032 or section 811(j) of the Internal Revenue Code of 1939 where the decedent died after October 21, 1942, its value at the applicable valuation date prescribed by those sections, or

"(3) in the case of an election under section 2032A, its value determined under such section."

(B) The second sentence of section 2614(a) (relating to basis adjustments in connection with generation-skipping transfers) is amended to read as follows: "If property is transferred in a generation-skipping transfer subject to tax under this chapter which occurs at the same time as, or after, the death of the deemed transferor, the basis of such property shall be adjusted—

"(1) in the case of such a transfer occurring after June 11, 1976, and before January 1, 1980, in a manner similar to the manner provided under section 1014(a), and

"(2) in the case of such a transfer occurring after December 31, 1979, in a manner similar to the manner provided by section 1023 without regard to subsection (d) thereof (relating to basis of property passing from a decedent dying after December 31, 1979)."

(2) MINIMUM CARRYOVER BASIS FOR TANGIBLE PERSONAL PROPERTY.—

(A) IN GENERAL.—Subsection (h) of section 1023 (relating to adjustment to basis for December 31, 1976, fair market value) is amended by adding at the end thereof the following new paragraph:

"(3) MINIMUM BASIS FOR TANGIBLE PERSONAL PROPERTY.—

"(A) IN GENERAL.—If the holding period for any carryover basis property which is tangible personal property includes December 31, 1976, then, for purposes of determining gain and applying this section, the adjusted basis of such property immediately before the death of the decedent shall be treated as being not less than the amount determined under subparagraph (B).

"(B) AMOUNT.—The amount determined under this subparagraph for any property is—

"(i) the value of such property (as determined with respect to the estate of the decedent without regard to section 2032), divided by

"(ii) 1.0066 to the nth power where n equals the number of full calendar months which have elapsed between December 31, 1976, and the date of the decedent's death."

(B) CONFORMING AMENDMENT.—Paragraph (3) of section 1023(g) (relating to decedent's basis unknown) is amended by striking out "to the person acquiring such property from the decedent" and inserting in lieu thereof "and cannot be reasonably ascertained".

(3) TREATMENT OF INDEBTEDNESS.—

(A) IN GENERAL.—Paragraph (1) of section 1023(g) (defining fair market value) is amended by inserting "(without regard to whether there is a mortgage on, or indebtedness in respect of, the property)" after "chapter 11".

(B) TECHNICAL AMENDMENT.—Subsection (g) of section 1023 (relating to other special rules and definitions) is amended by striking out paragraph (4).

(4) ONLY ONE FRESH START WITH RESPECT TO CARRYOVER BASIS PROPERTY HELD ON DECEMBER 31, 1976.—Subsection (h) of section 1023 (relating to adjustment to basis for December 31, 1976, fair market value) is amended by adding at the end thereof the following new paragraph:

"(4) ONLY ONE FRESH START.—There shall be no increase in basis under this subsection by reason of the death of any decedent if the adjusted basis of the property in the hands of such decedent reflects the adjusted basis of property which was carryover basis property with respect to a prior decedent."

(5) AUTOMATIC LONG-TERM STATUS FOR GAINS AND LOSSES ON CARRYOVER BASIS PROPERTY.—Subparagraph (A) of section 1223(11) is amended by inserting "or 1023" after "section 1014".

(6) CLARIFICATION THAT ADJUSTED BASIS IS INCREASED FOR STATE ESTATE TAXES.—

(A) Subsection (c) of section 1023 (relating to increase in basis for Federal and State estate taxes attributable to appreciation) is amended to read as follows:

"(c) INCREASE IN BASIS FOR FEDERAL AND STATE ESTATE TAXES ATTRIBUTABLE TO APPRECIATION.—

"(1) FEDERAL ESTATE TAXES.—The basis of appreciated carryover basis property (determined after any adjustment under subsection (h)) which is subject to the tax imposed by section 2001 or 2101 in the hands

of the person acquiring it from the decedent shall be increased by an amount which bears the same ratio to the Federal estate taxes as—

"(A) the net appreciation in value of such property, bears to

"(B) the fair market value of all property which is subject to the tax imposed by section 2001 or 2101.

"(2) STATE ESTATE TAXES.—The basis of appreciated carryover basis property (determined after any adjustment under subsection (h)) which is subject to State estate taxes in the hands of the person acquiring it from the decedent shall be increased by an amount which bears the same ratio to the State estate taxes as—

"(A) the net appreciation in value of such property, bears to

"(B) the fair market value of all property which is subject to the State estate taxes."

(B) The second sentence of paragraph (2) of section 1023(f) (defining net appreciation) is amended by striking out "For purposes of subsection (d)," and inserting in lieu thereof "For purposes of paragraph (2) of subsection (c), such adjusted basis shall be increased by the amount of any adjustment under paragraph (1) of subsection (c), for purposes of subsection (d),".

(C) Paragraph (3) of section 1023(f) (defining Federal and State estate taxes) is amended to read as follows:

"(3) FEDERAL AND STATE ESTATE TAXES.—For purposes of subsection (c)—

"(A) FEDERAL ESTATE TAXES.—The term 'Federal estate taxes' means the tax imposed by section 2001 or 2101, reduced by the credits against such tax.

"(B) STATE ESTATE TAXES.—The term 'State estate taxes' means any estate, inheritance, legacy, or succession taxes, for which the estate is liable, actually paid by the estate to any State or the District of Columbia."

(7) CLARIFICATION OF INCREASE IN BASIS FOR CERTAIN STATE SUCCESSION TAXES.—Paragraph (2) of section 1023(e) (relating to further increase in basis for certain State succession tax paid by transferee of property) is amended by striking out "for which the estate is not liable".

(8) CLARIFICATION OF APPLICATION OF FRESH START.—Paragraphs (1) and (2)(A) of section 1023(h) (relating to adjustment to basis for December 31, 1976, fair market value) are each amended by striking out "for purposes of determining gain" and inserting in lieu thereof "for purposes of determining gain and applying this section".

(9) TECHNICAL AMENDMENT WITH RESPECT TO CERTAIN TERM INTERESTS.—Paragraph (1) of section 1001(e) (relating to certain term interests) is amended by striking out "section 1014 or 1015" and inserting in lieu thereof "section 1014, 1015, or 1023".

(10) EFFECTIVE DATE.—The amendments made by this subsection shall take effect as if included in the amendments and additions made by, and the provisions of, section 2005 of the Tax Reform Act of 1976.

(d) AMENDMENTS RELATING TO VALUATION OF CERTAIN FARM, ETC., REAL PROPERTY.—

(1) CLARIFICATION THAT SPECIAL VALUATION APPLIES ONLY TO INTERESTS PASSING TO QUALIFIED HEIRS.—Paragraph (1) of section 2032A (b) (defining qualified real property) is amended by striking out "real property located in the United States" and inserting in lieu thereof "real property located in the United States which was acquired from or passed from the decedent to a qualified heir of the decedent and".

(2) PROPERTY RECEIVED IN SATISFACTION OF PECUNIARY BEQUEST.—Subsection (e) of section 2032A (relating to definitions and special rules for farm valuation property) is amended by adding at the end thereof the following new paragraph:

"(9) PROPERTY ACQUIRED FROM DECEDENT.—Property shall be considered to have been acquired from or to have passed from the decedent if—

"(A) such property is so considered under section 1014(b) (relating to basis of property acquired from a decedent),

"(B) such property is acquired by any person from the estate in satisfaction of the right of such person to a pecuniary bequest, or

"(C) such property is acquired by any person from a trust in satisfaction of a right (which such person has by reason of the death of the decedent) to receive from the trust a specific dollar amount which is the equivalent of a pecuniary bequest."

(3) USE OF FARM VALUATION PROPERTY TO SATISFY PECUNIARY BEQUEST.—Section (a) of section 1040 (relating to use of certain appreciated carryover basis property to satisfy pecuniary bequest) is amended by inserting "(determined without regard to section 2032A)" after "chapter 11".

(4) TREATMENT OF CERTAIN COMMUNITY PROPERTY.—Subsection (e) of section 2032A is amended by adding at the end thereof the following new paragraph:

"(10) COMMUNITY PROPERTY.—If the decedent and his surviving spouse at any time held qualified real property as community property, the interest of the surviving spouse in such property shall be taken into account under this section to the extent necessary to provide a result under this section with respect to such property which is consistent with the result which would have obtained under this section if such property had not been community property."

(5) SUBSTITUTION OF BOND FOR PERSONAL LIABILITY OF QUALIFIED HEIR FOR THE RECAPTURE TAX WITH RESPECT TO FARM VALUATION PROPERTY.—

(A) IN GENERAL.—Paragraph (6) of section 2032A (c) is amended to read as follows:

"(6) LIABILITY FOR TAX; FURNISHING OF BOND.—The qualified heir shall be personally liable for the additional tax imposed by this subsection with respect to his interest unless the heir has furnished bond which meets the requirements of subsection (e)(11)."

(B) BOND REQUIREMENTS.—Subsection (e) of section 2032A is amended by adding at the end thereof the following new paragraph:

"(1) BOND IN LIEU OF PERSONAL LIABILITY.—If the qualified heir makes written application to the Secretary for determining of the maximum amount of the additional tax which may be imposed by subsection (c) with respect to the qualified heir's interest, the Secretary (as soon as possible, and in any event within 1 year after the making of such application) shall notify the heir of such maximum amount. The qualified heir, on furnishing a bond in such amount and for such period as may be required, shall be discharged from personal liability for any additional tax imposed by subsection (c) and shall be entitled to a receipt or writing showing such discharge."

(6) EFFECTIVE DATE.—

The amendments made by this subsection shall apply to the estates of decedents dying after December 31, 1976.

(e) AMOUNT OF SECURITY FOR EXTENDED PAYMENT PROVISIONS FOR CLOSELY HELD BUSINESSES.—

(1) IN GENERAL.—

(A) Paragraph (2) of section 6324A(e) (defining aggregate interest amount) is amended to read as follows:

"(2) REQUIRED INTEREST AMOUNT.—The term 'required interest amount' means the aggregate amount of interest which will be payable over the first 4 years of the deferral period with respect to the deferred amount (determined as of the date prescribed by section 6151(a) for the payment of the tax imposed by chapter 11)."

(B) Subparagraph (B) of section 6324A (b)(2) (relating to maximum value of required property) is amended by striking out "aggregate interest amount" and inserting in lieu thereof "required interest amounts".

(C) Paragraph (5) of section 6324A(d) (relating to special rules) is amended by striking out "aggregate interest amount" and inserting in lieu thereof "required interest amount".

(D) Paragraph (4) of section 6324A(e) (relating to application of definitions in case of deficiencies) is amended by striking out "aggregate interest amount" and inserting in lieu thereof "required interest amount".

(2) EFFECTIVE DATE.—The amendments made by this section shall apply to the estates of decedents dying after December 31, 1976.

(f) CLARIFICATION OF THE $3,000 ANNUAL EXCLUSION FROM THE RULE INCLUDING IN GROSS ESTATE TRANSFERS WITHIN 3 YEARS OF DEATH.—

(1) AMENDMENT OF SECTION 2035(b).—Subsection (b) of section 2035 (relating to adjustments for gifts made within 3 years of decedent's death) is amended to read as follows:

"(b) EXCEPTIONS.—Subsection (a) shall not apply—

"(1) to any bona fide sale for an adequate and full consideration in money or money's worth, and

"(2) to any gift to a donee made during a calendar year if the decedent was not required by section 6019 to file any gift tax return for such year with respect to gifts to such donee.

Paragraph (2) shall not apply to any transfer with respect to a life insurance policy."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to the estates of decedents dying after December 31, 1976, except that it shall not apply to transfers made before January 1, 1977.

(g) AMENDMENTS RELATING TO ESTATE TAX MARITAL DEDUCTION.—

(1) DEDUCTION NOT REDUCED FOR GIFT TO SPOUSE WHICH IS INCLUDED IN DONOR'S ESTATE BY REASON OF SECTION 2035.—Subparagraph (B) of section 2056(c)(1) (relating to adjustment to estate tax marital deduction for certain gifts to spouse) is amended by adding at the end thereof the following new sentence:

"For purposes of this subparagraph, a gift which is includible in the gross estate of the donor by reason of section 2035 shall not be taken into account."

(2) REDUCTION FOR GIFT TAX MARITAL DEDUCTION IN EXCESS OF 50 PERCENT OF THE VALUE OF GIFTS TO A SPOUSE.—Clause (ii) of section 2056(c)(1)(B) (relating to adjustment to estate tax marital deduction for certain gifts to spouse) is amended by inserting "required to be included in a gift tax return" after "with respect to any gift".

(3) EFFECTIVE DATE.—The amendment made by this subsection shall apply to the estates of decedents dying after December 31, 1976.

(h) COORDINATION OF SECTIONS 2513 AND 2035.—

(1) IN GENERAL.—Section 2001 (relating to imposition and rate of estate tax) is amended by adding at the end thereof the following new subsection:

"(e) COORDINATION OF SECTIONS 2513 AND 2035.—If—

"(1) the decedent's spouse was the donor of any gift one-half of which was considered under section 2513 as made by the decedent, and

"(2) the amount of such gift is includible in the gross estate of the decedent's spouse by reason of section 2035,

such gift shall not be included in the adjusted taxable gifts of the decedent for purposes of subsection (b)(1)(B), and the aggregate amount determined under subsection (b)(2) shall be reduced by the amount (if any) determined under subsection (d) which was treated as a tax payable by the decedent's spouse with respect to such gift."

(2) CONFORMING AMENDMENT.—Subparagraph (C) of section 2602(a)(1) (relating to amount of tax on generation-skipping transfers) is amended by striking out "section 2001(b))" and inserting in lieu thereof "section 2001(b), as modified by section 2001(e))".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply with respect to the estate of decedents dying after December 31, 1976, except that such amendments shall not apply to transfers made before January 1, 1977.

(i) INCLUSION IN GROSS ESTATE OF STOCK TRANSFERRED BY THE DECEDENT WHERE THE DECEDENT RETAINS OR ACQUIRES VOTING RIGHTS.—

(1) IN GENERAL.—Section 2036 (relating to transfers with retained life estate) is amended by redesignating subsection (b) as subsection (c) and by inserting after subsection (a) the following new subsection:

"(b) VOTING RIGHTS.—

"(1) IN GENERAL.—For purposes of subsection (a)(1), the retention of the right to vote (directly or indirectly) shares of stock of a controlled corporation shall be considered to be a retention of the enjoyment of transferred property.

"(2) CONTROLLED CORPORATION.—For purposes of paragraph (1), a corporation shall be treated as a controlled corporation if, at any time after the transfer of the property and during the 3-year period ending on the date of the decedent's death, the decedent owned (with the application of section 318), or had the right, (either alone or in conjunction with any person) to vote, stock possessing at least 20 percent of the total combined voting power of all classes of stock.

"(3) COORDINATION WITH SECTION 2035.—For purposes of applying section 2035 with respect to paragraph (1), the relinquishment or cessation of voting rights shall be treated as a transfer of property made by the decedent."

(2) CONFORMING AMENDMENT.—Subsection (t) of section 2036 is amended by striking out the last sentence thereof.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to transfer made after June 22, 1976.

(j) AMENDMENTS RELATING TO INDIVIDUAL RETIREMENT ACCOUNTS, ETC., FOR SPOUSE.—

(1) APPLICATION OF ESTATE TAX EXCLUSION TO INDIVIDUAL RETIREMENT ACCOUNTS, ETC., FOR SPOUSE.—Subsection (e) of section 2039 (relating to exclusion of individual retirement accounts, etc.) is amended by striking out "section 219" each place it appears and inserting in lieu thereof "section 219 or 220".

(2) TRANSFERS TO INDIVIDUAL RETIREMENT ACCOUNTS, ETC., FOR SPOUSE TREATED AS TRANSFERS OF PRESENT INTEREST.—Section 2503 (relating to taxable gifts) is amended by adding at the end thereof the following new subsection:

"(d) INDIVIDUAL RETIREMENT ACCOUNTS, ETC., FOR SPOUSE.—For purposes of subsection (b), any payment made by an individual for the benefit of his spouse—

"(1) to an individual retirement account described in section 408(a),

"(2) for an individual retirement annuity described in section 408(b), or

"(3) for a retirement bond described in section 409, shall not be considered a gift of a future interest in property to the extent that such payment is allowable as a deduction under section 220".

(3) EFFECTIVE DATES.—

"(A) The amendment made by paragraph (1) shall apply to the estate of decedents dying after December 31, 1976.

(B) The amendment made by paragraph (2) shall apply to transfers made after December 31, 1976.

(k) PROVISIONS RELATING TO TREATMENT OF JOINT INTERESTS.—

(1) REMOVAL OF REQUIREMENT OF ACTUARIAL COMPUTATIONS FOR JOINT INTERESTS IN PERSONAL PROPERTY.—

(A) IN GENERAL.—Subchapter (B) of chapter 12 (relating to transfers for purposes of the gift tax) is amended by inserting after section 2515 the following new section:

"SEC. 2515A. TENANCIES BY THE ENTIRETY IN PERSONAL PROPERTY.

"(a) CERTAIN ACTUARIAL COMPUTATIONS NOT REQUIRED.—In the case of—

"(1) the creation (either by one spouse alone or by both spouses) of a joint interest of a husband and wife in personal property with right of survivorship, or

"(2) additions to the value thereof in the form of improvements, reductions in the indebtedness thereof, or otherwise,

the retained interest of each spouse shall be treated as one-half of the value of their joint interest.

"(b) EXCEPTION.—Subsection (a) shall not apply with respect to any joint interest in property if the fair market value of the interest or of the property (determined as if each spouse had a right to sever) cannot reasonably be ascertained except by reference to the life expectancy of one or both spouses."

(B) CHANGING IN SECTION 2515 HEADING.—The heading for section 2515 is amended to read as follows:

"SEC. 2515. TENANCIES BY THE ENTIRETY IN REAL PROPERTY."

(C) CLERICAL AMENDMENTS.—The table of sections for subchapter 8 of chapter 12 is amended by striking out the item relating to section 2515 and inserting in lieu thereof the following:

"Sec. 2515. Tenancies by the entirety in real property."

"Sec. 2515A. Tenancies by the entirety in personal property."

(D) EFFECTIVE DATE.—The amendments made by this paragraph shall apply to joint interests created after December 31, 1976.

(2) EXTENSION OF FRACTIONAL INTEREST RULE TO CERTAIN JOINT INTERESTS IN REAL OR PERSONAL PROPERTY CREATED BEFORE 1977.—Section 2040 (relating to joint interests) as amended by section 504 of this Act, is further amended by adding at the end thereof the following new subsections:

"(d) JOINT INTERESTS OF HUSBAND AND WIFE CREATED BEFORE 1977.—Under regulations prescribed by the Secretary—

"(1) IN GENERAL.—In the case of any joint interest created before January 1, 1977, which (if created after December 31, 1976) would have constituted a qualified joint interest under subsection (b)(2) (determined without regard to clause (ii) of subsection (b)(2)(B)), the donor may make an election under this subsection to have paragraph (1) of subsection (b) apply with respect to such joint interest.

"(2) TIME FOR MAKING ELECTION.—An election under this subsection with respect to any property shall be made for the calendar quarter in 1977, 1978, or 1979 selected by the donor in a gift tax return filed within the time prescribed by law for filing a gift tax return for such quarter. Such an election may be made irrespective of whether or not the amount involved exceeds the exclusion provided by section 2503(b); but no election may be made under this subsection after the death of the donor.

"(3) TAX EFFECTS OF ELECTION.—In the case of any property with respect to which an election has been made under this subsection, for purposes of this title—

"(A) the donor shall be treated as having made a gift at the close of the calendar quarter selected under paragraph (2), and

"(B) the amount of the gift shall be determined under paragraph (4).

"(4) AMOUNT OF GIFT.—For purposes of paragraph (3)(B), the amount of any gift is one-half of the amount—

"(A) which bears the same ratio to the excess of (i) the value of the property on the date of the deemed making of the gift under paragraph (3)(A), over (ii) the value of such property on the date of the creation of the joint interest, as

"(B) the excess of (i) the consideration furnished by the donor at the time of the creation of the joint interest, over (ii) the consideration furnished at such time by the donor's spouse, bears to the total consideration furnished by both spouses at such time.

"(5) SPECIAL RULE FOR PARAGRAPH (4)(A).—For purposes of paragraph (4)(A)—

"(A) in the case of real property, if the creation was not treated as a gift at the time of the creation, or

"(B) in the case of personal property, if the gift was required to be included on a gift tax return but was not so included, and the period of limitations on assessment under section 6501 has expired with respect to the tax (if any) on such gift,

then the value of the property on the date of the creation of the joint interest shall be treated as zero.

"(6) SUBSTANTIAL IMPROVEMENTS.—For purposes of this subsection, a substantial improvement of any property shall be treated as the creation of a separate joint interest.

"(e) TREATMENT OF CERTAIN POST-1976 TERMINATIONS.—

"(1) IN GENERAL.—If—

(A) before January 1, 1977, a husband and wife had a joint interest in property with right of survivorship,

"(B) after December 31, 1976, a joint interest of such husband and wife in such property (or in property the basis of which in whole or in part reflects the basis of such property) was created,

then paragraph (1) of subsection (b) shall apply to the joint interest described in subparagraph (C) only if an election is made under subsection (d).

"(2) SPECIAL RULES.—For purposes of applying subsection (d) to property described in paragraph (1) of this subsection—

"(A) if the creation described in paragraph (1)(C) occurs after December 31, 1979, the election may be made only with respect to the calendar quarter in which such creation occurs, and

"(B) the creation of the joint interest described in paragraphs (4) and (5) of subsection (d) is the creation of the joint interest described in paragraph (1)(A) of this subsection."

(l) AMENDMENTS RELATING TO ORPHANS' EXCLUSION.—

(1) ORPHANS' EXCLUSION WHERE THERE IS A TRUST FOR MINOR CHILDREN.—Section 2057 (relating to bequests, etc., to certain minor children) is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

"(d) QUALIFIED MINORS' TRUST.—

"(1) IN GENERAL.—For purposes of subsection (a), the interest of a minor child in a qualified minors' trust shall be treated as an interest in property which passes or has passed from the decedent to such child.

"(2) QUALIFIED MINORS' TRUST.—For purposes of paragraph (1), the term 'qualified minors' trust' means a trust—

"(A) except as provided in subparagraph (D), all of the beneficiaries of which are minor children of the decedent,

"(B) the corpus of which is property which passes or has passed from the decedent to such trust,

"(C) except as provided in paragraph (3), all distributions from which to the beneficiaries of the trust before the termination of their interests will be pro rata,

"(D) on the death of any beneficiary of which before the termination of the trust, the beneficiary's pro rata share of the corpus and accumulated income remains in the trust for the benefit of the minor children of the decedent who survive the beneficiary or vests in any person, and

"(E) on the termination of which, each beneficiary will receive a pro rata share of the corpus and accumulated income.

"(3) CERTAIN DISPROPORTIONATE DISTRIBUTIONS PERMITTED.—A trust shall not be treated as failing to meet the requirements of paragraph (2)(C) solely by reason of the fact that the governing instrument of the trust permits the making of disproportionate distributions which are limited by an ascertainable standard relating to the health, education, support, or maintenance of the beneficiaries.

"(4) TRUSTEE MAY ACCUMULATE INCOME.—A trust which otherwise qualifies as a qualified minors' trust shall not be disqualified solely by reason of the fact that the trustee has power to accumulate income.

"(5) COORDINATION WITH SUBSECTION (c).—In applying subsection (c) to a qualified minors' trust, those provisions of section 256(b) which are inconsistent with paragraph (3) or (4) of this subsection shall not apply.

"(6) DEATH OF BENEFICIARY BEFORE YOUNGEST CHILD REACHES AGE 23.—Nothing in this subsection shall be treated as disqualifying an interest of a minor child in a trust solely because such interest will pass to another person if the child dies before the youngest child of the decendent attains age 23."

(2) AGE 23 FOR TERMINABLE INTEREST RULE IN THE CASE OF ORPHANS' EXCLUSION.—The second sentence of subsection (c) of section 2057 (relating to limitation in the case of life estate or other terminable interest) is amended by striking out "21" and inserting in lieu thereof "23".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to the estates of decedents dying after December 31, 1976.

(m) DISCLAIMER BY SURVIVING SPOUSE WHERE INTEREST PASSES TO SUCH SPOUSE.—

(1) IN GENERAL.—Paragraph (4) of section 2518 (b) (defining qualified disclaimer) is amended to read as follows:

"(4) as a result of such refusal, the interest passes without any direction on the part of the person making the disclaimer and passes either—

"(A) to the spouse of the decedent, or

"(B) to a person other than the person making the disclaimer."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to transfers creating an interest in the person disclaiming made after December 31, 1976.

(n) AMENDMENTS RELATING TO TAX ON GENERATION-SKIPPING TRANSFERS.—

(1) EFFECTIVE DATE OF GENERATION-SKIPPING TRANSFER PROVISIONS.—Section 2006(c) of the Tax Reform Act of 1976 (relating to effective date of generation-skipping transfer provisions) is amended by striking out "April 30, 1976" each place it appears and inserting in lieu thereof "June 11, 1976".

(2) CERTAIN POWERS OF INDEPENDENT TRUSTEES NOT TREATED AS POWERS.—Subsection (e) of section 2613 (relating to definitions for purposes of the tax on generation-skipping transfers) is amended to read as follows:

"(e) CERTAIN POWERS NOT TAKEN INTO ACCOUNT.—

"(1) LIMITED POWER TO APPOINT AMONG LINEAL DESCENDANTS OF THE GRANTOR.—For purposes of this chapter, an individual shall be treated as not having any power in a trust if such individual does not have any present or future power in the trust other than a power to dispose of the corpus of the trust or the income therefrom to a beneficiary or a class of beneficiaries who are lineal descendants of the grantor assigned to a generation younger than the generation assignment of such individual.

"(2) POWERS OF INDEPENDENT TRUSTEES.—

"(A) IN GENERAL.—For purposes of this chapter, an individual shall be treated as not having any power in a trust if such individual—

"(i) is a trustee who has no interest in the trust,

"(ii) is not a related or subordinate trustee, and

"(iii) does not have any present or future power in the trust other than a power to dispose of the corpus of the trust or the income therefrom to a beneficiary or a class of beneficiaries designated in the trust instrument.

"(B) RELATED OR SUBORDINATE TRUSTEE DEFINED.—For purposes of subparagraph (A), the term 'related or subordinate, trustee' means any trustee who is assigned to a younger generation that the grantor's generation and who is—

"(i) the spouse of the grantor or of any beneficiary,

"(ii) the father, mother, lineal descendant, brother, or sister of the grantor of any beneficiary,

"(iii) an employee of a corporation in which the stockholdings of the grantor, the trust, and the beneficiaries of the trust are significant from the viewpoint of voting control,

"(iv) an employee of a corporation in which the grantor or any beneficiary of the trust is an executive."

"(iv) a partner of a partnership in which the interest of the grantor, the trust, and the beneficiaries of the trust are significant from the viewpoint of operating control or distinctive share of partnership income,".

"(v) an employee of a corporation in which the grantor or any beneficiary of the trust is an executive, or

"(vi) an employee of a partnership in which the grantor or any beneficiary of the trust is a partner.".

(3) CLARIFICATION OF SECTION 2613(b)(2)(B).—Subparagraph (B) of section 2613(b)(2) defining taxable termination for purposes of the tax on generation-skipping transfer) is amended—

(A) by striking out "an interest and a power" and inserting in lieu thereof "a present interest and a present power", and

(B) by striking out "interest or power" and inserting in lieu thereof "present interest or present power".

(4) ALTERNATE VALUATION IN CERTAIN CASES WHERE THERE IS A TAXABLE TERMINATION AT DEATH OF OLDER GENERATION BENEFICIARY.—

(A) IN GENERAL.—Subparagraph (A) of section 2602(d)(1) (relating to alternate valuation) is amended by inserting "(or at the same time as the death of a beneficiary of the trust assigned to a higher generation than such deemed transferor)" after "such deemed transferor".

(B) SPECIAL RULES.—Subparagraph (A) of section 2602(d)(2) (relating to special rules for alternate valuation) is amended by inserting "(or beneficiary)" after "the deemed transferor".

(5) EFFECTIVE DATE.—

(A) Except as provided in subparagraph (B), the amendments made by this subsection shall take effect as if included in chapter 13 of the Internal Revenue Code of 1954 as added by section 2006 of the Tax Reform Act of 1976.

(B) The amendment made by paragraph (1) shall take effect on October 4, 1976.

(o) ADJUSTMENT IN INCOME TAX ON ACCUMULATION DISTRIBUTIONS FOR PORTION OF ESTATE AND GENERATION-SKIPPING TRANSFER TAXES.—

(1) IN GENERAL.—Subsection (b) of section 667 (relating to tax on accumulation distribution) is amended by adding at the end thereof the following new paragraph:

"(6) ADJUSTMENT IN PARTIAL TAX FOR ESTATE AND GENERATION-SKIPPING TRANSFER TAXES ATTRIBUTABLE TO PARTIAL TAX.—

"(A) IN GENERAL.—The partial tax shall be reduced by an amount which is equal to the predeath portion of the partial tax multiplied by a fraction—

"(i) the numerator of which is that portion of the tax imposed by chapter 11 or 13, as the case may be, which is attributable (on a proportionate basis) to amounts included in the accumulation distribution, and

"(ii) the denominator of which is the amount of the accumulation distribution which is subject to the tax imposed by chapter 11 or 13, as the case may be.

"(B) PARTIAL TAX DETERMINED WITHOUT REGARD TO THIS PARAGRAPH.—For purposes of this paragraph, the term 'partial tax' means the partial tax imposed by subsection (a)(2) determined under this subsection without regard to this paragraph.

"(C) PRE-DEATH PORTION.—For purposes of this paragraph, the pre-death portion of the partial tax shall be an amount which bears the same ratio to the partial tax as the portion of the accumulation distribution which is attributable to the period before the date of the death of the decedent or the date of the generation-skipping transfer bears to the total accumulation distribution."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply—

(A) in the case of the tax imposed by chapter 11 of the Internal Revenue Code of 1954, to the estates of decedents dying after December 31, 1979, and

(B) in the case of the tax imposed by chapter 13, to any generation-skipping transfer (within the meaning of section 2611(a) of such Code) made after June 11, 1976.

(p) RELIEF OF EXECUTOR FROM PERSONAL LIABILITY IN THE CASE OF RELIANCE ON GIFT TAX RETURNS.—

(1) IN GENERAL.—Section 2204 (relating to discharge of fiduciary from personal liability) is amended by adding at the end thereof the following new subsection:

"(d) GOOD FAITH RELIANCE ON GIFT TAX RETURNS.—If the executor in good faith relies on gift tax returns furnished under section 6103(e)(3) for determining the decedent's adjusted taxable gifts, the executor shall be discharged from personal liability with respect to any deficiency of the tax imposed by this chapter which is attributable to adjusted taxable gifts which—

"(1) are made more than 3 years before the date of the decedent's death, and

"(2) are not shown on such returns.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply with respect to the estates of decedents dying after December 31, 1976.

(q) AMENDMENT OF GOVERNING INSTRUMENTS TO MEET REQUIREMENTS FOR GIFTS OF SPLIT INTEREST TO CHARITY.—In the case of deductions under sections 170, 2055, and 2522 of the Internal Revenue Code of 1954 to which the limitations of sections 170(f)(2), 2055(e)(2)(B), and 2522(c)(2) of such Code apply, provisions comparable to section 2055(e)(3) of such Code shall apply except that the date "1978" shall be substituted for "1977" wherever it appears in section 2055(e)(3) of such Code.

(r) INDEXING OF FEDERAL TAX LIENS.—

(1) IN GENERAL.—Paragraph (4) of section 6323(f) (relating to indexing of tax liens) is amended to read as follows:

"(4) INDEXING REQUIRED WITH RESPECT TO CERTAIN REAL PROPERTY.—In the case of real property, if—

"(A) under the laws of the State in which the real property is located, a deed is not valid as against a purchaser of the property who (at the time of purchase) does not have actual notice or knowledge of the existence of such deed unless the fact of filing of such deed has been entered and recorded in a public index at the place of filing in such a

manner that a reasonable inspection of the index will reveal the existence of the deed, and

"(B) there is maintained (at the applicable office under paragraph (1)) an adequate system for the public indexing of Federal tax liens,

then the notice of lien referred to in subsection (a) shall not be treated as meeting the filing requirements under paragraph (1) unless the fact of filing is entered and recorded in the index referred to in subparagraph (B) in such a manner that a reasonable inspection of the index will reveal the existence of the lien.".

(2) REFILING OF NOTICE OF LIEN.—Section 6323(g)(2)(A) (relating to refiling of notice of lien) is amended to read as follows:

"(A) if—

"(i) such notice of lien is refiled in the office in which the prior notice of lien was filed, and

"(ii) in the case of real property, the fact of refiling is entered and recorded in an index to the extent required by subsection (f)(4); and".

(3) EFFECTIVE DATE.—

(A) The amendments made by this subsection shall apply with respect to liens, other security interests, and other interests in real property acquired after the date of the enactment of this Act.

(B) If, after the date of the enactment of this Act, there is a change in the application (or nonapplication) of section 6323(f)(4) of the Internal Revenue Code of 1954 (as amended by paragraph (1)) with respect to any filing jurisdiction, such change shall apply only with respect to liens, other security interests, and other interests in real property acquired after the date of such change.

(s) CLERICAL AMENDMENTS.—

(1) CLERICAL AMENDMENTS WITH RESPECT TO SECTION 6694.—

(A) IN GENERAL.—Section 6694 (relating to failure to file information with respect to carryover basis property) which was added by section 2005(d)(2) of the Tax Reform Act of 1976 is redesignated as section 6698.

(B) DEFICIENCY PROCEDURES NOT TO APPLY.—Section 6698 (as redesignated by subparagraph (A)) is amended by adding at the end thereof the following new subsection:

"(c) DEFICIENCY PROCEDURES NOT TO APPLY.—Subchapter B of chapter 63 (relating to deficiency procedures for income, estate, gift, and certain excise taxes) shall not apply in respect of the assessment or collection of any penalty imposed by subsection (a)."

(C) TABLE OF SECTIONS.—The table of sections for subchapter B of chapter 68 is amended by striking out

"Sec. 6694. Failure to file information with respect to carryover basis property."

and inserting in lieu thereof the following:

"Sec. 6698. Failure to file information with respect to carryover basis property."

(2) CLERICAL AMENDMENT TO SECTION 2051.—Section 2051 (defining taxable estate) is amended by striking out "exemption and".

(3) CLERICAL AMENDMENT TO SECTION 1016(a).—Subsection (a) of section 1016 (relating to adjustments to basis) is amended by redesignating paragraph (23) as paragraph (21).

(4) CLERICAL AMENDMENT TO SECTION 6324B(b).—Subsection (b) of section 6324B (relating to period of lien for additional estate tax attributable to farm, etc., valuation) is amended by striking out "qualified farm real property" and inserting in lieu thereof "qualified real property".

(5) EFFECTIVE DATE.—The amendments made by this subsection shall apply to estates of decedents dying after December 31, 1976.

SEC. . CORRETIONS OF PUNCTUATION, SPELLING, INCORRECT CROSS REFERENCES, ETC.

(a) ERRONEOUS CROSS REFERENCE IN INVESTMENT CREDIT.—

(1) AMENDMENT OF SECTION 46(f)(8).—The first sentence of paragraph (8) of section 46(f) is amended by striking out "subsection (a)(6)(D)" and inserting in lieu thereof "subsection (a)(7)(D)".

(2) AMENDMENT OF SECTION 46(g)(5).—Paragraph (5) of section 46(g) (relating to definitions) is amended by striking out "Merchant Marine Act, 1970" and inserting in lieu thereof "Merchant Marine Act, 1936".

(3) AMENDMENT OF SECTION 48(d)(1)(B).—Subparagraph (B) of section 48(d)(1) is amended by striking out "section 46(a)(5)" and inserting in lieu thereof "section 46(a)(6)".

(4) AMENDMENT OF SECTION 84(d)(4)(D).—Subparagraph (D) of section 48(d)(4) is amended by striking out "section 57(c)(2)" and inserting in lieu thereof "section 57(c)(1)(B)".

(b) PREPAID LEGAL SERVICES.—

(1) Paragraph (2) of section 2134(e) of the Tax Reform Act of 1976 is amended by striking out "section 120(d)(6)" and inserting in lieu thereof "section 120(d)(7)".

(2) Paragraph (20) of section 501(c) is amended by striking out "section 501(c)(20)" and inserting in lieu thereof "this paragraph".

(c) AMENDMENTS RELATING TO SECTIONS 219 AND 220.—

(1) AMENDMENT OF SECTION 219(c)(4).—Paragraph (4) of section 219(c) (relating to participation in governmental plans by certain individuals) is amended by striking out "subsection (b)(3)(A)(iv)" each place it appears and inserting in lieu thereof "subsection (b)(2)(A)(iv)".

(2) AMENDMENT OF SECTION 220(b)(1)(A).—Subparagraph (A) of section 220(b)(1) (relating to retirement savings for certain married individuals) is amended by striking out "amount paid to the account or annuity, or for the bond" and inserting in lieu thereof "amount paid to the account, for the annuity, or for the bond".

(3) AMENDMENT OF SECTION 220(b)(4).—Paragraph (4) of section 220(b) is amended by inserting "described in subsection (a)" after "any payment".

(4) AMENDMENT OF SECTION 408(d)(4).—Subparagraph (A) of section 1501(b)(5) of the Tax Reform Act of 1976 is amended to read as follows:

"(A) by inserting 'or 220' after '219' each place it appears, and".

(5) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning after December 31, 1976.

(d) ACCRUAL ACCOUNTING FOR FARM CORPORATIONS.—Subsections (a) and (g)(2) of section 447 are each amended by striking out "preproductive expenses" and inserting in lieu thereof "preproductive period expenses."

(e) AMENDMENT OF SECTION 911.—Subsection (c) of section 911 is amended by redesignating paragraph (8) as paragraph (7).

(f) TRANSITION RULE FOR PRIVATE FOUNDATIONS.—Subparagraph (F) of section 101(1)(2) of the Tax Reform Act of 1969 (relating to private foundations savings provisions) is amended by striking out the period at the end of clause (i) and inserting in lieu thereof a comma.

(g) LOBBYING BY PUBLIC CHARITIES.—

(1) LOBBYING NONTAXABLE AMOUNT.—Paragraph (2) of section 4911(c) (defining lobbying nontaxable amount) is amended by striking out "proposed expenditures" in the heading of the table contained in such paragraph and inserting in lieu thereof "exempt purpose expenditures".

(2) TECHNICAL AMENDMENTS RELATING TO SECTION 501.—

(A) Section 2(a) of Public Law 94-568 is amended by striking out "subsection (h) as subsection (i) and by inserting after subsection (g)" and inserting in lieu thereof "subsection (i) as subsection (j) and by inserting after subsection (h)".

(B) Subsection (g) of section 501 of the Internal Revenue Code of 1954 (as inserted by section 2(a) of Public Law 94-568) is redesignated as subsection (i).

(C) The amendments made by this paragraph shall take effect on October 20, 1976, as if included in Public Law 94-568.

(h) AMENDMENTS TO FOREIGN TAX PROVISIONS.—

(1) Paragraph (2) of section 1035(c) of the Tax Reform Act of 1976 (relating to tax credit for production-sharing contracts) is amended—

(A) by inserting "(as defined in section 907(c) of such Code)" after "gas extraction income" in subparagraph (A), and

(B) by striking out "(as defined in section 907(c)(1) of such Code)" in subparagraph (B) and inserting in lieu thereof "(as so defined)".

(2) Paragraph (1) of section 999(c) (relating to international boycott factor) is amended by striking out "995(b)(3)" and inserting in lieu thereof "995(b)(1)(F)(ii)".

(3) Paragraph (2) of section 999(c) is amended by striking out "995(b)(1)(D)(ii)" and inserting in lieu thereof "995(b)(1)(F)(ii)".

(i) AMENDMENTS TO DISC PROVISIONS.—

(1) The last two sentences of section 995(b)(1) (relating to deemed distributions to shareholders of a DISC) are amended—

(A) by striking out "gross income (taxable income in the case of subparagraph (D))" and inserting in lieu thereof "income"; and

(B) by striking out "subparagraph (E)" and inserting in lieu thereof "subparagraph (G)".

(2) Subparagraph (G) of section 995(b)(1) is amended by striking out "subsection (D)" and inserting in lieu thereof "subsection (d)".

(3) Paragraph (2) of section 996(a) (relating to qualifying distributions) is amended by striking out "section 995(b)(1)(E)" and inserting in lieu thereof "section 995(b)(1)(G)".

(4) Paragraph (5) of section 1101(g) of the Tax Reform Act of 1976 is amended by striking out "section 993(e)(3)" and inserting in lieu thereof "section 995(e)(3)".

(j) AMENDMENTS RELATING TO DEADWOOD PROVISIONS.—

(1) TAX EXEMPT GOVERNMENTAL OBLIGATIONS.—

(A) The heading of paragraph (1) of section 103(b) is amended to read as follows:

"(1) SUBSECTION (a)(1) OR (2) NOT TO APPLY.—".

(B) Paragraph (1) of section 103(c) is amended by striking out "(a)(1) or (4)" each place it appears (including in the paragraph heading) and inserting in lieu thereof "(a)(1) or (2)".

(C) Subparagraph (A) of section 103(c)(2) is amended by striking out "subsection (a)(1) or (2) or (4)" and inserting in lieu thereof "subsection (a)(1) or (2)".

(D) Paragraph (5) of section 103(c) is amended by striking out "subsection (d)(2)(A)" and inserting in lieu thereof "paragraph (2)(A)".

(E) Subsection (d) of section 103 is amended by striking out "subsection (c)(4)(G)" and inserting in lieu thereof "subsection (b)(4)(G)".

(2) AMENDMENTS RELATING TO SECTION 311(d)(2).—

(A) Subsection (b) of section 2 of the Bank Holding Company Tax Act of 1976 is amended—

(i) by striking out "subparagraph (F)" and inserting in lieu thereof "subparagraph (E)", and

(ii) by striking out "subparagraph (G)" and inserting in lieu thereof "subparagraph (F)".

(B) Subparagraph (H) of section 311(d)(2) is redesignated as subparagraph (G).

(C) The amendments made by this paragraph shall take effect as if included in section 2(b) of the Bank Holding Company Tax Act of 1976.

(3) AMENDMENT TO SECTION 453(c).—Paragraph (3) of section 453(c) is amended—

(A) by striking out "(or by the corresponding provisions of prior revenue laws)" in the first sentence, and

(B) by striking out the last sentence.

(4) AMENDMENT OF SECTION 801(g).—Paragraphs (1)(B)(ii) and (7) of section 801(g) are each amended by striking out "subparagraph (A) (B), (C), (D), or (E) of section 805(d)(1)" and inserting in lieu thereof "any paragraph of section 805(d)".

(5) AMENDMENT OF SECTION 1033(a)(2).—Clause (ii) of section 103(a)(2)(A) is amended by striking out "subsection (c)" and inserting in lieu thereof "subsection (b)".

(6) AMENDMENT OF SECTION 1375(a).—Paragraph (2) of section 1375(a) is amended by striking out "such excess" each place it appears and inserting in lieu thereof "such gain".

(7) AMENDMENT OF SECTION 1561(b)(3).—Paragraph (3) of section 1561(b) is amended by striking out "804(a)(4)" and inserting in lieu thereof "804(a)(3)".

(8) AMENDMENTS OF SECTION 1402.—

(A) The last paragraph of section 1402(a) of the Internal Revenue Code of 1954 (definition of net earnings from self-employment) is amended by striking out "subsection (i)" each place it appears and inserting in lieu thereof "subsection (h)".

(B) Section 1402(c)(6) of such Code (definition of trade or business) is amended by striking out "subsection (h)" and inserting in lieu thereof "subsection (g)".

(9) AMENDMENT TO SECTION 46(a).—Subparagraph (C) of section 1901(b)(1) of the Tax Reform Act of 1976 is amended by striking out "Section 46(a)(3)" and inserting in lieu thereof "Section 46(a)(4)".

(10) AMENDMENT RELATING TO SECTION 6504.—Subparagraph (D) of section 1901(b)(37) of the Tax Reform Act of 1976 is amended by striking out "6515" and inserting in lieu thereof "6504."

(11) TERRITORIES.—Subsection (c) of section 1901 of the Tax Reform Act of 1976 (relating to Territories) is amended by striking out paragraph (1) thereof.

(12) ESTATE AND GIFT TAXES EFFECTIVE DATE.—Subsection (c) of section 1902 of the Tax Reform Act of 1976 is amended to read as follows:

"(c) EFFECTIVE DATES.—

"(1) ESTATE TAX AMENDMENTS.—The amendments made by paragraphs (1) through (8), and paragraphs (12) (A), (B), and (C), of subsection (a) and by subsection (b) shall apply in the case of estates of decedents dying after the date of the enactment of this Act, and the amendment made by paragraph (9) of subsection (a) shall apply in the case of estates of decedents dying after December 31, 1970.

"(2) GIFT TAX AMENDMENTS.—The amendments made by paragraphs (10), (11), and (12) (D) and (E) of subsection (a) shall apply with respect to gifts made after December 31, 1976."

(13) EFFECTIVE DATE FOR AMENDMENT MADE BY SECTION 190(a)(22)(A).—Notwithstanding section 1904 (d) of the Tax Reform Act of 1976, the amendment made by section 1904(a)(22)(A) of such Act shall take effect on the date of the enactment of such Act.

(14) AMENDMENTS TO SOCIAL SECURITY ACT.—

(A) Section 202(v) of the Social Security Act is amended by striking out "section 1402(h)" each place it appears and inserting in lieu thereof "section 1402(g)".

(B) Section 205(p)(3) of such Act is amended by striking out "Secretary of the Treasury" and inserting in lieu thereof "Secretary of Transportation".

(C) Section 210(a)(6)(B)(v) of such Act is amended by striking out "Secretary of the Treasury" and inserting in lieu thereof "Secretary of Transportation".

(D) Section 211(a)(2) of such Act is amended by striking out "(other than interest described in section 35 of the Internal Revenue Code of 1954)".

(E) Section 211(c)(6) of such Act is amended by striking out "section 1402(h)" and inserting in lieu thereof "section 1402(g)".

(k) CAPITAL LOSS CARRYOVERS.—Clause (ii) of section 1212(a)(1)(C) (relating to capital loss carryovers for foreign expropriation losses) is amended by striking out "exceeding the loss year" and inserting in lieu thereof "succeeding the loss year".

(l) AMENDMENTS RELATING TO CERTAIN AIRCRAFT MUSEUMS.—

(1) Paragraph (2) of section 4041(h) (defining aircraft museum) is amended by striking out "term 'aircraft' means" and inserting in lieu thereof "term 'aircraft museum' means".

(2) Subsection (i) of section 4041 (as added by section 1904(a)(1)(C) of the Tax Reform Act of 1976) is redesignated as subsection (j).

(3) Subsection (d) of section 6427 (relating to repayment of tax on fuels used by certain aircraft museums) is amended by striking out "Secretary or his delegate" and inserting in lieu thereof "Security".

(4) Paragraph (1) of section 7609(c) (defining summons to which section applies) is amended by striking out "6427(e)(2)" and inserting in lieu thereof "6427(f)(2)".

(m) INSPECTION BY COMMITTEE OF CONGRESS.—Paragraph (2) of section 6104(a) (relating to inspection by committee of Congress) is amended by striking out "Section 6103(d)" and inserting in lieu thereof "Section 6103(f)".

(n) AMENDMENT OF SECTION 6501.—Subsections (h), (j), and (o) of section 6501 are each amended by striking out "section 6213(b)(2)" and inserting in lieu thereof "section 6213(b)(3)".

(o) CONFORMING AMENDMENTS TO NEW DEFINITION OF TAXABLE INCOME.—

(1) Subparagraph (A) of section 443(b)(2) (relating to computation based on 12-month period) is amended—

(A) by striking out "taxable income" the second and third places it appears in clause (i) and inserting in lieu thereof "modified taxable income", and

(B) by amending clause (ii) to read as follows:

"(ii) the tax computed on the sum of the modified taxable income for the short period plus the zero bracket amount."

(2) Paragraph (1) of section 443(b) is amended by striking out "gross income for such short period (minus the deductions allowed by this chapter for the short period, but only the adjusted amount of the deductions for personal exemptions)" and inserting in lieu thereof "modified taxable income for such short period".

(3) Subsection (b) of section 443 is amended by adding at the end thereof the following new paragraph:

"(3) MODIFIED TAXABLE INCOME DEFINED.—For purposes of this subsection the term 'modified taxable income' means, with respect to any period, the gross income for such period minus the deductions allowed by this chapter for such period (but, in the case of a short period, only the adjusted amount of the deductions for personal exemptions)."

(4) The amendments made by this subsection shall apply to taxable years beginning after December 31, 1976.

(p) CONFORMING AMENDMENTS TO REPEAL OF SECTION 317 OF TRADE EXPANSION ACT OF 1962.—

(1) AMENDMENTS OF SECTION 172.—

(A) Subparagraph (A) of section 172(b)(1) (relating to years to which loss may be carried) is amended to read as follows:

"(A) Except as provided in subparagraphs (D), (E), (F), and (G), a net operating loss for any taxable year shall be a net operating loss carryback to each of the 3 taxable years preceding the taxable year of such loss."

(B) Paragraph (3) of section 172(b) (relating to special rules) is amended by striking out subparagraphs (A) and (B) and by redesignating subparagraphs (C), (D), and (E) as subparagraphs (A), (B), and (C) respectively

(C) Subparagraph (B) of section 172(b)(3) (as redesignated by subparagraph (B)) is amended by striking out "subparagraph (C)(iii)" each place it appears and inserting in lieu thereof "subparagraph (A)(iii)".

(2) AMENDMENT OF SECTION 6501(h).—Subsection (h) of section 6501 (relating to net operating loss or capital loss carryback) is amended by striking out the last sentence.

(3) AMENDMENT OF SECTION 6511(d)(2).—The first sentence of section 6511(d)(2)(A) (relating to special period of limitation for net operating loss or capital loss carrybacks) is amended by striking out "except that—" and all that follows down through the period at the end of such sentence and inserting in lieu thereof the following: "except that with respect to an overpayment attributable to the creation of, or an increase in, a net operating loss carryback as a result of the elimination of excessive profits by a renegotiation (as defined in section 1481(a)(1)(A), the period shall not expire before the expiration of the 12th month following the month in which the agreement or order for the elimination of such excessive profits becomes final."

(4) EFFECTIVE DATE.—The amendments made by this subsection shall apply with respect to losses sustained in taxable years ending after the date of the enactment of this Act.

(q) CONFORMING AMENDMENT TO REPEAL OF SECTION 2 OF THE EMERGENCY INSURED STUDENT LOAN ACT OF 1969.—

(1) IN GENERAL.—Paragraph (5) of section 103(d) (relating to arbitrage bonds) is amended by striking out "section 2 of the Emergency Insured Student Loan Act of 1969" and inserting in lieu thereof "section 438 of the Higher Education Act of 1965".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply with respect to payments made by the Commissioner of Education after December 31, 1976.

(r) EFFECTIVE DATE.—Except as otherwise provided, the amendments made by this section shall take effect on October 4, 1976.

Mr. HATHAWAY. Mr. President, earlier this year the Senate Finance Committee reported the technical corrections bill, H.R. 6715. This bill contains technical, clerical, and clarifying amendments to provisions enacted by the Tax Reform Act of 1976. Most of these changes are urgently needed by taxpayers, practitioners, and the Internal Revenue Service. In light of the need for prompt enactment of these provisions, I propose to add the provisions as an amendment to H.R. 13511.

Basically, my amendment contains the technical corrections bill as approved by the Finance Committee. My amendment differs in only several minor respects.

Since H.R. 13511 as reported by the committee already provides for the postponement of the carryover basis provi-

sions until 1980. the comparable provision of the technical corrections bill has been deleted from my amendment.

In addition. the amendment postpones for 1 year changes to the retirement income credit for couples in community property States so that the changes will not apply retroactively. Another change would reflect the Finance Committee's decision in H.R. 13511 to make sure that the minimum tax preference for excess itemized deductions will not apply retroactively to certain charitable lead trusts. Clarifving changes would also be made to make sure that testamentary charitable lead trusts are not subject to the minimum tax for charitable distributions.

Another change would make it clear that a U.S. citizen who resides abroad would not be considered subject to the foreign convention rules when attending a convention held in the country in which he or she resides.

Another change would make it clear that the real estate exception from the partnership at risk provisions applies to the operation of hotels, motels, and similar establishments.

Since the time prescribed under H.R. 6715 for making conforming changes to governing instruments has already expired, my amendment would permit the correction of governing instruments for certain charitable split-interest trusts to be made through the end of 1978 in order to comply with the requirements for charitable deductions under the income, gift, and estate tax laws. However. since charitable remainder trusts have already had since 1969 to conform governing instruments, my amendment would not apply to charitable remainder trusts for purposes of the estate tax charitable deductions.

Two limited changes are made to the provisions of the bill dealing with historic structures. First, retroactive decertification of buildings without historic significance is allowed in certain limited situations where the owner of the building did not know of the decertification requirement and. second, it eliminates certain technical limitations with respect to rehabilitations of buildings by long-term lessees.

Finally, clarifying changes would be made for the purpose of defining a "subordinate trustee" for purposes of the generation-skipping tax provisions.

Other than these changes. the amendment reflects the technical corrections bill as reported by the Finance Committee.

Mr. LONG. Mr. President, if I understand, there is no objection to the amendment.

Mr. HATHAWAY. That is correct.

Mr. LONG. The Treasury supports it, and apparently this proposal is already in the technical corrections bill?

Mr. HATHAWAY. The Senator is correct.

Mr. LONG. Which bill passed the House.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Maine.

Mr. DOLE. Mr. President, may I ask a question? What does the amendment do?

Mr. HATHAWAY. The amendment is a technical and clarifying amendment to the act we passed in 1976 which I would be glad to read to the Senator. [Laughter.]

Mr. DOLE. Does it defer the carryover basis?

Mr. HATHAWAY. Since that is already in the bill it has been stricken from the technical corrections bill.

Mr. KENNEDY. I understand the Treasury has no objection.

Mr. HATHAWAY. The Treasury not only has no objection but favors the bill.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Maine.

The amendment was agreed to.

Mr. HATHAWAY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. INOUYE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from North Carolina.

AMENDMENT NO. 3689

(Purpose: To provide tax-exempt status for certain organizations established in 1968 to provide reserve funds for, and to insure share or deposits in, credit unions and building and loan associations)

Mr. MORGAN. Mr. President, I call up my amendment No. 3689 which is at the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from North Carolina (Mr. MORGAN), for himself, Mr. HELMS, Mr. MATHIAS, and Mr. SARBANES, proposes an amendment numbered 3689.

Mr. MORGAN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following new section:

SEC. . TAX-EXEMPT STATUS OF CERTAIN RESERVE FUND AND SHARE AND DEPOSIT INSURANCE ORGANIZATIONS.

(a) IN GENERAL.—Paragraph (14) of section 501(c) (relating to lists of exempt organizations) is amended—

(1) by striking out "September 1, 1957", in subparagraph (B) and inserting in lieu thereof "January 1, 1969";

(2) by striking out "or" at the end of clause (ii) of subparagraph (B);

(3) by striking out the period at the end of clause (iii) of subparagraph (B) and inserting in lieu thereof a comma and "or"; and

(4) by adding at the end of subparagraph (B) the following:

"(iv) both credit unions described in subparagraph (A) and domestic building and loan associations described in clause (i).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a)(1) shall apply to taxable years ending after December 31, 1967, and the other amendments made by subsection (a) shall apply to taxable years ending after the date of the enactment of this Act.

Mr. MORGAN. Mr. President, I offer this amendment on behalf of Mr. HELMS, Mr. MATHIAS, and Mr. SARBANES, and it has to do with deposit guarantee funds that have been established in several States to protect and insure deposits in State-chartered savings and loan associations. Although the Federal Savings and Loan Insurance Corporation (FSLIC) insures deposits in all Federal savings and loan associations, Federal insurance is not available for all State savings and loan associations. Many smaller, neighborhood associations are unable to obtain FSLIC insurance for their customers' deposits. Thus, in many cases, State savings and loans which are the most conveniently located and which serve areas neglected by Federal savings and loans cannot secure Federal insurance to protect their customers' deposits.

In order to provide maximum protection for deposits, some States have established deposit guaranty funds and, in some cases, have made insurance of accounts mandatory. The deposit guaranty funds are nonprofit organizations which are designed to protect depositors in two wavs. First, the funds provide financial assistance to member savings and loan associations which are in financial difficulty and pay off depositors if a member association is liquidated. Second, the funds provide liquidity assistance for their members.

These mutual deposit guaranty funds are exempt from income taxation if they are operated for the purpose of providing reserve funds for, and insurance of shares or deposits in, domestic building and loan associations, cooperative banks, and mutual savings banks, but only if the guaranty funds were established before September 1, 1957. Thus, the tax exemption applies only to the Cooperative Central Bank of Massachusetts and the Ohio Deposit Guarantee Fund.

When the statute was first enacted, a tax exemption was available only to funds organized before September 1, 1951, Subsequently, this provision was amended to include funds organized before September 1, 1957. The amendment was enacted solely to provide tax exemption for the Ohio Deposit Guaranty Fund organized in December of 1956. The last legislative change occurred in 1966 when tax exempt status was extended to the New York State Savings & Loan Bank, which provided a reserve fund for member savings and loan associations but did not provide insurance of shares or deposits of its members and thus only met some of the purposes required in the existing statutes.

In 1967, the North Carolina Legislature passed chapter 54, article 7A of the Session Laws of 1967, authorizing the creation of mutual deposit guaranty associations to insure the deposits of State savings and loan associations and credit unions. The statutory scheme created closely resembles the Ohio program.

Pursuant to North Carolina law, the guaranty was formed on December 14, 1967. At its inception, it insured the deposits of 10 members with assets of $1.5 million. As of December 31, 1977, it insured the deposits of 20 savings and loan associations and 22 credit unions with assets totalling $831,408,160. The guaranty currently provides $50,000 of insurance to all depositors of member institutions—$10,000 over current FSLIC insur-

ance amounts. It also guarantees public deposits in member institutions up to $100,000. The guaranty has lines of credit to enable it to provide for its members' liquidity needs. In addition, the guaranty has recently signed a reinsurance contract with Aetna Casualty and Surety for coverage amounting to $12 million with a $6 million deductible.

The guaranty has not suffered any losses or been involved in any liquidation actions since its inception. This can be attributed, in part, to the fact that the guaranty is under the direct supervision of the supervisor of Savings and Loan Associations for the State of North Carolina. The supervisor conducts annual examinations of member savings and loan associations and credit unions. In addition, members with assets over $10 million are required to have an annual audit by a certified public accountant.

As of December 31, 1977, the guaranty had a 1.44 ratio of member equity to savings accounts of member institutions. This compares most favorably with the 1.29 ratio maintained by the FSLIC as of December 31, 1977. In order to preserve this equity reserve, members are presently required to contribute 1¼ percent of withdrawable accounts. Provisions exist to increase this contribution if necessary.

Presently, three board members of the guaranty represent the public interest. This affords the guaranty an awareness of public needs and allows it to respond accordingly.

Presently, approximately one-fourth of the equity reserve is invested in securities of the U.S. Government and agencies while the remaining portion is invested in tax-exempt obligations of States and municipalities. The primary reason for this investment in State and municipal obligations is the guaranty's present tax status.

The guaranty itself is audited annually by a certified public accountant. Operations for the year ending December 31, 1977, yielded $295,818 in net income. These healthy earnings provide additional protection to savers.

The guaranty has the confidence of the State savings associations in North Carolina. Since December 31, 1977, 11 savings and loans have joined the guaranty, bringing the total membership of savings and loan associations up to 31 as of June 6, 1978. In addition, three applications for membership will be considered this week.

The structure and operations of NCSGC are essentially identical to the funds which are tax exempt. It was patterned after the tax exempt Ohio Deposit Guaranty Fund. Both are managed by a board of directors elected by the member associations. Passage of this bill will remove the basic inequity of treatment between the deposit guaranty funds.

NCSGC's success has been independently studied and evaluated. The State of Texas recently commissioned the Lyndon Baines Johnson Graduate School of the University of Texas to analyze and evaluate the five presently existing State authorized insurance programs, including NCSGC. The study judged all of the funds "to have been financially successful" and recommended that Texas establish a similar fund.

Tax exemption for NCSGC and other State guaranty funds is necessary to enable such funds to accumulate assets so that, in the event a member cannot meet its obligations, the fund will not be exhausted by covering a loss. Depositors in savings and loan associations are entitled to maximum protection of their accounts and to the highest possible return on their investments in the form of interest. Both of these objectives are accomplished by the accumulation of assets in State guaranty funds.

The establishment of State deposit guaranty funds should be encouraged in order to assure the greatest protection of deposits. Throughout the history of the savings and loan industry, the necessity for retaining a dual Federal and State system of savings and loan associations has been recognized. State savings and loan associations are innovative and are able to meet the special needs of the citizens in the States where they are located. The needs of citizens in Alaska may be quite different from those in the State of North Carolina. State savings and loan associations are able to meet these special needs. In the same way, State savings and loan insurance funds are able to be more responsive to the special needs of their member associations, than a Federal insurance fund.

Since its creation, NCSGC has been highly successful in protecting deposits of the citizens of North Carolina. On the basis of its performance and the services it renders to the citizens of North Carolina, NCSGC should be accorded equal treatment under section 501(c)(14)(b) of the Internal Revenue Code.

Mr. President, all that my amendment does is to move the date from September 1, 1957, and insert in lieu thereof December 31, 1967, which would have the effect of adding the State of Maryland and the State of North Carolina to the bill which, for all practical purposes, exempts those established before September 1, 1957, and which exempts Massachusetts and Ohio.

I wonder if the Senator from Louisiana would be willing to accept it now?

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. LONG. Mr. President, this is an amendment that the Senate agreed to in the previous Congress. The Treasury did not favor the amendment then and does not favor the amendment now, but the Senate agreed to it, and the amendment does have merit.

The House would not accept the amendment in conference so we were not able to persuade the House to vote on it. But I think the Senate, having previously supported the amendment, will do so again, and if that be the judgment of the Senate that we should take the amendment to conference at this point why, certainly, it is agreeable to the manager of the bill. Otherwise I would suggest that the Senator offer the amendment later on if there is objection to voting on it at this time.

Mr. MORGAN. Unless there are some objections, Mr. President, I might say to my colleagues I understand that the House has had hearings on it this year and might be more agreeable than they were a few years ago.

The PRESIDING OFFICER. Does the Senator from Ohio seek recognition?

Mr. METZENBAUM. Yes, Mr. President.

Will the Senator from North Carolina indicate what the revenue impact, if any, will be to the Treasury of this amendment.

Mr. MORGAN. Very insignificant. We do not have an exact figure, but it is a very insignificant amount. There are only two States involved, and the only two States that have it are the Senator's State and the State of the Senator from Massachusetts.

It just seems equitable to me that we ought to either repeal it for all of the States or make it applicable to all of the States.

There is a very small amount involved.

Mr. LONG. It is estimated that the bill would result in a decrease of budget revenues of approximately $5 million in fiscal year 1979.

Mr. METZENBAUM. Five million dollars?

Mr. LONG. Five million dollars in fiscal year 1979, and less than $1 million per year thereafter.

Mr. METZENBAUM. Would the Senator from Louisiana indicate the reason for the House's continuing opposition to the measure?

Mr. MORGAN. I think I can answer that. It was never offered before in the House, and the House took the position that they did not want to agree to it unless there had been some hearings on it. This time there have been hearings, and I understand the committee will mark it up Monday or Tuesday. If they do mark it up favorably, I think they would be inclined to accept it. If they do not, I think we would have the same impasse.

Mr. METZENBAUM. Does the Senator from North Carolina know why the Treasury continues to be opposed to it?

Mr. MORGAN. The only thing I can say to the Senator from Ohio is that anytime I have approached them on any matter that had a decrease in revenue, they opposed it.

Mr. METZENBAUM. That does not sound too bad.

Mr. MORGAN. I do not think so. Would the Senator be willing to amend it to delete Ohio and Massachusetts?

Mr. METZENBAUM. I must say that I have not heard any comment at all from anyone in Ohio either for or against the amendment. When the Senator from North Carolina brought it up this evening is the first time I ever heard about it. But if the Senator from North Carolina were to do that, I just might be agreeable.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I would hope it would go over based on the opposition of the Treasury. I would hope we would not consider it at this time.

Mr. LONG. Mr. President, we had agreed we would not have a rollcall vote tonight. Any Senator has the right to insist on a rollcall vote, and under the circumstances I think it would be best

if you offered the amendment tomorrow or at some future point when we could vote on it.

Mr. MORGAN. Mr. President, under the circumstances I would ask unanimous consent that I be allowed to withdraw it without prejudice to offering it tomorrow for a rollcall vote, or whenever I can seek recognition.

The PRESIDING OFFICER. The Senator does not need unanimous consent. He is allowed to withdraw his amendment.

Mr. LONG. Mr. President, in view of the fact that we do expect to have a vote on cloture, and this amendment is a narrowly drafted amendment involving a situation existing in two States, with regard to State chartered organizations, I would ask unanimous consent that it be in order that the amendment be regarded as germane for purposes of cloture in the event that cloture is voted by the Senate.

Mr. METZENBAUM. Objection.

The PRESIDING OFFICER. Objection is heard.

Mr. MORGAN. Mr. President, I will seek an opportunity to offer it tomorrow. But I must say that the Senators from the two States that receive the majority of the benefits are the ones that object, and the only two States. It strikes me that now that their States have these guaranty funds set up to protect the funds in small savings and loans, they now see fit to object to the extension of it to the two States that now have it.

Mr. METZENBAUM. Mr. President, the Senator from North Carolina may have a very valid point. I indicated to him earlier that I am not familiar with this particular provision. His point may have validity, that there is no reason for the State of Ohio and the State of Massachusetts to be advantaged by this provision.

I would like to look into the matter, and will look into it, and will agree that there ought to be equality across the country; but until such time as I do that, I would not be prepared to accept this amendment nor to consider it to be germane to the pending measure.

Mr. MORGAN. That is the Senator's prerogative.

I ask unanimous consent that the distinguished Senator from Hawaii (Mr. INOUYE) be added as a cosponsor to amendment 3689.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 2010

(Purpose: Treatment of certain payments for credit for household and dependent care expenses)

Mr. DOLE. Mr. President, I send an unprinted, uncontroversial amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kansas (Mr. DOLE) proposes an unprinted amendment numbered 2010:

Insert the following in the appropriate place:

Mr. DOLE. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Insert the following in the appropriate place:

That (a) paragraph (6) of section 44A(f) of the Internal Revenue Code of 1954 (relating to payments to related individuals) is amended to read as follows:

"(6) PAYMENTS TO RELATED INDIVIDUALS.—No credit shall be allowed under subsection (a) for any amount paid by the taxpayer to an individual—

"(A) with respect to whom, for the taxable year, a deduction under section 151(e) (relating to deduction for personal exemptions for dependents) is allowable either to the taxpayer or his spouse, or

"(B) who is a child of the taxpayer (within the meaning of section 151(e)(5)) who has not attained the age of 19 at the close of the taxable year.

"For purpose of this paragraph, the term 'taxable year' means the taxable year of the taxpayer in which the service is performed."

(b) The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1978.

Mr. DOLE. Let me say I think this is a noncontroversial amendment. It makes the day care tax credit do what most of us thought we had enacted in the first place. The substance of this amendment has already been passed by the House and has been reported favorably by the Finance Committee. The administration has no objections to its enactment. Because the change does not become effective until January, the fiscal 1979 revenue impact is minimal—only some $3 million.

This legislation is necessary to enable working parents to claim the day care tax credit when one of their parents—their children's grandparents—is the babysitter. As you may recall, when the section 44A day care tax credit was enacted in the 1976 Tax Reform Act, we decided to allow this nonrefundable credit no matter whether relatives, neighbors, strangers, or day care centers did the babysitting. However, in drafting this provision, it was cross-referenced to the definition of employment under the Social Security Act in such a way that babysitting done by grandparents virtually never qualifies for the tax credit.

What my amendment does is simply to delete this cross reference and rewrite the part of section 44A pertaining to relatives so that it does what we had originally intended—allow the tax credit when the grandparents are the babysitters. The amendment does not change the present rule which denies the credit for amounts paid to dependents, nor is the credit allowed for amounts paid to one's own spouse or minor children.

Some 44 percent of mothers with children under age 6 now work outside the home—trying to keep up with inflation and taxes. Family life is undergoing revolutionary changes these days. We need to be especially sensitive that our laws do not discourage strong bonds and cooperation among family members. This amendment makes a minor, inexpensive adjustment to the tax system that removes a financial disincentive to employing grandparents as babysitters instead of outsiders or day care centers. If we are truly committed to creating a pro-family climate in the United States, then measures like this need to be enacted to remove impediments to family cooperation.

I urge Senators to support this amendment.

Mr. LONG. Mr. President, some years ago there was a very interesting article in the Washington Post entitled "IRS is Unfair to Grandma." It made the point that the law discriminates against grandmothers if they look after a child.

The point was that if the parents need to find someone to babysit or to look after a child, no one would give the child more tender loving care other than the parents themselves other than the grandmother. But the law discriminated against grandmothers doing babysitting for grandchildren.

Since that time we have made enough progress that the parents can deduct the expense of paying grandma for babysitting a child providing grandma sits in grandma's house; but if grandma sits in the parents' house, the parents cannot deduct the expense of paying grandma to care for the child.

Obviously that is one more situation in which IRS is unfair to grandmas. They could hire somebody else to babysit the child, and have the child care credit, but not if grandma sits with the child; and obviously grandma has a more devoted interest in the child, certainly has more love and affection for the child and more interest in the child than a stranger.

The House has passed and the Senate committee has recommended that IRS quit discriminating against grandmas and that is what the Senator from Kansas is trying to do, or trying to make IRS do, quit being so cruel and brutal to grandmothers.

Mr. DOLE. If the Senator will yield, it does not change the general rules for allowing credit for the babysitter; it is just what the Senator has said, it is a "fairness to grandparents" amendment, to provide what we intended in the first place.

Mr. LONG. I am told, Mr. President, that the Treasury no longer opposes it, and is willing to remove the discrimination against grandmas. So now there seems to be no objection to the amendment.

Mr. DOLE. As the chairman knows, section 151 of H.R. 13511 contains my proposal to allow a deduction for certain employee retirement savings contributions as a needed incentive for employees to plan for their retirement and to assist in the continuation of pension plans. When the Committee on Finance adopted my proposal, I intended that an employee would have the full discretion to direct his employer, if the employee wished it, to make deposits for him either in the employer's pension plan or to an individual retirement account established either by the employer or the employee. In any case, this would be done solely at the discretion of the employee. The employer could not refuse to accept a contribution to go

into an individual retirement account. Is that the chairman's understanding of the committee amendment?

Mr. LONG. That is correct. The Committee on Finance, when it adopted the Senator's proposal, intended that an employee may, at his sole election, have the employer transfer a voluntary contribution made by the employee to an IRA and the employee may choose whatever IRA he or she wants. The only requirement of this sort imposed by the legislation is that the funds must be transferred by the employer. Consequently, all the employees need to do is designate to the employer the IRA to which the contribution should be made. The employer cannot prohibit the employee from making contributions to the IRA.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LONG. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 2011

(Purpose: To add tuition tax credits to H.R. 13511)

Mr. PACKWOOD. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Oregon (Mr. PACKWOOD) proposes an unprinted amendment numbered 2011.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the Committee amendment, add the following:

SEC. 2. CREDIT FOR CERTAIN TUITION.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1954 (relating to credits allowable) is amended by inserting before section 45 the following new section:

"SEC 44C. CERTAIN TUITION.

"(a) GENERAL RULE.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 35 percent of the tuition paid by him for the calendar year in which such taxable year begins to one or more eligible educational institutions for himself, his spouse, or any of his dependents (as defined in section 152).

"(b) MAXIMUM DOLLAR AMOUNT.—The maximum dollar amount allowable as a credit under subsection (a) with respect to tuition for any individual shall not exceed the applicable amount determined under the following table:

Calendar year:	Applicable amount
1978	$100
1979	150
1980 or 1981	250

"(c) APPICATION WITH OTHER CREDITS.—The credit allowed by subsection (a) shall not exceed the tax imposed by this chapter for the taxable year, reduced by the sum of the credits allowable under a section of this subpart having a lower number or letter designation than this section, other than the credits allowable by sections 31, 39, and 43.

"(d) PAYMENTS TAKEN INTO ACCOUNT.—

"(1) WHEN PAYMENTS MUST BE MADE AND EDUCATION FURNISHED.—Payments shall be treated as paid for any calendar year—

"(A) FOR 1978.—In the case of calendar 1978, only if such payments—

"(i) are made on or after August 1, 1978, and before February 1, 1979, and

"(ii) are for education furnished on or after August 1, 1978, and before January 1, 1979, or

"(B) FOR 1978 OR THEREAFTER.—In the case of any calendar years after 1978, only if such payments—

"(i) are made during such calendar year or during the 1-month period before the 1-month period after such year, and

"(ii) are for education furnished during such calendar year.

"(2) TUITION MUST BE FOR GENERAL COURSE OF INSTRUCTION.—

"(A) IN GENERAL.—Tuition attributable to a course of instruction which is not a general course of instruction shall not be taken into account under subsection (a).

"(B) GENERAL COURSE OF INSTRUCTION DEFINED.—For purposes of subparagraph (A), the term 'general course of instruction' means a course of instruction for which credit is allowable toward—

"(i) a baccalaureate or associate degree by an institution of higher education, or

"(ii) a certificate of required course work at a vocational school,

but does not include any course of instruction which is part of the graduate program of the individual.

"(3) INDIVIDUAL MUST BE FULL-TIME STUDENT OR (FOR CALENDAR YEARS AFTER 1979) A QUALIFIED HALF-TIME STUDENT.—

"(A) IN GENERAL.—Amounts paid for the education of an individual shall be taken into account under subsection (a)—

"(i) for calendar year 1978 or 1979, only if such individual is a full-time student for such calendar year, or

"(ii) for any calendar year after 1979, only if such individual is a full-time student or a qualified half-time student for such calendar year.

"(B) FULL-TIME AND QUALIFIED HALF-TIME STUDENT DEFINED.—For purposes of this section—

"(i) The term 'full-time student' means any individual who, during any 4 calendar months during the calendar year, is a full-time student at an eligible educational institution.

"(ii) The term 'qualified half-time student' means any individual who, during any 4 calendar months during the calendar year, is a half-time student (determined in accordance with regulations prescribed by the Secretary) at an eligible educational institution. Regulations prescribed for purposes of the preceding sentence with respect to the determination of whether an individual is a half-time student shall not be inconsistent with regulations prescribed by the Commissioner of Education under section 411(a)(2)(A)(ii) of the Higher Education Act of 1965 for purposes of part A of title IV of such Act.

"(e) TUITION DEFINED.—

"(1) IN GENERAL.—For purposes of this section, the term 'tuition' means tuition and fees required for the enrollment or attendance of a student at an eligible educational institution, including required fees for courses.

"(2) CERTAIN AMOUNTS NOT INCLUDED.—The term 'tuition' does not include any amount paid, directly or indirectly, for—

"(A) books, supplies, or equipment for courses of instruction, or

"(B) meals, lodging, transportation, or similar personal, living, or family expenses.

"(3) AMOUNTS NOT SEPARATELY STATED.—If an amount paid for tuition includes an amount for any item described in subparagraph (A) or (B) of paragraph (2) which is not separately stated, the portion of such amount which is attributable to such item shall be determined under regulations prescribed by the Secretary.

"(f) ELIGIBLE EDUCATIONAL INSTITUTION.—For purposes of this section—

"(1) ELIGIBLE EDUCATIONAL INSTITUTION.—The term 'eligible educational institution' means—

"(A) an institution of higher education, or

"(B) a postsecondary vocational school.

"(2) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' means an institution described in section 1201(a) or 491(b) of the Higher Education Act of 1965 (as in effect on January 1, 1978).

"(3) POSTSECONDARY VOCATIONAL SCHOOL.—The term 'postsecondary vocational school' means—

"(A) an area vocational education school as defined in subparagraph (C) or (D) of section 195(2) of the Vocational Education Act of 1963 (as in effect on January 1, 1978), which

"(B) is located in any State.

"(4) MARITAL STATUS.—The determination of marital status shall be made under section 143.

"(g) SPECIAL RULES.—

"(1) TREATMENT OF CERTAIN SCHOLARSHIPS AND VETERANS' BENEFITS.—

"(A) OFFSET AGAINST TUITION DOLLAR FOR DOLLAR.—For purposes of this section, any amount received as a nontaxable scholarship or educational assistance allowance for any period shall be treated—

"(i) as used for tuition attributable to such period, and

"(ii) as tuition not paid by the taxpayer.

"(B) NONTAXABLE SCHOLARSHIP OR EDUCATIONAL ASSISTANCE ALLOWANCE DEFINED.—For purposes of subparagraph (A), the term 'nontaxable scholarship or educational assistance allowance' means—

"(i) a scholarship or fellowship grant (within the meaning of section 117(a)1)) or similar award which is not includable in gross income, and

"(ii) an educational assistance allowance under chapter 32, 34, or 35 of title 38, United States Code.

"(2) TAXPAYER WHO IS A DEPENDENT OF ANOTHER TAXPAYER.—No credit shall be allowed to a taxpayer under subsection (a) for amounts paid for any calendar year for tuition for the taxpayer if such taxpayer is a dependent of any other person for a taxable year beginning in the calendar year in which the taxable year of the taxpayer begins.

"(3) SPOUSE.—No credit shall be allowed under subsection (a) for amounts paid for any calendar year for tuition for the spouse of the taxpayer unless—

"(A) the taxpayer is entitled to an exemption for his spouse under section 151(b) for the taxable year beginning in such calendar year, or

"(B) the taxpayer files a joint return with his spouse under section 6013 for such taxable year.

"(h) DISALLOWANCE OF CREDITED EXPENSES AS CREDIT OR DEDUCTION.—No deduction or credit shall be allowed under any other section of this chapter for amount paid for tuition for any individual except to the extent that such amount exceeds the amount necessary for the allowance of the maximum amount which may be allowed under this section for tuition for such individual for the taxable year. The preceding sentence shall not apply to any amount paid for tuition by any taxpayer who, under regulations prescribed by the Secretary, elects not to apply the provisions of this section with respect to such tuition for the taxable year.

"(i) TERMINATION.—No credit shall be al-

lowed under this section for education furnished after December 31, 1981."

(b) LIMITATION ON EXAMINATION OF BOOKS AND RECORDS.—Section 1605 of such Code (relating to time and place examination) is amended by adding at the end thereof the following new subsection:

"(d) EXAMINATION OF BOOKS AND RECORDS OF CHURCH-CONTROLLED SCHOOLS.—Nothing in section 44C (relating to credit for tuition) shall be construed to grant additional authority to examine the books of account, or the activities, of any school which is operated, supervised, or controlled by or in connection with a church or convention or association of churches (or the examination of the books of account or religious activities of such church or convention or association of churches) except to the extent necessary to determine whether the school is an eligible educational institution within the meaning of section 44C(f)(1)."

(c) TAX CREDIT NOT TO BE CONSIDERED AS FEDERAL ASSISTANCE TO INSTITUTION.—Any educational institution which enrolls a student for whom a tax credit is claimed under this Act shall not be considered to be a recipient of Federal assistance under this Act.

(d) EXPEDITED REVIEW OF CONSTITUTIONALITY OF TUITION CREDIT.—

(1) CERTIFICATION OF QUESTIONS OF CONSTITUTIONALITY.—In any action brought in a district court of the United States, including an action for declaratory judgment or injunctive relief, concerning the constitutionality of any provision of section 44C of the Internal Revenue Code of 1954 (relating to credit for certain tuition) or any other provision of such Code relating to such section, the district court shall certify immediately all questions of constitutionality of such provision to the United States Court of Appeals for the circuit involved, which shall hear the matter sitting en banc.

(2) APPEAL TO SUPREME COURT.—Notwithstanding any other provisions of law, any decision on a matter certified under paragraph (1) shall be reviewable by appeal directly to the Supreme Court of the United States. Such appeal shall be brought no later than 20 days after the decision of the Court of Appeals.

(3) EXPEDITED CONSIDERATION.—It shall be the duty of the Court of Appeals and of the Supreme Court of the United States to advance on the docket and to expedite to the greatest possible extent the disposition of any matter certified under paragraph (1).

(4) SEPARABILITY.—If any provision of section 44C of the Internal Revenue Code of 1954 (or any other provision of such Code relating to such section), or the application thereof to any person or circumstances, is held invalid, the remainder of such provisions, and the application of such provisions to other persons or circumstances, shall not be affected.

(e) DISREGARD OF REDUCTION OF TAX LIABILITY.—Any reduction in the income tax liability of any individual by reason of section 44C of the Internal Revenue Code of 1954 (relating to credit for certain tuition) shall not be taken into account for purposes of determining the eligibility of such individual or any other individual for benefits or assistance, or the amount or extent of benefits or assistance, under any Federal program of educational assistance or under any State or local program of educational assistance financed in whole or in part with Federal funds.

(f) CONFORMING AMENDMENTS.—

(1) The table of sections for subpart A of part IV of subchapter A of chapter 1 of such Code is amended by inserting immediately before the item relating to section 45 of the following:

"Sec. 44C. Certain tuition."

(2) Subsection (c) of section 56 of such Code (defining regular tax deduction) is amended by striking out "credits allowable under—" and all that follows and inserting in lieu thereof "credits allowable under subpart A of part IV other than under sections 31, 39, and 43."

(3) Subsection (b) of section 6096 of such Code (relating to designation of income tax payment to Presidential Election Campaign Fund) is amended by striking out "and 44B" and inserting in lieu thereof "44B, and 44C".

SEC. . EFFECTIVE DATE.

The amendments made by section 2 of this Act shall apply to taxable years ending on or after August 1, 1979 with respect to amounts paid on or after such date for education furnished on or after such date.

Mr. PACKWOOD. Mr. President, this is the tuition tax credit amendment and I am simply offering it now as an amendment to the committee amendment, because it was added to the House bill this morning and I did not want to be crowded out in whatever shifting happens when we run up against the budget resolution.

It is identically the same amendment I offered earlier today. It is the amendment which the House adopted. It is within the budget resolution.

I have nothing more to say on it.

Mr. KENNEDY. Mr. President, may I ask the Senator from Oregon, does this amendment include the tax reductions passed by the Senate this morning in the Bumpers-Kennedy amendment?

Mr. PACKWOOD. It does not, because it puts it over the budget and would make it subject to a point of order for the current fiscal year.

Mr. KENNEDY. Mr. President, I would be constrained to object, at least until we are able to work this out with some form of accommodation.

Mr. PACKWOOD. In that case, Mr. President, I can see that we are going to be faced with a number of amendments which would go beyond the budget resolution. I want to leave this amendment pending so that when we finish with the subsequent amendments tomorrow, this will be the pending amendment.

Mr. LONG. Mr. President, the Senator certainly has a right to offer his amendment. I ask unanimous consent that, without prejudice to the Senator's rights, his amendment be the pending amendment when we go back on the bill tomorrow.

I ask unanimous consent that, notwithstanding that fact, that it might be temporarily laid aside so that we might consider some other noncontroversial amendments.

Mr. ROBERT C. BYRD. Mr. President, I am not sure I heard the distinguished manager of the bill. Reserving the right to object, under the order previously entered when the Senate comes in tomorrow the amendment of the Senator from Maine will be pending with an amendment to it by Mr. GLENN.

Mr. LONG. The Senator is correct. As a matter of fact, I better withdraw my unanimous-consent request.

Are there any other amendments to be offered at this point which are noncontroversial?

Mr. PACKWOOD. At the moment, my amendment is pending, is it not?

The PRESIDING OFFICER. The Senator is correct. The unanimous-consent request is not pending.

Mr. LONG. Will the Senator be so kind as to agree that the amendment of the Senator from Oregon be temporarily laid aside to consider an amendment by the Senator from New York, and at the conclusion thereof the amendment of the Senator from Oregon will be the pending amendment?

Mr. PACKWOOD. Yes, that is fine.

The PRESIDING OFFICER. Is there objection to temporarily setting aside the amendment of the Senator from Oregon to consider the amendment of the Senator from New York, at which point the amendment of the Senator from Oregon will be the pending amendment?

Mr. ROBERT C. BYRD. It will be the pending amendment tonight.

The PRESIDING OFFICER. That is correct. Is there objection?

Mr. PACKWOOD. Mr. President, reserving the right to object, I do not want to hold up the Senator from New York. I am perfectly happy to discuss this tomorrow. I am not trying to put a fast one over.

I will ask unanimous consent that this amendment be the pending amendment following the disposition of the amendment of the Senator from Maine, as amended by the Senator from Ohio.

The PRESIDING OFFICER. Is there objection?

Mr. BAKER. Reserving the right to object—

Mr. KENNEDY. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard by the Senator from Massachusetts.

Mr. PACKWOOD. What is the pending business right now, Mr. President?

The PRESIDING OFFICER. The pending business is the amendment of the Senator from New York.

Mr. ROBERT C. BYRD. No, it is not. The amendment of the Senator from Oregon is pending at the moment.

The PRESIDING OFFICER. The Chair is in error. The amendment of the Senator from Oregon is pending.

Mr. KENNEDY. Mr. President, could I suggest the absence of a quorum without the Senator from Oregon losing his right to the floor?

Mr. ROBERT C. BYRD. Will the Senator withhold that?

Mr. KENNEDY. I withhold the suggestion.

Mr. ROBERT C. BYRD. Perhaps we can dispense with some other business, Mr. President, while we are waiting.

MIGRATORY BIRD HUNTING AND CONSERVATION STAMPS

Mr. ROBERT C. BYRD. Mr. President, I ask the Chair to lay before the Senate a message from the House on H.R. 13372.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 13372) to increase the price of migratory-bird hunting and conservation stamps and to provide for consultation by the Secretary of the Interior with State and

local authorities before migratory bird areas are recommended for purchase or rental, and for other purposes.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the bill be considered as having been read the first and second time, and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senate proceeded to consider the bill.

(Mr. INOUYE assumed the chair.)

UP AMENDMENT NO. 2012

Mr. HODGES. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Arkansas (Mr. HODGES), for himself and Mr. BELLMON, proposes an unprinted amendment numbered 2012.

Mr. HODGES. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 1, strike lines 3 through 7 and insert in lieu thereof the following:

"That Section 2 of such Act of March 16, 1934 (16".

On page 2, line 22, strike "(a)", and on page 3, strike lines 10 through 18.

Mr. HODGES. Mr. President, this has been cleared on both sides of the aisle. Senator BELLMON is a cosponsor of the amendment. The bill has passed the House.

Mr. President, I am pleased to manage and express my support for H.R. 13372, the Duck Stamp Act amendments. This legislation is worthwhile and I urge its immediate adoption by my colleagues.

The duck stamp was created by the Migratory Bird Hunting and Conservation Act of 1934. This is the funding mechanism of the U.S. Fish and Wildlife Service's wetlands acquisition program. From the funds collected through the duck stamp the U.S. Fish and Wildlife Service is able to acquire migratory bird refuge lands and waterfowl production areas throughout the United States. It is a very sound process and principle whereby those who do the duck hunting finance the enhancement and preservation of ducks. In addition, hundreds of other species of bird and animal benefit from the lands preserved. Thus, the duck hunter has made a real contribution to the general conservation in our Nation. This program goes hand-in-hand with Ducks Unlimited, which does the same sort of conservation work in Canada and Mexico, again sponsored and financed entirely by those interested in duck hunting.

This bill would authorize an increase in the duck stamp from $5 to $7.50 when the funds derived from the sale of the duck stamp are depleted. Since 1934 the price of the duck stamp has risen from $1 to $5. This increase is necessary to insure the continuation of the valuable work being performed by the Fish and Wildlife Service. As we all know, the price of acquiring land has risen dramatically over the last few years. The rise in land prices has limited the effectiveness of the Service's wetlands acquisition. Further, the wetlands are disappearing at such a rapid rate, that I personally am convinced that what purchases we do not make within the next 10 years will not be available thereafter. Prompt action on H.R. 13372 would relieve some of the pressure on the scarce resources of the Service and allow more acres of breeding and wintering wetlands to be purchased.

The amount of revenue increase predicted by the $2.50 increase in the duck stamp is $3.1 million. This would bring the total revenue from sales of the duck stamp to $14 million in fiscal year 1979.

Mr. President, these funds are derived from the hunters of waterfowl and they are used to conserve and produce this precious resource. Without the support of the moneys derived from the duck stamp, and the unflagging support of Ducks Unlimited, the duck population of this Nation would be too small to hunt. As an avid duck hunter and longtime supporter of Ducks Unlimited I can tell you without equivocation that there are substantially more ducks today than there were in the 1950's and 1960's due directly and entirely to the strong work of the Fish and Wildlife Service and Ducks Unlimited. Hunting pressure is not a real threat to the decline of the duck population. The significant and long-term danger is lack of breeding grounds and wintering habitat, which this bill is designed to help conserve and preserve.

I am offering an amendment to strike the portion from the House bill which would reduce the minimum age for purchase of a duck stamp from 16 to 14. I strongly believe, perhaps naively, that whatever can be done to encourage young people to participate in outdoor activities, particularly with their families, should be encouraged. I know many fathers take their children duck hunting only once or twice a season, and the added expense of a duck stamp could be an inhibiting factor. Because of that, I would far prefer to see somewhat less revenue and more young people participating in duck hunting.

No one who is an avid duck hunter would dispute the fact that we are slightly unbalanced. We sit for long hours in subfreezing temperatures, often have to break ice to get out at all, frequently do not even shoot, spend inordinate amounts of money, and love every minute of it. One either is or is not a duck hunter. Because it is expensive, and because it does depend on migratory waterfowl who must have substantial breeding grounds far north of where most of us hunt, this $2.50 increase would be endorsed by an overwhelming majority of those who duck hunt.

I strongly urge my colleagues to join in immediate approval.

Mr. President, the amendment itself will strike provisions that are in the House bill that are objectionable to those here in the Senate. It strikes a provision that would have restricted the right of the Governor to veto purchases, which was opposed by Senator WALLOP and others. We are taking that feature and other features out of the bill that are objectionable.

I believe as a duck hunter and a conservationist, it is an excellent measure. We are hopeful that the measure will then be approved in the House.

Mr. President, I yield to my friend and colleague from Oklahoma.

Mr. BELLMON. Mr. President, I strongly support the amendment of the Senator from Arkansas. The bill as it came from the House would lower the age of young people required to buy duck stamps from 16 to 14. That provision has been removed as well as other provisions. The proceeds from duck stamps, as Members of the Senate know, are used to acquire wetlands and wildlife refuges. It has come to be a major program so far as preserving the wildlife resources, particularly migratory waterfowl, in the country.

This amendment will help provide funds to speed up the acquisition of the wetlands and the refuge areas.

Mr. President, I consider this to be an important amendment and urge its adoption.

Mr. BAKER. Will the Senator yield?

Mr. HODGES. I yield.

● Mr. McCLURE. Mr. President, I would like to express my concern with the hasty manner with which this legislation is being approved. It is generally my opinion that before legislation of this magnitude is approved by the Senate, an opportunity should be given to affected parties to comment on the legislation.

Such an opportunity has not been provided by the Environment and Public Works Committee.

I was particularly concerned that two of the provisions in H.R. 11372 have not been the subject of review by the Senate Committee on Environment and Public Works. The first is the change in the age requirement for those who must purchase a migratory bird stamp from 16 to 14 years of age. The second relates to a requirement in the Wetlands Loan Act that no land can be acquired with migratory bird conservation account money unless the acquisition is approved by the Governor or appropriate State agency of the State in which the area to be purchased lies. Both of these provisions constitute major changes in the management of our migratory bird conservation programs. I therefore, could not agree that the Senate act on these provisions without having given the public an opportunity to comment on them. I was thus pleased to see that the committee decided to drop these two controversial provisions from the bill and include only a provision increasing the duck stamp price before requesting that the Senate approve this legislation by unanimous consent.

Thus, while I would have preferred full hearings on the bill, I will support the legislation before us today which increases funding for the Duck Stamp Act by increasing the price of migratory bird stamp, because I understand that the upward spiral in rural land prices which has occurred in recent years has obstructed this program's ability to meet its projected acquisition goals. Therefore, I will not oppose the legislation before us today, but did feel obliged to express my concern that the Senate has

not thoroughly investigated this matter.●

Mr. STEVENS. Mr. President, the Senate is now considering legislation to amend the Migratory Bird Hunting and Conservation Act, or as it is commonly known, the Duck Stamp Act. This act since its enactment in 1934 has been beneficial to most all that have been concerned; hunters, conservationists, and State and local governments. The most important aspect of the act has been the careful development and conservation of one of our most precious natural resources, migratory waterfowl. Migratory waterfowl is of vital importance to my State of Alaska. Citizens of Alaska not only depend on the utilization of waterfowl for recreation and pleasure, many Alaskans' very food supply must come from the harvesting of migratory birds.

This legislation could not be of greater importance to me and my State. However, H.R. 13372, the duck stamp amendments that is now before this body causes me concern. The impact of this legislation if it is not changed could be devastating on the people of not only my State but all the States of the Nation that enjoy the full utilization of migratory birds. This body should carefully review this legislation before we hastily agree to any provisions that we might later regret.

The Members of the House of Representatives have proposed that we lower the age minimum for the purchase of duck stamps. No longer would the age requirement be set at 16, but the House would have us lower it to 14 years of age. My State of Alaska is one of the strongest conservationist-minded States in the Union. Proper utilization of our resources is not an avocation for my State—it is a way of life for us. The State of Alaska Department of Fish and Game now requires that all people who have reached the age of 16 who wish to hunt or fish must possess a valid hunting and fishing license. The current law with respect to duck stamps coincides with existing State statutes effectively. The legislation that is now before us would only complicate the license process. We would no longer have one standard age requirement for hunting regulations if we adopt this measure.

H.R. 13372 would open up an even larger can of worms that potentially threatens all States where migratory birds nest, travel through, or use as wintering grounds. The House would have us accept legislation which would dissolve the right of the States to cooperate in the proper management of migratory waterfowl. H.R. 13372 would give the Department of the Interior the right to purchase lands from landowners that are "willing sellers." This purchase could take place over the objections of the State or local governments. This situation is simply unacceptable to Western States. We cannot tell at this time what pressure might come to bear on a private landowner who possesses lands that the Department of the Interior wishes to buy. It is not hard to imagine the Department restricting a private landholder's use so greatly that he would be forced to be a "willing seller." I do not foresee the Department of the Interior going into my State and trying to strong-arm the private landowners or native corporations who have their land titles into selling their lands. But I do feel we must preserve the checks and balances that now exist in the law. The Governor of a State must continue to have the right to coordinate migratory waterfowl protection with the Federal Government. By allowing the Governor to maintain his veto power we insure that this will continue to take place.

Finally, legislation that is now before us would raise the cost for duck stamps from $5 to $7.50. What Senator from a State that depends heavily on the hunting of migratory waterfowl would be pleased by such an increase? This is a 50-percent increase that we would legislate.

I am the first to state that these funds are used to benefit all States. It is well known that the demand on the Wetlands Loan Act funding far exceeds the available duck stamp money. This money goes for the purchase of wetlands that are vital for the continued strength of the growing migratory waterfowl population. This fund saves lands which might otherwise be developed for a lesser use. Despite the fact that no lands on the Department of the Interior's list of priority waterfowl wetlands are located in my State, the need for these additional funds can be recognized.

It is for this reason that I find myself urging my colleagues to support the compromise version of H.R. 13372 that has been presented to this body. The Senate version as it has been explained to me would maintain the existing 16-year-old age requirment and would raise the duck stamp fee from $5 to $7.50. This version would also delete the House language with respect to the purchase of lands by the Department of the Interior. I have checked with the State of Alaska Department of Fish and Game and with hunter associations and interest groups in Alaska. They too find this language acceptable to our long-term needs and goals. I urge my colleagues to review this legislation and move for the adoption of the Senate version of the duck stamp amendments.

Let me commend the Senator from Arkansas and the Senator from Oklahoma for having taken the action to remove the provisions in this bill which we find objectionable and at the same time present to the Senate a bill that will increase the funding for the acquisition of lands under the Migratory Conservation Act.

Mr. HODGES. Mr. President, I move the adoption of the amendment.

Mr. BELLMON. Mr. President, before we adopt the amendment, I believe the course chosen by the Senator from Arkansas is wise because, due to the lateness of the date of this bill being sent to the Senate by the House, there is simply no way we could have held hearings and approved the bill in the condition that it reached the Senate with the action of the House. By the action we have taken tonight, we will be certain that the duck hunting stamps which are sold will produce the revenues needed. If we do not act the way the Senator from Arkansas is proposing, this bill would have to wait until next year, and 1 whole year of increased revenues would be lost.

I strongly urge the Senate to accept the amendment of the Senator from Arkansas.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

Mr. HODGES. Mr. President, I ask that the bill go to third reading.

The PRESIDING OFFICER. If there be no further amendment to be proposed, the question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed, and the bill to be read a third time.

The bill was read a third time.

Mr. HODGES. Mr. President, I move the adoption of the bill.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill, as amended, pass?

The bill (H.R. 13372), as amended, was passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill passed.

Mr. HODGES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

REVENUE ACT OF 1978

The Senate continued with the consideration of H.R. 13511.

Mr. ROBERT C. BYRD. Mr. President, I believe the distinguished Senator from Oregon is ready to proceed now.

Mr. PACKWOOD. If we are not quite ready to proceed, I am ready to make a unanimous-consent request to set aside the amendment I offered so Senator MOYNIHAN may offer an amendment. My request is that my amendment will then become the pending business when the Senator from New York has completed his.

UP AMENDMENT NO. 2013

(Subsequently numbered amendment No. 4011)

(Purpose: To permit certain public state power authorities to sell power financed by industrial development bonds to private utilities)

Mr. MOYNIHAN. I thank the Senator.

Mr. President, I have a number of matters I believe to be noncontroversial. I send first an unprinted amendment to the desk and ask that it be considered.

The PRESIDING OFFICER (Mr. HODGES). The clerk will state the amendment.

The assistant legislative clerk read as follows:

The Senator from New York (Mr. MOYNIHAN) proposes an unprinted amendment numbered 2013.

Mr. MOYNIHAN. I ask unanimous consent that further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 300, line , insert the following: "Sec. 339. To amend Section 103(b)(4)(E) of the Internal Revenue Code.

Section 1. Insert "(i)" before "sewage" and add at the end of subparagraph (E) the following:

"Or, (ii) pumped storage, other hydroelectric facilities or electrical transmission facilities construction of which is completed after October 1, 1977, for the production or transmission of energy by an agency of the government of a state which agency was in existence prior to January 1, 1935, the governing body of which agency is appointed by the governor of said state, and which was duly authorized prior to October 1, 1977 to develop such power projects, *Provided*, That the energy from such facilities is sold to one or more regulated public utilities having customer service areas within the territory of such state, and/or to other customers for whose benefit such agency is authorized to develop such facilities by state law;

"or, (iii) any other facilities for the furnishing of electric energy for which a federal or state agency license or certification to authorize construction was issued or first applied for prior to October 1, 1977 by an agency of the government of a state, which agency was in existence prior to January 1, 1935, the governing body of which agency is appointed by the governor of said state, and which was duly authorized prior to October 1, 1977 to develop power projects, *Provided*, That the energy from such facilities is sold to a regulated electric utility having a customer service territory no greater than a city and one contiguous county and/or to public bodies therein and those customers for whose benefit such agency is authorized to develop such facilities pursuant to state law in effect on October 1, 1977.

SEC. 2. If the issuer so elects, this amendment may apply with respect to obligations issued prior to the date of enactment to finance any facility referred to in Section 1."

Mr. MOYNIHAN. Mr. President, the amendment at the desk is the text of a provision which the Senate has passed, as I understand it, on two previous occasions, most recently as part of H.R. 5263, which we think of as the energy tax bill. In the most recent meeting of the conference on that bill, it was agreed that it would be desirable to transfer that provision to the present tax bill. This is a measure which applies only to the State of New York and only to one situation in the State of New York. It changes a provision in the Internal Revenue Code by which power produced by a public authority capitalized by industrialized development bonds may only be sold to a private utility servicing two contiguous counties.

The purpose of this amendment is to declare New York City to be a county for this purpose. New York City is, in every sense, a unitary government, but a long tradition describes there being five counties within it. This will involve the development of a nuclear or a coal-powered plant that will replace 5 percent of the residual oil imported into the United States. It is an enormous amount of energy involved. It comes to 20 million barrels per year.

The Senate has, several times, agreed to the commonsense arrangement and I hope it might be agreed to put this matter on the tax bill.

Mr. LONG. Mr. President, this is an amendment to which the Senate agreed in the consideration of the energy bill. As I recall, the Treasury opposed the amendment. The Senate, nevertheless, agreed to it. In conference, the indications were that the conferees from the Ways and Means Committee were sympathetic to the amendment but that those who came from the other committees on the ad hoc committee were not sympathetic to the amendment—or not very sympathetic to it. Therefore, in the conference, it was agreed that the measure should not be insisted upon by the Senate conferees, but that it should be added to this bill, if it be the will of the Senate, and that when a conference recurs on this bill between the Senate and the House, we would then be conferring with those who represent the Ways and Means Committee.

In view of the fact that it is a revenue measure and we would be talking to the taxwriting committee, there would be reason to believe there would be a more sympathetic consideration than there would be in talking to the other committees; therefore, we would seek to offer the same amendment on this bill that the Senate agreed to on the other bill, the purpose being that we would recede from that amendment on the energy bill and seek to add it to this bill.

Mr. METZENBAUM. Will the Senator from Louisiana yield for a question?

Mr. LONG. Yes.

Mr. METZENBAUM. Was this one of those amendments that was accepted by the chairman of the committee when the energy tax measure was being considered?

Mr. LONG. It was a Finance Committee bill, reported by the committee.

Mr. METZENBAUM. What are the revenue implications of this amendment?

Mr. LONG. Might I just answer that the Senator from New York is the best expert on the particular amendment?

Mr. MOYNIHAN. Yes, there will be a revenue loss to the Treasury when these bonds are sold and the matter proceeds. This could be as much as 10 years in the future. The tradeoff is the fact that industrial development bonds will be used. The question of whether there will be any loss is a moot one, because there is no way that this facility would be built by the Consolidated Edison Corp. This is not possible to be done within the confines of the city of New York or outside; only the power authority of the State of New York could do it.

In any other situation, it could sell to a situation such as Westchester County and New York City, but there is this peculiar historical fact that New York City continues to be defined as consisting of five counties. We think of it as five boroughs, but in the laws of New York State, they are referred to as counties.

Mr. METZENBAUM. Can the Senator from New York give us a 1-minute explanation of what this does? I understand the comment with reference to considering the city of New York as a county, but what does the amendment actually do? Does it provide a broader definition of the industrial revenue bonds?

Mr. MOYNIHAN. No.

Mr. METZENBAUM. What is it that it does?

Mr. MOYNIHAN. It does only one thing. It says what now may be done by industrial development bonds; to wit, a public power authority may build a facility and sell its power to private utilities in two contiguous counties; that that existing provision applies to Westchester and New York City.

Mr. METZENBAUM. The question that I asked previously was what will be the revenue loss if you do not have this bill and the project does go forward?

Mr. MOYNIHAN. If we do not have this bill, the project will not go forward. This is a unanimous agreement. This is a 15-year episode. I wish I could absolutely tell the Senator it will go forward now. It should go forward. Five percent of the residual oil of the U.S.-import is involved.

Mr. METZENBAUM. Is that because this will develop nuclear power? Is that the point——

Mr. MOYNIHAN. Coal or nuclear. The original coal plant is already coming under some criticism. It will not develop oil. Oil would be precluded by this.

Mr. METZENBAUM. What kind of facility is it that is to be developed?

Mr. MOYNIHAN. A large powerplant, presumably coal, because the Governor has said no more nuclear. Therefore, a coal-powered plant, probably in the Hudson Valley, as far as Staten Island seems to be the rule now. This only applies to New York City. There is no application to any other facility. The amendment reads—it happens there are only two State power authorities in the country. One is in South Carolina, the other New York. This refers only to power authorities created before January 1, 1935. It is drafted just as that.

Mr. METZENBAUM. Will the Senator from New York indicate why the Treasury Department opposes this in view of his representation that it will not go forward without the bill?

Mr. MOYNIHAN. The Treasury opposition is, first of all, ambivalent. They have been talking about how they might work out something of this kind.

Second, it is a change in their arrangements. That is all.

Mr. GRAVEL. Will the Senator yield on that?

Mr. MOYNIHAN. Yes, I am happy to.

Mr. GRAVEL. I think, as I interpret the Treasury's objection, they are opposed in principle to those type bonds, that type financing.

What the Senator is talking about is just a geographic difference.

So, in principle, I do not think they would be opposed to that facet of it.

Mr. MOYNIHAN. Treasury is no friend of industrial development bonds.

Mr. GRAVEL. This only changes the geographic area in question.

Mr. METZENBAUM. With a situation of this kind, at 11:20 at night, and the Treasury has an objection that very likely that ought to occur, that it go over and bring it up before the full body.

Mr. MOYNIHAN. The Senator can say that, but I have a certain comity in the matter. This has twice passed the Senate, most recently in the energy bill.

Mr. METZENBAUM. I point out to the

Senator, although it passed the Senate before, it was not a matter that was brought to the Senate's attention, at least to the best of my recollection, as a particular issue, and I am frank to say I never heard of the matter before.

It came with the energy bill. There were a lot of things on that bill, many of which were not brought to the attention of many of us.

In view of the Treasury opposition, it certainly seems to me it is not a matter of comity, but a matter of equity and whether it is appropriate to provide this kind of a tax provision without at least giving Treasury an opportunity to be heard.

Mr. GRAVEL. If I might join with my colleague, the Treasury has been heard on the subject. This is not a new area. As the Senator says, even after this bill passes, I am sure we will be able to stand up here next year if this bill comes back up in its entirety and make exactly the same statement.

There is no way every single Member of this body will be able to follow every single detail of every single bill. The issues are handled in a broader fashion than that.

But this matter had hearings in the Finance Committee. It is something that has been an ongoing difference of opinion between the Congress and the Executive, sometimes rising to a high level, sometimes going to a lower level.

They just do not like the idea of having bonds that have a tax exempt feature.

All the municipal bonds, the same thing. They do not like that approach to financing. So if we take the position Treasury is opposed to it, let us wipe out right now and accommodate the Treasury, do what is right, what they tell us to do, and wipe out all tax exempt bonds because they are against that in principle.

But the issue here is just that geographic area, that when somebody first defined this, it was probably something given no attention at all—but we will make it a county. They did not have any knowledge.

We have a situation where the utility is serving more than one county. In this particular case it is absolutely ludicrous, when we know the situation of New York and ConEd that claims if you build a plant it will have to service other borcughs, and the word "borough" is not even there.

So, this is not a big deal. We had it in conference and the conferees had no objection to it. They just wanted to see it on a tax bill, where it belonged. It is more of a germaneness issue.

Mr. METZENBAUM. The other is a tax bill——

Mr. MOYNIHAN. If the Senator will allow the Senator from New York, I will answer the question.

May I put it this way, that, first of all, it was arranged with the Senator from Louisiana that I would not ask reconsideration of this measure in case somebody else wanted to raise the question tomorrow. I am not trying to put anything through here. We are trying to get through the Senate's business.

Second, I put it that the arrangement we are proposing here is available to any contiguous county in the country. It happens to be a technicality that the city of New York continues to define it as containing five counties. It is not.

Mr. LONG. If the Senator will yield for a moment, I think I can help clear this matter up to the benefit of our distinguished colleague.

Mr. MOYNIHAN. I am happy to yield.

Mr. LONG. Under the law, the interest on State and local obligations for this type of purpose is generally exempt, from taxation.

Keep in mind, if this were a State obligation, there would be no problem—it would be exempt. If it were a local obligation, no problem—it would be exempt.

Now, Treasury wrote a regulation that says if more than two contiguous counties, or their political equivalents, are involved, that they are not regarded as local government.

So that now, having written that regulation saying that more than two contiguous counties will be regarded as a local government, then Treasury reaches the conclusion that, since there are five boroughs in New York City, they must regard the five boroughs as five counties and thus not a local government. They are now reconsidering that position.

So, at this moment, the last word I get is that Treasury feels if this only involves New York City, they would be inclined to go along. So they are reconsidering their position.

Basically, what we are talking about is whether the obligations of a company serving New York City and Westchester County is to be regarded as local government. It is not the law that creates the problem, it is the Treasury regulation.

It is a question of whether New York City can claim the same advantage that practically any other city, for example, Los Angeles or New Orleans, can claim. There are a great number of areas where a city has a huge amount of area and can claim the advantage.

But because of the way New York is organized in five boroughs, it gives Treasury some problem with their own regulation.

Mr. METZENBAUM. I would like to ask my friend from Louisiana who is so knowledgeable in these matters, is there not a distinction in this case between a State having its bonds tax exempt, a county having its bonds tax exempt, and this situation which is not really a State or a county, but really has to do with a private corporation and we are providing a tax exemption in this instance indirectly for a private corporation's facilities by use of industrial revenue bonds.

Mr. LONG. Unless they meet certain requirements, industrial development bonds are taxable, but the law gives an exemption for bonds for the local furnishing of electric energy or gas. But, now, the regulations then proceed to interpret what the word "local" means to say. Local means two contiguous counties. Then they proceed to construe the five boroughs of New York as being five counties, and then New York finds it is unable to benefit by the same law available to Los Angeles.

Mr. MOYNIHAN. If I may say to the Senator from Ohio, New York City could be treated like Los Angeles County. Los Angeles County has about five cities, God knows how many villages, but they are one county.

Mr. METZENBAUM. The Senator from New York may have a point. But I think that I would feel better if I inquire further into the subject and we lay the matter over until tomorrow and have a chance to discuss the subject better, by that time, with Treasury representatives. I think that would be an appropriate procedure and I would like to suggest it.

Mr. MOYNIHAN. Mr. President, I have two other small matters.

The PRESIDING OFFICER. The amendment is still pending.

Mr. MOYNIHAN. In that case, I withdraw the amendment.

The PRESIDING OFFICER. The Senator has that right.

Mr. MOYNIHAN. Mr. President, I call up amendment No. 3978.

The PRESIDING OFFICER. The Chair was somewhat incorrect. Under the previous order, the pending business now, with that amendment out of the way, is the amendment by the Senator from Oregon.

UP AMENDMENT NO. 2014

(Subsequently numbered amendment No. 2012)

Mr. PACKWOOD. Mr. President, I withdraw my amendment, and I offer another amendment and send it to the desk for immediate consideration.

The PRESIDING OFFICER. The amendment is withdrawn, and this amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Oregon (Mr. PACKWOOD) proposes an unprinted amendment numbered 2014.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PACKWOOD. Mr. President, this amendment is now the tuition tax credit amendment as adopted today with the Bumper-Kennedy amendment on it. There is only one change in the Bumper-Kennedy amendment. We have changed the effective date by 1 month, slipping it 1 month, so that the revenue loss in the first fiscal year is $600 million rather than $900 million. This puts it within the budget resolution.

This amendment simply is to put the tuition tax credit amendment with the Bumper-Kennedy amendment on the Finance Committee committee amendment, rather than an amendment to just the House bill, so that it is not lost in the shuffle as other amendments are offered.

I am prepared to vote.

Mr. LONG. Mr. President, we cannot vote on this matter tonight, because it might be objected to by someone who did not know that this was to be considered this evening. In other words, I anticipate that, while it may not be controversial with those of us here at this moment, it may be controversial to someone who is not here and who might want to protect his position in a similar fashion.

Therefore, Mr. President, in line with what I believe and understand is expected of me, I cannot agree to vote on this amendment at this time.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that when we dispose of the amendment of the Senator from Maine and the Senator from Ohio, or if we put it aside for other business, this amendment be the pending business.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The Senator from New York.

UP AMENDMENT NO. 2015

Mr. MOYNIHAN. Mr. President, I call up an unprinted amendment.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from New York (Mr. MOYNIHAN) proposes an unprinted amendment numbered 2015.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOYNIHAN. Mr. President, this is an amendment which would modify certain rules that relate to the ability of shareholders in cooperative housing corporations to deduct their real estate taxes and interest. My proposal would assure that owners of cooperative housing have the same tax treatment as condominium owners.

The present tax law requires that 80 percent of the income of cooperative housing corporations be from tenant stockholders and that only individuals may be tenant stockholders. This has made it difficult for tenant stockholders to obtain financing, because the deductibility of the interest and real estate taxes is not assured.

This situation arises because foreclosures and vacanies jeopardize the 80-percent tax.

In 1976, an amendment was adopted allowing banks to be treated as tenant stockholders for a period of 3 years, which covered the instances in which foreclosures occurred. My amendment would extend the same rules to sponsors of the project as well. This is important to new units under construction.

A similar measure has been introduced in the House, and Treasury has testified in favor of its enactment.

Mr. LONG. Mr. President, the Treasury supports this amendment. The amendment would provide that if a person who conveys the houses, apartment building, or leasehold to a cooperative housing corporation acquires stock in the corporation by purchase or foreclosure, together with a lease or right to occupy the house or apartment, such person would be treated as tenant-stockholder for up to 3 years from the date of acquisition. This provision would apply even though such person or any purchaser from such person could not occupy the apartment or house without prior approval of the corporation or its managing agent.

The proposal would reduce tax liabilities by less than $5 million for calendar year 1979.

Mr. BAKER. Mr. President, I do not have a minority staff man on the floor to advise on this subject, but it was my understanding earlier that there is some question as to whether or not this is controversial, from our standpoint.

I sincerely regret suggesting it, but there are so few people on the floor now, and I am advised by staff that we simply do not know whether this has been cleared on this side, and I hope this measure might go over until tomorrow.

Mr. MOYNIHAN. Mr. President, I am happy to do that.

There is one last matter I have, which I am sure is acceptable.

The PRESIDING OFFICER. Is the Senator withdrawing his amendment?

Mr. MOYNIHAN. Mr. President, I withdraw the amendment.

UP AMENDMENT NO. 2016

(Subsequently numbered amendment No. 4013)

(Purpose: To amend the definition of Vietnam-era veteran for the purposes of the targeted jobs credit)

Mr. MOYNIHAN. Mr. President, I send to the desk an unprinted amendment.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New York (Mr. MOYNIHAN), for himself and Mr. CRANSTON, proposes unprinted amendment numbered 2016.

The amendment is as follows:

On page 266, beginning with line 13, strike out all through line 2 on page 267 and insert in lieu thereof the following:

"(5) ECONOMICALLY DISADVANTAGED VIETNAM-ERA VETERAN.—The term 'economically disadvantaged Vietnam-era veteran' means any individual who is certified by the designated local agency as—

(A) being a veteran of the Vietnam era as defined in section 2011(2)(A) of title 38, United States Code,".

Mr. MOYNIHAN. Mr. President, in dealing with the job tax credit provisions in the committee bill, through an error on my part—our purpose was to insure that veterans who have received less than honorable discharges would have the benefit of this measure available to them—we extended it to veterans with dishonorable discharges, which was not our intention and never has been the practice of Congress. This simply corrects that error.

Mr. LONG. Mr. President, the amendment modifies the definition of Vietnam veteran in the targeted job tax credit to conform it to the definition used in title 38 of the United State Code, which relates to veterans' benefits.

I am willing to accept the amendment if the Senate wishes to approve it.

Mr. HANSEN. Mr. President, I do not know that there is any objection here, either. Generally, I am in agreement with the philosophy as expressed by my good friend from New York.

May I ask that he withhold momentarily?

Mr. MOYNIHAN. I do.

Mr. HANSEN. Mr. President, earlier the Senator from New York was addressing a small change that would rectify an inadvertency that I think had been made.

Mr. MOYNIHAN. A mistake which I made.

Mr. HANSEN. I see. That was in the jobs tax credit bill, and as I understand the proposal that he offers to the Senate now the effect of which would be to permit the applicability of the jobs credit provision for an employer who hired some veteran with a dishonorable discharge? Am I right about that?

Mr. MOYNIHAN. No. It would be to all veterans save those with dishonorable discharge.

Mr. HANSEN. I see. I have no objection.

Mr. MOYNIHAN. I thank the Senator.

Mr. KENNEDY. Mr. President, as I understand it, an earlier provision says a beneficiary can be an economically disadvantaged convict. So we are leaving an economically disadvantaged convict in, and excluding an economically disadvantaged veteran who has less than an honorable discharge.

Mr. MOYNIHAN. No. If the Senator will yield, it applies to one specific group of people of whom it is my understanding there are not many, which have dishonorable discharges. As to less than honorable, which is a range of such not included, they specifically do have these benefits available to them.

Mr. KENNEDY. But we are leaving disadvantaged convict in?

Mr. MOYNIHAN. Yes.

Mr. KENNEDY. Even though a person who has been dishonorably discharged and mended his ways and is trying as hard to get back on the straight and narrow path as an economically disadvantaged convict? The economically disadvantaged convict would not be excluded, but someone trying to get back on his feet to rehabilitate his life would be excluded under the Senator's amendment. Is that correct?

Mr. MOYNIHAN. I am not arguing the merits of the proposal as such. I am trying to conform to what has been a century-old practice of Congress which I was not here when this change was made.

Mr. KENNEDY. Mr. President, it seems

to me that there is an inconsistency here if we are leaving in the disadvantaged convict. I want to be on record that I certainly would hope that a program could be developed to help rehabilitate individuals. That is what we are attempting to do. We are talking about disadvantaged youth. We are talking about disadvantaged Vietnam-era veterans. We are talking about disadvantaged convicts. The Senator has defined and excluded some members who have been dishonorably discharged.

So I just make a motion to table the Senator's amendment, being willing to have a voice vote on it here tonight. I may be the only one who feels that way, but at least I make a motion to table the Senator's amendment.

Mr. INOUYE. Vote.

The PRESIDING OFFICER. Is the Senator making the motion?

Mr. KENNEDY. Yes.

Mr. GRAVEL. Let me add my voice.

Mr. KENNEDY. All right.

Mr. GRAVEL. Let me add my voice of encouragement to that process. I was on the committee when this was taken up. Senator LONG was the one who brought our attention to the convict situation and we specifically put in convicts because life is such that they are frozen out. No one hires a convict, and if there is any way that a person wants to really get on the straight and narrow, we do it. What we are doing is making a fine distinction here because you have done wrong when you were in the service. But if we are prepared to forgive a person who has done wrong in civilian life, I hope we extend the same measure of warmth and human understanding to a guy who has done wrong when he was in the service, and we are trying to get these people off the welfare rolls, we are trying to get the people out of jail, and we are trying to get them in the mainstream of life.

I commend the Senator. I think he is correct. I know the problem. I think when we deal in the area of patriotism and the area of service—a lot of us have been in the service—we use a little different standard. I would like not to see us use that different standard tonight.

Mr. MOYNIHAN. Mr. President, nothing has been said with which I do not agree. I think practically everyone in the Chamber agrees and if the mood of the Senate is of this order, let us by all means accept it. I withdraw the amendment.

The PRESIDING OFFICER. The Senator has that right.

Mr. LONG. Mr. President, I urge that and propose that we no longer consider amendments to this bill. There may be some motion the majority leader might want to make. I believe this is very late now. It will soon be midnight.

Mr. KENNEDY. Mr. President, will the Senator from Louisiana yield?

Mr. LONG. Let us consider one more statement the Senator wants to make.

Mr. KENNEDY. Mr. President, I have a good one to go out on.

I think the Senator can respond in about 15 seconds to it.

Mr. LONG. Fine.

UP AMENDMENT NO. 2017
(Subsequently Numbered Amendment No. 4014)

(Purpose: To delete Section 333 (The E. F. Hutton Provision))

Mr. KENNEDY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Massachusetts (Mr. KENNEDY) proposes an unprinted amendment numbered 2017.

On page 285, beginning with line 20, delete all through line 11 on page 288.

Mr. KENNEDY. Mr. President, this is the E. F. Hutton amendment, and maybe we can get the Treasury's opinion and then just go ahead and vote on the matter.

Mr. EAGLETON. We will all listen to E. F. Hutton.

Mr. METZENBAUM. We are all going to listen. [Laughter.]

Mr. LONG. Mr. President, this amendment is one proposed by the Senator from Nebraska (Mr. CURTIS). He is not here at this time, and in fairness to the Senator he should be here when the amendment is considered. I hope the Senator will withhold the amendment until the Senator from Nebraska can be here.

Mr. KENNEDY. I withdraw the amendment, but I want to indicate the seriousness of it sometime. I hope to have the opportunity.

Mr. LONG. By all means.

I only say that the Senator who offered the amendment should be present when the motion is made to strike it. I am sure the Senator will want him to be present.

The PRESIDING OFFICER. The amendment is withdrawn.

OLDER AMERICANS ACT—CONFERENCE REPORT

Mr. EAGLETON. Mr. President, I submit a report of the committee of conference on H.R. 12255 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 12255) to amend the Older Americans Act of 1965 to provide that improved programs for older persons, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of September 22, 1978.)

Mr. EAGLETON. Mr. President, I am pleased to bring before the Senate H.R. 12255, the Comprehensive Older Americans Act amendments of 1978. This legislation extends for 3 additional years, through September 30, 1981, authorizations for programs conducted under the Older Americans Act of 1965.

Before I continue with a summary of the conference agreement, Mr. President, I would like to express my deep appreciation for the excellent work of the members of the Committee on Human Resources and the Subcommittee on Aging in resolving the differences in this important legislative initiative.

I wish to thank the chairman of the committee, Mr. WILLIAMS, and the ranking minority member, Mr. JAVITS, for their efforts in this matter. The members of the Subcommittee on Aging, Mr. KENNEDY, Mr. CRANSTON, Mr. CHAFEE, and HAYAKAWA, have devoted much time and attention to the final resolution. In addition, Mr. HATHAWAY made several major contributions to the bill.

In particular, Mr. President, I wish to express my special appreciation to Senator CHAFEE, ranking minority member of the subcommittee, for his unstinting work to develop the final agreement before us today.

I would also like to thank the House Members for their excellent work; in particular, Mr. PERKINS, chairman of the Education and Labor Committee, and Mr. BRADEMAS, chairman of the Subcommittee on Select Education.

BACKGROUND

The Older Americans Act, as originally enacted in 1965, and amended in 1967, 1969, 1972, 1973, and 1975, has achieved a number of essential goals on behalf of the elderly: It strengthened and increased the visibility of the Administration on Aging within the Department of Health, Education, and Welfare; established, within the framework of titles III, VII, and IX, a comprehensive and coordinated system for the delivery of such services as transportation, employment, well-balanced hot meals served in a congregate setting, services to help older persons live independently in their own homes, and much more; provided grants to train skilled personnel needed in the newly developed programs focused on the elderly; authorized establishment and operation of multipurpose senior centers; implemented a program of research and demonstration projects to test innovative ideas; and amended a number of other acts to assure the participation of the elderly in their programs. In short, Mr. President, the programs authorized under the Older Americans Act have become vital elements in the range of measures through which we seek to improve the lives of older people in this Nation.

I will not attempt to discuss each provision of the conference agreement, but do wish to highlight the major new provisions of the legislation.

AUTHORIZATION

Mr. President, I ask unanimous consent that a table showing the present authorizations, present funding levels, and new authorizations in the bill be printed at this point in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

OLDER AMERICANS ACT

	Existing authorization	Fiscal year 1978 appropriation	Fiscal year 1979 budget request	Fiscal year 1979 appropriation (deferred due to lack of authorization)	Senate bill authorizations	House bill authorizations	Conference agreement
Federal Council on Aging		$450,000	$450,000			Fiscal year 1979–81 such sums	Fiscal year 1979–81 such sums
Clearinghouse	(1)	2,000,000	2,000,000		Such sums	Such sums	Such sums.
Title III:							
State administration	(2)	19,000,000	19,000,000		(2)	(3)	(2).
Area planning and social service	$287,200,000	153,000,000	153,000,000		Fiscal year 1979, $476,200,000; fiscal year 1980, $527,200,000.	Fiscal year 1979, $250,000,000; fiscal year 1980, $300,000,000; fiscal year 1981, $400,000,000.	Fiscal year 1979, $300,000,000; fiscal year 1980, $360,000,000; fiscal year 1981, $480,000,000.
Congregate meals [4]	275,000,000	250,000,000	287,000,000		Fiscal yea 1979, $375,000,000; fiscal year 1980, $425,000,000.	Fiscal year 1979, $350,000,000; fiscal year 1980, $375,000,000; fiscal year 1981, $400,000,000.	Fiscal year 1979, $350,000,000; fiscal year 1980, $375,000,000; fiscal year 1981, $400,000,000.
Home-delivered meals					Fiscal year 1979, $100,000,000; fiscal year 1980, $120,000,000.	Fiscal year 1979, $80,000,000; fiscal year 1980, $100,000,000; fiscal year 1981, $120,000,000.	Fiscal year 1979, $80,000,000; fiscal year 1980, $100,000,000; fiscal year 1981, $120,000,000.
Multipurpose senior centers [6]	(1)	40,000,000	40,000,000		(7)	Fiscal year 1979, $80,000,000; fiscal year 1980, $100,000,000; fiscal year 1981, $120,000,000.	(7).
Legal services						Fiscal year 1979, $25,000,000; fiscal year 1980, $30,000,000; fiscal year 1981, $35,000,000.	(7).
Ombudsman services					(8)	Fiscal year 1979, $4,000,000; fiscal year 1980, $6,000,000; fiscal year 1981, $8,000,000.	(8).
Title IV: [9]							
Training, research, and model projects	(1)	44,300,000	44,300,000		Such sums	Such sums	Such sums.
Community long-term care programs.					Fiscal year 1979, $10,000,000; fiscal year 1980, $15,000,000.	Fiscal year 1979–81, such sums	Fiscal year 1979–81 such sums.
Title V (formerly title IX)	200,000,000	194,400,000	[10] 228,450,000		Fiscal year 1979, $300,000,000; fiscal year 1980, $350,000,000.	Fiscal year 1979, $400,000,000; fiscal year 1980, $450,000,000; fiscal year 1981, $500,000,000.	Fiscal year 1979, $350,000,000 fiscal year 1980, $400,000,000 fiscal year 1981, $450,000,000.
Title VI (Indians)					Fiscal year 1979, $25,000,000; fiscal year 1980, $30,000,000.	Fiscal year 1979–81, such sums	Fiscal year 1979–81, such sums.
Surplus educational facilities					Fiscal year 1979–80, $3,000,000.		Such sums.
ACTION programs:							
RSVP	22,000,000	20,000,000	15,400,000			Fiscal year 1979, $25,000,000; fiscal year 1979, $55,000,000.	Fiscal year 1979, $25,000,000; fiscal year 1980, $30,000,000; fiscal year 1981, $35,000,000.
Foster Grandparents community services.	43,000,000	34,900,000	35,400,000				Fiscal year 1979 $55,000,000; fiscal year 1980 $62,500,000; fiscal year 1981 $70,000,000.
White House Conference on Aging					Such sums	Such sums	Such sums.
Study on racial and ethnic discrimination.					Do.	do	Do.

[1] Such sums.
[2] State administrative funds contained in general title III authorization.
[3] Allows 7 percent of title III allotment for State administrative costs.
[4] Formerly title VII authority.
[5] Reflects transfer of USDA commodity funding; no program growth.
[6] Existing title V authority.
[7] Contained in social services authority.
[8] Reserves 1 percent of social services allotment.
[9] Includes model project funding formerly authorized under title III.
[10] Reflects increase in minimum wage; no program increase.

Mr. EAGLETON. Mr. President, beyond the sums authorized in the bill before us, it is important to realize that funds under the Older Americans Act are used to help organize existing local resources and to stimulate the provision of new services in unmet areas of need. Recent figures from the Administration on Aging indicate that the total of $372,230,561 allocated to the States for fiscal year 1977 for State and community service programs generated an additional $230,644,198 of pooled cash contributions from State, local, and Federal—non-Older Americans Act—sources.

CONSOLIDATION

Both the Senate and House-passed versions of the bill consolidated the existing State and community grants program—title III—multipurpose senior centers—title V—and nutrition program—title VII—into a single title III under one administrative structure. The House bill retained separate authorizations for the multipurpose senior center program, legal services, and ombudsman program. The conference agreement does not contain these separate authorizations, but adopts the Senate approach of consolidating all social service authorities, with the exception of nutrition, into a single authorization. I would emphasize that deletion of the separate authorizations in no way reflects an intent that these various services be curtailed. Rather, the conference agreement seeks to provide greater flexibility at the local level to determine what amounts should be allocated in these areas.

With respect to multipurpose senior centers, which under present law are administered on a project basis, the conference agreement consolidates it as a part of the State formula program in order to more fully integrate centers. Under the bill, States and area agencies on aging will have increased resources with which to develop and expand center programs. I would also point out that the conference agreement permits the construction of center facilities, where no suitable facility exists, authorizes the use of mobile units to increase centers' outreach, and authorizes staffing costs in centers.

With respect to legal services, the conference agreement includes this program as one of the mandated priority services within each area agency on aging, thus assuring that each agency devote some portion of its funding to assuring adequate legal services to the elderly.

Finally, with respect to the ombudsman program, the conference agreement adopts the Senate provision requiring that each State reserve 1 percent of its allotment to develop and implement an ombudsman program.

In adopting this administrative and authorization consolidation, the conference committee believes that duplicative and overlapping functions can be eliminated, and that the efficiency and effectiveness of area agencies will be increased in each community, thus providing for more effective coordination of community resources for the elderly.

PRIORITIES

The Senate bill required that each area agency on aging allocate at least 50 percent of its funds under the act to three priority service areas: access services—transportation, Outreach, and information and referral; in-home services—homemaker/home health aid, visiting/telephone reassurances and chore maintenance; and legal services. The parenthetical listings following access services and in-home services are intended to be inclusive, not illustrative, services within each category. The House bill gave authority to the Commissioner on Aging to establish priorities.

The conference agreement retains the priority provisions of the Senate bill. The conference agreement also adopts the

Senate bill's waiver provision recognizing that some areas may already be meeting the needs in these three categories of service. If the area agency can demonstrate that the needs for one or more of the priority services are being met, the 50-percent targeting requirement may be reduced to an agreed-upon percentage level.

FORMULA

The Senate bill adopted a new formula, offered as a floor amendment, adding a new rural weight to the title III allotment formula. The House bill retained existing law, distributing funds on the basis of the relative population aged 60 or over in each State.

The conference agreement retains the existing formula, but includes a requirement that each State reserve from its allotment an additional 5 percent above the amount currently being spent for services in rural areas, to better serve the rural elderly.

The conference committee felt that more detailed data was necessary prior to making a major change in the basic allotment formula. Thus, the legislation requires the Commissioner on Aging to undertake a study of urban and rural services.

The conference committee was concerned by the absence of vital data in determining the differences in delivering services to urban and rural elderly. The Administration on Aging is expected to develop the kind of detailed data base that will enable future Congresses to look at these issues from a more knowledgeable vantage point. The study will include the needs of the rural and urban elderly; the amount of funding which is now going to meet the needs of the urban and rural elderly; the development of programs in rural areas and urban areas designed to meet the needs of the elderly; and the relative cost of services to rural elderly and urban elderly.

The Administration on Aging is expected to work closely with various components at the U.S. Department of Agriculture, which have some expertise in this area, such as the Agricultural Research Service, the old Rural Development Service which has now been reorganized, and various private and research organizations which have been involved in collecting data in this area.

NUTRITION SERVICES

The conference agreement retains the Senate's two separate authorizations for congregate meals and home-delivered meals. Although separate authorizations are retained, the administration of the nutrition program is consolidated, thus assuring coordination of nutrition services within the overall network of social services for the elderly. The conference report contains a provision of the House bill which assures that existing nutrition projects which meet the requirements of the new act continue to receive funds.

Like the Senate bill, the conference report deletes all reference to meals-on-wheels groups. As I indicated at the time of Senate passage of this legislation, there is nothing in this legislation which requires any meals-on-wheels groups to accept Federal funds. I applaud the volunteer efforts of the meals-on-wheels groups and have taken steps to insure that nothing in this legislation would in any way jeopardize that voluntary effort.

TRAINING, RESEARCH, AND DISCRETIONARY PROJECTS

The conference agreement retains the provision in the Senate bill requiring the Administration on Aging to develop a national manpower policy on aging. It also retains the special emphasis in the Senate bill on training minorities.

The conference report broadens the existing model project authority in the act to emphasize special research and demonstration projects in long-term care. Similar to the provisions in the Senate bill, the Commissioner on Aging is authorized to make grants to programs which would provide a continuum of services designed to support alternatives to institutional settings.

Mr. President, I believe this new model project authority could be the key to developing a truly comprehensive and coordinated service system which would allow the elderly to live with dignity within their own homes. The conferees intend the Commissioner on Aging to play a significant role in the formulation, coordination and implementation of all Federal long-term care policies and programs as they affect the elderly.

The conference agreement also retains the Senate provision requiring special demonstration projects on legal services for older Americans. Although this legislation requires that each area agency on aging devote some portion of its allocation to providing legal services for the elderly, the conferees believe that the elderly will never receive adequate legal services until the private bar is made aware of the special legal needs of the elderly and special support programs are developed.

COMMUNITY SERVICE EMPLOYMENT

The conference report, like the Senate bill, requires a greater degree of coordination between community service employment programs operated by the national contractors and those operated by the States. In addition, the conference agreement expands eligibility under the program by allowing elderly individuals with incomes up to 125 percent of the poverty level to participate; and requires that programs operated by the national contractors be maintained at fiscal year 1978 levels, and that from funds available above the fiscal year 1978 level, 55 percent be allowed to the States and 45 percent to the national contractors.

INDIAN TRIBES

The conference agreement retains the Senate approach of providing a separate title for grants to Indian tribes to develop their own services for elderly Indians. For this purpose, such sums as may be necessary are authorized for fiscal years 1979 through 1981, with the proviso that at least $5 million must be appropriated before the separate title becomes effective. This "trigger" provision is included to insure that adequate funds are available to implement a new program.

STUDY OF RACIAL AND ETHNIC DISCRIMINATION

The conference report contains the Senate provision requiring the U.S. Commission on Civil Rights to undertake a study of discrimination based on race and ethnic background in federally assisted programs affecting older people.

AGE DISCRIMINATION

The conference agreement amends the Age Discrimination Act of 1975 to specifically authorize a private right of action allowing those who believe they have been the victims of age discrimination to seek judicial redress only after administrative remedies have been exhausted; to allow the Secretary of Health, Education, and Welfare to bypass State agencies found in violation of the act and award program funds to other appropriate public or private nonprofit agencies; to delete the word "unreasonable" in the statement of purpose; to include new reporting requirements for all agency heads for the purpose of determining if the agency is in compliance with the Age Discrimination Act of 1975; and to require HEW to approve other agencies' regulations under the act.

Mr. President, the administration has consistently opposed these final two provisions of the Age Discrimination Act amendments retained in the final version of the bill: the requirement that HEW approve other agencies' regulations under the Age Discrimination Act; and the requirement that every agency gather specific age data on its programs, submit such data to HEW, and that HEW submit a report to Congress evaluating each agency's report.

The administration feels strongly that it is not appropriate for HEW to clear the regulations of other agencies, and that the data and reporting requirements will substantially increase both costs and paperwork burdens.

However, the conferees agreed that the Secretary of HEW, charged with the primary responsibility to implement the prohibition against age discrimination, should play an important coordinating role to assure a uniform Federal policy in this regard.

I am confident of the administration's willingness to enforce the Age Discrimination Act, and I can assure the Department that the Subcommittee on Aging will monitor this situation closely to determine if future legislative action is necessary.

DOMESTIC VOLUNTEER SERVICE ACT PROGRAMS

The Senate bill extending the Older Americans Act did not contain amendments to the older American volunteer programs authorized by title II of the Domestic Volunteer Service Act of 1973, having considered these programs in the "Domestic Volunteer Service Act Amendments of 1978" which passed the Senate on July 21, 1978. The House of Representatives considered these programs within the Older Americans Act amendments.

The conference report, like the Senate ACTION amendments, extend the authorization of these programs for 3 years.

MEANS AND INCOME TESTS

Finally, Mr. President, I would like to address the issue of means and income tests. The programs authorized under the Older Americans Act have never depended upon income as a criterion for eligibility. The Congress does not intend to impose income as a determinant of eligibility for the comprehensive, coordinated

services provided under this legislation. Congressional intent has been clear since 1965 that the programs which the Older Americans Act makes possible have never been intended as "welfare" efforts. Accordingly, no means or income test should be imposed except where explicitly authorized in the title V senior community employment program.

However, in view of the fact that some 7 million older Americans have incomes which either fall below the poverty threshold or within the "near poor" category, the Congress intends that until needed services are available for all older Americans, the State agencies, in dividing States into planning and service areas and developing comprehensive, coordinated service programs, give special consideration to the needs of the low-income elderly.

Similarly, since older members of minority groups tend to have special social problems and needs, these, too, warrant special consideration.

I urge all of my colleagues to support this measure to insure continuation of services to all our elderly citizens.

Mr. BELLMON. Mr. President, during floor consideration of this bill, I offered an amendment—which the managers of the bill accepted—to require a study by GAO of the relationship between programs funded under this act and other Federal programs which serve older Americans; and to require a one-time report by the Secretary of HEW on the relationship between planning systems for programs under this act and planning systems for title XX programs.

I was—and remain—particularly concerned about unnecessary duplication and overlap between programs. I am also concerned that programs under the Older Americans Act may cause other Federal programs to serve older Americans to a lesser extent than might otherwise be the case.

The conference report indicates that the conferees agreed that the GAO study called for by my amendment should be done—but that they did not feel it needed to be written into the act. The report indicates that the responsible committees in the two Houses will request this study.

I am pleased that the conferees agree that this GAO analysis is important. I believe it will be useful in congressional oversight activities as well as when this act is next reauthorized.

I would like to congratulate the Senate conferees for their hard work on this bill; and to thank them for supporting the GAO study contemplated by my amendment.

I did notice that the conference report does not make clear whether the conferees intend to request the report from the Secretary of HEW on the relationships between the planning systems for Older Americans Act programs and for title XX programs.

Is it the intent of the Human Resources Committee to request both the GAO study and the one time report by the Secretary of HEW?

Mr. EAGLETON. That is correct. I intend to request both studies next week.

● Mr. KENNEDY. Mr. President, I am pleased to see the Senate take its last step on the road to reauthorization of the Older Americans Act, by passing the conference report on the bill.

Mr. President, I was honored to serve on the conference committee. I believe that the work performed by the conference committee under the able leadership of Senator EAGLETON on our side and Congressmen PERKINS and BRADEMAS for the House, has produced a superior bill. Both houses worked hard to combine the best features of the legislation passed by each.

The legislation that now goes to the President contains a variety of programs which are of great interest to me. We have a separate authorization for meals for the homebound elderly. We have mandated that every area agency will expend funds on legal services for the elderly and have set aside a larger amount for national demonstration projects and resource centers. The community services employment title has been made more flexible and responsive to different economic conditions in different communities. The role of the Federal Council on Aging has been strengthened. We have strengthened the language of the Age Discrimination Act and allow new causes of action under it.

Mr. President, I do not propose to elaborate on these programs now. Many of my thoughts on this bill were contained in my remarks when the Senate considered the authorization on July 24.

But, in sum, this reauthorization helps insure that we are making the effort to provide for the older people of America that to which they are entitled: The health, the honor, the dignity, the fulfillment which is so much theirs after the great efforts that they have made in building a better Nation for us.●

● Mr. DOMENICI. Mr. President, I am pleased to join with the distinguished chairman of the Senate Subcommittee on Aging (Mr. EAGLETON), and the ranking minority member on that subcommittee (Mr. CHAFEE), in urging our colleagues to give overwhelming approval to H.R. 12255, the 1978 amendments to the Older Americans Act.

As the ranking minority member on the Special Committee on Aging, I have a special interest in and commitment to the task of improving the quality of life for older Americans. On February 28, 1978, I introduced S. 2609, the first comprehensive bill offered in the 95th Congress designed to extend and expand the programs authorized under the Older Americans Act. This measure was drafted with the close cooperation of my distinguished colleagues on the Special Committee on Aging, Senators BROOKE and PERCY, and it received the additional cosponsorship of Senators DOLE, SCHMITT, MARK HATFIELD, and BELLMON. I am pleased that a number of the innovations contained in S. 2609 have been incorporated in the legislation we are considering today.

The conference report retains my provision which is designed to ease the paperwork burden on State and area agencies on aging by requiring the administration on aging to continually reexamine the nature and frequency of all agency requests for information. In addition, H.R. 12255 expands the definition of social services to include health screening, and preretirement, and second career counseling. By adding health screening to the list of social services that can be offered under this act we are seeking to involve the aging network in efforts to prevent, detect, and/or treat those illnesses—such as high blood pressure, diabetes, and glaucoma—which needlessly disable or kill tens of thousands of older persons each year. The local aging units can coordinate this undertaking with a number of existing community-based organizations, such as the Red Cross, the Heart Association, et cetera, at relatively little cost. Not only would such a program improve the health of a large number of senior citizens, but it would also produce significant savings in the medicare, medicaid, and title XX programs. The addition of preretirement and second career counseling reflects a growing need for these services among many middle aged and older workers. Earlier this year the Congress, with my active support, increased job opportunities for middle aged and older workers by limiting mandatory retirement. As the demographic pattern of our society changes, we are going to find greater demand for older workers in more and more areas of our economy. Mr. President, I believe that this trend will give older persons the opportunity to remain active contributing members of their community. In order to help expedite this transition we need to provide additional counseling and training programs to help people embark upon second careers, and to enable older workers to better plan for their retirement years. I believe that the language contained in this conference report will begin the process of expanding these services as part of the overall aging network.

I am also pleased that the conferees retained language I offered as an amendment which will expand the role of senior centers. In the Older Americans Comprehensive Services Amendments of 1973, primary emphasis was placed on strengthening of the Administration on Aging and the State offices on aging, and the development of the new area agencies on aging. The 1973 act failed to incorporate senior centers as an integral part of the overall aging network. S. 2609, and now H.R. 12255, have sought to correct that oversight by urging area agencies to incorporate multipurpose senior centers as community focal points for the delivery of social and nutritional services. It may not be possible to establish such a focal point in each community, but movement in that direction will certainly help to reach many older Americans who are presently without services. The colocation of programs envisioned in this bill tends to improve access to the services, and makes for a more efficient use of the limited resources available under this act. In addition, senior centers can be an ideal component in the outreach effort which is so vital if we are to reach those people who need these services but are currently not receiving them. I am also pleased to note that the joint explanatory statement, following a concept originally enunciated in S. 2609, urges the States and area

agencies to place appropriate emphasis on the development and expansion of senior centers. The conference report also authorizes the construction of senior centers in areas where no existing structure is suitable for that purpose.

The conferees retained my suggestion that the Secretary of Labor be allowed to develop some demonstration programs on how we can help participants in the public service employment program make the transition to jobs in the private sector. If we are able to move more of the title V employees to the private sector, we can open up new job and training opportunities for other disadvantaged older workers.

H.R. 12255 retains language that would give the State greater responsibility for setting the pace of program consolidation during the first 2 years of this legislation. This amendment, which was offered during the floor debate on July 24, was never intended to thwart the intent of Congress to bring about the consolidation of titles III. V, and VII. Its purpose was to give the States maximum flexibility in accomplishing this goal. I wanted the States, who are dealing on a day-to-day basis with the area agencies and the title VII nutrition projects, to have greater flexibility in the exercise of their waiver authority. In addition, I thought it was important for us to establish legislative history, making it clear that the waiver need not be statewide. It may be limited to one or two area agencies within the State. With this provision, I see no reason why full consolidation cannot be achieved smoothly and with no disruption to the various programs by fiscal year 1981.

I advocated in both S. 2609 and in a floor amendment to S. 2850 that larger urban areas should have a right to serve and to establish their offices on aging as the local Area Agency on Aging. The conference report on H.R. 12255 would permit any unit of general purpose local government with a population of 100,000 or more to seek designation as a planning and service area. If that designation is denied, they will be allowed to appeal the State's decision to the Commissioner on Aging. The commissioner could then review the data and decide whether or not the State's decision was appropriate.

Mr. President, before I conclude my remarks, I would like to focus attention on two other provisions which have been incorporated into this conference report. The first is a new direct funding mechanism for Indian tribes, which is embodied in the new title VI of this conference report. This provision parallels very closely title VIII in S. 2609, and it constitutes a major step forward in providing vitally needed social and nutritional services for older Indians. As a Senator from New Mexico, I represent a State that contains the second largest Indian population of any State in this country. The need for an expanded program of supportive services for older Indians is long overdue. There are almost 300 federally and State recognized tribes who have a special sovereign relationship with the Federal Government, and I have worked to develop a direct funding that will give the tribal governments the wherewithal to deliver the social and nutritional services mandated in the Older Americans Act. Title VI also provides for the conversion of surplus Bureau of Indian Affairs for the conversation of surplus Bureau of Indian Affairs educational facilities into senior centers, community centers, nutrition sites, extended care facilities, and the delivery points for other social services. I am pleased that this approach, which I drafted earlier this year, will be enacted as part of H.R. 12255.

During the July 24 debate in the Senate I offered an amendment which would add a rural factor to the interstate formula. My goal was to expand the delivery of social, nutrition, transportation, legal services, and so forth, to disadvantaged elderly persons living in isolated rural locations. I would like to thank Senators EAGLETON and JAVITS and the other Senate conferees for inviting me to sit in on that part of the conference which focused on this issue. This was a gracious gesture on the part of the Senate conferees, all of whom opposed my formula change during the floor debate. The amendment was designed to give rural State the wherewithal to better meet the needs of their elderly. This goal would have been accomplished under my amendment by giving an additional weight to the rural elderly in determining the State's allocation under this act. The conferees were unwilling to accept this provision even though it had passed the Senate by an overwhelming vote. A compromise was reached, however, which I believe will help to expand the aging network and services it provides in rural America. The compromise will require each State to increase by 5 percent, the effort it is already making to expand services in rural areas. In addition, the conferees retained a number of other rural provisions offered by myself and other members. Among these provisions is a requirement that there be greater cooperation between rural Area Agencies on Aging and the Economic Development Administration's district offices. An effort will be made to expand the training program for rural service providers, develop demonstration projects for service delivery techniques in rural areas, and add rural membership to the Federal Council on Aging. Although we were not able to retain the Senate's interstate rural funding formula, I believe we have made significant progress in our efforts to improve the quantity and quality of services delivered to our Nation's rural elderly.

Another important provision in this bill is the mandating of a comprehensive study on urban/rural services. The conferees were clearly concerned by the lack of hard data in determining the differing costs in delivering services to rural and urban elderly. It is my hope that the Administration on Aging will develop the kind of detailed data base that will enable future Congresses to look at these issues from a more knowledgeable vantage point. The study should include: First, the needs of the rural and urban elderly; second, the amount of funding which is now going to meet the needs of the urban and rural elderly; third, the development of programs in rural areas and urban areas designed to meet the needs of the elderly; and fourth, the relative cost of services delivered to rural elderly and urban elderly. I believe it is only reasonable for us to expect that the Administration on Aging will work closely with various components of the U.S. Department of Agriculture which have some expertise in this area, such as the Agricultural Research Service and the old Rural Development Service, which has been recently reorganized. In addition, a number of private organizations and research groups have become involved in collecting data on rural America.

I am confident that the enactment of the 1978 amendments to the Older Americans Act will be a significant step forward in our efforts to reach and serve older rural Americans in a manner which is equitable to their urban counterparts.

Mr. President, in closing I would like to once again compliment the members of the Subcommittee on Aging for their diligence over many months in shaping this important legislation. In the almost 6 years I have served in this Senate, Mr. President, I have watched the Older Americans Act grow and mature and become an increasingly vital force in our ongoing effort to better meet the needs of older Americans. H.R. 12255 is a major step forward in our effort to improve the quality of life of older Americans, and I hope that the President will sign this bill promptly.●

Mr. JAVITS. Mr. President, as the ranking minority member of the Human Resources Committee, as an original sponsor of the Older Americans Act of 1966, and every subsequent reauthorization, and as a conferee, I urge the Senate's support of the conference report on H.R. 12255, the Comprehensive Older Americans Act Amendments of 1978.

The conference agreement provides for a 3-year reauthorization of programs under the Older Americans Act. It retains the critical provisions of the Senate amendment which will improve the operation of the range of programs serving older persons by consolidating and streamlining the administration of these programs at the Federal, State, and Area Agency level. This consolidation and refinement of the existing title III (State and community services), title V (Multipurpose Senior Centers), and title VII (Nutrition Services) into a single administrative title will ameliorate the currently fragmented and occasionally duplicative approach which Federal, State, and local governments have taken in confronting the problems of the elderly.

The conference agreement provides for a strengthened program of nutrition services, both for meals served in congregate settings, and for home-delivered meals. The agreement retains the Senate provision which I authorized to insure continued emphasis in he nutrition programs on hot nutritious meals for our older Americans.

The amendments agreed to by the conferees provide new and expanded authority for legal services for older Americans and ombudsman services for residents of long-term care facilities. Moreover, the agreement retains the provisions of the Senate amendment which

establishes distinct Federal priorities for a broad range of services to older persons. These priorities, which address three of the greatest needs of the elderly—for transportation, in-home services, and legal services—will be implemented within each Area Agency on Aging.

The conference agreement also expands support for the senior community service employment program, which has provided meaningful jobs to thousands of older Americans since its enactment in 1965. Under the agreement, more low-income older persons with otherwise poor employment prospects will become eligible for employment.

The conferees have also agreed to retain the 90–10 Federal/non-Federal matching requirement for the delivery of social services in fiscal year 1979 and fiscal year 1980. In fiscal year 1981, this ratio will reduce the Federal share to 85 percent. Although the Senate amendment provided an 85–15 match in fiscal year 1980, this 1-year delay will give States additional time to plan for the allocation of additional funds for these services.

The conferees also incorporated provisions of both the House bill and the Senate amendment to give additional attention and emphasis to the special needs of older Americans residing in rural areas. The agreement retains the existing interstate allotment formula, but provides that each State reserve from its allotment an additional 5 percent above its current expenditure on services to elderly in rural areas to augment such services, where appropriate.

Finally, Mr. President, I would like to commend the tireless and productive work of Senator EAGLETON, the chairman of the Subcommittee on Aging, and of Senator CHAFEE, the ranking minority member of the subcommittee, and to express my appreciation to the chairman of the House Education and Labor Committee, Mr. PERKINS, and Mr. BRADEMAS, the chairman of the Subcommittee on Select Education, whose hard work and cooperation assisted so greatly in arriving at this excellent conference agreement. I would also like to note the special contributions to this legislation of Senator DOMENICI, the ranking minority member of the Special Committee on Aging, whose tireless efforts on behalf of older Americans have earned him the respect and gratitude of all our colleagues. Through their work, and that of the other conferees, we have achieved legislation which will enhance and enrich the lives of all our older citizens.

I believe the conference agreement merits the support of my colleagues, and urge its adoption by the Senate.

● Mr. CHAFEE. Mr. President, the conference agreement on extension of the Older Americans Act represents an important commitment to improving the quality of life of our older citizens.

The problems of an aging America represent one of the greatest challenges this Nation faces today, but it is a challenge we should approach with some sense of satisfaction. The problems are actually a mark of the success of a society whose advances in medicine, science, education, and standard of living have allowed more and more people to live longer. In 1950, there were about 12 million people over 65. By the year 2,000, there will be more than 31 million people over 65, and 45 percent of those will be over 75. Although these encouraging facts are bringing with them some new problems, and will require some major societal adjustments, I do not believe they should be viewed with alarm.

Now is the time we should begin to work toward improving the quality of life as well as extending life. We should attack these problems with the same energy, determination, engenuity, and optimism which America has always exhibited in dealing with rapid societal changes.

None of us can help but be moved by the plight of many older people today, living on fixed incomes, faced with rising inflation, waning physical health, and isolation. In response to these problems, with a little help and a sensitive ments have responded to these special needs with numerous programs to help older people. Many of these programs assume that older people are dependents, and not necessarily productive members of society or continuing participants in community life.

More and more, we are realizing that while older people have unique problems, with a litle help and a sensitive support system, they can live independent, dignified, and productive lives.

I believe the Older Americans Act builds on this philosophy and provides community-based programs and services which allow older persons to remain in their homes and function as an intergral part of their own communities.

The bill which has been approved by the conferees expands support for these services which fill the special needs of older people. It also makes some significant changes in the Older Americans Act which should make this program more effective and efficient, and eliminate waste and duplication. While providing direct service support, it also strengthens the network of community-based systems which assist older people to take advantage of existing local resources.

The bill consolidates several titles of the Older Americans Act enabling local agencies to establish priorities and plan for services which respond to local needs. It provides that area agencies on aging shall be the focal point for social services programs, including nutrition projects and senior centers which had previously been administered through State agencies and the Federal aging agency. This should allow for more efficient organization and linkages of these programs with other title III services such as information and referral, transportation, in-home assistance, and legal services. I believe this is a very important improvement, and will allow us to stretch our resources much further.

The act also requires that States and local planning agencies take special consideration of those elderly persons with the greatest economic and social needs. This is in no way meant to restrict those programs, but recognizes that we must help those first who need help most.

The bill significantly expands support for delivery of nutritious meals to the home-bound elderly, but allows local flexibility by allowing transfer of funds between the congregate meals program, which has proven so valuable, and home-delivered meals programs.

The bill also includes some improvements in the Community Service Employment for Older Americans program. It allows for better coordination of distribution of jobs, includes an emphasis on innovative job opportunities through work sharing and other experimental methods, and encourages transition of public service jobs to the private sector. It also raises the income eligibility criterion to 125 percent of the poverty index and increases the authorization levels over the next 3 years. I believe this program deserves particular support and attention, because it demonstrates the value of older workers to all employers and can change people's attitude about employment of older people.

The conference report also includes an extension of three important programs which are administered by the ACTION Agency, the Foster Grandparents program, Senior Companions program, and the Retired Senior Volunteer program (RSVP). These programs provide a modest amount of Federal support for voluntary activities of older persons, and provide society an opportunity to benefit from valuable contributions older people can make.

Mr. President, these programs provide certain services which are essential to many older Americans, but they also provide programs which represent an enlightened attitude toward aging, one which I hope will be the attitude of the future. This is an attitude which recognizes that older people are not a burden upon society, but important contributors to the well-being of all of us. They are not a duty simply to be attended to, but a valuable human resource to be tapped and allowed to reach full potential as productive members of society.●

● Mr. CHURCH. Mr. President, I support the conference report on the Comprehensive Older Americans Act Amendments of 1978, H.R. 12255. The amendments signify an important expansion and improvement of the Older Americans Act and other legislation affecting the elderly.

Mr. President, these amendments tie up many loose ends which have existed in several programs since 1965. Area agencies on aging, which were created in 1973, are given greater responsibility as the focal point in communities for coordination of services to our elderly.

CONSOLIDATION

These added responsibilities are emphasized in the consolidation of the titles. I am particularly pleased that the House and Senate conferees approved a consolidation similar to the approach incorporated in my bill, S. 2969, to extend the Older Americans Act. This consolidation of the major services titles under one comprehensive title III will enhance the effectiveness and efficiency of the act by requiring the States and area agencies to have one comprehensive plan which would include all the services under title

III. In addition, it will help to alleviate unnecessary paperwork and administration duplication for State and area agency personnel.

Moreover, the conference bill incorporates several other provisions I have advanced.

HOME-DELIVERED MEALS

The conference bill will help considerably to emphasize the home-delivered meals program by providing a separate authorization for it. This represents an important step forward to broadening the home-delivered meals program so that more homebound elderly will benefit from a good meal. The Senate Committee on Aging has heard testimony, time and time again, that this program provides a reliable contact with the outside world for the older person. Many older persons have told me personally that the good meal and friendly visitor make their day, or even—to borrow from a current song, "light up their lives."

LEGAL SERVICES

The conference bill gives greater attentention to legal services, although not precisely the way I would have preferred. Nonetheless, I am pleased that the 1978 amendments designate legal services as 1 of 3 priority services under title III. In addition, the bill supports legal services demonstration projects generously under the model projects provision. Existing legal services programs have amply demonstrated that appropriate counseling from an attorney or paralegal can help assure that older Americans are treated equitably on issues involving income, taxes, social security, SSI, pensions, housing, utility bills, and other complex subjects. This is vitally important because older persons—more so than other age groups—are affected by Federal programs.

NURSING HOME OMBUDSMAN PROGRAM

Elderly persons in nursing homes and other group facilities also need assistance to protect their rights. The Administration on Aging has used model project funds to enable States to establish a program to protect the rights of the elderly in long-term care facilities. The 1978 amendments build upon that ombudsman program and require each State to use a portion of its social services allocation to support a nursing home ombudsman. I included an ombudsman program in S. 2969, because I have witnessed the positive effects of this program. My home State of Idaho has been a leader in developing protective procedures for residents of nursing homes, and I am pleased that a national program is being supported.

ADVOCACY

Mr. President, all of the programs under the Older Americans Act can benefit the elderly. Yet, without an advocate at the Federal, State, or local levels, older Americans' needs might go unnoticed. In S. 2969, I recommended that the Administration on Aging, State agencies on aging, and area agencies on aging should be visible and effective advocates for the elderly. I am very pleased that the 1978 amendments contain such a provision for each agency and stress that the agencies should continue an ongoing process of monitoring, evaluating, and commenting upon all programs and policies which affect older Americans.

SENIOR COMMUNITY SERVICE EMPLOYMENT

One of the most popular programs for older persons is the National Senior Service Corps. It has been redesignated as title V under the new amendments, but it will still provide fulfilling community service jobs for persons 55 years or older.

The conference bill also expands the eligibility to include those with incomes up to 125 percent of the poverty guidelines. I recommended this provision in my bill because I feel that there are many instances when an individual with income slightly above the poverty level is in as great a need, if not greater, than a person at or below the poverty line. This increased flexibility and the increased authorizations for title V will give the national contractors and States greater ability to provide a job for more seniors who need and want a job.

DIRECT FUNDING TO INDIANS

H.R. 12255 also establishes a separate title authorizing direct funding for Indian tribes or tribal organizations. This means that the funding for social services, nutrition programs, senior centers, legal services, ombudsman programs, and others can be directly allocated to those tribes making an application demonstrating that they have the capability and need for these programs. Indian tribes receive direct funding under other Federal programs, such as CETA and revenue sharing, and should have the option to develop and manage their own programs under the Older Americans Act.

COMMUNITY LONG-TERM CARE

The amendments also recognize the growing awareness of the need for a comprehensive continuum of care for individuals in long-term care facilities. First, the Commissioner is directed to cooperate and coordinate Older Americans Act programs with programs under the Public Health Service Act to enhance the Federal Government's capability of meeting the special needs of the institutionalized. In addition, the amendments would establish a separately funded demonstration project to provide funds to State agencies on aging, selected area agencies, and other public and private nonprofit agencies to develop a comprehensive long-term care program. These funds cannot be used to support direct services which are now provided under titles XVIII, XIX, and XX, but are to be used to assist in coordinating these services and supporting others which lead to a comprehensive system.

TRAINING AND RESEARCH

I am very pleased that the final bill authorizes the Administration on Aging to develop a national manpower policy on aging to govern the training efforts supported by their agency. Training efforts in the past have often been fragmented and uncoordinated, and I hope that this national policy will enable AOA to identify the manpower needs in the country and direct training programs to meet these needs.

WHITE HOUSE CONFERENCE ON AGING

The amendments include my proposal for a White House Conference on Aging to be held in 1981. The last White House Conference was held in 1971, and many changes have transpired since that time. Another conference is needed in 1981 to take stock of what has occurred since 1971 and to develop an action-oriented national policy on aging.

AGE DISCRIMINATION ACT

Finally, the amendments make important changes in the Age Discrimination Act. This act, which was passed in 1975, will be effective in 1979. It protects persons from discrimination on the basis of age in programs receiving Federal assistance. The amendments strengthen the act to give individuals the right to bring suits on their own after the expiration of 180 days from the filing of an administrative complaint. This act can have far-reaching effects on the elderly as well as other age groups. I applaud the efforts of the Education and Labor Committee and the Human Resources Committee in recognizing the importance of this act and in acting now to make the act more effective before implementation.

Mr. President, the amendments to the Older Americans Act and the Age Discrimination Act are major advances for older Americans. I would like to commend the Senate Subcommittee on Aging—and its chairman, Senator EAGLETON—and the House Subcommittee on Select Education—and its chairman, Representative BRADEMAS—for their leadership in bringing this legislation to the floor for a vote.

This act has become the major vehicle to provide health services, social services, and employment programs for older Americans, and the 1978 amendments improve and expand the act's capability to serve greater numbers of elderly more responsively and effectively.

I ask unanimous consent that the Senate Committee on Aging's more detailed analysis of the 1978 amendments be printed at this point in the RECORD.●

There being no objection, the analysis was ordered to be printed in the RECORD, as follows:

MAJOR PROVISIONS IN 1978 OLDER AMERICANS ACT AMENDMENTS (H.R. 12255)

Position of AoA in HEW: Conferees rejected the House proposal to elevate the Commissioner on Aging to be directly responsible to the Secretary and retained existing law (the Commissioner will be responsible to the Office of the Secretary). However, the Secretary assured the conferees that the position of the Commissioner will be maintained at a high level with full access to the Secretary.

Federal Council on the Aging: Senate conferees agreed to the following House provision: (1) the Federal Council would be entitled to independent staff; (2) no full-time Federal employee would be appointed as a member of the Council; and (3) the Council would be entitled to a separate funding authorization. The conferees agreed that the staff (which need not be Civil Service employees) would be small and appointed by the Chairman after consulting with other members. The Senate provision to emphasize urban and rural membership on the Council was accepted.

Reduction of paperwork: House agreed to the Senate provision to direct the Commissioner on Aging to undertake necessary actions to reduce the paperwork burden on State and area agencies on aging.

Effect of senior community service employment wages on other programs: The conferees dropped the House provision which would not count senior community service employment wages for purposes of determining eligibility for Medicaid, Title XX social services, and public housing.

Consolidation: The conference bill authorizes a new comprehensive Title III, consolidating former Title VII (nutrition), Title V (multipurpose senior centers) and Title III (social services) with separate authorizations for social services, congregate meals, and home-delivered meals. The Commissioner would be authorized to waive (up to 1980) consolidation requirements when compliance would reduce or jeopardize the quality of services. The waiver would be granted, through, only when it is demonstrated that progress toward consolidation is being made.

Targeting of funds: Each planning and service area would be required to spend at least 50 percent of its Title III social services allocation on in-home, access (transportation, outreach, information and referral, etc.) and legal services. State agencies on aging would be allowed to grant waivers and reduce the percentage accordingly if the area agency can show that it is meeting the targeted area service needs through other resources.

Planning cycles: The conference agreement extends the Act for three years and allows State and area agencies on aging to submit three-year plans with necessary annual adjustments.

State administration. Conferees rejected the House provision to allow State agencies to use up to 7 percent of their Title III allocations for administration and agreed to retain current law. However, the conferees accepted the House provision to raise the minimum for State administration from $200,000 to $400,000 (from $62,500 to $75,000 for each territory, as in the Senate bill).

Area Agency administration: Each area agency on aging would be permitted to spend up to 8.5 percent of its total Title III allocation for paying 75 percent of its administrative costs.

Rural allocation: the conferees agreed to require each State to spend an additional 5 percent (above what the State was spending in fiscal 1978) of its Title III social services allotment in rural areas. A waiver is authorized (1) for States with insufficient numbers of rural elderly to warrant additional expenditures or (2) if the needs of the rural elderly are already being adequately met.

Legal services: Conferees accepted the Senate provision to designate legal services as one of three priority services under Title III. Legal services would be provided through (1) a Legal Services Corporation project or (2) other legal services provider agreeing to coordinate its services with a Legal Services Corporation project in the area in order to concentrate the use of funds on older persons with the greatest need who are not eligible for legal assistance under the Legal Services Corporation Act. The conference report states, "no project shall, in any way, give a means test or asset test to any applicant." The Commissioner would be directed to conduct a study concerning the need for a separate legal services program under the Older Americans Act. At least $5 million of model project funding would be authorized for legal services demonstration projects for older Americans.

Ombudsman program: Conferees accepted the Senate provision to require States to reserve 1 percent or $20,000, whichever is greater, of their Title III social services allotments to support a statewide long-term care ombudsman program.

Nutrition program: The conference agreement requires (1) each nutrition project to provide meals in a congregate setting; (2) home-delivered meals to be based on a determination of need; (3) each project to establish outreach activities; (4) the Commissioner to issue guidelines concerning charges for meals; (5) funds realized from meal charges to be used to increase the number of meals served; and (6) area agencies on aging to continue funding existing nutrition projects meeting the requirements established in Title III. In addition, the agreement codifies the existing regulation permitting up to 20 percent (50 percent in States with unusually high supportive services costs) of the State's nutrition allotment to be used for recreational activities, information, health and welfare counseling, and referral services for a two-year period. Nutrition projects will be fully integrated into the social services network after two years, and supportive services will be funded through the social services allotment. States would also be permitted (with approval by the Commissioner) to transfer funds between the congregate meal allocation and the home-delivered meal allocation. The minimum level of assistance from the surplus commodities program would be increased from 25c to 30c per meal for fiscal years 1979, 1980, and 1981. The conference report makes it clear that any organization wishing to limit its application to the cost of food may do so.

Limited construction of senior centers: States would be permitted to use Title III social services funding for limited construction of senior centers. The State agency would make the determination after full consideration of the views of the area agency on aging.

Staffing and operational costs for senior centers: States would be permitted to use Titel III social services funding for personnel and operating costs of senior centers.

Direct funding of Indian tribal organizations: The conference bill would establish a separate title to authorize the Commissioner to make funding directly available to Indian tribal organizations to pay all of the cost for delivering social and nutritional services to Indians 60 years or older. In addition, surplus educational facilities could be used for multipurpose senior centers. At least $5 million must be appropriated before the direct funding mechanism would become operational.

National manpower policy: The Administration on Aging would be directed to develop a national manpower policy on aging and make training grants in accordance with this policy.

National impact demonstrations: The conferees agreed to the Senate provision which authorizes the Commissioner to support model projects which have national significance in demonstrating methods of expanding or improving social services, nutrition services, multipurpose senior centers, "or otherwise promoting the well-being of older individuals."

Special projects in long-term care: The final bill authorizes the AoA to fund State agencies, area agencies, local offices on aging, and private non-profit organizations to support the development of comprehensive, coordinated systems of long-term care for older persons.

Eligibility for senior community service employment: Conferees agreed to the House provision to expand eligibility to Title V (senior community service employment) to 125 percent of the poverty guidelines.

Allocation for national contractors and States: The final bill would authorize the national contractors to retain at least the number of positions they supported during fiscal year 1978 and requires that additional funding after fiscal year 1978 be allocated at 55 percent for the States and 45 percent for the national contractors.

Innovative work modes: The Secretary of Labor would be directed to develop innovative work modes and provide technical assistance in creating job opportunities through work sharing and other experimental methods to prime sponsors, unions, and employers.

Transition to private employment: The Secretary of Labor would be directed to reserve up to 1 percent of appropriations above the fiscal 1978 level in order to enter into agreements to improve the transition from the Senior Community Service Employment program to private employment.

Environmental improvement and energy conservation projects: The Secretary of Labor is authorized, after consulting with the Environmental Protection Agency and the Department of Energy, to create part-time employment relating to environmental improvement and energy conservation.

Prior consultation with State agencies: National contractors conducting a senior community service employment project within a State must submit a description of the project to the State agency on aging 30 days prior to the project's starting date.

White House Conference on Aging: The bill would authorize a White House Conference on Aging to be held in 1981.

Study on racial and ethnic discrimination: The conference agreement directs the Civil Rights Commission to conduct a study on racial and ethnic discrimination in federally-assisted programs.

Age Discrimination Act: The conference agreement: (1) deletes the word "unreasonable" in the ADA statute; (2) grants individuals the right to bring a private civil suit after the expiration of 180 days from the filing of an administrative complaint; (3) requires the Secretary of HEW to approve regulations governing the ADA by other agencies and departments; and (4) establishes a reporting system for all agencies and departments to provide information to the Department of HEW.

ACTION's older American volunteer programs: The conference bill (1) provides a three-year extension of the older American volunteer programs (Retired Senior Volunteer Program, Foster Grandparents, and Senior Companions); (2) permits individuals with incomes up to 125 percent of the poverty guidelines to be Foster Grandparents or Senior Companions; (3) conditions the effectiveness of a $2.00 per hour stipend to the enactment of an appropriation sufficient to maintain the number of Foster Grandparents and Senior Companions at a level at least equal to the number participating in fiscal 1978 (if the appropriation is insufficient to increase the stipend to $2.00 per hour, the Director shall increase the stipend to the extent the appropriations would permit). The conferees deleted the House provisions to tie the stipend to increases in the Consumer Price Index.

Mr. CRANSTON. Mr. President, as chairman of the Child and Human Development Subcommittee which has jurisdiction over the Older Americans Volunteer programs, as ranking majority member of the Aging Subcommittee, and as a conferee, I support the enactment of the proposed "Comprehensive Older American Act Amendments of 1978." On July 21 of this year, the Senate passed and forwarded to the House S. 2617, the proposed "Domestic Volunteer Service Act Amendments of 1978." At that time, I discussed the Older American Volunteer programs. On August 24, I made a detailed statement on the Senate's action on S. 2850, the Senate's version of reauthorization of the Older Americans Act. I am pleased that the Older Americans Act Amendments conference report on the reauthorization of the Older American Volunteer programs includes

most of the provisions I outlined in both of those statements.

I would like to highlight a number of aspects of the conference agreement which are of particular interest to me—the Older American Volunteer programs, which I authored in the Senate—and legal services and private rights of action under the Age Discrimination Act of 1975—provisions with which I was deeply involved in conference.

ACTION'S OLDER AMERICAN VOLUNTEER PROGRAMS

Mr. President, the conference report contains provisions extending the authorizations of appropriations for the Older American Volunteer Programs—RSVP, Foster Grandparents, and Senior Companions—authorized by title II of the Domestic Volunteer Service Act of 1973, as well as provisions amending various sections of that title. Provisions similar to those adopted were contained in the Senate-passed bill, S. 2617, the proposed "Domestic Volunteer Service Act Amendments of 1978" which I authored and which was pending in the House of Representatives at the time of the conference on the Older Americans Act Amendments of 1978. The House-passed bill (H.R. 12255) amending the Older Americans Act also contained a number of amendments to the Domestic Volunteer Service Act of 1973 identical to those in S. 2617.

FOSTER GRANDPARENT AND SENIOR COMPANION STIPENDS AND ALLOWANCES

I am pleased that the conferees agreed on the need for an increase in the stipend paid to participants in the Foster Grandparent/Senior Companion Program. The conference report authorizes increases in the stipend up to $2 per hour from the present level of $1.60 per hour.

The Foster Grandparent Program was initiated in 1965 as one of the war-on-poverty programs. It involved assigning low-income older Americans to work with underprivileged children or children with exceptional needs for 20 hours per week, at a stipend of $1.60 per hour—then the minimum wage—in institutional and other settings. During that year, under an arrangement between the then Office of Economic Opportunity—now the Community Services Administration—and the Department of Health, Education, and Welfare, HEW's Administration on Aging, using OEO funds, began conducting the Foster Grandparents effort.

Four years later, in 1969, the Foster Grandparent Program was transferred from OEO to the Administration on Aging. In 1971, when the ACTION Agency was created by executive reorganization, the Foster Grandparent Program was transferred again—this time to the new Federal volunteer agency, the ACTION Agency.

Mr. President, Public Law 93–113, the Domestic Volunteer Service Act of 1973, which I authorized and which provides statutory authority for the ACTION Agency, includes in title II provision for the Foster Grandparent Program and for the newer Senior Companions Program which is modeled after Foster Grandparents and enables older, low-income, Americans to work with those other than children having exceptional needs. Participants in the Senior Companions, as do the Foster Grandparents, currently receive a stipend of $1.60 per hour—the same amount established 13 years ago. Today there are nearly 20,000 low-income older Americans serving in these two programs.

Mr. President, for some time now I have been advocating an increase in the Foster Grandparent/Senior Companion stipend. As chairman of the Senate subcommittee responsible for the authorizing legislation for these programs, I have made recommendations to the Appropriations Committee that funding be provided to increase the stipend. However, when funding increases have been appropriated, the additional money has been used to increase the number of projects rather than to increase the amount of the stipend. I believe that both needs can and should be met.

Because of this background, and because the Senate ACTION Agency bill (S. 2617) includes levels of authorizations of appropriations sufficient to accomodate raises in the stipend, I was generally sympathetic to the House bill provision mandating an increase in the stipend to $2 per hour, although I was concerned about the potential problems which might be caused by the House tie-in of the stipend level to future changes in the Consumer Price Index. I support a stipend increase—but not at the expense of reducing funds available to support those currently participating in these programs. A mandated stipend increase in the authorizing legislation without a corresponding appropriation to accommodate it could result in a cutback in current program strength.

Because of my concern about this potential situation, I proposed and the conferees agreed to a compromise which I offered which would condition the effectiveness of the stipend increase on the inclusion in an appropriation act of sufficient funds to maintain the previous year's enrollment level, but with additional funds being used first to increase the stipend up to $2 per hour.

Mr. President, provisions of a similar protective nature were part of the authorizing legislation providing for increases in the stipend for VISTA and Peace Corps volunteers (Public Law 94–130). Participants in both those programs have since had their stipend levels increased to the full amount authorized, without threat of reduction in the numbers of volunteers.

Mr. President, the conferees also agreed to my proposal that the CPI tie-in of the Foster Grandparent/Senior Companion stipend increase should be dropped. I believe that such a tie-in would be an unfortunate precedent to set—none of the stipends for the other ACTION Agency programs are tied in to CPI changes. This is not to say that the Foster Grandparents/Senior Companions stipend should not be adjusted periodically. I believe it should, but not as a result of a statutorily mandated CPI tie-in.

LENGTH AND AMOUNTS OF AUTHORIZATION OF APPROPRIATIONS

Mr. President, I am also pleased that the House agreed to the provisions in the Senate ACTION bill, S. 2617, which provide for a 3-year extension of the authorizations of appropriations for the Older American volunteer programs. The House bill had provided for a 1-year extension. The following levels of appropriations were authorized in the Senate bill and in the conference report:

RSVP	
Fiscal year 1979	$25,000,000
Fiscal year 1980	30,000,000
Fiscal year 1981	35,000,000
Foster Grandparent/Senior Companion.	
Fiscal year 1979	$55,000,000
Fiscal year 1980	62,500,000
Fiscal year 1981	70,000,000

Mr. President, with respect to the RSVP program these levels, if fully appropriated, should provide for additional program support and technical assistance, should enable existing programs to expand—something I view as an important priority—and finally, should provide for new RSVP projects.

With respect to the Foster Grandparents and Senior Companions authorization levels, these levels, if fully appropriated, will allow for a full stipend increase the first year, and thereafter provide for program growth as well. I want to point out, too, that the authorizing committees combined the appropriations authorization for these two programs in order to encourage the development of additional jointly administered projects.

Mr. President, in accepting the Senate ACTION bill provisions concerning the length and amount of authorizations of appropriations, the conferees did so with the understanding, expressed in the joint explanatory statement, that the authorizing committees in both Houses will conduct regular oversight on all facets of the ACTION Agency's administration of the older American volunteer programs, with special scrutiny of the fiscal year 1980 budget request and subsequent budget requests, in order to assess the extent of the ACTION Agency's commitment to these programs, and, if such commitment is found wanting, recommend action legislatively to transfer these programs to the Administration on Aging. Mr. President, I am confident that such oversight will reflect a strong commitment on the part of Sam Brown, Director of the ACTION Agency, and Helen Kelley, a fellow Californian who is the Deputy Assistant Director for the older Americans volunteer programs. At the time when the previous fiscal year's budget submission was proceeding through the administrative process, Helen had not yet come on board, and Sam was concentrating most of his attention on the ACTION Agency programs that the previous administration had neglected—these did not include the older American volunteer programs. I have seen a definite turn for the better over the last several months in the ACTION Agency's advocacy for the older American volunteer programs, and I am very hopeful that the President's fiscal year 1980 budget request will reflect that renewed commitment.

NEAR-POOR PARTICIPATION IN FOSTER GRANDPARENT SENIOR COMPANION PROGRAMS

Mr. President, the House bill extended the eligibility for participation in the Foster Grandparents and Senior Com-

panions programs to individuals with an income not greater than 125 percent of the poverty level. Certainly, eligibility is tied to the poverty level index, with flexibility for regional differences. The Senate ACTION bill had no comparable provision.

Mr. President, as I indicated earlier in my remarks, the Foster Grandparents program began as one of the war-on-poverty efforts as a program to assist needy older Americans while providing services to children in special circumstances. The ACTION Agency estimates that the number of those who would like to participate in Foster Grandparents and Senior Companions is close to 400,000, or 10 percent of the 4.2 million low-income older Americans in our country. Presently nearly 20,000 low-income persons are enrolled. Since the universe of those who would like to be involved and who are now eligible to be involved in these programs is as great as it is, I did not feel that it was wise just to open up participation to the near-poor without certain priorities for participation of those who are low-income persons. Hence, I proposed and the conferees agreed to provide for near-poor participation, but to provide special consideration for participation to persons whose income levels are at or below the poverty line.

Mr. President, in addition to these provisions on which the conferees reached agreement, the Senate ACTION bill and the House bill included in common three additional provisions which are included in the conference report.

PROGRAM REVIEW PERIOD

Both bills amended section 201 of the Domestic Volunteer Service Act of 1973—the RSVP authority—to reduce from 60 to 45 days the time which is given to State agencies on aging to comment on proposed RSVP programs. This is the same time period permitted for review of Foster Grandparent and Senior Companion Program project applications.

NONEMPLOYEE STATUS OF RSVP PARTICIPANTS

Both bills added a new provision to the act to make clear that RSVP volunteers are not employees for any purpose which the director of the ACTION Agency finds not to be fully consistent with provisions and in furtherance of the purpose of this title II, part A program.

Mr. President, this clarification was necessary because questions were being raised in several States as to whether RSVP volunteers must be covered by workers' compensation, despite the fact that the ACTION Agency requires that all RSVP volunteers be provided with medical insurance to cover costs associated with any injury to the volunteers, and indeed, makes available a policy of medical insurance for non-self-insured sponsors. RSVP service has never been considered as employment. Application of a State requirement that they be covered by worker's compensation laws would clearly be inconsistent with the purpose and volunteer nature of the program, and would increase the cost of the program, thereby making it available to fewer older persons than are now participating. For this reason, it was important and necessary to the future success of RSVP that the extension legislation provide such a provision.

GRANT PREFERENCES AND REVIEWS FOR FOSTER GRANDPARENT AND SENIOR COMPANION PROGRAMS

Both bills amended section 212 of the Domestic Volunteer Service Act of 1973—the Foster Grandparent and Senior Companion program authority—to provide that grants or contracts be awarded to State agencies on aging and community action agencies in certain specified situations unless there are no such agencies or unless such agencies have had 45 days to examine and make recommendations on other project applications, and by providing that, in order to be approved, applications from other than these two agencies must contain satisfactory assurances that those applications have been developed, and will, as appropriate, be carried out in consultation with these two agencies.

Mr. President, these changes modify provisions in the current law which have tended to result in an absolute preference for the award of Foster Grandparent or Senior Companion grants or contracts to State agencies on aging or community action agencies. In addition, they more nearly approximate the treatment of these agencies for purposes of RSVP project applications. The amended provisions should provide for greater equity and flexibility, while continuing to recognize the special role and involvement of State agencies on aging and community action agencies.

STABILITY FOR ACTION'S OLDER AMERICAN VOLUNTEER PROGRAMS

Mr. President, I am pleased with the outcome of our deliberations on the conference report provisions affecting the Older American Volunteer programs administered by the ACTION Agency. Although I would have preferred that all amendments to the Domestic Volunteer Service Act of 1973, including these title II provisions and the title V extensions having to do with appropriations levels, have been enacted in the same piece of legislation, the Domestic Volunteer Service Act Amendments of 1978, I am quite satisfied with the conference provisions, and am pleased that we were able to work out these agreements and provide for 3 more years of what I know will be vigorous life for ACTION's Older American volunteer programs—RSVP, Foster Grandparents, and Senior Companions.

LEGAL SERVICES

Mr. President, late last year, as part of Public Law 95-222—the Legal Services Corporation Act Amendments of 1977 of which I was a principal author—Congress required the Corporation to adopt procedures for determining and implementing priorities for the provision of legal assistance, including particularly the needs for service on the part of significant segments of the population of eligible clients with special difficulties of access to legal services or special legal problems—including specifically elderly individuals.

Meeting the needs of eligible elderly individuals was regarded by Congress as a fundamental responsibility of the Corporation. That law provided clear recognition that eligible elderly individuals may have special difficulties with respect to access to legal services or special legal problems, and we required implementation of procedures at the local project level for assessing and developing appropriate service priorities.

I believe there is a great risk in creating categorical programs for the provision of legal services to certain groups of poor persons—such as elderly individuals. Our effectiveness in providing legal assistance to the poor generally may be diluted by the creation of special categorical legal-service assistance programs for low-income persons. I believe that the focus of our efforts to provide legal assistance to poor persons should be through the Legal Services Corporation.

Unfortunately, there are many people to serve, and many groups believe—with great justification in many cases—that they are not getting their fair share of services. Thus, as in seeking to augment the Corporation's legal services efforts, the conference report takes into consideration that a structure currently exists—to be funded this year at $270 million—designed to provide legal services to low-income individuals, and that there are substantial needs of other individuals—often called near-poor—that are not being met at all.

Mr. President, I believe that the Older Americans Act should focus legal services funded thereunder on elderly individuals with the following principles in mind:

A program of legal services for aging individuals should be designed to utilize, to the maximum extent possible, the resources and projects of the corporation. There are limited funds available, and duplicative efforts must be avoided.

Second, funding under the Older Americans Act should concentrate generally on those elderly individuals who are not eligible, on the basis of income, for legal services under the Corporation Act but who are comparatively needy—the near poor.

The conference report would seek to accomplish both of those ends.

It is a difficult policy decision—to concentrate resources on groups other than the most needy. I am persuaded, however, that the basic thrust should be to supplement the corporation's efforts for the poor by highlighting the needs of the near-poor elderly—again, I emphasize, a group with needs not generally being met. But I also stress that, under the conference report, we would not preclude area agency on aging funding of services for low-income persons where appropriate coordination is carried out between triple-A grantees and legal services corporation grantees.

Moreover, under the conference provision, it would not be necessary to apply a means test of any kind. Rather, appropriate coordination between an existing legal service corporation and a triple-A grantee would, I believe, be provided by the aging grantee apprising prospective clients of the general ground rules regarding eligibility and, thus, the client can make his or her own initial determination as to where to go for assistance. Another method of meeting the requirements of the proposed modification

would be to assure the referral to the triple-A grantee by a legal services project of appropriate applicants who, as a result of a failure to meet Legal Services Corporation Act income criteria, are found to be not quite eligible for legal services corporation-funded services, and then extend to such individuals special consideration for services in the triple-A project. Other methods of achieving coordination are set forth in the joint explanatory statement.

AGE DISCRIMINATION

Mr. President, included as part of the House version of the Older Americans Act reauthorization was a provision regarding private rights of action under the Age Discrimination Act of 1975.

This provision as included in the conference report as a result of a modification by the Senate is designed to clarify that a private right of action to enforce the Age Discrimination Act is available to recover damages, to enjoin a violation of the act, or for both purposes. Procedures that must be followed by the plaintiff are set forth if action is brought for the purpose of enjoining an alleged violation of the act by any program or activity receiving Federal financial assistance, or to enjoin the violation and seek damages. I stress that the procedures outlined by the section do not deal with the availability of private rights of action brought solely to recover damages.

Under the conference report, procedures are established for an award to the prevailing plaintiff of the costs of the suit, including a reasonable attorney's fee in actions to enjoin violations of the act. In order for a prevailing plaintiff to be eligible, he or she must have included in the notice required to be filed with the Department of Health, Education, and Welfare a statement as to whether or not attorney's fees are being demanded in the event that the plaintiff prevails, and include as part of his demand for relief in his or her complaint a demand to recover a reasonable attorney's fee. These requirements—the notice and the demand in the complaint—are applicable only to actions to enjoin violations of the act or actions to enjoin and seek damages.

The conference report also clarifies that actions to enjoin are prohibited if, at the time of action is brought, the same alleged violation by the same defendant is the subject of a pending action in any U.S. court. The conference change makes specific that the intent of the provision is to bar analogous unresolved enjoining actions being brought against the same defendant.

The conference report also added a provision with respect to exhaustion of administrative remedies. Under the House-passed bill, no provision was made for such exhaustion. Although it is likely that most courts would have required exhaustion of administrative remedies as a prerequisite to court consideration of the controversy, the conferees believed it important to include the requirement. The practical result of such inclusion is the establishment of a time certain for presumption of exhaustion—after the elapsing of 180 days after the complaint is filed with the agency in question or upon the day that the Federal department or agency makes a finding in favor of the recipient of Federal assistance. I stress, Mr. President, that the exhaustion requirement and the provisions with respect to deeming, or presuming, exhaustion are applicable to all private actions brought for relief based on an alleged violation of the Age Discrimination Act, not just actions to enjoin a violation.

CONCLUSION

Mr. President, I congratulate my colleague from Missouri (Mr. EAGLETON), the chairman of the Aging Subcommittee, and the ranking minority member (Mr. CHAFEE) for the fine products which has resulted from their hard work and concern.

I would also like to draw attention to the fine efforts of their staff members, Marsha McCord, Steve Roling, and Fran Paris, and to those of Jack Wickes, Fran Butler, and Shelley Garr on my behalf.

Mr. President, on Saturday night, October 7, the Senate approved the conference report on the Comprehensive Older Americans Act Amendments of 1978, H.R. 12255. It was my privilege, as the ranking majority member of the Aging Subcommittee of the Human Resources Committee to be deeply involved in consideration of this very important legislation in the conference.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. INOUYE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business with statements limited therein to 2 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Marks, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

ANNUAL REPORT OF THE NATIONAL HOUSING GOAL—MESSAGE FROM THE PRESIDENT—PM 228

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report, which was referred to the Committee on Banking, Housing, and Urban Affairs:

To the Congress of the United States:

I herewith transmit the Tenth Annual Report on the National Housing Goal as required by Section 1603 of the Housing and Urban Development Act of 1968.

JIMMY CARTER.

THE WHITE HOUSE, *October 6, 1978.*

MESSAGES FROM THE HOUSE

ENROLLED BILLS SIGNED

At 10:46 a.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

S. 682. An act to amend the Ports and Waterways Safety Act of 1972, and for other purposes;

S. 2801. An act to designate the building known as the Ozark National Forest Headquarters Building in Russellville, Arkansas, as the "Henry R. Koen Forest Service Building";

H.R. 6503. An act to amend the Intercoastal Shipping Act, 1933, and for other purposes;

H.R. 8394. An act to provide for payments to local governments based upon the acreage of the National Wildlife Refuge System which is within their boundaries, and for other purposes;

H.R. 8811. An act to amend section 7477 of the Internal Revenue Code of 1954 with respect to the revocation of an election to receive retired pay as a judge of the Tax Court;

H.R. 9370. An act to provide for the development of aquaculture in the United States, and for other purposes;

H.R. 9998. An act to provide for the regulation of rates or charges by certain State-owned carriers in the foreign commerce of the United States, and for other purposes;

H.R. 11302. An act to authorize appropriations for environmental research development, and demonstrations for the fiscal year 1979, and for other purposes;

H.R. 11886. An act to amend title 38, United States Code, to provide increases in the rates of disability and dependency and indemnity compensation for disabled veterans and their survivors, to provide for the payment of benefits to surviving spouses and children of certain totally disabled service-connected disabled veterans, to increase the amounts paid for funeral and burial expenses of deceased veterans, and for other purposes;

H.R. 12028. An act to amend title 38, United States Code, to improve the housing benefits program of the Veterans' Adminis-

tration, to authorize the Administrator of Veterans' Affairs to pay an allowance to a State for expenses incurred in the burial of eligible veterans in cemeteries owned and operated by or for such State solely for the interment of veterans, to authorize a program of great assistance to States for the establishment, expansion, and improvement of State veterans' cemeteries, and for other purposes;

H.R. 12930. An act making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1979, and for other purposes; and

H.R. 13692. An act granting the consent of Congress to the Historic Chattahoochee Compact Between the States of Alabama and Georgia.

The enrolled bills were subsequently signed by the President pro tempore (Mr. EASTLAND).

At 12:20 p.m., a message from the House of Representatives delivered by Mr. Berry, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 13803. An act to terminate the authorization of the navigation project on the Columbia Slough, Oregon.

The message also announced that the House disagrees to the amendments of the Senate to H.R. 10587, an act to improve the range conditions of the public grazing lands; agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. RONCALIO, Mr. UDALL, Mr. SANTINI, and Mr. JOHNSON of Colorado were appointed managers of the conference on the part of the House.

The message further announced that the House has passed S. 3486, an act to authorize appropriations for fiscal year 1979 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons and for research, development, test and evaluation for the Armed Forces, to prescribe the authorized personnel strength for each active duty component and the Selected Reserve of each Reserve component of the Armed Forces and for civilian personnel of the Department of Defense, to authorize the military training student loads, to authorize appropriations for civil defense, and for other purposes, with an amendment in which it requests the concurrence of the Senate.

ENROLLED BILLS SIGNED

At 4:05 p.m., a message from the House of Representatives delivered by Mr. Hackney, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

H.R. 10600. An act for the relief of Thomas Joseph Hunter and Rose Hunter;

H.R. 13797. An act to authorize establishment of the Fort Scott National Historic Site, Kansas, and for other purposes;

H.R. 13991. An act to provide for the United States to hold in trust for the Susanville Indian Rancheria of Lassen County, California, approximately one hundred and twenty acres of land; and

H.R. 14026. An act to provide means for the acquisition and retention of title to certain lands by the village corporation organized pursuant to the Alaska Native Claims Settlement Act for the Natives of the village of Kake, Alaska, and for other purposes.

The enrolled bills were subsequently signed by the President pro tempore (Mr. EASTLAND).

The message also announced that the House agrees to the report of the committee of conference on the disageering votes of the two Houses on the amendments of the House to S. 2640, an act to reform the civil service laws; and it recedes from its disagreement to the title of the bill.

The message further announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to H.R. 11318, an act to amend the Small Business Act and the Small Business Investment Act of 1958.

The message also announced that the House agrees to the amendment of the Senate numbered 2 and 3 to H.R. 8309, an act authorizing certain public works for navigation, and for other purposes; agrees to the amendment of the Senate numbered 8 to the bill, with an amendment in which it requests the concurrence of the Senate; disagrees to the amendments of the Senate numbered 1, 4, 5, 6, and 7 to the bill, insists upon its amendment to the amendment of the Senate numbered 8 to the bill; insists upon its disagreement to the amendments of the Senate numbered 1, 4, 5, 6, and 7; requests a conference with the Senate on the disagreeing votes of the two Houses thereon; and that Mr. JOHNSON of California, Mr. ROBERTS, Mr. BREAUX, Mr. GINN, Mr. MINETA, Mr. HARSHA, Mr. DON H. CLAUSEN, Mr. ULLMAN, Mr. ROSTENKOWSKI, Mr. BURLESON of Texas, Mr. WAGGONNER, Mr. JONES of Oklahoma, Mr. CONABLE, Mr. FRENZEL, and Mr. BLOUIN (for the consideration of sections 102 and 103 of the bill and modifications thereof committed to conference) as managers of the conference on the part of the Senate.

At 6:25 p.m., a message from the House of Representatives delivered by Mr. Hackney, announced that the House has passed S. 1613, an act to improve access to the Federal courts by enlarging the civil and criminal jurisdiction of United States magistrates, and for other purposes, with an amendment in which it requests the concurrence of the Senate; that the House insists upon its amendment and requests a conference with the Senate on the disagreeing votes of the two Houses thereon; and that Mr. KASTENMEIER, Mr. DANIELSON, Mr. SANTINI, Mr. ERTEL, Mr. RAILSBACK, Mr. BUTLER, and Mr. WIGGINS were appointed managers of the conference on the part of the House.

The message also announced that the House has passed S. 2584, an act to authorize appropriations to the Nuclear Regulatory Commission for fiscal year 1979, and for other purposes, with amendments in which it requests the concurrence of the Senate.

The message further announced that the House has passed S. 791, an act to authorize additional appropriations for the acquisition of lands and interests in lands within the Sawtooth National Recreation Area in Idaho, with an amendment in which it requests the concurrence of the Senate.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on today, October 6, 1978, he presented to the President of the United States the following enrolled bills:

S. 682. An act to amend the Ports and Waterways Safety Act of 1972, and for other purposes; and

S. 2801. An act to designate the building known as the Ozark National Forest Headquarters Building in Russellville, Arkansas, as the "Henry R. Koen Forest Service Building".

ORDER TO PRINT H.R. 11886 AND H.R. 12028

Mr. CRANSTON. Mr. President, I ask unanimous consent that H.R. 11886 and H.R. 12028 be printed with the amendments concurred in by the Senate on last Monday.

The PRESIDING OFFICER. Without objection, it is so ordered.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. PROXMIRE, from the Committee on Banking, Housing, and Urban Affairs:

Special Report on Allocation of Spending Pursuant to the Congressional Budget Act (Rept. No. 95–1280).

By Mr. RIBICOFF, from the Committee on Governmental Affairs, without amendment, unfavorably:

S. Res. 537. A resolution disapproving Reorganization Plan No. 4 of 1978 (Rept. No. 95–1281).

By Mr. JACKSON, from the Committee on Energy and Natural Resources, with an amendment:

S. 876. A bill to authorize the Secretary of the Interior to amend the contract for the construction, operation, and maintenance of the Vermejo reclamation project between the Vermejo Conservancy District, located in the State of New Mexico, and the United States (Rept. No. 95–1282).

S. 3158. A bill to authorize the investigation to study the feasibility of the Santa Cruz Dam and Reservoir, Santa Cruz Irrigation District, New Mexico, and for other purposes (Rept. No. 95–1283).

By Mr. PELL, from the Committee on Rules and Administration:

Special Report on Allocation of Spending Pursuant to the Congressional Budget Act (Rept. No. 95–1284).

By Mr. MUSKIE, from the Committee on the Budget, with an amendment:

S. Res. 570. A resolution waiving section 402(a) of the Congressional Budget Act with respect to consideration of S. 50 (Rept. No. 95–1285).

By Mr. BUMPERS, from the Committee on Energy and Natural Resources, without amendment:

H.R. 7101. An act to amend certain provisions of law relating to land claims by the United States in Riverside County, Calif., based upon the accretion or avulsion, and for other purposes (Rept. No. 95–1286).

By Mr. BUMPERS, from the Committee on Energy and Natural Resources, with amendments and an amendment to the title:

H.R. 7971. An act to validate the conveyance of certain land in the State of California by the Southern Pacific Transportation Co. (Rept. No. 95–1287).

By Mr. MUSKIE, from the Committee on the Budget, without amendment:

S. Res. 566. A resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 3392 (Rept. No. 95–1288).

S. Res. 567. A resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of H.R. 10587 (Rept. No. 95–1289).

S. Res. 572. A resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 3309 (Rept. No. 95–1290).

By Mr. EAGLETON, from the Committee on Governmental Affairs, without amendment:

H.R. 12116. An act to amend the District of Columbia Self-Government and Governmental Reorganization Act to repeal the authority of the President to sustain vetoes by the Mayor of the District of Columbia of acts passed by the Council of the District of Columbia and re-passed by two-thirds of the Council, to change the period during which acts of the Council of the District of Columbia are subject to congressional service, and for other purposes (Rept. No. 95–1291).

PUBLIC UTILITY RATE—CONFERENCE REPORT

Mr. JACKSON, from the committee of conference, submitted a report on the disagreeing votes of the two Houses on the amendment of the House to the amendment of the Senate to H.R. 4018, an act to suspend until the close of June 30, 1980, the duty on certain doxorubicin hydrochloride antibiotics (Rept. No. 95–1292).

DISTRICT OF COLUMBIA RETIREMENT REFORM ACT—CONFERENCE REPORT

Mr. EAGLETON, from the committee of conference, submitted a report on the disagreeing votes of the two Houses on the amendment of the Senate to H.R. 6536, an act to establish an actuarially sound basis for financing retirement benefits for policemen, firemen, teachers, and judges of the District of Columbia, and to make certain changes in such benefits (Rept. No. 95–1293).

NATIONAL ENERGY CONSERVATION POLICY ACT—CONFERENCE REPORT

Mr. JACKSON, from the committee of conference, submitted a report on the disagreeing votes of the two Houses on the amendment of the House to the amendment numbered 3 of the Senate to H.R. 5037, an act for the relief of Jack R. Misner (Rept. No. 95–1294).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. TALMADGE, from the Committee on Agriculture, Nutrition, and Forestry:

Robert W. Feragen, of Virginia, to be Administrator of the Rural Electrification Administration.

(The above nomination from the Committee on Agriculture, Nutrition, and Forestry was reported with the recommendation that it be affirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. WILLIAMS, from the Committee on Human Resources:

George S. Ives, of Maryland, to be a Member of the National Mediation Board.

(The above nomination from the Committee on Human Resources was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated.

By Mr. LEAHY:

S. 3552. A bill to amend the Rural Development Act of 1972; to the Committee on Agriculture, Nutrition, and Forestry, and the Committee on Banking, Housing, and Urban Affairs, jointly, by unanimous consent.

By Mr. ABOUREZK (for himself and Mr. McGOVERN):

S. 3553. A bill to provide for a study of the Crow Creek Village archeological site, Buffalo County, S.Dak., by the Secretary of the Interior, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. INOUYE:

S. 3554. A bill for the relief of Cheh-Hsiung Chen; to the Committee on the Judiciary.

By Mr. EAGLETON:

S. 3555. A bill for the relief of the Jewish Employment Vocational Service, St. Louis, Mo.; to the Committee on the Judiciary.

By Mr. CRANSTON:

S. 3556. A bill relative to the oversight provision in Public Law 95–46; to the Committee on Energy and Natural Resources.

By Mr. McCLURE:

S. 3557. A bill to encourage motor vehicle manufacturers to make investments in the production of electric vehicles; to the Committee on Commerce, Science, and Transportation.

By Mr. BURDICK:

S. 3558. A bill to authorize the Three Affiliated Tribes of the Fort Berthold Reservation to file in the Court of Claims any claims against the United States for damages for delay in payment for lands claimed to be taken in violation of the United States Constitution, and for other purposes; to the Select Committee on Indian Affairs.

By Mr. McCLURE:

S. 3559. A bill to provide for research programs to develop new agricultural commodities, to develop new nonfood uses for agricultural commodities, to develop new industrial or commercial uses for the byproducts of agricultural commodities, and for other purposes; to the Committee on Agriculture. Nutrition, and Forestry.

By Mr. CRANSTON:

S. 3560. A bill for the relief of certain employes of the Long Beach Naval Shipyard, Long Beach, Calif., to the Committee on the Judiciary.

By Mr. McCLURE:

S. 3561. A bill to provide for protection of the Johnny Sack Cabin, Targhee National Forest in the State of Idaho; to the Committee on Energy and Natural Resources.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. LEAHY:

S. 3552. A bill to amend the Rural Development Act of 1972; to the Committee on Agriculture, Nutrition, and Forestry and the Committee on Banking, Housing, and Urban Affairs, jointly, by unanimous consent.

(The remarks of Mr. LEAHY when he introduced the bill appear elsewhere in today's proceedings.)

Mr. LEAHY subsequently said: Mr. President, I ask unanimous consent that a bill that I had introduced this morning, amending the Rural Development Act of 1972, be jointly referred to the Committee on Agriculture, Nutrition, and Forestry and the Committee on Banking, Housing, and Urban Affairs. I understand this has been cleared with the appropriate chairmen and ranking members beforehand.

Mr. BAKER. Mr. President, reserving the right to object just for a moment, I do not dispute the distinguished Senator that it has been clear on our side, but I have no notice that it has been cleared.

Will the Senator withhold for just a moment?

Mr. LEAHY. I shall be happy to withhold. I am going to have to leave the floor for a while.

Mr. BAKER. I see the Senator from Missouri on the floor, and it might be that while he is proceeding we can work this out.

The PRESIDING OFFICER. Is the Senator from Vermont withdrawing his request?

Mr. LEAHY. I shall withdraw the request and perhaps once it is cleared to the satisfaction of the minority leader, the Senator from Missouri will yield to me at that point for 20 seconds.

Mr. DANFORTH. Certainly.

Mr. ROBERT C. BYRD subsequently said: Mr. President, I ask unanimous consent that a bill introduced earlier today by Senator LEAHY to charter a National Rural Development Bank be referred jointly to the Committee on Agriculture, Nutrition, and Forestry and the Committee on Banking, Housing, and Urban Affairs, jointly, by unanimous consent.

The PRESIDING OFFICER. Without objection, it is so ordered.

By Mr. CRANSTON:

S. 3556. A bill relative to the oversight provision in Public Law 95–46; to the Committee on Energy and Natural Resources.

WESTLANDS WATER DISTRICT IN CALIFORNIA

● Mr. CRANSTON. Mr. President, I introduce for appropriate reference a bill to approve three temporary water service contracts between the Department of Interior and the Westlands Water District in California.

Mr. President, in the 95th Congress we

enacted legislation requiring that these contracts for the Westlands Water District for temporary water service in 1979 must lie before the Congress for review for not more than 90 legislative days. However, since the Congress may adjourn sine die shortly, I am introducing this bill to exercise section 3 of Public Law 95–46 and expedite approval of the three contracts so that they may be executed prior to January 1, 1979.

The Secretary of Interior believes that these contracts are in the best interests of the Federal Government and consistent with the provisions of Federal reclamation law. I concur. The contracts provide for the delivery of 1.1 million acre-feet of water for agricultural purposes from the San Luis Canal at $13.50 per acre-foot; the delivery of 50,000 acre-feet of water for agricultural purposes from the Delta Mendota Canal at $10 per acre-foot; and the delivery of 6,000 acre-feet of water for municipal and industrial purposes from the San Luis Canal at $30.85 per acre-foot.

The temporary contracts will allow continuation of water service to the Westlands Water District pending reauthorization of the San Luis unit and renegotiation of the current water service contract originally executed in 1963.

I hope that the Congress will move quickly to pass this bill or adopt it as an amendment to an appropriate legislative vehicle so that there will be no interruption in the delivery of water service for the Westlands Water District.

Mr. President, I ask unanimous consent that the text of the bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3556

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress hereby finds that the oversight provided for in section 3 of P.L. 95–46 has been accomplished with respect to the three temporary water service contracts between the United States and the Westlands Water District, as forwarded to Congress on October 4, 1978.●

By Mr. CRANSTON:

S. 3560. A bill for the relief of certain employees of the Long Beach Naval Shipyard, Long Beach, Calif.; to the Committee on the Judiciary.

● Mr. CRANSTON. Mr. President, I am introducing legislation today to relieve Rodney Herold and others listed below of liability for the excess payment for per diem and actual subsistence expenses which they received. These employees were overpaid due to administrative failures in implementing reductions in per diem rates for long-term training assignments. The General Accounting Office has reviewed this case and has recommended that these employees be relieved from liability. This legislation is intended to carry out this recommendation. I ask unanimous consent that the text of GAO's letter and decision regarding this matter and the text of the bill be printed at this point.

There being no objection, the bill and material ordered to be printed in the RECORD, as follows:

S. 3560

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That each of the following named employees of the Long Beach Naval Shipyard, Long Beach, California, is hereby relieved of all liability to repay to the United States the sum of money specified opposite the name of such employee, such sum representing overpayment of per diem made through administrative error and received in good faith by such employee:

(1) Rodney L. Herold the sum of $2,018.25;
(2) Albert L. Christiansen the sum of $1,254.50;
(3) Edward E. Goodrich the sum of $101.41;
(4) Kenneth E. Butler the sum of $1,808.25.
(5) Allen H. Reynard the sum of $1,310.50;
(6) Donald D. Fish the sum of $1,182.00;
(7) Steve A. Robertson the sum of $2,302.01;
(8) David W. Alton the sum of $1,890.52;
(9) George J. Larson the sum of $1,653.39;
(10) William R. Dow the sum of $1,626.11;
(11) Daniel L. Holly the sum of $1,475.07;
(12) Donald E. Jelinski the sum of $1,412.13:
(13) Leland Kocher the sum of $797.37;
(14) Carl R. Gonsalves the sum of $712.07;
(15) George E. McGuire the sum of $617.25;
(16) Herbert E. Tonkin the sum of $435.45;
(17) Virgil L. Nickell the sum of $194.03.

SEC. 2. The Secretary of the Treasury is hereby authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to any employee named in the first section an amount equal to the aggregate of any amounts paid by such employee or withheld from any sum due such employee on account of the liability referred to in the first section of this Act.

SEC. 3. No part of the amounts appropriated in this Act shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of this Act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding $1,000.

U.S. GENERAL ACCOUNTING OFFICE,
Washington, D.C., August 30, 1978.

HON. ALAN CRANSTON,
U.S. Senate.

DEAR SENATOR CRANSTON: Enclosed is a copy of our decision in B–190014, dated today, in the matter of the Long Beach Naval Shipyard. The decision holds that, after the effective date of the change in the Joint Travel Regulations (Volume 2) reducing per diem rates for long-term training assignments, there was no authority for the Shipyard to continue to pay higher rates of per diem to its employees. Hence, the 17 Shipyard employees affected are legally obligated to repay the excess payments for per diem and actual subsistence expenses which they received after the effective date of the change.

However, because the overpayments resulted from administrative failures in implementing the reduced rate, because the rate reduction was so substantial, and because the 17 employees acted in good faith, we have reported their claims to Congress under the Meritorious Claims Act, 31 U.S.C. § 236. Our report to the Congress recommending that these employees be relieved of liability for the overpayments has been transmitted to the Speaker of the House and the President of the Senate.

Please advise us if any further assistance is necessary in this matter.

Sincerely yours,

PAUL G. DEMBLING,
General Counsel.

[Decision, File: B–190014]

THE COMPTROLLER GENERAL
OF THE UNITED STATES,
Washington, D.C., August 30, 1978.

Matter of: Long Beach Naval Shipyard—Per Diem Allowances for Extended Periods of Training.

Digest: Seventeen civilian employees received per diem at the higher rate in effect prior to August 1, 1976, during various dates between August 1, 1976, and July 1977. Change in JTR, effective August 1, 1976, reduced per diem to 55 percent for extended training. No basis exists for allowing the higher per diem for the training performed on or after effective date of lower rate. However, since the overpayments resulted from administrative failures in implementing the regulatory change in the per diem rate, the rate reduction was so substantial and employees acted in good faith, equities warrant reporting claims to Congress under Meritorius Claims Act, 31 U.S.C. § 236.

This decision is rendered with respect to 17 employees at the Long Beach Naval Shipyard (LBNS), Department of the Navy, Long Beach, California, who, while attending training schools for periods in excess of 120 days commencing at various dates during the period July 1976 to January 1977, were paid per diem allowances in excess of that authorized by the Joint Travel Regulations (JTR). The Office of the Comptroller, LBNS, undertook to collect the overpayments of per diem from the employees. The basis for the proposed collection action was that the per diem rate authorized for civilian employees by the JTR, Volume 2, was changed to a reduced rate of 55 percent for extended training of 120 days or more, effective August 1, 1976.

In view of the number of Shipyard employees affected and the relatively large indebtednesses subject to deduction from the pay of the employees, the Comptroller of the Shipyard agreed to withhold any and all collection actions until this Office had rendered a decision on this matter.

On each of the travel orders, the block opposite the statement, "Per diem authorized in accordance with JTR" was checked. No dollar amount was stated but the Shipyard and the employees both understood that the amount was the maximum authorized rate.

On June 21, 1976, prior to the travel involved here, the Per Diem, Travel, and Transportation Allowance Committee, the body authorized by the Secretary of Defense to issue and change the JTR, issued a telegraphic message entitled "Reduced Per Diem Rates for Long-Term Training." The message stated that the JTR is revised, effective August 1, 1976. It stated that, for training programs of 120 or more calendar days at one location, the new per diem rate would be 55 percent of the maximum rate authorized for regular areas or high-cost areas, as applicable.

The message was not received at the Long Beach Naval Shipyard. We have been informally advised by officials of the Office of Civilian Personnel, Headquarters, Department of the Navy, that the distribution code used for dissemination of the telegraphic message of June 21, 1976, did not include the Long Beach Naval Shipyard. Navy officials also advised that, during the period under consideration, problems were encountered in disseminating written materials to Navy civilian components located at military installations

A new distribution code is now being utilized to transmit documents to Navy civilian personnel offices.

On October 1, 1976, Change 132 to JTR, Volume 2, was issued by the Per Diem, Travel, and Transportation Allowance Committee for the information and guidance of all Defense Department civilian personnel. The change was received by the Long Beach Naval Shipyard on October 15, 1976. Paragraph C4552–2i of Change 132 provided for a reduced per diem rate for long-term training programs of 55 percent of the maximum allowable per diem rate or 55 percent of the actual expense maximum, as applicable, for all locations within the continental United States, including designated high-cost areas. The effect of the change was to reduce regular per diem rates from $35 or $33, to approximately $20. The reduced rate was specified to be effective August 1, 1976, consistent with advance notice dated June 21. In the Brief of Revision which accompanied the change, it was stated:

"Par. C4552–2i. Provides a reduced per diem rate for long-term training courses of 55% of the applicable per diem or actual expense maximum when the course is in a high cost area."

Upon receipt of the formal change to the JTR on October 15, 1976, the civilian personnel officials at Long Beach has advised this Office that as to paragraph C4552–2i, they reviewed only the Brief of Revision and did not read the regulatory change itself. They erroneously interpreted the Brief to apply only to high-cost areas and thus believed that the reduction in rates applied solely to long-term training in high-cost areas. They further advised that their erroneous interpretation was not discovered until February 1977 when two naval shipyard employees, one from Charleston and one from Long Beach, learned that the Long Beach employee was being paid per diem at the maximum allowable rate of $35 or $33 per day while the employee from Charleston was being paid per diem at the reduced rate of approximately $20 per day. On February 14, 1977, a clarifying memorandum concerning the reduced per diem rate for long-term training was distributed to employees of the Long Beach Shipyard and stated as follows:

"Long-term programs are considered to be any continuous full-time training or research and study programs of 120 or more calendar days at one location conducted at a government or non-government college or university, or other academic institution or training facility.

"Prior to receipt of reference (a) [referring to change 132] 15 October 1976, per diem rates were based on the current rate known to be in effect at that time, i.e. $33.00. $35.00 or actual expense which is determined by the location. By reference (a), which was effective 1 August 1976, per diem rates were reduced and are calculated on 55% of the maximum amount prescribed rounded to the next higher dollar, i.e. per diem rate normally set at $35.00 would thus become $20.00, etc.

"Since long-term training will be calculated on 55% of the maximum rate prescribed, it is requested that the above information be given wide dissemination."

In a memorandum dated February 16, 1977, from the Commander of the Shipyard to our Claims Division via the Navy Accounting and Finance Center, it was stated, in pertinent part, as follows:

"2. Two Shipyard employees departed on training in excess of 120 days 6 July 1976 to Great Lakes, Illinois and San Diego, CA; two Shipyard employees departed 16 August 1976 to Great Lakes, Illinois; one employee departed 20 September 1976 and will return 22 February 1977; one employee departed 15 July 1976 to Washington, D.C. (actual expense area) and returned 13 November 1976. All of the above employees were advanced per diem based on the current rate known to be in effect at that time, $33.00 or $35.00 ($42.00/$50.00 actual expense) vice $20.00 ($24.00/$28.00 actual expense).

"3 According to the individual travel claims submitted, employees receiving training at Great Lakes, San Diego and Washington, D.C. received partial payments issued at those activities based on cost plus lodging not to exceed the maximum per diem rate and actual expense. Apparently, those activities were unaware of reference (a) or interpreted the change in the same manner as this Command.

"4. To compute the travelers' per diem based on the $20.00 or actual cost rate required by reference (a) will result in each individual traveler having to pay back from $1,254.00 to $2,018.00. Overpayment for the five employees who have returned is $7,167.00; estimated cost for the employee returning on 22 February 1977 is $1,980.00. It is felt that this would be unjust in that the overpayment was made through an administrative oversight in interpreting the 'Brief of Revisions' and not through any fault of the employees."

The record shows that the Shipyard Commander requested authority to waive the requirements of Change 132 on overpayments made to those travelers whose travel claims had already been finalized and to an individual traveler who was to return to the Shipyard on February 22, 1977. The request was denied by the Navy Department's Director of Civilian Personnel on the grounds that Comptroller General decisions precluded relief based on the failure to receive timely notice of the change and that the statute authorizing waiver specifically excludes travel allowances.

Shipyard officials stated that the 17 employees were assigned temporary duty training at the following locations: Great Lakes—8; San Diego—5; Maryland—3; and Washington, D.C.—1. The employees were dispatched in the following chronological order with the corresponding indebtedness owed by each;

	Indebtedness
July 1976—(3)	
Herold, Rodney L	$2,018.25
Christiansen, Albert L	1,254.50
Goodrich, Edward E	101.41
August 1976—(2)	
Butler, Kenneth E	1,808.25
Reynard, Allen H	1,310.50
September 1976—(1)	
Fish, Donald D	1,182.00
January 1977—(11)	
Robertson, Steve A	2,302.01
Alton, David W	1,890.52
Larson, George J	1,653.39
Dow, William R	1,626.11
Holly, Daniel L	1,475.07
Jelinski, Donald E	1,412.13
Kocher, Leland	797.37
Gonsalves, Carl R	712.07
McGuire, George E	617.25
Tonkin, Herbert E	435.45
Nickell, Virgil L	194.03

Both the Commander of the Shipyard and the Representative of the Federal Employees Metal Trades Council request that the overpayments made to the affected employees be waived under the provisions of 5 U.S.C. § 5584 (1970). While section 5584 authorizes the waiver of claims of the United States against a person arising out of an erroneous payment of pay or allowances, the waiver of travel and transportation expenses and allowances is specifically excluded. Since per diem is a travel allowance, erroneous overpayments thereof may not be considered for waiver under section 5584.

We have held that amendatory regulations changing per diem rates have the force and effect of law and are applicable from the stated effective date and that the rule is applicable from the stated effective date and that the rule is applicable not only to cases where the individual employee has not received notice of the increase or decrease in rate, but also to cases in which the installation responsible for the employee's temporary duty assignment is not on actual notice of the amendment. B–183633, June 10, 1975; and B–173927, October 27, 1971.

In B–182324, July 31, 1975, a case similar to the case at bar, the travel order was issued on May 22, 1973, for approximately 298 days temporary duty at the Air War College, and authorized per diem in accordance with the JTR. Thereafter, on August 9, 1973, the Per Diem, Travel, and Transportation Allowance Committee reduced the per diem from $25 to $14 for employees attending training courses at schools, colleges, and universities (including military schools) for periods of 45 days or more effective September 1, 1973. The formal "Change" in the JTR was issued November 1, 1973. The employee was paid at the $25 per diem rate until October 31, 1973, when it was discovered that under the amended regulation he should only have received the reduced $14 per diem from September 1, 1973. His orders were amended on November 13, 1973, to reflect the requirements of the JTR change and recoupment of the overpayment was made by his agency. We held that there was no authority to pay a rate in excess of $14 subsequent to September 1, 1973. We concluded that Joint Determination of August 9, 1973, accomplished the change in the JTR, effective September 1, 1978, consistent with the procedure authorized in 33 Comp. Gen. 505 (1954). See also B–177417, February 12, 1973, and *Bruce Adams*, 56 Comp. Gen. 425 (B–186770, March 18, 1977).

In the instant case we must determine the effective date of the amendment to the JTR governing per diem for long-term training. The travel orders issued to the employees authorized "per diem * * * in accordance with JTR" and covered travel between July 1976 and July 1977. By message dated June 21, 1976, the Per Diem, Travel, and Transportation Allowance Committee revised the JTR effective August 1, 1976, to provide "Reduced Per Diem Rates for Long-Term Training." The formal "Change" in the JTR was issued October 1, 1976, and shows an effective date of August 1, 1976, as set forth in the advance notice of June 21, 1976. The advance notice accomplished the revision of the JTR consistent with rule of 33 Comp. Gen. 505. Such notice is deemed to give actual or constructive notice to persons whose rights might be affected favorably or adversely. See B–182324, *supra*. Therefore, there is no basis for payment of per diem at the higher rate for long-term training on or after August 1, 1976.

However, we feel the equities in the instant case, particularly the substantial reduction in the subsistence rate are such as to warrant our reporting this matter to the Congress pursuant to the Meritorious Claims Act of April 10, 1928, 31 U.S.C. § 236 (1970).

Accordingly, we are forwarding a report to the Congress requesting consideration of the overpayments as Meritorious Claims and advising the Long Beach Naval Shipyard that no further collection action need be taken during the next session of the Congress.

R. F. KELLER,
Deputy Comptroller General of the United States.●

By Mr. McCLURE:

S. 3561. A bill to provide for protection of the Johnny Sack Cabin, Targhee National Forest in the State of Idaho;

to the Committee on Energy and Natural Resources.

● Mr. McCLURE. Mr. President, today I am introducing legislation to preserve and protect a unique structure located in the Targhee National Forest in Idaho. Known as the Johnny Sack Cabin, this structure and surrounding smaller structures have become something of a local historic landmark. Constructed about 1932, the cabin is nestled in the trees overlooking Big Springs, a natural springs emitting water at the same temperature year around. The setting of the cabin, the water wheel nearby, and the springs combine to prove a rare esthetic beauty which has been enjoyed by countless thousands over the years. Numerous artists and photographers have reproduced the scene many times since 1932.

The esthetic beauty of the area, including the cabin, is not the only reason for seeking its preservation, however. The original builder and owner of this cabin, Johnny Sack, was himself a unique individual.

A German immigrant, Johnny Sack stood only 4 feet 11 inches tall. Over the years, following his settlement in the area around 1931, Johnny Sack constructed the main cabin, and later the various other structures nearby, including a water-powered pumphouse, built around 1940.

Legend has it that Johnny Sack lived primarily off the land and, during the summer, held a variety of odd jobs. During the winter, he occupied himself with making improvements on the cabin and constructing furniture. Perhaps the cabin is most unique for its interior woodwork, which is of very high quality characterized by an interesting and attractive planed-bark finish. It remains today in excellent condition. Much of the original furnishings were also built by Sack, utilizing the same bark finishing techniques. The workmanship exhibits considerable skill, imagination, and attention to detail.

While many have seen the cabin from the outside, generally from a parking area located across Big Springs, relatively few have seen the magnificent interior of the structure. It is with the intent that the inside of the cabin be opened in some fashion for public use, also, that I introduce this legislation.

Johnny Sack was about 60 years old when he died in 1956. The cabin went to his sisters, who then sold it in 1963 to Mr. and Mrs. Rudy Kipp, the present owners and summer residents. Under the original special use permit issued by the Targhee National Forest, the cabin and approximately one-third acre of associated land will revert back to the Forest Service in 1980. The Forest Service has announced its intention to destroy this and 18 other structures in the area as part of their management plan. This proposed action has raised considerable controversy with local residents in the area who consider the cabin to be an historical landmark.

Though technically the cabin does not qualify to be nominated for inclusion on the National Register of Historic Places, it is considered by local resident and experts alike to be worthy of preserving. A recent cultural resource evaluation, undertaken by the USDA, states in part:

> This determination of significance does not mean that the property is lacking in all historic, architectural, or visual value. It could still be managed and preserved as a picturesque landmark for visitor enjoyment.

For some time now the Fremont County Historical Society has been seeking a method for preserving the Johnny Sack cabin and surrounding area. The Historical Society, I believe, reflects the unanimous feelings of the residents in the area, and in fact all those who have visited the Big Springs area. Interestingly, it is the present owners of the cabin, Mr. and Mrs. Rudy Kipp, who are also seeking preservation, though they know that they must vacate ownership and residency in 1980. As Mrs. Kipp explained to me on a recent trip to the cabin:

> We have been very fortunate to have been able to enjoy this place for many years. The worst that could happen is to have it destroyed. We want it preserved so that the public can enjoy its beauty and uniqueness.

Though the Forest Service has not refused to consider allowing local public interest organizations, such as the Historical Society, to maintain and operate the cabin for public use under a special use permit, the Society itself has expressed concern over the financial obligation involved.

After consultation with the Fremont County Historical Society, local Forest Service officials and interested residents, the consensus is that a legislative solution best suits everyone's needs and desires.

Specifically this bill does nothing more than require the Forest Service to preserve and maintain the Johnny Sack Cabin and associated structures in their present form. It also requires the Forest Service to consult local interest organization, such as the Fremont County Historical Society, concerning the management and operation of the cabin and immediate area; and, in fact, allows the Forest Service to enter into a cooperative agreement for the management and protection of the area for the public use.

Mr. President, I believe this to be the solution best aimed at preserving this unique, beautiful, and historic cabin. This will not only benefit the residents and frequent visitors to the area but, because of its proximity to Yellowstone and Grand Teton National Parks, will provide an informative and totally different experience for visitors and tourists from around the country.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD, together with two letters, indicating the positions of the Fremont County Historical Society and the Kipps.

There being no objection, the bill and letter were ordered to be printed in the RECORD, as follows:

S. 3561

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That for the purpose of providing for the public use and enjoyment of the Johnny Sack Cabin, Targhee National Forest, State of Idaho, and to protect and preserve such cabin as a unique example of craftsmanship, the Secretary of Agriculture, in consultation with the Fremont County Historical Society and other interested organizations, shall take such action as may be necessary in order to provide for the protection and maintenance of the Johnny Sack Cabin and associated structures. In carrying out the requirements of this Act, the Secretary is authorized, in accordance with existing law, to enter into a cooperative agreement with, or to issue a special use permit to, an appropriate person or organization pursuant to which such person or organization shall provide such protection and maintenance.

Sec. 2. The cost of maintenance and preservation of the Johnny Sack Cabin and associated structures shall be borne by the Secretary and there are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

APRIL 18, 1978.

Senator JAMES A. MCCLURE,
Dirksen Buiding,
Washington, D.C.

DEAR SIR: This letter is sent to you in regard of the beautiful cabin owned by Mr. and Mrs. Rudy Kipp and located at the Big Springs, Island Park, Idaho. It has become the concern of the Fremont County Historical Society, that this cabin is in danger of being destroyed. The land has been reclaimed by the United States Forest Service.

We would like to maintain the cabin as a historical site in its present beautiful setting. The cabin itself and furnishings is a work of art and to use this as a visitors center displaying the artistic work of local artists and authors would be of great benefit to the public. This short drive to Big Springs to see the wild life, feed the fish, the fantastic scenery of forest and stream, the exquisite beauty of the Kipp cabin complete with water wheel, would certainly be a breath taking adventure for all. This truly is a natural site for the public to absorb a bit of Island Park History. Surely the preservation of such a land mark is of concern to all.

May we please enlist your help in obtaining this site as a historical point of interest.

Thank you for your concern.

DOROTHY L. GIFFORD,
Fremont County Historical Society.

MAY 3, 1978.

Senator JAMES A. MCCLURE,
Dirksen Building,
Washington, D.C.

DEAR SIR: We are the owners of the summer home built by Johnny Sack which is described in the attached newspaper articles. The land is leased from the Forest Service until the end of 1979 at which time the lease will not be renewed and the structures are to be removed.

The improvements, consisting of the main house shown in the newspaper article and a small structure with a water wheel at the rivers edge, were erected in the 1930's. Johnny Sack was a master craftsman in the construction utilizing native woods. The interior of this log house is trimmed with local pine with the bark still in place. The cupboards and most of the furniture are similarly built. The place is truly one of a kind.

We have had the pleasure of owning and living in this summer home for several years and wholeheartedly join with the residents of Fremont County in the belief that it

should not be destroyed. We realize that we must give it up but strongly feel that it's destruction would be a great historical loss to the State of Idaho which already has a dearth of historical landmarks. The residents of Fremont County have indicated a concerned interest in the preservation of this property and we earnestly enlist your assistance in the support of this cause. If you are in the area during the coming summer we cordially invite you to visit the site.

Once demolished this landmark is lost forever.

Sincerely,

Mr. and Mrs. R. B. KIPP.●

ADDITIONAL COSPONSORS

SENATE JOINT RESOLUTION 153

At the request of Mr. ANDERSON, the Senator from Delaware (Mr. BIDEN) was added as a cosponsor of Senate Joint Resolution 153, authorizing the President to proclaim the third week in June 1979 as "National Veterans Hospital Week."

AMENDMENT NO. 3584

At the request of Mr. SCHWEIKER, the Senator from New York (Mr. JAVITS) was added as a cosponsor of amendment No. 3584, intended to be proposed to H.R. 5285, tariff treatment of film, sheets, and plates of certain plastics or rubber.

SENATE CONCURRENT RESOLUTION 107—SUBMISSION OF A CONCURRENT RESOLUTION RELATING TO LEBANON

Mr. ANDERSON (for himself and Mrs. HUMPHREY) submitted the following concurrent resolution, which was referred to the Committee on Foreign Relations:

S. CON. RES. 107

Whereas the Syrian presence in Lebanon has been in effect since January 1977; and

Whereas the continued presence of Syrian troops in sections of Lebanon no longer serves to further the attainment of peace in that country; and

Whereas the presence of a dispassionate peacekeeping force in these sections of Lebanon would serve the interests of peace: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that the United Nations should consider the placement of a peacekeeping force in sensitive sections of Lebanon; and be it further

Resolved, That the Speaker of the House of Representatives and the President of the Senate are directed to forward a copy of this resolution to the President of the United States, the Ambassador of the Government of the United States to the United Nations and the Secretary General of the United Nations.

AMENDMENTS SUBMITTED FOR PRINTING

FULL EMPLOYMENT AND BALANCED GROWTH ACT OF 1978—S. 50 and H.R. 50

AMENDMENTS NOS. 3903 THROUGH 3953

(Ordered to be printed and to lie on the table.)

Mr. HATCH submitted 51 amendments intended to be proposed by him to S. 50, the Full Employment and Balanced Growth Act of 1978.

AMENDMENTS NOS. 3954 THROUGH 3958

(Ordered to be printed and to lie on the table.)

Mr. SCHMITT submitted five amendments intended to be proposed by him to H.R. 50, the Full Employment and Balanced Growth Act of 1978.

AMENDMENT NO. 3959

(Ordered to be printed and to lie on the table.)

Mr. GARN submitted an amendment intended to be proposed by him to S. 50, the Full Employment and Balanced Growth Act of 1978.

AMENDMENTS NOS. 3960 THROUGH 3972

(Ordered to be printed and to lie on the table.)

Mr. GARN submitted 13 amendments intended to be proposed by him to H.R. 50, the Full Employment and Balanced Growth Act of 1978.

REVENUE ACT OF 1978—H.R. 13511

AMENDMENT NO. 3973

(Ordered to be printed and to lie on the table.)

Mr. NELSON (for himself and Mr. LEAHY) submitted an amendment intended to be proposed by them, jointly, to H.R.13511, an act to amend the Internal Revenue Code of 1954 to reduce income taxes, and for other purposes.

AMENDMENT NO. 3974

(Ordered to be printed and to lie on the table.)

Mr. NELSON (for himself, Mr. KENNEDY, and Mr. LEAHY) submitted an amendment intended to be proposed by them, jointly, to H.R. 13511, supra.

● Mr. NELSON. Mr. President, today I am submitting two amendments to the Revenue Act of 1978, H.R. 13511 on behalf of myself and Senators KENNEDY and LEAHY. I ask that the text of the amendments be printed in the RECORD following my remarks.

DESCRIPTION OF AMENDMENTS

The first amendment would increase the present 50 percent exclusion from gross income for long-term capital gain to 60 percent. The 25-percent alternative tax on the first $50,000 of a noncorporate taxpayer's net long-term capital gain, the present "add-on" minimum tax and the tax preference offset to the maximum tax would be repealed.

As a result of these changes, the maximum capital gains tax rate applicable to a noncorporate taxpayer would be 28 percent; that is, 40 percent of the highest individual tax rate of 70 percent.

The second amendment adopts a new alternative minimum tax in place of the present "add-on" minimum tax which would be payable only if it exceeded regularly computed tax. It would be graduated and would be based on taxable income, increased by tax preference items, and decreased by an exemption of $20,000. The next $40,000 of taxable income plus preference items would be subject to 25-percent tax. All taxable income plus preference items in excess of $100,000 would be subject to a 30-percent rate of tax.

The items of tax preference for purposes of the new alternative minimum tax shall be the same as present law as modified by the finance Committee bill.

However, capital gains from the sale of timber would not be subject to the new alternative minimum tax.

PURPOSE OF THE AMENDMENT—CAPITAL GAINS RATE

Many distinguished economists testified before the Senate Finance Committee that a substantial reduction in capital gains rates would increase capital formation, stimulate the economy, and create more jobs. I do not challenge the merits of their argument. However, the capital gains cuts in the committee bill are larger than they should be considering the fiscal limitations of the entire tax package and the desirability for a more equitable distribution. The committee bill would reduce the maximum rate of tax on capital gains from 49.125 to 21 percent by increasing the present 50-percent exclusion from gross income for long-term capital gains to 70 percent and by repealing the existing "add-on" minimum tax as it applies to noncorporate taxpayers. Certainly the maximum capital gains rate should be reduced to facilitate needed capital formation, but not to the level adopted by the Finance Committee. It would be more appropriate given budget restraints to reduce the maximum rate from the current 49 percent to approximately 28 percent.

Reducing the maximum capital gains rate to 28 percent would certainly have the effect of stimulating capital formation while providing needed tax relief to middle-income taxpayers. Moreover, reducing the capital gains rate to 28 percent in keeping with the President's position that the maximum capital gains rate should be approximately 30 percent. The committee bill falls short of this goal.

The committee bill distributes 75 percent of the capital gains cut to taxpayers with incomes over $50,000. The cost of this proposal would amount to over $3 billion in 1979. The following table illustrates this point:

Expanded income (thousands)	*Number of returns*	*Average tax decrease*	*Percent of total distribution*
Below $5	52,000	−$212	0.4
$5 to $10	539,000	−39	.7
$10 to $15	573,000	−82	1.6
$15 to $20	687,000	−136	3.2
$20 to $30	990,000	−204	6.8
$30 to $50	873,000	−454	13.2
$50 to $100	435,000	−1,625	23.9
$100 to $200	124,000	−3,863	15.1
$200 and above	41,000	−29,040	35.1
Totals	4,314,000	−727	100.0

Revenue estimate (in billions of dollars):

1979	$3.20
1980	$3.52
1981	$3.86

TIMBER EXCLUSION

A capital investment in timber is unique. Depending upon the geographic location, timber requires 25 to 100 years to reach maturity and begin to provide a return on the initial investment required to establish a stand of timber. The costs of carrying this investment from the time of seedling planting to maturity are unavoidable and continue to increase. This unique burden of the tree farmer must be recognized if we expect to grow timber for future generations.

This investment is also constantly exposed to risks in the form of fire, insect damage, and disease. Expenses to control these hazards continue for many years before a single dollar is collected by the owner. In many cases the Internal Revenue Service does not allow the current deductibility of these expenses and, therefore, the corporate tree farmer is required to earn $2 in inflated currency for every $1 invested throughout the prolonged holding period before harvest can be accomplished. The capital gains benefit is received only when the timber is harvested and until then the owner is locked into holding and maintaining this asset.

Capital gains treatment of income derived from the growing and selling of timber has provided the needed incentive for individual and corporate taxpayers to invest in timber. The supply of timber has, therefore, kept pace with the increased demand for timber products. Our forests are maintained and improved through intensive and costly management programs which maximize acreage yield. This results not only in an adequate supply of those products, but also assures, at the same time, genuine conservation of our timber resources. Such results will continue to be achievable only if a reasonable return on investment which recognizes the uniqueness of timber when compared to other investments continues to be available.

I am offering these proposals as a substitute for the capital gains rate cut accepted by the Finance Committee. These proposals would provide sufficient incentive for investors to invest in our Nation's economy at a savings of some $1.2 billion over the committee bill. This savings would have the effect of bringing the finance bill in line with budget limitations.●

AMENDMENT NO. 3975

(Ordered to be printed).

Mr. BAKER proposed an amendment to H.R. 13511, supra.

AMENDMENTS NOS. 3976 AND 3977

(Ordered to be printed and to lie on the table.)

Mr. MOYNIHAN submitted two amendments intended to be proposed by him to H.R. 13511, supra.

AMENDMENT NO. 3978

(Ordered to be printed and to lie on the table.)

Mr. MOYNIHAN (for himself and Mr. JAVITS) submitted an amendment intended to be proposed by them, jointly, to H.R. 13511, supra.

AMENDMENT NO. 3979

(Ordered to be printed and to lie on the table.)

Mr. METZENBAUM (for himself, Mr. CHAFEE, Mr. GLENN, Mr. PELL, Mr. STAFFORD, and Mr. HEINZ) submitted an amendment intended to be proposed by them, jointly, to H.R. 13511, supra.

AMENDMENT NO. 3980

(Ordered to be printed and to lie on the table.)

Mr. HEINZ submitted an amendment intended to be proposed by him to H.R. 13511, supra.

AMENDMENT NO. 3981

(Ordered to be printed and to lie on the table.)

Mr. HATHAWAY submitted an amendment intended to be proposed by him to H.R. 13511, supra.

AMENDMENT NO. 3982

(Ordered to be printed and to lie on the table.)

Mr. BELLMON submitted an amendment intended to be proposed by him to H.R. 13511, supra.

AMENDMENTS NOS. 3983 THROUGH 3986

(Ordered to be printed and to lie on the table.)

Mr. DOLE submitted four amendments intended to be proposed by him to H.R. 13511, supra.

AMENDMENT NO. 3987

(Ordered to be printed and to lie on the table).

Mr. BARTLETT submitted an amendment intended to be proposed by him to H.R. 13511, supra.

AMENDMENTS NOS. 3988 THROUGH 3989

(Ordered to be printed and to lie on the table.)

Mr. WALLOP submitted two amendments intended to be proposed by him to H.R. 13511, supra.

AMENDMENT NO. 3990

(Ordered to be printed and to lie on the table.)

Mr. WALLOP (for himself, Mr. BAKER, Mr. DOMENICI, and Mr. METZENBAUM) submitted an amendment intended to be proposed by them, jointly, to H.R. 13511, supra.

AMENDMENT NOS. *3991* THROUGH *3993*

(Ordered to be printed and to lie on the table.)

Mr. BAYH submitted three amendments intended to be proposed by him to H.R. 13511, supra.

AMENDMENT NO. 3994

(Ordered to be printed and to lie on the table.)

Mr. DOLE submitted an amendment intended to be proposed by him to H.R. 13511, supra.

● Mr. DOLE. Mr. President, the Health Care Financing Administration is the agency in the Department of Health, Education, and Welfare responsible for the administration, coordination, and policymaking for the $50 billion medicare and medicaid programs, and certain quality assurance programs.

HISTORY OF HCFA

That agency was originally proposed some 3 years ago as a provision of S. 3205 and again in this Congress as a section in S. 1470. The agency was intended to provide a means for orderly consolidation and coordination of the medicare and medicaid programs. The concept of the Health Care Financing Administration was embraced by the administration prior to congressional action, and the agency established administratively rather than legislatively.

Since its inception, it has had serious difficulties, both administrative and bureaucratic. However, the last few months there appears to have been marked improvement in the functioning of this agency whose effectiveness means so much to so many millions of poor and older Americans.

SUFFICIENT AND BROAD RESPONSIBILITIES

This agency is certainly on a par with the Social Security Administration in its significance. Its role will only grow larger over time. As we all know, health care and health care financing are enormously complex areas which demand expertise, sophistication, and sensitivity. The programs we have with health care, both in the public and private sectors are enormous and urgent. At best we have only partial solutions to them. Hopefully, in time, we will have more adequate and equitable answers.

WHY REQUIRE SENATE CONFIRMATION?

It is absolutely vital that the principal official of that agency, the Administrator of the Health Care Financing Administration, be an individual experienced and knowledgeable in health care and health care financing, with full awareness of the sensitivity and complexity involved in those areas. This position is essentially a successor to a previous position—Administrator of the Social and Rehabilitation Service—which required Senate confirmation, because of its medicaid responsibilities. S. 3205 and S. 1470, to which I previously referred, provided for Senate review and confirmation of Presidential appointment of the Administrator of the Health Care Financing Administration. The significance of the appointment is so obvious and so important that I believe it worthy of introduction.

Therefore, Mr. President, I submit this amendment to the tax bill providing this change in the Social Security Act.

AMENDMENTS NOS. 3995 AND 3996

(Ordered to be printed and to lie on the table.)

Mr. BELLMON (for himself, Mr. RIBICOFF, Mr. BAKER, and Mr. DANFORTH) submitted two amendments intended to be proposed by them, jointly, to H.R. 13511, supra.

AMENDMENT NO. 3997

(Ordered to be printed and to lie on the table.)

Mr. SCHMITT submitted an amendment intended to be proposed by him to H.R. 13511, supra.

AMENDMENT NO. 3998

(Ordered to be printed and to lie on the table.)

Mr. HEINZ (for himself, Mr. NELSON, Mr. WEICKER, and Mr. RIEGLE) submitted an amendment intended to be proposed by them, jointly, to H.R. 13511, supra.

AMENDMENTS NOS. 3999 THROUGH 4005

(Ordered to be printed and to lie on the table.)

Mr. HEINZ submitted seven amendments intended to be proposed by him to H.R. 13511, supra.

AMENDMENT NO. 4006

(Ordered to be printed and to lie on the table.)

Mr. TALMADGE submitted an amendment intended to be proposed by him to H.R. 13511, supra.

AMENDMENT NO. 4007

(Ordered to be printed.)

Mr. BUMPERS proposed an amendment to H.R. 13511, supra.

AMENDMENT NO. 4008

(Ordered to be printed.)

Mr. DECONCINI proposed an amendment to H.R. 13511, supra.

AMENDMENT NO. 4009

(Ordered to be printed.)

Mr. PERCY proposed an amendment to H.R. 13511, supra.

AMENDMENT NO. 4010

(Ordered to be printed and to lie on the table.)

Mr. JAVITS submitted an amendment intended to be proposed by him to H.R. 13511, supra.

AMENDMENT NO. 4011

(Ordered to be printed.)

Mr. MOYNIHAN proposed an amendment to H.R. 13511, supra.

AMENDMENT NO. 4012

(Ordered to be printed.)

Mr. PACKWOOD proposed an amendment to H.R. 13511, supra.

AMENDMENT NO. 4013

(Ordered to be printed.)

Mr. MOYNIHAN proposed an amendment to H.R. 13511, supra.

AMENDMENT NO. 4014

(Ordered to be printed.)

Mr. KENNEDY submitted an amendment to H.R. 13511, supra.

AMENDMENT NO. 4015

(Ordered to be printed and to lie on the table.)

Mr. MOYNIHAN (for himself and Mr. CRANSTON) submitted an amendment intended to be proposed by them, jointly, to H.R. 13511, supra.

AMENDMENTS NOS. 4016 AND 4017

(Ordered to be printed and to lie on the table.)

Mr. HOLLINGS submitted two amendments intended to be proposed by him to H.R. 13511, supra.

AMENDMENT NO. 4018

(Ordered to be printed and to lie on the table.)

Mr. INOUYE (for himself and Mr. MATSUNAGA) submitted an amendment intended to be proposed by them, jointly, to H.R. 13511, supra.

AMENDMENT NO. 4019

(Ordered to be printed and to lie on the table.)

Mr. METZENBAUM (for himself, Mr. CHAFEE, Mr. GLENN, Mr. HEINZ, Mr. LEAHY, Mr. PELL, and Mr. STAFFORD) submitted an amendment intended to be proposed by them, jointly, to H.R. 13511, supra.

ADDITIONAL STATEMENTS

A MISTAKEN VETO

● Mr. McGOVERN. Mr. President, the veto of H.R. 12928, the Energy and Public Works Appropriations Act, appears to be an effort by the President and his administration to convince the public that congressionally authorized water projects are inflationary.

We have been treated to what advertising experts might market as "Jimmy Carter: Inflation Fighter." This campaign is designed to improve the President's political image at the expense of the Congress.

The President's veto message to the Congress yesterday told us there is no "single dramatic act which will control the budget." He wrote us that "budgetary control must be achieved by the cumulative impact of hard choices."

In truth, the Public Works Appropriations Act presented the President an opportunity to play to the proposition 13 sentiment in the country by launching cheap shots at the so-called "pork barrel." What we are really talking about are Federal projects which pay back much of their initial investment. They pay money back to the Treasury directly and return many times their cost in long-term benefits. In this way our public works program is unique among Federal programs.

But, as the President knew when he vetoed those public works projects, the victims of future floods are not yet vocal. We cannot readily identify the people who will be left without jobs or the communities left to fade away when these projects are not completed. There is no "hard choice" here. We have instead a safe, if woefully shortsighted, political ploy.

The hard choices will come if and when the President stands up to the insatiable demands of the Pentagon.

On that point, we have seen the President be firm in canceling production of the B–1 bomber and in turning down an unwanted nuclear aircraft carrier. While I agree these were prudent steps, I find we have ignored the fact that while making those decisions, the President still rewarded the authors of that spending package with a $10 billion net increase in their budget for fiscal 1979.

If the President were truly the bold inflation fighter he now portrays himself to be, he would be trying desperately to reverse that dramatic invitation to more military waste.

I attempted to offer such an opportunity yesterday by a modest amendment which would have cut 1 percent from the $116 billion defense appropriations bill.

I have not heard that any member of the administration took time to support this effort to help bring sanity to the military sector and fight a very real cause of inflation.

Apparent fiscal lavishness in the arms sector does not appeal to the President's anti-inflation strategy. He is instead after smaller game and the quick "media hit". Really—what has bothered the President so much about this public works appropriations package?

The President admits he is not at all concerned with the $6.1 billion earmarked in the vetoed bill for energy R. & D. programs. He says there is no "fat" there.

He is not concerned about the $251 million financing power marketing operations and construction projects. He did not express distress with the $138 million to be used by the U.S. Army Corps of Engineers to study a variety of projects in order to determine their feasibility.

What he was concerned with was a very small fraction of the $1.3 billion intended to fund corps' construction of a few projects he personally does not care for. Some of the $223 million intended to provide flood control concerns him. Part of the $30 million the Bureau of Reclamation was going to use to study project feasibility bothered him and definitely, he did not like a couple of projects included as small parts of the $221 million reclamation construction budget.

What then is at issue? The congressional budget adopted last month accommodates the spending in this public works bill. The same budget calls for a 35-percent reduction in the deficit expected in President Carter's budget recommendations of last January. The "platter of pork" the Congress served up to the President actually called for less money than he himself asked us to spend.

Let me return for a moment to the contrast I was noting earlier. The President has neglected the inflationary impact of the $10 billion increase in the military budget and is instead outraged at some $1.7 billion in total public works projects costs which will be spent over two or three decades.

If the President is worried about sneaking big bucks into the budget through small initial investments, then he ought, once again, to find the arms budget a compelling target.

This year's increase in the defense budget represents a commitment to spend $130 billion in the next 5 years—contrasted with our modest commitment to spend $1.7 billion over the next 20 to 30 years on water development.

Of course what we are talking about here is "ultimate costs." This is the very argument the President is using. But on these grounds, the President's "inflation" argument falls flat. Really now, which of the long-term commitments is going to create more inflationary pressure?

Let us face it, the President and especially his environmentally-oriented staff, stinging from the President's "cave-in" to the Congress on this issue last year, simply disliked a few specific projects and hid behind an inflation argument to see them defeated this year. Why did not the President make his argument on these grounds instead of re-

verting to this specious inflation argument? Simply because it would have cast the confrontation as one of "philosophical difference" and would therefore have been harder to use in whipping up popular support for this unwise decision.

The Senate will not now of course have a chance to vote on this issue because the two-thirds majority necessary to override the President's veto was not mustered in the House. We instead are left wondering how many billions in "political deals" were struck to win the votes necessary to sustain the veto. We will never know and cannot easily determine their contribution to inflation and wasteful spending.

For this reason, I thank my colleagues for their patience in allowing me to make these few observations the day after the House of Representatives allowed the President to make this misdirected and ineffectual step against inflation. I think time will prove me out when I say what has transpired was neither in the public interest, nor a matter of good national policy. It was public relations imagemaking.●

● Mr. CASE. Mr. President, the situation in Lebanon is deeply disturbing. It cries out for urgent steps to halt the repeated shellings of civilian areas and an immediate cease-fire.

Of particular concern is the continued, deliberate and indiscriminate shelling by Syrian forces of civilian areas, especially those inhabited by the Christian minority in Beirut. Thus, I join in supporting efforts to halt the bloodshed and obtain an immediate cease-fire, including using an emergency session of the United Nations security Council.

At the same time, I wish to express my strong opposition to the approval of the sale to Syria of four large cargo planes, the L–100 which is the civilian and stretched out version of the C–130 Hercules military transport plane. The first two planes are to be delivered to Syria in December.

It was very disturbing to hear that the sale was approved quietly at this time, without consultation with Congress and even, it now appears, without the knowledge of high level State Department officials. The first indication that the export license was approved came from a press report.

Upon checking into the situation, the State Department advised my office that the sale was approved at a relatively low level in the Department, by a deputy assistant secretary, and not at the higher policy levels. The approval was described as a "routine decision," based on the rationale that the L–100 is listed as a civilian plane and therefore not subject to congressional review procedures. This ignores the fact that the differences are not major and the L–100 can be used for carrying military as well as civilian cargo.

The manufacturer, Lockheed, has been seeking for 2 years to obtain a license for the sale and previously had been turned down. But the Commerce Department says the application for an export license was resubmitted August 27th. That was shortly before the Camp David meeting began.

By the timing of the sale and the nature of the plane, the export license application should not have been considered in a routine fashion. It is not routine to sell to a hardline country a plane such as a C–130, at this particular time.

The State Department approved the sale on September 27. That was exactly 1 month after the new application was submitted. It also was 10 days after the Camp David agreement was announced and the Syrians continued to attack the peace efforts. It also happened to be the same day that, without mentioning the impending plane sale, the administration worked for and won congressional approval of another "gesture" toward the Syrians—the $90 million the administration requested in foreign aid for Syria. The House eliminated the funds but a high level lobbying campaign by White House officials persuaded a Senate-House conference committee on the foreign aid appropriations bill to go along with the full $90 million requested for Syria and this was done even though State Department officials had privately indicated the previous week that they would accept a cut of about 30 percent if the funds were not cut on the Senate floor while Secretary Vance was then visiting Syria and other Arab nations. September 27 was also a day after the press reported that the Syrian Information minister was calling for the formation of a strategic alliance between Syrian and the Soviet Union in the Middle East as a reaction to the Camp David agreements.

In the week and a half since those two generous gestures of aid and planes were made to Syria, the Syrians have "reciprocated" by stepping up their shelling and attacks on the Christian community in Lebanon, creating hundreds of casualties.

The mishandling of this plane sale points up the need for the administration to reassess the policies and procedures which led to the granting of the export license. Earlier this year, administration officials strongly and successfully opposed in a conference committee a Senate amendment to the Security Supporting Assistance bill which called for improved procedures, including involvement of the Secretary of State, for scrutinizing commercial sales to certain types of countries.

Mr. President, I have been advised that following the inquiries made by my office and others into the proposed plane sale to Syria, the export license is now being reviewed at higher policy levels in the State Department. I am pleased to hear that a second look is being taken, even if belatedly. I urge the administration to make the reassessment a careful and deliberate one—and in the meantime suspend the license.●

DISTRIBUTION OF DAIRY STOCKS

● Mr. LEAHY. Mr. President, a global problem which faces us is a serious misallocation of the world's resources. This is especially true in regard to our allocation of man's most basic resource—food. One stark example of this is distribution of dairy stocks. In this country we are storing millions of tons of nonfat dried milk, butter, and cheese. These surpluses depress dairy prices in this country, while dairy products are scarce in other parts of the globe. All over the world and in the United States itself, people suffer from malnutrition and starvation. This glaring paradox is disturbing, and a method of equitable allocation must be found.

I would like to bring to Congress' attention one innovative proposal relating to the distribution of dairy products. The proposal is the creation of an International Dairy Cooperative, a concept developed by Patrick H. Healy, Secretary of the National Milk Producers Federation.

The International Dairy Cooperative is not another food-aid program. Its basic principles rest upon sound economic policies. The IDC would be an international administrative process by which surplus stocks of dairy product, for instance nonfat dry milk powder, would be handled by a group of international experts in commodity placement. Absolutely no existing markets would be disturbed by the IDC. The IDC's first responsibility, after assuming possession of stocks of dairy products produced in surplus to domestic needs, would be to develop new markets. This development would rely on a sliding economic scale. Those nations which could not afford to pay for the nutritious supplies of milk powder would be eligible to receive the needed food through an aid and development program. This plan will serve to strengthen the international market for dairy products and will help to alleviate the unnecessary undercutting market which now hampers strong dairy industries at home and abroad.

I bring this concept to your attention so that the potential advantages of this innovative proposal may be explored and discussed.

Mr. President, I submit for the RECORD an outline of the proposal.

The outline follows:

INTERNATIONAL DAIRY COOPERATIVE

PREMISE

The dairy industry of every major producing nation faces the ongoing task of managing and finding markets for their reserve supplies of milk. This process has led to a variety of actions on the part of governments and dairy industries which depress prices in world markets, distort normal trade patterns and, at times, cause serious damage to the dairy industries of other nations.

At the same time, millions of people in other nations face a more difficult problem—hunger. Lack of the capability to produce sufficient food or the funds to purchase needed supplies is a major problem facing many of the lesser-developed nations.

The opportunity exists to use the first problem to alleviate the second. The estab-

lishment of a cooperative international organization for the purpose of utilizing dairy stocks surplus to the needs of commercial markets can be a major step toward addressing world food needs on a continuing and rational basis. It can be a positive move in the development of new commercial markets. It can alleviate the chaotic conditions which characterize world dairy trade while assisting in maintaining the basic strength of domestic dairy industries.

FOOD NEEDS

Nonfat dry milk represents a stable, compact source of nutrition. Experience gained through its use in nutrition programs throughout the world over the last thirty years has demonstrated its value. It is readily stored and transported. It is a versatile product that can be used under a wide variety of conditions with a minimum of supporting technology for preparation and distribution.

While substantial quantities have been used for nutrition supplement in the past, more can be done with it provided steps are taken to stabilize its availability.

According to the Food and Agriculture Organization of the United Nations, the average annual usage of nonfat dry milk was 270,000 tons during the 1960's under a variety of food aid commitments. These commitments declined substantially late in the decade and by 1973–74, only 76,500 tons were committed to this use.

The work of the FAO has indicated that over 600,000 tons of nonfat dry milk are needed annually to provide a minimum level of assistance to needy persons in 36 nations. This would be employed in food assistance programs, food-for-work type projects and similar efforts.

It is necessary to provide assurances of continued availability as recipient nations are reluctant to commit scarce resources to programs which may be subject to termination in the short term. In addition, the FAO study indicated a need for moderate expansion of distribution facilities and some technical assistance in the development of utilization programs. With some degree of planning and the use of existing expertise within the governments and dairy industries of producing nations, these problems can be met.

MILK SUPPLY

The nature of milk production and the central role it plays in the nutrition patterns and economies of producing nations tend toward the production of milk in excess of domestic needs.

Weather patterns, governmental policies, and independent producer decisions all play a role in this process.

The seasonal pattern of milk production, production volatility in the face of weather and other factors affecting feed supplies, and the need to assure adequate production to meet consumer needs have led governments to recognize the need for some means to assure producers a degree of price stability which will induce them to make the commitment needed and accept the risks associated with milk production.

In connection with these efforts, some means of handling the surplus production has been developed by each individual nation. Unfortunately, these efforts tend to operate independently of each other with too little regard for their impact on the commercial export markets of other countries or on the domestic markets of other producing countries.

The existence of surplus dairy product stocks now places great pressure on the industries of producing nations and on their governments. Governmental decisions regarding dairy policy are necessarily affected by these stocks. Sounder, longer term decisions would be possible in the absence of such surpluses. Government officials responsible for dairy programs could act more effectively on current issues absent the compelling political pressures of overwhelming stocks.

Since utilization of these stocks is essential, it should be possible to develop a means of employing them in the most beneficial manner while avoiding the price depressing effects that have too often accompanied these efforts.

There is an abundant supply of nonfat dry milk available. It is a product that is easy to ship; to store; to use. Its effective disposition poses a major problem for major milk producing nations.

At the same time, there exists a major need for improved nutrition in nations throughout the world.

Some conduit is needed to match these two problems to yield a solution that would be beneficial in both instances.

AN INTERNATIONAL DAIRY COOPERATIVE

An International Dairy Cooperative would serve as a combination market development and food assistance agency for the dairy industries of producing nations. All stocks of nonfat dry milk determined to be surplus to the market needs of participating nations would be committed to the cooperative. Under the direction of the Board of Directors, the cooperative management would be responsible for identifying and implementing the programs of the cooperative. As indicated, this would include both market development and food aid.

These activities would not compete with the commercial export sales of producing nations. The sales programs of the IDC would be directed toward those nations which have not achieved the capability of participating in the commercial market. In some instances, this would mean sales at reduced prices. This would permit those nations to obtain the supplies needed and, at the same time, remove these technically noncommercial sales from the position of setting the price of nonfat dry milk in the world market.

For those nations unable to participate in the market even at a reduced price, the IDC would operate as a source of food aid. The cooperative and the recipient nation would jointly develop the terms of such a program, tailoring it to the needs of the country, including necessary arrangements for technical assistance, equipment, educational programs and other considerations necessary to achieve the fullest possible utilization. Future market development considerations would also be a part of this effort.

By channeling these reduced price sales through the IDC, producing nations would not be in the position of constantly underbidding one another in the international market. The continual price war which develops from attempts to dispose of surplus nonfat dry milk destroys the structure of the entire international dairy market. The International Dairy Cooperative would provide a home for true surpluses, thereby allowing the commercial market to operate at realistic levels.

Income realized from the sale of committed stocks, minus a deduction for program operation costs, would be divided among participating countries on a pro rata basis.

OTHER CONSIDERATIONS

While such agency can effectively serve to address food needs and the management of world daily stocks, there are several considerations which must be addressed as part of the plan. Actual nutritional needs must be addressed rather than permitting the effort to become a simple dumping operation. The cooperative's operations must not disrupt established commercial markets or the development of local industries in recipient countries. Finally, the program must not stand in the way of changing international economies but should facilitate the development of additional commercial markets.

Each of these considerations can be addressed within the structure outlined. The essential ingredient of any such effort must be the commitment of participating nations to make it work.

SUMMARY

The brief outline presented here leaves the detail of organization and operation to later development. The basic premise is to commit all stocks of nonfat dry milk in excess of commercial market needs to an international organization for use in market development and food aid effort. This would be a major step forward in dealing with the instability caused by excess production in primary dairy nations. Commercial markets would be strengthened by removal of the effects of below-market sales in efforts to reduce stockpiles. At the same time, the obvious benefit of improved nutrition would result.

DEVELOPMENT PLAN

1. International pooling of expertise from nations producing surplus stocks of nonfat dry milk and from nations in need of food assistance to address nutrition problems.

2. Documentation of the needs in terms of food assistance and the capacity of the populations of recipient nations to utilize available aid.

3. Development of an accurate assessment of international supplies to determine the scope of food aid potential.

4. Government commitments of resources and adoption of supportive policies by all nations concerned.

5. Establishment of the International Dairy Cooperative to coordinate the useful disposition of surplus supplies of nonfat dry milk.●

HOSPITAL COST CONTAINMENT LEGISLATION

● Mr. McCLURE. Mr. President, I wish to express my concern with the amendment that the Senator from Wisconsin (Mr. NELSON) intends to offer to the hospital cost containment bill. Rising health care costs are of concern to all of us. I am convinced that there is no difference in the commitment of the honorable Senator from Wisconsin and my own to the well-being of the people of the United States. We share equal concern in the endeavor to make available, both in accessibility and affordability, the best kind of health care to all persons. We do disagree, however, on the method to achieve that goal.

This amendment, which would authorize standby wage and price controls on hospitals is, in my judgment, arbitrary, unnecessary, and destructive to the successful voluntary cost containment efforts now underway by hospitals, physicians, and other concerned parties throughout the Nation.

This amendment would authorize wage and price controls on a single segment of one industry. Experience has shown that such controls are inequitable and counterproductive. Standby controls are inherently inflationary, because they en-

courage protective actions in advance by those who are at risk of further, future controls. This point has been repeatedly recognized and emphasized by Robert Strauss, the President's special counselor on inflation, as well as by Dr. C. Jackson Grayson, Chairman of the Price Commission during phase II of the economic stabilization program.

Shortly after taking office, President Carter called on labor and business to voluntarily control costs and fight inflation. One segment of the economy that quickly responded to this challenge was the health care industry. The American Hospital Association, the American Medical Association, and the Federation of American Hospitals produced a new partnership among hospitals, physicians, and consumers in instigating a nationwide program to slow down the rate of increase in health care expenditures. This effort by the private sector to control costs has become known as the "Voluntary Effort."

The immediate goal of the voluntary effort is to narrow the gap between health care increases and the rate of increase in the gross national product by significantly reducing the rate of increase in community hospital expenditures by 2 percentage points in 1978 and another 2 points in 1979. This voluntary effort is working. There has been a 2.9-percentage point decline in the rate of increase in hospital expenditures during the first 6 months of this year as compared to the same period in 1977. And the first 4 months of 1978 represent the lowest 4-month period since 1974. In addition, the July consumer price index data recently released show a continued decline in hospital industry inflation. The Congressional Budget Office has estimated the savings obtained from the voluntary effort to be $30 billion over the next 5 years.

I support the voluntary effort organized by the health community. I believe that this program should be given a chance to work without the threat of a fallback Federal mandatory control program. The President himself asked industry to voluntarily control costs. I am aware of no other industry which has met the administration's challenge as has the hospital industry. Why then this later punitive action against the one industry that has exemplified the President's program?

Senator NELSON says that his amendment recognizes the voluntary effort and imposes control on a standby basis. In fact, such standby controls are inequitable in that they seek to impose special controls on just one sector of the economy. Furthermore, the amendment would impose a flat "cap" on all hospitals thus ignoring the legitimate differences among institutions and their needs. This threat of controls forces the prudent manager to take defensive measures he would not otherwise have to. They force the prudent administrator to keep a cushion, a little flexibility, in his operations rather than lowering all expenses to their full extent. Those institutions which would suffer most are the hospitals which have striven to operate efficiently to date—those which have no spare fiscal "padding" from past years. The practical effect of this amendment would be a reduction in health services. Small hospitals in rural areas, which have tended to practice economy measures, would be especially hard hit. For them, a reduction or discontinuance of health services will be a likely result. As a consequence, the community will suffer. Such an outcome may cut costs, but the health and well-being of millions of Americans would be jeopardized.

Again Senator NELSON's proposed controls are wage-price controls and they are being unfairly imposed on one industry. I am against wage-price controls on principle and especially when only one industry of the economy is singled out. Such controls do not recognize expenses that continue to rise in areas beyond the control of hospitals such as costs of equipment and supplies, wages of hospital workers, or the costs of fuel or food.

Mr. President, I am not suggesting that hospitals be absolved of all responsibility for the increase in health care costs, but I fail to understand the value of a proposal which ignores current inflation and the fact hospitals have little or no control over many of the operational expenses. The end result can only be a diminution in health care quality for all consumers. I will vote against the Nelson amendment and urge my colleagues to vote with me.●

FOREIGN RELATIONS COMMITTEE: DIRECT SPENDING ALLOCATIONS

● Mr. SPARKMAN. Mr. President, in compliance with section 302(b) of the Congressional Budget Act of 1974, I am submitting on behalf of the Committee on Foreign Relations its report on direct spending under the committee's jurisdiction as provided by the second concurrent resolution on the budget for fiscal year 1979.

I ask that the report be printed in the RECORD.

The report follows:

COMMITTEE ON FOREIGN RELATIONS REPORT TO THE SENATE PURSUANT TO SEC. 302(b) OF THE CONGRESSIONAL BUDGET ACT—FISCAL YEAR 1979 ALLOCATION

[In thousands of dollars]

	Budget authority	Outlays
Subcommittee on Foreign Assistance:		
International affairs (150):		
Advances, foreign military sales	11,100,000	9,400,000
Liquidation, foreign military sales fund	0	−2,000
Technical assistance trust fund	4,000	4,000
Peace Corps trust fund	245	245
Subtotal	11,104,245	9,402,245
Subcommittee on International Operations:		
International Affairs (150):		
Payment to Foreign Service retirement fund	92,300	92,300
International Center, Washington, D. C	2,346	2,346
Department of State trust fund	740	20 740
Gifts and bequests, National Commission on Educational, Scientific, and Cultural Cooperation	25	
Department of Transportation trust fund	11,510	11,510
International Communications Agency trust fund	331	337
Subtotal	107,252	107,253
Commerce and housing credit (370): Department of Commerce trust fund	4,800	6,000
Income security (600): Foreign Service retirement and disability fund	207,817	117,430
Total allocation to Senate Foreign Relations Committee	11,424,114	9,632,928

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THE SHARP DECLINE IN THE DOLLAR

● Mr. JAVITS. Mr. President, "What to do About the Dollar"—a subject of serious national concern and much international debate—is the title of an excellent essay in this week's issue of Time magazine. George Tabor, its author, vividly highlights the dangers of having a shaky dollar at the center of the international economy—the dangerous speculative runs on the dollar in the money markets, the hesitancy on the part of business in making investment decisions and the exaggerated exchange rates that increase the danger of protectionist trade wars.

The Time article follows a recent speech I delivered to the Senate on August 17 regarding the decline of the dollar in its three-faceted approach to the immediate, medium- and long-term aspects of the dollar problem. At that time, I felt that we must develop a large swap arrangement with the other central banks as a backup mechanism to permit stronger intervention in the money markets. At the same time, the serious and deep-seated problems of the domestic economy that have international consequences must be addressed by intermediate-term policy measures to stop inflation, cut down on our oil imports, and increase our exports and trim our trade deficit.

Perhaps the most difficult aspect of the problem will be to adjust to the long-term structural changes in the international economic system—the change from fixed to floating exchange rates and the OPEC oil price increase—that are the legacy of the 1970's.

Mr. Tabor also recognizes that the most important ingredient for the success of any of these measures is U.S. leadership. The multifaceted nature of the dollar problem requires a strong and decisive Executive who is in control of the situation.

I commend the Time essay to my colleagues and ask that it be printed in the RECORD.

The article follows:

WHAT TO DO ABOUT THE DOLLAR

After long considering a strong dollar a national birthright, Americans lately have learned the humiliation of holding a currency that sinks, slumps and plummets almost every day. In the past year the dollar has declined 17 percent against the West

German mark, 29 percent against the Japanese yen and 34 percent against the Swiss franc—and even 9 percent against the Indian rupee. The Carter Administration has responded with a Dr. Feelgood litany that the dollar's health is sound, and that it will recover from its indisposition if everyone will only wait long enough. But the world's money traders are not buying that happy talk and are now demanding fundamental shifts in U.S. dollar policy.

The value of the dollar determines much more than merely what the doctor in Houston must pay for his new Mercedes-Benz or the housewife in St. Paul for her Swiss chocolates. Prices of domestic goods go up because the competing imports are more expensive; the dollar's decline will add as much as 1.5 percent to the inflation rate this year. More important, a nation's currency is the symbol of its economic vitality and the instrument by which it exercises its world role. The fall of the once-mighty British pound from $4.03 to a low of $1.55 was both a contributor to and a measure of Britain's postwar decline. When Charles deGaulle returned to power in 1958, one of his first acts was to restore the French franc to strength with a currency reform that devalued the franc, established an austerity program and even symbolically replaced the Monopoly-money *ancien* franc with a *nouveau* franc at a rate of 1 new for 100 old.

The fate of the dollar calls into question the way the whole world does business. The international monetary system is a precarious structure held together largely by paste, baling wire and confidence in the dollar, since it is the currency in which most international deals are made and which central banks keep in their vaults as reserves. During recent runs on the dollar, the first signs of financial panic could be seen. World money markets now resemble the urban ghettos of the 1960s, when a random traffic ticket or barroom scuffle could set off days of bloody rampages. The most implausible rumors out of Washington or the Middle East cause currency jitters and a dollar fall.

For no apparent reason, one Monday morning seven weeks ago, bankers, corporate treasurers and speculators suddenly wanted to sell dollars, causing a mindless two-day dollar run. Washington policymakers are still frightened by the episode because they have no idea why it started. While not predicting *The Crash of '79*, the dramatic title of a novel that foretold the collapse of Western civilization after a dollar disaster, Henry Kaufman, a partner in Wall Street's Salomon Bros., warns that the attack on the dollar "has placed the entire international monetary system in jeopardy."

The effects of a shaky centerpiece on the world economy are evident. Businessmen, who feel they cannot predict the value of their currency tomorrow morning much less a year from now, have grown overly cautious. Instead of marketing the new product that may (or may not) bring a profit in three or four years, they are gambling in the currency markets in hopes of making an overnight gain on a falling dollar or rising yen. That is one reason why business investment and economic growth in most Western industrial countries are running at only half the level of the 1960s.

Unreasonable exchange rates, which now mean a cup of coffee costing $2 in Geneva or a hotel room $100 a night in Tokyo, increase the danger of protectionist trade wars as everyone runs to shield his market against low-priced U.S. competition. The Tokyo round of trade talks, which has been dragging on for four years, is in danger largely because of the dollar. Finally, global inflation is being fired anew. Uncertain what the value of a product will be even a few weeks from now, both exporter and importers raise prices a little more to ensure against a possible loss from a currency change.

Until very recently the Carter Administration had tried to find benefits in a weaker dollar, claiming that it would encourage American sales abroad; and a year ago, Treasury Secretary W. Michael Blumenthal was arguing that the dollar was too expensive, and tried to talk its value down. Fortunately that view has been forcefully dismissed. Says Federal Reserve Chairman G. William Miller: "Any idea that it is in the interest of the U.S. to have a weak dollar, to have a lower dollar, is false prophecy. It is just not right."

A new American policy to lift the dollar will have to overcome that past mistake because worldy bankers and investors are very skeptical about the commitment of the Administration, and they have adopted a "show me" attitude. Quipped one top banker at the annual meeting of the International Monetary Fund in Washington last week: "He who talketh down the dollar cannot talk it back up." Of course, the stability of the American economy and the world financial system demands a decisive policy that goes much beyond talk. It should be a threefold strategy, of immediate steps to stem the dollar's decline, medium-term measures to correct the dollar's underlying weakness, and long-term reform that would stabilize the American currency inside a more certain monetary system. In sum, the U.S. can come to the aid of its currency if it takes a mix of actions:

SUPPORT THE DOLLAR

Everyone from Swiss gnomes to Brooklyn cabbies agree that the dollar is grossly undervalued. It can buy much more at home than abroad. Says Yale Economist Robert Triffin: "I used to buy all my suits in Europe because they cost half as much as in America. Now the situation is exactly reversed, and I buy my clothes in the U.S."

To prevent a further fall in the value of the greenback, the U.S. Government, in close cooperation with leading foreign central banks, should step in and buy large quantities of dollars on world markets. This would require assembling a vast war chest of funds to show currency speculators that Washington has the money to back up that policy. Two fast and impressive steps would be increasing sales from the nation's $60 billion gold reserves, as former Federal Reserve Chairman Arthur Burns suggests, and enlarging the so-called swap network of dollar defense funds from $25 billion to $100 billion, as Senator Jacob Javits proposes.

Critics of intervention argue that there is $400 billion to $600 billion in surplus dollars floating around foreign money markets—nobody knows the exact total—and Washington could not begin to buy them all. But if the U.S. expressed willingness and made funds available to buy huge amounts, speculators would conclude that the price would stay up, and so they would not sell their dollars. In short, a war chest to defend the dollar, coupled with a strong determination to use it if necessary, would act much like a nuclear deterrent: the more impressive it is, the less likely it will ever need to be used.

FIGHT INFLATION

An immediate dollar-support program will only buy time while the Administration takes the more fundamental action necessary to correct the dollar's underlying weakness. The most important step would be a tough, credible anti-inflation program. Inflation, of course, debauches a currency by reducing its purchasing power. As long as the West German inflation rate is under 3 percent while the American rate is more than 8 percent, the dollar will continue to depreciate, and the mark will rise. An austerity program that brings American inflation down toward the German level is an inescapable move to support the dollar.

President Carter is working on a Stage Two anti-inflation program that is expected to include voluntary wage and price guidelines. They can only supplement firm fiscal and monetary policies, which are still the surest way to slow inflation. The fiscal 1979 federal deficit is expected to be some $39 billion, and final planning will soon start on the 1980 budget. All effort should be made to keep that deficit well below $30 billion, for a larger figure would be a clear sign that the Administration does not take the inflation struggle seriously. The Federal Reserve must also continue its increasingly tight money policy, even though interest rates are starting to hit double digits.

DEVELOP AND CONSERVE ENERGY

Since the quintupling of oil prices by the OPEC cartel five years ago, the U.S. has spent $153.5 billion on oil imports, greatly swelling the world glut of dollars and reducing their value. Last week's Senate passage of the natural gas compromise was a small move in the right direction of reducing oil imports and increasing domestic energy production. Much more is needed. Congress is sure to kill Carter's proposal for a crude-oil equalization tax that would have raised U.S. oil prices to the world level and discouraged consumption. As a temporary substitute, the President should use his executive power to place an import tax or quota on oil imports. Beginning next May, the President will also have authority to deregulate oil prices. He should announce now that he will start moving then to increase prices, that will both slow imports and speed the search for more domestic oil and gas

EXPAND EXPORTS

The U.S. must again become a nation of traders in order to close the trade deficit that this year will approach $33 billion. The President's new export policy does not adequately cope with the myriad Government barriers that block sales abroad. Some $10 billion in exports is being lost annually because of a variety of Government measures, including blocking exports to some countries in order to further human rights policy. American businessmen, most of whom have treated exports as a minor sidelight, must also become more aware of new sales opportunities after the sharp decline in the dollar. Exports amount to a rather meager 6.4 percent of the gross national product; Federal Reserve Chairman Miller urges a drive to raise that to 10 percent.

SHOW ECONOMIC LEADERSHIP

By dumping dollars, foreigners have been voting no confidence in America's economic leadership. The long congressional battle over energy, after which Carter won only part of his program, and the conflicting policy signals on the dollar and inflation have moved many foreigners to conclude that U.S. economic policy is out of control.

There have been serious conflicts and infighting among the President's economic advisers. Instead of one clear voice speaking with authority, the Administration has sounded like a Greek chorus. Treasury Secretary Blumenthal, Anti-Inflation Coordinator Robert Strauss, Domestic Adviser Stuart Eizenstat and a host of other instant experts freely toss out ideas, and the conclusion is confusion. Nobody knows who speaks for the President. The Treasury Secretary, who is traditionally the chief economic spokesman, has been contradicted and undercut repeatedly by the White House, and his effectiveness has been seriously impaired. Said one European minister at the IMF meeting: "This Administration should either express confidence in this Secretary of the Treasury or get a new one." The credibility of the Carter

Administration to world moneymen will remain in doubt until there is one coherent authoritative voice on economic matters.

REFORM THE MONETARY SYSTEM

Beyond these short- and medium-term measures, there is need for long-range changes in the world's money system. Since early 1973 the system has been based on floating rates: a currency's value is set by supply and demand on money markets. This replaced the old system in which rates were firmly fixed in relation to gold and the dollar. The earlier structure had served fairly well for almost three decades but then had broken down because exchange rates could not be changed only abruptly, sharply and in a crisis atmosphere. Yet now with floating rates, the world endures a permanent crisis and fundamental economic instability, as currencies gyrate madly in response to today's headline or rumor. Says former Federal Reserve Chairman William McChesney Martin: "The floating-rate system is not serving the world well, buffeted as it is by structural imbalance, inflation, widespread lack of confidence and, as a result, excessive fluctuations in exchange rates."

In search of greater stability, many countries are beginning to turn away from floating rates. The Europeans are moving to set up among themselves rates that would diverge very little because central bankers would manage them. On the other side, the U.S. has steadfastly argued that only floating rates can avoid the old rigidity and periodic crises. But Princeton Economist Peter B. Kenen asks, "Can the U.S. be content with a monetary system in which we have no role except to complain that there is too much management of currency values, or would we be better off to participate in the management?"

The U.S. should join the trend toward more managed exchange rates, something of a compromise between fixed and floating rates. World central banks would have to cooperate closely, buying and selling currencies in order to keep the rates within certain ranges. Former Under Secretary of the Treasury Robert V. Roosa says that a first step toward this arrangement would be to set up "reasonable range of value for the three key currencies—the dollar, mark and yen." Other currencies would quickly fall into line behind the big three. The IMF could monitor national economic activity and recommend when currency values should be increased or decreased and by how much. Last April the IMF set up a "surveillance system" that could perform this function. Though some American officials have opposed such an idea because it would limit national economic independence, the U.S. should strongly support it as a major step toward greater stability in exchange rates.

Since the shocks of the early 1970s, the world's economies have lived in a period of tension and trauma. Oil price increases, world recession, rampant inflation, low growth and severe balance of trade problems have left leaders in the chancelleries and the counting houses doubting the present and fearing the future. But nothing has been worse in a period of crumbling foundations than the decline of the dollar, which is the talisman of an uncertain world. A first move toward a more secure economic future would be to re-establish the stability of the dollar inside a more managed and predictable international money system.●

AMERICAN AGRICULTURE AND RAIL STRIKE

● Mr. TALMADGE. Mr. President, I wish to address a situation that could have been a disaster. I speak of the rail strike that brought railroad transportation to a halt last week. I commend the President, the courts, and the parties concerned for their action to bring the strike to an end as quickly as they did, thereby averting a major crisis for the American economy.

While any transportation slowdown injures nearly every sector of our economy, no sector is more vulnerable to a railroad shutdown than agriculture. This is particularly true at this time. We have yet to recover from the problems of rail car shortage this past winter and spring. Our stocks of grains are expanding as record soybean and corn crops are now being harvested. Available storage is being strained, and the need to move products into export is at its highest.

The situation that we averted had the possibility of being a disaster. Stopping the movement of corn a week or 10 days could seriously affect American agriculture production. The Department of Agriculture recently estimated that even a 3-day stoppage would cause some poultry producers to begin to reduce their flocks of broilers and layers. A 10-day stoppage would force a large share of our poultry producers to destroy their flocks. As a result, supplies of poultry, meat, and eggs would become drastically short. This same ripple effect could be expected in the pork, beef, and dairy sectors. In these areas the impacts would develop more slowly, but the end result would be just as severe.

The effect would be sharply higher food prices. This would fuel the inflationary fires that our Nation has been fighting.

Railroads are vital to the movement of grain into export. A slowdown of a week in grain shipments can result in a market disruption that can take up to a month to be fully worked out. However, there are also lost market opportunities and reduced foreign exchange earnings that cannot be recovered. Further, the situation would result in building stock of grain, thereby depressing prices.

The railroads are also critical for the transport of fruits and vegetables. Any slowdown in the transportation of these products can result in rapid losses because of their perishability.

It is true that a good share of these products are moved by truck, however, anytime we have a stoppage in rail service there is a wild scramble for alternative transportation. Often agriculture loses out as the cost of transportation increases sharply. Mr. President, what I have described is the effect that transportation disruption can have on our farmers and consumers. Our Committee on Agriculture, Nutrition, and Forestry has been investigating transportation problems for agriculture and rural America for several years.

Our hearings, investigations, and reports on transportation in America have all reached the same conclusion: that even at the best times we have an inadequate transportation system in rural America, and that American agriculture is extremely vulnerable to even brief disruptions.

A few years ago we published a committee print entitled "The Immovable Feast." At that time the bountiful blessings of American agriculture could not be moved to market because of railcar shortages, tieups at the ports, inadequate bridges and other factors.

What we thought was a crisis 5 years ago has intensified. The Secretary of Agriculture has declared the current railcar shortage the most serious ever.

We see railcar shortages in the spring and winter when we need to be transporting fertilizer. We see it in the fall when we are trying to move our grain. While half of our agricultural products are moved by rail, we see constant efforts to abandon rural railroads. These rail abandonments would leave agriculture isolated because the Government has also decided not to support the maintenance of our rural highways. The condition of rural bridges is atrocious. Many bridges are too narrow and could not stand the traffic that would occur if rails are abandoned. The loss of the rail lines given the condition of our rural highways and bridges would mean there is no way to transport agricultural products.

Just as our rural highways are deteriorating, our railbeds are equally poor. In fact, one of our investigative teams found a railroad derailment that occurred while the train was standing still. The tracks were so bad that the train simply fell off them.

In spite of its brevity, last week's railroad strike dramatically demonstrated the inadequacy of transportation in rural America. Fortunately, the swift action taken by President Carter averted a major crisis.

However, the underlying problems of an inadequate rural transportation system remain. The magnitude and seriousness of this problem is such that I believe that this Nation must give a very high priority to improving the transportation system that serves rural America.

I again commend the President for his actions, but I call upon him to use every authority available to him in the executive branch to begin to resolve the underlying problems that I have outlined. If the products of the American agriculture cornucopia are to be moved from our fields to our tables, and the tables of the world, we must have a more efficient, effective, and reliable transportation system.●

GOVERNMENT REGULATION

● Mr. GOLDWATER. Mr. President, we hear a lot of talk about Government regulation and how necessary it is in some instances for the protection of the American people. But we very seldom hear much discussion about what Government regulation costs in terms of dollars. Recently, Willard C. Butcher, president of the Chase Manhattan Bank, made a speech at the Commonwealth Club of California in San Francisco which gave some answers to the question of costs. He claims that his research shows that in 1977 alone the price paid for Government regulations totaled over $100 billion. To give you an idea how much this really is, it represents $470 for every person living in the United States; it represents 5 percent of the gross national

product and 25 percent of the entire Federal budget.

Mr. President, because of its importance, I ask that Mr. Butcher's address entitled "Onward the Regulation Revolution" be printed in the RECORD.

The speech follows:

ONWARD THE REGULATION REVOLUTION: FAITH IN FREE ENTERPRISE

It is a great pleasure for me to address this distinguished body. For 75 years, the Commonwealth Club has served as an important forum for the discussion of a multitude of topics . . . from commerce and the economy . . . to politics and foreign affairs.

The particular faith I'd like to discuss is one that I hold deeply—as, I suspect, do most of you. It's the faith in private enterprise and our system of capitalism. Although my faith is an emotional one, it is also very much based on *logic* and *rational analysis*.

I am a devout capitalist. I can't deny it. In fact, unlike some others in our society, I am rather proud of that distinction. Each time I visit a country that offers an alternative system to free enterprise, my dedication to capitalism becomes even stronger.

It is precisely because of my deep commitment to our free market system that I am so concerned today. Capitalism, ladies and gentlemen, is in trouble—serious trouble. Over the past two decades, quietly and almost imperceptibly, our capitalistic system has been increasingly burdened by a widening web of government interference. The trend of ever-growing regulation at all levels threatens to strangle our market economy and render impotent not only everything our system stands for . . . but also the capabilities of the system itself.

Which is why I've chosen to preach this particular sermon in this particular temple of the converted. To my mind, the future of free enterprise . . . of individual economic freedom . . . indeed, of individual liberty itself, lies in how well business people like you and I convince our fellow-citizens that less government, not more government, carries the key to our country's future growth and prosperity.

There are already some tentative signs, at least, that people are waking up to the dangers of excessive regulatory intrusion.

In the government sector itself, President Carter rode to office on the coattails of a commitment to cut through the Federal thicket of overregulation. The Occupational Safety and Health Administration has proposed the repeal of 1,100 of its more meaningless rules. And Senator Lloyd Bentsen recently announced plans to introduce a monthly roster of legislative regulatory reforms. Although these are all steps in the right direction, I personally am "underjoyed" with the breadth of our government's progress on this front.

In the private sector, a number of business leaders have publicly warned of the American "economic decay" that regulation foreshadows. The Business Roundtable, in fact, is completing a major study on the problems of regulation and what might be done to solve them.

PUBLIC HOLDS KEYS

These developments are encouraging. But what is really needed is a full-scale "revolution on regulation." And the key to that "revolution" is the public. Individuals, after all, suffer most from regulation. They are the ones who pay the taxes that support the bloated bureaucracy—and pay for the inflation when taxes come up short. They are the ones who absorb the added costs that business must pass on to pay for regulatory demands.

Even worse, in the guise of protecting human freedom, decisionmaking power is taken away from individuals and their freely formed associations and transferred to the State. The supreme irony in doing this is that we systematically erode the very freedom we set out to protect.

Fortunately, the public has begun to put the politicians on notice. The clarion call of Proposition 13 issued the peoples' warning loudly and clearly: "We're mad as hell and refuse to take it anymore!"

And who can blame them?

When a phrase in the Constitution that calls on government to "promote the general welfare" is interpreted to mean that you must file separate effluent permits for some 62,000 sources of water pollution—I think there's something wrong. When the rights of a three-inch fish in the Tennessee Valley become more important than the livelihood of 25,000 workers—I think we've got a problem.

Now, I think most Americans want clear air, pure water and a better quality of life for our people—and even for our fish. I know I do. And I think most of my colleagues in the business community do too. So the notion that business is "anti-environment" or "anti-society" is, in itself, just so much more air pollution.

But the real question is, "What price must we pay for a better society?" What sacrifices and trade-offs do we have to make to reach the goals we all share?

Clearly, some government regulation is necessary and proper. I believe government has a key role to play in helping reduce pollution, improve health care and enhance product safety. But all these improvements carry a cost. "A billion here and a billion there," as Senator Dirksen used to say, "and pretty soon it adds up to real money!" Our task therefore, it seems to me, is to find the best balance between the benefits of the improvements and the costs to each of us for making them. Regrettably, our regulators rarely seek this balance.

In the early days of regulation—around the turn of the century—the purpose of regulating was very clear. Flatly stated, it was to guard against abuse. A regulator's job was to tell you what you could not do. Gradually, the focus of regulation has changed. Rather than telling us what not to do, today's regulators have begun to dictate not only what we must do but also how we must do it.

Why?

ANTI-CAPITALISM MENTALITY

My own view is that this trend stems from a basic anti-capitalism philosophy on the part of most regulators. I must agree with Irving Kristol that many regulators sincerely believe that "government, once it has the authority and power, will plan and manage our economic affairs both more efficiently and more humanely than do independent, autonomous institutions guided by market considerations." This notion that government provides the best instrument for allocating resources, answering society's needs, and making economic decisions implicitly rejects the free enterprise system. It is also naive, simplistic and just plain wrong! Because as Thomas Jefferson once put it, "Were we directed from Washington when to sow and when to reap, we should soon want bread." If you don't believe it, just look around at our country's most troubled industries. It should be no surprise that they also are among our most regulated.

The net result of a regulatory system designed and managed by people inherently hostile to capitalism is a mass of confusing, contradictory, and often overlapping regulation. And the price we pay for it all is enormous.

How much?

There have been many estimates of the regulatory cost to our society. Chase's economists have scratched the surface of knowledge a bit deeper by analyzing the price we paid for regulation in 1977. Now, coming up with the specific costs of regulation is a little like determining the ingredients in your Aunt Mary's fruit cake. You've got an idea what's in there, but you don't really know for sure. Nevertheless, I think we've come up with a pretty good ballpark budget—important not in its exactness, but in its general magnitude and direction.

$100 BILLION REGULATION BILL

In 1977 alone, according to our research, the price we all paid for government regulation totaled over $100 billion. Here's what $100 billion equals in terms we can all understand:

$470 for each person living in the U.S.,

5 percent of the Gross National Product,

25 percent of the entire federal budget, and

Nearly three-quarters of annual private investment in plant and equipment.

Now, what made up this $100 billion regulation burden?

Over $5 billion was for administrative costs—including federal, state and local. On the federal level alone, more than $3 billion covered the salaries and supplies of the army of 100,000 workers who staff the 41 regulatory agencies. Outlays of these agencies have increased by 100% over the past five years.

The largest part of the $100 billion regulatory number, about $85 billion, was in compliance costs—the price business and individuals paid to respond to regulation. The private sector fills out over 4,400 different federal forms each year; an activity which last year took over 143 million man-hours at a cost of $25 billion. The steel industry alone has to comply with some 5,600 regulations administered by 26 different federal agencies. General Motors spends more than $1 billion per year—equal to 2% of its sales and one-third of its net profits—to comply with regulations imposed by all levels of government. Dow Chemical spends almost $200 million in federal regulatory costs alone.

IMPACT ON SMALL BUSINESS

While big companies get hit hard by regulatory costs, small business gets walloped. Regulations typically do not distinguish among companies of different sizes, and smaller firms that lack the resources of large companies suffer disproportionately. For example, when the new Pension Reform Act was approved four years ago, 13,000 pending pension plans were terminated. Most of these terminations came from firms with an average of 30 employees. These companies found it impossible to meet the increased costs that the 250-page law imposed.

The largest share of 1977 compliance costs—a whopping $32 billion—went to the area of pollution abatement and control. In addition, auto safety and pollution equipment totaled another $7½ billion, raising the average price of a new car by $666.

Even more absurd than the specific costs of regulation are the purposes for which regulations are created

Like the company that was fined for not having its employees wear life vests while working on a bridge over a channel; even though the water in the channel had been diverted several days earlier.

Or the miner who was cited for not carrying a two-way radio, even though his was a one-man operation, and there was no one else to talk to.

Or the state Pollution Control Commission that ruled that a person who wants to be cremated on an open funeral pyre must meet "applicable air pollution control standards."

Clearly, these kinds of government edicts are laughable. But when we realize the burden placed on the American economy and the American public by such ridiculous regulations—it stops being funny.

The growth of unchecked regulation has struck at the very heart of business investment, productivity and the formation of new jobs.

In 1977 alone, our economists estimated

the opportunity costs of regulation—that is, the loss of income from having to invest in non-productive rather than productive projects—totaled $13 billion. Such deflections of private investment from productive uses cut our productivity growth by about one-half of 1% and added about three-quarters of 1% to inflation.

POTENTIAL LOSS OF 200,000 JOBS

Last year, real investment in plant and equipment in the U.S. totaled $95 billion in real terms—an increase of $8 billion over the equivalent figure in 1969. But three-quarters of that very small increase was investment in the pollution control, health and safety areas. Therefore, although the economy and its needs grew substantially in those eight years, the real annual investment—in terms of modernization and new capital—increased by a paltry 3% over the entire period.

What all that boils down to is a tremendous and tragic loss of jobs of our citizens. Opportunity costs alone last year represented a potential loss of 200,000 American jobs. Indeed, if we took half the $100 billion regulation bill and invested it in productive projects, we could have created just about one million new jobs.

By increasing government regulations then, we not only discourage efficiency and erode earnings, but eliminate jobs as well. The formation of productive employment—of jobs—is what really promotes "the general welfare." And if investment is frustrated by an ever-expanding flow of regulatory constraints, then the likelihood of more jobs . . . new jobs . . . or even enough jobs . . . is greatly reduced.

Ironically, the real victims of excessive regulation are both the "poor" and the "incipient" or "new" poor—the very people that regulators yearn to protect but, in fact help impoverish. These people are the least well-equipped to protect themselves against the rising inflation and increased unemployment ultimately brought about by non-productive regulations. In point of fact, excessive regulation causes a profoundly inefficient allocation of resources that often runs counter to the social ends it is designed to achieve.

COST TO PERSONAL FREEDOM

Which brings me to the final "cost of regulation" and the most onerous of all—the cost to personal freedom.

This, frankly, is the core of my concern.

To my mind, freedom and the free enterprise system are handmaidens. When one is stripped away, the other lies in peril. Besides being the source of economic efficiency and material wealth, our free market system sustains domestic prosperity for our citizens and enables us to survive as a free and progressive society. When regulation seeks to subvert that system . . . to shift decision-making from the people to the State through such devices as "credit allocation" for example . . . the well-being and freedom of all Americans is threatened.

As de Toqueville once put it, regulation "blankets society with a network of small, complicated rules, minute and uniform, through which the most original minds and the most energetic characters cannot penetrate." In such an environment, it is only a matter of time before individual freedom is squelched.

REVERSING THE REGULATORY TIDE

Now, what can we do about it?

I think several things. Fundamentally, I believe it's time to reexamine the basic tenets of regulation. Simply tinkering with an already faulty apparatus in the name of "regulatory reform" is not enough.

We need desperately to introduce "economic impact statements"—regulation-by-regulation—to ensure that regulators examine closely regulatory costs and their associated benefits. It is unfortunate, but true, that many regulatory decisions today are made in a vacuum on the basis of grossly inadequate information.

We must also change our approach to the charters under which regulatory agencies operate. Most regulation today emanates from so-called "enabling legislation," where Congress establishes a regulatory authority and the authority itself designs and enforces regulations. In other words, Congress takes no responsibility to set the standards of regulation after an agency is created. I would propose that this be reversed . . . that Congress itself be responsible for setting regulatory objectives and standards. This would introduce the notion of "bottom-line responsibility"—a principle that is sadly lacking in most government agencies.

I think, too, we should work to eliminate the disincentives to business and investment that regulations bring about. One often hears a call for business incentives to accomplish society's goals. I believe it is more a case of getting rid of the disincentives. In other words, release the shackles on business and leave the marketplace free to channel innovation into profitable and socially desirable directions.

Further, I would like to see government adopt a goals-oriented approach to regulation. Instead of telling us how to do things, tell us what it wants accomplished. There's nothing new in this approach. As early as the 18th Century B.C., in fact, King Hammurabi had a simple building regulation that if a house collapsed and killed the occupant, the builder would be executed! While this may be a bit harsh by today's standards, the law rightfully set goals rather than the means of reaching them.

Finally, as concerned businessmen and businesswomen, I believe you and I have a major responsibility to continue to speak out publicly for the free enterprise system and to fight tooth and nail on every piece of legislation that threatens that system. And that means we should be just as concerned when legislation threatens another industry sector as when it threatens our own.

I am convinced that, only through an unrelenting campaign to repudiate those who believe that government and not private citizens should allocate the resources of society, will we be able to reverse the regulatory tide of the present, right the regulatory wrongs of the past, and reestablish our country's commitment to freedom and prosperity for the future.

UKRAINIAN HUMAN RIGHTS DAY

● Mr. DOLE. Mr. President, yesterday I enjoyed the privilege of hosting a reception with the Ukrainian community of the United States. This reception, cohosted by my distinguished colleague from New York, Mr. MOYNIHAN, and sponsored in cooperation with the Ukrainian National Association and the Ukrainian Congress Committee, was to honor those Ukrainians in the Soviet Union making great sacrifices in demanding Soviet observance of human rights and adherence to the great principles of the Helsinki accords. The dedication and anguish of these Ukrainians in the Soviet Union, and of their countrymen here in the United States deserves only the greatest admiration and support. This gathering yesterday, commemorating Ukrainian Human Rights Day, gave us a chance to express this admiration and to pledge our continued support.

UKRAINE: A GLOBAL POWER IN CHAINS

If one pauses for a moment to consider, the position of Ukraine takes on appalling proportions. Ukraine is the second largest nation in Europe, only behind Russia. Its population ranks sixth among European nations. Ukraine has its own government, in theory an independent member republic of the Union of Soviet Socialist Republics. Ukraine has its own foreign ministry, and its own representative at the United Nations. All the form and structure of a strong, independent nation exists. Yet all domestic and foreign policy is dictated from Moscow. These forms and principles of democracy and freedom are but a facade for tyranny. Ukraine has been called the largest "un-nation" in the world. A potential global power bound in Soviet chains.

ASSAULT ON AN ANCIENT CULTURE

Ukraine, a nation a thousand years old, has been pressured and persecuted as a culture and a people for hundreds of years. Suppression of Ukrainian national consciousness, begun under the czars of Russia, reached its peak under Soviet domination. Under Stalin, an entire generation of Ukrainian intellectuals and creative talent were destroyed. Russification reached its zenith under Stalin's iron fist. While conditions improved under Khrushchev, Ukrainian literature and thought remained locked up in the chains of Russification, and Ukrainian figures such as Vyacheslav Chornovil and Valentyn Moroz were cast into the "Beria preserve," the archipelago of camps and prisons that Alexandr Solzhenitsyn has exposed to the world. This policy of Russification, now institutionalized after many years of practice, still threatens to overwhelm the Ukrainian people. Slowly but surely, the Soviet state is smothering Ukrainian culture.

NATIONAL SELF-DETERMINATION

National self-determination has been the cause and inspiration for many who have joined the ranks of Ukrainian dissent. While sharing the same thirst for freedom of expression, movement, and a voice in the determination of their future with Russian dissidents, this issue holds a special significance for the Ukrainians. For them, it is a goal of preserving their thousand-year-old heritage and culture. National self-determination is a goal for all of the suppressed nationalities of the Soviet Union, the peoples of the Baltic Republics, of the Caucasian Republics, of the peoples of Soviet Middle Asia and Siberia. The Ukrainians are outstanding advocates of this principle, and an inspiration to all. And for this, sentences against Ukrainian dissidents have been especially severe.

THE HELSINKI MONITORS

In August of 1975, the Helsinki Final Act, with its three baskets of principles, was signed by the attendants of the conference of security and cooperation in Europe, including the Soviet Union. The humanitarian principles of basket three became a rallying symbol for all of those in the Soviet Union and East Europe struggling for their basic human rights. Monitor groups were formed in various parts and among various groups in the Soviet Union. Among these, the Ukrainians have been the largest and most

active group. And, they have contributed the largest number of martyrs into the clutches of Soviet justice. Rudenko, Tykhy, Marynovych, Matusevych, Vins, Stus, Lukyanenko—each of these named has become a symbol of this struggle for human rights, figures larger than life, men of enormous courage and outstanding principle. Last night, we had the great honor of meeting another of these figures, delivered to United States, cast out of the fray by the Soviet authorities. This is Gen. Petro Grigorenko. His testimony has brought the cruelty of Soviet injustice and prisons to harsh, sobering reality here in the United States. Individuals such as General Grigorenko deserve the praise and high respect of everyone.

UKRAINIAN-HELSINKI PARTICIPATION

We can only applaud the actions of citizens who have offered to help their government implement its own international agreements. Thus far, Ukraine has been relatively isolated from international life despite the great achievements of her citizens in athletic, cultural, and economic life. By actively working to implement the provisions of the Helsinki agreement within her own borders, Ukraine could also begin to enter the international political arena. Greater Ukrainian participation in proceedings such as the Helsinki agreement would certainly be a major contribution to world peace and international harmony. The actions of these people should be rewarded, not harshly punished.

WESTERN SUPPORT OF THEIR CAUSE

The diplomatic efforts of the United States and the rest of the Western World should be directed toward the release of all imprisoned Helsinki monitors by the time of the Helsinki followup conference in Madrid in 1980. Basket III provides a sound basis for this requirement. In addition, the governments of all those Soviet republics where Helsinki monitoring groups were formed should be invited to attend the next followup conference so that they can be included in discussions of how the provisions of the Helsinki agreement can best be implemented in their countries. Such an invitation would be in keeping with the letter and the spirit of the Helsinki agreements of 1975, while at the same time making a genuine gesture to implement the Basket I. principle 8 provisions calling for national self-determination. Since Ukraine and Byelorussia are already members of the United Nations, such an invitation could not be construed as encouraging separatism.

While it would be unrealistic to expect Soviet acceptance of these proposals, these can be goals toward which the United States can work, which may lead to much private discussion in the Soviet Union that will have beneficial long-term influences on the humanization and decentralization process which the Helsinki agreement calls for.

DECLINING DOLLAR AND U.S. INFLATION

● Mr. JAVITS. Mr. President, I would like to have printed in the RECORD an exchange of letters that I recently had with the Director of the Congressional Budget Office (CBO), Alice Rivlin, regarding my request that the CBO undertake a study in the contribution of the declining dollar to the U.S. inflation rate.

In my letter, I took exception to the administration estimate that the decline of the dollar has only contributed between 0.5 and 1 percent to the overall inflation rate and asked the CBO for its estimate. It was my view that this figure did not take into account the indirect increase in the prices of domestically produced goods that occur because of the protection afforded to domestic industries from higher import prices.

In response, Mrs. Rivlin concluded that,

> Including all the direct and indirect effects, it has been estimated that, over a one-year period, a 10 percent rise in import prices leads roughly to a 2 percent rise in consumer prices.

Mrs. Rivlin goes on to say that, if anything, this estimate understates the total inflationary impact of the depreciating dollar.

I commend the exchange of letters with Mrs. Rivlin to my colleagues.

The letters follow:

CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., September 29, 1978.

Hon. JACOB K. JAVITS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR JAVITS: Thank you for your letter of August 31 requesting that CBO undertake a study of the recent depreciation of the dollar as a cause of the accelerating rate of inflation. As you noted, there are direct and indirect effects from the declining dollar on domestic consumer prices.

The direct impact results from higher prices for imported goods and should occur relative quickly. The indirect impact generally occurs with a greater lag and comes from a variety of sources:

There is a spillover effect on the prices of domestically produced goods that are competitive with imported goods.

There is a lagged adjustment of domestic costs—especially wages—to the higher prices.

There is the increased utilization of existing plant and equipment that results from the increased demand for exports and import substitutes.

Some offsetting influences do prevent the full translation of the dollar depreciation into higher import prices:

A significant portion of U.S. international trade is denominated in dollars; most important is petroleum, which accounts for more than a quarter of the total U.S. import bill. Depreciation and oil prices, of course, are not independent. A declining dollar puts pressure on OPEC to raise its prices, although it has not yet done so.

Higher import prices would likely reduce the demand for such goods. Given the importance of the U.S. market, foreign suppliers may limit their price adjustments to a depreciation in order to maintain their volume of sales. It has been estimated that, as a result of this demand effect, only about three-quarters of a dollar depreciation shows up as higher import prices.

Including all the direct and indirect effects, it has been estimated that, over a one-year period, a 10 percent rise in import prices leads roughly to a 2 percent rise in consumer prices. About half of this estimated impact results from direct effects, and half from indirect effects. This overall estimate, however, probably does not capture the full adjustment of wages and, therefore, understates the total price impact. It should also be noted that the inflation impact depends on a variety of other factors—such as the state of the economy—which were held constant in deriving these estimates.

There has been work done on the direct and indirect effects of inflation resulting from a dollar depreciation. Probably the most detailed study of this issue was conducted by the staff of the Federal Reserve Board. It is entitled "International Sources of Domestic Inflation" (November 26, 1974).

If CBO can be of further help, please let me know.

Sincerely,

ALICE M. RIVLIN.

AUGUST 31, 1978.

Mrs. ALICE RIVLIN,
Congressional Budget Office,
Washington, D.C.

DEAR MRS. RIVLIN: In a speech I made on the Senate floor on August 17, I focused on the issue of the declining dollar, a subject of so much growing public and Congressional concern, and made special reference to its contribution to the dangerous rate of inflation in the United States.

The point of this letter is my belief that recent estimates of the declining dollar's contribution to inflation are too low. According to these estimates, the decline of the dollar, by increasing the prices of needed raw materials and other products, has contributed one-half to one percent to the overall inflation rate. I believe that these estimates, which are based on the standard view that the inflation pass-through of a dollar depreciation amounts to about 10 percent, fail to take into account the price rises on domestically produced goods that occur because of the protection afforded to domestic industries from higher import prices. Recent price increases in the steel, automobile, and color television industries support this contention. If these indirect inflationary pressures were taken into account, it may well be that the ratio is closer to 20 percent and that the declining dollar has actually contributed close to 2 percentage points to recent inflation.

While studies have been done on the direct costs of the declining dollar, I am not aware of any studies that take into account the indirect costs, although I understand that the Federal Reserve has been looking into this question. Accordingly, I would request that the Congressional Budget Office undertake such a study and report back its findings to Congress as soon as possible.

I would appreciate your assistance on this important matter and would like to have the views of your office.

With best wishes,

Sincerely,

JACOB K. JAVITS, *U.S.S.*●

BANKING COMMITTEE ACTS ON GOLD MEDALLION LEGISLATION

● Mr. HELMS. Mr. President, the Senate Committee on Banking, Housing, and Urban Affairs approved an amendment on September 28 which would require the Treasury to offer for sale to the public gold pieces of not more than 1 ounce if Treasury chooses to sell gold at all. This was added to the "Regulation Q" bill, S. 3499.

The distinguished Senator from Indiana (Mr. LUGAR) spoke very eloquently on this matter when the Banking Committee held hearings on August 25 on the Gold Medallion Act of 1978. He also is a cosponsor of this legislation which I first offered in April of this year. Senator LUGAR offered a slightly modified version of the Gold Medallion Act as an amendment to the "Regulation Q" bill, and the committee chairman, Senator PROX-

MIRE, offered as a substitute, an abbreviated version of the bill which reads as follows:

SEC. X. (a) Whenever the Secretary of the Treasury authorizes the sale of gold to the public, not less than ten percent by weight of the gold offered for sale each fiscal year pursuant to such authorization shall be offered in units containing not more than one troy ounce of gold.

(b) Notwithstanding any other provision of this Act the number of units to be produced and sold in units of one ounce or less in fiscal years after fiscal year 1979 shall be adjusted to meet anticipated demand.

The intent of the legislation is clear: that if the Treasury sells some of the vital U.S. gold stocks, then it should do so in the form U.S. citizens are demanding. The committee also acted to approve language to include in the committee report on the bill which read:

In approving this section, the committee recognizes the sizeable market for gold pieces in the United States and anticipates that the items produced pursuant to this section would be manufactured to compete in this market and would bear appropriate design, and weight and fineness markings so as to enhance their marketability. The committee further recognizes that demand for such items may change and anticipates that production and sales in any year such units are produced, would be expanded or reduced to meet such demand, but in the first year, would not be reduced below 10 percent of total gold sales.

In other words, the committee intends these "units" or "pieces" to compete in the same market with krugerrands—1-ounce gold pieces from South Africa—with Mexican gold pesos, Austrian gold kronen, and the new Canadian gold $100 coin.

Senator PROXMIRE noted that the Treasury Department is concerned about the use of the term "medallion" in that it might have a monetary connotation which would give the impression that they are relenting on their efforts to "demonetize" gold.

The staff "explanation" of the amendment read as follows:

The Secretary of Treasury would be required, in the first fiscal year after date of enactment of this Act in which he authorizes gold sales to the public, to offer not less than ten percent of the gold offered for sale in that fiscal year in the form of units containing not more than one troy ounce of gold. The provision would give the public an opportunity to buy Treasury gold in small quantities, but would not require issuance of "medallions" which could be mistaken for coins or legal tender and create an erroneous impression that the U.S. Government believes gold should have a monetary role.

I contend that the monetization fear is trivial. The dollar has no connection with gold, for if it did there would not be vast numbers of people in the world trying to get into gold and out of dollars. Let me make it clear that I do not advocate investment in gold or any other inflation hedge. I advocate getting rid of inflation.

No "hedge" can provide real protection from a depreciating and corrupting monetary system that no longer serves some of the prime functions of money: the dollar is no longer a store of value or a standard of value. It serves almost exclusively as a medium of exchange.

Well, if the Treasury wants to call a gold piece a "unit" or a "wafer" or a "thingamabob," who cares? The important thing is that it be designed, produced, and marketed in the manner that the American people want. The Banking Committee has in effect acted to give the Treasury authority to make that determination. I know that many in the Congress and in the public sector will watch carefully to see that the intent of Congress is carried out if, in fact, this is the language finally enacted.

I support the committee's action. Although I would have liked to see the bill contain more specific language as to the design, the specific weight and fineness, and other details included in the law, I am satisfied that those decisions will not be made in a vacuum. Obviously, if the Treasury Department puzzles over a gold piece that would be most "un-money like," it could offer for sale, say, a gold toothpick. If Treasury officials ask any person in this country who either sells or buys one of the 3 million ounces of gold being sold in this country this year in small units what he wants, I think they will come up with something better.

The General Services Administration has sent to the Banking Committee a proposed set of marketing plans which offer a number of alternatives. I think that a plan can be adopted which would provide maximum opportunities to individuals to participate in the sales and maximize revenues to the Federal Government.

There are basically two alternative forms of sale. One would be an over-the-counter method wherein the gold pieces would be sold at a daily changing price equal to the world price of gold bullion plus a premium to cover production, distribution and some profit for the retailers. The GSA draft proposal for marketing the gold medallions, as proposed in my initial bill, stated that the gold medallions could be produced, distributed and advertised for approximately $4.40 each, plus some profit margin for banks or other institutions who would handle them. This might make the retail price $6 to $10 above the bullion price. That is equivalent to 3 to 5 percent above the bullion price.

The difficulty that this method of sale poses is that in the first year after enactment, at most, 1.5 million ounces of medallions would be produced. In other words, the supply would be finite. If supply is limited, then the over-the-counter method has the obvious disadvantage of potential shortages if the marketplace determines that at the "fixed" price the demand is greater than the available supply.

Under the legislation approved by the Banking Committee, however, the production could be expanded during the course of the year to meet demand if gold sales continued. This may cause some production problems, of course, for changing production levels may increase unit costs somewhat. There is a great deal of time, however, between now and October of 1979 to work out these details and a great deal that first to accomplish—including getting the legislation to the President's desk.

The second alternative is to market the pieces via monthly, common-price auctions. This offers the advantage of providing maximum revenues to the Federal Government and assuring that the marketplace will determine the price.

In other words, if it was known that a specific number of gold pieces were to be sold in the month of October 1979, bids could be solicited; then the price would be determined, on the day of the sale equal to the price at, or above which, there were sufficient bids to sell all pieces offered for sale on that day. If half a million pieces were offered and half a million pieces were bid for at or above $225, then all pieces would be sold at $225. This is sometimes known as a common price or "Dutch" auction system. It has the advantage of providing some protection to individual bidders who may be less sophisticated than big dealers in that they will pay the same price all other successful bidders pay. Since the price at which the pieces are sold is the lowest price proposed by enough bidders to purchase all items sold, it encourages those who have a great desire to own the pieces to bid higher. Some experts say that by providing these two aspects—protection for the unsophisticated and one price for all—the "Dutch" auction system encourages more bidders and thus tends to increase the average price at which the pieces are sold. This increases the revenues to the Government.

The disadvantages to this is that it costs more to manage. GSA estimated that such a system of marketing might result in a cost of up to $11.70 apiece to deliver them into the hands of the successful bidders. This would be equal to about a 6-percent premium above the bullion price.

I believe that the Treasury Department will be able to produce the kind of item that the American people want and in the quantities they want. I predict that demand for a U.S. gold piece will be far greater than 10 percent of gold sales. Sales of the new gold pieces could come to $500 million per year and that would soak up $500 million dollars out of the grossly inflated U.S. money supply.

It is time to put gold back into the hands of the American people. The legislation approved by the Senate Banking Committee could do it. It is flexible enough to provide for gold pieces that would appeal to various markets. It is specific enough to make it clear to the Treasury Department that the desires of the American people should be met.

I know there is considerable support in the House of Representatives for some legislation which would authorize the production of gold pieces. Certainly, speedy action in that body will help insure enactment of a gold piece law this year.

For the achievements that have been made to date on this bill I am genuinely grateful to the distinguished Chairman of the Banking Committee, Senator PROXMIRE, and the cosponsors and sup-

porters of the Gold Medallion Act. In addition, I want to take this opportunity to compliment the work done by a relatively new but well-respected and able public policy research organization, the Institute on Money and Inflation. The Institute is dedicated to providing information on sound money to Members of Congress; it gave me and other Members of Congress much vital assistance on the gold medallion legislation and its policy implications.●

FLOOD INSURANCE PROGRAM

● Mr. EAGLETON. Mr. President, the Federal flood insurance program is approaching a critical juncture in its troubled history as more and more communities are forced to decide whether to adopt required land-use ordinances in order to qualify for permanent coverage. It is an agonizing choice for many cities. On one hand, they are pushed by anxious homeowners to continue participation in the program so that their property can be protected by low cost, federally subsidized flood insurance. On the other hand, businesses and industry object to the HUD-dictated land-use ordinance, adoption of which is the price for staying in the program. That ordinance severely limits new construction and improvements within the designated flood area, conditions which many businesses find intolerable.

A case in point is Kansas City, Mo. The areas of Kansas City designated flood prone include a large industrial tract known as the Blue Valley and Leeds industrial districts. Within that area are located some 250 firms employing 14,000 workers and representing an investment of three-quarters of a billion dollars.

A large number of homeowners in Kansas City are anxious to purchase insurance protection against repetition of the kind of flood disaster that struck the city last year. On the other hand, industrial and business concerns in affected areas are financially capable and willing to cover their own flood losses. These firms are well aware of the hazards involved and actively support protective measures such as levies and channel dredging. They object, however, to limitations on their capacity to expand and improve their businesses which the required ordinance would impose. A representative of an association of businessmen in the affected area wrote to me about this problem and warned that:

> Certainly, if the ordinances are passed as presently written, many of these businesses will be forced to relocate or cease doing business. Some of these businesses have already received attractive offers from areas located without the State of Missouri.

That statement underscores the dilemma facing Kansas City and other communities in Missouri as well as elsewhere around the country.

They do not wish to deny homeowners the right to buy insurance but neither do they want to face the loss of job-producing industries and vital tax revenues.

Unfortunately, there is little flexibility under the present act to deal with these problems. I have greatly appreciated the present administration's willingness to meet with local officials and to provide such assistance as is possible. The fact is, however, there are severe limits to what anyone can do under the rigid law we now have.

Last year, I introduced a bill, S. 1408, which proposed a number of changes in the flood insurance program. Among other things, the bill would require a favorable cost-benefit finding before any community is forced to participate in the permanent program and in certain circumstances it would authorize the Secretary to provide insurance on a property-by-property basis.

There are other possible changes which might be considered; for example, administering separate programs for residential and industrial-commercial areas. As it now stands, a city that declines to participate is subject to loss of all Federal construction and disaster aid. That is a severe sanction on a homeowner or small businessman, who for the most part want to join the program. But it is no deterence to industry which doesn't need Federal aid for its construction program and which is willing to underwrite its own flood losses. The net result is to penalize homeowners who want in the program but to leave industry undetered in its construction plans. From the viewpoint of controlling development in the floodplain, the program would be no worse off with a divided program than at present but it would avoid the harsh treatment of homeowners which is now unavoidable.

I believe it is time this agency faced the need for greater flexibility in the implementation of the flood insurance program or face the possibility of being overwhelmed by local and State opposition.

Mr. President, the Wall Street Journal of October 5, 1978, carried an excellent editorial entitled "Regulatory Flood" which points up some of the problems of this program. I ask that that editorial be printed in the RECORD.

The article follows:

THE REGULATORY FLOOD

If scholars of politics need an exemplar of how innocent government intervention can evolve into a regulatory monster, they might consider the unhappy history of federal flood insurance. As usual, federal interference began with a recognized problem—Americans were suffering severe financial losses from floods, and the private sector wasn't dealing very well with it.

The obvious market solution to flood losses would be insurance, but, for reasons not entirely clear to us, the insurance companies were reticent to insure for flooding. Industry spokesmen claim that they had no actuarial experience on which to base rates, and that because of "adverse selection"—i.e., only the most flood-prone would take out policies—rates would be so inordinately high that few property owners would insure. So why bother to push insurance?

For whatever reasons, those Americans imprudent or unfortunate enough to have been inundated had to suffer their losses as "acts of God." But 20th Century politics is not content to leave adversity to the whims of the individual, or even the Almighty; positive action had to be taken in the public interest. Federal effort first concentrated on flood prevention by building dams and levees. Enormous sums were spent by the Corps of Engineers, and a point of diminishing returns was eventually reached. Some properties were bound to be subject to riverine or coastal flooding.

So in 1968 the Congress passed the National Flood Insurance Act, providing for the subsidization of private insurance, which had the enthusiastic support of the insurance companies. But in the law was a provision that HUD's Federal Insurance Administration (FIA) could run the program directly. In late 1977, after the private companies had built up the business by insuring over a million properties, FIA pulled the plug and announced a federal takeover.

And a barbed hook was hidden in the flood insurance bait. The government cannot go on paying billions of dollars to victims indefinitely, so the 1968 law specified that insurance is available only in communities which have adopted preventive measures specified by FIA. The 1973 Flood Disaster Protection Act pulled the hook in deeper. FHA mortgage insurance, VA mortgage guarantees, housing subsidies, home improvement loans, water and sewer grants, highway money and other federal projects were cut off unless local governments adopted and enforced FIA-specified "flood hazard regulations," which amount to extremely restrictive building, subdivision and zoning codes in all flood plains.

Of course, FHA decides what is a flood plain and has chosen the "100-year flood"—the area with a one percent chance of being flooded annually. Some communities complain that they have never been flooded or that a dam has been built since they were flooded. FIA will consider their petitions for modification, provided that appropriate (and expensive) engineering studies are made. FIA has taken over control of development of one-eighth of the land area of the United States, in 20,000 local jurisdictions containing 6.5 million structures.

Local municipalities are required to administer the complex ordinances out of their own pockets. And they must bear the frightful tax losses from the collapse of property values inherent in de facto confiscation of the developmental rights of some or all of their property, and the tax burden is shifted to other property owners. FIA has not calculated the direct losses to the owners.

We have a hint of the program's ultimate objectives in FIA's environmental impact statement. "The regulations and insurance requirement may (sic) induce prospective and existing residents to locate elsewhere on sites which are not flood-prone. In the short run, this will tend to preserve the flood plain in its present state of development. In the long run, it will decrease high intensity use through a gradual process of attrition." We would add that it will protect elite country houses from being overrun by the masses.

Because flood insurance was hard to get, a multi-billion dollar government insurance company was established, the federal government seized control of development of an eighth of the nation, and there has been perhaps the largest single taking of property values in history. And under discussion is similar regulation of the larger "200-year flood" plain, of areas that might be flooded if dams break and of earthquake-prone regions. Don't we have a fascinating system of government?●

MEXICO'S NEWLY REPORTED INCREASES IN NATURAL GAS AND OIL RESERVES

● Mr. STONE. Mr. President, on August 31, I made a speech to the Orlando Chamber of Commerce expressing my opinion that the United States should

redirect its energy policy toward seeking more domestic and worldwide energy supplies. In this speech I pointed out that the "sky is falling" thesis, to the effect that the world is running out of oil and gas, is based upon false facts and incorrect assumptions. Indeed, over the recent months international energy experts have projected vast new worldwide petroleum reserves. The implications of these new estimates are significant in the development of an effective national energy policy.

I was pleased to read an editorial in the Washington Evening Star on October 6, 1978, by Mr. William Safire, which documents an important aspect of this new supply opportunity for the United States. Mr. Safire's article points out the new supply opportunity for the United States and Mexico in the exploration and development of Mexico's newly reported increases in natural gas and oil reserves.

Mr. President, I ask that Mr. Safire's article be printed in the RECORD.

The article follows:

THE SECRET OF MEXICO'S BIG-LEAGUE OIL TROVE

(By William Safire)

MEXICO CITY.—They called themselves "the guardians of the secret." They were the ultranationalistic group of engineers, geologists, labor union leaders and businessmen who threw the U.S. oil companies out of Mexico in 1938, and—for nearly four decades—kept their secret not only from the world, but from most of Mexico's politicians.

The secret was that Mexico sits on an enormous, largely unexplored sea of oil. The reason for hiding this fact was the fear that a weak Mexican government would fall prey to predatory capitalists and a domineering neighbor to the north.

After the Arab oil embargo, and after the shah of Iran quadrupled the world price of oil, the then-president of Mexico, left-leaning Luis Echeverria, continued to keep the secret: He did not want to disturb the Third World's oil leverage on the West by revealing the potential of a huge supply of oil in North America.

Mexico's new president, political philosopher Jose Lopez Portillo, tells me he was let in on the secret during his campaign for the presidency in 1976. (The "campaign" consists of one candidate rushing furiously around the country for two months, as if he needed every vote. An exhausting enterprise, it is relieved only by the knowledge that he is unopposed.)

Since Lopez Portillo had been finance minister for eight months in a regime that desperately needed foreign credit, the fact that he had been kept in the dark by "the guardians" illustrates how worried the ultranationalists were that Lopez Portillo might be the sort to make the decision for oil development.

The new Mexican president has broken the secret with a vengence. In his state of the union report last month he reported proven reserves of 20 billion barrels, probable reserves at an additional 37 billion barrels, and possible reserves at 200 billion barrels. That's in Saudi Arabia's league; a responsible U.S. official terms the startling figure as "likely to be on the conservative side."

The Carter administration has known of the Mexican oil potential since its inception. Although CIA projections were discredited when that agency began to provide the White House with whatever energy figures it wanted to hear, Atlantic-Richfield intelligence sources were known to be on target. But the Mexican resources were seldom discussed, for one good reason and one bad reason.

The good reason was that Energy Secretary James Schlesinger wanted to dicker for a fair price for Mexican natural gas, the first energy to be available in quantity. The U.S. wanted to pay a rate similar to our Canadian purchases; Mexico wanted us to pay what we paid for energy from Indonesia, giving Mexico a windfall profit on the savings on transportation. To Mexico's detriment, the deal fell through.

The bad reason was that the Carter administration wanted to sell the notion that the nation faced an energy "crisis" and downplayed the reality of a huge reservoir of oil on this continent in order to further its legislative goals.

Now that the need for the Carter sky-is-falling propaganda is over, and now that the Mexicans have learned the U.S. will not pay exorbitant prices to import energy across the Rio Grande, we come to the central issue: Will Mexico become a major source of U.S. energy in the 1980s?

Logic dictates that it must. The old fears of the "guardians of the secret" that politicians or foreigners would rape Mexican resources is meaningless today: Oil brings lofty prices, the profits stay in Mexico, and if the wells run dry in 50 years, that's no big deal—the world will then be running on solar energy, and Mexico is up to its sombrero in sunshine.

With 14 million inhabitants, Mexico City unhappily is becoming even larger than Tokyo. The overcrowding and lack of opportunity has driven some 8 million Mexican illegals across the U.S. border. Mexico needs oil money now, but quickly, to invest in itself massively, as Iran did—but without Iran's need for military buildup. Only the most foolish and stubborn pride would keep Mexico from turning to the U.S. as its major market.

Lopez Portillo—though fierce about independence from yankee domination—strikes me as neither foolish nor stubborn. One litmus test of future cooperation would be Mexican membership in OPEC. The U.S. hopes Mexico, unlike Venezuela will stay out; that would help undermine cartel power. For its part, Mexico does not want to give up its own production independence to the cartel.

Asked about membership in OPEC, the Mexican president goes into a philosophical discussion of the differences in economic history between his country and other oil-producing nations.

The bottom line, I think, is that he plans to stay out, which is good for both Mexico and the United States.

The time is right for an economic demarche on a strictly business basis. The pressure is on both Mexico and the U.S. to make a massive deal soon—and that's no secret.●

JUSTICE DEPARTMENT ASKS CLERGY TO REGISTER AS FOREIGN AGENTS

● Mr. HELMS. Mr. President, the Carter administration has recently asked a number of visiting clergymen to register as foreign agents on the grounds that they may be under the control of a foreign principality. Moreover, the Justice Department has been harassing many distinguished U.S. clergymen by telling them to register as foreign agents also, on the grounds that they had arranged for preaching and other public appearances by the visiting clergymen.

One of the clergymen so harassed is Dr. Paul Mickey, associate professor of pastoral theology at Duke University Divinity School, in my own State. Others include Dr. Charles Keysor, of Asbury College, in Wilmore, Ky., and Rev. E. C. Bundy, of Wheaton, Ill., publisher of the National Layman's Digest, as well as others in South Carolina, Texas, and California. They include Southern Baptist, Presbyterian, and Methodist clergy.

Mr. President, what is the reason for this astonishing action? The reason is simply that the visiting clergymen—a multiracial and interdenominational group—are from South Africa and Rhodesia. They are members of the Christian League of Southern Africa. They believe that Christian reconciliation must take some other form than the U.S. State Department's goal of domination by Marxist, antiwhite "liberation groups."

Without any proof or any evidence of fact, the Justice Department has asserted that all of these clergymen—both African and United States "are operating at the request of and under the direction and control of, a foreign principal—a political party, person, association, corporation or partnership." The Justice Department, in response to press enquiries, agreed that "anyone in the United States who is in any way under the control or direction of any foreign principality and leader, who speaks on behalf of and furthers the purposes of this principality and leader, should therefore be registered as a foreign agent."

An article in the Washington Weekly by Lester Kinsolving contains the verbatim account of an interview with Cecil L. Woodard II, auditor of the Registration Unit of the Internal Security Section of the Criminal Division of the Department of Justice. In the article, Mr. Kinsolving points out that the same criteria imposed upon the Southern African clergy could be imposed on rabbis who speak on behalf of the Jewish National Fund of Israel, on Catholic bishops who recognize the Pope as the head of their church, on Episcopal churches that invited the Archbishop of Canterbury to speak—and even on the National Council of Churches that regularly arranges for visiting clergy from the Soviet Union to speak.

But of course, Mr. President, none of these clergy have been asked to register as foreign agents. To do so would be absurd, and a blatant violation of our first amendment rights. The same holds true for the Southern African clergy. To ask them to register is absurd. To ask distinguished clergymen who arranged for them to preach in this country is absurd. And it is a blatant violation of first amendment rights.

Mr. President, when will the Carter administration stop trying to interfere with freedom of religion and freedom of speech to further their own foreign policy goals? When will the Carter officials understand that freedom of worship and expression extends to all persons in this Nation? Mr. Kinsolving, as usual, has had the courage to dig into this story and get to the bottom of it, whereas other journalists have not. I congratulate his pertinacity.

Mr. President, I ask that the article by Lester Kinsolving from the Washington Weekly of Wednesday, October 4, should be printed in the RECORD at the conclu-

sion of my remarks, along with the letter, typical of the letters which went to all the clergy, to Rev. E. C. Bundy by John H. Davitt, Chief of the Internal Security Section, U.S. Department of Justice.

CLERGY LEADERS ORDERED TO REGISTER AS FOREIGN AGENTS

(By Lester Kinsolving)

WASHINGTON.—Presbyterian, Methodist and Southern Baptist clergy in five states have been ordered by the U.S. Department of Justice to register as foreign agents—because they arranged preaching and other public appearances for black and white clergy of the Christian League of Southern Africa.

The clergy include Dr. Paul Mickey, associate professor of Pastoral Theology at North Carolina's Duke University Divinity School; Dr. Charles Keysor, journalism teacher at Asbury College in Wilmore, Ky., and the Rev. E. C. Bundy of Wheaton, Ill., publisher of the National Layman's Digest (circulation 250,000) and others in South Carolina, Texas and California. Each of these clergy has written in dissent of the Justice Department action on Sept. 12.

During an exclusive interview on Sept. 26, Cecil L. Woodard II, auditor of the Registration Unit of the Internal Security Section of the Criminal Division of the Department of Justice, said that as far as he knows the Christian League is not a part of the governments of either Rhodesia or South Africa. He added that as far as he knows none of the five African clergy (and one Catholic layman) is employed by either of these governments.

But their U.S. clergy hosts "are operating at the request or under the direction and control of a foreign principal—a political party, person, association, corporation or partnership," explained Justice Department Attorney Joseph Clarkson, Deputy Chief of the Registration Unit.

Clarkson was then asked whether "anyone in the United States who is in any way under the control or direction of any foreign principality and leader, who speaks on behalf of and furthers the purposes of this principality and leader, should therefore be registered as a foreign agent."

"Yeah," replied Clarkson, while Auditor Woodard said "That's fairly correct."

Mr. Woodard was asked why, therefore his department has not taken action to require registration as "foreign agents" by those bishops who are under the direction and control of a foreign principality (the Vatican), and who have led as many as 75,000 people in marching around the U.S. Capitol in the annual Right-To-Life (political) demonstrations.

Department of Justice. That's a touchy question!

Additional "touchy questions" included the following:

Question. Rabbis throughout the United States have taken the lead in campaigns to raise millions of dollars for the Government of Israel. What has your department done about this?

Department of Justice. (Long pause) As far as fund-raising by rabbis?

Question. Yes. For the government of a foreign power; i.e. the Government of Israel.

Department of Justice. Is it for charitable purposes?

Question. The Jewish National Fund is one of them. It's for the development of Israel. Have you taken any action against the rabbis?

Department of Justice. No. And I'm not sure there's any violation of the Foreign Agents Act in that.

Question. Why? the rabbis are raising money for a foreign power. These people (the African clergy) aren't raising money for the governments of Rhodesia or South Africa. And the rabbis have certainly been very outspoken on political issues, haven't they?

Department of Justice. But were they raising funds at the direction of a foreign principal or are they doing it on their own account?

Question. They are being paid by a foreign principal. They receive honorariums. That's part of the Israel Bonds Campaign. You weren't aware of that?

Department of Justice. No.

Question. I see . . . Trinity Episcopal Church on Wall Street in New York has repeatedly entertained and promoted public appearances for an appointed official of the British Government, the Archbishop of Canterbury. Has your department done anything about this?

Department of Justice. No.

Mr. Clarkson went on to explain, however, that his department, in determining specifically which clergy should be made to register as foreign agents, is obliged "to split what is religion and what isn't," in the process of determining "whether or not there are political activities involved."

Question. From your knowledge of the New Testament—which deals with a lot of these organizations you have to deal with—was Jesus Christ a political preacher or not? Would you say he was a "soul-saver" or a "political preacher?"

Department of Justice. Probably both.

Question. Both? He was, therefore, a political preacher. So if Jesus Christ were brought in the United States by the Rev. E. C. Bundy, and He (Jesus) spoke, you would ask Bundy to register as an agent of a foreign person?

Department of Justice. Probably. It depends on what He (Jesus) said.

Question. Oh? If Jesus spoke on a political party like the Pharisees and the Saducees, that would be political.

Department of Justice. Possibly.

Question. The National Council of Churches recently entertained and arranged public appearances for a group of clergy from the Soviet Union, who, I heard during a press conference, repeatedly defended the policies of this communist dictatorship. Has your department contacted the National Council of Churches officials who were responsible for this tour? Or do you confine your actions in this regard to anti-communists?

Department of Justice. We don't confine our actions under the Foreign Agents Act to anti-communists.

Question. I see. Have you gone after any communist or pro-communist groups, or those not necessarily pro-communist, but who have entertained communist-oriented speakers, or defenders of communist policies? Have you gone after any of these that you can recall?

Department of Justice. No, we haven't. But the one thing that all these questions seem to miss a little bit is that we have been able to show that these people (the U.S. hosts of the African clergy) are operating at request, direction or control of a foreign principal.

Question. Well, you were aware, of course, that they (National Council of Churches) brought these Russian clergy to the United States. Did you make any inquiries?

Department of Justice. As far as I know, we were not even aware that they were in (the United States.)

U.S. DEPARTMENT OF JUSTICE,
Washington, D.C., September 12, 1973.

Mr. E. C. BUNDY,
Wheaton, Ill.

DEAR MR. BUNDY: It has recently come to the attention of this Department that you may be engaged in activities on behalf of the Christian League of Southern African which may require your registration pursuant to the Foreign Agents Registration Act of 1938, as amended, 22 U.S.C. 611 et seq. A copy of the Department's pamphlet of the Act and Rules is enclosed for your convenience.

Your attention is directed to the requirement to register within ten days of becoming an agent of a foreign principal as provided by Section 2(a) of the Act.

Since meetings between your foreign principal, The Christian League of Southern Africa, and groups in your geographic area are scheduled to begin on October 10, 1978, your registration is due in this office on or before that date.

If you have any questions regarding this matter, please contact Cecil Woodard of this office at (202) 739-4527. Please send the completed forms (enclosed) to the attention of Mr. Woodard.

Sincerely,

JOHN H. DAVITT,
Chief, Internal Security Section, Criminal Division.

JOEL S. LISKER,
Registration Unit.●

ALAN KICHLER—LIFE PRESERVER

● Mr. METZENBAUM. Mr. President, historically, the city of Cleveland has been one of the proudest and most courageous cities in the United States. It has overcome natural disasters such as the killer blizzard of last winter, tremendous economic hardship, and, of course the financial problems many of our major cities are now facing. The reason Cleveland has been able to survive and remain a truly great city is, of course because of the courage and pride of its residents. Recently, an article in the Cleveland Plain Dealer newspaper focused on a man who personifies that which makes Cleveland great.

Mr. Alan Kichler was recently awarded his coxswain pin from the U.S. Coast Guard. This symbol of excellence on the waters of Lake Erie was given to him in recognition of his outstanding work in search and rescue missions on the lake. Repeatedly, Alan Kichler has fought adverse conditions on the lake when it was at its worst in order to save the lives of others. This to me, is the finest display of courage and caring a person can show.

I would like to point out, Mr. President, that is not a rare occurrence in Cleveland. Thousands of concerned Clevelanders daily show their concern for their fellow human beings. What is remarkable is that he has overcome great obstacles to achieve this recognition.

Mr. Kichler, who is 60 years of age, was afflicted with polio at the age of 3. He was crippled by the disease, and is handicapped by a very pronounced limp to this day. Yet he has refused to let this affliction get in the way of serving his fellow man. In my eyes. Alan Kichler is a truly remarkable man.

Mr. President, I submit the article by Gary R. Clark. entitled "Life Preserver" for the RECORD as a remainder to all of us that an individual can accomplish a great deal with the talents and gifts we have.

The article follows:

LIFE PRESERVER

(By Gary R. Clark)

Alan J. Kichler beat polio 57 years ago and today has two of the best sea legs on Lake Erie.

The 60-year-old publisher has spent his weekends over the past six years in his boat patrolling Lake Erie, searching for boaters in distress.

And at least eight persons owe their lives to a man who first fell in love with the lake

while gazing at its many moods after moving into his 12th-floor Bratenahl Place apartment nine years ago.

"You can't live near this lake and not get excited about it," Kichler said. Until he moved near the lake he never owned a boat.

Not content with the boating knowledge he learned through area Power Squadron classes, Kichler completed two of the Coast Guard's most prestigious search and rescue schools. Last week he received a hard-to-get Coast Guard coxswain's pin, permitting him to command and operate Coast Guard rescue boats up to 44 feet.

"I'm a perfectionist," he said earnestly. "I don't want to play out there unless I know what I'm doing. That's dangerous water."

Gary Hormell, captain of the Coast Guard Auxiliary's Division 7, said Kichler is one of the auxiliary's most competent skippers.

"He has 110% devotion to search-and-rescue requirements," Hormell said. "He's down there every weekend.

"I think for a man who has a physical disability, he's one of the most dedicated people we have." He was referring to Kichler's polio bout, at age 3, which left him with a limp.

George Howe, Division 7 operations officer, agreed.

"Kichler is one of our very, very best patrollers," he said.

Patrols are what Kichler loves most.

"That, to me, is the most exciting thing in the world."

Until this year, Kichler's wife, Barbara, served as crew aboard their 24-foot, twin-engine Sea Ray. She has also received several Coast Guard awards.

But Kichler had a coast guardman aboard as crew on a Sept. 3 patrol off Gordon Park. A call came in that a boat with four people aboard had capsized. Kichler was first on the scene.

"After a while, you can smell where the problems are," he said.

One man was clinging to a steel piling about 50 feet offshore. While harbor police helped the man, Kichler attempted the rescue of two women in the water. A second man from the capsized boat was missing.

The wind had picked up, and waves were recorded at 8 to 10 feet.

To prevent injury to the women, Kichler shut off his engines while he and the coast guardman hauled them aboard.

Kichler's business, United Publishing Corp., 2728 Euclid Ave., has provided Kichler and his family with a good living.

More importantly, he said, is that "I can afford the time to help others, and this is one way." ●

SENATOR SCHMITT URGES GREATER SPACE EFFORT AS SOVIETS CHALLENGE AMERICA'S LEAD

● Mr. GOLDWATER. Mr. President, the distinguished Senator from New Mexico (Mr. SCHMITT) delivered a challenging speech on the Nation's space program recently. Speaking to the Institute of Electrical and Electronic Engineers (IEEE), he warned America faces the prospect of Soviet dominance in space technology.

Calling for leadership "to lead us onward and outward," Senator SCHMITT urged a renewed effort in all areas of research and development vital to the well-being of future generations.

Mr. President, I know that Senator SCHMITT, who is the ranking minority member of the Science, Technology and Space Subcommittee as well as a former astronaut, appreciates the 20 years of bipartisan effort that kept America first in technology. We must stand together on this fundamental issue.

I commend Senator SCHMITT's address to my colleagues, and I submit the text to be printed in the RECORD.

The speech follows:

CIVILIZATION IN SPACE: THE CHRONICLES PLAN

The Carter Administration's policies for space are a disaster. Rather than exerting the leadership that the American people and the world expect, Carter has continued and appears on the verge of accelerating the policies of retrenchment begun by Nixon.

As the Soviets steadily move their civilization into space, we merely talk of gradually building a worldwide satellite information system.

As the rest of the industrialized world run technological and marketing circles around us and the dollar steadily weakens, we further close our principal faucet of innovation in technology and productivity, namely, new activity in space.

As the extreme danger of our dependence on external sources of fossil fuels increases, we stagnate in the development of alternative conservation, production and conversion energy technologies, most of which have their roots in aerospace research and development.

Most critically, when there are younger generations of Americans chomping at the bit to move our civilization of freedom back to the frontier of space, we say to them "wait; one percent of our budget or one fifth of one percent of our GNP is too much for such childish dreams". Hogwash!

Ladies and gentlemen, this continuation of a no-vision space policy, which in reality is no policy at all, is rapidly putting this great nation and freedom in grave danger; danger of technological domination, then economic domination, then military domination, then political domination.

The hope of the free world's ability to prevent long-term Soviet dominance of the planet Earth is the technology of space. From the monitoring of compliance with international arms control agreements, to the defense against military space systems, to the control of our own defense systems, the preservation of our civilization of freedom on Earth is increasingly dependent on our expansion of activities in space.

This country, and Americans, need to flex their muscles and their motivation against all the frontiers of human endeavor, against both the risks and the benefits of those frontiers.

If we were to imagine a space policy that would carry this country and the civilization of freedom we lead into space and into the 21st Century, upon what factors should such a policy rest?

Let me suggest the following essential criteria:

1. The policy must present a sense of direction and continuity for all present and future generations who must implement the policy.

2. The policy must have flexibility that can take advantage of new science and technology as well as adapt to rapidy changing goals which events may dictate.

3. The policy must have clearly identifiable significance to the direct or indirect solutions of the major terrestrial problems of hunger, disease, unemployment, and ignorance.

4. The policy must integrate budgetary requirements between the various elements of the policy, and between the governmental and private sectors, so that the demands on the taxpayer are both reasonable and consistent from year to year.

Although the over-all space policy I have been considering contains long-term and significant activity in aeronautics, the discussion of the details of such programs is beyond the scope of today's remarks. It is important to note, however, that our efforts must be expanded in basic aeronautical research for general, commercial, lighter-than-air, hydrogen-fueled, supersonic and new aviation concepts. The Administration's head is in the sand on these issues as much as on any other.

The space policy that I am developing matches the real world of science and engineering with the perspective of the younger generations who must give it life. My activities with young Americans from five to twenty-five have convinced me that dreams of adventure on the Moon, on Mars and throughout space have become a principal motivating factors in their lives.

This space policy for our civilization covers three decades of activity, but also has the clear implications of indefinite continuity.

The decade of the 80's, a World Information decade, should have programs aimed at permanent, eventually self-financing, services for worldwide communications, weather and ocean forecasting, earth resources discovery or monitoring, societal services, and prediction of natural events of disastrous human consequences or broad scale economic impact.

A World Information Decade is consistent with, although much more aggressive and far reaching than the rumblings from the Carter Administration about their space policy for the 80's. Of particular interest is the capability such a decade will provide in our assistance to those developing countries of the world who wish to move with us as free nations into the technological 21st Century. The benefits of the high technology of space will be available to them without the need to invest alone in its creation.

The decade of the 90's, an Orbital Civilization decade, should emphasize the progressive creation of permanent facilities in near-Earth space. Such facilities will utilize and augment this unique research, service and manufacturing environment. The weightlessness, the vacuum, the unique view of the Earth, sun and stars provide unparalleled opportunities for research, education, space power production, manufacturing, health care, Earth power generation and recreational activities.

As with a World Information System, the management of the development of an Orbital Civilization should be rapidly assumed by largely non-governmental groups. In most cases, the facilities will be economically self-sustaining except for continuing federal involvement in high-risk improvements in technology.

In the first decade of the 21st Century, a space policy for our civilization should reach major culmination of excitement with the initiation of a second Solar System Exploration decade. This is the decade about which most of the very young have their dreams. Bases and settlements on the Moon, missions of exploration to Mars and Venus, and the beginnings of the establishment of a Martian settlement, all are the stuff these dreams are made of. The parents of the first Martians are looking over our shoulder as they work their way through elementary school, high school and college.

In order to sustain the technological and scientific requirements for these three decades of space activity, a significant level of basic research must be maintained, and development programs must be phased in to support the major programmatic efforts.

Of particular significance are the continued development of basic transportation systems, units and structures for space facilities, heavy capacity boosters, deep space boosters and new power and communications systems; particularly those utilizing laser technology.

The estimated annual costs in 1978 dollars, of the development, research and mission programs, when properly phased, suggest that a sustained level of $15 billion annually

would eventually be required to establish the basis for an Earth-supported space civilization. The build up to this level would be from about $5 billion in 1980 to about $10 billion in 1990 to about $15 billion in 1995. This final level would include an estimated federal work force of about 75,000 and a directly supported industrial force of about 10 times that figure.

The economic and employment impact on commercial and other nongovernmental activities during this period have not yet been estimated. However, a major design philosophy behind this policy is to undertake largely those activities in the World Information and Orbital Civilization decades which would eventually sustain themselves without federal support. It is also assumed that the settlement activities on the Moon, and eventually on Mars, will be in part, if not largely, supported by commercial interests and will be self-sufficient after a decade or less.

For two days in August of 1975, at a unique Caltech conference of Apollo Astronauts, managers and scientists, the past and future of space exploration was debated by those who had given us Mankind's first decade of Solar System exploration. The heady excitement and rivalries of the 1960's were far enough back to soften judgments; the possibilities of the future were far enough away from our generation to lend objectivity. After two days of the most stimulating discussions of our lives, we gradually found ourselves in unanimous agreement on one major conclusion: civilization is moving inexorably into space. The only question left unanswered is whose civilization will dominate that movement and thus dominate the future of mankind. Will it be the civilization of fear, or the civilization of freedom?

By once again doing great things at great risk of failure, but with characteristic confidence in success and their civilization of freedom, Americans led the first wave of activities in space. Now we have fallen behind, not in technology, but in governmental will.

What does it take for Americans to do great things; to go to the Moon, to win wars, to dig canals between oceans, to build a railroad across a continent? In independent thought about this question, Neil Armstrong and I concluded that it takes a coincidence of four conditions or, in Neil's view, the simultaneous peaking of four of the many cycles of American life.

First, a base of technology must exist from which the thing to be done can be done.

Second, a period of national uneasiness about America's place in the scheme of human activities must exist.

Third, some catalytic event must occur that focuses the national attention on the direction to proceed.

Finally, an articulate and wise leader must sense these first three conditions and put forth with words and action the great thing to be accomplished.

The motivation of young Americans to do what needs to be done flows from such a coincidence of conditions.

What of our present situation with respect to doing great new things at the space frontier?

It does not appear that the articulate and wise leader is yet visible.

The catalytic event is unpredictable except that if we do not get moving, that event may come too late for us to catch up.

The period of uneasiness is upon us as a sign that we have become too introspective, too self-centered for the good of America.

The technology base exists for our World Information decade of the '80's. The technology base is being created for our Orbital Civilization decade of the '90's, but it is being created much too slowly. The technology base is wholly inadequate, but accessible, for initiating our second Solar System Exploration decade when we begin the 21st Century.

Thus, the challenge for a space policy that will sustain the movement of the civilization of freedom into space is to create the technology base by which future leadership can move in directions dictated by events. The Tom Jeffersons, the Teddy Roosevelts and the John Kennedys will appear. We must begin to create the tools of leadership which they and their young frontiersmen will require to lead us onward and outward.●

THE POETRY OF OLE OLSON

● Mr. BURDICK. Mr. President, in these hectic last days of Congress, I think the following poems are most appropriate. One was written by Ole Olson, of Fargo, N. Dak., on the occasion of his 99th birthday.

As Mr. Olson states in his poetry, he is enjoying his later years because he is taking them one day at a time and relishing the little things in life that bring him pleasure.

As we race from one meeting and one crisis to another, I think we would all do well to take a minute to read Mr. Olson's poems. We would probably all be better off if we could incorporate a little of Mr. Olson's serenity into our lives at this time.

I submit Mr. Olson's poems for the RECORD.

The poems follow:

MY SUNSET YEARS

Fate has treated me kindly during my Sunset Years,
Though I have shortened my steps and shifted my gears.
The people seem friendlier and greet me with a smile,
They willingly volunteer to go the second mile.
The pharmacists and doctors have all prolonged my life,
But for their skills and remedies, I'd be resting with my wife,
Who shared our reverses as well as all our joys,
And mothered a couple of healthy boys.
I praise the hardy people who bring my noonday meals,
Not on balanced platters, but on sturdy rubber wheels.
They come when it is snowing, then when it rains,
Without enhancing their capital gains.
The news comes in on the wireless to keep me up-to-date,
Stories recorded on records may feature both friendship and hate.
The days in my life are rewarding, I welcome and cherish each one,
They never depress me or bore me, for I'm not too old to have fun.
I loved the sport of fishing near our cabin at the lake,
And often in the evening, my limit I would take.
This hobby I have relinquished, without too many tears,
For the pleasure of living beyond these ninety-nine years.

OLE A. OLSON,
November 26, 1977.

MY NEW WAY OF LIFE

For many years I prepared my own meals,
If you ever did it, you'd know how it feels.
My neighbors took care of my lawn and my floors,
So that relieved me of some of my chores.
When my food caught fire on the range,
I said to myself "It is time for a change".
To manage a home, I was getting too old,
So the house and furniture both were sold.

The sun was red and it looked like snow,
Which made me look for a place to go.
With nothing in sight, and nowhere to look,
I signed my name in a nursing home book.

My life in the home, at first felt strange,
From wall to wall the extent of my range.
I ride in a wheelchair in lieu of my car,
It made transportation, but would'nt go far.

I pity the farmer who has to shovel the snow,
When the mercury had dropped to thirty below.
He has water to pump and fuel to lug,
While I am as snug as a bug in a rug.

Rain may come with a lively breeze,
There's no one to tell me, but the dancing trees.
The weather outside may fall or rise,
But inside these walls it's always nice.

If the stars still shine over my head,
They're not seen from my soft bed.
Does the moon still wax and wane?
If so, I've searched for it in vain.

Some aids are hefty, while others are tall,
One will come promptly in response to my call.
The oldest is spry at Sixty-seven,
To which she attributes her Viking leven.

This Rest-home provides me with bed and with board,
And daily acknowledges, God as their Lord.
For the lack of attention, I harbor no fear,
So I may enjoy my Centennial Year.

OLE A. OLSON, 1978.●

THE DIGENOVAS OF DELAWARE

● Mr. MATHIAS. Mr. President, I hope that my distinguished colleagues from the State of Delaware will forgive me for intruding on their territory long enough to call attention to a remarkable family success story that has been unfolding for the past 67 years in the city of Wilmington.

Last week the family of the late Ennio diGenova celebrated the 67th anniversary of the founding of the family business—a business that has expanded fourfold since then. In 1911 when Ennio diGenova opened his Eighth Street Central Beauty Salon in Wilmington, he pioneered a concept that may be old to us now, but was revolutionary then. His salon was unisex. Women could get their hair washed and set in one part of the salon, while men were being shaved and getting haircuts in another part.

Today the family business has four branches in Wilmington and employs a significant number of people in addition to all of Ennio diGenova's children and most of his grandchildren. I am happy to say that there is an exception to this. One member of the diGenova family resisted the lure of the family business to pursue a career in the law and government. His name is Joseph diGenova, my much-valued and frequently overworked legislative director and administrative assistant.

So that my colleagues, who already know Joe, may appreciate the wonderful American success story of which he is a part, I ask that a feature story on the family salon which appeared in the Wil-

mington Evening Journal be printed in the RECORD.

The article follows:

LOCAL FAMILY SALON MARKS 67 YEARS OF HAIRCUTTING

(By Martha E. Espedahl)

A unisex beauty salon in the 1920s?

In Delaware?

Douse your doubts because way back then Ennio DiGenova was shampooing and cutting women's tresses on one side of his Eighth Street Central Beauty Salon in Wilmington and clipping, snipping and shaving men in the adjoining barber shop which he opened in 1911.

Central, believed to be the state's oldest continuing hair salon, is also the largest and has remained a family operation. It now has four shops.

Its 67th anniversary is Tuesday and is being hailed tomorrow with a reception for friends, customers and the public at the Augustine Cut-Off salon.

Why a celebration for the 67th?

"We've always had cakes in the salons (Augustine Cut-Off, Prices Corner, Midway and Dover) on the anniversary, but this year we decided to really celebrate," says owner Ernest DiGenova, son of the founder.

When Ernest DiGenova was growing up in Wilmington, he packed off for dental school. "That didn't work out, and I came back to Wilmington."

But Ennio DiGenova wasn't hiring—not even his own son.

"It was during the Depression and my father told me that his employees had families and children to support. I sold furniture, did a lot of other things but I was beginning to develop an interest in hair. I worked for another stylist and finally an opening occurred in my father's place. He hired me."

With an estimated 3.5 million haircuts done by the staff since the salons opened this is a success story. Surveys show that the average lifespan of a beauty salon is three years.

DiGenova took charge of the Eighth Street salon in 1938, when his father became ill. Faced with this challenge, he made trips to New York and Chicago to study the work of some of the nation's best-known stylists. He attended seminars, workshops and schools.

He had launched the beauty business in Wilmington to the extent that in the early '50s—shortly after his father died—he lured brother Eddy away from the glamor of singing on the Broadway stage to direct the just-opened Augustine Cut-Off salon.

In 1961 another relative and another salon: Phil Calvarese, Ernest's cousin by marriage, and the Midway salon. Calvarese, with extensive beauty schooling behind him, had been on the staff at Augustine Cut-Off.

The downtown location was closed and Central moved into the Prices Corner shopping center in the mid '60s. Eddy's son, Ennio, is running it. He attended the University of Delaware, but wanted to get into the hair business and, against his father's feeble protests, studied hair design and completed his apprenticeship under Calvarese at Midway.

Ernest attended a hair-styling show in San Francisco and ran into his cousin Silvio Spezio, who had been at Central in the early '50s but now was working at a Beverly Hills salon.

"He wanted to come back to Delaware," says Ernest, "so we opened the Dover salon that year with Spezio as manager."

DiGenova recalls his first days in the business by saying: "In those times in the Eighth Street salon, it wasn't uncommon for me to do anywhere from 40 to 60 haircuts a day—myself. We didn't take appointments. The waiting room was so small that often I'd look out and see a line of 15 to 20 people extending down the sidewalk.

"Do you know something? The cuts we're doing today are so similar to the styles that were popular when the salon first opened—perms, curly hair, short cuts."

DiGenova estimates the salons now handle anywhere from 550 to 600 customers a week.

A renovation of the Augustine Cut-Off salon is due for completion next January.

DiGenova is among the 12 hair stylists in America who have received the Chevalier of the Haute Coiffeur Francais award in Paris.

NOMINATION OF MARVIN S. COHEN TO CAB

● Mr. DECONCINI. Mr. President, the President's nomination of Marvin S. Cohen to the Civil Aeronautics Board of Tucson, Ariz., has been reported favorably by the Commerce Committee of the U.S. Senate. I can attest that in this instance, the President has responded to his own query "who not the best," by appointing the best.

I have known Marv since 1961 when both of us were much younger; he was chairman of the Pima County Democratic Party, and I served on his executive committee. I acquired a great deal of respect for Marv at that time and through the years, my respect for him and his abilities has continuously increased.

Mr. Cohen's résumé of many accomplishments is on file with the Commerce Committee, but a list on paper does not nearly begin to tell how distinguished his accomplishments have been. Rarely have I seen, in one person, a better combination of integrity, intelligence, and industry.

In our home town of Tucson, Ariz., Marv has gained the reputation as one of its most outstanding attorneys, a reputation that cannot be gained overnight, but one that has taken years and years to attain. Marv will bring to the Civil Aeronautics Board all of these abilities, and with this outstanding combination of qualities, he will within a very short period of time, make his presence and his abilities known.

Additionally, Marv Cohen will add to the Civil Aeronautics Board a dimension which is not there and is sorely needed. The Western part of the United States, which has its own diverse problems, because of the long distances between communities, presently does not have a representative on the Civil Aeronautics Board. It is vitally important that there be a person with the knowledge and understanding of the special problems that exist in the Western part of the United States. For this reason, the Western Governors' Conference and the Western Conference of the Council of State Governments, each passed resolutions requesting the President appoint someone from the West, who knew and understood the unique problems of the West, in order to add that dimension to the Civil Aeronautics Board which both groups felt was presently missing. Marv Cohen has the knowledge and understanding to satisfy the concerns of the Western State governments—that someone on the Civil Aeronautics Board would be able to understand and address their problems. Marv Cohen will, I am sure, prove the wisdom of the President in nominating him and the U.S. Senate in confirming him, and he surely should be confirmed.●

A COMMUNITY THAT CARES

● Mr. METZENBAUM. Mr. President, once in a great while, a person comes along who has the ability to touch the people he meets, and to share with them his concerns for the community in which they live. The people of Cleveland have always been sensitive to the needs of their community, and have always responded warmly and with an open heart. David Roth has that ability to touch people, and the people of Cleveland have given him support and encouragement.

During the tumultuous times of the late 1960's, David Roth was an active opponent of the Vietnam war at Rockford College. As did so many others, David became frustrated and tired of trying to affect social change, and he "dropped out" of society. He began the life of an agrarian on a farm in southern Indiana.

But, again, like so many others, David could not continue his life as a "social dropout." Seven years ago, David received a phone call from his brother in Cleveland, asking him to help out at the new Cleveland Free Clinic. David returned to his native Cleveland, and became the clinic coordinator for mental health programs.

No one could have imagined then the affect David would have on Cleveland, or how strongly Cleveland would react to David's pleas for help.

Because of the interaction between David Roth and the people, the city of Cleveland can now boast of the oldest and finest clinic of its kind in the entire United States. As a native Clevelander, and a representative of the State of Ohio I am truly proud.

Mr. President, I ask that article from the Cleveland Plain Dealer entitled "Free Clinic Director Providing Community Responds to Caring" by Ms. Judy Sammon be printed in the RECORD.

The article follows:

FREE CLINIC DIRECTOR PROVING COMMUNITY RESPONDS TO CARING

(By Judy Sammon)

As David Roth recalls, he was growing vegetables on a farm in southern Indiana seven years ago when a call from his brother, a druggist, got him out of farming and into the health field here.

"My brother, Robert, had become involved in setting up the Free Clinic's drug program, and called to tell me there was an opening for a clinic coordinator of mental health programs," said Roth.

The job must have struck Roth as the irony of ironies: His activity in farming was undertaken, in part, to relieve some of the frustrating experience after years of activity in the anti-war movement at Rockford (Ill.) College, his alma mater. Roth was not unlike so many of his peers at that time who had begun to lose their bearings and faith in a system which refused to budge.

"When you keep banging your head against walls, it tends to get very sore," said Roth, referring to those years of protest and struggles.

That psychic-wound-healing period ended with his brother's call. Until then, he confessed, he had "no career goals."

With his degree in history of philosophy, but no medical training, much less a background in psychology, Roth left the farm and

joined the clinic staff, consisting of two other fulltime paid members. Part of his work involved one-to-one counseling, which some might consider a dangerous business for the untrained. Not Roth.

"My saving grace was the fact that I had never taken psychology courses," he said sitting at his cluttered desk in a very busy office. What he did have was a knowledge of the streets and the number one problem facing his peers: Drugs.

In 1971 when the drug euphoria came crashing to earth, the clinic was established to handle the medical and psychological needs of abusers through the agony of their descent.

Headquarters was a rambling ruin on Cornell Rd., watched closely by police.

"It was a while before the community realized that we were not 'hippies,' and that we were committed to the physical and mental welfare of the people we were seeing," said Roth. It took a year for the state to recognize the Free Clinic's venereal disease treatment center.

If the clinic was initially perceived as a counter-culture experiment, today it is recognized as an important health and mental health care center for the community, a sanctuary for people adrift from the mainstream of economic stability. It expects to treat nearly 11,000 patients, mostly the poor, this year.

For the past five years, as executive director the 29-year-old Roth has been banging the drums for the clinic, the longest running full service medical facility of its kind in the nation. Roth was recently nominated by the Cleveland Jaycees as one of America's Ten Outstanding Young Men of 1979.

Mrs. Conella Coulter Brown, assistant superintendent for the Cleveland Board of Education and a trustee of the clinic, has said:

"David's leadership is such that many segments of the Cleveland community have coalesced to provide volunteer services and hundreds of thousands of dollars in donated financial resources to make the dream of the clinic to provide free medical counseling and dental services to those who may otherwise go wanting a reality.

"In addition, troubled youths and runaways have and continue to find an appropriate counseling and guidance at this Center Safeway Station."

Roth is quick to give credit to others.

"I didn't do this alone," said Roth. "The staff and volunteers here happen to be the best in the country."

From the three paid staff members in 1971, when Roth joined the organization, the clinic has grown to 46 fulltime paid staff members, 10 parttime paid staff and 400 volunteers. With an annual budget of only $500,000, the clinic offers 19 programs, and delivers to the community approximately $5 million annually in health care services.

The clinic moved from a working space of 3,000 square feet to 35,000 square feet two years ago. Its headquarters is at 12201 Euclid Ave.

Materials to renovate the building, owned by the Salvation Army, were hustled by Roth, as well as much of the medical equipment.

"We tap every resource we can for donations of any kind before we spend a cent," said Roth. He is in charge of all fund raising, as well as writing all proposals for public and private monies. He also is involved in the planning, implementation and operation of all programs.

Counselors say the myriad responsibilities don't seem to get Roth down.

"He never becomes overwhelmed by the magnitude of what is happening here," said Jeannie Sonville, counselor and former director. When a problem arises, she said, "David just jumps in and plows through. David's energy level is about 1,000% higher than most people, and his awareness of what is happening in society and the problems people face is incredible."

Roth's organizational skills, his knowledge of how and where to get funding, are greatly responsible for the clinic's success, she said.

Patients line up outside the ramshackle building every weekday late afternoon, long before the medical clinic opens at 5:30 p.m. They are treated on a first-come, first-served basis, unless it is an emergency. Sometimes the wait can last for hours, and the patient might not be treated on his first visit. "We might not be able to see all of them in one night, but we never turn away a patient twice," said Roth.

An example of Roth's sensitivity and compassion became public recently.

A woman from Alabama arrived at the clinic, distraught about her daughter who was confined to a mental clinic here. The woman's life story was one of horror. Roth spent hours listening to her, found her a job, a place to live and a refrigerator for the apartment. He also acted as a liaison between her and the hospital so that she might better understand what was happening to her daughter and the treatment she was undergoing.

"But this is the type of thing David does every day," said a co-worker. "He drops everyting he is doing if someone is in trouble."

Roth has been described as a pathological idealist, humanitarian and an eternal optimist, with a strong commitment to the havenots of the world. He credits his parents, Mr. and Mrs. Saul Roth of Lyndhurst (his father is a druggist), for having instilled in him "a strong social conscience and an inherent sense of justice.".

They also gave him freedom to find himself. While attending Shaker Heights High School, the young Roth shared an apartment on weekends on Murray Hill with friends, partly as an attempt to put some distance between himself and the middle class luxury to which he was accustomed.

"It was also a great way to break things without my parents getting angry," he recalled.

This interest in learning about the lives of people from other social and philosophical backgrounds was behind his choice to attend Rockford College in a conservative northern Illinois community. His anti-war activities might have doomed him there had it not been for the fact he was a sports fanatic and active in the school's athletic programs.

A bachelor, who has been dating one woman for several years, Roth resides with his golden retriever, Alias, in Cleveland Heights. When he has time to unwind it is usually on the playing field.

Roth is quarterback for Rick's Cafe team in the Muny Touch Football League this year; he played safety the past four years. He also plays left field on the clinic's softball team.

He estimates that he is at the clinic 50 to 60 hours a week, not unusual since he is The Boss, drawing an $18,000 salary. Roth also has been attending Cleveland State University Law School, where he expects to graduate next June.

"I've been lucky to have some professors who are not adamant about class attendance," he explained. "Some are more interested in students learning a subject than they are about how that learning is accomplished."

His interest in law led to establishment of the free legal clinic in 1976. While Roth sees himself headed toward a career in law, he expects to continue his commitment to and involvement with "addressing the needs of the poor . . ."

Roth's impatience with dawdlers and delays has led him to fly off the handle occasionally. His job is not without its frustrations.

"There is the constant pressure of raising money to stay alive, and the knowledge that there are more people out there than we can serve," he said. An intense man, his forehead becomes a sea of waves when he bores into a subject that he considers significant.

Dedicated and indefatigable are the words most often used by friends in describing Roth, including clinic board chairman and lawyer Charles F. Clarke, who has known the director seven years.

"David is a remarkable human being who understands the needs of people in trouble and has a genuine sympathy for them as well. He is one helluva person. He just never seems to get tired.

"David is street wise in the sense that he is not only aware of patients' problems and needs, but that he tries to understand the business, medical and legal communities and bring them all together.

"This clinic is the best of its kind in the U.S. and David is in no small measure responsible for it," said Clarke.

While the clinic's impact in the community has been important, Roth said it is "still a drop in the ocean. If we could see 200 people a day, there would still be more people waiting than we can handle.

"It's appalling that a country as rich as this one lets people sink into poverty because they have spent all their funds for health care, or have no money to obtain help. What we truly need is a system that would deliver quality health care to everyone regardless of circumstances."

The past seven years have been enriching and fulfilling to Roth not only because the clinic has been able to meet some vital needs of a segment of the population, but also because he has been in contact with people as concerned as himself.

"Part of the beauty of this job is knowing that the people who work or volunteer here, or who have contributed in other ways, are not involved for selfish reasons. They really care," he said.

About his own investment and experiences, Roth said:

"It's like love. Once you've experienced it, you don't ever want to lose that feeling." ●

THE ROTH-KEMP AMENDMENT

● Mr. WALLOP. Mr. President, I recently conducted a poll in Wyoming and joined several of my Republican colleagues in a trip across the country to gage the attitudes of the American people on the issue of taxes. The response I received from the people of Wyoming, I think, is indicative of the feelings of the people across the country. Ninety-five percent of the people responding to my Wyoming survey indicated they favored a Federal tax cut. The questionnaire showed the people of Wyoming and I believe the people of the country as a whole feel burdened by tax systems that are too high and unfair. Hundreds of people detailed with considerable sophistication those programs they felt should be increased, cut back or eliminated. Of the 9,000 people who responded, there seems to be an attitude across-the-broad spectrum of income levels pay more than their fair share of taxes. I found direct parallels between the attitudes of people in Wyoming and the attitudes of the people of California as reflected in the passage of proposition 13.

The meaning of proposition 13 and the results of my statewide tax survey is that taxpayers are reevaluating the benefits they received from Government services and have decided that they can put their money to better use. In spite of

warnings that essential public services would collapse, Californians went to the polls to declare that Government was taxing and spending too much.

They were affirming, as the noted economist Herbert Stein has stated:

> That income in our society belongs to the people who earn it and they have a right to retain it unless there is a clear and important social purpose to be served by taking it away.

This attitude has spread across the Nation, and if one takes a look toward Washington, there is little wonder why the people are dissatisfied with the way their tax dollars are spent.

Federal bureaucrats have been arguing, with considerable success, that more funds are needed for new or expanded projects, with the rationale that their programs serve a clear and important social service. The fact of the matter is that the Federal bureaucracy will always be able to spend all of the revenues the Government receives, plus a few extra billion in deficit financing thrown in for good measure. Less credible is the statement that all Federal programs have a clear and important social purpose. More and more Americans believe that many Federal programs are frivilous or wasteful expenditures of their tax dollars. Just as taxpayers say no to this kind of waste in California or Wyoming, so too we see Americans and their Representatives in Congress calling for a cut in Federal taxes. I am not talking about the President's "symbolic" tax cut, but a meaningful cut in income taxes from which the average taxpayer will derive real benefits. The Roth-Kemp tax cut proposal calls for a 33-percent across-the-board income tax that will provide the tax relief that the average taxpayer so desperately needs.

It is tragic that there is not more understanding and concern over the effects of not passing the Roth-Kemp tax cut program, without the Roth-Kemp bill, we provide a clear signal to Washington that taxation should increase and Federal spending should continue to absorb an increasing proportion of our personal income. There should be no concern over the notion that our tax burden could ever decrease: Our tax system is structured so that the Government has everything to gain from inflation. We can be assured that both inflation and taxes will climb unless we act to derail their advance. As inflation pushes prices and incomes upward, Americans slide quietly into higher tax brackets, and increasingly larger portions of their incomes goes to the IRS. Under this tax system, Federal taxes took 18.2 percent of the GNP in the period between the Korean war and the Vietnam war. In the present fiscal year, taxes will consume 19.6 percent of the GNP. If the tax schedules contained in present laws remain unaltered, Federal taxes in 1983 would consume 22.7 percent of GNP. This relationship between inflation and the tax system means that Federal agencies can continue to make budgets and operating plans under the assumption that more revenues are on the way. Such increases in public spending and Government employment may not change the size of our GNP in the short run, but it affects the strength of our economy and its resilience to inflation. Public sector spending provides many important jobs and services, but as the size of the public sector increases, there is less room in the economy for private investment. Private investment in industry and agriculture add to our Nation's wealth, both now and in the future, providing jobs and more products at lower prices. If private investment is forced out by Government spending, we can count on fewer production-oriented jobs and higher prices in the future. Without a substantial tax cut, scheduled over the next few years, we permit inflation to carry all taxpayers into higher income brackets and we do nothing to impede the growth of Government spending.

In calling for a tax cut, the Roth-Kemp bill is not demanding that the tax burden should be reduced, but rather that the tax burden should not be permitted to keep its scheduled climb over the next 5 years. Even with the Roth-Kemp tax cut, 1983 taxes would still compose 19 percent of our GNP.

There is still considerable debate raging over the question whether the Roth-Kemp tax cut will generate more tax revenue by stimulating the economy, than is lost through the cut in tax rates. I am convinced by the history of tax cuts in West Germany and Japan and our own experience with tax cuts under the Kennedy administration, that the Roth-Kemp tax cuts will only help our economy. Look at the results of the Tax Reduction Act of 1964. That tax cutting initiative triggered increased Federal revenues, new investments and more jobs. Taken in conjunction with other needed measures, such as a cut in the capital gains tax and strong measures to balance the budget, the Roth-Kemp tax cut will set the stage for a dynamic and healthy economy in the 1980's. Increased economic activity triggered by the tax cut will mean less unemployment, less poverty, and lower spending on unemployment and poverty programs.

Finally, there is an effect of the Roth-Kemp tax cut proposal that is difficult for economists to measure, but is nevertheless familiar and important to all working Americans. Simply speaking, the Roth-Kemp tax cut will help restore the incentive to work and invest in an economy where incentives have been taxed away. Increasing numbers of Americans are discouraged from finding work as high marginal tax rates make it economically foolish to go off of the welfare rolls. Working Americans have little reason to work overtime or seek a better job when much of their additional income goes back to Washington, D.C. High corporate taxes stifle new competition, making us all the poorer in the absence of new dynamic, small businesses. The Roth-Kemp proposal will, if nothing else, restore incentive as the driving force behind our Nation's economy and individual self-respect.

Can we afford to cut taxes? I do not see how we can afford not to.●

NATIONAL EXPORT PROGRAM

● Mr. LUGAR. Mr. President, the President deserves to be commended for focusing long-overdue attention upon American export policy. Our exports have grown much more slowly than those of other industrialized nations, and we are losing an increasing share of the world market. Perhaps the United States could not expect that it would forever hold its given share of the world market; perhaps, in the wake of rapid development of some so-called Third World countries, all of the presently industrialized nations will face long-term decreasing shares of the world market. But we can hope, if not actually expect, that the world market will continue to grow, and that the absolute level of world exports and imports will continue to increase and to better the material conditions of everyone. In the meantime, however, there is little excuse for our declining share of the world market. We have quite simply failed to take seriously our export possibilities, and we have lost many opportunities to those nations which have pursued aggressive and creative export policies. Competitive American industries and workers—as well as foreign consumers—have paid the price for our inaction.

The President's recently announced national export program appears at first blush to be a comprehensive attempt to improve our export performance. Upon closer inspection, however, the President's program displays nothing of legislative importance or originality, and altogether very little of substance. In the place of concrete proposals addressed to specific problems, the President has offered a programmatic public relations effort. This may be enough to satisfy some people, and indeed more than enough to suit others; but it is unlikely to entice potential exporters, whose calculations must be based upon firmer grounds than new "priorities," "guidelines," "recommendations," and "councils."

The President's program consists of three parts. One of them is the continuing multilateral trade negotiations in which we are involved. On this front, we are all hopeful that the good work of Ambassador Robert Strauss will be effective in securing for this country's exporters greater competitive access to foreign markets. Other industrial nations have handled their import policies as creatively as their export policies, and often to the detriment of American exporters.

The second part of the President's program concerns reductions of domestic barriers to exports. According to the President, there are five major domestic barriers to exports: domestic regulations, foreign policy restrictions, the foreign corrupt practices act, antitrust laws, and environmental review requirements. What the President is saying here, I believe, is that he intends to undo some of the harmful effects of his own administration's policies and of policies that his administration inherited. This is all to the good. We have witnessed in recent years a simply incredible list of reasons why this or that export must be restricted, delayed, or reconsidered. The

President's proposals here do not go far enough. What is needed is not more confusion about whether harmful regulations will be enforced, but less. Exporters need to know that they can expect as a matter of course that their products, with only a few well-defined exceptions, may be speedily exported. Under the President's new directive, a business wishing to export in some circumstances must go to the Justice Department and discover current "enforcement priorities." To have to inquire when it is and when it is not permissible to break the law is an objectionable, but natural, result of ill-conceived laws.

Third, and potentially most important, the President's program promises direct assistance to U.S. exporters. But it is here that fulfillment falls furthest short of promise. The President speaks of new targets and credits, without convincing arguments that they will materially improve our export position. And the President speaks generously of tax measures and incentives, which remain vague hopes. Indeed, our one concrete export tax incentive, DISC, is still criticized and disapproved by the President, though without even the hint of an alternative.

Throughout his message, the President speaks of "priorities." We will now have an export priority. But we also have national security priorities, human rights priorities, health and safety priorities, environmental priorities, and so forth. Where there are so many "priorities," there is, in effect, only conflict and confusion. In subjecting us to a constant barrage of "priorities," the current administration raises considerable doubt that there is sound underlying direction to its projects.

If we are to have a genuine solution for our export difficulties, we will need something more than a vague commitment to a great variety of more or less minor proposals, no one of which is significant in itself. One single real tax incentive might be preferable to another ostensibly comprehensive national program. Specific terminations of regulatory blocks to exports would be much more encouraging than mere assertion of "exporting" as a priority.

We face important questions concerning foreign trade in the coming years. We will have to decide whether to adopt large-scale direct or indirect subsidies for our exporters. We will have to decide if we are to encourage, or even to permit, the development of giant export cartels. We will have to determine what degree of economic diversity we are to seek in the future of the world economy. To answer these questions will require development of specific goals and continuing perseverance in attaining them.●

STUDY OF DEFENSE MATERIALS FACILITIES

Mr. THURMOND. Mr. President, a very important step was taken last Saturday when the Senate passed an amendment to the defense energy bill calling for a study of the Nation's nuclear weapons production facilities.

This study is aimed at modernization of these plants, a very important and in some cases, long overdue action. This effort is to be a high priority undertaking, and is dictated by law under this amendment.

This amendment, which I cosponsored with Senator HENRY JACKSON, Democrat of Washington, brings to our attention the importance of having a modern, efficient weapons production complex to accompany any new agreement or new requirement we may face in dealing with the Soviets. We have seen too many examples of how the Soviets exploit self-imposed U.S. handicaps and other well-intentioned actions that they look upon as signals of weakness.

This study will provide our Nation with a range of both short-term and long-term options. We need to identify steps that could be taken to shore up our nuclear production complex quickly and economically. If new SALT agreements are to be put before us in the next session, we should be looking intensively now at our nuclear production capabilities to meet new material needs of new weapons systems so necessary to maintain a clear strategic edge.

Mr. President, the situation at our production complex may be serious enough to warrant some temporary restructing or realinement of our resources. We should look hard at the possibility of drawing on any and all industrial capabilities and resources that could be utilized quickly to pick up the slack for the short term.

One option that must be looked at by the Department of Energy in their study is the prospect for using the Barnwell Nuclear Fuel Plant in South Carolina to reprocess spent production reactor fuel. The Barnwell plant is capable of reprocessing production fuel with minor technical modifications and I expect DOE to present a detailed evaluation of this possibility when they report to Congress early next year.

MUTUAL AND BALANCED FORCE REDUCTION TALKS

Mr. BARTLETT. Mr. President, since October of 1973, members of NATO and the Warsaw Pact have engaged in formal negotiations aimed at mutual and balanced force reductions (MFBR) in Central Europe.

The goal of the United States in those negotiations has been to eliminate the dangerous and growing military advantages currently held by the Soviet Union in Europe. To be successful, any such agreement must take into account the ability of Soviet forces in Germany to launch a successful surprise attack, and it must take into account the ability of the Soviet Union to reinforce the Warsaw Pact from western Russia.

This task has been made more difficult as a result of Soviet insistence that Western intelligence sources are overestimating their forces in Central Europe. Soviet intransigence on the verification questions suggests that they seek to increase their European military advantages through negotiations. Given the complex issues involved and conflicting goals of the conferees, it would seem unlikely that progress would be rapid. That has been the case thus far. However, recently there has been an alarming trend of concessions which if allowed to continue, could culminate in an agreement which would seriously jeopardize the security of Western Europe.

The history of the MBFR talks reads much like other Soviet/American negotiations on military matters. The United States was propelled to the negotiating table chiefly by domestic political pressures. The trauma of Vietnam held a tight grip on American public policy during the early 1970's, with calls for a reduced military being sounded from nearly every political and social arena. Several Senate leaders were even calling for the unilateral withdrawal of American troops from Europe. The signing of SALT I suggested the possibility of significant arms control agreements with Russia, and Americans were optimistic about promises of detente. Naturally MBFR talks began with an air of enthusiasm.

The establishment of equal force ceilings constituted the first proposal offered by NATO at the MBFR talks. The withdrawal of about 15 percent of American and Soviet troops, 29,000 and 68,000 respectively, was suggested as the first step toward establishing troop ceilings of 700,000 for both sides. This proposition offered stability and reduced military expenditures. However, the proposal was summarily rejected by the Soviet Union. In so doing, it surfaced the primary impediment to any agreement.

Although the Soviet Union and the United States are able to agree on intelligence estimates for NATO troop deployments, there is considerable disagreement on the number of Warsaw Pact forces. The Soviets count 805,000 ground troops and 160,000 tactical air personnel.

Several sources estimate Warsaw Pact ground forces at 925,000 and tactical air forces at perhaps 204,000. Given the Warsaw Pact's alleged 2-to-1 numerical advantage in main battle tanks and tactical aircraft, the disparity in troop estimates is significant.

Essentially, the Soviet Union claims Warsaw Pact-NATO military equility exists already in the NATO guidelines area (NGA). Their bargaining posture has therefore stressed cuts of equal numbers. The United States believes that Moscow has a numerical advantage and that an equal ceiling would require larger cuts in Warsaw Pact Forces.

In 1975, NATO proposed the withdrawal of 29,000 U.S. troops, with the addition of 1,000 U.S. nuclear warheads, 54 F–4 fighter-bombers, and 36 Pershing surface-to-surface missiles. The Soviet Union was asked to withdraw an entire tank army from East Germany in exchange.

The revised proposal did not require any reciprocal reductions of Soviet-deployed theater nuclear systems. This proposal favored the Warsaw Pact in the military balance. However, the proposal would have lessened the threat of a Warsaw blitzkrieg attack on the West, and for that reason, the plan had merit.

Nevertheless, the plan was rejected by the Soviet Union as an insufficient response to the issue of Forward Based Systems (FBS).

During the fall of 1977 and into the spring of 1978, a third major NATO proposal was debated. Again, further substantive concessions were made to the Warsaw Pact. In this proposal, NATO's reductions remained identical to those tabled in 1975. However, NATO's requirement for a phase-one withdrawal of a Soviet tank army from East Germany, was dropped. Instead, this proposal called for the withdrawal of numbers equivalent to a tank army—1,700 Soviet tanks and 68,000 men—from any of the five Soviet divisions in the NATO guidelines area.

In this instance, the Soviets could selectively remove obsolescent tanks and inferior troops in less critical areas. In effect, the Soviets would be allowed to maintain their newest armor and Elite troops in an attack posture along West Germany's eastern border without any modification. This proposal would have had the effect of stripping the 1975 proposal of its only real value to the West; namely a reduced surprise attack capability.

In addition to the tactical nuclear concessions repeated from the 1975 proposal, an extremely valuable bargaining chip in theater nuclear weapons was forfeited. You will remember, it was during this period that our administration shelved development of our enhanced radiation warhead or neutron bomb. A reciprocal reduction of Soviet offensive capability in Central Europe was hoped for. It has never come.

At present the talks remain in deadlock. The Soviet Union agrees to a ground force ceiling of 700,000, but does not agree on how many troops must be withdrawn to reach that ceiling. Major verification problems remain. The Soviet ability to negotiate in MBFR for 5 years without making any substantive concessions, must be regarded as nothing short of extraordinary.

At present, I think we may be thankful that the Russians did not accept the last NATO offer. It most certainly would have worsened our tactical posture and placed the security of Western Europe in greater jeopardy. Apparently, they are optimistic about political trends, displaying nothing but the most impassive face. They are waiting for us to place further concessions on the table.

Surely, the question must occur to even the most casual observer, Why does NATO continue the negotiations? Since 1975 it has become clear that the Soviet Union seeks significant gain from the talks. Western leaders, apparently driven by the credo that any arms control negotiations with the Soviet Union are inherently healthy and should be pursued for the sake of détente, having made progressively worse offers. Unfortunately, we are making substantive military concessions in exchange for a false sense of security.

If there is to be an agreement it should be for the establishment of balanced forces and the lessened ability of one side to launch a successful preemptive blitzkreig attack upon the other. Our negotiator's preoccupation with troop strength does not even address itself to this end. As wars in Vietnam, Korea, the Middle East, and World War II have illustrated, success on the battlefield is not dependent on the number of soldiers. Today in Europe, stability and the prevention of a preemptive attack will depend more on troop placement, configuration, armaments and logistical support. It is with these elements of modern warfare that our negotiators should concern themselves.

Furthermore, effective verification procedures including real time reporting are mandated before any credible agreement can be achieved. Recognition is also needed of the comparative distances and circumstances that troop withdrawal of men or material from the West German border would mean for the United States and U.S.S.R. Soviet reinforcements would traverse a distance of perhaps 700 miles over flat terrain and good roads; 4,000 miles and an ocean separate the United States from the NATO guidelines area. For this reason, in the event of a mutual withdrawal of Soviet and American forces, demobilization of Soviet forces should be a major consideration. Again, verification is crucial.

The negotiations for MBFR, held in Vienna, have usually dwelled in the shadow of SALT II negotiations. In many ways, however, MBFR talks differ markedly from the SALT process and are singularly important. They involve a total of 19 nations of Western Europe, as opposed to the one on one of SALT II. MBFR involves a full range of military doctrine, manpower, and armament questions. SALT II in that respect is relatively limited. Finally, SALT II is being negotiated from a position of relative parity. Decidedly, MFBR is being negotiated by NATO from a position of weakness. Nevertheless, the success or failures of MFBR must be viewed in unison with the negotiations for SALT II and a CTB agreement. In the rarified atmosphere of détente the outcome of one agreement is certain to have an impact upon the outcome of the others.

To conclude, I must return to the question of "why are we negotiating in MBFR?"

In a 1977 report issued by my esteemed colleague Senator NUNN and myself, we pronounced the NATO posture in Europe woefully unprepared. President Carter has prudently echoed our findings with renewed commitment and has called for increased cooperation with our allies in Western Europe. It would be a tragedy indeed if fresh initiatives to provide for the security of Western Europe were diluted or negated by an ill-conceived and damaging MBFR agreement. Any agreement must be verifiable and enforceable and take into account the ability of the Soviet Union to launch a surprise attack and to reinforce quickly from European Russia.

THE ERA EXTENSION

Mr. MORGAN. Mr. President, from the beginning, I have favored the equal rights amendment to the Constitution.

Had I been in the Congress when it was brought up initially, I would have voted to send it to the States for ratification, and I will do so in the future if that is necessary.

It has been unfortunate that the ERA issue has been clouded and muddied by arguments that had little or nothing to do with equal rights for women.

I regret that I cannot, in good conscience, support extending the time for consideration by the States that have not ratified it.

It would not have been a hard decision if those States which have approved it had been given an equal opportunity to reconsider their actions.

I felt that when the Senate voted against rescission, which would have given those States that had already voted a chance to reconsider, then the Senate was saying, "This isn't the constitutional, the legal or the best way to do this, but we are going to do it anyway."

The resolutions of ratification from 30 of the 35 States that have already ratified the amendment contain the express provision that they would be joined in their action by three-fourths of the States within the original 7-year period.

Five of those 30 States put the condition of being joined by 37 others within the original 7-year period as an explicit part of the contract.

I cannot help but feel that the Congress will have changed the rules in the middle of the game, which is something that Americans have always felt to be unfair.

There was a right way to do this thing and a wrong way to do it and I think the wrong will have prevailed if the extension is now granted.

I have been lobbied on this bill in a very personal way.

My wife has served as cochairperson of the State committee for the equal rights amendment in North Carolina.

My daughter has talked to me about it and she was seen advocating passage of the extension on national television.

So the decision that I reached was not an easy one.

But I think it is the right one, one that was brought about by my respect for the Constitution and for the law, and I cannot feel that those people who sent me to the Senate as their representative would want me to act otherwise.

DISTRICT OF COLUMBIA RETIREMENT REFORM ACT—CONFERENCE REPORT

Mr. EAGLETON. Mr. President, I submit a report of the committee of conference on H.R. 6536 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 6536) to establish an actuarially sound basis for financing retirement benefits for policemen, firemen, teachers, and judges of the District of Columbia, and to make certain changes in such benefits, having met, after full and free conference, have agreed to recommend and do recommend to their respective

Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of October 5, 1978.)

Mr. EAGLETON. Mr. President, the Senate and the House have reached agreement in conference on a thorough and tough reform of the pension system for police officers, firefighters, teachers, and judges in the District of Columbia.

The bill, I believe, is one of the most stringent pension reforms ever presented to Congress. It not only will eliminate abusive practices that have skyrocketed costs in the past, but it provides a fail-safe mechanism to squeeze out all possible abuse in the future. The bill, as hammered out with the House, not only will serve the men and women who will draw benefits from it, but the taxpayers who must support it with their hard-earned dollars.

The bill essentially does two things: First, it provides Federal funds to reduce the system's staggering $2 billion liability. Second, it strikes out disability provisions that made the system a premier rip-off for years. Basically, it provides fair and adequate pensions for the men and women who serve the Nation's Capital, but it closes the loopholes through which, at one time, 98 percent of all retiring police officers and firefighters claimed full disability pensions.

A unique feature of the bill is a mechanism that automatically will trigger a reduction in the Federal authorization if costs exceed a certain, clearly defined limit. This will keep relentless pressure on the city for rigorous and effective administration of the system. The General Accounting Office will be the vigilant watchdog and will provide annual reports to Congress that would trigger a drastic reduction in the authorization. I believe this fail-safe device could well be a model for other pension programs and will assure a constant alert against possible waste and fraud. In fact, an over-run of more than 2 percent would result in a lost of $25 million which the District itself would be obligated to make up.

As to the benefits themselves, a person truly disabled in the line of duty will be assured lifetime security. But the present system of only full disability pensions no matter the extent of the injury or illness will be scrapped for what I believe is a far more equitable and responsible system. From here on out, for persons entering the police and fire services, disability pensions will be equated to the percentage of disability. Persons with less than total disability will receive pensions in line with their earning abilities in less physically demanding jobs. Another reform of the disability provisions is the absolute elimination of the aggravation clause which has permitted legions of police and firemen to obtain full disability because of disabilities suffered off duty.

Federal funding, of course, is an indispensible element of the bill. Under the current, pay-as-you-go system, the District was fast approaching the disastrous brink of paying more in pensions than for active-duty salaries. The conference managers agreed on a Senate formula that authorizes $65 million annually for 25 years. Through that same quarter century, the District will end up contributing an equal share to deal with the enormous liability that has been allowed to deepen since the police and fire pensions were established by Congress in 1916. The $65 million effectively will plug the gaping deficit, although it is a reduction from the $80 million in the Senate version. The House originally proposed $47 million.

This authorization should put the system on a sound actuarial footing, and I have the statistical data and formula for the record that should assist the Appropriations Committee in making its annual determinations.

Mr. President, I ask unanimous consent that two tables be printed in the RECORD.

There being no objection, the material ordered to be printed in the RECORD, as follows:

Funding formula
[Dollars in millions]

	Police and fire	Teachers	Judges	Total
Accrued liability:*				
Wyatt assumptions	$698.1	$272.9	$4.5	$975.5
Treasury assumptions	641.9	272.9	4.5	919.3
Average	670 0	272.9	4.5	947.4
Value of fund (estimate)	0.0	62.0	1.5	63.5
Unfunded liability	670.0	210.9	3.0	883.9
Level payment	49.45	15.56	0.22	65.12
Prorated reduction to yield $65 million total	49.27	15.51	0.22	65.0

*See Exhibit A. Difference in liability for police and fire between House and Senate bills is due to different treatment of "equalization clause." Conference report retains House provisions, which Wyatt estimates will add $56,200,000 to the liability. Treasury assumes however, that pay increases will equal cost-of-living increases, thus not affecting the liability. The estimate used in these calculations is an average of the two estimates.

EXHIBIT A

District of Columbia retirement systems for policemen and firemen and for teachers—estimate of accrued liability as of Oct. 1, 1978 for members and beneficiaries retired prior to Jan. 1, 1975 (all numbers in thousands)

	S. 2316	H.R. 6536
Police and fire	$641,867	$698,096
Teachers	272,870	272,870
Total	914,737	970,966

The above estimates have been developed based on the actuarial assumptions and the data used for the actuarial valuation as of Jan. 1, 1976, for the police and fire system and as of Oct. 1, 1976, for the teachers' system. The liabilities related to members retired before Jan. 1, 1975, were approximated based on assumed percentages of those retired members remaining on the inactive rolls as of Jan. 1, 1976, for the police and fire and as of Oct. 1, 1976, for the teachers' system. The estimates have not been adjusted to reflect the differences between actual and assumed experience from the valuation date to Oct. 1, 1978.

Mr. EAGLETON. I strongly urge my colleagues to approve this conference report.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. EAGLETON. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SHIPPING ACT AMENDMENTS OF 1978

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 897.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

Calendar 897, H.R. 9518, an act to amend the Shipping Act, 1961, to strengthen the provisions prohibiting rebating practices in the United States foreign trade.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Commerce, Science and Transportation with amendments as follows:

On page 1, line 9, strike "subsection" and insert "paragraph";

On page 2, line 24, strike "subsection "(a)" and by adding a new subsection (b) as follows" and insert "subsections "(a)" and "(b)", respectively, and by adding a new subsection (c) as follows";

On page 3, line 3, strike "(b)" and insert "(c)";

On page 6, line 5, strike "one hundred and eighty" and insert "180";

On page 6, line 9, strike "thirty" and insert "30";

On page 6, line 15, strike "ten" and insert "10";

On page 7, beginning with line 22, insert the following:

SEC. 11. Section 15 of the Shipping Act, 1916, as amended, is amended by designating the existing paragraphs of that section as subsections (a) through (f), respectively, and by adding at the end thereof the following:

"(g) (1) United States carriers and reciprocal carriers are hereby authorized to enter into reciprocal ocean transportation agreements. A reciprocal ocean tansportation agreement is any ocean transportation agreement which—

"(A) establishes a revenue or cargo pool or pools;

"(B) provides for equal access to some or all government controlled cargoes;

"(C) provides for rationalization of sailings or apportions earnings, losses or traffic between such carriers; and

"(D) provides that the United States carriers shall have and receive a share at least equal to the share or combined shares of or have rights at least equal to those of the reciprocal carriers.

Any such agreement may also provide for participation by common carriers other than the United States carriers or reciprocal carriers.

"(2) Reciprocal ocean transportation agreements are hereby declared presumptively to be in the public interest and beneficial to the commerce of the United States and shall be lawful and deemed approved under subsection (a) of this section 30 days after they are filed with the Federal Maritime Commission. Any such reciprocal ocean transportation agreement shall remain lawful and effective until canceled by one of the parties, with 45 days notice to the Federal Maritime Commission, or until finally disapproved by the Federal Maritime Commission on findings, after notice and hearing, that such agreement—

"(A) prohibits or otherwise prevents any other United States carrier or reciprocal carrier from becoming a party to such reciprocal ocean transportation agreement on a fair, reasonable, and equitable basis, at the time of filing of such agreement or at any time thereafter;

"(B) contains any provisions other than those establishing revenue or cargo pool or pools, equal access to some or all government-controlled cargoes, rationalization of sailings or apportionment of earnings, losses, or traffic, and administrative provisions necessary or proper to effectuate the foregoing provisions or to admit other carriers; or

"(C) is unjustly discriminatory or unfair as between United States carriers or reciprocal carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operates to the detriment of the commerce of the United States, or is contrary to the public interest, or is in violation of this Act.

"(3) The Federal Maritime Commission may, on the complaint of an aggrieved carrier, shipper, exporter, or importer or port, or on its own motion, after notice to the parties to the agreement and preliminary hearing, within the 30-day period following its filing with the Commission, suspend for a period not to exceed 120 days, the effectiveness of a reciprocal ocean transportation agreement upon a finding that (A) it is probable that the agreement violates the provisions of subparagraph (A), (B), or (C) of paragraph (2); (B) irreparable injury will result to the complaining party; (C) such suspension will not substantially harm the parties to the agreement; and (D) such suspension will not adversely affect the free flow of commerce between a coast of the United States and the foreign country involved.

"(4) At any hearing under this subsection, the burden to show that the reciprocal ocean transportation agreement involved should not become effective or should be suspended or disapproved shall be upon the opponent of the agreement.

"(5) For the purposes of this subsection—

"(A) the term 'United States carrier' means a United States-flag common carrier by water in foreign commerce; and

"(B) the terms 'reciprocal carrier' means a common carrier by water in foreign commerce of the flag of the nation which is the ocean port destination or origin of the cargo which is the subject of a reciprocal ocean transportation agreement.".

On page 11, line 1, strike "11" and insert "12".

Mr. INOUYE. Mr. President, I move the consideration and adoption of the committee amendments en bloc.

The amendments were considered and agreed to en bloc.

UP AMENDMENT NO. 2018

Mr. INOUYE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Hawaii (Mr. INOUYE) proposed an unprinted amendment numbered 2018.

Mr. INOUYE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike all after the enacting clause and insert in lieu thereof the following:

"That this Act may be cited as the 'Shipping Act Amendments of 1978'.

"SEC. 2. Section 16 of the Shipping Act, 1916 is amended, by striking '$5,000' in the sixth paragraph, and inserting, in lieu thereof, '$25,000.'

"SEC. 3. Section 18(b) of the Shipping Act, 1916 is amended by deleting subsection (6) thereof and by adding the following new language in lieu thereof:

"(6) Whoever violates any provision of this section, other than subsection (b)(3) hereof involving rebates or refunds shall be subject to a civil penalty of not more than $5,000 for each day such violation continues.

"(7) Whoever violates subsection (b)(3) hereof by means of rebates or refunds, shall be subject to a civil penalty of not more than $25,000 for each shipment on which a rebate or refund was paid and to suspension by the Commission of any or all tariffs filed by or on behalf of such carrier, or suspension of that carrier's right to utilize any or all tariffs of conferences of which that carrier may be a member, for a period not to exceed twelve months. Any carrier whose tariffs or rights of use thereof have been suspended pursuant to this paragraph and who accepts cargo for carriage during the suspension period which cargo otherwise would have been governed by the provisions of the suspended tariff(s) shall be subject to a civil penalty of not more than $50,000 for each shipment so accepted.

"For purposes of this subsection and section 22(c) of this Act, a shipment shall mean all of that cargo, the carriage of which is evidenced by a single bill of lading.".

"SEC. 4. Section 21 of the Shipping Act, 1916 is amended by designating the existing two paragraphs as subsection '(a)' and by adding a new subsection (b) as follows:

"(b) The Commission shall require the chief executive officer of every vessel operating common carrier by water in foreign commerce and to the extent it deems feasible, may require any shipper, consignor, consignee, forwarder, broker, other carrier or other person subject to this Act, to file a periodic, written certification under oath with the Commission attesting to—

"(1) a policy prohibiting the payment, solicitation, or receipt of any rebate which is unlawful under the provisions of this Act;

"(2) the fact that such policy has been promulgated recently to each owner, officer, employee, and agent thereof;

"(3) the details of the efforts made, within the company or otherwise, to prevent or correct illegal rebating; and

"(4) full cooperation with the Commission in its investigation of illegal rebating or refunds in United States foreign trades, and in its efforts to end such illegal practices.

"The Commission may by regulation prescribe the form and content of any certification required under the authority of this subsection. Failure to file any such certification shall result in a civil penalty of not more than $5,000 for each day such violation continues.".

"SEC. 5. Section 22 of the Shipping Act, 1916 is amended as follows:

"(a) designate the two existing paragraphs as '(a)' and '(b)', respectively;

"(b) amend subsection (b), as designated by this Act, by deleting therefrom the phrase 'except as to orders for the payment of money,'; and

"(c) immediately after subsection (b), as designated by this Act, insert the following:

"(c)(1) In addition to, and without limiting the authority granted to the Commission by subsections (a) and (b) hereof, the Commission may, on its own motion, institute an adjudicatory investigation into possible violations of section 16 (other than paragraphs First and Third) involving rebates or refunds in foreign commerce or violations of section 18(b)(3) involving rebates or refunds, with the powers set forth in subsection (c)(2) hereof in addition to those already contained in section 27, 43, and other sections of this Act.

"(2) Failure on the part of any person, respondent to a proceeding instituted pursuant to subsection (c)(1), or any other person directly or indirectly controlling, controlled by, or under common control with such respondent, to comply with any subpena or any duly issued order compelling an answer to interrogatories or to designated questions propounded by deposition or compelling production of documents in relation to any investigation conducted under subsection (c)(1), shall authorize the Commission to issue an order to show cause why any or all tariffs filed pursuant to section 18 (b) of this Act, by or on behalf of a respondent carrier, or any or all rights of a respondent carrier to utilize such tariffs in the case of conference tariffs, should not be suspended until that carrier or any person directly or indirectly controlling, controlled by, or under common control with such carrier, has fully responded to the pertinent deposition, interrogatory, production request or motion, or subpena, and after such proceeding, and after consultation with the Secretary of State, to so suspend those tariffs or the respondent carrier's rights to utilize such tariffs. Any carrier whose tariff(s) or rights of use thereof have been suspended pursuant to this subparagraph and who accepts cargo for carriage during the suspension period which cargo otherwise would have been governed by the provisions of the suspended tariff(s) shall be subject to a civil penalty of not more than $50,000 for each shipment so accepted.

"(3) The Secretary of State shall take appropriate steps to negotiate a regime of cooperation with other maritime nations engaged in United States foreign trades to secure compliance with the Commission's requirements for information. He shall issue a report to the President and the Congress within one hundred and eighty days after enactment of this Act on the results of those negotiations. If the President deems that the steps taken provide satisfactory Commission access to such information, he shall so certify to the Congress within thirty days after receipt of the Secretary's report. If such certification is not made, the penalties prescribed in paragraph (c)(2) for failure to comply with information requests shall be mandatory.

"(4) Before any tariff suspension ordered pursuant to paragraph (c)(2) becomes effective, it shall be immediately submitted to the President who may, within ten days after receiving it, disapprove any such order

if he finds that disapproval is required for reasons of the national defense or the foreign policy of the United States.".

"SEC. 6. Section 23 of the Shipping Act, 1916 is amended by deleting therefrom the language ', other than for the payment of money,'.

"SEC. 7. Section 27 of the Shipping Act, 1916 is amended by deleting from subsection (b) thereof the phrase 'other than for the payment of money'.

"SEC. 8. Section 29 of the Shipping Act 1916 is amended by deleting therefrom the phrase 'other than an order for the payment of money,'.

"SEC. 9. Section 30 of the Shipping Act, 1916 is amended in the initial and final paragraphs thereof by deleting the phrase 'for the payment of money' and by inserting, in lieu thereof, the phrase 'for the payment of reparation'.

"SEC. 10. Section 32 of the Shipping Act, 1916 is amended by inserting at the end thereof the following new subsections:

"(d) No penalty shall be imposed on any person for conspiracy after August 29, 1972: (1) to rebate or refund in violation of the initial paragraph or paragraph Second of section 16, or under section 18(b)(3) of this Act; or (2) to defraud the Commission by concealment of such rebates or refunds in any manner.

"(e) Notwithstanding any other provision of law, the Commission shall have authority to assess or compromise all civil penalties provided in this Act: *Provided, however,* That, in order to assess such penalties a formal proceeding under section 22 of this Act shall be commenced within five years from the date when the violation occurred.".

"SEC. 11. The provisions of this Act, including the amendments made by this Act, shall become effective immediately upon its date of enactment.".

Mr. INOUYE. Mr. President, on June 28, the Commerce Committee reported H.R. 9518, a bill to strengthen our laws against rebating, which passed the House 390 to 1. As reported by the Commerce Committee it contained an amendment which had been offered in committee by Senator LONG.

Senator LONG's amendment would have facilitated FMC approval of certain pooling agreements now permitted under section 15, of the Shipping Act, 1916, but which, because of the administrative and judicial interpretation of that section, are virtually unobtainable.

Senator LONG's amendment has engendered some controversy, however. In view of the lateness of the session, he does not wish to jeopardize enactment of the House-passed antirebating provisions of H.R. 9518. He therefore requested the Commerce Committee to authorize me, as the manager of the bill, to delete his amendment on the floor. The committee in executive session on September 21, agreed to Senator LONG's request. I therefore offer an amendment to H.R. 9518, which will make it identical to the House passed version. This will have the effect of striking Senator LONG's amendment and making whatever technical changes are necessary for the version reported by the committee to conform to the House-passed version.

Mr. President, illegal rebating in the U.S. ocean liner trades has for many years been a widespread practice which now amounts to over $100 million annually, and threatens the viability of the liner segment of the U.S. merchant fleet.

Existing laws have proven ineffective to correct the situation, and have been applied in a discriminatory fashion against U.S. carriers. Moreover, existing mechanisms in the law which reduce the incentive for carriers to engage in illegal rebating have been rendered inoperative by administrative and judicial interpretation, and lack of a coherent, unified national shipping policy.

H.R. 9518 would amend the Shipping Act, 1916, to strengthen the provisions prohibiting rebating practices in the U.S. foreign trades.

Mr. President, this legislation will be a greater deterrent to illegal rebating and provide the Federal Maritime Commission (FMC) with greater authority and flexibility to enforce the provisions of the Shipping Act prohibiting rebating.

Specifically, H.R. 9518 would provide:

First. Increased civil penalties for rebating and other malpractices; and discretionary authority for the FMC to suspend tariffs up to 12 months for rebating.

Second. Additional authority for the FMC to require certifications from U.S. and foreign carriers, forwarders, shippers, and other persons subject to the act attesting to company policies and efforts to combat rebating and to require other information necessary for the FMC to carry out the provisions of the act.

Third. Additional powers for the FMC to investigate rebating violations in any adjudicatory proceeding on the record. Specifically, the Commission would be authorized in connection with any adjudicatory proceeding into possible illegal rebating, to issue an order to show cause why the tariffs of a carrier or its right to utilize a conference tariff, should not be suspended for failure of that carrier to comply with any subpena, or any order of the Commission to answer interrogatories, questions propounded by deposition or to produce documents related to any Commission investigation of illegal rebating. If the carrier in question fails to produce the requested documents, answer the questions or interrogatories, and fails to show cause why he has a right to withhold such information, the Commission—after consultation with the Secretary of State—has authority to suspend any or all of the traiffs of that carrier which may be on file with the Commission. The President has a veto power over whether or not a carrier's tariffs will be suspended.

Fourth. A prohibition against the use of the conspiracy statutes to make the past, present or future illegal practice of rebating as narrowly defined in the initial and second paragraphs of section 16 or in section 18(B)(3) of the Shipping Act, 1916, a criminal offense.

Fifth. The FMC could assess all civil penalties prescribed by the Shipping Act, 1916. Presently an action must be initiated in the U.S. district court for collection of the penalty.

Mr. President, with the exception of certain minor technical changes, this legislation is identical to the bill which passed the House 390 to 1, on March 22, 1978.

Mr. LONG. Mr. President, ocean rebating is one of the most destructive practices confronting our merchant marine, and I commend the Senator from Hawaii for his work in bringing to the floor H.R. 9518, a bill to prevent ocean rebating. This is a necessary piece of legislation, and I support it.

We know that existing laws have proven ineffective to correct the situation and have been applied in a discriminatory fashion against U.S. carriers. This bill therefore contains a number of provisions designed to provide the Federal Maritime Commission with greater authority and flexibility to enforce the provisions of the Shipping Act prohibiting rebating. These include increased civil penalties, tariff suspension powers, additional authority for the Federal Maritime Commission to require certifications from U.S. and foreign carriers, forwarders, shippers, and other persons subject to the act attesting to company policies and efforts to combat rebating and to require other information necessary for the Federal Maritime Commission to carry out the provisions of the act.

In addition, when this legislation was going through markup in the Commerce Committee, I offered an amendment that was designed to further strengthen the bill and get at the root cause of rebating—overtonnaging.

My amendment, which was approved by the committee, would merely seek to expedite the approval by the Federal Maritime Commission of certain reciprocal ocean transportation agreements that are designed to bring stability to our liner trades and prevent overtonnaging. These are the very same agreements that are currently provided for in section 15 of the Shipping Act of 1916, but which have historically been so difficult to implement that their utility has been compromised. These agreements provide for revenue pooling among carriers, cargo pooling, equal access to government controlled cargoes of our South American trading partners, and rationalization of sailings in order to avoid overtonnaging and duplication of sailings.

By expressly exempting these kinds of agreements from the antitrust laws, section 15, as it now stands, recognizes that economic cooperation through rationalization; equal access, rate and pooling arrangements under governmental supervision and control are necessary for greater regularity and frequency of service; stability and uniformity of rates; economy in the cost of service; better distribution of sailings and equal treatment of shippers through the elimination of secret arrangements and under-handed methods of discrimination. The Federal Maritime Commission is already on record to the effect that these agreements help in deterring rebating. In testimony before the Senate Committee on Commerce, Science, and Transportation on March 18, 1977 on illegal rebating, then chairman of the FMC, Karl E. Bakke, said:

". . . Rebating is commonly accepted competitive practice in virtually all ocean trades other than our own. However, the incentive for rebating is significantly diminished in these trades, by regulation of tonnage through such devices as cargo or revenue pooling, or in a variety of other ways . . ."

As I have already indicated, Mr. President, the antitrust immunity given these agreements under section 15 of the Shipping Act of 1916, has been severely restricted by a series of administrative and judicial interpretations; and procedural problems caused by interpretations can effectively prevent such agreements from being implemented in timely fashion. In fact, the mere filing of such an agreement with the Commission is an invitation to protracted, expensive hearings which ultimately results in the agreement's being talked to death.

As I have said, my amendment would have facilitated the approval of these agreements by providing a specified time frame for approval or disapproval, and would have made it clear that these agreements were in the public interest.

Unfortunately, some Senators felt that the amendment created a controversy between our shipping laws and our antitrust laws and expressed the view that the amendment represents an abrupt and sudden change in policy. I happen to disagree, but in view of the lateness of the session, the importance of at least passing H.R. 9518, and my desire not to engage the Senate in prolonged debate at a time when other bills require action, I asked the committee at its last business meeting, through the Senator from Hawaii, to approve a modification of the bill on the Senate floor, such modification to consist of deleting my amendment regarding reciprocal ocean transportation agreements.

Mr. GRIFFIN. Mr. President. The committee amendment now before the Senate would delete section 11 in its entirety from the bill.

This section would have made bad law and would have been against the public interest. I have worked actively to delete this provision, and I am pleased with the action being taken.

I wish to thank Senators KENNEDY, STEVENSON, ZORINSKY, and SCHMITT for their strong support in achieving this result.

Section 11, as reported from the Senate Commerce Committee, concerns pooling agreements. Contrary to the Senate Committee-reported bill, the House-passed bill had no such provision.

Generally, pooling agreements are agreements among carriers for economic cooperation, which would otherwise be illegal under the antitrust laws, except for antitrust immunity granted under section 15 of the Shipping Act.

Under the existing law such as agreement can become valid only after it is approved by the Federal Maritime Commission.

As stated in existing law, and as interpreted by the Supreme Court, the burden of showing that such an agreement should be approved is upon the proponents of the agreement.

The wisdom of the present policy to grant such agreements antitrust immunity has been severely questioned. Far worse, however, is the language of Section 11 in the Commerce Committee bill that would change existing law and make it far more anticompetitive than is now the case.

It is my belief that this provision is both anticompetitive and against the public interest. Such anticompetitive practices, of course, would mean increased prices to the American consumer. During these days of inflation and unemployment, this cannot be tolerated.

Section 11, as added in committee, has a number of subsections which change current law in a most anticompetitive manner.

First, the section overturns Supreme Court and legislative authority in declaring that pooling agreements are "presumptively in the public interest and beneficial to the commerce of the United States."

Second, the section provides that these agreements are presumed valid 30 days after they are filed with the Federal Maritime Commission and are to remain in effect until and unless declared invalid by the FMC.

Third, it declares that the opponents of the agreement, rather than the proponents, have the burden of showing that the agreement is not in the public interest.

Fourth, the section imposes an all but impossible burden upon opponents who seek to have such agreements merely suspended, rather than invalidated, by the FMC.

And, fifth, even if this burden is satisfied, the agreement is suspended for only a 120-day period, which is apparently too short a time for the Commission to render a final decision on the validity of the agreement.

There are a number of compelling reasons for opposing section 11. Based upon recognized authorities who have examined the merit of pooling agreements, the inescapable conclusion is that, rather than being beneficial, these agreements are contrary to the public interest. In a 1977 report, the Department of Justice stated: "Pooling agreements should be prohibited altogether." The Justice Department reaffirmed this position in testimony delivered in March of this year before the House Subcommittee on Merchant Marine.

Similarly, a spokesman for the State Department also expressed grave reservations regarding the benefit of such agreements, stating "[w]e continue to believe that cargo-sharing agreements, which are anticompetitive and tend to promote inefficient shipping services, should be avoided whenever possible." And, the Treasury Department in testimony delivered in May of this year, also stated that new limitations, on competition between shipping firms as proposed by section 11 of this bill as reported from Committee, "could lead to greater inefficiencies and increased costs, without providing improved services to the shipping public." Or, as more succinctly phrased by the Federal Maritime Commission, "[p]ooling agreements are the ultimate in anticompetitive combinations."

This displeasure with pooling agreements goes back to at least 1962 when the House Subcommittee on Antitrust concluded that "[p]ooling agreements are bold efforts to substitute monopoly for competition." And, as significantly, when the Supreme Court examined this question, it likewise concluded that such agreements generally are not in the public interest.

With all of these knowledgeable authorities concluding that pooling agreements are contrary to the public interest, I cannot agree with the provision's declaration that such agreements are beneficial to the public. But far more disturbing is the way section 11 uses this policy declaration to change current law. Under present law, pooling agreements do not become valid until they are approved by the Federal Maritime Commission. The FMC is required to disapprove any agreement it finds to be "contrary to the public interest." Further, as provided by present law and the Supreme Court, the burden is upon the party seeking approval.

As stated earlier, however, if section 11 were to become law, pooling agreements would be deemed effective 30 days after they are filed with the Commission and would stay in effect until and unless declared invalid. Further, the burden would be shifted to the opponents of the agreement to show that such an agreement should be invalidated by the Commission. As significant, an all but impossible burden of proof would be placed upon parties who wish to have the agreement merely suspended by the FMC.

I simply do not understand the logic of changing current law to permit pooling agreements, although they may be blatantly invalid, to stay in effect until they are disapproved by the Commission. Countless authorities in this area conclude that pooling agreements are contrary to the public interest, but this provision, as adopted in committee, would heighten the anticompetitive nature of these agreements by presuming their validity and shifting the burden of proof to the opponent.

For a number of reasons, the provision also is objectionable because it imposes an unreasonable burden of proof upon the opponent to have a proposed agreement merely suspended by the FMC. First, the opponent under section 11 can apply for a suspension of the agreement only if he does so within 30 days after the agreement is filed with the Commission. This 30 day period is an inadequate length of time for an opponent to learn of an agreement's filing, analyze it, request a hearing, prepare evidence, and present arguments to the Commission in a manner that will sustain the difficult burden of proof.

Second, the provision that the FMC can only suspend a pooling agreement for 120 days. Within this period, the Commission must render a final decision regarding the validity of the agreement. The General Counsel of the Commission has notified the Commerce Committee staff that this 120-day period is inadequate.

Third, section 11 imposes a much too rigorous burden upon the opponent to have the agreement suspended. To have such an agreement suspended, the opponent must satisfy four conditions: First, that it is probable that the proposed agreement will ultimately be declared invalid, second that irreparable injury will result to the opponent if sus-

pension is not ordered by the Commission, third that suspension will not substantially harm the parties to the agreement, and fourth that suspension will not adversely affect the free flow of commerce between a port of this country and the foreign nation involved.

These standards are all but impossible to satisfy. It should be first remembered that under this subsection, the Commission is authorized only to suspend rather than invalidate the agreement. But even more important is the fact that it is extremely difficult for an opponent to show that it will suffer irreparable injury if it has never previously engaged in the particular route or trade. Also, if the agreement is illegal, it should not be relevant whether the parties to the agreement will suffer substantial injury if it is suspended for the 120-day period. And last, under this standard, the FMC may decline to order suspension when such an order would have a de minimis affect on the free flow of commerce. The proper standard should be whether suspension would have a substantial effect.

I well understand that the Commission has been subject to criticism for taking what is allegedly an excessive amount of time in determining whether to approve certain pooling agreements. But this criticism is certainly no reason to change the current law to make the anticompetitive practices of the shipping industry even more anticompetitive. Rather, what is needed is a thorough and deliberate approach to this problem. At the present time, the administration is conducting an interagency study of our national maritime policy. As the Justice Department testified on June 8 of this year regarding similar legislation introduced in the House, "further investigation should be undertaken before enacting this type of statutory change." I agree with the administration. Let us wait and see what the interagency study recommends before proceeding to enact such drastic legislation.

In conclusion, I vigorously oppose this pooling agreement provision and am delighted that we have agreed to delete the provision from the bill. This provision would have made bad law. It would have been contrary to the public interest and would have promoted even more anticompetitive practices in the shipping industry. I thank my colleagues, particularly Senators KENNEDY, STEVENSON, ZORINSKY, and SCHMITT, for their strong support.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Hawaii.

The amendment was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. INOUYE. I move to lay that motion of the table.

The motion to lay on the table was agreed to.

The title was amended so as to read:

An act to amend the Shipping Act, 1916, to strengthen the provisions prohibiting rebating practices in the United States foreign trades, to provide for the prompt and effective implementation of certain equal access, pooling, rationalization, apportionment, and related reciprocal ocean transporation agreements, and for other purposes.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–966), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

Illegal rebating in the U.S. ocean liner trades has for many years been a widespread practice which now amounts to over $100 million annually, and threatens the viability of the liner segment of the U.S. merchant fleet. Existing laws have proven ineffective to correct the situation, and have been applied in a discriminatory fashion against U.S. carriers. Moreover, existing mechanisms in the law which reduce the incentive for carriers to engage in illegal rebating have been rendered inoperative by administrative and judicial interpretation, and the lack of a coherent unified national shipping policy.

As ordered reported by the committee H.R. 9518 would amend the Shipping Act, 1916, to strengthen the provisions prohibiting rebating practices in the U.S. foreign trades; and to provide for more prompt and effective implementation of certain equal access, pooling, rationalization, apportionment, and related reciprocal ocean transportation agreements entered into between carriers of the flags of the United States and of the nations with which it trades.

The committee believes this legislation will be a greater deterrent to illegal rebating; provide the Federal Maritime Commission (FMC) with greater authority and flexibility to enforce the provisions of the Shipping Act prohibiting rebating; and facilitate approval of section 15 agreements among carriers which control overtonnaging, the root cause of rebating.

Specifically, as reported by the committee, H.R. 9518 would provide:

1. Increased civil penalties for rebating and other malpractices; and discretionary authority for the FMC to suspend tariffs up to 12 months for rebating.

2. Additional authority for the FMC to require certifications from U.S. and foreign carriers, forwarders, shippers, and other persons subject to the act attesting to company policies and efforts to combat rebating and to require other information necessary for the FMC to carry out the provisions of the act.

3. Additional powers for the FMC to investigate rebating violations in any adjudicatory proceeding on the record. Specifically, the Commission would be authorized in connection with any adjudicatory proceeding into possible illegal rebating, to issue an order to show cause why the tariffs of a carrier or its right to utilize a conference tariff, should not be suspended for failure of that carrier to comply with any subpena, or any order of the Commission to answer interrogatories, questions propounded by deposition or to produce documents related to any Commission investigation of illegal rebating. If the carrier in question fails to produce the requested documents, answer the questions or interrogatories, and fails to show cause why he has a right to withhold such information, the Commission—after consultation with the Secretary of State—has authority to suspend any or all of the tariffs of that carrier which may be on file with the Commission. The President has a veto power over whether or not a carrier's tariffs will be suspended.

4. A prohibition against the use of the conspiracy statutes to make the past, present or future illegal practice of rebating as narrowly defined in the initial and second paragraphs of section 16 or in section 18(b)(3) of the Shipping Act, 1916, a criminal offense.

5. The FMC could assess all civil penalties prescribed by the Shipping Act, 1916. Presently an action must be initiated in the U.S. District Court for collection of the penalty.

6. Certain reciprocal agreements for economic cooperation[1] among U.S.-flags and the flags of the nations with which we trade, which are now permitted by section 15 of the Shipping Act, would become effective 30 days after filing with the FMC. They would remain in force until terminated by the parties; or the Commission, after notice and hearing, disapproves them as violating the provisions of present section 15, and certain new safeguards added in the bill. The FMC would also be empowered to suspend these agreements before they become effective.

THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Orders Nos. 1101 and 1192.

TRIBAL-STATE COMPACT ACT OF 1978

The Senate proceeded to consider the bill (S. 2502) to authorize the States and Indian tribes to enter into mutual agreements and compacts respecting jurisdiction and governmental operations in Indian country, which had been reported from the Select Committee on Indian Affairs with amendments as follows:

On page 1, beginning with line 5, strike through and including page 3, line 11;

On page 3, line 13, strike "SEC. 3." and insert "SEC. 2.";

On page 4, line 2, strike "SEC. 4." and insert "SEC. 3.";

On page 5, line 7, strike "(a)" and insert "(2)";

On page 5, line 8, after "responsibility" insert "of States of tribes";

On page 5, line 10, strike "for the allocation or determination of jurisdiction on a case-by-case basis, and agreements which provide";

On page 5, line 13, after "tribes" insert a comma and "and (3) agreements or compacts which provide for transfer of jurisdiction of individual cases from tribal courts to State courts or State courts to tribal courts in accordance with procedures established by the laws of the tribes and States";

On page 5, beginning with line 18, strike through and including page 6, line 8, and insert the following:

Such agreements and compacts shall be subject to revocation by either party upon six months written notice to the other unless a different period of time is agreed upon. No agreement may provide for a period for revocation in excess of five years unless first approved by a majority of the adult enrolled Indians within the affected area voting at a special election as prescribed in Title IV, Sec. 406 of the Act of April 11, 1968 (82 Stat. 80; 25 U.S.C. 1326), but such approval shall not curtail the right of the parties to revoke the agreement by mutual consent within a shorter period of time.

[1] The agreements provided for are: revenue or cargo pools; equal access to government-controlled cargoes; rationalization of sailings; and apportionment of earnings, losses or traffic.

On page 6, beginning with line 19, strike through and including line 23, and insert in lieu thereof the following:

(c) Agreements or compacts entered into under the provision of this section must be filed with the Secretary within thirty days of consummation. In the event an agreement is not so filed, it shall be subject to immediate revocation by either party. The Secretary shall cause the jurisdictional provisions of any such agreement, compact, or revocation to be published in the Federal Register unless requested otherwise by all parties to the agreement or compact.

On page 7, line 13, after "to" insert a colon and "(1)";

On page 7, beginning with line 14, strike "either";

On page 7, line 16, after "Act" insert a semicolon and the following:

(2) authorize or empower State or tribal governments, either separately or pursuant to agreement or compact, to expand or diminish the jurisdiction presently exercised by the Government of the United States to make criminal laws for or enforce criminal laws in the Indian country; (3) authorize or empower the government of a State or any of its political subdivisions or the the government of an Indian tribe from entering into agreements or exercising jurisdiction except as authorized by their own organizational documents or enabling laws; (4) authorize agreements or compacts which provide for the alienation, financial encumbrance, or taxation of any real or personal property, including water rights, belonging to any Indian or any Indian tribe, band, or community that is held in trust by the United States or is subject to a restriction against alienation imposed by the United States; or (5) to enter into agreements or compacts for the transfer of unlimited, unspecified, or general civil and criminal jurisdiction of an Indian tribe, except as provided under Title IV, Sec. 406 of the Act of April 11, 1968 (82 Stat. 80; 25 U.S.C. 1326).

On page 8, line 14, following "Act" insert a comma, and strike "in which one of the parties assumes an obligation which it would not otherwise be legally obligated or entitled to perform, or would not be obligated to perform at the standard established in the agreement or compact";

On page 8, line 19, strike "shall" and insert "may";

On page 8, line 22, strike "or" and insert "of";

On page 9, line 1, after the period, insert the following:

In determining the amount of Federal assistance, if any, to be provided the Secretary may consider among other things:

1. Whether or not the party assuming an obligation under the agreement or compact is already obligated or entitled to perform the function which is the subject of the compact.

2. Whether or not the Federal assistance will cause or enable the contracting party to perform the function at a standard above that which it is already obligated to perform.

3. The financial capacity of the contracting parties to underwrite the expenses without Federal assistance.

4. The extent to which the success or failure of the compact may depend upon Federal assistance.

5. The extent to which the proposed compact or agreement will contribute to fostering of community relations between Indian and non-Indian communities.

6. The extent to which the proposed compact or agreement will enhance protection of resources of both Indian and non-Indian communities.

7. The comparative costs if the function which the subject of the compact or agreement were to be performed by the United States.

8. The extent to which Federal funding is already supplied through revenue sharing, grants in aid, or other Federal program moneys.

On page 10, line 15, after the period, insert "In the event disputes arise between the parties, either party may request an audit.";

On page 10, line 19, strike "and copying";

On page 10, line 20, strike "the other party and by";

On page 11, beginning with line 15, strike through and including line 21, and insert in lieu thereof the following:

(g) There are authorized to be appropriated such sums as may be necessary during fiscal year 1980 not to exceed $10,000,000 and each subsequent fiscal year in order to carry out the agreements or compacts entered into pursuant to this title. Such funds shall be expended by the Secretary only after determination that there are no funds available from alternative sources as provided in subsection (d) of this section. The Secretary shall provide for such records as may be necessary for the accounting and justification of the funds expended under this authorization.

On page 12, line 10, strike "between" and insert "comprised of representatives of";

On page 12, line 19, strike "tribe" and insert "tribes";

On page 12, line 21, strike "or" and insert "of";

On page 12, line 24, after "appropriated" insert "not to exceed";

On page 13, beginning with line 3, insert the following:

TITLE III—JUDICIAL ENFORCEMENT

SEC. 301. The United States district courts shall have original jurisdiction of any civil action brought by any party to an agreement or compact entered into in accordance with this Act to secure equitable relief, including injunctive and declaratory relief, for the enforcement of any such agreement or compact, but no action to recover damages arising out of or in connection with such agreement or compact shall lie except as specifically provided for in such agreement or compact.

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Tribal-State Compact Act of 1978".

DECLARATION OF POLICY

SEC. 2. The Congress hereby declares that it is the policy of this Nation to continue to preserve and protect the tribes of the American Indian people. The policy of this Nation is premised on the status of tribal governments as a continuing part of the American political fabric. Accordingly, the United States has a responsibility to establish a legal framework which will enable the tribes and the States to achieve maximum harmony and facilitate their cooperative efforts in the orderly administration of their governments. Federal enabling authority for the establishment of viable intergovernmental agreements between the tribes and the States based on mutual consent must be established.

DEFINITIONS

SEC. 3. For purposes of this Act:

(a) "Indian tribe" means any Indian tribe, band, nation, or other organized group or community exercising powers of self-government which is recognized as eligible for services provided by the United States to Indians because of their status as Indians, including any Alaska Native villages included in the Alaska Native Claims Settlement Act (85 Stat. 688, 697).

(b) "State" means any of the States of the United States, including cities, counties, municipalities, or other political subdivisions thereof.

(c) "Secretary" means the Secretary of the Department of the Interior unless otherwise designated in this Act.

(d) "Indian country" shall be defined in accordance with the provisions in section 1151 of title 18, United States Code.

TITLE I—AUTHORIZATION OF COMPACTS AND AGREEMENTS

SEC. 101. (a) Notwithstanding the Act of August 15, 1953 (67 Stat. 588), as amended, or any other Act transferring civil or criminal jurisdiction over Indians within Indian country from the United States to the various States, or establishing a procedure for such transfers, and notwithstanding the provisions of any enabling Act for the admission of a State into the Union, the consent of the United States is hereby given the States and the Indian tribes and the same are hereby authorized to enter into compacts and agreements between and among themselves on matters relating to (1) the enforcement or application of civil, criminal, and regulatory laws of each within their respective jurisdiction, and (2) allocation or determination of governmental responsibility of States and tribes over specified subject matters or specified geographical areas, or both, including agreements or compacts which provide tribes, and (3) agreements or compacts which provide for transfer of jurisdiction of individual cases from tribal courts to State courts or State courts to tribal courts in accordance with procedures established by the laws of the tribes and States.

Such agreements and compacts shall be subject to revocation by either party upon six months written notice to the other unless a different period of time is agreed upon. No agreement may provide for a period for revocation in excess of five years unless first approved by a majority of the adult enrolled Indians within the affected area voting at a special election as prescribed in Title IV, Sec. 406 of the Act of April 11, 1968 (82 Stat. 80; 25 U.S.C. 1326), but such approval shall not curtail the right of the parties to revoke the agreement by mutual consent within a shorter period of time.

Agreements or compacts entered into under the provision of this section must be filed with the Secretary within thirty days of consummation. In the event an agreement is not so filed, it shall be subject to immediate revocation by either party. The Secretary shall cause the jurisdictional provisions of any such agreement, compact, or revocation to be published in the Federal Register unless requested otherwise by all parties to the agreement or compact.

(d) Such agreements, compacts, or revocation thereof shall not affect any action or proceeding over which a court has already assumed jurisdiction and no such action or proceeding shall abate by reason of such agreement, compact, or revocation unless specifically agreed upon by all parties to any such action or proceedings and by the parties to the agreement or compact.

(e) Nothing in this Act shall be construed to: (1) enlarge or diminish the jurisdiction over civil or criminal matters which may be exercised by either State or tribal governments except as expressly provided in this Act; (2) authorize or empower State or tribal governments, either separately or pursuant to agreement or compact, to expand or diminish the jurisdiction presently exercised by the Government of the United States to make criminal laws for or enforce criminal laws in the Indian country; (3) authorize or empower the government of the State or any of its political subdivisions or the government of an Indian tribe from entering into agreements or exercising jurisdiction except as authorized by their own organizational documents or enabling laws; (4) authorize agreements or compacts which provide for the alienation, financial encumbrance, or taxation of any real or personal property, including water rights, belonging to any Indian or any Indian tribe, band, or community that is held in trust by the United

States or is subject to a restriction against alienation imposed by the United States; or (5) to enter into agreements or compacts for the transfer of unlimited, unspecified, or general civil and criminal jurisdiction of an Indian tribe, except as provided under Title IV, Sec. 406 of the Act of April 11, 1968 (82 Stat. 80; 25 U.S.C. 1326).

FUNDING AND IMPLEMENTATION—FEDERAL ASSISTANCE

SEC. 102. (a) In any agreement or compact between an Indian tribe and a State authorized under this Act, the United States, upon agreement of the parties and the Secretary, may provide financial assistance to such party for costs of personnel or administrative expenses in an amount up to 100 per centum of costs actually incurred as a consequence of such agreement or compact, including indirect costs of administration which are clearly attributable to the services performed under the agreement or compact. In determining the amount of Federal assistance, if any, to be provided the Secretary may consider among other things:

1. Whether or not the party assuming an obligation under the agreement or compact is already obligated or entitled to perform the function which is the subject of the compact.

2. Whether or not the Federal assistance will cause or enable the contracting party to perform the function at a standard above that which it is already obligated to perform.

3. The financial capacity of the contracting parties to underwrite the expenses without Federal assistance.

4. The extent to which the success or failure of the compact may depend upon Federal assistance.

5. The extent to which the proposed compact or agreement will contribute to fostering of community relations between Indian and non-Indian communities.

6. The extent to which the proposed compact or agreement will enhance protection of resources of both Indian and non-Indian communities.

7. The comparative costs if the function which is the subject of the compact or agreement were to be performed by the United States.

8. The extent to which Federal funding is already supplied through revenue sharing, grants in aid, or other Federal program moneys.

(b) Whenever a party to such agreement or compact seeks financial assistance from the United States, to offset their costs, such party shall prepare a detailed statement of the projected costs; a copy of such statement shall be supplied to the other party; and the original of such statement shall be supplied to the Secretary at the time said agreement or compact is tendered to him for his approval.

(c) In any agreement or compact in which one of the parties qualifies for Federal assistance, the other party shall be supplied with copies of all vouchers for payment at the time they are submitted and shall be fully informed of all payments made by the United States to the recipient party. In the event disputes arise between the parties, either party may request an audit. The books and records of the party receiving Federal assistance which are relevant to the agreement or compact shall be open to inspect by authorized representatives of the United States.

(d) In the funding of governmental operations authorized under this Act, the Secretary may enter into agreements or other cooperative arrangements with any and all other Federal departments, agencies, bureaus, or other executive branches for transfers of funds or contributions of funds appropriated for programs within the categoy of the functions to be performed by the parties under such agreements or compacts, and such departments, agencies, or bureaus are hereby authorized to use such funds in the implementation of this Act.

(e) All Federal departments, agencies, and other executive branches are authorized to provide technical assistance and material support and assign personnel to aid tribal and State authorities in the implementation of the agreements or compacts they may enter into under the terms of this Act.

(f) The Secretary is hereby authorized to promulgate such rules and regulations as may be necessary to carry out the purposes of this Act.

(g) There are authorized to be appropriated such sums as may be necessary during fiscal year 1980 not to exceed $10,000,000 and each subsequent fiscal year in order to carry out the agreements or compacts entered into pursuant to this title. Such funds shall be expended by the Secretary only after determination that there are no funds available from alternative sources as provided in subsection (d) of this section. The Secretary shall provide for such records as may be necessary for the accounting and justification of the funds expended under this authorization.

TITLE II—PLANNING AND MONITORING BOARDS

SEC. 201. (a) The Secretary is hereby authorized and directed to encourage the tribes and the States to establish councils, committees, boards, or task forces comprised of representatives of the States and individual tribes, or on a statewide or regional basis, to discuss and confer upon jurisdictional questions which exist between the parties, and to provide Federal representatives from his Department as may be used at such conferences.

(b) In furtherance of this objective, the Secretary is authorized and directed to provide adequate representation of tribal members at such conferences, and such further conferences among the tribes as may be necessary for their separate deliberations, and to participate in the payments of expenses in employment of reporters, transscription of statements, and preparation of reports as in his judgment may be appropriate.

(c) There are authorized to be appropriated not to exceed $1,000,000 during fiscal year 1980; and such sums thereafter as may be necessary during each subsequent fiscal year in order to carry out the purposes of this title.

TITLE III—JUDICIAL ENFORCEMENT

SEC. 301. The United States district courts shall have original jurisdiction of any civil action brought by any party to an agreement or compact entered into in accordance with this Act to secure equitable relief, including injunctive and declaratory relief, for the enforcement of any such agreement or compact, but no action to recover damages arising out of or in connection with such agreement or compact shall lie except as specifically provided for in such agreement or compact.

● Mr. PAUL G. HATFIELD. Mr. President, I cannot support S. 2502, the Tribal/State Compact Act, in its present form. I support the intent of this bill which seeks to change the long-standing policy of blanket-national solutions to, very often, local problems. I believe the compact approach to Indian jurisdiction is the correct approach to this most complex matter of sovereignty and Indian rights.

This bill authorizes a State or a political subdivision of a State to enter into compacts and agreements between and among the Indian tribes on matters relating to the enforcement or application of civil, criminal, and regulatory laws of each within their respective jurisdictions and an allocation or determination of governmental responsibility over specified subject matters or specified geographical areas. Nothing in this bill requires the States to enact implementing legislation prior to the creation of compacts and I believe that such a provision is important, if not essential.

I believe that a State should have on its books legislation which sets out in detail the limits and the boundaries within which compacts under this act are to be formed, before those compacts are formed. Such implementing legislation would be a valuable guide to the tribes and the political subdivisions as they form compacts under this act and should assure a degree of uniformity throughout a State that is needed by the State yet acceptable to the various tribes.

There are seven Indian tribes within the boundaries of the State of Montana. The State of Montana has 56 counties, 14 first and second class cities, 37 third class cities, and 75 incorporated towns for a total of 182 political subdivisions.

Under a State's implementing legislation, the State could be given the right of prior approval before compacts are entered into. Such prior approval by a State would further insure that compacts authorized by S. 2502 do not usurp State authority in matters that transcend purely local affairs.

I believe such a provision is desirable and I believe it is necessary, if we are to avoid an unmanageable crazy-quilt of agreements, compacts, and understandings between Indian tribes and political subdivisions of a single State.●

● Mr. ABOUREZK. Mr. President, Senator MELCHER and Senator PAUL HATFIELD of Montana have brought to my attention a question raised by the attorney general of that State regarding S. 2502, the Tribal-State Compact Act. Specifically, the Attorney General asks whether or not it is necessary or permissible in light of section 101(e)(3) for the legislature of the individual States to enact their own enabling legislation in order to implement the provisions of this legislation when it becomes law.

S. 2502 does not specifically address the question of whether or not a State needs to enact enabling legislation before entering into the types of inter-governmental agreements or compacts authorized under title I. As chairman of the Indian Affairs Committee, it is my understanding that this question was left for the States to answer for themselves on the basis of applicable State law and the specifics of such agreements. In any event, S. 2502 woud not, by its own terms, require State implementing legislation.

Because the House Interior Committee has not yet had an opportunity to act on the House companion bill, it is certain that it will be up to the 96th Congress to enact this, in my opinion, meritorious legislation.

If there were time available, I would be more than happy to consider clarifying amendments addressing the questions raised by Senators MELCHER and HATFIELD. I am sure that when Congress next has the opportunity to consider the Tri-

bal-State compact bill, this question can be sufficiently clarified.

In summary, even though this issue in question could certainly benefit from increased attention, I am sure that S. 2502 in its present form will provide an admirable record for the Senate in its future deliberations.●

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–1178), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE MEASURE

This bill is intended to serve as a Federal enabling statute authorizing Indian tribes and States and their political subdivisions to enter into compacts and agreements between themselves on matters relating to: (1) the enforcement or application of civil, criminal, and regulatory laws of each within their respective jurisdictions; (2) allocation or determination of governmental responsibility over specified subject matters or specified geographical areas, or both; and (3) agreements or compacts which provide for the transfer of jurisdiction of individual cases from tribal courts to State courts or State courts to tribal courts in accordance with procedures established by the laws of the tribes and States.

The use of intergovernmental agreements as an effective tool for meeting the complex and diverse needs of States for joint regulation of a wide range of government activities as well as mutual administration of services has been well accepted. In the context of the tribal/State relationship, any actual transfer of jurisdiction involving the application or enforcement by one political body of the civil, criminal, or regulatory laws of the other would seem to require congressional consent. On the other hand, compacts or agreements between States and tribes which call for the mutual or cooperative administration of services or concurrent, joint application of uniform laws probably does not require Federal involvement or congressional consent.

For a variety of reasons there has been little development or definition of Federal law on this subject although cooperative agreements, compacts or contracts between tribes and States have been increasingly made use of in the past 5 to 10 years. Nevertheless, because the law on this issue is unclear and ambiguous, there have been reports of unwillingness on the part of tribes and States to proceed with proposed compacts or inter-governmental agreements simply because their officials have been unsure of their authority to do so under the law. S. 2502 proposes a broadly stated, clear Federal authorization and consent for such tribal/State compacts.

SUMMARY OF MAJOR PROVISIONS

Title I of this bill provides that notwithstanding Public Law 83–280 or any other jurisdictional act either transferring or retaining Federal jurisdiction over Indian affairs, the governing bodies of Indian tribes and the governments of States and their political subdivisions are authorized to enter into compacts or agreements between themselves on matters relating to the enforcement or application of the civil, criminal, and regulatory laws of each other, including transfers of jurisdiction over specific subject matters or geographic areas. Compacts providing for the orderly transfer of cases from the courts of one entity to the courts of another are also authorized.

A most important part of this title is that agreements entered into under the terms of this legislation will be revocable by either party and thus will be premised on the continuing consent of both. From the standpoint of an Indian tribe, if an agreement provides a period of time greater than 5 years in which to withdraw, then the agreement must be approved by a referendum as provided under existing law. (Act of April 11, 1978, title IV, sec. 406, 82 Stat. 80.) There is no requirement for approval of such agreements by the Secretary of the Interior unless Federal funds are sought to underwrite the costs of administration.

Title I also provides that the United States may, in the discretion of the Secretary of the Interior, pay up to 100 percent of any personnel or administrative costs assumed by a contracting party under the terms of a compact. Such costs must be agreed upon by the parties and by the Secretary of the Interior. Criteria is established for evaluation of providing Federal support funds.

A sum of up to $10 million is authorized to be appropriated to fund this program in its first year of operation. This fund is to be utilized as a secondary funding source, such funds to be utilized only after the Secretary has determined that no funds are available from alternative Federal sources. In addition, none of these funds are to be utilized for Federal administration purposes. The Secretary is directed to maintain separate records of the allocation of funds appropriated under this authority in order to assure congressional or executive monitoring capacity.

Title II of the bill authorizes appropriation of funds not to exceed $1 million in the first year of operation to pay expenses of Indian representatives at meetings with State and tribal planners, costs of transcripts, reports, etc. Title II contemplates the establishment of State or regional planning boards having full Indian representation and participation.

Finally, title III of the bill provides for enforcement of such compacts or agreements in the courts of the United States.

BATAVIA TURF FARMS, INC.

The bill (H.R. 12556) for the relief of Batavia Turf Farms, Inc., was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–1271), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

H.R. 12556 authorizes and directs the Secretary of the Treasury to pay, out of any money in the Treasury not otherwise appropriated, to Batavia Turf Farms, Inc., an amount to be determined by the Secretary of Agriculture to have been lost by the farms during any calendar year commencing with calendar year 1977 through calendar year 1982. The losses involved came through no fault of Batavia Turf Farms but rather as a result of restrictions on the movement of grass sod from the farms under the Federal golden nematode quarantine imposed by the U.S. Department of Agriculture to prevent the spread of the golden nematode. The amounts to be paid in any calendar year shall be in full settlement of any and all claims; and no more than 10 percent of the moneys appropriated shall be paid to any agency or attorney for services rendered in connection with this claim. Any person violating this act shall be deemed guilty of a misdemeanor, and upon conviction shall be fined in any sum not exceeding $2,000.

AMENDING TITLE IX OF THE MERCHANT MARINE ACT, 1936

Mr. INOUYE. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 11658.

The PRESIDING OFFICER (Mr. HODGES) laid before the Senate H.R. 11658, an act to amend title XI of the Merchant Marine Act, 1936, to permit the guarantee of obligations for financing Great Lakes vessels in an amount not exceeding 87½ per centum of the actual or depreciated actual cost of each vessel which was read twice by its title.

Without objection, the Senate will proceed to its consideration.

The bill was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. INOUYE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER FOR TECHNICAL AND CLERICAL CORRECTIONS—H.R. 8200

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of the Senate amendment to H.R. 8200.

The PRESIDING OFFICER. Without objection, it is so ordered.

JOINT REFERRAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that a bill introduced earlier by Senator LEAHY to charter a national rural development bank be referred jointly to the committees on Agriculture, Nutrition and Forestry and Banking, Housing, and Urban Affairs.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, in that respect I might say for the RECORD that the distinguished Senator from Vermont requested this earlier today, and it was not possible to grant the request. I am happy to say we have cleared it, and there is no objection.

Mr. ROBERT C. BYRD. I thank the Senator.

APPOINTMENT BY THE VICE PRESIDENT

The PRESIDING OFFICER (Mr. HODGES). The Chair, on behalf of the Vice President pursuant to Public Law 84–689, appoints the following Senators to attend the North Atlantic Assembly, to be held in Lisbon, Portugal, November 26–30, 1978: the Senator from South Carolina (Mr. HOLLINGS), the Senator from Idaho (Mr. MCCLURE), and the Senator from New Mexico (Mr. DOMENICI).

SPECIAL ORDER

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that after the two leaders have been recognized under the standing order that Mr. STAFFORD and Mr. SCHMITT be recognized each for 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECESS UNTIL 8:30 TOMORROW MORNING

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 8:30 tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

TIME-LIMITATION AGREEMENT—H.R. 7843

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time as the judgeship conference report on H.R. 7843 is called up for action, the following agreement obtain: 45 minutes overall to be equally divided between Mr. EASTLAND and Mr. THURMOND, with 15 minutes under the control of Mr. LUGAR.

Mr. BAKER. Mr. President, reserving the right to object, I might advise the majority leader there is also an indication on our calendar that there will be a request for a rollcall on this.

Mr. ROBERT C. BYRD. All right.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR THE CONSIDERATION OF H.R. 7843 TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that it be in order at 1 p.m. tomorrow for the Senate to proceed to the consideration of the conference report on H.R. 7843.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

ORDER FOR THE CONSIDERATION OF THE CONFERENCE REPORT ON INTERIOR APPROPRIATIONS AND THE ROLLCALL VOTE THEREON, IF REQUESTED

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on the conference report on Interior appropriations, on which there is no controversy that I know of, and on which I think there will be a rollcall requested, I ask unanimous consent that that conference report be in order in the morning during the leaders' time but that if a rollcall vote is ordered thereon that it occur back-to-back following the disposition of the judgeship conference report.

The PRESIDING OFFICER. Is there objection?

Mr. BAKER. Mr. President, reserving the right to object, that is a good arrangement. But I will advise the majority leader once again that there will be a request on this side for a rollcall.

The PRESIDING OFFICER. Without objection, it is so ordered.

MODIFICATION OF ORDER FOR RECOGNITION OF SENATORS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the orders for the recognition of Mr. STAFFORD and then Mr. SCHMITT tomorrow morning be reversed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I would like to wait 1 minute before I make the motion to recess.

WHITE HOUSE PERSONNEL AUTHORIZATION—CONFERENCE REPORT

Mr. ROBERT C. BYRD. Mr. President, I submit a report of the committee of conference on H.R. 11003, the White House personnel authorization bill, and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

Mr. ROBERT C. BYRD. Mr. President, I withdraw that submission.

THE WITCHING HOUR

Mr. ROBERT C. BYRD. What is the hour, Mr. President?

The PRESIDING OFFICER. The hour is 12 o'clock.

Mr. ROBERT C. BYRD. Twelve midnight?

The PRESIDING OFFICER. Yes, it is.

TERMINATION OF COLUMBIA SLOUGH, OREG., NAVIGATION PROJECT

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 13803.

The PRESIDING OFFICER. The bill be stated by title.

The legislative clerk read as follows:

A bill (H.R. 13803) to terminate the authorization of the navigation project on the Columbia Slough, Oregon.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the bill be considered as having been read twice, and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

If there be no amendment to be offered, the question is on the third reading and passage of the bill.

The bill (H.R. 13803) was ordered to a third reading, was read the third time, and passed.

● Mr. MARK O. HATFIELD. Mr. President, the purpose of this bill is to deauthorize the Columbia Slough project in Oregon.

In June of this year, the Portland City Council voted in support of the city engineer's report which coincided with an economic feasibility report done by the Corps of Engineers on whether it was economically feasible to proceed with the necessary channel work to facilitate through traffic on the slough. Both reports indicated that it was not economically feasible to carry out the work of this 1950 authorization.

This legislation, which passed the House of Representatives on October 4, was introduced by Congressman ROBERT DUNCAN of Oregon and is supported by all members of the Oregon congressional delegation.

I urge approval of H.R. 13803.●

RECESS UNTIL 8:30 A.M.

Mr. ROBERT C. BYRD. Mr. President, what is the time and day?

The PRESIDING OFFICER. The time is 12:01 a.m. The date is October 7, 1978.

Mr. ROBERT C. BYRD. Mr. President, my watch tells me that it is 12:01½.

The PRESIDING OFFICER. The Senator is, as usual, correct.

Mr. ROBERT C. BYRD. I thank the Chair. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in recess until the hour of 8:30 a.m. later today.

The motion was agreed to; and, at 12:01 a.m. Saturday, October 7, 1978, the Senate took a recess until 8:30 a.m. the same day.

NOMINATIONS

Executive nominations received by the Senate October 6, 1978:

IN THE AIR FORCE

The following officer for appointment in the Regular Air Force, in the grade indicated, under the provisions of section 8284, title 10, United States Code, with the date of rank to be determined by the Secretary of the Air Force:

LINE OF THE AIR FORCE

To be captain

Johns, William E., [redacted].

The following officers for appointment in the Regular Air Force, in the grades indicated, under the provisions of section 8284, title 10, United States Code, with a view to designation under the provisions of section 8067, title 10, United States Code, to perform the duties indicated, and with dates of rank to be determined by the Secretary of the Air Force:

MEDICAL CORPS

To be major

Koskinen, Kenneth R., [redacted].

To be first lieutenant

Gleason, Stephen D., [redacted].

MEDICAL SERVICE CORPS

To be first lieutenant

Ludwick, James F., [redacted].

The following persons for appointment as

Reserve of the Air Force, in the grades indicated, under the provisions of section 593, title 10, United States Code, with a view to designation under the provisions of section 8067, title 10, United States Code, to perform the duties indicated:

MEDICAL CORPS

To be lieutenant colonel

Dinmore, Richard C., [redacted].
Harness, John H., [redacted].
Hayward, Robert M., [redacted].
Hinckley, Herbert M., [redacted].
Hughell, James E., [redacted].
Knauf, Daniel G., [redacted].
Koch, Harvey B., [redacted].
Martin, Patrick, [redacted].
Moriarty, Joseph A., [redacted].
Murillo, Sergio L., [redacted].
Nomicos, Eugene N., [redacted].
Piano, Arthur G. F., [redacted].
Pollina, Philip J., [redacted].
Rose, Howard R., [redacted].
Ruiz-Bueno, Juan C., [redacted].
Strauss, Andries Menzo, [redacted].
Woodward, Douglas James, [redacted].

The following officers for appointment as Reserve of the Air Force in the grade indicated, under the provisions of section 593, title 10, United States Code:

LINE OF THE AIR FORCE

To be lieutenant colonel

McIntosh, James, [redacted].
Whipple, Dale E., [redacted].

The following officers for promotion in the Air Force Reserve, under the provisions of sections 8376 and 593, title 10, United States Code:

LINE OF THE AIR FORCE

Major to lieutenant colonel

Bennett, George R., [redacted].
Bogan, Robert L., [redacted].
Drew, Vernon O., Jr., [redacted].
Locke, John E., [redacted].
Zigrino, Angelo R., [redacted].

CHAPLAIN CORPS

Taitano, Miguel A., [redacted].

MEDICAL CORPS

Calcagni, John A., [redacted].
Gahunia, Udhe S., [redacted].
McDonald, Robert E., [redacted].

NURSE CORPS

Cummings, Barbara A., [redacted].

The following officers for promotion in the Regular Air Force, under the provisions of chapter 835, title 10, United States Code, as amended. Officers are subject to physical examination required by law:

LINE OF THE AIR FORCE

Major to lieutenant colonel

Christensen, Robert E., [redacted].

DENTAL CORPS

Birdman, Murray J., [redacted].

The following named officer for promotion in the U.S. Air Force in the temporary grade indicated, under the appropriate provisions of chapter 839, title 10, United States Code:

LINE OF THE AIR FORCE

Major to lieutenant colonel

Blackmon, Norman V., [redacted].

IN THE NAVY

The following temporary officers of the U.S. Navy for permanent promotion to the grades as indicated, pursuant to title 10, United States Code, sections 5780 (line), 5782 (staff), and 5791:

LINE

To be captain

James F. Wetzel

LINE

To be commander

William J. Balles
John A. Coffey
Robert M. Walters

SUPPLY CORPS

To be commander

Anthony C. Brennan

LINE

To be lieutenant commander

Wayne R. Farris
Ernest E. Johns
Jeremy D. Jones
Robert O. Sandlin, Jr.
Allen R. Sherwood
Robert W. B. Stoddert
David A. Warshawsky
Marshall J. Wilkes

CHAPLAIN CORPS

To be lieutenant commander

Wayne L. Bouck
Gail E. Buckley
Edward A. Roberts
Aquinas J. J. Smith
Merle E. Strickland

JUDGE ADVOCATE GENERAL'S CORPS

To be lieutenant commander

Stephen L. Awe
Russell A. Johnson
James E. Orr, Jr.
Roger F. Pitkin
Merle E. Strickland
Terry D. Sattler
Jeffrey S. Sawtelle
William T. Vest, Jr.

MEDICAL SERVICE CORPS

To be lieutenant commander

Orlin E. Cunningham
Roland S. Grand
James T. Ingram
Billy W. Kendrick
Charles R. Loar
Ernest J. Loos
William A. Monaco
Donald D. Thorson

LINE

To be lieutenant

Robert R. Albertson
Gary A. Barrett
Gregory "H" Bergh
Roger A. Burnett
John K. Bussey, Jr.
Ronald O. Byrum
Andrew L. Creed
David G. Fritsch
Raymond J. Griep
Richard A. Kellar
Robert M. Lanning
John L. McCain
George A. Mullen
Paul E. O'Brien, Jr.
Aubrey P. Sauls
Clifford J. Strohofer, Jr.
Phillip M. Tomlinson
Frank H. Utermohlen
Roger N. Whiteway
John H. Winter
Kenneth R. Youngman, Jr.

SUPPLY CORPS

To be lieutenant

James L. Heikkila
Stewart L. Manley
Roy D. Van Horn
George G. Woodward, Jr.

CHAPLAIN CORPS

To be lieutenant

Jose F. Salas, Jr.

JUDGE ADVOCATE GENERAL'S CORPS

To be lieutenant

Richard R. Bloxom
John D. Hutson
Homer S. Pointer
Gordon W. Trask, II
Jeffry A. Williams

MEDICAL SERVICE CORPS

To be lieutenant

Joseph V. Baltrukonis
Roy M. Garrigues
Thomas M. Hickey
Richard E. Struempler
Arthur B. Wood

NURSE CORPS

To be lieutenant

Carol J. Bickford
Linwood W. Norris
Rosalinda Hasselbacker

The following temporary officers of the Naval Reserve for permanent promotion to the grade of commander, pursuant to title 10, United States Code, sections 5911 (line and staff), and 5912:

LINE

Luther B. Beck
John W. Bishop
Clyde A. Bonar
Larry R. Earls
John R. Geaney
Allan F. Geimer
Dennis J. Hickey, IV
Howard E. Mayfield
Gary L. Nelson
James A. Nichols
Felix P. Quinn
James J. Raleigh, III
Reginald R. Sander
James R. Titus
Philip J. Unser

SUPPLY CORPS

Robert E. Osmon

IN THE MARINE CORPS

The following-named male officers of the Marine Corps Reserve for temporary appointment to the grade of lieutenant colonel under the provisions of title 10, U.S. Code, section 5902:

Tommy L. Adair
Merrel F. Adams, Jr.
Richard G. Adams
James L. Anderst
Daniel T. Armstrong
Joseph F. Ashe
Enos A. Axtell, Jr.
George W. Ayers
Lester D. Bacon
Samuel Badiner
Clarence L. H. Baer
Claude Baldwin, III
Robert L. Ballantyne
Gilbert A. Bartlett
Stanley K. Bazant
Leonard C. Bieberbach
Dean S. Billik
Darwin E. Bremer
Roger L. Brooks
Frank A. Buethe
Harold J. Campbell, Jr.
John G. Carlton, Jr.
Marshall N. Carter
William E. Chase
James W. F. Clark
Eldred W. Cline, Jr.
William H. Cook, Jr.
Thomas M. Cooper
Daniel B. Corts
Kenneth R. Couch
John T. Coyne
Edward P. Craft
James A. Daugherty
Ronnie O. Davis
John H. Deaver, Jr.
Douglas S. Dexter
Eldon R. Dilworth
Robert L. Doyon
Michael F. Eddy
Richard M. Eklund
Frederick D. Ellis
Robert J. Everett
Crockett Farnell
Alan D. Fiers, Jr.
Michael Fiorillo, Jr.
Joseph T. Fisher
John F. Follett
Michael D. Fowler
Jackie W. Fraim
Frank W. Gill, Jr.
Perry C. Gillette, Jr.
Robert A. Godwin, Jr.
George W. Goertz
Paul A. Gorgos
Melvin T. Graves
John A. Harris
Mark T. Hehnen
Richard L. Hemenez
Hamilton E. Hicks, Jr.
John E. Hixon
Lemuel W. Houston, Jr
Harris D. Husted
Jack J. James
Philip L. Johnson
Robert C. Keeler
Kenneth J. Kelly
Stuart O. Kendall
Frederick E. Kienel
David J. Kindt
Richard S. Kulczycki
Stephen A. Leroux
John J. Lowrey
James L. McGee
John J. McNamara
John G. McPheeters
William B. Mooney
Harvey B. Moore
Stanley M. Mori
Normand L. Noel
Richard A. Partee
Thomas L. Pristavec
Robert H. Rathert
John C. Reale
Larry E. Renfro
William R. Rice
Robert C. Richards
John C. Riley
Frank D. Rimer, III
Larry M. Roberts
Frank J. Robinson
John L. Roe
Lewis F. Rogers
Anthony J. Roszak
Walter L. Sanders
Robert P. Scheinblum
Steven J. Sewell
Jack T. Seymour
Lundie L. Sherretz
Gordon M. Shoemaker, Jr.
Harry S. Shoemaker
Tenney R. Spofford
James H. Stewart, Jr.
Harold R. Sullivan
David C. Terry, Jr.
Dudley E. Thomas, Jr.
James L. Trudeau
Robert J. Walker
Daniel T. Wallace
Larry G. Willoughby
John R. Wingert
William L. Wilson
Ehrhard K. Winkelbrandt
George S. Woodall, Jr.
Wayne P. Zetzman

The following-named women officers of the Marine Corps Reserve for permanent appointment to the grade of lieutenant colonel under the provisions of title 10, U.S. Code, section 5902:

Jeanne B. Humphrey
Mary S. League

FEDERAL COMMUNICATIONS COMMISSION

Anne J. Jones, of Massachusetts, to be a member of the Federal Communications Commission for a term of 7 years from July 1, 1978, vice Margareta E. White, term expired.

RAILROAD RETIREMENT BOARD

Earl Oliver, of Illinois, to be a member of the Railroad Retirement Board for the term of 5 years from August 29, 1978 (reappointment).

EXTENSIONS OF REMARKS

"TAX CUT FEVER"

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 5, 1978

● Mr. LaFALCE. Mr. Speaker, an ill-defined and often misunderstood tax revolt is spreading through the land.

I believe that Art Buchwald in his usual incisive manner has described one possible result of that revolt. The column requires no further commentary.

"ANY TAXES YOU CAN CUT, I CAN CUT BETTER"

(By Art Buchwald)

Every politician running for office this year seems to have the "Jarvis Flu." The name of the game in this November election is how much each candidate can promise to cut the voter's taxes.

In New Jersey, Bill Bradley, ruuning for the Senate, is calling for a 25-billion tax cut; and in Minnesota, Robert Short, the Senate hopeful, is promising a 100-billion cut. No one knows where the political tax cut rhetoric will end.

At Finchley For Senate headquarters, I found the candidate sitting behind his desk in his shirt sleeves, looking more like a pork-belly commodity dealer than a man seeking to represent the people of his state.

There was a large blackboard on a raised platform at the end of the room where a volunteer was erasing numbers and writing new ones. Forty people were manning telephones in the other room.

"What's going on?" I asked Finchley.

"We're dealing in tax-cut futures," he said. "We're monitoring what all the candidates around the country are promising the voters in cuts, and when we intend to top them."

One of the people on the phone yelled out, "Bob Short has upped his tax cut promise by $5 billion."

The man at the blackboard erased $100 billion and wrote in $105 billion."

Finchley yelled out, "We'll go $110 billion."

The blackboard-keeper wrote in the figure for Finchley.

"Gluckstern from Ohio has gone to $130 billion."

Finchley shouted, "Make our cut $150 billion."

"You people are spending money like water," I said.

"No, we're not. Those billions are all cuts. We're saving the voter money. Every billion dollars we promise the taxpayer we're going to cut is money in his pocket."

Another volunteer on the phone shouted, "Thyroid in California has just vowed if he is elected he'll cut taxes by $180 billion."

Finchley should, "Put us down for $190 billion."

The man at the blackboard was erasing and writing as fast as he could.

"You got a lot of guts, Finchley," I said with admiration. "There aren't many people in this country who would promise the voters a $190-billion tax cut."

"Stick around," he said, studying the board. "You haven't seen anything yet. This whole election has to do with taxes. The guy who promises to cut them the most has to win."

A volunteer on a phone screamed, "An Arizona congressman has told a Rotary club he will cut $200 billion out of the federal budget."

"I'll raise him 25," Finchley called out.

"You sure are cool. I've never seen a politician promise to give the taxpayers a $225 billion rebate."

"You have to be cool in this business," he said as he swallowed a tranquilizer. "When you're dealing in taxcut futures you can't think of it as money. You have to think of it as votes. I'm prepared to match and raise any tax-relief promise made by any politician in this country."

"It seems to me you're trying to corner the tax-cut market. Isn't that illegal?"

"Not under proposition 14. There is no limit on how much you can promise to cut taxes. Don't forget we're dealing in futures. No candidate has to deliver on his promises until after November."

A phone handler yelled out, "A Texas Democrat has just promised the Dallas Garden Club to cut taxes by $240 billion."

Everyone in the room looked at Finchley. He lit a cigarette and said calmly, "Put me down for 250."

We all stood on our chairs and cheered. It was the biggest tax-cut promise made by a candidate in American political history.●

"FEDERAL BLUE-COLLAR EMPLOYEES ARE NOT SECOND-CLASS CITIZENS"

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 5, 1978

● Mr. STARK. Mr. Speaker, I deeply regret that last night the House concurred with the Senate's amendment to H.R. 12930, the Treasury-Postal Service appropriations, and placed a 5.5-percent cap on wage increases for all Federal blue-collar workers.

This amendment, which passed by a vote of 284 to 111, singles out one segment of the economy to bear the brunt of reduced Federal spending, and disturbs the current system of granting pay raises. Under the existent Wage Board system, blue-collar employees receive periodic raises after completion of a survey of prevailing wages for the area in private industry. This assures comparability. A pay cap, however, effectively places wage controls on all blue-collar workers employed by the Federal Government. This is grossly unfair. The injustice of this situation is only compounded by the fact that no hearings were held in the House regarding this provision and that the workers affected by our vote were never given an opportunity to be heard.

The action of the House also discriminates among Federal blue collar workers. Under the Wage Board system, raises do not occur at the same time. Instead, increases are granted at different times during the calendar year in each of the local wage areas. Many Federal blue-collar workers have already received their 1978 increases—many in excess of 5.5 percent—and they will get true comparability. Unfortunately, these increases have not yet been granted to Federal blue-collar workers in other parts of the country, including employees of the Alameda Naval Air Station in California. Their increase will now be limited to 5.5 percent of the results of the wage survey for that area. This is indefensible.

The end result of Congress's ill-advised approach toward Federal wages is that the mechanism guaranteeing economic justice for Federal blue-collar workers has been severely damaged, if not destroyed. It is my strong hope that we will soon take corrective action and restore the essential concept of comparability.●

LIBERTY, EQUALITY, AND THE POLITICS OF ENVY

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 5, 1978

● Mr. DORNAN. Mr. Speaker, the eminent 19th century French economist, Frederic Bastiat, warned in his essay, The Law, that government should not be permitted to do that which would be a crime if done by an individual. Far too often, governments in the 20th century have been singularly inattentive to Bastiat's ethical injunction. "Ideas have consequences," Mr. Speaker, and the consequences of regnant secular attitudes are even as I speak, bearing their bitter fruit.

Mr. Speaker, as part of our cultural heritage, inscribed indelibly on the pages of Holy Writ, are the solemn commandments uttered by the Almighty Himself: "Thou shalt not steal—Thou shalt not covet thy neighbors' goods." This moral imperative clearly became part of the fabric of the political philosophy of the Founding Fathers.

Our approach toward Government, Mr. Speaker, under the influence of the social democratic theories of the Continent—particularly European social democracy—has, particularly since the 1930's undergone a profound and disturbing transformation. The conviction, propounded by the English political theorist John Locke and held by ancient, medieval and modern natural law philosophers, that men made in the image and likeness of their Creator, have certain inalienable rights, the right to life, liberty, and property, has given way to a secular humanist ideology, promoted by modern liberals, that man has an "inalienable" right to be "free from want" and "free from fear." The change in philosophy is a momentous and revolutionary one, Mr. Speaker, because it shifts the emphasis from liberty to security, from the view of the state as an umpire in human affairs to that of an engine of social engineering, and, ultimately, from the idea of equality before the law to the idea of equality of condition.

The abstract notions of "freedom from want" and "freedom from fear" when translated into the concrete order, Mr. Speaker, become open-ended, the opening wedge the logical conclusion of which

is that the end ultimately justifies every means including, as we shall see, extreme taxation.

To illustrate the matter, Mr. Speaker, let us take up the matter of progressive taxation. Progressivity as a principle of taxation charges different prices for the same service. Taxes are computed on the basis of income and wealth, the more you make, the more you pay, to the point, in fact, where taxes become confiscatory. Such confiscation is justified in the name of the "poor" and the "helpless" and euphemistically termed "transfer payments." And, of course, all this is done under the guise of "compassion."

Mr. Speaker, compassion for the less fortunate has always found a place in the human heart in the form of private charity. Compassion was an exercise in sacrifice and self-denial prompted by spiritual motives. How compassionate is it when the Government forcibly takes money from some people to give it to those it deems worthy? Why is it, Mr. Speaker, that no one has compassion on the taxpayer who now works from January to May simply to support Government at all levels? In short, what we have, Mr. Speaker, is the State assuming the role of a benevolent "Robin Hood" who takes from the rich and, I should hasten to add, the middle class, and gives to the "poor." But the "poor" seems to be an ever-growing class, as witness the mushrooming food stamp program. Mr. William Simon, former Secretary of the Treasury, is quick to point out that the administrators of the welfare programs themselves siphon off some 10 to 25 percent of the budgets of these programs in salaries and expenses. In addition, they keep the official level of poverty level citizens artifically high, by reporting only on cash income, leaving out such subsidies as medical care, food stamps, and housing. While there undoubtedly are hard cases, Mr. Speaker, that justify the use of public funds such as the blind and the disabled, these programs should not be funded open endedly. Congress should decide how much the Government should spend overall before allocating moneys for each Federal program.

Mr. Speaker, Oliver Wendell Holmes, Jr. once remarked that, "I have no respect for the passion for equality, which seems to me merely idealizing envy." There is a sense in which we are all egalitarians. We are equal as human beings, equal in our natural rights and in the dignity we command as human beings. That fundamental equality is the basis for civil equality, such as equality before the laws. But beyond that, equality is rarely discerned. We are unequal in so many respects. This may dissatisfy or displease us, but this is the decision of nature itself. And that is where the "passion for equality" which bittered the eminent Supreme Court Justice Holmes, becomes so dangerous, even threatening liberty itself. Let there be no mistake, Mr. Speaker. The efforts of compassionate liberals are directed not at the "poor" but rather to effect a massive redistribution. The "poor" serve as a rhetorical pretext for both bureaucratic self-aggrandizement and the ideological vision of an equality of condition, a vision espoused by a self-annointed elite who are not accountable to the people.

Equality at the price of liberty; the last vestiges of excellence and diversity rooted out; a gray, uniform, lifeless equality of automatons; in short, a collectivism lorded over by new despots—such, Mr. Speaker, is the logical conclusion of the politics of envy. It will also, as C. S. Lewis observed, result in the "abolition of man."●

BALANCED DEFENSE SYSTEM NEEDED

HON. ROBERT C. McEWEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 5, 1978

● Mr. McEWEN. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following:

Gen. Bruce C. Clarke, although retired from the U.S. Army since 1962, has been persistent in his patriotic efforts to enhance the defense posture of the United States. His counsel on matters pertaintaining to national defense is highly respected and frequently sought by top military and civilian leaders.

General Clarke was born in Adams, N.Y., in my congressional district. As a junior lieutenant colonel commanding the engineer battalion while the 4th Armored Division was training at Pine Camp—now Fort Drum—during World War II, Clarke was elevated over others to become the division chief of staff. He went on to achieve an enviable record as a combat command commander in both the 4th and 7th Armored Divisions and came out a highly decorated officer. After commanding the 2d Constabulary Brigade and the 1st Armored Division, he went into combat again as commander of I Corps in Korea. Before his retirement, he served as commanding general of U.S. Army Pacific, 7th U.S. Army Europe, Continental Army Command, and, finally, as commander in chief, U.S. Army Europe and Central Army Group.

This distinguished general wrote to me recently expressing his concern that our defense appropriation be both adequate and in balance. He cited four elements essential to attaining this balance. Gen. Alexander M. Haig, Jr., Supreme Allied Commander, Europe, in commenting on this letter, said: "Hopefully, our continued mutual attention to the issue will lead to a greater sense of proportion among our public and our elected officials. In that regard, your thoughtful and timely letter to Congressman McEWEN is right on target."

In the public sector, Bob Rhodes, editor and publisher of the Jefferson County Journal, Adams, N.Y., has recognized the wisdom of General Clarke's remarks and summarized them in an editorial.

So that my colleagues and other elected officials might share with me the sageness of a retired, but far from inactive, army general, I am asking that this editorial, which follows, be reprinted in the RECORD.

BALANCED DEFENSE SYSTEM NEEDED

Our nation's military readiness and efficiency is not entirely based on sophisticated weaponry and firepower—the sooner some of our Congressmen and the public realize this, the sooner we may be able to bring our $120 billion national defense budget into better balance.

Gen. Bruce C. Clarke, Ret., in a recent letter to Rep. Robert McEwen, cited four elements that need to be adequately balanced should NATO encounter a Warsaw Pact Conventional ground attack.

In addition to the weaponry and equipment, Gen. Clarke, an Adams native, sees a need for adequate support units to supply transportation, supplies, parts and maintenance, medical staff and communications for the combat forces.

He also cites a need for an adequate and qualified complement of personnel in NATO readiness units and a standby network of personnel and equipment in the United States to reinforce defenses in the combat zone.

Gen. Clarke feels that the complexity of understanding the necessary supportive elements often causes lawmakers to shy away from his aspects of military defenses and concentrate their interests solely on weaponry which can more easily be reduced to numbers and placed in a computer.

His concern is shared by Gen. Alexander M. Haig Jr., Supreme Allied Commander, who likewise believes that requirements of logistics, reserves and strategic mobility should receive equal consideration.

If defense appropriations were based on a balance of all elements, NATO forces would have more combat readiness with no increase in defense costs.

Politicians and the public as well, should heed the advice of such experienced military leaders and develop a greater awareness of the true necessities of combat readiness—instead of focusing only on weaponry and the continual arms race.●

HOW CARTER CAN REDUCE UNEMPLOYMENT

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, October 6, 1978

● Mr. WOLFF. Mr. Speaker, I would like to bring to the attention of my colleagues an article which appeared in the October 5, 1978 issue of the Stars and Stripes. I believe that this article, which explores a potential mechanism for reducing unemployment among our Nation's veterans, provides a most informative discussion of the relevant issues. I hope that my colleagues will give it their most careful consideration.

The article follows:

EXPANSION AND MARKETING OF OJT SEEN AS ONE IMMEDIATE SOLUTION

There currently exists a serious unemployment and underemployment problem among Vietnam veterans. Veterans' unemployment has increased 60 percent (from 4.0 percent to 6.3 percent) since June 1978. Veterans' unemployment is concentrated in the 30 and older age group. Institutional training for the majority of these veterans is inappropriate because their family status and age require immediate acquisition of permanent careers commensurate with their aspirations and abilities. These careers should be comparable to or better than the employment status they would have acquired had they not served in the Armed Forces.

To effectively address the unemployment

and underemployment plight of the disabled and Vietnam veterans, the Administration has developed the HIRE II (Help Through Industry Retraining and Employment). HIRE II is a private sector On-The-Job training program (OJT) which facilitates integration of CETA training subsidies to employers with Veterans Administration subsistence benefits to eligible veterans participating in approved OJT, Apprenticeship and Cooperative programs. This integrated training program provides financial incentive and training resources to both veterans and employers while insuring full-time permanent employment for the veteran.

Section 1787 of Chapter 34 of Title 38 USC provides for the payment of training assistance allowances to veterans enrolled in approved apprenticeship, On-The-Job and Cooperative training programs. All such programs must be approved by an appropriate State Approving Agency (SAA). In the case of Apprenticeships, programs must meet the standards of apprenticeship published by the Secretary of Labor pursuant to Section 50a of Title 29. Other On-The-Job training programs must meet the eligibility criteria established in section 1777 of Title 38 USC, which includes:

1. Job training programs in which the objective of training is the progression and appointment to a higher classification based upon skills learned in properly organized and supervised training.

2. Wages must be increased in regularly periodic increments until they are not less than 85 percent of journeymen wages during the last month of training.

3. Wages upon entrance must be not less than those paid to non-veterans, or at least 50 percent of the wages paid to a skilled worker in the job for which the veteran is being trained.

4. Reasonable certainty exists that the job for which the veteran is being trained will be available at the conclusion of training.

5. Training content of the program is adequate to qualify the veteran in the skill.

6. The job customarily requires full-time training for a period of not less than six months nor more than two years.

Apprenticeship and On-The-Job veterans' training benefits had their origins under the WWII GI Bill. Congress recognized the need for veterans with family responsibilities, who were often beyond school age, or were seeking careers in fields where institutional training was unavailable, to have a readjustment program that would afford them both immediate employment and training in their desired career field. The WWII program provided both a subsistance allowance to the veteran and payments to employers to cover the cost of training. The newness of the program, the lack of effective standards, and the magnitude of the WWII readjustment effort led to abuses.

A new VA OJT Apprenticeship program was developed with greater safeguards that limited the payment of subsistence allowance to veterans and eliminated the payment of training costs to the employer. The effect of the changed OJT program substantially reduced the number of participating employers and veterans. GI veterans for institutional programs were far greater than the allowances for OJT programs. The OJT program was never effectively marketed to employers, and most veterans in the mid 60's believed that college educations provided far greater career opportunities than OJT. The inadequacy of initial Vietnam GI benefits precluded many veterans desiring trade, technical, or vocational training entering proprietary institutions. Others were lured into proprietary programs through aggressive advertising only to find their "training" of little value in securing careers. Few, if any, employers advertized that they were approved for VA OJT or Apprenticeship or the advantages of participating in such training programs. So, today a substantial majority of the unemployed and underemployed veteran population stands in need of the career training and employment security offered by an effective On-The-Job training apprenticeship or cooperative program.

Two major impediments exist to the effective utilization of the Veterans Administration's On-The-Job Training, Apprenticeship and Cooperative Program. They are the lack of incentive for employer participation in the program, and the ten-year delimiting period restricting utilization of VA OJT Apprenticeship and Cooperative benefits.

1. Lack of employer incentive. Since there is no financial incentive to employers to participate in the VA OJT and Apprenticeship programs, many employers are reluctant to develop training and instruction programs or initiate the certification and approval process for a program that affords them little direct benefit. The payment of a training allowance to the veteran in an OJT has an indirect effect on job retention in that the veteran will lose his benefits if he leaves his job. However, during periods of economic recession, this incentive is of little value, as the employer has a large pool of skilled and unskilled workers to choose from without being subject to regulation governing VA training programs.

Currently CETA training programs, WIN programs and the new private sector initiative programs provide direct training subsidies to employers; hence the majority of non-veteran federal manpower programs accord far greater financial assistance and incentive to employers.

2. Delimiting period on veterans benefits. There is a ten-year delimiting period in which a veteran must use his GI Bill benefits after separation from service. Currently 27 percent of all veterans have been delimited and are no longer eligible for GI Bill OJT Apprenticeship and Cooperative benefits. Within 2 years, half of all Vietnam veterans will be delimited. Since most OJT apprentice programs last a year or longer, many veterans would be reluctant to enter a training program knowing their benefits would expire prior to completion.

SOLUTION TO DESIGNING AN EFFECTIVE VA OJT APPRENTICESHIP PROGRAM

1. Provide a direct financial incentive to an employer to cover the cost of training a veteran in a VA-approved OJT Apprenticeship or Cooperative Program. This was authorized in PL 94-444, reinforced in the CETA Extension Act of 1978, and is the major premise embodied in the HIRE II program. The Wolff "Special Consideration" amendment to the CETA extension bill specifically strengthens the sustainment and expansion of private sector initiatives with VA OJT, Apprenticeship and CETA linkages. Prime Sponsors would assume the financial training subsidy as their responsibility to veterans under Title II and Title VII of the Private Sector initiative program.

A significant number of veterans would not meet the new stringent "economically disadvantaged" definition of CETA (many have working wives or are underemployed trying to support their family and maintain the dignity and self-respect that many Federal employment programs deprive them of). For these veterans, a specific appropriation would be necessary to facilitate their participation in a cooperative CETA-VA OJT program. The structure of the VA OJT Apprenticeship is targeted to the needy. Veterans who are securely and productively employed would not leave their jobs to enter an OJT or Apprenticeship program, the exception being veterans in Public Service jobs where the transition into unsubsidized employment is a highly desirable objective. The only criteria for a veteran's participation in the HIRE II program is unemployment.

SPECIFIC RECOMMENDATIONS

1. That the Appropriation committees in the DOL continuing resolution for the Department of Labor authorize the sustainment of the HIRE II program initiatives at appropriate levels.

2. That the FY 79 budget for DOL provide the Secretary sufficient discretionary funds to sustain private sector OJT and Apprenticeship initiatives for veterans who would not otherwise meet CETA eligibility criteria.

3. That a concerted effort be made to facilitate Prime Sponsor development and attainment of these initiatives to include necessary technical assistance and training.

DELIMITING DATE EXTENSION FOR OJT AND APPRENTICESHIP

2. Provide a one-time, 3 year delimiting date extension for veterans participating in VA OJT Apprenticeship and Cooperative programs. The extension would not include institutional and college programs. The extension would facilitate the employment and training of those who served between 1964 and 1971, the principal years of Indo-China fighting and of greatest readjustment difficulties. The extension would be its own needs test. Veterans (excluding those in PSE's) in secure careers would not choose to participate. Only those veterans who are unemployed or underemployed would be attracted to the program. Any further "needs tests" would tend to stigmatize the veteran and dissuade his participation. A serious deterrent to the meaningful employment of veterans is the negative self and public image of the Vietnam and disabled veterans' employability. Initiatives must be structured to facilitate employment and training opportunities commensurate with the veterans' aspirations and abilities and enhance the veterans' image.

SPECIFIC RECOMMENDATION

1. Enactment of the Heckler-Wolff VA OJT, Apprenticeship and Cooperative Delimiting Date Extension Bill (H.R. 13373).

A concerted outreach, marketing and technical assistance and training effort must be initiated in conjunction with these initiatives to insure their success. It is imperative that maximum coordination, communication and interre'ation of benefits and services among agencies, organizations and programs serving veterans be made. To this end, sufficient funds should be made available to the VA and to the office of the Deputy Assistant Secretary of Labor for Veterans Employment to facilitate these objectives.

These are realistic objectives that can be effectively realized with White House, Congressional and Veterans Organizations' support. Veterans' Administration studies show that the VA OJT and Apprenticeship is the most effective of all the GI Bill readjustment programs with 80% of the participants achieving their readjustment and employment objectives. This cooperative CETA-VA benefit and outreach program can be the most fiscally responsible, effective and meaningful readjustment and employment program ever devised for the Vietnam era veteran.●

DEREGULATION "IMPUDENCE"

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Friday, October 6, 1978

● Ms. SCHROEDER. Mr. Speaker, the following article is excellent. I only wish my friend George Will cared as much about deregulation of women and supported the ERA as he cares about deregulation of natural gas.

DEREGULATION "IMPUDENCE"

(By George F. Will)

It is almost over, the spectacle of politicians legislating the value for years hence of a basic commodity, without knowing the supply of it or the demand for it. The House-Senate conference has produced and the Senate has approved a natural gas pricing bill. As this is written, only a House vote stands between that bill and the president's pen.

Natural gas would be sensibly deregulated today if candidate Carter had meant what he said when he endorsed deregulation. Or if, 22 years ago, a lobbyist had not tried to bribe Sen. Francis Case (R-S.D.). In 1956, the House having voted for deregulation, the Senate did too, 53 to 38. Case favored deregulation but voted against it, and President Eisenhower, who favored it, vetoed it anyway, because Case said a lobbyist offered him $2,500 to vote for it.

If the Carter administration succeeds in getting the current gas bill, it will owe its victory to tactics as disturbing as the one that infuriated Eisenhower.

The administration has exploited the coercive potential of the regulating state to silence or "convert" opponents. It has threatened to use supposedly independent agencies, such as the Federal Energy Regulatory Commission (FERC), to punish uncooperative companies.

Carter, who says the idea of deregulation is a song to his heart, who fancies himself a scourge and streamliner of bureaucracy and who wants to drive lawyers from the temple of democracy, favors this bill, which will extend regulation, enlarge bureaucracy and expand the wealth of the lawyers who batten on regulated industries.

The description of this as a "deregulation" bill is intellectual impudence. Today about 40 percent of natural gas is not under price regulations because it is in intrastate markets. This bill would extend regulation to that gas; would deregulate slowly, capriciously and incompletely; and would mean that in 1985, and possibly as late as 1989, it would still be the case that only about 40 percent of natural gas would be free from price controls.

FERC's Office of Enforcement has said the plan is "so complex, ambiguous and contradictory that it would be virtually impossible for this commission to enforce it in a conscientious and equitable manner." FERC's chairman disagrees, but he says he needs 300 more regulators to supplement the 500 new regulators recently approved. The bill would mean a sixfold increase in the cost of regulating natural gas—to $30 million a year. And FERC already has a backlog of 20,000 cases.

Why is a new army of regulators "necessary"? Consider the multiplied categories for pricing purposes. A well drilled 2.55 miles from an existing well has a price different from that of a well drilled 2.45 miles away. A well drilled to 15,001 feet has one price, a well drilled to 14,999 feet has another. And so it goes, with more than 20 price categories or subcategories (experts disagree about the exact number). As has been said, the bill will do more to increase the supply of gas lawyers than of gas, and the years of litigation and uncertainty will depress investment and production.

Not even the Department of Energy claims that the bill will significantly stimulate production, and continuing—expanding, really—price controls amounts to subsidizing consumption. Robert J. Samuelson, the fine economics writer for National Journal, says of this policy:

"Not the least of its liabilities is a potential stifling effect on the development of Mexico's vast gas reserves. Negotiations between the United States and Mexico over the export of 2 billion cubic feet daily to the United States (3 percent to 4 percent of total consumption) broke down early this year, in part because the Mexicans insisted on a price above the administration's regulated price."

Yet the administration says this bill will prove to Germans and other skeptics that the United States can implement a serious energy policy and so (if you will pardon the non sequitur) will strengthen the dollar. Understandably, the administration wants Congress to disregard the details of the bill and, instead, think of the bill vaguely as a geopolitical gesture.

Incredibly, after 18 squandered months, the bill is the heart of the administration's "energy policy." It will become law if, but only if, most House Democrats feel as the Light Brigade felt: duty-bound not to reason why.●

CENTRAL OHIO POLL RESULTS

HON. SAMUEL L. DEVINE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, October 6, 1978

● Mr. DEVINE. Mr. Speaker, last month, I sent a questionnaire to approximately 200,000 postal patrons in my district, proposing a number of questions involving issues facing America.

A preliminary tabulation, which probably will not change more than a percentage point, tells us that our constituency in central Ohio would eliminate life terms for Federal judges by 88 percent, with only 12 percent wishing to retain the current system. They also oppose the right to strike by public employees, with only 25 percent favoring and 75 percent opposing.

The President's suggested cap on Federal salary increases at 5.5 percent is approved by 81 percent of our voting constituency, with 19 percent against. In the field of highway safety, 64 percent favor continuation of the 55-miles-per-hour speed limit, with 36 opposing, and 78 percent expressed their displeasure with compulsory air bags and only 22 percent favored.

In the field of national health insurance, President Carter's position is favored by 12 percent; Senator Kennedy's plan received 15 percent; 24 percent of those voting suggested no change; and 49 percent favor the current system of private medical and hospital coverage, plus Federal coverage in the area of catastrophic illness.

Surprisingly, in the political field, 38 percent strongly disapprove of President Carter's performance, 38 percent disapprove, 21 percent approve and only 2 percent strongly approve. Perhaps the intervening Camp David summit performance might change those results as of this date.●

PERSONAL EXPLANATION

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 6, 1978

● Mr. McDONALD. Mr. Speaker, due to a prior commitment, I was unable to be present for three votes which occurred on Thursday, October 5, 1978. I had previously agreed to a request made by Congressman PRICE, chairman of the House Armed Services Committee of which I am a member, to review personnel factors at the Bethesda Naval Hospital. As a physician and as a former intern at the National Naval Medical Center (Bethesda Naval Hospital) my evaluation may be of special service to the committee.

I was paired on each vote missed, but unfortunately did not receive a live pair on the votes missed. If I had been present I would have voted "yes" in sustaining the President's veto of H.R. 12928, the public works appropriations bill (roll No. 877), "no" on the motion to instruct the managers on the part of the House to insist on the House language to H.R. 13635, DOD appropriations, concerning the consolidation of helicopter training by the Department of Defense (roll No. 878), and "yes" to the motion that the conference committee meetings on H.R. 13635 be closed to the public at such times as classified national security information is under consideration (roll No. 879).●

TRIBUTE TO LEONARD PUTNAM

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 6, 1978

● Mr. ANDERSON of California. Mr. Speaker, on February 4, 1964, the Long Beach City Council selected an energetic lawyer, Leonard Putnam, to assume the position of city attorney, a position suddenly left vacant by the unfortunate death of the city's top legal adviser. This brought a certain apprehension to city hall, since the successor was only 37 years old and had less experience in city matters than other more senior staffers in the attorney's office. However, these doubts soon faded, and then disappeared as Leonard quickly established a reputation as a provider of sound legal advice. His impressive performance in serving out the unexpired term of his predecessor won for him the confidence of Long Beach citizens, as he was elected to his first full term in 1966 then reelected four times in the following years. On October 15, 1978, the friends and associates of Leonard Putnam will gather to pay tribute to his accomplishments and contributions to the city of Long Beach. It is a great pleasure for me to share with you today the highlights of this man's remarkable career of public service.

Leonard was born in 1926 in Long Beach, where he received his elementary and secondary education. Following his graduation from Wilson High School, he joined the merchant marine and from there went to the U.S. Navy and served as a radio operator in the South Pacific during World War II.

After leaving the Navy, he took advantage of the GI bill's educational program and continued his education at the University of Southern California. He later transferred to the University of California at Los Angeles, still uncertain

of what career to pursue. He finally decided on the legal profession, and transferred to Southwestern University, graduating magna cum laude in 1953.

Leonard initially established a private practice after admittance to the California bar, but then soon joined the city attorney's office in Long Beach. Prior to being selected for the top post in the office, he established himself as an effective trial attorney, principally in large personal injury cases against the city that reached the superior court.

His tenure as city attorney illustrated a devotion to serving the interests of the people at large and a strict adherence to the law. He handled extremely complex tideland cases with the State of California, pornography laws, and defended the city against a constant barrage of lawsuits. He always made certain that city actions complied with city law. Just recently, when an accounting change left the city auditor unable to check on official accounts for 9 months instead of the charter-mandated 3 months, Leonard was there to remind city officials of the need to live by the city's own official rules.

Leonard had a unique and refreshing attitude toward the performance of his duties and the role of city attorney. Reacting to the skyrocketing number of personal claims against the city, usually any city attorney's top headache, he said, "People know more generally now. They sue more, they're taking advantage of their American birthright. Lawsuits are a game for everyone, not just for the rich."

The city of Long Beach will surely miss the unquestionable integrity and effectiveness of this man as he retires from office. My wife, Lee, joins me in thanking Leonard Putnam for his many years of faithful public service and extend to him and his wife, Lillian, success and happiness in their future endeavors.●

IN SUPPORT OF BIKEWAYS

HON. JOSEPH L. FISHER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 6, 1978

● Mr. FISHER. Mr. Speaker, last week the House passed the Surface Transportation Assistance Act of 1978. This bill contained a number of important authorizations, including one provision reconfirming the commitment of Congress to bicycling. It authorizes $25 million for each of the fiscal years 1979 through 1982 for bikeway projects. During this period of high levels of air pollution and of concern for conserving energy usage, the bicycle becomes an important alternative to the automobile. The construction of bikeways across the country will afford individuals with a safe, clean, healthful mode of transportation. As bikeways become accessible, more people bill begin to take advantage of this transportation alternative.

The provision also specifies that routes heavily used by nonmotorized traffic and light motorcycles will not be severed or destroyed by any highway project unless the project provides a reasonably alternative route, or such a route already exists. This provision is designed to insure that bicycle routes are not permanently destroyed by highway construction.

As a member of the Arlington County Board, I participated in the development of the county's proposed 80-mile bikeway system. During my two terms as a Member of Congress my staff has been working with bicyclists in northern Virginia on several projects including the proposed 42-mile bicycle trail which will run from the city of Alexandria to Purcellville in Loudoun County.

The inclusion of this bikeways provision in the Surface Transportation Assistance Act is evidence of the interest of the Congress in the recreational and commuter need of bicyclists. I applaud the Public Works and Transportation Committee for their efforts.●

SWEDEN—A NUCLEAR ISSUE COULD SPLIT THE GOVERNMENT

HON. JOHN W. WYDLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, October 6, 1978

● Mr. WYDLER. Mr. Speaker, the question of a positive program which seeks to enhance energy supply versus no-growth energy scenarios which implies radically changing lifestyles is being wrestled with today by most of the developed countries.

Recently, an article appeared in Business Week on this issue in regard to the deployment of nuclear powerplants in Sweden. This appears to me to be a classic example of a dilemma that confronts government leaders in advanced countries around the world.

In the Eastern bloc, however, we have seen that the dilemma of energy versus potential environmental problems is more simply resolved than in the West. In Russia the wide scale deployment of nuclear plants in and around large cities such as Kiev is being accelerated. Unfortunately, in this country, the administration has allowed hue and cry of extreme environmentalists to affect Government decisions on research, development, and technological demonstrations in nuclear waste management as well as to delay the commercial deployment of nuclear powerplants. In both nuclear waste management and plant licensing the absence of a positive plan and fragmentation of agency responsibility has prevented timely decisionmaking.

The administration appears to have the misguided view that the regulatory way of doing business is inherently good. As a result, they have unfortunately decided that extensive public participation, on no matter how tenuous a basis, is required at every stage of solution to the nuclear waste management problem extending even to decisions on the emphasis of research programs.

I believe that forcing the licensing of research and development facilities will not guarantee technological success and public participation in such planning exercises should be limited to qualified individuals who are not simply antinuclear zealots trying to delay the decisionmaking process.

I recommend the Business Week article on Sweden at the nuclear crossroads to my colleagues. The Swedish Government is torn between their need to utilize their plentiful uranium deposits and adherence to their "stipulation law" which requires a "safe and final" method for handling and storing nuclear waste. The latter constraint is similar to the "catch-22" moratoriums on nuclear power imposed in California and being considered by other States, including New York.

I hope the Congress can act constructively on the nuclear siting and licensing bill as well as resolution waste management issues to push this country ahead in the utilization of the important nuclear energy option.

SWEDEN: A NUCLEAR ISSUE COULD SPLIT THE GOVERNMENT

The future of Sweden's coalition government may depend on whether it allows two new nuclear reactors to start up. As talks on the reactors continue, it looks as if at least one of the three coalition parties could be damaged no matter what the decision. If that happens, the way may be clear for a return to power of the Social Democrats, who were ousted in 1976 after 44 years in office.

Prime Minister Thorbjörn Fälldin and his Center Party, the largest in the fusion government, oppose nuclear power and have pledged to phase it out. This view rallied just enough environmentalist support to swing the 1976 elections. But energy demands have forced Fälldin to ease his rough stance, and he is looking for help. Says Fälldin: "We have compromised enough on nuclear energy, and now it's up to the other parties." The Conservatives and Liberals both support nuclear energy.

Burial in granite caves. When the coalition took office, it pushed through Parliament the "stipulation law," which states, among other things, that no new reactors may be put into operation until a "safe and final" method for handling and storing waste materials is proposed. In seeking startup licenses for the two new reactors, the Swedish Nuclear Fuel Supply Co. presented a reprocessing contract signed with Cogema of France and a plan to dispose of the waste by burying it 1,500-ft. deep in granite caves.

But nuclear opponents argue that if the plan is approved, Sweden would become the first nation officially to declare that a "safe and final" solution for strong nuclear waste had been found. They ask: "Is the government prepared to go out on that risky limb?"

The cost of keeping the two new reactors idle, however, is high. Forsmark-1 was finished by Asea Atom five months ago, and its losses caused by startup delays, including a payroll to maintain a trained staff, are estimated at $40.6 million. Erik Borgman, managing director of the Forsmark consortium, in which the state power board holds the majority interest says: "We have invested $790 million in construction and fuel so far." Ringhals-3, completed by Westinghouse Electric Corp. a year ago, has accrued even higher costs.

"The question is how high a price are the Conservative Party and the Liberals willing to pay to stay in power," says Olof Palme, opposition leader and former Prime Minister. "They can postpone the matter day by day, month by month, but at a fantastic economic loss."

In 1975, with the Social Democrats still in office, the Swedish Parliament approved an energy program calling for 13 reactors to be on line by the late 1980s. But only six reactors are currently operating in a country

that holds about 80% of Western Europe's uranium deposits—almost 12% of the world's known reserves. New mining programs have also been held up because of environmentalist pressures and dissension in the government. In nuclear energy production, Sweden is fourth in Europe behind Britain, West Germany, and France.

SLIDING PROFITS

Swedish industry, dependent on plentiful and cheap electricity—25% of it is produced by nuclear power—is sharply critical of the government's failure to come up with a clear energy policy. The president of one large company is so upset that he has said: "If the socialists could get back in power just long enough to pass an energy bill, that would be great." Actually, industry is afraid that the government's dilatory tactics will indeed bring back the socialists in next year's election.

"A really significant nuclear program could serve as the locomotive that starts all of Swedish industry moving again," says Ingmar Eidem, chairman of Kema-Nobel, the country's largest chemicals company. Industrial profits slumped in 1977. As a representative on the government energy commission, Eidem urged a massive mining program and the building of as many as 25 reactors. "We have the chance to secure our domestic energy supplies long into the future," he says. "If we miss the bus now, I'm scared to death of the consequences for our entire industrial development."●

MINGO JUNCTION, OHIO, KNIGHTS OF COLUMBUS

HON. DOUGLAS APPLEGATE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, October 6, 1978

● Mr. APPLEGATE. Mr. Speaker, many times during the past 20 months, I have had the privilege of addressing this House, mostly to announce a significant achievement of a constituent of mine. In this respect, my presence here today is no different, but the magnitude of the achievement is much larger.

In recent statewide competition, the Mingo Junction, Ohio, Knights of Columbus Council No. 4361, achieved a first place rating in total points for division 4. This division includes all councils of 300 or more members. Council No. 4361 has 454 members while many others have well over 1,000 members. This, however, was not a deterrent to the Mingo Junction chapter. In fact, it made them work even harder.

The council is to be commended on this significant event; but in addition, I would like to commend several members of this council for their contribution to the organization.

William Means achieved a first place rating in the State by working with community leaders in helping to promote the several activities of the Knights of Columbus. Frank Leeper placed first for his efforts in working with the youth in the area, certainly something to which more interest should be shown. Also, Joseph Caranda earned Ohio's first place award for his fraternal efforts and brotherhood among fellow members.

Most importantly however, is the first place ranking of Mr. Joseph Ighnat as "Knight of the Year" for the Diocese of Steubenville, one of six dioceses in Ohio. This is quite an honor for Joe who believes that the worth of a person is demonstrated by what he does for other people.

Mr. Speaker, knowing all of these men as well as I do, I can say without hesitation that the organization is worth much as their primary goal is to provide help and services to others when called upon.

Again, and with pleasure, I commend the Knights of Columbus Council No. 4361 and the people who have made them the most successful council in Ohio.●

ILLEGAL IMMIGRATION V

HON. B. F. SISK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 6, 1978

● Mr. SISK. Mr. Speaker, one of the finest essays on the matter of illegal immigration has recently been written by Otis Graham, Jr., an associate professor of history at the University of California at Santa Barbara. It is an eloquent plea for reason and compassion on this subject. It was delivered at a February–March 1978 conference at the Center for the Study of Democratic Institutions.

In his remarks, Professor Graham hits upon a fundamental truth:

The current situation with immigration law suggests to prudent people the need for an immediate and thorough reevaluation. We meet here because we are convinced that such a reevaluation ought to begin with and be guided by ethical considerations.

He continues:

The case cannot be for continued illegal immigration, for the status quo. No one can defend such flouting of the law and such exploitation of a mass of non-citizens.

I agree. Completely.

He concludes:

* * * idealists and realists are on both sides of this discussion, and * * * progressive and reactionary perspectives are also present on both sides. The exclusionists have hold of the truth that is coming into irresistable life and prominence in human affairs: the critical importance of population stabilization and ecosystem protection. But their views of the nation-state and its rights may be drawn from the past.

Those holding the permeable border view have a vision of global human rights and global association which surely will take on vitality in the years ahead, and which may offer the only moral ground for planetary survival. But they, too, seem to have a view which is dangerously outdated, which lacks a sense of the urgency of the need for population self-discipline and environmental respect. Indifference to those values characterizes the careless age out of which we must grow in the brief time our exploitive habits have left to us.

The need to effectively regulate the flow of people into this country, Mr. Speaker, should not be interpreted as a call for a lessening in our concern for the plight of the poor, hungry, and jobless overseas and in neighboring nations. If anything, it can be a reason to do the job necessary to alleviate these injustices, to grapple with these problems which for so long have been ignored or papered over. Allowing millions of people to come to this country illegally, in conditions which the INS Commissioner himself has called similar to slavery, will not cure the problems of poverty overseas or unemployment here. As the poor leave their homes in countries whose governments have ceased to care, the problem worsens, it does not get better.

A helping hand should certainly be extended to our neighbors. But just as a reasonable and wise foreign policy depends upon difficult but necessary decisions, so does our domestic policy. And one of those decisions must be on illegal immigration.

I commend Professor Graham's remarks to my colleagues:

ALTERNATIVES AND IMPLICATIONS

(By Otis L. Graham, Jr.)

We remember our laws for different reasons, but U.S. immigration law is memorable chiefly because it is violated with virtual impunity. Even the enforcers admit to helplessness. Some four hundred thousand immigrants a year are legally allowed entry, and probably three times that many annually take up residence anyway.

As with the Prohibition experiment in the nineteen-twenties, the current situation with immigration law suggests to prudent people the need for an immediate and thorough re-evaluation. We meet here because we are convinced that such a re-evaluation ought to begin with and be guided by ethical considerations. Group interests are always strongly represented. But experience shows that the ethical issues often receive only brief and rhetorical attention. This conference began with a reasoned statement of the ethical bases for two very different immigration policies—one, strictly limited immigration, the other essentially unlimited immigration. I shall try to summarize those two arguments, and then to formulate questions which emerge from them.

The ethical case for a closely controlled, small flow of immigrants to the United States arises out of a general and deep concern over global population growth. Those who see population as a leading cause of human suffering, as a threat to the short- and long-term interests of every member of the human family, place a high priority on the goal of population stabilization for every nation. Naturally they wish to move their own nation in that direction at the earliest possible moment. Such people come to immigration policy and to illegal immigration by that route. Immigration must be controlled because it prevents national population stabilization, this being a pre-eminent national goal.

It is difficult to make a case for keeping out the world's poor that sounds high-minded. It does not appear to be altruistic.

It is the special virtue of Garrett Hardin's argument that, persuasively or not, he meets this problem head-on. He bases the ethical case for closing down the immigration stream to a small trickle not only on the imperative to achieve population stabilization, but also to the view that to accept a large volume of immigrants only appears to be altruism, but in fact is not. It provides some short-term benefit to some individuals but, in encouraging overpopulation, it makes a negative contribution to the well-being of both living and unborn citizens of people-exporting countries.

But does U.S. acceptance of immigrants encourage continued high birthrates? And would refusal to accept imigrants lead in some way to earlier population control in developing nations? Presumably a refusal would intensify their population problems

or foster unrest and social revolution, and that might lead to new regimes sympathetic to rapid modernization, the liberation of women, economic growth, social discipline—i.e., to all the requirements for population stabilization, judging from the experience of China.

Would the effect of shutting off the U.S. safety valve be beneficial to sending nations? To any of them? To Mexico? How much can we really say about its impact on these societies, as distinct from its impact on the poor who are turned away, whose numbers we may roughly estimate, and whose distress is so palpable?

If closing our borders to all but a small trickle of immigrants is likely to have a beneficial effect abroad, then, by all ethical reckoning, it is a step one should take at once. But if these effects are unclear or are likely to injure not only expectant immigrants at our borders but those left behind, then, while the case for closing our borders remains strong, its timing is questionable. For we do have some breathing room, some time, before the United States is an overpopulated society. (I suppose there is room for debate here, too.) If immigration is endlessly allowed, a population-exploding world will eventually bring ruin to all attractive habitats, such as our own territory. But it may be argued that we have some time before that ruin is upon us. Are there ethical considerations suggesting the use of some of that time to help a few more of the world's poor before the brutal facts of our own limited carrying capacity force us to the final step, exclusion?

Some will surely say, the sooner we close the border the better, since we have agreed that, in the end, any attractive country in a population-exploding world must exclude. But there are other claims upon our sense of obligation, many of which point toward delay of that exclusion, and, therefore, more filling up of our country with immigrants.

Employers who profit from cheap labor object to closure for undisguised reasons. Resident citizens of the same ethnic group as incoming immigrants object to closure. And people with a high estimate of the costs of control raise objections, as do those motivated chiefly by sympathy for the incoming poor.

The exclusionary position, if it is to resist the best and most high-minded of these arguments, must be that the opportunity to help a few more people before the inevitable pulling up of the gangplank cannot outweigh other goals and values of equal ethical legitimacy. One consideration might be the small numbers who can be helped relative to humanity's need. Another might be that the lead time required gradually to close off the deep currents of migration is greater than we think. Migration depends upon unbroken human linkages from American barrios to villages thousands of miles away where word of opportunity is eagerly circulated. Perhaps the job of sealing off those streams must begin now, and will require decades. These are more practical than ethical considerations.

Higher-minded reasons for early action to secure the borders against uncontrolled immigration may be put forward. What are our obligations to our own children and to the unborn of this society, who surely must be conceded some fundamental human rights to a relatively uncrowded, bountiful environment, to a sustainable heritage? What of the rights of those who bear the costs of immigration? The exclusionist case says costs include job displacement, avoidance of taxation, social welfare expense, and the exploitation of those who enter illegally and lack the protection of legal status. These arguments are well known, the data much in dispute. Other costs are not so frequently examined. Mr. Hardin's discussion of acculturation costs is an interesting and important one. Another possible cost that should be further discussed is the potential increase in racial and ethnic strife in our society.

This latter argument is not that more people of color will be indigestible in a basically white society. If it were only that, the whites will have proven to be racist and ungenerous, and the case would have no ethical basis. The argument must be that the millions of new and recent immigrants from developing nations who are allowed to come and do the menial work shunned by citizens will not long remain grateful. They will soon come to see themselves as exploited. They will form a new underclass properly demanding and needing another massive social effort to open to them the avenues to full economic and social equality and to offer them the remedial tools to move upward, tools that are now so divisive, as in the current Bakke case.

The social cost of absorbing and extending equality to a massive new underclass will be paid by our children, not by us. Our generation has its secure professions. All we want is our garbage to be carried away cheaply. It is worth some discussion that many of the costs, such as job displacement, are not borne evenly throughout society. Instead they are levied mainly against workers in the lower economic brackets, while the solid gains from immigration are channeled to capitalists in certain labor-intensive lines of trade.

We have not talked much about these costs, but our obligation to those who will pay them is to weigh them carefully against the benefits of an infusion of industrious, energetic people, cultural diversity, and the help extended to a few more of the world's poor. If these costs are thought to be balanced by benefits, under current circumstances, then the case for delaying the eventual closing of our borders and for admitting a few more millions becomes stronger. But if the costs are thought to be heavy, no ethical calculations that I can picture would have us weigh more heavily our obligation to potential migrants than we do our obligation to residents and unborn generations. We will differ sharply on costs and benefits, but I do not see how an ethical course of action can be determined without a clearer picture of these.

The cost-benefit issue also raises the question of which people should be admitted during this period in which immigration is allowed to contribute significantly to U.S. population growth. Our current system is not very selective. Whom should we select? My own preference would be to let the marketplace decide less and policy more on that issue.

While I have no interest at all in the color of immigrants (somewhat preferring the olive skin of the Indian to other colors, certainly to the freckled, sun-vulnerable white skin of my own ancestors), I think that in addition to our consideration of occupational skills, education, and general health, we should have a strong concern for the demographic attitudes of entrants—for their attitudes about family size, women, and the natural environment. Also, if a critical influence over our demographic future is to be set by those who arrive from outside, we have the right and obligation to require them to conform to our national goals, which will soon and inevitably include the goal of a stable population.

Another question is how to move toward the eventual limited-immigration policy with the greatest fairness both to our own citizens and to the entrants, with the least disruption of our traditions, our legitimate interests, and our civil liberties. My limited knowledge of other nations suggests that the main elements of President Carter's suggested immigration law do not harm any of our values. Even the national work card, which we must one day have, will pose none of the threats to liberty so often projected.

Thus, the ethical case for exclusion puts these questions: What is the effect upon sending nations of the closing of our safety valve? What are the principal costs and benefits of immigration today, and how are they distributed? Who should be admitted? How costly will be the instruments needed to stem this massive flow of humanity?

Also, what might the ideal U.S. program be for countries, like Mexico, where economic development and population limitation are urgent necessities; how many such countries should be targeted for such aid; what might the price tag be for directed U.S. aid to people-contributing nations to enable them to reach stability? In an ideal package of assistance, how much of this is acceptable, and how might we approach the goal of making such a package acceptable both to American decision-makers and to receiving nations? Should such a package contain population-control components, that is, birth-control technology, in addition to funds for economic development? Should the willingness of the receipent nation to make good-faith efforts to control population be a precondition for the aid package?

Now what of the ethical case for leaving the situation as it is, with relatively permeable borders and annual immigration amounting to more than one million? Mr. Bustamante gave us many of the materials for constructing this case, although he did not firmly make it. He deferred to the right of U.S. citizens to decide this question for themselves. I appreciate the spirit of this deference, but I regret it, not only because Mr. Bustamante would have made the case ably, but also because the logic of the ethical case for a relatively open border includes the right and even the obligation to participate in the internal affairs of the other nation.

The case cannot be for continued illegal immigration, for the status quo. No one can defend such flouting of the law and such exploitation of a mass of noncitizens. The case must be that U.S. immigration law ought to be changed so as to allow massive entrants to come and go relatively freely. That case appears to rest upon several arguments.

First, the numbers involved are not as large as sometimes claimed.

Second—and I have not heard this argued explicitly—the population concerns of the exclusionists are exaggerated, which must be a way of saying that the margins of resources within the United States are quite comfortable and that population pressures from abroad will not in the foreseeable future affect the United States to any detrimental degree.

Third, the benefits of immigration—e.g., an industrious work force and a rich cultural infusion—are much greater than the alleged costs.

Fourth, that whatever the discomforts imposed upon citizens who find themselves required to share, nothing, in fact, can be done to stem immigration, since adventurous people with the most urgent human need for livelihood will overcome any barriers set up to keep them out.

All of these are imposing arguments. The most potent may rest upon both a political and a moral perspective: that the nation-state is no longer a viable unit to meet human problems, that national borders are artificial and in no way reflect or adjust to the reality of merged economic and social systems, that the human family is one, and that problems as well as opportunities should be jointly shared.

I do not give this view at length or with the eloquence which Mr. Bustamante and others bring to it. But I recognize it as a fundamental argument. The questions that it raises are many. I suggest one.

Given this perspective, in which problems and people and goods and cultural enrichment from one nation are best allowed to flow freely back and forth as humans pur-

sue their goals, does it not carry with it the corollary that people within every nation-state—but particularly in adjacent societies—have the right, perhaps even the obligation, to be concerned with the internal affairs of those whose fate has been acknowledged as intertwined with their own? If calamities must to some extent be shared, then to some extent the remedies for those calamities are the proper business of those who reside across one of these artificial national boundaries but whose lives are impacted as they share the calamity.

In this light, I cannot disagree that perhaps the people of other societies deserve some form of representation within the U.S. Department of Agriculture when the price of wheat is set; within the Department of Defense should a nuclear attack or even a nuclear test be contemplated; within a regional fisheries management commission when quotas are set—rights of representation which have been asserted lately in the United Nations.

Even though the form which these rights should take is unclear to me, the principle is rather compelling. But then that means equally that I have some rights to exercise in those distant places across artificial national borders where parts of the human family are making decisions bound to affect me directly.

Let us begin the exploration and design of the exercise of these rights. For I now see more clearly than before that, because of illegal immigration, I am legitimately and inescapably interested in the place where the next American generation is being conceived, born, given early education, acculturation, and nourishment before setting out to live out their lives with me and my children. The facts tell us that fifty percent of the next American generation is now produced abroad, and that the proportion is steadily rising.

This line of thought may startle, even offend, some of you. You may prefer to rely upon the old hands-off principle, scrupulous noninterference in the internal affairs of other nations, however honored it has been in the breach.

But Garrett Hardin, among others, has taught us to recall a great truth: you can never do only one thing. We now accept millions of illegal immigrants. That is an action, not a nonaction. It is possible that serious thought would reveal to North Americans that in providing a home for excess populations—with no effective protest or objection, let alone a quid pro quo—we are, in fact, acting to reinforce the existing economic, political, and governmental systems in these developing societies? What is being asked of us is not noninterference, but some actions rather than others, i.e., the action of receiving excess population but no other actions, thank you. I should say that we are already entangled in mutual responsibility.

Mr. Bustamante and others have talked of the need to integrate systems, to learn how to live together. This seems to me to express a compelling persuasive vision of future relationships. I would like to hear more discussion of the nature of our adjustment to an interdependent world.

Illegal immigration has been said to confer several benefits, but unquestionably one of them is the occasion to become quickly educated in the realities of economic and social deprivation in societies just outside our normal range of vision, and to be awakened to the far-reaching implications of our growing connectedness to distant peoples.

I conclude that idealists and realists are on both sides of this discussion, and that progressive and reactionary perspectives are also present on both sides. The exclusionists have hold of the truth that is coming into irresistible life and prominence in human affairs: the critical importance of population stabilization and ecosystem protection. But their views of the nation-state and its rights may be seen as drawn from the past.

Those holding the permeable-border view have a vision of global human rights and global association which surely will take on vitality in the years ahead, and which may offer the only moral ground for planetary survival. But they, too, seem to have a view which is dangerously outdated, one which lacks a sense of the urgency of the need for population self-discipline and environmental respect. Indifference to those values characterizes the careless age out of which we must grow, intellectually and spiritually, in the brief time our exploitative habits have left to us.●

USING ALCOHOL FUELS

HON. NEWTON I. STEERS, JR.

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Friday, October 6, 1978

● Mr. STEERS. Mr. Speaker, I want to call to my colleagues' attention an article that appeared in the September 23, 1978, issue of Environmental Action. This article, written by Hal Bernton, points out why we should be moving to greater use of alcohol fuels. It is important to keep in mind that use of alcohol in a mixture with gasoline would reduce our consumption of petroleum and may also improve the quality of the air we breathe. Sources for alcohol fuels are widespread and in good quantity.

As a cosponsor of the Alcohol Fuels Encouragement Act, I think that this sort of thoughtful article should help increase the use of alcohol fuels. I strongly suggest to all of my colleagues that they take a few minutes to read this article:

PAVING THE WAY FOR ALCOHOL FUELS

(By Hal Bernton)

The Wisconsin cheese industry had a problem. Each year it was producing some 15 billion pounds of liquid whey and there was no easy means to get rid of it. Some could be converted into lactose (milk sugar) and some spread on farmers' fields. But the rest was useless. So for years the cheesemakers quietly dumped it into the state's rivers and streams.

By 1973, the Environmental Protection Agency was concerned enough about whey pollution to hire the Milbrew Corporation, a Juneau, Wisc. research laboratory, to find a better way to recycle the cheese by-product. Five years later Milbrew came up with a solution. Now the whey is distilled into 194 proof ethyl alcohol, denatured and then trucked out to 36 Illinois gas stations. There it is marketed as "gasohol," a high octane blend that can be pumped into any car's tank.

Priced at about the level of premium blends (70 cents per gallon), gasohol has the overwhelming approval of motorists who have tried it out—not only in Illinois but in Iowa, Nebraska, Minnesota, Wisconsin and Montana. Some even say gasohol gives them more power and better mileage.

Gasoholics not only think they've found the ideal motor fuel of the 1980s. They believe that only through development of alcohol fuels will we simultaneously free ourselves from foreign imports, reduce auto exhaust and find a productive way to reuse organic wastes.

A number of state governments are taking careful note of the Midwest experience and carefully evaluating their own alcohol resources. Any organic material, including surplus grain, wood, corn stalks and even algae, can be distilled into alcohol. The process in most cases is a simple one known to moonshiners around the world. Starches are broken down with heat and enzymes into sugars. The sugars, with the aid of yeast, are then fermented into alcohol. A further by-product of most ethyl alcohol fermentation is a rich protein mash which makes excellent animal feed.

With this in mind, Nebraska is looking to its wheat surplus, Montana to its sugar cane and Maine to its forest wastes. One study funded by the Department of Energy recommends planting the Southwestern deserts with eucalyptus trees that could be converted to alcohol. Some gasoholics have even proposed that government subsidized tobacco should be distilled into alcohol energy. In an alcohol powered world, even New York City would not be left out in the cold, since one of the most plentiful materials for alcohol fuels is garbage.

While the Washington energy bureaucracy tries to figure out what to do about gasohol, other countries are swinging into action. Brazil has an ambitious program to have 20 percent gasohol blends in all gas pumps in the country by 1980; according to *The Washington Post*, service stations in half a dozen Brazilian cities already sell the 20 percent blend. Volkswagon provided Brazil with a fleet of cars to run on pure alcohol, and General Motors of Brazil modified a fleet of buses to do the same. Individuals can purchase $200 conversion kits from mechanics' shops in Sao Paulo.

The Brazilian government has been purchasing surplus sugar cane since the 1930s for alcohol production. But it is only in recent years, due to rising oil prices, that the government has put a full scale energy independence program into action.

In West Germany, where agricultural land is scarce, the Bonn government is considering using methyl alcohol as a basis for a post petroleum economy. Methyl alcohol, made primarily from coal, has one less carbon in its molecular structure than ethyl alcohol and contains substantially less energy per gallon. But when high technology processes are used, it is also significantly cheaper to produce. The West German government, working closely with Volkswagon, has done pathbreaking work in overcoming technological obstacles to using pure methyl alcohol in the internal combustion engine.

And Sweden is now considering a number of alcohol alternatives, including one devised by U.S. inventor Donald Brewer. He hopes to build a system in sunnier southern climates which could produce bumper crops of algae, which would then be distilled into alcohol and shipped to Sweden. Last spring Brewer, who lives in Bethesda, Md., was invited to Sweden to discuss his plan with top government energy officials.

Although the United States now lags behind Sweden, Germany and Brazil in many areas of alcohol research, the fuel has a long and interesting history in this country. Henry Ford recommended it for use in his Model T. During the Great Depression, farmers brewed moonshine in backyard stills and dumped it into their tractors. At one point, Chrysler Motors actually produced cars specially designed to run on pure alcohol and shipped them to oil-poor New Zealand. During the war years, the alcohol industry, aided by government funds, geared up production; but by the 1950s many of the giant distilleries had been abandoned.

Until 1977, most of the U.S. government's alcohol fuels programs were shunted off to an obscure division inside the now defunct Energy Research and Development Administration. A small group of energy officials and academic researchers felt that it should have received a much higher funding level, but their voices were ignored. In the hectic months that preceeded the unveiling of

Jimmy Carter's ill fated energy program, virtually no attention was given to the potential of alcohol fuels. The result was a 103 page energy plan grimly warning that there were no substitutes to gasoline which could be developed in time to meet the energy crunch of the 1980s.

Alcohol fuels research and development might have remained buried in some equally obscure corner of the new Department of Energy (DOE) had it not grabbed the attention of a diverse group of Republican and Democratic congressmen. In the fall of 1977, alcohol fuels suddenly emerged from the shadows of the government energy bureaucracy to become a hot political issue.

Farm state senators were the first to jump abroad the bandwagon, envisioning an unlimited new market for surplus crops. One group of Montana farm wives was so taken with the idea they drove all the way to Washington in gasohol powered cars. They were backed up by angry farm strike leaders who were unable to push higher farm price supports past Jimmy Carter's desk.

The grassroots movement for gasohol is strongest in Nebraska, where the state's Agricultural Products Industrial Commission is pushing for construction of a $23 million distillery to make alcohol out of grain. Nebraska's senior Sen. Carl Curtis gave the plan a boost on the national level when he co-sponsored an amendment to the 1977 Senate Farm Bill to provide $60 million in federal loan guarantees to build four alcohol plants in different areas of the country.

The farm state senators were soon joined by other politicians with quite different reasons for their support. When New York's powerful Sen. Jacob Javits gave his backing to alcohol fuels, he stressed the critical need to curb foreign oil imports. (If the dollar continues to decline, Javits reasons, the Mideast countries could decide to pull their money out of U.S. banks, causing chaos on Wall St.) Javits and 19 of his colleagues signed a letter to DOE last October urging the agency to devote more attention to alcohol fuels.

Since then alcohol's Senate supporters have repeatedly harangued Energy Secretary James Schlesinger for not moving fast enough to develop gasohol. As a result of congressional pressure, a special Alcohol Fuels Task Force was set up inside the giant bureaucracy. While the Department's top officials now assure Congress that they are planning "an action oriented program aimed at making things happen," according to inside observers opposition to the gasohol concept continues to stymie needed research and development efforts.

High level energy officials aren't the only ones with doubts about gasohol. Mobil and Chevron—two of the largest U.S. oil companies—have waged an extensive public relations campaign to convince the American people that alcohol is not a fuel of the future. The giant companies have consistently fought both state and national legislation that would promote development of alcohol fuels, and last fall Chevron lobbyist Robert Lindquist told a group of Senate staff members that alcohol fuels "have been proposed throughout the history of the motor car, but every time they have been rejected on economic and technical grounds."

Lindquist believes that such fuels are too expensive to market profitably—the Illinois experience notwithstanding—and too "energy inefficient" to produce. He charges that if the United States embarked on a massive program of alcohol production it would end up costing more energy to fuel the distilleries than the distilleries would produce. To emphasize his message, Lindquist has crisscrossed the country to debate key spokesmen for the gasohol concept.

There's a range of scientific opinion on the relative efficiency of the alcohol distillation process. Brazilian scientists insist that their process produces substantially more energy than it uses, while Dr. Leonard Schrueben of Kansas State University insists that it does not. And the long term energy efficiency of the process may indeed depend on development of assorted other technologies, which, together with alcohol production, could take us a long way down the road to energy self sufficiency. Once solar energy, or even recycled thermal heat from power plants, is harnessed to power the distilleries, the question of energy efficiency will no longer be debatable.

But the oil companies are not convinced. Mobil Oil has been just as outspoken as Chevron in its campaign against gasohol, and Edward Hennelly, Mobil's general manager for public relations, warned in a letter to Sen. Curtis: "We feel the consumer would not benefit by legislation that requires alcohol to be used as motor fuel. We think a better way to expand gasoline supplies in the future would be to make alcohol from coal and then turn it into gasoline using Mobil's conversion process."

Mobil's patented conversion process, developed with the help of a million dollars in federal research money, takes four gallons of methyl alcohol made from coal and converts it into 1.5 gallons of high octane gasoline. Dick Merrit, a Washington lobbyist who represents the gasohol interests, says he can't understand what's so beneficial about coal to gasoline. "It's like taking four pounds of steak and converting it to a pound and a half of bologna," he says. But it's not hard to see why Mobil is so interested in methyl alcohol. The company owns between four and five billion tons of coal.

Despite attacks from Mobil and Chevron, the oil industry isn't unilaterally opposed to the gasohol concept. Indeed, there is much debate within the American Petroleum Institute (the industry's official mouthpiece) over just what stance it should take.

And some oil companies are moving quiety ahead with gasohol research. In California, Union Oil Company, an independent, has approached state officials to discuss plans to market a 10 percent gasohol blend made from sugar beets. Gulf Oil has done pioneering work in developing a mutant strain of the same bacteria that causes jungle rot, which can convert any cellulose into starch. The Gulf process can use garbage as well as farm wastes to produce a high quality ethyl alcohol.

But Gulf Oil isn't about to advocate that consumers start pumping alcohol into their gas tanks. "We are not in the gasohol camp," reports Gulf lobbyist Spencer Sheldon. Instead Gulf hopes to use ethyl alcohol as a replacement for the ethylene now used as a raw material in the petrochemical industry. Still, the company may change its position in the future; one Gulf consultant recently estimated that there's enough garbage produced each year to fuel all the automobiles in the country with a 10 percent blend.

But in general the majors appear to have quietly sent out the word to their distributors that gasohol is not a desirable product at this time. One Standard Oil distributor was reportedly told that if he decided to buy gasohol he'd have to remove the company's decals from his pumps.

It's hard to figure out exactly why the large oil companies are so opposed to alcohol fuels development. The underlying reason may stem from the fact that gasohol, unlike gasoline, is simply not a fuel whose production can be easily centralized and controlled. Anyone could conceivably get involved in the business of making alcohol fuels. Municipalities could set up their own distilleries to produce fuel from garbage. Lumber mills could make fuel from wood wastes.

One small farming cooperative, aided by an $86,000 grant from the Department of Commerce, had already set up a makeshift still to produce alcohol for its members. The co-op, which is made up of low income black farmers, takes local corn and, with the aid of a veteran moonshiner named Albert Hubbard, is producing batches of up to 100 gallons of fuel at a time.

The still was made from a bizarre collection of rusted trash bins, brick ovens and gas storage tanks. A series of crudely welded pipe segments connects the distillery's scattered parts. While the set-up lacks the sophistication of the Wisconsin cheese whey plant, the co-op has plenty of incentives to make it work. Widespread crop failures last year left the co-op members deep in debt. Some 90 percent of their cucumber yield was destroyed by insects, disease and drought, and over half the corn was infected with the carcinogenic mold aflatoxin, totally destroying its market value. With tons of spoiled crops on his hands and creditors knocking at the door, the co-op's director. Albert Turner, had to find a new source of income. He now hopes alcohol fuels will someday pay off the bills.

Turner dreams of building a chain of small distilleries throughout the 10 Alabama counties where the co-op has members. Corn mash left over from distillation could be used as pig feed. The animals' manure, in turn, might provide a source of methane gas, which could be used to power the distillery. But for the moment, Turner is moving ahead slowly.

A few hours after he brewed up the first high powered batch of gasohol, a trickle of curious visitors dropped by to check it out. Turner had spread the word around town that he would give away free samples of his home brew to anyone willing to try it out.

His first customer drove his Chevy Impala slowly up to the still, stuck his head out the window and examined the contraption. Turner's face immediately broke out in a wide smile when he recognized the customer as a prominent local minister.

"Hey, Reverend. Come on up and see what I'm doing," he urged. The preacher cautiously got out of his car and listened to Turner's sales pitch. "This alcohol is for cars, not drinking, and it'll be the best fuel you've ever tried." Then he filled a gallon jar with the ethyl alcohol and carefully poured it into the Chevy's tank.

"Crank her up now and see what she'll do," Turner urged the minister as he got back into his car and revved up the engine. After he drove away, Turner walked back to the still where a new batch of alcohol was being made, beaming with satisfaction. "Once the preacher gets hooked on the stuff the whole congregation will go for it."

While grassroots support is growing, so far there's been relatively little interest in alcohol fuels on the part of environmentalists. But an environmental perspective is needed in a number of areas.

For example, a strong push from environmentalists might help get pure alcohol fuel considered as an alternative to gasoline in highly polluted urban areas. Tests by the state of California show a dramatic reduction in pollution emissions from test cars run on 95 percent pure alcohol.

Tests by the Department of Energy and by *The New York Daily News* have also indicated that even a 10 percent gasohol blend reduces certain emissions. These studies are now being reviewed by the Environmental Protection Agency (EPA), which is expected to make a policy decision soon on whether gasohol meets the requirements of the Clean Air Act. EPA is concerned that the effects of alcohol on emissions have not been studied thoroughly enough.

If EPA does clear the way for alcohol blends, urban residents could begin converting their engines to be able to use these less polluting fuels. Conversion would cost a few hundred dollars per vehicle.

The shift to gasohol could also help alleviate the buildup of carbon dioxide in the atmosphere. Government researchers already predict a slow rise in atmospheric temperatures (the so-called greenhouse effect) from current use of coal, oil and natural gas.

At the same time a balanced plan is needed so that a sudden shift to "energy farming" doesn't leave a trail of environmental devastation in its wake. Large areas of the West, unsuited for intensive agricultural use, could conceivably be plowed up to produce crops for alcohol. Stable forest management practices could be abandoned by short sighted energy entrepreneurs eager to cash in on quick profits from wood wastes.

The shape of the alcohol fuels industry is still struggling to be defined. Today it appears to be one part Albert Turner, one part Mobil Oil and one part grassroots fervor. By 1980 it will be something altogether different. Will gasohol be a major contributor to energy alternatives and waste recycling? Or a part time concern for a backyard inventor? Right now it's too early to say.●

NEWARK INTERNATIONAL AIRPORT

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, October 6, 1978

● Mr. RODINO. Mr. Speaker, I would like to call my colleagues' attention to the 50th anniversary of Newark International Airport which is located in my district. This is an important occasion to the thousands of people who take pride in the history of Newark Airport as the oldest, major metropolitan airport in the country. First established in 1928 on 63 acres of land—only 1 year after Charles Lindbergh's famous trans-Atlantic flight—Newark Airport was a true pioneer in air transportation as it became the first airport to have paved and lighted runways. During World War II it was used as a departure point for American military planes.

For all its historic significance, Newark Airport has the proud distinction of being the Northeast's oldest yet most modern airport. Today the original 68 acres has expanded to 2,200, with nearly half a billion dollars invested there. It maintains the fastest growth rate of all U.S. airports in terms of passenger traffic, number of flights and seating capacity.

Mr. Speaker, on Monday people from my district joined with aviation enthusiasts from across New Jersey and the rest of the country to participate in a parade, sponsored by the city of Newark and the Greater Newark Chamber of Commerce, honoring the airport's 50th anniversary. All week long, there have been luncheons, dinners and even an air parade of 50 old model planes to celebrate the occasion. The airport has set up 40 different aviation exhibits to explain its history.

Mr. Speaker, I am delighted at so much activity to honor the many adventurous individuals who built a runway and a terminal in the middle of New Jersey's marshlands 50 years ago because they believed in the future of air transportation. We also do well to appreciate those who carried on the original dream. Today, the finest tribute to their spirit of discovery and invention is the continuing excellence of Newark International Airport itself.

Mr. Speaker, I look forward to an equally successful second 50 years for this great public facility.●

GEORGE WASHINGTON CARVER, WEATHER OBSERVER

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 6, 1978

● Mr. BROWN of California. Mr. Speaker, I have long encouraged the activities of volunteer citizen weather observers in contributing their data to the National Weather Service. Two acts which I have sponsored—the Earthquake Hazards Reduction Act of 1977 (Public Law 95–124) and the National Climate Program Act (Public Law 95–367) have provided for the inclusion of amateur observers in their data-gathering systems for the very good reason that such observers often have valuable contributions to make. I am also planning to introduce a bill on environmental monitoring early next session which will also provide for such observers.

Because of this interest, I was pleased to learn recently that George Washington Carver was a volunteer weather observer for 32 years. (I wonder how many more dimensions of this great man we will discover!) Mr. Speaker, this information was contained in an article from EDIS, a publication of the Environmental Data Service of the National Ocean and Atmospheric Administration. I submit this fascinating article for reprinting in the RECORD.

GEORGE WASHINGTON CARVER, WEATHER OBSERVER

(By Patrick Hughes)

Almost every day for more than 32 years, George Washington Carver recorded weather observations as an unpaid, volunteer weather observer. Unlike thousands of other citizen observers before and since, however, Carver seems to have been relatively uninterested in weather itself. Where the remarks of other observers dwell on the power and beauty of the elements, his deal almost exclusively with their effects on agriculture, the central concern of his amazing career.

Carver took daily observations from November 1899 through January 1932, except for June and July, 1900—when Isaiah T. Hardeman signed as observer and apparently recorded the observations—and possibly during February 1917, for which there is no record.

Although he occasionally commented on severe weather during the early years, most of Carver's comments concern the impact of Sun, rain, drought, and storm on the farm and garden of Tuskegee Institute. His very first entry (November 1899) in the remarks column is: "Light frost on the third and fourth both killed tender vegetation."

In March 1902, Carver did report that "On the night of 15 the wind was very heavy. Blew the iron flagpole down and completely dismantled it. No flags can be displayed until another is put up."

Earlier, on May 28, 1900, he also recorded a total eclipse of the Sun. He did not, however, comment on a local earthquake that occurred on October 18, 1916.

For most of the rest of his 32+ years of record, Carver's remarks deal almost exclusively with the health and progress of the crops to which he devoted his life. The only significant variation in the records through all those years occur in his handwriting and signature, which exhibit considerable diversity.

George Washington Carver was one of several thousand citizen weather observers scattered throughout the country. At the end of each month, they sent their observations to the climate and crop service of the Weather Bureau, then part of the U.S. Department of Agriculture. Collectively, these records document and define the climate of the United States. Some 12,000 unpaid observers continue this work today.

The records of all these cooperative weather observers are collected in the Environmental Data and Information Service's National Climatic Center in Asheville, N.C. George Washington Carver's records recently were microfilmed and the originals sent to the rare book room of EDIS' central library facility in Rockville, Md. (just outside Washington, D.C.), where they are available to qualified researchers.●

CETA HAS WORKED WELL IN TORRANCE

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 6, 1978

● Mr. ANDERSON of California. Mr. Speaker, many CETA program directors in Los Angeles County have been alarmed by the receipt of letters regarding the possibility that their funding soon will be discontinued. This threat is looming because Congress has yet to clear for the President final versions of both the CETA reauthorization bill and the Labor-HEW appropriations bill.

CETA is certainly not perfect. But many people around the country, and Members in this Chamber are included in this group, have worked hard to maximize its effectiveness while minimizing the possibility of CETA funds being abused. I take particular pride in citing the efforts of the city of Torrance, Calif. Their accomplishments in making CETA work as it was intended to are especially noteworthy. We must act promptly to assure that their funds are continued without interruption in the weeks ahead.

I hope my colleagues will take the time to read the following mailgram which I recently received from Mayor James R. Armstrong, of Torrance. Then, I hope we will take the actions necessary to fund the Torrance program as well as the other fine CETA programs around the country.

TORRANCE, CALIF., *September 13, 1978.*
Congressman GLENN M. ANDERSON,
2410 Rayburn House Office Building,
Washington, D.C.

DEAR CONGRESSMAN ANDERSON: I am writing to thank you for your support of H.R. 12452. The amendments which you supported will not severely hamper local CETA efforts.

The City of Torrance's accomplishments under CETA programs have been impressive. Innovative programs for youth, senior citi-

zens, veterans, and other significant sections of our population have benefited the entire community. Some examples of outstanding projects include:

Sidewalk ramps for handicapped.

Veterans' outreach and advocacy programs at local state employment office.

Junior college and university tutoring programs in basic subjects—English and Math.

"Art-Cart"—occupational therapy for convalescing patients.

Conversion of manual to computerized universal billing format in conformance with national health care systems.

Moreover, the City of Torrance has taken steps since the inception of CETA to insure that the kind of abuses most often attributed to manpower programs have not occurred within its jurisdiction.

City Council policy of antinepotism to prevent relatives from being hired on public service employee programs.

Internally imposed a one year limitation on participation in public service programs.

All pay scales are less than $10,000.

No positions are supplemented by city funds.

No substitution of CETA for regular city jobs has occurred because of careful compliance with maintenance of effort provisions; for example, a policy to supplement permanent positions and to increase, not maintain, the level of service provided.

At least ⅔ of public service jobs have been granted to the school district and nonprofit agencies.

CETA was originally intended to be decentralized employment training activities to allow prime sponsors to meet the needs of the local community. Torrance has done this in good faith.

I am hopeful that you will agree that our city's record is impressive and that you will be supportive of CETA reenactment without these crippling amendments.

Sincerely,

JAMES R. ARMSTRONG,
Mayor, City of Torrance.●

SELECTMAN MOCCIA NAMED "WAKEFIELDIAN OF THE YEAR"

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 6, 1978

● Mr. MARKEY. Mr. Speaker, occasionally a member of the community serves the people of his area so well he deserves congressional recognition. John Wally Moccia, Jr., is such a person. The Wakefield chamber of commerce has named Selectman Moccia "Wakefieldian of the Year" and will honor him at a testimonial on October 12, 1978.

Mr. Moccia is a native of Wakefield. He was first elected to the Board of Selectmen in 1960, and he has been continuously reelected ever since then. And he has had the honor of being chosen to head the board four times by his colleagues.

As a selectman, Mr. Moccia has had the responsibility for many departments. They have included the veterans service, the police department, and the fire department. He handled his responsibilities in an exemplary manner. He has also been an outspoken citizen, fighting against all injustice. He has fought for larger tax abatements for senior citizens. And he has spoken out against the so-called "snob zoning."

Most importantly, Mr. Moccia has always had time for all people who have needed him. He has always been more than willing to lend a sympathetic ear, and to help people whenever possible. He has evidenced the admirable qualities of selflessness and charity toward which we should all aspire. I thank him for all that he has done.●

SAN DIEGO TRAGEDY

HON. GENE SNYDER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Friday, October 6, 1978

● Mr. SNYDER. Mr. Speaker, in last Sunday's Washington Star there appeared an article by the noted author Robert Serling about the tragic airplane accident in San Diego. He has called our attention to some of the problems facing the aviation community and I commend it to my colleagues.

The article follows:

THERE'S NO PANACEA FOR COLLISIONS

(By Robert J. Serling)

The San Diego tragedy last week had one thing in common with virtually all air disasters: the natural urge to seek a panacea, a single solution, a quick and easy cure-all that would prevent a similar tragedy from occurring again.

Unfortunately, this gut reaction runs counter to an aviation axiom: few if any accidents have a single cause. Invariably, a crash stems from several factors or circumstances; take any one away, and the accident may not have occurred. By the same token, plugging one loophole—even the most obvious and major—does not mean all other loopholes have been blocked.

It is too early, at least at this writing, to determine what factors or set of circumstances led to the PSA-Cessna collision over San Diego last Monday. But preliminary evidence points to multiple causal factors: possible communications misunderstandings; the possibility that the 727 crew mistook another light plane for the Cessna they were warned about; the fact that the Cessna pilot was practicing an instrument landing with his vision obscured by a mask used in instrument training; and finally a report one of the planes overtook the other, which raises the possibility of a controller's judgment error.

Yet it is typical that the inevitable aftermath of San Diego is a plethora of demands for a panacea. President J. J. O'Donnell of the Air Line Pilots Association wants immediate adoption of a relatively new Collision Avoidance System (CAS) and has castigated the Federal Aviation Administration for not adopting it sooner—the FAA is dragging its heels, he charges. Others are calling for total segregation of light plane traffic from high-density terminal areas. Still others point to San Diego's Lindbergh Field as a large booby trap which finally exploded. And there always are those who claim the airlines are unwilling to commit the multi-million dollar investment inherent in the adoption of any CAS.

The truth is that a great deal already has been accomplished in reducing the collision menace—solid accomplishments, too, in that they have been directed to a wide area of problems rather than focusing on any single weakness.

The airlines operate some 13,000 flights daily. In the past seven years, until San Diego occurred, there had been three fatal collisions involving domestic air carrier operations—two in the air and one on the ground. In that seven-year period, there were more than 28 million scheduled flights, and this adds up to one fatal collision for every 9.3 million flights. Considering the fact that the ATC system guides some 20,000 flights a day the record is good.

True, there are hundreds of "near misses" involving airliners annually, but the majority of these were recorded solely because the aircraft were not in accordance with minimum separation standards. No one in his right mind would deny that the collision problem is far from solved—as San Diego proved so tragically—but it is easy to paint a darker picture than is warranted. The dangers of mixing high-speed instrument traffic with smaller, lower-speed planes are still very much with us, although not to the extent they were 10 years ago.

For example, the FAA has enlarged so-called positive control in high density traffic areas—usually up to 8,000 feet and within a radius of 15–25 miles from the airport. This restriction bans aircraft from invading high-density terminal airspace unless they are known to the ATC system and have sufficient radio and navigation equipment to utilize ATC facilities.

All aircraft operating above 18,000 feet are under positive control and in some areas this either has been or will be lowered to 12,500 feet. The airlines themselves want the control floor lowered to 10,000 feet.

These rules, of course, cannot prevent some irresponsible or inexperienced pilot from straying into protected airspace—not only uninvited but often unknown. Education and possibly stricter training is the only answer to this potentially hazardous situation, unless a more drastic alternative is chosen: banning all private pilots from using high-density airports. Yet if the latter seems an obvious solution, ponder these salient points:

General aviation, which embraces everything that flies except airline and military, is is responsible for 98 percent of the nation's aircraft, 96 percent of its pilots, 79 percent of the civil hours flown, and nearly 50 percent of the passengers carried. In other words, general aviation is a vital part of America's air transportation system.

The majority of mid-air collisions over the past 20 years have occurred not near busy terminal areas but in relatively empty airspace and low-density traffic areas.

General aviation would welcome so-called "reliever" airports, serving private pilots exclusively, but such modern and adequate facilities are in relatively short supply and general aviation seems to have a legal right to use the bigger airports so long as its pilots and aircraft meet federal proficiency and technical standards.

If we concede that, at least until more and better reliever airports are built, the VFR–IFR traffic conflicts will continue, the most immediate solution is adoption of a practical CAS. ALPA's insistence that the hardware is on the shelf and ready to use is factual but only if that word "practical" is eliminated. There is a good CAS available—highly sophisticated, capable of use by light and airline aircraft alike, and thoroughly tested. But its practicality is open to debate: it appears to be overly sensitive, producing an unacceptable number of false alarms. In a crowded terminal area, it could drive a pilot bananas.

The FAA is leaning toward an even more sophisticated CAS known as DABS (Discreet Address Beacon System) which not only solves the false alarm problem but can be tailored to the actual traffic density of any given terminal area. DABS, however, still is in a test and evaluation stage.

ALPA, quite understandably, is fed up with the government's tendency to "wait a little while—something better is just around the corner." Admittedly, that cautious attitude has delayed implemenation of several worthwhile advancements in air safety; ATC itself probably could have been modernized sooner

than it was if the "just around the corner" philosophy hadn't prevailed.

The airlines themselves tend to agree with ALPA—up to a point. Through their organization, the Air Transport Association, they provided a large chunk of CAS research funding as far back as 1967 and actually were ready to put a system called "EROS" (manufactured by McDonnell Douglas) into operation in 1970 after two years of testing. But FAA procrastinated, insisted on evaluating two more competing systems and by the time EROS appeared to be all set, technological developments had made it obsolete. But ATA also feels that the CAS the pilots' union favors has serious drawback, the false-alarm proclivity in particular, and in this case sides with continued development of DABS.

The one thing that should be made clear, however, is that CAS in itself—regardless of its efficiency—cannot provide 100 per cent protection against mid-air collisions. There is some question whether even DABS could have prevented San Diego. Remember, the PSA pilot was alerted to conflicting traffic. And the Cessna pilot, too, had been warned, presumably in sufficient time to take evasive action—one theory is that he may have been switching radio frequencies and didn't hear the warning, a deadly mistake compounded by his restricted visibility.

Certainly there was no excuse for letting him practice instrument landings in a crowded terminal area. It was allowed at San Diego because it is the only airport in the immediate area equipped to handle practice instrument approaches. Significantly, such airports as Chicago's O'Hare, Dallas-Fort Worth, Boston's Logan, San Francisco and New York's Kennedy prohibit practice landings, for all too obvious reasons. There also is no doubt that Lindbergh Field cannot be classed as a safe facility, although its faults do not seem to have contributed to this specific accident.

It would be both unfortunate and unfair to indict private pilots and general aviation as the villians in the collision problem. Airline pilots, too, have been found at fault in several mid-air collisions with small planes. All pilots are victims of the system rather than perpetrators of its weaknesses—the deadly mix of high speed-vs-low speed traffic being a major contributor to potential disaster.

But what to do about it should not be subjected to emotional reaction that is the product of sorrow, anger and frustration. Any objective study of past collisions would emphasize that what would have prevented one would not necessarily have prevented another. And if the causal factors are many, so must there be multiple solutions. A perfected CAS would be a major advance, and DABS appears to have the capability of being utilized by small planes without having to install expensive equipment (one fine CAS developed some years ago would have cost a private pilot at least $2,500 to install; the main trouble with Collision Avoidance Systems of the past, EROS being a prime example, is that they would have been fine for keeping airliners separated safely but couldn't have prevented collisions with private planes.)

Reliever airports also will be a vital step forward, although this will require massive funding in many areas. Improved private pilot education and training will be another important advance, and so will continued modernization of ATC to minimize human error. Like so many air tragedies of the past, San Diego's legacy hopefully will be incentive and motivation for action.

But previous disasters also have taught us another lesson; a hasty, ill-conceived cure often has proved worse than the disease. The tendency of the reform pendulum to swing too far in the other direction is as much a part of aviation as it is in all society, government included.●

COLUMBUS DAY

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, October 6, 1978

● Mr. RODINO. Mr. Speaker, I want to take this opportunity to remind my colleagues of a most important national holiday which our country will celebrate on Monday, October 9—Christopher Columbus Day.

Mr. Speaker, I am very proud to be an American of Italian descent. However, Columbus Day is much more than a holiday for Americans of Italian heritage. When I first introduced legislation in 1949 to make Columbus Day a national holiday, I believed very strongly that it would proclaim America's greatest strength—that is, its ethnic diversity. Each heritage is a priceless strand woven into the rich, resplendent tapestry of American culture.

Mr. Speaker, the life of Christopher Columbus serves as an excellent example for us as we pay tribute to the spirit of adventure and the ethnic diversity of America. Christopher Columbus conquered fear and ignorance as he sailed the Atlantic to discover a new land. Yet, if it were not for the Spanish Queen who supported his venture, the Portuguese mapmakers who guided him, and the various other Europeans who manned his ship, the great Italian explorer would never have made his famous discovery.

Mr. Speaker, we are truly a Nation of immigrants; and Columbus' lasting accomplishment in his inspiration to those who have come after him—those people of every race, color and creed who landed on these shores and became responsible for the greatness of this Nation.

Mr. Speaker, on Sunday, October 8 I will march in the annual Columbus Day Parade in Newark, N.J. Thousands of people participate in this glorious event which hails the ethnic diversity of the people of the 10th Congressional District. This is very important because the more we learn about each other's heritage, the more American we truly become. Sunday's parade is a celebration of our appreciation for different cultural backgrounds.

I am very proud of the work that many people in my district have put into making this parade a success, and in particular, Mr. Ace Alagna who is publisher of the Italian Tribune News and coordinator of the parade.

Mr. Speaker, it is this cooperation and mutual respect for other human beings which we affirm on this Columbus Day. Let us continue in this spirit as we meet the challenges of the future.●

TRIBUTE TO MRS. ADELINE CERASO MARAFFI

HON. JOHN H. DENT

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 6, 1978

● Mr. DENT. Mr. Speaker, as one of my last official duties as a Member of Congress, it gives me a great deal of pleasure to pay a special tribute to a most loving and generous human being, Mrs. Adeline Ceraso Maraffi, from Vandergrift, Pa.

For nearly half a century Mrs. Maraffi has unselfishly given of herself so that others less fortunate might find life a little more bearable, a little more comfortable and a little more enjoyable. There is not a worthwhile charity or civic cause in Westmoreland County that Mrs. Maraffi has not been associated with as a volunteer. Nearly every charitable organization from the American Cancer Society to the Westmoreland County Association of Retarded Citizens has benefited from her untiring and dedicated service. From working with senior citizens to juveniles in trouble, Mrs. Maraffi has spread her talent for good works and good deeds across the entire community. Her life is the epitome of civic virtue, a brilliant example of a good neighbor.

On October 28, 1978, a grateful community will honor Mrs. Maraffi for her many years of devoted volunteer service. At the same time, Mr. Speaker, I believe that it is both fitting and proper that Mrs. Maraffi be recognized on the floor of this House of Representatives. Thus, on behalf of this House and the good citizens of Pennsylvania's 21st Congressional District, I salute you, Adeline Ceraso Maraffi, for all that you have done to make this world a little better place in which to live, and may your future be as bright as your past has been illustrious.●

NEW JERSEY ORGANIZATION FOR WOMEN'S PLAN OF ACTION (IWY)

HON. HELEN S. MEYNER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, October 6, 1978

● Mrs. MEYNER. Mr. Speaker, I am very pleased to report that in my home State of New Jersey a group of citizens has been formed to tackle the challenging goals and commitments expressed in the State and National International Women's Year platforms. Called the New Jersey Organization for Women's Plan of Action (IWY), it is made up of concerned women and men who are interested in translating the public consensus of the IWY meetings into political and government action. Their followup campaign includes gaining more public understanding and support for the resolutions adopted at the New Jersey conference held at Princeton University last June and for the 25-point national plan of action approved at the National Conference held in Houston last November.

As a sponsor of the legislation creating the National Commission on the Observance of International Women's Year which organized the State and national conference series, I take pleasure in reporting to my colleagues the important followup work that has been initiated since Houston.

I am informed that the New Jersey

organization has held meetings at the State House in Trenton to seek executive action from Gov. Brendan Byrne and to lobby members of the New Jersey legislature. Special task forces have been created to review educational matters, employment issues, programs for disabled women and minority women, along with a review of legislation affecting the battered wife and displaced homemaker.

I take special pride in pointing out that New Jersey is one of the first states in the Nation to sponsor a followup conference to its State IWY meeting last year. Entitled, "From Princeton, to Houston, to the U.S. Constitution," this conference will be held on the Livingston Campus of Rutgers University in Piscataway on October 14.

NJOFWPOA is encouraging a cross-section of New Jersey women to come to this followup IWY meeting to assess our status and progress since Princeton and Houston. This day-long meeting and subsequent actions will continue the effort to have equality goals and priorities become realities.

Some of the individuals who have worked hardest to bring the critical matter of women's rights to the forefront are the officers and directors of NJOFWPOA:

Ms. Theo Tamborlane, Chair, NJOFWPOA.
Ming Hsu, State Executive Board, Regional Representative.
Doris Vaughn, State Executive Board, Regional Representative.
Dr. Priscilla Ransohoff, State Executive Board, Regional Representative.
Katherine DiBenedetto, State Executive Board, Regional Representative.
Eileen P. Thornton, Public Relations Chairperson.
Nancy Stultz, Political Strategy Chairperson.
Joan Neuwirth, Head of Speakers Bureau.
Doreen Utman, Education Chairperson.
Betty Wilson, Legislation and Lobby Chairperson.
Deborah Hart, Finance and Budget Chairperson.
Ida Castro, Co-Chairperson of Implementing Action.
Rosemary Dempsey, Co-Chairperson of Implementing Action.
Robbie Cagnina, Membership Development Chairperson.
Clara Allen, Treasurer.
Faith Schindler, Secretary.

STATE DEPARTMENT VISA OFFICE PLAYS THE DOUBLE STANDARD

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, October 6, 1978

● Mr. BIAGGI. Mr. Speaker, I have watched with great interest the recent controversy surrounding the visa application made by Rhodesian Prime Minister Ian Smith. I discuss this case not solely on its individual merits, but also to draw a parallel between it and the difficulties which leading political figures in Ireland have obtaining visas.

The State Department in a series of highly publicized "reservations" held up the Smith visa application for several weeks. Their main reason was that according to the United Nations Smith's was an illegal government and on that ground he should be banned. This notwithstanding the fact that a group of some 26 Senators wanted Smith here to present his assessment of the Rhodesian situation especially with respect to the transition government. With respect to the Irish situation, it has been the State Department's contention that certain political figures pose a threat to our security, because of their political beliefs. I have had occasion to meet with State Department officials on Irish visa cases and assure my colleagues that the "intelligence files" that they use to keep certain of these individuals from this Nation are insufficient to merit that response. They take this action notwithstanding the interest of millions of Irish Americans and a number of us here in Congress who feel all views on Ireland should be permitted into this Nation.

However, with the decision by State to permit Ian Smith into this Nation, the parallel ends. Visa applications from a number of legitimate Irish political figures continue to be turned down, the most recent being that of Rorai O' Bradaigh, a leader of the legally sanctioned Sinn Fein Party whose application was denied this past summer.

The double standard approach of the State Department with respect to visas is glaringly obvious. They purport to have an open visa policy. In some respects it is—for examples Communists from North Korea and Italy have entered this Nation as well as representatives from the terrorist PLO. Yet as it relates to Ireland the visa policy is as closed as the minds who review the applications.

As chairman of the 114-member Ad Hoc Congressional Committee for Irish Affairs I intend to continue my efforts to reverse the State Department's arbitrary visa policy with respect to Ireland. It translates into a form of censorship against the Irish-American community who are deprived of all the views on the dispute in Ireland. Certain political figures, usually those closely affiliated with the London or Dublin governments seem to enter this Nation at will. Other views considerably more representative of the people of Northern Ireland are kept out. This Nation has no right to employ a double standard in the determination of visas.●

THE VERY BEST TO CONGRESSMAN SIKES

HON. ROBERT McCLORY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 6, 1978

● Mr. McCLORY. Mr. Speaker, soon this Chamber will lose the services of Congressman BOB SIKES of Florida whose 38 years as a Member of the U.S. House of Representatives has set a record for his State in the Congress. Prior to coming to Congress, he was twice elected to the Florida State Legislature, a remarkable record of continuous public service.

I think all of us here feel a sense of fellowship that transcends partisan politics and occasional differences over issues. So, I feel I speak for others than myself when I wish BOB well and tell him that he will be missed.

Mr. Speaker, BOB SIKES' overriding interest in our national security has contributed substantially to our military might—and to the respect which other nations have for us. I have been particularly interested in working with Congressman SIKES recently in behalf of a foreign intelligence measure which will maintain the strength of our Nation and of our intelligence agencies.

BOB SIKES has been much honored. For instance, five universities have conferred honorary degrees on him and an honorary chair in government at Okaloosa-Walton Junior College in Niceville, Fla., bears his name.

He headed Florida's delegation to the Democratic National Conventions in 1956 and 1960, and served as a vice president and director of the Water Resources Congress, attending—as a delegate—four international Congresses. Congressman SIKES further served on the Board of Visitors to both the U.S. Navy Academy and the Air Force Academy.

Mr. Speaker, to BOB SIKES and his wife, Inez, the very best.●

PRODUCT LIABILITY INSURANCE

HON. CHARLES W. WHALEN, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, October 6, 1978

● Mr. WHALEN. Mr. Speaker, as you know, throughout this Congress I have been active in the pursuit of an equitable solution to the problem of product liability insurance. Unfortunately, attention has focused too often on those in the manufacturing trades, while overlooking the professional sector. Of the various legislative proposals in this area, only my bill, H.R. 7711, the Product Liability Tax Equity Act, addresses the specific issues of professional liability. Thus, to promote a better understanding of the problems facing the professional who seeks liability insurance, I would like to enter at this point in the RECORD the National Society of Professional Engineers' joint statement before the House Subcommittee on miscellaneous revenue measures.

PRODUCT AND PROFESSIONAL LIABILITY SELF-INSURANCE ACCOUNTS

Mr. Chairman, members of the Committee, my name is Carl L. Bradley, FAIA, and I am here today on behalf of the American Institute of Architects, the national, voluntary professional society for architects, as chairman of our liability committee. Appearing with me on the witness panel and joining in this statement are:

Mr. William A. Clevenger, P.E., President of the American Consulting Engineers Council, Mr. James F. Shivler, P.E., Representing the National Society of Professional Engineers, as chairman of their liability committee and Mr. Robert E. Nolan, P.E., representing the American Society of Civil Engi-

neers, as chairman of their committee on standards of professional practice.

We are all here today in support of H.R. 7711 and to strongly urge the inclusion of design professionals within the coverage of the legislation you have under consideration. The liability problems of product manufacturers have justifiably become a matter of Congressional concern, and we are convinced that an examination of the facts will show the liability problems of design professionals warrant equal attention. Every product and every building or structure created must first be designed. In the product field, this is often done by the manufacturer's personnel. In the area of buildings and structures, however, the design is usually done by independent professional design firms. And just as product manufacturers have experienced stunning increases in the cost of liability coverage, so too has this group of design professionals.

THE PROBLEM

During the 1960's, professional liability insurance for building designers generally cost less than one per cent of a firm's gross receipts. Because of its manageable cost and ready availability, purchased insurance became widely accepted by architects, engineers (A–E's) and their clients. In the 1970's, however, insurance premiums for this coverage began to skyrocket, with annual increases of 100 percent or more not uncommon. Actual increases, of course, vary by firm and state, but nationally, the average annual premium increased have raised the cost of insurance 577 percent over the past eight years. Liability coverage now represents an average of 3 to 10 percent of a design firm's gross receipts. For many A–E's, insurance coverage is now the largest single cost item after payroll. What is more, purchased insurance is generally a fixed cost for construction designers, while the construction industry is highly cyclical.

As significant as these premium increases have been, it is vitally important for this subcommittee to understand that they are but a part of the total liability cost problem faced by our members. Professional liability policies for A–E's are written with a deductible amount of first (investigation and defense) costs chargeable to the insured, that is applied to each claim. As premiums have escalated, many A–E firms have raised this deductible limit as the only way of controlling their costs. The deductible amounts now usually approach, equal, or exceed the annual premiums. This means that a design firm that does have one or more claims lodged against it in a single year can end up paying twice or three times the amount of the premium, even if none of the claims are successful.

In addition to these cash expenses, the A–E firm must absorb the intangible costs of uncompensated professional time spent in investigation and defense preparation. Informed estimates indicate that a design professional spends three hours for every one hour an attorney spends in preparing to defend against a claim. Since an architect or engineer, as any professional, essentially sells his or her time, this can be a significant loss. And finally, unlike manufacturing concerns, A–E's must personally stand behind their losses and are not shielded by the limited liability of the corporate form. The importance of these uninsured first costs of liability payed by the designer over and above the premium is highlighted by two factual circumstances. First, the vast majority of claims against A–E's are relatively small property damage claims. From 1960 to 1976 95.1 percent of the claims for which we have statistics did not exceed the deductible limits of policy coverage by more than $25,000. The average claim exceeded the deductible by $16,751 in 1976. But the average deductible amount is now between $15,000 and $20,000. This indicates that the design professions are currently satisfying a substantial portion of the costs of liability out of pocket, even with insurance.

Second, the frequency of claims is increasing at the rate of 20% per year, so that now, 29.6% of insured architectural and engineering firms in our data base were sued in 1976. We simply live in a society that is ever more prone to litigation. In this connection, it should be pointed out that liability coverage for A–E's is written on a "claims made" basis. This means the insurance does not cover claims brought after a policy lapses based on acts or omissions committed during the term of the policy. So A–E's must maintain insurance, even after retirement or dissolution, for at least the length of the state's statute of limitations, if there is one.

All of this can be brought into sharper focus if put into the context of a hypothetical example:

Let us assume a typical consulting architectural or engineering firm of 8 people carries $150,000 of insurance with a $10,000 deductible limit. The firm might be paying $8-12,000 per year in premiums for this, indicating roughly $200,000 in gross yearly receipts. Now assume that a dispute arises over a project involving responsibility for a construction delay and a claim is filed. In the same year, a tenant in an apartment house the firm designed five years earlier sues for damages due to water leakage in one of the apartments. The firm is now potentially facing $20,000 in direct, out of pocket expenses, after paying about $10,000 in premiums, before the insurance company has even incurred a loss, and before any finding of fault is made. In this all too typical example, 15% of the firm's gross receipts can be consumed or at least encumbered by profession liability just as a cost of doing business that year, the majority of it borne by the firm itself despite insurance. And it cannot be overemphasized that this is 15% of gross receipts, before payroll, rent, utilities, taxes, other insurance, etc.

Impact

To appreciate the effects of this recent, crippling, financial burden, it is important to recognize that the construction design profession is preponderantly one of small businesses. Among architects who belong to the AIA, 80% work in offices of nine or fewer people. If we assume that there are about 10,000 full time architectural and engineering firms in the country, over 95% of all these firms qualify as small businesses under SBA's definition of that category.

Given this industry configuration, the impact of escalating liability costs is readily apparent. The increase in a firm's liability insurance premium *often* means the difference between laying off personnel and hiring new staff. A single claim can preclude expansion or the acquisition of more sophisticated design technologies, if not require a staff reduction.

The high cost of insurance has created a substantial barrier to the formation and expansion of new, small firms. The federal government and many states and local governments require liability insurance as a precondition to even qualify for a commission. And many if not most private clients require it as a contract condition. Therefore, because of the size of current professional liability insurance costs, a beginning architectural or engineering firm must be substantially capitalized before it can even compete for many commissions.

Of course the most important impact of the design profession's liability predicament is the risk it creates not only for architects and engineers but the public. When a single routine claim can bankrupt a small firm, and multiple claims can bankrupt a medium sized or even a large firm, where is the protection for the public? No profession practices with pristine perfection. Erros and omissions do occur and we carry insurance in recognition of that fact. But when this insurance is so costly as to be prohibitive for some firms and the liability exposure even with insurance is so great as to threaten the financial stability of the best practitioner, the just claimant may have no source of recovery. And it is not solely our clients who are exposed to this risk. Just as manufactured products enter the buildings and structures we design are used by the public to live and work in and travel on for decades. The design professional's liability exposure, and thus the public's risk and need for protection, is at least as great as that for manufactured products.

BEGINNINGS OF A REMEDY

Because of all the factors outlined above, we strongly urge the inclusion of construction design professionals within the coverage of the self-insurance tax bills before you. Congressman Whalen's bill, H.R. 7711, with its' sixty some co-sponsors, does include professionals. In the area of contruction designers, we believe the ability to establish liability loss reserve accounts would be almost wholly used to cover exposure to first costs under insurance deductible limits. Because of the preponderantly small business nature of the profession and the high cost of the structures being designed, very, very few firms would or could attempt to totally self insure. Virtually all architects and engineers who would elect to create a reserve account would do so in conjunction with purchased insurance to cover catastrophic losses. In fact, total self insurance to the level of industry standards would be impossible under the Department of Commerce's draft bill, or H.R. 12429 since that bill limits accumulation in a reserve account to a maximum of 15% of yearly gross receipts, whereas most A–E's carry insurance far above that percentage.

Design professionals currently are, in effect, self insuring to an extent because of the limited nature of commercial insurance available. Existing tax law allows a deduction for purchased insurance premiums and actual uncompensated liability losses incurred. H.R. 7711 would simply allow a commensurate deduction for a reserve account to meet the same costs of doing business, but on a manageable more predictable basis. With a liability loss reserve account, an A–E firm could slowly build up a reserve to cover its exposure to the first costs of claims. As the account grows, the firm could raise the deductible limit on its purchased insurance, thereby reducing or at least stabilizing premiums. The growth of the reserve would depend on the lack of claims, so these accounts would encourage and regard good performance much more than the current situation.

For new, small firms or sole practitioners just beginning, the ability to establish a reserve account would allow them to immediately set aside funds and gain some liability protection without having to wait until they can afford purchased insurance. And when a new practice does buy commercial coverage, a growing reserve account could help the firm get it cheaper. In this respect, should the Subcommittee include designers in this bill, we would hope some language could be included in the report indicating the intent that amounts in these reserve accounts be considered on a par with commercial coverage in satisfying federal, and hopefully state, requirements for liability coverage in procurements.

We recognize there may be reluctance on the part of the Subcommittee to extend coverage of liability loss reserve account legislation to all professions, since not all professions have similarly acute liability prob-

lems. Other professions have greater economic resources or greater institutional and legal protection from liability claims. But we strongly believe architects and engineers do have a problem so acute and a degree of exposure so great that coverage under the bill before you is warranted. Should you decide to allow construction designers the election option put forward in H.R. 12429 we offer the following suggested language to accomplish that end:

Amend section "(9)(A)" regarding the definition of product liability by inserting a colon after the phrase "or defects in" and amending the remaining portion of the section to read as follows—

"(1) a product manufactured, imported, distributed, leased or sold by the taxpayer or (2) the professional design, planning, evaluation, preparation of specifications, or administration of a contract by the taxpayer (whether in whole or in part) for the construction or modification of a building or structure on real property."

The inclusion of construction designers in H.R. 12429 raises one other consideration relative to the penalty for withdrawals from the reserve account for other than liability purposes. Professional partnerships tend to be more fluid in their composition or practice specialty than manufacturing corporations and the construction industry is historically prone to more pronounced cycles of activity than the economy as a whole. In this context, there may be perfectly legitimate and sound business reasons for reducing the amount of altering the makeup of liability coverage. The draft bill would impose a very harsh penalty of one half of the amount withdrawn on such reductions. This could produce economic distortions and inhibit the proper use of these accounts.

In fact, a firm specializing in one area may become the victim of another recession such as that experienced from 1973 to 1977 and have a substantial reduction in work. Knowing that over 90% of all claims against A–E's occur within four years of project completion and that future prospects are brighter in another area of specialization, a firm could logically decide to reduce its liability account gradually and use the withdrawals to retain and retrain staff personnel. In such a case, subjecting the withdrawals to ordinary tax rates plus a surcharge representing the value of the deferral would seem more appropriate than applying a 50% penalty.

The restrictions in H.R. 12429 designed to limit eligibility to small businesses present few problems. Our members are small businesses and would generally come within those restrictions. In fact, the majority of our member firms would qualify as having a "severe liability insurance problem" now, and the maximum contribution limits are beyond the capability of all but a few firms.

Of course, any time a new deduction is proposed, the question of budget or revenue impact must be raised. We have not heard of any accurate or reliable estimate being made at this point. All the estimates we know of either assume everyone eligible would establish a reserve account or do not discount the deductions already being taken. Intuitively, we believe extending the option of a liability loss reserve accounts to design professionals would not result in a significant revenue loss. Again, premiums and incurred uncompensated losses are already deductible. The revenue loss due to these existing business deductions would be absorbed or replaced by deductions for contributions to these accounts. To the extent that premiums for purchased insurance, that can now be deducted, are reduced, there may even be an offsetting revenue gain. We view liability loss reserve accounts for architects and engineers not as some potential windfall for these professions but as recognition of the fact that designers must now self-insure their liability exposure to large extent. In that circumstance, reserve accounts would simply treat small professional firms on an equal basis with insurance companies.

ADMINISTRATION PROPOSAL

Despite the preliminary endorsement of pre-tax liability reserves by the Department of Commerce, the administration has now proposed an alternative tax plan for liability troubled industries. This calls for extending the loss carry-back period from three to ten years. We, unfortunately, cannot agree with this as an alternative due to three reasons: (1) lack of efficacy in addressing the problem, (2) potential for complexity and expense to the taxpayer, and (3) impracticality in operation.

(1) The extended loss carry-back proposal simply does not address the central problem of high premiums and high deductibles. No firm could reduce its premium simply by saying it had large prior profits that it might get a refund on should a claim arise. And the problem of hight deductibles would not be affected at all since a firm would have to exhaust its current income against a loss before filing for a refund of prior years' taxes.

(2) While the IRS may view the extended loss carry-back as administratively simple, it is a potential nightmare of expense and complexity for a professional small business. Most professional firms such as A–E's operate as partnerships, closely held professional corporations, or Subchapter S corporations. In most of these situations, the principles are taxed directly, with income passing through the business entity.

For a typical firm of three or four partners to take advantage of the Administration's 10 year loss carry-back would thereof require the filing of 30–40 amended tax returns. The complexity and cost of this alone could discourage anyone from using this concept.

(3) The extended carry-back concept, as stated above, does nothing about the problem of high out-of-pocket costs under deductible limits. In addition, it is very unclear how this concept would actually work in the real world of small business liability. The concept presumes that a business will have cash on hand to pay and then wait for a refund (assuming a judgement must be entered before the loss is accrued for tax purposes). This simply is not the case with small businesses facing multiple claim defense costs of judgements in excess of insurance coverage. And we see nothing in this concept which would convince a judgement creditor to forestall executing its judgement against firm and personal assets beyond the mere possibility of extracting multiple tax refunds at some undetermined future time.

For these reasons, we see the administration's proposal as an ineffective remedy in the area of A–E professional liability.●

PHILADELPHIA TO SAVE $68 MILLION WITH NEW SEWAGE PROCESS

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 6, 1978

● Mr. EILBERG. Mr. Speaker, with many of our major urban centers struggling with the need to upgrade their treatment of sewage, I am delighted to bring to the attention of my colleagues a new process which has been developed by the water commissioner in Philadelphia.

Mayor Frank Rizzo has announced that the city will save close to $68 million by using a revolutionary sewage treatment process conceived by Commissioner Carmen Guarino to upgrade its Northeast Sewage Treatment Plant.

The Mayor said the new process, called Surfact, will:

Net the city several hundred thousand dollars in royalties which Guarino has waived.

Make the city eligible for millions of extra dollars in Federal funding for plant construction, under a new Federal law that rewards innovative ideas in the upgrading of sewage plant.

Speed up construction, enabling the city to shave 1 year off the time required to expand and modernize the Northeast plant.

Remove 94 to 97 percent of pollution, as measured by biochemical oxygen demand from sewage, thus producing a final effluent that is much higher in quality.

Enable the city to avert construction delays caused by the need to find land outlets for Northeast lagoon sludge.

This process could benefit sewage treatment plants in many other cities, and Commissioner Guarino is to be commended for conceiving and developing it.

Under a new Federal law rewarding innovative ideas, Philadelphia could qualify to receive 85 percent Federal funding of eligible project costs, as against 75 percent at present. This would mean millions of dollars in savings for Philadelphia taxpayers.

Guarino has been granted a patent on Surfact, but he has waived payment of any royalities by the city for use of the process. In addition, he has specified that the city shall be paid royalties on the use of Surfact. These cannot be presently calculated, but the city treasury could receive several hundred thousand dollars as a result.

The Surfact process, which utilizes cylinders that rotate under the influence of air in aeration tanks, has been in partial use at the Northeast plant for the past year. As a result of this experiment a private engineering firm has recommended that the technique be used to expand and improve the entire Northeast plant.

According to figures supplied by the firm, the Surfact process will:

Cut $13.8 million from the cost of new capital facilities, as compared with the nearest competitive treatment process studied by the city.

Save $54.1 million in maintenance, electric power and debt service costs over a period of 25 years, as compared with the nearest competitive process.

Surfact can be installed in existing

aeration tanks, thus producing a quick upgrading and requiring fewer new capital facilities. It also uses relatively simple capital equipment, can be installed quickly anywhere, is easy to maintain, and requires no extra electric power.

The process involves the placement of huge polyethylene cylinders, measuring 12 feet in diameter and 25 feet long, into large aeration tanks. The cylinders rotate in the sewage flow and as they rotate they pick up a film on which aerobic bacteria grow. The bacteria then oxidize the sewage, converting it into other elements.

Guarino's idea of placing the cylinders in aeration tanks, utilizing existing air for power, differs from previous use of such cylinders by other cities. Such cities have used them in other types of tanks where they are less effective and where they require electrical power for mechanical drive.

A different process—oxygen activated sludge, which injects oxygen into sewage flow—has been incorporated into Philadelphia's new $244 million Southwest Sewage Plant, which will go into service in January, 1979.

Both oxygen activated sludge and Surfact produce high removals of pollution from sewage. Experiments at the Northeast plant, however, show that Surfact removals are unusually high in relation to the comparative simplicity of the equipment. The very first cylinder, in a line of 22 cylinders installed in aeration bays last year, has been removing 13 pounds of biochemical oxygen demand per 1,000 square feet of service. Normally the removals by the aeration process average only 2 pounds per 1,000 square feet.

As a result of Surfact experiments, the water department has revised its design plan for the northeast plant. The new plan, requiring fewer new tanks, will not need immediately all of the land now occupied by sludge lagoons A, C, and E. Some of this sludge will be trenched while the rest will be removed at a later date to free space for a new sludge recycle center. Consequently, expansion of the northeast plant can begin in 1979.

Using Surfact, the northeast plant will be expanded and upgraded at a total cost of $254.3 million, to create a plant with a rated treatment capacity of 250 million gallons of sewage daily. Present capacity is 175 million gallons.

At the southeast plant, preliminary estimates show that the plant could be expanded and modernized at a cost of $141 million, if Surfact is used. Surfact represents only a portion of these costs.

Guarino said that design plans for the northeast plant, incorporating Surfact, will be submitted to the Environmental Protection Agency and the Pennslyvania Department of Environmental Resources in the near future. Those agencies must approve before the plans can be used. EPA and DER previously approved 75 percent Federal funding for the 22 Surfact cylinders now in operation at the northeast plant.●

CONGRESSMAN OTIS G. PIKE REPORTS TO HIS CONSTITUENTS ON SECOND SESSION, 95TH CONGRESS

HON. OTIS G. PIKE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, October 6, 1978

● Mr. PIKE. Mr. Speaker, this will be the 18th consecutive year in which I have filed an annual report to my constituents. It will also be my last report and while there are many things I would like to say to them, expressing my thanks for the opportunity to serve them for so long, my hopes for the future of our Nation, our Congress, and our entire governmental process, there will be other opportunities for me to do these things in other places. In this final report, I shall simply content myself, as I have in its 17 predecessors with an overview of the 95th Congress, its successes and failures, the underlying economic and political trends to which it attempted to respond and my own actions as the Representative of the more than half-million people of the First Congressional District of the State of New York.

As far as the Nation itself is concerned, this has been a good year—in the perspective of history, it will be called a very good year. Our people were at peace. We have suffered no great famine or pestilence. There were no huge national disasters. Employment was high, unemployment was low. Yet, with all of these things, it has been a time of great unease as far as public confidence in our economy, in our political institutions, and in our leadership. I share that unease and it is with a feeling of real concern that I prepare to leave public life. This is a year in which despite all of the fine conditions listed above, our rate of inflation went back to the 10 percent figure. Our balance of payments continued to suffer staggering losses in relation to other nations. The value of our dollar dropped precipitously in relation to other currencies and in a time of great prosperity we operated at a deficit of $50 billion in a total budget of $450 billion meaning quite simply that we did not pay 11 percent of our bills. All of these shortcomings are curable, but their cure requires some sacrifice on the part of our citizens, some courage on the part of our legislators, and I see no great evidence of either.

The Congress of the United States is composed of intelligent, very dedicated, very hardworking people—almost all of whom want very much to get reelected. The way to get reelected is to give the people we represent what they ask for—not to call on them to make sacrifices. Through the year, and to a lesser degree, throughout most of the years of our Nation, this is what the Congress has done.

The issues which were before the Congress this year may be measured in two ways—by the number, which was huge, or by the significance, which in the vast majority of those issues was minimal. Congress did grapple with several dozen issues of substantial significance and a few of real importance and a review of what the House has done as this session winds to a close will serve to remind us of at least some of the more important ones. As of this date we have had almost 800 recorded votes this year and neither in this review nor in the chart of the more important votes which will follow can I pretend to cover them all, but I will try to hit the highlights, the most important and the most controversial issues.

In January and February, we amended and passed an important bill governing oil and gas exploration on the Outer Continental Shelf and in the latter month passed several bills greatly expanding our national parks and the National Wilderness System.

By February it was already obvious that the rate of inflation which had declined to below 5 percent in 1976 was heading sharply back up again. I am convinced that one of the causes of inflation is simply the business of government undertaking more and more jobs, establishing more and more agencies, paying out more and more money, and failing to balance its own budget. Accordingly, you will find me voting "nay" on many new programs and new agencies starting in February this year, such as creating a new Office of Consumer Representation and having the Federal Government pay for the cost of repairing weather-damaged highways.

In March, we were confronted with the so-called Humphrey-Hawkins Full Employment bill and again I voted "nay" and again was in the minority. March also was a month in which some of our legislative chickens came home to roost and we had two record votes on the debt ceiling, first to increase it, which failed, and the second to continue it at its present $752 billion level through July 31.

In April we authorized $40 million to provide for the conservation and management of fish within our 200-mile offshore fishing zone, $128 million for our national sea grant program and $1.4 billion for the Coast Guard. April also featured a major bill requiring greater disclosure, registration and reporting by lobbying organizations.

In May we had a very lengthy debate involving 21 separate recorded votes in setting our preliminary proposed budget for fiscal year 1979 which started on October 1, 1978. I believed that our budget was too high, our deficit was too large and voted to reduce both of them and again was on the losing side. Less than a week after passing a budget proposing a $58 billion deficit, the House voted $3.7 billion in foreign aid without my help. One of the miracles of the legislative year occurred on May 17 when on the same day that we passed the conference report on the budget by a 3-vote margin, we defeated by a 61-vote margin a bill to raise the national debt by the amount of the deficit we had just approved. "Budgets" are politically acceptable, "deficits" are not.

In June a very controversial bill creating an income tax credit for private elementary and secondary school tuition and college tuitions passed the House by almost the same margin as an equally controversial bill to issue federal loan guarantees for New York City bonds. June is the month in which we try to get the appropriations for the various departments and agencies of Government cleared up for the next fiscal year and the Congress was appropriating sums ranging from $68 billion for the Department of HUD and 17 other agencies down to a little less than $1 billion for the legislative branch of Government—that is us.

June also saw two of the many bills and votes we had during the year on the subject of accelerating the development of solar energy. In July we were again confronted with the necessity of increasing the debt limit and we increased it to $798 billion which will last us only until next spring.

In August the President won a major battle with Congress by a narrow 3-vote margin when the House lifted the arms embargo against Turkey. August saw the President lose another argument with the House as we had many close and controversial votes on how we should change the structure of our tax laws in the process of providing tax cuts to American individuals and corporations. Our tax bill did not resemble the President's. While you probably will not like it, you will note that your Congressman is of the opinion that we should balance our budget before we start cutting our taxes.

In August we also completed action on the final budget for the fiscal year which began on October 1. Again, I voted to reduce the budget and reduce the deficit and, again, was on the losing side.

Beginning in August and through 19 record votes carrying into September, we debated and amended the President's program for reforming our civil service system, eventually passing it in approximately the same form which he had requested. Toward the end of September after an off-again on-again debate which lasted more than a month, we voted to extend the Comprehensive Employment and Training Act (CETA) for another 3 years. This program is, in my judgment, not worth its present huge cost, although I would happily concede that it does provide jobs for people who might otherwise be unemployed or working under less pleasant conditions.

In September and October we had two major votes on attempts to override Presidential vetoes and in both instances, the Congress lost and the President won. The first of these attempts was on the President's veto of the defense weapons procurement bill which contained a nuclear aircraft carrier the President thought was unnecessary. The second was on the President's veto of the public works appropriations bill.

In the first case, I voted against the President. In the second case, I voted with him.

Perhaps the high point of the year occurred on September 18, 1978, when a joint session of the House of Representatives heard President Carter speak of the peace agreement which had been hammered out at Camp David between Egypt and Israel through America's efforts and persuasion. With both President Sadat and Prime Minister Begin in the audience it was a tremendously moving experience and created an impression which I shall treasure long after the frustrations and trivialities of congressional life have been forgotten.

As this is written the House is about to adjourn. One more major issue remains to be voted on—the energy package which originally passed the House more than 1 year ago in almost the form which the President had originally requested and which was badly mauled in the Senate. Over a year of negotiations between the House and the Senate conferees have resulted in the fragile compromise which is still to be voted on. It is opposed by a unique coalition of those who think it does too much too soon and those who think it does too little too late. I shall vote for it because essentially, it is the only energy bill we have. As this is submitted we have had 785 record votes this year and I regret to say that I have missed quite a few of them. Until June I had a perfect attendance record for the year and had hoped to finish with my congressional career on that level. A higher priority problem caused me to miss a week of work in June and my record went out the window.

Of our 785, I have been present and voting on 89 percent which while far from my past performance is still better than average. I have never wanted to be an average Congressman and it is time I left. I leave with a deep feeling of concern about our Nation—of its inability even in prosperous times to balance its budget. Of its unwillingness to make the sacrifices and hard choices which I feel are necessary in order to sustain it as a leader in the free world. The symptoms are obvious—an inflation spiraling upward, a dollar spiraling downward. There is a price to be paid for our unwillingness in Congress to say "No" to the demands of each pressure group for more and more Government programs, Government agencies, Government assistance and we are paying this price. I do not want to conclude this final report in a downbeat fashion. I have absolutely loved the opportunity being your Congressman for 18 years. I leave with a deep sense of gratitude for the opportunity and an abiding belief that our system does work. For better or for worse, the Congress of the United States and especially the House of Representatives does represent the people of the United States. It is responsive to their wishes, their aspirations, their ideals. I wish my successor the very best of success in representing the people of the First Congressional District better than I have. I have tried.

Date	Issue	Pike vote
1978		
Jan. 23	Amend the Merchant Marine Act to increase permissible federal loan guarantees for financing construction or rehabilitation of commercial fishing vessels to 87½ percent from 75 percent of the cost of the vessel. (yea 309; nay 68)	Yea
Feb. 2	Amend the 1953 law governing oil and gas exploration on the Outer Continental Shelf by improving environmental controls, increasing state participation in federal leasing decisions, sharing federal revenues from leases with coastal states and broadening competition for lease sales by changing bidding procedures. (yea 291; nay 91)	Yea
Feb. 8	Establish an independent Office of Consumer Representation within the Executive Branch to represent the interests of consumers before federal agencies and courts. (yea 189; nay 227)	Nay
Feb. 9	Providing for the immediate acquisition of 48,000 acres of privately owned timberland to be added to the existing Redwood National Park in northern California. (yea 328; nay 60)	Yea
Feb. 9	Adding 1.3 million acres spread through 17 areas in 10 western states to the National Wilderness Preservation System. (yea 333; nay 44)	Yea
Feb. 14	Authorize $73 million from the Land and Water Conservation Fund to purchase 6,300 acres along the Chattahoochee River for the national park system. (yea 273; nay 79)	Yea
Feb. 15	Authorize $72 million in fiscal 1979–81 for the Departments of Commerce, Agriculture and Interior to develop and implement programs to increase the production of aquatic species, such as shellfish and plants, for food, and also to establish a disaster loan program. (yea 234; nay 130)	Nay
Feb. 21	Authorize $250 million from the Highway Trust Fund to reimburse the states for 100 percent of the cost of repairing weather-related damage to highways and the surface rails of urban mass transportation systems. (yea 274; nay 137)	Nay
Feb. 22	Rescinding $462 million appropriated in fiscal 1977 for the Defense Department for production of three B–1 bombers. (yea 234; nay 182)	Yea

Date	Issue	Pike vote
1978		
Feb. 23	Allow the United States to participate in a new $10 billion IMF (Witteveen) facility to make loans to nations with large balance-of-payments deficits, and set the U.S. share at $1.8 billion. (yea 267; nay 125)	Yea
Feb. 23	Extend through Sept. 30, 1980, the operating authority of OPIC and repeal a requirement that OPIC transfer all its loan insurance operations to private financial institutions by Dec. 31, 1980. (yea 191; nay 165)	Nay
Mar. 2	Amendment to the Constitution to provide for full voting representation in Congress for the District of Columbia (both in the House and the Senate) and to retain the right granted by the 23rd Amendment to vote for the election of the president and vice president. (yea 289; nay 127)	Nay
Mar. 7	Increase the debt limit to $824 billion through March 1, 1979. (yea 165; nay 248)	Nay
Mar. 13	Providing $2.5 million for the activities of the House Select Committee on Assassinations for the remainder of the 95th Congress. (yea 204; nay 175)	Nay
Mar. 16	Humphrey-Hawkins bill to promote full employment, balanced growth and price stability. (yea 257; nay 152)	Nay
Mar. 21	Extend the public debt limit at its existing level of $752 billion through July 31, 1978. (yea 233; nay 172)	Yea
Mar. 21	Providing for House floor consideration of the bill to amend the Federal Election Campaign Act, last amended in 1976, and to permit a floor amendment on the public financing of House general election campaigns. (yea 198; nay 209)	Yea
Mar. 21	Amend the Age Discrimination in Employment Act of 1967 to raise to 70, from 65, the age limit for protection of nonfederal workers from age-based discriminatory practices, including mandatory retirement (except for certain high-level executives and tenured college and university faculty), and to eliminate the upper limit for most civilian federal employees. (yea 391; nay 6)	Yea
Apr. 6	Establish criteria for the setting of postal rates, provide for presidential appointment of the postmaster general, abolish the postal board of governors, and provide for an open-ended annual public service subsidy for the Postal Service but with the requirement that it spell out for Congress in advance how it would spend the subsidy. (yea 384; nay 11)	Yea
Apr. 10	Authorize $45.2 million for fiscal 1979–81 to carry out the Marine Mammal Protection Act of 1972. (yea 380; nay 5)	Yea
Apr 10	Authorize appropriations of $40 million for fiscal years 1980 and 1981 to provide for the conservation and management of fish within the United States' 200-mile offshore fishing zone. (yea 329; nay 55)	Yea
Apr. 13	Clarify the authority of the president to employ personnel in the White House office and the executive residence and to allow for congressional oversight. (yea 265; nay 134)	Yea
Apr. 17	Authorize $58 million for each of fiscal years 1977 and 1978, $63 million for fiscal year 1979 and $64.6 million for fiscal year 1980 for the operation of the national sea grant program. (yea 341; nay 23)	Yea
Apr. 17	Authorize $1.4 billion for fiscal 1979 operations of the U.S. Coast Guard, including $960 million for operating expenses; $380 million for the acquisition and improvement of vessels, aircraft and shore facilities. (yea 357; nay 13)	Yea
Apr. 18	Authorize $934.4 million in fiscal 1979 for operations and programs of the National Science Foundation. (yea 364; nay 37)	Yea
1978		
Apr. 25	Authorize $4,415,300,000 in fiscal 1979 for operations and programs of the National Aeronautics and Space Administration, including $1.4 billion for the space shuttle program. (yea 345; nay 54)	Yea
Apr. 25	Authorize $96 million for fiscal 1979 plus supplemental funds of $86.5 million for fiscal 1978 programs of the Peace Corps, and to amend the Peace Corps Act to emphasize assistance to the poorest nations. (yea 297; nay 102)	Yea
Apr. 26	Require annual registration and quarterly reporting by major lobbying organizations as well as disclosure of grass-roots (indirect) lobbying activities by reporting organizations and the names and addresses of major groups. (yea 259; nay 140)	Yea
Apr. 27	Authorize $432.9 million for research, development and demonstration programs of the Environmental Protection Agency for fiscal 1979. (yea 367; nay 33)	Yea
May 2	Create a $75 million solar, renewable energy sources and energy conservation loan program within the Small Business Administration. (yea 375; nay 17)	Yea
May 3	Set preliminary budget targets as follows: revenues of $440.1 billion, budget authority of $546.8 billion, outlays of $488.3 billion and a deficit of $48.2 billion. (yea 197; nay 203)	Yea
May 4	Reduce the revenue target by $635 million to accommodate a tuition tax credit for college and elementary and secondary school costs. (yea 199; nay 173)	Nay
May 9	Reduce budget authority by $8 billion and outlays by $7 billion. (yea 195; nay 203)	Yea
May 10	Resolution setting the following fiscal 1979 budget targets: revenues of $433 billion, budget authority of $569.5 billion, outlays of $500.9 billion and a deficit of $57.9 billion. (yea 201; nay 197)	Nay
May 12	Make tobacco and tobacco products ineligible for the Food for Peace (PL 480) program. (yea 126; nay 189)	Yea
May 15	Authorize $3,747,850,000 for U.S. foreign economic aid programs for fiscal 1979. (yea 225; nay 148)	Nay
May 15	Authorize $25,567,000 for fiscal 1979 for the programs of the Federal Fire Prevention and Control Administration, the Fire Research Center and for the renovation of the federal Fire Academy. (yea 360; nay 11)	Yea
May 15	Extend the 1965 Older Americans Act for three years until fiscal 1981 and Title II of the 1973 Domestic Volunteer Service Act until fiscal 1980, and to authorize $1.269 billion for fiscal 1979, $1.361 billion for fiscal 1980 and $1.583 billion for fiscal 1981 for programs authorized by the acts. (yea 361; nay 6)	Yea
May 17	Authorize $2,897,090,000 for the national security programs of the Energy Department for fiscal 1979. (yea 348; nay 46)	Yea
May 17	Conference report setting the following budget targets for fiscal 1979: revenues of $447.9 billion, budget authority of $568.85 billion, outlays of $498.8 billion, a deficit of $50.9 billion and a public debt limit of $849.1 billion. (yea 201; nay 198)	Nay
May 17	Raise the public debt limit to $849.1 billion through Sept. 30, 1979, thus making the statutory limit conform to the fiscal 1979 budget. (yea 167; nay 228)	Nay
May 18	Protesting the harassment and imprisonment of 22 Soviet citizens, including Dr. Yuri Orlov, who monitored the Soviet's compliance with the August 1975 Helsinki accord on respect for human rights. (yea 399; nay 0)	Yea

Date	Issue	Pike vote
1978		
May 19	Designate 102 million acres of federal land in Alaska as national park, national forest, wildlife refuge and wild and scenic rivers. (yea 277; nay 31)	Yea
May 22	Authorize $4.2 billion for various military construction programs of the Department of Defense for fiscal 1979. (yea 363; nay 18)	Yea
May 23	Establish a domestic violence (spouse abuse) program and to authorize $125 million for fiscal 1979–83. (yea 201; nay 205)	Nay
May 23	Authorize $496,792,000 for fiscal 1979 programs of the Commerce Department Maritime Administration. (yea 326; nay 82)	Yea
May 24	Authorize $37,899,020,000 for Defense Department weapons procurement and military research programs in fiscal 1979. (yea 319; nay 67)	Yea
May 25	Authorize federal agencies to conduct a three-year experiment in flexible and compressed work schedules for federal employees and to suspend certain overtime and holiday pay provisions for purposes of the experiment. (yea 288; nay 57)	Yea
May 31	Expressing the sense of the House that the government of South Korea should cooperate in the House investigation of alleged bribery attempts by former Korean Ambassador to the United States Kim Dong Jo and stating that the House is prepared to deny or reduce economic aid to South Korea if such cooperation is not forthcoming. (yea 321; nay 46)	Yea
May 31	Prohibit use of any funds in the State Department Authorization bill to implement the Panama Canal treaties without specific congressional approval. (yea 203; nay 163)	Nay
May 31	Authorize $1.9 billion for State Department operations and related activities in fiscal 1979 and a supplemental authorization for fiscal 1978 of $47 million. (yea 240; nay 124)	Yea
June 1	Provide an income tax credit for a three-year period (calendar 1978–80) equal to 25 percent of tuitions for private elementary and secondary schools and public and private colleges and universities, up to a limit by 1980 of $100 for elementary and secondary tuitions and $250 for college tuitions. (yea 237; nay 158)	Nay
June 6	Authorize appropriations of an undisclosed amount for federal government intelligence operations and activities, including the Central Intelligence Agency and various Defense Department agencies, for fiscal 1979, (yea 323; nay 43)	Absent
June 8	Authorize the secretary of the treasury to issue federal loan guarantees totaling $2 billion for up to 15 years for New York City bonds. (yea 247; nay 155)	Absent
June 12	Appropriate $8,847,296,096 in new budget authority for the Transportation Department and related agencies for fiscal year 1979. (yea 347; nay 25)	Yea
June 13	Appropriate $56.6 billion for the Departments of Labor and Health, Education and Welfare and related agencies for fiscal 1979. (yea 338; nay 61)	Yea
June 14	Appropriate $4.6 billion for the Departments of State, Justice, and Commerce, the Judiciary and 18 independent agencies. (yea 359; nay 34)	Yea
June 14	Appropriate $922.5 million (less a 5 percent reduction in payments not required by law) for the House and related congressional agencies in fiscal 1979. (yea 279; nay 90)	Yea
June 16	Appropriate $10,341,633,900 for fiscal 1979 for energy research and water development. (yea 263; nay 59)	Absent
June 19	Appropriate $68,208,848,000 for the Department of Housing and Urban Development and 17 other agencies, including the Environmental Protection Agency, National Aeronautics and Space Administration and the Veterans Administration, for fiscal 1979. (yea 332; nay 47)	Absent
June 22	Reduce by $290,200,000 the appropriation for the food stamp program. (yea 194; nay 201)	Yea
June 22	Reduce by 2 percent appropriated funds for all operations and programs of the Agriculture Department and related agencies. (Yea 189; nay 201)	Yea
June 22	Appropriate $18,014,000,000 for fiscal 1979 operations and programs of the Department of Agriculture. (yea 326; nay 59)	Nay
June 22	Authorize $25 million for a feasibility study by the Energy Department and NASA of a research, development and demonstration program for collecting solar energy by satellite. (yea 267; nay 96)	Yea
June 28	Lower to 40 percent, from 50 percent, the level of disability at which veterans become eligible for additional payments for each dependent. (yea 385; nay 16)	Nay
June 28	Provide accelerated federal research on developing energy cells to convert sunlight to electricity. (yea 385; nay 14)	Yea
July 12	Authorize $1.25 billion in fiscal 1979–83 for establishment of new areas and additions in the national park, national trails, wild and scenic rivers and wilderness systems. (yea 341; nay 61)	Yea
July 13	Extend the Elementary and Secondary Education Act of 1965 for five years, through fiscal 1983. (yea 350; nay 20)	Yea
July 14	Reduce funding for the Clinch River nuclear breeder reactor project by $159 million, to limit work on that project to completion of studies and tests and to require a study of advanced breeder reactor technologies. (yea 142; nay 187)	Yea
July 17	Authorize $4.5 billion in fiscal 1979 for research and development programs and activities of the Energy Department. (yea 325; nay 67)	Yea
July 18	Prohibit employment discrimination based on pregnancy. (yea 376; nay 43)	Yea
July 19	Increase the temporary public debt limit to $798 billion through March 31, 1979. (yea 205; nay 202)	Yea
July 20	Appropriate $6.3 billion in supplemental funds for fiscal 1978 operations of the government, including $3.2 billion for federal employee pay raises. (yea 311; nay 60)	Yea
July 21	Authorize $29.3 billion for various housing and community development programs. (yea 270; nay 26)	Yea
July 25	Increase spending ceilings to $2.7 billion for fiscal 1979, $3.15 billion for 1980 and $3.45 billion for 1981 for child day care, home assistance for aged and disabled and other social services programs. (yea 346; nay 54)	Yea
July 25	Liberalize eligibility for the benefits paid to survivors of permanently disabled veterans. (yea 393; nay 9)	Yea
July 26	Provide for interim federal regulation and taxation of ocean mining of hard minerals by U.S. citizens until an international agreement was reached by the law of the Sea Conference. (yea 312; nay 80)	Yea
July 26	Extend the Economic Opportunity Act of 1964 for three years, through fiscal 1981. (yea 346; nay 38)	Nay
July 27	Extend the authority of the Export-Import Bank through September 1983 and increase its loan ceiling to $40 million from $25 million. (yea 314; nay 47)	Yea
Aug. 1	Lift the U.S. arms embargo against Turkey when the president certified to Congress that the action was in the national interest of the United States and NATO and that Turkey was acting in good faith to achieve a settlement of the Cyprus problem. (yea 208; nay 205)	Nay

Aug. 2	Prohibit the use of funds for South Korea until former Korean Ambassador to the United States Kim Dong Jo had given testimony to the Standards of Official Conduct Committee on congressional influence-buying by the Korean government. (yea 147; nay 257)	Yea
Aug. 2	Authorize $999.3 million for foreign military assistance programs of the State Department in fiscal 1979. (yea 255; nay 156)	Nay
Aug. 3	Prohibit indirect U.S. aid to Uganda, Cambodia, Laos and Vietnam. (yea 198; nay 203)	Yea
Aug. 8	Reduce by 2 percent the funds appropriated to the Department of Defense. (yea 102; nay 252)	Yea
Aug. 9	Appropriate $119,017,218,000 for programs of the Defense Department in fiscal 1979. (yea 339; nay 60)	Yea
Aug. 9	Limit maximum CETA wages to $10,000 annually ($12,000 in high-wage areas) and to set the average CETA worker's wage at $7,000. (yea 230; nay 175)	Yea
Aug. 10	Exempt up to $100,000 in profits from the sale of residences from capital gains taxes once in a taxpayer's lifetime. (yea 409; nay 1)	Yea
Aug. 10	Provide for indexation of capital gains taxes for inflation beginning in 1980. (yea 249; nay 167)	Yea
Aug. 10	Kemp motion to reduce individual income tax rates by one-third over the next three years. (yea 177; nay 240)	Nay
Aug. 10	Provide $16.3 billion in individual, corporate and capital gains tax cuts. (yea 362; nay 49)	Nay
Aug. 14	Reduce all appropriations in the foreign aid bill by 8 percent except funds for Israel and Egypt. (yea 184; nay 199)	Yea
Aug. 14	Appropriate $7,174,634,653 for foreign aid programs in fiscal 1979. (yea 223; nay 167)	Nay
Aug. 16	Provide for the following budget aggregates: budget authority, $539 billion; outlays, $480 billion, revenues, $445 billion; deficit, $35 billion. (yea 201; nay 206)	Yea
Aug. 16	Resolution setting the following budget levels: budget authority, $561 billion; outlays, $489.8 billion; revenues. $450 billion; deficit, $39.8 billion (yea 217; nay 178)	Nay
Sept. 7	Override the president's veto of the bill to authorize $36,956, 969,000 for Defense Department weapons procurement and military research programs in fiscal 1979. (yea 191; nay 206)	Yea
Sept. 7	Require the U.S. government to obtain judicial warrants for most electronic surveillance operations conducted within the United States for purposes of gathering foreign intelligence information. (yea 246; nay 128)	Yea
Sept. 11	Delete provisions in Civil Service Reform bill changing the veterans preference program. (yea 281; nay 88)	Nay
Sept. 12	Authorize $2,817,500,000 for foreign military assistance, arms sales and economic support programs of the State Department for fiscal 1979. (yea 225; nay 126)	Nay
Sept. 12	Revise the federal civil service system. (yea 385; nay 10)	Yea
Sept. 14	Provide federal grants to airport operators for airport noise control programs and to provide federal assistance to aircraft operators to comply with federal noise control standards. (yea 272; nay 123)	Nay
Sept. 19	Authorize a subsidy for fiscal 1979 of $755 million for the National Railroad Passenger Corp. (Amtrak). (yea 267; nay 127	Yea
Sept. 19	Authorize $1,795,000,000 for bilateral economic aid programs in fiscal 1979. (yea 232; nay 159)	
Sept. 21	Resolution setting the following binding budget levels for fiscal 1979: budget authority, $555.65 billion; outlays, $487.5 billion; revenues, $448.7 billion; deficit, $38.8 billion. (yea 225; nay 162)	Nay
Sept. 21	Encourage airline industry competition by increasing airlines' flexibility to set fares and enter additional routes. (yea 363; nay 8)	Yea
Sept. 22	Extend major jobs programs under the Comprehensive Employment and Training Act through fiscal 1982. (yea 284; nay 50)	Nay
Sept. 26	Prohibit union activity in the U.S. armed forces. (yea 395; nay 12)	Yea
Sept. 27	Require financial disclosure by high-level federal officials, including members of Congress and federal judges. (yea 368; nay 30)	Absent
Oct. 5	Override President's veto of Public Works Appropriation Bill. (yea 223; nay 190)	Nay ●

THE LEBANESE CHRISTIAN TRAGEDY—WILL IT EVER END?

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 6, 1978

● Mr. DERWINSKI. Mr. Speaker, the conduct of Syrian military forces in Lebanon continues to pose a most serious threat to the Middle East peace process set in motion at Camp David. Since last Saturday, the relentless, indiscriminate, bombardment of Christians has resulted in hundreds of new casualties. How much longer can the Christian world sit idly by and let this tragedy continue? The seriousness of the current situation is vividly driven home by Washington Post reporter, William Branigin, in the following report from Beirut. I commend it to your attention.

[From the Washington Post, Oct. 3, 1978]

BARRAGES INTENSIFY IN LEBANON

(By William Branigin)

BEIRUT.—After a night of the worst shelling in Lebanon's seemingly endless civil strike, Lebanese President Elias Sarkis said yesterday that he would disband the government and establish a new administration of the country's main political leaders.

While elsewhere in the Middle East the talk was of peace as a result of the Camp David agreements, in Lebanon the situation continued to deteriorate at a rapid rate.

"They're firing shells like machinegun bullets," said one resident. "There has never been anything this heavy."

A spokesman for the main Christian Phalange Party militia said few buildings in its Beirut stronghold remained untouched. A Syrian statement said its men were forced to "fire intensively" to break the siege of a Syrian unit surrounded by militiamen in a Christian quarter.

Rightist sources said 32 persons, mostly civilians, were killed in the overnight shelling and more than 200 injured. This would put estimates of the casualty toll for the last three days at more than 100 killed and as many as 500 injured.

The Syrians have not disclosed their own casualties. Militia sources say the Syrians lost at least 60 men in the same period.

In an emotional address over the national radio, Sarkis said "the latest events left almost no family without a casualty or an undestroyed house. Not one hospital in East Beirut remains which can ensure service for the injured and sick, and homeless refugees are being displaced from one village to the next."

Sarkis added that he would present a new "emergency security plan" within 10 days, based on "the need for full self-restraint." The new Cabinet of political leaders, he said, would deal with the present crisis and "save the homeland." Sarkis called for such a cabinet last April but the political factions failed to reach accord and a caretaker Cabinet of technocrats has ruled since.

President Sarkis, a Maronite Christian, avoided taking a firm stand to break the deadlock between the Syrians and the militias. He therefore drew fire from all sides, especially from his fellow Maronites.

"The only thing left for Sarkis to do now is to resign," said former president Camille Chamoun, 78, chief of the Christian rightist National Liberal Party. The white-haired party patriarch, who also heads the Lebanese Front alliance of hard-line Maronite parties, has vowed to keep fighting until the last Syrian soldier goes home. The Front has received Israeli support.

Throughout Christian East Beitrut, hundreds of buildings have been damaged by the bombardments. Many are scored by shell holes; others stand with their upper stories in ruins. Some have collapsed entirely. Two buildings caved in on their basement shelters, burying an estimated 30 people under tons of concrete. Many structures are blackened by fires from what militiamen said were Syrian phosphorous and incendiary shells.

Broken railings hang from shattered apartment balconies, severed power cables and telephone lines dangle across streets and parked cars sit riddled with shrapnel or smashed by direct hits. Broken furniture and household goods add to the concrete rubble that make streets impassable. In one district, a large unrooted tree sits across a wide road.

Despite the pounding of Saturday night, there was little sign of despair among the militiamen and civilians who remained in East Beirut and Sunday, a tour of the area showed. They are a hardy breed, and they seem more determined than ever to fight to the finish against what they see as an all-out

Syrian attempt to crush Lebanon's dominant Christian minority and control the country.

"It's them or us," said Iskandar Iskandar, 18, a member of Chamoun's "Tiger" militia. "We want the Syrians to try to come and get us, but they won't. They're scared they'll be killed," he said, cradling a M16 automatic rifle with a picture of the Virgin Mary stuck on its butt.

Iskandar said he was one of hundreds of young Christian fighters who have undergone special military training in Israel. He said he went there for the first time when he was 16 and again three months ago.

"We went by boat to Tel Aviv," he said. "Then we were taken to a camp someplace—I don't know where—for commando training. A lot of our guys go."

Israel has also supplied weapons to the militias and has threatened to intervene to stop Syrian "massacres" of the Christian population. But some rightist leaders are starting to feel let down by the Israelis' failure to act during the latest shelling.

[In southwest Lebanon, two formations of six Israeli jets flew over the Palestinian-dominated port of Sidon yesterday drawing guerrilla anti-aircraft bursts, United Press International quoted residents as saying. None of the planes was hit, they said.]

Another Christian militiaman led me through a maze of alleys, courtyards, gardens and passageways knocked through walls to militia positions near the Rizk Tower, a skyscraper commanding the center of East Beirut. In its upper stories, the Syrians have installed an arsenal of heavy weaponry, including deadly Soviet-made multiple rocket launchers called "Stalin Organs," which they have used to devastate numerous buildings in a wide radius.

Near the Rizk Tower, there are certain places to cross the streets, out of view of Syrian snipers.

"They have a lot of advantages," the militiaman said. "We don't have anything close to the firepower they do, and we haven't got much cover. Also, when we fire at them we can't afford to make any mistakes because our own people are all around."

An artillery commander for his sector, the militiaman said his men were using 106mm recoilles antitank guns mounted in jeeps to fire on the sand bagged Syrian positions in the tower, but that this was not heavy not heavy enough to do much damage.

In a courtyard behind a building some 200 yards from the tower, the militiamen had built three small blockhouses of reinforced concrete to provide cover for three mortars.

Inside the building, a militia operations room was arrayed with detailed maps of East Beirut, charts and drafting equipment. On a map, green lines marked several main avenues controlled by the Syrians and orange-colored streets were deemed "no man's land" because of Syrian sniping.

Neither the Rizk Tower nor any other Syrian position was visible from the mortar emplacements in the courtyard. "But don't worry, we have made our calculations and we know where the shells are going," my guide said.

In another neighborhood, a civilian resident strolled with his pregnant wife to inspect the latest damage during Sunday's lull before the clashes resumed. "We're staying here," he said. "We're no better than the people who died."

He added: If everyone leaves this town, the Syrian troops can come in. That's part of the Syrians' plan to take over this country."

Residents say up to 70 percent of East Beirut's population of about 600,000 has already fled to safer areas. But those who remain express pretty much the same view:

"I am a Lebanese and I must stay in my country," said landscape designer Marcel Barsoumain, 45. "And I prefer to stay in my own house. If I have to die, it will be here. You can get killed now in the mountains, too."

He was referring to the extension of Syrian shelling Saturday to previously untouched Christian areas around Mt. Lebanon and the Metn region, where thousands of city and suburban residents have fled to escape earlier bombardments starting in July.

Barsoumain said the latest shelling also marked the first time the Syrians had used such large-caliber artillery as the 240 mm. Several of these shells lay unexploded around East Beirut. Where they had gone off, they dug craters several feet deep.

"With these kinds of weapons, there's no safety in apartments, shelters or anywhere else anymore," Barsoumain said. "If I were in Ain Rummaneh or Hadath (two hard-hit Christian suburbs south of Beirut), I wouldn't be able to stand it. The damage here is only about 20 percent of what happened there." ●

SCIENTIFIC PEER REVIEW OF THE NITRITE ISSUE

HON. WILLIAM C. WAMPLER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 6, 1978

● Mr. WAMPLER. Mr. Speaker, last Thursday, September 28, Dr. Donald Kennedy, Commissioner, Food and Drug Administration, while appearing before the Subcommittee on Dairy and Poultry, House Committee on Agriculture, entered into a discussion with me regarding the validity of the Newberne report on "The Effect of Dietary Nitrite in the Rat," which is the basis of proposed regulations by the Department of Agriculture and FDA to phase out the use of nitrites in processed meat, poultry, and fish.

During the course of the hearing, I posed the following question to Dr. Kennedy to establish the need for peer review by scientists outside the Federal establishment prior to Federal regulatory action against nitrites:

Mr. WAMPLER. To the extent that the Newberne study will be subjected to independent, scientific review, confirmation or validation by those outside of the bureaucracy, and if that study in effect cannot be substantiated, then would you be in a position to change your mind on using that data as the basis for your regulatory action?

Dr. KENNEDY. Absolutely, Mr. Wampler. We don't want to base Federal regulatory action on defective scientific data or conclusions. If we miss something and it is pointed out to us convincingly by external critics, I will be eating some crow and we will be withdrawing our action.

In the next several days I shall be entering the comments of a number of scientists, all "peers" of Dr. Newberne, discussing the validity of the Newberne study and the draft proposals made by FDA and USDA for action on nitrite based on the Newberne report.

Following are the comments of a Task Force from the Council on Agricultural Science and Technology (CAST), a nonprofit educational organization composed of 25 food and agricultural science societies (comments from CAST–1978–12, September 25, 1978):

[Comments from Cast, Sept. 25, 1978]

COMMENTS ON THE NEWBERNE REPORT ON THE DIETARY NITRITE IN THE RAT[1]

SUMMARY

The experimental method and the statistical methods used in the Newberne study are not adequately described. No analyses are reported for nitrite and nitrosamines in the diets and water as consumed.

The design of the study has shortcomings that raise questions about the validity of certain comparisons and the level of statistical significance that can be attributed to the findings. Nitrite effects are not always independent of litter effects. There are also indications that the groups of rats receiving a given treatment were handled as groups and were not assigned at random to blocks including all treatments.

When the six experimental series involving nitrite are examined individually, four may be seen to provide a seemingly valid estimate of nitrite effects on the basis of independence of treatments and litters. In none of these four series are the treatment effects statistically significant at the 1 in 20 probability level according to the chi-square test. In only one experimental series is the nitrite effect statistically significant at the 1 in 20 probability level according to the chi-square test, and the test is not appropriate in this instance because the rats without nitrite are not from the same litters as the rats receiving nitrite in the drinking water.

INTRODUCTION

Nitrite in small amounts has been a constituent of human foods throughout the history of mankind. Initially essentially all the nitrite ingested in foods was present in plant products. When the practice of curing meats by use of salt was developed, the nitrate present as a minor constituent in the salt was changed in part to nitrite in the meat, and a new source of nitrite was thus added to the diet. After scientific study of the process showed that nitrite was the active ingredient, nitrite was used directly in curing. As further studies led to better methods and better control, the level of nitrite was gradually reduced to the point at which products now offered to consumers contain residual levels of nitrite ranging from 20 to 35 parts of sodium nitrite equivalent per million of product.

The possible cancer hazard that may result from ingestion of meat products cured by use of nitrate or nitrite salts is of current concern because of the discovery that N-nitroso compounds, notably nitrosamines, may be formed in meats or in the digestive tract as a result of interaction of nitrite with a nitrogen atom in certain organic compounds that are present in meat and other foods and that are produced during digestion of such substances in the body. N-nitroso compounds as a class the highly potent

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carcinogens to experimental animals and are presumed similarly carcinogenic to humans although there is currently no evidence that any human cancer in the United States has resulted from exposure of the human population to such compounds in food or other environmental sources.

A number of studies have been conducted to determine whether the nitrite in cured meats increases the incidence of tumors or cancers in experimental animals, but these have been negative. The Newberne report (1978) is the first study available to the public that has indicated an increase in incidence of tumors in experimental animals as a result of supplying them with nitrite. These comments on the Newberne report are presented as a scientific review.

STATISTICAL ANALYSIS

The statistical analysis of the data in the Newberne report is considered first because it is on the basis of the statistical computations that the tumorigenicity of nitrite has been inferred.

The portion of the Newberne study dealing with nitrite involved a total of 1953 rats (Table 9 in his report), a very respectable number. Examination of the results of the study without reference to experimental design or statistical methods supports Newberne's conclusion that "Despite the somewhat less than convincing case that nitrite is lymphomagenic in Sprague-Dawley rats, one cannot escape the distinct impression that nitrite does affect the lymphoreticular system of the rat. . . . While these observations require some consideration, the data are only suggestive and the biological significance of nitrite associated lesions of the lymphoreticular system is unclear. There are suggestions, however, of sufficient magnitude and the study used sufficient animals to raise questions about the widespread use of relatively high concentrations in our food supply."

At the same time, the experiment has some shortcomings from the standpoint of design that raise questions about the validity of certain comparisons and the level of statistical significance that can be attributed to the findings. In the experiment as a whole, nitrite effects are not independent of litter effects. There are also indications that the groups of rats receiving a given treatment were handled as groups and were not assigned at random to blocks including all treatments. If the experimental groups were indeed handled as groups, the outcome of each group must be treated statistically as the equivalent of one experimental unit, and this would decrease very much the statistical significance that could be associated with the results.

TABLE 1.—SUMMARY DATE GIVING THE INCIDENCE OF LYMPHORETICULAR TUMORS OR LYMPHOMAS FROM THE NEWBERNE REPORT, AND TESTS OF STATISTICAL SIGNIFICANCE OF THE 6 COMPARISONS INVOLVING NITRITE, SUBJECT TO CERTAIN LIMITATIONS DESCRIBED IN THE TEXT

Experimental series—Shipping date of pregnant mothers	Group No.	Number of rats [4]	Diet	Sodium nitrite in diet, ppm	Rats with lymphomas, (percent) [4]	Statistical significance of chi-square test at indicated probability level [6]	
						1 in 20	1 in 100
1 [1]—Oct. 23	1	136	Semipurified in agar gel	0	5.14	No	No.
Oct. 23	2	136		250	8.82		
Oct. 23	3	135		500	8.14		
Oct. 23	4	136		1,000	10.3		
Oct. 30	5	136		2,000	11.8		
2 [1]—Oct. 23	1	136	Semipurified in agar gel	0	5.14	Yes	No.
Oct. 30	6	136		[5] 1,000	15.4		
Oct. 30	7	134		[5] 2,000	14.2		
3 [1]—Sept. 18	9	132	Commercial chow	0	8.3	No	No.
Sept. 18	10	134		1,000	12.7		
Sept. 18	11	132		2,000	8.3		
4 [1]—Sept. 25	13	136	Defined casein	0	8.8	No	No.
Sept. 25	14	136		1,000	15.4		
5 [2]—Oct. 23	15	33	Semipurified in agar gel	0	9.0	No	No.
Oct. 23	16	34		1,000	26.5		
6 [3]—Sept. 25	17	136	Semipurified in agar gel	0	8.8	No [7]	No.
Sept. 25	18	131		1,000	16.0		

[1] Exposed to the diet prenatally and throughout life.
[2] Groups 15 and 16 are the mothers of groups 1 and 4, respectively.
[3] Exposed to the diet at 21 days.
[4] The values given are from Newberne's table 9. The numbers of lymphomas reported in tables 8 and 9 do not all agree, but a note added to the Newberne report says that the values in table 9 "are accurate based upon examination of the raw data."
[5] The sodium nitrite was added to the drinking water at the concentration indicated but not to the diet.
[6] Calculated by the authors of this commentary.
[7] The probability of obtaining a value of chi-square of the magnitude calculated from the data by drawing random samples from a homogeneous population with no treatment differences is about 1 in 12.

In the Newberne study there were six experimental series involving nitrite (see Table 1). The only four series that provided a clearly valid estimate of nitrite effects on the basis of independence of treatments and litters (as indicated by the shipping dates of the pregnant mothers of the rats used experimentally) are those in Series 3, 4, 5, and 6. In none of these four series are the treatment effects statistically significant at the 1 in 20 probability level according to the chi-square test (the 1 in 20 level is ordinarily taken as the maximum probability for a difference to be judged statistically significant). The only comparison in which the nitrite effect is shown to be statistically significant at the 1 in 20 probability level is Series 2, and the test may not give an appropriate indication of probability in this instance because the rats without nitrite (Group 1) were not from the same litters as the rats in Groups 6 and 7 receiving nitrite in the drinking water. There are indications in the narrative of the Newberne report that all rats receiving a given treatment were handled as a group. If the experiment was indeed conducted in this way, none of the chi-square tests in Table 1 are strictly valid.

It is well known that the incidence of tumors in rats increases rapidly with age. The statistical analyses in the Newberne report and in this commentary are based on the incidence of lymphomas in the respective groups without reference to the age of the rats at the time the incidence was determined. The various groups of rats were not uniform in terms of age distribution at the time of determining tumor incidence. The Newberne report shows that the range of times when 50 percent of the animals survived in the various groups in the nitrite portion of the study was from 75 weeks to 118 weeks. Hence, the age factor introduces some bias into the results. A more careful examination of the date by means of a life-table analysis is desirable.

Similarly, it has long been known that the incidence of certain tumors increases rapidly with an increase in body weight (Tannenbaum, 1940). In the Newberne report, the data on body weights are not given in such a way as to permit an analysis of the relation between body weight and tumor incidence and hence on the bearing of this factor on the effect attributed to nitrite.

METHODS AND REPORTING

The experimental methods and the statistical methods are not adequately described. For example, it is not clear whether the animals in a given group were treated as a group (in which event the observations for a group are equivalent for statistical purposes to a single observation) or whether they were arranged in randomized blocks of one or a certain number of rats from each group. Detailed information on how the diets were made up, stored, and fed is not given.

The chemical composition of the diets as they were fed is not given. In particular, no analyses for nitrosamines are reported. No information is given on the presence of nitrosatable secondary and tertiary nitrogen compounds in the diet or on the use of nitrosatable therapeutics such as terramycin. The content of nitrite in the diets and water as consumed is not given. As shown in the Newberne report, the nitrite content of "diet" and water decreased with time of standing. Hence the nitrite in the diets and water may have been rather different than the values indicated, the magnitude of the difference depending on the nature of the diet, how large a batch was made up, and how long the diets and nitrite-treated water stood before consumption.

Rats tend to ingest a greater weight of water than they do of food. Hence, depending on the content of nitrite in the diets and water at the time of consumption, the exposure of the rats to nitrite supplied in the drinking water may have exceeded the exposure to nitrite in the diet at comparable initial concentrations.

Weanlings consume relatively large quantities of food. How does this influence the results? Have fetotoxic effects of nitrite biased the performance of the progeny used in the testing?

The incidence of lymphomas in the rats of group 1 is lower than it is in any of the other groups without nitrite (Table 1). No historical data are given to show the prior incidence of lymphomas in this colony of rats on similar diet without nitrite. Such information would be helpful in judging whether the value for lymphomas in group 1 is a statistical fluke.

In studies in which patholgical observations are crucial for regulatory purposes, it is considered good practice to have the diagnoses confirmed by two independent pathologists. The Newberne report gives pathological observations, but it lacks information on how they were obtained. No information is given on possible examination of the lymphomas to determine whether they have a viral cause.

Further work is needed to examine the possibility that high nitrite levels interfere with the rat's immunocompetence, which might then lead to a more facile development of tumors. The possibility that nitrite modifies (enhances) the development of tumors formed by another mechanism also needs to be investigated.

The inference on page 13 of the Newberne report that "nitrite appears more a promotor of the neoplastic process than an initiator" is not considered appropriate because in oncology the word "promoter' has a strict definition that does not apply to the use of nitrite in the Newberne study. A promoter is something to which the test animal is exposed at a particular time after the tumor initiation has taken place, not something to which the test animal is exposed continuously. Nitrite, which was supplied continuously to the treated animals, may more properly be said to have a modifying effect.

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